TITLE: CONGRESSIONAL RECORD
95TH CONGRESS 2ND SESSION

REEL NO: 661

PARTS: 20-22
PAGES: 26,331-30,558

VOLUME: 124

DATE: AUGUST 16 - SEPTEMBER 20, 1978

PUBLICATION NO: 2569

NOTES:

THIS PERIODICAL MAY BE COPYRIGHTED, IN WHICH CASE THE CONTENTS REMAIN THE PROPERTY OF THE COPYRIGHT OWNER. THE MICROFORM EDITION IS REPRODUCED BY AGREEMENT WITH THE PUBLISHER. DUPLICATION OR RESALE WITHOUT PERMISSION IS PROHIBITED.

UNIVERSITY MICROFILMS INTERNATIONAL, ANN ARBOR, MICHIGAN

UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 95th CONGRESS
SECOND SESSION

VOLUME 124—PART 20

AUGUST 16, 1978 TO AUGUST 24, 1978

(PAGES 26331 TO 27752)

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1978

.R
v.124
pt.20

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 95th CONGRESS, SECOND SESSION

SENATE—*Wednesday, August 16, 1978*

(Legislative day of Wednesday, May 17, 1978)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by Hon. HARRY F. BYRD, JR., a Senator from the State of Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

And above all put on love, which binds everything together in perfect harmony.—Colossians 3: 14.

Eternal Father, the strength of our lives from generation to generation, our morning prayer ascends from grateful hearts and wistful spirits. Enter Thou our hearts and in this one fleeting moment make us deeply aware of Thy presence. Assure us that with Thy help we are ready for every responsibility this day brings.

Make our hearts Thy dwelling place. Cast out everything which obstructs Thy presence. Fill our hearts with love that there may be no room for hate or jealousy or resentment. Fill our minds with truth that there may be no room for falsehood. May Thy grace so abide in our souls that the time of prayer and the time of work may be indistinguishable.

When the shadows of evening fall upon us, give us a consciousness of work well done for our fellow man.

We pray in His name who went about doing good. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., August 16, 1978.

To the Senate:

Under the provisions of rule I, section 3 of the Standing Rules of the Senate, I hereby appoint the Honorable HARRY F. BYRD, JR., a Senator from the State of Virginia, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. HARRY F. BYRD, JR., thereupon assumed the chair as Acting President pro tempore.

THE JOURNAL

Mr. MORGAN. Mr. President, I ask unanimous consent that the Journal of yesterday be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from North Carolina (Mr. MORGAN) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. MORGAN. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may proceed for 1 minute, the time not to be charged against the time of the Senator from North Carolina.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER TO CONVENE AT 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate convenes tomorrow, it convene at 9:30 a.m.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CIVIL SERVICE COMPLIANCE WITH COURT ACTION IN CONNECTION WITH FEDERAL EMPLOYEES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1006.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 8771) to amend title 5, United States Code, to authorize the Civil Service Commission to comply with the terms of a court decree, order, or property settlement in connection with the divorce, annulment, or legal separation of a Federal employee who is under the civil service retirement system, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. STEVENS. Mr. President, marriage is a partnership in which each spouse makes a unique and vital contribution. Each spouse has a right in the earnings of the other, in the property acquired with those earnings and in the management of such property. This right should be recognized as surviving the marriage in event of its termination by divorce, annulment, or legal separation. Under existing law, payments under the civil service retirement system are not assignable or subject to execution, attachment, or garnishment, except as may be provided by Federal laws. Due to this provision, court orders, decrees or property settlements are not honored by the Civil Service Commission.

I thus support H.R. 8771. This bill will give the Civil Service Commission the authority to comply with the terms of a valid State court decree, order, or property settlement in connection with the divorce, annulment, or legal separation of a Federal employee who is entitled to payments under the civil service retirement system. This bill will not only eliminate the obstacles presented by existing law to the enforcement of State court decrees, but it will reinforce what is already the law in many jurisdictions of this country.

As a future note, I hope that in an upcoming session we will be able to expand on this initiative so that survivor benefits may also be made available to a spouse after a marriage has been dissolved.

H.R. 8771 is a definite beginning step in bringing justice and attention to a group that is often ignored. I commend the chairman of the Subcommittee on Civil Service and General Services, Senator SASSER, for his diligence in pursuing a solution to this problem.

The bill (H.R. 8771) was ordered to a third reading, read a third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1084), explaining the purposes of the measure.

There being no objection, the excerpt

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of H.R. 8771 is to authorize the Civil Service Commission to comply with the terms of a court decree or property settlement in connection with the divorce, annulment, or legal separation of an employee who is entitled to payments under the civil service retirement system.

BACKGROUND

H.R. 8771, authorizes the Civil Service Commission to comply with the terms of a valid State court decree, order, or property settlement in connection with the divorce, annulment, legal separation of a Federal employee who is entitled to payments under the civil service retirement system.

Under existing law (5 U.S.C. 8346(a)), payments under the civil service retirement system are not assignable or subject to execution, levy, attachment, garnishment, or other legal process, except as may be expressly provided by Federal laws. Public Law 93-647 permits the garnishment of civil service annuity payments but only when necessary to enforce court-ordered child-support or alimony payments.

Approximately 4 million individuals rely on the civil service retirement system for retirement benefits. However, the retirement system fails to provide economic protection to the former spouse of a Federal employee. Such a failure, in many cases, leaves the dependent spouse with no direct retirement benefits despite many years of working without compensation, managing a home, raising children, and contributing time and effort to the joint marital enterprise.

In 1965, Congress amended the Social Security Act to provide that a former spouse who had been married for a least 20 years is entitled to a pro rata share of the social security recipient's annuity. The 95th Congress Public Law 95-216 which amended this provision by lowering the 20 years to 10 years of marriage.

In recent years, many State courts have ruled that future retirement benefits earned during a marriage should be considered an asset of the marriage to be apportioned in the event of a legal separation, divorce, or annulment. H.R. 8771 will authorize the Civil Service Commission to recognize such court rulings and comply with court determinations.

In the committees' view, the enactment of legislation which permits Federal cooperation with State law and court orders is clearly needed. The committee shares the opinion of the Civil Service Commission that H.R. 8771 is the proper approach to the problem of benefits for former spouses.

FREEDOM AND SCIENTIFIC RESEARCH

Mr. MORGAN. Mr. President, freedom is the cornerstone on which this Nation is built. Anything that threatens that freedom challenges the welfare of us all.

The issue regarding the research undertaken by the Director of the smoking and health program at the National Cancer Institute is one of freedom—freedom to investigate, freedom to publish, and freedom to discuss the results.

Freedom should prevail regardless of the popularity or unpopularity of the scientific findings.

Freedom should not be denied because of the consequences of research may deviate from the official party line.

Freedom should not be suspended because the ego of a Secretary of Health, Education, and Welfare is wounded.

In the end, freedom must prevail or we all suffer.

In the present case, a director of a program at the National Cancer Institute has been suspended from his role of heading the Institute's smoking and health program. The timing of this decision strikes me as being rather unusual. I simply cannot believe that it is coincidental that the individual who headed the smoking and health program, Dr. Gio Batta Gori, is about to publish an article in the Journal of the American Medical Association that demonstrates that the American tobacco industry has made great strides in reducing the alleged risk of cigarette smoking. Also, I cannot believe that it is coincidental that the Secretary of Health, Education, and Welfare, Joe Califano, has launched a vigorous campaign directed at eliminating tobacco from American life.

Mr. President, it is important that we examine exactly who Dr. Gori is before we evaluate this particular situation. I believe that it is fair to say that Dr. Gori is a distinguished scientist, an assessment supported by the fact that he was honored with the Institute's Superior Service Award just 2 short years ago.

Dr. Gori's research is based on the assumption that individuals will smoke tobacco regardless of governmentally designed disincentives or prohibitions. What Dr. Gori's decade of research confirms is that the cigarettes that are on the market today are not the same as those cigarettes that existed just a few years ago.

Many representatives of tobacco producing States, including this Senator, have been assured by industry that there is a concerted effort to reduce tar and nicotine levels in smoking, an effort that has been confirmed by Dr. Gori's research.

It is my understanding that Dr. Gori has been replaced in his responsibilities because of a reorganization that is designed to give prominence to basic research over applied research.

Reorganization, we know too well, is a convenient device for getting rid of those we do not like. In thinking of this situation, I am reminded of the words of Adlai Stevenson:

> A free society is one where it is safe to be unpopular.

I suppose this so-called reorganization would have merit if it could be demonstrated to me beyond a doubt that Dr. Gori would, in his new role, undertake equally important and time-consuming responsibilities. Unfortunately, such does not seem to be the case. On the contrary, Dr. Gori has been relieved of responsibilities that have over the years come to consume one-third of his time without any compensating new assignments.

When President Carter visited North Carolina recently, he called for research "to make the smoking of tobacco even more safe than it is today." His critics immediately jumped on this statement as scientifically unsubstantiated and simply "politically clever." But, for the past decade, such research has been underway, under the direction of Dr. Gori. Now it seems that the President's own Secretary of Health, Education, and Welfare is participating in undercutting the scientific basis of the President's statement in order to defend his own personal war against tobacco.

Mr. President, the removal of Dr. Gori from the smoking and health program threatens us all. It is a challenge to the scientific community, a community that can only thrive in an atmosphere free from tyranny. I would like to assure my colleagues that I will do everything in my power as a representative of the people of North Carolina and the Nation to assure that this important program continue under the leadership of Dr. Gori.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. MORGAN. I am happy to yield.

Mr. HELMS. Mr. President, I commend my distinguished colleague from North Carolina, and I want him to know that this Senator from his State will join him in protecting Dr. Gori from what obviously is an arrogance of power.

We have had quite enough, Mr. President, of assaults on clear scientific evidence about tobacco and the total ignoring of facts on the other side. As the Senator knows, we have a splendid research facility at Oxford, N.C., which has made great strides in the exploration of the potential of tobacco as a source of protein to feed a hungry world, and yet in all of the assaults on tobacco one seldom sees, if ever, any reference to what is being done by the industry in terms of not only making tobacco safe but also making of it a potential source of food.

The attack on Dr. Gori is reprehensible and I say again to my colleague from North Carolina that I will join him in protecting this man's right to speak the truth, the scientific truth as he finds it.

I commend him on his comments.

Mr. MORGAN. I thank my distinguished colleague.

Mr. President, I should say that four of the five research programs at the Oxford Research Center that the Senator alluded to are primarily related to health research.

Mr. HELMS. That is correct.

Mr. MORGAN. Mr. President, I yield the floor and yield back the remaining portion of my time.

Mr. HELMS. Mr. President, I wonder if the Senator will yield me 2 minutes of his time?

Mr. MORGAN. I am happy to yield 2 minutes of my time to my colleague from North Carolina.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina (Mr. HELMS).

Mr. HELMS. I thank my able colleague from North Carolina.

NATIONAL KNITWEAR MANUFACTURERS ASSOCIATION

Mr. HELMS. Mr. President, a good friend of mine, Mr. W. David Stedman, recently delivered a speech to a convention held by the National Knitwear Manufacturers Association of which he serves as vice chairman. Mr. Stedman is president of Stedman Corporation of Asheboro, N.C.

I am very proud of David Stedman for the work he has done and continues to do in behalf of the free enterprise system and the American businessman. David knows that competition and the freedom of the individual to achieve made America the greatest Nation on Earth, and he wants it to stay that way.

David Stedman understands the need for less Government control of private business and realizes that free enterprise is capable of solving problems that the Federal Government cannot solve.

Mr. Stedman, in his speech, charges that American businessmen have been sleeping while labor unions have gradually taken control of industry. He then makes suggestions to his colleagues for remedying this unfortunate situation, suggestions, Mr. President, that I hope everyone will take to heart so that the United States will not steer itself along England's sad course.

Mr. President, I commend Mr. Stedman's speech to my colleagues. It is the kind of message that America desperately needs to hear—and heed.

Mr. President, I ask unanimous consent that Mr. Stedman's address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY W. DAVID STEDMAN

Several months ago, I received a letter from a friend of many years standing in Bolton, England. He and his brother were formerly in the knitwear manufacturing business . . . the same as we are. Our friendship grew through the years and there has been mutual visitation in our respective homes. He said in this letter to be sure and come to see them while they could still make us comfortable in their home and before they had to move into a wigwam or wherever it is that natives live. Later on, he repeated his invitation by saying, "Please come and bring Sarah before England sinks beneath the waves."

This was spoken by a man who has spent 13 years as a member of Parliament and who only a year or so before had finished a term as president of the Liberal Party of England, a party which holds the balance of power between the Conservatives and Labor, neither one of which has a majority of its own. Here is a message of utter despondency from a man who has lived through the rigors of a declining textile industry and who has been a vital political servant to his vanishing country. Can you imagine what state of mind you must be in to write a letter like that? It is really so very sad when you think of it. And England over whose empire the sun never set now reduced to a small island off the coast of the European continent. It has all happened in the space of perhaps 100 years.

Now let's look at America. In just 400 years we have built the greatest nation, the greatest technological society the world has ever known. We have done something in only 400 years that the Chinese have been unable to do in 10,000 years, the Egyptians in 7,000 years, and the Greeks in 5,000 years. We have built a far superior society in only 1/20 of the time. Now what has made this possible? Unquestionably, it is the free enterprise system which has made it possible for the free spirits of individuals to operate on their own and essentially without limits. But now this great system that made all this possible is being closed down. Not all of a sudden, but gradually. We are in the process of killing the goose that has been laying all those golden eggs.

How long will it take to change what once was the private free enterprise system in this country to a system of state control or national socialism? Well, that's a little difficult to answer. It is quite clear, however, that the direction in which we are traveling will eventually result in the death of the free enterprise system.

Let's take a look at a few developments:

(1) Our total government debt in this country at all levels already is 1½ times our total assets.

(2) Our federal debt now stands at $700 billion and is growing at the rate of $1 billion a week.

(3) Interest on the federal debt is now the third largest item in the budget.

(4) According to the Commission on Federal Paperwork, government agencies print about 10 billion sheets of forms per year to be filled out by business.

(5) In one year there were issued over 57,000 pages of new regulations on business.

(6) We think of America as the great innovator, the great producer, but since 1960, of 8 major industrialized nations, the U.S. has ranked last in growth of productivity measured in terms of output per man hour.

(7) Over 40% of the income of the American people is now spent by civil servants at all government levels. In that sense, we're already 40% socialized.

I could go on and on with such facts, but I hope these are enough to make my point. You may remember a few years ago when Mr. Khrushchev took off his shoe in the United Nations and pounded it on the table and said, "We will bury you." If the Russians will just leave us alone, we will bury ourselves. Based on current trends, it will require our country another 20 to 25 years to get in the condition of England. But who wants to be like England?

Now who is to blame for all of this? Many of us blame the Liberals who, no doubt, have instituted many of the governmental controls while working toward the equality, of shall I say, the mediocrity of everybody. They certainly are skilled in dividing up the pie; the only trouble is that they have no idea how to bake it. But don't blame the Liberals. They are doing their thing, and they're doing it exceptionally well. They believe in what they are doing, and they back up their beliefs with a lot of very aggressive action.

Other people blame Labor. But we can't really blame Labor, because Labor is doing its thing, and it, too, is doing it exceptionally well.

Still others blame the bureaucrats. But, don't blame the bureaucrats because, again, the bureaucrats are doing their thing exceptionally well.

Guess who's been asleep? You and I and our counterparts by the tens of thousands, all across this country—the business people—are the ones who have been asleep. We have sat by and allowed this thing to happen and as a group, we have been indifferent; we have been apathetic; yes, we have been asleep! Now, there are many notable exceptions to this—perhaps some of you here, certainly Heath Larry, head of NAM, which is doing a beautiful job—but what I have said is still true for the great mass of business people across this country.

To put it another way, we have been so busy tending to our own little business that we have not realized the void we have left on the other side. As a result of this vacuum we have created, others of different faith have rushed in to fill it. Our problem is that we don't want to get involved. We don't like politics. We don't want to take on extra-curricular responsibility. We don't really want to carry the inherent responsibility of being a first-class citizen, if I may put it that way. No, we just want to tend to our own knitting and hope that everybody else will leave us alone.

But the shocking truth is that they are not going to let us alone! They have not let us alone for the past 45 years in this matter and that is why we find ourselves in this position today. It's the case of the tortoise and the hare all over again. We have been over in the bushes asleep while the tortoise went right on down the road, and if we're not careful, he's going to hit the finish line before we can.

We have been so involved in other things that we have allowed people who know nothing about our business create the environment in which we have to operate. Isn't it ridiculous, when you really think about it, to leave this creation of our business environment to the liberals, to the labor people, to the bureaucrats, and to the politicians?!! It is not only ridiculous, my friends, it is insanity. It is the case of the thermometer vs. the thermostat. The thermometer merely reacts to the environment; the thermostat controls it. We have got to stop reacting to the environment and begin to create it! It may not be so important this day or maybe even this year—business is good. But ultimately the control of the business climate in which we operate is as important to our bottom line as anything else we can possibly do, and yet as a group throughout this country we do not understand this. We seemingly do not agree with it and obviously we do not actively support that concept. Failure to recognize and support it may well be our ultimate undoing.

Now, what can you and I do about all of this? The list of things that we can do is very long, but let me name just a few:

(1) Become supportive and active in organizations which believe in and expound the basic principles and policies of a free enterprise system.

(a) Let's start with our own national industry organization. Here we have most of the leadership of the entire industry in this nation. We should, as a group, take a stand on basic policy issues. I am not talking about Democrat vs. Republican. I am talking about basic, fundamental free enterprise principles. We should take our stand and let it be known to the press and to key people in Congress and others just how our industry stands. Our Board and Executive Committee can formulate these positions in some appropriate manner and they can be communicated to the proper people by our professional staff.

(b) We have sitting right here on our platform this morning the distinguished President of the National Association of Manufacturers, Heath Larry. They are doing an outstanding job of fighting for the very thing I am talking about. If you do not now belong to that organization, I urge you to join. Support them not only with your financial resources but with your own personal time. I am not plugging NAM, I am plugging free enterprise and the saving of the system that has made us what we are today.

(c) The same goes for the U.S. Chamber—they're doing a great job. The National Right To Work Committee—I could name

many other fine organizations, but you can search out the ones that fit your requirements best.

(2) Your Chief Executive Officers must get personally involved. Now I know it's easy to say, "I don't have the time." My answer is, "We must get involved personally." Lobbyists are fine, vice presidents for public affairs or public relations are indispensable, but there comes the time when nobody, but nobody, can take the place of the chief executive officer talking to the Congressman, to the Senator, to the bureaucrat or to his peers about these matters. I challenge you to set aside a certain amount of your personal executive time for this purpose. Just think what would happen in this country if all business chief executives would give as much as 10 percent of their time on a regular basis to fighting for our cause. You would see absolutely unbelievable changes take place in our country.

(3) Consider setting up a Political Action Committee in your company. This is a nonpartisan group in your company who contributes to political figures who are fighting for the basic principles and laws that express the business point of view. This option was made into law in 1976. Since then, some 550–600 corporate PAC's have been set up. These are currently raising hundreds of thousands of dollars per year to be poured into electing politicians sympathetic to the business community. This is a development that worries the unions. For many years now the labor movement has been pouring millions of dollars into the political process. It is now clear that they have been imminently successful. Doesn't it strike you as real irony that while it was the business community which developed the modern, complex organization structures which in turn made possible the great American technological society of today, it is now Big Labor which has adopted these organizing techniques and has run rings around business in organizing their forces to fight on a national basis for the causes they believe in. The day comes when this has to stop. The day has come when this same kind of force must be generated in the business community with an impact that is just as great.

(4) We must educate our employees in the truths of basic economics and the free enterprise system. They simply don't understand it and it's very difficult to be aggressive in your support for something you really don't understand. For instance, polls tell us that the American public believes that companies make 33% profit after taxes. Can you imagine the kind of damage that can do you in a critical vote? There are programs already developed, for example, by the Free Enterprise Institute of Stanford University, that outline a whole procedure and a program of education for your employees. They are not getting the education in the schools that they need along these lines, and the least we can do is to make a sincere effort to correct this deficiency of the employees in our own organizations. Can you imagine the impact on this country if every company that employed as many as 250 people would undertake such a program? Millions of people could be educated through this process alone. Again, this program alone could go a long way to turn our country around.

(5) It is very important to get to know your Congressman and Senators personally and let them hear from you on all legislation important to you and your company. A little money at campaign time might help his hearing, also.

There are so many things that can be done. There is no way to discuss them all here. You can't do everything, but you can do something.

Can we turn it around? I'm not at all sure, but I can certainly say this much. The hour is late. We must ask some very penetrating questions. How much does it mean to you to preserve the system that made us great? Do you care enough to do what has to be done in terms of commitment of your corporate and personal funds and time? If you and I do not rise to the challenge of the day, if we don't speak out for the things we believe in, and if we don't stand up and fight for the basic principles of the free enterprise system that made us what we are today and are the only real hope for our children tomorrow—if we don't do these things, then you and I will deserve what will surely happen to us. But, will our children deserve it?—because we didn't have the interest and the courage to do what needed to be done? Think about it. It's terribly important.

Mr. HELMS. Mr. President, I assume the Senator wishes to yield back the remainder of his time.

Mr. MORGAN. Yes.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Oklahoma (Mr. BELLMON) is recognized for not to exceed 15 minutes.

Mr. BELLMON. Mr. President, I ask unanimous consent to yield my time to the Senator from Missouri and then I will follow his comments.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Missouri (Mr. DANFORTH) is recognized.

S. 3416—EXCESS GOVERNMENT SPENDING SURTAX ACT OF 1978

Mr. DANFORTH. Mr. President, since coming to the Senate, I have consistently advocated a substantial tax reduction for the American people. More than a year ago, I offered, together with many of my colleagues, a permanent tax cut as an alternative to the President's proposal for $50 tax rebates. Before the present session ends, the Senate will again consider proposals to provide tax relief for individuals and business. I hope to take an active role in that debate.

However, I think that it is equally important to recognize that tax reduction must be accompanied by meaningful restraints on governmental spending. If Federal revenues are reduced and Federal spending is not restrained, the result will simply be a larger deficit and a higher rate of inflation.

It has been said that a substantial tax reduction in itself would act as a restraint on Federal spending. I do not accept that proposition. We in Congress have become accustomed to high deficits. We have tolerated the notion that Federal revenues need not match Federal spending. Therefore, in connection with a substantial tax reduction, which I believe to be essential for a prosperous economy, I am introducing today a proposal to put some order into our existing economic chaos.

The proposal is entitled the Excessive Federal Spending Control Act of 1978. Its sole purpose is to provide a tool which will help us to control the growth in Federal spending.

The bill would, for the next 5 years, limit to 2 percent the annual rate at which Federal spending from one year to the next would only be permitted to grow at the rate of inflation plus 2 percent.

If enacted into law, this provision would assure that by 1983, the percent of GNP that is spent annually by the Federal Government would be no higher than 20 percent.

To make this provision work, the bill would require that any excess spending above the 2 percent limit must be paid for through a surcharge on the income tax. The message is: if those of us in Washington cannot hold Federal spending below a specified target level, then we must find a way to pay for it.

Now, if there is one thing that all politicians hate to do, it is to increase people's taxes. The purpose of the surcharge provision is to make higher spending politically unacceptable by tying it to a tax increase.

Currently, Congress can increase Federal spending with relative impunity. The discipline of a balanced budget has all but disappeared.

Our current budget deficits are staggering. They are so large—$40 to $50 billion annually—that the historical political pressure against adding a billion dollars to the deficit is almost nonexistent. A billion dollars is only 2 percent of this year's estimated $50 billion deficit.

This turn of events is absolutely frightening and portends nothing short of disastrous future consequences for our economy.

Politicians in Washington seem incapable of saying "No." It is always easier to say "Yes" to those in need—no matter what that need is. It is always easier to keep a program alive and growing, even if the program has been a failure. We follow the path of least resistance, but down that path lie higher budget deficits and the hidden tax of inflation.

I do not know how to get out of this trap, but I believe that this bill would be a step in the right direction.

It is not a draconian measure. It does not say, "There will be no new growth in Federal spending." It does say, however, that if Government grows faster than 2 percent per year, then taxes must be increased.

The bill would permit at least $10 billion in real growth in Federal spending per year without requiring higher taxes. Hopefully, we can keep spending growth below that "permissible" level. But if we cannot, we must face the political reaction which is certain to accompany a tax increase.

The long run goal of this proposal is to help the Federal Government achieve a balanced budget in a step-by-step fashion. The intermediate target of the plan is to reduce to below 20 percent the share of GNP that is consumed by Government.

Government this year is expected to spend money at a rate that is the highest in history—an estimated 22.6 percent of GNP. If "off-budget" Federal outlays are added, this figure rises to 25.2 percent.

Mr. President, I ask unanimous consent that a table be printed in the RECORD, which illustrates the pattern of Federal spending growth over the past 22 years. The table is reprinted from the President's "Budget in Brief" for fiscal year 1979.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

FEDERAL FINANCES AND THE GROSS NATIONAL PRODUCT, 1956–79

[Dollar amounts in billions]

Year	Gross national product	Budget receipts [1]		Outlays [1 2]					
				Unified budget		Off-budget Federal entities		Total	
		Amount	Percent of GNP	Amount	Percent of GNP	Amount	Percent of GNP	Amount	Percent of GNP
1956	411.0	74.5	18.1	70.5	17.1			70.5	17.7
1957	432.7	80.0	18.5	76.7	17.7			76.7	17.7
1958	442.1	79.6	18.0	82.6	18.7			82.6	18.7
1959	473.3	79.2	16.7	92.1	19.5			92.1	19.5
1960	497.3	92.5	18.6	92.2	18.5			92.2	18.5
1961	508.3	94.4	18.6	97.8	19.2			97.8	19.2
1962	546.9	99.7	18.2	106.8	19.5			106.8	19.5
1963	576.3	106.6	18.5	111.3	19.3			111.3	19.3
1964	616.2	112.7	18.3	118.6	19.2			118.6	19.2
1965	657.1	116.8	17.8	118.4	18.0			118.4	18.0
1966	721.1	130.9	18.1	134.7	18.7			134.7	18.7
1967	774.4	149.6	19.3	158.3	20.4			158.3	20.4
1968	829.9	153.7	18.5	178.8	21.5			178.8	21.5
1969	903.7	187.8	20.8	184.5	20.4			184.5	20.4
1970	959.0	193.7	20.2	196.6	20.5			196.6	20.5
1971	1,019.3	188.4	18.5	211.4	20.7			211.4	20.7
1972	1,110.5	208.6	18.8	232.0	20.9			232.0	20.9
1973	1,237.5	232.2	18.8	247.1	20.0	0.1	(*)	247.1	20.0
1974	1,359.2	264.9	19.5	269.6	19.8	1.4	0.1	271.1	19.9
1975	1,454.6	281.0	19.3	326.1	22.4	8.0	.6	334.1	23.0
1976	1,625.4	299.2	18.4	365.6	22.5	7.2	.4	372.9	22.9
1977	1,838.0	356.9	19.4	401.9	21.9	8.7	.5	410.6	22.3
1978 estimate	2,043.2	400.4	19.6	462.2	22.6	11.5	.5	473.7	23.2
1979 estimate	2,274.6	439.6	19.3	500.2	22.0	12.5	.6	512.7	22.5

[1] The amounts of earned income credit in excess of tax liabilities are shown as negative budget receipts rather than as budget outlays. Accordingly, the budget totals have been adjusted retroactively.

[2] The 1975–77 data have been revised retroactively to include the housing for the elderly or handicapped fund in the unified budget instead of with the off-budget Federal entities.

[2] 0.05 percent or less.

Note: Exchange stabilization fund included from 1976.

Mr. DANFORTH. Historically, the Federal Government has consumed about 18.6 percent of GNP. During the decade ending in 1966, the rate was 18.7 percent. However, during the next 10 years ending in 1975, the rate had climbed to 20.5 percent. Since 1975, the rate has climbed to 22.8 percent. If this trend continues unchecked, the Federal Government would consume 27 percent of GNP by 1985. That is the path we are on.

If this bill is enacted into law, the trend toward ever-larger Government would be reversed.

I ask unanimous consent to insert in the Record at this point a brief table showing the expected impact of this bill on Federal spending as a percent of GNP.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

IMPACT OF DANFORTH PROPOSAL

[Dollar amounts in billions]

Fiscal year	Estimated GNP	Federal spending under proposal [1]	Federal spending as a percent of GNP
1979	$2,263	$490	21.7
1980	2,496	533	21.4
1981	2,759	578	20.9
1982	3,045	625	20.5
1983	3,362	673	20.0
1984	3,702	726	19.6

[1] Federal spending assuming surtax is not imposed.

Mr. DANFORTH. One final thing, Mr. President. There is a provision in the bill which provides a safety valve in the case of a national recession. Since GNP declines and Federal spending increases during recessionary periods, it would be counterproductive to increase taxes at such times. Therefore, the bill provides that the surcharge will not be imposed in any year in which national unemployment exceeds 7.5 percent for 3 consecutive months.

That is the plan. It is not the answer to all our Nation's economic woes. But it is a step in the right direction in an environment of excessive Federal spending and budget deficits.

Mr. President, at this point I ask unanimous consent that the bill, which I will introduce, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3416

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Excess Government Spending Surtax Act of 1978".

SEC. 2.

Add the following new part to subchapter A of chapter 1 of subtitle A of the Internal Revenue Code of 1954:

"PART V—SURTAX ON INDIVIDUALS AND CORPORATIONS

"SEC. 51. EXCESSIVE GOVERNMENT SPENDING SURTAX

"(a) There is hereby imposed on each person a surtax computed in a manner described in subsection (b).

"(b) The surtax described in subsection (a) shall be an amount determined by multiplying the surtax percentage determined in subsection (c), by the amount of tax computed under chapter 1 (but before application of the tax credits provided in part IV of subchapter A of such chapter). For purposes of this subsection, any tax imposed for the taxable year by section 56, 72(m)(5)(B), 508(f), 402(e), 531, 541, 1378, 1351(d)(1), shall not be considered tax imposed by this chapter for such year.

"(c)(1) The surtax percentage shall be a percentage rounded to the next highest whole number determined by the Secretary to be necessary to finance all federal outlays provided in the

(Amount of Federal outlays)

Taxable year of surtax beginning in:

1980, Federal outlays for the period October 1, 1979 through September 30, 1980 in excess of $500,000,000,000.

1981, Federal outlays for the period October 1, 1980 through September 30, 1981 in excess of $510,000,000,000.

1982, Federal outlays for the period October 1, 1981 through September 30, 1982 in excess of $520,000,000,000.

1983, Federal outlays for the period October 1, 1982 through September 30, 1983 in excess of $530,000,000,000.

"(2) The dollar amounts described in paragraph (1) for any fiscal year shall be increased by the percentage that the average consumer price index for the 12-month period ending on the September 30 preceding such fiscal year has increased from the average consumer price index for the 12-month period ending September 30, 1978.

"(3) The amount of Federal outlays for any fiscal year described in paragraph (1) shall be the amount of Federal outlays for such fiscal year agreed to by both Houses of Congress in the second budget resolution on or before the September 15 preceding the beginning of such fiscal year. Any changes in the Federal outlays for such fiscal year agreed to by Congress after the September 15 preceding the beginning of such fiscal year shall be considered as additional Federal outlays for the fiscal year next succeeding such fiscal year.

"(d)(1) The surtax imposed by subsection (a) shall be suspended for any calendar year in which the unemployment rate determined by the Bureau of Labor Statistics exceeds 7.5 percent for a third consecutive month.

"(2) Any tax year in which the surtax is suspended pursuant to paragraph (1), the

surtax will be reimposed in the subsequent year pursuant to subsection (a) unless paragraph (1) of this subsection would also suspend the surtax for such subsequent year.

"(e) Any surtax that is determined by the Secretary to be applicable as a result of this section shall be specifically identified on the tax forms issued by the Secretary as the 'Excessive Government Spending Surtax'.

"(f) For persons with taxable years other than a calendar year, the provisions of section 21 shall apply in the computation of the excessive Government spending surtax liability.".

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. BELLMON. Mr. President, I am pleased to join as a co-author with the Senator from Missouri in the introduction of the Excess Federal Spending Control Act of 1978. I would like to congratulate the Senator from Missouri for the very careful thought that he has given to this important matter, and to say that I believe the consideration and, hopefully, ultimate passage of this act would be one of the most important actions Congress has ever taken to help bring a degree of discipline to Congress in the area of Federal spending.

I have been dismayed and even frightened by the inability of Congress to restrain spending. Here we feel enormous pressures to spend more and spend more, and do more and do more. Yet up to this time there has not been a countervailing pressure felt from those who must pay the bills.

The Danforth legislation, the Danforth Excessive Federal Spending Control Act, will put this kind of restraint on Congress which will be forced to recognize that any time we get above the limits set forth in the bill we will have to increase taxes and our taxpayers will have occasion to act on what we are doing and will be forced to make the choice of whether the programs put on the books are worth the costs we are paying.

I came to the Senate following service as Governor of the State of Oklahoma. In Oklahoma we have in our constitution a requirement that our State budget be balanced every year. There is no way for the State of Oklahoma to run a debt. Any time the legislature spends or appropriates more money than we collected in the previous fiscal year, then it is necessary for the legislature to pass and the Governor to sign a bill that will generate the revenues necessary to pay the bill.

After I came to the Senate, on different occasions I introduced legislation requiring that we have a balanced Federal budget. But for various reasons that approach has not been accepted, and probably would not be quite as successful here as it is at the State level because the Federal Government has responsibility for national defense and also for full employment. So there is a need for some flexibility.

The approach Senator DANFORTH has taken in drafting the Excess Federal Spending Control Act provides this flexibility, but, at the same time, it incorporates the discipline which we presently have been lacking.

Mr. President, as Members know, I serve as a member of the Senate Budget Committee, and I was supportive of the Budget Control Act which set up this process, and I believe it has had a significant impact on the spending practices of Congress. But still there is something missing. We are able, when we feel the pressure to do so, to run large deficits, and the result is that inflation grows, the size of the Federal debt grows, and the servicing of that Federal debt grows, and we are still not able to cope with the management of our Federal spending as effectively as we should.

I believe the Danforth approach will go a long way to strengthen the Budget Act and to make it possible for us to hold our deficit down except in times of dire circumstances.

I believe that the discipline which the surtax will bring is what has been missing. I congratulate the Senator from Missouri for having devised this bill, and I am very proud to join as a cosponsor. I would expect to work actively with the Senator from Missouri in seeing that this bill is considered by the appropriate committee and brought to the floor at the earliest possible date. I think this is a very significant new legislative initiative, and I believe the efforts of Congress to hold down the Federal excessive spending will be greatly enhanced by the passage of this measure.

Mr. DANFORTH. Mr. President, I very much appreciate the comments of the senior Senator from Oklahoma. I wanted to spell out in the simplest possible terms the concept of this bill.

It is very straightforward in its approach. It does not prohibit Congress from doing anything.

A lot of people have suggested the possibility of a constitutional amendment to somehow restrict Federal spending This would be not nearly so inflexible as a constitutional amendment.

Congress under this proposal could spend anything it wants to spend. It could open whole new vistas of Federal spending. But what this proposal says is that after a point there is no free lunch.

It seems to me that is the message we have just missed here in Washington. We have the notion we can spend absolutely anything we want to and that somehow money just grows on trees. It does not grow on trees. It comes either out of the pockets of the taxpayers or with the increasing deficits it comes out of the pockets of all the people in the form of the most regressive of all taxation; namely, inflation.

What this proposal says is if Congress increases Federal spending more than 2 percent of real growth per year then a surcharge on the income tax will be automatically imposed. The effect of this is that when the politician comes back home he is not only going to be able to point with pride to the wonderful things he has done for his constituents, but he is also going to have to answer to those constituents as to why they find on April 15 a separate line on their income tax which is a surcharge on the income tax, because what would happen is if the amount of Federal spending increase exceeds a real growth rate of more than 2 percent a year, on April 15 there would be a separate item on the income tax, a surcharge on the income tax, and the taxpayer would have to compute the amount of the surcharge based on his income tax. It would be called an excessive spending tax, and I think it would focus national attention on the other side of proposition 13.

So often when we talk about proposition 13 we are talking about people not willing to pay taxes. When I go home to Missouri the people are not only talking about the rate of taxation but they are talking about the size and the cost of Government. That is what we want to control, and I think this proposal provides some handle on it.

Mr. BELLMON. Mr. President, will the Senator yield?

Mr. DANFORTH. Certainly.

Mr. BELLMON. I would imagine that as the various spending bills moved through the Senate, or through Congress, at some point in time we would be able to raise the flag and say, "If we appropriate this money, we are also going to have to raise taxes."

To me, that would be one of the most stern and effective forms of discipline Members could have, because when we voted for the spending proposition, we would also be voting for the tax to pay the cost, and we would have to decide if the program was meritorious enough for us to incur the wrath of the taxpayers in order to pay the cost.

I think this is what we have been needing in Congress, and it would be a highly effective way of making us measure the worth of programs we fund against the actual cost. At the present time, we can spend and spend and borrow and borrow, weaken the value of our currency, and increase inflation, and at the same time not feel any direct political pressures.

The Senator's amendment, I think, would make us far more responsible, because we would have to vote the taxes to pay the bill, and thereby the voters would be able to know what we had done, and that they would have to pay the taxes.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. BELLMON. I yield.

Mr. HELMS. The Senator from Missouri has proposed an intriguing discipline, and I think it would be the most direct and obvious discipline that could be imagined. The interest on the Federal debt this year——

Mr. BELLMON. Is between $45 billion and $50 billion.

Mr. HELMS. I believe the more accurate figure is close to $56 billion.

Mr. BELLMON. It may be. There are some reflows, I understand.

Mr. HELMS. The Senator is correct.

I proposed a measure 2 or 3 years ago in this body which was resoundingly defeated. I suggested at that time that the salaries of Senators and Representatives, Members of Congress, be reduced by the same per centum by which Congress failed to balance the Federal budget. I think I got seven votes on that proposition; but I think that would be an effective discipline; and I wish the Senator well in any effort he makes to achieve some sanity on the part of Congress in spending the people's money.

Mr. DANFORTH. I thank the Senator.

We are approaching the consideration of a major tax reduction bill. I think everyone is convinced that if we are going to have a prosperous economy, we are going to have to have a tax reduction. There has been some debate, and there will continue to be some debate, as to the amount and distribution of the reduction. My own feeling is that the President's proposal as it came out of the House of Representatives is too small a tax cut, but I do think it is important that, at the same time as we talk about cutting Federal taxes, we also talk about some measures to try to restrain Federal spending.

Therefore, in connection with the tax cut in the Senate Finance Committee I will be offering this proposal. It may be that I will get the same seven votes the Senator from North Carolina managed to muster a few years ago. But I really think it is a point worth making.

It is so easy and so popular to be talking about reductions in Federal taxes; but we also have to look at the other side of the coin, which is the side of the coin which I think most people in the country are most concerned about.

Mr. BELLMON. Mr. President, if the Senator will yield, I think what the Senator has said reflects an attitude that is growing across the country, which is that there has to be some restraint in Federal spending, that a lot of the programs we thought would solve problems have not worked too well, and that it is time we look more carefully at the way we use our tax dollars.

I also find, in Oklahoma, when meeting constituents, that the great majority, when given a chance to express their views, prefer to see us cut down on the deficit to having a tax reduction.

I think this is very significant. In other words, people are now saying they are willing to cut down the deficit and hold down inflation rather than have reduced taxes.

I believe if we had had in the past what the Senator from Missouri is proposing this morning, a Federal spending control act, we would not be facing the problems we face today.

Mr. DANFORTH. According to a Roper poll released about 2 weeks ago, when people were asked, "Do you want a one-shot major tax reduction, or would you rather have indexing of your tax bracket to hold you harmless from inflation putting you in higher and higher brackets," by a margin of about 2 to 1, as I remember, people were saying, "We would rather be held harmless against inflation putting us into higher brackets."

So it seems to me that what people are concerned about is not so much the rate of taxation today as the rate of taxation tomorrow, caused by inflation.

Again, it is the effect that inflation is having not only on the spending power of a person's earnings, but also on continuing to increase the total tax bite on that individual. If we could get some handle on inflation, which is the same as saying a handle on Federal spending, I think it would be a great step forward.

Mr. BELLMON. I believe that the Senator from Missouri has made a large step in that direction this morning, and I applaud him.

Mr. DANFORTH. Mr. President, I suggest the absence of a quorum.

Mr. PELL. Mr. President, will the Senator withhold that?

The PRESIDING OFFICER (Mr. McGOVERN). Will the Senator withhold until the Chair lays before the Senate the unfinished business?

Mr. DANFORTH. Certainly.

COLLEGE OPPORTUNITY ACT OF 1978

The PRESIDING OFFICER. Under the previous order, the Senate will now resume the consideration of the unfinished business, S. 2539, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 2539) to amend the Higher Education Act of 1965 to improve the basic educational opportunity grants program and for other purposes.

The PRESIDING OFFICER. The time for debate on this bill is limited to 5 hours, to be divided with 1 hour to the Senator from Maine (Mr. MUSKIE) and with 4 hours to be equally divided between and controlled by the Senator from Rhode Island (Mr. PELL) and the Senator from New York (Mr. JAVITS), with 1 hour on any amendment and 20 minutes on any debatable motion, appeal, or point of order.

Mr. PELL. Mr. President, this bill was laid before the Senate last night and the Senator from New York (Mr. JAVITS) and I made our opening statements, so that our colleagues could be informed of what our basic positions were on this bill. This bill really gives us another, more practical, and more effective way of helping the youngsters of middle-income American families.

By going this route, we would not be starting any new program whatsoever. We would not be eroding the Internal Revenue Code in order to provide money to middle-income families. We would be leaving educational policy to be determined by those members of Congress who are mainly concerned with the policies of education, rather than the fiscal aspects of what we do, and we would be reducing the amount of paperwork.

It would also mean that you would not have to have any additions to our income tax form, which you would have to have if one were to benefit from the tax credit bill passed yesterday. Under the approach of S. 2539, we would simply take the present basic education opportunity grant program and increase the income allowable from about $12,500 or $13,000 under which a family is now eligible to $25,000. This would mean that increased help would then go to those middle-income families with incomes between $12,000 or $13,000 and $25,000 a year.

It would not, as in the case of the bill passed yesterday, provide more than half the help to families with more than $25,000, who do not need the help so much.

In addition, we would remove the establishment of income limitations for the guaranteed student loans, thus re ducing the paperwork even further tha would be the case otherwise. The prin ciple here was that there was no use i having 98 percent of our people g through a tremendous amount of paper work in order to exclude 2 percent. Un der S. 2539, any American family is eligi ble for an interest-subsidized guarantee student loan.

Under this bill, we have increased th work study and the supplemental educa tion grant figures.

That is about the gist of the bill whic is before us.

After reading the morning press, on realizes there is a very real likelihoo that the President will veto the tax credi bill. This bill would then be the mor practical route that we should take t help middle-income Americans.

Mr. President, I made my statemen last night. I would welcome any amend ment which might come forward.

Mr. President, I suggest the absenc of a quorum with the time to be equall charged against both sides.

Mr. ROBERT C. BYRD. Mr. Presiden will the Senator withhold that?

Mr. PELL. I do, Mr. President.

Mr. ROBERT C. BYRD. Mr. Presiden efforts are being made at this point t determine whether or not there are an amendments. I prefer that we not as for a quorum call at this moment.

RECESS SUBJECT TO CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. Presiden if the distinguished manager of the bi will agree, I ask unanimous consent tha we stand in recess awaiting the call o the Chair, and the time charged equall against both sides. We should know i there are any amendments within a fe minutes.

There being no objection, at 10:1 a.m., the Senate took a recess, subject t the call of the Chair.

The Senate reassembled at 10:12 a.m when called to order by the Presidin Officer (Mr. McGOVERN).

Mr. PELL. Mr. President, I ask unani mous consent that the committee amend ments be agreed to en bloc.

The PRESIDING OFFICER. Withou objection, it is so ordered.

The committee amendments wer agreed to.

Mr. ROBERT C. BYRD. Mr. Presiden I ask that the bill go to third reading.

The PRESIDING OFFICER. The ques tion is on the engrossment and thir reading of the bill.

The bill was ordered to be engrosse for a third reading and was read th third time.

Mr. ROBERT C. BYRD. Mr. President I ask unanimous consent that the Senat vote on the bill at the hour of 11:45 a.m today, with paragraph 1 of rule XI waived.

The PRESIDING OFFICER. Withou objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President this will be a rollcall vote. I believe ther are enough Senators in the Chambe now to ask for the yeas and nays.

Mr. President, I ask for the yeas an nays on passage.

The PRESIDING OFFICER. Is ther

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I further suggest that Mr. SCOTT come to the Chamber.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE SENATE WORKLOAD—LABOR DAY RECESS SCHEDULE

Mr. ROBERT C. BYRD. Mr. President, the Senate has a considerable amount of work ahead of it. I hope it will be possible to get a good amount of that work done before the Labor Day holiday recess. It is entirely possible that by working hard, long, and successfully, the 2 days that the Senate was to be in, the 28th and 29th, it is possible that we could scratch those 2 days and add them to the holiday. But I should want to be assured that we would have time agreements on measures ready to take up on the Wednesday when the Senate is supposed to come back; otherwise, there might be a tendency to fall victim to the syndrome that, well, we are not going to do anything that week, let us stay home and come in on the next Monday. So if we can get time agreements so that we know that we have work, know that we shall move forward on that Wednesday and have a good work week—Wednesday, Thursday, Friday, possibly even Saturday of that week; maybe not, but certainly Wednesday, Thursday, and Friday—so that we know we are going to be doing work, know we have time agreements, I am sure we will be willing to consider adding 2 days onto the holiday. But it just depends on how things go. I thought that might be nice to know.

Mr. President, Mr. SCOTT, the valiant, very able warrior from the State of Virginia, is present. He has tied his steed to the hitching post outside and left his lance there, but he carries with him his sword and it is polished and gleaming and he is ready to do battle.

Mr. HELMS. Will the Senator from West Virginia lay down his sword for just a moment?

Mr. ROBERT C. BYRD. I am outnumbered at this point.

Mr. HELMS. The Senator was referring to time agreements. I wonder if we could not get a time agreement on order No. 918, S. 3100. I am willing to accept 5 minutes on my side and give 5 hours to the other side to show what a sporting proposition I am willing to offer.

Mr. ROBERT C. BYRD. Let us talk about that later.

Mr. HELMS. The Senator was interested in getting a time agreement. I just wanted to show my willingness to cooperate with him.

Mr. ROBERT C. BYRD. The Senator is always willing to cooperate. I have never found him unwilling.

sword again.

COMMITTEE MEETINGS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate today to hold a markup session on two nominations; five public building proposals; S. 2900, oil spill liability legislation and S. 2995, the National Visitors' Center.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet during the session of the Senate today to mark up postal legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Subcommittee on Criminal Laws and Procedure of the Committee on the Judiciary be authorized to meet during the session of the Senate today to conduct an oversight hearing on LEAA.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Health and Scientific Research Subcommittee of the Committee on Human Resources be authorized to meet during the session of the Senate today beginning at 2:30 p.m. to hold a markup session on S. 3115, the disease prevention bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO RECOGNIZE SENATOR MORGAN AT 11:25 A.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. MORGAN be recognized at 11:30 a.m. today to address some remarks to the subject of the higher education bill and that he be allotted 15 minutes just before the rollcall vote.

Mr. JAVITS. Mr. President, if the Senator will yield to me, is this on the education bill?

Mr. ROBERT C. BYRD. Yes, he just wants to speak on it.

Mr. JAVITS. That is fine, except I am sure he would agree that we ought to leave maybe 2 minutes—make it 13 and 2, because if there is anything he says we want to answer before the vote, we would want a chance to do that.

Mr. MORGAN. Mr. President, maybe we could make it a little more, because, to be perfectly candid, I thought we had four amendments and so much time on the bill that I would be able to get my amendments ready. When you do not have a prepared text, it takes a little longer.

Mr. JAVITS. Could the Senator make it 15 minutes and 5 to us and start a little earlier, just as a precaution? We may not want to say anything at all.

Mr. ROBERT C. BYRD. Is that agreeneeds.

Mr. MORGAN. I think that is best.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, at 11:25 a.m. today, the distinguished Senator from North Carolina be recognized to speak on the higher education bill; that he have 15 minutes and Mr. JAVITS have 5 minutes; that if Mr. JAVITS does not use his 5 minutes, Mr. MORGAN will have it.

The PRESIDING OFFICER. On whose time?

Mr. ROBERT C. BYRD. The time has been yielded back. I am just asking unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPRESENTATION OF THE DISTRICT OF COLUMBIA IN CONGRESS

Mr. ROBERT C. BYRD. Mr. President, the Senator from Virginia has burnished his spurs and has his sword in his right hand and is ready to start.

Mr. SCOTT. Could the Senator change that to left hand? I happen to be left-handed.

Mr. ROBERT C. BYRD. The left hand is a little closer to me.

I ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 554.

Mr. SCOTT. Mr. President, reserving the right to object, I would want to pose some parliamentary inquiries.

Mr. ROBERT C. BYRD. The Senator cannot do that. He either has to object, or unanimous consent.

Mr. SCOTT. Reserving the right to object, I would ask the distinguished majority leader whether or not it appears to him to be proper to bring a bill up that has been passed by the House when a companion bill has been referred to the Senate Judiciary Committee, when the Subcommittee on the Constitution has had hearings on that measure, but had not taken any action on it, when the chairman of the full committee, the distinguished Senator from Mississippi, is out of the country.

Mr. ROBERT C. BYRD. Mr. President, I will not ask for regular order. I will answer the Senator's question.

I have established contact with the Senator from Mississippi and he says that it is perfectly agreeable with him for me to try to get the measure up while he is away, and under rule XIV, of course, the proper procedure is available to those who wish to avoid the committee consideration of the measure, and that was done in this instance under the rules. The measure has been on the calendar now since April 24. April, May, June, July, August—for almost 4 months it has been on the calendar.

So what is being done is perfectly proper.

Mr. SCOTT. Mr. President, I do not doubt the propriety of what the distinguished majority leader is attempting to do, but I do not believe any useful purpose would be served by a further reservation.

I do object.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in adjournment for 1 second.

The motion was agreed to; and at 10:31 a.m. on Wednesday, August 16, 1978, the Senate adjourned for 1 second.

AFTER ADJOURNMENT

WEDNESDAY, AUGUST 16, 1978

The Senate met at 10:31 and 1 second, pursuant to adjournment, and was called to order by Hon. GEORGE MCGOVERN, a Senator from the State of South Dakota.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of Proceedings be dispensed with.

Mr. HELMS. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will read the Journal.

Mr. ROBERT C. BYRD. Read it fast.

The Journal Clerk (James E. Thorndike) proceeded to read the Journal of Wednesday, August 16, 1978.

During the reading, the following occurred.

Mr. ROBERT C. BYRD. Read faster.

The Journal Clerk resumed the reading of the Journal.

During the reading the following occurred:

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the Journal be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

The PRESIDING OFFICER. Are there petitions or memorials to be presented?

Are there reports of standing and select committees?

Are there bills and joint resolutions?

Are there other resolutions?

If not, morning business is closed.

REPRESENTATION OF THE DISTRICT OF COLUMBIA IN CONGRESS

Mr. ROBERT C. BYRD. Mr. President, I move to proceed to the consideration of the D.C. representation in Congress bill.

Mr. SCOTT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

The PRESIDING OFFICER. The motion is not debatable.

Mr. SCOTT. Well, then, Mr. President, I would appeal from the ruling of the Chair.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

There is no appeal from a parliamentary inquiry.

The question is on agreeing to the motion.

Mr. SCOTT. Mr. President, I make a point of order that the motion is debatable.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The point of order is not sustained.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

Mr. SCOTT. Then I appeal from the ruling of the Chair.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. MCCLURE. I object.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk resumed calling the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 11:25 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 11:25 a.m. today, at which time Mr. MORGAN is to be recognized to speak on the higher education bill.

There being no objection, the Senate, at 10:40 a.m., recessed until 11:25 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HODGES).

COLLEGE OPPORTUNITY ACT OF 1978

The Senate continued with the consideration of the bill (S. 2539).

The PRESIDING OFFICER (Mr. HODGES). The Senator from North Carolina is recognized for 15 minutes.

Mr. MORGAN. Mr. President, I am sorry I have to address such a very important bill under such difficult circumstances. When I left the floor of the Senate this morning to go to the Judiciary Committee, it was my understanding that there were a number of amendments pending, and that there was no time limit on the bill. But be that as it may, I should have stayed here in the Chamber and been present so that I could have protected my interests. It is apparently too late to address any remarks on this subject now, but it is something, Mr. President, that I feel very strongly about.

America when we simply have to say to ourselves that we cannot do everything that we would like to do. I think in the area of higher education the time has arrived. With about a $50 billion deficit staring us in the face, we now propose to increase aid to those attending college by some pretty astronomical amounts. As a matter of fact, if we pass the bill before us, and then fully fund the basic grants program to take care of the additional 1.5 million new students, it would take $3.3 billion, a 65-percent increase at a time when we are $50 billion in debt.

I am not sure what the tax credit bill finally carried last night, but I understand it carried a $1.5 billion increase in Federal spending. Add those together and, as the distinguished chairman of the Budget Committee pointed out, we will never balance the budget.

That may not be important to some Members, but it is important to my people who happen to believe that we ought to pay for what we do now and not leave the debt for our children to pay.

Dr. Arthur Burns tried to tell us, the first 2 years that I was in the Senate and on the Banking Committee, that we ought to be cautious in deficit spending. Here we just throw caution to the wind. It is not as if we were not doing anything for the young men and women who want to attend college in this country. I pointed out last night just how much we are doing.

Under the programs that are covered in this bill, and the others where we provide student assistance, we already provide about $7.25 billion. Then if we take into consideration the tax losses that come by excluding certain benefits for attending college from the tax laws, we add another $1.25 billion. So when we add it all up, and considering the fact that there are only about 9.2 million students in this country, we are already appropriating almost $1,000 per student.

Last night we adopted the tax credit bill with only 27 Members of the Senate objecting to it when just a week or two ago 59 Members of this Senate had already voted in favor of a balanced budget.

It seems that we are talking in Congress out of both sides of our mouths. Every State in the Union—certainly my State—makes provisions for grants, for scholarships, and for loan funds to students attending college. We appropriate somewhere between $2,000 and $3,000 for every student attending a State institution. We also make direct grants for those attending private institutions.

I am simply trying to say, Mr. President, that I do not believe that the Federal Government should do everything. I wish it were possible for us to provide free higher education for everybody, but all we seem to think we do here is spend and spend and find ourselves more and more and deeper in debt.

I do not know what it means to the rest of the Senate, but last Saturday, I went down for about an hour and bagged groceries in a local supermarket in my town just to see what the rank and file people were having to pay for their groceries. Three apples, 97 cents. I guessed at each basket that came

through, and I could not even come within half of the cost of it.

We are going to continue to have runaway inflation as long as we here in Congress continue to appropriate and authorize the expenditure of funds recklessly, just because they tend to serve a noble purpose.

I think the President's request earlier this year, when he recommended about a $200 million increase in the present student aid programs, was a reasonable request. I would vote for almost any increase in the work-study program. But let me tell you about one university that I happen to know about. It has 32,000 students, and out of those 32,000 students, 17,000 were receiving Federal grants, Federal aid, Federal loans, or Federal scholarships. Of those students, about 80 percent came from families with incomes over $15,000.

When someone complained about it, the dean said, "Why, you turned my son down." The remark was made, "You are making $42,000. Surely, you do not want your son to go to school on this Federal money that was designed to help the poor."

He said, "He is 18 years old now, he is independent."

So, if we keep this up, what we are going to do is carry the full burden of higher education in this country and we are going to find ourselves just like the city of New York that tried to furnish free tuition, free higher education for everybody, except there will be nobody else for us to turn to. It is no wonder the value of the dollar continues to slip abroad.

Mr. President, I had thought of working on some amendments that would have provided some safeguards from the provisions of this bill in the event that the Appropriations Committee does not appropriate all the funds necessary. As I understand the bill as it is now written, a new million and a half students added on would get their pro rata share and those poor and receiving help now would have their assistance reduced.

Mr. JAVITS. Will the Senator yield on that point?

Mr. MORGAN. Yes.

Mr. JAVITS. The Senator is always extremely thoughtful and extremely considerate. I appreciate the consideration he is showing Senator PELL and myself in respect of the amendment and the third reading proposition. I am very sympathetic to the direction of the Senator's thinking on this question, and I respectfully suggest the following:

We shall have the ESEA bill up, probably within a week or thereabouts. It is a "must" bill; there is no way of getting around that. We would be very happy to work creatively with the Senator, and I believe and hope my colleague would, too, to see what we work out in a well-articulated way to try to effectuate the justness of the result—to wit, that the new edition should not preempt the established program.

Mr. MORGAN. I thank my distinguished colleague. That, frankly, is about the only alternative left to me. But I do once again want to express my consternation at the continually increasing appropriations for expenditures of money that we do not have, and that my children and my grandchildren are going to have to pay for. We are not going to do anything about the business of inflation or balancing the budget or deficit spending until we do just as we have to do in our own families at times, say to ourselves, "There are some nice things we would like to have. We would like to have everything, to do everything for everybody, but we cannot afford to do it."

What we are doing now is spending money that none of us in this Senate will ever pay for. It will be these young people sitting over here on the side and their grandchildren and their grandchildren. We do not do it in North Carolina. I think it is a bad practice for the Federal Government, and I think the bill we passed last night and the increases in this bill are two good illustrations of what we are doing in Congress.

I yield back the remainder of my time.

Mr. PELL. Mr. President, I should like to respond briefly.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Who has the time to follow Senator MORGAN?

The PRESIDING OFFICER. The Senator from New York was to be recognized for 5 minutes immediately following Senator MORGAN.

Mr. JAVITS. I yield half the time to the Senator from Rhode Island.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. MORGAN's 3 minutes which he yielded back may either be restored to him or, in the event he does not want it, be given to Mr. PELL.

The PRESIDING OFFICER. Without objection, is is so ordered. The Senator from Rhode Island will proceed for 3 minutes and the Senator from New York will follow for 5 minutes.

Mr. JAVITS. Mr. President, I yield 1 minute to the Senator from Rhode Island so he may have equal time.

Mr. PELL. Mr. President, I appreciate the quandary in which the Senator from North Carolina finds himself, but there was a time limitation on this bill of 4 hours, agreed to some time back. The points he made I sympathize with.

The only thing I can say is that, from the viewpoint of cost benefit to the Nation, I can think of no better expenditure than money spent on education. Because the Nation is exactly as rich and strong as the quality of the education of its people. I recognize the dire state of our budget and the need to cut back, but I guess this is where we have to agree to disagree. The last place I should want to see us cut back in is education. I would rather see us cut back in almost any other program than that.

I agree with the Senator that we want to be sure that those poor youngsters who can least afford a college education are not in any way jeopardized as we try to make more education available to our people.

Mr. JAVITS. Mr. President, I have already expressed myself on the proposition which Senator MORGAN put before us. Again, I shall undertake, and I hope the subcommittee itself will undertake some creative way of helping with the situation. The Appropriations Committee may not recommend that the Senate appropriate everything which is authorized. It generally does not recommend to fully fund education programs.

Second, I wish to address myself to the proposition of our grandchildren. Unfortunately, for all of us living in this very dangerous and tempestuous world, there is far more involved for our grandchildren than these higher education appropriations. Well over $115 billion is likely to be appropriated this year for defense; our grandchildren and their grandchildren will be paying that as well. In any kind of rational and intelligent world, a good would be considered real waste.

Mr. President. The real problem is that we have to address ourselves to the priorities of many, many other things. I am all for an intelligent marshaling of our resources. I believe that, in the present parliamentary impasse, this view has to be reflected in the second budget resolution. I understand it will be, and I shall lend myself to that question at that time. We have to take our choice of priorities. We cannot simply strike out in this direction or that direction because we are spending too much money, with which I thoroughly agree.

That is why I generally vote against so-called "meat-ax" cuts. They do not discriminate in terms of priorities and in terms of the different values of A, B, or C. They just cut things across the board Cutting for the sake of cutting is not what I feel we were sent here for. But I agree with Senator MORGAN on running a tight ship. I am totally with him on that.

Finally, Mr. President, we have about 11 million college students in the United States, and it is a fact that we are spending far less than has been stated earlier. Still, substantial sums of money are being spent. We estimate it is somewhere in the area of upwards of $500 per student who gets the benefit of these particular student aid programs effected by this bill. Other aid, such as social security education benefits to survivors or veterans benefits are not available to the general population. The basic grants or guaranteed loans affected by this bill will be available to the general population of postsecondary students.

A problem in our country right now is that we need this highly educated population according to the demands of modern science and business, but we do not have adequate entry level employment for them. Too many Ph. D.'s are driving taxicabs.

Of course, we already are very much ahead in the world because we have such an educated population. So I certainly hope, and as the ranking member of this committee, I shall address myself to the question of opportunity and effective utilization that has been demonstrated. I hope that these expenditures will be found to be more than justified in terms of priorities.

Finally, I would like to again thank

Senator MORGAN for his interest in this important matter and his accommodation so we can get this bill passed. I hope that consistent with his expressed desire to assure that the poor are not to lose benefits, we may be able to fashion on the ESEA bill a feasible resolution.

Mr. BELLMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. JAVITS. I yield to the Senator. How much time does he want?

Mr. BELLMON. Five minutes.

The PRESIDING OFFICER. There is not 5 minutes between now and the vote scheduled for 11:45.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent the Senator may have whatever time remains between now and the vote.

Mr. JAVITS. I will yield all my remaining time to the Senator from Oklahoma.

Mr. BELLMON. Mr. President, I find it hard to believe that we are about to rush this bill through the Senate without even giving some of our colleagues the opportunity to offer their amendments.

Just last night, the Senate passed—by an overwhelming majority—a tuition tax credit. S. 2539 is the administration's and the Human Resources Committee's proposed alternative to that tax credit bill. I voted against the tax credit, Mr. President, but most of our colleagues voted for it.

I cannot imagine why we would pass two bills, on two successive days to accomplish the same objective. As may be known, I have consistently opposed both the tax credit and the bill before us. I have introduced S. 3403—the National Student Loan Bank Act—which I believe is a better solution than either tax credits or expanded grants to the problems confronting middle-income families whose children want to attend relative expensive institutions of higher learning. I hope—and expect—that the Senate will hold hearings on that bill next year, in conjunction with reauthorization of existing higher education legislation.

But we passed a tax credit bill last night, Mr. President; and it passed by a 65 to 27 vote. Why would we pass this bill today, unless we want two programs to do the same job?

During consideration of the first concurrent resolution on the budget, it was unclear which of the two middle-income tuition assistance proposals before us this year the Senate would prefer. It was generally agreed, however, that under no circumstances should we fund both bills. The first budget resolution, therefore, included assumptions which would have accommodated one-half on the projected cost of the tax credit, and one-half of the projected cost of the bill before us today. Our understanding at that time was that, once the Senate made a choice, we would adjust the assumptions for middle-income tuition assistance in the second resolution to reflect that choice. I repeat, Mr. President, the expectation was that the Senate would make a choice between the bills—not enact both.

Since the Senate has passed the tax credit, I believe the second resolution should reflect that. The tax credit will cost about $500 million in fiscal year 1979. Its cost, cumulative to 1983, is projected by CBO at $5.3 billion. If we were to add the cost of S. 2539 to the cost of the tax credit, Mr. President, CBO projects the total expenditure for these two bills—revenue loss and spending combined—would exceed $11 billion over the next 5 years. If we are to have any hope of a balanced budget, we cannot have both, Mr. President.

There are those who will argue that President Carter will veto the bill we passed last night. They will say, therefore, that we must pass S. 2539, if we are to enact middle-income tuition assistance this year. I cannot believe, Mr. President, that the U.S. Senate is prepared to legislate on this presumption. The only conceivable reason for voting in favor of the bill before us today—on the heels of our action last night—is if we favor enactment of both.

What if the President does veto the tax credit? Is there anyone here who can give me an absolute assurance that Congress will not override? If the Senate prefers a tax credit, is not the Senate ready to fight for the tax credit? If not, what were we doing for the last 3 days? Was that just an empty exercise in answer to political pressure, in this election year? And, Mr. President, if our constituents so prefer a tax credit to the bill before us, and if that is the reason we spent the last 3 days working on the tax credit bill, by what logic do we desert their desires at this point? Is it the agenda of the managers of this bill to make it easier for the President to veto the tax credit? If that is so, is that what we want?

I am going to vote against S. 2539, Mr. President; and I urge my colleagues to do likewise. It seems to me that those of you who voted for the tax credit can do no less for the proposal that you obviously support; and in the name of fiscal responsibility, I do not see how the Senate can do anything else.

● Mr. CULVER. Mr. President, I am pleased to support S. 2539, the College Opportunity Act of 1978. I am convinced this initiative will prove to be an effective means of providing aid to middle-income families working so hard to put their children through college.

We are all well aware of the ever-increasing costs of higher education. Over the past 10 years, the costs of sending a child to college have increased almost 100 percent. And, as always, the burden of these rising expenses falls most heavily on the midlevel taxpayer. Americans have always been willing to make sacrifices to obtain good education for their children. Nonetheless, in a country dedicated to equal educational opportunity, putting a child through college should not be the severe financial hardship it has become to so many parents.

The College Opportunity Act will provide financial assistance to students from middle-income families while increasing the funding now available to students from low and lower middle-income families. It expands and improves several current programs, including the basic educational opportunity grants, supplemental educational opportunity grants, college work study, and guaranteed student loans. These programs have aided many students in the past years, but they have not been as sensitive as they should to the needs of one of the largest segments of our population—the middle-income taxpayer. This proposal would help correct this shortfall.

The basic educational opportunity grant program was originally enacted in 1972 to provide direct cash grants to help defray high college costs. It has grown since then and now aids more than 2.1 million students a year. S. 2539 raises the current qualification limit of a $15,000 annual income to $25,000, which would make approximately 1.5 million new students eligible for such funds. Grants would be provided on a graduated scale based on a family's income and ability to afford the costs of higher education, taking into account such considerations as family size, unusual expenses such as high medical bills, or other circumstances which might affect the family's ability to pay during the year. Paperwork is to be kept at a minimum, and calculations for a family's possible eligibility will be provided free of charge.

In addition, the College Opportunity Act increases the authorization for supplemental educational opportunity grants, which provide assistance to qualified students of exceptional financial need, from the fiscal year 1978 authorization of $270 million to $370 million for fiscal year 1979. It is estimated that an additional 180,000 students from middle-income families would benefit by this increase.

The college work-study program permits higher education institutions and other nonprofit agencies to hire college students for part-time work and be reimbursed for 80 percent of the student's salary. Students thus have a chance to earn money while acquiring useful work experience. Increasing the authorization for this program to the level included in S. 2539 will create many more job opportunities for deserving students.

The guaranteed student loan program, which has been the primary aid available to middle-income families, is currently limited to families with less than a $25,000 gross yearly income. The College Opportunity Act lifts the income ceiling entirely for interest-subsidized loans, opening up eligibility to hundreds of thousands of additional students, and eliminates the burdensome paperwork formerely required for preparing a needs analysis.

Mr. President, the approach offered by this legislation is superior—both as fiscal policy and as education policy—to alternatives utilizing the Tax Code. I have heard from many Iowans about the pressing burden of rising education costs, and I believe we need an assistance plan which will address the widely varying financial needs and capabilities of recipients. Proposals for tuition tax credits would extend the same flat credit rate for college students in all families. The result on the one hand would be a windfall for wealthy families who require

lies, on the other hand, the amount would do little to relieve the college costs burden. The College Opportunity Act targets funds far more directly to the need and is provided at the time the student is faced with paying for tuition and fees, not months later. According to estimates by the Senate Human Resources Committee, S. 2539 provides an average grant of $700 for a student with a $19,000 family income, and a grant of more than $1,000 for a student in a $15,000 income family.

Mr. President, I believe that this legislation will enable us to move toward a goal of denying no qualified student a college education because of cost barriers. I hope the Senate will approve it.●

Mr. ROBERT C. BYRD. Mr. President, Federal education policy has benefited immeasurably from the sure and able leadership of the senior Senator from Rhode Island, CLAIBORNE PELL. Serving since 1969 as chairman of the Subcommittee on Education, Arts, and Humanities, he has had the responsibility of helping to guide and shape the Federal commitment to education.

Senator PELL'S personal commitment to improving educational opportunity is perhaps best viewed in the legislative record. Indeed, the College Opportunity Act of 1978 which we have debated today is but the latest of a long series of education initiatives with which he has been associated.

Most well known, of course, is the student aid program which bears his name. The program, enacted in 1972, has insured that a college education will not be beyond the means of millions of young Americans. It is estimated that some 2.1 million needy students will receive grants under this program in 1978. It is no exaggeration to say that without the Pell grants program many would have been unable to attend the college of their choice.

Increased education assistance for disadvantaged children is another area in which Mr. PELL has successfully labored to focus the Federal commitment on education. During the time he has served as chairman of the Education, Arts, and Humanities Subcommittee, grants for disadvantaged children under title I of the Elementary and Secondary Education Act have more than doubled. Such a level of commitment made it possible for some 5.5 million children to receive education services last year.

Mr. President, I believe that the senior Senator from Rhode Island should be commended for the leadership which he has provided for so many years in the area of education. His most recent work on the Higher Education Act amendments—together with the work of the senior Senator from Vermont, Mr. STAFFORD, who is also deserving of the praise of this body—exemplifies his dedication to developing an appropriate Federal role in meeting the education needs of the Nation.

Mr. STEVENS. Mr. President, I truly regret that I must rise in opposition to S. 2539, the College Opportunity Act. Two years ago, however, I had an extension. At that time I stated:

> I am going to oppose any further extension, ever, of this retreaded concept that continues to pile program on program and administrative cost on administrative cost, and refuse to simplify the process of providing assistance to the students who are in need.

In 1976 the able managers of the bill said that they would try hard to see what could be done to simplify the programs. Apparently, they have decided that this is not possible as what we have before us still contains four grant programs: Basic educational opportunity grants, supplemental educational opportunity grants, work-study, and State student incentive grants. Eligibility for BEOG's is determined at the national level; eligibility for SEOG's and work-study is determined by the financial aid officer of the college or university; and, eligibility for State student incentive grants is determined by the States.

I do not plan to reiterate all of the information I provided 2 years ago regarding the excessive administrative costs and expanding Federal bureaucracy associated with administering four different grant programs, but I do have copies of my earlier statements which I would be pleased to share. All of the arguments I made then remain valid except that I, thankfully, no longer have four children in college.

As a member of the Committee on Appropriations, however, I must state my strong objections to the mandatory funding provisions contained in this legislation for the supplemental educational opportunity grants and the work-study program. And, therefore, must regrettably vote against this bill.

Mr. JAVITS. Will the Senator yield to me?

Mr. BELLMON. I am glad to yield to the Senator.

Mr. JAVITS. I have conferred with Senator PELL. We will have hearings on higher education bills. If the Senator introduces it next year, I can assure him we will give him a hearing.

Second, the majority leader, Senator PELL and I made it clear to everybody what would be the progress of this legislation.

So, really, I think everybody who wanted to amend or do anything else about the bill had a chance, and there will be a rollcall vote.

The PRESIDING OFFICER. All time has expired. The hour of 11:45 having arrived, the question is, Shall the bill (S. 2539), as amended, pass? The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Mississippi (Mr. EASTLAND), and the Senator from Louisiana (Mr. JOHNSTON) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Connecticut (Mr. WEICKER) is necessarily absent.

[Rollcall Vote No. 324 Leg.]

YEAS—68

Allen	Gravel	Metzenbaum
Anderson	Griffin	Moynihan
Baker	Hart	Nelson
Bayh	Hatfield, Mark O.	Pearson
Bentsen	Hatfield, Paul G.	Pell
Biden	Hathaway	Percy
Brooke	Heinz	Randolph
Bumpers	Hodges	Ribicoff
Burdick	Hollings	Riegle
Byrd, Robert C.	Huddleston	Sarbanes
Cannon	Humphrey	Sasser
Case	Inouye	Schmitt
Chafee	Jackson	Schweiker
Church	Javits	Sparkman
Clark	Kennedy	Stafford
Cranston	Leahy	Stevenson
Culver	Long	Stone
Danforth	Magnuson	Talmadge
Dole	Mathias	Thurmond
Domenici	Matsunaga	Wallop
Durkin	McGovern	Williams
Eagleton	Melcher	Young
Ford		
Glenn		

NAYS—28

Bartlett	Haskell	Nunn
Bellmon	Hatch	Packwood
Byrd, Harry F., Jr.	Hayakawa	Proxmire
Chiles	Helms	Roth
Curtis	Laxalt	Scott
DeConcini	Lugar	Stennis
Garn	McClure	Stevens
Goldwater	McIntyre	Tower
Hansen	Morgan	Zorinsky
	Muskie	

NOT VOTING—4

Abourezk	Johnston
Eastland	Weicker

So the bill (S. 2539) was passed, as follows:

S. 2539

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "College Opportunity Act of 1978".

SEC. 2. (a) Section 411(a)(3)(B) of the Higher Education Act of 1965 is amended by adding at the end thereof the following new division;

"(iv) Beginning with the academic year 1979–1980 and thereafter, in determining the expected family contribution under this subparagraph no rate in excess of 10.5 per centum shall be applied to parental discretionary income.".

(b) Section 411(b)(5)(B) of that Act is amended by striking out "$237,400,000" and inserting in lieu thereof "$500,000,000".

(c)(1) Section 411(b)(5)(A) of that Act is amended by striking out "$130,093,000" and inserting in lieu thereof "$370,000,000 for the fiscal year 1979, and $450,000,000 for the fiscal year 1980, and thereafter".

(2) Section 413A(b)(1) of that Act is amended by striking out "and for each of the succeeding fiscal years ending prior to October 1, 1979" and inserting in lieu thereof the following: "and for each of the five succeeding fiscal years, and $250,000,000 for the fiscal year ending September 30, 1979".

(d) Section 415C(b)(4) is amended by inserting before the semicolon at the end thereof a comma and the following: "except in any State in which participation of nonprofit institutions of higher education is in violation of the Constitution of the State".

SEC. 3. (a) Section 428(a)(2)(A) of that Act is amended to read as follows:

"(2)(A) Each student qualifying for a portion of an interest payment under paragraph (1) shall have provided to the lender a statement from the eligible institution, at which the student has been accepted for enrollment, or at which he is in attendance in good standing (as determined by such institution), which—

financial assistance.".

(b) Section 428(a)(2)(B) of that Act is repealed.

(c) Subparagraphs (C) and (D) of section 428(a)(2) of that Act, and all cross references thereto, are redesignated as subparagraphs (B) and (C), respectively.

(d) Section 428(a)(2)(B) of that Act (as redesignated by subsection (c) of this section) is amended by striking out the semicolon at the end of clause (iii) and inserting in lieu thereof a period, and by striking out clause (iv) of such section.

(e) Section 428(a)(9) of that Act is repealed.

(f)(1) Section 425(a)(1)(A) of that Act is amended by striking out "section 428(a)(2)(C)(i)" and inserting in lieu thereof "section 428(a)(2)(B)(i)".

(2) Section 428(b)(1)(A)(i) of that Act is amended by striking out "section 428(a)(2)(C)(i)" and inserting in lieu thereof "section 428(a)(2)(B)(i)".

MOTION TO TABLE MOTION TO RECONSIDER VOTE ON S. 2539

Mr. PELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STAFFORD. I move to lay that motion on the table.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. ANDERSON). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Is that debatable?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Call the roll.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider the vote by which the bill was passed.

On this motion, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Colorado (Mr. HART) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "yea."

The result was announced—yeas 75, nays 17, as follows:

[Rollcall Vote No. 325 Leg.]

YEAS—75

Anderson	Church	Griffin
Baker	Clark	Hatfield, Mark O.
Bartlett	Cranston	Hatfield, Paul G.
Bayh	Culver	Hathaway
Bentsen	Curtis	Heinz
Biden	Danforth	Hodges
Brooke	DeConcini	Hollings
Bumpers	Dole	Huddleston
Burdick	Domenici	Humphrey
Byrd, Robert C.	Durkin	Inouye
Cannon	Eagleton	Jackson
Case	Ford	Javits
Chafee	Garn	Kennedy
Chiles	Glenn	Leahy
Long	Pell	Stevenson
Magnuson	Percy	Stone
Mathias	Proxmire	Talmadge
Matsunaga	Ribicoff	Thurmond
McGovern	Riegle	Wallop
McIntyre	Roth	Weicker
Melcher	Sarbanes	Williams
Metzenbaum	Sasser	Young
Muskie	Schmitt	

NAYS—17

Bellmon	Hayakawa	Nunn
Byrd, Harry F., Jr.	Helms	Scott
Goldwater	Lugar	Stennis
Hansen	McClure	Stevens
Hatch	Morgan	Tower
	Moynihan	Zorinsky

NOT VOTING—8

Abourezk	Gravel	Johnston
Allen	Hart	Randolph
Eastland	Haskell	

So the motion to lay on the table was agreed to.

POINT OF ORDER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator from North Carolina may make a point of order. I yield to him for—2 minutes? One minute?

Mr. HELMS. No longer than it takes to make a point of order.

Mr. ROBERT C. BYRD. Yes.

Mr. HELMS. I thank the distinguished majority leader.

Mr. President, with all due respect to the Chair——

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. May we have order in the Senate? Mr. President, may we have order in the Senate? I hope we may get order.

The PRESIDING OFFICER. The Senate will be in order. The Senator from North Carolina may proceed.

Mr. HELMS. I thank the Chair, and I thank the able majority leader.

Mr. President, with all due respect for the Chair and the Parliamentarian, and we all make errors, I make the point of order that the Chair did erroneously close morning business before resolutions and motions coming over under the rule were laid before the Senate this morning. I ask the Chair to rule.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 1 minute.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, there are three things I have to say about this.

First of all, rule VII makes no reference whatsoever to resolutions and motions coming over under the rule.

Second, the point of order comes too late.

Third, the motion before the Senate was legitimately offered because the Chair had announced the conclusion of morning business.

I am not going to say any more than that. I am ready to vote.

The PRESIDING OFFICER. The Chair did close morning business erroneously. Therefore, the point of order is sustained, the motion to proceed falls, and the Chair lays before the Senate the first resolution coming over under the rule.

will please state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 39) disapproving pay recommendations of the President.

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, did the clerk finish the reading of the title of the first resolution?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Then, Mr. President, I move to proceed to the consideration of Calendar Order No. 686.

Mr. HELMS. Mr. President——

The PRESIDING OFFICER. The motion is not debatable.

Mr. McCLURE. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state his point of order.

Mr. McCLURE. Mr. President, I make the point of order that it is not in order to consider this matter until resolutions and motions coming over under the rule have been considered and disposed of.

Mr. ROBERT C. BYRD. Mr. President, I call attention to Senate Procedure, page 574, wherein it is stated:

> A resolution laid before the Senate as coming over from a previous legislative day and displaced by an affirmative vote to proceed to the consideration of a bill prior to the expiration of the Morning Hour, is placed on the Calendar and not again laid before the Senate.

The PRESIDING OFFICER. The point of order is not well taken, the first hour of the morning now having elapsed, the motion is in order.

Mr. McCLURE. Mr. President, I appeal from the ruling of the Chair, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I move to lay the appeal on the table.

Mr. McCLURE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the appeal from the ruling of the Chair. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announced that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mr. ALLEN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HART), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Florida (Mr. STONE), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New York (Mr. JAVITS) is necessarily absent.

The yeas and nays resulted—yeas 64, nays 28, as follows:

[Rollcall Vote No. 326 Leg.]

YEAS—64

Anderson	Gravel	Melcher
Bayh	Griffin	Metzenbaum
Bentsen	Haskell	Moynihan
Biden	Hatfield, Mark O.	Muskie
Brooke	Hatfield, Paul G.	Nelson
Bumpers	Hathaway	Nunn
Burdick	Heinz	Packwood
Byrd, Harry F., Jr.	Hodges	Pell
Byrd, Robert C.	Hollings	Percy
Case	Huddleston	Proxmire
Chafee	Humphrey	Randolph
Chiles	Inouye	Ribicoff
Church	Jackson	Riegle
Clark	Kennedy	Sarbanes
Cranston	Leahy	Sasser
Culver	Long	Sparkman
Danforth	Magnuson	Stennis
DeConcini	Mathias	Stevenson
Durkin	Matsunaga	Talmadge
Eagleton	McGovern	Thurmond
Ford	McIntyre	Zorinsky
Glenn		

NAYS—28

Baker	Hatch	Schweiker
Bartlett	Hayakawa	Scott
Bellmon	Helms	Stafford
Cannon	Laxalt	Stevens
Curtis	Lugar	Tower
Dole	McClure	Wallop
Domenici	Morgan	Weicker
Garn	Pearson	Young
Goldwater	Roth	
Hansen	Schmitt	

NOT VOTING—8

Abourezk	Hart	Stone
Allen	Javits	Williams
Eastland	Johnston	

The PRESIDING OFFICER. There being 64 yeas and 28 nays, the motion to table the appeal is agreed to and the decision of the Chair stands as the judgment of the Senate.

REPRESENTATION OF THE DISTRICT OF COLUMBIA IN CONGRESS

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed to Calendar No. 686.

Mr. SCOTT. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mr. ALLEN), the Senator from Iowa (Mr. CLARK), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HART) and the Senator from Louisiana (Mr. JOHNSTON) are necessarily absent.

I further announce that, if present and voting, the Senator from Iowa (Mr. CLARK) would vote "yea."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

The result was announced—yeas 71, nays 22, as follows:

[Rollcall Vote No. 327 Leg.]

YEAS—71

Anderson	Burdick	Cranston
Bayh	Byrd, Robert C.	Culver
Bentsen	Case	Danforth
Biden	Chafee	DeConcini
Brooke	Chiles	Dole
Bumpers	Church	Domenici
Durkin	Javits	Randolph
Eagleton	Kennedy	Ribicoff
Ford	Leahy	Riegle
Glenn	Magnuson	Roth
Gravel	Mathias	Sarbanes
Griffin	Matsunaga	Sasser
Haskell	McGovern	Schweiker
Hatfield, Mark O.	McIntyre	Sparkman
Hatfield, Paul G.	Melcher	Stafford
Hathaway	Metzenbaum	Stevenson
Heinz	Moynihan	Stone
Hodges	Muskie	Talmadge
Hollings	Nelson	Thurmond
Huddleston	Nunn	Wallop
Humphrey	Packwood	Weicker
Inouye	Pearson	Williams
Jackson	Pell	Zorinsky
	Percy	
	Proxmire	

NAYS—22

Baker	Hansen	Morgan
Bartlett	Hatch	Schmitt
Bellmon	Hayakawa	Scott
Byrd, Harry F., Jr.	Helms	Stennis
Cannon	Laxalt	Stevens
Curtis	Long	Tower
Garn	Lugar	Young
	McClure	

NOT VOTING—7

Abourezk	Eastland	Johnston
Allen	Goldwater	
Clark	Hart	

So the motion to proceed to consider Calendar No. 686 was agreed to.

The Senate proceeded to consider the joint resolution (H.J. Res. 554) proposing an amendment to the Constitution to provide for representation of the District of Columbia in Congress.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

CLOTURE MOTION

Mr. ROBERT C. BYRD. Mr. President, I offer a cloture motion.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on H.J. Res. 554, a joint resolution proposing an amendment to the Constitution to provide for representation of the District of Columbia in the Congress.

Robert C. Byrd, Birch Bayh, Charles McC. Mathias, Jr., Wendell R. Anderson, Edmund S. Muskie, Robert T. Stafford, Jennings Randolph, Mike Gravel, Adlai E. Stevenson, George McGovern, Edward M. Kennedy, Howard M. Metzenbaum, Donald W. Riegle, Jr., Daniel K. Inouye, John A. Durkin, Alan Cranston, William D. Hathaway, Paul S. Sarbanes, Patrick J. Leahy, Warren G. Magnuson, Gaylord Nelson.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion to proceed was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. MELCHER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, to begin historic debate in the Senate today, and significant——

Mr. MELCHER. I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. May we have order?

Mr. SCOTT. Will the Senator yield for a unanimous consent request?

Mr. KENNEDY. Without losing my right to the floor.

Mr. SCOTT. Mr. President, I ask unanimous consent that Ted Humes and Pete Velde of the Senate Judiciary Committee staff be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I yield to the Senator from Virginia for a similar request.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that John I. Brooks and Roger Sindelar of my staff be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I make the same request for Ben Dixon and Fred Williams of Senator BAYH's staff; Ralph Neas from Senator BROOKE's staff; Mike Klipper from Senator MATHIAS' staff; Peter Parham, Tom Susman and Carey Parker of my staff; Tom Polgar of Senator MORGAN's staff; and Jim Davidson of Senator MUSKIE's staff be granted privilege of the floor during consideration of this legislation and any votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I yield for a similar request to the Senator from North Carolina.

Mr. HELMS. Mr. President, I make the same request for Dr. James Lucier, Sam Currin, John Carbough, and Mary Calhoun.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I make the same request for Romano Romani.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, I make the same request for Bruce Eggers.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, we begin an historic debate in the Senate today on a significant issue of civil rights and human rights—an amendment to the Constitution to provide representation in Congress for the people of Washington, D.C.

In matters of fundamental justice and human rights involving the citizens of our Nation, there is no left or right, liberal or conservative. Yet, under the Constitution and laws of the United States, there is an anachronism that defies justice and denies one of the basic and most cherished rights of representative government for the people of the Nation's capital—the right to have a voice in the decisions of the Senate and the House of Representatives.

The issue is one of simple justice for the 690,000 citizens of the Nation's capital. For decades, going back to the beginning of the 19th century, ordinary District citizens, concerned local leaders,

and many Members of Congress have sought this basic goal. Indeed, the goal is remarkable and unusual only in the sense that it has been so flagrantly denied for so long to so many citizens. In a nation that was founded on the principle of representative government and that has prided itself for two centuries on the strength and vitality of its democracy, it is a travesty of history that the District of Columbia has no voice in Congress.

The eyes of three constituencies are upon us—the hundreds of thousands of citizens of the District of Columbia who ask only the same basic political right that all other Americans enjoy; the Americans in States throughout the country, who have made this question a national issue of civil rights; and millions more throughout the world who will see in our action a sign of America's real commitment to human rights. No other action Congress takes can so clearly demonstrate that our Nation's worldwide concern and sensitivity for human rights begin at home, on the doorstep of the Capitol, in the Chambers of the House and Senate.

In recent weeks, the Senate has spoken out with a virtually unanimous voice in condemning the violations of human rights in the Soviet Union. Our noble words, however—important as they are in giving hope to so many in other lands who are denied their basic rights—would acquire a hollow ring if the Senate now turns its back on the rights of the people of the District of Columbia to share in our democracy.

In the view of legal scholars, there is no constitutional impediment to enactment of this measure. Enfranchisement of the District was not an issue the Founding Fathers faced. They could hardly foresee that the sparsely settled marshy area along the Potomac River—the "District (not exceeding 10 miles square)" about which they wrote in 1787—would one day be not only the seat of government of the United States, but the capital of the free world, a celebrated city of several hundred thousand residents.

The population of the District is now larger than seven States. Residents of the District pay large amounts of taxes to the Federal Government. District residents fought and died in Vietnam and in all the Nation's other wars. And yet they continue to endure both taxation without representation and conscription without representation.

Last March, by an impressive two-thirds vote, the House of Representatives approved the pending constitutional amendment (H.J. Res. 554) to provide full voting representation for the District of Columbia in both the House and the Senate—two Senators and two members of the House of Representatives on the basis of recent population estimates.

Now, the spotlight is on the Senate. We have a realistic opportunity to achieve the goal, and we should not let the opportunity slip away. One of the most honored principles of our democracy is the concept of "one person, one vote." In the District of Columbia, however, that principle has no application. Instead, for District citizens, the rule is "690,000 persons, no votes." Nowhere in America should the principles of democracy be more firmly established than in the Nation's capital. The time has come to remove the cloud of America's "Last Colony" from the District of Columbia.

The proposed amendment has strong bipartisan support. It has been endorsed by the chairmen of both the Democratic National Committee and the Republican National Committee. Both the Democratic and Republican party platforms in the 1976 election contained explicit planks supporting voting representation in the Senate and House for citizens of the District. In 1970, testifying before a Senate committee on behalf of the Nixon administration, Assistant Attorney General William H. Rehnquist, now a Supreme Court Justice, endorsed a constitutional amendment to achieve this goal. His words emphasized the long-standing injustice perpetrated on citizens of the District:

> The need for an amendment of that character at this late date in our history is too self-evident for further elaboration; continued denial of voting representation from the District of Columbia can no longer be justified.

But what was self-evident to Mr. Rehnquist and the platform committees has not been obvious to Congress. In recent years, the Senate has usually been regarded as the graveyard for aspirations of District residents to participate in their National Government. A breakthrough occurred in 1961, when the 23d amendment to the Constitution gave the District the vote in Presidential elections; that amendment was ratified by the States in 9 months—a record at the time.

But success has not come as easily for congressional representation. Opposition so far has seemed to arise from four "toos" on the part of some Members of the Senate—the fear that Senators elected from the District of Columbia may be too liberal, too urban, too black or too Democratic. There is also the mystique of the Senate club, the reluctance to expand the membership beyond the current 100 Senators. But such arguments cannot bear the light of day. They deny basic justice. They are unworthy of the Senate and the Nation, and provide no justification for denying representation in Congress to the people of the District of Columbia.

Here in the Senate, we often differ on the degree to which the Federal Government should be involved in the affairs of the citizens of this country. But we should all agree that in this age of big government, no Americans are truly free unless they have a voice in the election of those who write the Nation's laws. Two hundred years and 95 Congresses after the Nation was founded, it is time to welcome Senators and Representatives from the District of Columbia into our congressional deliberations and decisions—and our cloakrooms.

Wherever I travel, I find people surprised to learn that the citizens of Washington cannot vote for Members of Congress. This mood, and the precedent of swift approval for the 23d amendment, give confidence that the generous and decent instincts of the American people will produce prompt ratification of an amendment to give the District the vote in Congress, once we send the amendment to the States.

THE CASE BASED ON POPULATION

One of the strongest arguments in favor of House Joint Resolution 554 is the simple fact that the District of Columbia is not just a museum collection of Federal monuments and Government buildings. It is also the home of hundreds of thousands of men, women, and children—690,000 people in all.

Under one of the most basic principles of our democracy, the citizens of each of the States are represented in the Senate and the House. Yet, the 690,000 citizens of the District are denied this fundamental right.

As table 1 indicates, the District of Columbia has a population greater than, or equal to, that of seven States, based on the most recent data available from the Bureau of the Census—the population estimates for 1977:

District of Columbia	690,000
South Dakota	689,000
North Dakota	653,000
Nevada	633,000
Delaware	582,000
Vermont	483,000
Alaska	407,000
Wyoming	408,000

If, instead of the 1977 estimates, the official census figures for 1970 are used, the District has a population greater than the population of 10 States—including Idaho, Montana, and New Hampshire, in addition to the above seven States. Each of these States has its own representation in Congress—two Senators, and either one or two Members of the House of Representatives, depending on the population of the State. Yet, the people of the Nation's Capital have no such voice.

In this era of profound involvement by Congress in so many different aspects of American life, it is a denial of basic justice and human rights for the citizens of the District to have no voice in the decisions of Congress.

THE CASE BASED ON TAXES

Since the days of the Revolutionary War, a fundamental principle of our Nation has been the rejection of taxation without representation.

Yet, today, two centuries after America was founded, the citizens of the District of Columbia are forced to endure the unfair burden of such taxation. As citizens of the United States, the residents of Washington, D.C. are obliged to pay large amounts in taxes each year to the Federal Government. Yet these citizens are denied representation in Congress, which writes the Nation's tax laws.

The Library of Congress has prepared data summarizing Federal tax payments from each of the 50 States and the District of Columbia. The data, based on concepts developed by the Tax Foundation, shows dramatically the degree to which the District of Columbia bears the burden of taxation without representation.

As shown by table 1, residents of the

District paid out $1.4 billion in taxes to the Federal Government in fiscal year 1977. That amount is greater than the taxes paid by 11 States:

	Billions
District of Columbia	$1.470
Maine	1.400
New Hampshire	1.330
Alaska	1.225
Nevada	1.190
Idaho	1.155
Delaware	1.120
Montana	1.065
North Dakota	0.945
South Dakota	0.840
Wyoming	0.735
Vermont	0.630

Each of these States is represented in Congress by two Senators and by either one or two Members of the House of Representatives, depending on the population of the State. The citizens of these States, therefore, have a voice in the way they are taxed by the Federal Government. But the citizens of the District of Columbia have no such voice.

If the Federal tax burden is calculated on a per capita basis, the comparison becomes even more stark. For District of Columbia residents, the per capita tax burden is $2,116, or $491 above the national average of $1,625. Only one other State—Alaska—has a higher per capita tax burden; in 49 of the 50 States, the Federal tax burden is smaller than in the District of Columbia.

These figures provide a compelling argument for granting representation in Congress to the District of Columbia. House Joint Resolution 554 would enable the District to elect Members of both the Senate and the House of Representatives. It deserves to be enacted, so that at last we can end a serious blight on our contemporary democracy, the burden of taxation without representation that has existed so long and so unfairly for the citizens of the Nation's Capital.

THE CASE BASED ON CASUALTIES IN VIETNAM

One of the most important arguments in favor of House Joint Resolution 554 is contained in the statistics of the Department of Defense on casualties in the Vietnam war. The figures reveal that 237 citizens of the District lost their lives in Vietnam. As table 1 indicates, the casualty level for the District is higher than the levels for 10 States—Alaska, Delaware, Idaho, Nevada, New Hampshire, North Dakota, Rhode Island, South Dakota, Vermont and Wyoming.

The people of those 10 States, and of every other State, were represented in the House and Senate throughout the period of the Vietnam war. These people—and the people in every other State—had a voice in the decisions of Congress on the war, decisions that affected the lives of so many thousands of their citizens who were asked and compelled to serve their country in that war. But the citizens of the District of Columbia had no such representation and no such voice.

We cannot remedy that injustice for the past. But we can do so for the future. At a time when Congress exerts such a profound and growing influence over so many different aspects of American life, the people of the District of Columbia have a right to be heard in our deliberations. House Joint Resolution 554 would give them the voice they deserve.

A DISTRICT OF COLUMBIA GOLD STAR MOTHER'S CASE

At the Senate hearings in April on the pending amendment, one of the most dramatic and moving moments came in the testimony by our distinguished colleague from Missouri, Senator EAGLETON.

In that testimony, he told of a letter he had received from a District of Columbia Gold Star mother, whose son had been killed in the Vietnam war. Yet, as she told Senator EAGLETON, she had no one in Congress to represent her views in decisions on the war. As Senator EAGLETON testified:

This letter was from a mother who had two sons in the army. 1971, as the Chairman will recall, was still a very high point in the Vietnam War. Her elder son had been killed, and naturally that had had a traumatic impact on her, her thinking, et cetera, and she wrote me a very moving but simple letter saying, in essence, "I have lost one son. I may well lose another. Yet I have no voice in voting on how far this war should go, or how long it should go on, or how much expanded it should be—into the Parrot's Beak, or how many bombs we should drop on the Ho Chi Minh Trail. I am hopeless, and in that sense I am voiceless."

I think that one letter did more to shape my thinking than a million words or a 200-page memorandum. The appeal is not simplistic, it is just fair and equitable.

And that was the testimony of Senator EAGLETON.

That letter sums up very well what this issue is all about. On basic issues of vital importance to the lives of all Americans—issues like war and peace, inflation and unemployment, and the countless other areas in which actions by Congress affect the daily lives and hopes of every citizen of this land—the people of the District of Columbia are denied their rightful voice. That denial contradicts the most central principles on which our democracy rests. It is an anachronism of history that no American should tolerate.

THE NEXT GENERATION

Few things matter more to the long-run future of the United States than the values we hand on to the next generation of the Nation's leaders.

One of the most impressive witnesses at the Senate hearings last April was Natasha Pearl, a 17-year-old student who graduated this year from Woodrow Wilson High School in the District of Columbia.

Ms. Pearl's testimony goes indirectly to the heart of the issue—the fact that the 700,000 citizens of Washington, D.C., are denied one of the basic rights that other American citizens enjoy: the right to participate in our democracy by sending their own elected representatives to Congress.

Recalling her experience as a delegate to the Senate youth program, Ms. Pearl testified:

The lack of voting representation for the District was an issue I often discussed with my fellow delegates. Shock and disbelief were expressed upon learning of the grossly unfair and undemocratic situation existing in our nation's capital. Knowing that our forefathers fought and died so that taxation without representation would never again occur in this country, many delegates could not understand why my parents and other District residents pay federal taxes, bearing all the burdens of citizenship, like their parents—yet have no representation. To the Senate Youth delegates, it was incomprehensible that in 1978, in the United States of America, nearly three quarters of a million American citizens are without the privilege that all the other Senate Youth delegates took for granted—voting representation in the Senate and House of Representatives.

She also recalled her feelings on the day set aside for the delegates to visit the offices of their Senators:

You may recall the one day of the Senate Youth Program that was set aside for the delegates to visit their Senators. I have never before felt inferior to fellow Americans. That day I did. All I could do was listen at dinner that evening when my friends told of how they had discussed important national issues, such as the Panama Canal Treaties, energy policy, and health care with their Senators. I, too, have opinions on these and other vital issues. That day, I could share them with no one who had a voice or a vote in the United States Senate.

Finally, she spoke of an occasion last February when she represented the District of Columbia at "Convention II," a mock constitutional convention held in Washington:

It was a marvelous experience. Two hundred and seventy-five students from nine states and the District considered one hundred and fifty-five constitutional amendments. These amendments dealt with a wide variety of issues, many of which are currently being considered by Congress. Only two of the one hundred and fifty-five proposed amendments were passed. I sponsored one of them. It provided voting representation for the District of Columbia. The vote was 182 in favor and 16 opposed—an overwhelming statement of support by youth for this issue.

Ms. Pearl's testimony makes a compelling case for approval of House Joint Resolution 554. The question is really a very simple one—is it fair for Congress to continue to deny to Ms. Pearl and the other residents of the Nation's Capital the same full rights that 200 million other Americans enjoy? To a large extent, the way we answer questions like this one will be a signal to the next generation of the depth of our commitment to the democratic ideals on which the Nation was founded.

THE CASE BASED ON THE EXPERIENCE OF FOREIGN NATIONS

According to a study earlier this year by the Library of Congress, among 115 nations in the world with elected national legislatures, the United States and Brazil stand alone in denying representation in the legislature for citizens of their capital cities.

The analysis is an important study in comparative government and a significant source of additional support for House Joint Resolution 554, which offers Congress the chance to end the serious injustice perpetrated on the citizens of Washington, D.C. They deserve a voice in the Senate and the House like any other American citizen, and like citizens in other nations the world over.

The study provides dramatic documentation of the lonely and reactionary position of the United States in the international community with respect to one of the fundamental and most widely recognized human rights in the world today—the right to vote for elected representatives. The study makes clear that in this important respect the United States, the emperor of human rights, has no clothes. Aside from the authoritarian and repressive regime of Brazil, America stands alone among the nations of the world in imposing this flagrant restriction on the civil and political rights of the citizens of its capital city.

As table 2 reveals, the virtually universal practice in nations with elected legislatures—whether democracies or totalitarian systems—is to accord representation to the capital city on a parity with other cities in the nation.

A key element of the study is its documentation that even in nations with federal systems of government like the United States, this principle of parity is followed.

The study included 16 federal nations, with the following findings:

Nine federal nations (Australia, Canada, West Germany, India, Nigeria, Pakistan, Switzerland, the Soviet Union, and Yugoslavia) have capital cities which are not special federal districts and which receive the same representation in the legislature afforded to other cities.

Seven federal nations (Argentina, Australia, Brazil, Malaysia, Mexico, Venezuela, and the United States) have capital cities which are federal districts with a special status similar to that of the District of Columbia. Only Brazil and the United States, however, deny voting representation in the legislature for residents of the capital cities.

It is clear from this study that opponents of representation in Congress for the District of Columbia cannot hide behind the Federal analogy. Theoretical arguments for denying representation, based on the view that the District of Columbia is not a State, are easily outweighed by the demand of the citizens of the Capital City to participate in the basic rights of democracy. With the exception of Brazil, other federal nations modeled on our own Federal Government have resolved this issue against discrimination and in favor of representation for the capital. In this respect, the onrushing tide of world democracy and human rights has left the United States sadly in its wake.

THE BLEMISHED RECORD OF ADMISSION OF STATES TO THE UNION

The effort to end discrimination against D.C. residents is hardly a novel chapter in American history. One of the continuing currents in the Nation's 200-year history has been the struggle of peoples in the various territories of the Union to achieve the full rights of citizenship. The pages of our history contain numerous examples of the frustrations, failures, and eventual successes of the citizen of various regions of the Nation in becoming full partners in the Union.

In these cases, of course, the goal was statehood. But statehood is a goal not readily available to the District of Columbia, because of the unique character of the District as the Nation's Capital within our federal system. In a larger sense, however, the aspiration is the same and is independent of the statehood issue. That aspiration is the desire of American citizens to enjoy as nearly as possible the full benefits of American democracy.

Analysis of the issues involved in the admission of States to the Union provides a number of illuminating examples. In many cases, States were admitted without any great difficulty. In other cases, however, there were long delays and serious controversies, involving complex political, economic and social issues. The best known of these controversies was the 19th century issue over whether new States should be admitted as slave States or free States. The Missouri Compromise and the compromise of 1850 were the landmark events of this period. Missouri, Maine, Arkansas, Florida, Texas, Michigan, Iowa, Wisconsin, and California were able to join the Union as a result of these famous but fragile compromises.

In other cases, other issues were involved. Often, admission to the Union was delayed by partisan or racial factors.

The admission of Oregon was hindered by Republican fears that it would be a Democratic State. But Oregon was admitted in 1859 and voted for Lincoln in 1860.

Kansas endured severe civil violence and divided the Democratic Party before it became a state in 1861.

The admission of Idaho was delayed in part by religious controversies over the Mormon minority.

The admission of Wyoming was resisted in part because of its progressive attitude toward the political equality of women.

The admission of Utah was delayed more than 40 years, in large part because of the controversy over the Mormon religion.

The admission of Oklahoma was resisted because of the controversy over the status of the Indian territory.

The admission of Montana was delayed for over 20 years by Republican opponents, who feared that the State would be a Democratic stronghold, and who refused to agree to statehood unless the Dakota Territory was divided into two States likely to be Republican. In 1889, an omnibus statehood bill admitted Montana, North Dakota, South Dakota, and Washington to the Union.

Blatant racial discrimination against the Spanish-speaking population was a key factor in the long delay before admission of New Mexico to the Union.

In more recent times, before they finally gained statehood in 1959, the admission of Alaska and Hawaii became a political football, with Democrats fearing a Republican Hawaii and Republicans fearing a Democratic Alaska.

The lessons of these numerous examples is that partisan and discriminatory factors have no place in the decision to admit citizens anywhere in the Nation to the blessings of full participation in our system of government. The people of the District of Columbia have already waited far longer than the citizens of any territory to obtain the basic right of representation in Congress. House Joint Resolution 554 would end this long injustice.

ORIGIN OF THE DISTRICT OF COLUMBIA

The concept of a separate Federal district under the exclusive control of Congress developed as the response of the Founding Fathers at the Constitutional Convention to the "Philadelphia Mutiny" of June 21, 1783. On that occasion, 80 to 250 disgruntled and angry Revolutionary Army soldiers demanding back pay disobeyed their officers and marched on Independence Hall in Philadelphia, where the Continental Congress was meeting. The Congress requested protection from the Pennsylvania militia, but the request was refused, and the Congress was forced to flee to Princeton, N.J., under cover of darkness.

The Philadelphia Mutiny was the central factor in the approval of article I, section 8, clause 17 of the Constitution by the convention in 1887, which gave Congress the power to protect itself at the site to be chosen for the Nation's Capital:

The Congress shall have Power . . . To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the acceptance of Congress, become the Seat of the Government of the United States.

When the First Congress met in New York in 1789, a major question was the "residence" issue—the selection of a site for the capital city. The primary concern of the legislators was the issue of economic advantage. As the historian Constance Green has written, the assumption underlying the debate was that—

Wherever Congress chose to locate the federal city, there a great commercial center would arise. That conviction explains more fully than any consideration of prestige or legislators' convenience why sectional controversy had run so strong during the congressional debates on the 'residence' bill.

The debates narrowed the issue to a choice between a southern site near the 'geographic center" of the Nation (site on the Potomac River) and a northern site near the 'population center" (a site on the Susquehanna River in Pennsylvania). In a compromise achieved by Secretary of State Thomas Jefferson and Secretary of the Treasury Alexander Hamilton, the southern site was accepted by the northern faction in Congress, in return for southern acceptance of a northern proposal by which the Federal Government would assume the debts of the States from the Revolutionary War.

In anticipation of the action by Congress, territory for the site had been ceded to the Federal Government by Maryland in 1788 and by Virginia in 1789. The Residence Act of 1790 enacted by the First Congress specified in general terms a broad area on the Potomac River from which the site could be chosen. But the act fixed the southern most possible portion of the site at the junction between the Potomac and the Anacostia River. In addition, the act authorized President Washington to appoint and supervise three commissioners to choose the actual site and survey and define the District. In effect, the selection of the

precise site was left to President Washington.

President Washington, however, because of his desire to include the city of Alexandria in the capital area, chose a southern corner for the site a few miles farther south than the 1790 Act of Congress permitted, with the result that approximately one-third of the actual area selected by the President lay outside the authorization by Congress. Subsequently, Congress enacted additional legislation approving the site.

On the first Monday in December 1800, in accord with the original legislation enacted by Congress in 1790, the national capital was officially transferred from its temporary location in Philadelphia to the new site.

The area originally included in the District of Columbia consisted of only two significant communities—Georgetown in the Maryland portion with a population of about 3,000 and Alexandria in the Virginia portion with a population of about 5,000. In addition, there were two tiny trading post settlements in the territory—Carollsburgh on the present Anacostia River, and Hamburg on the site of the present Foggy Bottom.

During the period 1790–1800, the city of Washington came into being, covering the area east of Georgetown and north of the Potomac to the present Florida Avenue. The region north of the city of Washington became Washington County. According to the census of 1800, the population of the entire District of Columbia was 14,000.

Until the official transfer of the Federal Government to the District of Columbia in 1800, Maryland and Virginia laws continued in operation in the territory and residents of the local communities voted in Federal elections as citizens of their respective States. This practice ended, however, in December 1800, when the exclusive jurisdiction of Congress over the District took effect, and the residents lost their status as citizens of a State.

THE FEDERAL PAYMENT FALLACY

So far, opposition to House Joint Resolution 554 has crystallized around a series of arguments that are easily rebutted.

Some opponents argue that if the District of Columbia is to receive the status of a State with respect to representation in Congress, then the District must give up the so-called "Federal payment" by which, it is claimed, the District receives special financial treatment from Congress not available to the States.

But the argument misconstrues the nature of the Federal payment, which is an annual appropriation intended to offset the overall negative fiscal impact of the Federal Government on the District. In effect, the appropriation—$276 million in fiscal year 1978—represents an effort by Congress to account for the difference between the special burdens imposed on the city (such as tax-exempt Federal land and buildings) and the special benefits (such as revenues from tourism and Federal construction projects) accruing to the city as a result of the Federal presence.

Obviously, there is occasional fiscal tension between Congress, in its role as legislator for the District, and the municipal government of the District, as shown by the continuing controversies over D.C. appropriations bills. But these controversies have little to do with the rights of the citizens of the District to be represented in Congress and to have a voice in the many actions of the House and Senate on issues of foreign and domestic policy. Whatever the view of individual Senators as to the excessive or inadequate nature of the Federal payment, I hope we can agree that the issue is separate from the question of representation in Congress and should be considered accordingly.

In fact, the Federal payment for fiscal year 1979 is likely to be significantly lower than the figure for 1978. Over the years, the amount of the Federal payment has ranged from a high of 43 percent of total congressional appropriations in 1921, to a low of 9 percent in 1953. In the 1970's, the figure has fluctuated between 27 percent in 1975 and 20 percent, where it is today.

In addition, there are a number of specific factors that help to explain the purpose and size of the current Federal payment:

The Federal Government owns 38 percent of the land area in the District, and this land is exempt from the local tax rolls. For many States, the figure is in the range of 4 percent. If this low figure applied to the District, it is estimated that local property tax revenues would be increased by $60 million, and that local sales and income taxes would go up by even larger amounts.

The District must provide extensive fire and police protection for the Federal facilities, as well as sidewalks, streets, and other services not required in States with a smaller Federal presence.

So far, Congress has forbidden the District to enact a commuter tax, which would spread the special costs imposed by the Federal presence more equitably among the Federal employees who work in the District but live in the suburbs. Other States make reasonable use of such taxes in such situations. But Congress denies this source of revenue to the District—estimated at $200 million a year in the typical versions used by various States.

Congress refuses to permit the District to issue tax-exempt bonds. States have this option, and use it extensively to borrow funds at interest rates significantly below the market rate for tax-free bonds. Currently, the Federal tax subsidy for tax-exempt bonds in the various States totals $6 billion, or an average of $120 million per State. Yet the District is denied access to this source of revenue.

Congress imposes a height limit on buildings in the District. These limits restrict business development, and reduce the access of the District to property and other taxes.

Finally, District residents pay 11.7 percent of their principal income in the form of local taxes to the District. That figure exceeds the percentage for 23 States. Clearly, the Federal payment is not a device that allows District residents to avoid their fair share of local taxes.

As the above examples indicate, there are substantial areas in which Congress restricts the revenue sources available to the District. In effect, the Federal payment is a lump sum appropriated by Congress in lieu of these alternative revenues. It is hardly a symbol of an undeserved financial windfall for the District that impairs the case for representation of District citizens in the Senate and House of Representatives.

THE FEDERAL EMPLOYEE FALLACY

A variation of this argument occasionally made by the opponents of representation in Congress for District residents is that representatives elected by the District would be special pleaders for Federal employees.

It is true that a significant number of District workers are Federal employees. As shown by table 1, there are 221,000 Federal jobs in the District, reflecting the following pattern according to residence:

D.C. residents	112,000
Maryland residents	63,000
Virginia residents	46,000
Total	221,000

If the number of Federal jobs in the Maryland and Virginia suburban counties is also taken in account, the result is that each of the two suburban areas has more Federal employees than the District of Columbia. In fact, the District accounts for less than one-third of all Federal employees in the Washington area.

District of Columbia	110,000
Maryland suburbs	140,000
Virginia suburbs	143,000
Total	393,000

In addition, as table 1 also shows, three other States—California, Texas, and Virginia—provide more Federal jobs than the District of Columbia.

The opponents' argument also ignores the many other economic and social facets of the District, apart from Federal employment. Members of the House and Senate elected from the District would also represent the interests of small business, the construction industry, banks, veterans, teachers, the elderly, the poor, and virtually all the other interest groups found in the various States. It would be as unreasonable to deny representation to the District because of its Federal employees' bloc, as to deny representation to a State because of its farm bloc.

The work of Congress impinges increasingly heavily on all Americans, whether they are residents of the District or the States, and the citizens of the District deserve to participate in the decisions of Congress on a parity with all other American citizens.

Equally important, in light of the mandate of article I of the Constitution giving Congress exclusive jurisdiction over the District of Columbia, elected representatives from the District would enable Congress to conduct its oversight responsibilities in a more informed and effective manner.

THE STATEHOOD FALLACY

Opposition to the proposed amendment has usually crystallized around a series of fallacious arguments that are easily rebutted.

Some opponents of full representation claim that the District is a city, not a State, and that only States are entitled to representation in the House and Senate. They argue that there is no greater reason for this city to be represented in Congress than there is for other large cities which are also denied this right.

But this argument ignores the obvious fact that other American cities are political subdivisions of States. They already have representation in both the Senate and the House, while the citizens of the District have no representation at all.

In other ways, Congress has been willing to treat the District of Columbia as a State. For example, the District has long been treated as a State in virtually every major Federal grant legislation. In program after program, in statute after statute, all of us in Congress are familiar with the well-known clause in legislation, "For the purpose of this legislation, the term 'State' shall include the District of Columbia."

The statehood argument is no more than a thinly veiled excuse to perpetuate the denial of congressional representation to the people of the District. The District is neither a city nor a State. In fact, statehood may well be an impossible alternative, given the practical and constitutional questions involved in changing the historical status of the Nation's Capital. But such debate should not be allowed to mask the basic fact that, 200 years after the Nation was founded, the people of Washington are second-class citizens, deprived of the right to participate in the making of the laws by which they are governed.

THE ARTICLE V CONSTITUTIONAL FALLACY

Another occasional objection to representation in Congress for the District of Columbia rests on the proviso in article V of the Constitution, which declares that "no State, without its Consent, shall be deprived of its equal Suffrage in the Senate."

To state the obvious, however, what House Joint Resolution 554 proposes is a constitutional amendment. Since, by definition, a constitutional amendment cannot be unconstitutional, the suggestion that House Joint Resolution 554 is unconstitutional is a contradiction in terms and a fatal flaw in the logic of those who raise their curious objection.

In any event, it is far too late in our history to argue that granting representation in Congress to the District of Columbia would deprive any State of its "equal suffrage in the Senate." Since the ratification of the Constitution by the Original Thirteen States, 37 additional States have been admitted to the Union. As a result, the suffrage of the original 13 States in the Senate has been "diluted" nearly fourfold, from 2 to 26 to 2 to 100. Yet, not one seriously argues that any of the older States has been deprived of its equal suffrage in the Senate by the admission of new States.

The principle is clear. So long as the District of Columbia is represented in the Senate equally with every other State, representation for the District of Columbia will not offend the provisions of article V. Each State will still have two votes in the Senate, and each State will still have the same proportionate vote as every other State.

During extensive hearings by both the Senate and House Judiciary Subcommittees on this issue, leading constitutional scholars strongly endorsed full voting representation for the District, including representation in the Senate as well as in the House. Among those testifying on House Joint Resolution 554, for example, was Prof. Charles Alan Wright of the University of Texas School of Law, who dealt bluntly with the article V objection:

> It seems to me that the clear purpose of (the "Equal Suffrage Clause") was to insure that the Great Compromise would not be undone and that the representation in the Senate would not be put on the basis of population. That purpose is not compromised by allowing the District to have two Senators any more than it is when a new state is admitted.

THE RETROCESSION FALLACY

It is sometimes argued that voting representation for the people of the District should not be achieved by independent representation in Congress, but by alternative methods linking the District in various ways to the State of Maryland. But there are serious objections to these alternatives, which go by the names of "full retrocession" (ceding the District's territory back to Maryland) or "partial retrocession" (allowing District citizens to vote in Maryland elections).

First, as a matter of principle, it would be unwise policy and unfair to the citizens of both Maryland and the District. The geographical area comprising the original District was formally ceded to the Federal Government in the 18th century, shortly after the ratification of the Constitution, and consisted of Maryland and Virginia portions. The Virginia portion of the District was retroceded to Virginia in 1846, but the Maryland portion has continued to the present time as the District of Columbia.

Thus, the District has not been a part of Maryland since 1788, when the territory that now comprises the District was ceded by Maryland to the Federal Government. Two centuries after the original act of cession by Maryland, there are simply no cultural, community, or similar ties that would warrant attempting to relink the District to Maryland, and the ancient historical tie is far too slender and obsolete to justify that step today. The District has developed its own community and its own interests, separate and apart from Maryland, and it deserves representation in Congress in its own right, and not merely as an artificial adjunct to a State with which it has no common history.

We might just as well try to link the District to Virginia—or even to Oklahoma or Idaho—as try to fit it back into Maryland.

Those who favor retrocession draw on the fact that under the different circumstances of an earlier era, the territory ceded by the State of Virginia to the Federal Government in 1789, which formed roughly one-third of the original District, was ceded back to Virginia by Congress in 1846.

But historical analysis indicates that the circumstances surrounding the Virginia retrocession are in no way comparable to the situation that exists today. In fact, at the time of the Virginia retrocession, there was nothing "Federal" to retrocede. To allay criticism of his role in selecting a site for the new Federal District so close to his Mount Vernon estate, President Washington had insisted that no Federal building should be constructed in the Virginia portion of the District.

The preamble to the Retrocession Act of 1846 recites the view that the Federal Government had not used the Virginia portion of the District and would probably never need it. The preamble also refers to the fact that a few months earlier, the Virginia legislature had enacted legislation accepting the retrocession.

The historical analysis also indicates that the Virginia retrocession was directly affected by the political, social, and economic factors of the time, particularly the resentment of the citizens of the town of Alexandria over their inclusion in the District. A major additional factor was the struggle between the slaveholding eastern regions of Virginia and the western portions of the State for control of the Virginia Legislature. Neither retrocession nor any other measure could resolve the enormous pressures that were building in this period. As the Civil War began, the State of West Virginia was created from the western counties of Virginia and was admitted to the Union in 1863.

Seen in historical perspective, the retrocession of the Virginia portion of the District in 1846 is not a precedent for action today on the issue of voting representation in Congress for the District of Columbia.

Second, there is a much more obvious and recent precedent which argues strongly in favor of independent representation in Congress for the District of Columbia, rather than in combination with Maryland or any other State. That precedent is the 23d amendment, which was ratified in 1961 and which gave citizens of the District an independent voice in Presidential elections through the electoral college. It does not, obviously, route District voters through Maryland elections to achieve its goal.

Recently, I asked the Library of Congress whether the concept of retrocession—allowing District residents to vote in Maryland Presidential elections, instead of giving the District independent representation in the electoral college—was considered as a possible alternative during the debates on the 23d amendment. The Library of Congress has informed me:

> To our knowledge, there was no mention of retrocession to Maryland or any related alternative arrangement during discussion of the 23rd amendment in Congress—either in the hearing records or during floor debate.

Thus, Congress overwhelmingly recognized in 1960 that there was no jus-

tification for tying the District to Maryland for purposes of voting in Presiden-

ital. At a time when the role of Congress has an increasingly profound influence

The need for an amendment of that character at this late date in our history is too

for purposes of voting in Senate and House elections.

Our action on the 23d amendment is, therefore, a strong precedent against any current effort by Congress to tie the District to Maryland for voting purposes. The District now has its own voice in Presidential elections, and it is entitled to its own voice in congressional elections.

Third, as a practical matter, I know of nothing to indicate that Maryland would be at all receptive to the idea. Retrocession proposals surfaced briefly in the course of the House subcommittee's consideration of House Joint Resolution 554. But they were quickly discarded, in large part because of the obvious resistance of the Maryland congressional delegation. The proposals were not raised again, either in the full House Judiciary Committee proceedings or as a floor amendment in the House.

Fourth, there are a number of legal, even constitutional, questions that would have to be resolved to make retrocession a serious possibility. Full retrocession would subject the Federal Government to the powers of the State of Maryland and fly in the face of the settled constitutional provision creating the District as a Federal entity. Partial retrocession—simply turning District citizens into Maryland residents for the purpose of voting in Senate and House elections—would raise such questions as whether District residents should then be entitled to send representatives to Annapolis to participate in drawing new congressional district boundaries to vote for the Governor of Maryland who would have the power to fill vacancies in the congressional delegations, and other similar issues.

For these reasons, retrocession is a blind alley we ought not to go down in seeking congressional representation for the people of the District.

In sum, the arguments against full voting representation in Congress for the District of Columbia are shallow at best and pernicious at worst. It is a sad commentary on American democracy that such flimsy arguments have consistently been used to deny representation in Congress for the citizens of our Nation's Capital for every citizen, without exception.

Mr. President, I ask unanimous consent that the material to which I made reference be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

QUOTATIONS ON REPRESENTATION IN CONGRESS FOR THE DISTRICT OF COLUMBIA

Republican Party Platform 1976:

We . . . support giving the District of Columbia voting representation in the United States Senate and House of Representatives.

Democratic Party Platform 1976:

We support . . . full voting representation in the Congress [for the District of Columbia.]

James Madison (The Federalist No. 43):

The extent of this federal district is sufficiently circumscribed to satisfy every jealousy of an opposite nature. And as it is to be appropriated to this use with the consent of the State ceding it; as the State will no doubt provide in the compact for the rights and the consent of the citizens inhabiting it; as the inhabitants will find sufficient inducements of interest to become willing parties to the cession; as they will have had their voice in the election of the government which is to exercise authority over them; as a municipal legislature for local purposes, derived from their own suffrage, will of course be allowed them; and as the authority of the legislature of the State, and of the inhabitants of the ceded part of it, to concur in the cession, will be derived from the whole people of the State, in their adoption of the Constitution, every imaginable objection seems to be obviated.

President Andrew Jackson 1831:

It was doubtless wise in the framers of our Constitution to place the people of this District under the jurisdiction of the General Government. But to accomplish the objects they had in view, it is not necessary that this people should be deprived of all the privileges of self-government . . . I earnestly recommend the extension to them of every political right which their interests require and which may be compatible with the Constitution.

President Richard Nixon; Message to Congress; April 28, 1969:

It should offend the democratic sense of this nation that the 850,000 citizens of its Capital, comprising a population larger than 11 of its States, have no voice in the Congress.

Assistant Attorney General William H. Rehnquist; Senate Hearings, 1970:

The District of Columbia can no longer be justified.

Vice President Walter F. Mondale, September 1977:

We believe there is no justification for denying citizens equal representation at the federal level because they happen to reside in the District of Columbia.

President Jimmy Carter, State of the Union Message 1978:

We proposed last year a series of reforms, including full voting representation in Congress, designed to give the residents of the District significantly greater control over their local affairs. My administration will continue to work for the passage of those reforms this year.

Professor Charles Alan Wright; University of Texas Law School; Senate Hearings 1978:

It seems to me that the clear purpose of [the Equal Suffrage Clause, Article V of the Constitution] was to ensure that the Great Compromise would not be undone and that representation in the Senate would not be put on the basis of population. That purpose is not compromised by allowing the District to have two Senators any more than it is when a new state is admitted.

Senator Thomas F. Eagleton; Senate Hearing 1978:

This letter was from a mother who had two sons in the army. 1971, as the Chairman will recall, was still a very high point in the Vietnam War. Her elder son had been killed, and naturally that had had a traumatic impact on her, her thinking, et cetera, and she wrote me a very moving but simple letter saying, in essence, "I have lost one son. I may well lose another. Yet I have no voice in voting on how far this war should go, or how long it should go on or how much expanded it should be—into the Parrot's Beak, or how many bombs we should drop on the Ho Chi Minh Trail, I am hopeless, and in that sense I am voiceless."

I think that one letter did more to shape my thinking than a million words or a 200-page memorandum. The appeal is not simplistic, it is just fair and equitable.

Natasha Pearl; Senior, Woodrow Wilson High School, D.C.; Senate Hearings 1978:

You may recall the one day of the Senate Youth Program that was set aside for the delegates to visit their Senators. I have never before felt inferior to fellow Americans. That day I did. All I could do was listen at dinner that evening when my friends told of how they had discussed important national issues, such as the Panama Canal Treaties, energy policy, and health care with their Senators. I, too, have opinions on these and other vital issues. That day, I could share them with no one who had a voice or a vote in the United States Senate.

TABLE 1.—STATISTICAL COMPARISONS BETWEEN THE DISTRICT OF COLUMBIA AND THE 50 STATES TAXATION (FY 1977)

State	Population: 1970 census	Population: 1977 estimate	Total Federal taxes (billion)	Per capita Federal taxes	State and local taxes (percent personal income)[1]	Killed in Vietnam war, 1961–77	Employment[2]: Number Federal jobs	Employment[2]: Percent Federal jobs	Percent land area held by Federal Government[3]
Alabama	3,444,000	3,690,000	$4.482	$1,221	9.9	1,187	79,173	1.9	3.4
Alaska	303,000	407,000	1.225	3,011	21.8	55	36,873	.9	96.4
Arizona	1,775,000	2,298,000	3.211	1,418	13.9	604	57,756	1.4	42.8
Arkansas	1,923,000	2,144,000	2.381	1,117	9.8	580	28,050	.7	8.7
California	19,971,000	21,896,000	39.186	1,805	14.9	5,472	497,438	12.1	45.1
Colorado	2,210,000	2,619,000	4.167	1.604	12.3	609	91,726	2.2	36.1
Connecticut	3,032,000	3,108,000	6.478	2,086	11.2	590	25,469	.6	.3
Delaware	548,000	582,000	1.120	1,925	11.4	120	10,380	.2	3.7
District of Columbia	757,000	690,000	1.470	2,116	11.7	237	221,156	5.4	23.6
Florida	6,791,000	8,452,000	12.957	1,542	10.1	1,905	146,615	3.6	10.1
Georgia	4,589,000	5,048,000	6.513	1,298	10.9	1,550	129,237	3.1	6.6
Hawaii	770,000	895,000	1.575	1,770	14.6	274	67,414	1.6	8.9
Idaho	713,000	857,000	1.155	1,367	11.6	210	15,598	.4	63.7
Illinois	11,113,000	11,245,000	21.536	1,919	11.4	2,883	150,511	3.7	1.5
Indiana	5,195,000	5,330,000	8.334	1,566	10.4	1,513	48,229	1.2	2.1
Iowa	2,825,000	2,878,000	4.517	1,570	11.5	820	19,386	.5	.6
Kansas	2,249,000	2,326,000	$3.922	$1,695	11.0	614	47,705	1.2	1.3
Kentucky	3,221,000	3,458,000	4.447	1,290	11.4	1,039	82,243	.2	5.3
Louisiana	3,645,000	3,921,000	5.217	1,330	12.6	872	50,323	1.2	3.7
Maine	994,000	1,085,000	1.400	1,299	14.2	332	17,491	.4	.7
Maryland	3,924,000	4,139,000	7.669	1,856	12.7	996	168,116	4.1	3.2
Massachusetts	5,689,000	5,782,000	9.875	1,706	14.7	1,303	67,580	1.6	1.7
Michigan	8,882,000	9,129,000	15.618	1,712	12.1	2,603	66,274	1.6	9.2
Minnesota	3,805,000	3,975,000	6.198	1,563	14.3	1,053	32,231	.8	6.6
Mississippi	2,217,000	2,353,000	2.416	1,016	12.0	630	40,070	1.0	5.4
Missouri	4,678,000	4,801,000	7.213	1,504	14.3	1,384	91,265	2.2	4.6
Montana	694,000	761,000	1.085	1,432	13.2	260	17,639	.4	29.7
Nebraska	1,485,000	1,561,000	2.416	1,552	10.9	386	28,148	.7	1.4
Nevada	489,000	633,000	1.190	1,911	12.7	144	17,[illegible]	.4	86.6
New Hampshire	738,000	849,000	1.330	1,587	10.8	218	14,030	.3	12.3
New Jersey	7,171,000	7,329,000	14.708	2,005	11.8	1,438	95,581	2.3	2.7
New Mexico	1,017,000	1,190,000	1.505	1,275	12.8	352	42,241	1.0	33.6
New York	18,241,000	17,924,000	32.497	1,806	17.3	4,043	196,017	4.8	.8
North Carolina	5,084,000	5,525,000	7.038	1,281	10.7	1,580	120,166	3.0	6.3
North Dakota	618,000	653,000	0.945	1,456	11.7	194	20,820	.5	5.2
Ohio	10,657,000	10,701,000	17.474	1,633	10.0	3,028	106,973	2.6	1.3
Oklahoma	2,559,000	2,811,000	3.852	1,380	10.2	975	81,819	2.0	3.5
Oregon	2,092,000	2,376,000	3.747	1,583	12.4	632	26,308	.6	52.6
Pennsylvania	11,801,000	11,785,000	19.400	1,644	11.5	3,073	142,354	3.5	2.3
Rhode Island	950,000	935,000	1.610	1,722	12.1	200	13,877	.3	1.1
South Carolina	2,519,000	2,876,000	3.396	1,187	10.7	883	80,441	2.0	5.9
South Dakota	666,000	689,000	0.840	1,221	12.2	187	16,756	.4	6.7
Tennessee	3,926,000	4,299,000	5.638	1,321	10.1	1,277	62,930	1.5	6.7
Texas	11,199,000	12,830,000	20.100	1,581	10.5	3,332	295,746	7.2	1.9
Utah	1,059,000	1,268,000	1.575	1,260	12.2	353	40,756	1.0	66.1
Vermont	445,000	483,000	0.630	1,313	15.1	100	4,161	.1	4.7
Virginia	4,651,000	5,135,000	7.984	1,567	10.7	1,273	226,864	6.0	9.4
Washington	3,413,000	3,658,000	6.723	1,849	11.9	1,019	98,386	2.4	29.5
West Virginia	1,744,000	1,859,000	2.451	1,328	12.0	715	15,410	.4	6.9
Wisconsin	4,418,000	4,651,000	7.003	1,512	14.0	1,133	27,950	.7	5.2
Wyoming	332,000	406,000	0.735	1,843	14.4	117	10,004	0.2	47.8
United States	203,305,000	216,332,000	350.191	1,625	11.8	56,447	4,092,386	100.0	5.4

[1] U.S. Bureau of the Census, "Governmental Finances in 1975–76."

[2] Source: Civilian employment (December 1973), U.S. Bureau of the Census, "Public Employment in 1975;" Military Employment (1976), Department of Defense, OASD Comptroller, Director for Management Information Operations.

[3] U.S. General Services Administration, inventory report on real property owned by the United States throughout the world (1975).

Employment by State (nongovernmental)

State	
California	96,228,326
New York	5,867,953
Illinois	3,924,616
Pennsylvania	3,802,316
Texas	3,558,934
Ohio	3,474,234
Michigan	2,655,840
Florida	2,418,209
New Jersey	2,277,577
Massachusetts	2,024,626
North Carolina	1,760,933
Indiana	1,680,152
Georgia	1,477,795
Missouri	1,469,208
Wisconsin	1,380,489
Virginia	1,323,212
Tennessee	1,276,875
Minnesota	1,179,231
Maryland	1,112,373
Connecticut	1,111,444
Louisiana	934,628
Alabama	907,114
Washington	898,549
Kentucky	825,711
South Carolina	799,046
Iowa	773,837
Colorado	747,017
Oklahoma	681,064
Oregon	634,153
Kansas	597,871
Arizona	578,456
Mississippi	535,298
Arkansas	514,409
West Virginia	427,596
Nebraska	416,367
Utah	315,514
District of Columbia	309,798
Rhode Island	304,847
Maine	270,726
Hawaii	249,915
New Hampshire	242,136
New Mexico	241,334
Nevada	199,827
Delaware	192,223
Idaho	189,080
Montana	153,802
South Dakota	136,406
Vermont	131,760
North Dakota	124,613
Wyoming	85,686
Alaska	65,124

SOURCE: U.S. Department of Commerce/Bureau of the Census County Business Patterns 1974 (April 1977).

TABLE 2.—*Experience of foreign nations with elected national legislatures*

A. Nations that exclude their capital city from representation in the legislature:

1. United States (Washington, D.C.).
2. Brazil (Brasilia).

B. Nations that grant representation to their capital city in the legislature:

1. Albania (Tirana).
2. Algeria (Algiers).
3. Andorra (Andorra la vella).
4. Antigua (St. Johns).
5. Argentina (Buenos Aires).
6. Australia (Canberra).
7. Austria (Vienna).
8. The Bahamas (Nassau).
9. Barbados (Bridgetown).
10. Belgium, (Brussels).
11. Belize (Belmopan).
12. Botswana (Gaborone).
13. Buglaria (Sofia).
14. Burma (Rangoon).
15. Cambodia (Phnom-Penh).
16. Cameroon (Yaounde).
17. Canada (Ottawa).
18. Cape Verde Islands (Praia).
19. China, Republic of (Taipei).
20. Colombia (Bogota).
21. Cook Islands (Rarotonga).
22. Costa Rica (San Jose).
23. Cyprus (Nicosia).
24. Czechoslovakia (Prague).
25. Denmark (Copenhagen).
26. Djibouti (Djibouti).
27. Dominica (Roseau).
28. Dominican Republic (Santo Domingo).
29. Egypt (Cairo).
30. El Salvador (San Salvador).
31. Equatorial Guinea (Malabo).
32. Fiji (Suva).
33. Finland (Helsinki).
34. France (Paris).
35. Gabon (Libreville).
36. The Gambia (Banjul).
37. Germany, East (Berlin).
38. Germany, West (Bonn).
39. Greece (Athens).
40. Grenada (St. George's).
41. Guatemala (Guatemala City).
42. Guinea (Conakry).
43. Guyana (Georgetown).
44. Haiti (Port-au-Prince).
45. Hungary (Budapest).
46. Iceland (Reykjavik).
47. India (New Delhi).
48. Indonesia (Jakarta).
49. Iran (Teheran).
50. Ireland (Dublin).
51. Israel (Jerusalem).
52. Italy (Rome).
53. Ivory Coast (Abidjan).
54. Jamaica (Kingston).
55. Japan (Tokyo).
56. Kenya (Nairobi).
57. Korea, North (Pyongyang)
58. Korea, South (Seoul)
59. Liberia (Monrovia)
60. Liechtenstein (Vaduz)
61. Luxembourg (Luxembourg-ville)
63. Macao (Macao)
63. Madagascar (Antananarivo)
64. Malawi (Lilongwe)
65. Malaysia (Kuala Lumpur)
66. Maldives (Male)
67. Malta (Valletta)
68. Mauritania (Nouakchott)
69. Mauritius (Port Louis)
70. Mexico (Mexico City)
71. Monaco (Monaco-Ville)
72. Mongolia (Ulan Bator)
73. Morocco (Rabat)

74. Nauru (Yeran: Administrative District)
75. New Zealand (Amsterdam)
76. New Zealand (Wellington)
77. Nicaragua (Managua)
78. Nigeria (Lagos)
79. Norway (Oslo)
80. Pakistan (Islamabad)
81. Panama (Panama City)
82. Papua New Guinea (Port Moresby)
83. Paraguay (Asuncion)
84. Philippines (Manila)
85. Poland (Warsaw)
86. Portugal (Lisbon)
87. Rhodesia (Salisbury)
88. Romania (Buchapest)
89. San Marino (San Marino)
90. Senegal (Dakar)
91. Sierra Leone (Freetown)
92. Singapore (Singapore City)
93. South Africa (Pretoria)
94. Soviet Union (Moscow)
95. Spain (Madrid)
96. Sri Lanka (Colombo)
97. Sudan (Khartoum)
98. Surinam (Paramaribo)
99. Sweden (Stockholm)
100. Switzerland (Bern)
101. Syria (Damascus)
102. Tanzania (Dar es Salaam)
103. Tonga (Nukualofa)
104. Trinidad and Tobago (Port of Spain)
105. Tunisia (Tunis)
106. Turkey (Ankara)
107. United Kingdom (London)
108. Venezuela (Caracas)
109. Vietnam (Hanoi)
110. Western Samoa (Apia)
111. Yugoslavia (Belgrade)
112. Zaire (Kinshasa)
113. Zambia (Lusaka)

U.S. SENATE,
Washington, D.C., March 2, 1978.

DEAR COLLEAGUE:

This morning, by an impressive two-thirds vote, the House of Representatives approved a constitutional amendment (H.J. Res. 554) to provide full voting representation for the District of Columbia in both the House and the Senate. As supporters or cosponsors of the companion Senate measure, we are writing to urge your support for the amendment and for an end to the long-standing and unjust second class status of District citizens in our government.

One of the most honored principles of our democracy is the concept of "one person, one vote." In the District of Columbia, however, that principle has no application. Instead, for District citizens, the rule is "700,000 persons, no votes." For too long, the District of Columbia has been called "America's Last Colony."

Now, for the first time in many years, we have the chance to change all that. That House of Representatives has voted to end the injustice by which citizens of the District are denied their proper representation in Congress, and we believe the Senate should act as well.

During extensive hearings by the House Judiciary Subcommittee on Civil and Constitutional Rights, leading Constitutional scholars strongly endorsed full voting representation for the District, including representation in the Senate as well as in the House. Among those testifying in support of H.J. Res. 554, for example, was Professor Charles Alan Wright of the University of Texas School of law, who testified:

"It seems to me that the clear purpose of [the 'Equal Suffrage Clause' of the Constitution; Article V] was to insure that the Great Compromise would not be undone and that representation in the Senate would not be put on the basis of population. That purpose is not compromised by allowing the District to have two Senators any more than it is when a new state is admitted."

• ". . . no State, without its Consent, shall be deprived of its equal Suffrage in the Senate."

For your interest, we are attaching a staff briefing paper prepared in the House in support of H.J. Res. 554. It deals with all of the major issues and makes a solid case for approval of the Resolution.

We urge your support for this fundamental principle of justice for the citizens of the nation's capital, and we look forward to favorable Senate action on this Resolution.

Sincerely,

BIRCH BAYH.

And 19 others.

MAY 23, 1978.

DEAR SENATOR: Full voting representation in Congress for the District of Columbia as embodied in House Joint Resolution 554 is a legislative matter which is a top priority for all of us. We urge you to support the measure when it comes to a vote in the Senate.

As you know, the House of Representatives on March 2nd, passed H.J. Res. 554 by a two-thirds vote, 289–127. This historic vote marked the first truly significant step forward in an effort which began in December, 1808. Since that beginning there have been more than 150 joint resolutions introduced to provide some form of voting representation to the citizens of Washington, D.C. Hearings totaling about 25 years have been held in Senate and House Committees throughout the years. The Senate now, however, has a chance to bring this issue to final resolution.

A two-thirds vote in the Senate will send this measure on to the states for a final decision. We believe the state legislatures should have the opportunity to vote on H.J. Res. 554. The arguments in favor of this fundamental principle need not be repeated here. We ask only that you voice your support now and vote for H.J. Res. 554 when it comes to the Senate floor. Thank you.

Sincerely,

WALTER E. WASHINGTON,
Mayor.

And 17 others.

Mr. SCOTT. Mr. President, I ask unanimous consent on behalf of Senator BAKER that Everett Wallace, of his staff, be accorded the privilege of the floor during the pending business, and on behalf of the Senator from South Carolina (Mr. THURMOND) that Eric Hultman and Jim Lockemy of the Judiciary Committee staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Mr. Alan Boyd, of Senator CASE's staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask unanimous consent that Matthew Goldman, of my staff, have the privilege of the floor during this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT. Mr. President, the Subcommittee on the Constitution of the Committee on the Judiciary had 3 days of hearings on the Senate bill that would grant full congressional representation to the District of Columbia as if it were a State.

(Mr. DECONCINI assumed the chair.)

Mr. SCOTT. The committee, after the hearings, has not taken any further action. The full Senate Judiciary Committee has not taken any action, and the Senate bill is still pending before the committee.

The chairman of the full committee, the Judiciary Committee, of the Senate, Chairman EASTLAND, is out of the country. It seems inappropriate to bring up a bill affecting his committee while he is out of the country. It would have seemed reasonable to have awaited his return.

It also seems unreasonable to bypass our own committee, and to bring a measure passed by the House of Representatives directly to the floor for consideration. This is unusual procedure because we generally operate by and through the committee system.

I believe, Mr. President, that my views on this bill are well known, but I would like to share a newsletter in a moment or so which I sent to constituents throughout Virginia expressing these views.

We are not talking about human rights today. We are not talking about civil rights. We are discussing whether the capital city concept that was developed by the Founding Fathers should be retained or whether we should let some expediency of the day change this.

If we look at the Constitution, article I, section 8, paragraph 17—section 8, of course, speaks of the power of the Congress, it states:

The Congress shall have power to exercise exclusive Legislation in all Cases whatsoever, over such district (not exceeding 10 Miles square), as may, by Cession of particular States, and the acceptance of Congress, become the Seat of the Government of the United States,

The rest of that paragraph relates to other property that the Federal Government may obtain through purchase or condemnation or donation. This is the Federal City concept.

Mr. President, I ask unanimous consent to print in the RECORD a series of enabling acts passed by Congress pursuant to this constitutional provision with regard to the District of Columbia. The first one is the act of cession from the State of Virginia; the act authorizing cession from the State of Maryland; the act of Maryland ratifying the cession; the Maryland Act of 1792 supplementary to act of cession; Maryland Act of 1793 supplementary to act of cession; congressional acceptance of ceded territory; proclamation by the President respecting a survey, and defining the limits of, the District of Columbia; acts relative to boundaries of the District of Columbia; proclamation fixing boundaries of the District of Columbia; Organic Act of 1801; act of 1802 incorporating the city of Washington; act of 1812 amending the charter of Washington; act of 1820 reorganizing the government of the city of Washington; act of 1848 reorganizing the government of the city of Washington; act of retrocession of county of Alexandria; Virginia act accepting retrocession; and the proclamation relative to retrocession.

I ask unanimous consent that these be included as a part of the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ACT OF CESSION FROM THE STATE OF VIRGINIA

An act For the cession of ten miles square, or any lesser quantity of territory within this State, to the United States, in Congress assembled, for the permanent seat of the General Government

[Passed December 3, 1789]

I. Whereas the equal and common benefits resulting from the administration of the General Government will be best diffused, and its operations become more prompt and certain, by establishing such a situation for the seat of the said Government as will be most central and convenient to the citizens of the United States at large; having regard as well to population, extent of territory, and a free navigation to the Atlantic Ocean, through the Chesapeake Bay, as to the most direct and ready communication with our fellow-citizens on the western frontier; and whereas it appears to this assembly that a situation combining all, the considerations and advantages before recited may be had on the banks of the river Potomac, above tidewater, in a country rich and fertile in soil, healthy and salubrious in climate, and abounding in all the necessaries and conveniences of life, where, in a location of ten miles square, if the wisdom of Congress shall so direct, the States of Pennsylvania, Maryland, and Virginia, may participate in such location:

II. *Be it therefore enacted by the general assembly*, That a tract of country not exceeding ten miles square, or any lesser quantity, to be located within the limits of the State, and in any part thereof, as Congress may by law direct, shall be, and the same is hereby forever ceded and relinquished to the Congress and Government of the United States, in full and absolute right, and exclusive jurisdiction, as well of soil as of persons residing or to reside thereon, pursuant to the tenor and effect of the eighth section of the first article of the Constitution of the Government of the United States.

III. *Provided*, That nothing herein contained shall be construed to vest in the United States any right of property in the soil, or to affect the rights of individuals therein, otherwise than the same shall or may be transferred by such individuals to the United States.

IV. *And provided also*, That the jurisdiction of the laws of this commonwealth over the persons and property of individuals residing within the limits of the cession aforesaid, shall not cease or determine until Congress, having accepted the said cession, shall, by law, provide for the government thereof, under their jurisdiction, in manner provided by the articles of the Constitution before recited (Burch's Digest, p. 213.)

ACT AUTHORIZING CESSION FROM STATE OF MARYLAND

An act To cede to Congress a district of ten miles square in this State for the seat of the Government of the United States.

Be it enacted, by the General Assembly of Maryland, That the representatives of this state in the house of representatives in the congress of the United States, appointed to assemble at New York on the first Wednesday of March next, be and they are hereby authorized and required, on the behalf of this state, to cede to the congress of the United States, any district in this state, not exceeding ten miles square, which the congress may fix upon and accept for the seat of government of the United States. (Md. act, December 23, 1788, ch. 46.)

ACT OF MARYLAND RATIFYING THE CESSION

An act Concerning the Territory of Columbia and the city of Washington

[Passed December 19, 1791]

Whereas the President of the United States, by virtue of several acts of Congress, and acts of the assemblies of Maryland and Virginia, by his proclamation, dated at Georgetown on the thirtieth day of March, seventeen hundred and ninety-one, did declare and make known that the whole of the territory of ten miles square, for the permanent seat of government of the United States, shall be located and included within the four lines following, that is to say: Beginning at Jones Point, being the upper point of Hunting Creek, in Virginia, and at an angle at the outest forty-five degrees west of north, and running a direct line ten miles for the first line; then beginning again at the same Jones Point and running another direct line at a right angle with the first across the Potomac ten miles for the second line; then from the terminations of the said first and second lines running two other direct lines ten miles each, the one across the Eastern Branch and the other Potomac, and meeting each other in a point, which has since been called the Territory of Columbia; and,

Whereas Notley Young, Daniel Carroll, of Duddington, and many others, proprietors of the greater part of the land hereinafter mentioned to have been laid out in a city, came into an agreement, and have conveyed their lands in trust to Thomas Beall, son of George, and John Mackall Gantt, whereby they have subjected their lands to be laid out as a city, given up part to the United States, and subjected other parts to be sold to raise money as a donation to be employed according to the act of Congress for establishing the temporary and permanent seat of the Government of the United States, under and upon the terms and conditions contained in each of the said deeds; and many of the proprietors of lots in Carrollsburg and Hamburg have also come into an agreement, subjecting their lots to be laid out anew, giving up one-half of the quantity thereof to be sold, and the money thence arising to be applied as a donation as aforesaid, and they to be reinstated in one-half of the quantity of their lots in the new location, or otherwise compensated in land in a different situation within the city, by agreement between the Commissioners and them, and in case of disagreement, that then a just and full compensation shall be made in money; yet some of the proprietors in Carrollsburg and Hamburg, as well as some of the proprietors of other lands, have not, from imbecility and other causes, come into any agreement concerning their lands within the limits hereinafter mentioned, but a very great number of the landholders having agreed on the same terms, the President of the United States directed a city to be laid out comprehending all the lands beginning on the east side of Rock Creek, at a stone standing in the middle of the road leading from Georgetown to Bladensburgh; thence along the middle of side of the Reedy Branch of Goose Creek; southeasterly, making an angle of sixty-one degrees and twenty minutes with the meridian, to a stone standing in the road leading from Bladensburgh to the Eastern Branch ferry; then south to a stone eighty poles north of the east and west line already drawn from the mouth of Goose Creek to the Eastern Branch; then east, parallel to the said road to a stone standing on the east said east and west line, to the Eastern Branch; then with the waters of the Eastern Branch, Potomac River, and Rock Creek to the beginning, which has since been called the City of Washington; and

Whereas it appears to this general assembly highly just and expedient that all the lands within the said city should contribute, in due proportion, in the means which have already greatly enhanced the value of the whole; that an incontrovertible title ought to be made to the purchasers, under public sanction: that allowing foreigners to hold land within the said territory will greatly contribute to the improvement and population thereof; and that many temporary provisions will be necessary till Congress exercise the jurisdiction and government over the said territory; and

Whereas in the cession of this State, heretofore made, of territory for the Government of the United States, the lines of such cession could not be particularly designated; and it being expedient and proper that the same should be recognized in the acts of this State—

2. *Be it enacted by the General Assembly of Maryland*, That all that part of the said territory called Columbia which lies within the limits of this State shall be, and the same is hereby, acknowledged to be forever ceded and relinquished to the Congress and Government of the United States, and full and absolute right and exclusive jurisdiction, as well of soil as of persons residing or to reside thereon, pursuant to the tenor and effect of the eighth section of the first article of the Constitution of Government of the United States: *Provided*, That nothing herein contained shall be so construed to vest in the United States any right of property in the soil as to affect the rights of individuals therein, otherwise, than the same shall or may be transferred by such individuals to the United States: *And provided also*, That the jurisdiction of the laws of this State over the persons and property of individuals residing within the limits of the cession aforesaid shall not cease or determine until Congress shall, by law, provide for the government thereof, under their jurisdiction, in manner provided by the article of the Constitution before recited.

3. *And be it enacted*, That all the lands belonging to minors, persons absent out of the State, married women, or persons non compos mentis, or the lands the property of this State, within the limits of Carrollsburg and Hamburg, shall be and are hereby subjected to the terms and conditions hereinbefore recited, as to the lots where the proprietors thereof have agreed concerning the same; and all the other lands, belonging as aforesaid, within the limits of the said city of Washington, shall be, and are hereby, subjected to the same terms and conditions as the said Notley Young, Daniel Carroll, of Duddington, and others, have by their said agreements and deeds, subjected their lands to, and where no conveyances have been made, the legal estate and trust are hereby invested in the said Thomas Beall, son of George, and John Mackall Gantt, in the same manner as if each proprietor had been competent to make, and had made a legal conveyance of his or her land, according to the form of those already mentioned, with proper acknowledgements of the execution thereof, and where necessary, of release of dower, and in every case where the proprietor is an infant, a married woman, insane, absent out of the State, or shall not attend on three months' advertisement of notice in the Maryland Journal and Baltimore Advertiser, the Maryland Herald, and in the Georgetown and Alexandria papers, so that allotment can not take place by agreement, the commissioners, aforesaid, or any two of them, may allot or assign the portion or share of such proprietor as near the old situation as may be, in Carrollsburg and Hamburg, and to the full value of what the party might claim under the terms before recited; and as to the other lands within the said city, the commissioners aforesaid, or any two of them, shall make such allotment and assignment, within the land belonging to the same person, in alternate lots, determined by lot or ballot, whether the party shall begin with the lowest number: *Provided*, That in the cases of coverture and infancy, if the husband, guardian, or next friend will agree with the commissioners, or any two of them, then an effectual division may be made by consent; and in case of contrary claims, if the claimants will not jointly agree, the commissioners may proceed as if the proprietor was absent; and all persons to whom allotments and assignments of lands shall be made by the commissioners, or any two of them, on consent and agreement, or pursuant to this

act without consent, shall hold the same in their former estate and interest, and in lieu of their former quantity, and subject in every respect to all such limitations, conditions, and incumbrances as their former estate and interest, and in lieu of their former quantity, and subject in every respect to all such limitations, conditions, incumbrances as their former estates and interests were subject to, and as if the same had been actually reconveyed pursuant to the said deed in trust.

4. *And be it enacted*, That where the proprietor or proprietors, possessor or possessors, of any lands within the limits of the city of Washington, or within the limits of Carrollsburg or Hamburg, who have not already, or who shall not, within three months of this act, execute deeds in trust to the aforesaid Thomas Beall and John M. Gantt, of all their land within the limits of the said city of Washington, and on the terms and conditions mentioned in the deeds already executed by Notley Young and others, and execute deeds in trust to the said Thomas Beall and John M. Gantt of all their lots in the towns of Carrollsburg and Hamburg on the same terms and conditions contained in the deeds already executed by the greater part of the proprietors of lots in the said towns, the said commissioners, or any two of them, shall and may, at any time or times thereafter, issue a process, directed to the sheriff of Prince Georges County, commanding him, in the name of the State, to summon five good substantial freeholders, who are not of kin to any proprietor or proprietors of the lands aforesaid, and who are not proprietors themselves, to meet on a certain day, and at a certain place within the limits of the said city, to inquire of the value of the estate of such proprietor or proprietors, possessor or possessors, on which day and place the said sheriff shall attend, with the freeholders by him summoned, which freeholders shall take the following oath, or affirmation, on the land to be by them valued, to wit: "I, A. B., do solemnly swear (or affirm) that I will, to the best of my judgment, value the lands of C. D. now to be valued so as to do equal right and justice to the said C. D. and to the public, taking into consideration all circumstances," and shall then proceed to value the said lands; and such valuation, under their hands and seals and under the hand and seal of the said sheriff, shall be annexed to the said process and returned by the sheriff to the clerk appointed by virtue of this act, who shall make record of the same, and the said lands shall, on the payment of such valuation, be and is hereby vested in the said commissioners in trust, to be disposed of by them or otherwise employed to the use of the said city of Washington; and the sheriff aforesaid and freeholders aforesaid shall be allowed the same fees for their trouble as are allowed to a sheriff and juryman in executing a writ of inquiry; and in all cases where the proprietor or possessor is tenant in right of dower or by the courtesy the freeholders aforesaid shall ascertain the annual value of the lands and the gross value of such estate therein, and upon paying such gross value or securing to the possessor the payment of the annual valuation, at the option of the proprietor or possessor, the commissioners shall be and are hereby vested with the whole estate of such tenant, in manner and for the uses and purposes aforesaid.

5. *And be it enacted*, That all the squares, lots, and parcels of land within the said city which have been or shall be appropriated for the use of the United States, and all the lots and parcels which have been or shall be sold to raise money as a donation as aforesaid shall remain and be to the purchasers, according to the terms and conditions of their respective purchase; and purchases and leases from private persons claiming to be proprietors, and having, or those under whom they claim having, been in the possession of the lands purchased or leased, in their own right, five whole years next before the passing of this act, shall be good and effectual for the estate, and on the terms and conditions of such purchases and leases, respectively, without impeachment, and against any contrary title now existing; but if any person hath made a conveyance, or shall make a conveyance or lease, of any lands within the said city, not having right and title to do so, the person who might be entitled to recover the land under a contrary title now existing may, either by way of ejectment against the tenant or in an action for money had and received for his use against the bargainer or lessor, his heirs, executors, administrators, or devisees, as the case may require, recover all money received by him for the squares, pieces, or parcels appropriated for the use of the United States, as well as for lots or parcels sold and rents received by the person not having title as aforesaid, with interest from the time of receipt; and, on such recovery in ejectment, where the land is in lease, the tenant shall thereafter hold under, and pay the rent reserved to, the person making title to and recovering the land; but the possession bona fide acquired in none of the said cases shall be changed.

6. *And be it enacted*, That any foreigner may, by deed or will hereafter to be made, take and hold lands within that part of the said territory which lies within this State in the same manner as if he were a citizen of this State; and the same lands may be conveyed by him, and transmitted to, and inherited by his heirs or relations, as if he and they were citizens of this State; provided that no foreigner shall, in virtue hereof, be entitled to any further or other privilege of a citizen.

7. *And be it enacted*, That the said commissioners, or any two of them, may appoint a clerk for recording deeds of land within the said territory, who shall provide a proper book for the purpose, and therein record, in a strong, legible hand, all deeds duly acknowledged, of lands in the said territory, delivered to him to be recorded, and in the same book make due entries of all divisions and allotments of lands and lots made by the commissioners in pursuance of this act, and certificates granted by them of sales, and the purchase money having been paid, with a proper alphabet in the same book of the deeds and entries aforesaid; and the same book shall carefully preserve and deliver over to the commissioners aforesaid, or their successors, or such person or persons as Congress shall hereafter appoint, which clerk shall continue such during good behaviour, and shall be removable only on a conviction of misbehaviour in a court of law; but before he acts as such he shall take an oath or affirmation well and truly to execute his office, and he shall be entitled to the same fees as are or may be allowed to the clerks of the county courts for searches, copying, and recording.

8. *And be it enacted*, That acknowledgments of deeds made before a person in the manner and certified as the laws of this State direct or made before, and certified by, either of the commissioners shall be effectual; and that no deed hereafter to be made, of or for lands within that part have been acknowledged as aforesaid, and delivered to of the said territory which lies within this State, shall operate as a legal conveyance, nor shall any lease for more than seven years be effectual, unless the deed shall the said clerk to be recorded within six calendar months from the date thereof.

9. *And be it enacted*, That the commissioners aforesaid, or some two of them, shall direct an entry to be made in the said record book of every allotment and assignment to the respective proprietors in pursuance of this act.

10. And for the encouragement of master builders to undertake the building and finishing houses within the said city by securing to them a just and effectual remedy for their advances and earnings, *Be it enacted*, That for all sums due and owing on written contracts for the building any house in the said city, or the brickwork or carpenters' or joiners' work thereon, the undertaker or workmen employed by the person for whose use the house shall be built shall have a lien on the house and the ground on which the same is erected, as well as for the materials found by him: *Provided*, The said written contract shall have been acknowledged before one of the commissioners, a justice of the peace, or an alderman of the corporation of Georgetown and recorded in the office of the clerk for recording deeds, herein created, within six calendar months from the time of acknowledgment as aforesaid, and if within two years after the last of the work is done he proceeds in equity he shall have as upon a mortgage, or if he proceeds at law within the same time he may have execution against the house and land, in whose hands soever the same may be; but this remedy shall be considered as additional only, nor shall, as to the land, take place of any legal incumbrance made prior to the commencement of such claim.

11. *And be it enacted*, That the treasurer of the western shore be empowered and required to pay the seventy-two thousand dollars agreed to be advanced to the President by resolutions of the last sessions of assembly, in sums as the same may come to his hands on the appointed funds, without waiting for the day appointed for the payment thereof.

12. *And be it enacted*, That the Commissioners aforesaid for the time being, or any two of them, shall from time to time, until Congress shall exercise the jurisdiction and government within the said Territory, have power to license the building of wharves in the waters of the Potomac and the Eastern Branch, adjoining the said city, of the materials, in the manner and of the extent they may judge durable, convenient, and agreeing with the general order; but no license shall be granted to one to build a wharf before the land of another, nor shall any wharf be built in the waters without license as aforesaid; and if any wharf shall be built without such license, or different therefrom, the same is hereby declared a common nuisance. They may also, from time to time, make regulations for the discharge and laying of ballast from ships or vessels lying in the Potomac River above the lower line of the said Territory and Georgetown, and from ships and vessels lying in the Eastern Branch. They may also, from time to time, make regulations for landing and laying materials for building the said city, for disposing and laying earth which may be dug out of the wells, cellars, and foundations and for ascertaining the thickness of the walls of houses, and to enforce the observance of all such regulations by appointing penalties for the breach of any one of them not exceeding ten pounds current money, which may be recovered in the name of the said Commissioners, by warrant, before a justice of the peace, as in case of small debts, and disposed of as a donation for the purpose of the said act of Congress. And the said Commissioners, or any two of them, may grant licenses for retailing distilled spirits within the limits of the said city, and suspend or declare the same void. And if any person shall retail or sell any distilled spirits, mixed or unmixed, in less than ten gallons to the same person, or at the same time actually delivered, he or she shall forfeit for every such sale three pounds, to be recovered and applied as aforesaid.

13. *And be it enacted*, That an act of assembly of this State to condemn lands, if necessary, for the public buildings of the United States be, and is hereby, repealed. (Md. act, 1791, ch. 45.)

Maryland Act of 1792 Supplementary to Act of Cession

A supplement to the act entitled "An Act concerning the Territory of Columbia and the city of Washington"

[Passed December 23, 1792]

Whereas, doubts have arisen upon the act to which this is a supplement, whether it be essential to the validity of deeds and other conveyances of land in that part of the Territory of Columbia which lies within this state, that the same be recorded in the manner prescribed by the laws of this state before the passage of the said act; to remove which doubts—

2. *Be it enacted, by the General Assembly of Maryland*, That all deeds and other conveyances of land lying within the said territory, and recorded agreeably to the directions and provisions of the said act by the clerk appointed in the manner therein provided for the recording of deeds within the said territory, shall be as good, valid, and sufficient, in law, for the purposes of passing the estates therein mentioned, and for all other purposes, as if the same were also recorded in the manner prescribed by the laws of this state, before the passage of the said act for the recording of deeds and other conveyances of land within this state. (Md. act, 1792, ch. 49.)

Maryland Act of 1793 Supplementary to Act of Cession

A further supplement to the act concerning the Territory of Columbia and the city of Washington

Be it enacted, by the General Assembly of Maryland, That the certificates granted, or which may be granted, by the said commissioners, or any two of them, to purchasers of lots in the said city, with acknowledgement of the payment of the whole purchase money, and interest, if any shall have arisen thereon, and recorded agreeably to the directions of the act concerning the territory of Columbia and city of Washington, shall be sufficient and effectual to vest the legal estate in the purchasers, their heirs and assigns, according to the import of such certificates, without any deed or formal conveyance.

II. *And be it enacted*. That on sales of lots in the said city by the said commissioners, or any two of them, under terms or conditions of payment being therefor at any day or days after such contract entered into, if any sum of the purchase money or interest shall not be paid for the space of thirty days after the same ought to be paid, the commissioners, or any two of them, may sell the same lots at public vendue, in the city of Washington, at any time after sixty days notice of such sale, in some of the public newspapers of Georgetown and Baltimore-town, and retain in their hands sufficient of the money produced by such new sale to satisfy all principal and interest due on the first contract, together with the expenses of advertisements and sale, and the original purchaser, or his assigns, shall be entitled to receive from the said commissioners, at their treasury, on demand, the balance of the money which may have been actually received by them, or under their order, on the said second sale; and all lots, so sold, shall be freed and acquitted of all claim, legal and equitable, of the first purchaser, his heirs and assigns.

III. *And be it enacted*, That the commissioners aforesaid, or any two of them, may appoint a certain day for the allotment and assignment of one half of the quantity of each lot of ground in Carrollsburgh and Hamburgh, not before that time divided or assigned, pursuant to the said act concerning the territory of Columbia and the city of Washington, and on notice thereof in the Annapolis, some one of the Baltimore, the Eastern and George-town news-papers, for at least three weeks, the same commissioners may proceed to the allotment and assignment of ground within the said city, on the day appointed for that purpose, and therein proceed at convenient times till the whole be finished, as if the proprietors of such lots actually resided out of this state; provided, that if the proprietor of any such lot shall object in person, or by writing delivered to the commissioners, against their so proceeding as to his lot, before they shall have made an assignment of ground for the same, then they shall forbear as to such lot, and may proceed according to the before-mentioned act.

IV. *And be it enacted*, That the said commissioners may make a seal of office of the clerk for recording deeds within the district of Columbia, which shall be kept by him; and that the like fees shall be paid for, and the like credit shall be given to, certificates under seal, as to the like acts under the seal of a county court, and the said clerk shall be entitled to demand and receive his fees when the services enjoined him by this act, and the act to which this is a further supplement, shall be performed. (Md. act, 1793, ch. 58.)

Congressional Acceptance of Ceded Territory

An act for establishing the temporary and permanent seat of the Government of the United States

Section 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That a district of territory, not exceeding ten miles square, to be located as hereafter directed on the river Potomac, at some place between the mouths of the Eastern Branch and Connogochegue, be, and the same is hereby accepted for the permanent seat of the government of the United States. *Provided nevertheless*, That the operation of the laws of the state within such district shall not be affected by this acceptance, until the time fixed for the removal of the government thereto, and until Congress shall otherwise by law provide.

Sec. 2. *And be it further enacted*, That the President of the United States be authorized to appoint, and by supplying vacancies happening from refusals to act or other causes, to keep in appointment as long as may be necessary, three commissioners, who, or any two of whom, shall, under the direction of the President, survey, and by proper metes and bounds define and limit a district of territory, under the limitations above mentioned; and the district so defined, limited and located, shall be deemed the district accepted by this act, for the permanent seat of the government of the United States.

Sec. 3. *And be it [further] enacted*, That the said commissioners, or any two of them, shall have power to purchase or accept such quantity of land on the eastern side of the said river, within the said district, as the President shall deem proper for the use of the United States, and according to such plans as the President shall approve, the said commissioners, or any two of them, shall, prior to the first Monday in December, in the year one thousand eight hundred, provide suitable buildings for the accommodation of Congress, and of the President, and for the public offices of the government of the United States.

Sec. 4. *And be it [further] enacted*, That for defraying the expense of such purchases and buildings, the President of the United States be authorized and requested to accept grants of money.

Sec. 5. *And be it [further] enacted*, That prior to the first Monday in December next, all offices attached to the seat of the government of the United States, shall be removed to, and until the said first Monday in December in the year one thousand eight hundred, shall remain at the city of Philadelphia, in the state of Pennsylvania, at which place the session of Congress next ensuing the present shall be held.

Sec. 6. *And be it [further] enacted*, That on the said first Monday in December, in the year one thousand eight hundred, the seat of the government of the United States shall, by virtue of this act, be transferred to the district and place aforesaid. And all offices attached to the said seat of government; shall accordingly be removed thereto by their respective holders, and shall, after the said day, cease to be exercised elsewhere; and that the necessary expense of such removal shall be defrayed out of the duties on imports and tonnage, of which a sufficient sum is hereby appropriated.

Approved, July 16, 1790 (1 Stat. 130, ch. 28).

Proclamation by the President Respecting a Survey, and Defining the Limits of, the District of Columbia

A PROCLAMATION

Whereas the General Assembly of the State of Maryland, by an act passed on the twenty-third day of December, in the year one thousand seven hundred and eighty-eight, entitled "An act to cede to Congress a District of ten miles square in the State, for the seat of the government of the United States," did enact, that the Representatives of the said State, in the House of Representatives of the Congress of the United States, appointed to assemble at New York, on the first Wednesday of March then next ensuing, should be and they were thereby authorised and required on the behalf of the said State, to cede to the Congress of the United States, any District in the said State, not exceeding ten miles square, which the Congress might fix upon and accept for the seat of Government of the United States.

And the General Assembly of the Commonwealth of Virginia, by an act passed on the third day of December, one thousand seven hundred and eighty-nine, and intituled "An act for the cession of ten miles square, or any lesser quantity of territory within this State, to the United States in Congress assembled, for the permanent seat of the General Government," did enact that a tract of country not exceeding ten miles square, or any lesser quantity to be located within the limits of the said State, and in any part thereof, as Congress might by law direct, should be and the same was thereby forever ceded and relinquished to the Congress and Government of the United States, in full and absolute right, and exclusive jurisdiction, as well of soil as of persons residing or to reside thereon, pursuant to the tenor and effect of the eighth section of the first article of the Constitution of Government of the United States.

And the Congress of the United States, by their act passed the sixteenth day of July, one thousand seven hundred and ninety, and intituled "An act for establishing the temporary and permanent seat of the Government of the United States," authorised the President of the United States to appoint three commissioners to survey under his direction, and by proper metes and bounds to limit a district of territory, not exceeding ten miles square, on the River Potomac, at some place between the mouths of the Eastern Branch and Connogocheque, which District, so to be located and limited, was accepted by the said act of Congress, as the District for the permanent seat of the Government of the United States.

Now, therefore, in pursuance of the powers

to me confided and after duly examining and weighing the advantages and disadvantages of the several situations within the limits of the district not exceeding ten miles square, for the permanent seat of the government of the United States, in like manner

Organic Act of 1801

An act concerning the District of Columbia

powers and perform the same duties, as is

judgment or decree had originally been ob-

first election of members for the city coun-

Foresaid, I do hereby declare and make
nown, that the location of one part of the
id District of ten miles square, shall be
ound by running four lines of experiment in
e following manner, that is to say, running
om the Court-house of Alexandria in Vir-
nia, due southwest half a mile, and thence
due southeast course, till it shall strike
unting Creek, to fix the beginning of the
ur lines of experiment:

Then beginning the first of the said four
nes of experiment at the point on Hunting
reek, where the said southeast course shall
ave struck the same, and running the said
st line due northwest ten miles; thence the
cond line into Maryland due northeast ten
iles; thence the third line due southeast
n miles; and thence the fourth line due
uthwest ten miles, to the beginning on
unting Creek.

And the said four lines of experiment being
run, I do hereby declare and make known,
at all that part within the said four lines
experiment which shall be within the
ate of Maryland and above the Eastern
anch, and all that part within the same
ur lines of experiment which shall be
thin the Commonwealth of Virginia, and
ow a line to be run from the point of land
rming the Upper Cape of the mouth of the
stern Branch due southwest, and no more,
now fixed upon, and directed to be sur-
yed, defined, limited and located for a part
the said District accepted by the said act
Congress for the permanent seat of the
overnment of the United States; (hereby
pressly reserving the direction of the sur-
y and location of the remaining part of the
id District, to be made hereafter contiguous
such part or parts of the present location
is or shall be agreeable to law.)

And I do accordingly direct the said com-
issioners, appointed agreeably to the tenor
the said act, to proceed forthwith to run
e said lines of experiment, and the same
ing run, to survey, and by proper metes
d bounds to define and limit the part
thin the same, which is hereinbefore di-
cted for immediate location and accept-
ce; and thereof to make due report to me,
nder their hands and seals.

In testimony whereof, I have caused the
al of the United States to be affixed to
ese presents, and signed the same with my
nd. Done at the city of Philadelphia, the
enty-fourth day of January, in the year of
r Lord one thousand seven hundred and
nety-one, and of the independence of the
nited States the fifteenth.

GEO. WASHINGTON.

By the President: THOMAS JEFFERSON.

ACTS RELATIVE TO BOUNDARIES OF THE DISTRICT OF COLUMBIA

act To amend "An act for establishing the temporary and permanent seat of the Government of the United States"

Be it enacted by the Senate and House of presentatives of the United States of Amer- in Congress assembled, That so much of act, intitled "An act for establishing the mporary and permanent seat of the gov- nment of the United States," as requires at the whole of the district of territory, t exceeding ten miles square, to be located the river Potomac, for the permanent seat the government of the United States, shall located above the mouth of the Eastern anch, be and is hereby repealed, and that shall be lawful for the President to make y part of the territory below the said limit, d above the mouth of Hunting Creek, a rt of the said district, so as to include a nvenient part of the Eastern Branch, and the lands lying on the lower side thereof, d also the town of Alexandria, and the ritory so to be included, shall form a part end to all intents and purposes, as if the same had been within the purview of the above recited act: *Provided,* That nothing herein contained, shall authorize the erection of the public buildings otherwise than on the Maryland side of the river Potomac, as required by the aforesaid act.

Approved, March 3, 1791 (1 Stat. 214, ch. 17).

PROCLAMATION FIXING BOUNDARIES OF THE DISTRICT OF COLUMBIA

A proclamation by the President of the United States

Whereas, by a proclamation bearing date the twenty-fourth day of January of this present year, and in pursuance of certain acts of the States of Maryland and Virginia, and of the Congress of the United States therein mentioned, certain lines of experiment were directed to be run in the neighborhood of Georgetown, in Maryland, for the purpose of locating a part of the territory, of ten miles square, for the permanent seat of Government of the United States, and a certain part was directed to be located within the said lines of experiment on both sides of the Potomac, and above the limit of the Eastern Branch, prescribed by the said act of Congress;

And Congress, by an amendatory act, passed on the third day of this present month of March, have given further authority to the President of the United States "to make any part of the said territory below the said limit, and above the mouth of Hunting Creek, a part of the said district, so as to include a convenient part of the Eastern Branch and of the lands lying on the lower side thereof, and also the town of Alexandria:

Now, therefore, for the purpose of amending and completing the location of the whole of the said territory, of ten miles square, in conformity with the said amendatory act of Congress, I do hereby declare and make known, that the whole of the said territory shall be located and included within the four lines following; that is to say:

Beginning at Jones's Point, being the upper cape of Hunting Creek, in Virginia, and at an angle in the outset of forty-five degrees west of the north, and running in a direct line ten miles, for the first line; then beginning again at the same Jones's Point and running another direct line, at a right angle with the first, across the Potomac, ten miles, for the second line; thence from the termination of the said first and second lines, running two other direct lines of ten miles each, the one crossing the Eastern Branch aforesaid, and the other the Potomac, and meeting each other in a point.

And I do accordingly direct the commissioners named under the authority of the said first-mentioned act of Congress to proceed forthwith to have the said four lines run, and by proper metes and bounds defined and limited, and thereof to make due report, under their hands and seals; and the territory so to be located, defined, and limited shall be the whole territory accepted by the said act of Congress as the district for the permanent seat of the Government of the United States.

In testimony whereof, I have caused the seal of the United States to be affixed to these presents, and signed the same with my hand. Done at Georgetown aforesaid, the thirtieth day of March, in the year of our Lord seventeen hundred and ninety-one, and of the Independence of the United States the fifteenth.

[SEAL.] GEORGE WASHINGTON.

By the President:
THOMAS JEFFERSON.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the laws of the state of Virginia, as they now exist, shall be and continue in force in that part of the District of Columbia, which was ceded by the said state to the United States, and by them accepted for the permanent seat of government; and that the laws of the state of Maryland, as they now exist, shall be and continue in force in that part of the said district, which was ceded by that state to the United States and by them accepted as aforesaid.

SEC. 2. *And be it further enacted,* That the said district of Columbia shall be formed into two counties; one county shall contain all that part of said district, which lies on the east side of the river Potomac, together with the islands therein, and shall be called the county of Washington; the other county shall contain all that part of said district which lies on the west side of said river, and shall be called the county of Alexandria; and the said river in its whole course through said district shall be taken and deemed to all intents and purposes to be within both of said counties.

SEC. 3. *Be it further enacted,* That there shall be a court in said district, which shall be called the circuit court of the district of Columbia; and the said court and the judges thereof shall have all the powers by law vested in the circuit courts and the judges of the circuit courts of the United States. Said court shall consist of one chief judge and two assistant judges resident within said district, to hold their respective offices during good behaviour; any two of whom shall constitute a quorum; and each of the said judges shall, before he enter on his office, take the oath or affirmation provided by law to be taken by the judges of the circuit courts of the United States; and said court shall have power to appoint a clerk of the court in each of said counties, who shall take the oath and give a bond with sureties, in the manner directed for clerks of the district courts in the act to establish the judiciary of the United States.

SEC. 4. *Be it further enacted,* That said court shall, annually, hold four sessions in each of said counties, to commence as follows, to wit: for the county of Washington, at the city of Washington, on the fourth Mondays of March, June, September and December; for the county of Alexandria, at Alexandria, on the second Mondays of January, April, July, and the first Monday of October.

SEC. 5. *Be it further enacted,* That said court shall have cognizance of all crimes and offences committed within said district, and of all cases in law and equity between parties, both or either of which shall be resident or be found within said district, and also of all actions or suits of a civil nature at common law or in equity, in which the United States shall be plaintiffs or complainants; and of all seizures on land or water, and all penalties and forfeitures made, arising or accruing under the laws of the United States.

SEC. 6. *Provided, and be it further enacted,* That all local actions shall be commenced in their proper counties, and that no action or suit shall be brought before said court, by any original process against any person, who shall not be an inhabitant of, or found within said district, at the time of serving the writ.

SEC. 7. *Be it further enacted,* That there shall be a marshal for the said district, who shall have the custody of the gaols of said counties, and be accountable for the safe keeping of all prisoners legally committed therein; and he shall be appointed for the same term, shall take the same oath, give a bond with sureties in the same manner, shall have generally, within said district, the same by law directed and provided in the case of marshals of the United States.

SEC. 8. *Be it further enacted,* That any final judgment, order or decree in said court, wherein the matter in dispute, exclusive of costs, shall exceed the value of one hundred dollars, may be re-examined and reversed or affirmed in the supreme court of the United States, by writ or error or appeal, which shall be prosecuted in the same manner, under the same regulations, and the same proceedings shall be had therein, as is or shall be provided in the case of writs of error on judgments, or appeals upon orders or decrees, rendered in the circuit court of the United States.

SEC. 9. *Be it further enacted,* That there shall be appointed an attorney of the United States for said district, who shall take the oath and perform all the duties required of the district attornies of the United States; and the said attorney, marshal and clerks, shall be entitled to receive for their respective services, the same fees, perquisites and emoluments, which are by law allowed respectively to the attorney, marshal and clerk of the United States, for the district of Maryland.

SEC. 10. *Be it further enacted,* That the chief judge, to be appointed by virtue of this act, shall receive an annual salary of two thousand dollars, and the two assistant judges, of sixteen hundred dollars each, to be paid quarterly, at the treasury of the United States.

SEC. 11. *Be it further enacted,* That there shall be appointed in and for each of the said counties, such number of discreet persons to be justices of the peace, as the President of the United States shall from time to time think expedient, to continue in office five years; and such justices, having taken an oath for the faithful and impartial discharge of the duties of the office, shall, in all matters, civil and criminal, and in whatever relates to the conservation of the peace, have all the powers vested in, and shall perform all the duties required of, justices of the peace, as individual magistrates, by the laws herein before continued in force in those parts of said district, for which they shall have been respectively appointed; and they shall have cognizance in personal demands to the value of twenty dollars, exclusive of costs; which sum they shall not exceed, any law to the contrary notwithstanding; and they shall be entitled to receive for their services the fees allowed for like services by the laws herein before adopted and continued, in the eastern part of said district.

SEC. 12. *And be it further enacted,* That there shall be appointed in and for each of the said counties a register of wills, and a judge to be called the judge of the orphans court, who shall each take an oath for the faithful and impartial discharge of the duties of his office; and shall have all the powers, perform all the duties, and receive the like fees, as are exercised, performed, and received, by the registers of wills and judges of the orphans' court, within the state of Maryland; and appeals from the said courts shall be to the circuit court of said district, who shall therein have all the powers of the chancellor of the said state.

SEC. 13. *And be it further enacted,* That in all cases where judgments or decrees have been obtained, or hereafter shall be obtained, on suits now depending in any of the courts of the Commonwealth of Virginia, or of the state of Maryland, where the defendant resides or has property within the District of Columbia, it shall be lawful for the plaintiff in such case upon filing an exemplification of the record and proceedings in such suits, with the clerk of the court of the county where the defendant resides, or his property may be found, to sue out writs of execution thereon, returnable to the said court, which shall be proceeded on, in the same manner as if the tained in said court.

SEC. 14. *And be it further enacted,* That all actions, suits, process, pleadings, and other proceedings of what nature or kind soever, depending or existing in the courts of Hustings for the towns of Alexandria and Georgetown, shall be, and hereby are continued over to the circuit courts to be holden by virtue of this act, within the District of Columbia, in manner following; that is to say: all such as shall then be depending and undetermined, before the court of Hustings for the town of Alexandria, to the next circuit court hereby directed to be holden in the town of Alexandria; and all such as shall then be depending and undetermined, before the court of Hustings for Georgetown, to the next circuit court hereby directed to be holden in the city of Washington: *Provided nevertheless,* that where the personal demand in such cases, exclusive of costs, does not exceed the value of twenty dollars, the justices of the peace within their respective counties, shall have cognizance thereof.

SEC. 15. *And be it further enacted,* That all writs and processes whatsoever, which shall hereafter issue from the courts hereby established within the district, shall be tested in the name of the chief judge of the District of Columbia.

SEC. 16. *And be it further enacted,* That nothing in this act contained shall in any wise alter, impeach or impair the rights, granted by or derived from the acts of incorporation of Alexandria and Georgetown, or of any other body corporate or politic, within the said district, except so far as relates to the judicial powers of the corporations of Georgetown and Alexandria.

Approved, February 27, 1801 (2 Stat. 103, ch. 15).

ACT OF 1802 INCORPORATING THE CITY OF WASHINGTON

An act to incorporate the inhabitants of the city of Washington, in the District of Columbia

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the inhabitants of the city of Washington be constituted a body politic and corporate, by the name of a mayor and council of the city of Washington, and by their corporate name, may sue and be sued, implead and be impleaded, grant, receive, and do all other acts as natural persons, and may purchase and hold real, personal and mixed property, or dispose of the same for the benefit of the said city; and may have and use a city seal, which may be broken or altered at pleasure; the city of Washington shall be divided into three divisions or wards, as now divided by the levy court for the county, for the purpose of assessment; but the number may be increased hereafter, as in the wisdom of the city council shall seem most conducive to the general interest and convenience.

SEC. 2. *And be it further enacted,* That the council of the city of Washington shall consist of twelve members, residents of the city, and upwards of twenty-five years of age, to be divided into two chambers, the first chamber to consist of seven members, and the second chamber of five members; the second chamber to be chosen from the whole number of councillors elected, by their joint ballot. The city council to be elected annually, by ballot, in a general ticket, by the free white male inhabitants of full age, who have resided twelve months in the city, and paid taxes therein the year preceding the election's being held: the justices of the county of Washington, resident in the city, or any three of them, to preside as judges of election, with such associates as the council may, from time to time, appoint.

SEC. 3. *And be it further enacted,* That the cil shall be held on the first Monday in June next, and in every year afterwards, at such place in each ward as the judges of the election may prescribe.

SEC. 4. *And be it further enacted,* That the polls shall be kept open from eight o'clock in the morning till seven o'clock in the evening, and no longer, for the reception of ballots. On the closing of the poll, the judges shall close and seal their ballot-boxes, and meet on the day following in the presence of the marshal of the district, on the first election, and the council afterwards, when the seals shall be broken, and the votes counted: within three days after such election, they shall give notice to the persons having the greatest number of legal votes that they are duly elected, and shall make their return to the mayor of the city.

SEC. 5. *And be it further enacted,* That the mayor of the city shall be appointed, annually, by the President of the United States. He must be a citizen of the United States, and a resident of the city, prior to his appointment.

SEC. 6. *And be it further enacted,* That the city council shall hold their sessions in the city hall, or, until such building is erected, in such place as the mayor may provide for that purpose, on the second Monday in June, in every year; but the mayor may convene them them oftener, if the public good require their deliberations. Three fourths of the members of each council may be a quorum to do business, but a smaller number may adjourn from day to day: they may compel the attendance of absent members, in such manner, and under such penalties, as they may, by ordinance, provide: they shall appoint their respective presidents, who shall preside during their sessions, and shall vote on all questions where there is an equal division; they shall settle their rules of proceedings, appoint their own officers, regulate their respective fees, and remove them at pleasure: they shall be judge of the elections, returns and qualifications of their own members, and may, with the concurrence of three fourths of the whole, expel and member for disorderly behaviour, or mal-conduct in office, but not a second time for the same offence: they shall keep a journal of their proceedings, and enter the yeas and nays on any question, resolve or ordinance, at the request of any member, and their deliberations shall be public. The mayor shall appoint to all offices under the corporation. All ordinances or acts passed by the city council shall be sent to the mayor, for his approbation, and when approved by him, shall then be obligatory as such. But if the said mayor shall not approve of such ordinance or act, he shall return the same within five days, with his reasons in writing therefor; and if three fourths of both branches of the city council, on reconsideration thereof, approve of the same, it shall be in force in like manner as if he had approved it, unless the city council, by their adjournment, prevent its return.

SEC. 7. *And be it further enacted,* That the corporation aforesaid shall have full power and authority to pass all by-laws and ordinances; to prevent and remove nuisances; to prevent the introduction of contagious diseases within the city; to establish night watches or patrols, and erect lamps; to regulate the stationing, anchorage, and mooring of vessels; to provide for licensing and regulating auctions, retailers of liquors, hackney carriages, wagons, carts and drays, and pawnbrokers within the city; to restrain or prohibit gambling, and to provide for licensing, regulating or restraining theatrical or other public amusements within the city; to regulate and establish markets; to erect and repair bridges; to keep in repair all necessary streets, avenues, drains and sewers, and to pass regulations necessary for the preservation of the same, agreeably to the plan of the

said city; to provide for the safe keeping of the standard of weights and measures fixed by Congress, and for the regulation of all weights and measures used in the city; to provide for the licensing and regulating the sweeping of chimneys and fixing the rates thereof; to establish and regulate fire wards and fire companies; to regulate and establish the size of bricks that are to be made and used in the city; to sink wells, and erect and repair pumps in the streets; to impose and appropriate fines, penalties and forfeitures for breach of their ordinances; to lay and collect taxes; to enact bylaws for the prevention and extinguishment of fire; and to pass all ordinances necessary to give effect and operation to all the powers vested in the corporation of the city of Washington: *Provided*, that the by-laws or ordinances of the said corporation, shall be, in no wise, obligatory upon the persons of non-residents of the said city, unless in cases of intentional violation of by-laws or ordinances previously promulgated. All the fines, penalties and forfeitures, imposed by the corporation of the city of Washington, if not exceeding twenty dollars, shall be recovered before a single magistrate, as small debts are, by law, recoverable; and if such fines, penalties and forfeitures exceed the sum of twenty dollars, the same shall be recovered by action of debt in the district court of Columbia, for the county of Washington, in the name of the corporation, and for the use of the city of Washington.

SEC. 8. And be it further enacted, That the person or persons appointed to collect any tax imposed in virtue of the powers granted by this act, shall have authority to collect the same by distress and sale of goods and chattels of the person chargeable therewith; no sale shall be made unless ten days previous notice thereof be given; no law shall be passed by the city council subjecting vacant or unimproved city lots, or parts of lots, to be sold for taxes.

SEC. 9. *And be it further enacted*, That the city council shall provide for the support of the poor, infirm and diseased of the city.

SEC. 10. *Provided always, and be it further enacted*, That no tax shall be imposed by the city council on real property in the said city, at any higher rate than three quarters of one per centum on the assessment valuation of such property.

SEC. 11. *And be it further enacted*, That this act shall be in force for two years, from the passing thereof, and from thence to the end of the next session of Congress thereafter, and no longer.

APPROVED, May 3, 1802 (2 Stat. 195, ch. 53).

ACT OF 1812 AMENDING THE CHARTER OF WASHINGTON

An act Further to amend the charter of the city of Washington

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the first Monday of June next, the corporation of the city of Washington shall be composed of a mayor, a board of aldermen and a board of common council, to be elected by ballot, as herein after directed. The board of aldermen shall consist of eight members, to be elected for two years, two to be residents of and chosen from each ward by the qualified voters resident therein; and the board of common council shall consist of twelve members, to be elected for one year, three to be residents of and chosen from each ward in manner aforesaid: and each board shall meet at the council chamber on the second Monday in June next (for the despatch of business) at ten o'clock in the morning, and on the same day and at the same hour annually thereafter. A majority of each board shall be necessary to form a quorum to do business, but a less number may adjourn from day to day. The board of aldermen, immediately after they shall have assembled in consequence of the first election shall divide themselves by lot into two classes; the seats of the first class shall be vacated at the expiration of one year, and the seats of the second class shall be vacated at the expiration of two years, so that one half may be chosen every year. Each board shall appoint its own president from among its own members, who shall preside during the sessions of the board, and shall have a casting vote on all questions where there is an equal division: *Provided*, such equality shall not have been occasioned by his previous vote.

SEC. 2. *And be it further enacted*, That no person shall be eligible to a seat in the board of aldermen or board of common council, unless he shall be more than twenty-five years of age, a free white male citizen of the United States and shall have been a resident of the city of Washington one whole year next preceding the day of election, and shall, at the time of his election, be a resident of the ward for which he shall be elected, and possessed of a free-hold estate in the said city of Washington, and shall have been assessed two months preceding the day of election. And every free white male citizen of lawful age, who shall have resided in the city of Washington for the space of one year next preceding the day of election, and shall be a resident of the ward in which he shall offer to vote, and who shall have been assessed on the books of the corporation not less than two months prior to the day of election, shall be qualified to vote for members to serve in the said board of aldermen and board of common council, and no other person whatever shall exercise the right of suffrage at such election.

SEC. 3. *And be it further enacted*, That the present mayor of the city of Washington shall be, and continue such until the second Monday in June next, on which day, and on the second Monday in June annually thereafter, the mayor of the said city shall be elected by ballot of the board of aldermen and board of common council in joint meeting, and a majority of the votes of all the members of both boards shall be necessary to a choice; and if there should be an equality of votes between two person, after the third ballot, the two boards shall determine the choice by lot. He shall, before he enters upon the duties of his office, take an oath or affirmation, in the presence of both boards, "lawfully to execute the duties of his office to the best of his skill and judgment, without favour or partiality." He shall, exofficio, have and exercise all the powers, authority and jurisdiction of a justice of the peace for the county of Washington, within the said county. He shall nominate, and, with the consent of a majority of the members of the board of aldermen, appoint to all offices under the corporation, (except the commissioners of election,) and any such officer shall be removed from office on the concurrent remonstrance of a majority of the two boards. He shall see that the laws of the corporation be duly executed, and shall report the negligence or misconduct of any officer to the two boards. He shall appoint proper persons to fill up all vacancies during the recess of the board of aldermen, to hold such appointment until the end of the then ensuing session. He shall have power to convene the two boards, when in his opinion the good of the community may require it; and he shall lay before them from time to time, in writing, such alterations in the laws of the corporation, as he shall deem necessary or proper, and shall receive for his services annually, a just and reasonable compensation, to be allowed and fixed by the two boards, which shall neither be increased nor diminished during the period for which he shall have been elected. Any person shall be eligible to the office of mayor, who is a free white male citizen of the United States, who shall have attained to the age of thirty years, and who shall be the bona fide owner of a freehold estate in the said city, and shall have been resident in the said city two years immediately preceding his election: and no other person shall be eligible to the said office. In case of the refusal of any person to accept the office of mayor upon his election thereto, or of his death, resignation, inability or removal from the city, the said two boards shall elect another in his place to serve the remainder of the year.

SEC. 4. *And be it further enacted*, That the first election for members of the board of aldermen and board of common council, shall be held on the first Monday in June next, and on the first Monday in June annually thereafter: The first election to be held by three commissioners, to be appointed in each ward by the mayor of the city, and at such place in each ward as he may direct; and all subsequent elections shall be held by a like number of commissioners, to be appointed in each ward by the two boards in joint meeting, which several appointments, except the first, shall be at least ten days previous to the day of each election. And it shall be the duty of the mayor, for the first election, and of the commissioners for all subsequent elections, to give at least five days' previous public notice of the place in each ward where such elections are to be held. The said commissioners shall, before they receive any ballot, severally take the following oath or affirmation, to be administered by the mayor of the city or any justice of the peace for the county of Washington: "I, A. B., do solemnly swear, or affirm (as the case may be); that I will truly and faithfully receive and return the votes of such persons as are by law entitled to vote for members of the board of aldermen and board of common council in ward, No. according to the best of my judgment and understanding; and that I will not, knowingly, receive or return the vote of any person who is not legally entitled to the same, so help me God." The polls shall be opened at ten o'clock in the morning, and be closed at seven o'clock in the evening of the same day. Immediately on closing the polls, the commissioners of each ward, or a majority of them, shall count the ballots and make out under their hands and seals a correct return of the two persons for the first election, and of the one person for all subsequent elections, having the greatest number of legal votes, together with the number of votes given to each, as members of the board of aldermen; and of the three persons having the greatest number of legal votes, together with the number of votes given to each, as members of the board of common council; and the two persons at the first election and the one person at all subsequent elections, having the greatest number of legal votes for the board of aldermen; and the three persons having the greatest number of legal votes for the board of common council, shall be duly elected; and in all cases of an equality of votes the commissioners shall decide by lot. The said returns shall be delivered to the mayor of the city on the succeeding day, we shall cause the same to be published in some newspaper printed in the city of Washington. A duplicate return, together with a list of the persons who voted at such election, shall also be made by the said commissioners to the register of the city, on the day succeeding the election, who shall preserve and record the same; and shall within two days thereafter notify the several persons so returned, of their election. And each board shall judge the legality of the elections, returns and qualifications of its own members; and shall supply vacancies in its own body, by causing elections to be made

to fill the same in the ward and for the board in which such vacancies shall happen, giving at least five days' notice previous thereto; and each board shall have full power to pass all rules necessary and requisite to enable itself to come to a just decision in cases of a contested election of its members; and the several members of each board shall, before entering upon the duties of their office, take the following oath or affirmation: "I do swear, (or solemnly, sincerely and truly affirm and declare, as the case may be) that I will faithfully execute the office of to the best of my knowledge and ability," which oath or affirmation shall be administered by the mayor or some justice of the peace for the county of Washington.

SEC. 5. *And be it further enacted*, That in addition to the powers heretofore granted to the corporation of the city of Washington, by an act, entitled "An act to incorporate the inhabitants of the city of Washington, in the District of Columbia," and an act, entitled "An act supplementary to an act entitled An act to incorporate the inhabitants of the city of Washington, in the District of Columbia," the said corporation shall have power to lay taxes on particular wards, parts or sections of the city, for their particular local improvements; that after providing for all objects of a general nature, the taxes raised on the assessable property in each ward shall be expended therein, and in no other, in regulating, filling up and repairing of streets and avenues, building of bridges, sinking of wells, erecting pumps and keeping them in repair; in conveying water in pipes, and in the preservation of springs; in erecting and repairing wharves; in providing fire engines and other apparatus for the extinction of fires; and for other local improvements and purposes, in such manner as the said board of aldermen and board of common council shall provide; but the sums raised for the support of the poor, aged and infirm, shall be a charge on each ward in proportion to its population or taxation, as the two boards shall decide. That whenever the proprietors of two thirds of the inhabited houses, fronting on both sides of a street or part of a street, shall, by petition to the two branches, express their desire of improving the same by laying the curbstone of the foot pavement, and paving the gutters or carriageway thereof, or otherwise improving said street agreeably to its graduation, the said corporation shall have power to cause to be done at any expense not exceeding two dollars and fifty cents per front foot, of the lots fronting on each improved street or part of a street, and charge the same to the owners of the lots fronting on said street or part of a street in due proportion; and also on a like petition, to provide for erecting lamps for lighting any street or part of a street, and to defray the expense thereof, by a tax on the proprietors or inhabitants of such houses, in proportion to their rental or valuation, as the two boards shall decide.

SEC. 6. *And be it further enacted*, That the said corporation shall have full power and authority to erect and establish hospitals or pest houses, workhouses, houses of correction, penitentiary and other public buildings, for the use of the city, and to lay and collect taxes for defraying the expenses thereof; to regulate party and other fences, and to determine by whom the same shall be made and kept in repair; to lay open streets, avenues, lanes and alleys, and to regulate or prohibit all enclosures thereof; and to occupy and improve for public purposes, by and with the consent of the President of the United States, any part of the public and open spaces or squares in said city not interfering with any private rights; to regulate the measurement of, and weight by which all articles brought into the city for sale shall be disposed of; to provide for the appointment of appraisers and measurers of builder's work and materials, and also of wood, coals, grain and lumber; to restrain and prohibit the nightly and other disorderly meetings of slaves, free negroes and mulattoes, and to punish such slaves by whipping, not exceeding forty stripes, or by imprisonment, not exceeding six calendar months, for any one offence; and to punish such free negroes and mulattoes for such offences, by fixed penalties, not exceeding twenty dollars for any one offence; and in case of the inability of any such free negroe or mulatto to pay and satisfy any such penalty and cost thereon, to cause such free negro or mulatto to be confined to labour for such reasonable time, not exceeding six calendar months for any one offence, as may be deemed equivalent to such penalty and costs; to cause all vagrants, idle or disorderly persons, all persons of evil life or ill fame, and all such as have no visible means of support, or are likely to become chargeable to the city as paupers, or are found begging or drunk in or about the streets, or loitering in or about tippling houses, or who can show no reasonable cause of business or employment in the city; and all suspicious persons; and all who have no fixed place of residence, or cannot give a good account of themselves; all evesdroppers and night walkers; all who are guilty of open profanity or grossly indecent language behaviour publicly in the streets; all public prostitutes and such as lead a notoriously lewd or lascivious course of life; and all such as keep public gaming tables or gaming houses, to give security for their good behaviour for a reasonable time, and to indemnify the city against any charge for their support; and in case of their refusal or inability to give such security, to cause them to be confined to labour for a limited time, not exceeding one year at a time, unless such security should be sooner given; but if they shall afterwards be found again offending, such security may be again required, and for want thereof, the like proceedings may be again had, from time to time, as often as may be necessary; to prescribe the terms and conditions upon which free negroes, mulattoes and others, who can show no visible means of support, may reside in the city; to cause the avenues, streets, lanes and alleys to be kept clean, and to appoint officers for that purpose; to authorize the drawing of lotteries for effecting any important improvement in the city which the ordinary funds or revenue thereof will not accomplish: (a) *Provided*, that the amount to be raised in each year, shall not exceed the sum of ten thousand dollars: *And provided also*, that the object for which the money is intended to be raised, shall be first submitted to the President of the United States, and shall be approved of by him; to take care of, preserve and regulate the several burying grounds within the city; to provide for registering of births, deaths, and marriages; to cause abstracts or minutes of all transfers of real property both freehold and leasehold, to be lodged in the registry of the city at stated periods; to authorize night watches and patrols, and the taking up, and confining by them in the night time of all suspected persons; to punish by law; corporeally, any servant or slave guilty of a breach of any of their by-laws or ordinances, unless the owner or holder of such servant or slave, shall pay the fine annexed to the offence; and to pass all laws which shall be deemed necessary and proper for carrying into execution the foregoing powers and all other powers vested in the corporation or any of its officers, either by this act or any former act.

SEC. 7. *And be it further enacted*, That the marshal of the district of Columbia shall receive and safely keep within the jail for Washington county, at the expense of the city, all persons committed thereto under the sixth section of this act, until other arrangements be made by the corporation, for the confinement of offenders within the provisions of the said section. And in all cases where suit shall be brought before a justice of the peace, for the recovery of any fine or penalty arising or incurred for a breach of any by-law or ordinance of the corporation, upon a return of nulla bona to any fieri facias issued against the property of the defendant or defendants, it shall be the duty of the clerk of the circuit court for the county of Washington, when required, to issue a writ of capias ad satisfaciendum against every such defendant, returnable to the next circuit court for the county of Washington, thereafter, and which shall be proceeded on as in other writs of the like kind.

SEC. 8. *And be it further enacted*, That unimproved lots in the city of Washington, on which two years' taxes remain due and unpaid, or so much thereof as may be necessary to pay such taxes, may be sold at public sale for such taxes due thereon: *Provided*, that public notice be given of the time and place of sale, by advertising in some newspaper printed in the city of Washington, at least six months, where the property belongs to persons residing out of the United States; three months, where the property belongs to persons residing in the United States, but without the limits of the district of Columbia; and six weeks, where the property belongs to persons residing within the district of Columbia or city of Washington; in which notice shall be stated, the number of the lot or lots, the number of the square or squares, the name of the person or persons to whom the same may have been assessed; and also the amount of taxes due thereon: *And provided also*, that the purchaser shall not be obliged to pay at the time of such sale, more than the taxes due, and the expenses of sale; and that if within two years from the day of such sale the proprietor or proprietors of such lot or lots, or his or their heirs, representatives or agents, shall repay to such purchaser the monies paid for the taxes and expenses as aforesaid, together with ten per centum per annum as interest thereon, or make a tender of the same, he shall be reinstated in his original right and title; but if no such payment or tender be made within two years next after the said sale, then the purchaser shall pay the balance of the purchase money of such lot or lots, into the city treasury, where it shall remain subject to the order of the original proprietor or proprietors, his or their heirs or legal representatives; and the purchaser shall receive a title in fee simple to the said lot or lots, under the hand of the mayor and seal of the corporation, which shall be deemed good and valid in law and equity.

SEC. 9. *And be it further enacted*, That the said corporation shall in future be named and styled "The Mayor, Aldermen and Common Council of the City of Washington;" and that if there shall have been a non-election or informality in the election of a city council on the first Monday in June last, it shall not be taken, construed or adjudged, in any manner, to have operated as a dissolution of the said corporation, or to affect any of its rights, privileges or laws, passed previous to the second Monday in June last, but the same are hereby declared to exist in full force.

SEC. 10. *And be it further enacted*, That the corporation shall, from time to time, cause the several wards of the city to be so located as to give, as nearly as may be, an equal number of voters to each ward; and it shall be the duty of the register of the city, or such officer as the corporation may hereafter appoint, to furnish the commissioners of election, for each ward, on the first Monday in June annually, previous to the opening of the polls, a list of the persons having a

SEC. 11. *And be it further enacted*, That so much of any former act, as shall be repugnant to the provisions of this act, be, and the same is hereby repealed.

Approved, May 4, 1812 (2 Stat. 721, Ch. 75).

ACT OF 1820 REORGANIZING THE GOVERNMENT OF THE CITY OF WASHINGTON

An act To incorporate the inhabitants of the city of Washington, and to repeal all acts heretofore passed for that purpose.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the act, entitled "An act to incorporate the inhabitants of the city of Washington, in the District of Columbia," and the act of supplementary to the same, passed on the twenty-fourth of February, in the year one thousand eight hundred and four, and the act, entitled "An act further to amend the charter of the city of Washington," and all other acts, or parts of acts, inconsistent with the provisions of this act, be, and the same are hereby, repealed: *Provided, however*, That the mayor, the members of the board of aldermen, and the members of the board of common council, of the corporation of the said city, shall and may remain and continue as such, for and during the terms for which they have been respectively appointed, subject to the terms and conditions in such cases legally made and provided; and all acts or things done, or which may be done, by them in pursuance of the provisions, or by virtue of the authority, of the said acts, or either of them, and not inconsistent with the provisions of his act, shall be valid, and of as full force and effect as if the said acts had not been repealed.

SEC. 2. *And be it further enacted*, That the inhabitants of the city of Washington shall continue to be a body politic and corporate, by the name of the "Mayor, board of aldermen, and board of common council, of the city of Washington," to be elected by ballot, as hereinafter directed, and, by their corporate name, may sue and be sued, implead and be impleaded, grant, receive, and do all other acts, as natural persons; and may purchase and hold real, personal, and mixed, property, or dispose of the same, for the benefit of the city; and may have and use a city seal, and break and alter the same at pleasure.

SEC. 3. *And be it further enacted*, That the mayor of the said city shall be elected on the first Monday in June next, and on the same day in every second year thereafter, at the same time and place, in the same manner, and by the persons qualified to vote for members of the board of aldermen and the board of common council. That the commissioners hereinafter mentioned shall make out duplicate certificates of the result of the election of mayor; and shall return one to the board of aldermen and the other to the board of common council, on the Monday next ensuing the election; and the person having the greatest number of votes shall be the mayor: but in case two or more persons, highest in vote, shall have an equal number of votes, then it shall be lawful for the board of aldermen and the board of common council to proceed forthwith, by ballot, in joint meeting, to determine the choice between such persons. The mayor shall, on the Monday next ensuing his election, before he enters on the duties of his office, in the presence of the boards of aldermen and common council, in joint meeting, take an oath, to be administered by a justice of the peace, "lawfully to execute the duties of his office, to the best of his skill and judgment, without favour or partiality." He shall, ex officio, have an exercise all the powers, authority, and jurisdiction, of a justice of the peace for the county of Washington, within the said all offices under the corporation, (except commissioners of election,) and may remove any such officer from office at his will and pleasure. He shall appoint persons to fill up all vacancies which may occur during the recess of the board of aldermen, to hold such appointments until the end of the then ensuing session. He may convene the two boards when, in his opinion, the public good may require it; and he shall lay before them, from time to time, in writing, such alterations in the laws of the corporation as he may deem necessary and proper; and he shall receive, for his services, annually a just and reasonable compensation, to be allowed and fixed by the two boards, which shall neither be increased nor diminished during his continuance in office. Any person shall be eligible to the office of mayor who is a free white male citizen of the United States, who shall have attained to the age of thirty years, who shall have resided in the said city for two years immediately preceding his election, and who shall be the bona fide owner of a freehold estate in the said city; and no other person shall be eligible to the said office. In case of the refusal of any person to accept the office of mayor, upon his election thereto, or of his death, resignation, inability, or removal from the city, the said boards shall assemble and elect another in his place, to serve for the remainder of the term, or during such inability.

SEC. 4. *And be it further enacted*, That the board of aldermen shall consist of two members to be residents in, and chosen from, each ward, by the qualified voters therein, and to be elected for two years, from the Monday next ensuing their election; and the board of common council shall consist of three members, to be residents in, and chosen from, each ward, by the qualified voters therein, and to be elected for one year, from the Monday next ensuing their election; and each board shall meet at the council chamber, on the second Monday in June next, for the despatch of business, at ten o'clock in the morning, and at the same hour on the second Monday in June, in every year thereafter; and at such other time as the two boards may, by law, direct. A majority of each board shall be necessary to form a quorum to do business, but a less number may adjourn from day to day; they may compel the attendance of absent members, in such manner, and under such penalties, and allow such compensation for the attendance of the members, as they may, by law, provide; each board shall appoint its own President, who shall preside during its sessions, and who shall be entitled to vote on all questions; they shall settle their rules of proceedings, appoint their own officers, regulate their respective compensations, and remove them at pleasure; and may, with the concurrence of three-fourths of the whole, expel any member for disorderly behaviour or malconduct in office, but not a second time for the same offence; each board shall keep a journal of its proceedings, and the yeas and nays shall be entered thereon, at the request of any member; and their deliberations shall be public. All ordinances or acts, passed by the two boards, shall be sent to the mayor for his approbation, and, when approved by him, shall be obligatory as such. But, if the mayor shall not approve of any ordinance or act, so sent to him, he shall return the same, within five days, with his reasons in writing therefor; and if two thirds of both boards, on reconsideration thereof, agree to pass the same, it shall be in force, in like manner as if he had approved it; but, if the two boards shall, by their adjournment, prevent its return, the same shall not be obligatory.

SEC. 5. *And be it further enacted*, That no person shall be eligible to a seat in the board of aldermen, or board of common council, unless he shall be more than twenty-five and shall have been a resident of the city of Washington for one year next preceding the day of election, and shall, at the time of his election, be a resident of the ward for which he shall be elected, and be then the bona fide owner of a freehold estate in the said city, and shall have been assessed on the books of the corporation, for the year ending on the thirty-first day of December next preceding the day of election. And every free white male citizen of the United States, of lawful age, who shall have resided in the city of Washington for one year next preceding the day of election, and shall be a resident of the ward in which he shall offer to vote, and who shall have been assessed on the books of the corporation, for the year ending on the thirty-first day of December next preceding the day of election, and who shall have paid all taxes legally assessed and due on personal property, when legally required to pay the same, and no other person shall be entitled to vote at any election for members of the two boards. And it shall be the duty of the register of the city, or such officer as the corporation may hereafter direct, to furnish the commissioners of election in each ward, previous to opening the polls at every election, a list of the persons having a right to vote, agreeably to the provisions of this section.

SEC. 6. *And be it further enacted*, That an election for members of the board of aldermen and board of common council shall be held on the first Monday of June next, and on the first Monday in June annually thereafter; and all elections shall be held by three commissioners to be appointed in each ward by the two boards in joint meeting, which appointment shall be at least ten days previous to the day of each election. And it shall be the duty of the commissioners so appointed to give at least five days' previous notice of the place in each ward where such elections are to be held. The said commissioners shall, before they receive any ballot, severally take an oath or affirmation, to be administered by some justice of the peace for the county of Washington, "truly and faithfully to receive and return the votes of such persons as are by law entitled to vote for members of the board of aldermen and board of common council, in their respective wards, according to the best of their judgment and understanding, and not knowingly to receive or return the vote of any person who is not legally entitled to the same." The polls shall be opened at ten o'clock in the morning, and be closed at seven o'clock in the evening of the same day. Immediately on closing the polls, the said commissioners for each ward, or a majority of them, shall count the ballots, and make out, under their hands and seals, a correct return of the persons having the greatest number of legal votes for members of the board of aldermen and for members of the board of common council, respectively, together with the number of votes given to each person voted for: and the persons having the greatest number of votes for the two boards, respectively, shall be duly elected; and, in all cases of an equality of votes, the commissioners shall decide the choice by lot. The said returns shall be delivered to the mayor, on the day succeeding the election, who shall cause the result of the election to be published in some newspaper printed in the city of Washington; a duplicate return shall, together with a list of the persons who voted at such election, also to be made, on the day succeeding the election, to the register of the city, who shall preserve and record the same; and shall, within two days thereafter, notify the several persons, so returned, of their election. And each board shall judge of the legality of the elections, returns, and qualifications of its own members, and shall supply vacancies in its own body, by causing elections to be held to fill the same, and appoint commissioners to hold the same, and

days' public notice of the time and place of holding such elections; each of the members of either board, shall, before entering on the duties of his office, take an oath or affirmation, "faithfully to execute the duties of his office, to the best of his knowledge and ability;" which oath or affirmation shall be administered by the mayor or some justice of the peace for the county of Washington.

SEC. 7. *And be it further enacted*, That the corporation aforesaid shall have full power and authority to lay and collect taxes upon the real and personal property within the said city; provided that no tax shall be laid upon real property, at a higher rate than three quarters of one per centum on the assessment valuation thereof, except for the special purposes hereinafter provided; and that no tax shall be laid upon the wearing apparel, or necessary tools and implements used in carrying on the trade or occupation, of any person; nor shall the same be subject to distress and sale for any tax; and, after providing for all objects of a general nature, the taxes raised on the assessable property in each ward shall be expended therein, and in no other; to establish a board of health, with competent authority to enforce its regulations, and to establish such other regulations as may be necessary to prevent the introduction of contagious diseases, and for the preservation of the health of the city; to prevent and remove nuisances; to establish night watches or patrols, and erect lamps in the streets; to preserve the navigation of the Potomac and Anacostia rivers adjoining the city; to erect, repair, and regulate, public wharves, and to deepen creeks, docks, and basins; to regulate the manner of erecting, and the rates of wharfage, at private wharves; to regulate the stationing, anchorage, and mooring of vessels; to provide for licensing, taxing, and regulation, auctions, retailers, ordinaries, and taverns, hackney carriages, wagons, carts, and drays, pawn-brokers, venders of lottery tickets, money-changers, and hawkers and pedlars; to provide for licensing, taxing, regulating, or restraining, theatrical or public shows and amusements; to restrain or prohibit tippling houses, lotteries, and all kinds of gaming, to regulate and establish markets; to erect and repair bridges; to open and keep in repair streets, avenues, lanes, alleys, drains, and sewers, agreeably to the plan of the city, to supply the city with water; to provide for the safe-keeping of the standard weights and measures as fixed by Congress, and for the regulation of all weights and measures used in the city; to regulate the sweeping of chimneys, and fix the rates or fees therefor; to provide for the prevention and extinguishment of fires; to regulate the size of bricks to be made or used; and to provide for the inspection of lumber and other building materials to be sold in the city; to regulate, with the approbation of the President of the United States, the manner of erecting, and the materials to be used in the erection, of houses; to regulate the inspection of tobacco, flour, butter, and lard, in casks or boxes, and salted provisions; to regulate the gauging of casks and liquors; the storage of gunpower, and all naval and military stores, not the property of the United States; and the weight and quality of bread; to impose and appropriate fines, penalties, and forfeitures, for the breach of their laws or ordinances; and to provide for the appointment of inspectors, constables, and such other officers, as may be necessary to execute the laws of the corporation.

SEC. 8. *And be it further enacted*, That the said corporation shall have full power and authority to lay taxes on particular wards, parts, or sections, of the city, for their particular local improvements; and, upon application of the owners of more than one half of the property upon any portion of a street, to cause the curb-stones to be set, and the footways to be paved, on such portion of a the amount of the expense thereof: *Provided*, That such tax shall not exceed three dollars per front foot; and, upon a like application to cause the carriage-way of any portion of a street to be paved, or lamps to be erected therein, and light the same, and lay a tax, not exceeding the whole expense thereof, in due proportion, on the lots fronting on such portion of a street; and, also, to impose an addition or interest on the amounts of any such taxes, not exceeding ten per centum per annum, when the same shall not have been paid within thirty days after the same shall become due. The said corporation shall also have power and authority to provide for the establishment and superintendence of public schools, and to endow the same; to establish and erect hospitals or pest-houses, watch and workhouses, houses of correction, penitentiary, and other public buildings, and to lay and collect taxes for the expenses thereof; to regulate party or other walls and fences, and to determine by whom the same shall be kept in repair; to cause new alleys to be opened through the squares, and to extend those already laid out, upon the application of the owners of more than one half the property in such squares.

Provided, That the damages which may accrue thereby, to any individual or individuals, shall be first ascertained by a jury, to be summoned and impannelled by the marshal of the District of Columbia, (and it is hereby made his duty to summon and impannel the same, in all such cases, upon application to him in writing by the mayor of the city,) and such damages to be paid by the corporation; the amount thereof, and the expenses accruing, shall be levied, in due proportion, upon the individuals whose property on such squares shall be benefited thereby, and collected as other taxes are; to occupy and improve, for public purposes, by and with the consent of the President of the United States, any part of the public and open spaces and squares in said city, not interfering with any private rights; to regulate the admeasurement and weight by which all articles brought into the city for sale shall be disposed of; to provide for the appointment of appraisers and measurers of builders' work and materials, and also of wood, coal, grain, and lumber; to restrain and prohibit the nightly and other disorderly meetings of slaves, free negroes, and mulattoes, and to punish such slaves by whipping, not exceeding forty stripes, or by imprisonment, not exceeding six months, for any one offense; and to punish such free negroes and mulattoes, by penalties, not exceeding twenty dollars for any one offence; and in case of the inability of any such free negro or mulatto to pay any such penalty and cost thereon, to cause him or her to be confined to labour for any time not exceeding six calendar months; to cause all vagrants, idle or disorderly persons, all persons of evil life or ill-fame, and all such as have no visible means of support, or are likely to become chargeable to the corporations as paupers, or are found begging or drunk in or about the streets, or loitering in or about tippling houses, or who can show no reasonable cause of business or employment in the city, and all suspicious persons who have no fixed place of residence, or who cannot give a good account of themselves; all evesdroppers and nightwalkers; all who shall be guilty of open profanity, or grossly indecent language or behaviour publicly in the streets; all public prostitutes, and such as lead a notoriously lewd or lascivious course of life, and all such as keep public gaming tables, or gaming houses, to give security for their good behaviour for a reasonable time, and to indemnify the city against any charge for their support: and, in case of their refusal or inability to give such security, to cause them to be confined to labour until such security shall be given, not exceeding, however, one again offending, the like proceedings may again had, and from time to time, as oft as may be necessary to enforce the departu of such vagrants and paupers as may co into the city to reside, unless they shall gi ample security that they will not becom chargeable on the corporation for their su port; to provide for the binding out as a prentices of poor orphan children, and t children of drunkards, vagrants, and paupe to prescribe the terms and conditions up which free negroes and mulattoes may resi in the city; to authorize, with the approb tion of the President of the United State the drawing of lotteries for the erection bridges and effecting any important improv ments in the city, which the ordinary rev nue thereof will not accomplish, for the ter of ten years:

Provided, that the amount so authoriz to be raised in each year shall not exce the sum of ten thousand dollars, clear expenses; to take care of and regulate buri grounds; to provide for the registering births, deaths, and marriages; to puni corporeally any coloured servant or slave f a breach of any of their laws or ordinanc unless the owner or holder of such serva or slave shall pay the fine in such cas provided; and to pass all laws which sha be deemed necessary and proper for carr ing into execution the powers vested by th act in the said corporation or its officers.

SEC. 9. *And be it further enacted*, That t marshal of the District of Columbia sha receive and safely keep within the jail f the county of Washington, at the expen of the said corporation, all persons committe thereto under or by authority of the pr visions of this act. And in all cases whe suit shall be brought before a justice of t peace, for the recovery of any fine or penal arising or incurred for a breach of any la or ordinance of the corporation, executio shall and may be issued, as in all other cas of small debts.

SEC. 10. *And be it further enacted*, Th real property, whether improved or unim proved, in the city of Washington, on whic two or more years' taxes shall have remaine due and unpaid, or on which any speci tax, imposed by virtue of authority of th provisions of this act, shall have remaine unpaid for two or more years after the sam shall have become due, or so much thereo not less than a lot, (when the property upo which the tax has accrued is not less tha that quantity,) as may be necessary to pa any such taxes, with all legal costs an charges arising thereon, may be sold at pub lic sale to satisfy the corporation therefor *Provided*, That public notice be given of th time and place of sale, by advertising onc a week in some newspaper printed in the cit of Washington, for at least six month where the property is assessed to persons re siding out of the United States; for thre months, where the property is assessed t persons residing in the United States, bu without the District of Columbia; and fo six weeks, where the property is assesse to persons residing within the District o Columbia; in which advertisement shall b stated the number of the lot or lots, (if th square has been divided into lots,) the num ber of the square or squares, or other suf ficient or definite description of the propert selected for sale, the name of the perso or persons to whom the same may have bee assessed, for the respective years' taxes du thereon, as also the name of the person t whom the same is assessed, and the aggregat amount of taxes due.

The purchaser or purchasers of any suc property shall pay, at the time of such sal the amount of the taxes due on the propert so purchased by him, her, or them, respec tively, with the amount of the expenses o sale; and he, she, or they, shall pay th

to receive the same; and the amount of such where it shall remain, subject to the order of the original proprietor or proprietors, his, her, or their, legal representatives; and the residue shall be placed in the city treasury, purchaser or purchasers shall receive a title in fee simple, in and to the lot or lots so sold and purchased, under the hand of the mayor and seal of the corporation, which shall be deemed good and valid in law and equity: *Provided nevertheless*, That if, within two years from the day of any such sale, or before such purchaser or purchasers shall have paid the residue of the purchase money as aforesaid, the proprietor or proprietors of any property which shall have been sold as aforesaid, his, her, or their heirs, agents, or legal representatives, shall repay to such purchaser or purchasers the moneys paid for the taxes, and expenses as aforesaid, together with ten per centum per annum, as interest thereon, or make a tender thereof, or shall deposit the same in the hands of the mayor of the city, or other officer of the corporation appointed to receive the same, for the use of such purchaser or purchasers, and subject to his, her, or their heirs, or legal representatives' order, of which such purchaser, his heirs or legal representatives, shall be immediately informed, by notice in some newspaper printed in the city of Washington, or otherwise; he, she, or they, shall be reinstated in his, her, or their, original right and title, as if no such sale had been.

And if any such purchaser shall fail to pay the residue of the purchase money as aforesaid, within the time required by this section, for any property so purchased by him, he shall pay ten per annum, as interest thereon, and in addition to such residue, to be computed from the expiration of the two years as aforesaid, until the actual payment of such residue, and the receiving of a conveyance from the corporation; and the said interest shall alike be subject to the order of the original proprietor or proprietors, as the residue of the purchase money as aforesaid: *Provided, also*, That no sale shall be made, in pursuance of this section, of any improved property whereon there is personal property of sufficient value to pay the said taxes: and that minors, mortgages, or others having equitable interest in real property, which property shall be sold for taxes as aforesaid, shall be allowed one year after such minors' coming to, or being of full age, or after such mortgages, and others having equitable interests, obtaining possession of, or a decree for the sale of, such property, to redeem the property so sold from the purchaser or purchasers, his, her, or their, assigns, on paying the amount of purchase money so paid therefor, with ten per cent interest thereon as aforesaid, and all the taxes that have been paid thereon by the purchaser, or his assigns, between the day of sale and the period of such redemption, with ten per cent interest on the amount of such taxes, and also the full value of the improvements which may have been made or erected on such property, by the purchaser or his assigns, while the same was in his or their possession. *And provided, moreover*, That where the estate of the tenant in default, as for years, or for life or lives, shall be sufficient to defray the taxes chargeable thereupon, such estate only shall be liable to be sold under the provisions of this act.

Sec. 11. *And be it further enacted*, That it shall be lawful for the collector or other officer (duly authorized) to postpone, after such advertisement, the sale of any property advertised according to the provisions of the foregoing section, to any future day, for the want of bidders, he giving public notice of such postponement, and the sale

person or persons appointed to collect any tax imposed by virtue of the powers granted by this act, shall have authority to collect the same by distress and sale of the goods and chattels of the person chargeable therewith; but no such sale shall be made unless ten days' previous notice thereof be given in some newspaper printed in the city of Washington. And the provisions of the acts of Assembly of Maryland, now in force within the county of Washington, relating to the right of replevying personal property taken in execution for public taxes, shall apply to all cases of personal property taken by distress to satisfy taxes imposed by virtue of this act.

Sec. 13. *And be it further enacted*, That the levy court of the county of Washington, in the District of Columbia, shall not possess the power of assessing any tax on property in the city of Washington; nor shall the corporation of the said city be obliged to contribute, in any manner, towards the expenses or expenditures of said court, except for the one-half part of the expenses incurred on account of the orphans' court, the office of coroner, the jail of said county, and the opening and repairing of roads in the county of Washington, east Rock creek, leading directly to the city of Washington, but the said corporation shall have the sole control and management of the bridge across or over Rock Creek, at the termination of K street north; and shall be chargeable with the expense of keeping the same in repair, and rebuilding it when necessary.

Sec. 14. *And be it further enacted*, That the clerk of the circuit court, and the register of wills for the county of Washington, respectively, shall furnish the register of the city, or other officer of the corporation, appointed to receive the same, on or about the first Monday in January and July, in every year, correct lists of the transfers of real property in the city, during the next preceding half year, so far as can be ascertained by the records in their respective offices, and the said corporation shall make to the said clerk and register of wills such compensation therefor as shall be agreed on between the respective parties, not exceeding six cents for each transfer on such lists.

Sec. 15. *And be it further enacted*, That the commissioner of the public buildings, or other person appointed to superintend the United States' disbursements in the city of Washington, shall reimburse to the said corporation a just proportion of any expense which may hereafter be incurred, in laying open, paving, or otherwise improving any of the streets or avenues in front of, or adjoining to, or which may pass through or between any of the public squares or reservations, which proportion shall be determined by a comparison of the length of the front, or fronts, of the said squares or reservations of the United States, on any such street or avenue, with the whole extent of the two sides thereof; and he shall cause the curb stones to be set, and foot ways paved, on the side or sides of any such street or avenue, whenever the said corporation shall, by law, direct such improvements to be made by the proprietors of the lots on the opposite side of any such street or avenue, or adjacent to any such square or reservation; and he shall cause the footways to be paved, and the curb stones to be set, in front of any lot or lots belonging to the United States, when the like improvements shall be ordered by the corporation in front of the lots adjoining, or squares adjacent thereto; and he shall defray the expenses directed by this section, out of any moneys arising from the sale of lots in the city of Washington, belonging to the United States, and from no other fund.

as in their opinion shall be most conducive to the interests of the city; and the boards of aldermen and common council, may, from time to time, as the interests of the city shall require, alter the number and boundaries of the said wards: *Provided*, That the said wards shall, at all times, be so laid off, altered, and bounded, that each ward shall comprise, as near as may be, an equal number of the inhabitants of the said city:

And provided, however, That if such division shall not be made prior to the said last Monday in May, then the said city shall be divided into six wards, in manner following, to wit: All that part of said city to the westward of Sixteenth street west, shall constitute the first: that part to the eastward of Sixteenth street west, and to the westward of Tenth street west, shall constitute the second; that part to the eastward of Tenth street west, to the westward of First street west, and to the northward of E street south, shall constitute the third; that part to the eastward of First street west, to the westward of Eighth street east, and to the northward of E street south, shall constitute the fourth; that part to the eastward of Tenth street west, to the westward of Fourth street east, and to the southward of E street south, shall constitute the fifth; and the residue of the city shall constitute the sixth ward. The expenses which may be incurred in improving and repairing the streets which form the boundaries of the several wards, shall be defrayed out of the taxes raised in the wards which adjoin the same, respectively, in equal proportions; and the present boards of aldermen and common council shall, before the first Monday in June next, apportion, by law, such portions of the debt of the city, as have been heretofore chargeable to the existing wards, amongst the wards established by this section, upon just and equitable principles. And the board of aldermen shall, so soon as the same shall have been organized, on the second Monday in June next, divide the members into two classes, in manner following, to wit: Those members who are now in office, and, by virtue of their election in June last, shall be entitled to take their seats in the new board, as members from the wards in which they shall, respectively, reside, shall be placed in the first class; and those members who shall be elected from the same wards in June next, shall be placed in the second class; and the other members shall be placed in their respective classes by lot; and the seats of the first class shall be vacated at the end of the first year, and the seats of the second class shall be vacated at the end of the second year; so that one member shall be elected in each ward every year thereafter. And the members of the board of aldermen shall be hereafter, ex officio, justices of the peace of the county of Washington, unless holding commissions in the army or navy of the United States.

Sec. 17. *And be it further enacted*, That this act shall continue in force for and during the term of twenty years, and until Congress shall, by law, determine otherwise.

Approved, May 15, 1820 (3 Stat. 583, ch. 104).

Act of 1848 Reorganizing the Government of the City of Washington

An act to continue, alter and amend the charter of the city of Washington

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act of May fifteenth, eighteen hundred and twenty, entitled "An Act to incorporate the inhabitants of the city of Washington, and to repeal all acts heretofore passed for that purpose," and the act of May twenty-sixth, thousand eight hundred and twenty, and for other purposes," and the act or acts supplemental or additional to said acts which were in force on the fourteenth day of May, eighteen hundred and forty, or which may, at the passing of this act, be in force, be and the same are hereby continued in force for the term of twenty years from the date hereof, or until Congress shall by law determine otherwise, with the alterations, additions, explanations, and amendments following, that is to say:

Sec. 2. *And be it further enacted*, That the said corporation shall have full power and authority to lay and collect a tax of not exceeding three fourths of one per centum per annum upon the assessed value of all stocks which may be owned and possessed by any person whatever in any banking, insurance, or other incorporated or unincorporated company in the city of Washington; and to compel all such banking, insurance, or other incorporated or unincorporated company to furnish, when so required to do, within ten days thereafter, a full and complete list of the names of the stockholders in such company, and the amount of stock owned by each, under a penalty not exceeding fifty dollars for each and every week such company shall neglect or refuse or fail to furnish the same. And in default of payment of the tax due on said stock by the banking, insurance or other company, or by the holder or holders of the stock, the said corporation shall have full power and authority to sell the said stock, or so many shares thereof as shall be sufficient to pay the taxes due thereon, and costs of collection, as provided in the case of personal property.

The said corporation shall also have power to lay and collect a tax not exceeding three fourths of one per centum per annum on the assessed value of all bonds and mortgages, of stock of all kinds, and all public and private securities, and on every description of property with the said city, of which may be owned or held by the inhabitants thereof, except the wearing apparel and necessary tools and implements used in carrying on the trade or occupation of any person; and to compel persons to furnish, when required by the assessors, a full and correct list of all property by law taxable, held by them, and to punish with suitable fines and penalties persons refusing or omitting to furnish such lists. The said corporation shall have power to lay and collect a school-tax upon every free white male citizen of the age of twenty-one years and upwards, of one dollar per annum; to provide for licensing, taxing and regulating livery stables, and wholesale and retail dealers, in a ratio according to the annual average amount of the capital invested in the business of such wholesale and retail dealers; to license, tax and regulate agencies of all kinds of insurance companies; to tax private bankers, brokers and money lenders, not exceeding three fourths of one percentum per annum on the assessed amount of capital employed in the business of said private bankers, brokers and money lenders; to make all necessary regulations respecting hackney carriages and the rates of fare of the same, and the rates of hauling by cartmen, wagoners, carmen, and draymen, and the rates of commission of auctioneers; to regulate and graduate the licenses of nonresident merchants and traders, and the taxes on the same; to regulate and establish fish wharves and docks; to restrain and prohibit gaming-houses, and bawdy-houses; to punish those who may sell intoxicating liquors without having obtained license therefor, by fines not less than five dollars; and in default of the payment thereof, by imprisonment and labor in the workhouse for a term not ex-

person and all persons who shall molest or disturb any church or other place of worship while the congregation are engaged in any religious exercises or proceedings; to provide for the weighing of all kinds of live stock brought into the city; to cause to be pulled down unsafe, dilapidated, or dangerous buildings; to take up and relay foot pavements and paved carriage-ways, and to keep them in repair, and to lay and collect taxes for paying the expenses thereof, on the property fronting on such foot-ways and carriage-ways; to lay and collect taxes for the support of public schools; to cause new alleys to be opened into the squares, and to open, change, or close those already laid out, upon the application of the owners of more than one half of the property in such squares, subject to the second proviso of the eighth section of the act of May the fifteenth, eighteen hundred and twenty, incorporating the inhabitants of the city of Washington.

And the said corporation shall have full power and authority to make all necessary laws for the protection of public and private property, the preservation of order, the safety of persons, and the observance of decency in the streets, avenues, alleys, public spaces, and other places in the said city, and for the punishment of all persons violating the same, as well as for the punishment of persons guilty of public profanity and prostitution.

Sec. 3. *And be it further enacted*, That at the first general election held after the passage of this act, a Board of Assessors, to consist of one member from each ward, shall be elected by the qualified voters therein, to serve for two years; and the returns of election for assessors shall be made in the same manner and form as the returns of the election for members of the Board of Aldermen and Board of Common Council; and the person having the greatest number of legal votes in each ward for assessor, shall be duly elected assessor; but in case two or more persons, highest in vote, shall have an equal number of votes, the commissioners of election, for the ward in which such equality shall exist, shall decide the choice by lot. No person who is not eligible to a seat in the Board of Aldermen or Board of Common Council, shall be eligible to election as assessor. And on the first Monday of May next succeeding the first election of assessors under this act, the said board, or a majority of the members thereof, shall meet in the City Hall, and in the presence of the mayor and register, shall draw by lot the names of three members thereof, if the number of wards be seven, or if the number of wards exceed seven, the names of one half, as near as may be, of the members of said board; and the members whose names shall be thus drawn thereupon cease to be members of said board; and at the next general election a member shall be elected to serve for two years in each of the wards in which the members so drawn shall have been elected; and at every regular annual election thereafter in such wards as the time of the assessors is about to expire, an assessor shall be elected to serve for two years. No person holding any other office under the corporation, shall be elected to or hold the office of assessor. In the event of the death, resignation, inability, or refusal to serve of any person elected an assessor, the vacancy shall be filled immediately by the Board of Aldermen and Board of Common Council, in joint meeting, in which manner all vacancies in the board of assessors shall be filled:

Provided, That until the assessors authorized to be elected by this act, shall have been duly elected and qualified to enter upon their duties, full power and authority are hereby given to the said corporation to pro-

board of assessors shall assess and value, and make return of all and every species of property by law taxable, at such times, and under such regulations, as the said corporation shall prescribe, and shall make return of all persons subject to a schooltax, in the said city, under such regulations as the said corporation shall prescribe; and if the said assessors, or either of them, shall refuse or wilfully neglect to assess and value, and make return of all and every species of property by law taxable, which may be known to them, or either of them, or come to their knowledge, or shall refuse or wilfully neglect to make return of any person subject to a schooltax, they, or the one so offending, shall be subject to a fine not exceeding one hundred dollars for each offence, at the discretion of the Circuit Court of the District of Columbia for the county of Washington, and shall thereafter be incapable of holding any office under the corporation; and the Board of Aldermen and Board of Common Council may, by joint resolution, remove any assessor from office for any misconduct in office.

Sec. 4. *And be it further enacted*, That the register, collector, and surveyor of the said city shall severally be elected on the first Monday in June next, and on the same day in every second year thereafter, at the same time and place, in the same manner, and by the persons qualified to vote for mayor and members of the Board of Aldermen and Board of Common Council:

Provided, That if the said first Monday in June next shall be the regular day for the election of mayor of the said city, then the next election thereafter, of register, collector, and surveyor, shall take place on the same day in the following year, and then on the same day in every second year thereafter, as above provided; and the commissioners of election shall make out duplicate certificates of the result of the election for register, collector, and surveyor, and shall return one to the Board of Alderman, and the other to the Board of Common Council on the Monday next ensuing the day of election; and the persons having the greatest number of votes for those offices respectively, shall be register, collector, or surveyor, as the case may be; but in case two or more persons highest in vote shall have an equal number of votes for either of said offices, then it shall be lawful for the Board of Aldermen and Board of Common Council to proceed forthwith by ballot, in joint meeting, to determine the choice between such persons; and the said register, collector and surveyor shall respectively hold their offices until their respective successors are duly elected and qualified, unless removed from office; and full power and authority are hereby granted to the Corporation of Washington to pass all such laws as may be necessary to define and regulate the respective duties, powers, and authority of the said register, collector, and surveyor; and also to prescribe the amount of bond and security to be given to the said corporation by each before entering upon the duties of their respective offices, and generally to pass all such laws as may be necessary to insure an efficient and faithful discharge of the duties of their respective offices, by the said register, collector, and surveyor; and in case the said officers, or either of them, shall fail or refuse to comply with any law, resolution, or order of the said corporation, or shall fail or refuse to obey any order of the mayor of the said city, or shall fail to discharge the duties of their respective offices with fidelity and a strict regard to the interests of the said corporation, or shall prove unable or incompetent, from any cause whatever, to discharge such duties, or shall be guilty of any malversation in office, or shall be convicted of any high crime or misdemeanor,

it shall be lawful for the majority of the Board of Aldermen and Board of Common Council, by joint resolution, to remove such officer, and to order an election to fill the vacancy; and in case of the refusal or failure of any person elected to either of said offices to accept of the same, or to give such bond and security as may be required by said corporation within twenty days after his election, or in case of the death, resignation, or removal from the said city of any person elected to or holding either of said offices, it shall be lawful for the Board of Aldermen and Board of Common Council to declare said office vacant, and to order an election to fill the vacancy. And in all cases where it shall become necessary to hold an election to fill a vacancy in either of said offices, the same regulations shall be observed as to the appointment of commissioners to hold said elections, and as to holding the elections and the returns of the same, as are observed at the regular elections: *Provided*, That authority is hereby given to the mayor of the said city to appoint temporarily, under such regulations as the said corporation may prescribe, some discreet person to discharge the duties of such vacant office until an election can be had and a successor duly elected and qualified to enter upon his duties.

SEC. 5. *And be it further enacted*, That every free white male citizen of the United States, who shall have attained the age of twenty-one years, and shall have resided in the city of Washington one year immediately preceding the day of election, and shall be a resident of the ward in which he shall offer to vote, and shall have been returned on the books of the corporation during the year ending the thirty-first of December next preceding the day of election as subject to a school-tax for that year, (except persons *non compos mentis*, vagrants, paupers, or persons who shall have been convicted of any infamous crime,) and who shall have paid the school-taxes, and all taxes on personal property due from him, shall be entitled to vote for mayor, members of the Board of Aldermen and Board of Common Council, and assessors, and for every officer authorised to be elected at any election under this act, or the act or acts to which this is amendatory or supplementary: *Provided*, That if, during the year ending on the thirty-first day of December next preceding the day of the first election after the passage of this act, no persons shall have been returned on the books of the said corporation as subject to a school-tax, then all persons who shall have been returned on the books of the said corporation as subject to a school-tax before the day of the said first election, and who shall in all other respects be qualified under this act to vote, and who shall have paid the said school-tax and all taxes due on personal property, shall be entitled to vote at the said first election after the passage of this act. And if any person shall buy or sell a vote, or shall vote more than once at any corporation election, held in pursuance of law, or shall give or receive any consideration therefor in money, goods, or any other thing of value, or shall promise any valuable consideration, or vote in consideration of such promise, he shall be disqualified forever thereafter from voting and holding any office under said corporation; and on complaint thereof to the attorney of the United States for the District of Columbia, it shall be the duty of said attorney to proceed against such offender or offenders by indictment and trial, as in other criminal cases; and if found guilty, it shall be the duty of the court to sentence him to pay a fine of not less than ten dollars, and to imprisonment not more than two months nor less than ten days.

SEC. 6. *And be it further enacted*, That in case of the refusal of any person to accept the office of mayor upon his election thereto, or of his death, resignation, inability, or removal from the city, the Board of Aldermen and Board of Common Council shall assemble in joint meeting and elect another in his place to serve for the remainder of the term or during such disability; but in case of temporary absence from the city, or sickness, the mayor may, in writing, depute the president of the Board of Aldermen to act as mayor during such temporary absence or sickness.

SEC. 7. *And be it further enacted*, That so much of the tenth section of the act incorporating the inhabitants of the city of Washington, approved May fifteenth, eighteen hundred and twenty, as is in the following words, viz.: "That real property, whether improved or unimproved, in the city of Washington, on which two or more years' taxes shall have remained due and unpaid, or on which any special tax, imposed by virtue of authority of the provisions of this act, shall have remained unpaid for two or more years after the same shall have become due, or so much thereof, not less than a lot, (when the property on which the tax has accrued is not less than that quantity,) as may be necessary to pay such taxes, with all legal costs and charges arising thereon, may be sold at public sale to satisfy the corporation therefor," be and the same is hereby amended, so as to read as follows, viz.: "That real property, whether improved or unimproved, in the city of Washington, on which one or more years' taxes shall have become due and remain unpaid, or on which any special tax imposed by virtue of authority of the provisions of this act, shall have become due and remain unpaid, or so much thereof, not less than a lot, (when the property on which the tax has accrued is not less than that quantity,) as may be necessary to pay any such taxes, with all interests, costs, and charges arising thereon, may be sold at public sale to satisfy the corporation therefor." And so much of the third proviso of the tenth section of the said act incorporating the inhabitants of the city of Washington, approved May the fifteenth, eighteen hundred and twenty, as is in the following words, viz.: "That no sale shall be made, in pursuance of this section, of any improved property whereon there is personal property of sufficient value to pay the said taxes," be and the same is hereby repealed.

And the authority given to the collector in the eleventh section of said act to postpone the sale of any property to a future day "for want of bidders," shall be so construed as to authorize the postponement for any other reasonable cause, if, in the opinion of the mayor, the collector, or other officer duly authorized, there shall be other reasonable cause for such postponement; but public notice shall in all cases be given of such postponement, and the sales made at such postponed time shall be equally valid as if made the day first designated for such sale; and no sale of any real property for taxes hereafter made shall be impaired or made void by reason of any error of the major, or other officer of the corporation, in making a calculation of computation of the amount of taxes due, the expenses attendant on the advertisement and sale, or of the purchase money and the interest thereon, notwithstanding the sum erroneously calculated or computed may have been paid by the purchaser, his heirs or assigns; but all such sales, and the deeds which may be granted on the certificates then issued, shall be valid and binding as if no such error had been made; and it shall be lawful for the heirs or assigns of any purchaser or purchasers of property sold for taxes in the said city, to receive, do, or perform any thing which by the said act of the fifteenth of May, eighteen hundred and twenty, incorporating the inhabitants of the city of Washington, or by any act or acts supplementary to or in execution of the same, it may be lawful for such purchaser or purchasers to receive, do, or perform.

SEC. 8. *And be it further enacted*, That the said corporation shall have power to cause to be made out plats of all the squares in the city of Washington, on which shall be shown the lines of all the subdivisions of said squares as the same shall actually exist at the date of the completion of the plat of each square, and to prescribe and regulate the manner in which description shall be made of all real estate sold or transferred in the said city: *Provided*, That the said plats shall be made out and drawn upon a uniform scale of not less than one inch to fifty feet; and that the method of description of real estate sold or transferred within the corporate limits which shall be prescribed by the said corporation shall be such that the plats shall at all times show the lines of property as actually existing in the squares; and the office of the surveyor of the city of Washington shall be the legal office of record of the plats of all property in the city of Washington.

SEC. 9. *And be it further enacted*, That the school-tax which may be levied and collected in pursuance of the powers in this act given, shall constitute a fund, or be added to any other fund now or hereafter to be constituted by any act of the corporation, for the establishment and support of common schools, and for no other purpose, under such regulations as may from time to time be established and provided by the corporation.

SEC. 10. *And be it further enacted*, That the corporation shall not have power to increase the present funded debt of the said corporation, either by borrowing money or otherwise, unless it shall be agreed to do so by two thirds of the legal voters in the said city at an annual election; and the said corporation shall annually apply a sum not less than ten thousand dollars of its revenues to the redemption of the present debt of the corporation.

SEC. 11. *And be it further enacted*, That all taxes, except taxes on real property, imposed by virtue of the powers granted by this act, or the acts to which this is amendatory or supplementary, in default of payment thereof within the time limited by act of the incorporation for payment, may be collected by distress and sale of the goods, and chattels, and personal effects of the person or persons chargeable therewith, under such regulations and limitations as the corporation may prescribe; but no such sale shall be made unless ten days' previous notice thereof be given in some newspaper printed and published in the city of Washington.

SEC. 12. *And be it further enacted*, That the commissioner of public buildings, or other officer having charge and authority over the lands and property of the United States lying within the city of Washington, shall from time to time cause to be opened and improved such avenues and streets, or parts or portions thereof, as the President of the United States, upon application of the corporation of the said city, shall deem necessary for the public convenience, and direct to be done; and he shall defray the expenses thereof out of any money arising, or which shall have arisen, from the sale of lots in the city of Washington, belonging, or which may have belonged, to the United States, and from no other fund. And it shall be the duty of the said commissioner, or other United States officer, as aforesaid, upon the application of the mayor, to repair and keep in repair the pavements, water-gutters, waterways, and flag footways which have been made or shall be made opposite or along the public squares, reservations, or other property belonging to the United States; as also, on like application, to repair and keep in repair such streets and avenues, or parts thereof, as may have been, or shall hereafter be, opened and improved by the United States; the expense of all such repairs to be paid out of the fund before mentioned.

SEC. 13. *And be it further enacted*, That the commissioner of public buildings be, and he is hereby, required to perform the duties required of the city commissioner by the fourteenth section of the act of the twenty-sixth of May, eighteen hundred and twenty-four, supplementary to the act of the fifteenth of May, eighteen hundred and twenty, incorporating the inhabitants of the city of Washington. And it shall be the duty of the commissioner of public buildings, within ninety days after the sale of any lots or squares belonging to the United States in the city of Washington, to report the fact to the corporation of Washington, giving the date of sale, the number of the lot and square, the name of the purchaser or purchasers, and the said lots or squares shall be liable to taxation by the said corporation from the date of such sale. And no open space, public reservation, or other public ground in the said city, shall be occupied by any private person, or for any private purposes whatever.

SEC. 14. *And be it further enacted*, That the justices of the peace, whether they be members of the Board of Aldermen or Board of Common Council or not, who may be selected from time to time by the said corporation, to enforce the police regulations and penal laws of the said city, as also to issue warrants and to hear and determine cases within the jurisdiction of justices of the peace, in which the mayor, Board of Aldermen and Board of Common Council of the said city shall be plaintiffs, shall have power to issue all such warrants, and all other warrants or processes deemed necessary and proper in cases of violations of the police regulations and penal laws of the corporation, and to hear and determine all such cases, and under the orders of the corporation to issue execution or other final process thereon; and the said justices shall also have power to compel the attendance of witnesses by attachment and to punish them by fine not exceeding ten dollars, or by imprisonment not exceeding ten days, for refusing obedience to a summons.

SEC. 15. *And be it further enacted*, That hereafter the justices of the peace for the county of Washington, in the District of Columbia, shall be appointed for three years; and upon indictment and conviction of any justice of the peace, before any court of competent jurisdiction, of incompetency, habitual drunkenness, corruption in office, or of any other wilful misconduct in the discharge of his duties as justice of the peace, his commission shall be void, and he shall cease to exercise the office and powers of justice of the peace; and for all criminal process or business issued or tried by or before any justice of the peace in the city and county of Washington, in the District of Columbia, the said justice and the constable who shall execute the process shall respectively be entitled to charge and receive the same fees as are authorized to be charged and received in the case of process issued and served by them respectively in cases of small debts; and the said costs shall be certified by the said justices to the District Attorney, for his revision and approval, and when approved shall be paid by the marshal of the District of Columbia.

SEC. 16. *And be it further enacted*, That in addition to the seven members now authorized to be appointed to the Levy Court of the county of Washington, from and after May, eighteen hundred and forty-eight, the President of the United States is hereby authorized and required annually to appoint four additional members from the city of Washington; and the said court shall thereafter consist of eleven members.

SEC. 17. *And be it further enacted*, That the corporation of the said city of Washington shall have full power and authority to pass all laws which may be needful and necessary to carry into full and complete effect the powers granted to the said corporation, or to any of its officers or servants, by this act, or by the act or acts to which this act is amendatory or supplementary. And all acts or parts of acts in conflict with the provisions of this act, be, and the same are hereby, repealed.

Approved, May 17, 1848 (9 Stat. 223, ch. 42).

ACT OF RETROCESSION OF COUNTY OF ALEXANDRIA

An act to retrocede the county of Alexandria, in the District of Columbia to the State of Virginia

Whereas no more territory ought to be held under the exclusive legislation given to Congress over the District which is the seat of the General Government than may be necessary and proper for the purposes of such a seat; and whereas experience hath shown that the portion of the District of Columbia ceded to the United States by the State of Virginia has not been, nor is ever likely to be, necessary for that purpose; and whereas the State of Virginia, by an act passed on the third day of February, eighteen hundred and forty-six, entitled "An act accepting by the State of Virginia the county of Alexandria, in the District of Columbia, when the same shall be receded by the Congress of the United States," has signified her willingness to take back the said territory ceded as aforesaid: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That with the assent of the people of the county and town of Alexandria, to be ascertained as hereinafter prescribed, all of that portion of the District of Columbia, ceded to the United States by the State of Virginia, and all the rights and jurisdiction therewith ceded over the same, be, and the same are hereby, ceded and forever relinquished to the State of Virginia, in full and absolute right and jurisdiction, as well of soil as of persons residing or to reside thereon.

SEC. 2. *And be it further enacted*, That nothing herein contained shall be construed to vest in the State of Virginia any right of property in the custom-house and postoffice of the United States within the town of Alexandria, or in the soil of the territory hereby re-ceded, so as to affect the rights of individuals or corporations therein otherwise than as the same shall or may be transferred by such individuals or corporations to the State of Virginia.

SEC. 3. *And be it further enacted*, That the jurisdiction and laws now existing in the said territory, ceded to the United States by the State of Virginia, as aforesaid, over the persons and property of individuals therein residing, shall not cease or determine until the State of Virginia shall hereafter provide, by make proclamation of the "result" of and judicial system over the said territory hereby re-ceded.

SEC. 4. *And be it further enacted*, That this act shall not be in force until after the assent of the people of the county and town of Alexandria shall be given to it, in the mode hereinafter provided. Immediately after the close of the present session of Congress, the President of the United States shall appoint five commissioners (any three of whom may act), citizens of the said town or county of Alexandria, and freeholders within the same, who shall be sworn, before some justice of the peace in and for the said town or county, to discharge the duties hereby imposed upon them faithfully, impartially, and to the best of their ability. These commissioners, or any of them, shall proceed, within ten days after they are notified of their appointment, to fix upon the time, place, and manner, of taking the vote within the town or county of Alexandria, and shall give notice of the same by advertisement in the newspapers of the said town. And on the day and at the place so appointed, every free white male citizen of the United States, who shall have resided in said county of Alexandria for six months preceding the time when he offers his vote, insane persons and paupers excepted, shall vote *viva voce* upon the question of accepting or rejecting the provisions of this act. The said commissioners shall preside when this vote is taken, and decide all questions arising in relation to the right of voting under this act. Within three days after this vote is taken as aforesaid, the said commissioners shall make out three statements of the result of this poll, upon oath, and under their seals. Of these, one shall be transmitted to the President of the United States, one to the governor of the Commonwealth of Virginia, and one shall be deposited in the clerk's office of the county court of Alexandria. If a majority of the votes so given shall be cast against accepting the provisions of this act, then it shall be void and of no effect; but if a majority of the said votes should be in favor of accepting the provisions of this act, then this act shall be in full force, and it shall be the duty of the President of the United States to inform the governor of Virginia that this act is in full force and effect, and to make proclamation of the fact.

SEC. 5. *And be it further enacted*, That, in such case, the right of property in the half square in Alexandria on which stands the courthouse, bounded by Columbus, Queen, and Princess streets, and the half square on which stands the jail, bounded by Princess, St. Asaph, and Pitt streets, shall be conveyed to the governor of Virginia, and his successors, for the use of the county and corporation of Alexandria forever; and the Solicitor of the Treasury of the United States is hereby authorized and required, in the name and on the behalf of the United States, to make all the proper and necessary conveyances for that purpose.

SEC. 6. *And be it further enacted*, That Congress will in no event assume and pay the debt, or any part thereof, now due by the corporation of the city of Alexandria. (July 9, 1846, 9 Stat. 35, ch. 35.)

VIRGINIA ACT ACCEPTING RETROCESSION

An act accepting by the State of Virginia the county of Alexandria, in the District of Columbia, when the same shall be re-ceded by the Congress of the United States

[Passed February 3, 1846]

Whereas the general assembly of this commonwealth, on the third day of December, in the year seventeen hundred and eighty-nine, passed an act, entitled "an act for the cession of ten miles square, or any lesser quantity of territory within this state, to the United States, in congress assembled, for the permanent seat of the general government;" and by the said act it was enacted, that "a tract of country not exceeding ten miles square, or any lesser quantity, to be located within the limits of this state, and in any part thereof as congress may by law direct, shall be and the same is hereby forever ceded and relinquished to the congress and government of the United States, in full and absolute right, and exclusive jurisdiction as well of soil as of persons residing or to reside thereon, pursuant to the tenor and effect of the eighth section of the first article of the constitution of the government of the United States." And whereas the congress of the United States did, under the provisions of the said act, locate that portion of the territory of Virginia now known as the county of Alexandria in the District of Columbia, lying south and west of the river Potomac, and bounded by said river and the lines which separate the District of Columbia from Virginia: And whereas the congress of the United States, on the twenty-seventh day of February, in the year eighteen hundred and one, passed an act, entitled "an act concerning the District of Columbia," by the provisions of which act the exclusive jurisdiction of the United States was extended over the

presented to the general assembly by the citizens residing in said county of Alexandria, representing that they now have pending before the congress of the United States an application for the re-cession of the said county of Alexandria to the commonwealth of Virginia, and praying the consent of the general assembly to such re-cession, and for the passage of a law to give effect thereto, if the same should be granted by congress; and as the prayer of the said petition is deemed reasonable.

1. *Be it therefore enacted by the general assembly*, That so soon as the congress of the United States shall by law re-cede to the commonwealth of Virginia the said county of Alexandria, and relinquish their exclusive jurisdiction, as well of territory as of persons residing or to reside thereon, the same shall be re-annexed to the said commonwealth, and constitute a portion thereof, subject to such reservation and provisions respecting the public property of the United States, as congress may enact in their act of re-cession.

2. *Be it further enacted*, That the general assembly hereby assents that the jurisdiction and laws of the United States, as well as the rights and privileges of the citizens of said county, and bodies politic and corporate thereof, shall continue in force and be exercised in like manner, and to the same extent, as they now exist, until the general assembly of Virginia shall by law provide for the government of said county under the constitution and laws of this commonwealth.

3. This act shall be in force from the passing thereof. (Virginia act, February 3, 1846, ch. 64.)

PROCLAMATION RELATIVE TO RETROCESSION

A proclamation by the President of the United States of America declaring Alexandria County to be retroceded to Virginia

Whereas, by the act of Congress, approved July 9, 1846, entitled "An Act to retrocede the County of Alexandria, in the District of Columbia, to the State of Virginia," it is enacted, That, with the assent of the people of the county and town of Alexandria, to be ascertained in the manner therein prescribed, all that portion of the District of Columbia ceded to the United States by the State of Virginia, and all the rights and jurisdiction therewith ceded over the same, shall be ceded and forever relinquished to the State of Virginia, in full and absolute right and jurisdiction, as well of soil as of persons residing or to reside thereon: And whereas, it is further provided, that the said act "shall not be in force until after the assent of the people of the county and town of Alexandria shall be given to it, in the mode therein provided;" and if a majority of the votes should be in favor of accepting the provisions of the said act, it shall be the duty of the President to make proclamation of the fact:

And whereas, on the 17th day of August, 1846, after the close of the late session of the Congress of the United States, I duly appointed five citizens of the county or town of Alexandria, being freeholders within the same, as commissioners, who, being duly sworn to perform the duties imposed on them, as prescribed in the said act, did proceed, within ten days after they were notified, to fix upon the first and second days of September, 1846, as the time, the court-house of the county of Alexandria, as the place, and *viva voce* as the manner of voting; and gave due notice of the same; and at the time, and at the place, in conformity with the said notice, the said commissioners presiding, and deciding all questions arising in relation to the right of voting under the said act, the votes of the citizens qualified to vote were taken *viva voce*, and recorded in poll-books, duly kept, and on the third day or [of] September, they did transmit to me, a statement of the polls so held, upon oath, and under their seals; and of the votes so cast and polled, there were, in favor of accepting the provisions of the said act, seven hundred and sixty-three votes, and against accepting the same, two hundred and twenty-two—showing a majority of five hundred and forty-one votes for the acceptance of the same;

Now, therefore, be it known, that I, James K. Polk, President of the United States of America, in fulfillment of the duty imposed upon me by the said act of Congress, do hereby make proclamation of the "result" of said "poll," as above stated, and do call upon all and singular the persons whom it doth or may concern, to take notice, that the act aforesaid, "is in full force and effect."

In witness whereof, I have hereunto set my hand, and caused the seal of the United States to be affixed.

Done at the City of Washington, this seventh day of September, in the year of our Lord one thousand eight hundred and forty-six, and of the Independence of the United States, the seventy-first.

JAMES K. POLK.

By the President. N. P. TRIST, *Acting Secretary of State.*

Mr. SCOTT. Mr. President, in my newsletter sent to constituents throughout the State of Virginia I attempted to address myself in a concise way that newsletters, of course, must follow, with regard to this question, and I would like to share this with my colleagues here in the Senate:

A proposed constitutional amendment has passed the House of Representatives and is pending in the Senate to provide full Congressional representation for the District of Columbia. This would, of course, include two senators. The Founding Fathers' insistence on having as the seat of government a place over which the Congress would have exclusive jurisdiction and control was due at least in part to a soldiers' mutiny which threatened the Continental Congress, meeting in Philadelphia, and the failure of that city to protect the members. The District of Columbia was chosen as the permanent seat of government or Capitol of the United States so decisions affecting the entire Nation could be made free from undue influence of any state and immune from harassment or political entanglements.

While we hear phrases like "the last colony" or "taxation without representation," Washingtonians elect their own school board, their city council, mayor, participate in presidential elections, and have a nonvoting delegate in the House of Representatives. Moreover, citizens of the District of Columbia in Fiscal Year 1977

These are the latest figures that were available when we prepared the newsletter. Continuing:

Contributed $278.9 million toward Federal grants and received $942.1 million in return. The Federal treasury collected only 29¢ for every dollar it provided the city. Per capita income of the city is the second highest in the Nation, $8,067, compared with a national average of $6,399.

Today, the Federal Government employs approximately 40 percent of the work force of the City of Washington, and an additional 25 percent work in industries servicing the government. It could be called a "company town" with virtually everyone dependent upon the Federal Government for his or her livelihood. If full representation in the Congress were granted the city, it would insure the election of senators. The Founding Fathers' insistence on having as the seat of government a place over which the Congress would have exclusive jurisdiction and control was due at least in part to a soldiers' mutiny which threatened the Continental Congress, meeting in Philadelphia, and the failure of that city to protect the members. The District of Columbia was chosen as the permanent seat of government or Capitol of the United States so decisions affecting the entire Nation could be made free from undue influence of any state and immune from harassment or political entanglements.

While we hear phrases like "the last colony" or "taxation without representation," Washingtonians elect their own school board, their city council, mayor, participate in presidential elections, and have a nonvoting delegate in the House of Representatives. Moreover, citizens of the District of Columbia in

trict of Columbia pursuant to this clause without regard to Article III.[23] Two others thought that *Hepburn* v. *Ellzey* had been erroneously decided and would have overruled it.[24] But six Justices rejected the former rationale and seven Justices rejected the latter one; since five Justices agreed, however, that the statute was constitutional, it was sustained.

It is not disputed that the District is a part of the United States and that its residents are entitled to all the guarantees of the United States Constitution including the privilege of trial by jury[25] and of presentment by a grand jury.[26] Legislation which is restrictive of liberty and property in the District must find justification in facts adequate to support like legislation by a State in the exercise of its police power.[27]

Congress possesses over the District of Columbia the blended powers of a local and national legislature.[28]

FOOTNOTES

[1] J. Fiske, *The Critical Period of American History, 1783–1789* (Boston: 1888), 112–113; W. Tindall, *The Origin and Government of the District of Columbia* (Washington: 1903), 31–36.

[2] *The Federalist* No. 43 (Modern Library ed. 1937), 279. *See also* 3 J. Story, *Commentaries on the Constitution of the United States* (Boston: 1833), §§ 1213, 1214.

[3] W. Tindall, *The Origin and Government of the District of Columbia* (Washington: 1903), 5–30.

[4] Maryland Laws 1798, ch. 2, p. 46; 13 Laws of Virginia 43 (Hening 1789).

[5] Act of July 16, 1790, 1 Stat. 130. In 1846, Congress authorized a referendum in Alexandria County on the question of retroceding that portion to Virginia. The voters approved and the area again became part of Virginia. Laws of Virginia 1845–46, ch. 64, p. 50; Act of July 9, 1846, 9 Stat. 35; Proclamation of September 7, 1846; 9 Stat. 1000. Constitutional questions were raised about the retrocession but suit did not reach the Supreme Court until some 40 years later and the Court held that the passage of time precluded the raising of the question. *Phillips* v. *Payne*, 92 U.S. 130 (1875)

[6] Act of February 27, 1801, § 2, 2 Stat. 103. The declaration of the continuing effect of state law meant that law in the District was frozen as of the date of cession, unless Congress should change it, which it seldom did. For some of the problems, *see Tayloe* v. *Thompson*, 5 Pet. (30 U.S.) 358 (1831); *Ex parte Watkins*, 7 Pet. (32 U.S.) 568 (1833); *Stelle* v. *Carroll*, 12 Pet. (37 U.S.) 201 (1838); *Van Ness* v. *United States Bank*, 13 Pet. (38 U.S.) 17 (1839); *United States* v. *Eliason*, 16 Pet. (41 U.S.) 291 (1842).

[7] Act of March 3, 1801, § 1, 2 Stat. 115.

[8] The objections raised in the ratifying conventions and elsewhere seemed to have consisted of prediction of the perils to the Nation of setting up the National Government in such a place. 3 J. Story, *Commentaries on the Constitution of the United States* (Boston: 1833), §§ 1215, 1216.

[9] *The Federalist* No. 43 (Modern Library ed. 1937), 280.

[10] Such a contention was cited and rebutted in 3 J. Story, *Commentaries on the Constitution of the United States* (Boston: 1833), § 1218.

[11] Act of May 3, 1802, 2 Stat. 195; Act of May 15, 1820, 3 Stat. 583; Act of February 21, 1871, 16 Stat. 419; Act of June 20, 1874, 18 Stat. 116. The engrossing story of the postwar changes in the government is related in W. Whyte, *The Uncivil War: Washington During the Reconstruction* (Washington: 1958).

[12] Act of June 11, 1878, 20 Stat. 103.

[13] Reorganization Plan No. 3 of 1967, 32 Fed. Reg. 11699, reprinted as appendix to District of Columbia Code, Title I.

[14] Twenty-third Amendment. *See infra*, pp. 1584–1585.

[15] P.L. 91–405, 84 Stat. 848 (1970), D.C. Code § 1–291.

[16] P.L. 90–292, 82 Stat. 101 (1968), D.C. Code, § 31–101 *et seq.*

[17] *Loughborough* v. *Blake*, 5 Wheat. (18 U.S.) 317 (1820); *Heald* v. *District of Columbia*, 259 U.S. 114 (1922).

[18] *District of Columbia* v. *John R. Thompson Co.*, 346 U.S. 100 (1953). The case upheld the validity of ordinances enacted by the District governing bodies in 1872 and 1873 prohibiting racial discrimination in places of public accommodations.

[19] Id., 109–110. *See also Thompson* v. *Lessee of Carroll*, 22 How. (63 U.S.) 422 (1860); *Stoutenburgh* v. *Hennick*, 129 U.S. 141 (1889).

[20] 2 Cr. (6 U.S.) 445 (1805); *see also Sere* v. *Pitot*, 6 Cr. (10 U.S.) 332 (1810); *New Orleans* v. *Winter*, 1 Wheat (14 U.S.) 91 (1816). The District was held to be a State within the terms of a treaty. *Geofroy* v. *Riggs*, 133 U.S. 258 (1890).

[21] *Barney* v. *City of Baltimore*, 6 Wall. (73 U.S.) 280 (1868); *Hooe* v. *Jamieson*, 166 U.S. 395 (1897); *Hooe* v. *Werner*, 166 U.S. 399 (1897).

[22] *National Mutual Ins. Co.* v. *Tidewater Transfer Co.*, 337 U.S. 582 (1949).

[23] Id., 588–600 (Justices Jackson, Black and Burton).

[24] Id., 604 (Justices Rutledge and Murphy). The dissents were by Chief Justice Vinson, id., 626, joined by Justice Douglas, and by Justice Frankfurter, id., 646, joined by Justice Reed.

[25] *Callan* v. *Wilson*, 127 U.S. 540 (1888); *Capital Traction Co.* v. *Hof*, 174 U.S. 1 (1899).

[26] *United States* v. *Moreland*, 258 U.S. 433 (1922).

[27] *Wright* v. *Davidson*, 181 U.S. 371, 384 (1901); *cf. Adkins* v. *Children's Hospital*, 261 U.S. 525 (1923), overruled in *West Coast Hotel Co.* v. *Parrish*, 300 U.S. 379 (1937).

[28] *Kendall* v. *United States, ex rel. Stokes*, 12 Pet. (37 U.S.) 524, 619 (1838); *Shoemaker* v. *United States*, 147 U.S. 282, 300 (1893); *Atlantic Cleaners & Dyers* v. *United States*, 286 U.S. 427, 435 (1932); *O'Donoghue* v. *United States*, 289 U.S. 516, 518 (1933).

Mr. President, of course, this was later changed, but at the time of the writing of this article, that was true:

> This fact means that in some respects ordinary constitutional restrictions do not operate; thus, for example, in creating local courts of local jurisdiction in the District Congress acts pursuant to its legislative powers under clause 17 and need not create courts which comply with Article III court requirements. And when legislating for the District Congress remains the legislature of the Union, so that it may give its enactments nationwide operation to the extent necessary to make them locally effective.

Then under the hearing of "Authority Over Places Purchased"—Mr. President, there is no useful purpose to be served in reading that. But I do read from the pocket part of the Constitution Annotated. It does have this additional provision:

> In 1973, Congress provided for a limited form of self-government in the District with the major offices to the filled by election.

Of course, that is the District of Columbia Self-Government and Governmental Reorganization Act. That is Public Law 93–198, 87 Statutes at Large, 774.

Mr. President, I do have other material to go over. Senator HATCH and Senator THURMOND had each asked to be afforded the opportunity to speak. In the meantime, on behalf of Senator Bartlett, I ask unanimous consent that the privilege of the floor be accorded to Tom Wasinger of Senator BARTLETT's staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT. Mr. President, I have looked at a legal encyclopedia to get further information, because it is so easy for us to be talking about a matter without looking at the laws and the reasons for the type of government that we have in the District of Columbia, the Federal concept that our forefathers found. If we look in volume 27 of Corpus Juris Secundum—I believe this is the largest legal encyclopedia. It has 144 volumes. Under the portion related to the District of Columbia, it does review the law. Some of it is repetitions of the matters that I have discussed. I do want to share it at a later time, but I see my distinguished colleague from South Carolina is now on the floor. He did indicate that he wanted to speak on this matter at this time. So, Mr. President, I yield to the Senator from South Carolina.

Mr. MELCHER. Mr. President, I wonder if the Senator would yield to me first. I note that I shall be occupying the chair in 5 minutes and I have a few remarks.

Mr. SCOTT. The Senator from South Carolina is agreeable. Of course, I am glad to yield to the Senator from Montana.

Mr. MELCHER. I thank the Senator for the courtesy.

Mr. President, I want briefly to paraphrase parts of the opening remarks so eloquently made by the Senator from Massachusetts. In matters of fundamental justice and human rights, the issue is one of simple justice for 690,000 citizens who must have representation in Congress. In the view of legal scholars, there is no constitutional impediment to enactment of this measure.

Mr. President, it is my belief that, no, there is no constitutional impediment. It is also my belief and my best judgment that the drafters of the Constitution were wrong in denying permanently the right of vote to the residents of the District of Columbia. I believe that error should be corrected by an amendment to the Constitution—but not this amendment.

I have long supported election by District residents for representation in the House that they are entitled to on the basis of population. I now support the right of residents of the District to vote for Senators in Maryland. I do not say that lightly.

I am not aware that the people of Maryland, or the Senators representing the State of Maryland, would welcome it. But there is a basis for it. A portion of the original District of Columbia, on the Virginia side of the Potomac, was reabsorbed into the State of Virginia by Congress ceding it back to the State, and, of course, Virginia accepted it willingly. That procedure is not now advocated for the balance of the District of Columbia. Yet the right of representation is the fundamental right of a citizen in this country and it is a right that should not be denied. That right for citizens of the District of representation in the Senate, should be accomplished by amending the Constitution and amending this very resolution that is before us to permit these citizens in the District to vote in Maryland for representation to the Senate.

That is not what the residents of the District of Columbia are beating the drums for. That is not what is proposed by this House Joint Resolution No. 554, which passed the House. But that is a course that is available for the District residents and it is available for us here in Congress to provide them that opportunity by this constitutional amendment.

Why? The dilution of the value of a State's vote here in the Senate by enlarging the Senate, as proposed in House Joint Resolution 554, is precisely 2 percent. Many people would shrug, as that would be an insignificant amount. However, my State would view it as significant. During the course of the debate on the issue here before us, I shall attempt to add further meaning and further clarification as to why my State would view an enlargement of the Senate by two more Members as a significant dilution of the votes in the Senate and what they regard as a protection mechanism framed by the Constitution and provided for them, regardless of population, that the State would always have two Senators.

Mr. President, again, I thank the Senator from Virginia for yielding to me and the opportunity afforded me also by the Senator from South Carolina in graciously permitting me this short time.

Mr. HATCH. Mr. President, as I understand it, the distinguished Senator from North Carolina would like some time?

Mr. THURMOND. Mr. President, who is keeping time on our side?

The PRESIDING OFFICER. There is no time control on this measure.

Mr. SCOTT. Mr. President, I did agree to yield to the distinguished Senator from South Carolina. I am sure that the Senator will be agreeable to that.

Mr. HATCH. I am happy to yield to the distinguished Senator from South Carolina.

Mr. THURMOND. Mr. President, I am just wondering, has the Senator from Virginia given up the floor?

Mr. SCOTT. The Senator from Virginia has given up the floor for the time being, but I shall return.

Mr. THURMOND. I see.

How long will the Senator take?

Mr. HATCH. I was planning on speaking for quite a while, but I am happy to yield the floor to the Senator.

Mr. THURMOND. If the Senator wants to go ahead, if it is short, but if it is long, perhaps I should go.

Mr. HATCH. The Senator can go ahead first and I will follow up.

Mr. THURMOND. That is fine.

Mr. President, I rise today to voice my support for House Joint Resolution 554, a resolution to provide for the amending of the U.S. Constitution to allow full voting representation for the District of Columbia in the Congress.

I have come out in favor of this resolution for one simple reason. It is just not fair, that in the year 1978, more than 700,000 American citizens do not have the right to elect representatives to Congress. No one in 1790, when the District was created, could have imagined the rapid growth and changes that were to take place in the District of Columbia. Thus, I believe the time has now come for the Congress to debate this issue and then submit it to the States for their consideration.

Mr. President, we should not allow this transformation of the District to be ignored any longer. Because of the fact there were only 14,000 people in the District when it was created, it has now resulted in the denial to more than 700,000 citizens of the right that all Americans cherish—the right to vote for their Representatives to Congress.

UNFORESEEN GROWTH OF THE DISTRICT

History tells us that the failure to provide the District of Columbia with representation was an oversight and not because of any specific intent by the Founding Fathers. As early as 1783, the Continental Congress was meeting in various places throughout the East. This so-called gypsy Congress was outraged with its situation and thus, in 1787, resolved that:

> The Congress shall have power . . . to exercise exclusive legislation in all cases whatsoever over such District (not exceeding ten miles square as may by the cession of particular states, and the acceptance of Congress, become the seat of government of the United States) . . ." (Article I of the Constitutional Convention, the Seventeenth paragraph of Section Eight).

Finally, in 1790, the Congress approved legislation establishing a permanent seat of government.

Unfortunately, there were many problems that overshadowed the creation of the District of Columbia. There was an intense public debate over where exactly this seat of Government should be located. In addition, there were other pressing problems that needed attention by the youthful Government, and thus the matter of representation for a yet-to-be identified group of citizens fell by the way, even though there were occasional expressions of concern over who would look after the interests of the citizens of the District.

James Madison, in the Federalist No. 43, recognized the future needs of the inhabitants of the District and that they should have a voice in the election of the Government which was to exercise authority over them. Once again, however, the expressions of concern about the residents of the District never became reality. When the Congress accepted the cession of the District of Columbia by Maryland and Virginia in 1790, the voting rights of its residents were governed by the respective laws of Virginia and Maryland. Thus, until 1800, District residents voted in either Virginia or Maryland.

Soon after December, in 1800, Congress passed legislation to freeze the laws of the two States which effectively disenfranchised the residents of the District of Columbia.

Mr. President, when Congress finally moved to the District of Columbia, there were only 14,000 residents in the city. This was far less than the 50,000 residents required for statehood, and less than the 30,000 required for the establishment of a congressional district. Clearly, the small population of the District was instrumental in the lack of attention paid to it by the Congress. Moreover, the growth of the District was unforeseen by Congress. Certainly Congress did not envision the eventual disenfranchisement of nearly 750,000 persons—15 times the minimum number of persons originally required for statehood.

The provisional estimates of the U.S. Census Bureau, July 1, 1977, lists the population of the District of Columbia as greater than seven States: Wyoming, Nevada, Alaska, North Dakota, South Dakota, Delaware, and Vermont. Seven States, Mr. President, have populations less than the District of Columbia. Yet each of these States has two Senators and Congressional Representatives in the Congress.

D.C. REPRESENTATION AS MATTER OF FAIRNESS

Mr. President, the residents of the District of Columbia deserve the right to representation in Congress if for no other reason than simple fairness. According to a 1975 Congressional Research Service report, it was estimated that the citizens of the District of Columbia paid more than $1 billion in Federal income taxes. Yet they have no representation.

Taxation without representation. That was an axiom that was rejected early in American history. It was not fair in 1776 to tax and not allow representation, and it is not fair today.

District of Columbia residents pay their fair share of the support of the Federal Government. District residents paid $664 per capita in Federal taxes in 1976. This amount was $77 above the national average. There are only seven States with a higher per capita of Federal taxes paid. The residents of the District of Columbia are not getting a free ride. They are paying a substantial share of Federal taxes, but receive no opportunity to have a say in how those tax dollars should be spent. As a matter of fairness, they should.

Mr. President, not only do the residents of the District of Columbia pay Federal taxes with no voice in how those tax dollars are spent, they are subject to laws in which they have little or no opportunity for input. Congress often passes on legislation that affects the District as well as the States. In most cases, the issues that affect more than 220 million Americans also affect the residents of the District of Columbia. But those residents have no representatives to cast votes in the Congress on those issues. Fundamental fairness dictates they should have that opportunity.

LEADERSHIP IN HUMAN RIGHTS

Mr. President, recently much has been made of the issue of human rights. The President has predicated a portion of his foreign policy on this issue. So has the Congress on various occasions. I say we cannot talk about human rights to others in the world until we here at home can show we are recognizing basic human rights. One of America's fundamental rights is the right to participate in a democracy. Residents of the District are being denied that right.

Throughout the world community, only two other Federal districts deny

their residents full voting representation in their national legislatures—Brazil and Nigeria. Citizens of London, Paris, and Bonn are represented in their national legislatures. Are we to be considered less democratic than England, France, or West Germany? I would hope not.

Mr. President, human rights begin at home, here in the Nation's Capital. The fact that more than 700,000 people do not have a voice in the election of those who write the Nation's laws is not a very good position from which to preach human rights. We need to practice what we preach. That means, at the least, giving the residents of the District of Columbia the right to elect their own Representatives and Senators to Congress.

Finally, there are many arguments being made that the Constitution prohibits the District from having voting representation by adoption of House Joint Resolution 554. I have studied all of the arguments in this regard and have concluded that nothing in the Constitution prevents House Joint Resolution 554, or any similar measure, if adopted, from giving the District full voting representation. It can be done if Congress, by two-thirds vote of both bodies, votes for it, and if three-fourths of the States ratify it within 7 years. I believe this procedure is consistent with broad constitutional principles, and gives the District of Columbia the opportunity it so well deserves—to be treated as a State with respect to the right to have voting representation in Congress.

Mr. President, the District of Columbia is a unique place. It is probably the No. 1 tourist attraction in the Nation. Visitors from far and wide come to see our national monuments, parks, statutes, and other landmarks. They visit the White House, the Congress, and the Supreme Court.

But there is more to Washington, D.C., than just tourist attractions. Three-quarters of a million people live and work in the District. These are people who are affected by high taxes, inflation, foreign policy, farm prices, educational issues—issues that affect each and every American. Yet, no one represents their views with a vote in Congress. This is unfair, Mr. President, and I strongly urge my colleagues in the Senate to join me in taking steps to end this injustice by voting for House Joint Resolution 554.

By supporting this resolution the Senate is not taking final action to give the District voting representation in the Congress, because the States of the Nation will have to consider it and three-fourths of them will have to ratify before it becomes part of the Constitution. The people of each State will have the opportunity to express their views on this matter before any change is made to our Constitution.

The procedure to amend the Constitution is long and tedious to make sure that careful consideration is given by the Congress and the States to each proposed amendment thereto. This insures that whatever decision is reached will truly represent the wishes of the people of the Nation.

Mr. CURTIS. Mr. President I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. HATCH. Mr. President the privilege of participating in the electoral process is a basic principle of our system of government. Both the Republican and Democratic platforms of 1976 have endorsed the principle of representation of the District of Columbia in Congress, and I share the conviction of both parties that the District residents should enjoy all the privileges of American citizenship.

House Joint Resolution 554, however, seeks to invest citizens of the District with the powers to participate fully in the electoral process, but in doing so it ignores certain fundamental constitutional principles and raises more questions than it answers.

Because a large number of District residents are black, supporters of this measure have attempted to characterize the opposition as racist in nature. This simply is not true. This is not a racial question, and anybody who argues that way, I think, is stretching the point far beyond where it should be stretched.

The fact is—and I would like to make it very clear—that I support the intent of this amendment and would never seek to deny anyone, regardless of their race or religion, their rights as American citizens. My objections to House Joint Resolution 554 stem entirely from the fact that it was poorly drafted and completely ignores the basic constitutional principles which define popular participation in government. My objections are constitutional and deserve a great deal of consideration.

At the heart of the difficulty is section 1 of the proposed amendment, which treats three different kinds of voting procedures—electing Members of Congress, electing the President and the Vice President, and ratifying amendments—as one and the same, even though each requires a different means of election or popular participation. Only in congressional elections do the people participate directly. Yet, House Joint Resolution 554, the matter before us at this time, purports to grant to the citizens of the District of Columbia the right to participate directly in all elections and in the consideration of amendments to the Constitution.

The proposal seeks to grant the District the right to participate in the amendatory process, even though the District of Columbia has no State legislature. It fails to indicate which political body shall determine the acceptance or rejection of an amendment and avoids the question entirely, with the vague and meaningless phraseology of section 2, which states that:

> The exercise of rights and powers shall be by the people of the District . . . and as shall be provided by the Congress.

If "the people" are to ratify proposed constitutional amendments, then District of Columbia residents would have rights that no other citizen in the country has. They would possess a privilege that no citizen of any other State has.

If ratification is determined "by the Congress," then Congress has the new power to ratify the amendments it proposes, in direct contradiction of article V of the Constitution.

These are pretty important constitutional issues. This is poorly drafted, the workmanship is shoddy, it is unconstitutional, it is unsound, and it conveys privileges to the citizens of the District which no other citizens in any other State have.

Section 3 of House Joint Resolution 554 repeals the 23d amendment to the Constitution, thereby abolishing the District of Columbia's electoral votes. Yet, only State legislatures can appoint electors, and the District of Columbia has no State legislature. Congress does not have the authority to appoint electors. So it would seem that the proposal gives District citizens the right to vote directly for the President, without providing electors to reflect the vote. That would be a privilege no other citizen in this country has.

So, in our zeal to try to provide a means whereby the residents of the District of Columbia can vote for national legislative representatives, we ignore the rights of citizens of other States throughout the country.

Finally, House Joint Resolution 554 gives District citizens the right to vote for two Senators who would represent a city, not a State.

No matter what the arguments are, no matter that they can show that some States may have smaller populations, may pay less revenues into the Federal Government, they nevertheless are States that were brought into the Union pursuant to constitutional mandates and pursuant to the system set up by the Founding Fathers. It is completely different from what we have here.

There is nothing in the Constitution that says that States have to have the same population or that they have to pay the same amount of revenues. There is no real valid argument that can be made there. So those are emotional arguments that are made as, it seems to me, a ploy to try to ignore the constitutional reality.

The fact is that if you review it, House Joint Resolution 554 gives the District citizens, members of the city, the right to vote as though they are citizens of a State. We know it is just a city. It contains no substantial interest group other than the Federal Government.

One reason why the Founding Fathers created it the way they did is that they wanted the States to have these rights. They did not want to give them indiscriminately. They wanted to create geographical entities with diversity of interests.

I submit that this is a Federal enclave. There is no real diversity of interests.

The District of Columbia does not meet the qualifications of a State, which has some people within the State who believe only the Federal Government can solve the problems and some people who

believe otherwise. In fact, I submit the vast majority would believe otherwise if they had watched this system of government the way it has been operating in the last 42 of the last 46 years.

In accordance with the fundamental nature of our federal system Senators from all other States must continually balance a variety of State interests against the national interests. D.C. Senators would be little more than spokesmen for a single interest group, the Federal Government, and none of the State restraints basic to our system of government would be applicable.

These are pretty important issues and pretty important questions, and they cannot be done away with through emotional arguments. I do not think the majority of the States are going to let them be done away with merely through emotional arguments.

These are some of the major problems I see raised by this carelessly drafted proposal. Its basic intent, voting representation for the citizens of the District, is commendable. But by failing to address itself to the special Federal nature of the present District of Columbia, by conveniently ignoring the fact that the District does not possess the attributes of statehood necessary to exercise the privileges that it would confer, this resolution's effect would be nothing less than a disfigurement of the constitutional principles which apply to every State in the Union.

Some mention should be made here of the tactics used to bring the proposal to the Senate floor for consideration. The Senate version, Senate Joint Resolution 65, was never reported out of the subcommittee and consequently never even considered by the full Judiciary Committee. The chairman of that committee, Senator EASTLAND, is out of town and in fact out of the country. And now we are asked to consider the flawed House version without having the opportunity to correct some of the provisions which make it unacceptable to a number of us.

I suggest, Mr. President, that these high-handed tactics fail to serve the Members of this body, and even more importantly, they fail to serve the citizens of the District whose full participation in our government we are seeking to effect.

If we add it up, what we are trying to do here emotionally and literally is ignore the basic mandates of our U.S. Constitution.

There are a number of arguments which have been given against full voting representation as evidenced by this House resolution.

No. 1, granting representation to the District would be contrary to the intent of the framers of the Constitution. It was the intent of the Framers that the seat of Federal Government would be set aside for that purpose only outside the jurisdiction of any State, secure from entangling interests. I think we could refer to the Federalist Papers No. 43. It was not intended to be a sovereign power in the same sense as the other States. I do not think any emotional stretch of logic can accomplish that.

No. 2, granting the District power as though it were a "State" would violate the Constitution and work a qualitative change upon our Federal system. The Constitution refers only to "States" as having representation in the Senate and the House of Representatives. There is no language to suggest that any other political entity could qualify for voting representation in either Chamber. The courts have held the District is a "State" only in limited cases. The District lacks a legislature or any of the necessary indicia of a sovereignty which would make it a "State" within the meaning of the Constitution. This resolution would create a "pseudo state" which would do violence to the Constitution and undermine the nature of the Federal system of our Republic.

No. 3, granting full representation would violate article V of the Constitution. The framers intended article V to protect the States from having their "equal suffrage" diminished in the Senate.

To grant the District voting representation in Congress would contravene this language and alter the Federalist nature of this Republic. To accord two Senators from an entity other than a State, a district, purposely set aside from the State, would diminish that "equal suffrage" in the Senate.

So article V of the Constitution would be violated by this emotional approach to solve what I agree is a serious problem and one that I would like to solve but in a way that would not only give everyone the right to vote, but also the commensurate responsibilities to go along with it and not give them special rights that other citizens in the country do not presently have.

No. 4, granting the District full representation is to award it all the benefits of statehood without the accompanying burdens. By virtue of its status as a Federal entity, the District is dependent upon Congress and it is not concerned with the responsibilities, problems, or revenue needs of the individual States. Such a proposal is unfair to the States and runs counter to the principle of equality inherent in our Constitution.

No. 5, the District of Columbia is a city, not a State, and if the District of Columbia can elect its own Senators, it is logical and equitable to give every other city of equivalent size the same rights of representation or, at least, that is going to be an argument we will hear from this day forward and I think a fallacious one at that. The fact that these cities already elect representatives in Congress is irrelevant. They must share their Senators with the rest of the States. If the District of Columbia had two Senators, they would speak only for a single urban area. It would grossly overrepresent the only city in the Nation which already has two congressional committees dedicated solely to its needs.

No. 6, Washington, D.C., is already a "company town." Thirty-nine percent of the population of the District is employed by the Federal Government and services make up 25 percent more of those jobs. To grant full representation would insure that the interests of the Federal bureaucracy would receive even greater attention in Congress than they already receive. A Senator would have the Federal Government itself as his chief interest in direct conflict with the intent of the framers of the Constitution.

In all honesty at least 60 percent of the people within the District have some relationship to the Federal Government, either directly as employees, directly as providing services to the Federal Government, or making money off the Federal Government representing various special interest groups.

It is a huge, huge Federal enclave that has no characteristic that anyone can compare with statehood. It is a "company town." And it certainly should not be treated as a State even though that would be the language of this amendment.

(Mr. McGOVERN assumed the chair.)

Mr. HATCH. I believe the language itself would be unconstitutional even though we may, in the course of proceeding, report this amendment out.

No. 7. The residents of the District already have representation in Congress. No other State or city in the country can claim its own special committee in the House and a committee in the Senate which handle their problems exclusively. The District is exclusively the concern of Congress and, in a larger sense, all Members of Congress represent all residents of the District.

In view of the fact that the taxpayers of the District receive far more in Federal benefits each year than they contribute to the Federal Treasury, it would appear that they are already well represented in Congress.

However, I have to concede that under present circumstances they may not vote for voting representatives. I would like to see that remedied, but this is not the way to remedy it. This flies in the face of every basic Federal belief we have had through the years, and certainly every constitutional principle and historical principle backing up the Constitution that we have had since the beginning of this great Nation.

The article granting representation would set a bad precedent for other non-States. You know, residents of the District are not the only ones who cannot vote for Senators and Congressmen, even though their privileges are in many ways better than any other citizen in any other State. There is no reason to assume that Puerto Rico, Guam, American Samoa, and the Canal Zone could not be granted Senate and House representation if the non-State of the District were granted such representation.

So it is not just the District that is suffering or having this difficulty. We have to solve this difficulty for others as well, and there will be a clamor to do so.

I can remember on another subject during the Panama Canal debate that even before it began I said if we ratify those treaties you are going to find that the next clamor will be for us to give up Guantanamo Naval Base, give up Puerto Rico, Guam, and so forth. Lo and behold just a month or so ago that clamor has already begun, and I can tell you this is

special privileges in that they will have the privilege of direct election of the President, which no other citizen has, and they will lose certain privileges, as I have stated before in my remarks.

The residents of the District are not victims of "taxation without representation." In fiscal year 1977 the Federal payment to the District totaled $276 million. In addition, Federal grants amounted to $340 million. The District received $52 million in revenue-sharing funds. In Federal loans the District total was $101,292,000. In addition to these, the Metro system is heavily funded from Federal revenue; and over $300 million is contributed annually by the Federal Government to the city budget to reimburse the city for Federal property it cannot tax.

Obviously, the residents of the Nation's capital are not being shortchanged. The District is heavily favored in the Congress by virtue of its special committees on the District.

No. 10. Granting full representation poses insurmountable handicaps. State legislatures must realize that their own States power in Washington will be reduced with the addition of two Senators and Representatives for the District of Columbia. There is a genuine concern about the mandate of the Constitution in this area as well, as previously explained.

The granting of Senate and House representation opens the door to a whole myriad of jurisdiction.

The District would have all of the privileges of statehood without the concurrent responsibilities, and our system of dual federalism would be seriously damaged.

There are many other reasons, of which these are only a few.

On March 2 the House of Representatives, by a vote of 289 to 127 approved House Joint Resolution 554, a constitutional amendment that would give the District of Columbia voting representation in the House and Senate and, in addition, would allow the District to participate like the States in the ratification of constitutional amendments.

Since all legislation in the Senate has been delayed by the length of the Panama Canal debate, it was not known, frankly it had not been known up until now—when we would be taking up this measure. Labor reform also caused some delays in taking up this measure.

Frankly, it is here and we are going to have to face the responsibility of doing whatever is right under the circumstances.

The text of the House Joint Resolution 554 is as follows:

> Joint resolution proposing an amendment to the Constitution to provide for representation of the District of Columbia in the Congress.
>
> Section 1.

As I mentioned before, section 1 has some grave defects:

> For the purpose of representation in the Congress, election of the President and Vice

No amount of reasoning is going to make the District of Columbia a State. As a matter of fact, it would be more aptly described as a Federal enclave and, as George Will described it, as a Federal enclave surrounded on all four sides by reality.

The fact is that under section 1 of this House joint resolution, the three different kinds of voting procedures—of electing Members of Congress, electing the President and Vice President, and ratifying amendments—are treated as one and the same though each requires a different means of election or popular participation, because only in congressional elections do the people participate directly. Yet this resolution, this proposed constitutional amendment, purports to grant to the citizens of the District of Columbia the right to participate directly in all elections and in the consideration of amendments to the Constitution. No other citizen has that right at the present time.

The proposal, as I stated before, seeks to grant the District the right to participate in the amendatory process, even though the District of Columbia has no State legislature. It fails to indicate which political body shall determine the acceptance or rejection of an amendment, and avoids the question entirely within the vague and meaningless phraseology of section 2, which is as follows:

> Section 2. The exercise of the right and powers conferred under this article shall be by the people of the District constituting the seat of government, and as shall be provided by the Congress.

So, as you can see, section 2 states that the exercise of the rights and powers shall be by the people of the District and as shall be provided by the Congress.

If the people are to ratify proposed constitutional amendments, then again the District of Columbia residents will possess rights and privileges which no other citizen of any other State has, and that is to participate directly in the amendatory process, which can only be done for citizens in other States through their State legislatures.

There is a very good reason for that, and that reason is because in their infinite wisdom, which I believe was inspired, our Founding Fathers wanted this to be a Federal Republic with, in essence, two groups that would fight to effectuate better government for the whole, and that is the Federal group and the States groups.

We have had an erosion of State government for 42 of the last 46 years, as we basically had one philosophy rule in this society. Frankly, I, for one, believe we need that balance between the States and the Federal Government in order to not lose that which we have, and in order not to undermine the Constitution, the basic document of our society and of our Government, upon which our whole society depends.

If the people were to ratify this constitutional amendment, with this par-

And that is in direct contradiction of article V of the Constitution, which provides that only State legislatures can do this. So this is not some simple little amendment that gives voting rights to elect two Senators and a Representative to the District. This little "simple" amendment actually attacks the very basic fabric of our constitutional way of life. I think it has to be considered on that basis.

(Mr. MELCHER assumed the chair.)

Mr. HATCH. Section 3 reads as follows:

> The twenty-third article of amendment to the Constitution of the United States is hereby repealed.

What that does, in repealing the 23d amendment to the Constitution—again, this is not just a simple little step, it is a radical step—pursuant to section 3, is abolish the District of Columbia's electoral votes. So, on the one hand, we are giving them the right to vote for the President and Vice President directly, and, on the other hand, we are taking away their electors. Congress does not have the authority to appoint electors, and so, as I have said before, it would seem that the proposal gives District citizens the right to vote directly for the President without providing electors to reflect that vote.

That is up in the air. It is literally up in the air whether they have the right to vote directly or not, but I think the argument has to be that they do, and if they do, no citizen of any other State has that right. Whether that is a good right or not is a debate for another time and another place, but nevertheless it shows we are undermining the basic tenets of the Constitution.

This little, simple amendment to the Constitution which is so emotionally well advanced has to be scrutinized if we believe in the Constitution and our system of government.

You know, when you start talking about the Constitution of the United States, you are not talking about something that can just be changed at will. As I have stated, in the history of this country there have been some 6,000 proposed amendments, but of the 6,000 amendments there have been only 32 which have come out of Congress, out of 6,000. It is not easy to amend the Constitution of the United States; it is tough, and there is a very good reason for that.

This is not supposed to be an easily amended document. This document has lasted because it is not easily amended, because no special interest power group can change it at will. That is something that is of great advantage to us.

Of the 6,000 proposed amendments, only 32 have come through. Of the 32, only 26 have amended the Constitution; and of the remaining 6, there is only 1 left, and that is the equal rights amendment. It has had almost 7 years for ratification, and I suppose we will be into that within the next few weeks. But it has had almost 7 years now.

That is an interesting point. On rati-

because it does not look as though they can get 38 States to ratify it by March 21, 1979, they want an additional 7 years.

We have a lot of people who are attacking the basic fabric of our society. Of the basic document of our society they say, "No, it should be amendable at will."

As to the time for ratification of amendments, of these 26 which have been ratified, none have taken longer than 4 years. All have been less than 4 years. So you can see this is serious business; it is not just an emotional argument on either side, although I think the argument of the other side, the proponents of this particular resolution, is primarily an emotional one.

I sympathize with the emotional argument that every citizen of the United States should have the right to vote and have representation, but there are ways of doing that, short of dramatically changing the basic system of our Government, which have served us long and well. Cities vote within the States, and do not vote solely as cities, and consequently as one special interest group.

The fact of the matter is, if this does come out of the Senate and the House, as difficult as this proposed amendment is, I submit to you that there will not be much enthusiasm for it by the other sovereign States, which of course know that their rights are being reduced as a result of this type of an emotional approach to solving what is a very real problem.

Again, I must add that I sympathize sincerely with the very real problem, and will work to try to solve that problem in a constitutional way, whether it is by recession to Maryland, whether it is by granting the right to citizens of the District of Columbia to vote in any State of their choice, once they make the decision, whether it is by granting them the right to vote in States of their ancestors, or whether it is by a combination of some of those. I would support that, because it would alleviate this admitted problem which should not exist, without emasculating the basic federal republican nature of our Government—and, of course, when I talk about "Republican" in this context, it does not mean the Republican Party. The Republic of the United States of America; this is a Federal Republic made up of 50 States.

Section 4 of the resolution says this:

> This article shall be inoperative, unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission.

What that means is that 38 States will have to ratify it. I submit that this is almost an exercise in futility, because I cannot imagine 38 States giving the powers of statehood to a Federal enclave known as a city, and which is in fact only a city—an important one, a beautiful one, a magnificent one, if you will, but only a city. I cannot imagine the States doing that.

As a matter of fact, I can imagine them doing anything but that. So, instead of

equal rights amendment, although the House, since the equal rights amendment cannot seem to make it, has given them another 39 months, plus, in order to have another crack at it.

Let me give you some background on the District of Columbia. The exceptional case of the area of land known as the District of Columbia is defined in article I, section 8, clause 17 of the Constitution.

> The Congress shall have the power:
>
> To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings. . . .

In Federalist No. 43, James Madison explains the above-quoted clause in this way:

> The indispensable necessity of complete authority at the seat of government, carries its own evidence with it. It is a power exercised by every legislature of the Union, I might say of the world, by virtue of its general supremacy. Without it, not only the public authority might be insulted and its proceedings interrupted with impunity; but a dependence of the members of the general government on the State comprehending the seat of the government, for protection in the exercise of their duty, might bring on the national councils an imputation of awe or influence, equally dishonorable to the government and dissatisfactory to the other members of the Confederacy.

Congress assumed authority over the District of Columbia, an area of 100 square miles created from lands ceded by Virginia and Maryland, by an act of February 27, 1801, that provided merely that the laws of Virginia and Maryland should continue in force where they had previously applied. At first there were five units of local government in the District—the county of Washington, the city of Washington, and the city of Georgetown, all in the former Maryland territory; and the county and city of Alexandria in the former Virginia territory. The last two left the District with the retrocession of the lands of Virginia back to the State in 1846. Since that date, Washington has remained the same area: 62.7 square miles.

The dramatic rise in population spurred by the events of the Civil War led to the adoption of districtwide government in 1871. Controversy preceding the establishment of the new form of government centered on the issue of suffrage and secondarily on the division of authority between Congress and local officials. A territorial form of government was agreed on as a compromise. This form provided for a governor appointed by the President for a term of 4 years, an upper legislative chamber composed of 11 members appointed by the President for 2-year terms, and a house of delegates composed of 22 members elected annually from 22 districts. The District was entitled to elect a non-

man board of public works, headed by Alexander R. Shepherd. The board energetically set about making public improvements, but spent $30 million in so doing—nearly three times what had been estimated by Congress. Having made Washington a city habitable but bankrupt, the territorial government died ignominiously. In 1874 Congress replaced the territorial form of government with a three-man board of commissioners appointed by the President. The office of nonvoting delegate to the House of Representatives was abolished.

With the ratification of the 23d amendment to the Constitution, which gave the city three electoral votes, in 1961, Washingtonians were given the right to vote in Presidential elections for the first time. The Reorganization Plan No. 3 of 1967 instituted a mayor-council form of government with appointed offices. In 1968 Congress passed an act allowing residents of the city to elect members of their school board. In 1968 President Nixon proposed that the Nation's Capital be granted both "meaningful self-government" and the right to elect representatives to Congress. In 1970, Congress granted the people of the District the right to elect a nonvoting delegate to Congress, a position that has been held by WALTER E. FAUNTROY ever since.

And I might add held very well. I think he has done a tremendous job for the District of Columbia. I think he has tremendous influence in the Congress. In my opinion, he is a wonderful guy, and he has acquitted himself well. He has done a great job in advocating this particular amendment. I think a great deal of him.

The delegate sits on House committees where he may vote, and participates in floor debates where he may not vote. In 1973, the Council received power to legislate in local matters. Congress retains power, under article I of the Constitution, to enact legislation and to veto or supersede the Council's acts.

Since assuming his delegate seat, FAUNTROY has been diligently championing full voter representation in Congress for the District. On February 18, 1976, the House Rules Committee agreed, for the first time in more than a century, to release a constitutional amendment proposing District voting representation in the Senate and House. The bill failed to receive the necessary two-thirds affirmative votes for passage.

SECTION 1—REPRESENTATION IN THE HOUSE

A constitutional amendment is required in order to give the District voting representation in Congress. The Constitution states (article I, section 2) that "the House of Representatives shall be composed of Members chosen every second year by the people of the several States," and (article I, section 3) "the Senate of the United States shall be composed of two Senators from each State." Because the District of Columbia is not a State, House Joint Resolution 554 provides that "for purposes of representation in the

Congress . . . the District . . . shall be treated as though it were a State." Since the ratification of the Constitution

800,000 people. Nevertheless, the city itself has more people than seven States.

On the other hand, it clearly has less

Most of the proponents of House Joint Resolution 554 have resurrected the great American battle cry: "No taxation

the Constitutional Convention of 1787 which resolved the competing interests of the large versus the small States. It is

Mr. MATSUNAGA. We have many dealings with the people from Samoa.

Mr. HATCH. Will the Senator assist

series of steps so that we have Puerto Rico and the Canal Zone, as well as the

Congress * * * the District * * * shall be treated as though it were a State." Since the ratification of the Constitution in 1789, no lands or territories have achieved voting representation in Congress without first becoming a State under article IV, section 3, clause 1 of the Constitution.

Because representation in the House of Representatives is based on the apportionment of population by State, it has become a firm tradition to regard the House as "the people's House." Proponents of House Joint Resolution 554 argue that it is unjust to deny representation to nearly 700,000 citizens. Thus, the favorable report of the House Committee on the Judiciary maintains that—

> It seems indeed ironic that a nation which has, over the years, continued, through congressional and judicial action, to extend the franchise still denies representation in the National Legislature to American citizens residing in the Nation's Capital.

The regular membership of the House of Representatives has remained unchanged at 435 for 66 years. When Alaska and Hawaii became States, each was assigned one seat, temporarily increasing the size of the House to 437. However, the statehood enactments for both of these States provided that the total of 435 would be restored in the apportionment based on the 1960 census. If the proposed constitutional amendment, as defined in House Joint Resolution 554, were ratified, one of the several unanswered questions confronting Congress would be whether to increase the size of the House of Representatives.

That is another constitutional question that not too many people have thought about.

Article I, section 2, clause 3, of the Constitution provides that even though the number of representatives shall be apportioned according to the national population, "each State shall have at least one representative." After one representative has been assigned to each State as required by the Constitution, the apportionment by population takes place.

Proponents of the constitutional amendment contend that the District of Columbia has a larger population than seven of the States. And since the populations of these States are represented by at least one U.S. representative, the residents of the District should be at least equally represented. Further, they argue that land area is no qualification for voting representation in the House. (Rhode Island, the smallest State, has an area of 1,214 square miles, as compared to the 62.7 square miles of the District.)

I would argue again, that is a significant difference, and it shows the differences between a State and something which they want to call a State which could never be a State. Everybody agrees that the District could never become a State under the circumstances of its present existence, or under any circumstances. I think it is interesting to note that compared to the nine less populous States the population of the District of Columbia is decreasing while the others are increasing. In fact, the District's population has been decreasing steadily since 1950, when it reached a high of 800,000 people. Nevertheless, the city itself has more people than seven States.

On the other hand, it clearly has less land area and clearly is not a State and clearly cannot become a State. It would be really pushing it to try to argue that we should make the District a State, so rather than do that, they agree that it should become as though it were a State. Of course, calling something a State does not make it a State.

There are certain ways that geographical areas can become States and, of course, we have watched that process through the years as various States have come into the country.

If the District of Columbia had been granted congressional voter representation in 1970, it would have received two Members of the House. If House Joint Resolution 554 passes the Senate and is ratified by three-fourths of the States, the District will probably receive one Member of the House after the 1981 reapportionment based on the 1980 decennial census.

Although the population of the District is 690,000, its registered voter turnout for the 1976 Presidential elections was lower in percentage than any of the least populous States (59 percent, the same as Alaska). Its voter turnout of those eligible to vote, registered or nonregistered, (31 percent)* was substantially lower than the next lowest turnout (Alaska with 49 percent.) In addition, the percent of eligible voter turnout in the District for the 1976 elections was the lowest in the Nation, and the percent of the registered voters voting was the lowest in the Nation.

Since the District turned out 59 percent of the registered voters and 31 percent of the voting age population for the Presidential election of 1976, then the lack of voter representation in Congress can be calculated to affect 281,355 registered voters and 535,483 persons of voting age, who are not registered.

By way of comparison, the residents of the following territories of the United States are U.S. citizens but do not vote for President or have voting representation in Congress.

Puerto Rico, which may or may not desire statehood and may or may not get statehood, depending upon many factors, has a population of 3,210,000 people. The Virgin Islands, has a very small population of 100,000 people, American Samoa, has only 31,000 American citizens—I am talking about American citizens—and Guam, 100,000 American citizens. So, in Puerto Rico, 3,210,000; Virgin Islands, 100,000 American citizens; American Samoa, 31,000 American citizens; and Guam, 100,000 American citizens.

*The problems in determining how many citizens of the District are in fact affected by the lack of voting representation in Congress is complicated by the sizable number of citizens who reside in the District but maintain legal domiciles in other states. No records exist of the number of District residents casting absentee ballots in other states. In the court case of *Carliner v. Board Education*, it was estimated that 200,000 residents of the District were eligible to vote in other jurisdictions. Whether this number is accurate cannot be determined.

Most of the proponents of House Joint Resolution 554 have resurrected the great American battle cry: "No taxation without representation." They argue that since the residents of the District of Columbia have no immunity from Federal taxation, they should by right have voting representation in Congress. But, it must be remembered that during the first several decades of the Republic, the converse of the battle cry was also true, that is, most States allowed only taxpaying landowners to vote and thereby have a say in their representation. Yet, the notion of no taxation without representation (and its converse), while still very much a part of the American spirit, has been somewhat attenuated by modern American history. In the Federal and State legislatures, and in court rulings, the modern trend has been to separate the issue of taxation from the issue of representation. Numerous classes of citizens, fully subject to and protected by the laws, pay no Federal or State income tax whatever, even though they regularly vote in Federal elections in the State of their residence. These groups include, among others, retired persons living solely on social security, students attending colleges and universities, disabled Americans supported entirely by veteran's or other compensation, and individuals living entirely on welfare.

As stated before, if House Joint Resolution 554 passes the Senate and is ratified by the required three-fourths of the States, the Congress will have to decide whether to increase the membership of the House of Representatives or keep it at 435. The population of the District of Columbia is not presently figured into the national population for purposes of apportionment. The United States is facing a decennial census in 1980 which will be the basis of reapportionment of congressional districts in 1981. If the House decides to keep its membership at 435 and if the population trends, as estimated by the Bureau of the Census, continue until 1981, then adding the population of the District to the apportionment population would result in the loss of one seat from Illinois and the assigning of the seat to the District.* In other words, Illinois, a State whose population is increasing, will be deprived of representation in the House by a non-State whose population has been declining for 28 years. This reapportionment is in addition to the prognosticated reapportionment resulting from the 1980 census of national population migration.

SECTION 1—THE SENATE

The argument for representation in the Senate is conceded by both proponents and opponents to be more tenuous and difficult to make. Members of the House represent numbers of people, but Senators represent their States at large. The Senate is the body of equal representation of the States while the House is the body of proportional representation of the people. This distinction is a result of the "Great Compromise" of

*This was calculated using the Census Bureau's "method of equal proportions" which has been the official method since 1910.

the Constitutional Convention of 1787 which resolved the competing interests of the large versus the small States. It is the foundation of the uniquely American ideas of governmental federalism and State "sovereignty." Thus, in Federalist No. 62, the author (either Hamilton or Madison) remarks:

> In this spirit it may be remarked, that the equal vote allowed to each state is at once a constitutional recognition of the portion of sovereignty remaining in the individual states, and an instrument for preserving that residuary sovereignty.

STATE SOVEREIGNTY

House Joint Resolution 554 would give the District Federal representation "as though it were a State." But what is a "State" and what matter of sovereignty is there in the States? Chief Justice Marshall, in Cherokee Nation against Georgia (1831), defined a State as—

> A political community of free citizens, occupying a territory of defined boundaries, and organized under a government sanctioned and limited by a written Constitution, and established by the consent of the governed.

James Brown Scott in "Sovereign States" offered this definition:

> The State is an artificial person, representing and controlled by its members but not synonymous or identical with them. Created for a political purpose, it is a body politic. It is a distinct body, and artificial person; it has a will distinct from its members, although its exercise is controlled by them.

(Mr. GRAVEL assumed the chair.)

Mr. MATSUNAGA. Will the Senator from Utah yield?

Mr. HATCH. I am delighted to yield without losing the floor for a question.

Mr. MATSUNAGA. As I listened to the Senator talking about Americans elsewhere, I believe I heard the Senator say that in American Samoa, there are 31,000 American citizens.

Mr. HATCH. That is what I understand.

Mr. MATSUNAGA. It is my understanding that they are not American citizens, but American nationals, without even the right to vote.

Mr. HATCH. That is correct.

Mr. MATSUNAGA. Is that the Senator's understanding?

Mr. HATCH. I think the Senator has stated it correctly.

Mr. MATSUNAGA. Because we do have a number, as a matter of fact, a rather large population of American Samoans in Hawaii, but because they——

Mr. HATCH. I am talking about 31,000 actual citizens, but the other people in American Samoa are American nationals; that is correct.

Mr. MATSUNAGA. They are American nationals as opposed to American citizens.

Mr. HATCH. But the 31,000 I mentioned are American citizens who do not have the right to vote.

Mr. MATSUNAGA. The entire population of American Samoa is 31,000.

Mr. HATCH. The Senator may be right on that. I shall have to check that out to be certain.

Mr. MATSUNAGA. Take it from the Senator from Hawaii, who has been there.

Mr. HATCH. He may very well be right.

Mr. MATSUNAGA. We have many dealings with the people from Samoa.

Mr. HATCH. Will the Senator assist me in understanding the status of American Samoa? Will he explain what that is?

Mr. MATSUNAGA. I did not quite hear that.

Mr. HATCH. What is the political nature of American Samoa?

Mr. MATSUNAGA. American Samoa is a territory of the United States. But it is not an incorporated territory as Hawaii was prior to becoming a State, and because of the unique situation known as the Matai system in American Samoa and because of the desire on the part of the American Samoans to retain that system, they have chosen not to become full American citizens. They are American nationals.

So that even when they go to Hawaii, they do not have voting rights, although they may establish residence in Hawaii.

And they have to go through the naturalization process to have full American citizenship rights.

Mr. HATCH. What the Senator says is that those who are not citizens in American Samoa are nationals and the way he defines it is that they are residents within an American territory who will have to go through naturalization in order to be full-fledged citizens?

Mr. MATSUNAGA. A naturalization process to become full citizens. Yes, that is what I am saying.

Of course, if a Samoan national happened to go to Hawaii, which is a State, fully incorporated even when it was a territory, the children born on American soil are American citizens by birth.

Mr. HATCH. I understand.

Mr. MATSUNAGA. But we have a very unusual situation in the case of American Samoa. I thought perhaps, by the statement made earlier by the Senator from Utah, he was not cognizant of that fact. I thought in order to keep the record straight, I should bring up this matter.

Mr. HATCH. I am appreciative of the Senator's wisdom.

Is the Senator also arguing the same could exist in Puerto Rico, Guam, the Canal Zone, and others?

Mr. MATSUNAGA. No; we have a different situation in the case of Puerto Rico. They are American citizens.

Mr. HATCH. So the Senator from Hawaii would admit that the Senator from Utah's position as to the American citizens in Guam, Canal Zone, Puerto Rico, and even in American Samoa, is well taken; that they also do not have the rights that would be conferred here pursuant to this constitutional amendment, and would have every reason to complain themselves that their rights are not being taken care of. Is that not correct?

Mr. MATSUNAGA. Yes, but because one segment of Americans are denied certain rights does not necessarily mean we should treat other Americans in other areas by denying them the full rights of American citizens.

Mr. HATCH. That is precisely my point, because why is there not the zeal to get the rights for all these other citizens, and if this resolution comes through, would that not be the next series of steps so that we have Puerto Rico and the Canal Zone, as well as the last one in American Samoa?

Mr. MATSUNAGA. As the Senator well knows, and from listening to him on the floor on other occasions as well, he is an excellent student of history, we in Hawaii went through the same process.

Mr. HATCH. But you did become a State.

Mr. MATSUNAGA. Yes, we did. That is correct.

Mr. HATCH. And the rights of American citizens——

Mr. MATSUNAGA. We did become a State, but prior to becoming a State we were an incorporated territory denied full citizenship. We could not vote for our own Governor even at that time. We could not vote for the President and Vice President of the United States.

We suffered the same fate that the residents of the District of Columbia are now suffering.

Of course, when we knocked at the doors of Congress to be admitted as a State, we were told we could never become a State because of our noncontiguity.

Fortunately, we overcame that. One of the prime reasons why we overcame that was the great record which the members of the 100th Infantry Battalion and the 442d Regimental Combat Team performed, the great record they made in World War II, as the Senator well knows.

Here we have the similar situation where the District of Columbia in the Vietnam war, for example, sacrified more lives than any other State in the Union, if I am correct.

Mr. KENNEDY. More than 10 other States.

Mr. MATSUNAGA. I am sorry.

So, there, I think they have shown that they valued their citizenship to the extent that they were willing to give up their lives to protect their right.

Mr. KENNEDY. If I may say, in terms of per capita, they were fourth in terms of per capita loss per population for those that were killed. There were seven States that lost less, but in terms of per capita, they were the fourth highest.

Mr. MATSUNAGA. As compared to?

Mr. KENNEDY. The whole country.

Mr. MATSUNAGA. Other States and territories.

Mr. HATCH. Let me say to the distinguished Senator from Hawaii, I do not believe he was here when I began my remarks, I began by saying they should have voting rights in the District. I do not think there is any question. But I think citizens in these other places ought to have them as well.

The point I am making is that we do not do it through this defective amendment, in a way that gives them special rights and privileges other citizens do not have.

I was considerably younger when Hawaii became a State. I was very enthusiastic then, as I am now, that Hawaii became a State. Had I been sitting in the Senate at that time, I would have supported it, because Hawaii went through a process of becoming a State. It is not a Federal enclave. Hawaii is a geographical entity as described by, I think, Chief

Hawaii just as it would any other State. I think Brown's description fits Hawaii like any other State.

But I do not think any American citizen should be deprived of the right to vote.

Mr. MATSUNAGA. May I ask this question of the Senator from Utah?

Mr. HATCH. Surely.

Mr. MATSUNAGA. I was for making the District of Columbia a State. But, of course, that failed.

Does the Senator from Utah believe that the District of Columbia ought to be made a State.

Mr. HATCH. No.

Mr. MATSUNAGA. He does not.

Mr. HATCH. No. I believe we can solve the problem here by, one, retrocession to Maryland; or two, by providing a constitutional amendment which would provide the right of the residents of the District of Columbia to vote in any State of their choice, or the State from which their ancestors came, or from which they came, whichever the case may be, or, where they cannot determine the same, within some reasonable formula, or some other approach. But give the right to vote for Representatives and Senators within the framework of the States and not within a Federal enclave committed to the Federal Government.

There is a tremendous distinction between the sovereign State of Hawaii and all it went through to become a State, which I support, and supported as a young person, and the District of Columbia.

Mr. MATSUNAGA. I certainly appreciate that. I come from a State in whose development many Utahans played a major role, and I appreciate the contribution which the people from the State of Utah have made to the development of Hawaii and in making Hawaii a State.

As a matter of fact, a former resident of Utah, J. Ralph Brown, whom the Senator knows, was the chairman of my campaign committee from the time I first ran for Congress; and he had been chairman throughout, until his recent retirement only last year. He saw me through seven campaigns for the House of Representatives and one successfully for the U.S. Senate. So I have, as we say in Hawaii, much aloha for the people of Utah.

The Senator from Utah makes a very ingenious proposal. I understand that the people of Alexandria at one time belonged to the District, but they clamored for the right to vote for the President and to have representation, with votes in Congress, and they separated from the originally designated area of the District of Washington.

However, until such time as the proposal of the Senator from Utah can be adopted, I wish he would join us and give the people of the District of Columbia two voting Senators in this august body. If that happens, the world will little note nor long remember what we say here; but if the Senator from Utah would switch and support us in this effort, the world will never forget what he did here.

Mr. HATCH. I thank the distinguished Senator from Hawaii, whom I respect very much.

I have a great affection for the Senator from Hawaii and have listened very carefully to his suggestions, and I will continue to listen to the debate on both sides of this issue.

However, my problems with this resolution really are not the emotional ones. Emotionally, I would like every resident of the District to have a right to vote for his own Senator and Representative. On the other hand, I am concerned with some of the approaches to the Constitution that do arise here.

I think this approach not only is defective but also is unsound and is unjust to the rest of the citizens of this country, even though it would accomplish what the Senator from Hawaii and I would like to accomplish, to grant the right of franchise, to vote for Representatives and Senators, to the residents of the District. We do have different approaches.

Retrocession would be the simplest and best approach. It also may be a very difficult approach to accomplish, and I have to acknowledge that. Perhaps the other suggestion I have made would be best. I have not explored it thoroughly because of my short tenure in the Senate and the short consideration of this matter. I have been exploring this amendment, and we have done a great deal of work on this. But I believe that if retrocession is unacceptable to accomplish the end that both of us believe should occur, we should consider a constitutional amendment that allows the residents of the District to vote within either the last State from which they came or from which their ancestors came. Where we cannot ascertain that easily, we can formulate some other approach that would permit them to vote on some other basis.

Mr. MATSUNAGA. I thank the Senator for yielding. I have another appointment. I do hope the Senator will keep listening to what we have to say on this side and perhaps even support us in this matter.

Mr. HATCH. I thank the distinguished Senator from Hawaii, who is always sincere and cordial and courteous on the floor of the Senate and is my friend. I appreciate his comments here today.

As I said before, I do not think every American citizen is represented in Congress. I mention Guam, Samoa, the Canal Zone. They never have had Senators or Representatives. However, if full representation were granted by this joint resolution to a non-State, then the basis would be established for later providing representation in Congress to the U.S. Territories as well.

In fact, granting representation to District of Columbia residents would perpetuate an inequity, since many U.S. citizens who are not residents of any State or the District would still remain unrepresented in Congress. I would think that those who are so zealous of sponsoring this particular amendment to the Constitution knew that when they sponsored it. Yet, there has not been any effort put forth to take care of those in these other areas. I believe that my approach would take care of them a little better than this. It would take care of all the citizens, not just those within the undue emphasis to a Federal enclave which we have here.

There is no use kidding about it. This is a Federal enclave that is dedicated to the Federal Government and literally unrepresentative of the principle of statehood. To call it a State does not make it a State. As a matter of fact, it is ridiculous to call it a State.

I do not think I have heard anybody except the distinguished Senator from Hawaii argue that we should make the District of Columbia a State. I do not believe there would be any real support for that contention or for that position.

The District of Columbia is no more than a city, and thus, in my opinion, it should not be granted representation in Congress, except through one of the methods I have outlined here, which I think good minds could formulate and make more precise.

Although it could not have been foreseen by the Founding Fathers, Washington, D.C., has developed into a large commercial city. Except for a small Federal enclave of the characteristic which typifies it, the District consists only of that urban center. The Framers did not intend that cities should be given representation in Congress. In fact, they specified in the Constitution that only States should have a voice in the Senate and in the House.

If one believes that the District should have representation in Congress, it does not follow that the city of Washington should be able to elect its own Senators and Representatives. To permit that would be to make a radical and qualitative change in our federal system.

If the Nation's Capital, with its roughly 700,000 inhabitants and 69.7 square miles, can elect its own Members of Congress, it is logical to give every other city in the United States of equivalent size and area the same rights of representation. I do not think that should be done, but I believe there certainly could be a clamor to do that in the future.

I think that New York City, Chicago, and Los Angeles, all of which have more than 5 million citizens, probably would clamor for Senators of their own, and perhaps with some justification. So that is something to think about.

To permit that, as I said before, would make a radical and qualitative change in our federal system.

Back to what I was speaking about before we had the interesting colloquy with the Senator from Hawaii:

In the Constitution, all the powers and authorities enumerated in the articles are derived from the more perfect union of the States.

In Federalist Paper No. 39, Madison establishes his important idea that the proposed Constitution is neither a confederacy of sovereign States nor a consolidation of the States but a combination of both:

> It appears, on one hand, that the Constitution is to be founded on the assent and ratification of the people of America, given by deputies elected for the special purpose; but, on the other, that this assent and ratification is to be given by the people, not as individuals composing one entire nation, but

States to which they respectively belong.

Thus, Madison does not claim the type of State sovereignty enjoyed by the States under the Articles of Confederation but he does claim that the States are "distinct and independent."

State sovereignty, or the "portion" of State sovereignty envisaged by Madison, has been much reduced by events of American history. The Civil War destroyed the notion, as championed by John C. Calhoun, that the States were almost entirely sovereign. The 14th and 15th amendments to the Constitution were squarely aimed at limiting the independence of the States. The 16th amendment established a Federal tax on everyone's income. But, the 17th amendment, which changed the selection of U.S. Senators from appointment by the State legislatures to the direct election of the people, was the most crippling blow. Appointment of Senators by the States, through the State legislatures, was a continuing imposition of the reality of State sovereignty of the Federal Government. And the Supreme Court of the 20th century has consistently imposed Federal mandates on the States, especially through its interpretation of the 14th amendment.

Some of us may not like that very much, but it is a fact of life and it is a reality, not just an emotional argument.

So what is left of State sovereignty that by definition would preclude the awarding of two Senate seats to the District of Columbia? The States are sovereign or "distinct and independent," to use Madison's definition, in that they are political beings that can tax, spend, create, and execute law, punish crime, and administer justice. All of these authorities are carried out by the City Council of the District of Columbia but all are subject to congressional approval. So the District cannot be said to have "independence" in its City Council's deliberations as the States do in the deliberations of their legislatures. And the yearly budget, that exercise of the power of the purse, is not legislated at all by the District but is a duty of the appropriate committees of each House. And the police power in the District is not the exclusive jurisdiction of the city government since the city police exercises joint jurisdiction with several federally chartered police forces in some areas and has no jurisdiction over certain Federal properties at all.

In addition, the States may enter into interstate treaties and compacts, permissible under the Constitution subject to the approval of Congress, with other States. The States have used this right to a significant extent in the 20th century, especially concerning matters of commerce, large public works, and transportation. No other power of the States seems to be more definitive of the States' continuing distinctness and independence. The District of Columbia is currently party to several interstate compacts, but they have all been negotiated between the Congress and the interested States. Currently the procedures by which the District will become party to additional compacts are undergoing re-

rule charter to mean that the District can enter into interstate compacts while others interpret it to mean the opposite. Legislation has been introduced into Congress to grant unequivocally the right for the District to enter into such compacts. But until such legislation passes, the District, unlike the States, has no such right.

THE TWO HOUSES

In his famous work, "Democracy in America," Alexis de Tocqueville, after scrutinizing the make-up of the national legislature, remarked:

> The principle of the independence of the States prevailed in the formation of the Senate, and that of the sovereignty of the nation predominated in the composition of the House of Representatives.

That the Senate balances the House in terms of the use of political power is argued by the Federalists as one of the most fundamental underpinnings of the Constitution. A representative, facing reelection every 2 years and representing only a locale of a State, not an entire State, can be subject to the demands of a narrow constituency. His constituency might be the political opposite of a bordering constituency of the same State. For instance, a Congressman representing a district heavily populated by members of labor unions would necessarily represent this interest in his voting record or face eviction from office at the next election. But the neighboring district of the same State might be rural and inclined to support the right-to-work laws, and such support would be reflected, in all likelihood, by its Congressman. In the words of the Federalists, the House is "the numerous body" and "the representative ought to be acquainted with the interests and circumstances of his constituents"—in Federalist Paper No. 56 goes on to state:

> Because ". . . it is particularly essential that the branch of it under consideration (i.e. the House) should have an immediate dependence on, and an intimate sympathy with, the people."

And in Federalist Paper No. 52:

> And because "the House of Representatives is so constituted as to support in the members an habitual recollection of their dependence on the people."

That is found in Federalist Paper No. 57.

Because of this constitutional mandate to keep close ties to the people, it has become customary for Congressmen to attend very closely to the needs and complaints of constituents. Thus, some Congressmen maintain as many as four constituent offices in their congressional districts while it is unusual for a Senator to maintain more than two offices in his entire State.

While competing interests may be few in a congressional district, a Senator, representing all the congressional districts in his State, must necessarily face a multitude of competing interests. As a result, he must have a more general view of all political issues. By way of example, the Senators from Illinois must represent a State whose House delegation is evenly split between the two parties—12 Republicans, 12 Democrats—zona—2 Republicans, 2 Democrats. Today a Senator faces from within his State what Madison saw as a national characteristic in 1787, namely, a "dissimilarity in the ingredients," and a "diversity in the State of property, in the genius, manners, and habits of the people of the different parts of the union."

That is found in Federalist Paper No. 60.

In addition, the framers of the Constitution gave certain other powers to the Senate that they regarded as nonpolitical functions, namely the power to try impeachments, to ratify treaties, and to approve executive nominations. These tasks were assigned to the Senate because it is more likely to be free from the "demon of faction" than the House, that "numerous and changeable body." Thus, the Senate was contemplated by the Federalists to be "a select and stable body,"—as evidenced in Federalist Paper No. 63—an idea that Tocqueville later reemphasized by calling it "the great executive council of the nation," a body that will be "sufficiently independent"—in Federalist Paper No. 65—to wisely tend to "national concerns"—in Federalist Paper No. 64—and "the comprehensive interests of their country"—in Federalist Paper No. 62.

THE INDEPENDENCE OF THE STATES

The Constitution guarantees a "republican form of government" to each State—article IV, section 4. And all States have a republican constitution that closely mirrors the Federal Constitution—but not the District of Columbia whose city council takes the place of the State legislature, but every action of which is conditional on the approval of Congress and, therefore, not independent.

As Ignazio Silone said in his "School for Dictators":

> The first test to be applied in judging an alleged democracy is the degree of self-governing attained by its institutions.

The District has self-government at the pleasure of Congress, not independently of it. Indeed, Congress could abolish the City Council or the District of Columbia at will. It retains such constitutional prerogatives.

To give such a unique equal standing with the several States in the Senate would effect a basic fundamental change in the Senate. Indeed, one must wonder if certain other cities, for instance New York City, could make an equally justiciable claim to representation in the Senate.

Let us talk about the special case of the District of Columbia. Washington, D.C., is the "Federal enclave" and, as such, can be considered a "company town." It is not possible to separate the land area of the District of Columbia from its primary activity, the daily business of the Federal Government.

The Federal Government employs 38.3 percent or 223,900 employees of those working in the District, while the service industries, which are closely alined with the Federal Government, employ 25.5 percent or 149,200 employees.

Employment trends show an ever-in-

g domination by the Federal
ment.

is a Federal enclave, and, as
Will said, surrounded on all four
y reality which, I thought, was
ellent quote; that it really does
stitute a State, will not be a State,
t deserve to be a State, under the
tances, and which should not be
as a State when we have other
available which should be tried
od which may be much simpler
t and ratify. I suspect that every-
onsidering this problem has to
ledge it is very unlikely that 38
are going to ratify this defective
nent to the Constitution. I think
them will not do so, so we may
ing not only the Senate and the
s through an exercise in futility.
e some ability, at our disposal to
liah justice and to provide those
without emasculating our very
nt Constitution.

District receives a direct grant
e Federal Government annually.
yment is provided in recognition
District's role as the Nation's
and helps compensate the city
losses due to the large amount
axable Federal property in the
is based on Congress' jurisdiction
e city as provided in article I,
8, clause 18 of the Constitution
h we have already referred.

ess to say, none of the 50 States
such an unrestricted annual
from the Federal Government.
950 when the population of the
began to decline, the amount of
deral payment has steadily in-
to the point where for 1978 the
l be $300 million or 28.04 percent
District's budget.

Federal aid to the District was
per capita in 1975, about four
nore, on the average, in Federal
n to any of the States, except
which received $739 per capita
ral money.

ared to the 48 largest cities in
Vashington, the 11th largest in
ntry, received more aid from the
Government than any city ex-
w York City.

ington would have a recession-
conomy as long as Federal spend-
ed constant. Since Federal spend-
ever increasing, the area of the
has an assured boom economy.
hington, the Federal Government
present and nearly omnipotent.
re no competing factions or in-
Manufacturing employment in
s only 16,100 people. So it is a
enclave and, as such, is hardly
of the States.

e basis of all this, it would seem
S. Senators from the District of
a would be in the seemingly par-
l but unique position of repre-
the interests of the Federal Gov-
t to the Federal Government. In
, it would seem that a Senator
e District would be under no
ion to weigh the interests of any
ng interests since there are no
nterests that could have a sig-
influence on his election.

rather obvious to point out that the employees of the Federal bureaucracy, the overwhelmingly dominant class in the District, will elect representatives to the U.S. Congress who are sympathetic to the continued growth and prosperity of the Federal working class.

But bigger and more Federal agencies and programs, something which favors the economy of the District, have the effect on the people of the several States of greater Federal taxes and more Federal regulations.

While Senators from the several States must continually balance the claims of competing factions from within their own States, and also balance the federalist distinction of State versus Federal sovereignty, Senators from the District would have no immediately practical reason for doing so. Under the home rule charter, the City Council can be regarded as a kind of State legislature for the District of Columbia, but one of no sovereignty because of Congress' absolute veto over any of the actions of the Council and absolute legislative control over the city's budget.

Providing for election of Senators would give the District the status of a State since it would have equal representation in the Senate, almost a definition of a State. With the District regarded as a State in the Senate it would seem the Federal Government has become incarnated in a new way in that in addition to Federal law, regulation, and influence, there comes into existence a physical manifestation of the Federal Government, the land of the State of the District of Columbia, and a human manifestation in Senators of the District.

With this in mind, it would seem that for the Senators from the District none of these State restraints on the Federal Government that Madison speaks of would be any longer applicable:

> Thus each of the principal branches of the federal government will owe its existence more or less to the favour of the state governments, and must consequently feel a dependence, which is much more likely to beget a disposition too obsequious, than too overbearing towards them. On the other side the component parts of the state governments will in no instance be indebted for their appointment to the direct agency of the federal government, and very little, if at all, to the local members.

That is in Federalist Paper No. 45.

I think this amendment would grant special privileges to the District.

Another power granted to the District under section 1, which I have already mentioned but I am going to reiterate, of House Joint Resolution 554, is the participation of the District in the ratification of constitutional amendments under article V of the Constitution. But article V states that the proposed constitutional amendment shall be ratified by the legislatures of the several States. Since the District of Columbia is not a State, the District has no State legislature. Congress would have to decide whether the city council can function in this capacity, and if the city council does not function, then it means there has to be a direct election or a direct ratification of constitutional amendments, something which no citizen of any State now has.

Several other legislatures of the States have not yet ratified the controversial equal rights amendment; have considered putting the ratification to a referendum of the people. But the State attorneys general have already pointed out that such a referendum would be unconstitutional since the Constitution specifically provides that constitutional amendments shall be ratified by the State legislatures.

Since there are inherent contradictions in declaring that the city council of the District can function as a State legislature, Congress might decide that the people of the District may vote on the ratification of constitutional amendments, in which case the people of the District would enjoy, as I have mentioned before, a constitutional privilege not enjoyed by the people of the several States.

Another problem with section 1, as I have mentioned before, concerns the election of the President and Vice President. Since section 3 of House Joint Resolution 554 repeals the 23d amendment to the Constitution, which allows three electoral votes to the District, the District, under section 1, would be eligible to participate in the election of the President, but would have no electoral votes any longer assigned to it.

Thus it would seem that House Joint Resolution 554 grants direct election of the President by popular vote to the District, while the States, according to the Constitution, must elect the President through the Electoral College.

Both of these problems lead directly to a discussion of section 2 of the proposed constitutional amendment, namely "the exercise of the rights and powers considered under this article shall be by the people of the District constituting the seat of government, and as shall be provided by the Congress."

Neither a reading of the committee report of the House Committee on the Judiciary nor a reading of the record of the debate on the floor of the House on March 2 gives a satisfactory explanation of either the intent or the meaning of this section. In the dissenting committee views of Congressmen HENRY HYDE, CARLOS MOORHEAD, JACK BROOKS, CHARLES WIGGINS, and JOHN ASHBROOK:

> This section implies that the exercise of these foregoing rights and powers must be exercised jointly with the people of the District and the Congress, each holding veto power over the other. This might entail the Congress, for example, voting twice on the ratification of a constitutional amendment, first in discharging its constitutional role under Article V in proposing an amendment and a second time as a sort of legislative endorser for the "people of the District" under this proposed amendment.

What authority should Congress grant the City Council to determine the procedure to be employed concerning the three powers of section 1? And even if the City Council is granted substantial authority in these matters, it must be remembered that Congress always maintains absolute veto over all actions of the City Council. And since the Congress, not the City Council, has legislative authority over the city's budget, Congress would be appropriating the funds necessary to hold elections of its own Members, in addition to issuing regulations on campaign contributions, expenditures, and campaign procedures.

In addition, if the District should ever have sufficient population to be allotted two representatives in the House, then Congress would have some authority in determining the lines of the two congressional districts. In the States, the drawing of district lines based on reapportionment is done by the State legislatures, another example of the continuing viability of State sovereignty. And, finally, it would seem that the Hatch Act, which prohibits Federal employees from participating in political campaigns, would necessarily have to be relaxed for the special case of the District of Columbia. Otherwise, a majority of the adult residents of the District would be unable to be active in campaign politics.

Not only because my name is HATCH, but because I support the principles of the Hatch Act, which is designed for the protection of the rights of Federal employees, I think that would be a drastic situation, totally unlike that of the States, and hardly good efficacy on the part of those who are proponents of this defective resolution.

> Because of this unique relationship between the District's city council and the U.S. Congress, other questions arise when the three powers provided by Section 1 are contemplated in light of Section 2. In the event that H.J. Res. 554 passes the Senate, it appears likely that the states would be unable to determine the precise nature of what they are considering ratifying. In the event of the required three-fourths ratifications of the states, it could happen that the District of Columbia, with its new constitutional position "as though it were a state" might end up with substantial constitutional privileges not enjoyed by the several states.

I would suggest that it is not only possible, but that it really is going to happen.

These are all important points, and I think it shows that this is not a racial question. This is not a question that involves trying to deprive the people of the District of the right to vote. As I said at the beginning of my remarks, I think there are ways we can provide the right to vote not only for them, but for every citizen, including those of Guam, Puerto Rico, American Samoa, and even the Canal Zone in Panama—the right to vote for Senators and Representatives.

But let us do it within the framework of the Constitution, within the framework of that which was contemplated by the Founding Fathers and has worked so well for so many years. Let us not allow a radical departure from that framework which, in my opinion, will wind up costing us in the end, in an overzealous attempt to accomplish something which could otherwise be accomplished with a lot less effort, with a lot less chance of losing in the ultimate result, the opportunity for residents of the District to vote and be represented.

If they can get this resolution through and 38 of the States ratify it, the District will have their own Senators and Representatives right here in this little Federal enclave of 69.7 square miles. It does not seem to be a matter of having better representation; that can be given in a reasonable way. We might even be able to do it by statute rather than constitutional amendment. But that is not what this proposal grants. What it grants is two more Senators and another Representative, out of a constituency that represents one point of view.

It is something to think about. I think the arguments against it are somewhat overwhelming, but my colleagues here in the Senate may prove me wrong. We will have to wait and see.

As I have said before, I think every American citizen ought to have a right to vote for Senators and Representatives, but I do not think the District should be granted the rights this amendment would grant them, to have more rights than other citizens within the country. I do not think the Federal enclave should be given two Senators and a Representative, and I do not think we should abandon and radically depart from the Constitution, as this amendment would mandate. In the end, I think we would all be better off, and in the end can grant the District of Columbia voting representation, by proceeding in a constitutionally valid way.

Mr. President, I ask unanimous consent that Lisa Dowdy of Senator Stevens' staff be granted the privilege of the floor during the consideration of this measure and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I notice that the distinguished Senator from Oklahoma is here. I am delighted to yield the floor to him at this time.

Mr. BARTLETT. Mr. President, I ask unanimous consent that Tom Wasinger of my staff be accorded the privilege of the floor during the consideration, debate and votes on this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, the matter of representation for the District of Columbia, I think, is very important, and I am very pleased that the chairman of the Subcommittee on Constitutional Amendments, who is present here now, saw fit to have extended hearings on this matter and accorded me the opportunity of presenting my views to the subcommittee during that time.

There are some people who say that the District presently is not represented. I daresay others will say and do say that it is over-represented. But certainly it is represented by the entire Congress.

The District has the distinction of having special committees in both the Senate and the House of Representatives, that is, the District Committees, to represent its interests and to bring those interests directly to the floor of the Senate and the floor of the House of Representatives for the enlightenment and the consideration of all Members.

In addition, the national media serve perhaps a more meaningful purpose as far as local issues are concerned with the District of Columbia than is the case with most States and with most communities within those States.

In the main, the members of the national media, the newspapers, TV and radio from around the country, live in or near the District, and most of them work here. So they are very familiar personally and intimately with what they feel to be the needs of the District.

It also gets its fair share, and I think rightfully so, of attention from the local media, newspapers, TV, and radio, and I believe that the media is as rightfully parochial in advancing the needs of the District, as the media sees it, as is the media of the States and of other communities and cities of a similar size to the District. But one of the differences is that the output of the media comes directly to the ears, eyes, and attention of the Representatives in Congress who have the responsibility of the District itself.

Mr. President, this proposal which would provide two Senators to represent the District is completely contrary to the intention of the framers of the Constitution, which was to have a neutral district in which the Capital City would be located.

I might go back to my first point and say I do not believe it can be very well demonstrated that the rights of the citizens who live in the District are not being protected and that their interests are not being considered or represented. Because of the special relationship to Congress as the seat of government and the Nation's Capital, the District of Columbia is of great concern and responsibility to both Houses of Congress.

Granting full representation to the District, as I said, would be contrary to the intent of the framers of the Constitution. They wanted to set aside, and did set aside, an area unique in character and free from any kind of entangling interests. They did not want to put the Federal Government in the position of being influenced by a State and become involved in that State's matters because of its location in that State.

The framers gave Congress exclusive control over the District, with full responsibility for local concerns. So failure to give the District two Senators was not an oversight, it was not an accident, it was a recognition that this District was different. It was given representation, but in a different way. We must remember that representation by two Senators was a privilege exclusively reserved to the States.

The District certainly has fared well with the present arrangement. I do not think it is possible to say that it has been mistreated by the Congress. The District ranks as one of the highest cities in terms of per capita income in the United States. It also has cultural and educational advantages that many parts of the country do not have, and much of this not provided at the expense of the taxpayers of the District.

It would be unfair to the States to provide two Senators to the District of Columbia because the States are sovereign and still have some of the sovereignty they had at the time they bestowed limited sovereignty on the U.S. Government. They did this to form a more perfect union. They provided sovereignty for the Federal Government, not the reverse. And they retain their individual sovereignty to a greater extent than the

Federal Government and the courts wish to recognize.

The point is that the States created the Federal Government and they also created the District. They did not confer sovereignty on the District. If this proposal is accepted we are saying that the Federal Government can bestow or confer sovereignty on an area.

If this proposal were submitted to the States and passed by the States, becoming part of our Constitution, we would be creating a new hybrid State, different from all the rest. Some might call it a superstate. It would have the benefits of statehood but not all of the responsibilities of statehood. It would have the appearance of sovereignty, yet would be totally dependent upon the Federal Government. It would still have, in addition to its representation of two Senators, representation by the entire Senate and from the Senate Committee on the District of Columbia.

(Mr. CULVER assumed the chair.)

Mr. BARTLETT. The States agreed to a more perfect union, and in the process created the District. They did so with the understanding that all of the States would be treated equally.

It is unlikely that they would have agreed to this union if they knew a nonsovereign entity would enjoy an equal or actually more than equal status than they were to enjoy.

Mr. President, granting the District representation as if it were a State would violate historical as well as constitutional mandates, and work a qualitative change upon our federal system of government.

Article I of the 17th amendment uses the word "state" with reference to membership in the Senate and the House.

For purposes of Federal representation, the District cannot be considered as a State since it lacks powers common to the States.

Congress possesses the power of exclusive legislation over the affairs of the District. Congress has all police and regulatory powers over the District. Congress has final authority over the District budget and appropriations. Congress can veto the decisions of the City Council of Washington, D.C. The defeat, recently, of the commuter tax is just such an example. And Congress could abolish the city government altogether if it wished.

Article 5 of the Constitution provides,

> No States, without its consent, shall be deprived of its equal suffrage in the Senate.

This was a compromise to insure that large States would not, in the future, change the method of representation in the Senate. States have two Senators because they are sovereign. Federal representation is a measure of that sovereignty. To accord two Senators to an entity other than a State—a District purposely set apart from the States—would diminish and deprive States of their equal suffrage.

The District, as a hybrid State, would have its own special kind of representation through the entire Congress and the congressional committees and would have, as I shall mention later, special considerations that are not given to the other States. As long as every State is treated the same way as every other State, the equality of suffrage is not destroyed by admitting a new State to the Union. But this statement that the equality of suffrage would not be destroyed by admitting a new State to the Union would not hold true if a hybrid State, such as is proposed by this amendment, were created.

Inasmuch as the District enjoys particular advantages—that is, financial—that are not accorded to the other States, to extend Federal representation to the District would dilute and diminish sovereignty and would dilute the equal suffrage of the States. In my opinion, the States would never have agreed to such an agreement at the time they gathered to form this more perfect Union.

Some might say that if we did give the District full voting representation and include two Senators to represent them in addition to the present representation, we could no longer call ourselves the United States of America, but rather would be referred to as the "United States and Other Assorted Things of America."

The District is no more than a city. The framers did not intend that cities per se should be given representation directly in Congress. Again, States with sovereignty were to have the voice to represent the States in the Federal Government.

The fact that other cities already have elected Federal representation is irrelevant. They share their Senators with the entire State. But this would not be so if the District received two Senators. It would be patently unfair to enfranchise District residents to a greater extent than the people of other cities, cities much larger than Washington, D.C.—cities like New York, Philadelphia, and Chicago.

Mr. President, the District is not subject to taxation without representation. The Federal benefits exceed what the city contributes by way of Federal taxes. In 1976, the District paid into the Federal Treasury $645 million. It received however an annual direct payment, in 1977, of $276 million and Federal grants of $340 million. In Federal loans from the U.S. Treasury the District received $101 million in fiscal year 1979. This does not even include outlays for the hospitals, universities, the Smithsonian, the National Zoo, the Kennedy Center, police protection, upkeep of Federal monuments, the C. & O. Canal, and the national parks within the District. Also, the Federal Government, just recently, helped pay off the bonds for construction of RFK Stadium.

The District report on loss of revenue because of the Federal presence do not include revenues from the tourist business, convention business, construction of Federal buildings, and jobs created by such construction. Moreover the District Committee of the Senate recently saw fit to agree on a loan program for a convention center to be built in the District.

Granting the District Federal representation would create a situation in which the Federal interest would be promoted to the Federal Government for a Federal city. The District really is a company town and totally dependent, or nearly so, on the Federal Government for its livelihood, indeed, for its existence.

In 1976, the Federal Government directly employed almost 40 percent of those working in the District. Those businesses and industries servicing the Government employed another 25.5 precent.

There is hardly any manufacturing and no agriculture. Senators from the District thus would be under no compulsion to consider the needs of any competing interests other than the Federal Government because no other interests would rival that of the Federal Government. Such representation could inevitably lead to the kind of pressures that Madison spoke against and wanted to avoid when they created this unique Federal District.

I think we should, at the very least, if we saw fit to grant the District Federal representation, cut the District's umbilical cord to the Federal Treasury and to the entire Congress.

Mr. President, District representation is ultimately a constitutional issue. It is not, in my opinion, a race issue, as was alleged in the local press recently regarding the junior Senator from Oklahoma. I thought that was particularly interesting; the charge I am speaking of, in light of the fact that no arguments were made to support the charge. Certainly, when someone is supporting the position taken by the Founding Fathers to create a District as a separate entity, different from the States, this is a point of view that is reasonable and should be considered, even if it is not the point of view of the particular paper involved.

I do not think it necessarily bespeaks of racism to disagree with this particular legislation that would submit this important question to the people of this country. And it is interesting to note that as far as racism is concerned, the population trends suggest that by 1983 the whites will constitute a majority of the people in the District.

This is also not a liberal-conservative issue. No one knows what future course American politics will take.

Further, I do not think it is a matter of simple democracy, because we are a Republic, not a democracy. We have a unique setup as far as the District and as far as the country as a whole is concerned and I do not think it is in the best interests of this Nation to create a hybrid State that would have rights and privileges that the other 50 States would not have.

Mr. MATHIAS. Will the Senator yield to me briefly without losing his right to the floor?

Mr. BARTLETT. I am happy to yield to the distinguished Senator and my good friend from Maryland without losing my right to the floor.

Mr. MATHIAS. Mr. President, I thank the distinguished Senator from Oklahoma for his kindness in yielding a few seconds to me.

Mr. President, I am pleased to be here today as the Senate begins its consideration of a constitutional amendment

which has been high on my legislative agenda throughout my entire congressional career; an amendment to provide full voting representation for the District of Columbia in both Houses of Congress.

The subject matter of today's debate is not new. It has been around for a long time. In fact, a constitutional amendment to grant the District full voting representation was first considered almost immediately after residents in the District lost their voting rights in 1800 when Federal jurisdiction over the Capital took effect. Although the first constitutional amendment providing voting representation for the District was not offered in Congress until 1888, the prototype for that proposal and for all subsequent versions was drafted in 1801 by Augustus Brevoort Woodward, a close friend to President Jefferson.

Regrettably, despite early recognition of the need for such a constitutional amendment; despite the introduction of over 150 resolutions on the subject; despite the holding of more than 20 days of hearings, and above all, despite our Nation's efforts throughout its history to achieve universal suffrage, the citizens of the District of Columbia remain disenfranchised in the Congress of the United States. This can only be viewed as a travesty of justice. This intolerable situation has gone on far too long. It is a national disgrace. It must be finally corrected without further delay.

True, Congress has not totally ignored the imperative of removing the barriers which stand between democracy and the American citizens residing in the District of Columbia.

In 1961 the 23d amendment to the U.S. Constitution was adopted, allowing the residents of the District to vote in Presidential elections for the first time.

Then, 10 years later, in 1971, Congress created the position of non-voting delegate for the District of Columbia in the House of Representatives. And, in 1973, Congress provided significant self-government authority to the residents of the District of Columbia.

These steps are important. They are better than nothing. But they are not enough. Enactment and ratification of a constitutional amendment for full voting representation for the District of Columbia must be achieved expeditiously. It is the single most important piece of unfinished business on our national agenda.

We stand closer to reaching this goal today than at any other time in our history. On March 2, 1978, the House of Representatives, led by the District of Columbia's lone Representative, WALTER FAUNTROY, overwhelmingly passed House Joint Resolution 554, a constitutional amendment to provide full voting representation for the District in both Houses of Congress by a vote of 289 to 127. It is now up to the Senate to take the next historic step in the constitutional process by passing this resolution and speeding it on its way to the States for ratification.

As we review the case for a constitutional amendment granting full voting representation to the District of Columbia, one point will be crystal clear; there is no constitutional impediment to such an amendment. This message has been delivered to Congress many times in the past and was echoed in unambiguous terms earlier this Congress by several noted constitutional scholars.

Mr. President, the constitutional and legislative history supporting this amendment is in place. The only remaining issue to be resolved is a moral one. It relates to the basic rights of people in a free society. We must ask ourselves what it does to our democracy, to our professed ideals, if we permit this form of disenfranchisement of more than 700,000 Americans to continue. This is the real question facing the Senate and the American people.

I do not believe this should be a hard question to answer for a nation whose political system rests upon the principle that all citizens should be able to participate equally in our political process.

A citizen's right to be represented in the elected bodies of this Nation is no less precious than his right of free speech or his right to privacy or his right to due process under the law. The right to be represented is a fundamental freedom and is the bedrock of our constitutional government. All too often it is a right we take for granted. To be excluded from this process, to have no voice when the votes that determine peace or war are cast, is the worst of deprivations. It is, at this late date, "taxation without representation". Americans were not prepared to tolerate that injustice more than 200 years ago, and they should not tolerate it now.

Last year, in testimony before the House Judiciary Subcommittee on Civil and Constitutional Rights, I stated that the passage and ratification of the constitutional amendment now before us was necessary to provide full human rights in the District of Columbia. And, I called upon President Carter to bring his human rights campaign home to the Nation's Capital; to throw the full weight of his great office behind full voting representation for the District. To his credit, President Carter has done just that. We, in the Senate, must join with the President and reaffirm our support for human rights of the citizens of the District of Columbia. Simple justice demands it.

Mr. BARTLETT. Mr. President, I might say that the distinguished Senator from Maryland brings to mind one of the points I wanted to make at the very beginning. That is, that Senators from States such as Maryland have taken a particular interest in the District. Certainly, the distinguished Senator from Maryland has. With his position on the District Committee, he has, in my opinion, done a very fine job of representing the interests of the people in the District.

It was my pleasure and privilege to serve on this committee with the distinguished Senator from Maryland (Mr. MATHIAS). I would say I found it very rewarding.

Mr. MATHIAS. Will the Senator yield?

Mr. BARTLETT. I am glad to yield.

Mr. MATHIAS. I acknowledge the very valuable contributions the Senator has made as a member of the old Senate District Committee. Certainly he brought to that committee his experience as a Governor, his experience in the management of governmental affairs at the highest level, and he came with the kind of unique background which made it possible for him to look with an experienced eye and with a very sympathetic eye on the problems the committee had to face.

Mr. BARTLETT. I thank the distinguished Senator from Maryland.

I again commend the Senator for his great contributions to the District, for the many advances that have been made in the voting that now takes place, the elections that now take place, and the progress that has been made by the District.

Much of this can be directly traced to the distinguished Senator from Maryland.

Also, in carrying a little further the fact that the District representation is a constitutional issue; it should be noted that opposition to this proposal stems not from a callous disregard for human rights, but rather from genuine concerns about the mandates of the Constitution, about this union of States, indeed about the entire notion of federalism. Our scheme of Government would be altered dramatically and fundamentally if this particular proposal was passed by three-fourths of the States and became a part of our Constitution.

Mr. President, the proposal before us says that the District should be treated as if it were a State, but I do not believe it can, constitutionally. What we really do by this amendment is create a hybrid State, with rights that go beyond the other States.

I do not think this would be in the best interests of the entire country. Therefore, I am in opposition to submitting this question to the people of the various States for their consideration.

I believe that the Founding Fathers, when they created this more perfect Union and the opportunity for other areas to become States, created the District as a special entity with special representation. Mr. President, they knew what they were doing and reached a decision that was beneficial then to the welfare of this Nation and that is still beneficial today.

I ask unanimous consent that additional remarks on this subject be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR DEWEY F. BARTLETT ON FULL VOTING REPRESENTATION FOR THE DISTRICT OF COLUMBIA

Mr. President, I appreciate the opportunity to speak on the subject of full voting representation for the District of Columbia.

Mr. President, because the District is neither sovereign nor a state those who now hope to give it full voting representation in Congress have had to sidestep the Constitution, which requires that both chambers of Congress be composed of individuals chosen by the various *states*. The pending resolution simply provides that for purposes of representation in the Congress, the District shall be treated as "if it were a state." But such a novel concept flies in the face of, and is

totally incompatible with, the role the District now plays in the overall structure and functioning of our federal system of government.

Our Constitution provides a framework in which the individual sovereign states would form a more perfect union. At the same time though, the Framers of the Constitution recognized "the indispensable necessity of complete authority at the seat of government," (Madison, Federalist No. 43). Without it they feared that the state encompassing the seat of government might unduly influence the national governing body. They wanted each state to be truly equal with the others, not one state more equal.

From this we clearly see the Founding Fathers' intention to carve out an area of land that was to be unique and special in every respect vis-a-vis any other state of the union. It was not to be a state. It was to be a solely federal district. It was to be responsible only for itself, the seat of the federal government. Unlike a state, the District was to have no legislature and no constitution. Most importantly, its peculiar character would deny it those qualities that make a state, any state, sovereign.

The special nature of the District is illustrated in another way. Every year it receives a direct grant from the federal government that supplements locally generated revenue; something the states do not get. For Fiscal Year 1977 this amounted to $279,357,000. In addition, it can borrow directly from the federal treasury to finance capital projects; something the states can not do. Loans for such outlays in 1977 came to $101,292,000. The District also participates in federal grant programs. In Fiscal Year 1978 it will receive roughly $300 million through such grants.

Appropriately enough, in Fiscal Year 1978, 47% of the total resource available to the District will come from federal sources. And these figures do not even include federal outlays for national parks, the Smithsonian Institution, the Kennedy Center, the National Zoo, St. Elizabeth's Hospital or the benefits the District receives from the large number of tourists brought to the area to see Washington's many federal attractions.

These financial privileges were granted to the District pursuant to the notion, first established by the Framers of the Constitution and later accepted by the several states, that it would be maintained by the Federal Government for the federal government's operations as compensation for its waiver of any claim to the incidents of sovereignty. It seems reasonable to me then that any attempt to remove the special political status of dependency of the District of Columbia must be accompanied by concomitant steps to remove its financial status of dependency. If the District now wishes to take its place among the several states, it should be willing to join a state such as Maryland and forego the federal largessé which has flowed as a result of its very special status.

Under our constitutional scheme of government the several states are to be treated with a modicum of equality. This scheme, in my opinion, cannot tolerate a situation in which one "hybrid state" is more equal than the others. There is, then, a serious question whether, by allowing federal representation of an entity which does not possess the attributes of statehood, we are not in fact treating the states less equally and depriving them of the exercise of their distinct measure of individual sovereignty, in violation of constitutional, as well as historical, mandates.

U.S. Senators and Congressmen from the District would be in the seemingly paradoxical, but at least unique, position of representing the interests of the federal district to the Congress which has the constitutional responsibility for the District, but not the states.

It is true that District residents pay federal taxes. But it is also true that because of the District's special status they enjoy distinct advantages not available to the residents of the sovereign states. Granting full voting representation to the District would in effect simply add another layer of cake to the one its residents already savor. In this instance the blessing of statehood would not be accompanied by the burdens generally associated with it.

In sum, the reasons for maintaining and insisting upon a unique federal district are no less compelling today than they were in 1789. But if we are going to legislate into existence this new "Hybrid state," then at the very least we should demand that its umbilical cord to the federal treasury be severed.

Mr. BARTLETT. Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. I will be glad to yield to the Senator from Nebraska.

Mr. CURTIS. I wanted the floor in my own right.

Mr. BAYH. I rise to offer my support enthusiastically for House Joint Resolution 554, a constitutional amendment to establish full voting representation for the more than 750,000 citizens of the District of Columbia.

Before I present my substantive argument in support of this resolution, let ate Joint Resolution 65, a similar measme make it clear that despite the fact that hearings were held in my Subcommittee on the Constitution, on Senure which has been introduced and sponsored by several of us in the Senate, I, nevertheless, feel that the House version is a far better vehicle by which to bring political equity to the citizens of the District of Columbia.

For that reason, I decided not to try to report out Senate Joint Resolution 65, but instead to join my very distinguished colleague (Mr. KENNEDY) in getting House Joint Resolution 554 expeditiously passed by the necessary two-thirds vote.

If, indeed, the Members of this body feel there is a substantive and equitable reason behind this effort, it seems to me that we cannot be blind to the procedures of the Senate Judiciary Committee, which would make the movement of the Senate bill through the subcommittee and the Judiciary Committee, for all intents and purposes, impossible, given the time constraints on the Senate at this time in our session.

Mr. President, let me look at the basic reasoning, the substantive reasoning, and suggest that if anyone desires to debate the procedure, I am prepared to do that as well. The substance, it seems to me, is the most important matter to consider in any legislative effort, and we should not let procedural differences stand in our way of accomplishing substantive equity.

Mr. President, it may appear strange to some observers that the senior Senator from Indiana has chosen to champion the cause of citizens living approximately 600 miles from his home State. But I chose to champion this cause out of a grave concern for an injustice that transcends State boundaries. That injustice has to do with a living paradox in the American scheme of government. Right here in the Nation's Capital, which is the seat of the greatest representative democracy the world has ever known, the democratic values and principles that we all cherish and protect are abused. Right here in Washington, D.C., nearly three-quarters of a million citizens are denied the right to representation as it is commonly granted in the 50 States of the Union.

I listened with a degree of understanding and patiently as my colleagues on the other side of this argument expressed their opposition. One can look at all the reasons for not supporting this amendment, but in no way can one deny the fact—that in Washington, D.C., we have nearly three-quarters of a million citizens who are denied the right of full representation as it is commonly granted in the 50 States of the Union. Second-class citizenship exists for three-quarters of a million Americans who live in the District, and there is no way to explain that away.

Residents of the District, though citizens of the United States subject to all obligations of such citizenship, have not had voting representation in Congress since 1800; and only since 1964, and the ratification of the 23d amendment to the Constitution, have District residents been entitled to vote for electors for the offices of President and Vice President of the United States. It was not until April 1971 that they were given the right to elect a nonvoting delegate to the House of Representatives. And let me add that the citizens of the District have been extremely well represented in the person of Delegate Walter Fauntroy for the past 7 years.

I wondered, as I listened to the arguments against giving representation to the citizens of the District, if indeed one is to follow that rationale for denying full citizenship in the congressional branch, that, to be consistent, those same voices should have been raised in opposition to letting the citizens of the District vote for the President; because much of the rationale, to be consistent, would have to apply across the board.

I had the good fortune, as the minority floor leader of the Indiana House, to be the principal sponsor of the ratification petition in the Indiana General Assembly.

It seems to me that we are talking about the rights of citizenship, and they are not visible. They have the right to vote for President but not the right to be heard as to those issues decided in Congress.

But more must be done and it must be done now. No more delays. No more talk of retrocession, or of studies to determine the feasibility of retrocession.

I respect the position of those who might suggest this alternative, but the time has come to act. We must go forward in extending full representation to the citizens of the District. I say this because I firmly believe that the circumstances leading to the disenfranchisement of the District's citizens have drastically changed. Let us look at history and lay it on the facts of life as they exist today.

The Founding Fathers were intent on providing a site over which the Federal Government would exercise exclusive

control. That has been discussed at some length by the opponents to this amendment. The Founding Fathers wanted a separate capital which would not only protect the national image, but which would be immune from both jurisdictional disputes as well as potentially harassing incidents. For many of the Founding Fathers, national representation for the District would necessarily have precluded the establishment of exclusive Federal control over the capital site. As James Madison so eloquently stated in the Federalist Papers, "Complete Federal authority at the seat of government" was necessary to avoid the "dependence of the members of the general government on the State comprehending that seat for protection in the exercise of their duties." Clearly, the founders perceived the need for a strong Federal territory, free of State encroachment, and secure from domestic unrest.

However, it should be noted that while the framers fully intended to establish a separate capital city, they never fully decided to exclude the residents of that city from political representation. As a matter of record, it is important to note that between 1790 and December 1800, residents of the District participated in State and National elections, including the Presidential election of November 1800, by voting in either Maryland or Virginia. However, when Congress finally assumed control of the District late in 1800, the lame-duck administration of John Adams rushed to take over the administration of the District before President-elect Thomas Jefferson's administration came to power. As Pulitzer Prize-winning historian Constance Green points out, the Federalists neglected to give the franchise to District residents when legislating the takeover. After the Federalists left office, attempts were made immediately to rectify the problem. Unfortunately, as the fight to retrieve suffrage for the District residents began in February 1801, the measure was lost in the shuffle of the Jefferson-Burr electoral college deadlock controversy which plagued that particular Congress. Since that time, there have been more than 150 attempts to provide representation for the District. Most of these measures have also been victimized by what was then considered much more pressing business before Congress.

So, Mr. President, it seems to me that we must realize that circumstances have changed. There is no longer the question concerning the harassment by citizens of the Nation's Capital, as was the major reason for the creation and concern for independence of a Capital City, as expressed earlier in my remarks, by President Madison.

Also, I emphasize again that our Founding Fathers did not desire—it was not in their thoughts—that the residents of the Capital City would not have a chance to be heard and represented in the Congress of the United States.

We must not overlook a very basic reason why the District failed to receive representation in the early years of the Republic. Its population was simply too small. In 1801, the District had only 14,000 residents, far fewer than the 50,000 required of territories that wanted to enter the Union at that time. Quite naturally, such a small population could be easily overlooked. Yet, during the 1801 debates on District suffrage, many Members of Congress spoke of providing representation for the District when its population reached the appropriate size.

Today, the population of the District is entirely appropriate for representation. Given its size alone as criterion, representation is essential. The District's present population is larger than 7 of the 50 States in the Union—and larger than that of any of the original 13 States during the first years of the Republic.

Finally, I must state what to me is the most important consideration in this discussion. There is nothing more abhorrent to the American people than the idea of taxation without representation. One of the fundamental principles enunciated by our Founding Fathers was the firm belief that those citizens who contributed to the public coffer should and would have the right to elect their leaders. Over 200 years ago, the injustice of taxation without representation served as one of the major elements which drove our forefathers to revolution. We will fail to be consistent with the dictates of our forefathers if we do not provide representation to a portion of our citizens who are law-abiding taxpayers.

So let us put an end to this glaring contradiction in our philosophical principles. Let us not make a mockery of our democracy. We have the means by which to make the dreams that our forefathers fought and died for a reality. It is a basic premise of our system of government that each deserves a chance to be heard and to express his or her political views through a freely elected representative or representatives. That is all the citizens of the District are asking. The irony of these proceedings is that they have to take place at all. Therefore, it is our responsibility and duty as members of the most democratic governmental unit in the world to correct this wrong, through the immediate passage of House Joint Resolution 554.

Mr. PELL. Mr. President, will the Senator yield for a question?

Mr. BAYH. I yield.

Mr. PELL. I have long been interested in this subject. I notice that originally, a substantial part of what is now Virginia, on one side of the river, and the District of Columbia, on the other, were in a 10-mile square. Then, some years ago, the part that was residential, which was on the other side of the river, was ceded back to Virginia as Arlington County.

I often have had the thought that the Federal Triangle itself obviously should not be under any State's rule—the Federal Triangle being that section bounded by the State Department, the Lincoln Memorial, and the Capitol—but that the rest of the area is really a residential city. It is not much different than the situation between Chevy Chase, Md., and the suburb on this side of the border. If it were part of Maryland, for example, it would then be the largest city, I guess, in Maryland. It would be Washington, Md.

Why was the idea never taken seriously of having it become part of Maryland? With the huge affectionate regard for the proponent of the bill, I am sure he can satisfy my curiosity.

Mr. BAYH. It seems to me, that the most immediate response or direct response is to say that there is no way I think of that we can constitutionally do this without the concurrence of the State of Maryland, and from talking with Members of Congress as well as the State government in Maryland they like things as they are now. They view the District of Columbia as a city within its boundaries and see no reason why they should suddenly have to assume responsibility and consider this as a part of the State of Maryland.

Mr. PELL. Have they ever been directly asked if they are interested in doing this?

Mr. BAYH. They certainly have been indirectly asked, and the response has been as I suggested to my friend from Rhode Island.

Mr. PELL. Will there be an amendment offered to that effect mandating its return to Maryland as the largest city in Maryland in the course of this debate?

Mr. BAYH. There is nothing to prevent anyone from doing that. I understand that is one of the proposals before us and that such a proposal will be offered. I do not know whether it is possible really to cut the heart out of a body and have much left. It seems to me most of us who have come to this city and many of our constituents who find themselves coming for the first time have come to think of the District of Columbia as more than just a Federal triangle but indeed as a geographical area that incorporates the entire city of Washington, D.C.

Mr. PELL. But what is the difference, for instance, between Wesley Heights, to take a very high income area, and Chevy Chase next door; or on the other side of Maryland between southeast Washington and the line over into the Maryland frontier? Would that not be the same?

Mr. BAYH. I suppose that is the difference between East Chicago, Ind., and Chicago, Ill. There is a boundary line separating it, and that is the distinction that exists right here.

Mr. PELL. It would still leave the Federal triangle. And basically should not the Federal buildings be a separate Federal establishment? And it would give the other people the right of representation. This could be one way to give them representation.

Mr. BAYH. I point out to my friend from Rhode Island when our Founding Fathers established this as a capital city, if one is to look at what happened then, they did not just establish a place that should be the Federal city and say this is where the Federal buildings are. But they envisioned this as a viable city, a capital city with people who work, have businesses, and have transportation lines, and homes. The essential establishment of the Nation's Capital was not an establishment of the Nation's Federal buildings but the Nation's city.

Mr. PELL. Maybe the Senator is much more steeped in this subject than I am and knows much more about it. Can he enlighten me why it was the Virginia side was returned to Virginia as Arlington County?

Mr. BAYH. The basic Federal structure alluded to earlier by the Senator from Rhode Island existed on the other side of the river plus there was no disagreement on the part of the State of Maryland to that retrocession.

Mr. PELL. In other words, the real crux of the problem, I guess, is that there is disagreement now and Maryland does not want it back. Is that not the essence of the problem?

Mr. BAYH. That is right, plus the reason I get really enthused in my support of this, just as I got enthused in my support of——

Mr. PELL. Many good causes.

Mr. BAYH. I thank the Senator. One was the measure championed and voted on earlier by my friend from Rhode Island who has done such an exceptional job in the area of education.

But I do not know how we can say that the citizens of the District should have the right to vote for President but they should not also have a chance to vote for Members of Congress, who vote and work on those same issues that are legislative in nature and also part of the President's program. And the reason I did that, as a citizen from Indiana and a member of the State legislature when I was the principal sponsor for ratifying the 23d amendment, was that this is partially my city. This city belongs to Indiana, to Rhode Island, to Virginia; it belongs to the whole United States of America. Having said that that does not mean that the people who live here should be second-class citizens and should have to pay taxes and see their sons die on the battlefield and not have a chance to be heard in the debate that supports that kind of war.

Mr. PELL. That is a good point. For example, in the Vietnam war, black Americans unfortunately made up a disproportionately high percentage of draftees.

Mr. BAYH. If one is to be consistent here we are talking about the District of Columbia had more deaths in Vietnam than 10 States.

Mr. PELL. And more population than seven States.

Mr. BAYH. They pay more taxes than 11 States.

Mr. PELL. And more people than seven States.

Mr. BAYH. And more people than seven States.

I am not to sure there is a correlation there on the question of race at all. But that it seems to me, I say to my good friend from Rhode Island, is not really the argument here. Regardless of the color of the people who live here, regardless of the income bracket, indeed, regardless of the size of the population, all three of which are represented on that chart back there, the question before us is whether there should be citizens of any color or any ethnic group, any income bracket living in a State of any size or geographical entity of any size that just plain do not have the right to be represented when their tax dollars are being apportioned, when their educational programs are being decided, when their warmaking capacity is being decided. That, it seems to me, is the basic equity that we are trying to resolve here.

Mr. PELL. I could not agree with the Senator more that they should be represented, particularly as they have not gotten a square deal very often in the past and, for that reason, they have an extra right to be represented.

As the Senator pointed out, if Maryland does not want to do it, it would be a very hard row to hoe.

Mr. BAYH. To be brutally frank that is the question. You can argue the theory and, indeed, as I argued sometime ago, that was the kind of practice that was envisioned early on in the history of our Nation. But because the laws were changed in times past and efforts to restore the francise failed, we have now gotten to the place where the State of Maryland does not want to return to that.

I think we have a lot of history which has passed where we have a lot of people out in the hinterlands who say, "That is our capital and that belongs to us and our 5.5 million people, the District of Columbia, as much as it does to the State of Maryland. Why give that city away?"

From a practical standpoint, I say the fact that the State of Maryland would rather remain separate and apart in their own characteristics now is the answer to the question.

Mr. PELL. I thank my colleague.

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. BAYH. Yes, I would be glad to yield.

Mr. SCOTT. Will the Senator yield for a question?

Mr. BAYH. I yield.

Mr. SCOTT. I was interested in the remarks the Senator made with regard to the number of soldiers who died on the battlefield. Certainly we would be in complete agreement that we hate for any American youth to die in combat. We would be sympathetic with the family of those people. But is that the basis for determining representation in the Senate? The distinguished Senator from Indiana is chairman of the Subcommittee on the Constitution, where I am privileged to serve as the ranking Republican. I believe we both know that we are here representing our respective States, and we know the history of the fact that people were killed on the battlefield does not bear a relationship to representation in the Senate.

Each State has two Senators. I do not follow the logic of people being killed on the battlefield—people from every part of the country, almost every family group, have had someone who was lost in one battle or another, and I just do not follow the logic. Maybe the distinguished Senator would enlighten me on that.

Mr. BAYH. I will be glad to try to do so for the Senator from Virginia. I think enlightenment is not necessary because I am sure he is enlightened on that subject. Persuasion is something I shall try.

Mr. SCOTT. We will agree that representation in the Senate is based upon representation from our State, two Senators from each State; is that not right?

Mr. BAYH. That is accurate.

Mr. SCOTT. I do not want to pursue the matter. The distinguished Senator and I had a private understanding that we would disagree when we felt it necessary but we would not be disagreeable in this debate. I do not think there is anything wrong with publicizing that phase or any phase. That is the only agreement I believe we have.

Mr. BAYH. I would be glad to pursue this as long as the distinguished Senator, my friend from Virginia, cares to pursue it.

I would just like to point out that there is no question about how representation in the U.S. Senate was originally established. He is accurate. It depends upon representation in a State in question.

But the argument and the philosophy supporting the Senator from Indiana and those trying to persuade our friend from Virginia about the wisdom of this case are based on how we look at rights of American citizenship. One of the basic rights of American citizenship since the days of the Stamp Act and the Boston Tea Party, and all those other horrendous abuses that were imposed upon our Founding Fathers, was that a citizen of this country had the right to have a voice in governmental policy that affected his or her life. We went through half of the history of the country before we gave more than half of the citizens the right to vote. Finally we decided that was not right; that although the women had helped win the Revolutionary War, it was not until the success of the suffrage movement that we finally gave women the right to vote.

So it was with young people, the teenagers, who were paying taxes and dying in battle. We suddenly realized this was not equitable. Those people were being affected by governmental policy, yet they did not have a vote, so we gave them that.

It seems this is a logical extension of that same rationale.

Now, my friend from Virginia and I disagreed rather vigorously on what should have happened in the Panama Canal debate. No matter how you felt about the Panama Canal, if you lived in the District of Columbia, whether you were for or against the treaty, you did not have a right to express yourself to anybody. There was not anybody who could have represented how you felt. No matter how you stood on the issue you did not have a voice in this policy.

The battle we fought yesterday on tuition tax credits, I do not know where my friend from Virginia was on this matter. He and I may have been on opposite sides or the same side. But the people who live in the District of Columbia had no way of expressing themselves. We voted for that. We rammed it down their throats, and they pay for the policy. That just is not equitable, it seems to me, and that is why I feel so strongly about it.

Mr. SCOTT. I can understand the distinguished Senator's point of view, but

we are in disagreement. I think the distinguished Senator from Indiana represents the people from the District of Columbia. I think 100 Senators represent the people of the District of Columbia. If we accept the concept of the Federal city that formed the basis for the formation of the District of Columbia, then all of us represent the Nation's capital. I believe that is what this debate is all about, whether or not we should have a neutral city where we can debate the issues concerning the entire country free of the control of any State, where the Congress has exclusive jurisdiction.

I do not see that circumstances have changed since the Federal city concept was arrived at. To me this was good when it was decided at the Constitutional Convention, as it was explained in the Federalist Papers, and this is the basis for having the capital city. They do have the right to vote at all levels of Government. They have an elected representative or delegate in the House of Representatives. They do not have representation in the U.S. Senate, but they are not a State, they are a city. The city of Indianapolis as a city does not have any representation. The distinguished Senator represents the entire State. But I am saying that he and I and the other 98 Senators all represent the District of Columbia and we are interested in the welfare of the District of Columbia.

I have lived here in this area since 1935, since I was a teenager, and I am familiar with many of the problems of the District of Columbia, and I am sure the distinguished Senator from Indiana is familiar with many of the problems. But that does not mean we should give them two Senators. Guam does not have two Senators, the Canal Zone, when it was part of the United States, did not have two Senators; Puerto Rico does not have two Senators. This is not a territory; it is a Federal district, and it was never contemplated in the formation of our Nation that it would have two Senators. To me that is the basic objection which is the representation in the Senate.

As I understand, under the concurrent resolution the people of the District of Columbia would have the same right as the people of a State in determining whether further amendments to the Constitution would be ratified or not.

We have some basic differences, but certainly I am glad to have and appreciate the point of view of the distinguished Senator from Indiana. I just feel that history and the Federal city concept are contrary to the views that are being expressed by the distinguished Senator.

Mr. BAYH. Mr. President, I appreciate hearing the thoughts of my friend and colleague from Virginia.

I think it is important for us to understand what we are talking about here.

We know that traditionally we have three levels of government in the United States of America. We have our national government, that has certain functions, certain obligations, and determines certain policies.

We also have the State level of government, which has different responsibilities and different functions, and establishes different policies.

And we have a third level of government, the local government, which has certain functions and certain responsibilities, and establishes certain policies.

Now, the District of Columbia has a district local government that fulfills certain responsibilities and establishes and carries out local authority, local government for the citizens who live here.

Citizens who live here now can vote for their mayor and their city council, so there is no taxation without representation. The citizens of the District now have the right to vote for President, so there is no taxation without representation there.

We are saying that at the national level, just as the citizens of the District have the opportunity to vote for President and to participate in that part of the national policymaking adventure, we now suggest that they should have a similar opportunity to vote for Representatives and Senators, so that they can have a voice in determining legislative policy and participate in that part of the national adventure of Government.

So I think it is very clear that those decisions that are made by this body affect the lives and affect the economic well-being of the citizens of the District of Columbia. They cannot vote for any of us here. If they do not like what we do, there is no way they can change that representation.

What we are saying is, give the citizens of the District of Columbia, not the right to set up a State capital, not to have State legislatures but at least to have two Senators and the appropriate number of representatives that the population would suggest, so that they can have a voice and a vote in determining legislative policy. Then, if they do not like the way those legislators vote, they can do the same thing to them that our constituents at home can do to us. That is what we are after.

I was involved in a discussion that is very close to one of the concerns expressed by my good friend and colleague from Virginia when he rose a moment ago, and that is to point out that there were two problems, two basic concerns that existed, that were primarily responsible for creating a separate entity. One was the security question.

I do not believe anybody really is very concerned that there are going to be any marches on the Capitol Building against which we are not going to be defended. We may disagree, depending on whether you are on the right side of the political spectrum or whether you are on the left side of the political spectrum, or whether we will march down the avenue supporting equal rights for women or whether we will march down the avenue protesting the war in Vietnam, or participate in some of the marching we have had here by farmers protesting what has happened to farm income. Those citizens have had the right to petition, and they have not become a mob: and those who did get out of line ended up in jail.

So that business of suggesting that we are going to have a repeat of the Philadelphia situation, where the early members of the legislative branch of this country were fearful for their lives, is not about to be repeated. And the suggestion that that reason, which was a very real reason in the 1700's, exists in the latter part of the 20th century, is to suggest facts that frankly are not apparent to the Senator from Indiana and I think are not apparent to anyone who might wish to examine the facts as they exist, whether you are for or against this amendment.

Now, there was another reason, of course, that was considered by the Founding Fathers, that I think made a lot of sense if you look back that long ago. And I think that same reason can be used to distinguish the way in which we address ourselves to Guam—the Senator from Virginia mentioned Guam—and that is the very size of the entity involved.

Back in those days, there were very few people living in the District of Columbia. Its population was simply too small. In 1801, the District had only 14,000 residents, far fewer than the 50,000 required of territories that wanted to enter the Union at that time. Quite naturally, such a small population could be easily overlooked. Yet, during the 1801 debates on District suffrage, many Members of Congress spoke of providing representation for the District when its population reached the appropriate size.

Many of us search in vain, or at least we search, for what our Founding Fathers really means when they established this Federal city. One of the things they were concerned about was that the District not receive representation until it got large enough to do so. At that time, it was too small relative to the population requirements necessary to come into the Union as a State. We certainly cannot say that now. There are more people in the District of Columbia than live in seven of the States. So the size question, it seems to me, has disappeared. The size of the District of Columbia is entirely appropriate for representation today. Given its size alone as criterion, representation is essential. We need to understand that the District's present population is larger than that of any of the original 13 States during the first years of the Republic.

Moreover, it is rather clear that our Founding Fathers, those people concerned when they set up the Constitution, with creating the Federal district for the Nation's Capital, intended that when the District became large enough, it should receive representation.

I would think that consideration would encourage those who are searching for the Founding Fathers' intent to support this resolution.

Finally, Mr. President, I must state what to me is the most important consideration in this discussion. There is nothing more abhorrent to the American people, as I said earlier, than the idea of taxation without representation. One of the fundamental principles enunciated by our Founding Fathers was the firm belief that those citizens who contributed to the public coffer should and

would have the right to elect their leaders. Over 200 years ago, the injustice of taxation without representation served as one of the major elements which drove our forefathers to revolution.

We have had over 200 years of injustice, and the time has come to put that injustice behind us. The best and quickest way to do that is to join in the immediate passage of House Joint Resolution 554.

Mr. McGOVERN. Mr. President, I commend Senator KENNEDY and others for their leadership in this effort. I think it rights a wrong that should have been righted years ago. It reflects the sense of justice of the American people and the Congress of the United States, and I hope the effort will succeed.

I join in the bipartisan effort to provide for representation of the District of Columbia in the Congress of the United States. Such a move in the form of a constitutional amendment reflects the sense of justice of the American people, a people whose very beginning was forged in the struggle for fair representation.

During this debate, a litany of facts will necessarily be reviewed: facts which reveal the extent to which Washingtonians pay taxes, fight in wars, and defend the Nation. The numbers will reveal the equity of this move and the inequity of enduring both conscription and taxation without representation. This amendment will help right a longstanding wrong. The denial of this basic right must not go unresolved.

But in addressing this flaw in our representative system, we are doing more than acknowledging the statistical truth of the District of Columbia's case.

We are also recognizing the historical and culture uniqueness of the District of Columbia as a community, and as a city filled with people who are as strong and patriotic as any Americans.

Furthermore, we are bearing witness to basic human rights and our devotion to participatory democracy. In our political system there is simply no matter more basic, no right more sacred, than the right to have one's voice heard and one's case made by someone of his or her choice.

Aristotle said:

Democracy arose from men's thinking that if they are equal in any respect, they are equal absolutely.

It is not too late in our history to further extend this ideal. That is why I want to lend my voice to those supporting this joint resolution leading to full representation for the citizens of the District of Columbia.

Mr. BROOKE. Mr. President, I am deeply pleased to speak in behalf of House Joint Resolution 554 and to reaffirm my deep commitment to the achievement of full voting representation in the Congress for the citizens of our Nation's Capital, the District of Columbia.

My enthusiastic endorsement of House Joint Resolution 554 is based primarily on fundamental concepts of liberty and justice. But my support and interest are also intensely personal. For my roots are in Washington, D.C. I was born and raised here. I attended and graduated from Dunbar High School and Howard University. And for as long as I can remember I have fought, along with family, friends, and colleagues, to attain the goal of providing for the citizens of the District of Columbia the same rights and privileges that other citizens throughout the Nation have enjoyed.

Over the past decade I have worked closely with a number of congressional allies, including D.C. Delegate WALTER FAUNTROY, Senator CHARLES MCC. MATHIAS, Senator EDWARD KENNEDY, and Senator BIRCH BAYH, to make this goal of full representation a reality. And thus it is with great pleasure that I take this opportunity to commend the House of Representatives for passing on March 2, 1978, House Joint Resolution 554. The passage of House Joint Resolution 554 is a testament to the leadership and dedication of many individuals, in and out of the Congress. But, in particular, I want to single out for praise the work of WALTER FAUNTROY and the broad bipartisan coalition that supported the House measure.

The proposal before the Senate, House Joint Resolution 554, would enable D.C. voters to elect two Senators and the number of Representatives in the House (probably two), to which the District would be entitled on the basis of population. Each Senator or Representative would be an inhabitant of the District, and would possess the same qualifications as to age and citizenship and have the same rights, privileges, and obligations as other Members of Congress. The amendment would provide for the full participation of the District of Columbia in the constitutional amendment process and in the Electoral College. And finally, the Congress would have the power to implement this amendment by appropriate legislation.

Nearly 200 years after its adoption, the U.S. Constitution has been amended but 26 times. Clearly, any proposal for amending the Constitution deserves careful and serious study and debate. However, proposals for granting D.C. voting representation in the Congress have been very thoroughly discussed and researched over the years. It seems useful to review briefly at this point the long history of efforts to achieve full voting representation in the Congress for the District. Thus we can rebut the contention, all too frequently raised as an excuse for inaction by opponents, that somehow we need time "for further study of legal ramifications" or whatever, of granting D.C. voting representation in the Congress.

From the beginning of the 19th century there were advocates of national representation in Congress for D.C. residents. One of the first was Augustas B. Woodward, who wrote a series of articles, published in the National Intelligencer between 1801 and 1803, in which he decried the pitiable state of those citizens residing in the District of Columbia who were subject to taxation without representation. Another ardent supporter of D.C. representation over the years was Theodore W. Noyes, a native Washingtonian long associated with the Washington Star, serving as its editor from 1908 to 1946. In the fourth of a series of articles, appearing early in 1888 and focusing on "some of Washington's grievances," Noyes outlined the political plight of the citizens of the District and proposed that a constitutional amendment be adopted to grant them voting representation in the Congress. On May 15, 1888, Senator Henry W. Blair introduced a joint resolution incorporating Noyes' vision, and this has been generally designated as the first amendment proposal introduced to provide D.C. voting representation. Literally hundreds of joint resolutions have been introduced in the subsequent years since the 50th Congress back in 1888.

And there have been dozens of hearings on the issue of D.C. representation in Congress. The first such hearings date back to 1916. The prophetic testimony of Theodore Noyes at that time still rings true. At one point Noyes was arguing that election of local officials in Washington, or of a nonvoting delegate to Congress, would not be sufficient. Rather, according to Noyes, full representation in the National Government constituted the "genuine American political birthright." Noyes stated, in part, at those first hearings on D.C. voting representation back in 1916:

If Washingtonians are political slaves now they will still be political slaves after they have the power to elect a voteless delegate, or even District commissioners or any other municipal officials, if the exclusive power of legislation under the constitutional provision still remains in a Congress not elected by them and in which they are not represented. Their chains may be made a little lighter and may not clank so loudly; they may be granted by kind masters a greater freedom of movement, but they are not free. The power to take away their property, their freedom and life itself is in others not chosen by them and to whose rule they have not assented. There is no self-government when the power to tax one, to imprison one, and to send one to war is not in one's self or in those to whom one has voluntarily confided it as one's representative.

And there have been many more hearings since 1916. The Senate held hearings in April, the sixth such endeavor just since 1970. The House Judiciary Committee of course held hearings this year and in 1975, the Senate Judiciary Subcommittee in 1974, the House again in 1971, and the Senate in 1970.

While we are all familiar with the successful effort in the House this year, we may be less familiar with the episode in the Senate during the 86th Congress when D.C. representation was debated and endorsed. During floor debate on another constitutional amendment proposal, Senator Kenneth Keating offered a floor amendment, establishing a framework for ultimate D.C. voting representation in the Congress and also providing for Presidential electors from District of Columbia; the Keating amendment was approved by vote of 63 to 25. The vote on the tripartite resolution (which included segments authorizing Governors to fill temporary vacancies in the House and another abolishing tax and property requirements for voting as well) was 70 to 18, more than the necessary two-thirds. However, the House Judiciary Committee reported a much amended version of the resolution, containing the language ultimately incorporated into the 23d amendment. The sections relating to abolition of the poll tax and the filling of House vacancies were entirely deleted, and the remaining section addressing D.C. suffrage was watered down by elimination of any provision regarding congressional representation.

Without a doubt, there has been a very lengthy history of efforts to grant D.C. voting representation in the Congress. Mr. President, I would submit that what we need is not more study and talk, but speedy congressional action.

A fundamental concept of democratic political thought is that of consent. Thus the obligations of citizenship can be imposed legitimately only via "the consent of the governed." In the American context this exercise of consent often occurs through elected representatives in the Congress. The American Revolution was fought so that basic rights would be accorded the citizens of the American colonies. "No taxation with representation" was the rallying call of those who struggled for a free Nation. Participation in and control of the political process of the country by its citizens is a fundamental precept of democracy.

It seems almost inconceivable that in 1978, with memories of our Nation's Bicentennial fresh in mind, we find democracy flaunted with respect to the citizens of Washington, D.C. The plight of the citizens in the District, sadly, is more akin to that of a subjugated, colonial people. The situation with respect to voting representation for the District, instead of serving as an example of democracy for the rest of the country and indeed of the world, provides an outrage of inequity.

Mr. President. the U.S. citizens residing in the District of Columbia have all the obligations of American citizenship. They must pay taxes, defend the country in time of war, and obey the law. However, this sizable group of citizens, exceeding the population of seven States, do not have representatives in the House or Senate who can meaningfully express the consent or dissent of the D.C. residents by vote on the floor of Congress. This condition has applied to residents of the District since 1800, when Federal jurisdiction over the seat of the National Government was officially effected. Prior to that time, the eligible male residents of the Virginia and Maryland portions of the District of Columbia voted for U.S. Senators and Representatives in their respective States. But in 1978, the District of Columbia has no one exclusively advocating its interest in the Senate. Although several of my colleagues and I are concerned with the District, our primary interests and responsibilities, necessarily, lie elsewhere. Likewise, despite the noble efforts of D.C. Delegate FAUNTROY in the House, in the final analysis, the District is relatively powerless there as well since its interests can not be directly defended in critical floor votes.

It is my conclusion that lack of provision in the Constitution for D.C. representation is something of an historical accident. In the larger context of setting up a whole new Government for the Union, the status of the District of Columbia was not one of the major problems facing the delegates to the Constitutional Convention. Hence it is not surprising that the issue of D.C. representation is nowhere mentioned in the records of those debates. Moreover, the area ceded by Maryland and Virginia to become the Nation's Capital had few residents, and from 1789 when the Constitution was adopted, to December of 1800, when the "exclusive legislation" authority of the Congress took effect, those who lived within the portions of Maryland and Virginia that were to become the District of Columbia retained their political rights as citizens of those two States. It was only after 1800 that the disenfranchisement of citizens living in the District became a reality, and the efforts to reverse the situation began.

In recent years we have made substantial progress in broadening the base of representative government and extending the franchise in the United States. But this glaring piece of unfinished business remains. Fundamental concerns of justice and equity demand that the residents of the District of Columbia at last be granted the right to elect their own voting representatives in the Congress.

Mr. President, in closing, I might note that it required but 286 days for the requisite 39 States to ratify the 23th amendment to the Constitution, providing for D.C. participation in the Electoral College. Equally prompt action at the State level might reasonably be anticipated with respect to D.C. voting representation in the Congress. But before the States can have the opportunity to ratify such an amendment, granting voting represenation to 700,000 citizens of the District of Columbia, a proposal must of course be approved by a two-thirds majority in the Congress. The first step has been taken. The House has already acted. Now it is our turn. Therefore, I urge my colleagues to expeditiously and favorably take the necessary second step in the amendment process.

AMENDMENT NO. 1756

Mr. CURTIS. Mr. President, I send amendment No. 1756 to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. BAYH). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. CURTIS) proposes amendment No. 1756:

Strike out all after the resolving clauses and insert the following:

That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"SECTION 1. In exercising its powers under article I of the Constitution, and in particular its powers to lay and collect taxes, duties, imposts, and excises and to enact laws making appropriations, the Congress shall seek to assure that the total outlays of the Government during any fiscal year do not exceed the total receipts of the Government during such fiscal year.

"SEC. 2. No later than the twentieth day after the close of each fiscal year, the President shall—

"(1) ascertain the total receipts of the Government during such fiscal year, not including any receipts derived from the issuance of bonds, notes, or other obligations of the United States, and not including any receipts from any income tax surtax imposed under this article;

"(2) ascertain the total outlays of the Government during such fiscal year, not including any outlays for the redemption of bonds, notes, or other obligations of the United States; and

"(3) if the total receipts described in paragraph (1) are less than the total outlays described in paragraph (2), determine the percentage rate of income tax surtax, to be imposed as provided in section 3, which is necessary to provide an additional amount of revenue equal to the amount by which such total receipts are less than such total outlays, and transmit to the Congress, by special message, the rate of income tax surtax so determined.

"SEC. 3. Subject to the provisions of section 4, an income tax surtax, at the rate determined and transmitted by the President under section 2—

"(1) shall be effective for the calendar year following the close of the fiscal year with respect to which the determination was made, or for so much of such calendar year for which such surtax is not suspended under section 4, and

"(2) shall apply, as an additional income tax for the period for which it is in effect, with respect to the income tax liability of each taxpayer which is attributable to the portion or portions of such taxpayer's taxable year or years which fall within such period.

The income tax liability attributable to a portion of a taxable year falling within a period shall be based upon the ratio of the number of days in the taxable year within such a period to the total number of days in the taxable year.

"SEC. 4. In the case of a grave national emergency declared by Congress (including a state of war formally declared by Congress), the income tax surtax which would otherwise be in effect for a calendar year under section 3 may be suspended for such year, or a portion thereof, by a concurrent resolution, agreed to by a rollcall vote of three-fourths of all Members of each House of Congress, with such resolution providing the period of time, if less than the whole calendar year, during which such surtax is to be suspended.

"SEC. 5. This article shall apply with respect to the first fiscal year beginning after the ratification of this article and each succeeding fiscal year.

"SEC. 6. The Congress shall have power to enforce this article by appropriate legislation."

Mr. CURTIS was recognized.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. CURTIS. I am happy to yield.

Mr. ROBERT C. BYRD. Will he allow me to ask for the yeas and nays on his amendment?

Mr. CURTIS. I certainly will. As I stated before the Senator came in, this amendment is not offered as any delay of the D.C. representation bill. I am offering it because I think it is the most important constitutional amendment we might consider. Therefore, it is not to delay. I should be happy to have a time fixed for a vote tomorrow, early—say by noon. I mention that for the distingushed leader to consider, that he might know what we have in mind.

Mr. ROBERT C. BYRD. I appreciate that and I appreciate the willingness of the distinguished Senator to have a vote at a time certain.

If he is interested in having the yeas and nays on his amendment, perhaps we can get those yeas and nays now.

Mr. CURTIS. I have no objection.

Mr. ROBERT C. BYRD. It will not waive any rights of any Senator, and at least, Senators will know that a vote is going to occur, one way or the other, on the amendment.

Mr. CURTIS. I have no objection.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield again?

Mr. CURTIS. I am happy to yield to the Senator.

Mr. ROBERT C. BYRD. I beg the Senator's pardon for asking him twice, but I thought in view of the fact Senators may stay around thinking a rollcall vote would occur tonight, if agreeable with all Senators present, we could alert the respective cloakrooms to notify Senators that no rollcall votes are anticipated tonight.

Mr. CURTIS. That is very agreeable to me.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. President, I make that statement, that there will be no rollcall votes tonight. I again thank the Senator.

Mr. CURTIS. Mr. President, I wish to state for the managers of the bill that this amendment is not offered for the purpose of delaying the proceedings. I offer it in the firm belief that it is the most important constitutional amendment which Congress could consider.

Rampant inflation is reaching dangerous proportions. One of the basic causes of inflation is the deficit spending. This proposal is a constitutional amendment which would compel the Congress to balance the budget each year. We would go on a pay-as-you-go basis.

In support of the statement that I have no desire to delay these proceedings, but I am only offering it on the basis that we should consider it as it will meet a very urgent need, I want to state that as far as this Senator is concerned I would be willing to agree to a reasonable time at which we might vote on this tomorrow, since it is now past 5 o'clock.

Mr. President, in support of my amendment in the nature of a substitute, I wish to speak about the finances of the U.S. Government.

Expenditures and taxes are astronomically high. In spite of the heavy burden that our taxpayers must bear, the U.S. Government runs a huge and inexcusable deficit of about $50 billion. This cannot go on.

Mr. President, if we look at the rising deficits of the past several years we can see the basic cause for the inflation. All prices go up and up, and many wages and salaries follow. The income of many people is more or less fixed, and they have no way to cope with the near uncontrollable inflation now rampant in this country. When we consider the effects of this inflation on life insurance programs, on pensions, and other values, it is no less than frightening.

Mr. President, while it is vitally necessary that we practice economy in every activity of the Government, it is equally important that we look at the basic cause of the great increase in the budget of the United States. The budget for the current fiscal year calls for spending in a total sum of $459 billion. Compare this with the amount of the budget for the last full fiscal year of the Eisenhower administration of $92 billion. We cannot blame this on defense costs, neither is this great increase caused by expenditures for the necessary functions of Government. It cannot be blamed upon the development of our natural resources. The cause of this huge budget is basically the welfare state. The cost of governing and regulating and policing is not what is bringing about the huge expenditures. It is that role of the Government which can best be described by the word "provide."

Much of the legislation involving the welfare state which is now so costly was enacted in the thirties and forties. Many additional programs were enacted in the period of 1961 to 1969. Here is what these programs are costing this year: Food, $8.955 billion; housing, $6.8 billion; education, $19.6 billion; assistance to local and State governments, $81.17 billion; medical and health programs, $56 billion; unemployment compensation, $10.6 billion; and retirement and disability, $122.44 billion.

Mr. President, bills are introduced in this body and speeches are made to add to the welfare state. For instance, let us look at the medical field. We have medicare for the aged, and we have medicaid for the poor. The drive for national health insurance results, then, in a drive to have the Government pay the medical and hospital bills of individuals who are neither aged nor poor. The Federal Government cannot take on such a burden. Furthermore, private insurance and labor contracts have taken care of a great portion of the problems and those programs are increasing day after day. If we were compelled to balance the budget each year, programs costing billions and billions of dollars would not be enacted. It would stop the expansion of Government.

Another example relates to the field of education. There are many proposals for new educational programs, including one that passed this body yesterday, but let us look at what has happened. In my State of Nebraska, the Federal Government pays estimated 10 percent of the total cost of all education in the State, yet the Federal Government comes near exercising 100 percent authority in running our schools. It has not been a good deal for the taxpayers or the students.

The welfare state has failed. It costs more than we can pay. It does not meet our problems. We have had public housing for decades; we have spent billions and billions of dollars on public housing. The need for housing is perhaps greater now than it ever was. Once the Federal Government subsidizes a housing project in a community, the community then becomes eligible for an additional grant in aid for schools because the public housing is not taxed. It results in a viscious cycle.

Mr. President, when are we going to return to the basic principle that the Government should not provide the things that individuals need when they are not victims of ill health, disaster, or advanced age, but rather, it is the responsibility of the Government to maintain an economic system that provides an opportunity for the ablebodied to produce, earn, and acquire the things they need. There are those who say it cannot be done. I refuse to accept the premise that self-government and individual freedom and private enterprise are so deficient.

Mr. President, we should, with great care, weigh every proposal that comes before us in this year and in all future years. The voices of error are rampant in the land. Some of these voices are found in government. The Director of the Congressional Budget Office, Ms. Alice Rivlin, has been quoted by the press as favoring increased expenditures and increased tax reduction, which would mean an increased deficit. The press states that her reason is to spur the economy. Mr. President, if increasing spending and enlarging the deficit would spur the economy in any true sense, we would not have an economic problem in the United States. We must realize that big government has failed.

Winston Churchill said you cannot unscramble eggs. This statement embodies a great truth. We cannot, and I do not advocate it, abolish all of these programs which I have labeled as the welfare state. We should stop enlarging the welfare state. There are some programs that ought to be ended, there are others that should be drastically changed, and we need to establish some priorities.

Among the social programs that, in my opinion, must have a high priority are those where we have a moral obligation to fulfill the Government's commitment. Social security was enacted to provide a retirement benefit for our people. We should confine it to such a program. Millions of individuals have paid and paid into the social security program; we cannot fail them. The social security tax is going to be difficult. It will take a courageous Congress to collect enough revenue to pay for it. The alternative is repudiation of the Government's commitment to our people, and this is unthinkable.

On the subject of social security, I do feel that we should take a look at medicare being paid through the social security tax. Individuals of modest means are being taxed to pay the hospital and medical costs of individuals regardless of wealth and income if they happen to be 65 years of age. We should also take a look at the disability program and the survivor program to see what gradual changes can be made in our social security system that will meet the intended goal for retirement with tax rates that our people can stand.

Reducing the size of the Government is an enormous task. It calls for intelligence, hard work, establishment of priorities, and above all, men and women of courage who are deeply concerned about the future.

No one objects to balancing the budget of the U.S. Government. Most people say, "not now." In the meantime, the programs grow and the problem gets worse. We need fiscal discipline in our system of government. Most of our States have a constitutional provision which either prohibits deficits altogether or limits them. We must have the same idea incorporated into our Federal Constitution.

Mr. President, we need a constitutional amendment to require a balanced budget and bring an end to deficit spending. The constitutional amendment that I have pending in this Congress is Senate Joint Resolution 26, and it is now offered as a substitute for House Joint Resolution 554.

This constitutional amendment is clear and understandable. It requires Congress to balance the budget. If Congress fails to balance the budget, a procedure is set up for an automatic surtax to go into effect the following year to recoup the deficit. It has a provision whereby, in time of war or a declared national emergency by Congress, the requirements of the amendment can be set aside a year at a time.

This constitutional amendment is a stern procedure; it does have teeth in it. If Congress spends more than the Government takes in, the taxes automatically go up. If Congress is faced with the alternative of reducing spending or increasing taxes, I predict that they will reduce spending. If Congress fails to reduce spending and everyone's tax is increased with a surtax of 3 percent, or 10 percent, or 20 percent, whatever is needed, the taxpayers will know about it, and they have a remedy at the ballot box. A constitutional amendment which is a mere declaration of a requirement to balance the budget and which is not self-enforcing will not do the job.

Mr. President, the public polls indicate that a majority of the American people want a balanced budget. A sizable list of our State legislatures have acted to bring about a balanced budget on the part of the Federal Government. There are other constitutional proposals that are pending. All in all, more than 120 Congressmen and Senators in this Congress have either introduced such a constitutional amendment or have cosponsored an amendment of their colleagues.

Mr. President, the amendment that I have offered is in the nature of a substitute for the pending House joint resolution providing for representation in the Congress for the District of Columbia. This substitute of mine is the same proposal as I earlier introduced and it is numbered Senate Joint Resolution 26. My amendment, Senate Joint Resolution 26, has 2' cosponsors. We had 23, but we have lost two by death. They are Senators BARTLETT, BUMPERS, DOLE, EASTLAND, GARN, GOLDWATER, HANSEN, HATCH, HATFIELD, HELMS, LAXALT, MCCLURE, ROTH, SCOTT, STENNIS, TALMADGE, THURMOND, WALLOP, YOUNG, ZORINSKY, and DECONCINI. The late Senators James B. Allen and John L. McClellan were also cosponsors of my amendment.

This resolution, when adopted, would put an end to deficit financing on the part of the Federal Government, except in times of war or when a grave national emergency has been declared by Congress. The discipline of a constitutional amendment requiring fiscal responsibility is essential for the economic well-being of our country and the full employment of our citizens.

Failure on the part of the Federal Government to bring spending under control can lead to very serious consequences. Disaster is not too harsh a word to describe what could happen if we continue to follow the course that we have followed for the last quarter of a century. Mr. President, we have had only one balanced budget since the fiscal year 1960, and that was in fiscal 1969.

These continuous deficits are most disturbing. They were disturbing when they amounted to $4, $5, or $6 billion a year or less. Americans who are concerned about the future of our country rightly raise the question "where are we headed?" This question is especially pertinent when we find that the deficit for fiscal year 1975 exceeded $45 billion and the deficit for 1976 exceeded $66 billion. The deficit for fiscal year 1977 is estimated as $68½ billion and the deficit for fiscal year 1978, which we are now in, is being estimated at as much as $70 billion.

It will be less than that, but still very high. At one time certain members of the Carter transition team have been talking of a $75 billion deficit.

Seldom can you find a Member of Congress or a President who will express opposition to a balanced budget. Their answer is "not yet." There is always an impelling reason for the claim that we cannot balance the budget now. Advisors to Presidents often convince a President that the budget cannot be balanced in his term, but when they get through with their "fine tuning" it will be balanced at the end of 4 years. Then at the end of 4 years, we start all over again with a new takeoff of astronomical deficits. We should ask the question "where will it end?"

I believe that a great boon to our economy will come when we embark on a continuous course of balancing the budget. If everyone knew that the U.S. Government had its finances under control it would create confidence at home and abroad. The potential of this country is tremendous. The possibilities are unlimited. I do not believe that private enterprise and self-government are failing theories. I believe that the future can be bright if we reverse that trend toward totally uncontrollable deficit financing.

Is there anything more conducive to investment and the providing of more jobs than the sure knowledge that the Government in Washington was and would continue to follow a responsible course, pay bills and maintain the value of its money?

There can be little dispute that continued deficit financing leads to inflation. Inflation is a cause of unemployment. When inflation is rampant, it takes all of the income of most of our citizens to provide the bare necessities of life for themselves and for their families. In the absence of inflation, wage earners, farmers, businessmen, and professional men have sufficient income to buy much more than the bare necessities of life. These additional purchases, whether they be carpets, draperies, radios, TV's, furniture, new houses, additions, automobiles, boats, ski equipment, pianos, music lessons, or dental services, set in motion a wide range of activities that means jobs for more people. It does not take a sizable proportion of our workforce to produce the bare necessities of life. Full employment can only come when the people can buy additional items, including luxuries. Every time there is an article sold, it means that someone had to produce the raw material, someone had to manufacture, transport, advertise, sell, finance, and insure the article. All of which means economic activity and jobs for individuals of all ages.

Again, Mr. President, I point out that inflation creates unemployment because when prices are so high the purchases on the part of most of our citizens are limited to the bare necessities of life, because that is all they can afford. It is when they buy beyond the necessities of life that it takes jobs and more jobs to produce the things that they buy.

Washington is infested with too many self-proclaimed experts who hold to economic theories that are erroneous. These individuals assume the role of "fine tuners." They believe that if they can add to the Government spending, increase the deficits and dissipate revenues, somehow at some future date business will pick up, and an economic utopia will be reached, and the budget will balance itself. They overlook many factors, including the results of their own self-created inflation and the record of Congress in always voting more expenditures. The "fine tuners" have a very bad track record. Their theories have not worked and the record is clear. These would-be experts who are bent on fine tuning and managing our economy should immediately be replaced with intelligent, tough budget balancers.

Mr. President, we should start now to advance a pay-as-you-go constitutional amendment. At the best it takes several years to get the constitutionally required two-third vote in both the House and Senate and have an amendment ratified by three-fourths of the States. This means that if the Senate passes this resolution in this Congress, its effective date will be down the road several years, so that Congress will have time to comply and bring the budget into balance.

Mr. President, a great many of the States have constitutional provisions against deficit financing and the creation of Debt. They vary as to form. These provisions in our State constitutions have been responsible in maintaining the solvency of those States. We need a similar discipline at the Federal level.

The resolution being introduced today is a simple and workable plan. Yet it is firm and effective. It mandates the Congress to balance the budget every year.

ing for a balanced budget. It has an enforcing provision. This amendment provides that within 20 days after the close of the fiscal year the President is required to ascertain if there is a deficit—if so, how much? The President is required to calculate the amount of surtax necessary to recoup the deficit in the next fiscal year. This surtax would be an added percentage tax on the income tax of all individuals and corporations. It might amount to a surtax of 3 percent, or 7 percent or 20 percent, whatever the case might be. The surtax would automatically go into effect for the coming year. The President would not be empowered to impose the surtax; the surtax would go in automatically under the authority of the constitution.

Under this plan, the people of the country would know what direction we are headed, and Congress would know it, also. Congressmen and Senators would not like an announcement made on or about the 20th day of October that a surtax would have to be imposed on individuals and corporations because Congress had spent too much money. The adoption of this resolution will bring about the necessary discipline which will lead to a balanced budget. Some programs can be eliminated; others can be postponed. New programs will be looked at more realistically. The question will be asked of all programs—are they necessary or merely desirable? If Congress is faced with the choice of reduced spending or increased taxes, expenditures will be reduced. If not, the voters have a remedy at the ballot box.

It would be foolish to amend our Constitution so that we could not use our credit in order to defend ourselves in time of war. It would be unwise to amend our Constitution so that our country could not meet a grave national emergency that pledged our entire Nation. Therefore, the resolution provides that upon three fourths vote of both Houses of Congress, the requirements of the amendment could be set aside for a year at a time, whenever there was a declaration of war or a finding by Congress of a grave national emergency. If the war or an emergency extended beyond a year, there would be another vote every year if the requirements of the amendment were to be waived.

Mr. President, we are faced with a grave situation. If the U.S. Government is to return to a course of fiscal responsibility, it will require courage and the making of some hard decisions. There is no easy answer. I believe in our country and in its future. I believe that the rewards that will come to our republic if we regularly balance the budget will be very great. I hope that the Senate can move on this resolution very soon.

Congress has a new budget act. It is required to pass the first budget resolution early in the year; then the budget is finalized in two subsequent resolutions. Many Americans had high hopes that the budget reform act would bring spending under control in our Federal Government. A balanced budget was the goal that Congress sought.

This new budget procedure has its good because it directs the attention of Congress and the public to the budget as a whole. It calls attention and brings an awareness of the alarming situation in reference to our finances. All this is good.

The congressional budget act has its shortcomings. It does not produce a balanced budget. Congress uses the budget procedure as a means of approving deficits in advance. The passage of the budget resolution presupposes that the deficits are necessary, unavoidable, and to many desirable.

Another failing of the budget reform act that makes it ineffective in bringing a balanced budget is that it depends too much on the attitude of the chairman and the members of the Budget Committee. It has no self-disciplining features. It has no built-in procedures that will compel reduced spending and a balanced budget. If the chairman and the majority of the budget committee favor increased spending for social objectives it very likely will go in the budget. If the majority of the budget committee believe that some tax action in reference to business is tax reform and loophole closing, such action is very likely to be incorporated in the budget, even though the proposed tax action is not real loophole closing and might lead to less enterprise and fewer jobs and would be an insignificant amount in attaining a balanced budget.

In actual practice, a budget resolution that accepts the principle of a huge deficit is bound to fail. If a resolution is passed which in essence OK's a $57 billion deficit, how are you going to successfully argue that the country would be better served if the deficit were cut to $55 billion, or that our country would be in great jeopardy if it were increased to $59 billion? It becomes a battle of opinions. It is lacking in absolutes.

Our goal should be a balanced budget. The Budget Committee should be charged with bringing this about. If those Members of Congress who believe in bringing Federal expenditures under control can point out to their constituents that a proposed new program for spending would create a deficit and compel the Congress to increase taxes, it is a persuasive argument and it becomes much easier to vote against such "new proposal." On the other hand, an argument as to how large a figure is acceptable as a deficit is not effective in ending the trend of ever-increasing spending and debt.

Another feature lacking in the budget reform act is that its authority is purely statutory. It is a law, and a subsequent law can overrule it, including a law that calls for spending. The present budget procedure has no teeth in it.

What we need is an amendment to our Constitution, to be approved by Congress and ratified by the States, that compels the Federal Government to go on a pay-as-you-go basis, balance the budget, and have no increase of the national debt except in time of war or in times of a grave nationwide emergency.

I wish to speak about my proposed constitutional amendment which is offered as a substitute for House Joint able procedure which requires that if the budget is not balanced, an automatic surtax is added to the income tax of all persons and corporations in the following year to recoup the deficit. If our Congressmen and Senators and the President know that they must face the issue and spend less or increase taxes, they will spend less. If they fail to do so, the people have a remedy at the ballot box.

I am joining hands with every Senator who is sponsoring a pay-as-you-go constitutional amendment. We should stand united. Our first task is to build up sufficient support in the country and in Congress to advance such a constitutional amendment. I am convinced, however, that we must have some self-enforcing provision written into the pay-as-you-go amendment. A mere command to Congress or a declaration of principle will not be sufficient on the long, hard pull when massive persuasive arguments are presented for spending.

A majority of the States of our Union have a constitutional provision that puts a curb on spending and going into debt. These provisions have served the States well. It is the only plausible remedy in sight to deal with the problem of overspending in Washington and the chaos, hardship, and destruction that it will surely bring.

The adoption of a pay-as-you-go constitutional provision would bring great blessings. Government programs will be reviewed. Some things will be eliminated. Some proposals would be turned down. Some programs can be delayed, others can be reduced in cost. The Federal Government will be forced to face the question. Is a proposal necessary or is it just desirable? If a proposed Government program is worthwhile and in our best interests, why should we not pay for it as we go along.

It is my belief that such a constitutional amendment would serve notice at home and abroad that you can count on Uncle Sam, that once again the United States would become a pillar of financial strength and stability, and that this would result in a wave of prosperity at home and abroad, resulting in raising the standard of living and providing jobs for our people.

Mr. President, we cannot hope to get the two-thirds vote necessary to pass this without the cooperation of the majority leadership and those in charge of this bill. I earnestly hope that they will recognize that to do something specific, definite, and workable about inflation is the best thing for all Americans, including those who live in the District of Columbia.

The people of the country have put their finger on this as the No. 1 problem. Let us do something about it now and then at a later time we can consider a just way to give more self-government to the District of Columbia.

Mr. President, the question may be asked: Why do I offer this as a substitute for the proposal that would grant representation to the District of Columbia? I have done so for the very reason that we are proceeding on a bill that did not

at the desk. On the urgency of the situation we need to get it done. Inflation is America's No. 1 problem. It is causing uemployment. It is destroying values. And one of the major causes of inflation is the fact of deficit spending and the finances of this country are out of control.

So, Mr. President, it is my hope that when the roll is called this will be adopted, and later on receive the two-thirds vote, and then we can send it on the way and bring cheer and hope to all mankind.

Let us have a situation where the President of the United States does not need to go to an international meeting and beg and apologize for the condition of our economy, the loss of the value of our money, and the downward trend that we continue to stay on.

Mr. President, these deficits have been an accepted pattern of operation. There are too many people who believe a deficit is necessary. The opposite is true. We must end them as a necessary step to bring prosperity and full employment to this country, to restore the value of our money, to put confidence in people so they will enter into contract, build and expand, and provide jobs.

Mr. President, if deficit spending and inflation would solve our problems we would not have a problem in the whole land because we have had such a long, long period of such reactionary failing, worn out, economic activity.

Mr. President, I yield the floor.

Mr. KENNEDY. Mr. President, I listened with interest to my colleague from Nebraska making his presentation in support of his amendment. I will have additional remarks to make on the amendment at a later time. But I do want to point out several facts which, I think, are important for the Senate to consider on how to dispose of the amendment of the Senator from Nebraska.

Consideration of this amendment, or any modification to the Constitution of the United States, is a matter of great importance and should only be done as a result of very extensive examination. I think that is one of the points which commends this D.C. amendment so strongly. This issue has been before the Congress of the United States since the 1880's. It is an issue which has been studied from all sides throughout the history of this Nation. Most recently, it was studied by Senator BAYH and his Subcommittee on the Constitution in days of hearings last April. They listened to distinguished scholars, thoughtful men and women, and concerned citizens about the issue of D.C. representation.

The amendment which has been proposed by the Senator from Nebraska, although much more complex, has not been given that intensive review. Those who support D.C. representation have differing views about the balanced budget issue and how best to meet the challenge of a responsible fiscal policy for this Nation. Some who support a balanced budget would agree with the Senator from Nebraska that it would be wise to achieve the balance by increasing taxes; others might have a role for monetary policy. But, nonetheless, a wide variety of different economic recommendations have been made with respect to the problems of inflation and spending, the deficit, and the realization of a sound economy.

The Senator from Nebraska has proposed one approach. It is one on which serious issues and questions exist, even if we agreed on the objective of the Senator. It may not be the wisest way to proceed.

The amendment has simply not had the type of consideration that the Judiciary Committee of the Senate or of the House has given to the question of D.C. representation.

Over the history of this Nation we have not piggybacked different constitutional amendments, with the rare exception of the Bill of Rights, which was submitted to the States as a package under the very different set of circumstances that existed at the time of ratification of the Constitution. We have not, over the subsequent history of this Nation, been willing to piggyback different constitutional amendments one on top of another, to see if one can carry the other. It is a device which is used in varying degrees by the Senate, when we tag on riders to other bills. Sometimes, they become known as Christmas trees, decorated with numerous riders, on the theory that some feature of the measure is so compelling that the Senate or Congress or the President will swallow the other's features, too.

I know the Senator from Nebraska does not intend to do violence to the process of constitutional consideration. But, nonetheless, I think historical precedents would indicate quite clearly that any measure of the importance of the Senator's should be considered as an issue by itself that the Senate should consider and that the people of this Nation should consider. It should not be wrapped in a completely different question. The American people ought to deliberate about it and vote on it through the ordinary constitutional amendment process, completely separate from the matter we are considering today.

(Mr. MELCHER assumed the chair.)

Mr. KENNEDY. I have very serious reservations about the Senator's amendment because it would almost certainly kill the D.C. amendment and the limited but valued and worthwhile objective we are trying to achieve by providing for D.C. representation in Congress. It would necessitate returning any amendment we are considering here to the House of Representatives, requiring a new two-thirds vote there, and also requiring a new Senate vote after a conference between the two Houses.

We are reaching the final days of the session. All of us know that a measure of this complexity and of importance of the balanced budget issue will take the kind of time that this D.C. representation issue has been given in the House of Representatives under the very able leadership of Congressman FAUNTROY, Committee, the Subcommittee on the Constitution, under the chairmanship of Senator BAYH and other interested Members.

So, Mr. President, I think for these procedural reasons, it would be unwise for the Senate to adopt this amendment.

Moreover, Mr. President, not long ago—on July 31—the Senate went on record very clearly on this issue on the International Monetary Fund bill. By a vote of 58 to 28, we went on record to require a balanced budget for 1981 and the future. So the Senate is already clearly on record, if the Members want to be on record. They can make their positions clear again on the present resolution, while explaining that the present resolution is not a suitable vehicle for action by the Senate.

On the merits, I also have serious questions about what would happen to the economy with the increased surtax that would be required by this amendment. I think it could virtually paralyze this Nation in circumstances.

If you look over the period of the recent past, you would be challenged to find a Republican economist or a Democratic economist or any responsible economist who would feel that on the basis of the performance of the American economy over the last 4 years that what we needed was a $50 billion tax increase annually to balance the budget and avoid the huge deficits we have had. We will have an opportunity to get into those issues on the merits tomorrow, and I would intend to get into the amendment at that time.

But I would certainly hope that the membership, when they review the record that we have made today, would understand a few key points. First, there is the procedural argument that this proposal would effectively kill the D.C. amendment. Second, the issue has not been given the kind of thorough consideration which a constitutional amendment needs. Third, with the historical precedents are that we do not piggyback various constitutional amendments on top of each other for submission to the States. Fourth, the Senate has already gone on record on the question of a balanced budget in the past couple of weeks. For these reasons and others it would be unwise to accept the Senator's amendment.

Finally, I would like to address a question to my friend and colleague from Indiana. I understand that the Senator, who is chairman of the Subcommittee on the Constitution, would be willing at least to consider, even though he is chairman of the Intelligence Committee and has many other responsibilities, this issue in his subcommittee. As I understand it, earlier this year he actually attempted to respond on that issue, to permit those who are offering this amendment to have hearings on the issue. But at that time there was very little interest in it. Am I correct? Would the Senator from Indiana care to respond to that question?

Mr. BAYH. Mr. President, I appreciate the Senator from Massachusetts addressing himself to that particular issue.

The matter has been before the committee. As the Senator knows, we all have a number of responsibilities that require us to search for time to fulfill them all. I had hoped we could find someone who was sufficiently interested in presid-

would like to have had this matter heard, and frankly was not able to find someone sufficiently interested to be willing to preside over it. I have not found anyone in the committee who has the kind of interest in and support for the measure

the House and Senate hearings on this particular subject matter. I would daresay that the height of the stack measures at least 2 feet.

I think the contrast between the consideration which has been given to D.C.

not there will be a motion to table. But could we have an understanding that there will be no vote on this amendment prior to 12 o'clock noon tomorrow? A number of people want to speak, I am sure.

the Senator would not utilize this procedure at least until we have finished with the unusual procedure we have here for District of Columbia representation.

The PRESIDING OFFICER. Objection

available to me. I was fully aware of the opposition of the Senator from Virginia to this measure. I wanted to take advantage of the opportunity, which any Senator has, given certain circumstances

I still would like to have a chance to do that, because of the interest of the Senator from Nebraska. Frankly there has not been sufficient interest expressed by other members of the committee, so that I could find someone who was willing to spend some of his time to explore this particular issue.

I think it is important to note, if I might say so—and I guess I have to confess I think the Senator from Nebraska is correct in suggesting that perhaps there is a little inconsistency involved in some of our minds on this, when he says everyone is for balancing the budget, but not now. I think one could also say, in addressing ourselves to how we approach this issue, that we need to look long and hard at a constitutional amendment of this nature, because if one is looking at balancing the budget and dealing with all the ingredients of our economy, it takes fine tuning, and not a meat-ax approach.

To suggest, as this amendment does, that we are automatically going to turn over to the President of the United States the authority of raising taxes, when the Constitution very clearly says that is a prerogative of Congress, and to say that before any change can transpire we are going to have to get three-fourths of the House and three-fourths of the Senate to go along with it. I think anyone who has had a chance to serve in this body knows it is almost impossible to get three-fourths of the Members of the House and the Senate to concur on anything involving any significant controversy.

Even the ultimate in the legislative process, namely, the amending process which we are now involved in, requires only two-thirds. That is to suggest we are being somewhat hasty in connection with this kind of matter, which requires some very deft manipulation and handling of the various monetary and fiscal policies that ultimately affect the economy of this country.

Mr. KENNEDY. Would the Senator not agree with me that it is also interesting that we have this as a recommendation from a member of the Finance Committee? I would have thought the Finance Committee, which is so concerned for its jurisdiction, would have wanted to give some recommendation in terms of the fiscal and monetary implications of the procedure. But be that as it may, I think the Senator makes a worthwhile suggestion.

Is it, then, the Senator's response that the chairman of the committee was willing to hold hearings, or at least to permit others to chair hearings on this issue earlier this year, but there was no interest in doing so?

Mr. BAYH. That is a fair assessment. I would say to my distinguished friend and colleague from Nebraska that I amendment, for reasons that I will discuss tomorrow. Although I believe the objective he seeks is worthwhile; and I have not found anyone else who is sufficiently interested in this proposal to give some time to a hearing on the amendment.

Mr. SCOTT. Mr. President, will the Senator yield briefly?

Mr. BAYH. Yes.

Mr. SCOTT. Mr. President, I appreciate the distinguished Senator's yielding.

It is my recollection that during the 94th Congress the subcommittee did hold some hearings, and I would ask that the distinguished Senator from Indiana advise me whether or not there were some hearings on—I am not sure whether it was the identical measure, but on a constitutional amendment for a balanced budget. It is my recollection that there were some hearings sometime, not this year but within the past couple of years.

Mr. BAYH. The Senator is correct.

Mr. CURTIS. Mr. President, will the distinguished Senator yield?

Mr. SCOTT. The Senator from Massachusetts has the floor.

Mr. KENNEDY. Yes, I yield.

Mr. CURTIS. I think the distinguished Senator. We did have hearings in the last Congress. We had a number of witnesses, members of State legislatures, distinguished lawyers, some men from the academic world, and we had a number of our colleagues testify.

One of the discouraging things has been, just as the distinguished Senator from Indiana said, that he could not find anyone who wanted to give time to it. That discourages us in seeking committee review of the matter.

I call to the attention of the Senate that the matter before us is also here without the approval of a committee and without the approval of a subcommittee, though I am sure it has considerable support in the committee.

I have seven cosponsors who are members of the Judiciary Committee, including the chairman, Senator EASTLAND, Senator HATCH, Senator LAXALT, Senator SCOTT, Senator THURMOND, Senator ROTH, and Senator DECONCINI.

So if a bill without committee blessing is an orphan, there are two of us out here. The bill before us, technically, has not been to committee, and there is no committee report before us recommending this District of Columbia measure.

As I pointed out, there are 7 very distinguished members of the Judiciary Committee who are cosponsors of this amendment. I thank the Senator for yielding.

Mr. KENNEDY. Mr. President, I know of no effort that has been made within the Judiciary Committee to bring this issue to a vote. The only thing I would point out, and let the record show, is that next to me is a pile of books and documents that contains the record of

Mr. BAYH. There is no question about the comparison of the time for study. The Senator from Massachusetts is correct.

Out of fairness to the Senator from Nebraska, he has diligently pursued this issue. He has introduced legislation on this matter and it has been before a Committee. But I must confess to him, and I am sure he could not refute this, that of the cosponsors he mentioned, members of the Judiciary Committee, there has not been a single one who has been willing to sit and preside over hearings. I think that is a good barometer of the kind of continuous interest which has existed on this matter.

It is a good matter to talk about and discuss. I think, as he said, everybody wants to balance the budget but not now, or perhaps not in this way. He has been persistent in the matter. He feels that it ought to be done now and in this way. Some of the rest of us feel that perhaps there is a different way of approaching this problem.

Mr. KENNEDY. Mr. President, I will have more to say as we continue with our discussion on this amendment in the morning.

I will suggest the absence of a quorum.

Mr. SCOTT. Will the Senator withhold?

Mr. KENNEDY. Yes.

Mr. ROBERT C. BYRD. Will the Senator yield to me?

Mr. SCOTT. Yes.

ORDER DESIGNATING PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. I ask unanimous consent, Mr. President, that when Mr. SCOTT and Mr. KENNEDY have yielded the floor for today, there be a brief period for the transaction of routine morning business with Senators allowed to speak up to 5 minutes each, and the period not to extend beyond 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPRESENTATION OF THE DISTRICT OF COLUMBIA IN CONGRESS

The Senate continued with the consideration of the bill.

Mr. SCOTT. If the Senator will yield, is it the intention of the distinguished majority leader that there would be no votes today?

Mr. ROBERT C. BYRD. Yes, no votes today.

Mr. CURTIS. May I inquire?

Mr. ROBERT C. BYRD. Yes.

Mr. CURTIS. I do not know whether the majority leader or those in charge of the bill are free to state whether or

ator in the morning and communicate with him. At the present time, I have no intention of voting prior to that time, and I would have every intention of notifying the Senator.

Mr. CURTIS. This Senator will not be here early. Others will be here to speak.

Mr. KENNEDY. Then I would certainly not offer that motion prior to 12 o'clock.

Mr. CURTIS. I thank the Senator.

Mr. ROBERT C. BYRD. Will the distinguished Senator from Virginia yield to the Distinguished Senator from Indiana so he can proceed to a matter which he is entitled to proceed with, and which he would do in any event?

Mr. SCOTT. Yes, I will be glad to yield.

EXTENSION OF THE EQUAL RIGHTS AMENDMENT

Mr. BAYH. Mr. President, I understand there is a message from the House on House Joint Resolution 638. I ask the Chair to lay that message before the Senate and that it be read twice—Mr. President, I ask unanimous consent that it be placed on the Calendar.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. I reserve the right to object. Is this the ERA amendment?

Mr. SCOTT. I do object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. BAYH. Mr. President, I ask the Chair to lay before the Senate a message from the House on House Joint Resolution 638 and ask that it be read twice.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object.

Mr. ROBERT C. BYRD. He has a right to have it laid before the Senate, Mr. President.

Mr. STEVENS. He has a right to have it laid before the Senate. I do not object to that. I want to make the RECORD clear on that. But I want to protect those on this side of the aisle who might want to object.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 638) extending the deadline for the ratification of the equal rights amendment.

Mr. BAYH. Mr. President, I ask that the House joint resolution be read the second time.

The PRESIDING OFFICER. Is there objection?

Mr. SCOTT. Mr. President, I object, and I would like to say to my distinguished friend from Indiana that this is a matter before our committee. Apparently this is an effort to bypass the very subcommittee on which the distinguished Senator and I serve. I would hope that

ator has yielded to me. I do not want to persist over another minute or two and will not do so if he desires I not do so. I want to make sure that everything done here is on top of the table and he does not feel I am trying to put something over on him.

Mr. SCOTT. I have no objection to the distinguished Senator utilizing as much time as he desires to use, Mr. President, but I do have objection to bringing up the joint resolution on the ERA extension. I voted for the matter when it was before the House and we lived in a different climate than we do today. But I am concerned about the precedent that it would set to extend it after the States have had 7 years. For the purpose of debate, I do not have the slightest objection to the disinguished Senator talking to the extent he desires to talk. I will have to talk less if he will talk more.

Mr. STEVENS. Will the Senator yield for a parliamentary inquiry?

Mr. SCOTT. I yield.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. STEVENS. The resolution has been read once, I understand, and there was an objection to it being read twice. According to the rules there has been no unanimous consent granted concerning this resolution so far. Is that correct?

The PRESIDING OFFICER. Objection was heard and it was only read once.

Mr. ROBERT C. BYRD. Will the Senator from Virginia yield to me?

Mr. SCOTT. Certainly.

Mr. ROBERT C. BYRD. Mr. President, when Senators complete their discussion of the pending business, we are ready to go into morning business. There will be no rollcall votes tonight.

Mr. SCOTT. If the Senator will yield, Mr. President, I have just conferred with the distinguished Senator from Massachusetts and neither he nor I, although prepared to talk further, see any need to do it tonight. We are willing to stop now.

Mr. BAYH. I would like to have about 2 or 3 minutes to at least find where we are on the joint resolution we just discussed so that the Senate would know what the future might hold.

Mr. SCOTT. Mr. President, for the purpose of the distinguished Senator discussing any matter that he wants, I am glad to yield the floor.

Mr. STEVENS. Mr. President, if I might respond to the Senator from Indiana, there is the statement the Senator from Utah made today. He is not here at this time. I want to make certain his rights are protected. He has indicated that he would oppose the joint resolution which was just presented. I will advise that perhaps the Senator would want to see about that being released.

Mr. BAYH. I appreciate the Senator from Alaska making that information

an issue reaches the calendar.

For that reason, the policy I have undertaken is similar to the policy that we are pursuing on the matter of district representation for the same reason—because of the valiant efforts that the Senator from Virginia can make in opposition to legislation, which he has just mentioned. He has been very forthcoming along the way in letting me know of his intentions.

Mr. SCOTT. If the Senator will yield at that point, I believe the Senator and I both realize that of the six members of the subcommittee, three are opposed and three are in favor of the extension. The bill will not come out of the subcommittee under those circumstances. I think we are both aware of that.

The distinguished Senator said something about getting everything out in the open. I think that gets it out in the open.

Mr. BAYH. I think the Senator just described the circumstances and reasons for the procedure of the Senator from Indiana better than he could have done it himself. If we are concerned about the need to ratify the equal rights amendment and if we realize that the only way to get this done is to pass the extension, then we have to recognize that following the normal legislative process is important only because of the split which exists in the Committee on the Judiciary—not only because of the split which exists in the subcommittee, but the fact that, although a majority of the Judiciary Committee would support this resolution, there is no way it can ever be put to a vote.

Under the rules of the Judiciary Committee, one Senator has the complete right, as the distinguished Senator from Virginia knows, to take advantage of the provision which permits a discussion at length, shall I say, without any countervailing cloture provision which would permit the majority of the Senate Judiciary Committee to work its will.

The plan followed by the Senator from Indiana is to have the matter read today, to have it read a second time tomorrow and to object to its going to committee, and the third day, it will be on the calendar.

Hopefully, after that, the Senator will have the opportunity to discuss it and, hopefully, vote in favor of it, as we hope to be able to do on the District of Columbia measure.

That is where we are and I thank the Senator from Virginia for interrupting his discussion and yielding to me.

Mr. SCOTT. Mr. President, I shall not delay the adjournment but 1 minute to say that I do intend to object to anything that would tend to bring the matter before the Senate for consideration. I realize that can be motioned up after a period of time. To me, it is something that I hope the distinguished Senator from Indiana will not persist in.

This is a time when the chairman of

country. As the distinguished Senator knows, the chairman of the full committee would oppose this bill and I think he ought at least to be present to speak for himself before this matter is brought up in this manner.

Mr. BAYH. Will the Senator yield?

Mr. SCOTT. I am glad to yield.

Mr. BAYH. I just want to assert that I did not misspeak myself when I said that the procedure that the Senator from Indiana has undertaken should not in any way be interpreted to suggest that he wants to interrupt the present legislative procedure. I think we should dispose of the District of Columbia representation issue, and perhaps certain other issues that the leader wants us to consider, in the next few days. But the procedure undertaken by the Senator from Indiana was to take the House bill which was just passed yesterday and been forwarded in the message of House Joint Resolution 638, and to keep it from being put into the Senate Judiciary Committee, which would kill it, in effect. The Senate would not have a chance to vote on it, and the Senate Judiciary Committee would not have a chance to vote on it, because any one Senator who wants to filibuster it can filibuster it.

The procedure followed by the Senator from Indiana would mean that in 3 days, it would be on the Calendar, like numerous other pieces of legislation, subject to the rights of any Senator to take it up or to object to its being taken up.

Mr. ROBERT C. BYRD. Will the Senator yield at that point?

Mr. BAYH. I yield the floor and I appreciate the courtesy of the leader.

Mr. ROBERT C. BYRD. I want to call to the attention of the Senator, as I am sure he wants the RECORD to say, that he is talking about legislative days, not calendar days. I point out that the last legislative day prior to today was May 17, 3 months ago tomorrow.

ORDER FOR SENATE TO RECESS AT 7 P.M. TODAY UNTIL 9:30 TOMORROW

Mr. STEVENS. Will the Senator yield?

Mr. ROBERT C. BYRD. I am prepared to yield.

I ask unanimous consent, Mr. President, that the Senate, at the hour of 7 o'clock p.m. today, stand in recess until 9:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. ROBERT C. BYRD. Under the order entered for the recess, if all Senators are disposed to walk off the floor at this minute, the Presiding Officer can also do so, can he not, and the Senate will stand in recess as of the hour of 7 p.m.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, as far as I am concerned, I am ready to go.

Mr. President, I suggest the absence of a quorum. Mr. PROXMIRE is coming to the floor.

will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, may we go to morning business now?

The PRESIDING OFFICER. The Senate will now proceed to the consideration of morning business.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORTS OF THE U.S. NUCLEAR REGULATORY COMMISSION—MESSAGE FROM THE PRESIDENT—PM 208

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying reports, which was referred to the Committee on Energy and Natural Resources and the Committee on Environment and Public Works, jointly, by unanimous consent:

To the Congress of the United States:

Pursuant to the provisions of Section 307(c) of the Energy Reorganization Act of 1974, I transmit herewith the second and third Annual Reports of the United States Nuclear Regulatory Commission. Both reports cover events prior to my Administration.

JIMMY CARTER.

THE WHITE HOUSE, *August 16, 1978.*

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a message from the President of the United States, transmitting the Second and Third Annual Reports of the Nuclear Regulatory Commission, be jointly referred to the Committee on Energy and Natural Resources and the Committee on Environment and Public Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORT ON NATIONAL URBAN POLICY—MESSAGE FROM THE PRESIDENT—PM 209

The PRESIDING OFFICER laid before the Senate the following message together with an accompanying report, which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

I am forwarding herewith the First Biennial Report on National Urban Policy in accordance with Sections 702 and 703(a) of the Housing and Urban Development Act of 1970, as amended in 1977.

JIMMY CARTER.

THE WHITE HOUSE, *August 16, 1978.*

MESSAGES FROM THE HOUSE

At 6:15 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendments of the Senate to H.R. 11579, an act to designate the Veterans' Administration center located at 1901 South First Street, Temple, Tex., as the "Olin E. Teague Veterans' Center".

The message also announced that the House has passed the following bill and joint resolution in which it requests the concurrence of the Senate:

H.R. 12931. An act making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1979, and for other purposes; and

H.J. Res. 638. A joint resolution extending the deadline for the ratification of the equal rights amendment.

The message further announced that the House disagrees to the amendment of the Senate to H.R. 11209, an act to provide for the establishment, ownership, operation, and governmental oversight and regulation of international maritime satellite telecommunications services; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. MURPHY of New York, Mr. VAN DEERLIN, Mr. BIAGGI, Mr. CARNEY, Ms. MIKULSKI, Mr. WIRTH, Mr. RUPPE, Mr. BROYHILL, and Mr. FREY were appointed managers of the conference on the part of the House.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 696. A concurrent resolution providing for an adjournment of the House from August 17 to September 6, 1978.

HOUSE BILL REFERRED

The following bill was read twice by its title and referred as indicated:

H.R. 12931. An act making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1979, and for other purposes; to the Committee on Appropriations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MAGNUSON, from the Committee on Appropriations, with amendments:

H.R. 12929. An act making appropriations for the Department of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1979, and for other purposes (Rept. No. 95-1119).

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs, with amendments:

S. 3036. A bill to amend the Coinage Act of 1965 to change the size, weight, and design of the one-dollar coin, and for other purposes (Rept. No. 95-1120).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. RANDOLPH, from the Committee on Environment and Public Works:

Karl Smith Bowers, of South Carolina, to be Administrator of the Federal Highway Administration.

Jane Hurt Yarn, of Georgia, to be a member of the Council on Environmental Quality.

(The above nominations from the Committee on Environment and Public Works were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. DANFORTH (for himself, Mr. BELLMON, and Mr. PROXMIRE):

S. 3416. A bill to control excessive government spending; to the Committee on Finance.

By Mr. ANDERSON (for himself, Mr. BENTSEN, Mr. BURDICK, Mrs. HUMPHREY, Mr. MCGOVERN, Mr. MATSUNAGA, Mr. ZORINSKY, Mr. HODGES, and Mr. MORGAN):

S. 3417. A bill to increase the amount for which loans may be made by the Commodity Credit Corporation to farmers for the construction or remodeling of grain storage facilities on the farm; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. JACKSON (for himself, Mr. MAGNUSON, Mr. CHURCH, Mr. MARK O. HATFIELD, Mr. PACKWOOD, and Mr. MCCLURE):

S. 3418. A bill to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River Power System to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CULVER (for himself, Mr. CLARK, Mr. MCGOVERN, Mr. METZENBAUM, and Mrs. HUMPHREY):

S. 3419. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income a portion of payments made under certain Federal and State cost-sharing programs the primary purpose of which is conservation of soil and water resources, environmental protection or restoration, forest enhancement, or the provision of wildlife habitat; to the Committee on Finance.

By Mr. HATHAWAY:

S. 3420. A bill to amend the Internal Revenue Code of 1954 to reduce individual and corporate income tax reductions, and for other purposes; to the Committee on Finance.

By Mr. DOLE (for himself and Mr. PEARSON):

S. 3421. A bill to authorize establishment of the Fort Scott National Historic Site, Kansas, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. WALLOP (for himself, Mr. BROOKE, Mr. BARTLETT, Mr. BELLMON, Mr. BENTSEN, Mr. CASE, Mr. DANFORTH, Mr. GARN, Mr. HATCH, Mr. PAUL G. HATFIELD, Mr. HAYAKAWA, Mr. HEINZ, Mr. INOUYE, Mr. JAVITS, Mr. LAXALT, Mr. LUGAR, Mr. MCCLURE, Mr. MCINTYRE, Mr. MATHIAS, Mr. PERCY, Mr. RIEGLE, Mr. SCHMITT, Mr. STAFFORD, and Mr. STEVENS):

S. 3422. A bill to establish a congressional award program for the purpose of recognizing excellence and leadership among young people; to the Committee on Governmental Affairs.

By Mr. BROOKE:

S. 3423. A bill to amend the Disaster Relief Act of 1974 and the Small Business Act to increase disaster relief assistance, and for other purposes; to the Committee on Environment and Public Works and the Select Committee on Small Business, jointly, by unanimous consent.

By Mr. CRANSTON:

S. 3424. A bill to amend section 8 of Public Law 93-223 to permit California to continue cash payments to SSI recipients in lieu of food stamps; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DANFORTH (for himself, Mr. BELLMON, and Mr. PROXMIRE):

S. 3416. A bill to control excessive Government spending; to the Committee on Finance.

(The remarks of Mr. DANFORTH when he introduced the bill appear elsewhere in today's proceedings.)

By Mr. ANDERSON (for himself, Mr. BENTSEN, Mr. BURDICK, Mrs. HUMPHREY, Mr. MCGOVERN, Mr. MATSUNAGA, Mr. ZORINSKY, Mr. HODGES, and Mr. MORGAN):

S. 3417. A bill to increase the amount for which loans may be made by the Commodity Credit Corporation to farmers for the construction or remodeling of grain storage facilities on the farm; to the Committee on Agriculture, Nutrition, and Forestry.

CCC FARM STORAGE LOANS

● Mr. ANDERSON. Mr. President, today I am introducing a bill to amend the Commodity Credit Corporation (CCC) Charter Act to authorize an increase in the ceiling on CCC farm storage facility loans from the present $50,000 to $100,000.

The CCC storage facility loan program has been very successful, enjoying a high participation rate among our Nation's family farmers. Family farmers have shown that they like to have the ability to store their crops on their farms and to market their crops when it best suits their needs. Like other businessmen, the farmer who knows exactly the amount of his product he has on hand can better make decisions about future production and marketing of his crops. My bill is designed to assure that this program remains an effective aid for our family farmers.

Under present law, a farmer can receive low-interest loans from the CCC for the construction of on-the-farm storage facilities. These loans can be used for storage buildings and drying equipment for wheat, corn, oats, barley, grain, sorghum, rye, soybeans, flaxseed, rice, dry edible beans, peanuts, sunflower seeds, and high-moisture forage. Up to 85 percent of the eligible cost of structures and equipment can be financed with up to 8 years allowed the individual farmer to repay the loan. At this time the total outstanding balance of all storage loans to an individual cannot exceed $50,000.

The demand for and the cost of these on-the-farm storage facilities are up. Many commercial elevators remain full from last year's bumper crop, causing farmers to look for alternative storage space. Those farmers who have access to commercial space feel they cannot depend on the transportation network to move their crops when needed. These farmers fear the crops they have worked so very hard to produce will be left lying on the ground to spoil unless they have reliable storage space on their farms.

Like everything else, the cost of drying equipment and the construction of storage buildings has increased. Many farmers who have outstanding loans and feel they could use more space cannot build additional storage since another loan would push them over the present loan ceiling.

Mr. President, the current $50,000 ceiling on these loans is inadequate to meet the increased cost and demand. I urge my colleagues to recognize the need to increase this ceiling and to support this bill.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3417

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the last proviso of the second sentence of section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h)) is amended by striking out "$50,000" each time such figure appears and inserting in lieu thereof "$100,000".

SEC. 2. The amendment made by the first section shall be effective only with respect to the fiscal years beginning October 1, 1978, and ending September 30, 1981.●

By Mr. JACKSON (for himself, Mr. MAGNUSON, Mr. CHURCH, Mr. MARK O. HATFIELD, Mr. PACKWOOD, and Mr. MCCLURE):

S. 3418. A bill to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River Power System to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes; to the Committee on Energy and Natural Resources.

PACIFIC NORTHWEST ELECTRIC POWER PLANNING AND CONSERVATION ACT

● Mr. JACKSON. Mr. President, today, on behalf of myself and Mr. MAGNUSON, Mr. CHURCH, Mr. MARK O. HATFIELD, Mr. PACKWOOD, and Mr. MCCLURE, I introduce a new proposal for a comprehensive

the Pacific Northwest Electric Power Supply and Conservation Act at the request of a consortium of Northwestern regional utilities. During the intervening year, field hearings have been held by the Senate Committee on Energy and Natural Resources in the State of Washington, Oregon, Idaho, and Montana, and the House Interior and Insular Affairs Committee has also held field hearings on a companion measure. An impressive record has been compiled containing the views and expressing the concerns of interested parties throughout the Pacific Northwest. There has been continued discussion of the legislation in the region and the debate was intense. Clearly, the energy future of the Pacific Northwest is of singular importance to the area and the concerns and suggestions expressed by citizens, business, and the utilities have been carefully reviewed and have been given consideration in the preparation of the new proposal which I introduce today.

This new bill, based upon the plan originally proposed, reflects the addition of constructive suggestions offered during the field hearings and the ongoing dialog taking place in the Pacific Northwest today. This substitute bill would implement the best thinking as to how to solve the power planning problems and needs in the Pacific Northwest and reflects the long experience and knowledge of many individuals and entities familiar with the unique energy resource base of the region.

As I have stated before, we in the Pacific Northwest are proud of the highly efficient utility system which we have developed with the cooperation of Federal, State, and local government, public and private utilities, and all of the citizens of the region. Working to solve our problems together has been the key to our success. I believe that the bill I introduce today exemplifies and perpetuates the spirit of cooperation which has so much distinguished our efforts in the past.

As is evidenced by the support shown by my distinguished colleagues ffom the Pacific Northwest who have joined in cosponsoring this measure; the spirit of cooperation in solving regional needs knows no state boundaries or political differences and is as strong now as ever.

I ask unanimous consent that the text of the bill be printed in full in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3418

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Pacific Northwest Electric Power Planning and Conservation Act".

FINDINGS

SEC. 2. The Congress finds that—

(a) The Federal Columbia River Power System offers a unique opportunity to encourage policies of conservation and efficiency in the use of electric power within the States, local communities, ratepayers, and the public at large are essential in development of regional plans and programs related to energy conservation, renewable resources, and other generating resources and orderly planning of the Federal Columbia River Power System.

(c) The ratepayers of the Pacific Northwest should continue to pay all costs necessary to produce, transmit, and conserve electric power to meet the region's electric power requirements, including the amortization of the Federal investment in the Federal Columbia River Power System.

DEFINITIONS

SEC. 3. As used in this Act—

(a) "Administrator" means the Administrator, Bonneville Power Administration.

(b) "Conservation" means any appropriate improvements in the power system or investment which increases the efficiency of energy production or use.

(c) A conservation measure or a renewable, waste heat or cogeneration resource application is "cost effective" if it results in costs to the Administrator no greater than the cost of the least cost feasible alternative resource, waste heat or cogeneration or resources that the Administrator determines is or can be available for acquisition, and if it provides comparable power benefits, giving full recognition to prospective cost escalations and future availability of fuels.

(d) "Electric power" means electric peaking capacity or electric energy or both.

(e) "Federal base system resources" means the Federal Columbia River Power System hydroelectric projects which on the effective date of this Act are in operation or are scheduled for operation on or before June 30, 1983, electric power resources acquired by the Administrator under long-term contracts which are in force on the effective date of this Act, and new resources acquired by the Administrator to replace reductions in capability of the foregoing resources.

(f) "New resources" means all electric power resources acquired by the Administrator, except resources which are Federal base system resources or resources acquired at average cost from the investor-owned utilities pursuant to section 5(b)(2) of this Act.

(g) "Pacific Northwest, region, or regional", means

(1) the region consisting of the States of Oregon, Washington, and Idaho, the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming as are within the Columbia River drainage basin; and

(2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a distribution cooperative served by the Administrator on the effective date of this Act which has a distribution system from which it serves both within and without said region.

(h) "Renewable resources" means a renewable source of energy, including, but not limited to, solar, wind, hydro, geothermal, and biomass, which is used for electrical generation or which will reduce the electrical requirements of a consumer by direct application.

(i) "Residential use or load" means all usual residential, apartment, seasonal dwelling, and farm building, electrical loads or uses, and not to exceed a total of one hundred horsepower of farm irrigation and pumping loads for any farm.

(j) "Resources" means electric power, facilities that produce electric power, planned electric power capability of generating facilities, whether operating or operable, electric power conserved, and measures to conserve electric power.

(1) The Bonneville Consumers' Council shall be composed of two persons from each congressional district in the States of Washington, Oregon, and Idaho, and the State of Montana west of the Continental Divide, who shall be appointed by the Governors of the State in which each such congressional district is located within ninety days of notification by the Administrator of a vacancy on the Bonneville Consumers' Council. One such person appointed to the Bonneville Consumer's Council from each district shall be an elected official of a local government within such district, and the other person shall be appointed from the general public with a view to diversity of backgrounds and interests.

(2) The Bonneville Utilities' Council shall be comprised of eighteen representatives of Pacific Northwest electric utilities to be selected by these utilities and not more than three representatives of the direct service industrial customers to be selected by them, such selections to be under rules established by the Administrator.

(3) The Administrator shall establish terms and other conditions of service for members of both Councils, and shall fill vacancies on the Councils in the absence of appointments by a Governor or failure of utilities to select persons.

(b) In order to further insure widespread and representative public involvement in formulation of regional power programs and policies, the Administrator shall establish and maintain comprehensive programs designed to inform the Pacific Northwest public of major regional electric power issues and to obtain public views and reactions concerning those issues.

(c) The Administrator shall prepare a regional power planning and conservation program to carry out the purposes of this Act. Such program shall be developed in consultation with the Governors of the States of Idaho, Montana, Oregon, and Washington, the Bonneville Consumers' Council and the Bonneville Utilities' Council and with general public involvement programs. The regional power planning and conservation program shall include a twenty-year regional load/resource forecast, proposed conservation programs, proposed renewable, waste, cogeneration and other resources, acquisitions, proposed major transmission system additions and such other program proposals as the Administrator deems appropriate. Such program or any part thereof, may be revised from time to time as the Administrator deems appropriate after consultation with the Governors, the Councils and public involvement as provided in this section.

SALE OF POWER

SEC. 5. (a) The Administrator shall offer to sell electric power to each Pacific Northwest utility, at rates established pursuant to section 7, to meet its firm power load in the region which is in excess of such utility's resources committed to such load, subject to the provisions of subsection (b)(2) of this section: *Provided*, That the Administrator determines that he has or can acquire adequate resources to meet such requirements.

(b) Additionally, (1) the Administrator is authorized to sell electric power to regional Federal agencies, and (2) if the Administrator acquires electric power either from a Pacific Northwest utility at the average cost of resources then available to that utility, or from other resources at a cost equal to or less than the average cost of resources then available to that utility, then the Administrator shall offer to sell to such utility for resale to meet the load of its residential customers in the region an equivalent amount and increasing such percentage in equal annual increments to 100 per centum of such load in the year beginning July 1, 1984. Such electric power shall be sold at rates established pursuant to section 7.

(c) The Administrator is authorized to sell to direct-service industrial customers electric power to meet their load requirements so long as such sales provide a portion of the planning and operating reserves for the Federal Columbia River Power System. The Administrator shall offer to those direct-service industrial customers receiving electric power from the Federal Columbia River Power System on the effective date of this act new long-term power sales contracts effectuating the purposes of this section. Such offer shall expire one year from the date it is tendered by the Administrator. Such electric power shall be sold at rates established pursuant to section 7.

(d) The Administrator is further authorized to sell or otherwise dispose of electric power that is surplus to his obligations incurred pursuant to subsections (a), (b), and (c) of this section in accordance with other statutes related to disposition of power from the Federal Columbia River Power System. Such electric power shall be sold at rates established pursuant to section 7.

RESOURCE ACQUISITION

SEC. 6. (a) The Administrator shall conserve electric power through implementation of measures the Administrator determines are feasible and cost-effective including, but not limited to programs for financing residential insulation, increased system efficiency and waste energy recovery. The Administrator shall develop conservation proposals and programs which assist the region's electric power consumers to make efficient use of energy. In addition, he shall assist the promotion of conservation by and among regional consumers by providing technical or financial assistance, and by cooperating with his customers and governmental authorities to encourage voluntary conservation and to devise effective mechanisms for establishing, enforcing, and achieving compliance with mandatory conservation standards.

(b) In the event that the Administrator determines conservation will be insufficient to meet the electric power obligations incurred under section 5, the Administrator shall acquire additional resources from Federal or non-Federal entities to meet the remainder of such obligations. Such acquisition shall be obtained from waste heat, cogeneration or renewable resources the Administrator determines are feasible and cost-effective.

(c) If resources in addition to such resources are needed, then the Administrator shall acquire additional electric power resources giving priority to high efficiency resources, such as combined cycle and magneto-hydrodynamic generation, which he determines to be feasible and cost-effective. All such resources acquired by the Administrator:

(1) shall be consistent with the provisions of the power program for the Pacific Northwest developed pursuant to section 4; and

(2) shall be constructed and operated in a manner to provide efficient, economic, and reliable service.

(d) The Administrator is hereby authorized to construct and operate generating facilities, with the exception of constructing hydroelectric resources, utilizing renewable resources; and to construct such other generating resources as he determines are necessary to assure transmission system reliability.

(e) To the extent conservation or acquisi- sisting institutions able to supply credit to such consumers.

(f) The Administrator is authorized to enter into agreements with sponsors of resources which may be proposed for acquisition by the Administrator to fund or secure debt incurred in the investigation and initial development of such resources.

(g) Prior to the execution of any contract for the acquisition of major resources pursuant to subsection (c) of this section, the Administrator shall have reviewed the proposed acquisitions with the Governors of Idaho, Montana, Oregon, and Washington, the Bonneville Consumers' Council and the Bonneville Utilities' Council pursuant to section 4; and he shall submit any comments or recommendations received from the Governors and the councils along with the proposed contracts and evidence of compliance with the National Environmental Policy Act of 1969, to the Senate Energy and Natural Resources Committee and to the House Interior Committee for review. Thereafter, the Administrator shall publish notice of his intention to acquire such resources in the Federal Register. No such contract shall be executed by the Administrator until ninety days after the date of submittal to the Congress pursuant to this subsection and no financial commitment shall be incurred under this authority until it has been noted in the Administrator's budget submittal made pursuant to section 11 of Public Law 93-454.

(h) The Administrator, at the request and expense of a Pacific Northwest customer, shall acquire, to the extent practicable, any electric power which is required by such customer to replace electric power curtailed or interrupted by the Administrator: *Provided*, That such customer may elect to acquire independently replacement power under terms and conditions as prescribed by the Administrator.

RATE DIRECTIVES

SEC. 7. (a) The Administrator shall establish and periodically modify rates for the sale and disposition of electric power to recover, in accordance with sound business principles, the costs associated with the acquisition, conservation, and transmission of electric power including the amortization of the Federal investment in the Federal Columbia River Power System over as reasonable period of years and the other costs and expenses incurred by the Administrator pursuant to law. In addition, prior to July 1, 1982, such rates shall recover revenues in amounts that the Administrator determines are necessary to provide all or a portion of the initial funding for conservation programs to be implemented pursuant to section 6(a). Such rates shall become effective upon confirmation and approval by the Federal Energy Regulatory Commission and shall be established in accordance with sections 9 and 10 of Public Law 93-454 and the provisions of this Act on the finding that such rates (1) are sufficient to assure repayment of the Federal investment after first meeting the Administrator's other costs; (2) are based upon the Administrator's total costs of service, including contingencies and initial conservation funding; and (3) insofar as transmission rates are concerned, equitably allocate the costs of the Federal transmission system between Federal and non-Federal uses.

(b) The Administrator shall establish a rate or rates applicable to the electric power sold for the general requirements of public body, cooperative and Federal agency customers, and to the electric power sold under section 5(b)(2) for the requirements of residential customers in the region. Such rate or rates shall recover the costs of that portion of rates that shall recover the costs of additional electric power as needed, first from the electric power purchased by the Administrator under section 5(b)(2) and then from new resources.

General requirements as used in this section shall be that portion of a public body's, cooperative's, or Federal agency's directly served electric power load in excess of its own resources that are dedicated to meet such load and exclusive of any large new industrial load whose service is contracted for after October 1, 1978.

(c) The rate or rates applicable to direct-service industrial customers shall be established at a level which the Administrator determines is equitable in relation to the rates charged by the region's electric utilities to their major industrial customers, taking into account the value of power system reserves made available to the Administrator through his rights to curtail or interrupt service to such direct-service industrial customers; the comparative size and character of the loads served; the relative costs of electric capacity, energy, transmission, and related delivery facilities provided, and other service provisions, all as related to the delivery of power to such customers: *Provided*, That prior to July 1, 1984, the rate or rates applicable to direct-service industrial customers shall be established to recover the costs incurred by the Administrator pursuant to section 5(b)(2) and not recovered through rates applicable for other classes of power sold by the Administrator; and such rate or rates shall be established at a level no lower than the weighted average wholesale power costs to the investor owned utilities from their own resource costs and purchases from the Administrator pursuant to section 5(b)(2) for their residential loads in the region as determined by the Administrator: *Provided further*, That for the period prior to July 1, 1981, such rate or rates may be in the form of a surcharge on rates then applicable to direct-service industrial customers.

(d) In establishing rate schedules of general application, the Administrator may establish a uniform rate or rates for sale of capacity.

(e) Rates for all other firm power sold by the Administrator shall be based upon the cost of the portions of Federal base system resources and additional resources, including new resources, which the Administrator determines are required to support such sales.

(f) The Administrator shall allocate to power rates, as he may determine appropriate, all other costs and benefits including, but not limited to, conservation, uncontrollable events, reserves, operating services, and the sale of excess electric power.

AMENDMENTS TO EXISTING LEGISLATION

SEC. 8. (a) Section 11(b) of Public Law 93-454 is amended by adding a new subparagraph (12) as follows:

"(12) making such payments as shall be required to carry out the purposes of the Pacific Northwest Electric Power Planning and Conservation Act.".

(b) Public Law 93-454 is amended by striking subsection 13 (a) and (b) and substituting the following new subsections:

"SEC. 13(a) The Administrator is authorized to issue and sell to the Secretary of the Treasury from time to time in the name of, and on behalf of the Bonneville Power Administration bonds, notes, and other evidences of indebtedness (in this Act collectively referred to as 'bonds') to assist in financing the constructing, acquisition, and replacement of the transmission system, to implement the Administrator's authority pursuant to the Pacific Northwest Electric Power and Planning Act, and to issue and sell bonds to refund such bonds. Such bonds

shall be in such forms and denominations, bear such maturities, and be subject to such terms and conditions as may be prescribed by the Secretary of the Treasury taking into account terms and conditions prevailing in the market for similar bonds, the useful life of the facilities for which the bonds are issued, and financing practices of the utility industry. Refunding provisions may be prescribed by the Administrator. Such bonds shall bear interest at a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities, plus an amount in the judgment of the Secretary of the Treasury to provide for a rate comparable to the rates prevailing in the market for similar bonds issued by Government corporations not to exceed the interest rate which would be applied to such bonds if they were purchased by the Federal Financing Bank. The aggregate principal amount of any such Bonds outstanding at any one time shall not exceed $1,250,000,000 plus the principal amount of any bonds outstanding which shall have been issued to finance or assist in financing the Administrator's implementation of the purposes set forth in the Pacific Northwest Electric Power Planning, and Conservation Act.

"(b) The principal of, premiums, if any, and on such bond shall be payable solely from the Administrator's net proceeds as hereinafter defined. 'Net proceeds' shall mean for the purposes of this section the remainder of the Administrator's gross receipts from all sources after first deducting trust funds and the costs listed in section 11(b)(2) through 11(b)(7), 11(b)(11), and 11(b)(12), and shall include reserve or other funds created from such receipts.".

(c) Public Law 88-552 is amended by striking subsection 1(b) and inserting a new subsection (b) as follows:

"(b) Pacific Northwest means (1) the region consisting of the States of Oregon, Washington, and Idaho, the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming as are within the Columbia River drainage basin and (2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a distribution cooperative served by the Administrator on the effective date of this Act which has a distribution system from which it serves both within and without said region.".

(d) Public Law 88-552 is amended by adding a new section 10 as follows:

"SEC. 10. All references in sections 1, 2, 3, 5, and 7 of this Act to 'plants', 'energy', 'peaking capacity', and 'generating facilities' shall be applicable to all types of generation and not solely to hydroelectric generation.".

ADMINISTRATIVE SECTIONS

SEC. 9. (a) In carrying out the provisions of this Act, the Administrator is authorized to enter into such contracts, agreements, and arrangements, including the amendment, modification, adjustment, or cancellation thereof and the compromise or final settlement of any claim arising thereunder, and to make such expenditures, upon such terms and conditions and in such manner as he may deem necessary.

(b) Except as specifically provided herein, the authority and duties of the Secretary of Energy and the Administrator shall not be affected by this Act.

(c) The Bonneville Consumers' Council and the Bonneville Utilities' Council shall not be subject to the provisions of the Federal Advisory Committee Act, and any action of a member of such Council related to an action of such Council shall not be deemed to be a violation of Federal or State antitrust laws.

(d) No later than March 1, 1979, the Administrator shall offer to enter into power sales and purchase contracts to be effective July 1, 1979, with utilities pursuant to section 5(b)(2).

(e) For the purpose of enabling the Administrator to acquire resources from State and local governmental units at a cost no greater than the costs which would be applicable in the absence of such acquisition, the debt obligations described in section 103(a)(1) of title 26 of the United States Code shall not be affected by any contract or agreement regarding the Administrator's acquisition of resources constructed by a State or local governmental unit and for which the Administrator determines at the time the commitment for such acquisition is made will not be utilized over the life of the project in whole or in major part by a person who is not an exempt person, as defined in section 103(c)(3) of title 26 of the United States Code.

(f) No provision of chapter 2C of title 15 of the United States Code shall apply to or be deemed to include any "person" or "company" (as defined in 15 U.S.C. 79(a)(1) and (2)) organized and operated primarily for the purpose of financing, leasing, constructing, owning, managing, or operating part of an interest in, or all of, facilities used for the generation of electricity (together with associated transmission and other facilities), 75 per centum or more of the power from which, or from the part or interest so financed, leased, constructed, owned, managed, or operated, is or will be sold to the Administrator under section 6.●

● Mr. MARK O. HATFIELD. Mr. President, I am pleased to join with the Senator from Washington (Mr. JACKSON) as a cosponsor of the Pacific Northwest Electric Power Planning and Conservation Act. I believe this legislation will prove to be the most significant bill affecting the Northwest to be considered in the remaining years of this century.

In the past few years, we have had ample opportunity to view the important relationship between energy supply and our way of life in this country. The economic well-being of the Nation, our relationships with other countries, the lifestyles we as individuals live, are all related to the supply of energy resources. The oil embargo of 1973 and the drastic cost increases of foreign oil have indicated very clearly to us that we can no longer take energy for granted as a cheap resource which will always be available at a low social and economic cost. For well over a year, the Congress of the United States has been considering and debating the President's national energy plan.

The Pacific Northwest has been fortunate to have renewable hydroelectric resources at our disposal, but this picture is changing. The likelihood of significant new baseload generation from the construction of large dams is small. We must now reexamine our options for the future, which include more aggressive conservation programs, low-head hydroelectric generation, and development of alternative resources which have not received adequate attention in the past. Each of these options, which are not mutually exclusive, raises questions of financing, impact upon the environment, and cost to consumers. Allocation to and uses of the various types of power generated is one of the most controversial of the issues but one which must be resolved in a timely fashion.

In November of 1976, I called for a regional approach to these issues. As I indicated at that time, the Pacific Northwest is one region, tied together by one transmission system. The legislation being introduced today continues the regional approach to Northwest energy problems and treats the current issues in a fair and equitable manner. It recognizes the importance of conservation and development of alternative energy resources. It treats residential users of electricity fairly, no matter which utility serves them. It provides for improved planning so that the region can make rational choices to insure adequate supplies of electrical energy.

Mr. President, it is my belief that this legislation is another indication of the ability of the Padific Northwest to work together as a region. I urge my colleagues in the Senate to join us in support of this legislation.●

By Mr. CULVER (for himself, Mr. CLARK, Mr. MCGOVERN, Mr. METZENBAUM, and Mrs. HUMPHREY):

S. 3419. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income a portion of payments made under certain Federal and State cost-sharing programs the primary purpose of which is conservation of soil and water resources, environmental protection or restoration, forest enhancement, or the provision of wildlife habitat; to the Committee on Finance.

● Mr. CULVER. Mr. President, I am introducing today legislation to exempt from Federal income taxation Federal and State cost-sharing payments for soil and water conservation, environmental protection, and the provision of wildlife habitat.

The U.S. Department of Agriculture currently administers a variety of programs under which it pays part of the cost of implementing measures to enhance natural resource and wildlife protection. Several States, including my own State of Iowa, provide funds for similar purposes. The basis of public support for these programs is that they yield broad societal benefits beyond those which accrue to individual landowners.

For example, it is clearly in our economic and environmental interest that cropland be adequately protected from soil erosion. This soil is the foundation of our food production capacity. Without it, food costs would soar and our very ability to provide food for ourselves would be jeopardized. Yet, soil conserving measures are often too expensive for the individual landowner, and the return on investment is usually delayed for many years. In the high competitive world of food production, farmers rarely can make these investments in conservation with any hope of recovering their costs through the prices received for their products. Our cost-sharing programs are designed to overcome these financial barriers to good conservation and environmental protection by providing financial incentives to install effective soil conservation measures.

Under current tax law, however, Federal and State cost-sharing payments are considered gross income to the farmer or landowner and subsequently, for tax purposes, are treated as earnings. Such a practice is a disincentive for sound soil conservation and environmental protection.

Mr. President, this is a clear case of diametrically opposed public policies. We attempt, on the one hand, to encourage a necessary public investment through financial assistance to private citizens. On the other hand, we discourage them from undertaking the conservation effort by imposing a tax penalty.

To make matters worse, this penalty falls unevenly on different kinds of conservation measures. The Internal Revenue Service (IRS) defines expenditures on certain measures as "deductible expenditures." Others are classified as expenditures on "depreciable assets." These distinctions are based largely on the type of material used to build a conservation structure and on the expected life of the measure, not on its purpose or function. For example, expenditures on a dam or water diversion structure built entirely with dirt are classified as deductible expenses. If a structure is built with concrete or wood, it would be classified as a depreciable asset. Investments in soil conservation projects classified as deductible expenditures do not result in a higher tax burden for a farmer. The increased gross income from the Government payment is offset by an equivalent deduction.

In the case of expenditures on measures classified as depreciable assets, however, only a portion of the increased gross income may be deducted that tax year. The farmer receiving assistance from the Government for building these structures must include in his gross income for that year the total amount of money received from the Government. If he can recover, in the first year, through annual allowances for depreciation, only 10 percent of that public assistance, he will have to pay taxes on the other 90 percent and wait until future years to recover those taxes.

These cost-sharing payments are not income supplements. Though the farmer will benefit from the financial assistance he receives for his conservation practices, the public will benefit, too, from the funds which the farmer spends himself on the project. The relative shares paid by the farmer and by the Government are based largely on the distribution of benefits from the work performed. This cannot be determined with total precision, of course, but reasonable estimates can be negotiated by local program representatives and the farmers themselves as is provided under these programs.

In selecting conservation measures, farmers are understandably influenced by tax considerations under the existing policies when they should be concentrating on the most cost-effective methods of conservation. The possibility of having to pay income taxes on the Government's share of the cost of certain conservation measures destroys the kind of balanced consideration of alternatives that is necessary if we are to get the most for our money.

This balance has been lacking since the inception of the agricultural conservation program (ACP) during the Dust Bowl days of the 1930's. Since then, over $15 billion has been invested in soil conservation under the ACP. One can drive almost anywhere in this country and see the results of this investment. Few public outlays have returned as great a dividend to the Nation. This return could have been substantially greater if we had not discouraged the use of these funds in perhaps more effective applications as a result of an irrational tax policy.

The legislation I am introducing today would simply exclude from the recipient's gross annual income the cost-sharing assistance he receives from the Government for measures whose primary purpose is soil and water conservation, environmental protection, forest enhancement, or the provision of wildlife habitat. The Federal programs affected by this exclusion are the water bank program, the emergency conservation measures program, the agricultural conservation program, the Great Plains conservation program, the resource conservation and development program, the rural clean water program, the forestry incentives program, and the rural abandoned mine program.

Payments made under these programs represent a national investment to enhance and secure a better future for the entire Nation, farmers and consumers alike. This bill would take us one step closer to even more effective soil conservation and environmental protection. At a time when we are losing annually over 2 billion tons of valuable topsoil to erosion, we should not have a tax policy which discourages sound conservation practices.

It is time to resolve this contradiction in policies by eliminating a tax which is both inequitable and self-defeating.

I ask unanimous consent the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3419

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTAIN PAYMENTS NOT INCLUDED IN GROSS INCOME.

(a) In General.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income) is amended by redesignating section 124 as 125 and by inserting immediately after section 123 the following new section:

"SEC. 124. COST-SHARING PAYMENTS.

"(a) GENERAL RULE.—Gross income does not include the excludible portion of cost-sharing payments received under the following programs:

"(1) The Water Bank Program authorized by the Water Bank Act (16 U.S.C. 1301 et seq.).

"(2) The Emergency Conservation Measures Program authorized by title IV of the Agricultural Credit Act of 1978.

"(3) The Agricultural Conservation Program authorized by the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590a).

"(4) The Great Plains Conservation Program authorised by section 16 of the Soil Conservation and Domestic Policy Act (16 U.S.C. 590p(b)).

"(5) The Resource Conservation and Development Program authorised by the Bankhead-Jones Farm Tenant Act and by the Soil Conservation and Domestic Allotment Act (7 U.S.C. 1010; 16 U.S.C. 590a et seq.).

"(6) The Rural Clean Water Program authorized by section 208(j) of the Federal Water Pollution Control Act (33 U.S.C. 1288 (j)).

"(7) The Forestry Incentives Program authorized by section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103).

"(8) The Rural Abandoned Mine Program authorized by section 406 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1236).

"(9) Any State program under which payments are made to individuals primarily for the purpose of conserving soil, protecting or restoring the environment, improving forests, or providing a habitat for wildlife.

"(b) EXCLUDIBLE PORTION.—For purposes of this section, the term 'excludible portion' means that portion (or all) of a payment under any program described in subsection (a) which is determined by the Secretary of Agriculture to be made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife.".

(b) Clerical Amendment.—The table of sections for such part is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 124. Certain cost-sharing payments.

"Sec. 125. Cross references to other acts.".

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 shall apply with respect to taxable years beginning after the date of enactment of this Act.●

By Mr. HATHAWAY:

S. 3420. A bill to amend the Internal Revenue Code of 1954 to reduce individual and corporate income tax reductions and for other purposes; to the Committee on Finance.

REVENUE ACT OF 1978

● Mr. HATHAWAY. Mr. President, today, I am pleased to introduce the Revenue Act of 1978. I intend that this legislation be carefully considered by the Finance Committee during markup of this year's tax bill.

On August 4, the Ways and Means Committee reported H.R. 13511. The bill contains a tax reduction of approximately $16.5 billion. The bill contains numerous provisions which are outlined in the Wall Street Journal of July 28. I ask unanimous consent that this article be included in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WAYS AND MEANS PANEL APPROVES $16 BILLION TAX CUT, INCLUDING CAPITAL-GAINS RELIEF CARTER VOWED TO VETO

(By John Pierson)

WASHINGTON.—The House Ways and Means Committee approved a $16 billion tax cut that includes $1.8 billion of relief for capital gains, which President Carter has threatened to veto.

The bill goes next to the House floor, where Republicans will try to make the tax cut larger and liberal Democrats will try to aim the reductions more at low- and middle-income taxpayers. After that, it goes to the Senate and then to a House-Senate conference.

Approved last night by a vote of 25 to 12 is a bill that stands most of Mr. Carter's tax

cially all the President's plans for closing tax "loopholes" and agreed instead to take capital gains out of the 15% minimum tax, which Congress enacted in 1969 to try to make sure that all high-income persons paid at least some tax.

In a last-minute switch, however, the committee voted to subject capital gains to a new 10% alternative minimum tax, which would have to be paid only if it exceeded a taxpayer's regular tax liability.

Thirteen Democrats joined 12 Republicans in voting for the bill, while 12 Democrats opposed it.

It's expected that the bill will go to the House floor before the House quits town Aug. 18 for its Labor Day recess.

The bill contains:

Individual tax cuts of $10.5 billion next year, achieved mainly through adjusted tax brackets, rate cuts, a higher exemption and a higher standard deduction.

Business cuts of $3.8 billion, mainly through lower corporate rates, higher exemption from the top rate and a more-generous investment credit.

Capital gains relief of $1.8 billion, chiefly by eliminating gains as an item of tax preference subject to the 15% minimum tax and the 50% maximum tax, "indexing" gains for inflation, and allowing homeowners to escape tax, once in a lifetime, on up to $100,000 of gain from sale of a home.

Homeowner tax relief was added yesterday in an effort to make the capital gains section less vulnerable to liberal complaints that the provision would benefit only the rich. Mr. Carter says that removing capital gains from the minimum tax would provide "huge tax windfalls for millionaires and only two bits for the average American." Fear of liberals' criticism was also behind the new alternative minimum tax on capital gains.

Here is a summary of the bill. Except where indicated, the changes would all take place starting next Jan. 1.

TAX CUTS

Individuals: The tax brackets would be raised about 6 percent. For example, under current law a married couple with taxable income, after deductions, of between $23,200 and $27,200 owes the federal government 32 cents of every dollar of income within that bracket. Under the committee bill, the couple would have to have between $24,600 and $28,840 of taxable income before being subject to the 32-percent rate. In addition, there would be actual rate cuts for certain brackets.

The zero bracket amount, which used to be called the standard deduction, would be increased to $2,300 from $2,200 for single persons and to $3,400 from $3,200 for married couples.

The personal exemption for each taxpayer and dependent would be raised to $1,000 from $750. Meanwhile, the general tax credit, which equals the greater of $35 for each exemption or 2 percent of the first $9,000 of taxable income, would expire at the end of this year under the bill.

Corporations: The corporate rates would be lowered and more income exempted from the top rate.

The rate on the first $25,000 of taxable corporate income would be cut to 17 percent from 20 percent and the rate on the second $25,000 to 20 percent from 22 percent. Two new brackets would be created, with the third $25,000 of corporate income taxed at 30 percent and the fourth $25,000 taxed at 40 percent.

Taxable corporate income exceeding $100,000 would be subject to a 46-percent rate. Currently the top rate is 48 percent.

Capital gains: Existing law imposes a 15-half of capital gains that isn't subject to the regular income tax. What's more, the excluded half of capital gains, along with other preferences, reduces the amount of earned income eligible for the 50-percent maximum tax.

The committee agreed to delete capital gains from the list of preferences—for individuals, corporations, estates and trusts—under both the minimum and maximum taxes. This would have the effect of reducing the top rate on capital gains to 35 percent from 49 percent.

But the excluded half of capital gains, minus a $10,000 exemption, would become subject to a new 10-percent alternative minimum tax. The alternative minimum tax would be paid only if it exceeded the individuals regular tax liability. Gain from the sale of a principal residence wouldn't be subject to the alternative minimum tax, however.

The existing 15-percent minimum tax would continue to apply to all items of tax preference other than capital gains.

It also voted to eliminate any tax—either the regular or minimum tax—on the part of capital gains that's caused by inflation. This would be done by increasing the cost basis of three kinds of capital assets—corporate stock, real estate, and plant and equipment—with increases in the consumer price index. "Indexing" would start Jan. 1, 1980.

Thus, the basis of an asset sold in 1980 would be increased by the same percent as consumer prices rose between the third quarter of 1978 and the third quarter of 1979. For assets sold in 1981, the basis would be increased by the rise in the index between the third quarters of 1979 and 1980, and so on. There wouldn't be any adjustment for inflation that occurred prior to the third quarter of 1978.

For example, if consumer prices rose 24 percent, someone who bought stock in 1980 for $50,000 and sold it in 1985 for $100,000 would have a cost basis of $62,500—$50,000, plus 25 percent of $50,000—and would be taxed on a gain of $37,500, instead of $50,000.

But the Ways and Means panel also agreed to repeal the "alternative" capital-gains rate for individuals, a provision that allows them to have the first $50,000 of long-term gains taxed at 25 percent rather than at rates as high as 35 percent.

Homeowners: The bill provides some additional capital-gains relief for homeowners. Current law gives two tax breaks on the sale of personal residences.

A person of any age who buys a new home within 18 months of selling one doesn't pay tax on his gain, so long as the new home costs at least as much as the old one sells for. If the new one costs less than he gets for the old one, he pays tax on the difference. Further, someone over 65 years old who sells his home and doesn't "roll over" the proceeds into a new one can escape tax on some of his gain.

The bill would repeal the over-65 rule and retain the rollover rule. But anyone of any age could, once in his lifetime, escape tax completely on up to $100,000 of gain from a home sale. To qualify for this tax break, he would have to have lived in the house for at least two years. This change would be effective for homes sold starting today, July 26, 1978.

Investment credit: Currently at 10 percent, the investment credit for outlays on machinery and equipment is due to drop back to 7 percent in 1981. The Ways and Means bill would make it permanent at 10 percent and extend it to rehabilitation of structure, including industrial office buildings, retail buildings and warehouses. It also would make permanent the $100,000 credit limit on used property, due to drop to $50,000 in 1981.

$25,000. The bill would raise that to 90 percent over four years, at the rate of 10 percentage points a year.

Pollution control: A taxpayer required to install pollution-control equipment in his plant currently is permitted to amortize the cost over five years rather than depreciating it over its useful life. But equipment amortized under this special rule is allowed only 5 percent investment credit. The committee agreed to provide the full 10 percent credit in such cases.

Jobs credit: The existing jobs tax credit for new hiring, up to $2,100 per worker, would be allowed to expire at the end of this year. In its place, the Ways and Means Committee voted a more generous credit, up to $3,000 the first year of employment and up to $1,000 the second year, but limited it to hard-to-employ persons. These would include welfare recipients, certain handicapped persons and Vietnam veterans eligible for food stamps.

Industrial bonds: Current law permits state or local governments to issue tax-exempt bonds, without any dollar limit, to finance construction of certain private business facilities. In addition, they can issue up to $5 million of industrial-development bonds to buy land or build a wide variety of facilities. Under the bill, this "small-issues" limit would be raised to $10 million.

Low-income housing: The committee agreed to extend through 1981 a provision, due to expire at the end of this year, that provides five-year amortization where someone rehabilitates housing to rent to low-income persons.

Working poor: The bill would make permanent the earned-income credit, which is due to expire at the end of this year. The credit equals 10 percent of the first $4,000 of income and a diminishing percentage of income between $4,000 and $8,000. Also, taxpayers would be allowed to figure their credit from tables without doing any arithmetic.

TAX REVISION

Gas taxes: As one of its few revenue raising tax "reforms," the committee voted to repeal the deduction for state and local taxes on gasoline, diesel and other motor fuels, except when they're used in business.

Political gifts: The bill would also repeal the existing deduction for political contributions of up to $100 a year, or $200 on a joint return. But the existing tax credit, which equals half of a taxpayer's political contributions up to a maximum credit of $25, or $50 on a joint return, would be retained.

Medical expenses: The deduction for medical and dental expenses would be simplified and tightened a bit. The committee agreed to repeal the separate deduction for half of insurance premiums up to $150, as well as the rule that limits deductions for drug costs to those that exceed 1 percent of income. Also, only insulin and prescription drugs would remain eligible for a deduction.

Thus, under the Ways and Means Committee's bill, the full amount of medical and hospital-insurance premiums, the costs of prescription drugs and nonprescription insulin and other qualifying expenses would be deductible to the extent they exceed 3 percent of income.

Unemployment benefits: Current law doesn't tax unemployment compensation. The bill would retain the exclusion for low-income persons but phase it out at middle and upper-income levels. A single person would have to include unemployment benefits in his income equal to half the amount of his income over $20,000. For married couples, the exclusion would start disappearing at $25,000 of adjusted gross income.

"At Risk" Rule: Under current law many

be increased, without additional risk to the taxpayer, if his investment includes proceeds from a loan he isn't personally liable to repay. The 1976 Tax Reform Act tried to curb use of "nonrecourse" loans by limiting deductions to the investor's cash outlay plus repayable loans. But this "at risk" rule applies only to certain activities—movies, farming, equipment leasing or oil and gas drilling—unless they're carried out through a partnership.

The Ways and Means bill would extend the at-risk restrictions to all investments except real estate. It would extend it to closely held corporations, where five or fewer persons own more than 50 percent of the stock. In addition, the government could "recapture" previously taken deductions where the investor withdraws proceeds from a repayable loan.

Audits: To crack down further on tax shelters, the bill would impose a new civil penalty against a partnership that failed to file a tax return or filed one late. Also, the government would have four years, instead of three, to assess additional tax for items passed through from partnerships to partners. But this provision would apply only to large syndicated partnerships, those subject to the registration and reporting requirements of the Securities and Exchange Commission.

Farms: The bill would permanently broaden the family corporation exception in rules that require large farming corporations to use accrual accounting rather than cash accounting and to capitalize expenses incurred during the preproductive period instead of deducting them immediately. It would also ease the accrual-accounting rule relating to inventories of growing crops. It would give farmers, florists and nurseries that currently are using accrual accounting, even though they don't have to, until 1981 to change to cash accounting.

Deferred Pay: The Treasury has issued a controversial proposal to tax employe payments into certain deferred-compensation plans run by state and local governments and private employers. These plans are nonqualified, which means they don't meet rules of qualified plans and don't receive the same tax benefits.

The bill would permit a continuation of these nonqualified plans, with certain limits. Employes and independent contractors performing services for state or local governments could defer tax on an amount equal to the lesser of $7,500 a year, or 33⅓ percent of their compensation. Where lesser amounts were deferred, a limited catch-up would be available during the three years before retirement.

Private nonqualified plans would be made subject to the law as it existed on Feb. 1 this year, just before the Treasury issued its proposed regulations.

Finally, the bill would make it clear that employers would have to follow the same rule in taking deductions for the deferred compensation of independent contractors as for employes. The rule: Deductions can't be taken until the employer starts paying out the deferred compensation.

Small business: The bill would increase to 15 from 10 the maximum number of shareholders a corporation may have while still qualifying for special tax treatment under subchapter S of the tax code. It would treat a husband and wife who own subchapter S stock as one shareholder, regardless of how they hold the stock. It would allow shareholders to elect subchapter S status during the first 75 days of the current tax year, instead of 30 days, or at any time during the preceding tax year, instead of only the last 30 days.

Current law limits the amount of ordinary income that an individual taxpayer may off-

individual is treated as an ordinary loss up to a maximum of $25,000 a year, or $50,000 on a joint return. But a corporation can't issue more than $500,000 of stock that is eligible for this special treatment.

The bill would raise the loss limitation to $50,000, or $100,000 on a joint return, and permit the issuance of up to $1 million of eligible stock.

Under current law, a taxpayer is allowed to increase an asset's first-year depreciation by an additional 20%. This "bonus" depreciation is limited to the first $10,000 of asset cost, $20,000 on a joint return. The bill would raise it to 25% of the first $20,000, or $40,000 on a joint return. But this special depreciation rule would be limited to taxpayers with $1 million or less of depreciable assets. Currently, there isn't any such limit.

Mr. HATHAWAY. Mr. President, the bill which I am introducing has similarities with H.R. 13511 and also some significant differences. The bill provides modifications to the tax system which will result in an estimated net revenue loss of $19 billion.

Present law (percent)	Single taxpayers	Proposed bill (percent)
19	$5,000	19
29	15,000	26
34	20,000	33
45	30,000	45

Present law (percent)	Married filing jointly	Proposed bill (percent)
15	$5,000	15
22	15,000	22
28	20,000	26
36	30,000	33

The current personal exemption of $750 is repealed. The general tax credit, which currently is the greater of $35 per exemption or 2 percent of the first $9,000 of annual earnings (maximum $180), is repealed. A tax credit of $275 is permitted for each personal exemption.

There is currently an exclusion from capital gains tax, a portion of gain on the sale of a primary residence for an individual over age 65. The exclusion currently applies in proportion to an adjusted sales price of $35,000. The qualifying age would be reduced to 55 and the adjusted sales price limit removed for sale of a taxpayer's primary residence. The residence must be occupied by the taxpayer for 3 of 5 years prior to the sale.

The list of items of tax preferences will be modified so that any capital gain on the sale of a principal residence will not be considered as a capital gain item of preference. This will eliminate the tax burden which could otherwise be imposed on inflation gains resulting from the sale of a residence if the proceeds are not reinvested in another home or excluded from income under the previously discussed provision.

The bill would also modify the interrelation of the minimum and maximum taxes. Under present law, personal service income subject to the maximum tax is reduced by items of tax preference,

would be repealed.

The bill provides a 50-percent tax credit for the first $1,000 of State or local real estate on the taxpayer's primary residence. The deduction for taxes paid would be reduced for taxes which are taken into account for the tax credit. This change will provide relief for hard-pressed low- and middle-income taxpayers while encouraging local governments to shift their tax bases away from property taxes toward progressive revenue measures, such as the income tax.

Current law provides for a refundable earned income credit for low-income taxpayers. The credit is 10 percent of the taxpayer's first $4,000 of annual earnings. The credit is refundable but it is phased out as income levels rise so that no credit is available at $8,000 of income. The bill would raise the earnings base to $6,000 and phase it out by $12,000. The credit would be taken into account using an advanced withholding approach.

Furthermore, the current law requires the taxpayer to maintain a household within the United States. This requirement has discriminated particularly against junior U.S. military personnel and their families serving overseas. The depreciation of the dollar has caused extraordinary hardship for those serving in Germany and Japan. The bill would repeal the U.S. household requirement.

In order to provide an incentive for individual investors in equity capital needs of small and medium businesses, a 10-percent credit would be allowed for the first $7,500 of cash purchase in new stock issues of a business with net equity less than $25 million. The credit is designed to infuse new funds and return investors to the capital market.

Current law provides that tax on the gain arising from the sale of a personal residence can be deferred if reinvested in a new residence within 18 months of the date of sale. The time period would be lengthened to 24 months by the bill.

To complement these tax measures for individuals, the bill contains several tax changes for corporations, particularly smaller businesses. One, previously discussed is the tax credit for investment in equity capital of small and medium-sized firms.

The bill modifies the corporate tax rates and surtax exemption. The changes are designed to provide tax relief for smaller firms and to adjust the surtax exemption for the effects of inflation. A comparison of existing and proposed law is as follows:

Tax Rates

[In percent]

Taxable income	Present	Proposed
$0–$25,000	20	20
$25–50,000	22	20
$50–150,000	48	20
Over 150,000	48	48

The 10-percent investment tax credit would be made permanent. In addition, the $100,000 limitation on used property

credit is nonrefundable; however, any credit in excess of this limitation may be carried back 3 years to offset tax liability and then forward for 7 years. The bill would make the tax refundable for the first $25,000; it would raise the overall limitation to 90 percent of tax liability. The bill would repeal the carryback of excess credits but continue current law for carry forwards to future years.

The investment tax credit, which is presently available only for tangible personal property (and certain other tangible property) would be extended to buildings and structures if the buildings are rehabilitated. This is designed to encourage renovation of inner-city buildings. Furthermore, structures, buildings, and other tangible property qualifying for the credit would be expanded to include retailing and wholesaling activities as well as manufacturing activities.

The credit would also be expanded to permit 6⅔ percent tax credit rather than 5 percent for pollution control facilities. Qualified research and development expenditures will also qualify for the credit. Expenses which are currently deducted will qualify for 3⅓ percent credit; expenses which are amortized over 60 months will qualify for a 6⅔-percent credit. These changes in the investment tax credit should be most beneficial to new, small, highly innovative firms.

The bill also provides a number of technical modifications to assist small businesses.

current income trust would be an eligible shareholder.

The rules concerning election of subchapter S status are simplified. Further, a change is included to allow a subchapter S shareholder to carry over any net operating loss of the company which cannot be utilized in the current year.

Present law allows taxpayers to claim an additional depreciation allowance for up to $10,000 of euipment. The additional depreciation is 20 percent of the basis in the asset for the first year it is depreciated. The bill raises the percentage to 25 percent and the basis to $20,000. However, the additional depreciation can only be claimed if the aggregate adjusted basis of the depreciable property is less than $1,000,000. This restriction will target the benefits toward small businesses.

Losses on qualified small business stock may be deducted against ordinary income instead of as a capital loss. Under present law the loss deducted in any year cannot exceed $25,000 ($50,000 for joint returns). This is raised to $50,000 per individual or $100,000 for husband and wife. The definition of a small business corporation would be modified to allow capitalization of up to $5,000,000 instead of $1 million under current law.

Finally, the bill authorizes a tax impact to be made by the Department of the Treasury and Council of Economic Advisors. The study is to evaluate the incidence of taxation by income level and type of tax. It also authorizes an analysis of the shifting of various payroll and corporate taxes.

Mr. President, I believe that this tax

income taxpayers, all levels receive these benefits.

In addition, revisions are made to the earned income tax credit. Special consideration is given for the capital gains resulting from the sale of a personal residence where the proceeds are not reinvested.

Small and medium-sized businesses would benefit from the increase in the surtax exemption and corresponding rate reductions. The liberalization of the business depreciation partial refundability of the investment credit and the technical changes in subchapter S and small business stock rules will be of assistance to the development of small businesses.

Larger corporations should also benefit from the expansion of the investment credit to rehabilitation of buildings, the liberation for research, development and pollution control expenditures. In addition, the increased limitation for the amount of credit offsetting tax will be of a significant assist to capital formation and investment.

The incentive tax credit for investment in small business equity issues will assist individuals, businesses and the capital markets.

Mr. President. In order to evaluate this bill in comparison with the Ways and Means Committee, I ask that a comparative table of the two bills be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Tax analysts—Major provisions of Hathaway bill compared with present law and H.R. 13511

Present law	H.R. 13511	H.R. ———
Tax rates:		
single 14–70%		
married, joint 14–70%	Revised	Revised
Bracket widening:		
None	6%	None
Std. deduction:		
single $2,200	$2,300	No Change
married, joint $3,200	$3,400	No Change
Personal exemption:		
$750	$1,000	Repealed
General tax credit:		
$35 or 2%, $9,000	Repealed	$275
Exclusion of gain on sale of residence:		
Age 65	No age	Age 55
Exclusion based on $35,000 sales price		
Minimum tax:	$100,000 gain maximum exclusion	No limit
Capital gains:		
50% included as preference item	Excluded as preference item	Gain on sale of residence excluded. Other capital gains included
Add-on tax of 15% on preference items in excess of $10,000 or 50% of regular taxes paid	10% alternative tax on excluded 50% of capital gains in excess of $10,000	No change
Maximum tax:		
Personal service income offset by all preference items	Personal service income offset by all preference items except capital gains	Personal service income not offset by preference items
Real estate taxes:		
Deductible in full	No change	50% credit on first $1,000 taxes on principal residence. Balance deductible.
Earned Income Credit:		
10% on $4,000	No change	10% on $6,000
Phase-out		$6,000–$12,000
$4,000–$8,000	No change	
Reinvestment Period on Personal Residence:		
18 months	No change	24 months
Corporate Tax Rates:		
$0–25,000, 20%	$0–25,000, 17%	$0–$150,000, 20 %
$25–50,000, 22%	$25–50,000, 20%	
over $50,000, 48%	$50–75,000, 30%	
	$75–100,000, 39%	
	over $100,000, 46%	Over $150,000, 48%
Investment Tax Credit:		
10% through 1980	10% made permanent	10% made permanent
7% thereafter		$25,000 refundable
Nonrefundable	Nonrefundable	
Limitation $25,000 plus 50% thereafter	$25,000 plus 90% thereafter phased in over 4 years	90% one-step
Carryovers:		
3 back, 7 forward	No change	7 forward
Buildings not included	Buildings if rehabilitated	Buildings if rehabilitated
Pollution control facilities		
5% credit plus 60-month amortization	10% plus 60-month amortization	6⅔ credit plus 60-month amortization
Research and development		
No provision	No provision	3⅓% if expensed, 6⅔% with 60-month amortization
Jobs tax credit:		
50% first $4,200 wages, new employees on an incremental basis. Expires 1979	Original allowed to expire Targeted credit of 50% on $6,000 wages for hard to employ	Allowed to expire No provision
Subchapter S rules:		
Shareholders 10	15	15
NOL carryover	No provision	
No provision		Permitted
Additional Depreciation:		
20% rate	25% rate	25% rate
$10,000 assets	$20,000 assets	$20,000 assets
Company size		
No limitation	$1,000,000 of asset basis	$1,000,000 of asset basis
Small business stock limitations:		
$25,000 loss	$50,000 loss	$50,000 loss
$1,000,000 capitalization	$1,000,000 capitalization	$5,000,000 capitalization

Mr. HATHAWAY. Mr. President, I also ask unanimous consent that the text of my bill and a tax burden table be printed in the RECORD.

There being no objection, the bill and table were ordered to be printed in the RECORD, as follows:

———

S. 3420

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—SHORT TITLES, ETC.

Sec. 101. Short title: Table of contents.

(a) SHORT TITLE.—This Act may be cited as the "Revenue Act of 1978".

(b) TABLE OF CONTENTS.—

TITLE I—SHORT TITLE, ETC.

Sec. 101. Short title; table of contents.
Sec. 102. Amendment of 1954 Code.
Sec. 103. Effective date.

TITLE II—TAX TREATMENT OF INDIVIDUALS

SUBTITLE A—RATES AND CREDITS

Sec. 201. Reduction of tax rates.
Sec. 202. Personal exemption tax credit.
Sec. 203. Technical, clerical and conforming amendments.
Sec. 204. Application of certain changes in the case of fiscal year taxpayers.

SUBTITLE B—TAXATION OF CAPITAL GAINS OF NONCORPORATE TAXPAYERS

Sec. 211. Revision of exclusion on gain from sale of personal residence.
Sec. 212. Structural amendments to the minimum and maximum taxes.

SUBTITLE C—MISCELLANEOUS PROVISIONS AFFECTING INDIVIDUAL INCOME TAX

Sec. 221. Real estate property tax credit on personal residence.
Sec. 222. Revision of earned income tax credit.
Sec. 223. Small business investment incentive credit.
Sec. 224. Period for reinvestment of gain on sale of personal residence.

TITLE III—TAX TREATMENT OF BUSINESS

SUBTITLE A—CORPORATE SURTAX EXEMPTION

Sec. 301. Increase corporate surtax exemption.

SUBTITLE B—INVESTMENT CREDIT

Sec. 311. Investment credit made permanent.
Sec. 312. Investment credit made partially refundable and tax liability limitation increased to 90 percent.
Sec. 313. Certain buildings and structural components.
Sec. 314. Certain pollution control facilities and research expenditures.

SUBTITLE C—MISCELLANEOUS PROVISIONS AFFECTING SMALL BUSINESS INCOME TAX

Sec. 321. Changes in subchapter S rules.
Sec. 322. Changes in additional first year depreciation allowance for small business.
Sec. 323. Losses on small business stock.
Sec. 324. Extension of amortization for rehabilitation of low-income rental housing.

TITLE IV—TAX STUDY

Sec. 401. Tax impact study authorized.

SEC. 102. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954. In this Act, a reference to the "Code" is a reference to the Internal Revenue Code of 1954.

SEC. 103. EFFECTIVE DATE.

Except as otherwise provided by this Act, the amendments made by this Act apply with respect to taxable years beginning after December 31, 1978.

TITLE II—TAX TREATMENTS OF INDIVIDUALS

SUBTITLE A—TAX REDUCTION AND EXTENSIONS

SEC. 201. RATE CUTS IN CERTAIN BRACKETS.

(a) RATE REDUCTION.—Section 1 (relating to tax imposed) is amended to read as follows:

"SECTION 1. TAX IMPOSED.

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 143) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

If the amount of taxable income is—		Then as tax before credit—	
Over—	But not over—	Enter—	Of excess over—
$3,200	$4,200	0 plus 14 percent	$3,200.
$4,200	$5,200	$140 plus 15 percent	$4,200.
$5,200	$6,200	$290 plus 16 percent	$5,200.
$6,200	$7,200	$450 plus 17 percent	$6,200.
$7,200	$11,200	$620 plus 19 percent	$7,200.
$11,200	$15,200	$1,380 plus 22 percent	$11,200.
$15,200	$19,200	$2,260 plus 24 percent	$15,200.
$19,200	$23,200	$3,220 plus 26 percent	$19,200.
$23,200	$27,200	$4,260 plus 29 percent	$23,200.
$27,200	$31,200	$5,420 plus 33 percent	$27,200.
$31,200	$35,200	$6,740 plus 37 percent	$31,200.
$35,200	$39,200	$8,220 plus 41 percent	$35,200.
$39,200	$43,200	$9,860 plus 45 percent	$39,200.
$43,200	$47,200	$11,660 plus 48 percent	$43,200.
$47,200	$55,200	$13,580 plus 50 percent	$47,200.
$55,200	$67,200	$17,580 plus 53 percent	$55,200.
$67,200	$79,200	$23,940 plus 55 percent	$67,200.
$79,200	$91,200	$30,540 plus 58 percent	$79,200.
$91,200	$103,200	$37,500 plus 60 percent	$91,200.
$103,200	$123,200	$44,700 plus 62 percent	$103,200.
$123,200	$143,200	$57,100 plus 64 percent	$123,200.
$143,200	$163,200	$69,900 plus 66 percent	$143,200.
$163,200	$183,200	$83,100 plus 68 percent	$163,200.
$183,200	$203,200	$96,700 plus 69 percent	$183,200.
$203,200		$110,500 plus 70 percent	$203,200.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every individual who is the head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

If the amount of taxable income is—		Then as tax before credit—	
Over—	But not over—	Enter—	Of excess over—
$2,200	$3,200	0 plus 14 percent	$2,200.
$3,200	$4,200	$140 plus 15 percent	$3,200.
$4,200	$6,200	$300 plus 18 percent	$4,200.
$6,200	$8,200	$660 plus 19 percent	$6,200.
$8,200	$10,200	$1,040 plus 21 percent	$8,200.
$10,200	$12,200	$1,460 plus 22 percent	$10,200.
$12,200	$14,200	$1,900 plus 24 percent	$12,200.
$14,200	$16,200	$2,380 plus 25 percent	$14,200.
$16,200	$18,200	$2,880 plus 28 percent	$16,200.
$18,200	$20,200	$3,440 plus 30 percent	$18,200.
$20,200	$22,200	$4,040 plus 32 percent	$20,200.
$22,200	$24,200	$4,680 plus 35 percent	$22,200.
$24,200	$26,200	$5,380 plus 36 percent	$24,200.
$26,200	$28,200	$6,100 plus 38 percent	$26,200.
$28,200	$30,200	$6,860 plus 41 percent	$28,200.
$30,200	$34,200	$7,680 plus 42 percent	$30,200.
$34,200	$38,200	$9,360 plus 45 percent	$34,200.
$38,200	$40,200	$11,160 plus 48 percent	$38,200.
$40,200	$42,200	$12,120 plus 51 percent	$40,200.
$42,200	$46,200	$13,140 plus 52 percent	$42,200.
$46,200	$52,200	$15,227 plus 55 percent	$46,200.
$52,200	$54,200	$18,520 plus 56 percent	$52,200.
$54,200	$66,200	$19,640 plus 58 percent	$54,200.
$66,200	$72,200	$26,600 plus 59 percent	$66,200.
$72,200	$78,200	$30,140 plus 61 percent	$72,200.
$78,200	$82,200	$33,800 plus 62 percent	$78,200.
$82,200	$90,200	$36,280 plus 63 percent	$82,200.
$90,200	$102,200	$41,320 plus 64 percent	$90,200.
$102,200	$122,200	$49,000 plus 66 percent	$102,200.
$122,200	$142,200	$62,200 plus 67 percent	$122,200.
$142,200	$162,200	$75,600 plus 68 percent	$142,200.
$162,200	$182,200	$89,200 plus 69 percent	$162,200.
$182,200		$103,000 plus 70 percent	$182,200.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 143) a tax determined in accordance with the following table:

If the amount of taxable income is—		Then as tax before credit—	
Over—	But not over—	Enter—	Of excess over—
$2,200	$2,700	0 plus 14 percent	$2,200.
$2,700	$3,200	$70 plus 15 percent	$2,700.
$3,200	$3,700	$145 plus 16 percent	$3,200.
$3,700	$4,200	$225 plus 17 percent	$3,700.
$4,200	$6,200	$310 plus 19 percent	$4,200.
$6,200	$8,200	$690 plus 20 percent	$6,200.
$8,200	$10,200	$1,090 plus 22 percent	$8,200.
$10,200	$12,200	$1,530 plus 23 percent	$10,200.
$12,200	$14,200	$1,990 plus 25 percent	$12,200.
$14,200	$16,200	$2,490 plus 26 percent	$14,200.
$16,200	$18,200	$3,010 plus 29 percent	$16,200.
$18,200	$20,200	$3,590 plus 33 percent	$18,200.
$20,200	$22,200	$4,250 plus 36 percent	$20,200.
$22,200	$24,200	$4,970 plus 38 percent	$22,200.
$24,200	$28,200	$5,730 plus 40 percent	$24,200.
$28,200	$34,200	$7,330 plus 45 percent	$28,200.
$34,200	$40,200	$10,030 plus 50 percent	$34,200.
$40,200	$46,200	$13,030 plus 55 percent	$40,200.
$46,200	$52,200	$16,330 plus 60 percent	$46,200.
$52,200	$62,200	$19,930 plus 62 percent	$52,200.
$62,200	$72,200	$26,130 plus 64 percent	$62,200.
$72,200	$82,200	$32,530 plus 66 percent	$72,200.
$82,200	$92,200	$39,130 plus 68 percent	$82,200.
$92,200	$102,200	$45,930 plus 69 percent	$92,200.
$102,200		$52,830 plus 70 percent	$102,200.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 143) who does not make a single return jointly with his spouse under section 6013 a tax determined in accordance with the following table:

If the amount of taxable income is—		Then as tax before credit—	
Over—	But not over—	Enter—	Of excess over—
$1,600	$2,100	$0 plus 14 percent	$1,600.
$2,100	$2,600	$70 plus 15 percent	$2,100.
$2,600	$3,100	$145 plus 16 percent	$2,600.
$3,100	$3,600	$225 plus 17 percent	$3,100.
$3,600	$5,600	$310 plus 19 percent	$3,600.
$5,600	$7,600	$690 plus 22 percent	$5,600.
$7,600	$9,600	$1,130 plus 24 percent	$7,600.
$9,600	$11,600	$1,610 plus 26 percent	$9,600.
$11,600	$13,600	$2,130 plus 29 percent	$11,600.
$13,600	$15,600	$2,710 plus 33 percent	$13,600.
$15,600	$17,600	$3,870 plus 37 percent	$15,600.
$17,600	$19,600	$4,110 plus 41 percent	$17,600.
$19,600	$21,600	$4,930 plus 45 percent	$19,600.
$21,600	$23,600	$5,830 plus 48 percent	$21,600.
$23,600	$27,600	$6,790 plus 50 percent	$23,600.
$27,600	$32,600	$8,790 plus 53 percent	$27,600.
$32,600	$39,600	$11,970 plus 55 percent	$32,600.
$39,600	$45,600	$15,270 plus 58 percent	$39,600.
$45,600	$51,600	$18,750 plus 60 percent	$45,600.
$51,600	$61,600	$22,350 plus 62 percent	$51,600.
$61,600	$71,600	$28,550 plus 64 percent	$61,600.
$71,600	$81,600	$34,950 plus 66 percent	$71,600.
$81,600	$91,600	$41,550 plus 68 percent	$81,600.
$91,600	$101,600	$48,350 plus 69 percent	$91,600.
$101,600		$55,250 plus 70 percent	$101,600.

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of every estate and trust taxable under this subsection a tax determined in accordance with the following table:

If the taxable income is—	The tax is—	
Less than $500	14 percent	
$500 to $1,000	$70 plus 15 percent	$500
$1,000 to $1,500	$145 plus 16 percent	1,000
$1,500 to $2,000	$225 plus 17 percent	1,500
$2,000 to $4,000	$310 plus 19 percent	2,000
$4,000 to $6,000	$690 plus 20 percent	4,000
$6,000 to $8,000	$1,090 plus 22 percent	6,000
$8,000 to $10,000	$1,530 plus 23 percent	8,000
$10,000 to $12,000	$1,990 plus 25 percent	10,000
$12,000 to $14,000	$2,490 plus 26 percent	12,000
$14,000 to $16,000	$3,010 plus 29 percent	14,000
$16,000 to $18,000	$3,590 plus 33 percent	16,000
$18,000 to $20,000	$4,250 plus 36 percent	18,000
$20,000 to $22,000	$4,970 plus 38 percent	20,000
$22,000 to $26,000	$5,730 plus 40 percent	22,000
$26,000 to $32,000	$7,330 plus 45 percent	26,000
$32,000 to $38,000	$10,030 plus 50 percent	32,000
$38,000 to $44,000	$13,030 plus 55 percent	38,000
$44,000 to $50,000	$16,330 plus 60 percent	44,000
$50,000 to $60,000	$19,930 plus 62 percent	50,000
$60,000 to $70,000	$26,130 plus 64 percent	60,000
$70,000 to $80,000	$32,530 plus 66 percent	70,000
$80,000 to $90,000	$39,130 plus 68 percent	80,000
$90,000 to $100,000	$45,930 plus 69 percent	90,000
$100,000	$52,830 plus 70 percent	100,000

(b) FILING REQUIREMENTS.—Paragraph (1) of section 6012(a) (relating to persons required to make returns of income) is amended—

(1) by striking out "$2,950" and inserting in lieu thereof "$3,900"

(2) by striking out "$3,950" and inserting in lieu thereof "$5,100"

(3) by striking out "$4,700" and inserting in lieu thereof "$6,700"

(c) COLLECTION OF INCOME TAX AT SOURCE ON WAGES.—

(1) Section 3402(a) (relating to requirement of withholding income tax at source) is amended to read as follows:

"(a) REQUIREMENT OF WITHHOLDING.—Except as otherwise provided in this section, every employer making payment of wages shall deduct and withhold upon such wages a tax determined (1) by ascertaining an amount in accordance with tables prescribed by the Secretary, and (2) by reducing such amounts by the employee's aggregate withholding allowance prorated to the payroll period. The tables so prescribed shall apply with respect to wages paid during the period prescribed for such tables and shall be in such form, and provide for such amounts to be deducted and withheld, as the Secretary determines to be most appropriate to carry out the purposes of this chapter and to reflect the provisions of chapter 1 applicable to the period. The aggregate withholding allowance shall be equal to an amount calculated in accordance with regulations prescribed by the Secretary under this section, taking into account the total number of withholding exemptions claimed and any other reduction in withholding to which an employee is entitled under this section or the regulations thereunder. The amount of each withholding exemption shall be equal to the amount of one personal credit provided in section 42."

(2) Section 3402(b) (relating to the percentage method of withholding) is amended—

(A) by striking out paragraph (1), and

(B) by revising paragraph (4) to read as follows:

"(4) In any case in which the period, or the time described in paragraph (3), in respect of any wages is less than one week, the Secretary, under regulations prescribed by him, may authorize an employer to compute the tax to be deducted and withheld as if the aggregate of the wages paid to the employee during the calendar week were paid for a weekly payroll period."

(3) Paragraph (1)(G) of section 3402(f) (relating to withholding exemptions) is amended by inserting "(or more than one exemption if so prescribed by the Secretary)" immediately after "one exemption".

(4) Section 3402(l) (relating to additional withholding) is amended by striking out "employer and employee agree (in such form as the Secretary may by regulations prescribe) to" and inserting in lieu thereof "employee requests (in such form as the Secretary may by regulations prescribe)".

(5) Section 3402(m) (relating to withholding allowances based on itemized deductions) is amended as follows:

(A) Paragraph (1) is amended to read as follows:

"(1) GENERAL RULE.—An employee shall be entitled to additional withholding allowances or additional reduction in withholding under this subsection with respect to a payment of wages in accordance with regulations prescribed by the Secretary. In determining the number of additional withholding allowances or the amount of additional reduction in withholding under this subsection, the employee may take into account—

"(A) the excess of his estimated itemized deductions over his zero bracket amount (as defined in section 63(d)),

"(B) such tax credits to which he is entitled as specified in the regulations prescribed by the Secretary, and

"(C) such additional items as specified in the regulations prescribed by the Secretary."

(B) Paragraph (4) is amended to read as follows:

"(4) AUTHORITY TO PRESCRIBE TABLES.—The Secretary may prescribe tables pursuant to which employees shall determine the number of withholding allowances or the amount of reduced withholding to which they are entitled under this subsection.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1978.

(2) WITHHOLDING AMENDMENTS.—The amendments made by subsection (c) shall apply to remuneration paid after December 31, 1978.

SEC. 202. PERSONAL CREDITS.

(a) GENERAL RULE.—Section 42 (relating to the general tax credit) is amended to read as follows:

"SEC. 42. PERSONAL CREDITS.

"(a) ALLOWANCE OF CREDITS.—In the case of an individual there shall be allowed as a credit against the tax imposed by section 1 or a tax imposed in lieu of the tax imposed by section 1 the sum of the credits provided in subsections (b), (c), (d), and (e).

"(b) TAXPAYER AND SPOUSE.—A credit of $275 for the taxpayer; and an additional credit of $275 for the spouse of the taxpayer if a joint return is not made by the taxpayer and his spouse, and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not dependent of another taxpayer.

"(c) ADDITIONAL CREDIT FOR TAXPAYER OR SPOUSE AGED 65 OR MORE.—

(1) FOR TAXPAYER.—An additional credit of $275 for the taxpayer if he has attained the age of 65 before the close of his taxable year.

"(2) FOR SPOUSE.—An additional credit of $275 for the spouse of the taxpayer if a joint return is not made by the taxpayer and his spouse, and if the spouse has attained the age of 65 before the close of such taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

"(d) ADDITIONAL CREDIT FOR BLINDNESS OF TAXPAYER OR SPOUSE.—

"(1) FOR TAXPAYER.—An additional credit of $275 for the taxpayer if he is behind at the close of his taxable year.

"(2) FOR SPOUSE.—An additional credit of $275 for the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer. For purposes of this paragraph, the determination of whether the spouse is blind shall be made as of the close of the taxable year of the taxpayer; except that if the spouse dies during such taxable year such determination shall be made as of the time of such death.

"(3) BLINDNESS DEFINED.—For purposes of this subsection, an individual is blind only if his central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

"(e) ADDITIONAL CREDIT FOR DEPENDENTS.—

"(1) IN GENERAL.—A credit for $375 for each dependent (as defined in section 7702)—

"(A) whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than $375, or

"(B) who is a child of the taxpayer and who (i) has not attained the age of 19 at the close of the calendar year in which the taxable year of the taxpayer begins, or (ii) is a student.

"(2) CREDIT DENIED IN CASE OF CERTAIN MARRIED DEPENDENTS.—No credit shall be allowed under this subsection for any dependent who has made a joint return with his spouse under section 6013 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

"(3) CHILD DEFINED.—For purposes of paragraph (1)(B), the term 'child' means an individual who (within the meaning of section 7702) is a son, stepson, daughter, or stepdaughter of the taxpayer.

"(4) STUDENT DEFINED.—For purposes of paragraph (1)(B)(ii), the term 'student' means an individual who during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins—

"(A) is a full-time student at an educational organization described in section 170(b)(1)(A)(ii); or

"(B) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational organization described in section 170(b)(1)(A)(ii) or of a State or political subdivision of a State.

(b) TERMINATION OF DEDUCTIONS FOR PERSONAL EXEMPTIONS.—

(1) Part V (except section 152) of subchapter B of chapter 1 is repealed.

(2) Section 152 (dependent defined) is renumbered as section 7702 and (as renumbered) is transferred from chapter 1 and inserted in chapter 79 (definitions) after section 7701. Such section is further amended—

(A) by striking out "this subtitle," in subsection (a) and inserting in lieu thereof "subtitle A,"; and

(B) by adding at the end thereof the following: "(f) CROSS REFERENCES.—

"(1) For definitions of 'husband' and 'wife' as used in subsection (b)(4), see section 7701(a)(17).

"(2) For determination of material status, see section 7703."

(3) Section 143 (determination of marital status) is renumbered as section 7703 and (as renumbered) is transferred from chapter 1 and inserted in chapter 79 after 7702. Such section is further amended by striking out "part V" each place it appears and inserting in lieu thereof "any provision referring to this section".

SEC. 203. TECHNICAL, CLERICAL, AND CONFORMING AMENDMENTS

(a) TRANSFER OF DEFINITION OF DEPENDENT TO DEFINITION SECTION OF CODE.—Each

f the following is amended by striking out ection 152" each place it appears therein nd inserting in lieu thereof "section 7702":

(1) Section 2(a)(1)(B).
(2) Section 2(b)(3)(B).
(3) Section 44A(f)(6)(A).
(4) Section 50B(c)(5).
(5) Section 105.
(6) Section 120(d)(4).
(7) Section 7703(b)(1).
(8) Section 170(g).
(9) Section 213(a)(1).
(10) Section 6334(d)(1)(B)(ii).
(11) Section 7701(a)(17).

(b) TRANSFER OF RULES REGARDING MARITAL TATUS.—Each of the following is amended y striking out "section 143" each place it ppears therein and inserting in lieu there- "section 7703":

(1) Section 2(c).
(2) Section 37(d)(2).
(3) Section 43(d).
(4) Section 63(h).
(5) Section 105(d)(4).
(6) Section 219(c)(2).
(7) Section 220(c)(3).
(8) Section 879(c)(3).
(9) Section 1304(c)(4).
(10) Section 3402(f)(1)(G).
(11) Section 6362(f)(5).
(12) Section 6428(g).

(c) PERSONAL CREDITS.—

(1) The table of sections for subpart A of art IV of subchapter A of chapter 1 is mended by striking out the item relating to ction 42 and inserting in lieu thereof the llowing item:

ec. 42. Personal credits."

(2) Section 2 (relating to definitions and ecial rules) is amended as follows:

(A) Subsection (a)(1)(B) is amended by riking out "deduction for the taxable year nder section 151" and inserting in lieu ereof "credit for the taxable year under ction 42".

(B) Subsection (b)(1) is amended by riking out "deduction" each place it apars and inserting in lieu thereof "credit", d by striking out "section 151" each place appears and inserting in lieu thereof "section 42".

(3) Section 3 (relating to tax tables for dividuals) is amended—

(A) by striking out "tax table" in subsecon (a)(1) each place it appears and inrting in lieu thereof "taxable";

(B) by revising subsection (a)(3) to read follows:

"(3) CERTAIN TAXPAYERS WITH LARGE NUMR OF PERSONAL CREDITS.—The Secretary may clude from the application of this secon taxpayers in any tax rate category havg more than the number of personal cred for that category determined by the Secary.";

(C) by striking out subsection (a)(4); and

(D) by revising subsection (d) to read as llows:

"(d) TAXABLE INCOME.—For purposes of is section, the taxable income shall be dermined under section 63."

(4) Section 43 (relating to the earned inme credit) is amended—

(A) by striking out "section 151(e)(1)(B) elating to additional exemptions for dendents)" in subsection (c)(1)(A)(i) and serting in lieu thereof section 42(e)(1)(B) elating to additional credits for dependts)", and

(B) by striking out "deductions under secn 151" in subsection (c)(1)(A)(ii) and serting in lieu thereof "credit under secn 42".

(5) Section 44A (relating to expenses for usehold and dependent care services cessary for gainful employment) is mended—

(A) by striking out "section 151(e)" in bsection (c)(1)(A) and inserting in lieu reof "section 42(e)",

(B) by striking out "section 151(e)(3)" in subsection (f)(5)(A) and inserting in lieu thereof "section 42(e)(3)" and

(C) by striking out "deduction under section 151(e) (relating to deduction for personal exemptions for dependents)" in subsection (f)(6)(B) and inserting in lieu thereof "credit under section 42(e) (relating to personal credits for dependents)".

(6) Section 57(b)(1) (relating to the computation of adjusted itemized deductions for minimum tax) is amended by striking out subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(7) Section 63 (relating to the definition of taxable income) is amended—

(A) by amending subsection (b)(1) to read as follows:

"(1) reduced by the excess itemized deductions, and",

(B) by striking out "deduction under section 151(e) in subsections (e)(1)(D) and inserting in lieu thereof "credit under section 151(e)" in subsection (e)(1)(D) and inserting in lieu thereof "credit under section 42(e)",

(C) by amending subsection (f) to read as follows:

"(f) ITEMIZED DEDUCTIONS.—For purposes of this subtitle, the term 'itemized deductions' means the deductions allowable by this chapter other than the deductions allowable in arriving at adjusted gross income."

(8) Section 172(d)(3) (relating to modifications in the calculation of net operating loss) is repealed.

(9) Section 441(f)(2)(iii) (relating to period for computation of taxable income) is amended by striking out ", but only the adjusted amount of the deductions for personal exemptions as described in section 443(c)".

(10) Section 443 (relating to returns for a period of less than 12 months) is amended—

(A) by striking out ", but only the adjusted amount of the deductions for personal exemptions" in subsection (b)(1), and

(B) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) ADJUSTMENT IN PERSONAL CREDITS.—In the case of a taxpayer other than a corporation, if a return is made for a short period by reason of subsection (a)(1) and if the tax is not computed under subsection (b)(2), then the credits allowed by section 42 shall be reduced to amounts which bear the same ratio to the full credits as the number of months in the short period bears to 12."

(11) Section 642(b) (relating to deduction for personal exemption for estates and trusts) is amended to read as follows:

"(b) DEDUCTION IN LIEU OF PERSONAL CREDITS.—An estate shall be allowed a deduction of $600. A trust which, under its governing instrument, is required to distribute all of its income currently shall be allowed a deduction of $300. All other trusts shall be allowed a deduction of $100. The deductions allowed by this subsection shall be in lieu of the credits allowed under section 42 (relating to personal credits)."

(12) Section 643(a)(2) (relating to deduction for personal exemption in computing distributable net income) is amended to read as follows:

"(2) DEDUCTION IN LIEU OF PERSONAL CREDIT.—No deduction shall be taken under section 642(b) (relating to deduction in lieu of personal credit)."

(13) Section 703(a)(2) (relating to the computation of taxable income of a partnership) is amended by striking out subparagraph (A) and redesignating subparagraphs (B), (C), (D), (E), and (F) as subparagraphs (A), (B), (C), (D), and (E), respectively.

(14) Section 873(b) (relating to deductions allowed to nonresident alien individuals) is amended by striking out paragraph (3).

(15) Section 874 (relating to allowance of deductions and credits for nonresident aliens) is amended—

(A) by inserting after the first sentence of subsection (a) the following new sentence: "However, only one personal credit under section 42 shall be allowed to a nonresident alien individual who is not a resident of a contiguous country or is not a national of the United States.", and

(B) by revising subsection (b) to read as follows:

"(b) TAX WITHHELD AT SOURCE.—The benefit of the personal credits under section 42 may, in the discretion of the Secretary, and under regulations prescribed by the Secretary, be received by a nonresident alien individual entitled thereto, by filing a claim therefor with the withholding agent."

(16) Section 891 (relating to doubling of rates of tax on citizens and corporations of certain foreign countries) is amended by striking out "under section 151 and".

(17) Section 904(b)(1) (relating to computation of taxable income for purposes of limitation on foreign tax credit) is amended to read as follows:

"(1) DEDUCTION IN LIEU OF PERSONAL CREDITS.—For purposes of subsection (a), the taxable income in the case of an estate or trust shall be computed without any deduction under section 642(b) (relating to deduction in lieu of personal credits)."

(18) Section 911(a) (relating to earned income from sources without the United States) is amended by striking out "(other than those allowed by section 151, relating to personal exemptions)".

(19) Section 931(e) (relating to income from sources within possessions of the United States) is amended to read as follows:

"(e) PERSONAL CREDIT.—A citizen of the United States entitled to the benefits of this section shall be allowed only one personal credit under section 42."

(20) Section 933 (relating to income from sources within Puerto Rico) is amended by striking out "(other than the deduction under section 151, relating to personal exemptions)" in paragraph (1) and by striking out "(other than the deduction for personal exemptions under section 151)" in paragraph (2).

(21) Section 1211(b)(3) (relating to computation of taxable income for purposes of the limitation on capital losses) is amended to read as follows:

"(3) COMPUTATION OF TAXABLE INCOME.—For purposes of paragraph (1), taxable income shall be computed without regard to gains or losses from sales or exchanges of capital assets and without regard to any deduction in lieu of the credits provided in section 42 (relating to personal credits)."

(22) Section 1302(b)(3) (relating to transitional rule for determining base period income) is amended to read as follows:

"(3) TRANSITIONAL RULES FOR DETERMINING BASE PERIOD INCOME.—The base period income (determined under paragraph (2))—

"(A) for any taxable year beginning before January 1, 1977, shall be increased by the amount of the taxpayer's zero bracket amount for the computation year, and

"(B) for any taxable year beginning before January 1, 1979, shall be increased by an amount equal to the number of the taxpayer's personal credits under section 42 for the computation year multiplied by $750."

(23) Section 1402(a) (relating to net earnings of self-employment) is amended by striking out paragraph (7).

(24) Section 1451(d) (relating to benefit of personal exemptions for purposes of withholding on tax-free covenant bonds) is amended by striking out "deduction for personal exemptions provided in section 151" and inserting in lieu thereof "personal credits provided in section 42".

(25) Section 3402(f)(1) (relating to withholding exemptions) is amended—

(A) by striking out "an exemption under section 151(c)(1)" in subparagraph (B) and inserting in lieu thereof "a credit under section 42(c)(1)",

(B) by striking out "an exemption under section 151(d)(1)" in subparagraph (C) and inserting in lieu thereof "a credit under section 42(d)(1)", and

(C) by striking out "an exemption under section 151(e)" in subparagraph (E) and inserting in lieu thereof "a credit under section 42(e)".

(26) Section 3402(m)(2)(A) (relating to withholding allowances based upon itemised deductions) is amended by striking out "other than the deductions referred to in section 151 and ".

(27) Section 6049(b)(2)(C) (relating to the definition of interest for purposes of the information reporting requirement) is amended by striking out "exemptions" and inserting in lieu thereof "credits".

(28) Section 6654(d)(4) (relating to the imposition of an addition to tax for underpayment of estimated tax by an individual) is amended by striking out "exemptions under section 151" and inserting in lieu thereof "credits under section 42".

SEC. 204. APPLICATION OF CERTAIN CHANGES IN THE CASE OF FISCAL YEAR TAXPAYERS.

Section 21 (relating to effects of changes in rate of tax) is amended by adding at the end thereof the following new subsection:

"(f) CHANGES MADE BY REVENUE ACT OF 1978.—In applying subsection (a) to a taxable year which is not a calendar year—

"(1) the amendments made by sections 101, 102, and 301 of the Revenue Act of 1978 (and no other amendments made by such Act), and

"(2) the expiration of section 42 (relating to general tax credit),

shall be treated as a change in a rate of tax."

Subtitle B—Taxation on Capital Gains of Noncorporate Taxpayers

SEC. 211. REVISION OF EXCLUSION ON GAIN FROM SALE OR EXCHANGE OF RESIDENCE OF INDIVIDUAL WHO HAS ATTAINED AGE 55.—The heading and Subsections (a) and (b) of Section 121 (relating to gain from the sale or exchange of residence) are amended to read as follows:

"SEC. 121. Gain from Sale or Exchange of Residence of Individual Who Has Attained Age 55.

"(a) GENERAL RULE.—At the election of the taxpayer, gross income does not include gain from the sale or exchange of property if—

"(1) the taxpayer has attained the age of 55 before the date of such sale or exchange, and

"(2) during the 5-year period ending on the date of the sale or exchange, such property has been owned and used by the taxpayer as his principal residence for periods aggregating 3 years or more.

"(b) APPLICATION TO ONLY ONE SALE OR EXCHANGE.—Subsection (a) shall not apply to any sale or exchange by the taxpayer if an election by the taxpayer or his spouse under subsection (a) with respect to any other sale or exchange is in effect."

SEC. 212. STRUCTURAL AMENDMENTS TO THE MINIMUM AND MAXIMUM TAXES.

(a) CAPITAL GAIN FROM SALE OF PRINCIPAL RESIDENCE NOT TO BE ITEM OF TAX PREFERENCE.—Section 57(a)(9) (relating to capital gains) is amended by adding at the end thereof the following new subparagraph—

"(D) PRINCIPAL RESIDENCE.—For purposes of subparagraph (A), in determining net capital gain, the gain (if any) from the sale or exchange of property used by the taxpayer as his principal residence (within meaning of section 1034) shall not be taken into account."

(b) TAX PREFERENCES NOT TO AFFECT MAXIMUM TAX.—Paragraph (2) of section 1348 (b) is amended to read as follows:

"(2) Personal service taxable income.—The personal service taxable income of an individual is the amount which bears the same ratio (but not in excess of 100 percent) to his taxable income as his personal service net income bears to his adjusted gross income. For purposes of this paragraph the term "personal service net income" means personal service income reduced by any deductions allowable under section 62 which are properly allocable to or chargeable against such earned income.

Subtitle C—Miscellaneous Provisions Affecting Individual Income Tax

SEC. 221. CREDIT FOR REAL PROPERTY TAXES ON PERSONAL RESIDENCE.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting after section 44B the following new section:

"SEC. 44C. CREDIT FOR REAL PROPERTY TAXES ON PERSONAL RESIDENCE.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed, as a credit against the tax imposed by this chapter for the taxable year, an amount equal to 50 percent of the State and local real property taxes paid or accrued within such taxable year with respect to property used by such individual as his principal residence (within the meaning of section 1034) as does not exceed $1,000.

"(b) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by section 1, or the amount of the tax imposed in lieu of the tax imposed by section 1, for the taxable year. In determining the credits allowed under—

"(1) section 33 (relating to foreign tax credit),

"(2) section 37 (relating to credit for the elderly),

"(3) section 38 (relating to investment in certain depreciable property),

"(4) section 40 (relating to expenses of work incentive programs),

"(5) section 41 (relating to contributions to candidates to public office),

"(6) section 44A (relating to expenses for household and dependent care services necessary for gainful employment), and

"(7) section 44B (relating to employment of certain new employees)

the tax imposed by this chapter shall (before any other reductions) be reduced by the credit allowed by this section.

"(c) CREDIT DENIED IN CERTAIN CASES.—No credit shall be allowable under this section—

"(1) for taxes described in section 164(c), or

"(2) to any estate or trust or any nonresident alien individual.

"(d) TENANT-STOCKHOLDER IN A COOPERATIVE HOUSING CORPORATION.—For purposes of this section, references to property used by the taxpayer shall include stock held by a tenant-stockholder (as defined in section 216) in a cooperative housing corporation if the taxpayer used as his principal residence the house or apartment which he was entitled to occupy as such stockholder.

"(e) ACCRUAL OF REAL PROPERTY TAXES.—If the credit allowable under this section is computed for a taxpayer who computes taxable income under an accrual method of accounting, the amount allowable shall be determined in a manner consistent with subsection (c) and (d) of section 461 (relating to accrual of real property taxes).

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) CLERICAL AMENDMENTS.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 44B the following new item:

"Sec. 44C. Credit for Real Property Taxes Taxes on Personal Residence."

(2) COORDINATION WITH OTHER CREDITS.—

(A) Section 904(g) (relating to foreign tax credit) is amended to read as follows:

"(g) COORDINATION WITH OTHER CREDITS.—In the case of an individual, for purposes of subsection (a), the tax against which the credit is taken is such tax reduced by the amount of the credit (if any) for the taxable year allowable under section 37 (relating to credit for the elderly) and section 44C (relating to credit for real property taxes on personal residence)."

(B) Section 37(c)(2) (relating to credit for elderly) is amended by striking out the period and inserting in lieu thereof "reduced by the credit allowable under section 44C (relating to credit for real property taxes on personal residence).".

(C) Section 46(a)(4) (relating to investment tax credit) is amended by—

(i) striking out "and" at the end of subparagraph (A),

(ii) striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", and", and

(iii) adding immediately after subparagraph (B) the following new subparagraph:

"(C) section 44C (relating to credit for real property taxes on personal residence)."

(D) Section 41(b)(2) (relating to contributions to candidates for public office) is amended by striking out "and section 38 (relating to investment in certain depreciable property)." and inserting in lieu thereof "section 38 (relating to investment in certain depreciable property), and section 44C (relating to credit for real property taxes on personal residence).".

(E) Section 44A(b) (relating to expenses for household and dependent care services necessary for gainful employment) is amended by—

(i) striking out "and" at the end of paragraph (6),

(ii) striking out the period in paragraph (7) and inserting in lieu thereof ", and", and

(iii) adding at the end thereof the following new paragraph:

"(8) section 44C (relating to credit for real property taxes on personal residence.)"

(F) Section 50A(b)(3) (relating to credit for expenses of work incentive programs) is amended by—

(i) striking out the "and" at the end of subparagraph (c),

(ii) striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", and", and

(iii) adding immediately after subparagraph (D) the following new subparagraph:

"(E) section 44C (relating to credit for real property taxes on personal residence)."

(G) Section 53(a) (relating to credit for employment of certain new employees) is amended by—

(i) striking out "and" at the end of paragraph (6),

(ii) striking out the period at the end of paragraph (7) and inserting in lieu thereof ", and", and

(iii) adding immediately after paragraph (7) the following new paragraph:

"(8) section 44C (relating to credit for real property taxes on personal residence)."

(3) MINIMUM TAX.—Section 56(c) (defining regular tax deduction) is amended by striking out "and" at the end of paragraph (8), by striking out the period at the end of paragraph (9) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(10) section 44C (relating to credit for real property taxes on personal residence.)"

(4) CONFORMING AMENDMENTS.—

(A) Section 164 (relating to deduction for taxes) is amended by redesignating subsection (f) as subsection (g) and inserting immediately after subsection (e) the following new subsection:

"(f) No Deduction for Amount Allowable As Credit.—No deduction shall be allowed under this section with respect to the amount of any State and local real property taxes allowable as a credit under section 44C (relating to credit for real property taxes on personal residence)."

(B) Section 216 (relating to deduction of taxes, interest, and business depreciation by cooperative housing corporation tenant-stockholder) is amended by adding at the end thereof the following new subsection:

"(d) No Deduction for Amount Allowable As Credit.—No deduction shall be allowed under this section with respect to the amount of any State and local real property taxes allowable as a credit under section 44C (relating to credit for real property taxes on personal residence)."

(C) Section 1016(a)(1) (relating to adjustments to basis) is amended by striking out "for which deductions" and inserting in lieu thereof "for which deductions or credits".

(D) Section 6096(b) (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44B" and inserting in lieu thereof "44B, and 44C".

Sec. 22. Earned Income Tax Credit.

(a) Revision of the Limitation.—Subsection (b) of section 43 (relating to earned income credit) is amended to read as follows:

"(b) Limitation.—The amount of the credit allowable to a taxpayer under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) $600, over

"(2) 10 percent of so much of the adjusted gross income (or, if greater, the earned income) or the taxpayer for the taxable year as exceeds $6,000."

(b) Amount of Credit to be Determined Under Table.—Section 43 is amended by adding at the end thereof the following new subsection:

"(f) Amount of Credit to be Determined Under Tables.—

"(1) In general.—The amount of the credit allowed by this section shall be determined under tables prescribed by the Secretary.

"(2) Requirements for tables.—The tables prescribed under paragraph (1) shall reflect the provision of subsections (a) and (b) and shall have income brackets of not greater than $50 each—

"(A) for earned income between 0 and $12,000, and

"(B) for adjusted gross income between $6,000 and $12,000."

(c) Excludable Earned Income Taken Into Account.—Subparagraph (B) of section 43(c)(2) (defining earned income) is amended by striking out clause (i) and by redesignating clauses (ii), (iii), and (iv) as clauses (i), (ii), and (iii), respectively.

(d) Definition of Eligible Individual.—Paragraph (1) of section 43(c) (defining eligible individual) is amended to read as follows:

"(1) Eligible Individual.—

"(A) In general.—The term 'eligible individual' means an individual who, for the taxable year—

"(i) is married (within the meaning of section 143) and is entitled to a deduction under section 151 for a child (within the meaning of section 151(e)(3)),

"(ii) is a surviving spouse (as determined under section 2(a)), or

"(iii) is a head of a household (as determined under subsection (b) of section 2 without regard to subparagraphs (A)(ii) and (B) of paragraph (1) of such subsection).

"(B) Child must reside with taxpayer in the United States.—An individual shall be treated as satisfying clause (i) of subparagraph (A) only if the child has the same principal place of abode as the individual.

"(C) Individual entitled to exclude income under section 911 not eligible individual.—The term 'eligible individual' does not include an individual who, for the taxable year, is entitled to exclude any amount from gross income under section 911 (relating to earned income from sources without the United States) or section 931 (relating to income from sources within the possessions of the United States)."

(d) Advance Payments.—Section 43 (relating to earned income credit) is amended by adding at the end thereof, the following new section

"(f) Coordination With Advance Payments of Earned Income Credit.—

(1) In general.— If any payment is made to the individual by an employer under section 3507 during any calendar year, then the tax imposed by this chapter for the individual's last taxable year beginning in such calendar year shall be increased by the aggregate amount of such payments.

(2) Special rule.—Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit allowable under this subpart."

(e) Advance Payment of Earned Income Credit.—

(1) In general.—Chapter 25 of such Code (general provisions relating to employment taxes) is amended by adding at the end thereof the following new section:

"§ 3507. Advance Payment of Earned Income Credit.

"(a) General Rule.—Except as otherwise provided in this section, every employer making payment of wages to an employee with respect to whom an earned income eligibility certificate is in effect shall, at the time of paying such wages, make an additional payment to such employee equal to such employee's earned income advance amount.

"(b) Earned Income Eligibility Certificate.—For purposes of this title, an earned income eligibility certificate is a statement furnished by an employee to the employer which certifies—

"(1) that the employee will be eligible to receive the credit provided by section 43 for the taxable year,

"(2) that the employee does not have an earned income eligibility certificate in effect for the calendar year with respect to the payment of wages by another employer, and

"(3) whether or not the employee's spouse has an earned income eligibility certificate in effect.

For purposes of this section, a certificate shall be treated as being in effect with respect to a spouse if such a certificate will be in effect on the first status determination date following the date on which the employee furnishes the statement in question.

"(c) Earned Income Advance Amount.—

"(1) In general.—For purposes of this title, the term 'earned income advance amount' means, with respect to any payroll period, the amount determined—

"(A) on the basis of the employee's wages from the employer for such period, and

"(B) in accordance with tables prescribed by the Secretary.

"(2) Advance amount tables.—The tables referred to in paragraph (1)(B)—

"(A) shall be similar in form to the tables prescribed under section 3402 and, to the maximum extent feasible, shall be coordinated with such tables, and

"(B) if the employee is not married, or if no earned income eligibility certificate is in effect with respect to the spouse of the employee, shall treat the credit provided by section 43 as if it were a credit—

"(i) of 10 percent of the first $6,000 and earned income, which

"(ii) phases out between $6,000 and $11,000 of earned income, or

"(C) if an earned income eligibility certificate is in effect with respect to the spouse of the employee, shall treat the credit provided by section 43 as if it were a credit—

"(i) of 10 percent of the first $3,000 of earned income, which

"(ii) phases out between $3,000 and $6,000 of earned income.

"(d) Payments To Be Treated as Payments of Withholding and FICA Taxes.—

"(1) In general.—For purposes of this title, payments made by an employer under subsection (a) to his employees for any payroll period—

"(A) shall not be treated as the payment of compensation, and

"(B) shall be treated as made—

"(i) first out of amounts required to be deducted and withheld for the payroll period under section 3401 (relating to wage withholding), and

"(ii) next out of amounts required to be deducted for the payroll period under section 3102 (relating to FICA employee taxes), and

"(iii) then out of amounts of the taxes imposed for the payroll period under section 3111 (relating to FICA employer taxes),

as if the employer had paid to the Secretary, on the day on which the wages are paid to the employees, an amount equal to such payments.

"(2) Advance payments exceed taxes due.—In the case of any employer, if for any payroll period the aggregate amount of earned income advance payments exceeds the sum of the amounts referred to in paragraph (1)(B), each such advance payment shall be reduced by an amount which bears the same ratio to such excess as such advance payment bears to the aggregate amount of all such advance payments.

"(3) Employer may make full advance payments.—The Secretary shall prescribe regulations under which an employer may elect (in lieu of any application of paragraph (2))—

"(A) to pay in full all earned income advance amounts, and

"(B) to have additional amounts paid by reason of this paragraph treated as the advance payment of taxes imposed by this title.

"(4) Failure to make advance payments.—For purposes of this title (including penalties), failure to make any advance payment under this section at the time provided therefor shall be treated as the failure at such time to deduct and withhold under chapter 24 an amount equal to the amount of such advance payment.

"(e) Furnishing and Taking Effect of Certificates.—For purposes of this section.—

"(1) When certificate takes effect.—

"(A) First certificate furnished.—An earned income eligibility certificate furnished the employer in cases in which no previous such certificate had been in effect for the calendar year shall take effect as of the beginning of the first payroll period ending, or the first payment of wages made without regard to a payroll period, on or after the date on which such certificate is so furnished (or if later, the first day of the calendar year for which furnished).

"(B) Later certificate.—An earned income eligibility certificate furnished the employer in cases in which a previous such certificate had been in effect for the calendar year shall take effect with respect to the first payment of wages made on or after the first status determination date which occurs at least 30 days after the date on which such certificate is so furnished, except that at the election of the employer such certificate may be made effective with respect to any payment of wages made on or after the date on which such certificate is so furnished.

For purposes of this subparagraph, the term 'status determination date' means January 1, May 1, July 1, and October 1 of each year.

"(2) Period during which certificate remains in effect.—An earned income eligibility certificate which takes effect under this section for any calendar year shall continue in effect with respect to the employee during such calendar year until revoked by the employee or until another such certificate takes effect under this section.

"(3) Change of status.—

"(A) Requirement to revoke or furnish new certificate.—If, after an employee has furnished an earned income eligibility certificate under this section, there has been a change of circumstances which has the effect of—

"(i) making the employee ineligible for the credit provided by section 43 for the taxable year, or

"(ii) causing an earned income eligibility certificate to be in effect with respect to the spouse of the employee,

the employee shall, within 10 days after such change in circumstances, furnish the employer with a revocation of such certificate or with a new certificate (as the case may be). Such a revocation (or such a new certificate) shall take effect under the rules provided by paragraph (1)(B) for a later certificate and shall be made in such form as the Secretary shall by regulations prescribe.

"(B) Certificate no longer in effect.—If, after an employee has furnished an earned income eligibility certificate under this section which certifies that such a certificate is in effect with respect to the spouse of the employee, such a certificate is no longer in effect with respect to such spouse, then the employee may furnish the employer with a new earned income eligibility certificate.

"(4) Form and contents of certificate.—Earned income eligibility certificates shall be in such form and contain such other information as the Secretary may by regulations prescribe.

"(5) Taxable year defined.—The term 'taxable year' means the last taxable year of the employee under subtitle A beginning in the calendar year in which the wages are paid."

(2) Clerical amendment.—The table of sections for chapter 25 of such Code is amended by adding at the end thereof the following new item:

"Sec. 3507. Advance payment of earned income credit."

(f) Information Shown on W-2.—The first sentence of section 6051(a) of such Code (relating to receipts for employees) is amended—

(1) by striking out "and" at the end of paragraph (5),

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof ", and", and

(3) by adding at the end thereof the following new paragraph:

"(7) the total amount paid to the employee under section 3507 (relating to advance payment of earned income credit)."

(g) Adjustment of Transfers to Social Security Trust Funds.—There shall be transferred not less frequently than monthly from the general fund of the Treasury to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund such sums as may be necessary to insure that there will be no reduction in the balance in any such Trust Fund by reason of section 3507 of the Internal Revenue Code of 1954 (relating to advance payment of earned income credit). Transfers under the preceding sentence shall be based on estimates with appropriate reconciliations.

(h) Requirement of Return.—Subsection (a) of section 6012 of such Code (relating to persons required to make returns of income) is amended by adding at the end thereof the following new paragraph:

"(8) Every individual who receives payments during the calendar year in which the taxable year begins under section 3507 (relating to advance payment of earned income credit)."

(i) Cross Reference.—Section 6302 (relating to mode or time of collection) is amended by adding at the end thereof the following new subsection:

"(d) Cross Reference.—

"For treatment of payment of earned income advance amounts as payment of withholding and FICA taxes, see section 3507(d)."

(j) Earned Income Credit Made Permanent.—Subsection (b) of section 209 of the Tax Reduction Act of 1975 is amended by striking out ", and before January 1, 1979".

(k) Disregard of Earned Income Tax Credit and Advance Payments Thereof.—Any refund of Federal income taxes made to any individual by reason of section 43 of the Internal Revenue Code of 1954 (relating to earned income tax credit) and any advance payment of such credit made to such individual under section 3507 of such Code—

(1) shall not be treated as income for the purpose of any tax imposed by any State (or the District of Columbia), and

(2) shall not be taken into account as income or receipts for purposes of determining the eligibility of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds.

(l) Effective Date.—

(1) The amendments made by subsections (a), (c), (g) and (h) shall apply to taxable years beginning after December 31, 1978.

(2) The amendments made by subsections (b), (d), (e), (f) and (k) shall apply to remuneration paid after December 31, 1978.

(3) The amendment made by subsection (i) and (j) shall take effect on the date of the enactment of this Act.

Sec. 223. Small Business Investment Incentive Tax Credit.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting after section 44B the following new section:

"Sec. 44C. Investment in Original Issue Stock of Small- or Medium-Sized Corporations.

"(a) General Rule.—In the case of an individual who is a citizen or resident of the United States there is allowed, as a credit against the tax imposed by this chapter for the taxable year, an amount equal to 10 percent of the adjusted basis (within the meaning of section 1011) of the taxpayer for incentive stock (as defined in subsection (c)) acquired for money during the taxable year.

"(b) Limitations.—

"(1) Credit not allowed to certain dependents.—No credit is allowable under subsection (a) to an individual with respect to whom a personal exemption deduction is allowable for the taxable year to another taxpayer under section 151(e).

(2) Credit not to exceed $750.—The credit allowed by subsection (a) for any taxable year shall not exceed $750 ($1,500 in the case of a joint return).

"(3) Application with other credits.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this part having a lower number or letter designation than this section, other than the credits allowable by sections 31 and 39.

"(4) Certain taxes not considered taxes imposed by this chapter.—For purposes of this section, any tax imposed for the taxable year by section 56 (relating to minimum tax for tax preferences), section 72(m)(5)(B) (relating to 10 percent tax on premature distributions to owner-employees), section 402(e) (relating to tax on lump sum distributions), section 408(f) (relating to additional tax on income from certain retirement accounts), section 531 (relating to accumulated earnings tax), section 541 (relating to personal holding company tax), or section 1378 (relating to tax on certain capital gains of subchapter S corporations), and any additional tax imposed for the taxable year by section 1351(d)(1) (relating to recoveries of foreign expropriation losses), shall not be considered tax imposed by this chapter for such year.

"(c) Definition of Incentive Stock.—

"(1) In general.—For purposes of this section, the term 'incentive stock' means original issue common or preferred stock registered under section 12 of the Securities Exchange Act of 1934 offered in an unrestricted offer to the public—

"(A) which is issued by a domestic corporation the equity capital (within the meaning of the last sentence of section 1344(c)(2)) of which does not exceed $25,000,000 immediately before such offering, and

"(B) which is part of an issue of stock the aggregate sale price of which does not exceed $25,000,000.

"(2) Controlled corporations.—In the case of a corporation which is a member of a controlled group of corporations (as defined in section 1563(a)(1)), the equity capital of all members of the controlled group shall be treated, for purposes of paragraph (1)(A) this subsection, as the equity capital of the issuing corporation.

"(3) Stock acquired more than 180 days after issuance; stock acquired by underwriter.—No stock shall be treated as incentive stock for purposes of this section if it is first purchased more than 180 days after the date on which it is issued. No acquisition of stock by an underwriter in the ordinary course of his trade or business as an underwriter, whether or not guaranteed, shall be treated as an acquisition for purposes of subsection (a).

"(4) Certain redemptions and refinancing issues not treated as incentive stock.—An issue of stock which, but for this paragraph, would be treated as incentive stock under this section shall not be treated as incentive stock if, within 180 days before the date of issuance, the issuing corporation (or any other corporation which is a member of the same controlled group of corporations, within the meaning of section 1563, as the issuing corporation) has acquired stock (including acquisition by way of redemption) of the issuing corporation or of any other member of the controlled group with an aggregate purchase price in excess of 10 percent of the aggregate sale price of the issue of incentive stock.

"(5) Investment company stock not treated as incentive stock.—Stock issued by an investment company shall not be treated as incentive stock. For purposes of this paragraph—

"(A) a corporation shall be treated as an investment company if the corporation has gross receipts for the taxable year in which the stock is issued more than 20 percent of which consist of passive investment income (as defined in section 1372(e)(5)(C)), and

"(B) in the case of a corporation which is a member of a controlled group of corporations within the meaning of section 1563(a), subparagraph (A) shall be applied—

"(i) first, to the issuing corporation by itself, and

"(ii) then, by treating the gross receipts and passive investment income of the con-

trolled group as the gross receipts and passive investment income of the issuing corporation.

"(d) DISPOSITION OF INCENTIVE STOCK BEFORE IT IS HELD FOR MORE THAN 12 MONTHS.—

"(1) DISPOSITION BEFORE FILING RETURN FOR TAXABLE YEAR OF ACQUISITION.—No credit is allowable under subsection (a) with respect to incentive stock acquired during a taxable year which is not held by the taxpayer on the date established by law for filing a return of tax for that taxable year, if, as of that date, the taxpayer has disposed of the stock after holding it for less than 12 months and 1 day.

"(2) OTHER PREMATURE DISPOSITIONS.—If during any taxable year incentive stock is disposed of by the taxpayer before the stock has been held by the taxpayer for more than 12 months, then the tax under this chapter for the taxable year shall be increased by the amount of the credit claimed by the taxpayer for any preceding taxable year with respect to the acquisition of such stock.

"(3) EXCEPTIONS.—Paragraphs (1) and (2) of this subsection shall not apply in the case of the disposition by bequest or gift unless—

"(A) the bequest or gift is deductible under section 170 (determined without regard to the limitations contained in subsection (b)), 2055, or 2522, or

"(B) the recipient disposes of the stock before the stock has been held for more than 12 months (including any periods of time during which the stock was held by the original purchasers).".

(b) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by inserting immediately after the item relating to section 44B the following new item:

"Sec. 44C. Investment in original issue stock of small- or medium-sized corporations.".

(c) CONFORMING AMENDMENTS.—Subsection (b) of section 6069 of such Code (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44B" and inserting in lieu thereof "44B, and 44C".

(d) CREDIT NOT ALLOWED TO ESTATES AND TRUSTS.—Subsection (a) of section 642 of such Code (relating to special rules for credits against tax for estates and trusts) is amended by adding at the end thereof the following new paragraph:

"(3) INVESTMENT IN INCENTIVE STOCK.—An estate or trust shall not be allowed the credit against tax for investment in incentive stock provided by section 44C.".

(e) EFFECTIVE DATE.—The amendments made by this Act shall apply with respect to taxable years beginning after December 31, 1978, and ending before January 1, 1984.

SEC. 224. PERIOD FOR REINVESTMENT OF GAIN ON SALE OF PERSONAL RESIDENCE.

(a) GENERAL RULE—Subsection (a) of section 1034 (relating to sale or exchange of residence) is amended by striking out "18 months" and inserting in lieu thereof "24 months."

(b) TECHNICAL AMENDMENT—Subsections (c), (d) and (h) of section 1034 are amended by striking out "18 months" each place it appears and inserting in lieu thereof "24 months."

TITLE III—TAX TREATMENT OF BUSINESS

SUBTITLE A—CORPORATE TAX RATE

SEC. 301. REDUCTIONS IN CORPORATE TAX RATES.

(a) NORMAL TAX.—Subsection (b) of section 11 of the Internal Revenue Code of 1954 (relating to normal tax on corporations) is amended to read as follows:

"(b) NORMAL TAX.—The normal tax for a taxable year is equal to 20 percent of so much of the taxable income as does not exceed $150,000.".

(b) Subsection (d) of section 11 of such Code (relating to surtax exemption) is amended by striking out all that precedes "except that" and inserting in lieu thereof the following:

"(d) SURTAX EXEMPTION.—For purposes of this subtitle, the surtax exemption for any taxable year is $150,000;".

(c) (1) Paragraph (7) of section 12 of such Code (relating to cross references relating to tax on corporations) is amended by striking out "$50,000" and inserting in lieu thereof "$150,000".

(2) Subsection (f) of section 21 of such Code (relating to effect of changes in rates during a taxable year) is amended to read as follows:

"(f) CHANGE IN SURTAX EXEMPTION.—In applying subsection (a) to a taxable year of a taxpayer which is not a calendar year, the change made by section 2 of the Corporate Tax Reduction Act of 1977 in the surtax exemption shall be treated as a change in a rate of tax.".

(3) Paragraph (1) of section 821(a) of such Code (relating to tax on mutual insurance companies to which part II applies) is amended to read as follows:

"(1) NORMAL TAX.—A normal tax for a taxable year equal to—

"(A) 20 percent of so much of the mutual insurance company taxable income as does not exceed $150,000,

or 44 percent of the amount by which such taxable income exceeds $6,000, whichever is lesser; plus".

(4) Subparagraph (A) of section 821(c)(1) of such Code (relating to alternative tax for certain small companies) is amended to read as follows:

"(A) NORMAL TAX.—A normal tax for a taxable year equal to—

"(i) 20 percent of so much of the taxable investment income as does not exceed $150,000,

or 44 percent of the amount by which such taxable income exceeds $3,000, whichever is lesser; plus".

SUBTITLE B—INVESTMENT CREDIT

SEC. 311. 10-PERCENT INVESTMENT TAX CREDIT AND $100,000 LIMITATION ON USED PROPERTY MADE PERMANENT.

(10) 10-PERCENT INVESTMENT TAX CREDIT.—Paragraph (2) of section 46(a) (relating to amount of credit for current taxable year) is amended—

(1) by striking out ", and before January 1, 1981" in clauses (i) and (iii) of subparagraph (D),

(2) by striking out ", and before January 1, 1981, and placed in service by the taxpayer before January 1, 1981" in clause (ii) of subparagraph (D), and

(3) by adding at the end thereof the following new subparagraph:

"(E) SPECIAL RULE FOR SUBPARAGRAPH (B).—For purposes of applying subparagraph (B), subparagraph (D) shall be applied—

"(i) by inserting 'and before January 1, 1981,' after '1975,' the second place it appears in clause (i) and where it appears in clause (iii), and

"(ii) by inserting 'and before January 1, 1981, and placed in service by the taxpayer before January 1, 1981,' after '1975,' in clause (ii)."

(b) $100,000 LIMITATION ON USED PROPERTY.—Paragraph (2) of section 301(c) of the Tax Reduction Act of 1975 (relating to effective date for increase of dollar limitation on used property) is amended by striking out ", and before January 1, 1981".

SEC. 312. INVESTMENT CREDIT MADE PARTIALLY REFUNDABLE AND TAX LIABILITY INCREASED TO 90 PERCENT.

(1) IN GENERAL.—Paragraph (3) of section 46(a) (limitation based on amount of tax) is amended to read as follows:

"(3) LIMITATION.—Notwithstanding paragraph (1), the credit allowed by section 38 for the taxable year shall not exceed the greater of—

"(A) $25,000, or

"(B) 90 percent of the liability for tax for the taxable year."

(2) CONFORMING AMENDMENTS.—

(A) Section 6401(b) (relating to credits treated as overpayments) is amended by striking out "and 43" each place it appears and inserting in lieu thereof "43 and 38 to the extent allowable under section 40(a)(3)(A)".

(B) Paragraphs (7), (8), and (9) of section 46(a) are hereby repealed.

(b) Elimination of Carryback of Unused Credits.—

(1) IN GENERAL.—Subsection (b) of section 46 (carryover of unused credits) is amended to read as follows:

"(b) CARRYOVER OF UNUSED CREDITS.—

"(1) IN GENERAL.—If the sum of the amount of the investment credit carryovers to the taxable year under subsection (a)(1)(A) plus the amount determined under subsection (a)(1)(B) for the taxable year exceeds the amount of the limitation imposed by subsection (a)(3) for such taxable year (hereinafter in this subsection referred to as the "unusued credit year"), such excess attributable to the amount determined under subsection (a)(1)(B) shall be an investment credit carryover to each of the 7 taxable years following the unused credit year, and, subject to the limitations imposed by paragraphs (2) and (3), shall be taken into account under the provisions of subsection (a)(1) in the manner provided in such subsection. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 7 taxable years and then to each of the other 6 taxable years to the extent, because of the limitations imposed by paragraphs (2) and (3), such unused credit may not be taken into account under subsection (a)(1) for a prior taxable year.

"(2) LIMITATION ON CARRYOVERS.—The amount of the unused credit which may be taken into account under subsection (a)(1)(A) for any succeeding taxable year shall not exceed the amount by which the limitation imposed by subsection (a)(3) for such taxable year exceeds the sum of the amounts which, by reason of this subsection, are carried to such taxable year and are attributable to taxable years preceding the unused credit year."

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 46(a) (relating to order of investment tax credit) is amended to read as follows:

"(a) GENERAL RULE.—

"(1) FIRST-IN-FIRST-OUT RULE.—The amount of the credit allowed by section 38 for the taxable year shall be an amount equal to the sum of—

"(A) the investment credit carryovers carried to such taxable year, plus

"(B) the amount of the credit determined under paragraph (2) for such taxable year."

(c) EFFECTIVE DATE.

The amendments made by this section apply to—

(A) property to which subsection (d) (qualified progress expenditures) of section 46 of the Internal Revenue Code of 1954 does not apply, but only if—

(i) acquired by the taxpayer after December 31, 1978, or

(ii) constructed, reconstructed, or erected after December 31, 1977, but only to the extent of the basis thereof attributable to the construction, reconstruction, or erection after December 31, 1978, and

(B) property to which such subsection (d) applies, but only to the extent of the qualified investment (as determined under subsections (c) and (d) of such section 46) with respect to qualified progress expenditures made after December 31, 1978.

SEC. 313. CERTAIN BUILDINGS AND STRUCTURAL COMPONENTS OF BUILDINGS.

(a) Allowance of Investment Credit for Rehabilitated Buildings and Structural Components.—Subsection (a) of section 48 (relating to definition of section 38 property) is amended by adding at the end thereof the following new paragraph:

"(10) Rehabilitated buildings and structural components.—Notwithstanding the words '(other than a building and its structural components)' in subparagraph (B) of paragraph (1), a building or its structural components shall be treated as section 38 property to the extent of so much of the qualified investment (as determined under subsections (c) and (d) of section 46) in the building or its structural components as is attributable to qualified rehabilitation expenditures paid or incurred with respect to such building or structural component. For purposes of this paragraph, the term 'qualified rehabilitation expenditures' means amounts—

"(A) chargeable to capital account,

"(B) paid or incurred for property or for additions or improvements to property (or related facilities) with a useful life of 5 years or more in connection with the rehabilitation of a building or structural component which is at least 10 years old, which, in the aggregate, exceed 25 percent of the adjusted basis of the property or structural component (determined without regard to such amounts).".

(b) Section 38 Property to Include Property Used in Retail and Wholesale Business.—Clause (i) of section 48(a)(1)(B) is amended by inserting "retailing, wholesaling," after "manufacturing,".

(c) Effective Date.—The amendments made by subsection (a) shall apply with respect to—

(1) property to which section 46(d) of the Internal Revenue Code of 1954 does not apply, the construction, reconstruction, or erection of which is completed by the taxpayer after December 31, 1978, but only to the extent of the basis thereof attributable to qualified rehabilitation expenditures (as defined in section 48(a)(10) of such Code) attributable to construction, reconstruction, or erection after such date,

(2) property to which section 46(d) of such Code does not apply, acquired by the taxpayer after such date, and

(3) property to which section 46(d) of such Code applies, but only to the extent of the qualified investment (as determined under subsections (c) and (d) of section 46 of such Code) attributable to qualified rehabilitation expenditures (as so defined) with respect to qualified progress expenditures made after such date.

SEC. 314. CERTAIN POLLUTION CONTROL FACILITIES AND RESEARCH EXPENDITURES.

(a) INCREASE IN QUALIFIED INVESTMENT FOR POLLUTION CONTROL FACILITIES.—Paragraph (5) of section 46(c) (relating to qualified investment) is amended by striking out "50 percent" and inserting in lieu thereof "66⅔ percent".

(b) QUALIFIED INVESTMENT FOR RESEARCH EXPENDITURES.—Section 46(c) (relating to qualified investment) is amended by inserting immediately after paragraph (5), the following new paragraph:

"(6) Applicable percentage in the case of research and development expenditures.—Notwithstanding paragraph (2), in the case of expenditures—

(A) with respect to which an election under section 174(b) applies, 66⅔ percent shall be the applicable percentage for purposes of applying paragraph (1).

(B) with respect to which section 174(a) applies, 33⅓ percent shall be the applicable percentage for purposes of applying paragraph (1)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures made in taxable years beginning after December 31, 1978.

Subtitle C—Miscellaneous Provisions Affecting Small Business Income Tax.

SEC. 321. CHANGES IN SUBCHAPTER S RULES.

(a) NUMBER OF SHAREHOLDERS.

(1) In general. Subsection (a)(1) of section 1371 (relating to the definition of small business corporation) is amended to read as follows:

"(1) have more than 15 shareholders;".

(2) REPEAL OF SECTION 1371(e).—Section 1371

(e) (relating to special shareholder rules) is repealed.

(b) STOCK OWNED BY HUSBAND AND WIFE.—Section 1371(c) (relating to stock owned by husband and wife) is amended to read as follows:

"(c) STOCK OWNED BY HUSBAND AND WIFE.—For purposes of subsection (a)(1), all stock which is held by a husband (or his estate) and wife (or her estate) shall be treated as owned by one shareholder."

(c) CERTAIN TRUSTS PERMITTED AS SHAREHOLDERS.—

(1) Section 1371(f) (relating to certain trusts permitted as shareholders) is amended to read as follows:

(e) CERTAIN TRUSTS PERMITTED AS SHAREHOLDERS.—

For purposes of subsection (a), the following trusts may be shareholders:

"(1) A trust all of which is treated as owned by the grantor (who is an individual citizen or resident of the United States) under subpart E of part I of subchapter J,

"(2) A trust to which section 651(a) applies. In the case of a trust described in paragraph (2), each beneficiary of the trust (and not the trust) having a present interest in the trust income shall, for purposes of subsection (a)(1), be treated as a shareholder."

(2) Paragraph (2) of section 1371(a) is amended by striking out "subsection (f)" and inserting in lieu thereof "subsection (e)".

(3) Subsection (b) of section 643 (definitions that apply to certain estates and trusts) is amended to read as follows:

"(b) INCOME.—For purposes of this subpart and subparts B, C, and D, the term 'income', when not preceded by the words 'taxable', 'distributable net', 'undistributed net', or 'gross', means the sum of—

"(1) the amount of income of the estate or trust for the taxable year determined under the terms of the governing instrument and applicable local law without regard to amounts described in paragraph (2), and

"(2) any amounts distributed to the estate or trust as a dividend by an electing small business corporation (including any amounts treated as so distributed under section 1372(b)).

For purposes of paragraph (1), items of gross income constituting extraordinary dividends or taxable stock dividends which the fiduciary, acting in good faith, determines to be allocable to corpus under the terms of the governing instrument and applicable local law shall not be considered income."

(d) CONSENT TO ELECTION.—Section 1372(a) (relating to eligibility for election) is amended to read as follows:

"(a) ELIGIBILITY.—Except as provided in subsection (f) any small business corporation may elect, in accordance with the provisions of this section, not to be subject to the taxes imposed by this chapter. Such election shall be valid only if all persons who are shareholders in such corporation on the day on which the election is made, consent to the election."

(e) TIME FOR ELECTION.—Section 1372(c) (relating to where and how election is made) is amended to read as follows:

"(c) WHERE AND HOW MADE.—An election under subsection (a) may be made by a small business corporation for any taxable year at any time during the first two months of such taxable year, or at any time during the taxable year preceding the taxable year for which it is to be effective. Such election shall be made in such manner as the Secretary prescribes by regulations."

(f) TERMINATION OF ELECTION.—Subsection (e) of section 1372 is amended as follows:

(1) NEW SHAREHOLDER.—Subparagraph (C) is paragraph (1) is amended to read as follows:

"(C) Any termination of an election under subparagraph (A) by reason of the affirmative refusal of any person to consent to such election shall be effective as follows:

"(i) If the person became a shareholder before the close of the first taxable year of the corporation for which such election was made, the termination shall be effective for such taxable year and for all succeeding taxable years of the corporation.

"(ii) If the person became a shareholder after the close of such first taxable year, the termination shall be effective for the taxable year which (by reason of subsection (g)) begins on the date on which such person became a shareholder and for all succeeding taxable years of the corporation."

(2) REVOCATION.—Paragraph (2) is amended to read as follows:

"(2) REVOCATION.—

"(A) An election under subsection (a) made by a small business corporation may be revoked by it at any time after the close of the first taxable year for which the election is effective.

"(B) Such election may be revoked only if all persons who are shareholders in the corporation on the day on which the revocation is filed consent to the revocation.

"(C) A revocation takes effect on the date filed with the Secretary or on such later date within the taxable year (determined without regard to the revocation) as may be specified in the revocation and shall be effective for the taxable year which (by reason of subsection (g)) begins on its effective date and all succeeding taxable years of the corporation.

"(D) A revocation under this paragraph shall be made in such manner as the Secretary shall prescribe by regulations."

(2) CEASES TO BE SMALL BUSINESS CORPORATION.—Paragraph (3) is amended to read as follows:

"(3) CEASES TO BE SMALL BUSINESS CORPORATION.—An election under subsection (a) made by a small business corporation shall terminate if at any time—

"(A) after the first day of the first taxable year of the corporation for which the election is effective, if such election is made on or before such first day, or

"(B) after the day on which the election is made, if such election is made after such first day, the corporation ceases to be a small business corporation (as defined in section 1371(a)). Such termination shall be effective for the taxable year which (by reason of subsection (g)) begins on the date on which the corporation ceases to be a small business corporation and for all succeeding taxable years of the corporation."

(g) ELECTION FOLLOWING TERMINATION.—Section 1372(f) (relating to election after termination) is amended to read as follows:

"(f) ELECTION AFTER TERMINATION.—

"(1) IN GENERAL.—If—

"(A) a small business corporation had made an election under subsection (a), and

"(B) such election has been terminated or revoked under subsection (e) for the first taxable year for which the election was to have applied or for any succeeding taxable year,

then such corporation (and any successor corporation) shall not be eligible to make

an election under subsection (a) for any taxable year before its fifth taxable year which begins after the first taxable year for which such termination or revocation is effective, unless the Secretary consents to such election.

"(2) INADVERTENT TERMINATION.—If—

"(A) an election made by a corporation terminates under subsection (e) (3), (4), or (5),

"(B) the corporation files a timely return as an electing small business corporation for the first taxable year ending after the election terminates and for one or more succeeding taxable years, and

"(C) the Secretary consents,

then the return for each succeeding taxable year shall be treated as a timely election, until the corporation again becomes an electing small business corporation.

"(3) FAILURE TO TAKE EFFECT.—If—

"(A) an election made by a corporation fails to take effect for any reason,

"(B) the corporation files a timely return as an electing small business corporation for the taxable year in which the election was to take effect and for one or more succeeding taxable years, and

"(C) the Secretary consents,

then the return for each succeeding taxable year shall be treated as a timely election, until the corporation becomes an electing small business corporation.

"(4) TIME OF ELECTION.—In applying subsection (e)(1)(A), an election under paragraph (2) or (3) shall be treated as made on the first day of the taxable year."

(h) TERMINATION OF SUBCHAPTER S ELECTION DURING THE TAXABLE YEAR.—Section 1372 (relating to election by small business corporation) is amended by adding at the end thereof the following new subsection:

"(h) TERMINATION DURING THE TAXABLE YEAR.—A corporation's taxable year shall terminate on the day before the date on which a termination of an election under subsection (e) (1) or (2) becomes effective."

(i) NET OPERATING LOSS CARRYOVER.—Section 1374(c) (relating to determination of shareholder's portion) is amended by adding at the end thereof the following new paragraph:

"(3) CARRYOVER OF EXCESS.—If a shareholder's portion of the net operating loss of an electing small business corporation for any taxable year (determined by applying this paragraph for each preceding taxable year beginning after 1978) is limited by paragraph (2), the unused amount shall be added to (and be treated as a part of) the shareholder's portion of the net operating loss of the electing small business corporation for the succeeding taxable year (whether or not there is a net operating loss for such year). If the corporation ceases to be an electing small business corporation, then (under regulations prescribed by the Secretary) subsection (b) shall apply as if the corporation were an electing small business corporation for a taxable year consisting of the 12 months beginning on the day of such cessation; but only with respect to the unused amount carried to such year.

SEC. 322. CHANGES IN ADDITIONAL FIRST-YEAR DEPRECIATION ALLOWANCE FOR SMALL BUSINESS.

(a) SECTION 179 PERCENTAGE INCREASED TO 25 PERCENT.—Subsection (a) of section 179 (relating to additional first-year depreciation allowance for small business) is amended by striking out "20 percent" and inserting in lieu thereof "25 percent".

(b) INCREASE IN DOLLAR LIMITATION.—

(1) The first sentence of section 179(b) is amended by striking out "$10,000" each place it appears and inserting in lieu thereof "$20,000".

(2) The second sentence of section 179(b) is amended by striking out "$20,000 in lieu of $10,000" and inserting in lieu thereof "$40,000 in lieu of $20,000".

(c) BENEFITS LIMITED TO SMALL BUSINESS.—

(1) IN GENERAL.—Section 179 is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

"(c) BENEFITS LIMITED TO SMALL BUSINESS.—

"(1) IN GENERAL.—This section shall not apply for the taxable year if (as of the first day of such year) the aggregate adjusted basis of the depreciable property of the taxpayer is $1,000,000 or more.

"(2) DEPRECIABLE PROPERTY DEFINED.—For purposes of this subsection, the term 'depreciable property' means property which is of a character subject to the allowance for depreciation provided by section 167."

(2) CONTROLLED GROUPS.—Paragraph (6) of subsection (e) (as redesignated by paragraph (1) of this subsection) of section 179 is amended—

(A) by striking out the heading and inserting in lieu thereof "(6) APPLICATION OF SUBSECTIONS (b) AND (c) IN THE CASE OF CONTROLLED GROUP.—"; and

(B) by striking out "For purposes of subsection (b)" and inserting in lieu thereof "For purposes of subsections (b) and (c)".

(3) CONFORMING AMENDMENT.—Subparagraph (A) of section 48(c)(3) is amended by striking out "section 179(d)(2)" and inserting in lieu thereof "section 179(e)(2)".

SEC. 323.—LOSSES ON SMALL BUSINESS STOCK.

(a) GENERAL RULE.—Subsection (a), (b), and (c) of section 1244 (losses on small business stock) are amended to read as follows:

"(a) GENERAL RULE.—In the case of any taxpayer loss on section 1244 stock issued to such taxpayer or to a partnership which would (but for this section) be treated as a loss from the sale or exchange of a capital asset shall, to the extent provided in this section, be treated as an ordinary loss.

"(b) LIMITATIONS.—

"(1) MAXIMUM AMOUNT FOR ANY TAXABLE YEAR.—The aggregate amount treated by the taxpayer by reason of this section as an ordinary loss for any taxable year shall not exceed—

"(A) $50,000 or

"(B) $100,000 in the case of a husband and wife filing a joint return for such year under section 6013.

"(2) REQUIREMENT AS TO GROSS RECEIPTS OF CORPORATION.—

"(A) Subsection (a) shall not apply in respect of a loss on section 1244 stock if (during the test period determined under paragraph (3)) 50 percent or more of the aggregate gross receipts of the issuing corporation are royalties, rents, dividends, interest, annuities, and gains from the sale or exchange of stock or securities.

"(B) For purposes of subparagraph (A), losses from the sale or exchange of stock or securities shall be taken into account only to the extent of gains therefrom.

"(C) This paragraph shall not apply to a corporation if (for the test period determined under paragraph (3)) the amount of the deductions allowed by this chapter (other than by sections 172, 243, 244, and 254) exceeds the amount of gross income.

"(3) TEST PERIOD.—The test period determined under this paragraph shall be equal to—

"(A) If the corporation has been in existence for 5 taxable years ending before the date the loss is sustained, the 5 most recent taxable years of the corporation ending before that date,

"(B) if the corporation has been in existence for more than 1 and less than 5 taxable years ending before the date the loss is sustained, all taxable years of the corporation ending before that date, or

"(C) if the corporation has not been in existence for one taxable year ending before the date the loss is sustained, the entire period the corporation has been in existence before that date.

"(c) SECTION 1244 STOCK.—For purposes of this section—

"(1) IN GENERAL.—The term 'section 1244 stock' means common stock issued by a domestic corporation during a taxable year if—

"(A) the stock was issued for money or other property (other than stock or securities), and

"(B) the amount of stock issued by the corporation before the beginning of the taxable year was less than $5,000,000.

"(2) LIMITATION.—The amount of section 1244 stock issued by a corporation during a taxable year shall not exceed—

"(A) $5,000,000, minus

"(B) the amount of stock issued by the corporation before the beginning of the taxable year.

"(3) SPECIAL RULE.—If the amount of common stock issued by a corporation during a taxable year exceeds the limitation determined under paragraph (2), then—

"(A) The corporation may designate any shares of common stock issued during the taxable year as section 1244 stock; provided that the amount of section 1244 stock so designated does not exceed the limitation determined under paragraph (2). If any share are designated, then shares that are not designated shall not be treated as section 1244 stock.

"(B) If no shares are designated under subparagraph (A), then a fraction of the shares issued to each person during the taxable year shall be section 1244 stock. The numerator of the fraction shall be equal to the limitation determined under paragraph (2). The denominator of the fraction shall be equal to the amount of common stock issued by the corporation during the taxable year.

"(4) AMOUNT.—For purposes of this section, the amount of stock issued by a corporation shall be equal to the amount of money plus the fair market value of property received in exchange for the stock.

"(5) SALE OF PRORATED STOCK.—If a shareholder sells common stock in a corporation, and if a fraction of such stock was treated as section 1244 stock under paragraph (3)(B), then a corresponding fraction of the stock sold shall be treated as section 1244 stock.

"(6) FRACTIONAL SHARES.—A fractional share of stock shall in no event be treated as section 1244 stock."

(b) CONFORMING AMENDMENTS.—Paragraph (2) of subsection (d) of such section is amended—

(1) by striking out "(other than subparagraph (E) thereof)", and

(2) by striking out the last sentence and inserting in lieu thereof the following: "For purposes of subsections (b)(2) and (c)(2), a successor corporation in a reorganization described in section 368(a)(1)(F) shall be treated as the same corporation as its predecessor."

(c) EFFECTIVE DATE.—The amendments made by this section apply to stock issued in taxable years of the issuing corporation beginning after December 31, 1978.

SEC. 324. THREE-YEAR EXTENSION OF PROVISION FOR 60-MONTH DEPRECIATION OF EXPENDITURES TO REHABILITATE LOW-INCOME RENTAL HOUSING.

Subsection (k) of section 167 (relating to depreciation of expenditures to rehabilitate low-income rental housing) is amended by striking out "January 1, 1979" each place it appears and inserting in lieu thereof "January 1, 1982".

TITLE IV—TAX IMPACT STUDY

SEC. 401. A TAX IMPACT STUDY AUTHORIZED.

(a) The Secretary of the Treasury and the Council of Economic Advisers are authorized to study the impact of Federal, State, and local government taxation on the American economy, including, but not limited to, an analysis of—

(1) the distribution of the Federal, State and local government tax burden by income classes for income taxes imposed on or with respect to wages, salaries and other compensation, sales and excise taxes, property taxes, and other taxes, and

(2) the manner in which taxes imposed on income from, or with respect to the operations of, businesses affect the pricing of goods and services, the determination of wages, salaries, and other employee compensation, and the return on capital investment for holders of securities.

(b) The report required by the first section of this Act shall be submitted to the Congress by January 31, 1980. An interim report shall be submitted to the Congress by June 30, 1979.

(c) There are authorized to be appropriated, to the Secretary of the Treasury, and to the Council of Economic Advisers, such amounts as may be necessary to carry out the study required by the first section of this Act.

FEDERAL INDIVIDUAL INCOME TAX BURDEN [1]—SINGLE PERSON AND MARRIED COUPLE WITH NO, 1, 2, AND 4 DEPENDENTS (ASSUMING DEDUCTIBLE PERSONAL EXPENSES OF 23 PERCENT OF INCOME)

	Tax liability														
	Single person			Married couple with no dependents			Married couple with 1 dependent			Married couple with 2 dependents			Married couple with 4 dependents		
	Under present law	Under the proposal	Reduction	Under present law	Under the proposal	Reduction	Under present law	Under the proposal	Reduction	Under present law	Under the proposal	Reduction	Under present law	Under the proposal	Reduction
Adjusted gross income: [2]															
$3,000	0	0	0	0	0	0	−290	−290	0	−290	−290	0	−290	−290	0
$5,000	279	187	92	0	0	0	−300	−490	200	−300	−490	200	−300	−490	200
$6,000	449	377	72	115	0	115	−200	−589	400	−200	−589	400	−200	−589	400
$8,000	810	775	35	431	222	209	273	−400	673	120	−400	520	0	−400	400
$10,000	1,199	1,189	10	761	602	159	620	127	493	446	−148	594	128	−200	328
$12,500	1,631	1,629	3	1,186	1,116	70	1,059	841	218	917	566	351	562	16	546
$15,000	2,126	2,103	24	1,651	1,611	40	1,486	1,336	150	1,330	1,061	269	980	511	479
$17,500	2,660	2,599	62	2,075	2,064	11	1,910	1,789	121	1,745	1,514	231	1,385	964	421
$20,000	3,232	3,141	91	2,555	2,526	29	2,368	2,251	117	2,180	1,976	204	1,880	1,426	302
$25,000	4,510	4,425	85	3,570	3,515	55	3,360	3,240	120	3,150	2,965	185	2,730	2,615	323
$30,000	5,950	5,895	55	4,712	4,609	103	4,472	4,334	138	4,232	4,059	173	3,770	3,580	290
$35,000	7,500	7,483	18	6,002	5,844	159	5,732	5,568	164	5,464	5,294	171	4,954	4,744	211
$40,000	9,233	9,215	18	7,427	7,226	201	7,135	6,951	184	6,848	6,676	172	6,278	6,126	152

[1] Computed without reference to the tax tables.
[2] Wage or salary and/or self-employment income.

Note: Details may not add to totals because of rounding.

Source: Staff of the Joint Committee on Taxation.

By Mr. WALLOP (for himself, Mr. BROOKE, Mr. BARTLETT, Mr. BELLMON, Mr. BENTSEN, Mr. CASE, Mr. DANFORTH, Mr. GARN, Mr. HATCH, Mr. PAUL G. HATFIELD, Mr. HAYAKAWA, Mr. HEINZ, Mr. INOUYE, Mr. JAVITS, Mr. LAXALT, Mr. LUGAR, Mr. MCCLURE, Mr. MCINTYRE, Mr. MATHIAS, Mr. PERCY, Mr. RIEGLE, Mr. SCHMITT, Mr. STAFFORD, and Mr. STEVENS):

S. 3422. A bill to establish a congressional award program for the purpose of recognizing excellence and leadership among young people; to the Committee on Governmental Affairs.

CONGRESSIONAL AWARD PROGRAM ACT

● Mr. WALLOP. Mr. President, on behalf of Senator BROOKE and 22 of our colleagues, I am introducing a bill to establish a congressional award program. The congressional award is a program which seeks to give national recognition to the creativity, achievements, and leadership of young people of America and to create a real avenue of communication between the young and Members of the Congress and Government.

Mr. President, there is a certain disquiet in the country about the goals and direction of young people. At the moment there are few clear objectives into which they can channel their creative energies. President Lincoln noted—

A child is a person who is going to carry on what you have started. He is going to sit where you are sitting and when you are gone attend to those things which you think are important. You may adopt all the policies you please, but how they are carried out depends on him. He will assume control of your cities, states, and nations. He is going to move in and take over your churches, schools, universities, and corporations. The fate of the country is in his hands.

Congress should recognize a responsibility: We have an opportunity, through the establishment of a congressional award program, to elevate and encourage the pursuit of excellence and to focus the creative energies of America's young people on positive ends.

Mr. President, the congressional award program will offer the young people of America an opportunity and a challenge to new endeavors and achievement. It will provide a defined avenue of direct personal contact between Government and people, particularly young people. The award would accomplish these goals with the help and cooperation of the older generation through the step-by-step fulfillment of the requirements and thus achieve an interaction between the young and not so young that is all too uncommon in this country.

Young people would participate in the program voluntarily; they will not belong to it as members of an organization. They can earn their awards by themselves, through organizations, or within the setting of their lives, be it industry, school, or Armed Forces. An important feature of the award is the contribution made by adults who may or may not be connected with the organizations helping the program, and who as members of the community with particular talents are prepared to pass on their knowledge and creative spirit to the young. Understanding between generations is enhanced by a shared endeavor which provides a common ground.

A congressional award may be earned by anyone between the ages of 14 and 23 who successfully completes all three sections of any of the three award levels: Bronze, silver, and gold. The qualifying standards are defined in terms of proficiency, perseverance, or sustained effort. Participants are assessed on the use which they make of their individual creativity and aptitudes in the three defined areas: Public service, personal interests, and exploration, and not in competition with others. Successful completion in many cases may depend more on persistence than on "brains" or athletic prowess. A handicap should not deter anyone from taking part or prevent anyone from obtaining an award.

There are three awards which may be earned by participants of differing age and maturity. There is no necessity to progress from one to the other, and thus either the bronze, silver, or gold award program may be entered directly. The bronze award is for individuals in the 14 to 16 age range and is a time to discover what their capabilities in the three areas are and what new goals they can achieve. The silver award, for those above 16, has as its goal, achievement of a higher level of proficiency in public service, personal interests, and exploration, as well as increased time requirements. The gold award, for those above 19, requires one to take the major role in planning the goals of any area with less supervision and direction. The goals are in part perseverance and the pursuit of excellence, however that may be defined for the activity. Considerable is expected, both in the time demands and levels of endeavor. It is the culmination of the award program.

For each level of the congressional award, those taking part would have to meet requirements of three sections. In brief they are public service, personal interests, and exploration. Each of the three sections prescribes a different kind of activity. While the choice of activities within a section may vary, the names of the sections are the same for the bronze, silver, and gold.

The public service section involves practical community service after preliminary training or more specialized training in the more sophisticated fields. The aim is to encourage young people to develop compassion and a sense of responsibility in order to contribute in a creative manner to their community. As members of the community they have responsibilities and opportunities to offer help that is needed. Examples of public service could include such activities as lifesaving, youth service, disaster relief, or care of animals.

The aim of the exploration section is to foster the spirit of adventure and self-discovery that spans the history of our country. The cultivation of this aspect of everyone's life and its meaning in the American culture cannot be emphasized enough. After training, journeys are planned and undertaken by one of the many modes of travel.

The purpose of the personal interests section is to stimulate young people to discover and develop interests of a creative and rewarding nature. It is hoped that this experience, as well as those of the other two sections, will have a lifetime effect. For all awards special provisions will be made for handicapped young people.

Some comparable perspective may perhaps be of value. A number of ideas for this award program have been developed from observation of the Duke of Edinburgh's Award program in Great Britain. It was formulated by the individual who founded the Outward Bound schools. From its beginning 21 years ago, it has grown in 45 countries and has attracted over 1 million young people worldwide. There is no question that their particular program has been efficient and successful without depending on large government support. In England a high percentage of those achieving the Duke of Edinburgh's Award feel it had a substantial part in shaping their lives and helping them reach their life's objectives.

The congressional award is nonetheless wholly American. Dr. Frank Arlinghaus, Jr., the chairman of the committee for the establishment and promotion of the congressional award, has assembled a group of dedicated individuals as well as political, financial, and administrative support. Thirty-two Members of the House have cosponsored bills introduced by Representative JAMES HOWARD to establish the award program. Nationwide, some 32 Governors, 25 mayors, and 40 to 50 National, State, and local organizations have indicated their support or interest in the past year.

The award will require no Federal appropriation. A Congressional Award Foundation has been established as an IRS-approved public foundation in association with the National Heritage Foundation and the fundraising campaign to attract voluntary donations to support the program has already been successful. An 18-month pilot program has already been planned in rigorous detail by the Minnesota Outward Bound School and is ready to go. Congress will neither create nor be obligated to any bureaucracy, and need only appoint a board to oversee the program's operations.

Mr. President, the congressional award will recognize the creative endeavors and achievements of the young people of America, while at the same time bringing the younger and older generations together to achieve that very end. The award will enhance the following ideals with the dimension of national recognition: To value by appreciation, to cultivate by leadership, and to preserve by commitment. The program does not merely intend to pass out awards. The continuance of these ideals and endeavors in young people is valuable and essential to the future of our country. These goals and endeavors are significant, whether in a family, schools, youth organization, business, or government. They affect any community, large or small. An award is the result of involvement by both the young and not-so-young. It is this endeavor, this excellence, this creativity, which will be shared with the congressional and government leaders as they meet with the participants in the context of the award program. As Alfred Lord Tennyson noted, "What we are, we are, and if we shall ever be any better, the time to begin is now."

Mr. President, I hope that the Senate has the opportunity to consider this legislation before the end of the 95th Congress. I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3422

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Congressional Award Program Act".

ESTABLISHMENT OF THE CONGRESSIONAL AWARD

SEC. 2. There is hereby established a program to be known as the Congressional Award. The Congressional Award shall be administered by a Congressional Award Board (hereinafter referred to as the "Board") and a Director (hereinafter referred to as the "Director").

CONGRESSIONAL AWARD MEDALS

SEC. 3. (a) There are established three Congressional Award Medals, to be designated gold, silver, and bronze awards. The medals shall be of such design and materials as the Board may prescribe.

(b) The Director shall arrange for the presentation of the awards, including participation by Members of Congress and opportunities for the exchange of information and views among award recipients and Members of Congress and the executive branch.

FUNCTIONS

SEC. 4. The Board is authorized to—

(1) initiate and administer in the Untied States and its territories a program open to young people aged fourteen through twenty-three (with exceptions to be made by the Board) designed to promote youthful initiative, achievement, and excellence in the areas of expedition fitness, personal creative development, and public service;

(2) set the standards of achievement required for young people to qualify as recipients of the gold, silver, and bronze Congressional Award Medals;

(3) establish procedures for the selection of individuals to be awarded the Congressional Award Medals, and designate the recipients of such medals;

(4) delineate the role, if any, of State directors in administering the Congressional Award;

(5) arrange appropriate ceremonies at the State and national levels for the presentation of the Congressional Award; and

(6) establish such policies and programs for the Congressional Award as may be appropriate to carry out the provisions of this Act.

(b) The Board shall prepare and submit an annual report to the Congress before January 31st of each year summarizing the activities of the Congressional Award and making appropriate recommendations. Minority views and recommendations, if any, of members of the Executive Committee of the Board shall be included in such reports.

MEMBERS OF THE BOARD

SEC. 5. (a) The Board shall consist of fifteen members, to be appointed by a Commission consisting of the majority and minority leaders of the Senate, and the Speaker and the minority leader of the House of Representatives.

(b) The Commission shall appoint individuals to the Board who are active in one of the fields of concern of the Congressional Award. The Commission shall, in making appointments to the Board, consider any recommendation submitted by the Committee for the Establishment and Promotion of the Congressional Award or by the members of the Board then in office.

(c) Members of the Board shall serve for a term of five years, except that seven of the members first appointed shall serve for a term of three years and eight of the Members first appointed shall serve for a term of five years, as designated by the Commission at the time of appointment. Members of the Board, except members whose terms are designated by the Commission at the time of appointment, may serve until their successors are appointed. Any individual chosen to fill a vacancy on the Board shall be appointed only for the unexpired term of such vacancy. A vacancy on the Board shall not impair its power to function.

(d) The Board shall establish an Executive Committee and may delegate to such Committee or the Director such powers and functions as the Board deems appropriate.

(e) The Board shall meet annually on June 15, unless, prior to May 1 of any year, the Chairman has set a date for the annual meeting for a day in June in that year other than the fifteenth. The Board shall meet at such other times as the Chairman may determine. The Chairman shall call a meeting whenever one-third of the Board requests a meeting in writing. Each member shall be given notice of the call of any meeting by registered mail or certified mail mailed to his last known address of record not less than fifteen days prior to such meeting.

(f) A majority of the members of the Board shall constitute a quorum.

(g) The Chairman and the Vice Chairman of the Board shall be elected at the annual meetings of the Board occurring in even-numbered years. The Vice Chairman shall perform the duties of the Chairman in his absence. In case a vacancy occurs in the Chairmanship or Vice Chairmanship, the Board shall elect a member to fill such vacancy at the next meeting of the Board following the date on which the vacancy occurred.

(h) The Board is authorized to appoint from among its members or otherwise such committees as may be necessary and to assign to such committees such functions as may be appropriate to assist the Board in carrying out the provisions of this Act.

DIRECTOR OF THE CONGRESSIONAL AWARD

SEC. 6. (a) The Director of the Congressional Award (referred to in this Act as the "Director") shall be appointed by a two-thirds vote of the Board. The Director shall serve for a term of five years unless removed by a two-thirds vote of the Board.

(b) The Director may from time to time authorize any State director appointed pursuant to section 7 or any other officer or employee of the Congressional Award to perform any of the functions of the Director, including functions delegated to him by the Board, except that the Director may not redelegate policymaking functions delegated to him by the Board.

(c) The Director shall, in consultation with the Board—

(1) formulate programs to carry out the policies of the Congressional Award; and

(2) establish such divisions within the Congressional Award as may be appropriate.

(d) The Director shall be an ex-officio member of the Board.

STATE AWARD DIRECTORS

SEC. 7. State award directors (referred to in this Act as a "State director") may be appointed for each State and territory or groups of States and territories of the United States by a two-thirds vote of the Board. The Board shall make such appointments from lists of candidates submitted to the Board by the Director. The Director shall compile such lists from recommendations solicited from a representative number of public and private youth organizations within such State or group of States. Members of the Board may make nominations for State award directors.

ADMINISTRATIVE PROVISIONS

SEC. 8. The Board shall have the authority, within the limits of available resources and donated funds, to take such action as may be necessary to carry out the provisions of this Act, including the authority—

(1) to prescribe such rules and regulations as may be necessary concerning the operations, organization, and personnel of the Congressional Award;

(2) to seek funds and resources only from institutions and sources other than the Government;

(3) to make such expenditures as may be necessary for administering the provisions of this Act;

(4) to enter into contracts or other arrangements, or modifications thereof, for the carrying out of such activities as may be necessary to carry out the purposes of this Act, except that no contract may be entered into for an amount in excess of the amounts available to the Board in any fiscal year;

(5) to acquire by purchase, lease, loan, or gift, and to hold and dispose of by grant, sale, lease, or loan property of all kinds necessary for, or resulting from, the exercise of authority granted by this Act;

(6) to receive and use funds donated from any source, if such funds are donated without restriction or without restriction other than that the funds donated be used in furtherance of one or more purposes among the purposes of the Congressional Award; and

(7) to accept and utilize the services of voluntary and uncompensated personnel.

EMPLOYMENT OF PERSONNEL

SEC. 9. (a) The Director shall, in accordance with such policies as the Board shall from time to time prescribe, appoint such other personnel as may be necessary to carry out the provisions of this Act, and may compensate such personnel from the donated funds of the Congressional Award.

(b) The Director shall not engage in any other business, vocation, or employment while serving as Director. Neither the Director nor any other personnel of the Congressional Award may hold any office in, or act in any capacity for, any organization, agency, or institution with which the Congressional Award enters into any contract or other arrangement under this Act, except with the approval of the Board.

(c) A person holding any other office in any branch of the Government may serve as a member of a committee created by the Board, but shall not receive remuneration for services as a member of such Committee during any period for which he receives compensation for such other office of the Government.●

By Mr. BROOKE:

S. 3423. A bill to amend the Disaster Relief Act of 1974 and the Small Business Act to increase disaster relief assistance, and for other purposes; to the Committee on Environment and Public Works and the Select Committee on Small Business, jointly, by unanimous consent.

DISASTER RELIEF AMENDMENTS OF 1978

● Mr. BROOKE. Mr. President, I am today introducing a measure to provide more and better Federal disaster relief assistance to Massachusetts residents who were adversely affected by last winter's severe snowstorm.

Few New Englanders will ever forget the Great Blizzard of February 6 and 7 of 1978 and the widespread destruction which it caused. From Salisbury to Marshfield, all along the coastline of Massachusetts, thousands of people suffered substantial financial losses to their homes, their businesses, and their personal possessions.

Beaches and seawalls in Manchester, Beverly, and Swampscott were battered beyond recognition. The famous Bearskin Neck and the landmark Motif No. 1 in Rockport were greatly disfigured. Over 2,000 individuals, many of them were from Revere, were forced to temporarily evacuate their homes because of the severe flooding caused by the storm. In Gloucester, the damage of the 2-day storm was estimated at nearly $28 million. And Federal troops and snow removal equipment were flown in from bases as far away as North Carolina and Georgia to Logan Airport to help in the recovery operations.

I flew to Massachusetts immediately after the storm to survey and assess the situation. Many homes were completely destroyed and others were severely damaged. It was obvious to anyone who personally witnessed the scene that the homes needed extensive repair work and that some degree of financial relief to their owners would be necessary.

Both the Small Business Administration (SBA) and the Federal Disaster Assistance Administration (FDAA) did provide assistance to many of the unfortunate victims of the Great Blizzard of 1978, but, as many of my constituents have indicated to me since that time, the Federal assistance has not been sufficient to meet the existing need. Indeed, on May 3, I received a petition with nearly 500 signatures requesting the reinstatement of the "forgiveness" clause for eliminating the first $5,000 on SBA disaster relief loans. And the Massachusetts House of Representatives has passed a resolution urging that the "forgiveness" clause be reinstated to further assist individuals who suffered home and property damage on February 6 and 7.

Consequently, late last month, during a visit to the town of Hull, one of the communities adversely affected by the storm, I announced that I was preparing comprehensive legislation to assure that adequate Federal disaster relief assistance would be given to my Massachusetts constituents. The legislation, which I am introducing today, includes provisions to reinstate the "forgiveness" clause for the first $5,000 on an SBA disaster relief loan, to improve the FDAA's existing $5,000 grant program, and to revise the Federal aid program for municipalities which need disaster relief.

The bill directs the Small Business Administration to cancel the first $5,000 on the principal amount of each disaster relief loan provided to the victims of the Great Blizzard of 1978 upon the presentation of proof of loss or damage or injury and upon the submission of a bona fide estimate of the cost for repairing, rehabilitating or replacing personal property. I am confident that these two qualifications will preclude any abuse of this provision and will direct assistance only to those individuals who truly deserve it.

My legislation also amends section 406 of the 1974 Disaster Relief Act by greatly broadening eligibility for direct grants to States for financial assistance not in excess of $5,000 to individuals adversely affected by a major disaster. Presently, section 406 restricts aid only to those individuals who "are unable to meet such expenses or needs through assistance under other provisions of the act, or from other means." This measure would eliminate the existing language and allow individuals to seek aid regardless of income level. However, an individual applying for both the grant and the "forgiveness" clause cannot receive Federal assistance in excess of $5,000.

My bill further amends section 406 by changing the Federal share in the grant program from 75 to 80 percent, thus increasing the likelihood that the States will provide grants to a greater number of individuals.

Third, this legislation would change section 414 of the 1974 act concerning aid to municipalities. At the present time, a town or city can receive Federal aid amounting to 25 percent of the municipality's annual operating budget for disaster relief. If, at the end of 3 fiscal years, the municipality if unable to raise revenues sufficient to meet its present operating budget, the disaster loan can be canceled by the Federal Government. Under my bill, the amount of Federal aid would be increased to 30 percent of the annual operating budget, and the period of time before the repayment of the loan can be canceled would be shortened to 2 fiscal years.

The provisions to amend section 404 and section 414 would be retroactive to January 1, 1978, thus assuring that Massachusetts residents and municipalities affected by the winter's storm could apply under the new programs.

In addition to these legislative initiatives, I have written to Commissioner James M. Stone of the insurance division of the Commonwealth of Massachusetts and recommended that public hearings be held to ascertain whether or not insurance settlement claims related to last winter's storms were undertaken and settled in an equitable manner.

I am confident that together these measures will provide a balanced program of comprehensive Federal assistance to Massachusetts residents pres-

ently faced with burdensome loans or presently unable to secure adequate financial aid. On past occasions, we have implemented the "forgiveness" clause to assist people in need. I strongly believe that the severity of the Great Blizzard of 1978 mandates that we reinstate the clause at this time.

Mr. President, it is my fervent hope that this bill will assure sufficient Federal relief to all of the victims of the Great Blizzard in Massachusetts. And, thus I urge my colleagues in the Senate to support and expeditiously pass this important and necessary legislation.

Mr. President, I ask unanimous consent that the bill and the letter to the Massachusetts Insurance Division be printed in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 3423

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Disaster Relief Amendments of 1978".

SEC. 2. Section 7(b) of the Small Business Act is amended by adding at the end thereof the following:

"With respect to a loan made in connection with the snow storms in Massachusetts on February 6 or 7, 1978, the Administration shall, upon presentation of proof of loss or damage or injury and a bona fide estimate of the cost of repair, rehabilitation, or replacement, cancel $5,000 of the principal amount of the loan, except that the total amount so cancelled plus the amount of any grant under section 408 of the Disaster Relief Act may not exceed $5,000.".

SEC. 3. (a) Section 408 of the Disaster Relief Act of 1974 is amended—

(1) by striking out "necessary" in the first sentence of subsection (a);

(2) by striking out "in those cases where such individuals or families are unable to meet such expenses or needs through assistance under other provisions of this Act, or from other means" in the first sentence of subsection (a);

(3) by striking out "75" in the first sentence of subsection (b) and inserting in lieu thereof "80"; and

(4) by striking out "25" in the first and second sentences of subsection (b) and inserting in lieu thereof "20".

(b) Section 414 of the Disaster Relief Act of 1974 is amended by striking out "25" and inserting in lieu thereof "30" and by striking out "three" and inserting in lieu thereof "two".

(c) The amendments made by subsections (a) and (b) take effect on January 1, 1978.

U.S. SENATE,
Washington, D.C., August 15, 1978.

Mr. JAMES M. STONE
Commissioner, Insurance Division, The Commonwealth of Massachusetts, Boston, Mass.

DEAR COMMISSIONER STONE: During my recent visits to those shoreline communities in Massachusetts adversely affected by last February's severe snow storms, I have repeatedly heard allegations that insurance claim settlements were either inequitable or inadequate to meet the costs of repairing damages.

I know that you share my concern about this situation and that the Insurance Division has been doing everything possible to review documented complaints. However, the complaints persist and, since homeowner policies are regulated by the State, I feel the Commonwealth has a further responsibility toward reviewing this entire matter for the benefit of the people who have filed claims and for those insurance companies facing these allegations.

Therefore, I strongly recommend that you initiate public hearings to determine whether these allegations are valid. I believe that it is extremely important for us to insure that the homeowners receive just settlement for the claims they filed after the Great Blizzard of February 6 and 7. And, I look forward to providing you and your office with whatever assistance I can to make certain that individuals who have criticized the settlement procedure are heard by the Commonwealth.

With best wishes, I am

Sincerely,

EDWARD W. BROOKE.●

By Mr. CRANSTON:

S. 3424. A bill to amend section 8 of Public Law 93–223 to permit California to continue cash payments to SSI recipients in lieu of food stamps; to the Committee on Finance.

CALIFORNIA SSI/FOOD STAMP PROBLEM

● Mr. CRANSTON. Mr. President, I am introducing today a measure dealing with a problem which has recently developed in California regarding the supplemental security income—SSI—program in that State. This bill is identical to one introduced last Wednesday in the House by my good friend from California, Mr. CORMAN, H.R. 13814, which was today ordered favorably reported by the House Ways and Means Committee.

BACKGROUND

When the SSI program began in 1974, California included in its State supplementary cash payment an amount equal to the bonus value of food stamps that SSI recipients in the State generally would have been eligible to receive. In other words, the State provided SSI recipients with an additional amount of cash generally equivalent to the average value of, and in place of, food stamps, and in this sense "cashed-out" food stamps for SSI recipients. Pursuant to section 401 of the law establishing the SSI program, Public Law 92–603, California was able to maintain this "cash-out" status as long as the Federal Government was contributing to the cost of the State supplementary payment under the "hold-harmless" provision of section 401.

In 1976, as a result of increases in the Federal SSI benefit level, California would have lost the "cash-out" status allowed under the provisions of Federal law then in effect. At that time, at the request of the State of California, Congress enacted legislation—Public Law 94–379—that allowed California to continue its "cash-out" status as long as it met two conditions: beginning June 1976, and for every month thereafter, the State had to first, pass through to SSI recipients any cost-of-living increases provided in the Federal SSI benefits and second, provide a yearly cost-of-living increase in the State supplementary payment. California has continued to meet these two conditions up to this time, and has, in effect, continued to "cash-out" food stamp benefits for SSI recipients.

Beginning in September 1978, however, Mr. President, California will cease to meet the second of these statutory conditions because the State suspended, as of September 1, 1978, the cost-of-living increase in its SSI supplementary payments. The State will thus lose its "cash-out" status and most noninstitutionalized, single, aged or disabled SSI recipients will be eligible for the minimum stamp allotment of $10 per month. Couples and most single, blind SSI recipients will not qualify for food stamps because the level of their SSI payments exceed the income limits under the food stamp program. Institutionalized SSI recipients will not qualify for food stamps because they do not constitute an eligible household under the provisions of the food stamp law.

TEMPORARY MEASURE

At this time, Mr. President, California has reached an oral agreement with the Department of Agriculture under which, at least until December 1978, food stamps will be distributed to eligible SSI recipients under a demonstration project system that will greatly simplify food stamp eligibility determination and distribution procedures. The State estimates that during these 4 months approximately 90 percent of the noninstitutionalized, single, aged, and disabled individuals who would be entitled to $10 a month in food stamps will participate in the program. According to the State, the estimated annual cost under the demonstration project system is $51 million for food stamp benefits and $6 million for administration.

CONVERSION TO REGULAR SYSTEM; ADMINISTRATIVE COSTS OUTWEIGH BENEFITS

The State advises that, as of January 1, 1979, it will have to begin converting from the demonstration project to the regular food stamp eligibility determination and distribution procedures. SSI recipients will then have to make application for food stamps at the local welfare offices and pick up the stamps at designated locations. After conversion to the regular food stamp system, the State estimates that participation in the program will drop to 42 percent and, on an annual basis, that $25 million will be paid in food stamps benefits with administrative costs increased to approximately $75 million. In other words, the taxpayers will be expending $3 in administrative costs for every dollar in benefits that go to recipients. Of the total costs, the Federal Government will pay all the costs of the benefits and one-half of the administrative costs, with the State paying the other half.

PURPOSE OF LEGISLATION

The object of the measure I am introducing today is to avoid this patently wasteful result by amending section 8(d) of Public Law 93–233 to provide that SSI recipients in California who would be eligible for food stamps will receive an amount in cash equivalent to the value of their food stamp entitlement. Under this legislation, if requested by the State of California, the Secretary of Health, Education, and Welfare, would, during fiscal year 1979, make an additional monthly cash payment of $10—the minimum food stamp allotment for an eligible one person household—to eligible recipients. This additional payment would be included in or with the individual's SSI check. These SSI recipients would receive this cash payment during fiscal year 1979 in place of the food stamps they would otherwise be entitled to receive.

The amendment would allow California to resume "cash-out" status beginning with the first month in which the additional payments in lieu of food stamps provided under this bill are actually made by the Secretary of HEW. These additional payments would end at the end of fiscal year 1979 or sooner with the first month California comes back into compliance with the two conditions contained in Public Law 94–379. Thus, if California resumes including cost-of-living increases in its supplementary payments before the end of fiscal year 1979, including amounts necessary to reflect all increases in the cost of living which have occurred since June 1976, the special $10 payments would cease and the State could continue its "cash-out" status under the provisions of current law. The amendment also specifies that the requirements of paragraph (2) of section 8(d) will be considered to have been met when California does make the required cost-of-living increases. This provision makes clear that, when California does resume making annual cost-of-living increases in its State supplementary SSI payment, the State will be considered to have satisfied the requirement of paragraph (2) of section 8(d) of Public Law 94–379 that such increases have been paid for all months since June 1976.

COSTS OF PROPOSED LEGISLATION

It is estimated that the total annual costs under this proposed legislation—benefits plus administrative costs—will be approximately $60 million in fiscal year 1979, or about the same as the annualized cost of the food stamp demonstration project system scheduled to begin on September 1, 1978. The benefit costs under the proposed legislation will be somewhat higher, but the administrative costs should be less. This, however, will be $40 million less than the total estimated costs after conversion, as required by law, to the regular food stamp program after January 1, 1979.

Under the regular food stamp program, Mr. President, the State estimates that it will cost about $75 million to administer $25 million worth of food stamp benefits, and the total fiscal year 1979 cost to the Federal Government will exceed $60 million. Under this proposed legislation, approximately $60 million in benefits will be provided to eligible SSI recipients with negligible administrative costs since the additional payments will be made along with regular SSI checks. Twice as many individuals will receive benefits during fiscal year 1979 under this legislation at essentially the same cost to the Federal Government. Thus, this money will go into direct cash benefits, rather than administrative costs.

Mr. President, I have been informed that this legislation will affect only the State of California, but I think that everyone of us shares an interest in seeing that funds—Federal, State, or local—intended to help the needy are expended in the most cost-effective and efficient manner. This legislation is designed to serve that purpose.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3424

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 8(d) of Public Law 93–233 is amended by adding at the end thereof the following new sentences: "For purposes of this subsection, if the State requests the Secretary to make the finding specified in the first sentence of this subsection and to make an additional cash payment under title XVI in lieu of food stamps, in the amount and the manner described below, to every individual in the State who does not have an eligible spouse and who receives a supplementary payment pursuant to an agreement under section 1616(a) of the Act (other than an individual who (i) receives such a supplementary payment at a level prescribed by the State by reason of his or her residence in an institution, or other living arrangement in which board and care are provided, or (ii) receives payments pursuant to section 212 of Public Law 93–66 at a level in excess of the level applicable to such individual as established by the State under such agreement), the Secretary shall make such payments if he finds that the conditions of paragraph (1) have been met (and for this purpose the conditions of paragraph (1) shall be considered to have been met to the extent that they involve amounts payable under the law referred to in paragraph (1)(B) notwithstanding the suspension in 1978 of the cost-of-living increase in State supplementary payments under such law) for months beginning with the first month in which, as determined by the Secretary, such additional cash payment can be made, and ending with the month before the first subsequent month for which the conditions of paragraph (1) are met without regard to this sentence (and the requirements of paragraph (2) shall also be considered to have been met, effective on the first day of such first subsequent month, for purposes of applying the first sentence of this subsection to that month and succeeding months). For purposes of the preceding sentence, the amount of an additional cash payment under title XVI in lieu of food stamps shall equal the cash value of the minimum allotment specified by section 8(a) of the Food Stamp Act of 1977 for one-person households, and such additional cash payment shall be appropriately included in or with the check issued to such individual in payment of his supplementary security income benefit (or supplementary payment under such section 1616(a))."

(b) The amendments made by subsection (a) of this section shall be effective only for the period beginning October 1, 1978, and ending September 30, 1979.●

ADDITIONAL COSPONSORS

S. 2856

At the request of Mr. MORGAN, the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor of S. 2856, the Uniformed Services Survivor Benefit Plan Amendments Act of 1978.

S. 2867

At the request of Mr. GOLDWATER, the Senator from Alabama (Mrs. ALLEN) was added as a cosponsor of S. 2867, a bill to remove residency requirements and acreage limitations applicable to land subject to reclamation law.

S. 2920

At the request of Mr. HOLLINGS, the Senator from Arkansas (Mr. HODGES) was added as a cosponsor of S. 2920, a bill to amend the Trade Act of 1974.

S. 3289

At the request of Mr. ROTH, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 3289, a bill to amend the Internal Revenue Code of 1954 to clarify the application of the investment tax credit to certain enclosures or structures used for the housing, raising, or feeding of poultry or their produce.

S. 3373

At the request of Mr. MCINTYRE, the Senator from New Hampshire (Mr. DURKIN), the Senator from Indiana (Mr. BAYH), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Idaho (Mr. MCCLURE), the Senator from California (Mr. CRANSTON), the Senator from Texas (Mr. BENTSEN), the Senator from North Dakota (Mr. BURDICK), the Senator from Nevada (Mr. CANNON), and the Senator from New York (Mr. MOYNIHAN) were added as cosponsors of S. 3373, a bill to authorize the Secretary of Defense to provide transportation to the Girl Scouts of the United States of America in connection with international world friendship events or troops on foreign soil meetings, on a reimbursable basis.

S. 3414

At the request of Mr. WALLOP, the Senator from California (Mr. CRANSTON) was added as a cosponsor of S. 3414, to amend the Internal Revenue Code of 1954 to provide that nonresident aliens are taxable on gain from the sale or exchange of farming property and undeveloped real property at capital gains rates.

AMENDMENTS SUBMITTED FOR PRINTING

TARIFF TREATMENT WITH RESPECT TO FILM, STRIPS, SHEETS, AND PLATES OF CERTAIN PLASTICS OR RUBBER—H.R. 5285

AMENDMENT NO. 3478

(Ordered to be printed and to lie on the table.)

Mr. NELSON (for himself, Mr. KENNEDY, Mr. JAVITS, Mr. ANDERSON, Mr. CRANSTON, Mr. EAGLETON, Mr. HASKELL, Mr. HATHAWAY, Mr. MOYNIHAN, Mr. PELL, Mr. RIBICOFF, Mr. RIEGLE, and Mr. WILLIAMS) submitted an amendment intended to be proposed by them, jointly, to H.R. 5285, an act to amend the tariff schedules of the United States with respect to the tariff treatment accorded to film, strips, sheets, and plates of certain plastics or rubber.

HOSPITAL COST CONTAINMENT

● Mr. NELSON. Mr. President, I am today submitting, on behalf of myself and Senators KENNEDY, JAVITS, ABOUREZK, ANDERSON, CRANSTON, EAGLETON, HASKELL, HATHAWAY, MOYNIHAN, PELL, RIBICOFF, RIEGLE, and WILLIAMS, a hospital cost containment amendment to H.R. 5285, a tariff measure that includes the Senate

Finance Committee-reported medicare and medicaid reimbursement amendments collectively referred to as the Talmadge bill (S. 1470).

Specifically, the amendment is to section 2 of the Talmadge bill, which sets up a new reimbursement mechanism to control certain limited routine hospital costs under medicare and medicaid. The amendment is a compromise between the limited approach of S. 1470 and the administration/Human Resources Committee cost containment bill, S. 1391, which would enact immediate mandatory controls on all hospital inpatient revenues.

In summary, the amendment would expand upon the Talmadge bill approach in a number of ways designed to improve cost savings and make sure that cost containment efforts will equitably affect all costs and all payors. However, it would not put into effect immediate controls, as the administration bill would. Instead, this amendment recognizes that the hospital industry currently is undertaking a voluntary effort to hold cost increases down. To the extent that the voluntary effort succeeds, there would be no imposition of controls broader than those on medicare and medicaid costs, currently contemplated under the Talmadge bill. Only if the voluntary effort fails on a nationwide basis, either in 1978 or in subsequent years, would the amendment put into effect standby controls to curb inflation in ancillary costs and in charges to other hospital payors. Individual States would be exempted from the controls if they met the voluntary national goal.

In other words, the amendment centers not so much around permanent immediate controls but around the industry's own voluntary effort, backed up by controls in the event voluntary efforts are not successful.

Here's how the amendment would work:

Total community hospital expenses nationwide increased by about 15.6 percent in 1977 to $53 billion. The voluntary goal is to lower that rate of increase by: 2 percent in 1978 (the goal would be to limit the increase to about 13.6 percent in 1978); 4 percent in 1979 through 1982 (the goal would be an increase of about 11.6 percent in those years). The goal could not be less than 1½ times the implicit price deflator of the GNP.

These goals refer to total nationwide expenses. For example, the 1978 goal would be determined as follows: 1977 expenditures equals $53 billion; 1978 maximum increase times 1.136; and 1978 goal, $60.2 billion.

Few major economic and social issues have been more widely discussed and debated by the 95th Congress than hospital cost containment.

At the very beginning of this session, the administration called our attention to the severe inflationary pressures generated by enormous annual increases in hospital costs—then rising at a national rate in excess of 16 percent annually.

President Carter sent up a major piece of legislation early in 1977. The legislation was referred to four different congressional committees: Finance and Human Resources in the Senate, and Commerce and Ways and Means in the House. The legislation also, at one time or another, has been the concern of a number of other committees, including the House and Senate Budget Committees, as well as a large number of public and private health care interest groups on both sides of this issue.

The administration bill has not passed the Congress because of heavy lobbying against it by the hospital industry. The total 5-year savings to the U.S. economy from the administration approach is estimated to be $55 to $60 billion. Despite this fact—or perhaps because of it—a tremendous lobbying effort has been mounted by the hospital industry against the legislation. Of the four committees to which it was referred, only one—the Senate Human Resources Committee—has reported legislation similar to the administration bill (S. 1391). Cost containment legislation has been bottled up in the House Ways and Means Committee, and was weakened by the House Commerce Committee.

The fourth committee to which cost containment legislation was referred—Senate Finance—approved only a limited approach, setting up a new mechanism to control only routine, per diem, hospital costs (the so-called hotel-type costs), about 50 percent of all costs, under only medicare and medicaid, about 40 percent of all payors for hospital care. The Finance Committee approach, while it contains certain desirable elements of reimbursement reform (such as basing reimbursement on a new system of classifying hospitals), would basically save only about $500 million over the next 5 years, or 100 times less than the Human Resources Committee-reported bill, and 60 times less than this compromise.

Moreover, because the Finance Committee bill controls only routine costs under only medicare and medicaid, the likely effect will be no net savings to the overall economy, since hospitals will still be able, one way or another, to redistribute costs to ancillary services, or to nongovernmental payors, such as Blue Cross, insurance companies, and private, self-paying patients.

The Talmadge bill contains a provision prohibiting hospitals from increasing charges to other third-party payors as a way of offsetting reductions from controls on medicare and medicaid reimbursement rates. This prohibition is designed to address the problem that other payors will bear the brunt of a medicare/medicaid-only restriction. However, the prohibition is likely to be largely ineffective because there is no reasonable way to test whether shifts in charges are due to limits in "routine" costs. For example, hospitals change their charges for a variety of reasons. A hospital may have charges in excess of costs by 5 percent one year, 15 percent the next, and 8 percent the next. If they raise charges up to an excess of 15 percent again in the year after application of the limit, how can we demonstrate that it is due to the limit? Although the changes can be measured, whether those changes were solely due to the limits on "routine" costs cannot easily be determined. Gross violations may be subject to detection, but that does not solve the problem of the subtle shifts in charges by each hospital.

This would not be a problem under this amendment, which covers all payors.

The Finance Committee rejected efforts to broaden the Talmadge bill to cover all costs and all payors. This middle-ground compromise—which would generate 100 times more savings than the Talmadge bill (S. 1470)—was rejected by a vote of 11 to 7.

Accordingly, as I indicated at the time of that vote, I am introducing an amendment today for consideration, and I intend to offer it at the appropriate time during the debate on H.R. 5285.

I should note that the Senate may also have an opportunity to vote on the Human Resources Committee bill. I voted for that legislation in committee, and I will continue to support it on the floor. But I want to be certain that the Senate also has before it a compromise approach, which will result in significant and meaningful savings.

I am convinced, Mr. President, that the economy needs—and that the health care consumer desires—these meaningful savings.

Consumers are concerned about hospital cost inflation, as evident in the mail we receive. Numerous editorials have appeared in newspapers throughout America concerned with the lack of Congressional activity to control hospital costs. The Milwaukee Journal, in an editorial July 20, 1978, noted Congress willingness "to give the green light to inflation" by "cravenly yielding to pressure from special interests and totally ignoring the public interest." Similar editorials have appeared in the Columbus (Ohio) Dispatch, the Atlanta Constitution, the Bennington (Vermont) Banner, the Arkansas Gazette, the Oklahoman, and others. I ask unanimous consent that a number of these editorials be printed in the RECORD at the conclusion of my remarks.

Supporters of the thrust of this amendment include: the health insurance industry, including Blue Cross, Blue Shield, Aetna, and Connecticut General; the National Governors' Association; the National Conference of State Legislatures; the National Association of Counties; and many professional and social organizations. I ask that letters from several of these organizations also be printed in the RECORD.

I also ask unanimous consent that a summary and section-by-section analysis of the amendment, tables showing the increase in hospital costs in recent years, the estimated future savings under various cost containment amendments, and the text of the amendment itself be printed in the RECORD.

There being no objection, the amendment and material were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 3478

Page 3, line 3 is amended by striking out "Section 2(a)(1)" and by inserting in lieu thereof "(a)(2)" and by inserting before such line the following:

"Section 2(a)(1) The amendments to the Social Security Act included in this section provide a more equitable basis for reimbursing hospitals for routine operating costs under titles XVIII and XIX, establish a Health Facilities Cost Commission to develop a more equitable basis for reimbursing hospitals for all costs covered by titles XVIII and XIX, set voluntary goals for hospital cost containment and impose standby increase limits on total inpatient reimbursement in the event that the voluntary goals are not met. The amendments to the Internal Revenue Code included in this section extend the standby increase limits to all payers by imposing excise taxes on hospital charges and reimbursements in excess of such limits."

Page 3, line 6 is amended by striking out "(2)" and inserting in lieu thereof "(3)".

Page 3, line 5 is amended by striking out "subsection (bb)" and inserting in lieu thereof "subsection (bb), (cc), (dd), and (ee)".

Page 3, line 10 is amended by striking out "subsection (bb)" and inserting in lieu thereof "subsection (bb), (cc), (dd), and (ee)".

Page 6, line 6 is amended by striking out the words "only one-half of" and inserting after the word "shall" the word "not."

Page 9, line 22 is amended by striking out the word "and" and by inserting after such line the following:

"and, under either division I or division II, not exceeding (on a per diem basis) the hospital's actual routine operating costs in its immediately preceding accounting year (or, with respect to the first accounting starting on or after July 1, 1979, an amount that the Secretary estimates would equal the hospital's routine operating costs in such preceding accounting year had routine operating costs in such preceding year represented the same proportion of the hospital's total routine cost as the Secretary finds in the subject year) increased by a rate equal to 150 percent of the rate of increase in the index established pursuant to subparagraph (4)(A) in the same period, subject to modification for the rate of increase in the regular wages granted to nonsupervisory employees under paragraph (dd)(5) of this section, and"

Page 10, line 7 is amended by adding after the word "costs" the following:

"but not exceeding (on a per diem basis) the hospital's routine operating costs in its immediately preceding accounting year (or, with respect to the first accounting year starting on or after July 1, 1979, an amount that the Secretary estimates would equal the hospital's routine operating costs in such preceding accounting year had routine operating costs in such preceding year represented the same proportion of the hospital's total routine costs as the Secretary finds in the subject year) increased by a rate equal to 150 percent of the rate of increase in the index established pursuant to subparagraph (4)(A) in the same period, subject to modification for the rate of increase in the regular wages granted to nonsupervisory employees under paragraph (dd)(5) of this section."

Page 10, line 4 is amended by striking out the word "or" and inserting after "(b)" the following:

"200 percent of the amount due in incentive payments to employees of the hospital under a plan established prior to the start of the hospital's accounting year and designed to encourage efficiency and economy, or (c)"

Page 18, line 10 is amended by redesignating subsection "(c)" as paragraph "(c)(1)".

Page 18, line 15 is amended by striking out the words "criteria established by section 1861(bb)" and inserting in lieu thereof the words "implementation of subsections 1861 (bb) through (ee)".

Page 18, line 20 is amended by striking out the words "and the Congress".

Page 19 is amended by inserting after line 4 the following new paragraph:

"(c)(2) The Secretary may adopt for purposes of reimbursement under titles XVIII and XIX of the Social Security Act measures recommended by the Commission and put such measures into effect in lieu of section 1861(v), (bb) or (dd) of title XVIII of the Social Security Act starting at least sixty days after the Secretary notifies the Congress of his intent to adopt such measures."

Page 20, line 18 is amended by striking out "(bb)" and inserting in lieu thereof "(bb), (cc), (dd) and (ee)".

Page 20 is amended by inserting after line 19 the following new sections (f) and (g):

"(f) Title XVIII of the Act as amended by subsection (b) of this section is further amended by adding after subsection (bb) as added to such title by such subsection (b) the following new subsections:

'VOLUNTARY GOALS FOR HOSPITAL COST CONTAINMENT

'(cc) (1) If the Secretary finds, after consultation with the Health Facilities Cost Commission, that hospitals in the United States have failed to voluntarily reduce the rate of increase in their total expenses (other than expenses arising from increases in the average hourly regular wage rate for nonsupervisory employees) consistent with the goals established in paragraph (2) of this subsection, the standby increase limits on total inpatient reimbursement per admission provided in subsection (dd) shall go into effect. However, the hospitals located in a State shall be exempt from such limits if the Secretary finds that the hospitals in that particular State have held the rate of increase in expenses (other than expenses arising from increases in the average hourly regular wage rate for nonsupervisory employees) to a level at or below the maximum allowable rate specified under paragraph (2) of this subsection for hospital expenses (other than expenses arising from increases in the average hourly wage rates for nonsupervisory employees) in the United States. For purposes of the preceding sentence the term "State" includes the District of Columbia and the Commonwealth of Puerto Rico and the term "United States" means all the States and all the possessions of the United States.

'(2) the maximum allowable rate of increase in total hospital expenses (other than expenses arising from increases in the average hourly wage rates for nonsupervisory employees) in the United States for calendar year—

'(A) 1978, is equal to 2 percentage points less than the rate of increase in such hospital expenses for 1977, and

'(B) 1979, 1980, 1981, and 1982 is equal to 4 percentage points less than the rate of increase in such hospital expenses for 1977, except that such maximum allowable rate of increase for a calendar year may not be less than one and one-half times the rate of increase in the implicit price deflator of the gross national product as calculated by the Bureau of Economic Analysis of the Department of Commerce and published in the Survey of Current Business for such calendar year.

'(3)(A) Each hospital shall provide the Secretary—

'(i) not later than December 31, 1978, with such data with respect to the hospital's expenses for each calendar quarter of 1976 and 1977 and for the first three calendar quarters of 1978 as the Secretary determines to be necessary to compute and monitor the maximum allowable rates of increases in hospital expenses for calendar years under paragraph (2), and

'(ii) not later than 60 days after the end of each calendar quarter which ends after September 30, 1978, with such data with respect to the hospital's expenses during the calendar quarter as the Secretary determines to be necessary to monitor hospitals' compliance with the maximum allowable rate of increase in hospital expenses under paragraph (2).

'The Secretary may prescribe the form and manner in which these data must be provided.

'(B) In determining reasonable costs for purposes of this Act—

'(i) data on hospital expenses reported under paragraph (1) for any period shall be used instead of the hospital cost data otherwise reported for purposes of this Act to the extent that this would result in lower reimbursement to the hospital, and

'(ii) in the case of a hospital failing to provide in full the information required under paragraph (A) for any period, the hospital's expenses (other than expenses arising from increases in average hourly wage rates for nonsupervisory employees) for any accounting year (ending after December 31, 1977) may not be taken into account to the extent such expenses exceed such expenses in the hospital's immediately preceding accounting year by a percentage greater than the maximum allowable rate of increase in total hospital expenses specified under paragraph (2) for the latest calendar year any part of which is included in the accounting year in question.

'(4)(A) The Secretary shall monitor the data received under subparagraph (3)(A) and shall report at least quarterly to the appropriate committees of Congress on progress in meeting the maximum allowable rate of increase in hospital expenses (other than expenses arising from increases in the average hourly wage rates for nonsupervisory employees) for each year.

'(B) Not later than 90 days after the first day of each calendar year after 1978, the Secretary shall determine (on the basis of data received from hospitals that have provided data under subparagraph (A) in a form and manner acceptable to the Secretary for all calendar quarters of 1976, 1977, 1978 and, in the specified time, for all subsequent calendar quarters) and announce whether or not the rate of increase in total hospital expenses (other than expenses arising from increases in the average hourly wage rates for nonsupervisory employees) for the preceding calendar year has exceeded the maximum allowable rate of increase in such hospital expenses for the year, as specified under paragraph (2).

'(5) For purposes of this subsection:

'(A) The term "rates of increase in total hospital expenses (other than expenses arising from increases in the average hourly wage rates for nonsupervisory employees)" means, for a calendar year, the percentage by which the total hospital expenses (other than expenses arising from increases in the average hourly wage rates for nonsupervisory employees) for the calendar year exceed such hospital expenses for the previous calendar year.

'(B) The term "total hospital expenses (other than expenses arising from increases in the average hourly wage rates for nonsupervisory employees)" means, for a calendar year, the total expenses, excluding expenses arising from increases in the average hourly wage rates for nonsupervisory employees (as defined in clause (dd)(5)(D)(iii) of this section), of hospitals (as defined in subparagraph (C)) in the calendar year, as such expenses are defined by the Secretary.

'(C) The term "hospital" means a hospital (other than a psychiatric hospital or tuberculosis hospital, as defined in subsections (f) and (g), respectively, of this section or a hospital that derived more than 75 percent of its inpatient care revenues on a capitation basis, disregarding revenues received under this title, from one or more health maintenance organizations as defined in section 1301(a) of the Public Health Services Act) which has an agreement in effect under section 1866 of title XVIII of the Social Security Act during all calendar quarters elapsing after calendar year 1975 and which has had 4,000 or more admissions during all full accounting years elapsing after calendar year 1977.

'STANDBY INCREASE LIMITS ON TOTAL INPATIENT

increased in such accounting year without

hospital services attributable to regular

REIMBURSEMENT

'(dd)(1) If the Secretary finds, after consultation with the Health Facilities Cost Commission, that hospitals have failed in calendar year 1978 or any subsequent calendar year to voluntarily reduce the rate of increase in their expenses consistent with the goals established in paragraph (2) of subsection (cc), average inpatient costs otherwise reimbursable per inpatient admission shall, in the case of a hospital (other than a psychiatric hospital or a tuberculosis hospital, as defined in subsections (f) and (g) respectively of this section or a hospital that derived more than 75 percent of its inpatient care revenues on a capitation basis, disregarding revenues received under this title, from one or more health maintenance organizations, as defined in section 1301(a) of the Public Health Service Act) with 4,000 or more admissions in its last preceding full accounting year, be deemed unreasonable and shall not be reimbursable for purposes of this title or for purposes of title XIX of this Act in hospital accounting years any part of which occur after such calendar year and also after June 30, 1979, to the extent that such costs exceed average costs per inpatient admission reimbursable under such titles in the hospital's immediately preceding accounting year by the sum of the following percentages as adjusted by paragraphs (2), (4), and (5) of this subsection:

'(A) The highest rate by which routine operating costs could have increased in the subject accounting year without being subject to disallowance under subsection (bb) multiplied by the ratio of routine operating costs to total inpatient costs in such prior accounting year;

'(B) The rate by which general wage levels in the hospital's geographic area increased during the latest 2-year period for which data are available multiplied by the ratio of the labor costs not included in routine operating costs to total inpatient hospital costs in the prior accounting year; and

'(C) The rate of increase the Secretary finds appropriate (based on such index composed of weighted components of available national indicators of price changes in the general economy as the Secretary finds appropriate for the purpose) multiplied by the ratio of nonlabor inpatient costs not included in routine operating costs to total inpatient costs in the prior accounting year.

'(2)(A) For purposes of paragraph (1) of this subsection, the Secretary shall deem the proportions of total inpatient costs represented by routine operating costs and the labor and nonlabor components of all other costs in accounting years starting prior to July 1, 1979, to be equal to the proportions of total inpatient costs represented by such components of costs

'(i) as he finds in the succeeding accounting year of a hospital, where such succeeding accounting year starts on or after July 1, 1979 or

'(ii) as he estimates for all hospitals in the same category as a hospital for purposes of paragraph (3) of subsection (bb) of this section on the basis of available data, where the succeeding accounting year starts prior to July 1, 1979.

'(B) Where less than the full accounting year of a hospital occurs in a period subject to paragraph (1) of this subsection, the Secretary shall impose any disallowance of reimbursement otherwise required under such paragraph (1) only in the proportion that the number of days in such accounting year occurring in such period bears to the total number of days in that accounting year.

'(C) Where less than the full accounting year of a hospital occurs after July 1, 1979, the Secretary shall, for purposes of subparagraph (1)(A), deem the highest rate by which routine operating costs could have being subject to disallowance under subsection (bb) to be such rate as it would be determined if such accounting year began on July 1, 1979, except that the Secretary shall determine the percentage increase in costs under subparagraph (bb)(4)(A) in a manner appropriate to the actual accounting year of the hospital.

'(3) The sum of the percentages determined under paragraph (1) of this subsection shall be reduced by the product of:

'(A) the number of percentage points (or fraction thereof) by which the increase in a particular hospital's total expenses (other than expenses arising from increases in the average hourly wage rates for nonsupervisory employees) in a calendar year specified in paragraph (1), as reported for purposes of subsection (cc), exceeded the maximum allowable rate of increase in total hospital expenses (other than expenses arising from increases in the average hourly wage rates for nonsupervisory employees) in the United States set forth in paragraph (2) of such subsection, and

'(B) the percentage of such hospital's total expenses that do not arise from the regular wages of nonsupervisory employees.

'(4) The sum of the percentages determined under paragraph (1) of this subsection and reduced where required under paragraph (3) of this subsection shall be adjusted in accordance with a formula established by the Secretary to take into account the estimated impact of changes in the total number of inpatient admissions experienced by a hospital in a subject accounting year, as compared to the total number of admissions such hospital experienced in its immediately preceding accounting year. Such formula shall be designed to adjust the percentage limitation on increases in average inpatient costs otherwise reimbursable per inpatient admission applicable to a hospital under this section for any substantial increase or decrease in total inpatient cost per admission that the Secretary estimates (based on data available to him) would generally result from increases or decreases in total admissions taking into account the size of the hospital, its occupancy rate, and such other factors as the Secretary deems appropriate.

'(5)(A) The Secretary shall modify, for each hospital, in accordance with subparagraph (2) of this paragraph, the increase limits otherwise established under this subsection and the limitation (to 150 percent of the rate of increase in the economic index established pursuant to subparagraph (4)(A) of subsection (bb) of this section), otherwise established under subparagraphs (4)(B)(i) and (4)(B)(ii) of subsection (bb) of this section to allow the hospital a pass-through of any increase in the rate of regular wages granted in the accounting year to its nonsupervisory employees.

'(B) The hospital shall promptly provide the data necessary for the required calculation, in accordance with regulations of the Secretary. A hospital that fails to supply the data required shall be presumed to have granted no increase in the rate of regular wages to its nonsupervisory employees in any accounting year for which it has failed to supply the required data.

'(C) Such modified limits for an accounting year shall be calculated as follows:

The modified limit applicable to a hospital's accounting year is equal to the sum of—

'(1) the product of—

'(I) The percentage by which the average hourly regular wage rate for nonsupervisory employees for the accounting year exceeds the average hourly regular wage rate for nonsupervisory employees for the preceding accounting year, and

'(II) the percentage of costs for inpatient wages paid to nonsupervisory employees in the preceding accounting year; and

'(ii) the increase limit, otherwise applicable to the hospital for that accounting year, multiplied by the percentage of costs attributable to all expenses other than regular wages paid to nonsupervisory employees in the preceding accounting year.

'(D) For purposes of this subsection:

'(i) The term "regular wages" means wages paid to an employee at the regular rate at which he is employed (within the meaning of section 7 of the Fair Labor Standards Act of 1938), but does not include overtime wages or shift differentials.

'(ii) The term "nonsupervisory employee" means an individual who is employed by a hospital and who is not a supervisor or a physician, as determined under regulations prescribed by the Secretary.

'(iii) The term "average hourly regular wage rate for nonsupervisory employees" means, with respect to a hospital for an accounting year—

'(I) The total amount of regular wages incurred by the hospital during the accounting year for work of the hospital's nonsupervisory employees, divided by—

'(II) the total number of nonsupervisory employee hours of work for which such regular wages were paid.

'(6) The Secretary shall issue such regulations as he deems necessary and appropriate in applying the provisions of this section including:

'(A) Such exceptions and exemptions as he determines are warranted,

'(B) Such definitions of the terms used in this subsection as he finds necessary to carry out its intent, and

'(C) Such safeguards against attempts to avoid the intent of these provisions as he finds appropriate.

EXEMPTIONS

'(ee)(1) At the request of the Governor (or other chief executive) of any State, the Secretary may exclude from the application of subsection (dd) of this section hospitals physically located in such State, if—

'(A) The Secretary finds that such State has in operation as of the date of such a request a program capable to containing hospital costs for inpatient hospital services in the State which covers at least 90 percentum of the hospitals in the State, which would otherwise be covered under subsection (dd) of this section;

'(B) The Secretary finds that the State program applies at least to all revenues for inpatient hospital services of hospitals covered by the program, and has applied for at least one year prior to the date of such request to at least half of those revenues (excluding revenues received under this title;

'(C) The Governor (or chief executive) certifies, and the Secretary determines, that the aggregate rate of increase in revenues over the previous accounting year for inpatient hospital services for all hospitals in the State will not exceed (i) the increase that the Secretary estimates would be permitted if subsection 1861(dd) (including the pass-through of any increase in the rate of regular wages paid to nonsupervisory employees) applied to the hospitals in the State, nor (ii) be less than the increase in the GNP deflator applicable to that fiscal period; and

'(D) the Governor (or chief executive) has submitted, and had approved by the Secretary, a plan for recovering any excess of total revenue which (notwithstanding paragraph (C)) may occur.

'(2) A hospital or group of hospitals may be excluded from the application of subsection 1861(dd) if the Secretary determines that:

'(A) such exclusion is necessary to facilitate or continue an experiment or demonstration entered into under section 402 of the Social Security Amendments of 1967, section 222 of the Social Security Amendments of 1972, or section 1526 of the Public Health Service Act, and

'(B) such experiment or such demonstration is not inconsistent with the purposes of such subsection 1861(dd).

'(3)(A) Any State may submit to the Secretary a plan for a hospital cost containment program for approval. The Secretary shall approve such a program and exemption from the application of subsection 1861(dd) hospitals physically located in such State if the Secretary determines that such program—

'(i) designates an identifiable unit of State government which has the authority to supervise the administration of the program;

'(ii) provides for a methodology to assure that the aggregate rate of increase in revenues for inpatient hospital services over the previous year for all hospitals in the State will not exceed the increase that the Secretary estimates would be permitted if subsection 1861(dd) (including the passthrough of any increase in the rate or regular wages paid to nonsupervisory employees) applied to hospitals in the State nor be less than the increase in the GNP deflator applicable to that fiscal period. Such methodology may include alternative methods for classifying hospitals, for establishing prospective rates of payment, and for implementing on a gradual, selective, or other basis the establishment of a prospective payment system, in order to stimulate hospitals through positive (or negative) financial incentives to use their facilities and personnel more efficiently without adversely affecting the quality of services;

'(iii) includes a methodology for the recovery of any excess of total revenues which (notwithstanding clause (ii)) may occur;

'(iv) provides for sanctions and enforcement procedures adequate to insure compliance with the program;

'(v) provides for uniform definition of all costs;

'(vi) provides for the evaluation of standards of institutional performance;

'(vii) provides protection against inhibition of increases in the rate of regular wages granted to nonsupervisory employees comparable in effect to the protection against such inhibition provided under paragraph (5) of subsection (dd) of this section;

'(viii) provides for compliance with such other criteria as the Secretary deems necessary to accomplish the purposes of subsection (dd).

'(B) The Secretary may make grants to any State which has an approved program pursuant to subparagraph (A) to assist such State in the implementation of its program. For the purposes of this subsection, there are authorized to be appropriated $10,000,000 for the fiscal year ending September 30, 1979, and such sums shall remain available until expended.

'(C) The Secretary shall promulgate regulations to implement this subsection prior to May 1, 1979.

'(4)(A) The Secretary shall review annually any program, experiment, or demonstration that has received an exemption pursuant to this subsection to determine whether such program, experiment, or demonstration is in compliance with such subsection and the regulations promulgated thereunder. The Secretary may revoke, after notice and an opportunity for a hearing on the record, any such exemption if he determines that such exemption is no longer justified because the conditions for such exemption are no longer being met.

'(B) Upon revocation of an exemption awarded under this subsection each hospital that would otherwise be subject to subsection (dd) will be subject to the limits established under such subsection.

'(5) Where the Secretary has granted an exemption under this subsection he shall reimburse the State, District, or Commonwealth operating the qualifying hospital cost or revenue containment program for the portion of the administrative expenses of such qualifying program that he deems equitable considering the proportions of hospital costs reimbursable under this title and shall treat as administrative expenses incurred in the operation of a plan established under title XIX of this Act the portion of the administrative expenses of such qualifying program that he deems equitable considering the proportion of hospital costs reimbursable under a plan established under title XIX of this Act.

'(g) Chapter 36 of the Internal Revenue Code of 1954 (relating to certain other excise taxes) is amended by adding at the end thereof the following new subchapter:

'Subchapter F—Taxes on Certain Excess Reimbursement and Charges for Inpatient Hospital Services'

'SEC. 4495. IMPOSITION OF TAXES

'(a) Taxes on Excess Reimbursement—

'(1) Tax on Hospital.—If a covered hospital has excess reimbursement with respect to a private cost payer for an accounting year, there is hereby imposed on the covered hospital a tax equal to 150 percent of the amount of excess reimbursement from the private cost payer to the covered hospital for the accounting year.

'(2) Tax on Private Cost Payer.—If a covered hospital has excess reimbursement with respect to a private cost payer for an accounting year, there is hereby imposed on the private cost payer a tax equal to 150 percent of the amount of excess reimbursement from the private cost payer to the covered hospital for the accounting year.

'(b) Tax on Excess Hospital Charges.—If a covered hospital has excess charges for an accounting year, there is hereby imposed on the covered hospital a tax equal to 150 percent of the amount of excess charges of the covered hospital for the accounting year.

'(c) Payment of Taxes.—

'(1) Tax on Excess Reimbursement.—Any tax imposed by paragraph (1) or (2) of subsection (a), with respect to excess reimbursement payable to a covered hospital by a private cost payer in an accounting year, shall be paid not later than 30 days after the date the Secretary of Health, Education, and Welfare notifies the Secretary—

'(A) of the excess reimbursement, and

'(B) of the amount of taxes which are due from the covered hospital and the private cost payer under paragraph (1) or (2) respectively, of subsection (a).

'(2) Tax on Excess Charges.—

'(A) In General.—Any tax imposed by subsection (b) with respect to any covered hospital for any accounting year shall be paid not later than 30 days after the date the Secretary of Health, Education, and Welfare notifies the Secretary—

'(i) of the excess charges, and

'(ii) of the amount of taxes that are due from the covered hospital under subsection (b).

'(B) Deferral.—If the Secretary of Health, Education, and Welfare certifies to the Secretary that a covered hospital has established an approved escrow account and certifies the amount deposited into the account, then an equal amount of any tax imposed on the covered hospital by subsection (b) shall be deferred. Such deferral shall continue so long as such amount remains in such account.

'(C) Abatement.—If the Secretary of Health, Education, and Welfare certifies to the Secretary that a covered hospital has withdrawn an amount from an approved escrow account of the hospital in accordance with the terms of the account, then an equal amount of any tax imposed on the covered hospital by subsection (b) shall be abated.

'(D) Withdrawals from Approved Escrow Account.—Amounts deposited into an approved escrow account shall be treated as withdrawn from the account in the order in which they were deposited into the account.

'(d) Definitions.—For purposes of this section—

'(1) Covered Hospital.—The term 'covered hospital' means, for an accounting year of a hospital, a hospital which is subject, under subsection 1861(dd) of the Social Security Act, to a limit on its increases in reimbursement for the accounting year.

'(2) Private Cost Payer.—The term 'private cost payer' means any organization which (A) meets the definition contained in section 1842(f)(1) of the Social Security Act, and (B) reimburses a covered hospital for inpatient hospital services on a basis related to the hospital's costs in furnishing those services or on any other basis other than charges imposed by such hospital. An organization shall not be considered to be a cost payer with respect to its payment to a hospital of another payer's coinsurance or deductible amounts.

'(3) Excess Reimbursement.—A covered hospital has excess reimbursement with respect to a private cost payer for an accounting year if the Secretary of Health, Education, and Welfare determines that reimbursement per inpatient admission to the covered hospital for inpatient hospital services covered by the private cost payer for the hospital's accounting year exceeds such reimbursement in the hospital's immediately preceding accounting year by a percentage greater than the increase in reimbursement per admission permitted for purposes of title XVIII of the Social Security Act under limitations imposed by subsection 1861(dd) of the Social Security Act.

'(4) Excess Charges.—A covered hospital has excess charges for an accounting year if the Secretary of Health, Education, and Welfare determines that average inpatient charges per admission made by the hospital in the hospital's accounting year, exceeds such charges in the hospital's immediately preceding accounting year by a percentage greater than the average in reimbursement per admission permitted for purposes of title XVIII of the Social Security Act under the limitations imposed by section 1861(dd) of the Social Security Act.

'(5) Amount of Excess Reimbursement.—The amount of excess reimbursement from a private cost payer to a covered hospital for an accounting year shall be determined by the Secretary of Health Education, and Welfare and shall be equal to the amount by which such reimbursement per admission to the covered hospital for inpatient hospital services covered by the private cost payer for the hospital's accounting year, exceeds such reimbursement in the hospital's immediately preceding accounting year by a percentage greater than the increase in reimbursement per admission permitted for title XVIII of the Social Security Act under limitations imposed by section 1861(dd) of the Social Security Act.

'(6) Amount of Excess Charges.—The amount of excess charges of a covered hospital for an accounting year shall be determined by the Secretary of Health, Education, and Welfare and shall be equal in amount to the product of—

"(A) the amount by which the amount of average inpatient charges per admission for inpatient services made by the hospital in

the hospital's accounting year, exceeds such charges in its immediately preceding accounting year by a percentage greater than the increase in average reimbursement per admission permitted for purposes of title

effort fails to meet its announced goals, standby, mandatory controls would go into effect for the following year under the proposed amendment (except that if the voluntary effort fails for 1978, such controls would

ject to "pass-through" of increases in the wage rates of nonsupervisory employees. This change would prevent reimbursement for increases at levels not justified by changes in the economy.

The new subsection (dd) embodies standby limits on increases in total inpatient reimbursement applicable to hospitals with 4,000 or more admissions annually.

nonsupervisory employees up to the prevailing rates for comparable work in the hospital's area. The Secretary would be authorized to issue appropriate regulations to

year) for start-up of State programs and would also allow exemptions to facilitate experiments.

The new subchapter "F" of Chapter 36

graph (2)) or a program established under title V, XVIII, or XIX of the Social Security Act.

'(7) Approved Escrow Account.—The term 'approved escrow account' means an escrow account—

'(A) which is established and maintained by a covered hospital in a manner approved by the Secretary of Health, Education, and Welfare, and

'(B) from which funds may be withdrawn by the hospital only in an amount which is not greater than an amount which, if added to inpatient charges in an accounting year, would not constitute excess charges.

Summary of Nelson Amendment to H.R. 5285

NELSON AMENDMENT

The proposed amendment is intended as a compromise between the mandatory, immediate Federal controls contained in the Human Resources Committee-reported bill, and the limited Medicare/Medicaid, routine cost, approach in H.R. 5285. Current estimates are that this amendment would save between $30 and $35 billion over the next five years, as opposed to $50 to $60 billion for the Administration/Human Resources bill and less than $500 million for the current Talmadge bill approach. Basically, the amendment expands upon rather than substitutes for the Talmadge bill cost controls and consists of three major parts:

1. The amendment would not alter the general approach of the Talmadge bill for revising reimbursement for routine costs under Medicare/Medicaid. Hospitals would be classified, average rates would be determined, and limits would be set for such costs under the amended program just as they would under Section 2, except that several minor modifications to Section 2 are included which would result in increased cost savings under the Talmadge approach (see items 5 through 8 in Section-by-Section Analysis).

2. In addition, the amendment would statutorily recognize that the hospital industry itself may be able to bring overall hospital cost increases under control through voluntary efforts. The amendment adds a new subsection to Title XVIII of the Social Security Act which sets out the voluntary goals, as proposed by the industry. Those goals apply to hospitals in the aggregate, rather than individually, and they call for cost increases (other than those arising from increases in the average hourly wage rates for nonsupervisory employees) to be held to 2 percent less in 1978 and 4 percent less in 1979 through 1982 than the rate by which such expenses increased in 1977. However, in order not to unfairly penalize hospitals for increases in inflation for which they aren't responsible, in no case would the goals need to be less than one and one-half times the increase in the GNP deflator.

The role of the new Health Facilities Cost Commission created by the Talmadge bill would be expanded, and it would be charged with oversight of the voluntary effort, and with determining whether it has succeeded.

3. If, in any year, the national voluntary

Nelson Amendment to H.R. 5285

SECTION-BY-SECTION ANALYSIS

Section 1. This section of the Nelson amendment adds a new preamble which sets forth the broadened purposes of the hospital cost containment provisions of H.R. 5285, as amended by this proposal. Those purposes include setting Medicare and Medicaid limits on routine operating costs, recognizing the hospital industry's voluntary goals for limiting the rate of increase in hospital expenses, and putting in place standby controls for all inpatient costs for all payors if the voluntary goals are not met.

Sections 2 through 4. These sections include clarifying and technical amendments to H.R. 5285.

Sections 5 through 8. These sections include several cost-effective modifications to the routine cost limitations proposed in H.R. 5285, as follows:

Section 5 modifies the Talmadge bill provision which requires that only one-half of hospital costs in excess of the limits be disregarded in determining the average routine operating costs upon which future limits would be based. The proposed amendment would disregard the full amount of such excess current costs in determining future target limits. This would prevent hospital costs found to be unreasonable in the year in which they were incurred from increasing the level of costs found reasonable in future years.

Sections 6 and 7 amend the section which permits a hospital with routine operating costs below the 115 percent limit established by the section to increase such costs to the limit without penalty. The proposed amendment would restrict the increase allowed in any year to one and one-half times the rate of increase in the index of the cost of goods and services used in setting the limits, subtions applicable to all costs and all payors. They would limit the allowable rate of increase for all hospitals with more than 4,000 annual admissions to a percentage derived from the increase in routine costs allowable under the Talmadge bill, the increase in general wages in the hospital's area, and a "market basket" index of increases in a number of goods and services normally purchased by hospitals.

Increases beyond the limits would not be paid by medicare and Medicaid, for either ancillary or routine costs. With regard to private payors, any excess paid by such payors following the imposition of controls would be required to be held in escrow until returned to payors in the form of rate reductions.

The percentage limitation would be subject to adjustment to take into account excessive increases in the prior year, changes in the volume of admissions, and a mandatory "pass-through" of increases in the wage rates of nonsupervisory employees. The Secretary would be authorized to issue appropriate regulations to define terms, provide exceptions and guard against attempts to avoid the intent of the limits.

---

particularly meaningful in the large nonprofit segment of the hospital industry.

Sections 9 through 12. These sections would modify the provisions in H.R. 5285 establishing a Health Facilities Cost Commission, as follows:

Section 9 is a technical amendment.

Section 10 would require the Health Facilities Cost Commission established to direct particular attention to new subsection 1861 (cc), (dd), and (ee) added by this amendment.

Section 11 would modify the requirement that the Health Facilities Cost Commission report to the Congress, as well as to the Secretary of HEW. The proposed amendment would have the Commission report only to the Secretary of HEW.

Section 12 would alter the requirement in H.R. 5285 that the Health Facilities Cost Commission functions in a purely advisory capacity. The proposed amendment allows the Secretary to implement their recommendations for Medicare and Medicaid reimbursement after providing Congress with at least 60 days advance notification.

Section 13. This section would insure that the new cost containment provisions in this bill apply to Medicaid as well as Medicare.

Section 14. The proposed amendment adds new subsections "(cc)", "(dd)" and "(ee)" to section 1861 of the Social Security Act and a new subchapter "F" to Chapter 36 of the Internal Revenue Code. In general, the new subsection (cc) embodies voluntary goals for limiting the increases in hospital expenses (other than expenses arising from increases in the average hourly wage rate for nonsupervisory employees). The new subsection (dd) embodies standby limits on increases in total inpatient reimbursement per admission for Medicare and Medicaid. The new subsection (ee) provides exemption from these standby controls in consideration of State plans of comparable effect and to facilitate experiments. The new subchapter "(F)" of Chapter 36 of the Internal Revenue Code extends the standby limits on increases in total reimbursement per admission to non-Government payers by imposing excise taxes on hospitals and non-Government cost payers where the increase in their charges or reimbursements exceed the increase allowed by the limits.

The voluntary goals set forth in subsection (cc) are that expenses (other than expenses arising from increases in the average hourly wage rates for nonsupervisory employees) be held, in the case of hospitals with 4,000 or more admissions annually, to 2 percent less in 1978 and 4 percent less in 1979 through 1982 than the rate by which such expenses increased in 1977. However, in no case could the goal be less than 1½ times the increase in the GNP deflator. Hospitals in a State would be subject to the standby limits in subsection (dd) only if the goal was breached on a national basis and if the national goal was breached by hospitals in that State.

The subsection requires quarterly reports by hospitals of their expenses for purposes of monitoring the goals and reimbursement penalties for hospitals that fail to do so.

for which data are available and a "market basket" index of other cost increases. The percentage limitation would be subject to adjustment to take into account excessive increases in the prior year, changes in the volume of admissions, and a "pass-through" of increases in the average wage rates of

---

a non-Government cost payer would be subject to an excise tax of 150 percent of the excess levied on both the hospital and the payer. Excessive charges would be subject to an excise tax of 150 percent of the excess levied on the hospital, unless the excess were held in escrow pending the occurrence of charges below the limits in the same amount.

COMPARISON OF ESTIMATED SAVINGS UNDER VARIOUS HOSPITAL-COST CONTAINMENT PLANS

	Hospital revenues under current law (billions)	Estimated savings: Administration bill, if effective Jan. 1, 1979 (billions)	Senator Kennedy's bill, if effective Oct. 1, 1978 (billions)	Senator Nelson's amendment: Voluntary program (billions)	Senator Nelson's amendment: If voluntary program fails in 1979, standby program effective in 1980 (billions)	Sec. 2 of Senator Talmadge's bill (millions)
1978	$54.5			−$0.4	−$0.4	
1979	63.0	−$2.2	−$2.8	−2.0	−1.7	
1980	72.7	−5.2	−6.4	−4.0	−3.4	−$6
1981	83.5	−9.9	−10.7	−6.3	−6.7	−70
1982	95.2	−15.9	−16.5	−8.4	−9.5	−122
1983	107.6	−22.6	−23.2	−10.2	−12.3	−175
Total	476.5	−55.8	−59.6	−31.3	−34.0	−373
Total for medicare and Federal medicaid	178.9	−18.7	−29.0	−11.5	−11.6	−373

Note: Estimate of Senator Kennedy's bill done by the Congressional Budget Office; the estimate indicates a relatively higher savings under medicare and medicaid because the CBO projected higher current law growth rates for the Federal programs, resulting in greater savings upon application of the limit.

ANNUAL PERCENTAGE INCREASE IN TOTAL COMMUNITY HOSPITAL EXPENDITURE, EXPENDITURES PER ADMISSION AND ALL ITEMS

[Consumer Price Index: Selected years]

	1946–50	1950–56	1956–61	1961–66	1966–71	1971–76	1976–77
Total hospital expenses	16.0	9.9	10.8	10.5	16.9	15.0	[1] 15.6
Expenses per admission	10.4	6.5	7.5	7.4	14.2	12.2	[1] 12.8
All items CPI	5.4	2.0	1.9	1.6	4.5	7.0	6.5

[1] Preliminary estimates.

Source: American Hospital Association, "Hospital Statistics, 1977, 1968; Bureau of Labor Statistics, 1946–77.

Prepared by: Office of the Deputy Assistant Secretary for Planning and Evaluation/Health, Department of Health, Education, and Welfare, Aug. 11. 1978.

Hospital expenses per admission: Selected years

Year:	
1946	$55.61
1950	127.23
1956	186.15
1961	267.38
1966	382.05
1971	743.15
1972	831.75
1973	897.20
1974	994.17
1975	1,166.80
1976	1,324.29
1977*	1,493.65

*Preliminary estimate.

Source: American Hospital Association, *Hospital Statistics*, 1977, 1968.

Prepared by: Office of the Deputy Assistant Secretary for Planning and Evaluation/Health, Department of Health, Education, and Welfare, August 10, 1978.

Community hospital expenses as a percentage of the gross national product: Selected years

Year:	Percent
1946	0.54
1950	0.74
1956	0.89
1961	1.19
1966	1.36
1971	2.11
1972	2.18
1973	2.18
1974	2.33
1975	2.58
1976	2.67

Sources. American Hospital Association, *Hospital Statistics*, 1977, 1968. *Current Survey of Business*, 1977.

Prepared by: Office of the Deputy Assistant Secretary for Planning and Evaluation/Health, Department of Health, Education, and Welfare, August 11, 1978.

National Governors' Association,
Washington, D.C., August 9, 1978.

Hon. Gaylord Nelson,
U.S. Senate,
Russell Senate Office Building,
Washington, D.C.

Dear Senator Nelson: At our 1977 annual meeting the National Governor's Association adopted a policy position which "urges the enactment of a strong national statute that establishes a joint federal and state government cost containment program." The Governors continue to be concerned with the alarming increase in medical care costs.

I understand that you will propose an amendment to the Medicare-Medicaid Administrative and Reimbursement Reform Act (S 1470) which would improve the ability of the state and federal governments to contain the increase in hospital costs. I understand further that your amendment would exempt from federal controls those hospitals providing services in states which establish effective cost containment programs. This amendment is consistent with NGA policy, and I would encourage its adoption.

I thank you for your continuing attention to this issue, and I look forward to working with you to see it resolved in the most equitable and effective manner.

Sincerely,

Gov. J. Joseph Garrahy,
Chairman,
Subcommittee on Health Policy.

National Conference of State Legislatures,
Washington, D.C., August 10, 1978.

Hon. Gaylord Nelson,
Russell Senate Office Building, U.S. Senate,
Washington, D.C.

Dear Senator Nelson: While The National Conference of State Legislatures believes that administrative and reimbursement reform in Medicare and Medicaid, as suggested in S1470, are critical, we also believe that containing the rate of increase in hospital costs ought to be an immediate national priority. For this reason, our organization fully supports your amendment to S1470 to establish a national, voluntary hospital cost containment program to be followed by a mandatory control program in the event the voluntary effort fails. We would suggest that if mandatory controls are necessary, they should be implemented on a state-by-state basis according to each state's performance with respect to the voluntary goals.

We further support your amendment designed to extend the reimbursement methodology to be utilized under the mandatory program to all payors and not be limited to Medicare and Medicaid.

We believe that S1470 provides adequate assurances that states which are operating effective cost containment programs would be able to continue to administer their own

very effectively and should not be preempted by federal law.

Finally, we would suggest that an appropriate role of the federal government ought to be one of providing financial incentives to encourage many other states to experiment with alternative hospital cost containment programs.

As you know, the NCSL is the official representative of the Nation's 7,600 State legislators.

Thank you very much for your assistance.

Sincerely yours,

JASON BOE,
President, NCSL,
President, Oregon Senate.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, D.C., August 9, 1978.

HON. GAYLORD NELSON,
Subcommittee on Health and Scientific Research, Committee on Human Resources, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR NELSON: The National Association of Counties strongly supports the approach to hospital cost containment proposed by Senator Talmadge (S. 1470). We support with equal vigor the amendments you have proposed to expand and strengthen the bill by recognizing the voluntary effort, but extending standby mandatory controls to all hospital costs.

NACo has supported effective cost containment legislation because counties bear a significant share of escalating health costs. Counties contribute 10 percent of the national Medicaid bill, and are themselves providers of last resort to unsponsored patients. Skyrocketing health costs have forced counties to increase the proportion of scarce property tax dollars they allocate to health care, thus reducing their ability to maintain or expand other essential services.

For these reasons, NACo commends and thanks you for your leadership in developing a realistic, viable proposal for hospital cost containment. We stand in firm support of S. 1470 and the strengthening amendments you propose.

Sincerely,

TERRANCE L. PITTS,
Chairman, NACo Health and Education Policy Steering Committee, and Supervisor, Milwaukee County, Wis.

[From the Milwaukee Journal]

KEEPING THE LID OFF HOSPITAL COSTS

If you worry about inflation, very likely you realize that hospital expenses are just about the most inflated thing in the entire American economy. Last year they rose 16 percent continuing a trend of more than two decades.

So the Carter administration had good reason to make hospital cost control the centerpiece of its campaign against inflation. And the House Commerce Committee had no valid reason for what it did to the cost control bill the other day.

Cravenly yielding to pressure from special interests, and totally ignoring the public interest, the committee made a wreckage of the measure. No longer is there any provision for clamping a lid on hospital expenses at any time, no matter how rapidly they may rise.

All that's left is a meaningless statement asking hospital officials and doctors voluntarily to hold back a bit on hospital costs. That is not a piece of legislation; it's merely a platitude.

Even before the Commerce Committee's devastating blow, the bill had been weakened. Compromisers had decided to give hospitals a two year trial period to see if they granted the President eventual standby power to impose a ceiling on cost increases if voluntary restraints failed. But that authority was distressingly ripped out by the Commerce Committee.

Why? Because that's the way the hospital industry, the American Medical Association and certain hospital employe unions wanted it. In order to placate those groups, committee members were willing to give the green light to inflation. (The AMA and labor are big donors to congressional campaigns.)

Unfortunately, the lawmakers may be able to get away with such action, because so many voters are insulated from the direct impact of rising hospital expenses. Third party payers—insurance, Medicare and Medicaid—pick up much of the tab.

Yet the financial burden weighs on the whole economy, affecting taxes and the price of virtually everything on the market. President Carter estimated that his bill would lop $30 billion from that burden in the next five years.

The sooner Americans fully realize that runaway hospital costs are taking money out of their pockets—third party payers notwithstanding—the less likely congressmen will be to keep taking their cue from lobbyists.

[From the Los Angeles Times, July 28, 1978]

CUTTING HOSPITAL COSTS

President Carter's proposal for mandatory cost controls on hospital charges has been rejected by the House Commerce Committee, the action apparently killed all chances this year to impose federal restraints in this major area of health care. The feeling in Congress, based on earlier experience with price controls, is that ceiling on charges wouldn't work. The trouble is that the voluntarism in curbing hospital fees that Congress is inclined to support isn't likely to work either.

The Administration's move to limit the rate of annual increase in hospital charges was a well-intentioned response to a severe inflationary problem. Hospital costs have been rising at more than double the general rate of inflation. An average hospital stay that in 1965 cost $350 today costs $1,300. By 1983 the cost is expected to hit $2,600.

There is no single cause for the inflation in hospital costs. The sources of the problem are manifold, which is one reason why putting an arbitrary ceiling on cost increases, without reference to other considerations, probably would not be too effective. Among the causes are these:

An excess of hospital beds. The Department of Health, Education and Welfare estimates that of the nation's 947,000 hospital beds, 200,000 are unfilled at any given time, of those, 100,000 are not needed at all.

An abundance of expensive equipment. Hospitals in the same area often acquire the same complex and costly diagnostic and therapeutic equipment, whether or not need justifies the investment. HEW Secretary Joseph A. Califano Jr. notes, for example, that in Southern California hospitals alone there are enough computerized brain and body scanners—at $500,000 a copy and up—to satisfy the health care needs of all the Western states. Where such equipment is available there is a tendency to use it, however marginal the benefit to the patient may be. Bills go up accordingly.

Defensive medicine. The rise in malpractice claims against doctors has prompted them to order more X rays, laboratory tests and other procedures than would normally be indicated, simply to protect themselves against possible liability. In an American Medical Assn. poll last year, 76% of physicians conceded that they practice such defensive medicine if patients should go to hospitals and doctors determine what happens to them once they are there. The patient has little if any say in the selection of hospitals, which in any case are not price-competitive, and little say—elective surgery is an exception—about what tests or treatment will be given. This lack of consumer say-so removes a major incentive for controlling costs.

Insurance. This is possibly the paramount cause for unnecessary utilization of hospital services and for the absence of incentives to hold down costs. About 90 percent of the typical hospital bill is paid for by third parties, whether by government or private insurers. The availability of insurance along with certain conditions of coverage are acknowledged by doctors and hospital administrators to encourage excessive demand. In some cases insurance, in effect, forces patients into hospitals for tests or treatment that could just as satisfactorily be performed on an out-patient basis. Similarly, services are demanded of hospital emergency rooms by patients who do not have medical emergencies at all, because of assured reimbursement. The prevalence of insurance is seen by many as a disincentive to resisting higher costs, by either patients or hospitals.

The threat of government intervention to limit hospital fee increases has been enough to prompt private hospitals to take voluntary action to hold down price increases, the goal being a 2 percent a year reduction for the next two years in the rate of increase. This modest effort does not really go to the roots of the problem, though, nor even if fully successful would it bring hospital price inflation under control.

Stronger approaches are going to be needed to deal with such inflationary considerations as hospital overcapacity, investment in duplicative equipment and services, and the absence of incentives in insurance programs to hold down costs. Hospital charges are the largest single component in the nation's health care bill, which this year is expected to total $200 billion, and the most inflationary item in that bill. Voluntary efforts to bring that inflation under control—by health-care providers, insurers and consumers—certainly must be encouraged. But if those efforts don't work, then the federal government may well have to take vigorous action on its own, out of budgetary need for itself and economic good sence for the country.

[From the Scranton (Pa.) Times, July 24, 1978]

CARTER HOSPITAL COST CONTAINMENT KILLED

A proposal of President Carter to put some sort of lid on rapidly rising hospital care costs has been gutted by the House Commerce Committee. Its 22-21 vote to eliminate even the threat of controls on the hospital industry makes a sham of the cost-containment effort. Earlier, the committee had approved standby instead of mandatory controls, but even this watered-down version fell by the wayside.

The measure was no socialistic scheme to have the federal government run the hospitals, as some critics had maintained. Two state governments—Maryland and Connecticut—have pioneered hospital review commissions with excellent results. Maryland achieved a savings for private hospital patients of some $55 million in the first two years of its state review program. Connecticut experienced savings of more than $30 million.

President Carter has estimated that if his proposal had gone into effect last October as planned, "our country would already have saved $2 billion in hospital costs by now."

engines of inflation in the economy, hospital

House Commerce Committee, which abso-

dustry to remain alert to a stern economic

provements and higher rates with the goal of holding the rate of increase in hospital costs to 9 per cent. In contrast, the nation's hospital bill rose 15.6 per cent last year to $53 billion. In opposing the bill, representatives of the hospitals and the American Medical Association claimed that their voluntary efforts had held the rise in hospital costs to 12.7 per cent during the first four months of this year.

It is under the voluntary program that hospital costs have skyrocketed. The problem had grown beyond the capacity of the hospital industry to handle and it became clear that the public interest demanded a review and containment program be adopted. But for now, the House Commerce Committee has left the situation in the hands of those who let it get so badly out of kilter.

[From the Oklahoman, July 23, 1978]

HEALTH PLAN DEEPER INTO LIMBO

National health insurance was thrust deeper into the limbo it has long occupied when the House Commerce Committee wrecked President Carter's proposed lid on hospital costs.

Watered down to eliminate the threat of mandatory controls, the legislation which emerged from the committee would create a toothless national commission to monitor a hoped-for voluntary effort by hospitals and physicians to hold down cost increases.

The committee's action is described as a major setback for the administration. That is its ostensible effect, but it also enables Carter to blame Congress for a further indefinite delay in the implementation of what had been one of his foremost campaign promises.

For a decade or more, an assumption widely expressed in Congress and elsewhere was that some form of national health insurance was inevitable, and that it wouldn't be long coming. Congressional leaders presumably in a position to judge the prospects have long been saying that national health insurance was just around the corner.

Prospects for congressional action were thought to have improved materially in April 1974 when Wilbur Mills, then the powerful chairman of the House Ways and Means Committee, and Sen. Edward Kennedy, D-Mass., unveiled a proposal not radically different in concent from a plan the Nixon administration was supporting at that time.

The 93rd Congress closed with expressions of confidence that a prospective influx of newly elected House liberals would help break a stalemate on national health insurance which dated back to the Truman presidency.

The 94th Congress convened in January, 1975, with renewed calls for action on the subject. Oklahoma's Carl Albert, then speaker of the House, told the opening session of the new Congress he had "assured the chairmen of the appropriate committees" that national health insurance would be "one of the first bills—if not the first"—to come before the House. Rep. Al Ullman, D-Ore., who became chairman of the Ways and Means Committee after the spectacular fall from grace of Wilbur Mills, said he hoped his committee could draft a bill as early as the summer of 1975.

The summer of 1978 has arrived, and national health insurance remains as elusive as ever. President Carter said early in 1977 that his administration would complete that year its plan for phasing in a comprehensive health care system covering all Americans.

He said he had a "timetable and a phased approach" that would begin with an initiative toward the control of hopsital costs. A year ago last April, he proposed to Congress

It has long been apparent that any federal effort to guarantee health services for the entire country would begin with an attempt to limit costs, since no insurance program—public or private—can function long without some inkling of the liabilities it is assuming.

The already troubled Social Security system is in no position to shoulder the mind-boggling costs, and the horrendous deficits in the general budget make it even less promising as a source of financing. Thus national health insurance is likely to remain a will-o-the-wisp until the government is able to get a handle on cost.

[From the Providence Journal, July 21, 1978]

TO THE HOSPITALS: PLEASE CUT YOUR COSTS . . . THANKS

While it may be premature to sound the death knell of the administration's hospital cost containment plan, the House Commerce Committee this week so weakened the measure that the chances of restoring it as a major anti-inflation weapon in the government's arsenal seem almost nil.

By a one-vote margin, the committee excised all references to mandatory limits on hospital cost increases, which last year reached an average 16 percent. Instead of setting a ceiling of from 9 to 11 percent on annual growth as proposed, the committee would merely encourage the nation's hospitals to curb their spending by two percent a year and offer the states a financial incentive to develop their own cost containment programs.

In effect, the powerful medical lobby which trained its biggest guns on Congress over the last year, has virtually won the day. It argued that a curb on spending would threaten the quality of health care, unfairly discriminate against some hospitals whose fiscal pressures are greater than others', and put the burden of wage controls on hospital workers alone.

The administration position has been that a forced cutback of hospital spending from the present rate, which is more than double the average national rate of inflation, to something in the area of half again as much as the inflation rate would save $56 billion over five years. A later plan would have allowed hospitals to adopt voluntary restraints but if that failed would have imposed mandatory controls.

Now it appears all thought of government sanctions has been abandoned in favor of voluntarism, a concept that is universally desirable but all too often totally ineffective. Inflation is widely deemed Public Enemy No 1 in this country, yet when it comes to a modest clampdown on a highly inflationary service industry which operates for the most part on a non-profit basis, Congress beats a hasty retreat.

Clearly, the issue has created few sparks among the voters. Since most hospital bills are paid by health insurance carriers and government health programs, the average citizen is divorced from the crisis and if asked might well view economizing measures as inappropriate to the health field.

From the congressional point of view, hospital cost containment gives nothing tangible and takes something away, raising a political red flag particularly in an election year. Put another way, Congress appears ready to foresake a major effort to control inflation on the grounds that protecting one's political skin is the first order of business.

Asking hospitals to cut costs voluntarily—a nice idea—is like urging smokers to give up cigarettes because they cause cancer. One in a thousand times it might work but it can't be counted on.

Americans have almost no weapon left to employ against soaring health care costs, specifically hospital costs, now that the House Commerce Committee has succumbed to the medical lobby and killed President Carter's plan to put a ceiling on hospital bills.

The fact, of course, is that the patient in this country stands at the mercy of an industry that has put a great deal more emphasis on resisting any kind of cost controls than on efforts to keep its cost even within shooting distance of the nation's general rate of inflation. Between 1976 and 1977, for the most recent example, hospital costs rose about 16 percent.

The hospitals have been pleading throughout their lobbying against the Carter proposal that they should be given a chance first to reduce costs on their own. This has been a fairly reasonable proposition. It makes little difference whether the reductions come through federal regulation or voluntary measures just as long as a swift result is forthcoming. Voluntary measures, for that matter, would be better.

But what the House Commerce Committee has done, by substituting a bill asking hospitals to reduce their cost increases, is remove Mr. Carter's threat of federal controls if the hospitals don't respond or if they fail in voluntary efforts.

Some hospitals will make a strong effort. There is evidence that a good many hospitals in Arkansas, for one state, are engaged in a good faith attempt in recent months, although there is no way to measure the degree of success at this point. Too many other hospitals care not one whit about holding down the cost to the patient, which they do not distinguish from the insurance company, for accounting purposes. Unfortunately, it is the patient and not an insuror who is held responsible by the same hospitals for the total cost, which is plenty. Patients pay insurance premiums, in any case. Certainly the fear of hospitalization these days is as much for personal financial reasons as any other.

HEW Secretary Joseph Califano calls the substitute bill, introduced by Representative James T. Broyhill of North Carolina, "a sham," as well as "an affront to the American people and the administration's attempt to combat inflation, our nation's No. 1 domestic problem."

There is a slim chance, we suppose that the House Ways and Means Committee will report out a bill with threat of mandatory control and thus save the day, but there is little realistic hope that such reason will prevail.

The Broyhill bill, besides asking hospitals to cut their cost increases by—percent in 1978 and 2 percent in 1979 makes a fumbling attempt to shunt responsibility to the states. It would provide for federal aid to states to establish their own hospital cost control plans. The health care lobby, by all odds, has far greater influence at the state level in most states than it does even at the national level. In other words, the United States will be a lot better off not having the substitute bill offered by Broyhill, if only because it won't be out the federal expense of maintaining a state-by-state facade on hospital cost controls.

Loss of the threat of mandatory controls represents not only a major failure of Congress to enact anti-inflationary measures offered by the President but also diminished hope that health care costs of any nature can be brought down to reasonable scale.

[From the Bennington Banner, July 21, 1978]

HOSPITALS OUT OF CONTROL

The first sign of seriousness in Jimmy Carter's campaign against inflation was his decision to try to throttle one of the real

Dwight Eisenhower left Washington warning the nation presciently about the military-industrial complex. When Jimmy Carter goes, his swan song should contain a Cassandra note about the equally monolithic medical-industrial complex. The white jackets have beaten him, and in doing so have placed in question not only his inflation-control program but all hopes for comprehensive national health insurance as well.

The goal of the Carter hospital-cost-control proposal was to bring the rate of cost increases in hospital care down to 9 percent a year through the use of mandatory controls. The proposal drew heavily on the experience of Massachusetts, Connecticut and a few other states that have been able to achieve this through review boards on equipment and facility investment and hospital utilization.

Nine percent would still have permitted hospitals to increase spending at a rate substantially above the prevailing inflation rate in the economy, but it would have been a start. Still, the American Hospital Association and the American Medical Association wouldn't hear of it. A compromise that would have given the hospitals a period of time to lower costs voluntarily before mandatory controls would be instituted was not even good enough for the medical lobby.

What they finally permitted was a toothless and gumless creature that merely encourages hospitals—with no threat of controls in the event of failure—to lower their costs by a less-than-whopping 2 percent. At that point, if it is reached, hospitals will still be raising their costs at a rate precisely double the overall inflation rate in the economy.

The medical-industrial complex can get away with this for three reasons: The AHA and the AMA are among the biggest spenders when it comes to campaign contributions, with the AMA the perennial leader; hospital boards are often manned by local leaders from other fields, who make effective lobbyists with congressmen, and—perhaps most important—the public by and large doesn't feel the bite of rising hospital rates directly because insurance companies and government cover so much of the cost.

Indirectly, of course, the public gets hit in myriad ways. Higher hospital rates are reflected in higher taxes and in higher prices for virtually everything that is sold—auto manufacturers, for example, spend more on medical insurance for their employees than they do for steel. But by the time the costs have been passed along to the consumer, the heavy hand of the hospitals is no longer visible—off in a congressman's pocket, most likely.

[From the Chicago Sun-Times, July 21, 1978]

A KNIFE JOB ON HEALTH-CARE COSTS

"Hmm," the chief physician mumbles, "something serious here. I'll write out a prescription, and you start taking the pills."

A second opinion: "Maybe we can be a little more cautious," another doctor says. "If it doesn't clear up in a while, we'll prescribe something then."

And then the third opinion, the blockbuster: "I'm going to put this medicine over there on the bedside table. Look at it briefly three times a day, Please?"

The players in this little farce are, respectively: President Carter, who wanted a 9 percent lid on hospital cost increases (growth hit 16 percent last year); Rep. Dan Rostenkowski (D-Ill.), who wanted to make the controls voluntary, but with some enforcement power if goals weren't met; and the Education and Welfare Sec. Joseph T. Califano Jr. of the estimated savings in the Carter plan over the next five years.

One culprit in the defeat is Rep. Marty Russo (D-Ill.), who, incredibly, argued that implementation costs would have been greater than the savings the bill would bring.

Foes of the stricter measures pointed to slight tapernings in soaring health-cost rates. Unfortunately, they fail to point out that many hospitals, scared stiff of mandatory controls, have deferred expensive capital improvement plans, making them look better on the balance sheets but leaving open the option for later building booms.

Hospital costs have risen 1,000 percent in a generation. They threaten further spurts. Yet hospital bigwigs rumble, and Congress quivers. Our diagnosis: lobbyitis.

[From the Atlanta Constitution, July 20, 1978]

HOSPITAL PRICES

The lobbyists have won again. And the people lose again.

So, if you're sick and going to the hospital, dig deep in your pockets, mortgage your house, cash in your life insurance policy, withdraw your life savings, ask the bank for a signature loan. Do that and perhaps you'll have enough money to pay your hospital expenses if your illness isn't too severe and you don't stay in the hospital for more than just a few days. Or at least you'll have enough to pay for what your health insurance doesn't cover.

The House Commerce Committee Tuesday voted against a Carter administration bill which would have eased sharply rising hospital prices by placing a lid of 9 percent on increases the first year. The bills rose about 16 percent between 1976 and 1977, continuing annual big jumps in hospital prices.

But the members of the committee voted 15–12 to support a substitute bill asking hospitals to cut their cost increases by only 2 percent in 1978 and 1979, and also removed Carters' threat of federal controls if the voluntary attempt fails.

Lobbyists for the American Hospital Association and the American Medical Association got to the committee members—and the committee voted for them, not the American people they're supposed to be representing.

But time is going to run out on the hospital and medical groups who won't agree to brake their price increases as strongly and quickly as possible. During the committee debate, for example, Rep. Paul Rogers, D-Fla., who had supported Carter's bill, displayed a hospital bill for more than $23,000 and said: "Ten days. Ten days in a hospital. The man died. And here's his bill for more than $2,300 a day! People out there are screaming for help. And we're not listening."

The committee members and the hospital and medical groups aren't listening this time—but the screaming isn't going to go away. It's going to get louder and louder and stronger and stronger. And the longer they resist reasonable price controls, the more they're going to lose in the end.

[From the Columbus Dispatch, July 20, 1978]

HOSPITAL CARE COSTS CONTINUING PROBLEM

Proponents of the Carter administration's hospital cost containment plan understandably feel dissatisfied with a U.S. House Commerce Committee decision to deny mandatory controls. Even so, the action should serve as additional warning to the health industry, that the voluntary approach is not working.

The original Carter proposal called for a 9 percent annual increase ceiling to be followed by a decline of 2 percent a year. Proponents of the plan contend absence of mandatory controls amounts to a $56 billion "tax" on the American people over a five-year span.

The U.S. health industry, including hospitals, doctors and insurers, is well aware of the economics involved. They say their voluntary efforts to curb costs now are reducing the rate of increase by more than 2 percentage points. What is bothersome is that they are talking merely about reducing the rate of cost increases. Actually, reducing the cost is still another matter, one which may not be solved until the whole problem of inflation can be unraveled by all segments of the economy, the federal government included.

Health industry officials are aware of another reality. While the House Commerce Committee may have taken the teeth out of mandatory controls, the House Ways and Means Committee may restore that bite—or it can be put in place if the measure reaches the whole House.

More is involved in this debate than just the cost of hospitalization. If hospital administrators, doctors and insurers cannot contain the alarming explosion of health care costs, inevitably Congress will move in with mandatory regulations. That will mean but one thing—another giant step toward nationalization. The handwriting is blazing indelibly on the wall.●

DISTRICT OF COLUMBIA REPRESENTATION—HOUSE JOINT RESOLUTION 554

AMENDMENT NO. 3479

(Ordered to be printed and to lie on the table.)

Mr. MELCHER submitted an amendment intended to be proposed by him to House Joint Resolution 554, proposing an amendment to the Constitution to provide for representation of the District of Columbia in the Congress.

NOTICES OF HEARINGS

SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

● Mr. SPARKMAN. Mr. President, the Subcommittee on East Asian and Pacific Affairs of the Committee on Foreign Relations will hold a hearing on the "Current Situation in Indochina" with particular reference to regional political developments, the Cambodian-Vietnamese conflict, refugee problems, and the human rights violations in Cambodia (S. Res. 323 and S. Res. 469). The hearing is scheduled for 10 a.m. on Monday, August 21, in room 4221 of the Dirksen Senate Office Building.●

COMMITTEE ON ENERGY AND NATURAL RESOURCES

● Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of public hearings before the Committee on Energy and Natural Resources.

The hearings are scheduled for August 24 and 25, beginning at 8 a.m. in room 3110 of the Dirksen Senate Office Building. Testimony is invited regarding to testify or who wish to submit a written statement for the record should write to the Senate Committee on Energy and Natural Resources, room 3106 Dirksen Senate Office Building, Washington, D.C. 20510.●

SUBCOMMITTEE ON ENERGY, NUCLEAR PROLIFERATION AND FEDERAL SERVICES

● Mr. GLENN. Mr. President, I wish to announce that the Subcommittee on Energy, Nuclear Proliferation and Federal Services will conduct a hearing Monday morning, August 21, on S. 3411 and S. 3412.

S. 3411 would exempt General Accounting Office employees from laws administered by the Civil Service Commission regarding appointments, position classification, and certain other personnel actions. S. 3412 deals with the retirement and survivor benefits of Comptrollers General. My introductory comments on both bills appear on pages 26141–26142 of the August 15 CONGRESSIONAL RECORD.

The hearing will begin at 8:30 in room 3302, Dirksen Senate Office Building. The witnesses will be Comptroller General Elmer Staats and Civil Service Commission Vice Chairman Jule M. Sugarman. Persons desiring additional information or wishing to submit statements should call Vic Reinemer or Anne Boni of my subcommittee staff at 224–1474.●

COMMITTEE ON THE JUDICIARY

● Mr. ROBERT C. BYRD. Mr. President, for the Senator from Mississippi (Mr. EASTLAND) and on behalf of the Committee on the Judiciary, I wish to give notice that a public hearing has been scheduled for Friday, August 25, 1978, at 9:30 a.m., in room 2228 Dirksen Senate Office Building, on the following nominations.

Theodore McMillian, of Missouri, to be U.S. circuit judge for the eighth circuit vice William H. Webster, resigned.

Harold A. Baker, of Illinois, to be U.S. district judge for the eastern district of Illinois vice Henry S. Wise, retired.

Mariana R. Pfaelzer, of California, to be U.S. district judge for the central district of California vice Francis C. Whelan, retired.

Any persons desiring to offer testimony in regard to these nominations shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Judiciary Committee.●

SUBCOMMITTEE ON THE CONSTITUTION

● Mr. BAYH. Mr. President, I would like to announce that the Subcommittee on the Constitution will hold another day of hearings on the legislation concerning the implications of the Zurcher versus Stanford Daily decision on August 22, 1978, at 9 a.m., in room 5110, Dirksen Senate Office Building.

Anyone wishing to submit testimony for the hearing record should send his or her statement to, or contact Kevin O. Faley, Subcommittee on the Constitution, 102–B Russell Senate Office Building, Washington, D.C. 20510.●

amendment stating in clear terms that

Mr. President, the administration

1978 edition of Senior Citizen News, a

The most detailed description of question-

lation, which Federal study could facilitate

since the senate are independent centers

defense debate focused heavily on the question of whether to build another large, nuclear-powered aircraft carrier. The expense of this ship—over $2 billion—and questions about its effectiveness and survivability have made it the center of congressional and press attention. Its proponents, concentrated in the uniformed Navy and the House of Representatives, seems to have won. (As a result, a Presidential veto is a real possibility.)

However, the approval of a large carrier by the Congress is the wrong issue to focus on the bill. It is certainly of small significance so far as the future of the Navy is concerned. The Senate and the House agree that this is the last such ship the United States is likely to build. Its significance is at best historical—like the last horse cavalry unit and the last steam locomotive, it is the last nuclear supercarrier. It marks the end of an era.

More important, however, is that this year's defense bill also marks the beginning of another era. Besides the last supercarrier, it also includes the first light carrier—a 19,000-ton ship, converted from an amphibious ship, designed for vertical take-off (V/STOL) aircraft. These smaller carriers can give us what the supercarriers cannot: enough ships. At about $700 million for a new (construction) light carrier, we can afford three for the cost of each supercarrier. If we abandon the costly and largely ineffective big carrier escort ships, that ratio doubles: We can send out six or seven small carriers for the cost of one supercarrier and its escorts.

In this bill, Congress has finally resolved the carrier dilemma—for this year and for years to come. Like too many of our defense decisions, the option before Congress has always been the big carrier—or nothing. The importance of this bill is that it provides us and the Navy with an alternative—the light carrier—while insuring the adequacy of our "traditional model" naval forces as we move toward the new concept.

This bill, then, contains the last of the old and the first of the new. We seem to have turned the corner away from dependence on a few vulnerable giants toward smaller aircraft carriers we can afford in the numbers we need.

There are four elements in the bill which move us strongly in the direction of the new concept, new technology Navy built around light carriers and vertical takeoff aircraft.

Conversion of one LPH amphibious ship to the first light carrier, putting it to sea in 1 or 2 years.

Long-lead funding for a sixth LHA to make up for the loss in amphibious life caused by the LPH conversion. When this LHA enters service, a second LPH can be converted to light carrier.

Initial R. & D. money to develop the Navy's first vertical takeoff aircraft. This naval version of the Marine's Advanced Harrier V/STOL will be in serv-

give Congress a chance to focus on other serious naval questions. The issue crying most loudly for attention is submarines. Many submariners say, and some surface sailors quietly agree, that there are today only two types of ships: submarines and targets. Even if this is a slight exaggeration, the submarine is clearly one of the most effective ships we can build. Unfortunately, as in the case of the supercarrier, the Navy has almost priced itself out of the market. The nuclear-powered attack submarines we now build cost over $400 million each.

As with the carriers, if we are to have enough ships, each must be cheaper. The Senate laid the basis for less expensive submarines in this year's report. It required from the Navy a study "of lower cost, lower capability nuclear propelled submarines and the use of nonnuclear submarines for some missions." A modern nonnuclear submarine, which may actually be more effective in some missions than a nuclear boat, costs only about one-third as much. The Congress may have to fund the construction of such submarines even without a Navy request for them, if we are to have a submarine force of adequate size.

Another problems area is surface ships: cruisers, destroyers, and frigates. Unlike submarines and carriers, we are building surface ships in ample numbers. But, unlike submarines, these ships do not appear very effective. They are slower than the Soviet submarines they are supposed to combat; the submarines almost always find them before they find the subs; and they carry few effective weapons. Yet even a frigate now costs more than a modern conventional sub and half as much as the latest model nuclear submarine.

The continued construction of these ships seems more a testimonial to the entrenched power of the surface ship "union" within the Navy than to logical analysis. If the Navy cannot overcome its internal lobbies, the Congress must. When funds for potentially effective new ships and aircraft are in short supply, it is hard to justify cruisers and destroyers which seem useful mainly as stage props for making movies of World War II.

Thus, the real significance of Congress action was not approving the last big carrier, but paving the way toward a new technology, new concept Navy. To a greater degree than any other recent budget, this year's is oriented toward the future, not the past.

To veto this bill, therefore, because it contains funds for a final nuclear-powered carrier is to ignore the other elements of the bill which will move us toward a new-concept, new-technology Navy. I strongly urge President Carter not to take this action, but rather to support the positive steps the bill takes.●

MIDDLE EAST POLICY

● Mr. BROOKE. Mr. President, on July 26, the Senate, in acting upon the security assistance bill, passed an

amendment stating in clear terms that a strong Israel is fundamental to any successful U.S. policy in the Middle East. I had the privilege of sponsoring that amendment, even though I, unfortunately, had to leave Washington before the vote was taken on it late in the evening.

As we look forward to the Camp David meeting between Prime Minister Begin and President Sadat, it is well to keep in mind the specific points of policy outlined in our amendment that passed by an 87-to-0 vote. First, we stipulated that a lasting, I repeat, lasting settlement of the Arab-Israeli conflict is vital to our interests. We do not want and will not be a party to an imposed settlement that would only be a counterfeit substitute for true peace.

Second, we stated that a strong and secure Israel, which means the maintenance of effective Israeli military capabilities, is fundamental to our goals regarding the Middle East. What this means to me is that we will not, we cannot, take any action that will lessen Israel's capacity either to deter aggression or effectively defend herself should another conflict break out despite all efforts to avoid such an event. Concretely, we state in the amendment that the United States should be responsive to Israeli requests for additional advanced aircraft needed to maintain her defense capacities.

Third, we called for the support by moderate Arab States of direct face-to-face negotiations between Israel and Egypt and, ultimately, between Israel and other Arab States. Hopefully, the Camp David meeting represents such negotiations and the indication that Jordan is supportive of the meeting is a sign that, perhaps, King Hussein and other Arab moderates may decide that the process initiated by President Sadat's trip to Jerusalem has merit.

Fourth, we stated in emphatic terms our commitment to the concept of secure, recognized and defensible borders between Israel and her neighbors, as being integral to any effort to discourage future hostilities. There must be no backing away from this commitment, for it is the essence of the future territorial viability of Israel in the Middle East.

Fifth, we stated our firm belief that fully normalized relations between Israel and its Arab neighbors, meaning trade, travel, tourism, communications and diplomatic relations, would be vital components of any bona fide peace settlement.

Finally, we clearly acknowledged that the correct limited role for the United States is to promote direct fact-to-face negotiations between Israel and the moderate Arab States. Too often in the recent past some in our country have evidenced a desire to impose a settlement. They failed to recognize a fundamental truth regarding the Middle East; namely, that only a settlement reached directly and freely between Israel and her Arab neighbors would have sufficient resiliency to withstand the pressures likely to be extant in the Middle East for many years to come.

Mr. President, the administration would be well advised to adhere closely to the policy recommendations contained in the Senate amendment as it prepares for the Camp David meeting. It should be particularly sensitive to the need for resistance on its part to the temptation to interject freely its views into the discussions. It must avoid encouraging the Arabs to negotiate with Israel only through the United States. Israel and Egypt must engage directly in meaningful bargaining if viable agreements are to evolve eventually from the negotiating process. If Camp David leads to such bargaining, it can be a success.●

"MEDI-GAP INSURANCE"

● Mr. CHURCH. Mr. President, private health insurance designed to supplement medicare—policies which typically fill in the deductible and coinsurance gaps in medicare's hospitalization and outpatient services benefits, as well as hospital indemnity, dread disease, and nursing home policies—is a large and growing insurance business. It will expand as long as this Nation's retired population continues to grow and as long as medicare's protection against high health care costs falls short of basic needs.

The Social Security Administration estimates that 63 percent of the population over the age of 65 had some private health insurance to cover hospital expenses in 1975. Additionally, 55 percent had some form of private health insurance for physician and surgical services.

But these policies, estimated to cost older Americans up to $1 billion a year in premiums, only pay for 5 percent of all health expenditures by the elderly. Medicare pays for only 35 percent of all health expenditures by the elderly when the cost-sharing amounts beneficiaries pay out of pocket for medicare protection are deducted.

Senator LAWTON CHILES, a member of the Special Committee on Aging, chaired excellent and productive hearings on May 16 and June 29 to explore reports that many older Americans are being taken advantage of by some unscrupulous and unethical private health insurance salesmen.

The hearings confirmed that medicare beneficiaries often do buy inappropriate or too much private health insurance.

First, there is wide misunderstanding of what benefits to expect from medicare. Not only is medicare information inadequate, but beneficiaries often have only inadequate information or exaggerated claims to go by when seeking additional protection through private health insurance.

Second, some individual insurance agents can and do take advantage of this confusion to sell unnecessary policies.

I shall submit for the RECORD an article which appeared in Idaho's Valley News on July 26 based on warnings issued by a number of Idaho's better business bureaus. Many better business bureaus play a very important role in consumer education.

I also shall submit for the RECORD an article which appeared in the August, 1978 edition of Senior Citizen News, a publication of the National Council of Senior Citizens, and a syndicated column by Jane Bryant Quinn which has appeared in a number of newspapers across the country. These articles, based on testimony taken during the committee's hearings, are among many which have alerted older Americans to things to look for when purchasing health insurance to supplement medicare.

Senator CHILES has performed an important service by reopening Senate scrutiny of Medi-Gap issues and by focusing on consumer confusion as a major element in the overall problem.

The material follows:

[From the Valley News, July 26, 1978]

ELDERLY WARNED OF INSURANCE CON

The Better Business Bureau in Boise has been forewarned by the Northwest Better Business Bureaus that an age old con game that makes its living off of the elderly has begun to blossom again.

The subject is supplemental old age insurance sold door-to-door to senior citizens. All of these types of salesmen peddle worthless or practically worthless insurance to the elderly, praising it as valuable supplemental programs to consumer's existing coverage or the Medicare benefits.

The truth is that it has very little coverage, as the extremely low premium prices would lead one to believe. Quite often, treatment in nursing homes, convalescent centers and veterans' hospitals are not covered. Yet, verbal communications by these salesmen tell people just the opposite.

Another trick is the waiting period involved before the insurance takes effect. For example, one may have to be in the hospital from one to two weeks before coverage applies.

Still another problem is strict and-or ridiculous pre-existing condition clauses that may go back two years. A joking conclusion may be a toothache of several years ago causing heart trouble today. Some strict clauses have been known to go almost that far.

One of the saddest results of this scheme, besides the loss of income for the buyer and poor coverage, is the false sense of security that it creates. Poorly covered individuals may not seek additional help, thinking that their future problems are over when they are not.

In order to prevent this problem from occuring, 1) know your needs; 2) go over your existing policies and coverage with your present insurance agent; 3) be sure the firm is licensed to sell in Idaho; 4) realize that the cost of insurance closely parallels the coverage you get; 5) be sure the company and-or agent's firm is established locally; and 6) contact the BBB if you are at all suspicious.

[From the Senior Citizens News, Aug. 1978]

SENATE INVESTIGATES "MEDI-GAP" POLICY SALES

Unscrupulous door-to-door salesmen who use scare tactics to sell "Medi-Gap" policies have come under Congressional scrutiny.

The Senate Special Committee on Aging has received examples of elderly persons who have purchased thousands of dollars in needless and often worthless policies.

Senator Lawton Chiles (D.-Fla.) is conducting the Committee hearings. He said at a recent session:

"What we're dealing with here is a national problem."

Federal Trade Commissioner Elizabeth Hanford Dole told the Committee on June 29 that the FTC is developing plans for a broad-based Federal-State examination of the supplemental Medicare insurance business.

The most detailed description of questionable or illegal sales tactics was provided by Texas District Attorney Wiley Cheatham and Postal Inspector C. L. Woodard at the recent hearing. They teamed up with a Postal Inspection investigation that revealed widespread defrauding of elderly persons in southern Texas. Usually such cases are referred to U.S. attorneys, but State investigations were under way and some indictments had been returned in State court.

Sixteen individuals were indicted in Mr. Cheatham's district, and all were ultimately convicted.

Woodard and Cheatham described the following examples of fraudulent and deceptive tactics used by salesmen in obtaining money from aged citizens:

Salesmen claiming to be there to collect on accident and health premiums due on existing policies, while actually soliciting new business.

Salesmen claiming to represent the victim's accident and health companies.

Unlicensed agents soliciting insurance sales to be "fronted" by licensed agents.

Licensed and unlicensed agents claiming to represent companies that were familiar to the aged victims, and tricking them into signing new applications for insurance with other companies.

Salesmen's representations such as "no waiting periods," "this policy will pay everything"—or—"Everything that Medicare does not pay," "this is a paid-up hospitalization policy," and "you will start getting $— per month back on this paid-up policy."

Salesmen claiming that they were there to help the aged victims with their social security while actually soliciting new insurance business.

The use of familiar sounding and appealing agency trade styles such as the American Agency, Senior Citizens Agency and First Continental Agency to induce aged people to listen to sales pitches.

Falsification of applications for new Accident & Health policies.

"Elderly people tend to be concerned with their health and their need for extra hospitalization, which is generally motivated by a desire to remain independent and be able to financially survive an expensive illness," Woodard said.

Chiles, in his opening statement, said that since the start of hearings in May:

"Sales agents have described company directives requiring them to sell new policies on every service visit, to write new policies rather than renew current ones, and to delete medical histories on new policy forms.

"We've also had reports of companies routinely denying claims when they first come in—taking the better than average chance that the elderly policy-holder will not challenge their judgment and resubmit a claim.

Relatives have written who were outraged when they discovered an elderly parent with many insurance policies and large accumulations of cancelled checks to insurance companies. One from Marathon, Florida said: 'Last spring, I learned that my 88-year-old aunt . . . whose income is less than $5,000 per year, had been sold more than $10,400 of health insurance in approximately a one-year period.' "

FTC Commissioner Doel said that more than half the people in this country aged 65 and over have private health insurance in addition to Medicare, and that Medicare paid only 38 percent of their health care costs.

Calling for Federal concern and action, Ms. Dole said:

"First, the Medicare supplement market is a byproduct of the Federal Medicare program. Supplemental insurance is confusing because Medicare's benefit structure is complicated.

"Second, there are arguments for a uniform approach to Medicare-supplement regulation, which Federal study could facilitate. Continuing variation in state standardization regulations carries the specter of insurers having to make different Medi-Gap policies in every state, with obvious increasing costs."

Ms. Dole said that an "impact evaluation" of existing state regulations of Medicare supplement insurance—possibly a cooperative federal/state effort with participation by the FTC, the National Association of Insurance Commissioners, and the Department of Health, Education, and Welfare—is under study at the FTC.

THE MEDICARE LEECHES

(By Jane Bryant Quinn)

NEW YORK.—Leeches have fattened on every government program ever invented, but it's hard to think of worse bloodsuckers than those that live on the Medicare program. In particular, I'm thinking of those insurance agents who sell the elderly all-but-worthless policies to fill the gaps in Medicare coverage.

There's nothing intrinsically wrong with certain forms of Medicare-gap insurance: Reasonable policies are sold by many well-known companies. But in the hands of unscrupulous salesmen, these policies turn to ashes. Among the abuses:

(1) Insurance agents tell the buyer that the policy "covers all the gaps in Medicare." In fact, no policy covers all the gaps. Most common among uncovered expenses are those for long-term nursing care, dental care and prescription drugs. Also there's no coverage for "excess" doctors' fees. (That's the difference between what a doctor actually charges and what Medicare deems a reasonable fee, and it can mount up).

(2) Medicare-gap policies are not all alike: They have different waiting periods, different benefits, and fill different gaps. A salesman may sell a vulnerable person one policy to cover one hole in Medicare, then come back next year with another policy for another gap. In most respects the two policies duplicate each other. Because the patient can't collect twice, he's paying good money for a very small additional benefit.

(3) The agent may revisit his victim once a year, each time with a "bigger and better" policy. This induces the trusting buyer to drop the old coverage and take on the new. The agent benefits, because he gets a big commission the first year a policy is in force, but the buyer is at risk. Medicare-gap policies have waiting periods, before the coverage goes into effect, either for general coverage or for specific illnesses. A person who switches policies may lose his coverage for certain serious illnesses, like cancer and heart disease, because of the need for a new waiting period.

(4) Selling coverage to a low-income person who qualifies for Medicaid. In this case, insurance coverage is worthless because Medicaid generally fills the Medicare gaps.

Examples of how these leeches make their living were heard in May and June in testimony before the Senate Special Committee on Aging. One man testified that his elderly mother had 17 Medicare-gap policies, on which she was spending 8 percent of her income.

A district attorney from Texas told how he, with the help of the U.S. Postal Inspector (acting under the mail-fraud law), got 16 indictments and some jail sentences for a team of agents who passed around a "goose list" of susceptible buyers.

Fraudulent activities might include lying about what the policy contains; pretending to "consolidate" a group of policies when, in fact, the agent is just selling the victim yet more duplicate coverage; and collecting a large lump-sum payment for "lifetime" coverage which doesn't, in fact, exist.

Insurance companies throw up their hands in horror when they hear these stories. But since the agents are independent contractors, the companies generally claim that there's nothing they can do. A good company, however, can and will police these thefts.

Companies that don't are, in my book, equally responsible for the fraud. Insurance commissioner Harold Wilde of Wisconsin testified that, in a state investigation, he found stacks of complaints about agents in the files of some insurance companies, with no action taken.

Seven states—Wisconsin, California, Illinois, Oregon, Washington, New Mexico and Colorado—have recently passed some form of legislation to try to control abuses in the sale of Medicare-gap insurance. But they're only as good as the enforcement, and this kind of fraud is hard to uncover.

The most vulnerable are people who live alone, with no friends nearby to advise them. If you or your parent has been taken, complain to your state insurance commissioner (get the phone number from the information operator in your state capital). Sometimes he can help you get restitution. Also, send your story to Sen. Lawton Chiles, Senate Special Committee on Aging, U.S. Senate, Washington, D.C. 20510. That Committee is investigating these abuses, and needs information on what's happening.●

THE LESSONS OF SHABA

● Mr. MCGOVERN. Mr. President, a number of weeks have passed since the public debate over the administration's assertions about the Cuban role in last May's invasion of Zaire by Katangan rebels. Perhaps we can begin a somewhat more sober evaluation of that episode to see what lessons it might hold.

In some quarters my challenge to the administration on this issue was treated as an act of disloyalty—as an indication that I might find President Castro to be more trustworthy than our President. Of course, that totally missed the point—and I found the fact that the point was so widely missed to be distressing in itself. Certainly we should be able to recall, such a short time after Vietnam, that conjecture can easily be transformed into hard intelligence as it is filtered up through the bureaucracy. Whether deliberately or unwittingly, it is quite possible for a President to report "facts" that are not true.

The Gulf of Tonkin incident was, of course, a prominent example. In that case we granted what was taken to be sweeping authority for war in response to an incident which may never have happened. Anyone who questioned President Johnson at the time probably would have been tarred as an apologist for the Vietnamese Communists. I had hoped that we had become more mature since—that we had come to recognize not only a congressional right but a compulsory congressional obligation to question the President closely on such matters.

In any event, that was my purpose in the case of the Shaba invasion. The President was claiming a significantly heightened Cuban role in Africa—one that might have been cited to justify a more direct American role. Until this case, the only reports on Cuban activities in Africa involved cases where they either were present by government invitation or, in the case of Angola, had

gone to the aid of the MPLA after another outside power—South Africa in that case—had already intervened to support other parties in the civil war. But now the President was insisting that Cuba had actually supported an invasion of Zaire by Katangan rebels based in Angola, thereby adding an entirely new and bolder dimension to Cuba's Africa role. I do not contend that Cuba is incapable of such activity, or even that Mr. Castro is always reliable. But since it could have resulted in calls for a more aggressive American response—perhaps military action—I thought it was important that the President have a thoroughly documented case for his allegations about what the Cubans were doing.

Although the matter is no longer in the news, it has yet to be finally resolved. The Senate Intelligence Committee is following up on its own inquiry. It is noteworthy that the senior intelligence official of the Department of Defense, Adm. Daniel Murphy, has stated that the episode is an example of the "limitations of intelligence in making a political point," and that the administration still does not have "what the press would term hard, conclusive, publicly available proof of Cuban involvement."

We should also keep in mind that the evidentiary question is important at two levels. Certainly it is pertinent to examine all evidence that has since been mustered on what the Cubans might have done. And it should be weighed in light of other complicating factors. For example, it is undisputed that the Cubans and Katangans were, indeed, fighting on the same side in Angola in 1975, in support of the MPLA. Perhaps some of the evidence actually dates from that joint enterprise. To what extent are we relying on documentation amassed by President Mobotu, a far from disinterested party who had not been trustworthy on the same question in the past? What does it signify that in the weeks since the May invasion the Angolan Government which Cuba supports has moved to disarm Katangans and to establish normal relations with Zaire? That conduct seems to contradict the notion that Angola and Cuba support Katangan aspirations.

But as we examine these questions, it is also crucial to sort out the evidence according to the time it became available to the President. Specifically, setting aside subsequent gleanings, how well documented was President Carter's charge on May 25 that Cuba had trained and equipped the Katangans for the invasion of Zaire? Whether or not he was later proved right—and that is still an open question—was the President well advised to speak so confidently then, or would it have been more prudent to wait for better and more complete information?

I have a suspicion that dating from this controversy, President Carter is operating on a more rigorous standard of proof on matters of this kind. If so, the skepticism some of us expressed at the time, and the subsequent inquiries by the Senate Foreign Relations and Intelligence Committees and the House International Affairs Committee, will have served the major part of their purpose. The other part will be to reinforce again our determination in the Congress to assert a continuing, direct responsibility on crucial foreign policy issues, especially those that could involve us in war.

Mr. President, earlier in my statement I quoted Adm. Daniel J. Murphy's evaluation of this issue. His statement was excerpted in an excellent summation of the entire controversy which appeared July 11th in the New York Times under the byline of Richard Burt. That account—entitled "Lessons of Shaba: Carter Risked Serious Credibility Gap"—deserves the attention of every Member of the Congress, and I therefore ask that it be printed in the RECORD.

The article follows:

LESSON OF SHABA: CARTER RISKED SERIOUS "CREDIBILITY GAP"

(By Richard Burt)

WASHINGTON, July 10.—On May 25, when President Carter accused Cuba of having backed the attack by Katangans on Zaire's southern province of Shaba, some intelligence officials doubted that the Administration had conclusive evidence to support the allegation.

Most of the officials, interviewed in recent weeks, agreed that subsequent information on the attack, which began May 11, tended to substantiate Mr. Carter's statement. But at least one high official continued to question the assertion, and others acknowledged that the initial intelligence on the nature and extent of Cuban involvement was inconclusive when the Government made the matter public.

Accordingly, while intelligence specialists are now satisfied that Mr. Carter was correct in asserting that Cuba was deeply involved in training and supplying the invaders, several say in private that the White House narrowly missed coming out of the affair with a serious credibility gap.

LIMITATIONS IN POLITICAL ARENA

The Defense Department's senior intelligence official, Adm. Daniel J. Murphy, hinted at this when he said in a speech that the incursion was "an example of the limitations of intelligence in making a political point." In little-noticed remarks to the National Military Intelligence Association, Admiral Murphy also said that the Administration still lacked "what the press would term hard, conclusive, publicly available evidence or proof of Cuban involvement."

Several experts see in the whole affair a series of troubling questions concerning the Administration's use, and possible abuse, of intelligence in conducting foreign policy. The questions include these:

Did the Director of Central Intelligence, Adm. Stansfield Turner, in an attempt to respond to the White House's policy needs, exercise proper caution in assessing early reports of Cuban involvement?

Were Mr. Carter's advisers, intent on drawing the line against Soviet and Cuban advances in the region, too eager to make political capital out of the Central Intelligence Agency's findings?

Why did the White House choose to engage in an open dispute with President Fidel Castro over the issue of Cuban involvement when it was unwilling or unable to make evidence public to support its case?

These questions have set off intense debate in intelligence circles, and Congressional aides report that Senator Birch Bayh, chairman of the Senate Intelligence Committee, has ordered an investigation of the Administration's performance in the affair.

WHITE HOUSE-C.I.A. STRAINS

At the same time the episode is said to have created deep strains between the White House and the C.I.A., with intelligence officials arguing that Presidential aides, in an effort to back up Mr. Carter's contentions, put pressure on the agency to divulge classified information that could have jeopardized sensitive sources. White House officials, for their part, complain that at the outset the agency exaggerated the Cuban role and was unable to provide the President with hard proof with which to back up his statement.

Intelligence information has often played a vital role in efforts by American administrators to build support for controversial foreign policy decisions. In 1962, for example, President John F. Kennedy used photographic evidence to justify his naval blockade of Cuba. Two years later President Lyndon B. Johnson, in an effort to gain Congressional support for escalating the war in Vietnam, said that an intercepted radio message proved that North Vietnamese gunboats had attacked two American warships in the Gulf of Tonkin.

RISK IN STRONG ALLEGATIONS

With regard to Shaba, the officials pointed to two factors that, they said, made it risky for the Administration to make strong allegations concerning Cuban involvement. The first is that Zaire and Angola, where the incursion originated, are classified as intelligence-deprived areas, meaning that before and during the incursion intelligence specialists never had a clear picture of what was going on. The officials said that in May few American reconnaissance satellites and listening devices were focused on the region and that intelligence reports were based almost exclusively on data gathered from African diplomats, agents from other nations and prisoners taken by French and Belgian paratroopers who moved into Shaba in response to the attack.

"What we had," an analyst recalled, "was just a steady accumulation of evidence, some of it contradictory, that built up through the first week of June. What we lacked was any single piece of intelligence to convince the skeptics."

The second factor posing problems for the Administration was the confusing and fast-shifting situation in southeastern Zaire, the scene of almost two decades of constant insurgency. The Katangans, exiled to Angola after the civil war in the former Belgian Congo in the early 1960's, were equipped and trained by Cuban advisers in late 1975 to take a part in the postindependence conflict in Angola that led to the formation of Agostinho Neto's Marxist Government. Although Dr. Neto's victory increased the difficulty of Western intelligence collection in Angola, American analysts believed they had evidence that Cuba continued to provide training and support for the Katangans and helped them carry out their first invasion of Shaba, in March 1977.

Despite this the Central Intelligence Agency is said to have been cautious in interagency discussions in specifying the extent of Cuban responsibility for the 1977 attack, and the White House did not make it an issue in relations with Havana.

SHABA NOT MENTIONED IN CRITICISM

When some 5,000 Katangans swept into Shaba early in May and quickly seized the mining center of Kolwezi, it appeared at first that the Administration had again decided to play down the possible Cuban role despite continuing reports that Cuban advisers had maintained their close links with the invading force. On May 14 Mr. Carter sharply criticized Cuba for obstructing the "peaceful settlement of disputes," but he did not refer to the Shaba attack.

On May 16, officials said, the State Department sent a message to President Castro asking support in ending the fighting and facilitating a Katangan withdrawal. At the same time the department spokesman, Hodding Carter 3d, told reporters that information concerning Cuban involvement was sketchy.

The following day Mr. Castro called in the chief American diplomat in Havana, Lyle F. Lane, and denied any role in the invasion, saying that he knew of plans for the attack a month or so in advance and tried unsuccessfully to stop it.

As the Administration moved to airlift French and Belgian forces into Zaire to repel the invaders, however, the issue of Cuban involvement suddenly loomed larger. According to officials, a decisive moment came during a meeting at the White House on May 19, when an interagency working group organizing the American airlift under the chairmanship of the deputy national security adviser, David L. Aaron, was told by C.I.A. officials that Cuba had played a vital role in facilitating the incursion.

C.I.A. CONFIDENCE A SURPRISE

"We all thought that Cuba was somehow involved in the affair," a participant related, "but some people seemed surprised that the C.I.A. seemed so sure of its information."

Immediately after the meeting Mr. Aaron upon discussing the issue with other White House officials, including the Presidential press secretary, Jody Powell, is said to have instructed the State Department to inform reporters of the C.I.A. finding. At the State Department's noon press briefing that day, Tom Reston, a spokesman, announced that "it is now our understanding that the insurgents in Shaba Province have been trained recently by Cubans." Later in the day Secretary of State Cyrus R. Vance, in a background briefing, said that he was not aware of Cuban involvement but that his press aide may have seen more recent information.

The State Department statement led to immediate denials by Cuban officials and expressions of skepticism by Senator George McGovern, Democrat of South Dakota. Administration spokesmen continued to contend that Cuba had played a direct role in supporting the attack, and on May 23 Mr. Reston told reporters that new information confirmed the Administration's case.

On May 24 Mr. Aaron, Mr. Powell, Hamilton Jordan, Mr. Carter's assistant, and the Deputy Secretary of State, Warren M. Christopher, drafted a statement on the Cuban role for Mr. Carter. At a news conference in Chicago the next day he reiterated the charge that Cuba had trained and equipped the Katangans and asserted that it had done nothing to restrain the attack

THE CASE COULD GO EITHER WAY

In retrospect, intelligence specialists acknowledge that they were troubled by those statements. One official with close access to information available to the White House at the time said: "After looking at it, I realized it was possible to make the case either way. The guy who was briefing the President had a big load on his shoulders." An official in another agency charged with evaluating the information commented, "The President was probably right, but the evidence just wasn't there to back him up."

Asked why the Administration went out on a limb late in May, some officials said it reflected the inevitable White House tendency to shape intelligence to fit policy. "The Cuban thing came along just at the right time," one explained. Referring to Mr. Carter's national security adviser, he went on, "The President was in trouble in the polls for not standing up to Moscow and Havana while Brzezinski and others were getting increasingly upset by events in Africa."

Others also argued that top intelligence aides, particularly Admiral Turner, were perhaps too eager to provide political ammunition for the White House. Admiral Turner is known in the Government as ambitious and keenly interested in policy matters. Earlier in May he had evidently cooperated with White House officials in pursuing the possibility of resuming American aid to covert anti-Marxist groups in Angola.

Still other officials suggested, however, that Admiral Turner, lacking great experience in intelligence questions, might not have recognized what one specialist called "the grayness of these types of cases." ●

S. 2388—SELF-IMPROVEMENT INCENTIVE LEGISLATION

● Mr. MATHIAS. Mr. President, America has always been the land of opportunity, and we have an underlying faith in the rewards of hard work. Given equal opportunity, men and women with initiative can rise through the ranks to head a union, run a company or lead the country. All it takes is skill and determination.

Throughout my career, I have supported measures that would both assure equality of opportunity and encourage people to improve themselves. By acquiring new skills, people improve the quality of their own and their children's lives and make the country a better place in the process.

For these reasons, Mr. President, I am pleased to join Senator PACKWOOD and Senator JAVITS as cosponsor of S. 2388, a bill that would exclude from the worker's taxable income the money their companies spend to educate and train them for new, more highly skilled jobs.

Currently, the value of the educational assistance workers receive from their companies for activities related to their present jobs is tax-free. This bill will help workers keep pace with the increasingly sophisticated technology of the American economy. As a concomitant to monetary incentives Congress is considering this year to spur investment and capital formation, I think we should also encourage the formation of a large pool of skilled workers. This is the other side of the coin that we must be aware of in our efforts to stimulate the economy.

With the passage of this bill, we will remove an anomaly from the law and will help less skilled workers move up the ladder of self-improvement.

The new opportunities presented by this bill greatly outweighs the slight revenue losses that we expect. In fact, the bill is a wonderful investment in productivity and worker job satisfaction. I urge all my colleagues to support it.●

BRAZIL'S USE OF ALCOHOL FUELS

● Mr. BAYH. Mr. President, as my colleagues know, I am a firm believer in the potential of alcohol fuels. I am confident that a relatively small investment now can have enormous payoffs—leading to increased energy savings, a reduction of our oil imports, and an improvement in the balance of trade.

Ours is not the only country desiring to reduce the amount of imported oil it consumes. Brazil, which has few oil reserves, has made a commitment to seek out new sources of energy which can be produced within her borders—including alcohol from sugar and manioc root. The Brazilian Government is investing millions of dollars in the use of alcohol as a motor fuel—both in blends and in pure form. It is estimated that Brazil's oil imports could be halved if gasoline were replaced with alcohol—which can be produced from domestic, renewable resources.

The United States, like Brazil, has a variety of domestic resources which can produce alcohol for use as a fuel. And, like Brazil, we also have a need to find alternative fuels which will improve our energy efficiency and reduce our imports. It is my fervent hope that we can learn something from the Brazilian Government's efforts in this area. There are some people, Mr. President, who claim that alcohol fuels cannot work. I dispute that claim. Alcohol fuels work in Brazil, and they will work in the United States, if given the chance. I intend to continue to work to see that they get that chance.

Mr. President, I ask that an article from the Wall Street Journal of July 12, 1978, on the Brazilians' use of alcohol fuels, be printed in the RECORD.

The article follows:

[From the Wall Street Journal, July 12, 1978]

BRAZIL SPENDS MILLIONS TO PUT ALCOHOL IN CARS TO SAVE ON OIL IMPORTS

(By Everett G. Martin)

SAO PAULO, BRAZIL.—There are 500 Volkswagen Beetles being driven by telephone repairmen around this city that are spreading the Brazilian government's energy message: Driving and alcohol can be mixed.

The alcohol, of course, isn't in the repairmen but in the tanks of their cars. It is 190-proof grain alcohol distilled from sugar cane. And the performance of the experimental cars is so encouraging that the government is plunging ahead with a multibillion-dollar program that it hopes will turn all the cars in the country into alcoholics by the end of the century.

Not only sugar cane but also a staple root crop called manioc (better known in the U.S. in a granular form called tapioca), as well as some more exotic plants, is being considered as raw material for the alcohol program. The distilleries that will be needed to turn these plants into alcohol could number as many as 330, which would involve an investment of as much as $1.6 billion by the early 1980s.

But Brazil apparently isn't disturbed by the size of this investment, any more than it is by the billions it is spending or planning to spend on developing hydroelectric power or a huge nuclear program. The reason is that Brazil is oil poor: Its reserves would be sufficient to supply the country for just two years at the present rate of consumption of 950,000 barrels a day.

A CRIPPLING PAYMENT

Brazil's oil-import bill now is running at over $4 billion a year, or 34.6 percent of the country's export income, an amount that is crippling the nation's growth rate. Thus, the prospect of being able to replace gasoline with a renewable fuel, alcohol, is spurring the Brazilians into some pioneering technology. "We'll be turning solar energy into liquid energy," one research scientist says.

The U.S., which is growing ever more dependent on imported oil (24 percent of U.S. export income now goes to pay for the oil bill), is closely watching Brazil's alcohol program. A number of Midwestern states are busily promoting the use of gasohol, a 10 percent mixture of alcohol with gasoline. The alcohol would be distilled from grain grown on idle farm land. A few gasoline stations in the Midwest will be pumping gasohol this summer. (See story on page 29.)

Here in Brazil, the oil bill has increased 11-fold in five years and has sharply deflated

only was averaging an annual growth rate of 11 percent, and the country was able to use its foreign exchange to import machinery and technology. But last year's growth rate was barely more than the population increase of 3.8 percent a year. With half the population of 115 million under the age of 20, Brazil can't afford many more years like that before the job shortages bring social unrest.

There seems little hope of cutting down on oil imports through increased domestic production. In 1970, domestic output met 35 percent of Brazil's oil needs, but declining fields and rising needs reduced that figure to 18 percent last year. Petrobras, the national oil company, plans to drill 507 wells in the next five years at a cost of $1.3 billion. And the Brazilians have swallowed their national pride and have awarded offshore-exploration contracts to foreign oil companies. British Petroleum already has started drilling.

NUCLEAR CONTROVERSY

The oil is needed not only for gasoline but also for running electricity-generating plants. That is why the Brazilians have embarked on their controversial nuclear program, which involves buying eight large reactors from West Germany by 1990 and training thousands of technicians. Much to Washington's dismay, the Germans also will supply a reprocessing plant to extract plutonium—the stuff of weaponry—from the spent nuclear fuel, thus saving Brazil on its nuclear-fuel bill.

Hydroelectric power, which now provides 21 percent of the country's energy needs, will continue to play an important role. By 1985, installed capacity in the southeast region near the industrial centers will have reached 35,000 megawatts. There is considerable potential in the Amazon Basin, but this vast region is far from major cities.

If these ambitious plans are met, the nation's oil imports will be sharply reduced. But the imports could be halved just by replacing gasoline with alcohol. The Brazilians believe that if they can produce enough alcohol to meet expected gasoline consumption of 7.9 million gallons in the mid-1980's, nearly a million new jobs could be created on farms—to grow the sugar cane or manioc—and in the distilleries. They also say that they can produce all of the needed machinery themselves.

Ironically, it is the high cost of imported oil that has made the alcohol program possible. In order to discourage consumption, the Brazilian government has imposed taxes that bring the cost of a gallon of gasoline to $1.64. This high cost makes alcohol a competitive fuel, even though it costs twice as much to produce as Middle East oil. Researchers believe that alcohol could be retailed for about $1.30 a gallon.

Actually, some Brazilians are old hands at using alcohol distilled from sugar cane in their cars. In some parts of the country it has been mixed with gasoline since the 1930s, and it was widely used during World War II. Over the years the amount of sugar cane diverted to alcohol production has fluctuated with the international price of sugar. At present, about 208 million gallons of alcohol a year are being produced.

The alcohol that is produced from the sugar cane is technically known as ethanol. The sugar ferments, and this mixture then travels through three heating towers to remove excess water and to reduce it to 95% alcohol.

Manioc is another promising source of ethanol, although the distilling technology is still being developed. One problem is that the plant is as much as 40 percent starch and thus can't be fermented without the starch being converted into sugar. In that the stalks can be used as a fuel, called bagasse, to supply the heat in the distilleries; manioc would require an outside heat source. On the other hand, sugar cane is a seasonal crop that needs careful cultivation and the use of fertilizers; manioc is a hardy plant that will grow in the poorest ground. Indeed, scientists say it would be an ideal crop for the 250 million acres of dry, nutrient-poor land in an area of central Brazil known as the Cerrados.

There had been fears until fairly recently that manioc would require so much energy to turn it into ethanol that it would consume more energy in the distilling process than would be provided by the ethanol. But Prof. Jose Goldemberg, head of the Institute of Physics at the University of Sao Paulo, now believes that the energy return will be 1.4 times the energy input. Ethanol from sugar cane yields 2.5 times the energy input, he says.

The first manioc distillery will begin operating this year, and Prof. Goldemberg is hoping that it will indicate the possibility of cost reductions. "We really haven't started serious research on improving distilling methods. I'm certain that new developments will bring costs down," he says.

The building of 170 sugar-cane distilleries has been approved by the government. Each distillery will cost an average of $1.5 million. Private investors will put up the distilleries with 80 percent government loans at a 17 percent annual interest rate (that compares with the present Brazilian inflation rate of 40 percent). The government also will provide 100 percent financing at 7 percent interest to develop new sugar-cane farms.

Then there's the problem of getting the ethanol from the distillery and into the car. Recent experiments have shown that the average automobile engine can run on a mixture of up to 20 percent ethanol and 80 percent gasoline without any modification. Cars in Sao Paulo are running on a 15 percent ethanol mixture and in Rio de Janeiro on a 10 percent mixture. The only noticeable difference, according to cabdrivers, is that spark plugs have to be cleaned more often.

Says Antonio Licio, a technical adviser to the minister of agriculture: "We originally intended to produce enough alcohol to provide a 20 percent mixture for all cars. But now mixing is only the first stage. We are going to go all the way."

The man who will be largely responsible for this is Urbano Stumpf, a scientist at the Aerospace Research Center at San Jose dos Campos, an hour's drive from Sao Paulo. It was Mr. Stumpf who in 1975 first persuaded the president of Brazil, Ernesto Geisel, to drive a car that had been modified to burn pure alcohol. President Geisel, who once headed Petrobras, was immediately impressed and committed the government to the support of the alcohol program.

Mr. Stumpf says that it costs about $350 to convert the Volkswagen Beetle engine to burn pure alcohol. His research complex also is working on the conversion of other engines sent in by manufacturers that will ultimately want to produce ethanol-burning engines.

First, Mr. Stumpf says, the compression ratio has to be increased, then the ignition timing has to be changed, and the blend of air and fuel in the carburetor has to be made richer. The alcohol has to be preheated before it enters the combustion chamber because it vaporizes at a higher temperature than gasoline. Mr. Stumpf does this by enclosing the intake manifold in a metal jacket through which he feeds hot water or hot air from the engine cooling system.

Alcohol-burning engines are like diesel engines in that they are harder to start in cold weather. Mr. Stumpf says that this problem can be solved by using a small tank of gasoline to start the engine and then switching to alcohol when the engine is hot. The gasoline will be used only for 30 seconds after the ignition has been switched on.

Mr. Stumpf is enthusiastic when laymen visit his project. To indicate the lower levels of pollutants emitted by his modified alcohol engine, he asks each visitor to breathe deeply from the exhaust pipe. "Smells sweet, doesn't it?" he asks. "We could drive this car in California without any (pollution-control) changes."

Certainly, the alcohol engine has a lot of pep: It can go from a standing start in fourth gear without any knocking and can accelerate up steep hills without so much as a cough. That's because the ethanol has an octane rating of about 120, compared with 73 for regular gasoline in Brazil and with about 90 for regular unleaded in the U.S.

Mr. Stumpf also is looking at the possibility of using alcohol for diesel engines. This is particularly vital for Brazil because nearly three-fourths of the country's goods are hauled by truck. But although alcohol has already proved successful when mixed with 50% diesel oil, Mr. Stumpf believes that peanut oil might make a better fuel.

Other scientists in Brazil are looking at even more exotic replacements for petroleum. One is the babasu palm that grows wild in the Amazon Basin and that produces a nut yielding vegetable oil, animal feed and alcohol. Another potential source is the marmeleiro, a plant that grows wild in northeast Brazil.●

WHITE HOUSE OFFICE AND EXECUTIVE PERSONNEL

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 11003.

The PRESIDING OFFICER (Mr. MELCHER) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 11003) to clarify the authority for employment of personnel in the White House Office and the Executive Residence at the White House, to clarify the authority for employment of personnel by the President to meet unanticipated needs, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ROBERT C. BYRD. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. RIBICOFF, Mr. CHILES, Mr. SASSER, Mr. PERCY, and Mr. STEVENS conferees on the part of the Senate.

BILL HELD AT DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 12772 be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, often in the history of the Congress the President of the United States has addressed the Members. One of the most inspiring and most memorable speeches ever delivered to the Congress was on January 6, 1941, when Franklin Roosevelt delivered his state of the Union address. In the midst of the Second World War, Mr. Roosevelt spoke of the future and the preconditions for peace and security. It was to the Congress that Roosevelt first spoke of his famous "four freedoms." I quote:

> In the future, which we seek to make secure, we look forward to a world founded upon four essential human freedoms. The first is freedom of speech and expression—everywhere in the world. The second is freedom of every person to worship God in his own way—everywhere in the world. The third is freedom from want . . . everywhere in the world. The fourth is freedom from fear . . . anywhere in the world.

Has Roosevelt's future arrived? Has the United States worked to secure the four freedoms "everywhere in the world?"

What about freedom of speech? Can any citizen of the world speak openly without reprisal? The recent trial of Anatoly Scharansky sadly reveals that criticism is not tolerated by many of the world's governments.

And freedom of religion? Are the world's people free to worship God as they choose? The anti-Catholic campaigns in North Vietnam and Cambodia are poignant reminders that this important freedom is often thwarted.

The third of Mr. Roosevelt's freedoms was freedom from want. Does every person enjoy adequate food, housing, and shelter? Again we must answer no. Droughts in Africa have caused massive starvation in recent years. Even in our own country, we find children who are malnourished and desperately impoverished.

And what of the fourth freedom? Freedom from fear. Sadly, even this most fundamental of freedoms is not yet guaranteed. Far too many of the world's citizens fear for their lives. In Uganda, Cambodia, South Africa, and Nicaragua, we have seen the unconscionable murder of thousands of people simply because of their race, ethnicity, national origin, or religious beliefs. Are not their friends, neighbors, and compatriots afraid of a like fate?

Mr. President, Roosevelt's speech was a call to action. The United States must actively work to secure the four freedoms. They underlie our human rights policy, and they must be reflected in our actions.

This Senate can help to establish one of Mr. Roosevelt's freedoms—freedom from fear. Mr. President, I am speaking of the Genocide Convention. By defining and punishing the crime of genocide under international law, the treaty would let the world know that the heinous crime of genocide would no longer be tolerated. Everywhere in the world people would feel more safe and more secure.

portant step toward creating the world that Roosevelt envisioned, a world in which the four freedoms are secure.

TRANSCRIPT OF APPEARANCE BY SENATOR ROBERT C. BYRD ON "MEET THE PRESS"

Mr. ROBERT C. BYRD. Mr. President, on Sunday, August 13, 1978, I appeared on "Meet the Press."

The moderator was Mr. Bill Monroe and the panelists included Mr. Albert Hunt of the Wall Street Journal, Mr. Carl T. Rowan of the Chicago Sun-Times, and Mr. Robert Abernethy of NBC News.

Mr. President, I ask unanimous consent that the transcript of "Meet the Press" be printed in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

MEET THE PRESS

Mr. MONROE. Our guest today on MEET THE PRESS is Senator Robert Byrd of West Virginia, Democratic leader of the Senate. Senator Byrd has been a member of the Senate for twenty years and Majority Leader since January of last year.

Senator Byrd, you have said that there is still a chance for passage of the bill to deregulate gas prices but some of the Senators who are members of the conference committee can't even agree on language to bring to the Senate floor and if the bill gets to the floor it may be filibustered. Would you not be willing to say that the odds at this time are against passage of that bill?

Senator BYRD. I don't think I would want to get into the making of odds. I think the important thing to remember is that this is an issue that has been around for thirty years. The Congress has spent the last 14 months in dealing with this complex, controversial, and perplexing issue and I believe that the Conferees are still meeting. As long as they are meeting there is still hope. It deals with a problem that will not go away, and I just think it would be ridiculous for the Senate and the House to have spent 14 months in the last two years in a futile effort to deal with a problem that will not go away, one that is of vital importance to the people of this country, vital importance to the economy, vital importance to the security of the nation, and one which is watched with great interest by world leaders who will feel if we are unable to deal with this problem that we are willing to stay with the status quo on energy.

Mr. MONROE. Senator, another important part, some people call it the most important part, of President Carter's energy program is the proposed equalization tax on crude oil. Most people in Washington are saying that that is dead. Is it not time now for you to concede that that is dead?

Senator BYRD. The conference has been meeting from time to time and talking. From the beginning, it was expected that that bill would be last and that settlement on the issue would not come until after the natural gas compromise was reached. There are other aspects to that bill which are important in dealing with the energy problem. For example, there are tax credits. So that particular issue, COET, is not the only part of the bill. There are other parts that could be beneficial in dealing with the energy problem.

I think the important thing is that we especially get the nautral gas compromise and then we will get the other two measures that have already been agreed upon, and, hopefully, at least part of the fifth bill to which you have alluded.

Senator BYRD. I have not. I have said that action on that bill is being delayed until action can be completed on the natural gas bill.

Mr. MONROE. What are the prospects for the tuition tax credit which the Senate will be considering next week?

Senator BYRD. The vote will be very close. As of now I think it would be too close for me to call.

Mr. MONROE. What about its being a budget-busting factor, Senator, revving up inflation and the deficit?

Senator BYRD. Either proposal will have an impact on the budget—either the tuition tax credit or the grants approach, which the Administration supports. Either will have an impact on the budget.

Mr. HUNT. Senator, as you know, the House last week passed a $16.3 billion tax cut which the Carter Administration charges is tilted too much to upper income taxpayers and investors, but the Chairman of the Senate Finance Committee, Senator Russell Long, has indicated that he wants to liberalize capital gains taxes even further. Where do you stand in that dispute and specifically could you give us some idea as to the size and shape of the tax cut bill likely to emerge from the Senate?

Senator BYRD. I think that the bill that finally emerges will involve a moderate tax cut somewhere in the ballpark of that which was included in the first concurrent budget resolution; to-wit, 15-16 billion dollars, perhaps up to 18, possibly even 20, which the Finance Chairman is talking about.

I think there will be a capital gains reduction. I would hope that the Senate would orient the thrust of the cut a little more to the lower income stratum, but there is no question but that the middle income stratum is going to have a tax cut, so I should think that whatever emerges will be largely in the direction of the middle income group and in the ballpark of 15 to 20 billion dollars.

Mr. HUNT. On capital gains specifically, would you like the Senate to go even further than the House did in cutting capital gains taxes, or do you go along with the Carter Administration, and do you want to cut back on that liberalization?

Senator BYRD. I think somewhere in the 35 percent range is all right. I would particularly favor the one-time, one hundred thousand dollar exclusion, but I think that it is vitally important that the middle-class, which pays the bills of government, is given some relief. I think that the action by the House is a recognition of the fact that there is going to have to be some relief given to the middle-income people.

Mr. HUNT. Senator, one of the common refrains, both on Capitol Hill and in the White House, is that a number of congressmen don't take the President very seriously. Some of your colleagues, they say Mr. Carter is weak and indecisive. Having railed against this tax bill for months, do you think he could then sign it without losing further credibility?

Senator BYRD. Well, I don't think he has said he would not sign a bill with a capital gains cut. I haven't understood him to say that.

Mr. HUNT. But he opposed the type of bill the House passed this week.

Senator BYRD. Well, the bill has not passed yet. It hasn't even been reported to the Senate floor by the Senate Finance Committee, and it will be changed in the Senate and, as I say, I hope it will be oriented more to the lower income groups, but I also want to see it oriented toward the middle-income tax groups.

Mr. ROWAN. Senator, one of the things the President objects to strenuously is fiddling around with the minimum tax, which has

been the only tax to get some money out of a great many millionnaires and multimillionaires.

Are you in favor of reducing or wiping out the minimum tax?

economic growth, and lowered the unemployment rate. We have gotten through a comprehensive farm program that has benefited the farmer. His international initiatives have been very good, and on all these the Con-

ple, including President Carter—he characterized it yesterday—consider this bill a pork barrel bill. Isn't that an example of the Senate revving up inflation on spending that helps politics?

Senator BYRD. As a usual thing, I may have had, I can't remember.

Mr. HUNT. Let me just switch back to energy for a second. If you don't get a natural

Mr. MONROE. Thank you, Senator, for being with us today on Meet the Press.

(Next week: Senator Howard Baker (R. Tenn.)

sphere of influence, they would have succeeded in gaining control of both the Eastern and Western access to the Med-

Are you in favor of reducing or wiping out the minimum tax?

Senator BYRD. No.

Mr. ROWAN. Do you think you can get out of the Congress a bill that does not reduce the minimum tax?

Senator BYRD. I think so.

Mr. ROWAN. Do you think that you will get out of the Senate a bill that Mr. Carter can accept, or when you get through will it be more obnoxious to him than what they are doing in the House?

Senator BYRD. Well, I don't know how obnoxious the bill is to Mr. Carter that has passed the House, but, as I say, it has only gone half way. It still has the other half of the ballpark to cover, and I have no doubt that the Senate will leave its imprint on the bill. I would hope, as I have said, that we direct it more to the lower income, but I think we have just got to take into consideration the fact that the middle-income groups are entitled to some consideration in the tax cuts and I would hope that what ever finally emerges is in the direction of that middle-class group, because if we don't give the middle-class group some cuts pretty soon, they are going to be poor too.

Mr. ROWAN. Now, a great many middle-class people are interested in where you stand on this tuition tax credit. Will you support or oppose the proposal to give tax credits to people for parochial and private schools and at the elementary and secondary level?

Senator BYRD. I have supported tuition tax credits for college—at the college level. I personally believe that we ought to get some experience in dealing with that before we proceed to deal with elementary and secondary tax credits. This is not to say I am against them. I have an open mind, but at least we ought to see what the experience is, in my judgment, in connection with college tuition tax credit, which I have supported in the past.

Mr. ABERNETHY. Senator, an NBC Associated Press poll this past week showed that although most people trust the President personally, only 36 percent think he is doing a good or excellent job. This is down from more than 60 percent in March of last year.

Two questions on that: What job rating would you give the President and why do you think the President's overall poll jc' rating is so low?

Senator BYRD. I am not too concerned with polls. If it were the night before the election in 1980, I would be concerned, but polls shift and change, and I don't think that the polls reflect the record that the President, in cooperation with Congress, is making, and I think that once the President has an opponent—I have no doubt that the President will run again; I hope he will run again—and if he does, once he gets an opponent, then we will see what the opponent stands for; we can compare that with what the President's record is, and the President has come down hard on some very complex issues that have been around a long time. I think he must be given credit for that. Once we begin to compare records and positions between two actual candidates, then we will be able to perhaps put a little more confidence in what the polls say.

As for my own personal feeling about his job rating, I think it is good. I don't think that the polls focus on the record. In my judgment, the record is good. He has sent to the Congress a good many initiatives. Some of them have been sent too soon, perhaps not well thought out, but, nevertheless, he is to be given credit for trying. And he has been successful, with the support of the Congress, in getting an economic stimulus package through, which has improved the

the farmer. His international initiatives have been very good, and on all these the Congress has supported him, and when all of this record is laid out—and in a campaign the record is going to be viewed—the record is going to be brought out—it is not brought out in the polls—when the record is viewed, I think that the polls will be different.

Mr. ABERNETHY. Do I gather from what you just said that you think that poll rating is unfair, that the President deserves now a better judgment than he has been getting?

Senator BYRD. I am not saying the poll ratings are unfair. I think they are distortions. I don't think they take into account the record on which the President's accomplishments will be based, and on which the judgments of him as a candidate in 1980 will be based.

Mr. ABERNETHY. This past week, at the White House, you told the President and others you hoped there would not develop between the White House and Congress what you termed "us versus them ridiculocity," each side criticizing the other.

How serious do you feel the danger of that kind of split was and still is?

Senator BYRD. I don't think the danger is great at this point, but I think it is well for us to avoid getting into that kind of "them against us" mentality. I don't think the President can again run against Congress, and I think that the people expect a Democratic President and a Democratic Congress to work together to deal with the problems that confront the nation. If the people feel that a Democratic President and a Democratic Congress can't work together, then they are going to seek an alternative. I don't think this is the time for finger-pointing, and I don't think that such criticism of the Congress is justified. It just won't wash. Look at the record that the Congress has given to the President. It took guts for Senators to stand up and vote for the Panama Canal treaty. It took guts for the Senators to stand up and vote for the Middle East arms sales package. It took guts for the Senators to stand up and vote for the lifting of the embargo on arms to Turkey. So the Senate, and the House have given the President some very important victories—not only in the international field but also on domestic issues. And this, I think, is what we should be talking about: working together, cooperating. Of course, there will be a little criticism now and then. I expect the President to offer some criticism from time to time, the Vice President, and we may return it. But over all, such criticism is not justified.

Mr. MONROE. Senator Byrd, George Meany, of the AFL-CIO, has said several times that he will not restrain wages in order to help out on inflation. Considerable friction has developed between him and President Carter. Do you feel that Mr. Meany has been unnecessarily uncooperative about inflation?

Senator BYRD. Well, I think Mr. Meany has indicated, also, that he would appoint a committee to work with Secretary Marshall in dealing with various issues, including that of inflation, but I think if we are going to get a handle on inflation, I think that labor and industry, management, and government, are going to have to form a consensus and do what we can to restrain ourselves in connection with wage increases, price increases, and governmental spending.

Mr. MONROE. Do you feel Mr. Meany has been adequately cooperative?

Senator BYRD. I think he has.

Mr. MONROE. Let me ask you one other question about inflation, from a Senate point of view. You have called inflation the number one problem. Recently, the Senate passed a $10 billion public works bill, which, according to one estimate, would require the hiring of 2,300 more Federal employees. Many peo-

Senate revving up inflation or spending that helps politics?

Senator BYRD. Let's look at it this way. That public works projects bill has in it a lot of projects that are calculated to prevent floods in various parts of the country. We have had more than our share of flooding in southern West Virginia. On the other hand, the bill has in it projects that will provide for irrigation in areas that are afflicted with drouth. And so what is called pork barrel to one person may be another person's livelihood, or even another person's life. I think it is wrong to look at that bill and say that the Congress is being irresponsible in dealing with inflation.

Don't forget that the Congress, in passing its first concurrent budget resolution, came up with a deficit figure that was $10 billion below the deficit figure supplied by the administration in its budget. Also, the Congress, in that resolution, came up with a figure of $600 million less than the figure that the administration contemplated in outlays for the next fiscal year. And, finally, when the Congress comes in with its second and final concurrent budget resolution on the budget, there is every indication that it is going to even bring that budget figure down to possibly $8 billion below the $50.9 billion that was in the first concurrent budget resolution. This all indicates that the Congress is exercising fiscal restraint. That is the mood of the country, and I think that Congress has, quite some time ago, caught that mood.

Mr. MONROE. Does the Senate need 16-foot-high ceilings in its new multimillion-dollar office building?

Senator BYRD. No, absolutely not, and when the Congress makes a mistake, everybody knows about it, as they should. And that was a mistake, but the Senate has moved to correct that mistake by instituting a ceiling, I think, of something like $130 million on the building. There were figures being tossed around, estimates of $200 million, and so on. No, that building should not have those frills. They should not have been in it in the beginning. The mistake should not have been made in the first place, but there is no question, as there is no question about its being a mistake to have such frills, there is no question but that the Senate has moved to rectify that, and there is no question but that the Senate needs additional space.

Mr. HUNT. Senator, returning to the matter of White House congressional relations, both you and House Speaker O'Neill have frequently talked about the good personal relationship you have with President Carter, but the Speaker has also been quite critical recently of some of the top Carter aides, specifically Hamilton Jordan, Jody Powell and Gerald Rafstoon, suggesting they are politically insensitive. This is, I think, your sixth administration in Washington. How do you rate the White House staff and the people around the President?

Senator BYRD. I have no contacts with a good many of the people around the President. I can only answer your question with reference to the people that I have contact with. I have contacts with the President; I have contacts with the Vice President; I have contacts with Frank Moore, with Dan Tate who represents the President, with Bill Smith, who represents the Vice President, and these contacts have been good; the relationships have been good. The other people, I have no contacts with.

Mr. HUNT. Don't you find it rather odd that you don't have contacts with someone like Mr. Jordan, who is often called the chief aide to the President?

Senator BYRD. No.

Mr. HUNT. In previous administrations you didn't have contact with top officials in those administrations either?

gy for a second. If you don't get a natural gas agreement in the next couple of weeks, would you anticipate Congress coming back after the election to try to settle this issue?

Senator BYRD. I think that the energy problem is the top problem confronting this country. It underlies our economic problems; it underlies the strength of the dollar; it underlies our national security; it underlies our inflation problem.

We said at the beginning that it was our number one priority. I hope, and I continue to be confident, that we will get a conference report. As long as those conferees are meeting, there is hope, and I think that reason and patience are needed here and if, as you say, we don't get one before the recess, I still think we ought to get one after the recess. If we don't get one after the recess, if we get up to the November election, if there is any reasonable hope at that time for final success on that bill, we ought to come back after the election.

Mr. MONROE. We have a bit less than three minutes.

Mr. ROWAN. Out in the country people are asking a very simple question: Is President Carter capable of handling the job?

Now, you have seen a few Presidents around here. Is he capable of doing this job?

Senator BYRD. Yes, he is.

Again, I don't think that the attention is being focused on the record. I think that the President has provided initiatives which the Congress has supported and I think the record will show this.

Unemployment is down. Housing starts are up. Real income is up. The number of people who are employed is the highest ever—94.5 million people. We have passed a minimum wage bill. We shored up the Social Security System, which was about to collapse. We passed a major farm bill, and look at the international initiatives: NATO has been strengthened, the Turkish embargo has been lifted; there has been a new momentum in our movement toward normalization with the People's Republic of China. The Panama Canal Treaty has been passed, which improves our relations in South America. The President is going for the summit on the Middle East at Camp David. There is much to his credit that is overlooked, and I think that when one focuses on the record, he will say "Yes, he is competent. He has made mistakes, but he is getting good support from the Congress."

This is good for the American people.

Mr. MONROE. We have a bit less than one minute.

Mr. ABERNETHY. Senator, there are proposals in the works for a constitutional amendment that would require the government in any year to spend no more than it takes in except in times of national emergency. Would you favor that, or oppose it?

Senator BYRD. I would oppose it because I think it is absolutely impossible, infeasible, and unworkable. Who can foresee when there will be a war or a depression? If such an amendment is ever adopted in the Federal Government, we will be put into a straitjacket, and many areas will suffer, such as the area of national defense.

Mr. ABERNETHY. Do you feel pressure building up for such an amendment?

Senator BYRD. There is pressure building up; there is no question about that, but I think we have to be realistic and remember that the Federal Government cannot operate as state governments do, many of which are required to balance their budgets.

Mr. ABERNETHY. Do you expect the bill to extend the deadline for the ERA to pass, Senator?

Senator BYRD. Well, I don't know whether it will pass. I hope we will be able to give it a shot in the Senate.

(Next Week: Senator Howard Baker (R. Tenn.)

THE CRUCIAL MIDDLE EAST

Mr. HATCH. Mr. President, I have watched with growing concern the advancements by the Soviet Union in the oil-rich states of the world. At the present time the nations in the Middle East provide a tremendous amount of the world's oil. It is for this reason that the Soviets have concentrated such an effort to strengthen their influence in this crucial region.

Who among us had any in-depth knowledge of the conflict that was brewing between Somalia and Ethiopia? Who could foresee this crisis, prior to the outbreak of hostilities? To the overwhelming majority of the American public, and to the Members of Congress alike, the Horn of Africa was just another place on the "Dark" Continent. Today this area is still one of the focal points in the struggle for geopolitical position. Its location makes it strategically vital to the control of oil flowing from the Middle East bound for markets in the West.

The Soviets made a tacit gamble by supporting Ethiopia, risking the loss of their naval base at Berbera. When President Siad Barre tossed them out of Somalia, the Soviets scrambled around searching for a new base. They approached the Maldives, and offered to lease one of the islands for a "fishing base." Fortunately for the West, the Government of the Maldives knew all too well what the Soviets intended to use the base for and refused this offer. While the Soviets were looking elsewhere the Government of Somalia was attempting to find some alternative source of aid in the West. The conflict with Ethiopia was not going well and they desperately needed aid to assist them in the war. The United States refused, and likewise the rest of our allies turned a deaf ear to the pleas from Somalia. Without some measure of support, it now appears that Somalia will be forced to return to Soviet hegemony.

With control of both Ethiopia and Somalia, the Soviets will effectively have gained control of the Eastern access to the Mediterranean. In one move they will have bottled up the flow of oil, and at the same time controlled a strategically important chokepoint.

Mr. President, at the present time there appears to be an even stronger effort on the part of the Soviet Union to increase this widening influence in the Middle East, witness the situation in Iraq. At the same time they have watched with interest the activity in the northwestern corner of Africa. In Morocco there is a limited civil war going on for control of the Spanish Sahara. Those fighting against the government label their rebellion as one of "liberation." This is the terminology that attracts the Soviet Union. It is an area and situation that behooves the nations of the West to keep a watchful eye upon.

It should be clear to all that if the Soviets should intervene, directly or indirectly, and bring this area under their

Eastern and Western access to the Mediterranean Sea. The strategic and economic results of this are self-evident.

In the August 14 edition of the Christian Science Monitor, Mr. Constantine Menges writes about the rising Soviet influence in the oil-producing areas of the world and the possible impact this may have upon the alliances between the United States and nations dependent upon oil from the Middle East. Mr. Menges points out some of the subtle methods that could be used to bring about a dissolution of NATO and other U.S. alliances. The points that are made should be well taken by the Members of this body and others who are involved in the policymaking process.

When all of this information is taken into account along with the recently approved sale of the oil-drilling equipment and technology, certain questions are raised about the future ability of the Soviets to control the vast majority of the worlds oil resources, through their own domestic production, or foreign influence.

Mr. President, I ask unanimous consent that the article by Mr. Menges be printed in the RECORD for the benefit of my colleagues.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

STOPPING A SOVIET OIL TAKEOVER

(By Constantine Menges)

The tide of history is moving against the survival of the democratic nations. Few Americans seem aware that several converging trends will pose a serious threat to their freedom in the early 1980s. Prudent action can still be taken.

Soviet military power has been growing for the last decade and has surpassed America's in both strategic and conventional forces. To accomplish Soviet objectives without risking open war, this military dominance will be used to intimidate the democracies. It may prevent us from acting effectively against communist support of violent insurrections aimed at gaining control of the Near Eastern oil countries by the early 1980s.

Once pro-Soviet governments were in control of the oil supplies, Europe and Japan could be pressured into a neutral accommodation with Moscow. That would leave the United States virtually alone by the late 1980s. These catastrophic events are possible but not inevitable. Prevention, however, requires that we give careful thought to how they might occur.

Communist success in Angola, Mozambique, and especially Ethiopia marks the beginning of this new stage of Soviet expansionism. As for Rhodesia, the democracies, especially the United States, have shown they lack the will and wisdom to provide effective support for the peaceful transition to majority rule.

It is highly probable that by sometime in 1979 the black-white moderate coalition will be defeated. That in turn could end any chance that the moderates in South Africa could unite to bring about majority rule with peace. As a result, Soviet guns and extremism among blacks and whites could lead to a bloody and brutal civil war in South Africa from 1979 to 1982. This would distract, divide, and demoralize the democratic nations where majority opinion will support neither white racism nor communist-organized black guerrillas.

During the next few years, Soviet-backed liberation movements could expand their net-

Germans and Cubans are helping an active communist guerrilla force.

Iran is now surrounded on three sides by Russia and two pro-Soviet countries. Several large Islamic ethnic groups on both sides of these borders provide the ideal social environment for expanding the already important communist network in Iran. In the next few years terrorism and demonstrations could be used to isolate the Shah and wear down the present government. Lenin called this the phase of "prerevolutionary violence" when conservative religious groups, students, middle-class technocrats and others are stimulated into protest and therefore feel the lash of government repression. In 1981, Russia could start a full-scale guerrilla war. By 1983 this could result in victory for a communist movement that would proclaim itself "nationalist and neutral."

The new pro-Soviet oil governments would continue to sell oil to Europe and Japan—but with a catch. Prices would be cut for nations which get out of alliances with the U.S. And, there could be ruinous price increases for countries which stay with the United States. Economic forecasts show that this will be a period of world-wide oil shortages in any case, and American allies will be desperate for the Near East supplies.

The communist parties in France, Italy, Spain, Portugal, and perhaps Greece and Turkey will increase their domestic power because of their ability to negotiate "good deals" with the new pro-Soviet oil governments. After that there are any number of subtle and cunning diplomatic strategies that the Soviet Union could use to coax West Germany and Japan into a disarmed neutrality that would appear economically attractive in the short run.

This would finish NATO. The United States would be nearly alone, perhaps hoping that a tacit alliance with communist China would ward off more devastating setbacks. But, that is similar to the way the democracies hoped for an alliance with Stalin as Nazi power grew. We should recall that after decades of fierce combat, Stalin and Hitler signed a friendship treaty in 1939. The democratic countries should not repeat the same mistake. We should use the divisions and rivalries among the communist states but not depend on these disputes for our security.

All of this could happen by the mid-1980s without one Soviet soldier or tank officially crossing an international border. To forestall such an ominous scenario, the democratic countries must:

Face up to the unpleasant facts of contemporary history. This means accepting the continuing need to contain communist power and compete with communist ideology.

Cooperate to strengthen each other economically and politically. They must also help friendly governments and moderate reform groups resist the extremists of the right and left.

Remain true to their fundamental values in the face of increasing Soviet success. This means safeguarding civil liberties and the rule of law. It should be kept in mind that the current foreign policy mistakes are being made by well-intentioned individuals who are still too caught up in the traumas of recent American politics to focus wisely on the future.

Maintain strategic and conventional military power equivalent to that of the Soviet Union. A sensible SALT agreement with effective verification can help accomplish this. But Moscow should not be permitted to repeat Hitler's tactic of using years of arms scientific, and cultural dynamism of this planet. Despite problems still to be overcome, the democracies combine more personal liberty, better living conditions, and greater genuine equality of opportunity than any other approach to government.

CRITICAL DAYS FOR LABOR

Mr. HATCH. Mr. President, during many of the days on this floor when we debated the labor reform bill, I tried to make the point that organized labor is indeed in trouble in this country, not because of any shortcomings of the National Labor Relations Act, which I believe has served labor and management well for the past 43 years, but because the Washingtonian labor leaders have lost touch with their membership in so many ways.

In the fact of these difficulties, big labor appears to be continuing to play by the old rules of "threats of class warfare" because they failed to get their way, as was evident by their reaction to the Senate's action on the labor reform bill, instead of by reason, conciliation, and example. That tired old strategy will not work in this modern age and if pursued, may well further alienate the public toward organized labor as a necessary and influential institution in our society.

One of the best analyses I have seen as to labor's adversities appeared in a Chicago Tribune editorial of June 23, 1978, entitled, "Critical days for labor * * *". I ask unanimous consent that it be printed in the RECORD in its entirely for the information of all who are concerned about improving the status of labor's position on our national scene.

There being no objection, the editorial is ordered to be printed in the RECORD, as follows:

CRITICAL DAYS FOR LABOR . . .

American labor is facing a critical period in its history, but many of its leaders don't seem to realize it. They act as if they were still living in the palmy days when labor could virtually do no wrong: when it was a growing movement with public sympathy, when Congress was full of friends, and when it was fashionable to refer to businessmen as "economic royalists" or worse.

Yet today the unions are fighting a decline in membership, largely because of mechanization in the unionized factories and a shift of jobs to less unionized service industries and to government. Scandals in some unions have tarnished the image of labor as a whole. Polls show labor at or near the bottom of the list when it comes to public confidence, even below used car salesmen.

In their effort to reverse the decline in membership and to move into new areas, notably public service, the aging moguls of labor are generally doing their cause more harm than good. They assume that they still have the same clout as ever. They demand that Congress reform the labor laws so as to make it easier for them to organize workers in industries where they may not be welcome, and to restore to them the power over federal employees denied by the Hatch Act. They resist Civil Service reform. And when labor. In the old days, this might have sent shivers down the spine of the bureaucracy and brought panicky officials rusing to make amends. Today it goes almost unnoticed.

About the only bureaucrat to show any panic is the secretary of labor, Ray Marshall, who shudders at the blunt criticisms of labor being uttered by Robert Strauss, the orchestrator of President Carter's war on inflation, and Barry Bosworth, director of the Council on Wage and Price Stability. Mr. Marshall says this kind of talk will anger labor leaders and make them difficult to deal with. Nonsense. What George Meany of the AFL–CIO and his colleagues need is a little more of the bluntness that they are so accustomed to showering on others.

Unions are seeking to organize public service workers by the same rough and tumble methods they used in private industry including the strike. Never mind that in most states strikes of public employes—or at least policemen and firemen—are illegal. Never mind that there are no "economic royalists" to squeeze blood out of. The blood is squeezed out of the taxpayers, who happen also to be the voters, and it is they who suffer when public workers go on strike, or contract the "blue flu," or indulge in "job actions."

No wonder the image of labor is suffering. No wonder voters flocked to support Proposition 13 in California and are clamoring for similar action elsewhere. They are sick of being pushed around and sick of unreasonable demands, whether it is the police sergeant in Mineola, N.Y., who has just won a salary of $25,000, or the postal workers who threatened (successfully, alas) to tie up the U.S. mail in order to retain the rare right never to be laid off.

The message that must be got through, to the union leaders is that times have changed and that successes must be won through reason and example, not through clout and compulsion. And if the message doesn't get through, labor will be inviting a measure of antagonism that will end up hurting both the labor movement and the country.

In the past, unions have achieved a great deal for the workers and for the country. There is still much that they can do. There are still working conditions that need to be improved or at least monitored. There is still the need for a means of communication through which the average worker can be heard in the corporate offices and in Congress.

But too many labor leaders act as if their only function is to sign up more members and bring in more dues to pay the often generous salaries they have given themselves. They must be awakened, in broader needs, including the need to relax the rigidities and the restraints that have helped prevent American industry from competing abroad, driven costs up and held productivity down, increased the trade deficit and decreased the value of the dollar, and that can ultimately jeopardize the free economy which all of us, including the unions, want to preserve.

COMMITTEE MEETINGS DURING SESSION OF THE SENATE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet during the session of the Senate tomorrow, August 17, to consider S. 2971, the Lobbying Disclosure Act, and H.R. 3229, the postal reform bill.

TOMORROW

Mr. ROBERT C. BYRD. Mr. President. I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR SCHMITT AND SENATOR JAVITS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate convenes tomorrow morning Senator SCHMITT be recognized for 15 minutes and Senator JAVITS be recognized for 15 minutes.

TION OF D.C. REPRESENTATION RESOLUTION TOMORROW

Mr. ROBERT C. BYRD. I ask unanimous consent that after the two orders for recognition of Senators on tomorrow, the Senate resume its consideration of the D.C. representation amendment.

Mr. STEVENS. Reserving the right to object, has the majority leader waived the leader's time tomorrow?

Mr. ROBERT C. BYRD. No, I did not waive it.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come The motion was agreed to; and at 6:45 p.m., the Senate recessed until tomorrow, Thursday, August 17, 1978, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate August 16, 1978:

INTERNATIONAL ATOMIC ENERGY AGENCY

The following-named persons to be the Representative and Alternative Representatives of the United States of America to the Twenty-second Session of the General Conference of the International Atomic Energy Agency:

Representative: Dale D. Myers, of Virginia.

Alternative Representatives:

Gerard C. Smith of the District of Columbia.

Roger Kirk, of the District of Columbia.

HOUSE OF REPRESENTATIVES—*Wednesday, August 16, 1978*

The House met at 10 a.m.

The Reverend Angelo Gavalas, pastor, Three Hierarchs Greek Orthodox Church, Brooklyn, N.Y., offered the following prayer:

Almighty Father, may we share in this prayer; for friends have all things in common.

We pray to be made beautiful in our souls. May we consider the wise man rich and the self-restrained man wealthy.

In grace, then, we invoke Your holy spirit upon our distinguished leaders that they may be reminded of the principles that make our country great—that their resolutions may assure all our people and the people of the world a nobler and better life.

We pray for the President of our country; for all civil authorities throughout the land; and for the faithful citizens who dwell in it.

An in one voice, we praise Your majestic name, our one God and Creator of all men, Father, Son, and Holy Spirit. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles.

On August 11, 1978:

H.R. 12138. An act to name a certain Federal building in Laguna Niguel, Calif., the "Chet Holifield Building."

On August 15, 1978:

H.R. 7581. An act to amend the Internal Revenue Code of 1954 with respect to the treatment of mutual or cooperative telephone company income from nonmember telephone companies, and for other purposes; and

H.R. 8336. An act to authorize the establishment of the Chattahoochee River National Recreation Area in the State or Georgia, and for other purposes.

FATHER ANGELO GAVALAS

(Ms. HOLTZMAN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. HOLTZMAN. Mr. Speaker, I am deeply pleased and honored that today's invocation has been given by my constituent, Father Angelo Gavalas.

Father Angelo, who for the past 17 years has served as the pastor at Three Hierarchs Church in Brooklyn, has devoted his life to the Greek Orthodox religion and the Greek-American community. In addition to his long and distinguished service at Three Hierarchs and 8 years as pastor at the Holy Trinity Church in Portland, Oreg., Father Angelo is national chairman of the Youth Commission of the Greek Archdiocese of North and South America and has served in that capacity for the last 10 years.

I know and share personally the great respect and affection in which Father Angelo is held by Brooklyn's spirited and dynamic Greek community and by all his neighbors as well.

Dedication is a tradition in Father Angelo's family. His father has been a priest for 56 years, and at age 82 still serves as a missionary among the Greek people in Texas.

Father Angelo was born in Nashua, N.H., and attended Holy Cross Theological School in Brookline, Mass., Colgate Divinity School in Rochester, N.Y., and St. Vladimir's Russian Orthodox Theological School in Yonkers. He is married and the father of three children.

Today is another cause for rejoicing. It is Father Angelo's birthday. We wish him many happy returns of the day.

I am proud to welcome to Washington my friend and constituent, Father Angelo Gavalas.

ADJOURNMENT FROM THURSDAY, AUGUST 17, 1978, TO WEDNESDAY, SEPTEMBER 6, 1978

Mr. WRIGHT. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 696) and ask for its immediate consideration; and pending that, Mr. Speaker, I ask unanimous consent that I may proceed for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. WRIGHT. Mr. Speaker, the purpose of this concurrent resolution is to permit adjournment for our August district work period. It is the adjournment recess of the House effective tomorrow. We shall adjourn to meet at noon on September 6, 1978.

The SPEAKER. The Clerk will report the concurrent resolution.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 696

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, August 17, 1978, it stands adjourned until 12 o'clock meridian on Wednesday, September 6, 1978.

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 13468, DISTRICT OF COLUMBIA APPROPRIATION BILL, 1979

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 13468) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1979, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

MAKING IN ORDER TOMORROW CONSIDERATION OF CONFERENCE REPORT ON H.R. 13468, DISTRICT OF COLUMBIA APPROPRIATION BILL, 1979

Mr. NATCHER. Mr. Speaker, I further ask unanimous consent that it may be in order tomorrow to consider the conference report on the bill (H.R. 13468) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1979, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

HOME-CARE POLICY FOR THE ELDERLY

(Mr. RYAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYAN. Mr. Speaker, I want to commend Congressman CLAUDE PEPPER and the Select Committee on Aging for their recent hearings on the elderly. I am especially interested in the committee's concern for a detailed comprehensive effort to implement a home-care policy for the elderly.

We need to raise the level of awareness of the general population in respect to the state of the elderly in our country today. We as a nation are greatly concerned about "human rights" in other countries. How about the human rights of the elderly in our country? At least one-third of our elderly Americans are considered "very, very, poor." A large percentage of these people are in nursing homes. Perhaps even worse is the fact that half of the elderly in nursing homes receive treatment that is characterized as "substandard."

Many of our older Americans would be far better served in their own homes by people who care for them and love them. Unfortunately, 90 percent of our available public financing for long-term care is for institutionalized nursing care. Public support of long-term-care services in the home is minimal and fragmented among several programs. Studies and reports have shown that home care as an alternative to institutionalization would be more efficient and humane, and less costly.

The Select Committee on Aging is working hard to bring these facts to our attention. I applaud their efforts and take this time to urge my colleagues to think seriously about supporting home-care legislation for the elderly.

PROVIDING FOR ORDERLY SHIPMENT OF OFFICIAL RECORDS AND PAPERS OF MEMBERS

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 1297) to provide for the orderly shipment of official records and papers of Members of the House of Representatives, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1297

Resolved, That (a) effective upon the date of adoption of this resolution, notwithstanding any provision of law and until otherwise provided by law, the contingent fund of the House shall be available to pay the reasonable expenses of sending or transporting the official records and papers of any Member of the House of Representatives from the District of Columbia to any location designated by such Member in the district represented by the Member.

The Clerk of the House of Representatives is authorized and directed to provide for the most economical means of sending or transporting such documents to insure the orderly and timely delivery to the specified location. The Committee on House Administration shall have the authority to issue rules and regulations to carry out the provisions of this resolution.

SEC. 2. As used in this resolution—

(1) the term "Member" means a Representative, a Resident Commissioner in the House, and a Delegate to the House; and

(2) the term "official records and papers" means books, records, papers, and official files which could be sent as franked mail.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with, and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from New Jersey (Mr. THOMPSON).

Mr. THOMPSON. Mr. Speaker, House Resolution 1297 authorizes the Clerk of the House to provide the most economical means of sending or transporting the official records of a Member of the House of Representatives to the district he or she represents. This resolution further provides that the contingent fund of the House shall be available to pay the reasonable expenses incurred for such transportation.

There are many economical means of transporting such material other than through the mail. Current law however allows each Member of the Congress to send his or her official records to the district only by franked mail. This situation would be remedied by the adoption of House Resolution 1297.

For example, one current Member of Congress informed the committee that the cost of sending his official records to his district under the frank would be $820; a trucking company would charge $470; and a shipping company would charge $330. If the House utilized the most economical means of transporting the records, it would save the Government $490.

House Resolution 1297 will also make it easier for Members to ship their records, because it will enable them to use shipping services which do not impose strict limitations on the size and weight of parcels, as does the Postal Service in conjunction with the use of the frank.

The committee considered and rejected the use of the Members' official expenses allowances to pay the cost of transporting official records for two reasons. First, Members might continue to use the frank—for which there is a separate appropriation in the legislative branch appropriations bill—rather than reduce their official expense allowance. And second, retiring Members, who have the most substantial need to transport official records, do not have access to their official expense allowances once the Congress is over, even though the frank is available for such use for three months after the Member leaves office

The committee feels that the savings and benefits that will accrue to the House clearly warrant the adoption of House Resolution 1297.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that all Members may have 3 legislative days in which to revise and extend their remarks on the resolution just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

CALL OF THE HOUSE

Mr. CHARLES H. WILSON of California. Mr. Speaker, I move a call of the House.

The SPEAKER. Without objection, a call of the House is ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 706]

Ambro	Frey	Preyer
Archer	Fuqua	Quie
Armstrong	Garcia	Risenhoover
Breaux	Gibbons	Roe
Brown, Calif.	Hagedorn	Santini
Burke, Calif.	Harrington	Sarasin
Butler	Harsha	Sawyer
Cavanaugh	Heckler	Scheuer
Chappell	Huckaby	Seiberling
Chisholm	Ireland	Shipley
Cochran	Jenrette	Sisk
Conyers	Kasten	Spellman
Dellums	LaFalce	Staggers
Dent	Le Fante	Stokes
Devine	Lloyd, Tenn.	Teague
Dickinson	McDonald	Thone
Dingell	McKinney	Tucker
Drinan	Madigan	Udall
Edgar	Meeds	Van Deerlin
Edwards, Calif.	Metcalfe	Wilson, Tex.
Edwards, Okla.	Milford	Winn
Evans, Colo.	Miller, Calif.	Young, Alaska
Flowers	Moss	Young, Tex.
Ford, Mich.	O'Brien	
Fraser	Pepper	

The SPEAKER pro tempore (Mr. RICHMOND). On this rollcall 359 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

MAKING IN ORDER ON TODAY OR ANY DAY THEREAFTER CONSIDERATION OF CONFERENCE REPORT ON H.R. 12927, MILITARY CONSTRUCTION APPROPRIATION ACT, 1979

Mr. McKAY. Mr. Speaker, I ask unanimous consent that it be in order today or any day thereafter to consider the conference report on bill (H.R. 12927) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

REQUEST FOR CONSIDERATION OF S. 2543, PROVIDING BETTER PROCEDURES TO PREVENT MAILING OF FRAUDULENT SOLICITATIONS

Mr. CHARLES H. WILSON of California. Mr. Speaker, I call up the Senate bill (S. 2543) to amend title 39 of the United States Code to provide better enforcement procedures for preventing fraudulent solicitations through the mails, and ask unanimous consent for its immediate consideration in the House.

The SPEAKER pro tempore. The Chair will inform the gentleman from California (Mr. CHARLES H. WILSON) that a message from the Senate on the Senate bill has not yet been received, so the gentleman's request will have to be deferred until we receive a message from the Senate.

SECOND AND THIRD ANNUAL REPORTS OF THE U.S. NUCLEAR REGULATORY COMMISSION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Interior and Insular Affairs and the Committee on Interstate and Foreign Commerce:

To the Congress of the United States:

Pursuant to the provisions of Section 307(c) of the Energy Reorganization Act of 1974, I transmit herewith the second and third Annual Reports of the United States Nuclear Regulatory Commission. Both reports cover events prior to my Administration.

JIMMY CARTER.

THE WHITE HOUSE, *August 16, 1978.*

SECOND CONCURRENT RESOLUTION ON THE BUDGET—FISCAL YEAR 1979

Mr. GIAIMO. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the concurrent resolution (H. Con. Res. 683) revising the congressional budget for the U.S. Government for the fiscal year 1979.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Connecticut (Mr. GIAIMO).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the concurrent resolution (H. Con. Res. 683), with Mr. NATCHER in the chair.

The Clerk read the title of the concurrent resolution.

The CHAIRMAN. When the Committee of the Whole House rose on Tuesday, August 15, 1978, the concurrent resolution had been considered as having been read and open to amendment at any point, and pending was an amendment in the nature of a substitute offered by the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Chairman, the amendment which I offered changes the second budget resolution, as reported, to conform with floor action completed by the House since August 8, which was the day that we filed the budget resolution.

The largest change is in revenue. The amendment calls for $450 billion receipts in revenues, which is $3.2 billion higher than in the reported resolution.

The tax reduction approved by the House last week is estimated to lose less revenues than we anticipated in the budget resolution. It is estimated to lose $3.2 billion less than the revenue which we had assumed in the resolution. One of the reasons that could be argued was because the House did not provide a social security rollback. There could be other reasons. The fact remains that the tax bill which we passed in the House last week, as proposed by the Committee on Ways and Means, provided for a smaller tax cut than we had anticipated in the budget resolution and, therefore, we will have $3.2 billion in additional revenue which will be entered into the budget resolution, and that is what the amendment I am offering does. The effect of it would be to cut back our deficit from somewhere in the vicinity of $43 billion to somewhere in the vicinity of $40 billion. In addition, the major defense appropriation passed by the House provides $5 million less in outlays and $89 million less in budget authority than was committed in the budget resolution as reported. Accordingly, this amendment would reduce function 050 in those amounts. Most recently, the House completed action on the foreign aid assistance appropriation. Floor action reduced outlays by $19 million and budget authority by $175 million below the amounts carried in the resolution. This amendment then reduces function 150 by these amounts. The aggregates reduced by this amendment are as follows:

New budget authority would be $561,242,000,000; outlays would be $490,482,000,000; revenues would be $450,000,000,000 instead of $446,800,000,000 as originally anticipated in the resolution. The deficit would be $40,463,000,000.

This is a conforming amendment designed to bring our resolution up to date with our House action as done recently.

Mr. COUGHLIN. Mr. Chairman, will the gentleman yield?

Mr. GIAIMO. I yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. I thank the gentleman for yielding.

Mr. Chairman, on page 25 of the committee report it is indicated that there is $1.6 billion in the resolution to cover such items as tuition tax credits. I take it that the gentleman's amendment would in no way affect that.

Mr. GIAIMO. Mr. Chairman, I want to set the gentleman's mind at ease. Tuition tax credit is covered in the resolution.

Mr. COUGHLIN. The amendment does not affect that at all?

Mr. GIAIMO. No.

Mr. COUGHLIN. I thank the gentleman.

Mr. LATTA. Mr. Chairman, will the gentleman yield?

Mr. GIAIMO. I yield to the gentleman from Ohio.

Mr. LATTA. I thank the gentleman for yielding.

Mr. Chairman, let me ask the gentleman this question: What the gentleman is proposing to do here by this "conforming" amendment is to add $3.2 billion to revenues by reducing the tax cut we promised to the American people.

Let me ask the gentleman whether or not we could not accomplish the same deficit-reduction by reducing the Government spending by an equal amount of $3.2 billion, and let the people have the tax cut that was promised to them.

Mr. GIAIMO. Well, that is rather a convoluted, complex question the gentleman has asked me. Let me say that what we are doing here is to conform the revenue estimate in our budget with what the House voted last Thursday. The result of that will be that we pick up $3.2 billion in additional revenues. That is what we are suggesting, and that is what we are doing here. We do not affect the outlay side except in Defense and International Affairs functions, where there were some slight changes as a result of

the appropriations actions on two of those bills, defense and foreign aid.

Mr. LATTA. Well, I assume from what the gentleman has said, then, that we are in agreement as to what is being done and how the gentleman is attempting to do it. That is, that he is adding $3.2 billion in revenues because he proposes a reduction in the size of the tax cut. A lower deficit could be accomplished, however, by cutting back on Government spending.

Mr. GIAIMO. What could be accomplished?

Mr. LATTA. The reduction of $3.2 billion from the deficit.

Mr. GIAIMO. I think what the gentleman means is that we could reduce the deficit an equal amount by reducing expenditures.

The CHAIRMAN. The time of the gentleman from Connecticut has expired.

(By unanimous consent Mr. GIAIMO was allowed to proceed for 1 additional minute.)

Mr. LATTA. We could accomplish the same objective that the gentleman is attempting to accomplish here by reducing spending by an equal amount.

Mr. GIAIMO. If we reduce spending, this revenue figure would still be at the original figure we had. What we are doing here is revising the estimate of revenues for next year, based upon the action of the Ways and Means Committee and the House.

Mr. LATTA. All right. Had the Ways and Means Committee, though, given the American people this additional tax cut of $3.2 billion, we could have accomplished the same thing the gentleman is going to accomplish by his amendment, by reducing spending by this figure of $3.2 billion.

Mr. GIAIMO. I think the House and the Ways and Means Committee worked their wills on what the proper level of revenues should be last week. I think they took into consideration the need for a revenue reduction, and they made a substantial revenue reduction in the amount of $16.3 billion. I believe they took into consideration what the effect of a tax cut would be on inflation, what the effect would be on stimulus to the economy. I think they took all of these things into consideration, and I commend the House and the Ways and Means Committee for coming in with what I thought was a tax cut at the proper level.

AMENDMENT OFFERED BY MRS. HOLT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GIAIMO

Mrs. HOLT. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mrs. HOLT to the amendment in the nature of a substitute offered by Mr. GIAIMO: Strike all after the words "Budget Act of 1974," and insert the following:

That for the fiscal year beginning on October 1, 1978—

(1) the recommended level of Federal revenues is $445,000,000,000, and the amount by which the aggregate level of Federal revenues should be decreased is $28,300,000,000;

(2) the appropriate level of total new budget authority is $539,000,000,000;

(3) the appropriate level of total budget outlays is $480,000,000,000;

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $35,000,000,000; and

(5) the appropriate level of the public debt is $833,300,000,000, and the amount by which the statutory limit on such debt should accordingly be increased is $35,300,000,000.

SEC. 2. Pursuant to Section 310 of the Congressional Budget and Impoundment Control Act of 1974, the House Committee on Ways and Means and the Senate Committee on Finance shall promptly submit to the Committees on the Budget of their respective Houses reconciliation legislation to decrease Federal revenues by approximately $1.8 billion to a level consistent with the provisions of Section 1(1) of this resolution; and the Appropriations Committees of the House and the Senate shall promptly submit to the Committees on the Budget of their respective Houses reconciliation legislation to decrease budget authority by approximately $22.5 billion to a level consistent with Section 1(2) of this resolution; and the Committees on the Budget of both Houses shall report to its House a reconciliation bill or reconciliation resolution, or both, carrying out all such recommendations without substantive revision.

Mrs. HOLT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

Mrs. HOLT. Mr. Chairman, my amendment to the substitute is a package that includes a real tax cut and a real reduction in the gross rate of spending. It does not cut; it slows down the growth rate of government, and it is a real reduction in the growth rate of the budget authority. It also produces a lower deficit.

The second concurrent resolution on the 1979 budget as reported by a small majority of the committee is a hoax. Its proponents say it allows for tax reduction when, in fact, it promises tax increases. My amendment reduces taxes more than the expected increases.

They say they have reduced spending when, in fact, they have merely reestimated outlays without making any policy changes. The policy of the committee is the same as it has been—more and bigger programs. I invite my colleagues to examine the new budget authority provided by the committee's recommendation.

The budget authority is what we should be looking at. It is $561 billion, which is a leap of $57 billion, or 11.3 percent, from the new budget authority provided for the current year. The estimate of outlays produces a growth rate of almost 10 percent. That is the growth rate. However, it is budget authority—actual spending authority—that drives the growth of government. The huge increase in budget authority recommended by the committee is a springboard for rapid budget growth in the years ahead. That is where we should be looking.

The committee has recommended a phony tax reduction. It is not going to offset the large increase in social security taxes and the inflation taxes imposed on workers pushed into higher income tax brackets. The net effect of the committee's recommendation is a tax increase.

In committee, I offered this amendment as a substitute budget which would allow a substantial tax reduction of $28 billion for a full year and reduce the growth rate of Federal spending to approximately 7 percent in fiscal year 1979. This amendment lost by a margin of only one vote, which encourages me to bring it before the House today. The comments of my colleagues during debate on tax reform last week indicated that the reason we could not vote for a real tax cut that the people want, which everybody who came before our committee said we needed, was that we did not have a reduction in growth of Government.

The new budget authority provided by my substitute would be $539 billion, which is $35.2 billion, or 7 percent, higher than the budget authority for the current year. There are no cuts in any program—I emphasize that. I want to emphasize it again. There are no cuts in any program—only reduced growth rate.

Is there a Member of this House who will say that we cannot live with a $35 billion increase in budget authority in 1 year? If there is, I challenge him or her to step forward and explain why this sum would not be enough, or explain it to his or her constituents back home. I will bet there are not 50 Members in this House who could say that their constituents want more Government.

The budget authority provided by my substitute would be sufficient to continue existing Federal programs adjusted for inflation. The budget authority recommended by the committee is $22.4 billion more, which demonstrates the dimensions of the new and expanded programs sought by the committee. All of us, regardless of party affiliation, are hearing one powerful message from the people of this country: The burden of Government has become too great. The double plague of high inflation and heavy taxation is eroding earnings and savings, destroying the aspirations of the people and crippling the ability of people to make productive job-creating investments.

In Columbia, Mo., the day before yesterday, the President was reported to have called for the Congress to curb inflation. Chairman MILLER asked us to do it when he came before our committee. We are hearing it from all sides—from the experts—that we not just reestimate how fast we can spend money, which is what has been done in the outlays in the committee budget, but slow down the growth.

I hope these "Hold The Line" buttons we see here today do not mean that we are not to reduce the growth rate of government. I do not want to hold the line there.

The perfecting amendment I have offered will start us moving in the right direction toward a balanced budget. I urge that it be supported.

Mr. ROUSSELOT. Mr. Chairman, will the gentlewoman yield?

Mrs. HOLT. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, the gentlewoman is telling us in her amendment to the committee amendment there are no actual cuts? There is nothing more than restraints in increases over fiscal year 1978.

The CHAIRMAN. The time of the gentlewoman from Maryland has expired.

(On request of Mr. ROUSSELOT, and by unanimous consent, Mrs. HOLT was allowed to proceed for 3 additional minutes.)

Mr. ROUSSELOT. Mr. Chairman, if the gentlewoman will yield further, she is telling us there are no cuts in the 1978 level of expenditures?

That they are just less than the increases in the budget resolution; is that correct?

Mrs. HOLT. That is correct. There is more than a 7-percent increase over all we spent last year.

Mr. ROUSSELOT. A 7-percent increase?

Mrs. HOLT. Yes. So this would take care of inflation. We could do all of our current services. I believe that we have ample programs to provide for the very real needs of the people of this country.

Mr. ROUSSELOT. So the basic authorizations made by this Congress will be accommodated in the gentlewoman's amendment?

Mrs. HOLT. Absolutely.

Mr. ROUSSELOT. I compliment the gentlewoman for the thought that she has given to this matter. I too am sorry that this amendment did not pass in the Committee on the Budget. It only failed by one vote. I think the gentlewoman is to be complimented for her persistence in trying to help the 95 million American taxpayers.

Mr. RHODES. Mr. Chairman, will the gentlewoman yield?

Mrs. HOLT. I yield to the minority leader, the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Chairman, I too want to congratulate the gentlewoman from Maryland (Mrs. HOLT) on the presentation she has made in presenting the Holt amendment. The Holt amendment, as I am sure the gentlewoman will agree, is part of the Republican 5-year plan for a balanced budget by the end of fiscal year 1983.

Mrs. HOLT. That is correct.

Mr. RHODES. This is really the budget for the first year of that 5-year plan.

I am sure, also, that the gentlewoman will agree that the Holt amendment is just as much a part of the Republican program for fiscal sanity and responsibility as would the other parts in the Republican plan, such as the Kemp-Roth bill and the Steiger amendment.

Mrs. HOLT. That is true. We have got to make this first step. That is why I emphasize budget authority, because that is when we get into the out years.

Mr. RHODES. I agree with the gentlewoman and again congratulate her on her presentation.

Mr. LAGOMARSINO. Mr. Chairman, will the gentlewoman yield?

Mrs. HOLT. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I would like to compliment the gentlewoman from Maryland (Mrs. HOLT) on her amendment and I think it is a very good, comprehensive statement that says it all. I do not know how anybody who has listened to this debate or looked at the facts can disagree with it.

The amendment would limit growth in Federal spending for 1979 to 7.4 percent above 1978, compared to 9.7 percent by the Budget Committee.

The amendment cuts taxes by $20 billion; $5 billion more than the committee.

It reduces the deficit to $35 billion, $8.7 billion below the Budget Committee.

A very important provision requires the House to set a total limit to Federal spending before deciding how much to spend for each individual program.

I would hope the amendment will be passed by a large majority.

Mr. MITCHELL of Maryland. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman and members of the committee, I rise in opposition to the amendment offered by the gentlewoman from Maryland (Mrs. HOLT). I would like to make my opposition in terms of three perspectives.

At least one would be the mechanical perspective. One would be the substantive perspective, and the third would be the political perspective.

First, in terms of the mechanical perspective, I don't know what the gentlewoman plans for the rest of the year, and I do not know what the Republican side plans for the rest of the year, but I do know that if this amendment is agreed to, it will mean we will be in session until at least I would assume, mid-December.

What the gentlewoman requires in her amendment is reconciliation between her proposal and what has already been authorized and acted on by the Committee on Appropriations. In actuality, it goes further back than that. If we follow through on her amendment, we have to go back beyond the Committee on Appropriations, in some instances, all the way back to the authorizing committees.

So, in terms of the mechanics, if you support the amendment, let us be prepared to eat Christmas dinner here.

Mr. GIAIMO. Mr. Chairman, will the gentleman from Maryland (Mr. MITCHELL) yield?

Mr. MITCHELL of Maryland. Of course I yield to the chairman of the Committee on the Budget, the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Chairman, I thank the gentleman for yielding.

I wonder if the gentleman will agree with my understanding that what the gentlewoman is proposing is instructing the Committee on Ways and Means to go and find additional tax reductions?

Mr. MITCHELL of Maryland. Precisely.

Mr. GIAIMO. And instructing the Committee on Appropriations to go and make additional reductions of $22½ billion in appropriations; is that the gentleman's understanding?

Mr. MITCHELL of Maryland. That is precisely correct.

May I just interject here to say that I do not think the Committee on Ap priations would make that kind of without going back to the autho committees. Therefore, I still insist if this amendment passes, we will Christmas dinner somewhere on Ca Hill.

Mr. GIAIMO. If the gentleman yield further, the gentleman menti the fact that we might well be beyond November 7. The gentlem making reference, I am sure, to P Law 93-344 of the Budget Act, says the following very clearly:

Congress may not adjourn until act completed. It shall not be in order in the House or the Senate to consider resolution providing for the adjourn sine die of either House unless actio been completed on the concurrent resol on the budget required under subsection

In other words, we would have to if this amendment were to pass, the two committees, the Committe Ways and Means and the Committe Appropriations, did specifically wha gentlewoman mandated; is that cor

Mr. MITCHELL of Maryland. Th the law, and I do not think that the Hit at the Hopeless should change law. That is the law, precisely.

Mr. Chairman, we talked about mechanical part of this situation. L talk about the substantive part.

We are hearing that there is no c any program, no change in any prog Yet, for the life of me, based upon sixth-grade arithmetic, how do we duce outlays by $10 billion without fecting some programs? How do we duce budget authority by $225 bill Those are the gentlewoman's figure

The cuts are going to have to be m somewhere, and here is what c happen. I am not saying it would, b am using these as illustrations of w could happen.

If we cut outlays by $10 billion, t would be no increase in the title IX o ing. There would be cuts in CETA vocational help for older Americans so forth. There could be no future re for the States if we just cut out billion in outlays, so in terms of s stance, the amendment is wrong.

Let us look at the political implicati of it. We have looked at the mechan we have looked at the substance. Le look at the political implications.

The CHAIRMAN. The time of the g tleman from Maryland (Mr. MITCHE has expired.

(By unanimous consent, Mr. MITC ELL of Maryland was allowed to proc for 3 additional minutes.)

Mr. MITCHELL of Maryland. I tha the chairman.

Mr. Chairman, one of the sadd things any legislative body can do is propose legislation in terms of an app to those whom they represent, know full well that the legislation as propo does not have any chance of becomin reality. I think that is a cruel thing to It is great to make a promise, prom everyone everything. That is great. I great to promise by saying, "We are go to give you a great big, fat tax cut, redu Government spending at the same ti and no one is going to be hurt."

It is impossible to approve the Holt amendment because of problems based upon the mechanics, based upon the substance, and based upon the political considerations.

Mr. Chairman, I just do not want anyone

her right now after I say we have reduced the deficit, and I think we can reduce Government spending, but let us do it in a rational, reasonable, pragmatic manner rather than in a kind of magical

and deficits, as I have, but just in case the Members missed pages 486 and 487, they might want to take a look at them. These pages graphically indicate what the big spenders have been doing to our

spending ways of the Federal Government are about to change. We are proposing to place spending limits in the resolution before we go to the functional categories. In other words, we are going

amendment. The deficit is far higher than it should be, in my humble judgment, but it is a vast improvement over the $61 billion deficit the President was proposing to us, and it is still $5 billion.

We have to look at where we are. are not starting the process. We ar the second budget resolution, and if adopt this amendment, we will not into the conference with the Senate

not suggesting that is the gentlewoman's intent. I am not questioning what the gentlewoman's intent is. I am simply saying that it ends up really deceiving people because it is a nonaccomplishable thing as of this date.

Mr. Chairman, I would strongly recommend that this amendment be voted down, primarily in an effort to regain credibility for this House. To propose an amendment like this cuts at the credibility of the House.

Therefore, Mr. Chairman, just before I yield to the gentlewoman from Maryland (Mrs. HOLT), I would ask that we vote down the Holt Hit at the Hopeless because it is a bad amendment.

Mrs. HOLT. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentlewoman from Maryland.

Mrs. HOLT. Mr. Chairman, I really cannot believe I have heard what I have heard.

Is the gentleman saying that there is no way we are ever going to be able to stop this spiraling growth of government? Are we never going to be able to slow down the growth rate?

Mr. MITCHELL of Maryland. If the gentlewoman will let me reclaim my time, Mr. Chairman, I can answer the question.

I did not say any such thing, Mr. Chairman. The gentlewoman has apparently worked so hard on this amendment that she is hearing things which are not being said.

I did not say that we will never be able to reduce the deficit. In fact, indeed, this is what the Committee on the Budget has done. When this Committee on the Budget came into being some 4 years ago, we had a very, very high deficit of something like $66 billion. That was at a time when we had unemployment of 9 percent and unemployment of 7 percent. Despite that high unemployment, the Committee on the Budget, in a realistic, pragmatic fashion, has reduced the deficit.

Mrs. HOLT. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I will yield in just 1 second. I know the gentlewoman is anxious, but hold on now.

We are now down to a point in this fourth budget resolution where we are talking about a deficit of about, when it is all figured out, $40 billion. That is $26 billion less than the deficit we had to cope with when we first came into being. My argument is, yes, we can reduce the deficit. We can reduce it, and that will automatically mean a reduction of Federal spending.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mrs. HOLT, and by unanimous consent, Mr. MITCHELL of Maryland was allowed to proceed for 1 additional minute.)

Mr. MITCHELL of Maryland. I thank the gentlewoman. I am going to yield to

land.

Mrs. HOLT. I would like to make two points, as the gentleman has so graciously yielded to me. The Committee on the Budget is supposed to be the discipline on the rest of the House. This is the only way that we are going to do it. When the gentleman says that we cannot do this mechanically, then he is saying that the Budget Act is not properly drawn. The Budget Act provides adequately for this eventuality.

Mr. MITCHELL of Maryland. Let me retrieve my time. May I retrieve my time to respond? Again, the gentlewoman is not hearing properly. I did not say it could not be done because of the mechanics. What I suggested was, because of the mechanical difficulties, if we attempt to do it we will be around here singing Christmas carols together. We have got to go all the way back to the Appropriation Committees, all the way back to the authorizing committees, and that is the mechanical difficulty. It can be done, and I would be happy to share a Yuletide meal with the gentlewoman from Maryland.

Mr. REGULA. Mr. Chairman, will the gentleman yield for a question?

Mr. MITCHELL of Maryland. I yield to the gentleman from Ohio.

Mr. REGULA. I thank the gentleman for yielding.

I am interested in his statement that he feels that we should look into the future and reduce budget costs and direct the Nation toward a balanced budget. Is that a correct interpretation of what the gentleman said.

Mr. MITCHELL of Maryland. That is correct.

Mr. REGULA. My question, then, is, Would the gentleman agree at least with a portion of that proposal that reduces budget authority from $561.5 billion to $539 billion, recognizing that that is the feature in the budget that triggers heavy outlays in future years? Does the gentleman not think this would be responsible from the standpoint of not committing ourselves to heavy expenditures in the future?

Mr. MITCHELL of Maryland. No, I could not agree to that kind of approach simply because that would include entitlement programs and other fixed obligations.

Please, please vote down the Holt amendment.

Mr. LATTA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Republican amendment as presented by Mrs. HOLT of Maryland because I think what the big spenders in this Congress have been doing to our children and our grandchildren, and their children and their grandchildren is unconscionable. It is past time for this Congress to recognize this. I know that all of us have studied this budget from cover to cover, and we have picked out the pages dealing with outlays, revenues,

they have been getting reelected and reelected and reelected by telling them what they have been doing for them. I think it is high time to tell them what they have been doing to them in no uncertain terms.

Going back to 1958—and that is not very far back—we only had a national debt of $279.7 billion. We went along fairly well in compiling additional debt until we got to the 1970's. If the Members will just bear with me, here is how the national debt has grown since 1970:

Fiscal year:	National debt [In billions]
1970	$382.6
1971	409.5
1972	437.3
1973	468.4
1974	486.2
1975	544.1
1976	631.9
1977	709.1

You will note that the Budget Committee would have us go to $842 billion next year to pay for the excesses this Congress has authorized.

Every time we try to do something about it, they come down in the well and say, "You can't do this. You can't cut here and you can't cut there," and have no hesitancy in placing this added cost on the backs of our children.

Mr. Chairman, I think this practice is unconscionable. They ought to go home and beg their children's forgiveness for what they have been doing to them instead of patting themselves on the back.

Yes, I am supporting the Holt amendment. I supported and proposed an amendment in the committee which failed, naturally, because it made even greater reductions in spending. I think it is high time, if we want to dispense all these goodies all around this country and throughout the world, that we pay for them—pay for them by our earnings, not the earnings of our children and our grandchildren.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. LATTA. I will be happy to yield.

Mr. ROUSSELOT. In committee the gentleman and myself both supported the Holt concept and the Fisher concept. Nobody was cutting any of the functional categories in expenditures over 1978.

Mr. LATTA. The gentleman is absolutely right.

Mr. ROUSSELOT. We were merely restraining increases, so they are not cuts or slashes.

Mr. LATTA. No; they just want to keep adding on at a rate much greater than the rate of inflation.

Yes, Mr. Chairman, I rise in support of this amendment. We have before us an opportunity to make some fundamental changes in the way the Congress goes about fixing the limits in the national budget and a chance to send a loud and clear message to the people that the

et in its substitute amendment.

The second major reason I believe this amendment deserves your support is that it does budgeting in the right way. It sets revenue and spending policy first. That is the way every family, every business, every State, and every local government, with the possible exception of New York City, goes about it.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. LATTA) has expired.

(By unanimous consent, Mr. LATTA was allowed to proceed for 2 additional minutes.)

Mr. LATTA. Mr. Chairman, they decide how much they ought to collect in taxes the next year, and then they set a spending cap based on revenue projections. Only then do they start discussing how much they should spend on any given program. The Committee on the Budget goes about this backward. They go through the spending functions first and add up all the spending and reach the budget totals. As long as we prepare the congressional budget in this manner, we can expect little improvement over the old system which the Congressional Budget Act was intended to correct.

Let me say one other thing, Mr. Chairman. It will be very easy for those who oppose this amendment to stand up and ask: "Where are you going to cut?" That, I submit, is not the primary function of the Committee on the Budget. First, with a spending growth of over 7 percent, we are not cutting at all. Programs may not be getting every single dollar their supporters may have wanted, but it is hardly the same thing as a real cut, as some Members might state here on this floor.

Second, so long as the debate on the budget degenerates into arguments over funding for one program or another, we will never end up with budget totals which are as low as a substantial majority of this House wants.

Mr. Chairman, I would ask that the Members look at this amendment in another way. If you believe that a 7-percent increase is big enough, and that a tax cut which only offsets the higher taxes scheduled to impact on the taxpayer next year is warranted then you should vote for the amendment offered by the gentlewoman from Maryland (Mrs. HOLT). On the other hand, if you do not believe that there is at least $10 billion in waste, inefficiency, and unnecessary spending in a budget totaling $490 million, then you should vote against the amendment. It is as simple as that.

Mr. SIMON. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I would love to hear my two friends, the gentleman from Maryland, PARREN MITCHELL, and the gentlewoman from Maryland, MARJORIE HOLT, sing Christmas carols together, so it is with some reluctance that I rise in opposition to the gentlewoman's amendment.

Then what do we do? Where do we get this extra $10 billion in outlays?

If my memory is correct—and I would be pleased if the gentlewoman from Maryland (Mrs. HOLT) would correct me if I am wrong—the gentlewoman was not one of the 33 of us who tried to hold back on the increase for veterans. In that area we had a $1.4 billion increase. If my memory is correct, she was not one of those who tried to hold back on defense spending.

Mrs. HOLT. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentlewoman from Maryland.

Mrs. HOLT. I thank the gentleman for yielding.

Mr. Chairman, the gentleman is absolutely correct. This is the point that I have tried to make. Each one of us has his own special interests. The Budget Committee, acting as a committee, should act on the aggregates. This is why I stressed the two steps. If we would deal with the amount of money that the American people want to hand over to the Federal Government to provide for the needs of the people, and then turn that back to the committees, and let them decide how much of this we are going to allocate to each function, this would relieve us all of the pressures that we have, to represent our special interests. That is precisely the point that I have tried to make. I think that that is what this Budget Act was set up for. I worked very hard to get it passed, because I thought it was going to be a discipline on all of us, to try to force us to live within our means. That is exactly what I am trying to do here. It distresses me to hear my colleagues say that, simply because we want to go home quickly, we cannot take the time to present a budget that is going to be satisfactory to the American people.

Mr. SIMON. My point is simply this—and the gentlewoman from Maryland has confirmed this—that we have problems with the $10 billion. I indicated earlier in the floor debate on the first budget resolution that I tend to agree with my colleague, the gentleman from California (Mr. BURGENER), that when we start off in committee we ought to be dealing with aggregates and then see where we go and see if we can fit these functions into the aggregates.

The fact is that if we accept the aggregates of the gentlewoman from Maryland the people who would get hurt would be those people who need the help the most. And let us not fool ourselves. There would be a scramble around this Capitol like we have never seen before. All of the special interests would be heard from except the people who need the help from the Federal Government the most.

Mr. GIAIMO. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Connecticut.

Mr. GIAIMO. Mr. Chairman, the gentleman mentioned defense and some of the other areas where the gentlewoman from Maryland did not desire to see reductions. I wonder if the gentlewoman

would be marvelous to get down to that deficit of $35 billion in this budget resolution, although, in fact, with the chairman's amendment we are down to $40 billion, and because of falloff I think we

a solution for the gentleman on where would we find the allocation of the $10 billion.

The CHAIRMAN. The time of the gentleman from Illinois has again ex-

Mr. ROUSSELOT. Mr. Chairman, my chairman knows the shortfalls this year will be anywhere up to $15 billion, so his comment about $8 billion is just not correct. We could find it right there. The

change our inflation assumptions to compromise with them on the assumptions that they have taken and thus to reach an accommodation without making substantive changes that could be

Senate on that issue. They have not acted, I admit, but are they willing to give away in the budget process the leeway they want in direct consideration of

from Maryland did not desire to see reductions. I wonder if the gentlewoman from Maryland would support a pay cap for Federal employees, and I wonder if the gentlewoman from Maryland would support reductions in impact aid to education.

Mr. Chairman, it is all well and good to talk about the priorities and making cuts. It is always easier to cut the other people's programs, as long as our own pet programs are left intact. And that is the difficulty of putting together a budget

Mrs. HOLT. Mr. Chairman, if the gentleman will yield further, this is exactly the point I am making. I am not saying that I am absolutely free of representing the Committee on Armed Services, on which I serve, that I am not absolutely guiltless in trying to represent the interests of my district. I am saying that this would give us an opportunity to say that we want to hold the line on increasing it, that we have a budget this year, we know OMB and CBO have all estimated how much we can spend. We have demonstrated we cannot spend that. The agencies are unable to spend all of the money that we shovel out to them. So this is the point I am making.

If we had to make a decision to go with what we are spending this year, plus an amount for inflation, what would be wrong with that? I think the American people would cheer. I think we would see our dollar rally, I think we would see the stock market rally, I think we would see business confidence improve, which is the weakest point of our economy. We have to do something dramatic here in this Congress to demonstrate that we are not going to go on with this kind of spending.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. SIMON) has expired.

(By unanimous consent, Mr. SIMON was allowed to proceed for 5 additional minutes.)

Mr. GIAIMO. Mr. Chairman, will the gentleman yield further?

Mr. SIMON. I yield to the gentleman from Connecticut.

Mr. GIAIMO. Mr. Chairman, do I understand, then, the gentlewoman from Maryland (Mrs. HOLT) would support me in holding the pay cap on Federal employees and not to reduce the payments made to impact aid, school districts?

Mrs. HOLT. If the gentleman will yield, I am not committing myself to any spending, any action.

Mr. GIAIMO. Would the gentlewoman join with me?

Mrs. HOLT. I am offering this particular amendment to try to place a discipline on the gentleman and on me and on all of us, so that we will stop wasting the taxpayers' money.

Mr. GIAIMO. And the gentlewoman will join with me?

Mrs. HOLT. I will abide by the committee's decision.

Mr. SIMON. Mr. Chairman, if I may reclaim my time here, let me point out just one other problem. As we look at these figures, they look great. And it man's amendment we are down to $40 billion, and because of falloff I think we will be down to roughly $36 billion, in fact, in fiscal year 1979.

If the Members will check, they will notice in the Holt amendment that there is a tax cut of an additional $4.4 billion, and a dropoff of revenues of only $1.8 billion. It may be that you want to pretend that is going to happen. I do not think that too many people who look at a balance sheet and who look at the hard facts of life believe those kinds of things can happen.

We have to act with considerable caution before we accept those kinds of figures. Let me make one more point. I started to make a point before that I think is important. The gentlewoman from Maryland hit one extremely important point, and that is the condition of the economy of this Nation. In fact, if we try to make the appropriations fit into a cut-back of an additional $10 billion—and here is the No. 2 man on the Appropriations Committeee right here, and he knows what a problem that would be—in fact, all the powerful interests would start to work.

Where would we cut back? Would it be on defense? You know the answer on that. Would it be on veterans' programs? Well, we could not do that. Would it be on water projects? You know the answer on that. Where would we cut? Well, I know where we would cut and you know where. We would be cutting back on employment programs and other things that help to keep this economy going. I just do not believe that is in the best interests of this country.

If the gentlewoman were proposing functional cuts up and down the line, then we could make a guess at what we might do, but barring that, with simply these aggregates, we have to guess where we might cut those appropriations. I feel that pressures rather than the national interests would determine where we would make those cuts.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from California.

Mr. ROUSSELOT. First of all, the gentleman knows full well that included in the gentlewoman's amendment there are no cuts. It is a restraint on increases, so I think we should not talk about cuts, but how much do we restrain. The increase over last year——

Mr. SIMON. Since it is my time——

Mr. ROUSSELOT. Let me answer the question.

Mr. SIMON. It is my time, and I will yield to the gentleman again.

There are places where we can make cuts, and places where we cannot. We cannot cut back on interest payments; we cannot cut back on social security.

Mr. ROUSSELOT. But if we adopted the gentlewoman's amendment it would be a $10 billion lower deficit.

Mr. SIMON. Let us get to the places where we can cut back, and we have to recognize that reality.

Mr. ROUSSELOT. I was going to offer

The CHAIRMAN. The time of the gentleman from Illinois has again expired.

(At the request of Mr. ROUSSELOT and by unanimous consent, Mr. SIMON was allowed to proceed for 2 additional minutes.)

Mr. ROUSSELOT. No. 1, shortfalls. The Government itself says it cannot spend the appropriated dollars we give away. There will be a shortfall this year, as the gentleman well knows, since we have discussed that. They could even look for it in the executive branch, where they have not spent it. Those shortfalls have averaged anywhere from $12 billion to $17 billion a year. That is a lot of shortfall, or savings.

Second, there has been, according to the General Accounting Office, extensive surveys and investigations showing better than $25 billion worth of fraud and improperly expended expenditures—better than $25 billion. I can give the gentleman lots of places that this $10 billion could be found, and he and I have looked for those in the budget committee. I am saying to the gentleman that $10 billion can be easily allocated over all of the functional categories. There is plenty to go around.

Mr. GIAIMO. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Connecticut.

Mr. GIAIMO. I think what the gentleman from California is talking about is the fact there is shortfall in the budget, and that could absorb some of the cuts which the gentlewoman from Maryland makes. We should remind him, first of all, that his figure on shortfall is quite high. My recollection is that the shortfall for 1978 will be in the area of about $8 billion.

Second, let me tell the gentleman that a great deal of that shortfall is in the area of defense outlays, and that does not mean the funds will not be spent. It merely means that the time for expenditure has been pushed forward a year or so.

I believe there is about $4.5 billion of that shortfall which is attributable to the defense function, and I very much doubt that the ladies and gentlemen on the minority side would want to cut the defense item. The same way this year, there has been a shortfall already from the first budget resolution of about $2.5 billion in the area of defense. Do the Members want to take that $2.5 billion out? I would doubt very much this House would say we should cut defense by $2.5 billion because there is a delay in the outlays for defense. That money will be spent.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. SIMON) has expired.

(On request of Mr. ROUSSELOT, and by unanimous consent, Mr. SIMON was allowed to proceed for 2 additional minutes.)

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from California.

comment about $8 billion is just not correct. We could find it right there. The fiscal year 1979 begins October 1, and the same thing could happen next year as this year. And we scratched hard in the Budget Committee to find out why those shortfalls occurred. Our committee is working and will continue to work on it.

I would try to answer the gentleman and help him understand where he could find the $10 billion less in expenditure that the gentlewoman from Maryland has offered. I know the gentleman agrees with me there are lots of places to find it.

Mr. SIMON. If I may respond to the gentleman, I happen to agree there are places to find substantial amounts of money. The difficulty is we cannot agree where we should cut and this amendment offers no directions. I fear the people who will get hurt are those who need the help the most.

Second, if I may respond briefly to the gentleman, what we do with these figures does not impact on the shortfall. There is a shortfall, and in fact we know as we talk about the $43 billion or $40 billion deficit it will be somewhat less than that, $36 billion probably, or less than that, but adopting this amendment or not adopting it has virtually no impact on that shortfall.

Mr. ROUSSELOT. If the gentleman will yield further, the gentleman also knows that Secretary Califano and others have told us and pleaded with us in the committee, with Califano requesting $7 billion less than Congress is talking about appropriating and he has pleaded for us not to give him that much money because he cannot spend it as fast as we are giving it to him. Many agencies have told us that. We have seen the GSA problem. There are many places.

Mr. CONABLE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Holt amendment.

Mr. Chairman, we have spent a great deal of time talking about the expenditure side, and that is a worthy consideration for a Budget Committee, but I would like to talk about the revenue side because I think there are some very interesting things happening there.

I noted the gentleman from Maryland (Mr. MITCHELL) saying the Holt amendment amounted to deceiving people. I noted also the button on the chairman saying: "Hold The Line." I would like to suggest that we do not help our credibility by cooking the revenue figures, and that is what we are doing specifically with the inflation assumptions on which this second budget resolution is based. If Members smell something cooking here, it is not the heat of the debate that is causing it but the underlying figures which I think can be more damaging to the credibility of this committee and this House than anything else.

I know why we do this—because it permits us leeway when we go to conference with the Senate and we can reach an accommodation without making substantive changes that could be matters of contention between our two bodies. But it certainly damages the credibility of the total budget system if we do not have our basic discussion here undergirded by sound economics.

Now, what am I talking about on the revenue side? Let me explain.

The assumption on which the revenue figures are based is that the inflation rate for calendar year 1978 will be 6.9 percent and for calendar year 1979 will be 6.4 percent.

For the first 6 months of this year the rate of inflation has been 10.3 percent and for the last 3 months it has been 11.4 percent. In other words, inflation is not getting any better in this country and yet here we face a committee inflation assumption for the entire year of 6.9 percent.

Mr. Chairman, that would require an inflation rate for the remaining months of this year of about 3.5 percent. Do you think that is going to be achieved? No, of course it is not.

Therefore, we should not base our figures on this and we are damaging the credibility of the process if we do.

What is the effect of that on the revenue side? It is pretty impressive. By assuming a lower rate of inflation you get considerably less revenue. You get considerably less revenue because for each 1-percent increase in the rate of inflation you get 1.4 percent of increase in Government revenue. That is the impact of inflation on the graduated income tax, and the personal income tax alone goes up by 1.7 percent for each percentage point of inflation.

Now, in looking at this proposal reference was made to the fact that we cut revenues by $1.8 billion. We cut revenues by considerably more than that because our figures are based on an inflation rate that would be considerably more realistic. I still think it is pretty conservative, but this year we assume an inflation rate of 8 percent for 1978, and that becomes the base on which the rate of inflation for 1979 is figured. We figure a rate of 7 percent for 1979. That means we will get substantial additional revenue. It means we will get substantial additional revenue. It means also we can afford a greater tax cut.

Of course, there may be some assumption as result of what the chairman said in offering the amendment to which the Holt amendment is a substitute, there may be some assumption that somehow the Senate is going to go along with the tax cut only on the level that was adopted as the Jones package enacted in the House last week. Judging from what I read in the press, tax cuts will go still higher in the Senate. It is their leaders' expectation not that they will accommodate immediately the Jones package: it is their expectation they are going to cut to the full extent of the revenue figures permitted by the first resolution on the budget.

So if we start acommodating our figures to the Jones package here we will be in a direct confrontation with the way they want in direct consideration of the proposed tax cut? Obviously not.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. ROUSSELOT, and by unanimous consent, Mr. CONABLE was allowed to proceed for 2 additional minutes.)

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman yielding and appreciate the point the gentleman has made to answer some of the comments made by our distinguished colleague, the gentleman from Maryland (Mr. MITCHELL). His concern is that this amendment offered by the gentlewoman from Maryland (Mrs. HOLT) will not accommodate what the House has already done. First of all, on the basis of what the gentleman has said, who is the ranking minority member of the Committee on Ways and Means, we do not have a final tax bill. That still has to go to the Senate, then to conference. It may be clearly substantially different than this.

Mr. CONABLE. I hope it will be.

Mr. ROUSSELOT. We all do.

Second, this resolution will have to go to a conference with the Senate and the figures will be different. So we will have more than an adequate opportunity to accommodate the $10 billion.

Mr. CONABLE. Let me say, Mr. Chairman, that we do not have to wait until December to arrive at that accommodation as a matter of fact, the law says we must have accommodated by September 25.

Mr. ROUSSELOT. That is a week ahead of our proposed adjournment, then.

Mr. CONABLE. That is correct.

Mr. SIMON. Mr. Chairman, if the gentleman will yield, when you talk about the Jones amendment and the tax level we are talking about two specific figures and the House and Senate negotiates between those two proposals. When you talk about the Holt amendment, when we get into the educational opportunity function or the defense function, or any of these, the Senate will have a specific figure.

The House will have no specific figure from which we will negotiate, and that puts us in a very difficult posture.

Mr. CONABLE. Mr. Chairman, the issue here is, is the Committee on the Budget going to be a fiscal policy committee, or is it going to be engaged in genial arithmetic exercises of some sort, without relation to fiscal policy?

Mr. Chairman, I support the Holt amendment. I urge the members of the committee to support it. I would like to point out also that the Holt amendment accommodates a substantially larger cut than might be apparent from these figures because of the much more correct assumptions on the part of the Republicans with respect to the year's inflation.

Mr. DERRICK. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, none of us really believe

Mr. MITCHELL of Maryland. Mr. Chairman, I assume that I am the gentleman's "dear friend from Maryland"?

Mr. DERRICK. Yes; Maryland is a great State with many fine people.

Unfortunately, that is the difficult way to do it, and the way no one wants to do it.

Mr. LATTA. Mr. Chairman, will the

vote less for this favored program or that favored program? None of us is under any restraint to cut anything under present budget procedures. We are giving up the most valuable weapon we

woman from Maryland (Mrs. HOLT) in introducing a bill (H.R. 12345) to bring about a change in the way the House considers its budget resolutions.

of both the yearly change from December to December and the change in the average of 1 year compared to the average of the following year in its projected eco-

Maryland (Mrs. HOLT) for almost 4 years on the Committee on the Budget. I commend her for the tremendous contribution she has made, we have made significant progress.

When the budget process started, we were looking at a deficit of $73 billion, the highest in the history of this country. Today, as we debate the second budget resolution, we are looking at a deficit somewhere in the neighborhood of $40 billion. We are also looking at a budget which has the lowest real growth in Federal spending in a decade, and we are also looking at a budget which meets, in my opinion, the basic needs of this country.

Therefore, Mr. Chairman, we have a great deal to be proud of, and a great deal to look forward to.

I would suggest that the gentlewoman and most of us here in this House understand that for us to think that we are going to cut outlays by $10 billion and revenues by some $20 billion and not end up with a substantial deficit is a pipe dream.

The only person I really know of who understood that best, perhaps, is the economist from California, who doodled on a napkin in Washington some years ago and came up with what is known as the Laffer curve.

I will not say that none of his peers—I will not make that absolute statement—but certainly Milton Friedman, the leading economist or spokesman for the minority, does not believe it. Most people understand that there is no such thing as a free lunch, and to vote for this amendment, in my opinion, says that we do believe there is a free lunch.

Mr. Chairman, I have been on the Committee on the Budget for 3 years. Starting with Secretary Simon I have questioned many distinguished witnesses, who have come before our committee. They all agreed that it is desirable to cut back on Federal spending. However, when asked specifically on where we should cut it back, no one is willing to identify specific programs.

However, Mr. Chairman, we are making headway. William Miller, Chairman of the Federal Reserve Board, in testimony before this Congress several weeks ago, indicated that he felt the fact that we had the budget deficit down in the $40 billion range, an improvement in the oil-import situation, were significant facts and would have very positive effects on the inflation rate.

Why not look at what we have done positively? One of the problems with our country today is that we allow people to have false expectations. I rather think, with all deference to my dear friend from Maryland, that this amendment allows people to have false expectations.

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield?

Mr. DERRICK. I yield to the gentleman from Maryland.

Mr. Chairman, I would like to associate myself with the remarks of the gentleman from South Carolina (Mr. DERRICK) and to raise one question so as to help me to learn.

Does not a cut in taxes as proposed in the Holt amendment almost assume the passage of a tax bill comparable to Kemp-Roth?

The CHAIRMAN. The time of the gentleman from South Carolina (Mr. DERRICK) has expired.

(On request of Mr. MITCHELL of Maryland and by unanimous consent, Mr. DERRICK was allowed to proceed for 3 additional minutes.)

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield further?

Mr. DERRICK. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Does it not almost assume the passage of a tax bill comparable to Kemp-Roth to make that kind of substantial cut?

Mr. DERRICK. Yes, furthermore, the House addressed itself to this matter last week and by an overwhelming vote rejected Kemp-Roth.

Mr. MITCHELL of Maryland. That was the question I wanted to raise. I thought perhaps I had become confused. As I recall, we had voted on a kind of Kemp-Roth bill.

Mrs. HOLT. Will the gentleman yield?

Mr. MITCHELL of Maryland. I do not have the time. The gentleman from South Carolina has it.

We voted on a kind of Kemp-Roth bill, and as I recall it, it was overwhelmingly defeated. I do not see the rationale for reintroducing it in this amendment which is called a second budget resolution but really is a first budget resolution, because it goes back to aggregates.

Mr. DERRICK. That is my recollection.

Mrs. HOLT. Mr. Chairman, will the gentleman yield?

Mr. DERRICK. It is with pleasure that I yield to the gentlewoman from Maryland.

Mrs. HOLT. I thank the gentleman for yielding. That is precisely the point I want to make. When we debated the tax reform bill, Member after Member—I cited them all yesterday in general debate—on the gentleman's side of the aisle said the people want this kind of tax cut. We need this kind of tax cut. The Secretary of the Treasury, all of the executive branch are calling for this kind of tax cut, but we cannot do it without a comparable reduction in the rate of growth of Government. So here is the gentleman's package right here. It is all wrapped up for him. It will do exactly what he has asked for.

Mr. DERRICK. Let me say this to the gentlewoman. Let us do the hard part first. Let us cut the outlays, and then if the money is there, fine, we will cut back on the revenues. That is the way to do it.

Mr. LATTA. I thank the gentleman for yielding.

I would just like to insert into the debate a couple of figures that might change the gentleman's mind slightly.

Mr. DERRICK. Do these figures come from Mr. Laffer or whom?

Mr. LATTA. These come from the Congressional Budget Office. The budget authority of the bills passed—and we have passed all the appropriation bills here in the House—to date total $519 billion in budget authority and only $469.8 billion in outlays. These figures also include permanent spending authority, such as social security and medicare. We are going to look kind of foolish if we pass a resolution having $561.5 billion in budget authority and outlays of $590.5 billion, since these figures far exceed what the House has enacted for fiscal year 1979. That would seem to indicate to me that the Appropriations Committee is doing a little better job than we are on the budget authority.

Mr. BURGENER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, it has been sugggested that the adoption of the Holt amendment might keep us here until Christmas. I do not believe that, but even if true, I think there is no better way we could spend our time for the good of the country. The Senate has only passed a few appropriations bills. We have many conferences to go on this bill and on all appropriation matters. I think the Holt amendment is reasonable. I think it is responsible. I think it is long overdue, and particularly I believe it is what the people want us to do. It provides growth at a reasonable rate, cuts nothing—it cuts nothing but excessive promises. It does not cut any delivery of service. Seven-percent growth is reasonable under our ability to pay. That is the growth it provides so it accommodates inflation. I think most of us would agree that inflation is the greatest problem facing our Nation today.

Government lives by it. The taxpayers and wage earners die by it. We have an opportunity to do something about it, if we have the will. If we have the will, here is a way and, indeed, it does address itself to outlays, which it should.

Now, at the risk of sounding like a broken record, let me get back to the matter of aggregates. We will never restrain the growth of Government and the budget process will never become effective until and unless this Committee on the Budget, on which I am proud to serve, and then this Committee of the Whole, then the House itself will deal with aggregates first, not last. By dealing with them last, we merely become an adding machine committee.

We are unrestrained, each and every one of us. The chairman has asked us quite properly, would we be willing to

Is there any question in anyone's mind today that if this issue were put to the vote of the people, as to what the out-

This illustrates the tremendous growth that is taking place in budget author-

Chairman, I thank the gentleman for yielding.

Then my interpretation of what the

(At the request of Mr. ROUSSELOT, and by unanimous consent, Mr. BURGENER was allowed to proceed for 2 additional minutes.)

Now, is there anything illegal or immoral about special interests? Certainly not. Each and every one of us belong to one of these groups or certainly support them; but, if we would set a ceiling before we go down the wish list, then we would have some real priority setting that would be meaningful. If we want to vote for more impact aid, which I probably would, or more defense, which I probably would, and if others want to vote for more public service jobs, they could. We would have a real battleground, but all of us would be under the restraint of knowing we had a ceiling under which to operate. Anything else does not work and we can demonstrate it does not work. In the 4 years this Budget Committee has been operating, the national debt has doubled.

As I said yesterday, as some members of our Budget Committee were busy congratulating the committee for providing budget restraint, I shudder to think what it might have been without the Budget Committee, because, with it, the national debt has doubled in the 4 years the Budget Committee has been in existence. This is restraint?

If we were dealing with aggregates first, then I would battle with my colleagues for my favorite program; but I would have to go back to my schools for example, and say, "You are not going to get 100 percent of your aid this year. You are only going to get 90 percent, because I earlier voted for a ceiling. I voted for that in the national economic interest.

We all talk about this. We all agree it is a great idea, but we never seem to get around to it.

Mr. MICHEL. Mr. Chairman, will the gentleman yield?

Mr. BURGENER. I yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Chairman, I want to associate myself with the gentleman's remarks.

I believe that this House should first consider what is to be our fiscal policy, and to do so we should first make a determination as to the aggregate revenues and the aggregate outlays and the resultant deficit or surplus which is appropriate to suit the current fiscal situation. This is what we have called the two-step process. Under this procedure all of us could be statesmen. Once we have decided the overall totals for spending and income then we would consider the specific programs under those restraints. We would be forced to consider our priorities for spending within the overall framework we have previously established. Programs would not be agreed to because they sound good but rather would be weighed one against another. Under our current procedures there is no restraint to cut any program and the result has been that we keep adding on new ones. To correct this situation I joined with the gentleman from California (Mr. BURGENER) and the gentle-

Mr. BURGENER. Mr. Chairman, I might say with respect to each one of these special interests, each are laudable, and it depends your own point of view as to priority, but there is no coordination. How can you expect them to coordinate their activities, one against the other? That is our job, but it is a job we have failed to do, because we will not agree on the ceiling in advance. We merely say yes to everything.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. BURGENER. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I think the gentleman from California (Mr. BURGENER) has made an excellent point. It is a function of the Committee on the Budget to coordinate these various elements that differ.

The gentleman is also a distinguished member of the Committee on Appropriations. We have heard that the Committee on Appropriations of this House has approved for fiscal year 1979 $469 billion in outlays. That is the total amount. Does the gentleman not agree with me that that is still roughly $10 billion below what the gentlewoman from Maryland (Mrs. HOLT) is recommending?

So there is more than enough slush to work with, should this extra money be provided on the basis of this amendment offered by the gentlewoman from Maryland (Mrs. HOLT). Assuming it is agreed to, is that not correct? The gentleman is a member of the Committee on Appropriations.

Mr. BURGENER. Yes. In conclusion, Mr. Chairman, the only thing the Holt amendment cuts is excessive promise. It cuts no program, it provides affordable growth, and I ask that the Members support the resolution. It is all the American taxpayers can afford.

Mr. MINETA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, earlier our colleague, the gentleman from New York (Mr. CONABLE), raised some questions about the inflation rate that is used in the budget resolution. I believe this goes to the old adage about playing with numbers and statistics and making them come out to justify a specific point.

Our colleague has challenged the inflation rate assumed in the second concurrent resolution. Specifically, he regards the 6.9-percent year-over-year projection from calendar 1977 to calendar 1978 as too low. He is concerned because the increase in the Consumer Price Index from December to June annualized has averaged 10.5 percent, and this would imply very low rates of inflation during the second half of the year.

There are several ways to measure the rate of inflation. One method is not more correct than another. In fact, the budget for fiscal year 1979 presents the result

ences. From December 1973 to December 1974, the change in the CPI was 12.2 percent; from the 1973 yearly average to the 1974 yearly average, the change was 11 percent. The change measured on one basis cannot be compared with the change measured on another, but this is what Mr. CONABLE is doing. He is comparing a change from December to June to a yearly average change.

The 6.9-percent increase is based on a 7.8-percent increase—a 6-month average—during the first half of the year and a projected increase of 6.1 percent during the second half. The 7.8-percent increase is calculated from the average for the first 6 months of 1978 compared to the last 6 months of 1977. If, as Mr. CONABLE suggests, we assume an 8-percent increase in 1978 based on the annual average method, it would imply that prices during the second half of the year would have to rise by 10.5 percent.

Now, if Mr. CONABLE is implying that the Kemp-Roth proposal is more inflationary than the fiscal policy recommended by the Budget Committee in the second concurrent resolution, I will agree with him. To legislate a 33-percent reduction in taxes over the next 3 years with no regard for the level of expenditures in those years or for the state of the economy is bound to be inflationary. Even the projection that Mr. KEMP put in the RECORD last April 6 shows inflation accelerating and the budget deficit rising to $79 billion in 1979 and to $89 billion in 1980. I can sympathize with Mr. CONABLE's wish to project a higher rate of inflation, given the program he is proposing. A higher rate of inflation will increase revenues, but that, to me, is poor public policy.

Mr. DERRICK. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Thirty-seven Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

Mr. REGULA. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, the history books tell us that Alexander Hamilton walked through the House Chamber with a guest one day and made the following statement:

Here, sir, the people govern.

lowed to proceed for 2 additional minutes.)

year offset in later years, in the next year perhaps, by the reductions in expendi-

called Continentals, where a barrel of flour was $1,200; a pound of butter $12;

come would be? I am confident that the vote would be to hold the line—perhaps not the interpretation of "hold the line" that some Members might have as evidenced by the buttons being worn today but rather to hold the line at current services or in other words to say in effect: "Let us not increase Federal expenditures or Federal programs any more than we the people are being increased in earnings and we have available to spend in our own budgets at home."

Taxpayers would say "Let us not increase our tax load any more than we are having an increase in the gross national product." In essence that is what the Holt amendment is all about. It simply says that the Federal Government should grow no faster than the economy, should grow no faster than the income of the people back home that we represent.

I would like to speak particularly to the budget authority feature in the Holt amendment. I think that is one of the most important aspects of this proposal. If you will note from the chart, the second budget resolution which is before us has a budget authority of $561.5 billion. The Holt amendment proposes to reduce this to $539 billion.

The gentleman from Maryland (Mr. MITCHELL) spoke earlier about the need to reduce spending as a percentage of the gross national product over the long haul ahead and yet the proposal in the second budget resolution flies in the face of that objective. I would point out to you that the budget authority provided in the second resolution assumes a future growth in Federal expenditures of 12.3 percent. It is made up of a number of different items. A growth in international affairs of 30 percent, agriculture 416 percent, education, training, employment and social services, 53 percent, general government 17 percent, all adding up to a average growth rate of 12.3 percent.

What we are proposing in the Holt amendment is to simply hold back the growth by reducing budget authority to 7.5 percent.

I think the gentleman from California (Mr. BURGENER) made an excellent point when he said the problem in the second budget resolution is because it is filled with "excessive promise." What we want to do is to bring it into reality with the same kind of fiscal restrictions that are on the State and local governments and that are imposed on the taxpayers in terms of growth of their own businesses and in their own financial lives.

As an illustration of what is happening, because we are allowing budget authority to run ahead at a rapid rate, is the fact that in 1970 the total accumulated budget authority was 431.7 billion, which was the equivalent of 45 percent of the gross national product this year. If the second budget resolution as before this House today is enacted the total budget authority, the total spending authority that will be available will be $1190.4 billion and the percentage of the gross national product will be 51 percent—up 6 percent from 1970.

at great length, I think it is one of the important features of the Holt amendment; that is, the reduction from $561.5 billion in the budget authority to $539.0 billion for fiscal 1979, putting a constriction on the ability of the Government to spend in future years that is commensurate with the normal growth in the economy and that will result in the expenditures of the Federal Government staying at a point of about 20 percent of the gross national product as opposed to a level where we are headed of about 23 percent.

For this reason I think the Holt amendment deserves your vote. It deserves your vote because it will say to the American people that we are going to put the same kind of restraints on Government spending that we are asking the people to put on their own spending.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. MITCHELL of Maryland, and by unanimous consent, Mr. REGULA was allowed to proceed for 1 additional minute.)

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I will be pleased to yield to the gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL of Maryland. Mr. Chairman, I thank the gentleman for yielding. I am doing so just to try to make sure that I am remembering what happened in the Committee on the Budget deliberations. It seems to me that when this approach was offered in the Budget Committee, it was pointed out that it might be more efficacious and effective to do this on the first budget resolution than the second budget resolution, is that correct?

Mr. REGULA. I do not recall the timing, however, I would always be in favor of getting the reductions at the earliest possible moment.

Mr. MITCHELL of Maryland. I have one further question. Why would it be more effective to do it on the first budget resolution than the second budget resolution?

Mr. REGULA. Because in starting out with the first budget resolution, we are setting targets; and we would be setting a target for the authorization and appropriation committees to use, and hopefully, restrain the spending levels. In spite of what we might have done, I think there has been some restraint, as evidenced by the fact that thus far the total budget authority legislated is $519 billion that has been authorized by committees and approved by the House.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. REGULA) has expired.

(By unanimous consent, Mr. REGULA was allowed to proceed for 2 additional minutes.)

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield further?

Mr. REGULA. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr.

gentleman has said is that although this might be a good approach, it comes really at the wrong time because we set the targets initially on the first budget resolution.

Mr. REGULA. I would not disagree with the gentleman's interpretation, however, we did not have the facts at the time of the first budget resolution that we now have.

Mrs. HOLT. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentlewoman from Maryland.

Mrs. HOLT. Is it not true that the effort was made to do this on the first budget resolution, and it camped here on the floor until the leadership of the House turned around several votes, and then it was defeated?

Mr. REGULA. That is correct.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Chairman, the gentleman has gone into more details on these figures than many others have.

Does the gentleman think it is realistic to have a $4.4 billion tax cut and expect only a $1.8 billion drop in revenue?

Mr. REGULA. I am not an economist, and I cannot predict that. However, I would say this, and it is only a general response, that a reduction in taxes will stimulate a great amount of economic activity and therefore generate additional revenues.

I get that feeling from talking to people who are no longer willing to work Thursday, Friday, and Saturday for the Government.

Mr. SIMON. There is some stimulus. In other words, if we have a $4.4 billion figure, we might have a drop in original sales of $4 billion, but a drop like that, I think, is unrealistic.

Mr. REGULA. I think the gentleman is correct.

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Michigan.

Mr. STOCKMAN. Mr. Chairman, I think a very good question has been raised by the gentleman from Illinois. The revenue gain partially reflects a difference in the assumptions about inflation in the Holt amendment versus what the committee proposes. Our revenue is higher, but it is not entirely due to feedback. Part of this is assuming a higher level of dollar GNP in the economy, and that is why there is a difference.

Mr. REGULA. Mr. Chairman, I want to make one further point, and that is that many have asked, "Where are you going to cut?"

Very shortly, the gentleman from TEXAS (Mr. MATTOX) and I will be offering an amendment to cut a substantial amount out of the budget and provide at least a reduction of $673 million.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. REGULA) has expired.

(On request of Mr. GIAIMO and by unanimous consent, Mr. REGULA was al-

Mr. GIAIMO. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Connecticut.

Mr. GIAIMO. Mr. Chairman. I think we should clear up something. The revenue figure which the gentlewoman from Maryland (Mrs. HOLT) has is $445 billion, as contrasted with $446.8 billion, which is a difference of $1.8 billion However, let us bear in mind that what the gentlewoman from Maryland is actually suggesting is an additional $10 billion reduction in taxes, a $28 billion tax cut in a calendar year, and a $20 billion cut in a fiscal year, which is basically the Kemp-Roth proposal, which this House strongly repudiated last Thursday.

What the Holt amendment suggests is that we cut $10 billion additional in taxes and then recoup $8.2 billion. This is similar to doing it with mirrors. One cuts $10 billion in taxes, but he only loses $1.8 billion in tax revenue. He recoups $8.2 billion, while he loses $1.8 billion. Therefore, he recoups $8.2 billion on a $10 billion tax cut.

We do this, the theory is, in two ways. One is that that type of tax cut would be inflationary—very inflationary, I will concede. As a result of inflationary pressures, it will mean additional revenues, albeit in inflated dollars worthless to the Treasury.

The other theory is that it will stimulate the economy to a greater rate of growth than 4 percent, and that will bring in more revenue. Therefore, our real loss in revenues, according to the Holt amendment, will only be $1.8 billion.

However, I submit, Mr. Chairman, that the real loss will be $1.8 billion plus the additional billions which the American people will be paying in inflated prices along the way. That is something we should resist.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. REGULA) has expired.

(By unanimous consent, Mr. REGULA was allowed to proceed for 2 additional minutes.)

Mr. REGULA. I would only respond by saying that could be accommodated without any inflationary pressures simply by reducing the expenditures 2 percent. We have had this on a number of bills already, and a 2-percent cut on the outlays would accommodate without allowing anything for recouping. I am quite confident there would be a substantial amount of recouping.

Mr. GIAIMO. Will the gentleman yield further?

Mr. REGULA. I yield to the gentleman from Connecticut.

Mr. GIAIMO. There is no question that with a substantially larger tax cut we also have a commensurate reduction in expenditures. There is no question that it would compensate somewhat for the inflationary pressures of a Kemp-Roth-type tax cut, but the fact is that inflationary pressures reflect in greater revenues immediately. The same is not true of reduced expenditures, and we would have the situation where we would get high inflationary pressures in the fiscal

tures. So we would still be hit with the inflationary pressures in 1979 and a greater cost to the American people.

Mr. REGULA. I have great respect for my distinguished chairman, but I do not think there is any different impact, whether the taxpayer keeps the money and spends it, as opposed to the Government spending the money. In either event, it comes into the economic stream and, therefore, any inflationary pressure resulting from increased private expenditures would be offset by a reduction of pressure from Federal expenditures. I would prefer to let the taxpayer who earns the money spend the money.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding.

The gentleman makes an excellent point. There is a much greater impact by the tremendous amount of money that the Federal Government dumps into the system than there is by the individual decisions to either consume, save, invest, or whatever. So the gentleman makes an excellent point. There is a major difference in the Holt amendment.

Mr. WHITTEN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the members of the Budget Committee have done a very excellent job, and perhaps I am presumptuous in attempting to speak on the efforts they have worked on so long and so tirelessly during the year. But I happen to have been on the first committee where the Congress tried to write the one-package bill. That bill was somewhat similar to what this amendment would require here. After we got through, the Committee on Ways and Means of the House, the Finance Committee of the Senate, and the two Appropriations Committees got together and attempted to take the bills that they had and to scale them back. It developed that they could not act on specific items and a blanket cut would leave the application up to the Bureau of the Budget. It failed.

Let us be realistic at the moment. In the first place, I was a senior member of the committee that made a study that led to the Committee on the Budget. My colleague from Oregon had more confidence in the approach being successful than I did, and most of the publicity was in that direction. I was hopeful, but I did realize some of the limitations, having had this prior experience. I do not believe there is a Member of this Congress who is more disturbed about the inflationary trend that we have, or who recognizes the dangers of inflation that we face than I. History shows, and I have some figures that I had gotten together earlier, that Nero back in A.D. 60 devalued the currency by minting 45 aurei (gold coins) to the pound instead of 42 and 96 denarii to the pound of silver, as opposed to 84, making money cheaper in value.

We look back to the American Revolution when debts were paid with paper

a pair of shoes, $120.

During the Civil War with Greenbacks a pair of shoes was $150; flour, $300 a barrel; and beef, $6 per pound.

Germany, World War I—paper marks increased from 2 billion in 1914 to 500 quintillion (500,000,000,000,000,000,000) 10 years later.

I was in China in World War II. We had loaned Nationalist China $300,000,000, much of which they spent having Chinese money printed in the United States. They had us quit printing $10 bills because it cost more to print them than they would buy.

We are on that road, and as a country when we start adding to appropriations bills so much money to offset inflation, that is inflation, additional inflation. It is like pouring kerosene or gasoline on a fire. If you just multiply, by simple arithmetic you can see we will go out the roof if we keep it up. I agree there is the problem, and am more disturbed than perhaps many Members are.

What we have in this budget act is a requirement that we set a target, which of necessity is high so the people's branch, the Congress, can work its will, and we hope to hold down appropriations and expenditures, but we set that at a time when we set out to work on it. So here, 7½ months later, as your Committee on Appropriations has met week after week, after the Committee on Ways and Means has finally passed a bill, which has not come up in the Senate with the new fiscal year coming up October 1. We are directed in a matter of weeks to do it all over again.

Of course, this is not to disparage the figures of my colleague, the gentlewoman from Maryland, or the figures of the committee. You have to get estimates from somewhere. Let us presume they are the best estimates you can get; but after we have reached this stage of the Congress, we attempt to say that instead of the amounts within the targets set by the Congress after we have been kept within that limit, you say do it all over again, that would cause a blanket cut; it would mean you are turning over to the Office Management and Budget the right to select that which they cut out and that which they leave. Judging by their recommendations water and sewer, reforestation, flood control, soil conservation Appalachia, with its access roads, water projects for our cities and similar investments would be cut out while services of doubtful value would be left.

Now, the other side, let me show the impossibility of the amendment. It says:

The House Committee on Ways and Means and the Senate Committee on Finance shall promptly submit to the Committees on the Budget of their respective Houses reconciliation legislation to decrease Federal revenues by approximately $1.8 billion to a level consistent with the provisions of section 1 (1) of this resolution.

Now, the gentlewoman is directing the chairman of the Senate Finance Committee, the chairman of our Committee on Ways and Means, to take specific action, and the first of the year is October 1, this year.

Let us read a little further:

And the Appropriation Committees of the

House and the Senate shall promptly submit to the Committees on the Budget of the their respective Houses reconciliation legislation to decrease budget authority by approximately $22.5 billion.

Why, we have been working 7½ months on the bills, hearing hundreds of witnesses, and we just got a conference on one of them. You can imagine what we have should we take this amendment to the Senate. We cannot even get them to conference, much less to do what you propose here.

The CHAIRMAN. The time of the gentleman from Mississippi (Mr. WHITTEN) has expired.

(By unanimous consent. Mr. WHITTEN was allowed to proceed for 5 additional minutes.)

Mr. WHITTEN. Mr. Chairman, let me finish my statement and then I will yield.

Now, further than that, it says:

And the Committees on the Budget of both Houses shall report to its House a reconciliation bill or reconciliation resolution, or both, carrying out all such recommendations without substantive revision.

You can see that the very words embodied there are impossible to attain except by turning the matter over to the Office of Management and Budget.

Mr. Chairman, I would like to point out here again that I hope that this Congress when it meets in January will tangle with the fact that you cannot meet inflation by providing for additional inflation. You are going to have to start taking steps down the line to scale back, to stabilize if you please.

I think we are going to have to once again tie our money to something of value. We took gold out of our currency. We took silver out of our coinage. We do not have anything behind it except the full faith and credit of our people. We are going to have to tie it to something to hold us back.

I will tell you further, we will have to distinguish between productive expenditures, where you have goods to offset expenditures, where you keep goods and expenditures in balance to restore some stabilizing influence in our economy.

Now, on the other side, I realize there is our national wealth, our land and development and other physical resources. Money, as important as it is, is a medium of exchange. That is why I have stood here and fought for public works, for reforestation, for the development of sewer and water projects, for the development of our rivers and harbors and for all these things where you get value received and end up a richer country.

Again, we need to recognize that we have to find some way to keep from providing an added percentage to meet inflation as a part of the annual appropriations so as to speed up the process and stabilize our currency. It is not going to be easy. We will have to do it in successive steps.

I repeat again that in 7½ months of day-to-day hearings, with my subcommittees going from 10 to 12 and 1 to 5, on two subcommittees we have not even yet had a conference with the other body, and I do not see how even if we tell them that in 6 to 8 weeks we have to bring these bills back here with those cuts made in them that they or we could possibly do it. The only way it could possibly be done would be to come back with a blanket cut.

That will not work. My colleague, the gentleman from Ohio (Mr. MILLER), had a 2-percent cut adopted to a number of bills. I analyzed the bill which I handle to see how it would work. The gentleman said it would be from 2 to 5 percent. A review showed that two-thirds of that bill is embodied in laws that make entitlements.

That means that one person can file a class action suit and make us pay. In most cases the programs were made entitlements because there seemed to be some reason to cut the amount.

It used to be that they went around the appropriation process by using contract authority. Now they write entitlements into the acts.

Should you tell the Committee on Appropriations that we have to do this on entitlements it would mean repealing a lot of laws, although some of them perhaps should be repealed, at least those with the entitlement figures in them.

I am just saying that this proposal has a lot of appeal at first blush, but it is impossible timewise, workwise, and in every other way, especially since we have two bodies of Congress, the House and the Senate. We know their rules. There is no chance in the world of this proposal being adopted on the other side of the Capitol.

But even if it were adopted, the circumstances are such that if we were to cut back to these figures after hearings, if it is possible at all, we would be turning over to the Office of Management and Budget the right to lift out that which they do not want and to leave in those things that they would like to leave in, and their judgment on the bills that come to my attention is not the best in the world, to say the least.

I am speaking, in other words, of those things that go to take care of our country. Such things as soil conservation, and reforestation, those things that go to development land, those things that go to provide water for our cities, and those things that go to protect us from floods. They would scale those way, way down as they propose this year.

Other programs, highly inflationary, would be increased, judging by the recommendations of the Office of Management and Budget for the coming fiscal year which begins October 1.

The CHAIRMAN. The time of the gentleman from Mississippi (Mr. WHITTEN) has expired.

(On request of Mr. ROUSSELOT, and by unanimous consent, Mr. WHITTEN was allowed to proceed for 2 additional minutes.)

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, the gentleman from Mississippi (Mr. WHITTEN) mentioned the cuts several times. The gentleman understands that his Committee on Appropriations, on which he has worked very hard and for many months, has come up with a total figure of $469 billion for all the appropriations that have passed.

The Holt amendment is $10 billion over that figure, so it provides more than enough adequate additional funding.

Mr. Chairman, the gentleman did not mean to imply, did he, that there was a cut in the appropriation process provided by this amendment?

Mr. WHITTEN. Mr. Chairman, may I say that we have not been in conference with the other body yet, and historically they have increased the House amount. Of course, we must contend with the cost of "entitlement" programs.

Mr. ROUSSELOT. The gentleman is anticipating they would still raise the figure?

Mr. WHITTEN. I am a little slow to anticipate what they would do, but that is the general record.

Mr. ROUSSELOT. But this amendment has accommodated the potential for a higher figure; it is $480 billion.

Mr. WHITTEN. I have been around here quite awhile, and I have never seen them scale things down on a general basis.

Mr. ROUSSELOT. But the gentleman recognizes these are not cuts, only restraints on increases?

Mr. WHITTEN. In the first place, I do not recognize the soundness of these figures or of the other figures. I have been dealing with estimates here for over 21 years, and I know when we send these annual budgets through, we can estimate them up or down, however we want to. But these are the best figures we can get.

Mr. GIAIMO. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the chairman of the committee.

Mr. GIAIMO. Mr. Chairman, when they talk about how much money the Committees on Appropriations have appropriated so far, we have to take into consideration that they have not yet completed action. We still have several large appropriations to go, and we also have the supplemental next Spring. That has the pay amounts in it, and it includes a lot of other major items which will bring us up in total dollars.

Mr. WHITTEN. Those are facts we can foresee, but we cannot anticipate the dollars, nor do I have an estimate of the costs of "entitlement" laws.

Mr. LATTA. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Ohio.

Mr. LATTA. Mr. Chairman, first, let me say in response to what the chairman of our committee has said, that we have passed all the appropriation bills. We have not had the supplemental, that is true, but we have passed all the appropriation bills in the House, and as I pointed out earlier, that figure is $10 billion less than the figure we have in the Holt amendment.

The CHAIRMAN. The time of the gentleman from Mississippi (Mr. WHITTEN) has again expired.

(On request of Mr. LATTA, and by unanimous consent, Mr. WHITTEN was allowed to proceed for 1 additional minute.)

Mr. LATTA. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Ohio.

Mr. LATTA. Mr. Chairman, I am sure the gentleman did not mean to leave the impression, since he was a member of the Budget Committee earlier, and did an outstanding job on that committee, that all we are supposed to do is to add up all of these figures that come out of the Committee on Appropriations, and then add something additional and come up with the figures for a budget resolution? Is that what the gentleman is telling us?

Mr. WHITTEN. I thank my friend. Let me express, without saying yes or no, to my colleague, for whom I have the highest regard, that I would say I contemplated we would set a budgetary ceiling that, when we got through, we would stay within that ceiling, but I never thought we would make the mistake, as we made in the other package bill, that when we got through we would direct them to scale it back in a blanket manner. It does not work. We do not have the time to do it. I have spent all year on the hearings. I do not consider the Budget Act a measure by which you can cut back, as a practical matter, that which you have approved item by item and package by package. That is not my understanding of how it is intended to work, and I do not believe it could work that way.

The CHAIRMAN. The time of the gentleman from Mississippi (Mr. WHITTEN) has again expired.

(On request of Mr. LATTA and by unanimous consent, Mr. WHITTEN was allowed to proceed for 1 additional minute.)

Mr. LATTA. Mr. Chairman, if the gentleman will yield further, let me just read, for the purpose of the record, one or two sentences from the Declaration of Purposes of the Budget Act. It says:

The Congress declares that it is essential—

(1) to assure effective congressional control over the budgetary process;

(2) to provide for the congressional determination each year of the appropriate level of Federal revenues and expenditures . . ."

That is in the law, and that is the responsibility of this committee. That is what we are trying to do.

Mr. WHITTEN. That is the reason I am following the majority on the committee. The gentleman is trying to do that. I am saying the proposed amendment is unworkable because it directs us to do in 6 working weeks what we have not been able to do in 7½ to 10 months—certainly not without surrendering to the Office of Budget and Management the selection of projects and programs to be financed and those to be eliminated.

Mr. ANDERSON of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have listened with interest to the argument that has just been made by my very good friend and distinguished colleague, the gentleman from Mississippi (Mr. WHITTEN). It reminds me of something a former distinguished Member of this body used to say, that on the street of by and by we come to the land of never never. And that, in effect, is what he recommends—that even though this is a very attractive proposal, that this is not now the time, that somehow we have the luxury of waiting.

Mr. Chairman, I rise in support of the amendment offered by the gentlewoman from Maryland (Mrs. HOLT). I think she and her other Republican colleagues on the Budget Committee have done this body—yea, the entire Nation—a very profound service by offering a clear alternative to the budget before us, a budget that promises only higher taxes, increasing inflation, lower growth and bigger government.

The other argument we have heard this morning is that we have made progress in the second budget resolution, therefore, let us not disturb what the committee has done. And that is essentially the argument a few minutes ago of the gentleman from South Carolina (Mr. DERRICK).

I would suggest that, yes, we have made progress; but it is simply not enough, and that is the real reason that necessitates the offering of the Holt substitute.

All we have to do is to step out into the Speaker's lobby, as I did a few minutes ago, and look on the UPI wire, and we will see the ticker grinding out today, as it does day after day after day, the grim news that the American dollar is continuing to decline day after day after day against key European currencies. And why is it declining? We do not have to be one of these occult breed of economists to know the answer is patently clear, palpably clear. The decline is because European central bankers, Europeans and Japanese, do not believe that it is within the power of this institution, within the power of the Congress, to assert the kind of inherent discipline and fiscal restraint that is going to be needed to halt the precipitous decline in the value of American dollar.

This morning the Washington Post carried a very interesting commentary on the current state of congressional Republicans. And thanks to the able leadership of the minority leader on this side of the aisle, the gentleman from Arizona (Mr. RHODES), and the distinguished senior Senator from Tennessee, the minority leader in the other body, one of our Nation's most eminent political columnists was moved to observe that the minority party in Congress has become "in many domestic and international areas, the effective arbiters of the direction of national policy."

And I am proud this morning that in this substitute budget resolution of the gentlewoman from Maryland (Mrs. HOLT), we have another clear, cogent illustration of the kind of innovative leadership that the minority party can provide. But it is more than a minority position. It is a clarion call for a responsible fiscal policy, and it is one that represents the mainstream of contemporary American thinking.

I am not just talking for the minority side of the aisle. I am talking for millions of Americans of both political faiths, who in ways like the vote in California on the 6th of June, in the letters coming in to our offices day after day, are demanding that we not wait until the next Congress; but that we take action now to demonstrate very clearly that we are capable of this kind of fiscal restraint.

The Holt amendment is not a draconian measure that is literally going to put the sword at the jugular vein of the Government. It is a measured response to the explosive growth of Government in the post-World War II era, simply an attempt to restrain the increase in the rate of that growth. The Holt substitute is based on what we have to do now before we come to the point of a balanced budget in 1983.

It calls for what? Approximately a 7-percent increase in spending, and I think that means we can move toward a proper goal without sacrificing the many worthwhile programs that Government operates on behalf of its citizens. And yet, it would send out an unmistakably clear signal across the country—and even more importantly I think this afternoon, to other nations around the world who are bidding against the dollar day after day—that something has happened in Washington. The message has gotten through, and this Congress is determined by the adoption of this substitute, and I hope on the broadest kind of bipartisan basis, to do something about the crisis that faces this Nation.

Unfortunately, the need in our economy is for something quite different, namely, for conditions that stimulate investment in the private sector—where the most productive and lasting jobs are created—and the capital formation that will produce the goods a surfeit of consumer demand is presently seeking. Excessive Government intervention in the marketplace has again succeeded in putting supply and demand out of balance. What with all the uncertainties businessmen already face, their investment is only inhibited the more by the one single certainty; near-confiscatory taxes.

Though for some reason our President was originally overcome with the good sense to propose a $25 billion net tax package some months back, he quickly overruled himself and permitted it to be scaled down, and its effective date postpone, so that allowance for it in the first budget resolution amounted only to $15 billion. Further shortsighted action by this body taken recently on the Ways and Means tax bill may create pressure to whittle down the allowance for tax relief in the budget resolution even more. This should be resisted, so that the door is left open to the greater tax reduction that the Senate may choose.

The premise of the Holt amendment is for a $28 billion tax cut on an annual basis—the one cut, compared to other alleged "cuts," that will actually make the taxpayer better off, given inflation and newly scheduled social security taxes. Combined with serious restraint in the growth of Federal spending, the increased revenue flowing from a more prosperous private sector should be enough to bring down the deficit much sooner than the President's shopworn strategies.

The fact that the Budget Committee has managed to report a reduction of the deficit in this second resolution should be taken as nothing but a happy accident. The real credit belongs not to tough decisions or fiscal discipline, but, rather, to things like technical reestimates, the historical phenomenon of budget authority being outlayed much slower than

projected, and the scaling down of the tax cut.

Moreover, the grand claim that the Budget Committee slashed by tens of billions the spending that authorizing committees had mentioned in their March 15 letters, is equally unimpressive. These March 15 letters are merely projections for the cost of just about anything the authorizing committees are thinking of considering, not what they actually contemplate passing.

In truth, the Budget Committee, rather than slashing spending, pretty much operates on the premise that "current policy"—present programs, adjusted upward for inflation—is the baseline from which to mark up the Federal budget. It is assumed there will be significant real growth in the budget—representing new programs, or expanded old programs; the only question is: How much growth? For all the rhetoric, the Budget Committee is simply not oriented to reductions.

Frankly, the procedure of our new—and, not surprisingly struggling—budget process is upside down. As it stands, the Budget Committee looks at the different spending functions one-by-one—something authorizing and appropriations committees are already supposed to do—and then adds up the totals. Since the committee is not working against any limits, this does not make for much real scrutiny. Instead, the purpose of the committee should be to start by setting totals—or "aggregates," in the jargon—and then work back. That is, it should be decided what price level, unemployment rate, growth rate, and tax burden are justified by economic circumstances and our philosophy on the role of Government. Decisions on revenues, outlays, and budget authority (commitments to future year spending, which drive outlays) should then be made accordingly. Otherwise, the Budget Committee, as well as the whole Congress, opens itself up to pressure for new spending from constituencies that exist for practically every item in the budget. It would be much easier to say no if a predetermined aggregate cap were available to point to. Every program has its merits and its advocates, but it is not the purpose of the Budget Committee just to ratify things blindly. It is its difficult and thankless burden to impose some discipline, in the name of fiscal responsibility. The burden could be shouldered easier if the procedures were more rational.

It should be decided what represents a reasonable level of Federal spending in relationship to our GNP, and what constitutes a reasonable level of taxation. Why not, as Mrs. HOLT suggests, look at the historical level for guidance?

Is it not reasonable to think that what has sufficed as the average between the time of the Korean war and 1976 would no longer be adequate? It is not as though we are standing pat: our spending will still grow as our GNP does, taking account of both inflation and real growth. If Democrats want a bigger Federal budget, what better way than to foster the growth of the GNP? And the way to do that, ironically, is to keep the Federal budget down so as not to crowd out private sector spending and initiative; as the economy expands, so do revenues. The pie is bigger for both the private and the public sectors. In the meantime, as unemployment is reduced, as well as idle productive capacity, a deficit becomes all the more dangerous.

Once again, the Republicans seem to be called on to rescue the President from himself. Of all the grand promises Mr. Carter made in his campaign—and there were more than a few—who will ever forget the ringing promise of a balanced budget? Somehow that wonderful idea seems to have been left by the wayside. Although I have the greatest confidence that such an idea will find itself resurrected by Mr. Carter before 1980 or so, the Congress should not be so patient. Certainly the voters are not.

I urge support for the amendment by Mrs. HOLT.

Mr. GIAIMO. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I think it is time that we really look at this amendment, as to what it is going to do to programs and what it is going to do to things that the majority of us in this House believe are necessary and that we believe the American people want. I am talking about expenditures.

First, let me talk about the revenue situation. The amendment of the gentlewoman from Maryland would cut $10 billion additional over what this House and the Ways and Means Committee recommended, and what was enacted last week—an additional $10 billion cut. But, it is only going to result, we are told, in a net loss to the Treasury of $1.8 billion. It will result in a feedback to the Treasury of $8.2 billion.

There will be some feedback because there is no question that an additional $10 billion cut will be so inflationary that it will so fan the flames of inflation that it will quickly raise the amounts of taxes and revenues which will flow to the Government, both through increased taxes and through inflated prices that will be paid all along the line. So I say do not be deceived by that.

It is the Kemp-Roth tax bill, purely and simply, which this House repudiated as one of the most inflationary vehicles we could foist upon the American public, and so voted it down last week. But they say now that we are going to couple that tax cut with reductions in expenditures so that it will not be so inflationary. Are they, really? Let us look at these cuts, these reductions, if you will, of $10 billion in outlays.

In order to get that $10 billion in outlay, the gentlewoman from Maryland instructs the Appropriations Committee to go and find $22.5 billion in budget authority or appropriations, if you will; or entitlements, if you will. The point is that to get a reduction of $10 billion outlays, we have to cut down about $22.5 billion in budget authority.

That means a combination of appropriations and/or entitlement programs. When this body and the other body are mandated and compelled to find $22.5 billion, I submit we will have a very difficult job indeed.

Let us look at this $500 billion budget of the United States. What is it made up of? It is made up of $149 billion for health and $159 billion in income security—those are people programs—the social security and the welfare and the unemployment compensation and all of the other major programs that sustain millions of American people. Then it is made up of $21 billion for veterans. Those three programs add up to $229 billion of this $500 billion budget.

Add to that the education, which the American people want and demand, and we are talking about another $31 billion. That brings up to $261 billion. Add the interest on the national debt, which is $48 billion, and it bring us to $309 billion.

And then add in the $112 billion for defense, and it brings us to $421 billion—which leaves us a little less than $69 billion to pay for all kinds of programs: For the energy program and for general science and technology and natural resources and environment and agriculture and housing and transportation and community development, our city programs, and also the problems of general government.

I submit that we are not going to cut very much of the $22 billion out of defense, or out of health or out of income security or out of interest on the national debt or out of education.

We are going to take that $29 billion out of the $69 billion that is left. We are going to hurt the people in this country who can least afford to be hurt. We are going to hurt the cities and the farmers and all those people who insist upon being assisted by their Government.

The CHAIRMAN. The time of the gentleman from Connecticut has expired.

(By unanimous consent, Mr. GIAIMO was allowed to proceed for 3 additional minutes.)

Mrs. HOLT. Mr. Chairman, will the gentleman yield?

Mr. GIAIMO. I will not yield until I have completed my statement.

Mr. Chairman, let me say something else. The gentlewoman from Maryland (Mrs. HOLT) says this is not a cut. She says—and I am sure that is what she wanted to ask me—that it is just trying to hold the budget growth down. Do not let it grow as fast as we did from last year's figure, I am sure the gentlewoman would say.

Fine. Do not have any growth in the budget. What she is basically saying is: Continue the programs we enacted last year, the current services, if you will, and do not add any new starts.

Do Members know what that means? It means we will have to eliminate the $2 billion this House voted for veterans' benefits. I very much doubt that the Members of this House will join, as I did, when I tried to hold the line on the veterans' amendment. I had 33 Members with me out of 435 Members. I had only 33 Members voting with me on that.

I very much doubt that many of the new starts we enacted this year in urban initiatives and in the National Energy Act and in the public works—which will be coming along—and in increased moneys in the defense bill will be cut. I very

does not cut spending; it does not take one dollar out of any Federal program. It does, however, limit the growth of amendment does. It allows a reduction in taxes, and a reduction in spending increases.

$17 billion. We reduced it about 3 percent, and that ought to be 17 times 3, but we simply have not accomplished that

much doubt the Members of this body are going to want to hold the line on that.

So I say to the gentlewoman we will just not do it. What will happen is we will take the money out of those programs involving the cities and the rural areas and involving the poor and the people who can least help themselves and defend themselves. The fat cats in this budget will always get funding.

You will not take one dollar out of the $48 billion that we have to pay interest on the national debt. You will not take one dollar out of defense. You will not take one dollar out of health. You will not take one dollar out of Social Security. You will not take one dollar out of education. You are going to take it out of the hides of the people who can least defend themselves and least help themselves in this high inflationary process.

Mrs. HOLT. Mr. Chairman, if the gentleman will yield, is the gentleman saying we will never be able to slow down the Government because there will always be these special interests that are forcing us to continue this spending, and that we will have to add more Federal programs for what is worthwhile?

Mr. GIAIMO. Mr. Chairman, I am saying that we have been coming out of a recession. We have been getting this budget deficit down after 4 years of extremely high deficits, and extremely high unemployment. We have got economic growth going better than in the last year. We have cut unemployment down, we have put unemployed people to work, we have created a better climate for private investment. We hope to get greater productivity and a better rate of economic growth in the future.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. GIAIMO was allowed to proceed for 1 additional minute.)

Mr. GIAIMO. We also hope to tighten our belts and not begin new programs as fast as we have in the past.

The gentlewoman from Maryland (Mrs. HOLT) knows that I have worked with her in this regard, but I submit to you that we cannot cut back on programs which are designed to help the American people. And when you take or when you attempt to take $22 billion of appropriations and entitlements out of this resolution I submit to you that you would be rendering a great disservice and injury to the American people.

I do not think this House or the other body would tolerate our doing it.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yiled?

Mr. GIAIMO. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, even though I disagree with many things the gentleman has said, I must point out that the gentlewoman from Maryland (Mrs. HOLT) has not made the choices the gentleman has said she has made. But, on interest, the gentleman is definitely wrong because you are assuming other items in her amendment than I think a majority of the Members would be inclined to do. There would be a much lower interest rate. So I am sure the gentleman would want to revise and extend his remarks on that point.

Mr. GIAIMO. It would be lower because you would have a lower deficit.

Mr. ROUSSELOT. I thank the gentleman.

Mr. GIAIMO. But I suspect that the interest rates would go higher.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. ROUSSELOT, and by unanimous consent, Mr. GIAIMO was allowed to proceed for 2 additional minutes.)

Mr. GIAIMO. You would have a lower deficit only if your estimate on taxes were correct. I do not happen to agree with that. I think that instead of having a feedback that the gentlewoman from Maryland (Mrs. HOLT) claims to get in her revenue figures of 8.2 percent, I think that is incorrect, I think you would have a lower feedback.

I also think that the deficit would be higher than the $40 billion. I believe under the Holt amendment the Federal deficit would go from $40 billion to perhaps $47 or $48 billion.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield on that point, you have already adjusted your revenue figures in the recent substitute. You have adjusted your revenue figures up to $450 billion and she has adjusted hers downward.

Mr. GIAIMO. The reason I think what we did was proper was we adjusted on the revenue side.

Mr. HILLIS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment offered by the gentlewoman from Maryland (Mrs. HOLT).

Mr. Chairman, I rise in strong support of the amendment offered by the gentlewoman from Maryland (Mrs. HOLT) because I think the amendment goes directly to the root of many of our fiscal and financial problems in this country which basically stem from excessive Government spending. It seems to me a lot of this debate breaks down on the two sides of the aisle with what I think is a constructive proposal offered by the gentlewoman from Maryland (Mrs. HOLT) and a whole bag of reasons why it will not work.

You know, from sitting listening to this debate you can almost get an idea of the old story of the person who is off on his way on a long trip, and he needs directions on how to arrive at his destination, so he stops and asks an old country gentleman for directions and the gentleman says go down this road for a couple of miles and then turn to the right. Then he backs off and says no, that is not right, go back down the road about 2 miles and turn to the left. Then he said "No that isn't right."

Finally, he scratches his head and says, "You just cannot get there from here."

I think that is partly what the majority side of the aisle is trying to tell the American people and to tell us in this Chamber concerning balancing the budget, "You just cannot get there from here." Somehow, however, we have lost our direction, and we are wandering around in the wilderness.

Mr. Chairman, I am going to submit my statement here for the record, but I do want to comment on this matter of interest because it concerns me greatly.

I can remember many, many years ago as a small child a very famous politician in this country saying, "Don't worry about national debt. We just owe it to ourselves."

That we "just owe it to ourselves" cost us $48 billion this year, which happens to be more than we are paying as the price of all this oil we have to import to keep our country going. In fact, this figure of $8 billion alone which is the additional debt if this amendment is not adopted will carry a finance cost at current interest rates of a half billion dollars.

Mr. Chairman, that is what we are talking about. We can talk about taking out of the hide of the poor people, taking it out of the hide of those who cannot respond and whose programs are not well represented and lobbied for in Washington. However, this inflation is taking it out of the hide of all Americans and more importantly out of the hide of our children and grandchildren. It is time that we faced up to it and recognized it for exactly what it is.

Mr. Chairman, we are spending in interest alone $150 million a day. We are spending for foreign oil approximately $120 million a day. Therefore, I think we should come to grips with the problem. It is finally time that we come to grips with the world of reality.

Mr. Chairman, something else which the gentleman from Illinois brought home to me is that the reason for the fall of the American dollar compared to the Japanese yen and to the German Deutschmark is because we cannot get a grip on this energy situation, and we cannot seem to get a grip on our own financial situation.

Therefore, I think that the course as charted by the gentlewoman from Maryland (Mrs. HOLT) is the right one to follow. It is not going to dismantle the establishment to throttle or slow down the rate of its growth.

Mr. Chairman, when we can get our house in order and our budget balanced, at that time I think we will see a strengthening in our dollar abroad. We will see more confidence in our money supply, not only here, but elsewhere as well.

That is why I rise in such strong support of this amendment at this time.

Mr. Chairman, the Holt amendment is badly needed.

By adopting the Holt amendment, Congress can begin the process of balancing the budget. Obviously, the first step in that process must be to limit our increases in spending from one fiscal year to another. Between fiscal year 1976 and fiscal year 1979, Federal spending increased 10.6 percent annually. The Holt amendment will provide for an increase in fiscal year 1979 of 7.4 percent over fiscal year 1978. The amendment

the United States and has caused the greatest suffering for the poor, the middle class, everyone who has had these policies

tell this House that the committees do not have the capacity to make these cuts is a confession of the failure of

The CHAIRMAN. The time of the gentleman from Maryland (Mr. BAUMAN)

Federal spending in the future.

The resolution we are considering today is part of the new budget process established by the Congressional Budget Act of 1974. That act was a great improvement in the way we handle the budget. Nevertheless, Congress continues to make a fundamental mistake by examining the 19 separate budget categories and determining their spending levels individually. Adding all 19 categories together in order to get aggregate levels of outlays and budget authority does not place pressure on Congress to hold spending down.

We should reverse that process. The aggregate level of Federal outlays and budget authority should be determined first and should be based on the level of revenues raised by the Federal Government. The individual levels of the 19 budget items should then be adjusted to fit the projected aggregates. By establishing aggregate levels based on the level of revenue available, we can begin to reduce the deficit.

During fiscal year 1979, the interest on the national debt will cost the American taxpayer $48 billion. That is more than we pay for all our imported oil in 1 year. If we do not begin to reduce the ever-growing debt and interest thereon, our economy will continue to worsen until we face major economic difficulties. The writing is already on the wall. The dollar continues to fall in value overseas. For the first time in years, the British pound is gaining in value against the dollar, and the dollar is at an alltime low compared to the Japanese yen and the German mark.

With all the rhetoric we have heard this year about reducing Federal spending and with the tremendous public attention given proposition 13 in California, this Congress has done nothing to decrease Federal spending or lowering the tax burden on the average citizen. Yes, we passed a so-called tax cut just last week. However, as I stated during debate on that measure, the average citizen will pay more Federal taxes in 1979 than in 1978. In 1976, Federal income taxes took 11.3 cents of every taxable dollar; in 1979, income tax will take 13 cents out of every tax dollar. That equals a 15-percent increase even though we have had the Tax Reform Acts of 1975 and 1976, the Tax Reduction and Simplification Act of 1977, an most recently the Revenue Act of 1978.

The Holt amendment will allow for a larger tax cut than the Revenue Act of 1978. Hopefully the other body will pass a more significant tax measure so that Congress can truly give a tax cut to our constituents during 1979.

I am sure we all remember Member after Member coming to the well during debate on the motion to recommit the Revenue Act of 1978 with instructions to adopt Mr. KEMP's amendment to personal income taxes and stating that they could only support a further tax cut if it were coupled with a reduction in spending. That is precisely what the Holt

The American people are facing an annual inflation rate for 1978 of somewhere around 8 percent. The administration can predict a 6-percent or 6.5-percent annual rate of inflation, but they cannot change the fact that come December 31 the actual rate of inflation will be near or at 8 percent. The administration can also artificially reduce the estimated deficit for fiscal year 1978 by reestimating levels of Federal spending in hopes of heading off any meaningful spending reductions, but the bottom line is that we face a deficit this year of just below $50 billion.

The gentlewoman from Maryland deserves the support of this body. She has, by offering this amendment, brought to focus the causes of an ever increasing deficit and has offered a responsible course of action to slow that growth. The gentlewoman has done this body and the Nation a great service. She has done her part, now we must do ours and adopt the Holt amendment.

Mr. LATTA. Mr. Chairman, will the gentleman yield?

Mr. HILLIS. I yield to the gentleman from Ohio.

Mr. LATTA. Mr. Chairman, I would like to commend the gentleman on a very good statement. The explanation that he heard when he was a young boy, that we do not have to worry about the national debt since we just owe it to ourselves, is no longer true because 16 percent of that debt is now owned by foreigners.

Mr. HILLIS. That is a very good point, and that national debt is bought by American dollars which are going overseas to pay the $120 million a day for oil.

Mr. LATTA. That is correct.

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield?

Mr. HILLIS. I yield to the gentleman from Michigan.

Mr. STOCKMAN. Mr. Chairman, the gentleman mentioned the figure of 16 percent, but last year 50 percent of the net increase in lending by the Treasury was purchased by foreigners, so over half of the debt last year was purchased by foreign banks and other foreign interests. Therefore, it seems to me to be pretty obvious why we have the situation today that we do.

Mr. PIKE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I do not think that the numbers presented by the gentlewoman from Maryland (Mrs. HOLT) are all that different from the numbers presented by the committee. Further, I think that to say that we can get down to a $40 billion deficit, but we cannot get down to a $35 billion deficit does not make much sense.

We have gone from a $60 billion deficit down to a $40 billion deficit. To say that we cannot go another $5 billion does not make much sense. We have gone from the $60 billion down to the $40 billion largely by not doing anything. However, we were told when we had 9 percent unemployment that for every 1 percent that we reduced it, we were going to save

reduction in our deficit.

Mr. Chairman, I happen to know that the chairman of the committee has stood up and fought the good fight on a lot of tough issues. He fought it on veterans' pensions. He fought it on tuition tax credits. There have been a lot of tough issues, and I think that when we say that because we do not win these tough issues we cannot do anything about it, we are misinterpreting the role of the Committee on the Budget. It seems to me that the Committee on the Budget ought to be saying, "This is our upper limit, these are our revenues, and we must fit things within these parameters."

This, to me, is what the budget process is all about. We are going to bring reason out of confusion. We are going to have a budget, not simply an adding and subtracting process. We were going to have an amount of revenue that we set, and we were going to have an amount of expenditures that we set, and we must fit everything else within those parameters.

I do not think we have done that. I think we have looked at individual programs. And, Lord knows, I voted to cut everything. I voted to cut the welfare programs and the defense programs. I voted to cut the outlays right across the line. I think the only way we are going to get there is by having real spending limitations overall and then making the programs fit inside of them. It is for that reason that I, too, support the amendment offered by the gentlewoman from Maryland (Mrs. HOLT).

I have a little bit of trouble, frankly, with the revenue side of her amendment. When you have a tax cut of $4.4 billion according to the chart, and only lose $1.8 billion in revenues, I find in the medicine a little bit of the taste of snake oil. But I think basically the amendment is on the right track, particularly in cutting the budget authority.

Why our budget authority year after year after year has to be so much higher than our outlays are year after year after year, I do not understand. We are mortgaging ourselves down into the future. We are making promises for the future that we are going to have to keep or look very bad to our constituents. We have got to start by cutting on our budget authority. I think it is the role and responsibility of the Committee on the Budget and the budget resolution—all of the Members of the House—to do these things, and I think we have to be tough enough on ourselves. I support the amendment of the gentlewoman from Maryland (Mrs. HOLT), and I hope that it passes.

Mr. BAUMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I believe what we are hearing here today from the gentleman from Connecticut (Mr. GIAIMO) and those who support his position is the death rattle of economic liberalism in this country. It is the same big spending philosophy that for 40 years has bankrupted

inflicted upon them. We have heard that suffering cataloged in detail, dissected, and laid before us today in terms of deficit, inflation, the falling dollar, and all of the economic evils that follow with them.

I know it is difficult to accomplish a major change in the economic policies of any country, and certainly it is hard for us. I know that it is very difficult for the majority party and the Committee on the Budget to appreciate what the American people are feeling. But this amendment pending before us mirrors the feelings, the desires, the wishes of the majority of Americans today. They demand tax and inflation relief now.

We have been told by the gentleman from Connecticut (Mr. GIAIMO) and his predecessors, whenever an attempt to balance the budget has been made, whether now or in 4 years, "You just can't do it." The gentleman from Connecticut apparently feels that we can never balance the budget, even as he lauds that as a goal that everyone ought to support. I do not agree. We can do it. We must.

This is a bipartisan amendment. When it was presented to the House in May by the gentlewoman from Maryland (Mrs. HOLT), it got the backing of a substantial number of Members from both sides. The Democrat Members voted for it; the Republicans voted for it, though it happened to be a minority initiative offered on this side. I suspect today they are going to support it again because they read last month's Gallup poll which showed 60 percent of the American people think inflation and high taxes are the most important issue in these congressional elections. They have read the Harris poll that said Federal taxes are said to be, by 70 percent of the people of the country, the greatest problem that they face on the Federal level. The American people are, indeed, concerned about this issue.

Now we come down to this critical juncture in this grand and glorious parliamentary parade called the budget process. This process was adopted by this Congress several years ago to control spending. But now we are told in a confession by the leaders of the Committee on the Budget, the gentleman from Connecticut included, that we cannot carry out the process that Congress enacted; that we cannot ever balance the budget; that the Holt amendment, which is the first step in a 4-year balanced budget, should be rejected. I could not be more in disagreement.

We are told that we are not to be allowed to force all of the various bits and pieces in the congressional spending puzzle into the aggregates that this resolution is supposed to adopt. We are told it is too much trouble, that we might be here until Christmas. Well, that is too bad. I used to feel we had a duty to stay here, until I saw this Congress in action. I am sympathetic to getting Congress adjourned tomorrow. I think that would be better for the American people; but the law says we have a duty to balance these budget figures and to

Congress.

But here is what the gentleman from Connecticut told us on May 2:

As you know, however, it is the responsibility of the authorizing committees and the Appropriation Committee to make specific recommendations on specific program levels. Alterations by these committees of the assumptions within the overall target ceilings in this resolution are entirely consistent with the Budget Act and the budget process.

Well, the committees have not cut enough, so we must do it with the Holt amendment. We must set those levels and force those committees to go back to the drawing board.

I suspect with the pressure of the election in early November that we will reach an accommodation. This is not business as usual, the same old bankrupt economic policy. We must start on a 3- or 4-year road to balancing the budget. Balance the budget, that is what the gentleman from Connecticut repeatedly prefaces his remarks over and over again. He is for a balanced budget but—well, the "but" is here. We are facing the "but" today. In the Holt amendment we will solve that problem of a balanced budget. Those who oppose this amendment obviously do not want to balance the budget and let them take the consequences they deserve.

Mr. Chairman, I yield to one of the foremost budget cutters in the House, the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I thank the gentleman for yielding.

The gentleman has made an excellent statement about the importance of what this Congress led the country to believe when it wrote the budget legislation back in 1974.

The CHAIRMAN. The time of the gentleman from Maryland (Mr. BAUMAN) has expired.

(At the request of Mr. ROUSSELOT, and by unanimous consent, Mr. BAUMAN was allowed to proceed for 1 additional minute.)

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield further, the same people today in this House who formerly said in 1974 that we look to 1978 or we look to 1979 to achieve a balanced budget are the same ones today that are arguing against the amendment of our colleague, the gentlewoman from Maryland, that goes a long way toward achieving that goal. So the gentleman was correct in reviewing that history of the Budget Committee. These very same voices were the ones that promised us when we passed the budget resolution that we should achieve that goal.

Mr. BAUMAN. Mr. Chairman, we should realize this is not just the Holt amendment. This is the Carter-Holt amendment. This is the 1981–1982 balanced budget that our President promised and said we can believe in.

Mr. ROUSSELOT. He said, "You can trust that we will adopt it."

Mr. BAUMAN. So I trust we will adopt the Carter - Holt - Rousselot - Bauman amendment.

has again expired.

(At the request of Mr. SNOW, and by unanimous consent, Mr. BAUMAN was allowed to proceed for 2 additional minutes.)

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Chairman, the gentleman goes into history in great detail. Does the gentleman recall what the deficit figure was for fiscal year 1978 in the second budget resolution?

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield, it was too much.

Mr. BAUMAN. That is the first budget resolution.

Mr. SIMON. The second budget resolution was $61 billion last time. We are now down with the committee amendment to $40 billion for the second budget resolution for fiscal year 1979.

Mr. BAUMAN. Mr. Chairman, the reason the projected deficit has declined is because the Government could not spend all of it. This new figure results from reestimates and changed projects, not from any real cuts recommended by your committee.

Mr. SIMON. Mr. Chairman, let me point this out. The gentleman referred to the astute gentleman from New York (Mr. PIKE) and he pointed out one major flaw in this amendment: This $4.4 billion tax cut and only a reduction of $1.8 billion in revenue.

I have great respect for the mental ability of the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. The gentleman is very kind.

Mr. SIMON. But does the gentleman really believe that is possible?

Mr. BAUMAN. Yes; I believe this is just as possible as the Budget Committee projections that the gentleman from Connecticut (Mr. GIAIMO) insists are written on tablets of stone. I think a balanced budget can be accomplished. There may be a few drops of snake oil in this, but it is nothing compared to the oceans of snake oil in the proposed figures of the gentleman from Connecticut (Mr. GIAIMO).

Mr. PIKE. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from New York.

Mr. PIKE. Mr. Chairman, I would simply say, since I have raised this issue, that people have pointed out to me that the difference is based on a different estimate of the rate of inflation and the fact that the estimate in the Budget Committee resolution assumes an inflation rate of 6.9 percent in 1978 and 6.7 percent in 1979.

The CHAIRMAN. The time of the gentleman from Maryland (Mr. BAUMAN) has expired.

(On request of Mr. PIKE and by unanimous consent, Mr. BAUMAN was allowed to proceed for 2 additional minutes.)

Mr. PIKE. Mr. Chairman, if the gentleman will yield further, the Holt amendment estimates or is based on inflation rates of 8 percent in 1978 and

We are operating at an inflation rate right now of 10 percent; the gentlewoman from Maryland (Mrs. HOLT) does not go to 10 percent, she goes to 8 percent. To me, that is a far more realistic estimate than the one the budget resolution is based on.

Mr. BAUMAN. Mr. Chairman, I certainly concur with what the gentleman from New York (Mr. PIKE) has said. We must take this chance to vote for the Holt amendment. It is the only step toward a balanced budget that we are likely to be able to take in this Congress.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Chairman, it just strikes me that if the gentlewoman from Maryland (Mrs. HOLT) is wrong in her calculations and if we lose the whole $4.4 billion in revenue, we will still be about $7 billion better off in the deficit. Assuming the other side is correct and the gentlewoman's figures are wrong, we still pick up $7 billion, so this seems like a better deal than the committee proposal.

Mr. BAUMAN. Mr. Chairman, I think the gentleman is correct.

Mr. JOHN L. BURTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask a question or two of the gentlewoman from Maryland (Mrs. HOLT).

Mrs. HOLT. Mr. Chairman, if the gentleman will yield, I would be happy to respond.

Mr. JOHN L. BURTON. Mr. Chairman, I understand the gentlewoman's amendment would still leave us with a $35 billion deficit which, for one of those who has consistently voted to balance the budget immediately, as the gentlewoman has, I find troublesome.

But in what areas are we going to accomplish these savings or reductions in future expenditures?

Mrs. HOLT. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I would be happy to yield to the gentlewoman from Maryland.

Mrs. HOLT. Mr. Chairman, first let me say that the $35 billion deficit goes against all my inclinations also. But this is only the beginning of a downward trend toward a balanced budget.

Chairman MILLER testified before our committee that it would be better for the economy to do it this way, to reduce gradually until we reach a balanced budget in the next 4 years, and that it is absolutely essential that we do it to improve the situation as far as our dollar is concerned, our economy, to reduce inflation.

Mr. JOHN L. BURTON. In other words, it is not proper to try to do it immediately, but we have to phase into it?

Mrs. HOLT. It is my contention that we should take this first step toward balancing the budget.

disciplinary action on the rest of us. The chairman of our committee pointed out that we all have special interests, that we have to deal with our own special interests and the greeds within ourselves, but that the budget preparation should be a disciplinary action to force us to go back to the committees and tell them that this is the amount of money that we can afford, this is what we want to spend, this is what we feel the American people want us to do, and the decision will be made there.

Mr. JOHN L. BURTON. In other words, what would happen then? Is that the authorizing committees and the Committee on Appropriations?

Mrs. HOLT. Let me point out just one thing, if I may, in answer to the gentleman.

Mr. JOHN L. BURTON. I am just trying to figure this out. I would hate to have these amounts all come out of necessary programs.

Mrs. HOLT. The Committee on Appropriations has acted on all the appropriation bills, and to date the House action brings us to $519 billion in budget authority. That, I think, is very, very important, because that is setting the spending rate in the years to come and in outlays at $469.8 billion, and I am $10 billion above that.

Mr. JOHN L. BURTON. The question I ask is: Are we going to leave the military budget sanguine under the gentlewoman's amendment and then have the cuts to be made under the programs for the elderly and social services?

Mrs. HOLT. That is up to the Committee on Appropriations. That is not the Budget Committee's decision to make. We set the fiscal policy.

Mr. JOHN L. BURTON. It is the position of the House. And I would point out that the only appropriations that did not get cut were in both military construction and in weapons. In other words, the gentlewoman does not target where these potential savings are going to be.

Mrs. HOLT. That is right. It is my position the Budget Committee should set the aggregate amounts and then let it go back to the committee to make the decision. But when the outlay figure is only $469.8 billion, we are still within that amount of money.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding to me on this point.

Mr. Chairman, the answer to the question is that the budget law, Public Law 93–344, provides specifically in section 310 how this matter is to be handled. The House is empowered by the law to provide in the budget resolution directions to the Appropriations Committee—which of all of the committees is the one that could do this—to go over every appropriations bill and force cuts. The House would then reconcile these cuts as of September 25, which is the date provided in the law, and decide where they

to cut them.

Mr. BAUMAN. I suggest one cut that might be in order. On Monday afternoon the House failed, by about 6 votes, to cut $400 million out of the foreign aid bill by way of the Miller amendment.

The gentleman from Connecticut, who is great for cutting veterans, voted against cutting that unnecessary foreign aid out.

We can go back under the terms of the budget resolution and conform there by cutting foreign aid. Maybe that is a place where it could be done.

The CHAIRMAN. The time of the gentleman from California (Mr. JOHN L. BURTON) has expired.

(By unanimous consent, Mr. JOHN L. BURTON was allowed to proceed for 3 additional minutes.)

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding.

Mr. Chairman, I want to respond to the question the gentleman has raised about how the outlay of $480 billion can basically be allocated in these various functional categories. It is already allocated, as the gentlewoman from Maryland pointed out, by the Appropriations Committee in its actions, which is far under the $480 billion in the actions taken so far.

The conference committees on the appropriations will also have to act.

The point is that the $480 billion becomes a ceiling.

So I believe that there is more than enough to accommodate whatever changes are made. We think that is a better ceiling for expenditure than the one presented by the committee.

Mr. JOHN L. BURTON. I thank the gentleman for his contribution.

Mr. Chairman, I have been informed that there is between $40 billion and $50 billion of unobligated funds that are in the various budgets. If that is a fact, would it not be better to deal with those where we could in fact balance the budget and not hurt any programs?

Mr. ROUSSELOT. If the gentleman will yield, I will be glad to respond.

I would say that that is one area which I understand the gentlewoman from New York is going to very properly raise, that many of these agencies already have balances of funds previously appropriated—not contracted for, in many cases, but in some cases it is—of anywhere from $42 billion to $48 billion. We cannot get the exact figure.

So the gentleman is correct, there is one area right there where they already have been given appropriated funds.

Mr. GIAIMO. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from Connecticut.

Mr. GIAIMO. Mr. Chairman, I would just like to comment on a statement made by the gentleman from Maryland about the gentleman from Connecticut being great on cutting veterans. I under-

would like to correct the gentleman, because I have a record of voting for veterans' programs for 20 years, to the tune of $20 billion for veterans this year. What I did do was object to the add-on, which I thought was excessive. But not voting for an add-on to the veterans bill does not make me great for cutting veterans' programs, and I resent the allegation of the gentleman from Maryland.

Mr. JOHN L. BURTON. Mr. Chairman, first, I would like to point out, so far as Christmas is concerned, some of us are 3,000 miles away, and the gentleman is 30 miles away.

Mr. BAUMAN. Eighty-five miles, but haul out the holly anyway.

Mr. Chairman, if the gentleman will yield further, I apologize if I have wrongly offended the gentleman from Connecticut. The gentleman voted against the veterans program add-on, as he stated correctly. But I did say that he also voted against the Miller amendment that would substantially reduce the foreign aid bill by $400 million. When we are talking about add-ons, the gentleman from Maryland believes foreign aid can easily be cut, far more easily than veterans benefits.

The CHAIRMAN. The time of the gentleman from California (Mr. JOHN L. BURTON) has again expired.

(On request of Mr. BAUMAN and by unanimous consent, Mr. JOHN L. BURTON was allowed to proceed for 1 additional minute.)

Mr. BAUMAN. The only reason I raised the point was because the gentleman from Connecticut repeatedly raised the issue of whether the gentlewoman from Maryland (Mrs. HOLT) wanted to cut impacted aid, whether she wanted to put a 5.5-percent cap on Federal employees' raises. When we start raising the issues that apply in individual districts, I think anybody's voting record becomes fair game. The gentleman says he has voted for veterans over the years, but in this instance he did not vote for them. He did vote for foreign aid. Of course, choosing where to cut is the problem with this whole budget process, as we all agree.

Mr. GIAIMO. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I will be happy to yield to the gentleman from Connecticut.

Mr. GIAIMO. I think everyone's voting record is fair game. I am just asking if the gentleman stated it correctly, and I am grateful that the gentleman corrected himself and did state it correctly.

Mr. JOHN L. BURTON. Mr. Chairman, the only thing I would quickly like to say, now that everybody has finished talking, I still kind of lean to that Rousselot plan of immediately balancing the budget. I do not want my Republican friends to go back and run on a $35 billion deficit.

Mr. STOCKMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. STOCKMAN. Mr. Chairman, I rise in strong support of the Holt

Budget Committee's decision to make. We set the fiscal policy.

Mr. JOHN L. BURTON. It is the position of the House. And I would point out that the only appropriations that did not get cut were in both military construction and in weapons. In other words, the gentlewoman does not target where these potential savings are going to be.

Mrs. HOLT. That is right. It is my position the Budget Committee should set the aggregate amounts and then let it go back to the committee to make the decision. But when the outlay figure is only $469.8 billion, we are still within that amount of money.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding to me on this point.

Mr. Chairman, the answer to the question is that the budget law, Public Law 93–344, provides specifically in section 310 how this matter is to be handled. The House is empowered by the law to provide in the budget resolution directions to the Appropriations Committee—which of all of the committees is the one that could do this—to go over every appropriations bill and force cuts. The House would then reconcile these cuts as of September 25, which is the date provided in the law, and decide where they

to cut them.

Mr. BAUMAN. I suggest one cut that might be in order. On Monday afternoon the House failed, by about 6 votes, to cut $400 million out of the foreign aid bill by way of the Miller amendment.

The gentleman from Connecticut, who is great for cutting veterans, voted against cutting that unnecessary foreign aid out.

We can go back under the terms of the budget resolution and conform there by cutting foreign aid. Maybe that is a place where it could be done.

The CHAIRMAN. The time of the gentleman from California (Mr. JOHN L. BURTON) has expired.

(By unanimous consent, Mr. JOHN L. BURTON was allowed to proceed for 3 additional minutes.)

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding.

Mr. Chairman, I want to respond to the question the gentleman has raised about how the outlay of $480 billion can basically be allocated in these various functional categories. It is already allocated, as the gentlewoman from Maryland pointed out, by the Appropriations Committee in its actions, which is far under the $480 billion in the actions taken so far.

The conference committees on the appropriations will also have to act.

The point is that the $480 billion becomes a ceiling.

So I believe that there is more than enough to accommodate whatever changes are made. We think that is a better ceiling for expenditure than the one presented by the committee.

Mr. JOHN L. BURTON. I thank the gentleman for his contribution.

Mr. Chairman, I have been informed that there is between $40 billion and $50 billion of unobligated funds that are in the various budgets. If that is a fact, would it not be better to deal with those where we could in fact balance the budget and not hurt any programs?

Mr. ROUSSELOT. If the gentleman will yield, I will be glad to respond.

I would say that that is one area which I understand the gentlewoman from New York is going to very properly raise, that many of these agencies already have balances of funds previously appropriated—not contracted for, in many cases, but in some cases it is—of anywhere from $42 billion to $48 billion. We cannot get the exact figure.

So the gentleman is correct, there is one area right there where they already have been given appropriated funds.

Mr. GIAIMO. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from Connecticut.

Mr. GIAIMO. Mr. Chairman, I would just like to comment on a statement made by the gentleman from Maryland about the gentleman from Connecticut being great on cutting veterans. I under-

would like to correct the gentleman, because I have a record of voting for veterans' programs for 20 years, to the tune of $20 billion for veterans this year. What I did do was object to the add-on, which I thought was excessive. But not voting for an add-on to the veterans bill does not make me great for cutting veterans' programs, and I resent the allegation of the gentleman from Maryland.

Mr. JOHN L. BURTON. Mr. Chairman, first, I would like to point out, so far as Christmas is concerned, some of us are 3,000 miles away, and the gentleman is 30 miles away.

Mr. BAUMAN. Eighty-five miles, but haul out the holly anyway.

Mr. Chairman, if the gentleman will yield further, I apologize if I have wrongly offended the gentleman from Connecticut. The gentleman voted against the veterans program add-on, as he stated correctly. But I did say that he also voted against the Miller amendment that would substantially reduce the foreign aid bill by $400 million. When we are talking about add-ons, the gentleman from Maryland believes foreign aid can easily be cut, far more easily than veterans benefits.

The CHAIRMAN. The time of the gentleman from California (Mr. JOHN L. BURTON) has again expired.

(On request of Mr. BAUMAN and by unanimous consent, Mr. JOHN L. BURTON was allowed to proceed for 1 additional minute.)

Mr. BAUMAN. The only reason I raised the point was because the gentleman from Connecticut repeatedly raised the issue of whether the gentlewoman from Maryland (Mrs. HOLT) wanted to cut impacted aid, whether she wanted to put a 5.5-percent cap on Federal employees' raises. When we start raising the issues that apply in individual districts, I think anybody's voting record becomes fair game. The gentleman says he has voted for veterans over the years, but in this instance he did not vote for them. He did vote for foreign aid. Of course, choosing where to cut is the problem with this whole budget process, as we all agree.

Mr. GIAIMO. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I will be happy to yield to the gentleman from Connecticut.

Mr. GIAIMO. I think everyone's voting record is fair game. I am just asking if the gentleman stated it correctly, and I am grateful that the gentleman corrected himself and did state it correctly.

Mr. JOHN L. BURTON. Mr. Chairman, the only thing I would quickly like to say, now that everybody has finished talking, I still kind of lean to that Rousselot plan of immediately balancing the budget. I do not want my Republican friends to go back and run on a $35 billion deficit.

Mr. STOCKMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. STOCKMAN. Mr. Chairman, I rise in strong support of the Holt

We are operating at an inflation rate right now of 10 percent; the gentlewoman from Maryland (Mrs. HOLT) does not go to 10 percent, she goes to 8 percent. To me, that is a far more realistic estimate than the one the budget resolution is based on.

Mr. BAUMAN. Mr. Chairman, I certainly concur with what the gentleman from New York (Mr. PIKE) has said. We must take this chance to vote for the Holt amendment. It is the only step toward a balanced budget that we are likely to be able to take in this Congress.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Chairman, it just strikes me that if the gentlewoman from Maryland (Mrs. HOLT) is wrong in her calculations and if we lose the whole $4.4 billion in revenue, we will still be about $7 billion better off in the deficit. Assuming the other side is correct and the gentlewoman's figures are wrong, we still pick up $7 billion, so this seems like a better deal than the committee proposal.

Mr. BAUMAN. Mr. Chairman, I think the gentleman is correct.

Mr. JOHN L. BURTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask a question or two of the gentlewoman from Maryland (Mrs. HOLT).

Mrs. HOLT. Mr. Chairman, if the gentleman will yield, I would be happy to respond.

Mr. JOHN L. BURTON. Mr. Chairman, I understand the gentlewoman's amendment would still leave us with a $35 billion deficit which, for one of those who has consistently voted to balance the budget immediately, as the gentlewoman has, I find troublesome.

But in what areas are we going to accomplish these savings or reductions in future expenditures?

Mrs. HOLT. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I would be happy to yield to the gentlewoman from Maryland.

Mrs. HOLT. Mr. Chairman, first let me say that the $35 billion deficit goes against all my inclinations also. But this is only the beginning of a downward trend toward a balanced budget.

Chairman MILLER testified before our committee that it would be better for the economy to do it this way, to reduce gradually until we reach a balanced budget in the next 4 years, and that it is absolutely essential that we do it to improve the situation as far as our dollar is concerned, our economy, to reduce inflation.

Mr. JOHN L. BURTON. In other words, it is not proper to try to do it immediately, but we have to phase into it?

Mrs. HOLT. It is my contention that we should take this first step toward balancing the budget.

The fact is the $5 billion difference in the fiscal year 1979 deficit between these two measures is not the important thing. There is a far more fundamental and important difference, and I think this needs to be underscored before we vote. The Holt amendment represents a reasoned and cogent fiscal course, not just for next year, but for the next 5 years in which the budget numbers are disciplined and subordinated to basic policy objectives; and in which those basic policy objectives of a substantially reduced tax level relative to national income and sharply constrained rate of outlay growth are targeted on the real economic problems and weaknesses that we have in this economy today.

Those obviously are inadequate rates of capital formation, anemic productivity growth, and weakening incentives for production. I would suggest that our attention should be directed to just that kind of fiscal game plan. What we have in the committee resolution is nothing more than a fortuitous, ad hoc compilation of budget numbers. The fiscal policy rationale is totally an afterthought; it is merely a veneer of justification for a purely arithmatic exercise, as the gentleman from New York (Mr. CONABLE) said a while ago.

Of course, we can read the budget report, and it includes numerous non sequiturs about reading the very narrow line between too much stimulus and too little stimulus—whatever that might mean. We can read phrases about this resolution being a delicately-harmonized trade-off between our real economic growth goals and anti-inflation goals. But I must say that I hope one of these days at least some of the majority members of the Budget Committee will stop listening to all the Keyensian mumbo-jumbo they are getting from the Congressional Budget Office, because I would suggest to them, as this debate has made amply clear, that it is leading you down a primrose path of circular logic and fruitless preoccupation with miniscule differences in agregate demand one, two, or four quarters down the road which are totally irrelevant to our basic economic problems here at home, and also abroad.

I would suggest that the proof of the pudding for any policy lies in the outcome, and therefore it would be not unfair to ask, what has been the result over these past 4 years of all this expert advice on fine tuning aggregate demand which we have been getting from CBO.

The four things that come to mind immediately are that, first, we have a currency that has literally collapsed on international markets. Second, the world economy is beginning to drown under a flood of paper dollars; third, the domestic recovery is already faltering, and finally we have rip-roaring inflation that I do not think anybody believes shows any signs of abating at any time soon.

We heard a while ago about the snake

back that we predict. But I suggest if we want to talk about snake oil, we should look at the snake oil imbedded in the majority resolution. Because if we need an example of circular logic, it is the high-tax demand stimulus approach implicit in the majority resolution. It provides for a 10-percent increase in spending, or additional outlays of $45 billion for next year.

The committee report tells us this increase in spending stimulus is supposed to support aggregate demand sufficiently to insure a continuation of the expansion we have underway and ward off the threat of the recession that might be around the corner. But it is made possible entirely by another $45 billion of new net borrowing or financing on the part of the Treasury from the credit markets. If we simply make the assumption that the Federal Reserve is going to hold the line on money supply growth, it means that with this majority resolution we are shifting $45 billion out of the credit markets where it would function as demand for capital goods, housing, and production inventories, and shift it into the pockets of transfer recipients where it will function as demand for consumption goods, including imported consumption goods, thus deepening our trade deficit. You are, therefore, not increasing aggregate demand, you are simply rearranging it.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. STOCKMAN) has expired.

(By unanimous consent, Mr. STOCKMAN was allowed to proceed for 1 additional minute.)

Mr. STOCKMAN. The point I am making is if we are talking about snake oil and sleight of hand, look at the majority resolution. It reallocates resources out of the credit markets, where it would go for capital spending, and into transfer recipient pockets for consumer spending.

I would suggest to the House that any short-term advantage, any slight up-tick in GNP that we might get next year will be more than offset in future years by a smaller or less productive capital stock and reduced income and ability to finance Government activities in the future. We are robbing future years in order to finance an inordinate or unsustainable level of consumption today.

Moreover, the evidence for that is already beginning to catch up with us, as I think is indicated by the fact that last year we had zero rate of productivity growth in this country.

In the light of the self-evident proposition that this economy needs incremental capital investment because we need more capital per barrel of energy we produce in light of the fact that the cheap stuff is gone, and that we need more capital per ton of steel because we have used up all our clean air and water, and we need more capital per dollar of output we produce in order to regain our competitive position in the world markets—under those conditions it makes no sense to continue to pilfer from the savings stream in order to finance current

consumption and then to pretend we are increasing aggregate demand, because we are doing nothing of the kind. And yet this is what we have in the majority resolution—one more year of counterproductive, make-believe demand manipulation.

The Holt resolution, by contrast, phases out the deficit in 4 years, which means we take the pressure out of the credit market and we can begin to crank down our excessive rate of money growth. That will slow down inflation and that will stabilize the dollar abroad. Second, it rolls back the Government claim on the national output back to the level we had in the sixties. We must realize that conditions for economic growth are far worse today because of the fourfold increase in energy cost, the high cost of environmental clean up, our loss of competitiveness in foreign markets, and many other supply side deteriorations which could be enunicated. Our economy cannot stand to have the Federal Government preempting so much of our national income. We have to go back to previous levels if we want to have increased economic growth and an improved standard of living that the American people are demanding all over the country today.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. STOCKMAN. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, I want to commend the gentleman from Michigan (Mr. STOCKMAN) on the statement he has made because I think it is a very significant statement. I think what the gentleman is saying is vitally important to our future.

I wonder if the gentleman would yield for a question?

Mr. STOCKMAN. Certainly.

Mr. REGULA. In the judgment of the gentleman is not the most significant thing the fact that budget authority is reduced because this starts the down trend in terms of forcing, as part of the gross national product, a reduction in spending in future years?

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. ROUSSELOT, and by unanimous consent, Mr. STOCKMAN was allowed to proceed for 2 additional minutes.)

Mr. STOCKMAN. I thank the gentleman for the additional time. The answer to the inquiry of the gentleman from Ohio (Mr. REGULA) is that he is correct.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. STOCKMAN. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, the point that the gentleman from Ohio has just made, in conjunction with the statement made by the gentleman from Michigan (Mr. STOCKMAN) is terribly important for the future of our country, and that is that the Holt amendment clearly puts a down trend on the accelerating authorizations. That has been one of the complaints in the past by some of our colleagues, that the House authorizing bills provide for to much over expectation, therefore we are forced to fund it with outlays.

Mr. STOCKMAN. Mr. Chairman, I would suggest to the gentleman from California (Mr. ROUSSELOT) that the majority was lucky this year in that the reestimates went down. But if we continue to pump all of this authority into the stream, next year that we might not be so lucky and we might have a far different situation.

Mr. ROUSSELOT. Mr. Chairman, I want to compliment the gentleman from Michigan (Mr. STOCKMAN) on the statement he has made about the impact of the deficit in the capital markets because the Treasury is out there borrowing so much money to fund our deficits. It just so happens that the present Treasurer has complained about the problem of having to borrow so much, and so has the President about being forced to borrow from the private market to such a high degree. It does damage the availability of funds for the private sector to properly finance its plant expansions for equipment and for new jobs. So that another major benefit of the Holt amendment is that the deficit suggested here is enough less than the one proposed by our chairman's resolution, that it creates less pressure on the marketplace.

Mr. STOCKMAN. In the current year, and also we have a 4 year phase-down, so it is a clear signal to the credit market that the Treasury is getting out. And I think that is what the Federal Reserve Board is trying to do now.

Mr. ROUSSELOT. The gentleman from Michigan (Mr. STOCKMAN) has done an excellent job in explaining this.

Mr. RHODES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this has been a stimulating and I think very informative debate. I congratulate all of the Members on the level at which it has been conducted. I think that the issues are pretty well outlined. I just desire to take a few minutes, if I may, to put them into what I hope will be some kind of order.

To begin with, I think the issue before the House today is the sense of priorities which the American people have now come to have.

I agree with the gentleman from Connecticut (Mr. GIAIMO) and I agree with the gentleman from Maryland (Mr. MITCHELL) that there are a lot of important programs in this Government and that some of them undoubtedly are going to receive less if either the Holt amendment or the committee bill is adopted. And I regret that because, as a matter of fact, the programs deserve to be continued. But the sense of priorities of the American people, if I understand it correctly, and I think I do, must be considered.

Whereas the people used to look at all of these programs it would be nice to have, they are now looking at the real situation we are in. They realize our first priority has to be defense, but the second priority must be to save the economy of this country. That is what this debate is all about.

The priority of the American people, unless I am badly mistaken, the thing that they expect the most from this body is to balance the budget just as soon as we can balance it. That is what the Holt amendment is all about.

Mr. Chairman, there is a program which was put together by the members of the Committee on the Budget on the Republican side to balance the budget within 5 years.

If it were possible I would like to balance the budget this year and I think most of the Members of the House would. However, we recognize that you cannot start from a $51 billion deficit and balance the budget in 1 year without doing violence to our economy.

Mr. Chairman, we try to lead the clay pigeon as one does in skeet shooting. We tried to arrange things so that the revenues and the outlays will meet at a certain point in the near future. The best point, is somewhere in fiscal year 1983.

That, again, is what the Holt amendment is all about.

Mr. Chairman, we attack the problem in two ways. In the first place, by cost containment. We do not believe that the people of the country's sense of priority requires at this time there be no brand-new programs. In fact, we believe that the people of the country do not even want the old programs to be increased as far as size is concerned until we balance the budget.

That is the No. 1 priority. But also, in order to keep the economy rolling along and humming at a good rate, we think a tax cut is absolutely necessary. The Holt amendment and the Republican plan to balance the budget in 1983 does include the Kemp-Roth tax cut. This tax cut will act as a stimulus to the economy, and I do not think there is any doubt but what that stimulus will result in more money going into the Treasury, more dollars, because of the added velocity to the economy. So we attack the economic problem from that angle, too.

We not only do not increase the amounts of money which will be spent by the Government insofar as percentage is concerned but we also increase the amount of revenue in dollars.

Mr. Chairman, there will be a very important document which will be unveiled tomorrow called the House Republican legislative agenda.

I am going to give the Members a preview of part of it. In that legislative agenda we say that the cost of Government can actually be reduced. We say it can be reduced if the Congress of the United States recognizes its duty for legislative oversight. The Congress has not done anything more than give a lick and a promise to legislative oversight. When a new problem came up, what did we do? We threw money at it, or we threw a new agency at it. It is time we look at all those new agencies and make sure they are needed. Many of them probably are not. Maybe some of them can be consolidated. In that way we can save not only money but save the American people from some of the harassment they have been put to because of the requirements for reporting to so many of these agencies.

Mr. Chairman, this is part of a very well-thoughtout, very well planned program to bring the economy of this country onto the proper line of march, to do the things which are required for this country.

Mr. LATTA. Mr. Chairman, I move to strike the requisite number of words.

As we prepare to vote in this very important amendment, let me give the Members four sets of figures to ponder before they vote. The figures that have been proposed by the revision of the chairman of the committee would have our budget authority at $561.2 billion, outlays at $490.5 billion. The Senate committee budget resolution which has been recommended by the committee provides for $557.7 billion in budget authority and outlays of $489.5 billion.

The Holt amendment would provide budget authority of $539 billion, outlays of $480 billion, and the House-passed appropriation bills provide budget authority of $519 billion and outlays of $469.8 billion. So if the Members vote down the Holt amendment, they will be in effect voting for the highest of these four figures, and I do not believe that we want to do that.

[In billions of dollars]

	Holt amendment	Committee substitute amendment	Senate budget committee	House-passed appropriations and permanent spending authority
Budget authority	$539.0	$561.2	$557.7	$519.0
Outlays	480.0	490.5	489.5	469.8

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Maryland (Mrs. HOLT) to the amendment in the nature of a substitute offered by the gentleman from Connecticut (Mr. GIAIMO).

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mrs. HOLT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 201, noes 206, not voting 25, as follows:

[Roll No. 707]

AYES—201

Abdnor
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Applegate
Archer
Armstrong
Ashbrook
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bennett
Bowen
Breaux
Breckinridge
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Caputo
Carr
Carter
Cavanaugh
Cederberg
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Cornwell
Coughlin
Cunningham
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Derwinski
Devine
Dickinson
Dornan
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlenborn
Evans, Del.
Evans, Ga.
Evans, Ind.
Fenwick
Findley
Fish
Ford, Tenn.
Forsythe
Fountain
Frenzel
Fuqua
Gammage
Gibbons
Gilman
Glickman
Goldwater
Goodling
Gradison
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hammer-schmidt
Hansen
Harsha
Heckler
Hefner
Hightower
Hillis
Hollenbeck
Holt
Horton
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Krebs
Lagomarsino
Latta
Leach
Lent
Levitas
Livingston
Lott
Lujan
Luken
McClory
McCloskey
McDade
McEwen
McKinney
Madigan
Marks
Marlenee
Marriott
Martin
Mathis
Mazzoli
Michel
Milford
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Myers, Gary
Myers, John
Neal
Nichols
O'Brien
Panetta
Pettis
Pike
Pressler
Pritchard
Pursell
Quayle
Quie
Quillen
Railsback
Regula
Rhodes
Rinaldo
Roberts
Robinson
Rousselot
Rudd
Runnels
Ruppe
Santini
Sarasin
Satterfield
Sawyer
Schulze
Sebelius
Shuster
Smith, Nebr.
Snyder
Spence
Stangeland
Stanton
Steers
Steiger
Stockman
Stump
Symms
Taylor
Thone
Traxler
Treen
Trible
Vander Jagt
Waggonner
Walker
Walsh
Wampler
White
Whitehurst
Whitley
Wiggins
Wilson, Bob
Winn
Wydler
Wylie
Yatron
Young, Fla.

NOES—206

Addabbo
Akaka
Alexander
Ammerman
Anderson, Calif.
Annunzio
Ashley
Aspin
AuCoin
Baldus
Baucus
Beard, R.I.
Bedell
Bellenson
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Brademas
Brodhead
Brooks
Brown, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Chappell
Chisholm
Clay
Collins, Ill.
Corman
Cornell
Cotter
D'Amours
Danielson
Delaney
Derrick
Dicks
Diggs
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Ertel
Evans, Colo.
Fary
Fascell
Fisher
Fithian
Flippo
Flood
Florio
Foley
Ford, Mich.
Fowler
Fraser
Gaydos
Gephardt
Giaimo
Ginn
Gonzalez
Gore
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Heftel
Holland
Holtzman
Howard
Hubbard
Hughes
Johnson, Calif.
Jones, Okla.
Jordan
Kastenmeier
Keys
Kildee
Kostmayer
Krueger
LaFalce
Lederer
Leggett
Lehman
Lloyd, Calif.
Long, La.
Long, Md.
Lundine
McCormack
McFall
McHugh
McKay
Maguire
Mahon
Mann
Markey
Mattox
Meeds
Metcalfe
Meyner
Mikulski
Mikva
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Michael
Natcher
Nedzi
Nix
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pickle
Poage
Preyer
Price
Rahall
Rangel
Reuss
Richmond
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Ryan
Scheuer
Schroeder
Seiberling
Sharp
Sikes
Simon
Skelton
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Staggers
Stark
Steed
Stratton
Studds
Thornton
Traxler
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Watkins
Waxman
Weaver
Weiss
Whalen
Whitten
Wilson, Tex.
Wirth
Wolff
Wright
Yates
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—25

Burke, Calif.
Conyers
Crane
Dellums
Dent
Flowers
Flynt
Frey
Garcia
Huckaby
Jenrette
Kasten
Le Fante
Lloyd, Tenn.
McDonald
Miller, Calif.
Risenhoover
Shipley
Sisk
Skubitz
Stokes
Teague
Thompson
Wilson, C. H.
Young, Alaska

The Clerk announced the following pairs:

On this vote:

Mrs. Lloyd of Tennessee for, with Mr. Thompson against.

Mr. Huckaby for, with Mrs. Burke of California against.

Mr. McDonald for, with Mr. Le Fante against.

Mr. Kasten for, with Mr. Stokes against.

Mr. Frey for, with Mr. Dent against.

Mr. Crane for, with Mr. Garcia against.

Mr. Young of Alaska for, with Mr. Miller of California against.

Mr. Skubitz for, with Mr. Dellums against.

Mr. Flynt for, with Mr. Shipley against.

Mr. JOHN L. BURTON changed his vote from "aye" to "no."

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MATTOX TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GIAIMO

Mr. MATTOX. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. MATTOX to the amendment in the nature of a substitute offered by Mr. GIAIMO: In the matter relating to the appropriate level of total new budget authority reduce the amount by $223,000,000;

In the matter relating to the appropriate level of total budget outlays reduce the amount by $673,000,000;

In the matter relating to the amount of the deficit reduce the amount by $673,000,000;

In the matter relating to the appropriate level of the public debt reduce the amount by $673,000,000;

In the matter relating to the amount by which the statutory limit on the public debt should accordingly be increased, reduce the amount by $673,000,000.

Education, Training, Employment and Social Services reduce the amount for budget authority by $135,000,000; and reduce the amount for outlays by $335,000,000.

In the matter relating to function 850: General Purpose Fiscal Assistance reduce the amount for budget authority by $88,000,000; and reduce the amount for outlays by $338,000,000.

Mr. MATTOX. Mr. Chairman, the amendment that I am offering along with Mr. REGULA is an amendment that we believe conforms to the actions that we expect the House and the Senate to follow in the future in the budgetary process. Basically, the amendment to the second budget resolution would reduce the aggregate budget authorities by $223 million, and aggregate outlay figures by $673 million.

The amendment goes to two budget functions. First, it reduces function 500, which is education, training, unemployment, and social services, by $135 million in budget authority and $335 million in outlays. This would reflect the House actions that were taken when we passed the Jeffords amendment to the comprehensive training bill, the CETA legislation. In effect, it would conform the House budget resolution to that action.

Now, let me repeat that again. That would be a reduction of $135 million in budgetary authority, and $335 million in outlays. That would conform the second budget resolution to the action we took on the Jeffords amendment on the CETA legislation.

The second part of the amendment would reduce function 850, General Purpose Fiscal Assistance, by $88 million in budgetary authority and $338 million in outlays. That will leave a total of $700 million in budgetary authority and $700 million in outlays, of which we might reasonably expect to be spent on a countercyclical-type assistance program.

This is approximately the estimated amount carried by the Senate Finance Committee in a compromise program that they have announced they will be working out. They have not worked out the entire problem, but I visited with the Treasury Department, and they have been in constant contact with the Senate Finance Committee. Treasury indicates the approximate estimated amounts would be at the level in my amendment.

We are offering this amendment because both of these programs are overfunded in the resolution that came out of the Budget Committee. We feel they should be cut back actually to reflect the actions of both the House and the Senate to decrease. Our Government Operations Subcommittee has indicated they are not in favor of passing any legislation, but we are assuming some legislation might be passed, and we are funding at the maximum level we feel would be possible in the legislation. We are also setting a ceiling for the CETA public works programs in line with what we expect the anticipated House action will be.

In a moment I will yield to the gentleman from Ohio (Mr. REGULA), who to a greater extent.

In asking the Members to support this amendment, I wish to point out that with its adoption we will, for the first time in 4 years reduce our budget deficit below $40 billion. The actual budget deficit should be $39.8 billion. We will have a lot of other opportunities, of course, but this will bring it below $40 billion.

Many of us have indicated this is the path we would like to get on in balancing the Federal budget. The adoption of this amendment combined with the floor and committee actions will reduce by 2.3 percent from what was targeted in the first resolution. Members have asked for this reduction, and the Budget Committee resolution and this amendment give reductions of $3.128 billion.

The CHAIRMAN. The time of the gentleman from Texas (Mr. MATTOX) has expired.

(By unanimous consent, Mr. MATTOX was allowed to proceed for 2 additional minutes.)

Mr. MATTOX. Mr. Chairman, let me explain a little more in detail about what I mean. The controllable discretionary programs, other entitlements, make up about 28 percent of our original targeted budget of $500 billion. This means about $140 billion is controllable.

We have proposed with the adoption of this amendment, counting other floor actions already taken, a cut in the controllable expenditures in this budget of 2.3 percent. I think this is the direction the American people have been asking us to go.

I am dedicated to that direction. I would like to see us take this action to reduce the deficits below $40 billion. I think this would have a great impact on the value of the dollar abroad and give great confidence to the business community in the States.

Mr. REGULA. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I hope the Members will listen carefully. What we have here as proposed by the gentleman from Texas and myself is an amendment that will cut 30 percent in expenditures in two items in the budget. It will do it without affecting programs. The amendment we have reflects actions already taken by this body and also actions taken in the Senate thus far.

I would like to speak particularly to the subject of countercyclical funding. In the budget resolution, when the second budget resolution was adopted, I offered an amendment in committee that was supported by all of the Republicans and several of the Democrats to effect the reductions in countercyclical that are proposed in this amendment. Since that time the case is even better than it was at the time of the committee hearings in light of subsequent actions by this body and the other body. I am pleased that the majority is offering the Regula amendment from the committee as part of the overall reductions proposed in the amendment today.

I would like to address the section of our amendment dealing with countercyclical funding.

real quandry insofar as setting spending levels regarding this program. We still have no authorization on which to base any cost estimates. The unemployment rate has successfully remained at strong lows in the past 6 months, reducing the need for countercyclical aid and the program is producing substantial carryover balances, approximately $250 million for 1978.

In other words, I believe things have changed since the first budget resolution and this should be recognized in the second one. That is part of the reason for a second budget resolution. If we do not make countercyclical assistance funding compatible with what is actually happening, then our efforts are a mere mockery of our responsibilities.

Let us look first at the authorizing situation. The House has deferred any action on a new bill. Only last week the Senate Finance Committee approved its reauthorization on countercyclical which still does not have an official cost estimate. Unofficial estimates range from $600 to $700 million. That figure is what we recognize in the amendment that is before us. Certainly it is considerably less than the President's original request of $1.038 billion in outlays and $788 million in budget authority. We can refer to the Senate Finance Committee's action only very loosely at this point.

Another factor in support of this amendment at this point is that less funds are now needed. The original purpose of this assistance in this program was to aid cities temporarily—and I emphasize "temporarily"—in distress due to high unemployment.

Let us have a look at the change nationally that has occurred in the past year. The seasonally adjusted national unemployment rate for the months of January to July in 1977 were: January, 7.4 percent; February, 7.4 percent; and on down to July when it was 6.9 percent. For 1978 we find a real drop: From January of 1978, 6.3 percent and moving downward to 6.2 percent in July 1978.

For a program that is triggered by unemployment figures, these reductions have an impressive impact.

If we continue to overfund the countercyclical assistance funding regardless of fluctuating needs, we are encouraging States and cities to use it as nothing more than extended revenue sharing. This is not the intent of the program. This is especially disconcerting when the money is going to States with surpluses in their budgets.

In the committee testimony, Chairman Schultze, of the Council of Economic Advisers, indicated that the States have something like $31 million in surpluses.

If we do not pass this amendment, we will see more carryover in unobligated expenditures in countercyclical programs. The real estimate is that in fiscal 1978 there will be a $250 million carryover.

By not reducing the resolution we are condoning this problem.

Our reductions in countercyclical funding, as suggested by the gentleman from Texas, in countercyclical funding, conform the program to the levels approved by the Senate Budget Committee. By recommending this amount, we are simply bringing countercyclical funding to the realistic level of the proposals before us. If we do not remove the excess that is now in the resolution, you can be sure that it will float around in that budget until it is used for something else—something for which it was not intended.

There is another factor in support of our amendment.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. REGULA) has expired.

(By unanimous consent, Mr. REGULA was allowed to proceed for 2 additional minutes.)

Mr. REGULA. Mr. Chairman, there is another factor in support of our amendment. It is designed to give spending directives to the authorizing and appropriating committees. This is needed in the case of countercyclical assistance. The funding levels established are no longer compatible with reality. We have a great opportunity today and also a great responsibility to remedy some of this problem with this amendment. In effect, by adopting these levels on countercyclical outlays and budget authority, we are saying to our committee what should be a reasonable amount to be spent for this function. I think that is the proper function of the Committee on the Budget.

Mr. Chairman, I urge all of my colleagues to support the amendment.

Mr. MITCHELL of Maryland. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, what we have before us is another regular ruthless run—that is with an "r"—against job-training programs and employing people.

Hold on, this is the precursor to another even more ruthless run that will be coming up in the form of another amendment at some time in the near future, I think.

The thing which I find so terribly wrong about this approach is that I believe most of the Members of the House who want to vote for this—and they are going to vote for it—will do so on the basis of all of the allegations about abuse and misuse of funds. I think that will be an emotional vote rather than a vote based on facts.

Mr. Chairman, as we look at the facts, is there any economist in America who can predict with any reliability that the unemployment rates are going to stay where they are or will go below that?

Mr. Chairman, there is no economist in this country who can predict that unemployment rates are going to remain where they are or will fall below the present rate. That cannot be done.

Above and beyond that, Mr. Chairman, does anyone mean to tell me that the Members of this House, the Members of the House and the Senate, are going to be satisfied that a 6.2-percent unemployment rate is acceptable in this Nation?

Whatever happened to the idea of the work ethic which I talked about earlier in another debate? How can we be complacent and satisfied with a 6.2-percent unemployment rate?

That is a fact, not the emotional matters associated with abuse and misuse.

Mr. Chairman, let us look at fact No. 3. I know I am fighting a losing battle. I know that this is going to be voted for; but when the Members vote for this regular ruthless run, I hope they will take these facts into consideration.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, may I ask the gentleman whether he is referring to the CETA portion of this amendment or to the countercyclical portion.

Mr. MITCHELL of Maryland. I am going to address both of them.

Mr. REGULA. I recognize the alliteration the gentleman is using here, if that is the right word. I want to know which part of the amendment the gentleman is speaking to.

Mr. MITCHELL of Maryland. Actually, it is both parts, really both countercyclical and CETA.

I would appreciate it if the gentleman would let me finish my statement.

Mr. REGULA. I hope the gentleman will let me share some of the responsibility here.

Mr. MITCHELL of Maryland. All right, then, I will yield to the gentleman later, if he wishes.

Mr. Chairman, if anyone is proud of the fact that America is accepting a 6.2-percent unemployment rate and thinks it is a good thing, then let us look at the black unemployment rates. I have been reading about on this on the floor month after month, and year after year. The rate is 12.5 percent. The House is going to say, "That is all right. Leave it right there. That is good for America. It is 12.5 percent."

Mr. Chairman, if we reduce the CETA jobs and if we go blithely along with this reduction in countercyclical, what we are saying is that it is perfectly legitimate for this country, the greatest democracy in the world, to accept an unemployment rate of 12.5 percent for its largest minority or what is nearly its largest minority.

That is a fact. Above and beyond that, the gentleman talks about the action that the Senate Finance Committee has taken or will take. There has been no final authorization on CETA in this House. When did we become so clairvoyant that we could predict the ultimate resolution of this problem in the other body? Those are facts that we have to deal with, rather than the emotional pull of a regular run against training and employment programs.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from New York.

Mr. WEISS. I appreciate the gentleman's yielding.

I want to associate myself fully with his comments. Although for most of the people of this country the recession may be over, in many of our older, larger cities the recession is still riding high. In New York the unemployment rate is still in excess of 8 percent, and that is across the board. As far as the minority areas are concerned, it is in excess of 15 percent. As far as youth in those minority areas are concerned, it is around 40 or 45 or 50 percent. It seems to me that when we take the position that simply because national figures look good that we can stop to look at what is happening in areas of greatest need, we as a nation are in very serious trouble.

I appreciate the gentleman's yielding and his comments.

Mr. MITCHELL of Maryland. I thank the gentleman for his comments. Let me come to the conclusion of my argument against this proposition.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. MITCHELL of Maryland was allowed to proceed for 2 additional minutes.)

Mr. MITCHELL of Maryland. Is it not ironic—and, indeed, it is more than ironic; it is almost tragic—that at the very time when the authorizing committee for CETA has tightened up its program for the first time so that it specifically targets for the very poor, the very disadvantaged, at that very moment, is it not ironic that this House is going to blithely act to preclude reaching out to help the very groups that we talk so much about that need to help? Those are the minorities, the poor, the disadvantaged. It is kind of tragic and ironic that, at the moment a legislative committee has taken the action to undo all of the abuses that obscured the goodness of the program and denied access to that program of those who need it the most, at that very moment we are going to decide to go ahead and cut. I think it is sad. I think it is tragic.

My talk down here is not going to change a single vote, but maybe some day—some day when we reap the whirlwind for keeping blacks and poor and minorities unemployed year, after year, after year, maybe when we reap that whirlwind, we will understand the damage we will have done by voting for this amendment, which is a regular run against those who are unemployed.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from Ohio.

Mr. REGULA. I thank the gentleman for yielding.

Is it not correct that the House subcommittee by a vote of 7 to 6 has rejected all countercyclicals at this point?

Mr. MITCHELL of Maryland. Yes.

Mr. REGULA. Would it not be proper to call this the Regula renaissance?

Mr. MITCHELL of Maryland. Let me qualify how I am using the term "regular." It is r-e-g-u-l-a-r. No, I was not using the gentleman's name, of course.

But how many times in the history of this body has the subcommittee taken an action which has been turned around by a full committee? My time is nearly gone, and the gentleman has many effective arguments on his side.

Mr. REGULA. If the gentleman will yield further, would the gentleman also agree that the unemployment rate is presently going down?

Mr. MITCHELL of Maryland. Of course, I would agree to that but—but with a caveat—it went down before, and

cause the subcommittee did not really consider it.

But I would like to address the sub-

My understanding is that even with a 6.2-percent national rate of unemploy-

that time. It would conform it to what actually happened in the House.

The other thing that this amendment

has come up on the floor as yet. There is a difference of opinion as to whether the

high unemployment and should not be converted to general revenue sharing.

degree of surety that the trend is going to continue.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. REGULA, and by unanimous consent, Mr. MITCHELL of Maryland was allowed to proceed for 3 additional minutes.)

Mr. REGULA. If the gentleman would yield further, would the gentleman agree that the funding level proposed in this amendment is about the same as the actual expenditures in fiscal 1978 have been—$700 million?

Mr. MITCHELL of Maryland. Yes, I would agree to that, however, again with a caveat. The gentleman has got to remember that the actual spending levels on many of these programs have been slowed down simply because we were taking the time to look at abuses and problems in the program.

Mr. REGULA. Would the gentleman agree that New York City, as mentioned by the gentleman from New York, would receive money under this proposal in view of the fact that the unemployment rate is 8 percent there and that New York City would in no way be affected?

Mr. MITCHELL of Maryland. Mr. Chairman, I cannot speak for New York City. I speak for my own city of Baltimore where we will not get countercyclical, because the rate of unemployment has gone down on the average, but not for black people.

I am not going to be parochial about this. I am concerned about people who are out of work and hurting wherever they are, whether it is in Ohio, New York, or anywhere in America.

Mr. REGULA. Mr. Chairman, if the gentleman will yield further, I am concerned about that, too. That is why I am putting it at this level.

Mr. ASPIN. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from Wisconsin.

Mr. ASPIN. Mr. Chairman, I would like to address the concerns the gentleman from Ohio describes in the countercyclical funds. I do not know about the CETA part of the amendment; but I am on the subcommittee the gentleman referred to that dealt with the countercyclical program.

I think it is a very different program than the administration sent up this year from last year. It was not a countercyclical program in the sense that last year's program was a countercyclical program. I would like to tell the gentleman that the subcommittee dealt with that measure in a very, very shabby way. The program, a very important program for the cities, was voted down on a motion to table about 20 minutes into the markup meeting. I do not think there was ever any opportunity to deal with the issues or to amend it. That the subcommittee voted it down is totally irrelevant to what we shall be doing today be-

tion of two things. One is inflation; second is a taxpayer's property tax revolt. It is less a concern about unemployment than it was a year or 2 years ago.

I would concede to the gentleman that countercyclical in its present sense is really not needed; but what is needed is supplemental fiscal assistance, which is what the program was and it was funded to the tune of $1 billion. We should have that program and we should have that full amount of $1 billion, because our communities are really caught in a squeeze between prices and property taxes.

The CHAIRMAN. The time of the gentleman from Maryland (Mr. MITCHELL) has again expired.

(By unanimous consent, Mr. MITCHELL of Maryland was allowed to proceed for 1 additional minute.)

Mr. MITCHELL of Maryland. Mr. Chairman, I cannot yield further.

Let me just say this. This is the amendment which will build the wooden part of the guillotine for those who are unemployed. Later we will get another amendment which will bring out the blade to be put on the guillotine to chop off our heads. Go ahead; if that is your preference, do it.

Mr. GREEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to oppose this measure, because I believe that the modified countercyclical program that has been referred to is one that is badly needed by those areas of the country where there are still very high rates of unemployment, such as my own.

I am one of those who is not prepared to give up on the pending legislation. I think it is very clear that if there is any significant increase whatsoever in the levels of unemployment, and we certainly had a very sharp upturn recently on a month-to-month basis, the funds provided by this amendment would be inadequate to meet that situation.

I, therefore, urge that the amendment be defeated.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. GREEN. I would be delighted to yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, I just point out that what is in the Mattox-Regula amendment will continue the funding at the level of fiscal year 1978. Therefore, with the unemployment rates that have been alleged for New York City, it would have no impact on the funding for that city. I think this is an important feature here. We are simply saying that countercyclical should not be expanded and should be maintained for the areas of high unemployment, but should not be general revenue sharing.

Mr. GREEN. Mr. Chairman, if I may reclaim my time, I will yield to the gentleman from Wisconsin (Mr. ASPIN) later.

mittee bill, giving the amount to which this amendment would limit the program.

Mr. ASPIN. Mr. Chairman, if the gentleman will yield, let me just address the issue of New York, because that has come up a couple of times in this discussion.

I think it is important to understand that what the amendment the gentleman from Ohio (Mr. REGULA) has proposed and the gentleman from Texas (Mr. MATTOX) has offered would do is indeed to keep the funding next year at roughly the amount of money provided this year. So New York would not be hurt in that sense, as compared to last year. However, it would be hurt, compared to what the administration proposed and what the subcommittee so unceremoniously dumped.

That program would have helped New York a great deal. We have the funding in this budget resolution right now for the President's program, which was so unceremoniously dumped by that subcommittee, and that would be of a great deal more benefit to New York.

So I think what the gentleman in the well says is right. If he wants to help New York and if the gentleman from New York (Mr. WEISS) wants to help New York, the correct thing to do would be to vote for the budget resolution as it now stands and not for the amendment.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. GREEN. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, I just want to point out to the gentleman from Wisconsin (Mr. ASPIN) that the amendment only reduces the President's proposed budget authority by $88 million.

Mr. GIAIMO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we have studied this amendment very carefully, and I would recommend to my colleagues that they support the amendment offered by the gentleman from Texas (Mr. MATTOX) and cosponsored by the gentleman from Ohio (Mr. REGULA).

What the amendment does is basically to conform the budget resolution to recent House action in one instance and to conform the budget resolution to reality as a result of some other actions which have taken place in recent days.

Let me explain that. The amendment offered by the two gentlemen would reduce budget authority in CETA funds by $135 million, and it would reduce outlays by $335 million, providing for 616,000 public service jobs and transferring some funds to the youth and private sector areas.

This is what the House voted on some days ago when it took up the CETA legislation.

So this would be conforming our resolution, which was put together prior to

plemental fiscal assistance and what we in the vernacular call countercyclical assistance. As the Members know, the House of Representatives has not acted on this item of legislation; the other body has. The budget request that we are carrying is the $1,038 million figure. Since the House of Representatives has not acted, since the committee has given every indication that it is not about to act in the remaining weeks, and since the other body, which is the only one that has acted in this regard, is somewhere in the neighborhood of between $500 million and $700 million, rather than the $1 billion, the $700 million figure which the other body uses is the Treasury's estimate of what it would cost to implement the supplemental fiscal assistance program.

That is what the amendment offered by the gentleman from Ohio (Mr. REGULA) and the gentleman from Texas (Mr. MATTOX) would suggest, that we provide budget authority in outlays for $700 million for supplemental fiscal assistance, with the hope that the other body and this body will get together and enact that type of program.

So, Mr. Chairman, I think it would be wise and proper to amend the budget resolution to make the changes provided for by this amendment.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. GIAIMO. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I would just like to state that I agree with the chairman of the committee and urge that the House support the Mattox-Regula amendment.

As everybody knows, I have stood on this floor four times and tried to increase funding for CETA. But this is a difficult situation. This amendment responsibly reflects what we think the House is going to do in the end. In fact, it reflects what the House has already done in one instance, and that is what the House budget resolution ought to do.

We should not play games, but we should accept what the realities are of the situation; and the realities would dictate, I believe, support of the amendment.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. GIAIMO. I yield to the gentleman from California.

Mr. JOHN L. BURTON. I thank the gentleman for yielding.

Mr. Chairman, I would like to ask the gentleman this question: Does this amendment reflect what the Senate did?

Mr. GIAIMO. In the sense of CETA, it reflects what the House did. Insofar as it addresses itself to supplemental fiscal assistance, it addresses the realities of the House. The House has not acted and does not intend to act.

Mr. JOHN L. BURTON. What about the other body?

Mr. GIAIMO. The other body has acted in committee. I do not believe it

$700 million figure. And, therefore, we also make the estimate that perhaps, and most likely, this will be enacted into law and we should make provision for it, because it is essential. As the gentleman from Maryland, the gentleman from Wisconsin, and others, have indicated, this is an essential program. The cities are in need. We have to make provision for countercyclical or supplemental fiscal assistance. The only thing is that we think the correct figure will be $700 million rather than $1.038 billion.

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. GIAIMO) has expired.

(On request of Mr. ASPIN and by unanimous consent, Mr. GIAIMO was allowed to proceed for 1 additional minute.)

Mr. ASPIN. Mr. Chairman, will the gentleman yield?

Mr. GIAIMO. I yield to the gentleman from Wisconsin.

Mr. ASPIN. I thank the gentleman for yielding.

Mr. Chairman, I think, basically, what the gentleman from Connecticut and what the gentleman from Wisconsin (Mr. OBEY) are saying about the realities is correct, and I think the gentleman is correct in saying that the Senate proposal is probably closer to $700 million than $500 million. So what it means is that the amount of money is only $300 million less than what we had in the bill which was dumped by the House committee. And as the gentleman from Ohio pointed out, that is not a great deal of money.

Mr. Chairman, I would like to point out to the members of the committee, however, that behind that reduction in money is a very great difference of distribution systems. The formula by which the $1 billion supplemental fiscal assistance would have been distributed is very different from the formula by which the $700 million under countercyclical will be distributed. So where it is only $300 million less, it is going to mean a great deal of difference when it comes down to what each community gets.

Mr. GIAIMO. The gentleman is correct. But I would not want the record to indicate that we think that $300 million is not a great deal of money. I know I think it is a great deal of money, and I am sure the gentleman from Wisconsin and the gentleman from Ohio think it is too. It is a huge amount of money. But we think it is the correct figure.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. GIAIMO. I yield to the gentleman from Ohio.

Mr. REGULA. I thank the gentleman for yielding.

Mr. Chairman, it is a 30-percent reduction over the present resolution, which is substantial. I think the gentleman from Wisconsin is correct. It does reflect the fact that we feel countercyclical ought to do what it is designed to do, and that is to speak to areas of

the gentleman yield?

Mr. GIAIMO. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Chairman, I agree with the point that has been made, that the countercyclical is a crucial program for the survival of the cities, the urban areas, and other areas of this country that are especially hard hit by unemployment. I think it is essential that the program be funded fully.

Mr. Chairman, I am disappointed by the amendment offered by the gentleman from Texas and I oppose it. I can understand the motivation behind it, but it will have an adverse impact on many areas of the country including my city that need that assistance desperately.

Mr. CONABLE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

I would like to associate myself with the remarks of my chairman that were just made in the well. I also would like to come out in favor of something called truth in rhetoric or truth in legislation.

We are dealing here with two programs which were essentially stimulative programs originally.

I would like first to deal with the so-called countercyclical stimulus program, the grant program for cities. It has been pointed out that this program was originally designed for a few large cities. It was based on the assumption that if there is in the city a high unemployment rate, the tax base in that city has become eroded and city services are difficult to maintain. It is in no way tied to employment, except that the employment rate is the triggering device by which we determine what cities get this particular aid. There is not one new job tied to the countercyclical aid program.

Of course, the city, if it gets additional money, is going to spend it in services, because that is what cities provide. But because the rate of unemployment has dropped, a lot of cities that otherwise have qualified for countercyclical aid no longer qualify.

And so, a proposal was made to reduce the triggering point and to greatly increase the number of communities that would be able to participate in countercyclical aid. The result would be a much wider distribution, one converting it from a program which has only a remote connection to new employment, to a revenue-sharing program, in effect, that has no such connection.

I happen to be one of those people in this House who supports revenue sharing, but I am fed up with revenue-sharing programs that are being promulgated under the guise of some sort of hard-core unemployment program. We have got to bring our rhetoric into alinement with the realities of programs of this sort if we are to have any credibility in the way we legislate. So much for countercyclical aid.

As to CETA, CETA is itself becoming a revenue-sharing program, and we all

know that. The only way we can justify continuing CETA at the same level and extending countercyclical aid when we have some improvement in the economy is by saying, "But our community needs it," and that is another argument for revenue sharing. Let me tell my colleagues that if we continue to go this route, pretending that we are doing something that we are not doing at all, and mislabeling the legislation we are putting forth here on the floor of the House, we are going to get so locked into these things that people are not going to understand our budget process at all; they are not going to understand our legislative process at all; they are going to find very little correlation between the rhetoric and the reality of our national programs.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I appreciate the gentleman from New York yielding to me. I would like to associate myself with his very accurate and eloquent remarks in describing our present countercyclical program.

I would like to point out that in the last year the GAO has done four separate studies of the countercyclical program, and has concluded that for all practical purposes countercyclical has been a wasteful failure. The GAO said that it had three purposes to begin with: The first was to provide quickly an economic stimulus into the economy; second, to target selectively the assistance to areas of need; and third, that the program would phase itself out when it served its anti-inflationary purpose.

The GAO said that the program had failed in its first two purposes, and by extending the program we would be defeating the third purpose, which was to phase it out. It seems to me that what we should have been doing is to reduce this budget amount to zero, not just to $778 million, because as the gentleman has accurately stated, the fact of the matter is that the countercyclical program was targeted at 17,000 communities in America, which were to be included.

Under the new proposal that was sent over, which was supposed to be better targeted, instead of having 17,000 communities we have 28,000 targeted communities. That means that 70 percent of all of local government would be deemed to be in distress and in need of targeted fiscal assistance from Federal taxpayers.

Mr. Chairman, many of our local and State governments in the United States are operating with surpluses, while we are talking about trying to reduce the Federal deficit to under $40 billion this year.

Mr. CONABLE. I thank the gentleman.

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent Mr. CONABLE was allowed to proceed for 2 additional minutes.)

Mr. CONABLE. I do not have any doubt that this money will do some good. I do not have any doubt that it will be a benefit to communities that need money. I must point out, however, that nationally, in the aggregate, local government is in surplus, and certainly far better off than it was a year ago or 2 years ago when these programs were first promulgated. But let me say, Mr. Chairman, that there would also be some good derived by simply shoveling the money out of an airplane without any accountability of any sort, except for the fact that we have to take the money first in taxes or indirectly from the taxpayers by printing it and devaluing their savings.

And so I hope that a balance will be struck here and that we will find some way of either being more truthful about what we are trying to do, and approach the problems of our communities directly through the avenue of revenue sharing and abandon these so-called employment programs which if they are continued can only damage the credibility of our process.

Mr. ASPIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to address my comments to the gentleman from Georgia (Mr. LEVITAS) and the gentleman from New York (Mr. CONABLE), if I could get their attention, because I think it is important we look at this.

It is unfortunate that we are here discussing this program today, because if we had had a chance to debate it on the floor we could have settled a few of these issues, or even if we had had more than 15 minutes to debate it in the markup in the subcommittee we might have settled some of the issues.

I am rather troubled by the remarks of the gentleman from New York (Mr. CONABLE), who worries about the wording, because he keeps calling it the countercyclical program when the proper title is supplemental fiscal assistance.

Mr. CONABLE. Mr. Chairman, if the gentleman will yield, does the gentleman from Wisconsin believe there is a change in the basic concept?

Mr. ASPIN. Absolutely.

Mr. CONABLE. In other words, he now considers it a revenue-sharing program?

Mr. ASPIN. No, because it does not distribute the money in the way the revenue sharing does. It is a different formula. The countercyclical program distributed money on the basis of unemployment and unemployment only. Revenue sharing distributes it on the basis of tax effort among other factors. The supplementary fiscal assistance, which is the program we are supposedly talking about, distributes it on the basis of four factors: unemployment, growth in per capita income, growth in employment, and growth in population. It is those four factors on which the supplemental fiscal assistance distributes the money.

In talking about the countercyclical program, the gentleman from Georgia commented about how the General Accounting Office found the program lacking and I would agree with that. I was opposed to that formula of the distribution program last year. It is no good to distribute money on the basis of unemployment only. We have to broaden it.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. Let me make my points first and I will yield.

What we have got is a supplemental fiscal assistance program, which is not a countercyclical program. The purpose of the supplemental fiscal assistance is to give some cities some help. Why? Because the cities need help. They need it for two reasons. No. 1, they are faced with inflation, as all of us are, but the costs of local government are going up due to inflation. And No. 2, with the property taxpayers' revolt, as in California, we can see what is happening. Any city is faced with that. Naturally when we broaden the scope of the program, more cities and towns get into the program because more cities and towns are affected.

It is not just unemployment. It is the total financial situation and the taxpayers' revolt, and the local government taxpayers require and ask that we do something about it. That is the situation then that we are trying to address. Do not claim this program is countercyclical.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I would absolutely agree that the supplemental fiscal assistance program is not countercyclical. Indeed it is a brand new permanent fiscal aid program to cities and counties around the country.

Mr. ASPIN. Exactly. That is why the General Accounting Office studies the gentleman cited earlier are not relevant.

Mr. LEVITAS. The President's urban program recommendations said this new program is to help the distressed cities and is targeted to them only. The fact is that the formula of this bill means we are talking about 70 percent of all cities in America now being distressed. That just is not true. There are distressed local governments and they need help but it is utterly wasteful to include 70 percent of all local governments in these programs.

Mr. CONABLE. Mr. Chairman, if the gentleman will yield, it is not cities, it is municipalities. Almost every community is included, as in revenue sharing.

Mr. LEVITAS. The gentleman from Connecticut says that the $700 million which is being kept in the bill is to carry out not the administration's proposal but the Senate's bill. The Senate bill has two titles. The first title is the old countercyclical program which the gentleman from Wisconsin (Mr. ASPIN) opposed last year and this year has restated his opposition to it. Even title II is not the administration's supplementary fiscal assistance program. It is another last minute jerry-built wedge. It just takes $650 million and shovels it out.

Mr. ASPIN. The gentleman from Georgia (Mr. LEVITAS) knows why we are facing that bill over here from the Senate, because the gentleman from Georgia moved to table our bill in the subcommittee. So we may end up with this other program as the best we can get. It is not very good. I wish we could adopt the position of the gentleman from Maryland (Mr. MITCHELL). We ought to go with the full funding in this resolution

and pass it and then later pass the President's supplemental fiscal assistance bill.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I find a little irony in the justification for this bill in the property taxpayers' revolt in California under proposition 13 because I am sure that if the proponents of proposition 13 in California felt that they were voting for centralization of government, they would have had second thoughts about its passage. We should not be increasing taxes here to offset taxes rejected at the local level, or we are just making a mockery of the taxpayers' intentions. Besides that, the resulting centralization of government will vitiate our democracy.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. LEVITAS, and by unanimous consent, Mr. ASPIN was allowed to proceed for 3 additional minutes.)

Mr. CONABLE. Mr. Chairman, if the gentleman will yield still further, it is just possible that they are rejecting taxation on the ground that they do not want to have the growth of government at all levels continue unchecked.

Mr. ASPIN. The gentleman is not correct to say there is an increase in centralization because centralization is not the issue. The issue is whether we will help communities in this short run, and I think that is a further argument, the fact that it is a short-run program. The issue is that these communities face very severe inflation right now and face a property taxpayers' revolt right now. Communities in the face of that could use some assistance. I hope that we will give them some assistance in view of that.

If I thought that cutting this $700 million or this $1 billion would stop the inflation or cut taxes or stop the growth of government then the gentleman from New York would have an argument. It is not going to do it. It is going to give some slight assistance to these communities in the face of their needs because of the current economic situation.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I thank the gentleman for yielding, and there are two points that the gentleman from Wisconsin (Mr. ASPIN) has just made that I really have a question about.

The first is that we have a property taxpayers' revolt in America. With reference to proposition 13, if you lived in California, going beyond what the gentleman said, would it not be nice to reduce property taxes under proposition 13 because you knew that Uncle Sam and the U.S. taxpayers' are going to come in and put more money in?

That does not make sense.

Mr. ASPIN. The gentleman from Georgia (Mr. LEVITAS) knows perfectly well that the supplementary fiscal assistance is not going to come anywhere near to the amount of money that will be lost to the State and local governments in California due to proposition 13.

Mr. LEVITAS. If the gentleman will yield still further, the other point is the gentleman says this is a short-term program. The fact of the matter is that countercyclical was supposed to be a short-term program but we have kept extending it and extending it. This new proposal is for new permanent programs.

Mr. ASPIN. It is not, it has a limited term. The reason we are going to be stuck with the countercyclical again is because the gentleman moved to table supplemental fiscal assistance in the committee, so we are ending up with the Senate cramming countercyclical back down our throats because of the action the gentleman took in the committee.

Ms. HOLTZMAN. Mr. Chairman, if the gentleman will yield, I think it is very important to point out that, although unemployment has been reduced on a nationwide basis, there are still pockets of high unemployment existing in the cities. These areas are going to need countercyclical aid, and we cannot ignore their problems.

Mr. JOHN L. BURTON. Mr. Chairman, if the gentleman will yield, I would just like to make the coment, first of all, with reference to the reduction after the State of California adopted proposition 13, that they are losing a lot of Federal funds through lack of maintenance, through lack of funding under revenue sharing, and I do not know how the gentleman from Georgia can say this will get them more money because it will get them less money, and I do not think my friend, the gentleman from California, JOHN ROUSSELOT, is going to bail them out.

Mrs. FENWICK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am disturbed by what I hear in this House from time to time. An effort was made the other day to target moneys, $1 billion of the enormous $11 billion of the CETA program, into youth unemployment in our poor cities. It was resisted.

What we seem to be hearing today is that if the taxpayers do not want to pay taxes at the local level and they say so, we are going to fool them. We are going to raise them at the Federal level, and then we are going to send the money back to the cities so that they are right back where they started. We seem to think the people will not know it.

Mr. Chairman, there is a lot of duplicity here. We wonder sometimes why Congress is beginning to fall in the respect and esteem of the people of this country. This is why: because we keep trying to fool them. We never fool them. That is the extraordinary gift of the American people. They know exactly what we are doing. They do not know the names of the amendments, perhaps, but they know what we are up to.

We are saying, "If you do not want it, we will do it in another way. We will put it over down here, pull it out, give it to the localities, and you will get the taxes whether you like it or not."

Mr. Chairman, the deficit will go up and the service on the national debt. It has risen from $42 billion to $48 billion a year since I have been here.

What is the end going to be?

Mr. ASPIN. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Wisconsin.

Mr. ASPIN. Mr. Chairman, the gentlewoman from New Jersey (Mrs. FENWICK) is not correct. The supplemental fiscal assistance was put together long before proposition 13 passed in California. It was in no way an answer to proposition 13.

Mrs. FENWICK. Mr. Chairman, if I may reclaim my time, we now have what has been described as a brand-new $9 billion program.

Mr. ASPIN. No, no, not $9 billion.

Mrs. FENWICK. That is what it says.

Mr. ASPIN. It is $1 billion.

Mrs. FENWICK. That section is $1 billion. The section is $750 million, but that, does not sound like peanuts to the folks back home.

Mr. GARY A. MYERS. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. Mr. Chairman, I may be confused, but I was listening to the debate on the floor. I thought the gentleman from Wisconsin (Mr. ASPIN) was just justifying the program on the basis of the reaction to proposition 13.

Mr. ASPIN. If the gentlewoman will yield further, Mr. Chairman, the reaction to proposition 13 is just the symptom. The decrease is that local governments are faced with increasing costs due to inflation, and they are faced with a very unfair and very unpopular property tax. That was true before proposition 13, and it is true after proposition 13.

Mr. GARY A. MYERS. If the gentlewoman will yield further, Mr. Chairman, I really do not know what the gentleman's support of the program is, then. He spent a considerable amount of time in the well in convincing us that the program ought to be brought out of committee and voted for as a part of this budget because of the proposition 13 situation. Now he is trying to convince us that proposition 13 has nothing to do with it because someone has taken him to task on that argument.

Mrs. FENWICK. We are going to have to speak clearly here, my colleagues. Are we going to increase the number of towns, cities, and municipalities dependent on the Federal Government and Federal revenues, or is this going to be a Federal system with the independent localities supplying their own funds? That is the question.

We have gone from 17,000 to 28,000 municipalities, according to the gentleman from Georgia (Mr. LEVITAS). Where is it going to end?

Every single town is going to ask for money in the long run. I know a town which is very much in trouble. The salaries of the councilmen have all been raised; they have been doubled. They have all been given a car and a chauffeur and an expense allowance. That is

the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from North Carolina.

Mr. FOUNTAIN. Mr. Chairman, I would like to answer what the gentlewoman has said by pointing out that Federal assistance to State and local governments has grown from $2.3 billion in 1950 to $7 billion in 1960, and to a present level of $80.3 billion. It is estimated that it will be $85 billion for the next fiscal year.

And we already have on the statute books a general revenue sharing bill which provides $6.1 billion annually going to local and State units of government. And remember—this is just one of the many grant programs included in the $80.3 billion now going out from Uncle Sam to local and State levels—almost 30 percent of their total operating budgets.

Mrs. FENWICK. I thank the gentleman.

Mr. LEVITAS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first of all, I would like to deal with statements made by my dear friend and respected colleague, the gentleman from Wisconsin (Mr. ASPIN), concerning the action in the committee.

The gentleman would have conveyed the impression that in a 20-minute consideration that entire matter involving the expenditure of some $1 billion in 1 fiscal year and $1 billion in another fiscal year was disposed of.

The fact of the matter is that notwithstanding efforts made by our committee to get the administration to work cooperatively with us and develop a responsible program, we did not get any program or any cooperation until the 11th hour. Without prior consultation, the administration sent up the brandnew supplemental fiscal assistance proposal. The committee held 3 days of hearings on the bill, hearing from witnesses from the public sector, the administration and others. Very inadequate statistical data was presented by the administration.

There were 2 days of two executive sessions and caucuses, and then before a vote was taken on my motion in the committee, three invitations were made by the chairman for people to offer amendments. No member of the committee ever circulated or discussed any proposed amendments at any time prior to the meeting. It was pretty clear that there was no way to make a silk purse out of a sow's ear at that point, and in order to save the House the difficulty and chaos of dealing with this situation in trying to rewrite complex, major $2 billion legislation on the floor, the subcommittee put this very bad bill to a merciful death.

What was this bill? What is this supplementary fiscal assistance? I have already indicated that it is a brandnew program for a new type of revenue sharing to add to our deficit, for example, the town of Greenwich, Conn., in the State of our distinguished chairman of this committee, one of the wealthiest communities in America, which builds its schools and public buildings for cash and which does not even issue bonds, would get three times per capita the amount from the Federal deficit under this program that Yonkers, N.Y., would receive, yet Yonkers, N.Y., was on the verge of bankruptcy just 2 years ago. That is among one of many examples of the working of this mindless formula.

The way this formula is structured, a mindless formula, we are not targeting it to the places where there is need. We are not using a proven formula of general revenue sharing, but we are starting and launching a brandnew program which would start at $1 billion this year, and if history serves as any test and criterion for the future, in 5 years time we are talking about a $5 billion program.

Where do we stop? Where do we stop creating new programs and putting more of the Federal deficit to State and local governments who have surpluses and who are cutting back on what they are spending today?

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. LEVITAS was allowed to proceed for 1 additional minute.)

Mr. LEVITAS. Just to conclude, Mr. Chairman, I would hope that we would have the opportunity not merely to adopt this amendment which is offered by the gentleman from Texas (Mr. MATTOX) and the gentleman from Ohio, but really do something about this proposed new program and eliminate it and save the taxpayers approximately $1 billion this year alone. I hope we will have the opportunity to take action to eliminate supplementary fiscal assistance this year and let the Congress next year develop a true and meaningful countercyclical program.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. MATTOX) to the amendment in the nature of a substitute offered by the gentleman from Connecticut (Mr. GIAIMO).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GIAIMO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 271, noes 134, not voting 27, as follows:

Abdnor	Gibbons	Oakar	
Archer	Ginn	Obey	
Armstrong	Glickman	Pattison	
Ashbrook	Goldwater	Pease	
Ashley	Goodling	Pepper	
AuCoin	Gradison	Pettis	
Badham	Grassley	Pickle	
Bafalis	Gudger	Pike	
Baldus	Guyer	Poage	
Barnard	Hagedorn	Pressler	
Baucus	Hall	Preyer	
Bauman	Hamilton	Price	
Beard, R.I.	Hammer-schmidt	Pritchard	
Beard, Tenn.		Pursell	
Bedell	Hanley	Quayle	
Bennett	Hannaford	Quie	
Bevill	Hansen	Quillen	
Blouin	Harkin	Rahall	
Bowen	Harsha	Railsback	
Brademas	Hefner	Regula	
Breaux	Heftel	Rhodes	
Breckinridge	Hightower	Roberts	
Brinkley	Hillis	Robinson	
Brooks	Holland	Rogers	
Broomfield	Holt	Rose	
Brown, Mich.	Hubbard	Rousselot	
Brown, Ohio	Hughes	Rudd	
Broyhill	Hyde	Ruppe	
Burgener	Ichord	Russo	
Burke, Fla.	Ireland	Ryan	
Burleson, Tex.	Jacobs	Santini	
Burlison, Mo.	Jeffords	Sarasin	
Butler	Jenkins	Satterfield	
Byron	Johnson, Colo.	Sawyer	
Caputo	Jones, N.C.	Schulze	
Cavanaugh	Jones, Okla.	Sebelius	
Chappell	Jones, Tenn.	Sharp	
Clausen, Don H.	Kazen	Shuster	
	Kelly	Sikes	
Clawson, Del	Kemp	Skelton	
Cleveland	Keys	Skubitz	
Cochran	Kindness	Slack	
Cohen	Kostmayer	Smith, Iowa	
Coleman	Krebs	Smith, Nebr.	
Collins, Tex.	Krueger	Snyder	
Conable	Lagomarsino	Spence	
Conte	Latta	Staggers	
Corcoran	Leach	Stangeland	
Coughlin	Leggett	Stanton	
Crane	Lehman	Steiger	
Cunningham	Levitas	Stockman	
D'Amours	Livingston	Stump	
Daniel, Dan	Long, La.	Symms	
Daniel, R. W.	Long, Md.	Taylor	
Danielson	Lott	Thone	
de la Garza	Lujan	Treen	
Derrick	Luken	Trible	
Derwinski	McClory	Udall	
Devine	McCormack	Ullman	
Dickinson	McEwen	Vander Jagt	
Dicks	McFall	Volkmer	
Dodd	McHugh	Waggonner	
Dornan	McKay	Walgren	
Drinan	McKinney	Walker	
Duncan, Oreg.	Madigan	Walsh	
Duncan, Tenn.	Mahon	Wampler	
Edwards, Ala.	Mann	Watkins	
Edwards, Okla.	Marks	Weaver	
Emery	Marlenee	White	
English	Marriott	Whitehurst	
Erlenborn	Martin	Whitley	
Ertel	Mathis	Whitten	
Evans, Colo.	Mattox	Wiggins	
Evans, Del.	Mazzoli	Wilson, Bob	
Evans, Ga.	Michel	Wilson, Tex.	
Evans, Ind.	Milford	Winn	
Fascell	Miller, Ohio	Wirth	
Fenwick	Moffett	Wright	
Findley	Mollohan	Wylie	
Fisher	Montgomery	Yatron	
Fithian	Moore	Young, Fla.	
Flippo	Moorhead, Calif.	Young, Mo.	
Flood		Zablocki	
Foley	Mottl		

NOES—134

Addabbo	Aspin	Blanchard
Alexander	Bellenson	Boggs
Ambro	Benjamin	Boland
Anderson, Calif.	Biaggi	Bolling
	Bingham	Bonior
Collins, Ill.	Lent	Rostenkowski
Conyers	Lloyd, Calif.	Roybal
Corman	Lundine	Scheuer
Cornell	McCloskey	Schroeder
Cornwell	McDade	Seiberling
Cotter	Maguire	Simon
Davis	Markey	Solarz
Delaney	Meeds	Spellman
Diggs	Metcalfe	St Germain
Dingell	Meyner	Stark
Downey	Mikulski	Steed
Early	Mikva	Steers
Eckhardt	Mineta	Stokes
Edgar	Minish	Stratton
Eilberg	Mitchell, Md.	Studds
Fary	Mitchell, N.Y.	Thornton
Florio	Moakley	Traxler
Ford, Mich.	Moorhead, Pa.	Tsongas
Ford, Tenn.	Moss	Tucker
Fraser	Murphy, Ill.	Van Deerlin
Garcia	Murphy, N.Y.	Vanik
Gaydos	Murtha	Vento
Gilman	Myers, Michael	Waxman
Gonzalez	Nix	Weiss
Gore	Nolan	Whalen
Green	Nowak	Wolff
Harrington	Oberstar	Wydler
Harris	Ottinger	Yates
Hawkins	Panetta	Zeferetti

NOT VOTING—27

Bonker	Frey	Roncalio
Buchanan	Huckaby	Runnels
Burke, Calif.	Jenrette	Shipley
Dellums	Kasten	Sisk
Dent	Le Fante	Teague
Edwards, Calif.	Lloyd, Tenn.	Thompson
Fish	McDonald	Wilson, C. H.
Flowers	Miller, Calif.	Young, Alaska
Flynt	Risenhoover	Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Thompson for, with Mrs. Burke of California against.

Mrs. Lloyd of Tennessee for, with Mr. Dent against.

Mr. McDonald for, with Mr. Jenrette against.

Mr. Runnels for, with Mr. Le Fante against.

Mr. Teague for, with Mr. Risenhoover against.

Mr. Kasten for, with Mr. Dellums against.

Mrs. BOGGS, Messrs. BLANCHARD, TUCKER, and WYDLER, Mrs. HECKLER, and Mr. ROE changed their vote from "aye" to "no."

Messrs. CAPUTO, WALSH, McHUGH, and AuCOIN changed their vote from "no" to "aye."

So the amendment to the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. LATTA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GIAIMO

Mr. LATTA. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. LATTA to the amendment in the nature of a substitute offered by Mr. GIAIMO:

Strike all after the words "Budget Act of 1974," and insert the following:

That for the fiscal year beginning on October 1, 1976—

(1) the appropriate level of total budget outlays is $448,600,000,000;

(2) the appropriate level of total new budget authority is $450,000,000,000;

(3) the appropriate level of the public debt is $827,000,000,000;

(4) the appropriate level of tax expenditures is $30,000,000,000; and

(5) the appropriate level of the public debt is $828,300,000,000, and the amount by which the statutory limit on such debt should accordingly be increased is $30,900,000,000.

SEC. 2. Pursuant to Section 310 of the Congressional Budget and Impoundment Control Act of 1974, the Appropriations Committees of the House and the Senate shall promptly report to their respective Houses reconciliation legislation to decrease budget authority by approximately $22.5 billion to a level consistent with section 1(2) of this resolution.

Mr. LATTA. Mr. Chairman, I proposed this amendment after discussing it with the gentleman from Ohio (Mr. VANIK) and other Members in the Chamber, in an attempt to come up with a compromise that can pass this House, a compromise that even I could vote for, and that is saying a lot considering I have not voted for a budget resolution yet.

I am interested in reducing the public debt. For that reason, I am interested in reducing the deficit in this resolution. What I am proposing is a combination which takes the revised revenue figure in committee substitute, which is $450 billion, and the Holt figure on the outlay, which is $480 billion. This gives us a deficit for fiscal year 1979 of $30 billion.

If you are interested in reducing the deficit, then the $30 billion deficit figure in my amendment may appeal to you. If I sense the mood of this House, this resolution, as it is before us now, is in real serious trouble and if you are to pass a resolution I think the majority side had better give a little bit. We are giving a lot. Especially I am giving a lot when I say that I am prepared to vote for a resolution with a $30 billion deficit in order to get a $10 billion reduction in spending.

So I would hope that my good friend, the gentleman from Connecticut, would think very seriously before he rejects this proposal.

Mr. GIAIMO. Mr. Chairman, will the gentleman yield?

Mr. LATTA. I will be happy to yield to the gentleman from Connecticut.

Mr. GIAIMO. Mr. Chairman, I think it would be helpful to all who are hearing this debate, since the gentleman is using that chart, that we have the correct figure. You have the Budget Committee, for revenue, at $446.8 billion, it should be $450 billion. If you assume the committee substitute amendment that we are offering, that has to be corrected to $450 billion.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield, the only problem I can say to my chairman is that he has a substitute which is before the House, the $446 billion was the original resolution passed out in the committee

Mr. Chairman, if this amendment has the effect of preserving enough integrity

Therefore, the direction to the committee is, "Go and find $22.5 billion."

Mr. ROUSSELOT. No, but I want to comment on the authority. There is ade-

that we take $22.5 billion out of that controllable amount. That means a 16-

we accept this amendment, we are also accepting the idea of a tax cut of only

amendment, we would be mandating that, after all the cuts we have already

misleading to some of the Members who come in here and do not know the correct figures and see $446 billion when the proper figure is $450 billion.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. LATTA. I will be happy to yield to the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, let me say that I came to this Congress with my distinguished colleague, the gentleman from Ohio (Mr. LATTA), and we have had voting records here over the years that have been just exactly the opposite.

Mr. LATTA. Amen.

Mr. VANIK. We are together now.

This amendment is a very important amendment. What it does in effect is to provide that we pay for the tax cut that was voted by this Congress just last week through a cutback of Federal expenditures.

As I explained in debate on the tax cut, this has a very serious effect on Government spending. It is going to be hurtful. It is going to hurt defense. It is going to hurt welfare, education, and health. But I think the most serious thing we have got to face in this country today is the solvency of our Government.

We must fight the inflationary multiplier that is operating in our society today. Every penny of the tax cut we voted for last week is going to come out of borrowed money. The amendment offered by my colleague, the gentleman from Ohio (Mr. LATTA) which I support, would pay for it by reducing Government expenditures.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. VANIK, and by unanimous consent, Mr. LATTA was allowed to proceed for 4 additional minutes.)

Mr. VANIK. Mr. Chairman, if the gentleman will continue to yield, I want to point out that the amendment pays for the tax cut by reducing Government expenditures.

I know this is going to hurt. It is going to hurt a lot of programs. It will affect all of our communities, but I think that this medicine is needed in order to restore the solvency and the integrity of this country. I urge the adoption of this amendment offered by my colleague, the gentleman from Ohio (Mr. LATTA).

The dollar is falling on the world markets. We can almost guarantee that because of the increase of the deficit by the tax cut the oil price is going to be increased by 8 or 10 percent because the dollar will probably be rejected as the oil-buying currency. When we have to pay for foreign oil in another currency, we are going to have an 8- or 10-percent increase in our cost.

down the intolerable escalation of inflation. Otherwise we will face an increase in the cost-of-living, resulting from the increased cost of oil.

I think that our country needs this kind of fiscal responsibility.

Last week there were 57 Members of this House who felt that a tax cut should not be paid for out of borrowing, and we opposed it for that reason. Since we have decided on the cut, it seems to me that the only credible, responsible thing we should do is to reduce the cost of Government. We can do it. I think if we gird ourselves, we can work it out. We can change things. We can cut back. The budget process will have to adjust to this change, but I think it can be done. I think it must be done.

Mr. Chairman, if we are going to preserve the fiscal integrity which remains in our currency, the little bit of respect that the people of America and the rest of the world still has for the viability of our economy, we must do it.

Mr. Chairman, I urge my Democratic colleagues to support the amendment.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. LATTA. I am happy to yield to the gentleman from California.

Mr. JOHN L. BURTON. Mr. Chairman, I just want to say that I supported the gentleman on his views on the tax cut. However, I just cannot bring myself to vote for a $30 billion deficit. I am waiting for a balanced budget to come up through the Rousselot amendment.

Mr. LATTA. Mr. Chairman, let me reclaim my time and say that I am also waiting for a balanced budget.

Mr. Chairman, let me say that this is not the end of the road. We have a long way to go. We have to go to conference with the Senate, and the Senate is below us in budget totals. I would like to go to conference with figures below those of the Senate. I want to go over there with lower figures. This will give us the opportunity to do it.

Mr. Chairman, I think the American people want to see a cutback in spending. This is an opportunity to do that and also to reduce the amount of the debt from $40 billion to $30 billion.

Mr. GIAIMO. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment, as I understand it, will maintain revenues at the figure which the committee and the House have recommended, $450 billion. It would cut spending by an additional $10 billion, and it would direct and mandate the Committee on Appropriations to find $22.5 billion in budget authority.

Let me explain that budget authority is appropriations, the authority to commit and authorize expenditures. It can be an appropriation or it could be entitlement. Outlays are driven by budget authority; and in order to get $10 billion in outlays, we have to get sufficient budget authority which will result in a $10 billion outlay reduction.

The Committee on Appropriations would find it very difficult to find reductions in our noncontrollable programs, in our mandatory programs, and 70-odd-percent of our budget is mandatory and noncontrollable. We are talking about the entitlement programs, unemployment compensation, social security, health programs, medicare, medicaid, and on and on. Where would they find this money, this $22.5 billion? They would find it in the controllable programs, in the discretionary programs. Let me just say the No. 1 discretionary program that sits out there in a large amount is defense and other programs of that type—highways and others. I say that this is not the way to legislate. This is a meat-ax approach, $10 billion in outlays which calls for $22.5 billion in budget authority reduction. It would destroy many of these very vital and worthwhile programs beginning with the defense program.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. GIAIMO. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank my colleague for yielding.

As I understand it, not one single program will be cut—not one. There is no program for defense, education, health, or welfare—no program that is going to be cut. The only thing that is going to be cut is the increase in the growth of spending. In other words, we are trying to say, "Look, do not balloon the increases quite so big."

Mr. GIAIMO. All right, I will recoup my time. That means that defense, which is at $127 billion in budget authority, would go back to last year's figure. How much was last year's figure in defense—somewhere around $118 billion. It means that the veterans add-ons which were made this year of several billion dollars would go back to what we had before that. The gentlewoman from New Jersey (Mrs. FENWICK) is wrong. This would mandate reductions in outlays. It would literally say, "You will reduce outlays by $10 billion."

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. GIAIMO. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate my chairman's yielding.

First of all, as it relates to budget authority, my colleague, the gentleman from Ohio (Mr. LATTA), who is very familiar with the authority provisions that we all are faced with, provides for a budget authority of $539 billion. That is a substantial increase over last year. It is clearly higher. So he has not "terminated" or done great damage to the authority process. It is clearly less than what the original committee budget figure was of $561 billion, but it is over last year's authority figure.

Mr. GIAIMO. I am not going to yield to have you make a long speech.

I will say to the gentlewoman from New Jersey we cannot do these things with mirrors. If she thinks that we can reduce $10 billion in outlays and it does not have an effect on the outlay expenditures of the Government, someone is deceiving her.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. GIAIMO was allowed to proceed for 1 additional minute.)

Mr. GIAIMO. The fact of the matter is it will come about. And let me say this: I recognize what my friend, the gentleman from Ohio (Mr. LATTA) is trying to do here. I sympathize with his concern because I know that what the gentleman from Ohio (Mr. LATTA) really believes in is that we should not have had a tax cut this year. What he is trying to do is to recoup, with an outlay reduction of $10 billion to recoup $10 billion worth of that tax reduction, which I know the gentleman felt we should not have voted on last week. But I will say to the gentleman this is not the way to do it, because we have had this opportunity to have a smaller tax cut. The fact is that the will of the House was to have a larger tax cut than the gentleman would have wanted. We cannot recoup it through the outlay route by reducing outlays by $10 billion without seriously damaging very significant governmental programs, and I think it would create chaos if we were to compel the Committee on Appropriations at this time of the year, with the fiscal year just a month and a half off, telling that Committee on Appropriations, go back to work; undo all you have been doing all year; and find $22.5 billion to take out of next year's budget. I think it is a mischievous amendment and should be voted down.

Mr. SIMON. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, I joined the distinguished Member from Ohio (Mr. VANIK) in supporting the gentleman's no-tax-cut proposal. I felt it was sound. I recognize it was not the most politically popular thing to do. I felt it would have moved us in the right direction; but I have to disagree and disagree strongly with the gentleman right now.

The one aspect of the Latta proposal that is better than the Holt proposal is in the tax cut area; but the point that the chairman of this committee (Mr. GIAIMO) made is an extremely important one.

I would point out to those of us who are interested in agriculture, in employment programs, educational programs, that the bulk of the budget is entitlements. We cannot do anything about school lunch programs or interest rates or a variety of other things. We have in this budget about $140 billion that is controllable.

What the gentleman is suggesting is

We are talking about aggregates and aggregates only. We are on the second budget resolution. We are not on the first budget resolution. We are going to have to go over to a conference committee with the Senate, and I have been on every conference committee since I have been on the Budget Committee; we would have to go in there without any figures on any one of the functions. The Senate would have figures. We would have none. Then we start work. Where do we go from there? How can we function without a base?

Another point I made earlier, and that is even clearer now. I said, for those who may have been here or those few who may have been listening at that point. I said the easy thing is to cut from the people who need it the most. We have had amendments since that time. We had one that was adopted hitting the countercyclical program. Now, there are things that are wrong with the countercyclical program, I acknowledge that; but it goes to people in areas of high unemployment. We have had no amendments to cut defense. We have had no amendments to cut education, no amendments to cut veterans' programs. We have no amendments to cut the additional airline subsidy that went into this budget. We have a flock of things that we might cut into, but we did not.

If we adopt this, the people who will get hurt the most are the very people who need the help the most in your district and in mine.

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Chairman, the gentleman has stated it so very well and I want to associate myself with the gentleman's remarks.

The medicine we need is the medicine associated with gradual weight reduction, not a purgative, not a strong laxative that we find in the Latta amendment.

I think the gentleman from Illinois has put the case so well and I hope the Members will listen to the gentleman and listen positively.

Mr. SIMON. Mr. Chairman, I thank my colleague, the gentleman from Maryland (Mr. MITCHELL) for his contribution.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Chairman, I thank the gentleman for yielding.

I do not wish to associate myself with the gentleman's remarks.

Mr. SIMON. I assumed the gentleman would not.

Mr. CONABLE. However, I do think I have to agree with the gentleman that we have an additional process to go through, and I would like to say to my friends on this side of the aisle that if we are talking about aggregates and aggregates only. We are on the second budget resolution. We are not on the first budget resolution. We are going to have to go over to a conference committee with the Senate, and I have been on every conference committee since I have been on the Budget Committee; we would have to go in there without any figures on any one of the functions. The Senate would have figures. We would have none. Then we start work. Where do we go from there? How can we function without a base?

Another point I made earlier, and that is even clearer now. I said, for those who may have been here or those few who may have been listening at that point. I said the easy thing is to cut from the people who need it the most. We have had amendments since that time. We had one that was adopted hitting the countercyclical program. Now, there are things that are wrong with the countercyclical program, I acknowledge that; but it goes to people in areas of high unemployment. We have had no amendments to cut defense. We have had no amendments to cut education, no amendments to cut veterans' programs. We have no amendments to cut the additional airline subsidy that went into this budget. We have a flock of things that we might cut into, but we did not.

If we adopt this, the people who will get hurt the most are the very people who need the help the most in your district and in mine.

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Chairman, the gentleman has stated it so very well and I want to associate myself with the gentleman's remarks.

The medicine we need is the medicine associated with gradual weight reduction, not a purgative, not a strong laxative that we find in the Latta amendment.

I think the gentleman from Illinois has put the case so well and I hope the Members will listen to the gentleman and listen positively.

Mr. SIMON. Mr. Chairman, I thank my colleague, the gentleman from Maryland (Mr. MITCHELL) for his contribution.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Chairman, I thank the gentleman for yielding.

I do not wish to associate myself with the gentleman's remarks.

Mr. SIMON. I assumed the gentleman would not.

Mr. CONABLE. However, I do think I have to agree with the gentleman that we have an additional process to go through, and I would like to say to my friends on this side of the aisle that if you vote for this amendment, you would have to bring each of those bills back again and cut every one of them by about 9 percent at a minimum.

If you vote for this amendment, you will be voting to mandate a cut of about 9 percent in the military budget of this country as established in the defense appropriation bill which we passed last week.

How many of you who voted a few minutes ago—innocently, I am sure—for the Holt amendment realize that your vote would have mandated a 9 percent cut in what this House already voted for military? Would you do that if you had the choice to make again? The House only a week ago voted against a 1-percent cut in the military budget. Would the same Members now turn around and vote to mandate a 9-percent cut in the figure we endorsed only a week ago?

Let me ask the members of the Committee on Agriculture this: Do you consider the legislation you have brought to this House to be 9 percent too much? I am sure Members like the gentleman from Texas (Mr. DE LA GARZA), the gentleman from Oklahoma (Mr. ENGLISH), the gentleman from Texas (Mr. HIGHTOWER), and the gentleman from Tennessee (Mr. JONES)—and they are all my good friends—who have been in favor of a strong and effective agriculture program and who have been indeed the architects of that program, would not now want to mandate an across-the-board 9-percent cut in their handiwork. If they vote for this amendment, that is exactly what they will be doing.

Mr. Chairman, I am sure that my good and wise friends who serve on the Committee on Public Works and Transportation—the gentleman from Texas (Mr. ROBERTS), the gentleman from Louisiana (Mr. BREAUX), the gentleman from Georgia (Mr. LEVITAS)—who have been the architects of the Public Works and Water Resources programs, would not now want to mandate that we cut their handiwork by 9 percent. Yet that is precisely what they would do if they vote for this amendment.

I think we have established a very creditable record in this Congress for fiscal responsibility and prudent, individual expenditure cuts where they can be made. Just a few moments ago, the Members of this House voted for a selective and intelligently conceived reduction in this budget resolution. The majority voted for it. It at least had the merit of saying exactly what moneys would be deleted from precisely what items in this proposed budget. Specific reasons were given. This amendment, however, is not selective. It is based upon no particular knowledge of specific programs. It does not say which moneys. It says all moneys. It says we will have to go back and redo each of the appropriations bills we have so carefully constructed, and cut about 9 percent at a minimum from each of them.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. SIMON) has expired.

(On request of Mr. CONABLE, and by unanimous consent, Mr. SIMON was allowed to proceed for 1 additional minute.)

Mr. CONABLE. Mr. Chairman, if the gentleman will yield further, as I said in my remarks in the well a few minutes ago, the Senate is expecting to increase the size of the tax cut involved in the Jones compromise. If we now accept the Jones compromise, then in the budget conference we are going to put pressure on the Senate to cut back on its tax cut expectancy. I am not sure that my friends on this side of the aisle want to do that, although perhaps the size of the tax cut on the Senate side could go considerably larger simply by their adopting more realistic inflation assumptions. A higher inflation rate assumption would make room for a larger tax cut within the parameters of this budget, since it would mean a higher revenue figure.

Mr. Chairman, I thank the gentleman for yielding.

Mr. WRIGHT. Mr. Chairman, I rise in opposition to the amendment.

It is just vitally important that every Member of this House understand what he would be doing before he votes for this amendment. Let there be no misunderstanding. We are not now establishing a target as we do in the spring. Today we establish a ceiling.

It is perfectly appropriate in the spring to come in with a general across-the-board cut and make each of the targets conform to the figures within that cut. At that point, we give timely guidance to the Appropriations Committee and to ourselves before those bills come before us. To our credit, we have kept the appropriations bills below those targets which we established last spring.

At this point we are establishing not targets but ceilings on expenditures. The House already has worked its will, quite laboriously, on all but one of the appropriations bills. To adopt this amendment would be to require by law that we go back and redo all the work we already have performed on each of the appropriations bills.

Are we prepared to do that? Well, let us see if we are. A cut of this magnitude would amount to a 2-percent reduction across the board of the entire budget. That may sound comparatively innocuous, if you assume that you can cut social security by 2 percent, if you assume you can cut interest payments by 2 percent, if you assume you can cut all the entitlement programs by 2 percent—but, of course, you cannot; they do not yield to the appropriations process. That portion of the budget which is controllable by the appropriations process amounts to slightly less than a third of the total expenditures. So, by adopting this

Mr. Chairman, I know not when Congress could adjourn if we do that, but I do know that the responsible course is to follow the committee, the leadership of the House, and our own individual judgments expressed already on the appropriations bills. This process already has performed a good and creditable task of reducing the deficit by at least one-third below the administration's projections in this 1 year and not fall for a will-o'-the-wisp by this amendment.

Mr. LATTA. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman from Ohio (Mr. LATTA) is recognized for 5 minutes.

There was no objection.

Mr. LATTA. Mr. Chairman, let me say to my good friend, the gentleman from Texas, that he makes a very good speech, but he makes a lot of assumptions which are not quite correct.

The gentleman assumes that everything that he has mentioned is going to be cut, as he calls it. The gentleman assumes that in this proposal there is not the 7-percent increase in spending in fiscal year 1978. The gentleman makes it very clear that he does not want to put any kind of restraints on this Congress, because when you have an increase as we have in this resolution proposed by the committee of about 10 percent, we are not cutting anything when we come down to a 7-percent increase.

So I think it is a misnomer when we say it is a cut rather than a restraint on spending.

Let me say that we have about a $10 billion shortfall in spending in 1978. That could not be spent fast enough, so there is $10 billion floating around. We had a finding on HEW that they had about $7 billion of waste in that one department. Well, now, why can't they cut out some of that $7 billion in waste to accommodate what we are proposing here?

They are mixing oranges and apples when they talk about $22 billion in one single year, because what we are talking about in fiscal year 1979 is a reduction of $10 billion in outlays.

When the gentleman talks about $22 billion, he is talking about authorization—things that are on the shelf that are constantly getting us in trouble from a budgetary standpoint. That is where we ought to start to cut. Cut those things that are on the shelf which are going to get us in more fiscal trouble down the road.

So let us not mix oranges and apples when we talk about this budget. Sure, we can cut the outlays for fiscal year 1979 by $10 billion, and what would be left would still be way and above what we need to run this Government. The taxpayers of this Nation are crying out for some real tax relief from this Congress, and yet Members come down in the well and they say we cannot reduce spending, as proposed by the Budget Committee, by a mere 2 percent.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague's yielding—a member of the Budget Committee who has worked long and hard and, frankly, has been able to be present for the budget hearings more than other distinguished colleagues who have other duties.

Mr. Chairman, the $480 billion expenditure level recommended by my colleague in the resolution is $30 billion more than we spent in 1978. That is not a cut. That is a substantial increase.

The gentleman was not talking about cutting the guts out of anything. The gentleman is merely suggesting that we restrain the massive increase that was originally suggested by some of the members of the Budget Committee. Is that not true?

Mr. LATTA. The gentleman is absolutely correct.

Mr. ROUSSELOT. In other words, after proposition 13 began to ripple across the country, as Members of this Congress began to find out what that meant, the gentleman from Ohio is merely asking that we restrain the massive increase in expenditure suggested by a few people on the Budget Committee, is that not true?

Mr. LATTA. That is absolutely true.

Mr. LUKEN. Mr. Chairman, will the gentleman yield?

Mr. LATTA. I yield to my colleague from Ohio.

Mr. LUKEN. Mr. Chairman, I would like to ask the gentleman from Ohio, as the author of the amendment, whether he would agree with the statement that was made earlier that on the revenue side, on the passage of this amendment, it would in fact restrict the Senate in considering a tax bill to the Jones tax cut, and if that is part of the aim of the gentleman from Ohio?

Mr. LATTA. Let me say, we are accepting the revenue figures of the committee. It does not provide for a greater tax cut than that which passed the House the other day. It takes into consideration the fact that we failed to pass the Kemp-Roth proposal. I assume that the gentleman opposed Kemp-Roth. It accepts the committee figures.

Mr. LUKEN. This gentleman did not oppose that proposal.

Mr. LATTA. I correct my statement. I am glad to have the gentleman aboard.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Illinois.

Mr. SIMON. There is some confusion about how much, what percentage, we are taking out. So that there is absolutely no confusion, we should understand that when we talk about appropriations, we are talking about budget authority. Between one-fourth and one-third of that is controllable so that, in fact, of the controllable items the gentleman is asking for a reduction of 12 percent to 16 percent. Is that not correct?

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(At the request of Mr. SIMON and by unanimous consent, Mr. LATTA was allowed to proceed for 2 additional minutes.)

Mr. LATTA. I am sorry, will the gentleman repeat his question?

Mr. SIMON. When we talk about appropriations we are talking about budget authority, and since one-fourth to one-third of the items are controllable we are in fact talking about a reduction in appropriations of between 12 percent and 16 percent. Is that not the case?

Mr. LATTA. No, I would not accept that.

Mr. SIMON. Can the gentleman give me some reason for not accepting it?

Mr. LATTA. I do not know where the gentleman gets this 16 percent. I have not heard that figure yet.

Mr. SIMON. If we take one-third or one-fourth—I do not know what figure the gentleman uses—as controllable, and we take that fraction from the total in budget authority. Then we take your $22.5 billion and compare it and determine a percentage of the controllable. It seems to me that the gentleman cannot get around those figures.

Mr. LATTA. Let me say that I am surprised that my friend from Illinois would be opposing my amendment, because it does reduce the deficit by some $10 billion. I noticed the other day—and I was glad to have him sign my discharge petition to provide a chance to vote for a constitutional amendment to provide for a balanced budget, we are getting closer. This is the only way we can get closer, and I am sure my friend wants to get closer.

Mr. SIMON. If the good gentleman from Ohio will yield further, I concur with the gentleman from Ohio on that.

Mr. LATTA. We have got to start now. We cannot wait.

Mr. SIMON. I simply point out—I do not mean any disrespect to the distinguished majority leader who earlier referred to a 6-percent cut—but in fact we are talking about reductions in appropriations of 12 percent to 16 percent, and we ought to be aware of that.

The CHAIRMAN. The time of the gentleman from Ohio has again expired.

(At the request of Mr. SNYDER and by unanimous consent, Mr. LATTA was allowed to proceed for 1 additional minute.)

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Chairman, I appreciate the gentleman yielding. Not being on the committee, I just want to see if I have got the facts on all this straight. The gentleman's proposal is for $539 billion in budget authority. Am I correct that the budget authority for fiscal year 1978 was $503.8, and the gentleman is suggesting a $36 billion increase in this fiscal year over last year?

Mr. LATTA. I am afraid those figures are correct figures.

Mr. SNYDER. Am I correct also in that the gentleman's proposal on outlays is $480 billion, as opposed to $447.5 billion in fiscal year 1978, and the gentleman is suggesting a $33 billion increase in outlays?

Mr. LATTA. That is correct.

Mr. SNYDER. I just have a little trouble seeing why that is a cut.

Mr. LATTA. That is not a cut. It is a restraint on spending, and it is a 7-percent increase, whereas the other side has a 10-percent increase.

Mr. SNYDER. I commend the gentleman on his amendment.

Mr. FISHER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we are dealing, of course, with the budget, the second resolution. This is for keeps this time. We are about to establish binding ceilings on spending and a floor under revenues. We are not in the guideline business any longer.

Now we argue excessively perhaps about a few billion dollars this way or that, and this is important not only in itself but because it sets a direction and gives a signal as to what the House of Representatives wants to do in fiscal policy for the next year.

It comes down to a matter of judgment. We can go through the econometric studies and models and projects and all that and absorb as much of it as we can, and then we have to make a judgment. I would like to share with the Members my judgment. I am a member of the Budget Committee. I am a professional economist. I have worked in the Executive Office of the President, seeing it from that end of the avenue, for quite a number of years. I want to share my judgment with my colleagues and my reasons for it.

Keep in mind that since I have been a member of the Budget Committee I have been for restraining expenditures. Members will recall I have put amendments here on this floor in the last couple of years to do this.

In the first resolution I proposed a reduction of 2 percent pretty much across the board from $500 billion of outlays to $490 billion. The Budget Committee in the second resolution came forward to this House with $490 billion, a 2-percent cut, which is what I thought was in order.

Time passes. The economic situation changes; revenue collections change; expenditures are different. My judgment now is that we should put additional pressure to cut outlays and cut budget authority by about $5 billion. The $10 billion already achieved in the last few months is in the right direction. Unfortunately too much of that results simply from reestimates, valid to be sure. But by judgment now is that we ought to cut into flesh, so to speak, by about $5 billion in addition to what we have done already today in the conforming amendments and in the amendment just passed, offered by the gentleman from Texas (Mr. MATTOX) and his colleague.

This is my judgment. There is no magic in it. I cannot prove it nor can anybody else. But we must recognize that it comes to sober judgment. I think a cut of about $5 billion in addition to the $3 billion or so that we have cut already today is about right, taking it all in all.

I want to remind the Members that I will be offering an amendment following this for that kind of cut. I think it is responsible, I think it is achievable. Those who want to put further pressure to reduce outlays and reduce authority might want to hold back and come with me for this kind of cut which I think is about the way it ought to be.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. FISHER. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate my colleague's yielding, and I know he is, as he has said, one who would like to limit the expenditure side further than we have done so in the resolution before us or in the substitute offered by the chairman—and he so offered it in the committee, a very close holding amendment. The gentleman's amendment, as I understand it will cut $5 billion from the outlay side, so instead of an outlay figure of $480 billion, it will be $485 billion. Is that correct?

Mr. FISHER. That is correct.

Mr. ROUSSELOT. And so the gentleman would agree with my colleague, the gentleman from Ohio, that there should be $5 billion less but not $10 billion?

Mr. FISHER. That is correct. It is a matter of judgment and feel, and this is where I come out.

Mr. ROUSSELOT. Has the gentleman allocated his reduction of $5 billion to functional categories?

Mr. FISHER. Yes; I have.

Mr. ROUSSELOT. What functional categories are affected by your reduction?

Mr. FISHER. I reallocate it on a pro rata basis to all functions with the exception of interest allowances and miscellaneous.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. ROUSSELOT and by unanimous consent, Mr. FISHER was allowed to proceed for 2 additional minutes.)

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield still further, the gentleman does agree that in many categories we could clearly restrain the increases that the committee has made a judgment on?

Mr. FISHER. I agree with that.

Mr. ROUSSELOT. You think that should be $5 billion?

Mr. FISHER. I do.

Mr. ROUSSELOT. You do not reduce interest because obviously a $5 billion cut in outlays could not reduce interests by 5 percent.

Mr. FISHER. That category is really one of those fixed categories although it changes, too, with the ups and downs of the rate structure. But it would be, I think, quite a mistake and misleading to prorate a certain cut on that.

Mr. ROUSSELOT. So you do agree with the gentleman from Ohio (Mr. LATTA) that there is no great damage to the whole budget process by taking, as you say, $5 billion out of the outlays. You do not hurt or harm a lot of the programs, is that correct?

Mr. FISHER. I do not think we hurt too much. Of course, any cut hurts somewhere.

Mr. ROUSSELOT. But these are really restraints on increases, are they not?

Mr. FISHER. Exactly.

Mr. EVANS of Colorado. Mr. Chairman, if the gentleman will yield, it is my understanding that you are going to offer this amendment after disposing of the pending amendment?

Mr. FISHER. That is correct.

Mr. EVANS. of Colorado. Could the gentleman tell me what the parliamentary situation would be in the event the pending amendment were agreed to, as to what would be the effect?

Mr. FISHER. My understanding is, subject to a ruling by the Chairman, that my substitute would still be in order. It is an across-the-board, sweeping substitute that goes to all categories.

Mr. EVANS of Colorado. And the gentleman feels that even if this pending amendment does pass, you would still have an opportunity to offer your amendment?

Mr. FISHER. That is my understanding and I would hope a ruling would support that.

Mr. GIAIMO. Mr. Chairman, will the gentleman yield?

Mr. FISHER. I yield to the chairman, the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Chairman, I understand that if the amendment offered by the gentleman from Virginia (Mr. FISHER) were to be agreed to, which is a $5-billion outlay cut, that you have allocated those cuts throughout the functions; is that correct?

Mr. FISHER. That is correct.

Mr. GIAIMO. And while the gentleman has small cuts in the 45- to 50-, to 60- to 80-million dollar categories in some programs—

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. GIAIMO, and by unanimous consent, Mr. FISHER was allowed to proceed for 2 additional minutes.)

Mr. GIAIMO. Mr. Chairman, will the gentleman yield further?

Mr. FISHER. I yield to the gentleman from Connecticut.

Mr. GIAIMO. As I understand, while you have small cuts in some functions, you have rather substantial cuts in national defense of 1.2 billion in outlays, is that correct?

Mr. FISHER. That is correct, approximately 1 percent.

Mr. GIAIMO. And $1.7 billion in income security?

Mr. FISHER. That is correct.

Mr. GIAIMO. And $536 million in health?

Mr. FISHER. That is correct.

Mr. GIAIMO. And $338 million in education?

Mr. FISHER. May I interrupt?

Mr. GIAIMO. And $227 million in veterans' benefits, is that correct?

Mr. FISHER. If I may interrupt the litany, I would say that if you want to reduce the budget you have got to cut.

Mr. GIAIMO. That was all prefatory, and my question is, if you are going to cut $1.2 billion in defense, and $1.7 billion in income security, and a half billion in health and a quarter billion in veterans' benefits, and on and on, with a 1 percent cut, could we assume that the cut the gentleman from Ohio (Mr. LATTA) is proposing would double those amounts?

Mr. FISHER. If they are allocated in the same way, and properly, they would be, more or less.

Mr. GIAIMO. Probably more or less they would be?

Mr. FISHER. The chairman is quite

correct, it would be twice as much of a cut, too much, in my judgment.

Mr. GIAIMO. So you would be talking conceivably about a cut of $2.5 billion in defense, and over $3 billion in income security and $1 billion in health and half a billion in veterans' programs, and on and on? That is what we are talking about here when we talk about a reduction through cuts?

Mr. FISHER. That is correct. I believe, at least because of my experience, which I have been bold enough to recite earlier, that a 1-percent cut is a manageable cut out of more efficiency, better management in certain cases and reductions in fraud and abuse and in these other matters.

The CHAIRMAN. The time of the gentleman from Virginia (Mr. FISHER) has expired.

(On request of Mr. EVANS of Colorado and by unanimous consent, Mr. FISHER was allowed to proceed for 1 additional minute.)

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. FISHER. I yield to the gentleman from Colorado.

PARLIAMENTARY INQUIRY

Mr. EVANS of Colorado. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. EVANS of Colorado. I would like to ask the Chair what the situation would be in the event the pending amendment passed, and thereafter the gentleman from Virginia (Mr. FISHER) were to offer his amendment. Would his amendment then be in order?

The CHAIRMAN. The Chair would like to advise the gentleman from Colorado (Mr. EVANS) that a substitute amendment to the amendment offered by the gentleman from Connecticut (Mr. GIAIMO) would be in order.

Mr. EVANS of Colorado. I thank the Chair.

Mr. MAHON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

The colloquy between the two gentlemen who have just spoken reveals the problem with which we are confronted. We have passed all 13 annual appropriation bills. We have debated them. We have made some increases, we have made some decreases; and those bills have gone to the other body.

We are approaching the new fiscal year. It is not long now, just a few weeks, until the first of October.

Mr. Chairman, for us to try to reduce the budget authority in those bills by $22 billion is totally impractical and illogical because there would be no way, in my opinion, to persuade the House that these reductions should be made specifically. It is very easy to be for reductions in general, but to be for reductions in specific areas, such as in veterans' benefits, in health, in farm benefits, in defense, and so forth, is a different matter.

Mr. Chairman, we have spent days and days and months working on the authorization bills and on the appropriation bills. We have done the best we knew how, and all the Members have had an opportunity to participate. We have made our decision. To come in now at this late date just prior to the beginning of the new fiscal year and say that we are going to cut the appropriations in new budget authority by about $22 billion, it seems to me is impractical; and it cannot be done successfully.

Mr. Chairman, if this amendment were passed, in my opinion—and I think most of the Members will agree with me—and if the recommendations were brought in and specific proposals to make reductions were made, they would not be adopted by the House or by the other body.

Therefore, Mr. Chairman, it just seems to me that while it is good to contemplate a balanced budget—and we are all for a balanced budget—we have to find a way to get a better handle on spending. We have to or else we are confronted ultimately with disaster. However, I do not see how this proposal could possibly succeed, so I rise in opposition to it and in support of the action of the Committee on the Budget.

I just think that there is no practical way, at this stage, to achieve the objective. If we had started earlier and if we had been able to cut those bills back when they were before us, the authorization and appropriation bills, that would have been a different matter; but it is late in the session. To reconvene our committees now and start additional hearings and try to find a way to implement the reductions that would be proposed and probably rejected is just impractical.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I want to thank my chairman, the gentleman from Texas (Mr. MAHON), for yielding. The gentleman is absolutely right.

All of the appropriation bills have left the House. Most of them have gone through the Senate committee. Some of them have gone through the Senate and are in conference. As a result, it becomes almost an impossibility to unravel what has been done.

Mr. Chairman, I voted in favor of the Holt amendment, but I certainly could not go along with this amendment because I do not see that it is feasible to unravel what we have done.

Therefore, Mr. Chairman, I hope many of my colleagues on this side of the aisle will vote against the amendment.

Mr. MAHON. I thank the gentleman.

Mr. LATTA. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Ohio.

Mr. LATTA. Mr. Chairman, let me give the gentleman from Texas (Mr. MAHON), the chairman of the Committee on Appropriations, some enlightening information while praising the gentleman's committee for the job it has done.

All of the appropriation bills out of the gentleman's committee which have passed this House, only total $519 billion in budget authority, which is $20 billion less than the figure in this amendment. In adding up all of the outlay figures from the bills from your committee, we come up with a figure of $469.8 billion. The outlay figure in this amendment is $480 billion.

So the gentleman's committee has done a much better job in holding down spending than has the Budget Committee. I am attempting to come closer to the chairman's figures. He has done a good job. I want to compliment him and congratulate him on the job he has done.

Mr. MAHON. I thank the gentleman very much.

It should be borne in mind that all of the approriation bills that will be required for fiscal year 1979 have not passed, although we have passed all the regular bills.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. MAHON was allowed to proceed for 1 additional minute.)

Mr. MAHON. But there were some instances, especially in HEW and otherwise, where the authorizations had not come through, so those programs are not in the bills which had been passed and, of course, there will be the usual supplementals. All of this could amount to some $30 or $40 billion. So I renew my statement that this is not the way to achieve the objective, and I believe that it would be a mistake to approve this amendment.

Mr. STOCKMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I had not planned to speak on this amendment, and I do not want to delay the proceedings of the House, but I was sitting here a moment ago listening very carefully to the gentleman from Texas, and I thought for a moment that rather than the eloquent majority leader, I was hearing Dr. Pangloss come waltzing out of the pages of historical literature. I think some of the Members will remember Dr. Pangloss was the man who roamed around the ruins of a decaying fuedal order in Europe saying, "This is the best of all possible worlds. There is nothing that we can change, and there is nothing that we should change." It seems to me that this is the argument that we are getting time and time again from the chairman of the Committee on the Budget and from some of the others who spoke in opposition to this amendment.

Of course, we have gone through the entire appropriation cycle, but I would remind my colleagues that in the Budget Act that we adopted in 1974 we contemplated the situation in which the second budget resolution would lower the outlay level or would lower or increase the revenue level, and that we would have to have a reconciliation action. So the fact that the work of the Appropriation Committees is done and the fact that we have had all kinds of other legislative actions in the last 2 or 3 years that have built in a certain spending stream or outlay pattern for this year should not be any deterrent at all in light of the economic conditions that we face today. I

think that the argument that we have our hands tied, that this is all the entitlement money, that this is all advance appropriations, and that we can do nothing about it really is just wrong, and the members of this committee know it. The fact is that if we look inside that $500 billion budget, every one of us knows that in light of the economic contingencies that we face today, in light of the threats that we face today with inflation and the collapse of the dollar, that we can make $10 billion more in outlay cuts if we have to. I know our side said that we are just attempting to restrain the growth rate of outlays, and I agree with that, but the fact is, let us be honest and let us just look at some of the categories that are available for cutting.

We know that there is $600 million in this bill for the Amtrak system. Every one of us knows that there are literally scores of lines on that system that generate 10 cents worth of revenue for every dollar in cost that it incurs. That is not entitlement money. That can be scaled back this year. There is $700 million or $800 million in this for impact aid. I am opposed to that program, but I am not proposing that it be gutted. It can be scaled back, though. The payout rate can be reduced for this fiscal year.

I just want to lay out a couple of other areas so that the impression that our hands are tied and there is nothing to be cut or restrained can be clarified, because it is not true. We have a huge sewer grant program. I know that most of that is in the spending stream already, but the fact is that there is a multibillion-dollar obligation for this year, and that can be scaled back, and that will have some effect on outlays even during this year.

We have had a huge ballooning of the budget for the Department of Energy—everybody knows it—fourfold or fivefold in the last 2 years.

And what is some of that spending going for? It is going for building windmills, and it is going for building methane plants in barnyards. These may solve our energy problem someday in the future, but I would suggest that the timetable can be slipped just a little bit and that there is ample opportunity for savings in that area.

Some of this may come out of Defense, and I would not like to see that happen; but I can suggest if we do not get some economic leadership from this country, if we do not begin to restrain our rate of inflation and begin to reduce the enormous damage that we are doing to the world economy today with our huge balance-of-payments deficits that the defense we will be purchasing for 10 years in the future will not even matter, because we will have suffered serious economic collapse in the Western world long before that.

The point is that there is ample opportunity to cut $10 billion of outlays out of this budget. I think we are really undermining our own credibility and our own sense of self-esteem, and we are undermining the very purpose that we are sent down here for, if we say that 3 months in advance of a fiscal year that has not even started, we have gotten ourselves so hog-tied that we cannot deal with this excessive outlay level in this bill reported by the committee; so I hope the House will support this amendment.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. STOCKMAN. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Chairman, would the gentleman agree, the argument seems to be against the budget process. We could have this type of adjustment at this time of the year, and the budget process spells it out specifically.

Mr. STOCKMAN. Right; that is incorporated in the budget process. We are engaging in a midcourse correction in that process.

Mr. OBEY. Mr. Chairman, I move to strike the requisite number of words. I rise to speak against the amendment.

I will only take a minute, Mr. Chairman, but I really do think it is something short of laughable to suggest to the House that these cuts, if they were, in fact, voted in this resolution, would come in an area such as energy and Amtrak and sewerage and impact aid. I know from personal experience what happens when you try cutting impact aid in this House, because I have had amendments on this floor to do it. I know how many votes I have gotten on that side of the aisle and I know how many votes I have gotten on this side of the aisle, and they were not very much on either side of the aisle. There is about as much chance of us cutting impact aid as there is the chance for the gentleman from Michigan becoming President tomorrow. Neither one is going to happen and I think all of us know it. There is about as much chance of us cutting sewer aid as my becoming President tomorrow. This House has added money consistently over the recommendations of the Appropriation Committees for sewer aid.

You cannot tell me you are going to have a resolution voted to cut Amtrak, and you cannot tell me you are going to have Members of Congress in other parts of the country who are getting a little bit fed up with subsidizing all the big city runs, you cannot tell me they are going to accept reducing Amtrak allocations which keep some of their runs running as well.

I would simply suggest that the gentleman from Texas has summed it up correctly. What is facing us is a question of how much pride we have. Do we really have pride in this House? Do we really have pride in the orderly processes of appropriations by which we approach the whole budget in question? If we do have that pride, we will stick with the committee and we will not support this most mischievous amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. LATTA) to the amendment in the nature of a substitute offered by the gentleman from Connecticut (Mr. GIAIMO).

The question was taken; and on a division (demanded by Mr. LATTA) there were—ayes 24, noes 36.

RECORDED VOTE

Mr. LATTA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 196, noes 204, not voting 30, as follows:

[Roll No. 709]

AYES—196

Abdnor
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Applegate
Archer
Armstrong
Ashbrook
AuCoin
Badham
Bafalis
Baucus
Bauman
Beard, Tenn.
Bennett
Bowen
Breaux
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Caputo
Carr
Carter
Cavanaugh
Cederberg
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
de la Garza
Derwinski
Devine
Dickinson
Dornan
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlenborn
Evans, Del.
Evans, Ga.
Evans, Ind.
Fenwick
Findley
Fish
Forsythe
Fountain
Fowler
Frenzel
Fuqua
Gammage
Gibbons
Gilman
Glickman
Goldwater
Goodling
Gradison
Grassley
Green
Gudger
Guyer
Hammer-schmidt
Hansen
Harris
Harsha
Heckler
Hillis
Hollenbeck
Holt
Horton
Hughes
Hyde
Ichord
Jacobs
Jeffords
Jenkins
Johnson, Colo.
Kelly
Kemp
Kindness
Kostmayer
Krueger
LaFalce
Lagomarsino
Latta
Leach
Lent
Livingston
Lott
Lujan
Luken
McClory
McCloskey
McEwen
McKinney
Madigan
Mann
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Michel
Milford
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Motti
Murphy, Pa.
Myers, Gary
Myers, John
Neal
Nichols
Nowak
O'Brien
Panetta
Pettis
Pickle
Pike
Poage
Pressler
Pritchard
Pursell
Quayle
Quie
Quillen
Rallsback
Regula
Rhodes
Rinaldo
Robinson
Rose
Rousselot
Rudd
Runnels
Ruppe
Santini
Sarasin
Satterfield
Sawyer
Schroeder
Sebelius
Sharp
Shuster
Skelton
Smith, Nebr.
Snyder
Spellman
Spence
Stangeland
Stanton
Steers
Steiger
Stockman
Stump
Symms
Taylor
Thone
Treen
Trible
Vander Jagt
Vanik
Walker
Wampler
Weaver
White
Whitehurst
Wilson, Bob
Winn
Wirth
Wydler
Wylie
Yatron
Young, Fla.

NOES—204

Addabbo
Akaka
Alexander
Ambro
Ammerman
Anderson, Calif.
Annunzio
Ashley
Aspin
Baldus
Barnard
Beard, R.I.
Bedell
Bellenson
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Brademas
Breckinridge
Brodhead
Brooks
Brown, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Chappell
Chisholm
Clay
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cornwell
Cotter
Danielson
Davis
Delaney
Derrick
Dicks
Diggs
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Ertel
Evans, Colo.
Fary
Fascell
Fisher
Fithian
Flippo
Flood
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fraser
Garcia

Gaydos	Maguire	Rooney
Gephardt	Mahon	Rosenthal
Giaimo	Markey	Rostenkowski
Ginn	Mazzoli	Roybal
Gonzalez	Meeds	Russo
Gore	Metcalfe	Ryan
Hall	Mikulski	Scheuer
Hamilton	Mikva	Seiberling
Hanley	Mineta	Simon
Hannaford	Minish	Skubitz
Harkin	Mitchell, Md.	Slack
Harrington	Moakley	Smith, Iowa
Hawkins	Moffett	Solarz
Hefner	Mollohan	St Germain
Hertel	Moorhead, Pa.	Staggers
Hightower	Moss	Stark
Holland	Murphy, Ill.	Steed
Holtzman	Murphy, N.Y.	Stratton
Howard	Murtha	Studds
Hubbard	Myers, Michael	Thornton
Ireland	Natcher	Tsongas
Johnson, Calif.	Nedzi	Tucker
Jones, N.C.	Nix	Udall
Jones, Okla.	Nolan	Ullman
Jones, Tenn.	Oakar	Van Deerlin
Jordan	Oberstar	Vento
Kastenmeier	Obey	Volkmer
Kazen	Ottinger	Walgren
Keys	Patten	Walsh
Kildee	Patterson	Watkins
Krebs	Pattison	Waxman
Lederer	Pease	Weiss
Leggett	Pepper	Whalen
Lehman	Perkins	Whitley
Levitas	Preyer	Whitten
Lloyd, Calif.	Price	Wilson, Tex.
Long, La.	Rahall	Wolff
Long, Md.	Rangel	Wright
Lundine	Reuss	Yates
McCormack	Richmond	Young, Mo.
McDade	Roberts	Zablocki
McFall	Roe	Zeferetti
McHugh	Rogers	
McKay	Roncalio	

NOT VOTING—30

Burke, Calif.	Le Fante	Siak
Dellums	Lloyd, Tenn.	Stokes
Dent	McDonald	Teague
Flowers	Meyner	Thompson
Flynt	Miller, Calif.	Traxler
Frey	Risenhoover	Waggonner
Hagedorn	Rodino	Wiggins
Huckaby	Schulze	Wilson, C. H.
Jenrette	Shipley	Young, Alaska
Kasten	Sikes	Young, Tex.

Mr. POAGE and Mr. SPENCE changed their vote from "no" to "aye."

Mr. RUSSO changed his vote from "aye" to "no."

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MS. HOLTZMAN TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GIAIMO

Ms. HOLTZMAN. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Ms. HOLTZMAN to amendment in the nature of a substitute offered by Mr. GIAIMO: In the matter relating to the appropriate level of total new budget authority reduce the amount by $4.7 billion;

In the matter relating to the appropriate level of total budget outlays reduce the amount by $1.5 billion;

In the matter relating to the amount of the deficit reduce the amount by $1.5 billion;

In the matter relating to the appropriate level of the public debt reduce the amount by $1.5 billion;

In the matter relating to the amount by which the statutory limit on the public debt should accordingly be increased, reduce the amount by $1.5 billion.

In the matter relating to Allowances (function 920) reduce the amount for budget authority by $4.7 billion; and reduce the amount for outlays by $1.5 billion.

Ms. HOLTZMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Mr. LATTA. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I yield to the gentleman from Ohio.

Mr. LATTA. Mr. Chairman, I thank the gentlewoman for yielding. Let me say that I have had an opportunity to study the amendment offered by the gentlewoman from New York (Ms. HOLTZMAN), and I want to concur in the amendment and to compliment the gentlewoman for offering it.

Ms. HOLTZMAN. Mr. Chairman, I thank the gentleman from Ohio (Mr. LATTA). It is indeed a high honor to be complimented by my colleague from Ohio and I appreciate that greatly.

Mr. LATTA. I thank the gentlewoman.

Ms. HOLTZMAN. Mr. Chairman, let me explain the amendment to my colleagues. My amendment deals with unobligated balances, which occur throughout our Federal Government.

Although we in the Congress are often accused of a great deal of overspending, in fact there is a great deal of money that the Federal agencies receive in appropriations that they do not spend. In fact, there is a great deal of money received in some of the appropriations. The agencies do not even earmark this money or contract for its expenditure. The amount of these unobligated balances, in toto, is $47 billion.

What my amendment does is simply to ask the Federal agencies to begin to spend some of the money that has been lying around unobligated, and it asks for a 10-percent cut in the unobligated balances. My amendment does not touch the balances that are obligated, it does not touch the trust funds, it does not touch the guarantee or insurance programs or loan programs. It seems to me, that if we are ever to try to get control of how our Government operates and over the kind of spending that takes place, we need to reduce the unobligated balances. The many agencies and departments ought to at least be efficient enough so that when they come to Congress for annual appropriations they ask only for the money that they can indeed spend.

Mr. Chairman, this is an effort to see that these agencies spend the money that they are given, and that they do not accumulate these large balances of unobligated funds, and that the funds that are appropriated are ultimately spent on programs for which the Congress intended them to be spent in the first place.

I think this is an important area in which we have to begin to take corrective steps.

Of the $47 billion in unobligated funds, roughly $20 billion is in the Department of Defense, roughly $13 billion in the Department of Energy, and the rest is in a variety of other agencies.

Mr. Chairman, we can begin to get a better hold on spending, spend more efficiently and more effectively, if we begin to ask Federal agencies to be more accurate in their estimates of what they need so that we do not appropriate money that is not going to be spent. I think this is an important time at which to begin to do that.

My amendment is only a modest step in that direction, but I would hope that it sets the stage for the important effort to improve Government fiscal habits which must be undertaken by Congress.

Mr. SIMON. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Chairman, I would be interested in the reaction of the chairman of the committee on this amendment.

My own instinct, offhand, is that this is a sound approach which does not cut at the meat of anything. It will not impair programs and it still keeps things a little taut financially, so that I think the approach is to be welcomed by our colleagues.

Again, I would be interested in the reaction of the chairman of the committee.

Ms. HOLTZMAN. Mr. Chairman, I thank the gentleman for his comments.

Mr. GIAIMO. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I would be happy to yield to the gentleman from Connecticut, the distinguished chairman of the committee.

Mr. GIAIMO. Mr. Chairman, much as I appreciate the efforts to the gentlelady from New York, I rise to oppose this amendment. I do so with considerable reluctance.

This amendment recognizes one of the most difficult problems that Congress faces in the area of budgetary control. So long as large balances of prior appropriations remain available for spending in the executive branch, our actions in both the budget and appropriations processes can be thwarted by program administrators downtown.

To take a hypothetical example: Suppose we determine that the rate at which some given procurement program ought to move forward in a given year is at a level of $100 million. Suppose, further, that this hypothetical program has built up a balance of $50 million in unobligated funds from prior-year appropriations—money that had been made available for purposes of the program but had not been contracted for. Thus, the program could exceed the congressionally determined rate by 50 percent in the next year.

The amendment deals with $4.7 billion—a figure equal to only 10 percent of the $47 billion in unobligated balances for construction and procurement programs. It wisely leaves out of consideration those unobligated balances that have been built up in the trust funds—the social security, employee retirement, and Federal-aid highway funds, for example—and those balances that represent the actuarial reserves of Government insurance, guarantee, and loan programs.

Mr. Chairman, I agree with the gentlelady from New York that we need better planning of their actual minimum requirements by executive officials, so that these balances do not build up in the first place. I agree that Congress has to continue to reinforce its control over Federal spending. I particularly appreciate the fact that this amendment does not cancel or otherwise impair legitimate outstanding balances. This amendment calls for a reduction in the new budget authority that might be added to already swollen balances, and thus does not impair scheduled program progress.

However, we are dealing here today with the second budget resolution. Almost all major spending bills for fiscal year 1979 have already been acted on by the House. I fear we would be deluding ourselves by making the cuts in budget authority and outlays that this amendment demands.

The practical effect of this amendment, made at this time, would be that a reconciliation directive would have to be considered and enacted, forcing the House to go back and reconsider spending actions it had already debated and disposed of.

The gentlelady is aware of the interest that many members of the Budget Committee have in this matter. The gentlelady from Maryland (Mrs. HOLT) has identified this problem in very forceful terms on many occasions. Both the task force on budget control and the task force on defense have studied the problem. Special analyses have been made for our committee by the General Accounting Office.

I suggest that the proper course for us today is for the sponsor to withdraw the amendment and for the Budget Committee to continue its study of the matter. Next year's first budget resolution is a more appropriate time and vehicle for taking action.

Mr. Chairman, I oppose the amendment and urge that it not pass.

Ms. HOLTZMAN. I would say to the chairman of the committee, the very distinguished gentleman from Connecticut (Mr. GIAIMO), that I appreciate his comments very much. I think it may in fact be unrealistic to ask for the Committee on Appropriations to redo its work now. But I also do believe that the only way the Committee on the Budget can take effective action next year with respect to this problem of unobligated balances is for the committees of the Congress, when they advise the Committee on the Budget of their estimates for spending, to advise the Committee on the Budget at the very same time what they plan to do to reduce these unobligated balances. If that procedure could be accepted, I would be more than happy to agree with the chairman's suggestion and withdraw the amendment.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I yield to the gentleman from California.

Mr. JOHN L. BURTON. I thank the gentlewoman for yielding.

I intend to offer an amendment that is going to put us in a surplus situation by wiping out $47 billion worth of unobligated balances. If we cannot even accept an amendment like this, why do we even have a second budget resolution, because we cannot amend it? I do not think this process does too much anyway except to give everyone a chance to make a speech and offer an amendment. But if we are saying we cannot cut 10 percent of money that is sitting downtown that they are not going to spend that is counted against us in deficits in Federal spending because it is going to work a hardship on the procedures of the House, why not just bring the budget up under a closed rule in the second resolution and say, You cannot adopt any amendments because it is going to work a hardship? There is $47 billion worth of money that we gave them from our taxpayers that they are not even spending—$20 billion in defense. Jim Schlesinger—God bless him—has got $13 billion he has not even been able to figure out how to spend; and he can figure out better than anybody in Washington, D.C. But we are told by the distinguished chairman of the committee it is a terrific idea but it is too late. Therefore, I do not think we should ever have a second budget resolution come up except under a closed rule, because if this amendment will screw up the House procedures, every amendment will do it. Therefore, we should not have it open for amendment. It should be an up or down vote.

Mr. ROUSSELOT. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. If I have any time left, I will be happy to yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate my colleague, the gentlewoman from New York, who is a sage member of this Budget Committee. Although we do not always agree, she is very much on target on this whole issue of unobligated balances.

Many Members of this House do not realize that these are appropriated balances of which the gentlewoman is speaking. They have been appropriated. They really are sitting there as kind of reserves. In many cases they have not even been contracted out for future expenses. It is clearly a kind of secret slush fund that many of these agencies have. I appreciate the gentlewoman's bringing this up.

The CHAIRMAN. The time of the gentlewoman has expired.

(At the request of Mr. REGULA, and by unanimous consent, Ms. HOLTZMAN was allowed to proceed for 3 additional minutes.)

Mr. ROUSSELOT. Will the gentlewoman yield further?

Ms. HOLTZMAN. I yield to the gentleman.

Mr. ROUSSELOT. My understanding is that right now as of 1978 there is $48.4 billion in unobligated balances previously appropriated that can be utilized above and beyond what we are talking about here in the budget. The gentlewoman makes an excellent point. I do hope we attack it sometime soon.

Ms. HOLTZMAN. I appreciate the gentleman's comments.

Mr. REGULA. Mr. Chairman, will the gentlewoman yield for a question?

Ms. HOLTZMAN. I will be happy to yield to the gentleman.

Mr. REGULA. I thank the gentlewoman for yielding.

Would there be any danger that if we would eliminate the unobligated balances by an amendment of this type, or one that went even deeper in cuts, that in the future we would in effect invite agencies to get rid of their money, spend it without regard to carefully managing it, or without carefully contracting to get the best possible services for the dollars spent? Is that a danger? I do not know. I am asking that as a question.

Ms. HOLTZMAN. I do not believe that is a danger. When the agencies come to Congress and say, "We need an appropriation," in essence they are saying, "This is money that we need this year as opposed to next year because we can spend it this year." If they cannot spend it this year, then they ought not to ask for it. We ought not to allow these agencies to build up these huge reserves which end up in some cases not even being used for the purpose for which they were originally appropriated. I think that the existence of these balances pose danger to the congressional appropriation and budgeting process. I think it is not a sign of good management. It is not a sign of good estimating. I think we can ask the agencies to manage their funds more carefully and to make their requests to Congress more accurately.

Mr. REGULA. Would not a diversion, though, require a reprograming request to this body?

Ms. HOLTZMAN. Not necessarily.

Mr. Chairman, I ask at this point unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New York (Ms. HOLTZMAN)?

There was no objection.

AMENDMENT OFFERED BY MR. FISHER TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GIAIMO

Mr. FISHER. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. FISHER to the amendment in the nature of a substitute offered by Mr. GIAIMO:

In the matter relating to the appropriate level of total new budget authority strike out the amount and insert in lieu thereof 556,019,000,000;

In the matter relating to the appropriate level of total budget outlays strike out the amount and insert in lieu thereof 494,790,000,000;

In the matter relating to the amount of the deficit strike out the amount and insert in lieu thereof 34,790,000,000;

In the matter relating to the appropriate level of the public debt strike out the amount and insert in lieu thereof 833,100,000,000.

In the matter relating to the amount by which the statutory limit on the public debt should accordingly be increased, strike out the amount and insert in lieu thereof 25,100,000,000.

In the matter relating to function 050 strike out the amount in budget authority and insert in lieu thereof 125,817,000,000; and strike out the amount in outlays and insert in lieu thereof 111,179,000,000.

In the matter relating to function 150 strike out the amount in budget authority

and insert in lieu thereof 12,249,000,000; and strike out the amount in outlays and insert in lieu thereof 7,042,000,000.

In the matter relating to function 250 strike out the amount in budget authority and insert in lieu thereof 5,098,000,000; and strike out the amount in outlays and insert in lieu thereof 4,937,000,000.

In the matter relating to function 270 strike out the amount in budget authority and insert in lieu thereof 9,511,000,000; and strike out the amount in outlays and insert in lieu thereof 8,590,000,000.

In the matter relating to function 300 strike out the amount in budget authority and insert in lieu thereof 12,841,000,000; and strike out the amount in outlays and insert in lieu thereof 11,256,000,000.

In the matter relating to function 350 strike out the amount in budget authority and insert in lieu thereof 12,110,000,000; and strike out the amount in outlays and insert in lieu thereof 7,545,000,000.

In the matter relating to function 370 strike out the amount in budget authority and insert in lieu thereof 5,499,000,000; and strike out the amount in outlays and insert in lieu thereof 2,783,000,000.

In the matter relating to function 400 strike out the amount in budget authority and insert in lieu thereof 19,268,000,000; and strike out the amount in outlays and insert in lieu thereof 16,877,000,000.

In the matter relating to function 450, strike out the amount in budget authority and insert in lieu thereof 10,230,000,000; and strike out the amount in outlays and insert in lieu thereof 9,371,000,000.

In the matter relating to function 500 strike out the amount in budget authority and insert in lieu thereof 33,568,000,000; and strike out the amount in outlays and insert in lieu thereof 30,773,000,000.

In the matter relating to function 550 strike out the amount in budget authority and insert in lieu thereof 51,667,000,000; and strike out the amount in outlays and insert in lieu thereof 48,762,000,000.

In the matter relating to function 600 strike out the amount in budget authority and insert in lieu thereof 190,330,000,000; and strike out the amount in outlays and insert in lieu thereof 157,913,000,000.

In the matter relating to function 700 strike out the amount in budget authority and insert in lieu thereof 21,051,000,000; and strike out the amount in outlays and insert in lieu thereof 20,686,000,000.

In the matter relating to function 750 strike out the amount in budget authority and insert in lieu thereof 4,124,000,000; and strike out the amount in outlays and insert in lieu thereof 4,128,000,000.

In the matter relating to function 800 strike out the amount in budget authority and insert in lieu thereof 4,059,000,000; and strike out the amount in outlays and insert in lieu thereof 3,991,000,000.

In the matter relating to function 850 strike out the amount in budget authority and insert in lieu thereof 8,847,000,000; and strike out the amount in outlays and insert in lieu thereof 8,862,000,000.

Mr. FISHER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. FISHER. Mr. Chairman, the Budget Committee has recommended a spending ceiling of $490 billion. This is close to the figure I had in mind when I offered my 2-percent amendment last spring during the debate on the first budget resolution. I am glad to see that progress has been made on the spending reduction front; but almost all of these reductions, these $10 billion in reductions, are due to reestimates of what will be spent, rather than real program cuts. In a time of large deficits and a growing economy, it makes sense to make additional efforts at keeping in check the growth in Government spending. I think that is what the country wants. The second resolution provides the means for doing this by setting tight ceilings on what can be spent in the next fiscal year.

In this amendment that I am offering, I am proposing an additional spending reduction of $5 billion, a modest amount in such a large budget, but nonetheless, a significant amount. This would bring us out with a deficit of about $35 billion, a considerable reduction this year over the last year and over what has been put forward in the first resolution.

I would distribute the cuts across most functions on a prorated basis on the premise that almost all programs can accommodate a 1-percent cut through better management, harder work and general belt tightening.

This principle applies to uncontrollable and controllable programs alike. Frequently there is a division between these two types of programs, a rather artificial division.

Adoption of my amendment will not necessitate a reconciliation process by which already approved bills must be cut back before the Congress can adjourn in October.

The budget resolution contains room for a number of items which will not have been considered before the Congress adjourns this year, including supplemental appropriation bills, new legislative initiatives, and revisions in existing law that will change spending needs within the same fiscal year.

All told, these items add up to $20 billion or more; so already approved spending commitments fall within the $485 billion or so spending ceiling that my amendment would impose.

My amendment might create a need for a third resolution when the Congress reconvenes next year. This would happen if no further spending cuts are achieved and if current estimates of spending hold up; but between now and next spring there are a number of possibilities that could lead to a third resolution, including the final size of the tax cut and many unforeseen changes that could occur in the economy. There is also a possibility that there will be additional shortfalls in actual expenditures over and above what has already been included in the committee's version of the resolution. This would, of course, relieve the pressure for a third resolution, and keep in mind, we had a third resolution last year and it did not break the process or upset the ongoing budgeting and managing of Government.

I expect we might see some rescission requests coming from the administration over the course of the fiscal year. My amendment is on the same wavelength with the administration, which has encouraged Congress to seek out another $5 billion in spending cuts. Now, a $5 billion cut at this time out of real spending is surely within our reach. This is not a cut below this year's 1978 budget expenditures.

It is a cut compared to a larger budget proposed for next year. More careful management surely can achieve a 1-percent cut in any program. The Congress should insist on this.

Furthermore, I believe the House should send this kind of signal to the Senate, to the executive branch, and to the whole country. The practical and responsible course is to adopt this amendment.

Let me say to my Republican colleagues that this may be their last chance this year to vote for an amendment that goes in their direction in a practical way. And to my Democratic colleagues, if they want to put a little more pressure to restrain Government spending, this will probably be their last practical chance to do it.

The CHAIRMAN. The time of the gentleman from Virginia (Mr. FISHER) has expired.

(By unanimous consent, Mr. FISHER was allowed to proceed for 3 additional minutes.)

Mr. FISHER. Again, Mr. Chairman, let me say that this spending reduction amendment I am offering is responsible. It is achievable, and it should be voted for.

My colleagues perhaps will remember that when we were debating the first budget resolution last spring, I offered an amendment to cut spending by 2 percent or by about $10 million. It was my judgment then that this was what was needed. That amendment was defeated, but the second budget resolution brought to us today has in it a $10 billion cut, and so I am actually the author of that.

My judgment now, several months later, is that a further reduction of $5 billion is about what is needed in order to accomplish a real, meaningful cut in the budget.

Mr. Chairman, I strongly urge that my colleagues consider at this time, almost the last moment in our consideration of this matter, voting for this $5 billion budget cut.

Mr. WIRTH. Mr. Chairman, will the gentleman yield for a question?

Mr. FISHER. I yield to the gentleman from Colorado.

Mr. WIRTH. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman from Virginia (Mr. FISHER) on the amendment he is offering. I will support it, as I supported his amendment last spring for a 2-percent cut.

Some question is going to be raised about specified cuts in the area of income security, and I was hoping the gentleman might be able to respond to that question and expand a little bit on the statement he made about better management in the executive agencies and their ability to absorb the 1-percent cut as recommended by the gentleman.

Mr. FISHER. Yes. Nearly everybody wants to restrain spending, cut it back,

and hold it down, and yet be reasonable about it. That is how I come out on this $5 billion amount, or roughly 1 percent, and I distribute it, as is required under our procedures, over the various programs, not counting interest and one or two programs in that category.

This will involve a cut in defense, in income maintenance measures, in agriculture, and in all the other areas.

I do believe that a 1-percent cut is manageable. For example, in the program the gentleman cites, we have already adopted an amendment to cut quite a bit out of what is called fraud and abuse. There is other slack in this. For example, if the economy does well, as it now appears it will, there will be less claim for welfare payments, and quite a few people will not retire as early as they usually would.

So, Mr. Chairman, there is more slack than one would imagine in what we generally call uncontrollables.

The CHAIRMAN. The time of the gentleman from Virgina (Mr. FISHER) has again expired.

(On request of Mr. WIRTH, and by unanimous consent, Mr. FISHER was allowed to proceed for 2 additional minutes.)

Mr. WIRTH. Mr. Chairman, will the gentleman yield further?

Mr. FISHER. I yield to the gentleman from Colorado.

Mr. WIRTH. Mr. Chairman, I think the point the gentleman makes about first-rate management in these programs will signal very clearly our intent that each one of these executive agencies look very, very carefully at its practices. I think the previous amendment offered by the gentlewoman from New York (Ms. HOLTZMAN) illustrates the fact that there is obviously a great deal of slack in the budget.

Mr. Chairman, I again want to commend the gentleman from Virginia (Mr. FISHER) on his amendment, and I urge my colleagues to support it.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. FISHER. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the amendment was not read, and, therefore, I want to be sure that I understand what the scheme of the gentleman's amendment is.

As I understand it, the amendment does provide for a $5 billion reduction in outlays, as opposed to the $10 billion cut that was narrowly defeated when it was offered by the gentleman from Ohio (Mr. LATTA).

In addition to that, as I understand it, another major difference is that it actually goes into reductions of specific functional categories of the budget, providing for specific reductions in both budget authority and outlays.

What is the scheme, however, of the reduction? According to the chart I hold in my hand, there is a reduction of $1,195,000,000 in budget authority for national defense.

I drop down to income security and find a reduction of $1,809,000,000.

On what basis have those cuts been made?

Mr. FISHER. They have been made this way: The $5 billion has been prorated among all of the categories, save interest, allowance, and undistributed offsetting receipts. Each of them is a difficult one to deal with. But all of the others bear a pro rata share of the $5 billion cut.

The CHAIRMAN. The time of the gentleman from Virginia (Mr. FISHER) has again expired.

(By unanimous consent, Mr. FISHER was allowed to proceed for 2 additional minutes.)

Mr. FISHER. It comes down to this: If you want to reduce spending, you just have to cut somewhere.

Mr. ANDERSON of Illinois. I appreciate the truth of the statement that the gentleman has just made. But how does the gentleman proceed to cut income security programs, the budget authority for the programs, by $1,809,000,000? The gentleman is talking now about social security and programs of that kind.

Mr. FISHER. Yes.

Mr. ANDERSON of Illinois. Just how does the gentleman make that reduction?

Mr. FISHER. My response earlier to the gentleman from Colorado was to this point. You tighten up management. You cut back further on abuse and even fraud. This kind of cut is well within the range of what can result from the course of economy. If we do as well as present indicators seem to say, there will be less call for welfare payments, there will be fewer people retiring and going on social security. There are all of these possibilities.

Mr. ANDERSON of Illinois. As I recall it, if the gentleman will yield further, when we had the appropriation bill before us for the Department of Health, Education, and Welfare, there were reductions made then, I think, in the appropriations process because of alleged fraud and abuse in that Department and in the programs that it administers. So I am wondering just how much flexibility remains in that particular category to be reduced under the terms of the gentleman's amendment.

Mr. FISHER. Another source of slack in this whole business is reestimating. The experience of recent years has been that each stage along the way we overestimate the amount of spending that will occur, and that tends to save us some money. So these factors, taken together, and others that I have not mentioned, lead me to the conclusion that it is not unreasonable at all to find in a budget of this size some areas for reduction.

The CHAIRMAN. The time of the gentleman from Virginia (Mr. FISHER) has again expired.

(On request of Mr. SIMON and by unanimous consent, Mr. FISHER was allowed to proceed for 1 additional minute.)

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. FISHER. I yield to the gentleman from Illinois.

Mr. SIMON. I thank the gentleman for yielding.

I would like to follow through with some of the comments of my colleague, the gentleman from Illinois (Mr. ANDERSON). But first let me say that I commend the gentleman from Virginia (Mr. FISHER) for this detailed approach. This is the responsible way to have an amendment, so we know exactly what we are talking about and not simply deal in the aggregates. But when we get down to item 600, income security, the gentleman is talking about, roughly, $160 million in the second budget resolution. Of that amount, only 3 percent is controllable. So we have $4.8 billion that is controllable, and out of that the gentleman is suggesting that we delete $1.8 billion. That seems to me to be clearly excessive. In some of these areas I would, frankly, go along with the gentleman from Virginia, but there are some problem areas.

Mr. FISHER. If I may respond to that, again let me repeat that the differences between controllable and uncontrollable are not as rigid as most people think. In fact, I was in the White House under President Eisenhower when this provision was first performed. Ike was so distressed that he did not seem to have control over all of the budget. And it is very arbitrary. I will just give a few examples that I have alluded to previously. One example is that many of the so-called uncontrollable programs hinge upon what happens in the economy. If unemployment goes down, you save a lot of money. Or, take the agricultural program. If prices go up, you save a lot of money. And so it is. And so they are only uncontrollable in a certain frame of reference, regardless of what it is going to be. So there are various reasons why I think it is not too irresponsible to approach the problem in the way I have.

Mr. OBEY. Mr. Chairman, I move to strike the requisite number of words, and I rise to oppose the amendment.

Mr. Chairman, I really believe—and I started to say it on the first amendment, but I want to get into a little more detail on it on this one—I really believe that what we are talking about here is, how much faith we do have in the processes of this House, and how much pride we really do have in this House and in ourselves and in our ability to explain to the people who we represent what in fact the actual facts of life are in the Federal budget process.

Those Members who know me well in this House know that I place process above almost everything, because that is what democracy really is. It is a question of process. I voted against the equal rights amendment extension yesterday because while I support ERA very strongly I also believe so fundamentally in decent, orderly, fair process. I would urge Members to oppose this amendment today for the same reasons.

Now, we have had our go at appropriation bills, and we have cut some money from those bills through individual specified actions on specific programs, and then we have made other cuts across the board on those appropriation bills. In the main, those cuts have been in the nature of 2-percent across-the-board cuts. I opposed virtually all of them ex-

cept the foreign aid bill—for admittedly tactical reasons on the foreign aid bill.

I submit to the Members that sooner or later we as individual Members have to stand by what we have done. If Members wanted to vote for a 3-percent cut on the Labor-HEW bill and on the foreign aid bill and the other bills instead of a 2-percent cut, we should have done it at the time, on the proper vehicle, and not on the budget resolution.

I want to read to the Members what Senator HENRY BELLMON, the ranking Republican in the Senate on the Budget Committee, has to say about these mischievous across-the-board cuts, he called them—and I am quoting from a National Journal article analyzing the great destruction to the appropriations process occurring in this House. He described the across-the-board cuts as, "* * * dangerous, intellectually lazy, and an invitation to demagoguery."

Then, he went on to say—

> Continuation of the across-the-board budget cutting trend might well cause the appropriation committees to add cut insurance to their bills.

And that is exactly what is going to happen. I know this is 3 or 4 months before an election. I know it is convenient to run home and say, "Every day on the hour, every hour, I have voted for another cut," but sooner or later your own sense of self-respect is going to have to make you stand up and say, "That's enough."

I would urge Members not to go down this line, because they will cause the Appropriation Committees in the future, and this committee, to come out with what we know is fat, because we know that the House will want to have its day and make some cuts, no matter how highly the bills are drawn.

I would like to make a couple of other points. I voted against the carrier on the defense budget 2 weeks ago because I thought the carrier was stupid, but I lost, and when the amendment came up afterward to cut the defense budget across the board, I voted against it because I thought we have the obligation to spell out specifically what programs we are talking about if we make cuts. We have had 2-percent after 2-percent after 2-percent cuts, and as a result of the congressional action. I know this amendment sounds very easy to take, like "It ain't going to hurt nobody," but I want Members to put it in perspective.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. OBEY) has expired.

(By unanimous consent, Mr. OBEY was allowed to proceed for 3 additional minutes.)

Mr. OBEY. Mr. Chairman, through every action the Congress has taken so far we have reduced appropriation bills by $4.7 billion on the 13 appropriation bills that we have run through this House. What we are being asked to do in this little old harmless amendment is to double that ante. You know, you know that almost all of you at one time or another have written every subcommittee on the Appropriations Committee and you have said: "Hey, boys, give us some additional money for this program and give us some additional money for that program," and then you have been able to send your letters to the appropriate interest groups bragging on the fact that you have been really looking out for their interest. And then what you do, if you vote for this amendment, is you walk down the other side of the street and you say: "OK, now that I have satisfied every interest group in the country that wants a nickel out of the Congress and taken credit for it all personally, I am going to walk the other side of the street and be able to tell my Rotary groups and be able to tell my Kiwanis groups that I am fiscally responsible because I have cut the budget." That is the most irresponsible way you can approach the budget. I ask you, for what it means to the House in future years, not to travel down that road.

You have literally dozens of rollcalls that you can take back to your people to show you have cut responsibly and specifically. But if you look down this list, how many of you come from an agricultural area as I do? You know how hard we had to fight for a decent agricultural bill. This cuts the agricultural budget by $115 million. It cuts defense—and I would love to do it and cut defense by $1.1 billion as this amendment does, but it does it in a very uncourageous way, and I would urge you not to do that.

If you are going to cut, cut when the authorization bill is here. If you are going to cut, cut when the appropriation bill is here.

In income security, how many times are we going to eliminate fraud and abuse in that category? The gentleman from Illinois (Mr. MICHEL) had put an amendment on the Labor-HEW, cutting that category by $1 billion in fraud and abuse. It was just an estimate how much we could save.

How many reflections are we going to put up? How many mirrors are we going to put up in each of those programs? We can put up five or six or seven mirrors and cut $1 billion each time because we have added another mirror, but we have not changed reality, we have only changed the number of mirrors. Please smash the mirrors and face reality and vote down this amendment.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. OBEY) has again expired.

(On request of Mr. HUGHES, and by unanimous consent, Mr. OBEY was allowed to proceed for 1 additional minute.)

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I think much of what the gentleman has said has a great deal of merit. But the gentleman has suggested that the proper way we cut is as we have each appropriation bill before the House. If we carry the gentleman's statement to its logical conclusion, we would just be having a pro forma session to approve the budget. Is that not so?

Mr. OBEY. No. I disagree with that. I have no objection to people coming in here and cutting specific programs, but this across-the-board, 1-percent business is I think undignified. I think it is unreflective of the courage and business sense I know is in this House, and I do not think we ought to do it.

Mr. HUGHES. If the gentleman will yield further, I do not know how any Member can express his own feeling that the budget is not fiscally sound, that the outlay item and the deficit is too high, unless we do it in the manner in which we are doing it.

Mr. OBEY. If I can claim back my time, the way to do it is to vote to cut specific programs, not doing it like this.

Mr. MITCHELL of Maryland. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, shortly after I first came to the Congress when I was originally elected, the Congress was being accused again and again of wrong doing, and I want to be honest with you, there were times when I hesitated to identify myself as a Member of the Congress because it was under such vigorous attack for so many reasons.

I am proud to identify myself as a Member of the Congress now because I think, in the ensuing years, the Congress has begun to act in a very responsible fashion. It has taken on some initiatives it should have taken on a long time ago. The one thing it has done in the last 4 years is, most of the time, to act in a consistent manner.

I am not even going to speak to the substance of the Fisher amendment. I am going to speak to its absolute inconsistency.

This is a 1-percent cut across the board. Less than 10 days ago, in the last week, I offered an amendment on the defense appropriation bill. It was a 1-percent cut. Actually it was less than a 1-percent cut, it was an eight-tenths of 1-percent cut and the House voted it down.

Of course, I was hurt about it. But, how in the world can this same House today vote for the Fisher amendment which is a 1-percent cut in defense which the House repudiated less than 2 weeks ago? I do not think that is at all sensible or responsible. I think that begins to undermine the kind of credibility that this House has slowly begun to establish. There is no logical way that you can explain to your constituents that 10 days ago you voted against a less than 1-percent cut in the defense budget and then, 10 days later, you voted for it.

Do you tell them, "I am a will-o-the-wisp"? Do you tell them, "I float and go with every current that invades the House"? Do you tell them, "I like JOE FISHER. That is why I voted for it"?

Are you going to tell them, "I had been pressured, additional pressure was put on me, therefore I had to succumb to the pressure and vote against my better judgment which I exhibited less than

10 days ago"? You cannot do it and still expect the respect of your constituents. It is inconsistent. It is illogical. It is nonsensical, after having voted down a 1-percent cut 10 days ago to vote for it today.

I urge defeat of the Fisher amendment, primarily in the interest of the respect of each and every Member of this House should earn.

Mr. ROBERTS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman and members of the committee, I defer to no one in attempting to have responsible spending. I voted for the Holt amendment. I have voted for a lot of other cuts. But, Mr. Chairman, 60 percent of the cut proposed by the gentleman from Virginia (Mr. FISHER) is in three items, national defense, income security—which you really cannot touch—and the Veterans' Administration.

The veterans' benefits basically are entitlements and there is no way you can reach them by law, no way. I think I could sit down and regardless of what the gentleman wrote in, it would not affect the veterans, not the veterans' pension fund, not the veterans' compensation fund. But, Mr. Chairman, I just do not like to be legislating in the way that this amendment does it. I think it is going to be very difficult to vote against this amendment.

I think it is going to be very difficult to vote against this amendment; but if we are going to be responsible, we ought to strike out those three items. If we do that, we ought to strike the whole thing out.

Mr. FISHER. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I will be happy to yield to the gentleman from Virginia.

Mr. FISHER. Mr. Chairman, I simply want to point this out, that the only numbers in the resolution which are legally binding are four or five totals. The categories are shown, but those are not legally binding.

Therefore, if there is an entitlement in a veterans' program which, by law, has to be paid, then the administration would have to find slack elsewhere in the budget to meet that obligation.

Mr. ROBERTS. If I may reply to the gentleman, Mr. Chairman, what would happen is that it would close eight VA hospitals. That is about what it would cost to operate eight VA hospitals. The medical program is not under entitlements.

Mr. Chairman, the amendment is a bad one; and despite the fact that it is difficult to vote against it, I hope it will be defeated.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Texas.

Mr. MAHON. Mr. Chairman, the gentleman from Texas (Mr. ROBERTS) has highlighted the problem with which we are confronted.

We cannot, and should not, in the budget resolution come to grips with every detail in the budget. I do not think the House ought to place itself in the position of attempting to make reductions in appropriation bills in this manner.

Mr. Chairman, I applaud the gentleman from Texas (Mr. ROBERTS) for his opposition to the amendment.

Mr. ROBERTS. The amendment would not achieve the purpose at all.

Mr. FISHER. Mr. Chairman, if the gentleman will yield further, I would like to respond to the point made by the most respected chairman of the Committee on Appropriations.

Mr. ROBERTS. If the gentleman would care to respond to me, fine. Otherwise the gentleman can get his own time.

Mr. Chairman, I yield back the balance of my time.

Mr. DERRICK. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, we have done a great deal in the budget process over the last 3 years. We finally end up here today where we have a deficit figure which is around $39 billion, and we have done that in a responsible manner.

Mr. Chairman, budgeting is not an easy task. This is a large Federal Government. It cannot be changed dramatically in 1 day. However, the important thing to this House, and the important thing to those who we represent, is that we are heading in the right direction.

We have a deficit which is some $25 or $26 billion less than we had 3 years ago. With all due respect to my dear friend, the gentleman from Virginia (Mr. FISHER), a very able member of the committee, I rather think a meat-axe approach is not too responsible.

I know that we are not willing to go back to our districts and tell those people who depend on us, the aged, the 33 million Americans who depend on social security, those who do not have enough to live on today and who are suffering from the ravages of inflation, that we are going to vote to cut their income security programs by $1.7 billion.

I know that we are not willing to go back to our districts and tell those people who are so concerned about our country's defense posture in the world today, and how we stand relative to the Soviet Union, that we voted to cut, in a meat-axe approach, $1.2 billion in defense outlays. We are not willing to reduce veterans' benefits by the sum of $227 million and also funds for the administration of justice. A burning issue, at least in many of the polls that I have seen, is crime in this country.

The Fisher amendment calls for us to cut back in these areas. Let us continue to be responsible with our budget process, as we have been over the last 3 years. Let us do what we are charged to do in a responsible manner. Let us not act in a harum-scarum manner here, so that we can go back to our constituents and tell them that as "great statesmen" we voted to cut those terrible Federal expenditures but not tell them that we cut those programs that they are so vitally interested in.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. DERRICK. I am delighted to yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding and would like to state that I intend to vote against the Fisher amendment.

Mr. DERRICK. I am delighted to hear that.

Mr. LEVITAS. I am pleased the gentleman from South Carolina is delighted, and I know one of the reasons the gentleman is delighted is that I have consistently voted for every single across-the-board cut on appropriations bills that have come up. Frankly, I think a 1-percent cut is too little. That is one of the reasons I voted for the Holt amendment which would have been a $10 billion reduction.

Mr. DERRICK. If I might interject right at this point, I think it was Shakespeare who said that consistency is the hobgoblin of little minds. I would not put the gentleman in that category.

Mr. LEVITAS. I recall hearing that on one of these occasions. Let me tell the gentleman one of the reasons—there are several reasons—I think the appropriations process is where we should cut across the board, and I am happy to say that we have exercised that power.

Also, each of the amendments offered to cut appropriations by the gentleman from Ohio (Mr. MILLER) or others, has always had a safeguard which says we will cut 2 percent across the board, but no program shall be cut more than 5 percent. In the Fisher amendment we do not have that important cap and as a result we will be cutting some programs more than others, where we take the entitlement programs into account, such as income security programs, which are entitlements; veterans' benefits, which are entitlements; food programs, which are entitlements; general revenue sharing, which is an entitlement. Therefore, what we are going to do is not cut national defense by only $1.1 billion since it is not an entitlement; we are going to be cutting it by $2 or $3 billion or more. We are going to be deeply cutting health programs and other programs by not just one or two percent but in many instances by much, much more because entitlements are protected and appropriations are not. I do not think that is a responsible way to cut in the budget resolution.

Mr. DERRICK. The gentleman's remarks are well taken, and I commend him on his vote he is about to make.

Mr. FISHER. Mr. Chairman, will the gentleman yield?

Mr. DERRICK. I yield to the gentleman from Virginia.

Mr. FISHER. I thank my colleague very much for yielding.

A few moments ago my colleague in his inimitable good-natured way castigated me for a meat-ax approach—it is a small meat ax, the gentleman will have to concede, 1 percent—and not being willing to face my constituents or anybody else and say where I would make

the cuts. I am the first one to come along today, I guess, with a reduction amendment in which the cuts are specified category by category. I am quite willing to face that music.

Mr. DERRICK. May I say this to the gentleman from Virginia that sitting there and reading his amendment, I was about to get up and compliment him on that fact until, if he will allow me to say so, he started equivocating with the gentleman from Texas (Mr. ROBERTS) on where it would lead.

Mr. FISHER. No, if I may respond.

Mr. DERRICK. I thought the gentleman started to equivocate. He was hedging there a little bit, I will say to my dear friend.

Mr. FISHER. No, I would not call that a hedge unless, indeed, truth is a hedge.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. FISHER, and by unanimous consent, Mr. DERRICK was allowed to proceed for 4 additional minutes.)

Mr. DERRICK. "Quibbling," is any attempt to impart a false impression, or conceal a fact using a technicality which in itself may be a true statement.

Mr. FISHER. Of course, my colleague understands that if I wanted to conceal anything, I would not have responded to the gentleman from Texas (Mr. ROBERTS). Instead, I came right out with it and said, indeed, what is the law that only the totals are binding? And, of course, if some category has legal entitlements that carry it up so that it cannot accommodate the 1-percent cut, then something else has to give or we have to come back for a supplemental appropriation. This is well known, and I make no attempt to conceal it.

Mr. DERRICK. If the gentleman does not believe that the statute would support the specifics as outlined in the amendment, I know the gentleman might not well have included it.

Mrs. FENWICK. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, I will not take the 5 minutes. You know, we listen and listen in this House. We have been asked if we would be willing to go back to those poor people who can hardly live on the money they get through welfare or social security. Of course, we would not be willing, because we are not thinking of doing that. We are not asking that those benefits be cut. We are asking that the benefits, indeed, be raised, but only that the raise be a little bit slowed down.

Passion is poured out on this floor in praise of our responsibility. We are not totally responsible, and we know it. We have a gallant chairman of our Budget Committee and a gallant ranking member and they try; but can they control this House? No, they cannot.

What did we fail to do right in the beginning? We failed, because we did not at the outset of the budget process, in the first resolution, set some kind of ceiling on what we were going to spend, a total into which all these programs could have been fitted. It was because we did not want to, because we have powerful people on this floor who will not give up an appropriation desired by some special interest group.

I yield to no one in this House in voting against spending. I have voted against appropriations one by one as they come up, at great cost from the standpoint of popularity; but we are fooling ourselves if we talk about fiscal responsibility here. If there are entitlements, who made those entitlements? We did. If they have built-in costs, who built them in? We did.

There is no use for all this grand talk. No one is proposing to keep these programs at the present level. Neither am I. But I am sure there is not a veteran or a person on social security or any of these unfortunate people referred to so movingly who would not be happy with a 7-percent rise, and that is all we are saying. In fact, it would be more.

We have heard much talk about the tremendous unemployment of our central cities and of our young blacks; is anybody in this House more concerned than I am? I do not think so. In every committee on which I sit, I concern myself with this problem. But try to take any money out of public service jobs and put it in that area and see what happens. We try to fool everybody. We are simply playing games. The citizens are going to understand perfectly well whether or not it makes sense to say that we have $480 billion or $490 billion to spend, and we cannot even cut $4 billion out of it. We know perfectly well we could. We have Amtrak trains running and we will not even cut the trains that cost $100 per passenger.

Mr. GIAIMO. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the distinguished chairman.

Mr. GIAIMO. Mr. Chairman, you know part of the problem, and I think the gentlewoman points up the very real problem we face in this country. I know that both the gentlewoman and I have been trying our darnest to cut expenditures.

Mrs. FENWICK. We have.

Mr. GIAIMO. And I think we have to try even harder to do so. I think there are areas where we can make cuts. I think there are areas where we can have reductions. I think we have made a start this year.

Mrs. FENWICK. I do, too.

Mr. GIAIMO. But we are at the end of the year now.

If the gentlewoman will yield further, and I will get the gentlewoman some more time, let me say the appropriate committees have exercised their functions. We have cut their bills on the floor. I am sure both the gentlewoman and I tried to take the 2 percent out of a lot of those bills and in many instances we were successful, but it is finished. It is over now and those bills are going over to the other body. We will have conferences and we will come out with figures that might be even higher than they are now. What will be the result if we cut this resultion now? We will have a $5 billion reduction in budget authority and $5 billion in outlays.

What will happen? I doubt very much if the other committees will go back to their deliberations and look around to see where they can find their portion of that $5 billion. They will not do it, and we will then be faced with a budget resolution that will have $5 billion less. So at some point in the fiscal year we will hit up against the ceilings. When we do that, we are either going to have to stop programs or we are going to have to come back here with a third budget resolution and adjust the figures to what the authorizing committees and the appropriating committees have done. That is the problem.

Mrs. FENWICK. Maybe the gentleman and I ought to have a heart-to-heart talk.

Mr. GIAIMO. I would be delighted to have a heart-to-heart talk with the gentlewoman.

Mrs. FENWICK. But maybe we cannot do it on the floor of the House.

Mr. GIAIMO. That is what we are doing now, I am told.

Mrs. FENWICK. It never seems to be the right moment to cut spending. When we want to start right at the beginning of the process, we are told that is not the time to consider spending controls.

The CHAIRMAN. The time of the gentlewoman from New Jersey (Mrs. FENWICK) has expired.

(On request of Mr. ROUSSELOT, and by unanimous consent, Mrs. FENWICK was allowed to proceed for 2 additional minutes.)

Mr. ROUSSELOT. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. Yes, I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague's yielding.

I think the gentlewoman from New Jersey (Mrs. FENWICK) has made an excellent point. Unfortunately, although I know the chairman of my committee has worked very hard in many areas to make substantial cuts when authorization and appropriation bills have been before us, the argument that he uses that our committees will not respond to what we do in this budget resolution is the same argument that was made against proposition 13, that the county and city governments would not be responsible in adjusting their expenditures downward. But they did. They have not all done it perfectly, but they did.

I believe that this House of Representatives, for this relatively small cut, would be just as responsible as the cities and counties of California were in responding to the passage of proposition 13.

Mr. Chairman, I think that is what the gentlewoman from New Jersey was trying to say.

Mrs. FENWICK. I was not really thinking of proposition 13.

Mr. GIAIMO. Mr. Chairman, will the gentlewoman yield further?

Mrs. FENWICK. I yield to the chairman of the committee.

Mr. GIAIMO. Mr. Chairman, the gentlewoman may well be right. All I am saying is that it is much more difficult to do this at the time of the second budget resolution, when the other committees have done all their work, than it is to do it at the beginning of the year when they begin to consider these bills.

Mrs. FENWICK. But, Mr. Chairman, let me say to the gentleman that we cannot get the votes to control it at the beginning. We just cannot get the votes. We have a two-thirds majority of one party in this House, but the House refuses to vote for a control like this. Oh, yes, there are fiscal heroes over here, and there are some over there, too, although I see some who are not.

We do not seem to be able to come to grips with this. Could we agree right now, those of us who may come back next year, that we could start to solve this problem by setting a ceiling and fitting the pieces under that ceiling?

Is there any Member here who would agree to that? I have heard the eloquent Members who have spoken, including the gentleman from Wisconsin (Mr. OBEY) and my colleague, the gentleman from South Carolina (Mr. DERRICK).

Would the Members be willing next year to start on some really rational program? I wonder.

Mr. HUGHES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will try to be brief.

Mr. Chairman, I am a little troubled by some of the things I have heard today about the budget process. I want, first of all, to congratulate our colleague, the gentleman from Connecticut (Mr. GIAIMO), the chairman of the Committee on the Budget, because I think he does a good job considering all the problems that exist in trying to formulate a budget that will carry out all of our needs and aspirations and at the same time stay within fiscal bounds.

One of the reasons I voted for the first budget resolution was because the chairman of the committee convinced me that they were just temporary budget targets. I was unhappy, first of all, with the size of the outlays, and I was unhappy with the size of the deficit. But the committee chairman, along with our colleague, the gentleman from Wisconsin (Mr. OBEY), convinced me that I should vote for the first concurrent resolution because the job was to work on a piece-by-piece basis as the legislation came before us in trying to cut expenditures, which is what Americans want us to do.

I do not know of very many programs that we have underway in this Congress that are not needy and very worthwhile, and that is the difficulty when we come to the point of trying to cut specific projects and programs. All these programs are needed, but unfortunately we do not have enough dollars to fund them.

One of the reasons a so-called meat-ax approach is so attractive is because it does offer an opportunity to try to strike a balance as we cut outlays. That is what the taxpayers expect us to do. One of the arguments I have heard today is that we should now vote against the Fisher amendment because we have already sent the major appropriation bills across to the Senate.

Mr. Chairman, it seems to me that there is something wrong, then, with the process if we say that it is too late now because we have already done the damage and it was too early back in May because they were only temporary targets. That, to me, does not make sense. I frankly support the Fisher amendment because I think there is 1 percent fat in all of the functional categories we have talked about. We have enough fraud and abuse, we have enough duplication and overlapping, and we have enough waste in the Federal bureaucracy that we can surely find areas to cut 1 percent. I would urge my colleagues to support what I consider to be a responsible and a reasonable amendment. It is what the American public wants and expects of us as their national leaders.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding, and I want to say that I think the gentleman is very wise to bring up the fact that the General Accounting Office has indicated in many, many reports that they have found fraud and abuse exceeding $25 billion in the expenditure of funds. So on that issue alone, this would force many of these agencies to really look at that issue and save.

Mr. HUGHES. I thank my colleague for his remarks.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. HUGHES) has expired.

(On request of Mr. MITCHELL of Maryland and by unanimous consent, Mr. HUGHES was allowed to proceed for 1 additional minute.)

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Chairman, I do not quarrel with what the gentleman is saying, but I think the record has to be made clear that in the second budget resolution that is before us, in almost every one of the functional categories we have reduced the targets, we have reduced the spending from what it was in the first budget resolution. So the process does work. There have been some intervening factors which have caused us to come in now with a deficit which will be below $40 billion, way below what was first envisioned in the first budget resolution.

Mr. HUGHES. If I may reclaim my time, I do not quarrel one bit with the statement the gentleman has made. I think the Budget Committee has done a credible job. I know somewhat about the pressures that the Budget Committee is subjected to. I know every chairman views his own particular committee's work as the most responsible and the most needy of programs.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. HUGHES) has again expired.

Mr. HUGHES. Mr. Chairman, I ask unanimous consent that I may be allowed to proceed for 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. BEARD of Tennessee. Mr. Chairman, reserving the right to object, I do not plan to object but I would like to say that we have gone through this procedure for the last several hours on the other amendments, and I plan to object to any requests for additional time because I think we have beaten this horse to death. I just want to say that after this I will object.

Mr. HUGHES. Mr. Chairman, I withdraw my unanimous-consent request.

Mr. CORMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am concerned about the amendment as it relates to function 600, income security because almost all of the expenditures under that function are entitlement, and there is no possibility of there being any cuts. So instead of having a 1-percent or a 2-percent cut across the board, we would see an elimination of at least two programs that this House has considered fairly important. One is the money we intended to spend to assist severally disabled to move into the employment market. We did that just a week ago, with only five votes against it.

We sent over to the Senate a year ago last April a program for about $75 million to try to get little children out of orphan homes and into adoptive homes. That program would have to be eliminated because it is not entitled to the program.

Mr. Chairman, I would urge defeat of the amendment. I know we all like to think of ourselves as fiscal heroes. That is the way I felt when I voted against cutting the Federal income tax 33⅓ percent last week.

Mr. PERKINS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, first, let me state that I will not take the 5 minutes. I personally wish to compliment the Budget Committee for doing what I think is a wonderful job.

I know that during the Budget Committee's process of scrutinizing all these appropriations and authorizations, we had much difficulty before the Budget Committee to get them to approve certain appropriations for our educational legislation. Now, this amendment will cut education and the training programs back by $338 million. I want to inform the gentleman that his amendment is just too drastic insofar as the welfare of education is concerned.

It would be my hope that such a meat ax approach as this, where it will apply to some of the most worthy programs after they have been so carefully scrutinized already by the Budget Committee should not be considered by the committee. I want to say that the gentleman's amendment should be voted down.

Mr. JOHNSON of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, speaking as chairman of the Committee on Public Works and Transportation, there are a number of items here that would be drastically cut back. We worked very closely with the Budget Committee on the first resolution to make sure that all of our matters of concern were worked out with them. Then, we worked very closely with the Appropriations Committee to make sure that those projects that were underway were financed properly by the appropriations allowed by the Appropriations Committee. We have worked very closely with the Budget Committee, and I want to commend the gentleman from Connecticut (Mr. GIAIMO) for the very fine work of his committee in receiving all of the matters of concern from the Committee on Public Works and Transportation.

Our budget experts have worked with him. We have tried to comply and cut back in every way we could, but there are a number of items here that will be touched by the Fisher amendment. Therefore, I stand in opposition to the amendment, and hope that the House will vote down the Fisher amendment.

Mr. PICKLE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Fisher amendment.

Mr. Chairman, on many of the amendments we have had today and in recent days, there is much speculation and many assumptions made that they might or might not reduce our deficit. This amendment is real; it is specific. It may be the very best way to show that we are trying to tighten our belts. I would hope that it passes.

I recognize fully that in every category, every chairman and every related group can feel that this might also cut into their programs. We will all accept that, but this is perhaps the best, if not the last, chance today for us to make a meaningful cut in the overall budget deficit. I would, therefore, recommend that the Fisher amendment be agreed to.

Mr. FISHER. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Virginia.

Mr. FISHER. Mr. Chairman, I thank the gentleman from Texas for his support. I would like to say just a couple of things. These same arguments that are being raised here this afternoon against this $5 billion cut, 1 percent, were raised against the 2-percent cut I offered 3 months ago. Now the Budget Committee, on which I am proud to serve, comes back with the 2-percent cut, and argues against any further cut with exactly the same points.

I claim that the situation has moved along. The economic outlook is good, unemployment is down, and now is the time to take another little bite out of the expenditures. This is my judgment.

People everywhere in the country are clamoring for budget restraint. You hear it everywhere you go. How can we tell these people that we cannot manage a 1-percent cut? How can we tell the housewife faced with a tight budget that we cannot do that? How can we tell the small businessman, or the big businessman either, that we cannot do it? The answer is that we can do it.

Sure, it will hurt here and there a little bit, and I recognize that different Members will of course step forward to defend this program or the other one, but I have been perfectly straightforward in this amendment and told all the Members what the cut would be for defense or income maintenance, for agriculture and everything else.

There is no use any longer trying to vote for cuts in the abstract without knowing what they mean to particular programs. I believe the people of the country will respond to this and give us some credit for trying to achieve a practical, manageable cut and being men and women enough to say what is going to have to be reduced. So I do urge, in the name of commonsense and in the name of what I believe the people of this country want, I do urge the Members to vote for this modest, achievable, practical reduction and restraint in expenditures.

Mr. BURKE of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am not going to take much time here, but I do note that the gentleman from Virginia is offering an amendment that will cut close to $2 billion from social security benefits. In other words, every person in your district is going to feel this cut of $2 billion at a time when we are facing the highest inflation in our history.

I say it would be outrageous to adopt this amendment and I hope it is defeated.

The CHAIRMAN. The guestion is on the amendment offered by the gentleman from Virginia (Mr. FISHER) to the amendment in the nature of a substitute offered by the gentleman from Connecticut (Mr. GIAIMO).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HUGHES. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 155, noes 241, not voting 36, as follows:

[Roll No. 710]

AYES—155

Abdnor	Badham	Brown, Ohio
Ammerman	Bafalis	Broyhill
Anderson, Calif.	Baucus	Burgener
	Bauman	Butler
Andrews, N. Dak.	Beard, Tenn.	Caputo
	Blouin	Carr
Applegate	Bonker	Cavanaugh
Archer	Bowen	Cederberg
Armstrong	Breaux	Clausen, Don H.
Ashbrook	Broomfield	
AuCoin	Brown, Calif.	Clawson, Del
Cochran	Hillis	Preyer
Cohen	Hubbard	Pritchard
Collins, Tex.	Hughes	Pursell
Conable	Ireland	Quayle
Corcoran	Johnson, Colo.	Quie
Coughlin	Kemp	Regula
D'Amours	Kers	Roncalio
de la Garza	Kindness	Rousselot
Devine	Kostmayer	Ruppe
Dickinson	Krebs	Santini
Dornan	LaFalce	Sawyer
Edwards, Ala.	Latta	Schroeder
Edwards, Okla.	Leach	Sebelius
Emery	Leggett	Seiberling
English	Lent	Sharp
Erlenborn	Lott	Shuster
Ertel	Lujan	Skubitz
Evans, Del.	Luken	Smith, Nebr.
Evans, Ga.	Lundine	Snyder
Fenwick	McClory	Spellman
Findley	McCloskey	Stangeland
Fish	McCormack	Stanton
Fisher	Marks	Stark
Forsythe	Marriott	Steers
Frenzel	Martin	Steiger
Gammage	Mathis	Stockman
Gaydos	Mattox	Stump
Gephardt	Michel	Thone
Gibbons	Miller, Ohio	Traxler
Glickman	Minish	Treen
Goldwater	Moffett	Vanik
Goodling	Moore	Volkmer
Gradison	Moorhead, Calif.	Walgren
Grassley		Walker
Hall	Mottl	Weaver
Hamilton	Murphy, Pa.	Winn
Hammer-schmidt	Myers, Gary	Wirth
	Myers, John	Wolff
Hannaford	Nowak	Wydler
Hansen	Panetta	Wylie
Harkin	Pettis	Yatron
Harris	Pickle	
Heftel	Pike	

NOES—241

Addabbo	Delaney	Kastenmeier
Akaka	Derrick	Kazen
Alexander	Dicks	Kelly
Ambro	Dingell	Kildee
Anderson, Ill.	Dodd	Krueger
Andrews, N.C.	Downey	Lagomarsino
Annunzio	Drinan	Lederer
Ashley	Duncan, Oreg.	Lehman
Aspin	Duncan, Tenn.	Levitas
Baldus	Early	Livingston
Barnard	Eckhardt	Lloyd, Calif.
Beard, R.I.	Edgar	Long, La.
Bedell	Edwards, Calif.	Long, Md.
Bellenson	Eilberg	McDade
Benjamin	Evans, Colo.	McEwen
Bennett	Evans, Ind.	McFall
Bevill	Fary	McHugh
Biaggi	Fascell	McKay
Bingham	Fithian	McKinney
Blanchard	Flippo	Madigan
Boggs	Flood	Maguire
Boland	Florio	Mahon
Boiling	Foley	Mann
Bonior	Ford, Mich.	Markey
Brademas	Ford, Tenn.	Marlenee
Breckinridge	Fountain	Mazzoli
Brinkley	Fowler	Meeds
Brodhead	Fuqua	Metcalfe
Brooks	Garcia	Mikulski
Brown, Mich.	Giaimo	Mikva
Buchanan	Gilman	Milford
Burke, Fla.	Ginn	Mineta
Burke, Mass.	Gonzalez	Mitchell, Md.
Burleson, Tex.	Gore	Mitchell, N.Y.
Burlison, Mo.	Green	Moakley
Burton, John	Gudger	Mollohan
Burton, Phillip	Guyer	Montgomery
Byron	Hanley	Moorhead, Pa.
Carney	Harsha	Murphy, Ill.
Carter	Hawkins	Murphy, N.Y.
Chappell	Heckler	Murtha
Chisholm	Hefner	Myers, Michael
Clay	Hightower	Natcher
Cleveland	Holland	Neal
Coleman	Hollenbeck	Nedzi
Collins, Ill.	Holt	Nichols
Conte	Holtzman	Nix
Conyers	Horton	Nolan
Corman	Howard	Oakar
Cornell	Hyde	Oberstar
Cornwell	Ichord	Obey
Cotter	Jeffords	Ottinger
Crane	Jenkins	Patten
Cunningham	Johnson, Calif.	Patterson
Daniel, Dan	Jones, N.C.	Pattison
Daniel, R. W.	Jones, Okla.	Pease
Danielson	Jones, Tenn.	Pepper
Davis	Jordan	Perkins
Poage	Ryan	Vento
Pressler	Sarasin	Waggonner
Price	Satterfield	Walsh
Quillen	Scheuer	Wampler
Rahall	Simon	Watkins
Railsback	Skelton	Waxman
Rangel	Slack	Weiss
Reuss	Smith, Iowa	Whalen
Rhodes	Solarz	White
Richmond	Spence	Whitehurst
Rinaldo	St Germain	Whitley
Roberts	Staggers	Whitten
Robinson	Steed	Wiggins
Roe	Stratton	Wilson, Bob
Rogers	Studds	Wilson, Tex.
Rooney	Symms	Wright
Rose	Taylor	Yates
Rosenthal	Thornton	Young, Fla.
Rostenkowski	Trible	Young, Mo.
Roybal	Tucker	Zablocki
Rudd	Udall	Zeferetti
Runnels	Ullman	
Russo	Van Deerlin	

NOT VOTING—36

Burke, Calif.	Jacobs	Schulze
Dellums	Jenrette	Shipley
Dent	Kasten	Sikes
Derwinski	Le Fante	Sisk
Diggs	Lloyd, Tenn.	Stokes
Flowers	McDonald	Teague
Flynt	Meyner	Thompson
Fraser	Miller, Calif.	Tsongas
Frey	Moss	Vander Jagt
Hagedorn	O'Brien	Wilson, C. H.
Harrington	Risenhoover	Young, Alaska
Huckaby	Rodino	Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. McDonald for, with Mr. Thompson against.

Messrs. SKELTON, MURPHY of Illinois, BYRON, WEISS, BUCHANAN, MARLENEE, KELLY, FITHIAN, and LIVINGSTON changed their vote from "aye" to "no."

Messrs. HEFTEL, ENGLISH, and PREYER changed their vote from "no" to "aye."

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. LEVITAS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GIAIMO

Mr. LEVITAS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. LEVITAS to the amendment in the nature of a substitute offered by Mr. Giaimo:

In the matter relating to the appropriate level of total new budget authority reduce the amount by $753,000,000;

In the matter relating to the appropriate level of total budget outlays reduce the amount by $753,000,000;

In the matter relating to the amount of the deficit reduce the amount by $753,000,000;

In the matter relating to the appropriate level of the public debt reduce the amount by $753,000,000;

In the matter relating to the amount by which the statutory limit on the public debt should accordingly be increased, reduce the amount by $753,000,000.

In the matter relating to function 850: General Purpose Fiscal Assistance reduce the amount for budget authority by $700,000,000; and reduce the amount for outlays by $700,000,000.

In the matter relating to function 900: Interest on the national debt reduce the amount for budget authority by $53,000,000; and reduce the amount for outlays by $53,000,000.

Mr. LEVITAS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

Mr. WYDLER. Mr. Chairman, reserving the right to object, I wonder if the gentleman in the well can tell us if the effect of the gentleman's amendment would be to eliminate all funds from the budget for any type of countercyclical programs?

Mr. LEVITAS. Mr. Chairman, if the gentleman will yield, it would reduce by $700 million the amount of budget authority for countercyclical programs and would reduce by $53 million the interest on the national debt.

Mr. WYDLER. Mr. Chairman, what would be left if the amendment were to pass in the program?

Mr. LEVITAS. Just about $500 billion.

Mr. WYDLER. I said in the program, in the countercyclical program.

Mr. LEVITAS. In the countercyclical program, nothing.

Mr. WYDLER. Nothing?

Mr. LEVITAS. Nothing.

Mr. WYDLER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia (Mr. LEVITAS) that the amendment be considered as read and printed in the RECORD?

There was no objection.

Mr. LEVITAS. Mr. Chairman, this amendment would have the effect of reducing the interest on the national debt by $53 million, it would bring the deficit under this bill to approximately $39.2 billion, and it would eliminate entirely the so-called supplemental fiscal assistance program.

Supplemental fiscal assistance was purported to be the son of countercyclical. Countercyclical was to phase out as unemployment reached 6 percent, and then it would no longer be in effect. Instead, the administration, at the last minute, sent over a new program called supplemental fiscal assistance. That program is a brandnew permanent program as sort of an add-on to revenue sharing. We already spend $6.1 billion a year in revenue sharing.

The proposed program was so poorly targeted that many very wealthy communities such as Greenwich, Conn., and the affluent district represented by my colleague, the gentleman from New York (Mr. WYDLER)—and these are very affluent communities, communities not in need—would continue to receive substantial funds because there was no targeting.

Instead of targeting on the communities in need, we would be spreading even more money out across the country to State and local governments in which we see budget surpluses at a time when the Federal Government is operating at an enormous deficit, as we all know today.

The present countercyclical program, as has been said by the GAO, is not working, but at least it had the merit of phasing out. Now, instead, we have a new program by which, in addition to the 17,000 communities and local governments covered by countercyclical, we would increase the number of communities covered to 28,000.

Mr. Chairman, we would, by this program which was supposed to have been targeted declare that 70 percent of all local governments in the United States ar suffering from fiscal distress. That is just not the case. What we do need is a targeted program but we do not have one.

As a result, the subcommittee of the Committee on Government Operations which considered this bill voted to postpone indefinitely further consideration of it so that next year a true, meaningful, and targeted countercyclical program can be developed. The House of Representatives has no pending legislation before it which would create this program. The Senate committee has reported out a substitute program. We should let them put it in their budget, but I think it would be wrong for us to add to our deficit by including it in our budget. I think we properly ought to relieve ourselves of that burden.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, is it not true that this is what happened with this particular program: When we got down below 6 percent in national unemployment, the program on countercyclical fiscal assistance was no longer operable. The way we originally wrote it was that if we had less than 6 percent unemployment at the national level for 3 months, there was no need for countercyclical aid and we did not need a countercyclical program. We are very close to reaching that cutoff point in the program in the current quarter.

So what happened was that many of the cities that had gotten used to spending the money came to Washington and said to the administration, "We have got to continue getting some money. You just can't end the money. The recession that this was designed to try to resolve or ameliorate is over, but you have still got to give us some money."

So the administration tried to craft a program that would get the maximum support in a political sense, and the result was a program that helped some of the major resort cities of the country where the superrich go to play. It helped some of the superrich communities of the country, too. But the people who pay the taxes under that fiscal assistance program are the middle-income taxpayers in the average cities where we find about the average per capita income around the country.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. LEVITAS) has expired.

(On request of Mr. BROWN of Ohio, and by unanimous consent, Mr. LEVITAS was allowed to proceed for 3 additional minutes.)

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield further?

Mr. LEVITAS. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. As a matter of fact, in a State like my own, the result of the administration's proposed program would have been that the major cities in my State would get back, on a per capita basis, something like $3 for every $4½ that they would pay in taxes. But areas like Greenwich and Bridgeport, Conn., which are among the highest per capita income areas in the country, would have gotten a very good deal from that arrangement, and also the Hamptons in Long Island.

Mr. LEVITAS. Mr. Chairman, the gentleman is absolutely correct. The one virtue countercyclical had was that it would cycle out when unemployment reached 6 percent. Instead, what we are talking about is a poorly targeted program, literally scattering money around the country, with a mindless formula, and this is not the way we should treat the tax dollars of the people across this land. If the people of California want to vote for proposition 13 and reduce local taxes, fine. But they should not then look to the Federal Government to make up the difference in whole or in part; and that is exactly what we are being asked to do in this program.

The House committee has eliminated this program. Why should we include in our program something the House committee has eliminated? Let the Senate deal with it in their own way.

Mr. BROWN of Ohio. I thank the gentleman for his comment. If there is any way we can cut and save in this budget without doing damage to the needs of our society, it is clearly in this one.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Ohio.

Mr. REGULA. I thank the gentleman for yielding.

Mr. Chairman, the gentleman said in his statement that what we needed is a target program. Would the gentleman agree in fact that the Senate Finance Committee bill is a targeted program?

Mr. LEVITAS. I am glad the gentleman raised that question. I think the Senate finance bill, if anything, may be worse than the supplemental fiscal assistance. I will tell you why. It has two titles to it.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. LEVITAS) has expired.

(On request by Mr. REGULA and by unanimous consent, Mr. LEVITAS was allowed to proceed for 1 additional minute.)

Mr. LEVITAS. Title I is an extension of the present countercyclical program, which GAO has said is bad. My dear friend, the gentleman from Wisconsin, has said repeatedly it is not a good program. That is title I. When title I triggers out at 6 percent, they have another program setting off in the wings, and that new program that is going to come in is a program that takes $650 million, as I recall it, and says you can either get it under general revenue sharing, or some other formula similar to fiscal assistance. So you take your choice wherever you get the most money. I agree that there are many cities and counties which do need additional aid. I think we need to target it. This legislation does not. I think we in the House ought to let it go, and if it gets to conference, let them work it out.

Mr. REGULA. This budget resolution does not propose to target anything. We simply put the cap on the amount to be expended and we leave it to the authorizing committee to do the targeting, the committee on which the gentleman is a member. Is the gentleman suggesting there would be no bill dealing with countercyclical coming out of this House in this session?

Mr. LEVITAS. I do not see legislation coming out unless the administration submits a piece of legislation that makes vastly more sense than anything we have seen so far.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. The unemployment rate in this country is going down. It is one of the few economic successes we have. Since that is the case, that we are having the unemployment rate reduced, why do we need a countercyclical program at this time?

Mr. REGULA. Mr. Chairman, will the gentleman yield so that I may respond?

Mr. LEVITAS. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, the answer to the gentleman's question is that the unemployment rate nationally is going down, but that does not necessarily mean it is going down in the targeted areas.

Mr. MITCHELL of Maryland. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think that the House Budget Committee acted in a very responsible fashion by leaving some target money in here for countercyclical programs. It is quite clear to me that the gentleman from California is right, that while unemployment has gone down, it has not gone down across the board and remains high in our urban areas. Therefore, the urban areas continue to remain distressed.

I am not going to belabor the point. I think we ought to vote down the amendment, but I want to confess to all Members here tonight that if I ever leave the city of Baltimore and change my residence, I am going to beautiful Atlanta to live. It is a marvelous city, beginning to grow and become a mighty center. I do not want to leave that city in distress.

If for one reason or another Atlanta would not want me, then I would go to Savannah, Ga. Have Members been to Savannah recently? It is the garden spot of the east coast, a city in distress which I do not want to desert. I am in love with Georgia, I guess.

Therefore, if I am unable to go to Atlanta or Savannah, I would then go to Columbus, a beautiful little city in distress. Athens—have you been there recently? A gorgeous place, a place to go to if it comes out of its financial distress. Finally, my colleagues, the great city of Macon, Ga., a symbol of revitalization which, hopefully, one day will come out of its economic distress.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I would just simply say this: I cannot think of any city in America that would not be proud not only to have the gentleman as a citizen, but also, as a Congressman. The gentleman has articulated well the needs of our cities and their taxpayers.

Mr. MITCHELL of Maryland. Mr. Chairman, I love each one of those Georgia cities so much that I would ask for defeat of the gentleman's amendment.

Mr. WYDLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment, and I think everyone in the committee should be well aware of what this amendment means. The passage of this amendment kills any and all hope of any type of countercyclical program for our country. That is what Members are voting on. I think everybody should have that clearly in mind.

Much of what was said about the supplemental fiscal assistance program I can agree with. That is a very difficult program to justify in a great many ways, and gives money to communities that do not apparently deserve it. However, that is not what we are talking about here. We are talking about a countercyclical program.

As a practical matter, where we stand is as follows: The House Committee on Government Operations has killed the supplemental fiscal assistance program for this year. They did that in subcommittee. They did that with about 25 minutes consideration of the bill, and a vote to postpone consideration of it for a year. That was the total consideration by that subcommittee. There was none by the full committee.

I think we can do a little better than that in the Congress of the United States for those areas of our country that are struggling with unemployment and trying to do something about it. These areas need help, and are currently getting aid from this program. I think most Members have areas in their constituencies that are getting aid under the present countercyclical program.

What is going to happen? As a matter of reality here, we are going to get a bill sent over by the other body, since that is the only way this can now be done, since we had no consideration of this matter in the Government Operations Committee. A bill will be sent over by the Senate which, in effect, will continue the countercyclical program at a reduced rate. That is going to be the program. It is not the best program we could have, but it is at least some kind of program.

If we pass this particular amendment, we wipe out all chance of that happening. As a practical matter, the House will never have acted on this matter, and have allowed it to go by default. I hope Members will not support this amendment. I think it is very destructive of the process we treasure here in the House and cherish, for deliberate consideration of very important programs. Countercyclical is based on unemployment. I hope the Members of the House will overwhelmingly defeat this amendment and allow a program to be considered in the House.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from Georgia.

Mr. LEVITAS. The gentleman speaks about unemployment rates. I am glad we got into that. We talked about triggering this program in at 6 percent under the countercyclical program. I would like to ask the Members of the House: Do you know what supplemental assistance triggers payments in at? It is at 4.5-percent unemployment. That is less than the level of full employment. That is where your taxpayers' money would be going.

Mr. WYDLER. I have to reclaim my time, only to tell the members of the subcommittee, not the House, that we are not talking about the supplemental assistance program. The gentleman is raising a red herring and he knows it. This has nothing to do with the debate going on here today. That program was killed with the gentleman's help in the subcommittee and postponed for a year. So why does he talk about it here? We are not considering that. He made sure of that. What we are talking about is a program that will in some fashion continue the countercyclical program.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, let me just respond to that. We are talking about three basic programs in the Senate bill. The Senate bill first continues the countercyclical which triggers out at 6 percent and which almost everybody agrees is a poorly targeted program—almost everybody.

Mr. WYDLER. I do not know that at all. As a matter of fact, I have never heard anybody agree to that except the gentleman himself. I have not heard a single person say that is a poorly targeted program. It is the program targeted right now. It is the one they are presently getting relief under in our communities.

Mr. LEVITAS. But the reason that program was substituted for is because it was a poorly targeted program.

The CHAIRMAN. The time of the gentleman from New York has expired.

(On request of Mr. BROWN of Ohio, and by unanimous consent, Mr. WYDLER was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I have a great affection for the gentleman from New York—as a matter of fact, so much affection that I was persuaded by the gentleman from New York and others from his area to vote for the loan guarantee programs that we provided to the city of New York.

Now my question is: When will we stop? We have jobs programs and all kinds of other programs designed to send Federal money into the cities of this country to try to assist them to the tune of—how much? It is $4 billion in the public works jobs program—going to $6 billion. We have revenue sharing to the tune of $6.1 billion. We have unemployment compensation for individuals in those areas economically distressed. We have loans and grants to the tune of billions of dollars for economic development and for water and sewers and all those things. Those are not being destroyed or reduced or abrogated by the amendment of the gentleman from Georgia. Those programs will still exist.

Mr. WYDLER. But I would say to the gentleman, if I follow his logic, he says because we made loan guarantee programs for the city of New York we should not let it be a part of this—and it is only a small part of this countercyclical program. We could make the same argument for revenue sharing and cut it off for the city of New York and they do not get any revenue sharing.

The point is, it is an ongoing program and based on unemployment rates, and the rates in New York are high.

It seems to be a serious problem the Congress has addressed in the past. We should address it. This is the only way we can pass it. It is the best way. But the Committee on Government Operations made an attempt to consider it but we are forced to do it in this way because of what the gentleman from Georgia and other members of the subcommittee did.

Mr. FUQUA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, if there has ever been a temporary program that is being made into a permanent program, this is the start of one. The reason this program is here today is because the countercyclical program is beginning to phase out. We have had a general decline in unemployment and it is triggering out.

What do they do? They plan to open this program up to just about every community in the country that says it might be eligible. But there are some other factors that limit the eligibility.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. When I complete my statement I will yield to the gentleman from New York. The gentleman has had his time.

What we do is bring in over 70 percent of the communities, making them eligible, but there are other factors other than unemployment.

We had hearings on other programs in the Subcommittee on Intergovernmental Relations, and the head of the Bureau of Labor Statistics testified repeatedly that any time you have a community of the size of 50,000 there is absolutely no correct way you can determine the unemployment figure. The larger the base the more accurate they can determine, but the smaller the base there is no way they can determine it.

The President's Council on Economic Advisors has said that full employment should be considered at 4.9 percent. This bill reduces it to 4.5 percent.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. When I finish my statement I will be glad to yield to the gentleman from New York.

This is not a countercyclical program, this is the supplementary fiscal assistance act. If you have any growth in any area then, friend, you had better forget it because you are not going to get any funds under the proposed formula that the administration set up.

My friend, the gentleman from New York (Mr. WYDLER), and in some other communities, in some other areas that have stable growth, that have stable per capita income, they are the ones who will receive the funds under this program. But if you have an area that has any growth, or that has consolidated to modernize its government, they will not get any funds.

I would like to defend the chairman of the subcommittee here. He is not here because he had to leave because of a death in his family. I refer to the gentleman from North Carolina (Mr. FOUNTAIN).

We had 2 days of hearings. We heard witnesses from all over the country. We had formal meetings, we had caucuses of the Democratic Members and nobody came forth with any sort of formula. I am beginning to wonder tonight if we ever had a meeting because I keep hearing from 20 minutes to 5 minutes. But we had a meeting, and the chairman was anxious to try to dispose of the matter one way or another because the House was convening early and he did recognize the gentleman from Georgia to make his motion. But nobody else had made any motion to take any action on the bill that was before us with an improved formula.

I am saying to my friends, if we want to eliminate a temporary program before it gets started, this is the way to do it.

I hope we can come up with a sensible, sound approach that simply makes assistance to communities in distress, but not to reward those rich communities who do not need it.

We have some communities in Florida, Palm Beach is a good example, it comes out smelling like a rose on this. Bel Air Beach over at St. Petersburg can come out all right, too. Greenwich, Conn., and Nassau County, N.Y., any one in which you have a stable growth works out OK.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. Now I will be happy to yield to my good friend and colleague, the gentleman from New York (Mr. WYDLER).

Mr. WYDLER. Mr. Chairman, I am delighted and pleased at the gentleman yielding. All I wanted to point out to you, and apparently I did not make it clear, and I hope everybody else understood it, this program that the President has proposed would help Nassau County. I am

not for it. I am against countercyclical as we are going to get it from the Senate.

I do not know why you keep talking about the Supplementary Fiscal Assistance Act. You killed it. It is dead. So, why keep attacking it, why keep beating a dead horse? Let us talk about the reality of the situation as it is.

Mr. FUQUA. There is no bill in committee that I know of to remove countercyclical funds.

Mr. WYDLER. I just explained to you what was going to happen here and what causes the state that we find ourselves in, the other body is going to place this kind of a program in the bill.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. FUQUA was allowed to proceed for 1 additional minute.)

Mr. FUQUA. I would just like to say to my good friend, the gentleman from New York (Mr. WYDLER), that I think he is probably one of the first who would say that the actions of this House do not necessarily have to depend on what the other body does. I think we have to act here as a responsible body, and not be concerned about what happens in the other end of the hall.

Mr. REGULA. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I find myself in a rather strange position today, and that is one of supporting countercyclical aid. I might say that I was an opponent of it. I voted against countercyclical when it was put in place because what I feared would happen is, in fact, happening; and that is an attempt to convert it into revenue sharing.

Mr. Chairman, I am opposed to the supplemental fiscal assistance program of the President. However, having said that, I think we have lost sight of what the budget process is all about.

We are not talking about any particular program in terms of how it is structured. We are talking about the second budget resolution, and in the budget process we allow a fixed amount of money for budget authority and outlays. Then it is the responsibility of the authorizing and the appropriating committees to determine what, if anything, will be done by way of programs. But I think it would be irresponsible at this point to simply walk away from this matter and leave no room for the two committees, namely, the authorizing and appropriating committees, to deal with the problem of unemployment in targeted areas of the United States.

Mr. Chairman, what we are simply saying is that we are trying to comply with what the GAO recommended, and that is to phaseout countercyclical aid.

I would point out that earlier today this body, by a vote of 2 to 1, reduced the budget outlay figure by 30 percent. That is a one-third cut; and if that is not phasing out, I do not know what would be. I hope that next year we will reduce it another third and then another third, and get down to zero because I do not agree with countercyclical aid as a permanent program. However, having established a program and having given the targeted areas of high unemployment some hope that they would have assistance, I do not think that today we can just arbitrarily cut it off to zero.

Mr. ASPIN. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Wisconsin.

Mr. ASPIN. Mr. Chairman, let me say that I agree with the gentleman from Ohio (Mr. REGULA) entirely in what he was saying.

There is something kind of ingenuous about the people who have moved to cut off all consideration of this bill in the subcommittee and prevented it from coming to the floor for debate or even to the full committee now arguing against it on the specifics. We do not know what the specifics are. We do not know what the specifics are going to be. We have not the chance to consider this thing in the subcommittee. It was cut off without much debate. It never reached the full committee. We never had a chance to consider it here in the House.

Now if we vote in favor of this amendment, we will never have a chance to look at it, to even consider it, to even look at what the Senate would like to present.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I apparently did not successfully make my point to my colleague, the gentleman from New York, because the gentleman in the well is saying the same thing, that cities were promised countercyclical assistance; and if we do not have this program, they will not have such assistance.

I would have to say, on the contrary, there are many programs enacted by this Congress which figure directly in those areas of unemployment.

That is countercyclical assistance, is it not?

Mr. REGULA. Depending on semantics; one can call almost any program which is sending money back to the local communities almost anything; one can label it however he chooses.

Mr. BROWN of Ohio. But these programs such as the public works program were to go into areas where there was need because there was unemployment, as I understand it; so this is not going to deny cities with high unemployment rates assistance from the Federal Government. The very unemployment compensation program, as it is drawn, assists cities because it funnels money into the populations of those communities.

Mr. ASPIN. If the gentleman will yield further, Mr. Chairman. What we have is different programs which have different formulas, and they are designed to do different things. Revenue sharing gives out money essentially on the basis of tax effort. Countercyclical, the program we had last year, gave it out on the basis of unemployment rates. The bill which the Senate apparently has sent out of committee modifies that concept slightly.

The supplemental fiscal assistance program which the President sent over and which was so unceremoniously dumped by the gentleman from Georgia (Mr. LEVITAS) through his motion to table in our subcommittee would have distributed the money based on four factors, one of which was unemployment.

In any event, the point is that each of these things is targeted to do different things with different ideas in mind and different objectives in mind.

To say all of it is countercyclical or all of it is revenue sharing is completely false. What we are trying to do is to tailor each program to a specific need.

The CHAIRMAN. The time of the gentleman has expired.

Mr. REGULA. Mr. Chairman, I ask unanimous consent to proceed for 3 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. GIAIMO. Reserving the right to object, and I shall not object, but the hour is getting late, and we have had a very, very long debate on this, not only tonight but earlier this afternoon when we had the Mattox-Regula amendment. I do not think we should go on and on and on. I think the issue has been pretty well spelled out and clarified, and I would hope that Members would try to curtail debate so that we will not have to limit debate here.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. ASPIN. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Wisconsin.

Mr. ASPIN. I thank the gentleman for yielding.

I think what the chairman of the committee has said is absolutely right. This is not the point to debate what each of these different formulas is designed to do. That should be done when the bill itself is before the Congress. All we are saying at this point is the point the gentleman from Ohio was making is let us leave some room in the bill so that when we do consider it, we at least do save money in the budget resolution.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding, just for a final comment to the gentleman from Wisconsin. My point is merely this: There are loads and loads of programs which are fully budgeted in this budget resolution that are countercyclical in nature.

Mr. ASPIN. Absolutely.

Mr. BROWN of Ohio. The fact that this one program is being taken out because there is no backstop authorization legislation for it does not mean that we do not have countercyclical programs budgeted for.

Mr. ASPIN. If the gentleman from Ohio (Mr. REGULA) will yield. I have no time to go into why this is different, but just to lump all programs together which are countercyclical in nature is not right. They are all different.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from New York.

Mr. HORTON. I thank the gentleman for yielding.

I would just like to commend the gentleman for the statement he has made, because I think he has put the debate in proper perspective, and I certainly want to commend the gentleman for his logical approach to the matter. What we are dealing with here is a budget resolution, and what the gentleman is saying is that we ought not cut off consideration of this subject by the House at this point.

Mr. REGULA. That is exactly right.

Mr. HORTON. All we are doing here now is providing authority for these funds. It is up to the House to make a decision later.

Mr. REGULA. That is absolutely correct.

Mr. HORTON. I want to commend the gentleman for his objective approach to this matter.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding.

I would like to ask the gentleman a question in line with the point made by the gentleman from New York (Mr. HORTON). Is there any other place in this budget resolution that the gentleman is aware of where we are requesting funds in the budget for a subject matter on which there is no bill pending in the House? Is there any other place in the budget?

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from New York.

Mr. WYDLER. I thank the gentleman for yielding. There is plenty of legislation pending. We just cannot get it considered—that is the problem.

Mr. GIAIMO. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I will yield to the chairman of the committee.

Mr. GIAIMO. I thank the gentleman for yielding.

Some of the urban initiative programs may well still be pending in the committees, some of the transportation bills, and some of the public works bills, but it is contemplated that there will be legislation.

Mr. BROOKS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Georgia.

This is a program, Mr. Chairman, whose time, if it ever was here, has long since gone. We are no longer, by any measure of economic activity, in a recession that calls for Federal assistance to cities to help them maintain basic operations. That was the purpose of this legislation, and one of the main points stressed by its sponsors was that when the economy recovered, the program would phase out. We have reached that point. Unemployment is expected to be well below 6 percent next year, which is the point at which the program is supposed to turn off.

But, even if the unemployment rate did not drop below 6 percent, there would be good reasons to stop this program. It simply has not met its objectives. This is not just speculation on my part. The General Accounting Office has made a detailed study of the program since its inception and concluded that: "It has not been an effective tool for stimulating the economy and has not effectively met its principal objective of selectively targeting aid to only those governments substantially affected by recession."

That is the conclusion of the agency that Congress has established to help it evaluate programs. The GAO has recommended that the antirecession assistance program as it now exists should not be extended, but that Congress find a better way to channel money to cities that actually need it.

Among the findings in the GAO report are that:

Forty-six of the fifty-two government recipients covered by the study had surpluses in their general funds at the end of last fiscal year.

Unemployment rates, the chief factor used to allocate funds, are not reliable indicators of a city's financial health.

More than half the funds received by the 52 governments studied went for salaries and wages, including across-the-board wage and benefit increases.

Mr. Chairman, the economic problem facing this country today is not recession, but inflation. We should examine carefully every program we enact to make sure it will not increase the inflationary burden that now weighs so heavily on our citizens. We should not enact programs that do not meet the objectives set for them. Examined in that light, countercyclical revenue sharing or supplemental fiscal assistance should not be extended.

This nation with approximately a $40 billion estimated deficit does not have any excess revenues to share with cities and areas which have surpluses.

I would like to see this program do what it is supposed to do, and that is fade away. I urge that the House approve this amendment.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from Washington.

Mr. CUNNINGHAM. Mr. Chairman, I wish to associate myself with the gentleman's remarks.

As a member of the subcommittee that did listen to this bill and finally did act on it, not to table, but to postpone, this is a logical approach and I simply urge my colleagues to support this amendment and come back at the next opportunity to target, and not take a shotgun to a national concern. We should fight inflation and then help the cities.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, I respect the gentleman from Texas a lot. Of course, I read the GAO report, too. The GAO report is critical. It says improvements should be made in the program. The trouble is we were not ever allowed to improve the program.

The gentleman from Texas participated in the subcommittee meeting and arranged to postpone consideration of any improvements until next year; so we are left with the problem of trying to deal with the situation you created for us. The only way we can deal with it now is to bring a bill over from the Senate and have it passed in the House.

● Mr. FOUNTAIN. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Georgia. I find it incongruous that anyone would propose to continue an antirecession program that pays out money at a time when the economy is not in recession. The concern today is not over slow growth, but rather the need for containing a high and growing rate of inflation—the Nation's No. 1 domestic concern. Make no mistake about it, the proposed antirecession/revenue sharing program would be inflationary and would add to the Federal deficit.

Extension of the countercyclical program or its replacement with the administration so-called supplemental fiscal assistance revenue sharing proposal is irresponsible. My Subcommittee on Intergovernmental Relations and Human Resources has made an extensive study of the administration's proposal and concluded that it would not target money to distress cities but would allocate $1 billion a year to 26,000 communities in the United States.

Neither the administration proposal nor the existing countercyclical proposal recently approved by the Senate Finance Committee will reach the objective of helping distressed cities. The use of local unemployment rates as the mechanism for targeting money to needy governments is a fatal flaw. Those rates are so unreliable that the Commissioner of Labor Statistics has described them as random numbers for communities under 50,000. No more than 5,000 of the 26,000 governments can be assigned actual unemployment rates.

All presently proposed countercyclical or antirecession revenue sharing programs distribute money indiscriminately to rich and poor cities alike. For example, Greenwich, Conn., a prosperous and fast growing community would receive $8.03 per capita while Yonkers, N.Y., which has experienced severe financial problems, would get $2.38 under the administration proposal.

Let me review briefly the history of this legislation. It originated in the Senate in 1976 at a time when the national economy had already completed a year of recovery from the recession. It was extended last year as a vehicle for stimulating the economy. This year, we have a third reason given for extending this program because we do not need stimulation for the economy. Our concern now is not slow growth, but a high and growing rate of inflation. This year, it

is proposed that a new program be enacted that will become a permanent supplemental revenue sharing program at the rate of $1 billion a year. It is time for this Congress to take a stand against these programs that would spend huge amounts of taxpayers funds with no clearly delineated objective and for which there is no proven need.

To cut the budget resolution at this time by approximately $300 million to reduce a $1 billion proposal to $700 million does not face the issue. The $700 million remaining amount is presumably justified on the basis of what the Senate Finance Committee has done, but, in fact, we do not know what the Senate has done. They do not yet have a document describing their program.

Furthermore, a local government becomes entitled to assistance, under both the President's and the Senate Finance Committee and is therefore considered "distressed" under their proposals, if its unemployment rate exceeds 4.5 percent. This rate, I would remind you, is lower than the 4.9 percent the President's Council of Economic Advisers defines as "full employment." Obviously, equating a 4½ percentage rate with "distress" is just plain silly.

I am convinced that federalism in this country is at a crossroads.

Federal assistance to State and local government has grown enormously from $2.3 billion in 1950 and $7 billion in 1960 to the present level of $80.3 billion. And, it is estimated at $85 billion for the next fiscal year. There is almost no State or local function today in which the Federal Government is not involved. We have grants for welfare, health and medical care, education, law enforcement, sewage treatment, highways and urban mass transportation, community development, job training and employment, local public works, libraries, and so on. To this growing list we have added the nearly $7 billion a year general revenue-sharing program. And, now the administration proposes to add still another general revenue-sharing program on top of that one.

Let the Senate do what they want, but the House should take action now to let this program terminate as it was intended to terminate when we extended it last year. We should take all the funds for this program out of the budget resolution and let the American people know that we mean business when we say we are tightening up the budget and reducing unnecessary and unwarranted expenditures and that we are doing it at a time when we have a national debt fact reaching the $900 billion figure, with annual interest at approximately $49 billion. We just must leave the road of fiscal irresponsibility and get on the high and desperately needed and taxpayers wanted road of fiscal responsibility.

The adoption of this amendment will be one step in that direction.●

● Mr. BIAGGI. Mr. Chairman, I rise to express my strong opposition to the effort by the gentleman from Georgia to prevent the House even an opportunity to provide funds for an urgently needed program for our Nation's cities.

My colleagues no doubt recall that the vote to postpone further consideration of the countercyclical program in subcommittee was 7 to 6. Is it upon this mandate that the House will now choose to act?

Consider the fact that major cities such as New York are literally budgeting in funds from this program as they prepare their own budgets. In New York City's case, $140 million was expected from this program—$140 million which if not provided could have dire consequences on the city's already precarious fiscal situation.

There are other cities where similar expectations have been made. The question before us—are we going to again engage in the politics of pitting cities against the rest of the Nation? Are we not going to concede the points that our cities continue to have higher than average unemployment rates—and are in need of this assistance.

Consider the fact that the Senate has passed legislation extending the countercyclical program. Are we going to defy their logic and bar ourselves an opportunity to even consider this program?

I believe the budget resolution offered and championed so well by the gentleman from Connecticut provides a sound and fiscally reasonable approach to this issue. I believe on the other hand that the amendment by the gentleman from Georgia is wrong—is antiurban but more importantly threatens to impede the economic progress we are making as a Nation. If we continue to permit rampant unemployment in our cities—then we will simply regress further. A vote for this amendment is a step in the wrong economic direction and I urge its defeat.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. LEVITAS) to the amendment in the nature of a substitute offered by the gentleman from Connecticut (Mr. GIAIMO).

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. LEVITAS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 187, noes 208, not voting 37, as follows:

[Rollcall Vote No. 711]

AYES—187

Abdnor
Ammerman
Andrews, N.C.
Archer
Armstrong
Ashbrook
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bennett
Bevill
Bowen
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Burgener
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Cavanaugh
Chappell
Clawson, Del
Cleveland
Cochran
Coleman
Collins, Tex.
Conable
Corcoran
Cornwell
Coughlin
Crane
Cunningham
Daniel, Dan
Daniel, R. W.
Davis
Devine
Dickinson
Dicks
Dornan
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
English
Erlenborn
Ertel
Evans, Colo.
Evans, Ga.
Evans, Ind.
Fascell
Fenwick
Findley
Fithian
Flippo
Foley
Ford, Tenn.
Forsythe
Frenzel
Fuqua
Gammage
Gibbons
Ginn
Glickman
Goldwater
Gonzalez
Gradison
Grassley
Gudger
Hall
Hamilton
Hammer-schmidt
Hannaford
Hansen
Harkin
Harsha
Hefner
Hillis
Holt
Hubbard
Ichord
Ireland
Jacobs
Jenkins
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kazen
Kelly
Kemp
Kindness
Krueger
Lagomarsino
Latta
Leach
Lehman
Levitas
Lloyd, Calif.
Long, Md.
Lott
Lujan
Luken
McClory
McCloskey
McCormack
McKay
Mahon
Mann
Marlenee
Marriott
Martin
Mathis
Mattox
Michel
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Mottl
Myers, Gary
Myers, John
Neal
Nichols
O'Brien
Pease
Pettis
Pickle
Pike
Poage
Preyer
Pritchard
Quayle
Quie
Quillen
Rhodes
Roberts
Robinson
Rogers
Rose
Rousselot
Rudd
Runnels
Satterfield
Sawyer
Sebelius
Sharp
Shuster
Skelton
Smith, Iowa
Smith, Nebr.
Snyder
Spence
Steed
Steers
Steiger
Stockman
Stump
Symms
Taylor
Thone
Treen
Trible
Volkmer
Waggonner
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wylie
Yatron
Young, Fla.

NOES—208

Addabbo
Akaka
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Applegate
Ashley
Aspin
AuCoin
Baldus
Baucus
Beard, R.I.
Bedell
Bellenson
Benjamin
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Brademas
Brodhead
Brown, Calif.
Buchanan
Burke, Mass.
Burton, John
Burton, Phillip
Caputo
Carney
Carr
Carter
Cederberg
Chisholm
Clausen, Don H.
Clay
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
D'Amours
Danielson
de la Garza
Delaney
Derrick
Derwinski
Diggs
Dingell
Dodd
Downey
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Evans, Del.
Fary
Fish
Fisher
Flood
Florio
Ford, Mich.
Fowler
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Goodling
Gore
Green
Hanley
Harris
Heckler
Heftel
Hightower
Holland
Hollenbeck
Holtzman
Horton
Howard
Hughes
Hyde
Jeffords
Johnson, Calif.
Kastenmeier
Keys
Kildee
Kostmayer
Krebs
LaFalce
Lederer
Leggett
Lent
Livingston
Long, La.
Lundine
McDade
McEwen
McFall
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Mazzoli
Meeds
Metcalfe
Mikulski
Mikva
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Michael
Natcher
Nedzi
Nix
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pepper
Perkins
Pressler
Price
Pursell
Rahall
Railsback
Rangel
Regula
Reuss
Richmond
Rinaldo
Roe
Roncalio
Rooney
Rosenthal
Rostenkowski
Roybal
Ruppe
Russo
Ryan
Santini
Sarasin
Scheuer
Schroeder
Seiberling
Simon
Skubitz
Slack
Solarz
Spellman
St Germain
Staggers

Stanton
Stark
Stratton
Studds
Thornton
Traxler
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Walgren
Walsh
Waxman
Weaver
Weiss
Whalen
Whitten
Wirth
Wolff
Wright
Wydler
Yates
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—37

Alexander
Burke, Calif.
Dellums
Dent
Flowers
Flynt
Fountain
Fraser
Frey
Guyer
Hagedorn
Harrington
Hawkins
Huckaby
Jenrette
Kasten
Le Fante
Lloyd, Tenn.
McDonald
Meyner
Milford
Miller, Calif.
Moss
Risenhoover
Rodino
Schulze
Shipley
Sikes
Sisk
Stangeland
Stokes
Teague
Thompson
Vento
Wilson, C. H.
Young, Alaska
Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mrs. Lloyd of Tennessee for, with Mr. Thompson against.

Mr. Teague for, with Mr. Rodino against.

Mr. Fountain for, with Mr. Hawkins against.

Mr. Risenhoover for, with Mrs. Meyner against.

Mr. McDonald for, with Mrs. Burke of California against.

Mr. Sikes for, with Mr. Stokes against.

Messrs. CAPUTO, ECKHARDT, and SCHEUER changed their vote from "aye" to "no."

Messrs. VOLKMER, KAZEN, LEHMAN, and KRUEGER changed their vote from "no" to "aye."

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. JOHN L. BURTON TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GIAIMO

Mr. JOHN L. BURTON. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. JOHN L. BURTON to the amendment in the nature of a substitute offered by Mr. GIAIMO: In the matter relating to the appropriate level of total new budget authority reduce the amount by $47 billion;

In the matter relating to the appropriate level of total budget outlays reduce the amount by $15 billion;

In the matter relating to the amount of the deficit reduce the amount by $15 billion;

In the matter relating to the appropriate level of the public debt reduce the amount by $15 billion;

In the matter relating to the amount by which the statutory limit on the public debt should accordingly be increased, reduce the amount by $15 billion.

In the matter relating to allowances (function 920) reduce the amount for budget authority by $47 billion; and reduce the amount for outlays by $15 billion.

Mr. JOHN L. BURTON. Mr. Chairman, this amendment would reduce the deficit by $15 billion. It would do it by reducing the unobligated balances. These are moneys that agencies of Government have that were given to them by the Congress after the money was paid by our constituents in taxes, but the agencies have not figured out how they are going to spend it yet. Now there are $47 billion-plus of these unobligated balances: $20 billion is in the Department of Defense; $7 billion is in the Department of Transportation; $13 billion is in energy—even Jim Schlesinger cannot spend it that fast; and $1.5 billion is in the Environmental Protection Agency; and so on down.

The amendment reduces outlays by $15 billion. This is one place we can reduce. They tell us first of all, do not make a meat-ax cut because that is very chicken and you are putting the heat on somebody else. So we vote against that one. So then when somebody like the gentleman from Virginia (Mr. FISHER) comes along with a specific cut, everybody says: "My God, that is my program."

This is a cut which is only going to be made out of money they have got, I think, in their petty cash program that they have not used and they have stored it up.

Earlier the gentleman from Ohio (Mr. REGULA) raised the question to the gentlewoman from New York (Ms. HOLTZMAN) and said would not this encourage the department to spend the money so that they could get a better appropriation next year? First of all, I think it would give the Committee on Appropriations the opportunity to put their feet to the fire and, secondly, in the Accounts Committee in the House, the Committee on House Administration, they used to have a procedure whereby committees could keep all unexpended balances. We changed that and after each session of the Congress, the committees return to the Treasury, to the contingency fund, their unexpended balances. We in no way hold that against them when they come in with their new budget request the next year if they can justify that amount.

So here is a chance to cut the deficit to $25 billion by reducing the outlays and also reducing the budget authority by this $47 billion.

Again this is money they have sitting in the pipeline and they do not know what to do with it.

The argument was made against the Holtzman amendment that it really made a lot of sense but, unfortunately, the committees would have to go back and do a lot of work. It really means we should not deal with the first budget resolution, as it has been pointed out, the first one is to target it, but it is too early, and the second one is too late because the work has been done, and it becomes a legislative nightmare.

This leads one to believe that maybe there ought to be some adjustment in the budget dates.

Mr. HARKIN. Mr. Chairman, if the gentleman will yield, this $47 billion in the unobligated balances, you say that is money we have paid in, and therefore, because of the huge budget deficit, I can only assume that we are paying interest on the money, is that right?

Mr. JOHN L. BURTON. That is correct. This would reduce the national debt by $15 billion, so it would reduce the interest on the $15 billion.

Mr. HARKIN. So it would save the interest payment we are paying on the debt and therefore would not be a drain on our economy?

Mr. JOHN L. BURTON. It would, and I believe it should make sense.

Mr. GARY A. MYERS. If the gentleman will yield, the gentleman from Iowa (Mr. HARKIN) asked, in essence, whether or not the Government borrows the money before the committee actually needs it. It is not my concept that they go out and borrow it and pay interest on it. It would be much like if you were going to buy a car next year, you would never borrow the money for it this year.

Mr. JOHN L. BURTON. Do not tell that to GENE TAYLOR.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield, the point the gentleman was making, so that our colleague, the gentleman from Pennsylvania (Mr. GARY A. MYERS) can understand, is that we have any number of bills that contain appropriations which do not involve long term borrowing. The gentleman is trying to attack the proposal that the gentlewoman from New York (Ms. HOLTZMAN) referred to, namely that there really is not a very good accounting of these unobligated balances. Consequently, what he is attempting to do is to say to the agency: Get rid of the unobligated balances and ask for the funds when you really need them. So it really does not involve the Treasury's need to borrow.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. GARY A. MYERS, and by unanimous consent, Mr. JOHN L. BURTON was allowed to proceed for 2 additional minutes.)

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Chairman, I think it is perfectly obvious we do not have a very good accounting in such things but nobody is claiming that there is $47 billion in cash sitting in some office safe somewhere, because there is not.

Where did the gentleman get his figures?

Mr. JOHN L. BURTON. I got the figures from a member of the Committee on the Budget, and the figure referred to was $47.1 billion.

Mr. CONABLE. I do not believe that is the way it works.

Mr. JOHN L. BURTON. I do not know how it works. All I know is that it does not make sense to appropriate a lot of money and have $47 billion already appropriated.

Mr. GARY A. MYERS. If the gentleman will yield further, in response to the gentleman from California (Mr. ROUSSELOT), he has not convinced me that we have borrowed money and set it aside for these unobligated balances.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield. I did not say that. I said exactly the opposite.

I said the account contains appriated dollars given by the Congress of the United States to these various agencies. The account is called "Unobligated Balances." It actually contains $48 billion, so the gentleman has been con-

servative and allowed $1 billion to spread around.

Mr. GARY A. MYERS. I thought the gentleman was taking a view opposite to that which I expressed about the comments of the gentleman from Iowa (Mr. HARKIN). That gentleman distorted the picture. I thought the gentleman from California was referring to that.

Mr. JOHN L. BURTON. Mr. Chairman, if I may reclaim my time, the point being made is that this reduces the national debt by $15 billion. Thereby, it reduces interest on $15 billion of the national debt.

Mr. GIAIMO. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think we are getting to the tired stage here tonight because we are making some statements which are not quite accurate.

I think we ought to understand what we are doing. We are not talking about moneys that are sitting some place, as someone here stated. We are not talking about moneys which we have borrowed and upon which we are paying interest. This is not money; this is obligational authority which has not been obligated as yet and, obviously, therefore, has not been expended.

The Members know that in many programs we have the obligational authority for a given purpose and a good purpose. In the area of defense, for example, we do this all the time. We just voted the other day to appropriate $2 billion for an aircraft carrier. That money has not been expended, obviously, as yet. That money has not been obligated as yet. However, somewhere down the road the Defense Department will obligate that money and all of the other funds that we have appropriated.

Mr. Chairman, that goes not just for defense; it goes for energy, it goes for insurance programs, it goes for all kinds of contingent expenditures of the Government. It is not money. It is the obligational authority which Congress votes to the executive branch to do certain things, and in time they will do them. They will then get the money, and ultimately they will spend the money.

From time to time, these unobligated balances and these unexpended balances have grown to inordinate heights; and the Committee on Appropriations has traditionally put the pressure on the executive branch to hold down unexpended balances or unobligated balances. They have done a good job on it from time to time. Some of us think that we could do an even better job. Sime of us think we could take away some of these unobligated balances. I think that is what the gentlewoman from New York (Ms. HOLTZMAN) had in mind when she suggested earlier that we reduce them by a smaller percentage figure. I know that the gentlewoman from Maryland feels the same way, that throughout the Government we have a lot of these unobligated balances sitting there year after year.

Perhaps we ought to try to shrink them down or take them away. Perhaps we should, but certainly not by this kind of amendment, which would knock out $47 billion worth of them in one fell swoop.

Mr. Chairman, much of that money which is unobligated will be obligated and will be properly obligated, and eventually it will be expended.

I myself from time to time have tried to eliminate some of the unobligated, unexpended balances in the defense account. My colleague, the gentleman from New York (Mr. ADDABBO), on that committee has tried to do that in past years when we thought they were too high; but certainly, we are not accomplishing anything by meat axing $47 billion worth of unobligated funds, most of which will be obligated, will be properly obligated, and will be needed in order to carry out the mandates of various kinds of legislation we have enacted in the past.

Mr. Chairman, this amendment should be voted down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. JOHN L. BURTON) to the amendment in the nature of a substitute offered by the gentleman from Connecticut (Mr. GIAIMO).

The question was taken; and on a division (demanded by Mr. JOHN L. BURTON) there were ayes 10, noes 66.

Mr. HARKIN. Mr. Chairman, I demand a recorded vote, and pending that I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. One hundred and forty-five Members are present, a quorum.

The pending business is the demand of the gentleman from Iowa (Mr. HARKIN) for a recorded vote.

A recorded vote was refused.

So the amendment to the amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. ROUSSELOT AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GIAIMO

Mr. ROUSSELOT. Mr. Chairman, I offer an amendment as a substitute for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. ROUSSELOT as a substitute for the amendment in the nature of a substitute offered by Mr. GIAIMO:

Strike all after the resolving clause and insert in lieu thereof the following:

That the Congress hereby determines and declares, pursuant to section 301(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1978—

(1) the recommended level of Federal revenues is $464,148,000,000 and the amount by which the aggregate level of Federal revenues should be decreased is $29,500,000,000;

(2) the appropriate level of total new budget authority is $519,046,000;

(3) the appropriate level of total budget outlays is $464,148,000,000;

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $0; and

(5) the appropriate level of the public debt is $798,300,000,000 and the amount by which the statutory limit on such debt should accordingly be increased is $300,000,000 (this figure repesents off-budget agency outlays and trust fund surplus).

SEC. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 301(a)(2) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1978, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are as follows:

(1) National Defense (050):
(A) New budget authority, $127,102,000,000,
(B) Outlays, $112,403,000,000;
(2) International Affairs (150):
(A) New budget authority, $8,754,000,000,
(B) Outlays, $6,200,000,000;
(3) General Science, Space, and Technology (250)
(A) New budget authority, $5,146,000,000,
(B) Outlays, $5,001,000,000;
(4) Energy (270):
(A) New budget authority, $9,200,000,000,
(B) Outlays, $7,100,000,000;
(5) Natural Resources and Environment (300):
(A) New budget authority, $12,900,000,000,
(B) Outlays, $11,001,000,000;
(6) Agriculture (350):
(A) New budget authority, $9,197,000,000,
(B) Outlays, $7,620,000,000;
(7) Commerce and Housing Credit (370):
(A) New budget authority, $5,386,000,000,
(B) Outlays, $2,814,000,000;
(8) Transportation (400):
(A) New budget authority, $16,200,000,000,
(B) Outlays, $16,500,000,000;
(9) Community and Regional Development (450):
(A) New budget authority, $8,500,000,000,
(B) Outlays, $20,913,000,000;
(10) Education, Training, Employment and Social Services (500):
(A) New budget authority, $22,100,000,000,
(B) Outlays, $26,600,000,000;
(11) Health (550):
(A) New budget authority, $48,600,000,000,
(B) Outlays, $46,102,000,000;
(12) Income Security (600):
(A) New budget authority, $182,394,000,000,
(B) Outlays, $150,100,000,000;
(13) Veterans Benefits and Service (700):
(A) New budget authority, $21,100,000,000,
(B) Outlays, 20,913,000,000;
(14) Administration of Justice (750):
(A) New budget authority, $4,100,000,000,
(B) Outlays, $4,051,000,000;
(15) General Government (800):
(A) New budget authority, $4,098,000,000,
(B) Outlays, $3,903,000,000;
(16) General Purpose Fiscal Assistance (850):
(A) New budget authority, $9,019,000,000,
(B) Outlays, $9,237,000,000;
(17) Interest (900):
(A) New budget authority, $43,500,000,000,
(B) Outlays, $43,500,000,000;
(18) Allowances (920):
(A) New budget authority, $1,087,000,000,
(B) Outlays, $743,000,000;
(19) Undistributed Offsetting Receipts (950):
(A) New budget authority, $17,163,000,000,
(B) Outlays, $17,163,000,000.

SEC. 3. Pursuant to Section 310 of the Congressional Budget and Impoundment Control Act of 1974, the Appropriations Committees of the House and the Senate shall promptly submit to their respective Houses reconciliation legislation to decrease budget authority by approximately $42.2 billion to a level consistent with Section 1(2) of this resolution.

Mr. ROUSSELOT (during the reading). Mr. Chairman, I ask unanimous consent that the substitute amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. BROWN of Michigan. Reserving the right to object, Mr. Chairman, I only reserve the right to object because I am sure the gentleman will explain his amendment.

Mr. ROUSSELOT. If the gentleman will yield, I will.

Mr. BROWN of Michigan. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ROUSSELOT. Here we are again. This is the opportunity that many have sought when we discussed some of the other bills and amendments that have been presented to the House. This is an opportunity to show restraint on increases and expenditures. It does not cut any program that we voted on for fiscal year 1978. It merely restrains increases in all functional categories and places the level of expenditure at $464 billion.

Let me review for the Members of the House just how this balanced budget resolution compares to the committee amendment and other years' actuals:

SECOND BUDGET RESOLUTION/FISCAL YEAR 1979

[In millions of dollars]

	House Budget Committee	Actual 1978 CBO current estimate	Rousselot balanced budget amendment
Revenues	450,000	397,992	464,148
Budget authority	561,242	495,757	519,046
Outlays	490,463	447,922	464,148
Deficit	40,463	49,930	0
Debt subject to limit	838,800	768,730	798,300

RESULT OF HOUSE-PASSED APPROPRIATIONS FOR FISCAL YEAR 1979, ALONG WITH PERMANENT AUTHORITIES

[In millions of dollars]

	House status	Second budget resolution	Rousselot amendment
Budget authority	519,000	561,242	519,046
Outlays	469,800	490,463	464,148

The expenditure level in the resolution is roughly what gentlemen from the other body—two people on the Budget Committee said in their deliberations, and one was a Republican and one a Democrat; it was a very bipartisan statement; that $465 billion was a reasonable level of expenditure for 1979. Both Members of the Budget Committee felt that we did not need to accelerate our expenditure level more than this resolution calls for; $16 billion more than we will have spent by October 1 of this year. We still may spend less by substantial amounts than the dollar amounts we have spent in 1978, because the executive branch continues to be in the awkward position, and this has happened for the last 4 years. It is a bipartisan problem that the executive is not able to spend all the dollars that we appropriate. This has popularly become know as shortfall. I call it savings. In other words, they cannot spend as fast as we have been appropriating. This year, depending on what kind of estimate and where you begin, the shortfall or savings will be anywhere from $11 billion to $18 billion, depending whether you talk to the Congressional Budget Office, OMB, or whoever. These are dollars that this Congress appropriated last year that we will not spend.

So let me first comment on the expenditure side of this resolution and why I believe it is a reasonable and rational approach.

EXPENDITURES IN ROUSSELOT SUBSTITUTE

First. Expenditures are increased by $16 billion over fiscal year 1978 but there are no cuts in functional categories from 1978. There are restraints in increases, but no program is cut. Congress for the last 3 years has appropriated more money than the administration is able to spend—we have been seeing shortfalls in expenditures of $12 to $17 billion and we do not even know what the shortfalls will be for fiscal year 1978—they may be greater than even anticipated. These shortfalls can more than accommodate the lower increases in expenditures anticipated in the balanced budget resolution.

Second. The General Accounting Office has produced reports showing extensive waste and mismanagement of funds by Federal agencies. These are accounts of fraud, overdrafts, misallocations and misexpenditures of Federal moneys that add up to $25 billion a year. The restraints in the balanced budget resolution will force the Government agencies to control the handling of taxpayers' money and prevent this unconscionable fraud.

Third. In many cases, the Federal agencies have funds available in unobligated balances. If reallocated across-the-board, those unobligated balances would more than compensate for the spending restraints called for in the balanced budget resolution.

The CHAIRMAN. The time of the gentleman from California (Mr. ROUSSELOT) has expired.

(By unanimous consent, Mr. ROUSSELOT was allowed to proceed for 4 additional minutes.)

Mr. ROUSSELOT. Mr. Chairman, my belief is that a $25 billion difference between the amount of Committee on the Budget of $490 billion and the $464 billion—is a very moderate proposal, because I believe those agencies can accomplish that kind of change. But in addition to that, as has already been brought up by our colleague, the gentlewoman from New York (Ms. HOLTZMAN) and by my colleague, the gentleman from California (Mr. JOHN L. BURTON) who spoke just previously, we also have unexpended balances in many of the accounts that add up to $48 billion in 1978.

I am not asking that all of those unexpended balances be spent out, but I am saying that previously appropriated dollars are there. No agency will starve, no agency will be required or forced to drastically reduce.

I think this proposal is workable on the basis of these three points alone: The shortfall on the basis of past experience; the unexpended balances that are there and presently available for expenditure and that amount to roughly $48 billion; and/or the simple admission by the General Accounting Office that there are substantial amounts of waste that we can eliminate.

So on the expenditure side there are more than enough adequate dollar amounts available for reduction to meet the $464 billion expenditure level.

Mr. Chairman, let me briefly explain my calculations on the revenue side. I have tried to leave it flexible on the revenue side to accommodate what we will finally have as a result of what comes out of the conference on the revenue bill for 1978. Let me review those calculations:

REVENUES IN ROUSSELOT SUBSTITUTE

First. Justification of $14 billion increase in revenues. Calculation made by using GNP deflator at 7.5 percent—$2,390 trillion. Chairman's figures used lower GNP. GNP will be higher because tax cuts will improve employment and increase the tax base. Reduction of taxes provides individuals and business a chance to reinvest in the economy.

Second. Inflation rate estimated at the more realistic rate of 7.5 percent. Committee resolution calculated at annual inflation rate of 6.8 percent.

Third. Feed-back effects of tax cuts. On the basis of past experience, when there have been tax cuts in this country, the feed-back effects have been much greater than what has been anticipated in the Committee's resolution.

The difference in the calculations comes about because the Committee has guessed that the gross national product will be roughly $2.3 trillion. I say it will be $2.30 trillion, and the reason for that is because of the tax cuts that I believe will occur as a result of our final product on taxes, because the incentives for the private sector will be present. Further, I feel that this year's tax cut bill will generate revenues, as it has on the 10 previous times when this Congress has reduced taxes.

The CHAIRMAN. The time of the gentleman from California (Mr. ROUSSELOT) has again expired.

(By unanimous consent, Mr. ROUSSELOT was allowed to proceed for 2 additional minutes.)

Mr. ROUSSELOT. Therefore, Mr. Chairman, I believe that the normal growth rate will be 13.5 percent and that the real growth rate will be 5.5 percent. Those are improved estimates from the committee version. My belief also is that on the basis of those calculations and the other points I have mentioned, the revenues will be better than estimated by some of those who serve on our Committee on the Budget.

Second, as I have already partially mentioned, I believe the feedback effect, on the basis of history, is far better in the private sector than has been forecast by the chairman of my committee on the basis of economic studies of some of the members of our staff.

Mr. Chairman, let me quickly review the facts. The Rousselot amendment would provide $464 billion in revenues, $519 billion in budget authority, $464 billion in outlays, and no add-on deficit

for 1979. That alone would reduce the necessity for increasing the interest charge on the debt.

The debt limit would then be $798 billion, the same figure we just voted a few weeks ago.

How does that compare to 1978? In 1978, the revenues were roughly $400 billion, or $398 billion. The budget authority was $495 billion. The outlays were $447 billion. The deficit was $449 billion, or is projected to be by October 1. Therefore, in those areas of expenditures where there are no cuts there is an increase in expenditure level of $16 billion, so it will cover all of your pet projects. Now let me review the function categories as compared to fiscal year 1978:

SECOND BUDGET RESOLUTION/FISCAL YEAR 1979

[In millions of dollars]

	House Budget Committee	Actual 1978 CBO current estimate	Rousselot amendment
Revenues	450,000	397,992	464,148
Budget Authority	561,242	495,757	519,046
Outlays	490,463	447,922	464,148
Deficit	40,463	49,930	0
Debt subject to limit	838,800	768,730	798,300
CHAIRMAN'S RECOMMENDATION			
050—National defense:			
Budget authority	127,013	117,877	127,102
Outlays	112,403	103,980	112,403
150—International affairs:			
Budget authority	12,365	9,454	8,754
Outlays	7,119	5,905	6,200
250—General science, space and technology:			
Budget authority	5,146	4,848	5,146
Outlays	4,991	4,744	5,001
270—Energy:			
Budget authority	9,601	8,048	9,200
Outlays	8,684	5,580	7,100
300—Natural resources and environment:			
Budget authority	12,963	12,503	12,900
Outlays	11,380	10,916	11,001
350—Agriculture:			
Budget authority	12,225	3,182	9,197
Outlays	7,628	8,125	7,628
370—Commerce and housing credit:			
Budget authority	5,551	5,386	5,386
Outlays	2,814	3,115	2,814
400—Transportation:			
Budget authority	19,451	15,027	16,200
Outlays	17,063	15,497	16,500
450—Community and regional development:			
Budget authority	10,327	8,927	8,500
Outlays	9,474	10,433	9,001
500—Education, training, employment, and social services:			
Budget authority	34,022	21,842	22,100
Outlays	31,446	26,673	26,600
550—Health:			
Budget authority	52,158	46,416	48,600
Outlays	49,268	43,729	46,102
600—Income security:			
Budget authority	192,055	180,053	182,394
Outlays	156,566	145,800	150,100
700—Veterans benefits and services:			
Budget authority	21,251	18,805	21,100
Outlays	20,913	19,110	20,913
750—Administration of justice:			
Budget authority	4,163	3,741	4,100
Outlays	4,173	3,885	4,051
800—General government:			
Budget authority	4,098	3,510	4,098
Outlays	4,035	3,434	3,903
850—General purpose fiscal assistance:			
Budget authority	9,019	9,688	9,019
Outlays	9,297	9,590	9,237
900—Interest:			
Budget authority	48,000	42,480	43,500
Outlays	48,001	43,436	43,500
920—Allowances:			
Budget authority	−1,087	0	−1,087
Outlays	−743	0	−743
950—Undistributed offsetting receipts:			
Budget authority	−17,163	−16,030	−17,163
Outlays	−17,163	−16,030	−17,163
Total:			
Budget authority	561,242	497,757	519,046
Outlays	490,463	447,922	464,148

The CHAIRMAN. The time of the gentleman from California (Mr. ROUSSELOT) has again expired.

(By unanimous consent, Mr. ROUSSELOT was allowed to proceed for 2 additional minutes.)

Mr. GIAIMO. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to my distinguished colleague and chairman, the gentleman from Connecticut (Mr. GIAIMO), of the very fine, hard-working Budget Committee.

Mr. GIAIMO. I thank the gentleman for his kind words.

Mr. Chairman, I am intrigued by the gentleman's proposal.

Mr. ROUSSELOT. I knew the gentleman would be.

Mr. GIAIMO. It fascinates me, and I want to be sure I understand it.

Mr. ROUSSELOT. I want to have the gentleman understand it because I need his vote.

Mr. GIAIMO. As I understand it, the gentleman is proposing a $29 billion tax cut.

Mr. ROUSSELOT. No. I said $20 billion, roughly, is my anticipation. That is assuming what the final result of the conference will produce.

Mr. GIAIMO. A $20 billion tax cut, which is going to result in a revenue flure of $464 billion.

Mr. ROUSSELOT. Yes.

Mr. GIAIMO. But what the gentleman is saying is that, by having a $20 billion tax cut, we are going to wind up with $14 billion more in revenues.

Mr. ROUSSELOT. That is correct.

Mr. GIAIMO. I would like to hire the gentleman from California to be my accountant the next time I am required to make a financial statement to get a loan from the bank.

Mr. ROUSSELOT. I would like to do that, because I think that the money released in the private sector, in both the corporate tax cut we have in our bill and all of the other cuts will be that much and will generate that many new jobs which enlarges the tax base.

Mr. GIAIMO. Why do we not cut more?

Mr. ROUSSELOT. By the way, even the econometric models we used will show that there will be an increase in jobs of 1,600,000 at the end of a year's time, that there will be an increase in GNP in many of those econometric models, the same ones our committee uses. My belief is that the generation in the private sector will produce that add-on revenue and, additionally, on the basis of the 10 last cuts we have had since 1946, the same thing has happened in the private sector.

I urge the support of my colleagues for the Rousselot balanced budget resolution.

Mr. MITCHELL of Maryland. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in "supposition" of the amendment, and I yield back the balance of my time.

Mr. WYLIE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise in support of the latest of the Rousselot balance the budget amendments. The distinguished gentleman from California is on the right track and is once again providing the House with an opportunity to go on record as favoring, if not a balanced budget, a reduction in the deficit.

I am persuaded by careful consideration that both in the short run—1978 and 1979—and in the long run—the rest of this century and beyond—that Congress must adopt a method to stop deficit spending except in case of national economic necessity, and I have introduced a bill to do just that.

The critical problem for our country both in the short run and the long run is to contain inflation which is so disruptive to all segments of our Nation. There is no doubt in my mind that deficit spending by the Federal Government is the major cause of inflation, and it is a source of inflation which we in the Congress can directly do something about.

For the short run through 1979 we in the Congress have a distinct problem to address and correct. Inflation has been accelerating in 1978 as the year has progressed, and interest rates have also climbed sharply higher. The gentleman mentioned the Congressional Budget Office. In support of his position I refer to the Congressional Budget Office report of July, 1978 entitled "Inflation and Growth: The Economic Policy Dilemma." On page 30 it says:

> No one knows precisely how much higher short-term interest rates can go before the economy is greatly weakened. Historical experience suggests not much further.

If we have another substantial deficit which keeps Treasury in the capital markets and interest rates continue to rise, then, in the short run through 1979, we will be responsible for setting the conditions specified in the recession scenario of the July report of our own Budget Committee. Their recession scenario says that if the 3-month treasury bill rate rises to 8.5 percent in a few months and then declines slowly thereafter, we will have a recession in 1979. Unemployment will rise to over 7 percent and total employment will be some 2 million persons less than otherwise.

The same report concludes:

> This projected recession, like its predecessors, would reduce business profits and investment in plant and equipment and postpone still further advances in labor productivity and improvements in employment opportunities for the most disadvantaged.

For the short run we have a responsibility to try to balance the budget, and the Rousselot substitute is the way to begin the process.

My good friend, Prof. Paul Craig at the Ohio State University, has brought his thoughts together on the longrun problem in a pamphlet entitled "A Layman's Guide to Inflation." He points out, and I agree with him, that, with productivity declining and expectations rising, the struggle over finite resources is intensifying.

Modern governments are attempting to placate the conflict by trying to fund more in government programs than political support in the form of a willingness to be taxed will support. The result has been deficits in Government budgets. The resulting excessive increase in the money supply has, in turn, been directly responsible for our high rates of inflation. Inflation, in turn, is basically unfair, "a creeping unvoted tax that falls on the unwary," and erodes the value of the savings of the average citizen. This destroys the incentive to work hard to be able to save which is so crucial to our work ethic and the maintenance of a middle class. Inflation is thus socially dysfunctional in the long run.

To address the problem of inflation in the longrun we must first recognize and accept our responsibility and obligation to do our part. Our part is to make the tough decisions on spending programs which cause deficits. The way to assure that we will act responsibly in making these decisions is to adopt a balanced budget. If we cannot run deficits, then we will be required to vote only for those programs our constituents will be willing to pay for in taxes. I might say this system has worked very well in Switzerland—and I recognize that running a government of only 6½ million people is not the same as running one for 213 million. With no deficits, the Federal Reserve could do a much more responsible job of restraining monetary expansion.

Inflation will then come under control. As inflation begins to decline, expectations of inflation will spiral down. Long-term interest rates will decline. Housing and capital investment will be more attractively priced, and savings will be available to finance them.

Inflation is our No. 1 problem. It is our duty to bring inflation under control, and we should address it by voting for the Rousselot substitute.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, the gentleman makes an important point. One of the major contributors to inflation that we have all talked about is, in fact, overspending by the Federal Government. When we constantly raise our expenditure levels so far beyond the normal increases, when this Congress so consistently increases the expenditures at such a high rate and does not intend to contain them the way this resolution does, the Federal Government does in fact, contribute to the inflation to which the gentleman refers.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(At the request of Mr. ROUSSELOT and by unanimous consent, Mr. WYLIE was allowed to proceed for 1 additional minute.)

Mr. ROUSSELOT. The gentleman's point is well taken. One way to stop that inflationary spiral is not only to have the Federal Government set the example, but actually restrain the increases in expenditures.

Mr. WYLIE. I thank the gentleman.

Mr. GIAIMO. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, everyone in this House would like to balance the budget. Everyone in this House is working diligently toward that end in the very near future when we will be able to balance the budget, but we do not think we will be able to do it merely by legislative fiat and by cutting the budget and cutting necessary expenses drastically and thus arriving at a zero deficit. We think that is unrealistic.

This amendment should be defeated.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. GIAIMO. I yield to the very distinguished gentleman from New York, a very valuable Member of this body.

Mr. DOWNEY. Mr. Chairman, I thank the gentleman.

I have a number of questions because the gentleman from California has made some persuasive points.

Is it my understanding the Rousselot amendment will balance the Federal budget by 1979, create a $20 billion tax cut that will generate $14 billion in additional taxes, eliminate waste in Federal programs, solve our problem of inflation, and balance the budget, and it will not touch Defense or veterans? Can the gentleman tell me, if I vote for this amendment, our Middle East crisis and energy problems will also be solved?

Mr. GIAIMO. I do not think I could answer that question. I am sure the gentleman from California would have some responses. It seems to have accomplished everything else. But I really believe one would have to believe in the tooth fairy if we expect it to accomplish it all.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. ROUSSELOT) as a substitute for the amendment in the nature of a substitute offered by the gentleman from Connecticut (Mr. GIAIMO).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ROUSSELOT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 153, noes 235, not voting 44, as follows:

[Rollcall Vote No. 712]

AYES—153

Abdnor
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bedham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bowen
Breaux
Brinkley
Brodhead
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Burton, John
Butler
Byron
Caputo
Carr
Carter
Cederberg
Chappell
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Coleman
Collins, Tex.
Corcoran
Crane
Cunningham
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Derwinski
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Evans, Ga.
Evans, Ind.
Findley
Fithian
Fowler
Gammage
Ginn
Goldwater
Goodling
Grassley
Gudger
Hall
Hammer-schmidt
Hannaford
Hansen
Harsha
Hefner
Hillis
Holt
Hubbard
Hyde
Ichord
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kelly
Kemp
Kindness
Kostmayer
Krueger
Lagomarsino
Latta
Leach
Levitas
Livingston
Lloyd, Calif.
Lott
Lujan
McClory
McCloskey
McKinney
Madigan
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Myers, John
Neal
O'Brien
Oakar
Panetta
Pettis
Quayle
Quillen
Robinson
Rose
Rousselot
Rudd
Runnels
Satterfield
Sawyer
Schroeder
Sebelius
Shuster
Skelton
Smith, Nebr.
Snyder
Spence
Stockman
Stump
Symms
Taylor
Thone
Traxler
Treen
Trible
Vander Jagt
Walker
Walsh
Wampler
Watkins
White
Whitehurst
Whitley
Wiggins
Wilson, Bob
Winn
Wylie
Yatron
Young, Fla.

NOES—235

Addabbo
Akaka
Alexander
Ambro
Ammerman
Anderson, Calif.
Anderson, Ill.
Annunzio
Applegate
Aspin
AuCoin
Baldus
Baucus
Beard, R.I.
Bedell
Bellenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Brademas
Breckinridge
Brooks
Brown, Calif.
Burke, Mass.
Burlison, Mo.
Burton, Phillip
Carney
Cavanaugh
Chisholm
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Cornell
Cornwell
Cotter
Coughlin
D'Amours
Danielson
Delaney
Derrick
Dicks
Diggs
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Erlenborn
Ertel
Evans, Del.
Fary
Fascell
Fenwick
Fish
Fisher
Flippo
Flood
Florio
Foley
Ford, Tenn.
Forsythe
Frenzel
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Glickman
Gonzalez
Gore
Gradison
Green
Hamilton
Hanley
Harkin
Harris
Hawkins
Heckler
Heftel
Hightower
Holland
Hollenbeck
Holtzman
Horton
Howard
Hughes
Jacobs
Jeffords
Jenkins
Johnson, Calif.
Jordan
Kastenmeier
Kazen
Keys
Kildee
Krebs
LaFalce
Lederer
Leggett
Lehman
Lent
Long, La.
Long, Md.
Luken
Lundine
McCormack
McDade
McEwen
McFall
McHugh
McKay
Maguire
Mahon
Mann
Markey
Massoli
Meeds
Metcalfe
Mikulski

Mikva
Mineta
Minish
Mitchell, Md.
Moakley
Moffet
Mollohan
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Gary
Myers, Michael
Natcher
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
Ottinger
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quie
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Roe
Roncalio
Rooney
Rosenthal
Rostenkowski
Roybal
Ruppe
Russo
Ryan
Santini
Scheuer
Seiberling
Sharp
Simon
Skubitz
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Staggers
Stanton
Stark
Steed
Steers
Steiger
Stratton
Studds
Thornton
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Waggonner
Walgren
Waxman
Weaver
Weiss
Whalen
Whitten
Wilson, Tex.
Wirth
Wolff
Wright
Wydler
Yates
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—44

Ashley
Bonker
Burke, Calif.
Clay
Dellums
Dent
Evans, Colo.
Flowers
Flynt
Ford, Mich.
Fountain
Fraser
Frey
Guyer
Hagedorn
Harrington
Huckaby
Ireland
Jenrette
Kasten
Le Fante
Lloyd, Tenn.
McDonald
Meyner
Michel
Milford
Miller, Calif.
Moss
Risenhoover
Rodino
Rogers
Sarasin
Schulze
Shipley
Sikes
Sisk
Stangeland
Stokes
Teague
Thompson
Tsongas
Wilson, C. H.
Young, Alaska
Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mrs. Lloyd of Tennessee for, with Mr. Thompson against.

Mr. Risenhoover for, with Mr. Rodino against.

Mr. Sikes for, with Mr. Le Fante against.

Mr. McDonald for, with Mrs Burke of California against.

Mr. HILLIS changed his vote from "no" to "aye."

So the amendment offered as a substitute for the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

● Mr. HARRIS. Mr. Chairman, the Budget Committee has worked long and hard to produce for us this second concurrent resolution on the budget for fiscal year 1979. Again this year, Congress has acted to set a realistic budget for the United States and to live within it. While I believe that this final House version of the budget for the fiscal year results in a deficit which is entirely too high, I have to fault the entire Congress and numerous committees rather than the Budget Committee, which has worked hard to reconcile the many separate spending and revenue measures enacted by the 95th Congress. There are a lot of "bugs" left in the new congressional budget procedure, and they will remain there until Congress gets serious about waste.

ELIMINATING THREE KINDS OF WASTE

Every Member of this House is concerned about waste in Government, but most of us take a view of waste which is entirely too narrow. If we are serious about getting the economy going in the right direction again, we must pursue a policy of balanced economic growth that presents expanding opportunities for all Americans without having that progress taxed away through inflation. And it means we must work to eliminate all three kinds of waste in Government which influence budget outlays, revenues, and deficits. Despite progress, Congress has failed to construct an economic and budgetary policy which addresses the three kinds of government waste.

ELIMINATING WASTEFUL SPENDING: FAT PROGRAM OUTLAYS

A number of my colleagues joined with me earlier in this Congress to oppose $800,000,000 in funds for unnecessary water construction projects which are not only wasteful, but harmful to the environment. Some of us fought, too, against giveaway subsidies to the maritime industry, which the House saw fit to grant. We fought, also, against $4.7 billion in excessive subsidies in the farm program which are too skewed toward large corporate farmers. We missed the opportunity to increase Defense spending by $7 billion instead of $9.7 billion by simply eliminating purchases of obsolete hardware. And we have been, so far, unsuccessful in cutting some $2.4 billion in waste in the important medicare and medicaid programs by cracking down on fraud.

I don't believe that taxpayers should be asked to foot the bill for that kind of waste—I am disappointed that we have not made enough progress this year eliminating it. That is why the budget authority and outlay figures recommended by the Budget Committee are too high.

ELIMINATING WASTEFUL "SPENDING": UNCOLLECTED TAX REVENUES

The second kind of waste which Congress has failed to eliminate is the waste of resources which occurs when wealthy individuals and corporations are able to reduce or escape their fair taxes by utilizing tax loopholes. Not only did Congress drop the ball from President Carter in failing to take action on some tax reform this year, we opened the tax dollar goody bag once again and agreed to spend another $1.6 billion next year on new capital gains exemptions.

In the alternative budget that I proposed earlier this year, I identified four major tax loopholes that enable big corporations to avoid paying their fair share of taxes, at a cost to taxpayers of $7 billion per year. Our constituents remember, even when we "forget," that revenue lost by tax loopholes costs them in higher taxes.

I joined with the majority of my colleagues last week in passing the tax bill sent to us by the Ways and Means Committee, because I believed it was essential to give working families some protection against artificial elevation into higher tax brackets solely because of inflation, and because the bill offered some relief from the pinch of higher payroll taxes for social security. But the kind of tax cut written by that committee—the tax cut on which this budget resolution is partially based—totally failed to come to grips with this second important kind of waste in Government.

As he does each Congress, our distinguished colleague from Ohio brought to our attention earlier this year a list of 17 of the biggest corporations in the country which used tax loopholes to produce an effective U.S. tax rate of zero in 1976. Congress took no action to insure that these companies would pay their fair share next year, which means that the revenue projection on which this budget is based is inappropriate.

ELIMINATING WASTEFUL UNDEREMPLOYMENT

The greatest waste of all occurs, in my opinion, when the healthiest, best-trained work force in the world has to suffer from unemployment and underemployment. When most of the Members of this body were entering the job market after high school, college or the military, we faced an economy which was expanding. We had an opportunity to achieve.

Today we are wasting strength, vitality, imagination, and productive labor of our people—especially our young people, who are caught in the squeeze between inflation and recession. Although we have made progress this year against both unemployment and the rate of inflation, we will have to remain vigilant against their causes: First, worldwide manipulation of fuel prices by the OPEC nations and their American trading partners with a ripple effect on the whole economy; second, loss of our competitive edge against other nations in the advance of business creativity and technology; and third, our failure to eliminate the three kinds of waste I have outlined here today.

Mr. Speaker, when we are able to hold the line in this Congress against artificial price increases for energy, when we stop squandering our revenues on unnecessary tax loopholes and spend those tax dollars wisely, perhaps we will be presented a budget resolution which effectively addresses the kind of balanced economic growth America needs so badly to maintain.

Perhaps at that point, too, I will be able to support the budget resolution.●

Mr. GIAIMO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I believe we are now ready to vote on the Giaimo substitute amendment.

The CHAIRMAN. The gentleman is correct.

Mr. GIAIMO. Mr. Chairman, I just want to advise the Members that if we adopt the Giaimo substitute amendment in the budget resolution, we will have a budget deficit of less than $40 billion, and it will be $39.8 billion.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Connecticut (Mr. GIAIMO), as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

Mr. GIAIMO. Mr. Chairman, I move that the Committee do now rise and report the concurrent resolution back to the House with an amendment, with the recommendation that the amendment, as amended, be agreed to, and that the concurrent resolution, as amended, be agreed to.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of

the Union, reported that that Committee, having had under consideration the concurrent resolution (H. Con. Res. 683) revising the congressional budget for the U.S. Government for the fiscal year 1979, had directed him to report the concurrent resolution back to the House with an amendment, with the recommendation that the amendment, as amended, be agreed to and that the concurrent resolution, as amended, be agreed to.

The SPEAKER. Pursuant to the statute, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the concurrent resolution.

Mr. LATTA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 217, nays 178, not voting 37, as follows:

[Roll No. 713]

YEAS—217

Addabbo
Akaka
Alexander
Ambro
Ammerman
Anderson, Calif.
Andrews, N.C.
Annunzio
Applegate
Ashley
Aspin
Baldus
Barnard
Beard, R.I.
Bedell
Beilenson
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Carney
Chisholm
Clay
Collins, Ill.
Corman
Cornell
Cornwell
Cotter
D'Amours
Danielson
Davis
de la Garza
Delaney
Derrick
Dicks
Diggs
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Calif.
Eilberg
English
Fary
Fascell
Fisher
Flippo
Flood
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Ginn
Glickman
Gonzalez
Gore
Hamilton
Hanley
Hannaford
Hawkins
Hefner
Heftel
Hightower
Holland
Holtzman
Howard
Hubbard
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jordan
Kastenmeier
Kazen
Keys
Kildee
Krebs
LaFalce
Lederer
Leggett
Lehman
Levitas
Lloyd, Calif.
Long, La.
Long, Md.
Lundine
McCormack
McFall
McHugh
McKay
Maguire
Mahon
Mann
Markey
Mattox
Mazzoli
Meeds
Metcalfe
Mikulski
Mikva
Milford
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Michael
Natcher
Nedzi
Nichols
Nix
Nolan
Nowak
Oakar
Oberstar
Obey
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pickle
Poage
Preyer
Price
Rahall
Rangel
Reuss
Richmond
Roberts
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Ryan
Scheuer
Schroeder
Seiberling
Sharp
Simon
Skelton
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Staggers
Stark
Steed
Steers
Stratton
Studds
Thornton
Traxler
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Waggonner
Walgren
Watkins
Waxman
Weiss
Whalen
Whitley
Whitten
Wilson, Tex.
Wirth
Wolff
Wright
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—178

Abdnor
Anderson, Ill.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
AuCoin
Badham
Bafalis
Baucus
Bauman
Beard, Tenn.
Bennett
Breaux
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burton, John
Butler
Byron
Caputo
Carr
Carter
Cavanaugh
Cederberg
Chappell
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Coughlin
Crane
Cunningham
Daniel, Dan
Daniel, R. W.
Derwinski
Devine
Dickinson
Dornan
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fenwick
Findley
Fish
Fithian
Forsythe
Frenzel
Gammage
Gibbons
Gilman
Goldwater
Goodling
Gradison
Grassley
Green
Gudger
Hall
Hammer-schmidt
Hansen
Harkin
Harris
Harsha
Heckler
Hillis
Hollenbeck
Holt
Horton
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Johnson, Colo.
Jones, Tenn.
Kelly
Kemp
Kindness
Kostmayer
Krueger
Lagomarsino
Latta
Leach
Lent
Livingston
Lott
Lujan
Luken
McClory
McCloskey
McDade
McEwen
McKinney
Madigan
Marks
Marlenee
Marriott
Martin
Mathis
Michel
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Myers, Gary
Myers, John
Neal
O'Brien
Ottinger
Pettis
Pike
Pressler
Pritchard
Pursell
Quayle
Quie
Quillen
Railsback
Regula
Rhodes
Rinaldo
Robinson
Rousselot
Rudd
Runnels
Ruppe
Santini
Satterfield
Sawyer
Sebelius
Shuster
Skubitz
Smith, Nebr.
Snyder
Spence
Stanton
Steiger
Stockman
Stump
Symms
Taylor
Thone
Treen
Trible
Vander Jagt
Walker
Walsh
Wampler
Weaver
White
Whitehurst
Wiggins
Wilson, Bob
Winn
Wydler
Wylie
Young, Fla.

NOT VOTING—37

Bonker
Burke, Calif.
Dellums
Dent
Evans, Colo.
Flowers
Flynt
Fountain
Fraser
Frey
Guyer
Hagedorn
Harrington
Huckaby
Jenrette
Kasten
Le Fante
Lloyd, Tenn.
McDonald
Meyner
Miller, Calif.
Moss
Risenhoover
Rodino
Sarasin
Schulze
Shipley
Sikes
Sisk
Stangeland
Stokes
Teague
Thompson
Tsongas
Wilson, C. H.
Young, Alaska
Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Thompson for, with Mrs. Lloyd of Tennessee against.

Mr. Rodino for, with Mr. Huckaby against.

Mr. Le Fante for, with Mr. Frey against.

Mr. Burke of California for, with Mr. Stangeland against.

Mr. Dent for, with Mr. Kasten against.

Mrs. Meyner for, with Mr. McDonald against.

Mr. Stokes for, with Mr. Sikes against.

Until further notice:

Mr. Miller of California with Mr. Guyer.

Mr. Risenhoover with Mr. Hagedorn.

Mr. Charles H. Wilson of California with Mr. Schulze.

Mr. Evans of Colorado with Mr. Young of Alaska.

Mr. Jenrette with Mr. Sarasin.

Mr. Shipley with Mr. Dellums.

Mr. Harrington with Mr. Flowers.

Mr. Flynt with Mr. Fraser.

Mr. Moss with Mr. Teague.

Mr. Tsongas with Mr. Sisk.

Mr. Bonker with Mr. Fountain.

Mr. VENTO changed his vote from "nay" to "yea."

So the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 12050. An act to amend the Internal Revenue Code of 1954 to provide a Federal income tax credit for tuition.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 12050) entitled "An act to amend the Internal Revenue Code of 1954 to provide a Federal income tax credit for tuition," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LONG, Mr. RIBICOFF, Mr. BENTSEN, Mr. MOYNIHAN, Mr. ROTH, and Mr. DOLE to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 2543. An act to amend title 39 of the United States Code to provide better enforcement procedures for preventing fraudulent solicitations through the mails;

S. 3382. An act to waive the statute of limitations with regard to the tort claim of Easor Express, Inc. of Pittsburgh, Pa., against the United States; and

S.J. Res. 148. Joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the seven calendar days beginning September 17, 1978, as "National Fort Week."

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 10898, AUTHORIZING APPROPRIATIONS FOR UNITED STATES RAILWAY ASSOCIATION FOR FISCAL YEAR 1979

Mr. MURPHY of Illinois, from the Committee on Rules, submitted a privileged report (Rept. No. 95-1502), on the resolution (H. Res. 1321) providing for consideration of the bill (H.R. 10898) to amend the Regional Rail Reorganization Act of 1973 to authorize appropriations for the United States Railway Association for fiscal year 1979, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF S. 1613, ENLARGING CIVIL AND CRIMINAL JURISDICTION OF U.S. MAGISTRATES

Mr. MURPHY of Illinois, from the Committee on Rules, submitted a privileged report (Rept. No. 95-1503), on the resolution (H. Res. 1322) providing for consideration of the Senate bill (S. 1613)

to improve access to the Federal courts by enlarging the civil and criminal jurisdiction of U.S. magistrates, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERSONAL EXPLANATION

Mr. RUSSO. Mr. Speaker, on yesterday on House Joint Resolution 638, the proposed equal rights amendment extension, I was paired against the previous question and against the motion to table. Had I been present I would have voted for the previous question and for the motion to table.

SUCCESSFUL BALLOON CROSSING OF ATLANTIC

(Mr. LUJAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUJAN. Mr. Speaker, I take this time to inform the House of an important event today. Three of my constituents, Maxie Anderson, Ben Abruzzo, and Larry Newman have successfully crossed the Atlantic in a balloon today. It is the first time it has ever been successfully done.

CONFERENCE REPORT ON H.R. 12602, MILITARY CONSTRUCTION AUTHORIZATIONS, FISCAL YEAR 1979

Mr. NEDZI. Mr. Speaker, I call up the conference report on the bill (H.R. 12602) to authorize certain construction at military installations for fiscal year 1979, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair would like to make the following announcement, before the Clerk reads the statement: We will adjourn for the evening following the adoption of the conference report, and this will be the last vote of the evening.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of August 7, 1978.)

Mr. NEDZI (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement, and I will give an explanatory statement.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER. The gentleman from Michigan (Mr. NEDZI) will be recognized for 30 minutes, and the gentleman from Virginia (Mr. WHITEHURST) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. NEDZI).

Mr. NEDZI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on May 22, 1978, the House passed H.R. 12602, the Military Construction Authorization Act for fiscal year 1979, which provided new construction authorization for the military departments and the Department of Defense in the total amount of $4,169,444,000.

On July 12, 1978, the Senate considered the legislation, amended it by striking all language after the enacting clause and wrote a new bill. As passed by the Senate, H.R. 12602 provided new construction authorization in the total amount of $3,998,432,000.

As a result of the 2 day conference, July 31 and August 1, between the House and the Senate on the differences in H.R. 12602, the conferees agreed to an adjusted authorization totaling $4,128,312,000.

This compromise is $119,497,000 below the amount requested by the Department of Defense. It is $41,132,000 below the House figure and $129,880,000 above the Senate figure.

There were 194 differences between the House bill and Senate amendment, many of which were concerned with the U.S. construction program in the North Atlantic Treaty area. The other differences primarily involved adjustments the House made in construction contingencies, respective House and Senate project and policy additions and deletions, and mutual reorganization of various authorities under which the military construction program operates. However, we were able to reach agreement on each of these differences. I will not go into detail because House report 95–1448, the conference report on H.R. 12602, explains the actions of the conferees.

The major item in conference involved authorization of construction in support of the U.S. forces committed to NATO. At issue was $288,270,000 authorized by the House for such construction but not contained in the Senate amendment. After extended discussion, the conferees agreed to a compromise figure of $144,475,000. This authorization covers the most critical and time-sensitive projects that support the alliance.

In reaching this compromise the conferees adopted the policy that to the extent possible construction requirements in support of NATO operational mission and readiness objectives should be common-funded by the alliance. However, the conferees also agreed that the strict application of this criteria to the bill H.R. 12602 could result in unacceptable delay to specific readiness-related projects. Therefore, to provide an orderly transition, the conferees agreed to authorize the high priority projects.

Consistent with this approach, the conferees increased the requested $90,000,000 for NATO infrastructure to $120,000,000. This adjusted figure is $50,000,000 above the House figure and $30,000,000 below the Senate figure. The conferees believe this new authorization represents on the part of the United States a commitment to the alliance to increase the U.S. contribution, on a cost-shared basis, to meet the large backlog in infrastructure requirements.

Once the NATO issue was settled the other items were resolved quickly. Time does not permit greater detailing but the conferees believe that the bill agreed to in conference is one that should meet the construction needs of the military establishment during fiscal year 1979. In closing I want to assure the House that all Senate provisions adopted by the conference are germane. Therefore, I urge adoption of the conference report on H.R. 12602.

Mr. WHITEHURST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the statement of the gentleman from Michigan, regarding the conference report on H.R. 12602.

The conference report on H.R. 12602 contains the initiatives of both the House and Senate. As such, the construction requirements of the three services and the defense agencies for fiscal year 1979 should be met adequately.

Of particular interest is the NATO construction program. While it may have been appropriate to include greater United States prefinancing at this time, I am convinced that increased common funding by the alliance is required. As the gentleman from Michigan indicated, the conferees believe that the United States is demonstrating its willingness to participate actively in this approach as a result of the conference action to increase the NATO infrastructure program.

The bill agreed to in conference is a good one which I urge the House to adopt.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. WHITEHURST. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I rise to support the Military Construction Authorization Act Conference Report, on which our distinguished colleagues on the Armed Services Committee and on the Conference Committee labored so long and so hard.

As a Member of the Board of Visitors of the U.S. Military Academy at West Point, I am especially cognizant of the construction needs at that fine institution. My concern is sharpened by the fact that Orange County, N.Y., in which West Point is located, and which is part of my 26th Congressional District is currently suffering an extremely high unemployment rate. This construction is vitally needed not only by the Academy, but will be welcomed by the construction trades throughout the surrounding area.

I call the attention of my colleagues to the total amount of $12,265,000 which is earmarked for this purpose.

This $12,265,000 in construction at the Academy will be utilized as follows:

For alteration of cadet support facilities, $5,153,000;

For alteration of Michie Stadium and Gymnasium, $3,634,000;

For outdoor athletic fields and facilities, $1,326,000; and

For separate power and utility facilities, $2,200,000.

These projects are needed at West

Point, and I am confident that the committee did its utmost to provide us with a fair and reasonable authorization.

Accordingly, Mr. Speaker, I urge my colleagues to join in support of this legislation.

Mr. NEDZI. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair would like to announce that the gentleman from Arizona (Mr. UDALL) has asked to take up a conference report on which he has said there is no controversy.

CONFERENCE REPORT ON S. 1633, PROVIDING EXTENSION OF BENEFITS AND SERVICES TO THE PASCUA YAQUI INDIANS OF ARIZONA

Mr. UDALL. Mr. Speaker, I call up the conference report on the Senate bill (S. 1633) to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

Mr. CUNNINGHAM. Mr. Speaker, reserving the right to object, I do so for the purpose of asking the chairman, the gentleman from Arizona (Mr. UDALL) as to why this conference report has to be taken up tonight? I presume it is because the gentleman is anxious to get away.

As the gentleman knows, I have some problems with this matter.

Mr. UDALL. Mr. Speaker, if the gentleman will yield, let me say that this is a very minor Indian bill that affects only a very small number of Indians. It was passed almost unanimously in the committee. The conference committee took about 5 minutes to consider the legislation. I have cleared this with the gentleman from Kansas (Mr. SKUBITZ) and with the ranking minority member on the subcommittee, the gentleman from Colorado (Mr. JOHNSON) and I do not think it is the kind of a bill that the gentleman should be making an issue of.

Mr. CUNNINGHAM. Mr. Speaker, further reserving the right to object, I have got some differences against the bill, and maybe the gentleman does not believe I should be taking a position on this, but I am trying to be as reasonable as I can. The gentleman understands that I have some questions on this matter, so I will continue to reserve the right to object so as to have the chairman answer those questions, and if the gentleman can answer them, possibly he can resolve my concerns and then I will withdraw my reservation.

Mr. UDALL. I will try to answer the questions.

Mr. CUNNINGHAM. One of the questions that I have is: Why is this bill necessary?

Mr. UDALL. The Pascua Yaqui Indians are a dispossessed band of Indians who have no reservation, and therefore there have been no benefits for them through the Federal Government. They are entitled to them and have been over the years. It has been the hope of many of us that this small band of less than 400 Indians should be eligible for such benefits.

Mr. CUNNINGHAM. Further reserving the right to object, it is my understanding that these Indians are basically a Mexican tribe.

Mr. UDALL. These were fugitives from Mexico about 60 or 70 years ago, after the revolution they fled to the United States and have been living here ever since.

Mr. CUNNINGHAM. Could the gentleman assure me that they have ceased their revolutionary activities or efforts?

Mr. UDALL. The gentleman can be assured that they pose no threat to the people of Washington State.

Mr. CUNNINGHAM. I appreciate the gentleman's levity, but I am going to stay with the questioning, and that is, as I understand, these people are still taking up arms against the Province of Sonora.

Mr. UDALL. No, the gentleman is badly misinformed.

Mr. CUNNINGHAM. I am entitled to know the answer.

Mr. UDALL. I would repeat that this is just a very small band of Indians, some of them living in Tucson and some of them living around Phoenix. They are a very small group, and they have a great number of social problems.

Mr. CUNNINGHAM. Mr. Speaker, further reserving the right to object, I would state to the gentleman that the report states that in their enrollment they must prove that they are citizens of the United States.

Recently there have been several thousand Indians visiting here who have denied they are U.S. citizens. I wonder if this is consistent with that sort of action.

Mr. UDALL. I assure the gentleman that these people are very proud to be American citizens.

Mr. CUNNINGHAM. Then I am very pleased to withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of July 11, 1978.)

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

ACTIONS OF CAROL FOREMAN DESERVE IMMEDIATE INVESTIGATION

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, a series of highly improper actions by Assistant Secretary of Agriculture Carol Foreman have recently come to light. An impartial review of the facts involved indicates that, unless the investigation I am requesting the Inspector General to conduct proves otherwise, Mrs. Foreman should resign her post immediately.

The first case raises an apparent conflict of interest. The Department of Agriculture's Food Safety and Quality Service, under the direction of Mrs. Foreman, awarded a $24,000 grant to the Consumer Federation of America. The purpose of the study was to analyze the economic impact of a proposed net weight regulation.

Foreman, of course, is the former executive director of the Consumer Federation of America. So we have Foreman moving from the CFA to the Department of Agriculture, where she then gives a $24,000 award of taxpayers money back to the CFA.

Can you imagine the outcry if someone moved from a private business to a position in the Government and then awarded a contract to his former company? The air would be filled with conflict of interest charges. I can see no reason why the same standards should not apply to someone coming into the Government from the so-called public interest area as well as that of private business.

Mrs. Foreman seems to think that having no direct financial links to CFA is sufficient. This overlooks the obvious emotional, philosophical, and friendship attachments she would have for CFA.

As a further element of bias the CFA testified on the net weight issue before the USDA and the Food and Drug Administration. This, of course, is the very issue it will "study" under the contract. The conflict of interest charge cannot be swept under the rug.

Mrs. Foreman also denied taking part in the contract award. She testified before the House Agriculture Committee's Subcommittee on Livestocks and Grains that,

> I was not involved in this contract except after the point after which Consumer Federation was the sole organization interested in performing the contract.

That is not the case, however. Internal USDA memos show Mrs. Foreman was involved before the contract was awarded. Two lines added to the contract justification are as follows:

> Consequently FSQS is seeking bids for a study of this proposal from recognized con-

sumer advocacy organizations. The bid should indicate the organization's demonstrated ability to provide or procure the services and expertise necessary to perform the analysis within the established time frame.

I have seen a copy of a memo signed by O. V. Cummings, Director of the USDA's Administrative Service Division. This memo, dated April 7—2 months before the contract was awarded—indicates that Mrs. Foreman was responsible for the addition of the previously mentioned two lines. It states: "We were told Mrs. Foreman wanted this added." Mr. Cummings argued against these lines because they, were overly restrictive and probably illegal.

It seems that Mrs. Foreman was not telling the truth. Despite her denial of involvement in the contract award to CFA she apparently gave instructions to the staff on that very matter. What other misstatements did she make to the House Agriculture Subcommittee? And what other facts did she fail to mention?

Nor is this the only occasion when Mrs. Foreman has played fast and loose with the rules. Her handling of the nitrite controversy indicates a blatant abuse of authority.

The Department of Agriculture requires that before a rule is issued on other than routine business the Office of the General Counsel must first approve an accompanying memorandum as to the legality of the proposed rule. Mrs. Foreman, however, conveniently overlooked these regulations. She failed to get legal clearance before issuing the rule on nitrites on May 16, 1978.

Testifying before the Subcommittee on Livestocks and Grains, she admitted that she knew of the policy, that it was her responsibility to get clearance and that she failed to do so. In her own words:

It was a mistake and I overlooked it. It clearly should have been there.

And when did she finally seek a legal determination on the rule? Why, on July 10, the day before she was to testify before the House subcommittee. From May 16 until July 10 she did nothing to bring herself into compliance. Only with a House hearing looming 1 day ahead did she finally do what she was required to do months earlier.

Mrs. Foreman's treatment of formulated grain-fruit products is little better. In August 1977 she pushed through the USDA a proposed rule to withdraw such products from the school breakfast program.

Seven weeks later, the USDA awarded a $340,000 contract to study the value of using formulated grain-fruit products in the program. In other words, make up your mind on what to do and then commission a study on it later.

Carol Foreman's high-handed actions as Assistant Secretary of Agriculture do not serve the public interest. Unless the investigation by the Inspector General shows these allegations to be unfounded, she should resign or be fired. My letter to the Inspector General follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., August 16, 1978.

INSPECTOR GENERAL,
U.S. Department of Agriculture, Agriculture Administration Building, Washington, D.C.

DEAR MR. INSPECTOR GENERAL: It has come to my attention that the Food Safety and Quality Service of the Department of Agriculture has recently awarded a $24,000 contract to the Consumer Federation of America.

Mrs. Carol Foreman is now the Assistant Secretary of Agriculture for Food and Consumer Services. The FSQS is under her jurisdiction. Mrs. Foreman's immediate prior employer was the Consumer Federation of America.

This is an obvious apparent conflict of interest. I call upon your office to make a thorough and public investigation of this action.

Sincerely,

JOHN M. ASHBROOK,
Representative to Congress,
17th District.

A PROPOSED CONSTITUTIONAL AMENDMENT TO REQUIRE BALANCED FEDERAL BUDGET

(Mr. WHITE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WHITE. Mr. Speaker, a few days ago, on August 10, 1978, I introduced House Joint Resolution 1116 proposing an amendment to the Constitution of the United States to require a balanced Federal budget except in time of war declared by Congress or when two-thirds of the Members of the House of Representatives and the Senate authorize Federal budget deficits, to provide for the disposition of subsequent deficits, and to regularly reduce the public debt through timely open-market operations by the Federal Reserve Board.

Mr. Speaker, we know that inflation causes unemployment. We know that the Federal Government's deficits are a leading cause of inflation. We know that inflation erodes the workers pay check and reduces the real profits of business. We know that the aged and all people on fixed incomes are irreparably damaged by inflation. The time has come for us to use our best efforts to curtail one of the leading causes of inflation—deficit spending by the Federal Government.

Mr. Speaker, the time has come for we in the Congress to recognize what our constituents already know; namely, that while Government has grown, the Nation's problems have not been solved. We have seen private initiatives increasingly displaced by the virtually inexorable growth of the public sector. Legislators and bureaucrats increasingly determine what will be produced, how it will be produced, and for whom it will be produced. Rising tax liabilities and deficit-induced inflation have eroded real disposable incomes. Confidence has sagged to the point where investment spending has come to a virtual halt. In short, while some in Government have tried to foster the perception that there is a free lunch, that the "Government can do it," and that it can somehow be done at no cost, our constituents realize that Government cannot solve all of our problems, and that Government "solutions" are often very costly; and that Federal budget deficits are the single most important cause of the problems of rising unemployment, accelerating inflation and declining real incomes.

The proposed amendment, House Joint Resolution 1116, recognizes that legislating Federal budget deficits by a simple majority in Congress generally creates as many economic problems as it solves. Yet in times of recession or depression Federal deficit financing and economic pump priming may be necessary. House Joint Resolution 1116 establishes the principle that a balanced Federal budget is the norm and that if Federal deficit financing is necessary, it should be voted by a two-thirds majority of the Congress.

Mr. Speaker, the following is House Joint Resolution 1116:

H.J. RES. 1116

Joint resolution proposing an amendment to the Constitution of the United States to provide that the level of total expenditures of the United States for any fiscal year shall not exceed the level of total revenues of the United States for such fiscal year and for the disposition of subsequent deficits, and that the gross Federal debt be reduced by open-market operations.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, to be valid if ratified by the legislatures of three-fourths of the several States within seven years of the date of the final passage of this joint resolution:

"ARTICLE —

"SECTION 1. Except as provided in section 2, the level of total expenditures of the United States for any fiscal year shall not exceed the level of total revenues of the United States for such year.

"SEC. 2. The provisions of sections 1 and 3 shall not apply to any fiscal year—

"(1) if, at any time during such fiscal year, the United States is in a state of war declared by the Congress, or

"(2) if, with respect to such fiscal year, the Senate and the House of Representatives determine, by an affirmative vote of two-thirds of the members present and voting of each House, to suspend the application of section 1 of this article.

"SEC. 3. Except as provided in section 4, the amount of any annual deficit in any fiscal year shall, upon its determination, be considered an expenditure of the United States for the first following fiscal year. If the amount of such deficit exceeds 2 per centum of the level of total expenditures of the United States for such first following fiscal year, the Congress shall provide for a corresponding increase in the level of total revenues of the United States for such first following fiscal year.

"SEC. 4. The Congress may, in any fiscal year, by an affirmative vote of a majority of the members present and voting of each House, apportion the amount of any annual deficit, upon its determination, or any part thereof for such fiscal year as an expenditure of the United States over one or more of the four following fiscal years, or by an affirmative vote of three-fifths of the members and voting of each House, include such deficit or any part thereof in the gross Federal debt.

"SEC. 5. The public debt of the United States shall, consistent with the general welfare of the people, be regularly reduced by the Board of Governors of the Federal Reserve System through its open-market operations.

"SEC. 6. The Congress shall have the power to carry out the terms of this article by appropriate legislation.

"SEC. 7. This article shall take effect on the first fiscal year which begins more than three fiscal years after the date of ratification of this article."

Mr. Speaker, the following is a section-by-section analysis of House Joint Resoltuion 1116:

Section 1: The purpose of section 1 is to make a balanced Federal budget the norm, thereby reversing the trend toward ever-larger government, burgeoning deficits, accelerating inflation and rising unemployment. Simply stated, section 1. establishes the deliberate, systematic balancing of expenditures with receipts as the norm in Federal fiscal management.

Section 2: While section 1, contemplates budgetary balance as the norm, section 2. recognizes that circumstances may require deliberate, discretionary departures from the norm. In time of war, balanced budgets are neither feasible nor desirable. Thus, during a time of war declared by Congress, the provisions of section 1, shall not be binding. Moreover, even in peacetime it is conceivable that circumstances may justify a deliberate departure from budgetary balance. Section 2. requires, in such instances, that a departure from the norm predicated upon an affirmative vote of two-thirds of the members present and voting in each House of the Congress.

Section 3: It is recognized that, on occasion, realized tax receipts may be less than expected. In these circumstances, passive deficits will emerge. Section 3. provides that such deficits, once determined, be considered an expenditure for the first following year after the tax revenues have been collected and the defict is determined. In the event the passive deficit exceeds two percent of total expenditures for the first following fiscal year after such deficit has been determined, section 3. requires that the Congress provide for a corresponding increase in revenues during that first following fiscal year.

Section 4: Because of prevailing economic or other conditions, provision of compensatory tax increases during the first fiscal year following determination of the magnitude of a deficit may be counter-productive. Section 4. provides, therefore, that the Congress may, upon an affirmative vote of the majority of the members present and voting in each House, apportion all or part of the deficit over one or more of the four following fiscal years. Alternatively, upon a three-fifths vote of the members present and voting in each House, the Congress may elect to include such deficit, or any portion thereof, in the gross Federal debt.

Section 5: Provides for the reduction of the public debt of the United States through the open-market operations of the Federal Reserve System. As economic growth proceeds, more currency will be needed. This currency can be provided by the purchase of outstanding Treasury debt by the Federal Reserve System. In this way the Federal Reserve can accommodate the currency needs of a growing economy, the public debt can be systematically reduced, and the taxpayer need not directly bear the burden of debt retirement.

Section 6: Empowers the Congress to implement the terms of this article by any legislation deemed appropriate.

Section 7: The purpose of section 7. is to provide for the orderly transition to a balanced budget. The transition period would cover three fiscal years after ratification of this article.

ANDREW YOUNG DOES LIE

The SPEAKER pro tempore (Mr. AMMERMAN). Under a previous order of the House, the gentleman from Ohio (Mr. ASHBROOK) is recognized for 30 minutes.

Mr. ASHBROOK. Mr. Speaker, "Honk if you think he's lying!" shouted bumper stickers from coast to coast in 1974, with Richard Nixon as their target. In every major newspaper, the chorus of "independent liberal thinkers" hammered on a single theme: "A lie is a lie, a liar is a liar," no matter how powerful the culprit or how exalted his position.

I agree with that fair principle and believe it should be applied to all. I said so then and agree with those sentiments today. But today the chorus of "independent liberal minds" is singing a new tune: Andrew Young, though his statements may be consistently false, is simply too exalted a person to lie.

Mr. Young has been trying to establish himself as America's Alexandr Solzhenitsyn, a martyr of a system of political prisons in America. There were, of course, some minor distinctions. Russia's Solzhenitsyn was sentenced to 10 years in a death camp for writing letters insulting to his country's head of state. Young spent some hours in jail for trying to halt the pickup of garbage in Atlanta, Ga., during a labor dispute. Young was arrested for interferring with the delivery of municipal services, an act for which any citizen of this or any other country is subject to arrest and, unless a fool, expects to get arrested and should be arrested.

Young's exact words were:

Ten years ago I was arrested in Atlanta for having organized a protest movement.

Young has been in the civil rights movement for about two decades. He knows very well that had he actually been "arrested for organizing a protest movement" he could have brought immediate State civil and Federal criminal action against the arresting officers, and had ample free legal help from liberal organizations to do so. He would not have hesitated to do so had his civil rights been unconstitutionally abridged. The facts are clear: Andrew Young was not arrested for "organizing a protest movement." Your charge is a flat out lie, Mr. Young.

Young's supporter's have repeated this false statement without even commenting on its duplicity. That is the way a big lie is accepted by the public as Joseph Goebbels demonstrated to the world. Even the President of the United States in a press conference on July 20 referred to the arrest by using the Young version, that Young had been arrested for civil rights activities.

To use Young's argument that he was arrested for civil rights work would be like a Mafia chieftain complaining that he was arrested for exercising his freedom of speech—when that speech was a command to implement a criminal act. Or the protester saying he was arrested for exercising his constitutional right which guarantees freedom of assembly—and not tell you that he had assembled his protesters on the street of the busiest intersection in downtown Cleveland at 4:30 p.m. We would laugh them out of serious consideration when the true facts were known and the same should be the case with Andrew Young. A lie is a lie is a lie. Even worse, he used his big lie to blacken the image of the United States in the eyes of the world.

Moreover, I do not just believe he uttered a falsehood, I believe it was a deliberate falsehood. Mr. Young's false comparison of himself to Russian political prisoners would not be a lie if he were too ignorant to know it to be false. Whatever else he is, he is not that ignorant. While many of his statements do border on the absurd or indicate he does not know what he is saying, his long record of anti-American statements can be recounted one by one, as the prosecution would say, to build the case that in this instance he knew what he was doing and what he was saying. It totally fits his pattern so this excuse does not fit here.

Several disasters ago, Mr. Young referred to the presence of Communist Cuban troops in Africa as "a stabilizing influence." As we have seen, Andrew Young has real difficulty getting any sort of fit between the meaning of words in the English language, what he wants to express, and objective reality. This Cuban troops business is one of many cases in point.

It may be true that the Berlin Wall, concentration camps, police dogs in Siberia and Cuban troops in Africa are stabilizing influences, if your idea of stability is keeping slaves under control. From his muddled attempts to clarify the statement while denying it, Young got himself deeper and deeper in hot water.

Here again, whether Young was lying depends upon whether he really knows what he said and, assuming he did, whether he knew it was a falsehood that Cubans were good for—as opposed to being a useful set of slavedrivers in—Africa. Next January 1, we will have seen two full decades of Cuban-style stability, and of world Communist stability we have seen over seven decades, so that now something over a billion people are duly "stabilized". Judging from the record of his comments which show an anti-American bias and a clear admiration of communism and African dictators, it is clear that he believes Cuban Communists are a favorable and stabilizing influence in Africa.

Unlike Richard Nixon, the significance of Andrew Young is not the position he holds. The importance of which one of Carter's clowns should go to the U.N. circus is about on a par with the choice

Monaco. What is made clear here is the fact that all the pious verbiage we heard four years ago was pure hypocrisy, and that the liberal chorus will only brand a liar if he is a Republican or conservative Democrat who has insulted the press corps or our elitist liberal leaders and their programs.

A second point made by the incident is that Jimmy Carter continues to be the weakest personality who has ever sat in the Presidential chair. As National Review put it with deadly accuracy:

> Carter is the first president in this country's history to send diplomatic notes to his own ambassador.

In his statement on being arrested "for having organized a protest movement," Andrew Young was caught in a direct lie. His other babblings and observations range from lies to propaganda to stupidity. Each American can judge for himself as he studies the dismal record of this Carter misfit. As for Young himself, our choice is between perceiving this particular statement as a lie, as feeble mindedness or evidence of disloyalty. Give the man a break. Call him a liar.

THE YOUNG RECORD

Mr. Speaker, a further in-depth study of Andrew Young indicates his political prisoner quote was not isolated, that it was a logical part of his bias, built through the years of his involvement in radical, anti-American politics. Now I turn to some of those activities to shed further light on this man who speaks not for America and the majority of Americans but a narrow liberal-left clique and a narrow leftist political philosophy.

Probably the most controversial single appointment made to date in the Carter administration is that of Andrew Young, who was confirmed as U.S. Representative to the United Nations on January 26, 1977, by vote of the U.S. Senate. The vote was 89 to 3, with Senators CARL CURTIS, JESSE HELMS, and WILLIAM L. SCOTT, the only Senators to vote against confirmation despite the fact that serious objections to Young's appointment had been raised, most notably in the statement by Representative LARRY P. MCDONALD before the Senate Committee on Foreign Relations during Young's confirmation hearings. Young now holds the rank and status of Ambassador Extraordinary and Plenipotentiary, in addition to being U.S. Representative to both the United Nations and its Security Council.

Born in New Orleans, La., in 1932, Andrew Young holds degrees from Howard University and Hartford Theological Seminary and is an ordained clergyman in the United Church of Christ. An avowed liberal, he served as youth activities director for the National Council of Churches from 1957 through 1961 and was appointed to the position of executive director of the Southern Christian Leadership Conference by the late Rev. Martin Luther King, Jr., in 1964. His official biography reflects that he has also served as chairman of the Atlanta, Ga., Community Relations Commission—1970–72—and that he is a member of the Robert F. Kennedy Foundation, National Urban Coalition, Common Cause, Southern Christian Leadership Conference, and Martin Luther King, Jr., Center for Social Change. A Democrat, Young was elected to the 93d Congress in 1972 and reelected to the 94th and 95th Congresses in 1974 and 1976. The extent of his political liberalism is indicated by the fact that while in the House of Representatives from the Fifth Congressional District in Atlanta, Young served as regional vice president and as a member of the executive committee of the Democratic Study Group, as treasurer and member of the executive committee of the Congressional Black Caucus, and as a member of the Environmental Study Conference. During his career in the House, he was also supported by—and was an enthusiastic endorser of—the National Committee for an Effective Congress, probably the Nation's preeminent left-liberal political action organization—see Heritage Foundation Institution Analysis No. 5, "National Committee for an Effective Congress," April 1978.

Opposition to Carter's appointment of Young arose primarily because of what many knowledgeable observers saw as Young's dangerously weak stance on issues which vitally affect the national security. Much may perhaps be seen from a comparison of the way in which his performance in Congress was rated by a variety of groups. The American Conservative Union and the American Security Council, for example, both of which tends to emphasize national security issues in rating Senators and Representatives, each gave Young a "O" rating, while the conservative Committee for the Survival of a Free Congress, based on an unusually all-inclusive survey, gave him only a "9" rating. On the other side of the ideological spectrum, however, both the League of Women Voters and the National Education Association have given Young ratings of "100," while the Americans for Democratic Action and Common Cause have rated him as, respectively, "95" and "91."

Much is also indicated by an interview with Young conducted by Dan Rather of CBS News, as reported in the Washington Post for February 1, 1977. Young stated, among other things, that "communism has never been a threat to me." He stated, to be sure, that he has "no love for communism," but then reiterated that "it's never been a threat." To Andrew Young, racism is the threat:

> Racism has always been a threat—and that has been the enemy of all of my life and, everything I know about life.

It was reported during this interview that Young made his well-known assertion:

> There's a sense in which the Cubans bring a certain stability and order—to Angola, for instance, and that the enemy—all over the world, I think, is chaos.

He continued by saying that when a nation has a disciplined military force, "it can be ordered in, it can be ordered out. I have no question in my mind but that we could negotiate very successfully withdrawal of Cuban troops from southern Africa." According to Young, it was gola because they "were in Angola at the invitation of" the MPLA, the Communist-oriented guerrilla group that ultimately conquered the country. Later, he stated that the "Cubans went to Angola because we were not there with a rational movement first," adding that another justification "for the Cuban presence was the South African presence." It was not mentioned by Young that Cuban Communist troops might be in Angola doing the work of the Soviet Union.

That such a view of both communism and the racial situation is not uncharacteristic of the man, or the result of his having been misquoted in this one instance, is indicated by Young's statements during an April 1970 television program on the Black Panther Party, described numerous times in official reports as a violence-oriented and militantly racist extremist group with significant domestic and foreign Communist ties. Young stated:

> Western technology and western militarism has so interfered with the right of—the possibility of, say, democracy in Latin America, or real freedom in Africa and Asia, that it may take the destruction—and this of course is Black Panther ideology—that it may take the destruction of western civilization to allow the rest of the world to really emerge as a free and brotherly society, and if the white west is incapable of brotherhood with colored peoples, then this small body of colored peoples, black people within the white west, may be the revolutionary vanguard that God has ordained to destroy the whole thing.

Young was then queried as to whether he would "support the destruction of Western civilization if you were convinced that the rest of the world would thereby be liberated," to which he responded by saying, " I probably would."

More recently, Young was quoted as accusing the American people of being "paranoid about a few Communists" in Africa. According to an account in the Washington Star for April 13, 1977, Young's overview of the African situation—described by President Carter's Deputy Press Secretary as "not in disagreement with that of the President"—is as follows:

> The only thing I'm thinking is, don't get paranoid about a few Communists—even a few thousand Communists. Americans shouldn't be afraid of Communists—they just shouldn't. It offends me, really.

The gravamen of the opposition to Young's becoming U.S. Representative to the United Nations can be seen in Congressman MCDONALD's statement that, based upon these facts and many others of a similar character, Young would have to find himself in conflict with what should be basic United States policy when confronted with the machinations of the Communist powers and their allies in the so-called Third World. MCDONALD mentioned that Young is "a principled man" who will of necessity find his own views coming into conflict with the U.S. foreign policies. As he himself told "the New York Times" last month, December 19, 1976, "I'm going to be actively working within the State Department, the Congress, the Executive for my own concerns."

indicated by the examples already cited, as well as by a mass of other evidence, would seem to indicate that there is reason to be apprehensive as to precisely what these concerns may be.

RADICAL ACTIVITIES

Several examples from the public record should be noted. During the early 1960's, for example, when he was first involved with the Southern Christian Leadership Conference, Young studied at the Highlander Folk School, an avowedly radical facility in Tennessee. This school was mentioned during the sworn testimony of one of the Communist Party's principal organizers in the South before the Senate Internal Security Subcommittee in May 1954:

> A school operated at Monteagle, Tennessee, ostensibly as an independent labor school, but actually working in close cooperation with the Communist Party.

A large percentage of those actively associated with Highlander over the years of its existence had significant records of affiliation with causes of the Communist Party and, in many cases, of actual Party membership.

Young was an active opponent of the war in Vietnam and was carried on official rosters as being among SCLC representatives invited to participate in top-level meetings of both the National Mobilization Committee to End the War in Vietnam and the New Mobilization Committee to End the War in Vietnam. The House Committee on Internal Security and its predecessor, the House Committee on Un-American Activities, held lengthy hearings on both these primary anti-Vietnam war coalitions and documented, with meticulous attention to detail, the Communist domination of both. National Mobe—as it was popularly known—was the direct lineal predecessor of New Mobe; and the Committee on Internal Security officially cited New Mobe as being under "Communist domination" in its annual report for 1970. In 1973, it was reported that Young was supporting activities of two New Mobe successor coalitions, the National Peace Action Coalition and Peoples Coalition for Peace and Justice. After detailed hearings, the Committee on Internal Security reached the formal conclusion, in its annual report for 1971, that—

> The National Peace Action Coalition (NPAC) is tightly controlled by the Socialist Workers Party and that a generally predominant influence in the Peoples Coalition for Peace & Justice (PCPJ) has been exercised by the Communist Party, U.S.A.

The record of both the SWP and the CPUSA as subversive Communist organizations adhering ultimately to the doctrine of violent overthrow of the U.S. Government has been too thoroughly documented over the years to need specific citation here.

An organization which interlocked significantly with the Communist-dominated anti-Vietnam war coalitions of the late 1960's was the National Conference for New Politics, which held a so-called New Politics Convention in Chicago, Ill., over the Labor Day weekend in 1967. According to several issues New Politics News, the membership of the Convention Steering Committee included, among others, "Andrew J. Young, Southern Christian Leadership Conference." The complete infiltration of the NCNP by members of the Communist Party, U.S.A., and other Communist and Communist-front organizations has been remarked on several occasions. During hearings before the House Committee on Un-American Activities on October 1, 1968, when the committee was inquiring into subversive attempts to disrupt the 1968 Democratic National Convention in Chicago, Committee General Counsel Chester D. Smith stated that NCNP was "a New Left-oriented group which is heavily infiltrated by members of the Communist Party, U.S.A., and other subversive organizations."

Also, the sworn testimony of Gerald Wayne Kirk before the Senate Internal Security Subcommittee on March 10, 1970, includes much information gathered by Kirk as a result of his attendance at closed meetings of a Chicago CPUSA club to which he had belonged during his service as an informant for the Federal Bureau of Investigation. Kirk stated unequivocally that the CPUSA "was instrumental from the very beginning in developing the NCNP Convention" and that "this was considered to be one of the party's great successes in the past 10 years * * *." The following exchange between Kirk and Committee Research Director John Norpel is particularly explicit:

> Mr. NORPEL. In other words, are you saying this was completely organized, controlled and dominated as a plan of the Communist Party, U.S.A.?
>
> Mr. KIRK. I could say that, yes.
>
> Mr. NORPEL. You would say that?
>
> Mr. KIRK. I could. One thing you have to remember, though, is that the Communist Party, U.S.A., is also very good at public relations. And so for people who don't understand * * * how Communists work * * * it would seem as though the NCNP simply grew out of the suggestions of people in a lot of disjointed new left and old left organizations. But if you looked more closely, you realized that within many of those organizations, other than the CP, U.S.A., that suggested the formulation of the NCNP, you would find quite a few high-ranking party members who were instrumental in suggesting the formation of NCNP.

In February 1975, Young was reportedly among the sponsors for the Second National Conference in Solidarity with Chile, which, along with an earlier such project in 1974, has been thoroughly exposed, with specific documentation, as an operation of the Communist Party, USA. The Chile conference was merely one ingredient in an overall campaign waged by the CPUSA as part of a worldwide Moscow-directed propaganda and agitation effort designed to rewrite the history of the downfall of the pro-Communist Allende government in Chile and to discredit U.S. policy throughout Latin America in furtherance of the dictates of Soviet policy.

The April 30, 1976, edition of the Daily World, official newspaper of the CPUSA, reported that Andrew Young was among "184 nationally prominent Senators, Members of Congress, labor, civil rights and religious leaders" who were serving on honoring a leading congressional sponsor of such activities as the founding of the National Alliance Against Racist and Political Repression, one of the CPUSA's principal front organization, and participant in a January 1978 meeting in Washington, D.C., under the auspices of the World Peace Council, long known to be the most important of the international Communist front organizations controlled by the Communist Party of the Soviet Union. According to the Daily World account, the luncheon was to be chaired by Mr. Anne Braden, identified in sworn testimony as a member of the Communist Party, and was to be held by the National Coalition to Fight Inflation and Unemployment. The NCFIU is a recently formed CPUSA auxiliary which was described in the December 1975 issue of Political Affairs, official CPUSA theoretical publication, as an organization in whose creation the CPUSA "has played an important part." It is noted that Young's reported sponsorship of this gathering occurred subsequent to his becoming Ambassador.

In November 1975, the Institute for Policy Studies—see Heritage Foundation Institution Analysis No. 2, "Institute for Policy Studies," May 1977—released a volume titled "The Problem of the Federal Budget," prepared by a special IPS/Transnational Institute "Study Group on the Federal Budget." As noted in the Heritage study of IPS, "the study was essentially radical in its approach, advocating a sharp increase in Government involvement in the economy coupled with a severe reduction in our national defense and national security postures." The volume had been commissioned by one of our colleagues by letter dated February 20, 1975, which letter was signed by him and 47 other Members of the House among them "Andrew Young (Ga.)." The Heritage study documented the extreme radical complexion of IPS and its leadership, a fact previously noted by the House Committee on Internal Security in its annual report for 1971, which referred unambiguously to the "Institute for Policy Studies, the far-left radical 'think tank' in Washington, D.C."

BRADY TYSON'S SORRY RECORD

It is perhaps noteworthy that one of Andrew Young's chief aides, Brady Tyson, who is on record at the United Nations as apologizing for alleged U.S. Central Intelligence Agency involvement in the overthrow of the pro-Communist government of Salvador Allende in Chile, has also been listed in an official IPS publication as being among those who have served as IPS "Lectures-on-Occasion." Tysons background, like Young's, is an interesting one. A founding member of the North American Congress on Latin America, described in the 1971 annual report of the House Internal Security Committee as "an offshoot of SDS (Students for a Democratic Society)," Tyson has also, according to public source records, participated in a pro-Castro Congressional Conference on U.S.-Cuba Relations, in addition to appearing at a public forum conducted under the auspices of the Trotskyite Communist Socialist Workers Party.

Available evidence indicates Young's collaboration with at least one other major operation of the Trotskyite Communist Socialist Workers Party, in addition to his reported support for activities of the SWP-controlled National Peace Action Coalition in 1973. A letterhead dated June 15, 1976, reflects that "Rep. Andrew Young (D-Ga.)" was a sponsor of the Political Rights Defense Fund (PRDF), an organization which operates as a front for the SWP. An official PRDF mailing issued in September 1973 stated that the PRDF had been formed "as an adjunct of the Committee for Democratic Election Laws," another organization well identified as an SWP front group. The primary focus of PRDF activity has been the SWP's continuing campaign of legal harassment directed at crippling all Government domestic security programs. The national secretary and all but one of the PRDF national staff listed on the same letterhead have been identified as functionaries of the SWP in primary documentary material, much of it from within the SWP itself, that is a matter of public record.

An example of Andrew Young's support of Third-World-oriented pro-Communist activities occurred in 1971 when Young spoke at an annual stockholders meeting of the Gulf Oil Corp. in support of a shareholders motion brought up by the Gulf Boycott Coalition. Public source data reflect that the purpose of the Gulf Boycott Coalition "was to aid the Marxist-led, Soviet-equipped guerrilla movements in Angola by putting severe economic pressure on Portugal through persuading Gulf to end all involvement in Angola and southern Africa." At the Gulf meeting, Young proposed the adoption of four people as members of an expanded Gulf board of directors. The list is a revealing one. It included himself; Amilcar Cabral, head of a Soviet-controlled terrorist movement which now rules Guinea-Bissau; Agostinho Neto, a Marxist-Leninist theoretician and leader of the Soviet-run MPLA in Angola who now serves as the head of that country since its takeover by the Soviet- and Cuban-supported terrorist movement; and Angela Davis, an avowed member of the Communist Party, USA, who serves as a member of the party's governing central committee.

Another cause for concern has been Young's well-known friendship with Robert Mangaliso Sobukwe, founder and leader of the Pan Africanist Congress of South Africa (PAC). The PAC is an outlawed terrorist organization which, as shown by a study of terrorism issued by the House Committee on Internal Security in 1974, is specifically Maoist Communist in orientation and which also, in 1963, "claimed sponsorship of the Poqo guerrilla terrorists in South Africa." Sobukwe's son and daughter have been living with Young's family since May 1975, and Sobukwe's wife has also been Young's house guest. This datum assumes added interest when viewed in conjunction with Young's having helped produce "The African-American Manifesto on Southern Africa" in September 1976. This document, to which Young gave his active support, states:

> We totally support the liberation of Southern Africa from white minority rule by means of armed struggle, where necessary, and affirm the right of the African liberation movements to seek necessary assistance from whatever sources available to achieve self-determination and majority rule.

At this point, it is instructive to recall Young's statement, in the television interview cited earlier, about troops from Communist Cuba bringing stability and order to Angola, as well as his other statement regarding communism's never having been a threat.

One final example of Young's apparent propensity toward affiliation with radical causes is perhaps of special interest. In 1968, Andrew Young was one of the two principal leaders of the Poor People's March on Washington, a project of the SCLC. Among those who served to help organize this effort was a woman named Grace Mora Newman from New York City. Sworn testimony before the House Committee on Internal Security by a former undercover informant within the Communist Party, USA, during hearings conducted by the committee in 1971 identified Grace Mora Newman as a member of the CPUSA, as a member of the Claremont Club of the CPUSA in the Bronx, and as a member of the Bronx County Committee of the CPUSA. More recently, she has emerged as the publicly avowed chairman of the CPUSA's Puerto Rican Commission. Later in 1968, Newman ran for Congress from the 22d Congressional District in New York under the auspices of the Freedom and Peace Party, which has been officially identified by the House Committee on Internal Security as "a CPUSA front organization." Among the sponsors of Newman's bid for a seat in Congress, as shown by a letterhead of the FPP dated July 1968, was "Andrew Young, SCLC."

HIS ETHNOCENTRISM

The background information cited above will help the reader place into perspective the most recent controversy surrounding Ambassador Young. As Congressman McDONALD stated in the CONGRESSIONAL RECORD for July 14, 1978: "Mr. Young has demonstrated an extreme ethnocentrism in his concerns with southern Africa," although it can also be argued that such "ethnocentrism" has characterized his statements about a number of other regions and individuals, including several past Presidents of the United States and not a few of America's allies. Numerous accounts in the public press reflect that Young has branded Kennedy, Johnson, Nixon, and Ford as racists; that he has said the British "almost invented racism" and are "a little chicken" about admitting it; and that he has described the Swedish people as "terrible racists." He has even reportedly denounced the Russians as the "worst racists in the world."

Young's most recent difficulties have arisen, however, because of his somewhat bizarre views on human rights problems in the United States and the Soviet Union. The Washington Star for July 14, 1978, carried pertinent extracts from an interview given by Young to a French Socialist newspaper, Le Matin, as translated by the Associated Press. So that the sentiments which led to Young's being rebuked by officials of the Carter administration may be seen in their full context, these extracts are here reprinted in full:

> Q: Don't you then fear a third world war?
>
> A: Oh, not at all. Our rapport with the Soviet Union is too good.
>
> Q: At the level of the SALT negotiations, perhaps.
>
> A: At every level. After all, [Secretary of State Cyrus] Vance and [Soviet Foreign Minister Andrei] Gromyko meet almost every month.
>
> Q: How do you explain the opening of the trials of Scharansky and Ginzburg on the eve of a Vance-Gromyko meeting?
>
> A: Oh, it's certainly a challenge, a gesture of independence on their part. But that will not prevent them from pursuing the SALT negotiations. And then, one doesn't know what can happen to the dissidents. After all, in our prisons too there are hundreds, perhaps even thousands of people whom I would call political prisoners. Ten years ago I myself was tried in Atlanta for having organized a protest movement. And, three years later, I was a Georgia representative. It's true that things do not change that quickly in the Soviet Union, but they do change.
>
> Q: But one cannot compare the two systems . . .
>
> A: I do not agree that these systems should be considered as opposing each other. Take the United States for example: the society of today has nothing in common with the pre-Roosevelt one. In the years 1930–40 the trade union movement launched a radical revolution in American life, a revolution without which we certainly couldn't produce nine million automobiles a year today. In the 1950s there was a revolution of civil and racial rights, today it is women who are participating more and more in our economy. And this constant evolution is the rule everywhere. I think the current Soviet dissidents could well be the salvation of the Soviet Union. They are a natural development of Soviet society, but the leadership has not yet realized it.

Young's assessment of the relative significance of the Scharansky and Ginzburg trials as "a gesture of independence" by the Soviets is an interesting one, especially when read in conjunction with a statement made by Young in an earlier interview which was published in the June 1977 issue of Playboy magazine: "I don't think the Soviet government is, in fact, very concerned about its dissidents." According to Young, "Of far more importance are its satellite countries in eastern Europe" and, rather than the President's "statements on human rights * * * such things as increases in the budgets of Radio Free Europe and Radio Liberty. * * * "

The same edition of the Star further reported that "the French were offended by Young's criticism of their policy toward Africa" and that "conservative members of the British Parliament reacted angrily" when

> The American ambassador, in the same newspaper interview with Le Matin in which he made his remarks about U.S. political prisoners, said, "If this (the recent massacre of white missionaries in Rhodesia) was a planned operation of attacks against missions—and that seems to have been verified in the last weeks—they can only have come from the Smith camp."

Reaction to the voicing of these sentiments was both strong and swift in coming. The reaction of Secretary Vance was reportedly unprintable, and several Members of the House and Senate expressed the belief that Young had gone so far as to make his resignation or dismissal imperative. President Carter is reported to have telephoned Young to voice his displeasure personally, and White House Press Secretary Powell made remarks which have been widely taken to mean that any future pronouncements by Ambassador Young on such sensitive topics may have to be cleared in advance by the White House. Young issued his own clarifying statement in which he averred that he is in "full accord" with official statements by President Carter and Secretary Vance condemning the Scharansky and Ginzburg trials and further saying that he had never meant to "equate the status of political freedom in the United States with that in the Soviet Union."

Nevertheless, many observers feel that the import of Young's words is clear. Whether or not Young intended to "equate the status of political freedom in the United States with that in the Soviet Union," he appeared to be drawing a clear parallel in terms of the basic concept of what constitutes a political prisoner. Also, to refer to the recent Scharansky and Ginzburg trials as being a "gesture of independence" by the Soviets must strike most people, especially those who are familiar with the true nature of the Soviet Communist system of repression, as somewhat piquant at best. I have mentioned earlier that Young, contrary to his statement in the Le Matin interview, was not "tried in Atlanta for having organized a protest movement." Rather, he was arrested specifically for obstructing garbage trucks in a labor dispute, which is obviously a matter of a somewhat different complexion from that of exercising one's right to protest in the abstract. Further Young's explicit statement that "I do not agree that these systems—that is, the U.S. and the Soviet—should be considered as opposing each other" would seem to speak for itself and should, like the other controversial statements attributed to him, be viewed in light of Young's statement to the Canadian Broadcasting Corp., as quoted in the July 19, 1978, edition of the Washington Post, that—

> One of the interesting things about everything that's happened so far is that I get very little argument, or challenge, on the validity of what I really say. I get questions about whether a diplomat should say it, or I get questions about, you know, other people getting mad and the political impact of my making certain statements, but usually I have taken into consideration most of those things before I say something.

This interview reflects Young's unorthodox conception of himself as a diplomat. Young said:

> I'm certainly not, you know, what people's traditional notion of a diplomat happens to be. But I don't represent a country like that. I became a diplomat and was appointed to this position because I was politically active in a human rights movement, and in an anti-war movement, and because I fought for the things that I believe in, and—did not fight to be a diplomat.
>
> Whether I'm a diplomat or not, I am going to continue to fight in any way I know short of violence for the things that I believe in. And I really don't care what people think about it. The only thing that's important is that they think.
>
> And if I am a wrong kind of diplomat, maybe diplomats for the last 50 years should have been making people think a little more and we might not have had some of the trouble that we've had for the last half century.

At a later point, Young indicated that his relationship with the President is a rather unusual one:

> He said he tried "not to worry the President." Perhaps, he said, "I should talk to him more, but I think there's some advantage in my preserving my freedom. It gives him also the freedom to repudiate me, not to be responsible for what I say, or to agree with me. But it is, well, it is something I talked with him about before I accepted the job, and I hope it works."

The special nature of Young's relationship with President Carter had also been discussed by Young at an earlier point, during his June 1977 Playboy interview, when he stated that their relationship "has always been one of mutual trust" and added that "I didn't clear anything with him during the campaign and I've cleared almost nothing with him since then. I really get very few guidelines from Washington." During this interview, Young related an instructive anecdote:

> PLAYBOY. So nothing you've said publicly thus far has embarrassed the President?
>
> YOUNG. No. In fact, we drove up to the UN Building together on the evening he made his first big foreign-policy speech in the General Assembly hall. We were talking about how he and I have been criticized for discussing foreign policy in public, instead of observing all of the old diplomatic conventions of secrecy. It really shocked me the way he approached it. The President said: "I hope you're going to stick with me." I said, "What do you mean?" and he replied, "It seems like you and I are the only ones who want to talk foreign policy with the American people. And I think we just have to keep it up." That was right after he'd been to Clinton, Massachusetts, and he told me he'd been almost embarrassed by the thunderous applause he'd gotten when he said that the American people had a right to know in advance what kinds of commitments and decisions were being considered, since they would affect their lives and their children's lives. President Carter and I talk openly in public because that's what people have been looking for in Government: freshness and candor, even in foreign policy. The alternative is secrecy, which very easily leads to deceit and foreign policy conducted solely by experts, which closes out the American people.

Speaking in answer to a related question, Young reminded his interviewer that—

> You have to remember that in the early months, there were still basically two administrations—the new people who c in with President Carter and the old p who'd been around for a while, the bu crats. They're the ones who haven't yet understood what we're doing, and t where some of the criticism has come f At first, they thought some of the th the President was saying were slip-ups. they know it was deliberate on his part that this is a policy style he is encoura as part of his Administration.

That Andrew Young's recent st ments in the Le Matin interview may be, despite Young's claims, uncharac istic of his general outlook as ambass is demonstrated by syndicated col nists Rowland Evans and Robert N in a copyrighted column carried in July 19, 1978, edition of the Washin Post. As Evans and Novak obs Young's comparison of Soviet dissid with so-called political prisoners in United States "was no aberration, followed a pattern begun when he c to the United Nations." As an illus tion of their contention that "it is to expect more of the same, althe slightly softer," they refer to "the day after the President's rebuke w Young reiterated to the Internati Herald Tribune the essence of hi Matin interview." Because the Evans Novak piece includes so much mat which quite clearly indicates Young's Le Matin interview was in "no aberration," the following key p graphs merit quotation in full at point:

> "Outrage" was the most common wor scribing the reaction to Young's Le M interview among State Department offi even McGovernite liberals. Yet what Y said was identical in substance to wha has been saying for 18 months, usually w out anybody's taking notice.
>
> "I see my country as vulnerable as body else's around the table," Young mented last year as he addressed the Human Rights Commission (representing world's most barbarous despotisms). W the Kremlin persecutes dissenters, Y pointed out, "many of our own students shot down on their campuses."
>
> But in describing the communist w he sometimes voices the axiom of Radio cow and Radio Havana that political free is subordinate to economic security. most of the world," he declared on Hu Rights Sunday, last December 11, "civil political rights come as luxuries . . . are far away in the future." In the S Union, he added, "human rights are e tially not civil and political, but econo
>
> While Young is unforgiving about r wing dictatorships, he is lenient toward munist tyranny. This climaxed in May in Mozambique, a Marxist regime with 000 citizens in forced-labor camps. "East West alike look to this nation with new and with new courage," Young said. W welcoming communist Vietnam into United Nations by praising its "struggl independence," he ignored repression genocide in the new Indochina.
>
> Those quotations and many more ar counted in a forthcoming Commentary cle by Carl Gershman, executive direct the social Democrats. He comments "Young's apparent lack of commitmen political freedom and his ability to tu blind eye to oppression" by Third W "progressive" regimes. Gershman reaches conclusion: "Young finds himself today

the most part on the side not of the oppressed but of the oppressors."

In addition, it should be noted that, according to several press accounts, Young's statements have been characterized by Tass, the official Soviet news agency, as "noteworthy" because they "come from a member of the Cabinet and therefore signify an official admission that political persecution is widespread in the United States." Young's conception of "political prisoners" as "blacks in civil rights movements, antiwar people," and the like has also been echoed in a Tass statement from July 12, 1978, as carried by Radio Moscow: "The American authorities, using a wide choice of antidemocratic laws, put into prison fighters for civil rights, against racism, dissidents."

THE LEVISON CONNECTION

The precise motivation behind Andrew Young's public statements on such controversial issues as racism and Communist influence in Africa is, of course, difficult to assess. Congressman McDonald's reference to Young's "ethnocentrism" has already been noted, and it would certainly seem to provide at least one plausible explanation. However, it is also necessary to inquire as to whether Ambassador Young may be the victim of advice which leads him to make statements contrary to the best interests of the United States. In this connection, it is noted that syndicated columnist Paul Scott, in an article released on August 7, 1978, notes Young's "close relationship with Stanley Levison, a New York lawyer and long time adviser of both Young and the late Dr. Martin Luther King." The article includes the following paragraphs:

Levison, who took the 5th amendment when questioned in 1962 by the Senate Internal Security Subcommittee about his Communist connections, was the adviser to King that caused the late Attorney General Robert Kennedy to authorize the wiretapping of the civil rights leader during the 1960s. At the time, Levison was advising King on strategy, writing his speeches, and raising money for King's organization.

* * * Photographs of Levison with Young have been taken since the negro leader took over his U.S. position at the United Nations and became a member of the Carter inner circle. U.N. sources reveal that Levison advises Young on Africa and a number of controversial statements he has made on Soviet armed Cuban and East European troops in the region.

Information published in Book III of the final reports of the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities in April 1976 confirms the significance of Levison's involvement in the civil rights movement. The report notes that an FBI memo dated January 3, 1962, labeled so-called "Adviser A" (known to be Levison) as a "member of the Communist Party, USA." Subsequent Bureau memoranda quoted in the report clearly show Levison's continuing influence on King with regard to matters of considerable substance. They further show that, in exercising this influence, Levison worked closely with a man referred to in the report as "Adviser B," known to be Hunter Pitts O'Dell, who was at one time a member of the National Committee of the Communist Party, USA. (O'Dell, also known as Jack H. O'Dell and J. H. O'Dell, is presently serving as a key figure in Jesse Jackson's Operation PUSH, in addition to his affiliation with Freedomways, official CPUSA Negro quarterly.) The Senate committee report also makes it clear that top officials in the Kennedy administration took the FBI allegations seriously. In view of the gravity of this information, one must ask just how much influence this identified Communist is currently exercising over our Ambassador to the United Nations.

All of the foregoing information on Andrew Young's background, activities, and apparent predilections is drawn from public source material, much of it available to the members of the Senate Committee on Foreign Relations during their examination of his qualifications for the post he now holds in the Carter administration. It is worth noting—and, indeed, somewhat perplexing—that the committee did not see fit to interrogate Young about these matters, despite the fact that certain questions would seem obvious on the face of it. Furthermore, these questions would seem to have become, if anything, even more obvious in view of Ambassador Young's more recent statements, especially when they are taken in conjunction with the current state of United States relations with the Soviet Union.

While it may be true that the administration has found Ambassador Young to be of value in cultivating relations with the so-called Third World, one may perhaps be forgiven for wondering whether Young has not demonstrated an essentially unhealthy imbalance in that area, the sort of imbalance that might well work to the detriment of America's largest foreign policy objectives. One may perhaps also be entitled to wonder whether President Carter continues to hold the opinion which he expressed when Young was sworn in as Ambassador by Supreme Court Justice Thurgood Marshall: that, of all the men he has known in public service, Andrew Young is "the best." The record of this Carter appointee certainly shows otherwise.

IF GUIDELINES ARE SET, CAN CONTROLS BE FAR BEHIND?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. McKINNEY) is recognized for 5 minutes.

● Mr. McKINNEY. Mr. Speaker, on Monday, two bills were introduced which would counter inflation, according to their sponsors. Unfortunately, those Members seem to have disregarded the psychological impact of these proposals. If anything, these bills will add to the rapid increase in prices and wages in the coming months.

The Anti-Inflation Amendments of 1978 (H.R. 13857) and the Comprehensive Anti-Inflation Act of 1978 (H.R. 13865) both call for the establishment of wage and price guidelines. Such guidelines are usually viewed as the precursor of strict controls if not as controls per se. The obvious impact of such thinly veiled threats is a rush of anticipatory increases from both sides. Already I have received a number of calls from people expressing that concern.

I realize that these bills call for more than guidelines to fight inflation, but the other elements are overshadowed by the fears of labor and business about controls, fears which are well-founded if our experiences of 7 years ago are any example.

The Economic Stabilization Subcommittee, on which I serve as ranking Republican, recently held hearings on the administration's anti-inflation policy. Both Presidential Assistant on Inflation Robert Strauss and Barry Bosworth, Director of the Council on Wage and Price Stability, specifically ruled out the use of controls. I understand that this subcommittee will be holding 1 day of hearings on H.R. 13865 in late September. I would hope that that forum would be used to discourage as strongly as possible the reliance on federally mandated wage and price levels. Not only is this abhorrent to anyone who believes in the free enterprise system, we have never seen involuntary controls effectively contain inflation once they have been removed.●

SIMPLIFICATION OF TRUTH IN LENDING MUST BE APPROACHED WITH GREAT CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, 10 years ago the following scene was a common occurrence: A consumer goes to a finance company to inquire about obtaining a $1,000 loan. He is told that a loan can be arranged at an 8-percent rate of interest over a 36-month period. The consumer has talked to his bank earlier and was offered a similar loan at a 10-percent interest rate. It sounded like the finance company had the best deal, so the consumer signs for a loan.

Eventually, he comes to realize that even though his outstanding balance is decreasing, his interest payments remain high. Some pointed questions to the finance company reveal that he is indeed paying 8 percent interest on the $1,000 loan—but an 8-percent interest on the full $1,000 for the full 3 years. There was no reduction in the interest charge as the loan is being paid off.

In reality, this borrower was paying an interest rate of 14.55 percent.

Fortunately, this is a scene from the past and what was once a common occurrence is now a rarity. Consumers now understand the mechanics of credit at levels they never have before. And the overwhelming reason for this rise in consumer awareness of credit terms is the far-reaching Truth in Lending Act of 1968.

The act required financial institutions to spell out credit terms in full and established stiff civil liability to creditors not complying with the act. The act standardized the method by which banks, credit card companies, and other credit enterprises state interest charges. The law requires that interest data, along with other lending terms, be disclosed to potential borrowers before they sign loan agreements.

The Truth in Lending Act passed Congress 10 years ago, in 1968. It has proved one of the most effective pieces of consumer legislation on the books and has raised consumer awareness of credit terms a remarkable degree. The law has reached people at all levels of income and education with substantial impact.

Next month, the Subcommittee on Consumer Affairs will hold informational hearings on proposed simplification of the Truth in Lending Act. The hearings will be September 6, 7, and 8 and the subcommittee will hear testimony from representatives of labor, Government, consumer groups, and the banking industry.

As you know, the Senate passed a truth in lending simplification bill last May. Since that time, there has been great pressure generated from the banking industry for House action on this bill. However, I must preface my remarks by saying it is very unlikely that any simplification of truth in lending will pass through the Consumer Affairs Subcommittee this session. But, I would like to comment on the original act, the need for simplification and how I feel this issue must be approached.

As I said, this law is the most comprehensive consumer credit legislation to emerge from Congress. Seven long years went into the careful shaping of the original act. The result was a thorough and extremely successful bill.

Prior to the act, consumers had little awareness of credit terms. In 1969, only 26 percent of consumers studied by the Federal Reserve Board were aware of the annual interest rates they paid on credit cards. In 1977, that figure had risen to 71 percent. The Board also found that in 1969, only 15 percent of consumers studied were aware of the prevailing annual percentage rates for common loans. This figure rose to nearly 55 percent by 1977. According to this poll, only 14.5 percent were aware of the cost of their closed end credit accounts—those accounts used to purchase automobiles for example. That figure now reads 54.6 percent. In the original 1969 study, only 8.6 percent of those with less than a high school education understood the stipulations of this kind of credit arrangement. Again, this figure has soared to 41 percent. And among blacks, there was a fourfold improvement in understanding credit terms between 1969 and 1977.

If Truth in Lending is working so well, why the frantic pleas for simplification? Simplification of Truth in Lending means many different things to many different groups. To some people, it means a reduction in the number of credit disclosures, or the combining of many items into a few. To others, it means a reduction in the creditors' liabilities under the act. To others, it means curtailing the number of court decisions and administrative interpretations of the act. And to still others, it means an easier to understand credit form for consumers.

To me, any simplification of Truth in Lending must accomplish two objectives—First, it must offer obvious benefits to consumers and further enhance their understanding of credit terms, and second, it must retain all of the important consumer safeguards found in the original act, particularly a strong liability section.

Mr. Speaker, I am proud of the Truth in Lending Act as it stands. Granted, there were some problems in the original bill as there invariably are in any piece of legislation with such a tremendous impact. But, in the 10 years since enactment of this legislation, most of these problems have been worked out through court decisions and administrative enforcement proceedings. This is only one reason we must be careful in amending Truth in Lending, for it would be redundant to have to go through this clarification process with a new act.

It is not very often that we can look back on legislation that has passed through this Congress and see such positive results as we see with the Truth in Lending Act. Any simplification of this act must be handled with extreme care.

I will not stand by and watch this act be weakened. However, I am open to simplification that can better aid consumers in shopping around for the best credit terms, while retaining strong consumer safeguards. But, again, I cannot overemphasize the level of caution we must maintain in approaching simplification of Truth in Lending.●

THE ARREST AND DETENTION OF F. J. CRAWFORD IN MOSCOW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 10 minutes.

● Mr. ROSTENKOWSKI. Mr. Speaker, on several occasions in recent weeks, I have expressed my deep concern over the ongoing difficulties facing Mr. F. "Jay" Crawford, an American citizen presently restricted under "house arrest" in the Soviet Union pending a trial on charges of currency violations. As I am sure you know, Mr. Crawford is a representative of the International Harvester Co. in Moscow. The lawless manner of his arrest, his 2-week detention in a KGB prison, and the uncertainty of his present position should now be familiar facts to all of us.

This week I have been in direct contact with three of the seven American attorneys who were able to arrange a secret meeting with Crawford during their stay in Moscow. I learned from them that, despite the fact that Crawford had been jailed, and is still required to report back to the KGB prison for interrogation at any time, he has not been permitted to consult an attorney. His meeting with the American lawyers was the first he had had with any member of the legal profession since his detention and subsequent release on the cognizance of our Ambassador.

This group recently held a press conference in New York, where they released a report of their meeting with Crawford. More vivid and illuminating than the newspaper coverage that this case has received, the report is disquieting to those of us who are accustomed to a different form of judicial procedure. The following report, together with the lawyers' statement, should remind us that more can and should be done to bring this case to a speedy and successful resolution.

F. J. CRAWFORD'S ARREST AND DETENTION IN MOSCOW, JUNE 12–27, 1978

Our interview with Mr. Crawford and his fiancee took place Friday evening, July 28 from 7:30 to 10:45 at the apartment of Jerry Hamilton of the U.S. Embassy. An Embassy counselor was also present. The American lawyers present were Sidney P. Howell, Stephen M. Hudspeth, Kurt W. Melchior, Charles H. Miller, Barrett Prettyman, Jr., Alan C. Swan, and Vernon Vig.

F. J. "Jay" Crawford came to Moscow more than two years ago as a sales representative for International Harvester after several foreign field assignments with Caterpillar. He is a bachelor, probably in his late 30's.

In Moscow he has always lived at the Intourist Hotel, where several other American commercial agents reside. He is passingly (Berlitz) adept in conversational Russian.

On June 12, the day of his arrest, Crawford received a call from a Soviet Ministry of Foreign Trade official with whom he had dealt asking if he had yet received and filed certain accrediting documents for the inbound IH man who was to replace Crawford's boss who had left some weeks before. When in answer to a second call, Crawford reported that the documents had not yet arrived, he was asked his plans and expected movements for the day. He explained that he had to drive out of the city to a plant which was buying an IH truck but expected to be back by 5:00.

Crawford did go to the plant, accompanied by his Soviet secretary-interpreter, obtained his signed contract but returned too late to go to his office. After dropping his secretary, he drove to the U.S. Embassy to meet his fiancee, Virginia Elbrick, a U.S. national in Moscow for a year or more with the Embassy's Economic Section. He arrived about 6:15 p.m. and left with Ginny about 20 minutes later, headed for dinner. As they proceeded under an overpass, their Volvo was intercepted by a marked Militia car in view of many pedestrians. A uniformed officer demanded Crawford's papers. He surrendered his international driver's license and vehicle registration but did not have his passport. Nothing was asked of Ginny. The officer returned to his car with the papers without any explanation.

Crawford, still in the car and turned toward Ginny, was seized from behind by 3 plainclothesmen, one on each arm and one by his hair, pulled bodily from the car and manhandled roughly into the back of an unmarked Soviet auto which was quickly surrounded by several men from two other cars. Crawford recognized the unmarked cars as

result of his being pushed into the backseat. He did see that Ginny was being forcibly restrained in the Volvo and heard her scream.

Ginny was also handled roughly as the policeman literally lay upon her and scuffed for the ignition key. Later he returned the key and Jay's papers and left with no further explanation. She was retrieved by Embassy people after she asked passing Danish and Dutch motorists to call for aid.

The three cars proceeded in convoy to Lefortovo Prison. On the way, Crawford was told only that he "had a big problem." After several minutes outside the prison where he was surrounded by seven or eight of his captors (and last saw his briefcase), he was taken to a KGB colonel who asked if he would submit to interrogation in Russia. Crawford requested an interpreter; his further request to call the Embassy was denied; he was told, "No phone calls."

A half hour or so later, an interpreter was brought in who proved to be a badly frightened Soviet teacher of English commandeered from the streets. Questioning began and continued twice daily thereafter (with a regular interpreter) in roughly 3-hour sessions, alternately handled by hard- and soft-line professionals, all presumably KGB.

Crawford stressed that he was never physically maltreated other than in the fact of his incarceration under internal prison conditions less than model by any standards. (The Embassy people asked him not to detail those conditions further.)

From the outset, Crawford was told that everything was known about him, his activities, his "personal businesses" and the "things" he had brought into Russia from outside. The emphasis on "things" held for several sessions, each of which opened with a reference to, or reading of, Soviet smuggling (black market) law. They purported to know about his "Soviet girl friend" and his "dealings" with Moscovites. He was frequently read another law which commands cooperation with an official investigation.

Crawford elected to tell all about his only extensive contact with Soviet citizenry. During his first summer in Moscow (1976), a Notre Dame graduate (now at Wisconsin Law School) had worked in the IH office in Moscow on a fellowship, intern or trainee basis. When he left, he asked Crawford to retrieve a jacket and some money from a Soviet girl he had befriended whom Crawford knew only by sight.

Two or three weeks after the trainee left, the girl did call on Crawford at Intourist and asked for news of her friend. In the conversation Crawford reminded her of the jacket and money which she acknowledged having and promised to bring by.

A week or two later she called again from the lobby and asked to come up. While she did not have the jacket, she brought and introduced a married couple (the "V"s). The man, an engineer, obviously wanted to exercise his workable English; the wife spoke very little. In the course of the conversation, V told Crawford his wife was a seamstress. On parting, V gave Crawford his telephone number and address.

Crawford never saw or heard from the girl again. However, some time later, confronted with some mis-made drapes purchased from Helsinki for installation in the IH office in Moscow, in lieu of returning them to Helsinki, Crawford remembered the seamstress-wife, found the number and called V. He asked V if his wife might help by rehemming and lining the drapes. V came by, took some home, brought them back in a kind.

By appointment, Crawford himself picked up this second batch at V's apartment. V was not there but was expected momentarily. Crawford did not wait and stresses that this was the only occasion he was alone with Mrs. V. After giving her some extra drapery material and a small bottle of cologne or some such cosmetic (V having said that they would not accept payment and Crawford well aware of the Soviet interdiction against taking payment for menial service and the concommitant crime of "profiteering"), Crawford left.

Over the next few months there was intermittent contact. The V's took Crawford to the theatre, their only purely social encounter. Crawford on four or five occasions asked Mrs. V to repair or alter garments—a torn ski jacket, a new suit, some trousers. In return, he gave Mrs. V various insignificant items—perfumed soap, Prell shampoo, a pair of slacks which could not be enlarged, etc. However, there had been no such contact since before last March.

Crawford was questioned intensely about all this over the first 5 days and each morning was read and asked to sign, on each page, a precis of the previous session.*

On June 19, matters took a different turn. Crawford was shown and read a statement by Mrs. V dated *that day*, relating that Crawford had given her $8,500 for 15,000 rubles. He was then read a Code Article on Currency Regulation to the effect that the penalty for illicit currency exchanges could be 8 years imprisonment plus 3 years "internal exile." Crawford denied the accusation, citing all or some of the following points:

(a) the fact that rubles were useless to him as he regularly receives rubles as change for travel check payments;

(b) the exchange rate was ridiculous in view of the 3-to-1, 4-to-1 available and offered casually on the street for illicit rubles any time, any day;

(c) his business and personal accounts are subject to frequent and complete audit by Haskin & Sells;

(d) his extremely profitable job (he banks $50,000 a year) was flatly on the line.

At a later session, he was shown a written statement by V that either Mrs. V's transaction or another one had occurred in March (well after the last meeting with the V's to which he admits) and claiming that $8,500 had been exchanged for 25,000 rubles.

After two or three days on the currency matter, the interrogation switched to Crawford's knowledge of Americans in Moscow, particularly at the Embassy. He responded to the extent he believed the facts to be generally known, readily available elsewhere or out-dated.

On the morning of June 27, Crawford was advised of his immediate release until September 12 in custody of U.S. Ambassador Malcolm Toon and told that he could not leave Moscow and that they (KGB) expected to see him frequently in the interim. (In fact, Crawford prior to our interview with him had been ordered to report back to Lefortovo for questioning on Monday, July 31; the Herald-Tribune reported on Tuesday,

*On the second full day, June 14, Cliff Gross, chief Embassy counsellor, was permitted to see Crawford, there and always thereafter with at least two KGB agents present; in fact, Crawford was never out of some agent's sight. (By formal agreement, the Embassy is to be notified within 24 hours of the arrest of a U.S. national. Here, notice came in the 23rd hour.)

On returning to the Intourist Hotel, Crawford found that his room had been searched and all personal records and correspondence taken. None has been returned; nor has the brief case taken from the Volvo on June 12.

Crawford has remained at the Intourist and visits his office daily. A Soviet defense counsel (Popov) has been appointed but, under Soviet practice, cannot function actively or even interview his "client" until formal charges are filed and a trial date set.

STATEMENT

The undersigned are five of the seven American business attorneys of diverse backgrounds who last month were chosen at random from a 32-lawyer working delegation, then visiting Moscow, to meet with International Harvester Corporation's Moscow representative, Francis "Jay" Crawford in a private apartment. This interview was arranged without advance knowledge of the Soviet authorities. We had the opportunity to hear the facts, as related by Mr. Crawford and his fiancee, Virginia Elbrick (an employee of the U.S. Embassy), concerning Mr. Crawford's arrest on June 12, and detention by KGB, the Soviet secret police, as well as the facts underlying the "case" against Mr. Crawford.

We examined Mr. Crawford and Ms. Elbrick closely as to all of the facts and circumstances of his arrest and interrogations. Mr. Crawford was originally detained for 15 days. Since our interview, he has been examined, and he fully expects further interrogation by the Soviet authorities. While no formal charges have been brought against him, clearly such charges may well be forthcoming; at any rate, he has been repeatedly told by KGB that his acts may result in up to eight years' imprisonment, plus three years' "exile". A Soviet lawyer was recently appointed for Mr. Crawford, though he had no access to counsel during his 15 days' detention, nor since. The Soviet lawyer is not allowed to assist Mr. Crawford until formal charges are filed.

We all believe that, on the facts we have discovered, Mr. Crawford is innocent of the customs or currency violations about which he was interrogated and which have been suggested to the press by the Soviet authorities. Our reasons follow. Here we wish to give this message to the American public, and particularly the American business community which we have all long represented: Although trade and business opportunities with the Soviet Union seem substantial and worth pursuing, such activities take place at present in a system which does not recognize the basic legal protections on which freedom of the individual person is founded. This necessarily means that the personal security and freedom of trade representatives in the Soviet Union, and ultimately freedom of trade in that country, are always subject to curtailment or abolition for political reasons.

One point deserves special emphasis: There is no known reason why either Mr. Crawford, or International Harvester, was singled out for this treatment. Any other of the American businesses or their representatives in the Soviet Union could, for all that appears, have served as well. The lesson can well be drawn that, within legal limits, a unified response is called for on the part of the American business community to arbitrary Soviet transgressions against any one of their trade representatives.

It should also be noted that the arrest of Mr. Crawford has occurred in a climate of growing repression within the Soviet Union.

lessness which has now ensnared Mr. Crawford. It is a pattern that can, at any time, reach and catch any other member of the Western business community. There is, in short, no rule of law, no protection of individual rights, in the Soviet Union today.

A detailed statement of the facts of Mr. Crawford's case as we understand them is attached hereto.

AUGUST 9, 1978.

SIDNEY HOWELL,
KURT W. MELCHIOR,
CHARLES H. MILLER,
E. BARRETT PRETTYMAN, JR.,
ALAN C. SWAN.●

THIS YEAR'S MAJOR ACCOMPLISHMENTS IN THE HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ADDABBO) is recognized for 30 minutes.

● Mr. ADDABBO. Mr. Speaker, each session as the House concludes its work, I place in the RECORD a summary of what I consider to be the major accomplishments of the preceeding year, achieved by myself and by the Congress. I do this so that my constituents may judge for themselves the value of what we have done here in this Chamber.

This year, however, I must submit this summary before the end of the session, not because I wish to do so, but because in our desire to reform the political process, we have ruled that a Member may not post a mass mailing to his district any time within 60 days of an election. Accordingly, should I not send this pertinent information to my constituents now—a month before the session ends—I cannot do so until mid-November, a month after the House has adjourned. Without intending to criticize the need for meaningful reform where it is necessitated, it seems to me that we might strive for more sensibility when we reform ourselves.

All that aside, Mr. Speaker, in a year of taxpayer revolt, though we have approved some cuts in the biggest Federal budget in history, we have ironically retained the single largest Defense Department budget of all time. I think it is fair to say that when we return to our districts for the November elections, we will take back with us a mixed record as we conclude the second session of the 95th Congress.

I have varied feelings about the accomplishments I can return home with. Nothing has seemed to come easy this year, no matter which issue area we discuss. Nevertheless, some of the issues I am most proud of as we end this year are national in scope, others are of distinctly local benefit.

I am proud and pleased that Congress saw fit to enact the Addabbo amendment which provided $200 million in emergency assistance as part of the special crisis intervention program, to help the poor and elderly pay their fuel bills during an unusually harsh winter. This matter passed the House by a single vote, yet I am convinced in my own mind that the program has not only made life more otherwise cope with exceedingly high fuel bills, but believe that we no doubt actually saved lives as well.

Likewise, with the strong cooperation of the Secretary of Defense and the White House, we were finally able to bring production of the B-1 bomber to an actual end. This was a satisfactory demise for the most expensive weapons procurement program in Air Force history.

It is a pity we cannot say the same for the nuclear carrier. By voting to keep it in the defense bill, the Congress very likely is wasting an additional $3 billion that is not necessary for the maintenance of an adequate national defense. It may be that the final chapter on this issue is not yet written, but it is certainly true that in a period of peacetime, this Nation is spending an extraordinarily large percentage of its available funds to build more exotic and expensive weapons systems.

I am particularly proud as well that an issue which I first conceived in early 1977 finally received top level consideration this year by the White House. Hearings I held in April 1977 pointed out conclusively that Federal agencies and departments were ill-prepared to deal with the growing needs of providing assistance to women in developing and operating small businesses.

A study ordered by the President a year ago was finally presented to him this spring by an intergovernmental task force, and Mr. Carter has now signed an executive order requiring Federal agencies to upgrade their programs in this area. This is a long overdue action that will hopefully make it easier for women to gain Federal help and guidance in organizing a small business concern.

Additionally, I authored a bill which to date has passed the House and is pending in the Senate, which emphasizes the need for additional Small Business Administration assistance for all small business in general, and especially for those persons who are economically or socially deprived.

I was pleased to see that my colleagues shared my concern for other legislative issues as well. Legislation I sponsored which is now in conference between the House and Senate provides that recipients of veterans' pensions would not have the amount of that compensation reduced because of increases in social security benefits. In a period of fast rising inflation, we found the Government helping with one hand and holding back with the other. It is high time that practice was brought to a halt.

Other legislation I sponsored which is also in conference between the House and the Senate will provide for the tagging and identification of explosives. This measure is designed to facilitate the apprehension of persons who would terrorize by bombing innocent people. Thankfully, we are making major strides in this area and I hope for the day when the potential terrorist is stayed from his violence by the certain knowledge that his deeds can be quickly and undeniably traced back to himself.

ment, however, over the Senate's failure to reject President Carter's arms sale package to Saudi Arabia, Egypt, and Israel. As a strong opponent of the provisions which tied these sales together I truly believe that this and other such policies will not lead us down the road to real peace. At this crucial point in time, our patience, and encouragement of joint talks between Israel and Egypt, will do much more to sustain the hope for a peaceful and lasting settlement.

Closer to home, I am delighted to say that I, with others, was able to play a substantial role in extending fiscal assistance to New York City and thus avert another monetary crisis. The city has worked hard for the last 3 years to get its fiscal house in order, and I believe the Congress was justified in extending additional aid to it. New York remains our Nation's showcase city and I know that by keeping our commitments to help New York save itself, the country has helped itself enormously in the eyes of the world at large.

Turning to other matters which directly affect those of us who live in Queens, there were a number of local issues I could claim for my own as a member of the House Appropriations Committee. I worked hard for these projects, and am grateful that the Congress saw fit to give us a hand with these local problems. Among them I include the $4.5 million we received for improvements to the New York City subway system. Also, 1978 saw the completion of work done to enhance the light pattern approaches to John F. Kennedy International Airport in Queens. At LaGuardia Airport, also in Queens, we were able to obtain $2.5 million for other improvements.

Similarly, the Veterans' Administration was good enough to accept our urging to provide $820,000 to modernize the outpatient clinic at St. Albans VA hospital, a facility that we were able to secure several years ago when the Navy decided to close the naval hospital there. The Navy too has seen the light of day and is now concluding a modernization program of its own; I am pleased to see that all progress is going well.

We have not succeeded with everything we have tried this year. We never do. But we have had partial successes in several critical areas, and we look forward to improving our situation with the Federal agencies involved during the course of the coming Congress. I am personally very disappointed with HUD's rather weak position on reforming inequities in rent preemption matters, although at the same time I am pleased with the Department for moving forward strongly to help rebuild devastated areas of New York City.

I have worked closely, alone, and with others here in Congress, trying to resolve problems in home health care programs, but except for the continuing enthusiasm to succeed shown by civic groups, and State and city agencies, there is little to show for the crusade. We will keep trying, however, as long as it takes, and hopefully will secure the necessary

changes in the near future, along with a national health program and national welfare reform.

I am greatly distressed at the inability or refusal of Federal cultural agencies to earmark funds for Queens cultural groups, especially those groups that are struggling mightily to stay alive. A much greater participation must be forthcom-

above all else, this has been a year of peace for our people, and for that we are grateful. I pray that can also be said two years from now when the 96th Congress concludes its work. Thank you.●

H.R. 7308, FOREIGN INTELLIGENCE SURVEILLANCE ACT

years. Such surveillances were used to collect political and social information on Americans for reasons having nothing to do with foreign intelligence.

The warrant requirement will prevent such abuses from recurring—without hindering intelligence collection. All the judge is allowed to decide is whether the target is in fact a foreign embassy

man from North Carolina (Mr. PREYER) is recognized for 5 minutes.

● Mr. PREYER. Mr. Speaker, I would like to call to the attention of my colleagues the just-released 1977 Annual Report of the President on agency activities under the Privacy Act of 1974. This report is especially important be-

developed under the act are identified in the report, but none is major. It is not surprising that a new and major piece of legislation has some problems that only become clear after passage.

On the whole, I am pleased with the overall progress to date with the Privacy Act implementation process and with the

productivity growth in the country. During the prosperous years of the 60's, productivity increased an average of 3 percent a year. Lately, the average has dropped to 2 percent annually. Now Barry Bosworth of the Council on Wage and Price Stability predicts that there will be no productivity growth this year.

changes in the near future, along with a national health program and national welfare reform.

I am greatly distressed at the inability or refusal of Federal cultural agencies to earmark funds for Queens cultural groups, especially those groups that are struggling mightily to stay alive. A much greater participation must be forthcoming if we are to provide meaningful programs and opportunities in these areas.

I am equally concerned about the future of York College. This struggling institution deserves all the support we can give it. Proposals to curtail its programs or remove it from the city university system will be met with strong opposition. York, as an educational opportunity for many and a symbol of economic revitalization in the Jamaica area, must, and will, survive.

The addition of a new Federal office building in this same Jamaica area, an actuality we have been hoping and striving for for over 15 years, remains as one of my local priorities. Renewed efforts to obtain a commitment from the Federal Government, and the continuing support of local groups and officials, will hopefully produce fruitful results in the future. The prospects of jobs, transportation improvements, and economic rejuvenation for southeast Queens that such a scheme entails, makes our efforts all the more essential.

And lastly, though the summer is nearly gone, many of us are once again reminded that the water quality of our beaches is not what it should be. In fact, many, such as Jamaica Bay, are restricted for bathing purposes due to pollution and sludge deposits. The Environmental Protection Agency has stated that we need new stormwater and sewer overflow control and treatment facilities to cleanup this literal mess, and I am actively involved in attempting to bring together Federal, State, and local authorities to work out a program which will help us correct the problems with the maximum of outside guidance and assistance.

There have been so many controversial issues before the Congress this year that it would take far too much space to list them all. Anyway, I have found that persons who are interested in specific issues have long since learned how this Member voted and are in no need of additional confirmation from me. Nevertheless, any constituent is always encouraged to write to my congressional office if there is concern about any specific issue or legislation. They know that I will answer their questions.

Mr. Speaker, this has been a year of tumult and unending activity. Up to today, the House has had 1,400 recorded votes thus far, and we face a great many more before we end this session. That is an enormous number of votes and the issues upon which we voted were staggering in their numbers, complexity and time required to learn the subject. As a body, we may be good or we may be not so good, but we certainly cannot be accused of being lazy.

But in conclusion, we must note that above all else, this has been a year of peace for our people, and for that we are grateful. I pray that can also be said two years from now when the 96th Congress concludes its work. Thank you.●

H.R. 7308, FOREIGN INTELLIGENCE SURVEILLANCE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. MURPHY) is recognized for 5 minutes.

● Mr. MURPHY of Illinois. Mr. Speaker, H.R. 7308, the Foreign Intelligence Surveillance Act, is now scheduled for floor consideration the week of September 4.

During the past 3 weeks there have been distributed many "Dear Colleagues", fact sheets, and other information and materials on the bill.

Most of these materials contain a roster of those supporting the bill and those opposing the bill. For example, the American Bar Association, the Director of the Intelligence agencies and the FBI, the ACLU, the Attorney General, the New York Times, the Chicago Tribune, the Washington Post, and Common Cause support H.R. 7308; the Association of Former Intelligence Officials, Air Force Magazine, Robert Bork, and Laurence Silberman oppose it.

Unfortunately, there is also a whispering campaign being carried on by some of the bill's opponents, suggesting that certain intelligence officials whose names cannot be divulged oppose the bill. Hopefully, this tactic will be recognized for the discredited practice that it is. In any case, no such unnamed official has contacted me.

In the midst of all of this, not too much is being said about what the bill actually does, or, to put it more accurately, much is being said about the bill that bears no resemblance to what it really does.

The misinformation being spread around is particularly deep in connection with the warrant requirement for surveilling official foreign premises, such as embassies; the criminal standard for surveilling U.S. persons; and the extent to which foreign visitors can be electronically surveilled. Particularly disconcerting is the suggestion that passage of H.R. 7308 will reduce our intelligence collection capabilities. As members of the intelligence community have stated repeatedly, passage of the bill, by removing the existing doubts and uncertainties, will actually result in a more efficient intelligence collection operation.

The warrant requirement for electronic surveillance of embassies and other foreign premises is not intended to protect foreign spies or diplomats. It is intended to protect Americans. Wherever there is a possibility that the communication of an American will be intercepted, a warrant must first be obtained. When there is no such possibility, a warrant is not required.

That such protection is necessary is readily evident if one looks at the abuses of embassy surveillances revealed by congressional committees in the past few years. Such surveillances were used to collect political and social information on Americans for reasons having nothing to do with foreign intelligence.

The warrant requirement will prevent such abuses from recurring—without hindering intelligence collection. All the judge is allowed to decide is whether the target is in fact a foreign embassy and whether the minimization procedures meet the statutory standards. The judge has no say at all as to the need for a particular surveillance. Nor does any showing of criminal activity have to be made.

The criminal standard applies only to the surveillance of American citizens and permanent resident aliens. What it says is that when such a person is suspected of spying or espionage activity the Government must show that such activity may involve a criminal violation before he can be subjected to electronic surveillance. If the American citizen or permanent resident alien is suspected of covert activities on behalf of a foreign power—not spying or espionage—the Government must show that such activities involve or are about to involve a criminal violation before such a person can be subjected to electronic surveillance. To repeat, these standards apply only to American citizens or permanent resident aliens.

Where foreign visitors are concerned, the bill is explicit. The judge has to find probable cause to believe that such a person is an agent of a foreign power. The statute says such a person is an agent of a foreign power if he is an "officer, member, or employee" of a foreign power and if he acts in such a capacity in the United States. That is all that a judge has to find. The bill also says a nonresident foreigner is an agent of a foreign power if he "acts for or on behalf of a foreign power which engages in clandestine intelligence activities in the United States, contrary to the interests of the United States" and circumstantial evidence can show that such person "may engage" in such activities in the United States. Thus, nothing has to be shown concerning any actual activity of such person in the United States.

In summary, Mr. Speaker, H.R. 7308 is a bill that recognizes the vital role that electronic surveillance plays in our intelligence effort. It is not a bill that will prevent needed intelligence collection, allow judges to intrude into the day-to-day operation of intelligence agencies, or protect spies or foreign diplomats. I urge any of my colleagues who have any questions about it to contact the intelligence agencies, or the members or the staff of the Intelligence and Judiciary Committees. I am confident that when it is understood exactly what the bill does, it will be passed, and passed without weakening amendments.●

PRESIDENT'S PRIVACY ACT REPORT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 5 minutes.

● Mr. PREYER. Mr. Speaker, I would like to call to the attention of my colleagues the just-released 1977 Annual Report of the President on agency activities under the Privacy Act of 1974. This report is especially important because 1977 is the first full year of regular operation under the act. Earlier reports covered periods that were heavily characterized by start-up efforts and initial implementation activities. Now, for the first time, we are able to get a fairly clear picture of the effects of the Privacy Act and, in general, those effects are quite positive.

In his transmittal letter to the President, James McIntyre, Director of OMB, states that the requirements of the act have been successfully integrated into the operations of most departments and agencies within the executive branch. He also indicates that a number of agencies have achieved significant reductions in the amount of personal data they collect and maintain. These are important accomplishments.

The report also shows that use of the Privacy Act by individuals to obtain records about themselves has grown. The President reports that agencies received over 1.4 million requests from individuals and that over 95 percent of these requests were granted in whole or in part. While reporting practices for Privacy Act statistics vary among agencies, this clearly reflects a tremendous interest on the part of citizens in the records maintained about them by the Government. I am convinced that the availability of these records helps to decrease feelings of mistrust of Government among the public.

This is also true for the provision that permits an individual to correct erroneous information that is maintained in agency files. It is significant that most requests for correction of mistaken personal data in Government records were granted by agencies. The Department of Defense, for example, made 14,939 corrections out of 15,048 requests. Agencies and individuals both benefit from the maintenance of accurate information.

Several agencies reported that adherence to Privacy Act standards for recordkeeping resulted in simplifying the design of forms they used and contributed to carrying out substantive tasks more effectively. Others reported that individuals seemed more willing to provide personal information as a result of being informed about agency information practices.

Another positive feature is the way in which agencies used the exemptions provided in the act. Rather than automatically invoking an exemption to deny access, which the Privacy Act permits, agencies tended to review records on a case-by-case basis to determine if there was a need to use an available exemption. This limited use of the exemptions is certainly consistent with the philosophy of the law.

A number of problem areas that have developed under the act are identified in the report, but none is major. It is not surprising that a new and major piece of legislation has some problems that only become clear after passage.

On the whole, I am pleased with the overall progress to date with the Privacy Act implementation process and with the smooth and effective way in which the act's requirements have been incorporated into agency operations. I am also pleased with the positive and constructive attitude toward the Privacy Act that is reflected in the President's report.

Noticeably absent from the President's report is a legislative program for implementing the recommendations of the Privacy Protection Study Commission. The commission's report is now over a year old. We have come a long way in the last few years to improve the protection of personal privacy, but we still have a long way to go.●

THE NATIONAL ECONOMY—WE'VE CUT TAXES, NOW LET'S CURB INFLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Montana (Mr. BAUCUS) is recognized for 5 minutes.

● Mr. BAUCUS. Mr. Speaker, a couple of days ago, as I was visiting a small town in Montana, I stopped at a store. I got into a conversation with the storekeeper during which he asked me, "Max, there's one thing I've been wondering about you; are you pro-industry or anti-industry?"

I said I was neither. There is a lot of interest groups in a State like Montana. All these interests need to be recognized in an evenhanded way.

We are all interdependent. Business needs labor, labor needs business, consumers need business, and so forth.

But I told that storekeeper that there is one thing each and every one of us in Washington can do for all people—help reduce the tax burden. That includes inflation, which is the cruelest tax of all.

We are facing some tough economic problems. The public demands that Congress rein in on Government spending and taxation.

At the same time, our economic expansion may be running out of steam. So, we also have a responsibility to keep the economy moving.

Last week we voted to cut taxes $16 billion. We are making a start toward our economic responsibilities.

I am glad that some of the refreshing breezes from California have finally reached Washington, D.C. And I hope that Congress will continue to heed the public demand for lower taxes and less government.

The Tax Reduction Act (H.R. 13511) provides significant cuts for middle-income taxpayers. Sixty-three percent of the bill's benefits go to individuals in the $15–$50,000 tax bracket.

The bill also reduces the maximum tax on capital gains from 49 percent to 35 percent. That should help increase national productivity.

I am concerned about the low rate of productivity growth in the country. During the prosperous years of the 60's, productivity increased an average of 3 percent a year. Lately, the average has dropped to 2 percent annually. Now Barry Bosworth of the Council on Wage and Price Stability predicts that there will be no productivity growth this year.

This is a serious problem. The only way to insure Americans a better standard of living is to increase productivity.

One way to encourage productivity is by cutting capital gains taxes. The cut we voted for should lead to increased capital formation—and that means new jobs and higher productivity.

I am pleased that the tax bill includes provisions I've been pushing for. I am especially happy about the new graduated income tax for small corporations.

Small businesses are the backbone of our economic system. Their toughest problem has been getting capital to expand.

They frequently depend on profits after taxes. But until now, a business making $50,000 a year paid the same tax rate as General Motors. The new legislation will graduate taxes up to $100,000 of annual income.

I am also pleased that tax brackets have been adjusted to account for inflation. Under the present system, many workers who get cost-of-living increases find themselves in higher tax brackets—even though their purchasing power stayed the same.

Businessmen are similarly affected. Even though a businessman sells the same amount of products, he may pay a higher percentage of his income in taxes.

This is taxflation. A 10-percent increase in inflation produces a 16-percent increase in Federal revenues. These automatic tax increases produce creeping increases in the size of the Federal Government.

Months ago I introduced legislation that would automatically adjust the tax brackets each year to end taxflation. The House tax cut package adjusts brackets upward 6 percent this year.

I intend to push for the same kind of adjustments in future years.

Speaking of inflation, it is important to keep in mind that inflation is a tax, too. It affects everybody—workers, businessmen, farmers. It is a cruel tax affecting the sick and elderly on fixed incomes who have the least ability to pay.

We in Congress have to commit ourselves to stopping inflation. We have got to vote for responsible spending and revenue measures. We have got to encourage growth of industrial productivity, and we have got to stop inflationary redtape.

Congress has run up some enormous budget deficits in the past several years. And the $60 billion deficit proposed by the President last January was just too much. Indeed, by congressional action today it looks as though we will get next year's deficit down more than $8 billion below that proposed by the President. That is a big improvement, but we have got to keep improving.

We cannot ignore the depressing effect that inflation has on business. It is a

vicious circle. Businessmen cannot figure their real return, so they postpone

during the last month of the 93d Congress and in the early months of the 94th

committee: Senator HARRY F. BYRD, Jr.,

amendment which would prohibit Federal deficits?

"Whatever the deficit is, it has to be

of prices during recessions starting with the

When businessmen postpone investments, productivity suffers. Prices have to rise to cover inefficient production.

In the end, if we cannot control inflation we will fall behind our trade competitors and lose international influence. That is exactly what happened to Great Britain when 200 years of monetary discipline collapsed after the First World War.

We have got to pay more attention to the inflationary impact of Government regulation. These costs can be staggering.

One example is housing. Many families cannot afford their own homes anymore. But recently a congressional panel found that Federal regulations added $5,000 to the average cost of an Oregon community.

The flood of Federal redtape has increased cost to the point where many businesses in my home State of Montana have had to close their doors. This has to be stopped.

I have cosponsored legislation to provide more opportunities for public participation in agency rulemaking. I also think we should require inflationary impact analysis on bills we pass.

Mr. Speaker and fellow colleagues, we have cut taxes. That is a step in the right direction. Now let us keep on reducing the size of Government. Let us stop inflation and let us restore the confidence of Americans in their Government.●

BALANCING THE FEDERAL BUDGET

(Mr. WHITE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. WHITE. Mr. Speaker, recently rampant inflation fueled primarily by deficit financing of the Federal Government has been headline news. Proposition 13 in California has brought the matter to the attention of the public and legislators alike. However, members of the Democratic Research Organization (DRO) have been aware of the adverse consequences of inflation for some time. It comes as no news to DRO Democrats that inflation causes high unemployment, erodes the purchasing power of consumers, reduces the real profits of business, and, in its harshest consequence, destroys the self-reliance of the aged and all who live on fixed incomes. Mr. Speaker, some time ago DRO initiated a comprehensive investigation of deficit financing, balancing the Federal budget and its effect on the economy. The record we amassed makes our conclusions with regard to these matters unassailable.

Mr. Speaker, specifically the Democratic Research Organization (DRO) authorized 18 of its Members of the House of Representatives to act as a committee to conduct hearings on balancing the Federal budget. It was established and Congress, economists, academicians, businessmen, and Government officials testified on balancing the Federal budget before the committee: Honorable William E. Simon, Secretary of the Treasury; Dr. Arthur Burns, Chairman of the Board of Governors, Federal Reserve System; Henry Wallich, Member of the Board of Governors of the Federal Reserve System; Dr. Darryl R. Francis, President of the Federal Reserve Bank of St. Louis; Dr. Geoffrey H. Moore, National Bureau of Economic Research; Dr. Allan Meltzer, professor of economics, Carnegie Mellon University; Dr. James S. Duesenberry, chairman of the department of economics, Harvard University; Dr. Alan Greenspan, Chairman of President's Economic Advisers; Honorable Elliot Richardson, Secretary of Commerce; Congressman BROCK ADAMS, chairman, House Budget Committee; Congressman HENRY S. REUSS, chairman, House Banking, Currency and Housing Committee; Honorable Carla Hills, Secretary of Housing and Urban Development; Honorable Roderick M. Hills, Chairman of the Securities and Exchange Commission; James J. Needham, chairman, board of directors, New York Stock Exchange; Dimitri Balatsos, vice president of the Manufacturers Hanover Trust Co.; Dr. Henry Kaufman, senior financial analyst for Salomon Brothers; Elmer B. Staats, Comptroller General; Dr. Alice Rivlin, Director, Congressional Budget Office; Kenneth Thygerson, chief economist of the U.S. League of Savings & Loan Association; Dr. Leon W. Taub, vice president of Chase Econometric Associates, Inc.; Mitchell Robelinski, Administrator, Small Business Administration; Charles Bowsher, Arthur Andersen & Co.; Senator James Clark, Maryland General Assembly; William James, State Treasurer of Maryland; George Gross, executive director, House Budget Committee; Dr. Peter Clark, economist, Congressional Budget Office; Dr. Frank DeLeeuw, Assistant Director, Fiscal Analysis, Congressional Budget Office; Richard Maycock, General Accounting Office; Harry Havens, General Accounting Office; Phillip S. Hughes, Assistant Comptroller General; Robert Wilson, Arthur Andersen & Co.; James Pierce, chief economic consultant, House Banking, Currency and Housing Committee; Glenn Morrow, economist, Small Business Administration; George Grant, Jr., general counsel, Small Business Administration; Thomas Cole, Assistant Administrator of Congressional Relations, Small Business Administration; Sol Mosher, Assistant Secretary for Legislative Affairs, HUD; John Welcher, Deputy Assistant Secretary for Economic Affairs, HUD; Gene L. Finn, Directorate of Economic Policy, SEC; Maynard Comiez, Acting Chief Economist for the Department of Commerce.

The following other persons submitted statements on balancing the Federal budget in lieu of testifying before the man of Council of Economic Advisors; James T. Lynn, Director of the Office of Management and Budget; William A. Niskanen, Ford Motor Co.; James M. Buchanan, professor and general director, Center for Study of Public Choice, Virginia Polytechnic Institute and State University; James E. Smith, Comptroller of the Currency.

As chairman of the Democratic Research Organization (DRO), during the past month I returned the transcripts to each of the witnesses and other persons for their review, updating, and final concurrence. The replies have been received, the review and updating completed, and the report of the DRO Committee to Investigate a Balanced Federal Budget containing its findings, conclusions, and recommendations are as follows:

REPORT OF COMMITTEE TO INVESTIGATE A BALANCED FEDERAL BUDGET; DEMOCRATIC RESEARCH ORGANIZATION

AUGUST 1978

DEMOCRATIC RESEARCH ORGANIZATION (DRO)

Hon. RICHARD C. WHITE, Chairman

(Prepared under the direction of Paul Wohl, executive director, Democratic Research Organization (DRO), by Professor Timothy P. Roth, chairman, Department of Economics and Finance, University of Texas at El Paso.)

MEMBERS OF DRO COMMITTEE TO INVESTIGATE A BALANCED FEDERAL BUDGET

Hon. RICHARD H. ICHORD, 8th, Missouri, Chairman.
Hon. IKE F. ANDREWS, 4th, North Carolina.
Hon. CHARLES E. BENNETT, 3d, Florida.
Hon. JOHN BRECKENRIDGE, 6th, Kentucky.
Hon. GOODLOE E. BYRON, 6th, Maryland.
Hon. BILL CHAPPELL, JR., 4th, Florida.
Hon. E. DE LA GARZA, 6th, Texas.
Hon. L. H. FOUNTAIN, 2d, North Carolina.
Hon. JAMES R. MANN, 4th, South Carolina
Hon. DAWSON MATHIS, 2d, Georgia.
Hon. DALE MILFORD, 24th, Texas.
Hon. LARRY MCDONALD, 7th, Georgia.
Hon. STEPHEN L. NEAL, 5th, North Carolina.
Hon. HAROLD RUNNELS, 2d, New Mexico.
Hon. CHARLES ROSE, 7th, North Carolina.
Hon. DAVID E. SATTERFIELD, 3d, Virginia.
Hon. PAUL SIMON, 24th, Illinois.
Hon. RICHARD C. WHITE, 16th, Texas.

I. BACKGROUND, OBJECTIVES AND OVERALL POSITION

After careful consideration, the Democratic Research Organization (DRO) undertook to explore and to question the efficacy of balanced Federal budgets. DRO, acting through its Executive Committee, approved and established the Committee to Investigate a Balanced Federal Budget to secure the testimony and opinions of knowledgeable and interested parties and to report its findings, conclusions, and recommendations. The result of this effort was the emergence of some 1,593 pages of testimony. (All cited page numbers are keyed to this 1,593 page transcript of testimony and statements available for examination at the DRO office.)

The testimony was secured with a view to the development of a report that would address such questions as these: Are Federal deficits stabilizing or destabilizing, or what is effectively the same thing, are Federal deficits "good" or "bad"? If deficits are, in some sense, harmful, what might optimally be done about it? Should consideration be given, for example, to a constitutional

with less money, we have less inflation. We run into the problem known as crowding out. We have to sell the securities to private individuals to finance the deficit . . . at the expense of some capital they could hold" (Meltzer, p. 977).

While the second portion of the statement relating to "crowding out" is somewhat cryptic, it is the first portion of the statement upon which our interest momentarily centers.[1]

The point to the emphasized is simply this (Francis, p. 619):

". . . it is quite evident that inflation is the result of excessive monetary growth . . . (and that) monetary growth in excess of resource growth has been the most dependable result of government deficits . . ."

Again and again, the theme that emerges is the notion that monetary growth is related to the size of Federal deficits and that, other things equal, the faster the rate of growth of the money supply via debt monetization, the faster the subsequent rate of increase of prices. In Professor Meltzer's testimonial words (p. 953):

"The greater the amount of money issued to finance the deficit, the higher the subsequent inflation. The principal reason deficits lead to inflation is that the deficits are often financed by printing money."

Former Treasury Secretary Simon's testimony is somewhat more expansive (p. 769):

"The deficits contribute to inflation: First, by being produced by too rapid a rise in spending which directly puts pressure on prices; and second, by bringing about a large increase in liquid asset holdings of the public; and third, by depriving the private sector of needed funds which lowers the economy's future growth potential and heightens inflationary pressures."[2]

The litany of those who accept the general proposition that deficits are, in general, inflationary runs the gamut of academics through those in government and in business. Moreover, the idea that deficits are inflationary is not the exclusive province of "conservatives". A sample of additional comments will serve to corroborate this statement: Professor James Duesenberry—"Deficits of the late '60s and the Korean War did contribute to inflation" (p. 333); Federal Reserve Governor Henry Wallich—"Federal deficits are an 'essential contributor' to inflation" (p. 410); Roderick Hills, Chairman of the Securities and Exchange Commission—"Federal deficits have contributed to inflation and therefore to higher interest rates" (p. 659), and "The extent to which deficits contribute to inflation depends on the extent to which the deficit is financed by the creation of new money" (p. 713); Henry Kaufman, Senior Financial Analyst for Salomon Brothers—"I believe that fiscal policy has contributed significantly to the inflation rate of the United States in the post-war period" (p. 1,290); James Pierce, Chief Economic Consultant, House Banking, Currency and Housing Committee—"The government deficits run during the late '60s caused what was going on in the '70s. Those are what caused the inflation" (p. 1,285).

An objective assessment of this testimony must, it would seem, conclude that, in fact, deficits cause inflation. Moreover, it is important to recognize that the notion that Federal deficits are the major cause of inflation seems broadly more defensible than any alternative "explanation" of inflation. In witness Geoffrey Moore's view (p. 281):

". . . you have got a clear trend in the rise

Footnotes at end of article.

seen of concentration in industry have shown that trend, and I don't think it has been shown with respect to labor unions either. The percentage of the working population that is unionized has not been increasing, and in that sense unions have not been getting any more powerful."

Given Moore's reluctance to ascribe the observed inflation to business or to unions, it is significant that he is unequivocal in saying that deficits are one of the "contributing factors" in inflation (p. 278).

In summary, based upon a priori logic, an emerging body of empirical evidence and the "weight of authority", we accept the following proposition: That Federal budget deficits are inflationary, and that the degree to which such deficits contribute to inflation is directly related to the extent to which the Treasury debt is monetized; that is, to the extent to which it is bought by the Federal Reserve with newly printed money. Granting this, the issue to which we now turn is the question of the relationship between inflation and unemployment.

2. Inflation and current unemployment

It has long been a part of the "received doctrine" in economics that the so-called Phillips curve has validity; that is, that there is a trade-off between inflation and unemployment. As the conventional wisdom would have it, a decrease in the unemployment rate will be accompanied by an increase in the inflation rate, an increase in the unemployment rate with a decrease in the inflation rate. The logic behind this general proposition is based upon the presumption that as the "capacity" of the economy to produce is approached—that is, as employment and the utilization rates of physical capital's services increase, "bottlenecks" will appear, costs of production will rise, and inflation will result. The chain of causation proceeds, in other words, from the surrogate for capacity utilization—namely, the amount of employment—to the inflation rate.

It is the purpose of this section to show that while this logic might at first appear compelling, it is fallacious. Indeed, appeal to and acceptance of this logic requires that the analyst ignore the effects of inflation on real disposable incomes, corporate profits and balance sheets and the composition of output. It is the purpose of this section to show, in other words, that the chain of causation is precisely opposite to that contemplated by the "conventional wisdom"; that, indeed, increases in the inflation rate cause unemployment.

Once again, this proposition should not be accepted on faith. With this in mind, let us proceed to a systematic exposition of the logic behind this assertion:

a. Inflation and profits

It is patently obvious that inflation affects the individual business enterprise. The effects are felt both on the revenue and the cost side. On the revenue side, the effect of inflation depends, in particular, on whether the firm produces goods whose demand is positively or inversely related to changes in real disposable income.[3] If the firm produces what economists call normal or superior goods, an increase (decrease) in real disposable income will cause an increase (decrease) in the demand for its product(s). If the firm produces so-called inferior goods, an increase (decrease) in real disposable income will cause a decrease (increase) in the demand for its product(s). Clearly, for those firms producing normal or superior goods, a decrease in real disposable income will, other things equal, mean that the demand for their product(s) will fall. In other words, the revenue gener-

generally rise during inflation at a faster rate than the rate of increase of nominal or money incomes; hence real incomes fall. 2) Because of inflation, nominal incomes do rise, but these higher money incomes are taxed at higher rates because of our progressive income tax system. The net result is obvious: inflation causes an erosion of real disposable incomes. This, in turn, causes the demand for normal and superior goods to fall, causing their producers revenues to fall.

The effects of inflation are not assymetric, however; inflation affects both revenues and costs. Let us focus for a moment on costs. Without question, one of the effects of inflation is an increase in the prices of the goods and services purchased or rented by producers. We have in mind here not only the wage rates paid to employees, but the purchase prices of ingredient inputs (the things that "go into" the final product), and of ancillary inputs like electricity. Given the firm's technology—that is, given the techniques by which it combines inputs to produce output—increases in these input prices have the effect of increasing the costs of production. This much, we should think, is so obvious as to appear platitudinous.

Yet it should be emphasized that inflation causes the costs of production to rise not only because of increases in input prices. Inflation also causes costs to rise because of its effect on the value of inventories and upon the replacement costs of capital equipment. In the case of inventories, phantom inventory "profits" appear as the nominal value of inventories bought in the past rises. The fact that these profits are not realizable since old inventory must be replaced at the prevailing higher prices is irrevelant from the point of view of the Treasury Department; inflation-induced inventory "profits" are taxed, and the increased taxes constitute an increase in the costs of production.[4]

In the case of the replacement costs of capital equipment, inflation has two effects. First, it pushes the prices of machinery and equipment up. Two, because it has the inevitable effect of pushing up interest rates—a matter that will be discussed below—it makes external financing of plant and equipment more expensive.[5] The net result is that even if new equipment is significantly more productive—in the sense of the output per man-hour that it is capable of producing—inflation-induced increases in the cost of acquisition may make the purchase or rental of the equipment prohibitively expensive.

Finally, it is clear that inflation causes the costs of production to rise for still another reason. Previously we suggested that increases in input prices (and, for that, increases in inventory "profit" taxes) will cause the costs of production to rise, given the firm's technology. The problem is that a business firm's technology—again, the means by which it combines inputs to produce output—is likely to be affected by inflation. One of the effects has already been discussed; namely, the possibility that more efficient equipment may not be brought on-line because of increases in the cost of acquisition. The corollary of this is that business firms tend, during an inflationary period, to rely more and more on incumbent equipment; equipment that is subject to the laws of friction—equipment that, in other words, deteriorates over time.[6] This, in turn, implies that the costs of production

Footnotes at end of article.

tion proceeds, costs of production rise because employees become progressively less productive. Moreover, because of the prospect of increased tax liabilities, there is less incentive to acquire human capital. There is less incentive for the employee to acquire additional skills and knowledge because he knows that the acquisition of these skills will imply higher nominal incomes; incomes that will, in addition, be bloated by inflation and that will, as a result, be taxed more heavily. Granting this, he could conceivably be made worse off in terms of real disposable income because of an investment in human capital. To the extent that employees and/or their employers do not invest in human capital, future productivity will be lower and future costs of production will be higher than they otherwise would have been.

The message is clear: Inflation has a double-edged effect on business firms: 1) it causes revenues to fall—or, at minimum, to increase more slowly, at the same time that 2) it causes the costs of production to rise. The result is that cash-flows deteriorate, both in the present and in the future. *Insofar as cash flows deteriorate, business firms that seek to maximize profit*—and we know of no one that is prepared to accept an alternative desideratum—*will have no choice but to reduce both output and employment.*[8] It is worth re-emphasizing, however, that the effect of inflation on output and employment will not be confined to the present. To the extent that incentives to invest in human and non-human capital are eroded by inflation, future output and employment will also be affected. In any case, discussion of this aspect of the relationship of inflation to unemployment is momentarily deferred. Suffice it to say that we are led to conclude that present employment is affected by inflation. We conclude, based upon *a priori* logic, that increases in the inflation rate cause business firms' cash flows to deteriorate and that this, in turn, causes output and therefore employment to fall.

The question now would seem to be this: Can we secure any empirical or other support for the idea that rising inflation causes unemployment? The answer, of course, is yes. First, let us consider the matter of the relationship of inflation to profits.

Mr. Mitchell Kobelinski, former Administrator of the Small Business Administration, testified that (p. 1,207):

"Inflation erodes profits, which are a major source of equity financing; and requires injections of new capital merely to replace depleted inventories, depreciated properties and other forms of capital consumption."

Testimony by Mr. Roderick Hills, former Chairman of the Securities and Exchange Commission, echoes this view (pp. 698–699):

"The second reason for the tendency toward leveraged capital structures is the impact of inflation. As corporate operating costs rise more rapidly than prices, profits are squeezed. Even these reduced profits tend to be overstated in real terms since they must be reinvested in higher cost plant and inventory simply to maintain the real capital of the firm . . ."

Influential members of the business community agree. Mr. James Needham, Chairman, Board of Directors of the New York Stock Exchange, testifies simply that ". . . periods of escalating inflation are notoriously bad for corporate profits" (p. 465). And finally, to paraphrase witness Mr. Dimitri Balatsos, Vice President of Manufacturers

ments (p. 203). It would appear, therefore, that there is a clear well-defined relationship between inflation and profits: increases in the former cause decreases in the latter; decreases in the former cause increases in the latter.

The next question is this: We have asserted not only that increases in the inflation rate cause cash-flow and therefore profits to erode. We have made the additional claim that this has the effect of reducing output and employment both in the present and in the future. Let us now focus on the question of the relationship of inflation to profits and to current unemployment. We shall, momentarily, address the question of inflation's impact on future unemployment.

b. Inflation, profits and current unemployment

The presumption that inflation-induced profit erosion is a cause of unemployment seems to be self-evident. But it is also obvious that this idea will gain wider acceptance and credibility according as it is espoused by knowledgeable parties from government, industry and academia.

As it happens, the notion that accelerating inflation causes an erosion of profits and, *pari passu*, an increase in unemployment is espoused by a widely disparate group of knowledgeable individuals. Consider, for example, the comments of witness Mr. James Smith, former Comptroller of the Currency (p. 1,579):

"Many knowledgeable observers have pointed out that inflation was itself a key factor in creating the set of conditions that led to this (1974–1975) recession. With double digit inflation, the confidence of consumers and, to a very considerable extent, the confidence of businesses was shaken. With inflation outpacing the growth in personal disposable income, real disposable income of many individuals actually fell. Coupled with the decline in real income was the adverse effect of the expectation that continuing inflation might lead to an even sharper decline. As a result, the effective demand for goods and services fell off. In this uncertain atmosphere, businesses were hesitant to carry out their plans for expansion of plant and equipment."

It would appear, therefore, that inflation-induced erosions in real incomes and in consumer and business confidence can have determinate effects. In the view of the former Comptroller of the Currency, these effects are summarized in terms of reductions in the effective demand for goods and services and the postponement of capital investment projects. All of this is, of course, consistent with our *a priori* assessment of the effects of inflation. The testimony of Mr. Elliot Richardson, former Secretary of Commerce, goes one step further, however; indeed, he affects the crucial link-up of inflation to unemployment (pp. 886–887):

"Now, perhaps as never before, we recognize the insidious nature of inflation. Basically, it undermines economic stability and curtails progress. . . . Confidence gives way to hesitation and uncertainty, causing consumers to become more cautious and to save a greater share of their incomes. As demand slackens, business inventories begin to build up rapidly. Eventually . . . workers are laid off in growing numbers and postponements and cancellations of long-range investment projects . . . occur with greater frequency."

Somewhat later in his testimony, Mr. Rich-

mony is sympathetic to this view. In his words (p. 838):

"Inflation actually causes recessions and related unemployment by eroding housing construction, personal consumption and business investment."

It is worth mentioning in passing a point that will be re-emphasized below; namely, that if one accepts the view that inflation causes unemployment certain corollaries follow. In response to a question put to him by a member of the Committee to Investigate a Balanced Federal Budget, Alan Greenspan, former Chairman of the President's Council of Economic Advisors, testified this way (p. 1054):

"I don't believe (there is a trade-off between inflation and unemployment). I think there is just no reason why we cannot have both a low level of unemployment and a low level of inflation. In fact, I'll go further. If we have an unstable and high rate of inflation, I don't see how we can keep the unemployment rate down. So, in that sense, I would say they are mutually reinforcing."

The point to be emphasized is therefore clear. There is no trade-off of inflation for unemployment.[9] The conventional wisdom is simply wrong. We have, in fact, a situation in which increases (decreases) in the inflation rate cause increases (decreases) in the unemployment rate. From the point of view of optimal public policy, it follows, therefore, that *anything that contributes to inflation contributes to unemployment. Insofar as Federal budget deficits contribute to inflation, they contribute not to "economic expansion" but to unemployment.* Professor Allan Meltzer puts it this way (p. 974):

". . . no reliable long-term tradeoff exists between inflation and unemployment. But I would make the same argument in the short-run. There is no reliable short-run tradeoff between inflation or unemployment, and we get ourselves into enormous difficulties by trying to run the economy on the basis of what used to be called 'fine tuning' . . . . For example, highly expansive policy will lead to inflation."

Finally, the testimony of Darryl Francis, President of the St. Louis Federal Reserve Bank provides a comprehensive, heuristic check list of the effects of inflation (p. 653):

"The long-run effects of inflation are primarily created by the inability to anticipate inflation correctly. All those that have contracts that are specified in a given number of dollars and cents are affected. Creditors lose and debtors gain. This leads to a redistribution of wealth which is not predicated on productivity. Incentives are undermined and productivity declines. The inability to anticipate the rate of inflation and thus the interest rate reduces the willingness to lend for a long term. As financial contracts become shorter, risks of financing long term investments increase and accumulation of capital declines. This also leads to a reduction in productivity. And, finally, inflation reduces the wealth of those who hold money. Since money is a productive resource, any decrease in its use decreases potential output of goods and services. The ultimate experience is hyperinflation where people resort to barter and where standard of living declines drastically."

It would appear, therefore, that the formulation of public policy must take account of the fact that any policy that has the effect of increasing the inflation rate will have the

Footnotes at end of article.

question to which Mr. Francis and others have alluded.

c. Inflation and future unemployment; Inflation's effect on investment

In Section III, below, we shall address the question of the efficacy of "flexibility" in fiscal policy; of the desirability, if you will, of having the option to run deliberate (or "active") Federal budget deficits. As it happens, the resolution of this question turns in part on matters to which we now turn; namely, the effect of inflation on investment.

We have already discussed the fact that as inflation proceeds it becomes increasingly difficult for business firms to finance the acquisition of new plant and equipment. That this is so follows from the fact that inflation causes an erosion of firms' cash flows making internal financing more difficult. Moreover, inflation causes interest rates to rise making external financing more expensive.[10] Add to this the fact that inflation makes future revenue and cost streams less secure and that capital equipment becomes more and more expensive and we have a recipe for declining investment. And, as has been emphasized, inflation-induced declines in investment will not be confined only to plant and equipment; to nonhuman capital, if you will. There is reason to believe that employers and employees alike will, because of inflation, have less incentive to invest in human capital.[11]

Now it is considerations such as these that have led Henry Wallich, among others, to suggest that inflation-induced reductions in capital investment may have dire consequences for future employment. To paraphrase Dr. Wallich, investment spending has been decreasing because of inflation, higher interest rates, and the "crowding out" phenomenon attributable to increased Federal government borrowing.[12] Yet this is happening at a time when the labor force is growing at an accelerating rate (pp. 387 and 395–396). Thus, in Dr. Wallich's words (p. 387): ". . . it would not surprise me if our total capital stock were insufficient to employ the labor force. . . ."

It should, of course, not be forgotten that the linchpin in the inflationary process is Federal budget deficits. It is precisely these deficits that contribute directly to inflation and, hence, to a reduction in the rate of capital accumulation; to a reduction, in other words, of the economy's future productive capacity.

It is clear, then, that deficits affect investment indirectly through the accelerated inflation they cause. But there is a more direct route by which Federal deficits act to the detriment of private investment.

The simple truth is that the composition of Federal spending is changing. There is, increasingly, less emphasis on investment related expenditures and more on consumption. The change in the composition of Federal spending is illustrated, at least in the view of another witness, Mr. Kenneth Thygerson, by the increased emphasis on income transfers. In his view, such income transfer (or security) programs:

"* * * stimulate the immediate consumption of basic commodities such as food, clothing and energy. This consumption-demand stimulus, although clearly beneficial to the economy in some periods, does not provide future benefits as in the case of investment oriented Federal expenditures.

"The increased tendency to finance this changing Federal outlay composition

sumption expenditures are going to mean a slower rate of capital formation (p. 170), a view that is shared by Professor Meltzer (p. 957):

"A third effect of large deficits is that the mix of goods and services produced by the society is altered. Many government programs encourage consumption and reduce investment. A shift in resources from investment to consumption lowers the capital stock and by lowering the capital stock lowers the growth rate."

So far as it goes, this view is in complete accord with Thygerson's position. Meltzer goes one step further, however. Indeed, his emphasis is on a qualitatively different, though related consideration; namely, that the dollars secured by the Federal government via the sale of Treasury debt are dollars that would have been used for investment purposes in the first place:

". . . the deficit is going to be financed out of private savings and people are going to be holding government bonds used to finance mainly consumption expenditures instead of holding some private securities used to finance the accumulation of capital" (p. 964).

The central idea is that deficits cause inflation. Insoar as they do, they tend indirectly to reduce the rate of capital accumulation. Unfortunately, however, this is not the end of the story because the deficits, by and large, are used to finance current consumption expenditures at the expense of investment. Yet, as Dr. Wallich has emphasized, the labor force is growing at an increasing rate. We have, therefore, the undesirable state of affairs that the labor force may very well grow at a faster rate than our capital stock. Granting this, it follows that deficits—indirectly as a cause of inflation and directly as a vehicle to finance current consumption—are a cause of future as well as present unemployment.

Based upon our understanding of the relationships among deficits, inflation and unemployment, we therefore conclude that: Federal budget deficits are to be avoided because they contribute not to economic expansion but to unemployment. This, then, is the first of this report's two points of departure.

Before proceeding to the development of the second point of departure, it would seem appropriate to take account of two other effects of deficit spending. We shall, in turn, consider the implications of Federal deficit spending for: 1) the role of the Federal government in the economy, and 2) economic concentration.

3. Some Additional Effects of Inflation

a. The increasing role of government in the economy

While the question of what is the "optimal" size of government is ultimately a matter of "taste" or philosophical predilection, one thing can be said without equivocation. Simply stated, it is that one of the effects of Federal deficits is a steady, irresistible encroachment of the public upon the private sector. In Dr. Arthur Burns' words (p. 50):

"This sorry record of deficit financing means, of course, that we as a people have been unwilling to tax ourselves sufficiently to finance the recent sharp increases of government spending. . . .

"One aspect of the sharply rising curve of expenditures is that the government has been assuming an ever larger role in the economic life of our people."

otherwise not have, it gets control of resources over which it would otherwise not have control. But the fact is that there is another dimension to the question at hand. This "dimension" has come, in recent years, to be referred to as the "crowding out" phenomenon. In Alan Greenspan's view, crowding out might appropriately be viewed in the following way (p. 1,048):

". . . as the government controls an ever increasing proportion of the national output, by definition, less is available in the private sector and one can use that term crowding out to refer to the process in which government increasingly squeezes out private activities and the like."

In effect, Greenspan adopts the tautological view of crowding out. But there is a sense in which the crowding out phenomenon is somewhat more than definitional. What we must not lose sight of is the fact that the Federal government has a comparative advantage over the private sector in securing funds:

"Anytime there are people competing in a market for scarce resources, there will be crowding out. The government, however, has an advantage in competing for scarce funds in that it can pay virtually any price to attract funds. Unlike private borrowers, the government has not been concerned either with the cost of funds or the expected rate of return on use of the funds." (Francis, p. 643)

Mr. Mitchell Kobelinski, former Administrator of the Small Business Administration, puts the comparative advantage of government in relatively stark terms (p. 1,162):

"As we well know, we have a lot of competition for capital in the market and we start, first of all, with the United States Government. With deficit spending, you have the U.S. Treasury having an enormous need for capital. Well, that is the first block and rates top priority. And then comes big business . . . Then comes of course, the state and municipal, the other public bodies which make demands on the financial markets. And then, last of all, comes the small business."

The implication is, of course, that by the time the Federal government and other lenders have gotten their share of the available loanable funds—with the Federal government receiving top priority—there may be nothing left for small businesses. That this is true is patently obvious. The corollary is, however, equally clear: Insofar as the Federal government's borrowing needs displace some small businesses, it has, by definition, increased its role in the economic life of the nation. But the fact is that it is not only small businesses that are effectively displaced by Federal borrowing; big business is affected as well, though in a somewhat different way:

". . . in the last several years, there has been kind of a two-tier lending market, prime lenders that get the dough and there is everybody else. And what has tended to happen is that one of the everybody else that hasn't been able to get the money . . . has looked for another way to get it. And so Congress has stood ready and said, 'All you mortgage people that get priced out . . . What do we do about it?' We create an agency that has a preferred borrowing position that can compete . . . such as the Government National Mortgage Association . . . And, of course, the consequence is that you have got more and more groups that say we need that preferred borrowing position." (Thygerson, pp. 233–234)

plicit. Presumably, some may regard increased economic concentration as "good", others may regard it as "bad". Whatever one's point of view, however, the fact remains that deficit-induced inflation tends to produce waves of economic concentration.

We conclude this section with an amended statement of the first general proposition—or point of departure—to emerge from this paper. The original statement was as follows: Federal budget deficits are to be avoided because they contribute not to economic expansion but to unemployment. We now know, however, that deficits have additional ancillary effects; namely, that of increasing the role of the Federal government in economic life, and of increasing economic concentration. The first general proposition or point of departure is therefore amended to read: Insofar as one regards unemployment, an increased role of government in economic life, and increased economic concentration as "bad", deficits cannot be justified.

B. Political incentives and the bias towards deficits

The case for a prohibition against Federal deficits can be developed further. All that is required is that explicit account be taken of what some might characterize as "political realities." We would prefer to say that account must be taken of the incentive structure that prevails within Congress; an incentive structure that, in effect, results in a bias towards deficits. It is this idea, an idea that will be developed below, that forms the core of the second point of departure upon which this paper is based. The proposition can be stated as follows: The incentive structure that prevails in the Congress provides a bias towards deficits, a bias to provide short-term benefits without regard to the long-term costs.

Congressman Ichord puts the central issue squarely in focus (p. 15): "We (the Congress) just can't resist the spending demands of our constituents." It is a rudimentary fact of life that Congress is under pressure to provide benefits regardless of their long-term costs. It follows that:

". . . to leave complete flexibility (in the matter of Federal budgets) opens up strong biases . . . toward very large deficits and adds to the tendency to create short-term benefits which eventually lead to very major problems down the road" (Greenspan, p. 1,036).

Even those outside government perceive the pressures. The following question was put to Geoffrey Moore of the National Bureau of Economic Research: "Are you saying that as soon as the move toward a surplus appears, the public requests more governmental services generally, and therefore more spending so that we never catch up?" His answer: "I guess that has been the trend, yes sir" (p. 299).

The net result of all of this is that there is an evident, growing need for a change either in the incentive structure and/or in the system of constraints that impinge on the behavior of Congress. Insofar as a modification of the incentive structure may carry with it a deterioration of the relationship of the Congress with its constituents, a change in the incentive structure may be both impractical and undesirable. On the other hand, a change in the system of constraints is relatively straightforward, manageable, and we submit, desirable.

William Niskanen, chief economist at Ford Motor Company, and no stranger to Washington, gives us an additional perspective (p. 1,573):

"Presumably, the budget process would be less productive than private employment. It follows that deficits reduce productivity in the economy as a whole since society uses its resources less efficiently and output grows more slowly (p. 957). Thus, while spending is rising because of the Federal deficit, the rate of growth of output is reduced. The corollary of this is likely to be an acceleration of the inflation rate.

In a sense, then, we have come full circle. The purpose of this section was to show that deficit-induced inflation has an ancillary effect; namely, that of expanding the role of government at the expense of the private sector. We have, however, concluded the section by showing that deficits, in the process of enhancing the government's share in national output and employment, cause still more inflation.

b. Deficits, inflation, and economic concentration

We have already emphasized the "crowding out" effect of Federal deficits. What has not been emphasized is the effect on the "survivors"; that is, the effect on these firms that manage somehow to cope with the effects of deficit-induced inflation. Henry Kaufman puts it this way (p. 1,284):

". . . no matter how you 'crowd out', crowding out means that you hurt the marginal and you strengthen the powerful . . ."

The process by which marginal firms are hurt and powerful firms strengthened is outlined by Mr. James Pierce, Chief Economic Consultant to the House Banking, Currency and Housing Committee (p. 1,295):

"In 1974 (because of inflation), the less than prime firms ran into a great deal of difficulty. With large nominal financing needs, they had to borrow, extremely high interest rates or not . . . I think the key (to this problem) . . . is a decline in the inflation rate."

Implicit in all of this is the point at issue; namely, that deficit-induced inflation causes a deterioration of financial positions. In particular, inflation has the effect of increasing debt-equity ratios to a point at which mergers become increasingly attractive. As Henry Kaufman puts it, ". . . another high wave of inflation would, I think, pro-

officials. As a rule, Congress receives much more data than it can use. Additional data will increase the quality of budget decisions only if it reduces the costs or increases the rewards to individual members of Congress. At present, unfortunately, the costs of effective budget review are borne by individual members of Congress but the rewards are shared by all members and, as a consequence, 'fiscal stewardship' is undersupplied."

The message is clear: not only does the incentive structure provide a bias toward ever larger spending, the benefits and costs associated with systematic, careful review of individual budget items are such that there is little incentive for individual members of the Congress to bear the cost of policing the budget. In such an environment, it would appear that a change in the system of constraints is not only efficacious, it is long overdue. It is this idea that leads James Buchanan to say that (p. 1,512):

"My thesis can be simply stated: The acceptance of Keynesian economics, with its policy thrust in support of budgetary management to control the national economy, necessarily introduces a deficit-creation bias in democratic fiscal choice. To offset this bias, it is necessary to introduce an explicit constitutional constraint on departures from budget balance."

Based upon our understanding of the effects of deficits upon inflation, unemployment, the role of government and economic concentration, and given the prevailing incentive structure in the Congress, we conclude that a constitutional amendment prohibiting such deficits is in the interest of all parties concerned. Such a prohibition will contribute to price stability, to increased consumption and investment spending by the private sector, to increased employment—again by the private sector—and hence to higher tax revenues in the future. These higher tax revenues will come about not because tax rates will have been increased. Rather, they will come about because the economy will grow more rapidly. At the same time that revenues are rising, expenditures on income transfers for unemployment compensation and so forth will be falling. This, in turn, will mean that balancing the budget will become relatively easier. A happier confluence of events is difficult to imagine.

III. ON THE NEED FOR FISCAL "FLEXIBILITY"

A. Fiscal flexibility and the proposed constitutional amendment

It is perhaps a curious anomaly that while no one of the witnesses suggested that a move toward the elimination of Federal deficits is undesirable, many are reluctant to endorse the idea of a constitutionally mandated balanced budget. It is fair to say, however, that the opposition to the proposed constitutional amendment springs, in each instance, from a desire to maintain what might be broadly characterized as "fiscal flexibility"; from a desire, in other words, to retain the option to run both passive and active budget deficits.[12]

Consider, for example, the view expressed by Henry Wallich. He is broadly in favor:

". . . of a technically viable way of limiting deficits that would not create such a degree of inflexibility as to tie our hands in a situation where they should not be tied. . . . " (p. 411)

The implication, in other words, is that some sort of restriction is appropriate, but that the restriction should not be "too rigid". Mr. Charles Bowsher is broadly in agreement with the spirit of Wallich's comment. While

Footnotes at end of article.

". . . we should establish too rigid a structure by law or constitutional amendment which would not allow the President and the Congress to successfully cope with the economy in difficult times such as major recessions, war, and so forth." (p. 1,323)

A careful examination of the testimony reveals that there is general agreement that there is a pressing need for some sort of imposed budgetary discipline, but that the discipline should not be so rigid as to "tie the hands" of the fiscal authorities.[14]

In view of the evident reluctance of many interested parties to impose "too much" fiscal discipline, it would seem appropriate to examine the question of the efficacy of a "flexible" fiscal policy. With this in mind, careful examination of the evidence will show that, in fact, fiscal flexibility is a "straw man" and that the current and potential costs of a "flexible" fiscal policy far exceed any potential benefits.

Before proceeding any further, it is worth recalling what has already been established; namely that: (1) Federal deficits are not, in fact, stimulative; that they result in more rather than less unemployment, and (2) that the prevailing incentive structure is such that there exists a virtually inexorable tendency toward ever larger budgetary deficits.

With all of this as background, let us proceed to an examination of the question at hand; namely, the efficacy of fiscal "flexibility".

B. Why fiscal flexibility is a "Straw Man"

It is safe to say that those who are in favor of the retention of the maximum feasible amout of fiscal flexibility base their argument upon the presumption that budget deficits are, in some sense, "stimulative". Of course, it has already been shown that this is fallacious; that, in other words, the real effect of deficits is to generate accelerating inflation and that this, in turn, results in more rather than less unemployment. Presumably, however, there are those who, for whatever reason, will be reluctant to accept this general proposition. For this reason, it would seem appropriate to consider some additional problems associated with "fiscal flexibility" that we have heretofore not made explicit:

1. Fiscal Policy as a Tool of Economic Stabilization

There is a growing perception that fiscal policy is not "what it's cracked up to be". Characteristically, Arthur Burns says it best (p. 89):

"We can adjust monetary policy not only by the month but, quite literally, by the hour. But fiscal policy is a clumsy, awkward instrument."[15]

Indeed, Dr. Burns' view is that the net effect of fiscal policy has, in recent years, been negative. In response to the question, "Might it be fair to say that in your opinion over the last sixteen years, at least, we would have been better off to have balanced budgets consecutively rather than what we have been doing?", his answer was, "It would seem to follow logically, yes. * * *" (p. 135) Darryl Francis of the St Louis Federal Reserve Bank puts it slightly differently (p. 635):

"I think the history of our recent past proves that these tools we call fiscal policy and monetary policy are not geared to fine tuning. I think, on the contrary, they have proven themselves beautifully geared to adding to the magnitude of the business cycle."

It would be misleading, however, to impute the growing perception of the inadequacy of discretionary fiscal policy only to professional economists. Indeed, members of Congressman Brock Adams, as Chairman of the House Budget Committee, "Economics cannot define the precise amount of deficit spending which will produce a credit crunch or inflation."

At one level, therefore, it is clear that the perception is growing that we simply do not possess the requisite knowledge to administer discretionary fiscal policy in a manner consistent with the presumed objectives of what has come to be called "stabilization policy". The problem is more pronounced than this, however. The fact is that "passive" fiscal policy has asymmetric effects. In Geoffrey Moore's view (p. 269):

". . . relative to the changes in real GNP there are substantial increases in the deficit during recessions and the increases have been very much larger than the declines in the deficit during expansion."

The corollary is that (p. 269):

". . . the deficit has not acted as a stabilizer during expansions in the business cycle with nearly the same power that it has acted as a stabilizer during recessions, and this may have had its effect on the general price level in inducing increases in the price level during these expansion periods. . . ."

It follows, *pari passu*, that (p. 272):

". . . we really can't depend on automatic stabilizers in the deficit during expansion to have any appreciable effect in stabilizing prices. They simply have not in the past operated in a powerful enough way to do that."

The conclusions to be drawn from all of this are: 1) We do not know enough to conduct active or discretionary fiscal policy in anything like an "optimal" manner; given the intrinsic "awkwardness" of the fiscal instruments, and given the state of the economists' art, fine tuning is a panacea. 2) The so-called automatic stabilizers of "passive" fiscal policy have asymmetric effects. They simply cannot be relied upon to bring about the one thing that we have shown to be a *sine qua non* for full employment; namely, price stability.

On these grounds alone, it would appear that the case for flexible fiscal policy is not very compelling. There are, however, other considerations that have basic relevance to the question of the efficacy of budgetary flexibility. One of the most important of these is the relationship of fiscal policy to monetary expansion.

2. Fiscal policy and monetary expansion

It is well known that the intellectual fountain head of fiscal activism was John Maynard Keynes. It is, generally speaking, his disciples that have been most vocal in support of the notion that an activist fiscal policy is a *sine qua non* for economic stability. More particularly, it is part of the Keynesian or, more properly, the neo-Keynesian tradition that Federal deficits are, in some sense, stimulative. The presumption is, therefore, that deficit spending can and does have some impact on the level of real economic activity; on, in other words, output and employment.

It is the purpose of this section to look critically at this idea; to determine, if you will, whether this is, in fact, the case.

The question at issue is simply this: Does a deficit have the capability, in and of itself, to expand output and employment, or does it impact solely upon the price level?

It is hard to conceive of a better place to begin our inquiry than with the work of Keynes himself. On page 119 of his General Theory of Employment, Interest and Money, Keynes proffers this insight into the workings of deficit spending:

"The method of financing the (deficit) . . .

may have the effect of increasing the rate of interest and so retarding investment in other directions, unless the monetary authority takes steps to the contrary. . . ."

What we have here is an admonition from the father of fiscal activism that deficits will not always have a stimulative effect; that, indeed, unless monetary policy is accommodative, deficits may, among other things, so increase the rate of interest that investment spending may decline. Were this to happen, a deficit would not be automatically stimulative with respect to output and employment. Indeed, it is entirely conceivable that any increment to consumption spending caused by the deficit may be more than counterbalanced by a decrease in investment spending, so that the net effect of the deficit would be to decrease rather than increase output and employment.

Of course, this point has not been lost on the economics profession. Consider for example, the views of Professor Paul McCracken, former Chairman of the President's Council of Economic Advisors (pp. 1,565–1,566):

"There is growing skepticism regarding the conventional wisdom about fiscal policy, the deliberate use of the budget to stabilize the economy. For one thing an increment of spending or of tax reduction does not automatically have a net expansive effect on the economy. The added deficit has to be financed, and this added Treasury borrowing will simply leave less financing available for private borrowers unless monetary policy is thereby altered. Moreover, there is a growing feeling that the conventional wisdom of fiscal policy has had a bias toward more rapidly rising outlays."

In effect, McCracken has gone two steps further than Keynes: He has recognized the possibility already discussed; namely, that Federal deficits may effectively crowd out private borrowers. He has, moreover, corroborated another position adopted above; namely, that there is within the Congress a bias toward deficits, a bias toward ever-increasing Federal expenditures.

Once again, it is important to recognize that Keynes and McCracken are not alone in their reservations about the stimulative effects of Federal deficits. Professor Meltzer has this to say (p. 978):

"The reason the problem (of evaluating the effects of deficits) is complicated is that . . . we have two opposing forces. One raising saving, and one reducing investment at the level of income we reach. My evaluation of the combined effect is that there is a small negative effect per dollar of debt on investment as a result of crowding out. Therefore, we grow more slowly in the future than we would have grown if we didn't have that large deficit."

The implication is clear: Unless the monetary authorities accommodate the deficit by accelerating the rate of growth of the money supply—a policy that has historically been inflationary—the net effect of a budget deficit will be negative; it will not, in fact, "stimulate" the economy, it will reduce the rate of growth of the economy and will, *pari passu*, cause more rather than less unemployment.

Arthur Burns and Darryl Francis have similar circumspect views relative to the stimulative effects of deficits. In Francis' view (p. 609):

"Historically, government deficit spending has had no stimulative effects except insofar as it was accommodated by monetary expansion. Thus the stimulation desired could have been accomplished directly through monetary expansion without the government encroachment into the private sector that is inherent in fiscal policy."

Footnotes at end of article.

Arthur Burns puts it slightly differently (p. 49):

"Recent experience in both our own and other industrial countries suggests that once inflation has become ingrained in the thinking of a nation's businessmen and consumers, highly expansionist monetary and fiscal policies do not have their intended effect. In particular, instead of fostering larger consumer spending, they may intensify inflationary expectations and lead to larger precautionary savings and sluggish consumer buying."

Two points of basic relevance have been raised. First, Darryl Francis alludes to an idea already emphasized; namely, that deficits have the ancillary effect of increasing the role of government in the economy. Two, Dr. Burns corroborates what we have suggested above; in particular, that deficits may cause consumption spending to decrease. In other words, to the point made by Keynes, McCracken and others—that deficits may cause investment spending to decrease—we must now add another consideration. We must recognize that deficit may cause consumer spending to decrease as well.

Having said all of this, one must conclude that deficits are not likely to be stimulative. We have already shown that deficits are inflationary, and that inflation causes unemployment. To this we must now add that deficits are likely to reduce not only investment spending, but consumption spending as well. On this basis, we conclude that the argument for "flexible fiscal policy" in the interest of conducting "stabilization policy" is a straw man. In point of fact, retention of the option to run discretionary deficits is simply retention of the option to systematically cause the unemployment rate to rise.

Finally, it is essential to end this section by taking note of an effect of Federal deficits which has heretofore been ignored. It is a fact that the composition of the Federal debt is changing. The Treasury, for a variety of reasons, is relying more heavily on short-term financing. It is also a fact that the shorter the term to maturity of a debt instrument, the higher its "liquidity"; in effect, the closer it is to money. It is this combination of facts that, presumably, led Dr. Burns to observe that (p. 96):

"If you have a 90-day Treasury bill, the face value will change, but it will change very little. Therefore, it is the virtual equivalent of currency. So our effective money supply really is a great deal larger than we realize, and we have here a source of potential spending power that could prove to be very disturbing to the economy."

There is no ambiguity here. Implicit in Dr. Burns' statement is the admonition that a Federal deficit, insofar as it is financed with relatively short-term securities, is potentially vastly more inflationary than has generally been realized.[18] Once again, we seem to have come full circle. Federal deficits are intrinsically inflationary. It is in this sense that they are intrinsically bad for the economy. There can be no doubt that deficits cause more rather than less unemployment.

Based upon what has been said, there is no compelling logic for the retention of "flexible fiscal policy". As it happens, however, a great deal more can be said about the difficulties associated with discretionary fiscal policy. Among these is the problem of "lags"; lags both in implementation and in effect.

3. Some thoughts on fiscal lags

It is tautological that if discretionary fiscal policy is to be an effective tool of stabilization policy, it must have the characteristics of relative ease and rapidity in implementation, and its effects must be felt at the appropriate time. Unfortunately, fiscal policy fails on both counts. In the words of former Treasury Secretary Simon (p. 854):

". . . the fine-tuning efforts (associated with the Federal budget) of the past have proven to be generally counter-productive. In specific terms, the lagged impact of such anti-cyclical initiatives has resulted in unfortunate distortions which have contributed to exaggerated economic booms and recessions."

It is clear, in other words, that the *effects* of fiscal "initiatives" have not always been felt at the appropriate time. Carla Hills, former Secretary of Housing and Urban Development, has a different perspective; she focuses on the lags in the implementation of discretionary fiscal policy (pp. 593–594):

"The case for 'activist' policies—that is, new legislative tax and expenditure initiatives—is less clear. In the past, the time lag between political initiatives and implementation has raised serious questions about the timing and effectiveness of such programs on aggregate income . . ."

It would seem, then, that an objective assessment of the "flexibility" of discretionary fiscal policy would read something like this:

". . . it has not been a flexible tool of stabilization policy. It has lagged very often on the restraining side and even occasionally when stimulation was required. Very rarely have Treasury revenues been adjusted quickly enough and most Federal expenditures are often heavily embedded." (Kaufman, p. 1,225)

The following conclusions emerge from all of this: 1) Retention of the option to conduct discretionary fiscal policy in the interest of "flexibility" is equivalent to retention of the option to create unemployment. 2) Fiscal policy is not, in fact, flexible; it is inflexible both in implementation and in effect.

We conclude, therefore, that there is a sense in which the proponents of fiscal flexibility have raised a straw man issue; they want flexibility when they do not and cannot have it. And, finally, there is a sense in which the proponents of fiscal flexibility are simply misleading themselves: they retain a belief in the stabilizing potential of fiscal policy when both *a priori* logic and the empirical record simply do not support their faith.

Once again, we must conclude that there is no compelling logic in favor of the retention of fiscal "flexibility". Insofar as we do not have flexibility in the first place, and given that deficits have been shown to be destabilizing rather than stabilizing, we have nothing to lose and everything to gain by mandating budgetary balance.

IV. THE TRANSITION TO A BALANCED BUDGET AND THE STATUS OF THE NATIONAL DEBT

A. The transition period

Once it has been demonstrated that constitutionally mandated balanced budgets "make sense", the next question emerges: just how long should the transition period be? That is, how much time should elapse from the time at which the mandate becomes effective and the first balanced budget?

On balance, this is clearly a less important question than is the substantive issue of whether or not budgets should be balanced. Nevertheless, it is an eminently practical question. It is, moreover, a question for which we have some answers. In response to the question, ". . . if it were decided to end the Federal deficit, what would be a responsible transition period for returning to balanced budgets?" Dr. Burns answered: "I would hate to see us take more than two years to get there" (p. 116). In response to the same question, Geoffrey Moore of the National Bureau of Economic Research said this (p. 299): "I don't have any very firm conviction about that. I would imagine the period should be measured in years, two or three years, rather than anything very much shorter than that."

It would appear, then, that a two to three year passage to a balanced budget may be feasible. On the other hand, there is something to be said for prudence in all things. We therefore recommend that the passage to a balanced budget be effected in no more than three years after ratification of such constitutional amendment.

B. The status of the national debt

Consideration of the efficacy of a constitutional mandate to balance the Federal budget cannot be considered *in vacuo*. That is to say that some attention must focus on the question of the management of the outstanding public debt. It is to this question that we now turn.

It is safe to say that there is considerable support for the idea of "paying off" the national debt. Mr. James Needham's comments are perhaps illustrative of this feeling (p. 501): "What concerns me . . . is the amount of the outstanding Federal debt. I think it should be subjected to some type of retirement program."

It is possible, of course, to have considerable sympathy for the spirit in which such comments are made. It should be recognized, however, that certain very practical constraints are operative. In the first place, it is clear that "tailoring" a retirement program is, in the abstract, a very complicated problem. Beyond this, there is a real question as to whether it would be desirable to set out deliberately and systematically to "pay off" the Federal debt. To see this, consider the following:

It has been emphasized above that whereas fiscal policy is a cumbersome tool of stabilization policy—indeed, we have shown that it is not only cumbersome, it is destabilizing—monetary policy is, at minimum, very flexible. Yet one of the keys to its flexibility is open market operations. These open market operations involve the purchase and sale of Treasury debt by the Federal Reserve. In particular, open market operations provide a critical interface between the Federal Reserve and the nation's commercial banks. In conducting open market operations, the Federal Reserve either sells Treasury debt to its member banks or it buys debt from them. In the first instance, the result is a reduction in member banks' excess reserves. This reduction in reserves means that member banks have less Federal Reserve money with which to make loans. This, in turn, means that fewer demand deposits can be created and this, in turn, means that the rate of growth of the money supply may fall or, indeed, the money supply may actually decrease. On the other hand, Federal Reserve purchases of Treasury debt from its member banks have the opposite effect: Member banks find themselves in possession of fewer secondary reserves (that is, they hold less Treasury debt), but that their primary reserves (Federal Reserve money) have increased. The banks therefore have the wherewithal to make additional loans. Insofar as they do make additional loans, demand deposits grow and this, in turn, means that the money supply will increase.

With all of this as background, it is clear that open market operations are a critical tool of monetary policy; they are, in fact, the chief means by which the Federal Reserve affects changes in the money supply. Yet it is also clear that open market operations are conducted via the purchase and sale of Treasury debt—the purchase and sale of some portion of the national debt. And, finally, it is clear that with population, employment and incomes growing in the future, the money supply must also grow.

All of these considerations lead us to suggest the following: Rather than setting out deliberately and systematically to "pay off" the national debt with, for example, tax receipts, simply allow the Federal Reserve to monetize the outstanding debt. Debt monetization—that is, the purchase of outstanding debt by the Federal Reserve—will occur automatically as the Federal Reserve conducts open market purchases. These open market purchases, in turn, would be predicated on the need to increase the money supply so as to accommodate economic growth.

The singular advantage of this approach is that it is a simple, direct route to the ultimate "retirement" of the debt at some time in the future, without imposing the burden of debt retirement on the taxpayer. It is, moreover, a means by which the growth of currency demand predicated on stable economic growth can be accommodated.

We conclude that, insofar as some opposition to the idea of a constitutionally mandated Federal budget is predicated on the notion that the status of the national debt presents an insoluble problem, opposition is ill-founded. We can, in fact, have the best of both worlds: a responsible fiscal policy, and a debt monetization policy that will have the effect of "retiring" the national debt without directly burdening the taxpayer while at the same time accommodating economic growth.

V. FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS

A. Findings

1. Deficits cause inflation; the severity of the inflation varies directly with the degree to which the Treasury's debt is monetized by the Federal Reserve's open market operations.

2. There is no trade-off—either in the short-run or in the long-run—between inflation and unemployment. In point of fact, inflation causes unemployment. Inflation causes unemployment because it erodes real profits and, by increasing unrealizable inventory "profits", increasing tax liabilities. Profits are eroded because as real incomes decrease, product demand decreases. This occurs at the same time as costs of production increase. Costs of production increase because labor and materials and other input prices rise, and because employees have less incentive to be productive. Moreover, because of inflation's effect on risk evaluations, debt-equity ratios, anticipated tax liabilities, and incentives generally, both employers and employees have less incentive to invest. Add to this the fact that internal financing of investment is more difficult because of inflation-induced erosion of cash-flows, and that external financing is more expensive and harder to secure and we see that, because of inflation, investment in both human and non-human capital decreases. Given that the labor force is growing at an accelerating rate this raises the prospect that the capital stock will, in the future, be unable to accommodate all those seeking employment. In summary, we find that inflation causes both present and future unemployment to increase.

3. From 1., we know that deficits cause inflation. From 2., we know that inflation causes unemployment. We therefore conclude that deficits cause unemployment.

4. We find, in addition, that deficits have other, ancillary effects:

a. Deficits increase the role of government in the private sector via a displacement of private investment, and an increased tendency to rationalize government intervention in the money and capital markets; intervention that frequently involves granting preferential borrowing status to special interests.

b. Deficits, via their effect on profits and on debt–equity ratios, make internal financing more difficult. Moreover, external financing is made more difficult via the crowding out phenomenon; a phenomenon that means that credit is available only to the "best" credit risks. All of this increases the tendency toward economic concentration; toward, among other things, waves of corporate mergers.

5. The prevailing incentive structure is such that Congress is inclined to provide short-term benefits without taking explicit account of the long-term costs. There exists, in other words, a bias toward ever-larger deficits. Moreover, while the costs of effective budget review are borne by individual members of Congress, the rewards are shared. We therefore find that there is an historical and continuing shortage of "fiscal stewardship" in the Congress.

6. We find that while it would be difficult and even undesirable to attempt to modify the prevailing Congressional incentive structure it would be relatively easy to modify the system of constraints. We find, in other words, that the effects of the bias toward deficits can be minimized if deficits are in general constitutionally prohibited.

7. We find that there is no compelling case for so-called "fiscal flexibility". We find, in particular, that: 1) Discretionary fiscal policy is not flexible; that it is subject to lags both in implementation and in effect; 2) We find that the effects of discretionary fiscal policy are, in fact, destabilizing; that expansionary fiscal policies have the effect of increasing rather than reducing the unemployment rate.

We find, in summary, that the retention of "fiscal flexibility"—of the existing option to run discretionary Federal deficits—is really retention of the option to cause more unemployment than would otherwise have obtained.

8. We find that the transition to a constitutionally mandated balanced budget could be affected in three years, after ratification of such constitutional amendment.

9. We find that the outstanding national debt performs an important role in monetary policy. We find, moreover, that taxpayers need not be burdened by a systematic, deliberate effort to "pay off" the national debt. Rather, the national debt may be reduced over time by the Federal Reserve in the course of its normal operations. Purchase of outstanding Treasury debt by the Federal Reserve would, in this event, have the effect both of reducing the debt and of accommodating the increasing demand for currency as economic growth proceeds.

B. Conclusions

1. Discretionary deficits should be generally eliminated.

2. The most efficient way to accomplish this is to provide for a constitutional prohibition against discretionary deficits. Exceptions to this rule would be when war is declared by Congress, or when two thirds of those voting in both Houses of Congress specifically enact into law such deficits.

C. Recommendations

1. A constitutional amendment should be proffered which contemplates the following provisions:

a. That the Federal budget be balanced except under conditions deemed by two-thirds of those voting in both Houses of the Congress to justify expenditures in excess of tax receipts, and that an exception to the requirement for a balanced budget be made in time of war (declared by Congress).

b. That, in the event that passive or involuntary deficits develop, Congress must, con-

sistent with the general welfare of the people, incorporate such deficits into the next fiscal year's budget as an expenditure, and that if the carryover deficit exceeds two percent of the budget, Congress should be prohibited from voting on the next fiscal year's budget until it has provided for taxes to finance the carryover deficit.

c. That the outstanding debt, including any debt incurred as deficits resulting from wars declared by Congress, be reduced via the conduct of Federal Reserve monetary policy. While Federal Reserve purchases and sales of Treasury debt are contemplated, it is presumed that net additions to the supply of Federal Reserve currency will have to occur if economic growth is to be accommodated. These net additions to the supply of Federal Reserve currency could be used to purchase outstanding Treasury debt. The debt will, in this way, provide a vehicle for the accommodation of economic growth by the Federal Reserve, and the taxpayer will not bear the direct burden of "paying off" the debt.

FOOTNOTES

[1] Crowding out will be further discussed below.

[2] Once again, the last portion of the statement refers to the "crowding out" issue; a matter whose discussion is momentarily deferred.

[3] Real income, of course, is nominal or money income adjusted for changes in the prices of goods and services. Real disposable income is after tax nominal income adjusted for price changes.

[4] Of course, some business firms seek ways to reduce their tax liabilities in the face of inflation, but these efforts are not conducted without cost. Accountants and other tax advisors cost money, and these costs, by definition constitute increases in the costs of production.

[5] And, it should be noted that this occurs at the same time as internal financing becomes more difficult because of the erosion of revenues and the increases in costs caused by inflation. To put the matter differently, internal financing out of retained earnings becomes increasingly difficult during inflation because of inflation's effect on cash-flow. We shall return to this point below.

[6] Actually, there is an additional reason why, during inflation, business firms are reluctant to replace their incumbent equipment. In other words, to the fact that the acquisition price of new equipment goes up during inflation must be added the fact that future revenues are less secure. In the view of many firms, therefore, investment in more productive capital equipment—and, for that matter, investment in human capital—becomes riskier during inflation. And the increased risk, more often than not, is sufficient to cause a business firm to defer investment in new equipment or in human capital. Inflation has the effect in these instances of providing business firms with an incentive to rely on increasingly less productive incumbent equipment. (Note: "Human capital" is nothing more or less than the stock of knowledge and skills possessed by a given individual or group of individuals. To the extent that business firms train employees or send them to school, they are onstrated, both for those firms that seek to maximize profits at a moment in time, and for those firms that seek to maximize profits over time. In any case, this is hardly the place for rigorous demonstrations. *A priori* logic and a little "horse sense" should, we think, serve to demonstrate the plausibility of the idea that an erosion of cash flows will have the effect of increasing unemployment.

[7] Dr. Arthur Burns, former Chairman of the Board of Governors of the Federal Reserve System, stated this position in unambiguous terms (p. 66):

"For a time our economy and those of other industrial countries seemed to work in a fashion to suggest that there was (a tradeoff between inflation and unemployment). But to whatever extent that may have been true in the past, it is no longer true in our own time. The tradeoff has vanished."

[10] It is generally agreed that inflation must ultimately push interest rates up. Professor James Duesenberry testified that (p. 333):

"Inflation has certainly led to interest rate problems. . . . I think that the very marked rise in interest rates which we began in the middle '60s has ultimately to be attributed to the inflation."

[11] Once again, there is general agreement that inflation is bad for investment. Indeed, Professor Duesenberry testified that inflation has disrupted investment patterns. Inflation has, in his view (p. 332) ". . . some very complicated, but on the whole, not very healthy effects on the structure of corporate balance sheets. It has caused some very severe problems in the relation of taxable profits and the whole reporting of profits. . . . All of this contributes to the present low level of capital formation. . . ."

[12] Simply stated, crowding out refers to the fact that at any cross-section of time there is only a finite supply of loanable funds. To the extent that the Federal government taps this pool of savings, someone else—notably, private enterprise—will not be able to secure some financing that otherwise would have been available.

[13] It should be pointed out that nothing in the proposed amendment contemplates a prohibition against "passive" Federal deficits. It is recognized that under certain conditions, tax revenues may not increase as fast as expenditures and that, therefore, an involuntary deficit will emerge. What the amendment does contemplate is a constitutional mandate to "pay off" such passive or involuntary deficits within a fixed time period.

As for "active" budget deficits—that is, deficits deliberately contrived to achieve some well-defined employment or other objective—the proposed amendment would require simply that the Congress state its purposes explicitly, and that two-thirds of its membership agree that prevailing conditions justify the implementation of a deliberate budgetary deficit. Once again, however, such "active" deficits would have to be "paid off" within a fixed time period.

[14] See, for example, Lyn (p. 1,547); Rivlin (p. 1,417); Adams (p. 1,497); Pierce and Kaufman (p. 1,303); Reuss (pp. 1,083 and 1,136); Richardson (p. 939); Simon (p. 774); Francis (p. 624); Taub (p. 523); and Carla Former Secretary Simon observes that (p. 769):

"The deficits contribute to inflation . . . by bringing about a large increase in liquid asset holdings of the public. . . ."●

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members may be permitted to extend their remarks and include extraneous matter on the subject of the Levitas amendment to House Concurrent Resolution 683, the second concurrent resolution on the budget, considered earlier today.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

CONFERENCE REPORT ON H.R. 13468

Mr. NATCHER submitted the following conference report and statement on the bill (H.R. 13468) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1979, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 95–1500)

The committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 13468) "making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1979, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 10, 26, and 27.

That the House recede from its disagreement to the amendments of the Senate numbered 7, 8, 9, 12, 14, 15, 16, 17, 22, 23, and 24, and agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$93,765,300"; and the Senate agree to the same.

Amendment numbered 28: That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert: "$7,161"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 1, 2, 4, 5, 6, 11, 13, 18, 19, 20, 21, 25, 29, 30, 31, 32, and 33.

WILLIAM H. NATCHER,
B. F. SISK,
JOHN BRADEMAS,
JOHN J. RHODES,
Managers on the Part of the House.

WARREN G. MAGNUSON,
CH. MCC. MATHIAS, JR.,
L. P. WEICKER, JR.,
MILTON R. YOUNG,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 13468) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1979, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE II—DISTRICT OF COLUMBIA

Federal payment to the District of Columbia

Amendment No. 1: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $235,000,000 instead of $264,000,000 as proposed by the House and $238,000,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 2: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $9,900,000 for the Federal share of the RFK Stadium bonds due on December 1, 1979.

General operating expenses

Amendment No. 3: Appropriates $93,765,300 instead of $93,718,500 as proposed by the House and $95,133,100 as proposed by the Senate.

Office of the Mayor.—The conference action provides $1,035,700 as proposed by the Senate instead of $1,040,700 as proposed by the House, reflecting a decrease of $5,000 for special police and chauffeur services as proposed by the Senate.

Council of the District of Columbia.—The conference action provides $2,578,300 as proposed by the Senate instead of $2,733,100 as proposed by the House, reflecting a decrease of $109,400 requested to supplement the salary of CETA personnel and a decrease of $45,400 and three positions associated with publication of the D.C. Code.

Office of Budget and Management Systems.—The conference action provides $9,991,900 instead of $9,707,200 as proposed by the House and $10,200,600 as proposed by the Senate, and includes $284,700 for 10 positions in the Resource Management Improvement Division as proposed by the Senate. The conference action deletes $208,700 and 10 positions proposed by the Senate for the Office of Municipal Audits and Inspections.

Municipal Planning Office.—The conference action provides $1,533,300 as proposed

Department of Finance and Revenue.—The conference action provides $11,523,400 instead of $11,471,200 as proposed by the House and $11,778,300 as proposed by the Senate, reflecting denial of the 20 additional positions and related costs proposed by the Senate. The conference action approves the increase of $52,200 proposed by the Senate for within-grade pay increases.

In denying the city's request for 20 additional positions and related expenses for an increased effort in the area of tax administration, the conferees are aware of the city's concern that without these additional positions, $3,000,000 in local revenues could be lost and the financial plan for the city would need to be adjusted. The conferees, however, also note that the Department of Finance and Revenue already has 550 positions, of which 277 are in the area of tax administration. The conferees, therefore, direct the city to obtain greater productivity from the already existing large staff in order that all the anticipated revenues will be collected.

Office of the Corporation Counsel.—The conference action provides $4,036,300 as proposed by the Senate instead of $3,896,200 as proposed by the House, reflecting approval of the Senate's proposal to provide for the city's assumption of an expiring Federal grant for the child abuse prevention and enforcement program.

Department of Licenses, Inspections, and Investigations.—The conference action provides $3,173,200 as proposed by the Senate instead of $2,918,600 as proposed by the House, reflecting the transfer of three independent agencies into the Department as proposed by the Senate instead of creating new agencies as proposed by the House. The agencies transferred into the Department are the Boxing and Wrestling Commission, the Commission on Healing Arts Licensure, and the Educational Institution Licensure Commission.

Public Library.—The conference action provides $8,842,900 as proposed by the House instead of $9,550,300 as proposed by the Senate, reflecting denial of the funds added by the Senate for a computerized book circulation and inventory system.

Office of Youth Advocacy.—The conference action provides $61,000 as proposed by the Senate instead of $343,900 as proposed by the House, abolishing the Office after the first quarter of fiscal year 1979 as proposed by the Senate.

Minimum Wage and Industrial Safety Board.—The conference action provides $760,600 as proposed by the Senate instead of $798,300 as proposed by the House, reflecting the deletion of $37,700 for personal services as proposed by the Senate.

Advisory Neighborhood Commissions.—The conference action provides $625,000 instead of $500,000 as proposed by the House and $750,000 as proposed by the Senate. The conferees are agreed that total obligations for the Advisory Neighborhood Commissions for the fiscal year 1979 shall not exceed $625,000 from all sources of funds, including unobligated balances carried over from previous fiscal years.

Commission on the Arts and Humanities.—The conference action provides $150,100 as

concur in the amendment of the Senate appropriating $2,719,400 for fiscal year 1978 and providing language authorizing payments pursuant to the Water and Sewer Repair Compensation Act of 1976 (D.C. Law 1–68).

The conference action provides (1) $175,000 for cleanup of the Municipal Center as a result of the tear gas explosion, (2) $727,900 for additional leasing costs, (3) $494,100 for increased costs of steam and electricity due to rate increases, (4) $1,129,400 for operation of the new court building which was opened earlier than expected, (5) $150,000 for reimbursement to property owners, as required by D.C. Law 1–68, for expenses incurred at the direction of the District of Columbia government for the repair of water and sewer pipes, and (6) $113,000 for the increased cost of steam at the Public Library.

Public safety

Amendment No. 5: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $265,190,200 instead of $266,473,800 as proposed by the House and $265,961,200 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action reflects (1) an increase of two positions and $35,000 for the Superior Court for the legal assistance project to prosecute child abuse cases as proposed by the Senate, (2) the transfer of 77 positions and $1,140,000 from the Superior Court to the Department of Transportation to implement the new parking enforcement and traffic adjudication program instead of 35 positions and $429,000 as proposed by the Senate, (3) denial of three positions and $70,000 for the Bail Agency proposed by the Senate, and (4) a reduction in food costs of $178,600 under the Department of Corrections as proposed by the Senate. The conference action denies the requested redirection of 42 positions and $701,000 in the Superior Court's traffic program to other programs within the Superior Court and instead has transferred those positions and funds to the Department of Transportation which will have the responsibility for the city's new parking enforcement and traffic adjudication program.

Amendment No. 6: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $889,700 for fiscal year 1978. The conference action provides (1) an additional $66,300 for annuities of retired Superior Court judges as proposed by the Senate, and (2) an increase of $823,400 for the Department of Corrections as proposed by the Senate, including $378,400 for seven-day, 24-hour security coverage at the Ugast Psychiatric Center, $95,000 for phase-out costs at the Women's Detention Center, and $450,000 to cover the reduction in anticipated reimbursements from the Federal Bureau of Prisons.

Education

Amendments Nos. 7 and 8: Appropriate $383,606,400 of which $218,942,800 is for the

tions and $71,700 under research staff improvements and six positions and $114,900 under planning staff improvements as proposed by the Senate.

Amendment No. 9: Provides that $7,257,-800 shall be used exclusively for maintenance of the public schools as proposed by the Senate instead of $5,392,000 as proposed by the House.

Amendment No. 10: Deletes appropriation of $68,600 for fiscal year 1978 proposed by the Senate for relocation expenses to consolidate the academic program of the University of the District of Columbia.

Recreation

Amendment No. 11: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $58,000 for fiscal year 1978 for maintenance of swimming pools.

Human resources

Amendment No. 12: Appropriates $283,-321,900 as proposed by the Senate instead of $284,767,700 as proposed by the House.

The conference action provides (1) a total of $18,718,600 for Executive Direction and Support, reflecting a reduction of $985,200 in overhead costs as proposed by the Senate, instead of $19,703,800 as proposed by the House; (2) the sum of $107,017,300 for the Payments Assistance Administration as proposed by the Senate, reflecting denial of the amount requested to annualize an increase in the public assistance payment level, instead of $107,924,000 as proposed by the House; and (3) a total of $9,396,900 for D.C. Village as proposed by the Senate, reflecting an increase of $445,500 over the House allowance, to provide an additional 35,000 hours of contractual nursing services for geriatric care.

Amendment No. 13: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $8,086,000 for fiscal year 1978 for public assistance payments.

Transportation

Amendments Nos. 14, 15, 16 and 17: Appropriate $78,735,200 and authorize the purchase of 44 passenger-carrying vehicles of which two shall be for replacement only as proposed by the Senate instead of $71,380,-900 and the authorization to purchase two passenger-carrying vehicles for replacement only as proposed by the House.

The conference action provides 125 positions and $7,794,800 for the new parking enforcement and traffic adjudication program. The conferees are agreed that 77 positions and $1,140,000 shall be transferred from the Superior Court's traffic program instead of 35 positions and $439,000 as proposed by the Senate. The conferees concur in the general base reduction of $440,500 as proposed by the Senate.

Amendment No. 18: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $1,082,200 for fiscal year 1978 and providing language which authorizes funding of the additional cost of snow and ice removal out of funds previously appropriated for the Washington Metropolitan Area Transit Authority.

Environmental services

Amendment No. 19: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $72,069,800 instead of $72,962,500 as proposed by the House and $72,119,800 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The conference action deletes $50,000 proposed by the Senate for a study to develop a proposal to retrofit Solid Waste Reduction Center No. 1 so that steam can be produced for sale. The conferees concur in the reduction of $892,700 in staffing and maintenance proposed by the Senate due to the delay in completion of new sewage treatment facilities.

Amendment No. 20: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $1,030,400 for fiscal year 1978 instead of $1,550,400 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Department of Environmental Services.—The conference action provides $1,030,400 proposed by the Senate for additional costs of electrical energy due to rate increases and additional demands from new facilities. The conference action deletes $70,000 proposed by the Senate for rental of two landfill compactors.

Washington Aqueduct.—The conference action deletes $450,000 proposed by the Senate for increased costs of electricity for pumping and treatment of water.

Personal services

Amendment No. 21: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $7,000,000 for 1978.

Settlement of claims and suits

Amendments Nos. 22 and 23: Appropriate $322,800 and provide language for payment of a claim pursuant to District of Columbia law as proposed by the Senate.

Repayment of loans and interest

Amendment No. 24: Appropriates $120,-400,000 as proposed by the Senate, instead of $111,700,000 as proposed by the House.

The conference action reflects the deletion of $1,200,000 proposed by the House and stricken by the Senate for interest payments on short-term borrowings from the commercial market. The District of Columbia continues to have authority under Public Law 95-314 to borrow from the United States Treasury for short-term cash-flow needs. It is therefore unnecessary in the opinion of the conferees, for the city to incur the added interest expense required when it borrows from the private market. The conferees are agreed that the United States Treasury shall continue to loan funds to the city to help meet the city's short-term cash needs, and accordingly direct the United States Treasury to continue this activity.

The conference action includes $9,900,000 to cover the Federal share of the amount of principal due on December 1, 1979, for the repayment of RFK Stadium bonds as proposed by the Senate.

Amendment No. 25: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $475,800 for fiscal year 1978 for interest due the United States Treasury for the transition quarter (July 1–September 30, 1976). Notice of the additional interest due was received too late for inclusion in the regular budget.

Capital outlay

Amendments Nos. 26 and 27: Appropriate $77,215,000 of which $2,855,400 shall be available for construction services as proposed by the House instead of $77,490,000 of which $2,880,400 shall be available for construction services as proposed by the Senate.

The conference action deletes $375,000, including $25,000 for construction services, proposed by the Senate for renovations and an addition to the dog pound.

General provisions—District of Columbia

Amendment No. 28: Provides an employment ceiling of 37,161 filled positions instead of 37,126 as proposed by the House and 37,239 as proposed by the Senate.

In the 1974–75 period the District of Columbia city government had an average of 730.4 employees to serve each 10,000 unit of population. The national average for the same period of time for all levels of State and local governments was 470.9 employees to serve each 10,000 unit of population. In other words, in the 1974–75 period the city had 45 percent more employees to serve each of its 10,000 citizens as compared to the national average.

The conferees are concerned that the city government has an unnecessarily large number of people on its payroll and direct the city to more carefully analyze the need to fill positions that become vacant and to redouble its efforts to scrutinize the need for additional positions. The conferees are agreed that an important focus for future Congressional reviews of the city budget requests will be the issue of the city's large payroll.

Amendment No. 29: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which (1) prohibits the use of funds in the bill to supplement the salary of employees hired by the District of Columbia under the Comprehensive Employment and Training Act (CETA) if the effect is to provide a salary in excess of the GS-9, step 1 level, and (2) provides a 90-day delay in the effective date.

Amendment No. 30: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which (1) prohibits the use of funds in the bill to supplement the salary of a CETA employee for more than 24 months, and (2) provides a 90-day delay in the effective date.

Amendment No. 31: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which (1) prohibits the use of funds in the bill to supplement the salary of a CETA employee who works for an elected official of the District of Columbia government or on a committee of the Council of the District of Columbia, and (2) provides a 90-day delay in the effective date.

Amendment No. 32: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which (1) prohibits the use of funds in the bill to supplement the salary of a CETA employee if the employee is to be assigned to an agency that already has CETA employees in number in excess of ten percent of its appropriated employment base, with the exception of agencies with 10 or fewer employees, and (2) provides a 90-day delay in the effective date.

Amendment No. 33: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Sec. 224. Notwithstanding any other provision of this Act, the provisions of sections 220, 221, 222, and 223 of this Act shall be deemed repealed upon the date of the enactment of the Act entitled "An Act to amend the Comprehensive Employment and Training Act of 1973, to provide improved employment and training services, to extend the

authorization, and for other purposes", or similar legislation.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The effect of this amendment is to repeal the provisions included in amendments numbers 29, 30, 31, and 32 on the date of enactment of the Comprehensive Employment and Training Act Amendments of 1978 or similar legislation.

Conference total—With comparisons

The total new budget (obligational) authority for the fiscal years 1978 and 1979 recommended by the Committee of Conference, with comparisons to the fiscal year 1978 amount, the 1979 budget estimates, the 1978 supplemental requests, and the House and Senate bills follow:

Federal funds

New budget (obligational) authority, fiscal year 1978	$399,116,000
Budget estimates of new (obligational) authority, fiscal year 1979	460,090,000
House bill, fiscal year 1979	277,300,000
Senate bill, fiscal year 1979	261,200,000
Conference agreement	258,200,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1978	−140,916,000
Budget estimates of new (obligational) authority, fiscal year 1979	−201,890,000
House bill, fiscal year 1979	−19,100,000
Senate bill, fiscal year 1979	−3,000,000

District of Columbia funds

New budget (obligational) authority, fiscal year 1978	$1,368,623,200
Budget estimates of new (obligational) authority, fiscal year 1979	1,428,442,000
1978 supplemental	[1] 27,406,100
House bill, fiscal year 1979	1,348,185,100
1978 supplemental	----------
Senate bill, fiscal year 1979	1,364,781,500
1978 supplemental	21,930,100
Conference agreement	1,362,317,700
1978 supplemental	21,341,500
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1978	−6,305,500
Budget estimates of new (obligational) authority, fiscal year 1979	−66,124,300
1978 supplemental	−6,064,600
House bill, fiscal year 1979	+14,132,600
1978 supplemental	+21,341,500
Senate bill, fiscal year 1979	−2,463,800
1978 supplemental	−588,600

[1] 1978 budget estimates as contained in Senate Document 95–113 were not considered by the House.

WILLIAM H. NATCHER,
R. N. GIAIMO,
GUNN MCKAY,
YVONNE BURKE,
CHARLES WILSON,
ADAM BENJAMIN, Jr.,
GEORGE MAHON,
CLAIR W. BURGENER,
JACK KEMP,
E. A. CEDERBERG,
Managers on the Part of the House.

PATRICK J. LEAHY,
DENNIS DECONCINI,
DALE BUMPERS,
WARREN G. MAGNUSON,
CH. MCC. MATHIAS, Jr.,
L. P. WEICKER, Jr.,
MILTON R. YOUNG,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FOUNTAIN (at the request of Mr. WRIGHT), after 6 p.m. today, on account of a death in the family.

Mr. HAGEDORN (at the request of Mr. RHODES), for today after 3:30 p.m. and for tomorrow, August 17, 1978, on account of official committee business.

Mr. PEPPER (at the request of Mr. WRIGHT), until 1 p.m. today, on account of official business.

Mr. SCHULZE (at the request of Mr. RHODES), for today after 3:30 p.m. and for tomorrow, August 17, 1978, on account of official committee business.

Mr. STANGELAND (at the request of Mr. RHODES), for August 17, 1978, on account of official business.

Mr. THOMPSON, for the period beginning at noon August 16, through the close of business August 17, 1978, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. ASHBROOK, for 30 minutes, today, to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. CUNNINGHAM) and to revise and extend their remarks and include extraneous matter:)

Mr. SARASIN, for 5 minutes, today.

Mr. MCKINNEY, for 5 minutes, today.

(The following Members (at the request of Mr. RAHALL) to revise and extend their remarks and include extraneous material:)

Mr. DINGELL, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. PEPPER, for 5 minutes today.

Mr. ROSTENKOWSKI, for 10 minutes, today.

Mr. ADDABBO, for 30 minutes, today.

Mr. MURPHY of Illinois, for 5 minutes, today.

Mr. PREYER, for 5 minutes, today.

Mr. BAUCUS, for 5 minutes, today.

Mr. DANIELSON, for 15 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. WHITE, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $2,874.38.

Mr. BIAGGI, to revise and extend his remarks and include extraneous matter immediately following remarks of Mr. LEVITAS.

(The following Members (at the request of Mr. CUNNINGHAM) and to include extraneous matter:)

Mr. DERWINSKI in two instances.

Mr. PURSELL.

Mr. ANDERSON of Illinois.

Mr. MOORE.

Mr. TREEN.

Mr. FORSYTHE.

Mr. GARY A. MYERS.

Mr. EVANS of Delaware.

Mr. DORNAN.

Mr. LAGOMARSINO.

Mr. MCCLORY.

Mr. GILMAN.

(The following Members (at the request of Mr. RAHALL) and to include extraneous matter:)

Mr. GONZALEZ in three instances.

Mr. ANDERSON of California in three instances.

Mr. CARNEY.

Mr. SIKES.

Mr. RUSSO in two instances.

Mr. WAXMAN.

Mr. LEHMAN in two instances.

Mr. UDALL.

Mr. FITHIAN.

Mr. HAMILTON.

Mr. ROSE.

Mr. LAFALCE.

Mr. RODINO.

Mr. BRADEMAS in six instances.

Mr. EDGAR.

Mr. BONIOR.

Mr. MURPHY of Illinois.

Mr. BRECKINRIDGE.

Mr. MOORHEAD of Pennsylvania.

Mr. BAUCUS in two instances.

Mr. HARKIN.

Mr. ROGERS in five instances.

Mr. EARLY.

Mr. EVANS of Indiana.

Mr. WRIGHT.

Mr. MIKVA in two instances.

Mr. ZABLOCKI in five instances.

SENATE BILL AND JOINT RESOLUTION REFERRED

A bill and a joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 3382. An act to waive the statute of limitations with regard to the tort claim of Easor Express, Inc. of Pittsburgh, Pa., against the United States; to the Committee on the Judiciary; and

S.J. Res. 148. Joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the seven calendar days beginning September 17, 1978, as "National Port Week"; to the Committee on Post Office and Civil Service.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 405. An act for the relief of Chong Cha Williams; and

S. 1335. An act for the relief of Shin Myong Yo Purdom, also known as Myong Yo Sin.

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which were thereupon signed by the Speaker:

H.R. 11579. An act to designate the Veterans' Administration center located at 1901 South First Street, Temple, Tex., as the

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, a bill and joint resolutions of the House of the following title:

On August 15, 1978:

H.J. Res. 682. To provide for the designation of a week as "National Lupus Week";

H.J. Res. 946. To designate October 7, 1978, as "National Guard Day"; and

H.J. Res. 963 Designating July 18, 1979, as "National P.O.W.-M.I.A. Recognition Day."

On August 16, 1978:

H.R. 10729. To authorize appropriations to carry out the Fishery Conservation and Management Act of 1976 during fiscal year 1979, to provide for the regulation of foreign fish processing vessels in the fishery conservation zone, and for other purposes.

ADJOURNMENT

Mr. RAHALL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 6 minutes p.m.), the House adjourned until Thursday, August 17, 1978, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4825. A letter from the Assistant Secretary of the Army (Manpower and Reserve Affairs), transmitting a draft of proposed legislation to amend sections 3031(d) and 8031(d) of title 10, United States Code, to limit their application to general officers assigned or detailed to duty in the executive part of the Department of the Army and the Department of the Air Force, and for other purposes; to the Committee on Armed Services.

4826. A letter from the president and chairman, Export-Import Bank of the United States, transmitting a statement describing a proposed transaction exceeding $60 million with Fertilizers of Trinidad and Tobago Limited, pursuant to section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended; to the Committee on Banking, Finance and Urban Affairs.

4827. A letter from the president and chairman, Export-Import Bank of the United States, transmitting a statement describing a proposed transaction involving nuclear facilities with Iberduero, S.A., of Spain, pursuant to section 2(b)(3)(iii) of the Export-Import Bank Act of 1945, as amended; to the Committee on Banking, Finance and Urban Affairs.

4828. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2-254, "To provide for priorities of distribution of general assets and to provide for early access to the assets of an insolvent insurer for the benefit of the guaranty associations," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4829. A letter from the Secretary of Health, Education, and Welfare and the Secretary of Commerce, transmitting, a report on the study of the feasibility of updating the number of children counted as living below the tee on Education and Labor.

4830. A letter from the Acting Executive Secretary to the Department of Health, Education, and Welfare, transmitting proposed interim final regulations governing the supplemental educational opportunity grant program and the national direct student loan program, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

4831. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the State Department's intention to consent to a request by the Government of the Federal Republic of Germany for permission to transfer certain U.S.-origin military equipment to the Governments of the United Kingdom, Norway, and Italy, pursuant to section 3(a) of the Arms Export Control Act; to the Committee on International Relations.

4832. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the State Department's intention to consent to a request by the Government of Saudi Arabia for permission to transfer certain U.S.-origin military equipment and services to the Yemen Arab Republic, pursuant to section 3(a) of the Arms Export Control Act; to the Committee on International Relations.

4833. A letter from the vice president for Government affairs, National Railroad Passenger Corp., transmitting a report covering the month of May 1978, on the average number of passengers per day on board each train operated, and the on-time performance at the final destination of each train operated, by route and by railroad, pursuant to section 308(a)(2) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

4834. A letter from the Secretary of the Army, transmitting a special Corps of Engineers report on the Theodore Ship Channel, Mobile Harbor, Ala. (H. Doc. No. 95-376); to the Committee on Public Works and Transportation and ordered to be printed.

4835. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting notice of several proposed transfers of funds between categories of agency appropriations for fiscal year 1978, pursuant to section 9(d) of Public Law 95-155; to the Committee on Science and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mrs. SPELLMAN: Committee on Post Office and Civil Service. S. 1626. An act to clarify the status of the Librarian of Congress under subchapter I of chapter 63 of title 5, United States Code, relating to annual and sick leave; with amendment (Rept. No. 95-1496). Referred to the House Calendar.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 11168. A bill to provide that the sales of public lands in the town of Red Mountain, San Bernadino County, Calif., be conducted under the Townsite Act; with amendment (Rept. No. 95-1497). Referred to the Committee of the Whole House on the State of the Union.

Mr. TEAGUE: Committee on Science and Technology. H.R. 13715. A bill to improve the operational weather programs of the National Oceanic and Atmospheric Administration, to affirm the Federal responsibility for the provision of effective weather and related services, to assure to the maximum extent that all available Federal resources possible extent that all available Federal resources are utilized in a coordinated manner for weather-related research, development, and technology, and for other purposes; (Rept. No. 95-1499). Referred to the Committee of the Whole House on the State of the Union.

Mr. NATCHER. Committee of conference. Conference report on H.R. 13468 (Rept. No. 95-1500). Ordered to be printed.

Mr. ZABLOCKI. Committee on International Relations. House Joint Resolution 923. Joint resolution authorizing the President to invite the States of the Union and foreign nations to participate in the International Petroleum Exposition to be held at Tulsa, Okla., from September 10, 1979, through September 13, 1979 (Rept. No. 95-1501). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 1321. Resolution providing for the consideration of H.R. 10898. A bill to amend the Regional Rail Reorganization Act of 1973 to authorize appropriations for the U.S. Railway Association for fiscal year 1979 (Rept. No. 95-1502). Referred to the House Calendar.

Mr. DODD: Committee on Rules. House Resolution 1322. Resolution providing for the consideration of S. 1613. An act to improve access to the Federal courts by enlarging the civil and criminal jurisdiction of U.S. magistrates, and for other purposes (Rept. No. 95-1503). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BEARD of Tennessee (for himself, Mr. APPLEGATE, and Mr. HEFTEL):

H.R. 13887. A bill to amend the Endangered Species Act of 1973 to establish an Endangered Species Interagency Committee to review certain actions to determine whether exemptions from certain requirements of that act should be granted for such actions; to the Committee on Merchant Marine and Fisheries.

By Mr. FLORIO:

H.R. 13888. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to increase financial assistance to units of general local government for the development and implementation of programs relating to the prosecution of repeat criminal offenders, and for other purposes; to the Committee on the Judiciary.

By Mr. GOLDWATER:

H.R. 13889. A bill to amend the Farm Labor Contractor Registration Act of 1963 to provide that labor organizations which provide employment referral services and other similar services to assist migrant workers in obtaining agricultural employment shall be considered to be farm labor contractors for purposes of such act; to the Committee on Education and Labor.

By Mr. PATTISON of New York, Mr. PRESSLER, Mr. SIMON, Mr. STARK, Mr. STUDDS, Mr. THONGAS, Mr. WHITLEY, and Mr. CHARLES WILSON of Texas):

H.R. 13890. A bill to amend title IV of the Higher Education Act of 1965 to establish a system of student tuition advances to be repaid as an income tax imposed by the Internal Revenue Code of 1954, and for other purposes; jointly, to the Committees on Education and Labor, and Ways and Means.

By Mrs. HECKLER:

H.R. 13891. A bill relating to the independent contractor status of individuals for employment tax purposes; to the Committee on Ways and Means.

By Mr. KASTENMEIER:

H.R. 13892. A bill to amend title 28 of the United States Code to provide that the requirements that each U.S. attorney and U.S. marshal reside in the district for which he is appointed shall not apply to an individual appointed to such position for the Northern Mariana Islands if such individual is at the same time serving in the same capacity in another district; to the Committee on the Judiciary.

By Mr. MIKVA (for himself, Mr. BOWEN, Mr. BUCHANAN, Mr. CONYE, Mr. EILBERG, Mr. HYDE, Mr. JACOBS, Mr. LLOYD of California, Mr. LONG of Maryland, Mr. MCCLOSKEY, Mr. MITCHELL of New York, Mr. ROSE, Mr. WYDLER, and Mr. YOUNG of Missouri):

H.R. 13893. A bill to correct inequities in certain sales representatives practices, to provide protection for certain sales representatives terminated from their accounts without justification, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. PRITCHARD (for himself and Mr. BLANCHARD):

H.R. 13894. A bill to authorize the Secretary of Housing and Urban Development to undertake, on an experimental basis, programs providing neighborhood self-help development funds; to the Committee on Banking, Finance and Urban Affairs.

By Mr. RICHMOND (for himself, Mrs. COLLINS of Illinois, Mr. MAGUIRE, Mr. MILLER of California, Mr. SEIBERLING, and Mrs. SPELLMAN):

H.R. 13895. A bill to provide Federal assistance to screen those workers (and members of their families) exposed to asbestos who cannot otherwise receive the screening under a workman's compensation, health insurance, or other program; to the Committee on Education and Labor.

By Mr. SOLARZ:

H.R. 13896. A bill to amend the Internal Revenue Code of 1954 to provide individuals a credit against income tax for amounts paid or incurred for certain State and local individual income taxes and to repeal the deduction for such taxes, State and local general sales taxes, and State and local taxes on gasoline and other motor fuels; to the Committee on Ways and Means.

By Mr. STEIGER:

H.R. 13897. A bill to amend the Internal Revenue Code of 1954 to provide an excise tax exemption for experimental aircraft; to the Committee on Ways and Means.

By Mr. SYMMS (for himself, Mr. COLLINS of Texas, Mr. HAGEDORN, and Mr. HYDE):

or such individual in comparison with the total number of individuals of such race, color, religion, sex, or national origin; to the Committee on Education and Labor.

By Mr. WAMPLER (for himself and Mr. MARTIN):

H.R. 13899. A bill to delay any action which may be taken by the Secretary of Agriculture respecting nitrites used as a food preservative on the basis of any carcinogenic effect nitrites may be represented to have; to the Committee on Agriculture.

By Mr. COLLINS of Texas:

H.R. 13900. A bill to reduce the number of individuals employed by the Federal Government in executive agencies in or near the District of Columbia; to the Committee on Post Office and Civil Service.

By Mr. MCCLORY (for himself, Mr. BOB WILSON, Mr. ASHBROOK, and Mr. ROBINSON):

H.R. 13901. A bill to protect the confidentiality of the identities of certain individuals engaged in foreign intelligence activities for the United States; jointly, to the Committees on the Judiciary, and the Select Committee on Intelligence.

By Mr. RAILSBACK:

H.R. 13902. A bill to amend the Internal Revenue Code of 1954 to provide that certain farm buildings shall be eligible for the investment tax credit; to the Committee on Ways and Means.

By Mr. STRATTON:

H.R. 13903. A bill to amend title 10, United States Code, to provide that a member of the Board of Regents of the Uniformed Services University of the Health Sciences whose term of office has expired shall continue to serve until a successor is appointed; to the Committee on Armed Services.

By Mr. WALGREN (for himself and Mr. MARKS):

H.R. 13904. A bill to establish a comprehensive disease prevention and health promotion program in the United States; to the Committee on Interstate and Foreign Commerce.

By Mr. WEISS (for himself, Mr. RICHMOND, Mr. CONYERS, Mr. PATTISON of New York, Mr. EDWARDS of California, Mr. WEAVER, Mr. FISH, Mr. DELLUMS, Mr. JEFFORDS, Mrs. SCHROEDER, Mr. MIKVA, Mr. SEIBERLING, Mr. MAGUIRE, Ms. HOLTZMAN, Mr. BENELL, and Ms. OAKAR):

H.R. 13905. A bill to amend the Atomic Energy Act of 1954 to modify certain statutory limitations on the amount of financial protection required with respect to nuclear incidents, to remove the statutory limitations on the aggregate liability for a single nuclear incident, to limit the financial obligations of the United States with respect to such incidents, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. CARR:

H.R. 13906. A bill to amend the Employee Retirement Income Security Act of 1974 to provide that benefits paid by the Pension Benefit Guaranty Corporation under terminated emeployee benefit plan be adjusted annually by the percentage change in the Consumer Price Index; to the Committee on Education and Labor.

By Mr. FASCELL:

H.J. Res. 1117. Joint resolution to authorize and request the President to proclaim January 28, 1979, as Day of Martí, Apostle of Liberty; to the Committee on Post Office and Civil Service.

Civil Service.

By Mr. NOLAN (for himself, Mr. CHISHOLM, Mr. TRAXLER, Mr. HEFNER, Mr. CARR, Mr. FRASER, Mr. PRESSLER, Mr. GLICKMAN, Mr. EVANS of Georgia, Mr. BROWN of Michigan, Mr. ASHBROOK, Mr. BALDUS, Mr. PURSELL, Mr. KILDEE, Mr. JEFFERTS, Mr. THOMAS, Mrs. SMITH of Nebraska, Mr. SEIBERLING, Mr. KASTENMEIER, Mr. STAGGERS, Mr. ROBINSON, Mr. FOUNTAIN, Mr. MADLENER, and Mr. OBERSTAR):

H.J. Res. 1119. Joint resolution raising the price support levels for milk, wheat, corn, soybeans, and cotton to 90 percent of the respective parity prices therefor, and for other purposes; to the Committee on Agriculture.

By Mr. VENTO (for himself, Mr. FRASER, Mr. BAUCUS, Mr. MADLENER, Mr. DICKS, Mr. BROOMFIELD, Mr. MIKVA, Mr. REUSS, Mr. LEHMAN, Mr. PATTISON of California, Mr. BEDELL, Mr. HAMILTON, Mr. LAFALCE, Mr. EILBERG, Mr. MCCORMACK, Mr. EDGAR, Mr. STOKES, Mr. CHARLES WILSON of Texas, Mr. MITCHELL of Maryland, Mr. PHILLIP BURTON, Mr. ABNUNZIO, Mr. FORD of Michigan, Mr. RAHALL, and Mr. RYAN):

H.J. Res. 1120. Joint resolution to direct the Civil Aeronautics Board to disapprove any renewal and terminate any effect of the Airlines Mutual Aid Pact and to provide for a study and report on alleviating airline strikes; to the Committee on Public Works and Transportation.

By Mr. VENTO (for himself, Mr. FLORIO, Mr. AUCOIN, Mr. FOLEY, Mr. NOLAN, Ms. OAKAR, Mr. MINETA, Mr. STEED, Mr. WEISS, Mr. LLOYD of California, Mr. CONYERS, Mr. EDWARDS of California, Mr. PATTISON of New York, Mr. BEILENSON, Mr. BALDUS, Mr. YOUNG of Texas, Mr. OBERSTAR, Mr. BONIOR, Mr. THOMPSON, Mr. HANNAFORD, Mr. MINISH, Mr. SIMON, Mr. BLANCHARD, and Mr. HOWARD):

H.J. Res. 1121. Joint resolution to direct the Civil Aeronautics Board to disapprove any renewal and terminate any effect of the Airlines Mutual Aid Pact and to provide for a study and report on alleviating airline strikes; to the Committee on Public Works and Transportation.

By Mr. VENTO (for himself, Ms. HOLTZMAN, Mr. CUNNINGHAM, Mr. DELLUMS, Mr. HOLLENBECK, Mr. FASCELL, Mrs. SCHROEDER, Mr. MILLER of California, Mr. PREYER, and Mr. ASPIN):

H.J. Res. 1122. Joint resolution to direct the Civil Aeronautics Board to disapprove any renewal and terminate any effect of the Airlines Mutual Aid Pact and to provide for a study and report on alleviating airline strikes; to the Committee on Public Works and Transportation.

By Mr. CLEVELAND (for himself, Mr. D'AMOURS, Mr. ABNUNZIO, Mr. APPLEGATE, Mr. BARNARD, Mr. BAUCUS, Mr. BEARD of Rhode Island, Mr. BIAGGI, Mr. BURKE of Massachusetts, Mr. DICKS, Mr. FOLEY, Mr. GORE, Mr. HOLLAND, Mr. JEFFERTS, Mr. MCFALL, Mr. MINETA, Mr. MCKAY, Mr. MOTTL, Mr. MURPHY of Illinois, Mr. NEDZI, Mr. NOWAK, Mr. RUSSELL, Mr. SHARP, Mr. SHUSTER, and Mr. THONE):

H. Con. Res. 697. Concurrent resolution expressing the sense of Congress that all remaining proceedings with respect to the Seabrook Nuclear Station project should be expedited and that all licensing and permitting procedures for the construction and opera-

tion of nuclear generating stations should be reviewed and modified to improve the efficiency of such procedures; to the Committee on Interior and Insular Affairs.

By Mr. BEARD of Tennessee (for himself, Mr. EILBERG, Mr. CORNWELL, and Mr. ARNOLD):

H. Res. 1316. Resolution relative to absentia discharges for military deserters; to the Committee on Armed Services.

By Mr. BRECKINRIDGE:

H. Res. 1317. Resolution providing for the printing as a House document of a compilation of a series of articles appearing in the Congressional Record; to the Committee on House Administration.

By Mr. GONZALEZ (for himself, Mr. WON PAT, Mr. DELLUMS, Mrs. PENWICK, Mr. DERWINSKI, Mr. STEED, Mr. LAGOMARSINO, Mr. PANETTA, Mr. MITCHELL of Maryland, Mr. HALL, Mr. RICHMOND, Mr. HYDE, Mr. CHARLES WILSON of Texas, Mr. FARY, Mr. COLLINS of Texas, Mr. LLOYD of California, Mr. BURLESON of Texas, Mr. WAXMAN, Mr. BROOKS, Mr. MAHON, EILBERG, Mrs. BOGGS, Mr. RANGEL, Mr. PRICE, and Mr. NIX):

H. Res. 1318. Resolution to recognize the contribution of Bernardo de Galves to the independence of the United States; to the Committee on Post Office and Civil Service.

By Mr. GONZALEZ (for himself, Mr. BAUCUS, Mr. MOORE, Mr. BENJAMIN, Mr. VAN DEERLIN, Mr. HUGHES, Mr. ROE, Mr. SIMON, and Mr. ROUSSELOT):

H. Res. 1319. Resolution to recognize the contribution of Bernardo de Galves to the independence of the United States; to the Committee on Post Office and Civil Service.

By Mr. MARTIN (for himself and Mr. WAMPLER):

H. Res. 1320. Resolution expressing the sense of the House of Representatives that any action respecting nitrites by the Secretary of Agriculture or the Secretary of Health, Education, and Welfare because of any carcinogenic effect that nitrites may be represented to have should be delayed until after the completion of the study required by the Saccharin Study and Labeling Act; jointly to the Committees on Agriculture, and Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. SOLARZ introduced a bill (H.R. 13907) for the relief of Laszlo Revesz, which was referred to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 11280

By Mr. SOLARZ:

—Page 209, insert after line 12 the following new section:

COMPENSATORY TIME OFF FOR RELIGIOUS OBSERVANCES

SEC. 313. (a) Subchapter V of Chapter 55 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"5550a. Compensatory time off for religious observances.

"(a) Not later than 30 days after the date of the enactment of this section, the Office of Personnel Management shall prescribe regulations providing for work schedules under which an employee whose personal religious beliefs require the abstention from work during certain periods of time, may elect to engage in overtime work for time lost for meeting those religious requirements. Any employee who so elects such overtime work shall be granted equal compensatory time off from his scheduled tour of duty (in lieu of overtime pay) for such religious reasons, notwithstanding any other provision of law.

"(b) In the case of any agency described in subparagraphs (C) through (G) of section 5541(1) of this title, the head of such agency (in lieu of the Office) shall prescribe the regulations referred to in subsection (a) of this section.

"(c) Regulations under this section may provide for such exceptions as may be necessary to efficiently carry out the mission of the agency or agencies involved.".

(b) The analysis for chapter 55 of title 5, United States Code, is amended by adding after the item relating to section 5550 the following:

"5550a. Compensatory time off for religious observances.".

Page 209, line 14, strike out "313." and insert in lieu thereof "314.".

Page 129, in the table of contents, strike out the item relating to section 313 and insert in lieu thereof the following:

Sec. 313. Compensatory time off for religious observances.

Sec. 314. Effective date.

—Page 223, line 23, strike the words "before appointment to such positions".

S.J. RES. 4

By Mr. DUNCAN of Oregon:

—On page 5, line 12, delete section (b)(1) and insert in lieu thereof the following:

"SEC. (b)(1) The Commission shall be composed of fifteen members appointed by the President, of whom five shall be from a list of twenty persons submitted to the President by the Governor of Hawaii. The list submitted by the Governor shall consist of no fewer than fifteen persons who are of the blood of Aboriginal Hawaiians who inhabited the Hawaiian Islands prior to 1778 (hereinafter "Aboriginal blood"), of whom no fewer than five shall be of one-half degree or more Aboriginal blood and no fewer than five shall be of one-quarter degree or more Aboriginal blood. Further, each of the four counties in the State of Hawaii shall be represented on the Governor's list by at least four persons who are inhabitants thereof.

(b)(2) No less than five of the members of the Commission shall be of Aboriginal blood, including no fewer than two who are of one-half degree or more Aboriginal blood, nor fewer than two who are one-quarter degree or more Aboriginal blood, and one who shall be of any degree of Aboriginal blood. Each of the four counties in the State of Hawaii shall be represented on the Commission by at least one member of Aboriginal blood who is an inhabitant thereof, and all persons of any degree of Aboriginal blood who are not residents of the State of Hawaii shall be represented by a member of any degree of Aboriginal blood who is not a resident of the State of Hawaii. The President, prior to appointing the members of the Commission, and the Governor prior to submitting recommendations for members, shall consult with Aboriginal Hawaiian organizations and with the Aboriginal Hawaiian community on each of the islands in the State of Hawaii."

Renumber the succeeding subsections of section 2 of the bill accordingly.

EXTENSIONS OF REMARKS

BRONX—LANDSCAPE OF URBAN CANCER

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

● Mr. WAXMAN. Mr. Speaker, it can be fairly said that all discussions about our cities and urban policy can begin and end with the South Bronx. It was the pride of generations of Americans, known for its fine communities and diverse neighborhoods. But in recent years, its heart has been ravaged and abandoned. Its citizens are overwhelmed with crises in housing, unemployment, education, crime, and addiction. In the South Bronx our greatest urban tragedy has emerged. It must be understood and confronted if we are ever to manage the rehabilitation and revitalization of our cities.

Robert Scheer of the Los Angeles Times has written a comprehensive and searching article on the South Bronx. In its troubles are lessons for every American city. I am pleased to insert this excellent article in the RECORD for the benefit of my colleagues:

[From the Los Angeles Times, August 6, 1978]

BRONX—LANDSCAPE OF URBAN CANCER

(By Robert Scheer)

The Good Humor truck circles aimlessly through silent blocks of burned-out buildings hunting the occasional waif still playing in the rubble who might yet desire a Popsicle. This time, there is no sign of life and the ice-cream truck departs with a last ring of its merry chimes, leaving a still life of the South Bronx warscape dotted by garbage lakes, dunes of litter and beached hulks of abandoned cars.

The streets are dead, as if locusts had descended and slurped up the ringoleavio and stickball games, the philosophers of the benches, the checker kings and loud music boys, the girls with fishnet stockings and stiletto heels and the young studs with bodies some said were good for nothing but dancing.

Gone the wild, chaotic, noisy cosmopolitan life of a borough that for decades belched up life continuously as its very mission. The bedroom borough where young hardworking couples returned in crammed cars of the D or the Lex from dark garment shops in Manhattan, exhausted but suddenly come to life as they emerged from their subway station to the babble of child play noises which was the incessant hum of The Bronx.

These were couples who had left Manhattan to spend an hour each way in the subway crunch, marking the first grand suburban exodus to make and raise babies. The Bronx had space—farms, even parks and plentiful empty lots on which to grow vegetables or build a hut.

But it also had the civilization of apartment-dwelling and universities, of botanical gardens, libraries and sufficient numbers of people so that one was not sentenced to the forced company of boring neighbors, as was assumed to be the case in the suburban

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

housing tracts of Long Islands, which was generally regarded as a cultural wasteland.

The Bronx—birthplace of Lauren Bacall, Herman Wouk, George Meany, Anne Bancroft, Jules Feiffer, Paddy Chayefsky, Burt Lancaster, Jonas Salk, Diahann Carroll and Carroll O'Connor. Where Edgar Allan Poe lived and worked in a little cottage on the Grand Concourse off Fordham Rd. And where Leon Trotsky, in exile, lived on the fifth floor of a tenement and composed tracts in Yiddish and Russian that helped inspire the Russian Revolution.

Because of its history, and despite the signs of rot that now appear as far north as the Yonkers line, it is still possible to love The Bronx and remain loyal to its heritage.

The endless benches that surround each park and playground are shorn of their wooden slats. And as one passes the concrete bench arms, there remain only memories of past endless arguments about revolution and God and Bertrand Russell and who is the most offensive yenta on the block.

To those who remember, the Bronx bench once represented a high point of American civilization. Now there are fat, loud transistor radios, blasting out music that numbs one's sensibilities, a fit accompaniment only for the daydreams of junkies and thieves. Or so it seems until a lone Anglo reporter squeezes into People's Park near St. Ann's Episcopal Church to hear Tito Puente play for thousands of kids, mothers, fathers—people—and suddenly the music, like the people, is mysterious, complex, poetic and, in all other ways, alive.

This is, of course, one of the better moments, but that's what we focus on in recalling the history of any ethnic group. Why not the same for the Puerto Ricans of the South Bronx?

When in this century did The Bronx not have poverty, uncollected garbage, street gangs and crime? Remember when the Irish gang, the Fordham Baldies and the Italian Guinea Dukes—1,000 strong—battled each other for borough supremacy? Yet it was never quite the way it is today, not even close. But what about the Lower East Side, Hell's Kitchen and East Harlem? The slums have moved north, the problems are the same.

That is why those who strive to save The Bronx are filled with a righteous indignation, for the problems of The Bronx did not germinate there.

The Bronx was forced to import the problems of the rural American South, Puerto Rico and East Harlem. The poor came to New York from all over, and The Bronx paid the price for the efforts to "save" Manhattan as the nation's commercial capital and playground for the rich.

The poor are being pushed out of the entire East Side of Manhattan from the East Village up through Yorkville, freeing the professional elite—the Bloomingdales/New York magazine crowd—from having to associate with the poverty class.

On the West Side, the Lincoln Center complex created another sanctuary for the upper classes. The poor, almost all black and Puerto Rican, were to be contained throughout The Bronx in the massive low-rent housing projects built for that purpose and in the tenements that remained.

The insertion of those high-rise housing projects has ripped apart the fabric of the tenement neighborhood life in The Bronx. The projects in the short run have turned out to be viable holding cells for the minority poor who barely are noticed by commuters on fast-track expressways from Westchester to Wall Street. But the high-rise tenements also have proved to be festering sores—centers of alienation, crime, joblessness.

We think now of these problems of The Bronx because President Carter stood in the midst of the desolation on Charlotte St. one day last October to underscore his commitment to solving America's urban problems.

No one seems to know for certain why he bothered to make this gesture of concern. Some say it was to get back at New York City's Democratic mayoral candidate, Edward Koch, who was giving Carter a hard time on his Mideast policy. Carter wanted to show Koch, according to one White House staffer, that he had "best tend to the problems in his own backyard."

Carter had been at the United Nations that day, and another account has it that he went to The Bronx in a whim inspired by Patricia Roberts Harris, secretary of housing and urban development, to demonstrate that the President is as much concerned with domestic problems as with international ones.

Well, he isn't—at least not as illustrated by the South Bronx case. Insiders agree that the President now regrets having gotten involved. The momentary exhilaration of live TV coverage has given way to the hard fact that at this moment, neither the Administration nor Congress seems willing to make the serious commitment needed to save The Bronx or any other blighted central city area.

When Carter got back to Washington, he ordered White House assistant Jack Watson to "do something" about the South Bronx. That ended in a limited commitment to a South Bronx revitalization plan hastily concocted by New York City authorities.

To date there is a federal commitment to spend $55 million this year, basically as loan money to encourage investment as well as to build 750 additional units of housing. In the nine months since Carter visited the South Bronx, the only concrete achievement has been the creation of one multiservice office for small business.

Meanwhile, the dry rot of the Bronx has continued to accelerate up the Grand Concourse, the once-proud central artery of the borough. It would now be most accurate to think of the entire borough of 1.5 million people as being part of the "South Bronx problem."

The Bronx is now a poisoned flower.

The parks—Van Courtland on the northern boundary, Crotona in the center, and of course Bronx Park with its fabled zoo—are now seedy affairs neglected by the city, stained indelibly by perverse graffiti artists and incessant violence.

They were once the perfect, green, refreshing counterpoint to urban life, a vacationland for hundreds of thousands of picknickers with their blankets, Sunday newspapers, mandolins, chess and kids.

Now they are empty, scary places. So, too, the miniparks and benches around the playgrounds that formerly functioned as neighborhood plazas—the heart of a free-wheeling childcare, communications, dating network.

There was a balance to the life of The Bronx. Now there is madness and the time of the bully.

As S. Robert Wilner, 72, a retired engineer who now teaches meditation techniques to seniors at the Young Men's Hebrew Assn., describes his tormentor:

"I walk on the Grand Concourse and this regal person—must be 7 feet tall—strides up. I didn't get out of his way fast enough and his elbow strikes me on the head."

Wilner's encounter with the giant of the Grand Concourse resulted in his hospitalization, as had two previous incidents, once when he and an 80-year-old companion were brutally beaten by teen-agers at a bus stop.

As Wilner attempts to complete his accounting, scores of elderly people crowd in to relate the details of multiple muggings that have marked the twilight of their lives.

Their complaints mostly are against the violent young, who make street corners near schools so inhospitable that bus drivers will not stop to pick up the seniors.

They live in apartments with two and three locks on the door, but burglaries occur regularly. Not one in the crowd would dare venture out at night.

These are sweet people who say they love The Bronx and don't want to leave it. Some can't and are there because rent control provides them with the only place they can afford. These are people who worked all of their lives and now must subsist on $300 or $400 a month.

Here with the Jewish senior citizens it is the same as it is elsewhere with the blacks, Puerto Ricans, Irish, Italians, in the tenants' meetings or on the street corners—a sense of being cut off from power.

Anyone who bears the marks of the outside—a camera, tape recorder, necktie—is seized upon as an antenna for messages of desperation. And the desperation cuts across all racial and ethnic lines.

The sense of abandonment is pervasive. These people feel cut off and isolated in a world that no longer abides by any recognizable rules. They are too weak to play by the new rules of the jungle yet feel that that is what the city has left them with.

There were harsh words for President Carter, who came around that once and who was the recipient of most of their votes.

"Carter hasn't helped at all," said Ruth Ballan, whose house has been burgled five times. "Have you driven around here and seen all of those burned-out buildings? It's *schreckhlich*—you know what schreckhlich means? It's terrible, it's horrible.

"People used to be able to sit in this park; it was a haven for the elderly. It was just magnificent. The plants are gone, the benches all broken up. There were statues. The kids cut off the heads. The filth is terrible."

Rep. Robert Garcia, a Democrat of Puerto Rican descent, has his arm wrapped around Mrs. Ballan, who owned the Snow White food store around the corner on Brook Ave. when "little Bobby (Garcia) used to come in."

Garcia, who represents the South Bronx, shared Mrs. Ballan's despair. He recalled campaigning in the park. "In the old days it was bumper to bumper on those benches. You could not get a spot there. Now the park is empty."

The kids in the area, mostly black and Puerto Rican, are not the way Mrs. Ballan recalls Bobby Garcia's group in the old days. The new breed, in her view, is wild beyond belief.

"These kids that pull old ladies' pocketbooks—some of those they see are infirm and can't fend for themselves, they go after them. Sometimes just for sheer nastiness. Even the buses are a danger to travel on. There are regular pickpockets there."

Two floors below the senior center at the YMHA, hundreds of kids, almost all black and brown, are lined up to apply for federally funded summer jobs. They don't look like muggers or rowdies and indeed must suffer considerable bureaucratic discipline to land these jobs.

The director of the program, a 27-year-old Puerto Rican, Miguel Montes, who grew up in the South Bronx, feels the lack of jobs is at the root of the problem.

In Montes's view, "We don't have enough jobs for the kids in the summer. It gets hot. And you're 17 or 18 and you don't have any money in your pocket, so you go out looking for some money. I'm not saying it is correct. We've got to get jobs for the kids, keep them occupied."

Welfare has been the alternative to jobs, and as Montes notes the shift, "I was born in the South Bronx, but it's changed. When I was a kid, I don't remember too many people being on welfare. We were poor, but I don't remember any of my friends being on welfare.

"When you don't have to go out and work and they just give it to you, it has to affect your attitude. You might try and go out to

two or three places to get a job and then you give up. First, strike one because you're black. In my desk I have resumes of 250 (minority) people with bachelor's (degrees), a couple of people with master's (degrees). And I can't get them jobs. Nobody wants them."

The South Bronx is a maintenance culture hooked on welfare and government-subsidized housing. It exists as apart from the mainstream economy as does the life of a methadone addict from straight society.

The maintenance economy of the South Bronx is obviously made necessary by the fact that it has been easier for the government to house and feed people minimally than to provide them with jobs.

It may be that when people are maintained too long, they are no longer fit for, or desirous of, gainful employment. But there is ample evidence of a large army of involuntarily unemployed people in The Bronx—and an overwhelming lack of jobs.

The unskilled jobs that were the entry point into the economy for past generations of immigrants were replaced by mechanization or are now located in the nonunionized American South and abroad.

Community organizers say the Puerto Ricans and blacks of the South Bronx are no less willing to work than were their predecessors, but the jobs are not there.

A recent notice of work to restore the Woolworth Building produced 5,000 applicants on short and limited notice. Thousands of young people went begging for the jobs provided this summer under the federal Comprehensive Employment and Training Act. The demand from the minority poor was so high that Koch, now the mayor, instituted a lottery.

The announcement of a few security jobs paying $3 to $4 an hour at a newly opened housing project attracted hundreds of serious and enthusiastic applicants from the immediate neighborhood.

But it is also true that it is less horrifying to be jobless in the welfare age than previously. With a bit of hustling, one need not go hungry often nor sleep on park benches. With a bit more hustling it is possible to score drugs or alcohol and forget temporarily that one is not doing anything with one's life except spacing out.

In the South Bronx, life is sustained by welfare—but just barely.

At one tenants' meeting, a couple of middle-aged women encircled by children burst in to drag Garcia across the street to witness the squalor in which they are forced to live.

These women, who live in a dilapidated five-story tenement, dream of being admitted to a municipal housing project which, despite its flaws, is blessed with concrete walls that neither burn nor leak. Their names are on a long waiting list.

Most of the apartments in their tenement have burned out, and the "lucky" tenants who had occupied them were permitted to move into the projects ahead of the others. At least in the projects, there is some semblance of police security and landlord services.

Here there is excrement, piles of it left by junkies who have turned the hallways of The Bronx tenements into public latrines. Here there are rats as big as cats that move boldly through the mounds of rubbish in the hallway in the daylight, even when a U.S. congressman is present.

Here, in the midst of broken glass, rotting fruit and the acrid and ever present stench of urine, little children play jacks in their hallway playground of filth that is yet cleaner and safer than the dreaded streets.

Garcia grew up in this neighborhood. His father headed a small evangelical church for 37 years around the corner from the once prestigious St. Ann's. And he remembers this as a stable and safe mixed neighborhood—Puerto Rican, Italian, Jewish, Irish—going back to the 1930's.

At times, Garcia seems like a Puerto Rican "Marty," who would rather attend a Yankee baseball game than lead a social crusade. But he moves easily on the streets of the South Bronx, and he obviously enjoys the close company of its people.

The playful Garcia becomes deadly serious and near tears as the middle-aged women take him on a tour of the "apartment," which has been turned into a rain forest due to the broken pipes in the abandoned apartments above. It is necessary to use umbrellas to pass through the hallway.

The congressman spies a school workbook in the midst of a clutter of fallen plaster and asks a 10-year-old girl if she has been doing her homework. Amazingly enough, she has. The congressman points out that he went to the same school. But things were better then.

Back on the streets, Garcia encounters teen-age pigeon fanciers guarding the front of a boarded-up, burned-out tenement. They are concerned that the congressman will tear down this building, thereby depriving them and their pigeons of a home.

These kids dropped out of school in the seventh grade and have tried to get into the Army since, but they have failed the test three times.

One of them, a genial, bright kid whose father died of a drug overdose on a nearby roof, has old hypodermic needle marks all over his arms. He tells the congressman he is now off the stuff, thanks to Dr. Mike Smith.

Garcia knows that means the acupuncture doctor at Lincoln Hospital detox, who uses pressure points and tiny needles as an alternative to methadone and big needles.

Smith, who does tenant organizing when he's not saving heroin addicts, insists that it's the landlords who hire the addicts to burn down the buildings in order to collect the insurance. There are few landlords left on the scene to dispute this. According to Smith:

"Cultural institutions don't burn down, libraries haven't burned down, the churches haven't burned down, the private little houses—have they burned down? No.—You know why all the other stuff burned down? For the profit motive. Let's face it, if you had that kind of investment and you saw that you couldn't come out of it any other way, you would buy the torch."

There is a consensus among community organizers like Smith that people of the South Bronx are not inclined to burn down their own homes, possessions and endanger their children.

Whether they are Maoists or Episcopalians, there is an apparent unity among those who would save the Bronx from the bottom up, as opposed to the outside missionaries from Washington, think tanks and developers. The people who work the streets love the life and the potential they find there in abundance, while the outside saviors feel it barely exists.

The Bronx is not dead. The situation is tragic precisely because there is so much potential, so much life despite the harsh realities. Buildings burn, track marks appear on 10-year-old arms, a 4-year-old kid falls out of a tenement window because the landlord neglected to put up a window grid.

But life goes on. The shopping hubs at 149th St. and Fordham Rd. are busier than ever. The Venice restaurant at 149th St. is still one of the best Italian restaurants in New York and Jahn's on Kingsbridge Rd., serves the finest homemade ice cream.

Pioneers are restoring row houses on Alexander St., and small and successful "sweat equity" ventures, in which tenants rebuild their houses, abound.

Senior citizens in the Mitchel Houses housing project staff their own 24-hour security patrol that has eliminated crime in their racially integrated and cheerful building plunked down in the roughest neighborhood in the South Bronx.

At the YMHA on the Concourse, 72-year-old cartoonist Sam Goldin, who has been mugged four times, says that people are basically good and that all groups have a few bad apples.

Up near 183rd St. in the Central Bronx where the Puerto Ricans have encroached on the outer limits of Little Italy, there have been the annual gang killing and threatened retaliations.

But a tenants' group—led by two products of local Catholic education, Fran Fucelli, who is half-Puerto Rican and half-Italian, and Josephine Ferrella, along with the Rev. Edmund Parrakow, a Catholic priest—has organized the neighborhood against the landlords and banks whom they judge to be the central problem.

Fifty blocks south at St. Ann's Episcopal Church, where Gouverneur Morris, a signer of the Constitution, lies buried, the Rev. James Snodgrass, of proper WASP bearing, acts in concert with Milton (Karate) Morales, a tough but cheerful Puerto Rican off the streets, and Roy Howard, who speaks in the cadences of a black minister, organizing tenants.

These community organizers are particularly critical of the banks, which they charge with abandoning the economy of The Bronx. In their view, disinvestment by the banks has contributed to the creation of an economy based on welfare rather than jobs.

The big bank in The Bronx is the Dollar Savings Bank. For decades, Bronx children learned about saving, banking community ethics and responsibility from a savings program sponsored by the Dollar and The Bronx public schools. Children saved their dimes, and when $5 was accumulated, the teacher would assist in depositing the funds with the bank.

Officers from the bank would regularly visit the schools to provide homilies on the role of banking and saving in building for a better tomorrow by investing in the community.

Yet a report issued by The Bronx borough president's office last year found the Dollar Savings and the other four largest banks in The Bronx "unquestionally guilty of red-lining the borough."

This report defined red-lining as "a policy under which lenders decide to refuse mortgage loan requests in certain communities regardless of the qualifications of individual mortgage applicants and the inherent value of the property in question."

In a study of the 1975 data, the latest available, the borough president's office reported that of each dollar deposited by Bronxites in their local banks, "only 12.6 cents was ploughed back into the borough in the form of residential mortgages."

In that year, Dollar Savings made nearly $60 million in mortgage loans, but only $4 million were in The Bronx. In general, the report found that while 80% of the deposits in the five largest Bronx banks came from Bronxites, only 10% of these banks' assets were invested in the borough.

The report concluded that one large bank, Eastern Savings, granted only 10 mortgages that year in The Bronx, for a total of $260,000, while it invested more than $3 million out of the state, "mostly in the Deep South."

Dollar Savings Board Chairman Henry Waltemade denied that his bank practices red-lining, and he cited his obligation to depositors to make sound investments.

But the borough president's office insisted that investment in The Bronx can be profitable, pointing to the example of a smaller bank, Yorkville Savings and Loan, with only 3% of the assets of the six largest Bronx banks, which invested more in The Bronx than the six largest banks combined.

The report noted, "Dollar Savings has over 25 times as much in assets as Yorkville, and yet Yorkville made 197 Bronx loans in 1975, while Dollar made only 32."

Community organizer Fran Fucelli, who refers to a file of hundreds of rejected mortgage and home improvement loan applications, charged that Dollar "has been the leader in red-lining this community out of existence. They won't even give mortgages in Central Bronx neighborhoods that are still considered good. It's become the self-fulfilling prophecy, with the bank saying the neighborhood is going downhill and therefore not worthy of investment, and that in fact becomes a reality."

Community organizers are critical of the President's plans to save The Bronx because, in their eyes, it does not come to grips with the issue of red-lining.

This was confirmed by one close adviser to the President who, when asked if Carter really is going to be able to save The Bronx, said, "Of course not. How's his plan going to save The Bronx when the insurance companies and the banks are red-lining the hell out of it?"

The community organizers were also critical of sensationalist reporting on The Bronx which fails to discuss such mundane matters as red-lining, insurance payments for burned-out buildings, lapses in landlord services, etc.

Members of one group, the Morris Heights Neighborhood Improvement Assn., claim that they spent dozens of hours with representatives of CBS Reports for its feature, "The Fire Next Door," which termed The Bronx the arson capital of the world.

They insist that they took crews from the network to tenants' meetings, outlined the economic problems and showed positive alternatives of tenants organizing to retain and maintain their own buildings.

They are disappointed that none of this material was used in the program. Tenants' organizer Debby Smith, mother of two, said she was told by one CBS vice president that "positive stuff doesn't sell" and that red-lining was too complicated to go into.

There is no doubt that a great deal of "positive stuff" does go on in The Bronx. But compared to the dimensions of the problems, it often seems forlorn.

The thousands of tenant organizations, neighborhood councils, dedicated church people, shopkeeper associations, community-run medical programs are real enough.

But they are, in the main, efforts to spit against the wind. Big power in The Bronx—the banks, developers, government programmers—has proved indifferent to such activities.

Those people, when interviewed, tended to look upon community organizers as rip-off artists who must have some sort of scam going, or else why would they do it?

While there are, no doubt, poverty pimps—hustlers making a fast buck off programs to aid the poor—it is absurd to deny the obvious depth of idealism that persists, perhaps undeservedly, in The Bronx.

There are endless tenants' meetings and subsequent agitation over such seemingly minor matters as obtaining a promised buzzer system, a locked front door and locks on all doors, mailboxes that close and lights in the hallway.

But for many of these tenants, such small improvements are perceived as representing the margin between life and death. And unhappily, the crime statistics back up those perceptions.

The community organizers hurl the rip-off artist charge right back at the developers and banks who they claim are acting in concert with government agencies to make profit off the poverty that abounds.

In a recent article in the New York Daily News, one such activist, the Rev. John J. Jenik of the Bronx Church Coalition, charged that the announcement of Carter's South Bronx plan had unleashed a modern day "gold rush" to mine the poverty of The Bronx.

Organizer Debby Smith said, "The only thing that will come out of this is another housing project that doesn't work and a campaign poster for Carter." Gilberto Gerena-Valentin, a New York City councilman who represents the South Bronx area, strongly denounced what he considers Carter's hypocrisy:

"The South Bronx plan is part of the whole situation where people are being used and misused and promises are made which are not fulfilled. . . . The plan doesn't mean anything. The plan is just a gimmick to get people riled up . . .

"The plan is one that is going to take seven years, and the first three years all they are going to do is build a little 100 units of housing over here and 200 over there. Imagine, you have almost 65% unemployed and you need at least 30,000 new apartments.

"So I guess poverty is the haven for those who are making the money.

. . . Those developers and the contractors and the banks—they're laughing."

But Carter did go to Charlotte St. He was there, for however brief a time, when most of us would rather not have known about the problems of the South Bronx. Carter is the first President to formulate an explicit urban program.

He cares, but at the same time, he is a consummate politician who believes he cannot afford to care too much. Because of that contradiction, it seems sadly ordained that he will once again raise expectations only to ultimately betray them.

Congressman Garcia has a wait-and-see attitude toward Carter's South Bronx plan. But time is running out. He points out that there are 1.5 million U.S. citizens living in the Bronx and they are entitled to the same rights to life, liberty and the pursuit of happiness as anyone.

But in The Bronx, civil rights are seriously in question.

There has been a breakdown of those ordinary social services that one would have thought were the birthright of any American citizen.

The right to have one's mail delivered, for instance. It is commonplace for tenants who expect a Social Security check to line up at the mailbox on the appropriate day to abort a highly likely theft.

Many mailboxes are inoperative, punched out by thieves and vandals and left unrepaired by landlords. It is assumed in many neighborhoods that the police will not enter, even if called. So people stop calling.

Normal housing code inspections have been suspended or half-heartedly enforced because the relevant bureaucracy is undermanned and totally cynical about the prospects for improvement.

Perhaps the most serious deprivation derives from the fact that many people in The Bronx no longer believe in the possibility of public education. Josephine Ferrella, a welfare specialist in the central Bronx, reports that even non-Catholic welfare recipients manage to scrounge up the $300 a year necessary to send their children to parochial schools.

It is difficult to find a schoolteacher who believes that The Bronx public school system can accomplish much. Discipline is lax, academic standards are virtually nonexistent and teachers are cynical. One well-intentioned Puerto Rican teacher in the South Bronx referred to some classes at her school as being "headed straight for Sing Sing"—which is "tracking" with a vengeance.

The blame is cast everywhere—on unruly students, parents who don't care, teachers who live in the suburbs and flee at 3 o'clock, unions concerned only about higher wages, administrators who are incompetent and without hope.

The blame is so widespread and the cynicism so pervasive that it is easy to lose sight of the fact that a child in The Bronx, particularly south of Fordham Rd., no longer has the full right to a public education.

So what?

"They're defined by the elite as an underclass—more up-front racists would say spics, niggers, welfare cheats—any subhuman category will do that makes this desperate poverty seem naturally ordained," says Mike Smith, the physician.

He explains how the elite of Manhattan manages to drive from Westchester past this cross between Calcutta and bombed-out Dresden and yet live with it.

"They don't see it. That's why they built the freeways cutting through here, so you can go fast enough not to have to see the people stuck here. Minutes from here, they sit in posh offices and dine at elegant restaurants as if none of this has anything to do with the decisions they have made for this city.

"It's troublesome to notice it; it's best ignored."

Smith spends his days finding pressure points in the ears of heroin addicts, an acupuncture technique, to calm them down. Perhaps he sees too much at Lincoln Hospital. Perhaps he should be more reasonable, more circumspect in his indictment, put things in perspective.

But the perspective of the South Bronx obliterates any such sensibility. As Father Snodgrass of the Episcopal church put it, "These kids are sentenced before they are grown."

Around the corner from his St. Ann's Church, Snodgrass and Garcia wander through what was to have been a showcase housing project for the poor—the Jose de Diego-Beekman housing project. Next door stands the half-vacated, burned-out Mott Haven housing project that rivals Diego-Beekman as a disaster area.

There on 139th St., 12-year-old Alfred Dennis is talking about the knifing on that very spot the day before.

Young Dennis has been accepted at the elite Brooklyn Tech High School for the fall. He beat out thousands of other applicants from far more privileged backgrounds.

No street bum, Dennis is a sound and sensible kid who wants to get ahead. But the daily world that he must deal with is grotesque beyond description, and the chances are great it will drag him under before he graduates from Brooklyn Tech.

The knifing the day before was a routine affair as Dennis and his friends tell it. There was an older guy who had recently moved into one of the projects—despite managements' boast of tenant screening—who had a history of raping little girls.

He continued this practice once in the neighborhood, and a father of one of his victims took matters into his own hands, confronted the rapist and ordered him to get out. The rapist pulled a knife and slit the throat of the father.

This was too much—even for this neighborhood—and the other residents pummeled the rapist near to death. The blood from all

this stains the sidewalk, but it is only one stain.

Soon the rapist is forgotten, and dozens of sadder, more miserable escapades are related as if the murders, rapes, knifings have become a village rite for marking the passage of calendar time.

Life is cheap. Perhaps not. Dennis'—anyone who met him would want to hug him and save him. But life is cheap because we have never been properly introduced to the victims.●

WRITER POINTS TO HELSINKI ADVANTAGES

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

Mr. SIMON. Mr. Speaker, Ray Moseley, a Chicago Tribune reporter who covered the 1975 Helsinki Conference as a European news editor out of United Press International, had some observations which I think are sound.

Unquestionably, the Helsinki accord opened the door of freedom slightly in the Warsaw pact countries, including the Soviet Union. There are a great many things that are still wrong, and they have a long way to go before they achieve anywhere near the freedoms that we have in our country; but Helsinki was a great victory for the forces of freedom, and I am pleased to insert this article from the Chicago Tribune.

The article follows:

THAT HELSINKI "SELLOUT" EMERGES AS REDS' BIGGEST BLUNDER

(By Ray Moseley)

Four years ago this month, then-President Gerald R. Ford and Secretary of State Henry Kissinger were under heavy attack in this country, accused by their critics of selling out to the Soviet Union.

The occasion was the European Conference on Security and Cooperation in Helsinki, Finland.

The years since then have demonstrated how wide of the mark the critics were. In retrospect, Helsinki stands as a victory for the West and a colossal blunder by the Kremlin.

For years the European Security Conference was a major foreign policy goal of Soviet President Leonid Brezhnev. He wanted it to ratify the postwar frontiers of Europe—particularly the alterations in the German, Polish, and Russian borders effected by the Red Army—and to set the seal on his detente policy with the West, allowing Russia to give more attention to its problems with China.

The critics of Ford and Kissinger seized on this aspect of the Helsinki agreements and contended that the West was supinely acquiescing in territorial changes brought about not by international agreement but by force of Soviet arms.

In fact, the West merely accepted what it had no power or intention of trying to change in any event.

But the critics ignored, or dismissed, the fact that Western negotiators made the Russians pay a heavy price for this agreement. The price was a whole series of agreements that pledged the Russians and other East European states to open their borders to free emigration; to allow separated families to be reunited; to permit Western newspapers and magazines to be sold on their newsstands; to encourage a freer exchange of ideas, and to ease the working restrictions on Western reporters based in their countries.

In retrospect, this was such an unfortunate quid pro quo for the Russians that it is astonishing the Kremlin agreed to it. Yet the failure of many in the West to perceive the significance of the human rights provisions of Helsinki may help explain this failure of perception on the part of the Soviet leadership.

The Russian paid some lip service to these agreements; for example, they eased travel restrictions on Western correspondents. But they evidently calculated that any clamor stirred up by their failure to observe the other articles of the agreement would be short-lived.

In this, they underestimated the ability of the small group of dissident intellectuals in the Soviet Union to use the Helsinki accords for their own benefit. The dissidents set up unofficial watchdog committees to monitor Soviet compliance, or noncompliance, with the agreements, and were spurred on by Jimmy Carter's accession to the Presidency.

The Russians then were faced with three choices: Honor the Helsinki agreement. Continue to ignore them and let the dissidents have their say, hoping they would run out of steam. Crack down hard on the dissident movement.

The first was not a choice the Kremlin would even consider; honoring the Helsinki agreements would mean dismantling the whole authoritarian structure of Soviet power and turning the country into a kind of Yugoslavia.

Condoning the dissidents would be a dangerous course. Even though the movement is small, its influence far exceeds its numbers, and the germ of contagion could spread through Soviet society.

Cracking down on the dissidents, the course that was chosen, further exposes the hollowness of the Soviet action in signing the Helsinki accords and carries grave risks for Soviet relations with the West.

Thus, Helsinki presented the Soviets with a no-win situation. Or at least that will be true if the West does not simply forget about the dissidents once the current clamor dies down and does not go on doing business with the Russians as usual.

If the West continues to make the Soviets pay a price for their unwillingness to adopt the rules of civilized conduct, then the Helsinski accords may be viewed in the Kremlin leadership for years to come as one of Leonid Brezhnev's greatest blunders.●

SPENDING CEILINGS AND REVENUE FLOOR

HON. JIM MATTOX

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

● Mr. MATTOX. Mr. Speaker, Mr. REGULA and I intend to introduce an amendment to the second budget resolution for fiscal year 1979 establishing spending ceilings and a revenue floor that would reduce budget authority by $423 million and outlays by $873 million.

The first part of the amendment reduces budget authority by $288 million and outlays by $538 million, leaving a total of $500 million in budget authority and $500 million in outlays for resumption of the countercyclical program.

The second part of our amendment reduces budget authority by $135 million and outlays by $335 million to reflect the House-passed amendment to the comprehensive employment and training bill.

We offer this amendment because both the countercyclical and the public service employment programs are overfunded in this resolution as reported and our intention is to bring the level of funding for these programs down to what we might realistically expect to be enacted.●

LOGGERS NEED FAIRER TREATMENT BY THE IRS

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

● Mr. JEFFORDS. Mr. Speaker, today I am introducing legislation to resolve a problem that is particularly vexing to workers in the wood harvesting industry. This bill amends the Internal Revenue Code of 1954 to clarify the treatment of certain individuals who are independent contractors in the wood harvesting industry for the purposes of employment taxes.

The conferees on the Tax Reform Act of 1976 were particularly concerned with the problem of clearly defining who constitutes an "employee" as opposed to an "independent contractor." They directed that a study be conducted by the staff of the Joint Committee on Taxation and urged the Internal Revenue Service not to apply any changed position or any newly stated position which would be inconsistent with a prior general audit position in this subject area until the study had been completed.

In November, 1977, the General Accounting Office submitted a report entitled "Tax Treatment of Employees and Self-Employed Persons by the Internal Revenue Service: Problems and Solutions." As evidenced in that report, the Service has continued to conduct retroactive employment tax audits and has shifted its positions in interpreting the so-called twenty common law test questions utilized to determine whether a person is an employer or an independent contractor. The Service has continued to use conflicting and inconsistent standards, variously interpreted by Service employees, and have applied these standards inequitably to loggers and associated workers in the wood harvesting industry. Indeed, Commissioner Kurtz, in a speech 1 year ago to the tax section of the American Bar Association, stated: "Applying the 20 common law factors does not produce consistent results or easy administration. No single fact is conclusive. The degree of importance of each factor varies."

In January, 1978, my Vermont colleagues, Senator Stafford and Senator Leahy, and I jointly wrote to Commissioner Kurtz requesting that, in the spirit of the informal agreement between the Internal Revenue Service and the Joint Committee on Taxation, and in light of the November, 1977, GAO report, he consider placing an indefinite moratorium on field audits in the logging industry until appropriate legislation could be developed to clarify the definition of independent contractor. Four months later, in a letter dated May 10, 1978, Mr. Kurtz replied and declined to intervene in the employment tax examinations of the loggers in the Northeast. Mr. Kurtz stated: "However, especially in a context where the Service's position has been clear since 1940, I believe we have an obligation to make current audit determinations consistent with long-standing revenue rulings subject to taxpayers' rights to disagree on the merits, unless and until there is a change in the law." It is clear, however, that in specific instances loggers in Vermont had their individual returns audited in 1972 and 1973 for the tax years 1968 through 1971, and received written determinations from the Service that they were independent contractors for the purposes of taxation and withholding. However, these very same individuals, not having changed their practices, were again examined by the Internal Revenue Service field auditors in 1976 and 1977 for the tax years 1972 through 1975, and are now found to have been employers who improperly failed to withhold income and social security taxes. These loggers are now saddled with judgments by the Internal Revenue Service that approximate or exceed their net worth.

The measure which I am introducing today is being introduced in the Senate by my distinguished colleagues from Vermont, Robert T. Stafford and Patrick J. Leahy. This bipartisan effort demonstrates our mutual concern that individuals engaged in wood harvesting industry not be unfairly and differentially treated by the Internal Revenue Service This proposal will institute two changes.

First, there are established three simple tests to determine whether an individual in the wood harvesting industry is an independent contractor.

Second, a new reporting requirement, similar to an Internal Revenue Service 1099 form, is established to ensure that independent contractors annually report to the Internal Revenue Service all cash and other contractual transactions, including the names of sub-contractors and the remuneration paid each in a year.

For the further information of my colleagues, I am pending hereto a transcript of a report recently written by Mary Beausoleil from Lyndonville, Vermont. Mary is the spouse of one of Vermont's beleaguered loggers, Robert Beausoleil. This report details how a logging operation works and why the contracting system is key to the success of logging.

The report follows:

WOODSMEN VS. THE IRS: OUR SIDE

(By Mary Beausoleil)

From colonial days lumbering has been an important industry in New England. Though many of our forests have given way to farms, factories, houses and highways, there are still areas in which lumbering continues to be an important part of the economy. The Northeast Kingdom of Vermont, that poor and proudly beautiful corner in which we live, is one of these areas. The woodsman, less visible than the farmer, has nevertheless been recognized for his own distinctive contributions to our region from early days, as E. A. Kendall, a visiting Englishman, wrote of him in 1809:

"The strength and execution of his arm almost exceeded belief; and he fells the forest with at least as much activity as others plough the soil. Meanwhile, it is often amid cold and wet that all his labour is performed. It is often in marshes that he employes his axe whole days together . . ."[1]

The modern woodsman travels a sometimes dangerous, often exhilarating, and always independent road from the depths of our forests to the limber yards of neighboring paper mills, furniture factories, and sawmills. Now he is being ambushed on that journey by the Internal Revenue Service and the attack finds him poorly supplied and trained, with his forces scattered, and on an unfamiliar battlefield. The purpose of this paper is to help those who will, and others in similar situations, understand his plight.

HOW A LOGGING OPERATION WORKS

The journey from the woods to the mill begins when a tree is cut down by the feller, sometimes also called a chopper, whose job it is to cut down, limb, and remove the top from the tree. There are numerous skills required for this job: the feller must be able to cut down a tree without splitting it, he must be able to place a tree for the most accessible skidding, and he must know how to operate, sharpen and repair a chainsaw. In order to do his job, a feller needs equipment: two or more chainsaws and tools, a pickup truck to carry his equipment and fuel, and safety equipment—steel toed boots, hard hats, ear protection, and safety glasses. His investment may be anywhere from about $800 to $10,000.

In addition to his skills and equipment, a feller must have judgment. He decides where to begin cutting on a woodlot. He uses judgment as well as skill in deciding where to place a tree as he fells it, where to limb it and where to cut the top off. The feller's job is finished when the tree has hit the ground and has been made ready for skidding, the next step. The feller is paid a fee based upon the number of cords or thousands of board feet that he fells.

The skidding (moving a tree from the woods to a landing where it is cut up) is done by a man called a skidder, who works with a machine also called a skidder (in the man's honor) or, less frequently, with a bulldozer or a horse. The skidder must know how to operate his machine (including how to start its diesel engine in the winter); how to maintain and do repairs on it; how to hook a skid chain to hold a "hitch", the trees chained together for the trip to the landing. The skidder also must know how to operate a chainsaw, because there wil be times when he will need one. The skidder plans the skid trails and must know how to build a log or culvert bridge.

The skidder must use his judgment to plan his trails and load size to harmonize with the terrain and soil conditions. And he must always be trying to get the most work out of the machine without going past the point of diminishing returns, after which the machine's repairs will cost more than it earns.

A skidder will need, besides his machine or horse, one or two chainsaws, tools, and a pickup truck to carry tools and fuel to his job. His investment could vary from about $1000 (with a horse) to $60,000 or more. A skidder, too, is paid by the cord and by the thousand, and his job is finished when he has delivered the trees to the landing where they are cut up by a cutter or bucker.

The cutter is the person who turns a tree into marketable wood; to do this he must know the wood and the markets. He must know the market conditions—what is selling now—and the mill specifications for grade, dimensions, and permissible defects. Cutting the tree to those specifications, called "fitting the timber", requires a good deal of experience and judgment. The cutter makes the cuts that determine whether a tree becomes a valuable log or less valuable pulpwood.

A cutter must know how to operate, file, maintain and repair a chainsaw. He cannot leave the woods for a garage—much less call a mechanic—whenever he has trouble with his saw. And a cutter must file his saw several times a day, not every few weeks. Filing, so mysterious to the hobbyist woodsman, must be second nature to a cutter. Like a doctor studying his patient's urine sample, a cutter can tell from his saw's chips what is wrong with the chain: fine dust indicates dullness; long skinny chips indicate improper angles on the teeth.

The cutter's equipment consists of two or more saws, tools, peavies, axes, wedges, safety equipment, and a pickup to carry all this and his fuel. His investment may vary from about $800 to $10,000. The cutter's fee is determined by the number of cords and thousands he cuts up, and for an additional fee he may also pile the wood—some do, some do not. If the cutter chooses not to pile the wood, the trucker will get this fee and use it either to compensate himself for extra time spent picking up loose wood or to pay an assistant to help him load.

The trucker, the last link between the woods and the mill, picks up wood at the landing and delivers it to the mill yard. He is a skilled driver and loader operator. In addition, he maintains his truck and does at least some of the repairs on it and on the hydraulic loader. He must be familiar with mill specifications and market conditions. He must be a skillful buyer of parts and equipment, because parts and repairs is the part of his business in which he will be most able to save money by finding the best quality at the lowest price.

A trucker plans his work week, trying to balance the needs of his customers (for, example, more space on the landing) with the market and road conditions. He must know the conditions of town and state roads and bridges in order to plan his route. The trucker must also plan his load size to satisfy the state, which sets a legal load limit; his customers, who want to send as much wood as they can; and the trucker himself, who must keep in mind that at some point a large load may cost him more in truck repairs than it brings him in income. The trucker also has considerable bookkeeping responsibilities in securing permits and licenses and paying road use taxes.

A trucker's equipment will consist of a truck and loader, a pickup truck for looking at jobs and carrying parts and fuel, and usually a garage in which to do maintenance and repairs. The trucks used to haul wood are among the heaviest on the road because they require so much heavy-duty safety equipment (rear ends, brakes, transmissions, frames, e.g.), and they are expensive. A trucker's investment will run between $50,000 and $150,000. The trucker, too, is paid a fee based upon the number of cords and thousands of feet handled.

HOW THE CONTRACT SYSTEM WORKS

The contract system is the glue that holds the woods industry together. With one exception, all the mills buying pulpwood from our area let out contracts to wood producers. (Log buyers, however, with their much smaller volume and more valuable wood, usually do not use contracts.) A wood producer with a contract from a paper company can get that wood in two ways: he can buy it "roadside" from farmers and other stumpage owners who either get it out themselves or contract with someone to get it out for them, or he can contract himself with people to cut it from land on which he owns the stumpage rights.

This contractor, if he does not work in the woods himself, will find contractors to fell, skid, cut and truck. If he does work in the woods, he will perform one of these functions himself and find people to contract for the others.

[1] E. A. Kendall, *Travels through the Northern Parts of the United States in the Years 1801 and 1808*, 1809, as quoted by Robert E. Pike, *Tall Trees, Tough Men* (New York: W. W. Norton & Co., 1967) p. 52.

This system of contracting is not new in the logging industry. In northern Vermont this is the way wood has been harvested for as long as the oldest woodsmen and farmers can remember. It is not a system invented to evade taxes, but one which goes back at least to 1761 when, according to Robert E. Pike, "an enterprising Yankee named Jared Ingersoll, of Connecticut, persuaded the Navy Board to give him a contract to procure eighty 'Mast Pines' (that is, two ship-loads) on the Connecticut River . . ."[2] Working with contractors is a usual and customary way of doing business in the lumber industry.

There are several advantages to this system, but the chief one is that people are generally more productive when they are working for themselves than when they are working for someone else. This greater productivity benefits choppers, skidders, cutters, truckers, and the mills in the form of higher earnings; and it benefits consumers of paper and wood products through lower prices.

The woods is one place where, by dint of hard work, good judgment and luck a person can raise himself from the lowest class of society, if that be where he began, to the middle class or higher, and he can be independent while doing it. Most skidders, truckers, and wood dealers began their careers as choppers or cutters. Horatio Alger stories are still commonplace in the woods business.

Some woodsmen prize their independence and their free time more than they do the money they could make. Contracting enables them to work whenever they want to and to have as much free time as they want. No employer would tolerate as much independence in his employees as woodsmen have.

Now, after doing business this way for as long as we have done business at all, we find the IRS trying to call some contractors "employees" and attach them to some other contractor, whom the IRS designates "employer". Then the IRS imposes all of the duties of employer on the contractor and assesses him for the back taxes, penalties and interest on his newly-designated employee's newly-designated wages. The result is an assessment that often may exceed the net worth of the assessee. Many of these same woodsmen now being audited and assessed have had their tax returns audited in the past without any IRS comment on the contractor issue.

IRS Commissioner Jerome Kurtz, in a speech to the tax section of the American Bar Association on August 6, 1977, makes extravagant estimates of the rate of tax avoidance among self-employed people. This estimate is disputed by the findings of the General Accounting Office in a report to the Joint Committee on Taxation of November 21, 1977. The GAO report also shows that these IRS assessments often have the effect of collecting taxes twice, which Congress has not authorized the IRS to do. In short, it appears that the IRS is destroying the incentive and independence of this and other industries because the IRS finds it more convenient to collect taxes by withholding, and withholding is impossible without a withholder. Do the people serve the IRS, or does the IRS serve the people?●

AUGUST 15 PROCLAIMED "RESCUE SYRIAN JEWRY DAY"

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

● Mr. WAXMAN. Mr. Speaker, Governor Hugh Carey of New York has officially proclaimed August 15, 1978, as Rescue Syrian Jewry Day. In light of the emphasis that both the administration and Members of Congress have rightly placed on the issue of human rights, I would like to take this opportunity to share with my colleagues the text of the Governor's proclamation.

PROCLAMATION

The serious plight of the Jewish community in Syria has been tragically highlighted by the recent reports of three Syrian Jews who were shot to death while attempting to escape the country which has denied them their basic human rights.

The Committee for Rescue of Syrian Jewry asserts that members of the Jewish community have not been permitted to emigrate from Syria since August, 1977, when a small number of young women emigrated to the United States. The Syrian government has rejected many applications from parents wishing to attend their daughters' weddings in the United States.

It is fitting that all New Yorkers recognize the plight of Syrian Jews who are denied the right of free emigration and are subjected to religious persecution, harassment and discrimination.

Now, therefore, I, Hugh L. Carey, Governor of the State of New York, do hereby proclaim August 15, 1978, as Rescue Syrian Jewry Day in New York State.

Given under my hand and the Privy Seal of the State at the Capitol in the City of Albany this thirteenth day of July in the year of our Lord one thousand nine hundred and seventy-eight.●

[2] Robert E. Pike, "Tall Trees, Tough Men" (New York: W. W. Norton & Co., 1967) p. 46.

VICTIMS OF HEW IMMUNIZATION PROGRAMS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

Mr. DINGELL. Mr. Speaker, on behalf of my colleagues, Hon. JOHN E. MOSS and Hon. HENRY A. WAXMAN, we wish to notify our colleagues that they can expect to vote on the conference report on H.R. 13467, the 1978 supplemental appropriations bill, sometime on Wednesday, August 16. Amendment 18 of that report concerns the vaccination program for the Russian flu.

On July 20, 1978, the Members voted overwhelmingly (268 to 127) to amend H.R. 13467 by deleting all moneys to be expended for the purchase of vaccine for the Russian flu or the actual innoculation. The amount of $3 million allowed to remain for the program was directed to the National Institute of Allergy and Infectious Diseases for research only. If you accept the motion by the House managers to recede and concur in the Senate amendment of $8.2 million, you will not only be allowing this program to proceed with unresolved issues of liability and informed consent but will also be authorizing the expenditure of funds "to remain available until expended." The House has not yet approved the fiscal year 1979 appropriation for the flu program. We should not then allocate funds which may be used for that period and indeed beyond it.

We believe that this program should not be allowed to go forward with these unresolved questions and ask for your motion to recede and concur.

In addition, we would repeat our arguments against implementing this immunization program. Inadequate hearings were held due to the fact that the Department of Health, Education, and Welfare came to Congress late with its request when vaccine testing was still not completed. HEW can provide only bland assurances as to the safety and effectiveness of the vaccine. HEW cannot pinpoint the risks to participants who may become involved and cannot cite possible side effects on health. HEW cannot estimate the financial burden that may be placed on the States, or the Federal Government, regarding possible liability suits.

We cannot condone the expenditure of $8.2 million of the proposed conference report when so many questions remain unanswered. Our questions are shared by other concerned citizens whose letters follow as addressed to Dr. J. Anthony Morris, Ph. D., Department of Microbiology, University of Maryland. Their letters relate to the questions surrounding the HEW's infamous swine flu immunization program, its resultant side effects such as Guillain Barre Syndrome, impact on public health uncertainties as to immunization programs, the liability question, and their own personal experiences that they or their family had following a swine flu shot.

We urge you to vote to support our effort to defeat Amendment 18's motion to recede and concur and hope you review this correspondence.

LONG ISLAND, N.Y., *August 5, 1978.*

Dr. ANTHONY MORRIS, Ph. D.,
Department of Microbiology,
University of Maryland,
College Park, Md.

DEAR SIR: I saw you one the Donahue Show and I listened to you with great interest. I am presently suffering from the Barre syndrome. I received the Swine flu shot around the end of October '76, but I really didn't become fully aware of the disease till the end of January '77. My Barre syndrome began slowly with numbness of extremities and is leaving slowly. I was on 100 milligrams of prednisone, but now I am on 17 milligrams every other day.

When I was in the hospital my doctors gave my illness all sorts of names such as inflammatory poly neuropathy and idiopathic polynuerities or simply chronic nuerities. After investigating the matter further I found out that these were euphemisms for the famous Guillain Barre Syndrome.

I understand you are a busy man and your time is precious. If I don't hear from you this time I do hope I hear from you sometime in the future.

In regards to my personal data; I am 30 years old, married with one child and I work as a supervisor of bail recommendation interviewers in a N.Y.C. criminal court.

I noticed on the T.V. guide that you'll be appearing on the Tomorrow show on Wed. Aug. 9, I look forward to seeing you there.

Thank you,

CARLOS SIMONETTI.

MERIDIAN, MISS., *Aug. 8, 1978.*

Dear Dr. Morris: After feeling frustrated for answers for over 18 months, I felt compelled to write to you after seeing you on the Donahue program in the hopes that you can clarify a few facts for me.

My sister-in-law, who is 29 years old, developed loss of coordination, numbness, after receiving the swine flu shot. The symptoms came and went until January 1977, when she was hospitalized and diagnosed as having M.S. By late January '77 or Feb. '77 the symptoms disappeared. She has led a normal life, has had a baby, and has felt fine until 4 weeks ago when she was hit with a severe attack. She is mostly paralyzed, has numbness and pain, slurred speech and difficulty swallowing.

From what I have read about M.S. it isn't known what caused the disease but it is believed that it could be caused by a virus or toxins. Is it possible, then, that the swine flu shot triggered the M.S.? Have you heard about any other cases of M.S. developing several weeks after the shot was given? Since the swine flu symptoms and M.S. symptoms are so similiar is there no link between the two that you have found? Or was all this just pure coincidence?

I know that you are a very busy man, but you are my last resort in obtaining some frank, honest opinions. Please respond!

Sincerely,

DAWNELL D. SANDS.

DALY CITY, CALIF.

DR. J. ANTHONY MORRIS: Since December of 1976, I have been trying to find some help. I had the Swine Flu shot November 12, 1976 and shortly after suffered from numbness and weakness of the left side and arm, and had to give up my business.

I am unable to do a day's work and feel that I have been given the runaround in trying to get information from the hospital, where I got the shot.

Wednesday July 26, 1978 I watched the Donahue Show on T.V. and copied the information given. Your address was given.

I have been to three doctors and have received various opinions and was advised by one to take Vitamin C. None could give me a definite answer as to the cause of my problem.

I feel that my weakness is the result of the Flu shot. I would appreciate any help you can give me.

Sincerely yours,

STELLA RESH.

ROCHESTER, N.Y., *August 9, 1978.*

J. ANTHONY MORRIS, M.D.
Dept. of Microbiology,
University of Maryland,
College Park, Md.

DR. MORRIS: I am writing to you pertaining to your guest appearance on the Donahue Show August 2, 1978.

I received a Swine Flu Shot in December 1976. 1977 became the worst year of flu-like illness I have ever had.

I have had a strange sensitive feeling on one side of my body for almost 8 months. It makes me feel weak & sick at times. It is not a paralysis, tho.

Is there any possibility that I could be having a side effect that relates somewhat to the Guillain-Barre Syndrome?

I have enclosed a 15c stamp and would appreciate a reply from you regarding the aftereffects of the shot.

Sincerely,

JEANNE HERDEMAN.●

VARIETY CLUBS TO HOLD FASHION SHOW AND LUNCHEON

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

● Mr. LONG of Maryland. Mr. Speaker, on September 11, the Ladies' Auxiliary of Tent 19 (Baltimore) of Variety Clubs International will host a noteworthy fashion show and luncheon:

Fall designs by the award-winning couturier Oscar de la Renta will be shown, with Mr. de la Renta himself in attendance; Eric Morley, distinguished international president of Variety Clubs will fly in from England especially to be present at this event; and all proceeds from the luncheon and fashion show will be donated to the Pediatric Oncology Isolation Unit at Johns Hopkins Hospital.

The outstanding charity work of Variety Clubs International, focused on assistance to needy children, has yielded millions of dollars to benefit birth defects research, pediatric cancer care and research, physically and mentally handicapped children, and malnourished youngsters. Baltimore's Tent 19 has "adopted" the pediatric cancer isolation unit, used in the treatment of young children with leukemia and similar diseases, as its fundraising effort.

My best wishes go to the Ladies' Auxiliary of Tent 19 for a successful fundraiser for this most worthy cause, and my congratulations to Mr. de la Renta and Mr. Morley for their willingness to aid in this endeavor.●

MIT PROFESSOR POINTS TO NUCLEAR DANGERS

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

● Mr. SIMON. Mr. Speaker, a member of my staff called my attention to an article by Prof. Victor F. Weisskopf of Massachusetts Institute of Technology, that appeared in Physics Today. Professor Weisskopf is also president of the American Academy of Arts and Sciences.

His remarks are a frank discussion of where we stand in the nuclear area and suggest clear reasons for international restraint.

Two sentences in his article I especially call to the attention of my colleagues in the House and the Senate because they bear upon the decision by the administration and by Congress on whether we should promote the neutron bomb. In his article, Professor Weisskopf says:

As time passes the weapons multiply and become more efficient; they are adapted to all kinds of purposes, such as the neutron bomb. They are therefore more likely to be used.

In addition to its military liabilities, the neutron weapon increases the probability of the use of nuclear weapons and diminishes presidential control of nuclear weapons.

The neutron bomb is only referred to in the article and is not the primary thrust of the article, but I thought I would call that particular section to the attention of my colleagues.

What he does say clearly is that there has to be much more public attention to the issue. He says with accuracy:

In nuclear matters, the public is now interested only in the relatively unimportant issue of nuclear power. This must change. The issue of getting rid of nuclear armaments must receive more public attention, support and pressure than it receives today.

I urge my colleagues to read the article.

A PERIL AND A HOPE

WITH THE DISCOVERY OF FISSION MANKIND ENTRAINED COSMIC FORCES WITH HUMAN IRRATIONALITY; WE MUST FACE THE PROBLEM OF REDUCING THE TENS OF THOUSANDS OF NUCLEAR BOMBS READY TO BE RELEASED IN SECONDS

(Victor F. Weisskopf)

Forty years ago Otto Hahn and Fritz Strassmann discovered fission. The existence of this phenomenon could have been predicted before it was found if the theoretical physicists at that time had shown a little more inventiveness: It is a simple consequence of the facts that the Coulomb repulsion increases with the square of the number of protons and the nuclear attraction only with the first power. In 1938 enough was known about the nuclear force that it would not have been too hard to conclude that the nucleus must become unstable against a split in two parts around atomic number $Z = 90$.

Although the fission process itself was not foreseen, the possibility of a nuclear chain reaction was indeed thought of in the early 1930's by Leo Szilard. The implementation of such a recation with fission would depend upon the number of neutrons released in the process. This number was not easily predictable; even today it would be hard to determine it theoretically from our knowledge of the nuclear forces. That this number is considerably larger than unity does not appear to be based upon any fundamental property of the nuclear forces. There are no very deep reasons; it might have been less than one, but it was not.

COSMIC FIRE

The fact that the number of neutrons emitted per fission is around two seems to be very minor importance to Mother Nature. Apparently the only major roles of the fission process are to provide an upper limit to Z and to influence to some extent the abundance of fission products. Apart from this, we may forget about fission if we are interested only in the major features of our world. This is even more true about the chain reaction itself. Nature has not made must use of it; recently evidence was found that a natural chain reaction happened a billion years ago below the soil of Africa; but, to our knowledge, nuclear chain reactions have never played any role in the development of our Universe.

Do, we humans count in this Universe? If we do, my previous statement is totally wrong. For humankind the existence of this chain reaction is of decisive importance, probably greater than we can fathom today. We know that fission can be used destructively as an explosive and constructively as a source of useful energy. It is therefore a very effective instrument of power, both political power and physical power.

This, in itself, is nothing new in the history of the natural sciences. New discoveries have led to new weapons, to new energy sources, and to countless applications from which a lot of good has emerged—as well as some results that have not been so good. (In the last 20 years it has been fashionable to emphasize the "not so good," but let us be objective and fair.)

There is indeed something different in the latest developments of physics, which I will call "the leap into the cosmos." Previously we were dealing mostly with processes similar to those occurring in our terrestrial environment. In the last few decades, however, we have taken a decisive step: We now deal

take place on Earth. Nuclear dynamics is dormant in our environment. It is of course true that natural radioactivity occurs on Earth, producing the heat in the depths of our planet, but these radioactive elements are the remnants of a very different age and of a different environment: They are the last embers of the cosmic explosion that produced terrestrial matter.

Today we physicists deal with cosmic processes in which many millions of electron volts per atom are exchanged rather than the few electron volts that are customary here on Earth. Of these cosmic processes, the fission chain reaction was one of the first to lead to major technological applications. Two hundred million electron volts per atom, twenty million times more than the most powerful chemical reaction. This is cosmic and not ordinary fire.

The first major application was a destructive one, which ended World War II by killing a quarter of a million people with two bombs. It is not surprising, therefore, that people are fearful and bewildered, and that they have misgivings even in regard to the more benign applications. The arm of technology grew by a factor of a million within the lifetime of one generation.

In 1940, however, we took little time to speculate on these questions. The discovery of fission came at a dark time in the history of mankind. Germany was in the grip of a collective mental disease of unparalleled virulence. The whole world was threatened by the expanding cancer of Nazism; the Germans discovered fission, and they might have used it if it had been usable at that time. Many of us physicists—those who were not yet too deeply involved in the development of radar, which saved England from being destroyed—worked hard to improve our understanding of fission. Many of us hoped that the number of neutrons per fission would be low enough to prevent the making of a bomb. But it was not.

HISTORY TAKES A TURN

A tremendous collective effort began. Within two years, the first nuclear chain reaction was produced under the leadership of Enrico Fermi, and within another three years, with the collaboration of many European physicists—in a truly international effort—a nuclear bomb was developed. On 16 July 1945 the first nuclear explosion was set off in a desert of southern New Mexico, at a place called Jornada del Muerte (a Spanish army perished there two hundred years ago). Human ingenuity had succeeded in the release of cosmic forces that were hidden and unknown 13 years earlier, when James Chadwick discovered the neutron.

Some of us saw this event, which, at our observation post, had the intensity of twenty midday suns: an expanding fire ball, white, and then yellow and orange, rising majestically into the sky, surrounded by a halo of blue light. The air was fluorescent with radioactive radiation.

Here it was: The laws of Nature did admit an explosive nuclear chain reaction. Because of some little detail in the equations of nuclear matter, the number of neutrons per fission was large enough. The history of mankind took a turn.

From then on, political developments, and no longer scientific ones, determined the course of events. Two bombs were exploded over Japanese cities; over 200,000 people lost their lives. Why two bombs? Why over populated areas? I am not sure I can answer these fateful questions. The bombs ended the war; they made an armed invasion unnecessary and thus perhaps saved more people than they killed. But Japan may have given up anyway under the pressure of a near defeat wrong—I don't know.

The war ended, and it was physics that had helped to win it with radar and the atom bomb, as well as many other new gadgets. Physics and the physicists moved onto center stage in public life; the significance of basic physical science became generally recognized. New means of research, technical and financial, suddenly were available to physicists. The radar technology created sophisticated new methods for producing electromagnetic waves of all kinds. Maser and laser physics emerged from it, and with it a deeper understanding of the fundamental interactions of light and matter, leading to quantum electrodynamics, as well as of the structure of solids under various extreme conditions.

Nuclear and subnuclear research experienced an almost explosive development, with an ever growing array of cyclotrons, synchrotrons and linear accelerators. The cosmic scope of physical research widened and penetrated into new realms of phenomena:

On the microscopic side, into the GeV region—with its mesons, hyperons, antiparticles, heavy electrons and quarks, entering the innermost structure of matter;

On the macroscopic side, into plasma physics, space physics, a new cosmology and astrophysics—with its quasars and pulsars, and the observation of the optical reverberation of the birth of the Universe, the famous three-degree radiation in space.

The physicists experienced a tremendous surge of support for their activities. This in turn led to an unparalleled expansion of their fields of endeavor and to a large range of new technical applications, both destructive and constructive, such as fusion bombs, rocketry, transistors, space travel, computers and many more. The physicists now moved to the center of public attention. It was their enthusiasm and self-confidence, spurred by their successes during and after the war, that brought them into contact with the great social and political problems of the times.

Many tried, and some succeeded, to bridge the "communication gap" between politicians and scientists. Attracted by great, optimistic ideas of how to establish a new order in the world they had helped to engender, they embraced the idea of international control of nuclear explosives. They hoped this would stop all future wars, and direct the applications of fission and fusion away from destructive bombs and towards an unlimited benign source of energy for all mankind. Some of them, perhaps, also experienced a reaction against their feeling of guilt for having been involved in the creation of a device that could annihilate all mankind.

POWER—AND ANXIETY

The political realities, however, were not conducive to the ideals of those who tried to unite the nations. Stalinism in the Soviet Union, and nationalism all over the world, including our own country, led to a breakdown of attempts to lift nuclear matters beyond national sovereignty. Of course, neither the physicists nor the politicians had much experience in dealing with such complicated technical matters on an international scale. With the development of fusion bombs, the nuclear arms race began in earnest.

Among the benign implications of nuclear physics, there still remained the great promise of unlimited energy through the use of fission reactors and, perhaps later, through controlled fusion. But over the decades following World War II, doubts were raised even on that account. Because the yield per atom is so many million times higher than in any conventional way of producing can not be completely excluded. Even if human ingenuity and care can keep the accident rate at an acceptable level, the public and some of the experts look with some anxiety at this "extraterrestrial way of producing energy in our terrestrial abode. The fact that the public is acquainted with this cosmic force only through the experience of nuclear bombs strengthens this anxiety. Furthermore, the use of fission for power constantly creates new raw material for bombs, which, in a nationally and politically divided world, adds to the danger of further spread of nuclear weapons.

The dangers and the promise of nuclear-power generators are today in the center of discussion; many studies have been undertaken and more are underway. Emotion and vested interest unfortunately have led to a sharp division of opinions, and the arguments used on both sides are too often beyond the limit of dignified scientific discourse.

APOTHEOSIS OF IRRATIONALITY

At the same time the nuclear arms race between the superpowers continues in an almost uncontrolled way. The Soviet Union and the United States assemble increasing numbers of bombs, and perfect their efficiency and their mode of delivery. More than 50,000 nuclear bombs are deployed and ready for use. Each country now has the capability of destroying the other many times over. Current science is totally unprepared to discuss intelligently, let alone to predict, the totality of horrors that would result from an all-out nuclear war. Consider only the effects of the vast amounts of radioactivity released upon our environment; these would be so devastating that the condition of life would be permanently and dangerously altered, without much hope of recovery. Even the detonation of a single weapon of modern design over a city would be a catastrophe unprecedented in human history. Yet two large countries keep building more and more of these horrendous means of annihilation, knowing well that any actual use of these devilish gadgets would mean certain destruction of a large part of the world—making it unfit for habitation, with little chance of a recovery of civilization. Why? Why? Why? Only because neither side knows where to stop, and both go on producing nuclear weapons intended for all sorts of imagined missions. Only because each party is under the grip of an unrealistic measure-countermeasure syndrome. It is the apotheosis of irrationality and antilogic; it is the triumph of craziness.

In comparison to this overwhelming threat the nuclear power controversy dwindles to picayune dimensions. What are the dangers of nuclear-power stations compared with the dangers of tens of thousands of bombs that can be released within seconds by a small group of human beings? What is the so-called "worst reactor accident" compared to nuclear war? The damages done by the former, which would come mainly from effects of radiation—serious as they are—are far less than the effects of a single bomb. Now think of the number of victims of a nuclear war and its irreparable effects on our environment, on our souls, alive or dead, and on our planet as a whole.

And the probabilities? Nobody really can estimate the probability of an all-out nuclear war, but one fact is clear: With all those bombs around, it is not zero. Nuclear power may be too risky, or it may not; I do not pretend to know the answer. But I know that tens of thousands of stored bombs are too risky.

However, a nuclear chain may develop from local wars between smaller countries that have acquired, or will soon acquire, a few nuclear weapons, and may make use of them in desperation. Or it may develop from an escalation of the use of so-called "tactical" nuclear weapons, which are meant to be applied in defense against aggression by conventional weapons. The tens of thousands of nuclear bombs are a mighty tinderbox; they may explode whether it was directly intended or not.

IS THERE A WAY OUT?

I am only too well aware of the difficulties in the way of reducing that danger. I know also that the presence of these weapons is given credit for having prevented a world war for a longer period than ever before. But, as time passes, the weapons multiply and become more efficient; they are adapted to all kinds of purposes, such as the neutron bomb. They are therefore more likely to be used. The outbreak of a volcano becomes more violent after long pauses. Here we have a man-made volcano: It could be removed.

I used the phrase "almost uncontrolled" in referring to the nuclear arms race. There have indeed been a few hopeful attempts, albeit small and tentative, that slowed it down a bit. One was the cessation of bomb tests above ground; the other was the first SALT agreement six years ago, which will, I hope, be expanded in the near future. They are not much, but they are two small steps in the right direction, and we can be proud that some of our colleagues were active in bringing them about.

The difficulties of going further are enormous. Some raise the fear that the other side will gain more, or might even dare to take the tremendous risk of a first strike regardless of the consequences. There are those who say that a free society can not compete in terms of nuclear armaments with an authoritarian system in any other way but through an all-out technological arms race. Voices are heard that we should not be too confident of negotiated contracts with our opponents; that we should rather assure a reasonable survival rate by a large effort of organized civil defense in order to make the population as ready as one can be for the great holocaust. I honor the intentions of those who advocate such measures but, to make them effective, if this is at all possible, would thoroughly change our way of life. I can not help sympathizing with the majority of our population, who do not want to live under a constant awareness of mankind's ultimate self-destruction.

We can not go on forever living under a continuous threat of annihilation. There must be ways and means to decrease the number of nuclear bombs. Certainly this task can not be accomplished from today to tomorrow; it is bound to be an extremely difficult process.

THE FOREMOST PROBLEM

There is a hope and not only a peril in the nuclear development. The growing recognition of this awful threat may still change the attitudes of the sovereign states, to lead slowly to the recognition that ultimate military preparedness is much less safe than a reduction and eventual abolition of nuclear weapons. J. Robert Oppenheimer said in 1945, shortly after the end of the war:

"The point is that atomic weapons constitute a new field and new opportunities . . . when people talk of the fact that this is not only a great peril, but a great hope, this is what they should mean. I do not think they should mean the unknown, though sure, value, of industrial and scientific virtues of atomic energy, but rather the simple fact are needed if there is to be any peace."

The task must be faced; it is the first and foremost problem of our time. Any one of us can and should play a role in this task, as a scientist and as a human being. The most important step is now setting of priorities. The reduction and eventual abolition of nuclear weapons must have absolute priority; everything else must be subordinated to this goal. The consequences of nuclear war are irreparable, whereas the consequences of other setbacks in world politics can be corrected.

This change of priority is essential and can be achieved only by constant pressure of public opinion. Remember how effective public opinion was during the Vietnam War. In nuclear matters, the public is now interested only in the relatively unimportant issue of nuclear power. This must change. The issue of getting rid of nuclear armaments must receive much more public attention, support and pressure than it receives today. There is much too little discussion of these essential questions: Do we not already have enough bombs for deterrence? How would the Soviet Union react to a restraint in development or to a cutback? We must find that right balance of risks most conducive to lowering the levels of nuclear armaments. What is needed is a combination of new technical ideas and common sense, based upon humane considerations.

Only when we see a chance of success in the abolition of nuclear armaments can we scientists be proud of the achievements we gained during the last decades: our leaps into the cosmos; our penetration into the intermost structure of matter; our achievements in getting at the basic processes of life, the workings of DNA and RNA, and the tremendous developments in our knowledge of organized matter.

It is not the first time in history that human greatness and human folly grew side by side in the same period. Think of the Gothic cathedrals, together with the senseless and murderous crusades 700 years ago. Think of the blossoming of art and philosophy during the Renaissance, along with the decimation of Europe's population during the religious wars, 500 years ago. Think of the music of Mozart and Beethoven, and of the slave ships plying the oceans, 150 years ago. Think of the greatest achievements of scientific thought, quantum mechanics and relativity theory, and the ascendancy of the murdeous periods of Nazism, Fascism and other authoritarian regimes, 50 years ago. Finally, think of the great achievements of science today, together with the folly of the nuclear arms race.

The last folly is more serious than all the previous ones. We are dealing with cosmic forces. Our epoch may be the end of what has been a great age of mankind, great in spite of all the strife and wanton destruction. Our age has been great in its achievements in art, architecture, literature, music; great in its numerous social innovations, in spite of the fact that in most parts of the world social organization and the quality of human life leaves much to be desired; great in its medical successes, which have resulted in the doubling of the average age of man; great in its means of food production, communication and transportation—which makes a united world without hunger and want a possibility, if not a reality. And, last but not least, ours has been a great civilization because of the constant growth of our insights into the mysteries of Nature, the continuous opening up, leaf by leaf, of the blossoms of truth and wonder.

THE AGE OF INSIGHT

If we do not succeed in abolishing the nuclear arms race and a nuclear war results, all the main culprit and the main instrument of destruction. The twentieth century ought to be remembered as the age in which mankind acquired its widest and deepest insight into the Universe, and learned to control its martial impulses.

Let us hope, strive and act so that it will.

(This article is an adaptation of a talk given 24 April 1978 at the Washington, D.C. meeting of The American Physical Society, as part of a commemorative session marking the fortieth anniversary of the discovery of nuclear fission.) ●

INCOME DISREGARD ONE STEP IN THE DIRECTION OF WELFARE REFORM

HON. ROBERT W. KASTEN, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

Mr. KASTEN. Mr. Speaker, reforming our Nation's welfare system continues to escape the grasp of Congress. Yet, there are few Government programs which frustrate the American people more than a welfare system that consumes more and more of their tax dollars with little regard for how the money is being spent or whether it is accomplishing its desired objective.

The main goal of welfare in the United States, as perceived by most Americans is to provide a decent, adequate level of support for those who truly cannot care for themselves. Over the years we have built an array of programs and services to aid these individuals.

The American taxpayers' support of this system has indeed been generous. By the end of 1977, the total amount of money spent cumulatively on public welfare by Federal, State, and local governments since the war on poverty began in 1964 was roughly $300 billion.

Yet, the American people's generosity has been stretched to the limit. They see a welfare system that is inefficient and ineffective. The rate of fraud is often high. Programs overlap and inequities abound throughout the system. The goal of moving people off welfare rolls and into the work force is elusive.

They look to their elected officials for solutions. And, it is we who must respond.

GAO LOOKS AT WISCONSIN

In late 1976 the Milwaukee Sentinel, one of the major newspapers in my State, began a series of articles on welfare abuse in Wisconsin. The newspaper quoted a case worker in the county welfare department: "There's no need to get into welfare fraud. You can rip off the system legally." That frank observation was followed by a strong journalistic effort to document incidents of welfare recipients who have learned to take advantage of the system and indeed "rip off" the taxpayers of Wisconsin.

Because of the concern generated in my State, I asked the General Accounting Office to conduct a major investigation of Wisconsin's aid to families with

dependent children (AFDC) program to pinpoint where abuses were occurring and to suggest possible areas of reform. The results of that 18-month investigation were recently released and confirm that Wisconsin has a costly, and in some cases, very inefficient welfare system that provides payments to a great number of people, some of whom earn higher incomes than families not on welfare.

GAO made these general observations about Wisconsin's welfare system:

Between 1966 and 1976, the State's AFDC caseload growth rate more than doubled the Nation's, jumping 473 percent, compared with the national average of 228 percent.

The caseload increase—from about 11,000 to 64,000 families per month—is fifth highest in the Nation.

The average monthly number of AFDC families jumped another 5,000 to 69,000 in the first 6 months of 1977.

The AFDC case error rate was cut in half from 1973 to 1977, and ranks 20th lowest in the Nation.

The AFDC program in many areas lacks efficient, effective and businesslike management.

The GAO report should serve as a catalyst for discussion to enable us to design a welfare system in Wisconsin that shows compassion for the poor who are most in need of concern for the taxpayers who are understandably upset over the waste, fraud, and inefficiency they see in the current system.

To accomplish that task will take the cooperation of Federal, State and local officials. Clearly, changes must be made at all levels of government. Just as it is easy to spread the blame for our problems with the current welfare system, so it is also necessary to accept the responsibility and challenge to bring about those changes.

FEDERAL INCENTIVES FAIL TO MOVE PEOPLE OFF WELFARE

One of the greatest inequities in our welfare system is that it allows people with high incomes to receive welfare while others who earn less are struggling on their own to make ends meet.

The Federal work incentive rule, or so-called "income disregard" provision, was designed to allow welfare recipients to work themselves off welfare by allowing them to disregard, for eligibility purposes, a certain portion of their earned income.

Under present law, States are required, when determining need for the AFDC program, to disregard the first $30 earned monthly by an adult plus one-third of additional earnings. Costs related to work are also deducted from earnings in calculating the amount of the welfare grant.

The basic intent of this rule is to provide a work incentive so that a person's welfare grant is not reduced $1 for every $1 earned on the theory that a recipient would be less likely to accept employment if that occurred.

GAO reviewed the results of five separate studies that have been made of the effects of the income disregard provisions. Their conclusion:

Despite some increases in employment, all the studies basically came to the same general conclusion that the income disregard provisions did not succeed in causing welfare recipients to become so self-sufficient and self-supporting that they were able to terminate from welfare. That is, the provisions did not result in reducing AFDC caseloads and costs, the major intent as envisioned by the Congress. There was an increase in the level of income which a recipient could earn and still maintain eligibility for AFDC. Therefore, it was more difficult and unlikely for an AFDC recipient to work his or her way off welfare.

The conclusions from these studies apply to Wisconsin as well. At my request, GAO further examined the effect of the income disregard provision on Wisconsin's AFDC program and the results were disturbing:

Based on a statewide projection of data from several counties, over 200 AFDC families in Wisconsin have incomes of over $12,000 a year and are still collecting welfare.

Of 16 specific cases studied, it was apparent that recipients were not working themselves off welfare. In half of the cases studied, recipients earned more than $835 a month or more than $10,000 a year.

In one case, a Wisconsin family had monthly earnings of $1,029. By using Federal work incentives rules, the family was able to disregard 87 percent of that income and receive a welfare grant of $379, for a potential yearly income of $16,890.

Through application of the work incentive rules, a family with monthly child care expenses of $400 can earn up to $21,253 a year and still receive welfare benefits.

CONGRESS SHOULD LIMIT AMOUNT OF INCOME ONE CAN EARN AND STILL COLLECT WELFARE

Few Americans begrudge a truly needy person the money and services that our welfare programs provide. Most, however, are enraged at the thought of someone who is able to care for himself continuing to be subsidized by the taxpayers.

Our welfare system should provide help only to those in need and once that need has ended, welfare payments should stop when a family is able to support itself.

Clearly the present system of income disregards and deductions for work-related expenses has not had the desired intent of moving people off welfare rolls. In the past we have been reluctant to set arbitrary income limits, but it has to be done. We just can't go on allowing families with high incomes to qualify for welfare. The payments must end when a family can reasonably support itself.

Whatever income limit we establish must occur at a wage level reasonably above a family's basic needs, so that there remains an incentive for a welfare recipient to work. However, that recipient should know in advance that at some point—when his earnings reach a certain level—his welfare benefits will end.

Therefore, I propose that the Department of Health, Education, and Welfare add to its regulations governing the administration of the AFDC program a requirement that each of the States establish a ceiling on the amount of earnings one can receive and still collect welfare.

The States—not the Federal Government—should make that decision.

Federal regulations now require that State AFDC plans specify in dollars the statewide standards to be used for determining the needs of applicants and recipients and the amount of the assistance payment. The need standard is the monthly amount, based on family size, which States consider necessary to cover the cost of essential items such as food, clothing, shelter, and utilities. An applicant's income is compared against this standard to determine financial eligibility for welfare.

These decisions are made by the States. I propose that the States also be required to determine when a recipient's income has reached a level where he no longer should be eligible for welfare. That determination should be linked to the standard of need, as defined by each of the States.

CONCLUSION

Mr. Speaker, the bill I am introducing today will hopefully spur congressional debate on the issue of establishing a limit on the amount one can earn and still collect welfare.

There no longer is a question that the current system of income disregards has failed its task of moving people off welfare. Various new formulas have been proposed to alter the "30 plus /3" rule, but none has received approval by Congress.

My approach will not penalize those families who must depend on their monthly welfare checks to meet their basic needs. Rather, it prevents those who can reasonably support themselves from taking advantage of a program designed to help the poor.●

FEDERAL HOUSING POLICY AND THE SOUTH BRONX

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

● Mr. WAXMAN. Mr. Speaker, it is the awesome devastation of the housing in the south Bronx which overwhelms all who live there and walk its streets. Block after block of once proud structures have decayed into unspeakable shells hardly fit for anyone. But thousands are forced to endure these conditions.

The idea of rehabilitating dilapidated housing has grown enormously in recent years. Urban homesteading is one offshoot. Federal encouragement of private investment in public housing complexes is another. The Department of Housing and Urban Development sponsors these endeavors. But a recurring problem is that although sufficient incentives for private investment in public housing projects—as opposed to public ownership—has been provided, no guarantees have been secured that the housing will be properly maintained. More often than not, a new cycle of decay follows rehabilitation.

Robert Scheer of the Los Angeles Times has examined the implications of Federal housing policy in the south Bronx. His article is not only an indictment of current practices, but the point of departure for the critical reexamination of urban policy which is so desperately needed.

I commend Mr. Scheer's article to the attention of my colleagues:

REHABILITATED HOUSING A COSTLY FAILURE

(By Robert Scheer)

Four-year-old Carmen had fallen from the fifth-floor tenement window and the congressman walked up the stairs to pay his respects. He could have used the elevator, but its floor was covered with urine.

The light fixtures on each landing were ripped out, there were huge gaping holes in the sheet-rocked hallways, the walls were covered with the foulest graffiti, and it was necessary for Rep. Robert Garcia, who represents this South Bronx district, to sidestep the feces in the hallway.

The mother was not at home; she was with her child, who was in critical condition at the hospital. But kids "from somewhere" had already burglarized the apartment.

Welcome to Jose de Diego-Beekman housing project, where upwards of 6,000 people live in the largest government-subsidized effort at rehabilitated housing in the country.

The federal government has allocated $234 million this year for similar efforts at rehabilitating older buildings around the country. The case of Diego-Beekman illustrates some inherent weaknesses in this federal program to aid the poor and the cities.

Five short years ago, Diego-Beekman was billed as a showcase project, with fancy graphic numerals outside each of the renovated five- and six-story tenements. It was nationally celebrated as a model for urban renewal.

There is not much disagreement that the showcase has become a jungle. The hallways are dark, muggings and burglaries frequent. Small children found playing in the rubble of burned-out buildings that surrounds the project and provides its playing area tick off accounts of the latest rape, child molestation or knifing.

The promised recreational area—a community center—is shut down, a security problem, management says. The washers and dryers tenants say were promised for each unit never materialized. Instead, there is a private laundry owned by a management official who is in charge of tenant selection.

No great claims are made for tenant selection, which is said by management officials to have broken down after the city forced them to take in what they termed "300 hard-core welfare cases."

There seems to be a liberal sprinkling of hardened criminals among the families trying to raise children in Diego-Beekman. Heroin needle marks are a common sight on teenage arms, and one could find no trace of social services in the projects to deal with this or any of the other festering, noisy problems in this garbage-strewn Calcutta of The Bronx, which certainly looked different in the original proposal.

But it is shattering in the midst of this waste to discover that most of the apartments visited at random are spotlessly clean, despite pipes that leak water and ovens that leak gas. This contradiction occurs often in the South Bronx.

Management says that the problems in the halls have occurred because the tenants are Puerto Ricans and blacks from a rural environment who do not understand the etiquette of apartment house dwelling with its common hallways.

The tenants say it's because management does nothing to keep the halls clean, to keep junkies from sleeping and defecating there and to provide recreational space for the kids, who use the halls as their playground.

Most of the people in Diego-Beekman originally came with hope. The first 600 families were screened, prepped and enthusiastic. Tenant patrols were established and order maintained.

It went downhill rapidly after that, and the causes for that are open to debate. It was, management claims, rising operating costs and those 300 unscreened welfare cases foisted on them by the city. The tenants blame management for not providing effective security, janitorial supplies or the staff necessary to maintain the building.

Wherever the fault lies, the Department of Housing and Urban Development (HUD), which is forking over the taxpayers' dollars that make all this possible, apparently has neither the personnel nor the mechanism to assess culpability in the dispute or to improve conditions.

The top officials at the New York office of HUD conceded that until The Times requested the annual HUD inspection reports, they had not read them. For good reason. It is not possible from this cursory annual effort to know if the many serious failings cited in the inspectors' reports have been tended to.

People in HUD understandably are reluctant to undermine the concept of rehab housing. In theory, it is a great idea: You get to refurbish old, but architecturally interesting buildings, which should be less expensive than all-new construction, and there is the hope of neighborhood preservation.

But rehab housing, as is the case with all government-subsidized housing for the poor, almost seems designed to fail.

This system began in response to the riots of the '60s when it was felt that the government had to do something, however limited, about urban housing. The federal government hit upon the idea of using accelerated tax-depreciation allowances to encourage the rehabilitation of inner-city housing.

By making rehab housing attractive as a tax shelter, it was hoped that substantial private investment capital would be turned toward providing housing for the poor.

But while this shelter has turned out to be very useful to those in the 50% tax bracket and is at this point the last of the great tax shelters, most of the money in rehab housing has come from the taxpayers, who have assumed virtually all of the financial risks.

The problem is that the rewards are almost all gained in reconstructing the old tenements but not in operating them.

The system works like this: A developer buys up options on some old tenement buildings and hires architects to draw up plans to remodel them. These plans and their costs are presented to HUD for approval.

If HUD gives the magic sign, then the developer must come up with 10% of the mortgage and a bank with 90%. This commitment of private capital is somewhat fictional, however. The bank puts up its 90% at the prevailing market rate of interest. The developer gets the loan at a 1% interest rate and HUD makes up the difference. If payments are missed—default—then HUD must pay the full amount of the loan plus full interest due.

The bank carries no risk, but it earns a good return. The developer does not actually put up his appointed 10% because he is granted an allowance for his organizational efforts in the project. He can declare this with the stroke of a pen and reduce his financial involvement to 5% to 7% of the mortgage.

He raises this money and much more by selling the tax shelter rights to investors, most of whom will never see the housing in question. The actual money ponied up by investors is relatively small compared to the mortgage insured and actually paid off by HUD. It's a good deal for the investors.

In the case of Diego-Beekman, private investors put in approximately $6 million and received tax write-offs totaling around $24 million.

Under this system, there is no risk for the banks or developers and virtually none for the investors. The investors would have to pay back some of their tax write-off if HUD foreclosed the mortgage.

Since January, 1975, HUD has operated a rent subsidy program called the Section 8 Housing Assistance Payments Program, which effectively removes the risk for private investors in the projects covered by the program. HUD has been paying out $1 billion a year since that time in rent subsidies to the project managers.

As a result of that subsidy there have been no foreclosures of Section 8-subsidized housing and, therefore, no losses by investors.

Even if the owners of the buildings default on their monthly mortgage payments, they get to keep their rights of possession as well as the tax write-offs. Seventeen percent of such rehab housing has resulted in mortgage default (but not foreclosure) in which the federal government continues to pick up the tab.

At Diego-Beekman, five of the eight sections of housing are in default, according to HUD. And while most of the units were rehabilitated less than five years ago, many are already in need of another round of rehabilitation.

One building, seven years old, is vacant and burned out. The project has experienced 29 major fires with total damage of more than $1 million.

Diego-Beekman has cost the taxpayers $20 million already and is now costing an additional $8,000 a day in rent subsidies alone.

It is heardly the showcase project of a showcase builder, Continental Wingate of Boston and New York, whose vice president, Carleton Dukess, heads the National Rehabilitated Housing Assn. He is Continental Wingate's top officer in New York.

He has an excellent reputation in federal housing circles, has good rapport with the Carter Administration and reports cheerfully that this Administration has made a major "tilt" toward rehab housing.

Dukess stated that he is aware that what happens to Diego-Beekman, the nation's largest effort at rehabilitated housing, could seriously affect the future of the program. He was aware that visits to the project by Rep. Garcia and a Times reporter have caused HUD to begin an inquiry into Diego-Beekman.

Alan Wiener, director of the New York HUD office, said that he had written to Dukess to say that the property was in an unsatisfactory state. Wiener stated that he would require bi-weekly progress reports from the HUD staff on improving conditions there.

Tenants organizers Milton (Karate) Morales, Roy Howard and Father James Snodgrass insist that there has been no improvement. Dukess responds by saying that he is working on it.

He said he has a direct line on his desk to the management office and "we talk every day, sometimes 10 times a day."

Unidos Management, the company that manages Diego-Beekman, is a subsidiary of Continental Wingate. With HUD's approval, Unidos recently imposed a fat increase in rent—with rentals now ranging from $373 to $454 a month—to cover rising operating costs. The same holds true for the suppliers of fuel and services. When they raise their rates, HUD pays the bill by increasing the rent subsidy.

The insurance companies likewise. With Diego-Beekman, according to Dukess, they raised the annual charge for fire and liability insurance from $86,000 in 1976 to $550,000 today, with a $125,000 deductible clause.

HUD, using taxpayers' dollars, paid this

amount through increased rent subsidies, without protest. Everyone makes out handsomely in taxpayer-subsidized housing for the poor—except the taxpayers and the poor.

Management has claimed that the cost of providing private security also has risen. Security at Diego-Beekman means guards who are paid close to the minimum wage of $2.75 an hour, and their morale is obviously low.

The head of security, a dedicated ex-New York cop, confesses that it is a hopeless situation. His boss, John C. Mandel, head of Mandel Security Bureau Inc., which supplies the guards, said that about 15 of the 36 guards quit each month.

Training barely leaves time for acquainting new guards with the addresses of the buildings. The project's head of security says he was promised a squad car more than a year ago, but he is still waiting.

Security, or rather the lack of it, is the main preoccupation of the tenants beyond that of leaking pipes, rodents and the vast accumulations of garbage.

There is immense fear in Diego-Beekman—fear of rapes, burglary and knifings or "cuttings," as the tenants call them, that seems bizarre in a federally funded housing development.

Think of the feds and one conjures up images of G-men, revenuers, postal inspectors—law and order. It used to be a given of tenement life that if you so much as pulled the letter to your parents from the school principal out through the slit of the mailbox, the postal inspectors would descend. Not now.

There are buildings in the Diego-Beekman project in which every single postal box has been punched out by vandals, leaving a box of pigeon holes as in some friendly old hotel. But Diego-Beekman is not a friendly old hotel any more than it is an efficient federal lock-up.

It is instead anarchy with a vengeance. It is a woman on welfare, whose husband has disappeared, standing in the doorway as a barrier to her three preschool children lest they enter into the dangers of the hall.

In the hall, one floor below, a hopelessly tough teen-ager boasts of his recent stint in the reformatory to the delight of two young girls half his age.

Does he live in the building? "Shove off." Is he worried about the project's police? "You kidding?" About the city police? "They never dare come in here." The congressman who had just passed by was judged "crazy man" in suggesting a return to school. Someone observes that the youth is "on something."

The question is not really one of the kid's right to be there in the project, but rather of his right to be setting the prevailing mood. And the mood of crime is omnipresent.

Soon after, one is handed a list of apartments where drug pushers have been known to operate. Asked about drugs, the security man says the addicts come to this neighborhood from all over New York.

"It's everywhere, every street corner. How are we gonna keep them out? The elevators don't work because the junkies rob the copper from the motors to sell for a fix. They steal anything. They live anywhere. The hallway is their living room and bathroom. We try, but it's a bigger job than I have men to deal with."

Mandel, in a telephone interview, elaborated on the problem:

"The security guard doesn't have a gun, he is not getting paid $20,000 a year. He is not a policeman, he is not there to risk his life and he's not going to."

"The insurance companies require guards, otherwise they probably wouldn't be there. We know that some of our men are sleeping on the job. But we have a standby reserve."

Wiener, the HUD official, concedes that security is inadequate and reports that HUD now has a man who travels about consulting on security. He is expected momentarily in The Bronx.

On a trip to the project Wiener hears the tenants complain of mundane matters of survival—doors that do not lock, busser systems that are inoperative, unlit hallways that provide perfect cover for assailants.

Wiener listens but does not listen. He looks at his watch. He has heard it all before in other projects. He says that it basically is not HUD's responsibility—HUD is not the manager of the buildings.

The building management reports to Continental-Wingate in Boston. Vice President Dukess, who heads the N.Y. office, said that he didn't know until informed by The Times that the guards were paid barely the minimum wage and that there was such a high turnover. He said that although he is not in the management chain of command, he and HUD security would begin an investigation into the matter.

Wiener said he had heard that there was good security in the form of a mobile patrol but, as he discovered upon visiting the project, it did not exist. He said he had relied on Continental-Wingate for his information.

Wiener is not responsible for this mess, having been on the job at HUD in New York since mid-June. But he confesses that even if he had been there for two years, his agency does not have the manpower to monitor the goings-on at the thousands of units built and subsidized in New York City with HUD money.

No one at HUD had heard of the child's five-story fall from Diego-Beekman or of any of the number of rapes, deaths and robberies said to have occurred at the project. It's just one project.

Tenants at the housing project claim that the child would not have fallen out of the windows if window grates—called child protectors—had been provided.

A recent New York City Health Department law—which is being challenged by landlords—provides that landlords must notify tenants with children by mail that the grates are available. But then it is up to the tenant to ask the landlord to install them. The tenants point out, however, that many of the mailboxes are ruined and that much mail never arrives.

HUD officials insist that they are not responsible for enforcing or even for being knowledgeable about New York law. One day recently, three department officials, visiting the project at Rep. Garcia's insistence, assembled in front of Diego-Beekman. They conceded that they did not know the specifics of the new window grate law, whether it applied to these buildings or its effective date.

The HUD officials took refuge in the fact that these were only HUD-subsidized projects, not HUD-owned ones. Although HUD had insured the mortgage, although the federal government provided very generous tax shelters for the original investors and despite the fact that HUD now was paying most of the rent tab, this was still considered private property.

Therefore the responsibility lies with the owners. Go talk to the owners.

Who are the owners? A month-long investigation by The Times as yet has failed to answer that question fully. HUD will provide information only on the general partners, and claims that it does not know who the limited partners are. Yet, it is they who often own most of the equity.

The on-site managers of Diego-Beekman, officials of the Unidos company, say they are charged only with maintaining the property for a fee. They were given the contract by Continental Wingate which owns Unidos. But Continental Wingate holds only a small fraction of the equity in the buildings.

Continental's Dukess conceded that his company would not be hurt much by foreclosure but he claimed an interest in the survival of the project for purposes of maintaining a good reputation.

He observed that there are some developers who would simply walk away from their project once the building is completed and the tax shelter sold.

If the building is foreclosed, the developer's reputation may suffer, but he is not hurt materially. Financial responsibility would fall on the investors who are not in any sense actively involved in maintaining the building and who most often are informed of a foreclosure after it has occurred.

In the case of Diego-Beekman, three of the eight units are owned by Laurence and Preston Tisch, who run the Loews hotel chain and other businesses. The rest are owned by dozens of doctors and lawyers and pilots and others from Santa Monica to Atlanta to Scarsdale.

They're in it for the tax shelter, and as A. Bruce Roset of Santa Monica, who headed one of the investor groups, said, "It is one of the few tax shelters left, and it is one of the better ones."

Rosel's company, Income Equities Corp., formed an investors group for three of the eight Beekman units during the 1970s. Roset conceded recently that if the project were foreclosed, his company already had earned its profit off the sale of the tax shelters to the limited partners and would not be affected adversely.

The disparate investors who had bought the tax shelters could be hurt in the event of foreclosure. But foreclosure is highly unlikely.

According to Wiener of HUD, two of the three units owned by the Tisches are in default and that the third soon will be. One insider estimates that the tax write-off on three units of Diego-Beekman buildings is in the range of $9 million for the first five years on an investment of around $2,250,000.

Whether the Tisches will realize the full tax write-off is determined by their particular income category.

The tax write-off would be in jeopardy only if HUD forecloses the Tisch-owned buildings. Even if there is a foreclosure, the Tisches would have had the use of that money, tax-free, for the past six years.

The Tisch brothers were not available for comment on the default of the mortgages. Dukess, the developer who sold the tax shelter to the Tisches, blamed the default on the deterioration of the neighborhood rather than on the practices of his management company.

But the failures of the Beekman redevelopment project are underscored by the occasional housing developments that work. Not far from the Beekman houses in a neighborhood every bit as deprived, there are rehabilitated houses which are in excellent condition.

Those buildings, developed and run by Herman Krause, have bussers that work, the front door is locked and there is no graffiti on the wallpapered walls.

Krause, a smaller developer eager to establish a track record so that he may obtain other contracts, has a mobile service crew for his buildings on call for repairs. His buildings function—from the lights and the plumbing to cleanups.

Aureo Cardona, who is the head of the local planning council, and the developer of some of the most successful subsidized housing, claims that such housing will not succeed without community involvement in the ownership and management.

Cardona helps run the South Bronx Community Housing Corp., which built the Plaza Borinquen houses. These two-story townhouses, scattered throughout the South Bronx, are cited by most local observers as

the best way to do public-supported housing. They are neat and well maintained.

The Plaza Borinquen units are new, well-built houses with gardens in front, and—perhaps because of their small size and careful tenant screening process—are likely to survive.

Clearly, some housing programs succeed where others fail, and HUD does not seem to have the operative ability to sort out one from the other. Success is treated as an accident, and failure as the norm.

HUD's Wiener conceded that he was unaware of any major problems at Diego-Beekman until Rep. Garcia notified him of the inspection he had made with the Times reporter.

Wiener went to the project at Garcia's request and later said, "I was not satisfied with what I saw . . . the broken mailboxes, the front doors open . . . I mean I should be in a position—if this office was running properly and we had enough staff—to say go find out when they replaced the mailboxes at 562 East 140th St. Go find out how much they spent on the bells and buzzers and how many times they had to replace them. . . .

"I was at Diego-Beekman about four months ago, but looking at it from a totally different perspective. I was just touring the South Bronx, you know, and walked in."

Asked if he had then been aware of the broken-down conditions, he replied, "No, I didn't see a lot of those things, no."

Wiener offers a solution which is that the banks which hold the mortgage should make sure that the building is properly maintained. But Henry Waltemade, president of Dollar Savings Bank, the largest bank in The Bronx, bluntly asserted that the banks have no incentive to do that.

There is no risk for the banks in this business, no matter how crummy the buildings, because HUD provides the subsidies to make the monthly mortgage payments and the banks are assured their interest. Waltemade says that HUD makes the banks an offer they can't refuse—profit without any responsibility.

Another solution might be a rewrite of the tax laws or the manner in which the government provides subsidized housing. But a HUD official who has been around for almost two decades said that the various building and banking lobbyists concerned would never permit either change.

"It would be cheaper in the long run for HUD to just go in and build housing for the poor and run it the way the New York Housing Authority does," he said. "But Congress wanted private industry to do it, and the only way private industry will build in the slums is as a tax shelter."

Dukess, the developer, can live with the tax laws just as they are written. As president of the National Housing Rehabilitation Assn., he seems effective in having his views known.

He recalls that when he noticed that President Carter's tax reform package had gone to Capitol Hill without renewing the 167K provision of the tax law—the one that provides tax shelter for rehab—he sent a note to Treasury Secretary W. Michael Blumbenthal and to the White House to make certain that it was just an oversight that could be corrected easily enough.

Dukess says it was corrected "immediately."

Dukess, who expects that an increasing percentage of money for federally subsidized housing will go for rehab construction, is not alone in influencing the Administration.

He observed that Charles Edson of Lane and Edson, a major housing-oriented law firm in Washington, headed the Carter transition team on housing. That group formulated housing policy alternatives for Carter before his inauguration. Edson's law firm represents the rehab association headed by Dukess.

There admittedly are many good reasons for the Administration's tilt towards rehab housing. It may be cheaper to rebuild existing stock than start anew, although the experience of Diego-Beekman does not necessarily confirm that.

It may be better to shore up existing neighborhoods in this way rather than level and start new ones. But again, the experience of Diego-Beekman provides troublesome counterevidence.

It may be that, in the long run, this provides, in the words of the HUD manual, ". . . adequate housing, a suitable living environment, and expanded economic opportunities."

Perhaps. Although many people would feel more assured on this if the President and HUD Secretary Patricia Roberts Harris would visit Diego-Beekman before tilting in the direction of rehab housing.

Today's high costs of new building make rehabilitated housing a necessity for saving the cities. The problem is not with the goal of rehabilitating housing, but rather that it must be done within the constraints of housing and tax laws written by Congress which virtually doom this and other ventures in subsidized public housing before they are much along the way.

Congress has been unwilling simply to have the government build and operate public housing for the poor on a mass scale. This would be the direct approach favored by some HUD officials.

They argue that costs to the taxpayers would be lower because of the elimination of tax shelters and the more efficient use of rent subsidies.

Congress disagrees and requires some sort of appearance of private ownership. But it is unwilling to go all the way and simply let private landlords come in without an accelerated tax depreciation shelter and make their profit, instead, through the ordinary operation of a building year in and out by collecting high, HUD-subsidized rent

The current practice is to allow the appearance of private investment through the tax shelter gimmick without any of the real risks and responsibilities of a normal business investment.

It is a shell game in which the taxpayer is left with the worst of both worlds, bearing virtually all of the risks and all of the costs.

Then as the buildings move into default and require yet another rehabilitation, the taxpayers turn in anger upon the tenants who finally are held responsible for this decay and waste.

In most instances, the taxpayer would have a hard time coming up with the names of the investors, developers, builders, lawyers, architects who really profited from all this. The welfare tenants are a more visible and vulnerable target.

There is another side. Dukess, reached at his Cape Cod vacation home, stated that the problem is that the tenants lack initiative and proper sanitary habits. The developer of Diego-Beekman suggested that better tenant organization might solve these problems in the future.

Roset, who sold some of the tax shelters, suggested the same in a telephone call from his Hawaiian vacation retreat. He said he thought the government should hire people like himself and his new company—National Development—to teach tenants how to organize.

Meanwhile, back on 149th and Beekman, a bright, pudgy but sad-eyed 11-year-old boy plaintively asked Rep. Garcia if the Diego-Beekman community center would ever be opened before the buildings were burned down.

The day before, a kid had been seriously injured by a speeding car on the spot where the boy and his friends now were playing. The week before, two children had fallen to their deaths from the roof of an abandoned building 50 feet away.

As the boy talked, a river of garbage rushed by, powered by an open hydrant that the kids called "our beach." It was terribly hot, noisy, smelly. The long Bronx summer was settling in.

Garcia broke. He had grown up just a few blocks away, when this was a good neighborhood. He had told the child that he should stay in school and that if he worked hard, he could do anything in life, even be a congressman and help his people. Now he paused.

And then, his voice cracking, he said: "If I can't do a lot better than get the community center opened, then this system of ours makes no sense at all—and you'd better hold us to it."

As to the four-year-old girl who fell from the widow at Diego-Beekman. Father James Snodgrass of the local Episcopal church reports a month after the accident that she will be all right.

Little Carmen suffered a skull fracture and broken bones in her foot. She was unconscious for three weeks after her fall but did not sustain permanent damage.

Her mother told the priest that she had repeatedly asked for child protector grates on the windows before the accident occurred, and since. Still, she said, she has not received them.

(Carol Blue assisted with the research for this article.)

ERA—A THREATENED WARP OF THE CONSTITUTION

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

● Mr. HANSEN. Mr. Speaker, "This is * * * a Republic if we can keep it." These are the most fitting and profound closing words of an article in the August 18, 1978, National Review by New Orleans attorney, Grover Rees, III, former editor-in-chief of the Louisiana Law Review, entitled "When the Voting Should Have Stopped", concerning the proposed extension of time for consideration of ERA and the right to rescind.

The article is herewith included to provide new light on an already well-worn argument.

WHEN THE VOTING SHOULD HAVE STOPPED

When Congress proposed the Equal Rights Amendment in 1972, the proposing resolution stated the amendment would become part of the Constitution "when ratified by the legislatures of three-fourths of the several states within seven years from the date of its submission . . ." Those seven years will be over next March. However, Congress and several state legislatures are now considering actions that would create serious doubt, among legal scholars as well as the general public, about what is part of the Constitution and what is not.

Ratifications by 38 state legislatures are necessary for final passage. To date, 35 legislatures have ratified; of these, four have passed resolutions purporting to rescind their ratifications. Congress, meanwhile, is considering a resolution (already passed by the House Judiciary Committee) to extend for another 39 months the period in which states may ratify. In March, we will all—those of us who wish to know for sure what the Constitution says—find ourselves in one of the following situations:

1. Assuming that Congress does not attempt to extend the deadline, and that fewer than three additional states ratify the ERA, the legal situation will be clear. The ERA will be "dead," in the limited sense that the 1972 resolution with its 35 ratifications will be null. ERA supporters say they'll get Congress to re-propose the amendment; opponents say they're not worried.

2. If Congress declares the deadline extended, and if by March fewer than three more states have ratified, the effect of the congressional extension will be unclear. Some ERA supporters argue that all prior ratifications—even by states that later rescinded—will remain valid. Another view is that Congress cannot "carry forward" the prior ratifications, and that 38 *new* ratifications would be needed. Finally, a few legal scholars take the view that extension is valid, but only if states are permitted to rescind their ratifications. Under this view, the ERA would need six or seven more states. Prognosis: at least 39 more months of uncertainty.

3. If Congress passes no extension resolution, but at least four (but fewer than seven) more states ratify by the March deadline, then the ERA will become law only if the four rescissions are ineffective.

4. If exactly three additional states ratify (assuming, again, no congressional extension), then whether the ERA is part of the Constitution will depend on the rescission issue *and* on the delightfully arcane question whether Kentucky's lieutenant governor could legally veto a rescission resolution passed by the legislature (the governor was out of the state). Governors have never never exercised a role in the ratifying process, since the Constitution provides that state legislatures or conventions—not "states"—ratify amendments, and the Supreme Court has held that a state may not restrict its legislature's ratifying function.

There are other permutations, partaking of the juridical elements of one or more of the above. Don't worry about them. Instead, join me in a brief review of a few legal principles, gleaned from the debate over the adoption of the federal Constitution and from the few occasions on which the Supreme Court has construed the formula for constitutional amendment.

A caveat: Do not think in terms of the ERA. Instead, think of your very favorite proposed constitutional amendment. Then imagine the constitutional change you fear the most. Examine the several alternative constructions of the technical rules on the amendment process provided in the Constitution itself, keeping in mind that the same rules will apply to the good and the bad proposals. That's what the Framers did when they designed the process.

Speaking logically, not historically, the rescission controversy seems artificial. Article V of the Constitution, which provides for amendments, is silent on rescission. The general rule is that states are sovereign: a legislature can do anything not prohibited by the federal or state constitution. In particular, legislatures can undo what they have done. They regularly reconsider and repeal their own prior enactments.

If there is a genuine question about the validity of state rescissions, it is created by a sordid and better-forgotten bit of American history. In 1868, three-fourths of the legislatures had ratified the Fourteenth Amendment; Ohio and New Jersey, however, had rescinded before the last state had ratified. Nevertheless, both houses of Congress passed a resolution declaring the amendment to be part of the Constitution.

The Senate passed the resolution without debate and without a roll-call vote. The House debated only for a minute or two, rejecting a request that the Judiciary Committee consider the resolution. (It was almost referred to the Joint Committee on Reconstruction, but the House opted instead to pass it without any committee consideration whatever.) This was the Reconstruction Congress, and the members who voted—in a near-perfect party-line vote—that Ohio and New Jersey could not rescind were, virtually man for man, those who five months earlier had voted to impeach Andrew Johnson for refusing to obey unconstitutional orders.

A few thoughts on the 1868 resolution. First, it was not framed as a general statement on the right to rescind. Indeed, debate revealed more support for the proposition that these particular rescissions were invalid because the Democratic legislatures of Ohio and New Jersey did not truly represent the citizens of those states. Moreover, up to that moment in history nobody had suggested that Congress had any power over the amending process except to *propose* amendments and to designate the mode of ratification. The only prior controversy over the validity of an amendment—the Eleventh, in 1798—had been settled by the Supreme Court. The attempt by the Reconstruction Congress to *judge* whether its own proposal had been duly ratified can best be explained in light of the felt necessities of the time: this Congress not only impeached Johnson, it also proudly regarded several states as "conquered territory" and ruled them accordingly.

Most important, the Reconstruction resolution was never tested in court, not even implicitly. On the very day of its passage, Georgia ratified the Fourteenth Amendment, bringing the total to three-fourths *without* Ohio and New Jersey, and rendering the rescission issue irrelevant. In 1939, three members of the Supreme Court referred to the congressional action, with apparent approval; but the reference was unnecessary to the Court's decision, and was therefore a mere expression of personal opinion.

It should be stressed that the Reconstruction resolution is moot: if the Supreme Court should recognize the validity of the ERA rescissions, it will not be compelled, either logically or practically, to raise questions about the validity of the Fourteenth or any other existing amendment.

Except for the 1868 resolution, with its endorsement by three Justices in 1939, the history of the amending process tends to support the right to rescind. The Constitutional Convention debates reveal the attitude that amendment should be possible only when a broad consensus exists: that a substantial minority of states should be able to block changes favored by a majority, and that frequent amendment would be undesirable. In *The Federalist #85*, Hamilton argued that the amending process would ensure that "the will of the requisite number" should prevail: amendment would be possible only when three-fourths of the states "were united in the desire of a particular amendment." Obviously, no state that has rescinded is "united in the desire" with a state that later ratifies. No consensus is achieved.

The Supreme Court has recognized contemporaneous consensus, and not just the formality of a certain number of isolated legislative acts, as necessary for ratification. Consensus was the basis for the Court's holding that an amendment must be ratified within a "reasonable time" to become part of the Constitution: state ratifications must be "sufficiently contemporaneous . . . to reflect the will of the people in all sections at relatively the same period." The "reasonable time" doctrine is based on the mere possibility that a ratifying state would lose its enthusiasm for an amendment after a few years. With even more reason, a state that has positively indicated its lack of support for an amendment cannot be counted as part of a consensus.

Not only logic and history, but also fairness, requires a state's right to rescind. It is universally recognized that a state legislature, having rejected an amendment, can later ratify it. To allow such reconsideration of a negative judgment, but not of a positive one, would give those who want to change the Constitution an unlimited opportunity to bounce back from defeat, while denying the same right to those who prefer to keep the Constitution as it is. Does anybody think the Framers intended such a result?

Opponents of the right to rescind—aside from invoking with reverence the two shaky precedents mentioned above—advance two principal arguments:

First, we desperately need the ERA. The women of America have worked so hard and so long that a defeat on this issue would prove that The System Does Not Work.

Second, it is the act of ratification that counts. Once a state has ratified, it has no more power over an amendment. Under this view, if 37 states had ratified in a flurry of enthusiasm for a new proposal, and *every* ratifying state had later rescinded, any one state could still bind the nation by ratifying, consensus or no consensus. There are, then, two views of the amending process: the consensus theory and the sacramental act theory.

The mind's eye pictures Bella Absug standing astride the nation with a great sack. Now she plucks up Connecticut, now Indiana, now little Delaware. Each time she bags a new state, a frisky Tennessee or Idaho scrambles out of the sack, only to be jammed back inside. Two views of the amending process: the consensus theory and the "Gotcha!" theory.

Since Congress can propose a new ERA whenever it chooses, identical to the old but with a new time limit, it could presumably achieve the same result by extending the 1972 resolution for 39 more months. But what effect will this have on states that have already ratified?

Advocates of extension insist that the time limit is a mere procedural matter, and that Congress has the implied power to change it at will, holding onto the prior ratifications. Opponents point to the fact that each ratifying state voted on a specific resolution, which contained the seven-year time limit. Approval of the ERA thus limited—in effect, a statement that "We're for it *if* 37 other states will ratify within seven years"—cannot be equated with unconditional approval.

Extension supporters place great weight on the *location* of the seven-year language in the ERA resolution. They generally admit that if the time limitation were in the text of the amendment itself, Congress could not extend without releasing the previously ratifying states. The seven-year limit on the ERA, however, is not in the body of the amendment, but in the preamble. Therefore, the argument goes, in changing the time limit Congress is not tampering with the amendment itself, which is all the states ever voted on.

This technical contention elevates form over substance, ignoring what really happened in the ratifying process. Each state received from Congress a copy of the entire resolution, including the preamble with the seven-year time limit. The whole package was on the bargaining table when the states agreed to ratify.

At a House subcommittee hearing on extension, ERA advocates ridiculed the notion that legislatures actually relied on the time limit and would have opposed the amendment had they thought the limit might be extended. Any doubt about legislative intent, however, has been resolved by the careful research of Professor Jules Gerard of Washington University Law School, who has examined the actual resolutions by which the states ratified the ERA. Professor Gerard reveals that of 35 such resolutions, 26 expressly mention the time limit.

To circumvent this argument, extension proponents invoke the sacramental act

theory, arguing that no matter what a legislature *thought* it was ratifying, it actually *did* ratify whatever it was that Congress proposed. Like Isaac, a legislature may have been tricked into giving its blessing to a resolution it never loved; but a blessing is a blessing. Gotcha.

Assuming for the sake of argument that state legislative intent is irrelevant, the key inquiry becomes whether the Congress that proposed the ERA intended for the time limit to be subject to change. It did not. The Senate hotly debated the question of a time limit, with several members indicating they could not support an amendment that might be "lingering in limbo for an indefinite number of years." The time limit was inserted on a roll-call vote, with the principal ERA sponsors on the losing side. But why was the limitation put into the preamble, rather than the text?

Several prior amendments did include the time limitation in the body of the amendment itself. Every amendment since the Twenty-Third, however, has had a time limit in the preamble, like the ERA. Extension supporters argue that the switch was intended to make the time limit a procedural detail, not a substantive part of the amendment immune to extension. But there is proof positive to the contrary.

Early proposed drafts of the Twenty-Third Amendment included the time limit in the text. At the request of its author, however, the amendment was rewritten by Professor Noel Dowling, perhaps the most respected constitutional scholar of his time. He had this to say:

"The seven-year limitation is put in the resolution rather than in the text of the amendment. There is no doubt about the power of Congress to put it there; and it will be *equally effective*. The usual way, to be sure, has been to write the limitation into the amendment; but we hope such an *unnecessary cluttering up of the Constitution* can be ended." [Emphasis added.]

In other words, the change was purely stylistic. A time limit has no business actually becoming part of the Constitution, since it has outlived its usefulness at the moment the last state ratifies. It was placed in the preamble as a step toward a more elegant Constitution, not a more powerful Congress. A time limit in the preamble was intended to have the same legal effect as a time limit in the text: to be reliable, predictable, tamper-proof.

Extension and rescission are technically unrelated issues. Several scholars have suggested, however, that if Congress extends the deadline, it will be necessary to allow states to rescind. This is more a fairness argument than a legal theory, but as a fairness argument it is compelling. A ten-year deadline would give amendment supporters at least ten chances in most states. Nine rejections followed by one acceptance would put the state squarely in the pro-ERA column. Meanwhile, state legislatures that ratified back in 1972 might be hating themselves for it, and passing annual resolutions rescinding and deploring the ERA, to no avail. Professor Charles Black of Yale Law School, a strong ERA supporter, calls it a "silly lobster-trap." But the House Judiciary Committee is not impressed: in considering the extension resolution, it rejected an amendment acknowledging the states' right to rescind.

The case for congressional power to extend the deadline and bind previously ratifying states, like the case against a state's right to rescind, is so weak that supporters seldom argue the merits. Rather, they assert that matters of constitutional amending procedure are "political questions," in which the Supreme Court will allow judgments of Congress to stand, right or wrong. By the same token, a few zealous ERA supporters are frankly urging Congress to forget the legal niceties and to treat votes on extension and rescission as votes for or against the ERA.

The "political-questions doctrine" originated as a view that the text of the Constitution forbade the courts to review certain actions of the Legislative and Executive branches. The best example is the provision that each house of Congress shall be "the sole judge" of its members' qualifications. In this matter, Congress is said to act as a *court*, and no other court can review its decisions. The political-questions doctrine gradually expanded to include a few areas (notably foreign policy) where there was no clear constitutional mandate for the courts to keep out, but where judicial intervention was regarded as impractical or dangerous.

In 1939 the Supreme Court held in *Coleman* v. *Miller* that some, but not all, matters of amendment procedure are political questions. Four judges stated flatly that the text of Article V commits adjudication of amendment questions to Congress; but they quoted no such language, and in fact there is none. Three others argued that, as a practical matter, Congress is the best judge of certain facts, and so the courts will not interfere. These three judges were the ones who approved the Reconstruction resolution. They did not indicate how courts should decide which congressional judgments to let stand and which to review; indeed, the decision was widely criticized as internally inconsistent.

Coleman would probably be decided differently by the Supreme Court today. The scope of the political-questions doctrine has narrowed considerably. In 1969, Representative Adam Clayton Powell sued the Speaker of the House, asserting that he had been illegally expelled from Congress. The Supreme Court took the case and declared Powell entitled to his seat, despite the explicit provision in the Constitution that Congress is "the sole judge." Since *Powell* v. *McCormack*, scholars have been asking whether there is really anything left of the political-questions doctrine.

Even those who disapprove of *Powell* should welcome its effect on those areas where there is no textual commitment of a judicial matter to Congress. Just as the courts ought to leave legislating up to the legislature, it is proper for Congress to leave adjudication to the courts.

John Marshall pointed out that the Supreme Court's first duty is "to say what the law is." The first step in observing that duty is to say what the Constitution contains.

It has been suggested that the Supreme Court has an institutional conflict of interest in matters of amending procedure, because some amendments might limit the Court's power. Congress, however, has a twofold conflict: first, amendments frequently limit or expand congressional power; second, Congress already has a role in the amending process, that of proponent. The ERA spectacle now unfolding is an illustration: Congress proposes the ERA, then votes to extend the time limit on its proposal, then passes a resolution "judging" ratifying states to be bound by the extension, and also "judges" the constitutionality of state rescissions. It's 1978: do you know where your Constitution is?

The impact of declaring amendment procedure to be a political question would extend far beyond the ERA controversy. A model in which the limited role of Congress is bootstrapped into that of general overseer of the amending process—sitting as a "court" in judgment of the success or failure of its own proposals, and free to disregard the clear intentions of the other protagonists—would do unique violence to federalism and to the separation of powers.

A political question, by definition, is one on which Congress can do anything it wishes, no matter how extreme, and be immune from judicial review. Congress could, for instance, propose an amendment on Monday, then pass a resolution on Tuesday "judging" its proposal to have been ratified by 38 states. Everyone could see the congressional resolution was a lie; but the Supreme Court, if it accepted this as a "political question" on which it was powerless to rule, would have to apply the Constitution thus rewritten.

Of course its unlikely that Congress would pursue the political questions doctrine to its logical extreme. Nevertheless, at every turn there will be voices urging Congress to disregard legal niceties, to regard procedural votes as expressions of support or opposition to the amendment of the hour. At its best, the Constitution protects the rights of racial religious, sectional, and other minorities. To entrust the ultimate power over its amendment to a single institution—a highly political, majoritarian, federal-level institution—would be to trust that institution with those rights.

Greasing the skids for the ERA will set a precedent for future amendments which, Professor Black reminds us, could "change the Presidency to a committee of three, hobble the treaty power, make the federal judiciary elective, repeal the Fourth Amendment, make Catholics ineligible for office, and move the national capital to Topeka."

No, thoughtful person, liberal or conservative, ERA supporter or opponent, will let his feelings about a particular amendment color his judgment about who shall wield, for all time, the power to rewrite the Constitution.

In response to ERA opponents' entreaties not to "change the rules in the middle of the game," Congressman Barbara Jordan recently replied, with righteous indignation, "This is no game!" She's right. It's a Republic, if we can keep it. ●

BALANCE(S) OF POWER SERIES BOOK IV(B)—MEANING OF SOVIET MILITARY DOCTRINE

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, today's article in the continuing Book IV of the Balance(s) of Power Series which sets forth Soviet intentions and doctrine is concerned with the rudimentary meaning of military doctrine as understood and defined by Soviet leaders. Entitled "Soviet Military Thought," and written by Joseph Douglass under Air Force auspices, this brief article summarizes brilliantly the basic meaning of military doctrine inside the Kremlin.

Introductory in nature, especially compared to later insertions that will be made in Book IV, Soviet Military Thought, nevertheless, illustrates—via reference to Soviet writings—how the Russians view this subject and, implicitly, how their interpretation differs from Western sources, including American.

The article follows:

SOVIET MILITARY THOUGHT

In ways that are particularly important to this analysis, the Soviets have certain concepts and words that are very different from their U.S. counterparts and that need to be recognized in reading the Soviet literature. Although largely taken for granted in the United States, the organization of military

thought into specific categories, such as military doctrine, science, art, and strategy, and the Marxist-Leninist interpretation of certain words and concepts, such as war, one-man control, and independence are very important to the Soviets and an appreciation of this and the definitions is essential and requisite to understand what the Soviets are saying. This is especially so for "doctrine," "strategy," and "war." This chapter will review how these very basic terms are used in the Soviet Union. Other definitional problems and idiosyncrasies will be discussed in the following chapters as the need arises.

A. SOVIET MILITARY DOCTRINE

In the United States, military doctrine is a very flexible word that means very different things to different people. In effect, everyone has his own meaning. There is national doctrine, allied doctrine, Army doctrine, Air Force doctrine, and tactical nuclear doctrine, to mention but a few. In contrast, in the Soviet Union, there is only one, and that is official Soviet military doctrine.

In the Soviet Union, military doctrine is very carefully defined and promulgated. It is worked out in conjunction with the political leadership, and it represents their guidance to the military in preparing for war. As stated in *Military Strategy*, military doctrine is

. . . the expression of the accepted views of a state regarding the problems of political evaluation of future war, the state attitude toward war, a determination of the nature of future war, preparation of the country for war in the economic and moral sense, and regarding the problems of organization and preparation of the armed forces, as well as of the methods of waging war. Consequently, by military doctrine one should understand the system of officially approved, scientifically based views on the basic fundamental problems of war.

As stated in *The Officer's Handbook* in 1971:

"Military doctrine is worked out and determined by the political leadership of the state.

"The Central Committee of the Party . . . works out Soviet military doctrine.

"*Military doctrine* is a system of guiding views and principles of a state on the character of war under given specific historical conditions, the determination of the military tasks of a state, the armed forces, and the principles of their construction, and also the methods and forms for the solution of all these tasks, including armed conflict, which issue from the goals of the war and the socio-economic and military-technical capabilities of a country."

In the Soviet Union, military doctrine is drawn up under the guidance of the Central Committee of the Party. In contrast, U.S. doctrine is developed by the military to guide their action and tends to equate more evenly with Soviet principles of operational art or tactics, which are more at the base of the hierarchal structure of Soviet military thought. In the Soviet Union, doctrine is at the apex, developed at the Kremlin; while in the U.S., doctrine is something developed at lower command levels in the Services. Thus, "doctrine" in the Soviet system is not even similar to "doctrine" in the U.S. system. Military doctrine in the Soviet Union is official and is to be used in preparing the country for war. It identifies the nature of the war, the preparations to be undertaken, and the priority tasks and problems.

The doctrine is promulgated in books such as *Marxism-Leninism on War and the Army* and publications such as *Communist of the Armed Forces*. The basic characteristics and some of its content are set forth in *Methodological Problems of Military Theory and Practice* and *The Officer's Handbook*. As an example of Soviet doctrine, consider the following excerpts from *The Officer's Handbook*:

"Soviet military doctrine has an offensive character. . . . The Soviet Union . . . will conduct the war which the enemies impose on them in the most offensive manner in order to attain the smashing of the enemy in short times.

Soviet military doctrine allocates the decisive role in contemporary war to nuclear missile weapons. At the same time it considers that along with the nuclear missile strikes of a strategic and operational-tactical character, the armed forces will employ conventional armament."

The basic ingredients that have consistently made up Soviet doctrine since at least the late fifties are its offensive character, the importance of nuclear weapons, and the belief that the war will be decisive in its early phase and, therefore, short. Soviet military doctrine has consistently held that surprise attack is the most probable method whereby "the imperialists will unleash war";

"As for the means the imperialists have of unleashing [sic] war, Soviet military doctrine considers most probable a surprise attack of the aggressor without a declaration of war. This precisely is the main thing the imperialists are counting on. They have repeatedly resorted to such means of unleashing war in the past. The aggressors resort to it under modern conditions, too, as was shown, for example, by the attack of Israel on the Arab countries."

Finally, should world war come about, the basic tenets of Soviet military doctrine are that it will be the conflict of two diametrically opposed social systems, a coalition war that is definitely nuclear, will result in destruction of the capitalist system, and the world-wide triumph of the socialist system.

The major change, introduced in the sixties, allows for the possibility of an opening conventional phase (phase, not war) that subsequently escalates to all-out intercontinental war.

"It is possible that war can begin by gradual escalation of a limited conflict into a world conflict. Imperialists can begin it and wage it for any time without using nuclear weapons with only conventional means."

More recently, the possibility of limited nuclear war is being investigated and may well emerge as doctrine in the near future.

B. MILITARY SCIENCE AND STRATEGY

Soviet military thought is divided into two major compartments; military doctrine and military science. Within military science, strategy is the most important element. Soviet military science is defined in *The Officers Handbook* as follows:

"Soviet military science is a united system of knowledge on the preparation and conduct of armed conflict in the interests of the defense of the Soviet Union and other socialist countries against imperialist aggression. In its functions include:

"—the discovery and investigation of the objective laws of armed conflict;

"—the development, on the basis of the knowledge of these laws, of the means and forms of armed conflict for the achievement of victory over the enemy;

"—the investigation of the problems and determination of the methods for the preparation of the territory of the country and the Armed Forces for war, and the comprehensive support of the armed struggle economically, politically, morally, materially and technically, scientifically, and in other ways;

"—the development of the bases for the organization and training and education of the troops in accordance with the requirements of contemporary war;

"—the development of the method of military science as a whole, its general theory, theory of military art, the military-technological sciences, and its other parts and branches."

The interaction and difference between military doctrine and military science are important. While military doctrine guides military science, military doctrine also is developed using the conclusions of military science. Military doctrine exploits the conclusions of various sciences. The doctrine rests upon the conclusions of military science particularly as regards determining the nature of a future war and the methods for conducting it, and for determining the structure and preparation of the armed forces.

As described in *Methodological Problems of Military Theory and Practice*,

"Military science studies a much wider circle of problems than necessary for realization of the practical problems of construction of the armed forces of the state during the given period. It considers all the probable means and conditions of waging armed struggle, including those which are not typical for the given country and do not entirely coincide with its means. But the conclusions of military science use doctrine, proceeding from the real conditions and means of the country. No contemporary military science can disregard the appearance of nuclear missiles and their determining effect on the means and form of armed struggle. However, for states without nuclear missiles military doctrine had to show ways of military construction different from those which countries having very modern means of armed struggle can go. And these ways are developed by military science.

"Military science studies the development of military affairs in many countries and evaluates the state of the armed forces and military means of states and coalitions and condition of waging armed struggle in various theaters of military actions. The doctrine considers only those factors which affect the construction of the armed forces in its country. In other words, of the entire variety of phenomena and trends studied by military science, of all its generalizations and recommendations, military doctrine takes only those which correspond to the political course of the state and to its strategic means."

Although military doctrine and military science have much in common, it should be clear that there are important differences. In addition to the above example, military science focuses on the past, present, and future, while doctrine is pointed to the present and immediate future; that is, to foresee the nature of war and probable enemy in order to provide guidance to military science regarding the course to follow. A further difference is that

". . . doctrine, being developed and accepted by the state, is a single system of views and a guide to action free from any particular subjective views and evaluations. Inherent to science, in its development, is the struggle of opinions. In the system of military theories which comprise military science there may be several different points of view, different scientific ideas, and original hypotheses which are not selected by doctrine for practical application and they thereby do not acquire the character of official state views on military questions."

Military science includes a number of different fields, such as history, administration and organization, training, and the military art. The most important of these components is military art, which is made up of strategy, operational art, and tactics. The most important of these, which is also critical to this study, is strategy.

"*Strategy* is the part of military art which studies the foundations of the preparation and conduct of war as a whole and its campaigns. In practice it is policy's direct weapon. With respect to strategy, policy plays the leading and directing role.

"Strategy is general and single for all the types of the armed forces of the country because war is conducted, not by some one type of armed forces or combat arm, but by their combined efforts. The coordination of the actions of all the types of armed forces in war is possible only within the framework of a single military strategy.

"The most important problem of strategy is the determination of the character of modern war, and the possible means of its emergence and conduct, its stages (periods) and targets (problems), which are landmarks for its planning."

Strategy and doctrine are the areas of greatest interest in this study—with operational art and tactics examined to obtain greater detail, where important, regarding the organization and employment of various force elements. Probably the single study most representative of strategy is Sokolovskiy's *Military Strategy*, third edition. The Soviet officer is still referred to this important book for basic strategy.

Military strategy and doctrine, although very similar in coverage, are different in principle. For example,

"Military strategy occupies a subordinate position with regard to military doctrine. Military doctrine determines over-all policy in principle, while military strategy, starting from this over-all policy develops and investigates concrete problems touching upon the nature of future war, the preparation of a country for war, the organization of the armed forces, and the methods of warfare."

What is most important is the relationship between doctrine and strategy in time of war.

"During war, military doctrine withdraws somewhat into the background because in armed conflict they are guided primarily by military-political and military-strategic considerations and by the conclusions and generalizations which follow from the conditions of a specific situation. Consequently, war and armed conflict are guided not by doctrine, but by strategy."

In evaluating the Soviet threat to NATO and the prospects for controlling and terminating a NATO/Warsaw Pact war in Europe, the Soviet doctrine and strategy are coequal in importance and preeminent in the whole field of military thought.

C. WAR

A word that can introduce considerable definitional problems is the very simple word "war." In the Soviet doctrine, war is not just one word. There are two types of war—just war and unjust war—and which war is being discussed often has to be inferred from the context of the sentence. The distinction between just and unjust war is not trivial. It is particularly important because the interpretation can cast considerable influence on the meanings attached to various discussions in the Soviet literature and, in particular, to those discussions that are associated with limited nuclear war. It is essential to understand *whose* war is being discussed in interpreting Soviet statements.

A war is just or unjust depending on the social content and goals of the war—not by who attacks first, where the war is fought, or whether the troops are attacking or defending themselves.

"Just wars are those which are liberating, directed at class or national liberation. Also wars defending the people from outside attack and attempts to enslave them, to free colonies and dependent countries from imperialist oppression, and civil wars. A special place is occupied by wars in defense of the socialist fatherland. These are the most just of all wars since they defend the system under which they live as well as their native land and national independence.

"Unjust wars are predatory wars organized by exploiting classes. Their goal is to seize the territory of others, defeat and enslave other peoples and working classes.

"Dividing wars into just and unjust is very important. It helps orient communists to each war. At the same time communists have never been pacifists, that is, against any war."

When one reads a statement regarding wars, he must ask whether the statement applies to just wars or to unjust wars—the context is most important. In brief, anyone challenging the Soviets is fighting an unjust war; and, any war in which the Soviets are involved is, from their position, a just war.

As stated in a 1975 *Communist of the Armed Forces* editorial:

"War still is explained by the Leninist principle of just and unjust wars. A war which might be unleashed by imperialism against the Soviet Union would be unjust and reactionary and a continuation of their predatory policies. From the socialist countries' side, it would be the most just and progressive war. It would be defending the most advanced social structure—socialism, for the benefit of all progressive mankind. Such wars might be those of the working classes against the bourgeoisie and wars of national liberation. Only wars in the interests of socialism can be just from the point of view of the working masses."

When the Soviets denounce warfare, call for declarations against weapons of mass destruction, and emphasize the need to work to make nuclear war impossible, the war they are talking about is the unjust war. Such statements do not mean that they are at all interested in having curtailed *their* capability to conduct just wars of similar scale and using similar weapons.

As stated most clearly by Colonel V. V. Larionov, a prominent Soviet authority on military affairs and composing editor of all three editions of Marshal Sokolovskiy's classic *Military Strategy*:

"As for the Soviet Union it has always resolutely opposed international agreements legalizing *unjust* wars. Our country is consistently struggling for general and complete disarmament. *That is, for the destruction of all material means for waging such wars.* [Emphasis added]"●

BOSWORTH MUZZLING FAULTED

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

● Mr. ANDERSON of Illinois. Mr. Speaker I have previously commented on the Carter administration's improper if not illegal effort to prevent the Director of the Council on Wage and Price Stability, Mr. Barry Bosworth, from speaking out on pending wage contracts without clearance from a new wage inflation censorship committee to be headed by Labor Secretary Marshall. All this was done in an attempt to win favor with organized labor and stifle its criticism of the Administration. As I announced yesterday, the chairman of the House Banking Subcommittee on Economic Stabilization has agreed to my request to investigate the muzzling of Bosworth, and for this I am grateful.

Washington Post economic columnist Hobart Rowen commented at some length to his column last Sunday on this "clumsy effort to muzzle Barry Bosworth" and moreover on Marshall's stated views that wage restraints won't curb inflation. Bosworth, on the other hand, has warned that if strong unions don't moderate demands, higher unemployment, falling largely on minorities, will result.

The Sunday Washington Post also carried a news article to the effect that the Bosworth muzzling ploy has not succeeded in muzzling Meany, and that Labor Secretary Marshall has consequently unleased a harsh blast at Meany for his harsh criticism of the administration.

As the Washington Star editorial suggested last night, it's probably time for Meany "to go over to the White House and deliver another little lecture to the President. Who does Mr. Carter think is running the country, anyway?"

At this point in the RECORD, Mr. Speaker, I insert the articles I have referred to in my remarks:

[From the Washington Post, April 13, 1978]

ANTI-INFLATION PLAN CHANCES ARE ABOUT NIL

(By Hobart Rowen)

At a time when public concern with inflation is mounting, President Carter's latest contribution to dealing with the problem has been a clumsy effort to muzzle Barry Bosworth, his outspoken director of the Council on Wage and Price Stability.

It already has backfired, bringing in its wake a break between George Meany and Carter, and between Meany and Labor Secretary Ray Marshall, who used to be considered labor's best friend in Washington. And it is doubtful in any event that either Bosworth or anti-inflation chief Robert Strauss will be silenced.

Bosworth has been saying frankly that the administration has gotten little cooperation so far from labor, and that if the nation is required by organized unions next year to go through another round of 10 percent wage increases, "Forget about moderating inflation in the near future."

The wage-cost push generated by the big unions must be faced squarely by inflation fighters. Union labor has been getting for its workers at least one percent more per year in wages than unorganized workers.

Now Bosworth, who is 35, has run afoul of AFL-CIO President George Meany, who at 84 is just as feisty as he was 20 or 30 years ago. Meany told Carter about a month ago at the White House that Bosworth had been too one-sided in his criticism of the unions, and Carter agreed to do something to rein him in.

He sent Secretary of Labor Ray Marshall out to last week's AFL-CIO executive meeting in Chicago. And to Meany's delight, Marshall served up Bosworth's head.

"It will no longer be Mr. Bosworth acting by himself" on collective bargaining matters, Marshall said, explaining that he would be only one of five on a committee headed by himself "to coordinate our statements."

The other committee members include the powerful Robert Strauss, who supposedly is in charge of Carter's anti-inflation program; Economic Council Chairman Charles Schultze; and a relative unknown, Landon Butler, an assistant to Hamilton Jordan, who as far as anybody knows never has said anything publicly on these issues. And, oh yes, Bosworth. Marshall at first forgot to list him.

If Marshall's view prevails, as he emphasized in Chicago, the one voice coming through would be his own. Given Marshall's well-known distaste for government efforts to curb wage-price excesses, Bosworth's ability to speak out boldly, as he has on a number of occasions, would be ended.

In June, for example, he pointed out that if the strong unions don't moderate demands, their refusal will translate "into higher unemployment, and that will fall largely on minorities."

That's plain language, pretty accurate and pretty blunt, enough to have brought Bosworth earlier private warnings from Strauss that he may have been a bit indiscreet. Bos-

worth had shown with simple numbers how well Meany & Co. have been doing their job, getting bigger wage increases than unorganized labor.

"The value of a union card is higher than at any time in the post-war era," says a private economist. "The unions have found a way of protecting their members against inflation. They're saying, 'I'm all right, Jack—so leave me alone.'"

But in his remarks at Chicago, Marshall lined up with labor's classic position, asserting that, "As a general proposition, you're more likely to be able to restrain wages by restraining prices than the reverse."

There are very few economists—outside of the unions—who would agree with that, any more than they would with Marshall's incredible Chicago claim that, by keeping out low-cost steel imports, the administration is helping to contain inflation in steel prices. What it is doing is protecting American jobs at the cost of higher steel prices for consumers.

Already there are whispers around the White House that Marshall went too far in cozying up to Meany and laying a heavy hand on Bosworth. "Marshall screwed it up," says an authoritative voice.

Despite the effort to accommodate Meany, the labor leader turned on Carter and Marshall, slamming the administration's tentative settlement in the postal dispute. When Carter was reported to be "absolutely livid," Marshall held a press conference to deliver a first-ever statement criticising Meany.

So everyone is mad at everyone else, and in this unstable situation I doubt that Marshall's "speak with one voice" committee, intended to force a lower profile on Bosworth, has any meaning. I can't visualize, in any event, that Bob Strauss would, let Marshall or anyone else be his spokesman. Taken as a whole, these events cast further doubt on the ability of the administration to cope with complex economic events. Chances that it can come up with a strong anti-inflation program seem about nil.

[From the Washington Post, Aug. 13, 1978]

LABOR SECRETARY REBUKES MEANY FOR CRITICISMS

(By Helen Dewar)

AFL-CIO President George Meany got a public rebuke from his closest ally in the Carter administration yesterday as relations between the White House and the veteran labor chief continued to deteriorate.

Meany's chilly response, tempered only slightly by a conciliatory gesture toward cooperating with the administration on economic problems, vowed: "I don't intend to change."

The rebuke came from Labor Secretary Ray Marshall, who confirmed that President Carter is angry at Meany's continual criticism of the administration and went on to say that he too considers the criticism "unacceptable."

Marshall's stand was significant. He has never before publicly criticized the 83-year-old labor leader, and has been designated by Meany as the only administration official he wants to deal with.

Meany did not back off his criticism. But he did announce formation of a top-level AFL-CIO committee to work with Marshall "from time to time" on economic problems, including inflation—one of the flashpoints in the long-smoldering hostility between Meany and the Democratic administration he helped elect.

Meany made clear that this did not signal any change in AFL-CIO opposition to wage restraints as an inflation remedy. "The AFL-CIO is not an agency of government," he said, "It cannot be used to hold down wages or control workers."

The administration should be trying to "solve the nation's economic problems," rather than "issuing statements and press releases or leaking views from anonymous sources," Meany asserted.

This was a reference to a high-level White House official quoted in yesterday's Washington Post as saying Carter was "absolutely livid" at Meany's repeated criticisms in the face of White House fence-mending efforts.

Marshall said both he and Carter were "personally disturbed" by Meany's criticism this week of a postal workers contract that includes only modest wage increases. Also, he said, it was "simply unacceptable" to say, as Meany did, that administration ineffectiveness contributed to defeat of the labor law revision bill.

"I don't want to have a public quarrel with George Meany," Marshall told reporters. "He is a good friend and a man with whom I usually find myself in agreement. But on this occasion I feel that his remarks were very unfortunate."

Marshall said it was a "mistake" for Meany to intervene in the postal contract ratification process, an act for which Meany has also been denounced by leaders of the AFL-CIO postal unions. The intervention, said Marshall, "could lead to a rejection of the contracts, more inflationary demands and increased labor tensions."

At the same time, however, Marshall tried to play down the seriousness of the rift, saying the administration and organized labor share common objectives in most areas.

There is no "break" between the administration and the AFL-CIO, said Marshall. An AFL-CIO official agreed, but other sources said the "chemistry" between Carter and Meany is so bad that poor relations are likely to continue—"probably to the mutual detriment," said one labor leader.

Administration aides said Marshall acted independently of the White House in calling yesterday's press conference but cleared his opening statement with presidential assistants, including media adviser Gerald Rafshoon, who reportedly urged Marshall to avoid any temptation to tone down the language. The words were uncharacteristically strong for the usually genial Marshall.

While Marshall often downplays the contribution of wages to inflation, he emphasized it yesterday, saying it would be a "serious misconception for anyone to believe that the administration can ignore the inflationary aspects of collective bargaining agreements." He said the government will stay out of the bargaining but will continue to push for constraints before the negotiations start.

[From the Washington Star, August 14, 1978]

MR. MEANY AND THE PRESIDENT

If there's a way to get on the good side of George Meany—and there may not be—the White House hasn't found it. Its latest conciliation of the labor chief probably invited the latest kick in the teeth administered by Mr. Meany.

Mr. Meany, who seems to think that organized labor bears little if any responsibility in the fight against inflation, persuaded President Carter the other day to muzzle Barry Bosworth, head of the Council on Wage and Price Stability, and give Labor Secretary Ray Marshall a larger role in White House anti-inflation policy.

Mr. Meany is down on Mr. Bosworth for having the temerity to suggest that unions ought to hold down wage demands. Mr. Meany's notion of inflation fighting is to keep the screws on business to hold down prices but to lay off unions and wage demands.

The AFL-CIO president visited the White House the other day and made his distaste for Mr. Bosworth known to President Carter—you may recall that a few weeks earlier Mr. Meany lectured the president on the advisability of the White House staying out of wage negotiations—and suggested that any further comments from Mr. Bosworth be funneled through a five-member committee headed by Labor Secretary Marshall. Mr. Meany likes Mr. Marshall because the labor secretary rarely, if ever, takes a position that union leaders could take issue with.

Having recently been subjected to a public tongue-lashing from United Auto Workers president Douglas Fraser, President Carter apparently didn't want more of the same from Mr. Meany and acceded to Mr. Meany's wish.

The pair had barely finished shaking hands on the agreement to create the new committee and muzzle Mr. Bosworth when Mr. Meany showed up at a union meeting in Chicago and began sniping at President Carter for alleged weakness and ineffectiveness in dealing with Congress.

Not only that, Mr. Meany denounced the new postal contract and suggested that postal workers ought to reject it. That set off sparks among several postal union chiefs who said that Mr. Meany didn't know what he was talking about and suggested that he butt out of their affairs.

Sources at the White House, where the postal contract was being held up as a model of union moderation and responsibility, reported that President Carter was "absolutely livid" over Mr. Meany's comments on the postal contract and his rebuke of the president, especially since the president had just caved in to Mr. Meany on the Bosworth-Marshall matter.

It's probably time for Mr. Meany to go over to the White House and deliver another little lecture to the president. Who does Mr. Carter think is running the country, anyway?

HUMAN RIGHTS

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 16, 1978

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I wish to comment on human rights. More than two centuries ago this country was founded on the proposition that all persons are equal before the law. While theory and practice may not have always converged in the implementation of this ideal, I believe that it is more than fair to say that the United States has made steady progress through the years in seeing this ideal turned into reality.

The Soviet Union does not have a similar tradition. The rights of Soviet citizens seem significantly more a function of who is in power and what they want than a function of objective, just laws. Theirs seems to be a government of men, not laws.

This disregard for the rule of law inherent in the Soviet system has been recently and dramatically demonstrated in the treatment given Anatoly Shcharansky, Viktoras Petkus, Aleksandr Ginzberg, Vladimir Slepak, Ida Nudel, Josef Begun, Craig Whitney of the New York Times, Harold Piper of the Baltimore Sun, and U.S. second secretary to the Soviet Embassy Raymond Smith. Be it on questions of emigration, of actively monitoring whether the Helsinki Agreement is being enforced, of free speech, and/or of whether American diplomats are safe on American Embassy grounds, the Soviets have a means-ends mentality. The law presents no obstacles to desired goals as the law can be skewed to meet whatever demands the situation requires. Their law is not law, really—its a rubberband to be stretched or broken when the Soviet hierarchy wills.

The recent acts by the Soviets are particularly disturbing. These acts not only reemphasize the Soviets negative attitudes toward basic human rights but also seriously jeopardize what has popularly come to be known as "détente." To my mind, détente has never been and will never be a magic solution to the manifest problems separating the Soviets and ourselves. However, it does strike me that détente does mean the existence of a political atmosphere conducive to discussing and possibly resolving subjects of mutual interest.

Mr. Speaker, in the name of fundamental human rights, in the name of the rule of law, and in the name of mutual nuclear disarmament, I call upon the Soviets to rethink and revise their policies which led to their recent actions. It would be best for them, their citizens, and the world.●

RHODESIA'S PERIL

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Wednesday, August 16, 1978

● Mr. HARRY F. BYRD, JR. Mr. President, for an excellent analysis of the Rhodesian problem as it concerns the Congress, I commend to my colleagues an editorial from the Norfolk, Va., Ledger-Star written by its editor, George J. Hebert.

I ask that Mr. Hebert's editorial, "Rhodesia's Peril," be printed in Extensions of Remarks.

The article follows:

[From the Ledger-Star, August 11, 1978]

RHODESIA'S PERIL

(By George Hebert)

The House of Representatives appears to be the only Western body, possessing any real power in the situation, with a grasp of what's at stake in Rhodesia.

In contrast with the Senate and the version agreed upon yesterday by Senate-House conferees, the House proposal for eventual lifting of sanctions against Rhodesia omitted any requirement that the interim bi-racial government negotiate with "all parties" for a peace settlement and for agreement on Rhodesia's future.

The House simply called for removal of the sanctions by the end of the year if a freely elected government is installed by then, as prescribed in Salisbury's plan. This makes sense, though it would be better of course to end the sanctions now, as a gesture of encouragement to the orderly process of change which responsible Rhodesians have already set in motion. The black-white council now ruling the country, though suffering from internal strain and external siege, clearly holds the best hope of achieving a durable government under black-majority control.

To play the Senate game, the Carter game, the British game, the Third World game, is to insist on deals containing the seeds of Rhodesia's destruction as a democracy. For the faction Salisbury doesn't want to bring into negotiations consists of terrorist guerrillas, conducting their grisly operations under Soviet auspices. Their leaders are aiming for nothing short of total power in the turmoil created by the impending end of white rule.

It is bad enough that a supposedly humane group like the World Council of Churches should ally itself with these cutthroats, as the council did this week with an $85,000 grant. But for the American government to abet any such bloody-handed force as this, helping to erase all hopes of a free, viable Rhodesia, stuns the civilized mind.

Yet this is Washington's posture. And this is the policy which will remain the shame of the U.S. government, unless the breakthrough achieved in the House somehow becomes part of a larger return to sanity.●

STATEMENT OF PERSONAL EXPLANATION

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 16, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, I regret that I was not able to attend the House votes of Friday, August 11, 1978. I missed roll call No. 686, roll call No. 687, roll call No. 688, roll call No. 689, and roll call No. 690. Last Friday I was in Lexington, Ky., attending a Consortium Preliminary Planning Conference with the Congressional Rural Caucus and the American Association of Small Cities.

On rollcall No. 686, I would have voted "aye" on the motion to accept the Journal of Thursday, August 10. On rollcall No. 687, House Resolution 1307, the rule under which the civil service reform bill was considered, I would have voted "aye."

On rollcall No. 688, I would have voted "aye" on the move to resolve the House into the Committee on the Whole. Following this, I would have voted "aye" on the motion to table a motion to reconsider the previous vote—roll call No. 689.

On rollcall No. 690, I would have voted "aye" on H.R. 13007, an amendment to the Consumer Credit Protection Act, which would establish rights, remedies, and responsibilities for all participants in the utilization of electronic fund transfer services.●

A PRIEST FOREVER

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 16, 1978

● Mr. DORNAN. Mr. Speaker, at age 83, Maryknoll Father Francis J. Caffrey could be enjoying a life of leisure. However, being of the old school, he believes literally in the biblical exhortation, "Thou art a priest forever."

After ordination in 1924, Father Caffrey was assigned to missionary duties for many years. He later served as pastor of a large parish in northern California and was always involved in various civic activities. At the time of World War II, Father Caffrey represented the Maryknoll fathers as intermediary between the Army and the Department of Justice, during the internment of Japanese after Pearl Harbor.

Father Caffrey became known nationally when he hosted a radio program, "Sunday in Hollywood," on which he interviewed many of the most famous names in Hollywood—including Bing Crosby, Loretta Young, Perry Como, Danny Thomas, and countless other stars. Each celebrity related personal experiences of how a priest or other religious person had influenced his or her life. To this day Father Caffrey maintains many friendships in the motion picture industry.

In 1969 Father Caffrey met Jill Jackson Miller, wife of the late songwriter, Sy Miller. Jill and her husband had collaborated on many hit songs—including the beautiful, "Let There Be Peace On Earth—And Let It Begin With Me." In the 1960's Jill Jackson authored the beautiful and poignant poem, "Open Letter To Man", which Father Caffrey fell in love with. This dedicated priest began to distribute the Jill Miller poem and to date has spread 300 million—million—copies around the globe.

Father Francis J. Caffrey was recently recognized by the California State Assembly, for his many years of service to his church and to his community. May I second the accolades of the California legislators and top them off by having reprinted in our CONGRESSIONAL RECORD—where I am sure it will inspire additional millions of Americans—the beloved "Open Letter to Man":

I am woman.
I am your wife, your sweetheart, your mother, your daughter, your sister . . . your friend.
I need your help.
I was created to give to the world—gentleness, understanding, serenity, beauty and love.
I am finding it increasingly difficult to fulfill my purpose.
Many people in advertising, motion pictures, television and radio have ignored my inner qualities and have repeatedly used me only as a symbol of sex.
This humiliates me; it destroys my dignity; it prevents me from being what you want me to be . . . an example of beauty, inspiration and love . . . love for my children, love for my husband, love for my God and my country.
I need your help to restore me to my true position . . . to allow me to fulfill the purpose for which I was created.
I know you will find a way.

Thank Jill for writing this little treasure and thank you Father Caffrey for taking it to the world. God bless you both.●

TIME FOR REALISM ON CLEAN AIR ACT AMENDMENTS

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 16, 1978

● Mr. SIKES. Mr. Speaker, a year ago, on August 4, 1977, both Houses of Congress passed the Clean Air Act Amendments of 1977, and they were signed 3 days later by President Carter to become Public Law 95-95. Without doubt, this was complex and controversial legislation. It had been several years in the making, and there were many stormy sessions in subcommittees, committees, and on the floor of this House as well as the other body.

Many people with diverse interests feared that the Clean Air Act amendments, having the single purpose of promoting clean air, might lead to sacrifice or frustration of other equally important national objectives, such as reducing inflation, unemployment and energy imports. Indeed, if such fears had not been expressed, Congress well might have written a law with the goal of clean air as the overriding imperative to the deterriment of our national welfare and our citizen's standard of living.

There is no denying that, if improperly interpreted, the Clean Air Act amendments could have such a drastic consequence. But, clearly, such was not the intent of Congress. Great pains were taken to assure that environmental, energy, economic, and other important aspects will be considered and balanced by the Administrator of the Environmental Protection Agency when implementing the act.

For example, in revising standards of performance for new or modified fossil-fuel-fired stationary sources, the Administrator is specifically directed to determine the best technology that has been adequately demonstrated—and cost, energy requirements, and environmental impacts on media other than air expressly must be considered in making that determination. In other words, despite expressed fears while the amendments were being debated, the Administrator's decision may not be made in a "clean-air vacuum"; it must reflect balanced consideration of the other important national objectives delineated in the law.

Such careful statutory wording gave me assurance, and I am sure it did most of my colleagues who, as I, voted for the House bill and agreed to the conference report. We were satisfied that jobs, consumer costs, our balance of payments and standard of living would not be sacrificed on the altar of unnecessarily ultraclean air.

It appears, however, that we may have been too sanguine in our belief that EPA would follow the congressional intent and clear mandate. The Agency's draft proposal of revised new source performance standards for coal-burning electric utility boilers does not reflect consideration of the relevant facts nor take advantage of the statutory flexibility that was provided in the legislative history so that careful balance among the competing national objectives can be struck.

The Department of Energy commented extensively on the EPA proposal, made a counterproposal that more nearly follows Congressional intent, and carefully documented the different impacts of each proposal. DOE makes a compelling case that available data on currently operating flue-gas desulfurization systems do not show that the EPA proposal can be complied with in practice. Hence, despite the most determined operation and maintenance efforts, utility managements would be subject to drastic sanctions.

The EPA proposal would result in 0.3 to 1 million tons per year less sulfur dioxide emission than DOE's proposal—but at an increase cost of $13 to $24 billion through 1990. The cost to consumers under either proposal will be considerable, but it appears that EPA gave little, if any, consideration to cost-effectiveness.

EPA's proposal would increase utility oil consumption 300,000 to 600,000 barrels per day more than DOE's, while coal consumption under EPA's proposal would be 44 to 83 million tons per year less than under DOE's. It is difficult for me to reconcile EPA's proposal with the national effort to reduce oil consumption and increase coal use, or to comprehend how they resolved the legal mandate to consider energy requirements.

I have written President Carter to express my concerns about the EPA proposal, and to urge that all competing important national objectives be weighed and balanced, as Congress intended, before final rules are promulgated.

For my colleagues who may want to read a carefully written, objective presentation of the several viewpoints on this matter, I commend the article, "Billions at Stake as U.S. Weighs Clean-Air Rules," by Charles Mohr in the August 2, 1978, New York Times, in the RECORD:

BILLIONS AT STAKE AS U.S. WEIGHS CLEAN-AIR RULES

(By Charles Mohr)

WASHINGTON, August 1.—The question of how much cleansing to require of the sulfurous smoke that will be emitted by a new generation of electric power plants has become a subject of intense debate among Government agencies and special interest groups. Billions of dollars, as well as considerations of clean air, are at stake.

Douglas M. Costle, the administrator of the Environmental Protection Agency, must issue by Sept. 12 proposed "new source performance standards" for new or modified coal-fired power plants. One environmentalist calls it "perhaps the most significant rule-making action" ever taken to enforce the law restricting air pollution.

Industrial and utility spokesmen see the decision as a critical test of whether the Carter Administration is "serious" about controlling inflation through Government actions.

The E.P.A. is leaning toward stringent standards that would require the installation of highly efficient and highly expensive gas "scrubbers" even if a power plant uses relatively clean, low-sulfur Western coal.

The Department of Energy is vigorously arguing for lower standards, saying that its proposal would save as much as $24 billion for utilities from 1983 to 1990, would reduce oil imports and would ease the national transition from oil to coal.

The economic advisers who constitute President Carter's anti-inflation team are certain to subject the regulation to the detailed economic review that they are empowered to make, and business leaders have already gone to the White House to urge relaxation of standards.

WARNING ON LAWSUITS

On the other hand, the National Resources Defense Council, an environmental organization, has warned Mr. Costle that he may face "endless litigation" if standards are not stringent.

The decision will also affect the share of the market that Western coal mines will be able to capture from Eastern and Middle Western fields that produce dirtier, high sulfur fuel.

In the 1977 amendments to the Clean Air Act, Congress required that the new source performance standards be based on "the best technological system of continuous emission reduction" of pollution.

The amendments also required Mr. Costle to set standards for the percentage of sulfur oxides that must be removed from the smoke of the new plants and an "emissions standard" or limit on the amount of pollutants for each unit of heat generated.

An E.P.A. staff draft proposal, which has aroused the ire of critics, suggested; that single and fixed standards be set no matter what kind of coal is burned. The draft also called for reducing the sulfur dioxide pollution from plants by 85 percent average daily. This would, experts believe, result in an average annual reduction of 90 percent.

It would also require that a utility would have to remove the same percentage of pollutant from low-sulfur coal, by installing the same kind of gas scrubbers required for high sulfur coal, even though the Western fuel contains significantly less sulfur.

CONCESSION ON SCRUBBING

The Department of Energy and other critics concede that the language of the 1977 Clean Air Act amendments requires that some degree of scrubbing be done in new plants, even those using Western coal. But they are recommendations that a "sliding scale" be adopted that would permit as little as 40 percent of the sulfur dioxide from cleaner coal to be removed.

In its "alternative proposal," the Energy Department is also recommending that utilities be required only to achieve an 85 percent reduction for high-sulphur coal averaged on a monthly basis.

This is easier, and thus cheaper, to achieve than the daily average suggested by E.P.A. and would reduce utility company fears about "reliability" of the highly efficient scrubbers that the environmental agency draft would require.

In a letter to Mr. Costle on July 6, John F. O'Leary, the Deputy Secretary of Energy, said that his department was concerned about "the potentially inflationary impact" of the E.P.A. draft, the potential for increasing oil consumption and "the risk of widespread noncompliance" by the utilities.

MOVES FOR "BEST BALANCE"

"We recognize that competing objectives are at stake, and that a proper balancing of environmental, economic and energy objectives is a challenging task," Mr. O'Leary wrote. "Our concern," he said, is that the E.P.A. staff's proposed revision in new source performance standards, "does not strike the best balance."

The "proposed" rule, which Mr. Costle must issue next month under a court-imposed deadline, will be open to an extended period of public comment, and the "final" rule may not be published until next year.

Because of the long construction times for new power plants, the new units affected by the performance-standards will not begin to go into production until 1983 or 1984. As many as 250 large generating units of about 600 megawatts each may be activated from 1983 to 1990.

The Department of Energy contended in its letter to Mr. Costle that the department alternatives to the E.P.A. plan would save from $11 billion to $24 billion in that period, with further savings after 1990.

The environmental agency economic analysis, however, is that the more stringent standards would raise the cost of pollution control by an average of $700 million a year.

THE MERITS OF THE COST

There is also argument about how much cleaner the air would be in either case and whether the more stringent controls are worth the cost. One estimate is that by 1990 the total national emissions of sulfur dioxide would be 20 million tons under the Energy Department plan, and 19 million tons under the environmental agency draft.

David G. Hawkins, the E.P.A. assistant administrator for air programs, said that the reduction in pollution was "masked" by the continuing pollution of existing power plants operating under the lower present standards.

Another major item of contention is the effect of varying proposals on oil consumption. Partly because utilities tend intensely to dislike scrubbers and to distrust their operational reliability they may go slowly in shutting down existing oil-fired plants, some experts believe.

The Energy Department analysts contended that the E.P.A. staff proposal "could increase utility oil consumption in 1990 by 400,000 to 700,000 barrels per day whereas our proposals would lead to an increase of only 100,000 barrels per day."

SIGNAL FROM ADMINISTRATION

In a July 28 letter to Stuart E. Eizenstat, President Carter's chief domestic policy assistant, George C. Freeman, attorney for the utility industry's Air Regulatory Group, said that the forthcoming decision on performance standards would be the first "signal to the American people, business and Congress, as well as to our allies, of the Administration's willingness to accept the hard trade-offs necessary" to honor Mr. Carter's pledges made at the recent economic summit conference in Bonn.

In a telephone interview, Mr. Freeman, said, "This is the central issue that will show whether the Administration is serious about controlling inflation and oil imports."

Mr. Freeman said that spokesmen for the powerful Business Roundtable had also told Mr. Eizenstat that it was a test of whether Government would make the difficult "trade-offs" being asked of business.

In a letter to Mr. Costle, however, Richard E. Ayres, the senior staff attorney of the Natural Resources Defense Council, strenuously urged that the strict standards be adopted, saying that the Energy Department proposals "are contrary to the language and intent" of Congress and would "degrade the nation's air quality," limit economic growth by using up air pollution "increments" and threaten public support for coal conversion, a key part of Mr. Carter's national energy plan.

Mr. Ayres also argued that the weaker standard would "restore once again a strong incentive" for Middle Western, Eastern and Southeastern utilities to buy Western coal rather than locally available high sulfur coal. This, he argued, would frustrate one intention of the 1977 Clean Air Act amendments.

Mr. Costle last Friday inspected some highly reliable and successfully operated scrubbers at the Cane River plant of the Louisville Gas and Electric Company. During his visit he said that the forthcoming decision would be "the most significant environmental judgment that I'll make this year."

It is a debate, he suggested, as to "what degree environmental costs add to utility costs," but he added that "I think environmental costs are acceptable." As for fighting inflation and cleansing the air, Mr. Costle said, "you can do both."

But his final decision—which he is careful to conceal—will come only after continued and strong pressure from within and without the Government.●

THE UDALL RECORD—1978

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 16, 1978

● Mr. UDALL. Mr. Speaker, I am once again printing here in the CONGRESSIONAL RECORD a list of my votes in the House of Representatives. The votes listed here cover the 95th Congress, 2d session, up to and including August 15, 1978.

The list is arranged as follows:

Official roll-call number;
Number of the bill or resolution;
Short description of the measure under consideration;
Date of the described action;
My vote on the motion (Y—Yes; N—No; NV—Not voting);
The overall vote of the Arizona delegation (in the order: Yeas-Nays-Not voting);
An indication whether the measure passed or failed; and
The total vote.

This is not an all-inclusive list. In the interests of time and space, I have left out purely procedural questions such as votes to approve the Journal of the House, adoption of noncontroversial rules, and motions to resolve into the Committee of the Whole House.

The descriptions of the measures being voted on are necessarily somewhat short, and I am quite sure that many of my constituents will have additional questions about the details of some of these measures. I invite them to either visit my district office, at 301 West Congress in Tucson, where I have more information, or to write me with specifics.

The list follows:

(2) H.R. 2329. Fish and Wildlife amendment to delete language allowing warrantless searches and to substitute language permitting such activities if the offense is committed in the officer's presence or view. January 19, 1978. Y(2-1-1-) Passed 215-131.

(3) H.R. 2329. Fish and Wildlife bills to improve the enforcement of fish and wildlife laws. January 19, 1978. Y(2-1-1) Passed 292-59.

(5) H.R. 9165. Motion to pass a bill authorizing $10,000 for a bust of George C. Marshall. January 23, 1978 Y(2-1-1) Passed 351-22.

(6) H.R. 8771. Bill to grant divorced or separated Civil Service spouses rights in Civil Service pensions. January 23, 1978. Y(3-0-1) Passed 369-7.

(7) H.R. 9471. Provides Civil Service retirement credit for certain federal employees that were interned in relocation camps during WWII. January 23, 1978. Y(3-0-1) Passed 366-12.

(8) H.R. 9169. Increase permissible federal loan guarantees in connection with fishing vessels. January 23, 1978. Y(2-1-1) Passed 309-68.

(10) H.R. 8811. Enables Tax Court judges to revoke their participation in the Tax Court retirement system. January 24, 1978. Y(3-0-1) Passed 399-1.

(11) H.R. 7662. Authorizes $6 million to study administrative practices and make recommendations to improve efficiency. January 24, 1978. Y(2-1-1) Passed 293-103.

(12) S. 1585. Prohibits use of children under 16 in explicit sexual conduct for use in material for interstate commerce, and prohibits the interstate transportation of children under 18 for use in live sex shows or prostitution. January 24, 1978. Y(3-0-1) Passed 401-0.

(13) H.R. 1614. Amends the Outer Continental Shelf Act of 1953 to provide alternative bidding systems, grants to coastal states and environmental controls. January 25, 1978. Y(2-2-0) Passed 247-158.

(15) H.R. 1614. Retains the existing bidding system for Outer Continental Shelf lands at least 50% of the time. Provides for sharing of offshore revenues with coastal states. January 26, 1978. N(3-1-0) Rejected 187-211.

(16) H.R. 1614. Limits use of alternative bidding system for offshore territories. January 26, 1978. N(3-1-0) Rejected 142-229.

(18) H.R. 5796. Authorizes $1 million for the office of Rail Public Counsel in the Interstate Commerce Commission. January 30, 1978. Y(2-2-0) Passed 318-44.

(19) H.R. 5646. Enables the U.S. Railway Association to loan funds to Consolidated Rail Corporation. January 30, 1978. Y(3-1) Passed 314-50.

(20) H.R. 9651. Permits charter airlines to provide all-cargo air service under the provisions of 1977 air-cargo deregulation law. January 31, 1978. Y(4-0-0) Passed 403-0.

(21) H.R. 1614. No federal agency may do exploratory drilling. January 31, 1978. Y(3-1-1) Passed 328-77.

(22) H.R. 1614. Amendment stating that cancellation of lease should not foreclose any claim for compensation as required by the Constitution or any law. January 31, 1978. N(3-1-0) Passed 208-194.

(23) H.R. 1614. Requires alternative bidding system at least 10 percent and not more than 30 percent of lease sales. January 31, 1978. N(3-1-0) Rejected 196-207.

(24) H.R. 1614. Requires alternatives bidding system at least 20 percent and not more than 50 percent of lease sales. January 31, 1978 N(3-1-0) Passed 219-188.

(26) H.R. 8200. Substitute amendment to H.R. 8200 to retain the existing court structure for dealing with bankruptcies and other measures. February 2, 1978. Y(1-3-0) Rejected 146-262.

(27) H.R. 1614. Authorizes Attorney General and the Federal Trade Commission to conduct antitrust investigations of offshore lease proposals. February 1, 1978. Y(1-3-0) Passed 241-162.

(28) H.R. 1614. Provides that tracts sold by the alternative bidding systems be randomly selected. February 1, 1978. Y(1-3-0) Passed 225-174.

(30) H.R. 1614. Deletes section requiring that U.S. nationals be hired for offshore oil jobs. February 2, 1978. N(0-3-1) Rejected 118-280.

(31) H.R. 1614. Requires that U.S.-built equipment and nationals be used in OCS jobs. February 2, 1978. N(0-4-0) Rejected 201-206.

(33) H.R. 1614. Provides that 20 percent of OCS Federal revenues, up to $300 million annually, be shared with the coastal States. February 2, 1978. N(1-2-1) Passed 278-120.

(34) H.R. 1614. Deletes requirement that coastal States must have a federally approved coastal zone management plan. February 2, 1978. N(1-1-2) Rejected 159-230.

(35) H.R. 1614. Bill to amend the 1953 law governing oil and gas exploration on the Outer Continental Shelf. February 2, 1978. Y(1-2-1) Passed 291-91.

(36) H.R. 9434. Bill to raise ceiling of 1978 Medicaid payments to Puerto Rico, the Vir-

gin Island, and Guam. February 6, 1978. Y(1–3–0) Passed 253–106.

(37) H.R. 6336. To establish a Chatahoochee River National Park. February 6, 1978. Y(3–1–0) Passed 323–41.

(39) H.R. 6362. Requires sealed bidding for timber sales. February 6, 1978. N(0–4–0) Rejected 136–239.

(40) H.R. 6362. Allows Agriculture Secretary to determine the method for sale of timber. February 6, 1978. Y(4–0–0) Passed 295–78.

(42) H.R. 7843. Creates 110 federal district court judgeships and 35 new appeals court judgeships. February 7, 1978. NV(2–0–1) Passed 319–80.

(43) H.R. 6805. Provides for the consideration of a bill to establish an Agency for Consumer Protection. February 7, 1978. Y(1–3–0) Passed 271–132.

(44) H.R. 6805. Creates office of Consumer Counsel within each of 23 major federal departments. February 7, 1978. N(1–3–0) Rejected 93–312.

(47) H.R. 6805. Requires the proposed Office of Consumer Representation to give the President 30 days' advance notice of its intent to seek judicial review. February 8, 1978. N(3–1–0) Rejected 195–219.

(48) H.R. 6805. Deletes from the bill (H.R. 6805) the exemption covering certain labor proceedings before the National Labor Relations Board. February 8, 1978. N(3–1–0) Rejected 138–274.

(49) H.R. 6805. Deletes from the bill (H.R. 6805) the exemption covering DOA proceedings concerning loans and other matters. February 8, 1978. N(0–4–0) Rejected 105–309.

(50) H.R. 6805. Bill to establish an independent office of Consumer Representation. February 8, 1978. Y(1–30) Rejected 189–227.

(52) H.R. 3813. Motion to send H.R. 3813, the Redwood National Park bill back to the Committee on Interior and Insular Affairs with instructions. February 9, 1978. N(3–1–0) Rejected 116–247.

(53) H.R. 3813. Passage of the bill to establish a Redwood National Park. February 9, 1978. Y(1–3–0) Passed 328–60.

(54) H.R. 3454. Enlarges the National Wilderness Preservation System. February 9, 1978. Y(2–3–0) Passed 333–44.

(55) H.R. 2554. Enables the U.S. Court of Claims to reconsider Sioux claims against the U.S. February 9, 1978. Y(4–0–0) Passed 337–17.

(56) H.R. 7843. Provides for merit selection of federal court judgeships. February 9, 1978. Y(4–0–0) Passed 321–19.

(58) H.R. 8336. Requires the state take over of the Park in two years. February 14, 1978. N(2–1–1) Rejected 119–230.

(59) H.R. 8336. Establishes Chattahoochee River National Park. February 14, 1978. Y(1–2–1) Passed 273–79.

(60) H.R. 5503. Reduces the number of high-grade military officers. February 14, 1978. Y(3–0–1) Passed 351–7.

(62) H.R. 4544. Adoption of conference report to liberalize black lung benefits. February 15, 1978. NV(0–3–2) Passed 264–113.

(63) H.R. 9370. Authorizes $72 million for aquaculture development. February 15, 1978. NV(0–2–2) Passed 234–130.

(65) H.R. 10970. Emergency motion under suspension of the rules to pass the bill authorizing funds for the repair of weather damaged roadways and rails. February 21, 1978. N(3–1–0) Passed 274–137.

(66) H.J. Res. 649. Authorizes White House conferences on the Arts and Humanities. February 21, 1978. Y(2–3–0) Passed 341–65.

(67) H.R. 10569. Motion to amend the 1970 Alcohol & Drug Abuse Act. February 21, 1978. Y(4–0–0) Passed 409–0.

(68) H.R. 10606. Motion to suspend the rules and authorize funds for the Hubert Humphrey Institute of Public Affairs. February 21, 1978. Y(2–2–0) Passed 356–53.

(71) H.R. 9375. Motion to table the bill providing for rescinding funds for the production of the B-1 bomber. February 22, 1978. N(3–1–0) Rejected 172–244.

(72) H.R. 9375. Bill to rescind $462 million appropriated in 1977 for the production of the B-1 bomber. February 22, 1978. Y(1–3–0) Passed 234–182.

(76) H.R. 9214. Limits salary of director of IMF to $50,000. February 23, 1978. Y(1–2–1) Passed 253–141.

(77) H.R. 9214. Allows the U.S. to participate in a new $10 billion IMF. February 23, 1978 Y(1–2–1) Passed 267–125.

(78) H.R. 9179. Prohibits the Overseas Private Investment Corporation from making any loans to the National Finance Corporation of Panama. February 23, 1978. N(2–1–1) Rejected 166–199.

(79) H.R. 9179. Prohibits OPIC from providing loans to expand exportation of palm oil, sugar and citrus crops. February 23, 1978. N(2–1–1) Passed 191–167.

(80) H.R. 9179. Extends the operating authority of OPIC. February 23, 1978. Y(2–1–1) Passed 191–165.

(83) H.R. 9757. Bill to delay the increase of grazing fees. February 24, 1978. Y(3–0–1) Passed 257–47.

(84) H.R. 3377. Enables the Wichitas to file land claims. February 24, 1978. Y(2–0–2) Passed 293–1.

(85) H.R. 3377. Bill to enable the Wichita Tribe to file land claims. February 24, 1978. Y(1–2–1) Passed 226–68.

(87) H. Con. Res. 464. Allows D.C. voters to initiate laws. February 27, 1978. Y(3–0–1) Passed 321–24.

(88) H. Con. Res. 471 Allows D.C. voters to recall elected officials. February 27, 1978. Y(3–0–1) Passed 350–4.

(90) H.R. 9622. Abolishes "diversity of citizenship" as grounds for requesting federal jurisdiction. February 28, 1978. Y(3–0–1) Passed 266–133.

(91) H.R. 3816. Strengthens FTC's powers. February 28, 1978. Y(1–2–1) Rejected 146–255.

(92) H.R. 5901. Grants $3.1 million to the American Folklife Center. February 28, 1978. Y(2–1–1) Passed 306–80.

(97) H.J. Res. 554. Proposes an amendment to the Constitution that D.C. be given full voting rights in Congress. March 2, 1978. Y(1–3–0) Passed 289–127.

(100) H. Res. 957. Authorizes $400,000 for House Committee on Veterans Affairs. March 3, 1978. Y(1–0–3) Passed 336–1.

(101) H. Res. 953. Authorizes $275,000 for calendar year 1978 for the House Committee on the District of Columbia. March 3, 1978. Y(1–0–3) Passed 318–15.

(102) H. Res. 1012. Authorizes $49,500 for expenses of investigation and studies of the House Committee on Rules. March 3, 1978. Y(1–0–3) Passed 321–13.

(105) H.J. Res. 715. To designate May 3, 1978 as "Sun Day" to promote and call attention to solar energy. March 6, 1978. Y(3–0–1) Passed 348–7.

(107) H.R. 10551. Bill to continue fiscal 1978 funding and waive certain requirements of Title I of the 1974 Elementary and Secondary Education Act for some schools that participated in demonstration programs. March 7, 1978. NV(1–0–3) Passed 404–0.

(110) H.R. 11180. Amendment to delete title II, which would establish the debt limit through concurrent budget resolution in the future. March 7, 1978. NV (0–1–3). Passed 277–132.

(111) H.R. 11180. Passage of the bill to increase the debt limit to $824 billion through March 1, 1979. March 7, 1978. NV(0–1–3). Rejected 165–246.

(112) H.J. Res. 746. Appropriate $13.1 million for the operation of the Southwestern Power Administration for fiscal 1978. March 7, 1978. NV(0–2–2) Passed 353–50.

(113) H. Res. Authorizes $2 million for calendar year 1978 for the House Committee on Public Works and Transportation. March 7, 1978. NV(0–1–3) Passed 399–1.

(116) H.R. 50. Demand for yeas and nays on the motion to order the previous question on the adoption of the rule providing for House floor consideration of the Full Employment Act. March 8, 1978. Y(3–0–1) Passed 371–36.

(125) H.R. 50. Amendment to require the president to include in his economic report goals for reasonable price stability and to formulate policies to reduce inflation. March 9, 1978. NV(1–2–1) Passed 277–143.

(126) H.R. 50. Substitute amendment to require the President beginning with the third year after passage of the bill to include in his economic report goals for reasonable prices and to define that goal as reduction of inflation to 3 percent within five years of enactment. March 9, 1978. N(3–1–0) Rejected 198–223.

(127) H.R. 50. Amendment to require President's economic report to distinguish permanent and temporary employment. March 9, 1978. N(3–1–0) Passed 229–177.

(128) H.R. 50. Amendment to include maintenance of farm income at 100 percent of parity at market price among the goals of the President's economic report. March 9, 1978. Y(3–1–0) Passed 264–150.

(129) H.R. 10962. Bill to rescind $55,255,000 in fiscal 1978 appropriations. March 10, 1978. Y(3–1–0) Passed 318–0.

(131) H.R. 6635. Demand for a second on the motion to suspend the rules and pass the bill to allow the interest rates paid on U.S. retirement plan and individual retirement bonds to be increased to the rate paid on U.S. series E savings bonds. March 13, 1978. Y(4–0–0) Second ordered 372–1.

(132) H.R. 7814. Motion to suspend rules and pass the bill to allow federal agencies to experiment with flexible work schedules. March 13, 1978. Y(1–3–0) Rejected 242–141.

(133) H.R. 10126. Motion to suspend the rules and pass the bill to establish a program to increase part time career employment within the Civil Service. March 13, 1978. Y(1–3–0) Passed 294–84.

(134) H.R. 9146. Motion to suspend the rules and pass the bill to provide for a one-house veto within 60 days of proposed postal service changes. March 13, 1978 Y(4–0–0) Passed 371–6.

(135) H. Res. 1010. Motion to recommit the resolution to the House Administration Committee with instructions to require $300,000 of the $1,482,805 be earmarked for the committee's internal security functions. March 13, 1978. N(3–1–0) Rejected 161–216.

(136) H. Res. 956. Motion to recommit the resolution to the House Administration Committee with instructions to cut funding for the committee from $2.5 million to $600,000. March 13, 1978. N(3–1–0) Rejected 182–198.

(137) H. Res. 956. Resolution providing $2.5 million for activities of the House Select Committee on Assassinations for the remainder of the 96th Congress. March 13, 1978. Y(1–3–0) Passed 204–175.

(143) S. 1671. Demand for a second on the motion to suspend the rules and pass the bill to designate the Custer and Gallatin National Forests in Montana as the Absaroka-Beartooth Wilderness. March 14, 1978. Y(4–0–0) Passed 380–20.

(144) H.R. 810. Demand for a second on the motion to suspend the rules and pass the bill to permit private foundations to pay foreign travel expenses of government officials. March 14, 1978. Y(4–0–0) Passed 387–2.

(145) H.R. 2028. Demand for a second on the motion to suspend the rules and pass the bill to permit individuals aged 18 and older to produce beer and wine for personal use. March 14, 1978. Y(4–0–0) Passed 388–3.

(146) S. 1671. Motion to suspend the rules and pass the bill to include 904,500 acres of national forest lands in the National Wilderness System and call it the Absaroka-Beartooth Wilderness. March 14, 1978. Y(2–1–0) Passed 405–7.

(147) H.R. 810. Motion to suspend the rules and pass the bill to permit private foundations to pay foreign travel expenses of government officials. March 14, 1978. Y(2–3–0) Passed 372–38.

(148) H.R. 3813. Adoption of the conference report on the bill to provide for immediate expansion of the Redwood National Park. March 14, 1978. Y(2–3–0) Passed 317–60.

(152) H.R. 50. An amendment substitute to provide alternative language for an amendment aimed at achieving a balanced federal budget within five years. March 15, 1978. N(3–1–0) Rejected 205–215.

(153) H.R. 50. Amendment substitute to declare that one of the purposes of the act is achievement of a balanced budget in addition to full employment. March 15, 1978. Y(4–0–0) Passed 411–3.

(155) H.R. 50. Amendment to make reductions on individual and corporate taxes a medium goal to be included in the first economic report submitted to the President following the enactment of this bill. March 15, 1978. N(0–3–0) Rejected 194–216.

(157) H.R. 50. Amendment to make the removal of architectural barriers to the handicapped one of the national priorities under the bill. March 16, 1978. Y(3–0–1) Passed 398–0.

(158) H.R. 50. Amendment to exclude people unemployed because of strikes, who voluntarily left their last job, or who have been unemployed less than four weeks from measure of unemployment. March 16, 1978. N(3–1–0) Rejected 199–204.

(159) H.R. 50. Motion to strike the enacting clause and thus kill the bill. March 16, 1978. N(3–1–0) Rejected 106–310.

(160) H.R. 50. Amendment to require the President to consider the impact of the U.S. Code and Code of Federal Regulations on the national economy. March 16, 1978. N(3–1–0) Rejected 114–296.

(161) H.R. 50. Amendment to permit the Joint Economic Committee to submit an amendment recommending economic goals to the first annual concurrent resolution on the budget, eliminating the provisions that would permit the joint committee to report its own concurrent resolution each year. March 16, 1978. N(3–1–0) Passed 259–153.

(162) H.R. 50. Amendment to terminate the provisions of the act Sept. 30, 1983, unless extended by an act of Congress. March 16, 1978. N(3–1–0) Reject 196–216.

(163) H.R. 50. Substitute for the bill to set as national goals 4 percent unemployment and 3 percent inflation rates, 100 percent parity of farm prices, a reduction in tax levels and balanced federal budget; to prohibit the use of public service jobs to meet the unemployment goal; and to establish a presidential task force on youth unemployment. March 16, 1978. N(3–1–0) Rejected 137–276.

(164) H.R. 50. Passage of the bill to promote full employment. March 16, 1978. Y(1–3–0) Passed 257–152.

(166) H.R. 11274. Demand for a second on the motion to suspend the rules and pass the bill to expand educational grant and loan programs for middle-income students. March 20, 1978. Y(1–3–1) Rejected 156–218.

(167) H. Res. 966. Adoption of the resolution to provide $375,000 for the expenses of the International Relations Subcommittee on International Organizations through Oct. 31, 1978. March 20, 1978. Y(2–1–1) Passed 367–13.

(170) H. Res. 1082. Adoption of the resolution to condemn the terrorist kidnapping of former Italian Premier Aldo Moro on March 16, 1978, and to ask the President to press for consideration of antiterrorism measures by the U.N. March 21, 1978. Y(4–0–0) Passed 396–0.

(172) H.R. 11518. Passage of the bill to extend the public debt limit at its existing level through July 31, 1978. March 21, 1978. Y(1–3–0) Passed 223–172.

(174) H.R. 11215. Adoption of the rule providing for House floor consideration of the bill to amend the Federal Election Campaign Act, last amended in 1976. March 21, 1978. Y(1–3–0) Rejected 198–209.

(175) H.R. 5383. Adoption of the conference report on the bill to amend the Age Discrimination in Employment Act; raising age from 65 to 70. March 21, 1978. NV(3–0–1) Passed 381–6.

(177) H.Res. 796. Passage of the joint resolution to appropriate $300 million for disaster relief programs caused by the severe winter conditions throughout the country. March 22, 1978. Y(4–0–0) Passed 393–4.

(180) H.R. 9518. Passage of the Shipping Act Amendments. March 22, 1978. NV(2–0–2) Passed 390–1.

(181) H.R. 6782. Motion to disagree with Senate amendments attaching emergency farm aid provisions to the House raisin promotion bill, and to request a conference. March 22, 1978. Y(3–0–1) Passed 322–63.

(182) H.R. 6782. Motion to table the motion to instruct House conferees to support an amendment providing a flexible parity program of graduated target prices for wheat, corn and cotton for 1978. March 22, 1978. Y(2–1–1) Passed 224–167.

(184) H.R. 10984. Motion to suspend the rules and pass the bill to authorize the Albert Gallatin Historic Site. April 3, 1978. Y(3–0–1) Passed 351–6.

(185) H. Con. Res. 359. Motion to suspend the rules and pass the bill to set up markers at various National Park location to recognize the contribution of Gen. Thaddeus Kosciuszko of Poland in the battle of Saratoga. April 3, 1978. Y(3–0–1) Passed 358–0.

(186) H.R. 6900. Motion to suspend the rules and pass the bill to amend the 1968 National Trails Systems Act to appropriate $5 million for the Oregon Trail from Independence, Mo., to Portland, Ore., the first trail in the new historic category. April 3, 1978. Y(3–0–1) Passed 353–4.

(187) H.R. 11662. Authorizes $18.5 million for establishment of an historic park administered by NPS at Lowell, Mass. April 3, 1978. Y(1–2–1) Rejected 228–132.

(189) H.R. 11003. Demand for a second on the motion to suspend the rules and pass the bill to authorize an increase in White House personnel and to provide for congressional oversight of White House staffing. April 4, 1978. NV(1–2–1) Passed 239–147.

(190) H.R. 1103. Amends the U.S. Code to authorize White House personnel to provide for congressional oversight of White House staffing. April 4, 1978. NV(0–3–1) Rejected 207–188.

(192) H.R. 7700. Substitute amendment to prohibit the U.S. Postal Service from undercutting the rates of private parcel delivery services. April 5, 1978. Y(1–3–0) Rejected 147–257.

(193) H.R. 7700. Amendment to prohibit the U.S. Postal Service from subsidizing the rates of its parcel delivery service. April 5, 1978. N(3–1–0) Passed 292–112.

(195) H.R. 7700. Amendment to permit Congress to veto postal rate increases recommended by the Postal Rate Commission and to authorize additional sums of money to offset financial losses incurred as a result of a congressional veto of a rate increase. April 5, 1978. NV(0–1–3) Rejected 180–218.

(197) H.R. 7700. Amendment to require the Postal Service to detail how it would spend its annual public service subsidy. April 6, 1978. N(2–2–0) Passed 203–189.

(198) H.R. 7700. Passage of the Postal Service Act. April 6, 1978. NV(3–0–1) Passed 384–11.

(199) H.R. 10809. Passage of the bill to provide federal regulation of the operations of foreign banks in the U.S. April 6, 1978. NV(2–0–2) Passed 367–2.

(201) H.R. 10730. A bill to authorize appropriations to carry out the Marine Mammal Protection Act of 1972 during fiscal years 1979, 1980, and 1981. April 10, 1978. NV(1–1–2) Passed 380–6.

(202) H.R. 10976. A bill to extend until Oct. 1, 1981, the voluntary insurance program provided by sec. 7 of the Fishermen's Protective Act of 1967. April 10, 1978. NV (1–1–2) Passed 365–14.

(203) H.R. 10922. A bill to authorize appropriations to carry out conservation programs on military reservations and public lands during fiscal years 1979, 1980, and 1981. April 10, 1978. NV(0–3–2) Passed 377–6.

(204) H.R. 10732. A bill to authorize appropriations to carry out the Fishery Conservation and Management Act of 1976 during the fiscal years of 1980 and 1981. April 10, 1978. NV(1–1–2) Passed 329–55.

(205) H.R. 10984. Motion to suspend the rules and pass the bill to authorize $9 million for fiscal 1979–80 to carry out the programs of the Council on Environmental Quality, April 10, 1978. NV(0–3–2) Passed 307–76.

(206) H.R. 1145. A bill to authorize appropriations for programs of the Small Business Administration. April 10, 1978. NV(2–0–2) Passed 310–72.

(208) H.R. 7101. A bill to amend certain provisions of law relating to land claims by the U.S. in Riverside County, Calif., based upon the accretion or avulsion, and for other purposes. April 11, 1978. Y(3–1–0) Passed 390–14.

(209) H.R. 2407. A bill to reinstate the Modoc, Wyandotte, Peoria, and Ottawa Indian Tribes of Oklahoma as federally supervised and recognized Indian Tribes. April 11, 1978. NV(0–3–2) Passed 355–11.

(212) H.R. 1092. A bill to increase authorization for the Navajo-Hopi Relocation Commission to $1 million from $500,000. April 11, 1978. NV(1–1–2) Passed 356–20.

(214) H.R. 11662. Passage of the bill to authorize $18.5 million for the establishment of a historical park in Lowell, Mass. April 11, 1978. NV(0–2–2) Passed 336–76.

(215) H.R. 9179. Adoption of the conference report on the bill to extend the operating authority and programs of the Overseas Private Investment Corporation. April 11, 1978. NV(0–2–2) Adopted 216–186.

(216) H.R. 6782. Adoption of the conference report on the bill to provide a one-year flexible parity program for wheat, corn, and cotton and to raise the loan rates for these commodities. April 12, 1978. Y(3–1–0) Rejected 150–268.

(218 H.R. 3161. Passage of the bill to reduce the basic work week of firefighting personnel of federal government agencies from 72 to 56 hours. April 12, 1978. NV(1–2–1) Passed 241–129.

(219) H.R. 11003. Amendment to limit the number of Executive Office employees to be paid above GS–16 to 78. April 13, 1978. NV(3–0–1) Rejected 180–215.

(220) H.R. 11003. Amendment to limit the authorization to four years. April 13, 1978. NV(2–0–1) Rejected 171–232.

(221) H.R. 11003. Amendment to prohibit use of any funds to lobby state legislatures with regard to pending constitutional amendments. April 13, 1978. NV(2–0–1) Rejected 85–320.

(222) H.R. 11003. Passage of the bill to clarify the authority of the president to employ personnel in the White House office and executive residence. April 13, 1978. NV(1–2–1) Passed 265–134.

(223) H.R. 5289. Motion to require meetings between House and Senate conferees on the natural gas pricing portion of President Carter's national energy bill. April 13, 1978. NV(1–2–1) Rejected 6–371.

Votes No. 198–223 were missed due to emergency surgery. Official leave was granted by the Speaker of the House for period April 6, 1978 to April 14, 1978.

(224) H.R. 3489, A bill to allow U.S. delegates from Guam, the Virgin Islands and the

Academy. April 17, 1978. Y(4-0-0) Passed 357-1.

(226) H.R. 10622. Bill to authorize money for the national sea grant program. April 17, 1978. Y(3-1-0) Passed 341-23.

(227) H.R. 10623. Bill to authorize $572,000 for fiscal 1979 for the National Advisory Committee on Oceans and Atmosphere. April 17, 1978. NV(3-1-1) Passed 317-47.

(228) H.R. 11465. Bill to authorize $1.4 billion for fiscal 1979 operations of the U.S. Coast Guard. April 17, 1978. Y(4-0-0) Passed 357-13.

(229) H.R. 8588. Bill to establish offices of inspector general to conduct audits and investigations of the programs of the Departments of the executive branch. April 18, 1978 Y(4-0-0) Passed 388-6.

(230) H.R. 3453. Bill to authorize $7.5 million for the H. H. Humphrey Institute of Public Affairs at the Univ. of Minn. and the Everett Dirksen Congressional Leadership Research Center at Pekin, Ill. April 18, 1978. Y(3-3-0) Passed 267-127.

(231) H.R. 3787. Passage of the bill to allow the Sec. of the Interior to acquire from New Mexico the sacred Zuni Salt Lake and allow the Zuni tribe to file claims with the Indian Claims Comm. April 18, 1978. Y(2-2-0) Passed 347-48.

(232) H.R. 11400. Amendment to add $3.2 million to the fiscal 1979 National Science Foundation authorization to be used for the study of deep sea drilling projects. April 18, 1978. NV(0-3-1) Rejected 111-291.

(233) H.R. 11400. Amendment to reduce by $6 million, to $152 million the fiscal 1979 authorization for biological, behavioral and social sciences programs. April 18, 1978. N(2-2-0) Rejected 174-229.

(234) H.R. 11400. Passage of the bill to authorize $634.4 million in fiscal 1979 for operations and programs of the National Science Foundation. April 18, 1978. Y(2-2-0) Passed 364-27.

(235) H.R. 8494. Amendment to expand the geographical exemption that applied to communications made by an organization with its principal place of business in a district or county represented by a Representative or Senator. April 19, 1978. N(3-1-0) Rejected 195-212.

(237) H.R. 8494. Amendment to require that registered lobbying organizations disclose mass mailings, etc. designed to bring constituent pressure on a Representative or Senator. April 19, 1978. N(0-4-0) Passed 245-161.

(241) H.R. 8494. Amendment to include department or agencies of the executive branch of the federal government and various White House offices under the provisions of the lobbying disclosure bill. April 20, 1978 (N(0-4-0) Rejected 44-350.

(242) H.R. 8494. Requires registered lobbying organizations to report the name and address of persons contributing $3,000 or more to the organization. April 20, 1978. N(0-3-1) Passed 251-135.

(243) H.R. 8494 Motion to end all debates on the bill and amendments to the bill at 5 p.m. April 20, 1978. Y(1-2-1) Rejected 158-215.

(245) H.R. 11504. Amendment providing farmers with loans for installment payments on existing debts and for farmer and rancher operating expenses. April 24, 1978. N(1-3-0) Rejected 151-215.

(246) H.R. 11504. Creates a $4 billion loan program, raises individual loan levels and most interest rates for farm loan programs, requires two year reauthorization of loan programs, extends emergency livestock credit program. April 24, 1978. Y(4-0-0) Passed 347-23.

(248) H.R. 11401. Passage of the bill to authorize $4,415,300,000 in fiscal 1979 for operations and programs of the National Aeronautics and Space Administration. April 25, 1978. Y(3-1-0) Passed 341-71.

(249) H.R. 11677. Amendment to prohibit funds authorized by the bill to be used for programs in the Central African Empire. April 25, 1978. N(3-1-0) Rejected 169-228.

(250) H.R. 11677. Passage of the bill to authorize appropriations for fiscal 1978 and 1979 programs of the Peace Corps, and to amend the Peace Corps Act. April 25, 1978. Y(2-2-0) Passed 297-102.

(251) H. Res. 1049. Disapproves Reorganization Plan No. 1 to consolidate various equal employment programs into the Equal Employment Opportunity Commission. April 25, 1978. N(1-3-0) Rejected 39-356.

(252) H.C. Res. 573. Adoption of the concurrent resolution denouncing murders and atrocities committed by the Cambodian government. April 25, 1978. Y(4-0-0) Passed 388-0.

(254) H.R. 11882. Authorizes $18.4 million for the activities of the Arms Control and Disarmament Agency in fiscal 1979. April 26, 1978. Y(2-2-0) Passed 332-74. 1978.

(255) H.R. 8494. Amendment directing General Accounting Office to study lobbying activities of organizations of state and local elected officials. Delays coverage of these organizations until Jan. 1, 1980. April 26, 1978. Y(3-1-0) Rejected 197-211.

(256) H.R. 8494. Exempts from coverage under the bill communications dealing with the status, existence or subject of a legislative issue. April 26, 1978. N(3-1-0) Passed 207-188.

(257) H.R. 8494. Requires annual registration and quarterly reporting by lobbying organizations and disclosure of indirect lobbying activities by reporting organizations. April 26, 1978. N(0-4-0) Passed 259-140.

(259) H.R. 11302. Passage of the bill authorizing $432.9 million in appropriations for EPA. April 27, 1978. Y(2-2-0) Passed 367-33.

(260) H.J. Res. 859. Provides $13 million for fiscal 1978 operations of the U.S. Railway Association. April 27, 1978. Y(1-3-0) Passed 202-196.

(262) H.R. 11657. Motion to pass bill authorizing an additional $3 million for fiscal 1979 and $6 million for fiscal 1980-83 for fishing industry of Samoa, Guam and the Northern Marianas. May 1, 1978. Y(1-2-1) Passed 326-23.

(263) H.R. 10392. Motion to suspend rules and pass bill authorizing $1 million for Hubert H. Humphrey fellowship. May 1, 1978. Y(1-2-1) Rejected 219-137.

(264) H.J. Res. 816. Motion to pass joint resolution extending authority of Federal Reserve Banks to purchase up to $5 billion in U.S. public debt obligations directly from treasury. May 1, 1978. Y(1-1-2) Passed 278-77.

(266) H.R. 9400. Amendment preventing attorney general from filing "pattern or practice" suits where violations of constitutional rights. May 1, 1978. Y(2-0-2) Passed 227-132.

(267) H.R. 11713. Motion to pass bill creating a $75 million solar renewable energy sources and energy conservation loan program within the Small Business Administration. May 1, 1978. Y(2-0-2) Passed 227-132.

(268) H.R. 8030. Motion to authorize appropriations providing Ak-Chin Indian community with 85,000 acre/feet of water annually within 25 years of enactment. Also attempts to provide community with water in the interim. May 2, 1978. Y(3-1-0) Rejected 256-138.

(272) H.R. 8331. Motion to pass Securities Investor Protection Act. May 2, 1978. Y (4-0-0) Passed 354-10.

(273) H. Res. 1159. Adoption of resolution requesting U.S. attorney for District of Columbia to prosecute Claude Powell, Jr. for contempt of Congress. May 2, 1978. Y(4-0-0) Passed 367-16.

(275) H.R. 11658. Adoption of the conference report on the Foreign Relations Authorization Act, fiscal 1979. May 3, 1978. Y(3-1-0) Passed 339-36.

(276) H. Con. Res. 559. Amendment increasing budget authority target for national defense programs by $2.4 billion, to $129.8 billion. May 3, 1978. N(2-2-0) Rejected 142-262.

(277) H. Con. Res. 559. Amendment reducing budget targets for national defense program and to make matching increases in targets for commerce and housing credit; transportation, community and regional development; education, training, employment and social services and health. May 3, 1978. N(1-3-0) Rejected 94-313.

(278) H. Con. Res. 559. Amendment to reduce target by $3.2 billion $440.1 billion. May 3, 1978. Y(2-1-1) Rejected 163-239.

(279) H. Con. Res. 559. Amendment increasing veterans targets by $1.1 billion to $21.7 billion, and by $844 million in outlays to $21.3 billion. May 3, 1978. Y(4-0-0) Passed 362-33.

(279) H. Con. Res. 559. Amendment increasing target for budget authority by $435 million and outlays by $390 million for job training programs for youths and older Americans. May 3, 1978. N(0-4-0) Rejected 123-265.

(280) H. Con. Res. 559. Amendment reducing budget authority and outlay targets by $255 million. May 3, 1978. N(3-1-0) Rejected 172-210.

(283) H.R. 6782. Adoption of the conference report on the Emergency Farm Aid Bill. May 4, 1978. N(0-4-0) Passed 212-182.

(284) H. Con. Res. 559. Amendment reducing revenue target by $635 million to accommodate a tuition tax credit for college, elementary and secondary school costs. May 4, 1978. N(1-1-2) Passed 199-173.

(285) H. Con. Res. 559. Amendment as amended by the Luken, D-Ohio, substitute amendment. May 4, 1978. N(0-0-3) Passed 227-136.

(287) H.R. 12481. Motion to pass bill authorizing $73 million for programs in Guam, the Virgin Islands, the Northern Marianas Islands and the Trust Territory of the Pacific Islands. May 8, 1978 Y(2-1-1) Rejected 203-170.

(288) H. Con. Res. 563. Motion to adopt resolution asking the President to request the United Nations secretary general to obtain a full accounting of American MIA's in Vietnam. May 8, 1978. Y(3-0-1) Passed 369-0.

(289) H.J. Res. 873. Passage of joint resolution appropriating $758 million for the disaster loan fund of the Small Business Administration for fiscal 1978. May 9, 1978. Y(3-0-1) Passed 346-23.

(291) H. Con. Res. 559. Vote on amendment reducing budget authority and outlays by $3.15 billion for programs of the Department of Health, Education and Welfare. May 9, 1978. N(2-1-1) Passed 198-189.

(292) H. Con. Res. 559. Amendment to adjust revenue and spending targets to reflect that Panama Canal tolls be funneled through the U.S. Treasury. May 9, 1978. N(2-1-1) Passed 231-170.

(293) H. Con. Res. 559. Amendment to reduce budget authority by $8 billion and outlays by $7 billion. May 9, 1978. N(2-1-1) Rejected 195-203.

(294) H. Con. Res. 559. Amendment reducing outlays by $195.4 million and budget authority by $178.2 million for various regulatory agencies. May 9, 1978. N(2-1-1) Rejected 196-196.

(296) H. Con. Res. 559. Amendment to reduce budget authority and outlays by $56 million representing cuts in aid to South Korea. May 10, 1978. Y(2-2-0) Rejected 146-254.

(297) H. Con. Res. 559. Amendment to Rousselot amendment, substitute amendment to the bill, to provide for a balanced budget with revenues of $464.6 billion, budget authority of $520.4 billion and outlays of $464.6 billion, with no deficit. May 10, 1978. N(3-1-0) Rejected 170-236.

(299) H. Con. Res. 559. Second vote on Ashbrook amendment to reduce budget authority and outlays by $3.15 billion for programs of the Department of Health, Education and Welfare. May 10, 1978. N(3-1-0) Rejected 192-205.

(300) H. Con. Res. 559. Adoption of concurrent resolution setting fiscal 1979 budget. May 10, 1978. (Y(1-3-0) Passed 201-197.

(302) H. Con. Res. 617. Adoption of concurrent resolution denouncing Aldo Moro assassination and stating sense of Congress that the United States supports the Italian government in apprehending the terrorists and should redouble efforts in gaining international cooperation in controlling such acts. May 11, 1978. Y(3-0-1) Passed 398-0.

(303) H.R. 12222. Amendment cutting population planning from $225.4 million to $205.4 million; American schools and hospitals abroad from $25 million to $8 million; international organizations and programs from $283.5 million to $282.2 million. May 11, 1978. N(2-1-1) Rejected 183-212.

(304) H.R. 12222. Amendment prohibiting assistance to nations that do not make "reasonable progress" toward eliminating domestic impediments to agriculture production. May 11, 1978. N(2-1-1) Rejected 141-236.

(305) H.R. 12222. Amendment limiting U.S. economic aid to Panama to 25 percent of the total of Panama Canal revenues provided under the 1977 canal transfer treaty that Panama used for Panamanian development programs. May 11, 1978. N(2-1-1) Rejected 187-197.

(308) H.R. 12222. Amendment making tobacco and tobacco products ineligible for the Food for Peace (P.L. 480) program. May 11, 1978. Y(1-2-1) Rejected 126-189.

(309) H.R. 12222. Amendment prohibiting only direct U.S. aid to Vietnam, Cambodia, Uganda or Cuba. May 12, 1978. Y(1-2-1) Rejected 148-155.

(311) H.R. 11209. Motion to suspend rules and pass bill authorizing the United States to join the United Nations International Maritime Satellite Organization, designating the Communications Satellite Corp. (COMSAT) as the U.S. participant in the program and making COMSAT subject to federal supervision. May 15, 1978. Y(4-0-0) Passed 350-0.

(312) H.R. 12222. Amendment reducing the $3,747,850,000 authorization in the bill by 5 percent, except for food aid and certain other programs. May 15, 1978. N(3-1-0) Passed 200-172.

(313) H.R. 12222. Passage of above amendment. May 15, 1978 Y(1-3-0) Passed 255-148.

(314) H.R. 10392. Passage of the bill to authorize $1 million for a Hubert H. Humphrey fellowship at the Woodrow Wilson International Center for Scholars of the Smithsonian Institution. May 15, 1978. Y(1-3-0) Passed 222-152.

(315) H.R. 11291. Passage of the bill to authorize $25,567,000 for fiscal 1979 for the programs of the Federal Fire Prevention and Control Administration, the Fire Research Center and for the renovation of the Federal Fire Acadamy. May 15, 1978. Y(4-0-0) Passed 360-11.

(316) H.R. 4030. Demand for a second on the Waggonner, D-La., motion to suspend rules and pass private Foundations stock holdings bill. May 15, 1978. Y(4-0-0) Passed 334-16.

(317) H.R. 12255. Motion to suspend rules and pass bill extending 1965 Older Americans Act for three years and Title II of the 1973 Domestic Volunteer Service Act until fiscal 1980. May 15, 1978. Y(4-0-0) Passed 361-6.

(318) H.R. 11209. Motion to suspend rules and pass bill authorizing the United States to join the United Nations International Maritime Satellite Organization, designating the Communications Satellite Corp. (COMSAT) as the U.S. participant in the program and making COMSAT subject to federal supervision. May 15, 1978. Y(4-0-0) Passed 350-0.

(319) H.R. 12222. Motion to suspend rules and pass Private Foundations Stock Holdings Bill. May 15, 1978. N(1-3-0) Rejected 218-145.

(320) H.R. 12467. Motion to suspend the rules and pass bill authorizing $6.9 billion through fiscal 1983 to extend certain rehabilitation programs and establishing rehabilitation services for the elderly. May 16, 1978. Y(4-0-0) Passed 382-13.

(321) H.R. 9005. Motion to table Natcher, D-Ky., motion to concur in Senate Amendment to the conference report with an amendment adding $37 million to District of Columbia appropriations. May 16, 1978. N(2-2-0) Rejected 190-199.

(322) H.R. 9005. Motion to concur in Senate amendment to conference report with an amendment adding $27 million to District of Columbia appropriations for fiscal 1978. May 16, 1978. Y(2-2-0) Passed 199-183.

(323) H.R. 11686. Adoption of H. Res. 1174 providing for House floor consideration of bill authorizing $2.9 billion for Energy Department-Military programs. May 16, 1978. Y(3-0-1) Passed 378-0.

(325) H.R. 11686. Amendment removing discretionary authorization for production of enhanced radiation weapons (neutron bombs) if the President met certain conditions. May 17, 1978. Y(1-3-0) Rejected 90-306.

(326) H.R. 11686. Passage of the bill to authorize $2,897,090,000 for the national security programs of the Energy Department for fiscal 1979. May 17, 1978. Y(4-0-0) Passed 348-46.

(327) S. Con. Res. 80. Motion to approve the conference version of the resolution setting fiscal 1979 budget targets. May 17, 1978 Y(1-3-0) Passed 201-198.

(329) H.R. 12641. Passage of the bill to raise the public debt limit to $849.1 billion through Sept. 30, 1979, making statutory limit conform to fiscal 1979 budget target set in S. Con. Res. 80. May 17, 1978. Y(1-3-0) Rejected 167-228.

(334) H. Con. Res. 624. Adoption of concurrent resolution protesting the harassment and imprisonment of 22 Soviet citizens, including Dr. Yuri Orlov; stating the sense of Congress that those citizens should be released. May 18, 1978. Y(4-0-0) Passed 399-0.

(335) H.R. 39. Amendment to the Udall D-Ariz., substitute amendment to the Meeds, D-Wash. substitute for the bill, reducing from 66 million acres to 33 million acres the land in proposed and existing parks, refuges and forests that would be classified as wilderness. May 18, 1978. N(3-1-0) Rejected 141-251.

(336) H.R. 39. Amendment to Udall, D-Ariz., substitute amendment to the Meeds, D-Wash., substitute for the bill, to reduce from 66 million acres to 33 million acres the lands in proposed and existing parks, refuges and forests that would be classified as wilderness. May 18, 1978. N(1-3-0) Rejected 119-240.

(338) H.R. 39. Amendment directing Secretary of the Interior to continue mineral assessment programs in Alaska and directing President to propose to Congress a procedure for evaluating applications from persons wishing to explore for or extract minerals from federal land in Alaska. May 19, 1978. N(3-1-0) Passed 157-150.

(339) H.R. 39. Motion that bill be recommitted to the Committee on Interior and Insular Affairs and Merchant Marine and Fisheries with instructions to report it back to the House containing the text of the Meeds, D-Wash., substitute. May 19, 1978. N(3-1-0) Rejected 67-242.

(340) H.R. 39. Passage of the bill to designate 102 million acres of federal land in Alaska as national park, forest, wildlife refuge and wild and scenic rivers. May 19, 1978. Y(2-2-0) Passed 277-31.

(342) H. Res. 1072. Motion to suspend the rules and pass the bill to express the disapproval of the House to the proposal by the commissioner of education to consolidate certain education advisory councils. May 22, 1978. Y(2-0-2) Passed 299-109.

(343) H.R. 11777. Motion to suspend the rules and pass the bill to consolidate several Agriculture Department cooperative forestry assistance programs. May 22, 1978. Y(2-0-2) Passed 372-2.

(344) H.R. 11778. Motion to suspend the rules and pass the bill to authorize such sums as necessary for forest and rangeland renewable resource research in the Agriculture Department. May 22, 1978. Y(2-0-2) Passed 372-3.

(345) H.R. 11779. Motion to suspend the rules and pass the bill authorizing $150 million in fiscal 1979-88 for expansion of the Agriculture Department forest and rangeland renewable resources. May 22, 1978. Y (2-0-2) Passed 337-7.

(346) S. 2370. Motion to suspend the rules and pass the bill eliminating the $100,000 limitation to the 1972 Volunteers in National Forest Act. May 22, 1978. Y(2-0-2) Passed 378-5.

(347) H.R. 12353. Motion to suspend the rules and pass the Vietnam Veterans Readjustment bill. May 22, 1978. Y(2-0-2) Passed 398-0.

(348) H. Con. Res. 555. Adoption of concurrent resolution approving extension of nondiscriminatory treatment to the Hungarian People's Republic in accordance with U.S./Hungarian trade agreements of 17 March 1978. May 22, 1978. Y(1-1-2) Passed 209-173.

(350) H.R. 12602. Passage of the bill authorizing funds for military construction programs of the Department of Defense. May 22, 1978. Y(2-0-2) Passed 383-18.

(351) H.R. 10729. Amendment to preserve the debt ceiling of $7 billion on the government's ship construction loan guarantee program. May 22, 1978. Y(2-0-2) Rejected 136-241.

(353) S.J. Res. 4. Motion to suspend the rules and pass the joint resolution to establish a 15-member commission to study the claims of aboriginal Hawaiians resulting from the 1893 conspiracy to overthrow the Hawaiian government. May 23, 1978. Y(1-3-0) Rejected 210-194.

(354) H.R. 12299. Motion to suspend the rules and pass the bill to establish a domestic violence (spouse abuse) program and to authorize $125 million for fiscal 1979-83. May 23, 1978. Y(1-3-0) Rejected 201-205.

(355) H.R. 3050. Motion to suspend the rules and pass the bill to amend the Internal Revenue Code to provide a new accounting method applicable to returns of unsold magazines, paperbacks and records. May 23, 1978. Y(4-0-0) Passed 358-50.

(356) H.R. 8535. Motion to suspend the rules and pass the bill to revise eligibility requirements for a tax credit for expenses of certain dependent care services performed by relatives. May 23, 1978. Y(3-1-0) Passed 363-44.

(357) H. Res. 238. Motion to suspend the rules and adopt the resolution expressing the sense of the House that the President should take action to eliminate restrictions imposed by the European Economic Community on imports of U.S. processed fruits, juices, vegetables, including dried prunes. May 23, 1978. Y(4-0-0) Passed 407-0.

(358) H.R. 11370. Motion to suspend the rules and pass the bill to authorize $543 million for fiscal 1979 for the final settlement of a dispute between the Department of HEW and 28 states over social services provided by the states before Oct. 1, 1975. May 23, 1978. Y(4-0-0) Passed 377-25.

(359) H.R. 10729. Prohibits the use of federal ship construction subsidy funds to any organization that engages in lobbying activities. May 23, 1978. Y(4-0-0) Rejected 168-227.

(360) H.R. 10729. Amendment prohibits the use of federal ship construction sub-

N(1-2-1) Rejected 111-289.

(361) H.R. 10729. Amendment to prohibit the use of federal ship construction subsidy funds to subsidize the shipment of grain to Russia. May 23, 1978. Y(4-0-0) Rejected 180-218.

(362) H.R. 10729. Passage of the bill to authorize $496,792,000 for fiscal 1979 programs of the Commerce Department Maritime Administration. May 23, 1978. Y(2-2-0) Passed 336-82.

(365) H.R. 10929. Substitute amendment to the bill to reinstate the Armed Services Committee recommended authorization levels for weapons research and development. May 24, 1978. Y(1-2-0) Rejected 107-297.

(366) H.R. 10929. Substitute amendment to replace the Armed Services Committee recommended authorization levels with those originally requested by the Carter Administration. May 24, 1978. Y(1-2-0) Rejected 116-287.

(367) H.R. 10929. Amendment to delete $6.1 billion for one Gulfstream executive jet for the Marine Corps. May 24, 1978. Y(1-2-1) Passed 266-136.

(368) H.R. 10929. Amendment to delete $2.1 billion for a nuclear-powered aircraft carrier and add $1.5 billion for a conventionally powered carrier. May 24, 1978. Y(1-2-0) Rejected 139-264.

(369) H.R. 10929. Amendment to delete $2.1 billion for a nuclear-powered aircraft carrier. May 24, 1978. N(0-4-0) Rejected 106-293.

(370) H.R. 10929. Amendment to add $29.2 million for development of a wide-body cruise missile carrying aircraft. May 24, 1978. Y(1-2-0) Rejected 145-246.

(371) H.R. 10929. Amendment to prohibit the use of any funds in the bill to reduce U.S. troop strength in South Korea below 26,000. May 24, 1978. N(2-1-0) Rejected 142-247.

(372) H.R. 10929. Passage of the bill to authorize $37,890,020,000 for Defense Department weapons procurement and military research programs in fiscal 1979. May 24, 1978. Y(4-0-0) Passed 319-67.

(374) S.J. Res. 137. Passage of the joint resolution to reaffirm the United States' commitment and the unity of the North Atlantic Alliance on the occasion of the summit meeting in Washington, D.C., May 30-31. May 25, 1978. Y(3-0-1) Passed 360-0.

(377) H.R. 7814. Passage of the bill to authorize federal agencies to conduct a three-year experiment in flexible and compressed work schedules for federal employees and to suspend certain overtime and holiday pay provisions for purposes of the experiment. May 25, 1978. Y(1-0-2) Passed 288-57.

(379) H.R. 9400. Amendment to reinstate coverage under the bill for persons confined to jails, prisons or correctional institutions, thereby allowing the attorney general to initiate lawsuits against a state correctional facility if there was a pattern or practice of abuse of constitutional rights and if a federal judge has asked for review by the attorney general. May 25, 1978. Y(1-0-3) Passed 178-109.

(382) H. Res. 1194. Motion to suspend the rules and adopt the resolution that the House feels that the government of South Korea should cooperate in the House investigation of alleged bribery attempts by former Korean Ambassador to the U.S. Kim Dong Jo and stating that the House is prepared to deny or reduce economic aid to South Korea. May 31, 1978. Y(1-0-3) Passed 321-46.

(383) H.R. 7041. Motion to suspend the rules and pass the bill to rename two lakes in the Papillion Creek project in Nebraska: Irvington Lake to Glenn Cunningham Lake, and Military Lake to Standing Bear Lake. May 31, 1978. Y(1-0-3). Passed 369-0.

(384) H.R. 212. Motion to suspend the rules and pass the bill to rename the East Lake in Georgia the R. Sheller Heard Park. May 31, 1978. Y(1-0-3) Passed 359-4.

(387) H.R. 12598. Amendment to delete language authorizing the establishment of an Institute for International Human Rights. May 31, 1978. Y(3-0-1) Passed 237-135.

(388) H.R. 12598. Amendment to delete language authorizing the establishment of an Institute for International Human Rights. May 31, 1978. N(2-1-0) Passed 202-164.

(389) H.R. 12598. Amendment to prohibit use of any funds in the bill to implement the Panama Canal treaties without specific congressional approval. May 31, 1978. N(2-1-0) Passed 203-163.

(390) H.R. 12598. Passage of the bill to authorize $1.9 billion for State Department operations and related activities in fiscal 1979 and a supplemental authorization for fiscal 1978 of $47 million. May 31, 1978. Y(1-2-1) Passed 240-124.

(393) H.R. 12050. Amendment to provide a tax credit for private elementary and secondary school tuitions, up to a maximum of $50 in calendar year 1978 and $100 in each of 1979 and 1980. June 1, 1978. N(0-3-1) Passed 209-194.

(395) H.R. 12050. Substitute amendment to the bill, to provide for deferral of income taxes equal to college tuition expenses, up to $2,000, to be repaid by the taxpayer within 10 years. June 1, 1978. Y(3-0-1) Rejected 155-239.

(396) H.R. 12050. Passage of the bill to provide an income tax credit for a three-year period (1978-80) equal to 25 percent of tuitions for private elementary and secondary schools and public and private colleges and universities, up to a limit by 1980 of $100 for elementary and secondary tuitions and $250 for college tuitions. June 1, 1978. N(0-3-1) Passed 237-158.

(401) H.R. 12157. Amendment to permit the Export-Import Bank to guarantee, insure or extend credit to South Africa as long as it also extended credit or was authorized to extend credit to Communist countries. June 1, 1978. N(2-1-1) Rejected 157-190.

(403) H.R. 12157. Amendment to eliminate language prohibiting the Export-Import Bank's participation in loan transactions with South Africa. June 2, 1978. N(1-1-2) Rejected 116-219.

(404) H.R. 12157. Amendment to exempt the People's Republic of China from the provision requiring a presidential determination before the Export-Import Bank could do business in a Communist country. June 2, 1978. N(1-1-2) Passed 179-138.

(405) H.R. 185. Motion to suspend the rules and pass the bill to authorize the Secretary of Transportation to provide transportation from their homes for Coast Guard employees to remote Loran-C sites. June 5, 1978. Y(3-0-1) Passed 336-0.

(406) H.R. 158. Motion to suspend the rules and pass the bill to amend the 1969 international convention dealing with oil pollution on the high seas by implementing the 1973 protocol to authorize the U.S. Coast Guard to take any necessary action, including destruction of ships, to prevent or remove damage to the U.S. coastline by spill of hazardous cargoes in addition to oil. June 5, 1978. Y(3-0-1) Passed 344-1.

(407) H.R. 12140. Motion to suspend the rules and pass the bill to extend for fiscal 1979 and 1980 authorizations in the 1977 Federal Water Pollution Control Act for water quality monitoring, Great Lakes water quality monitoring and manpower planning and training. June 5, 1978. Y(3-0-1) Passed 338-9.

(409) H.R. 12250. Substitute amendment, to the Oberstar substitution, to ban logging and mining in the wilderness and to end motorized use except on six peripheral lakes where boats up to 25 horsepower could be used and except on certain large lakes where

(410) H.R. 12250. Passage of the bill to prohibit mining, logging, snowmobiling and most use of motor boats in the Boundary Waters Canoe Area Wilderness of the Superior National Forest in Minnesota. June 5, 1978. Y(2-1-1) Passed 324-29.

(412) H.R. 12481. Passage of the bill to authorize $162.5 million for programs in Guam, the Virgin Islands, the Trust Territory of the Pacific Islands and the Northern Marians Islands. June 5, 1978. Y(3-0-1) Passed 292-54.

(414) H.R. 8394. Motion to suspend the rules and pass the bill to amend the 1935 Refuge Revenue Sharing Act to update and expand the payments compensating local governments for loss of tax revenue for lands included in the National Wildlife Refuge System. June 6, 1978. Y(2-1-1) Passed 340-28.

(415) H.R. 12367. Motion to suspend the rules and pass the bill to authorize $3 million for fiscal 1979-81 to implement the protocol to the 1952 International Convention for High Seas Fisheries of the North Pacific to limit Japanese fishing to 175° E. Longitude to conserve 265,000 salmon annually and to organize joint Japanese-U.S.-Canadian research on Pacific salmon and mammals. June 6, 1978. Y(3-0-1) Passed 368-0.

(416) H.R. 12668. Motion to suspend the rules and pass the bill to authorize $44 million for fiscal 1979-82 for Commerce Department research on the living marine resources in both the north and south polar regions. June 6, 1978. Y(2-1-1) Passed 268-103.

(418) H.R. 12240. Amendment to delete the requirement in the bill specifying that the Attorney General notify the House and Senate Intelligence Committees when an alien was admitted to the country who he believed could be excluded by law. June 6, 1978. N(0-3-1) Rejected 60-312.

(419) H.R. 12240. Passage of the bill to authorize appropriations of an undisclosed amount for federal government intelligence operations and activities, including the Central Intelligence Agency and various Defense Department agencies, for fiscal 1979. June 6, 1978. Y(3-0-1) Passed 323-43.

(425) H.R. 12930. Amendment to restore $4.2 million requested for the operation of the Bureau of Alcohol, Tobacco and Firearms and to delete language barring use of funds in the bill to carry out proposed firearms regulations. June 7, 1978. N(0-3-1) Rejected 80-314.

(426) H.R. 12930. Passage of the bill to appropriate $8,634,300,000 for fiscal 1979 operations of the Treasury Department, Postal Service, Executive Office of the President and certain independent agencies. June 7, 1978. Y(2-2-0) Passed 297-96.

(428) H.R. 12989. Amendment to reduce the fiscal 1979 funding for the Occupational Safety and Health Administration by $28.4 million, from $167,474,000 to $139,070,000 for the fiscal year 1978 spending level. June 7, 1978. N(2-1-1) Passed 201-179.

(431) H.R. 12426. Motion to recommit the New York City aid bill to the Banking Committee with instructions to report it back with amendments extending seasonal loans rather than loan guarantees for New York City, and instructing that the loans be phased out in 3 years. June 8, 1978. N(3-1-0) Rejected 100-291.

(432) H.R. 12426. Passage of the bill to authorize the Secretary of the Treasury to issue federal loan guarantees totaling $2 billion for up to 15 years for New York City bonds. June 8, 1978. Y(1-3-0) Passed 247-155.

(433) H.R. 12929. Amendment to reduce the appropriations for the Department of HEW by $1 billion, to $57 billion, to be accomplished by a reduction in waste, fraud, and abuse. June 8, 1978. NV(2-0-2) Passed 290-87.

resolution to appropriate $181,000,000 from the Black Lung Disability Trust Fund for benefit payments and administration costs resulting from the 1978 legislation (PL-95-239) liberalizing miner eligibility for black lung claims. June 9, 1978. NV(0-2-2) Passed 237-72.

(437) H. Con. Res. 612. Motion to suspend the rules and pass the resolution condemning Idi Amin and the government of Uganda for gross violations of human rights. It also urged President Carter to discourage U.S. trade with the country. June 12, 1978. P(3-0-2) Passed 377-0.

(438) H.R. 12441. Motion to suspend the rules and pass the bill to increase to $50 million, from $16 million, the fiscal 1979 authorization for the implementation of the 1976 Toxic Substances Control Act to regulate marketing of hazardous chemicals. June 12, 1978. Y(1-1-2) Rejected 190-186.

(439) H.R. 12933. Amendment to prevent the National Highway Traffic Safety Administration from using any funds appropriated by the bill to implement or enforce any regulation requiring motor vehicles to be equipped with a system of passive restraints other than seat belts. June 12, 1978. N(1-1-2) Passed 237-143.

(441) H.R. 12933. Passage of the bill to appropriate $8,847,296,096 in new budget authority for the Transportation Department and related agencies for fiscal year 1979. Y(2-0-2) Passed 347-25.

(443) H.R. 12929. Amendment to delete from the bill language prohibiting use of funds for abortions unless the life of the mother was in danger. June 13, 1978. N(0-4-0) Rejected 122-287.

(444) H.R. 12929. Amendment to substitute the provisions relating to abortion contained in the fiscal 1978 Labor-HEW appropriation bill for the language in H.R. 12929 as reported by committee. June 13, 1978. Y(1-3-0) Rejected 198-212.

(445) H.R. 12929. Amendment to prohibit the use of appropriated funds to implement quotas or other numerical requirements relating to race, creed, or sex with respect to hiring, promotion or admissions policies. June 13, 1978. Y(4-0-0) Passed 232-177.

(446) H.R. 12929. Amendment to reduce controllable spending in the bill by 2 percent. June 13, 1978. N(3-1-0) Passed 220-181.

(447) H.R. 12929. Amendment to reduce the appropriation for the Occupational Safety and Health Administration by $28.4 million. June 13, 1978. N(3-1-0) Rejected 184-216.

(448) H.R. 12929. Passage of the bill to appropriate $56.6 billion for the Departments of Labor and HEW and related agencies for fiscal 1979. June 13, 1978. Y(2-2-0) Passed 338-61.

(451) H.R. 12934. Amendment to prohibit the use of Commerce Department funds for conducting trade with Cuba. June 14, 1978. N(2-1-1) Passed 241-158.

452) H.R. 12934. Amendment to reduce the appropriation for the Legal Services Corporation by $30 million. June 14, 1978. N(2-1-1) Rejected 200-203.

(453) H.R. 12934. Amendment to prohibit the use of appropriated funds for the Legal Services Corporation for publicity or propaganda purposes designed to support or defeat legislation pending before Congress or any state legislature. June 14, 1978. N(2-1-1) Passed 264-131.

(454) H.R. 12934. Passage of the bill to appropriate $4.6 billion for the Departments of State, Justice and Commerce, the Judiciary and 18 independent agencies. June 14, 1978. Y(2-1-1) Passed 359-34.

(455) H.R. 12935. Amendment to reduce fiscal 1979 appropriations, for payments not required by law, for Congress and related agencies by 5 percent. June 14, 1978. N(2-1-1) Passed 220-168.

use of funds in the bill to purchase new color television cameras and related equipment to broadcast House floor proceedings without prior approval of the House. June 14, 1978. N(2-1-1) Rejected 133-249.

(457) H.R. 12935. Amendment to require that any system set up to televise House proceedings be operated by House employees. June 14, 1978. P(2-1-1) Passed 235-150.

(458) H.R. 12935. Amendment to require members to pay for calendars, Agriculture Yearbooks, Botanic Garden plants and shipment of trunks out of their official office allowances. June 14, 1978. NV(1-0-2) Passed 214-159.

(459) H.R. 12935. Passage of the bill to appropriate $922.5 million (less a 5-percent reduction in payments not required by law) for House and related congressional agencies in fiscal 1979. June 14, 1978. NV(2-0-2) Passed 279-90.

(461) H.R. 12926. Adoption of the rule (H. Res. 1236) providing for House floor consideration of the bill to appropriate $10,315,174,900 for fiscal 1979 energy research and water development. June 15, 1978. Y(3-0-1) Passed 317-82.

(462) H.R. 12926. Amendments to the Bevill, D-Ala., amendment to delete $90.8 million earmarked for three water projects. June 15, 1978. N(0-3-1) Rejected 108-304.

(463) H.R. 12926. Amendments to prohibit use of fiscal 1979 appropriated funds for eight projects deleted from the fiscal 1978 appropriations bill at President Carter's request. June 15, 1978. (N(0-3-1) Rejected 142-234.

(465) H.R. 12926. Amendment to prohibit the use of fiscal 1979 appropriations in the bill for production of enhanced radiation weapons (neutral bombs). June 16, 1978. NV(0-2-2) Rejected 67-359).

(467) H.R.12926. Passage of the bill to appropriate $10,341,633,900 (less a 2 percent reduction in payments not required by law) for fiscal 1979 energy research and water development. June 16, 1978. NV(2-0-2) Passed 263-59.

(468) H.R. 12927. Passage of the bill to appropriate $3,844,887,000 for military construction programs of the Defense Department for fiscal 1979. June 16, 1978. NV(2-0-2) Passed 278-13.

(471) H.R. 12936. Amendment to reduce the fiscal 1979 appropriation recommended in the bill for Environmental Protection Agency by $133 million. June 19, 1978. Y(4-0-0) Rejected 173-211.

(473) H.R. 12936. Passage of bill to appropriate $68,206,848,000 for the Department of Housing and Urban Development and 17 other agencies, including the Environmental Protection Agency, National Aeronautics and Space Administration and the Veterans Administration, for fiscal 1979. June 19, 1978. Y(2-2-0) Passed 332-47.

(475) H.R. 12932. Amendment to limit to $100,000 the use of appropriated funds to pay for expenses of citizens intervening in regulatory proceedings before the Economic Regulatory Administration (See 476, below). June 21, 1978. Y(1-3-0)

(476) H.R. 12932. Amendment to delete language from the bill prohibiting use of appropriated funds to pay for expenses of citizens intervening in regulatory proceedings before the Economic Regulatory Administration. June 21, 1978. Y(1-3-0) Rejected 126-282.

(477) H.R. 12932. Amendment to reduce fiscal 1979 appropriations for payments not required by law for the Interior Department, the Energy Department and other agencies in the bill by 2 percent. June 21, 1978. N(2-2-0) Rejected 198-211.

(478) H.R. 12932. Passage of the bill to appropriate $12,690,544,000 for fiscal 1979 for the Interior Department, the Energy Department, the Forest Service, and other agencies. June 21, 1978. Y(3-1-0) Passed 356-50.

$290,200,000 the appropriation for the food stamp program. June 22, 1978. N(3-1-0) Rejected 194-201.

(483) H.R. 13126. Amendment to prohibit the use of appropriated funds to finance economic assistance to South Korea under the Food for Peace program. June 22, 1978. Y(2-3-0) Passed 278-126.

(484) H.R. 13126. Amendment to reduce by 2 percent appropriated funds for all operations and programs of the Agriculture Department and related agencies, except the Agriculture Research Service, the Cooperative State Research Service, and the Extension Service. June 22, 1978. N(3-1-0) Rejected 189-301.

(485) H.R. 13126. Passage of the bill to appropriate $18,014,000,000 for fiscal 1979 operations and programs of the Department of Agriculture and related agencies. June 22, 1978. Y(2-3-0) Passed 236-59.

(486) H.R. 12505. Passage of the bill to authorize $25 million for a feasibility study by the Energy Department and NASA of a research, development and demonstration program for collecting solar energy by satellite and transmitting the energy to earth to generate electricity. June 22, 1978. N(3-1-0) Passed 267-96.

(488) H.R. 11493. Amendment to delete from the bill a provision requiring the National Railroad Passenger Corp. (Amtrak) to buy American goods and materials for purchases of more than $100,000 unless waived by the transportation secretary. June 22, 1978. Y(3-0-0) Rejected 93-307.

(489) H.R. 11493. Amendment to require Amtrak to drop service on a rail passenger route if the federal subsidy for that route rose above $100 per passenger per ride. June 22, 1978. N(2-1-1) Rejected 119-198.

(490) H.R. 11493. Amendment to give the president's special trade representative, rather than the transportation secretary, the authority to waive the requirement that Amtrak buy American goods and materials for purchases of more than $100,000. June 22, 1978. Y(2-1-1) Rejected 121-178.

(491) H.R. 11493. Passage of the bill to authorize a federal subsidy of $755,280,000 for the National Railroad Passenger Corp. (Amtrak) for fiscal 1979, to require approval by both houses of Congress of a new basic route system to be recommended by the transportation secretary, and to prohibit changes in the existing route structure before Oct. 1, 1979. June 22, 1978. Y(2-1-1) Passed 304-80.

(493) H.R. 10341. Motion to suspend the rules and pass the bill to allow reserve enlisted members of the Army and Air Force to retire after 20 years of active duty. June 26, 1978. NV(2-0-2) Passed 292-30.

(494) H.R. 10342. Motion to suspend the rules and pass the bill to revise the rules for calculating the pay of military retirees who were recalled to active duty between 1968 and 1973. June 26, 1978. NV(2-0-2) Passed 293-30.

(495) S. 686. Motion to suspend the rules and pass the bill to provide special retirement preference to non-Indian employees of the Bureau of Indian Affairs and Indian Health Service who had been adversely affected by BIA policies that gave preference to Indians for BIA positions and promotions. June 26, 1978. NV (2-0-0) Rejected 118-304.

(505) H.R. 11886. Motion to suspend the rules and pass the bill to increase by 6.5 percent the compensation paid to veterans disabled in the course of their military service. June 26, 1978. Y(4-0-0) Passed 400-1.

(506) H.R. 11886. Motion to suspend the rules and pass the bill to lower to 40 percent, from 50 percent, the level of disability at which veterans become eligible for additional payments for each dependent. June 26, 1978. Y(4-0-0) Passed 395-16.

(507) H.R. 10173. Motion to suspend the rules and pass the bill to pay non-disabled

war veterans a pension sufficient to bring their total income to a specified minimum level. June 26, 1978. Y(4-0-0) Passed 396-5.

(508) H.R. 12841. Motion to suspend the rules and pass the bill to prohibit the issuance of regulations on the taxation of fringe benefits between May 1, 1978 and Dec. 31, 1979. June 26, 1978. Y(4-0-0) Passed 386-12.

(509) H.R. 12841. Motion to suspend the rules and pass the bill to authorize $4 million for fiscal 1979 for the collection of regular and periodic information on foreign investment in the United States and U.S. investments abroad. June 26, 1978. Y(2-2-0). Passed 344-54.

(510) H.R. 12874. Motion to suspend the rules and pass the bill to provide accelerated federal research on developing energy cells to convert sunlight to electricity. June 26, 1978. Y(2-1-0) Passed 385-14.

(512) H.R. 12433. Amendment to waive Davis-Bacon Act prevailing wage requirements for housing rehabilitation projects performed by neighborhood-based, non-profit organizations. June 28, 1978. N(2-1-0) Rejected 172-218.

(515) H.R. 12433. Amendment to permit either the House or Senate to veto rules or regulations prescribed by the Department of Housing and Urban Development. June 29, 1978. N(2-1-1) Passed 244-140.

(516) H.R. 12433. Amendment to require the Department of Housing and Urban Development to provide pre-purchase counseling to first-time purchasers of single family dwellings who apply for Federal Housing Administration mortgages. June 29, 1978. N(0-2-1) Rejected 93-285.

(517) H.R. 8099. Passage of the bill to authorize $43 million for fiscal 1979-83 for the construction of water wells and pumping and delivery facilities for the Ak-Chin Indian Community in Arizona to fulfill a 1912 federal trust responsibility. June 29, 1978. Y(3-0-1) Passed 292-80.

(519) H.J. Res. 13. Motion to suspend the rules and pass the joint resolution to request the president to designate the first Sunday in September after Labor Day in 1978 as National Grandparents Day. July 10, 1978. Y(4-0-0) Passed 363-8.

(520) H.J. Res. 1007. Motion to suspend the rules and pass the joint resolution to request the president to designate a week in the first 10 days of May 1979 to be designated Asian/Pacific American Heritage Week to commemorate the contributions and accomplishments of the two million Americans of Asian and Pacific descent. July 10, 1978. Y(4-0-0) Passed 390-6.

(521) H.J. Res. 773. Motion to suspend the rules and pass the joint resolution to request the president to designate the week of Sept. 17, 1978 as National Port Week to recognize the economic and national security importance of the nation's ports. July 11, 1978 Y(4-0-0) Passed 363-11.

(522) H.R. 13067. Motion to suspend the rules and pass the bill to authorize the Treasury secretary, at his discretion, to issue substitute checks for stolen or lost Social Security checks without identification by the recipient. July 10, 1978. Y(4-0-0) Passed 375-0.

(523) H.R. 12106. Motion to suspend the rules and pass the bill to extend the National Transportation Safety Board for one year with an authorization of $16.4 million for the board's operations in fiscal 1979. July 10, 1978. Y(2-3-0) Passed 340-42.

(524) H.R. 12536. Amendments, en bloc, to delete a provision in the bill to authorize the Interior Department secretary to acquire all lands within the present boundary of the Delaware Water Gap National Recreation Area in Pennsylvania and New York for the wild and scenic rivers system and for recreational purposes (thus giving the Interior Department priority over U.S. Corps of Engineers projects). July 10, 1978. Y(4-0-0) Rejected 110-275.

(525) H.J. Res. 1024. Passage of the joint resolution to appropriate $57,145,000 for staff salaries for the Agricultural Stabilization and Conservation Service (ASCS) and to increase transfer authority from the Commodity Credit Corporation fund ot ASSC by $23,391,000 for fiscal 1978. July 11, 1978. NV(3-0-1) Passed 340-48.

(526) H.R. 11627. Motion to suspend the rules and pass the bill to amend the 1977 Surface Mining Control and Reclamation Act (PL 95-87) to authorize an additional $25 million each in fiscal 1978-80 for Interior Department inspections of mines and assistance to small operators. July 11, 1978. Y(2-2-0) Passed 323-74.

(527) H.R. 12536. Amendment to delete a provision in the bill to designate 927,550 acres in Glacier National Park in Montana as wilderness. July 11, 1978. N(2-2-0) Passed 216-181.

(528) H.R. 12536. Amendment to provide for the exclusion of 4,400 acres of the Blue Jacket Mine area in Idaho from the Hells Canyon Recreation Area. July 11, 1978. N(3-1-0) Rejected 147-249.

(529) H.R. 12536. Amendment to provide for a master development plan, to be submitted to Congress one year after enactment of the bill, for inclusion of segments of the Upper Mississippi River in Minnesota in the Wild and Scenic Rivers system. July 11, 1978. N(3-1-0) Passed 205-192.

(530) H.R. 12536. Amendment to delete the provision in the bill to amend the Wild and Scenic Rivers Act deleting the limitation on acquisition authority of the St. Croix River in Minnesota and Wisconsin. July 11, 1978. N(3-1-0) Rejected 175-218.

(532) H.R. 12536. Passage of the bill to authorize $1.25 billion in fiscal 1979-83 for establishment of new areas and additions in in the national park, national trails, wild and scenic rivers and wilderness systems. July 12, 1978. Y(2-2-0) Passed 341-61.

(533) S.Con.Res. 95. Motion to table (kill) the motion to appeal the ruling of the chair sustaining a point of order against a motion to commit the resolution to the International Relations Committee with instructions to report it back with an amendment stating that it was the sense of Congress that U.S. representatives to the strategic arm limitation talks with the Soviet Union be recalled to show U.S. commitment to human rights principles. July 12, 1978. Y(2-2-0) Passed 277-120.

(534) S.Con.Res. 95. Adoption of the concurrent resolution urging the Soviet Union and its leadership "to seek a humanitarian resolution" to the "deplorable" trials of Anatoly Shcharansky, Viktoras Petkus and Aleksandr Ilyich Ginsburg, who defended the principles of the Helsinki agreement in the Soviet Union. July 12, 1978. Y(4-0-0) Passed 380-10.

(535) H. Con. Res 599. Adoption of the resolution to disapprove the president's approval of the export of low-enriched uranium to India. July 12, 1978. N(2-2-0) Rejected 181-227.

(537) H.R. 15. Amendment to allow local education agencies, as well as states, to qualify for special matching federal grants if they had their own compensatory education programs. July 12, 1978. Y(4-0-0) Rejected 150-240.

(538) H.R. 15. Amendment to count two-thirds instead of 100 percent of the children in each state from families receiving Aid to Families with Dependent Children payments in excess of the poverty level, for the purposes of determining state compensatory education allocations. July 12, 1978. Y(4-0-0) Rejected 175-212.

(539) H. Res. 1267. Motion to table (kill) the McDonald, D.-Ga., resolution to impeach U.S. Ambassador to the United Nations Andrew Young. July 13, 1978. Y(1-3-0) Passed 293-82.

(540) H.R. 15. Substitute amendment, to the Holt, R.-Md., amendment, to prohibit duplication by community education programs of services offered by other government agencies, unless the commissioner of education determined that collaboration existed between the education agency and the other government agencies. July 13, 1978. Y(1-3-0) Passed 197-195.

(541) H.R. 15. Substitute for the bill to distribute funds authorized by the bill in block grants to states. July 13, 1978. N(1-3-0) Rejected 79-290.

(542) H.R. 15. Passage of the bill to extend the Elementary and Secondary Education Act of 1965 for five years, through fiscal 1983. July 13, 1978. Y(3-1-0) Passed 350-20.

(543) H.R. 10929. Motion to close to the public the conference committee meetings on the bill to authorize fiscal 1979 funds for Defense Department weapons procurement and military research and development when classified national security items were being discussed, as authorized under House rules, but to allow the attendance of members of Congress at all meetings. July 14, 1978. Y(3-0-1) Passed 319-5.

(544) H.R. 12163. Amendment to reduce funding for the Clinch River nuclear breeder reactor project by $159 million, to limit work on that project to completion of studies and tests and to require a study of advanced breeder reactor technologies to be prepared by March 1, 1981. July 13, 1978. Y(1-2-0) Rejected 142-187.

(545) H.R. 12163. Amendment to add $75 million for initial construction costs for a facility to demonstrate the SRC-II (solvent refined coal) process of producing liquid boiler fuels from coal. July 14, 1978. NV (0-2-2) Passed 165-132.

(547) H.R. 12028. Motion to suspend the rules and pass the bill to increase to $30,000 grants for specially adapted housing for certain disabled veterans, to $25,000 for VA loan guarantees, and to permit Vietnam-era veterans with 90 days of service to qualify for VA home loan programs. July 17, 1978. Y(4-0-0) Passed 379-0.

(548) H.R. 12232. Motion to suspend the rules and pass the bill to amend the 1976 Unemployment Compensation Amendments to (1) pay members of the National commission on Unemployment Compensation who were not full-time federal employees; (2) extend for one year, to May 31, 1981, the effective date of the provision that unemployment compensation benefits be reduced by the amount of retirement benefits received; and (3) extend for two years the exemption for farm employers of the payment of employment taxes for seasonal alien agricultural workers. July 17, 1978. Y(4-0-0) Passed 300-81.

(549) H.R. 12380. Motion to suspend the rules and pass the bill to limit to two years beyond the regular unemployment period the time within which an individual may receive extended unemployment benefits under the 1970 Federal-State Extended Unemployment Compensation Act. July 17, 1978. Y(4-0-0) Passed 396-4.

(550) H.R. 10848. Motion to suspend the rules and pass the bill to allow persons whose SSI payments were discontinued because they became employed to be considered disabled and immediately receive SSI benefits for three months, pending a review by the Social Security Administration, if they had received SSI benefits within the previous five years. July 17, 1978. Y(2-2-0) Passed 351-32.

(552) H.R. 12163. Motion to recommit the bill to the Science and Technology Committee with instructions to report the bill back to the House with an amendment containing language called for in the rejected Flowers, D-Ala., amendment (See H.R. 12163). July 17, 1978. Y(1-3-0).

(553) H.R. 12163. Passage of the bill to authorize $4.5 billion in fiscal 1979 for research and development programs and activities of the Energy Department. July 17, 1978. Y(4-0-0) Passed 325-67.

(558) H.R. 12443. Motion to suspend the rules and pass the bill to amend the Immigration and Nationality Act to provide a single worldwide ceiling on immigration into the United States and to establish a Select Commission on Immigration and Refugee Policy to study U.S. immigration policies. July 18, 1978. Y(2-2-0) Passed 396-20.

(559) H.R. 12506. Motion to suspend the rules and pass the bill to amend the Immigration and Nationality Act to raise the limit for immigration preference on the number of children that could be adopted by a single family, and to liberalize immigration and naturalization requirements for children of parents applying for U.S. citizenship. July 18, 1978. Y(2-2-0) Passed 413-0.

(560) H.R. 12252. Motion to suspend the rules and pass the bill to pay state and local governments $150 to cover the expenses of burying any veteran in a veterans' cemetery operated by a state or local government. July 18, 1978. Y(4-0-0) Passed 407-9.

(561) H.R. 12011. Motion to suspend the rules and pass the bill to extend indefinitely the authority of the Veterans Administration to contract with private hospitals for medical care of veterans in Alaska, Hawaii and U.S. controlled territories. July 18, 1978. Y(4-0-0) Passed 415-0.

(562) H.R. 11891. Motion to suspend the rules and pass the bill to establish higher benefits payments for home health care for disabled veterans requiring constant medical attention. July 18, 1978. Y(4-0-0) Passed 418-0.

(563) H.R. 6075. Motion to suspend the rules and pass the bill to prohibit employment discrimination based on pregnancy. July 18, 1978. Y(2-2-0) Passed 376-43.

(564) H.J. Res. 738. Motion to suspend the rules and pass the joint resolution to express the sense of Congress that the president direct the federal agencies concerned to reevaluate existing laws and regulations that prevented native Americans from practicing their traditional religions by denying them access to sacred lands, instruments or ceremonial practices. July 18, 1978. Y(3-1-0) Passed 337-81.

(566) H.R. 1609. Passage of the bill to promote development of coal slurry pipelines. July 19, 1978. Y(2-2-0) Rejected 161-246.

(568) H.R. 11963. Passage of the bill to authorize $8.6 million for the Federal Election Commission for fiscal year 1979, with the stipulation that none of the money could be used to fund random audits of candidates for the House and Senate. July 19, 1978. Y(3-1-0) Passed 366-37.

(570) H.R. 13385. Amendment to reduce the temporary increase in the public debt ceiling by $16 billion, to $798 billion from $814 billion. July 19, 1978. Y(4-0-0) Passed 363-37.

(571) H.R. 13385. Passage of the bill to increase the temporary public debt limit to $798 billion through March 31, 1979. July 19, 1978. Y(1-3-0) Passed 295-202.

(573) H.R. 11504. Adoption of the conference report on the bill to revise existing farm credit programs, to create an economic emergency loan program for farmers and ranchers and to extend the Emergency Livestock Credit Act through Sept. 30, 1979. July 19, 1978. Y(4-0-0) Passed 362-28.

(575) H.R. 13467. Amendment to delete $15 million in the bill for a Center for Disease Control influenza immunization program and add $3 million for influenza vaccine research programs of the National Institute for Allergy and Infectious Diseases. July 20, 1978. Y(4-0-0) Passed 268-127.

(576) H.R. 13467. Amendment to add $26 million to the $5 million in the bill for "pinpoint" assistance to schools in federally declared disaster areas. July 20, 1978. N(4-0-0) Rejected 166-233.

(577) H.R. 13467. Amendment to add $9.9 million to the $5 million in the bill for "pinpoint" assistance to schools in federally declared disaster areas. July 20, 1978. N(0-4-0) Rejected 156-237.

(578) H.R. 13467. Amendment to delete the $275,000 appropriation for the U.S. Metric Board. July 20, 1978. N(2-2-0) Rejected 75-302.

(579) H.R. 13467. Amendment to reduce all spending in the bill, except for payments required by law, by 2 percent, provided that no program be cut by more than 5 percent. July 20, 1978. Y(2-1-1) Passed 256-114.

(580) H.R. 13467. Passage of the bill to appropriate $6.2 billion in supplemental funds for fiscal 1978 operations of the government, including $3.2 billion for federal employee pay raises. July 20, 1978. Y(2-1-1) Passed 311-60.

(581) H.R. 12433. Amendment to prohibit the Department of Housing and Urban Development from carrying out a reorganization of its field offices. July 21, 1978. N(1-1-2) Rejected 133-160.

(582) H.R. 12433. Amendment to delete a provision in the bill to limit property insurance rates under state-operated FAIR (Fair Access to Insurance Requirements) plans. July 21, 1978. N(1-1-2) Rejected 119-185.

(583) H.R. 12433. Amendment to prohibit Social Security cost-of-living increases from being counted as income when calculating rents in assisted housing. July 21, 1978. Y(2-0-2) Passed 256-38.

(584) H.R. 12433. Passage of the bill to revise, extend and authorize $29.3 billion for various housing and community development programs. July 21, 1978. Y(1-1-2) Passed 270-26.

(585) H.R. 13468. Passage of the bill to appropriate $1,612,185,100 for fiscal 1979 (the appropriation was composed of $264 million in federal funds and $1,348,185,100 in revenues raised by the city). July 21, 1978. Y(1-1-2) Passed 215-32.

(586) H.J. Res. 946. Motion to suspend the rules and pass the joint resolution to designate Oct. 7, 1978, as National Guard Day to commemorate the contributions to the national defense of the national guard since 1636. July 24, 1978. NV(1-0-3) Passed 264-10.

(590) H.R. 11823. Motion to suspend the rules and pass the bill to liberalize eligibility for retired pay of members of reserve branches of the military. July 25, 1978. NV (2-1-1) Passed 390-8.

(591) H.R. 12349. Motion to suspend the rules and pass the bill to add a 34,500 acre area known as Dunoir Basin to the Washakie Wilderness in Wyoming. July 25, 1978. NV (1-2-0) Passed 372-22.

(592) H.R. 12973. Motion to suspend the rules and pass the bill to increase spending ceilings to $2.7 billion for fiscal 1979, $3.15 billion for 1980 and $3.45 billion for 1981 child day care, home assistance for aged and disabled, employment training and other social services programs under Title XX of the Social Security Act. July 25, 1978. NV(0-3-1) Passed 346-54.

(593) H.R. 11889. Motion to suspend the rules and pass the bill to increase to $200 the additional monthly pension paid by the Veterans Administration to eligible persons who held the Congressional Medal of Honor. July 25, 1978. NV(3-0-1) Passed 394-4.

(594) H.R. 11890. Motion to suspend the rules and pass the bill to liberalize eligibility for the benefits paid to survivors of permanently disabled veterans. July 25, 1978. NV (3-0-1) Passed 393-9.

(595) H.R. 12426. Adoption of the conference report on the bill to provide up to $1.65 billion in long-term federal loan guarantees to New York City. Juldy 25, 1978. NV (1-2-1) Passed 244-157.

(596) H.R. 11877. Adoption of the conference report on the bill to authorize $112,424,000 for fiscal 1978 programs of the Peace Corps, and to amend the Peace Corps Act to emphasize assistance to the poorest countries, the need to integrate women into the economies of third world nations and to make various administrative changes. July 25, 1978. NV(1-2-1) Passed 276-120.

(598) H.R. 10285. Amendment to permit states to enact and enforce their own commodity futures trading laws that were identical to certain sections of the Commodity Exchange Act. July 26, 1978. Y(2-2-0) Rejected 141-260.

(599) H.R. 10285. Amendment to require reporting within 48 hours of export commodity sales and certain related information to the Commodity Futures Trading Commission, and to require the commission to publish this information. July 26, 1978. Y(1-3-0) Passed 278-125.

(600) H.R. 10285. Passage of the bill to extend the Commodity Exchange Act and to authorize appropriations as needed for the operations of the Commodity Futures Trading Commission through fiscal year 1981. July 26, 1978. Y(4-0-0) Passed 401-6.

(601) H.R. 3350. Substitute amendment, to the Udall amendment, to place responsibility for the Deep Seabed Mineral Resources program in the Department of Commerce. July 26, 1978. Y(3-1-0) Passed 214-184.

(602) H.R. 3350. Amendment to reword language in the bill to state more clearly that in granting mining permits the United States was not claiming jurisdiction over any areas beyond the 200-mile limit. July 26, 1978. Y (2-20) Rejected 199-202.

(603) H.R. 3350. Passage of the bill to provide for interim federal regulation and taxation of ocean mining of hard minerals by U.S. citizens until an international agreement was reached by the Law of the Sea Conference. July 26, 1978. Y(4-0-0) Passed 312-80.

(604) H.R. 7577. Amendment to alter the proposed funding formula for community action agencies to require 60-percent Federal contributions and 40-percent local contributions. July 26, 1978. N(1-3-0) Rejected 158-224.

(605) H.R. 7577. Passage of the bill to extend the Economic Opportunity Act of 1964 for 3 years, through fiscal 1981, and to make changes in various antipoverty programs covered under the act. July 26, 1978. Y(2-2-0). Passed 346-38.

(608) H.R. 12157. Amendment to prohibit the Export-Import Bank from providing loans to produce any commodity unless the President certified that the commodity was not in surplus in the United States and its importation would not injure U.S. firms and employees producing the same or competing commodity. July 27, 1978. N(1-3-0). Rejected 197-199.

(609) H.R. 12157. Amendment to prohibit the Export-Import Bank from participating in transactions with countries that the Secretary of State has determined grossly violate internationally recognized human rights. July 27, 1978. N(4-0-0). Rejected 103-286.

(610) H.R. 12157. Amendment to prohibit the Export-Import Bank from extending credit to purchasers of exports whom the Secretary of State certifies do not endorse fair and equal employment principles. July 27, 1978. N(2-0-0). Rejected 90-288.

(611) H.R. 12157. Amendment to require the Export-Import Bank to submit to Congress an evaluation, based on analyses by the Nuclear Regulatory Commission, of the nuclear safety standards in effect in nations with which the bank conducts a transaction for the sale of nuclear reactors. July 27, 1978. Y(1-3-0). Rejected 106-266.

(612) H.R. 12157. Passage of the bill to extend the authority of the Export-Import Bank through September 1983 and increase its loan ceiling to $40 million from $25 million. July 27, 1978. Y(4-0-0). Passed 314-47.

(614) H.R. 9400. Passage of the bill to allow the Attorney General to sue or intervene in

suits to protect the constitutional rights of persons living in State-run nursing homes, prisons, juvenile facilities, and institutions for the chronically ill. July 28, 1978. Y(2–2–0). Passed 254–69.

(616). H.R. 12432. Amendments, en bloc, to delete provisions to give the commission authority to study discrimination based on age or handicap, including $2 million allocated for such studies. July 28, 1978. NV(2–1–1). Rejected 87–244.

(617) H.R. 12482. Amendment to prohibit the commission from engaging in lobbying on legislation before Congress or State legislatures. July 28, 1978. Y(4–0–0). Passed 150–125.

(619) H.R. 9998. Motion to suspend the rules and pass the bill to authorize the Federal Maritime Commission to prevent ocean shipping fleets controlled by certain foreign governments from setting predatory prices for transporting goods between the United States and other nations, subject to Presidential disapproval for national defense. July 31, 1978. Y(4–0–0). Passed 329–6.

(624) H.R. 12972. Motion to suspend the rules and pass the bill to remove certain work disincentives for the disabled under the supplemental security income benefits program. August 1, 1978. Y(4–0–0). Passed 399–4.

(625) H.J. Res. 963. National POW–MIA Recognition Day. Motion to suspend the rules and pass the joint resolution to declare July 18, 1979, to be National POW–MIA Recognition Day. August 1, 1978. Y(4–0–0). Passed 401–2.

(626) H.R. 4030. Passage of the bill to amend the Internal Revenue Code to allow certain private foundations to retain for 10 years the excess over the legal existing amount of the stock of certain public utilities without being subject to the excise tax on excess business holdings. August 1, 1978. Y(4–0–0) Passed 317–86.

(627) H.R. 12514. Amendment to lift the U.S. arms embargo against Turkey when the president certified to Congress that the action was in the national interest of the United States and NATO and that Turkey was acting in good faith to achieve a settlement of the Cyprus problem. August 1, 1978. Y(4–0–0) Passed 208–205.

(628) H.R. 12514. Substitute amendment to express the sense of Congress that further withdrawal of U.S. ground forces from South Korea "may risk upsetting" the military balance in that region, and to require "full advance consultation with Congress" before any withdrawal occurs. August 1, 1978. Y(2–2–0) Passed 212–189.

(631) H.R. 12514. Amendment to prohibit delivery of weapons to Chile sold before enactment of the bill. August 2, 1979. Y(1–3–0) Rejected 146–260.

(632) H.R. 12514. Amendment to prohibit delivery of weapons sold to Chile before enactment of the bill until the Chilean government turned over to the United States those Chileans indicted for the murders of Orlando Letelier and Ronni Moffitt. August 2, 1978. NV(3–0–1) Rejected 171–228.

(633) H.R. 12154. Amendment to prohibit the use of funds in the bill for South Korea until former Korean Ambassador to the United States Kim Dong Jo had given testimony to the Standards of Official Conduct Committee on congressional influence-buying by the Korean government. August 2, 1978. Y(2–2–0) Rejected 147–257.

(634) H.R. 12514. Substitute amendment to prohibit the enforcement of economic sanctions against Rhodesia before Oct. 1, 1978, but to allow the president to reimpose sanctions if he determined the government of Rhodesia had "refused to participate in good faith" in all all-parties conference and had failed "to schedule for an early date free elections." August 2, 1978. Y(2–1–0) Rejected 176–229.

(635) H.R. 12514. Substitute amendment to prohibit the enforcement of sanctions against Rhodesia after Dec. 31, 1978, unless the president determined that a government had not been installed, which was chosen by free elections in which all political groups were allowed to participate freely. August 2, 1978. Y(1–3–0) Passed 229–180.

(636) H.R. 12154. Amendment to prohibit delivery of weapons sold to Chile before enactment of the bill until the Chilean government turned over to the United States those Chileans indicted on August 1, 1978, in Washington, D.C. for the murders of Orlando Letelier and Ronni Moffitt in September 1976. August 2, 1978. Y(1–3–0) Rejected 166–243.

(637) H.R. 12514. Passage of the bill to authorize $999.3 million for foreign military assistance programs of the State Department in fiscal 1979. August 2, 1978. Y(2–2–0) Passed 255–156.

(638) H.R. 12931. Amendment to delete $49 million from the bill for the purchase of rupees from India. August 2, 1978. N(3–1–0) Rejected 194–200.

(639) H.R. 12931. Amendment to reduce the appropriations for the United Nations Development Program by $6.8 million. August 2, 1978. N(3–1–0) Rejected 189–202.

(640) H.R. 12931. Amendment to delete $90 million from the bill that was earmarked for Syria. August 2, 1978. N(3–1–0) Passed 280–103.

(642) H.R. 12931. Amendment to reduce the $13.1 million appropriation for the Philippines by $5 million. August 3, 1978. Y(1–3–0) Rejected 142–264.

(643) H.R. 12931. Amendment to delete the $600,000 appropriation for military education and training assistance to Afghanistan. August 3, 1978. N(3–1–0) Rejected 152–236.

(644) H.R. 12931. Amendment to prohibit indirect U.S. aid to Chile, Argentina, Uruguay, South Korea, Nicaragua, Indonesia and the Philippines. August 3, 1978. N(4–0–0) Rejected 41–360.

(645) H.R. 12931. Amendment to prohibit indirect aid to Uganda, Cambodia, Laos and Vietnam. August 3, 1978 N(2–2–0) Rejected 198–203.

(646) H.R. 12931. Amendment to reduce spending for Title I programs by 2 percent, or $44 million, except for the $1.628 billion of the Economic Support Fund allocated to Israel, Egypt and Jordan. August 3, 1978. Y(4–0–0) Passed 293–52.

(648) H.R. 12931. Amendment to reduce the appropriation for foreign military credit sales by $12,960,000 and to specify that of the total appropriation for this category, $2.5 million would be available for Lebanon and $8.5 million would be available for Jordan. August 4, 1978. Y(3–0–1) Passed 300–29.

(651) H.R. 13635. Amendment to add $15.4 million for reserve recruiting incentives. August 7, 1978. NV(2–0–2) Passed 257–121.

(652) H.R. 13635. Amendment to reduce by 2 percent appropriations for Title I of the bill. August 7, 1978. N(0–3–1) Rejected 53–327.

(653) H.R. 13635. Amendment to consolidate helicopter basic training by transferring Navy helicopter pilot training to Army control. August 7, 1978. Y(1–2–1) Passed 252–128.

(654) H.R. 13635. Amendment to delete $2.1 billion for a nuclear-powered aircraft carrier. August 7, 1978. Y(1–2–1) Rejected 156–218.

(656) H.R. 13635. Amendment to delete $3 million for development of a diesel engine for future combat vehicles. August 8, 1978. Y(1–2–1) Rejected 107–269.

(657) H.R. 13635. Amendment to all $1 million for Army food research. August 8, 1978. N(0–3–1) Rejected 103–277.

(658) H R. 13635. Amendment to allow up to 10 percent of the Defense Department procurement contracts to be targeted to areas of high employment. August 8, 1978. N(0–3–1) Rejected 165–213.

(659) H.R. 13635. Amendment to prohibit purchase of foreign manufactured trucks to haul cargo in combat areas. August 8, 1978 N(0–3–1) Rejected 72–302.

(660) H.R. 13635. Amendment to delete limitations on the use of competitive bidding in award contracts for moving household goods. August 8, 1978. Y(3–0–1) Passed 269–96.

(661) H.R. 13635. Substitute amendment to reduce by 1 percent the funds appropriated by the bill. August 8, 1978. NV(0–2–2) Rejected 136–222.

(662) H.R. 13635. Amendment to reduce by 2 percent the funds appropriated by the bill. August 8, 1978. NV(0–2–2) Rejected 102–252.

(664) H.R. 13635. Amendment to prohibit use of funds appropriated in the bill for any abortion not required to save the life of the mother. August 9, 1978. N(2–1–1) Passed 226–163.

(665) H.R. 13635. Passage of the bill to appropriate $119,017,218,000 for programs of the Defense Department in fiscal 1979. August 9, 1978. Y(3–0–1) Passed 339–60.

(666) H.R. 2777. Adoption of the conference report on the bill to establish a national consumer cooperative bank; to establish within the bank an office to provide technical assistance to cooperatives; and to authorize a total of $300 million over fiscal 1979–83 for the bank's initial capitalization, $75 million for fiscal 1979–81 for technical assistance and $4 million for fiscal 1979 and additional sums as necessary for fiscal 1980–91 for the administrative costs of the bank and technical assistance programs. August 9, 1978. Y(1–2–1) Passed 236–164.

(667) H.Res. 11280. Adoption of the resolution to disapprove President Carter's Reorganization Plan No. 2 to reorganize the Civil Service System. August 9, 1978. N(1–2–1) Rejected 19–381.

(670) H.R. 12452. Amendment to require the secretary of Labor to withhold funds, or to seek repayment of funds already distributed, from local government prime sponsors found to have used federal funds to substitute CETA workers for regular employees. August 9, 1978. Y(3–0–1) Passed 407–1.

(671) H.R. 12452. Amendment to allow local governments the option of not paying unemployment insurance for CETA workers. August 9, 1978. N(2–1–1) Rejected 197–211.

(672) H.R. 12452. Amendments to delete the provision allowing use of CETA funds to make contributions to retirement plans if the CETA worker had a reasonable chance of benefiting in the future from the plan. August 9, 1978. N(2–1–1) Passed 209–194.

(673) H.R. 12452. Amendment to prohibit use of CETA funds for retirement plan payments after Jan. 1, 1980. August 9, 1978. Y(3–0–1) Passed 254–148.

(674) H.R. 12452. Amendments, considered en bloc, to limit maximum CETA wages to $10,000 annually ($12,000 in high-wage areas) and to set the average CETA's wage at $7,000, to be adjusted according to the consumer price index. August 9, 1978. Y(3–0–1) Passed 230–175.

(675) H.R. 12452. Amendment to set a $3.2 billion ceiling on spending for Title VI public service employment, and to increase by $500 million the authorizations for youth employment and private sector jobs programs. August 9, 1978, N(2–1–1) Passed 221–181.

(676) H.R. 12452. Amendment to permit use of CETA funds to pay outside legal consultants, provided neither the local government nor the Labor Department could perform the task and the consultant charged reasonable fees. August 9, 1978. Y(1–2–1) Passed 200–198.

(679) H.R. 13511. Adoption of the Ways and Means Committee amendments to modify the earned income tax credit, extend investment tax credits to rehabilitation of structures, revise the jobs credit, establish an alternative minimum tax on capital gains, exempt up to $100,000 in profits from the sale of residences from capital gains taxes once in a taxpayer's lifetime and other measures. August 10, 1978. Y(4–0–0) Passed 409–1.

(680) H.R. 13511. Adoption of Ways and Means Committee amendment to provide for indexation of capital gains taxes for inflation beginning in 1980. August 10, 1978. N(3–1–0) Passed 249–167.

(681) H.R. 13511. Substitute Amendment for the bill to extend tax cuts due to expire at the end of 1978 and enact no new tax cut. August 10, 1978. N(0–3–1) Rejected 57–356.

(683) H.R. 13511. Amendment to provide an $18.1 billion tax cut including more benefits to taxpayers earning less than $50,000 and less to those earning more. August 10, 1978 (Y(0–2–1) Rejected 193–225.

(684) H.R. 13511. Motion to recommit the bill to the Ways and Means Committee with instructions to report it back with an amendment to reduce individual income tax rates by one-third over the next three years. August 10, 1978. N(2–1–1) Passed 362–49.

(685) H.R. 13511. Passage of the bill to provide $16.3 billion in individual, corporate, and capital gains tax cuts. August 10, 1978. Y(3–0–1) Passed 362–49.

(690) H.R. 13007. Passage of the bill to amend the Consumer Credit Protection Act to establish rights, remedies, and responsibilities for all participants in the utilization of electronic fund transfer services. August 11, 1978. Y(3–1–0) Passed 314–114.

(693) H.R. 12931. Amendment to reduce the Inter-American Development Bank and the International Development Association appropriations by 2%. August 14, 1978. Y(4–0–0) Passed 359–27.

(694) H.R. 12931. Amendment to prohibit the use of any U.S. funds appropriated to the International Development Association to finance any assistance or reparations to Vietnam. August 14, 1978. NV(3–0–1) Passed 234–142.

(695) H.R. 12931. Amendment to prohibit the use of funds appropriated to international financial institutions for establishing or expanding the production for export of steel, grains, sugar, palm oil, citrus crops, tobacco, or tires, August 14, 1978. N(2–2–0) Rejected 143–239.

(696) H.R. 12931. Amendment to prohibit the use of funds appropriated to provide, review, or administer any assistance, credits, guarantees, or insurance in or for Panama. August 14, 1978. NV(2–1–1) Rejected 172–302.

(697) H.R. 12931. Amendment to reduce appropriations not required by law by 8%. August 14, 1978. NV(2–1–1) Rejected 184–199.

(699) H.R. 12931. Amendment to reduce total appropriations by 2%, except for those areas or programs already reduced in the Committee of the Whole (which included the Inter-American Development Bank and the International Development Association). August 14, 1978. Y(4–0–0) Passed, 341–44.

(700) H.R. 12931. Passage of the bill to make appropriations of $7.2 billion for Foreign Assistance and related agencies. August 14, 1978. Y(2–2–0) Passed 223–167.

(702) H.Res. 1295. Adoption of the rule providing for floor consideration of H.J.Res. 638, the Equal Rights Amendment extension. August 15, 1978. Y(1–3–0) Passed 243–171.

(703) H.Res. 1315. Motion to table the resolution providing that a two-thirds vote of Members present and voting shall be necessary for passage of H.J.Res. 638. August 15, 1978. Y(1–3–0) Passed 230–163.

(704) H.J.Res. 638. Amendment to allow States which have ratified the Equal Rights Amendment during the first seven-year period to rescind that motion during the extension period; and to require the G.S.A. to submit notices of all ratifications and rescissions to the Congress for final determination as to whether the amendment shall have been adopted. August 15, 1978. N(3–1–0) Rejected 196–227.

(705) H.J.Res. 638. Passage of the resolution allowing the extension of the ratification period for the Equal Rights Amendment until June 30, 1982. Y(1–3–0) Passed 233–189.●

OUR FAILURE TO DISCUSS VIETNAM

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 16, 1978

● Mr. BONIOR. Mr. Speaker, I would like to submit an article for my colleagues which appeared in the Washington Post a few days ago. Its author, Stuart Feldman, is counsel to the Council of Viet Nam Veterans, a group which I personally feel is one of the most effective advocates of the Vietnam veteran.

The article appears at a time when the Vietnam veterans in Congress is attempting to obtain more equitable and substantial benefits for the Vietnam veteran. The message, which I concur in, is that unless we, as a country, come to terms with the reality of Vietnam and its lessons for us, we will never be able to fully accord the Vietnam veterans the respect they deserve in being asked to fight a war of attrition until we decided what it was we truly wanted in Vietnam, until we decided whether or not their deaths would mean anything to the country. Unless we come to terms with Vietnam, its veterans may very well be the ultimate victims of that war.

The article follows:

[From the Washington Post, July 27, 1978]

OUR FAILURE TO DISCUSS VIETNAM

(By Stuart F. Feldman)

There was probably as much heroism by American servicemen in Vietnam as in any previous war. Yet the Vietnam veteran doesn't know whether he is a hero, an honorable man for serving his country, or a fool for not evading the draft. Partly this is because of the unpopularity of the war at the time it was being waged. But a large part of the reason for the confusion in the minds of Vietnam veterans has to do with our failure to discuss Vietnam and what it meant, now that it is behind us.

Both a recent book—"Chance and Circumstance" by Lawrence M. Baskir and William A. Strauss—on the unfortunate and unfair workings of the draft and reports of candidate Jimmy Carter's speeches illustrate the problem. Both seem to take the position that people served in Vietnam because they weren't bright enough to know where Canada was or to take advantage of the multitude of ways to escape their citizen's responsibility. Neither fully acknowledged the fact that many people served in the military because they saw it as their citizen's duty.

Robert Morris, an eloquent Vietnam veteran, wrote in a letter to The Washington Post on Oct. 11, 1977: "In candor, I never knew what to think of the war either; never knew, even while I was there, whether committing U.S. forces in Vietnam was the right decision. I believed explicitly only in this: The government should be able to raise and deploy troops in accordance with decisions properly made in the national interest."

That is a view I share.

Payment of the nation's just debts to Vietnam veterans might start to strip away the barriers to a consensus on America's future role in the world—barriers that now seem to hamper our ability to act. The disillusionment from Vietnam seems to convince many that we should never commit our troops or resources overseas again, except perhaps in Europe.

A president's Week for Vietnam Veterans, climaxed by a nationwide presidential fireside address on the honorable service of those citizens and the responsibilities of citizenship, could be a major first step in a needed nonpartisan discussion of Vietnam.

Some special presidential recognition of Vietnam veterans would, I believe, help many of them feel more at ease with their government. It might also provide them with some sense of absolution for their part in a war that so many of their fellow citizens have denounced as "immoral" or "needless" or just plain wrong. A large number of Vietnam veterans and their families are now bitterly opposed to military service. They convey that attitude to their younger brothers, relatives and friends. It may be one reason the volunteer army is having such a hard time obtaining high-caliber recruits.

A poll made in conjunction with one of the Hollywood movies made about the war showed that 61 percent of those surveyed thought that the nation needed to discuss the events of the war. Other recent signs, including the release of at least eight war-related movies, hour-long television specials on Vietnam veterans by ABC and CBS and a cover story by the Atlantic, suggest that there is, indeed, some public readiness to face up to the meaning—and the lessons—of Vietnam.

In a Memorial Day address at Loyola College in Baltimore, Clark Clifford, a secretary of defense under President Johnson, said his generation, by wrongly comparing Hitler's Germany and post-World War II Soviet expansionism to Vietnam, conducted a war that was "a disaster". The National Review of June 23 carried an analysis of the war by Norman Hannah, a retired Foreign Service officer, who also called for a dispassionate nonpartisan review. In the July Harper's, psychologist Jeffrey Jay, a fellow at George Washington University's Center for Family Research, called the Vietnam veteran a scapegoat and a victim of silence surrounding the war. He, too, urged a national debate on Vietnam for the sake of the veterans' mental health. In reviewing a book in The Washington Post, one of West Point's brightest young products, Josiah Bunting, who left the Army over the war, made a negative analysis of the officer corps' performance. All of these are recent harbingers of a willingness to examine the past for whatever it might tell us of how to proceed in the future.

Although presidential recognition of Vietnam veterans is crucial, any response requires a substantive effort to reshape and improve a number of government programs related directly to the problems of Vietnam veterans and involving education, medical care, various forms of "amnesty" for "bad paper" (less than honorable) discharges comparable to the blanket forgiveness bestowed upon draft evaders. This may require the expenditure of significant amounts of money as well as symbolic gestures by the president. But the sums involved are trifling when you consider the national obligation to those who served in Vietnam and to the importance of straight-thinking about the war and its relevance to the future conduct of American foreign policy, in honoring that obligation.●

ADDRESS ON PARENT EFFECTIVENESS

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 16, 1978

● Mrs. HECKLER. Mr. Speaker, earlier this year I had the honor to present the keynote address at an early childhood education and parenting conference entitled "Parents Make an Impact."

The conference was sponsored by project IMPACT, a program funded under provisions of the Elementary and Secondary Education Act, title IV–C. The program is an early childhood-parent-education project serving the Massachusetts communities of Easton, Foxborough, Mansfield, and Norton.

This conference, held over a weekend, was the first of its kind in the New England area. It was designed specifically for parents of children from birth to 8 years of age. The 800 parents and educators who participated in the conference had the opportunity to select from 40 workshop sessions as well as two general meetings.

One of the most memorable presentations was by Mr. Steve Emmons, one of the five national "Parent Effectiveness Training (PET)" instructor-trainers of the Effectiveness Training Institute, Solana Beach, Calif., who works directly with Dr. Thomas Gordon, author of the book, Parent Effectiveness Training.

Mr. Emmons opened the conference speaking on the subject, "Is Love Enough?" which won overwhelming applause from the audience. He emphasized that being a parent is fun and rewarding but also hard work and that parents need training and support through endeavors like project IMPACT.

Mr. Speaker, I wish to share the following excerpts from Mr. Emmons' challenging presentation with my colleagues.

ADDRESS ON PARENT EFFECTIVENESS

(By Mr. Steve Emmons)

"Communication" is my reference for tonight. I know that I cannot teach everything there is to know about Parent Effectiveness Training in one short evening.

But I can share some thoughts and ideas about communication between parents and children from ideas that I've come up with in working in the field of parenting.

I will focus on three words that I was taught at home and at school as a kickoff because in a little different context they have a lot to say about being a parent.

Stop, look, and listen. These guides for crossing the street ring some other bells for me in terms of the role of being parent. Parenting is hard work; it isn't easy.

And there have been a lot of "experts" in the field that have pointed fingers at parents and said: "It's your fault when kids don't turn out right, and the schools' problems are your fault, and society's problems are your fault." Precious few people have tried to understand parents.

The whole Parent Effectiveness Training movement was started about sixteen years ago based on the whole premise that we train people to do everything. We train them how to be doctors and lawyers and drive trucks and climb trees, and whatever. But we don't teach people how to be parents.

Parenting is hard work but it can be fun and exciting. How can we make it more fun and more rewarding and less hard work?

Let me first talk about the word "stop." Take time. Take time to consider and be with the family, be with youngsters, show interest in family and concerns of the family.

This doesn't always mean big amounts of time. It means quality of time. One of the best examples I can think of is a salesman who wasn't home much except week ends. And he was really concerned about that fact. So every Sunday morning was scheduled a time for Dad to be with one of his three youngsters for breakfast. And it turned out to be very, very special. The kids would look forward to it, put it on their schedules, plan for it. So quality is important. It doesn't mean huge amounts of time.

The second word is to "look." Look at children's worlds, and what goes on there, and how it is different from ours. One of the issues of a child's world has to do with size and the effects on size. The world of youngsters, for example, is often stomachs and belt buckles and knee caps. We should come down to kids' levels sometimes. Sit on the floor when we're playing and talking with them.

"Listen." What's that mean? I think listening falls into a big, broad category called communications. One researcher has said that only 7 percent of all communication was verbal; 23 percent, tone of voice—how it's said. And we're finding out more and more that how things are said is more important than what is said. That only 70 percent of communication was all nonverbal. Half of that was facial expressions, twitches in the mouth, and the eyes, and the other half was body posture, body language, how it was said. So that I think that if you take that into consideration that talking and listening really maybe don't go far enough.

I think there are some misconceptions about listening. I used to think listening was easy, but no more. It is important to really hear youngsters. I think one of the biggest temptations is wanting to get my message across and my information across real quick. And I tend to want to listen to answer, and to think about what am I going to say, and what's my message going to be, and what's my information going to be. I think it's important that we give our kids time, and other people as well, time to listen to be heard.

There's another half to that. We need to be listened to sometimes too. It isn't just listening to our kids. People want to know, How do I get behavior to change? And how do I get my message across? And so just as being a good "receiver" is important, being a good "sender" is important too.

Kids are important, but parents are, too. I think one of the burdens of parenthood is we're told that your needs aren't important. If you have anything left over at the end of the day you can give it to yourself only if you have taken care of everybody else. I think that's kind of a fallacy—we've got to take care of us, too.

I'd like to talk to you a little bit about time pressures and how it affects us. It turns out that all of us need three kinds of time. One is called "diffuse" time. That's when there's a lot of energy and stimuli. That's a group like this. That's a family eating dinner together. That's listening to the evening news and somebody goes by on their skateboard, and they're cutting the lawn outside, and you're trying to cook dinner, and the phone rings, and somebody is walking in and out. "Diffuse" time. A lot of our lives are spent in diffuse time at home and at work. We all need it.

But we also have needs for two other kinds of time. One of those is "one-to-one" time. Each of us has need to spend time with one other person in their lives. When you talk about a problem, maybe just have a cup of coffee just to talk and share back and forth. Each of us has need of some one-to-one time.

The last kind of time we all have need for is called "alone" time. There's usually precious little of that one. Time to kind of get our heads screwed on straight, get away from home or work, and just relax and unwind after a long, hard day to be by ourselves.

What happens is at home and at work we usually get too much of one and not enough of the other. It varies depending on where you spend your time with your work or your home or whatever.

One person that works in the family; one that doesn't. One has too much alone time; one has too much diffuse time. They come together at the front door and bam! All kinds of problems.

It's one thing to know that it's O.K. to want to get alone time to yourself and one-to-one time, but the question is how the heck do you do that? Because that's easier said than done with our busy days at home and at work. That takes planning, but it can be done.

It's amazing how many little hassles and problems and concerns can get really toned down and even eliminated just by making room for, and appreciating the fact that parents, kids, everybody in the family needs alone time, one-to-one time, and diffuse time. And if we can plan for that, at home and at work, then it will make a lot richer, hassle-free communication.

If I take just a little bit of alone time before I interact at home with family. Maybe the family can agree to have time and to get their private space, and when they come together at dinner or whatever, a lot fewer hassles and a lot better interactions. Managing our time is how it's done.

Usually we do a poll with parents and we find out that all of the things kids believe and think and do—even though they don't screw the top back on the toothpaste—there's a high percentage of behavior that is the same or similar to parents. Maybe as high as 80 percent.

So it's pretty potent, being a model and sharing and teaching with our kids. But I think also that they're separate, and we're separate, and we should appreciate that and take heart in that, instead of feeling like we failed if they didn't turn out exactly like we expected.

I'd like to share with you as a close a quote from Gabran's The Prophet. Its called: "It's About Children."

"And a woman who held a babe against her bosom said, 'Speak to us of children. And he said, 'Your children are not your children. They're the sons and daughters of life's longing for itself. They come through you but not from you. And though they are with you they belong not to you. You may give them your love, but not your thoughts. For they have their own thoughts. You may house their bodies but not their souls. For their souls dwell in the house of tomorrow which you cannot visit, even in your dreams.

"'You may strive to be like them, but seek not to make them like you. For life goes not backwards nor tarries with yesterday. You are the bows from which your children as living arrows are sent forth. The archer sees the mark on the patch of the infinite, and he bends you with his might that his arrows may go swift and firm. What you're bending in the archer's hand be for gladness. For even as he loves the arrow that flies so he loves also the bow that is stable.'"●

TIMBER SALVAGE ON THE NATIONAL FORESTS

HON. MAX BAUCUS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 16, 1978

● Mr. BAUCUS. Mr. Speaker, during the consideration of the Timber Management Act of 1976, I expressed my concern about the administration of timber salvage sales on the national forests.

In Montana there are vast amounts of wastewood which have been damaged by fire, windthrow, insect and disease attack, or other natural catastrophe. Salvaging these damaged timber stands serves as an effective management tool.

In a discussion of this issue with Chairman FOLEY when the Timber Management Act was considered, I expressed my hope that more salvage timber sales would result with the passage of the act.

The volume of wastewood appears to be growing each year. It has recently come to my attention that the Small Business Administration and the Forest Service conducted rule change hearings last week concerning special salvage timber sales for small business concerns. This new program would be in excess of present salvage timber sales now offered by the Forest Service.

The purpose of this program is to assist small business logging and forest industry concerns through the generation of additional Federal timber. This program would be separate from the existing small business set-aside program involving U.S. Forest Service timber and would be initially tested in a limited number of forests in the Western United States.

I commend the SBA and the Forest Service for proposing this small business set-aside program. This program will benefit small timber operations of 25 persons or less and will reduce the back log of salvage timber on the national forests.

I insert in the RECORD a letter which I have sent to the Small Business Administration concerning the proposed program for the benefit of my colleagues:

JULY 25, 1978.

Re 13 CFR Part 121

A. VERNON WEAVER,

Administrator, Small Business Administration, Washington, D.C.

DEAR MR. WEAVER: In the July 19, 1978 Federal Register the SBA announced public meetings for the purpose of a rule change dealing with special salvage timber sales.

Nearly 50 percent of the economy of my Congressional District is directly or indirectly dependent upon forest products. I commend the SBA for proposing this salvage timber rule change. Many small independent loggers in western Montana could potentially benefit from the establishment of a Special Salvage Timber Sales Set-Aside program.

The Federal Register announcement concerning the rule change stated the program will be tested in a limited number of forests in order to allow flexibility and alterations which may be necessary in the development of specific limits and controls applicable to the new program.

Because of the importance of the timber industry to the economy of Montana, and the unique characteristics of the National Forests in Montana, I urge the SBA and the Forest Service to select as many National Forests as possible in Montana for the purposes of the program test.

If I can be of any further assistance in this regard please feel free to call or write. I appreciate your consideration of this request.

With best personal regards, I am

Sincerely,

MAX BAUCUS.●

THE ECONOMY: QUESTIONS AND ANSWERS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 16, 1978

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for August 16, 1978 into the CONGRESSIONAL RECORD:

THE ECONOMY: QUESTIONS AND ANSWERS

These are some questions that Ninth District residents are asking about the economy:

Why are the economic policy choices so difficult today? Inflation is accelerating and the economic recovery is showing signs of weakness. Consequently, we are faced with a dilemma: steps to reduce inflation may curb economic growth while steps to keep the recovery going may boost inflation. The challenge is how to deal with inflation in a way that does not undo the progress we have made in promoting growth and creating jobs.

Why did inflation move up so quickly during the first half of 1978? There were three reasons for the recent surge in inflation. Food prices jumped because of bad weather and depleted cattle herds, the payroll tax and the minimum wage were increased, and the value of the dollar declined due principally to massive imports of oil. Shortages of labor or capital were not causes of the sharp upswing in prices.

Will inflation continue into 1979? The rate of increase in inflation is likely to remain very high next year even though it will be somewhat below the double digit rate of the first half of 1978. The principal cause of continued inflation may be rising labor costs. Workers wil be trying to compensate for the increases in consumer prices that took place earlier this year.

What is the outlook for economic growth and employment next year? The economy will continue to expand at a moderate but satisfactory pace, probably in the range of 3 percent to 4 percent a year. Such an expansion is about what will be needed to keep growth in jobs in line with growth in the labor force. Employment cannot be expected to advance much beyond today's levels. Between 5 percent and 6 percent of the labor force will still be jobless by the end of 1979.

Will there be an economic slowdown in 1979? The forecast of an economic slowdown is based on the anticipated behavior of three important sectors of the economy. Spending for housing is expected to drop because of tighter credit markets, consumer outlays may decline on account of higher consumer debt and overspending to avoid future price increases, and capital investment in plant and equipment will probably diminish as businessmen become less willing to take chances in the shaky economic environment. Other factors as well may contribute to a lag.

Will there be a recession? Some economists are predicting a recession and many observers acknowledge that a recession could occur in certain circumstances. On balance, however, most of the experts believe we will be able to avoid a recession. To support their claim these experts point to several mitigating influences. The proposed tax cut of $15 billion should stimulate consumer spending and the prolonged slide of the dollar will eventually spur exports. Also, there is little evidence of the imbalances in production and sales that often precede a recession. Finally, new laws and regulations may soften the impact of higher interest rates on the construction industry. The view that a recession will not overtake us assumes that there will be no further rise in interest rates.

What are the economic policy options available to Congress? Basically, Congress has two options in formulating its economic strategy. The first is to take restrictive steps by slashing expenditures and foregoing all or part of a tax cut. While this approach would lessen the possibility of runaway inflation, it would heighten the risk of recession. The second is to take expansive steps by cutting taxes. This approach would not do as much to dampen inflation, but it would make recession far less likely. The debate in Congress now centers on the second option. The size of the tax cut is the main point of controversy.

Are these the only things that Congress could do to strengthen the economy? Of course, Congress could take other steps. It could reduce the payroll tax instead of the income tax. The effect of such an action on prices would probably be favorable, but the long-term solvency of the social security system would be endangered. Another step would be better coordination of fiscal and monetary policies to permit smaller federal deficits and lower interest rates. Since the benefits of such coordination—especially in terms of economic growth and price stability—could be substantial, now is the time to consider it carefully. There are problems in achieving this coordination, including the difficulty of knowing the size and the timing of the appropriate fiscal and monetary steps and the inadequate arrangements for setting goals and implementing a coordinated policy. Congress might also take steps to break the link between inflation and employment by providing additional training for skilled jobs, reforming government regulations, improving exports and reducing the minimum wage for younger workers.

(Much of the information in this newsletter comes from a current report of the Congressional Budget Office.)●

CONGRESSMAN GEORGE MAHON

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. RUSSO. Mr. Speaker, with the retirement of Congressman GEORGE MAHON, the Congress is losing a leader. This gentleman, who has served with distinction in Congress for over 40 years, has won the respect of his colleagues and the affection of his constituents.

He has brought honor and dignity to this body and in 14 years as the able chairman of the Appropriations Committee he has demonstrated his thoroughness, his dedication, and his skill with his work.

As a newer Member of Congress, I remember clearly meeting with the chairman, and I was duly impressed. He was a

man who knew his job and knew the

spected professional, admired by his col-

After careful observation about freedom

How rightly do we Americans pride our-

as they seek fulfillment in making for the

man who knew his job and knew the Congress. It was a pleasure to watch him on the floor for he was unmatched in his ability to present and defend legislation.

I have learned from Congressman MAHON and I am grateful that I had the opportunity to work with him here. He will be missed, but I want to join with my colleagues in wishing him a retirement filled with happy experiences.●

TESTIMONIAL TO DR. ROMAN GALASINSKI

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 16, 1978

● Mr. ZABLOCKI. Mr. Speaker, recently I had the honor and privilege of attending a testimonial dinner to honor Dr. Roman Galasinski of Milwaukee, Wis. Dr. Galasinski has contributed to the community of Milwaukee and to his fellow man in the political, religious, and civic realms, as well as in his chosen field of medicine, in countless ways.

So often the achievements of individuals like Dr. Galasinski go unnoticed during their lifetime. It is fitting that as peers, we openly offer appreciation and gratitude to outstanding citizens. Listening to the remarks at the August 6 testimonial dinner in Milwaukee, one came to the realization that Dr. Galasinski has won the admiration of his colleagues near and far, and that his goodness and his service touched individuals in many different ways.

Mr. Speaker, the remarks of Father John P. Raynor, president of Marquette University, Milwaukee, Wis., aptly describe Dr. Roman Galasinski as a man—as an American—and as a servant of others. I would like to share his remarks with my colleagues:

REMARKS BY REVEREND JOHN P. RAYNOR, S.J.

It was with some trepidation that I approached the task of preparing a tribute to Dr. Galasinski before a large group of his closest friends, associates and admirers. Each of you knows this outstanding man in a very special way and in a framework or context that is quite personal to you. Each of you undoubtedly in your innermost thoughts has a special situation or circumstance in which Dr. Galasinski was responsible for something from which you personally benefited or which you hold dear as remarkably evident of his selflessness.

Each of you know him in a different way, and therefore each of you admires him for your own reasons. The danger is that in attempting to pay tribute to him, I may omit something of importance to you. To describe Dr. Galasinski to those of you who are close to him is like trying to describe a symphony without omitting any of the subtleties of tone or expression, or a passage with superb orchestration; or describing a beautiful work of art without omitting mention of some of the fine and gentle yet powerful hues and textures; or like trying to summarize a complex piece of great literature in a few paragraphs without overlooking a very important minor theme or symbolism.

So, at the expense of omitting something, I say that we pay tribute to Dr. Galasinski because, simply and essentially put, he is an outstanding person. He is a highly respected professional, admired by his colleagues who work with him day to day as well as by professional associates for whom contact is less frequent but is as impressive. Certainly his thousands of patients, too, have admired him and are grateful to him. Others hold him in esteem as an outstanding citizen and community leader, a fine Catholic gentleman, a devoted and exemplary husband and father, and as a good friend.

There are undoubtedly other descriptions which would be equally apt. But if there is one common thread or theme in all of these attributes of Dr. Galasinski, it is that he is always doing things for others, devoting himself to the task at hand, whatever it might be, not for personal gain, but rather, and often at his own sacrifice and personal expense, giving of himself for the benefit of others, working for them and often placing their needs, individual and collective, above his own comfort and above his own needs.

It is this personal generosity of Dr. Galasinski from which all of us have benefited and as a result of which thousands and thousands in our community and elsewhere have better lives.

Such personal generosity in every phase of one's life is no accident. It is a virtue which an individual must choose, must cultivate and must constantly nurture. Personal generosity of the type we honor tonight is also a very special characteristic of American life, one which makes our country strong, and one for which we are very deeply grateful to men like Dr. Galasinski.

It is this special characteristic that Arnaud Marts described in his interesting book, *The Generosity of Americans*, in which he observed that the United States had many formidable assets, but none greater or more valued than the unlimited personal generosity of its leading citizens. He said "There is no other nation in our modern world which matches the United States in our private generosity for public purposes; or in the initiative which our private citizens take in solving community problems." Marts points out that this is what creates a better America and creates a better life for individuals, neighborhoods and communities. He points out that wherever there is suffering and injustice, or wherever a social problem is exposed to public knowledge, or wherever better educational or health facilities are needed, respected and generous citizens respond and help. They make private generosity for the public good and for the betterment of man one of the most durable factors of our national life.

Now I am sure that social scientists may have their own explanations for this outstanding phenomenon—private generosity for the public good. Marts relates the interesting account of the visit of the young Frenchman, Alexis de Tocqueville to the United States when it was a fledgling democracy in the 1830s. De Tocqueville was astonished at the willingness of Americans to give generously. He exclaimed that when Americans see the need for a school or a hospital or a church or some other cultural service, a few local citizens would take steps to meet the need, provide the leadership, and then support the project.

He was astonished at this because, in America, it is the individual or several individuals joined together who bring about social improvements, whereas, he noted, in France, the government initiated programs of civic betterment, and in England, gentlemen of rank assumed that responsibility. In his own mind, he inquired "If this practice of the plain citizens of America was just a matter of impulse or chance—or if it revealed some inherent relationship between 'democratic equality' and the 'voluntary association of citizens for the public welfare.'"

After careful observation about freedom in America, he concluded that "American personal generosity for the public good is not a matter of impulse or chance: it is just the opposite! It is the inevitable flowering of the very best moral, spiritual, and cultural aspirations, insights, experiences and inspiration—of over 19 centuries—of all the various racial strains that merged in the creation of Western man."

Such is a characteristic of our national life, indeed, and it is to men like Dr. Galasinski that we owe our gratitude for it.

And we can carry the analysis further. Not only does the strength and vitality of our society depend upon the individual's ability, choice and willingness to be of assistance to their fellow man—some of our very basic freedoms are deeply rooted in this selflessness on the part of individuals. There is a close and vital relationship between personal generosity for the public good and what de Tocqueville called "democratic equality." Where, but in our open society of free, self-governing people could a group of citizens decide to build a school, a hospital, a college or a university? Where else could a Chamber of Commerce or a labor union manage its own programs and set its own goals?

We have such freedoms in America, and we use them daily to advance social and cultural improvements of an almost endless variety. We can thank our founding fathers for having given us full confidence and full freedom to use our enthusiasm, our initiative and our private means and abilities to create a better nation, and American generosity is a flowering of that freedom!

Yes, in a democratic society, strength and vitality depend on the individual's ability and his willingness to be of assistance to his fellow man. Indeed, such a quality of American life is gravely important to the preservation of our liberty and our way of life. And all of us can and should cherish the opportunity to express our gratitude to men like Dr. Galasinski for acting in such a way that such liberty is preserved.

Sometimes we take our freedoms for granted and think of them as self-perpetuating. But anyone who is at all a student of the history of our country, or who was exposed to it during our Bicentennial celebration just two years ago, knows that this is not the case, but rather, that our freedoms are the result of a delicate and complicated balancing of laws, rights and privileges. Freedom depends upon the preservation of choice in American society, and the preservation of choice depends upon men like Dr. Galasinski who give of themselves so that our country will have private centers of initiative, so that we may be able to choose between, for example, this system of health care and another, or between this type of education, or another. It is selflessness such as this that maintains freedom of choice for all of us and makes the resultant free enterprise society a reality and an option in 1978.

Too often we tend to think of free enterprise as only an economic system and as relating only to business, seeking to utilize the earth's resources in order to satisfy human material needs, seeking to increase productivity and to tap human resources, and seeking to develop a greater number and variety of systems to distribute the goods of the earth and the fruits of human productivity to a wider number of people, and in a way that respects equity and justice and love.

Economic and business free enterprise is only one manifestation of free enterprise. Free enterprise is considerably more than that and it permeates the *entire* fabric of our life. It does so because it maintains a wider field of choice for individuals, and greatly enhances human worth and personal human liberty, and especially a capacity to choose, not merely for one's self, but for the service of others as well.

How rightly do we Americans pride ourselves on the rights enumerated and identified in the Declaration of Independence as rights endowed upon us by our Creator:

The right to life, to liberty, to the pursuit of happiness;

To just and fair treatment;

To marriage, to property;

To the earning of a decent livelihood;

To a good name and the respect of our fellow men;

To freedom of conscience, to the free exercise of religion, in fact, to all that is necessary for our development and perfection as an individual.

Beyond and behind the concern each of us has for the free enterprise system in business—with all of its ramifications for productivity, equitable distribution, just prices and wages, morality of profit making and the like—beyond and behind all of this, I emphasize, there is a commitment to freedom which exalts personal worth, human liberty, free choice, and self-perfection. And it is such a personalistic philosophy, in the final analysis, that distinguishes and justifies any free enterprise method or system—whether in politics, or religion, or as an economic system.

I submit that Dr. Galasinski, in the type of life that he has lived, in his personal generosity, in his leadership, in his professional life, has helped to insure, for each and everyone of us, that freedom of choice will maintain and prevail, and he has thereby strengthened the basic freedoms on which our society was founded.

This is very important to me as an educator and particularly as President of a large independent Jesuit University. It is to this very same end to which Marquette University is dedicated, and for which our work as a University is being done. We are precisely dedicated to the acknowledgment, growth and development of human personal worth, liberty, and freedom for self-perfection. [We offer a choice to the consumer. In education, we are free enterprise. Without Marquette, and without institutions like it, there is no free choice and no free market in higher education.]

We as a Jesuit institution are committed to a personalism in education that is absolutely essential to any free enterprise activity or system.

As a particular institution, we are committed to a Christian humanism which is based on the knowledge that God himself has valued humankind sufficiently to speak to us; to come among us; to have sent His Son to show us how to live the complete human life and become united with Himself. It also focuses not on human nature in general, but on the personal, individual worth of each student, reflecting that each person makes a difference, and similarly that each and every individual has a great responsibility for his choice, his conduct, his very life. This means, that as members of the human family, they are burdened with an obligation to have an impact on others; self-growth is wonderful, but our students are reminded that, in and through such growth, they must impact, with justice and charity, on the human family, its persons, its institutions, its traditions, its culture.

In his scope of influence and throughout his life, Dr. Galasinski has given of himself in ways of immediate benefit to each of us, but also in ways that strengthen the very foundation of our society. He is what Father Pedro Arrupe, S.J., Superior General of the Society of Jesus, would have described as a "man for others"—a man who cannot conceive of love of God which does not include love for the least of his neighbors; a man completely convinced that love of God which does not issue in justice and charity for men is a farce. As Father Arrupe sees it, men for others will become "contagious" as they work to overcome evil with good, as they seek fulfillment in working for the welfare and justice for others, as they displace hate with love and substitute love for neighbor in place of self interest as the driving force in society, as they bring Christ to the very heart of realities.

Dr. Galasinski's Alma Mater, Marquette University, is proud of him because he epitomizes the best of Jesuit education. We endeavor to help young men and women live the type of life he has lived and is living.

That they, too, will be as generous as he has been in improving the quality of life of others,

That their lives will personally embody the principles and values we espouse as an institution, and reflect them in their dealings with themselves and others, pointing the way mankind should go in order to regain its hope and to find its salvation.

I am especially pleased to note that your tribute to Dr. Galasinski will be in the form of scholarships named in his honor. What greater tribute could there be to this wonderful man than that many, many fine young men and women would be so impressed by what he has done that they would choose to emulate in their own lives those qualities which we honor in him tonight.

Dr. Galasinski, we are grateful to you for all you have done for us and all you have taught us. You are a good American. What you have done to strengthen the foundation on which our country is built is patriotism in practice; you are no less the patriot than those who built that foundation more than 200 years ago.

In 1965, your Church issued its decree on the apostolate of lay people as an outgrowth of Vatican II. It asked that members of the Church "hold in high esteem a professional competence, family and civic sense, and the virtues related to social behavior such as honesty, sense of justice, sincerity, courtesy, moral courage; without which there is no true Christian life." How beautifully and how effectively have you matched those words and fulfilled that challenge in your own life!

In the field of medicine, you have won wide and deep respect as a capable, effective and dedicated professional as you worked in concern and in love for the sick. Your good efforts have won the admiration of your colleagues near and far, who have often called upon you for leadership.

You have been an outstanding leader in your local community, and its citizens respect and admire you for your accomplishments.

Most important of all, you have been a good friend to each and every one of us, and each of us lives a better life; directly or indirectly as a result of what you have done.

We are grateful to you for all of these things, but our deepest gratitude is not for that which has been accomplished, but for that which is yet to come. Yours is a type of influence which lives on as others, enriched by your unselfish service, are in turn inspired by the principles you live and seek to share them in their own way with thousands of others. Yes, you have accomplished much, but undoubtedly we have only begun to see the fruits of your labor. We are grateful, and we ask God to bless you, now and always.●

JAMES GRANT BOLLING

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 14, 1978

● Mr. ANDERSON of California. Mr. Speaker, it was with a profound sadness that I learned of Jim Bolling's passing on Sunday. Her presence will be missed.

First, she was a gracious, giving human being. But she was much more. She was an effective executive assistant to one of our most effective colleagues, DICK BOLLING. And before that, she was active in the Young Democrats for Harry Truman, and then in the successful 1960 campaign of President Kennedy. Obviously, her abilities were recognized and appreciated. She became a congressional liaison officer with the Department of Health, Education, and Welfare. I might add that she was the only woman appointed to a liaison position at that time.

More recently, Jim helped run DICK BOLLING's office. Those who knew her best know that Jim was a full member of the Bolling team. She served as a sounding board for his ideas, and contributed many of her own. Jim helped DICK, Missouri, and the Nation by helping DICK take the office home with him, when it was needed. And she helped those who knew her in the office by bringing a bit of "home" into work each day.

Jim was extraordinary. Lee and I extend our condolences and our prayers to her family and loved ones. They were many.●

CHARLOTTE HAMMELL, DIRECTOR OF CHILD CARE SERVICE IN MEDIA, PA., RETIRES

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 16, 1978

● Mr. EDGAR. Mr. Speaker, on September 1, 1978, Miss Charlotte L. Hammell will retire as director of the Child Care Service in Media, Pa., after having given 38 years of outstanding service to the child care service and the community.

Since 1950 when child care service was established, Miss Hammell has exemplified a standard by which professionals across the Commonwealth of Pennsylvania and the Nation have judged their child welfare practice. From a beginning as a protective service agency in 1950, services were expanded through the years to include foster care, group care, adoption, homemaker, day care centers and family day care.

In 1968 in an address to the Child Welfare League of America, Miss Hammell outlined a direction for the field, noting that "In the fifties, the emphasis was on substitute parental care. In the sixties, it has been on supplementing parental care. In the seventies, our direction should be toward a comprehensive program geared to preventing breakdown and to preserving family life."

Under her directorship, child care service has been in the vanguard of child welfare practice. As we approach the eighties, with its emphasis on maintaining children in their own homes, there is a continuation of a direction consistent with Miss Hammell's efforts of the previous decades.

Beyond her roles of administrator and

teacher, Miss Hammell's caring and concern has earned her the personal affection and admiration of many in the field for her commitment to the goals of quality service and advocacy for the rights of children and their families.●

THE PETER W. RODINO, JR. FEDERAL BUILDING BECOMES OFFICIAL

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 16, 1978

● Mr. BIAGGI. Mr. Speaker, our beloved colleague Mr. RODINO was recently bestowed with another high honor. On August 7 the General Services Administration officially renamed the Federal Building in Newark, the Peter W. Rodino, Jr. Federal Building.

No honor seems adequate enough to equal PETER RODINO's contribution to this Congress and to this Nation in his 30 years in Congress. PETER RODINO is considered by many to be a legendary figure, one whose leadership as chairman of the House Judiciary Committee is unparalleled.

PETER RODINO's legislative accomplishments are both numerous and tremendously significant. He was a prime sponsor of the Civil Rights Acts of 1957, 1960, 1964 and 1968. He was also the floor manager of the Omnibus Crime Control and Safe Streets Act which established the Law Enforcement Assistance Administration. He helped lead the effort which resulted in the Public Safety Officers Death Benefits Acts. The legislative genius of PETER RODINO touches the lives of millions of Americans in a way that only makes them better.

When the history books of the 1970's are written, PETER RODINO will merit a considerable chapter. In 1973 the United States faced the biggest challenge to its democratic system. The impeachment of a President was put before the Judiciary Committee for the first time in more than 100 years. The awesome responsibility of officiating over the proceedings fell squarely on the shoulders of Chairman PETER RODINO. He executed his responsibilities in a most judicious and statesmanlike fashion. In the end, he saved our Constitution, our freedoms, our Nation.

PETER RODINO's Judiciary Committee continues to lead the way in progressive legislation to advance civil rights for Americans. His committee bears his trademark of concern, commitment, and compassion for his fellow man and woman.

PETER RODINO in addition to his many time consuming duties as chairman of the Judiciary Committee is a ranking Member of the House leadership. He serves as the dean of the New Jersey congressional delegation. He is actively involved in the Italian American congressional delegation and was one of the founding forces behind the creation of the National Italian American Foundation.

PETER RODINO is certainly a nationally known figure. In addition to directing the first impeachment hearing of a sitting President in more than a century, he also presided over the nomination processes of two Vice Presidents, Gerald Ford and Nelson Rockefeller. The high esteem he is regarded in by the Democratic Party was best manifested when he was among those given final consideration in the nomination for Vice President in 1976. He later gave the principal nominating speech for candidate and now President Jimmy Carter.

I have been honored to be a friend of PETER RODINO. We share our heritage as Italian Americans. I came to this Congress as a man of law enforcement. PETER RODINO has become known as a leading friend of law enforcement in Congress. We have both fought hard to eliminate discrimination against Italian Americans and we are proud to say that we have made considerable progress. Yet throughout my years in Congress I have sought and benefitted from his counsel. He has made my career in Congress that much more rewarding.

Honors are nothing new for PETER RODINO. He has received the highest award from the Italian Government, the "Cavaliere di Gran Croce." He is the recipient of the International B'nai Brith Humanitarian Award. He has also won the Hubert H. Humphrey Civil Rights Award. He has been awarded 10 honorary doctorate awards from colleges and universities. The list is simply tremendous.

Yet as PETER would tell you, those awards which are from the home district mean that much more. PETER RODINO was instrumental in getting the Federal Building constructed in Newark some 11 years ago and now it bears his name.

The statement made by GSA Administrator Jay Solomon upon the designation really expresses what so many Americans feel about PETER RODINO. Mr. Solomon said:

> The White House wanted to redesignate this building for Chairman Rodino because of his special position as a distinguished American. As Chairman of the House Judiciary Committee, Congressman Rodino has exemplified the qualities of fairness, justice and leadership that are so important to American democracy.

I join with these sentiments and extend my warmest congratulations to PETER for this most outstanding honor for which he is so worthy.●

HONESTY IS ALIVE

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 16, 1978

● Mr. LEHMAN. Mr. Speaker, honesty is alive and well and thriving in the 13th District. I was very touched by the honest action of one of my constituents, and for the benefit of my colleagues and CONGRESSIONAL RECORD holders, I would like to have the following letter inserted:

Mr. LEHMAN: I don't feel you will recall the incident, but years ago at the Orange Bowl, while at the game, you purchased cokes from me. I received payment twice but got mixed up and after the whole incident, you insisted I keep the money and send you the balance if I was in error.

I was, but never got around to returning your dollars. This situation I had to clear up.

Enclosed find two dollars (inflation). I am sorry I was so tardy.

BILL THEODORIDES.●

THE WAY I WOULD HAVE VOTED

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 16, 1978

● Mr. HARKIN. Mr. Speaker, due to my attendance at a hearing conducted by the Subcommittee on Family Farms and Rural Development in Iowa on Friday, July 28, I was not present during consideration of House business on that day. Had I been present, I would have voted as follows:

Rollcall No. 613. Motion for the House to resolve itself into the Committee of the Whole for consideration of the bill H.R. 9400, "yes";

Rollcall No. 614. Passage of the bill H.R. 9400, to authorize action for redress in cases involving deprivations of rights of institutionalized persons, secured or protected by the Constitution or the laws of the United States, "yes";

Rollcall No. 615. Motion for the House to resolve itself into the Committee of the Whole for consideration of the bill H.R. 12432, to extend the Commission on Civil Rights for 5 years, "yes";

Rollcall No. 616. Amendment that sought to delete provisions giving the Civil Rights Commission authority to study discrimination based on age or handicapped, "no"; and

Rollcall No. 617. An amendment that prohibits the use of funds by the Commission to influence the passage or defeat of legislation before Congress or State legislatures, except when the Commission is requested to give an opinion, "no."

Mr. Speaker, due to my later arrival on Monday, July 31, because of official business in my congressional district, I was not in attendance during consideration by the House of the following measures on that day. Had I been present, I would have voted as follows:

Rollcall No. 619. Passage of the bill H.R. 9998, to provide for the regulation of rates of charges by certain State-owned carriers in the foreign commerce of the United States, "yes";

Rollcall No. 620. Adoption of the rule under which the bill H.R. 12514, to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize international security assistance programs for fiscal year 1979, was being considered, "yes";

Rollcall No. 621. Adoption of the rule waiving certain points of order and providing certain procedures during consideration of the bill H.R. 12931, making appropriations for foreign assistance and related programs for the fiscal year 1979, "yes"; and

Rollcall No. 622. Motion for the House to resolve itself into the Committee of the Whole for the consideration of the bill H.R. 12514, "yes." ●

CWPS FREE FROM POLITICAL PRESSURE

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 16, 1978

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, the recent decision of President Carter to establish a committee, composed of Labor Secretary Marshall, Charles L. Schultze, Robert Strauss, Landon Butler, and Barry Bosworth to coordinate the administration's policy with regard to wage negotiations has been criticized as an attempt to undermine the statutory role established by the Congress regarding the functions of the Council on Wage and Price Stability (CWPS). This is a matter of keen concern to me and to the Subcommittee on Economic Stabilization, of which I am chairman, inasmuch as we have jurisdictional oversight over CWPS and its actions.

I have today received a letter from Charles L. Schultze, speaking for President Carter, in which he assures me that these steps in no way will hinder the ability of the CWPS to perform its job and duty given it by the Congress.

Mr. Speaker, I wish to allow the Members of this body to read this letter as well so that they might also understand that the action taken by President Carter clearly frees the CWPS from all political and bureaucratic pressures and is consistent with the intention of the Congress when we voted a 2-year extension of the Council last year.

The letter follows:

> THE CHAIRMAN OF THE
> COUNCIL OF ECONOMIC ADVISERS,
> *Washington, D.C., August 15, 1978.*
>
> Hon. WILLIAM S. MOORHEAD,
> *Congress of the United States, House of Representatives, Washington, D.C.*
>
> DEAR BILL: The Congressional Record for Tuesday, August 8, reports a statement delivered to the House by Representative John Anderson on what he called the "muzzling" of the Director of the Council on Wage and Price Stability, Barry Bosworth. Mr. Anderson expressed concern that the intent of the Congress in establishing the CWPS had in some manner been undermined by the establishment by the President of a committee to coordinate Administration actions in response to specific wage negotiations. Mr. Anderson indicated to the House on August 9 that he had asked your Subcommittee on Economic Stabilization to look into this matter. The President has asked me, as Chairman of the CWPS, to bring the facts of the situation to your attention.
>
> The President on August 16 asked that Labor Secretary Ray Marshall chair a committee to coordinate the Administration's policy with regard to particular wage negotiations. The members of this committee, in addition to Secretary Marshall, will be Mr. Bosworth, Robert Strauss, the President's Special Counselor on Inflation, Landon Butler, Deputy Assistant to the President, and me.
>
> I would like to emphasize that the mandate of this committee extends only to the development of Administration policies with regard to specific wage negotiations. The usefulness of such a group has become apparent recently through our experience with the coal strike early this year and again in recent railroad and postal negotiations. Each new contract negotiation presents unique and very complex problems that require a carefully thought-out approach by the Administration. The purpose of this committee is to ensure that such an approach is developed in a manner that enables those in the Administration who will be called upon to speak out on each settlement to assist in the development of an Administration-wide approach, and to become fully apprised of policy decisions as they are made.
>
> In no sense should the formation of this committee be construed to downplay the importance of wage as well as price moderation for the success of our anti-inflation policies. I believe strongly that both business and labor must join with the Government in a simultaneous effort to ease inflationary pressures if the President's deceleration program is to be effective.
>
> The formation of this committee also in no way impinges on the ability of the Council on Wage and Price Stability to perform the tasks assigned to it by the Congress with the full support of the President. CWPS has acted and will continue to act free from political and bureaucratic pressures.
>
> It is clearly desirable that the Administration's response to major price or wage developments be coordinated. In recent months, for example, Administration officials have met with representatives of the auto, steel, and aluminum industries concerning their projected 1978 price increases.
>
> In each case, the CWPS staff provided advice to Ambassador Strauss and to me as we worked together with Mr. Bosworth to develop closely coordinated approaches to these industries. Far from diluting the work of CWPS, such coordination of efforts enables the Administration officials to draw upon the unique expertise of the CWPS staff and its Director in formulating official responses to major inflation developments.
>
> Secretary Marshall at a recent press conference stated well this Administration's approach to involvement in wage negotiations. He said:
>
> With inflation at its current levels it is also a serious misconception for anyone to believe that the Administration can ignore the inflationary aspects of collective bargaining agreements. That is why members of the Carter Administration have and will continue to meet with labor and management prior to important contract negotiations, when such meetings would contribute to securing settlements that help unwind inflation."
>
> "The government and the public interest have an important stake in these negotiations. While far from the only cause of inflation, costly wage settlements do, indeed, contribute to the inflationary pressures in our economy."
>
> "This is why the Federal government does have an obligation to speak out about wage and price developments."
>
> I believe that this is a responsible position that is fully consistent with the objective of the Congress in establishing the Council on Wage and Price Stability, and with the desire shared by all of us to address effectively the urgent problem of inflation. In light of Congressman Anderson's request to your Subcommittee, I feel that it is important that these facts be brought to your attention.
>
> Cordially,
>
> CHARLES L. SCHULTZE.●

AVIATION GAS DEREGULATION PLAN NEEDS FURTHER STUDY

HON. MAX BAUCUS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 16, 1978

● Mr. BAUCUS. Mr. Speaker, the Department of Energy (DOE) is considering the deregulation of aviation gasoline. In developing this proposal, DOE has determined that the fuel is not in short supply.

While this conclusion may be true for the country as a whole, I am concerned that specific areas still have shortages, which the DOE study was not sufficiently detailed to identify. The following article from the July 22 edition of the Helena, Mont., Independent Record illustrates the type of problem that some fixed-base operators in my own State face:

> LAWMAKERS GET FUEL FOR CAPITAL AERO
>
> (By Bill Skidmore)
>
> Pressure from two members of Montana's congressional delegation on behalf of Capital Aero of Helena apparently has siphoned an allocation of aviation fuel from a reluctant dealer.
>
> But, according to John Patten, president of the air service, the temporary cut-off of his fuel underscores the need for continued federal regulation of aviation-fuel allocations.
>
> Patten, whose company has been flying four daily routes between Helena and Billings for about 20 to 30 passengers daily, said on Thursday that his firm was about to be grounded by lack of fuel.
>
> He said his supplier, Phillips Petroleum, told him he could not buy any fuel until the end of the month, despite the fact that Capital Aero had additional federal allocations for July. Aviation fuel has been under federal control since 1973.
>
> Phillips told Patten Thursday that the firm was sorry, but there just wasn't any aviation fuel available for him.
>
> Patten said he telephoned Rep. Max Baucus, D-Mont., and the office of Rep. Ron Marlenee, R-Mont., Thursday to tell them about his plight.
>
> By Friday afternoon, Patten said, the calls had paid off.
>
> He said he received word from Phillips that the oil firm had been contacted by the congressmen and that he will receive a delivery of aviation fuel.
>
> Patten is glad to get the fuel, he said Friday, but it isn't going to stop him from filing a formal complaint against Phillips "to see that it doesn't happen to me or anybody else again."
>
> He said that "there's not a doubt in my mind" that without the congressmen's assistance, Capital Aero wouldn't have received its fuel.
>
> "Yesterday morning Phillips said there was nothing they could do," Patten said. "Today, all of a sudden they can do something."
>
> Patten believes a current attempt to deregulate allocation of aviation fuel spells trouble for Montana.
>
> He said he has talked with many oil companies, including Phillips, and none is interested in supplying Montana. "It's not a matter of price," Patten said, explaining that the companies simply don't want to bother with the state's small market.

> "If and when deregulation takes place," he said, "we in Montana are in big trouble."
>
> The Federal Energy Regulatory Commission has scheduled public hearings on the

FUSION IS AMERICA'S FUTURE ENERGY SUPPLY

HON. CARL D. PURSELL

crete evidence that mankind may be able to control and use the reaction that lights the sun and powers the hydrogen bomb.

Nevertheless, the operative word is still "may." These experiments do not mean the

tion to the energy problem. The recent experiments do not pinpoint what it is. They underline the fact that it exists. That should encourage the government to be generous

Food and disease remain major problems. Although Acting Prime Minister Nuon Chea announced January 16 that "Each Cambodi-

The basic working day begins with wake-up at 4:30 A.M., proceeding to the field at 5:00 A.M., stopping to eat from 11:00 A.M.

The Federal Energy Regulatory Commission has scheduled public hearings on the Secretary of Energy's proposals to decontrol the price and allocation of aviation gasoline and kerosene-base jet fuel.

The hearings are scheduled for Aug. 1 and 3 in Washington, D.C., and Patten plans to write letters protesting the proposals. He may even go to the hearings, he said.

He noted that one of the reasons the administration is proposing deregulation is that "aviation fuel is not in short supply."

Patten is not impressed with that argument.

Mr. Speaker, Mr. Patten's problem is not an isolated instance. Montana energy officials have informed me that other fixed-base operators, particularly small ones, have had problems securing allocated aviation gasoline. In addition, the State is concerned about the availability of this fuel for emergency purposes such as fighting forest fires.

My State is in a precarious situation. Only one Montana refinery currently makes aviation gasoline. Other supplies must be shipped in from distant places like Denver and Salt Lake City. In addition, even the limited amounts of aviation fuel that my State refines are in jeopardy. Having become reliant on Canadian sweet crude oil, which Canada was once eager to export, Montana refineries now find themselves facing elimination of these exports by the end of 1980.

I share Mr. Patten's fear that many oil company's may simply not be interested in supplying aviation gasoline to Montana, which represents such a small share of the national market. But while Montana's aviation fuel needs may not be of much importance to major oil suppliers, they are vital to the State. Because of the vast distances they must travel, many Montanans depend on small, private planes for business and emergency services.

DOE's Economic Regulatory Administration, which developed the deregulation proposal, has submitted it to the Federal Energy Regulatory Commission (FERC) for review. If FERC approves, DOE may then submit it to Congress for the required 15-day review period.

Mr. Speaker, because of the uncertainties surrounding aviation gasoline supplies in my State, I have sent a letter to FERC Chairman Charles Curtis, asking the Commission to recommend that DOE take a closer look at the availability of this fuel in places such as Montana, where present shortages might have been overlooked.

I hope FERC will make this recommendation so that if DOE decides to deregulate aviation gasoline for the first time since 1973, the decision will be based on the best possible information. If the problems reported in Montana are confirmed, then DOE should seriously consider steps that will protect my State against the effects of any nationwide deregulation scheme.●

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 16, 1978

● Mr. PURSELL. Mr. Speaker, recent developments in our national fusion research program have given this potentially vast new source of energy the widespread public attention it deserves.

Fusion can be a base for America's future energy supply, providing both electrical power and synthetic fuels in a way that is clean, safe, and virtually limitless.

We should be careful not to overplay the importance of the advances in the Princeton University experiments. There is still a tremendous amount of work to do before we can translate this potential into real benefits for the American people, and before we know which method of magnetic or inertial confinement fusion can best fulfill our needs.

But neither should we allow the significance of this important evolutionary advance toward civil energy fusion to escape us.

The Princeton experiments lend great credence to what I, and other Members of Congress, have long maintained: That fusion energy can be achieved. And the real question is not so much if we can do it, but when and how.

I suggest to my colleagues that the time is right for us to push ahead with an intensive national commitment to develop fusion and other alternative energy sources. America has the knowledge and ability to achieve this goal.

Our energy problems, and the lack of a coherent national drive to solve them, are undermining the strength of the dollar, distorting our foreign trade, influencing our foreign policy, threatening both our economy and our national security.

Fusion power can lead the way to a secure, inexhaustible energy supply, not only for America, but for all the world's people.

This is the great opportunity and the great challenge of our time. We should pursue it with all the vigor of our successful space program. And I would ask the membership to look carefully at H.R. 12922, which I have introduced as a blueprint for a "space program" type effort to accelerate the development of fusion and other alternative energy sources.

One of the best summaries of the status of our fusion energy program, its significance, and the issues involved, appeared in today's Washington Post. Their editorial evaluation is as follows:

[From the Washington Post, August 16, 1978]

THE FUSION EXPERIMENTS

The strides made recently at Princeton University in the effort to harness nuclear fusion are more of a milestone than a breakthrough in the search for a new way to meet the world's energy needs. The results of the experiments mean that the physicists have been right in their theories and calculations about how a fusion reaction could be created in a laboratory. That is a scientific achievement of major proportions. It is consun and power the hydrogen bomb.

Nevertheless, the operative word is still "may." These experiments do not mean the day is near when this source of unlimited energy can be counted upon to replace the fossil and nuclear fuels now in use. Nor do they mean that the time has come to focus on the particular process used at Princeton as the ultimate solution to the energy problem. There are too many problems remaining to be solved to permit such optimism.

The system worked on in Princeton, and in several other places around the world, involves the creation of a magnetic "bottle" in which gaseous fuel can be contained at extremely high temperatures and densities while fusion occurs. If that bottle can be created and the fusion reaction inside it sustained, the output of energy as hydrogen atoms are forced together will be enormous. The experiments convince the experts that reaction will occur for the first time soon after they begin (in 1981) to use a device now under construction. Until two weeks ago, they said they "thought" this might happen then; now they are saying they are "confident" it will.

What they are confident of, however, is their ability to produce the fusion reaction in a laboratory. The steps from there to operating a fusion power station on an economic basis are huge. Even if all goes as well in the future as it has with the experiments, it is unlikely that the first power plant using a magnetic bottle as its key element will produce commercial power before the 21st century.

It is even possible that fusion power plants—if they come into being at all—will not use the principle that involves the magnetic bottle. There are alternative devices also under development that may produce the same result.

Although work on the bottle system is more advanced and, right now, more promising than work on the alternatives, it poses more difficult technological and engineering problems at later stages. Thus the success at Princeton provides no reason to slacken research on those alternatives. One of them—and a possible candidate is a system using laser beams and pellets of fuel instead of magnetic fields and a gaseous fuel—may turn out to be more efficient or cheaper in the long run.

What the recent successes do mean, however is that the scuffling for the federal research grants on which most basic energy research depends is likely to become more intense. The claim of Princeton and the other "bottle" groups on those grants has been strengthened. But the temptation must be resisted to divert funds from other fusion programs or even from research into solar and other nuclear energy programs. Some of those other systems will be needed to supply energy before a fusion system can come into operation even under the most optimistic timetable. And if the fusion systems never come to fruition—a possibility that still exists—solar or fission systems will have to meet the world's future needs.

One thing the government must now reconsider is whether the secrecy wrapped around the laser approach to fusion can be reduced. Because lasers have a use in weapons systems which magnetic bottles do not, almost all the research on the laser systems is being conducted in government laboratories. Yet it is the lack of secrecy and the large amount of international cooperation on the bottle approach that have brought success to the work at Princeton. The configuration of the machines in use there is Russian in origin. It seems possible that a broadening of the scientific base on which laser research is conducted might have a similar, stimulating effect.

Somewhere in this maze of science—lasers, bottles, solar satellites and so on—is a solu-

The United States Government has not pinpoint what it is. They underline the fact that it exists. That should encourage the government to be generous in support of a variety of research programs aimed at the development of a source of clean and unlimited energy.●

LIFE IN SOUTHERN CAMBODIA

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 16, 1978

● Mr. ANDERSON of Illinois. Mr. Speaker, I place in the RECORD an American Embassy report dated January 25, 1977, providing additional background on the history of Cambodia since the takeover by the Khmer Rouge in April 1975:

LIFE IN SOUTHERN CAMBODIA

(Extracts from an Airgram Report by an Officer of the American Embassy at Bangkok)

SUMMARY

The reports of refugees arriving in Thailand who are originally from southern Cambodia are in most cases similar to refugee reports from the northwest of the country. In the south, 1976 saw fewer executions and more deaths from disease and malnutrition. The amount of land cultivated for rice production seemed to be at least equal to the area tilled the previous year, unlike some areas of the northwest, where it was considerably less.

INTRODUCTION

Laem Sing boat camp in Chanthaburi province has some 625 refugees, virtually all of whom arrived in Thailand from Vietnam by boat. Of this number, over 100 are Cambodians, all of whom have arrived during the past two months or so. Although usually having lived in Viet-Nam for varying periods of time since the fall of Cambodia, they are from the southern provinces of that country, of which—except for Koh Kong—we rarely hear. Their information, while not especially different from that reported in other parts of the country, helps to round out our picture of the situation.

GENERAL

Everyone is out in the fields in southern Cambodia, as everywhere. According to the refugees, such cities as Kampot and Kompong Som remain empty except for soldiers and, possibly, some laborers. One refugee, who was moved from Kampot after the communist takeover to a location next to the railroad track close to Kompong Trach, fifty kilometers to the east, said that at the time he fled in August 1976, one train was operating in each direction daily on the railroad connecting Phnom Penh with Kompong Som.

LIVING CONDITIONS

Throughout the southern part of Cambodia, assuming that the sampling of refugees at Laem Sing was fairly representative, people appear to be grouped in settlements of approximately 1,000 persons. These settlements can probably be termed village cooperatives, since the entire community comprises one cooperative, in the nonvoluntary Khmer communist (KC) sense of the word. The life is correctly described as a communal life. The only individuality seems to exist within a family's living area. Otherwise, all meals are prepared and taken in common and all work is, of course, in common. Marriages are performed in large groups, rather than by individual couples. No one was aware of any re-education or prison camps in the south, nor did they know of any vestiges of open religious practice remaining.

Although Acting Prime Minister Nuon Chea announced January 16 that "Each Cambodian has 312 kilograms of rice to eat per year", there was no one with whom we spoke at Laem Sing among those who had been in Cambodia in 1976 who remembered eating a plateful of rice during that year more than a few times, if at all. The usual meal, taken twice a day, consisted of a thin rice gruel. Mostly water, it would have mined in it leaves and pieces of banana to give it some substance. Even during the late 1975-early 1976 harvest season, when rice was relatively plentiful, one almost never received plain rice. Most of the harvest was taken away to unknown destinations, as was the case in the northwest, as well. The norm is for three people to share a milk tin of the broth-like gruel, if there was not enough, six people would share it. Many people died in the south during 1976 from lack of food, particularly as it was coupled with constant work and disease.

Disease has continued to be very widespread during the past year in the south. An ex-soldier who left Koh Kong province in November said that malaria and dysentery were major killers. There were also a number of deaths from excessive swelling of the legs, which is most likely a result of severe malnutrition, perhaps especially of a lack of protein (beriberi). It is rare, too, he said, that women succeeded in conceiving children. He and his wife tried but without result. Of his own four children, two had died since the takeover.

WORK, WORK, WORK

In the south, as elsewhere in the country, life is a continuous process of working in the rice fields during part of the year and in digging or building irrigation canals or dams during the remainder of it, with no respite in between the two periods. With respect to the latter activity, people pointed out that they were not necessarily digging or building them well, in any sort of serious fashion, for the KC have no more engineering skills than the simplest farmer, concerning the proper way to construct these works. The KC emphasis is entirely on speed: dig one canal quickly and go on to another. The result was considerable wasted labor.

The man from the Kompong Trach area described the organization of his village/cooperative, which others agreed was relatively similar to their own. The population of 1,000 persons was divided by families into units or krom of 15 to 20 families for purposes of working and living. One farmer among them, a non-KC, would be chosen to be in charge of the unit. Three or four krom would form a kong, over which a KC soldier would be placed in charge. He had, of course, the real authority, although he was relatively uneducated and devoid of any technical knowledge. Each morning, soldiers told the people where to go to work; they were under guard while working.

Interestingly, it seems to be the rule that families work together in the fields in the south, whereas in the northwest work teams seem often to be divided by sex. Although young children remain with their parents in the fields and in the settlement, teenagers—both male and female—are separated from the others and taken to a distant location, primarily to work, the KC telling their families that the youths are being taken to the organization or Angka. In Kampot, this affects young people between the ages of 12 and 30; in Koh Kong, it is for youths 12 years of age and above. Sometimes, they are permitted to visit their parents. However, the son of the Koh Kong man, two of whose children had already died, was taken from him nine months before our source fled and never returned to the settlement. While the youths work, they apparently study basic rules of communism, and there is speculation that they may be undergoing training to become soldiers, also.

GOVERNMENT AND GOVERNMENT SERVICES

None of the refugees from southern Cambodia knew any KC officials who were not military. Their knowledge was limited to the sector level, at the highest. The Kampot sector, which includes Kompong Trach, is headed by Ta Chap, a soldier slightly over 40 years of age, who wears black pajamas. He has a military assistant for security affairs. The head of the village committee is a KC soldier, as well.

Two men from Koh Kong claimed that much of the province has been kept purposely empty, the only sectors being the districts of Thmar Sar (which, they insisted, is called Sector 101) and Thmar Bang. The Thmar Sar sector committee is reportedly headed by Mit Niv, whom they have never seen.

Among government services, the rudimentary health service which exists has only "natural medicines", whose effectiveness refugees scorn universally with derisive laughter. In the field of education, the Embassy has previously reported that in at least some parts of the northwest, some relatively pathetic efforts are made at teaching children to read and write. With no one from the south could the reporting officer find anything comparable; there is simply no formal educational effort going on. Similarly, the adult illiteracy campaigns lauded on Radio Phnom Penh awakened no sign of recognition among these refugees.

The information service is slightly better developed. Meetings were reported held three times a week. One refugee from the central area of southern Cambodia reported that the lecturer at his village/cooperative's meetings was an illiterate KC stationed in the village. Themes would always be the same: work, hatred of the Americans, self-reliance, independence, and people's democracy. No mention was made either of communism or of China. The lecturer would say that U.S.-manufactured goods were poorly made, yet the refugee remarked that KC were using American weapons or driving American trucks with AID handclasp symbol still visible on them.

There was also knowledge of a mimeographed magazine of twenty pages distributed to the KC once a month. Its contents were said to be the same as those of Radio Phnom Penh. In Koh Kong, one could ask permission of the soldiers to read the magazine, which is possibly another indication of the slightly more carefree attitude which seems to have long characterized that province, as opposed to parts of the northwest where, if one indicates that he is literate, his life is in danger.

The supply of goods would seem to be

virtually non-existent. Interestingly, people living next to the Vietnamese border are able to purchase goods secretly from the Vietnamese, reminiscent of more open trade at that border for many years in the past. The details of such trade are unknown. A Cambodian who lived in Viet-Nam's Chau Doc province until recently noted that the only boats passing through that province and across the border were very occasional Vietnamese government craft which went to Phnom Penh and unloaded cargoes of salt. The only other sources of salt that the country has is that which is purchased from Thailand and that produced in Kampot.

According to one source, distribution of the Kampot salt through much of the south is done very primatively, by means of bicycles. A villager on a bicycle will be instructed to take a load of salt to cooperative X, which may be very far away. When he finally arrives at his destination, he will give the cooperative only three-fourths of the salt, it being a generally accepted practice for the cyclist to keep one-fourth for himself.

MILITARY PRESENCE

As elsewhere, the KC military appear to be spread relatively thinly in the interior of the south. The men from Koh Kong, who lived seventy kilometers east of the Thai frontier, said they understood that soldiers were based mostly along the border. They claimed that there were generally between 14 to 20 KC who remained in their village, which is a fairly large number by contemporary KC standards to guard 1,000 people. The man living near Kompong Trach alleged that there were almost 100 soldiers in his area, most of whom were very young, ranging upwards from ten years of age. Despite Radio Phnom Penh claims that the soldiers work alongside the people, there was no evidence of this among the Laem Sing interviewees.

DISCIPLINE

Executions continue to some extent in Cambodia, judging from the comments of the southerners. The categories of people reportedly executed, particularly former soldiers and civil servants, are also reported in the south. The key question is whether the identity of that kind of person becomes known (and the Cambodians are very good at hiding their previous identity). However, the person who is lazy or too bright, is more likely to be executed than any other. In mediocrity there is safety; it seems. In June, 1976, near Kompong Trach, a Cambodian watched seven ordinary people killed before everyone's eyes by being beaten on the backs of their necks in the rice field. Their "mistake" had been to complain about the food ration. The same source claimed that, in his village, if one did anything considered to be illegal, he was killed. Neither there nor elsewhere in the south were there reports that the KC were keeping a "little list" of those who committed errors, as has been mentioned in at least a few parts of the northwest. An "error" if discovered, means death in the south, refugees claimed.

In the Svay Rieng area and in other parts of the south, people to be eliminated are normally simply taken away, usually at night. Although their bodies are not often seen, the clothing they were wearing is invariably redistributed to the other villagers two to three days later, which can only mean that the owner is dead.

Repeatedly, refugees noted that the families of persons who fled to Thailand or Vietnam had no problem in southern Cambodia. This is often, but not always, the case in the northwest, also. One of the Koh Kong refugees recalled that a woman and her children were all killed not long ago after they were caught trying to escape to Thailand.

CONCLUSION

There were two points on which all the southern refugees were in agreement. First, the KC executed more people in 1975 than in 1976. One man observed that people were more scared in 1976 because they realized more fully the unchanging, long-lasting nature of the horror in which they were caught and the notion of how cheap life is to the KC. The other point of agreement was that death from disease and malnutrition—most likely in combination—was greater in 1976 than in 1975. Refugees told stories of people simply collapsing and dying while working in a field or on an irrigation canal.●

RESCUING A CITY FROM THE BRINK OF BANKRUPTCY

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 16, 1978

● Mr. LAFALCE. Mr. Speaker, during the depths of the now-waning recession, in 1976, the city of Niagara Falls faced a fiscal crisis at least as severe as that faced by any American city since the Great Depression. The budget was unbalanced severely, the city's access to credit markets was cut off, and the specter of bankruptcy loomed on the horizon.

Yet, through the diligent efforts to public officials and concerned citizens, the city pulled through without the need for extraordinary assistance from other levels of government. It is a story worth telling, for it makes a point from which we all can learn—that dedication, perseverance, and commitment of public officials, when combined with expertise from the private sector, can do wonders. The unique partnership formed during this city's crisis should be emulated throughout the land and used, not only during a crisis, but all the time.

One of the central figures in this story was Edward H. Belanger, an executive at the Carborundum Co. who was then based in its Niagara Falls headquarters. Mr. Belanger took on a major leadership role within the city management advisory board, that group of private sector representatives formed by Carborundum's President, William Wendel, to assist the city. Mr. Belanger's efforts were untiring, and he demonstrated far beyond the call of duty what community spirit really means. His efforts and those of the rest of the advisory board contributed significantly to the eventual success of the city's financial plan, and this group is owed a deep debt of gratitude.

It was with great pleasure, then, when I learned that my colleague, the gentleman from Wisconsin (Mr. REUSS), in his capacity as chairman of the Subcommittee on the City of the Banking, Finance, and Urban Affairs Committee, invited Mr. Belanger to testify at hearings that subcommittee recently held on the question of local government efficiency and productivity.

A last minute schedule conflict prevented Mr. Belanger from presenting his testimony in person. However, he did submit it for the record and I am hopeful that the subcommittee gave it careful attention. In fact, because I think the story Mr. Belanger had to tell is so important, particularly in light of legitimate demands of taxpayers at all levels that governments spend wisely and prudently, that I would like to share his statement with you and all our colleagues.

Edward Belanger's statement follows:

TESTIMONY OF EDWARD H. BELANGER

In 1976 the problems of American cities generally were all present in Niagara Falls, New York, specifically: too much outgo, too little income; too many people on the payroll; poor organization; no fail-safe lid on spending; no accurate way to predict receipts and expenditures; no warning system to prevent a cash crisis; no planning. Niagara Falls had a seven year history of increasing budget deficits; the $1.6 million accumulated surplus of 1968 had become a $5.8 million accumulated deficit at the end of 1975.

When local industries proposed that the public sector accept help from the private sector, the consultants assigned by their firms to investigate city government found a very bleak situation. City personnel did not forecast short or long term cash needs, or control or invest the cash they had when they had any. Financial statements were usually months late and seldom accurate. Organization was unstructured and unwieldy. There were no job descriptions and no attempts to measure performance. Decentralized purchasing left to chance the ability to pool purchases and buy at lowest cost. Non-essential services consumed too much police and fire department time. None of the computer systems were documented. No one was concerned with energy use, energy costs or energy conservation. On-going urban renewal activities were not examined for their future impact on the budget.

In the remaining months of 1976 the consultants of the City Management Advisory Board, first proposed by William H. Wendel, then President of the Carborundum Company, the only Fortune 500 firm headquartered in Niagara Falls, and their counterparts in city hall, examined, probed, analyzed and dissected every area of city operation. For example, they installed a cash forecasting system, reduced head count by nearly twenty percent, reduced insurance costs by thirty percent, created a manageable organization, wrote job descriptions, examined budgets, centralized purchasing, leased instead of bought, increased police street patrol time, cracked down on overdue parking tickets, reduced one hundred ninety computer reports to forty, lowered the heat in municipal buildings, and reduced street lighting. The consultants even cost their firms money by suggesting that the city replace an antiquated system with new utility meters for industry.

Such efforts will work only if the public sector recognizes the need for and welcomes help so that cooperation is total, the city's chief executive is competent, the commitment to assist is made by the top level of the private sector, and qualified executives are assigned to help. All of these factors were true in Niagara Falls.

Niagara Falls could not have paid for the expertise of industry. It was given over three quarters of a million dollars in man hours alone. It could not pay for CMAB's on-going help in installing sophisticated management techniques in city hall. But then, industry in Niagara Falls could not afford to have the city go bankrupt.

There is a great deal of comment today regarding "Corporate Social Responsibility." By participating in the City Management Advisory Board, industries and businesses in the Niagara Falls area are responding to that aspect of social responsibility which deals with maintaining the financial integrity of the community. There is a desperate need for effective management in the business of running a government. Public officials are apt to be chosen because of their expertise in specific areas such as mental health, education, personnel, etc., rather than for their expertise in management. The main objectives of business and industry are not as easily applied in government. It is advantageous for businesses to have an effective local government and businessmen have a unique capability of contributing the major ingredient which government lacks—managerial experience and expertise.

The City Management Advisory Board is a voluntary organization made up of businessmen, with varied functional expertise. Its main purpose is to restore financial and operational integrity and effectiveness to government in Niagara Falls. To this end, CMAB has the concurrence and active cooperation of the Mayor, City Council and City Manager. There are approximately twenty consultants available to CMAB from key area businesses. Each consultant gives anywhere from four to ten hours weekly to assist the City Administration in specific areas.

The substantial effort on the part of CMAB has engendered truly impressive results. I will attempt to illustrate our major accomplishments by functional area.

I. REORGANIZATION

A city wide management reorganization was effected. A cost effective organization structure was developed, reducing the number of people reporting to the city manager and creating a more manageable organization. Similar functions and administrative duties were consolidated. Productivity was increased by implementation of new management and measurement techniques, job descriptions, work guidelines and close monitoring of all functions. Performance measurements were adopted to measure the success of the above procedures. Professional help was brought in where needed. Management by objectives (MBO) was adopted by all departments to assure that employees accomplish the most important objectives based on essential community services. Training of department heads is now in progress to assist them in learning this new skill. A long range management development program has been begun, to further improve the management skills of department heads.

II. FINANCING

Major accomplishments were achieved in the finance area. A twenty million dollar financing was ultimately accomplished after the financial community in New York City snubbed the city's offer. Not a single bid was received. With the help of four local banks $7.5 million of the notes was bought. The people of Niagara asserted their support of the city by purchasing $1.2 million of the notes. Community response to the issue led by two Manhattan brokerage firms to buy the remaining $11.4 million of the note issue at 9.3 percent interest twenty-four hours before the city would default.

During 1976 the city verged on the brink of default at several times, and the CMAB assisted in developing contingency plans in case the city actually defaulted.

Other financings were successfully arranged, evidencing regained confidence in the city's control capabilities. The city sold $5.87 million in revenue anticipation notes at 4.2% in June 1977 down from a rate of 9 percent the previous year. In July 1977 the city sold $20.5 million of permanent financing at 6.2 percent. In March 1977 the city sold $3.45 million of parking garage bond anticipation notes at an interest rate of 4.88 percent. The same notes were sold at 8.5 percent one year earlier.

A New York City public relations firm was engaged in order to disseminate information on the city's ever improving financial status to further assist the city in obtaining future financings.

III. BUDGETING AND FINANCIAL PLANNING

CMAB assisted in reviewing accounting and budgeting procedures. Controls were established to better monitor receivables and disbursements to avoid a cash crisis. A cash forecasting and control systems was instituted and monitored weekly, and city personnel were trained to use the system, in order to avoid the city's cash flow problems of the past. Short term financing of $2.7 million was arranged with local banks at one point in order to also assist the city in its cash flow problem. Area banks were also educated regarding city finances to provide a more knowledgeable atmosphere for future financings.

The CMAB assisted in reviewing and modifying the 1977 budget to produce a realistic budget which could generate a surplus of $1.6 to $3.3 million in 1977 for reduction of the city's deficit of $5.8 million at the end of 1975.

The forecasting and financial planning areas were significantly restructured. This function played a major part in large cost reductions. The city switched to a private refuse collector with an annual savings of $300,000 to $400,000. A review of group and liability insurance premium yielded $160,000 three years savings. This insurance revision was accomplished by combining county and city insurance needs. Surplus city property was sold in order to raise cash.

A review of the city's financial reporting system and evaluation of outputs disclosed that financial formats were totally useless for effective management decisions; sound accounting discipline was lacking; budgets were not prepared on a calendar basis and no effective monitoring of plan performance was in operations. Outside consultants were engaged to review systems including accounting operations in depth.

In conjunction with 1977 bond financing, a realistic five year financial plan was developed which should assure stability and make tax reductions likely by 1980.

IV. HUMAN RESOURCES

In the personnel reorganization area, a trimmer staff was formed. A ten percent personnel cut was instituted immediately; other personnel were reassigned for greater efficiency. Related activities were combined to create a more manageable organization. Thirteen reporting relationships will eventually by reduced to 8 with attendant improved communications, reporting ease, and faster response times. Job specifications were developed for new positions. An Assistant City Manager, Director of Public Services and EDP Manager were recruited.

Personnel policies were changed to eliminate full pay for temporary military leave. Where weekend duty is frequent, as in the police and fire departments, military obligations were rearranged on days off.

The CMAB provided assistance and recommendations on contract negotiations considering cost versus ability to operate within a budget. Considerable cost reductions were achieved.

V. PROCUREMENT

In the procurement and contract services area, a complete review of all procedures was instituted. An analysis of the city's spending practices revealed many inefficiencies. An updated procedures manual incorporating more stringent policies was produced; improved inventory management resulted in savings of approximately $20,000 annually. Purchasing was centralized, budgeted and analyzed. Cost reduction targets were prioritized. $60,000 was saved on an annual basis by leasing, rather than purchasing, public works equipment. The CMAB recommended that common items used by multiple departments be identified, combined, and negotiated to reduce inventories and costs. It was also found that the city was paying higher price for specific items than private industry was, and a recommendation to place greater emphasis on competitive bidding was made.

The city's entire paperwork flow was analyzed and changed to prevent bottlenecks which delayed processing and payment of invoices, without increasing control.

VI. PUBLIC PROTECTION

In the public protection area, effective working relationships were established. An atmosphere of mutual trust and cooperation was created among the Fire Department, Police Department, consultants, and City Management; Fire and Police personnel now actively solicit and accept advice from the consultants.

Through analysis, definition, internal training, and public relations, the public protection area implemented a program to eliminate non-essential police services, in particular, the filing of insurance forms at the station house, and the elimination of sixty school crossing guards. Police were instead assigned to the busiest school crossings on an "as needed" basis. The elimination of non-essential police services added more than 200 street patrol hours per month.

Substantial savings were made by upgrading firehouses instead of building new ones. A policy was implemented to reduce absenteeism from twelve to fifteen percent to approximately six percent. Initial results on this program are positive.

VII. ENERGY MANAGEMENT

At the end of 1975, no adequate budgeting procedures for variance reporting and forecasting in the energy area existed. No professional expertise in street lighting, power contracts, equipment purchasing, traffic patterns and vehicle usage resulted in increased costs. To implement cost reduction in the energy conservation area, CMAB recommended that the city install new utility meters for industries to generate additional annual revenues of $75,000. In addition, thermostats in municipal buildings were set at 65°, saving $15,000 annually. Street lighting costs were analyzed, with an objective of $100,000 reduction. It was determined that immediate savings of $30,000 annually could be achieved by reducing lighting in a specific area. Recommendations were also made by CMAB on equipment purchases, vehicle usage, traffic movement patterns, office lighting standards, and office heating and cooling standards.

VIII. PUBLIC WORKS

In the public works area, new procedures for street repairs, resulted in an annual savings of $30,000 in materials and labor. Fifteen to twenty employees involved in garbage "roll-out" were laid off. Instead, citizens were asked to roll out their own trash to the curb. Snow plow runs were revised, resulting in better utilization of labor and equipment savings of $45,000 annually. Increased productivity of parks and public roadway crews by reducing manpower without reducing work load brought about an annual savings of $36,000. Sewer treatment plant costs were

utility usage, at an annual savings of $30,000.

II. DATA PROCESSING-MANAGEMENT INFORMATION SYSTEMS

The CMAB discovered that one hundred fifty data processing systems reports were being produced, and succeeded in reducing the number of reports to less than forty. The MIS/EDP area was instrumental in instituting new procedures and producing $65,000 in overdue parking tickets, and incremental revenues of $90,000 by faster processing of water and sewer billing. The payroll system was determined to be unsound and technical support was given for normal maintenance. A basic financial control system was established to monitor non-personnel expenses, and a voucher control system was established to avoid duplicate systems.

In conclusion, the CMAB program has been extremely successful in the accomplishment of specific goals and objectives. The success can easily be measured in real terms. Niagara Falls had a seven year history of increasing budget deficits; at the end of 1975 there was a $5.8 million deficit. With the help of CMAB, the City, in 1976, turned a projected deficit of $1 million into a $748,000 surplus. In 1977 the surplus was $6.7 million. This completely extinguished the remaining accumulated deficit of $5.1 million and created a cumulative fund balance of $1.6 million as of December 31, 1977. The deficit of $5.8 million was eliminated in two years. The "proof of the pudding" as to the merit of this program can clearly be seen in the cited accomplishments. These results certainly indicate that the endeavors of CMAB have been more than worthwhile. Together, a lot of good men have turned an imminent disaster area into a viable and financially stable community. This experience is also proof that citizens of a community can be called upon in times of crisis to assist in the rescue of a city. Without the citizens of Niagara Falls, and their willing sacrifices, patience and understanding, the accomplishments of the CMAB could never have been achieved.●

TRIBUTE TO THE LATE JIM GRANT BOLLING

HON. MAX BAUCUS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 14, 1978

● Mr. BAUCUS. Mr. Speaker, I would like to join my colleagues today in expressing grief over the passing of Jim Bolling, a great friend of mine and real credit to one of the best political teams in Washington, D.C.

Rarely do we see such a perfect match of politics and public spirit as we have seen in Jim and DICK BOLLING. She was a marvelously vibrant force, who helped inspire not only her enormously effective husband, but also hundreds of Members and staff that she came in contact with in these Halls.

When I think of husband and wife teams that have been as effective as Jim and DICK BOLLING, I can think of only a few. Surely she and DICK meet the standards established by MURIEL and Hubert Humphrey, Lady Bird and Lyndon Johnson, and Eleanor and Franklin Roosevelt, to list only a few of that select group.

Jim will be sorely missed by us all. I hate to lose such a close friend and mentor. ANN and I wish her husband every condolence.●

OFFICER ROGER SCHMORR

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 16, 1978

● Mr. LEHMAN. Mr. Speaker, I would like to commend and make further honorable mention of one of Dade County's finest and most outstanding police officers, Officer Roger Schmorr. Officer Schmorr was voted officer of the month for the month of April.

The citations noted below are the true testimony of why Officer Schmorr has been granted this honor, and it is my pleasure to share with my colleagues the news release exemplifying an outstanding citizen and a very worthy contributor to our community. May I also extend my personal thanks and appreciation to Officer Schmorr.

The news release follows:

OFFICER ROGER SCHMORR OFFICER OF THE MONTH APRIL, 1978

The Dade County Public Safety Department is proud to announce the selection of Officer Roger Schmorr as Officer of the Month for April, 1978.

Officer Schmorr, assigned to Airport District, has consistently led his squad in total citations, arrests, message recoveries and field interrogation cards. In the first three-and-a-half months of 1978, he issued 117 hazardous moving violations, made 24 felony arrests, recovered 42 messages and written 96 field interrogation cards. Additionally, he confiscated 2,676 grams of marijuana, over two pounds of cocaine, pills, capsules and hashish, all with a total estimated street value of one-quarter of a million dollars. Over $34,000.00 in drug related currency was seized, also, by Officer Schmorr.

The following arrests are indicative of the exemplary police performance by Officer Schmorr:

On January 30, 1978, he arrested a motorist and confiscated over five grams of marijuana and a number of barbituates and methaqualudes.

On February 16, 1978, he was dispatched to an apartment complex where he encountered a subject and arrested him on two outstanding warrants, confiscating 402.0 grams of marijuana and several live marijuana plants.

On February 20, 1978, he observed a subject running across a golf course. Upon investigation, the subject who was carrying $12,000.00 in a paper sack, was arrested for possession of seven grams of marijuana.

On February 27, 1978, he observed a vehicle exit an apartment complex without headlights. Investigation revealed that the driver had just committed a burglary of a residence and was in possession of live marijuana plants. He was arrested and the property recovered.

On March 8, 1978, he was dispatched to an apartment complex reference a sex offense on two white females, ages ten and eleven years. After investigation at the scene, and approximately one hour after his arrival, he arrested a White Male, 32 years, on two counts of lewd and lacivious conduct.

On March 12, 1978, Officer Schmorr found two males in a vehicle parked in a closed service station. Upon investigation, both subjects were arrested; one for no valid driver's license, and the other for an outstanding warrant from Philadelphia. An inventory of the vehicle revealed over five pounds of marijuana, a stolen .38 calibre revolver and $2,2440.00 in cash.

On April 11, 1978, Officer Schmorr and Reserve Officer G. Lester responded to an apartment complex reference a "bad fight". Upon investigation, Officers Schmorr and Lester arrested two subjects for the following: aggravated assault, possession of firearm by a convicted felon, possession of cocaine with intent to sell, possession of narcotic paraphernalia, possession of a firearm in the commission of a felony and an outstanding warrant. Over one pound of cocaine, two revolvers, narcotic weighing scales and $15,000 in cash were confiscated.

On April 13, 1978, Officer Schmorr and Officer G. Warner responded to an apartment complex reference an assault with a gun. Upon arrival they encountered two white males and subsequent investigation led to their arrest for carrying a concealed weapon, possession of a firearm in the commission of a felony, possession of cocaine with intent to sell, possession of marijuana, possession of hashish, possession of narcotic paraphernalia, possession of methaquaalude and outstanding warrants for burglary, robbery, possession of firearm and conspiracy. Also confiscated was $5,000 in cash, one pound of cocaine, an automatic pistol, hashish and pills.

Officer Schmorr's alertness and professionalism in the application of sound law enforcement procedure exemplify the highest level of performance. He is a credit to the Public Safety Department and to the community he serves.●

TRIBUTE TO FOUR BRITISH AIRMEN

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 16, 1978

● Mr. MIKVA. Mr. Speaker, I rise to pay tribute to the heroic British airmen, the four British airmen killed recently in the tragic crash of their RAF bomber near Glenview, Ill.

The actions of the pilot, Flight Leader Chris Edwards, 31; the copilot, Flight Leader Simon Farlow, 32; the navigator, Flight Leader Nigel Thomas, 29; and the electronics officer, Flight Leader James Hamilton, 36, saved countless lives when they apparently realized that their aircraft was in trouble, and they diverted the plane and crashed into a landfill to avoid hitting nearby homes.

The Vulcan bomber and crew had arrived a few days earlier from the Scampton RAF Base in Lincolnshire, England. At the time of the crash they were in preparation for an air show in Chicago.

On behalf of all the people of the 10th Congressional District of Illinois, I extend my sympathy to the families and friends of the British crewmembers who sacrified their lives for the sake of others. These fine airmen were a credit to their service and to humanity, and their memories will be respected by all who know of their heroism.●

NUCLEAR SITING AND LICENSING BILL

HON. GARY A. MYERS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 16, 1978

● Mr. GARY A. MYERS. Mr. Speaker, with the growing demand for electrical power, concern should be focused on shortening the leadtime required before a nuclear powerplant becomes operational. The nuclear siting and licensing bill addresses this concern by proposing to shorten the normal 10- to 12-year leadtime to 6 to 7 years.

In regards to the nuclear siting and licensing bill, I am including the following correspondence from the Honorable JOHN W. WYDLER, ranking minority member on the Science and Technology Committee, to Mr. John F. O'Leary, Deputy Secretary of the Department of Energy, in which Mr. Wydler, while strongly supporting the reduction of leadtime, outlines his concerns with certain sections of the bill.

The material follows:

WASHINGTON, D.C., *August 3, 1978.*

Hon. JOHN F. O'LEARY,
Deputy Secretary,
Department of Energy,
Washington, D.C.

DEAR JACK: As you know I have had considerable problems with the Administration's nuclear policy as it affects both breeder reactor development and our ability to deploy nuclear plants and export light water reactor technology. However, I believe that the Nuclear Siting and Licensing Bill is a hopeful sign that the President can be convinced of the realities of our domestic needs for electrical power and the limits to burning coal to meet these requirements.

In this regard, I was pleased to hear your strong endorsement of the principles of the bill before the Energy and Power Subcommittee on July 20. However, it is a tragedy that the President himself cannot make a strong positive statement on the nuclear option both to reduce public uncertainty and to stop the erosion of industry and utility confidence.

I am in strong support of this bills' avowed purpose, i.e., to reduce the time cycle for a nuclear facility from 10–12 years down to 6–7 years. However, I do share some concerns that certain features of the bill may, in fact, be counterproductive. As a result, I don't share Jim Schlesinger's optimism that the bill, as presently drafted, will achieve this admirable goal. I'd like to discuss the provisions which are of most concern to me in the perspective of my own guidelines.

My primary guidelines for what the bill should do are rather straightforward. It should:

1. Reduce the time for siting and selection and construction of nuclear plants.
2. Centralize the regulatory responsibility (i.e., decisionmaking) for licensing and siting in one agency, the NRC.
3. Keep government out of activity that is properly done by industry and the utilities, e.g., construction planning.
4. Maintain procedures for certification and hearings at a level required under existing law.

On the basis of these four guidelines I have problems with the following sections of the bill. My concerns are indicated in brief, but my staff would be happy to supply further detail to your office.

Under guideline 1, I have difficulty with the following specific provisions.

a. Section 102—Hearings—the admission of any interested party who may be affected here would discourage vendors and A/E firms from pursuing standardized designs by escalating the cost for conducting such hearings through needless delays.

b. Section 105—Need for power should not be an issue for early site approval, this is properly considered during the application for a construction permit.

c. Section 203 (Federal and State Coordination)—I believe that specific target dates must be set for review and decisionmaking.

Guideline 2 unfortunately is not addressed in the bill and yet the fragmentation of responsibility is the root cause of the Seabrook fiasco. That "indecision" is indication of the complete breakdown of the nuclear regulatory process.

Under guideline 3, I have reservations about the following specific provisions.

a. Section 101—Advance Planning and Early Notice—calls for unnecessary interposition of the NRC into the plant planning process. In view of the requirements of detailed planning to obtain investment capital and the availability of long-range planning data from a variety of sources, including the DOE, it is quite unnecessary to involve the Nuclear Regulatory Commission.

b. Section 301—Funding for Intervenors—This bill is not the appropriate vehicle to consider this question which is addressed more broadly in several different pieces of pending legislation including the Public Utility Regulatory Reform bill of the National Energy Act.

Under guideline 4, I am troubled by Section 102—Requirement for procedures of state hearings on need for power to be comparable with NRC procedures under NEPA is an uncomfortable reminder of the presumptuous Public Utility Regulatory Reform Bill. Fortunately that rash bypassing of the State PUCs by FERC directive was "gutted" by the Senate in the NEA Conference. I trust this unfortunate section will be treated similarly by the House.

I hope this perspective is useful to you and the Secretary, Jack, but it is critical that the President involve himself personally in a dialogue with the Congress on this bill. That approach is mandatory if the nuclear option is to remain viable and the United States is to continue as a strong player in nuclear sales.

Thank you in advance for your consideration of these matters.

Sincerely yours,

JOHN W. WYDLER,
Member of Congress.●

MRS. JIM BOLLING

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, August 14, 1978

● Mr. RODINO. Mr. Speaker, I would like to say a few words in remembrance of Jim Bolling and offer my deepest sympathies to my friend and colleague DICK BOLLING.

I had the pleasure and the privilege of knowing Jim for many years. Her intelligence and courage were matched by her kindness and genuine concern for people. Her life was marked by active involvement in public affairs and total candor. After working on John Kennedy's Presidential campaign in 1960, she came to Washington and quickly established herself as a person of outstanding political skill.

When she and DICK were married they formed a partnership in service to the public. Together, Jim and DICK were a very effective team, widely admired in the House. The tremendous sense of loss which DICK must feel is shared by many of us who knew and respected Jim. My wife and I are saddened by her passing and we mourn her absence.●

BETH ISRAEL TEMPLE CENTER IN WARREN, OHIO, CELEBRATES 60TH ANNIVERSARY

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 16, 1978

● Mr. CARNEY. Mr. Speaker, Beth Israel Temple Center, the lone Jewish religious institution of Warren, Ohio, will celebrate its 60th anniversary with a 3-day observance September 15 to 17.

Founded in 1918 by a handful of Jewish families with a modest structure on First Street, the house of worship is now located on the city's East Side, known as Holy Corners, with Catholic and Protestant religious institutions across the street. Three institutions have staged a united Thanksgiving Day and were recently joined by the Howland Community Church.

The observance will get underway Friday night with a religious service at which Rabbi Michael Stevens, religious leader, will deliver an address. Dr. Leon Stitskin, a prominent New York Jewish leader and the first religious leader of the congregation, will also participate. The usual Sabbath morning service will be observed and the featured event is scheduled for Sunday evening, a dinner for the community.

The highlight will be the dedication of a plaque containing the names of all past presidents, from the late Max White, the first president, to Lynn Sheftel, present leader. Each of the living past presidents will be presented with a memento of the observance and designated relatives of deceased presidents will receive a memento also. The Rabbis will also participate and a musical program has been planned with Frank Goodman, a past president, heading the anniversary committee.

Around the turn of the century about a half dozen Jewish wanderers of European descent came to Warren to begin a new Jewish settlement in America. It was only a short time later that these original settlers were able to bring their families to Warren and to attract others of the Jewish faith.

Prior to the erection of the first structure, the early Jewish settlers organized group worship on the Sabbath and Holidays in private homes. Itinerant teachers came to Warren to teach Hebrew to the young.

The building of the religious structure was followed by the organization of the ladies auxiliary and the establishment of a Jewish educational program.

As the city of Warren grew so did the Jewish community, and many of the

members of the congregation became very active in communal life and in its cultural and social activities.

In the spring of 1944, the First Street structure was deemed too small and a concrete effort toward the construction of a new building got underway. However, conditions in the country slowed progress, and it was not until 1950 that efforts were intensified. Ground-breaking exercises were held in March 1951; on September 10, 1952, consecration services were held and the move was made to the new building.

Mr. Speaker, I want to extend my sincere congratulations and best wishes to Rabbi Michael Stevens, to Lynn Sheftel, and to all the families who worship at Beth Israel Temple Center in Warren, Ohio, on their 60th anniversary.●

CRIME IN OUR CITIES CAN BE REVERSED

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 16, 1978

● Mr. FLORIO. Mr. Speaker, today I introduced legislation to amend the Omnibus Crime Control and Safe Streets Act of 1968. My bill would increase financial assistance to units of general local government for the development and implementation of programs relating to the prosecution of repeat criminal offenders, often referred to as "career criminals."

Crime, particularly in our urban areas, is eroding the quality of life. Urban life requires an environment that attracts people who want to raise a family or run a business. But, first and foremost, to be attractive urban life must be safe. To be safe and secure in one's person—and one's property—is a basic human right of every citizen.

Many people have reached the conclusion that crime is a cancer eating away at the inner core of our cities, turning them into wastelands of fear. Even those who have not been direct victims of crime fear their time is running out because anyone, and everyone, is a potential victim.

People are afraid to use their parks, or to travel on the streets in our inner cities after dark.

The elderly are afraid to walk outside their apartments—even during the day. They have become prisoners in their own homes. A study released by the House Subcommittee on Housing and Consumer Interest reveals that 1 elderly person in 10 will be the victim of a crime this year.

Other adverse impacts we cannot ignore relate to the economic health of our cities. Tourists and organizations holding conventions are shying away from cities with high crime rates. Corporate headquarters, shopping centers, and other businesses are relocating. Thus, jobs are lost, and so are taxes.

Unquestionably, crime plays a major role in the continuing decline in the quality of urban life. Anyone who cares about that decline, and wants to do something about it, must do something about crime. The fight to reduce crime and violence must go hand in hand with our efforts to promote prosperity and economic stability. An urban crime initiative must be an integral part of any overall urban strategy.

Traditional approaches to combating crime are falling short of the mark. We can no longer cope with our urban crime problems in ways that are no longer effective.

Unfortunately, the traditional response to the problem of crime has been to increase police department budgets in order to put more men and women on the streets to make more arrests. Hundreds of millions of dollars have been spent on police forces to little avail.

Little thought has been given to the fact that the overburdened courts and prosecutors cannot possibly process their increased number of cases in a fair and equitable manner that protects both society and the rights of the accused.

Too often cases, even those involving offenders who have repeated their offenses, are "bargained" away because prosecutors and courts cannot deal with the volume they are forced to handle. Thus, criminals are soon back on the street after a brief passage through the revolving door of justice. They know how to manipulate the system.

Plea bargaining, in the traditional approach, benefits no one but the guilty defendant. It creates cynicism among the public it discourages witnesses from cooperating, it demoralizes the police officer who is trying to do a good job. It is simply a cheap and fast means of preventing a total breakdown in the criminal justice system because crowded court calendars must be controlled.

Can crime in our cities be reversed?

Indeed, it can be—and is being reversed through the implementation of pilot career criminal programs conducted through the Law Enforcement Assistance Administration (LEAA). FBI crime statistics indicate a leveling off of some types of violent crime in most of the 22 cities chosen to conduct career criminal demonstration project programs.

The profile of a "typical" career criminal fits a similar pattern everywhere. He is usually in his 20's, has been arrested for several felonies, has served brief prison sentences—and almost always has a long juvenile record: A "typical" career criminal in New York City has a record of 14 prior arrests; 6 misdemeanor convictions, and at least 1 felony conviction. He is more likely than not on bail, parole, or conditional release in another case. More than 60 percent of career criminals have cases pending when referred to the program.

A few comments on how the career criminal programs work are in order. Career criminals are given first priority. When a career criminal is identified, one prosecutor is assigned to follow the case from arraignment, through investigation, indictment and trial. Cases are analyzed by experienced prosecutors; weak cases are discarded. Thus, overburdened prosecutors can concentrate on those criminals who pose the greatest danger to society and the greatest threat to the quality of urban life.

The career criminal program targets the dangerous and presents the best possible evidence in the case. The conviction rate is high. Rational sentencing decisions are made. Plea bargaining is reduced. Career criminals can expect to serve long prison terms—often 15 to 30 years, or more. Justice is swiftly dispensed. Since special attention is given to these cases, sound bail decisions prohibit dangerous and violent people from being released on little, or no bail.

The career criminal program stops the revolving door of revolving-door justice. When this door is closed, the dangerous are no longer set free to commit their personal brand of "urban terrorism."

The system of identification of career criminals, in the 22 cities where programs have been implemented, differs from city to city. Local prosecutors select career violators using individual systems.

Louisville targets suspects with two previous felony convictions, or five arrests.

Washington concentrates on parolees who are arrested for a crime of violence.

Detroit zeros in on three-time offenders charged with murder, rape, household burglary, and armed robbery.

Boston uses a "crime evaluation form" based on a 10-point penalty system. Penalty points are given for brutality, use of firearms, parole or bail status at the time of the crime. Any suspect who gets 10 points, or more, gets the "career criminal treatment." A Boston prosecutor noted "it is almost like being selected for college—only they are going to jail, not to school."

Nationwide, over 5,000 people have been under this program of about 30,000 crimes. In Dallas 62 percent of the cases involved offenders who had escaped or were on conditional release. In New York City, 632 defendants have been the subject of special treatment under the program. Ninety-seven percent of those prosecuted were convicted—compared with citywide figures of 76.8 percent. Of those convicted, 82 percent received State prison sentences—compared with citywide figures of 53 percent. Eighty-six percent of the defendants pleaded guilty to the top charge, or one count below. In Detroit and New Orleans, major crimes were substantially reduced.

Mr. Speaker, sound managerial efforts such as the career criminal programs, coupled with public support and adequate resources, can help us to continue to reverse the sense of fear and frustration that has driven individuals, families, and businesses from our cities. Our urban centers are places of creativity and commerce, with a sense of community and economic growth, when they are attractive and function at their best.

Increased safety is a major requirement if we are to achieve urban renaissance.

We can insure increased safety for American citizens by enacting legislation to develop and implement career criminal programs.

Mr. Speaker, I urge my colleagues to support this initiative. Career criminal programs have already elicited strong public support in communities that have profited by their demonstrated success.●

ELKS LODGE HELPS COMBAT CANCER

HON. FLOYD J. FITHIAN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 16, 1978

● Mr. FITHIAN. Mr. Speaker, I wish to share with my colleagues a vignette of American life, a vignette which shows not only the courageous battle of an individual, but the helping hand of the Elks Lodge in their effort to combat cancer. This vignette of American life also points out the warmhearted response and basic goodness of the American people.

I enclose three newspaper clippings which tell the story. The first part of the story tells of a leading labor official who was forced to retire because of terminal cancer. The second part relates his letter to the editor of the Journal and Courier expressing his response to efforts of the local Elks Lodge to raise funds for the cancer drive. And finally, the story concludes with the warm response of American citizens to fellow Americans in serious situations. This story, Mr. Speaker, should be an inspiration to all of our colleagues.

The article follows:

COUNTY LABOR COUNCIL BOSS HENSON TO RETIRE

Roy Henson, 54-year-old president of the Tippecanoe County Labor Council, announced today he has been forced to retire because of failing health.

He has been president for the past eight years of the council, composed of 58 AFL–CIO local unions with a combined membership ranging from 12,000 to 15,000.

"I intend to stay as active in an 'emeritus' status as my health will permit," Henson said, "and to be as active as possible in the political action field."

Henson was president of his own local 668, International Brotherhood of Electrical Workers, for nine years, and was its business manager four years, prior to becoming president of the Labor Council.

He also has been president of the AFL–CIO's Committee on Political Education (COPE), which registers union members as voters, educates them on voting records, then gets them to the polls on election day.

Henson has been a member of the Indiana State Conference of IBEW and a lobbyist for organized labor in the Indiana Legislature.

He has been a member of the state AFL–CIO's committee on labor studies and on community services.

In Tippecanoe County, he was one of the leaders of the opponents to the local option income tax being considered by county officials in 1973. He has served on the county Health Systems Council and on the Tippecanoe Manpower Commission. He also has represented labor in United Way campaigns and in the YWCA fund drive.

A native of Connersville, he has been a Lafayette resident nearly 50 years. He attended Tippecanoe Elementary School and graduated from Jefferson High School.

During World War II he served three years in the Army, including 25 months in Guadalcanal and the Philippines.

He has been a union member for 26 years.

GIVING TO STOP CANCER WORTHWHILE

As a terminal cancer victim, I was gratified by the contribution made by the local and state Elks Lodge to the Cancer Research Fund—not that it will help me, but it could benefit someone who may be walking the same path in years to come. Please accept my heartfelt thanks.

Cancer is a dreadful disease that usually wipes out your life savings and causes hardships, and inflicts deprivations upon the entire family. I have a wonderful and loving wife, and three teenage children. I promised my youngest son that I would get him a Schwinn 10-speed bicycle for his 13th birthday as I had the other two, but unfortunately my illness came along about the same time as his birthday and I had to tell him I could not get him the bike. This caused me more pain than my cancer. He said, "I understand, Dad," as his eyes moistened, but he did not cry; but I wonder, does he really understand.

I have no money to give to this very worthwhile cause, but I do have some things money can't buy which I will donate, not sell, to anyone who needs them. I'm speaking of vital transplantable organs. When my journey ends I will make these available to anyone who needs them; just phone me at the number I will give later or contact me at the address later provided.

I have two good eyes if you like green. These eyes have seen the beauty of God's wonderful creations. The beautiful flowers and trees; our lovely mountains and streams—the beautiful birds and wildlife. I'm sure these eyes will serve you well as they have me for 54 years.

I also have a heart if anyone needs one. It's been broken a couple of times, but is now in good repair. It's a big heart, one that is filled with love and compassion for God and my fellow man. It's a heart full of pride for my flag and my country which I proudly served in World War II overseas. It swells up and beats a little faster when Old Glory passes by or our National Anthem is played or taps is played honoring a fallen brother. This heart will serve you well as it has me, if you keep feeling as it does.

I also have a good set of kidneys and maybe more if you're interested. This is about all I have left to offer as my contribution to the defeat of cancer. If anyone is interested please call or have your doctor call me at 5-296-3948.

Once again, thanks again, Mr. Charles R. Lange, Exalted Ruler, and your fine members for their generous contribution to humanity. I hope your contribution is the one that makes the breakthrough, and finds the serum or vaccine that will rid the world of this disease.

BOY GETS BIKE DESPITE DAD'S ILLNESS

(By Judy Horak)

Harold Henson didn't get a 10-speed bike on his 13th birthday as did his two older brothers. But today, he has his bike, and his terminally ill father says the incident shows how good people really are.

Harold's father, 54-year-old Roy Henson, retired president of the Tippecanoe County Labor Council, explained to his youngest son that the family couldn't afford the bike because the elder Henson's cancer had wrecked havoc with the family finances.

Henson recounted this incident in a letter to the editor printed in the Journal and Courier last month, and the same night, the Henson phone began ringing. Mr. and Mrs. Frank Lawson of 2112 Wea School Rd., were the first callers, and two days later, Harold was at Mulhaupt's Schwinn Cyclery picking out a 10-speed bike.

"That was a real kind lady. We had three or four other offers too," Henson said.

"The response to the letter has been overwhelming," Henson said.

In the letter, Henson thanked the local and state Elks Lodge for their donations to the Cancer Research Fund, "not that it will help me, but it could benefit someone who may be walking the same path in years to come."

Because cancer "usually wipes out your life savings and causes hardships," Henson explained, he couldn't make a donation to the research fund.

"I have no money to give to this very worthwhile cause, but I do have some things money can't buy which I will donate, not sell, to anyone who needs them. I'm speaking of vital transplantable organs," he wrote.

Henson said he hasn't had any inquiries yet about his offer, but the local American Cancer Society and his physician are aware of it.

"I've heard from so many people since that letter—Miss Marie Bender, my 5th grade teacher, called me, too. It's been inspiring. Nobody else wrote that letter but the good Lord. I can't write like that," he said.

Many of the callers have wished him and his family good luck, while others, like Mrs. Cliff Winger of Oxford, have tried to help Harold with his bike.

"Mrs. Winger is sending Harold something to buy accessories. The Lawsons told him to get some, but he didn't ask for any. He was so pleased to get the bike.

"We called and thanked them, and Harold sent them a thank you note," Henson said. The Lawsons couldn't be reached.

"It's such a warm feeling these people are leaving me with."

Henson was president of the council, composed of 58 AFL–CIO union locals, for the past eight years. He also was president of his own local, No. 668, International Brotherhood of Electrical Workers, for nine years, and its business manager, four years.●

ENGINEERS VOICE CONCERN OVER COST OF EXCESSIVE GOVERNMENT REGULATIONS

HON. DAVID W. EVANS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 16, 1978

● Mr. EVANS of Indiana. Mr. Speaker, the fact that Government regulations are multiplying at a lightning-fast pace should be a cause of serious concern for us all. The thousands of regulations from no fewer than 87 Federal agencies regulating U.S. business have imposed costly burdens on our economy—costly in terms of the money and manpower which must be diverted from productivity and innovation to filling out the required reports and otherwise complying with the flood of Federal regulations. Costly, too, in terms of the loss of individual freedom as the Federal Government intrudes more and more into areas of our private and business lives.

I am encouraged that the Congress has begun to take note of the problems caused by excessive Government regulation. As we all know, there are several pieces of legislation which have been introduced to help stimulate regulatory reform and they warrant our most careful consideration.

In connection with regulatory reform, I recently became aware of a statement by the National Society of Professional Engineers on the cost and effect of Government regulations. I think the problems that the society's statement points out are important ones that should be studied by every Member of Congress and I am, therefore, inserting the NSPE statement at this point in the RECORD for review.

employed in industry; others are partners or employees of engineering consulting firms and therefore represent the small business community. Our members are confronted daily by the regulatory process and for this reason NSPE is particularly concerned with the issue of excessive government regulation.

According to a recently completed study at Washington University in St. Louis, the cost to American business for complying with government regulations exceeded $62 billion in 1976. Entitled "Public and Private Expenditures for Federal Regulation of Business," the study broke down the cost of regulation into specific areas and revealed that the administrative and compliance cost of consumer safety and health regulations alone was an estimated $6.6 billion in that calendar year. Regulation of milk by the Department of Agriculture, only one of many areas of regulation by that agency, was estimated to cost $968 million. The cost of compliance with Department of Transportation auto safety and damage regulations was estimated at $3.7 billion for 1976. The study cited many other areas of federal regulation and their costs, but the estimate of the total cost to American business of the paperwork alone required to comply with all federal regulations was set at $18 billion. The Commission on Federal Paperwork estimated that figure substantially higher in its final report; it set the cost of the federal paperwork burden at $100 billion per year.

Regardless of which figure is more accurate, the sad truth is that both figures almost certainly understate the actual cost to American business and the public-at-large since they do not reflect "hidden costs" of federal regulation burdens—the cost of diverting time, money, and compliance with regulations. And lower productivity only means higher consumer prices and additional fuel for the inflationary spiral.

NSPE believes that, with regard to engineering, the burdens of compliance with regulatory requirements hit small businesses hardest. Regulatory and reporting requirements frequently impose burdensome legal, accounting, and consulting costs as well as inequitable demands. It is difficult, if not impossible, for small engineering businesses to be aware of and to understand the vast numbers of government regulations. And even when small engineering businesses are aware of all pertinent regulations they often lack most of the resources necessary to comply adequately. Many simply cannot afford the necessary attorneys and accountants to complete the paperwork involved with a compliance which often amounts to a duplication of regulatory and reporting requirements, contradictory requirements, regulations demanding more information than is needed, regulations demanding more frequent reporting than can be useful, regulations demanding reports from firms so small that they have little or no impact on the area being regulated.

NSPE continuously receives many reports of the problems caused by the excesses of government regulation. One West Coast engineering firm reported that it is eliminating some specific programs within its operation so that the awesome number of reporting requirements can be cut down. Individual engineers have reported repeatedly that as much as 40% of their time is taken up by record keeping for government agencies.

grants. The result is that much-needed EPA funding goes unused due to the difficulties inherent in excessive government regulation.

NSPE certainly does not advocate the elimination of all federal government regulation. We do urge, however, that Congress approve pending regulatory reform legislation, such as H.R. 959 or S. 2011, which would reduce the regulatory and paperwork burdens now imposed upon American business and which would retain a competitive free enterprise system encouraging productivity and innovation. We further urge that the Congress take the necessary legislative measures to ensure that any future efforts to draft government agency regulations eliminate uneven and inequitable enforcement; that they eliminate regulatory duplications or conflict; that the regulations consider the costs versus actual benefit; and that they provide only the amount of regulation essential to monitor properly our Nation's competitive free enterprise system.

NSPE offers these recommendations with the hope of helping the Congress achieve much-needed regulatory reform. Our Society wishes to assure the Committee of our continued interest in this issue and of our willingness to assist the Committee in any way possible.●

GILLIS LONG: TELEVISING CONGRESS

HON. CHARLES ROSE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 16, 1978

● Mr. ROSE. Mr. Speaker, it is with great pleasure that I offer to my colleagues a recent article by Congressman GILLIS LONG. The title is "Television in the House of Representatives: A New Epoch on the Hill." This interesting article appeared in Capitol Studies, a scholarly journal published by the Capitol Historical Society.

We are indeed indebted to GILLIS LONG for his tireless efforts to bring television to the House in a manner which neither compromises the character of this legislative body nor the integrity of the coverage available to the public. His Subcommittee on the Rules and Organization of the House has conducted an extensive study of the subject and brought forth truly useful suggestions to insure the installation of a high quality system which will provide an object, unedited record of House proceedings without permitting the media's intrusion to dominate daily legislative activity.

Largely as a result of Congressman LONG's strong leadership, the installation of a broadcasting system will commence in the near future, thus making available to any interested network an unedited feed of House proceedings. The implications of broadcasting the activities of

education, and I particularly commend Congressman LONG's article to the attention of educators throughout the Nation.

TELEVISION IN THE HOUSE OF REPRESENTATIVES: A NEW EPOCH ON THE HILL

BY GILLIS LONG

Since the House of Representatives admitted its first newspaper reporter in 1789, Congress and the news media have searched for the optimal arrangement for simultaneously conducting the nation's business and reporting its news. Over the years, Congress and its press corps have grown together, and together have become considerably more complex than their eighteenth century counterparts. The Capitol's press corps, for example, has ballooned from a handful of newspaper reporters to a force of more than 2,900 accredited correspondents, representing newspapers, magazines, and radio and television stations from virtually every country.

As the press corps has become larger and more technologically sophisticated, the problems of accommodating it have become more complex. Today, the House of Representatives is confronted with perhaps its mot momentous media question to date: In what manner would be the public interest in deliberative debate be best served by television, while still preserving the dignity and decorum of our democratic proceedings?

The House took an historic step on October 27, 1977, when it overwhelmingly passed a resolution authorizing the Speaker to install a closed-circuit television system and to make the unedited television coverage available to broadcasters. The House reached this decision after more than thirty years of periodic consideration of the question of whether to open its doors to the eyes of television cameras. Although the larger question of whether to allow television cameras inside the House chamber seemed to be resolved, the sticky problem of deciding how to implement the decision had only begun.

According to the House resolution, the task of choosing a method for television broadcasting falls into the hands of the Speaker. To help him reach a decision, the resolution required the Committee on Rules to review the alternative methods of broadcasting, and to report its findings, and recommendations to the Speaker. Last November, the Subcommittee on Rules and Organization of the House, chaired by the author, embarked on a three month long study of the problems of televising House sessions. The subcommittee drew on the experience of the Ad Hoc Subcommittee on Broadcasting of the Committee on Rules, chaired in the Ninety-fourth Congress by Representative B. F. Sisk (D. Cal.). It also reviewed the studies of other House committees which examined the subject, and broke new ground.

There are many sophisticated problems related to television broadcasting. Television is a medium markedly unlike the printed or spoken word. Television, with its potential to focus on the spectacular, and its tendency to dominate any occasion, can be a powerful influence on House proceedings and on the legislation produced. Progress toward televising sessions must be made carefully, lest it unduly interfere with parliamentary procedures already under considerable pressure, and by their nature necessarily complex.

Addresing this issue, former television

turned over to a House committee that can give undivided attention to problems of House broadcasting, at least for several years.

There are, theoretically, many methods for televising House sessions, but four seem most practical use of the Public Broadcasting Service or one of the public broadcasting stations, creation of a new public commission or corporation; use of a network pooling arrangement; or the establishment of a House of Representatives television unit.

The Public Broadcasting Service is understandably reluctant to undertake televising House sessions. On two occasions, PBS has declined to undertake the responsibility, saying that to do so would cause the public to perceive "public" television as "government" television PBS is federally funded and, as the presidents of PBS and its Washington station, WETA, have written, the public might sense a tie between funding and influence, inaccurate as such a perception might be. Implied, of course, is the fear that congressional funding might lead to congressional attempts to influence PBS conduct. Implications of such influence would be harmful to both PBS and the House of Representatives.

The alternative of creating a quasi-public commission or corporation would require statutory approval. Creation of a corporation would raise difficult legal questions about such matters as disposition and holding of capital stock. A commission would require annual funding by Congress. For propriety's sake, its members would have to come from Congress and such organizations as the broadcasting industry, public broadcasting, broadcasting labor unions, and others. The problems associated with the creation of either a quasi-public corporation or commission make them relatively unattractive choices.

By contrast, the alternatives of choosing a network pool or House of Representatives unit to handle the broadcasting both seem more attractive. Both methods have their shortcomings but, for some crucial reasons, the subcommittee favored turning over broadcast responsibilities to a House unit.

Witnesses before the subcommittee assured it that any group of television professionals could solve the technical problems and provide broadcast quality tapes of House sessions. On this count, then, either a House unit or a network pool would be acceptable. Either alternative would be expensive in terms of immediate capital investment costs and eventual maintenance and capital replacement requirements. Start-up costs for an in-House system have been estimated roughly at an initial $700,000 to $1,100,000. Because the networks would provide their own cameras and equipment, the initial year's cost to the House would be a payment of $330,000 to the networks for supplying a television feed. In either case, funds for lighting and sound improvements would have to be added to the cost. It should be noted that the higher initial cost of the in-House system would be partly offset because the House would not have to pay the network pool a fee for feeding the House's closed-circuit system and because House control would make it easier to coordinate record keeping functions.

When considering other criteria, a network pool alternative does not fare well. An important consideration in broadcasting of House sessions is that the coverage be made

editorial decisions in terms of where the cameras would focus and when. Such edited television coverage is not consistent with the fundamental purpose of House broadcasting.

It is most important that any broadcast system provide complete, gavel-to-gavel coverage. The House would benefit from closed-circuit televising of debate, and the public at large from a permanent audio and visual record. The networks, of course, prefer to televise the House only when the proceedings are considered newsworthy, although they have agreed, for a fee, to provide gavel-to-gavel coverage. Similarly, there is no guarantee of a long-term commitment for permanent telecasting of the House for record keeping purposes in a network pool system. Networks could withdraw, leaving the House with no system to continue its own visual record.

Once a network system were installed, the House of Representatives would be bound by the terms of a contract of limited duration. There would be no assurance that network coverage would not be interrupted by union problems or the inability to renegotiate acceptable contracts. In other words, there would be no guarantee that the permanent visual record of the House of Representatives would be uninterrupted. Should the networks withdraw, the House would be left with no system to continue its historical visual archives of legislative proceedings. To concentrate such power over the fate of the lasting chronicle of a legislative body of our government in the hands of the networks seems an overreaction to the demands of the broadcast industry for first amendment rights.

There are other emotionally charged arguments on both sides of the debate over whether a network pool or the House itself should provide broadcast coverage of its sessions. On the one hand, some argue that House control of broadcast coverage raises first amendment questions and that it is wrong to prevent broadcast journalists from focusing their attention on whatever they deem newsworthy. On the other hand, some are concerned that a network pool would produce coverage that would be unbalanced, biased, deliberately unfair, or damaging to particular members.

At the root of these arguments, the subcommittee concluded, is a misunderstanding of the fundamental purpose for covering the floor proceedings of the House. The objective is to provide a completely accurate and unedited record of House proceedings. Under an in-House system, the House would not edit the coverage—its responsibility is simply to see that a complete version of its sessions is produced. The broadcast media would have access to the unedited coverage of proceedings to edit and use as they see fit. As the subcommittee report says:

"We wish to make this record available to House members and staff through the closed-circuit system, to the American public for its enlightenment and education, and to the news media for legitimate and constitutionally inalienable use. We do not view the floor proceedings of the House as a staged news event, like a White House conference, or as an impromptu news event, like a flood or a snowstorm."

Schorr has noted that television cameras tend to alter the landscape into which they are admitted. They tend to ignore complexities and to prefer their own simplified ver-

He adds: "On television, the often humdrum real world must compete on unequal terms, with the excitement of the made-up world. The two worlds unfold, in bewildering proximity, on the same screen, using many of the same visual techniques. Generally, reality loses."

Just as perceptive are the comments of Richard Strout, *Christian Science Monitor* congressional correspondent and longtime columnist for *The New Republic*. Mr. Strout vigorously opposes televising White House press conferences. The presence of a camera, he writes, "turns what has been an extremely handy, carefully evolved, semi-official and unique contrivance into a theatrical performance. The press conference becomes a show." This journalistic concern about the theatrical turn White House press conferences have taken urges us to be circumspect, lest camera coverage catalyze House of Representatives' proceedings into staged news events.

Daniel J. Boorstin, noted scholar and Librarian of Congress, cautions the television "afflicts us with chronological myopia" through its singular emphasis on the here and now. Boorstein adds: "Television tends to make us objects and not subjects, to make each of us a target and not a bow." He concludes:

"Blessed and afflicted by mechanical ingenuities of our own making, blessed and afflicted by a gargantuan appetite and a New World enthusiasm for novelties, we Americans are being tested. Can we survive the transformation of experience which television has brought us? Can we keep a healthy appetite for the whole human experience, a will to explore the whole human past, a determination to let nobody choose our thoughts for us?"

The problems noted by these commentators were of great concern to the subcommittee. Our society in general, and Congress in particular, consistently must be cognisant of television's emphasis on the dramtic ever-present. Each message, program, and commercial contradictorily reiterates that it is the most important message in our lives, to be immediately replaced in the next microsecond by yet another "the most important message in our lives' ad infinitum. This constant insistence on an implied value system anesthetizes our intelligence, turns us into believers rather than thinkers, patients rather than agents, observers rather than participants. The result is that, instead of experiencing reality so rapidly that we do not have time to reflect, we are experiencing fantasy so quickly we have time only to react.

Television, clearly, is a medium to be dealt with slowly and carefully by the House of Representatives. It is a medium so important to our society that it cannot be ignored. For at least 58 percent of the American people, television is a major source of news; for 36 percent television is the only source of news. Such a popular medium is important in relaying the activities of the nation's leaders to their constituents. As the subcommittee report notes, "By agreeing to the resolution [televising House sessions], the House reaffirmed its commitment to open government and to a fundamental tenet of democracy—that success of popular, representative government depends upon an informed electorate." There is a considerable precedent to televising legislative proceedings: The United Nations, the Canadian House of Commons,

sion of events. Similarly, a congressional correspondent for a major weekly periodical told media researcher Dr. Robert O. Blanchard: "Radio and TV coverage of congressional affairs is viewed pretty much as to what makes a good show. The ultimate end of the broadcast medium is to entertain and only incidentally to instruct." Another correspondent for a major midwestern metropolitan daily newspaper bluntly told Dr. Blanchard: "TV is always looking for a 'hot-shot' incident."

In light of these problems inherent to television, it behooves the House to move carefully in the matter of televising House sessions. Its members are responsible for upholding the dignity and decorum of the House chamber. They are also responsible for protecting the legislative procedure from being altered to accommodate outside interests. Columnists Jack W. Germond and Jules Witcover aptly summarized the subcommittee's thoughts:

"The real concern of reasonable men and women is that a network pool, news-oriented as it inevitably would be, would not be satisfied to function merely as a recorder of a live event. Rather, the pool would seek out scenes of drama, poignancy, humor, anger and the whole range of human emotions that could boost the entertainment quotient of the daily routine—but distort the substantive."

The television news departments are not to be faulted for their attitudes. Their problems are part of what Frank Mankiewicz and Joel Swerdlow call the dilemma of television newsmen:

"They want to present the news, they want to keep it in perspective, but they are also a part of television, an entertainment medium depending at all times—including during news broadcasts—on attracting the largest possible audience to deliver to an adviser. Since news is part of an entertainment medium, it must be entertaining."

But the fact of the matter is that the purpose of the legislative process is to create good and just laws. It is therefore not often "entertaining" in the sense of television programming for prime time. The legislative process is, and should be, more often than not, slow laborious, and ponderous. It should remain deliberative, and congress must take steps to assure that the process is not changed merely to accommodate television.

Television broadcasting, of course, presents some unique problems for the House of Representatives. From a practical standpoint, there are some basic technical problems that need to be solved before adequate television news coverage of the House chamber can begin. Present lighting and microphone conditions are inadequate for broadcast quality taping. The contrast with studio quality would be magnified when footage from the House chamber is excerpted and introduced from the optimum conditions of the network studio. Lighting conditions are the most critical of these technical concerns. Test broadcasts showed that the overhead lighting in the House chamber creates deep shadows at the eyes and chin, sometimes rendering pictures of members unrecognizable. Microphones in use present similar problems. The subcommittee report notes: "We have seen demonstrations in which whole sentences are completely lost." The subcommittee also determined that the House must find some means to control the cameras to ensure proper framing of the members and prevent amateurish pictures unworthy of the House chamber—and unfavorable in juxtaposition with network studio production techniques. The report summarized: "It would be irresponsible and a disservice to the public, as well as an embarrassment to the House, to broadcast coverage of the House floor until these problems are reasonably resolved."

We can learn from the Canadian Parliament, which chose to operate its own television system. The results have been so successful that the Canadian Broadcasting Corporation is running an hour's excerpt weekly on Sunday nights, during prime time. The system has not deprived newsmen of useful, occasionally lively, taped segments for their use. And, most importantly, the legislative system has not been drastically altered. We should seek similar results. They will not be simple to achieve because the effects of television are inevitably powerful and not readily measurable. If properly implemented, a television system in the House can have a salutary effect on our legislative process and an important educational value for our people.

The goal of the House of Representatives in televising daily floor proceedings is justifiably different from that of the news media. We must create an objective and unedited record without permitting an intrusion of the media into our legislative activity. It is imperative that the traditions of our legislative proceedings be shaped by well-reasoned change brought about by the needs and priorities of the legislative system itself—rather than by the technological requirements of the broadcast media.

The decision of the committee in recommending to the Speaker a House-operated broadcasting system is the best reconciliation of the public interest and the preservation of the integrity of the House of Representatives as a democratic institution—one which has consistently demonstrated an adaptability to the contemporary needs of a dynamic society throughout two centuries of our history.●

CONGRESSIONAL ATTEMPTS AT TAX REVISION

HON. JOSEPH D. EARLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 16, 1978

● Mr. EARLY. Mr. Speaker, after many months of anticipation the House passed a tax bill that pales in comparison with previous Democratic tax revision efforts. Notions of fairness and progressivity gave way to the dissatisfaction of a growing number of upper income bracket Americans who would prefer a lower tax rate but rarely believe that a sacrifice is also a necessary component of any fiscal policy.

The bill, H.R. 13511, does substantially change the capital gains tax law and cuts individual and corporate taxes. Hopefully, these reductions—$16 billion in 1979 and $19 billion in 1980—will help control inflationary pressures on the economy, stimulate new investment and produce new jobs. I voted for the bill with some reservations realizing that the tax bracket revisions gave insufficient relief to the average taxpayer while handsomely cutting taxes for those in the $50,000 and above income tax brackets. Combined with the increase in social security payroll taxes effective this January 1, most Americans will obtain little tax relief under this legislation.

Those Americans with a family of four earning between $10,000 and $15,000 a year will receive a slight $34 to $35 tax reduction in 1979 while those in the $50,000 and above range will receive reductions of $215 or more. This is unfair and detracts from the Democratic Party's tradition of supporting a progressive tax system. We are, in effect, placing a greater fiscal squeeze on the average wage-earner whose discretionary spending power has already been reduced by inflation and rising taxes.

Mr. Speaker, there was little doubt that the social security trust funds needed an infusion of new revenues. The Congress passed legislation shoring up a faltering system but unwittingly raised the payroll taxes to an exorbitant level. Coupled with inflation, many taxpayers pleaded with the Congress to offset this sharp rise in payroll taxes. I, and many of my colleagues in a Democratic Caucus meeting, voted to request the Ways and Means Committee to report legislation that would effectively reduce the impact of those prospective payroll tax increases.

The committee faltered on this important issue by a single vote. In an unflattering display of strength the Rules Committee, again by a single vote, failed to make in order an amendment that would have given the average taxpayer a means of counterbalancing the 1979 social security tax increases.

It was unfortunate that I and many of my colleagues, were reduced to casting a negative vote in reference to the previous question prior to adopting the rule in an effort to focus attention upon the negative impact of previous legislation and its potential vice-like grip on the purchasing power of the average wage-earner. This Democratic Congress failed to report the best possible legislation at a time when many taxpayers have looked to the Congress for fiscal restraint and relief.

We should have incorporated a social security payroll tax credit refund for both employees and employers along with a greater degree of tax reductions for the lower income brackets. The House missed its opportunity to redeem itself by rejecting an alternative Democratic tax proposal. All other amendments, and including the committee package, paled in comparison to this proposal. The facts and figures make it obvious that America needs tax relief and not special interest legislation. The alternative Democratic amendment, coupled with a social security tax credit refund, would have given a $263 tax reduction to a family of four earning $10,000. It would have reduced the combined income tax and social security tax burden of a family of four earning $15,000 by $233. This alternative proposal also would have redistributed the tax cuts more equitably in accord with past Democratic tax legislation.

Under the Democratic alternative, 87 percent of all taxpayers with incomes below $50,000 would have received larger tax cuts. More specifically, those taxpayers earning $20,000 or less would have received 38 percent of the tax cuts under the Democratic package. This amendment would have been particularly meaningful to a majority of taxpayers in light of the fact that the national median family income is approximately $17,000. Instead, this chamber defeated the Democratic alternative and consequently saddled most Americans with higher taxes in uncertain economic times with the knowledge that double-digit inflation might be just around the corner.

Mr. Speaker, this bill does have its fine point, though I am not convinced that they outweigh the disservice that the House did to most wage earners in passing the Revenue Act of 1978. Increasing the personal exemption from $750 to $1,000 per dependent; alleviating the terrible tax burden placed on many moderate income Americans when selling their homes after raising a family, and extending, and making permanent, the earned income credit all redound to this chamber's reputation as being fair to all taxpayers. Targeting the jobs credit primarily to urban areas with large numbers of unemployed youths and minorities and to those on fixed income programs, such as the handicapped, are all worth the highest praise of any Member of this Congress. Other areas, such as capital gains taxation, though disputed by the Treasury Department and some economists, as embodied in this legislation illustrates a restrained effort by the Democratic majority to remove some of the barriers to increased investment.

If, as we are led to believe, investment increases as a result of these tax revisions, and new jobs are subsequently created, we may take some satisfaction in the knowledge that the Democratic Members of the House averted a stampede to slash the capital gains tax from a maximum of 48 percent to 25 percent. In the process we have maintained some manner of rational discussion based on the historical performance of the stock market rather than on the false assumptions of an econometric study.

In my own mind, the burden of proof now rests within the business community which has clamored for this type of reduction and which now has the responsibility of fulfilling promises of a predicted resurgence in capital investment and the creation of new jobs. Anything less would be an appropriate signal to the Congress that additional congressional intervention in the area of capital investment and capital formation is needed if the economy is to advance from its present economic doldrums.

Perhaps the most glaring error in this particular area of tax law, and which may have been partly obscured by the attention focused on the capital gains debate, centers on the minimum tax. The alternative Democratic amendment would have imposed a tougher minimum tax for those who do not pay regular tax liability on their capital gains. A sliding scale of 5 percent to a top rate of 17½ percent—a maximum rate payable only on gains of $800,000 or more—was preferable to the committee's microminimum tax of 5 percent. The committee's package, in this respect, gives over 75 percent of its tax reductions to those with incomes over $100,000. It would have affected just 49,000 taxpayers as compared to the 168,000 that would have been affected by this Democratic alternative. I believe that incentives to invest can be stimulated without capitulating to the super rich.

Mr. Speaker, it was with some reluctance that I finally conceded that the only means of expressing my dissatisfaction with the committee's efforts and with the failure of this Congress to continue a tradition of progressivity and fairness in the area of tax legislation, was to vote for a motion to recommit with instructions. This indirect vote upon the Kemp-Roth proposal offered a negative alternative for expressing my frustration with the pittance that has been offered to the vast number of taxpayers in times of high unemployment, rising inflation, and rising taxes. In comparison to the committee's proposal, which was the only other alternative after defeat of more generous and justified tax reductions, this motion to recommit offered an opportunity for members to register their discontent with the complete tax package.

The Kemp-Roth proposal, with all of its economic liabilities, at least offered a greater degree of tax relief to all Americans than did the committee bill. A tax reduction of $131 for a family of four earning $15,000 annually under the Kemp-Roth plan would be far more justifiable than a miserly reduction of $35 under the committee proposal. Only the Democratic alternative, coupled with a social security tax credit refund, offered a better solution—a reduction of $233 for a family of four earning $15,000.

I am sure that no one will dispute the argument that you cannot drastically cut revenues without first knowing what your spending priorities will be for the future. Under the circumstances, however, some members in this chamber, including myself, had only a negative means of registering our strong dissatisfaction with a Democratic Congress' apparent inability to report legislation geared to the needs of the average taxpayer.

In concluding, I must confess to some misgivings about the great flurry of activity that characterized the prolonged debate surrounding this legislation. Initial hopes that an infusion of general revenues and a rollback in the social security taxes would be enacted by this Congress gave way to a discussion of capital gains tax revision. Relieving the tax burden of those Americans with the least amount of discretionary spending was side-tracked; rising inflation prompted a paring back of the size of the tax cut. In the end, all the noise generated by the discussion of economists over capital gains drowned out the public's clamor for tax relief from anticipated social security taxes and rising Federal income tax rates.

We have strived mightily to alleviate the burden that weighs so heavily upon the middle- and low-income groups in this country and yet have produced a bill that retains little of its original impetus that motivated this Congress to undertake such a crucial and necessary reordering of the Nation's tax burden. What began as a mighty loud noise in the Halls of Congress has ended on nearly a whisper. The strivings and schemes of this Congress to revise the present tax laws have fallen far short of their original goals. Indeed, Mr. Speaker, to paraphrase a twentieth century poet, we have ended our tax debate "* * * not with a bang, but a whimper."●

PHIL CRANE'S CANDIDACY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 16, 1978

● Mr. GILMAN. Mr. Speaker, on August 2, in the Capitol, I had the honor of witnessing an impressive pronouncement by a gentleman who I highly regard as he announced his candidacy for the most important job in the Nation, if not the world.

The gentleman from Illinois, PHIL CRANE, delivered a stirring address as he threw his hat into the political ring, officially commencing a campaign which he hopes will land him in the White House in 1981. The gentleman from Illinois presented the working press and America with a blunt statement of fact and principle as he formally declared for the Presidency.

Mr. Speaker, at this point in the RECORD, I would like to share Mr. CRANE's remarks with my colleagues:

STATEMENT OF THE HONORABLE PHILIP M. CRANE

Let us inventory our goodness as a people uniquely blessed by accident of birth or the fortune to find sanctuary within our borders.

It was not natural endowment which made us good; it was not the absence of adversity which made us good; it was not material comfort which made us good.

We began as God-fearing people; we remain God-fearing people; our finest institutions reflect this.

We cherished liberty. From this rock upon which our national faith rests proceeds all else: our righteousness, our responsibility, our compassion, our justice.

We acknowledged that from love of God we learn love of self; from love of self we learn love of family; from love of family we learn love of country; from love of country we learn love of all mankind.

This has led us to sacrifice our blood and treasure on every continent of the globe. It has led us to open our doors to the friendless of the world. It has led us to extend a helping hand to the suffering in every corner of the earth. Further, acknowledging our imperfections, we structured institutions designed to prevent trespass but leave men otherwise free to realize the fulfillment of their individual hopes and aspirations. These became the ingredients of the American dream: opportunity, industry, mobility, jobs and growth.

But where do we stand today? Our leaders appear filled with self-doubts about the future. Our institutions are working to deny individual fulfillment through confiscatory taxation and excessive regulation. We would appear to have forgotten from whence we came and thus know not where we are nor where we are going.

I issue a call to all Americans to remember their heritage. We must recreate the conditions that catapulted us to the primacy of nations. We must rediscover those elements which made this nation the world's last best hope and which will preserve America as the world's best hope for ourselves and our posterity.

Just a few moments ago in the old House chamber on the very spot where another Illinoisan worked as an obscure legislator from the prairie, I told friends, family and supporters that I would be a candidate for the office of the President of the United States.

My candidacy is a commitment to our future. A restoration of the American dream to its proper custodian—the American people. A commitment that, as a free people liberated from excessive government, we can achieve and together embark on the greatest, most exciting, productive century our Nation has ever known.

My candidacy is dedicated to the principles our country was founded on and to my wife Arlene and eight children—our faith in the future. May they, and unborn generations, be ever vigilant to the need to keep our nation strong, just, compassionate, free and a beacon of hope to humanity.●

PERSONAL EXPLANATION

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 16, 1978

● Mr. SARASIN. Mr. Speaker, I was absent for part of the legislative session of the House of Representatives on August 3, 1978. Had I been present, I would have voted in the following fashion:

Rollcall No. 646: H.R. 12931: Foreign assistance appropriations. The House agreed to an amendment that reduces total appropriations not required by law for Foreign Assistance Act activities by 2 percent, except for economic support funds for Israel, Egypt, and Jordan, "yes."

Mr. Speaker, on August 4, 1978, I was absent from the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 647: H.R. 12931: Foreign assistance appropriations. The House agreed to resolve itself into the Committee of the Whole, "yes";

Rollcall No. 648: H.R. 12931: Foreign assistance appropriations. The House agreed to an amendment, as amended by a substitute, that reduces foreign military credit sales appropriations by $12.6 million, and that provides that not more than $2.5 million of the appropriations shall be available for Jordan, "yes"; and

Rollcall No. 649: H.R. 13635: DOD appropriations—The House agreed to the rule (H. Res. 1291) waiving certain points of order against the bill, yes."

Mr. Speaker, on August 7, 1978, I was absent from the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 650: H.R. 13635: DOD appropriations. The House agreed to resolve itself into the Committee of the Whole, "yes";

Rollcall No. 651: H.R. 13635: DOD appropriations. The House agreed to an amendment that increase the appropriations for the incentive programs of the Reserve and Guard Components by $15.5 million, "yes";

Rollcall No. 652: H.R. 13635: DOD appropriations. The House rejected an amendment that sought to reduce appropriations not required by law for military personnel by 2 percent, "no";

Rollcall No. 653: H.R. 13635: DOD appropriations. The House agreed to an amendment that increases Army operations and maintenance appropriations by $18 million, "yes"; and

Rollcall No. 654: H.R. 13635: DOD appropriations. The House rejected an amendment that sought to strike the $2.1 billion appropriation for the CVN-71 nuclear aircraft carrier program, "yes."

Mr. Speaker, on August 11, 1978, I was absent from the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 686: Journal. The House approved the Journal of Thursday, August 10, "no";

Rollcall No. 687: H.R. 11280: Civil service reform. The House agreed to the rule (H. Res. 1307) under which the bill was considered, "yes";

Rollcall No. 688: H.R. 11280: Civil service reform. The House agreed to resolve into the Committee of the Whole, "yes";

Rollcall No. 689: H.R. 11280: Civil service reform. The House agreed to a motion to table a motion to reconsider the previous vote, "yes"; and

Rollcall No. 690: H.R. 13007: Electronic fund transfers. The House passed the measure to amend the Consumer Credit Protection Act to establish rights, remedies, and responsibilities for all participants in the utilization of electronic fund transfer services, "yes."

Mr. Speaker, on August 14, 1978, I was absent for part of the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 696: H.R. 12931: Foreign assistance appropriations. The House rejected an amendment that sought to prohibit the use of funds to provide, review, or administer any assistance, credits, guarantees, or insurance in or for Panama, "no";

Rollcall No. 697: H.R. 12931: Foreign assistance appropriations. The House rejected an amendment to the previous amendment that sought to reduce total appropriations not required by law by 8 percent, "no";

Rollcall No. 698: H.R. 12931: Foreign assistance appropriations. The House agreed to an amendment, as amended by the Harkin substitute, that reduces total appropriations by 2 percent, except for areas or programs reduced by 2 percent by previous amendments agreed to in the Committee of the Whole, "yes"; and

Rollcall No. 699: H.R. 12931: Foreign assistance appropriations. The House agreed to the Young amendment, as amended by the Harkin substitute, that reduces total appropriations by 2 percent, except for areas or programs reduced by 2 percent by previous amendments agreed to in the Committee of the Whole, "yes."●

WYOMING OPTOMETRIST HONORED

HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 16, 1978

● Mr. RONCALIO. Mr. Speaker, it is a pleasure for me to congratulate Dr. James Boucher, of Laramie, Wyo., on receiving the National Optometrist of the Year Award from the American Optometrist Association at the association's 81st annual Congress held in New Orleans, July 20, 1978.

This award singles out 1 of some 21,000 optometrists in the Nation, who has made significant and lasting contributions not only to the optometry profession, but also to the community and the public. I would like to cite some of the highlights of Dr. Boucher's outstanding career and impressive list of accomplishments for my colleagues in the House, so that we can understand and appreciate the appropriateness of honoring Dr. Boucher with this fine award.

Dr. Boucher received his BS degree in math and physics from Ohio Wesleyan University and the Doctor of Optometry degree from the Southern College of Optometry of Memphis, Tenn. While studying for his masters degree in physiological optics at Indiana University, Dr. Boucher received a NASA fellowship for his research in optometry.

Dr. Boucher established his successful practice in Laramie, Wyo. in 1966. He is the immediate past president of the Wyoming Optometric Association and was the 1978 Optometrist of the Year for Wyoming. He has served on some 30 State and national advisory boards and committees in the field of optometry.

He is a faculty member of the University of Wyoming, lecturing in the visual field for physiology and psychology classes. He currently serves on the Food and Drug Administration's Opthalmic Devices Panel; is a correspondent for the National Academy of Science National Research Council's Committee on Vision and serves as coordinator for Optometry studies for the Western Interstate Commission for Higher Education. He is an honorary member of Alpha Epsilon Delta Premedical Honor Society at the University of Wyoming.

Dr. Boucher has had an active and distinguished career in public service on the local and State levels. Dr. Boucher serves on the board of trustees for Albany County Memorial Hospital; the advisory board for the Southeastern Wyoming Mental Health Center; and the Albany County Mental Health Board. He is a member of several service organizations in Laramie and has done extensive volunteer work in the schools, with 4-H groups and other clubs, coordinating vision-screening projects and educational programs on eye care and disease prevention. He served as the State chairman for the Jaycees' "Arrest Amblyopia" program.

As an Albany County representative to the Wyoming State Legislature, Dr. Boucher diligently worked for passage of laws requiring continuing education for optometrists for relicensure to practice in Wyoming; authorizing the State of Wyoming to contract for position in out-of-State optometry schools for Wyoming students, and extending the State medicaid services for optometric patients over the age of 21.

Mr. Speaker, I am sure that my colleagues in the House join with me in commending Dr. Boucher for his fine career as an optometrist and public servant and in congratulating him on this deserved honor as National Optometrist of the Year Award.●

MIKVA MARVELS BEAT THE NATIONAL RIFLE ASSOCIATION

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 16, 1978

● Mr. MIKVA. Mr. Speaker, last night a bit of history was made in Washington. One of the legendary powers in the annals of Washington politics, the National Rifle Association, traveled across town from their command post at 16th and Rhode Island to Anacostia Park, where they played the Mikva Marvels' softball team.

To the casual observer, it might have looked like just another softball game. But the uniforms told another story. There, on one side of the field in Anacostia Park, was an army of white shirts with the insignia of the National Rifle Association—the emblem for a million NRA members who send antigun control mail to their Congressmen faster than George Allen trades away draft choices.

There, on the other side of the field, representing 80 percent of all Americans who favor stronger gun control laws, was the courageous Mikva Marvels—clad in multicolored shirts and banners proclaiming the indisputable fact that "People kill People, with Handguns."

The NRA was well-represented. Their heavy hitters were there—among them, their executive vice president, Harlon Carter, and their executive director, Neal Knox.

But if there were worried looks behind the ostensibly optimistic smiles of the NRA team, there was good reason. This contest, after all, was being played out in the open, for all to see, and no paper blitz of mail was going to keep the Marvels from scoring. Moreover, the game was being played in Washington, a city with one of the strictest gun control laws. The weapons for this contest were restricted to baseball bats, gloves, and balls, no doubt putting the NRA at a disadvantage.

With a CBS television camera set to record this historic event, the Mikva team took the field. In the top of the first, the NRA went down one, two, three—possibly the first time the rifle association had been shut out in Washington in this century.

The Marvels struck quickly in their half of the first, sending two runners safely across homeplate—a symbolic testimonial, as it were, to how much safer our homes would be if there were a Federal law banning handguns.

For the next four innings, the score remained 2 to 0. Then, in the sixth, the Marvels broke the game open with an awesome display of power, the kind of power so often attributed to the NRA. Before the inning was over, the shell-shocked NRA team was on the short end of a 7-to-0 score.

The NRA managed three consolation tallies in the last inning but the final 7-to-3 score was conclusive. As ironies would have it, the margin of victory was about the same as the proportion of Americans who want Congress to pass stronger gun control laws.

This proves conclusively that the NRA is just a paper tiger. They may have the fastest mimeograph machine in the western world, but they are short hitters when the game is really played.

Can one game make a difference? Only time will tell. But today the gun control movement knows that the NRA can be defeated, and their hats are off to all of the Marvels—Steele, Lyons, Meltser, Horwitt, Bland, Schroll, Bonder, Fox, Herrick, Love, Toye, Robbins, Green, Phelan, Green, Silverman, and Graykowski.●

LEGISLATION NEEDED TO PREVENT DISCLOSURE OF IDENTITIES OF CIA AGENTS

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 16, 1978

● Mr. McCLORY. Mr. Speaker, on behalf of my colleagues, BOB WILSON of California, JOHN ASHBROOK of Ohio, KEN ROBINSON of Virginia, and myself, I am introducing today legislation to protect the confidentiality of the identities of individuals engaged in foreign intelligence activities on behalf of the United States.

The highly offensive and traitorous conduct of Philip Agee, a former employee of the CIA, in disclosing the names and identities of individuals with whom he worked in the CIA has caused distress and anguish to many scores of individuals who are serving or have served our Nation as intelligence officers or employees. Their families have experienced similar suffering.

Mr. Speaker, for one such as Philip Agee to violate an agreement of secrecy and confidentiality which was an explicit condition upon which he was employed by the CIA is an offense which deserves the sternest punishment under the laws of our Nation. Unfortunately—and amazingly—it is not at all clear that Agee's actions violate existing criminal statutes.

Mr. Speaker, in an effort to halt abuses such as Philip Agee has committed, I am introducing a measure to specifically prohibit the unauthorized disclosure of the identities of CIA agents and others who work undercover for our country in vital foreign intelligence and counterintelligence activities. I am pleased and honored that my Republican colleagues on the House Permanent Select Committee on Intelligence are joining as cosponsors.

Mr. Speaker, I am sure that I speak in behalf of most, if not all, of my colleagues when I say that we are outraged to learn that Philip Agee is now about to publish a new book entitled "Dirty Work" in which he, together with Louis Wolf, undertake to name names and expose activities of the CIA in Western Europe.

Mr. Speaker, my friend, Gen. Richard G. Stilwell, president of the Association of Former Intelligence Officers, has brought this to my attention as well as information regarding the new publication produced here in Washington, D.C., entitled "The Covert Action Information Bulletin."

Mr. Speaker, I am hopeful that the legislation which we are introducing today will be available for use against Philip Agee and others of his ilk. As a member of the Legislative Subcommittee of the House Permanent Select Committee on Intelligence, I hope that early hearings may be held on this measure and that it may be speedily enacted into law for the benefit of the CIA and the Nation. A short section-by-section analysis of the bill follows:

SECTION-BY-SECTION ANALYSIS OF H.R. —

(By Mr. McClory)

The bill adds a new section—Section 800—to Chapter 37 of Title 18, United State Code. (Chapter 37 contains laws relating to espionage.)

Subsection (a)(1) defines an offense. Subparagraph (A) applies to current or former intelligence agency employees; subparagraph (B) applies to any person.

Under subparagraph (A), anyone who received authorized access (i.e., present or former employees) to classified information regarding the identity of an intelligence agency employee (i.e., an intelligence agent operating under cover), associate (i.e., an intelligence asset), or associated entity (i.e., a front corporation), and who disclosed such information without authorization would commit a crime.

Under subparagraph (B), anyone—with or without authorized access—who disclosed classified information identifying an intelligence agency agent or associate, who knew or had reason to believe that such information was classified, and who knew or had reason to believe that such disclosure may prejudice the life or physical safety of the individual identified would be guilty of a crime.

Subsection (a)(2) states that it is not a criminal offense to disclose this type of information to the congressional intelligence committees, to a court pursuant to a court order, or to a Federal law enforcement officer pursuant to a court order.

Subsection (b) establishes the penalty for violation of this new law: $10,000 fine, ten years imprisonment, or both.

Subsection (c) establishes Federal jurisdiction if the new law is violated anywhere in the world by a United States citizen or an alien admitted to the U.S. for permanent residence, or if violated by anyone within the United States.●

A TRIBUTE TO JIM BOLLING

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, August 14, 1978

● Mr. ZABLOCKI. Mr. Speaker, Mrs. Richard Bolling was a vibrant person, intelligent, dedicated, and at the same time compassionate. It was a privilege to have known her as a friend.

Jim served her country with distinction both in her own right and in partnership with our esteemed colleague,

ICK BOLLING. She was active in politics nd a significant contributor to the auses in which she believed both before he came to Washington and since joinng our ranks in the Nation's Capital.

As a full time, though unpaid, executive assistant in DICK BOLLING's conressional office, as well as a loving wife, he exemplified the truism that a husand's success is due in good measure the wife who stands with him.

I share in the grief at her passing and xtend deepest condolences to DICK and ther members of the family.●

ARY J. LYNASS WINS TOP HONOR IN WRIGHT ESSAY COMPETITION

HON. JIM WRIGHT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 16, 1978

Mr. WRIGHT. Mr. Speaker, every year r the past several years it has been my rivilege to sponsor a congressional essay ontest for high school students in my ometown of Fort Worth, Tex., and surounding communities, inviting high chool students in Tarrant County to rite on one of a selection of public fairs topics.

Once again this year I was delighted ot only with the volume of responses ut also with the thoughtfulness, the perptiveness, and the patriotism reflected the entries. Choosing the winner was tough job, and I am happy to salute iss Mary J. Lynass, daughter of Mr. nd Mrs. Jerry Lynass, 3805 Wren, Fort orth. First runner-up was Bryan akeman of 2941 Louis, son of Mr. and rs. Jim Blakeman. Erin Owen, daughr of Mr. and Mrs. David Owen, of 3809 ummercrest, was second runner-up. ames Hyde, son of Mr. and Mrs. Paul yde, 4536 Cloudview, was third runner-p.

Seven other students gained honorable ention. They are Donna Connally, 1725 h Cresdent, Fort Worth; Emily Condd, 1606 Ems; Rene Holaday, 7038 Glenew; Carole Raulston, 6267 Halifax ourt; Robert L. Seibert, 4104 Winding ay; Laurie Stockton, 6833 Fortune oad; and Bill Stuckert, 3117 Odessa.

Mary Lynass' essay follows:

ONSCIENCE OR CONSTITUENCY? HOW SHOULD ELECTED OFFICIALS DECIDE?

(By Mary J. Lynass)

Slightly over two hundred years ago, courous men risked death as traitors by signing piece of paper. That simple parchment deared the integrity of all mankind. With at act, the United States of America came to being. Yet the very name of the thirteen rmer colonies posed a contradiction. These ates united almost solely in their opposion to England. This sectionalism still exists day. In each state's attempts to better itlf, it often forgets that it is a part of the nited States." Cooperation usually prells; yet when it fails, each congressman ust consider the special interests of his contituency versus the good of the nation.

While campaigning for office, a candidate akes many promises. Sometimes these take ly hard work, resolve, and time to fulfill. ther times, upon investigation, they prove impossible. Yet the prevailing candidate must seriously attempt to meet each promise, for the indolent voter will often rely only upon media interpretations of promises. The representative elected upon high ideals must not betray his voters; he must not betray his commitments. The laws he works for must reflect his promises.

In Washington, D.C., elected men and women create laws which govern all Americans. Because these laws govern strong and weak alike, each representative must consider each act of legislation with appropriate weight. In light of this importance, a shift in voter reasoning has surfaced. Many voters are no longer content with speeches filled with predictable, unreasonable promises. These "informed" voters seek out the opinions of the candidates. Only a person of integrity and sound judgment can pass their scrutiny. Therefore, opposing those who vote along straight party lines, the "informed" electorate often succeeds in placing responsible people in office. These constituents anticipate the unpredictable; they want people able to sort facts and arrive at realistic conclusions. They do not want a party puppet to play with their lives and livelihood; they want an intelligent human being.

Once elected, this intelligent human being has access to the most current data. Therefore, his judgment must have the capacity to be well-informed rather than emotional. No matter which side the member favors, the opposition will attempt to stir the easily swayed public. Thus, the member must pit intelligence against the whims of his voters. He must risk either his seat in Congress or his integrity.

Although the representative was elected as the voice of the people, he must also protect those people. If the representative fails to change with the events, he does not serve his constituency. In light of ever changing facts and never steady public opinion, the congress member must have the courage to use his judgment for the benefit of his constituency. For just as those "traitors" signed a statement authored by a small group of men who may or may not have reflected the desires of all their fellow colonists, the lawmakers of today must have the will to look to the future, and serve each constituent to the fullest of his ability.●

ASIA-PACIFIC ENERGY BREAKTHROUGH

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 16, 1978

● Mr. HEFTEL. Mr. Speaker, at a time when disputation seems to be gaining the upper hand over cooperation in dealings among individuals and institutions at home and abroad, it is heartening to be able to report on the initiation of a major effort in international cooperation in the critical field of energy, an effort that may eventually lead to fundamental improvements in the well-being, security, and economic and political stability of half the population on this planet.

Like many great undertakings that have altered the lives of nations—the European coal and steel community would be a recent example—this one began as an idea springing from the fertile imagination of an individual; he fashioned the idea into a series of reasoned proposals; those proposals were then disseminated; other individuals of stature and vision perceived possibilities, added knowledgeable opinions; and before long, a conference was convened to discuss the means by which the now firmly rooted idea might find embodiment in working institutions.

The conference was held at the East-West Center in Honolulu from July 26 through 28. In attendance were representatives from Australia, Canada, India, Indonesia, Iran, Japan, Pakistan, the Philippines, and the United States. By the time the conferees had separated, the first steps had been taken toward the formation of an Asia-Pacific energy studies consortium.

Mr. Speaker, this emerging institution is more, far more, than an academic study group. It belongs in the category of policy formation at the national level, as is indicated by the rank and caliber of the conferees. They included the Australian Minister, for National Development, the director of India's Department of Science and Technology, the Indonesian Minister of Mines and Energy, the energy adviser to the Prime Minister of Iran, the president of the Japanese Institute for Energy Economics, the chief of planning services for the Philippine Department of Energy.

The questions these technically proficient policymakers are laying the groundwork to address concern nothing less than the future of national energy policies in Asia and the Pacific—whether they are to evolve in harmony and with a maximum of effective cooperation, or whether they are to deteriorate into insular-minded and acrimonious competition that could incite internal chaos and in the external sphere, war. The alternatives are that stark, for energy is the lifeblood of any nation committed to civilized development. Once that commitment is made, as it has been throughout Asia and the Pacific, the dependence on energy increases proportionately at all levels of the economic system. More and more of it is necessary merely to survive.

One further indication of the hard-headed seriousness of this meeting was the methodical and pragmatic way in which the issues were addressed. There were no ringing declarations of the sort that bring momentary elation before evaporation like rainbows. Instead, the conferees agreed to the principle of the consortium; and before heading back to report to their respective governments, they provided for the first stages of its implementation—two working groups that will help establish overall methods and procedures for operations while tackling specific subjects of vital interest among those for whom energy policy is a tough-minded profession as well as a worthy cause.

One working group will examine energy accounting methods throughout this vast region with a view toward establishing a standard statistical basis for discussing just what resources are at their respective commands. Without such standardization, any sort of professionally meaningful dialog on energy issues is all but impossible.

The other working group will examine energy resources in rural areas, again

with a view toward establishing a common basis for comparison and research and development, including a commonly shared perception of just what energy is. In some rural locations, for instance, most energy comes from the burning of dung and wood—yet these resources may not be tabulated at the national level. Once a complete picture of rural energy resources is filled out, it will be possible to plan energy development intelligently, phasing in alternate energy systems as they are needed, with minimum social disruption and maximum cost effectiveness.

And that, of course, is but a beginning. As we all know, there is no substitute for personal contact at the policymaking level. In the few days that they met in intense discussions at the East-West Center, in many cases exchanging views with one another for the first time, individual conferees encountered numerous instances in which a pooling of information would work to their mutual benefit, avoiding expensive duplication of effort, filling in gaps, making contributions to the energy program of fellow members while acquiring needed expertise from other members. In fact, the number of participants at this inaugural meeting was deliberately held to a few of the larger nations so as to assure a maximum amount of exchange on a personal level. Later, the composition of the group will be expanded.

That the East-West Center served as the catalyzing agent for this important gathering should come as no surprise to those of us who are familiar with that institution's notable efforts, since its inception nearly 20 years ago, in fostering technical and cultural interchange throughout the Asia-Pacific area.

The energy consortium was the brainchild of Dr. Harrison Brown, director of the East-West Center's Resources Systems Institute. That institute is the latest addition to the center's complex of activities. It was launched only a year ago. The center was most fortunate in obtaining Dr. Brown as its first director. He comes to Hawaii from the California Institute of Technology, where he was professor of geochemistry and of science and government. His meritorious career also includes a position as foreign secretary of the National Academy of Sciences for 12 years, during which time he dealt directly with leaders in science and government in dozens of countries. Indeed, in preparing for this conference, Dr. Brown traveled thousands of miles, presenting the case for cooperation with the tact and intelligence which I have come to appreciate through personal encounters with him.

His success is obvious. This was truly a joint undertaking born of mutual interest and desire. Plans call for the consortium to develop on a cost-sharing basis, with no nation dominating the proceedings financially or politically. It is a measure of the respect that the East-West Center has acquired over the years that it was unanimously chosen as an ideal site for a provisional secretariat for the consortium.

Obviously, the potential of the Asia-Pacific Energy Studies Consortium is extraordinary. A hint of the range and significance of the problem that may be broached and solved is suggested by a few interrogatory statements offered by Dr. Brown during his welcoming address in Honolulu, July 26:

> To what extent can developing countries increase food production utilizing indigenous energy resources for nitrogen fixation and for pumping water? To what extent can trees, sugar cane, cassava and other plants be utilized for the production of power and liquid fuels? To what extent might such approaches be effectively used to accelerate rural development in these countries? Where and how can nuclear wastes be disposed of safely in this region? Should we consider the possibility of a multinational reprocessing center to serve the needs of the area?

These questions may seem dry and technical, but the future growth and stability of the world's community of nations may well depend on the working answers to them turned up by farsighted individuals such as those who met in Honolulu a few weeks ago, and the spirit in which those answers are implemented.

So I think all concerned American citizens owe a vote of thanks to the conferees at the first Asia-Pacific Energy Studies Conference. I intend to follow the progress of the energy consortium and keep the Congress informed of relevant developments. Perhaps the occasion will arise when this body will have an opportunity to make some contribution to this laudable undertaking.●

DR. ELEANOR BLUMENBERG

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 16, 1978

● Mr. WAXMAN. Mr. Speaker, at a dinner on August 29 in Los Angeles, the Pacific Southwest regional office of the Antidefamation League of B'nai B'rith will honor Dr. Eleanor Blumenberg, who is its director of education, and who is now leaving to accept the position of national director of education for the Antidefamation League. She served as a consultant to school districts and colleges throughout the 11 Western States on matters relating to intergroup relations, desegregation, prejudice and discrimination. She has conducted many training programs for both public and parochial schools and has worked extensively in programs relating to inclusion of Jews and other minority ethnic groups into school textbooks. Recently, she headed the design team for the California ethnic heritage curriculum project and is on the National Council for the Social Studies Multicultural Curriculum Guidelines Project. For the league in 1975 she served as the coordinator of a National Invitational Conference on Teaching about the Holocaust. Dr. Blumenberg has written many articles for professional journals and has received many honors, including an award from the Los Angeles City Council. She is listed in the "World Who's Who for Women," and was a delegate to the United Nations-sponsored International Women's Year Tribune in Mexico City, representing Women in International Leadership.

Dr. Blumenberg graduated from UCLA, where she was elected to Phi Beta Kappa. She received her master's degree and doctorate in education from the University of Southern California, her doctoral dissertation being "The USC Teacher Corps Rural-Migrant Program," dated June 1970. She has been the codirector of summer workshops in human relations at the University of Redlands and at Whittier College, and has taught at Claremont Graduate School and the University of Southern California. Currently she holds a part-time faculty appointment at California State University, Los Angeles. For the past 10 years Dr. Blumenberg has conducted staff training programs for city and county schools of Los Angeles, as well as the school districts throughout the West. Dr. Blumenberg's publications and activities are too numerous to list here. It is amazing to consider what Eleanor Blumenberg has managed to accomplish. Her professional affiliations include the American Sociological Association, Adult Education Association, National Council for the Social Studies and the California Council for the Social Studies, Honorary Association for Women in Education, National Association of Human Rights Workers, Association of California Intergroup Relations Educators (executive committee), Intercultural Women (executive committee), Sociology of Education Association (executive committee), Women in Educational Leadership (vice president), National Women's Political Caucus, and the California Curriculum Forum (executive committee).

Born Eleanor Blass, she is married to Charles Blumenberg, and has three children, Susan, Richard and Joan. A native daughter of Los Angeles, Dr. Blumenberg finds time for many community activities in addition to her professional and family obligations. Her contributions will be measured for many years to come in the improvement of all the facets of education in which she has involved herself, and in the lessening of racial and religious prejudices. I am very proud to bring Eleanor Blumenberg to the attention of my fellow Members and to ask them to join me in honoring her.●

AMERICA—HERITAGE, HEARTACHE, AND HOPE

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 16, 1978

● Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following sermon, "America—Heritage, Heartache and Hope" which was preached by my constituent, Rev. Donald Hinkle on July 4, 1978.

The sermon follows:

AMERICA—HERITAGE, HEARTACHE AND HOPE

(Rev. Donald Hinkle)

"Godliness exalts a nation, but sin is a reproach to any people" (Prov. 14:34). Godli-

must be because of large deposits of righteousness put into God's bank. Are we still making deposits or is it more correct to say we have been drawing on those deposits, rather heavily to this present hour, and our balance is getting low?

Of course we claim no perfection for America; far from it. But the record would indicate that as much as some other nations—and much more than most—this country has had a deep interest in the things of God and Jesus Christ. It has placed importance on promoting spiritual values, and spreading the truth as it is in Jesus, to the uttermost parts of the earth.

1. AMERICA'S HERITAGE

Preceding the outbreak of World War I, when the world was filled with crises on every hand, all pointing down the road to the inevitable conflict, a British government leader stood one evening at the window looking out over the city of London. He turned to a companion and said, "The lights are going out all over the world, and they may never be lit again in our time." Fortunately, he was wrong; they have been lit several times since then, and yet his quotation might be appropriately repeated today as we look out over a distraught, troubled and tumultuous world.

There are those who seem set upon discounting our religious heritage. They seem determined to make it appear of no significance whatsoever, even going so far as to say there never was any such thing as a religious heritage (in spite of the record.) And yet what a marvelous legacy is ours!

Looking back over history, what seemed to have been merely coincidences, turned out to be divine providences. It was no accident that America was discovered just before those terrible religious wars that broke out all over Europe after the Reformation. God was preparing a haven to which people could flee in their search for the privilege of worshiping Him in liberty and freedom. It was no accident that the printing press, with moveable type, was invented and came into being just prior to the rediscovery of the Bible in that spiritual awakening of the early 1500's. The Bible became accessible to multitudes who could read for themselves the truth being presented to them about God's salvation in Jesus Christ.

We have a rich heritage. In 1620, the first words of the Mayflower Compact read, "In the name of God, Amen." You can't start out much better than that. Some of the other phraseology goes like this: "We, whose names are written, having undertaken for the glory of God and the advancement of the Christian faith . . ." and again, "We do solemnly, and in the presence of God, covenant with each other . . ."

In our New England Compact Agreement we read, "We have all come into these parts of America with one and the same purpose, namely to advance the Kingdom of our Lord Jesus Christ."

In 1780, the Massachusetts Bill of Rights was written and it said, "It is the right, as well as the duty, of all men in society, publicly, and at stated seasons to worship the Supreme Being, the Great Creator, and the Preserver of the Universe."

John Quincy Adams, the Secretary of State in 1821, said, "From the day of the Declaration, they, the Americans, were bound by the laws of God which they all, and by the laws of the Gospel, which they nearly all, acknowledge as the rules of their conduct." In 1864 he presented a resolution to Congress to amend the Constitution "to include a clear and explicit acknowledgement of the Sovereign of this Universe as the God of this

at age 81 wrote: "I have lived, Sir, a long time, and the longer I live the more convincing proofs I see that God governs in the affairs of men. And if a sparrow cannot fall to the ground without his notice, it is probable that an empire cannot rise without his aid. We have been assured, Sir, in the sacred writing, 'Except the Lord build the house, they labor in vain who build it.' I firmly believe this. Without His concurring aid, we shall succeed in this political building no better than the builders of the Tower of Babel."

Not only in our beginning, but in our continuance, God has periodically sent spiritual awakenings to keep this land close to divine things. Sometimes America went pretty far down the road away from God. (In 1875, the Bishop of Virginia said, "The church is too far gone ever to be revived.") Nevertheless, from New Hampshire to Georgia, religious considerations entered into the founding of every colony. Whether it was the Pilgrims of Plymouth, the Huguenots in New England, William Penn in Pennsylvania, or the Padres on the California coast, God, Jesus Christ and the Bible were tied into the establishment of this land. Harvard and Yale were founded to train ministers of the Gospel. Of the nine colonial colleges in America, six were established between 1740 and 1769—the University of Pennsylvania, Princeton, Columbia, Rutgers, Brown and Dartmouth—and they all had some relationship (direct or indirect) to the Great Awakening under Jonathan Edwards and George Whitfield. Of the forty schools started between 1780 and 1830, twenty-nine were started by the Christian churches. Before 1839, all the state institutions west of the Alleghenys were begun under the direction of the Presbyterian Church. The first five Presidents of Princeton were evangelical revivalists.

How can anyone successfully debunk such a heritage? I do not say that even a majority were Christian, that any more than a relatively small per cent were evangelical, regenerated, born-again people. I am saying that their influence far outweighed their numbers, and that even those who did not have a personal commitment to Christ accepted Christian ethics, morals and values. There was a general Christian concensus, as far as these things were concerned, by which people knew how they ought to conduct themselves, even though many did not know Jesus Christ in a personal way.

2. AMERICA'S HEARTBREAK

Dr. Francis Schaeffer, one of the most able thinkers and writers among evangelicals today, says, in his book, Death In The City, "It is a horrible thing for a man like myself to look back and see my country and my culture go down the drain in my own lifetime." He continued to say that thirty to forty years ago our culture was built on the Christian concensus—and now we are in an absolute minority! "Never," says Schaeffer, in the history of the world has a nation or a civilization thrown overboard so quickly it's Christian heritage. It took some centuries of time for Europe to abandon it, in large measure. We're doing it in thirty to forty years—throwing over the very things to which we owe our strength and our exalted position in the world!

The Bible says: Righteousness Exalteth a Nation—nothing else will! We are coming to the place where our checks are bouncing. We've used up our credit. Somehow we have to call the nation back to make some more deposits in the bank of God, or we are through! Solzhenitsyns at Harvard—(Our leaders wouldn't even give him the privilege of visiting the White House or the President of the United States—it might hurt the feel-

just as dedicated to that purpose today as it has been in all it's sixty years since the Russian Revolution.

In the early days, Engels and Lenin said, we must get religion out of everything. I ask you to decide for yourself to what extent they have succeeded in doing just that! They work to set race against race, the young against the old, children against their parents, all against the law—and then they top it all off with a phony peace program that deludes and deceives thousands of people. But it does not hide from the discerning that their main objective is to destroy the United States of America and all we stand for.

OSTENTS!

Do you know that in a period of less than five years we have put out of business about all of the major organizations that guarded us against subversion? The old Un-American Activities Committee is gone; the Subversive Board is gone; in both Senate and House we have put out of business those who would be watch-dogs against our Anti-God foe that wishes to bring us to our knees. And, of course, the most up-to-date thing going on is the discrediting (or attempted discrediting) of the FBI and the CIA.

A missionary who served over 34 years in Chile says that whatever the United States Intelligence Agencies may have done to bring down Allende and his Communist regime was very much in order, because after his fall, lists of names were found in assigned hands—names of people to be killed all over Chile, assuring a firmly established, permanent Communist regime and the end of Christian work there. You don't read about that in the American Press!

The heartbreak is that we have so much blindness among our leadership. I am amazed at how stupid our country has become! We seem unable to recognize our enemies from our friends, and to treat them correspondingly.

Abandoning Formosa in order to please the Communists—Give away the Panama Canal. We give the Soviets computers, build them factories, give them the technological know-how, give them bread and butter—everything! In turn, they will be saved the bother of meeting these kinds of needs, and they'll be able to pour their money into armaments so they'll be ahead of us before long on a five-to-one ratio, according to some estimates. How stupid can we get?

"Shouldst thou help the ungodly and love them that hate the Lord? The prophet asks Jehosophat in rebuke for allying himself with wicked Ahab (II Chron. 19:2). "Therefore is wrath upon thee from before the Lord." Such a national policy is always paid for—and we are paying for it in some measure already. But the big price is only a little bit down the road unless God graciously intervenes on our behalf.

The Heartbreak of America—a lack of leadership with vision in Congress and elsewhere. In Isaiah 3 God told His people that because of their sins He would deprive them of quality leadership: "I am going to take away from you the might man . . . the judge . . . the prophet . . . the prudent . . . the honorable man: and I will give children to be your princes, and babes shall rule over you." There is no small amount of evidence that we already have a sizeable number of babes ruling over us.

Abraham Lincoln was brought up in abject poverty, but he had a good mother—and an even greater step-mother—who so instilled into him such Christian principles and character that he became known as Honest Abe. If any man had an excuse to lie and cheat and steal, he did; but he had

We see our government looked to for handouts on every hand, and much is said about equal rights and so little about personal responsibility. So many do not understand our American way of life, and what our founding documents actually promise. Equality of opportunity is the promise, and that's all. After that a man is to go on and climb the ladder.

We live in a day of handouts and government encroachment in everything—and the name of the game is socialism! I don't care what other name you give it, that's exactly what it is. This country would never have made the grade under the principles that govern our affairs now. Those early forebears believed in minimum government and maximum personal freedom. Granted, our society is much more complex than it was in those days, but the same principles are valid for 1978.

A group of clergymen—one of the committees of the National Council of Churches—met to talk together about the basic injustice of Capitalism and the free enterprise system—they apparently ignored the far greater injustices of every other system in the world!

Frankly, I'm proud to be an American. I love America and believe in Capitalism and the free enterprise system. I do not believe it is faultless by any means, and I agree that it needs corrections; but I believe it has produced the greatest degree of liberty for people and the highest standard of living of any system that has yet been devised. I also believe that the principles which underlie it are Biblical.

The Word of God emphasizes personal and individual freedom: "Render unto Caesar the things that are Caesar's" to be sure. But "render unto God the things that are God's." The Lord Jesus, in His parables, taught that profit is an honorable thing—That a man has the right to enjoy the fruits of the labors of his own hands. The Lord set down principles that back up a system in which men have maximum freedom and minimum interference from government regulations—and by so doing the rise of the living level goes on and on.

Now that whole system is under attack on the college and University level. We are producing Socialists and Marxists by the truckload from our education institutions. Biblical principles are sneered at, yet nobody has found a better way than the principles laid down in God's World. Nevertheless, Communism marches on, gobbles up more of the world, and spues out it's lies. "Imperialists," they cry, meaning that we go into underdeveloped countries and rob them of their resources—oil, minerals, etc. They neglect to add that the so-called imperialist countries have developed these resources at the cost of millions and millions of dollars, and have provided thousands of jobs and homes, making those countries wealthier than they have ever been and raising the standard of living. We have made the Middle East the wealthiest spot in the world!

I firmly believe in the biblical principles that underlie the whole free enterprise system. In fact, I'll go so far as to say that if you were to take a culture that is completely Socialist or Marxist and you were to have there, nevertheless, total freedom (unlikely) to preach the Gospel of Jesus Christ and to present the Bible as the inspired authoritative Word of God, a resultant genuine spiritual revival would have as ultimate result the birth and growth of a free enterprise system! History proves that, because this is exactly what happened out of the great spiritual awakening in the early years of the 16th century. Out of that great movement, in returning to the Bible as the inspired Word of God, there came about great economic

go" into them and made them realize that they were personally responsible for their own economic well-being, as well as for their moral conduct. This brought about the greatest system the world has ever known—one which until recent years has been the basic system of the United States. A major fault of Socialism is that it depends on two ugly traits of human nature to make it grow—envy and covetousness. The "have nots" must be stirred to demand that government act to give them their part of what is owned by the "haves"—regardless of merit or work.

3. AMERICA'S HOPE

I must end on a more hopeful note. There is always the hope for spiritual revival. God has done it before, sometimes starting on college campuses, as at Yale University years ago when the whole student body was swept by a great spiritual awakening. God is at work, praise His name, on many college and university campuses today, and young people are turning to the Lord. We must pray for them, support them, and earnestly hope that every effort will be successful. God, who has done it before, can do it again!

But spiritual awakening has to start in our individual hearts. It has to begin with you and me where we are. Let us individually seek God for spiritual revival in our own hearts, and for continuing mercy as we fit into God's plan to call others for His name from every kindred, tongue and nation. It is in America's favor that probably 75 percent or more of the world's missionary personnel and financial support come from the United States. As long as we set our goal to help in completing the Bride of Christ, we can expect continuing mercy, even when so richly we may be deserving judgment.

We know there will be no rest or peace until Jesus Christ comes to earth again to rule with a rod of iron. That day is coming, but meanwhile you and I must stand up and be counted. There is hope for America when spiritual revival brings with it an aroused sense of civic responsibility among believers. Jesus said: We are to be the salt of the earth—the light of the world. As we move into 1978, an election year and a crucial period in the life of America, I ask you as Christians to take an unusual interest in the political arena. Study and learn the issues, find out who the candidates are—and pray. Watch what's going on as we move down the road toward Socialism, whether it is called welfare or something else. Remember, Socialism is just Communism in slow motion, as someone has described it. Certainly it is government encroachment in all areas of our lives.

There are still enough Christians in this country, if we can get them aroused and angry enough, to change the direction of our nation from a continuing drift toward big government and Socialism. We must awaken and know the issues. And when election day comes we must march to the polls in volume! Let's throw out the rascals who are leading us down the road to Socialism and Marxism which will destroy our nation.

The tragedy of Watergate is that our Congress took a sharper turn to the left than ever before. This is the prime disservice that the whole Watergate mess created. It made people fill Congress more and more with men who believe in Government spending . . . spending . . . spending . . . which results in more and more government control . . . okay the dictates of Washington's social planners or have your money support cut off!

We'd better let our voices be heard by letter, by telegram—to Congressmen, senators, state representatives, mayors, city councilmen. Christians, you are called the salt of this earth. Get busy—time is running out!

But suppose God is calling time on Amer-

conclusion of God's prophetic plan that the prospects of a turnabout in national affairs is not destined to take place? Then, as always, our greatest hope remains—the return in power and glory of our Lord Jesus Christ.●

APPROPRIATE TECHNOLOGY: A PROGRAM SUITED TO A POST-PROPOSITION 13 ENVIRONMENT

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 16, 1978

● Mr. BROWN of California. Mr. Speaker, a few weeks ago the subcommittee chaired by Mr. SCHEUER in the Committee on Science and Technology held extensive hearings on the prospects and programs for appropriate technology. Appropriate technology is called by many other names, including intermediate technology, light capital technology, and community-based technology. Many Federal agencies have incipient programs in this field, and much more can and should be done.

One of the best statements at that hearing was the testimony by Robert Judd, who heads the office of appropriate technology, set up by Gov. Jerry Brown in California.

I was impressed not only with the scope of his testimony, but also the fact that even in the wake of proposition 13, the California Legislature still supported an increased budget for this new and innovative office. This says more about the program than any number of words can possibly say.

I highly recommend this statement to my colleagues.

The statement follows:

TESTIMONY OF ROBERT L. JUDD, JR., EXECUTIVE DIRECTOR, GOVERNOR'S OFFICE OF APPROPRIATE TECHNOLOGY, STATE OF CALIFORNIA, TO HOUSE OF REPRESENTATIVES SCIENCE AND TECHNOLOGY SUBCOMMITTEE ON DOMESTIC AND INTERNATIONAL SCIENTIFIC PLANNING, ANALYSIS AND COOPERATION, JULY 26, 1978

GOOD MORNING: My name is Robert Judd. I am the Executive Director of the Governor's Office of Appropriate Technology in the State of California.

The purpose of my testimony here today is to briefly review with you what is meant by "appropriate technology," and to discuss some of its implications. More specifically, I want to give you a clear sense of the founding and evolution of our efforts in California. I think you will be interested in the scope of our current activities and our plans for the future.

APPROPRIATE TECHNOLOGY IN PERSPECTIVE

The idea of appropriate technology is based on a world view which holds that industrialized societies ought to be using their remaining stock of non-renewable resources to build a society which can sustain itself when remaining stocks of minerals and fossil fuels can no longer be economically extracted and converted to use.

Appropriate technology values stability based on living patterns and technologies which harmonize with and maintain the health and viability of life-supporting ecosystems.

Appropriate technology looks to new possibilities growing out of an era of limits. The task of appropriate technology is to promote these new possibilities which are practical, low cost, create new jobs and do not degrade the environment. Appropriate

participate in a more life-enhancing system, we begin to see the connections between the politics of life-choice and the levels of technology and kinds of social organizations we have. We begin to see the need for a smaller-scale, more skillful, more understandable, diverse and non-violent, life-serving tech-

ship, regional economy; promotes "right livelihood" (meaningful work); and is labor/skill-intensive.

(4) *Social/Political/Cultural:* Promotes social flexibility/adaptability; promotes self-reliance and community cooperation; understandable/usable at community level; and

In addition, we receive an average of 900 letters a month from individuals in California seeking for further information on how to apply the principles of appropriate technology to their lives, which for the most part are suburban and working class. One would expect a certain percentage of those with ample money to implement systems such as

We have an acclaimed handbook on community gardening methods.

We have published an excellent technical report on rural wastewater treatment and re-use. We have a bilingual directory to community resources in California's Central Valley.

time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational the Office of the Sen-

Appropriate technology looks to new possibilities growing out of an era of limits. The task of appropriate technology is to promote these new possibilities which are practical, low cost, create new jobs and do not degrade the environment. Appropriate technology is the means to the transition to a high quality of life, steady state society which is our only alternative as the fossil fuel age comes to an end.

Appropriate technology is not a new philosophy—people throughout the ages and in cultures around the world have long practiced it. In the West, with the coming of the industrial revolution two hundred years ago, we have lost sight of its wisdom. But in the past few decades, we have begun to rediscover its possibilities as we come face to face with the reality that rampant industrialism may overcome us. Appropriate technology seeks to use technology in the wisest way possible to serve the needs of the greatest number of people.

One serious impediment to some of the new technologies is institutional barriers to change: regulations, codes, prevailing benefit-cost assumptions which are tailored to fit an era of high energy consumption. Another serious impediment is the skeptical attitude of many policy makers. A frequent refrain is; "Prove to me this works" or "Where is the data to back up your claims?" In many cases, information has not been gathered and hardware systems have not been evaluated or compared because no one is willing to fund this type of exploratory research perhaps because it cuts against the prevailing patterns and values of our society.

We are beginning now to enter a period of strong ecological upsets, increasingly difficult resource shortages, intrinsic inflation and joblessness, along with pronounced lack of accesses for many persons to basic social and economic resources, much of it brought about by a runaway, cheap-energy technology which has fundamentally unbalanced our social, economic, and political systems in the service of a futile attempt to provide material affluence for everyone.

To step away from the pitfalls of continued pursuit of quantitative economic growth, to recognize the limits to growth which exist on this planet, we need to educate ourselves about alternative goals and directions, perhaps a last chance, a very short time, to cure ourselves from our cheap-energy addiction. What we need is a technology more appropriate to the transition period we are in than that which now is conventionally used by our society. To develop and use such a technology, we will need to provide major changes in personal lifestyles and social goals.

Appropriate Technology is a necessary response to the need to bring about a more just and workable society, using careful tools, techniques, and processes which mediate between the human social system and the natural environment to provide long-term stability, adaptability, and life-enhancing prospects for both. It is a fundamentally different approach, not just a new package of available technology.

The basic model we are using is that technology (or economy) is a mediator between human values and goals, between human activity and the natural environment.

It is apparent that our social ethics, in practice, are dependent on and derived from our shared myths about cultural history and the nature and purpose of human existence. We do, indeed, design our own life spaces around our sense of values and purpose. We all need to spend more time dealing with heretofore unexamined life choices. We need to rediscover our roots, to return to a direct experience of the important role of sacred propositions and perceptions, such as the deep-rooted land ethic of the Native American, in maintaining adaptive social systems.

Proceeding from the level of choosing to participate in a more life-enhancing system, we begin to see the connections between the politics of life-choice and the levels of technology and kinds of social organizations we have. We begin to see the need for a smaller-scale, more skillful, more understandable, diverse and non-violent, life-serving technology, so that we can begin to exercise a greater degree of personal responsibility for our life choices, to discover real freedom in the self-disciplined awareness of the interdependence and majesty of all living creatures. From this perspective, we begin to want to create situations in which we may serve others, providing enough material abundance for each person's need, while opening up space for others to expand their lives and perceptions.

Our current technology was developed for a "cowboy" or "frontier" economy based on one-time use of non-renewable resources and degradation of our renewable resource base. We need a rapid transition to a cyclical or fundamentally closed economy which emulates the behavior of more mature ecosystems. We have clearly a pressing social need for a smoother and faster transition to a system dealing with the problems of resource shortages, increasing economic disorder (or entropy), inability to manage complex social systems, ecological backlash and food shortage. We need a more appropriate technology to help us make this transition. This technology includes tools, techniques, processes, and ways of thinking and acting which aid our long-term adaptability to a healthier social and ecological life.

SOCIAL BENEFITS OF APPROPRIATE TECHNOLOGY

Appropriate Technology is becoming recognized as a strong aid to rethinking our concepts about economic change and redevelopment for the transition for the following reasons:

(1) it permits local needs to be met more effectively.

(2) it means the development of tools that extend human labor and skills rather than replace them.

(3) it represents a comprehensible and controlled scale of activities, organization and mistakes.

(4) it tends toward decentralization of production, thus permitting full benefits of work to remian within the community.

(5) it provides a region with a cushion against the effects of outside economic changes.

In sum, an appropriate technology is small-scale: ecologically tolerable, human and community scale; bioregionally based: diverse using "informed non-uniformity" to design with local climate, natural energy flows and indigenous building materials; based on careful use of renewable energy and material resources, closing the loops of wide-open resource use through recycling of "wastes"; accessible to people; controllable at local levels: leading to more decentralized, autonomous, cooperative works, with a minimum of transport required; responsive to human needs, not culturally overwhelming; creative and regenerative in its effects on people and ecosystems, providing a rewarding livelihood for people.

CRITERIA FOR APPROPRIATE TECHNOLOGY

Criteria for an appropriate technology may therefore be expressed according to the following scheme:

(1) *Ecological:* Does not release pollutants/poisons to environment; protects existing natural habitat; restores viability of ecosystems; recycles organic nutrients/creates topsoil; and conserves renewable resources.

(2) *Energetic:* Conserves nonrenewable resources; promotes use of renewable energy sources; promotes use of local and recycled materials; and reduces dependence on excessive transportation links.

(3) *Economic:* Long life; low capital cost (initial capital and/or life-time cost); promotes small-scale production, local ownership, regional economy; promotes "right livelihood" (meaningful work); and is labor/skill-intensive.

(4) *Social/Political/Cultural:* Promotes social flexibility/adaptability; promotes self-reliance and community cooperation; understandable/usable at community level; and creates/maintains natural beauty.

THE CALIFORNIA PROGRAM

The Office of Appropriate Technology (OAT) was created by Executive Order on May 12, 1976, to "assist and advise the Governor and all State agencies in developing and implementing less costly and less energy-intensive technologies of recycling, waste disposal, transportation, agriculture, energy and building design," because "State government must assert leadership in developing small-scale technologies appropriate to an era of limited resources." In addition, OAT was designed to provide the public with the information it needs to move ahead in harmony with environmental goals.

The recognition that we live in a world of limited resources requires development of conserving technologies. As government tries to adapt to the new realities of diminishing resources and changing values, we must find ways to carry out our responsibilities in ways that are less wasteful, less costly and bureaucratic, less harmful to people and our environment. We need to encourage tools, techniques and processes in our economy, as well as in our communities and institutions, that are simple, direct, small-scale, and inexpensive; a balanced technology that is appropriate to maintaining the health of California's people, economy, and environment.

The Office was created to assist the government and people of California in this period of social transition, dealing with changing personal values, environmental stress, and diminishing resources. The Offices of Appropriate Technology will act as a catalyst for change in government in the areas of: job development, resources conservation, environmental protection, and community development through the introduction of cost-saving alternatives to present practices.

The objective of the Office of Appropriate Technology is to project this philosophy in both substance and image throughout State government and to the people of California. The purpose is to broaden perspectives, to change values, and to encourage economic and resource savings by:

a. Reviewing on-going programs and technically assisting State offices to develop and implement less costly and less energy intensive programs.

b. Informing and educating State personnel, the general public, and the legislature with respect to appropriate technology.

c. Demonstrating projects which apply appropriate technology principles to everyday situations, to illustrate the possibilities, and to encourage widespread application.

THE ELEMENTS OF THE CALIFORNIA PROGRAM

Our office has grown substantially since its founding in 1976. From a small team with more philosophy than action, we have matured into a 30-person staff with a budget of nearly $1 million annually. We are presently providing technical services to numerous state and local agencies and community groups, providing information to individuals throughout the state, and designing and constructing facilities that demonstrate the utility of alternative technologies.

The question sometimes arises as to whether our office provides a necessary service. Who is really interested except the counter-culture and the true believers? The program elements that I will describe in a moment should clarify the need for our services, especially at the government level. But there is more. In the past three months, we have met with representatives of five other states at their request (Washington, Alaska, North Carolina, Michigan and Massachusetts) to assist them in establishing state programs modeled after our own.

letters a month from individuals in California asking for further information on how to apply the principles of appropriate technology to their lives, which for the most part are suburban and working class. One would expect a certain percentage of those with ample money to implement systems such as solar or wind energy because it is new and attractive and has a sort of social status. We do deal with these people, but also and much more often with individuals or groups of more typical dimension.

It is apparent to us and to others that state offices such as ours are needed. The public benefits by our presence and would feel our absence.

I want to highlight for you the major elements of each of our program areas. You will see that many are applicable in your jurisdictions and, in some cases, is an international context.

(a) *Local initiative programs*

We believe that decentralization and local self-reliance are the key to successful implementation of alternative technologies. In this context, knowledge is power, and it is our goal to empower communities and local governments with the skills and information to make intelligent choices about their futures. We use numerous mechanisms, including direct intervention, to assist them.

As you know, California is in the midst of a taxpayers' revolution. It is contagious. It is also the first sign that the people want to regain some of the power they have given to a centralist government. This situation and sentiment provides fertile ground for community projects that meet the criteria discussed earlier.

We conduct a number of local initiative programs, including the following:

A series of regional meetings (in seven cities so far) around the state, cosponsored with local groups and policymakers to discuss possible programs they can conduct, often with our assistance.

Aid to cities and counties in establishing local offices of appropriate technology.

Assistance in establishing community gardens around the State to encourage better nutrition at lower prices. We have worked with approximately 80 gardens so far.

Visits to communities, schools, fairs and other public events by our New Possibilities Show, a 30-foot trailer filled with energy-conserving ideas for the household.

(b) *Energy programs*

We are about to submit the state plan for California's energy extension service; a $1.3 outreach program aimed at conservation among small energy users.

We have completed an analysis of energy use in public buildings which will lead to substantial dollar and energy savings.

We conducted the DOE pilot energy grants programs which brought $640 thousand to 58 California inventors.

We are conducting an analysis of energy use patterns that emanate from state agency policies (codes, procurements, etc.) and will recommend changes.

We are developing a 6-month training curriculum for solar technicians to be used in union apprentice programs, CETA programs, and vocational institutes.

(c) *Publications and information*

We are now preparing a handbook for builders, bankers and other investors in structures that will show examples in graphics and text of cost-effective mainstream developments (housing, commercial, industrial) that use alternative technologies in California now.

We publish a bi-monthly Grants Availability News Letter to connect local groups and goverments with funds for AT projects and planning.

We are preparing a status report on solar technician training for national distribution.

We have an accumulated handbook on community gardening methods.

We have published an excellent technical report on rural wastewater treatment and re-use. We have a bilingual directory to community resources in California's Central Valley.

(d) *Design team*

In order to demonstrate the validity of appropriate technology concepts, we have organized a team of technical experts to design and build demonstration projects. Although this team is a relatively new element of our team, we have already made some significant accomplishments:

Design of the heating and cooling system for a major new state office building, providing an 80% reduction in energy use without exceeding cost to build a more conventional building.

Design of a solar energy youth hostel for the Department of Parks and Recreation.

Consultation in the design of 70 units of farmworker housing with Department of Housing and Community Development.

Design and testing of structural modifications to greenhouses in California.

Assist a local government in preparation of grant application for solar hot water heating for 300 units of low-income housing.

Participation with the State Energy Commission and DOE in the conversion of biomass to fuel.

Illumination of any of these examples can be developed during the question session.

I have a final observation that might be useful. It has to do with the "image" of appropriate technology. It is often laughed off as simplistic stone-age technology unsuited to modern times, or is seen as a far-left scheme best left in California. We have had to face these arguments again and again as we explain our program to skeptical agency heads and legislators. Although we have not converted everyone, I can honestly say that OAT is seen as serious business. This is in large part due to the content of the programs themselves. The benefits accrue to rural and urban, Republican and Democrat. Many of the programs lead to substantial dollar and energy savings to taxpayers.

Recommendations

1. Get a personal focus on the subject of appropriate technology, to the point where you can understand its applicability to your policy decisions. There are many of us who would willingly meet with you and answer your questions.

2. Learn what is possible in your home district. Sponsor an intelligent project that creates jobs and stimulates the local economy. There are constituents who will carry the ball for you.

3. Support the Office of Small-Scale Technology in the Department of Energy. It is underfinanced and understaffed.

4. Pay attention to non-Federal programs. They generally are more inventive. A good Federal example, however, is the appropriate energy technology grant program at DOE. Their winners have some good ideas.

Thank you for this opportunity to discuss our California program. Come visit and learn first-hand if you can, and feel free to call on us as necessary.●

SENATE COMMITTEE MEETINGS

Title IV of the Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committees scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, August 17, 1978, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 18

9:00 a.m.

Energy and Natural Resources

To hold hearings on the nominations of Ruth C. Clusen, of Wisconsin, to be an Assistant Secretary of Energy (Environment), and Roger A. Markle, of Utah, to be Director of the Bureau of Mines.

3110 Dirksen Building

Finance

Health Subcommittee

To hold hearings on proposals to expand coverage of mental health services.

2221 Dirksen Building

9:30 a.m.

Governmental Affairs

Energy, Nuclear Proliferation, and Federal Services Subcommittee

To hold hearings on S. 1493, to provide financial and technical assistance to States, local governments, and Indian tribes to manage impacts caused by energy development.

3302 Dirksen Building

Judiciary

Penitentiaries and Corrections Subcommittee

To resume hearings on S. 3227, to establish, on a demonstration basis, group therapy programs in ten Federal penitentiaries.

5110 Dirksen Building

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed appropriations (embodied in H.J. Res. 1069, pending on House calendar) to provide financial assistance to New York City.

1318 Dirksen Building

Finance

Public Assistance Subcommittee

To hold hearings on H.R. 12973, increasing the permanent ceiling on Federal spending for social service programs under the Social Security Act.

1114 Dirksen Building

Human Resources

Health and Scientific Research Subcommittee

To resume markup of S. 2755, to revise and reform the Federal law applicable to drugs for human use, and to establish within the Department of HEW a National Center for Clinical Pharmacology.

4232 Dirksen Building

Judiciary

To hold hearings on S. 2361 and H.R. 10965, to revise certain U.S. transportation laws.

2226 Dirksen Building

Judiciary

To hold hearings to examine the FBI's programs to prevent and investigate bank robberies.

357 Russell Building

2:00 p.m.
Select Small Business
To hold hearings on inflation as it relates to economic conditions of small businesses.
424 Russell Building

AUGUST 21

8:30 a.m.
Governmental Affairs
Energy, Nuclear Proliferation, and Federal Services Subcommittee
To hold hearings on S. 3411, to exempt GAO employees from civil service laws regarding appointments, position classification and certain personnel actions, and S. 3412, providing for retirement and survivor benefits of Comptrollers General.
3302 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on S. 2455, the Home Owner's Equity Act, and S. 70, the Home Buyers Assistance Act.
5302 Dirksen Building
Commerce, Science, and Transportation
To hold hearings on the nomination of Gloria Schaffer, of Connecticut, to be a member of the Civil Aeronautics Board.
235 Russell Building
Finance
To resume hearings on H.R. 13511, proposed legislation to reduce income taxes.
2221 Dirksen Building
Foreign Relations
East Asian and Pacific Affairs Subcommittee
To hold hearings on S. Res. 323 and 469, expressing the sense of the Senate concerning human rights in Cambodia.
4221 Dirksen Building
Select Small Business
To resume hearings on inflation as it relates to economic conditions of small businesses.
424 Russell Building

11:00 a.m.
Human Resources
Labor Subcommittee
To hold hearings on S. 517, to authorize employees and agencies of the Government of the U.S. to experiment with flexible and compressed work schedules.
4232 Dirksen Building

AUGUST 22

9:00 a.m.
Judiciary
Constitution Subcommittee
To resume hearings on S. 3164, proposed Citizen's Privacy Protection Amendment.
5110 Dirksen Building

9:30 a.m.
*Human Resources
To hold hearings on S. 2645, proposed National Art Bank Act.
4232 Dirksen Building
*Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on S. 1449, proposed Grand Jury Reform Act.
2228 Dirksen Building
Judiciary
Juvenile Delinquency Subcommittee
To hold hearings on proposed Drug Trafficking Control Act, and oversight of the Administration's efforts to halt the smuggling of drugs into the Southeastern States.
424 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings on S. 2455, the Home Owners' Equity Act, and S. 70, the Home Buyers' Assistance Act.
5302 Dirksen Building
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on S. 3363, proposed International Air Transportation Competition Act.
235 Russell Building
Environment and Public Works
Regional and Community Development Subcommittee
To mark up S. 3186, to provide public works employment for the long-term unemployed.
4200 Dirksen Building
Foreign Relations
Business meeting on pending calendar business.
4221 Dirksen Building
Rules and Administration
To consider further the nomination of John Warren McGarry, of Massachusetts, to be a member of the Federal Election Commission.
301 Russell Building

AUGUST 23

9:30 a.m.
*Commerce, Science, and Transportation
Aviation Subcommittee
To continue hearings on S. 3363, proposed International Air Transportation Competition Act
235 Russell Building
Environment and Public Works
To hold a business meeting on pending calendar business.
4200 Dirksen Building
*Human Resources
To continue hearings on S. 2645, proposed National Art Bank Act.
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold joint hearings with the Committee on Governmental Affairs on S. 2750, proposed Consolidated Banking Regulation Act.
3302 Dirksen Building
Energy and Natural Resources
Public Lands and Resources Subcommittee
To hold hearings on several pending land conveyance bills.
3110 Dirksen Building
Governmental Affairs
To resume joint hearings with Judiciary Subcommittee on Citizens and Shareholders Rights and Remedies on S. 3005, to broaden the rights of citizens to sue in Federal courts for unlawful governmental action.
2228 Dirksen Building
Governmental Affairs
See joint hearings with Committee on Banking, Housing, and Urban Affairs.
Judiciary
Citizens and Shareholders Rights and Remedies Subcommittee
See joint hearings with Committee on Governmental Affairs.
Judiciary
Criminal Laws and Procedures Subcommittee
To resume hearings on bills to provide Federal assistance to State and local criminal justice (S. 28, 1245, 3216, 3270, and 3280).
1318 Dirksen Building

AUGUST 24

8:00 a.m.
Energy and Natural Resources
To hold hearings on S. 3418, proposed Pacific Northwest Electric Power Planning Act.
3110 Dirksen Building

9:30 a.m.
Banking, Housing, and Urban Affairs
To continue joint hearings with the Committee on Governmental Affairs on S. 2750, proposed Consolidated Banking Regulation Act.
3302 Dirksen Building
*Commerce, Science, and Transportation
Aviation Subcommittee
To continue hearings on S. 3363, proposed International Air Transportation Competition Act.
235 Russell Building
Governmental Affairs
See joint hearings with Committee on Banking, Housing, and Urban Affairs.
Human Resources
To hold hearings on the following nominations to be Members of the Federal Mine Safety and Health Review Commission: Jerome R. Waldie, of Maryland, Richard V. Backley, of Virginia, Marian Pearlman Nease, of Maryland, Frank F. Jestrab, of North Dakota, and A. E. Lawson, of Pennsylvania.
4232 Dirksen Building
*Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on S. 1449, proposed Grand Jury Reform Act.
2228 Dirksen Building

10:00 a.m.
Judiciary
Antitrust and Monopoly Subcommittee
To resume hearings on restrictive entry policies in the interstate trucking industry.
6226 Dirksen Building
Judiciary
Constitution Subcommittee
To resume hearings on S. 3164, proposed Citizen's Privacy Protection Amendment.
5110 Dirksen Building

AUGUST 25

8:00 a.m.
Energy and Natural Resources
To continue hearings on S. 3418, proposed Pacific Northwest Electric Power Planning Act.
3110 Dirksen Building

9:30 a.m.
Judiciary
To hold hearings on the nominations of Theodore McMillian, of Missouri, to be U.S. circuit judge for the eighth circuit; Harold A. Baker, to be U.S. district judge for the eastern district of Illinois; and Mariana R. Pfaelzer, to be U.S. district judge for the central district of California.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on S. 2843, to provide for the striking of gold medallions, and on gold sales by the Department of the Treasury.
5302 Dirksen Building
Judiciary
Criminal Laws and Procedure Subcommittee
To resume hearings on S. 3270, proposed Justice System Improvement Act, and related bills.
2228 Dirksen Building

AUGUST 28

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on the FBI Charter as it concerns undercover operations.
2228 Dirksen Building

AUGUST 29

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on the FBI Charter as it concerns undercover operations.
2228 Dirksen Building

SEPTEMBER 7

10:00 a.m.
Commerce, Science, and Transportation
To hold oversight hearings on the lengths of motor tractor trailers.
235 Russell Building

SEPTEMBER 8

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings on S. 2970, proposed Truck Safety Act.
235 Russell Building

SEPTEMBER 14

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on the FBI Charter and its overall policy.
2228 Dirksen Building

SEPTEMBER 19

9:00 a.m.
Judiciary
Constitution Subcommittee
To resume hearings on S. 1945, to prevent unwarranted invasions of privacy by prohibiting the use of polygraph type equipment for certain purposes.
6226 Dirksen Building

9:30 a.m.
Human Resources
Labor Subcommittee
To hold hearings on S. 3080, proposed National Workers' Compensation Standards Act.
4232 Dirksen Building

SEPTEMBER 20

9:30 a.m.
Human Resources
Labor Subcommittee
To continue hearings on S. 3080, proposed National Workers' Compensation Standards Act.
4232 Dirksen Building

SEPTEMBER 21

9:00 a.m.
Judiciary
Constitution Subcommittee
To resume hearings on S. 1945, to prevent unwarranted invasions of privacy by prohibiting the use of polygraph type equipment for certain purposes.
5110 Dirksen Building

SEPTEMBER 22

9:30 a.m.
Human Resources
Labor Subcommittee
To resume hearings on S. 3080, proposed National Workers' Compensation Standards Act.
4232 Dirksen Building

CANCELLATIONS

AUGUST 18

10:00 a.m.
Foreign Relations
East Asian and Pacific Affairs Subcommittee
To hold hearings on S. Res. 323 and 469, expressing the sense of the Senate concerning human rights in Cambodia.
4221 Dirksen Building

SENATE—*Thursday, August 17, 1978*

(Legislative day of Wednesday, August 16, 1978)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by Hon. DICK CLARK, a Senator from the State of Iowa.

PRAYER

The Reverend Dr. Robert B. Harriman, director, the Presbyterian Council for Chaplains and Military Personnel, Washington, D.C., offered the following prayer:

Let us pray. Almighty God, who has blessed us with the gift of life, with trust in Thy love and mercy we approach our tasks in the assurance that Thy wisdom and guidance are sufficient for each moment. Bless this body so that all here done may be in keeping with Thy holy will. To these Thy servants, entrusted with burdensome responsibilities, give strength of body, mind, and spirit. Make them thorough in all their deliberations, wise in all their consultations, and steadfast in all their decisions. Although we differ in talents, interests, and concerns, let there be evidence of respect and cooperation, so that all enacted within these Halls shall be in harmony and for the welfare of the Nation. Remove prejudice or scorn for those who differ with us. Aid us in avoiding all which divides and destroys. May the unity thus achieved reflect Thy holy will for this Nation and its people. Thine be the glory, now and forever.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., August 17, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DICK CLARK, a Senator from the State of Iowa, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. CLARK thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AUTHORIZATION FOR MAJORITY LEADER TO CALL UP H.R. 10878

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the majority leader may be authorized at any time today to call up H.R. 10878.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair recognizes the minority leader.

Mr. STEVENS. Mr. President, I yield the minority leader's time to the Senator from New Mexico.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from New Mexico (Mr. SCHMITT) is recognized.

THE BALLOONING ACHIEVEMENTS OF NEW MEXICANS

Mr. SCHMITT. Mr. President, yesterday and today, Americans have been greeted with the information as to the achievement of three Americans in the area of human adventure.

In this case, in an age that has seen men on the Moon and many other spectacular activities of exploration, we suddenly are confronted with men doing what others have dreamed of for many centuries: They have gone back to some of the very basic first ideas of flying, and that is flight by balloon.

Three New Mexicans—representing not just New Mexico, of course, but the United States as well, and I think most of mankind—have crossed from North America to Europe in a balloon.

This is a spectacular achievement, for which Mr. Max Anderson, Mr. Ben Abruzzo, and Mr. Larry Newman, of Albuquerque, N. Mex., certainly deserve our greatest admiration.

I hope it is realized by my colleagues that the spirit of exploration is alive and well in New Mexico in many areas. This is just another example of the kinds of things that we think this great country can do. With motivation and with a goal, there are no limits to what Americans can do, if they decide to proceed.

These three men—Mr. Abruzzo, Mr. Anderson, and Mr. Newman—join Nancy Lopez, of Roswell, N. Mex., in the golfing world; Al and Bobby Unser, of Albu-

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

querque, in the driving world; Frank Shorter, of marathon fame; George Young, of distance running and steeplechase fame; and Ralph Kiner, of baseball fame, in adding not only to the achievements of New Mexicans, but also to the achievements of this country.

CUTTING TAXES AND CUTTING SPENDING

Mr. SCHMITT. Mr. President, there is a great deal of talk and publicity today about cutting taxes. The Senator from New Mexico is an ardent supporter of gradual, permanent tax reductions, and, as such, is a sponsor of the Kemp-Roth reduction in personal income taxes and the Steiger-Hansen reduction in the capital gains tax.

However, this Senator also is a supporter of gradual and significant reduction in Federal spending. There is absolutely no question that any tax reduction must go hand in hand with a reduction of Federal spending, if we are to avoid further inflationary pressures and have some hope of reducing those pressures.

Both tax reduction and spending reduction must happen, and they must happen soon. The muscles of our country are weakening under the continuing impact of double-digit inflation and excessive taxation of the incomes of our people.

Although an article which appeared recently in Business Week, by Seymour Zucker, entitled "The Fallacy of Slashing Taxes Without Cutting Spending," is somewhat critical of tax reduction efforts, I think it can be read as advocating both tax reduction and a spending reduction.

I ask unanimous consent to have that commentary printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Business Week, Aug. 17, 1978]

THE FALLACY OF SLASHING TAXES WITHOUT CUTTING SPENDING

(By Seymour Zucker)

Arthur B. Laffer first drew the curve on a napkin in a Washington restaurant back in 1974. It popped into his head as he was trying to persuade an aide of former President Ford that U.S. tax rates were so high that they were stifling economic growth. Lower tax rates, he maintained, would send employment and investment soaring to the point where tax revenues would actually rise, despite the lower rates. Laffer has been preaching that gospel ever since. And the Laffer curve—which purports to show the perverse effects of a high tax rate on government revenues—is being advanced as the economic rationale for the Kemp-Roth bill, the biggest tax-cut proposal in history.

Riding in the wake of Proposition 13, which cut California property taxes by 60 percent, Kemp-Roth is picking up strong support, especially among congressional Republicans. No one expects it to pass this year, but it stands a good chance of becoming the key domestic issue in the Republican congressional campaign in November and could also play a role in the Presidential election in 1980. The bill introduced by Representative Jack Kemp (R-N.Y.) and Senator William V. Roth Jr. (R-Del.), would reduce everyone's taxes over the next three years by one-third, thus costing about $124 billion in tax revenues. Its sponsors are pushing the Laffer argument that the tax cut will generate an economic boom of such proportions that in a few years the government will recoup all the initial revenue loss and then some. The reason: The huge tax cut will spark the incentive to work and invest, thus increasing the tax base. The effect is to shrink the deficit without cutting government spending by as much as a nickel.

Elementary. Laffer may have sold some politicians, but not his fellow economists. The economics profession—including some leading Republican economists who support Kemp-Roth—think Laffer would have done well to leave the napkin behind for the waiter to dispose of. They see huge deficits and a rip-roaring inflation if Kemp-Roth is enacted without offsetting cuts in expenditures. To Harvard's Martin Feldstein, the theoretical principle that at some point reducing rates actually increases tax revenues "is something we teach in the first week of the course in public finance." The critical empirical question is to determine when the tax schedule gets into that range, he notes.

"The Laffer curve is more or less a tautology," says conservative economist George J. Stigler of the University of Chicago, where Laffer taught before going to the University of Southern California in 1976. "It has to be right at some level. If enterprise is not discouraged at 95%, then move it to 105% and Laffer would be right by definition." But in Stigler's view, Laffer has failed to show that the current tax structure—where the highest rate on earned income is 50%—has such an adverse effect on incentives that reducing rates would actually increase revenue. "Laffer is no longer a very serious scholar," says Stigler. "He is playing the role of a propagandist, and as such he is performing some service. But I would not base a $125 billion tax cut on his work."

Feldstein and Stigler are not alone in their criticism of Laffer. Alan Greenspan, chairman of the Council of Economic Advisers under President Ford, favors Kemp-Roth—with some changes—because he holds that the only way to cut the growth of government spending is to cut taxes. So he says: "I'm for cutting taxes, but not for Laffer's reasons. I don't know anyone who seriously believes his argument."

Just how far off base is Laffer on the tax-revenue effects of Kemp-Roth? Otto Eckstein, president of Data Resources Inc., has run the Kemp-Roth proposal through DRI's huge computer forecasting model. Assuming that it takes effect in 1979 and that there are no compensatory spending cuts, the DRI model shows that the deficit will grow progressively worse. By 1983, the red ink in the budget—including additional interest payments—will increase to a mind-numbing $100 billion. So rather than recouping the entire cut, as Laffer argues, DRI funds that the Treasury gets only about $25 billion of it.

Overwhelming evidence. To be sure, economists agree that a tax cut would increase total demand and national income and thus partly offset the initial revenue loss. But to offset the effect of lower tax rates fully, total income would have to rise by some four times the original amount of the cut. And the evidence is overwhelming that no cut in taxes could generate a rise in spending and income of that size. A $10 billion tax cut, for example, produces roughly an extra $15 billion of gross national product. The current marginal tax rate against total GNP works out to 25%, so the $15 billion creates $3.75 billion in new taxes—thus recovering barely a third of the initial $10 billion. And under Kemp-Roth, which would cut into the marginal rate itself, the outcome would be worse.

Laffer argues that this kind of calculation greatly underestimates the stimulative effect of the tax cut, because it ignores the impact of the cut on the incentives to work and save. This incentive effect unleashes a sharp increase on the supply side because more people are willing to work, save, and invest. But virtually no one else sees the magic. For example, Herbert Stein, CEA chairman under President Nixon, claims there is no evidence that the supply responses are anywhere near the magnitude necessary to prevent revenues from falling.

Stein's analysis stands in stark contrast to the Laffer contention that the tax revenues will flow back within a few short years. Using the most favorable assumptions about the response of workers and savers to the lower tax rates, he concludes that it would take "about 30 years to regain the revenue level that would have been achieved without the tax cut."

Runaway inflation. Laffer also maintains that Kemp-Roth not only will increase real output but should actually have a dampening effect on inflation. "Excessive money growth has long been recognized as a cause of inflation. It is equally true, however, that too few goods will also cause prices to rise." So as the economy booms, more goods will be produced, and this, he believes, will result in lower prices.

To be sure, Laffer is correct that Kemp-Roth would increase real output—at least in the short run. Eckstein's model shows that the economy in a few years would be booming, with unemployment falling below 5%. But inflation would be on the march. By 1982, for example, the rate of inflation would be almost 2 percentage points higher than without the cut, he calculates. And even this scenario may be overly optimistic. Econometric models have been notorious for underestimating inflation. More important, the model assumes that monetary policy is neutral even in the face of accelerating inflation. But as the deficit soars and inflation really gets rolling, the monetary authorities will have no choice but to tighten the monetary vise. And that means that capital spending and housing get clobbered, and the economy goes tailspinning into recession. So even the spurt in real growth generated by Kemp-Roth may be short-lived.

Laffer and other proponents of Kemp-Roth point to the Kennedy tax cuts of 1962 and 1964 as examples of how sharp reductions in tax rates can generate sustained bursts of economic growth. But their claims have been dismissed as wildly excessive by none other than Walter W. Heller, CEA chairman under Kennedy and Johnson. Heller fought hard for the Kennedy tax cuts, and he would dearly love to take credit for engineering the above-average economic growth that took place between 1962 and 1967. The beneficial effects of those cuts—about $12 billion, or $36 billion in today's prices—were on the demand side, not on the supply side, he holds. The key difference between the early 1960s and now is that the current inflation rate hovers near the double-digit level, compared with about 1.5% then. A tax cut—even one of only $36 billion—carries with it the danger of fueling an inflation from which the nation will take years to recover.

WORLD ADMINISTRATIVE RADIO CONFERENCE

Mr. SCHMITT. Mr. President, an issue that has gained fortunately increasing attention in the press and in Congress is the issue of the World Administrative Radio Conference which is to convene next year in Geneva. This conference is a continuation of discussions by the nations of the world on how high frequencies and satellite positions in orbit are going to be allocated in the future.

The issues that are raised by this conference, commonly known as WARC, are ones which will have a tremendous impact on the future of American technology, American business, and the American Defense Establishment.

It is my hope that the Senate, which must eventually approve any treaty that comes out of the conference, will begin to educate itself on the fantastic implications of adverse policy decisions that may come from that conference and assist those of us in the Commerce Committee and others in insuring that the administration takes a much more in-depth and higher level examination of what our policies will be and what the implications of those policies will be for the Government and for the national economy.

Satellite communications are the wonder of the modern age. They are the first representative of civilization from Earth into space, and clearly our society has become dependent upon those communications.

To do anything that would reduce our ability to use satellite communications and the frequencies required for those communications would be a serious mistake in this Senator's opinion, and I think it is one that the Senate, of course, will not allow the administration to make.

Mr. President, at this point I ask unanimous consent that a summary of the situation relative to the World Administrative Radio Conference that was published in Science on August 11, 1978, entitled "Encounters with the Third World Seen in Allocating Frequencies" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ENCOUNTERS WITH THE THIRD WORLD SEEN IN ALLOCATING FREQUENCIES

WARC, which stands for World Administrative Radio Conference, is hardly a household acronym. However, WARC is likely to achieve a higher recognition quotient because it deals with one of those subjects which were formerly regarded as essentially technical, but have taken on serious international economic and political implications.

At issue is the electromagnetic spectrum, or at least that portion of it used for telecommunications. WARC is a function of the International Telecommunication Union (ITU); a major conference is held every 20 years, the principal purpose of which is to allocate frequencies. The next one is set for September of next year in Geneva.

In the past, even at the last big conference in 1959, the industrial nations, with the United States taking the lead by virtue of its technical supremacy, got pretty much what they wanted at WARC. In the past two decades, however, the explosion of electronics and space technology, particularly the development of satellite communications, vastly increased civil and military uses of the spectrum and sharpened competition for access to frequencies. At least as important, less developed countries (LDC's) recognized the value of a place in the spectrum and began to organize to assert their claims.

The LCD's arguments for a more equal footing in telecommunications directly parallels those they make in demanding acceptance of a so-called New World Economic Order. The LDC's have used the United Nations as a principal venue for pushing their case for greater access to technology, capital, and resources which they see as unfairly monopolized by industrial nations, particularly by the former colonial Western countries. The parallel in the communications sphere is made explicit by the LDC's calling for a "New World Information Order." The LDC's will have considerable leverage at WARC because of the ITU's one-nation, one-vote formula for decisions. They constitute a sizeable majority in the ITU where membership has grown from less than 100 nations in the time of the 1959 meeting to 154 today.

Under the prevailing rules, ITU lays out sectors of the spectrum for various uses—radio and television broadcasting, satellite communications, maritime radionavigation, for example. The frequencies have them been utilized on a first-come, first-served basis. The advantage, therefore, has been with the nations which were technically most sophisticated and quickest off the mark. The LDC's have made it clear that they want to modify the system. Their first concern is thought to be to gain more scope for their own domestic broadcasting, but there are indications that at least some of the LDC's want to share the higher frequencies used for more sophisticated communications, and, if they can't use them immediately, to gain what, in effect, are "parking" rights.

Unquestionably, the American stake in WARC is very substantial. The potential effects of changes seriously unfavorable to the United States are indicated in a 1977 Senate Foreign Relations Committee staff report which takes a broad look at communications problems in the perspective of international politics. As part of their conclusions, the report's authors suggest what, "At its worst," the New World Information Order could mean for the United States. In the national security sphere this country could lose access to frequencies now relied on for military communications, radar, and missile operations. The present wide use of satellites for both military and civilian purposes—weather, crop, and navigation satellites, for example—could be adversely affected. Space research and other scientific activities such as radio-astronomy are vulnerable in the competition for frequencies (*Science*, 30 June). The econpmic consequences of changes in the allocation of frequencies could be very great, ranging from higher telephone bills to losses arising from restriction or increased cost of the huge flow of data made possible by the linkage of computers to modern communications systems.

In assessing the issues that will influence the atmosphere of the Geneva WARC, it is impossible to ignore the dispute between the LDC's and Western nations over the operations of international news media. The LDC's have been unhappy about the dominance of Western news organizations in the coverage and dissemination of world news. They feel that to little attention is given to LDC's and that what news is carried tends to be unfavorable and unfair to them. At the last biennial meeting of Unesco in Nairobi in 1976, the LDC's supported a declaration on the mass media which had its origins in the Soviet bloc. The effect of the declaration would be to give governments greater control over news generated and consumed within their own boundaries and more responsibility for the activities of their own journalists.

Implementation of such a declaration would severely restrict press freedom as it is interpreted in the West and was strenuously opposed by the United States and other Western countries. Action on the declaration was diplomatically delayed, but the subject is expected to come up again at the Unesco general meeting scheduled to begin in Paris in late October. And many observers think that LDC's may be disposed to pursue the principles of the mass media declaration through joint action at WARC. A showdown on the issue may be deferred or deflected by the deliberations of a group of "wise men" commissioned by Unesco. Scheduled to report next year, these practical philosophers are expected to give guidance on the mass media issue but in the context of much broader recommendations on how the LDC's can participate most profitably in global communications development for the rest of the century.

For the United States, the odds on a worst case analysis coming true at WARC do not appear to be overwhelming. U.S. officials are split on the likely effects of the mass media issue. Some believe that a majority of the LDC's are primarily interested in broadcasting frequencies in the lower-frequency part of the spectrum and in the development of their basic national communications networks. The United States is still regarded as the principal source of technology and technical assistance, and these officials feel that if the U.S. government demonstrates an understanding of LDC priorities and offers real assistance in achieving them, the LDC's will concentrate on technical rather than political issues at WARC.

At least until recently, there was considerable apprehension on Capitol Hill and in U.S. industry that the government might drift into difficulty at WARC by default. There seemed to be no recognition at the top of the Administration of the importance of international information and communications problems in general or of WARC in particular.

CHANGE IN THE PICTURE

This year, the picture has changed somewhat, in part because of remonstrances from legislators concerned about the lack of U.S. policy on international information issues. Such legislators include Representative Dante B. Fascell (D-Fla.) and Senator Ernest F. Hollings (D-S.C.). Secretary of State Cyrus R. Vance placed responsibility for coordination of international communications matters with Deputy Secretary Warren Christopher, the State Department's number two man. An interagency review of communications policy was called for and White House interest in the matter is indicated by the reputed existence in draft form of a presidential review memorandum on international communications.

As for WARC, itself, Glen Robinson, a University of Virginia law professor, has been named to head the delegation to the conference and a special office has been established at State. Robinson will have the temporary rank of ambassador for the period of the conference.

Actually, while there may have been insouciance on the subject at the top, the government has hardly been totally indifferent to WARC. In fact, literally hundreds of lower-level officials have been beavering away at preparations. One estimate puts the number at more than 600 involved in various aspects of the very complicated preliminaries.

The United States is unusual in its fully developed, dual, public-private communications system. The Federal Communications Commission (FCC) is responsible for formulation of the nonfederal requirements for WARC through consultation with industry and other nongovernment users. The National Telecommunications and Information Administration (NTIA) does the same for federal users. NTIA is also charged with reconciling the two streams of requirements and formulating consistent federal policy. In the United States, about half of the use of frequencies is nonfederal and half federal. Roughly half of the federal use is military. The State Department has the responsibility for international negotiations and is now in the process of forming the delegation that will go to the WARC.

These signs of activity seem to have had the effect of somewhat quieting expressions of alarm about the state of U.S. policy, although the congressional critics have hardly lost interest. The Senate version of the State Department authorization bill contains a section on international communications policy which requires the President by next 20 January to report to Congress on "procedures he has established by which to develop

and maintain a comprehensive United States policy regarding international communications and information issues." And, on the

only part of the problem: states and municipalities have added further burdens. The cost of federal regulations, which is passed on

United States adopted a hostile attitude toward business, subjecting it to thousands of costly regulations. For example, in the mak-

This reckless logic comes only a few months after the Carter Administration lobbied shamelessly on Capitol Hill for approval to

ambulance airplanes, trainers and even target drones, when a valid contract already

the world, they are given an obvious level of prestige that makes it increasingly

and maintain a comprehensive United States policy regarding international communications and information issues." And, on the subject of WARC, Hollings is expected to seek a progress report on preparations for the conference before Congress adjourns at a special hearing by the Senate Commerce Committee's communications subcommittee which he chairs. WARC, of course, is still more than a year away, and with so many variables at play, predictions on the outcome must be taken with some skepticism. One interesting question is whether the Soviet Union and the United States will be at odds over specific issues at WARC. The two superpowers are the biggest users of the spectrum and there are reports that the Soviet Union is demonstrating a certain coolness to the idea of a New World Information Order. But, especially in view of the present tensions between the two countries, it is unclear whether a community of interest will lead them to make common cause at WARC.

No informed observer expects the status quo to be unchallenged or unchanged at the 1979 WARC. For a very long time, the electromagnetic spectrum has been, so to speak, an American lake. The change in circumstances is summed up by a quote attributed to a Sudanese minister, Ali Shummo, which is cited almost ritually by commentators on WARC. "You (the industrial nations) have 10 percent of the population and 90 percent of the spectrum and we (the LDC's) have 90 percent of the population and 10 percent of the spectrum. We want our share." He did not have to add that at WARC the LDC's will also have the votes.

Mr. SCHMITT. Mr. President, clearly related to the explosion of technology that has made the World Administrative Radio Conference so important to this country is the general issue of how the United States capitalizes on its traditional and very, very critical base of technology with respect to international marketing and the international economy.

There are several aspects of the present policies of the Federal Government going not only to this administration but even to previous administrations that have been working against the expansion and utilization of our technology base with respect to exports of goods and services and more critically at the present time with respect to strengthening the dollar through a reduction in our balance of payments.

The Federal Government's policies have not been conducive to the creation of new technologies that eventually can be applied to products and services for export, and those products and services that could be exported are being stifled by the present policies of the Federal Government with respect to the examination of exports in the light of other foreign policy consideration. It is not this Senator's suggestion that exports should not be examined in the light of foreign policy considerations but that it must be done with a certain degree of commonsense.

Mr. President, I shall ask unanimous consent that two recent editorials dealing with this subject be printed in the RECORD. Prior to their printing I will say the first is from Science magazine, an editorial of August 11, 1978 by Philip H. Abelson, entitled "The Federal Government and Innovation" and I draw my colleagues attention to two paragraphs from that editorial:

A similar level of federal intervention prevails in other industries, and it represents only part of the problem: states and municipalities have added further burdens. The cost of federal regulations, which is passed on to consumers, has been estimated as high as $100 billion a year and it is increasing. The higher cost fosters inflation at home and inability to compete abroad.

The second paragraph of importance reads:

The result of the current climate is that many major companies are concentrating their R & D on improvements in existing processes and products. At the same time, the creation of small high-technology companies has virtually ceased.

The second editorial from Aviation Week of August 7, 1978, written by Robert Holtz, entitled "Carter's Export Muddle" details some of the decisions that have been made recently to either stop or slow down the export of products of American technology in the military area and not only American technology but they have inhibited the sale of arms by other countries when American components are included in those arms.

I quote one paragraph from this editorial prior to its printing, as follows:

It is this naive assumption that if the U.S. stops selling arms abroad peace will envelope the world that screens reality from most of the Carter minions trying to cope with aerospace export problem. They naively suppose that France, Britain, Israel, Russia and the rest of the aerospace producing nations will gladly follow the Carter lead. In fact, the British and French are rushing into every export vacuum created by Carter policies.

As we discussed yesterday on the issue of nuclear waste policy in the Commerce Committee, I think the summary is that if you want to set the rules of the game, Mr. President, you have to play in that game. You cannot be a spectator.

Mr. President, I ask unanimous consent that the articles to which I have referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE FEDERAL GOVERNMENT AND INNOVATION

In the recent third annual AAAS R & D Policy Colloquium, "R & D in the Federal Budget," about half the agenda was devoted to university-government relationships, the other half to industrial research and development. Attention to the business sector is timely; the United States has lost its ability to compete in many products involving technology. This contributes to a sinking dollar, inflation, and unemployment.

Speakers at the symposium, including President Carter's Science Adviser, Frank Press, emphasized that a major factor has been a lack of innovations. In the past, new high-technology products were an important source of prestige and of a favorable balance of payments. Innovations also fostered gains in employment and productivity.

For nearly two decades after World War II, the United States was a leader in fostering research and development. Expenditures for R & D rose to 3 percent of the gross national product (GNP). At the same time, Western Europe and Japan were only gradually recovering from the war. But while trading rivals continued a vigorous effort to catch up, the United States ceased to expand its support of R & D. In constant dollars, the level of effort has been static for more than a decade and now represents only 2.2 percent of the GNP. While governments in other countries such as Japan worked closely with industry to foster innovations and exports, the United States adopted a hostile attitude toward business, subjecting it to thousands of costly regulations. For example, in the making of steel, companies must comply with more than 5000 regulations issued by 27 different federal agencies.

A similar level of federal intervention prevails in other industries, and it represents only part of the problem: states and municipalities have added further burdens. The cost of federal regulations, which is passed on to consumers, has been estimated as high as $100 billion a year and it is increasing. The higher cost fosters inflation at home and inability to compete abroad.

One of the effects of creating this vast structure of federal regulations has been an enormous concentration of power in Washington. In contrast, vice-presidents for R & D of major companies tend to be subdued and anxious. One of them told me he devoted 90 percent of his efforts to matters dictated by regulations or anticipated regulations. The time required to proceed from research to the introduction of an innovative product is 10 years or more. In the meantime, who knows what regulations may be imposed?

Other factors discouraging innovation include high interest rates and tax policies. In Japan, companies can write off capital expenditures in 3 to 5 years. Here 10 year or more is common.

The result of the current climate is that many major companies are concentrating their R & D on improvements in existing processes and products. At the same time, the creation of small high-technology companies has virtually ceased.

Frank Press, who is fully aware of the trends in innovation, has brought the matter to the President's attention. In consequence, a major domestic policy review has been launched. The Cabinet-level study will be undertaken by a committee drawn from 15 federal departments, agencies, and offices. The committee will be chaired by Secretary of Commerce Juanita Kreps, with day-to-day coordination by Jordan Baruch. During the study industry, labor, and public interest groups will have an opportunity to make inputs.

The initiative of Press and the good intentions of President Carter are to be applauded. But the committee is loaded with representatives of the regulators. They will be merely acting as humans if they seek to escape blame. Even so, the policy review will surely have constructive consequences as the committee looks at the government's role in inhibiting innovation.

PHILIP H. ABELSON.

[From the Aviation Week and Space Technology, Aug. 7, 1978]

CARTER'S EXPORT MUDDLE

President Jimmy Carter's Administration has managed to create an aerospace export policy that is the most puzzling bureaucratic maze in a city known for this product and is eroding the economic foundations of a major U.S. industry that is still propping up a declining balance of foreign trade. With the touch for which the Carter Administration has become famous, all of this energetic, counterproductive activity has failed to achieve any of the goals its progenitors sought.

The Carter Administration's intervention in the third country sale of Swedish Saab Viggen fighters to India because they contain some U.S. licensed subsystems is the latest example of this self-defeating folly. The U.S. components involve the Pratt & Whitney JT8D engine, which is in widespread commercial service around the world, and the Singer-Kearfott navigation system. The ground for refusing approval of the sale, according to Secretary of State Cyrus Vance, is that introduction of a new weapon would destabilize the India-Pakistan situation.

This reckless logic comes only a few months after the Carter Administration lobbied shamelessly on Capitol Hill for approval to sell the two most advanced fighter systems in the world—General Dynamics F-16 and McDonnell Douglas F-15—to opposing Arab and Israeli factions in the most volatile and war-ridden portion of this planet.

One of the other pious points made by the Carter Administration was that it was going to curtail foreign arms sales to all but the NATO nations and Australia, New Zealand and Japan. In fact, during the past 18 months the Carter Administration has approved far more arms sales outside the NATO nations, Australia, New Zealand and Japan than within them, with most of the arms destined for the Middle East powder keg.

In the meantime, the very real needs of NATO nations are being buried in diplomatic wrangling, with pious platitudes as a substitute for the new military hardware required to counter the enormous Warsaw Pact forces expansion.

The Carter disarmament coterie includes some of the most naive people to operate in the capital city during the 30 years we have observed the scene. One lad fresh from the red clay fields of southern Georgia told an astonished aerospace executive who was trying to discover the substance of Carter arms policy: "We have got to stop the world from going down the tube. If we don't sell arms nobody will have anything to fight with."

It is this naive assumption that if the U.S. stops selling arms abroad peace will envelope the world that screens reality from most of the Carter minions trying to cope with aerospace export problems. They naively suppose that France, Britain, Israel, Russia and the rest of the aerospace producing nations will gladly follow the Carter lead. In fact, the British and French are rushing into every export vacuum created by Carter policies.

The Soviets, who have taken the full measure of the Carter naivete, are stringing him along by endless mumbo-jumbo while they peddle the enormous arms surplus created by the modernization of their own forces to the Middle East, Africa, Asia and South America—wherever trouble-makers are willing to trade political influence for arms. Both British and French aerospace industries recorded all-time peak aerospace exports for 1977 and are heading for even higher totals for 1978.

The U.S. rejection of the Swedish sale to India will not change the military trends in that part of the world one iota. The Indians will simply get what they want from the French, British or Russians. A perfect example of this U.S. futility occurred a few years ago in South America when the State Dept. told the Israelis they could not sell Kfir fighters to Ecuador because they contain the U.S.-licensed General Electric J79 engine. The rationale was to prevent the Ecuadorian military capability from improving despite the Soviet sale of tanks, missiles and swing-wing Sukhoi fighters to their Peruvian neighbor. Ecuador simply bought a supersonic fighter from the French—the Dassault Mirage F1.

This is not the first time the State Dept. has tried fruitlessly to tell the rest of the world how it should run its internal affairs. More than a decade ago, the Kennedy brothers told South American nations they should spend their money on "poverty, not planes" and banned U.S. sales to Latin America. This led to nearly $2 billion in French and British aerospace sales that overflowed heavily into the commercial area and also gave the Soviet Union its opening wedge in Peru.

But the Carter Administration has added another bizarre twist to its export policy maze with the civil rights office of Patt Derian in the State Dept. that now has a veto power over civilian aircraft sales if other nations do not meet Jimmy Carter's standard of civil rights. This has resulted in the veto of ambulance airplanes, trainers and even target drones, when a valid contract already existed. The only result of these civil rights vetoes will be more shifting of business from U.S. to foreign sources.

The result of all of these Carter policy gyrations is a Washington bureaucratic maze that baffles even cynical, veteran players of capital city games and makes it impossible for aerospace industry executives to get a government decision on even the most routine export sales.

What all of these Carter bureaucrats don't realize is that they are eroding an industry that over the past eight years contributed $52 billion in exports for a nation that had a $53-billion trade deficit for the same period. What these Carter bureaucrats also don't realize is that their fumbling and feckless policies are not achieving any of their stated goals but are simply transferring jobs from Wichita, Dallas, Cincinnati, St. Louis and Hartford to Paris, Toulouse, Bordeaux, London, Bristol and Manchester. Far beyond the damage created by the current decisions and bureaucratic morass is the growing feeling in the rest of the world that the U.S. government has made the U.S. aerospace industry an unreliable partner in the international marketplace.

HUMAN ISSUES IN HUMAN RIGHTS

Mr. SCHMITT. Mr. President, on a final matter, I wish the RECORD to include and ask unanimous consent to do so at the conclusion of my remarks an article again from the August 11 Science magazine entitled "Human Issues in Human Rights." And I ask unanimous consent that this be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. SCHMITT. This article details the experience of the Committee on Human Rights of the National Academy of Sciences over the last many years.

It will provide, I think, a good perspective on the concern and the uncertainty with which scientists are approaching many of the problems coming under the general category of human rights. But I think it is safe to say, Mr. President, that we should be very, very careful as we approach, say, the problems of human rights in the Soviet Union to realize there are few black and white answers.

For example, communication through science with the Soviet Union has been one of the major windows that the rest of the world, the free world in particular, has been able to see through in order to understand just what was happening with respect to human rights in the Soviet Union.

To suddenly decide, either through individual or Government policy, that we are no longer going to communicate through science would mean we close that window. It does not mean we condone the activities of the Soviet Union. Just the opposite. It means we want to understand those activities in order to be able to condemn them.

There is another point that sometimes is missed in this area of human rights in its relationship to scientific communication, and that is those individuals in the Soviet Union who are known as dissidents very frequently are some of the greatest scientists of that country, and, by contact with the great scientists of this country and other nations around the world, they are given an obvious level of prestige that makes it increasingly difficult for the Soviet Union to violate their human rights and to punish them as commentators on the present state of human rights in the Soviet Union.

So I would encourage, first of all, my science colleagues in this country to obviously follow their conscience, but not to arbitrarily reject communication with their counterparts in the Soviet Union because it is a way in which we understand the problems of our fellow scientists and fellow human beings in that country.

But I would also encourage and urge my Senate colleagues not to rush to prohibit in any way the freedom of choice of scientists to communicate with their colleagues in the Soviet Union or any other nation where human rights are being violated.

It is, Mr. President, a unique and, I think, very important way in which we provide ourselves with an understanding of the problem and, in fact, can help to alleviate the problem through the prestige that we grant our friends and colleagues in these other countries.

EXHIBIT 1

Human Issues in Human Rights

(By Robert W. Kates)

To be active in defense of human rights is to confront human issues both disturbing and difficult. For almost 2 years a committee of the National Academy of Sciences (NAS) has sought to develop a sustained program of human rights activity appropriate to its membership and its tradition of concern for the rights of scientific workers.

THE ACADEMY COMMITTEE

The Committee on Human Rights was chartered by the council of the academy and is composed of seven members of the academy and three liaison members from the National Academy of Engineering and the Institute of Medicine.[1] Exceptional support is given to it by the staff of the Commission on International Relations.[2] The committee received financial support from the academy's endowment funds.

Our activity focuses on the plight of individual scientists, engineers, and medical personnel suffering severe repression. Such cases may originate in the files of Amnesty International, with the initiative of a member of the academy, in a letter from a victim's friend or family, or in the informal reviews that we have undertaken of the fate of scientific workers in different areas.

When a case of severe repression has been identified, we begin a further process of inquiry that always involves consultations with a responsible spokesperson of the country where our colleague resides or is imprisoned and, where possible, with members of human rights organizations and scientific institutions, with a representative of the U.S. embassy in the country involved, and with the victim's family and friends. A great deal of care goes into these inquiries as we try to maintain the same standards of evidence, balance, and open-mindedness that characterize academy assessments on scientific matters.

When a clear-cut case has been developed—clear-cut in the sense that there is a strong basis to assume that an individual is, indeed, undergoing severe repression—we formulate a series of requests appropriate to the case and prepare a public statement. The statement and the requests are reviewed by the academy's 12 elected councilors; when approved, sometimes after revision, they are made public. Once this is done, our com-

Footnotes at end of article.

mittee tries to undertake a sustained effort in behalf of the aggrieved individual, combining public remonstrance with appeals to the concerned government, their national academy if such exists, or other scientific institutions and providing moral support to the individual and his or her family.

A major feature of the committee's effort is our correspondent network of some 350 members of the academy who have volunteered to receive communications from the committee and to act upon them. Thus, the efforts of the committee are amplified as correspondents write or cable governmental representatives, offer support to families, and call attention to the plight of individuals within their professional societies, at their workplace, or through their international contacts.

Currently, inquiries and other efforts are being directed in behalf of individuals in 11 countries, and public statements have been issued in behalf of 18 individuals: Federico Alvarez-Rojas, Claudio Santiago Bermann, Gabriela Carabelli, Juan Carlos Gallardo, Antonio Misetich, Eduardo Pasquini, and Elena Sevilla of Argentina; Vladimir Lastuvka and Ales Machacek of Czechoslovakia; José Luis Massera of Uruguay; Sergei A. Kovalev, Yuriy F. Orlov, and Antoliy B. Shcharanskiy of the U.S.S.R.; T. W. Kamil, I. Made Sutayasa, Bursono Wiwoho, and Kamaluddin Singgih of Indonesia; and Ibrahima Ly of Mali.

The last five cases, which we have just formally adopted, can demonstrate some of the committee's process. The Indonesian scientists have each been held incommunicado from immediate families and relatives for long periods of time. They are representative of a much larger number of Indonesians[3] who also are being held, often without trial, without access to legal counsel, and without other opportunity to have their arrest and detention clarified or adjudicated.

T. W. Kamil, about 50 years old, is one of Indonesia's leading linguistic scholars from the University of Jakarta; he studied at the University of Michigan. He was arrested on 30 October 1965 and has been detained since that time. He is reported to be held at Nusakembangan prison.

I. Made Sutayasa, believed to be about 36 years old, was an archeologist employed at the National Research Center of Archeology until 1975 when he was arrested in Jakarta upon his return from a conference of archeologists in Australia. He has not been formally charged or tried; it is believed he is being held on the island of Bali. He is married and has four children and may have been a member of the Indonesian Communist Party before it was banned.

Bursono Wiwobo, about 55 years old, was professor of educational psychology at Gadjah Mada University in Jogja-karta, Java. Professor Wiwobo had been a member of the National Planning Board under the Sukarno government and at the time of his arrest in late 1965 was chairman of the Indonesia Association of Scientists. He is reported to be either in Jogjakarta prison or detained on Buru Island, the location of a permanent resettlement camp for untried political prisoners. He participated in the nationalist movement to gain independence from the Dutch, after which he studied in Prague from 1951 to 1954 where he earned a degree in psychology. He later headed the psychology department of Gadjah Mada University in Jogjakarta and was a founder of the Indonesian Scholars Association. He is reported to be in poor health.

Kamaluddin Singgih, age 47 years, was teaching in the department of mechanical engineering at the Technological Institute in Bandung when detained January 1966. Later that same year he was released to assist in flood control projects—only to be taken

Footnotes at end of article.

into custody again in January 1967. Originally imprisoned in Salmba prison in Jakarta, he is now on Buru Island. Singgih studied physics and engineering at Stuttgart between 1960 and 1965 and was reputed to be sympathetic to the Communist Party.

Our information concerning these Indonesian colleagues is thinner than for most of our cases. Three of them have been in detention for upwards of 12 years and their very isolation makes it difficult to obtain current information about them. Thus we have quietly and privately sought—so far without success—to obtain clarification as to their status from the government of Indonesia.

We know somewhat more about Ibrahima Ly, a Ph.D. in mathematics from Moscow State University and, until his arrest and imprisonment, a mathematics teacher at the Ecole Normale Supérieure in Bamako, Mali. He was arrested in June 1976 along with 14 other persons who were accused of writing a political tract that urged Malians to vote "no" in a referendum called by the Malian government to approve a new constitution. He was subsequently brought to trial in April 1975 under charges of subversion against the government, found guilty, and sentenced to 4 years of imprisonment.

Our list of concerns does not always get longer. The scientific community can share in the satisfaction that Juan Carlos Gallardo of Argentina has been released and is again working in physics in the United States and that Elena Sevilla should follow shortly. And among those cases that were resolved during the course of our inquiries, we note that:

Ismail Mohammed, who spoke out against segregationist policies in South Africa and was detained there in September 1976 and fired from his university post, is now practicing mathematics again at another university.

Grigoriy Chudnovskiy, a gifted young Soviet mathematician, was permitted to leave the U.S.S.R. with his brother, David, who is also a mathematician, and his elderly parents; he is currently in the United States receiving treatment for myasthenia gravis.

Taysir al Arouri, a Palestinian physicist, who was detained for 2 years without charge or trial by the Israeli government, has been released; it is hoped that he will return to his position at Bir Zeit University, teaching physics and mathematics.

Professor "X," an African mathematician, fearful of his life if he returns to his country, has had his visa extended to remain in the United States.

In all of these cases, our inquiries were some of many such efforts and remonstrances from scientific societies and individual scientists. We can all share in the satisfaction of their resolution.

But these are still the exceptions. Four Argentinian physicists (Alvarez-Rojas, Carabelli, Misetich, and Pasquini) are simply reported as "not registered" by the Argentinian government. Massera enters his third year in prison in Uruguay despite his willingness to leave the country and take up an offer of a post in Italy. Kovalev enters his fourth year in prison despite offers from Stanford and Cornell for visiting posts. In Czechoslovakia, the appeal by Machacek has been rejected and Lastuvka's sentence has been reduced by 1 year by the Czechoslovakian Supreme Court. They still remain as the first imprisoned victims of the Charter 77 movement, a Czechoslovakian effort to monitor human rights. Orlov and Shcharanskiy have been summarily tried and found guilty in the U.S.S.R.

As we sought to develop our program in our initial year of activity, we faced three major issues:

Whose human rights?

Which human rights?

How do we act for human rights?

WHOSE HUMAN RIGHTS?

The issue of whose human rights we were concerned with touches on the essence of a basic question that we had to consider: "Are scientists special?" After some months of discussion and reading, the consensus of our committee was negative.

Scientists are not special, neither as victims nor as torturers do we deserve to be singled out. It is true, as the Ziman report[4] states, that science as an activity has certain characteristics—a reverence for truth that leads its practitioners to query and dissent, a process of verification that requires open dissemination and communication, a universality of discourse and goals whose common language and pursuits go beyond national borders—that may be readily seen as threatening to authoritarian regimes or even in conflict with nation-building goals. But the Sierre Chica prison in Argentina is filled not with scientists but with young workers and students. As Philip Handler put it in an interview in *BioScience*[5]:

> . . . tortured shoemakers hurt quite as hard as tortured scientists. Protesting only for scientists. Protesting only for scientists doesn't quite fit with my own beliefs about all of this. Scientists happen to be a little bit more visible. The world knows about them. The shoemakers are taken off behind the barn and shot.

If we scientists are not special, though, why limit our human rights activities to our own—to scientists, engineers, and health personnel? Our answer is simply: they are our own. We hope that other groups—trade unions, bar associations, women's groups, and shoemakers everywhere are equally or more active. But we will surely be more effective in identifying victims, in documenting their cases, and in supporting them, if we can appeal to that special quality of collegiality that we share and if we can use for such appeals the established avenues of scientific communication. In so doing, however, we know that in many, if not most cases, the nameless victims of repression have few if any scientists among them, and in some cases, scientists serve with the repressors.

Having chosen to limit our efforts to "our own" we were still left with some issues of definition: how far do we extend the concept of scientist and at what point in a career does an individual become a scientific colleague? Our answer, in keeping with the universality of science, was to seek a similar universality of outreach: not merely to the well-known and well-connected, not only to the ideologically similar, but to all victims in science, engineering, and medicine wherever they may be.

It is understandable that our academy officers have taken the strongest possible position in defense of Sakharov, a foreign associate of the academy; that as academicians who are well known and well connected we know and thus respond to the victims from our own ranks; or even that some of us more readily respond to victims of our own personal ideological persuasion. But it cannot be, and it is not, the position of our committee to limit our efforts to such cases.

Thus we have spent a considerable portion of our collective energy on trying to extend our knowledge of the plight of individuals in the less-known areas of the world and to examine the situation in our own and other countries of similar ideological persuasion. We have done so even at the cost of limiting our efforts in behalf of better-known cases, often to the pique and annoyance of our own members and colleagues.

We are, of course, limited in just how well we extend ourselves. In many parts of the world, science is poorly developed and so are our contacts with those areas. And we surely miss or rationalize away some of the travesties of human rights in our own midst. But it is not for want of trying.

WHICH HUMAN RIGHTS?

In considering the second issue—Which human rights?—I urge a reading of the Ziman report.[6] It makes one basic point and makes it well. Beginning in 1945 and up to the present, a major international shift took place in human rights activity. Human rights today are not merely moral rights, they are international legal rights. An internationally accepted code of human rights—economics, social, political, and religious—has been developed. Most nations have not ratified that code, fewer nations implement those rights, and in only one case, the Council of Europe, does an effective international appeals court exist.[8] But almost all nations give lip service to it, and many nations have signed treaties that accept at least a portion of the evolved code. There is an international standard for human rights.

Using this standard is extremely helpful to us in our selection process. We do not have to sit in judgment of our colleagues now more than 12 years in Indonesian prison camps or 13 months in Lefertovo prison. When the Israeli government says that Taysir al Arouri "incited terrorist activities" or Uruguayan officials say that Massera was found guilty of "subversive association"[7] we do not need to make judgments that are clearly beyond our knowledge. It is sufficient to know that Al Arouri has been detained without being tried or charged under so-called Jordanian Administrative Law (which is really the relic of the British Mandate Law and which ironically was used to imprison many pre-independence Israeli patriots). And to know that Massera probably has been tortured and has certainly suffered physical impairment, even though Uruguay has an established tradition of allowing opponents exile and there is a post in Italy for him and his wife (who is also imprisoned).

Thus we draft our requests—an end to torture, rights to trial, to representation, to visitation, to courtroom observers, to receive and send scientific literature, to exile (as opposed to continued detention), to humanitarian release (in case of hardship), and to extension of existing amnesty. All of these are rights implicit in the international code.

In requesting compliance with the international code, we need not underestimate the threats that nations perceive from dissidents: we live in a world where terrorism is a reality and not limited to national liberation or the overthrow of tyranny, where subversion and dissent may threaten all but the strongest and oldest of societies. Nonetheless, the prisons of the world would empty of prisoners of conscience if countries would adhere to the minimal rights of the *Universal Declaration of Human Rights* and its successor documents.

If we take international rights seriously and try to use them effectively to refute the charge of intervention in the internal affairs of other countries, we cannot choose them selectively. We Americans have an ideological bent that selectively equates human rights with certain civil and political rights, ignoring many other rights embodied in those covenants. Those who would dispute our right to speak out raise this issue repeatedly with us. Here are three examples. A member of an American scientific society who was born in Argentina, writes an open letter to the society's president condemning his action to protest the repression of Argentinian colleagues:

> You [the President] have called attention to nefarious practices in Argentina. Well, I must tell you that the average citizen there has more freedom in some aspects than we have here. Have you heard . . . that hundreds of thousands of elderly people, and some not so elderly, in certain areas of the United States are locking themselves up and starving because of the fear of street violence. Our American cities are filled with men and women like the elderly couple in New York who committed double suicide recently for fear of going out and being mugged again. Have you . . . written letters to President Carter about this shameful problem . . . [a] problem unknown in Argentina?[9]

The Iranian representative to the World Bank writes:

> In spite of some 30 years of debate over this complex issue in the United Nations, American and Western libertarian philosophy still regards "human rights" in a very narrow context: as essentially political, universal and timeless.
>
> But as far as the third world is concerned, they are largely one-sided, passive and abstract. They reflect political rights for the redress of grievances, personal immunity for unlawful or unnecessary search and seizure, habeas corpus privileges, due process of law for incarceration or imposition of fines, the absence of cruel and inhuman punishment, and a host of other individual freedoms of action.
>
> But they are silent about the society's obligation toward the individual; they say little about the right to employment, the right to obtain a meaningful education, the right to enjoy a minimum of life's amenities. These "active" and "positive" sides (that is, society's obligations) are either ignored or considered as secondary in the roster of Western "human rights".[9]

A Soviet legal expert echoes these sentiments:

> When they discuss human rights, many Western ideologists emphasize not socioeconomic problems but the freedom of the individual. Without question [these are] an essential element of democracy.
>
> All these are not enough, however, in our view. We believe that society must also guarantee the individual the right to education, to work, and to material security. . . . There are now 17 million unemployed in the industrialized capitalist countries . . . we have no unemployment [in the USSR] since the beginning of the thirties.[10]

I have the impression that many human rights activists respond to these concerns as if they were red herrings to be ignored or a rationalization for repression and not to be credited with serious attention. In my opinion, this would be in error. To justify a sentence for Kovalev or Orlov by the fact that we tolerate a high unemployment rate in the United States or to excuse the thousands of kidnappings in Argentina on the basis of the muggings that occur in the United States would clearly be nonsense. But to ignore the substance of these challenges would be a serious mistake.

The international codification of human rights provides for economic and social rights as well as political rights. To use one of the examples cited: it is indeed shameful that in the richest nation on earth 6 to 7 percent of the work force is almost always out of work, and 30 to 40 percent of black youth seem permanently unemployed. Our most rational goals for unemployment range from 4 to 6 percent; in contrast, not only in socialist countries, but in many Western European countries, a 1 percent rate is considered a national calamity.

Let us welcome a genuine dialogue. As we point out to our Soviet colleagues that their remarkable employment record is not enhanced by denying dissidents the right to work, let us also consider ways in which we in science and technology may work to enhance the right of all to work, to have security in our cities, and to meet basic human needs.

There is another view as to which human rights can be asserted. It is the view of Sir Andrew Huxley and other British scientists within the Royal Society. He distinguishes between defense of the political rights of dissident scientists and the defense of scientific rights in the face of intrusion of the state. He notes:

> "The persecutions of the present day are not directed against scientific doctrine or against scientific enquiry as such; they are directed against individual citizens who have had the courage to speak up against oppressive features of the regimes under which they live. Among these brave individuals there are, for example, writers and medical men as well as scientists. The appropriate reaction therefore comes from us not as scientists but as citizens; if we wish to join in some corporate protest, it should be through one whose prime concern is with science. If a scientific body publicly takes a step whose justification is political and not scientific, it will lose the right to claim that it is acting purely in the defense of science on some future occasion when it wishes to speak out against, say, a repetition of the Lysenko affair.[11]

In choosing the clear-cut case of Lysenko and the role of some political dissidents, Sir Andrew has the advantage of posing the extreme cases to support his opinion. Unfortunately, we find it more difficult to grapple with the continuum of repression, to determine just what is scientific and what is political. To cite just two examples:

Some Argentine scientists appear to have been denounced, killed, or imprisoned because they differed on scientific policy with the military or were actively reformist in the governance of their institute or university.

Many Soviet scientists who are clearly political dissidents are punished by manipulating the institutions and even the literature of science: they are denied work, advancement, and degrees, and their works are even excised from the literature. Pressure is brought on their colleagues to acquiesce to or carry out these acts.

Drawing lines in science and human rights is difficult. We presume little righteousness in the way we have drawn ours, but we fail to see the incongruity of a scientific society concerning itself with the human condition of fellow scientists as well as with their scientific doctrine.

HOW DO WE ACT FOR HUMAN RIGHTS?

Having chosen to speak to the internationally agreed-upon human rights of individual scientists, the issue of method still remains. How do we act in behalf of those rights?

Our major effort has been to develop an approach that matches patience with persistence. Our committee began work a year prior to President Carter's initiatives and the academy's human rights activities date back to 1956. But we are sufficiently wise, or cynical, to note how cyclic and fluctuating public and government interest in current issues seem to be. Ours is a nation given to hyperbole; we fear that the crusade for human rights may go the way of the "great society" or the "war against poverty." It is irresponsible for members of human rights groups to raise the hopes of victims for redress and then turn to some other seemingly more current or pressing issue. Thus we have tried to develop a capability for patient, sustained, and persistent inquiry and support.

At the same time we have had to face (and continue to face) various tactical issues. From time to time we have been pressed by academy members and friends toward quite differing views. One member stated his dilemma as follows:

> "I applaud Carter's statements on human rights as an aspect of national policy. Will a letter from a lowly academic and civil servant, even though a member of NAS, really add anything to Carter's forceful statements and the NAS Committee declaration? Whatever it does, will it also be at the cost of the cordial working relations, indeed friendships, that I have managed to open up over the

Footnotes at end of article.

last decade with a number of Soviet scientists not to mention the matter of field access? Or worse, will it get my Soviet friends in trouble? It is easy to be for human rights when you're not personally threatened by their loss." [9]

After much thought, this member did write one of the most moving letters I have encountered, expressing to Soviet authorities that it was the very respect and affection he had for their country and for his scientific colleagues that impelled him to appeal in behalf of an imprisoned colleague.

A very different view is expressed by a participant in the exchange program organized by the academy:

Our experience at a meeting in the U.S.S.R. shows that generalized protest is almost useless, but specific threats and promises can accomplish a lot.

My protest is against the Academy's decision to exert no actual pressure on the Soviets. Therefore since the Academy is useless on this issue, individuals and groups of American scientists have to protest against the Academy as well as against Soviet behavior.[9]

In response to this and similar concerns, our position continues to be to hold to the universality principle, to not restrict the channels of scientific communication in the name of trying to maintain and extend them. This is our institutional position and it is my own. But it is not necessarily the position of all individual scientists. Scientific communication is in the last analysis a voluntary act, like so much we do. Increasingly, more and more scientists may withhold their participation in exchanges with individuals or groups they feel are unresponsive or even complicit in repressing colleagues. This has clearly been the response in the wake of the Orlov conviction in the U.S.S.R. His heavy sentence, closed trial, and the apparent treatment of his family and friends dismayed much of the scientific community. Individuals and groups, many with deep personal commitment to scientific exchange with the Soviet Union, canceled or delayed their planned trips, seminars, and meetings.

THE DISTORTIONS OF HUMANITY, NATIONS, AND SCIENCE

How we allow the pain of the victim and the cacophony of protest to enter the quiet and generally well-mannered house of international science is a question that will persist and recur. But lurking in the nether darkness of questions asked but not answered are the most troubling of all issues, those raised by the profound distortions of humanness, nationhood, and science that follow in the wake of repression.

Torture is widespread. According to Amnesty International it occurs in some 60 nations. It is not limited to the Idi Amins or to the secret police of the world.

Our own country was accused by responsible observers of countenancing the use of torture and serious violations of human rights in South Vietnam and of permitting the teaching of highly questionable interrogation techniques in countries receiving assistance in the training of domestic police. Because of the European Covenant on Human Rights, Britain has compensated victims of inhuman and degrading techniques used in Northern Ireland.

It is not clear how much technical skill is needed to employ the electric shock apparatus used in basement cells. And one cannot imagine the professional standards of the doctors who patch up the victims in silence or of the psychiatrists who prescribe "treatment" for the dissidents they label insane. But surely they demonstrate that our scientific ethic is not universal and that it fails us now, as it did when horrors were perpetrated in scientifically run concentration camps.

For scientists to be active in defense of human rights is to learn and relearn what Rabelais knew in 1532: "Science without conscience spells but destruction of the spirit." [12]

FOOTNOTES

[1] Christian Anfinsen, Lipman Bers, Clifford Geertz, Franklin Long, John Ross, and Berta V. Scharrer serve with me from the academy. Daniel Drucker and William Slichter are the liaison members of the National Academy of Engineering, and Adam Yarmolinsky is the liaison member for the Institute of Medicine.

[2] Murray Todd serves as Executive Secretary, assisted by Jay Davenport, Sandra Erb, and Gerson Sher.

[3] Estimated by the Indonesian government to number 29,000, of whom 10,000 were to be released in December 1977 and the remainder by the end of 1978. These estimates are contested by Amnesty International and some Indonesian human rights releases and purported leaders who place the number in excess of 50,000.

[4] Our most valuable reading was the report of a committee chaired by J. Ziman: The Council for Science and Society in collaboration with the British Instiute of Human Rights, *Scholarly Freedom and Human Rights* (Rose, London, 1977).

[5] E. M. Leeper, interview with Philip Handler, "Academy shifts emphases to keep up with the times." *BioScience* 27, 244 (April 1977).

[6] For a less optimistic view and excellent review of the status of implementing these rights, see William Korey, "U.N. human rights: Illusion and reality." *Freedom at Issue* 42, 27 (September–October 1977).

[7] Communications to the Committee on Human Rights (1977).

[8] Communication to the Committee on Human Rights, paraphrased slightly to preserve anonymity (1977).

[9] Jahangir Amuzegar, "Rights and wrongs," *New York Times* (29 January 1978), section IV, p. 17.

[10] Interview with Vladimir Kudryavtsev, "Human rights: How they are understood in the U.S.S.R.," *Soviet Life* (July 1977).

[11] Excerpt from an address by Andrew Huxley to the British Association for the Advancement of Science, August 1977. Reprinted in *Chemical and Engineering News* (26 September 1977), p. 5.

[12] François Rabelais, *Gargantua and Pantagruel*, book II, chapter 8 (1532) (Heritage Press, New York, 1942).

[13] I gratefully acknowledge the assistance of M. Berberian, C. Gediman, E. Grohman, and the staff and members of the Committee on Human Rights in the preparation of this article.

Mr. SCHMITT. Mr. President, I yield the floor and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from New York (Mr. JAVITS) is recognized for 15 minutes.

THE SHARP DECLINE IN THE DOLLAR

Mr. JAVITS. Mr. President, yesterday's announcement by President Carter that he has requested Secretary of the Treasury Blumenthal and Federal Reserve Board Chairman Miller to recommend to him any future actions he might take to deal with the sharp decline in the dollar and the recent disorders in the foreign exchange markets is an important first step in meeting this very grave problem. Because it is the first public reaction of the administration to a critically escalating problem, it is understandable that at this first indication of the President's awareness of the problem, the value of the dollar on foreign exchanges immediately rose.

But, this immediate strengthening of the dollar should not be overestimated. Unless followed up immediately by concrete action to deal with the causes of the dollar's instability, the dollar will quickly resume its steep decline.

It is critical that we check the fall of the dollar because any continued decline will reinforce the already strong inflationary pressures on the U.S. economy which, in turn, may lead to a sharp recession.

Until yesterday's rally, the dollar had lost since the Bonn summit, only 1 month ago, 14 percent of its value against the Swiss franc, 7 percent of its value against the deutsche mark, and 10 percent of its value against the Japanese yen. This decline occurred despite the fact that the summit should have precipitated a rally behind the dollar.

Many who had looked at these statistics were not overly concerned by this depreciation of the dollar. The conventional wisdom so often repeated—which fortunately now has been questioned by President Carter—was that we should neither do nor say anything that would exacerbate the situation; that the dollar was undervalued and would strengthen when there was some good economic news. We were counseled to wait for a change in the "trends" that would signify a lowering of the U.S. inflation rate or a turnaround in the U.S. balance of trade, both of which were expected within the next 6 months. While we waited for a statistical bailout, which nobody could guarantee, we have found that the continuing fall in the dollar had generated its own downward momentum, which the most optimistic data was not able to turn around in time.

Mr. President, I applaud the President for abandoning this course of inaction, which could only be labeled "the politics of despair." While he has not yet told us what he plans to do, it is evident that we—the President and the Congress—have in our power the ability to meet these problems. Because the American people may well be asked to undertake some sacrifices if the President's words are not followed by concrete action, we must first inform them about the drastic effect of the falling dollar on the United States and world economies.

I am very hopeful that yesterday's announcement may mark the end of the administation's seeming policy of "benign neglect" of the falling dollar first enunciated last year by Secretary of the Treasury Blumenthal—that a falling dollar was beneficial to the U.S. economy by making our exports cheaper abroad.

The fall of the dollar beyond the level dictated by trade flows, cyclical or inflation differentials, is threatening the very existence of the foreign exchange markets at a time when it is necessary that a properly functioning international monetary system be in place.

The costs to the American people as well as to the citizens of the industrialized countries of a continued decline in the dollar are extensive.

The falling dollar contributes to higher inflation in the United States. I believe that recent estimates that, in the last year, the depreciation of the dollar, by increasing the prices of needed raw materials and other products, has contributed one-half to 1 percent to the inflation rate of roughly 6½ to 7 percent, are too low. These estimates, which are based on the standard view that the inflation pass-through of a dollar depreciation amounts to about 10 percent, fail to take into account the price rises on domestically produced goods that occur because of the protection afforded to domestic industries from higher import prices. Recent price increases in the steel, automobile, and color television industries support this contention. If we were to take into account these indirect inflationary pressures we may well find that the ratio is closer to 20 percent and that the falling dollar has actually contributed close to 2 percentage points to inflation.

Nor am I aware of any studies that take into account the indirect costs of the falling dollar, and the Congressional Budget Office should be assigned to undertake such a study and report back to the Congress as quickly as possible.

While the falling dollar adds materially to inflation in the United States, it has a deflationary effect on the economies of our trading partners. This results in widened differentials in the rates of inflation and further pressure on the dollar.

In addition, appreciating currencies put extraordinary political pressure on our trading partners to raise import barriers and subsidize their exports, which will lead to a proliferation of trade wars from which no country can benefit.

Furthermore, these exchange rate uncertainties dampen the international free flow of capital because industrial planners find it difficult to make investment decisions. Without such capital movements, it will become extremely difficult to insure that those countries in balance-of-payments difficulties will receive necessary financing.

In addition to the critical economic costs, the American people should be aware of serious political ramifications associated with the falling dollar. French President Giscard d'Estaing and German Chancellor Schmidt have undertaken plans to create a European currency in order to insulate their currencies from the U.S. dollar. The unity of the Western alliance is threatened by such a separatist monetary move as well as by any parallel actions that the rest of Western Europe might take to restrict and distort trade. The international economy will be strained severely by unilateral solutions that are taken in a spirit almost of exasperation with the seeming lack of U.S. economic leadership.

A falling dollar also will increase pressure on OPEC nations to raise the price of oil in order to protect the value of their primary asset, oil. Moreover, if OPEC were to switch the denomination of the price of oil from dollars to a basket of currencies, we would find ourselves with an even higher oil bill in dollar terms. An increase in the price of oil would have a severe adverse impact on the economic development programs of the developing countries, creating greater pressure on the U.S. Government and the other industrialized countries to provide more foreign aid.

In addition, the commercial banks, which are reaching prudent "exposure" limits for many countries, would be called upon to extend greater private credits to these already hard-pressed countries. The foreign policy ramifications of all these moves are very serious, indeed.

The decline of the dollar has had an immediate adverse impact on U.S. military forces deployed abroad, especially on our approximately 200,000 troops in West Germany and 40,000 servicemen in Japan and Okinawa. The 18 percent fall in the value of the dollar against the mark and the 33 percent drop against the yen in just 1 year have brought a dramatic decline in the purchasing power of the salaries of our servicemen stationed in these countries; and morale, enlistment, and retention have been seriously affected with a substantial—if undetermined—impact on readiness. Programs undertaken by the Department of Defense to offset these real income losses have been inadequate; and the President has so far refused to make use of the authority granted him in section 5943 of title 5 of the United States Code to reimburse fully these servicemen, who are undergoing real hardships as a result of his seeming neglect of the dollar.

Mr. President, I have just described the economic and political consequences to the American people of a continued falling dollar. I am convinced that the foreign exchange markets are incapable of changing their basic direction without a basic change in policy by the United States, the principal country in the international economy. Expressions of concern will not be enough; change in U.S. policy is imperative. With approximately 80 percent of the entire $400 to $500 billion Eurocurrency market accounted for by dollars and 80 percent of all foreign exchange holdings of central banks accounted for by dollars, the U.S. dollar is by far the world's major reserve asset. Accordingly, this places a special responsibility upon the United States to insure that our economic policy is supportive of a strong international economy.

We must enter into a swap arrangement with the other central banks, especially with the German and Swiss central banks, large enough for the purpose, in order to have the means to intervene adequately in the foreign exchange markets, should such intervention be necessary. Admittedly, this can only be a short-term measure; but a quadrupling of the present $25 billion swap network to approximately $100 billion would show our determination in this regard. If associated with a hard-nosed action program to deal with the dollar's declin other central bankers should be w to provide us with enough of thei rencies to meet any short-term d bilization in the markets. Without ciation with such a program, eve largest intervention will not work.

In addition, the Federal Reserve should be prepared, if necessary, to the Federal funds target to 9 perc a demonstration of our concern fo international position of the doll

While we take these measures to with the short-term problem, we immediately undertake a progra deal with our medium-term probl

First. We must reduce our trade cit, cut our oil imports, and deal wi flation.

Second. We must undertake po today that will insure that our deficit will continue to shrink. We have a real commitment and not ju service to a vigorous export expa program in order to insure that business can take advantage of th portunities afforded to it by a decl dollar. The President should r right away the report of the Nat Export Policy Task Force and re mend to the Congress the legisl steps necessary for implementing program.

Third. We must take steps to imp U.S. productivity—through, for exa increased private and public rese and development expenditures and cuts specifically aimed at increa capital formation—in order to in that our goods can compete in both United States and foreign markets. we must insure that the capacitie American labor and management fully utilized through the strengthe and expansion of labor-management operation committees. Peace bet labor and management is essentia the improvement of U.S. product and we must avoid a period of hei ened tension caused by a rejection o labor reform bill.

Fourth. We must also begin to with our energy problem. With the parent demise of the energy tax b believe that it is imperative to find o mechanisms to reduce our too heavy liance on high-cost imported oil.

At least two possibilities exist. The of these is the establishment of an port quota. The President already ha authority to impose such a quota un the Trade Expansion Act of 1962 and Energy Policy Conservation Act of 1 Such a quota would inevitably lead t increase in the price of oil, but w clearly reduce our consumption. A qu which could initially be set at our c rent consumption levels would have t carefully administered to avoid the r for a large bureaucracy and cumbers allocation procedures. But if it is co fully done, it can even be used to enco age competition among OPEC memb for the right to fill a portion of quota.

The second possibility is phased-in regulation of the price of domestic cr oil. As the protracted fight over natu gas pricing has revealed, the longer p controls remain in effect, the more di cult it is to change them to meet chan conditions. It may be that now is

proper time to begin to phase out price

ural evolution in the system though the

The PRESIDING OFFICER. The Sen-

any country. It seems to me that we have

proper time to begin to phase out price controls on domestic crude—as we propose to do on natural gas—in such a manner as to minimize the shock of price increases on our economy. As the price of domestic oil gradually rises to the world price, we should see some further decrease in consumption, and an increase in domestic production.

Fifth. We must also begin to deal directly with inflation. There is no wholesale answer to this problem. We must review very closely the budget in order to reduce the Federal deficit, and we must set our funding priorities.

Sixth. Furthermore, we must look at the consequences of business regulation and the cost to the U.S. economy. We must begin to apply very rigorous cost-benefit analyses to these regulations in order to insure that the costs to our society do not outweigh their benefits.

Seventh. In addition, we should examine seriously the various proposals being presented for using tax penalties to prod business and unions to hold down wage and prices increases (TIP).

In addition to taking these immediate steps to deal with the short- and medium-term aspects of the problem, we must seek to resolve the long-term structural problem facing the world economy if we are finally to deal with the dollar problem. We must develop an international monetary system that insulates the U.S. economy in a system in which 80 percent of the world's reserve assets is denominated in dollars and only 30 percent is needed to finance U.S.-related trade.

In addition to dealing with the "fundamentals" in order to encourage the holding of these extra dollars, we must begin to supplement the reserve role of the dollar with that of the other currencies. The administration should convene a meeting of the world's finance ministers in order to begin serious discussions on a monetary plan that would gradually replace the present exclusive reliance on the dollar as the key reserve asset by a reliance on a combination of reserve assets, which would include the currencies of the major industrialized countries and the SDR. The finance ministers should report back to the heads of state by the end of the year.

While we will be able no longer to continue to meet our international obligations solely with dollars, this new arrangement will make the monetary system more responsive to international financial reality.

Mr. President, it is interesting to note that when I first raised this issue 8 months ago, I was told by senior Treasury officials that there was nothing wrong with the basic structure of the international monetary system that an improvement in the fundamentals could not cure.

Now, however, the Treasury has changed its view. Only last month Under Secretary of the Treasury Solomon testified before the Foreign Relations Subcommittee on Foreign Economic Policy that, and I quote:

> It seems to me that a realistic possibility would be for other currencies or the SDR to assume gradually over time a larger role as an international monetary reserve, supplementing the dollar. In principle, I would not oppose such a development as a natural evolution in the system though the way in which such an evalution would occur is not yet clear, and I would want to evaluate such changes in terms of the objective of a smoothly functioning word monetary system.

I do not believe the United States has an interest in trying to maintain a particular role for the dollar if that does not correspond to the needs of a liberal, efficient system of international trade and investment.

Mr. President, the choice is ours. We can either undertake a program that will keep us in control of the foreign exchange situation or let the cumulative actions of the foreign exchange traders dictate our economic situation. For me, there is no choice. The continued stability of the international monetary system requires that we develop a broad program to deal with the problem of the falling dollar.

To do so, we need the support of the American people, who, if properly informed, will face the needed decisions. If we begin to meet the problem of the falling dollar with the anti-inflationary program I have outlined above, we may well have a period of slower growth, even a mild recession for the next 2 years. If we, however, continue on the present path without budgetary restraints, we will have growth but with increasing rates of inflation. This will eventually force the Federal Reserve to raise interest rates, which could very quickly bring the economy to a screeching halt: a recession, if not a depression. With foreign exchange markets incapable of responding effectively because we failed to deal with the structural problem of the dollar overhang, a recession in the United States could quickly become international.

Nobody wants the latter scenario to materialize. This is why the foreign exchange markets are highly unstable and the foreign exchange traders are nervous. They are looking for direction from the United States. We must understand that there is no virtue to a continuation of this situation. Nobody benefits from this condition, especially the American people. I have presented today what I consider to be an action program which must be implemented in addition to our statements of concern if we are to avoid a serious calamity.

I yield to the Senator from Missouri.

Mr. DANFORTH. Mr. President, I think the Senator from New York has made excellent points, and very timely points, given the President's expression of concern about the falling dollar yesterday.

What is needed is something more than an occasional expression of concern. What is needed is a national policy. I think what the Senator from New York has indicated is that we in the minority in Congress would welcome the creation of a meaningful national policy to deal with the falling dollar, and that we would be most pleased to participate in the formation and execution of such a policy.

The PRESIDING OFFICER (Mr. DECONCINI). The Senator's 15 minutes have expired.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Are we still in the morning hour?

The PRESIDING OFFICER. We are not in the morning hour.

Mr. JAVITS. What is the pending business?

The PRESIDING OFFICER. House Joint Resolution 554, proposing an amendment to the Constitution to provide for representation of the District of Columbia in Congress.

Mr. SCHMITT. Does the Senator from New Mexico have any time remaining?

The PRESIDING OFFICER. The Senator from New Mexico has no time remaining.

Mr. ROBERT C. BYRD. Mr. President, I yielded back my time under the standing order this morning. I ask unanimous consent that I may recover that time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Now Mr. President, I yield to the Senator from New York as much time as I have left.

The PRESIDING OFFICER. The Senator has 9 minutes remaining.

Mr. ROBERT C. BYRD. I yield 9 minutes to the Senator from New York.

Mr. JAVITS. We will not take that long, Mr. President. I am very grateful. I yield to the Senator from Missouri.

Mr. DANFORTH. It would seem to me at the minimum such a policy should include the following four points: First, a tax program which does more than just offer tax relief to the American people but which provides stimulus for increased productivity. We have had estimates that in the next 8 years there will be a $1 trillion shortfall in capital formation in our country. If that estimate is correct, then a tax policy must be formulated, not just to relieve the effect of increased taxation on the American people, but to provide affirmative stimulus for capital formation and for productivity.

Second, as the Senator from New York mentioned, an energy policy which can be carried out. We have been floundering around now for about a year-and-a-half in search of an energy policy. In my view it is going to be an energy policy, if it will be meaningful and successful, which will encourage production as well as conservation.

Third, we simply have to come to grips with inflation and with the effect that excessive Federal spending is having on inflation. We cannot have a sound economy and we cannot have a healthy dollar in a world economy if we persist in maintaining deficits in the Federal budget of $40 or $50 billion a year.

Finally, as the Senator from New York pointed out, and I think there is too little talk about this, we have to be much more attentive to trade policies. So often when we talk about trade policies, we talk about some fear of foreign imports. I do not think that is the American way. I think our country has always been daring and has always been outgoing, and has always been rigorous and risen to the challenge. Indeed, maintaining foreign markets for centuries was the whole purpose of any foreign policy for

any country. It seems to me that we have something seriously wrong when 85 percent of our exports are accounted for by only 1 percent of our American business companies.

Therefore, in connection with the trade bill which is coming up before us, we will have to fashion a more aggressive trade policy which encourages American business to market our products on the world market.

I think the Senator from New York has made exactly the right points at the right time and I congratulate him.

Mr. JAVITS. I thank the Senator. I yield to the Senator from New Mexico.

Mr. SCHMITT. Mr. President, I congratulate the Senator from New York on his remarks. I also associate myself with the remarks of the distinguished Senator from Missouri.

I will only add to those discussions three things: One is an absolute emphasis on the question of energy policy. The only way we are ever going to reduce the balance-of-payments deficit caused by energy imports is to produce domestic energy. We will do that in two ways, by an absolute increase in production and an absolute reduction in consumption. We have to do both, and very quickly.

Second, I would add to the discussion on trade by saying that as a consequence of hearings before the Science, Technology and Space Subcommittee, jointly with the International Finance Subcommittee of the Banking Committee, it has become absolutely clear that there is no strategic capacity for trade policy in this country. All the other major trading nations of the world, in one way or another, culturally or through their governments, have developed a strategic trade capacity of some kind where the government policies and business policies at least are compatible, if not coordinated.

I am not suggesting we can adapt to the policies of Japan, West Germany, or any other major trading nation for use in this country. We have a unique culture and a unique tradition with respect to trade. But, nevertheless, we have to look for some mechanism to develop the strategic capacity so that our actions are interrelated, so Treasury is not doing one thing while Commerce is doing something else, and State doing an entirely different thing, with the White House sitting there apparently not understanding what all three are doing or what they should be doing.

That capacity has to exist, along with what the Senator from Missouri has said, to look at the broad integration of policies.

Finally, I think part of the question is the confidence in the dollar. We must establish throughout the world that the United States knows what they are doing economically, in foreign policy, in terms of the military strength of the world. The fall of the dollar is related to confidence, and it is a broad confidence. I am afraid that many of the nations of the world are losing confidence in the United States.

What the Senator from New York is suggesting, if I may put words in his mouth, is to take those steps required in order to increase confidence in the American people as well as the American Government in this world. Foreign policy and economic policy are intimately intertwined in this particular consideration. Again I congratulate the Senator for his remarks.

Mr. JAVITS. I thank both of my colleagues, Mr. President. I would urge any one who has read or heard their remarks, to consider their suggestions and proposals and my suggestions together. I commend my colleagues for having so materially supplemented the ideas which I laid down this morning.

There are three points which emerge from my presentation and this discussion. First, we are in a very serious situation, both nationally and internationally, the repercussions of which can hurt the American people very materially.

Second, we, those of us on this side of the aisle, are ready for action to deal with this problem.

Third, the time for action is now. With the President having demonstrated some awareness of the problem, we in the Congress should follow up by acting now and asking the President to put us in the position where we can act, regarding energy and other critical issues that affect the dollar.

Finally, I would like to point out to both my colleagues that recent trade statistics show our trade imbalances are due in the first instance to large imports of manufactured goods not solely oil. That startling statistic, coupled with the drastic decline in the rate of the increase in our productivity, explains why there is an erosion of confidence by the American people in their own economic system and by the people of the world in our economic system.

Mr. President, our economic system still works. We, as a nation, are still as young and vital as we were. We however must do something quickly about our productivity and economic well-being. If we do not, we will find ourselves in a more dangerous and a less economically capable world.

The PRESIDING OFFICER. The Senator's additional time has expired.

Mr. JAVITS. I thank the Chair.

COMMITTEE MEETING

Mr. BAYH. Mr. President, on behalf of the majority leader, I ask unanimous consent that the Arms Control, Oceans, and International Environment Subcommittee of the Committee on Foreign Relations be authorized to meet during the session of the Senate today to hold a hearing on the Deep Sea Bed Hard Mineral Resources Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPRESENTATION OF THE DISTRICT OF COLUMBIA IN CONGRESS

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of House Joint Resolution 554 which the clerk will report.

The legislative clerk read as follows:

> A joint resolution (H.J. Res. 554) proposing an amendment to the Constitution to provide for representation of the [illegible] of Columbia in the Congress.

The Senate continued with th[illegible] sideration of the joint resolutio[illegible]

AMENDMENT NO. 1788

The PRESIDING OFFICER [illegible] pending question is amendment N[illegible] The yeas and nays have been orde[illegible]

Mr. HATCH. Mr. President, I [illegible] terested in the amendment in t[illegible] ture of a substitute offered by the [illegible] guished Senator from Nebraska [illegible] day (Mr. CURTIS). I think it is [illegible] interesting amendment and very [illegible] deserving of consideration by th[illegible] attendance here today. I notice the[illegible] ator GARN is on the floor and I hav[illegible] remarks to make about this later. [illegible] be happy to relinquish the floor so [illegible] speak.

Mr. GARN. I thank my disting[illegible] colleague from Utah.

Mr. President, Senator CURTIS, [illegible] lieve, certainly in the frame of mi[illegible] the American taxpayer is in, has b[illegible] up a very valid amendment. I, f[illegible] would not expect this particular [illegible] to approve it. I would expect, [illegible] American people were given the [illegible] tunity to vote on it—in fact, I n[illegible] would expect, I think I know the a[illegible] to how they would vote on an a[illegible] ment that would require the F[illegible] Government to balance the bu[illegible] think it would pass overwhelmin[illegible] least by as much as proposition [illegible] in California.

It is rather interesting that whe[illegible] mayor of Salt Lake City, we had a [illegible] law. That State law required you t[illegible] ance your budget, all of the citi[illegible] all of the counties and the Stat[illegible] ernment. The penalty was that if y[illegible] not, you could be sent to jail. Need[illegible] say, the public officials in Utah, [illegible] levels of government, balanced [illegible] budgets every year. They would d[illegible] is necessary to achieve that: Cut [illegible] ditures, work with the tax reven[illegible] the extent that not only is there [illegible] anced budget but, normally, a s[illegible] because there is simply no way yo[illegible] at the end of a fiscal year, hit it ri[illegible] the exact amount and balance the [illegible] et. Therefore, you are prudent, y[illegible] conservative, you are careful, an[illegible] make certain that you have at l[illegible] small surplus.

That principle works throughout [illegible] of this country and, as a result, [illegible] cities, counties, and States have no[illegible] in trouble.

We could talk a great deal abou[illegible] York City and their problems b[illegible] they have not had that kind of re[illegible] placed upon them. I am one who b[illegible] that, certainly, the last 30 or 40 [illegible] have proved that public officials [illegible] restraints placed upon them.

They need constitutional restrai[illegible] keep down their appetites for spe[illegible] the American taxpayers' money t[illegible] votes so they can be returned to [illegible] office. That is what we are, essen[illegible] doing with these huge deficits. W[illegible] buying out special interest group[illegible] are buying favors, we are spendin[illegible] taxpayer's dollar to retain ourselv[illegible] public office.

That is why, in my own State, w[illegible]

talking about tax limitation proposals. [illegible]

United States. It simply is not. It has not [illegible]

to that. We have not been since proposi[illegible]

Having been a mayor, I have had a lot [illegible]

talking about tax limitation proposals. One proposal is to do it legislatively, by law. I favor a constitutional provision. The reason that I do is that a law can simply be changed by majority vote. We have seen that happen here in Congress. We have what we call a debt limit. It is absolutely meaningless. It has not restrained public spending at all, because every year, what comes before us is a request, to be passed by a simple majority in this body and the House of Representatives, that we increase the debt limit so we can continue to fund the operations of the Federal Government.

The temporary debt now is almost as high as the permanent debt. We have a permanent debt limit of $400 billion. We are approaching $800 billion, or nearly $400 billion of temporary debt limit, done a piece at a time, routinely. More important than that, it becomes Christmas-tree every year because our colleagues know that the debt limit must be increased; therefore, we get all kinds of fancy ornaments in the form of amendments attached to it, knowing that they will pass.

So it goes beyond just the increasing of the debt. It goes to the extent of producing bad legislation and bad law, because it is used as a gimmick to pass laws and amendments that otherwise would not have a chance of passing this body. So legislative relief does not work. It is simply a matter of the legislature or the city commission, the city council, the Congress of the United States simply changing the law from what they did the year before.

I do not see any other way, either, at the local levels of government, to have tax limitation, to cut down the deficit of the Federal Government, unless it is placed in the Constitution. As I said, the American people, I am sure, if they had the opportunity to vote, would certainly vote overwhelmingly that we should balance our budget.

When I was a student in college, taking economics, we heard a great deal about the Keynesian theory of economics. This was the so-called wave of the future, that in order to handle the economy of a country, particularly this one, what we needed to do was to have deficits in times of trouble. When the economy was sluggish, rather than rely on the private sector, we should pump dollars into the economy from Government sources, take money away from the people, and bureaucrats would decide how it would be spent.

But we went beyond that and said we should borrow money or print it, because it was not sufficient to take money away from the taxpayers and redistribute it in a way that we felt was best; we had to create artificial money in the times of deficit, because this stimulated the economy. Do not worry about the inflation; we shall take care of that when we have good times and when the economy is thriving and the country is growing and employment is up, we shall have surpluses to offset the deficits.

We are often told that we do practice Keynesian economics. We do not. John Maynard Keynes would be rolling over in his grave if he thought his theory of economics were being practiced by the United States. It simply is not. It has not been in the last 44 years, because almost every year, we have a deficit, regardless of whether the economy is going well or it is not. We have deficits year after year after year.

So we are not practicing Keynesian economics. John Maynard Keynes never thought that we should only practice one side of his equation. I repeat, he talked about surpluses, and we simply do not have them. We do not reduce the debt.

The only difference between the fiscal problems of New York City and the U.S. Government is that we have a printing press and they do not. So we manufacture funny money; then we wonder why the dollar has been reduced to practically nothing in value in comparison to 10 years ago or 20 or 30, and why we have 11.4 percent inflation again this year.

It is rather simple: The Federal Government spends about $60 billion a year more than they take in. In my relatively brief lifetime, we have seen the Federal budget change rather dramatically. In 1932, Franklin Roosevelt ran for President of the United States on an economy platform. He told the people of this country that if he were elected President, he would reduce the Federal budget by 25 percent, from $4 billion a year to $3 billion a year. So a little less than 46 years ago, we ran the whole country—defense, human resources, everything We did—for about $4 billion a year. A man running for President said he thought that was too much and if we elected him, he would reduce that by about 25 percent.

So in less than 46 years we have gone from a $4 billion a year budget to a half-trillion dollar budget—$500 billion.

It is rather interesting that in 1960, just 18 years ago, the Federal budget, to run everything, absolutely everything in this country, was less than $90 billion.

We did not spend $100 billion a year in this country, in 1 fiscal year, until approximately 1962. I believe it was another 7 years, about 1969, we spent the second $100 billion. Another 2 or 3 years and we spent the third $100 billion. Another couple of years, the fourth $100 billion. Now we are approaching a $500 billion budget for fiscal 1979.

We hear some of our budget makers proudly proclaim that maybe the deficit will not be as big as they think it is going to be. Maybe it will not be $60 billion. Maybe only $42 billion.

What a wonderful and marvelous achievement. We may only spend $42 billion more than we take in.

That is more than half what the whole budget was to run the country 18 years ago. Ten times what it cost to run the country 45 years ago.

The interest on the national debt is approaching $50 billion a year, just to pay the interest on what we borrow and what we print.

We could go on and on and on with the fiscal irresponsibilities of many Congresses who continue to follow only half the Keynesian theory, to produce rampant inflation and the billions of dollars that go with inflation, recession, and high unemployment, and the ills of the economy. But we are not willing to face up to that. We have not been since proposition 13.

There is a great deal of rhetoric on both sides of the aisle. Lot of people talk about economy and tax reduction and tax limitation. But it is rather interesting, the difference between the rhetoric and the votes.

We have not had any marked effect on the budget this year—tokenism, at best, 2 percent here and 2 percent there.

It is rather interesting because we are really talking about cuts. All we are talking about is reduction in the increase. It is very much like if our boss tells us he will give a 15-percent pay increase, then someone comes back and says that that is too much, we are going to cut 5 percent out of that, we can only have a 10-percent increase, and there's griping about the pay reduction when, in effect, we have a 10-percent increase.

That is what we are talking about in the Federal budget in all these cuts.

We are not making any cuts at all. We are only making token cuts in the increase, and the overall budget is still growing extremely rapidly.

We toss budget figures around here that are still beyond my comprehension to understand, coming from a city where I was able to run an entire city, police, fire, roads, for $50 million a year. We round off figures in the hundreds of millions here when we deal with the budget, and I am not sure anybody really understands what a billion dollars is.

We toss billions around like the average taxpayer talks about nickels and dimes, quarters in his pocket, or pennies to toss into wishing wells. It does not mean anything.

We hear talk on this floor that this amendment is only $800 million more, only $1½ billion, that is all, it is not very much. Well, I think the American people ought to stop and think about what $1 billion is.

If one had $1 billion the day Jesus Christ was born and decided he did not trust banks or savings and loans, or any other method of investment, so he did not care about interest, just spend the $1 billion, and decided he could live comfortably on $1,000 per day, started spending that, then on that birthday he could spend it 7 days a week, even on Sunday, 365 days a year for the last 1,978 years, and continue to do it for over 700 years into the future. That is how much $1 billion is: $1,000 a day with no interest for approximately 2,800 years.

The wonderful wizards of the Potomac known as the U.S. Congress are going to spend at the rate of a half million dollars a day for approximately 2,800 years, but we are going to do it for you from October 1, 1978, to September 30, 1979, and anywhere from $40 billion to $60 billion of it we will not have, we will borrow it, we will print it, we will further devalue the currency.

In the meantime, with this deficit spending and tax money we take, we will create some more agencies. We will hire some more bureaucrats. HUD needs 1,500 more this year down there.

I would suggest we could can 5,000 of them and HUD would work more efficiently because they would not be stumbling over each other, wondering what to do all day.

Having been a mayor, I have had a lot of experience with HUD in the last 11 years, second only to HEW in their waste and inefficiency and the abnormal number of employees who are not needed.

It is interesting, the President thought we needed 1,500 over at HUD, but he cut the Army by 10,000 men. Do not worry about defense, let us hire a few more ne'er-do-wells at HUD.

So, $1 billion is a lot of money and we are going to spend $500 billion of it next year. We will increase the size of the Federal Government and produce some more rules and regulations. IRS only has about 40,000 pages of regulations.

The cost of regulations at the State, local, and national level now is estimated at $130 billion a year, or $2,000 per family per year for the privilege of being told what to do by our Government.

(Mr. BUMPERS assumed the chair.)

Mr. GARN. We have OSHA telling us we need coathooks on the inside of toilet stall doors. I suppose, it is safety, but I do not understand what hanging a coat up in a toilet stall has to do with safety. It is a convenience.

But we have inspectors running around checking on things like that.

A restaurant in Utah was told they had to move a toilet in the public rest room. The owner said, "Why?" They said, "Too far away from the wall." He said, "So what?" He was told, "Well, somebody could fall off and hurt himself."

So he had to spend $700 to move the toilet.

We have Government people we are paying to take care of wondrous and marvelous great problems of this country like that.

We are producing rules and regulations at an unbelievable rate in the Federal Register without much rhyme, reason, or sense, that have very little to do with clean air, clean water, or anything else.

But, obviously, bureaucrats have to protect themselves and show they have done something at the end of the day, the week, the month, the year.

So they can write rules and regulations that require attorneys to try to understand what they are. I sometimes wonder if this body is not the self-protection society for attorneys. We pass laws that are incomprehensible, regulations that are written that are equally lacking in understanding, so when our attorneys leave the Senate they can get paid fees for interpreting what foolish things we did while we were here.

So we will continue on. We will give lip service to the American taxpayers and talk about economy. All of us will give speeches sounding like BARRY GOLDWATER or Ronald Reagan. We will talk about needed laws, reducing the size of the Federal Government, and reorganization and efficiency and economy, and, rest assured, that is all that will happen.

All we have to do is look at the budgets year after year. Look at the size of Government. Look at the number of employees working for the Federal Government.

Wait and see. We will find that the Senator from Utah is correct. In spite of all the rhetoric, in spite of all the great speeches that will be given around the country during this and the election year next year, we will have a bigger budget. We will have a 10- to 12-percent increase in the budget. It will approach $550 billion, and we will have another deficit. We will have a request that we need another agency and we will spend more money filling up the pages of the CONGRESSIONAL RECORD and all these wonderful publications.

We will decide that this office building out here, which is going to cost $200 million for Senators and more of their staffs, is not sufficient. We will need more office buildings. We will take over more of Washington.

There will be more cities like New York that need help, and it will continue.

When are the American taxpayers going to wake up that they are being conned, that they are being cheated and lied to? They had better go beyond listening to the speeches and start matching voting records with speeches, and hold every Senator and every Representative in this body, in either party, accountable for how they vote, not how they talk.

So it is foolish even to consider legislative relief so far as tax limitation and balancing the budget are concerned. It has not worked for 45 years. I find no reason to think that a few speeches are going to turn it around.

Unless the American people start voting for those in either political party who will vote in Washington as they talk in their home States, who will seriously be willing to face tax limitations at State and local levels and at the Federal level to cut off the voracious appetite for spending, we are not going to see any meaningful change in inflation, in unemployment, in the ups and downs of the business cycle.

I do not expect—I would be very foolish to expect—that this amendment by Senator CURTIS will be agreed to; but I certainly think it would be the first step in controlling the expenditures of this Government, and I certainly intend to vote for it.

Mr. HATCH. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. GARN. I yield.

Mr. HATCH. Madam President, I ask unanimous consent that Meredith Preston, of Senator HAYAKAWA's staff, have the privilege of the floor during the debate on this measure.

The PRESIDING OFFICER (Mrs. ALLEN). Without objection, it is so ordered.

Mr. GARN. Madam President, I yield the floor.

Mr. LEAHY. Madam President, I ask unanimous consent that Nancy Morgan, of my staff, have the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Madam President, I have come to the floor today to support House Joint Resolution 554 which would bring full voting representation for the citizens of the District one step closer to reality. As the Members know, the House passed this measure several months ago, and Senate passage of it will help initiate the constitutional amendment proc
provide full voting representation (
Nation's Capital. Senate passage o
measure would, therefore, turn ov
the State legislative bodies across
country this question of full voting r
sentation for the Nation's Capita
most of the Members know, I fully
port this measure, and I compliment
distinguished Senator from Massa
setts (Mr. KENNEDY) and the distingu
ed Senator from Indiana (Mr. BAYH
their excellent and persistent leade
in this matter. The question of full
ing representation for the District o
lumbia is a measure that is long ove
and to continue to deny this basic
to the citizens of the city would be
propriate and inconsistent with
founding principle of our Nation o
taxation without representation."

As many of my colleagues in the
ate know, I have had the honor fo
last 2 years to serve on the Senate
mittee on Appropriations as the c
man of the District of Columbia Sub
mittee. In the process of executing
responsibilities in that regard I have
the opportunity to become familiar
the operation of the city, with the
timents of the elected leaders on
question, but more particularly
more importantly the sentiment
of the citizens and taxpayers of
city on this issue. In a period of
awakened interest in basic human ri
this is a matter that we cannot a
to turn a cold shoulder to.

Madam President, I do not come t
floor today to tell the Members tha
city is operated as efficiently as it sh
be. On the contrary, there are many
of great inefficiency, and there are p
lems of continuing and nagging mis
agement in various areas. It is also
that the District of Columbia rec
ample support from the Federal Gov
ment in the form of Federal gr
which in 1979 are expected to total al
$300 million. In addition to these
eral grants that come to the city
the various Federal agencies, the
receives revenue sharing funds and o
tercyclical funds. These funds, h
ever, go to the District of Columbia
as they do to other cities and St
across the Nation. Because the Dis
of Columbia serves both State and l
functions, the city sometimes qualifie
State program assistance, and it so
times qualifies for city or local gov
ment assistance. In the receipt of t
grants, the city is treated no differe
from other State and local governm
across the country. No one would a
that the District should not receive
local government assistance that all o
local governments receive across the
tion, and no one should forget that
trict of Columbia citizens pay
billion in Federal taxes.

Madam President, let me address
question of the Federal payment to
District of Columbia, because this
matter that is misunderstood both in
local press, by local city leaders, and
many others from time to time.

It certainly was misunderstood by
prior to the time I became chairman
the subcommittee. Many are fond

stating that the Federal payment is
counting Act, 1921 (31 U.S.C. 2), submit such
be denied their fair and just opportunity

that representation

stating that the Federal payment is made to the city in lieu of taxes. This, however, is only one of nine considerations that the current law requires in coming to a determination of what the level of Federal payment should be. To put it briefly, the Federal payment is intended to be based on the net cost to the city that results from the Federal presence.

Madam President, I ask unanimous consent that section 501 of Public Law 93-198, also known as the Home Rule Charter be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TITLE V—FEDERAL PAYMENT

DUTIES OF THE MAYOR, COUNCIL, AND FEDERAL OFFICE OF MANAGEMENT AND BUDGET

SEC. 501. (a) It shall be the duty of the Mayor in preparing an annual budget for the government of the District to develop meaningful intercity expenditure and revenue comparisons based on data supplied by the Bureau of the Census, and to identify elements of cost and benefits to the District which result from the unusual role of the District as the Nation's Capital. The results of the studies conducted by the Mayor under this subsection shall be made available to the Council and to the Federal Office of Management and Budget for their use in reviewing and revising the Mayor's request with respect to the level of the appropriation for the annual Federal payment to the District. Such Federal payment should operate to encourage efforts on the part of the government of the District to maintain and increase its level of revenues and to seek such efficiencies and economies in the management of its programs as are possible.

(b) The Mayor, in studying and identifying the costs and benefits to the District brought about by its role as the Nation's Capital, should to the extent, feasible, among other elements, consider—

(1) revenues unobtainable because of the relative lack of taxable commercial and industrial property;

(2) revenues unobtainable because of the relative lack of taxable business income;

(3) potential revenues that would be realized if exemptions from District taxes were eliminated;

(4) net costs, if any, after considering other compensation for tax base deficiencies and direct and indirect taxes paid, of providing services to tax-exempt nonprofit organizations and corporate offices doing business only with the Federal Government;

(5) recurring and nonrecurring costs of unreimbursed services to the Federal Government;

(6) other expenditure requirements placed on the District by the Federal Government which are unique to the District;

(7) benefits of Federal grants-in-aid relative to aid given other States and local governments;

(8) recurring and nonrecurring costs of unreimbursed services rendered the District by the Federal Government; and

(9) relative tax burden on District residents compared to that of residents in other jurisdictions in the Washington, District of Columbia, metropolitan area and in other cities of comparable size.

(c) The Mayor shall submit his request, with respect to the amount of an annual Federal payment, to the Council. The Council shall by act approve, disapprove, or modify the Mayor's request. After the action of the Council, the Mayor shall, by December 1 of each calendar year, in accordance with the provisions in the Budget and Accounting Act, 1921 (31 U.S.C. 2), submit such request to the President for submission to the Congress. Each request regarding an annual Federal payment shall be submitted to the President seven months prior to the beginning of the fiscal year for which such request is made and shall include a request for an annual Federal payment for the next following fiscal year.

Mr. LEAHY. Madam President, as the members will see, the Federal payment is intended to be a matter of equity to compensate the city for the net cost that accrues to the city because of the Federal presence. It is also an amount that is intended to encourage efforts on the part of the city government to maintain and increase its level of revenues and to seek such efficiencies and economies in the management of its programs that are possible. This is the law, and it is a fair law, and the Federal payment in principle is a fair and just concept.

It is my belief, however, that the city often does not very carefully follow the requirements of section 501 of the Home Rule Charter. The city tends to overestimate the costs that arise from the Federal presence and they tend to underestimate the benefits that come to it because of the Federal presence. This is an area that needs to be corrected and we are attempting to do that through the appropriations process. We analyze this question in the Appropriations Subcommittee that I chair, and we attempt to set a Federal payment that is arrived at based on the full intent and the complete text of section 501 of the current law.

Madam President, as I said, there are problems in the District of Columbia. Nobody denies that. Nobody denies that there are problems in all 50 States of this country.

The District of Columbia does receive a very ample contribution of Federal funds to assist in its operation. They total almost 45 percent of its total resources. But these funds are provided to the city in accordance with the requirements and provisions of the various Federal assistance programs, the Home Rule Charter and all the laws and programs that have been passed by Congress.

As I mentioned earlier, the Federal payment is not calculated by the city in a very precise way. This is an area that needs to be reformed, and we are attempting to do that. My concern is that when I hear some of the arguments against D.C. representation these arguments often confuse the whole issue of the Federal payment and the requirements that relate to the Federal payment that are included in the home rule legislation that was passed by Congress.

The city leaders are interested in reform in this area. I think they have worked hard to bring about such reform. We all want to establish a completely fair way to arrive at the correct amount.

This would increase the equity of the situation and at the same time would reduce the controversy surrounding the subject. It would give the city more assurance as to how much would be received in the Federal payment, so that better planning could be done.

But these facts do not lead one to the conclusion that the citizens and taxpayers of the District of Columbia should be denied their fair and just opportunity to be fully represented in the U.S. Congress. To suggest that because problems exist in the management of city programs, to suggest that because the city receives ample Federal support and therefore for those reasons the citizens should not be given full voting representation in Congress, Madam President, is a non sequitur of the greatest magnitude.

Madam President, I urge my colleagues to support this measure and to provide the 705,000 citizens in the District of Columbia the same rights the 483,000 citizens in Vermont now enjoy and the same rights all the other citizens across the Nation also enjoy.

Madam President, if we Vermonters were denied representation in the same way the District of Columbia has been denied representation there would be open revolt in our State. Our right to representation in the Federal Government is a most closely guarded and cherished one. Certainly because of that this Vermonter would do everything possible to give the same rights to the District of Columbia, and I might say in that regard, Madam President, I have heard discussions here in the Chamber, and probably even more troublesome, I have heard discussions out of the Chamber, that giving such representation to the District of Columbia would be at the expense of rural areas; that giving such representation would give too much of a voice to urban America.

Madam President, no one has argued more than I during the past 3½ years about the bias against rural areas. I represent the most rural State in the Union, and I like to think, Madam President, the most beautiful one. I represent that State, well aware of the fact that Federal program after Federal program has an urban bias to it and Federal program after Federal program neglects rural areas.

But, Madam President, that is something that also shows that many of us who come from rural areas have not done our homework in the past in designing these programs, and it is something that can be corrected and changed. But it would be just as bad if those of us from rural areas were to try to inflict the same bias on the District of Columbia and say that we cannot give an urban area the voice it deserves. Many times we in rural areas have let go of the equity we seek by default.

Madam President, I cherish very much the idea of coming from a rural area. It is a way of life that appeals to me, appeals to my wife, and appeals to our three children. The Leahy family has been in Vermont for well over a century.

Except for the period of time that I will serve my State here in the U.S. Senate, I have no desire to change my life in a rural State that I love for an urban area, even a city that I consider one of the most beautiful I have ever visited, the city of Washington, D.C.

But having said that, Madam President, I could not stand here and in good conscience oppose representation for the city of Washington, D.C. because those 705,000 citizens, as I said before, deserve

that representation the same way the 483,000 citizens in Vermont deserve representation.

At a time when so many of us can worry and worry justly that the Federal Government has gotten out of control in the sense that it sometimes seems that we have lost the ability to have real input and we have lost the representative form of government. At such a time let us not hold up for the country and for the world a marked example where we remove such representation from the people who make up the best known city in the country and one of the best known cities in the world. Let us not give any shrift whatsoever to an argument that representation for the District of Columbia is done at the expense of rural areas and is done somehow as an added bonus to urban areas.

Madam President, as a member of the Appropriations Committee, as a member of the Agriculture Committee, or whatever other committees I might be assigned to during the time I am in the Senate, I will continue to fight for rural areas. I will continue to join with other Senators in doing that. But I point out that some of the times that I have been most successful in aiding rural areas are those times when I have been joined by Senators representing some of the most urban areas in this country and time and time again that has happened.

And if any of us from rural areas think that we benefit by neglecting urban areas or by allowing them to be neglected we are shortsighted in the extreme.

But I do not think that is the feeling of the people in this country. I know it is not the feeling of the people in Vermont.

Madam President, I just note some of the charts we have here in the Chamber of the Senate this morning, one entitled "Full Voting Representation in Congress for the District of Columbia," and it shows the number of people here. It shows those States in descending order with less people than the District of Columbia, and they are South Dakota, North Dakota, Nevada, Delaware, my own State of Vermont, Alaska, and Wyoming. It shows the list of Federal taxes paid and shows the taxes the District of Columbia pays, and then it shows those States that pay less taxes; these States are Maine, New Hampshire, Alaska, Nevada, Idaho, Delaware, Montana, North Dakota, South Dakota, Wyoming, and my own State of Vermont.

And it shows the people killed in the Vietnam war, and that is a sad and tragic blot in our history, and after you take the number of people from the District of Columbia killed in that war, a city they had no vote, no vote whatsoever in deciding whether we would continue down the sorry and misguided path you have New Hampshire, Idaho, Rhode Island, North Dakota, South Dakota, Nevada, Delaware, Wyoming, Vermont, and Alaska all States that lost fewer of their sons in the Vietnam war than did the District of Columbia.

I remember hearing Senator KENNEDY in the Chamber here yesterday speak of a letter sent to Senator EAGLETON, of Missouri, from a mother in the District of Columbia who lost one son in Vietnam and was concerned about losing another one, speaking of the compounding of the tragedy because she had no place she could turn to to even express her voice in Congress of how she felt about that war.

This is the same on issue after issue. One-and-a-half times the number people of my State who live here in the District of Columbia do not have representation that each Vermonter enjoys, and rightly enjoys.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

TRIBUTE TO THE NEW EXPLORERS

Mr. DOMENICI. Madam President, I ask unanimous consent that I be permitted to introduce a resolution regarding three New Mexicans who have completed the voyage in a balloon across the Atlantic.

I ask unanimous consent that the resolution be read and be considered immediately.

Mr. LEAHY. Madam President, reserving the right to object, and I will not object, because I share the pride I know my colleague from New Mexico shares, but I wonder if the unanimous-consent request could be enlarged to state that following the Senator from New Mexico's action on this matter that the floor be yielded back to me?

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 540) of tribute to the new explorers submitted by Mr. DOMENICI for himself and Mr. Schmitt.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senator from New Mexico.

Mr. DOMENICI. Madam President, I first want to say I appreciate the Senator from Vermont yielding for this purpose, and I want to indicate for the record that this matter has been cleared by the leadership on both sides.

Madam President, obviously the feat by three New Mexicans causes great joy and pride among many Americans, but from my standpoint, obviously since they are from my State, it is with an exceptional sense of joy that I submit this resolution, and with great pride.

If that were all, and if they were just from my State, that would be one thing. But it happens that all three are very personal friends of mine. I have known them for many years. In fact, one of them, Mr. Anderson, a mining man from New Mexico, no longer than 10 days ago or 12 days, appeared before a Senate committee here testifying on issues of import to the mining industry of the United States.

One of the other gentlemen, Mr. Ben Abruzzo, has been my friend for years. In talking to the two of them in the past 3 weeks I knew they were so accomplish this feat because if and determination and an absolu surance that they knew how to and would do it meant anything were filled with that kind of enthu and commitment.

The resolution speaks for itself. sure that the U.S. Senate share great pride of their families, of the State of New Mexico, in this feat. I am asking is that we recognize i resolution the significance of this by humans, by these three men, and we resolve "that the Senate of United States in Congress assembl fers personal and singular tribu Mr. Anderson, Mr. Newman, and Abruzzo for continuing the Ame tradition of being the Nation of Explorers of New Frontiers."

Madam President, I move the pa of the pending resolution.

The PRESIDING OFFICER. question is on agreeing to the resolu

The resolution was agreed to.

The preamble was agreed to.

The resolution (S. Res. 540), tog with its preamble, is as follows:

S. RES. 540

Resolution of tribute to the new expl

Whereas, we speak in the singular o Universe, the Earth, and the distanc tween great Continents, but in the p when in reference to heroes and h events; and

Whereas, this day a very singular a courage by three Americans succeeded heroic men have lost their lives in 17 p ous similar attempts at being the firs man beings to cross the Atlantic in a ba filled with naught but warm air; and

Whereas, these men, these Americ Maxie Anderson, Larry Newman and Abruzzo of Albuquerque, New Mexico accomplished this feat no less daring historic than other great adventurers o tory; and

Whereas, these three New Mexicans set records for most hours aloft in an he balloon and number of miles traverse their 112-foot tall "Double Eagle II;" a

Whereas, crossing this great span of w from West to East demanded the same mense courage, indomitable fortitude, breadth of spirit as heroes of earlier turies, now, therefore, be it

Resolved, that the Senate of the Un States in Congress assembled offers pers and singular tribute to Mr. Anderson, Newman, and Mr. Abruzzo for contin the American tradition of being the Na of New Explorers of New Frontiers.

SEC. 2. The Secretary of the Senate is h by directed to transmit copies of this r lution to Mr. Anderson, Mr. Newman, Mr. Abruzzo.

Mr. DOMENICI. I thank both Sena for yielding, and I am most apprecia of this opportunity. I yield the floor.

Mr. LEAHY. I thank the Chair.

The Senator from New Mexico every reason to be proud of the achi ment of his constituents. I read the n myself with a great deal of excitem

A weekend ago in Vermont I ha chance to go up in a hot air ball which brought about two things: O the normal comments made about Member of the U.S. Senate going up a hot air balloon, and I do not h to repeat all of them, except that it the pilot who commented that he was

concerned about running out of fuel; and the other part, of course, was that I was the object of enormous envy by our three children.

But I will say to my very good friend from New Mexico, that just that short ride was something that could entice me to go back at any opportunity. But then, just again from that short ride, realizing the logistics of moving over a relatively small area, and what is involved in that, and to see the achievement made by these people, just boggles the mind.

People have tried to accomplish that feat for years, and years, and years. Most recently, just about 2 weeks ago, two English balloonists came within 130, 140 miles of doing it. I just think it is a matter of enormous pride to all of us, and I am delighted the Senator introduced this resolution.

I think the resolution and the feeling we all have here is probably one of the few times that we can safely stand here on the floor of the Senate and say we express with unanimity the feelings of everybody in the country. I think they are greatly deserving of that.

Mr. DOMENICI. I thank the Senator.

Mr. GARN. Madam President, will the Senator yield for just a moment? I express to my distinguished colleague from New Mexico the pride in this achievement, and I share the comments of both Senators. I cannot help but express publicly what I said to the Senator from New Mexico in private, that the only trouble I have with it is my disappointment in not being one of them. As the Senator knows, I have spent some 10,000 hours of my life flying airplanes. I have to live with my junior colleague who walked on the Moon, and that always disturbed me. All my life in aviation, all my aviation career, I have never been fortunate enough to be in one of those things. So I commend them. I am pleased, and I am just jealous that I was not with them.

I thank the Senator from Vermont.

Mr. DOMENICI. I thank the Senator from Utah. I just mentioned that two of our honorees, as most Americans know, Mr. Abrusso and Mr. Anderson, tried this some few months ago. They did not quite make it. Mr. Abrusso came down quite injured. He was crippled for a long time. But as soon as he got well enough, they ventured again, and they added a third gentleman whom we are honoring, Mr. Newman, who happens to be a commercial airline pilot, who joined the twosome, and I told my good friend from Utah, knowing of his pilot prowess, that had they known about his expertise they might have asked him to go along, and he would not have to be here on the floor expressing that regret. I am sorry I did not tell them about the Senator. He might have been with them, I say to my good friend from Utah.

I thank both Senators for their kind comments.

Mr. LEAHY. Madam President, I noticed in the paper that they were expressing great joy as balloonists when they saw the coast of Ireland. My father would agree with them very much, and I am sure he will when I talk to him today, that everybody should express great joy when they see the coast of Ireland.

As the Senator from New Mexico knows, my mother would feel that the joy should be reserved until they get to Italy. But the Senator from New Mexico feels the same way, and we are all delighted that they made the trip and made it safely. It is a great accomplishment.

Mr. DOMENICI. We all know their goal. Their goal is to reach the same place Lindbergh landed, and that is why we do not know precisely the time they will land. For them to want to go on just indicates the kind of great spirit they have, and it is evidenced in this resolution that the Senate has agreed to, paying them homage as being really people of the American tradition of having great courage, determination and commitment, which is sort of symbolic of our Nation of explorers and doers. I thank both the Senators for their comments.

Mr. LEAHY. I thank the Senator.

REPRESENTATION OF THE DISTRICT OF COLUMBIA IN CONGRESS

The Senate continued with the consideration of House Joint Resolution 554.

Mr. LEAHY. Mr. President, I will be brief in my further comments about the representation of the District of Columbia.

I went to law school in Washington, D.C.; graduated from here in 1964, and I wanted to go to law school in the District because it was Washington.

I first visited the District as a young person with my mother, my father, and my sister, and I was enormously impressed, as I believe all visitors are, with our Nation's Capital.

I also thought how nice it would be to spend part of the year in Washington and part of the year back in Vermont. Ten years later, I was fortunate enough to come back here as a Member of the Senate, where I could do that. I must admit that I was not aware at the time that we would have as limited an amount of time in Vermont as we have; the weekly visits back home are all too short.

But I have always maintained very much of an interest in this city, and while I had not asked to be made chairman of the Appropriations Subcommittee for the District of Columbia—in fact, there was at least one Member of the Senate who suggested I became chairman because I was foolish enough to show up 5 minutes late for the organizational meeting of the Appropriations Committee a couple of years ago—I have enjoyed the work as chairman of that subcommittee, and I have had a chance to learn far more about the city than I ever would have otherwise. I have walked around the city, talked with people, and spent just about every free moment in this area that I could in going around the city.

I am well aware of the historical factors in the development of the Federal City. I am well aware of the thinking that went into setting up the Federal City 200 years ago. But anybody who can look at those historical antecedents and feel that changes have not occurred is just not facing reality, Madam President.

Changes have occurred, and whatever reason there were to deny representation to the citizens of this beautiful and proud city 200 years ago, I suggest those reason no longer exist.

So, Madam President, I feel very strongly that we now have a situation which, while it started out historically correct—I have no problem with the historical reasoning for the lack of representation—if it continues it involves not a question of maintaining history, but a question of creating and maintaining an injustice, and doing a serious wrong to the people of a great city.

Mr. BAYH. Madam President, will the Senator yield?

Mr. LEAHY. Certainly. In fact, I yield the floor to the Senator from Indiana.

Mr. BAYH. I would just like to make an observation, inasmuch as our distinguished colleague and good friend from Vermont is addressing himself to this question.

I think it is important for those who might read this RECORD to understand the significance of the support of the distinguished Senator from Vermont. He sits in a very critical position as the chairman of the District of Columbia Appropriations Subcommittee. Having had the opportunity to fill that post a short time back in my early period of servitude on the Senate Appropriations Committee, I became very much aware of how familiar one becomes with the nuances of the District Government, and I think it certainly speaks well of the importance of this issue and, indeed, of the Senator from Vermont, that he is lending his support to it, and I applaud him for that.

I listened very carefully to his reasoning, and certainly he correctly pointed out that if one looks at what has happened historically since the Constitution was written, the circumstances that were considered by our Founding Fathers as far as size is concerned, the size of the District of Columbia have changed—in fact, the security question is no longer a question.—I certainly salute him for throwing his support to this measure, and as one who has had an inside look, I think that support will mean as much if not more than that of any other Senator, and I am very grateful for it.

Mr. LEAHY. Madam President, I thank the distinguished Senator from Indiana very much. As I stated earlier in my statement, the Senator from Indiana has shown long and effective leadership on this issue, long before I was even able to be involved as a Member of the Senate, and his critical chairmanship on the Judiciary Subcommittee on the Constitution and its work in this area, I think, is one of the important reasons why we are able to have this matter before us now.

In fact, I feel sort of like a caboose being led by a train of people like the Senator from Indiana. I must admit that the more involved I have been in my own chairmanship of the appropriations subcommittee, the more convinced I have become of the position that the Senator from Indiana has long espoused.

Mr. BAYH. Madam President, will the Senator permit me to address one question to him?

Mr. LEAHY. Yes.

Mr. BAYH. And will he give me a little time to, perhaps, postulate a bit before asking the question?

Mr. LEAHY. Absolutely.

Mr. BAYH. One of the questions that has been raised about this issue is, does this indeed establish a precedent for other American cities to seek to become "city states"?

In my remarks yesterday, I tried to address myself to the question of three levels of Government, the local, State, and National Government, and to deal with the ways in which those separate levels of government have an impact on the lives of our citizens.

I further tried to stress the importance of having an opportunity for the citizens to be represented at those various levels, and to have an impact as their officials were making decisions that would influence their lives.

The Senator is very much aware of what is happening in the District. He knows of the local government decisions that are made, that impact on the lives of the citizens.

Mr. LEAHY. Yes.

Mr. BAYH. And we know of the local elections. What we are after here, it seems to me, is to make certain that at the Federal level those decisions that are being made that affect the lives of U.S. citizens who happen to live in the Federal city, that the citizens who are affected have a voice in determining the representatives who make those decisions.

Has the Senator from Vermont found any evidence, in his very close experience with what is happening in the District, that there is a move to make the District a State, that indeed that level of government is what we are talking about? Is it not fair to say we are talking about how fully citizens of the District are represented in the decisionmaking process at the Federal level, and there is really no effort to try to create a precedent where other people, who are already represented at the Federal level, will have a chance to take the same course?

Mr. LEAHY. As to the latter point, I feel that the people of the District of Columbia want to know that they have a voice in their own representation in the Federal Government, in Congress, and not be faced with the situation they have been faced with, really, since the beginning of the Nation. This situation is having a group of us, whether it is I or our distinguished colleague from Indiana or anyone else who has been involved in the various District of Columbia committees and subcommittees of Congress—in effect, as surrogate representatives on a part-time basis, almost as an added chore to our own constituent responsibilities. Rather than having us as their representatives, they should have the representation that they truly and justly and honestly deserve.

That is what it is coming to.

We are not looking for the 51st State. We are looking for the representation of the Federal city with its population. The population, as I stated before, is 1½ times that of my own State. They do deserve representation.

Mr. BAYH. I appreciate very much the comments of my distinguished colleague from Vermont.

Mr. GARN. Will the Senator yield?

Mr. LEAHY. I yield.

Mr. GARN. I ask unanimous consent that Karen Steidl of Senator YOUNG's staff be granted the privileges of the floor during the consideration of the pending joint resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. May I compliment the Senator from Vermont on his tenure with the District of Columbia Appropriations Subcommittee. As a former mayor, I was assigned to the District of Columbia Committee immediately upon arriving in the Senate, when Senator LEAHY and I arrived in the Senate in 1974. That committee was done away with, as everyone knows, after 2 years, when it was merged into another committee.

I did have some insight into District problems after working rather intimately for a 2-year period with the District of Columbia budget and authorization and appropriation bills for the District.

The Senator from Vermont has done an excellent job in trying to solve many of the problems of the District, such as working on the convention center, and I have backed his efforts.

I would also like to say I agree completely with what he has said today, about the unfairness of not having representation in the District.

I do think the times have changed—I do not think there is any doubt about that—from what was conceived 200 years ago. We do live in a different time, and it is not fair for the people living in the District of Columbia not to be able to vote for Senators and Congressmen and have voting representation in the Congress.

But the reason that I oppose this particular constitutional amendment to give the District two Senators and two Congressmen is that I think we go from no representation or underrepresentation to vast overrepresentation.

The Senator eloquently talked about the differences of some of the rural States. My State is considerably larger than his but certainly still a relatively small, rural State. All of us who represent small States, even those of us in Rhode Island or Delaware who have small States, represent a variety of interests, in Vermont, Delaware, or Utah. There are cities, some relatively large, a lot of very small ones, a lot of rural area, a lot of farmers, a lot of land problems, a lot of very diverse and different interests.

Washington, D.C., is simply a city dealing purely with urban problems, and some very difficult ones, more difficult than a lot of other cities because of the presence of the Federal Government. So it is unique among cities.

I was president-elect of the National League of Cities 4 years ago. I knew most of the mayors of all the major cities rather intimately, and knew of their problems.

The District of Columbia is just a city without all of the divergent problems in a State, which we as Senators face, in a State regardless of geographical
population. Certainly New York
not like Washington, either, an
have 8 million people.

I do not think it sets any pre
necessarily, as Senator BAYH was
about, but the effort to give the
of Columbia representation by a
them two Senators and two Co
men, or whatever the population
surprises me.

Certainly, though it would
precedent, New York or Chicago,
the bigger cities, would be vastly
represented. And they have som
cult problems. They are repre
through their two Senators. I agr
the unfairness and everything th
been expressed by the proponents
joint resolution, except the met
which we achieve that representa

It seems to me that the way t
the problem—and part of the
was returned to Virginia—is to
the residents to the State of Ma
and then they would certainly ha
resentation the same as residents
other State. They would undou
have Congressmen. The District
probably be divided up into a co
districts. They would have the
Congressmen. They would have
sentation fairly and equitably t
their Senators in the U.S. Senate i
other citizen who lives in a city.

New York City, with 8 million
I am sure feels they are adequate
resented by Senator MOYNIHAN
Senator JAVITS.

I am sure the citizens of Chica
pleased with Senator PERCY and S
STEVENSON. They do not have any
lem with that.

Other major cities around the c
have no problem.

I very sincerely have difficulty
standing what is the real problem
is absolutely unfair. I am not
understand the historical precede
denying them voting rights in th
eral city. Why we want to tak
method, to the exclusion of all
cities in the country, dozens and
of which are as big or bigger than
ington, and allow just them t
representation makes no logic or s
me at all.

I would very avidly support an
posals to help the citizens. The c
are what we are talking about, an
right to vote, not a city. The D
hardly needs representation as th
eral Government dominates most
All 100 of us are involved in the
priation process and other matte
the District, too much involved
opinion, giving too much direction
city. Nevertheless, why this med
have not been given a satisfacto
swer to that by anyone.

The proponents talk all arou
issue but in my opinion we have n
quately come up with why we sho
with totally unfair no representa
vast overrepresentation for one ci
is dominated by the Federal Gover
and unique among all other cities
country.

It seems to me that the citizens
York, Chicago, Philadelphia, and

large cities, would be rather irritated

he would exclude the first 10 amend-

exceed revenues, unless a state of war

large cities, would be rather irritated with this proposal.

Included in the arguments we have heard is population. If there is an argument for cities with a population of 705,000, does New York City have an argument with a population of 8 million? They could ask, "Why does Utah have two Senators with their population?"

If that argument does hold, then we would be setting a precedent.

This Senator has no problem with the right to representation by the citizens of the District of Columbia. I think it is fair, justified, and I think it should be granted. But I am totally opposed for the reasons I have stated to singling out a city that does not have the statewide problems, the diversity of problems, and giving them full representation as a separate entity when returning citizens to the State of Maryland or Virginia and allowing them to vote, as residents of any other city of this country have the opportunities to do, would be ultimately more fair. We ought to proceed with that.

Mr. BUMPERS. Madam President, I should like to make a few remarks regarding the Curtis amendment, which, as I understand it, is the pending business. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. BUMPERS. Madam President, I originally was a cosponsor of the resolution which is now the Curtis amendment. I cosponsored it when he offered it as a resolution in the Senate because I think it is a matter that needs to be continually debated by Congress, but I have problems with it as an amendment on this measure.

Of course, there are two or three things in the resolution that I object to, and I might say that I offered my own resolution, back on January 10, 1977, which is Senate Joint Resolution 2, to accomplish a balanced budget.

There are some people who just do not think a balanced budget is really relevant to the times. Then there are some, like myself, who feel that there is not anything much more relevant. But I cannot support the Curtis amendment, No. 1 because it wipes out the constitutional amendment which is the pending business; namely, representation for the District of Columbia.

I support representation for the District and I would not want to support an amendment which was irrelevant to that amendment and substituted another one in its place that, as I say, was totally irrelevant.

No. 2, I do not believe Congress has ever attached another constitutional amendment to a constitutional amendment, and I think it is a bad precedent. I think the Senate ought to stand on its feet and either accept or reject the constitutional amendment that has been proposed.

Mr. SCOTT. Will the Senator yield?

Mr. BUMPERS. If the Senator will wait just a few moments, I shall be happy to yield.

Mr. SCOTT. I just wanted briefly to remark, if the Senator would yield, that he would exclude the first 10 amendments of the Constitution.

Mr. BUMPERS. I am not sure what the Senator means by excluding.

Mr. SCOTT. I mean the first 10 amendments were submitted together.

Mr. BUMPERS. I am not talking about collective submission, I am talking about offering amendments as a substitute for another amendment. Here we have an amendment which is the pending business, to give the District of Columbia representation, and the Curtis amendment would completely obliterate that and substitute a constitutional amendment that would require the Congress to live within a balanced budget. They are not related. Each one of those things ought to be considered separately and fully debated.

I personally support representation for the District and I certainly support the Senate's adopting this resolution and sending it to the States for ratification. Whether 38 States are going to ratify it or not is another matter. That is their prerogative. But I do not think there is a precedent where we have been debating one amendment and then substituted another one. And I do not think there have been many precedents, incidentally, where we amend constitutional amendments very significantly.

Another objection I have to the Curtis amendment is that it imposes a surtax. It says any time Congress decides to spend more money than it takes in, a surtax will immediately become operative. I have steadfastly maintained, and I feel comfortable in the position, that the American people are, indeed, upset, but they are not nearly so upset about the taxes they are paying as they are about the way their money is being spent.

I have some considerable concern about the tax bill that is going to be coming over here from the House: No. 1, because I do not think it is tax reform, based on what I have seen of it; and No. 2, because I do not think we ought to be considering any significant tax cuts until we do reduce spending and get the revenues into the Treasury and our expenditures in balance.

The other thing about the Curtis amendment that I find objectionable is that only in case of a grave national emergency, so declared by 75 percent of both Houses, could Congress spend more than it takes in without the surtax becoming operative. When I was Governor of my State, we had a strange rule down there that, in order to pass an income tax, it takes three-fourths of both Houses, but if you want to pass a sales tax, it only require a simple majority. In 1971, my first year in office, I decided that our income tax was antiquated and needed to be updated and needed to be reformed. I know what it is like to try to get 75 percent of anybody, any group, to agree on anything. I think that you could find this country stalemated by such a requirement.

My own proposal would be to require that a three-fifths majority of Congress declare a national economic emergency before we could exceed revenues, before expenditures could be appropriated to exceed revenues, unless a state of war exists. It occurs to me that those are reasonable approaches to this problem.

Finally, Madam President, the point I want to make is that I just spoke to the Senator from Maine (Mr. MUSKIE) yesterday afternoon. As you know, he is chairman of the Budget Committee. He is a diligent, tireless worker in that Budget Committee, and guards this floor assiduously to make certain that appropriations in here do not exceed that budget resolution. I do not know whether the Congressional Budget Act of 1974 is ever going to work or not, but I have voted to sustain almost every point of order that the Senator from Maine has raised about a bill here violating that act—not because I necessarily agreed with it, not because I would not like to see money spent for a particular project, but because I feel a strong obligation to support that act and try to bring some discipline to this body in our voting of expenditures.

He gave me some very happy news yesterday. That was simply this: The President had estimated that this year's budget deficit, based on his request for money and based on the Treasury Department's projection of revenues, was $60 billion, a little over $60 billion. As of right now, the Budget Committee's projection is that the deficit will be $18 billion less than that, or $42 billion, and that takes into account, I believe, a $15 to $20 billion tax cut.

I personally think if you went to the American people on television tonight and said, "Would you like to see the $42 billion deficit cut to $22 billion and not take a tax cut," the overwhelming majority of people in this country would say, "I will continue to pay the taxes I am paying now if you can do that and if you will give me some assurance that the following year and the following year, you are going to balance the budget."

There is not any more legitimate debate that can come before this body than fiscal responsibility and balancing the budget. The Senator from Georgia (Mr. TALMADGE), who sits here, has been here much longer than I have and I know that he agrees with that statement. I know he has made speeches about it, just as I have and a lot of other people in this body have. I personally see a little light at the end of the tunnel right now for the first time since I have been in Congress.

Madam President, the President's popularity is at an all-time low. He has done a lot of things that I personally consider to be eminently correct. I agreed with him on the B-1 bomber, I agreed with him on plane sales to Egypt and Saudi Arabia, I agreed with him on the Panama Canal treaties, I agreed with him on the social security tax increases. I have agreed with him on a lot of things. He did those things, and I thought they were right, but, unfortunately, they are very unpopular across the country.

But I shall tell you something else, Madam President: The reason for the President's unpopularity right now is not

necessarily because of those things and others that I have just mentioned. It is because they are felt to be irrelevant to the lives of the people in this country who go to the grocery store week after week and find prices going up at an exponential rate and find their disposable income is going down at about 3 percent a year right now. Inflation is literally tearing the heart out of this country.

Some businessmen say it is all because of deficit spending, and certainly, they are right, there is a good big portion of it that is caused by deficit spending. But that is not the only reason. One of the bigger reasons is that we have not been able to control our energy appetite in this country, and this year, we are going to import about $50 to $55 billion worth of oil, which we cannot afford, and we are going to have another big trade deficit. Last year, it was a little over $27 billion. This year it is likely to be that much and more. That is the reason that the dollar, against the yen, the mark, and the franc, and every other currency, continues to decline.

That is the reason the Datsun and Toyota cost has been $1,000 more than last year.

So the American people perceive maybe not some sophisticated economic theory, but they perceive that something is grossly wrong in this country when inflation continues to run unabated and our energy appetite grows and nobody seems to be doing anything about it.

Those are the things that are relevant in the lives of the American people.

Let us govern expenditures. A more responsible attitude by the Congress in spending can certainly have a very dramatic impact.

In my opinion, if we could say, "Look, we will not cut your taxes, but when you go to the grocery store and see bread at 45 cents or 50 cents a loaf, next month, or 6 months from now, and a year from now it will still be 45 cents or 50 cents," they make a lot more money that way than by cutting taxes. They do not have to understand sophisticated economic theories to understand that. They know it.

But with all that said, the Curtis amendment, I believe, is placed before this body in the wrong setting. It is going to be difficult for me to vote against it because I have been an ardent, strong champion of a balanced budget. But I do not think we ought to wipe out D.C. representation in order to bring it up at this point. I think it should be brought up at some other time.

The Senator from Nebraska knows I came over to testify before the Judiciary Committee on my own resolution to balance the budget. He cosponsored mine and I cosponsored his. We both knew it was not going to get out of that committee.

I think that is unfortunate, because I think it would be good to have a good, long, healthy debate on that subject, a responsible debate, not one where people say one thing with tongue in cheek and do something else down in their committees.

So, for those reasons, Madam President, I will reluctantly oppose the Curtis amendment.

Mr. TALMADGE addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. TALMADGE. Madam President, President Carter pledged to balance the Federal budget by 1981. Congress continues to pay lip service to the concept of a balanced budget. The need for fiscal responsibility in Government was a pivotal issue in last year's election.

In short, everyone talks about it, but from many years of experience, I am somewhat cynical. I find it very difficult to be optimistic about restoring economic order to the U.S. Government.

In fact, I lean more toward pessimism, an attitude which is shared by many of the world's leading economists, including a Nobel Prize winner in economics, Milton Friedman.

With all due respect to the President, I do not believe it will be possible for him to achieve a balanced budget by the end of his term.

As for Congress ever balancing the budget, we may as well forget it. We have not had a balanced budget in the past 18 years. In fact, we have plunged the Nation further into debt in the past 10 years than all of the previous history of the Republic.

A balanced budget has literally become a relic of the past.

I have struck a note of pessimism because that is exactly how I see the situation. However, it does not have to be. We have the power and the means to restore strength and stability to the U.S. economy.

We can act if we will. We can stem the tide of massive deficit spending which pushes our Nation deeper and deeper into debt; or, we can continue to sit on our hands and court economic disaster.

U.S. fiscal policy can be compared to the plight of the drug addict. We borrow to pump more money into the economy to get things going.

Unfortunately, the high is only temporary and eventually another dose is required. And on it goes.

Each time the dosage must be increased to create any kind of stimulation at all. And sooner or later, there comes the fatal overdose.

So it has been with economic pump priming by the United States in the past two decades. The Keynesian theory of economic stimulation not only made deficit spending acceptable but desirable as well.

The fact is, we have not stimulated the economy. We have not increased productivity in the private sector. We have not reduced unemployment.

We have instead created rampant inflation. We have destroyed confidence in the dollar. We have lost our preeminence in the world. We have destroyed public confidence.

If the massive outpour of Federal funds—which we have had to borrow before we could spend—has not bolstered the economy, what has it done?

We have made Government bigger and bigger. We have created a bureaucratic monster that defies control.

It is within Congress power to balance the budget. I do not think Congress, as presently constituted, has the will
ance the budget. In short, I do n
lieve Congress will ever balanc
budget until it is made to do so.

I propose we do precisely that.
pose that we throw away the key
Treasury, and that we stop the r
the taxpayer's money.

I again believe that the U.S. Con
tion should be amended to provid
except in a time of war or extraord
national economic emergency de
by Congress, the aggregate expend
of the Federal Government shall n
ceed the net amount of its reven
any fiscal year.

I have been pushing for such
for several years. I have thrice pro
a budget amendment to the Constit
I will continue to stand behind it a
as I am witness to a Congress and
Government that seems bent upon
ruptcy.

Quite simply, we should establish
supreme law of the land the pri
that the budget of the United
must be balanced.

There is growing support for a m
tory budget amendment. More tha
Members of the House sponsored
action. Twenty-two States have ad
resolutions urging that the Consti
be amended to require a balanced
eral budget.

According to polls, an overwhe
majority of the American people
want to enjoin Congress from
spending.

Twenty-eight Senators have spon
such an amendment. I believe wi
hesitation that a budget amend
would be readily ratified by the
if they were given an opportunity t
on it.

It is the people's money we are ta
about. It is their Government. I s
ought to give the people that o
tunity.

The need for such a measure as
well known to every American se
tax relief and to every citizen, tax
or not, who has been subjected t
ravages of inflation which robs the
their earnings and their savings.

In 40 of the past 46 years, we
mounted multibillion-dollar deficit
deficit. We have a national debt of
$750 billion. Interest on that debt
third largest item in the budget.

We will pay more interest on ou
tional debt this year than we spe
all Federal operations in 1950.

No one argues much about the
to get a tighter grip on Federal exp
tures. President Ford supported the
cept of a balanced budget and, in
President Carter campaigned wi
specific promise to balance the budg
1981.

He cannot do it alone, if at all.
gress must take the initiative. Con
must discipline itself. Congress mus
itself under an irrevocable manda
stop spending beyond our means.

In the final analysis, no matter
a President proposes, final authority
the budget rests with Congress, and
Congress alone.

We cannot continue to spend m
we do not have on programs we d

need in the vain hope of being all things

could conceive, the revenue gained for

I fully support requiring each citizen in-

need in the vain hope of being all things to all people, both at home and abroad.

Dollars are squandered throughout the vast Federal bureaucracy and in every nook and cranny of America.

They are scattered in every corner of the world and have found their way into the hands of allies and adversaries alike.

In efforts to solve every problem everywhere in the world and some that only exist in people's minds, we have succeeded only in breeding contempt for our prosperity and generosity over the past two or three decades.

My father used to say that just as a man cannot drink himself sober, a nation cannot spend itself rich.

Historians have noted that each of the 16 great civilizations of the past fell because of internal economic and political strifes, and not because of invasion or attack by an external enemy.

In view of the fact that more than 6.2 million Americans are out of work, double-digit inflation remains a serious threat, and we are still trying to recover from the worst recession since the Great Depression; it is proper to inquire if we have not been sowing the seeds of our own eventual destruction.

We cling to the perverse attitude that regardless of which economic ill plagues our Nation at any given time—inflation or recession or what has come to be known as stagflation—the best way to attack that problem is to throw money at it.

Fearing for our own political lives, we refuse to raise taxes to finance the increasing cost of Government. We simply borrow the money instead.

As a result, deficit spending, traveling under the guise of economic stimulation, has become a way of life.

To continue to borrow and inflate puts an unconscionable burden on generations of Americans yet unborn. This is not economic stimulation. It is theft.

I submit, Madam President, that such a fiscal lifestyle is at best unhealthy for our Nation, and at worst suicidal.

There can be no stabilization of the U.S. economy without Federal spending control. These are the most important issues and the greatest challenges facing the American Government today.

At stake is the confidence of the world in our economy. At stake is our own national security.

In recent years, our preeminence as leader of the free world has been severely eroded. The American dollar has come under savage attack and has taken beatings in world monetary markets.

Also at stake is the confidence of the American people in their Government and, to a large degree, the confidence of our people in themselves.

Lack of public faith is not surprising when one considers that working people must devote more than a third of the year, just to meet State, local, and Federal tax obligations.

They are outraged with inequities of the Internal Revenue Code. They demand tax reform and tax relief. I do not blame them.

But, let us not confuse the issue. If Congress enacted every "soak the rich" tax reform proposal the mind of man could conceive, the revenue gained for the U.S. Treasury would be a mere drop in the bucket compared to the projected Federal budget deficit for this year.

For example, the Joint Committee on Taxation estimates that if the Federal Government totally confiscated all individual incomes in excess of $100,000, we would gain approximately $1.3 billion in new revenue.

If we confiscated all individual incomes in excess of $20,000, we would generate an additional $16.3 billion. That is no small amount, but it is only a fraction of the fiscal 1978 budget deficit which at last count will be approximately $50 billion.

Other so-called tax reform approaches have been suggested. We could remove the tax exempt status of interest earned on State and local bonds—a so-called tax loophole that denies the Federal Treasury approximately $5 billion each year. But such action as this would handicap State and local government and virtually wipe out many needed services and operations of local government.

We could do away with deductions for charitable contributions that would bring in an additional $6 billion a year in revenue.

But where would that leave our churches, schools, health organizations, and charities which depend on gifts and donations as their life blood?

We could end the Federal income deduction on mortgage interest payments by people who are trying to buy their own homes. We could repeal the deduction for medical, hospital, and drug expenses of the sick, the disabled, and the elderly.

We could go on and on with such a crusade. We could march triumphantly through the Internal Revenue Code, leaving in our wake crushed remains of so-called shelters and the tightly closed remnants of tax loopholes.

But, Madam President, we need to be honest with ourselves—and with the American public—and determine whether sweeping tax reform is the real answer.

We have tried tax revision. We have tried tax reduction. Understandably, as elected public officials, we are always in search of some reason for enacting some form of tax relief.

In my judgment, the best and most justifiable reason is that taxes at all levels of government are too high.

When you take statutory taxation at all levels of government, and add to that the cruel tax that is imposed by inflation, it is no wonder that the American people cry for relief—especially low- and middle-income families and people who must live on fixed incomes like social security and retirements benefits.

I submit that tax revision is not the answer. We have pursued policy of taxing less, of spending more, and of borrowing to the hilt—and instead of relieving taxpayers and working people, we increase their burdens.

I do not deny that Congress should take a long, hard look at our tax laws. On the contrary, I strongly feel that we should comprehensively review the code. I fully support requiring each citizen, individual and corporation alike, to carry a fair share of the tax burden.

Granted, we need tax revision. But we need budget control more.

We have had astronomical Federal deficits during Republican and Democratic administrations alike. I do not single out any administration for blame. I do not single out any Congress for blame.

I do say Congress, and Congress alone, has the power to act to balance the budget, to lead the way toward order in our economy, and to help rebuild public confidence in government.

There are other potentially disastrous dimensions to our "buy now, pay later" fiscal policy. Americans are already paying exorbitant interest rates on consumer loans and home mortgages.

The situation could be grievously aggravated if the Federal Government must become even more deeply dependent upon private credit markets in order to finance the horrendous budget deficits of this year and next.

Massive borrowing by the Federal Government can crowd working people and businessmen out of the credit market altogether and can place the Treasury Department in open competition for every available credit dollar.

The results could be catastrophic: Even more credit shortages and even higher interest rates.

Clearly, Madam President, we cannot continue on a course of unrestrained spending and festering debt. We cannot continue to run the risk of economic upheaval. We have gone too far down that road already.

Because of this, I offered my own resolution to turn our Nation's fiscal policy around by compelling Congress and the President to appraise our national priorities realisitcally, and to allocate our national resources responsibly. Because of this I intend to support budget balancing amendments to every proposed change in our Constitution that the Senate considers this Congress. With the adoption of a budget amendment, the luxury of falling back on deficit financing would no longer be easily available. We would be insulated from the day-to-day pressures and demands to spend more and more money for everything that comes along.

The mechanics of my own proposal are simple and straightforward. Only war or an express congressional declaration of national economic emergency would permit deficit financing. In determining whether an extraordinary crisis exists, the Congress would have to consider the extent and the rate of unemployment, industrial activity, inflation, and other economic indicators it deems appropriate.

I am convinced of the need for such a resolution. I believe most Americans share this conviction. We have persistently embraced the notion that the best and only way to solve a problem, any problem, is to bury it under a pile of Federal money. We have lost sight of the fact that Government has no ability to produce wealth. It only has what it takes from the people.

We need budget control that is firm, irrevocable, and enforceable, as a major weapon against inflation which has been draining the strength of our Nation, frustrating the taxpayer, robbing the worker of the fruits of his labor, depriving the elderly of the full benefit of their savings and benefits, and denying the businessman a fair return of his investment.

Undoubtedly, some will say that this approach is bad economics. Some will say that this approach is bad politics. There are even those who will say both.

I submit, Madam President, that we have followed their advice in the past and look where we are now. The big spenders have had their way, and their way has taken us to the brink of economic collapse and potential political rebellion.

Undoubtedly, many people will say that this approach is drastic. I concede that point. Drastic action is required. The economic spasms we are experiencing defy ordinary remedy.

When the debt of the U.S. Government is far greater than the combined debts of all other governments of all other nations of the world, drastic action is required.

When we see how a once-powerful nation like Great Britain can be reduced to virtual economic impotence because of government that has gotten too big and too costly, drastic action is called for.

When Federal, State, and local spending accounts for 40 percent of the gross national product, with Federal spending making up 25 percent of the GNP—drastic action is called for.

Madam President, we cannot, we must not, be lulled into a false sense of security. Through reckless Federal spending and borrowing policies we have almost bankrupted our Nation, the most powerful, the most wealthy, the most generous society the world has ever known.

We have alienated our constituents. We have mortgaged our children's future. We have no recourse except to take positive action to cut spending and the only way I know how to do this is to require it under the Constitution.

Madam President, I yield the floor.

Mr. CURTIS. Mr. President, will the distinguished Senator yield?

Mr. TALMADGE. I yield to my distinguished colleague from Nebraska.

Mr. CURTIS. I wish to commend the distinguished Senator from Georgia for his remarks. Many of our States have a constitutional restraint against going into debt. Without a doubt, it has preserved their solvency. The Senator is right in pointing to the fact that we must have such a constitutional restraint in the Federal Government. I commend him for all that he has said and his support of this cause.

I might point out for the RECORD that the proposed constitutional amendment for representation for the District of Columbia is here without the blessing of a committee. So this substitute, a proposed constitutional amendment to balance the budget, has equal standing today before the Senator so far as committee action is concerned and it remains a question: What is important?

I am willing to submit it to all of the people of the country. They have already spoken. They said inflation is the most important. We should balance our budget and thus remove one of the biggest causes of inflation.

Again I thank the distinguished Senator from Georgia for his contribution.

Mr. MELCHER. Mr. President, I ask unanimous consent that Wayne Mehl, Jim Stasny, and Ben Stong, of my staff, be accorded the privilege of the floor during the debate and consideration of votes on this measure.

The PRESIDING OFFICER (Mr. NELSON). Without objection, it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. MUSKIE. Mr. President, the Curtis amendment proposed yesterday involves a most serious fiscal problem.

The Federal Government's continuing deficit must be eliminated as soon as possible.

But we must beware of simple-minded solutions proposed for personal or partisan advantage to this most serious problem.

H. L. Mencken once said:

> There is always an easy solution to every human problem—neat, plausible, and wrong.

The deficit is a difficult problem.

The Curtis amendment is a simple, easy and wrong approach to solving it.

In fact, the Curtis amendment will almost certainly make the deficit worse and may lead to even greater Government spending.

The Curtis proposal would amend the Constitution. It would require the President to impose an income tax increase every calendar year equal to the Federal deficit of the last year. For example, last year's deficit was $50 billion. Under the Curtis amendment, 1978 income taxes would have risen $50 billion, or about 12½ percent for every taxpayer.

Now that is a simple proposition if I have ever seen one. But, let us take a closer look.

First of all, where does the deficit come from? The Federal deficit in any particular year is roughly the difference between what the Treasury takes in in taxes and what it pays out for expenditures. A deficit occurs when Government expenses rise more rapidly than taxes.

Deficits will occur even in good economic times when Government simply spends too much. I want to say more about that later in these remarks.

But deficits also occur—like those of the last several years—when a recession depresses private business. Government revenues go down when taxes on wages and profits are lost in a high unemployment, low profit economy.

These deficits are a serious problem.

The Curtis amendment's answer to this problem is to kill the patient to cure the disease.

In recessionary times, like those of the last 3 years, the Curtis amendment would require massive tax increases. It would attempt to balance the budget by huge tax increases precisely when the economy is weakest and most in need of support from tax cuts.

Had the Curtis amendment been in effect during the past 4 years, F
taxes would have risen by a theor
$156 billion, the total deficit in
years.

As a practical matter, such hu
increases would have severely dam
the economy. An even deeper rec
would have shattered business and
sumer confidence. And the deficits
then probably have been even dee
more wages and profits and the ta
them were lost.

But this deficit deepening effect
Curtis amendment is not its only
ling defect.

In better times, the Curtis amend
would encourage excess Federal s
ing by producing excess revenues.

Let us see how that would happen

Under the budget Congress
adopted, for example, we expe
gradually eliminate the deficit by
as the economy improves.

In fact, we foresee a surplus in
of about $3 billion.

But there will be a $13 billion d
in 1982.

Under the Curtis proposal, taxes
be increased in 1983 by $13 billion
amount of the deficit in 1982.

This surtax would not avoid the
deficit. It will already be on the b

And it will not limit spending in
which will already be history.

But it will encourage excess Fe
spending in 1983, because these $13
lion in extra taxes will just add on t
$3 billion surplus already forecast
suming this tax increase did not star
other recession that year, the C
amendment would encourage new
eral spending up to this $16 billion
plus and an expansion of the Go
ment to use these new taxes.

As chairman of the Budget Com
tee, I yield to no Senator in my co
about this deficit and my attemp
eliminate it through the congress
budget process. The 5-year budge
adopted this year is designed to do t

But the budget process has got
allowed to work.

Senators cannot vote to suspend
budget process when it interferes
their spending plans.

Senators who vote against budget
olutions—and then vote to suspen
Budget Act in order to spend more m
anyway—are saboteurs of the b
process and fiscal responsibility.

For example, the sponsor of
amendment has never voted for a b
resolution. Yet twice in the pa
months—once only 2 months ago
has voted to suspend the Budget
He has done so to allow for billio
dollars in new deficit-financed Fe
spending which the budget resol
prohibited.

It may be that the temptatio
preach fiscal responsibility and pra
fiscal profligacy cannot be controll
the Senate. I often have my doub
that question.

For example, contrary to the prop
constitutional amendment which i
vocated here today, this same Se
is a cosponsor of the so-called K
Kemp bill to cut taxes by one-
during these next 3 deficit-fina

years—for a total addition to the deficit of another $126 billion.

Mr. President, I had the great pleasure recently to meet with Mr. Howard Jarvis. No one can fail to admire the sincerity and single-mindedness with which he has pursued the important issue of property tax reform.

But we must beware of those who would ride his coattails.

It may be that someday we will have to give up on ourselves and amend the Constitution to restrain our conduct.

I hope we can act responsibly, so that that day never will come. But if that day comes, such an amendment must be workable, well thought through, and responsible.

This one is not.

I oppose it and I urge my fellow Senators to do likewise.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. MUSKIE. Yes, I would be happy to yield to my good friend from Indiana.

Mr. BAYH. Mr. President, I have had the opportunity to study the logic presented by the distinguished Senator from Maine on this issue, and I just want to add my commendation to him for the well-thought-out logic. This business of how one ultimately deals with our goal of a balanced budget is the kind of thing that, like specialized surgery, requires well-honed technicians and the use of a scalpel instead of a meat ax or vise grip approach. I think the Senator from Maine says that much more eloquently than the Senator from Indiana ever could. I just wanted to associate myself with his remarks.

Mr. MUSKIE. I appreciate that.

May I add that Senator DANFORTH, who is the author of a proposal that appears to be similar in some respects to the Curtis amendment, asked me several days ago to take a look at his proposal. We have been doing so in good faith and with a positive attitude, because he obviously has considerable faith that his approach would work. We were prepared to consider offering suggestions for changes in that proposal. Of course, we are not in a position to develop such changes in connection with this amendment.

The unfortunate thing is that the amendment in this case was offered to an unrelated amendment, the pending constitutional amendment. The purpose, I gather, is to prolong debate on the pending constitutional amendment. The result is, I think, to give less than a complete and comprehensive evaluation of proposals of this kind.

Having had the benefit of at least a preliminary analysis of such proposals for automatic tax increases, we were in some position to evaluate their consequences. In its present form in this amendment, it does have the drawbacks that I have suggested here this morning. For that reason, even though it may be popular to vote for anything in the name of balancing the budget, to act responsibly I have to vote against this proposal. I have stated the reasons, and I think I stated them sufficiently briefly so as not to burden the Senate with my oratory.

Mr. BAYH. Mr. President, could I ask the Senator to yield for another observation and response?

Mr. MUSKIE. I would be happy to yield.

Mr. BAYH. When this matter was brought to the floor yesterday, our distinguished friend and colleague from Nebraska issued an opinion which, frankly, I think probably was very accurate, and in which he said that everybody is for balanced budgets but not now.

I think we all have to recognize there is a certain amount of hypocrisy on this question.

Having admitted that, and confessing, if that is good for the soul, may I address another concern I have on the way we go about it? We just have to find a way in which we can address ourselves to that issue, if not on a year-to-year basis at least if we look at a larger cycle to try to see that assets and liabilities pretty well balance out. At least we give more attention to that than we have in the past.

This is not easy to do. One of the concerns I have, as chairman of the Subcommittee on the Constitution that has dealt with some degree of success and a great degree of lack of success in the constitutional amendment area, one thing that is obvious is that it is very difficult to amend the Constitution. I think this is probably good, as much as I have come a cropper in a good many of the ideas I have had to change the Constitution.

We do not want the Constitution changed at every whim. I say that, and I want the Senators' opinion on that, because, if we consider a balanced budget and the relationship it has on the economy, and the need to be careful if we cut taxes or raise taxes so that that is not a self-defeating kind of thing so far as getting additional revenues, that is, undoing what we set out to do, and if we consider that you cannot tell what you are going to need 10 years from now, then if you write into the Constitution something that can only be changed by an extenuated legislative process where you need to get two-thirds and then three-fourths of the State legislatures, it seems to me it denies us the kind of day-to-day almost, certainly year-to-year, decisions that can ultimately accomplish the goal.

Also the provision in the amendment of the Senator from Nebraska would require a three-fourths agreement. In other words, you might be able to get 52, 53, or 54 percent of both Houses, if they had courage enough to say that we are going to raise taxes and we are going to cut the budget here and not here, but to get three-fourths, it seems to me, is to make it almost impossible to have the opportunity to use some of the selective tools the Senator from Maine is very much aware of.

I wonder if he would address himself briefly to the need to have that kind of flexibility, and that this amendment is really sort of an inflexible way to approach the problem?

Mr. MUSKIE. I would agree with the Senator's conclusion. I would add that when we were in the process of drawing up the Budget Reform Act, we considered several approaches, from the very rigid and inflexible to some that perhaps would have been too loose and too flexible.

We bore in mind constantly that we had to deal with an institution of 535 Members, 100 Senators and 435 Members of the House of Representatives, each of whom had his or her own priorities.

You know, I have never met a Senator who did not believe in more spending for something. It might be defense, it might be veterans programs, it might be social security programs, but I believe almost every Senator's record will reveal that he stands for more spending for something other than the President recommended or than the budget resolution provided.

Well, you cannot accommodate every Senator's desire for more spending in his area without having large increases in total spending. So we have to—and I have reminded President Carter of this—put together a budget resolution for which we can get a majority vote. That means getting a budget resolution with a wide range of priorities.

That has been very difficult to do on the House side, and it has also been difficult to do here. You have people with that wide range of priorities, which has the result of raising total Government spending to a higher level. The result is that the total spending is more than I would like to have seen in the last 3 or 4 years, for example.

The budget has to be passed by a margin of only one vote, but that has never been easy to do. So I have found myself, as chairman of the Budget Committee, defending spending proposals at levels that I disapprove, and agreeing to limitations on spending in other areas where I would have preferred not to see them, in the interest of maintaining the process and the overall discipline.

If you do not have flexibility of that kind, the process will not work. The Senator was here in the same period that I was, when Presidents urged overall spending ceilings on us. They did not work, because when Members' priorities did not fit under the ceilings; Congress paid no attention to them.

A constitutional amendment as rigid as this one would, in my opinion, have produced very unfortunate economic results if we had had it in place. The escape route of a three-quarters vote would not work. How often would you see three-quarters of the Senate vote for something with specific costs to override the effect of the Curtis constitutional amendment if it were in place?

I just cannot see a three-quarters vote. You might just as well ask for a unanimous vote, if you were going to do that.

The second point I would make is that the Curtis amendment and the Danforth amendment are geared to outlays. Well, it is not outlays that trigger Government spending. Government spending is the result of budget authority. So if you try to screw down Government spending by controlling outlays without cutting budget authority, you have not controlled anything. To control outlays you have to control budget authority in prior years.

But the point of flexibility which the Senator raises is a very important one. There is no question that we need discipline. I could not concur more heartily with my good friend from Nebraska. We do need discipline.

But we also need flexibility, not only to meet economic exigencies, but to meet the unanticipated emergency, to meet the changing priorities of Members, and to meet the priorities of the people of this country, which change on us from time to time. We need flexibility in order to get their votes.

I think the Budget Act, with all its shortcomings, and it does have shortcomings, has had the effect of gradually establishing a sense of discipline in this body. It does not always work the way I would like it to. The result of its application is often not what I would like to be the result. But there were a couple of votes last week that, to my surprise, in view of what has previously happened in the Congress indicated that the need for discipline has begun to be felt by Senators. I would like to take advantage of that sense of discpline, which I believe has given the budget process a longer life than some of us expected when we created it. By building on that process and doing the job, I think we can have a balanced budget when a consensus in the country requires it, and the economy is strong enough to make it possible.

In the second budget resolution, which we will be considering in September, it is projected that the budget process outlays down just below 20 percent of GNP by 1983. Since outlays have been on the order of 22 to 23 percent of GNP through this recession period, if we can get it down to about 20 percent, we will have accomplished a great deal in limiting spending. We will also move toward a balanced budget, because, if we can moderate inflation by that action and encourage the private sector, revenues will continue to grow. We will then probably be able to have additional tax cuts and still achieve a balanced budget by 1983.

That is our objective and has been our objective in the budget process. As to the prospect of increasing taxes in times of recession, during these 3 or 4 years of recession we have had, no economist who has appeared before our committee, from the most conservative to the most liberal, has advocated tax increases to wipe out those deficits. None.

Mr. BAYH. No economist?

Mr. MUSKIE. No economist has recommended that. Some of them have proposed cutting spending or taxes more than others, and they obviously have differing economic philosophies. But there has not been one who has advocated massive tax increases to wipe out the deficits of the last 3 or 4 years which were forced on us by the depressed state of the economy.

Mr. BAYH. I appreciate very much the Senator's significant contribution.

Mr. CURTIS. Mr. President, I very much respect the distinguished Senator from Maine. He has carried a load, as chairman of the Budget Committee, that involves more detail and more trials, perhaps, than most of us realize. I respect his opinion on budget matters.

Likewise, I want to commend the distinguished Senator from Indiana (Mr. BAYH) for his work on constitutional amendments.

There are a few items that I feel we should correct for the RECORD.

The Curtis substitute does not authorize the President to impose taxes. The taxes are imposed automatically, under the force of the Constitution if this were a part of the Constitution. All the President does is perform an administrative act of working the arithmetic.

Here is the situation: I am not riding Mr. Jarvis' coattails. I have had a constitutional amendment to compel a balanced budget pending before this Congress for more than a quarter of a century.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. CURTIS. I yield.

Mr. BAYH. I will say to my good friend from Nebraska that he manufactured the cloth that Mr. Jarvis somehow got on the shelf.

Mr. CURTIS. I thank the Senator for that compliment. Mr. Jarvis is a great benefactor.

There were individuals in California who 10 years ago had a tax of $250 on their home. That tax had gone up to $2,500.

I talked to a young man, a resident of California, and I said, "How did you vote on Jarvis?" He said, "Well, I do not understand these things very much, but without it, they were driving families, and particularly old people, out of their homes."

So the fact that Mr. Jarvis performed this service for California is a good thing.

There are probably some harsh things about it. Maybe some things will have to be adjusted. But the fact remains the people who were paying the bills received some consideration, and the destruction caused by more taxes and more taxes was called to a halt.

I also want to point out there is no surprise to my amendment here today. It has been pending since April 4. The House District of Columbia representation proposal came here on March 6. It was held at the desk. My amendment was offered on April 4.

May I say something about the provision in the Curtis amendment in reference to taxes? I will say why it is there. I hope the Congress will never rely upon a mere declaration written into the Constitution that Congress must balance the budget. There will come a time in extreme circumstances, or arguments will be persuasive, and they will figure out a way not to do it, unless there is a self-enforcing procedure.

Is that just an idle charge? No, it is historical fact. The Constitution provides—though it is not very effective any more—that representation in the House of Representatives should be based upon population. However, if not all of the people were allowed to vote, representation should be reduced accordingly. That was the supreme law of the land in the Constitution, but there was no enforcement procedure.

What happened? I can name a
States. For example, Nebraska had
times as many voters over a serie
elections, and they had about four t
as many Representatives in the Hou
Representatives.

A mere declaration that we bal
the budget would not be enough
would be wrong to submit such a t
to the States.

I have had a constitutional am
ment pending in the Congress for
than 25 years. One morning I heard
news that the distinguished Sen
Byrd, father of our beloved colle
had figured out a way to write a co
tutional amendment which would
self-enforcing. This was a long time
He offered a constitutional amendm
that said that Congress must bal
the budget and they cannot adjo
until they take steps to balance it.

I thought it sounded great. Cong
had been getting out about the firs
July or the last of July. To make t
stay there until they balanced the bu
was a good thought. I called the dis
guished senior Senator Byrd and
"I want to be a cosponsor." The dis
guished Styles Bridges, of New Ha
shire, was a cosponsor.

What good would that enforcing
sion do now, with Congress in ses
most of the time, to say we had to
in session until we balanced the bud
when we are in session almost all
time?

How can we enforce it?

I believe this provision for an au
matic increase in taxes if we do not
ance the budget will actually reduce
penditures because it is there, it can
be overcome. Every Congressman
Senator will know if we authorize
much spending, everybody will know
right now, and they will have their te
raised. If that will not be the discipl
we have been hunting for, I would
surprised.

When I first introduced this particu
feature of the enforcing provision,
fiscal year ended June 30. Since th
it has been changed to September
Every other year, 20 days after the
of the fiscal year, the announcem
would be made that there would have
be a surtax added on everybody's ta
That would be done every year. Ev
other year that would come about 2
3 weeks before the election.

It will not happen that we will h
an unbalanced budget. If the rep
cards go out and say to all the vot
"The Congress has spent too mu
money and your taxes will have to
raised by 3 percent," 5 percent, or
percent, they have a remedy in the bal
box and they will use it.

Now, Mr. President, someone m
come up with a much better enforc
provision than this automatic surtax
they do, I will be delighted. Up to
present time, it has not happened.

I would earnestly warn, however, th
it would be a mistake for us to
through the lengthy and difficult proc
of amending the Constitution and h
it merely contain a declaration th
Congress should balance the budget.
has to have a self-enforcing provision

After all, what is so bad about the

position to it. Mr. KENNEDY, who is man-

their own constitutions to have a bal-

and would be prohibited from maintain-

The Senator from Nebraska and I re-

there will be afforded useful provi-

After all, what is so bad about the proposition that if you are going to spend, you have to collect the taxes? What is so virtuous about saying, "We are going to spend $50 billion more than we take in but we will not collect the taxes; we will charge it to another day."

That is not heresy?

Even if this surtax automatically went in, what is wrong if you overspend this year and you have to make it up next year? What is wrong with that? Why should we refuse to pay the cost of Government any more than we refuse to pay the cost of our food, our housing, or our clothing? Why all this pleading for the right to run deficits? It has not worked to prop up the economy. If running deficits would spur the economy, we would not have an economic problem in this country. Look at the deficits.

There is something interesting about this deficit business. There is quite a parallel between the amount of the interest on the national debt and the amount of the deficit. It is not only that Uncle Sam does not pay his bills, he does not pay the interest on them. We have increased the debt approximately the amount of the interest on the debt. This year the interest will be about $56 billion, not exactly that but somewhere near that figure. That will be the amount of the deficit, approximately. When are we going to start paying our bills? What is going to be the answer if a young lad speaks up and says, "Mr. Senator, does Uncle Sam ever pay his bills? If I buy a Government bond will it be paid out of surplus? Will you collect enough money to pay the interest every year?"

The truthful answer is that the bonds are paid by issuing more bonds, and we even go into debt for the interest.

If there is anyone who thinks we can go on and on with that without courting serious trouble, I am afraid they are mistaken. I hope they are not. It would be most comforting to accept the theory that we can go on doing that.

As I said a bit ago, both the District of Columbia representation proposition and this budget-balancing proposition are here without the benefit of committee recommendation, so they have equal standing so far as committee recommendation is concerned. Both of them have had some hearings. Neither one has been approved by a committee. The question then arises, which should come forth? Is the pressing problem throughout all of our land involving the falling of the value of the dollar in the markets of the world? Is inflation the pressing problem? Or is what the people are looking for all across the land some change in the representation for the District of Columbia?

Let us put first things first. Let us advance the constitutional amendment to require a balanced budget now and then follow that with consideration of the District of Columbia representation.

Mr. President, I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I oppose the pending amendment. Others have expressed objections and have been very effective in their analysis of the amendment. Mr. MUSKIE has made a very fine, reasonable, logical statement in opposition to it. Mr. KENNEDY, who is managing the measure, has done likewise.

I oppose it for two reasons in the main. Let me say parenthetically that, at this point, I have not yet made up my own mind on the District of Columbia representation amendment. I have an open mind. But I am opposed to this amendment on two grounds.

One, it is a complete substitute for the District of Columbia representation amendment. If the amendment by the distinguished Senator from Nebraska (Mr. CURTIS) were to be adopted, then the Senate would no longer be voting on a District of Columbia representation amendment. There is not a word mentioned in this substitute about District of Columbia representation. The Senate will be voting on a so-called budget-balancing amendment. There is no relation.

Of course, there is no rule of germaneness in the Senate except under cloture and in deliberation on appropriations bills.

I hope the Senate will be fully aware that if this amendment is adopted, instead of going due east, the Senate will be going due west. There are those who may prefer due west, but let there be no doubt about it. The legislation before the Senate will be a sudden shifting—180 degrees—a complete shift in the legislation before the Senate.

D.C. representation will be out of the window. There are those who are opposed to it, and I respect them for their opposition. As I say, I have an open mind. I may even vote against it in the final analysis; I may vote for it. But if we are against it, let us hit it head on; let us vote against it. Let us not inflict the fatal wound by the dagger-under-the-cloak approach.

I do not ascribe to the distinguished Senator from Nebraska that motive. I think he is absolutely dedicated to the balanced budget approach. He knows that because we have a constitutional amendment before the Senate, it is a vehicle whereby he can attempt to have a constitutional amendment to which he is very deeply dedicated, on a subject concerning which he is highly motivated. Nevertheless, in vaccinating the patient with a needle in this instance, the result will be the expiring of the patient and, in the final analysis, the delivery of the legislative corpse to the morgue.

I do not think that that is the way to go about fighting this amendment. As I say, for those who want to vote against it, let us have an up or down vote on it and let it rise or fall on its merits.

Second, Mr. President, I think it would be disastrous for a constitutional amendment to be adopted requiring a balanced budget. I am for a balanced budget, and I want to achieve a balanced budget, whenever and wherever possible. As I understand it, the Senator's amendment would make mandatory a balanced budget by increased taxes. Some may favor a balanced budget—and may even favor making it mandatory—but they may want to use the reduced spending mechanism as part of the approach.

In any event, the distinguished Senator from Nebraska has referred to the fact that many States are required by their own constitutions to have a balanced budget. My own State of West Virginia is so required. But many States would not be able to balance their budgets if it were not for the Federal largesse. The Federal contribution is 90 percent—90 to 10 on interstate highways, for example. And then there are the Federal contributions for education, welfare, and public safety, and in myriad other areas. My State requires a balanced budget, but I am one of those Senators who are in here frequently talking to Senators, with regard to applications for Federal assistance for this, that, or something else. The number of inquiries is endless and the number of applications is endless, and the number of areas in which the Federal Government aids the States in ways that make it possible for them to balance their budgets—although that is not the purpose of the Federal budget, yet it is one of the results—is really impossible of calculation.

So it is one thing for the States to be required to balance their budgets; it is quite another thing for the Federal Government to be mandated to balance its own budget.

Additionally, the Federal Government is required to carry out many responsibilities that the States do not have. The Federal Government is required, for example, to raise and support armies. Well, of course, the States do not have to bear that responsibility. They do have a National Guard and reserve units, but they get a lot of Federal assistance in carrying out those functions.

The Federal Government is required to appropriate moneys for a navy. Of course, this is a responsibility that the States do not have to bear.

The Federal Government is required through the Congress to provide for the common defense and the general welfare of the United States. States do not have that burden.

States have the problem of acting in conformity with their own individual welfare, but no State has the responsibility to provide through the State legislature for the general welfare of the United States.

The Federal Government has the responsibility through the Congress to establish post offices and post roads. The Federal Government contributes large amounts of money for the conduct of the Postal Service system, the Federal courts, the establishment of tribunals, the Federal courts, district courts, and appeals courts. All of these are responsibilities of the Federal Government. The Federal Government has to provide for the buildings, the equipment, and all the necessary accouterments that are required for them to carry out their functions.

I have already mentioned the provision and maintenance of the Navy. The State of West Virginia does not have to maintain a navy, although we do have what is called the Cherry River Navy. We have a small stream in West Virginia called the Cherry River, and a group that banded together calls themselves admirals in the Cherry River Navy.

The State of West Virginia does not maintain a navy, could not maintain a navy, is not required to maintain one,

and would be prohibited from maintaining one, even if it could.

The Federal Government is required to exercise legislation over the District of Columbia, which is the seat of the Federal Government—not a seat, but the seat of the Government of the United States. This is a responsibility that an individual State does not have to bear.

The Federal Government is required to exercise authority over all places purchased by the consent of the legislature of the State in which the same shall be for the erection of forts, magazines, arsenals, dockyards, and other buildings.

The Federal Government has the responsibility for navigable rivers, locks, and dams throughout the country.

We could go on and on and on.

But, Mr. President, the Federal Government has many responsibilities that in some instances are entirely out of the sphere and in some instances largely out of the sphere of State functions.

So to equate balancing the Federal budget with the balancing of a State budget is, again, almost like going due east as against going due west.

Moreover, Mr. President, to mandate a balanced budget would put the Federal Government in a straitjacket. To mandate it, I say. Where it can be achieved, if economic conditions are such that it can be achieved, it ought to be achieved, and it has been achieved during such years in this century.

So I think that all of us are in favor of having a balanced budget where it can be done. But to mandate it is quite another thing. To send out to the country a constitutional amendment that would result in mandating a balanced Federal budget sounds good. The idea of a balanced budget appeals to me. It would appeal to every voter.

But when one stops and thinks what happens in the event of a depression, in the event of a recession, when fiscal policy is an instrument to deal with such occurrences, and that the Federal Government would be mandated to balance its budget in any event, it could be disastrous for the country.

To repeal such a constitutional amendment once it were ratified by the States would be a long and arduous task, whereas the needs of the moment might require fast action.

CLASSICAL THEORY: THE SELF-CORRECTING ECONOMY

Early or "classical" economists believed that the economic system was self-correcting by nature. When distortions in the economy occurred, such as periods of high unemployment, they believed that automatic adjustments in the price and wage systems would restore the economy to full employment. As long as this belief was held, government budgets were not used purposefully to help work out economic distortions. Accordingly, the annually balanced budget was an unquestioned goal of public finance. As stated by Adam Smith in 1776, "The only good budget is a balanced budget."

CONTEMPORARY THEORY: THE COUNTERCYCLICAL BUDGET

The belief in "automaticity" did not square with economic reality.

The Senator from Nebraska and I remember the Great Depression well, but there are millions of people in this country who do not believe the stories that can be told about that Great Depression, who just do not believe the facts, who never experienced that depression.

The Great Depression finally provided proof that "automatic" wage and price adustments would not insure the health of the economic system—that is, full employment at low levels of inflation.

Today it is recognized that there is a need for discretionary fiscal policy. Levels of government spending and tax revenues are deliberately set by Congress as policy tools.

This amendment would take away from Congress these policy tools to deal with recession, with depression, with inflation, with unemployment, and with many other problems.

As a matter of fact, this amendment could result in tremendous exacerbation of unemployment in this country and could prevent Congress from using the instruments of fiscal policy to deal with inflation, to deal with a recession, to deal with a depression.

Under this philosophy, the Government's budget has a "countercyclical" function. To offset an economic slowdown, recession, or depression, the Government must consider reducing taxes or raising expenditures. That is what it has been doing following the most recent recession.

The current economic recovery is one of our longest post-war expansions. And it has been fostered by exactly what I am talking about—these instruments of fiscal policy. In short, the Government can and must continue to be able to stimulate the economy in times of a recession through the use of a deficit.

If we were to go forward now with a requirement for an annually balanced Federal budget, we would prevent Government fiscal policy from serving as a countercyclical tool. In some instances, such a requirement could intensify the harmful effects of the business cycle. For example: During a recessionary period, tax receipts can be expected to decline. In order to achieve a "balanced budget," the Government must either raise taxes or reduce expenditures or both. The effect of such action would further dampen the economy and add to unemployment.

Thus, it is now recognized that the "balanced budget" is not "neutral." It would have different effects at different stages of the business cycle. It could tip the economy from an economic slowdown back into a more serious recession.

The new thinking which has replaced classical theory is embodied in the Employment Act of 1946:

> The Congress hereby declares that it is the continuing policy and responsibility of the Federal Government to use all practicable means consistent with its needs and obligations and other essential considerations of national policy, with assistance and cooperation of industry, agriculture, labor, and State and local governments, to coordinate and utilize all its plans, functions, and resources for the purpose of creating and maintaining, in a manner calculated to foster and promote free competitive enterprise and the general welfare, conditions under which there will be afforded useful employ opportunities, including self-employ for those able, willing, and seeking to and to promote maximum employment, duction, and purchasing power.

Controversy surrounds the app tion of countercyclical budget policy cause our economy is simultaneously periencing "slow growth" and high flation. So there is no easy answer how much stimulus is economically r One can say that whatever we do should not act precipitously. How that is exactly what we will be d here—we will be acting precipito If a constitutional amendment such this ever is adopted, heaven help country. There would be no way to isiate around a constitutional ame ment that requires the mandates balanced budget. There is no way legislate around it. That amendm would have to be repealed, and would be a time-consuming operation

If we really want to open Pando box, then mandate, through a const tional amendment, a balanced budge we want to mandate it through legi tion, that is one thing. Congress change that legislation. A subsequ Congress can change what a prev Congress has done.

We mandated the balancing of budget the other day. There were a g many Senators who voted to manda balanced budget. I was not in group, and I am as much for a balan budget as is anybody here—and m of those who are not here right now.

Mr. MUSKIE. Mr. President, will Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. MUSKIE. Mr. President, I afraid I was not here at the ti I would have joined the majo leader in opposing legislation to req a balanced budget in 1981. I would h done so because recent actions taken the Congress which would increase ture deficits make a balanced 1981 bu et an unrealistic goal. To vote to le late a balancd 1981 budget would be posturing, attempting to fool the c zens and voters of this country.

Mr. ROBERT C. BYRD. Of course.

That vote will have no more bind effect on the next Congress than my ger is having in leaving a hole in the that I am now punching up there, o I were to stick it in a pool of water remove it, because the next Congress c not be bound by this one.

Mr. MUSKIE. The point is that cannot mandate a prosperous priv economy by law. A prosperous priv economy is the product of the right k of balance between government at levels and the private sector, where m are free to pursue their own enterpr When that is out of balance, someb has to act to restore the balance.

I was looking at a table in the 1 Presidential budget document, which veals that from 1921 to 1930, which a period of conservative Republican ministrations, we had balanced budg each year. In 1930, the budget surp was $738 million, in a year when to budget receipts were only $4 billion. other words, the budget surplus was

most one-fifth of the total Government

are—but where are the cuts going to be

is quite a different thing from mandat

most one-fifth of the total Government receipts. Yet, the Great Depression hit us, and we had a deficit in 1931—contrary to the argument that if you have minimum government and no government deficits, you can have prosperity. We did not have prosperity, and the deficits increased.

In 1932, incidentally, in order to overcome the deficit projected for fiscal year 1933, Congress, cooperating with the President, enacted increased taxes to eliminate that deficit. The result was a fiscal year 1933 deficit of $2.602 billion. In other words, the increase in taxes proved to be countercyclical, producing exactly the opposite result to what was intended—in good faith, I am sure—and to what was expected.

The Curtis amendment would have the same effect, but at a higher level of economic activity in the country and a much higher Federal budget.

Mr. ROBERT C. BYRD. I thank the distinguished Senator. I hope he will obtain consent to insert that table in the RECORD at this point.

Mr. MUSKIE. Mr. President, I ask unanimous consent to have the table printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 21.—BUDGET RECEIPTS AND OUTLAYS, 1789–1979

(In millions of dollars)

Fiscal year	Budget receipts	Budget outlays	Budget surplus or deficit (−)
1789–1849	1,160	1,090	+70
1850–1900	14,462	15,453	−991
1901–1905	2,797	2,678	+119
1906–1910	3,143	3,196	−52
1911–1915	3,517	3,568	−49
1916–1920	17,286	40,195	−22,590
1921	5,571	5,062	+509
1922	4,026	3,289	+736
1923	3,853	3,140	+713
1924	3,871	2,908	+963
1925	3,641	2,924	+717
1926	3,795	2,930	+865
1927	4,013	2,857	+1,155
1928	3,900	2,961	+939
1929	3,862	3,127	+734
1930	4,058	3,320	+738
1931	3,116	3,577	−462
1932	1,924	4,659	−2,735
1933	1,997	4,598	−2,602
1934	3,015	6,645	−3,630
1935	3,706	6,497	−2,791
1936	3,997	8,422	−4,425
1937	4,956	7,733	−2,777
1938	5,588	6,765	−1,177
1939	4,979	8,841	−3,862
1940	6,361	9,456	−3,095
1941	8,621	13,634	−5,013
1942	14,350	35,114	−20,764
1943	23,649	78,533	−54,884
1944	44,276	91,280	−47,004
1945	45,216	92,690	−47,474
1946	39,327	55,183	−15,856
1947	38,394	34,532	+3,862
1948	41,774	29,773	+12,001
1949	39,437	38,834	+603
1950	39,485	42,597	−3,112
1951	51,646	45,546	+6,110
1952	66,204	67,721	−1,517
1953	69,574	76,107	−6,533
1954	69,719	70,890	−1,170
1955	65,469	68,509	−3,041
1956	74,547	70,460	+4,087
1957	79,990	76,741	+3,249
1958	79,636	82,575	−2,939
1959	79,249	92,104	−12,855
1960	92,492	92,223	+269
1961	94,389	97,795	−3,406
1962	99,676	106,813	−7,137
1963	106,560	111,311	−4,751
1964	112,662	118,584	−5,922
1965	116,833	118,430	−1,596
1966	130,856	134,652	−3,796
1967	149,552	158,254	−8,702
1968	153,671	178,833	−25,161
1969	187,784	184,548	+3,236
1970	193,743	196,588	−2,845
1971	188,392	211,425	−23,033
1972	208,649	232,021	−23,373
1973	232,225	247,074	−14,849
1974	264,932	269,620	−4,688
1975	280,997	326,092	−45,095
1976	299,197	365,643	−66,446
TQ	81,687	94,657	−12,970
1977	356,861	401,902	−45,040
1978 estimate	400,387	462,234	−61,847
1979 estimate	439,588	500,174	−60,586

TOTALS, INCLUDING OUTLAYS OF OFF-BUDGET FEDERAL ENTITIES

Fiscal year	Outlays of off-budget Federal entities	Total outlays	Total deficit
1973	60	247,134	−14,909
1974	1,447	271,067	−6,135
1975	8,054	334,145	−53,149
1976	7,211	372,854	−73,657
TQ	1,770	96,427	−14,740
1977	8,693	410,594	−53,733
1978 estimate	11,514	473,748	−73,361
1979 estimate	12,538	512,712	−73,124

*$500,000 or less.

NOTES

Certain interfund transactions are excluded from receipts and outlays starting in 1932. For years prior to 1932 the amounts of such transactions are not significant.

Refunds of receipts are excluded from receipts and outlays starting in 1913; comparable data are not available for prior years.

Data for 1789–1939 are for the administrative budget: 1940–79 are for the unified budget.

In calendar year 1976, the Federal fiscal year was converted from a July 1–June 30 basis to an Oct. 1–Sept. 30 basis. The TQ refers to the transition quarter from July 1 to Sept. 30, 1976.

Off-budget Federal entity outlays begin in 1973.

The amounts of earned income credit in excess of tax liabilities are shown as negative budget receipts rather than as budget outlays. Accordingly, the budget totals have been adjusted retroactively.

The 1975–77 data have been revised retroactively to include the housing for the elderly or handicapped fund in the unified budget instead of with the off-budget Federal entities.

Mr. ROBERT C. BYRD. Mr. President, in plain, simple language, the recent amendment mandating Congress to balance the budget by 1981 will have no binding effect. It really would amount to no more than a hill of beans, because the next Congress cannot be bound by this Congress, and subsequent law is going to be given precedence. If the next Congress passes a law to change that date or to repeal the law that this Congress enacts—if it finally becomes enacted—that Congress can do it. So if we are to mandate it, it should be done by legislation, not by a constitutional amendment.

In light of our economy's dual problems, there are some who are ready to advocate a return to the classical "balanced budget" philosophy and make it mandatory. I believe that this would be a precipitous course of action. At the very time when we need flexibility to deal with serious economic fluctuations, I believe that the absolute requirement of a balanced budget would tie the hands of Congress. It would mandate a balanced budget, but where will Congress make the cuts?

I am among those who are for a strong defense in this country—I suppose everybody would claim to be, and believe they are—but where are the cuts going to be made? Are the cuts going to be made in the school programs, are the cuts going to be made in the defense programs, in order to bring about a mandated balanced budget?

Those who are for a strong defense should stop, look, and listen because I imagine that if this constitutional amendment is adopted mandating a balanced budget, the defense of this country is going to seriously suffer.

Mr. President, I shall move to table as soon as I complete my statement and that will be within the next few minutes.

I understand Senator THURMOND will come over and speak, unless the Senator from Nebraska wishes to respond to my remarks. Then I shall move to table.

If Congress refused to set fiscal policy—as it must—in light of changing economic conditions, Congress would not be facing up to its responsibilities for helping to manage the economy.

The achievement of a balanced budget is presented by some as a cure for inflation. What is being overlooked is today there are many causes of inflation unrelated to the size of the deficit.

The achievement of a balanced budget is presented by some as a "cure" for inflation. In defense of his amendment (to the International Monetary Fund legislation) for a balanced budget beginning in fiscal year 1981, Senator HARRY BYRD said:

I am prompted to offer this amendment, because of the official Government reports last week that our country now has double-digit inflation.

I am convinced we will not get the cost of living under control until we get the cost of Government under control.

What is being overlooked is that today there are many causes of inflation unrelated to the size of the deficit.

Much inflation now originates outside the U.S. economy. Inflation is worldwide. For example, it is argued that the quadrupling of the world price of oil was the single most important cause of the 12.2 percent rise in consumer prices during 1974. Appropriately, the latest report of the Council of Economic Advisers concludes:

The major inflationary pressures in 1973 and 1974 . . . were not caused by domestic monetary and fiscal policy.

Mr. President, we need to maintain congressional flexibility with regard to fiscal policy. We need to strive to achieve a balanced budget. The administration is moving in that direction. Congress is reflecting that mood. Congress reduced the administration's deficit figure. The administration in its budget proposed a deficit of something like $60 billion. The first concurrent budget resolution that was enacted by Congress cut that figure by $10 billion, roughly, and in its second concurrent resolution I believe Congress is likely to further reduce that budget deficit figure by perhaps $8 billion.

So Congress has caught that mood and is reflecting that mood in its actions.

So what I am saying does not gainsay the desire on my part of the need for achieving a balanced budget wherever we can and whenever we can, but that

is quite a different thing from mandating a balanced budget.

Requiring a "balanced budget" by a specific date would force Congress to deal with our economic problems with its hands tied behind its back.

The need to maintain flexibility as regards the budget is embodied in some of the administration's recent statements on economic goals. According to the administration, it will—

Restrain outlays to the President's stated limit of 21 percent of GNP so that a balanced budget in 1981 is achievable if the economy continues to recover along the path assumed in the long-range economic assumptions. However, since receipts depend directly upon economic performance, the goal of a balanced budget would have to be deferred if the President determined that the economy required further tax reductions.

I yield to the Senator from Maine.

Mr. MUSKIE. Mr. President, as the second budget resolution will make clear to Senators when we receive it—the Budget Committee completed it last week—our goal is to bring outlays below 20 percent of GNP, and if the second budget resolution is implemented over the next 5 years, that will be the result. Outlays as a percent of GNP will be 2½ percentage points lower in 1983 than they were at the depth of the recent recession.

Now, 2½ percentage points as against GNP represents a substantial reduction in spending when translated into dollars.

Congress can achieve this substantial reduction in spending by implementing the recommendations of the Budget Committee, and I expect that these recommendations will in fact be supported by the Senate and by Congress as a whole. That support should encourage those who, as the majority leader and myself, and others, are committed to the idea of a balanced budget.

Mr. ROBERT C. BYRD. Yes. I thank the Senator.

In summation, Mr. President, I base my opposition to the substitute by Mr. CURTIS on the two points, mainly, that I have tried to stress, in addition to those that have been so effectively raised by Mr. MUSKIE, Mr. KENNEDY, and others, to wit:

One is that a complete substitute has nothing to do with D.C. representation; and

Two is that it would be very unwise to have a constitutional amendment that would mandate a balanced budget.

Mr. President, it is my intention to move to table the amendment. I do want to give Mr. THURMOND an opportunity to speak on the amendment and Mr. GOLDWATER, if he wishes to speak.

Mr. GOLDWATER. Mr. President, will the Senator yield now?

Mr. ROBERT C. BYRD. Yes.

Mr. President, I ask unanimous consent that I may yield to Mr. GOLDWATER without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GOLDWATER. Mr. President, as a preface to my remarks, I do not agree with the method that was used to bring the District of Columbia representation to the Senate floor. I wish it could have followed the regular process used and I believe this is the process provided by the Constitution which we now intend to amend, plus which our tradition calls for committee action before submission to the Senate floor. However, the measure is before us and each Member of the Senate must fulfill his or her responsibility to decide upon the fundamental issues.

First, we must answer the question of whether or not U.S. citizens, living in a part of the original United States, should enjoy the right to vote for Federal offices on a basis of equality with all other citizens.

Second, we must decide whether this particular approach, treating the District of Columbia as a State for purposes of voting representation, is the appropriate method for achieving full voting representation for District residents.

And, Mr. President, I would add a third issue that is before us, which may be the decisive one as far as Congress is concerned.

This is the question of whether we should let the people decide. Is the subject of such deep political importance in a democracy that it is not one for Members of Congress alone to settle?

The Constitution lays down the way in which amendments shall be proposed by the Congress and ratified by the people of the several States. The amendment route is long and difficult, intentionally so.

But the basic idea is specified in the Constitution itself. The people, through their State legislatures or by conventions, as may be proposed by Congress, are to decide. Fully three-fourths of the States, 38 of them, must ratify an amendment before it can become part of the Constitution.

This design of the framers would be defeated if we in the Congress should block a proposed amendment and deprive the people of any voice on it.

Now, Mr. President, I am not speaking of frivolous proposals. I am not referring to subjects which might adequately have been treated under existing provisions of the Constitution or through statutes, as distinguished from constitutional amendments. Nor am I referring to changes that might be considered by some to make improvements in the mechanics of government, but are merely a different way of implementing basic rights that already are firmly protected.

Mr. President, what I have in mind is a subject which involves securing the most precious political rights and liberties of a free people. Among those rights, and indeed at the highest rank, must be put the right to vote.

It has long ago been established by court decrees, as well as by American political tradition, that the right to vote in Federal elections is a right that flows directly from the Constitution to each citizen of the United States. This right is one belonging to national citizenship and it arises out of the very nature and existence of the Nation itself.

Mr. President, I believe the Founding Fathers considered it basic to the scheme of government that they created for all U.S. citizens to enjoy a representative form of government with national ficers, who will be as responsive as sible directly to the people.

So we have a situation in Am where some 700,000 citizens do not sess the most cherished of poli rights, full voting representation.

We know that District residents borne the same responsibility as U.S. citizens, when their country upon them to serve in time of war know that during the Vietnam war example, District of Columbia ties ranked fourth, on a proportio basis, out of the 50 States.

The District residents died and for their country. Now they are see the chance to vote and be represe in it.

What other avenue can they tur except the amendment route? Retro sion is not in the cards.

It is true the territory originally by the State of Virginia, which for one-third of the District, was retu to Virginia by Congress in 1846. But preamble to the Statute of 1846 exp that the Federal Government has used the Virginia portion of the Di and, at that time, it was believed that Government would probably never it.

The preamble to the 1846 retroce also mentioned that the Virginia L lature had enacted legislation acce the return of the territory.

Unlike that situation, the Mary Legislature has never accepted or a for retrocession. There is no real possibility that Maryland would so such an arrangement, if Congress sh attempt it.

Moreover, Mr. President, it must be membered that the District has not b a part of Maryland since 1788. It become a separate political commu in its own right, with interests and torical traditions, apart from Maryl

Mr. President, it is interesting to c pare how other nations have handled question. Curiously only two, the Un States and Brazil with its new Fed City, deny representation for the dents of their capital cities. Even th countries whose capital cities are fed districts, like ours, allow the reside to vote for representatives in the tional legislature.

For example, in our sister nation the south, the people in Mexico City rectly elect two Senators, just as 31 states do. The Federal District of M ico also elects a number of national d uties based on population of the area.

These considerations should be eva ated by the people across the Nat The American people in each of the eral States should hear the argume and weight the merits of granting voting representation to District r dents.

The question of whether the Uni States will continue to stand alone w Brazil in the world, in failing to prov representation for citizens of the cap city in the National Legislature, is a matter that we alone in the Congr should decide with finality.

It is at least deserving of considerat by all the people. After all, their rep

sentatives in the State Legislatures are more directly tied to the people than we are.

Why not let them choose? Let the will of the people, and the educated wisdom of the people, have a chance for expression. This would put the subject where I believe the Constitution intended it to be.

I yield the floor and I thank the Senator.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

Mr. President, I yield either to Mr. THURMOND or to Mr. STENNIS, whoever wishes to go first.

I yield 4 minutes to Mr. THURMOND, by unanimous consent.

Mr. THURMOND. Mr. President, I am a cosponsor of Senate Joint Resolution 50 which proposes a constitutional amendment requiring a balanced Federal budget. I have for many years advocated such a constitutional restraint to insure an end to our tremendous Federal deficit. In addition, I am proud to report that South Carolina is among the 22 States that have called for a constitutional convention to propose a balanced budget amendment to the Constitution.

However, Mr. President, I intend to vote against the pending substitute amendment. Because of my support of other measures requiring a balanced Federal budget, my vote is not based on the merits of the substitute amendment but for other reasons.

The present proposal concerns one issue—the full congressional representation of the people of the District of Columbia. If this measure is successful here it will be sent to the States in accordance with the Constitution for their debates and either raificaion or rejection within 7 years. To substitute another issue totally different to this puts at least one of them in jeopardy. Since I support the merits of both the pending proposal as well as the substitute amendment requiring a balanced budget, I would not want to see either defeated.

If this amendment is adopted, it would deprive a State from acting on the original amendment. This is unfair to those who favor a balanced Federal budget as well as those supporting full representation for the District of Columbia.

These issues deserve full consideration by the Congress and the States in their own right. To burden either by substituting one for the other will not help the chances of either but ultimately endanger both.

Consequently, Mr. President, although I support the merits of the Curtis amendment and will do all I can to bring this issue to the Senate for consideration, I will vote against substituting it for the pending proposal. I intend to do the same on other amendments encompassing issues I support, but which would unreasonably burden not only the pending proposal but deny the opportunity of appropriate consideration of other worthwhile issues.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from South Carolina.

Before yielding to Mr. STENNIS, I ask unanimous consent that it be in order to order the yeas and nays on my motion to table, which I will make shortly.

The PRESIDING OFFICER (Mr. SASSER). Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on that motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, that vote will occur as soon as Mr. STENNIS concludes his speech, and I would suggest that the cloakrooms so alert Senators.

I yield to the distinguished Senator from Mississippi without losing my right to the floor.

Mr. STENNIS. Mr. President, I thank the Senator very much.

Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. STENNIS. I understand that the Curtis amendment is offered as a substitute for the so-called District of Columbia Voting Rights Resolution?

The PRESIDING OFFICER. The Senator is correct.

Mr. STENNIS. Well, Mr. President, I have joined the Senator from Nebraska as a coauthor of the proposed amendment regarding the balancing of the budget. But I know full well that this is a matter that cannot be done merely by talk. It cannot be done quickly under any circumstances but as a long, drawn out process.

I believe though that we are becoming more and more convinced it is necessary, and this proposal will certainly put the people in the process of this decision. I am satisfied results are not going to be obtained unless they are included.

Another thing: I am further satisfied that with the hundreds of boards throughout the Nation that have the legal authority to impose taxes, including county boards, units smaller than counties, including city boards, town, city and village, including State legislatures, including the National Congress, with all those authorities having the power to impose taxes on the people, there has got to be a reordering, a change, and ceiling limitations that in some way apply.

That is why I think it could be done and must be done rather than just a proposition 13-type of improvement. Put a ceiling on the taxes these boards can impose either by a money figure or by a millage ceiling or something that is applicable, and that will all cause a reordering of the priorities from top to bottom throughout this Nation as to what is going to be included with respect to public funds by imposing taxes on the people.

Until we go to thinking more and finding solutions and making headway I believe we are headed for more serious trouble.

So I strongly support this amendment on its merits. Due to the parliamentary situation, where it cannot be called up otherwise on the floor, I will vote for the Curtis amendment today.

I thank the Senator very much for yielding.

Mr. ROBERT C. BYRD. The Senator is welcome.

I yield to the distinguished Senator from North Carolina (Mr. HELMS) without losing my right to the floor.

Mr. HELMS. I thank the distinguished majority leader.

Mr. President, I, too, support this amendment to give States a chance to ratify the question of a constitutional amendment to require a balanced Federal budget.

Mr. President, I believe it is not only wrong for the Federal Government to spend more than it takes in in a given fiscal year, I believe that it is demonstrably destructive to the economy, and ultimately to our society.

For this reason, I support this proposal to require a balanced budget. I have advanced similar proposals throughout my tenure in the Senate. We must have a change from the present run of deficit after deficit. Action by the Senate to endorse this amendment would point the Federal Government in the direction of a balanced budget.

I believe it can be shown that the "cost" to the Nation in terms of economic dislocation and the disruption caused by the effects of Federal deficits is massive. It is not, however, as easily quantifiable as the obvious changes that would be required by the needed, significant shift away from a $60 billion annual deficit.

I am aware of some of the arguments against a change toward a balanced budget.

We are told that people demand that Congress spend and spend. But, our first priority should be the determination of a figure within which we work. That figure should not be one that allows a massive addition to the Federal debt.

Now, a related argument would be that any balanced budget would require massive cuts in various programs or massive increases in taxes. The advocates of the resolution before the Senate might ask which program or programs might I wish to name as candidates for any particular budget cut.

My response is this: The debate should not now be on which programs to cut or which taxes to raise. The debate should be whether or not we are going to continue down this path of massive deficits. That must be the first question.

If the Federal Government is going to spend $500 billion or more next year, the question is how is it going to be financed: Honestly, through taxes or surreptitiously, through borrowing and inflation?

Finally, the argument is that any move to balance the budget would have adverse economic effects. I admit that it is impossible to wean a calf in a day. It is impossible to change massive allocations of resources instantly without great cost. But, in fact, great costs are imposed by deficit spending every day and every year we continue to spend profligately.

What the proponents of the status quo do not discuss are the salutary effects

a balanced budget would have on our economy. With less Government demands in the capital market, interest rates would go down and it would be cheaper for businesses to make investments in job-creating plant and machinery.

With a balanced budget, lower interest rates could be expected on mortgages and more people would enter the housing market.

With a balanced budget, the inflation rate would decline and added incentives would be given for savings and investment, further stimulating the economy. A lower inflation rate and a balanced budget would give the businessman a reason to believe that Government was going to cause less dislocation and disruption in the economy. That alone would have the effect of creating confidence enough for investment resulting in added hundreds of thousands of jobs. Such a commitment would result in higher levels of economic activity which in itself would create added Federal revenues.

The stagnant economy cannot provide for the improvement in the status of those who most desire economic success. It cannot provide the tax revenues to pay for the programs Congress has already authorized, let alone ones in the minds and on the drawing boards of some of those in Congress.

Only a growing economy can provide the society we want. Only a balanced budget—and proper tax policies—can provide an atmosphere in which the economy can approach the rate of growth of which it is capable.

Mr. President, it is a grave error for Congress to ever intentionally and consciously adopt spending and taxing programs that result in a Federal deficit. Even in times of grave national emergencies, there is reason to say that budget deficits are not justifiable. I think that there may be cases in times of war that the Federal Government would do the extreme—would spend more than it takes in.

Inevitably, however, a deficit is not just a means of financing Federal spending. A Federal deficit is a prevarication to the people for whom Government exists. It is a statement that the people are going to get more Government than they are paying for: that Government will provide the proverbial free lunch.

That even the powerful Federal Government can accomplish the miracle of loaves and fishes is just not true. In any economy or any system, there is just so much output. Government consumes such output of that economy as represented by total Federal outlays. Whether or not it taxes people to pay for those outlays, it consumes them. Last year it consumed 22.7 percent of the Nation's GNP. Whether or not taxes pay for that consumption, it is consumed.

The Federal "take" is there regardless of the means of financing it. When there is a deficit, it means that instead of taxes—instead of things lawmakers vote on—the money is raised through borrowing. The $60 billion proposed deficit in the coming year would be paid for by borrowing from people who would otherwise be spending that money themselves, or who would be lending it to others in the private sector to do what they—free individuals—would do with those funds.

But it is not just the duplicity of refusing to tax for spending that deeply disturbs me, it is the effects of Federal borrowing. It is inflation. It is a tax that no Member of Congress would support, and yet the majority of Congress forces it down the throats of the American people via massive deficit spending.

The inevitable takes place like this: The Treasury acts as Congress agent and must raise the difference between income and outlays by selling securities. The private market reacts by increases in the interest rate brought about by added competition from Treasury securities. The Federal Reserve Board comes under pressure by those who feel that higher interest rates are a result of too small a money supply, and usually the Federal Reserve Board relents. It buys the Treasury securities and thus adds to the reserves of its members. It effectively increases the money supply by this act by making member banks more able to make loans. The money supply is increased above and beyond the normal needs of the economy, and inflation results.

Too much money chasing too few goods is inflation. It is a direct result of Federal money creation. It is a direct result of deficit spending.

And for a moment let me mention the effects of inflation. Let me reiterate what should be common knowledge in the press, in the universities, and in all centers of policymaking.

Inflation is a means of transferring resources from one party to another. In the case of the biggest debtor in the world, the Federal Government, it is a case of transferring resources from the holders of the Federal debt to the Federal Government.

For example, on August 1, the Federal debt stood at $748,010,290,486.58. Inflation means that the amount of goods and services represented by that many dollars is constantly declining. It means that every year we have 6 percent inflation, the Federal Government rips off $44 billion! It means that the holders of savings bonds, the pension funds with Treasury securities, the college endowments holding Federal securities are "taxed" through inflation of tens of billions of dollars.

John Davenport, former associate editor of Fortune magazine put it this way. Inflation is equivalent of a huge income tax no legislature would ever pass. If a person invested $100 in a savings account and was promised 5 percent interest, the income on that $100 investment would be $5. But, inflation at 6 percent per year takes away $6 of purchasing power every year from that $100 investment. In other words, the "tax" of inflation is greater than the income. In fact, the income is being "taxed" at 120 percent per year. And, in face of this we wonder why savings and investment is down. We wonder why job-creating capital is hard to come by and why mortgages are scarce.

The impact of inflation on the elderly in our Nation alone should make political office holder give his vote his every action—not just lip serv to fighting inflation and to a bala budget. It makes the savings and sions of the elderly inadequate. It m the elderly dependent on relative worse, on welfare. Inflation hits ha at those least able to afford it.

Inflation is a great disruptor in ways, but it nonetheless is both stealthiest tax and the most unfair

For Congress to talk about infl and decry its dangers and then massive spending programs is the form of double dealing. It is si wrong to say that inflation ca curbed when the Government spend or $60 billion more than it takes in

Mr. President, this is fact. It is a matter serious men should hav debate any longer. Can anyone, at late day, with any confidence at all that inflation is not inevitable massive budget deficits?

It is time that Congress admit truth. Inflation is not caused by strike settlements. Inflation is not ca by oil price increases. Inflation is caused by automobile price incre Inflation is caused by Government Government.

Inflation is not a line item in any annual budget, but perhaps it sh be. Unfortunately, the inflation ca by 1 year's budget deficit does no in the year Congress approves infla causing spending. It hits 18 month so after the debt is incurred.

Because it is not directly relate time, it has been a convenient if o tionable way of paying for spen programs.

I believe, however, that the Amer people are now coming to the conclu that inflation is a direct result of ernment mismanagement of its fi cial affairs. The great majority of A icans consider inflation to be our m economic problem. In fact, even lit economists like Arthur Okun are coming to the conclusion that for y the adverse effects of inflation have underestimated.

As I mentioned, a strict, harsh proach to this problem would be a anced budget in the next year. Un tunately, Government has acquired many dependents of various kinds a would be harmful to the economy to the lives of many thousands of dividuals to change overnight. I bel that change away from the ultim destructive path of action today to dorse a constitutional amendment require a balanced budget would that process. As States ratify such amendment, it would provide time Congress to move toward an honest, anced budget. That would put backbone into the congressional bu process, and would lay the groundw for a truly balanced budget that w be required once this amendmen approved.

I thank the distinguished majo leader for yielding to me.

● Mr. DOLE. Mr. President, the Sen from Kansas is a strong supporter of

constitutional amendment proposed by Durkin Jackson Pell

is amended by striking out ', but in no event

constitutional amendment proposed by the distinguished Senator from Nebraska. As a cosponsor of that amendment, I share his concern and compliment him for leading the fight against deficit spending.

Two of our Nation's greatest problems are high inflation and the declining value of the dollar abroad. Both are directly related to the tendency of Congress to overspend. For this reason, we need a balanced budget amendment.

No doubt, if the full Senate had followed the lead of the Senator from Nebraska more often, we would not have such a serious inflation problem today. Through this constitutional amendment, and through his votes on spending bills over the years, he has set an example of fiscal responsibility that should be the envy of the entire Senate.

He knows that no nation can sustain burgeoning Federal deficits without facing up to the enormous costs of inflation. For this reason, it is good that my colleague continues to bring this matter to the attention of the Senate. Unfortunately, the Senate has given this problem too little attention in the past.

However, I cannot vote for this substitute today. While I strongly endorse its substance, I do not support substituting it for the District of Columbia voting rights amendment. In my view, we should not dispose of the District of Columbia matter in this way.

However, I assure my colleague that I will continue to support a balanced budget as a Member of the Senate in the future.●

Mr. ROBERT C. BYRD. Mr. President, I now move that the amendment by Mr. CURTIS be laid on the table. The yeas and nays have been ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment (No. 1756) of the Senator from Nebraska (Mr. CURTIS). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Delaware (Mr. BIDEN), the Senator from Iowa (Mr. CULVER), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Louisiana (Mr. LONG) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Massachusetts (Mr. BROOKE), the Senator from Oregon (Mr. MARK O. HATFIELD), and the Senator from Kansas (Mr. PEARSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. MARK O. HATFIELD) would vote "yea."

The result was announced—yeas 68, nays 22, as follows:

[Rollcall Vote No. 328 Leg.]

YEAS—68

Anderson	Byrd, Robert C.	Clark
Bayh	Cannon	Cranston
Bellmon	Case	Danforth
Bentsen	Chafee	DeConcini
Bumpers	Chiles	Dole
Burdick	Church	Domenici
Durkin	Jackson	Pell
Eagleton	Javits	Percy
Ford	Kennedy	Randolph
Glenn	Laxalt	Ribicoff
Gravel	Leahy	Riegle
Griffin	Magnuson	Roth
Hart	Mathias	Sarbanes
Haskell	Matsunaga	Sasser
Hatfield, Paul G.	McGovern	Schweiker
Hathaway	McIntyre	Sparkman
Heinz	Melcher	Stafford
Hodges	Metzenbaum	Stevenson
Hollings	Morgan	Stone
Huddleston	Moynihan	Thurmond
Humphrey	Muskie	Wallop
Inouye	Nelson	Weicker
	Packwood	Williams

NAYS—22

Allen	Hatch	Scott
Bartlett	Hayakawa	Stennis
Byrd, Harry F., Jr.	Helms	Stevens
Curtis	Lugar	Talmadge
Garn	McClure	Tower
Goldwater	Nunn	Young
Hansen	Proxmire	Zorinsky
	Schmitt	

NOT VOTING—10

Abourezk	Culver	Johnston
Baker	Eastland	Long
Biden	Hatfield, Mark O.	Pearson
Brooke		

So the motion to lay on the table amendment No. 1756 was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. EAGLETON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1664

(Purpose: To permit D.C. representation in the House and Senate as if a part of Maryland)

Mr. MELCHER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes an unprinted amendment numbered 1664.

Mr. MELCHER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within 9 years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. For purposes of representation in the House of Representatives, the District constituting the seat of government of the United States shall be treated as though it were part of the State of Maryland. For purposes of representation in the Senate, the District constituting the seat of government of the United States shall be treated as though it were part of the State of Maryland.

"SEC. 2. The exercise of the rights and powers conferred under this article shall be by the people of the District constituting the seat of government, and as shall be provided by the Congress.

"SEC. 3. The twenty-third article of amendment to the Constitution of the United States is amended by striking out ', but in no event more than the least populous State'.

"SEC. 4. The Congress shall have power to enforce this article by appropriate legislation.

"SEC. 5. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within nine years from the date of its submission.".

Mr. MELCHER. Mr. President, I will get into a discusion of the details of the amendment shortly. First, I want to point out to my colleagues that I do not believe this desire to have direct representation within the Senate from a city originated with the District. We have in Montana what is known as Butte, U.S.A. It happens to be surrounded by the State of Montana. The Butte people have long known that their leaders in all matters treat themselves as something unique. That is why it is Butte, U.S.A.

Butte is often thought to be led by the true Irish, the Irish that avoided Boston and reached Butte, the true homeland. It is a kind of situation where those true Irishmen are known by their true names, such as Tuck McGree, Gub Shea, Heavy Fitzpatrick, and Deepe Fitzpatrick. Those are their true names. Only their mothers, their wives, their children, their bankers, and their very closest friends have ever heard the names assigned to them at the time of christening.

In the phonebook of Butte, it is like having an unlisted number. Unless you put your nickname in there, your true name, you cannot find, among 88 Sheas, which one is Gub Shea. If they list in the yellow pages, they list by their real name for instance—Tuck McGree. I know Tuck very well. I have never heard of any other name assigned to him, other than "Tuck."

I bring this up because those people in Butte have long thought, because of their uniqueness, that they could and should have direct representation from there in the Senate, and they were quite well satisfied with people like Senator Walsh, Senator Murray, Senator Mansfield, and Senator Wheeler all residents of Butte, temporarily serving Butte in the Senate. And the people of Butte adopted Senator Metcalf as one of their own even if his residency never was blessed with Butte. But times have changed now and where is their direct Senate representation?

It is not just the Irish that are unique in Butte. There are Finns, there are Italians, Serbs, Croatians, Turks, Scots, English, French, Germans, and Scandinavians. One thing they all agree on is that Butte, U.S.A. is unique, it is separate, it is individual. They like Montana and they are glad to be in the middle of Montana, completely surrounded by Montana. But they are different. Their pride of Butte stems from their feeling that Butte is special. Entitled to be Butte, U.S.A.

But, my colleagues, there is more to this than just being a very fine, very proud, very distinguished city. There is more to being a State than that. A State does not simply involve people. It does not simply involve urban areas. A State involves rural areas, it involves, in most cases, resources. In all cases, a State

involves industry of various types. So the representation that is reflected in the Senate based on statehood is a recognition that that representation in the Senate accounts for the diverse nature of this entire country in relationship not only to the people of that State but the relationship of the people in that State to the industries of their State, to their resources, to their land.

I think the District, in its uniqueness, the very core of this great metropolitan area, has been disserved in terms of their residence by the Constitution. I think there is a flaw in the Constitution, a flaw right from the beginning: that the framers of the Constitution carved out a tiny area and said those people who live there cannot have the right of franchise as if they were living in some other part of the United States. I think the residents of the District must have representation in Congress. I think they are entitled to it, and the fact that the Constitution is drafted in this sense, in my judgment incorrectly, does not mean it should be perpetuated. The amendment before us will correct it. It will correct it in every way. I have no criticism of correcting it in terms of direct representation in the House, just as is proposed in the amendment before us. I happen to agree that is right, and I have long supported that concept.

The House of Representatives is based on representation on one factor only, population of citizens within a certain area, and the whole country is carved up to arrive at equal representation based on population. So I agree with that presentation of the amendment regarding the House.

I have no quarrel with the way the amendment is presented as the treatment of the District as a State for the purposes of ratification of an amendment to the Constitution or for purposes of initiating an amendment to the Constitution for ratification. I have no quarrel with that, and it is presented to us in that way in House Joint Resolution 554. This has passed the House by a two-thirds margin.

The other part of the amendment passed in the House was to treat the District as if it were a State for purposes of electing Senators.

That I have some quarrel with.

The District is entirely different from a State. The District does not have rural areas. The District has no agriculture. The District has no land where there might be minerals. The District is not involved in mining of any mineral, coal, copper, et cetera. This District, of course, has no oil or gas as a resource.

I mention these few resources, these few industries, to illustrate that representation from the District does not correspond to representation from a State, all of which have some types of industry, some types of agriculture. Many States have some type of mining.

We could go on for a long time on what many of the States have in common. Agriculture alone, I believe, is shared as an industry in all of the 50 States.

But I make this point because it leads me to this question of representation in the Senate. We represent people of our State here, in the Senate. We also represent States here, in the Senate. When we represent the States, we represent the interests of the people that are involved; for instance, in agriculture. We represent the interests of the people that, in my case and in many other States of the 50, are interested in forests, and in lumber production. We represent, in all instances, I believe, in all the 50 States, the question of rural concerns. There are differences, we learn, between rural and urban concerns when we face the issues that confront us.

Does the difference of adding two more Senators to the Senate mean anything? It could. It could in terms of the outcome of a vote. I want quickly to mention that in an amendment to strike the formula for distributing funds for community development to rural areas," the yeas were 43 and the nays were 45, a difference of 2.

Representing constituencies does make a difference on votes. Here is another example: On a question of a tight vote on whether or not we were going to require that eastern coal to be used in the East, even though it was high sulfur, and the proposal is that we could not use western coal that was low sulfur, the vote was 45 to 44.

In an energy amendment involving coal again, we had a vote, 42 to 44.

Senators are quite often voting exactly and precisely on what happens to their constituency.

There is a difference, often, in a tight vote where one or two votes determines the outcome.

To me, the basic issue before us is so fundamental that I want to place it higher than any other consideration. That fundamental consideration is: Can a citizen of this country be denied all of the representation in the legislative process, all of the rights inherent in the Constitution in that legislative process, simply because that citizen lives in a certain area?

That is the fundamental question.

I come down emphatically with an answer of "No," a citizen cannot be denied that fundamental right.

Having made that fundamental decision, and one that I think is a moral decision, a matter of conscience, it becomes imperative then to offer as a corrective amendment a substitute of House Joint Resolution 554, and that is the substitute I have called up.

It leaves intact the process under House Joint Resolution 554 for direct representation of the District in the House of Representatives based on population and treating it for that purpose as if it were a State.

That means it gets two Representatives in the House. I think that is proper.

My substitute leaves intact, as it is in House Joint Resolution 554, the opportunity for the residents of the District to participate in the function of ratification or initiating amendments to the Constitution as if they were a State.

So the residents have that full right granted.

For purposes of the Senate, my substitute states that the residents of the District will be considered as though they were residents of Maryland.

Part of the District, on the Virginia side of the Potomac, in the original
trict of Columbia, has already go
Virginia in every way.

It has gone to Virginia in
being a part of the State, being
to Virginia taxes, containing resi
of Virginia and, of course, since
time the voting rights that applied t
citizens of Virginia, or to the citize
any other State in the Union, appli
the residents there.

We are only dealing with the Di
of Columbia that is on this side o
Potomac, and still the District of Co
bia.

The situation has often been t
about, "Well, why not let it go ba
Maryland, retrocede, let the land
everything go back to Maryland?"

That is not attractive to the resi
of the District. It has not been attra
to the State of Maryland and has
been attractive to Congress. There
problems with that.

I will not permit that problem,
ever, to infringe on the rights o
residents of the District to still
their right to vote for Senators to
resent them here.

The area came from Maryland.
not practical to just say, "Move
back into Maryland."

It is fundamentally just that we
the residents in the District that o
tunity to vote for Senators as if
were residents of Maryland.

Why is this better? Why is this b
than the way House Joint Resolutio
passed the House?

Well, I believe it is better becau
corrects a problem that was cr
when the Constitution was drafted

In my judgment, the resident o
District should never have been d
franchised.

If the drafters of the Constitution
avoided that error, I believe th
exactly the way they would have dr
the Constitution to begin with, be
it is the only practical way to dra

Since they did not do it, I belie
should be corrected in that manner

Are the rights of an individual
ident of the District abused in
process? I hardly think so, and I d
know on what basis they would be

It might be said, for instance, "
we will be voting here for our own
Members, but what influence woul
have in the election of the two Sen
from Maryland?"

My answer is simply that they
have just as much influence in the
tion of the two Senators from Mary
as any other individual voting in th
tire State of Maryland. They will
just as much influence in votin
Senators as anybody else does with
single vote in a comparable State, w
comparable population.

I am sure the people of Butte
agree with me that doing it this
they have just as much influence i
election of the Senators they are
for as do the people of Butte in ele
the Senators of Montana. I think
will find all their rights preserve
they should have been preserved
the time that the Constitution was
drafted.

(Mr. NUNN assumed the chair.)

against it. But that is not the issue. That

(Mr. NUNN assumed the chair.)

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. MELCHER. I yield.

Mr. SCOTT. Mr. President, I thank the distinguished Senator for yielding. I will not infringe unduly on his time.

I support this amendment. We have heard the statement made that the people who are opposing the proposed constitutional amendment, as introduced, are opposing it because the people of the District of Columbia are too black, they are too liberal, they are too Democratic, they are too urban.

If the amendment of the distinguished Senator from Montana were adopted, that would put the lie to this question. Everyone in the District of Columbia, regardless of their color, regardless of their political philosophy, regardless of their party, and regardless of the fact that they live in a city, would have the right to vote.

To me, this is a false issue to be raised; because when the Constitutional Convention was held in 1787, blacks were not even considered people. They were property at the time, so that was not a consideration. We did not have, as I understand it, the political spectrum of the liberal and conservatives such as we have today. We did not have political parties such as we have today. We did not have an urban area.

When the Federal city concept was adopted, there was no such thing as being too black, too liberal, too Democratic, too urban. It was decided that we would have this Federal city so that we would be free to legislate in a climate free of pressures of all kinds. That is what the Founding Fathers had in mind. In the Federalist Papers, No. 43, Madison referred to the fact that over the years there would be an increase in population and the area would become more urban, and that, in his judgment, would increase the need for us to be able to legislate in a free environment.

I merely rise to commend the distinguished Senator for offering a feasible alternative, whereby such allegations as this can be made absurd.

I thank the distinguished Senator from Montana for yielding.

Mr. MELCHER. I thank the Senator from Virginia. I do know that in the description of opposition to the amendment as presented, we find the opponents listed as sharing one or more of those four categories.

However, let me address that. I have not, in my lifetime, found an area that was too Democratic to suit me.

Mr. SCOTT. I have not found an area too Republican to suit me.

Mr. MELCHER. If we want to reduce it, not to the fundamental question of the right to vote for representation in Congress, but reduce it to the practical speculation as to who might be elected—if that were the only question—I would think that every last one of the voters on this side of the aisle would be for reserving the right for the District to elect two Senators of their own, assuming that they both would be Democrats. I suppose if that were the only issue, every last one on the Republican side would vote against it. But that is not the issue. That is not the issue at all.

A constitutional amendment is something we are involved in, and it lasts for the lifetime of our country under our Constitution. I do not believe that the support or the opposition to this proposal is based on a political issue.

I have mentioned that in my previous remarks about the difference of an entirely urban area, as contrasted with States that have not only urban but also rural areas. Of course, there is a difference in representation. There is a difference in your view if you represent your constituents on some of the bills and amendments on which we vote. But I do not believe that is a fundamental issue, either. Neither is there a racist issue involved here.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. MELCHER. I am delighted to yield.

Mr. HELMS. Mr. President, it occurs to me that the distinguished Senator from Montana has advanced the only proposal that is likely of ratification; because if Senators feel that the ERA battle across the country is heated, they will find that the ERA matter is a cakewalk compared to the constitutional amendment that has been proposed.

The Senator has offered a substitute which will provide representation for the District of Columbia. I favor representation for the people of the District of Columbia, but I do not favor the original proposal here.

The Senator has offered a sensible alternative. If Senators are sincere about wishing to afford the people of the District of Columbia representation, then they will support the substitute of the distinguished Senator from Montana, and I commend him for offering it.

So, again I say, I strongly support the amendment offered by the distinguished Senator from Montana. Indeed, I would think that any Senator who is truly worried about the civil rights of the residents of the District of Columbia would be an enthusiastic supporter of this amendment.

If we examine House Joint Resolution 554, we can see that it is deeply flawed in concept and execution. House Joint Resolution 554 as it stands distorts the meaning and purpose of Senate representation. In fact, it dilutes the guarantee of article V of the Constitution, which is supposed to protect the "equal suffrage" of each State in the Senate. For it is obvious that if 50 States have equal representation, the addition of two more votes which do not represent a State cheapens the representation and dignity of the States themselves. Indeed, article V says specifically that "no State, without its consent, shall be deprived of its equal suffrage in the Senate," as a result of the amendment process.

This being the case, the prospects of this amendment as it stands ever being approved is remote. In the first place, I doubt very much that three-fourths of the States would approve the dilution of their constitutional rights. We could well end up in another ERA situation. We would have the proponents of the amendment back here in 6 or 7 years asking for an extension, and the process would drag on in agony.

In the second place, even if the amendment were approved, any single State could well challenge the constitutionality of the process in the Supreme Court. For article V says, "No State, without its consent, shall be deprived. * * *" If even one State withholds its consent it would have grounds to challenge the adoption of the amendment.

So the constitutional ramifications of this amendment are so complicated, so unjust, that I see very little chance that it would ever be ratified.

Mr. President, it is very clear to the Senator from North Carolina, therefore, that anyone who is sincere about the voting rights of the residents of the District of Columbia must back the Melcher amendment. It is the intelligent and feasible alternative to the radical and unwise proposal before us.

The Melcher amendment would, for the first time, give full representation in the House of Representatives to people of the District of Columbia.

Furthermore, it would give senatorial representation to the people of the District by allowing them to vote in the State of Maryland for senatorial candidates. But more important, it would not dilute the representation of the 50 States by giving representation to an entity that is not a State. No State could claim under article V of the U.S. Constitution that its right to equal suffrage was diluted. Nor would precedents be set for further dilution by granting representation in the Senate to the Virgin Islands, or Guam.

In addition, the Melcher amendment would make it possible for the District of Columbia to become truly self-governing with respect to these rights and powers.

Finally, it bases the District's vote in the electoral college upon population, based upon the number of Congressmen.

It is plain, therefore, that the distinguished Senator's amendment will go much farther to restore civil rights to the people of the District of Columbia than the original proposal laid before us.

Where are the Senators who are so worried about the civil rights of District of Columbia residents?

Why are they not rushing forward to support the substitute of the Senator from Montana?

Why do they not support a proposal that can reasonably expect to be ratified? Why do they support the preposterous idea that entities that are not States are entitled to the privileges of States?

Mr. President, we must remember that there is a fundamental difference between the Senate and the House of Representatives. The Senate represents States; the House represents citizens. To destroy this distinction is to destroy the very theory of our constitutional system.

The Melcher plan preserves this important distinction. It gives the citizens of the District representation in the House proportionate to their number; it gives them full representation in the

Senate without destroying the very nature of the Senate.

Mr. President, I would also point out that it is not true that the citizens of the District of Columbia support House Joint Resolution 554 and the distortion of our constitutional system. Today I have received a memorial from the District of Columbia Federation of Citizens Associations — the largest organized group of citizens in the District, representing 24 different citizens groups. They are strongly opposed to House Joint Resolution 554.

Mr. President, I ask unanimous consent that this statement be printed in the RECORD at the conclusion of my remarks.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT TO THE SENATE OF THE UNITED STATES OPPOSING SENATE JOINT RESOLUTION 65 TO AMEND THE CONSTITUTION TO PROVIDE DISTRICT OF COLUMBIA REPRESENTATION IN THE SENATE AND THE HOUSE OF REPRESENTATIVES "AS IF" IT WERE A STATE

The Federation of Citizens Associations of the District of Columbia, organized in 1910 and representing 24 citizens groups, has resolved in regular meeting to oppose SJ Resolution 65, or other similar resolutions, to amend the Constitution of the United States in order to provide for District of Columbia representation in the Senate and the House of Representatives "as if" the District of Columbia were a State.

The Federation's decision followed deliberation of the likely proximate and ultimate consequences, including the judicial and political which would issue, particularly the diminution of the status, prerogatives, functions and rights of the Senate itself.

The Federation is especially sensitive to the Senate's role because the Constitution itself distinguishes that body as the representative of the individual States, which have yielded part of their own sovereignty to the Federal government, and empowers the Senate to participate collegially in several functions of the Presidency.

The Federation took further cognizance of the potential transformation in the internal operations and dynamics within the Senate, particularly since the two Senators who would be seated from the District of Columbia would be dependent primarily on the votes of Federal and D.C. government employees who are most likely to be responsive to the wishes of their employer, the Executive Branch, than other citizens who are not so employed.

The Federation's opposition can be summarized under the following six general headings:

1. Philosophical, particularly the epistemology of "as if" concepts as they relate to fact and to law and to judicial processes;

2. Constitutional—primarily the impact on the distinctiveness of the Senate as the collegial body sharing in the powers of the Presidency, especially under Article I, Section 3 and Article II, Sections 2 and 4 of the Constitution;

3. Political—the transformation of the internal dynamic of the Senate as the result of the role which the two Senators from the District of Columbia would have, based on a constituency composed primarily of Federal and D.C. employees, particularly subject to the wishes and goals of the Executive Branch and massively centralized to political activity and lobbying in the nation's capital;

4. The precedent for other constitutional amendments based on "as if" concepts, including but not limited to aspirations of other municipalities and geographic areas to have senatorial representation "as if" they were states, circumambient of the provisions of Article IV, Section 3 of the Constitution;

5. The further dissipation of the meaning of the provision of Article I, Section 7 of the Constitution relating to the "exercise of exclusive Legislation in all Cases whatsoever," over the District of Columbia;

6. The growth of the legislative bureaucracy and its attendant costs, together with the further growth of fiscal indebtedness of the District of Columbia.

In reviewing these matters, the Federation perceived some differences between providing District of Columbia representatives only in the House of Representatives and providing representation in the Senate as well. Consequently, there was somewhat lesser concern among several delegates with the possible consequences of representation in the House alone. There was, however, a consensus of opposition to representation in the Senate for the reasons summarized above and elaborated hereunder.

PHILOSOPHICAL, PARTICULARLY THE EPISTEMOLOGY OF "AS IF" AS IT RELATES TO FACT, LEGISLATION, LAW AND JUDICIAL PROCESS

The Federation is appalled at the growing deterioration in intellectual, scientific and legal theory, progressively substituting "as if" subjectivistic criteria for objective standards. Having just lived through the confusions and problems of the Panama Canal Treaty debate, with its own unfortunate "as if" sovereignty phrase, the Federation opposes any further adulteration of the intellectual clarity of political discourse and of legal concepts. If it is the desire of the proponents of SJ Resolution 65 to grant the District of Columbia the status of a state, their resolution should be formulated explicitly in those terms. We find it most disheartening that so many advocates of Constitutional or legal reform increasingly resort to devious and indirect terminology to achieve their goals and are prepared to diminish, and even to nullify, rational thought to achieve their ends. Under the rubric "as if", the salutary pragmatism, based on reality, which has characterized American political life and legal theory is being replaced by a subjectivism, no longer pragmatic but largely voluntarist. We fear that in the future politicial and social conditions will be determined largely by what we pretend, ideologically, rather than by the past sensible accommodation between objective fact and subjective preference.

CONSTITUTIONAL—PRIMARILY THE IMPACT ON THE DISTINCTIVENESS OF THE SENATE AS THE COLLEGIAL BODY SHARING THE POWERS OF THE PRESIDENCY; POLITICAL—TRANSFORMATION OF SENATE DYNAMICS

In a sense, any constitutional amendment, if passed by the amendment process, is obviously constitutional. In another sense, however, certain amendments can complicate, or intrude on, the continuance of the clear meaning of earlier amendments. We perceive SJ 65 as having this unintended pernicious impact, because it casts a shadow on the meaning and significance of certain Senatorial collegial powers in Executive Branch activities as representatives of their formerly sovereign states.

The rise in the "imperial Presidency" has been fostered significantly by the diminishing role of Senatorial influence on the Executive Branch in the areas where the Senate has condominial rights. Most significantly these relate to foreign and military matters, particularly in the areas of so-called executive international agreements which are increasingly replacing formal treaty-making functions obviously requiring Senatorial ratification. There are, however, other matters where the Senate's role has also diminished, as a result of the growth of a massive Executive Branch, under Article I, Section 3, and Article II, Sections 2 and 4. Without elaborating, we believe that election of two Senators from a territory a state but construed to have a statu "if" a State will further dilute the righ the Senate as provided by the framers o Constitution. We assume that the Hatch will be repealed sometime in the ne ture and, considering the growing desi the White House to assume more direct litical control over the personnel of the eral and D.C. bureaucracy, which nu in the hundreds of thousands resident i immediate area, we fear that the Cong particularly the Senate with its far numbers, will come under increasing sure to act as the tool of the Exec Branch rather than as the representati the people of the 50 United States. We lieve this will make it even more dif than now for the Senate to discharg own Constitutional functions, partic in the sensitive area of foreign policy.

Given this situation, we believe the Federal courts, particularly the Sup Court, may have to review the signific of the "as if" phrase and may become volved in Constitutional judgments issues which now are immune from its diction. This would further erode the ers of the Senate, as well as the House, formulation of legislation and increas wide areas of public policy may be subj to indirect legislation by the judicial br

Thus the prospect of the growth of imperial presidency and concurrently o imperial judiciary, neither obviously tended by S.J. Resolution 65, is a matt grave concern to our Federation and, we mit, should be examined fully by the S before it acts on this proposal.

We express these views because we confident that in the near future the E Act, limiting political activity of Federal ployees, will be repealed. We are not n earily fearful of this repeal, provided genuinely limited to providing an increa individual political liberty and activity. ever, should S.J. Resolution 65 also pa believe that the Executive Branch wi able to turn this yearning for greater p cal liberty on the part of Federal empl to its own improper political advantag the detriment of the rights of the Con particularly those of the Senate.

THE PRECEDENT AND TEMPTATION OF "AS" CONCEPTS TO OTHER MUNICIPALITIES

We must frankly confront the fact certain partisan groups in the Congress in the nation as a whole wish to have more Senators because they believe it shift the balance of power in certain d tions which are now frustrated by the of the Senate, particularly on filibuster cloture. We have already indicated whether these groups are fully aware of possibility or not, the Executive Branch also play a major role in enhancing its power vis-a-vis the Senate to the ulti cost of those groups which hope to p most by this shift in power. Thus, we a cate prudence to all parties.

We have no quarrel, of course, with legitimate political tactics used by par groups to achieve their ends within the eral framework of the rules of clear poli and Constitutional principles. However very much fear the "as if" issue as an gitimate solution, particularly since it w permit the further erosion of the powe the Senate as well as of State governme should the Congress proffer to large citie prospect of acquiring more Senators by cumventing Article IV, Section 3 of the C stitution through similar "as if" langu Under this precedent, the generally amic relationships among the States and betw them and the Federal Government could come changed to relationships of rivalry, picion and contention, introducing dis into areas where now there is relative p and trust.

INCREASING BUREAUCRACY, INCREASING

terms of coal production in terms of rec-

should amend his proposal to give the

INCREASING BUREAUCRACY, INCREASING COSTS OF GOVERNMENT

Our Federation has noted an extraordinary growth in the costs of both the D.C. government and of the legislative branch in the last ten years. It appears to be more than coincidence that the employees of the Legislative Branch now number almost 40,000, and that appropriations for that Branch are approaching 1.3 Billion dollars. The employees of the District of Columbia also approximate 40,000 and the budget for the District is already 1.3 Billion dollars.

If we saw some necessary purpose to SJ Resolution 65, we would not object to additional costs and additional taxes. As we have reasoned heretofore, we see only dangers to having representation in the Senate of the United States. On this issue, there is consensus among us. We have found some sentiment in improving the role of representation in the House of Representatives but have not acted on that alternative since it is not on the agenda of the Congress at this time.

SUMMARY AND CONCLUSION

For the six reasons given in this statement, the Federation of Citizens Associations of the District of Columbia requests the Senate to reject SJ Resolution 65 as containing serious threats to the existing rights of the Senate of the United States.

The Federation instructs its President to communicate this statement to the Senate in time for inclusion in the deliberations of that body when this issue comes to the floor of the Senate.

(For the Federation.)

STEPHEN A. KOCZAK,
President.

Mr. MELCHER. I thank the Senator for his support.

Mr. President, I believe that the only issue that needs to be addressed is the central point—the basic right of every citizen to have just as much right and clout as any other citizen in this country in electing Members to both the House and the Senate.

I do not think it is necessary to state more than a few examples of how the right of the District to elect two Senators makes not just for clout but for superclout as well.

The District, with about as many people as reside in my State of Montana—not quite, but very close to the same number—would have constituent interest that is broad, in the sense of all the issues that affect individuals. The constituents, I am sure, would be just as interested in national solution, in terms of foreign policy, in terms of human rights, in terms of everything that affects us as citizens.

I do not present that as being something less important than the rest of the interests that I will mention now.

In my State of Montana, consider the diverse interests that my people, my constituency, have to be interested in, have to be involved in directly, have experience in, have input in. They send us letters or telegrams, or come in person, to tell us what their viewpoint is.

Timber, clean water, protection of wilderness, agriculture in all of its diverse forms, and our State has numerous forms of agriculture; cattle, sheep, wheat, barley, sugar beets, forest products. There are questions that they are directly involved in with management of the Federal land and there are questions involving coal.

The direct experience they have in terms of coal production, in terms of reclamation, where there is strip mining, does influence my vote, as it should.

The people of other States have different types of industry, different types of circumstances. Their constituents have many other facets of relationship to the Federal Government about which they come to their Senators to tell them their interests, their experiences, their complaints, and their recommendations.

It is on this basis that the District, the core of a vast metropolitan area, would not have the experience, would not have the interests in the same regard or in the same intensity or for the same purposes, as constituencies in the rest of the States.

And yet, Mr. President, I would not set aside the right of the District residents to have just as much influence in electing Senators as the residents in Virginia have or the residents in Maryland have.

The purpose of this substitute is to agree with all of the features of House Joint Resolution 554, except this one feature and to substitute in lieu of that the language that the residents of the District would be treated as though they were residents of Maryland for the purposes of voting for Senators.

Mr. President, I now yield the floor.

Mr. SARBANES. Mr. President, I have listened very closely to the Senator from Montana and I must say that I agree with that part of his statement in which he has underscored the unfairness, under our system of Government, that the people of the District of Columbia should be disenfranchised from having a vote in the Congress of the United States, both in the House of Representatives and in the Senate and I am pleased to see the emphasis he has placed upon that.

However, I disagree with his notion that for these purposes the District should be retrocessed to Maryland, this proposal is one which I think should be rejected by this body. I say this with enormous respect and affection for the residents of the District of Columbia; in fact, it is because of that respect and affection that I think they are entitled to two Senators of their own and whatever number of Congressmen the District would be accorded under its population. I believe the residents of the District of Columbia are entitled to their own Senators and Congressmen.

As a practical matter, you cannot have retrocession unless Maryland desires it. That is not the case in this instance. So you do not have a Virginia analogy, dating back more than 100 years to 1846, when the portion of the District across the river was retrocessed to Virginia.

Second, there is no connection of the District with Maryland to provide a basis for retrocession other than the original grant of the land back in the 18th century as part of forming the National Capital district. Beyond that connection it would make just as much sense to allow the residents of the District to vote in the elections for Senators in any other State in the Union. Might I suggest to the Senator from Montana perhaps in the State of Montana or perhaps we should amend his proposal to give the residents of the District a choice as to the State to which they wished to be attached for purposes of casting a vote for the U.S. Senate.

Mr. MELCHER. May I respond?

Mr. SARBANES. Surely.

Mr. MELCHER. As far As I am concerned as one citizen of Montana, If that were the only way that these people could have a vote, I would be delighted. But it is not a logical way. It is not a logical way at all in that these people are far removed from Montana and no ties to our area. It is not the way that it was before the framers of the Constitution denied them the right to vote. If they had not been denied that right, explicitly denied in the Constitution, which I hope the Senator from Maryland will agree was a mistake, it would be exactly the case that we are pointing out today, that they would be voting for the Senators from Maryland. Is that not correct?

Mr. SARBANES. The Senator's proposal is no more logical than the suggestion that these residents should join some other State for purposes of electing U.S. Senators. The fact of the matter is that the District has long been established as a separate jurisdiction. We come down to the very difficult question of how are its residents to be enfranchised for the purpose of participating in the making of national policy in the Congress of the United States, both the Senate, and the House of Representatives.

The proposal that has been passed by the House of Representatives and is pending before us, and to which the Senator has offered a substitute, addresses that problem directly by giving to the residents of the District of Columbia two U.S. Senators and whatever number of Congressmen is warranted by its population. The notion of retrocession and in this instance retrocession for the very limited, indeed the sole, purpose of Senate elections is not analogous with the Virginia situation carried out in 1846 which returned the territory for all purposes. This very limited retrocession proposal is, it seems to me, but a convenient way of blocking or seeking to divert our attention from the fundamental question of whether the residents of the District of Columbia are to be represented in the United States Senate. That is what the issue comes down to. To seek to link District residents to one State or another does not really answer that basic question.

Of course, that basic question goes to the part of the Senator's statement in which he spoke of not disenfranchising people gave testimony to what American democracy should be about. But the solution which the Senator has offered to the problem he has recognized is not an adequate or proper solution.

Mr. MELCHER. Will the Senator yield to me?

Mr. SARBANES. I yield.

Mr. MELCHER. I live in Prince Georges County.

Mr. SARBANES. We are pleased to have you live there, may I say, as one of Maryland's U.S. Senators. We regard it

an honor that the distinguished Senator should have chosen our State as his place of residence in the National Capital area.

Mr. MELCHER. And I thank the Senator for that remark, and we enjoy living there. In driving, for instance, on Branch Avenue it is extremely difficult for me to discern where the District ends and Prince Georges County in Maryland begins. If I am on Pennsylvania Avenue, it is extremely difficult for me to discern where the District line ends and Maryland begins. If I am on South Capitol Street, the same thing is true.

Every time a resident of the District moves across that line to become a part of Prince Georges County, of course, he has the opportunity of voting for the distinguished Senator now representing the State of Maryland and the other distinguished Senator from the State of Maryland. But as a practical matter, if they are going to vote in some State, to allow them to vote in the State where they not only adjoin but the State where they socialize, the State where they have common interests with Prince Georges County—that is the reason for designating Maryland as the place of voting.

Mr. SARBANES. Mr. President, the Senator's proposal, if it provided for complete retrocession, at least would have an internal logical consistency to it. There would be strong arguments against such a proposal, but at least if the proposition being put to us now was analogous to the Virginia situation in 1846, when the entire area was returned to the State, at the State's request and willing participation which it is very important to underscore; if that was the proposition it would have some logical consistency to it even if there are some strong arguments against such complete retrocession. If that were the proposal we would be considering interesting questions about the nature of the Federal City and the importance of Federal jurisdiction therein.

But that is not his proposal. If there ever was a multiheaded monster, this may be it. We have here no proposition for retrocession other than as it involves voting in the Senate. Why even as it involves voting in the Congress, the approach is bifurcated. In the House you are going to have one approach, which is to consider the District as a State from which will be elected Representatives to the House of Representatives, and to consider it in an entirely different way for purposes of representation in the Senate.

So even with respect to representation in the Congress of the United States the proposition offered by the Senator from Montana does not have a logical consistency, let alone with respect to all of the other aspects that are involved concerning jurisdiction over the territorial area of the District of Columbia.

I also ought to note that when the Congress considered the 23d amendment, in which the District of Columbia was brought into the Electoral College and its residents were given participation in voting in presidential elections, the District was given three electoral votes in its own right. That was the equivalent of two Senators plus one Congressman to which their population would have entitled it. At that time when that proposal was adopted there was no suggestion of the proposition of treating the District as part of Maryland for purposes of presidential elections.

I again submit that the substitute which is before us is really serving the purpose of diverting us from responding to the fundamental question of full voting representation in the Congress of the United States for the District of Columbia. Now, on that fundamental question Members of this body may differ as to whether they think the residents of the District of Columbia ought to be entitled in the Senate of the United States to be represented by two Members and in the House by the number of Members of the House their population entitles them to. But we ought to face that issue and face it squarely and not seek to divert it by an illogical proposition of the sort that is now before us in the pending substitute.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. SARBANES. I yield to the Senator.

Mr. MELCHER. I think the Senator is framing the case for the entire State of Maryland and I would accept the fact that the Senator would know the position of the State.

Mr. SARBANES. Mr. President, if the Senator will yield on that point, I think it is fair to say that this understanding on the part of the Senator is accurate.

Mr. MELCHER. Mr. President, if the Senator will yield, I believe the term "retrocession" when no land is involved, when no property is involved, when nothing is ceded to Maryland, is inaccurate.

I think the term implies ceding property back to someone and that is not the case. I do not think the Senator would view this as property. I think this is a question of a right to participate in the election process for representation in the Senate.

Mr. SARBANES. If the Senator is not going to carry any territory with his proposal, in a jurisdictional sense, he is simply going to have a free-floating body of citizens to be attached to some State for purposes of voting for Senator. Then I submit to the Senator, as I said at the outset, there is just as much logic in attaching that free-floating body of 700,000 citizens to any one of the 50 States in the Union. If you want to talk——

Mr. MELCHER. Mr. President, will the Senator yield there?

Mr. SARBANES. If I can finish my thought—if you want to talk about the proposition of retrocession of this entire territory to the State of Maryland in terms of full jurisdiction and Senate and House voting rights running with it, that, at least, is logically consistent even if there are arguments against it.

But that is not the substitute before us. This substitute excludes all aspects of retrocession except representation in the Senate of the United States; even with respect to representation in the Congress of the United States it goes down one path with respect to the Senate and down another path with respect to the House of Representatives.

Mr. MELCHER. Mr. President, w
Senator yield?

Mr. SARBANES. I yield.

Mr. MELCHER. I do not belie
is logical unless the Senator fee
direct representation in the Ho
something less than would be av
to them if they were residents
other area of the country.

That is not the case. Represen
for them in the House is on the b
the District line just as is present
fore us in House Joint Resolutio
It is rather generous, and I do no
the Senator is trying to say tha
overly generous, is he?

Mr. SARBANES. The Senator'
posal with respect to House repre
tion treats the District of Colum
though it were a State, does it not

Mr. MELCHER. For purposes of
representation.

Mr. SARBANES. That is corr
that not the case?

Mr. MELCHER. Exactly as it
House Joint Resolution 554 whic
Senator advocates.

Mr. SARBANES. For purposes o
ate representation he then takes th
dents of the District of Columbi
instead of treating them as thoug
were a State for that purpose se
incorporate them with the populat
the State of Maryland for purpo
electing a Senator.

Mr. MELCHER. Two Senators.

Mr. SARBANES. Two Senators.

Mr. MELCHER. Absolutely corr

Mr. SARBANES. And my obser
with respect to that approach is t
lacks an inherent logical consisten

Now, the Senator may make that
osition. All I am saying is it is no
ically consistent, it lacks that att

Mr. MELCHER. Mr. President, w
Senator yield?

Mr. SARBANES. Furthermore,
pointed out, it is illogical because
other aspects of retrocession whic
would assume would accompany
sion of the population of the Distr
Columbia with Maryland for the
poses of electing a Senator have
completely excluded. You maintai
District of Columbia as a separate
tory, for which there is strong argu
to do so, but you do maintain that
this substitute; is that not correct?

Mr. MELCHER. The Senator is
lutely correct. But if the Senato
yield, Mr. President, may I repeat
had not the framers of the Constit
explicitly prohibited the citizens o
District from having the right to
they would be voting for Senator
as I have proposed.

I cannot go back now any more
the Senator from Maryland can go
to the times when the Constitution
framed and make that correction i
other better way than the way I am
ing it right now.

Mr. SARBANES. I think the co
tion can be made in a far better way
that is through the adoption of
Joint Resolution 554 and rejecting
substitute offered by the Senator
Montana.

I yield to the Senator from Virgin

Mr. SCOTT. I believe there is a
tinction between the Virginia retr

sion and the proposal by the distin-

Mr. SARBANES. That is right. And as

the sake of consistency, I must amend

sion and the proposal by the distinguished Senator from Montana, and yet there is a similarity. In the event that the people of the District of Columbia did vote in the Maryland elections for the Senate, Maryland would still have a population somewhat less than 5 million people. Virginia has a population of something over 5 million people.

It might be a solution to the dilemma with which we are faced.

I can understand the reluctance of the distinguished Senator from Maryland in desiring to avoid changes being made in the areas from which Senators would be elected from his own State to include a portion of territory that is no longer a part of Maryland. But it once was a part of Maryland, and the common law of Maryland is the common law of the District of Columbia. There is a lot to be said in favor of the amendment proposed by the distinguished Senator from Montana.

I think there are some similarities between the Maryland and Virginia situations. The Virginia retrocession was with the consent of the people of the State of Virginia, and then it was accepted by Virginia, by the District of Columbia, and by Congress. I see the difference, but I merely wanted to rise to point out that there are some similarities as well as differences.

Mr. SARBANES. Well, of course, the Virginia section of the District of Columbia had never really been used as a Federal city.

Mr. SCOTT. It was included within the 10-mile square area, but the Senator is correct.

Mr. SARBANES. But no development of it as a Federal city had taken place, as I understand it.

Mr. SCOTT. The city of Alexandria was a seaport, and was perhaps more highly populated than the rest of the District of Columbia. In fact, it was more highly populated than the rest of the District of Columbia, and it was part of the District of Columbia and part of the area that was first ceded and then receded. Alexandria is one of our oldest cities in Virginia.

I thank the Senator for yielding.

Mr. SARBANES. Mr. President, to sum up concerning the substitute—first of all, there is no retrocession to Maryland of the territorial area of the District of Columbia, which is the analogy one would have to draw if one were to use the Virginia analogy. The substitute deals only—I repeat, only—with the question of representation for residents of the District of Columbia in Congress. The substitute says, by its own terms, that the District shall be treated as though it were a State for purposes of representation in the House of Representatives, but it is to be treated as though it were part of the State of Maryland for purposes of representation in the Senate.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. SARBANES. I yield.

Mr. MELCHER. Would the Senator prefer that the District of Columbia be treated as a State in all respects? House Joint Resolution 554 only treats the District as if it were a State on three points.

Mr. SARBANES. That is right. And as a consequence, it puts very directly to us the question of enfranchisement of the District of Columbia for purposes of representation in the Congress of the United States.

Mr. MELCHER. That is true.

Mr. SARBANES. Now, there are Members of this body who are opposed to that, and you can have a variety of reasons for opposition to it and choose, in effect, to place in the scale of balance in reaching your judgment those reasons as outweighing the weight you are prepared to attach to the fact that 700,000 people have been disenfranchised as far as participating in the decisionmaking of the national legislature is concerned. They have been brought into the Constitution for decisionmaking with respect to the election of the President, with respect to the election of the executive branch of Government, but at the moment they are disenfranchised as far as participating in policymaking in the National Legislature is concerned.

Those of us who support House Joint Resolution 554 believe that the enfranchisement of those 700,000 people, or whatever the population of the District of Columbia may be, is an important objective, and outweighs the arguments that may be made against it with respect of one's jurisdictional perception of the District of Columbia as a district as opposed to being a State.

Some Senators may disagree with that, and will vote the other way, but at least the issue ought to be put very directly, and not diverted by this proposition, which is a limited partial recession of a most illogical nature.

Mr. MELCHER. Will the Senator yield further?

Mr. SARBANES. Yes.

Mr. MELCHER. The Senator has rightly stated that we have corrected by previous amendments to the Constitution the rights of citizens of the District of Columbia to vote for President and Vice President. This amendment would correct the situation on voting for Members of the House of Representatives.

In both of those instances, the requirements for voting were consistent with those for everyone else in the United States. If you are a citizen, you follow the procedure wherever you live and have the right to vote for the President and the Vice President, because you are a citizen. If you are a citizen entitled, as every citizen should be, to representation in the House of Representatives, that will be protected in this resolution. It is easy, on that basis, and is consistent with the rights of every other individual in the United States.

Now, the Constitution tells us that for purposes of representation in the Senate, each State will have two Senators; no State will have more than two, and no State can be deprived of its representation in the Senate. That is a constitutional mandate. And so the resolution that was presented to the House of Representatives was inconsistent with what the Senator from Maryland is arguing. If the Senator from Maryland wants to argue that it is necessary to be consistent, then the Senator from Maryland, in this instance, should say, "For the sake of consistency, I must amend this resolution to say that the District of Columbia is a State." That is consistency.

So I hardly see that my approach is any more inconsistent than is the approach of the pending joint resolution, because the Senator from Maryland has not sought to amend the Constitution to say that the District of Columbia is a State. As to the point of consistency, the resolution which the Senator from Maryland is supporting states that for purposes of electing Senators, the District of Columbia will be considered a State.

Mr. SARBANES. Well, Mr. President—

Mr. MELCHER. Now, that is inconsistent, in the sense that the amendment does not propose that the District be a State.

Mr. SARBANES. In response to the Senator from Montana, I think the simplest answer would be first to read from House Joint Resolution 554, which is the proposed constitutional amendment to provide representation for the District of Columbia in the Congress, which is before us, and which I very strongly support. It states:

> For purposes of representation in the Congress, election of the President and Vice President, and article V of this Constitution, the District constituting the seat of government of the United States shall be treated as though it were a State.

So the District should be treated as though it were a State for all electoral purposes.

Contrast that with the substitute proposed by the Senator from Montana, which says:

> For purposes of representation in the House of Representatives, the District constituting the seat of government of the United States shall be treated as though it were a State. For purposes of representation in the Senate, the District constituting the seat of the government of the United States shall be treated as though it were part of the State of Maryland. For the purposes of ratification or initiating constitutional amendments, the District constituting the seat of the government of the United States shall be treated as though it were a State.

I am simply saying that for representation purposes, for electoral purposes, the proposition which is before us in House Joint Resolution 554, which treats the District as though it were a State, has a logical consistency which is absent in the substitute proposal which the Senator from Montana has offered.

I am ready to move to table the Senator's amendment. I do not wish to cut off debate. If the Senator is prepared to go to that motion, I am prepared to so move.

Mr. MELCHER. I suggest to the Senator that there are other Senators who wish to address the question. Out of courtesy to them, I would appreciate it if the Senator would not propose the tabling motion at this time.

Mr. SARBANES. If there are others who wish to speak on it, I would not propose the tabling motion at this time.

Mr. MELCHER. Mr. President, the Senator from Maryland has just read through the joint resolution that the District would be treated as if it were

a State under House Joint Resolution 554 for the purposes of electing House Members, for electing two Senators, and not for the purpose of ratifying amendments to the Constitution or initiating amendments to the Constitution. That is all in House Joint Resolution 554. The Senator from Maryland describes that as being a consistent approach.

While I appreciate his point and would agree that in all of those instances each one is consistent with the other, there is yet a basic flaw or inconsistency in the approach as the Constitution provides for the States. House Joint Resolution 554 stops short of going to the ultimate consistency wherein it would not be necessary to list these separate items, but saying only that the District of Columbia is proposed in this amendment to become a State.

That would be entirely consistent if they so chose. But the supporters of House Joint Resolution 554 have not seen fit and have not wanted to advance into what I think would be treacherous waters for the approval of a ratification process of that kind of an amendment to the Constitution.

I think it would be difficult for many State legislatures to look upon the District of Columbia as a State. It does not have the attributes of a State. It is a core within a vast metropolitan area and simply does not compare to any State. So supporters of House Joint Resolution 554 have avoided doing that.

In my judgment, if they wanted to be entirely consistent, they would not have made the approach they made. They would have just said the District will become a State.

If the constitutional amendment is to be ratified by three-fourths of the States, I think it is paramount that we correctly address the problem as it exists today and describe it correctly in the proposed constitutional amendment so there is an opportunity for the various States of the 50 to vote on it and to make a determination affirmatively that the residents of the District shall have the right of citizenship in regard to the election process to Congress, to the House and to the Senate, and be able to participate as citizens in the ratification of amendments or the initiation of amendments to the Constitution.

I think it would be inconsistent with all logic having not declared the District to be eligible to be a State to declare that, although it is not eligible to be a State, it is eligible to be treated as a State for Senate representation.

It is illogical from the point of view of what the Constitution envisions in the separation of the House and the Senate; in the separation of the legislature from the executive, and in the process that is involved in the election of the President, the Vice President, the Members of the Senate, and the Members of the House.

As I have said earlier, because the framers of the Constitution did a wrong to the people who were to live in the District by disenfranchising them under the Constitution, I think it is most consistent and appropriate that we correct that situation as quickly as we can and in the logical manner as the Constitution should have provided from the outset.

The Constitution, if it had not been improperly drafted in this respect, would have provided that the residents of the District would be voting in elections for the House and the Senate exactly as we propose it in my substitute amendment.

Those on the Virginia side of the Potomac would be voting in Virginia as they are now, after 1846 when the retrocession of the land went back to Virginia. Those residents living on this side of the Potomac in what is now the District of Columbia would have been voting for Senators in Maryland.

My proposal takes no one's right away. I find it not only consistent with fairness; I find it consistent with what I believe should have been drafted and provided for originally in the Constitution.

I believe the substitute is addressing it in this manner as properly and wisely as can be done at this time.

Mr. HATCH. Will the Senator yield?

Mr. MELCHER. I yield.

Mr. HATCH. I have looked very carefully at the Senator's amendment, and although I can still see some difficulties with it, and I raised some of those yesterday on the floor of the Senate, I think it is a rather ingenious way of trying to provide, if we are going to do this at all, at least a more logical way than the illogical way that the joint resolution provides, House Joint Resolution 554.

(Mr. HODGES assumed the chair.)

Mr. HATCH. What the Senator has recognized here, or, at least, I take it this is his argument, is that a city may need its own Congressman when it has 700,000 people, although decreasing in size, but the Founding Fathers' desire was to have Senators represent States. The individual Congressman represents individual constituencies, but the Senators do represent States. I see some of the same objections I raised yesterday.

On the other hand, this is much more logical within the framework of the Constitution than House Joint Resolution 554, which tries to make a State out of a city and a Federal enclave at that, a Federal enclave, where the mentality is all Federal—or at least, that is the argument that has been made, and I think rather persuasively, here and in the past and during committee hearings on this subject, part of which I sat through as a member of the Judiciary Committee.

In all honesty, I have some difficulties with the amendment of the Senator from Montana. Nevertheless, if we are talking about logic and if we want to accomplish that which we have not otherwise been able to accomplish, that which might be acceptable to the States—and I really believe the Senator's amendment might be acceptable to the State of Maryland upon a vote there—then I would say that the amendment of the distinguished Senator from Montana, or substitute amendment here, is much more logical than the bill itself, the original House Joint Resolution 554, which has, in my opinion, some very bad constitutional aspects.

Yesterday I raised the point that House Joint Resolution 554 treats th different kinds of voting procedure electing Members of Congress, el ing the President and Vice Presid and ratifying amendments—as one the same. I believe the Senator has t to correct at least one of them.

I also raised a number of other is that the House Joint Resolution 554 p posal does not solve. Nevertheless, I impressed with the Senator's amen ment. I have the same desire he d that is, to correct what is an injus without going through the polit machinations of looking like we doing it when really, everybody h knows that 38 of the States are not go to ratify House Joint Resolution 554.

I think that if we are going to try solve this problem, we ought at least do something along the line of strai retrocession or the suggestion I m yesterday, providing a right to vote the State where their last residency w where their ancestors' residency is, in some sort of proportionate way t can be devised if reasonable minds together and try to solve the problem

What I really suspect here is H House Joint Resolution 554 is the us political approach, which may win he on the floor of the Senate, but which d not have a chance, in my opinion, w the 50 States in this Union. I think i not going to be very difficult to point o in those States, and I think it will pointed out and is already being poin out in some areas, that you cannot ma a State out of the District of Colum and that calling a city a State does n make it one. Calling a Federal encl a State is even worse.

What we are going through here is political exercise, it seems to me, to g some credibility for the viewpoint certain Senators on the floor who pushing this particular amendment, who know, in and of themselves, that is an exercise in futility even if the Se ate and the House pass it or ratify

I should think that there is a mu bigger chance of Maryland accepting t Senator's approach than there is House Joint Resolution 554 having a opportunity, and if the Senators rea feel strongly about this—and I am n sure at this point what my viewpoint going to be when this comes up to a vo but if the Senators really feel strong on the floor of the Senate, about granti voting rights to the citizens of the D trict, this is a reasonable way of do it, or at least more reasonable and more logical than House Joint Resoluti 554, for the reasons I enunciated ye terday.

I also think that if they really wa to accomplish this, this has some merit.

Mr. MATHIAS. Will the Senator yie for a question?

Mr. HATCH. Surely; I am glad to.

Mr. MATHIAS. Since the Senat seems to support the Melcher amen ment—

Mr. HATCH. I do not know that I at this point, but at least, it has mo influence with me than House Joi Resolution 554, which tries to make State out of the District.

Mr. MATHIAS. If the Senator's mi is not firmly fixed——

ful to him and I am going to listen very

Mr. MELCHER. I might add to the

Mr. HATCH. It is not at this point.

Mr. MATHIAS. Perhaps I can ask the author of this interesting amendment some questions which might reflect on how it would operate.

Mr. HATCH. If the Senator will allow me to make my statement first——

Mr. MATHIAS. I am sorry. I thought the Senator was just reflecting generally.

Mr. MELCHER. I want to make it clear, Mr. President, that I have not yielded the floor.

Mr. HATCH. He has yielded some time to me. I shall be happy to yield back for the Senator to ask any questions he wants to.

What I am saying is if this is not really an exercise in futility and if we are really trying to give the residents of the District a right to vote for two Senators and one Congressman, it seems to me it is far more logical to follow the amendment of the Senator from Montana than it is to follow House Joint Resolution 554, because it recognizes that at least the Congressman will represent the city, but the Senators will be voting within the State structure or framework.

If we are going to talk about logic, I listened to the other distinguished Senator from Maryland and he thought that the amendment of the Senator from Montana was illogical, if I interpreted correctly, and I think I did. But I think it is more logical than House Joint Resolution 554 and has more merit than House Joint Resolution 554, even though I still have some difficulties with it.

That is the only point I am making: If we really are sincere—and I might add that it is easy for me to see why the two Senators from Maryland may or may not want to support this kind of amendment. But if we really are sincere about it and if the Senator's amendment has an opportunity of passing, maybe we ought all to give more consideration to Senator Melcher's amendment, because it has some merit. At least, it recognizes that Senators happen to represent States.

That was the intent of the Founding Fathers. The Congressmen do represent smaller geographical areas, generally, cities or other areas of approximately 50,000 people.

So, from a logic standpoint, I want to commend the efforts of the distinguished Senator from Montana. I should urge my colleagues to give good consideration to what he is saying here. I think it has some validity. Although I have not fully made up my mind, I am going to give great thought to it, because I think it is the first time I have seen this type of approach. I have thought in terms of full retrocession, which, in my opinion, would be constitutionally more sound. I personally believe Maryland would accept retrocession. I believe it would.

I think the distinguished Senator from Vermont has been making that point. Nobody knows, and until it is tried, how do we know? It is a lot better than going to 50 States and trying to get 38, when they are going to have all the arguments that have been made here, that you cannot make a State out of a city, and especially a Federal enclave.

I thank the Senator for giving me this little bit of his own time. I am very grateful to him and I am going to listen very carefully to what he has to say.

Mr. MELCHER. I thank the Senator from Utah. I point out that the Constitution provides that there will be 435 Members of the House of Representatives. That is a restraint on the membership of that body. It is a restraint that is adjusted after every 10-year census. Based on the population of the entire country then the determination is made of how many people each representative will represent in the House of Representatives.

We have no such restraint in the Constitution on the Senate except the restraint that there shall be only two Senators from each State, that there shall not be any detraction, any removal of a State's Senator or Senators without their consent.

Mr. MATHIAS. Will the Senator yield for a question?

Mr. MELCHER. I will yield first to the Senator from Maryland and then to the Senator from Utah.

Mr. MATHIAS. I do have some questions because I think the Senator has raised an extremely interesting suggestion. It is one about which I try to be objective. Of course, the Senator wants to give me several hundred thousand additional constituents, so I cannot pretend to be totally objective on the subject.

But I am wondering how the Senator would approach the problem of the primary elections under this amendment. How has he envisioned, for example, that the parties in Maryland and the parties in the District of Columbia would coordinate a primary election, in a year they were nominating candidates for the U.S. House of Representatives and nominating candidates for the U.S. Senate. Just how would that work?

Mr. MELCHER. I am delighted to answer the distinguished Senator from Maryland and say that I am sure he, for one, would have a direct input on how it would work.

It is a question of applying the same type of rules that the State of Maryland has for the citizens now residing in Maryland, applying those rules as though the citizens of the District were actually citizens of Maryland.

Mr. MATHIAS. Does the Senator project there will be two sets of registration machinery; that the citizens of the District of Columbia would register in the District of Columbia for purposes of electing a Representative and that then they would register on the Maryland books for the Senate election? Would the Senator think that the Maryland registrars should come across Eastern Avenue or Western Avenue and enter the District; or would the people of the District cut across Eastern Avenue and Western Avenue and enter Maryland in order to get registered? Or could we have postcard registration? Just exactly how does the Senator envision it?

Mr. MELCHER. The Senator from Maryland, of course, knows the Maryland law in regard to those questions.

Mr. MATHIAS. We have no Maryland law about coming into the District of Columbia. That is why I am asking the question.

Mr. MELCHER. I might add to the distinguished Senator that the District of Columbia now has no law about the proper registration for the purposes that are envisioned in House Joint Resolution 554, at least no complete law in that regard, because they have not had the opportunity to completely face the question.

But to be more specific in answering the question posed by the Senator from Maryland, I do not envision it as being a very disturbing problem for the District voters who would be eligible to vote for their House Members in their own district and eligible to vote for Senators as if they were residents of Maryland to comply with whatever necessary paraphernalia there is in complying with the Maryland law.

Mr. MATHIAS. If the Senator would let me ask a further question, I might say——

Mr. MELCHER. Might I further answer the distinguished Senator by saying that the——

Mr. MATHIAS. I wish the Senator could answer it with a little more specificity.

Mr. MELCHER. I might point out that the residents of the city of Chicago were long able to vote in a way that Mayor Daly found favorable for whatever House Members they were eligible to vote for and also vote for the Senators from Illinois.

I would not think the Senator from Maryland would try to be proposing that it would be unworkable to allow the District of Columbia residents to have this opportunity to vote for Senators.

Mr. MATHIAS. I do not believe it would be totally unworkable. I am just asking how the Senator thinks it would work. It was his idea, not mine.

But I do have a further question I might ask the Senator. He referred to the law of Maryland.

Now, I am familiar with the law of Maryland with regard to vacancies. I know what would happen if my friend and colleague (Mr. SARBANES) or I, myself, would drop in the traces, or as we grow weaker under the burden and we drop out, I know what the law of Maryland is about vacancies.

The Governor of Maryland appoints the Senator until the next election.

Now, are we going to have the Governor of Maryland appoint a Senator to represent the people of the District of Columbia? That is the law of Maryland.

If the Senator envisions some change in the law, how are we going to change the organic law of Maryland so that some official in the District of Columbia joins with the Governor of Maryland on a proportional basis to fill a vacancy that may occur in the U.S. Senate for Maryland?

Mr. MELCHER. In answer to the question posed by the Senator from Maryland——

Mr. MATHIAS. If the Senator from Montana will allow me to interrupt, my friend and colleague, PAUL SARBANES, is in the Chamber and appears to be in good health, so the question of a vacancy may not arise immediately.

Mr. MELCHER. In answer to the

distinguished senior Senator from Maryland, he posed a very interesting point which is: What if a Senator from Maryland dies?

Mr. MATHIAS. I hope the Senator said "any Senator."

[Laughter.]

Mr. MELCHER. I hope neither of you dies—ever.

Mr. MATHIAS. Let us keep this general.

Mr. SARBANES. I think we should keep it in the most hypothetical form possible.

Mr. MELCHER. I offer this in a nonpartisan way. I hope neither Senator ever dies.

However, if that unfortunate occurrence should happen, and if this proposed substitute were adopted, and the States ratified it and it became part of the Constitution, what would be the procedure of appointing a Senator to succeed until the next election could be held to fill the vacancy? Of course, it would be through the Governor of Maryland appointing the successor until the next election.

Every constitutional amendment that is adopted poses some very practical questions. How do you implement this or that or the other thing?

Let me speak to the situation that would arise following the point raised by the distinguished senior Senator from Maryland. After we adopted House Joint Resolution 544 as the House passed it, and the District elected two Senators from the District, suppose that an unfortunate and tragic fatality should happen to one of those Senators.

Who would appoint a successor to that Senator? It is not in the Constitution, it is not in House Joint Resolution 554, and it certainly is not under any law of the District of Columbia at present.

So the very question of the distinguished Senator from Maryland has raised one of the myriad pertinent points that make it possible to say that the method I propose for the election of Senators to represent the District of Columbia is far more workable, far more practical, and far more fair than anything proposed by the supporters of House Joint Resolution 554.

Does the distinguished Senator from Maryland have other questions? I will be glad to yield, if he does.

Mr. MATHIAS. I will answer that briefly in this way: I believe that saying that amendments to the Constitution create more questions really begs the question.

This is a very practical problem. If you are dealing with a recognized political entity, you can work out the problem of filling vacancies. But I must say that I shudder a little at the thought of how we would fill vacancies in the Senate and be fair to everybody in a situation where the voting is split between the District of Columbia and the people of Maryland.

I hope that the Senator, as he propounds this proposition to the Senate, will consider that question very carefully. It is a troubling one to me. It is not one which I think allows of easy solution.

I have some other comments I will make. I do not want to take the Senator's time, but I did want to raise these questions while he is in the course of his presentation. When he has finished, I will make a few other observations.

Mr. MELCHER. Mr. President, the very example that the senior Senator from Maryland posed is a strong argument in favor of following a procedure that is recognized and in place, that is compatible with the Constitution, with respect to the manner in which District residents would have their representation in the Senate. In my judgment, that procedure is best followed and more accurately meets any unfortunate or unseen occurrence that might happen than if House Joint Resolution 554 is passed by the Senate and ratified by the States in the form it passed the House. House Joint Resolution 554 leaves the inconsistencies of an election of two Senators from the District and disregards the basic proposition that the District is not a State.

Mr. President, I know other Senators would like to have the floor, including the distinguished senior Senator from Maryland, and I therefore yield the floor.

Mr. MATHIAS. Mr. President, before the Senator yields, let me ask one further question.

I wonder whether the distinguished Senator has reviewed the opinion of the Supreme Court of the United States in the case of Evans against Cornman, which was argued on the 22d of December 1970, and decided on June 15 of the following year.

Mr. MELCHER. I say to the distinguished Senator that I have not reviewed the case.

I point out to the Senator that we are proposing a constitutional amendment which would become part of the Constitution, if it is ratified by three-fourths of the States, and it would be the law.

Mr. MATHIAS. The Senator might find it profitable to read that case. It might give him some aid and support.

The case involves some residents who lived on the grounds of the National Institutes of Health in Bethesda, Md. They were denied the right to vote because that land had been ceded to the Federal Government. But the Supreme Court held that, notwithstanding the cession of that land to the Federal Government, the residents of that property still, in fact, retained the right to vote in Maryland elections.

So I think it is a very pertinent case to the Senator's amendment, one that deserves the Senator's attention. I hope he will read it with a discriminating eye, as he has, and with the kind of judgment he brings to the Senate.

It seems to me that the case does raise points of difference. It does point out the nature of the land ceded at Bethesda for the purposes of the National Institutes of Health, which I think can be distinguished from the District of Columbia, as envisioned in the Constitution by the Founding Fathers.

I just wanted to ask that one question; and if the Senator yields the floor, I will make a few observations.

Mr. MELCHER. I do yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. Mr. President, as S
tors in the Chamber may have a
tained or been able to divine, I do
some very serious questions. I do
make light of this amendment. I thi
raises extremely serious questions. B
think it has to be viewed with very c
ful scrutiny. If it looks like an easy a
tion to anyone they should think al
some of the implications of it. I thin
has to be degrading to the people of
District of Columbia in several ways
cause in effect it treats the Distric
Columbia as if it were a military reser
tion; as if it were any other Federal
ervation and not the seat of Gove
ment, the Capital of the United State
America, the nerve center of the en
world. We are going to deal with the e
toral problems here just as if it wer
military stockade somewhere. I th
that is degrading.

Furthermore, it does not achieve
basic objective that I think prob
every Member of the Senate would lik
see achieved, and that is to grant
100-percent citizenship to the people
the District of Columbia. It denies th
a congressional delegation as a congr
sional delegation is known and rec
nized from every other one of the
States.

There will be some representatives o
here elected by one constituency
Senators over here elected by a differ
constituency.

I think that is bound to leave in
mouths of the voters of the Distric
kind of bad taste. It is a kind of an invi
ous discrimination. It is a hangover fr
the years of discriminatory treatme
and I do not think it fills the bill.

I think, also, Mr. President, that
amendment is degrading to the peo
of Maryland. I think to alter the prac
of more than 178 years without no
to the people of Maryland and with
opportunity to the people of Maryla
to consider what kind of impact t
would have upon our political insti
tions, upon our political practices,
kind of a summary treatment to consi
administering to a sister State.

This is a constitutional question, a
suggested by bringing the 1970 opin
of the Supreme Court to the attent
of the Senate. It is not something to
sprung upon the State of Maryland a
to be sprung upon the country as
amendment here. It would have an
fect. I think we are entitled to some ti
to discuss it and to consider it.

Mr. BAYH. Does the Senator yield
was he just catching his breath? I d
not want to interrupt his total asse
ment of this, but inasmuch as he is fr
the affected State I wish to address so
concerns and observations that the Se
ator from Indiana has to my friend w
happens to have a real understanding
the Maryland constituency. Plus he i
member of the Judiciary Committee w
is familiar with many of the constit
tional questions that are raised by t
particular well-intentioned expression
concern on the part of the Senator fr
Montana.

Mr. MATHIAS. Yes, I am happy
yield to the distinguished Senator.

Mr. BAYH. I do not know whether
is appropriate now, but I think perha

the Senator from Montana might care to

why I think we have a very real problem

tion 554 is to provide full voting representa-

the Senator from Montana might care to participate in this as well.

Mr. MATHIAS. I would hope that he would.

Mr. BAYH. I am grateful for the Senator's concern that at least we find some way to let three-quarters of a million people have an opportunity to be represented. I share that concern and so does my friend from Maryland.

Mr. MATHIAS. As I just mentioned a minute ago, I think every Member of the Senate is really motivated in this thing. We just really have to find a way to do it.

Mr. BAYH. One of the concerns I have is that the vehicle which has been chosen by our distinguished friend from Montana seems to raise more questions than give answers.

I call my colleague's attention to article IV, section 3 and ask his interpretation of that relative to how we ultimately conclude this process, particularly from the standpoint of the Maryland constituency that he now represents which would be commingled technically if indeed not by sovereignty for the purpose of choosing Members of the Senate and the House. Article IV, section 3 says:

> New states may be admitted by the Congress into this Union; but no new states shall be formed or erected within the jurisdiction of any other state; . . .

And this is the last part of that section to which I call the Senator's attention:

> . . . nor any state be formed by the junction of two or more states or parts of states, without the consent of the legislatures of the states concerned, as well as of the Congress.

The only time we have had a situation like this was a retrocession of part of the original Capital City to the State of Virginia. In that particular instance it was considered necessary for the Virginia State Legislature to vote on that and, indeed, the Virginia State Legislature did vote to accept that retrocession.

Does the Senator from Maryland assume that this would be a similar requirement?

Mr. MATHIAS. I would certainly think so. As I just said, even if it could be construed that this was not a case which technically came within the four corners of that provision of the Constitution, that you are here dealing with 178 years or more of practice, of political practice, that would have to be radically changed.

I think certainly the spirit of the Constitution would require that the people of Maryland, who will be affected here, have an opportunity to consider and discuss it, and that the Legislature of Maryland express its will on this subject. I think the Senator is absolutely right.

Mr. MELCHER. Mr. President, will the Senator yield for a question?

Mr. BAYH. I would just like to expand on that. There can be no question but what you are bringing in 750,000 new residents for all intents and purposes so far as the impact they have on Senators and Representatives.

Mr. MATHIAS. Which the Senator from Indiana knows is more than the population of many States.

Mr. BAYH. That is correct. That is why I think we have a very real problem here. The Senator from Indiana thinks a very real case can be made constitutionally that this article would require the Maryland Legislature to ratify this particular constitutional amendment so far as this particular impact is concerned.

Mr. STEVENS. Mr. President, will the Senator yield to me? I have to catch an airplane, and I would like to make a short statement.

Mr. BAYH. I think the Senator from Maryland has the floor.

Mr. MATHIAS. If I can yield without losing the floor, I yield a minute to the Senator from Alaska.

Mr. STEVENS. Is that consent granted, Mr. President?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I can sympathize with a group of people who desire representation through statehood. In fact, the concept of representation framed in the Constitution is based upon statehood. My State of Alaska struggled for years to attain the rights of statehood. As everyone knows I was part of the statehood movement for Alaska. But House Joint Resolution 554 sharply departs from constitutional practice by giving a group of people full congressional representation without the status of a State. The fathers of our country would be repulsed by a proposal that would grant people representation in Congress, especially in the Senate, without the concomitant obligations of statehood.

The great compromise, proposed by Madison's Virginia plan during the Constitutional Convention of 1787, was grounded in the concept that the House of Representatives will represent the people and that the Senate will represent the States. According to House Joint Resolution 554, the District of Columbia is not granted statehood, it is simply granted representation in contravention of the compromise that knitted together warring factions in the Constitutional Convention.

Furthermore, House Joint Resolution 554 introduces a unique political entity into our Federal system which has remained intact for almost 200 years. If we pass this resolution, who knows what comes next. The United States now consists of certain territories, those being, Virgin Islands, Guam, Puerto Rico, American Samoa, Northern Marianas, and Micronesia, that instead of someday being presented with the usual alternatives of statehood, independence, or remaining a territory, will have a fourth alternative — congressional representation. Now, you may think me foolish in suggesting such a possibility, but I have in my hands a resolution from the legislature of Guam requesting just such a thing. I would like to read into the RECORD, Guam's resolution.

RESOLUTION No. 336

> Be it resolved by the Legislature of the Territory of Guam:
>
> Whereas, House Joint Resolution 554 calls for a constitutional amendment to provide representation in Congress for the District of Columbia; and
>
> Whereas, the goal of House Joint Resolution 554 is to provide full voting representation in both the Senate and the House for a populace which has been historically denied representation; and
>
> Whereas, the residents of Guam as well as the other residents of the territories of the United States and the District of Columbia carry the same burdens of citizenship as all other Americans yet they have no representation whatsoever in the Senate and one "non-voting" delegate in the House of Representatives; and
>
> Whereas, this denial of representation is an affront to our democratic ideals and a blight on our record as a free nation to guarantee representative government for all Americans; and
>
> Whereas, we support and encourage the United States Senate to act favorably on House Joint Resolution 554, we also ask the United States Congress to encourage and promote the initiation and passage of a similar joint resolution granting Guam's citizens voting representation in both Houses of Congress; and
>
> Whereas, the achievement of full civil libertarianism for all of America's citizens and the elimination of the blight on democracy of a non-represented people will only be accomplished with the granting of full voting representation to the entire American community including America's territories: Now, therefore, be it
>
> *Resolved*, That the Fourteenth Guam Legislature respectfully requests that the United States Senate act favorably on House Joint Resolution 554; and be it further
>
> Resolved, that the Congress of the United States is respectfully requested to initiate and support a similar resolution granting full voting representation to America's territories as well; and be it further.
>
> Resolved, that the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the President of the United States; to the President Pro Tempore, U.S. Senate; to the Senate Majority Leader; to the Senate Minority Leader; to the Senate Minority Whip; to the Speaker, House of Representatives; to the House Majority Leader; to the House Minority Leader; to the House Minority Whip; to Senator Edward M. Kennedy; to the Delegate from the District of Columbia; to the Delegate from Guam; to the Delegate from the Virgin Islands; to the Resident Commissioner from Puerto Rico; to the Liaison Officer from American Samoa; to the Washington Representative from the Northern Marianas; to the Liaison Officer from Micronesia; to the Governor of Puerto Rico; to the Governor of the Virgin Islands; to the Governor of American Samoa; to the Governor of the Northern Marianas; to the Speaker, Puerto Rico Legislature; to the Speaker, Virgin Islands Legislature; to the Speaker, American Samoa Legislature; to the Speaker, Northern Marianas Legislature; to the Congressional Delegation from Hawaii; to the Secretary of State; to the Secretary of Interior; to the Chairman, National Democratic Committee; to the Chairman, National Republican Committee; to the Executive Editor, Washington Post; to the Executive Editor, Washington Star; to the Executive Editor, New York Times; to the Bureau Chief, Gannett Newspapers, Washington, D.C. and to the Governor of Guam.

Mr. President, including the two Senators who are proposed under House Judiciary Resolution 554, if we add up all the Senators who could enter the Senate by granting similar representation to the territories I previously mentioned, we could have 14 Senators from non-States. If such a phenomenon occurred, over 20 percent of the Senate would be representing non-States. What would happen

to the great Madison compromise? What would happen to federalism? And who knows what will happen after the territories move for such representation? Maybe portions of already existing States or large cities that want their own Senators may begin requesting representation.

The answer, Mr. President, is to maintain the status quo of providing representation, at least in the Senate, to States only. Now, I know the Constitution prohibits the Capital of the United States from ever becoming a State. That, however, does not foreclose all legitimate and rational alternatives to House Joint Resolution 554 for congressional representation for the District of Columbia residents. Retrocession to Maryland is always a possibility. That is why I cosponsored the bill introduced by the distinguished Senator from Utah, Senator HATCH, requiring a study of that particular issue.

Another good alternative is Senator MELCHER's amendment to provide representation for the District's residents. In this situation, the District's residents vote for Senators from Maryland, while voting for their own representatives. This properly and adequately preserves the constitutional system of Senators representing States and Representatives representing people.

Now, it can be argued that this will not entitle the District's residents to their own Senators. Yes, this is true in name, but not in fact. Woe to the Senator from Maryland who does not adequately represent the District of Columbia. If he ignores the District of Columbia, wait until the next election. The District will conveniently ignore him. Then who has the last laugh? I just want to register my support for the senior Senator from Montana's amendment, which would preserve our Nation's constitutional system.

Mr. MATHIAS. Mr. President, I want to yield again to the Senator from Indiana so that he can propound his inquiry.

Mr. BAYH. I might just say I listened with a great deal of interest to the statement of our distinguished colleague from Alaska. It seems to me he is making an argument in opposition to the amendment of the Senator from Montana. I mean, woe unto the Senator from Maryland who tried to represent Annapolis when the news media are in the Nation's Capital, and that is the very reason why there are distinct interests——

Mr. MATHIAS. Let us not forget Baltimore.

Mr. BAYH. Let us not forget Baltimore.

It seems to me that is one of the real reasons why you and I are concerned that there are certain unique characteristics and unique needs that the people of the District of Columbia have, 750,000 people who are not necessarily reflective of or represent the other part of the diverse constituency represented so ably by the distinguished Senator from Maryland.

Mr. MATHIAS. That raises a good question. As I see the Senator from Montana is anxiously waiting to answer, let me just pose another facet of that same question: If the Senator's amendment is adopted, could a candidate for the Senate come from the District of Columbia? In other words, are the people of the District only going to be voters? Or could the candidate for the Senate come from the District or could the candidate only come from Maryland? Is Senator SARBANES going to have to move to Georgetown or how is this going to work? These are the practical questions that I just would like to sort of pin down, if we can.

Mr. MELCHER. Mr. President, will the Senator yield.

Mr. MATHIAS. I yield.

Mr. MELCHER. The Senator has posed these interesting hypothetical cases of what happens if this happens or that happens. Earlier the Senator proposed a hypothetical case of what if a Senator in Maryland should die while in office. How would that be filled? Of course if a Senator or a Representative from the District died in office that seat would be filled in the same manner it is filled under present law in other States until a new election was held.

Mr. MATHIAS. You see we have organic law on the subject. The XVII amendment says:

> When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: *Provided*, That the legislature of any State may empower the executive thereof to make temporary appoints until the people fill the vacancies by election as the legislature may direct.

All I am trying to do is to get the Senator's amendment in focus with what the organic law of the country is.

Mr. MELCHER. In response to that I have pointed out the Governor of Maryland would appoint a successor; that, in contrast, if House Joint Resolution 554 were passed as is, if there were a death of a Senator from the District, we do not know how it would be filled.

Mr. MATHIAS. Under this amendment the executive authority fills it until the legislative body in the District will act.

Mr. MELCHER. Yes. Whatever executive happens to be formed after we go through this procedure. The same is true of resignation. We know the procedure under the States. The Governor fills a vacancy until the next election. In the case of whether the residents of the District could run as Senator in the State of Maryland, it would be my judgment that indeed, yes, that District residents could run for a seat as a Senator from Maryland.

Mr. BAYH. How could that be?

Mr. MELCHER. Implementation of all of the various necessities of each constitutional amendment, including, I would point out to my distinguished friend from Indiana, the equal rights amendment, if that is ratified, would be dependent on the clause that always accompanies each constitutional amendment, that appropriate laws would be enacted by Congress to carry out the intent of the amendment. There is no difference in this in either form, in House Joint Resolution 554 or in the form of my substitute. There is no differe
and it is not any different from
other constitutional amendment tha
been proposed during the whole pr
of amending the Constitution.

I find no reason to pose any stumb
block on section 3 of article IV of
Constitution, as was envisioned th
might be a stumbling block by my fr
from Indiana. I think it is clear tha
proposition of allowing the resident
the District to vote as if they were
dents of Maryland for purpose of el
ing Senators says it all. We are not de
ing with geography. We are not de
with land or with property. We are d
ing with the basic right of individ
and how they are going to be re
sented in the U.S. Senate, and it is
sistent in every way with the
thrust of the Constitution of elec
Members of the House of Represe
tives based on population, and elec
Members to the Senate based on st
hood.

Mr. BAYH. Mr. President, will
Senator permit me to make a comm
will the Senator yield further?

Mr. MATHIAS. Yes.

Mr. BAYH. I must say I concur
the analogy my good friend from M
tana states about the implementa
I mean, if this is accepted one w
expect that the reasonable implemen
legislation could follow.

But what concerns me about th
that there are a number of very cri
conflicts that would follow, where
could argue the reasonableness e
way.

For example, in the Constitutio
says—and I would assume that just
ing this franchise to the citizens in
District would not necessarily go to
other relationships that are guaran
under the Constitution:

> The House of Representatives shall be c
> posed of Members chosen every second
> by the People of the several States, and
> Electors in each State shall have the Qu
> cations requisite for Electors of the
> numerous Branch of the State Legislatu

Here we are talking about, really,
different legislative branches. How ar
going to determine what the quali
tions are for voting for Representat
and voting for Senators, as conta
elsewhere in the Constitution, where
are talking about the qualifications b
the same as for the State legislat
Should the qualifications be the
necessary for the legislature that m
in Annapolis, or the legislature whic
the Common Council here in the Dis
of Columbia? How do we get around
difference?

Mr. MELCHER. Mr. President, will
Senator yield to me?

Mr. MATHIAS. I am happy to y
to the Senator from Montana so
he may respond.

Mr. MELCHER. The answer is
simple. The qualifications that would
ply would have to be the qualificat
for Maryland insofar as they were ap
cable. Where they infringe on the ri
of any individual in the District,
were pointed out at some time, we w
make the usual correction, as we h
in all cases, or not in all cases, bu

as many as we have been able to. Where we have found an infringement on the rights of an individual, we address that appropriately in Congress, as we have in the case of every other constitutional amendment.

Mr. BAYH. There are very real questions, if the Senator will yield further——

Mr. MATHIAS. I yield again for the Senator from Indiana to make an inquiry.

Mr. BAYH. There is a very pertinent question as to the residency question. The District of Columbia has a number of citizens who move in and out of the city, and it is entirely possible that one could have the franchise and can come here and vote for the President of the United States with minimal residency requirements, and that that could be one of the qualifications for voting for Members of the House and Senate as well as for the Presidency. Yet in Maryland, for reasons that seemed good to the Maryland Legislature, the residency qualifications could be much different, and you could have a number of people in the District disqualified from voting for Senators by residency requirements established in Annapolis.

That is the difficulty I see against the form of State legislature in comingling these two kinds of constituencies, for the voting requirements are determined in the Constitution and allocated to the State legislature.

Mr. MELCHER. May I answer that?

Mr. MATHIAS. Yes, I yield to the Senator from Montana to respond.

Mr. MELCHER. I would say we would handle it exactly as we handled any other votings rights problem. I do not think that condition exists in Maryland; I do not believe it now exists in Maryland, and I doubt if it would pose a problem at all in the future. But if it did pose a problem, where the constitutional right to vote for a Senator from Maryland as if they were a resident of that State, or a restriction to that right arises, as the Senator from Indiana knows much better than I, it can be corrected by congressional review and action, if that is the case.

Mr. BAYH. I am not concerned about the kind of review we have addressed. I ask forgiveness of my friend the Senator from Maryland——

Mr. MATHIAS. Please go ahead.

Mr. BAYH. I suppose it is a perfectly reasonable qualification to say that you ought to be a resident of a State in order to represent that State. But does that mean that if you live in the District of Columbia, you are a resident of Maryland according to the requirement in Annapolis. That you have to be a resident before you can vote, or indeed a resident before you can serve? It is these questions that really cause me concern. I know my friend from Montana has resolved them in his own mind or he would not have proposed this constitutional amendment.

Mr. MATHIAS. Mr. President, let me comment briefly to the Senator from Indiana that what he is looking at is a dual set of registrations and a dual set of voting books. As Senators are aware, it is difficult to get voters on one set of voting books. We have a very sad record in this country of voter participation. The percentage of our population which participates in political decisions by voting is unhappily on the decrease, and has been for a number of years.

When we say to the voters of the District of Columbia, "After all these years, you are going to be represented in the Senate and in the House of Representatives, but in order to do that you have to be not on one set of books of registration, you have to be on two," what will that do to participation?

Mr. MELCHER. Is the Senator posing that question to me?

Mr. MATHIAS. Well, really, I am just responding to the question of the Senator from Indiana.

Mr. MELCHER. Might I respond, then?

Mr. MATHIAS. I yield to the Senator from Montana for that purpose.

Mr. MELCHER. I thank the Senator.

I find that in my State for purposes of elections of the county, the State, and the Federal Government I have to register on one set of registration books. For city purposes, I have to register on another set of books. For purposes of voting in school board elections, my name is on another set of books. I do not know the situations in Maryland or Indiana, but I feel that is a responsibility of citizenship, and I do not find it difficult or impractical or unnecessary. I find that there are reasons for that, and that the reasons are appropriate.

Mr. BAYH. Will the Senator permit me——

Mr. MATHIAS. I yield.

Mr. BAYH. I am not familiar with the Montana situation, but the situation in Indiana is similar if you talk about different kinds of elections and different kinds of jurisdictions. But in our State you only have to register one time. and the qualifications are consistent.

Here, for reasons I have mentioned earlier, because of the very transient nature of the District of Columbia population, you might have a different residency requirement for voting in the District than in Maryland, so you would have different qualifications. I do not know whether you have different qualifications in Montana. You do not in Indiana.

Mr. MELCHER. Would the Senator want, if my amendment is adopted, to modify it to declare that the qualifications will be the same in the District and in Maryland? I do not think that poses the kind of problem that makes it necessary, but if it were necessary, it could certainly be done.

Mr. BAYH. It would seem to me that if it were to be adopted, that would be the kind of thing we should undertake.

The question is, if the people in Maryland or the people of the District did not like the way in which we got involved in that, could they not, in essence, go to the Constitution that I have been reading from on occasion here, and say, "Wait a minute, you do not have a right to do that"? That is the reason for my concern.

May I address another question to the Senator from Montana?

Mr. MATHIAS. I yield.

Mr. BAYH. Let me say to the Senator from Montana that according to the 14th amendment, which was really not changed from the original article, this particular wording of article 1, section 2, where it says that Representatives shall be apportioned among the several States according to their respective numbers, does that mean, in determining the number of House Members that would be required, the citizens of the District of Columbia would be apportioned in with Maryland citizens in determining how many representatives should be given?

Mr. MELCHER. In answer to that question, I would say "No," it would be treated as it would be treated in House Joint Resolution 554, which the Senator is supporting, exactly the same way.

Mr. BAYH. I would like my friends to look at what that means. We are establishing a geographical boundary as far as Representatives are concerned and say, "OK, the District is entitled to the number of Congressmen that their numbers would entitle them to in the apportionment that occurs every 10 years."

If we say they do not vote separately, that they need to vote with Maryland, then it would seem to me that to determine how many they get we would have to take the Maryland population and District population and divide that under the decennial census, which occurs next time, in order to determine how many votes they are entitled to.

The PRESIDING OFFICER (Mr. FORD). The Senator from Maryland has the floor.

Mr. MATHIAS. I ask unanimous consent to yield to the Senator from Massachusetts without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I thank the Senator.

Mr. President, just prior to the vote on the issue raised by the Senator from Montana, I believe it might be appropriate for us to give some consideration to the historical reasons for the establishment of the District of Columbia. I fully agree with the other opponents of the amendment, because the District has no logical ties with Maryland now, and because the real precedent is the 1961 amendment to the Constitution, the 23rd amendment, which gave the District its own independent voice in Presidential elections. By that precedent, we now ought to give the District its own independent voice in Senate and House elections. The historical establishment of the District of Columbia is rather unique and special, and not unrelated to the issue which is before us.

Members of the Senate will recall the incident of 1783, called the Philadelphia Mutiny, in which about 200 Revolutionary War soldiers marched on the Continental Congress in Philadelphia, in order to obtain back pay representing the salaries they earned in the war and had failed to receive.

For a brief period, the Continental

Congress was virtually under seige. They asked the Pennsylvania militia for help, but the request was refused. Concerned about their personal safety, the Members of the Congress fled that evening to Princeton.

The incident had a lasting effect. The right of the new Congress to protect itself was the overriding consideration when, in 1787, the Founding Fathers approved article I, section 8, clause 17 of the Constitution, which provides that the Congress would have exclusive legislative control over the area to be designated as the Capital of our new Nation.

There is an interesting historical tale behind the selection of the actual site for the District. The Northern and Southern States each wanted the site to be in their region, anticipating the economic growth and other benefits that would come. So Thomas Jefferson and Alexander Hamilton worked out a compromise, by which a southern site on the Potomac River would be chosen in return for an agreement by the Southern States to allow the Federal Government to assume the State debts from the Revolutionary War. Payment of the debts would benefit the Northern States, since they were generally the States where the creditors were located.

In 1788, in anticipation of the selection of the site, Maryland had ceded certain lands. They were general in description, and Virginia followed suit the following year, in 1789. Then, in 1790, the 1st Congress passed what was called the Residence Act, specifying a general area along the Potomac from which the 10-mile square zone was to be selected by the President. According to the statute, the southern corner of the District was to be located no farther south than the junction of the Potomac and Anacostia Rivers, as shown on the map I have here at the rear of the Chamber.

But that limitation did not suit President Washington, who wanted the Capital site to include Alexandria, somewhat closer to his home in Mount Vernon. So he simply fixed the southern corner of the District below Alexandria, even though the action violated the restrictions set by Congress and created a District roughly one-third outside the limits in the law. Congress went along, however, and subsequently approved the President's action.

But the conflict of interest on Mount Vernon was embarrassing, and President Washington decided that no Federal buildings should be erected in the Virginia portion of the District. And none were established. Even 50 years later, none have been established. And so the Virginia portion of the District was given back to Virginia, with the approval of both the Virginia legislators and the citizens of Alexandria.

So this is an entirely different historical pattern from the development of the area ceded by Maryland, particularly in the location of all the various aspects of the new Federal Government. A reading of the history of this period would have to draw different conclusions with regard to the land ceded by Maryland and the land ceded by Virginia.

So when the case is made here on the Senate floor as to the precedent involving the land ceded from Virginia, which was given back to Virginia by retrocession, it turns out to be no precedent at all. There is no logical reason today why the people of the District ought to be a part of Maryland 200 years after the land was ceded.

Mr. President, I make these remarks because I think that consideration of this issue ought to have some understanding of the completely different historical patterns of development and the relationship between the District, Virginia, and Maryland.

Others in the debate have commented on the precedent of the 23d amendment, which is much more reliable as a precedent, and which indicated very clearly that Congress recognized the people in the District of Columbia were entitled to express their views independently in Presidential elections, not tied to any other State.

Mr. President, I ask unanimous consent that two memorandums prepared by Virginia A. McMurtry of the Library of Congress on these historical points, one dated February 13, 1978, and the other dated July 21, 1975, may be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ESTABLISHMENT OF THE DISTRICT OF COLUMBIA AND HISTORY OF RETROCESSION EFFORTS, FEBRUARY 13, 1978

The first reference to the subject of a "permanent residence" for the seat of the American government to be found in the records of the national legislature adopted on June 4, 1783. At this time the Second Continental Congress, meeting in Philadelphia, set a date on October for consideration of offers from two States for proposed sites.

Meanwhile, on June 21, 1783, the so-called "Philadelphia mutiny" occurred, an episode of continuing significance in the ensuing years whenever the subject of a national capital was discussed. On this day some 80 to 250 (accounts vary as to the precise number) Revolutionary Army troops, not yet deactivated and disobeying the orders of their officers, marched on and surrounded Independence Hall in Philadelphia where the Continental Congress was in session. The objective of the mutineers in coming to Philadelphia was to petition the Congress directly for the many months of back pay due to them. However, the troops were armed, angry, and lacking in leadership. In response to the potential dangers posed by the presence of the mutineers, the Congress requested police or militia protection from the Pennsylvania authorities, but the request was denied. So the Members, humiliated and fearing physical violence, could but bar the doors and shutters of the chamber and wait. Fortunately, the troops dispersed by evening, whereupon the Congress voted to move to Princeton, New Jersey, where the local authorities promised adequate protection. This episode convinced James Madison, along with others, of the necessity of establishing a capital city under the exclusive jurisdiction of the Congress, an idea subsequently embodied in the Constitution of 1787.

Although the designation of a site for the Capital City had been a matter of heated discussion for several years, the Constitutional Convention specified no precise location. Rather, Article I, section 8, clause 17, stipulated that Congress would have the power "To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten miles square), as may, by Cessio particular States, and the Acceptance of gress, become the Seat of the Governme the United States. . . ." While various graphic concerns were voiced during the liberations on the subject, an under theme related to perceptions of economic vantage. There existed a general assum that—

Wherever Congress chose to locate the eral city, there a great commercial c would arise. That conviction explains fully than any consideration of presti legislators' convenience why sectional troversy had run so strong during the gressional debates on the "residence" bill

Thus, the various States offering lan the purpose—Maryland, New Jersey, York, Pennsylvania, and Virginia—ha indicated a willingness to relinquish vestige of State authority over the c territory.

The issue was resolved by Act of Jul 1790 (1 Stat. 130), whereby the Congres termined that Philadelphia would serv ten years as the temporary seat of the eral Government. Then on the first Mo in December of 1800 the United States ernment was to be transferred to a pe nent location in a district not exceeding miles square (as provided in the Cons tion) to be located on the Potomac Rive some place between the mouths of the ern Branch and the Connogocheague." law further authorized commissioners pointed by the President to survey and d precisely the boundaries of the area, t derived from sections of land on either of the Potomac River ceded from the S of Maryland and Virginia, in 1788 and respectively.[2]

Discussion concerning possible retroce of the land which thus came to comprise District back to Maryland and Virginia, possible solution to the disenfranchise of the area's residents as well as other g ances, began shortly after 1800. As desc in one source:

The first efforts for retrocession were m by the residents of Georgetown in 180 bill to retrocede to the State of Maryland portion of the District was introduce Congress and received 26 votes in the affi tive. The effort for retrocession was ren the next year, in 1804, and again in 1818 1834. . . . But as soon as the law enacte Congress in 1801 brought them under exclusive legislation of Congress, with lo the rights of citizenship in the states, at once began to lament their loss of poli rights, and to agitate for retrocession.[3]

The periodic efforts of Georgetown t re-ceded to Maryland proved unsucces but in 1846 the Virginia portion of the trict, known as the County of Alexan was retroceded. The situation of the fo Virginia territory differed from that of Maryland in two important respects. I the Federal Government as of the mid-N teenth Century had not used any of the across the Potomac in the Virginia se for Federal buildings, and, equally im tant, the State Legislature in Richm (unlike its counterpart in Annapolis) willing to take back the previously c areas. On July 9, 1846, Congress agreed to retrocession of the County of Alexandri Stat. 35), contingent upon the approv the residents of the affected area. Follo the vote by the residents in favor of r cession, the action was finalized on Sep ber 7, 1846 via Presidential proclamat The constitutionality of the retrocession upheld by the Supreme Court in 1876, in case of *Phillips v. Payne*. As a result of 1846 retrocession to Virginia, the area of District, originally one hundred square m was reduced to the approximately sixty- square miles retained to the present.

Footnote at end of article.

Over the years hearings on "home rule" for others, of the necessity of establishing a a Potomac site somewhere "between the

Over the years hearings on "home rule" for the District of Columbia have often been concerned in part with legislation proposing the retrocession of portions of the District to the State of Maryland. For example, the House Committee on the District of Columbia considered the issue of retrocessions in hearings occuring in the 83rd, 84th, 85th, 86th, 88th, 89th, and 92nd Congresses, while the Senate Committee on the District of Columbia examined the retrocession subject in hearings during 1953 and 1959. The only retrocession legislation reported in the post-World War II era occurred in 1965, when the House District Committee reported H.R. 10115 (House Rept. 89-857).

FOOTNOTES

[1] Green, Constance McLaughlin, Washington: Village and Capital, 1800-1878. Princeton University Press, 1962.

[2] Maryland Laws 1793, ch. 2, p. 46; Laws of Virginia 43 (Hening 1789).

[3] Casselman, Amos B. The Virginia Portion of the District of Columbia. Records of the Columbia Historical Society. v. 12. Washington, 1909. p. 126.

[4] For a more detailed discussion of the Virginia retrocession and the legal considerations involved, see: U.S. Congress. Senate. Committee on the District of Columbia. Retrocession Act of 1846. Washington, U.S. Govt. Print. Off., 1910 (61st Congress, 2nd session; Senate Doc. 286).

SELECTION OF THE SITE FOR THE NATION'S CAPITAL AND NOTABLE QUOTATIONS PERTAINING THERETO, JULY 21, 1975

This is written in response to your request for information on the above, as clarified during our telephone conversation of 16 July 1975. In order to fully comprehend the specific compromise worked out in 1790 between Thomas Jefferson, then Secretary of State, and Alexander Hamilton, then Secretary of the Treasury, which resulted in the approval by the Congress of a site on the Potomac River, subsequently to be known as the District of Columbia, as the Nation's Capital, one should briefly survey the various background considerations and events leading up to this ultimate selection. In this way one is able to view the details of the compromise in the appropriate context.

The first reference to the subject of a "permanent residence" for seat of the national government to be found in the records of the national legislature appeared on June 4, 1783. At this time the Second Continental Congress, meeting in Philadelphia, set a date in October for consideration of offers from two states for proposed sites.[1]

Meanwhile, on June 21, 1783, the so-called "Philadelphia mutiny" occurred, an episode of continuing significance in the ensuing years whenever the subject of a national capital was discussed. On this day some 80 to 250 (accounts vary as to the precise number) Revolutionary Army troops, not yet deactivated and disobeying the orders of their offices, marched on and surrounded Independence Hall in Philadelphia where the Continental Congress was in session. The objective of the mutineers in coming to Philadelphia was to petition the Congress directly for the many months of back pay to them. However, the troops were armed, angry, and lacking in leadership. In response to the potential dangers posed by the presence of the mutineers, the Congress requested police or militia protection from the Pennsylvania authorities, but the request was denied. So the Members, humiliated and fearing physical violence, could but bar the doors and shutters of the chamber and wait. Fortunately, the troops dispersed by evening, whereupon the Congress voted to move to Princeton, New Jersey, where the local authorities promised adequate protection. This episode convinced James Madison, along with others, of the necessity of establishing a capital city under the exclusive jurisdiction of the Congress, an idea subsequently embodied in Article I. section 8, clause 17 of the Constitution in 1787.

Discussion and at times rather heated debate concerning the matter of the location of the capital city continued intermittently for some seven years, 1783-1790. During this period the Congress had met in several cities: Philadelphia, Princeton, Annapolis, Trenton, and New York, the locale for the assemblage of the first Congress under the new Constitution in 1789. Although various geographic considerations were repeatedly brought up during the course of the discussions, an underlying theme related to perceptions of economic advantage. There existed a general assumption that wherever Congress chose to locate the federal city, there a great commercial center would arise. That conviction explains more fully than any consideration of prestige or legislators' convenience why sectional controversy had run so strong during the congressional debate on the "residence" bill.[2]

Several months before debate on the issue commenced in the new Congress, some half-dozen cities and states had made offers of land for the site.

By the time the new Congress turned its attention to the matter of the site for the capital, late in the 1789 session, there was widespread consensus on certain geographic prerequisites: the site should be in a central location and should be on a navigable river far enough from the Atlantic Ocean as to be safe from attacks by sea while concurrently providing communication links with the country to the west, beyond the Alleghanies, where future growth was anticipated. A "central" location was a matter of debate, however, since "whereas some men defined central as geographically half-way between southern Georgia and northern New Hampshire, to others the term meant center of population, a point considerably north of Virginia, even were slaves counted."[3]

It seems clear from the records of the House debate in September of 1789 that the choice, as perceived by members of that body, had narrowed to two possible locations: Georgetown, near the lower falls of the Potomac, and Wrights Fall, Pennsylvania, near the falls of the Susquehanna River. On September 22, 1789, after four full days of debate on the site-location matter, the House approved a measure naming the latter option, the Susquehanna, as the permanent site, while designating New York City as the temporary location. Comparable records of the debate in the Senate are not available, but apparently discussion there was not confined to the relative advantages and disadvantages of the Susquehanna and Potomac locations. Among various changes which the Senate made in the House bill was the substitution of Germantown and past of the Northern Liberties of Philadelphia for the site on the Susquehanna. After receiving the bill as substantially revised by the Senate, the House proceeded to make additional alterations, and returned the bill to the Senate, where final action was postponed until the next session of Congress, scheduled to convene in 1790.[4]

In May of 1790 the House again turned attention to the matter of site location; however, it was decided to defer consideration of a permanent place and to focus only on the question of a temporary location. On May 31, 1790, the House approved a measure, stipulating that the next session of Congress was to be held in Philadelphia, but the Senate did not concur. On June 11, the House passed a resolution calling for Baltimore as the locale for the following session. Meanwhile, the Senate ignored the issue of temporary location and concentrated on the long-term matter of a permanent capital city. A Senate committee had recommended the selection of a Potomac site somewhere "between the mouths of the Eastern Branch and Conogocheague," and the full Senate approved the bill as reported with slight amendment by a vote of 14-12 on July 1, 1790.

The Senate bill then went to the House where, after three days of debate, it was approved by a vote of 29-22 on July 9. The "residence bill" became law on July 16 and provided in brief that the temporary seat of government was to be moved to Philadelphia (from New York City where Congress was currently meeting) and was to remain there for ten years. On the first Monday in December of 1800 the United States Government was to be transferred to a permanent location in a district not exceeding ten miles square (as provided in the Constitution) to be located on the Potomac River "at some place between the mouths of the Eastern Branch and the Connogocheague." It is noteworthy that this legislation neither provided a specific name for "said district," nor did it stipulate the precise location of the site; instead the law authorized the President to appoint three commissioners "who shall under the direction of the President survey and define said district. . . ."[5]

The selection of the Potomac site met various of the geographic requirements as outlined above. However, since debate on the issue has dragged on for several years, the relative speed with which the ultimate proposal was approved in 1790 on the surface appears rather curious. The situation upon further examination becomes readily comprehensible as an early instance of what in contemporary parlance is termed "logrolling," or the "legislative practice whereby reciprocal agreements are made between legislators, usually in voting for or against a bill ('an aye for an aye.')."[6] As one historian has explained,

It is quite clear from the accounts of contemporaries, as well as by at least one reference in the final debate in the house, and the same conclusion might be drawn from the legislative history of the bill, more especially in the second session of the first congress, that the residence bill was the result of what was then described as 'a bargain,' but which as a familiar feature of legislative procedure, is more commonly spoken of as a compromise.[7]

At the same time that the First Congress was wrestling with the issue of a location for the national capital, an equally controversial topic of great importance was also pending: the funding of the public debt and the assumption by the national government of the state debts incurred during the Revolution. The division of opinion in the Congress on the two issues resulted in roughly comparable northern states-southern states alignments. The states from Pennsylvania north generally favored assumption of the debts, since the majority of the creditors resided in this region. The predominantly agricultural southern states, on the other hand, were less concerned with the needs of this emerging commercial class. With respect to the location of the permanent capital, as noted previously, there was some consensus on the need for a "central" location, but the southern states advocated the "geographic center" of the country in the Potomac region, whereas the northern states favored the idea of the "population center" further north.

Alexander Hamilton, the Secretary of the Treasury, was a strong proponent of funding the public debt as well as the state debts by means of obligations to be assumed by the Federal Government. By June of 1790 the prospects for successful passage of an "assumptionist" bill appeared slim, as the measure had already been defeated in the House. So Hamilton devised a plan in an attempt to resolve the impasse with respect to both the residence and funding bills: arrange sufficient northern votes to approve the Potomac River location for the capital in exchange for a promise of enough southern votes to ensure passage of the funding bill.

Hamilton decided to approach Thomas Jefferson with the proposal. Since Jefferson was currently serving as Secretary of State, he might be appealed to for support on the assumption of the debt from the perspective of "administration unity" and overriding "national interest." And as a Southerner, Jefferson was known to favor the Potomac River location for the capital, because he thought that establishment of the seat of government there would attract "foreigners, manufacturers and settlers" to Virginia and Maryland, thereby gradually shifting the centers of both national population and power southward.[8]

Against this background there was a chance meeting between Hamilton and Jefferson on the sidewalk in front of the President's New York City residence in mid-June, 1790, which provided Hamilton with a convenient opportunity to broach the subject to Jefferson. The next evening, at Hamilton's request, Jefferson arranged a dinner at his home to which he invited two Virginia congressmen, in addition to Hamilton. As historian Constance M. Green summarizes the episode, with its lasting implications:

Over Jefferson's supper table in New York, the two cabinet members and congressmen Richard Bland Lee and Alexander White of Virginia agreed that, in return for Hamilton's aligning northern support for a southern capital, the Virginians would vote for federal assumption of the state debts incurred during the Revolution.[9]

An account of the events surrounding the final compromise is also provided in Jefferson's collection of notes, which he called his "Anas," as follows:

Hamilton was in despair. As I was going to the President's one day, I met him in the street. He walked me backwards and forwards before the President's door for half an hour. He painted pathetically the temper into which the legislature had been wrought, the disgust of those who were called the creditor States, the danger of the secession of their members, and the separation of the States. He observed that the members of the administration ought to act in concert, that tho' this question was not of my department, yet a common duty should make it a common concern; that the President was the center on which all administrative questions ultimately rested, and that all of us should rally around him and support with joint efforts measures approved by him; and that the question having been lost by a small majority only, it was probable that an appeal from me to the judgment and discretion of some of my friends might affect a change in the vote, and the machine of government, now suspended, might be again set in motion.

I told him that I was really a stranger to the whole subject; not having yet informed myself of the system of finances adopted. I knew not how far this was a necessary sequence; that undoubtedly if its rejection endangered a dissolution of our Union at this incipient stage. I should deem that the most unfortunate of all consequences, to avert which all partial and temporary evils should be yielded. I proposed to him, however, to dine with me the next day, and I would invite another friend or two, bring them into conference together, and I thought it impossible that reasonable men, consulting together cooly, could fail, by some mutual sacrifices of opinion, to form a compromise which was to save the Union. The discussion took place. I could take no part in it but an exhortatory one, because I was a stranger to the circumstances which should govern it. But it was finally agreed that whatever importance had been attached to the rejection of this proposition the preservation of the Union and of the concord among the States was most important, and that therefore it would be better that the vote of rejection should be rescinded, to effect which some members should change their votes. But it was observed that this pill would be peculiarly bitter to the Southern States, and that some concomitant measure should be adopted to sweeten it a little to them. There had before been propositions to fix the seat of government either at Philadelphia or at Georgetown on the Potomac; and it was thought that by giving it to Philadelphia for ten years and to Georgetown permanently afterwards this might, as an anodyne, calm in some degree the ferment which might be excited by the other measure alone. So two of the Potomac members (White and Lee, but White with a revulsion of stomach almost convulsive) agreed to change their votes, and Hamilton undertook to carry the other point.[10]

And so the compromise was implemented. To complete the narrative, the funding bill was approved by the Congress and signed into law on August 9, 1790.

There are few quotations readily available relating to the selection of the District of Columbia per se as the location for the permanent capital by contemporaries of Hamilton and Jefferson. This is understandable in light of the preceding discussion. For one thing, the Residence Act of 1790 did not stipulate the precise location, but only that it would be on the Potomac River and so on as cited previously. An even more fundamental problem in searching for quotations on the "District of Columbia" is that the name was not designated in the act or even mentioned in the debates on the issue; instead it appears that the first Board of Commissioners of the Capital, appointed by Washington, decided upon the name. In a letter of September 9, 1791, to Major L'Enfant, the Commissioners noted: "We have agreed that the federal District shall be called 'The Territory of Columbia,' and the federal City 'The City of Washington'. . . ."[11]

With regard to impressions of the government officials at the time of the move to the permanent location in 1800, the historian Bryan reports that only two accounts have been preserved. One description is found in a letter written on July 11, 1790, by Abraham Bradley, the Assistant Postmaster-General, who was in charge of moving the offices of that Department to the new city. Oliver Wolcott, the Secretary of the Treasury, also mentions the city in a letter of July 4, 1790. In addition, a letter written by President Adams' wife Abigail to their daughter in November of 1800 is extant. After offering a very candid appraisal of the city in 1800, Mrs. Adams concludes with the observation that Washington "is a beautiful spot, capable of every improvement, and, the more I view it, the more I am delighted with it."[12]

We trust that we have been responsive to your request and that this information proves useful for your purposes. If we can be of further assistance in this, or any other matter, please feel free to contact us at 426-5821.

FOOTNOTES

[1] Bryan, Wilhelmus Bogart. A History of the National Capital. Vol. I. New York. Macmillan Company (1914) p. 8.

[2] Green, Constance McLaughlin. Washington: Village and Capital, 1800-1878. Princeton. Princeton University Press (1962) p. 7.

[3] Ibid.

[4] Bryan, pp. 29-35.

[5] Bryan, pp. 36-39.

[6] American Government 73/74 Encyclopedia. Guilford, Conn. Dushkin Publishing Group (1973) p. 184.

[7] Bryan, p. 41.

[8] Green, p. 7.

[9] Ibid., p. 8.

[10] Cited in Tindall, William. Standard History of the City of Washington. Knoxville, Tenn., H. W. Crew (1914), pp. 29-30.

[11] Tindall, p. 121.

[12] See Bryan, pp. 352-54 and Weisberger, Bernard A. (ed.). The District of Columbia. New York, Time-Life Books (1968), p. [illegible]. Excerpts from these sources are attach[illegible]

Mr. KENNEDY. Mr. President, a[illegible] lated issue in the current debate is [illegible] extent of the Federal presence in the [illegible] trict of Columbia. While the Distric[illegible] of course, the Federal City and it[illegible] substantial Federal presence, it is ha[illegible] unique in many of the aspects by w[illegible] the Federal presence is measured.

In fact, by one of the most obv[illegible] measures—the percentage of land [illegible] owned by the Federal Government—[illegible] District of Columbia at 38 percent r[illegible] below eight States: Alaska, 96 per[illegible] Arizona, 43 percent, California, 45 [illegible] cent, Idaho, 66 percent, Nevada, 85 [illegible] cent, Oregon, 52 percent, Utah, 64 [illegible] cent, and Wyoming, 48 percent.

Recently, I asked the Library of C[illegible] gress to provide a summary of the m[illegible] Federal installations in the States [illegible] the District of Columbia. According [illegible] the Library of Congress, the informa[illegible] proved remarkably difficult to assem[illegible] But with its usual skillful effort, [illegible] Library has produced an excellent [illegible] informative result that gives a [illegible] clear view of the Federal presence [illegible] only in the District of Columbia, bu[illegible] all 50 States. The summary is convin[illegible] evidence that arguments based on [illegible] so-called excessive Federal presenc[illegible] the District of Columbia provide no [illegible] tification for denying full voting re[illegible] sentation in Congress to the Distric[illegible] Columbia.

Mr. President, I ask unanimous c[illegible] sent that the report and analysis of [illegible] Library of Congress may be printe[illegible] the RECORD.

There being no objection, the [illegible] terial was ordered to be printed in [illegible] RECORD, as follows:

MAJOR FEDERAL INSTALLATIONS IN THE U.S., BY STATE

(By Susan Schjelderup, Analyst in Amer[illegible] National Government, Government I[illegible] sion, Congressional Research Ser[illegible] Library of Congress, Aug. 3, 1978)

INTRODUCTION: ASSESSING THE EXTENT "FEDERAL GOVERNMENT PRESENCES"

The report responds to the question: W[illegible] useful indicators can be given of the na[illegible] and extent of Federal presence in each of [illegible] fifty States? In particular, which indica[illegible] are commonly recognized and easily obse[illegible] by the public? However defined, that p[illegible] ence is substantial and pervasive. No [illegible] eral agreement exists, however, in law [illegible] literature, as to a definition of Federal p[illegible] ence; hence, the answer to this ques[illegible] begins with a selection of a definition. U[illegible] that is settled, the answers may be impre[illegible] because of differences in the data avail[illegible] to describe the selected elements.

A variety of indicators could be selecte[illegible] define and describe the extent of Fed[illegible] presence in each of the fifty States. [illegible] method is to ascertain the Federal imp[illegible] aid to school districts for each State. Fed[illegible] impact aid purports to be a payment in [illegible] of the taxes that would have been earned [illegible] a State or local government in the form [illegible] property taxes had the land been under [illegible] vate ownership and not under the contro[illegible] the Federal government. It is actually co[illegible] puted according to a formula of social [illegible]

Footnotes at end of article.

life, and in grazing, it is assumed that na[illegible]

cluded in a State that has few parks and [illegible]

tors and is not assessed market value of the property. Other methods are to compare the operating budgets, total personnel or real property holdings administered by the field offices and installations of all the Federal agencies in each of the States. An analysis of real property owned by the U.S. is another measure of Federal presence in each State. The annual inventory of Federal real property undertaken by the General Services Administration yields more reliable and comprehensive data than the other methods for determining Federal presence in the States. Thus, the research method for deriving a list of major Federal installations in each State is based on the summary analysis of real property presented in GSA Summary Report on Real Property Owned by the United States Throughout the World, As of September 30, 1976.

The scope of Federal presence across the nation can be appreciated by the number of categories of real property owned by the U.S. and by the extent to which the Federal government maintains a greater share of holdings in these categories than non-Federal property holders. Categories of Federal property ownership are land, buildings, and structures and facilities.

The first category of Federal real property is land. The Federal government owns 33.5 percent, or 762.2 million acres of land in the U.S.[1] The acquisition cost of Federally owned land in the fifty States is $87.625 billion. That cost for land in the District of Columbia is $1.515 billion. The chart below is a geographic representation of the percentage of land owned by the Federal government in the U.S. [Chart not included in Record.]

The table below presents a comparison of Federally owned land with the total acreage of States:

[1] The source for the statistics on land, buildings and structures is the General Services Administration *Summary Report of Real Property Owned by the United States Throughout the World, As of September 30, 1976*, pages 18, 20, 22, 26, 28, 49, 56–57, and 84–89.

TABLE 4.—COMPARISON OF FEDERALLY OWNED LAND WITH TOTAL ACREAGE OF STATES

State	Acreage owned by the Federal Government: Public domain	Acquired by other methods	Total	Acreage not owned by Federal Government	Acreage of State [1]	Percent owned by Government [2]
Alabama	29,602.6	1,098,719.6	1,128,322.2	31,550,077.8	32,678,400	3.453
Alaska	352,379,080.1	20,277.1	352,399,297.2	13,082,302.8	365,481,600	96.421
Arizona	31,427,175.0	313,541.7	31,740,716.7	40,947,283.3	72,688,000	43.667
Arkansas	1,072,901.8	2,247,247.1	3,320,228.7	30,279,131.3	33,599,360	9.882
California	43,176,394.5	2,362,641.2	45,539,025.7	54,667,694.3	100,206,720	45.445
Colorado	22,882,567.4	1,085,841.2	23,968,408.6	42,517,351.4	66,485,760	36.050
Connecticut	0	9,393.5	9,393.5	3,125,966.5	3,135,360	.300
Delaware	0	40,834.8	40,834.8	1,225,085.2	1,265,920	3.226
District of Columbia	0	15,098.8	15,098.8	23,941.2	39,040	38.675
Florida	370,629.7	3,238,559.2	3,609,188.9	31,112,091.1	34,721,280	10.395
Georgia	0	2,222,983.4	2,222,983.4	35,072,376.6	37,295,360	5.961
Hawaii	37,472.4	370,421.6	407,894.0	3,697,706.0	4,105,600	9.935
Idaho	32,908,588.0	2,473,494.3	35,382,052.3	17,551,067.7	52,933,120	66.813
Illinois	437.2	563,882.9	564,320.1	35,230,879.9	35,795,200	1.577
Indiana	432.0	490,801.6	491,233.6	22,667,166.4	23,158,400	2.121
Iowa	340.8	224,310.1	224,650.9	35,635,829.1	35,860,480	.627
Kansas	26,331.0	695,049.6	721,380.6	51,789,339.4	52,510,720	1.374
Kentucky	0	1,366,467.0	1,366,467.0	24,145,853.0	25,512,320	5.356
Louisiana	25,185.4	1,033,801.6	1,058,987.0	27,808,853.0	28,867,840	3.668
Maine	0	134,237.6	134,237.6	19,713,442.4	19,847,680	.678
Maryland	0	205,477.7	205,477.7	6,113,882.3	6,319,360	3.252
Massachusetts	0	86,059.0	86,059.0	4,948,821.0	5,034,880	1.709
Michigan	296,504.6	3,125,555.6	3,422,150.2	33,070,009.8	36,492,160	9.378
Minnesota	1,251,288.1	2,165,552.1	3,416,840.2	47,788,919.8	51,205,760	6.673
Mississippi	2,484.1	1,667,957.9	1,670,412.0	28,552,308.0	30,222,720	5.527
Missouri	2,647.3	2,168,954.7	2,171,602.0	42,076,718.0	44,248,320	4.908
Montana	25,222,919.3	2,371,845.8	27,594,765.1	65,676,274.9	93,271,040	29.586
Nebraska	244,496.3	450,152.5	694,608.8	48,337,071.2	49,031,680	1.417
Nevada	60,116,085.0	203,281.2	60,319,336.2	9,944,983.8	70,264,320	85.846
New Hampshire	0	710,628.1	710,628.1	5,058,331.9	5,768,960	12.318
New Jersey	0	131,691.0	131,691.0	4,681,749.0	4,813,440	2.736
New Mexico	24,306,141.6	1,844,008.6	26,150,150.2	51,616,249.8	77,766,400	33.627
New York	0	246,711.3	246,711.3	30,434,248.7	30,680,960	.804
North Carolina	0	2,009,113.1	2,009,113.1	29,393,766.9	31,402,880	6.398
North Dakota	208,709.4	2,150,325.7	2,359,095.1	42,093,384.9	44,452,480	5.307
Ohio	220.0	333,850.9	334,070.9	25,888,009.1	26,222,080	1.274
Oklahoma	149,612.1	1,409,859.1	1,559,471.2	42,528,208.8	44,087,680	3.537
Oregon	30,930,696.2	1,368,659.2	32,299,355.4	29,299,364.6	61,598,720	52.435
Pennsylvania	0	675,130.5	675,130.5	28,129,349.5	28,804,480	2.344
Rhode Island	0	7,466.6	7,466.6	669,653.4	677,120	1.103
South Carolina	0	1,138,475.7	1,138,475.7	18,235,604.3	19,374,080	5.876
South Dakota	1,600,894.3	1,792,419.0	3,393,253.3	45,488,666.7	48,881,920	6.942
Tennessee	0	1,799,903.1	1,799,903.1	24,927,776.9	26,727,680	6.734
Texas	0	3,252,285.1	3,252,285.1	164,965,314.9	168,217,600	1.933
Utah	33,681,075.7	544,523.2	34,225,598.9	18,471,361.1	52,696,960	64.948
Vermont	0	285,679.9	285,679.9	5,650,960.1	5,936,640	4.812
Virginia	0	2,344,099.8	2,344,099.8	23,152,220.2	25,496,320	9.194
Washington	11,072,227.7	1,350,687.1	12,422,914.8	30,270,845.2	42,693,760	29.098
West Virginia	0	1,081,201.0	1,081,201.0	14,329,359.0	15,410,560	7.016
Wisconsin	10,093.4	1,837,711.4	1,847,784.8	33,163,415.2	35,011,200	5.278
Wyoming	29,360,122.4	632,206.7	29,992,329.1	32,350,710.9	62,343,040	48.109
Total	702,793,395.2	59,399,076.5	762,192,381.7	1,509,150,978.3	2,271,343,360	33.557

[1] Source: U.S. Census of Population.
[2] Excludes trust properties.

Source: General Services Administration, "Summary Report on Real Property Owned by the United States Throughout the World, As of Sept. 30, 1976, Government Printing Office, stock No. 022-000-0014-2, p. 49.

The use of this land varies for each State, but categories of Federal use as a whole (in descending order of acres) and the percentage of total Federal land use are:

	Percent
Forest and wildlife	66.2
Grazing	21.5
Parks and historic sites	3.5
Alaska oil and gas reserves	3.0
Military, except airfields	2.4
Flood control and navigation	1.0
Reclamation and irrigation	0.8
Industrial	0.4
Alaska native reserves	0.4
Airfields	0.2
Research and development	0.2
Power development and distribution	0.2
Other uses	0.2

Were these same categories to be arranged according to acquisition costs, however, flood control and navigation, parks and historic sites, forest and wildlife, office building locations and military uses would predominate the list.

The second category of Federal real property is buildings. The Federal government owns 405,043 buildings in the United States for which the total acquisition cost, including capital improvements, is $37.3 billion.[2] The usage categories of Federal buildings in descending order are: service, housing, office, research and development, industrial, hospital, storage, school, prison and other institutional uses, and other uses.

The third category of Federal real property is structures (other than buildings) and facilities for which the total acquisition and capital improvements cost is $44.4 billion.[3] The six usage categories that account for 76.4 percent of the total cost of U.S. structures and facilities are: power development and distribution, flood control and navigation, utility systems, roads and bridges, reclamation and irrigation, and airfield pavements.

[2] General Services Administration, op. cit. p. 26.

[3] Ibid. p. 28.

CRITERION FOR DETERMINING AND MEASUREMENTS OF MAJOR FEDERAL INSTALLATIONS IN THE STATES

The criterion for distinguishing a major Federal installation from a minor one is that it be among the "most popularly known" of Federal installations in a State.

The measure for real property holdings in land is acres. Although the Federal government holds more land in forest and wild-

life, and in grazing, it is assumed that national parks and historic sites, as a class of Federal land use, are more popularly known than forests and grazing lands. It would have been possible to select most popularly known national parks on the basis of attendance, but since attendance in the various national parks fluctuates over the years, it was concluded to be a less reliable measure than the number of Federal acres in each national park.

The source for deriving the largest national parks in each State is a publication of the U.S. Department of the Interior, National Park Service, Index, National Park System and Affiliated Areas, as of June 30, 1977.

The measure for real property in buildings is square feet of floor area. To arrive at the most popularly known Federal buildings in each State, data was compiled from each of the ten GSA Regional Offices. Each Regional Office supplied a list of the twelve largest buildings on the basis of floor space used for offices. While more floor space of Federal buildings is used in the GSA "service" category, which includes use by the Department of Defense, the Energy Research and Development Administration, the National Aeronautics and Space Administration, and the Veterans Administration, the "office" use category was selected. This was done on the assumption that Federal offices, as a class of Federal building use, would be more popularly known. The GSA data was drawn from Federal office space, whether owned or leased to the U.S., used for civilian purposes.

The Federal structures and facilities category was eliminated as a category of major installations, and military bases were used as the third category of major Federal installations.

The measure for distinguishing major military bases from minor ones was total military and civilian personnel on base. Other measures, such as operating costs, land in acres, total military personnel, or total population supported by the base are possible. The total number of military and civilian personnel on a base was arbitrarily selected as a more likely indicator for a popularly known Federal installation. The source used for determining major military bases is the Department of Defense publication, "Base Structure Annex to Manpower Requirements Report for FY 1979," compiled by the Office of the Assistant Secretary of Defense for Manpower, Reserve Affairs and Logistics for February 1978. A more reliable document, according to that office, is its Report on Domestic Base Factors, Fiscal Year 1977, prepared in May 1978, but it was not received until after the research had been completed.

QUALIFYING REMARKS ON THE RELIABILITY OF MEASURES SELECTED

I. National parks

Since the national parks listed were selected on the basis of land in acres owned by the U.S., some parks, historic sites or other areas representing substantial Federal acreage may be excluded from the list for the following reasons:

1. A more popularly-known park in a State may actually be comprised of fewer Federally-owned acres than a less popularly-known park in that State. This is particularly likely in a State having many national parks of vast Federal acreage. This describes all western States, where the Federal government owns 47.7 percent of the area constituting the western States, each of which is considerably larger than most non-western States. Attendance statistics show, for example, that the Golden Gate National Recreation Area is more popular than the Death Valley National Monument, but because it contains less Federal acreage it was excluded. The more popular park with less Federally-owned acreage than the one with greater Federal acreage might also be excluded in a State that has few parks and in which Federal acreage is comparatively slight. For example, the John F. Kennedy National Historic Site in Brookline, Massachusetts is .09 acres, all Federally-owned. It may be more popularly-known than the Adams National Historic Site which is on 8.4 acres, all Federally-owned. Since the criterion for selection was Federally-owned land in acres, however, the Adams site was included and the Kennedy site was excluded. On the other hand, in an attempt to comply with the "popularly known" criterion, Mount Vernon, Virginia was selected over Colonial National Historical Park in Yorktown, Virginia, despite the latter's greater Federal acreage, on the basis of this Northern Virginian's opinion that the former is more popularly known. Further, a more popular installation may be "hidden" in another installation, such as the Grand Teton Dam in the Grand Teton National Park.

2. There are some complicating factors related to the number of jurisdictions over Federal real property assigned to various agencies, and to shared jurisdictions between the Federal government and non-Federal entities. (a) The multiple jurisdictions aspect is illustrated by the fact that of Federal real property holders, the Department of the Interior, through its National Parks Service, Geological Survey, Fish and Wildlife Service, and Bureau of Land Management; the Department of Agriculture, through its Forest Service; the Tennessee Valley Authority; and the Army Corps of Engineers account for 95.2 percent of all Federally-owned land. Different locations on the same property may be controlled by the Forest Service and the National Parks Service. For example, land above the fourteen thousand foot contour at the summit of Pike's Peak is administered as a national historic landmark by the National Parks Service of the Department of the Interior, whereas the base of Pike's Peak, located in the Pike National Forest, is controlled by the Forest Service of the Department of Agriculture. Since only national parks are listed, mountainous landmarks that may be more popularly known than national parks but which are administered by the Forest Service are necessarily excluded. Similarly, dams administered by the Tennessee Valley Authority may be more popularly known as Federal installations in their respective States than national parks, yet these are excluded from the list. (b) The complicating factor relating to shared jurisdictions between the Federal government and non-Federal entities is suggested by the possibility that a largely State-owned, or largely privately-owned, national park which does contain Federal acreage may be more popular than a largely Federally-owned national park. However, only the latter would be included on the list.

3. There should be greater weight in terms of popularity given to national parks in the western States than to those in the Midwest and the East for two reasons: (a) There are more national parks in the West than elsewhere in the U.S. Delaware has no national parks or historic sites. Connecticut contains only one park, the Appalachian National Scenic Trail, which it shares with many other eastern States. In cases where a State has less than five national parks but contains part of a park largely located in another State, this is indicated by a parenthetical remark to see the other State. A national park may be identified with a particular State, but unless otherwise noted only the Federal acreage in that State is given here. (b) Most national parks selected from the western States contain far more Federally-owned acreage than do the largest national parks of most other States.

II. Federal buildings

Federal buildings are listed, in descending order of total floor space used for offices, under their commonly known name. In many instances these names are non-descri
titles such as "Federal Plaza," or misle
titles such as "Federal Building/Post O
when the occupant holding the la
amount of floor space is not the one
gested by the building title. Therefore
major Federal tenant in the building is
in parentheses.

Five GSA Regional Offices provided
based on total floor space occupied in
building, while five supplied data base
total floor space occupiable. Occupiable
space includes occupied space and un
space, and thus reflects a greater amoun
total space in the building. The Reg
Offices that based their data on occup
space are:

III. Delaware, Maryland, Pennsylvania,
ginia, and West Virginia;

VII. Iowa, Kansas, Missouri, and Nebra

VIII. Colorado, Montana, North Da
South Dakota, Utah, and Wyoming;

IX. Arizona, California, Hawaii, and
vada; and

X. Alaska, Idaho, Oregon, and Washing

III. Military bases

For most States, five of the largest mil
bases (in terms of total personnel) were
lected from the total number of bases l
in the source. In States with compar
more bases than other States, such as C
fornia, Virginia, and Florida, six or
military bases were selected. Where f
than five bases are listed in a parti
State, those identified represent the
bases supplied by the source.

All arsenals, camps and depots (un
otherwise indicated) are controlled by
U.S. Army.

MAJOR FEDERAL INSTALLATIONS IN THE UNITED STATES, BY STATE

ALABAMA

National parks

Natchez Trace Parkway. (Also in MS
TN), 4,175 Federal acres.

Horseshoe Bend National Military P
Daviston, 2,040 Federal acres.

Russell Cave National Monument, Bri
port, 310 Federal acres.

Tuskegee Institute National Historic
Tuskegee Institute, 20 Federal acres.

Military bases

Redstone Arsenal, Huntsville, 11,999
ployees.

Ft. Rucker, Daleville, 9,229 employees.

Anniston Army Depot, Anniston, 5,064
ployees.

Maxwell Air Force Base, Montgomery, 4
employees.

Gunter Air Force Station, Montgom
2,322 employees.

Federal buildings

12th Avenue Building, Birmingham
cial Security Administration), 579,808 sq

Ballistic Missile Center, Huntsville
Army: Ballistic Missile Defense Syst
Command), 265,940 sq. ft.

2121 Building, Birmingham (Internal R
enue Service), 128,215 sq. ft.

Federal Building/Courthouse, Birmi
ham (U.S. Courts), 81,436 sq. ft.

Treasury Distribution Center, Homew
(Bureau of Govt. Financial Operatio
61,403 sq. ft.

South Twentieth Building, Birmingh
(Defense Logistics Agency), 41,337 sq. ft.

ALASKA

National parks

Glacier Bay National Monument, Juna
2,805,071 Federal acres.

Katmai National Monument, King Sal
2,792,131 Federal acres.

Mount McKinley National Park, McKi
Park, 1,939,493 Federal acres.

Klondike Gold Rush National Histor
Park, Skagway, 10,906 Federal acres.

Sitka National Historical Park, Sitka,
Federal acres.

Military bases

U.S. Post Office/Courthouse, Texarkana

Diamond Hill D

Military bases

Elmendorf Air Force Base, Anchorage, 7,658 employees.

Ft. Richardson, Anchorage, 7,606 employees.

Ft. Wainwright, Fairbanks, 2,983 employees.

Eielson Air Force Base, North Pole, 2,908 employees.

Naval Station, Adak, 996 employees.

Federal buildings

Federal Building/Courthouse, Anchorage (Federal Aviation Administration), 507,000 sq. ft.

Federal Building/Post Office and Courthouse (Coast Guard, Forest Service), 204,000 sq. ft.

ARIZONA

National parks

Grand Canyon National Park, Grand Canyon, 1,176,913 Federal acres.

Lake Meade National Recreation Area (also in NV), 586,005 Federal acres.

Organ Pipe Cactus National Monument, Ajo, 329,199 Federal acres.

Death Valley National Monument (Also in CA), 110,812 Federal acres.

Glen Canyon National Recreation Area (Also in UT), 95,725 Federal acres.

Petrified Forest National Park, Petrified Forest National Park, 93,492 Federal acres.

Military bases

Ft. Huachuca, Sierra Vista, 9,790 employees.

Davis-Monthan Air Force Base, Tucson, 7,719 employees.

Luke Air Force Base, Litchfield Park, 6,772 employees.

Yuma Marine Corps Air Station, Yuma, 4,414 employees.

Williams Air Force Base, Chandler, 3,540 employees.

Federal buildings

Federal Building/Courthouse, Phoenix (U.S. District Courts), 298,946 sq. ft.

Federal Building, Tucson (Internal Revenue Service), 138,957 sq. ft.

Federal Building/Post Office, Phoenix (U.S. Postal Service), 97,060 sq. ft.

U.S. Courthouse, Tucson (U.S. District Courts, Appeals Courts), 75,099 sq. ft.

U.S. Border Station/Building 1, Nogales (U.S. Customs; Immigration and Naturalization Service), 34,102 sq. ft.

Border Station Office Building, Nogales (U.S. Customs), 20,954 sq. ft.

ARKANSAS

National parks

Buffalo National River, Harrison, 53,862 Federal acres.

Hot Springs National Park, Hot Springs National Park, 4,451 Federal acres.

Pea Ridge National Military Park, Pea Ridge, 4,278 Federal acres.

Arkansas Post National Monument, Gillet, 385 Federal acres.

Fort Smith National Historical Site, Fort Smith, 12 Federal acres.

Military bases

Little Rock Air Force Base, Jacksonville, 7,225 employees.

Blytheville Air Force Base, Blytheville, 2,961 employees.

Pine Bluff Arsenal, Pine Bluff, 1,033 employees.

Ft. Chaffee, Ft. Smith, 185 employees.

Federal buildings

Federal Building, Little Rock (Internal Revenue Service), 226,540 sq. ft.

U.S. Post Office/Courthouse, Little Rock (U.S. Postal Service) 70,486 sq. ft.

Federal Building/U.S. Post Office/Courthouse, Pine Bluff (Internal Revenue Service), 35,605 sq. ft.

Federal Building/Courthouse, Fayetteville (Social Security Administration) 32,788 sq. ft.

U.S. Post Office/Courthouse, Texarkana (U.S. Postal Service, U.S. Courts), 32,614 sq. ft.

VA Regional Office, Little Rock (Veterans Administration), 32,387 sq. ft.

CALIFORNIA

National parks

Death Valley National Monument, Death Valley, 1,938,135 Federal acres.

Yosemite National Park, Yosemite National Park, 759,171 Federal acres.

Joshua Tree National Monument, Twentynine Palms, 547,789 Federal acres.

Kings Canyon National Park, Three Rivers, 459,994 Federal acres.

Sequoia National Park, Three Rivers, 386,642 Federal acres.

Redwood National Park, Crescent City, 27,792, Federal acres.

Military bases

Naval Station, San Diego, 46,127 employees.

Camp Pendleton (Marines) Oceanside, 34,486 employees.

Fort Ord, Seaside, 20,096 employees.

McClellan Air Force Base, Sacramento, 16,313 employees.

North Island Naval Air Station, San Diego, 15,425 employees.

San Diego (Navy) Training Center, San Diego, 14,649 employees.

Alameda Naval Air Station, Alameda, 14,073 employees.

Mare Island Naval Shipyard, Vallejo, 12,674 employees.

Travis Air Force Base, Fairfield, 11,710 employees.

Miramar Naval Air Station, San Diego, 8,007 employees.

Federal buildings

Federal Building/Courthouse, San Francisco, (U.S. District Courts), 1,412,867 sq. ft.

Federal Building, Los Angeles, (Immigration and Naturalization Service) 1,193,244 sq. ft.

Federal Building, Lanuna Niguel (National Archives and Records), 1,060,172 sq. ft.

Federal Building/Courthouse, San Diego, (U.S. District Courts), 896,564 sq. ft.

U.S. Courthouse, Los Angeles, (U.S. District Courts), 857,941 sq. ft.

Western Program Center, Richmond, (Social Security Administration) 586,605 sq. ft.

COLORADO

National parks

Rocky Mountain National Park, Estes Park, 263,138 Federal acres.

Dinosaur National Monument, Dinosaur (Also in Utah), 165,317 Federal acres.

Mesa Verde National Park, Mesa Verde National Park, 51,468 Federal acres.

Curecanti National Recreation Area, Gunnison, 41,571 Federal acres.

Great Sand Dunes National Monument, Alamosa, 36,426 Federal acres.

Military bases

Fort Carson, Colorado Springs, 23,516 employees.

Lowry Air Force Base, Denver, 8,469 employees.

Peterson Air Force Base, Colorado Springs, 3,288 employees.

Fitzsimmons Army Medical Center, Aurora, 1,834 employees.

Pueblo (Army) Depot Activity, Pueblo, 899 employees.

Federal buildings

Denver Federal Center, Denver (Dept. of Interior), 1,573,065 sq. ft.

Federal Building/Courthouse, Denver (Dept. of HEW), 455,925 sq. ft.

Chidlaw Building, Colorado Springs (Air Force), 224,530 sq. ft.

Federal Building/Customs House, Denver (Small Business Administration), 163,105 sq. ft.

Denver West Building and Building 3, Golden (U.S. Geological Survey), 125,150 sq. ft.

Diamond Hill, Denver (Dept. of Agriculture), 81,274 sq. ft.

CONNECTICUT

National parks

Appalachian National Scenic Trail (See Maine).

Military bases

New London Submarine Base, Groton, 12,838 employees.

Stratford Army Engine Plant, Stratford, 9 employees.

Federal buildings

Hartford Federal Building and Courthouse, Hartford (Internal Revenue Service), 61,736 sq. ft.

Hartford Federal Building and Courthouse, Hartford (Veterans' Administration Regional Office), 28,842 sq. ft.

96 Murphy Road, Hartford (Defense Logistics Agency), 27,533 sq. ft.

One Financial Plaza, Hartford (Dept. of HUD), 23,740 sq. ft.

110 Washington St., North Haven (Internal Revenue Service), 22,400 sq. ft.

DELAWARE

National parks

None.

Military bases

Dover Air Force Base, Dover, 6,600 employees.

Naval Facility, Lewes, 125 employees.

Federal buildings

Courthouse and Federal Building, Wilmington (U.S. Courts, Internal Revenue Service) 111,400 sq. ft.

J. Allen Frear Federal Building, Dover (Food and Drug Administration, Social Security Administration) 26,375 sq. ft.

FLORIDA

National parks

Biscayne National Monument, Homestead, 95,070 Federal acres.

Big Cypress National Preserve, Naples, 52,379 Federal acres.

Fort Jefferson National Monument, Key West, 47,125 Federal acres.

Canaveral National Seashore, Titusville, 41,024 Federal acres.

Gulf Islands National Seashore, Gulf Breeze, 28,685 Federal acres.

Military bases

(Navy) Training Center, Orlando, 16,426 employees.

Elgin Air Force Base, Valpariso, 12,723 employees.

Naval Air Station, Pensacola, 11,116 employees.

Naval Station, Mayport, 10,912 employees.

Naval Air Station, Jacksonville, 10,843 employees.

Patrick Air Force Base, Cocoa Beach, 7,466 employees.

Cecil Field Naval Air Station, Jacksonville, 7,235 employees.

Federal buildings

Federal Building, Jacksonville (Internal Revenue Service) 227,954 sq. ft.

Federal Building, Miami (Internal Revenue Service) 198,131 sq. ft.

Post Office/Courthouse, Jacksonville (U.S. Courts, Veterans Administration Field Office) 111,922 sq. ft.

Post Office/Courthouse, Miami (U.S. Courts) 97,911 sq. ft.

Federal Building/Courthouse, Gainesville, (U.S. Postal Service) 66,024 sq. ft.

St. Lukes Professional Building, Jacksonville (Veterans Administration Hospital) 59,858 sq. ft.

GEORGIA

National parks

Cumberland Island National Seashore, St. Marys, 15,631 Federal acres.

Chickamauga and Chattanooga National Military Park, Ft. Oglethorpe, 6,228 Federal acres.

Ft. Pulaski National Monument, Savannah Beach, 5,365 Federal acres.

Kennesaw Mountain National Battlefield Park, Marietta, 2,882 Federal acres.

Ocmulgee National Monument, Macon, 683 Federal acres.

Military bases

Ft. Benning, Columbus, 24,928 employees.

Robins Air Force Base, Warner Robins, 19,144 employees.

Ft. Gordon, August, 18,291 employees.

Ft. Stewart, Savannah, 12,845 employees.

Ft. McPherson, Atlanta, 5,430 employees.

Federal buildings

Pershing Point Plaza, Atlanta (Dept. of HUD), 281,783 sq. ft.

Federal Building, Atlanta (Internal Revenue Service), 200,004 sq. ft.

Peachtree 25th, Atlanta (U.S. Dept. of Agriculture: Forest Service), 192,259 sq. ft.

730 Peachtree, Atlanta (Veterans Administration Regional Office), 114,248 sq. ft.

1776 Peachtree Building, Atlanta (GSA: Regional Public Building Service), 107,798 sq. ft.

Courthouse, Atlanta (U.S. Courts), 92,986 sq. ft.

HAWAII

National parks

Hawaii Volcanoes National Park, Hawaii National Park, 217,029 Federal acres.

Haleakala National Park, Makawao, 27,208 Federal acres.

City of Refuge National Historic Park, Honaunau, Kona, 181 Federal acres.

Puukohola Helau National Historic Site, Kawaihae, 46 Federal acres.

Military bases

Pearl Harbor Naval Station, Pearl Harbor, 17,378 employees.

Schofield Barracks (Army), Honolulu, 11,685 employees.

Hickam Air Force Base, Honolulu, 7,908 employees.

Naval Shipyard, Pearl Harbor, 5,829 employees.

Tripler Army Medical Center, Honolulu, 5,744 employees.

Federal buildings

Prince Jonah Kuhio Kalanianaole, Honolulu, (U.S. District Courts), 928,019 sq. ft.

U.S. Courthouse, Customs House and Post Office, Honolulu, (U.S. Postal Service), 199,458 sq. ft.

Federal Building, Post Office and Courthouse, Hilo, (U.S. Postal Service), 49,745 sq. ft.

U.S. Custom Warehouse, Hilo, (U.S. Customs), 7,144 sq. ft.

IDAHO

National parks

Craters of the Moon National Monument, Arco, 53,545 Federal acres.

Yellowstone National Park, (Also in WY), 31,488 Federal acres.

Nez Perce National Historic Park, Spalding, 1,837 Federal acres.

Military bases

Mountain Home Air Force Base, Mountain Home, 4,934 employees.

Federal buildings

Federal Building/Courthouse, Boise (Bureau of Reclamation), 171,960 sq. ft.

Federal Building/Post Office, Boise (Dept. of Agriculture) 46,535 sq. ft.

Federal Building, Sandpoint, (Forest Service), 27,615 sq. ft.

ILLINOIS

National parks

Lincoln Home National Historic Site, Springfield, 4 Federal acres.

Military bases

(Navy) Training Center, Great Lakes, 22,273 employees.

Scott Air Force Base, Shiloh, 16,671 employees.

Rock Island Arsenal (Army), Rock Island, 7,105 employees.

Chanute Air Force Base, (Rantoul, 4,929 employees.

Ft. Sheridan, Highland Park, 2,940 employees.

Federal buildings

Kluczynski Red Building, Chicago (Treasury Dept.), 705,098 sq. ft.

Everett M. Dirksen Building, Chicago (Justice Dept.), 571,563 sq. ft.

SSA Great Lakes Pr. Center, Chicago, (Social Security Administration), 445,954 sq. ft.

Federal Building, Chicago, (Veterans Administration) 326,294 sq. ft.

300 Wacker Building (Dept. of HEW), 291,158 sq. ft.

Federal Building, USRRB, Chicago, GSA: Railroad Retirement Board, 219,972 sq. ft.

INDIANA

National parks

Indiana Dunes National Lakeshore, Chesterton, 4,476 Federal acres.

Lincoln Boyhood National Memorial, Lincoln City, 161 Federal acres.

George Rogers Clark National Historic Site, Vincennes, 24 Federal acres.

Military bases

Ft. Benjamin Harrison, Indianapolis, 3,586 employees.

Weapons Support Center (Navy), Crane, 3,548 employees.

Grissom Air Force Base, Bunker Hill, 3,116 employees.

Naval Avionics Center, Indianapolis, 2,473 employees.

Jefferson (Army) Proving Ground, 420 employees.

Federal buildings

Federal Building, Indianapolis (Treasury Dept.), 274,452 sq. ft.

Federal Building/Courthouse, Indianapolis (U.S. Courts), 133,149 sq. ft.

Building 63 GSA Federal Center, Jeffersonville (Dept. of Commerce), 79,161 sq. ft.

Building 66 GSA Federal Center, Jeffersonville (Dept. of Commerce), 77,810 sq. ft.

USPS Building, Evansville (Dept. of HEW), 36,013 sq. ft.

Corporate Square West, Indianapolis (U.S. Dept. of Agriculture), 33,701 sq. ft.

IOWA

National parks

Effigy Mounds National Monument, McGregor, 1,474 Federal acres.

Herbert Hoover National Historic Site, West Branch, 181 Federal acres.

Military bases

Ft. Des Moines, Des Moines, 154 employees.

Iowa Army Ammunition Plant, Burlington, 62 employees.

Federal buildings

Federal Building, Des Moines (Treasury Dept.), 234,309 sq. ft.

U.S. Post Office and Courthouse, Ft. Dodge (U.S. Courts), 54,148 sq. ft.

Federal Building and Post Office, Iowa City (U.S. Postal Service), 53,263 sq. ft.

U.S. Courthouse, Des Moines (U.S. Courts), 50,200 sq. ft.

Federal Building and Post Office, Council Bluffs (U.S. Postal Service), 45,761 sq. ft.

U.S. Post Office and Courthouse, Dubuque (U.S. Postal Service), 34,990 sq. ft.

KANSAS

National parks

Ft. Larned National Historic Site, Larned, 672 Federal acres.

Military bases

Ft. Riley, Junction City, 20,555 employees.

Ft. Leavenworth, Leavenworth, 5,781 employees.

McConnell Air Force Base, Wichita, [illegible] employees.

Federal buildings

Federal Building and Courthouse, To[illegible] (Dept. of Transportation), 219,007 sq. ft.

Federal Center Warehouse, Pauline [illegible] Postal Service), 167,408 sq. ft.

One-Two Gateway Center, Kansas [illegible] (Dept. of HUD), 70,715 sq. ft.

Treasury Disbursement Center, K[illegible] City (Dept. of Treasury), 60,503 sq. ft.

Federal Building, Wichita (Dept. of T[illegible] ury), 58,302 sq. ft.

Federal Building and U.S. Courth[illegible] Kansas City (U.S. Postal Service), 55,3[illegible] ft.

KENTUCKY

National parks

Mammoth Cave National Park, Mamm[illegible] Cave, 51,303 Federal acres.

Big South Fork National River and Re[illegible] tion Area (Also in TN), 16,980 Federal [illegible]

Cumberland Gap National Historic [illegible] Middlesboro, (Also in VA and TN), 1[illegible] Federal acres.

Abraham Lincoln Birthplace National [illegible] toric Site, Hodgenville, 116 Federal acr[illegible]

Military bases

Ft. Knox, Louisville, 26,143 employe[illegible]

Ft. Campbell, Clarksville, 24,129 em[illegible] ees.

Naval Ordnance Station, Louisville, [illegible] employees.

Lexington Blue Grass (Army) Depot, [illegible] ington, 1,271 employees.

Federal buildings

Internal Revenue Service Center, Co[illegible] ton (Internal Revenue Service), 315,0[illegible] ft.

Post Office/Courthouse, Lexington [illegible] Courts), 35,157 sq. ft.

J. C. Watts Federal Building, Fran[illegible] (Federal Highway Administration, [illegible] Courts), 34,538 sq. ft.

Imperial Towers Building, Lexington [illegible] Dept. of Agriculture: Soil Conservation S[illegible] ice), 29,026 sq. ft.

Bakhaus Building, Lexington (Inte[illegible] Revenue Service), 18,526 sq. ft.

Warehouse Building, Florence (Inte[illegible] Revenue Service), 16,822 sq. ft.

LOUISIANA

National parks

Chalmette National Historic Park, A[illegible] 141 Federal acres.

Military bases

Ft. Polk, Leesville, 14,634 employees.

Barksdale Air Force Base, Bossier [illegible] 6,729 employees.

England Air Force Base, Alexan[illegible] 3,460 employees.

(Navy) Support Activity, New Orle[illegible] 2,214 employees.

New Orleans Naval Air Station, New [illegible] leans, 1,505 employees.

Federal buildings

Hale Boggs Federal Building/Courth[illegible] New Orleans (Internal Revenue Serv[illegible] 326,393 sq. ft.

U.S. Post Office, New Orleans (U.S. F[illegible] Service), 178,337 sq. ft.

F. Edward Herbert Federal Building, [illegible] Orleans (U.S. Customs), 119,938 sq. ft.

U.S. Customshouse, New Orleans [illegible] Customs), 103,437 sq. ft.

Federal Building/Courthouse, Shreve[illegible] (U.S. District Courts), 89,986 sq. ft.

The Plaza Tower, New Orleans (Dep[illegible] HUD), 80,125 sq. ft.

MAINE

National parks

Arcadia National Park, Bar Harbor, 37[illegible] Federal acres.

Appalachian National Scenic Trail, 1[illegible]

Total Federal acres (Also in NH, VT, MA,

Westover Air Force Base, Westover, 941

Tupelo National Battlefield, Tupelo, 1 Fed

NEBRASKA

Total Federal acres (Also in NH, VT, MA, CN, NY, NJ, PA, MD, WV, VA, TN, NC, GA)

Saint Croix Island National Monument, Bar Harbor, 22 Federal acres.

Military bases

Loring Air Force Base, Limestone, 4,056 employees.

Naval Air Station, Brunswick, 3,332 employees.

Cutler Communications Unit, (Navy), East Machias, 204 employees.

Federal buildings

Federal Building, Augusta (Internal Revenue Service), 23,397 sq. ft.

Federal Building and U.S. Post Office, Portland, (U.S. Army, Armed Forces Examining and Entrance Station), 8,552 sq. ft.

Federal Building and U.S. Post Office, Portland, (Internal Revenue Service), 7,476 sq. ft.

U.S. Post Office and Courthouse, Bangor, (U.S. Postal Service) 6,784 sq. ft.

U.S. Customshouse, Portland, (U.S. Customs Service), 6,567 sq. ft.

U.S. Post Office and Courthouse, Bangor, (U.S. Courts), 6,149 sq. ft.

MARYLAND

National parks

Chesapeake and Ohio Canal National Historical Park, Sharpsburg, (Also in DC and WV) 11,914 Federal acres.

Assateague Island National Seashore, Berlin, (Also in VA) 5,821 Federal acres.

Catoctin Mountain Park, Thurmont, 5,768 Federal acres.

Piscataway Park, Oxon Hill, 3,885 Federal acres.

Greenbelt Park, Greenbelt, 1,077 Federal acres.

Military bases

Aberdeen (Army) Proving Ground, Baltimore, 12,082 employees.

Ft. George C. Meade, Baltimore, 10,051 employees.

Andrews Air Force Base, Camp Springs, 9,977 employees.

"Annapolis" Naval Academy, Annapolis, 7,240 employees.

(Navy) Air Test Center, Patuxent River, Lexington Park, 5,486 employees.

Federal buildings

Middle River Depot, Middle River (Dept. of Defense, Federal Supply Service), 1,668,000 sq. ft.

Social Security Administration Complex, Woodlawn, (Social Security Administration), 1,318,300 sq. ft.

Edward Garmatz Federal Building/Courthouse, Baltimore, (U.S. Courts), 480,285 sq. ft.

George Fallon Federal Building, (Veterans Administration, Internal Revenue Service), 366,190 sq. ft.

Appraisers Stores, Baltimore, (U.S. Customs Service), 86,965 sq. ft.

Customs House, Baltimore, (U.S. Customs Service), 83,650 sq. ft.

MASSACHUSETTS

National parks

Cape Cod National Seashore, South Wellfleet, 25,744 Federal acres.

Minute Man National Historical Park, Concord, 681 Federal acres.

Boston National Historical Park, Boston, 28 Federal acres.

Salem Maritime National Historic Site, Salem, 8 Federal acres.

Adams National Historic Site, Quincy, 8 Federal acres.

Military bases

Ft. Devens, Ayer, 8,186 employees.

Hanscom Air Force Base, Bedford, 4,895 employees.

South Weymouth Naval Air Station, South Weymouth, 2,229 employees.

Natick Research and Development Center, Natick, 1,384 employees.

Westover Air Force Base, Westover, 941 employees.

Federal buildings

IRS Center, Andover (Internal Revenue Service), 259,836 sq. ft.

JFK Federal Building, Boston (Dept. of HEW), 121,553 sq. ft.

Federal Center, Waltham (Army Corps of Engineers), 106,458 sq. ft.

JFK Federal Building, Boston (Internal Revenue Service), 106,307 sq. ft.

JFK Federal Building, Boston (Veterans Administration Regional Office), 67,777 sq. ft.

USVA, Boston (Veterans Administration), 58,360 sq. ft.

MICHIGAN

National parks

Isle Royale National Park, Houghton, 542,428 Federal acres.

Pictured Rocks National Lakeshore, Munising, 35,339 Federal acres.

Sleeping Bear Dunes National Lakeshore, Frankfort, 26,600 Federal acres.

Military bases

Detroit Arsenal (Army), Detroit, 5,054 employees.

K. I. Sawyer Air Force Base, Gwinn, 4,096 employees.

Wurtsmith Air Force Base, Oscoda, 3,185 employees.

Michigan Army Missile Plant, Detroit, 1,047 employees.

Kincheloe Air Force Base, Kinross, 596 employees.

Federal buildings

P. V. McNamara Federal Building, Detroit (Treasury Dept.), 631,309 sq. ft.

Federal Building and Courthouse, Detroit (U.S. Ccurts), 255,330 sq. ft.

1404 John Lodge Building, Detroit (Treasury Dept.), 157,361 sq. ft.

Federal Center Building 1, Battle Creek (Dept. of Defense), 119,966 sq. ft.

Federal Center Building 2, Battle Creek (Dept. of Defense), 106,990 sq. ft.

G. R. Ford Federal Building and Courthouse, Grand Rapids (U.S. Courts), 89,247 sq. ft.

MINNESOTA

National parks

Voyageurs National Park, International Falls, 114,964 Federal acres.

Grand Portage National Monument, Grand Marais, 709 Federal acres.

St. Croix National Scenic River (Also in WI), 246 Federal acres.

Military bases

Duluth International Airport, Duluth, 1,826 employees.

Minneapolis-St. Paul International Airport, Minneapolis, 387 employees.

Federal buildings

Federal Building, Ft. Snelling (Veterans Administration), 349,767 sq. ft.

Federal Building and U.S. Courthouse, St. Paul (Treasury Dept.), 208,155 sq. ft.

Federal Building/Courthouse, Minneapolis (Justice Dept.), 102,279 sq. ft.

USPS Building, St. Paul (U.S. Dept. of Agriculture), 84,138 sq. ft.

Federal Building, Minneapolis (U.S. Dept. of Agriculture), 68,654 sq. ft.

Federal Building, Courthouse and Customshouse, Duluth (U.S. Dept. of Agriculture), 58,799 sq. ft.

MISSISSIPPI

National parks

Gulf Islands National Seashore, Ocean Springs (Also in FL), 69,025 Federal acres.

Natchez Trace Parkway, Tupelo (Also in AL and TN), 34,941 Federal acres.

Vicksburg National Military Park, Vicksburg, 1, 611 Federal acres.

Brices Cross Roads National Battlefield Site, Tupelo, 1 Federal acre.

Tupelo National Battlefield, Tupelo, 1 Federal acre.

Military bases

Keesler Air Force Base, Biloxi, 8,977 employees.

Construction Battalion Center (Navy), Gulfport, 3,956 employees.

Columbus Air Force Base, Columbus, 3,240 employees.

Meridian Naval Air Station, Meridian, 1,984 employees.

Camp Shelby, Hattiesburg, 77 employees.

Federal buildings

Post Office/Courthouse, Jackson (U.S. Postal Service), 61,945 sq. ft.

Federal Building, Greenville (U.S. Postal Service, U.S. Courts), 58,204 sq. ft.

Federal Building, Clarksdale (U.S. Postal Service, U.S. Courts), 40,684 sq. ft.

Wm. M. Colmer Federal Building, Hattiesburg (Social Security Administration), 35,368 sq. ft.

Federal Building/Post Office, Greenwood (U.S. Postal Service), 31,679 sq. ft.

T. G. Abernathy Federal Building, Aberdeen (U.S. Courts), 29,406 sq. ft.

MISSOURI

National parks

Ozark National Scenic Riverways, Van Buren, 60,728 Federal acres.

Wilson's Creek National Battlefield, Republic, 1,727 Federal acres.

George Washington Carver National Monument, Diamond, 210 Federal acres.

Jefferson National Expansion Memorial (Arch), St. Louis, 90 Federal acres.

Military bases

Ft. Leonard Wood, Jefferson City, 16,269 employees.

Whiteman Air Force Base, Knob Noster, 3,581 employees.

Richards-Gebaur Air Force Base, Belton, 2,174 employees.

Federal buildings

Federal Center St. Louis, (Veterans Administration), 2,614,113 sq. ft.

Federal Building, Kansas City, (Internal Revenue Service), 1,146,429 sq. gt.

Military Personnel Records Center, Overland, (U.S. Army), 914,804 sq. ft.

Federal Building, Kansas City, (Dept. of Transportation), 795,568 sq. ft.

Mart Building, St. Louis, (U.S. Army), 773,460 sq. ft.

Federal Center, Kansas City, (Defense Mapping Service), 423,826 sq. ft.

MONTANA

National parks

Yellowstone National Park (Also in WY), 167,623 Federal acres.

Bighorn Canyon National Recreation Area, Fort Smith (Also in Wy), 34,844 Federal acres.

Grant-Kohrs Ranch National Historic Site, Deer Dodge, 1,322 Federal acres.

Big Hole National Battlefield, Wisdom, 655 Federal acres.

Custer Battlefield National Monument, Crow Agency, average not available.

Military bases

Malmstron Air Force Base, Great Falls, 5,539 employees.

Federal buildings

Federal Building/Courthouse, Billings (Bureau of Reclamation), 134,925 sq. ft.

Federal Office Building/Courthouse, Helena (Internal Revenue Service), 110,000 sq. ft.

Federal Building, Post Office and Courthouse, Missoula (Forest Service), 100,025 sq. ft.

Federal Building/Post Office, Bozeman (U.S. Postal Service), 63,136 sq. ft.

Granite Tower, Billings (Bureau of Land Management), 37,805 sq. ft.

Federal Building/Courthouse, Butte (U.S. District Courts), 37,200 sq. ft.

NEBRASKA

National parks

Agate Fossil Beds National Monument, Gering, 2,736 Federal acres.

Scott Bluff National Monument, Gering, 2,708 Federal acres.

Homestead National Monument of America, Beatrice, 182 Federal acres.

Military bases

"SAC Headquarters," Offut Air Force Base, Bellevue, 13,835 employees.

Federal buildings

Federal Building and Courthouse, Lincoln (Veterans Administration), 382,692 sq. ft.

Federal Building, Post Office and Courthouse, Omaha (U.S. Army), 263,608 sq. ft.

Federal Office Building, Omaha (Dept. of Treasury), 73,903 sq. ft.

Federal Building, Post Office and Courthouse, North Platte (U.S. Postal Service), 45,640 sq. ft.

Federal Building, Omaha (U.S. Army: Corps of Engineers), 28,550 sq. ft.

NEVADA

National parks

Lake Mead National Recreation Area, Boulder City, 586,005 Federal acres.

Death Valley National Monument (Also in CA), 110,812 Federal acres.

Lehman Caves National Monument, Baker, 640 Federal acres.

Military bases

Nellis Air Force Base, Las Vegas, 8,562 employees.

Naval Air Station, Fallon, 877 employees.

Federal buildings

Federal Building-U.S. Courthouse, Las Vegas (U.S. Dist. Courts), 201,635 sq. ft.

Federal Building-U.S. Courthouse, Reno (Internal Revenue Service), 113,295 sq. ft.

Federal Building-U.S. Post Office, Carson City (U.S. Postal Service), 53,958 sq. ft.

Federal Building-U.S. Post Office, Las Vegas (U.S. Postal Service), 38,750 sq. ft.

U.S. Post Office, Reno (Bureau of Land Management), 18,054 sq. ft.

U.S. Post Office, Elko (U.S. Postal Service), 4,089 sq. ft.

NEW HAMPSHIRE

National parks

Saint-Gaudens National Historic Site, Windsor, 86 Federal acres.

Appalachian Scenic (See ME).

Military bases

Portsmouth Naval Shipyard, Portsmouth, 8,275 employees.

Pease Air Force Base, Newington, 4,060 employees.

Cold Regions, Research Lab (Army), Hanover, 283 employees.

Federal buildings

Norris Cotton, Federal Building, Manchester (Veterans Admin. Regional Office), 16,675 sq. ft.

Federal Building and U.S. Post Office (Internal Revenue Service), 15,678 sq. ft.

Norris Cotton, Federal Building, Manchester (Dept. of Housing and Urban Development), 12,584 sq. ft.

Norris Cotton, Federal Building, Manchester (Internal Revenue Service), 10,313 sq. ft.

Norris Cotton, Federal Building, Manchester (Social Security Admin.), 9,319 sq. ft.

Norris Cotton, Federal Building, Manchester (U.S. Army, Armed Forces Examining & Entrance Station), 8,663 sq. ft.

NEW JERSEY

National parks

Delaware Water Gap National Recreation Area, (Also in PA), 21,422 Federal acres.

Gateway National Recreation Area (Also in NY), 1,713 Federal acres.

Morristown National Historic Park, Morristown, 1,530 Federal acres.

Edison National Historic Site, West Orange, 19 Federal acres.

Appalachian Scenic Trail, (See ME).

Military bases

Ft. Dix, Trenton, 15,246 employees.

Ft. Monmouth, Red Bank, 9,162 employees.

McGuire Air Force Base, Wrightstown, 7,263 employees.

Picatinny Arsenal, Dover, 5,380 employees.

Navy Air Engineering Center, Lakehurst, 2,942 employees.

Federal buildings

Ecom Building, Ft. Monmouth, (Dept. of Defense), 489,187 sq. ft.

970 Broad Street, Newark (comprehensive), 281,878 sq. ft.

Gateway Building, Newark (Dept. of Housing & Urban Dev., F.B.I.), 91,251 sq. ft.

20 Washington Place, Newark (Veterans Admin.), 83,223 sq. ft.

Trenton Federal Office Building, Trenton (comprehensive), 58,603 sq. ft.

Decas, Springfield (Defense Contract Admin., Defense Logistics Agency), 44,814 sq. ft.

NEW MEXICO

National parks

White Sands National Monument, Alamogordo, 144,751 Federal acres.

Carlsbad Caverns National Park, Carlsbad, 46,435 Federal acres.

Bandelier National Monument, Los Alamos, 29,661 Federal acres.

Chaco Canyon National Monument, Bloomfield, 20,990 Federal acres.

El Morro National Monument, Ramah, 1,039 Federal acres.

Military bases

Kirtland Air Force Base, Albuquerque, 10,411 employees.

Holloman Air Force Base, Alamogordo, 7,435 employees.

White Sands Missile Range, Las Cruces, 5,237 employees.

Cannon Air Force Base, Clovis, 4,754 employees.

Fort Wingate Army, Gallup, 187 employees.

Federal buildings

Senator Dennis Chavez Federal Bldg., Albuquerque (Bureau of Indian Affairs), 178,416 sq. ft.

Federal Building, Albuquerque (Forest Service), 173,876 sq. ft.

Western Bank Bldg., Albuquerque (U.S. Geological Survey), 43,329 sq. ft.

First National Bank, Albuquerque (Bureau of Indian Affairs), 43,284 sq. ft.

Federal Building, Gallup (Bureau of Indian Affairs), 40,857 sq. ft.

Federal Building—U.S. Post Office, Santa Fe (Bureau of Land Management), 38,988 sq. ft.

NEW YORK

National parks

Gateway National Recreation Area, Brooklyn (Also in NJ), 18,678 Federal acres.

Fire Island National Seashore, Patchogue, 5,945 Federal acres.

Saratoga National Historical Park, Stillwater, 2,432 Federal acres.

Home of Franklin D. Roosevelt National Historical Site, Hyde Park, 263 Federal acres.

Statue of Liberty National Monument, New York (Also in NJ), 13 Federal acres.

Military bases

West Point Military Reservation, West Point, 15,974 employees.

Griffiss Air Force Base, Rome, 6,891 employees.

Plattsburgh Air Force Base, Plattsburg, 4,362 employees.

Watervliet Arsenal, Watervliet, 2,660 employees.

Seneca Army Depot, Rochester, 1,078 employees.

Federal buildings

26 Federal Plaza, New York (comprehensive), 1,113,417 sq. ft.

201 Varick Street, New York (Dept
Energy), Army Reserves, 356,600 sq. ft.

120 Church Street, New York (Int
Revenue Service), 344,827 sq. ft.

World Trade Center, New York (U.S.
toms), 338,541 sq. ft.

252 Seventh Avenue, New York (Vet
Admin.), 332,657 sq. ft.

1040 Waverly Avenue, Holtsville (Int
Revenue Service—Holtsville Center), 30
sq. ft.

NORTH CAROLINA

National parks

Great Smoky Mountains National
(Also in TN), 273,550 Federal acres.

Blue Ridge Parkway, Asheville (Al
VA), 44,317 Federal acres.

Cape Hatteras National Seashore, Ma
30,325 Federal acres.

Cape Lookout National Seashore, Beau
24,223 Federal acres.

Wright Brothers National Memo
Manteo, 431 Federal acres.

Military bases

Ft. Bragg, Fayetteville, 43,188 employe

Camp Lejune, (Marine Corp Base), J
sonville, 33,751 employees.

Cherry Pt., Marine Corps Air Sta
Havelock, 10,416 employees.

Seymour Johnson Air Force Base, G
boro, 5,831 employees.

Pope Air Force Base, Springlake, 3,972
ployees.

Federal buildings

Federal Building, Asheville (Nati
Oceanic & Atmospheric Admin.), 132,77
ft.

Federal Building-Post Office-Courth
Greensboro (U.S. Courts), 64,307 sq. ft.

N.C. Mutual Life Insurance Building,
ham (Environmental Protection Age
58,767 sq. ft.

Post Office-Courthouse, Asheville
Postal Service), 56,241 sq. ft.

Beaunit Admin. Bldg., Durham (Envi
mental Protection Agency), 34,855 sq. ft.

Northwestern Bank, Charlotte (Bure
the Census), 27,328 sq. ft.

NORTH DAKOTA

National parks

Theodore Roosevelt National Mem
Park, Medora, 69,675 Federal acres.

Fort Union Trading Post National Hist
Site, Williston, 345 Federal acres.

Knife River Indian Villages National
toric Site, Stanton, 170 Federal acres.

Military bases

Minot Air Force Base, 6,038 employe

Grand Forks Air Force Base, Emer
5,590 employees.

Federal buildings

Federal Building Post Office, Fargo
Postal Service), 152,725 sq. ft.

Federal Building/Courthouse, Bism
(U.S. Postal Service), 100,090 sq. ft.

Federal Building Courthouse,
(U.S. District Courts), 50,000 sq ft.

Federal Building, Bismarck (Bureau
Reclamation), 25,335 sq. ft.

Federal Building/Courthouse,
Forks (U.S. District Courts), 21,890 sq. ft

Federal Building/Courthouse,
(Social Security Admin.), 20,285 sq. ft.

OHIO

National parks

Cuyahoga Valley National Recreation
Peninsula, 828 Federal acres.

Mound City Group National Monum
Chillicothe, 67 Federal acres.

Perry's Victory and International
Memorial, Put-in Bay, 24 Federal acres.

William Howard Taft National Historic
Cincinnati, 8 Federal acre.

Military bases

Wright-Patterson Air Force Base, Fairb
23,695 employees.

Eisenhower Air Force Base, Lockbourne

Total Federal acres (Also in NH, VT, MA, CN, NY, NJ, PA, MD, WV, VA, TN, NC, GA)

Saint Croix Island National Monument, Bar Harbor, 22 Federal acres.

Military bases

Loring Air Force Base, Limestone, 4,056 employees.

Naval Air Station, Brunswick, 3,332 employees.

Cutler Communications Unit, (Navy), East Machias, 204 employees.

Federal buildings

Federal Building, Augusta (Internal Revenue Service), 23,397 sq. ft.

Federal Building and U.S. Post Office, Portland, (U.S. Army, Armed Forces Examining and Entrance Station), 8,552 sq. ft.

Federal Building and U.S. Post Office, Portland, (Internal Revenue Service), 7,476 sq. ft.

U.S. Post Office and Courthouse, Bangor, (U.S. Postal Service) 6,784 sq. ft.

U.S. Customshouse, Portland, (U.S. Customs Service), 6,567 sq. ft.

U.S. Post Office and Courthouse, Bangor, (U.S. Courts), 6,149 sq. ft.

MARYLAND

National parks

Chesapeake and Ohio Canal National Historical Park, Sharpsburg, (Also in DC and WV) 11,914 Federal acres.

Assateague Island National Seashore, Berlin, (Also in VA) 5,821 Federal acres.

Catoctin Mountain Park, Thurmont, 5,768 Federal acres.

Piscataway Park, Oxon Hill, 3,885 Federal acres.

Greenbelt Park, Greenbelt, 1,077 Federal acres.

Military bases

Aberdeen (Army) Proving Ground, Baltimore, 12,082 employees.

Ft. George C. Meade, Baltimore, 10,051 employees.

Andrews Air Force Base, Camp Springs, 9,977 employees.

"Annapolis" Naval Academy, Annapolis, 7,240 employees.

(Navy) Air Test Center, Patuxent River, Lexington Park, 5,486 employees.

Federal buildings

Middle River Depot, Middle River (Dept. of Defense, Federal Supply Service), 1,668,000 sq. ft.

Social Security Administration Complex, Woodlawn, (Social Security Administration), 1,318,300 sq. ft.

Edward Garmatz Federal Building/Courthouse, Baltimore, (U.S. Courts), 480,285 sq. ft.

George Fallon Federal Building, (Veterans Administration, Internal Revenue Service), 366,190 sq. ft.

Appraisers Stores, Baltimore, (U.S. Customs Service), 86,965 sq. ft.

Customs House, Baltimore, (U.S. Customs Service), 83,650 sq. ft.

MASSACHUSETTS

National parks

Cape Cod National Seashore, South Wellfleet, 25,744 Federal acres.

Minute Man National Historical Park, Concord, 681 Federal acres.

Boston National Historical Park, Boston, 28 Federal acres.

Salem Maritime National Historic Site, Salem, 8 Federal acres.

Adams National Historic Site, Quincy, 8 Federal acres.

Military bases

Ft. Devens, Ayer, 8,186 employees.

Hanscom Air Force Base, Bedford, 4,895 employees.

South Weymouth Naval Air Station, South Weymouth, 2,229 employees.

Natick Research and Development Center, Natick, 1,384 employees.

Westover Air Force Base, Westover, 941 employees.

Federal buildings

IRS Center, Andover (Internal Revenue Service), 259,836 sq. ft.

JFK Federal Building, Boston (Dept. of HEW), 121,553 sq. ft.

Federal Center, Waltham (Army Corps of Engineers), 106,458 sq. ft.

JFK Federal Building, Boston (Internal Revenue Service), 106,307 sq. ft.

JFK Federal Building, Boston (Veterans Administration Regional Office), 67,777 sq. ft.

USVA, Boston (Veterans Administration), 58,360 sq. ft.

MICHIGAN

National parks

Isle Royale National Park, Houghton, 542,428 Federal acres.

Pictured Rocks National Lakeshore, Munising, 35,339 Federal acres.

Sleeping Bear Dunes National Lakeshore, Frankfort, 26,600 Federal acres.

Military bases

Detroit Arsenal (Army), Detroit, 5,054 employees.

K. I. Sawyer Air Force Base, Gwinn, 4,096 employees.

Wurtsmith Air Force Base, Oscoda, 3,185 employees.

Michigan Army Missile Plant, Detroit, 1,047 employees.

Kincheloe Air Force Base, Kinross, 596 employees.

Federal buildings

P. V. McNamara Federal Building, Detroit (Treasury Dept.), 631,309 sq. ft.

Federal Building and Courthouse, Detroit (U.S. Ccurts), 255,330 sq. ft.

1404 John Lodge Building, Detroit (Treasury Dept.), 157,361 sq. ft.

Federal Center Building 1, Battle Creek (Dept. of Defense), 119,966 sq. ft.

Federal Center Building 2, Battle Creek (Dept. of Defense), 106,990 sq. ft.

G. R. Ford Federal Building and Courthouse, Grand Rapids (U.S. Courts), 89,247 sq. ft.

MINNESOTA

National parks

Voyageurs National Park, International Falls, 114,964 Federal acres.

Grand Portage National Monument, Grand Marais, 709 Federal acres.

St. Croix National Scenic River (Also in WI), 246 Federal acres.

Military bases

Duluth International Airport, Duluth, 1,826 employees.

Minneapolis-St. Paul International Airport, Minneapolis, 387 employees.

Federal buildings

Federal Building, Ft. Snelling (Veterans Administration), 349,767 sq. ft.

Federal Building and U.S. Courthouse, St. Paul (Treasury Dept.), 208,155 sq. ft.

Federal Building/Courthouse, Minneapolis (Justice Dept.), 102,279 sq. ft.

USPS Building, St. Paul (U.S. Dept. of Agriculture), 84,138 sq. ft.

Federal Building, Minneapolis (U.S. Dept. of Agriculture), 68,654 sq. ft.

Federal Building, Courthouse and Customshouse, Duluth (U.S. Dept. of Agriculture), 58,799 sq. ft.

MISSISSIPPI

National parks

Gulf Islands National Seashore, Ocean Springs (Also in FL), 69,025 Federal acres.

Natchez Trace Parkway, Tupelo (Also in AL and TN), 34,941 Federal acres.

Vicksburg National Military Park, Vicksburg, 1, 611 Federal acres.

Brices Cross Roads National Battlefield Site, Tupelo, 1 Federal acre.

Tupelo National Battlefield, Tupelo, 1 Federal acre.

Military bases

Keesler Air Force Base, Biloxi, 8,977 employees.

Construction Battalion Center (Navy), Gulfport, 3,956 employees.

Columbus Air Force Base, Columbus, 3,240 employees.

Meridian Naval Air Station, Meridian, 1,984 employees.

Camp Shelby, Hattiesburg, 77 employees.

Federal buildings

Post Office/Courthouse, Jackson (U.S. Postal Service), 61,945 sq. ft.

Federal Building, Greenville (U.S. Postal Service, U.S. Courts), 58,204 sq. ft.

Federal Building, Clarksdale (U.S. Postal Service, U.S. Courts), 40,684 sq. ft.

Wm. M. Colmer Federal Building, Hattiesburg (Social Security Administration), 35,368 sq. ft.

Federal Building/Post Office, Greenwood (U.S. Postal Service), 31,679 sq. ft.

T. G. Abernathy Federal Building, Aberdeen (U.S. Courts), 29,406 sq. ft.

MISSOURI

National parks

Ozark National Scenic Riverways, Van Buren, 60,728 Federal acres.

Wilson's Creek National Battlefield, Republic, 1,727 Federal acres.

George Washington Carver National Monument, Diamond, 210 Federal acres.

Jefferson National Expansion Memorial (Arch), St. Louis, 90 Federal acres.

Military bases

Ft. Leonard Wood, Jefferson City, 16,269 employees.

Whiteman Air Force Base, Knob Noster, 3,581 employees.

Richards-Gebaur Air Force Base, Belton, 2,174 employees.

Federal buildings

Federal Center St. Louis, (Veterans Administration), 2,614,113 sq. ft.

Federal Building, Kansas City, (Internal Revenue Service), 1,146,429 sq. gt.

Military Personnel Records Center, Overland, (U.S. Army), 914,804 sq. ft.

Federal Building, Kansas City, (Dept. of Transportation), 795,568 sq. ft.

Mart Building, St. Louis, (U.S. Army), 773,460 sq. ft.

Federal Center, Kansas City, (Defense Mapping Service), 423,826 sq. ft.

MONTANA

National parks

Yellowstone National Park (Also in WY), 167,623 Federal acres.

Bighorn Canyon National Recreation Area, Fort Smith (Also in Wy), 34,844 Federal acres.

Grant-Kohrs Ranch National Historic Site, Deer Dodge, 1,322 Federal acres.

Big Hole National Battlefield, Wisdom, 655 Federal acres.

Custer Battlefield National Monument, Crow Agency, average not available.

Military bases

Malmstron Air Force Base, Great Falls, 5,539 employees.

Federal buildings

Federal Building/Courthouse, Billings (Bureau of Reclamation), 134,925 sq. ft.

Federal Office Building/Courthouse, Helena (Internal Revenue Service), 110,000 sq. ft.

Federal Building, Post Office and Courthouse, Missoula (Forest Service), 100,025 sq. ft.

Federal Building/Post Office, Bozeman (U.S. Postal Service), 63,136 sq. ft.

Granite Tower, Billings (Bureau of Land Management), 37,805 sq. ft.

Federal Building/Courthouse, Butte (U.S. District Courts), 37,200 sq. ft.

NEBRASKA

National parks

Agate Fossil Beds National Monument, Gering, 2,736 Federal acres.

Scott Bluff National Monument, Gering, 2,708 Federal acres.

Homestead National Monument of America, Beatrice, 182 Federal acres.

Military bases

"SAC Headquarters," Offut Air Force Base, Bellevue, 13,835 employees.

Federal buildings

Federal Building and Courthouse, Lincoln (Veterans Administration), 382,692 sq. ft.

Federal Building, Post Office and Courthouse, Omaha (U.S. Army), 263,608 sq. ft.

Federal Office Building, Omaha (Dept. of Treasury), 73,903 sq. ft.

Federal Building, Post Office and Courthouse, North Platte (U.S. Postal Service), 45,640 sq. ft.

Federal Building, Omaha (U.S. Army: Corps of Engineers), 28,550 sq. ft.

NEVADA

National parks

Lake Mead National Recreation Area, Boulder City, 586,005 Federal acres.

Death Valley National Monument (Also in CA), 110,812 Federal acres.

Lehman Caves National Monument, Baker, 640 Federal acres.

Military bases

Nellis Air Force Base, Las Vegas, 8,562 employees.

Naval Air Station, Fallon, 877 employees.

Federal buildings

Federal Building-U.S. Courthouse, Las Vegas (U.S. Dist. Courts), 201,635 sq. ft.

Federal Building-U.S. Courthouse, Reno (Internal Revenue Service), 113,295 sq. ft.

Federal Building-U.S. Post Office, Carson City (U.S. Postal Service), 53,958 sq. ft.

Federal Building-U.S. Post Office, Las Vegas (U.S. Postal Service), 38,750 sq. ft.

U.S. Post Office, Reno (Bureau of Land Management), 18,054 sq. ft.

U.S. Post Office, Elko (U.S. Postal Service), 4,089 sq. ft.

NEW HAMPSHIRE

National parks

Saint-Gaudens National Historic Site, Windsor, 86 Federal acres.

Appalachian Scenic (See ME).

Military bases

Portsmouth Naval Shipyard, Portsmouth, 8,275 employees.

Pease Air Force Base, Newington, 4,060 employees.

Cold Regions, Research Lab (Army), Hanover, 283 employees.

Federal buildings

Norris Cotton, Federal Building, Manchester (Veterans Admin. Regional Office), 16,675 sq. ft.

Federal Building and U.S. Post Office (Internal Revenue Service), 15,678 sq. ft.

Norris Cotton, Federal Building, Manchester (Dept. of Housing and Urban Development), 12,584 sq. ft.

Norris Cotton, Federal Building, Manchester (Internal Revenue Service), 10,313 sq. ft.

Norris Cotton, Federal Building, Manchester (Social Security Admin.), 9,319 sq. ft.

Norris Cotton, Federal Building, Manchester (U.S. Army, Armed Forces Examining & Entrance Station), 8,663 sq. ft.

NEW JERSEY

National parks

Delaware Water Gap National Recreation Area, (Also in PA), 21,422 Federal acres.

Gateway National Recreation Area (Also in NY), 1,713 Federal acres.

Morristown National Historic Park, Morristown, 1,530 Federal acres.

Edison National Historic Site, West Orange, 19 Federal acres.

Appalachian Scenic Trail, (See ME).

Military bases

Ft. Dix, Trenton, 15,246 employees.

Ft. Monmouth, Red Bank, 9,162 employees.

McGuire Air Force Base, Wrightstown, 7,263 employees.

Picatinny Arsenal, Dover, 5,380 employees.

Navy Air Engineering Center, Lakehurst, 2,942 employees.

Federal buildings

Ecom Building, Ft. Monmouth, (Dept. of Defense), 489,187 sq. ft.

970 Broad Street, Newark (comprehensive), 281,878 sq. ft.

Gateway Building, Newark (Dept. of Housing & Urban Dev., F.B.I.), 91,251 sq. ft.

20 Washington Place, Newark (Veterans Admin.), 83,223 sq. ft.

Trenton Federal Office Building, Trenton (comprehensive), 58,603 sq. ft.

Decas, Springfield (Defense Contract Admin., Defense Logistics Agency), 44,814 sq. ft.

NEW MEXICO

National parks

White Sands National Monument, Alamogordo, 144,751 Federal acres.

Carlsbad Caverns National Park, Carlsbad, 46,435 Federal acres.

Bandelier National Monument, Los Alamos, 29,661 Federal acres.

Chaco Canyon National Monument, Bloomfield, 20,990 Federal acres.

El Morro National Monument, Ramah, 1,039 Federal acres.

Military bases

Kirtland Air Force Base, Albuquerque, 10,411 employees.

Holloman Air Force Base, Alamogordo, 7,435 employees.

White Sands Missile Range, Las Cruces, 5,237 employees.

Cannon Air Force Base, Clovis, 4,754 employees.

Fort Wingate Army, Gallup, 187 employees.

Federal buildings

Senator Dennis Chavez Federal Bldg., Albuquerque (Bureau of Indian Affairs), 178,416 sq. ft.

Federal Building, Albuquerque (Forest Service), 173,876 sq. ft.

Western Bank Bldg., Albuquerque (U.S. Geological Survey), 43,329 sq. ft.

First National Bank, Albuquerque (Bureau of Indian Affairs), 43,284 sq. ft.

Federal Building, Gallup (Bureau of Indian Affairs), 40,857 sq. ft.

Federal Building—U.S. Post Office, Santa Fe (Bureau of Land Management), 38,988 sq. ft.

NEW YORK

National parks

Gateway National Recreation Area, Brooklyn (Also in NJ), 18,678 Federal acres.

Fire Island National Seashore, Patchogue, 5,945 Federal acres.

Saratoga National Historical Park, Stillwater, 2,432 Federal acres.

Home of Franklin D. Roosevelt National Historical Site, Hyde Park, 263 Federal acres.

Statue of Liberty National Monument, New York (Also in NJ), 13 Federal acres.

Military bases

West Point Military Reservation, West Point, 15,974 employees.

Griffiss Air Force Base, Rome, 6,891 employees.

Plattsburgh Air Force Base, Plattsburg, 4,362 employees.

Watervliet Arsenal, Watervliet, 2,660 employees.

Seneca Army Depot, Rochester, 1,078 employees.

Federal buildings

26 Federal Plaza, New York (comprehensive), 1,113,417 sq. ft.

201 Varick Street, New York (Dept
Energy), Army Reserves, 356,600 sq. ft.

120 Church Street, New York (Int
Revenue Service), 344,827 sq. ft.

World Trade Center, New York (U.S.
toms), 338,541 sq. ft.

252 Seventh Avenue, New York (Vet
Admin.), 332,657 sq. ft.

1040 Waverly Avenue, Holtsville (Int
Revenue Service—Holtsville Center), 30
sq. ft.

NORTH CAROLINA

National parks

Great Smoky Mountains National
(Also in TN), 273,550 Federal acres.

Blue Ridge Parkway, Asheville (Al
VA), 44,317 Federal acres.

Cape Hatteras National Seashore, Ma
30,325 Federal acres.

Cape Lookout National Seashore, Beau
24,223 Federal acres.

Wright Brothers National Memo
Manteo, 431 Federal acres.

Military bases

Ft. Bragg, Fayetteville, 43,188 employe

Camp Lejune, (Marine Corp Base), J
sonville, 33,751 employees.

Cherry Pt., Marine Corps Air Sta
Havelock, 10,416 employees.

Seymour Johnson Air Force Base, G
boro, 5,831 employees.

Pope Air Force Base, Springlake, 3,972
ployees.

Federal buildings

Federal Building, Asheville (Nati
Oceanic & Atmospheric Admin.), 132,77
ft.

Federal Building-Post Office-Courth
Greensboro (U.S. Courts), 64,307 sq. ft.

N.C. Mutual Life Insurance Building,
ham (Environmental Protection Age
58,767 sq. ft.

Post Office-Courthouse, Asheville
Postal Service), 56,241 sq. ft.

Beaunit Admin. Bldg., Durham (Envi
mental Protection Agency), 34,855 sq. ft.

Northwestern Bank, Charlotte (Bure
the Census), 27,328 sq. ft.

NORTH DAKOTA

National parks

Theodore Roosevelt National Mem
Park, Medora, 69,675 Federal acres.

Fort Union Trading Post National Hist
Site, Williston, 345 Federal acres.

Knife River Indian Villages National
toric Site, Stanton, 170 Federal acres.

Military bases

Minot Air Force Base, 6,038 employe

Grand Forks Air Force Base, Emer
5,590 employees.

Federal buildings

Federal Building Post Office, Fargo
Postal Service), 152,725 sq. ft.

Federal Building/Courthouse, Bism
(U.S. Postal Service), 100,090 sq. ft.

Federal Building Courthouse,
(U.S. District Courts), 50,000 sq ft.

Federal Building, Bismarck (Bureau
Reclamation), 25,335 sq. ft.

Federal Building/Courthouse,
Forks (U.S. District Courts), 21,890 sq. ft

Federal Building/Courthouse,
(Social Security Admin.), 20,285 sq. ft.

OHIO

National parks

Cuyahoga Valley National Recreation
Peninsula, 828 Federal acres.

Mound City Group National Monum
Chillicothe, 67 Federal acres.

Perry's Victory and International
Memorial, Put-in Bay, 24 Federal acres.

William Howard Taft National Historic
Cincinnati, 8 Federal acre.

Military bases

Wright-Patterson Air Force Base, Fairb
23,695 employees.

Rickenbacker Air Force Base, Lockbourne, 4,001 employees.

Defense Construction Supply Center, Columbus, 3,711 employees.

Youngstown Municipal Airport, 293 employees.

Camp Perry, Fremont, 7 employees.

Federal buildings

A. J. Celebrezze Federal Building, Cleveland (Navy Dept.), 759,341 sq. ft.

Federal Building, Cincinnati (Treasury Dept.), 466,738 sq. ft.

Federal Building, Columbus (Dept. of Housing & Urban Development), 159,191 sq. ft.

U.S. Post Office & Courthouse, Cincinnati (U.S. Courts), 141,981 sq. ft.

Federal Building—Courthouse, Cleveland (U.S. Courts), 88,068 sq. ft.

Federal Building—Courthouse, Dayton (U.S. Courts), 87,596 sq. ft.

OKLAHOMA

National parks

Chicasaw National Recreation Area, Sulphur, 9,264 Federal acres.

Military bases

Ft. Sill, Lawton, 24,738 employees.

Tinker Air Force Base, Midwest City, 21,195 employees.

Altus Air Force Base, Altus, 4,310 employees.

Vance Air Force Base, Enid, 2,465 employees.

Federal buildings

Federal Building—Courthouse, Oklahoma City (Internal Revenue Service), 156,963 sq. ft.

Alfred P. Murrah Federal Building, Oklahoma City (Dept. of Housing & Urban Development), 111,940 sq. ft.

Page Belcher Federal, Tulsa (U.S. Courts), 96,541 sq. ft.

U.S. Post Office—Courthouse, Oklahoma City (Indian Health Services Admin.), 85,372 sq. ft.

Federal Building, Muskogee (Veterans Admin.), 65,968 sq. ft.

Federal Building, Tulsa (U.S. Army: Corps of Engineers), 58,796 sq. ft.

OREGON

National parks

Crater Lake National Park, Crater Lake, 160,290 Federal acres.

John Day Fossil Beds National Monument, John Day, 2,035 Federal acres.

Oregon Caves National Monument, Cave Junction, 465 Federal acres.

Fort Clatsop National Memorial, Astoria, 124 Federal acres.

Military bases

Umatilla (Army) Depot Activity, Hermiston, 246 employees.

Coos Head Naval Facility, Charleston, 120 employees.

Federal buildings

Federal Building, Portland (Internal Revenue Service), 329,971 sq. ft.

Multnomah Building, Portland (Forest Service), 267,505 sq. ft.

Federal Building — Courthouse, Eugene (Forest Service), 64,310 sq. ft.

Customshouse, Portland, (U.S. Army: Corps Engineers), 58,055 sq. ft.

Pioneer Courthouse, Portland (U.S. Dist. Courts), 24,455 sq. ft.

PENNSYLVANIA

National parks

Delaware Water Gap, National Recreation Area, Bushkill, (Also in N.J.) 12,460 Federal acres.

Gettysburg National Military Park, Gettysburg, 3,517 Federal acres.

Hopewell Village National Historic Site, Elverson, 848 Federal acres.

Valley Forge National Historical Park, Valley Forge, 45 Federal acres.

Independence National Historic Site, Philadelphia, 30 Federal acres.

Military bases

Naval Shipyard, Philadelphia, 7,132 employees.

Ships Parts Control Center, Mechanicsburg, 6,049 employees.

(Navy) Support Activity, Philadelphia, 5,576 employees.

(Navy) Aviation Supply Office, Philadelphia, 3,532 employees.

Tobyhanna Army Depot, Scranton, 3,515 employees.

Federal buildings

Federal Building, Philadelphia (Veterans Admin.) 575,435 sq. ft.

Federal Building, Pittsburgh (Veterans Admin., Internal Revenue Service), 518,765 sq. ft.

Wm. J. Greer, Jr. Federal Building, Philadelphia (Internal Revenue Service, Dept. of Justice), 503,153 sq. ft.

James A. Byrne Courthouse, Philadelphia (U.S. Courts), 470,910 sq. ft.

Social Security Admin. Program Center, Philadelphia (Social Security Admin.), 390,530 sq. ft.

Federal Depot, Mechanicsburg (National Archives & Records), 318,980 sq. ft.

RHODE ISLAND

National parks

Roger Williams National Memorial, Providence, 4 Federal acres.

Military bases

(Navy) Education and Training Center, Newport, 3,716 employees.

(Navy) Underwater Systems Center, Newport, 3,166 employees.

Naval War College, Newport, 436 employees.

Navy Regional Medical Center, Newport, 418 employees.

Navy Construction Batallion Center, Davisville, 251 employees.

Federal buildings

130 Broadway, Providence (Internal Revenue Service), 33,192 sq. ft.

Heritage Building, Providence (Veterans Admin. Regional Office), 22,384 sq. ft.

Federal Building Exchange Place, Providence (U.S. Courts), 21,348 sq. ft.

Warwick Mills Annex, West Warwick (Defense Mapping Agency), 19,011 sq. ft.

200 Dyer Street, Providence (Social Security Admin.), 12,782 sq. ft.

Jo Pastore Federal Building and Post Office, Providence (Dept. of Housing and Urban Development), 7,554 sq. ft.

SOUTH CAROLINA

National parks

Kings Mountain National Military Park, Kings Mountain, 3,945 Federal acres.

Cowpens National Battlefield, Kings Mountain, 701 Federal acres.

Fort Sumter National Monument, Sullivans Island, 62 Federal acres.

Military bases

Ft. Jackson, Columbia, 20,376 employees.

Charleston Naval Station, Charleston, 17,595 employees.

Parris Island Marine Recruiting Depot, Beaufort, 10,782 employees.

Charleston Naval Shipyard, Charleston, 7,639 employees.

Shaw Air Force Base, Sumter, 6,479 employees.

Federal buildings

Varo Building, Columbia (Veterans Admin. Regional Office), 59,221 sq. ft.

Federal Building, Columbia (Internal Revenue Service), 58,658 sq. ft.

Federal Building, Charleston (U.S. Army: Corps of Engineers), 54,053 sq. ft.

Courthouse, Columbia (U.S. Courts), 32,769 sq. ft.

SE Fisheries Center, Charleston (National Oceanic & Atmospheric Center), 30,345 sq. ft.

Post Office-Courthouse, Charleston (U.S. Courts), 25,227 sq. ft.

SOUTH DAKOTA

National parks

Badlands National Monument, Interior, 152,289 Federal acres.

Wind Cave National Park, Hot Springs, 28,060 Federal acres.

Jewel Cave National Monument, Custer, 1,274 Federal acres.

Mount Rushmore National Memorial, Keystone, 1,245 Federal acres.

Military bases

Ellsworth Air Force Base, Box Elder, 6,728 employees.

Federal buildings

Federal Building, Aberdeen (Bureau of Indian Affairs), 144,285 sq. ft.

Federal Building, Huron (Bureau of Reclamation), 69,375 sq. ft.

Federal Building/Post Office/Courthouse, Pierre, (U.S. Postal Service), 60,835 sq. ft.

Federal Building/Courthouse, Rapid City, (U.S. Dist. Courts), 45,730 sq. ft.

Federal Building/Courthouse, Sioux Falls (U.S. Dist. Courts), 38,905 sq. ft.

Post Office/Courthouse, Aberdeen, (U.S. Dist. Courts), 33,130 sq. ft.

TENNESSEE

National parks

Great Smoky Mountains National Park, Gatlinburg, (Also in N.C.), 241,206 Federal acres.

Natchez Trace Parkway, (Also in Mississippi), 6,973 Federal acres.

Shiloh National Military Park, Shiloh, 3,698 Federal acres.

Cumberland Gap National Historical Park, (Also in Ky.), 2,012 Federal acres.

Fort Donelson National Military Park, Dover, 529 Federal acres.

Military bases

Memphis Naval Air Station, Millington, 7,906 employees.

Arnold Engineering Development Center, Manchester, 3,299 employees.

Defense Depot, Memphis, 1,385 employees.

Memphis Regional Medical Center, Millington, 583 employees.

Federal buildings

IRS Service Center, Memphis, (Internal Revenue Service), 452,161 sq. ft.

C. Davis Federal Building, Memphis, (U.S. Army: Corps of Engineers), 221,740 sq. ft.

Northshore Building, Knoxville, (Dept. of Housing and Urban Development), 68,834 sq. ft.

1013 Central Street, Knoxville, (U.S. Army: Armed Forces Examining and Entrance Station), 28,272 sq. ft.

4841 Summer Avenue Building, Memphis, (U.S. Dept. of Agriculture: Agricultural Marketing Service), 26,588 sq. ft.

100 North Main Building, Memphis, (Dept. of Housing and Urban Dev.), 24,927 sq. ft.

TEXAS

National parks

Big Bend National Park, Big Bend National Park, 708,118 Federal acres.

Padre Island National Seashore, Corpus Christi, 132,202 Federal acres.

Guadalupe Mountains National Park, Carlsbad, 76,292 Federal acres.

Amistad National Recreation Area, Del Rio, 57,292 Federal acres.

Lake Meredith National Recreation Area, Fritch, 45,964 Federal acres.

Military bases

Fort Hood, Killeen, 51,994 employees.

Kelly Air Force Base, San Antonio, 22,721 employees.

Fort Bliss, El Paso, 21,917 employees.

Fort Sam Houston, San Antonio, 13,421 employees.

Lackland Air Force Base, San Antonio, 10,307 employees.

Carswell Air Force Base, Fort Worth, 5,485.

Federal buildings

Earle Cabell Federal Building-Courthouse, Dallas (Internal Revenue Service), 588,728 sq. ft.

Fritz G. Lanham Federal Building, Fort Worth (General Services Admin.), 455,414 sq. ft.

Main Tower Building, Dallas (Dept. of Health, Ed. & Welfare), 327,760 sq. ft.

Federal Building-Courthouse, Houston (Internal Revenue Service), 291,284 sq. ft.

IRS Southwest Service Center, Austin (Internal Revenue Service), 289,535 sq. ft.

Federal Building, Dallas (General Service Admin.), 250,104 sq. ft.

VERMONT

National parks

Appalachian National Scenic Trail, (See ME).

Military bases

None listed.

Federal buildings

Federal Building, U.S. Post Office and Courthouse, Burlington (Immigration & Naturalization Service), 18,597 sq. ft.

Federal Building, Post Office and Courthouse (Internal Revenue Service), 17,571 sq. ft.

Federal Building, U.S. Post Office and Courthouse, Burlington (U.S. Courts), 7,058 sq. ft.

U.S. Post Office and Courthouse, Rutland (Dept. of Agriculture, Forest Service), 5,396 sq. ft.

141 Main Street, Montpelier (Food & Drug Admin.), 5,193 sq. ft.

U.S. Post Office and Courthouse, St. Albans (Immigration & Naturalization Service), 4,667 sq. ft.

UTAH

National parks

Glen Canyon National Recreation Area, Page (Also in AZ), 1,061,738 Federal acres.

Canyon Lands National Park, Moab 337,570 Federal acres

Capitol Reef National Park, Torrey, 221,896 Federal acres.

Zion National Park, Springdale, 142,461 Federal acres.

Arches National Park, Moab, 65,097 Federal acres.

Military bases

Hill Air Force Base, Clearfield, 19,705 employees.

Tooele Army Depot, Tooele, 4,288 employees.

Dugway Proving Ground, Salt Lake City, 956 employees.

Defense Depot, Ogden, Number employees not available.

Federal building

IRS Center, Ogden, (Internal Revenue Service), 379,465 sq. ft.

Federal Building, Salt Lake City, (Bureau of Reclamation) 245,395 sq. ft.

Post Office/Court house, Salt Lake City, (U.S. Dist. Courts) 143,485 sq. ft.

Federal Building/Courthouse, Ogden, (Forest Service), 127,618 sq. ft.

Agriculture Photo Lab, Salt Lake City, (Dept. of Agriculture), 112,610 sq. ft.

IRS Building, Salt Lake City, (Internal Revenue Service), 79,550 sq. ft.

VIRGINIA

National parks

Shenandoah National Park, Luray, 190,535 Federal acres.

Blue Ridge Parkway, (Also in NC), 30,451 Federal acres.

Assateague Island National Seashore, (Also in MD), 10,274 Federal acres.

Cumberland Gap National Historical Park, (Also in KY), 7,526 Federal acres.

George Washington Birthplace National Monument, (Mt. Vernon), Washington's Birthplace, 455 Federal acres.

Military bases

Norfolk Naval Station, Norfolk, 40,620 employees.

Norfolk Naval Air Station, Norfolk, 13,261 employees.

Norfolk Naval Shipyard, Portsmouth, 11,755 employees.

Fort Lee, Petersburg, 10,996 employees.

Langley Air Force Base, Hampton, 10,410 employees.

Fort Eustis, Newport News, 10,407 employees.

Oceana Naval Air Station, Virginia Beach, 8,529 employees.

Federal buildings

Pentagon Building, Arlington, (Dept. of Defense), 3,784,025 sq. ft.

CIA Headquarters, McLean, (Central Intelligence Agency), 1,042,918 sq. ft.

Federal Building No. 2, Arlington, (Dept. of Defense), 722,920 sq. ft.

Federal Building, Richmond, (Internal Revenue Service Admin.) 243,255 sq. ft.

Poff Building, Roanoke, (Veterans Admin., U.S. Courts) 193,460 s. ft.

Ford Plant, Alexandria (G.S.A., Dept. of Defense), 168,190 sq. ft.

WASHINGTON

National parks

Olympic National Park, Port Angeles, 892,578 Federal acres.

North Cascades National Park, Sedro Wooley, 503,277 Federal acres.

Mount Ranier National Park, Ashford, 235,239 Federal acres.

Ross Lake National Recreation Area, Sedro Wooley, 105,490 Federal acres.

Coulee Dam National Recreation Area, Coulee Dam, 100,059 Federal acres.

Military bases

Fort Lewis, Tacoma, 27,144 employees.

Puget Sound Naval Shipyard, Bremerton, 15,905 employees.

McChord Air Force Base, Tacoma, 6,709 employees.

Whidbey Island Naval Air Station, Oak Harbor, 6,084 employees.

Fairchild Air Force Base, Airway Heights, 4,805 employees.

Federal buildings

Federal Building, Seattle (Internal Revenue Service), 501,652 sq. ft.

Federal Building—Courthouse, Richland, (Dept. of Energy), 267,955 sq. ft.

Arcade Complex—1, Seattle (Dept. of Health, Education & Welfare), 232,180 sq. ft.

U.S. Courthouse 1, Spokane (U.S. District Courts), 182,700 sq. ft.

GSA Center, Auburn (General Service Administration), 79,290 sq. ft.

WEST VIRGINIA

National parks

Harpers Ferry National Historical Park, Harpers Ferry (also in Maryland), 1,381 Federal acres.

Appalachian National Scenic Trail (See Maine).

Chesapeake and Ohio Canal National Historical Park (also in Maryland), 3 Federal acres.

Military bases

None listed.

Federal buildings

Federal Building & Post Office, Morgantown (Dept. of Agriculture, U.S. Postal Service), 97,260 sq. ft.

Federal Building, Huntington (Dept. of Defense, Veterans Administration), 91,845 sq. ft.

Federal Building, Parkersburg (Internal Revenue Service, U.S. Postal Service), 89,735 sq. ft.

Federal Building, Charleston (U.S. Cou
Dept. of Justice), 80, 080 sq. ft.

Federal Building and Courthouse, Wheel
(U.S. Postal Service, U.S. Courts), 42,365
ft.

Federal Building, Martinsburg (U.S. Po
Service, U.S. Courts), 36,820 sq. ft.

WISCONSIN

National Parks

St. Croix National Scenic River, St. Cr
Falls (Also in MN), 15,236 Federal acre

Apostle Islands National Lakeshore, B
field, 14,862 Federal acres.

Lower St. Croix National Scenic River,
Croix Falls (Also in MN), 1,424 Federal ac

Military bases

Fort McCoy, Sparta, 962 employees.

General Billy Mitchell Field (Air For
Milwaukee, 338 employees.

Federal buildings

Federal Building—Courthouse, Milwaul
(Treasury Dept.), 193,737 sq. ft.

342 North Water Street, Milwaukee (Vet
ans Admin.), 83,790 sq. ft.

Commerce Building, Milwaukee (Dept.
Housing & Urban Dev.), 51,124 sq. ft.

Clark Building, Milwaukee (U.S. Dept.
Ag.), 47,377 sq ft.

Continental Bank, Milwaukee (Treas
Dept.), 22,336 sq. ft.

USPS Building, Madison (U.S. Court
17,089 sq. ft.

WYOMING

National parks

Yellowstone National Park, Yellowsto
National Park, 2,020,625 Federal acres.

Grand Teton National Park, Moose, 30
504 Federal acres.

Bighorn Canyon National Recreation Ar
(Also in MT), 30,763 Federal acres.

John D. Rockefeller, Jr., Memorial Par
way, Moose, 23,777 Federal acres.

Fossil Butte National Monument, Ke
merer, 7,417 Federal acres.

Devils Tower National Monument, Dev
Tower, 1,346 Federal acres.

Military bases

Francis E. Warren Air Force Base, Che
enne, 4,149 employees.

Federal buildings

J. C. O'Mahoney Federal Building, Che
enne (U.S. Postal Service), 129,870 sq. ft.

Federal Building/Post Office, Casper, 106
525 sq. ft.

Lea Building, Cheyenne, (Bureau of La
Management), 82,160 sq. ft.

Federal Building/Courthouse, Casp
(U.S. Dist. Courts), 23,825 sq. ft.

Federal Office Building, Cheyenne (Inte
nal Revenue Service), 22,435 sq. ft.

BLM Building, Casper, (Bureau of La
Management), 16,460 sq. ft.

Mr. MATHIAS. I thank the distin
guished Senator from Massachusetts. H
historical tour of the District of Colum
bia has really set the stage for what
have to say and what I believe I have
do at this point.

The Senator from Montana is to
thanked and congratulated because
the tradition of the Senate he has tri
very creatively to find a way throug
this tangle. He has tried to find a solu
tion to this problem.

I think we are all in his debt for th
kind of thinking that he has forced us t
do here today. But I hope the Senato
from Montana will not feel that I am i
any sense being derogatory of this con
cept when I say that I think it is a
inchoate idea. It is not a developed con
cept. The questions that I have asked,
think, clearly indicate the kinds of prob
blems we would have if we were to adop

this concept in its present form. It would must be resolved of how they can then

NOT VOTING—15

this concept in its present form. It would really be very, very difficult.

Further, I feel very strongly that it would be a great injustice to the people of Maryland to impose this change on their political procedures and practices without adequate discussion and consultation.

For these reasons and not for any lack of respect for the very distinguished Senator from Montana, I move, Mr. President, at this point that the amendment be laid on the table.

Mr. MELCHER. Will the senior Senator from Maryland permit me 2 minutes on the motion?

Mr. MATHIAS. Yes. Mr. President, I do not want to lose control of the floor, but I ask unanimous consent that I may be permitted to yield 2 minutes to the Senator from Montana.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, I just want to take this very brief time to lay out very clearly what the substitute does and does not do. I do not think there is any abundance of words that can be piled into the CONGRESSIONAL RECORD on the Senate floor that could make this issue confusing. It is a straightforward attempt to rectify what I consider to be a basic error in the Constitution, going back to the time the Constitution was framed. I do not believe the framers of the Constitution should ever have promulgated a restriction in the Constitution that denied the right of voting to any residents anywhere in the United States, including the District of Columbia. However, the deed was done. We are trying to rectify it now.

The House has passed and sent over to us House Joint Resolution 554, which would resolve the question by having the residents of the District eligible to elect Representatives to the House on the basis of population. Heretofore, we have adopted an amendment to the Constitution that permitted the District residents to vote for the President. In both cases, those questions have been based and agreed to, in the case of the President and the Vice President, and are being proposed to be agreed to before the House, on representation on the basis of population on the basis of citizenship. If that is accomplished, we have done the right thing in the case of the House of Representatives.

My substitute merely addresses the situation of how the District residents will be represented in the Senate. It is for that reason only, only for the reason of voting for Senators, that District residents will be treated as though they were residents of Maryland. It does not force any change on Maryland at all, it does not envision any change for Maryland at all. Nothing is ceded in land, nothing is ceded in property. It merely gives the franchise to elect Senators in a fair and equal way with all the rest of the people of this country and in a way that is consistent with what the framers of the Constitution had in mind when they found two different bases for electing Members of the House on one side—the basis of population—and the Senate—the basis of statehood. Since the issue is not making the District a State, the question still must be resolved of how they can then vote for Senator.

I think this is a fair method I have proposed, I think it is a logical one. I think it is the best one we could arrive at. I think it is one which could pass with a two-thirds vote in the Senate very promptly and. I daresay, it will be promptly endorsed by the States to arrive at three-fourths for ratification to correct the ills of disenfranchisement of the people of the District.

Mr. MATHIAS. Mr. President, I now renew my motion to lay on the table the pending amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the amendment on the table. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Delaware (Mr. BIDEN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mr. JOHNSTON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from New York (Mr. MOYNIHAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

MR. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. MARK O. HATFIELD), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. MARK O. HATFIELD) would vote "yea."

The result was announced—yeas 52, nays 33, as follows:

[Rollcall Vote No. 329 Leg.]

YEAS—52

Bayh	Haskell	Nelson
Bellmon	Hathaway	Packwood
Bumpers	Heinz	Ribicoff
Byrd, Robert C.	Hodges	Riegle
Case	Hollings	Sarbanes
Chafee	Huddleston	Sasser
Chiles	Humphrey	Schmitt
Church	Inouye	Schweiker
Clark	Javits	Sparkman
Cranston	Kennedy	Stafford
Culver	Leahy	Stevenson
Danforth	Magnuson	Stone
Dole	Mathias	Talmadge
Durkin	Matsunaga	Thurmond
Eagleton	McGovern	Weicker
Glenn	Metzenbaum	Williams
Griffin	Morgan	
Hart	Muskie	

NAYS—33

Allen	Gravel	Melcher
Bartlett	Hansen	Nunn
Bentsen	Hatch	Pell
Burdick	Hatfield, Paul G.	Proxmire
Byrd, Harry F., Jr.	Hayakawa	Randolph
Cannon	Helms	Roth
Curtis	Jackson	Scott
DeConcini	Laxalt	Stevens
Domenici	Long	Tower
Ford	Lugar	Wallop
Garn	McClure	Zorinsky

NOT VOTING—15

Abourezk	Goldwater	Pearson
Anderson	Hatfield, Mark O.	Percy
Baker	Johnston	Stennis
Biden	McIntyre	Young
Brooke	Moynihan	
Eastland		

So the motion to lay on the table UP Amendment No. 1564 was agreed to.

Mr. MATHIAS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I will shortly yield the floor, but I should like the attention of the Senate.

The PRESIDING OFFICER. The Senator will please suspend.

The Chair asks Senators to curtail conversations so that we may proceed.

Mr. ROBERT C. BYRD. Mr. President, I wonder if it would be possible to reach an agreement on a vote up or down on the D.C. representation amendment, say, next Monday or Tuesday, which would give all Members ample notice of the date and the time, and thus we would be able to vitiate the cloture vote on tomorrow.

Mr. LONG. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. LONG. Mr. President, I discussed this matter with the Senator, and I also have discussed it with the minority leader.

I had proposed that those of us who agree with the philosophy that we ought to reflect the view of the full Senate should join together in pairing and according such pairs as may be necessary so that neither side would be prejudiced nor advantaged by the fact that we might have some absentees.

For example, I expect to vote against the constitutional amendment, but I would be perfectly willing to pair with somebody, in order to help the Senators to arrive at what the decision of the Senate would be, provided the other side would reciprocate.

In other words, if those who favor it would be willing to provide some pairs, insofar as our side may have more absentees than theirs, I would be willing to pair and urge others to pair with absentees on the other side, in the event they should be the ones to have the most absentees.

If we can do that, we can avoid the foolishness of trying to find out who has the most troops in town on that day. I hope we can accommodate each other in that fashion, so it would not make any difference what time we decided to vote.

Mr. ROBERT C. BYRD. So far as I am concerned, I would be willing to give a pair, provided my vote did not influence the outcome. I would not expect any Senator to give a pair which would change the decision. I have stated my viewpoint. I would be willing to give a pair if my vote would not make a difference.

Mr. KENNEDY. Is there objection to the request? Are we talking now about voting?

Mr. ROBERT C. BYRD. Yes. I hoped we might get an agreement to vote up or down.

I am not counting the votes as to who will be here on Monday or Tuesday. I am trying to get an agreement so that all Senators will be notified in time as to when a vote would occur. In a vote of this nature, I think most Senators would want to know. We could vote Monday or Tuesday and vitiate tomorrow's cloture vote.

Mr. LONG. The Senator had not made his request.

I am not objecting. I am simply trying to move toward the point where it would not make too much difference who had the most troops in town that day.

Mr. McCLURE. Mr. President, will the Senator yield before propounding the request?

Mr. ROBERT C. BYRD. I yield.

Mr. McCLURE. I think everybody has been scurrying around counting votes and trying to determine who is absent and who is not, and I suspect that has been done on both sides of the aisle, on both sides of the issue.

Would the leader be amenable to a suggestion that everyone would agree that we vote up or down right now?

Mr. ROBERT C. BYRD. That would not give all Senators notice. The minority leader, for example, is out of town right now. I would not think we would want to vote up or down right now, with him out of town.

So far as I am concerned, yes, I will vote right now, and I have never indicated how I will vote. As a matter of fact, I have not fully decided. But if I had to vote, I could decide very quickly.

Mr. President, I do not mean to shortchange the Senator's suggestion. I do not thing that suggestion will be acceded to. I want to protect all Senators on both sides from a vote right now.

Mr. President, I ask unanimous consent that a vote occur on the D.C. representation amendment, up or down, at 6 p.m. on Monday and that tomorrow's cloture vote be vitiated.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object, I would agree to Tuesday but not Monday.

Mr. ROBERT C. BYRD. Very well.

Mr. President, I ask unanimous consent that a vote occur on Tuesday at——

Mr. McCLURE. Mr. President, reserving the right to object——

Mr. ROBERT C. BYRD. Could I make my request first?

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a vote occur on Tuesday at 3 p.m., up or down, on the D.C. representation amendment and that tomorrow's cloture vote be vitiated.

The PRESIDING OFFICER. Is there objection?

Mr. McCLURE. Mr. President, reserving the right to object, I am not sure whether this is possible, but I note that the Senator from Virginia, who has been managing the debate in opposition, is not on the floor at this time. In fairness to the Senator from Virginia, I think he at least should have the opportunity to be informed. I wonder whether the Senator would withhold that request until we could consult with the Senator from Virginia.

Mr. TOWER. Would the distinguished Senator from West Virginia put in a quorum call, to permit us to get our act together?

Mr. ROBERT C. BYRD. Certainly.

I withdraw my request, Mr. President.

FULL VOTER REPRESENTATION OF DISTRICT OF COLUMBIA

Mr. EAGLETON. Mr. President, full voting representation for the District of Columbia deals with a very fundamental issue: Whether the 700,000 people who live in our National Capital have the same right of representation in Congress as do all other American citizens. I believe they are entitled to the same rights as all other Americans, and I support House Joint Resolution 554 for a constitutional amendment to make clear for all time their right to be represented in both Houses of the Congress of the United States.

This is not an issue of technicalities or of legalisms. This is an issue involving real people and their participation in our republican form of government. Too often, government is concerned with technology and statistics—weapon systems, countercyclical funds, imports, allotments, appropriations, credits—and not with flesh-and-blood Americans.

The concerns of the residents of Washington, D.C., are just as real and have just as much marrow and feeling as those of citizens of any other part of our Nation. To residents of Washington, the responsibility of going to the neighborhood polling place and casting their ballots is just as real as for any American. To them, the bite of Federal taxes is just as real as to any American. To them, the rigors of military service are just as real as for any American called to national service.

For them, the legislation in Congress is just as real and has just as much impact as for any American, in fact, more so. Actually, in so many ways, the people of Washington, D.C., have more at stake in Congress than other Americans, for unlike any other jurisdiction in the country, the District is totally submissive to the will of Congress. Even with home rule in the District, Congress reserves absolute legislative authority to veto any act of District government and to initiate any legislation it wishes on local taxes, local redevelopment and zoning and all the other issues usually left to local government. It retains vast authority over the District criminal code and has final authority over the District budget.

The Constitution invested Congress with great power to maintain and preserve the District of Columbia as the seat of National Government, and nothing under the joint resolution will in any way alter or diminish that power. Congress will continue to have authority over the District's legislation and budget.

Hopefully, under home rule, Congress will permit local government to exercise true authority over District affairs and not interfere in the day-to-day administration of the city. Nonetheless, Congress holds the ultimate clout, and the people of the District should no longer be barred from its Chambers.

Senate approval of the joint resolution, already so resoundingly adopted by the House, will be a ringing affirmation that all Americans truly are equal under our Constitution.

As chairman of the Subcommittee on Governmental Efficiency and the District of Columbia, I have worked closely with the people of Washington. I know firsthand their dedication to effective local government, and presently I am completing, with their participation, two far reaching reforms. One will revamp the District's financial recordkeeping and provide a complete and reliable audit for 1980. The other is a sweeping rewriting of the District police and fire pension systems first enacted by Congress back in 1916. The Pension Reform Act, S. 2316, will eliminate gross abuse of disability and other provisions and assure actuarial soundness. The bill now is on the Senate Calendar, and I hope it will be called up in the very near future.

I support the people of Washington in their quest to representation in the House and in the Senate. Alaska, Wyoming, Nevada, Delaware, North Dakota, South Dakota, Montana, Idaho, and New Hampshire all have populations less than the District's, but the Americanism of the people of the District is no less than theirs. No reading of the Constitution suggests that the men who wrote it foresaw the District growing so large, or intended to disenfranchise so many.

The amendment for full voter representation will affirm the basic rights of Washingtonians to be equal partners in a government we all cherish.

I thank the Chair.

ORDER OF BUSINESS

(The following proceedings occurred during Mr. MELCHER's remarks:)

Mr. ROBERT C. BYRD. Will the Senator yield to me so I may call up the process resolution, with the understanding that there would be no interruption of the RECORD of the colloquy?

The PRESIDING OFFICER (Mr. FORD). Does the Senator from Montana yield for that purpose?

Mr. MATHIAS. Mr. President, I believe I have the floor, and I am delighted to yield.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

ADJOURNMENT OF THE TWO HOUSES OVER THE LABOR DAY HOLIDAY

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Concurrent Resolution 696.

The PRESIDING OFFICER. The Chair lays before the Senate House Concurrent Resolution 696, which will be stated.

The legislative clerk read as follows:

H. CON. RES. 696

Resolved by the House of Representatives (the Senate concurring), That when

House adjourns on Thursday, August 17, 1978, it stand adjourned until 12 o'clock meridian on Wednesday, September 6, 1978.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the concurrent resolution.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate proceeded to consider the concurrent resolution.

UP AMENDMENT NO. 1666

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes an unprinted amendment numbered 1666:

On page 1, line 4, strike the period and insert ", and that when the Senate recesses on Friday, August 25, Saturday, August 26, Monday, August 28, or Tuesday, August 29, 1978, pursuant to a motion made by the Majority Leader in accordance with this resolution, it stand in recess until 10 o'clock a.m. on Wednesday, September 6, 1978."

Amend the title so as to read: "Concurrent resolution providing for an adjournment of the House from August 17 until September 6, 1978, and for a recess of the Senate from August 25, 26, 28, or 29 until September 6, 1978.

Mr. STEVENS. Mr. President, on behalf of our side of the aisle, I join the majority leader in presenting this amendment to the resolution.

Mr. ROBERT C. BYRD. I thank the distinguished acting minority leader.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The concurrent resolution (H. Con. Res. 696), as amended, was agreed to as follows:

HOUSE CONCURRENT RESOLUTION 696

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, August 17, 1978, it stand adjourned until 12 o'clock meridian on Wednesday, September 6, 1978.

FISHERMEN'S PROTECTIVE ACT VOLUNTARY INSURANCE PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 10878.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate numbered 1 to the bill (H.R. 10878) entitled "An Act to extend until October 1, 1981, the voluntary insurance program provided by section 7 of the Fishermen's Protective Act of 1967, and for other purposes", with the following amendment:

In lieu of the matter inserted by the said amendment, insert: 1981; except that payments may be made under this section only to such extent and in such amounts as are provided in advance in appropriation Acts".

Resolved, That the House agree to the amendment of the Senate numbered 2 to the aforesaid bill with the following amendment:

Restore the matter stricken by the said amendment, amended to read as follows:

SEC. 2. Section 8 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978) is amended—

(1) by amending subsection (a) thereof—

(A) by inserting "(1)" immediately before "When", and

(B) by striking out the last sentence and inserting in lieu thereof the following:

"(2) When the Secretary of Commerce or the Secretary of the Interior finds that nationals of a foreign country, directly or indirectly, are engaging in trade or taking which diminishes the effectiveness of any international program for endangered or threatened species, the Secretary making such finding shall certify such fact to the President.

"(3) Upon receipt of any certification made under paragraph (1) or (2), the President may direct the Secretary of the Treasury to prohibit the bringing or the importation into the United States of fish products (if the certification is made under paragraph (1)) or wildlife products (if the certification is made under paragraph (2)) from the offending country for such duration as the President determines appropriate and to the extent that such prohibition is sanctioned by the General Agreement on Tariffs and Trade.";

(2) by amending subsection (b)—

(A) by inserting "or the Secretary of the Interior" immediately after "Secretary of Commerce", and

(B) by inserting "or wildlife products" immediately after "fish products" each place it appears therein;

(3) by amending subsection (c) by inserting "or wildlife products" immediately after "fish products";

(4) by amending subsection (d)(2) by inserting "and wildlife products" immediately after "fish products";

(5) by amending subsection (e)—

(A) by inserting "and wildlife products" immediately after "fish products" in paragraph (1) and the first sentence of paragraph (5),

(B) by inserting "or other conveyance" immediately after "vessel" in paragraph (4)(B), and

(C) by striking out "Any fish products" in the second sentence of paragraph (5) and inserting in lieu thereof "Fish products and wildlife products";

(6) by amending subsection (f) by striking out "is" and inserting in lieu thereof ", the Secretary of Commerce, and the Secretary of the Interior are each";

(7) by amending subsection (g)—

(A) by striking out "in force" in paragraph (3) and inserting in lieu thereof "in effect",

(B) by striking out "to which the United States is a signatory party," and inserting in lieu thereof "which is in force with respect to the United States,", and

(C) by adding at the end thereof the following:

"(5) The term 'international program for endangered or threatened species' means any ban, restriction, regulation, or other measure in effect pursuant to a multilateral agreement which is in force with respect to the United States, the purpose of which is to protect endangered or threatened species of animals.

"(6) The term 'wildlife products' means fish (other than those to which paragraph (4) applies) and wild animals, and parts (including eggs) thereof, taken within an offending country and all products of any such fish and wild animals, or parts thereof, whether or not such products are packed, processed, or otherwise prepared for export in such country or within the jurisdiction thereof. Such term does not include any wild animal or fish if brought or imported inot the United States for scientific research.

"(7) The term 'taking' means—

"(A) for purposes of subsection (a)(2)—

"(i) to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or

"(ii) to attempt to engage in any such conduct with respect to,

animals to which an international program for endangered or threatened species applies; and

"(B) for purposes of paragraph (6), any conduct described in subparagraph (A)(i), whether or not such conduct is legal under the laws of the offending country, undertaken with respect to any wild animal.".

SEC. 3. (a) Section 10 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1980) is amended to read as follows:

"SEC. 10. (a) For purposes of this section—

"(1) The terms 'fishery conservation zone', 'fishing', 'fishing vessel', 'Secretary', and 'vessel of the United States' shall each have the same respective meaning as is given to such terms in section 3 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1802).

"(2) The term 'fishing gear' means any equipment or appurtenance which is necessary for the carrying out of fishing operations by a fishing vessel, whether or not such equipment or appurtenance is attached to such vessel.

"(3) The term 'fund' means the Fishing Vessel and Gear Damage Compensation Fund established under subsection (f).

"(b) Subject to the provisions of this section, the owner or operator (hereinafter referred to as the 'vessel owner') of any fishing vessel which is a vessel of the United States is eligible for monetary compensation under this section for any damage to, loss of, or destruction of such vessel, or any fishing gear used with such vessel, or both, if the damage, loss, or destruction—

"(1) occurs when such vessel is within, or such gear is being used for fishing within, the fishery conservation zone; and

"(2) is attributable—

"(A) in the case of such vessel, to any vessel (or its crew or fishing gear) other than a vessel of the United States, or

"(B) in the case of such fishing gear, to (i) any other vessel, whether such vessel is a vessel of the United States, or (ii) an act of God.

"(c) A vessel owner is not eligible for compensation under this section with respect to fishing vessel or fishing gear damage, loss, or destruction unless such owner—

"(1) makes application to the Secretary for compensation under this section within sixty days after the day on which the damage, loss, or destruction occurred or was first noticed by the owner;

"(2) pays upon making such application a reasonable administrative fee which the Secretary shall deposit into the fund;

"(3) has, in such form as the Secretary shall prescribe by regulation, a current inventory or other evidence of possession of the fishery vessel or fishing gear concerned;

"(4) has complied with all applicable regulations, if any, relating to the marking of, and (if appropirate) the notification of the location of, the fishing gear concerned; and

"(5) is in compliance with such other regulations as may be prescribed by the Secretary to carry out this section.

"(d)(1) Application for compensation under this section shall be made in such form and manner, and include such documentation and other evidence relating to the cause and extent of the damage, loss, or destruction claimed, as the Secretary shall prescribe by regulation. The Secretary shall promptly, but not later than sixty days after receipt of an application, consider, and issue an initial determination with respect to, the application.

"(2) The amount of compensation awarded to any vessel owner under this section shall be—

"(A) determined on the basis of the depreciated replacement cost, or the repair cost,

whichever cost is less, of the fishing vessel or fishing gear concerned;

"(B) proportionally reduced to the extent that evidence indicates that negligence by the vessel owner contributed to the cause or extent of the damage, loss, or destruction; and

"(C) reduced by the amount of compensation, if any, which the vessel owner has received, or will receive with respect to the damage, loss, or destruction through insurance, pursuant to any other provision of law, or otherwise.

"(3) The initial determination made by the Secretary under paragraph (1) with respect to any application shall—

"(A) if the application is disapproved, set forth the reasons therefor; or

"(B) if the application is approved, set forth the amount of compensation to which the applicant is entitled and the basis on which such amount was determined.

"(4) Any vessel owner who is aggrieved by any decision of the Secretary contained in the initial determination of the Secretary regarding such owner's application may, within thirty days after the date of issue of the initial determination, petition the Secretary for a review of the decision. If petition for review is not made to the Secretary within such thirty-day period regarding the initial determination, the initial determination shall be deemed to be the final determination on the application. Before undertaking any such review, the Secretary shall provide to the vessel owner opportunity to submit additional written or oral evidence relating to the decision. After review the Secretary shall issue a final determination with respect to the application.

"(5) If compensation is awarded under the final determination of any application, the Secretary shall promptly pay from the fund to such owner the amount of compensation stated in the final determination. Upon the acceptance of such payment by the vessel owner, the United States shall be subrogated to all rights of the vessel owner with respect to which the payment is made.

"(e) In addition to any fee imposed under section 204(b)(10) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1824(b)(10)) with respect to any foreign fishing vessel for any year after 1978, the Secretary shall impose a surcharge in an amount not to exceed 20 percent of the amount of the fee imposed under such section for such year. The failure to pay any surcharge imposed under this subsection with respect to any foreign fishing vessel shall be treated by the Secretary as a failure to pay the fee for such vessel under such section 204(b)(10).

"(f)(1) There is established in the Treasury of the United States the Fishing Vessel and Gear Damage Compensation Fund. The fund shall be available without fiscal year limitation as a revolving fund for the purposes of administering, and paying compensation awarded under, this section.

"(2) The fund shall consist of—

"(A) all sums recovered by the United States in the exercise of rights subrogated to it under subsection (d)(5);

"(B) all administrative fees collected under subsection (c)(2);

"(C) all surcharges collected under subsection (e);

"(D) revenues received from deposits or investments made under the last sentence of this paragraph; and

"(E) any revenue acquired through the issuance of obligations under paragraph (3).

Sums may be expended from the fund only to such extent and in such amounts as are provided in advance in appropriation Acts. Sums in the fund which are not currently needed for the purpose of paying such awards shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

"(3) Whenever the amount in the fund is not sufficient to pay compensation under this section, the Secretary may issue, in an amount not to exceed $5,000,000, notes or other obligations to the Secretary of the Treasury, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury may prescribe. Such notices or other obligations shall bear interest at a rate to be determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notices or other obligations. Moneys obtained by the Secretary under this paragraph shall be deposited in the fund and redemptions of any such notices or other obligations shall be made from the fund. The Secretary of the Treasury shall purchase any such notes or other obligations, and for such purposes he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The Secretary of the Treasury may sell any such notices or other obligations at such times and prices and upon such terms and conditions as he shall determine. All purchases, redemptions, and sales of such notes or other obligations by the Secretary of the Treasury shall be treated as public debt transactions of the United States. All borrowing authority contained herein shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

"(g) Any person who willfully makes any false or misleading statement or representation for the purpose of obtaining compensation under this section is guilty of a criminal offense and, upon conviction thereof, shall be punished by a fine of not more than $25,000, or by imprisonment for not more than one year, or both.".

(b) The amendment made by subsection (a) shall take effect January 1, 1979.

(c) Nothing in the amendment made by subsection (a) shall be construed as affecting in any manner or to any extent any loan made under section 10 of the Fishermen's Protective Act of 1967 (as in effect before January 1, 1979), and, for purposes of the consideration by the Secretary of Commerce of any application for a loan under such section which was filed, but not acted on, before January 1, 1979, the amendment made by subsection (a) shall not be deemed to have been enacted.

UP AMENDMENT NO. 1665

Mr. STEVENS. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes unprinted amendment numbered 1665.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, line 7, of the House engrossed amendments, insert "'fishery'," immediately after "terms".

On page 6 of the House engrossed amendments, strike out lines 3 through 12, inclusive, and insert the following:

"(1) in the case of such vessel—

(A) occurs when such vessel is engaged in any fishery subject to the exclusive fishery management authority of the United States under the Fishery Conservation and Management Act of 1976, and

"(B) is attributable to any vessel (or its crew or fishing gear) other than a ves the United States; or

"(2) in the case of such fishing gear—

(A) occurs when such fishing gear is used for fishing in any fishery subject to exclusive management authority, and

"(B) is attributable to (i) any other sel, whether such vessel is a vessel o United States, or (ii) an act of God.

Mr. STEVENS. Mr. President, amendment that I am offering to 10878, the Fishermen's Protective amendments, is very simple. It me extends the eligibility for compensa from the section 10 vessel and gear c pensation fund to U.S. fishing ve and fishing gear that operate outsid our 200-mile fishery zone for species the United States exercises exclu management authority over—p cipally crab fishermen in the Be Sea.

Mr. President, we had agreed with House to cover this, but due to an o sight on their part, this coverage not included in the bill, even though House floor statements illustrate the Members thought that it was. amendment merely corrects this o sight to reflect our understanding agreement with the House.

Mr. STEVENS. Mr. President, I m that the Senate concur in the H amendment to the Senate amendm numbered 1.

The PRESIDING OFFICER. question is on agreeing to the motion.

The motion was agreed to.

Mr. STEVENS. I move that the Se concur in the House amendment to Senate amendment numbered 2 to bill, with the further amendment.

The PRESIDING OFFICER. question now recurs on the motion concur in the House amendment to Senate amendment to the bill, with amendment.

The motion was agreed to.

Mr. STEVENS. Mr. President, I m to reconsider the vote by which the m tion to concur in the House amendme to the Senate amendments to the with the further amendment was agr to.

Mr. ROBERT C. BYRD. I move to that motion on the table.

The motion to lay on the table agreed to.

Mr. STEVENS. Mr. President, on half of the Senator from Washing and myself, I thank the distinguis majority leader for his courtesy.

COMMEMORATING THOMAS AL EDISON

Mr. RIBICOFF. Mr. President, I a a resolution to the desk and ask for immediate consideration.

The PRESIDING OFFICER. The olution will be stated by title.

The legislative clerk read as follo

A resolution (S. Res. 541) commemorat Thomas Alva Edison, American inventor.

The PRESIDING OFFICER. Is th objection to the present consideration the resolution?

There being no objection, the Sen proceeded to consider the resolution.

Mr. RIBICOFF. Mr. President, this r

olution honors a unique inventive gen-

Edison built an electric locomotive in

Several Senators addressed the Chair.

olution honors a unique inventive genius, the late Thomas Alva Edison, who founded the Edison Electric Light Co. on October 15, 1878, a predecessor of today's General Electric Co.

It is an honor for me to pay tribute to this outstanding American whose name is synonymous with invention. From his creative enterprise emerged a stream of developments that profoundly influenced the development of industrial America and benefited the lives of millions.

Known as the father of the light bulb, Thomas A. Edison was able to conduct his experiments after receiving financial support from a small group of investors led by New York attorney Grosvenor P. Lowrey. In October of 1878, the Edison Electric Light Co. was organized for the purpose of supporting the "Wizard of Menlo Park" in his efforts to develop a practical incandescent bulb. This small company—capitalized at $300,000—represented the beginning of increasingly productive relations between business and technology in this country.

Edison's invention of a practical electric light on October 19, 1879, symbolized the beginning of a new era in which electricity played an increasingly significant role in the lives of Americans. The Edison Electric Light Co. rapidly expanded over the years, and was consolidated with several of the inventor's other companies in 1889 to form the Edison General Electric Co. In 1892, the General Electric Co. was formed by the merger of Thomson-Houston Co. with Edison's company.

Nearly 100 years after the formation of his fledgling company, Thomas Alva Edison's achievements—including 1,093 patents covering the phonograph, motion pictures, the electric pen, waxed paper and the incandescent lamp—remain as monuments to American ingenuity. Today, the name Edison continues to inspire the men and women of the successor General Electric Co. to reach new frontiers of technology and progress for people.

Edison's first central power station, built at Pearl Street in New York in 1882, was the first of many electrical generating stations and distribution systems to be engineered and built in America. Today's General Electric technology is being applied to the development of improved power systems to meet the Nation's growing electricity needs as well as more efficient methods of utilizing our finite supplies of energy.

Motors and dynamos built by Edison were the first of a century-long line of developments in which electricity is being made to do more work more economically. The current energy-conscious environment finds new generations of energy-efficient motors that can help reduce power consumption of air conditioners, refrigerators, and furnaces.

Edison's lamp has been improved over the years, to be joined by hundreds of additional, higher-output energy-efficient types from General Electric research. As an example, today's 1,000-watt Lucalox(R) lamps are about 100 times as efficient as Edison's first light bulbs.

Edison built an electric locomotive in 1880, and today, transportation technology developed by General Electric includes powerful jet engines such as the CF6 that powers widebodied aircraft, marine propulsion systems, and high-speed rapid transit systems.

Edison's phonograph is perhaps the best known consumer product to have begun a century-long parade of useful ideas for the home from General Electric. These include the famous Monitor Top refrigerator, electric range, the "Hotpoint" iron and today's modern microwave ovens, smoke alarms and tape recorders.

Today, 100 years after the founding of Edison's innovative company, General Electric continues in the tradition of Menlo Park. Over 30,000 employees with technical degrees are at work on the products of tomorrow, including 700 affiliated with the General Electric Research and Development Center.

From the small cadre of Edison Associates, General Electric has grown to employ some 384,000 men and women around the world, including 279,000 in the United States. And, while Edison's modest company produced no sales in its first year—one in which lighting experiments were its sole output—the successor of that company today produces sales of products and services to customers around the world of $17.5 billion. A significant contribution of that company's international business is a trade surplus of $1.9 billion (1976) and a balance of payments surplus of more than $2 billion. This international business provides 47,000 GE jobs in the United States and another 44,000 jobs among U.S. suppliers.

I am proud that the home of General Electric is located in my own State in Fairfield, Conn.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 541) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 541

Whereas the Edison Electric Light Company was established on October 15, 1878, to support the inventive genius of Thomas Alva Edison;

Whereas Thomas Alva Edison's creative enterprise successfully developed the first practical incandescent lamp in October of 1879, established the Nation's first industrial research laboratory and the manufacturing experience to transform innumerable inventions into practical products available to millions throughout the world;

Whereas the growth of the Edison Companies produced a corresponding growth of technological innovations for the generation, transmission, distribution, and utilization of electricity;

Whereas the General Electric Company, successor to the Edison Company, celebrates one hundred years of progress for people on October 15, 1978;

Resolved, That the United States Senate marks the occasion of the one-hundredth anniversary of the enterprise founded by Thomas Alva Edison as an appropriate time to recognize his unique contributions to America and the world.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. KENNEDY. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. LEAHY. I yield for the purpose of a unanimous-consent request.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Mr. Bob McNamara, of my staff, be accorded the privilege of the floor during consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, will the Senator yield?

Mr. LEAHY. Without losing my right to the floor, I yield to the Senator from Wyoming for a unanimous-consent request.

Mr. WALLOP. Mr. President, I ask unanimous consent that Pat Hoff, of my staff, be accorded the privilege of the floor throughout debate and votes on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

VETO OF MILITARY PROCUREMENT AUTHORIZATION BILL

Mr. LEAHY. Mr. President, I rise to add my voice to those who will support the decision of President Carter to veto the Department of Defense authorization bill.

I wish to explain my reasons for that. In my judgment, the President's action was both necessary and based on solid reasoning. Many of my colleagues in the Senate know that I have strongly opposed the construction of additional *Nimitz*-class aircraft carriers since I came to Washington. In August of 1976, I introduced an amendment to the fiscal year 1977 appropriations bill to delete funding for a large deck carrier. That amendment, as Senators will recall was defeated. I believe there were 50 or 51 votes against it, giving some idea of the split in the Senate.

In October of that same year, I called the Senate's attention to the National Security Council study that raised serious questions about the military and economic viability of *Nimitz*-class carriers.

The U.S. Navy is charged with a number of mission responsibilities that the large deck aircraft carrier is not designed to meet. The proposed vessel at the center of the present controversy would not come into service until the late 1980's (1987), but would preclude the allocation of Naval appropriations for many more pressing, immediate needs. The appropriation of nearly $2 billion for an additional *Nimitz*-class carrier would force the deletion of a considerable amount of operations and maintenance money that is necessary to keep the Navy in a state of preparedness. Research and development funds that may very well prove vital in a few years would also have to make way for the new carrier. And finally, many hard procurement items would be sacrificed.

There has a been a great deal of discussion in recent months about the state

of the Navy, and its relative strength when compared with the Soviet Navy. I am willing to admit that there are areas within our Navy that cause me concern—we must improve, we must increase and streamline our shipbuilding efforts. In some cases they have been a total shambles. I am firmly convinced, however, that the huge expenditure demanded by the construction of another *Nimitz*-class carrier cannot address those problems that must be resolved in the very near future, and therefore cannot be justified.

In that regard, Mr. President, I am totally unimpressed with some of the charts that have been sent over on occasion for those seeking naval shipbuilding funds which show the Soviet Navy like this and the U.S. Navy at about one-quarter the strength, especially when some of those same charts will compare on a one-for-one basis something like a *Nimitz*-class aircraft carrier with a vessel the size of a small boat that the Vermont State Police use on Lake Champlain.

I believe that there is one point concerning this issue that we must all consider—and I am of the opinion that President Carter has done so—the central question is one of U.S. naval policy. The role of the large deck aircraft carrier is still a matter of debate in this Government. There are few who question the need for the United States to maintain a strong, flexible Navy, and I certainly support such a concept. The construction of additional *Nimitz*-class carriers all but destroys our ability to remain flexible.

That is the point we have to remember, Mr. President. The construction of additional *Nimitz*-class carriers all but destroys our ability to remain flexible. Further commitment to this type of vessel will lock the U.S. Navy into a policy, and indeed a role, that many military experts believe will not meet the needs of this country. I submit, Mr. President, that this is not solely a monetary issue, even though it be an enormous expense for such an aircraft carrier, but rather, and more importantly, is a question of national defense policy.

I will not rehash the arguments regarding the vulnerability of large deck carriers. I will only say that advances in weapons technology raise several very serious questions in my mind. It is doubtful as to whether even a well-escorted and well-screened nuclear carrier could survive an attack by ships armed with the latest available missiles, especially those that will be available in 1987 when the ship would be in service. In addition, I feel strongly that the dual role of the U.S. Navy to project power around the world and to keep the sealanes open—should that become necessary—can be far better accomplished by increasing the number of smaller, modern ships employing the most advanced technology. We must look to the development of an advanced, flexible, economical Navy for the years to come, and not lock future Americans into a naval policy that is yet unresolved and highly subject to question.

We must remember that the large deck aircraft carrier has its place, but cannot be allowed to take precedence at the expense of the rest of the Navy. The carrier force that the Navy currently possesses will enable this country to maintain a carrier fleet into the 21st century. Today, we must allocate our resources to those other, far more pressing naval demands if we wish to retain a truly effective force. We cannot afford to build monuments to past wars—but we must take those necessary, however difficult, steps to move forward to adequately and appropriately meet our naval security needs of the future as well as of today.

Mr. McGOVERN. Mr. President, will the Senator from Vermont yield to me for a comment?

Mr. LEAHY. I yield.

Mr. McGOVERN. Mr. President, first of all, I commend the Senator from Vermont for the fight he led here in the Senate earlier to eliminate the *Nimitz* class carrier which is responsible for the President's veto today. The Senator made an argument that seemed to me compelling and overwhelming in its logic some months ago.

As a Senator fully committed to the adequate defense of this country, I thought his argument was unanswerable. So I commend him for the foresight he showed in and his leadership on this issue.

I also join the Senator from Vermont in commending President Carter for the wisdom, the courage, and the commonsense that he has demonstrated today in vetoing this defense authorization bill.

We know why it was vetoed. It was because of this highly expensive nuclear aircraft carrier which our most thoughtful defense planners say will actually weaken the defense of the country rather than contribute to it because it deprives us of resources that we need for other more urgent sources of naval strength.

I think the evidence is growing all the time that in the event of a major war these huge, oversize, tremendously costly carriers would be sitting ducks in the age of missile warfare and would doubtless be destroyed in the opening hours of any such conflict.

This morning's Washington Post, if the Senator will bear with me for just a moment, carried an article by Mr. Don Oberdorfer, in which he quotes an unnamed but high official in the Defense Department who has concluded if we were to have proceeded with the building of this tremendously expensive nuclear carrier running to billions of dollars in initial cost, in the amount of $2 billion, that it would mean cutting important parts of the defense budget, to say nothing of items outside of the defense budget that we also need.

He said, and I quote:

The "glamorous" carrier would be at the expense of funds needed to maintain the fighting fitness of warships, planes and other military equipment already in use.

He goes on to say:

We have a serious problem of degrading our military capability below what it would otherwise be in order to procure some particular weapon system that seems attractive to some in Congress, the military and contractors. I just don't think we can afford that in the long run.

But the point of all of this, Mr. President, is that we do have, thank God, civilian authority in this country; we have a Commander in Chief, who h the constitutional power to veto me ures that he thinks are not in the pu interest.

If there was ever a Presidential v that I fully subscribe to, and that I th the American people would support wh they hear the issues discussed ope and candidly, it is this veto.

I commend both the Senator fr Vermont and the President for leadership they have demonstrated thank the Senator for yielding to me

Mr. President, I ask unanimous co sent that the article on this subject Mr. Oberdorfer be printed in the Reco

There being no objection, the arti was ordered to be printed in the Reco as follows:

President Weighs Veto of Weapons Procurement Bill

(By Don Oberdorfer)

President Carter held lengthy meeti with senior advisers yesterday amid indi tions that he will veto the $36 billion we ons procurement bill, and has called congr sional leaders to the White House today discuss the legislation.

An administration official close to the s uation said last night that Carter has m a "firm" decision to reject the massive m tary bill, which would be an action with lit or no precedent in recent times. But ot officials said they had been told after a pre dential meeting, which included Secretary Defense Harold Brown and senior Wh House and Budget Bureau figures, that final decision has been made.

Carter has until midnight tonight to eit sign the bill, veto it or allow it to become without his signature. He is expected to nounce what he will do in a televised n conference scheduled for 4 p.m. today. It be carried live on channels 4, 7 and 9 on tape at 11:30 p.m. on channel 26.

The main item of dispute is a giant, clear powered aircraft carrier costing $2 lion, which was added by Congress after active lobbying campaign by nuclear power advocates, including some uniform officers of the Navy.

A veto would pit Carter, a former nucl officer of the Navy, against the strong se ment of many in his former service, inclu ing his naval mentor, Adm. Hyman Rickover.

There is "very strong sentiment" in White House for rejecting the bill, an formed official said last night, but also "gr concern about the political costs." Congr sional sources said White House aides h been making soundings on Capitol Hill in effort to determine whether a veto of the could be sustained.

The administration has been carrying a lobbying effort to persuade the Sen Appropriations Committee to kill the n clear carrier by dropping it from the mi tary appropriations bill, which is a co panion measure to the authorization now on the president's desk. Some sour in Congress, where speculation about Ca ter's action was rampant yesterday, su gested that the veto talk might be part the lobbying effort with the Sen committee.

A top defense official, speaking to repo ers early yesterday, accused Congress lowering combat readiness by cutting i portant parts of the defense budget to p for the $2 billion carrier. The official, w did not permit use of his name, said "glamorous" carrier would be at the e pense of funds needed to maintain fighting fitness of warships, planes and oth military equipment already in use.

"We have a serious problem of degradi

our military capability below what it would

our military capability below what it would otherwise be in order to procure some particular weapon system that seems attractive to some in Congress, the military and contractors. I just don't think we can afford that in the long run," the official said.

The official added that Congress' plan to purchase the nuclear carrier would cut deeply into allotments proposed for strengthening U.S. forces committed to the North Atlantic Alliance and for proposed research and development.

As passed by Congress in its final form, the authorization bill for weapons procurement, military research and civil defense totaled $36.9 billion, about $1.5 billion more than had been recommended by Carter in his budget. The remarks of the top Defense Department official suggested that Carter's attack on the measure, if he makes it, is likely to be centered on the changed priorities among weapons and other defense expenditures, rather than on the issue of additional cost.

After the bill was passed, the administration indicated it would accept the authorization of a conventionally powered aircraft carrier, which would cost about $1.5 billion. But Defense Secretary Brown and others remained strongly opposed to the big nuclear ship.

Mr. LEAHY. I thank my distinguished colleague from South Dakota. I know of the concern he has expressed time and time again about this, and I appreciate his kind personal remarks.

I can only reiterate what both of us have said. It is not an anti-Navy or antidefense posture we are stating here today, not at all. In fact, I consider it far more a pro-Navy, prodefense posture. Instead of getting ourselves locked into billions and billions of dollars in one increasingly vulnerable weapons system for the Navy, how much better that we use what resources we have, resources of technology, resources of money, resources of personnel, to diversify the Navy and have a Navy that is flexible enough to meet all the challenges of the modern world, and flexible enough to have the United States maintain its defense commitments around the world.

ORDER OF BUSINESS

Mr. LEAHY. Mr. President, I am intending to call up a conference report on the District of Columbia appropriations, but I do not know whether the distinguished majority leader——

Mr. STEVENSON. Mr. President, I thought the Senator was not ready, and that he could yield to me so that I could bring up conference reports. If that is what he is proposing to do I will not make my request.

Mr. LEAHY. This will take a relatively short period of time, I understand on the other side of the aisle there will be a request for the yeas and nays on passage of it because it is an appropriation bill.

Mr. STEVENSON. Mr. President, these will not require rollcall votes, they will take very little time. Will the Senator yield, Mr. President?

Mr. THURMOND. Mr. President, will the distinguished Senator yield for me to make some remarks on the same subject on which he spoke?

Mr. LEAHY. I will in just a moment.

I wonder if I might ask unanimous consent that I have the floor to call up my conference report on the District of Columbia appropriations immediately following the conference reports of the distinguished Senator from Illinois?

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MATHIAS addressed the Chair.

Mr. THURMOND. Mr. President, will the Senator yield to me?

Mr. STEVENSON. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Vermont has a unanimous-consent agreement, and the Senator from Illinois has the floor.

Mr. STEVENSON. Mr. President, I thank the distinguished Senator for yielding me the floor.

NATIONAL CLIMATE ACT OF 1979—CONFERENCE REPORT

Mr. STEVENSON. Mr. President, I submit a report of the committee of conference on H.R. 6669 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6669) to establish a national climate program, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of August 14, 1978.)

Mr. STEVENSON. Mr. President, this bill is the product of 2 years of collaboration between the House and Senate to fashion a multiagency climate research program and develop more effective ways of using climate information. The majority and minority members of the Committee on Commerce, Science, and Transportation have worked closely together. I particularly want to emphasize the important contribution of the Senator from Kansas (Mr. PEARSON) and the Senator from New Mexico (Mr. SCHMITT). The late Senator Hubert Humphrey also played a major role in developing the Senate version of the legislation.

I do not intend to repeat the substantive points of the statement of managers which are spelled out in the conference report. I want only to stress that the legislation directs that climate research go forward under the leadership of the Secretary of Commerce but retains major responsibilities among other Federal agencies concerned with climate research and use of climate data. This will be a national, multiagency program with participation by regions, States, local governments, and the private sector. The President is given the job of defining the roles of Federal agencies and for achieving coordination of these activities.

I want also to emphasize that the Subcommittee on Science, Technology, and Space plans continuing oversight of the program. The subcommittee will review carefully the 5-year program plan which the President must promulgate. We will be particularly concerned with those elements of the plan relating to the economic, social, and political impacts of climate change. The capacity to carry out timely assessments on the effect of climate on agricultural production, energy use, water resources, land resources, the natural environment, transportation, human health, and national security will be extremely important.

The last several years have dramatized our dependence on favorable climate patterns. We hope this legislation will develop the knowledge and ability to conduct our activities in a manner which takes climatic factors fully into account.

Mr. President, I move the adoption of the conference report on H.R. 6669, the National Climate Program Act.

Mr. SCHMITT. Mr. President, the conference committee on the National Climate Program Act, H.R. 6669, has successfully completed it work and reported this bill to the Senate for final passage.

Enactment of this legislation into law will provide the basis for a coordinated and comprehensive national climate research and service program. The results of the research efforts conducted pursuant to this act will greatly expand our knowledge of climatic processes and our ability to predict those processes. Equally important is the emphasis placed in the act on the utilization of such information by all sectors of the economy.

I am particularly impressed with the need to expand and develop climate-related services that are available to user groups throughout the country. The original bill introduced by Senator PEARSON and myself contained a provision for an intergovernmental climate program, a mechanism that would provide Federal grants to States and user groups to insure that the service sector is an integral part of the entire national climate program. I am happy to see this program authorized by the conference report.

The national climate program will be administered by the National Climate Program Office that will be established within the Department of Commerce. Funding for the program will begin with fiscal year 1979. We will carefully monitor the implementation and administration of the act to insure that aggressive Federal leadership and financial support is provided for this extremely important and innovative program.

Mr. President, I would like to thank the conferees and the committee staffs on the very excellent job of resolving the differences in the two bills.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. STEVENSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CORRECTION OF ENROLLMENT OF H.R. 6669

Mr. STEVENSON. Mr. President, I send a concurrent resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the concurrent resolution by title.

The assistant legislative clerk read as follows:

Concurrent resolution to correct the enrollment of H.R. 6669.

The concurrent resolution (S. Con. Res. 103) was considered and agreed to as follows:

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (H.R. 6669), to establish a national climate program, and for other purposes, the Clerk of the House of Representatives shall make the following correction:

In section 5(b)(1), strike "(8)" and insert in lieu thereof "(9)".

NASA AUTHORIZATIONS, 1979—CONFERENCE REPORT

Mr. STEVENSON. Mr. President, I submit a report of the committee of conference on H.R. 11401 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11401) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

Mr. STEVENSON. Mr. President, the conference agreement authorizes $4,401,600,000 for the National Aeronautics and Space Administration for fiscal year 1979. This amount is $13 million above the Senate bill, $13.7 million below the House bill, and $30 million above the budget request.

The increase above the request reflects the desire of the conferees to identify areas where NASA should apply additional emphasis. These increases are in the area of space applications, energy technology, technology transfer, and aeronautics. The total program provided for in this bill represents an austere but generally well balanced program in space and aeronautical research.

Mr. President, I believe the conference agreement is a reasonable compromise of the differences between the House and the Senate on this bill. I know of no objection to this conference report.

Mr. President, I move the adoption of the conference report.

Mr. SCHMITT. Mr. President, one of the most exciting commitments by the American people in the last decade was to landing men on the Moon. That effort was represented by a unified industry and ingenuity never before seen in peace time. The young were caught by imagination, the technical community responded to the challenge, and all over the world people reacted to a new horizon within reach.

The Apollo explorations and the Mercury and Gemini programs were man's first halting and clearly personal look at his universe. We have had the audacity to try to understand our place in the universe and in its future, and we have had the further audacity to use that understanding to try to alter the universe and to more fully perceive the Earth, using in large measure corrected vision from space.

The technology developed for the space program has provided us with multiple practical benefits. There are applications in agriculture, business, communication, medicine, defense and diplomacy, to name only a few. In the future, that technology will provide accessibility to the new Earth orbit resources of weightlessness and high vacuum for manufacturing, medical and surgical procedures, and other services.

These benefits could not have been derived from a static technology developed through the exclusive use of the mechanical exploration of space. Man in space means on-the-spot invention, testing, questioning, and revision of space technology. The presence of man in space was, is, and shall continue to be vital to the well-being of the space program. There are new avenues of opportunity opened by the space program of the sixties. It is up to man to explore them. It is up to us to create the opportunities for such exploration.

Mr. President, today the Senate receives the conference committee report on the National Aeronautics and Space Administration (NASA) authorization bill for fiscal year 1979, H.R. 11401. My fellow conferees, their staffs and that of the committees are to be congratulated for resolving the differences between the House and Senate versions in a fair and equitable manner. The final authorization, which is $30 million over the budget request, gives direction to NASA for funding of programs that the Congress feels are most important.

Mr. President, I want to thank the distinguished Senator from Illinois, Mr. STEVENSON, for his able chairmanship of the Science, Technology and Space Subcommittee and for his able leadership in all the meetings and hearings that went into the formulation of this NASA authorization bill.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

AUTHORIZATION FOR SELECT COMMITTEE ON ETHICS TO PARTICIPATE IN JUDICIAL PROCEEDINGS

Mr. STEVENSON. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The cl will state the resolution by title.

The assistant legislative clerk read follows:

A resolution (S. Res. 542) authorizing Select Committee on Ethics to participate judicial proceedings deemed necessary obtain information regarding its initial view in matters pertaining to Senators H MAN E. TALMADGE of Georgia and EDW BROOKE of Massachusetts.

The Senate proceeded to consider resolution.

Mr. STEVENSON. Mr. President, t resolution has been reported from Senate Ethics Committee. It has b cleared on both sides, and I know of objection to it.

The Select Committee on Ethics for the past 2 months been inquiri the allegations concerning the legal and/or propriety of certain alleged tions of Senator HERMAN E. TALMADGE Georgia and EDWARD BROOKE of Mas chusetts.

In the course of the initial review the allegations concerning Senator T MADGE the committee has learned that least one and perhaps more prospect witnesses are unwilling to testify wit out the protection of use immunity- form of immunity which only prote the witness from the use of his testimo before the committee in any futu criminal proceedings, but does not p tect him from being charged crimina assuming other evidence is available

Although the initial review into allegations concerning Senator BROO have not proceeded to the point wh it can be determined with certainty t use immunity will be necessary, the S lect Committee on Ethics in the inter of economy of time desires to be giv the authority, as set forth in the p posed resolution, to participate in judicial proceedings preliminary to granting of such use immunity, and any other judicial proceedings deem necessary by the committee to expe the investigation of the aforemention allegations concerning the two Senato I, therefore, move adoption of resolution.

The PRESIDING OFFICER. The qu tion is on agreeing to the resolution.

The resolution (S. Res. 542) was agre to as follows:

Authorizing the Select Committee Ethics to participate in judicial proceedi deemed necessary to obtain information garding its initial review in matters perta ing to Senators Herman E. Talmadge of Ge gia and Edward Brooke of Massachusetts.

Resolved, That the Select Committee Ethics is authorized to participate in judicial proceeding, whether initiated by select committee, or any other person, dee necessary by the select committee to obt testimony, documents, or other evidence c cerning or relating in any way to its inqu into or investigation of allegations of imp priety concerning Senator Herman E. T madge or Senator Edward Brooke.

Mr. STEVENSON. Mr. President, thank the distinguished Senator.

ORDER OF BUSINESS

The PRESIDING OFFICER. Und the unanimous-consent agreement t

Senator from Vermont is recognized to

difference in the service cost so we can

Senator from Vermont is recognized to call up the D.C. appropriations bill.

Mr. LEAHY. Mr. President, I ask unanimous consent to yield 5 minutes to the Senator from South Carolina without losing my right to the floor and without losing my right to bring up the D.C. appropriations conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

VETO OF MILITARY PROCUREMENT AUTHORIZATION BILL

Mr. THURMOND. Mr. President, I thank the Senator from Vermont. The purpose of my remarks is to reply to his remarks on the DOD authorization bill which the President has vetoed, with special emphasis on the carrier.

President Carter's veto today of the fiscal year 1979 Military Authorization Act adds up to the wrong decision at the wrong time for the wrong reasons.

WRONG DECISION

Mr. President, it is the wrong decision because it flies in the face of studies which Congress requested of the Navy that show when total life cycle costs are considered the nuclear carrier is more cost effective than the convention carrier.

Further, the nuclear carrier gives us much, much more in the way of capability. It has four screws instead of two, it carries 45 percent more planes, it has its own powerplant and is not dependent upon oil-carrying ships needed to support the conventional carrier.

Although President Carter says he favors the conventional carrier, he has vetoed a military authorization bill for the first time in history because it is nuclear powered.

Of great importance to me on this issue is the fact that the nuclear carrier is much more survivable than the conventional ship. Faced with the modern weapons of today we should put our seamen on only the most survivable platforms.

WRONG TIME

This veto also comes at the wrong time for the President and the Nation.

The President has already ended production of the B-1 bomber and the Minuteman III missile. He has delayed development of the MX Mobile Missile and cut by one-half the Navy's 5-year shipbuilding program. He has cut overall defense spending about $15 billion in the past 2 years, negotiated away cruise missile ranges in SALT, and generally given the world a confused policy on U.S. firmness in defense.

Now he is adding the Navy's nuclear attack aircraft carrier ot his list of defense programs that get the ax. This type of decision, at this time, sends the wrong signal to the Soviet Union and throughout the world. It is ill timed as well as ill conceived.

WRONG REASONS

The President's action is also based upon the wrong reasons. He says he favors saving the few hundred million difference in the carrier cost so we can have more ships for the Navy. Yet, if he favors more ships, why has his administration cut the Navy's 5-year shipbuilding plan from 157 ships to 70 ships?

President Carter also claims the cost of the nuclear carrier is taking money away from other programs. But that is not the case, as the Congress has given the President about all he requested in his budget. In fact, Congress has added some items over and above the President's request because it was a modest program. Certainly some requests were not allowed, but the Congress and the four military committees have much more defense experience than the President's White House staff or the team he has assembled in the Defense Department.

Mr. President, this veto was promoted not only from the White House but also from the Defense Department. It comes straight from Systems Analysis, which now includes some of the same people that former Defense Secretary McNamara assembled in the Pentagon. Most of them are back, and this veto is as ill conceived as was their successful opposition in 1962 to making the *John F. Kennedy* a nuclear carrier.

In closing, I hope the Congress will show some backbone and override this veto. It is the wrong decision, at the wrong time, for the wrong reasons.

I thank the Senator for yielding.

Mr. LEAHY. Mr. President, I ask unanimous consent that I be permitted to yield 3 minutes to the distinguished Senator from Rhode Island (Mr. CHAFEE) without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

FUNDING REJECTIONS

Mr. CHAFEE. I thank the Senator from Vermont very much for giving me these few minutes. I would like to comment on two unrelated subjects.

NUCLEAR CARRIER

The first is the President's veto of the nuclear powered strategic attack carrier, of which the Senator from South Carolina has spoken.

While I would have favored a conventionally-powered aircraft carrier, I applaud the President's veto with reference to the nuclear carrier. I commend the President on that decision at this time, particularly when dollars are so short, and we need to commit all our available funds to obtaining as many ships as we can. Spending the $2 billion on a nuclear-powered carrier was just not the right step to take, and I believe the President's actions are to be commended.

THE HART SENATE OFFICE BUILDING

Changing gears, Mr. President, I would like to say that I have heard that today the House of Representatives rejected the additional money for the Hart Building. I think that was a magnificant step on the part of the House. As Senators know, I do not think we should ever have embarked on that building. I think it was the wrong thing to do, particularly in the tenor of these times, that the Senate should carry forward with a building that, in our judgment, will cost $138 million, and I think undoubtedly a good deal more than that. I think the House of Representatives took the right step in eliminating the additional amount of money we put in the other day for that building, and I hope now we can stop the building in its entirety, for two reasons: First, it is not the right thing to do in these times to have such an expensive building; and secondly, I do not think we should have the building at all. The only thing that building would do is encourage the Senate to have more staff. Then we will feel cramped with that, and go on and need a fourth building, particularly if we obtain two more Senators from the District of Columbia. That alone will require two more buildings, at the rate we are going.

I thank the Senator from Vermont for yielding.

Mr. THURMOND. Mr. President, will the Senator yield so that I may respond on the point about the building?

Mr. CHAFEE. I do not have control of the time.

Mr. THURMOND. Will the Senator from Vermont yield me half a minute, to respond on this building?

Mr. LEAHY. I would really like to get to the conference report.

Mr. THURMOND. I just want to disagree with the Senator from Rhode Island on the carrier question. I am surprised that a man who has been Secretary of the Navy would take that position, but that is his right.

I commend him for his position on this new Senate office building. This new Senate office building would have a new restaurant, a new swimming pool, a new gymnasium—all things, it seems to me, that we ought to set an example for economy by doing without; and this is an unnecessary exception.

Mr. CHAFEE. I am glad I am batting 50 percent with the Senator from South Carolina today.

The PRESIDING OFFICER (Mr. METZENBAUM). The Senator from Vermont.

Mr. LEAHY. Mr. President, I was pleased to yield to the Senator from Rhode Island, particularly because he was a former Secretary of the Navy. I agree with him on the futility of creating more of these floating platforms.

I also agree with him on the matter of the Hart Building. I voted against that appropriation in the committee, and I voted against it again here on the floor. I think it is just one more way of insulating ourselves from the people we represent. There is not one Senator in his right mind, politically, who would want a palace like that for his office back in his home State, where people might see it. To have it down here where they will not, I think, is another example, Mr. President, where we are getting trapped into a situation where we spend more and more time here in Washington and less

and less with the people we represent. If that trend is ever to be reversed, we will have to stop——

Mr. MATHIAS. Mr. President, are we here to discuss the D.C. conference report?

DISTRICT OF COLUMBIA APPROPRIATIONS, 1979 — CONFERENCE REPORT

Mr. LEAHY. Mr. President, I submit a report of the committee of conference on H.R. 13468, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. METZENBAUM). The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 13468) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1979, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings in the RECORD of August 16, 1978.)

Mr. LEAHY. Mr. President, I am pleased to have the opportunity to bring to the Senate the conference report on the District of Columbia Appropriations Act of 1979. It is interesting to consider the very timely process that we have just gone through in consideration of this appropriation measure. The House originally passed this Appropriation Act on July 21 and the matter was then before the Senate for our consideration. Our subcommittee action on this bill was delayed slightly because of our need to hold 1 day of additional hearings on a fiscal year 1978 supplemental request and a fiscal year 1979 amendment request. We held this additional hearing on July 19. The subcommittee then marked the appropriations bill up on August 3, and it was considered just 6 days later by the full committee on August 9. Following that, with the very excellent assistance of the majority leader, we were able to bring the bill to the Senate floor on August 14, or on Monday of this week. On Wednesday morning of this week at 9 a.m. the Senate conferees met with the House conferees to resolve the several outstanding differences between the House and Senate passed bills.

Earlier today the House passed the conference report on the District of Columbia appropriations bill and sent the matter to us for final consideration. Therefore in a period of just 11 working days of the Senate we have been able to go from subcommittee markup of this appropriations bill in the Senate to final consideration of the conference report. This indeed is prompt action and shows that the Congress can move with haste.

I would not like to be misunderstood as to be implying that this very rapid processing of an appropriation measure is always necessarily a good thing. I should also point out that this rapid action was only possible because of the 8 days of hearings that we held between February and July, and a great deal of time spent in analysis, discussion, and consultation. Many times there are measures of great controversy and it is then more desirable to proceed at a more deliberate pace. In fact, as the Members will recall, we had somewhat of a controversy on the 1978 bill for the District of Columbia, and we spent over 6 months between the date of the subcommittee action on the District of Columbia bill and the date when we were able to bring the conference report back to the Senate for final approval.

This year we have no matters of great controversy involved and in fact the full Appropriations Committee suggested only one amendment to the bill as presented to it by the subcommittee. Also, as the Members will recall no amendments were offered to this bill when it was on the floor of the Senate on Monday of this week.

The Senate conferees met with the House conferees on over 33 items in disagreement. The Senate receded to three of these items. We reached a compromise on several other items and the House deferred to the Senate on the greatest majority of the items that were before us in conference. I do not offer this accounting as a score card of wins and losses because it is the extremely fine cooperation between the House and Senate that has produced a fine product. A great deal of credit for this goes to Mr. NATCHER, the other members and his subcommittee and his excellent appropriations staff.

I bring back to the Senate a conference agreement that is substantially similar to the bill that was passed by the Senate on Monday of this week. It is a budget that is fully balanced; it is a budget that provides for all necessary city services, and it is a lean budget because that is what the people have asked for.

As the Senate will recall, the city's budget request for the District of Columbia for fiscal year 1979 totaled $1,428,442,000 with $1,298,652,000 of this total being requested for operating expenses and the balance of $129,790,000 was requested for the capital improvement program. The total amount agreed to by the conferees is $1,362,317,700 which includes $1,285,102,700 for operating expenses and $77,215,000 for the capital improvement program. Additionally, as the Members will recall $21,930,100 was provided for a 1978 supplemental. The amount agreed to by the conferees for this supplemental is $21,341,500 or a reduction of $588,600 from the amount recommended by the Senate. These particular reductions were made possible by information supplied to the conferees subsequent to our action in the Senate indicating funding for several requested activities was no longer necessary.

The amount agreed to by the Confe for operating expenses for fiscal 1979 is $2,463,800 less than was rec mended by the Senate. This reduc is composed of several small adjustm and I will now touch briefly on som the larger ones.

The conferees agreed to sustain House position to deny the city's req for 20 additional positions for tax ministration and the associated $254, It was the feeling of the conferees the existing 277 fully funded posit for this activity was an adequate l The Senate receded from its recomm dation to increase the public lib budget by $707,400 over the amount quested for the city for a computer system to develop a book circulation inventory system. This is a needed provement, but it is one that can be ferred. The confereees accepted the S ate reduction to create a new pari enforcement program in the city denied by the House but recomme by the Senate. In agreeing to this ac however, the conferees further ag to transfer an additional 42 posit and the associated $701,000 from the perior court to the Department Transportation where the new pari enforcement program will be opera These positions are currently in the perior court and are currently dev to the city's traffic enforcement progr The conferees agreed that these posit and the associated money should transferred along with the activity.

Additionally, the Senate confe deferred to the House conferees in t recommendation to delete $275,000 capital improvements to the city's pound.

Mr. President, these are the m items that explain the difference tween the budget as previously appr by the Senate and the budget agree by the conferees. There are several o small items which are fully expla in the Conference Report 95-1500. Th fore, I will not take the Senate's tim go over each and every one of the it agreed by the conferees.

The Federal payment recommende the conferees is $235,000,000 which f million less than the Federal paym recommended by the Senate. This a adjustment in the Federal paymen made possible by the conference c mittee action which also had the net fect of reducing the budget as prop by the Senate by $3 million. The final plan approved by the conferees is anced on a cash basis. There will be proximately $838,000 left in the treasury on September 30, 1979. budget total as recommended by the ferees is $244,800,000 less than the ing provided in the first concur resolution for District of Columbia propriations.

I ask unanimous consent that a t be printed at this point in the Re which explains the full details the bu totals agreed to by the conferees.

There being no objection, the was ordered to be printed in the Re as follows:

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY

Mr. President, before I yield to the dis-

further that the agreement have no ve-

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY

	New budget authority					Conference compared with—			
	Enacted fiscal year 1978	Estimates fiscal year 1979	House fiscal year 1979	Senate fiscal year 1979	Conference fiscal year 1979	Fiscal year 1978 enacted	Fiscal year 1978 estimate	House bill	Senate bill
TITLE I									
TEMPORARY COMMISSION ON FINANCIAL OVERSIGHT OF THE DISTRICT OF COLUMBIA									
Salaries and expenses	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000				
TITLE II									
DISTRICT OF COLUMBIA									
FEDERAL FUNDS									
Federal payment	276,000,000	317,000,000	264,000,000	238,000,000	235,000,000	−41,000,000	−82,000,000	−29,000,000	−3,000,000
Payment in lieu of reimbursement for water and sewer services to Federal facilities	28,116,000	10,300,000	10,300,000	10,300,000	10,300,000	−17,816,000			
Federal payment to retire R. F. K. Stadium bonds				9,900,000	9,900,000	+9,900,000	+9,900,000	+9,900,000	
Loans to the District of Columbia for capital outlay	92,000,000	129,790,000				−92,000,000	−129,790,000		
Total, Federal funds to District of Columbia	396,116,000	457,090,000	274,300,000	258,200,000	255,200,000	−140,916,000	−201,890,000	−19,100,000	−3,000,000
DISTRICT OF COLUMBIA FUNDS									
Operating expenses									
General operating expenses	(90,862,600)	(96,326,800)	(93,718,500)	(95,133,100)	(93,765,300)	(+2,902,700)	(−2,561,500)	(+46,800)	(−1,367,800)
1978 supplemental		(3,203,200)		(2,719,400)	(2,719,400)		(−483,800)	(+2,719,400)	
Public safety	(263,771,000)	(274,412,800)	(266,473,800)	(265,961,200)	(265,190,200)	(+1,419,200)	(−9,222,600)	(−1,283,600)	(−771,000)
1978 supplemental		(1,139,700)		(889,700)	(889,700)		(−250,000)	(+889,700)	
Education	(264,679,200)	(282,898,600)	(282,201,200)	(283,605,400)	(283,605,400)	(+18,926,200	(+706,800)	(+1,404,200)	
1978 supplemental		(143,600)		(68,600)			(−143,600)		(−68,600)
Recreation	(17,551,000)	(18,677,400)	(18,392,700)	(18,392,700)	(18,392,700)	(+841,700)	(−284,700)		
1978 supplemental		(58,000)		(58,000)	(58,000)			(+58,000)	
Human resources	(183,462,300)	(294,474,800)	(284,767,700)	(283,321,300)	(283,321,300)	(−141,000)	(−11,153,500)	(−1,446,400)	
1978 supplemental		(9,353,900		(8,086,000)	(8,086,000)		(−1,267,900)	(+8,086,000)	
Transportation	(59,713,900)	(77,551,700)	(71,380,900)	(78,735,200)	(78,735,200)	(+19,021,300)	(+1,183,500)	(+7,354,300)	
1978 supplemental		(4,340,400)		(1,082,200)	(1,082,200)		(−3,258,200)	(+1,082,200)	
Environmental services	(68,191,900)	(73,309,900)	(72,962,500)	(72,119,800)	(72,069,800)	(+3,877,900)	(−1,240,100)	(−892,700)	(−50,000)
1978 supplemental		(1,669,700)		(1,550,400)	(1,030,400)		(−639,300)	(+1,030,400)	(−520,000)
Personal services	(65,549,400)	(69,300,000)	(69,300,000)	(69,300,000)	(69,300,000)	(+3,750,600)			
1978 supplemental		(7,000,000)		(7,000,000)	(7,000,000)			(+7,000,000)	
Settlement for claims and suits			(72,800)	(322,800)	(322,800)	(+322,800)	(+322,800)	(+250,000)	
1978 supplemental		(21,800)					(−21,800)		
Repayment of loans and interest	(125,668,500)	(111,700,000)	(111,700,000)	(120,400,000)	(120,400,000)	(−5,268,500)	(+8,700,000)	(+8,700,000)	
1978 supplemental		(475,800)		(175,800)	(475,800)			(+475,800)	
Total, operating expenses	(1,239,449,800)	(1,298,652,000)	(1,270,970,100)	(1,287,291,500)	(1,285,012,700)	(+45,652,900)	(−13,549,300)	(+14,132,600)	(−2,188,800)
1978 supplemental		(27,406,100)		(21,930,100)	(21,341,500)		(−6,064,600)	(+21,341,500)	(−588,600)
Capital outlay									
Capital outlay	(129,173,400)	(129,790,000)	(77,215,000)	(77,490,000)	(77,215,000)	(−51,958,400)	(−52,575,000)		(−275,000)
Total, District of Columbia funds	(1,368,623,200)	(1,428,442,000)	(1,348,185,100)	(1,364,781,500)	(1,362,317,700)	(−6,305,500)	(−66,124,300)	(+14,132,600)	(−2,463,800)
1978 supplemental		(27,406,100)		(21,930,100)	(21,341,500)		(−6,064,600)	(+21,341,500)	(−588,600)
RECAPITULATION									
Grand total, new budget (obligational) authority	399,116,000	460,090,000	277,300,000	261,200,000	258,200,000	−140,916,000	−201,890,000	−19,100,000	−3,000,000
Consisting of—									
Temporary Commission on Financial Oversight of the District of Columbia	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000				
District of Columbia:									
Federal funds to the District of Columbia	396,116,000	457,090,000	274,300,000	258,200,000	255,200,000	−140,916,000	−201,890,000	−19,100,000	−3,000,000
District of Columbia funds	(1,368,623,200)	(1,428,442,000)	(1,348,185,100)	(1,364,781,500)	(1,362,317,700)	(−6,305,500)	−66,124,300)	(+14,132,600)	(−2,463,800)
1978 supplemental		(27,406,100)		(21,930,100)	(21,341,500)		−6,064,600)	(+21,341,500)	(−588,600)

Mr. LEAHY. Mr. President, there is one final matter I would like to touch on and that is the several reforms recommended by the Senate and agreed to by the conferees with regard to the operation of the CETA program in the city. I am sure the Members are well aware of the greatly publicised abuses that have occurred in the CETA program here in the District of Columbia. Previously the U.S. Department of Labor investigation into this matter focused on the District of Columbia City Council and there was no firm evidence that the abuses went beyond the City Council. Earlier this week I am sure many Members have followed the front page news accounts in one of our local newspapers regarding the fact that the city's abuses to the CETA program are not just isolated to the City Council, but are widespread through the entire city government.

Mr. President, I am pleased the Senate accepted our recommendations that will help reform this program and I am also pleased that the conferees agreed to the Senate's position on this matter. These are reforms that are long overdue; these are reforms that will require the city to operate the program in a manner more consistent with current law and these are reforms that the local citizens and taxpayers are asking for.

Mr. President, there is one final point that I would make and that is the fact that this is the first District of Columbia Appropriations bill, assuming for the moment that the Senate will approve this conference report, since passage of the Budget Reform Act of 1974 that has met the mandated timetable included in that Reform Act. I am pleased that we were able to meet the timetable this year. Our timely action in the Congress almost certainly assures that the city will have a budget bill for fiscal year 1979 signed into law by the President before the beginning of the fiscal year. We look forward next year to meeting the required timetable that is set out by the Budget Reform Act of 1974 and our prospects for doing this are good. Our prospects appear good because the appropriations bill for fiscal year 1979 includes a mandated due date for the transmittal of the budget to the Congress by February 1. This will help insure that we receive the budget request in a timely manner and therefore it greatly increases our chances of providing the city with a final budget prior to the beginning of the fiscal year for which it would apply.

Mr. President, before I yield to the distinguished ranking minority member of our subcommittee, I understand there has been a request from the other side of the aisle that there be a rollcall vote on this matter. Therefore, Mr. President, I ask for the yeas and nays on the adoption of the conference report.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LEAHY. I yield to the distinguished Senator from Maryland (Mr. MATHIAS).

Mr. MATHIAS. Mr. President, my views on this subject have been expressed at length in previous debates in the appropriations process. I think I will rest on the record.

I thank the Senator from Vermont for asking for the yeas and nays. I might simply say, to put the Senate on notice, that it is the policy and the agreement on the minority side at this time that where appropriations bills or appropriations conference reports are to be voted on in the Senate, a request for the yeas and nays will be made.

I thank the Senator for yielding.

Mr. LEAHY. Mr. President, I thank the distinguished ranking member of the committee for his help, and also Bob Clark of his staff, Mike Hall, who was tireless in his help, and Veneda Cane, who is unbelievable in getting material out for us.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPRESENTATION OF THE DISTRICT OF COLUMBIA IN CONGRESS

The Senate continued with the consideration of the joint resolution.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, waiving paragraph 3 of rule XII, a vote occur up or down on the D.C. representation amendment on Tuesday at 6 o'clock p.m.; provided further, that Mr. McCLURE have 20 minutes on each of seven amendments which he will offer, and Mr. KENNEDY will have 10 minutes on each of those seven amendments under his control; that Mr. SCOTT have under his control 6½ hours, and that Mr. KENNEDY have under his control 2 hours; provided further, that the cloture vote on tomorrow be vitiated; ordered further that the leadership be authorized to call up the Federal aid to highway bill tomorrow; that there be no session Saturday; that the leadership be authorized to resume consideration of the Federal aid to highway bill on Monday and Tuesday, if necessary, at such times as those Senators managing the D.C. representation bill are not utilizing the floor on behalf of that measure; provided further, that the agreement have no provision concerning germaneness.

Mr. TOWER. Reserving the right to object, would the Senator withhold the highway portion of the request for the moment?

Mr. ROBERT C. BYRD. I will withdraw that part of the agreement, Mr. President, related to the Federal aid to highway bill.

The PRESIDING OFFICER. Is there objection?

Mr. SCOTT. Mr. President, reserving the right to object, it is my understanding from private conversations with the distinguished majority leader that part of this time will be allocated on Monday and part of it would be allocated on Tuesday that will be under the control of Senator McCLURE and Senator KENNEDY and myself. Could we have some sort of an agreement as to the portion that we would be able to use on Monday and the portion that we would be able to use on Tuesday? What I am getting at is that if we have 6½ hours under my control and 3½ hours under the control of Mr. McCLURE on the McClure amendment, and it may be that the distinguished Senator from Massachusetts might want time to respond to the 6½ hours that I have, we are getting into quite a few hours. If we could somehow indicate that of the 6½ hours under my control, 2½ hours would be on Monday and 4 would be on Tuesday, that would accommodate me. I am not going to utilize them but I am thinking of other people who are of the same position that I take on this joint resolution. They could utilize it and I could allocate the time to them. Would 2½ hours on Monday and 4 hours on Tuesday be agreeable?

Mr. ROBERT C. BYRD. That would be agreeable, or we can make it half and half each day, whichever way the Senator prefers.

Mr. STAFFORD. Will the distinguished Senator yield for a minute?

Mr. ROBERT C. BYRD. Yes.

Mr. STAFFORD. Did I understand the majority leader withdrew his request as to Federal aid to highways?

Mr. ROBERT C. BYRD. Just as of now. I did not want to make that part of this request.

Mr. STAFFORD. I simply wanted to point out to the distinguished majority leader that the manager will be out of town until about 1 o'clock on Monday and so will the Senator from Vermont, who is the ranking minority member of the committee. Other than that, we wish to accommodate the majority leader.

Mr. ROBERT C. BYRD. I appreciate that information, but that is not a part of the request at this time.

Mr. SCOTT. Mr. President, further reserving the right to object, it is my understanding from talking with the distinguished Senator from Idaho (Mr. McCLURE) that he has no preference whether it is Monday or Tuesday but he would want to utilize part of the time on both dates without specific amount assigned to him. Is that agreeable to the Senator from Massachusetts?

Mr. KENNEDY. If the Senator will yield, I would hope that at least by tomorrow we could have all the amendments in the RECORD and printed so t we could begin to prepare and all Me bers would be on notice. But that is a preference. I am satisfied as the le designated the time and we will be p pared to debate Monday and Tuesday whatever time is agreeable.

Mr. SCOTT. Further reserving right to object, Mr. President, and I not going to object, as I understand we will have a final vote on the mea now before us, as amended, if it sho be amended, at 6:30 p.m. on Tues next?

Mr. ROBERT C. BYRD. At 6 o'cl

Mr. SCOTT. Six p.m. on Tuesday n

Mr. TOWER. Provided that amendments that are pending at t time could be voted upon?

Mr. SCOTT. Mr. President, I am sure the distinguished majority lea heard the Senator from Texas. Provi that any amendments pending at desk could be voted upon even if it w beyond the hour of 6 p.m.?

Mr. ROBERT C. BYRD. Any ame ment that is called up and that is pe ing, not any amendment at the desk.

Mr. TOWER. Any amendment tha called up is what I meant.

Mr. ROBERT C. BYRD. Any ame ment that is called up and is then pe ing at 6 o'clock, yes.

Mr. SCOTT. Mr. President, I have objection.

Mr. ROBERT C. BYRD. Let us hol just a minute. It is conceivable that amendment could have been called and been pending at the hour of 6 o'cl on which there is no time limitation. one of the amendments by Mr. McCL there would be a time limit so we k it would not go beyond that.

Mr. TOWER. It would have to be vo on by 6, regardless of whether there a time limitation or not.

Mr. ROBERT C. BYRD. Perhaps I not understand the Senator.

Mr. TOWER. If there were an ame ment called up at 2 minutes to 6 could be voted on at 6, regardless whether there was a time limitation.

Mr. ROBERT C. BYRD. Oh, ye understand.

Mr. SCOTT. I withdraw my rese tion.

The PRESIDING OFFICER. Is th objection? Without objection, it is ordered.

(Later the following occurred:)

Mr. ROBERT C. BYRD. Mr. Preside I ask unanimous consent, and I bel this reflects the understanding wh was agreed to in the D.C. representat matter, that the time on amendme other than the amendments by McCLURE come out of the time allot to the control of Mr. SCOTT and KENNEDY.

The PRESIDING OFFICER. With objection, it is so ordered.

The agreement, as modified, is follows:

Ordered, that during the further consid tion of H.J. Res. 554, a joint resolution posing an amendment to the Constitu to provide for representation of the Dis of Columbia in the Congress, debate on of seven amendments to be offered by Senator from Idaho (Mr. McClure) shal limited to thirty minutes each to be div twenty minutes for the Senator from Id

and ten minutes for the Senator from Massachusetts (Mr. Kennedy); and debate on any other amendment shall be limited to the time granted to the proposer of the amendment or to other Senators wishing to speak on the amendment from the time allocated to the said joint resolution.

Ordered further, That on the question of final passage of the joint resolution debate shall be limited to 8½ hours to be divided two hours to the Senator from Massachusetts (Mr. Kennedy) and 6½ hours, 2½ hours to be utilized on Monday, August 21 and 4 hours to be utilized on Tuesday, August 22 by the Senator from Virginia (Mr. Scott).

Ordered further, That the vote on final passage of the joint resolution occur at 6 p.m. on Tuesday, August 22, 1978.

DISTRICT OF COLUMBIA APPROPRIATIONS, 1979—CONFERENCE REPORT

Mr. LEAHY. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the conference report on the D.C. appropriations.

The Senate resumed consideration of the conference report.

Mr. LEAHY. Mr. President, am I recognized?

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, the yeas and nays have been ordered on this. We still have a lot of Members around. I am perfectly willing to yield back all my time on it if the ranking member has no objection.

Mr. MATHIAS. I recommend that.

The PRESIDING OFFICER. If there is no time limit, the question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. Abourezk), the Senator from Minnesota (Mr. Anderson), the Senator from Delaware (Mr. Biden), the Senator from Mississippi (Mr. Eastland), the Senator from Hawaii (Mr. Inouye), the Senator from Louisiana (Mr. Johnston), and the Senator from New Hampshire (Mr. McIntyre) are necessarily absent.

Mr. TOWER. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Massachusetts (Mr. Brooke), the Senator from Kansas (Mr. Dole), the Senator from Oregon (Mr. Hatfield), the Senator from Kansas (Mr. Pearson), the Senator from Illinois (Mr. Percy), the Senator from Alaska (Mr. Stevens), the Senator from Connecticut (Mr. Weicker), and the Senator from North Dakota (Mr. Young) are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska (Mr. Stevens) would vote "yea."

The result was announced—yeas 76, nays 8, a follows:

[Rollcall Vote No. 330, Leg.]

YEAS—76

Allen	Burdick	Chafee
Bartlett	Byrd, Harry F., Jr.	Chiles
Bayh	Byrd, Robert C.	Church
Bellmon	Cannon	Clark
Bentsen	Case	Cranston
Bumpers	Danforth	Culver
DeConcini	Huddleston	Pell
Domenici	Humphrey	Proxmire
Durkin	Jackson	Randolph
Eagleton	Javits	Ribicoff
Ford	Kennedy	Riegle
Glenn	Leahy	Sarbanes
Goldwater	Long	Sasser
Gravel	Lugar	Schmitt
Griffin	Magnuson	Schweiker
Hansen	Mathias	Scott
Hart	Matsunaga	Sparkman
Haskell	McClure	Stafford
Hatfield, Paul G.	McGovern	Stennis
Hathaway	Melcher	Stevenson
Hayakawa	Metzenbaum	Stone
Heins	Moynihan	Talmadge
Hodges	Muskie	Thurmond
Hollings	Nelson	Tower
	Nunn	Wallop
	Packwood	Williams

NAYS—8

Curtis	Helms	Roth
Garn	Laxalt	Zorinsky
Hatch	Morgan	

NOT VOTING—16

Abourezk	Eastland	Pearson
Anderson	Hatfield, Mark O.	Percy
Baker	Inouye	Stevens
Biden	Johnston	Weicker
Brooke	McIntyre	Young
Dole		

So the conference report was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The clerk will state the first amendment in disagreement.

Mr. LEAHY. Mr. President, I ask unanimous consent the Senate consider en bloc the amendments of the House to the amendments of the Senate numbered 1, 5, 19, 20, and 33.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments in disagreement will be stated.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 1 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $235,000,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 5 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $265,190,200

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 19 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $72,069,800

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 20 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: $1,030,400

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 33 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

Sec. 224. Notwithstanding any other provision of this Act, the provisions of sections 220, 221, 222, and 223 of this Act shall be deemed repealed upon the date of the enactment of the Act entitled "An Act to amend the Comprehensive Employment and Training Act of 1973, to provide improved employment and training services, to extend the authorization, and for other purposes", or similar legislation.

Mr. LEAHY. Mr. President, I move that the Senate concur en bloc in the amendments of the House to the amendments of the Senate numbered 1, 5, 19, 20, and 33.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Vermont.

The motion was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I take the floor just momentarily to ascertain what the outlook is for the remainder of the day.

I understand that Mr. Hart is ready to call up his conference report on the military construction appropriation bill. I inquire as to whether or not anyone expects to ask for a rollcall vote on that conference report.

Mr. TOWER. Yes, there will be a vote.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays at this time on the conference report on the military construction appropriation bill.

Mr. TOWER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is this the authorization or the appropriation?

Mr. ROBERT C. BYRD. The authorization.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, could we get some indication as to how much time will be required on this conference report?

Mr. HART. Mr. President, my feeling is that we can dispose of the matter in 10 minutes.

Mr. ROBERT C. BYRD. Does anybody object to a time limitation on the conference report? Senator Thurmond is the ranking member on the minority side.

Mr. President, I ask unanimous consent that time overall on the conference report on the military construction bill be limited to 20 minutes, equally divided between Mr. Thurmond and Mr. Hart.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. TOWER. Mr. President, I think we could vitiate the order for the yeas and nays on the authorization conference report. There was a misunderstanding. It was thought on this side of the aisle that it was an appropriation. Therefore, if they do not want to have the yeas and nays, we can vitiate the order.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the yeas and nays on the military

construction authorization bill be vitiated. The yeas and nays were requested under the mistaken impression, because of my statement, that it was the appropriation bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

MILITARY CONSTRUCTION AUTHORIZATIONS, 1979—CONFERENCE REPORT

Mr. HART. Mr. President, I submit a report of the committee of conference on H.R. 12602 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12602) to authorize certain construction at military installations for fiscal year 1979, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the Record of August 7, 1978.)

Mr. CHURCH. Mr. President, will the Senator yield?

Mr. HART. I yield to the Senator from Idaho for a unanimous-consent request.

Mr. CHURCH. Mr. President, I ask unanimous consent that Mr. Dave Litsker, of my staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, the matter before the Senate is the conference report on H.R. 12602, the fiscal year 1979 military construction authorization bill.

The Department of Defense requested new authorization for military construction for fiscal year 1979 in the amount of $4,247,809,000. This request provided for the construction of new facilities for the Active and Reserve Military Forces and for the operation and maintenance of the military's inventory of family housing.

As passed by the House, H.R. 12602 provided $4,169,444,000 in new authorization. The bill as amended by the Senate provided $3,998,432,000 in new authorization. The conference committee agreed to new authority in the amount of $4,128,312,000 which is nearly $120,000,000 less than the administration request.

The bill as finally agreed to adequately accommodates the highest priority construction needs of the military services. I invite my colleagues' attention to the printed conference report for details which I do not intend to get into unless there are questions.

Mr. President, the pending conference report authorizes new authority for military construction in the amount of $4,247,809,000, which is nearly $120 million less than the administration requested.

Mr. President, this pending measure provides for the construction of new facilities for the Active and the Reserve Military Forces and for the operation and maintenance of the military family housing. This is and has traditionally been a noncontroversial bill, in spite of the fact that in recent years the amount of that legislation has, as I have indicated, exceeded some $4 billion. But there is contained in this year's bill one innovative measure which I wish to call to the attention of my colleagues, and that measure is section 804 as contained in the pending conference report which requires the incorporation of solar energy systems in all new military family housing and in at least 25 percent of all other new military facilities that are put under design.

Mr. President, because of the companion sections of the bill, there is every reason to expect that the majority of the 1,500 units of new family housing authorized by this bill will be equipped with solar systems.

Also, Mr. President, I understand the appropriations will be made this year for the planning and design of military projects that will be authorized for construction in future years. This appropriation will total about $200 million and this new solar provision contained in this conference report requires that 25 percent of all new facilities that are put under design include solar systems as an option.

Mr. President, this means that about $50 million in design and planning funds will be spent next year 90 days after the President signs this bill and each year thereafter design projects with solar systems.

There are two points that I do want to emphasize:

SOLAR ENERGY

There is a provision in this bill that I consider to be a major breakthrough in addressing the energy crisis. I refer to section 804 which requires the incorporation of solar energy systems in all new military family housing and in at least 25 percent of all other new military facilities that are put under design. These solar systems must be shown to be cost effective before they are built.

Until now widespread use of solar energy systems has been stymied due to cost—in a classic "chicken and egg" case, nobody buys solar systems because they are too expensive, and solar systems are too expensive because nobody buys them. I think that with this provision we have broken that "loop" that was getting us nowhere.

Mr. President, let me explain the impact that this provision will have on the construction industry in general and the solar industry in particular.

There will be two immediate impacts—impacts that will occur in the fiscal year starting October 1, 1978. First, any new military family housing that goes under contract must consider solar energy systems. Section 603(g) of the bill before us gives the Secretary of Defense the authority to increase costs and other constraints specified in the bill as necessa to accommodate solar systems, so th is every reason to expect that the m jority of the 1,500 units of new fam housing authorized by this bill will equipped with solar systems. Second, u der standing authorization, appropr tions will be made this year for the pla ning and design of military projects th will be authorized for construction in f ture years. That appropriation will to about $200 million and this new so provision requires that 25 percent of new facilities that are put under desi include solar systems as an option. Th means that about $50 million in des and planning funds will be spent ne year, starting 90 days after the Preside signs this bill, and each year thereaf to design projects with solar syste The architect-engineer firms around t country are going to have to develop capability to design, cost and analy solar energy systems—this "force-fee ing" of solar system's design on the arc itect-engineer profession will, in judgment, accelerate the acceptance a common application of solar systems several years.

Over the long term—that is to say, the next 3 to 5 years—I expect two oth significant impacts from this new so provision. First, section 804 creates Federal market for solar systems. Tod the solar industry is about a $150 milli per year business. Assuming that t military capital investment program w remain at about $3 billion per year a that 25 percent of that program inco porates solar systems in the future this provision requires, that would me that $750 million per year would be spe on facilities with solar systems, $750 m lion in facilities would probably increa the solar market by about $100 milli each year. Creating this market w lower prices, encourage innovation a mass production, and further accelera solar application. The second impact this provision has to do with the pub perception and acceptance of solar e ergy systems. Section 804 will result solar systems being built at militar bases all across the United States. Pe ple around the country will see the Fe eral Government installing solar system and widespread public acceptance, in m judgment, will be fostered.

Mr. President, in my judgment, this a very important breakthrough on t part of the Federal Government a could amount in fact to be the most im portant item of energy-related legisl tion that this Congress produces th year if action on the pending ener legislation is not accepted.

Therefore, Mr. President, I think it extremely important in adopting th conference report the Senate be on n tice and aware of the remarkable impa that this provision promises to have

The genesis of this solar provision pr vides an interesting case study in ho really difficult it is to cope with our Fe eral bureaucracy. The concepts behi the provision enumerated above a fairly simple, and in discussing the id with my colleagues and staff there w general agreement that the idea ha merit. So we reviewed the concept wi

officials of the Department of Defense during hearings last spring. The Defense

Mr. THURMOND. Mr. President, will

IMMORAL GAS COMPROMISE

turn down their thermostats. For the 92 per-

officials of the Department of Defense during hearings last spring. The Defense Department took a position opposed to such an approach for various reasons—"not cost effective," "technology was not here," "something the Federal Government should not get involved in," et cetera. Despite this opposition from the administration, the provision was adopted by our subcommittee and it survived the legislative process without any opposition—to the contrary, when the provision was explained to the Members of both Houses, they quickly endorsed the idea. Shortly after the conference committee on this bill had agreed to include this solar provision in the final bill, I received a call from the Secretary of the Department of Energy, who was delighted with this provision and heartily applauded its inclusion in this bill. It may be the only significant piece of energy legislation that the Congress enacts this year.

I cite the specifics of this case study, not to point a finger at anyone, but because I know that there will be the same bureaucratic resistance to implementing section 804 that there was in enacting the provision. I am sure that during hearings next year I will be given all sorts of reasons why solar systems are not "cost effective," et cetera. But the Department of Defense should know now that we intend to pursue the implementation of this provision with all of the oversight authority available to the Congress. The potential in this provision for helping to solve the energy crisis must not be stifled by the bureaucracy. I sincerely hope that the Department of Defense working in close coordination and harmony with the Department of Energy can use this provision to help cut years off the time that it might take otherwise to see the fruits of solar energy pay off.

NATO CONSTRUCTION

The Senate, in its bill, reduced the administration's $650 million request for construction in NATO by $375 million under the rationale that projects in support of the NATO operational mission should be funded by the commonly financed NATO infrastructure program, and the infrastructure program request of $90 million was increased to $150 million to demonstrate support for the Senate rationale. In conference, the House agreed with the Senate rationale, provided that a few of the highest priority projects would be added back this year to permit an orderly transition to the new criteria. This bill, then, contains a reduction in NATO construction of over $230 million from the administration's request and more importantly the conference report language requires that future construction projects in support of the NATO operational mission be funded directly through the NATO infrastructure program. Over the long term this approach will save the American taxpayer many hundreds of millions of dollars.

Mr. President, I yield back the remainder of my time unless others wish to comment.

The PRESIDING OFFICER. Is there any further debate?

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. HART. Mr. President, I yield to the Senator from South Carolina.

Mr. THURMOND. I thank the Senator from Colorado.

Mr. President, I rise in support of the fiscal year 1979 Military Construction Authorization bill conference report, H.R. 12602.

This bill authorizes construction in the amount of $4.1 billion, about $120 million below the administration request and well within budget guidelines.

Mr. President, the conference was generally receptive to the Senate position to hold back on funding NATO projects until the NATO infrastructure participation is more in line with needed contributions with our allies in Europe.

The Senate cut the administration request of $650 million by $375 million on the basis that more NATO participation was needed. The conference agreed upon a reduction of $230 million, a compromise which in my judgment gives strong support to the Senate position.

Another feature of the conference report worthy of note is the emphasis of this bill on solar energy. Our subcommittee chairman, the junior Senator from Colorado, Mr. HART, has given this approach much attention. As a strong advocate of research and application in the solar energy field, I feel the authorizations in this bill will provide a big push in the solar energy field.

As Chairman HART has noted, section 804 of this bill requires incorporation of solar energy systems in all new family housing and 25 percent of other new military facilities that are designed for future construction. This means our bill will be spearheading application of solar energy in future construction required to support our defense establishment.

Mr. President, I too commend Senator HART, our entire committee and the conference for taking this lead in solar energy. The strong defense solar energy program should help bring such costs more in reach of the average citizen.

Mr. President, I urge the Senate to give approval to this conference report.

Mr. HART. Mr. President, I thank the Senator from South Carolina for his statement and for his splendid cooperation in the adoption of this measure.

I am prepared to yield back my time and move the adoption of the conference report.

The PRESIDING OFFICER (Mr. WILLIAMS). Does the Senator yield back his time?

Mr. THURMOND. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. HART. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

IMMORAL GAS COMPROMISE

Mr. METZENBAUM. Mr. President, in an article that appeared in the August 17, 1978, edition of the Washington Post, Kathleen F. O'Reilly, executive director of the Consumer Federation of America, made a powerful case against what she described as "the decidedly immoral and devastatingly anticonsumer effects of the natural gas compromise." According to Ms. O'Reilly, passage of this legislation will cause the average cost of gas to the consumer to rise by 1985 to a level 16 times higher than what it was in 1970. All Americans will suffer. Ms. O'Reilly wrote, but the poor and the elderly may soon have to choose between heat and food.

Mr. President, I believe that Ms. O'Reilly has done an excellent job in spelling out the implications of this disastrous legislation for the American people. I ask unanimous consent that her article, entitled "'Immoral' Gas Compromise" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

"IMMORAL" GAS COMPROMISE

In April 1977 President Carter urged the American public to embark with him on the "moral equivalent of war" against the energy crisis. It is clear now that war must be declared against the Carter energy package.

The administration and the Washington Post editorial "Illusions About the Gas Game" (Aug. 13) ignore the decidedly immoral and devastatingly anticonsumer effects of the natural-gas compromise. It will unnecessarily cost consumers tens of billions of dollars. By 1985 the average cost of gas would be at least 353 percent of what it was last year, 618 percent of what it was in 1975 and 1608 percent of what it was in 1970.

Higher prices have been euphemistically justified by their proponents as incentives for production and conservation. Experience since 1970 demonstrates that even 100 percent price increases have failed to yield increased production. For billions of dollars more, we get less.

The Post's editorial considers failure of the compromise as a "failure of government" and a signal to the world that Americans do not care about a comprehensive energy policy. On the contrary, passage of this legislation would signal to the world that we are willing to sacrifice our most vulnerable citizens to appease the gas lobby.

Low-income consumers (and particularly senior citizens) would be the first casualties. The lowest 10 percent on the economic ladder spends a 10 times greater proportion of its income on home energy consumption than does the top 10 percent.

That is in part due to the condition of the housing they occupy. For example, insulation already exists in 94 percent of high- and moderate-income households but in less than half of the nation's poor households. Sixty percent of low-income households have no storm windows or insulating glass.

Declining block utility rate structures that charge low-volume users at a higher unit rate than high-volume users is also responsible for the disproportionate burden of natural gas price increases.

Any suggestion that residential users of natural gas (including 60 percent of all low-income households) can convert to other sources is brutally naive. Economically and practically speaking, conversion is not a viable option.

Undoubtedly consumers will be submerged with Madison Avenue slogans urging them to

turn down their thermostats. For the 92 percent of the wealthy and upper-middle-class households that have heat control, that is an option. But what about the nearly 40 percent of low-income households who live in apartments that have no individual thermostats?

Low-income consumers will also be urged to equip their dwellings with better insulation, storm doors and storm windows, but will not have access to credit markets that would enable them to acquire the most efficient combination of weatherproofing, retrofit and insulation.

Low-income homeowners, community groups and government officials agree that rising utility prices and the condition of the housing stock have greatly contributed to the increased rate of mortgage defaults. Many low-income homeowners reported that their homes were like sieves, requiring a high temperature setting just to maintain bearable warmth. Inefficient boilers, damaged roofs and lack of storm windows or storm doors also played a major role in keeping utility bills at unaffordable levels.

The emotional price to senior citizens and low-income consumers is particularly high. In November 1977, a University of Michigan study predicted that last winter one out of five senior citizens would have to face the hard choice of paying his utility bills or eating. Those people are victims of utility shutoffs, going for months without heat and becoming ill as a result—and in some cases freezing to death. Some families have been sleeping in their cars in the middle of winter because they were a few dollars short on the gas bill and were shut off.

Rising energy prices, which would be the product of the Carter package, would have other consequences:

Higher unemployment as increased spending on energy reduces aggregate demand for other goods and services.

Higher numbers of senior citizens forced to enter nursing homes or become wards of the state because they are no longer able to make ends meet on their meager fixed incomes (as a recent Michigan study confirms).

Increased health-care costs from poorer diets and colder living conditions.

Increased inflation in *all* production sectors (not just energy) because virtually all production, including agriculture, is energy intensive.

An even less equal distribution of wealth as the return on capital increases at a faster rate than the return on labor, and as property ownership among low- and middle-income consumers becomes less viable.

Increased political power for the already extremely powerful major oil and gas firms. Despite incomes they consider too meager for energy production, they have spent hundreds of millions of dollars advancing their positions on issues ranging from environmental policy to lower corporate tax rates. Further, the major oil companies will continue to use their enormous cash surpluses to purchase major non-energy firms such as Mobil's purchase of Montgomery Ward.

Worsening of the balance of trade. The price increases in domestically manufactured commodities would make them less attractive to the rest of the world and thus reduce exports.

Deregulation will only exacerbate these critical human problems, problems so callously ignored by the supporters of the compromise, who speak so confidently about foreign dependency and greater incentives for an industry that is already reaping unprecedented profits. Those who stand to lose the most are those least able to combat the industry lobbyists and champions. The president's current answer to the nation's "moral equivalent of war" is wracked with an immorality that is intolerable.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business with statements of Senators limited therein to 10 minutes each and not to extend beyond 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

REPORT OF THE FEDERAL PREVAILING RATE ADVISORY COMMITTEE—MESSAGE FROM THE PRESIDENT—PM 210

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

In accordance with section 5347(e) of title 5 of the United States Code, I hereby transmit to you the 1977 Annual Report of the Federal Prevailing Rate Advisory Committee.

JIMMY CARTER.

THE WHITE HOUSE, *August 17, 1978.*

REPORT OF THE RAILROAD RETIREMENT BOARD—MESSAGE FROM THE PRESIDENT—PM 211

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Human Resources:

To the Congress of the United States:

I hereby transmit the annual report of the Railroad Retirement Board which summarizes its fiscal year 1977 operations under both the Railroad Retirement and Railroad Unemployment Insurance Acts.

Benefit payments under these Acts totaled almost $4 billion. Of this amount, $3.8 billion went to 1,100,000 retirement and survivor annuitants and $180 million was paid to 160,000 unemployment and sickness beneficiaries.

During the past year, I appointed a new Chairman and two Board members. To represent the public interest and advise the Congress of the Administration's position, I appointed as Chairman, William P. Adams, former Transportation Counsel for the House Committee on Interstate and Foreign Commerce. I appointed one Board member who was nominated by railroad management—Earl Oliver, a former official of the Illinois Central Gulf Railroad and the National Railway Labor Conference—and another Board member who was nominated by railroad labor—Charles J. Chamberlain, former President of the Brotherhood of Railroad Signalmen Chairman of the Railway Labor Ex tives' Association. Each of these pointees is extremely well qualified can be expected to set a high lev public service.

JIMMY CART

THE WHITE HOUSE, *August 17, 19*

MESSAGES FROM THE HOUSE

At 9:33 a.m., a message from the H of Representatives delivered by Berry, one of its reading clerks, nounced that the House has passed following bills in which it asks the c currence of the Senate:

H.R. 1400. An act for the relief of S Kowalik;

H.R. 1402. An act for the relief of Ro A. Calvin;

H.R. 1796. An act for the relief of K Lam Yuen;

H.R. 1931. An act for the relief of J Todd Atherley;

H.R. 2939. An act for the relief of De Mariano Tan;

H.R. 3613. An act for the relief of Victoria Bolarte Alvarado;

H.R. 4530. An act for the relief of E betta Basso Gallizio;

H.R. 5163. An act for the relief of M nelle Khristy Cruz;

H.R. 6664. An act for the relief of Lirio Galindo;

H.R. 7387. An act for the relief of Abueg Emde;

H.R. 7419. An act for the relief of Vas Georgios Valcanos;

H.R. 7550. An act for the relief of John Lapointe;

H.R. 7604. An act for the relief of M garet Somerville Jefferis;

H.R. 7849. An act to provide for the c veyance of certain public lands in Mont to the occupants of the land;

H.R. 8751. An act for the relief of Fr cesco Giuttari;

H.R. 8927. An act for the relief of Mo Grants;

H.R. 9352. An act for the relief of Ja William Dibben;

H.R. 9610. An act for the relief of E mond Vishnu Clemons;

H.R. 9611. An act for the relief of C Day;

H.R. 9613. An act for the relief of Eus John D'Souza;

H.R. 10029. An act to direct the Secret of the Interior to convey certain lands Clear Creek County, Colorado, to Harold Doris Harlan;

H.R. 10407. An Act for the relief of Li Yung Kung;

H.R. 12772. An Act to facilitate the change of certain lands in the State Oregon, and for other purposes; and

H.R. 13268. An Act to authorize the pointment of Colonel Lloyd Leslie Bu United States Army, retired, to the grade brigadier general on the Retired List of United States Army.

ENROLLED BILLS SIGNED

The message also announced that Speaker has signed the following enrol bills:

S. 405. An Act for the relief of Chong Williams;

S. 1335. An Act for the relief of Shin My Yo Purdom, also known as Myong Yo S and

H.R. 11579. An Act to designate the V erans' Administration center located at 1 South First Street, Temple, Texas, as "Olin E. Teague Veterans' Center", and other purposes.

The enrolled bills were subsequently

insists on its disagreement to the 31 and 32 to the bill, and concur

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. CLARK).

At 1:09 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House has passed the following bill, without amendment:

S. 2543. An Act to amend title 39 of the United States Code to provide better enforcement procedures for preventing fraudulent solicitations through the mails.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1633) to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 12602, an act to authorize certain construction at military installations for fiscal year 1979, and for other purposes.

At 2:40 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House agrees to the amendment of the Senate to H.R. 10899, an act to provide for Federal regulation of participation by foreign banks in domestic financial markets.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to H.R. 12935, an act making appropriations for the legislative branch for the fiscal year ending September 30, 1979, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate numbered 1 through 39, inclusive, 45, 46, 47, and 52 to the bill, and concurs therein.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 13467, an act making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate numbered 9, 15, 32 through 43, inclusive, 44, 47, 49, 52, 53, 58, 64, 70, 79, and 83 to the bill, and concurs therein; that the House recedes from its disagreement to the amendment of the Senate numbered 18 to the bill, and concurs therein with an amendment; that the House recedes from its disagreement to the amendment of the Senate numbered 29 to the bill, and concurs therein with an amendment; that the House recedes from its disagreement to the amendment of the Senate numbered 51 to the bill, and concurs therein with an amendment; that the House recedes from its disagreement to the amendment of the Senate numbered 62 to the bill, and concurs therein with an amendment; and that the House insists on its disagreement to the amendments of the Senate numbered 48 and 82 to the bill.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 683. A concurrent resolution revising the congressional budget for the United States Government for the fiscal year 1979.

At 4:01 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 9) to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to H.R. 12927, an act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes; that the House recedes from its disagreement to the amendment of the Senate numbered 21 to the bill and concurs therein; that the House recedes from its disagreement to the amendment of the Senate numbered 3 to the bill, and concurs therein with an amendment; that the House recedes from its disagreement to the amendment of the Senate numbered 5 to the bill, and concurs therein with an amendment; that the House recedes from its disagreement to the amendment of the Senate numbered 7 to the bill, and concurs therein with an amendment; that the House recedes from its disagreement to the amendment of the Senate numbered 8 to the bill, and concurs therein with an amendment; that the House recedes from its disagreement to the amendment of the Senate numbered 9 to the bill, and concurs therein with an amendment; that the House recedes from its disagreement to the amendment of the Senate numbered 15 to the bill, and concurs therein with an amendment; that the House recedes from its disagreement to the amendment of the Senate numbered 17 to the bill, and concurs therein with an amendment; and that the House recedes from its disagreement to the amendment of the Senate numbered 20 to the bill, and concurs therein with an amendment.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to H.R. 13468, an act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1979, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate numbered 2, 4, 6, 11, 13, 18, 21, 25, 29, 30, 31, and 32 to the bill, and concurs therein; that the House recedes from its disagreement to the amendments of the Senate numbered 1, 5, 19, 20, and 33, and concurs therein each with an amendment.

At 5:55 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House agrees to the amendment of the Senate to H.R. 12106, an act to amend the Independent Safety Board Act of 1974 to authorize additional appropriations.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 12240, an act to authorize appropriations for fiscal year 1979 for intelligence and intelligence-related activities of the U.S. Government, the intelligence community staff, the Central Intelligence Agency retirement and disability system, and for other purposes.

ENROLLED BILL SIGNED

The message further announced that the Speaker has signed the following enrolled bill:

H.R. 8771. An act to amend title 5, United States Code, to authorize the Civil Service Commission to comply with the terms of a court decree, order, or property settlement in connection with the divorce, annulment, or legal separation of a Federal employee who is under the civil service retirement system, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. CLARK).

The message also announced that the House agrees to the amendments of the Senate to House Concurrent Resolution 696, providing for an adjournment of the House from August 17 to September 6, 1978.

HOUSE BILLS AND CONCURRENT RESOLUTION REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 1400. An act for the relief of Stefan Kowalik; to the Committee on the Judiciary.

H.R. 1402. An act for the relief of Rosario A. Calvin; to the Committee on the Judiciary.

H.R. 1798. An act for the relief of Kwong Lam Yuen; to the Committee on the Judiciary.

H.R. 1931. An act for the relief of Juana Todd Atherley; to the Committee on the Judiciary.

H.R. 2939. An act for the relief of Derrick Mariano Tan; to the Committee on the Judiciary.

H.R. 3613. An act for the relief of Irma Victoria Bolarte Alvarado; to the Committee on the Judiciary.

H.R. 4530. An act for the relief of Elisabetta Basso Gallizio; to the Committee on the Judiciary.

H.R. 5163. An act for the relief of Marinelle Khristy Cruz; to the Committee on the Judiciary.

H.R. 6664. An act for the relief of Lily Lirio Galindo; to the Committee on the Judiciary.

H.R. 7387. An act for the relief of Noel Abueg Emde; to the Committee on the Judiciary.

H.R. 7419. An act for the relief of Vasilios

Georgios Valcanos; to the Committee on the Judiciary.

H.R. 7550. An act for the relief of Johanne Lapointe; to the Committee on the Judiciary.

H.R. 7604. An act for the relief of Margaret Sommerville Jefferis; to the Committee on the Judiciary.

H.R. 7849. An act to provide for the conveyance of certain public lands in Montana to the occupants of the land; to the Committee on Energy and Natural Resources.

H.R. 8751. An act for the relief of Francesco Giuttari; to the Committee on the Judiciary.

H.R. 8927. An act for the relief of Monika Grantz; to the Committee on the Judiciary.

H.R. 9352. An act for the relief of James William Dibben; to the Committee on the Judiciary.

H.R. 9610. An act for the relief of Raymond Vishnu Clemons; to the Committee on the Judiciary.

H.R. 9611. An act for the relief of Craig Day; to the Committee on the Judiciary.

H.R. 9613. An act for the relief of Eustace John D'Souza; to the Committee on the Judiciary.

H.R. 10029. An act to direct the Secretary of the Interior to convey certain lands in Clear Creek County, Colo., to Harold and Doris Harlan; to the Committee on Energy and Natural Resources.

H.R. 10407. An act for the relief of Ling-Yung Kung; to the Committee on the Judiciary.

H.R. 13268. An act to authorize the appointment of Col. Lloyd Leslie Burke, U.S. Army, retired, to the grade of brigadier general on the retired list of the U.S. Army; to the Committee on Armed Services.

The following concurrent resolution was read by title and referred as indicated:

H. Con. Res. 683. A concurrent resolution revising the congressional budget for the U.S. Government for the fiscal year 1979; to the Committee on the Budget.

HOUSE BILL HELD AT DESK

The following bill was read by title and held at the desk, pursuant to the order of August 16, 1978:

H.R. 12772. An act to facilitate the exchange of certain lands in the State of Oregon, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, August 17, 1978, he presented to the President of the United States the following enrolled bills:

S. 405. An act for the relief of Chong Cha Williams; and

S. 1335. An act for the relief of Shin Myong Yo Purdom, also known as Myong Yo Sin.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC-4190. A communication from the Assistant Secretary of Defense, reporting, pursuant to law, transfers of amounts appropriated to the Department of Defense; to the Committee on Appropriations.

EC-4191. A communication from the Assistant Secretary of the Army (Manpower and Reserve Affairs), transmitting a draft of proposed legislation to amend sections 3031 (d) and 8031(d) of title 10, United States Code, to limit their application to general officers assigned or detailed to duty in the executive part of the Department of the Army and the Department of the Air Force, and for other purposes; to the Committee on Armed Services.

EC-4192. A secret communication from the Assistant Secretary of Defense (Comptroller), transmitting, pursuant to law, 52 selected acquisition reports (SARs) and the SAR summary tables for the quarter ending June 30, 1978; to the Committee on Armed Services.

EC-4193. A communication from the President and Chairman, Export-Import Bank of the United States, reporting, pursuant to law, on a transaction involving the export of U.S. services to Spain; to the Committee on Banking, Housing, and Urban Affairs.

EC-4194. A communication from the President and Chairman, Export-Import Bank of the United States, reporting, pursuant to law, on a transaction involving U.S. exports to Trinidad and Tobago; to the Committee on Banking, Housing, and Urban Affairs.

EC-4195. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Examination of Financial Statements of the National Credit Union Administration for the 15 Months Ended September 30, 1977," August 14, 1978; to the Committee on Banking, Housing, and Urban Affairs.

EC-4196. A communication from Under Secretary, Department of Energy, transmitting, pursuant to law, contract modification, Modification 9 to the Department of Energy (DOE) Contract No. EY-76-C-05-1530, extends DOE's contract with the Ohio Valley Electric Corporation (OVEC) through December 31, 1979; to the Committee on Energy and Natural Resources.

EC-4197. A communication from the Administrator, U.S. Environmental Protection Agency, requesting approval of certain reprogramings which exceed the 10-percent limitation; to the Committee on Environment and Public Works.

EC-4198. A communication from the Executive Secretary to the Department of Health, Education, and Welfare transmitting, pursuant to law, final regulation for emergency school aid—magnet schools, University/business cooperation, and neutral site planning; to the Committee on Human Resources.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM-777. A resolution adopted by the Kansas Electric Cooperatives, Inc., board of trustees, Overland Park, Kans., relating to the Endangered Species Act (Public Law 93-205).

POM-778. A resolution adopted by the Kansas Electric Cooperatives, Inc., board of trustees, Overland Park, Kans., relating to government regulations; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DECONCINI, from the Committee on the Judiciary, with amendments:

S. 3375. A bill to amend title 28 of the United States Code to make certain changes in the places of holding Federal district courts, in the divisions within judicial districts, and in judicial district dividing lines (Rept. No. 95-1121).

By Mr. CANNON, from the Committee on Commerce, Science, and Transporta without amendment:

H.R. 185. An act to amend section 26 title 10, United States Code, to provide Secretary of the department in which Coast Guard is operating with the auth to transport Coast Guard employees to from certain places of employment (I No. 95-1122).

NASA AUTHORIZATIONS, 1979—CONFERENCE REPORT

Mr. STEVENSON, from the committe conference, submitted a report on the agreeing votes of the two Houses on amendment of the Senate to the bill (11401) to authorize appropriations to National Aeronautics and Space Adminis tion for research and development, const tion of facilities, and research and proj management, and for other purposes (I No. 95-1123).

INTRODUCTION OF BILLS AN JOINT RESOLUTIONS

The following bills and joint res tions were introduced, read the first t and, by unanimous consent, the sec time, and referred as indicated:

By Mr. HATHAWAY (for himself Mr. STAFFORD):

S. 3425. A bill to amend title XVIII of Social Security Act for the purpose of cluding community mental health cen among the entities which may be qual providers of service, and for other purpo to the Committee on Finance.

By Mr. DOLE (for himself and GRAVEL):

S. 3426. A bill to amend title XX of Social Security Act to increase the an dollar limitation with respect to Federa nancial participation in programs ass thereunder; to the Committee on Finan

By Mr. CHAFEE (for himself, Mr. DERSON, Mr. GRIFFIN, Mr. HAS Mr. HATCH, Mr. PAUL G. HAT Mr. HATHAWAY, Mr. HODGES, HUMPHREY, Mr. LAXALT, Mr. LE Mr. MATHIAS, Mr. PELL, Mr. RI Mr. STEVENS, Mr. HANSEN, and ROTH):

S. 3427. A bill to provide for the strikin medals during the XIII Winter Olym Games to commemorate former Olym athletes who have brought honor to United States through their discipline, c age, and accomplishments; to the Comm tee on Banking, Housing, and Urban Af

By Mr. WILLIAMS:

S. 3428. A bill to amend the Higher Edu tion Act of 1965 to raise the limits of inst loans for undergraduate students, to a lenders to use a government service adm tered by the Commissioner of Education the Secretary of the Treasury for the co tion of such loans, and for other purpo to the Committee on Human Resources.

By Mr. JACKSON (for himself and HANSEN) (by request):

S. 3429. A bill to designate the Great F Wilderness, Flathead National Forest, enlarge the Bob Marshall Wilderness, F head and Lewis and Clark National For State of Montana; to the Committee on ergy and Natural Resources.

By Mr. WILLIAMS (for himself Mr. CRANSTON):

S.J. Res. 152. A joint resolution authori and requesting the President to issue a p lamation designating the month of Jun "National First Aid Month"; to the C mittee on the Judiciary.

By Mr. ANDERSON:

S.J. Res. 153. A joint resolution authori the President to proclaim the third wee June 1979 as "National Veterans' Hos Week"; to the Committee on the Judici

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATHAWAY (for himself and Mr. STAFFORD):

S. 3425. A bill to amend title XVIII of the Social Security Act for the purpose of including community mental health centers among the entities which may be qualified providers of service, and for other purposes; to the Committee on Finance.

COMMUNITY MENTAL HEALTH ASSISTANCE ACT OF 1978

● Mr. HATHAWAY. Mr. President, today it is my pleasure to introduce the Community Mental Health Assistance Act of 1978. This bill will amend title 18 of the Social Security Act to establish provider status under medicare for qualified community mental health centers, to provide coverage of partial hospitalization services for mental health care in lieu of inpatient hospitalization, and to provide for reimbursement of outpatient services provided by a community mental health center.

At present, medicare coverage for mental health services is extremely limited. And it has not changed since 1965. The emphasis in current law is on institutionalization, borne out by the fact that more than 80 percent of medicare expenditures for mental health is concentrated on institutional inpatient hospital care. This is true even though the trend in the mental health field is toward deinstitutionalization and provision of care in the least restrictive setting.

In addition, the current medicare system imposes a lifetime limit on reimbursement for inpatient mental health care. At the same time outpatient care is restricted to a maximum of $250 annually while requiring a 50-percent copayment by the recipient, regardless of ability to pay.

As a result of these restrictive requirements, many of our elderly and disabled citizens who need mental health services in fact do not receive them. Or, they must be institutionalized when institutionalization is hardly necessary.

In 1963, Congress passed the Community Mental Health Center's Act to establish a network of local community mental health centers. Funding was provided for initial operation of the centers for 8 years, with the intention that third party payments would provide for the continued financial stability of the centers. This has not in fact been the case. Consequently, many community mental health centers which are "graduating" from the program are forced to decrease services or close down entirely. Surely, this was not our intention. With equal certainty, we must insure that centers remain viable.

The legislation I am introducing today will address the concerns I have raised by providing for medicare coverage of community mental health center services. It will make sure that mental health services, particularly non-institutional services, are more readily available to our elderly citizens while placing community mental health centers on a firm financial footing.

In short, the bill would provide reimbursement for outpatient services provided by a community mental health center. These would be limited to 10 visits per year and could be provided at the community mental health center and in the patient's home where appropriate. The latter provision is included in recognition of the difficulty experienced by many older people in getting to a center. This is particularly true in rural areas.

The bill would also provide coverage for partial hospitalization services in lieu of inpatient hospital care. This provision acknowledges the need to keep people out of costly institutions unless inpatient care is truly necessary. It recognizes the trend in the mental health field toward deinstitutionalization while providing a cost effective alternative.

That partial hospital is cost effective is the conclusion of a study conducted by a private insurance company. I would like to share a description of this study with my colleagues which appeared this month in Hospital and Community Psychiatry and ask unanimous consent that it be inserted in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DAY HOSPITALIZATION AS A COST EFFECTIVE ALTERNATIVE TO INPATIENT CARE: A PILOT STUDY

(By William Guillette, M.D., Medical director, Claim Department, Aetna Life and Casualty Hartford, Conn.; Brian Crowley, M.D., Washington, D.C., S. Alan Savity, M.D. Washington, D.C., and F. Del Goldberg, M.H.A., consultant in Mental Health Administration, Rockville, Md.)

(Two private day hospitals and an insurance company offering group health coverage to federal employees undertook a pilot study to determine if providing insurance coverage for day hospitalization on the same basis as for inpatient treatment was a feasible means of controlling the cost of psychiatric care. The study included 31 patients who otherwise would have been hospitalized; most had histories of severe psychiatric disorders and extensive treatment. Using the measure that the day hospital patients would have been in inpatient treatment for the same number of days, the authors estimate that the use of day treatment saver the insurer more than $255,000. They recommended that day hospitalization be reimbursed on the same basis as inpatient care if a day hospital can meet stringent criteria ensuring that it provides active, appropriate treatment, and they present a list of such criteria.)

Previous well-controlled studies have shown the effectiveness of day hospitalization as an alternative to inpatient care and, indeed, the superiority of the modality to inpatient care in several respects.[1,2] The main purpose of a study we conducted in the Washington, D.C., area was to determine whether day hospitalization was cost-effective from an insurance standpoint—that is, as a means of controlling the rapidly rising costs of inpatient care.

The escalating costs of hospitalization are well known. It has been estimated that $1.7 billion could be saved each year by reducing by just one day the hospital stay of each mentally ill patient in the U.S.[3] Day hospitalization is considerably cheaper per day and, in most cases, requires shorter lengths of stay.[4]

Gunderson and Mosher point out that the costs of treating schizophrenia can be estimated to range between $2.06 and $4.01 billion a year. Of this amount inpatient costs are $2 to $3.9 billion, and outpatient and aftercare costs, including day treatment, are $60 to $100 billion. They state: "Day hospitals, which are less expensive and seemingly equally efficacious for some schizophrenic patients, are now more available. Between 1967 and 1972, for example, all admissions to day care hospitals increased by 184 per cent. . . . It is ironic that the failure of most insurance companies to cover day hospital costs may actually increase their expenditures fo rinpatient services."[5]

Most group health policies equate day hospitalization with outpatient or office care; therefore, if day hospital treatment is provided for at all, it is almost always reimbursed at a lower rate than is inpatient care. Because of the limitations on out-of-hospital coverage, simple economics frequently dictate that the patient be hospitalized. We hope that the results of this study will help convince more third-party payers that for many patients day hospitalization is a cost-effective alternative to inpatient treatment.

A study resulted from changes that Aetna Life and Casualty made in 1974 in mental health benefits for Aetna-insured federal employees in the Washington, D.C., area; Aetna decreased its coverage for outpatient treatment, which included day hospitalization, and thus incentives for using day care were severely decreased.

Two private day treatment centers, the Potomac Foundation for Mental Health in Bethesda, Maryland, and the Silver Spring (Md.) Day Treatment Center, began discussions with Aetna to try to have the benefits restored. Eventually a pilot project to determine if day hospitalization was cost-effective was designed. Aetna was to reimburse the participating day treatment centers on the same basis as for inpatient treatment, collect data, and review costs.

Detailed criteria for the facilities' participation in the study were established, to ensure that appropriate treatment would be provided. The criteria related to accreditation, psychiatric and other staffing, treatment planning, record-keeping and review, and emergency care, among other aspects of day hospital operation; at that time no generally accepted standards for day hospitals existed.

One of the primary requirements of the study design was that patients included in the study would otherwise have been hospitalized; additional rigid criteria for patient participation were established. To make sure that patients included in the sample met the criteria, the complete medical records of each patient were reviewed by Aetna's medical director for claims and also by an independent consultant, a physician associated with a private psychiatric hospital.

The study was begun in September 1975 and continued until June 1977. It was not a controlled study, partly because both centers were committed to the principle that inpatient hospitalization should be avoided and because patients were referred to the centers specifically for day hospitalization.

THE PATIENTS AND THE COSTS

A total of 31 patients—16 males and 15 females—were included in the study. Their ages ranged from 14 to 69, with an average of 30 years. Nine were married, one was divorced, 20 were single, and one was widowed. The majority of the patients had histories of severe psychiatric disorders and fairly extensive prior treatment.

Twenty-four of the patients were diagnosed as psychotic and seven neurotic. Eighteen of the 24 psychotic patients were schizophrenic; three others had a diagnosis of psychotic depression, two of involutional melacholia, and one of chronic psychosis. Of the neurotic patients, four had diagnoses of depressive neurosis, and there was one diagnosis each of anxiety neurosis, adjustment reaction, and alcoholism.

Footnotes at end of article.

When the study ended, all but two of the patients had completed day treatment. The time spent in treatment ranged from three to 190 days, with an average of 53.4 days; the average length of treatment in calendar days was 88.5. The costs of treatment ranged from $315 to $17,829, with an average cost of $5,019.71 per patient.

Eighteen of the 31 patients, or 58 per cent, made significant improvement, as measured by the centers' treatment staffs. They once again became productive members of the community; that is, they returned to work, school, or family activities. Two patients required inpatient hospitalization; one improved and returned to day treatment, and the second appeared to need long-term inpatient care. The other 11 patients showed little or no improvement.

We knew of no valid method of determining the cost-effectiveness of partial hospitalization that would be acceptable to all sections of the health care field. We elected to base our calculations on the premise that if a patient had not been in a day hospital setting, he would have been in inpatient treatment for the same number of days. The measure is crude because obviously some patients might be hospitalized for a longer or shorter time, but we hope that eventually, with enough cases, the lengths of stay will average out and the calculations will yield fairly reliable statistics. We estimated the cost of inpatient care (including hospital and physician's charges) in the Washington, D.C. metropolitan area as $150 a day, which we felt was a conservative figure.

On that basis, if the 31 patients had been hospitalized for the 1,654 days they were in day hospital treatment, the cost would have been $411,150. The cost of partial hospitalization was $155,611; thus there was an estimated on-paper savings of $255,839.

The amount actually saved can be debated indefinitely. However, if the savings were only $50,000 and the care given was appropriate, it should be apparent that partial hospitalization is a cost-effective alternative for selected patients.

CRITERIA FOR REIMBURSEMENT

We recommend that day hospitalization no longer be equated with outpatient care in group health policies but reimbursed on the same basis as inpatient care. However, we make that recommendation with the proviso that, to be eligible for such reimbursement, a day hospital should meet stringent criteria ensuring that it provides appropriate, intensive, high-quality treatment rather than primarily custodial care or training or recreational activities. The criteria established for facilities' participation in the Aetna study would appear to be suitable guidelines:

The program must be accredited by the Joint Commission on Accreditation of Hospitals' Council for Psychiatric Facilities. It may be accredited either as a separate facility or as a service within a facility accredited by JCAH.

The program must be licensed under any existing licensing requirements in that jurisdiction. Where required, the facility must be approved by the applicable health agency and the state certificate-of-need agency.

The program must develop and maintain a long-range development plan approved by the facility's board of directors.

There must be explicit and detailed statements of objectives that include a description of who shall be treated, for what conditions, and by what methods.

The program must have a director who is a board-eligible psychiatrist and who has enough day-to-day clinical and administrative responsibility for the program to assure that there is always adequate psychiatric manpower to meet the program's objectives. The program must be staffed by at least three licensed and board-eligible psychiatrists who are directly involved in the program by providing services to patients, training, and staff supervision. Documentation that a psychiatrist is present at all times during the treatment day must be available.

A registered psychiatric nurse with at least two years' experience in psychiatric programs must be present at all times during the treatment day, as well as other appropriate professionals such as a licensed clinical psychologist, a qualified psychiatric social worker, or both. There must be sufficient professional staff to maintain the objectives of an intensive treatment program.

The program must operate a full day treatment program at least five days a week.

A staff psychiatrist must provide weekly consultation, which includes clinical assessments of patients, to the treatment staff and must conduct appropriate psychotherapy with each patient. Adequately supervised treatment by a psychiatric resident will be acceptable in lieu of direct treatment by a staff psychiatrist.

The program must have individualized treatment plans that include regular input from the psychiatrist. Such plans must include a formal mechanism for discharge planning that is designed to discharge patients promptly to other, more appropriate levels of care. The discharge planning mechanism must be documented, with the documentation available on request.

The program must provide emergency psychiatric care, including overnight care if necessary, and must have a demonstrable capability to respond promptly to crises and emergencies 24 hours a day 365 days a year. Independent, free-standing facilities must have a written agreement with a hospital for the provision of such care.

The program must have the necessary equipment and staff to provide first aid in medical emergencies.

The program must maintain current and complete medical records for each patient, and the records must be available for review, on request, for claims adjudication and for utilization review. Each medical record must contain an admitting notation and diagnosis by a psychiatrist; a complete psychiatric history; a report of a current physical examination, including a medical history and results of necessary laboratory tests; a current and complete treatment plan, including prognosis; and, for discharged patients, a discharge summary.

The program must have a comprehensive written plan for external utilization review and detailed records of utilization review meetings. Utilization review must be conducted at least twice a month by a visiting board-eligible psychiatrist; the psychiatrist must not be beneficially related in any way either to the program or to the facility in which the program is located.

The physical facility and space provided by the program must be adequate for the provision of intensive psychiatric treatment.

Facilities functioning primarily as schools or as training, custodial, or recreational institutions will not be considered day hospital programs for purposes of reimbursement. Schooling, therapeutic or otherwise, is also excluded, as are programs in which schooling is a major modality.

Adequate financial and other records or information must be made available to the insurer so that adjustments may be made for schooling and other nonmedical and nonreimbursable services.

In America psychiatric treatment has been dominated by the use of inpatient hospitalization. In recent years many long-term custodial patients have been discharged to the community, to situations as bad as or worse than they faced as an inpatient. We believe that even more emphasis must be put on alternative forms of psychiatric treatment. Day hospitalization appears to be among the most promising currently available modalities, both clinically and economically.

But in spite of its obvious clinical and nomic advantages, day hospitalization seldom been successful in the private se Since the pilot project was completed, two facilities involved in the study closed. Their closing was a loss to their munities and is indicative of the diffic day hospitalization faces in competing inpatient treatment. We hope that this will encourage third-party payers to e inate the differentials in coverage of the modalities and thus to give support a hi beneficial modality.

FOOTNOTES

[1] M. I. Herz et al., "Day Versus Inpat Hospitalization: A Controlled Study," A icas Journal of Psychiatry. Vol. 127, 1971, pp. 1371–1382.

[2] S. Washburn et al., "A Controlled C parison of Psychiatric Day Treatment Inpatient Hospitalization," Journal of C sulting and Clinical Psychology. Vol. 44, gust 1976, pp. 665–675.

[3] W. Furst, "Daycare: Comprehensive M agement of the Mentally Ill Patient in Community," Sandoz Panorama, Decem 1970, pp. 26–28.

[4] Herz et al., op. cit.

[5] J. G. Gunderson and L. R. Mosher, " Cost of Schizophrenia," American Journa Psychiatry, Vol. 132, September 1975, pp. 906.

Mr. HATHAWAY. Mr. President, legislation is long overdue. The propo I am offering today were recomme by the President's Commission on Men Health, as well as the Rural Health T Force and the Elderly Mental Hea Task Force to the Commission. They w developed in consultation with expert the field and have been adopted by House Ways and Means Committee.

In addition, to enact these propo will not break the bank. The most rec estimate by administration indicates t reimbursement for these services will c approximately $10 million in the f year of operation. I might add here, t I have considered other approaches expanding medicare coverage for men health services, and selected this one cause it will provide valuable and nee services without increasing costs d matically. I have included in the bill c tain safeguards to insure efficient use medicare funds for community men health center services, including a quirement that the center have an e ternal utilization review committee.

Mr. President, I believe the reform am proposing today are a responsible w to insure our senior citizens receive kind of care they need in the least restrictive setting while providing for continued viability of community men health centers. I look forward to cons ering this measure further when it com before the Finance Committee on whi I serve, and hope that it will be enact swiftly.

Mr. President, I ask unanimous co sent that the bill be printed in t RECORD.

There being no objection, the bill wa ordered to be printed in the RECORD, as follows:

S. 3425

Be it enacted by the Senate and House Representatives of the United States America in Congress assembled,

SECTION 1. This Act may be cited as t "Community Mental Health Assistance A of 1978."

SEC. 2. (a) Section 1812(a) of the Social

three partial hospitalization visits will re-

tionally disturbed and mentally ill persons

tion 1864 is in effect (or, in the case of a

nomic barriers for the elderly to utilize

The House bill, H.R. 12972, ...

SEC. 2. (a) Section 1812(a) of the Social Security Act is amended by striking out "and" in paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon and by adding the following two new paragraphs at the end thereof:

"(4) outpatient services provided by a community mental health center for up to 10 visits during a year; and

"(5) partial hospitalization services by a community mental health center for up to 60 visits during a year."

(b) Section 1812(b) of such Act is amended by striking out "or" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon, and by adding the following two new paragraphs at the end thereof:

"(4) outpatient services furnished to him by a community mental health center after such services have been furnished to him for a total of 10 visits during a year; and

"(5) partial hospitalization services furnished to him by a community mental health center after such services have been furnished to him for a total of 60 visits during a year."

(c) Section 1812(c) of such Act is amended by adding the following new sentence at the end thereof: "In determining the 190-day limit with respect to any individual under subsection (b)(3), the Secretary shall include one day for every three partial hospitalization visits to a community mental health center by such individual."

(d) Section 1812(e) of such Act is amended by inserting "outpatient mental health services and partial hospitalization services furnished by a community mental health center," after "extended care services,".

SEC. 3. (a) Section 1814(a)(2) of the Social Security Act is amended by striking out "or" at the end of subparagraph (D), by inserting "or" after the semicolon at the end of subparagraph (E), and by adding the following new subparagraph after subparagraph (E):

"(F) in the case of outpatient services or partial hospitalization services furnished by a community mental health center, by or under the case management of a mental health professional, such services are or were required for the mental health treatment of an individual, and such treatment can or could reasonably be expected to improve the condition for which such treatment is or was necessary;"

(b) Section 1814(a) of such Act is amended by striking out "and" at the end of paragraph (6), by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon, and by adding the following two new paragraphs at the end thereof:

"(8) with respect to services furnished by a community mental health center in connection with a partial hospitalization visit, such center shall make available to the Secretary a statement, in writing and signed by the individual or his representative (pursuant to regulations issued by the Secretary) before receiving such services, indicating that the individual understands that three partial hospitalization visits will reduce by one day the number of days of inpatient psychiatric hospital services to which such individual is entitled during his lifetime under this part; and

"(9) with respect to services furnished by an inpatient hospital in connection with inpatient psychiatric care, such hospital makes available to the Secretary a statement, in writing and signed by the individual or his representative (pursuant to regulations issued by the Secretary) before receiving such care, indicating that use of inpatient hospital services will reduce on a daily basis the lifetime inpatient entitlement under this Act, and that the individual understands that three partial hospitalization visits will reduce by one day the number of days of inpatient psychiatric hospital services to which such individual is entitled during his lifetime."

(c) Section 1814 of such Act is amended by adding the following new subsection at the end thereof:

"(k) Payments for partial hospitalization services by a community mental health center on behalf of an individual which are rendered for visits in excess of 10 visits per year shall be made only after a treatment review committee of a community mental health center has certified prior to the eleventh visit during a year and an external utilization review committee (as defined in section 1861 (ee)) has certified prior to the thirty-sixth visit during such year, that such services are necessary and appropriate.".

SEC. 4. Section 1861 of the Social Security Act is amended by adding the following new subsections at the end thereof:

"Outpatient Services by a Community Mental Health Center

"(bb) The term 'outpatient services by a community mental health center' means the following items and services furnished to an outpatient of a community mental health center by such center in accordance with a treatment plan:

"(1) active diagnostic, therapeutic, or rehabilitative mental health services, including crisis intervention outside the facility and home mental health visits, when provided by a physician or by another qualified mental health professional under the case management of a mental health professional as prescribed by the Secretary;

"(2) such other related services necessary to the mental health of an individual, when provided under the direction of a qualified mental health professional, which are ordinarily furnished to outpatients in such center; and

"(3) all services provided under subparagraph (1) or (2) of this section shall include the participation of a physician as determined by local medical practice or under such guidelines as the Secretary may prescribe for rural and urban mental health manpower shortage areas.

"Partial Hospitalization Services by a Community Health Center

"(cc) The term 'partial hospitalization services by a community mental health center' includes—

"(1) active, professional treatment (with at least seventy-five per centum of the time of attendance in active therapies) of a person with acute mental or emotional disabilities, with such treatment being based upon an individualized treatment plan which is regularly updated;

"(2) coordination of related services to assist treatments; and

"(3) demonstrated capacity to respond to crisis and emergencies of persons in treatment on a 24-hour basis, 365 days during a year (including medical emergencies while the person is in attendance at the facility).

"The treatment plan for such services may include, but is not limited to, diagnosis and evaluation (including psychological, physical, and nutritional assessment), formal and informal psychotherapy (individually or in groups or families), chemotherapy, and other modalities designed to improve the condition of the patient.

"The services of this section are limited to persons not requiring 24-hour inpatient care or 24-hour supervision in non-inpatient care entities.

"Community Mental Health Center

"(dd) The term 'community mental health center' means a public or private entity which—

"(1) is primarily engaged in providing services for the diagnosis and treatment of emotionally disturbed and mentally ill persons, has a requirement that all mental health care be under the supervision of one mental health professional, and has appropriate arrangements to ensure that all patients requiring medical services are referred to a physician;

"(2) in the case of a center in any State in which State or applicable local law provides for the licensing of community mental health centers, is licensed pursuant to such law;

"(3) has bylaws in effect with respect to its staff;

"(4) meets such staffing requirements as the Secretary finds necessary in order to carry out an active program of diagnosis, treatment, and rehabilitation for individuals who are furnished services;

"(5) maintains clinical records including such records as the Secretary finds to be necessary to determine the degree and intensity of the treatment provided to individuals entitled to benefits under this title;

"(6) has in effect a utilization review plan pursuant to subsection (ee);

"(7) has in effect an agreement with a hospital pursuant to subsection (ff);

"(8) has appropriate procedures or arrangements in compliance with applicable State and Federal law, for storing, administering, and dispensing drugs and biologicals; and

"(9) meets the definition of—

"(A) a community mental health center in section 201 of the Community Mental Health Centers Act and the requirements prescribed by regulation thereunder; or

"(B) a community mental health center prescribed in regulation hereunder the effective date of which is no earlier than October 1, 1980, and no later than September 30, 1982.

"Utilization Review Plan of a Community Mental Health Center

"(ee) A utilization review plan of a community mental health center shall be considered sufficient if it is applicable to services furnished by the center to individuals entitled to insurance benefits under this title and if it provides—

"(1) for the review, on a sample or other basis, of admissions to the centers, and the professional services (including drugs and biologicals) furnished, (A) with respect to the mental health necessity of the services, and (B) for the purpose of promoting the most efficient use of available health facilities and services; and

"(2) for such review to be made by an external utilization review committee which is established in a manner as may be approved by the Secretary.

"Transfer Agreement Between Hospital and Community Mental Health Center

"(ff) A hospital and a community mental health center shall be considered to have a transfer agreement in effect if, by reason of a written agreement between them or (in case the two institutions are under common control) by reason of a written undertaking by the person or body which controls them, there is reasonable assurance that—

"(1) transfer of patients will be effected between the hospital and the community mental health center whenever such transfer is medically appropriate as determined by the attending physician; and

"(2) there will be interchange of medical and other information necessary or useful in the care and treatment of individuals transferred between the institutions, or in determining whether such individuals can be adequately cared for otherwise than in either of such institutions.

Any community mental health center which does not have such an agreement in effect, but which is found by a State agency (of the State in which such facility is situated) with which an agreement under Section 1864 is in effect (or, in the case of a State in which no such agency has an agreement under Section 1864, by the Secretary) to have attempted in good faith to enter into such an agreement with a hospital sufficiently close to the facility to make feasible the transfer between them of patients and the information referred to in paragraph (2), shall be considered to have such an agreement in effect if and for so long as such agency (or the Secretary, as the case may be) finds that to do so is in the public interest and essential to assuming extended care services for persons in the community who are eligible for payments with respect to such services under this title.".

SEC. 5. (a) Section 1861(u) of the Social Security Act is amended by inserting "community mental health center" after "health agency".

(b) Section 1861(w) of such Act is amended by inserting "community mental health center" after "nursing facility".

SEC. 6. (a) Section 1864(a) of such Act is amended—

(1) by inserting "or whether a facility therein is a community mental health center as defined in section 1861(dd)" before the period at the end of the first sentence;

(2) by inserting "a community mental health center," after "rural health clinic," in the second sentence; and

(3) by inserting "community mental health center" after "laboratory," in the fifth sentence.

(b) Section 1865(a)(1) of such Act is amended by inserting "or a community mental health center after October 1, 1980" after "hospital" and before "by the Joint Commission".

(c) Section 226(c)(1) of such Act is amended by inserting "and partial hospitalization services and outpatient services furnished by a community mental health center" before "as such terms".

(d) Section 7(d)(1) of the Railroad Retirement Act of 1974 is amended by inserting "partial hospitalization services and outpatient services furnished by a community mental health center," after "inpatient hospital services,".●

● Mr. STAFFORD. Mr. President, medicare coverage of mental health services has been unchanged since 1965. The lack of adjustment of medicare to Federal, State, and local deinstitutionalization efforts and strategies to promote ambulatory mental health services has contributed to the abandoning of many elderly and disabled Americans in need of mental health care.

Originally designed to concentrate Federal funds for active treatment, the current medicare program attempts to avoid refinancing of State institutions and nonmedical services by placing limits on the lifetime use of inpatient services and limiting outpatient mental health coverage to a maximum of $250 annually while requiring a 50-percent copayment by the elderly or disabled recipient, even if that person is poor.

As a result, the medicare system of financing has created numerous disincentives which: first, do not allow services meaningful to the patient's choice; second, foster overinstitutionalizing; third, fund mental health services through health agencies and providers more than through specialties for mental health; fourth, promote unnecessary utilization of health care providers—particularly ICF's, nursing homes, and other inpatient facilities—when mental health services are needed.

Mr. President, the bill we are introducing today would: first, eliminate economic barriers for the elderly to utilize mental health services; second, offer freer choice to the aged and disabled who participate in medicare, so that they need not be placed in institutional settings; third, breach the gap in existing law between medicare and the Federal community mental health centers, so that services are more readily available to the elderly and we do not neglect our original course of sponsoring community mental health care; fourth, provide cost-effective alternatives in service delivery, which insurance companies incorporate but which are not available in medicare; fifth, establish strict controls over the use of medicare funds, so that outpatient mental health services are provided only when stiff utilization review is in effect; sixth, take steps to concentrate medicare reimbursement and financing on the goals and outcomes of services rather than on the professional judgment of providers.

Mr. President, this proposal was developed in consultation with experts in the field and implements two of the most important mental health financing recommendations of the President's Commission on Mental Health, as well as the recommendations of the Rural Health Task Force and the Elderly Mental Health Task Force to the Commission.●

By Mr. DOLE (for himself, Mr. GRAVEL, Mr. CRANSTON, Mr. PERCY, Mr. WILLIAMS, Mrs. HUMPHREY, Mr. HATHAWAY, Mr. RANDOLPH, Mr. MATSUNAGA, Mr. ANDERSON, Mr. JOHNSTON, Mr. RIEGLE, Mr. SARBANES, and Mr. DURKIN):

S. 3426. A bill to amend title XX of the Social Security Act to increase the annual dollar limitation with respect to Federal financial participation in programs assisted thereunder; to the Committee on Finance.

● Mr. DOLE. Mr. President, in June the Senator from Alaska (Mr. GRAVEL) and I introduced amendment No. 3077 to H.R. 7200, the public assistance amendments of 1977. Our amendment provided for a raise in the ceiling on funding for title XX of the Social Security Act, to $2.9 billion in fiscal year 1979; $3.15 billion in fiscal year 1980; and $3.45 billion in fiscal year 1981.

Today, we are introducing the same increases to the title XX ceiling as a separate piece of legislation. I am pleased to have as cosponsors to the bill the Senator from California (Mr. CRANSTON), the Senator from Illinois (Mr. PERCY), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Maine (Mr. HATHAWAY), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Minnesota (Mr. ANDERSON), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Michigan (Mr. RIEGLE), the Senator from Maryland (Mr. SARBANES), and the Senator from New Hampshire (Mr. DURKIN).

HOUSE ACTION

Since the time we introduced our amendment, the House has acted favorably on legislation which would raise the ceiling to the same levels we propose. The House bill, H.R. 12973, was approv by a vote of 346 to 54. The vote is indi tive of the broad support which this p gram enjoys.

Some 2 months after we introdu this measure as an amendment, the S ate Finance Public Assistance Subco mittee announced its intent to hold hearing on August 18 on the justificati of raising the title XX ceiling. This m ter is obviously generating more a more interest as an issue in itself, rati than remaining a sideline attraction another piece of legislation. Because this, I think it is timely to introduce n the increase in title XX funding as a s arate bill, so that it might be consider at this Friday's hearing.

It is my hope that witnesses will co ment on this bill, for to my knowled it is the only bill calling for a raise in t ceiling that has been introduced in t Senate.

HISTORY

Prior to 1972, funding for fiscal se ices was open-ended, with no lim placed on Federal spending. Althou there was a 25-percent State match requirement, the programs were loos regulated and States found it easy to Federal sources. Because State progra were growing so fast, estimates made the early 70's predicted a program c of $6 billion by fiscal year 1972. To c cumvent this possibility, the Congr imposed a $2.5 billion ceiling on autho izations in 1972. In 1975, the present ti XX was created to provide structure the array of Federal and State soc service programs. Although eligibil for services was extended to the worki poor and to neglected or abused pers for the first time, the ceiling was left the 1972 level.

PROGRAMS FUNDED BY TITLE XX

By law, title XX money must go in programs which help individuals beco self-supporting or less dependent up public assistance, and to progra which protect abused individuals. P grams funded may include services child care; foster care; training and e ployment; counseling; transportatio meals; health support; and appropri programs for the aged and handicapp In Kansas, funding priority goes to d care services which allow the parent become employed. Residential servi for the handicapped and mentally r tarded are also high on the list, whe social training and self-care skills taught. Work activities for the hand capped are funded, in addition to hom maker services for the elderly a handicapped. Abused and neglect children are eligible for protective se ices under title XX, and Kansas operat a family support program to facilit adoption of minority children.

Title XX is particularly well-liked, b cause except for the broad restricti listed above, there are no Federal strin attached to the money. States may u the money as they see fit, which allo for decisions of need to be made at t State level.

CONCLUSION

Mr. President, because of the impo which programs funded by title XX a making in our communities and in o States, I feel we have a responsibility

promote and protect our past investment. If these social services programs

books and it is one of the most success-

will be $3.45 billion. These increases fall

will purchase these medals from the

promote and protect our past investment. If these social services programs enable parents to work, handicapped persons to become self-supporting, and children to grow up in a caring environment, then I think we are making a wise and responsible investment with Federal dollars. I hope that this legislation will receive favorable consideration.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3426

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, effective with respect to the fiscal year beginning October 1, 1978, and each succeeding fiscal year—

(a) section 2002(a)(2)(A) of the Social Security Act is amended by striking out "$2,500,000,000" and inserting in lieu thereof "the dollar amount specified under subparagraph (E) for such fiscal year", and

(b) section 2002(a)(2) of such Act is amended by adding at the end thereof the following new subparagraph:

"(E) The dollar amount in effect for purposes of subparagraph (A) shall be—

"(i) $2,900,000,000 for the fiscal year beginning October 1, 1978;

"(ii) $3,150,000,000 for the fiscal year beginning October 1 1979;

"(iii) $3,450,000,000 for the fiscal year beginning October 1, 1980 and for each succeeding fiscal year.".

● Mr. GRAVEL. Mr. President, today Senator DOLE and I are introducing legislation to raise the entitlement for title XX of the Social Security Act, which provides comprehensive social services. Twelve of our colleagues have endorsed our proposal: Senator ANDERSON, Senator CRANSTON, Senator DURKIN, Senator HATHAWAY, Senator HUMPHREY, Senator JOHNSTON, Senator MATSUNAGA, Senator PERCY, Senator RANDOLPH, Senator RIEGLE, Senator SARBANES, and Senator WILLIAMS.

The history of Federal involvement with the social service programs has been consistently supportive. Partisan politics have not dissipated the support for strong social service programs designed to meet the myriad needs of the vulnerable people in our population. Unlike other Federal matching programs, social service programs have always enjoyed a larger Federal participation.

By 1972, the Federal participation in these programs had mushroomed and no leveling of Federal effort was anticipated. Congress reacted reasonably to this situation by imposing a ceiling on the Federal investment in the social service program. At the same time, Congress reiterated its overall support for comprehensive services to assist the indigent and vulnerable by maintaining its percentage share of funding.

In 1975, Congress improved the social service programs by creating title XX, which consolidated a plethora of social service programs under one title. The need for supportive services regardless of income was recognized in the broadened eligibility criteria included in title XX.

Without doubt, Mr. President, the developing title XX program is one of the most humanitarian programs on the books and it is one of the most successful. Who can deny the personal and economic benefit helping the elderly remain independent and live their last years with dignity? Title XX provides this assistance. Who would deny innocent children who are the victims of violence and abuse protective services?

Who would deny their families the counseling necessary to cope with domestic violence? Title XX provides these services. Who would deny the mentally retarded an opportunity to live outside an institution, in a self-sufficient environment? Title XX provides this opportunity.

To be sure Mr. President, many of us either because of income or because we enjoy stable, healthy lives, will never need title XX services. But for those less fortunate these services are the helping hand we all recognize can make the difference between an institutionalized existence and a self-sufficient life.

From an economic viewpoint I would rather spend my tax dollars on preventing institutionalization, welfare dependence, criminal prosecutions, custody battles, family dissolution, and so forth, than aggravate the social and economic costs of subsidizing the above.

Congress, I think, agrees with me. As I stated earlier we have consistently asserted our strong support for the title XX programs and our sensitivity to the crucial need for these services. It is time for us to once again examine our commitment to title XX because it is no longer functioning in an acceptable manner.

When we imposed a $2.5 billion ceiling on Federal participation in the title XX program it was assumed that States would have some flexibility to expand and improve their social service programs. Three years later, when title XX was written the ceiling remained, although the scope of the program expanded. With the increased demand on the program in terms of services, eligible population, and inflation the current ceiling is no longer relevant. Our social mores have changed since 1972. Divorce is on the rise, domestic abuse is out of the closet, and unemployment is critically high. These phenomena have contributed to an increased need for services. But the need cannot be approached, let along satisfied, when the Federal funding share now buys only half the services it bought in 1972.

Almost every State has reached its maximum allocation under the title XX formula. This means that title XX administering agencies must begin to curtail services and/or limit the people who will receive services. In addition, the providers of services can no longer involve the community in designing a long-range program of services to meet the local community's needs.

At this point, planning is an exercise of distributing insufficient resources among critical social services. The situation will not get better, until we lift the Federal funding ceiling for title XX.

Senator DOLE and I are proposing a staggered 3-year increase in the ceiling: $200 million in fiscal year 1979, $250 million in fiscal year 1980, and $300 million in fiscal year 1981. By 1981 the ceiling on Federal participation in title XX will be $3.45 billion. These increases fall short of matching 6 years of inflation as measured by the Consumer Price Index, which has increased 44.9 percent since 1972, but they will reinstate effective service programs.

The first year of increased funding will begin to reestablish some of the lapsed social service programs and encourage extending services to the entire title XX population. With the knowledge of second and third year funding increases, administering agencies can satisfy the planning requirements of title XX by involving the community in creating a mixture of services designed to meet the specific needs of that population.

Mr. President, I have not discussed this legislation with anyone who has not admitted the necessity of raising the title XX funding ceiling. In the House of Representatives, 130 Members cosponsored similar legislation introduced by Representatives KEYS and FRASER. In June the House overwhelmingly approved the 3-year increases. In addition, some of the most representative public interest groups have endorsed this legislation including the National Governors Association, the National Association of Counties, the National Conference of State Legislatures, the National Association of Social Workers, the National Association of Retarded Citizens, the National Council on Aging, the AFL–CIO, Goodwill Industries, Epilepsy Foundation of America, the Appalachian Child Development Advocates, the National Association of Retired Persons, the League of Women Voters, and the Easter Seal Society.●

By Mr. CHAFEE (for himself, Mr. ANDERSON, Mr. GRIFFIN, Mr. HASKELL, Mr. HATCH, Mr. PAUL G. HATFIELD, Mr. HATHAWAY, Mr. HODGES, Mrs. HUMPHREY, Mr. LAXALT, Mr. LEAHY, Mr. MATHIAS, Mr. PELL, Mr. RIEGLE, Mr. STEVENS, Mr. HANSEN, and Mr. ROTH):

S. 3427. A bill to provide for the striking of medals during the XIII winter Olympic games to commemorate former Olympic athletes who have brought honor to the United States through their discipline, courage, and accomplishments; to the Committee on Banking, Housing, and Urban Affairs.

U.S. OLYMPIC COMMEMORATIVE MEDALS ACT

● Mr. CHAFEE. Mr. President, today I am introducing the U.S. Olympic Commemorative Medals Act.

This legislation directs the Secretary of the Treasury to mint a series of national medals to commemorate the achievements of past U.S. Olympians. When adopted, my bill will accomplish two worthy objectives.

First, it will establish a unique way of giving national recognition to individual American athletes for their excellence in world amateur competition.

Second, revenue from the medal program will be an important source of income for the U.S. Olympic Committee (USOC) which relies entirely on private contributions for its funds.

Mr. President, I must stress that this program will not cost the taxpayers a penny. Quite to the contrary. The USOC

will purchase these medals from the Treasury for the cost of their production plus a fee of 25 percent. They will then be marketed throughout the United States, as well as abroad, with a return to the Olympic Committee of more than a $1 million profit. The money will then be put toward the committee's projected $26 million budget to prepare U.S. athletes for the 1980 Olympic games to be held in Moscow and Lake Placid, N.Y.

My proposal calls for the U.S. Mint to strike as many as 250,000 sets of medals, each set containing four different designs. In all, there would be a million medals produced. It is intended that 5,000 sets be made of gold, 45,000 of silver, and the remaining 200,000 of bronze.

The four medals in each set will honor the outstanding performance of a male athlete and a female athlete from the past 21 Summer Olympiads and a male athlete and a female athlete from the past 12 Winter Olympic Games. The legislation does not create an ongoing program but merely authorizes the manufacture and sale of national commemorative medals in conjunction with the 1980 Olympics.

Mr. President, for those who are not that familiar with the functions and responsibilities of the U.S. Olympic Committee, let me take a moment to explain. The USOC, under a Federal charter granted by Congress in 1950, has the job of selecting, equipping, transporting, and maintaining U.S. team members who compete in the quadrennial Olympic Games, as well as in the Pan American Games.

It has been without Government financial support of any kind, relying entirely on individual and corporate contributions for its resources.

In the past couple of years, the USOC has begun a vigorous effort to expand its activities, including the construction and operation of its first year-round training facilities in Squaw Valley, California and Colorado Springs, Colo. Similar facilities are also planned in three other parts of the country. By this expanded program, the USOC is bringing together amateur athletes of all ages from all regions for periodic training sessions and work with specialists in the field of sports medicine.

If we want to continue having good results with our athletic programs and continue to be a leader in world amateur sports, it is going to take an effort like this.

Obviously, Mr. President, it is also going to take money, and that's why my bill is important. It provides a dignified and innovative way to assist the U.S. Olympic Committee with its fundraising initiatives. And it does so without spending any Federal Government money. I seriously hope that our colleagues on the Banking Committee will give this bill prompt consideration so that the medal program can be well underway by 1980.

Mr. President, I am honored to be joined by 16 cosponsors in introducing this bill. They are Senators ANDERSON, HASKELL, HATCH, HATFIELD of Montana, HATHAWAY, HODGES, HUMPHREY, LAXALT, LEAHY, MATHIAS, PELL, RIEGLE, STEVENS, HANSEN and ROTH.

At this point in the RECORD, I ask unanimous consent that the text of my bill be printed along with a statement in support from the U.S. Olympic Committee.

There being no objection, the bill and statement were ordered to be printed in the RECORD, as follows:

S. 3427

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "United States Olympic Commemorative Medals Act".

SEC. 2. In commemoration of former Olympic athletes who have best exemplified the spirit of discipline, self-sacrifice, courage, and fair play of the amateur athlete, and in recognition of the contribution of the Olympic athlete to national prestige and goodwill, the Secretary of the Treasury (hereinafter referred to as the "Secretary") shall strike and furnish to the United States Olympic Committee (hereinafter referred to as the "Committee") not more than 1,000,000 medals of four different designs. The medals shall be designed to commemorate female and male athletes who have participated in prior summer and winter Olympic Games, and shall be designed by the Committee with the concurrence of the Commission on Fine Arts. The decision of the Committee concerning the design of the medals shall be subject to the approval of the Secretary. The medals, which may be disposed of at a premium, shall be made and delivered at such times as may be required by the Committee in quantities of not less than 2,000 medals of each design, but in any event not more than 250,000 medals of each design. No medals shall be made after December 3, 1980.

SEC. 3. The Secretary shall cause the medals issued pursuant to this Act to be struck and issued in such various materials and in such quantities and size or sizes as he may determine after consultation with the Committee.

SEC. 4. The medals shall be considered to be national medals within the meaning of section 3551 of the Revised Statutes (31 U.S.C. 368).

SEC. 5. The Secretary of the Treasury shall cause such medals to be struck and furnished at not less than the estimated cost of manufacture, including labor, materials, dies, use of machinery, and overhead expenses, plus twenty-five percent of the costs attributable to labor, use of machinery and overhead expenses. Security satisfactory to the Director of the Mint shall be furnished to indemnify the United States for full payment of the cost of manufacture of the medals.

STATEMENT BY THE UNITED STATES OLYMPIC COMMITTEE RELATING TO THE PROPOSAL TO AUTHORIZE NATIONAL MEDALS RECOGNIZING THE POSITIVE AND LASTING VALUES OF UNITED STATES PARTICIPATION IN THE OLYMPIC GAMES, AND UNITED STATES ATHLETES OF THE PAST WHO HAVE BEST EXEMPLIFIED THE SPIRIT AND VALUE OF THE OLYMPIC GAMES

THE UNITED STATES OLYMPIC COMMITTEE

The United States Olympic Committee (USOC) is recognized by the International Olympic Committee as the official organization responsible for United States participation in the Olympic Games—as well as the Pan American Games. Operative since its original constitution and by-laws were adopted in 1921, the USOC was incorporated by Act of Congress in 1950 (Public Law 805) to carry out the purpose of developing creditable and sportsmanlike participation and representation of the United States in the Olympic and Pan American Games. To the long-established responsibility for selecting, equipping, transporting and maintaining U.S. team members at the site of the Games, the USOC in 1977 established year-round training centers in Squaw V California and Colorado Springs. More training centers are expected to be acti in the near future in other parts o country.

UNITED STATES INVOLVEMENT IN THE OL PROGRAM

Since the founding of the modern O pic Games in Athens (1896) more than 000 young American men and women participated in the Summer and W Games. Through 1976, over 1,000 of have won gold medals—symbolic of place in this foremost international am sports competition.

The United States of America was host to the III Olympiad in St. Louis (and the X Olympiad in Los Angeles (1 In addition, this country has been the of two Olympic Winter Games: Lake P in 1932 and Squaw Valley in 1960. Lake id will again be the Winter Games ho 1980, and Los Angeles is the sole dec candidate for the XXIII Olympiad in

THE PROPOSED OLYMPIC NATIONAL ME

The USOC seeks Congressional autho tion for the U.S. Mint to strike and fu a set of national medals in 1979 and an ditional set of medals in 1980. They w provide recognition of the positive lasting values of Olympic Games parti tion and commemorate former United S athletes who have best exemplified the s of discipline, self-sacrifice, courage and play, thereby contributing to national tige and goodwill. Each set would repre a female and male athlete from the Sum Olympic Games and a female and athlete from the Winter Olympic Games. athlete selected would be from among t who participated for the United States tween 1896 and 1964 inclusive.

The medals would thus honor people w superior deeds and achievements are re sentative of the finest of accomplishm and service to the Nation, in keeping the purpose of section 3551 of the Re Statutes (31 U.S.C. 368). Up to 250 medals of any one design would be furni without expense to the Government, in size or sizes and of such materials as Secretary of the Treasury and Directo the Mint may determine after consulta with the USOC.●

By Mr. WILLIAMS:

S. 3428. A bill to amend the Hig Education Act of 1965 to raise the li of insured loans for undergraduate dents, to allow lenders to use a Gove ment service administered by the C missioner of Education and the Se tary of the Treasury for the collectio such loans, and for other purposes; the Committee on Human Resources.

CAPITAL AVAILABILITY FOR HIGHER EDUCA AMENDMENTS OF 1978

● Mr. WILLIAMS. Mr. President, I introducing today a measure which improve and enhance the very foun tion of the way the Federal Governm assists students to pay for their coll costs. This measure, the Capital Av ability for Higher Education Ame ments of 1978, places responsibility assumption of college costs primarily each student and amortizes the cost higher education by payroll deducti calibrated to the student's income af graduation. It entrusts collection of defaulted loans to the Internal Reve Service once payments to the priv bank lender of a student loan h ceased. It thereby encourages the parti pation of banks reluctant to grant s

dent loans in light of high default rates and the burdens of administration of collection of defaulted loans. It also makes loans more attractive to college students from $2,500 to $3,500 in a year and from $7,500 to $10,500 in a lifetime under the guaranteed student loan program.

It should be emphasized that this measure encourages independence for families and fiscal responsibility for Government. By providing more realistic levels of loan support through its guarantees, the Federal Government frees middle and lower income families from the multiyear indebtedness that often prohibits college education for their children. By shifting the burden to the children themselves, at least in part, the prospective earnings of the student become the vehicle by means of which college expenses can be financed. And by assisting in the payroll deduction method when direct loan repayments are difficult, students are provided the most painless possible, regular method with which to discharge their indebtedness.

The fiscal responsibility of Government is enhanced by assuring lowest possible payments of the guarantees due the private lenders in situations of default. The payroll deduction plan maximizes the repayment from low earning or reluctant graduates and thereby would reduce Federal revenues spent in reimbursing creditor lenders who otherwise would turn to the Federal Treasury in exercising their guarantees under the GSL program.

The measure supports the participation of the private sector of the economy by providing low-cost incentives into the student loan market. The circulation of loans from private lenders is thereby enhanced and the result would be a healthier education loan market in general.

This is a simple plan, one calculated to relieve inordinate college burdens from families, and at the same time designed to make the guaranteed student loan program entirely efficient.

The bill would shift the collection responsibility from banks, which have found this administrative function troublesome, to the Internal Revenue Service, which has a proven record of performance for collecting money owed the Government. It would guarantee to the taxpayer a reduction of student loan defaults in a program which has served the public interest well since the mid-1960's and which has guaranteed $9.6 billion in loans.

The bill permits payback of student loans through the normal channels, that is, directly to the lending institutions, or through regular payroll deductions. When the payroll deduction method is utilized, loan repayments are calculated in terms of the former student's current income.

Mr. President, I believe this measure is much needed in order to restore confidence in our guaranteed student loan program and am hopeful that it will be viewed as an answer to the difficult question of equitable and adequate financing of the severe costs of higher education.

Mr. President, I now ask unanimous consent that the text of this bill along with an explanatory factsheet be included in the RECORD.

There being no objection, the bill and fact sheet were ordered to be printed in the RECORD, as follows:

S. 3428

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Capital Availability for Higher Education Amendments of 1978".

SEC. 2. That part B of title IV of the Higher Education Act of 1965 is amended—

(1) by striking out "$2,500" each place it appears in sections 425(a)(1), 428(b)(1)(A), 428(a)(1)(A), and 428(a)(2)(A), and inserting in lieu thereof "$3,500"; and

(2) by striking out "$7,500" each place it appears in sections 425(a)(2), 428(b)(1)(B), 428A(a)(1)(A), and 428A(a)(2)(A), and inserting in lieu thereof "$10,500".

SEC. 3. Part B of title IV of the Higher Education Act of 1965 is amended by adding after section 427 the following new section:

"COLLECTION OF LOANS BY THE FEDERAL GOVERNMENT

"SEC. 427A. (a)(1) An eligible lender may elect to have a loan made in accordance with this part collected by the Secretary of the Treasury (hereinafter in this section referred to as the "Secretary") and the Commissioner, as provided in this section. Any such election shall be made not later than twelve weeks after the date on which the borrower ceases to carry at an eligible institution at least one-half of the normal full-time academic workload as determined by the institution, in a manner prescribed by the Commissioner.

"(2) The Commissioner shall promptly notify a borrower with respect to whom an election has been made by an eligible lender under paragraph (1) of such election and the corresponding repayment status and obligations of the borrower specified under this section.

"(b)(1) The Commissioner shall make an agreement with any eligible lender which makes an election under subsection (a) with respect to a loan, which—

"(A) provides that the lender will transmit to the Commissioner all documents necessary for the collection of the loan for which such election is made; and

"(B) provides that the Commissioner will make an annual payment to such lender of an amount equal to the amount computed under subsection (d), to the extent that amounts are appropriated from the fund established by subsection (f).

"(2) The Commissioner shall not make an agreement under paragraph (1) with a lender unless he is assured that such lender does not discriminate by pattern or practice against any particular class or category of students by requiring that, as a condition to the receipt of a loan, the student or his family maintains a business relationship with the lender.

"(c)(1) With respect to each loan for which an agreement is made under this section, the Commissioner shall—

"(A) transmit to the Secretary such information as may be required to enable the Secretary to carry out the duties established under paragraph (2);

"(B) make a payment not later than October 15 of each year to the lender of an amount equal to the amount computed under subsection (d), to the extent that amounts are appropriated from the fund established by subsection (f); and

"(C) take enforcement and collection measures in the case of a delinquent payment referred by the Secretary under paragraph (2)(C).

"(2) The Secretary shall—

"(A) make available, with any information and directions relating to the filing of a Federal income tax return, a table containing the amounts stated in subsection (e)(1) for which borrowers may be liable, and such other information as may be necessary for a borrower to compute the amount of his annual payment under such subsection;

"(B) keep records of the amounts repaid with respect to each loan for which an agreement is made under this section, and transmit to each borrower an annual statement of his loan balance; and

"(C) refer each case of a delinquent payment to the Commissioner for enforcement and collection.

"(d)(1) The amount of the annual payment made by the Commissioner to a lender under subsection (c)(1)(B) for a loan for which an agreement is made under this section shall be equal to the total amount which would have been repaid with respect to such loan by the borrower during the appropriate twelve-month period in the absence of an agreement under subsection (b)(1), except that such amount shall be—

"(A) increased by an amount equal to any excess of—

"(i) the amount of interest, computed at a yearly rate of 7 per centum, which would have been earned during the appropriate twelve-month period on amounts repaid if repaid by the borrower in the absence of an agreement under subsection (b)(1); over

"(ii) the amount of interest, computed at a yearly rate of 7 per centum, which will accrue on the amount of the annual payment under subsection (c)(1)(B) (without regard to the increase or decrease under this paragraph) between the time of such payment and the end of the appropriate twelve-month period; and

"(B) decreased by an amount equal to any excess of—

"(i) the amount determined under clause (ii) of subparagraph (A), over

"(ii) the amount determined under clause (i) of subparagraph (A).

"(2) For purposes of this section, the term 'appropriate twelve-month period' means, with respect to an annual payment under subsection (c)(1)(B), the twelve-month period in which such payment is made, which begins with the month in which the first periodic repayment would have been due from the borrower if no agreement had been made under this section.

"(e)(1) In any case in which an agreement is made with respect to a loan under subsection (b)(1), the student borrower shall be liable annually for an amount of principal, together with interest thereon, which is based upon the assessable income of such student, as follows:

"(A) if assessable income for a given taxable year is less than $8,500, such borrower shall be liable for no repayments as to principal, and shall be liable for not more than one-half of the interest accruing during such year;

"(B) if assessable income for a given taxable year is at least $8,500 but less than $13,500, the borrower shall be liable for payments for that year totaling 1 per centum of such income per each $2,000, or fraction thereof, of the total principal amount borrowed;

"(C) if assessable income for a given taxable year is at least $13,500 but less than $18,500, the borrower shall be liable for payments for that year totaling 1½ per centum of such income per each $2,000, or fraction thereof, of the total principal amount borrowed;

"(D) if assessable income for a given taxable year is at least $18,500 but less than $23,500, the borrower shall be liable for payments for that year totaling 2 per centum of

such income per each $2,000, or fraction thereof, of the total principal amount borrowed;

"(E) if assessable income for a given taxable year is at least $23,500 but less than $28,500, the borrower shall be liable for payments for that year totaling 2½ per centum of such income per each $2,000, or fraction thereof, of the total principal amount borrowed; and

"(F) if assessable income for a given taxable year is at least $28,500, the borrower shall be liable for payments for that year totaling 3 per centum of such income per $2,000, or fraction thereof, of the total principal amount borrowed.

"(2)(A) Each borrower making repayment of a loan pursuant to the method provided in this section shall make an annual payment equal to any excess of—

"(i) the amount for which such borrower is liable for the taxable year under paragraph (1), over

"(ii) the amount withheld from such borrower's wages during the taxable year under paragraph (4).

"(B) Any payment due under subparagraph (A) shall be made, in a manner provided by the Secretary, not later than—

"(i) the date on or before which the borrower's Federal income tax return is required to be filed for the taxable year; or

"(ii) April 15 for the preceding calendar year, if such borrower is not required to file such a return.

"(3)(A) The Secretary shall refund to each borrower making repayment of a loan pursuant to the method provided in this section—

"(i) at such time and in such manner as the Secretary provides by regulation, an amount equal to any excess of the amount determined in clause (ii) of paragraph (2)(A) for a taxable year, over the amount determined in clause (i) of paragraph (2)(A) for such taxable year; and

"(ii) after a final payment is made by such borrower, an amount equal to any excess of the sum of payments over the total principal amount borrowed.

"(B) The Secretary shall notify a borrower, when a final payment is made by such borrower, that the borrower's obligations with respect to his loan have been fulfilled and that no further payments will be due.

"(C) For purposes of this pargaraph—

"(i) the term 'equal payment' means a payment under paragraph (2)(A) or an amount deducted and withheld under paragraph (4) which includes an amount of principal which, when added to all amounts of principal previously paid or deducted and withheld, equals or exceeds the total principal amount of the loan; and

"(ii) the term 'sum of payments' means the present value of the final payment and all amounts previously paid or deducted and withheld under this section, discounted by 7 per centum annually for the period of the loan, not counting any period for which an interest subsidy is paid for such loan under section 428.

"(4)(A) Each employer required by section 3402 of the Internal Revenue Code of 1954 to deduct and withhold amounts upon wages shall deduct and withhold upon the wages of borrowers making repayments under this section amounts determined on the basis of tables prescribed by the Secretary under subparagraph (C). Such deducting and withholding shall begin when the borrower first receives wages after the start of his repayment period. If an employer fails to deduct and withhold an amount in violation of this paragraph, and thereafter such amount is paid by the student borrower, such amount shall not be collected from such employer. Nothing in the preceding sentence shall relieve an employer from liability for any penalties for such failure to deduct and withhold.

"(B) The Secretary shall by regulation establish a method for a borrower required to make repayments under this section to report his repayment status and the date on which his repayment period begins to employers for purposes of the deduction and withholding requirement of subparagraph (A). Such a report shall be made—

"(i) immediately after the date on which the borrower ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, if the borrower has been notified before such date of an election under subsection (a) and continues in employment held before such date;

"(ii) when the borrower is notified of such an election after such date if he is employed at such time; and

"(iii) whenever the borrower, after notification of such an election, accepts employment after such date.

Any borrower who willfully furnishes a false or fraudulent report required under this subparagraph or who willfully fails to furnish a report in the manner, at the time, and showing the information required by the Secretary under this subparagraph shall, for each such offense, upon conviction thereof, be subject to the same penalties as are applicable to the furnishing of fraudulent statements or the failure to make statements under section 7204 of the Internal Revenue Code of 1954.

"(C) The Secretary shall by regulation prescribe tables establishing amounts to be deducted and withheld under subparagraph (A). Such tables shall be designed so that the total of the amounts withheld from a borrower's wages during a taxable year will approximately equal the amount for which the borrower is liable for such taxable year under paragraph (1).

"(D) Each employer required to deduct and withhold amounts upon wages under subparagraph (A) shall make payment of such amounts to the Secretary, at such time and in such manner as the Secretary prescribes, and no such employer shall be liable to any other person for the amount of any such payment.

"(E) Amounts paid to the Secretary under subparagraph (D) shall be deposited in the fund established by subsection (f)(1).

"(F) Any employer who fails to deduct and withhold amounts upon wages in accordance with this paragraph shall be liable to the Secretary for a penalty of an amount equal to—

"(i) 5 per centum of any amounts which the employer negligently fails to deduct and withhold; and

"(ii) 50 per centum of any amounts which the employer willfully or fraudulently fails to deduct and withhold.

"(G) The Secretary shall promulgate such regulations as are necessary to administer this paragraph.

"(5) For purposes of this subsection—

"(A) the terms 'wages' means wages as defined by section 3401(a) of the Internal Revenue Code of 1954;

"(i) in the case of an unmarried individual, such individual's adjusted gross income;

"(ii) in the case of a married individual who does not file a joint return under section 6013 of the Internal Revenue Code of 1954—

"(I) if such individual's adjusted gross income equals or exceeds the adjusted gross income of such individual's spouse, the adjusted gross income of such individual; and

"(II) if such individual's adjusted gross income is less than the adjusted gross income of such individual's spouse, one-half the combined adjusted gross incomes of such individual and such individual's spouse;

"(iii) in the case of a married indi
who files a joint return under section 6
the Internal Revenue Code of 1954, on
the total adjusted gross income of th
dividual and his or her spouse; and

"(iv) in the case of an individual n
quired to file a Federal income tax r
an amount equivalent to amounts
mined under clauses (i), (ii), and (ii
established by the Secretary in regulati

"(C) the term 'adjusted gross in
means adjusted gross income as defin
section 62 of the Internal Revenue Co
1954;

"(D) marital status shall be determin
the same manner as marital status is
mined under section 143 of the Internal
nue Code of 1954;

"(E) the term 'taxable year' means—

"(i) a taxable year as defined by se
441(b) of the Internal Revenue Code of
or a calendar year in the case of a bor
who is not required to file a Federal in
tax return for a taxable year, which b
after the start of the repayment period

"(ii) that part of a taxable year as de
by such section 441(b), or a calendar ye
the case may be, which follows the sta
the repayment period; and

"(F) the term 'repayment period' m
the period referred to in section 427(
(B).

"(f)(1) There is created on the boo
the Treasury of the United States a
fund to be known as the Guaranteed Stu
Loan Fund (hereinafter in this sectio
ferred to as the "fund") which shall b
ministered by the Commissioner.

"(2) The fund shall consist of am
deposited in the fund from—

"(A) amounts withheld from wages, as
vided in subsection (e)(4)(E);

"(B) payments made by student bor
ers under subsection (e)(2)(A); and

"(C) appropriations made pursuant to
section (g).

"(3) Moneys in the fund may be used
for the purpose of making the paymen
eligible lenders provided for in agreem
made under subsection (b)(1), and for
purpose of making refunds to borro
under subsection (e)(3)(A). Moneys
the fund shall be available for such purp
only when appropriated therefor, and
appropriations shall be made without
year limitation.

"(g) There are authorized to be appr
ated to the fund such amounts as me
necessary from time to time to make
payments required to be made by the C
missioner under subsection (c)(1)(E).

"(h) All provisions of this part not in
sistent with this section shall apply to l
to which this section applies.".

SEC. 4. (a) Section 427(a)(2) of such
is amended—

(1) by striking out "and" at the en
subparagraph (H);

(2) by striking out the period at the
of subparagraph (I) and inserting in
thereof "; and"; and

(3) by adding at the end thereof the
lowing new subparagraph:

"(J) provides that the lender may
(not later than twelve weeks after the
on which the borrower ceases to carry a
eligible institution at least one-half of
normal full-time academic workload as de
mined by the institution) to have the
collected by the Federal Government pu
ant to an agreement with the Commissio
under section 427A(b)(1), and that the
payment by the borrower of a loan for wh
such an agreement is made shall be m
in accordance with section 427A(e).".

(b) Section 428(b)(1) of such Act
amended—

(1) by striking out "and" at the en
subparagraph (O);

(2) by striking out the period at the

of subparagraph (P), and inserting in lieu

"(4) two academics familiar with student

accommodating and

of subparagraph (P) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(Q) provides that the lender may elect (not later than 12 weeks after the date on which the borrower ceases to carry at an eligible institution at least one-half of the normal full-time academic workload as determined by the institution) to have the loan collected by the Federal Government pursuant to an agreement with the Commissioner under section 427A(b)(1), and that the repayment by the borrower of a loan for which such an agreement is made shall be made in accordance with section 427A(e).".

SEC. 5. (a) Section 427(c) of such Act is amended by striking out "The" and inserting in lieu thereof "Except in the case of a loan the repayment of which is made pursuant to an agreement under section 427A(b)(1), the".

(b) Section 428(b)(1)(L) of such Act is amended by inserting ", except in the case of a loan the repayment of which is made pursuant to an agreement made under section 427A(b)(1)," after "provides that".

SEC. 6. (a) Section 427(a)(2)(B) of such Act is amended—

(1) by inserting "(except in the case of a loan the repayment of which is made pursuant to an agreement made under section 427A(b)(1))" after "ten years"; and

(2) in clause (ii) by inserting "(except in the case of a loan the repayment of which is made pursuant to an agreement made under section 427A(b)(1)" after "fifteen years".

(b) Section 428(b)(1) of such Act is amended——

(1) in subparagraph (D)(ii), by inserting "and except in the case of a loan the repayment of which is made pursuant to an agreement made under section 427A(b)(1)," after "paragraph,"; and

(2) in subparagraph (E), by inserting "(except in the case of a loan the repayment of which is made pursuant to an agreement made under section 427A(b)(1))" after "ten years".

SEC. 7. Section 438(b) of such Act is amended—

(1) in paragraph (1) by striking out "A" and inserting in lieu thereof "Except as may be otherwise provided in paragraph (5), a";

(2) in paragraph (2)(A), by striking out "paragraph (4)" and inserting in lieu thereof "paragraphs (4) and (5)";

(3) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7) respectively; and

(4) by inserting after paragraph (4) the following new paragraph:

"(5) The special allowance computed according to paragraph (2)(A) shall be reduced by one-half per centum with respect to all eligible loans held by a lender for which agreements have been made under section 427A(b)(1). The Commissioner may provide by regulation for the annual payment of special allowances with respect to such loans in lieu of the quarterly payments prescribed by paragraph (1).".

SEC. 8. Part B of title IV of such Act is amended by adding at the end thereof the following new section:

"ADVISORY PANEL

"SEC. 440A. (a) There is hereby established an advisory panel (hereinafter in this section referred to as the 'Panel') which shall be composed of the following eleven members:

"(1) two individuals who administer the National Direct Student Loan program at institutions of higher education;

"(2) two representatives of institutions of higher education, which participate in a loan program under this part;

"(3) one representative of an institution of higher education which does not participate in a loan program under this part;

"(4) two academics familiar with student assistance programs;

"(5) one representative each from the Department of Health, Education, and Welfare, and the Department of the Treasury;

"(6) one former student borrower of a loan made or insured under this part, or (one representative of a student organization; and

"(7) one representative from the Student Loan Marketing Association.

"(b) The members of the Panel shall be appointed by the Speaker and the minority leader of the House of Representatives, and the majority and minority leaders of the Senate. Appointment of such a member shall be made only with the approval of three of such appointing individuals.

"(c) The Panel shall—

"(1) review the adequacy of the special allowance under section 438 to draw sufficient capital into loan programs under this part, and consider an incremental special allowance which is graduated to provide additional incentives for higher loan volumes handled by an eligible institution;

"(2) review the feasibility instituting a student loan bank of last resort, with attention to the problems of avoiding substitution for currently offered loans;

"(3) conisder such other questions as it deems appropriate.

"(d) The Panel shall report to Congress not later than one year after the date of the enactment of this section on its findings with respect to the items reviewed and considered under subsection (c).".

THE CAPITAL AVAILABILITY FOR HIGHER EDUCATION AMENDMENTS OF 1978

FACT SHEET

The guaranteed student loan program

Financial institutions participating in the Guaranteed Student Loan (GSL) program are the single best source for directing private capital to higher education. The GSL Program leverages Federal expenditures about four times over since it relies chiefly on privately raised capital. The costs to the Federal government result from defaults, deaths of borrowers, interest subsidies, payback deferrals, and special interest allowances to lenders. Moreover, as a loan for which the borrower is responsible, the choice of a more expensive education rests with students who know they will ultimately have to bear the full cost of their decisions.

The GSL Program, however, suffers from several problems that have kept it from fulfilling its full promise:

Geographical Unavailability.—Institutions choosing not to participate do so in geographic patterns. Availability is good in the Northeast for historic reasons and because of supportive State laws, but very poor on the east coast and in California where one bank holds more than half the outstanding loans. This is a deficiency in a National program.

Case-to-case Capriciousness.—Frequently small institutions discriminate between those borrowers with a deposit relationship and likely to remain customers, and those who don't have such a relationship for a year before applying. Banks view GSL's as a "consumer giveaway" similar to blenders or alarm clocks. Nondiscrimination clauses in current law are not effective.

Loan Ceilings Too Low.—Currently, under law, students may borrow only $2,500 a year even when they have access to a lender, and this is frequently insufficient to pick up the gap in financing they need to choose the education of their choice. A ceiling of $3,500 would, in virtually all instances, assure full financing when supplemented by other resources usually available.

Aversity to poor risk loans.—"Poor risks" include the lions share of most needy students, and most of them would, in fact, pay off the loan if given a chance. This is the very group for which policy should be most accommodating, and for which Federal guarantee should, in principle, most leverage Federal contributions. But three problems confront lending institutions:

(1) Federal lending origination standards measure performance by defaults, so there is a great incentive to "cream" the best borrowers; in fact, many defaults are accounted for by financing substandard educations-mail order degree factories and so forth;

(2) The inflexible loan servicing systems banks are willing to institute, require a steady stream of monthly fixed payments regardless of income; more flexibility before default would sustain the borrower's credit rating and increase the ease of collection;

(3) Servicing costs associated with "poor risk" borrowers tend to be harder to keep track of. In general, the administrative problems of managing the collection system of long-term, unsecured loans are burdensome and much nonparticipation in the Program is attributable to this.

Shortage of funds.—The GSL program has been lending in excess of $1 billion annually. This is not enough to pick up the slack in financing needs. The Student Loan Marketing Association (Sallie Mae), a quasi-public federally chartered market similar to Fannie Mae, has not adequately funnelled capital to relieve them of holding the loan paper themselves. For example, out of $6 billion of loans outstanding, Sallie Mae only owns or has financed about $600 million, a much smaller percentage than secondary markets provide for home mortgages.

Possible too low return for lenders.—Lenders supply funds to the GSL Program, in the marginal case, only if the return is competitive with other uses of capital. But under the current "special allowance" formula (which subsidizes the interest return to the bank during the collection period based on short-term market interest rates for government securities), banks may not be receiving a high enough return to include as many marginal cases as would otherwise be desirable.

THE CAPITAL AVAILABILITY FOR HIGHER EDUCATION AMENDMENT OF 1978

This program of immediate changes in the GSL Program is intended to take significant steps toward ameliorating the above problems, and otherwise enhance capital availability. It is expected that it will be very appealing to the Nation's banks, as well as to students.

I. Increase Borrowing Ceilings to $3,500 from $2,500.—This should broaden the choice of affordable institutions of higher education at once for a substantial group of students from middle income families.

II. Permit Participating GSL Lending Institutions to Purchase Loan Collection Service from the Federal Government.—While loan origination practices should be carefully monitored to assure the government agrees to collect only eligible loans, this would relieve the banks of substantial administrative and managerial burdens they are ill-equipped to handle—a significant cause of patchy program participation nationwide. Additionally, direct payments to banks from the government would not be subject to overly rigid "performance" criteria relating to default rates, since the government would have responsibility for collecting the loan. Further, a firm non-discrimination standard will be enforced for banks purchasing the collection service. Banks relieved of the added costs associated with "poor risks" will again consider this group as qualified borrowers. The government will then pay obligations directly to banks as due. The collection service will cost banks one half percent of the interest subsidy the government pays during the repayment period. The savings on this subsidy—called the "special allowance" will help finance any additional cost to the IRS.

III. The Government will Collect the Loans through the Internal Revenue System.—Collections will be through the income tax to which all citisens are subject, and be based on the student borrower's ability to pay as measured by his or her adjusted gross income. Borrowers will make annual installments until they have repaid the principle and 7 percent interest on the outstanding balances—the current rate charged for GSL's. The Internal Revenue Service shall provide simple tables to facilitate computations, and take other administrative steps to ease the responsibility of the borrower. This method of collection benefits from economies of scale since the collection system is already in place, and the IRS endeavors to keep track of all taxpayers already. The flexibility permitted by the system would increase the likelihood of faithful paybacks.

IV. Appointment of Blue Ribbon Panel to Report to Congress Within the Year.—A Blue Ribbon Panel composed of two College administrators dealing with the National Defense Student Loan Program, two representatives of participating GSL institutions, one from a non-participating institution, two academics familiar with the field of student assistance, the appropriate assistance secretaries of HEW and Treasury, a former student GSL borrower or representative of a student organization, and an expert from Sallie Mae. The panel will be instructed to review:

(1) The adequacy of the special allowance formula to draw sufficient capital into the program, with consideration of an "incremental special allowance" graduated to provide additional incentives the higher the loan volume handled by an institution;

(2) The feasibility of instituting a Student Loan Bank of Last Resort, with attention to the problems of avoiding substitution for currently offered loans; and

(3) Other major questions as they shall identify.●

By Mr. JACKSON (for himself and Mr. HANSEN) (by request):

S. 3429. A bill to designate the Great Bear Wilderness, Flathead National Forest, and enlarge the Bob Marshall Wilderness, Flathead, and Lewis and Clark National Forests, State of Montana; to the Committee on Energy and Natural Resources.

GREAT BEAR WILDERNESS

● Mr. JACKSON. Mr. President, I am introducing today by request, a bill to designate a Great Bear Wilderness in the State of Montana. The proposed wilderness would total some 360,000 acres of national forest land. This administration proposal has been submitted to the Congress pursuant to Public Law 95-557 which directed the Department of Agriculture to study this area for possible designation. On the basis of that study, the administration concluded that almost the entire study area was, indeed, suitable for wilderness designation.

Mr. President, the late Senator Metcalf loved this area, and wilderness designation for this portion of Montana was certainly one of his highest legislative priorities. I am pleased that the administration has come forward with a strong wilderness recommendation for this area.

I ask unanimous consent that the bill and the administration's letter of transmittal as well as a memorandum from the Department's Office of General Counsel to the Chief of the Forest Service be included in the RECORD.

There being no objection, the bill and letters were ordered to be printed in the RECORD, as follows:

S. 3429

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that, in furtherance of the purposes of the Wilderness Act of 1964 (78 Stat. 890), the area generally depicted on a map entitled "Great Bear Wilderness (Proposed)—Bob Marshall Wilderness Addition," dated February 1978 which is on file and available for public inspection in the Office of the Chief, Forest Service, U.S. Department of Agriculture, is hereby designated as the Great Bear Wilderness (293,571 acres) within and as part of the Flathead National Forest, Montana, and enlarges the Bob Marshall Wilderness with an area comprising approximately 66,900 acres within and as a part of the Lewis and Clark National Forest, Montana.

SEC. 2. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and a legal description of the Great Bear Wilderness and Bob Marshall Wilderness Addition with the Energy and Natural Resources Committee, United States Senate and the Interior and Insular Affairs Committee, House of Representatives, and such description shall have the same force and effect as if included in this Act: *Provided, however,* that correction of clerical and typographical errors in such legal description and map may be made.

SEC. 3. The Great Bear Wilderness and Bob Marshall Addition shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., August 11, 1978.

The PRESIDENT OF THE SENATE,
U.S. Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: In accordance with P.L. 94-557 (90 Stat. 2635), the Department of Agriculture reviewed, as to its suitability or nonsuitability for preservation as wilderness, the Great Bear Wilderness Study Area in the Flathead and the Lewis and Clark National Forests in Montana. Potential utility corridors within or contiguous to the study area also were reviewed, as directed. Public hearings were held in Montana and over 400 responses from 561 individuals, organizations, and agencies were received. The study report, a final environmental statement, and a draft bill reflecting our recommendations are enclosed. On behalf of the President and at his request, I am transmitting directly to you our recommendations and the supporting documents.

We recommend designation of a Great Bear Wilderness of 293,571 acres on the Flathead National Forest and an addition to the existing Bob Marshall Wilderness of 66,900 acres on the Lewis and Clark National Forest. This would represent a total addition to the National Wilderness Preservation System of 359,871 acres. The study determined that 26,660 acres are not suitable for wilderness and that a utility corridor through the proposed wilderness should not be recommended at this time.

The Great Bear Wilderness Study Area, as depicted on the map cited in P.L. 94-557, was determined to contain 371,160 acres. In addition, 15,382 acres of contiguous undeveloped areas were also reviewed, making a total study area of 386,560 acres. The study area lies astride the Continental Divide. It adjoins the north and east boundaries of the Bob Marshall Wilderness (949,256 acres). T
Glacier National Park, containing a propos
wilderness of 928,000 acres, lies just to t
north, across a developed transportati
corridor.

The study area is characterized by hig
rugged topography and a primitive enviro
ment essentially devoid of man's influen
A wide variety of fish and wildlife, includi
the threatened grizzly bear and endangere
Northern Rocky Mountain wolf, are prese
Mineral studies indicate a moderate pote
tial for submarginal copper and sil
resources, and small potential for subma
ginal coal. Due to the high elevation and hi
tory of fire occurrence, much of the st
contains nonforest and unproductive fore
land. The productive forest land, of abo
120,460 acres, has a potential annual timb
yield of 17.5 million board feet which h
been in a "deferred" status since 1970 pen
ing wilderness and wild and scenic riv
consideration.

The study area has very good potential f
discovery of natural gas and somewhat less
potential for oil production. The area co
tains numerous potential hydrocarbon res
voir and source rocks. Structural traps fo
the accumulation of gas in the subsurfa
cannot be determined without seismic su
veys and possible drill holes, but structur
traps can be inferred from a comparison o
the surface geology of the study area wit
that in gas producing areas to the north i
Alberta, Canada. The study area contain
geologic structures and stratigraphic histo
similar to that in Alberta which contai
major reserves of gas and minor amounts o
oil. The Administration concludes, howeve
that the wilderness values of the area ou
weigh the gas and oil potentials at this tim
and should be given the priority.

Future need for east-west utility co
ridors from eastern Montana-Wyomin
coalfields to the user-load-centers in Wash
ington and Oregon was recognized. Th
Forest Service and Bonneville Power Ad
ministration (BPA) jointly reviewed co
alternative corridor through the study are
and one that would circumvent the stud
area. Although it was concluded that at leas
seven major east-west utility corridors be
tween Canada and northern Utah will b
needed by year 2020 to supply projecte
coal-based energy requirement, thorougl
siting studies remain to be completed an
comparative analysis of all possible cor
ridors is still needed to determine specific
advantages and disadvantages of each. How
ever, the Great Bear Area would provide th
most direct route between the eastern Mon
tana coal fields and major load centers i
northwestern Washington. Accordingly, th
study concluded that future designation o
an energy corridor through the area woul
probably be desirable from the standpoin
of energy policy within the next 50 years. A
summary of the Forest Service-BPA stud
is contained in the enclosed study report.

On the basis of that study, the Depart
ment concluded that in the absence of ad
ditional evidence of immediate needs i
would be premature at this time to establish
a utility corridor in the proposed wilderness
This view was strongly supported by public
response and especially by the Montana De
partment of Natural Resources. Should fur
ther study and development confirm that
a utility corridor through the Great Bea
proposed wilderness is in the national in
terest, the President has the authority in
Section 4(d)(4) of the Wilderness Act o
1964, to create the corridor. Copy of an
opinion by our Office of General Counsel to
this effect is enclosed. In the meantime, we
expect that the Department of Energy wil
continue its efforts to carefully assess long-
range energy corridor needs in this region.

Wilderness designation is not recom-
mended for 26,600 acres. Of this, 23,160 acres
reflect the impact of timber harvest and ac-

cess activity and contain numerous, small exclusions for better wilderness boundary definition. In addition, one contiguous area of 3,500 acres in not recommended for wilderness because of conflict with avalanche control on the Teton Pass Ski Area.

The major costs associated with the Department's recommendation are in values foregone or limited by constraints on such activities as timber harvest, natural gas exploration and development, and development of mechanized recreational opportunities. All lands in the study area are federally-owned except 28.69 acres of private land existing in two patented mining claims no longer being mined. Acquisition by purchase or exchange may prove desirable.

We believe the proposed Great Bear Wilderness meets the test of suitability, availability, need and manageability for such designation. Its suitability for wilderness is comparable to that for the well-known Bob Marshall and Selway-Bitterroot Wildernesses. It will be a valuable addition to the National Wilderness Preservation System.

The Office of Management and Budget advises that there is no objection to the presentation of this report and that enactment of the proposed legislation would be in accord with the President's program.

Sincerely,

BOB BERGLAND,
Secretary.

Enclosures.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., July 28, 1978.

Subject: Section 4(d)(4), Wilderness Act (16 U.S.C. 1133(d)(4)).

To: John R. McGuire, Chief, Forest Service.

This is in response to your memorandum of July 26, 1978, requesting our opinion as to the scope and applicability of Section 4(d)(4) of the Wilderness Act, 16 U.S.C. 1133(d)(4). Of particular interest is the applicability of this section to facilities for the transmission of electric power through designated utility corridors in the Great Bear area of Montana which is proposed for wilderness classification. Relevant portions of the Act state:

"(4) Within wilderness areas in the national forests . . . (1) the President may, within a specific area and in accordance with such regulations as he may deem desirable, authorize prospecting for water resources, the establishment and maintenance of reservoirs, water-conservation works, power projects, tranmission lines, and other facilities needed in the public interest, including the road construction and maintenance essential to development and use thereof, upon his determination that such use or uses in the specific area will better serve the interests of the United States and the people thereof than will its denial." . . . 16 U.S.C. 1133(d)(4).

This section enumerates a series of projects for which the President may authorize the "establishment and maintenance" within the boundaries of a designated wilderness area. This series may be subject to various interpretations.

The doctrine of noscitur a sociis may be applied to interpret this section. Under this doctrine, a word is interpreted according to its accompanying words. Thus words in a series of general meaning may be colored by the meaning of more specific words. Thus the terms "power projects, transmission lines" may be considered to relate to the previously enumerated water resource projects. However, it is our opinion that these terms are unambiguous and sufficiently descriptive by themselves in defining all forms of power projects and associated transmission lines. There is no more specific meaning that need be applied, and the doctrine is therefore inapplicable.

The phrase "and other facilities needed in the public interest" is likewise subject to various interpretations. An analogous doctrine of interpretation to that stated above is ejusdem generis whereby when general words follow an enumeration of specific things, such general words are construed as applying only to things of the same general kind as those specifically mentioned. In this situation, "other facilities" could likewise be construed as applying to water or power projects. Such a narrow construction would still apply "other facilities" to a wide range of projects including various forms of power transmission lines which may be constructed in a utility corridor. However, we interpret "other facilities" as being very broad and limited only by the phrase "needed in the public interest." Thus, any type of project which the President deems in the public interest may come within the purview of this section.

The legislative history supports this interpretation. The same or similar language of Section 4(d)(4) was contained in both the House and Senate versions of the Act. The Congress saw the issue as one of competitive land uses for wilderness areas:

"Serious consideration has been given to the various competitive uses. Provisions have been included in the bill for future modification in the wilderness system, or in regulations governing specific areas, if it is the finding of the President of the United States that a nonwilderness use is in the greater public interest than is wilderness use in some specific area. Congress itself can at any time enact legislation making changes."[1]

The object of this provision is to allow the President to override wilderness designation in those extraordinary circumstances where, in his opinion, construction of a project is more in the public interest than retention of the wilderness character of a site. Thus the test of the application of Section 4(d)(4) to a project is whether such a project is "needed in the public interest," and not whether it is of a particular type.

Section 4(d)(4) makes provisions for regulations to guide in making such determinations. Such regulations have not been promulgated by the Departments of Agriculture or of the Interior. To date, the President has never authorized a project under this section.

In conclusion, if the President determines it to be in the public interest to establish a facility for the transmission of power in a Great Bear Wilderness area, such a facility can be permitted under the provisions of Section 4(d)(4) of the Wilderness Act.

JOSEPH D. CUMMINGS,
Acting Director,
Natural Resources Division.

● Mr. PAUL G. HATFIELD. Mr. President, I am pleased to note that Senator JACKSON, as chairman of the Senate Committee on Energy and Natural Resources, and Senator HANSEN, as the ranking minority member of that committee, have today introduced, by request, a bill to designate the Great Bear Wilderness Area in northwestern Montana.

The proposal conforms to the U.S. Forest Service recommendation. It designates as wilderness some 360,000 acres of pristine country lying astride the Continental Divide and linking Glacier National Park to the north with the Bob Marshall Wilderness to the south.

---

[1] Senate Committee on Interior and Insular Affairs, 88th Cong. 2d Sess., Report on S. 4 Establishing a National Wilderness Preservation System (Comm. Report No. 109), p. 12.

Enactment of this bill would culminate more than two decades of effort to protect one of the largest basically unroaded ecosystems left in the United States. Chief architect of the effort was our late colleague, Senator Lee Metcalf. He felt deeply about preserving the area. Passage of a Great Bear Wilderness Act would be a fitting tribute to his dream. However, Lee would be the first to insist that the area's fate be decided on its merits and not on sentiment. By any objective assessment, the Great Bear meets the test of wilderness.

The Great Bear is stunning mountain country. By providing a link to Glacier Park and the Bob Marshall Wilderness, it will assure protection of a vast ecosystem in which large animals, such as the grizzly bear, are able to conduct daily movements and seasonal migrations without interference from man. The importance of the area as a habitat bridge for free roaming wildlife, and as the headwaters of critical spawning streams for the cutthroat and Dolly Varden trout, cannot be overemphasized. The cutthroat is a threatened species in much of its former habitat. Establishment of the Great Bear Wilderness would provide enduring protection of its spawning streams and would guarantee its survival in the Flathead River system.

The bill represents the final Forest Service recomendations after nearly 2 years of Forest Service study. The study was marked with controversy, as might be expected of an area of this magnitude. I do not wish to understate the items in dispute.

The Congress passed the Great Bear Wilderness Study Act in the fall of 1976. The act estimated the study area to encompass 393,000 acres. That figure proved to be inflated. The Forest Service later determined that the study area contained 371,160 acres. The agency then added 15,382 contiguous acres, making a total study area of 386,542.

The Forest Service, after conducting the required public hearings in Montana, made an initial recommendation of 299,000 acres, or 97,000 fewer than those studied. Field personnel urged deletion of 6,240 acres to accommodate a proposed Bonneville Power Administration powerline corridor, some 70,000 acres containing what the U.S. Geological Survey terms "moderate to high potential" for natural gas, and the remaining acreage to render the area more "manageable" as wilderness.

As the recommendations worked their way up through the Forest Service hierarchy, most of the cuts were restored, including those involving the power corridor and the natural gas area. The ultimate figure of 359,871 acres recommended by the Chief of the Forest Service represents a cut of 26,871 acres below that actually studied. The final figure thus represents a compromise, although admittedly on the high side.

The Senate Energy and Natural Resources Committee will hold hearings on this bill in Montana and will receive testimony from the people of Montana at that time.

Mr. President, there have been suggestions that this proposed wilderness

area be named after Senator Lee Metcalf, or that his name be otherwise associated with the legislation. This issue has been discussed thoroughly by Lee's family and supporters of the Great Bear. A firm consensus has emerged: Do what Lee would have done and carry through with the descriptive title which he accepted. Neither the bill nor the area should bear the Metcalf name, although the administering agency could, after designation, make note on its descriptive literature or in other suitable fashion of the historic contribution made by Senator Lee Metcalf.

Finally, reference should be made to the Forest Service recommendation that only the larger, or western portion, of the study area be named the Great Bear. For administrative reasons, the eastern portion would be added to the Bob Marshall Wilderness.

Again, with the concurrence of the supporters of the Great Bear, the bill follows the recommendations of the Forest Service. Technically, the Great Bear Wilderness, lying wholly within the Flathead National Forest, will total only 293,571 acres. The smaller, or eastern portion, lying within the Lewis and Clerk National Forest, comprises 66,300 acres. However, for the sake of simplicity, the single name is applied to both areas in this statement. The goal of the legislation is, after all, preservation.●

By Mr. WILLIAMS (for himself and Mr. CRANSTON):

S.J. Res. 152. A joint resolution authorizing and requesting the President to issue a proclamation designating the month of June as "National First Aid Month"; to the Committee on the Judiciary.

NATIONAL FIRST AID MONTH

● Mr. WILLIAMS. Mr. President, I am pleased to introduce a joint resolution to declare the month of June as National First Aid Month. The purpose of this observance is to increase public awareness and knowledge of basic first aid and emergency procedures.

Statistics compiled by the National Safety Council and the National Center for Health Statistics reveal much about the health of Americans.

Accidental injury is the leading cause of death among Americans aged 1 to 38. It is the fourth leading cause of death among all Americans and claims more lives among youths aged 15 to 24 than all other causes combined.

In 1976, chronic and acute illnesses or injuries resulted in an estimated 18.2 days of restricted activity or disability per person. Restricted-activity ranged from about 11 days for children under 17 years of age to approximately 40 days for persons 65 years of age or over.

Motor vehicle accidents are the major single cause of death and disability in this country, however, drownings, fires, poisoning, and firearms also inflict a heavy toll. The cost of these accidents to the individual, his family, and our society is enormous. Accidents in which deaths or disabling injuries occurred, together with noninjury motor vehicle accidents and fires, cost our Nation $52.8 billion in 1976. Included in this total was $31.7 billion for wage losses, medical expenses, and insurance administrative costs.

In 1973, the Congress recognized that disability, loss of health, and death from accidents, as well as from sudden illnesses such as heart failure, could be substantially reduced with an improved emergency medical services system. To help communities meet emergency situations immediately and effectively, Congress enacted the Emergency Medical Services Systems Act. Through this act, communities have been able to correct service deficiencies irrespective of the relative wealth or urban-rural nature of their local areas.

Despite the expansion of professional emergency medical services in this country, there is a need to assure that each American has an awareness and knowledge of basic first aid and emergency procedures. When an accident occurs, use of basic first aid techniques can mitigate the need for professional medical treatment. In life threatening situations, the use of relatively simple procedures, until professional medical care can be obtained, can often make the crucial difference between life or death.

Many voluntary organizations diligently work to teach people about basic first aid and emergency medical procedures. The resolution I am introducing today would focus concerted attention on the need for every American to obtain information about these procedures. Through this national effort, we can protect the health of countless Americans.●

By Mr. ANDERSON:

S.J. Res. 153. A joint resolution authorizing the President to proclaim the third week in June 1979 as "National Veterans' Hospital Week"; to the Committee on the Judiciary.

NATIONAL VETERANS' HOSPITAL WEEK

● Mr. ANDERSON. Mr. President, I am today introducing a joint resolution authorizing the President to designate the third week in June as "National Veterans' Hospital Week."

The purpose of a veterans' hospital is an important one: Providing a wide variety of health-related services to those men and women who served our Nation in the armed services.

But oftentimes the facilities for achieving this goal are less than adequate. In Minnesota, to cite one example, the veterans' hospital in Minnesota is forced in an outdated and undersized physical plant. There is overcrowding of patients, and the conditions of the buildings, even disregarding their small sizes, are pathetic.

Yet in spite of this, the Minneapolis Veterans' Hospital has consistently managed to provide excellent medical care. The staff and volunteer workers at the hospital have a dedication that assures that the patients are very well taken care of.

I am hopeful that this resolution will bring the special needs of veterans' hospitals to the attention of the public.

A House version of this resolution has been introduced, and has gotten over 60 cosponsors so far. I hope that this resolution will meet with a similarly fa able reception in the Senate.

Mr. President, I ask unanimous sent that the text of this resolutio printed in the RECORD.

There being no objection, the resolution was ordered to be printe the RECORD, as follows:

S.J. RES. 153

Whereas American veterans have play essential role in this country all throu its history;

Whereas there are presently nearly t million veterans living in this country

Whereas there are one hundred and enty-two veterans' hospitals in this co providing essential medical care to those have served in our Armed Forces;

Whereas one million three hundred ninety-two thousand four hundred and veterans will receive care and treatme veterans' hospitals in this country d 1978;

Whereas this represents a 107 per ce increase over the number who received t ment during 1968;

Whereas seventeen million seven hu and forty-five thousand veterans wil ceive care and treatment as outpatien veterans' hospitals in this country d 1978;

Whereas this represents a 170 per ce increase over the number who received t ment during 1968; and

Whereas veterans' hospitals contin play an increasingly important role in viding for the health and well-being o veterans of this country: Now, therefo it

Resolved by the Senate and House of resentatives of the United States of Am in Congress assembled, That the Preside authorized and requested to issue a pr mation designating the third week of 1979 as "National Veterans' Hospital W and calling upon the people of the U States to observe such week with appr ate ceremonies and activities.

ADDITIONAL COSPONSORS

S. 2858

At the request of Mr. MELCHER, Senator from North Dakota (Mr. DICK) was added as a cosponsor of S. a bill to amend section 2040 of the ternal Revenue Code of 1954 to pro that a spouse's services shall be t into account in determining whether spouse furnished adequate considera for jointly held property for purpos qualifying for an exclusion from the eral estate tax.

S. 2860

At the request of Mr. MELCHER, Senator from Alabama (Mrs. ALLEN) added as a cosponsor of S. 2860, a bi provide for a research, development, demonstration program to determine feasibility of collecting in space solar ergy to be transmitted to Earth an generate electricity for domestic poses.

S. 3003

At the request of Mr. MELCHER, Senator from Tennessee (Mr. BA was added as a cosponsor of S. 300 bill to amend the Rural Electrifica Act of 1936, as amended, to provide the financing of telecommunication cilities for cable television and o broadband services to small towns rural areas.

S. 3250

At the request of Mr. MELCHER, the Senator from South Dakota (Mr. MCGOVERN) was added as a cosponsor of S. 3250, a bill to amend the Internal Revenue Code of 1954 to make the investment tax credit applicable to certain agricultural buildings and their structural components.

S. 3359

At the request of Mr. CHILES, the Senator from Montana (Mr. MELCHER) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. 3359, a bill to amend the act commonly known as the Miller Act to raise the dollar amount of contracts to which such act applied from $2,000 to $25,000.

S. 3388

At the request of Mr. WALLOP, the Senator from Ohio (Mr. METZENBAUM), the Senator from Montana (Mr. MELCHER), the Senator from New Mexico (Mr. DOMENICI), the Senator from Kentucky (Mr. FORD), and the Senator from Arkansas (Mr. HODGES) were added as cosponsors of S. 3388, a bill to amend the Internal Revenue Code to exclude from gross income payments made under certain cost sharing programs.

SENATE JOINT RESOLUTION 134

At the request of Mr. BAYH, the Senator from Minnesota (Mr. ANDERSON) was added as a cosponsor of Senate Joint Resolution 134, extending the deadline for ratification of the equal rights amendment.

AMENDMENT NO. 3436

At the request of Mr. HAYAKAWA, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of amendment No. 3436 proposed to S. 1753, the Elementary and Secondary Education Act.

AMENDMENTS SUBMITTED FOR PRINTING

DISTRICT OF COLUMBIA REPRESENTATION—HOUSE JOINT RESOLUTION 554

AMENDMENTS NOS. 3480 THROUGH 3504

(Ordered to be printed and to lie on the table.)

Mr. HATCH submitted 25 amendments intended to be proposed by him to House Joint Resolution 554, a joint resolution proposing an amendment to the Constitution to provide for representation of the District of Columbia in the Congress.

AMENDMENT NO. 3505

(Ordered to be printed and to lie on the table.)

Mr. SCHMITT submitted an amendment intended to be proposed by him to House Joint Resolution 554, supra.

ANTITRUST ENFORCEMENT ACT OF 1978—S. 1874

AMENDMENT NO. 3506

(Ordered to be printed and to lie on the table.)

Mr. EAGLETON submitted an amendment intended to be proposed by him to S. 1874, a bill to restore effective enforcement of the antitrust laws.

● Mr. EAGLETON. Mr. President, I am submitting an amendment today to S. 1874, a bill to amend section 4 of the Clayton Act to permit consumers, businesses and governments injured by antitrust violations to recover whether or not they have dealt directly with the antitrust violator. My amendment is a very narrow one, dealing only with section 4 of the bill, which makes the bill applicable to any action under sections 4, 4A, or 4C(a)(1) of the Clayton Act which was pending on June 9, 1977, or filed thereafter. This retroactive date—June 9, 1977—is the date on which the Supreme Court handed down its decision in Illinois Brick Co. against Illinois, which case the bill seeks to overrule. My amendment would make the bill applicable to cases commenced on, or after, the date of the bill's enactment.

I have serious doubts to the constitutionality of such a retroactive application and, in any event, I believe it is an unwise policy choice. Testimony by several respected legal scholars and antitrust experts before the Senate Judiciary Committee revealed at least two serious constitutional objections to the retroactive application of S. 1874. Because the bill would make the so-called pass-on defense available to defendants, direct-purchaser plaintiffs whose suits were pending on the date of the Illinois Brick decision or who filed cases thereafter and have continued their cases in reliance on that decision, will be in danger of having their claims drastically reduced or their suits dismissed. The hundreds of thousands of dollars spent in preparation for litigation and the punitive damages at stake will, in many cases, go down the drain as a direct result of retroactive application. I think a strong argument could be made that this would amount to a deprivation of property without the due proces of law as required by the fifth amendment. In addition, the bald supplanting of a Supreme Court decision by a congressional act raises serious questions regarding the separation of powers set forth in the Constitution.

Even beyond the constitutional problems engendered by making the bill's application retroactive, I think retroactivity in this case is unwise legislative policy. In the past, antitrust legislation has been applied only prospectively. Retroactive application of S. 1874 would not only hamper private enforcement of our antitrust laws already begun during the period of the Illinois Brick decision, it would encourage the reopening of cases settled or dismissed on the basis of the Illinois Brick decision and related cases.

Mr. President, I ask unanimous consent that the text of my amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 3506

On page 5, beginning on line 6, strike "which was pending on June 9, 1977, or filed thereafter." and insert in lieu thereof "which is filed on or after the date of enactment of this Act".

FEDERAL-AID HIGHWAY ACT—S. 3073

AMENDMENT NO. 3507

(Ordered to be printed and to lie on the table.)

Mr. HUDDLESTON (for himself, Mr. RANDOLPH, Mr. MCGOVERN, Mr. BAYH, Mr. GRAVEL, Mr. FORD, Mr. MELCHER, Mr. PAUL G. HATFIELD, and Mr. HEINZ) submitted an amendment intended to be proposed by them, jointly, to S. 3073, the Federal-Aid Highway Act.

● Mr. HUDDLESTON. Mr. President, I am pleased to introduce today on behalf of the distinguished chairman of the Senate Environment and Public Works Committee, Senator RANDOLPH, and our other colleagues a modified version of the Randolph-Huddleston energy impacted road amendment proposed last week to S. 3073, the Federal-Aid Highway Act.

Though the funding level, $100 million a year for 2 years from the highway trust fund, and the matching basis, 70 percent Federal and 30 percent State, remain the same, the modifications we have made are intended to clear up some rather serious misconceptions being promoted by opponents of the original amendment.

First, we are naturally concerned about information being disseminated which indicates only a few coal producing States, West Virginia and Kentucky in particular, would benefit from the institution of an energy impacted road program. Thus, our modified amendment makes it clear that routes used for transportation of not only coal but also uranium, oil and gas as well as related recovery and exploration equipment used to increase national energy supplies would be eligible for the program. These routes could be considered on a statewide basis or as part of specific energy impacted region within a State. These regions would be designated by a governor in consultation with the Department of Transportation.

Also, it must be remembered that one of the linchpins of our support for any program of this nature is our belief that national energy requirements are indeed national. However, while the Nation as a whole benefits by increased energy supplies, immediate negative impacts are evident in several specific regions. To be sure, several legislative proposals have been introduced to offset social and economic boomtown situations, however, no one has yet adequately addressed the physical deterioration of the roads and accompanying safety problems in these areas.

Second, it is argued that our amendment affects only highway related portions of the multimodal difficulties existing in the energy transportation system. The administration is said to be willing to cooperate in developing a "long term program which deals with all the aspects" of the problem. Though we believe this offer of support is commendable, it does absolutely nothing to solve the critical situation that exists today. The Federal-Aid Highway Act provides a vehicle for at least some relief now. The

longer we wait the more deterioration and higher costs for repair we can expect. We urge your support of our amendment when it comes to the floor for consideration.●

TARIFF TREATMENT OF FILM, STRIPS, SHEETS, AND PLATES OF CERTAIN PLASTICS OR RUBBER—H.R. 5285

AMENDMENT NO. 3508

(Ordered to be printed and to lie on the table.)

Mr. CHURCH submitted an amendment intended to be proposed by him to H.R. 5285, an act to amend the tariff schedules of the United States with respect to the treatment accorded to film, strips, sheets, and plates of certain plastics or rubber.

ELEMENTARY AND SECONDARY EDUCATION ACT AMENDMENTS OF 1978—S. 1753

AMENDMENTS NOS. 3509 THROUGH 3511

(Ordered to be printed and to lie on the table.)

Mr. HATCH submitted three amendments intended to be proposed by him to S. 1753, the Elementary and Secondary Education Act Amendments of 1978.

Mr. HATCH. Mr. President, before long, subject to the discretion of our distinguished Senate leadership, we will have the opportunity to consider and vote on the bill, S. 1753, the Elementary and Secondary Education Act Amendments of 1978.

I just called it a bill, but it might be more accurate to call ESEA a "state of mind." It is one of the more enormous packages of proposed Federal education programs to be considered at any one time. It will commit us to spend $52 billion in Federal expenditures over the next half decade, give or take a billion.

If I seem cavalier about the bill, I am not. This matter is serious. As a member of the Human Resources Committee, I took part in amending it; and I participated in the general spirit of good fellowship by voting to report this legislation to the floor for our consideration. But I was not entirely pleased with the bill then, and I am not now. The legislation can be improved, and certainly we have a responsibility to see that it is. Having given long, hard thought to reforming the bill's provisions, I am today formally introducing a substitute bill in the form of an amendment to S. 1753. I am also introducing two amendments to the bill as it has been reported from committee, one amendment dealing with "cognitive skills" and the other dealing with "parental consent." At this time, I ask unanimous consent that the text of my substitute in the form of an amendment to S. 1753, as well as my amendments proposed to the reported version of the committee bill, be printed in the RECORD.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 3509

Strike out all after the enacting clause and insert in lieu thereof the following:

"That this Act may be cited as the 'Elementary and Secondary Education Assistance Act of 1978'.

"TITLE I—FINANCIAL ASSISTANCE TO MEET SPECIAL EDUCATIONAL NEEDS OF CHILDREN

"DECLARATION OF POLICY

"SEC. 101. In recognition of the special educational needs of children of low-income families and the impact that concentrations of low-income families have on the ability of local educational agencies to support adequate educational programs, the Congress declares it to be the policy of the United States to provide financial assistance (as set forth in the following parts of this title) to local educational agencies serving areas with concentrations of children from low-income families to expand and improve their educational programs by various means (including pre-school programs) which contribute particularly to meeting the special educational needs of educationally deprived children. Further, in recognition of the special educational needs of children of certain migrant parents, of Indian children, and of handicapped or neglected or delinquent children, the Congress declares it to be the policy of the United States to provide financial assistance (as set forth in the following parts of this title) to help meet the special educational needs of such children.

"DURATION OF ASSISTANCE

"SEC. 102. During the period beginning July 1, 1979, and ending September 30, 1983, the Commissioner shall, in accordance with the provisions of this title, make payments to State educational agencies for grants made on the basis of entitlements created under this title.

"PART A—PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

"Subpart 1—Basic Grants

"GRANTS—AMOUNT AND ELIGIBILITY

"SEC. 111. (a) AMOUNT OF GRANTS.—(1) There is authorized to be appropriated for each fiscal year for the purpose of this paragraph 1 per centum of the amount appropriated for such year for payments to States under part E (other than payments under such part to jurisdictions excluded from the term 'State' by this subsection, and payments pursuant to section 156), and there is authorized to be appropriated such additional sums as will assure at least the same level of funding under this title as in fiscal year 1978 for Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and to the Secretary of the Interior for payments pursuant to paragraphs (1) and (2) of subsection (d). The amount appropriated pursuant to this paragraph shall be allotted by the Commissioner (A) among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective need for grants under this part, and (B) to the Secretary of the Interior in the amount necessary (i) to make payments pursuant to paragraph (1) of subsection (d), and (ii) to make payments pursuant to paragraph (2) of subsection (d). The grant which a local educational agency in Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands is eligible to receive shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purpose of this title.

(2) In any case in which the Commissioner determines that satisfactory data for that purpose are available, the grant which a local educational agency in a State is eligi to receive under this subpart for a fis year shall (except as provided in paragra (3)) be determined by multiplying the nu ber of children counted under subsecti (c) by 40 per centum of the amount det mined under the next sentence. The amou determined under this sentence shall the average per pupil expenditure in State except that (A) if the average pupil expenditure in the State is less th 80 per centum of the average per pupil e penditure in the United States, such amou shall be 80 per centum of the average pupil expenditure in the United States, (B) if the average per pupil expenditure the State is more than 120 per centum of t average per pupil expenditure in the Unit States, such amount shall be 120 per centu of the average per pupil expenditure in t United States. In any case in which su data are not available, subject to paragra (3), the grant for any local educatio agency in a State shall be determined the basis of the aggregate amount of su grants for all such agencies in the coun or counties in which the school district the particular agency is located, which aggr gate amount shall be equal to the aggreg amount determined under the two prece ing sentences for such county or counti and shall be allocated among those agenc upon such equitable basis as may be det mined by the State educational agency accordance with the basic criteria prescrib by the Commissioner.

"(3)(A) Upon determination by the Sta educational agency that a local education agency in the State is unable or unwilli to provide for the special educational nee of children described in clause (C) of par graph (1) of subsection (c), who are livi in institutions for neglected or delinque children, the State educational agency sha if it assumes responsibility for the speci educational needs of such children, be eli ble to receive the portion of the allocation such local educational agency which is attri utable to such neglected or delinquent ch dren, but if the State educational agency do not assume such responsibility, any oth State or local public agency, as determin by regulations established by the Commi sioner, which does assume such respons bility shall be eligible to receive such porti of the allocation.

"(B) In the case of local educational age cies which serve in whole or in part the sa geographical area, and in the case of a loc educational agency which provides free pu lic education for a substantial number children who reside in the school district another local educational agency, the Sta educational agency may allocate the amou of the grants for those agencies among the in such manner as it determines will be carry out the purposes of this title.

"(C) In any State in which a large num ber of local educational agencies overla county boundaries, the State education agency may apply to the Commissioner f authority during any particular fiscal ye to make the allocations under this part d rectly to local educational agencies witho regard to the counties. If the Commission approves an application of a State educ tional agency for a particular year under th subparagraph, the State educational agen shall provide assurances that such alloc tions will be made using precisely the sa factors for determining grants as are us under this part and that a procedure will b established through which local education agencies dissatisfied with the determinatio made by the State educational agency m appeal directly to the Commissioner for final determination.

"(D) For each fiscal year, the Commi

sioner shall determine the percentage which

basis of the number of such children from

with the requirements of this title

sioner shall determine the percentage which the average per pupil expenditure in Puerto Rico is of the lowest average per pupil expenditure if any of the fifty States. The grant which Puerto Rico shall be eligible to receive under this subpart for a fiscal year shall be the amount arrived at by multiplying the number of children counted under subsection (c) for Puerto Rico by the product of—

"(i) the percentage determined under the preceding sentence, and

"(ii) 32 per centum of the average per pupil expenditure in the United States.

"(4) For purposes of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(b) MINIMUM NUMBER OF CHILDREN TO QUALIFY.—A local educational agency shall be eligible for a basic grant for a fiscal year under this part only if it meets the following requirements with respect to the number of children counted under subsection (c):

"(1) In any case (except as provided in paragraph (3)) in which the Commissioner determines that satisfactory data for the purpose of this subsection as to the number of such children are available on a school basis, the number of such children in the school district of such local educational agency shall be at least ten.

"(2) In any other case, except as provided in paragraph (3), the number of children in the county which includes such local education agency's school district shall be at least ten.

"(3) In any case in which a county includes a part of the school district of the local educational agency concerned and the Commissioner has not determined that satisfactory data for the purpose of this subsection are available on a school district basis for all the local educational agencies for all the counties into which the school district of the local educational agency concerned extends, the eligibility requirement with respect to the number of children for such local educational agency shall be determined in accordance with regulations prescribed by the Commissioner for the purposes of this subsection.

"(c) CHILDREN TO BE COUNTED.—(1) The number of children to be counted for purposes of this section is the aggregate of (A) the number of children aged five to seventeen, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph (2)(A), (B) the number of children aged five to seventeen, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (2)(B), and (C) the number of children aged five to seventeen, inclusive, in the school district of such agency living in institutons for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to subpart 3 of part B for the purposes of a grant to a State agency, or being supported in foster homes with public funds.

"(2)(A) For the purposes of this section, the Commissioner shall determine the number of children aged five to seventeen, inclusive, from families below the poverty level on the basis of the most recent satisfactory data available from the Department of Commerce for local educational agencies (or, if such data are not available for such agencies, for counties); and in determining the families which are below the poverty level, the Commissioner shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census.

"(B) For purposes of this section, the Secretary shall determine the number of children aged five to seventeen, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census for a nonfarm family of four in such form as those criteria have been updated by increases in the Consumer Price Index. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of October of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the calendar year preceding such month of October) or, to the extent that such data are not available to him before January of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to him at the time of such determination.

"(C) When requested by the Commissioner, the Secretary of Commerce shall make a special estimate of the number of children of such ages who are from families below the poverty level (as determined under paragraph (A) of this subsection) in each county or school district, and the Commissioner is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information. For purposes of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

"(d) PROGRAM FOR INDIAN CHILDREN.—(1) From the amount allotted for payments to the Secretary of the Interior under clause (B)(i) in the second sentence of subsection (a)(1), the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Commissioner determines will best carry out the purposes of this title, with respect to out-of-State Indian children in the elementary and secondary schools of such agencies under special contracts with the Department of the Interior. The amount of such payment may not exceed, for each such child, 40 per centum of (A) the average per pupil expenditure in the State in which the agency is located or (B) 120 per centum of such expenditure in the United States, whichever is the greater.

"(2) The amount allotted for payments to the Secretary of the Interior under clause (B)(ii) in the second sentence of subsection (a)(1) for any fiscal year shall be, as determined pursuant to criteria established by the Commissioner, the amount necessary to meet the special educational needs of educationally deprived Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. Such payment shall be made pursuant to an agreement between the Commissioner and the Secretary containing such assurances and terms as the Commissioner determines will best achieve the purposes of this title. Such agreement shall contain (A) an assurance that payments made pursuant to this subparagraph will be used solely for programs and projects approved by the Secretary of the Interior which meet the applicable requirements of subpart 3 of this part and that the Department of the Interior will comply in all other respects with the requirements of this title, and (B) provision for carrying out the applicable provisions of subpart 3 of this part and sections 192 and 193.

"TREATMENT OF EARNINGS FOR PURPOSES OF AID TO FAMILIES WITH DEPENDENT CHILDREN

"SEC. 112. Notwithstanding the provisions of title IV of the Social Security Act, a State plan approved under section 402 of such Act shall provide that for a period of not less than twelve months, and may provide that for a period of not more than twenty-four months, the first $85 earned by any person in any month for services rendered to any program assisted under this title of this Act shall not be regarded (1) in determining the need of such person under such approved State plan or (2) in determining the need for any other individual under such approved State plan.

"Subpart 2—Special Grants

"SPECIAL INCENTIVE GRANTS

"SEC. 116. (a) ELIGIBILITY.—(1) Each local educational agency that is eligible to receive a payment under section 111 for any fiscal year shall be entitled to an additional grant under this section for that fiscal year if it is located in a State which has in effect for that fiscal year a State program meeting the requirements of paragraph (2) under which financial assistance is provided to meet the special education needs of educationally deprived children.

"(2) A State program meets the requirements of this subsection if, under State law—

"(A) the program meets the requirements of section 131(c); and

"(B) not less than 50 per centum of the funds expended under the program in any local educational agency in the State in the fiscal year preceding any fiscal year in which the State receives a payment under this subpart is expended in school attendance areas of such agencies having high concentrations of children from low-income families.

"(b) AMOUNT OF GRANTS.—(1) Except as provided in paragraph (3), the aggregate amount to which the local educational agencies in a State are entitled under this section for any fiscal year shall be 50 per centum of the amount of State funds expended, in the most recent fiscal year for which data are available, under a State program meeting the requirements of paragraph (2) of subsection (a) of this section.

"(2) The amount of the additional grant for each local educational agency in a State under this section for any fiscal year shall bear the same ratio to the amount allocated to that State under subsection (c) of this section as the amount allocated to that local educational agency under subpart 1 of part A of this title for that fiscal year bears to the aggregate amount allocated to all local educational agencies in the State under subpart 1 of part A for that fiscal year.

"(3) The aggregate amount that the local educational agencies in a State shall be eligible to receive under this section for any fiscal year shall not exceed 10 per centum of the aggregate amount which all local educational agencies in that State are eligible to receive under section 111 of this title for that fiscal year.

"(4) Each State which desires to receive payments under this section shall develop a system for determining the data required by subparagraph (2)(B) of subsection (a) of this section relating to the percentage of State funds expended in school attendance areas having high concentrations of children from low-income families and paragraph (1) of this subsection relating to the amount of State funds expended under the State program referred to in that paragraph. The State shall submit to the Commissioner such information as the Commissioner may request concerning that system.

"(c) PAYMENTS; USE OF FUNDS.—(1) Except as provided in paragraph (2), the Commissioner shall pay to each State for each fiscal year the aggregate amount to which the local educational agencies in that State are entitled for that fiscal year.

"(2) Whenever the expenditures made by a State in accordance with subsection (a) of this section in a fiscal year equal or exceed expenditures in the preceding fiscal year, the amount paid to that State under this section shall not be less than the amount paid to that State under this section in the preceding fiscal year, and the total of any increases required under this paragraph shall be derived by proportionately reducing the amount paid to States which were not entitled to a payment under this section in the preceding fiscal year, except that the amount paid to a State under this section for any fiscal year shall not exceed the maximum amount to which that State is entitled for that fiscal year under paragraph (1) of subsection (b).

"(3) The total amount to which the local educational agencies in a State are entitled under this section for any fiscal year shall be added to the amount paid to that State under section 192 for that year. From the amount paid to it under this subsection, the State shall distribute to each local educational agency of the State the amount of its additional grant as determined under paragraph (2) of subsection (b) of this section.

"(4) The amount paid to a local educational agency under this section shall be used by that agency for activities undertaken pursuant to its application submitted under section 121 and shall be subject to all other requirements in subpart 3 of part A of this title.

"(d) APPROPRIATIONS.—There are authorized to be appropriated for the purposes of this section such sums as may be necessary for fiscal year 1980 and for the three succeeding fiscal years.

"GRANTS FOR LOCAL EDUCATIONAL AGENCIES IN COUNTIES WITH ESPECIALLY HIGH CONCENTRATIONS OF CHILDREN FROM LOW-INCOME FAMILIES

"SEC. 117. (a) PURPOSE.—It is the purpose of this section to provide additional assistance to local educational agencies in counties with especially high concentrations of children from low-income families to enable local educational agencies in such counties to provide more effective programs of instruction, especially in the basic skills of reading, writing, and mathematics, to meet the special educational needs of educationally deprived children.

"(b) ELIGIBILITY FOR AND AMOUNT OF SPECIAL GRANTS.—(1) Each county, in a State other than Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, which is eligible for a grant under this title for any fiscal year shall be entitled to an additional grant under this section for that fiscal year if—

"(A) the number of children counted under section 111(c) of this title for local educational agencies in such county for the preceding fiscal year exceeds five thousand, or

"(B) the number of children counted under section 111(c) exceeds 20 per centum of the total number of children aged five to seventeen, inclusive, in the school districts of local educational agencies in such counties in that fiscal year,

except that no such State shall receive less than one-quarter of 1 per centum of the sums appropriated under subsection (d) for that section for that fiscal year.

"(2) For each county in which there are local educational agencies eligible to receive an additional grant under this section for any fiscal year the Commissioner shall determine the product of—

"(A) the number of children in excess of five thousand counted under section 111(c) for the preceding fiscal year or the number of children counted under that section in excess of 20 per centum of the total number of children aged five to seventeen, inclusive, in the school districts of local educational agencies in such county for that preceding fiscal year, whichever is greater, and

"(B) the average per pupil expenditure determined for those agencies under the second sentence of section 111(a)(2) of this title for the fiscal year for which the determination is being made.

"(3) The amount of the additional grant to which an eligible county is entitled under this section for any fiscal year shall be an amount which bears the same ratio to the amount appropriated under subsection (d) for that fiscal year as the product determined under paragraph (2) for such county for that fiscal year bears to the sum of such products for all counties in the United States for that fiscal year.

"(4) For the purposes of this section, the Commissioner shall determine the number of children counted under subsection 111(c) for any county and the total number of children aged five to seventeen, inclusive, in school districts of local educational agencies in such county, on the basis of the most recent satisfactory data available at the time the entitlement of that county is determined under section 111.

"(5)(A) Except as provided in subparagraph (C), funds allocated to counties under this part shall be allocated by the State educational agency, pursuant to regulations established by the Commissioner, among the several local educational agencies whose school districts lie (in whole or in part) within the county on the basis of the current distribution in the country of children aged five to seventeen, inclusive, from low-income families (using a poverty level selected by the State educational agency consistent with the purposes of this title) as determined on the basis of the available data which such State educational agency determines best to reflect the current distribution in the county of children aged five to seventeen, inclusive, from low-income families.

"(B) Funds allocated pursuant to subparagraph (A) by the State educational agency among the several local educational agencies may only be allocated to such agencies whose incidence of children from low-income families is at least 10 per centum or above the county's average incidence of such children whichever would result in grants being made to the fewer number of districts.

"(C) The State educational agency of any State, to which the exception in paragraph (1) of this subsection applies, shall allocate the funds received under this section among local educational agencies on the basis of the relative number of children counted under section 111(c) of this title.

"(c) PAYMENTS; USE OF FUNDS.—(1) The total amount to which the counties in a State are entitled under this section for any fiscal year shall be added to the amount paid to that State under section 191 for that year. From the amount paid to it under this section, the State shall distribute to local educational agencies in each county of the State the amount (if any) to which it is entitled under this section.

"(2) The amount paid to a local educational agency under this section shall be used by that agency for activities undertaken pursuant to its application submitted under section 121 and shall be subject to the other requirements in subpart 3 of this part.

"(d) APPROPRIATIONS.—There are authorized to be appropriated for the purposes of this section $400,000,000 for fiscal year 1979, and such sums as many be necessary for each of the four succeeding fiscal years.

"Subpart 3—Program Requirements an Application

"LOCAL PROGRAM APPLICATIONS

"SEC. 121. A local educational agency m receive a grant under this title for any fi year if it has on file with the appropri State educational agency a current appli tion, approved by the State educatio agency, describing the programs and proje to be conducted with assistance provid under this title for a period not to exc three fiscal years, including the fiscal y for which the grant is to be made. Such application may be amended at any time describe changes in or additions to the acti ties originally set forth in the application.

"DESIGNATING SCHOOL ATTENDANCE AREA

"SEC. 122. (a) GENERAL PROVISIONS.—E cept as provided in subsections (b), ((d), and (e) of this section, a local edu tional agency shall use funds received un this title in school attendance areas hav high concentrations of children from lo income families (hereinafter referred to 'eligible school attendance areas'), and wh funds under this title are insufficient to p vide programs and projects for all educati ally deprived children in eligible school tendance areas, a local educational age shall annually rank its eligible school tendance areas from highest to lowest, cording to relative degree of concentrati of children from low-income families. T same measure of low-income, which shall chosen by the local educational agency which may be a composite of several indi tors, shall be used with respect to all su areas, both to identify the areas having hi concentrations of children from low-inco families and to determine the ranking each area. A local educational agency m carry on a program or project assisted un this title in an eligible school attenda area only if it also carries on such progr or project in other eligible school attenda areas which are ranked higher under first sentence.

"(b) USE OF ENROLLMENT DATA IN CERTA SCHOOLS.—A local educational agency m use funds received under this title for ed cationally deprived children who are in school of such agency which is not local in an eligible school attendance area, b at which the proportion of children in tual average daily attendance who are fr low-income families in substantially same as the proportion of such children such an area of that agency (hereinaf referred to as an eligible school).

"(c) CONTINUATION OF ELIGIBILITY FOR CE TAIN ATTENDANCE AREAS OR SCHOOLS.— eligible school attendance area or an eli ble school may be designated a project a under subsection (a) or a project sch under subsection (b) for a fiscal year ev though it does not qualify under that su section for that fiscal year, if such area school was so designated in either of the t preceding fiscal years.

"(d) LOWER RANKED SCHOOL ATTENDAN AREAS OR SCHOOL HAVING SUBSTANTIAL GREATER INCIDENCES OF EDUCATIONALLY D PRIVED CHILDREN THAN HIGHER RANK AREAS OR SCHOOLS.—The Commissioner sh issue regulations providing for an excepti to subsection (a) permitting children lower ranked eligible school attendan areas or eligible schools having substantia greater incidences of educational depri tion than areas or schools ranked high under subsection (a) or (b) to receive assis ance before such children in higher rank areas or schools receive such assistance.

"(e) SKIPPING HIGHER RANKED SCHOOL A TENDANCE AREAS OR SCHOOLS RECEIVING SIM ICES OF THE SAME NATURE AND SCOPE FR NON-FEDERAL SOURCES.—The Commission shall issue regulations providing for an e ception to subsection (a) or (b) permitti local educational agencies to skip high

ranked eligible school attendance areas or eligible schools receiving, from non-Federal

agency may use funds received under this title for planning only if (1) the school

"(j) SUSTAINING GAINS.—A local educa-

"(d) TRAINING OF ADVISORY COUNCIL MEM-

funds received under this title only for the

to the provisions of section 121

ranked eligible school attendance areas or eligible schools receiving, from non-Federal funds, services of the same nature and scope as would otherwise be provided under this title. Whenever children residing in eligible areas and attending private elementary and secondary schools are ineligible for services of the same nature and scope from non-Federal sources such children should be selected for programs and projects under this title without regard to the provisions of this subsection.

"CHILDREN TO BE SERVED

"SEC. 123. (a) GENERAL PROVISIONS.—Except as provided in subsections (b), (c), and (d) of this section and section 133, a local educational agency must use funds received under this title for educationally deprived children, identified in accordance with section 124(b) as having the greatest need for special assistance, in school attendance areas or schools satisfying the requirements of section 122.

"(b) CONTINUATION OF ELIGIBILITY FOR EDUCATIONALLY DEPRIVED CHILDREN WHO ARE NO LONGER IN GREATEST NEED OF ASSISTANCE.—Where for a fiscal year, an educationally deprived child in a school attendance area or school satisfying the requirements of section 122, does not meet the requirement of subsection (a) requiring that he be in greatest need of special assistance, but did meet such requirement in any previous year, and is still educationally deprived, that child may participate in a program or project assisted under this title for the current fiscal year.

"(c) CONTINUATION OF ELIGIBILITY FOR EDUCATIONALLY DEPRIVED CHILDREN TRANSFERRED TO INELIGIBLE AREAS IN THE SAME YEAR.—Educationally deprived children who begin participation in a program or project assisted under this title, in accordance with subsections (a) and (b) but who, in the same school year, are transferred to a school attendance area or school not receiving funds under this title, may continue to participate in a program or project funded under this title for the duration of that same school year.

"(d) SKIPPING CHILDREN DETERMINED TO BE IN GREATEST NEED OF ASSISTANCE RECEIVING SERVICES OF THE SAME NATURE AND SCOPE FROM NON-FEDERAL SOURCES.—The Commissioner shall issue regulations providing for an exemption to subsection (a) permitting local educational agencies to skip educationally deprived children in greatest need of assistance receiving, from non-Federal sources, services of the same nature and scope as would otherwise be provided under this title.

"REQUIREMENTS FOR DESIGN AND IMPLEMENTATION OF PROGRAMS

"SEC. 124. (a) PURPOSE OF PROGRAM.—A local educational agency may use funds received under this title only for programs and projects which are designed to meet the special educational needs of the children referred to in section 123. Such programs and projects may include the acquisition of equipment, payments to teachers of amounts in excess of regular salary schedules as a bonus for service in schools serving project areas, the training of teachers, and, where necessary, the construction of school facilities, and planning for such programs and projects.

"(b) ASSESSMENT OF EDUCATIONAL NEED.—A local educational agency may receive funds under this title only if it makes an assessment of educational needs each year to (1) identify educationally deprived children who have the greatest need for special assistance; (2) identify the general instructional areas on which the program will focus; and (3) determine the special educational needs of participating children with specificity sufficient to facilitate development of high-quality programs and projects.

"(c) PLANNING.—A local educational agency may use funds received under this title for planning only if (1) the planning relates directly to programs or projects to be assisted under this title and has resulted, or is reasonably likely to result, in a program or project to be assisted under this title, and (2) such funds are needed because of the innovative nature of the program or project or because such agency lacks the resources necessary to plan adequately for programs and projects to be assisted under this title. The amount a local educational agency may use for plans for any fiscal year may not exceed 1 per centum of the amount determined for that agency for that year pursuant to section 111 or $2,000, whichever is greater.

"(d) SUFFICIENT SIZE, SCOPE, AND QUALITY.—A local educational agency may use funds received under this title only for programs and projects which are of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting the special educational needs of the children being served.

"(e) EXPENDITURES RELATED TO RANKING OF ELIGIBLE SCHOOL ATTENDANCE AREA OR SCHOOLS.—A local educational agency may receive funds under this title only if such funds are allocated among project areas or schools for programs and projects assisted under this title on the basis of the number and needs of particular students as determined in accordance with section 123.

"(f) COORDINATION WITH OTHER PROGRAMS.—A local educational agency may receive funds under this title only if it demonstrates that, in the development of its application, it has taken into consideration benefits and services which are or may be available through other public and private agencies, organizations, or individuals. The local educational agency shall also demonstrate that in order to avoid duplication of effort and to insure that all programs and projects complement each other, it has considered suggestions and offers of assistance made by other agencies which may aid in carrying out or making more effective the program or project for which the application is made.

"(g) EVALUATIONS.—A local educational agency may receive funds under this title only if—

"(1) effective procedures are adopted for evaluating at least every three years the effectiveness of the programs assisted under this title in meeting the special educational needs of educationally deprived children;

"(2) such valuations will include, during each three-year period, the collection and analysis of data relating to the degree to which programs assisted under this title have achieved their goals, and will also include objective measurements of educational achievement in basic skills over at least a twelve-month period in order to determine whether regular school year programs have sustained effects over the summer; and

"(3) the evaluation will address the purposes of the programs and that the results of the evaluations will be utilized in planning for and improving projects and activities carried out under this title in subsequent years.

"(h) TEACHER PARTICIPATION.—A local educational agency may receive funds under this title only if teachers in schools participating in programs assisted under this title have been involved in planning for those programs and will be involved in the evaluation thereof.

"(i) PARENT PARTICIPATION.—A local educational agency may receive funds under this title only if parents of children participating in programs assisted under this title will be informed of the instructional goals of the program and the progress of their children in that program, and will be afforded opportunities to assist their children in achieving those goals.

"(j) SUSTAINING GAINS.—A local educational agency may receive funds under this title only if, in developing programs to be assisted under this title, the local educational agency will give due consideration to the inclusion of components designed to sustain the achievements of children beyond the school year in which the program is conducted, through such means as increased emphasis on summer programs and intermediate and secondary level programs.

"(k) TRAINING OF EDUCATION AIDES.—A local educational agency may receive funds under this title for programs and projects involving educational aides only if it has in effect well-developed plans providing for coordinated programs of training in which education aides and the professional staff whom they are assisting will participate together.

"(l) JOINTLY OPERATED PROGRAMS.—Two or more local educational agencies may, at their option, enter into an agreement for carrying out jointly operated programs and projects assisted under this title.

"PARENTAL INVOLVEMENT

"SEC. 125. (a) ESTABLISHMENT OF ADVISORY COUNCILS.—A local educational agency may receive funds under this title only if it establishes (1) an advisory council for its entire school district composed of representatives elected by the project area and project school advisory councils, and (2) an advisory council for each project area or project school. Each project area or project school advisory council—

"(A) shall be composed of not less than ten members (three-fourths of whom shall be parents of the children to be served who are elected by parents in the school attendance area, and one-fourth of whom shall be elected by the parent members), and

"(B) shall elect officers of the council after it has been fully constituted, and

"(C) shall be composed of members who shall serve for terms of two years after which time they may be reelected, except that the members first elected after the date of enactment of the Education Amendments of 1978, one-half shall be elected for a term of one year only, and

"(D) shall meet a sufficient number of times to carry out their responsibilities under subsection (b) at locations chosen by the council.

The first such meeting shall occur not later than the end of the second month of the school year.

"(b) RESPONSIBILITIES OF ADVISORY COUNCILS.—Each local educational agency shall give each advisory council which it establishes under subsection (a) responsibility for advising it in the planning for, and the implementation and evaluation of, its programs and projects assisted under this title.

"(c) ACCESS TO INFORMATION.—(1) Each local educational agency shall provide without charge to each member of an advisory council established by such agency under subsection (a) of this section—

"(A) a copy of the text of this title and of the General Education Provisions Act,

"(B) a copy of any Federal regulations and guidelines issued under such Act,

"(C) a copy of appropriate State regulations and guidelines associated with this title, and

"(D) appropriate training materials to enable such members to carry out all of the functions of a member of such council.

"(2) Each State educational agency shall furnish to each parent advisory council established under subsection (a) of this section in that State copies of reports and other appropriate documents prepared on behalf of or for the State educational agency as a result of monitoring and evaluation, including audits, of programs conducted under this title, insofar as such documents pertain to programs operated by the local educational agency.

"(d) TRAINING OF ADVISORY COUNCIL MEMBERS.—Each local educational agency application for funding under this title shall contain a description of a program of training, established by the local educational agency in full consultation with the members of the advisory councils established under subsection (a) of this section, which meets criteria developed by the Commissioner, which shall be provided to each such member, and which shall permit the use of funds under this title for attendance by such members at relevant local, State, regional, and national meetings."

"(e) WORKSHOPS ON PARENTAL INVOLVEMENT.—For each fiscal year for which payments are made to State educational agencies under this title, the Commissioner shall sponsor workshops in the several regions of the United States which shall be designed to assist local educational agencies to work with parent advisory councils established under subsection (a) of this section and to facilitate parental involvement in the programs conducted under this title. The workshops shall be planned and conducted in consultation with members of parent advisory councils in the region served by the workshop and with organizations concerned with Federal education policy.

"(f) MODEL TRAINING PROGRAMS.—The National Institute of Education shall develop models for successful parent involvement training programs conducted under title I, and shall report and disseminate the results of such study to the Congress and the public, in order to encourage the adoption of successful parental involvement training programs, or portions thereof, by schools and local educational agencies.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983, such sums as may be necessary to carry out the provisions of subsections (e) and (f) of this section.

"FUNDS ALLOCATION

SEC. 126. (a) MAINTENANCE OF REPORT.—(1) Except as provided in paragraph (2), a local educational agency may receive funds under this title for any fiscal year only if the State educational agency finds that the combined fiscal effort per student or the aggregate expenditures (as determined in accordance with regulations of the Commissioner) of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than such combined fiscal effort per student or the aggregate expenditures for that purpose for the second preceding fiscal year.

"(2) The Commissioner may waive, for one fiscal year only, the requirements of this subsection if he determines that such a waiver would be equitable due to exceptional and unforeseen circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency. In any case in which a waiver under this paragraph is granted, the Commissioner shall reduce the amount of Federal payment for the program affected for the current fiscal year in the exact proportion to which the amount expended (either on an average per pupil or aggregate basis) was less than the amount required by paragraph (1). However, the waiver may not be taken into account when computing the fiscal effort in subsequent years for the programs affected as required by paragraph (1).

"(3) The Commissioner shall establish objective criteria of general applicability to carry out the waiver authority contained in this subsection.

"(b) USE OF FUNDS LIMITED TO EXCESS COSTS.—Subject to the provisions of section 131, a local educational agency may use funds received under this title only for the excess costs of programs and projects referred to in section 124(a). As used in this subsection, the term 'excess costs' means costs directly attributable to programs and projects which exceed the average per pupil expenditure of a local educational agency in the most recent year for which satisfactory data are available for pupils in the grade or grades included in such programs or projects.

"(c) FEDERAL FUNDS TO SUPPLEMENT, NOT SUPPLANT REGULAR NON-FEDERAL FUNDS.—A local educational agency may use funds received under this title only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available from regular non-Federal sources and from non-Federal sources for State phase-in programs described in section 131(d) for the education of pupils participating in programs and projects assisted under this title, and in no case may such funds be so used as to supplant such funds from such non-Federal sources.

"(d) FEDERAL FUNDS REQUIRED TO SUPPLEMENT, NOT SUPPLANT NON-FEDERAL FUNDS FOR CERTAIN SPECIAL STATE AND LOCAL PROGRAMS.—A local educational agency may use funds received under this title only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for each of the special programs described in subsections (c) and (d) of section 131 for the education of educationally deprived children, in the aggregate, in eligible school attendance areas or attending eligible schools and in no case, as to supplant such funds from non-Federal sources. It shall not be considered a violation of this subsection for a local educational agency, in carrying out a special program described in subsections (c) and (d) of section 131, to take into consideration funds made available under this title, and to coordinate such special programs with programs using such Federal funds, provided that educationally deprived children, in the aggregate, in eligible school attendance areas or attending eligible schools, receive at least the same level of such special State and local funds that would have been made available to such children in the absence of funds under this title. For purposes of this subsection, the level of funds that, in the absence of funds under this title have been made available to such children shall be determined by reference to a plan for distributing such special funds. Such plan shall be based on objective criteria of need that do not discriminate against educationally deprived children, in the aggregate, in eligible school attendance areas or attending eligible schools. The objective criteria chosen by the local educational agency shall prescribe, with particularity, the children as well as the schools, grade-spans, or school attendance areas eligible for assistance and the method for selecting the particular children who will receive assistance under such special State or local program and the schools or grade-spans which such children attend or the school attendance areas in which such children reside. The criteria for selecting children, schools, grade-spans, and school attendance areas for participation shall be either educational need, a reasonable proxy for educational need, level of poverty, or a combination of such factors. Educationally deprived children residing in eligible school attendance areas or attending eligible schools, satisfying such objective criteria, must receive assistance under either this title or under such special State or local program before any child who does not satisfy such criteria receives such assistance.

"(e) COMPARABILITY OF SERVICES.—Subject to the provisions of section 131, a local cational agency may receive funds unde title only if State and local funds w used in the district of such agency to p services in project areas which, taken whole, are at least comparable to se being provided in areas in such district are not receiving funds under this Where, under regulations of the Co sioner, all school attendance areas i district of the agency are designated as ect areas, the agency may receive such only if State and local funds are us provide services which, taken as a whol substantially comparable, in accordance regulations of the Commissioner, in project area. Each local educational a shall report annually to the State e tional agency with respect to its compl with this subsection.

"ACCESS TO INFORMATION

"SEC. 127. Each local educational a which applies for or receives funds unde title shall make the application, all rel evaluations and reports, and all other tinent documents related thereto availa parents, teachers, and other members c general public.

"COMPLAINT RESOLUTION

"SEC. 128. Each local educational a which receives funds under this title develop and implement, in accordance criteria prescribed by the Commissi written procedures for the resolution of plaints made to that agency by parent sory councils, parents, teachers, or other cerned organizations or individuals con ing violations of this title, or of appli provisions of the General Education P sions Act in connection with programs this title. Such procedures shall—

"(1) provide specific time limits for vestigation and resolution of compla which shall not exceed thirty days;

"(2) provide an opportunity for the plainant or the complainant's representa or both, to present evidence, includin opportunity to question parties involve

"(3) provide the right to appeal the resolution of the local educational agen the State educational agency within t days after receipt of the written decision;

"(4) provide for the dissemination o formation concerning these procedures t terested parties, including all district school parent advisory councils.

"INDIVIDUALIZED PLANS

"SEC. 129. It is the intent of the Con to encourage, where feasible, the deve ment for each educationally deprived c participating in a program under this of an individualized written educational (maintained and periodically evalua agreed upon jointly by the local educati agency, the teacher, a parent or guardia the child, and, when appropriate, the c

"PARTICIPATION OF CHILDREN ENROLLED PRIVATE SCHOOLS

"SEC. 130. (a) GENERAL REQUIREMENTS To the extent consistent with the nu of educationally deprived children in school district of the local educati agency who are enrolled in private ele tary and secondary schools, such agency make provision for including in project sisted under this title special educati services and arrangements (such as dual rollment, educational radio and televi and mobile educational services and eq ment) which meet the requirements of tion 122, subsections (a), (b), and (d section 124, and subsections (b) and (c section 126, and which provide to t children an opportunity to participate programs and projects assisted under title on a basis equitable to that provide similarly deprived children enrolled in pu schools. Expenditures for educational serv

and arrangements pursuant to this section

or modified findings of fact and may modify

tional needs of the children who are partic-

and arrangements pursuant to this section for educationally deprived children in private schools shall be equal (taking into account the number of children to be served and the special educational needs of those children) to expenditures for children enrolled in the public schools of the local educational agency.

"(b) BY-PASS PROVISION.—(1) If a local educational agency is prohibited by law from providing for the participation in special programs for educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), the Commissioner shall waive such requirement, and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a).

"(2) If the Commissioner determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), he may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a) upon which determination the provisions of subsection (a) shall be waived.

"(3)(A) When the Commissioner arranges for services pursuant to this section, he shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative cost of arranging for the services, from the appropriate allocation or allocations under this title.

"(B) Pending final resolution of any investigation or complaint that could result in a determination under this subsection, the Commissioner may withhold from the allocation of the affected State or local educational agency the amount he estimates would be necessary to pay the cost of those services.

"(C) Any determination by the Commissioner under this section shall continue in effect until the Commissioner determines that there will no longer be any failure or inability on the part of the local educational agency to meet the requirements of subsection (a).

"(4) The Commissioner shall not take any final action under this subsection until the State educational agency and the local educational agency affected by that action have had an opportunity, for at least forty-five days after receiving written notice thereof, to submit written objections and to appear before the Commissioner or his designee to show cause why that action should not be taken.

"(4)(A) The Commissioner shall not take any final action under this section until he has afforded the State educational agency and local educational agency affected by such action at least sixty days' notice of his proposed action and an opportunity for a hearing with respect thereto on the record.

"(B) If a State or local educational agency is dissatisfied with the Commissioner's final action after a hearing under subparagraph (A) of this paragraph, it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commission. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

"(C) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(D) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set aside, in whole or in part, the judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"Subpart 4—Exemptions From Certain Program Requirements

"EXCLUSIONS FROM EXCESS COSTS AND COMPARABILITY PROVISIONS FOR CERTAIN SPECIAL STATE AND LOCAL PROGRAMS

"SEC. 131. (a) IN GENERAL.—For the purpose of determining compliance with the requirement of section 126(b) (relating to use of funds only for excess costs of programs and projects) and of section 126(e) (relating to comparability of services between each project area school and nonproject area schools), a local educational agency may, at its option, exclude State and local funds expended for carrying out a special program or a State phase-in program.

"(b) SPECIAL PROGRAM AND STATE PHASE-IN PROGRAM DEFINED.—For purposes of this section—

"(1) a special program is limited to—

"(A) a State compensatory education program which the Commissioner has determined in advance under subsection (f) meets the requirements of subsection (c) and which the State educational agency determines is being implemented by the local educational agency in accordance with subsection (c);

"(B) a State compensatory education program which the Commissioner has determined in advance under subsection (f) does not satisfy the requirements of subsection (c), but which he has determined permits the local educational agency, at its option, to use such special State funds in accordance with subsection (c), provided that the local educational agency designs a program which the State educational agency determines in advance under subsection (g) meets the requirements of subsection (c) and which the State educational agency determines will be implemented by the local educational agencies in accordance with subsection (c);

"(C) a local compensatory education program which the State educational agency has determined in advance under subsection (g) meets the requirements of subsection (c) and which the State educational agency determines is being implemented in accordance with subsection (c); or

"(D) a bilingual program or special education program which meets the requirements of subsection (d); and

"(2) a State phase-in program is a program which the Commissioner has determined in advance under subsection (f) meets the requirements of subsection (e) and which the State educational agency determines will be implemented by local educational agencies in accordance with subsection (e)

"(c) STATE AND LOCAL COMPENSATORY EDUCATION PROGRAMS SIMILAR TO TITLE I PROGRAMS.—A State or local program meets the requirements of this subsection if it is similar to programs assisted under this title. The Commissioner shall consider a State or local program to be similar to programs assisted under this subpart if—

"(1) all children participating in the program are educationally deprived,

"(2) the program is based on performance objectives related to educational achievement and is evaluated in a manner consistent with those performance objectives,

"(3) the program provides supplementary services designed to meet the special educational needs of the children who are participating,

"(4) the local educational agency keeps such records and affords such access thereto as are necessary to assure the correctness and verification of the requirements of clauses (1), (2), and (3) of this subsection, and

"(5) the State educational agency monitors performance under the program to assure the requirements of clauses (1), (2), (3), and (4) of this subsection are met.

"(d) BILINGUAL PROGRAMS OR SPECIAL EDUCATION PROGRAMS FOR HANDICAPPED CHILDREN OR CHILDREN WITH SPECIAL LEARNING DISABILITIES.—A bilingual program for children of limited English-speaking ability or a special program for handicapped children or children with specific learning disabilities meets the requirements of this subsection if such program provides services to children residing in project areas which are comparable to those provided similarly disadvantaged children residing in nonproject areas.

"(e) CERTAIN STATE PHASE-IN PROGRAMS.—A State education program which is being phased into full operation meets the requirements of this subsection if the Commissioner is satisfied that—

"(1) the program is authorized and governed specifically by the provisions of State law;

"(2) the purpose of the program is to provide for the comprehensive and systematic restructuring of the total educational environment at the level of the individual school;

"(3) the program is based on objectives, including but not limited to, performance objectives related to educational achievement and is evaluated in a manner consistent with those objectives;

"(4) parents and school staff are involved in comprehensive planning, implementation, and evaluation of the program;

"(5) the program will benefit all children in a particular school or grade-span within a school;

"(6) schools participating in a program described in a school level plan, program strategies for meeting the special educational needs of educationally deprived children;

"(7) the phase-in period of the program is not more than six school years, except that the phase-in period for a program commenced prior to the date of enactment of the Education Amendments of 1978 shall be deemed to begin on the date of enactment of such amendment;

"(8) at all times during such phase-in period at least 50 per centum of the schools participating in the program are the schools serving project areas which have the greatest number or concentrations of educationally deprived children or children from low-income families;

"(9) State funds made available for the phase-in program will supplement, and not supplant, State and local funds which would, in the absence of the phase-in program, have been provided for schools participating in such program;

"(10) the local educational agency is separately accountable, for purposes of compliance with paragraphs (1) through (6), (8), and (9) of this subsection, to the State educational agency for any funds expended for such program;

"(11) the local educational agencies carrying out the program are complying with paragraphs (1) through (6), (8), and (9) and the State educational agency is complying with paragraph (10).

"(f) ADVANCE DETERMINATIONS BY THE COMMISSIONER.—The Commissioner shall make an advance determination of whether or not a State program described in subsection (b)(1)(A) or (B) or (b)(2) meets the requirements of subsection (c) or meets the requirements of subsection (e). The Commissioner shall require each State educational agency to submit to him the provisions of

State law together with implementing rules, regulations, orders, guidelines, and interpretations which are necessary for him to make such an advance determination. The Commissioner's determination shall be in writing and shall include the reasons for his determination. Whenever there is any material change in pertinent State law affecting the program, the State educational agency shall submit such changes to the Commissioner.

"(g) ADVANCE DETERMINATION BY THE STATE EDUCATIONAL AGENCY.—The State educational agency shall make an advance determination of whether or not a program described in subsection (b)(1)(C) meets the requirements of subsection (c). The State educational agency shall require each local educational agency to submit the provisions of local law, together with implementing rules, regulations, guidelines, and interpretations which are necessary to make such an advance determination. The State educational agency's determination shall be in writing and shall include the reasons for the determination. Whenever there is any material change in pertinent local law affecting the program, the local educational agency shall submit such changes to the State educational agency.

"LIMITED EXEMPTION TO SUPPLEMENT, NOT SUPPLANT REQUIREMENT WHERE CERTAIN SPECIAL PROGRAMS FOR EDUCATIONALLY DEPRIVED CHILDREN ARE FULLY FUNDED

"SEC. 132. Whenever for a fiscal year—

"(1) a local educational agency provides special State and local funds for programs for educationally deprived chidren which qualify under clause (A), (B), or (C) of section 131(a)(1) for an exception from the comparability and excess costs provisions under such section 131, and

"(2) the amount of such special State and local funds provided in eligible school attendance areas and for eligible schools when added to the Federal funds provided for programs under this subpart equals the funds such agency is eligible to receive for such fiscal year under section 111(a)(2) (without regard to adjustments under section 183), and under subpart 2 of part A,

then the local educational agency may, without being considered in violation of section 126(d), utilize additional State and local funds for special programs and projects which are solely for educationally deprived children residing in nonproject areas or attending nonproject schools, including areas and schools ineligible for assistance under this title. The exemption in the preceding sentence does not apply to the extent the level of such special State and local funds, per child participating in such programs residing in ineligible school attendance areas or attending ineligible schools, exceeds the amount of funds, per child participating in programs in project areas provided to the agency under this part plus the amount of such special State or local funds provided for use in such areas.

"SCHOOLWIDE PROJECTS

"SEC. 133. (a) USE OF FUNDS FOR SCHOOLWIDE PROJECTS.—In the case of any school serving an attendance area that is eligible to receive services under this title and in which not less than 80 per centum of the children are from low-income families (in accordance with criteria established by the Commission), the local educational agency may carry out a project under this title to upgrade the entire educational program in that school if the requirements of subsection (b) are met.

"(b) DESIGNATION OF SCHOOLS.—A school may be designated for a schoolwide project under subsection (a) if—

"(1) a plan has been developed for that school by the local educational agency and has been approved by the State educational agency providing for—

"(A) a comprehensive assessment of the educational needs of all students in the school, in particular the special needs of educationally deprived children, and

"(B) an instructional program designed to meet the special needs of all students in the school;

"(2) the plan has been developed with the involvement of those individuals who will be engaged in carrying out the plan, including parents, teachers, teacher aides, administrators, and secondary students if the plan relates to a secondary school;

"(3) the plan provides for consultation among those individuals as to the educational progress of all students;

"(4) the plan has been approved by the advisory council for that school established under section 125;

"(5) appropriate training is provided to teachers and teacher aides to enable them effectively to carry out the plan;

"(6) the plan includes procedures for evaluation involving the participation of the individuals listed in paragraph (2), and opportunities for periodic improvements in the plan based on the results of those evaluations;

"(7) the average per pupil expenditure in the school (excluding amounts expended under a State compensatory education program) for the fiscal year in which the plan is to be carried out will not be less than such expenditure in that school in the previous fiscal year; and

"(8) the average per pupil amount of Federal, State, and local compensatory education funds available to carry out the plan is at least 32 per centum of the average per pupil expenditure in that local educational agency, except as provided in subsection (c)(1) of this section.

"(c) APPROVAL OF SCHOOL; OPERATION OF PROJECT.—

(1) The State educational agency shall approve the plan of any local educational agency for a schoolwide project if that plan meets the requirements of subsection (b). The State educational agency map approve the plan of a local educational agency for a schoolwide project which does not meet the requirements of clause (8) of subsection (b) if the State educational agency determines (subject to regulations issued by the Commissioner) that implementation of such a plan would be of equal or greater efficiency, measured in terms of cost, and would not cause a dilution of services to children of low-income families eligible for services under this title.

(2) For any school which has such a plan approved, the local educational agency—

"(1) shall, in order to carry out the plan, be relieved of any requirements under this title with respect to the commingling of funds provided under this title with funds available for regular programs;

"(2) shall not be required to identify particular children as being eligible to participate in programs assisted under this title; and

"(3) shall not be required to demonstrate that services provided with funds under this title are supplementary to the services regularly provided in the school.

"NONINSTRUCTIONAL DUTIES

"SEC. 134. Notwithstanding any provision of subpart 3 of this part, personnel paid entirely by funds made available under the title may be assigned to certain limited, rotating, supervisory duties not related to classroom instruction, the benefits of which are not limited to participating children under this title. Such duties may include only those to which similarly situated personnel not hired with funds made available under the title are assigned at the same school site, and for which such similarly situated personnel are paid, and may not exceed the same proportion of total time as similarly situated personnel at the same school site, or 1[illegible] centum of the total time, whichever is [illegible]

"PART B—PROGRAMS OPERATED BY STA[illegible] AGENCIES

"Subpart 1—Programs for Migratory [illegible] Children

"GRANTS—ENTITLEMENT AND AMOUN[illegible]

"SEC. 141 (a) ENTITLEMENT.—A State [illegible]cational agency or a combination of [illegible] agencies shall, upon application, be en[illegible] to receive a grant for any fiscal year [illegible] this part to establish or improve, eith[illegible]rectly or through local educational age[illegible] programs of education for migratory chi[illegible] of migratory agricultural workers o[illegible] migratory fishermen which meet the req[illegible]ments of section 142.

"(b) AMOUNT OF GRANT.—Except as [illegible]vided in sections 155 and 156, the total g[illegible] which shall be made available for u[illegible] any State (other than Puerto Rico) for [illegible] subpart shall be an amount equal to 4[illegible] centum of the average per pupil expend[illegible] in the State (or (1) in the case when [illegible] average per pupil expenditure in the [illegible] is less than 80 per centum of the av[illegible] per pupil expenditure in the United S[illegible] of 80 per centum of the average per [illegible] expenditure in the United States, or (2[illegible] the case where the average per pupi[illegible]penditure in the State is more than 12[illegible] centum of the average per pupil expend[illegible] in the United States, of 120 per centu[illegible] the average per pupil expenditure in [illegible] United States multiplied by (1) the [illegible]mated number of such migratory chi[illegible] aged five to seventeen, inclusive, who r[illegible] in the State full time, and (2) the full-[illegible] equivalent of the estimated number of [illegible] migratory children aged five to seven[illegible] inclusive, who reside in the State part [illegible] as determined by the Commissioner in [illegible]cordance with regulations, except th[illegible] in the case of any State, such amoun[illegible]ceeds the amount required under se[illegible] 142, the Commissioner shall allocate [illegible] excess, to the extent necessary, to [illegible] States whose total of grants under this [illegible]tence would otherwise be insufficient fo[illegible] such children to be served in such [illegible] States. The total grant which shall be [illegible] available for use in Puerto Rico shall b[illegible]rived at by multiplying the number of [illegible]dren in Puerto Rico counted as provid[illegible] the preceding sentence by 40 per centu[illegible] (1) the average per pupil expenditu[illegible] Puerto Rico or (2) in the case where [illegible] average per pupil expenditure is more [illegible] 120 per centum of the average per pupi[illegible]penditure in the United States, 120 per [illegible]tum of the average per pupil expenditu[illegible] the United States. In determining the [illegible] time equivalent number of migratory [illegible]dren who are in a State during the sum[illegible] months, the Commissioner shall adjust [illegible] number so determined to take into acc[illegible] the special needs of those children for s[illegible]mer programs and the additional cos[illegible] operating such programs during the sum[illegible] In determining the number of migrant [illegible]dren for the purposes of this section [illegible] Commissioner shall use statistics made a[illegible]ble by the migrant student record tra[illegible] system or such other system as he may d[illegible]mine most accurately and fully reflect[illegible] actual number of migrant students.

"PROGRAM REQUIREMENTS

"SEC. 142. (a) REQUIREMENTS FOR APPR[illegible] OF APPLICATION.—The Commissioner may [illegible]prove such an application only upon [illegible] determination—

"(1) that payments will be used for [illegible]grams and projects (including the acq[illegible]tion of equipment and where necessary [illegible] construction of school facilities) which [illegible] designed to meet the special educati[illegible] needs of migratory children of migra[illegible] agricultural workers or of migratory fi[illegible]men, and to coordinate these programs

projects with similar programs and projects

"(b) AMOUNT OF GRANT.—Except as [illegible]

projects with similar programs and projects in other States, including the transmittal of pertinent information with respect to school records of such children;

"(2) that in planning and carrying out programs and projects there has been and will be appropriate coordination with programs administered under part E of title III of the Economic Opportunity Act of 1964;

"(3) that such programs and projects will be administered and carried out in a manner consistent with the basic objectives of subpart 3 of part A, other than sections 122, 123, 125, 126(d), and 130 thereof:

"(4) that, in planning and carrying out programs and projects at both the State and local educational agency level, there has been and will be appropriate consultation with parent advisory councils established in accordance with regulations of the Commissioner (consistent with the requirements of section 125(a)); and

"(5) that, in planning and carrying out programs and projects, there has been adequate assurance that provision will be made for the preschool education needs of migratory children of migratory agricultural workers or of migratory fishermen, whenever such agency determines that compliance with this clause will not detract from the operation of programs and projects described in paragraph (1) of this subsection after considering funds available for this purpose.

"(b) CONTINUATION OF MIGRANT STATUS.—For purposes of this subpart, with concurrence of his parents, a migratory child of a migratory agricultural worker or of a migratory fisherman shall be deemed to continue to be such a child for a period, not in excess of five years, during which he resides in the area served by the agency carrying on a program or project under this section. Such children who are presently migrant, as determined pursuant to regulations of the Commissioner, shall be given priority in this consideration of programs and activities contained in applications submitted under this subsection.

"(c) BY-PASS PROVISION.—If the Commissioner determines that a State is unable or unwilling to conduct educational programs for migratory children of migratory agricultural workers or of migratory fishermen, or that it would result in more efficient and economic administration, or that it would add substantially to the welfare or educational attainment of such children, he may make special arrangements with other public or nonprofit private agencies to carry out the purposes of this section in one or more States, and for this purpose he may use all or part of the total of grants available for any such State under this section.

"COORDINATION OF MIGRANT EDUCATION ACTIVITIES

"SEC. 143. (a) ACTIVITIES AUTHORIZED.—The Commissioner is authorized to operate a system for the transfer among State and local educational agencies of migrant student records and to carry out other activities, in consultation with the States, to improve the interstate and intrastate coordination among State and local educational agencies of the educational programs available for migratory students.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for this section not more than 5 per centum of the total amount paid to State educational agencies under section 141.

"Subpart 2—Programs for Handicapped Children

"AMOUNT AND ELIGIBILITY

"SEC. 146. (a) ELIGIBILITY FOR GRANT.—A State agency which is directly responsible for providing free public education for handicapped children (as that term is defined in section 602(1) of the Education of the Handicapped Act), shall be eligible to receive a grant under this subpart for any fiscal year.

"(b) AMOUNT OF GRANT.—Except as provided in sections 156 and 157, the grant which a State agency referred to in subsection (a) (other than the agency for Puerto Rico) shall be eligible to receive under this section shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States), multiplied by the number of such children in average daily attendance, as determined by the Commissioner, at schools for handicapped children operated or supported by the State agency, including schools providing special education for handicapped children under contract or other arrangement with such State agency, in the most recent fiscal year for which satisfactory data are available. The grant which Puerto Rico shall be eligible to receive under this section shall be the amount arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States.

"(c) COUNTING OF CHILDREN TRANSFERRING FROM STATE TO LOCAL PROGRAMS.—In the case where such a child leaves an educational program for handicapped children operated or supported by the State agency in order to participate in such a program operated or supported by a local educational agency, such child shall be counted under subsection (b) if (1) he continues to receive an appropriately designed educational program and (2) the State agency transfers to the local educational agency in whose program such child participates an amount equal to the sums received by such State agency under this section which are attributable to such child, to be used for the purposes set forth in section 147.

"PROGRAM REQUIREMENTS

"SEC. 147. A State shall use the payments made under this subpart only for programs and projects (including the acquisition of equipment and, where necessary, the construction of school facilities) which are designed to meet the special educational needs of handicapped children. Such programs and projects shall be administered and carried out in a manner consistent with subpart 3 of part A, other than sections 122, 123, 125, 126(d), 126(e), and 130 thereof. The State agency shall provide assurances to the Commissioner that each such child in average daily attendance counted under subsection (b) of section 146 will be provided with such a program, commensurate with his special needs, during any fiscal year for which such payments are made.

"Subpart 3—Programs for Neglected and Delinquent Children

"AMOUNT AND ENTITLEMENT

SEC. 151. (a) ENTITLEMENT TO GRANTS.—A State agency which is directly responsible for providing free public education for children in institutions for neglected or delinquent children or in adult correctional institutions shall be entitled to receive a grant under this subpart for any fiscal year (but only if grants received under this subpart are used only for children in such institutions).

"(b) AMOUNT OF GRANT.—Except as provided in sections 155 and 156, the grant which such an agency (other than the agency for Puerto Rico) shall be eligible to receive shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1)) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States) multiplied by the number of such children in average daily attendance, as determined by the Commissioner, at schools for such children operated or supported by that agency, including schools providing education for such children under contract or other arrangement with such agency, in the most recent fiscal year for which satisfactory data are available. The grant which Puerto Rico shall be eligible to receive under this subpart shall be the amount arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States.

"PROGRAM REQUIREMENT

"SEC. 152. (a) USE OF PAYMENTS.—A State agency shall use payments under this subpart only for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of children in institutions for neglected or delinquent children or in adult correctional institutions. Such programs and projects shall be administered and carried out in a manner consistent with subpart 3 of part A, other than sections 122, 123, 125, 126(d), 126(e), and 130 thereof.

"(b) THREE-YEAR PROJECTS.—Where a State agency operates programs under this title in which children are likely to participate for more than one year, the State educational agency may approve the application for a grant under this subpart for a period of more than one year, but not to exceed three years.

"TRANSITION SERVICES

"SEC. 153. (a) GRANTS AUTHORIZED.—The Commissioner is authorized to make grants to State and local educational agencies to support projects to facilitate the transition of children from State operated institutions for neglected and delinquent children into locally operated programs. Grants under this section shall be used to provide special educational services for such children in schools other than State operated institutions.

"(b) APPROPRIATIONS AUTHORIZED.—There are authorized to be appropriated for the purposes of this section for any fiscal year, not to exceed 5 per centum of the amount State agencies are entitled to receive under section 151 for that year.

"Subpart 4—General Provisions for State Operated Programs

"RESERVATION OF FUNDS FOR TERRITORIES

"SEC. 156. There is authorized to be appropriated for each fiscal year for purposes of each of subparts 1, 2, and 3 of this part, an amount equal to not more than 1 per centum of the amount appropriated for such year for such subparts, for payments to Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands under each such subpart. The amounts appropriated for each such subpart shall be allotted among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective need for such grants, based on such criteria as the Commissioner determines will best carry out the purposes of this title.

"MINIMUM PAYMENTS FOR STATE OPERATED PROGRAMS

"SEC. 157. For any fiscal year ending prior to October 1, 1983—

"(1) no State shall receive an amount under subpart 1 or subpart 3 of this part which is less than 85 per centum of the amount paid to that State in the preceding fiscal year under that subpart, or under section 122 of this Act as in effect immediately preceding the enactment of this section, whichever the case may be; and

"(2) no State shall receive an amount under subpart 2 of this part which is less than 100 per centum of the amount paid to that State in the preceding fiscal year under that subpart, or under section 121 of this Act as in effect immediately preceding the enactment of this section, whichever the case may be.

"PART C—STATE ADMINISTRATION OF PROGRAMS AND PROJECTS

"Subpart 1—State Applications

"STATE PARTICIPATION

"SEC. 161. (a) ELIGIBILITY FOR PARTICIPATION.—A State is eligible to participate in programs under this title if—

"(1) it has on file with the Commissioner a general State application under section 501 of this Act, and

"(2) it has submitted to the Commissioner a plan meeting the requirements of subsection (b) for the monitoring of compliance by local educational agencies in the State with the requirements of this title and for the enforcement by the State of such requirements.

"(b) STATE MONITORING AND ENFORCEMENT PLAN.—A State monitoring and enforcement plan shall be submitted by the State educational agency at such times (at least once every three years) and in such detail as the Commissioner shall prescribe. The plan shall set forth—

"(1) a schedule of regular visits by State educational agency personnel to projects assisted under this title;

"(2) the matters to be reviewed in such visits;

"(3) procedures for verifying information provided by local educational agencies, including the use of other information available to the State to cross-check that information;

"(4) procedures for regular audits by the State of local educational agency expenditures under this title, and procedures for the recovery of any expenditures determined not to be allowed under this title;

"(5) procedures for resolving each complaint received by the State relating to programs assisted under this title, including complaints referred to the State by the Commissioner and complaints by representatives of children enrolled in private schools and that children are not receiving the services to which they are entitled under this title; and

"(6) a description of the means by which the State educational agency has determined, and will continue to determine, the compliance by local educational agencies with the requirements of section 130, relating to the equitable provision of services to children enrolled in private schools.

"(c) REPORTING.—Each plan submitted by a State educational agency under this section shall include a report, in such form as the Commissioner shall prescribe, of the activities undertaken by the State in the years since the previous plan was filed to carry out its monitoring and enforcement efforts under this title.

"Subpart 2—Responsibilities of State Educational Agencies to Commissioner

"REPORTING

"SEC. 171. Each State educational agency shall make to the Commissioner (A) periodic reports (including the results of objective measurements required by section 123(g) and of research and replication studies) evaluating the effectiveness of payments under this title and of particular programs assisted under it in improving the educational attainment of educationally deprived children and (B) such other reports as may be reasonably necessary to enable the Commissioner to perform his duties under this title (including such reports as he may require to determine the amounts which the local educational agencies of that State are eligible to receive for any fiscal year).

"RECORDKEEPING, FISCAL CONTROL, AND FUND ACCOUNTING

"SEC. 172. Each State educational agency which receives funds under this title shall keep such records as the Commissioner shall prescribe, including records which fully disclose the amount and disposition by such agency of such funds, the total cost of programs and projects in connection with which such funds are used, the amount of that portion of the cost of the program and project supplied by other sources, and such other records as will facilitate an effective audit.

"PROHIBITION ON CONSIDERATION OF FEDERAL AID IN DETERMINING STATE AID

"SEC. 173. No State shall take into consideration payments under this title in determining the eligibility of any local educational agency in that State for State aid, or the amount of State aid, with respect to free public education of children during that year or the preceding fiscal year.

"PART D—FEDERAL ADMINISTRATION OF PROGRAMS AND PROJECTS

"APPLICABILITY

"SEC. 181. In addition to other requirements contained in this part, the requirements of the General Education Provisions Act which relate to Federal administration of elementary and secondary education programs shall apply to programs carried out under this title.

"APPROVAL OF APPLICATIONS

"SEC. 182. (a) REQUIREMENT FOR APPROVAL.—The Commissioner shall not approve an application under section 161 until he has made specific findings, in writing, that the application complies with this title, and that he is satisfied that the assurances in such application will be carried out.

"(b) HEARINGS.—The Commissioner shall not finally disapprove an application under section 142 or section 161 except after notice and opportunity for a hearing to the State educational agency.

"PROGRAM EVALUATION

"SEC. 183. (a) INDEPENDENT EVALUATIONS.—The Commissioner shall provide for independent evaluations which describe and measure the impact of programs and projects assisted under this title. Such evaluations may be provided by contract or other arrangements, and all such evaluations shall be made by competent and independent persons, and shall include, whenever possible, opinions obtained from program or project participants about the strengths and weaknesses of such programs and projects.

"(b) DEVELOPMENT AND PUBLICATION OF STANDARDS.—The Commission shall develop and publish standards for evaluation of program or project effectiveness in achieving the objectives of this title.

"(c) JOINTLY SPONSORED STUDIES.—The Commissioner shall, where appropriate, consult with State agencies in order to provide for jointly sponsored objective evaluat studies of programs and projects assisted der this title within a State.

"(d) EVALUATION MODELS.—The Comm sioner shall provide to State educatio agencies, models for evaluations of all grams conducted under this title, for t use in carrying out their functions un this section 501(b)(4) of this Act, wh shall include uniform procedures and teria to be utilized by local educational a cies and State agencies, as well as by State agency in the evaluation of such grams.

"(e) TECHNICAL ASSISTANCE.—The Comm sioner shall provide such technical and o assistance as may be necessary to State cational agencies to enable them to as local educational agencies and State ag cies in the development and application systematic evaluation of programs in acco ance with the models developed by the Co missioner.

"(f) SPECIFICATION OF OBJECTIVE CRITERIA The models developed by the Commissio shall specify objective criteria which shall utilized in the evaluation of all progr and shall outline techniques (such as lon tudinal studies of children involved in s programs) and methodology (such as the of tests which yield comparable results) producing data which are comparable o statewide and national basis.

"(g) REPORT TO CONGRESS.—The Comm sioner shall make a report to the respect committees of the Congress having legislat jurisdiction over programs authorized by t title and the respective Committees on propriations no later than February 1 of e calendar year concerning the results evaluations of programs and projects requi under this section, which shall be comp hensive and detailed, as up-to-date as p sible, and based to the maximum ext possible on objective measurements, toget with other related findings and evaluati and his recommendations with respect legislation.

"(h) INFORMATION DISSEMINATION.—T Commissioner shall also develop a system the gathering and dissemination of result evaluations and for the identification of emplary programs and projects, or of part ularly effective elements of programs a projects, and for the dissemination of formation concerning such programs a projects or such elements thereof to St agencies and local educational agencies sponsible for the design and conduct programs and projects under this title, to the education profession and the gene public.

"(i) MAXIMUM EXPENDITURES.—The Co missioner is authorized, out of funds app priated to carry out this title in any fi year, to expend such sums as may be nec sary to carry out the provisions of t section, but not to exceed one-half of 1 centum of the amount appropriated for su programs. In carrying out the provisions this section, the Commissioner shall pl priority on assisting States, local education agencies, and State agencies to condu evaluations and shall, only as funds are ava able after fulfilling that purpose, seek conduct any national evaluations of program.

"COMPLAINT RESOLUTION

"SEC. 184. The Commissioner shall devel and implement written procedures for ceiving and resolving appeals from fi resolutions of State educational agencies wi respect to complaints concerning violatio of this title or of applicable provisions of t General Education Provisions Act in conne tion with programs under this title, for ceiving such complaints directly from pare advisory councils, parents, teachers, or oth concerned organizations or individuals, a for conducting such independent onsite i

vestigations of complaints if the Commissioner deems necessary. Such procedures shall

agency has been given reasonable notice and

policy manual shall, with respect to programs

"(5) a summary of the findings of the

to receive a grant under this title and which

vestigations of complaints if the Commissioner deems necessary. Such procedures shall include—

"(1) specific time limits for resolving the complaint or for completing the review and any necessary independent investigation, which shall not exceed sixty days unless exceptional circumstances exist;

"(2) an opportunity for the complainant, the complainant's representative, the local educational agency, and the State educational agency to present evidence;

"(3) a requirement that the complainant, the complainant's representative, the local educational agency, the State educational agency, State agency, the district parent advisory council, and appropriate school-parent advisory councils shall be notified, in writing, within ten days after the resolution of the appeal of the nature of the resolution, the reasons therefor, and the right to an administrative appeal; and

"(4) dissemination of information concerning the procedures.

"AUDITS AND AUDIT RESOLUTION

"SEC. 185 (a) AUDITING.—The Inspector General of the Department of Health, Education, and Welfare shall make provision for audits of grants made under this title to determine, at a minimum, the fiscal integrity of grant or subgrant financial transactions and reports, and the compliance with applicable statutes, regulations, and terms and conditions of the grant or subgrant.

"(b) AUDIT RESOLUTION AND REPAYMENT.—The Commissioner shall adopt procedures to assure timely and appropriate resolution of audit findings and recommendations arising out of audits provided for in subsection (a). Such procedures shall include timetables for each step of the audit resolution process and an audit appeals process. Where, under such procedures, the audit resolution process requires the repayment of Federal funds which were misspent or misapplied, the Commissioner shall require the repayment of the amount of funds under this title which have been finally determined through the audit resolution process to have been misspent or misapplied. Such repayment may be made from funds derived from non-Federal sources or from Federal funds no accountability for which is required to the Federal Government. Such repayments may be made in either a single payment or in installment payments over a period not to exceed three years.

"WITHHOLDING OF PAYMENTS

"SEC. 186. (a) WITHHOLDING.—Whenever the Commissioner, after reasonable notice and opportunity for a hearing to any State educational agency, finds that there has been a failure to comply substantially with any assurance set forth in the application of that State approved under section 141 or 161 the Commissioner shall notify the agency that further payments will not be made to the State under this title (or, in his discretion, that the State educational agency shall reduce or terminate further payments under this title to specified local educational agencies or State agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, (1) no further payments shall be made to the State under this title, or (2) payments by the State educational agency under this title shall be limited to local educational agencies and State agencies not affected by the failure or, (3) payments to particular local educational agencies shall be reduced, as the case may be. Where partial payments to a local educational agency are continued under this subsection, the expenditure of the payments shall be subject to such conditions as the Commissioner deems appropriate in light of the failure which led to the partial withholding. Pending the outcome of any proceedings under this subsection, the Commissioner may suspend payments to such agency, after such agency has been given reasonable notice and opportunity to show cause why such action should not be taken.

"(b) NOTICE TO PUBLIC OF COMMISSIONER WITHHOLDING.—Upon receipt by a State of a notice under subsection (a) that the Commissioner is withholding payments, the Commissioner shall take such action as may be necessary to bring his action to the attention of the public within the State.

"(c) COMPLIANCE AGREEMENT.—The Commissioner may suspend the initiation or continuation of his withholding action under subsection (a) during any period there is in effect a compliance agreement with the State educational agency under this subsection, except that if the State educational agency fails to comply with the terms agreed to, such an agreement shall no longer be in effect and subsection (a) shall be fully operative. In implementing such subsection, the Commissioner shall take into account any partial compliance by such agency under such agreement. In any case in which a State educational agency desires to enter into a compliance agreement, but alleges that full compliance with the requirements of this title is genuinely not feasible until a future date the Commissioner shall hold a hearing at which that agency shall have the burden of demonstrating that immediate compliance is not feasible. The Commissioner shall provide an opportunity for parents, their representatives, and other interested parties to participate in that hearing. If the Commissioner determines, on the basis of all the evidence presented to him, that immediate compliance is genuinely not feasible, he shall make written findings to that effect before entering into such a compliance agreement with that State educational agency. Any compliance agreement under this subsection shall not be exempt from disclosure under any provision of section 552 of title 5, United States Code. Within fifteen days after the execution of any compliance agreement under this subsection, the Commissioner shall send a copy thereof to each organization or person who filed a complaint with respect to any failure to comply which is covered by that agreement.

"POLICY MANUAL

"SEC. 187. (a) SCOPE AND PURPOSE.—The Commissioner shall, not later than 12 months after the publication of first regulations with respect to the amendments to his title made by the Education Amendments of 1978, prepare and distribute to State educational agencies, State agencies operating programs for neglected and delinquent and handicapped children, local educational agencies, and parent advisory councils established under section 125(a), and shall make available to other interested individuals, organizations, and agencies a title I policy manual to—

"(1) assist such agencies in (A) preparing applications for program funds under this title, (B) meeting the applicable program requirements under this title, and (C) enhancing the quality, increasing the depth, or broadening the scope of activities for programs under this title;

"(2) assist State educational agencies in achieving proper and efficient administration of programs funded under this title;

"(3) assist advisory councils established under section 125(a) in advising the local educational agencies in the planning for, and implementation and evaluation of, programs and projects under this title; and

"(4) insure that officers and employees of the Department of Health, Education, and Welfare, including, but not limited to, officers and employees of the Commissioner and officers and employees of such Department charged with auditing programs carried on under this title, uniformly interpret, apply, and enforce requirements under this title throughout the United States.

"(b) CONTENTS OF POLICY MANUAL.—The policy manual shall, with respect to programs carried on under this title, contain descriptions, statements, procedural and substantive rules, opinions, policy statements and interpretations and indices to and amendments of the foregoing, and in particular, whether or not such items are required under section 552 of title 5, United States Code to be published or made available, the manual shall include (but not be limited to)—

"(1) a statement of the requirements applicable to the programs carried on under this title including such requirements contained in this title, the General Education Provisions Act, other applicable statutes, and regulations issued under the authority of such statutes;

"(2) an explanation of the purpose of each requirement, including appropriate references to legislative history;

"(3) an explanation of the interrelationships between the applicable requirements;

"(4) a statement of the procedures to be followed by the Commissioner and the Secretary with respect to proper and efficient performance of their administrative responsibilities, including but not limited to (A) approving State applications or State plans, (B) distributing grants to appropriate agencies, (C) resolving problems discovered during monitoring visits, (D) resolving financial exceptions disclosed during audits, (E) collecting outstanding claims arising out of activities under this title, (F) resolving complaints, (G) responding to requests for advisory opinions interpreting and applying standards contained in applicable statutes and regulations to the public, (H) identifying and publicizing exemplary programs, and (I) making public final audit determinations of the Commissioner;

"(5) summaries of (i) advisory opinions referred to in subsection (b)(4)(G) of this section and (ii) final audit determinations referred to in subsection (b)(4)(I), including examples of actual applications of the legal requirements of applicable statutes and regulations;

"(6) model forms and instructions developed by the Commissioner for use by State and local educational agencies, at their discretion, including, but not limited to, application forms, application review checklists, and instruments for monitoring programs operated by applicant agencies;

"(7) summaries of appropriate court decisions concerning programs under this title;

"(8) examples of methods of distributing State and local funds which do and do not satisfy the applicable requirements under this title; and

"(9) model forms, policies, and procedures developed by State educational agencies.

"ENFORCEMENT REPORT

"SEC. 188. The Commissioner shall, not later than the end of the first, third, and fifth fiscal years beginning after the date of enactment of the Education Amendments of 1978 submit to the Congress a report concerning the enforcement of this title. The report submitted in the third and fifth such fiscal years shall contain—

"(1) an analysis, for each State which has an application approved for that year under section 182, of the extent to which the assurances, policies, and procedures of that State submitted as part of that application satisfy the requirements of this title,

"(2) a description for each such State of the manner in which monitoring reports of the Commissioner were taken into consideration in the approval of such applications,

"(3) a description, with respect to appropriate States, of the manner in which unresolved audit and program monitoring findings were taken into consideration in the approval of such applications,

"(4) a description for each such State of the manner in which the annual evaluation report of that State was taken into consideration in the approval of such applications,

"(5) a summary of the findings of the Commissioner's on-site monitoring visits, of the actions taken by State educational agencies to correct problems identified in each report based on such visits, and of the number, type, and location of problems which have been so identified but which have not been corrected as of the date of the submission of the annual enforcement report under this section,

"(6) with respect to audits conducted under this title, (A) the number and type of audits conducted in the year preceding the date of submission of the report, (B) the identity of each State or local educational agency audited during that year, (C) the resolution status of each outstanding audit, including the dates on which each step of the resolution process with respect to such outstanding audit was completed, the schedule for completion of such process, the amount of the financial exceptions noted in final audit reports and in letters of final determination, and an explanation of any differences in such amounts as noted in draft audit reports, final audit reports, and letters of final determination, (D) the number and identity of any States which did not appeal to the audit hearing board for title I with respect to audits conducted during that year and the status of recoupment activities for each such State, (E) the number and identity of States which appealed to such board during that year and the status of each active appeal, (F) the number and identity of States which have completed such appeals during that year and the status of recoupment activities with respect thereto, (G) the number and type of any cases referred to the Attorney General during that year for collection of misspent funds, (H) the amount of any funds recovered during that year as a result of such audit resolution process, (I) an analysis of the type of violations identified in final audit reports, letters of final determination, and final decisions of the audit hearing board for title I and of the Commissioner on appeal from the decisions of such board, (J) a summary of audit followup actions conducted during that year for the purpose of determining that deficiencies which led to financial audit exceptions or audit findings of procedural noncompliance have been corrected, (K) a description of audits planned for the year succeeding the date of the submission of the report, and (L) recommendations for improvement of the audit resolution process. and

"(7) with respect to complaints made to the Commissioner concerning programs under this title during the year preceding the date of submission of the report under this section, the number and type of complaints, the identity of the State and local educational agencies, the action taken by the Commissioner to resolve the complaints, and the number and type of complaints which remain unresolved as of the date of such submission.

"PART E—PAYMENTS

"PAYMENT METHODS

"SEC. 191. The Commissioner shall, from time to time pay to each State, in advance or otherwise, the amount which it and the local educational agencies of that State are eligible to receive under this title. Such payments shall take into account the extent (if any) to which any previous payment to such State educational agency under this title (whether or not in the same fiscal year) was greater or less than the amount which should have been paid to it.

"AMOUNT OF PAYMENTS TO LOCAL EDUCATIONAL AGENCIES

"SEC. 192. From the funds paid to it pursuant to section 121 each State educational agency shall distribute to each local educational agency of the State which is eligible to receive a grant under this title and which has submitted an application approved pursuant to section 121 the amount for which such application has been approved.

"ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS

"SEC. 193. (a) ADJUSTMENT ALLOCATION.—If the sums appropriated for any fiscal year for making the payments provided in this title other than amounts appropriated for subpart 2 of part A are not sufficient to pay in full the total amounts which all local and State educational agencies are entitled to receive under this title for such year, the amount available for each grant to a State agency eligible for a grant under subpart 1, 2, or 3 of part B shall be equal to the total amount of the grant as computed under each such subpart. If the remainder of such sums available after the application of the preceding sentence is not sufficient to pay in full the total amounts which all local educational agencies are entitled to receive under subpart 1 of part A of this title for such year, the allocations to such agencies shall, subject to adjustments under the next sentence, be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amounts so appropriated. The allocation of a local educational agency which would be reduced under the preceding sentence to less than 85 per centum of its allocation under subpart 1 of part A for the preceding fiscal year, shall be increased to such amount, the total of the increases thereby required being derived by proportionately reducing the allocations of the remaining local educational agencies, under the preceding sentence, but with such adjustments as may be necessary to prevent the allocation to any remaining local educational agency from being thereby reduced to less than 85 per centum of its allocation for such year.

"(b) ADDITIONAL FUNDS ALLOCATION.—In case additional funds become available for making payments under this title for that year, allocations that were reduced pursuant to subsection (a) shall be increased on the same basis that they were reduced. In order to permit the most effective use of all appropriations made to carry out this title, the Commissioner may set dates by which (1) State educational agencies must certify to him the amounts for which the applications of educational agencies have been or will be approved by the State and (2) State educational agencies referred to in subpart 1 of part B must file applications. If the maximum grant a local educational agency would receive (after any ratable reduction which may have been required under subsection (a) or (b) of this section) is more than an amount which the State educational agency determines, in accordance with regulations prescribed by the Commissioner, such agency will use, the excess amount shall be made available first to educational agencies in that State. Determinations of the educational agencies to which such excess amounts shall be made available shall be made by the State educational agency in furtherance of the purposes of this title in accordance with criteria prescribed by the Commissioner which are designed to assure that such excess amounts will be made available to other eligible educational agencies with the greatest need, for the purpose of, where appropriate, redressing inequities inherent in, or mitigating hardships caused by, the application of the provisions of paragraph (2) of section 111(a) as a result of such factors as population shifts and changing economic circumstances. In the event excess amounts remain after carrying out the preceding two sentences of this section, such excess amounts shall be distributed among the other States as the Commissioner shall prescribe for use by local educational agencies in such States for the purposes of this title in such manner as the respective State educatio agencies shall prescribe.

"RESERVATION OF FUNDS

"SEC. 194. Of the amounts appropriated any fiscal year for carrying out the pro sions of this title, not less than $400,000, or the amount appropriated for the prec ing fiscal year, whichever is greater, shall made available first for carrying out the p visions of section 117, and not less than amount appropriated for the preceding fi year shall be made available for carrying the provisions of section 116.

"PART F—GENERAL PROVISIONS

"JUDICIAL REVIEW

"SEC. 195. (a) FILING.—If any State is satisfied with the Commissioner's final act with respect to the approval of its appli tion submitted under subpart 1 or part B section 161 or with his final action un section 185 or 186, such State may, wit sixty days after notice of such action, with the United States court of appeals the circuit in which such State is locate petition for review of that action. A copy the petition shall be forthwith transmit by the clerk of the court to the Commissi er. The Commissioner thereupon shall file the court the record of the proceedings which he based his action, as provided section 2112 of title 28, United States Co

"(b) FINDINGS OF FACT, CONCLUSIVE.—T findings of fact by the Commissioner, if su ported by substantial evidence, shall be co clusive; but the court, for good cause sho may remand the case to the Commissioner take further evidence, and the Commissio may thereupon make new or modified fi ings of fact and may modify his previous tion, and shall file in the court the rec of the further proceedings. Such new modified findings of fact shall likewise conclusive if supported by substantial e dence.

"(c) REVIEW.—Upon the filing of such pe tion, the court shall have jurisdiction affirm the action of the Commissioner or set it aside, in whole or in part. The ju ment of the court shall be subject to revi by the Supreme Court of the United Sta upon certiorari or certification as provi in section 1254 of title 28, United Sta Code.

"NATIONAL ADVISORY COUNCIL

"SEC. 196. (a) COUNCIL ESTABLISHED.—Th shall be a National Advisory Cou on the Education of Disadvantaged Childr (hereinafter in this section referred to the 'National Council') consisting of fift members appointed by the President, witho regard to the provisions of title 5, Uni States Code, governing appointment in competitive service, for terms of three yea except that (1) in the case of initial me bers, five shall be appointed for terms of year each and five shall be appointed terms of two years each, and (2) appoi ments to fill vacancies shall be only for su terms as remain unexpired. The Natio Council shall meet at the call of the Che man.

"(b) FUNCTIONS.—The National Coun shall review and evaluate the administ tion and operation of this title, includi its effectiveness in improving the educ tional attainment of educationally depri children, including the effectiveness of p grams to meet their occupational and car needs, and make recommendations for improvement of this title and its admini tration and operations. These recommen tions shall take into consideration exp rience gained under this and other Fede educational programs for disadvanta children and, to the extent appropriate, perience gained under other public and p vate educational programs for disadvanta children.

"(c) REPORT.—The National Council shall

"(c) REPORTS.—The National Council shall make such reports of its activities, findings, and recommendations (including recommendations for changes in the provisions of this title) as it may deem appropriate and shall make an annual report to the President and the Congress not later than March 31 of each calendar year. Such annual report shall include a report specifically on which of the various compensatory education programs funded in whole or in part under the provisions of this title, and of other public and private educational programs for educationally deprived children, hold the highest promise for raising the educational attainment of these educationally deprived children. The President is requested to transmit to the Congress such comments and recommendations as he may have with respect to such report. Subject to section 448 (b) of the General Education Provisions Act, the National Council shall continue to exist until October 1, 1983.

"LIMITATION ON GRANT TO PUERTO RICO

"SEC. 197. The amount paid to Puerto Rico under this title for any fiscal year shall not exceed 150 per centum of the amount received by Puerto Rico in the preceding fiscal year, and any excess over that amount shall be used to ratably increase the allocations under section 111 of the other local educational agencies in the country whose allocations do not exceed the maximum amount for which they are eligible under section 111.

"DEFINITIONS

"SEC. 198. Except as otherwise provided, for purposes of this title:

"(1) Average daily attendance shall be determined in accordance with State law, except that not withstanding any other provision of this title, where the local educational agency of the school district in which any child resides makes or contracts to make a tuition payment for the free public education of such child in a school situated in another school district, for purposes of this title the attendance of such child at such school shall be held and considered (A) to be in attendance at a school of the local educational agency so making or contracting to make such tuition payment, and (B) not to be in attendance at a school of the local educational agency receiving such tuition payment or entitled to receive such payment under the contract.

"(2) The term 'average per pupil expenditure' means in the case of a State or the United States, the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made (or if satisfactory data for that year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available), of all local educational agencies in the State, or in the United States (which for the purposes of this subsection means the fifty States, and the District of Columbia), as the case may be, plus any direct current expenditures by the State for operation of such agencies (without regard to the source of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

"(3) The term 'Commissioner' means the United States Commissioner of Education.

"(4) The term 'construction' includes the preparation of drawings and specifications for school facilities; erecting, building, acquiring, altering, remodeling, improving, or extending school facilities; and the inspection and supervision of the construction of school facilities.

"(5) The term 'county' means those divisions of a State utilized by the Secretary of Commerce in compiling and reporting data regarding counties.

"(6) The term 'current expenditures' means expenditures for free public education, including expenditures for administration, instruction, attendance, and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds granted under this title or parts B and C of title IV of this Act.

"(7) The term 'elementary school' means a day or residential school which provides elementary education, as determined under State law, and the term 'secondary school' means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

"(8) The term 'equipment' includes machinery, utilities, and building equipment and any necessary enclosure or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials.

"(9) The term 'free public education' means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State, except that such term does not include any education provided beyond grade 12.

"(10) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

"(11) The term 'parent' includes a legal guardian or other person standing in loco parentis.

"(12) The term 'project area' means a school attendance area having a high concentration of children from low-income families which, without regard to the locality of the project itself, is designated as an area from which children are to be selected to participate in a program or project assisted under this title.

"(13) The term 'school attendance area' means in relation to a particular school, the geographical area in which the children who are normally served by that school reside.

"(14) The term 'school facilities' means classrooms and related facilities (including initial equipment) for free public education and interests in land (including site, grading, and improvements) on which such facilities are constructed, except that such term does not include those gymnasiums and similar facilities intended primarily for exhibitions for which admission is to be charged to the general public.

"(15) The term 'Secretary' means the Secretary of Health, Education, and Welfare.

"(16) The term 'State' means a State, Puerto Rico, Wake Island, Guam, the District of Columbia, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

"(17) The term 'State educational agency' means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools.

"AMENDMENTS TO RELATED ACTS

"SEC. 199. (a) Section 403 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended—

"(1) by striking out, 'except as used in title II', where it appears in paragraph (2);

"(2) by striking out, ', except that for purposes of title II such term does not include any education provided beyond grade 12',— where it appears in paragraph (4);

"(3) by striking out, "title II of this act or title II or III of the Elementary, Secondary, Education Act of 1965" and inserting "of the Elementary, Secondary Education Act of 1978."

"(4) by striking out, '(A)' where it appears in paragraph (6) and by striking out subparagraph (B) of such paragraph;

"(5) by striking out ', and for purposes of Title II, such term includes the Trust Territory of the Pacific Islands" in paragraph (8); and

"(6) by striking out paragraphs (15), (16), and (17).

"(b) (1) Title II of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is repealed.

"(2) Section 431A(b) of the General Education Provisions Act is amended by striking out paragraph (2) thereof, and by redesignating paragraph (3) as paragraph (2).

"(c) Section 101(a)(1) of the Education Amendments of 1974 is amended by striking out 'part A' and inserting in lieu thereof 'subpart 1 of part A and part B'.

"TITLE II—IMPACT AID AMENDMENTS

"PART A—PUBLIC LAW 874

"GENERAL EXTENSIONS OF PUBLIC LAW 874

"SEC. 201. (a) Section 2(a) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by striking out '1978' and inserting in lieu thereof '1983'.

"(b) Section 3(b) of such Act is amended by striking out '1978' and inserting in lieu thereof '1983'.

"(c) Section 4(a) of such Act is amended by striking out '1978' and inserting in lieu thereof '1983'.

"(d) (1) Subparagraph (A) of second paragraph (2) of section 305(a) of the Education Amendments of 1974 is amended by striking out '1978' and inserting in lieu thereof '1983'.

"(2) Paragraph (B) of such paragraph (2) is amended by striking out '1978' and inserting in lieu thereof '1983'.

"(3) Subparagraph (C) of such paragraph (2) is amended by striking out '1978' and inserting in lieu thereof '1983'.

"(4) Subparagraph (D) of such paragraph (2) is amended by striking out '1978' and inserting in lieu thereof '1983'.

"REVISION OF JURISDICTIONAL LIMITS ON LOCATIONS OF FEDERAL PROPERTY

"SEC. 202. (a) Section 3(b)(2)(A) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by inserting before the comma the following: ', or in whole or in part in the school district of such agency if the school district is located in more than one county'.

"(b) Section 3(b)(2)(B) is amended by inserting after 'county' the following: 'or district'.

"PAYMENTS FOR HANDICAPPED CHILDREN OF MILITARY PERSONNEL AND INDIANS

"SEC. 203. Section 3(d)(2)(C)(i) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by striking out 'multiplied by 150 per centum.' and inserting in lieu thereof 'plus the cost of providing such children with a free appropriate public education in accordance with part B of the Education of the Handicapped

Act in such agency minus the contribution to such cost made by funds received under such Act.'.

"PROVISIONS REGARDING HEAVILY IMPACTED SCHOOL DISTRICTS

"SEC. 204. (a) Section 3(d) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended—

"(1) in paragraph (2)(B) thereof, by striking out 'clause (1) of' each time it appears therein; and

"(2) in the first sentence of such paragraph, by striking out 'the Commissioner is authorized, to', and inserting in lieu thereof 'the Commissioner shall'.

"(b)(1) Paragraph (2)(A) of section 5(c) of such Act is amended to read as follows:

"'(A) to each local educational agency—

"'(i) with respect to which the local contribution rate has been increased under paragraph (2)(B) of section 3(d), which equals 75 per centum of the amount to which such agency is entitled as computed under section 3 (d) for such fiscal year; and

"'(ii) described in clause (A) of section 3(d)(1) which equals 75 per centum of the amount to which such agency is entitled, as computed under section 3(d), with respect to a determination of number of children under section 3(a) and section 3(b)(3) for such fiscal year;'

"(2) Paragraph (2)(D) of such section 5(c) of such Act is amended by inserting after 'section 3(b)' the following: '(other than such children with respect to whom a payment is made under clause (A)(ii) of this paragraph)'.

"ABSORPTION

"SEC. 205. Subparagraph (A) of paragraph (2) of section 3(d) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is hereby repealed.

"EARLY PAYMENTS ON THE BASIS OF ESTIMATES

"SEC. 206. Subsection (b) of section 5 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by inserting '(1)' after '(b)' and by adding at the end thereof the following new paragraph:

"'(2) Not later than thirty days after the beginning of any fiscal year the Commissioner shall, on the basis of any application for preliminary payment from any local educational agency which was eligible for a payment during the preceding fiscal year on the basis of entitlements established under section 2 or 3, make such a payment to such agency not less than 75 per centum of the amount that such agency received during such preceding fiscal years.'".

"PUBLIC HOUSING CHILDREN

"SEC. 207. Section 5 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by striking out subsection (e) thereof.

"HEARINGS

"SEC. 208. Section 5 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by adding at the end thereof the following new subsection:

'(g) Each local educational agency which is adversely affected or aggrieved by any action of the Commissioner under this title shall be entitled to a hearing on, and review of, such action in the same manner as if such agency were a person under the provisions of chapters 5 and 7 of title 5, United States Code.'.

"CHILDREN FOR WHOM LOCAL AGENCIES ARE UNABLE TO PROVIDE EDUCATION

"SEC. 209. (a) Section 6(a)(2) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by inserting after '(5) the Performance Rating Act of 1950, as amended (5 U.S.C. 2001 et seq.)' the following: 'Personnel provided for under this subsection outside of the continental United States, Alaska, and Hawaii, shall receive such compensation, tenure, leave, hours of work, and other incidents of employment on the same basis as provided for similar positions in the public schools of the District of Columbia.'.

"(b) Section 6(c) of such Act is amended by striking out everything after 'United States' and inserting in lieu thereof the following: 'in a grade, position, or classification subject by policy and practice to transfer or reassignment to areas where English is the language of instruction in the schools normally attended by children of Federal employees. In any case where education is being provided under an arrangement made under this subsection it shall be presumed that no local educational agency is able to provide suitable free public education for the children of eligible parents employed by the United States until the Commissioner determines, after consultation with the appropriate State educational agency, that a local educational agency is able to do so.'.

"(c) Section 6(d) of such Act is amended by inserting at the end thereof the following: 'The Commissioner shall insure that funds provided under such arrangement or arrangements are expended in an efficient manner, and shall require an accounting of funds by such agency at least on an annual basis. The Commissioner shall further be provided with data relating to the quality and type of education provided to such children under such arrangement or arrangements.'.

"(d) Section 6 of such Act is amended by adding at the end thereof the following new subsections:

'(g) The Commissioner shall insure the establishment of an elective school board in schools assisted under this section. Such school board shall be composed of a minimum of three members, elected by the parents of students in attendance at such school. The Commissioner by regulation shall establish procedures for carrying out such school board elections as provided in this subsection.

'(h) A school board as provided in subsection (g) shall be empowered to oversee school expenditures and operations, subject to audit procedures established by the Commissioner, and other provisions of this section.'.

"PROMPT CONSIDERATION FOR APPLICATIONS

"SEC. 210. (a) Section 7(d) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by adding at the end thereof a new sentence to read as follows: 'In any case in which the Commissioner does not complete, within sixty days, all action leading to approval or disapproval of an application filed under this section, the Secretary of Health, Education, and Welfare shall assume responsibility for such approval or disapproval of such application and shall complete such action within ninety days of the filing of such application.'.

"(b) Section 16(c) of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress) is amended by adding at the end thereof a new sentence to read as follows: 'In any case in which the Commissioner does not complete, within sixty days, all action leading to approval or disapproval of an application filed under this section, the Secretary of Health, Education, and Welfare shall assume responsibility for such approval or disapproval of such application and shall complete such action within ninety days of the filing of such application.'.

"PROPERTY OWNED BY FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS; POSTAL SERVICE PROPERTY

"SEC. 211. (a) The second sentence of paragraph (1) of section 403 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by striking out 'and (D)' and inserting in lieu thereof '(D)' and by striking out the period at the end thereof and inserting in lieu thereof the following: 'and (E) any property owned by a foreign government or by an international organization which by reason of such ownership is not subject to taxation by the State in which it is located or a subdivision thereof.'.

"(b) Such paragraph (1) is further amended by inserting immediately before the period at the end of the fourth sentence ', exclusive that such term shall include all real property which is owned by the United States Postal Service which is not subject to a State or local real property tax used for the support of free public education.'.

"DEFINITION OF LOCAL EDUCATIONAL AGENCY AMENDMENT

"SEC. 212. Section 403(6)(A) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by striking out 'free public education' and inserting in lieu thereof 'free public elementary and secondary education through grade 12'.

"HANDICAPPED CHILDREN

"SEC. 213. Paragraph (10) of section 403 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by adding at the end thereof the following new sentence: 'A child shall, for the purposes of section 3, be deemed to be in attendance at a school of a local educational agency if such child is determined to be federally connected under clause (1) or (2) of section 3(a) or under clause (1), (2), or (3) of section 3(b) for any fiscal year and if such child is attending a school other than a school of such agency because such child is handicapped (as defined in section 602(1) of the Education of the Handicapped Act) and if such agency makes a tuition payment on behalf of such child to such school for such fiscal year.'.

"USE OF AVERAGE DAILY MEMBERSHIP

"SEC. 214. Paragraph 10 of section 403 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is further amended by adding at the end thereof the following new sentence: 'Regulations promulgated by the Commissioner in accordance with clause (A) of this paragraph shall permit the conversion of average daily attendance for local educational agencies in States which reimburse local educational agencies based upon average daily membership and which do not require local educational agencies to keep records based on average daily membership and which do not require local educational agencies to keep records based on average daily attendance.'.

"PART B—PUBLIC LAW 815

"GENERAL EXTENSIONS OF PUBLIC LAW 815

"SEC. 221. (a) Sections 3 and 16 of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), are each amended by striking out '1978' and inserting in lieu thereof '1983'.

"(b) Section 15(15) of such Act is amended by striking out '1973–1974' and inserting in lieu thereof '1978–1979'.

"DETERMINATION OF NUMBER OF CHILDREN

"SEC. 222. Section 5(a) of the Act of September 3, 1950 (Public Law 815, Eighty-first Congress), is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

'(1) the estimated increase, since the base year, in—

'(A) the number of children determined with respect to such agency under section 3(a)(2) of the Act of September 30, 1950 multiplied by 100 per centum of the average per pupil cost of constructing minimum school facilities in the State in which the school district of such agency is situated;

'(B) the number of children determined with respect to such agency under section 3(b)(1) and such Act multiplied by 90 per centum of such cost; '(2) the estimated increase, since the base year, in—

'(A) the number of children determined with respect to such agency under section

3(b)(3) of such Act multiplied by 50 per

cordance with State law for the improve-

ary schools to non-public elementary and

3(b)(3) of such Act multiplied by 50 per centum of such cost; and

"(B) the number of children determined with respect to such agency under section 3(b) (1) and (2) of such Act multiplied by 45 per centum of such cost;'.

"CONSTRUCTION ARRANGEMENTS

"SEC. 223. Section 10(a) of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress) is amended by inserting ', leasing, renovating, remodeling, or rehabilitating' after 'arrangements for constructing' and after 'this section for constructing'.

"DISASTER ASSISTANCE

"SEC. 224. Section 16(a) of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), is amended by striking out the last sentence in the matter following paragraph (6).

"PART C—GENERAL PROVISIONS

"EFFECTIVE DATE

"SEC. 231. The amendments made by this title shall be effective with respect to fiscal year 1979 and subsequent fiscal years, except that the provisions of section 212 shall take effect on October 1, 1979.

"TITLE III—ELEMENTARY AND SECONDARY SCHOOL ASSISTANCE

"Part A—General Provisions

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 301. There are hereby authorized to be appropriated $3,326,000,000 for the fiscal year ending September 30, 1979, $3,950,000,000 for the fiscal year ending September 30, 1980, $4,127,000,000 for the fiscal year ending September 30, 1981, and $4,265,000,000 for each of the two succeeding fiscal years for the purposes of carrying out this title.

"ALLOCATION OF FUNDS

"SEC. 302. From the sums appropriated pursuant to section 301, the Commissioner shall first reserve an amount not to exceed one percent of those sums for distribution to Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance. From the remainder of those sums he shall allocate for the purpose of carrying out Part C of this title an amount which bears the same ratio to such remainder as the total enrollment in non-public elementary and secondary schools in all States bears to the total enrollment in public and non-public elementary and secondary schools in all the States, and he shall allocate the remaining sum for the purpose of carrying out Part B of this title.

"DEFINITIONS

"SEC. 303. As used in this title—

(1) The term 'Commissioner' means the U.S. Commissioner of Education.

"(2) The term 'public elementary and secondary education' means education which is provided at public expense, under public supervision and direction, and which is provided as elementary or secondary school education in the applicable State, except that such term does not include any education provided beyond grade 12.

"(3) The term 'elementary school' means a day or residential school which provides elementary education, as determined under State law.

"(4) The term 'secondary school' means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

"(5) The term 'State' means the fifty States, the District of Columbia, and the Commonwealth of Puerto Rico.

"PART B—PUBLIC EDUCATION ASSISTANCE

"USE OF APPROPRIATED FUNDS

"SEC. 310. Funds made available to the States under this part shall be used in accordance with State law for the improvement of public elementary and secondary education (including pre-school education) within each State.

"ALLOTMENT TO STATES

"SEC. 311. (a) From the sums made available for the purposes of this part pursuant to section 302 the Commissioner shall allot to each State an amount which bears the same ratio to such sums as the average daily enrollment in the public elementary and secondary schools of such State bears to the average daily enrollment in the public elementary and secondary schools of all the States, as determined by the Commissioner for the most recent year for which satisfactory data is available.

"(b) From the sums allotted to each State for each fiscal year pursuant to subsection (a), the Commissioner shall make payments to such State, in advance or by way of reimbursement, and in such installments consistent with established practice, as he may determine.

"PART C—NON-PUBLIC EDUCATIONAL ASSISTANCE

"SHORT TITLE; PURPOSE

"SEC. 320. (a) This part may be cited as the 'Non-public Educational Assistance Act of 1978'.

"(b) The Congress finds and declares that—

"(1) non-public schools play a vital role in the educational system of this country;

"(2) such schools have contributed significantly to the quality of education in America;

"(3) a strong and diversified American system of education requires the continued viability of these nonpublic schools; and

"(4) a Federal program of grants is needed to assist these schools.

"GRANTS TO NON-PUBLIC SCHOOLS

"SEC. 321. (a) The Commissioner is authorized to make grants to non-public elementary and secondary schools for the purposes set forth in subsection (b).

"(b) Grants made under subsection (a) may be used only for—

"(1) secular textbooks, to non-public elementary and secondary school students which are approved by the State educational agency for use in public elementary and secondary schools in the State;

"(2) standardized tests and scoring services for the use of non-public elementary and secondary school students which are in use in the public schools of the State;

"(3) providing speech and hearing diagnostic services to pupils attending non-public schools, if such services are provided in the non-public school attended by the pupil receiving the services;

"(4) providing diagnostic psychological service to pupils attending non-public schools if such services are provided in the non-public school receiving the services;

"(5) providing guidance and counseling (A) to advise students of courses of study best suited to their ability, aptitude, and skills, (B) to advise students in their decisions as to the type of educational program they should pursue, the vocation they should train for and enter, and the job opportunities in the various fields, and (C) to encourage students with outstanding aptitudes and ability to complete a course of study necessary for admission to institutions of higher education;

"(6) providing secular, neutral, and non-ideological instructional materials and instructional equipment, which are incapable of diversion to religious use, and which are incapable of being affixed to the non-public school facility and which are capable of portability from the school to the home by the students of the non-public school; and

"(7) providing necessary transportation to and from non-public elementary and secondary schools to non-public elementary and secondary school children.

"(c)(1) Textbooks described in clause (1) of subsection (b), including book substitutes, shall be limited to books, reusable workbooks, or manuals, whether bound or in looseleaf form, intended for use as a principal source of study material for a class or a group of students, a copy of which shall be available for the individual use of each pupil in such class or group.

"(2) Tests and services described in clause (2) of subsection (b) must be used to measure the progress of nonpublic school students in secular subjects and to identify those non-public school students who are gifted and talented.

"OFFICE OF NON-PUBLIC EDUCATION

"SEC. 322. (a) There shall be, in the Office of Education, an Office of Non-public Education, to carry out the provisions of this part and to insure the maximum potential participation of non-public schools in all other Federal educational programs.

"(b) The Office shall be headed by the Deputy Commissioner for Non-public, Education, who shall be appointed by the Commissioner.

"APPLICATION

"SEC. 323. Financial assistance may be made under this part only upon an application to the Commissioner. Each such application shall contain assurances that any funds received by the non-public elementary or secondary school under this title shall be used only to carry out the purposes of this part.

"EXPEDITED REVIEW OF CONSTITUTIONALITY; SEVERABILITY

"SEC. 324. (a) In any action brought in a district court of the United States, including an action for declaratory judgment or injunctive relief, concerning the constitutionality of any provision of this part, the district court shall certify immediately all questions of constitutionality of such provision to the United States Court of Appeals for the circuit involved, which shall hear the matter sitting en banc.

"(b) Notwithstanding any other provision of law, any decision on a matter certified under paragraph (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal shall be brought not later than 20 days after the decision of the Court of Appeals.

"(c) It shall be the duty of the Court of Appeals and of the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under paragraph (a).

"(d) If any provision of this part, or the application thereof to any person or circumstances, is held invalid, the remainder of the provisions of such section and the application of such provisions to other persons or circumstances, shall not be affected.

"DEFINITIONS

"SEC. 325. For the purpose of this part

"(1) the term 'non-public elementary school' means an elementary school as defined in section 303(3) of this title which is privately operated but only if it is—

"(A) accredited or approved under State law (or, in the case of a school in a State which has no procedure for the accreditation or approval of privately operated schools, which meets the requirements of State law relating to compulsory school attendance), and

"(B) exempt from taxation under section 501(a) of the Internal Revenue Code of 1954 as an organization described in section 501 (c)(3) of such Code; and

"(2) the term 'non-public secondary school' means any secondary school as defined in section 303(4) of this title and which is privately operated but only if it is—

"(A) accredited or approved under State law (or, in the case of a school in a State which has no procedure for the accreditation or approval of privately operated schools, which meets the requirements of State law relating to compulsory school attendance), and

"(B) exempt from taxation under section 501(a) of the Internal Revenue Code of 1954 as an organization described in section 501 (c)(3) of such Code.

AMENDMENT No. 3510

Page 377, after line 16, insert a new section as follows:

SEC. 410. Part C of the General Education Provisions Act is amended by inserting after section 439 a new section 440 as follows:

"Statement of Effect on Basic Cognitive Skills

"SEC. 440 (a) Each recipient of Federal funds (through grant, subgrant, contract, or subcontract) under any applicable program which is to be operated in or have an affect on elementary or secondary education shall include as a part of the application for such assistance a statement—

"(1) describing the intended effect (if any) on the improvement of basic cognitive skills of students and

"(2) which sets forth a method of determining over a period of five years or the length of the program or project for which assistance is requested, whichever is longer, the affect of the program or project on the improvement of basic cognitive skills, and provides for making such determinations.

"(b) The Assistant Secretary shall maintain a file containing each such statement required under subsection (a), taken from the application, together with the results of any determinations of the affect of the program or project on the improvement of basic cognitive skills of students, which file shall be available for public inspection and the contents made available to committees of the Congress or to individual Members of Congress upon their request.

"(c) For the purpose of this section—

"(1) the term 'application' includes

"(A) an application for a grant,

"(B) an offer to make a contract,

"(C) a State plan for the administration of such a program, and

"(D) any other methods for seeking Federal funds under any applicable program; and

"(2) the term 'basic cognitive skills' must include reading, written composition, and mathematical computation."

AMENDMENT No. 3511

Page 377, after line 16, insert a new section as follows:

"SEC. 410. Section 439 of the General Education Provisions Act (relating to 'Protection of Pupil Rights') is amended by inserting '(a)' after '439' and by adding at the end thereof a new subsection as follows:

"(b) No student shall be required, as part of any applicable program—

"(1) to submit to psychiatric examination, testing, or treatment, or psychological examination, testing, or treatment, the primary purpose of which is other than achievement or aptitude testing as defined in this Act,

"(2) to reveal information about this personal or family life (other than personal or family income information required by law to determine eligibility for participation in a program or for receiving financial assistance under such program), or

"(3) to participate in any project which involves surveying, analyzing, or evaluating the personal values, attitudes, or beliefs of the student, without the prior consent of the student (if the student is an adult or an emancipated minor), or in the case of an unemancipated minor, without the prior, written consent of a parent or guardian who has first been informed of the purpose of such examination, test, treatment or information sought to be obtained."

● Mr. HATCH. Mr. President, before explaining the reasons and providing a brief description of my proposed substitute legislation to S. 1753, I would first like to present a capsuled summary of each of my two amendments to the reported version of the Elementary and Secondary Education Act legislation.

First, my amendment on cognitive skills adds a new section to the General Education Provisions Act as included in S. 1753. As connoisseurs of this bill know, the General Education Provisions Act is designed to focus attention on Federal education programs and projects which are claimed to improve basic academic skills of elementary and secondary school students. My amendment would require that the application for each such program or project state whether or not the improvement of such skills is of the purpose of the activity for which the funds are requested, and that this application describe the intended effect of the program on such skills. It also requires, for all those programs or projects authorized in the act which are intended to improve basic skills, a study over 5 years to determine the actual effect of such activity. Finally, the statement in the application, and the results of the followup studies, would be made available to both the Congress and to the public once such information is compiled.

Mr. President, it is an open secret that the No. 1 problem our Nation faces in our elementary and secondary schools today is academic failure on a massive scale. This directly translates into unemployment, rising welfare costs, crime and all that which accompanies a continuous cycle of poverty.

Perhaps there are those who upon reflection on the dismal condition and plummeting test scores of our Nation's elementary and secondary schoolchildren, conclude that we are suddenly confronted with a generation of dull, of unteachable and abnormal children. But most of us know that this is not the case. We know that fewer changes have occurred in family surroundings, in environment or in children's diet than in the kinds and level of programing of education by the Federal Government over the last two decades.

In light of this, it is particularly important that we zero in on these programs; that we identify what they are, and what they precisely do to improve students' performance in the basic skills of reading, writing and mathematics; that we find out more revealing information about these projects and programs that are so often camouflaged in the ambiguous, brief annotated descriptions attached to each respective program section. I want to be very clear that it is not my intent to challenge the integrity or the competence of any of the educators or, as is too often the case, any non-educators responsible for putting together a whole or part of any of the programs I am here describing. I am simply trying to make a cogent case for the obvious, namely, that the designers of these programs are human. They are just people, and they can be wrong. And it is because they are fallible, that like all of
they can never be too removed from f
ther comment or suggestion intended
improve the quality of a program. I
this reason, especially, my amendme
is offered in order to give a complete
scription and impact report of th
various educational projects and p
grams coming under the ESEA titles
that this information be made availa
to educators, to legislators and to
taxpayers whom destiny has chosen
pay for all of this.

I have called this my "cognitive skil
amendment, doing so because it wo
provide the Congress and the public w
the kind of information we need to
direct that area of our educational s
tem dealing with the actual learni
skills of students as defined in this a
My amendment poses no danger, cle
present or otherwise, to the Departme
of HEW—saying this as if for one m
ute to assume that the Department
HEW would ever lose an hour of agenc
sleep over anything done by mere m
tals like Senators or Congressmen.
short, this amendment would redir
Federal educational legislation to get t
most for the taxpayer's money, or if y
will, more "bang for the buck" in i
proving performance in basic educ
tional skills. Naturally, I feel it is a re
sonable amendment—as are all
amendments—and I look forward to d
cussing it on the floor with my colleagu
during the impending consideration
S. 1753.

Moving on, I would now like to say
brief word about my parental conse
amendment to the Elementary and Se
ondary Education Act. Insofar as I se
around a colleague letter on this matt
on July 18, I will simply present here
day the most basic purposes of t
amendment.

In doing so, I would like to thank se
eral of my colleagues, those who
quested to cosponsor this measure; tho
distinguished friends being Senato
BARTLETT, GARN, MCCLURE, WALLOP, a
ZORINSKY. I would also like to pay tri
ute to Senator Zorinsky who first alert
the Congress to the potential problem
our "parental consent" amendme
will address. As always, our indepen
ent-minded colleague from Nebras
was ahead of his time, and I am co
fident that the benefit of his wise cou
sel will become all the more apparent
everyone in this Chamber during t
course of the forthcoming discussion.

Our parental consent amendme
takes into account the following: Mu
of the money authorized in particul
titles of the ESEA go for very worthwh
and necesssary forms of tests, medic
surveys or other scholastic or aptitu
examinations which are above reproac
In my own State of Utah, as I know
the case in Iowa and many other Stat
we have one of the most well develop
and effective scholastic achieveme
testing programs ever developed for t
elementary and secondary school grad

But while all the money authoriz
for programs for tests and examinatio
are well intended, there has been rais
a tremendous outcry by parents, PT
officials and others who have written

my office in recent days; parents who have serious reservations about some of the nonscholastic or aptitude tests; the psychiatric probing and other nongermane, often "mind boggling" surveys being conducted in elementary and secondary schools without the knowledge, much less the consent of the parents or guardians involved.

In Wisconsin, there is a problem publicly funded in part by ESEA money, entitled "Future Directions of Family Planning in Wisconsin." It is a program providing so-called preevaluation training in sex education from kindergarten through 12th grade. The program provides all forms of contraception information, pregnancy and abortion-referral education information and even services to persons as young as 10 years old without parental consent. Though originally set up as a condition for title X funding of State family planning programs under the auspices of the Department of HEW with the endorsement of Planned Parenthood; the program certainly has not won the endorsement of the many parents and other citizens who protested the program last May 19 at a special meeting of the ad hoc committee which administers this so-called education. And it certainly does not win my endorsement, and I would risk saying, does not win the endorsement—or so I hope—of a majority of us in this Chamber. Yet this is one dramatic example of many, all too many which I will be prepared to present before my colleagues during the impending debate on ESEA. It is an abuse. It is a travesty. It is a betrayal of education's basic purpose. It is the kind of thing which our "parental consent" amendment would correct.

Simply stated, our amendment requires that before any elementary or secondary age child is subjected to psychiatric, behavior probing or other nonscholastic and nonaptitude testing; that there must first be obtained the written consent of the respective child's parent or guardian. Our amendment does not add to or subtract from any moneys. It does not presume to redirect any of the programs involved. It does not even say "beans" about the way HEW should be run. Our amendment simply holds that before young children who have not, in many cases, learned to cross a street properly become subjected to sensitivity training or some other variant of "Walden Three"; that we should first have the written OK of their parents or guardian.

This whole problem came about when schools started becoming more concerned with children's attitudes, beliefs and emotions rather than providing them with basic education. And what we have today is a situation where dramatically fewer young children can read, write, or count; but who have become worldly wise to stories about sex and drugs and violence.

This does not speak well for the long-term emotional stability of the child; and such implicit value changes which attend teaching very young children about drugs or sex, or which challenge their faith in their parents constitute the most vile threat to the American family unit. The techniques used to change young children's attitudes and values are an invasion of privacy in the first degree, especially in some of the innovative testing questions soliciting young children to pinpoint their father's or mother's faults or in another ESEA-sponsored program which actually had the students of an elementary school class collectively put their parents on trial—following which the mother and father were always found guilty.

Certainly, this is a perversity of elementary and secondary education. It is not what this Congress intended when the ESEA was first enacted. But now that it has been, and on the assumption that it will again in whatever form, and that the administration of the program—like all Government run enterprises—will be reformed glacially; that our parental consent amendment is the only solution in sight. I urge my colleagues to think about all of this in the days ahead, and to eventually join with those of us who believe that parents should have the final say in the education of their young children.

Finally, Mr. President, I would very briefly like to explain the nature of my proposed substitute in the form of an amendment to S. 1753. Essentially, my bill would block grant the moneys currently authorized in ESEA among the States; it would direct the money to the States directly, best serving their needs, while saving time and money in the amount of administrative exercise and paperwork saved because of the more direct features of my proposal.

My proposal would not affect either impact aid or title I moneys, both of which would remain "as is" in my bill. To be very clear on this, the moneys authorized for disadvantaged students in title I of ESEA as well as the impact aid formula provided in S. 1753 pursuant to Public Laws 94–815 and 94–874 would remain untouched.

What my bill does achieve, however, is 4.5 million man-hours and an estimated millions of dollars spent annually in paperwork and reporting forms required of local and State school districts under the current ESEA bill. While I will present more specific information and comprehensive statistics and survey research to support my position during the days of debate we will have on ESEA, I tentatively reveal to my colleagues that much of my information is collected from the Department of HEW's own findings on the matter; specifically, the paperwork surveys they have most recently completed.

Last July, when the House version of the Elementary and Secondary School Act was considered on the floor of Congress as H.R. 15, my friend and one of the most distinguished and able members of the House Education and Labor Committee, JOHN ASHBROOK of Ohio, offered a bill substitute very similar to the one I offer here today. Though the form and some of the features of my bill are very different from Congressman ASHBROOK's, and largely because of the difference in the composition of the House and Senate versions; the legislative intent is the same. This intent is predicated on the belief that the States rather than the Federal Government can more effectively, more economically, and ought to properly direct elementary and secondary education programing. It is constitutionally more proper that they do so, and by the money we will save by eliminating the needless and burdensome bureaucratic paperwork involved, we will be able to be true to the genuine purposes of the act without having to violate the spirit of proposition 13. As one who subscribed to proposition 13 before it became popular to do so, I am not foreign to the belief that people in government can save otherwise unnecessary expenses if a genuine effort is made to do so. I hereby present before my colleagues such an effort, and I invite all of us to rise to the occasion.

With these brief introductory remarks having been given about my proposed changes to the Elementary and Secondary Education Act amendments, I would like to thank the President, and my colleagues for your indulgence. I look forward to discussing these matters in more detail next week or whenever the ESEA legislation is to be considered on the floor.●

NOTICES OF HEARINGS

COMMITTEE ON THE JUDICIARY

● Mr. ROBERT C. BYRD. Mr. President, for Mr. EASTLAND and on behalf of the Committee on the Judiciary, I wish to give notice that a public hearing has been scheduled for Friday, August 25, 1978, at 9:30 a.m., in room 2228 Dirksen Senate Office Building, on the following nomination:

Richard S. Arnold, of Arkansas, to be U.S. district judge for the eastern and western districts of Arkansas vice Terry L. Shell, deceased.

Any persons desiring to offer testimony in regard to this nomination shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Judiciary Committee.●

SELECT COMMITTEE ON SMALL BUSINESS AND SUBCOMMITTEE ON ADMINISTRATIVE PROCEDURES AND PRACTICES

● Mr. NELSON. Mr. President, I wish to announce that the Select Committee on Small Business and the Subcommittee on Administrative Procedures and Practices of the Judiciary Committee will conduct a joint hearing on S. 1974, amendment 849 to that bill, and S. 3330. These measures are designed to promote greater flexibility in Federal rulemaking, particularly where smaller businesses, organizations, and communities are affected.

The hearing will be held at 9:30 a.m. in room 424, Russell Senate Office Building. Interested persons should contact the Small Business Committee at 202–224–5175.●

S. 3060—NATIONAL WORKERS' COMPENSATION STANDARDS ACT OF 1978

● Mr. WILLIAMS. Mr. President, the Subcommittee on Labor of the Committee on Human Resources will hold hearings on S. 3060, the National Workers' Compensation Standards Act of 1978, on Tuesday, Wednesday, and Friday, September 19, 20, and 22, 1978. These hearings will be held in room 4232 of the Dirksen Senate Office Building, and will commence each day at 9:30 a.m.

Those wishing to testify, or wishing additional information, should contact Mike Goldberg or Darryl Anderson of the subcommittee staff at G 237 Dirksen Senate Office Building, Washington, D.C. 20510; telephone—(202) 224–3674.●

ADDITIONAL STATEMENTS

THE ECONOMIC CASE FOR ROTH-KEMP

● Mr. ROTH. Mr. President, in his recent appearance before the Senate Committee, Charles Schultze, the chairman of the Council of Economic Advisors, made a traditional appearance, reciting a traditional litany of our problems, and a traditional list of solutions. He admitted that the administration has no better recommendation to make to the Congress than to fight inflation by slowing economic growth and permitting increases in taxes. This is the traditional prescription of those economists who, for the past 10 years, have brought us the high inflation and high unemployment we are now experiencing. We cannot afford to take their advice any longer.

Mr. Schultze starts out with the good news first. He says that per capita disposable income, after adjusting for inflation, has risen, and that business profits have increased. Income is up—if you compare today's income with the income people were receiving at the low point of the last recession. However, more recent history shows that real spendable earnings, adjusted for taxes and inflation, have fallen seven-tenths of a percent from a year ago. And real economic profits, fully adjusted for inflation, are lower today than they were in 1967. Even worse, more and more economic forecasters are predicting a further slowdown in the months ahead. Some even forecast a full-blown recession for 1979.

The recent drop in earnings, and the continued dismal performance of profits, are due to the inflation and the higher taxes which the inflation produces. The higher taxes cut disposable income directly by reducing take-home pay. Indirectly, higher taxes reduce the growth of the economy, restrain hiring, and retard the growth of wages.

Apparently, however, Mr. Schultze is not concerned with the slowdown in economic growth. He states on several occasions that economic growth must moderate in order to avoid overstimulating the economy. I do not share Mr. Schultze's complacency about our slow rate of economic growth. If Mr. Schultze is correct, that slow growth retards inflation, we should certainly be seeing a drop-off in the rate of inflation right now. Obviously, inflation is getting worse. In fact, since 1969 we have had higher inflation every time production has slowed down, and lower inflation every time production has speeded up. This is just the opposite of what Mr. Schultze's theories predict should be happening.

It is time for this country to develop a new economic theory which will enable us to fight inflation and unemployment at the same time. It should be obvious by now that we cannot fight inflation by reducing production and creating shortages. We need a theory which will enable us to increase production and employment without having to call upon the Federal Reserve to run the printing presses to flood the country with easy money and additional inflation.

The historical record shows that inflation worsens when production falls. Inflation does not stimulate output and employment. Recession does not control prices. The old theory is dead.

There is such a theory, one which analyzes tax cuts in terms of incentives to produce. Higher production creates jobs and lowers inflation at the same time. We need to examine tax proposals in these terms.

Mr. Schultze analyzes a tax cut only in terms of its size, the number of dollars it dumps into the economy. This is supposed to stimulate demand and purchasing power and be spent about twice over to increase GNP by a multiple—two—of the tax cut. Hence, the term "multiplier." This whole line of reasoning is badly out of date, as will be shown later. But, for the moment, let us work in terms of the theory Mr. Schultze is using.

Mr. Schultze overstates the size of Roth-Kemp—see appendix. He then claims that Roth-Kemp is too large, that the increased spending it would generate would greatly exceed our unused capacity, currently between $70 and $90 billion. But, in addition to overstating its size, Mr. Schultze has also forgotten to adjust Roth-Kemp for the offsetting increases in taxes which will be produced by pending social security tax hikes and inflation. These amount to $23 billion in 1979, $42 billion in 1980, $74 billion in 1981, $94 billion in 1982, and $113 billion in 1983. He neglects these tax increases in analyzing Roth-Kemp, but he remembers them when justifying the President's tax cut proposal. Mr. Schultze should subtract these numbers from the Roth-Kemp figures. It is the net tax cut which must be used in a multiplier analysis.

Net of these other tax increases, the tax cuts in Roth-Kemp are only $2 billion in 1979, $8 billion in 1980, and $5 billion in 1981, and a tax increase of $7 billion in 1982, and a tax increase of $18 billion in 1983, as social security and inflation-induced tax increases continue. If Mr. Schultze multiplied these numbers by 2, he would still have no cause to worry about capacity ceilings. On the contrary, he would have to advocate further tax cuts in 1982 and 1983. Clearly, Roth-Kemp is needed just to prevent tax increases over the next 3 years. See appendix.

Mr. Schultze goes astray primarily because he looks at the tax cut out of context, and judges it by size alone. However, the day is past when tax cuts should be thought of only in terms of their size.

Many tax cuts work because of their shape, not their size. Consider an example drawn from the economics of international trade. Suppose a prohibitive tariff, one so high that it chokes off all imports, is placed on French wine. Si no French wine is imported after tariff, no revenue is raised. Now, supp the tariff is removed. No revenue is but importation of French wine resum Behold. A tax cut of zero dollars rea in an infinite percent jump in impo some positive number of bottles impor divided by zero bottles in the year of tariff.

Is the example too extreme? Th consider the recent studies which sh a small tax cut on capital gains to so stimulative of asset trading and G that the Federal deficit is reduced. Co pare this to the general consensus i tax rebates, even fairly substantial o have so little impact on GNP as to massive revenue losers. Obviously, type of tax cut matters a great de

Mr. Schultze is not alone in his titude. On July 14, Emil Sunley, of Treasury, attacked Roth-Kemp tried to tell the Senate Finance Co mittee that all tax cuts were pretty mu alike in their effect on GNP and in revenue feedback they would produ He used this as an excuse for the plorable Treasury habit of looking o at the initial cost of tax cuts, and not bothering to analyze the net eff of various tax proposals after all th differential economic repercussions. H is what several people who were pres at that hearing had to say to Mr. Su ley:

Michael Evans, president of Ch Econometric Associates:

As far as the Treasury goes, I have be that argument. It is a common argume one they always trot out. It doesn't prove with age.

Norman Ture, president of Norm Ture Associates:

The criticism, for the most part, deri from antique, obsolete notions about fiscal changes affect the economy. They the same Keynesian notions which dis gard the effects of tax changes on the con tions of supply of factors of productio which look only to the effects on disposa incomes and on aggregate demand, which in practice have proved to be consistently, harmfully wrong.

Senator RUSSELL LONG:

You are reluctant to change your pr tices down at Treasury to include more fe back into your estimates, and it seems to that you ought to reconsider that positi both when you are bringing a proposal here and when you are looking at one.

Let us take an extreme case where have a tax that is counterproductive. I do know at what point a tax becomes counte productive, but surely if the tax reach 100 percent of a person's income, you wou have to agree that is not going to make t government any money. The people are n going to work if they can't keep some their money, and the result is the gover ment would lose money. So, if you are goi to get anything at all in terms of an accura estimate of the result of tax change, y have to look at the dynamics.

Now, the same thing is true of a du shooter. Any good duck shooter knows if t duck flies across in front of the blind a he shoots across the blind he is not goi to hit the duck. The duck keeps right flying. So that you would think that would all learn, in a moving economy whe everything is in motion, you would have take the dynamics of these things in account.

Roth-Kemp is not designed to work by

Today, $20,000 in taxable income still

What has happened to Mr. Schultze is

bill, but which was really a stimu

Roth-Kemp is not designed to work by injecting spending power into the economy. It is designed to work by increasing incentives for the supply of goods and services and to encourage the saving needed to supply investment funds. It does this by reducing marginal tax rates.

The incentive to an activity is the after-tax payment received for it. That payment rises when the tax rate falls.

The "price" of an hour of leisure is the after-tax wage given up by not working. The "price" of a dollar of current spending is the lost dollar plus after-tax interest which could have been spent next year. Lowering tax rates makes leisure and spending more expensive in terms of lost income. As people respond to this "price" change, they shift into work effort and saving. These are both growth-oriented activities. They increase investment, hiring, capacity, and production. They lower interest rates and prices.

The tax rate in question is the rate on the last few dollars of wages, interest, and dividends, because these marginal rates are what will be paid if work effort, saving, and investing are increased. Thus, cuts in tax rates in every bracket encourage more work, saving, and investing, as opposed to leisure and consumption. Tax rate reduction increases the available supply of the labor and capital inputs needed for production of goods for current consumption and production of capital goods to expand future economic capacity. Tax rate reduction changes behavior, just as any other price changes do.

As Norman Ture has explained:

It is in the supply side context, I believe, that one should evaluate the estimates of the Roth-Kemp tax reduction.

The proposed tax reductions would materially reduce the cost of market-directed effort relative to leisure. Certainly the labor force data of the last few years argue strongly for the plausibility of the employment increases we have projected.

Similarly, Roth-Kemp would dramatically reduce the cost of saving and investing relative to the cost of consumption. To assert less is, in effect, to argue that people's saving and investing behavior is irrational, that people are indifferent to the after-tax return they may obtain in deciding how much of their income to save and how much to consume.

The estimated increases in the supplies of labor and capital services argue forcefully against the criticism that Roth-Kemp would accentuate inflation. The contention that enactment of these tax reductions would sharply boost inflation derives from the mistaken Keynesian views which ignore conditions of supply and look only at alleged effects of tax changes on demand, principally consumption spending.

Mr. Wendell Gunn, vice president, Chase Manhattan Bank, stated:

I must emphasize the distinction between cuts in marginal tax rates and the quite different notion of tax rebates. All of the benefits of the former accrue because of the effect on the expected profitability of production and investment. These benefits do not result in the case of a tax rebate, simply because it is related only to previous production, which obviously cannot be altered in response.

The primary rationale of the Kemp-Roth proposal appears to be based on the conceptual framework just discussed. By cutting marginal tax rates on individuals across the board and on businesses, it would provide for noninflationary private sector economic expansion. It would signal abandonment by liberals and conservatives alike of the idea that inflation must be fought with unemployment and vice versa. It would release the enormous pool of energy and individual initiative that has characterized our great country since its inception. New employment would result and those Americans who, for obvious reasons, always seem to bear a disproportionate share of unemployment, would be among the greatest beneficiaries. And, believe it or not, it contains the only hope of ever achieving the elusive balance in the federal budget.

Mr. Ture:

I read Professor Heller's piece in the Wall Street Journal . . . He looks only at one kind of effect . . . an effect on disposable income of the taxpayer, and he thinks that all the consequent effects on the economy derive only from that. It seems to me . . . that captures very, very little of the effect of taxes on the economy.

The real effect of a tax change is that it changes the cost any one of us confronts in doing this versus that. To assume, as Professor Heller explicitly says, that we are unresponsive to these changes in cost is to assume that, as he does, we are all irrational, that the economy in fact operates by gosh and by golly and it is a sort of wonder that it doesn't turn into a black hole and that we don't implode into it.

Well, the economy doesn't operate by gosh and by golly, it operates in a very analyzable way, a very systematic way. You can in effect examine why the economy is going to do what it is going to do if you take account of what happens to relative prices. And tax changes are in fact primarily to be interpreted as changes in the relative prices and costs confronting taxpayers.

Roth-Kemp is not inflationary precisely because it does affect relative prices. It affects behavior, increases growth, and encourages saving.

In order to judge a tax cut's impact on growth and inflation, we have to know what the cut will do to GNP and saving. To finance itself without causing inflation, a tax cut can do four things:

First, it can increase GNP, which is the tax base, and recover revenues to offset part or all of the initial reduction.

Second, if it reduces marginal tax rates it can cause existing savings and investment funds to switch out of tax shelters and nontaxable uses into taxable uses, raising the tax base and revenue. (This also makes saving and investment more efficient, raising GNP by shifting saving and investment from low-yield, but sheltered projects into straightforward, high-yield activities.)

Third, if it reduces marginal tax rates, the tax cut makes saving more rewarding after taxes, and raises the total amount of saving being done. Chase Econometrics forecasts a sharp rise in saving if tax rates are reduced. Some of this saving will go to buy the bonds the Treasury will sell to cover any deficit remaining from the tax cut. Any excess will be used to increase net investment and growth.

Fourth, by fostering growth and employment, the right kind of tax cut reduces unemployment and welfare spending.

As long as revenues rise to offset the tax cut, or as long as savings rise by enough to cover any added debt, the Federal Reserve does not have to buy even one additional Treasury bill, and does not have to add one cent to the money supply.

On the first point, Chase predicts revenue reflows to all governments of 40 percent of the tax cut in the first year, rising to 65 percent of the tax cut by 1987. This is twice the level Mr. Schultze would admit to.

On the second point, lowering tax rates is essential if we are to get people out of tax shelters and back into the real investment in basic American industry we need so badly. Furthermore, shifts out of tax shelters are extremely profitable for the Federal Government. After the Kennedy tax cuts, upper bracket taxpayers shifted out of tax shelters in such large numbers that they paid more taxes even at the lower tax rates. Michael Evans, in a recent Wall Street Journal article, stated:

The top rate was reduced from 91 percent in 1963 to 77 percent in 1964 and 70 percent in 1965 and later years. The figures for actual income tax paid for the period 1961–1966 for taxpayers with incomes of $100,000 or more are taken from Statistics of Income and are reproduced in the accompanying table.

The results are so clear-cut that it is surprising that these figures have not previously been introduced as evidence in favor of Kemp-Roth. After virtually no growth in income taxes at these levels for three years, actual taxes paid rose dramatically beginning in 1964 even though income was taxed at significantly lower rates. In the case of individuals earning over $1 million per year, taxes collected actually doubled in the two-year span during which the tax rates were being lowered!

These results, which represent a remarkable rebuttal of those who argue that upper-income tax cuts are a "raid on the Treasury," indicate that a further reduction from 70 percent to 50 percent would not only spur economic growth and increase aggregate supply, but would actually assure the Treasury of greater tax revenues. The argument for upper-income tax cuts is almost as watertight as the argument for lower capital gains taxes.

TABLE 1.—INCOME TAXES PAID BY UPPER INCOME BRACKETS

	1961	1962	1963	1964	1965	1966
Maximum tax rate (percent)	91	91	91	77	70	70
Level of Adjusted Gross Income						
100,000 to 500,000	1,920	1,740	1,890	2,220	2,752	3,176
500,000 to 1,000,000	197	243	243	306	408	457
Over 1,000,000	342	311	326	427	603	590

Note: All tax figures are in millions of dollars.

Mr. ROTH. But, there is a more serious matter here than collecting more Federal revenue. Marginal tax rates have risen substantially for every level of real income since they were last reduced in 1964. Prices have doubled since then. People earning $20,000 in 1964 were earning the equivalent of $40,000 in today's dollars. These people were just entering tax brackets that made tax shelters seem attractive, brackets which encourage leisure and discourage saving. People filing 2 percent of all tax returns, doing perhaps 10 to 15 percent of the Nation's saving, were affected.

Today, $20,000 in taxable income still diverts people into tax shelters and leisure, and away from saving. But five times the number of people are earning that much today, people who were earning $10,000 in 1964. They were not using tax shelters then. They are now. People filing 10 percent of all tax returns, doing perhaps 30 to 50 percent of the country's saving, are affected.

By 1985, if we do not reduce the marginal tax rates, 25 percent of all tax returns, covering 60 percent of the country's taxable income and 80 percent or more of the country's savings will be in the upper brackets.

To who and at what cost will the American steel industry sell bonds to modernize its plant and equipment if 80 percent of U.S. saving is attracted to tax shelters? Where and at what interest rates will savings and loan companies get deposits with which to make mortgages? How can we maintain our competitive position in world trade if we increasingly siphon off a dwindling supply of saving into inefficient boondoggles instead of into the upgrading of American factories and jobs?

Only the Roth-Kemp bill reduces marginal tax rates, the rates which affect behavior. Only Roth-Kemp addresses this basic question of savings, economic growth, and the protection of American jobs.

As for point three, both Mr. Ture and Mr. Evans agree that saving will increase sharply under Roth-Kemp.

Mr. Ture:

. . . The increase in private saving out of the very substantial increase in real income would be great enough to finance, in real terms, both the additional deficits and very large increases in investment.

Mr. Evans:

In the middle sixties, following the tax cuts, savings as a proportion of GNP rose sharply, and productivity gains . . . were well above average. . . . It is a fact that anybody could verify." (See Table 2.)

In fact, Chase Econometrics estimates that savings will rise enough from the tax rate reductions found in the Kemp-Roth bill to cover any added deficit and to still leave enough saving left over to increase net investment substantially, delivering an enormous boost to real growth and productivity.

As for point four, the impact on unemployment compensation and working people, Evans and Ture forecast an increase of 2–4 million jobs from Kemp-Roth, and higher wages. And Mr. Ture stated:

Just as one would expect, labor would be by far the principal beneficiary of Roth-Kemp; about two-thirds of the increase in aggregate real income would be in the form of the increase in total labor compensation."

Thus, Kemp-Roth is not inflationary. It is self-financing four ways. Mr. Schultze doubts this primarily because, in his frame of reference, he has no way to distinguish between a tax cut which alters incentives, reduces the use of tax shelters, and stimulates savings and investment, and one which simply cuts Federal revenue and forces the Federal Reserve to create money to buy Treasury debt.

What has happened to Mr. Schultze is very simple. He is a macroeconomist used to looking at tax cuts according to their size. Roth-Kemp is a very small net tax cut which operates by restructuring tax rates and affecting incentives. Thus, its effects fall within the study of individual behavior—microeconomics. Mr. Schultze is out of his element here.

Mr. Schultze has totally neglected the fact that saving will be encouraged by lower tax rates. He has given no thought to the efficiency gains (and tax revenues) that will result as people shift from tax shelters into ordinary investment. He ignores production gains from a greater acceptance of overtime, or the more intense work effort and seeking after promotions brought on by lower rates. He neglects the benefits from increases in research and development as profitability is restored. These microeconomic effects come from lowering the tax barriers between effort and reward. These barriers, which Kennedy reduced, have been gradually resurrected by 15 years of inflation. They are powerful. They are not in the Keynesian short-run world view.

In the Kennedy years, the labor supply rose sharply, productivity rose sharply, savings surged, and capacity increased much faster than in the previous decade. Mr. Schultze says capacity and productivity will not rise fast enough for Roth-Kemp to repay Washington in three years in terms of higher Federal revenue. Maybe not. But, any delay in repayment will be thoroughly covered by higher saving, not by inflationary money creation. And the tax cut will repay the country as a whole in terms of full employment, higher real income, higher State and local tax receipts, fewer lives wasted on welfare, and a rekindling of the work ethic and entrepreneurial incentives. People will be working for themselves and their families once again, and upward mobility will again be part of American life.

Mr. President, I ask that a table, the appendix and two articles from the Wall Street Journal be printed in the RECORD.

The material follows:

TABLE 2.—INCREASE IN SAVINGS AND PRODUCTIVITY FROM KENNEDY TAX CUTS

[Dollar amounts in billions]

Year	Total individual savings [1]	Increase over preceding year		
		Savings		Productivity [2] (percent)
		Dollars	Percent	
1960	$34.900	−$2.472	−6.61	1.6
1961	34.693	−.207	−.59	3.3
1962	40.243	+5.550	+16.00	4.6
1963	45.232	+4.989	+12.40	4.0
1964	54.901	+9.669	+21.38	4.1
1965	62.028	+7.127	+12.98	3.7
1966	72.003	+9.975	+16.08	3.2
1967	72.726	+.723	+1.00	2.3
1968	78.028	+5.302	+7.29	3.3
1969	69.563	−8.465	−10.85	.3

[1] Increase in financial assets, plus net increase in tangible assets, less debt.
[2] Output per hour of all persons.

Sources: Savings: Board of Governors, The Federal Reserve. Productivity: Department of Labor, Bureau of Labor Statistics.

APPENDIX

In his appearance before the Senate Budget Committee, Charles Schultze presented a simplistic, back-of-the-envelope analysis of something he labeled the Roth-Kemp bill, but which was really a straw man up to be an easy target for a cheap shot.

Here is how the straw man was set The first step was to make Roth-K seem very large. Mr. Schultze conveni set aside the social security tax rate incre of the next few years, and the higher rates which will result from inflation's p ing people into higher tax brackets. T two types of tax increases will bloat fed revenues above the levels of the 1977 Act by about $25 billion in 1979, $40 bil in 1980, $65 billion in 1981, $90 billion 1982, and $110 billion in 1983. (For e 10 percent rise in prices, the higher tax r caused by inflation raise tax revenues by percent. The above figures only include extra 6 percent windfall in excess of the enues the government needs to keep up inflation.)

Setting these tax increases aside sec plished two things. It inflated the gross of the Roth-Kemp cut, before subtracti and then omitted the subtractions a gether, never putting Roth-Kemp on a basis.

THE GROSS CUT

Since these tax increases may cause a cession, and will surely at least slow nomic growth, removing them from con eration lets Mr. Schultze forecast a str economy, an expanded GNP, and expan revenues. The Roth-Kemp tax cut, whic one-third of income tax receipts, lo larger the larger one assumes revenues be. In fact, many economic forecasters considerably less sanguine about the nomic outlook than Mr. Schultze, and wo not put the Roth-Kemp bill anywhere such a gross size as Mr. Schultze uses.

Thus, Mr. Schultze calls Roth-Kemp $30 billion tax cut in 1979, and a $110 lion cut in 1981. In fact, it is nearer a billion cut in 1979, a $50 billion cut in 1 a $79 billion cut in 1981, an $87 billion in 1982, and a $95 billion cut in 1983.

THE NET CUT

Demand analysis operates on net injecti of money into the spending stream.

Mr. Schultze should have subtracted pending tax increases from gross Roth-K figures, and compared the net Roth-K numbers to the slack in the economy. ternatively, he could have assumed pending tax increases will widen the sl considerably, and compared somewhat lo gross Roth-Kemp numbers to the larger p tax-increase slack.

What Mr. Schultze has done is to comp the gross Roth-Kemp numbers to the curr slack. No wonder he sees the economy cra ing through some sort of capacity ceiling, generating inflation!

Net of pending tax increases, the Ro Kemp personal tax cuts are about $3 bill in 1979, $8 billion in 1980, $5 billion in 1 a $7 billion tax increase in 1982, and an billion tax increase in 1983, assuming 6 p cent inflation. In fact, inflation and its sulting tax increases will probably be la than assumed by Chase, and the net size Roth-Kemp smaller than shown here.

We can compare these net numbers, multiplied by two, to our current $70- billion per year economic slack, and see t Roth-Kemp does not crash through supposed capacity ceiling. It does not lead wild inflation. In fact, we would need to in the income tax by 1981, or have further cuts, to keep Roth-Kemp and full empl ment from being repealed by inflation 1985!

OTHER FLAWS IN SCHULTZE ANALYSIS

Even allowing Mr. Schultze to use the g figures instead of net for Roth-Kemp, analysis goes astray.

For a tax cut to receive the full multipl it must not be offset by other factors. As have seen, if other taxes rise, the net effec

reduced. But this is true even if other taxes

faster than actual GNP. This is accomplished

reduced. But this is true even if other taxes do not rise!

Every tax cut must be financed, unless spending is cut. Suppose spending is not cut. Suppose the Treasury finances the tax cut by borrowing. Then the purchasing power injected by the tax cut is borrowed back by the Treasury, and the multiplier process collapses. The tax cut is ineffective, be it Roth-Kemp, Carter, or Ways and Means!

Thus, Mr. Schultze must be assuming that the tax cut is funded by some means other than borrowing from the public. There is only one other way out for him. He must expect the Federal Reserve to buy the Treasury bonds with new money. In the final analysis, Mr. Schultze's tax cut scenario works only if the Federal Reserve finances it almost in its entirety. Tax cuts are not fiscal policy anymore. They are monetary policy! Mr. Schultze is implicitly assuming a totally accommodative monetary policy. If the Federal Reserve chose not to be totally accommodating, it could make any tax cut noninflationary. The amount of inflation would then be a function of the response of the Federal Reserve, not a function of the size of the tax cut. Thus, Mr. Schultze's basic premise falls apart.

ROTH-KEMP TAX CUT VERSUS SOCIAL SECURITY AND INFLATION TAX INCREASES

[Chase econometrics forecast; billions of dollars changes from 1977 tax code levels]

Year	1979	1980	1981	1982	1983
Roth-Kemp tax cut:					
Total cut (before reflow from higher GNP)	25	50	79	87	95
Personal cut (before reflow)	21	45	73	80	88
Social security increase	12	18	36	40	42
Inflation tax increases:					
Personal	9	19	30	42	55
Corporate	2	5	8	12	16
Sum of increases	23	42	74	94	113
Net tax cut, increases less Roth-Kemp (+ indicates					
Net tax cut, increases less Roth-Kemp	−2	−8	−5	[1]+7	[1]+18

[1] + indicates tax increase.

[From the Wall Street Journal, Aug. 7, 1978]

TAXES, INFLATION AND THE RICH

(By Michael K. Evans)

Increasing numbers of economists have recently suggested that massive tax cuts would cure the ailments of the U.S. economy by increasing productivity, raising incentives and hence expanding aggregate supply. The idea of supply-side incentives has been embodied in proposals like the Steiger amendment to cut capital gains taxes and the Kemp-Roth bill for an across-the-board tax cut.

These bills, and the new supply-side thinking, raise issues that sound startling in the context of contemporary economic thought: Is it possible to cut taxes without spurring inflation? And is it possible to cut taxes, or at least certain taxes, without even reducing total revenues received by the federal Treasury?

The historical record clearly indicates that the rate of inflation is inversely proportional to the gap between actual and maximum potential GNP. So measures that raise potential GNP would reduce inflation at the same time they increase economic growth. Measures that succeeded in expanding the gap by raising potential would clearly offer greater benefits to society than the traditional remedies of fiscal and monetary restraint, which expand the gap by reducing aggregate demand.

HOW A TAX CUT REDUCES INFLATION

In order for a tax cut to reduce inflation, it must increase maximum potential GNP faster than actual GNP. This is accomplished only by raising the investment ratio or by increasing incentives to work because a larger proportion of income will remain after taxes. Not all tax cuts accomplish this. A tax reduction of $50 per person, for example, would have no measurable effect on productivity or incentives, so it would not raise potential GNP. However, it would increase actual GNP, hence reducing the gap and raising the rate of inflation.

Thus the other extreme, a reduction in corporate income taxes or capital gains taxes would initially affect investment, thereby leading to the desired effect on productivity and total supply. While actual GNP would obviously rise because of higher capital spending, the gap would increase, thereby reducing the rate of inflation. A number of studies by Chase Econometrics and others have already shown the salutory impacts of business tax cuts.

The question of personal income tax cuts, which has become particularly relevant in view of the increased interest in the Kemp-Roth bill, is a much more difficult one to answer. While it may be theoretically appealing to argue that a reduction in personal income taxes encourages an individual to work harder and thus increase both his pretax and aftertax income, little evidence has been assembled either to support or disprove this hypothesis.

One of the major problems is measuring the amount and intensity of work offered by an individual taxpayer. However, a reasonable proxy variable is the amount of income taxes paid by this individual. Thus we can examine what happened to federal personal income classification in the years following major tax cuts. These occurred in the mid-1920s, under Treasury Secretary Andrew W. Mellon, and in 1964–1965. It is interesting to examine both of these periods in some detail.

Before the U.S. entered World War I, the maximum tax rate on personal income was 15%, but this rate rose dramatically to a peak of 73% in 1918 and succeeding years. It was then cut to 55% in 1922 and 25% in 1926. It is instructive to learn what happened to taxes paid by millionaires—that group which has been singled out by President Carter and Treasury Secretary Blumenthal as unworthy of further tax relief. To adjust for the differentials caused by inflation, we consider those taxpayers with incomes over $300,000 in 1922 and in 1927, although even this adjustment is an understatement of the true effects of rising prices. In 1922, this group paid taxes of $77 million, while in 1927, the year after the second reduction in rates, its members paid a total of $230 million. Not only did the economy benefit significantly, but the millionaires themselves paid three times as much in taxes with lower rates.

It could be argued that the Mellon tax cut results, while instructive, are not relevant today since the institutional structure and income distribution of the U.S. economy are far different now than they were in the 1920's. However, we need not be restricted to a reading of "ancient history" in our determination of how a reduction in top bracket rates might affect overall revenues. Fortunately we can rely on the figures before and after the Kennedy-Johnson tax cuts of 1964.

As most readers will recall, the top rate was reduced from 91% in 1963 to 77% in 1964 and 70% in 1965 and later years. The figures for actual income tax paid for the period 1961–1966 for taxpayers with incomes of $100,000 or more are taken from "Statistics of Income" and are reproduced in the accompanying table.

The results are so clear-cut that it is surprising that these figures have not previously been introduced as evidence in favor of Kemp-Roth. After virtually no growth in income taxes for incomes over $100,000 for three years, actual taxes paid rose dramatically beginning in 1964 even though income was taxed at significantly lower rates. In the case of individuals earning over $1 million per year, taxes collected actually in the two-year span during which the tax rates were being lowered. For income classes under $100,000, taxes either fell or rose less than the average growth in total personal income.

These results, which represent a remarkable rebuttal of those who argue that upper-income tax cuts are a "raid on the Treasury," indicate that a further reduction from 70% to 50% would not only spur economic growth and increase aggregate supply, but would actually assure the Treasury of greater tax revenues. The argument for upper income tax cuts is almost as watertight as the argument for lower capital gains taxes.

The more extreme proponents of Kemp-Roth have sometimes seemed to suggest that this phenomenon occurs at all income levels. It does not, as can be seen by a perusal of the complete "Statistics of Income" figures, and by the fact that aggregate personal income tax collections did decline from $51.5 billion in 1963 to $48.6 billion in 1964. This should come as no great surprise: The effects on individual incentives and supply labor are undoubtedly much greater where taxes are highest—at the upper income levels rather than for the typical wage earner.

FLEXIBILITY FOR UPPER INCOME GROUP

Furthermore, just as has been shown in recent work on capital gains taxes, upper-income individuals have far greater flexibility in arranging the income for their assets in the form of tax-free or tax-sheltered income when tax rates are at punitively high levels. The risks of unreported income become relatively much smaller when tax rates are near 100%, and the lure of diverting earnings to foreign countries becomes much greater.

Thus if the Treasury wants to collect more revenues, it will lower the highest marginal tax brackets. Only if it wants less revenue and poorer economic growth so badly that it is willing to penalize all those "millionaires" will it push for higher upper-income tax rates.

INCOME TAXES PAID BY UPPER INCOME BRACKETS

	1961	1962	1963	1964	1965	1966
Maximum tax rate (percent)	91	91	91	70	70	70
Level of Adjusted Gross Income						
100,000 to 500,000	1,970	1,740	1,890	2,220	2,752	3,176
500,000 to 1,000,000	297	243	243	306	408	457
Over 1,000,000	342	311	326	427	603	590

Note: All tax figures are in millions of dollars.

[From the Wall Street Journal, Aug. 2, 1978]

THE ECONOMIC CASE FOR KEMP-ROTH

(By Paul Craig Roberts)

Walter Heller is known to the public as a liberal economist who was Chairman of the Council of Economic Advisers under a Democratic President, and Herbert Stein as a conservative economist who held the same position under Republican Presidents. Both agree that the Kemp-Roth tax rate reduction bill is economic nonsense. "It would soon generate soaring deficits and roaring inflation," says Mr. Heller. "I agree," says Mr. Stein.

Before the public is misled by their agreement into concluding that there is no economic case to be made for Kemp-Roth, I would like to show that there is.

Profs. Heller and Stein both think of tax cuts in Keynesian terms of the dollar amount put into the economy to fuel spending. They believe tax cuts work by raising the disposable income of consumers, who then spend more. The increased spending soaks

up excess capacity and unemployed labor, thus moving the economy to higher levels of employment and GNP. The Kemp-Roth bill is, in their view, too large a tax cut. They believe it would fuel more new spending than there is excess capacity and produce an inflationary excess demand.

As Mr. Heller put it on this page July 12, the bill would "simply overwhelm our existing productive capacity with a tidal wave of increased demand." A smaller tax cut, he thinks, would be in order. In his July 18 article, Mr. Stein agreed with this economic analysis, but supported Kemp-Roth as a desperate means of forcing a reduction in federal spending.

A CURIOUS ANALYSIS

This economic analysis, first of all, is a curious one for economists who believe that tax cuts work by increasing demand. Without Kemp-Roth, taxes will increase due to automatic tax increases caused by inflation and higher Social Security taxes; one would expect Keynesians to be worrying about the need to offset the depressing effects of "fiscal drag."

In the context of ongoing tax increases, the Kemp-Roth reductions in the personal income tax rates do not amount to much in dollar terms. Net of the tax increases, Kemp-Roth is a $2 billion cut in 1979, a $15 billion cut in 1980, an $18 billion cut in 1981, a $7.5 billion cut in 1982 and a $1 billion cut in 1983—hardly enough to overwhelm the nation's productive capacity with a tidal wave of consumer spending. Keynesians ought to believe that the net additions to demand provided by Kemp-Roth are too small to have much impact on the economy, just as Mr. Heller says that the Mellon cuts of the 1920s were too small in dollar terms to have had any relation to the prosperity that followed.

The economic case for Kemp-Roth though, does not rest in increasingly dubious Keynesian premises about government policy "injecting" spending to add to aggregate demand. Like the Mellon tax cuts, it is based on incentive effects, on the economics of supply. As the adage goes, it is hard to teach old dogs new tricks, and Keynesians, who have spent four decades thinking in terms of spending and demand, find it hard to understand arguments about incentive and supply.

The new supply economists think of tax rate changes as incentive changes, not as income changes. To underatand the difference, consider the removal of a tariff that is high enough to prevent trade in a commodity. When the tariff is lifted, no revenues are lost, no budget deficits result and no money is put into anyone's hands. Yet clearly economic activity will expand, because the disincentive is removed. Nothing in Keynesian theory captures this effect.

Yet this is in fact how tax cuts work. A tax rate reduction does not in itself produce more real goods and services. There cannot be more income unless people produce more; the only way a tax cut can boost GNP is by providing an incentive for more production. If people respond to tax cuts by working less, as Mr. Heller suggests, then GNP would fall and Keynesian fiscal policy wouldn't work either!

When tax rates are reduced, the after-tax rewards to saving, investing and working for taxable income rise. People switch into these activities out of leisure, consumption, tax shelters and working for nontaxable income. The incentive effects cause an increase in the market supply of goods and services—thus the name "supply side economics."

Consider first the choice between working for additional taxable income and enjoying additional leisure. The price to the person of additional leisure is the amount of income, after tax, that he gives up by not working. Obviously, the higher the tax rate he faces, the cheaper leisure is in terms of the income he sacrifices. In our nation with its substantial income cushions, work disincentives are not limited to the top tax brackets. Studies by Martin Fieldstein of Harvard show that the lack of a significant gap between after-tax take-home pay and untaxed unemployment benefits has made leisure a free good for one million workers, thus shrinking GNP and the tax base by the value of their lost production.

Consider next the choice between working for taxable and nontaxable income. Take the case of a carpenter facing a 25% tax-rate. For an additional day's earnings of $100 he gets to keep $75. Suppose that his house needs painting and a painter costs $80 a day. Since his after-tax earnings are only $75, he saves $5 by painting his own house and chooses not to earn the additional $100. Alternatively, the carpenter and painter may swap services, but either way the tax base is smaller by $180, and the government loses tax revenues.

Studies by Gary Becker of the University of Chicago have made it clear that capital and labor are employed by households to produce nontaxable income through nonmarket activities, such as a carpenter painting his own house. The amount of household-owned capital and labor supplied in the market is affected by tax rates. The higher they are, the more households allocate their resources to the production of nontaxable income.

Now consider the decision between using income for current consumption or saving and investing it for future income. The price to the person of enjoying additional current consumption is the amount of future income he forgoes. The higher the tax rate, the smaller the amount of after tax future income he sacrifices by enjoying additional current consumption.

Take the case of a person facing the 70% tax rate on investment income. He can choose to invest $50,000 at a 10% rate of return, which would bring him $5,000 per year of additional income before taxes. Or he can choose to spend $50,000 on a Rolls-Royce. Since the after-tax value of $5,000 is only $1,500, he can enjoy a fine motor car by giving up only that amount. Britain's 98% tax rate on "unearned" (investment) income has reduced the cost of the Rolls-Royce in terms of forgone income to only $100 a year. The profusion of Rolls-Royces seen in England today is mistaken as a sign of prosperity.

Walter Heller tells us, though, that the decision to save does not depend on the relative prices of current consumption and future income; that "Denison's Law" shows that savings do not respond to higher after-tax rewards. But the most recent empirical studies of the responsiveness of savings are those of Michael Boskin of Stanford, who concludes that "private saving is indeed strongly affected by changes in the real after-tax rate of return." He specifically dismisses "Denison's Law" as a "conjecture based on evidence which is flimsy at best and dangerously misleading at worst." A current understanding of the Kemp-Roth bill's effect on savings is absolutely crucial to assessing an asserted inflationary effect.

To summarize the above points: With so many decisions affected by tax rates, it is obvious that the market supply of goods and services must respond to changes in tax rates. Our economy functions because people respond to changes in relative prices: the price of butter relative to that of margarine, beef relative to chicken, capital relative to labor and so on. A tax rate change is just another relative price change. It changes the prices of leisure and current consumption in terms of forgone current and future income. To claim that people don't respond to these price changes goes against the basic principles of economic science. Yet there is no recognition of such response in the bran economics now used to brand Kemp-Rot wildly inflationary.

Since Mr. Heller goes out of his wa criticize those of us who have done work on the Kemp-Roth bill, he shoul especially interested in the results of congressional staff debates on these po over the past year. The Congressional Bu et Office, like the Treasury, once hab ally offered simplistic revenue estimates omitted the expanded tax base and reve feedbacks. These static revenue estim are now discredited. CBO Director Alice lin has been forced to admit that her mo based on familiar Keynesian principles "unable to provide estimates of the long- impact tax cuts."

(By the way, Prof. Heller's own staff could use some polishing. The number attributed to Norman Ture do not come f Mr. Ture.)

Mr. Heller and Mr. Stein believe the Ke Roth bill depends on stimulating GNP ficiently that government revenues will fall even in the first year, thus avoiding inflationary deficit. In arguing that f backs are not large enough to recover revenues, they are demolishing a straw m This is not what the bill's proponents m when they say it would pay for itself. of the projected deficit will indeed be e inated by revenue from the larger GNP. remaining deficit will not be inflationary cause it will be self-financing.

Deficits are linked in the public mind inflation or crowding out because the def of the past decade have originated from creased government spending and tax bates—fiscal policies designed to increase mand, not incentives. These deficits ad the demand for funds in the financial m kets, thus pushing up interest rates. Federal Reserve then adds to the money ply, monetizing the deficit in an effor avoid rising interest rates and crowding and this excessive money creation ca inflation.

While Keynesian eyes can see no di ence between these deficits and def caused by cutting taxes, in terms of in tives this difference is decisive. Lower rates increase after-tax rates of return, w in turn expand private savings. When Boskin's measures of the responsivenes savings are applied to the Kemp-Roth they predict an increase in gross saving $35 billion in the first year and a st growth thereafter. Mr. Ture has even hi estimates of the savings effect, as does C Econometrics.

Savings, of course, represent the su of funds in the financial markets. So c cits caused by tax rate cuts add to the ply of funds as well as the demand for fu This allows the deficit to be financed w out pressure on interest rates and m creation. There is no need to monetize deficit and thus no inflationary effect addition, the larger GNP also means hi revenues for State and local governm and corporations, which reduce their borrowings and ease pressure in the fina markets.

THE CHASE FORECAST

Chase Econometrics has considered al these effects in studying the effect of Kemp-Roth bill. Chase forecasts that federal government would recover in nue reflows 41% of the $25 billion tax cu the first year. This rises to 72% in the enth year. The remaining deficit is than covered by the increase in pers savings, retained earnings, and state local government surplus. Thus the de puts no pressure on credit markets. The cut generates enough new savings to fin the deficit plus an increase in pri investment.

It is theoretically true, of course, government spending could increase

idly enough to soak up all additional savings and restore pressure to operate the deficit

more than their former home, they pay

"Once you're in a house you benefit by in-

idly enough to soak up all additional savings and restore pressure to monetize the deficit. But if government spending in real terms could be held to current levels for about two years, the Kemp-Roth bill would get us out of the high deficit, high inflation, low productivity, low growth doldrums, and save transfer programs like Social Security.

As for Mr. Stein, many proponents of Kemp-Roth agree with him that government spending is already too high, but this is a separate issue. Legislatively, tax bills are separate from spending bills, and there is no way to tie them together. The only purpose that could be served by the bill's sponsors calling for accompanying spending cuts would be to threaten the vested interests of the congressional spending committees and their constituents, leaving the bill hostage to a bitter and quite unnecessary political fight.

As for Mr. Heller, he does better when he takes off the Keynesian blinders and relies on his own experience with the Kennedy tax cuts. In his article on Kemp-Roth he says, "To attribute to the 1962–64 tax cuts all the expansion and revenue increases in 1963–68 boggles the mind. It totally ignores the huge (over) stimulus of the Vietnam expenditures." In other words, the tax cut did not pay for itself. But he saw these events differently in testifying before the Joint Economic Committee in February 1977.

ANTICIPATING THE LAFFER CURVE

In his testimony Prof. Heller anticipated the Laffer Curve, saying that the Kennedy cut "was the major factor that led to our running a $3 billion surplus by the middle of 1965 before escalation in Vietnam struck us. It was a $12 billion tax cut which would be about $33 or $34 billion in today's terms, and within one year the revenues into the Federal Treasury were already above what they had been before the tax cut." He concluded, "Did it pay for itself in increased revenues? I think the evidence is very strong that it did."

On this point Mr. Denison has something interesting to say. His estimate of the gap between actual and potential GNP for 1962 and 1963 is only $12 billion—the size of the Kennedy tax cut. Obviously, such a small gap left little room for an expansion based on increased demand and unused capacity. If Mr. Denison is correct, the substantial expansion that followed the tax cut had to be based on something else, a supply-side response to the higher after-tax rates of return.

Far from being wildly inflationary even with little unused capacity in 1962, the Kennedy tax cuts promoted healthy and noninflationary expansion. Once demand management is forgotten and incentive effects are understood, there is every reason to believe the Kemp-Roth tax cuts would do the same.●

CAPITAL GAINS TAXES FORCE HOMEOWNERS NOT TO SELL

● Mr. CHURCH. Mr. President, many older persons now find themselves in an impossible housing situation.

Large numbers want to sell their homes and move to a more modest dwelling, after raising their families.

But when they do, they are typically socked with a big capital gains tax. In addition, they are likely to be subject to a 15-percent minimum tax if the untaxed portion of their long-term capital gain exceeds $10,000.

The net effect is that they are in a "no-win" situation. If they remain in their homes, they are confronted with rapidly rising property taxes, maintenance costs, and energy charges. But when they sell and do not purchase a replacement residence costing as much or more than their former home, they pay a healthy chunk of the proceeds for Federal and State income taxes.

Recently, I sponsored legislation, S. 3385, to provide a one-time, up to $100,000 exemption from capital gains tax for persons who sell their homes.

The House of Representatives passed H.R. 13511—the Revenue Act of 1978—on August 10, which includes this capital gains exemption for the sale of personal residences.

This provision already has strong support, and I urge the Senate to approve it.

A recent article by Louise Cook in the Idaho Statesman provides compelling reasons to ease the capital gains burden for homeowners.

Mr. President, I commend this article—entitled "Capital Gains Taxes Force Homeowners Not To Sell"—to my colleagues, and ask that it be printed in the RECORD.

The article follows:

[From the Boise, Idaho Stateman, July 30, 1978]

CAPITAL GAINS TAXES FORCE HOMEOWNERS NOT TO SELL

(By Louise Cook)

Mary and Edward Burke are in their late 50s. They would like to leave the three-bedroom home they own for an apartment, but they can't afford to sell.

Burke is a made-up name; the problem is all too real.

It is a problem that causes people to accumulate huge, but artificial, profits during years of home ownership. Profits that are created by inflation but are still subject to capital gains taxes that can wipe out a large portion of a family's retirement nest egg.

Just as young couples find it tough to buy their first house, older people find it tough to sell their last one. "It's hard to get on the train and it's hard to get off," said Kenneth J. Thygerson, an economist with the U.S. League of Savings Associations.

The elderly in particular, he said, "feel locked in. They consume more housing than they want to."

Congress is trying to find a key to the lock. One potential solution is included in the $16.2 billion tax-cut bill approved by the House Ways and Means Committee and expected to reach the floor of the House during the week of Aug. 7.

The bill includes two provisions that would have the effect of eliminating capital gains taxes on the sale of a home in many cases. One provision would allow individuals—on a one-time only basis—to exempt from capital gains tax up to $100,000 of the profit from the sale of their principal residence as long as they had lived in it for two years.

Another section of the bill exempts from taxation any inflation-caused increase in the value of a home or other asset starting in 1980.

No one knows how many people move into a house, pay off the mortgage and remain, without ever selling their home and facing the capital gains problem. Census Bureau figures show that on the average, houses change hands every 10 to 12 years. One mortgage is exchanged for another. Mobility is greater in California and lower in New England.

Housing, said Thygerson, is "the only asset most people have that has risen faster than inflation." If you bought a house for $25,000 five years ago and sell it for $50,000 today, you have a theoretical profit of $25,000. You'll probably have to use up that profit—and more—to buy a replacement home, but, "If you hadn't had that house in the first place, you'd have been even worse off," Thygerson said.

"Once you're in a house you benefit by inflation," said Thygerson. The disadvantages become more apparent when you want to sell your home and buy a cheaper one or move into rental housing. That's where capital gains come in.

Under present law, payment of capital gains tax on profits from the sale of a home is deferred as long as you buy a replacement residence within 18 months that costs as much or more than the house you sell. The tax is only postponed; it is not forgiven. Any gain not taxed in the year you sell your old home is subtracted from the cost of your new house to determine what's known as the basis price used in later transactions.

Here's how it works:

You buy a house for $20,000 and, 10 years later, sell it for $40,000. Capital gain: $20,000.

With the proceeds from the sale of the first house you buy a second one, this time paying $50,000. The basis price of your new home for the purpose of capital gains will be $30,000—the actual purchase price minus the earlier capital gain. Fifteen years later, you sell the second house for $100,000. Capital gain: $70,000.

You rent an apartment and now it's time to pay the taxes. You must report $35,000 or half the capital gain on your return and pay tax according to your regular bracket. If you were in a 40 percent bracket, the capital gains tax on the $35,000 would be $14,000. The other half of the capital gain, minus a $10,000 exemption, is subject to a minimum tax of 15 percent. In this example, the minimum tax would be $3,750. Total tax: $17,750.

(If you are over 65, you are not subject to tax on the first $35,000 of your capital gain. Half of the other $35,000—$17,500—would be reported as regular income and half, minus the $10,000 exemption, would be subject to the minimum tax. In the above example, that would mean your tax bill would be $8,125.)

If the proposal passed by the House panel becomes law, you would face no tax on your profit since it comes within the $100,000 limit.

Suppose, however, you sell your second house for $150,000. Your total capital gain would be $120,000—$20,000 from the first house and $100,000 from the second house. If the sale took place today, you would face taxes on a capital gain of $20,000. If it took place after 1980, the inflation-adjustment provision would come into play. That provision allows you to adjust the basis price used for capital gains to reflect increases in the Consumer Price Index.

Let's assume it's 1990. In the 10 years between 1980 and 1990, the Consumer Price Index had increased by 75 percent. Your basis price of $30,000 also would be increased by 75 percent to $55,500. The $150,000 sale price minus the adjusted basis price would leave you with a capital gain of $94,500—within the exemption limit.●

PODRABINEK AND PSYCHIATRIC ABUSE

● Mr. CASE. Mr. President, in another move against human rights, a Soviet court on Wednesday sentenced Aleksandr Podrabinek to 5 years in internal exile.

Aleksandr Podrabinek is a member of the Working Commission on the Abuse of Psychiatry for Political Purposes and his book, "Punitive Medicine," has shed valuable light on Soviet abuses. That is why the Soviet state is taking its revenge on Podrabinek and his family. In March of this year, his brother Kirill Podrabinek, was sent off to 2½ years in camp for possession of a harpoon gun. And now we await a verdict on Aleksandr.

Far from the eyes and ears of the

world, hundreds, perhaps thousands, of people in the U.S.S.R. are immured in Soviet psychiatric hospitals. Not all of these people are political dissenters. Many are religious believers, or workers who have complained of unfair treatment on the job. And it is because Aleksandr Podrabinek has made known the fate of hundreds of these people in his book and in the bulletins of the commission, that the Soviets are putting him on trial.

One example of a person locked away in Soviet psychiatric prisons is Vasily Shipilov, born in 1922. He has spent 29 years of his life in Soviet camps and psychiatric hospitals. While a student at a Russian Orthodox seminary in 1939, he was sent off to the camps for 10 years. Released in 1949, the next year Shipilov was declared "schizophrenic" and sent to the Kazan Special Psychiatric Hospital. As a result of the insulin "treatment" to which he was subjected, Shipilov developed seizures and then was "treated" for "epilepsy." During the 19-year period he has been in psychiatric confinement, Shipilov has been beaten constantly because he followed religious observances. Now in a general psychiatric hospital in Siberia, a doctor in charge of his case, Prof. Elizaveta Kholodkovskaya, taunted Shipilov by saying that no one knows anything about him and that therefore "anything can happen to him."

The time is long overdue for the Soviet Union to halt such brutal and cynical treatment of suffering people in Soviet psychiatric prisons.

I ask that press reports of the trial and conviction, be printed in the RECORD.

The reports follow:

SOVIET DISSIDENT SENTENCED TO 5 YEARS IN EXILE

Moscow.—A Soviet dissident who probed the government's alleged use of psychiatric hospitals to suppress criticism was sentenced to five years' internal exile yesterday for defaming the state, Tass news agency said.

The one-day trial of a medical orderly, Alexander Podrabinek, 25, was held at Elektrostal, an industrial town 40 miles east of Moscow.

He was convicted of compiling a dossier alleging that authorities forced psychiatric treatment on dissidents to silence them.

Tass called his document slanderous and accused him of concocting lies.

Dissident sources said he refused to take part in the trial after he was denied the right of calling defense witnesses and was expelled from the court for smoking a cigarette.

Tass said the court thoroughly investigated all the information in his dossier and found that it was either rigged or lies.

Among other things, Tass said Mr. Podrabinek had invented a nonexistent psychiatric hospital at Novocherkassk, in southern Russia, in order to describe "horrible" conditions there.

The news agency said he had alleged that a patient named Levitin was shot dead on orders of a psychiatrist when he tried to escape from a hospital in Sychevka, west of Moscow. The investigation showed no one there knew such a person, Tass said.

Mr. Podrabinek will serve his exile sentence in a remote part of Siberia or the Soviet north, far from major population centers.

Elektrostal, where he was officially registered as living, is in an area barred to foreigners, and Western correspondents and diplomats could not travel there.

Mr. Podrabinek's 265-page dossier, published in the West by the political prisoners' defense organization Amnesty International, played a major part in bringing condemnation of the Soviet Union at a world psychiatric conference in Honolulu last year.

The young dissident was closely associated with the "Helsinki group" which issued documented reports alleging Soviet violations of the human rights commitments included in the Final Act of the 1975 European Security Conference in the Finnish capital.

Leading members of the group—Yuri Orlov, Alexander Ginzburg and Anatoly Scharansky—as well as others who formed similar groups in several provincial Soviet cities have been tried in recent months and given heavy labor camp terms.

Earlier this year Mr. Podrabinek told Western newsmen that he had been warned by KGB security police investigators that he would face jail himself if he did not agree to give evidence against Mr. Orlov.

According to his account, he refused and was arrested at Mr. Orlov's trial—at which the Helsinki group chairman was sentenced to seven years in a labor camp and five more in exile—began.

[From the Washington Post, Aug. 16, 1978]

SOVIET COURT IMPOSES INTERNAL EXILE ON CRITIC OF "PUNITIVE" PSYCHIATRY

Moscow.—Aleksandr Podrabinek, the driving force behind a dissident group that publicized alleged abuses of psychiatric treatment in the Soviet Union, was convicted of anti-Soviet slander yesterday and sentenced to five years of internal exile, the official news agency Tass reported.

Western correspondents were barred from the trial, which was held in a court in Podrabinek's hometown of Elektrostal, 40 miles from Moscow in an area closed to foreigners.

In a telephone call to reporters, a friend of Podrabinek said the defendant's father and stepmother were admitted to the proceedings, but friends were not allowed in.

Podrabinek, 24, is one of the youngest and most energetic of the Moscow dissidents.

He was arrested May 14 on charges stemming from his book, "Punitive Medicine," which Podrabinek smuggled to the West.

The 265-page book is the product of three years' work, including a tour through Siberia, during which Podrabinek visited mental hospitals, once posing as a doctor.

It details what Podrabinek says is evidence that pyschiatric incarceration is used here as a means of punishing dissenters such as Vladimir Bukovsky, who was allowed to leave the Soviet Union in 1976.

Podrabinek's arrest came on the eve of the trial of Yuri Orlov, founder of a dissident group that publicized Soviet noncompliance with the 1975 Helsinki accords.

Orlov was sentenced to seven years' hard labor plus five years' internal exile for anti-Soviet agitation. Podrabinek's group investigating psychiatric treatment was a branch of Orlov's group.

The list of other Moscow dissidents sentenced this summer includes Anatoly Scharansky, who got 13 years in prison for espionage; Aleksandr Ginzburg, eight years for anti-Soviet agitation, and Vladimir Slepak, three years for creating a disturbance when he demonstrated for the right to emigrate.

[From the Baltimore Sun, July 17, 1978]

RUSSIAN REPORTS PUNITIVE ASYLUMS

Moscow.—A Moscow psychiatrist said yesterday that people without mental problems are hospitalized in Soviet asylums as a form of punishment.

At a news conference held by a dissident group, Dr. Aleksandr Voloshanovich said he decided to speak out because of the viction Tuesday of Alekrandr Podrab a young dissident who gathered evid about the situation in psychiatric hosp

Dr. Voloshanovich, 37, is on the sta Moscow's Doigoprudny Psychiatric Hos He said he checked 27 persons who told Podrabinek's group they were wrongly mitted for treatment and, "Among the examined I found not a single case of nite mental illness."

Soviet medical personnel who have fected have previously reported such stances. Dr. Voloshanovich is the first S doctor still in residence in the Soviet U to make such a charge.

Mr. Podrabinek, 24, an ambulance m who smuggled a 265-page book to the alleging widespread misuse of psychi treatment, was convicted of "anti-S slander" and given five years of Sib exile.

The dissidents said he rejected the hel his Soviet lawyer, refused to take par the court proceedings, lit a cigarette in v tion of court rules and was finally ej when he began whistling the toreador m from the Bizet opera "Carmen."

Dr. Voloshanovich said he had worke an anonymous consultant for Mr. Po binek and his group, which compiled case histories of more than 200 person legedly sent to insane asylums after co into conflict with the authorities.●

UNITED STATES-SOVIET MILITA BALANCE AND SALT

● Mr. HART. Mr. President, Thursday, August 10, two of my leagues, the Senator from Maryland (MATHIAS) and the Senator from I (Mr. CULVER) appeared on NBC's " day Show" to discuss the United Sta Soviet military balance and SALT commend the text of their intervie all my colleagues. In it, they make m excellent points which serve to dis some of the unthinking alarmism rounding assessments of our pres strategic situation. Three of their po stand out particularly:

Nuclear "superiority" is meaning in today's world, where neither su power can destroy the other's retaliat forces, nor with confidence "win" a clear war in any meaningful sense.

The approximately 6,000 nuclear w heads and bombs that would remain us even after a successful Soviet surp "first-strike" against our Minuten forces would be enough to cause inc ceivable damage to the Soviet Union

The Soviets do not now have this ca bility. Even if they were to achieve accuracies some predict for them by mid-to-late 1980's, enough uncertain would remain about the possible succ of such an attack to render such a "fi strike" an insanely suicidal risk.

The provisions of SALT II, while finalized, give every indication of be in our strategic national security int ests. Not only will this agreement fo the Russians to dismantle some 200 300 strategic nuclear launcher vehi over the time frame of the agreeme while we retain all those we curre deploy; we will also be unrestricted pursuing those strategic programs ready underway: development of cruise missile and the MX missile, deployment of the Trident submar system.

Mr. President, I ask that the text of

have no effective civil defense. Should we

identify the kind of problems which

Mr. President, I ask that the text of the interview of Mr. MATHIAS and Mr. CULVER by Robert Abernathy on the August 10 "Today Show" be printed in the RECORD.

The interview follows:

TEXT OF THE INTERVIEW BY NBC CORRESPONDENT ROBERT ABERNATHY

ABERNATHY. The argument, it seems to me, Senator Mathias, is this question of whether more power means more security. It's argued that we must be superior to the Soviets, not just roughly equal. Why shouldn't we be superior?

MATHIAS. Well, it seems to me that the important thing is to be secure, to absolutely guarantee the safety of the United States, to be strong enough to keep the peace. And I think we are strong enough and will be for the foreseeable future.

ABERNATHY. This new Coalition for Peace Through Strength argues that we need to be stronger than the Soviets because, while we would not strike them first, Senator Culver, they might launch a first strike against us. Only if we are superior, it said, could we have enough power left over after our first strike to retaliate. How do you reply?

CULVER. Well, first of all I think the quest for superiority, or lopsided advantage in the real world today where both sides have such staggering mutual nuclear overkill capacity, is really an illusion. I don't think such a quest will bring more security and we'll never be able to return to where we had the advantages, like the 50's and the 60's. Now if the Soviet Union were to be so unwise as to initiate, for example, an attack on the United States today, in our inventory we have a two-to-one strategic nuclear warhead delivery capability. We have over 9,000 in our inventory; the Soviets have 4,200. Even a first strike against our land-base system, would still leave about 6,000 nuclear warheads on our submarines and our bombers that could inflict unacceptable, devastating damage on the Soviet Union and destroy that society.

ABERNATHY. The Soviets, of course, are far stronger than we are in conventional forces, in total number of men in uniform. If they have this advantage in conventional forces, shouldn't we then have a big advantage and try to get a big advantage in other kinds of ways?

MATHIAS. Well, we have different kinds of defense problems. We have different military problems to overcome, and we have certain very strong advantages in the way we have deployed our forces around the world. We have tactical nuclear weapons. There are, within the free world, about 10,000 tactical nuclear weapons, in addition to the strategic weapons.

ABERNATHY. Don't the Soviets have a lot more air defense and civil defense than we do? And isn't it possible, therefore, they could imagine that they could hit us, and take a strike in return and in effect win a nuclear war? I have heard this argument and suspect this is behind a lot of this nuclear debate now.

CULVER. Two weeks ago, the subcommittee that I chair on the Senate Armed Services Committee released a study, which was an interagency intelligence community study that the CIA released, which demonstrated, I think, very powerfully that while it is true the Soviet Union has dedicated a great amount of money to their own domestic civil defense program, that, in fact, the status of that program in its strengths would not be sufficiently great in order to give them a high confidence that they could ever initiate an attack against the United States without accepting incredible damage—an estimated 100 million people killed, even if we didn't have any notice on our retaliatory strike.

ABERNATHY. We have no air defense. We have no effective civil defense. Should we have both those?

MATHIAS. Bob, it just happens that today is the 33d anniversary of the bomb that dropped on Nagasaki. I went to both Nagasaki and Hiroshima within a few weeks after those bombs were dropped. I have some personal concept of what nuclear warfare is like. Civil defense under these conditions would be extremely difficult. I think the point that people have really got to remember is that when you are dealing with nuclear warfare, the question of civil defense, of huddling into shelters, all of that, is really an illusion, and that what we have to do is to find ways to avoid nuclear conflicts.

ABERNATHY. Both of you serve as advisors to the U.S. negotiators who have been working on a new strategic arms limitation treaty. How close are we to a new agreement?

CULVER. I think we have still three or four very difficult unresolved issues and I think it's very hard to put a definite timetable on when it will be successfully resolved.

ABERNATHY. From what you have heard about what's been agreed so far and what is likely to be agreed, are you confident that this new agreement would not freeze us into some inferior and dangerous position?

CULVER. I can't conceive of any individual member of the United States Congress, or the institution collectively, ever accepting, or ever could or should accept any agreement that would ever have that consequence.

ABERNATHY. No unilateral disarmament?

MATHIAS. No, in fact, this agreement, if it is finally achieved, will require the Soviets to destroy between two and three hundred launchers. I think it will really stabilize our position.

ABERNATHY. So where do we come out now? You argue that it is impossible any more, really, in the world as it is, to be superior, but then we've got this strategic arms limitation treaty probably coming sometime this fall?

MATHIAS. Of course the problem with trying to achieve superiority is that you just give the Russians an incentive to do the same thing and you keep on leap frogging each other until the economic problems connected with this arms race bring down your economy.

ABERNATHY. Do you think that the Senate will ratify the kind of SALT treaty that you expect, if it comes next year?

CULVER. I think all that we can go on is the tentative outline of an agreement that we now have pending before us in Geneva. Now, I think, if we are successful in resolving those remaining issues, and it's a big if. But in my judgment that would have the consequence enhancing strategic stability. It would have the consequence, initially, of disciplining the arms competition in the future, and we have to consider what our security situation would be in the absence of any agreement in those same years, and I think that by that standard definition it will be very much in our interest to have a treaty.●

SALT II

● Mr. GARN. Mr. President, one of the basic issues to consider in the SALT treaty now under negotiation is the question of verification. The record of the Soviet Union forces us to conclude that only if its compliance can be verified by the United States can we be confident that the terms of the treaty are being respected. In assessing the verification provisions of SALT II, we fortunately have as a guide the record of Soviet observance of SALT I; in view of the basic consistency found throughout Soviet behavior, we can use that to identify the kind of problems which could arise with regard to observance of a new agreement.

On February 28, 1978, the Arms Control and Disarmament Agency published an analysis of the many allegations of Soviet noncompliance on SALT I which have arisen. Its conclusion, which represents the views of all the executive agencies dealing with arms control, is a positive one, dismissing many of the allegations, and expressing doubt that violations of significant magnitude could take place.

A different perspective on the issue emerges, however, through the research of John G. Behuncik, Congressional Fellow for National Security Affairs at the Heritage Foundation. Although I may not totally agree with Mr. Behuncik's views, he presents a thoughful report, "Examining SALT Violations and the Problems of Verifications," and analyzes 12 separate charges of Soviet noncompliance. He concludes that the Soviet Union has committed a number of violations which are disturbing, both in the context of present national security concerns, and as a comment on probable Soviet behavior in implementing future treaties.

I commend Mr. Behuncik's excellent analysis to my colleagues and ask that it be printed in the RECORD.

The analysis follows:

EXAMINING SALT VIOLATIONS AND THE PROBLEMS OF VERIFICATION

INTRODUCTION

Of central importance to effective strategic arms control is the ability of the parties to independently monitor each other's compliance with the provisions of negotiated agreements. Adequate verification procedures are essential to enhance confidence in the limitations on advanced weapons systems and to guard against the incremental violations of an accord which could alter the prevailing military balance.

As the United States and the Soviet Union move toward completion of a second-stage agreement in the Strategic Arms Limitation Talks (SALT II), concern about the reliability of our intelligence-gathering systems has assumed increasing significance. Indeed, some observers contend that the verifiability of the terms of a new pact may be the single most critical parameter for judging the merits of the entire package.

The initial SALT Accords of May 26, 1972, consisted of a five-year Executive Interim Agreement on Offensive Strategic Systems and an Anti-Ballistic Missile Treaty of indefinite duration. The Interim Agreement placed limits on the numbers and permissible conversion options of fixed, land-based intercontinental ballistic missile launchers (ICBMs), submarine-launched ballistic missiles (SLBMs), and ballistic missile-firing submarines, while the ABM Treaty limited the number and kinds of missile defense each nation could separately deploy. The present atmosphere of growing skepticism contrasts sharply with the euphoria of 1972, a change resulting from several interrelated factors. Among these are the following:

(a) disclosure of allegations that the Soviet exploited to the perimeter of legal permissibility (if not actually violated) the provisions of SALT I;

(b) the probable inclusion in SALT II of controversial "understandings" which, whether formalized or not, would further complicate an already questionable verification and enforcement process;

(c) indications that the Soviets have developed, or are developing, various means to retard U.S. monitoring techniques, and

(d) a series of political disputes between the two countries, a by-product of which is a perceived downgrading of detente and the expectation that the SALT negotiations could serve as a vehicle for enhancing mutual trust and cooperation.

On February 28, 1978, in response to a request by the Senate Foreign Relations Committee, the State Department's Arms Control and Disarmament Agency submitted a detailed summary of the various allegations of Soviet non-compliance with the provisions of SALT I. The objective of the report, said to represent the composite view of all executive branch agencies dealing with the arms control process, was to allay critics' fears that the Carter Administration's own political commitment to a SALT II Agreement, contingent upon Senate ratification, was such as to compromise our capacity to independently verify Soviet adherence to the agreement by accepting unwarranted risks.

While conceding the possibility of some undetected cheating under the pact's prospective terms, the report stated that any violations of such a magnitude as to modify the nuclear balance "would be discovered in time to make an appropriate response." [1] The response could be expansion of U.S. arms programs and possible abrogation of the pact. Nevertheless, an arms control package which the Soviet Union could admittedly evade even partially would severely reduce the prospects for congressional approval.

The purpose of this study is to analyze the various allegations cited in the State Department's report, their disposition as they relate to current American verification practices, and their implications for follow-on agreements and the course of the superpower strategic relationship.

THE POLITICAL/STRATEGIC NATURE OF SALT VIOLATIONS

With respect to complex U.S. verification procedures, the State Department report notes that all intelligence information is analyzed within the framework of the provisions of an agreement, and recommendations on questions that arise are developed by inter-agency intelligence and policy advisory groups of the National Security Council system. Currently, these include an intelligence community steering group on monitoring strategic arms limitations and the Standing Consultative Commission working group of the National Security Council special coordination committee. If analysis of available intelligence data indicates possible Soviet non-compliance, the National Security Council working group submits recommendations to the President, who retains ultimate responsibility for deciding to raise the issue with the Soviet Union.[2]

It is virtually impossible to devise treaties and/or agreements regulating strategic nuclear armaments which would be devoid of all potential for conflicting legal interpretations of technical details. The latitude for discussion and disagreement is inherent in deliberately ambiguous treaty languages which attempts to accommodate the complexities of diverse U.S. and Soviet force structures as well as competing political interests.

Where violations of an accord are alleged, the technical details are surely important, if only because they comprise the currency of debate. However, the confrontation of legalistic arguments must not be allowed to obscure the larger meaning of ambivalent, even potentially dangerous strategic behavior. What is indeed important is what the range and scale of alleged infractions reveal about the political and strategic attitudes which an adversary brings to the negotiations, and what may be anticipated in their aftermath. These attitudes relate not only to what an agreement makes explicitly permissible, but also to what that adversary feels is technically exploitable, irrespective of its legality.

One might properly question why the United States feels compelled to resort to legalisms in order to redress perceived Soviet non-compliance with SALT I, particularly when the arms control function is itself heralded as a manifestation of the spirit of detente. However, save when it serves their interests, the Soviets have not demonstrated a similar inclination to endorse the notion that arms control agreements have an intrinsic spirit which is mutually binding. In fact, the relentless competition which motivates the Soviet approach toward SALT (as toward all outstanding political issues) helps explain in part why those crucial elements that escaped common definition were left unresolved.

These ambiguities resulted not from an accident of the negotiating process or a lack of Soviet comprehension, but rather from the exigencies of Soviet strategic interests as they related to systems under development or soon to be tested.[3]

Thus, U.S insistence on legalistic defenses can be self-defeating if sufficient account is not taken of the political context within which strategic arms control negotiations are conducted. It is with these considerations in mind that the alleged Soviet violations of SALT I, as well as the State Dessame, must be evaluated.

ALLEGED SOVIET INFRACTIONS OF THE INTERIM AGREEMENT ON OFFENSIVE MISSILE SYSTEMS

1. Construction of Special-Purpose Silos (Launch Control Facilities)—

According to Article I of the Interim Agreement:

"The Parties undertake not to start construction of additional fixed, land-based intercontinental ballistic missile (ICBM) launchers after July 1, 1972." [4]

The number of operational ICBM launchers permitted each side when the Interim Agreement entered into force totaled approximately 1,618 for the Soviet Union and 1,054 for the United States. Subsequent U.S. surveillance in 1973 determined that the Soviets were constructing some 150 additional silos of a different design at their ICBM fields along the trans-Siberian railway in Soviet Asia. Far from denying the allegation, the Soviets explained the excavation efforts as involving hardened ICBM launch control facilities for testing and training purposes, since structures designed to potentially house operational ICBMs would directly contravene Article I.

A suspicious degree of similarity apparently existed, however, between the characteristics of the new "launch control" silos and those of conventional ICBM complexes. Like the latter, the facilities in question were reported to be cylindrical in shape, with "blow-away" doors and launcher-type suspension equipment.

That these facilities could be virtually dual-capable, with little advanced warning, is less an allegation and more a potential cause for concern. However, launchers for the purposes specified by the Soviet Union are sanctioned by the Interim Agreement and further derive their legal justification from an American Letter of Submittal accompanying the ABM Treaty (U.S. Secretary of State to the President, June 10, 1972) which held that such launchers could "be constructed at operation sites."

The State Department's assessment of the issue concludes as follows:

"In early 1977, following further discussions during 1975 and 1976 and a review of our intelligence on this subject, the US decided to close discussion of this matter on the basis that the silos in question are currently used as launch control facilities." [5]

It would appear implausible that the Soviets would risk the illegal installation of some 150 new missiles, knowing that a program of such magnitude could not go undetected. However, the Department report does not deal with the question of whether former launch control facilities have been properly dismantled, in light of which the additional silos could theoretically serve a purpose beyond that specified by the Soviet Union.

2. Soviet Dismantling and Destruction of Replaced ICBM Launchers—

The Interim Agreement and accompanying Protocol permitted Soviet deployment of no more than 950 SLBM launchers and 62 modern, nuclear-powered ballistic missile submarines. Beyond the level of 740, moreover, Soviet SLBM launchers could become operational only as one-for-one replacements for older ICBM and SLBM launchers. The latter would be dismantled or destroyed in accordance with the agreed procedures which became effective on July 3, 1974, and which included detailed requirements regarding the timing and notification of compliance.

United States intelligence determined that by 1976, the Soviets "had developed a requirement to dismantle 51 replaced launchers." Available evidence indicated that the necessary activities would not be completed on time, but the Soviets pre-empted American notice of non-compliance by acknowledging in the Standing Consultative Commission the delay in dismantling 41 older ICBM launchers. They predicted that the replacements would be completed by June 1, 1976 and agreed to the U.S. demand that no more submarines with SLBM launchers would commence sea trials prior to such completion.

The State Department report stipulates that both conditions have been fulfilled, yet its conclusion regarding this issue is somewhat ambiguous:

"Since that time, although we have observed some minor procedural discrepancies at a number of those deactivated launch sites and at others as the replacement process continued, all the launchers have been in a condition that satisfied the essential substantive requirements which are that they cannot be used to launch missiles and cannot be reactivated in a short time." (Congressional Record p. 4963).

It is appropriate to inquire as to how forcefully the United States has impressed upon the Soviet Union our expectation that "care would be taken to ensure that . . . notification . . . was in strict accordance with the agreed procedures." (Congressional Record p. 4963). The acknowledged "procedural discrepancies" suggest that the Soviets are not unprepared to take incremental advantage of what may be perceived as a relaxation of U.S. surveillance efforts. Two years ago, for example, the United States had to demand that the Soviet Union dismantle some SS-7 and SS-8 ICBM launchers to compensate for submarines armed with ballistic missiles.

Voluntary Soviet restraint cannot realistically be anticipated, particularly in programs where the opportunities for securing unilateral advantages appear promising. Indeed, the recent controversy over the number of operational ballistic missile submarines underscores this point. Intelligence sources have confirmed that the Soviets have 64 submarines at sea, two more than the number authorized by the Interim Agreement. In 1972 Secretary of Defense Laird stated that "I would consider it a violation of the intent of this agreement to go beyond 62 submarines of the Y Class." Moreover, "We would consider any new construction starts which were merely for the purpose of maintaining the momentum of the Soviet Union construction program to be contrary to the intent of the agreement." [6]

The Carter Administration claims that, because the additional boats have not undergone sea trials, the Soviets have not technically violated the provisions concerning deployment levels. However, the U.S.S.R. also has three Delta-class submarines outfitted

Footnotes at end of article.

for operational use as well as six or seven Hotel-class boats which exceed the SALT I limits. Viewed against the backdrop of overall Soviet strategic efforts, the Administration cannot dismiss lightly even minor abridgments of provisions governing the launcher replacement process.

3. Light and Heavy ICBMs (The Modern Large Ballistic Missile Issue)—

Under Article II of the Interim Agreement:

"The Parties undertake not to convert land-based launchers for light ICBMs, or for ICBMs of older types deployed prior to 1964, into land-based launchers for heavy ICBMs of types deployed after that time." (*D&D* p. 122)

The Soviet Union was permitted 313 so-called "heavy" ICBMs (SS-9s and follows) in SALT I. The ostensible purpose for delineating a "heavy missile" sublimit was to restrict Soviet missile payload and thereby constrain its hard-target counterforce potential. The entire issue was characterized by definitional vagaries, however, in particular with regard to what quantitatively constitutes a "heavy" ICBM. Indeed, the U.S.-Soviet "Common Understanding(s)" dealing with the modernization and replacement process stated only that the *dimensions* of land-based ICBM silo lanuchers could not be significantly increased, an obscure guideline whose subsequent elaboration simply restricted any planned increase to "no more than 10–15 percent."

In the absence of a formal agreement on the permitted volume of ICBMs themselves (the relevant SALT texts and accompanying protocols refer only to silo-launchers, not to missiles), the United States delegation submitted a Unilateral Statement on May 26, 1972, which expressed regret.

". . . that the Soviet Delegation has not been willing to agree on a common definition of a heavy missile . . . The United States would consider any missile having a volume significantly greater than that of the largest light ICBM now operational on either side to be a heavy ICBM. The United States proceeds on the premise that the Soviet side will give due account to this consideration." [7]

The Soviet Union was charged with violating the Interim Agreement when it was established in early 1975 that the SS-11 ICBM system, the largest light ICBM then operational on either side, with a volume of 69 cubic meters, was being replaced with the SS-19 "heavy" ICBM, whose volume was approximately 100 cubic meters. For the record, the United States had served notice on the Soviets that it would consider any missile with a volume exceeding 70 cubic meters to be a "heavy" missile, thus absolutely qualifying the SS-19 for inclusion in this category. However, intelligence sources did not detect that the Soviet Union had increased the dimensions of its silo launchers beyond the 10–15 percent stipulated in the Common Understanding.

The State Department report treats the SS-19 issue in the following manner:

"The USSR Delegation maintained the position throughout SALT I that an agreed definition of heavy ICBMs was not essential to the understanding reached by the sides in the Interim Agreement on the subject of heavy ICBMs, and made clear that they did not agree with the U.S. statement . . . When deployment of the SS-19 began, its size, though not a violation of the Interim Agreement provisions . . . caused the U.S. to raise the issue with the Soviets . . . Our purpose was to emphasize the importance the U.S. attached to the distinction made in the context of the SALT II agreement under negotiation at the time . . .

"Since that time, the United States and the Soviet Union have agreed in the draft text of the SALT II agreements on a clear demarcation, in terms of missile launch-weight and throw-weight, between light and heavy ICBMs." (Congressional Record p. 4962.)

The modern large ballistic missile (MLBM) issue must be assessed from the proper strategic perspective, especially with respect to the nature of increases in silo dimensions. The 10–15 percent limit on enlargement, when translated into the volume of a cylinder-shaped silo, could actually sanction an expansion of nearly 30 percent for one dimension (length or diameter) or almost 52 percent if a fifteen percent increase is registered in both length and diameter. In hearings in 1972, Secretary Kissinger referred to the specific "safeguard" that "silo configuration cannot be changed in a significant way . . . this meant that it could not be increased by more than 10 to 15 percent." [8] Elaborating on this point, Paul Nitze, a member of the negotiating team, emphasized that "the background to the negotiations makes it clear that an increase of up to 15 percent would be permitted in only one dimension (or possibly a combination of two dimensions), not in both depth and diameter." [9] Furthermore, according to defense analyst Colin Gray:

"The permitted increase in silo volume . . . in tandem with the technology of the cold launch, which allows ICBMs to be expelled from silos by means of compressed air (meaning that the usable diameter of a silo is increased by up to fifty percent), amounts to an absence of any meaningful restraint upon the size of 'light' ICBMs. All that the Soviets are violating with the deployment of the SS-19 (which is hot-launched in the conventional manner) is a unilateral American understanding of what is and what is not a 'light' ICBM." [10]

By specifying constraints upon the size of the replacement of "light" ICBMs and by restricting the increase in the size of ICBM silos, the United States had intended to partially resolve, or at least defer, its potential counterforce problems. This was considered urgent in view of the increasing vulnerability of our land-based Minuteman ICBM force. However, the negotiated means were inadequate to achieve the desired ends. American policymakers assumed that to achieve the desired ends. American policymakers assumed that

(a) the volume and thus the throw-weight and the payload of Soviet ICBMs would be regulated by the arms control discipline, and

(b) it would be impossible for the Soviet Union to retrofit its SS-11 silos with a new, significantly larger missile.

Subsequent Soviet evading activities, in the form of new ICBM's which affronted the (American-defined) spirit of SALT I, but not its letter, proved sufficient to dispel these assumptions and frustrate the United States' rationale in drawing a distinction between light and heavy ICBMs. Indeed, the Soviet hard-target counterforce capability has been augmented since SALT I with the testing of several new generations of "silo-busting" ICBM systems. Depending on how (or even if) the MLBM issue is resolved in SALT II, the distinction between light and heavy ICBMs might be nothing more than a rhetorical convenience, yet one whose strategic and legal currency will be grossly depreciated.

4. Mobile ICBMs—

The development and testing of mobile ICBMs are not prohibited by SALT I, yet the United States long since placed the Soviet Union on notice that land-mobile ICBMs are systems of particular sensitivity in American strategic perceptions. To this end, the U.S. delegation authorized a Unilateral Statement on May 20, 1972, which observed that, although the issue of land-mobile ICBMs was deferred

". . . to subsequent negotiations . . ., the United States would consider the deployment of operational land-mobile ICBM launchers during the period of the Interim Agreement as inconsistent with the objectives of the Interim Agreement." [11]

It is an interesting sidelight that, while American strategic thinking on the feasibility of retaining a land-mobile option has evolved rapidly since 1972, U.S. officials—until perhaps the Vladivostok Accord of November 1974—feared that the Soviets might pursue their land-mobile option as a means of circumventing the provisions of the Interim Agreement.

A similar occurrence is possible in SALT II if the United States proves unsuccessful in restricting the deployment of the Backfire bomber within the common aggregate ceiling on strategic launchers.[12]

The Soviet mobile system which aroused American curiosity in early 1976 was the SS-20. Though ostensibly an intermediate-range missile, the SS-20 could be modified for land-mobile purposes from a stationary position and could acquire an intercontinental capability by reducing the total weight of its payload or by adding another propulsion stage. Moreover, it incorporates the first two rocket stages of the intercontinental-range SS-X-16 system, the verification of whose testing had been complicated by presumed deliberate concealment efforts. (See the section on "Concealment at Test Ranges").

Related to the testing of the SS-20 missile, moreover, was the charge that the Soviets had encrypted the data outlining its performance, which is transmitted continuously to ground stations by telemetric signals. Since the United States could receive and analyze this telemetry, the apparent indecipherability of the imagery was considered an impediment to verification in violation of Article V(iii) of the Interim Agreement. Subsequent U.S. decoding of SS-20 telemetry led analysts to believe that the missile had been tested with some 2,000 pounds of ballast which, if replaced by fuel, would assure an intercontinental capability.[13]

After noting that the potentialities for intercontinental range conversion of the SS-20 system had "been discussed in the press," the State Department report concludes:

"The SS-20 is being deployed to replace older medium and intermediate-range missiles. It is judged to be capable of reaching the Aleutian Islands and western Alaska from its present and likely deployment areas in the USSR; however, it cannot reach the contiguous 48 states from any of its likely deployment areas in the Soviet Union . . . There is no evidence that the Soviets have made any . . . modifications to the SS-20. We have confidence that we would detect the necessary intercontinental-range testing of such a modified system." (Congressional Record p. 4964.)

Furthermore, the Department's findings [Section V(E)] exonerate the Soviet Union from any culpability in denying test information (via the encoding of telemetry) which would inhibit verification of compliance with Agreement provisions.

The legal accountability of Soviet actions is ambiguous inasmuch as the USSR never initiated or signed any provisions in SALT I dealing with offensive mobile systems. Moreover, the language of the American Unilateral Statement referred only to the "deployment" of mobile land-based ICBM launchers. As such, the testing and development of these systems would theoretically be outside the sanctions of the Interim Agreement, although the United States would have the right to monitor certain activities (e.g. deliberate concealment measures) which might contravene SALT I terms.

That the SS-20 could be upgraded for intercontinental missions is beyond serious academic dispute. However, the Soviets have not confirmed U.S. intelligence detection of deployment of the SS-16 or the SS-20. Actual deployment of these systems would be in-

Footnotes at end of article.

consistent with the American Unilateral Statement, and the SS-20, as a "gray-area" system, would compound verification problems as well as the manner in which such systems were dealt with in follow-on SALT pacts.

PRINCIPAL ALLEGED SOVIET VIOLATIONS RELATING TO THE ANTI-BALLISTIC MISSILE TREATY

1. Testing of Air Defense Radars and/or Missiles, in particular the SA-5 Griffon and SA-2 Guideline, "in an ABM mode"—

In addressing itself to the contentious "SAM-upgrade" issue, Article VI of the ABM Treaty enjoins the Parties

(a) . . . not to give missiles, launchers or radars, other than ABM interceptor missiles, ABM launchers or ABM radars, capabilities to counter strategic ballistic missiles or their elements in flight trajectory, and not to test them in an ABM mode, and

(b) not to deploy in the future radars for early warning of strategic ballistic missile attack except at locations along the periphery of its national territory and oriented outward. (D & D, pp. 117–124).

United States intelligence analysts have long believed that the SA-5 Griffon air defense missile, currently emplaced around approximately 110 urban areas, has inherent dual-purpose capabilities and could rapidly be configured to accommodate the sophisticated computer and radar technologies appropriate to anti-missile systems. The initial revelations in 1973 of suspected Soviet violations of limitations on AMB testing were complicated by prior disagreement over what was actually proscribed.

The United States had authorized a Unilateral Statement on April 7, 1972, according to which infractions of the ABM Treaty would be alleged if "an interceptor missile . . . (was) flight-tested to an altitude inconsistent with interception of targets against which air defenses are deployed." [14] (The reference is to testing altitudes in excess of 100,000 feet). Satellite reconnaissance of Soviet SA-5 test firings at the Kapustin Yar desert range north of the Caspian Sea provided circumstantial indications that the missile's radar system may have been tracking ballistic vehicles during the re-entry phase of their flight trajectory into ABM test ranges.

The Soviet Union asserted (May 5, 1972) that high-altitude, non-ABM radars were permissible in "range safety and instrumentation" roles for purposes of precision tracking and data collection outside of (and inferentially on) agreed test sites such as Sary Shagan. In categorically rejecting charges of developing nascent ABM capabilities through the upgrading and possible conversion of surface-to-air missile systems, however, the Soviets nevertheless were noncommittal about the types of radar technologies (specifically, phased or non-phased array) that could acceptably be deployed at facilities apart from the regular ABM test sites.

The State Department report exhibits an unsettling ambiguity in its conclusions on the subject of possible ABM testing with air defense radars and missiles. Regarding the ABM radar problem (involving the SA-5 system), Section III (D) of the report observes that, shortly after the formal notification,

". . . the radar activity of concern during Soviet ballistic missile tests had ceased. The U.S. has continued to monitor Soviet activities carefully for any indications that such possible testing activity might be resumed." (Congressional Record p. 4902)

Yet Section V (C), dealing with the ABM testing of air-defense missiles, states:

"Our close monitoring of activities in this field has not indicated that ABM tests or any tests against strategic ballistic missiles have been conducted with an air defense missile; specifically, we have not observed any such tests of the SA-5 defense system missile, the one occasionally mentioned in this connection in the open press." (Congressional Record p. 4964)

It seems strange that one component of the system would undergo extensive testing, while the other, necessary for its effective functioning, was supposedly not tested at all. Beyond the apparent discrepancy in the Department's report lies an important fact corroborated by intelligence sources: Although the Soviet Union eventually ceased the radar activities of concern, more than a dozen tests had been conducted prior to the formal United States notification demanding suspension, a number sufficient to accumulate the information desired.

2. The Development and Testing of Mobile ABM Radars—

At first glance, Article V(1) of the ABM Treaty appears sufficiently straightforward as to dispel those uncertainties which might otherwise complicate the verification process. It states that "each Party undertakes not to develop, test or deploy ABM systems or components which are sea-based, air-based, space-based, or mobile land-based." (*D. & D*, p. 119) The margin of ambiguity relates to the definition of "mobile."

In order to minimize potential misunderstanding, the United States had declared (January 28, 1972) that "a prohibition on deployment of mobile ABM systems and components would rule out the deployment of ABM launchers and radars which were not permanent fixed types." [15] The vague Soviet response (April 13, 1972) affirmed the "general common understanding" which characterized evaluation of the matter.

Since 1971, the Soviets have installed at designated ABM test sites several radars associated with an ABM system currently under development. In particular, the radars installed at the Sary Shagan range are reported to possess properties which obscure the necessary distinctions between normally verifiable stationary systems and those with mobile capabilities which could evade detection. Some evidence exists that phased-array radars are employed, with both electronic and mechanical steering of the beam for direction and elevation. These upgraded systems can be erected far more rapidly than earlier versions and are likewise capable of employment on alternate basing structures. They are widely assumed to be transportable by secondary means, though whether they are independently mobile and hence readily concealable continues to plague resolution of the issue. Assuming that allegations of mobility could not be sustained, the system's capabilities would still be contingent upon whether it was employed in conjunction with other ABM radars during specific phases of the missile defense function.

In any event, United States analysts believed that the new radars could, with minor modifications, be integrated with present ABM radar systems to track American ICBM routes and avoid a radar blackout during a ballistic warhead detonation. The State Department report concludes that the Soviet Union has not legally violated the Treaty by deploying a mobile ABM radar system, noting also that the time involved for installation of such a radar would be excessive. The lingering skepticism in the intelligence community, however, owes to the original absence of a mutually accepted definition of "mobile," and the potential for recurrence of a problem with obvious strategic implications.

3. Installation of an ABM Radar at Kamchatka Peninsula—

Construction and operation of a new phased-array radar system at the Kamchatka impact area of the Soviet Union's ICBM test range was detected in October 1975. Prior to the signing of the SALT I accords, the United States, in something of a preventive initiative, compiled and submitted a list of permitted American and Soviet test sites. The objective was to remove the ambigui[ty] of Article V of the ABM Treaty, which pr[o]vides that limitatio..s "shall not apply [to] ABM systems or components used for deve[l]opment or testing, and located within cu[r]rent or additionally agreed test range[s]" (*D & D*, p. 118)

Kamchatka was not included in the tent[a]tive draft, yet the Soviets neither confirm[ed] nor denied its accuracy or completeness, o[b]serving instead that national technical mea[ns] of verification assured against misunde[r]standing. The issue was further complicat[ed] by the presence of an older ABM-type rad[ar] which "could be viewed as having establish[ed] the Kamchatka impact area as an ABM te[st] range at the time the ABM Treaty w[as] signed." (Congressional Record p. 4965)

American policymakers feared that t[he] Kamchatka radar, while ostensibly part [of] the Soviet Union's test range equipmen[t] might be used to augment its overall perim[e]ter ABM coverage. The State Departmen[t] report notes:

"The Soviets indicated that a range wit[h] a radar instrumentation complex existed [on] Kamchatka Peninsula on the date of th[e] signature of the ABM Treaty and that the[y] would be prepared to consider the Kam[]chatka range a current test range within th[e] meaning of Article IV of the ABM Treat[y]. The U.S. continued the exchange to estab[]lish that Kamchatka is an ABM test rang[e] that Sary Shagan and Kamchatka are th[e] only ABM test ranges in the USSR, and the[] Article N of the ABM Treaty requires agre[e]ment concerning the establishment of add[i]tional test ranges." (Congressional Record [p.] 4966)

The indeterminacy of the initial Sovi[et] response raises the question of how far (an[d] long) one party to an agreement can proce[ed] with questionable activities before account[]ability is demanded. United States exclusio[n] of Kamchatka from the list of ABM te[st] ranges certainly facilitated Soviet evasive[]ness, particularly given the existence of a[n] older ABM-type radar when the Treaty w[as] signed.

Moreover, the United States found itself i[n] the interesting position of having to prove t[o] the Soviets that the Kamchatka impact are[a] and the radars installed there were regulate[d] by Article IV, in addition to having to fur[]ther explain the permissible actions consist[]ent with the provisions of the same Article.

4. Reporting of Soviet Dismantling of Ex[]cess ABM Test Launchers—

Article IV likewise restricts each side to li[]ABM launchers at test sites. The detaile[d] procedures regulating the dismantling of tes[t] launchers beyond the agreed limit were de[]veloped in the Standing Consultative Com[]mission and entered into force on July 3[,] 1972. In 1973, via the Commission, the Sovie[t] Union served notice that excess launcher[s] had been dismantled in compliance with th[e] provisions set forth. Data collected subse[]quently by the United States, however, re[]vealed that, contrary to Soviet assertions [,] several launchers were still in place. Accord[]ing to the State Department's findings:

"Even though the launchers were deacti[]vated prior to entry into force of the pro[]cedures, and their reactivation would be o[f] no strategic significance, the U.S. raised th[e] matter as a case of inaccurate notificatio[n] or reporting to make known our expectatio[n] that in the future, care would be taken to en[]sure that notification, as well as dismantlin[g] or destruction, was in strict accordance with the agreed procedures." (Congressional Rec[]ord p. 4963)

Given the Soviet propensity to exploit loop[]holes to the outer limits of legal acceptabil[]ity, this admonition has a somewhat hollow[]ring. Even though the alleged infraction wa[s] not considered strategically significant, the implications of even minor deviations are of greater interest for what they reveal about Soviet behavior than is the fact of temporary Soviet compliance. The inaccuracy of pre-

Footnotes at end of article.

liminary Soviet notifications inevitably calls into question the USSR's commitment to arms control measures which strengthen mutual confidence and promote "equal security."

CONCEALMENT ACTIVITIES AND POSSIBLE DELIBERATE INTERFERENCE

1. Covered Facilities and Concealment—

Several alleged infractions relate to attempted concealment measures at test ranges and construction sites, measures which, if not legal violations, at least technically complicate the verification process. The strategic significance of these issue merits extended consideration.

Article V of the Interim Agreement and Article XII of the ABM Treaty provide that each Party

". . . shall not interfere with the national technical means of verification of the other Party . . . nor . . . use deliberate concealment measures which impede verification by national technical means of compliance with the provisions . . . of the Agreement or the Treaty." (*D & E*, pp. 120, 123)

However, the two Articles also stipulate that the latter obligation ". . . shall not require changes in current construction, assembly, conversion, or overhaul practices" (emphasis added). The national technical means of verification cited refer primarily to reconnaissance satellites and electronic monitoring systems, which Article V (1) of the Interim Agreement stresses shall be employed "in a manner consistent with generally recognized principles of international law." The ambiguity of the phrasing is notable.

Although irregular Soviet concealment practices had been closely monitored by the United States "both before and after conclusion of the 1972 SALT agreements," the State Department observed that "during 1974, the extent of those concealment activities associated with strategic weapons programs increased substantially." (*CR*, S2554) of major concern in this regard was the charge that the Soviets had illegally placed canvas covers and planking over extensive sections of the prefabrication, assembly and refit facilities for ballistic missile submarines (in particular, the Delta-class) at the Severomorsk construction yard on the Kola Peninsula. Similar camouflage efforts reportedly took place at the Khabarovsk facilities in Siberia as well as at other strategic construction sites throughout the Soviet Union.

Concerning these allegations, the State Department findings sound more speculative than definitive:

"None of (the concealment activities) prevented U.S. verification of compliance with the provisions of the ABM Treaty or the Interim Agreement, but there was concern that they could impede verification in the future if the pattern of concealment measures were permitted to continue to expand.

"The U.S. stated this concern and discussed it with the Soviet side. In early 1975, careful analysis of intelligence information on activities in the Soviet Union led the United States to conclude that there no longer appeared to be an expanding pattern of concealment activities associated with strategic weapons programs. We continue to monitor Soviet activity in this area closely." (Congressional Record p. 4962)

Does the stated lack of an "expanding pattern of concealment activities" imply that some infractions are continuing in defiance of the provisions, or are themselves somehow consistent with "generally recognized principles of international law?"

Beyond the assumption that such activities contravene the spirit of the accords, their legality must be evaluated against treaty language which is susceptible to contrasting interpretations. In particular, that sentence in Article V(iii) of the Interim Agreement which qualifies the prohibition on deliberate concealment virtually invites circumvention.

Indeed, the Soviet Union has claimed that the covering of certain work areas in the SSBN yards is a standard construction and conversion practice which long predates the signing of SALT I and hence is perfectly legal. In other words, without directly violating the terms of SALT I, the Soviet Union has managed to render practically worthless its central provisions on verification. Rather than attempt to clarify the ambiguous treaty language with the appropriate legal wording, the United States was content to issue a Unilateral Statement on May 20, 1972, which emphasized

". . . the importance that the United States attaches to the provisions of Article V, including in particular their application to fitting out or berthing submarines."[16]

If the SALT process is to retain significance, then it is incumbent upon both Parties to ensure against those activities which degrade mutual confidence-building. Even if technical violations of given provisions have not been committed (or in any case could not be definitively proved), measures which feed perceptions of duplicity undermine the process and thus must be considered of equal significance.

2. Concealment at Test Ranges—

In early 1977, the United States observed a large net covering over an ICBM test launcher undergoing conversion at a test range in the Soviet Union. (The range in question is presumed to be Plesetsk, where the mobile SS-X-16 has been tested). The apparent concealment effort theoretically contravened not only Article V(iii) of the Interim Agreement and the Agreed Statement concerning launcher dimensions, but also was considered to be inconsistent with an Agreed Statement on test and training launchers, which holds that

". . . there shall be no significant increase in the number of ICBM and SLBM test and training launchers or in the number of such launchers for modern, land-based heavy ICBMs . . . Construction or conversion of ICBM launchers shall be undertaken only for purposes of testing and training." (Congressional Record p. 4963)

The United States accordingly raised this issue in connection with the ongoing SALT II negotiations dealing with the subject of deliberate concealment measures. The State Department report notes:

"In addition, we expressed our view that the use of a covering over an ICBM silo launcher concealed activities from national technical means of verification and could impede verification of compliance with provisions of the Interim Agreement, specifically, the provision which dealt with increases in dimensions of ICBM silo launchers as recorded in the Agreed Statement . . . The U.S. took the position that a covering which conceals activities at an ICBM silo from national technical means of verification could reduce the confidence and trust which are important to mutual efforts to establish and maintain strategic arms limitation.

"It has been the Soviet position that the provisions of the Interim Agreement were not applicable to the activity in question. Nevertheless, they subsequently removed the net covering." (Congressional Record p. 4963)

Assuming that the SS-X-16 mobile ICBM is involved, it must be emphasized that the Soviets have been less than forthcoming with regard to information about the production rate and/or deployment posture of the system. As such, any deliberate concealment activity complicates the process of determining whether a permissible replacement has been effected or an illegal expansion of the Soviet land-based missile force is being pursued. It is somewhat problematic to speak of mutually agreed limits, inasmuch as the Soviet Union has provided no hard data concerning its weapons inventories. The figures derive instead from U.S. intelligence estimates. At any rate, the burden of proof that only (legally) acceptable developments are concealed must be held to rest with the Party attempting the concealment.

It may be that Soviet compliance was ultimately induced less by American blandishments, and more by the simple fact of their having acquired the level of test information necessary for certain strategic purposes. Moreover, the language of Article V of the Interim Agreement equally obscures interpretations of permissible silo-launcher conversion practices.

3. Blinding of U.S. reconnaissance satellites—

In 1975, United States intelligence analysis suggested that the Soviet Union has possibly experimented with ground-based lasers to degrade infrared sensors on certain U.S. surveillance systems. Such an activity would obviously be inconsistent with the previously cited Articles XII of the ABM Treaty and V (iii) of the Interim Agreement, which rule against deliberate interference with national technical means of verification. The State Department report observes that

". . . it was determined that no questionable Soviet activity was involved and that our monitoring capabilities had not been affected by these events. The analysis indicated that the events had resulted from several large fires caused by breaks along natural gas pipelines in the USSR." (*CR*, S2556)

The explanation sounds less than convincing to military analysts. Infrared imagery from the Defense Meteorological Satellites was examined for the period when the alleged experimentation occurred and no natural sources for such strong radiations were found. Indeed, the energy levels detected were 10–1,000 times the intensity obtained from an ICBM launch or a natural occurrence such as fire.[17] What is of further interest is that the locations of these laser radiation sources in the western part of the USSR did not correspond to known Soviet test facilities.

Circumstantial indications of sustained Soviet development of a satellite-blinding capability would question the apparently facile conclusion contained in the State Department report. At any rate, even incremental evidence supporting the initial allegation would run counter to Soviet declarations concerning the need for enhanced mutual confidence to which reliable national technical means of verification contribute.

4. Development of an Anti-Satellite System—

Concerning informed speculation that the Soviet Union is developing a hunter-killer satellite capability aimed at American reconnaissance systems, the State Department report notes that such development is alleged to be

". . . a violation of the obligation not to interfere with national technical means of verification of compliance with SALT provisions. Since development of such systems is not prohibited, this program does not call into question Soviet compliance with existing agreements. The actual use of an ASAT system against U.S. national technical means is prohibited, but this has not occurred." (Congressional Record p. 4964)

That the Soviets are even presumed to be developing an anti-satellite capability should be sufficient cause for concern to American policymakers. When the Soviets first tested exploding killer satellites in the late 1960's, they used Soviet-manufactured target spacecraft, which could be modified to transmit telemetric signals regarding the extent of damage. These experiments prompted the United States to develop techniques for reducing satellite vulnerability to bombardment. Both countries have recently decided to enter into negotiation devoted to resolving the potential threat posed by ASAT ca-

Footnotes at end of article.

pabilities. Though violations of relevant treaty provisions have not technically been committed, the implications for effective U.S. monitoring of the more complex terms of follow-on SALT agreements are obvious.

CONCLUSION

In light of the foregoing analysis, several points suggest themselves as possible guidelines for assessing the issue of verification relative to SALT II.

(1) Under certain conditions, and given the absence of mutual trust between the superpowers, obscure treaty language can be counter-productive to expectations of reciprocal compliance. The Soviet Union has repeatedly demonstrated its willingness to exploit loopholes consistent with its perceived strategic interests. If the Soviets favor vaguely-worded treaty provisions or decline association with particular interpretations, there are probably clearly-defined, though unarticulated, political reasons for doing so. Soviet silence does not imply consent, and agreements for the sake of abstractions like détente are subordinate to calculations of the long-range political and strategic arms control.

(2) The series of American Unilateral Statements in SALT I constituted a tactic for impressing upon the Soviets the U.S. conception of behavior appropriate to the (also unilaterally-defined) spirit of SALT. Reliance on Unilateral Statements may lead to unsupportable allegations of non-compliance or will be less than legally useful to substantiate legitimate charges where evidence is available. Inasmuch as they lack the force of law and do not rest upon even tacit acquiescence by the Soviet Union, such statements may be inadvertently harmful by inducing American policymakers to assume that the Soviets will respect them.

(3) United States security interests demand that the terms of critical provisions relating to the development, testing and deployment of advanced weapons systems be spelled out with precision. Given the momentum of current Soviet weapons programs, little constrained by SALT I, failure to insist upon a careful stipulation of terms could lead to an agreement that is both technically indefensible and potentially dangerous. As the protracted violations debate demonstrates beyond reasonable doubt, SALT I was not a sound set of agreements from a strategic standpoint, whatever the momentary contribution to an improved political atmosphere.

(4) Related to (3) is the question of what might transpire in the absence of a subsequent arms control agreement. While the United States has delayed or terminated several major weapons programs, the pace of Soviet military developments has apparently continued unabated and indicates a potential to rapidly exploit a vacuum left by a breakdown in the arms control process. Indeed, the advantage in this regard which the Soviet Union could reasonably anticipate, given the advanced technologies being incorporated into new generations of weapons systems, would be highly destabilizing to the strategic nuclear balance. When the lead-time factor is taken into account, the conceivable margin of disparity may be even more pronounced.

(5) Certain complex issues destined for inclusion in SALT II, such as the production rate/deployment posture of the Backfire bomber, would be extremely difficult to verify under the best of circumstances. The record of Soviet attempts at concealment and possible interference with American reconnaissance systems suggests that enforcement of Soviet adherence to the prospective terms of a follow-on pact will undergo severe trials. Since the Soviets are resolutely opposed to on-site inspection, the United States must bend efforts to ensure against degradation of existing verification practices.

(6) A realistic evaluation of the verification issue must transcend legalistic wrangling over those Soviet activities which have been detected and cited as violations of the treaty. The possibility must likewise be considered that the Soviets have undertaken questionable activities of similar or greater magnitude in areas which escaped monitoring by the United States, yet which may be more detrimental to American security interests than the infractions detected. Despite the assumption by some analysts that, beyond a certain level of sufficiency, marginal additions of power cannot be decisive, the combined effects of clandestine Soviet developments may promote significantly adverse trends in the strategic balance, a situation which the arms control process (from the American perspective) is manifestly intended to preclude.

The State Department's findings contain several ambiguities concerning the disposition of certain alleged Soviet violations of SALT I, and thus raise questions about whether the issues have been definitively resolved. Furthermore, to assert that major violations of SALT II would be detected "in time" does little to enhance assurance in the United States' ability to monitor incremental infractions, and the cumulative effect these might have on the strategic balance. The supposed confidence-building function of the SALT negotiations, to which the U.S. ostensibly attaches such importance, would likewise be undermined. Above all, American policymakers must withstand the tendency to devote inordinate attention to legalisms and atmospherics, and consider more carefully the larger political and perceptual framework within which strategic arms control serves a specified purpose.

JOHN G. BEHUNCIK,
Congressional Fellow, National Security Affairs.●

FOOTNOTES

[1] Cited in *The Baltimore Sun*, February 25, 1978, p. 1.

[2] For further reference, see *Aviation Week and Space Technology*, March 6, 1978, pp. 18–19.

[3] See Colin S. Gray, "SALT I Aftermath: Have the Soviets Been Cheating?" *Air Force Magazine*, November 1975, pp. 28–33.

[4] All pertinent provisions of the SALT I Agreements cited in this paper, unless otherwise noted, appeared in Robert J. Pranger (ed.), *Detente and Defense: A Reader* (Washington, D.C.: American Enterprise Institute, 1976) p. 122. Hereinafter referred to as *D & D*, the appropriate page number will appear in parentheses immediately following the quotation.

[5] The State Department report was inserted into the *Congressional Record*, February 28, 1978, pp. 4966–4970. Hereinafter referred to as *CR*, the appropriate page number will appear in parentheses immediately following the quotation.

[6] "Military Implications of the Treaty on the Limitations of Anti-Ballistic Missile Systems and the Interim Agreement on Limitation of Strategic Offensive Arms," hearing before the Committee on Armed Services, 1972, page 544.

[7] Cited in Gray, *op. cit.*, p. 32.

[8] *Hearings*, 1972, p. 129.

[9] *Ibid*, p. 312.

[10] Gray, *op. cit.*, p. 33.

[11] Ibid., p. 32.

[12] See *Backgrounder* #57, "The Soviet Backfire Bomber: Capabilities and SALT Complications," (The Heritage Foundation, April 4, 1978).

[13] Noted in Melvin R. Laird, "Arms Control: The Russians are Cheating," *The Reader's Digest*, December 1977, p. 100.

[14] Gray, *op. cit.*, p. 30.

[15] *Ibid.*, p. 30.

[16] Cited in Gray, *op. cit.*, p. 32.

[17] *Aviation Week and Space Technology*, December 8, 1975, p. 12.

TAX CREDIT FOR THE ELDER SHOULD BE UPDATED

● Mr. CHURCH. Mr. President, strongly support a reduction in Fede income tax to ease the burden for ma beleaguered taxpayers.

The House of Representatives recen approved the Revenue Act of 1978, H 13511, which provides several tax re measures for individuals, including:

A rate reduction to target 60 perc of the tax cut to taxpayers with incom between $15,000 and $50,000.

A conversion of the $750 personal e emption deduction and general tax cre to a $1,000 personal exemption.

An increase in the zero brac amount—or commonly referred to as t minimum standard deduction—fr $2,200 to $2,400 for single persons a from $3,200 to $3,400 for married coup filing jointly.

A once-in-a-lifetime election to e clude from taxable income the fi $100,000 of gain from the sale of a pe sonal residence.

These actions represent constructi steps to lighten the tax load for indivi uals, but further steps are needed. chairman of the Senate Committee Aging, I am especially concerned th additional relief be directed to old Americans.

One major area for improvement the need to update the tax credit for t elderly. Persons 65 or older may n claim a 15-percent credit on up to $2,5 for individuals and $3,750 for elde couples. These maximum amoun though, are reduced by: First, social s curity and other tax-exempt Fede benefits and, second, $1 for each $2 adjusted gross income above $7,500 f single persons and $10,000 for coupl

Senator INOUYE and I recently a vanced legislation to update the tax cre it for Government pensioners and othe with little or no social security. Our pr posal would:

Increase the maximum amounts f computing the credit from $2,500 to $3 000 for qualifying individuals and fro $3,750 to $4,500 for couples; and

Raise the adjusted gross income phas out provisions from $7,500 to $15,000 f individuals and from $10,000 to $17,5 for couples.

The Finance Committee recent adopted, in principle, this measure. commend the Finance Committee f taking this action and urge the Sena to approve the proposal.

A few days ago, I submitted testimo to the Finance Committee concern the need to modernize the tax credit f the elderly. That statement spells out greater detail my reasons for supporti this action.

Mr. President, I ask that my testimo before the Senate Finance Committee printed in the RECORD.

The testimony follows:

TESTIMONY BY THE HONORABLE FRANK CHUR

Mr. Chairman and members of the Su committee, I appreciate the opportunity submit testimony on the need to update t tax credit for the elderly.

This provision is designed to provide rel for moderate-income retirees with little or Social Security, such as retired teachers, p

licemen, firemen, or other government pen-

licemen, firemen, or other government pensioners. Social Security benefits, as you know, are exempt from Federal income tax.

Under present law, taxpayers 65 years or older may claim a 15-percent credit on up to $2,500 for individuals and $3,750 for elderly couples. This produces a tax savings up to $375.00 ($2,500 X 15% = $375.00) for an individual and $562.50 ($3,750 X 15% = $562.50) for a couple.

The maximum amounts for computing the credit, however, are reduced (1) dollar-for-dollar by Social Security and other tax-exempt Federal benefits and (2) by $1 for each $2 of adjusted gross income above $7,500 for aged individuals and $10,000 for elderly couples. Thus, the credit is phased out completely for older individuals with income of $12,500 or more and aged couples with $17,500 or more.

The tax credit for the elderly has helped to ease the tax burden for older Americans. However, it still does not provide comparable relief for persons with limited or no Social Security. The maximum amounts for computing the credit fall far short of the maximum Social Security benefits—now $5,876.40 a year for individuals and $8,814.60 for qualifying couples.

Mr. Chairman, I realize that it may not be feasible at this time to place government pensioners on a par with Social Security beneficiaries in terms of tax relief because of cost considerations. But, other constructive actions can be taken to modernize the tax credit for the elderly.

This is why I have joined Senator Inouye in advancing legislation to raise the maximum amounts for computing the credit from $2,500 to $3,000 for single persons and from $3,750 to $4,500 for couples. This change alone could provide an additional $75 in tax relief for individuals and $112.50 for couples.

In addition, our proposal would raise the adjusted gross income phase-out provisions from $7,500 to $15,000 for individuals and from $10,000 to $17,500 for couples.

More than 1.4 million returns with an aged taxpayer would be benefited from these two proposed changes. Equally important, our legislation would provide tax savings for persons with the greatest need—lower and moderate-income individuals. In fact, our proposal would target 94 percent of the relief to aged taxpayers with annual incomes under $20,000 and 65 percent to elderly taxpayers with annual incomes under $15,000.

Rising prices have cut deeply into the pocketbooks of older Americans. Tax relief in the form of updating the credit for the elderly and other measures can help to provide welcome relief from the inflationary spiral which now affects so many senior citizens.

For these reasons, I urge the approval of these changes to the tax credit for the elderly.●

AID TO VIETNAM

● Mrs. ALLEN. Mr. President, I call to the attention of my colleagues the fact that on Tuesday, August 8, the World Bank approved a $60 million interest-free loan to Communist Vietnam for irrigation in the Mekong Delta. I am sure that the irony of making this loan done at the direction of Robert McNamara will not escape the attention of Members, especially those from Western States who have had difficulty in securing funding for their own water projects. I note, Mr. President, also that this loan is interest free with repayment due in 60 years. It is, in practical effect, a direct grant from the World Bank's International Development Association to which the United States contributes 30 percent of its capital from taxes collected from Americans, many of whom lost family members in the recently concluded war in Vietnam. Mr. President, I ask that an article in the August 9 Mobile Register, Ala., entitled "World Bank Aids Vietnam" be printed in the RECORD for study and reflection.

The article follows:

WORLD BANK AIDS VIETNAM

WASHINGTON.—Despite U.S. opposition, the World Bank approved on Tuesday a $60 million interest-free loan to communist Vietnam for an irrigation project.

The loan is the latest in what is becoming a steady flow of aid from international institutions to help Hanoi rebuild its economy following the long war against U.S. and South Vietnamese forces and its takeover of all of Vietnam in 1975.

The International Monetary Fund on Friday gave Vietnam an interest-free loan of $30 million from a special fund for poor nations, raising to nearly $115 million the total IMF aid in the past three years.

The United States provides about 20 percent of the financing of both the IMF and the World Bank. It cast the only vote against the $60 million loan when it came before the bank's 20-member board of directors Tuesday, a source said.

The government of South Vietnam did not receive any aid from either the World Bank or the IMF during the nearly 20 years it was a member. The Hanoi Government took over South Vietnam's membership in both institutions in 1976, although North Vietnam was not previously a member.

While the United States has refused to provide direct aid to Hanoi for reconstruction of the war-torn country, its support of the World Bank and the IMF mean it is providing assistance indirectly through those institutions.

The 132-member World Bank is headed by Robert S. McNamara, a former defense secretary to both Presidents John F. Kennedy and Lyndon B. Johnson. He played a central role in the decision to send U.S. troops to Vietnam as well as in the conduct of the war.

The World Bank said in an announcement that in addition to its $60 million loan, private sources will lend another $30 million for the rice development project. That includes $10 million each from the Netherlands, the Kuwaiti Fund for Arab Economic Development and the OPEC Special Fund, which is operated by the Organization of Petroleum Exporting Countries.

Since Vietnam's 50 million people are considered among the world's poorest, it is qualified for interest-free loans from the bank's subsidiary, the International Development Association. The terms of repayment are 50 years with a 10-year grace period.

The United States currently provides the IDA about $500 million a year, about one-third of its annual budget.●

RETIREMENT, WORK, AND LIFELONG LEARNING

● Mr. CHURCH. Mr. President, the Senate Committee on Aging recently conducted 3 days of hearings on "Retirement, Work, and Lifelong Learning."

As I explained in my opening statement, this year's enactment of legislation which brings us closer to final abolition of mandatory retirement in this Nation has now caused longstanding issues to emerge with new clarity.

One of those issues is the longstanding complaint that this Nation has no retirement policy. We have a tangle of public and private retirement income plans, but we find that individual programs may be inadequate, conflicting, or compounding. We have reason to wonder, in some case, whether what we call retirement is really that. The typical example is the worker who claims maximum retirement benefits from one position at the time that person transfers to other full-time employment. Witnesses of our first round of hearings were also concerned about the rising cost of early retirement, at a time when more persons are living longer and a foreseeable shortage of younger workers is just a few decades away.

In its examination of work-related issues, the committee is concerned about such matters as: development and application of objective means of measuring job performance among middle-aged and older workers, retraining to avoid obsolescence of job skills, and such innovative employment arrangements as flexitime and part-time work or team effort for those older workers who wish to participate.

Closely related to retraining and recycling of workers is educational opportunity. But our hearings and studies will also look into new ways of allocating time for learning throughout the lifespan.

Mr. President, I ask that the following items be printed in the RECORD: The statement I gave at the opening of the hearings, an excellent article by Philip Shabecoff in the July 30 New York Times, an informative United Press International account of the same proceedings, and an article by Dr. Bernard I. Forman from the August 11 issue of the National Senior Citizens Law Center Washington Weekly.

The material follows:

OPENING STATEMENT BY SENATOR FRANK CHURCH, CHAIRMAN

Today the Senate Committee on Aging begins an examination of the many issues related to our three general themes:

Retirement,
Work,
and Lifelong Learning.

A subtitle to these hearings might well be: should the United States be dismayed or even fearful over a process so often described as the "graying" of our population?

My personal answer to that question is "no," as you might expect. It would be a sad day indeed for this Nation if the older persons among us were to be regarded as a drain, rather than a rich reservoir of experience, wisdom, and creative energy.

But my answer would also include a caveat—one which has caused these hearings to be called—a warning that we must look deeply into issues which have concerned the Senate Committee on Aging for some time, but which now take on new urgency.

Contributing to the urgency is the debate over Social Security financing and the deepening concern over the high cost of public and private pensions. Do we know what we are committing for future retirement income, and are we proceeding in the wisest way? It's become common to say that the United States has no retirement policy. Federal, State, and local governments establish pension or annuity plans as if each one existed in a vacuum. Some private plans are loosely related to public sector plans; others are not; and complexity and misunderstanding abound.

What is all this costing us? How much more can we afford? And who really benefits from the current scheme of things?

Is there already a "pension elite" who benefit from several sources of income support, while those most in need of a genuine supplement to Social Security income are those least likely to enjoy it?

And one of the most crucial questions: how is inflation compounding the cost of retirement as it is practiced today?

We have chosen a broad title for these opening hearings and all those which will follow. We want to examine retirement, work, and lifelong learning in some detail, and we want to show that each of these three broad subjects cannot stand alone, especially now.

We are concerned about retirement for many reasons, the most immediate of which is new legislation which deals a major blow at traditional mandatory retirement practices.

I'm referring, of course, to the raising of the upper age limit in the Age Discrimination in Employment Act from age 65 to 70. This victory won't change current habits and injustices overnight, but it is historically important because it helps to establish the principle of keeping work options available throughout the lifespan. It also will challenge employers—and employees—to work cooperatively to make the most of the new condition which will generally take effect next January.

Retirement is also on our minds because of a swelling tide of concern about the clear and persistent trend toward earlier retirement. Does this make sense in the face of:

Increased longevity;

Inflation's inroads on retirement income;

And the growing realization that this nation now needs, and will need even more in the future, the full use of the talents and knowledge of all those who wish to work for as long as they care to work?

But what good does it do to delay or even ban retirement if employment opportunities for the older persons are unsatisfactory or even nonexistent? We have put "work" in the title of our hearings because for some years now the Senate Committee on Aging has tried to alert the Nation to the fact that older workers are often called "retired" when in fact they can't get a job to replace one they've lost or one that has been swept aside by technological change. We've issued reports pointing out that so-called recovery for the general economy doesn't necessarily mean good times for workers in the 50s and 60s, who encounter a distinct lag in return to jobs, with insidious and far-reaching results:

Denied work and often discouraged to the point of not even seeking it, the older worker seizes upon the earliest possible sustained assistance: reduced Social Security benefits at age 62.

The Social Security trust fund then must pay out instead of receiving payroll taxes from those who want to work.

Our interest in work isn't limited to those past age 50. We also want to know what happens to persons whose job skills become outmoded at any age. And we will take special interest in experimental work arrangements, including flexitime, which could change fundamental thinking about the role and purpose of work during the lifespan.

And so we come to the third theme of these hearings, life-long learning.

The 1971 White House Conference on Aging called education a basic right for all age groups, "continuous and henceforth one of the ways of enabling older people to have a full and meaningful life, and as a means of helping them develop their potential as a resource for the betterment of society."

Now that the end of mandatory retirement is in sight, isn't educational opportunity in later years even more important, not only as a means of adapting to new work demands and making one's self a continuingly valuable employee, but also as a way of adjusting to new interests when work hours decrease or, at an agreed-upon date, end entirely?

Many of the issues which will come before this Committee at these and future hearings will be overshadowed by concern about Social Security financing. My own personal view is that the payroll tax is too high, too regressive, and in need of help from other sources. Important as this issue is, however, I hope that it will not dominate center stage. More important, it seems to me, are our goals for Social Security in terms of adequacy of benefits, the contributions it makes to our society as well as its costs, and its relationship to other programs providing retirement income.

This Committee is, of course, also concerned about problems facing the private pension system. Fortunately, the Senate Committee on Human Resources is preparing for hearings next month on amendments to the Employee Retirement Income Security Act of 1974, and we have been in close touch with Chairman Williams on matters of mutual concern.

We are also aware that there are no fewer than six Federally-authorized studies related to Social Security, retirement systems, and national retirement policy. We have made contact with representatives of each and will follow their progress closely. The same is true of the Federal Council on the Aging, national organizations on aging, and other agencies. Nelson Cruikshank, counselor to President Carter on Aging, has promised his personal attention to our hearings, studies, and findings.

In short, we are casting a wide net for information and ideas and perspective. Only in this way can we seek the most helpful answers in our search for what we want retirement, work, and lifelong learning to be in this country. We have been aided considerably by consultation from Harold Sheppard, whose recent book anticipates a growing crisis in this nation's retirement age policy. Herman Brotman, demographer and former assistant to the U.S. Commissioner on Aging, has once again contributed significantly to preparations for a hearing by this Committee. To them and to others who have helped, and who will help in the future, I give my heartfelt thanks.

And now, our first witness, Secretary Califano, who is quoted in the latest annual report by this Committee as saying at a recent speech: "We should remind ourselves that support for older Americans is support for all Americans. When Medicare pays an older citizen's hospital bill it protects that family's savings, to pay for college tuition, or a new house, or their own retirement.

"And 'the elderly,' we must remember, are ourselves—and our children. When we discuss the elderly in 2025, we are discussing the high school seniors of today."

That kind of perspective, Mr. Secretary, will guide us, I assure you, in these hearings.

[From the New York Times, July 30, 1978]

A. FAST-AGING POPULATION

(By Philip Shabecoff)

WASHINGTON.—A quietly ticking social time bomb—America's rapidly aging population—is due to explode in 20 years or so with potentially revolutionary impact on the nation's economy.

So far, except for a few Band-aids applied to the Social Security and private pension systems, little has been done, or even discussed, to prepare the country for that particular future shock.

At hearings before the Senate Special Committee on Aging earlier this month, Stanley M. Babson, Jr., a financial consultant, summed up the problem: "The present retirement practices and trends of our society, coupled with the increasing longevity of our population, will create an enormous economic future burden on our society." Said the chairman of the committee, Senator Frank Church, Democrat of Idaho: "The Unit[illegible] States has no retirement policy."

Moreover, the problems created by an [illegible]exorable demographic trend toward [illegible] older—considerably older—population [illegible] being exacerbated by slower econom[illegible] growth, inflation and social changes such [illegible] early retirement and soaring demand [illegible] medical care.

The nation, in the view of those who ha[illegible] considered the impact of these trends, w[illegible] have to come to grips not only with the ec[illegible]nomic needs of this older population but al[illegible] with the changes wrought on the economy [illegible] general from a shortage of younger worke[illegible] increased demands on health resources a[illegible] other social service changes in the structu[illegible] of tax revenues and shifting demands on t[illegible] market place.

The Secretary of Health, Education a[illegible] Welfare, Joseph A. Califano Jr., outlin[illegible] during the hearings some of the key facto[illegible] in the population shift, including the[illegible] trends:

The average life expectancy, about [illegible] years in 1940, has risen by about 10 ye[illegible] and now stands at about 69 for men and [illegible] for women. The population aged 80 and abo[illegible] is widening rapidly and biomedical advan[illegible] indicate that the life span will continue [illegible] lengthen.

The post-World War II baby boom w[illegible] appear early next century as a "senior boom[illegible] Mr. Califano noted. By the year 2030, ab[illegible] 55 million people, nearly one-fifth of t[illegible] population, will be 65 years old or older.

While people are living longer, they [illegible] also retiring at an early age, a fact that I[illegible] Califano found "ironical." Thirty years a[illegible] nearly half of all men 65 and over were [illegible] the workforce; today, in that age group, o[illegible] one man in five and one woman in 12 h[illegible] jobs or are actively seeking work. There [illegible] no sign that this trend will abate.

The ratio of active workers to retired ci[illegible]zens will change "dramatically" from six [illegible] one today to only three to one in 2030. T[illegible] figure is significant because it indicates h[illegible] many income earners are available to su[illegible]port programs for the elderly through tax[illegible]

Meanwhile, social and economic polic[illegible] involving the elderly have been changi[illegible] Workers are permitted to retire at 62 inste[illegible] of 65 and collect reduced Social Securi[illegible] Social Security payments have risen sharp[illegible] and are pegged to living costs. Private pe[illegible]sion plans have expanded rapidly, thou[illegible] many of them are underfunded. Progra[illegible] such as Medicare and Medicaid, food stam[illegible] and housing subsidies have been created [illegible] cushion older citizens against poverty.

But Secretary of Labor Ray Marshall, [illegible] testimony before the Senate committee, s[illegible] that while these programs have substantia[illegible] reduced poverty among older citizens, ma[illegible] Americans still have difficulty living on th[illegible] retirement incomes. And he added that t[illegible] demographic trends mean that considera[illegible] strain will be placed on the economy just [illegible] continue current retirement income leve[illegible] much less improve them, particularly in t[illegible] face of erosion of income by inflation.

Although Congress strengthened the [illegible]nancing of Social Security System last ye[illegible] current actuarial projections indicate th[illegible] the Social Security tax rate will have to [illegible] increased another 4 percentage points by t[illegible] year 2035 just to maintain the system's so[illegible]ency at existing benefit levels, Mr. Marsh[illegible] warned.

Where will the money come from? M[illegible] Califano reported that six major progra[illegible] for the elderly run by his agency—old a[illegible] insurance, survivors and disability insuran[illegible] Medicare and Medicaid, Supplemental S[illegible]curity Income and Black Lung Benefits [illegible] will pay out more than $94 billion to Ame[illegible]cans over 65 this year.

Another $14 billion will be paid to th[illegible] group under civil service, railroad and mi[illegible]

tary retirement programs. A total of $4 bil-

[From the Idaho Statesman, July 24, 1978]

He said it will be necessary to expand or

tary retirement programs. A total of $4 billion will go to the over-65 population through housing subsidies, food stamps, social and employment services—all adding up to $112 billion or 5 percent of the gross national product and 24 percent of the Federal budget for the 1978 fiscal year.

By the year 2010, spending on these programs is expected to more than triple to $350 billion, Mr. Califano said.

By 2025, when the "senior boom" is in full swing, the total will be around $635 billion and constitute more than 10 percent of the gross national product and 40 percent of the Federal budget.

These problems impact directly on the public sector economy and will be felt by the private sector chiefly through the tax system. But the population trends will also have a direct effect on the private economy in many ways.

The shortage of younger workers, for example. Secretary Marshall commented that employers will find themselves competing for the services of workers, including older workers, and in so doing, possibly bidding up wage rates. One approach to this problem was suggested by the recent Congressional action in raising the minimum age at which employers can require workers to retire from 65 to 70 years.

The demographic and social trends are also likely to work profound changes in the marketplace. Today a large part of the economy is oriented toward a youth market. An aging population will have broad implications for such industries as apparel, entertainment, recreation and travel. Older citizens will put far heavier demands on the health care industry than they do today. The home building industry will have to face up to fewer new households being started. The list is endless.

Secretaries Marshall and Califano along with other witnesses had ideas for dealing with the impending changes. Nearly all the witnesses said that ways should be found to delay retirement and extend working life as a means of easing the strain on the Social Security, pension and social welfare systems as well as on the labor market.

Mr. Marshall and others, for example, proposed consideration of flexible working arrangements that would let older citizens work part time or on schedules that suited their needs. Education and training to make older workers valuable to employers was also recommended.

Mr. Califano wondered whether private pensions should be encouraged or whether it might not be more equitable if the Social Security System did not have a "layer" of private pensions on top of it.

Because the crisis lies in the future, the economic problems presented by an aging population may seem somewhat abstract to many Americans. But as Secretary Califano noted, "The elderly are ourselves and our children."

The aging of the baby boom

	Average life expectancy in years	Ratio of total population to those 65 and older	Average monthly social security payment
1940	63.9	14.7	$22.10
1945	----	----	23.50
1950	68.2	12.3	42.20
1955	69.6	----	59.10
1960	67.9	10.8	69.90
1965	70.2	----	80.10
1970	70.9	10.2	114.20
1975	72.5	----	201.60
June 1978	72.8	9.2	254.00

NOTE: Not all data available for all years.

SOURCES: Social Security Administration and Census Bureau.

[From the Idaho Statesman, July 24, 1978]

LONGEVITY IMPERILS EARLY RETIREMENT

WASHINGTON.—The nation may not be able to afford the current trend toward early retirement, especially when the post-World War II baby boom becomes the senior citizens boom, two top administration officials and other experts say.

Witnesses at recent hearings of the Senate Special Committee on Aging, including two Cabinet members, put forward challenges to early retirement with its increased Social Security costs and loss of skilled workers.

Thirty years ago, according to the testimony, nearly half of all men 65 and over were employed or seeking jobs. Today, among people 65 and over, only one man in five and one woman in 12 are in the work force.

One clear reason for the trend is more and more Americans are able financially to retire early.

Social Security benefits have been expanded, with full pensions paid at age 65, and some retiring at 62 with reduced benefits.

Nearly half of all workers in the private economy are covered by pension plans, many with retirement at ages 60, 55 and 50.

Federal civil servants and employees of many state and local governments can retire at age 55 after 30 years, and the number of these public employees has soared. Military personnel can retire after 20 years of service, regardless of age.

Secretary of Health, Education and Welfare Joseph Califano told the committee while Americans are retiring earlier, other changes are taking place that may require the nation to reconsider its whole policy toward work and retirement.

People are living longer. In 1940, the average life expectancy at birth was 63.5 years, lower than the age for full Social Security retirement benefits.

Now, Califano said, life expectancy is 69 for men, 77 for women. Three-quarters of the population now reaches age 65 and, once there, live on the average to age 81.

"We are at the dawn of the first four-generational society in the history of our nation," Califano said.

The baby boom following World War II, Califano noted, will become a "senior boom" in the early 21st century. In 1940, 7 percent of the population was 65 or over; today it is 11 percent; by 2030 it will be nearly 20 percent.

Today six active workers support one in retirement. By 2030, the ratio is expected to be 3-to-1.

Califano testified that under present trends, the federal government will have to spend $635 billion by 2025—up from $112 billion this year—for Social Security, other pensions, Medicare, welfare, food stamps and various other services.

This would be a growth from 24 percent to 40 percent of total federal outlays.

"There are reasons to wonder aloud whether the trend toward ever-earlier retirement is a trend in the right direction," Califano said.

Dr. Harold Sheppard, director of the Center on Work and Aging of the American Institutes for Research, said the coming senior boom will include a large increase in the number of Americans over 80—by 2000, there will be 8 million of them, 1.7 million more than had been projected as late as 1971.

Sheppard asked how the increasing proportion of Americans in their early 60s in the next century are going to support these octogenarians if they themselves are retired.

Labor Secretary Ray Marshall said it may become increasingly difficult to insure older Americans a comfortable retirement by relying primarily on "transfer payments"—shifting money through Social Security, welfare and other programs.

He said it will be necessary to expand employment opportunities for the elderly.

Congress took one step in that direction last April when it raised from 65 to 70 the age at which a private employer can require a person to retire solely because of age, and removed the upper age limit of 70 for most federal workers.

[From the NSCLC Washington Weekly, Aug. 11, 1978]

SOME NEW APPROACHES TO THE PROBLEMS OF THE ELDERLY

A new set of hearings by the Senate Special Committee on Aging, along with other recent developments, are clear evidence that the problems of the growing community of older Americans cannot be "swept under the rug." The Senate hearings on "Retirement, Work and Lifelong Learning," held on July 17, 18 and 19 were clear evidence of the continuing commitment of the U.S. Congress to an unremitting attack on the wide array of issues confronting the elderly. A hearing on poverty among the elderly conducted by the House Select Committee on Aging on August 9, showed that Rep. Pepper's committee is equally cognizant of the need for more effective action.

Statements by Sen. Frank Church (Chairman, D-Idaho) and Sen. Pete Domenici (D-N. Mex.) set the tone for the comprehensive Senate examination of what has been done and still remains to be done to ameliorate the plight of the elderly in this country. Reports by Secretary of HEW Califano and "aging" researcher Harold Sheppard highlighted the first session. Secretary Califano, particularly stressed the close interrelationships between present federal programs and pressures on the Social Security system, the welfare program, and other services, including Medicare and Medicaid. Dr. Sheppard supplied facts and figures to point out the inadequacy of current efforts in the face of runaway inflation. Both admitted that there were "more questions than answers" that still had to be resolved.

At the second hearing on July 18, Secretary of Labor, Ray Marshall, discussed current trends in work and retirement and pointed out both the failings in present pension plan provisions and the adverse consequences of encouraging early retirement. Statistics furnished by one witness, Consultant Ewan Clague, showed the erosive effect of inflation on retirement incomes and upheld the need for a closer look at the unanticipated economic repercussions of both voluntary and involuntary early retirement. The general tenor of the hearings suggested that legislators were having second thoughts about the wisdom of promoting early retirement, as too costly for the economy. They seemed also to be eager to look more seriously at viable alternatives for reducing unemployment.

Roundtable hearings are scheduled for early September, when representatives of national aging groups will be invited to testify before the next steps are taken. NSCLC and the Gray Panthers, among others, have been invited to appear before the Committee to present their views.—Dr. Bernard I. Forman.●

10TH ANNIVERSARY OF THE SOVIET INVASION OF CZECHOSLOVAKIA

● Mr. PELL. Mr. President, Monday, August 21 will be the 10th anniversary of the brutal Soviet invasion of Czechoslovakia, the small homeland of freedom loving Czechs and Slovaks. Ever since, August 21 has become known as the Soviet Day of Shame—and rightfully so.

In the spring and summer of 1968, the Czech and Slovak peoples, acting in accordance with the U.N. Charter's principle of "the sovereign equality" of all U.N. members, tried to humanize the

Communist system under which they had lived for 20 years. This was a purely internal matter which threatened no other nation; yet the Soviet Union, apparently believing that some sovereign U.N. members are more equal than others, violated article 2(4) of the U.N. Charter which states that—

All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

I have long had an interest in and personal acquaintance with Czechoslovakia. It seems only a short time ago when, as a young Foreign Service officer, I opened the American Consulate in Bratislava shortly before the Communist putsch of February 25, 1948. Through the years since then, I have sought to visit Czechoslovakia as often as I could and to stay in touch with conditions in that country. I was there just prior to and just following the Soviet invasion of 1968. I observed at the time that the fact that the Soviet Union did not have to use force directly to make Czechoslovakia a Communist country but had to employ a major military force to keep it Communist says something dramatic about the appeal of communism after two decades of exposure to it.

Mr. President on August 1, 1975, the 35 participants in the Conference on Security and Cooperation in Europe signed a final act in Helsinki relating to security in Europe, and economic and humanitarian cooperation. I was encouraged at the time by the fact that among the principles to which the participants, including the Soviet Union, subscribed, was one which stated that "no consideration may be invoked to serve to warrant resort to the threat or use of force" against the territorial integrity or political independence of any state. My colleagues may recall that in 1968, the Soviets justified their invasion in the name of "proletarian internationalism"—also known as the Brezhnev doctrine.

The fact remains, however, that some 50,000 to 70,000 Soviet forces remain in Czechoslovakia with the principal mission of insuring that no more Prague springs occur. Until the Soviet occupation of Czechoslovakia ends, there is no realistic prospect for the Czechs and Slovaks to exercise their sovereign rights as set forth in the U.N. Charter and reiterated in the Helsinki Final Act.

It is noteworthy to add, however, that the indignation aroused in Czechoslovakia as a result of the Soviet invasion has given birth to a courageous band of patriots demanding the observance by the Soviet and Czechoslovakia Governments of the Helsinki Final Act. In a daring publication entitled, "Charter 77," this group detailed the many violations of the Helsinki Final Act. New adherents are being added every week—and not only intellectuals but farmers and workers as well. As with the signers of our own Declaration of Independence, the signers of Charter 77 are demanding only that the rights of man be respected. Yet their cries for freedom have been answered only by more persecution.

The appeals of this group have a special meaning to me, not only because of my previous experience of having lived in Czechoslovakia, but also because I serve as cochairman of the Commission on Security and Cooperation in Europe, a body created by Congress in 1976 to monitor the Helsinki Final Act. I and other members of the Commission have called for full observance by all parties to this important international agreement and have been engaged in telling the story of what has happened in the Soviet Union and Eastern Europe since Helsinki. In this connection, I believe strongly that the United States must not forget what happened to Czechoslovakia in 1968 nor allow the Soviet Union to forget that its invasion of Czechoslovakia contravenes both the U.N. Charter and the Helsinki Final Act. For, only as long as it is clear that the invasion will not be forgotten, will there be a chance that Soviet aggression in Eastern Europe will one day be a thing of the past.●

NATION'S CREDIT UNIONS ENDORSE S. 3156, THE FAIR FUND TRANSFER ACT

● Mr. RIEGLE. Mr. President, I am very pleased to report that the Credit Union National Association, the trade association representing over 20,000 State and Federal credit unions, has formally endorsed S. 3156, the Fair Fund Transfer Act. This legislation would establish a framework of consumer rights and safeguards in electronic fund transfer (EFT) services.

It is not often that financial institutions formally endorse Federal consumer protection legislation. CUNA's endorsement is an indication of just how carefully balanced and reasonably drafted S. 3156 is.

As CUNA points out, today's consumer protection laws were not drafted with the new phenomenon of electronic banking in mind. Consequently, consumers who utilize 24-hour tellers, pay-by-phone systems, or direct deposit of social security benefits or wages have no protection if, through an error or theft, their bank accounts are suddenly emptied. S. 3156 fills this void and provides important safeguards similar to those enacted by Congress for credit cards.

CUNA's endorsement is another indication of the Banking Committee's success in drafting legislation which provides fundamental consumer protections while also permitting the continued development of EFT systems and services.

Mr. President, I ask that the text of CUNA's endorsement of the Fair Fund Transfer Act be printed in the RECORD.

The material follows:

CREDIT UNION NATIONAL ASSOCIATION, INC.,
Washington, D.C., August 16, 1978.

Hon. DONALD W. RIEGLE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR RIEGLE: On behalf of the Credit Union National Association, Inc., I am pleased to forward to you a resolution adopted by our Executive Committee on August 9, 1978, endorsing the EFT consumer protection bill which you have sponsored and which is now pending action on the floor of the Senate.

CUNA recognizes that there are subst
tial consumer benefits in the future as
services are refined and expanded upon
that consumer confidence in these new
ices hinges on adequate legal protect
for the consumer comparable to conse
rights with respect to existing payment
tems. We hope that Congress will comp
action on this legislation this year so
EFT systems can develop with some
tainty and common understanding of
legal framework and standards of opera
which will be beneficial to both consum
and the providers of EFT services.

Sincerely,

DAVID S. WEBERT,
Chairman of the Boar

CREDIT UNION NATIONAL ASSOCIATION, INC.,
Washington, D.

CUNA strongly endorses the Riegel
Annunzio bills regarding EFT consumer
tections. CUNA also endorses those gen
principles contained in the Electronic Mo
Council Consumer Bill of Rights as m
mum standards (other than reversibili
but also encourages legislative guarantee
higher standards of consumer protection
contained in these two bills.●

CARTER'S DECLINING POPULARI

● Mr. HAYAKAWA. Mr. Presid
hardly a day goes by without some
ports about President Carter's declin
popularity. It now even seems tha
great number of citizens who voted
him in 1976 believe that he should
run again in 1980. This developmen
of primary concern to the Democra
Party. It would be short-sighted, h
ever, to overlook the detrimental asp
for the country as a whole, especi
as far as the position of the Uni
States in the world is concerned. Lo
ing at the domestic scene, Americ
might console themselves that 198
not far away and that, if Carter's p
formance continues to be unsatisfact
a new President will take his place.

It seems to me, however, that the c
sequences abroad will be more difficul
correct. My distinguished colleague,
senior Senator from Arizona, rece
mentioned, "dwindling respect for
United States" abroad—CONGRESSIO
RECORD of August 9. The close conn
tion of this decline with the percei
lack of leadership in the White Hous
self-evident. The resulting dissatisf
tion among our allies naturally has b
welcome news in the Kremlin, whic
trying to exploit the situation to its
advantage. Breshnev's recent visit
Bonn ought to be seen in this light.

A number of press reports follow
his meeting with Chancellor Schm
mentioned not only Soviet efforts
loosen American-German ties, but
a German ambivalent—while in
ested—reaction.

The respected German weekly
Zeit, for instance, suggested, on May
that "the thread to Moscow must no
permitted to break;" and Die Neue Z
richer Zeitung of July 23, wonde
whether Bonn had decided to chart a
arate course. Rowland Evans and R
ert Novak, Washington Post of
gust 11, also referred to this eventua
when, evoking memories of Rapallo, t

mentioned Egon Bahr's recent conversa-
tions in the Kremlin

icy." It would start by denying the United States "unlimited power" to dictate Western

engineer in Michigan describes the 10-

mentioned Egon Bahr's recent conversations in the Kremlin.

Mr. President, as I see it, any talk about a possible break in the Western alliance belongs—for the time being at least—in the realm of fantasy. On the other hand, it would be a serious omission on our part not to focus on the widespread malaise among our friends abroad and to disregard their justified concern about the absence of a strong leader. I believe it behooves the Senate to keep this situation in mind when deliberating related issues of international concern. For this reason, I ask, Mr. President that the Evans and Novak article "Germany's Left Looks to Moscow" be printed in the RECORD.

The material follows:

GERMANY'S LEFT LOOKS TO MOSCOW

President Carter's uncertain foreign policy is unwittingly contributing to stepped-up contacts between the Soviet Union and left-wing leaders of West Germany's ruling Social Democratic Party (SPD), who have long opposed Chancellor Helmut Schmidt's devotion to Washington and the North Atlantic alliance, NATO.

Playing the prime role in these very private contacts is Egon Bahr, secretary general of the SPD. Bahr had extensive talks with Soviet President Leonid Brezhnev shortly before Breshnev's highly successful visit to Bonn in May. He renewed his Moscow talks in July—not as an emissary of Schmidt, but as agent of the SPD's activist left wing and the party chairman, former chancellor Willy Brandt.

Here is the specter of what has always made the Western alliance tremble: a menacing new version of the 1922 Rapallo Soviet-German treaty. Another Rapallo is certainly no possibility in the near future. Indeed, it is unthinkable in Helmut Schmidt's Germany.

Nevertheless, what is clearly at issue in the Breshnev-Bahr talks is chilling, even though no immediate threat: West Germany leaving NATO with Soviet guarantees against aggression and with the ultimate prospect of German reunification.

Bahr, a fanatical German nationalist, leads SPD's far-left faction, which believes the key to Germany's future reunification is held in Moscow, not Washington. To Bahr and his allies, common political ground will eventually be found between Soviet communism and European socialism.

Political sources in Europe, both West and East, provide the following outline of Bahr's Soviet contacts in Moscow and Bonn, together with collateral talks between other leaders of the SPD's left wing and Eastern European Communist officials.

Bahr attacks the Carter foreign policy, particularly the administration's intention "to play the China card." According to one qualified informant, Bahr agreed with Moscow that the Soviet Union "would not accept this" and would retaliate "in Africa, in the Middle East, in Asia and Western Europe," possibly with a "Berlin crisis." Bahr contends West Germany might not survive a new Berlin crisis.

The impact of Carter's human-rights policy on the Soviet Union threatens Soviet reaction that could put pressure on West Germany.

Given those alleged dangers to West Germany, Bahr has asked the Soviets what sort of "guarantees they could offer "in case of a crisis" between the superpowers.

To facilitate such a cataclysmic shift in West German policy, a major propaganda operation has been discussed withthis purpose: to dramatise perceived dangers of U.S. policy and Carter's "inexperience in foreign policy." It would start by denying the United States "unlimited power" to dictate Western policy to West Germany on strategic arms limitation, Communist China, the Third World and Europe itself.

Bahr and the SPD left wing have exploited Carter's stunning decision not to produce neutron weapons by constantly reminding Schmidt how erratic U.S. policy is today. Schmidt had privately informed Carter he wanted the neutron warhead (widely opposed inside the SPD) and was left holding the bag when the president ruled against it.

Although Bahr greatly influences the SPD's left wing (about one-third of the party), he lacks power within Schmidt's coalition government. Still, Bahr's wide-ranging explorations pointing toward a possible second Rapallo build rising pressure on Schmidt.

Widely noticed in the Carter administration is Schmidt's heavy emphasis on East-West détente since Brezhnev's Bonn visit. The chancellor also rejected an appeal from French President Valery Giscard d'Estaing for French-German "coordination" in blocking Soviet adventures in Africa.

Schmidt is becoming trapped in the continuing uncertainty of Carter's Washington: He boldly opposes his left wing on neutron weapons, and the president pulls the rug out; he yields to his left wing on Africa, and a common Western European policy is sacrificed.

"U.S. leadership is not a realistic factor in the great struggle with the Soviets today," one European expert on German politics told us. "There is all too obvious a lack of declared will." That lack of will, and the inconsistency that results from it, is what gives Egon Bahr and his supporters their license to hunt in Moscow for a radical change in West German policy at awesome risk to the West.●

BALLOONISTS COMPLETE MAINE TO PARIS FLIGHT

● Mr. MUSKIE. Mr. President, three American balloonists made aviation history today by completing the first trans-Atlantic crossing by balloon. I want to compliment these brave men for their daring, their skill and their achievement.

I think the exploit of Maxie Anderson, Larry Newman, and Ben Abruzzo demonstrates that Americans can do the things they put their mind to, with hard work, courage and persistence.

The State of Maine played only a small part in their exploit—the three took off from Merle Sprague's farm in Presque Isle, Maine, last Friday. But the excitement Maine feels, and our pride in our modest contribution, are surpassed by no one.

We in Maine wished them well when they departed. We offer them our warmest congratulations on their success.

Mr. President, I might note that the "Double Eagle II" took off from a spot near Loring Air Force Base in Maine. I think our friends from Albuquerque helped us demonstrate why the Strategic Air Command built the base, and why SAC should keep it operating at full strength.●

A SMASHING SUCCESS

● Mr. CHAFEE. Mr. President, three highly instructive short articles have appeared in issues of Better Roads magazine over the past year. In one a county engineer in Michigan describes the 10-year cooperative efforts undertaken by the county, the road commission, and local governments to redress a serious bridge problem. The joint program used county, township, State, and Federal funds to replace bridges both on and off the Federal aid systems.

A second article tells of the successful bridge program in a small Kansas county. The third prescribes creative engineering techniques to solve bridge problems. The articles are instructive because Congress is currently beset by State and local officials asking for massive Federal assistance to correct dangerous and obsolete bridges. There is no doubt that a grave situation exists and that a major effort is needed to address the most pressing problems.

Before approving a vastly larger special Federal bridge program, however, I would like my colleagues to examine what can be accomplished using existing Federal assistance, when local ingenuity and determination are added.

I ask that these three articles be printed in the RECORD.

The articles follow:

LOCAL BRIDGE CRISIS CAN BE SOLVED THROUGH CREATIVE ENGINEERING: ELLIOTT

When a bridge in your area is badly deficient, don't look to "governmental pots of gold" for a solution—use any means available to "repair, prop, or strengthen" that safety hazard right away.

This pragmatic spirit should dominate the thinking of today's highway official responsible for bridges on low volume roads, according to Arthur Elliott, veteran bridge engineer. He told some 350 fellow bridge engineers attending a Portland, Oregon, seminar last month that, "We have to protect the public; we are responsible for the safety of their bridges."

It is estimated that there are more than 65,000 deficient bridges on county, township, and other off-federal-aid-system roads nationwide.

Occasion for Elliott's comments was the 4th Annual Northwest Bridge Engineers Seminar, sponsored jointly by the highway departments of Oregon, Washington, Idaho, Alaska, and the Federal Highway Administration. Elliott, now a bridge consultant, spent 40 years with the California Division of Highways bridge department.

He said that once deficient bridges in an area have been identified, "Each repair project must be a unique exercise in value engineering." Although he recommended using contractors when the money is available, Elliott observed that low-cost repairs can at times be performed by department maintenance crews.

Several examples of techniques employed by engineers in the past were cited by Elliott:

"One engineer bought some old flat car frames from the railroad, mounted them on concrete piers built by his maintenance crew, and then topped them with a concrete deck. He ended with a very serviceable bridge several hundred feet long."

"Government surplus property has also found its way into many bridges. Old beams, bars used for reinforcing, landing mats used for railing, and riprap for banks."

Timber bridges also lend themselves to innovative repair, Elliott said. Some techniques include:

"Stubbing the piles or shaving away the rotten wood and encasing them in concrete jackets; bolting half-caps on each side of caps with rotted wood top surfaces to provide solid bearing for the stringers; and, building a new abutment in front of a rotten one."

Other timber bridge repair techniques include:

"Digging down just back of the bridge and inserting a new bulkhead timber to prevent the dirt from spilling onto the end cap; turning the stringers so as to get a good nailing surface and deck support and adding a few stringers to make up for reduced capacity, sliding in a few new stringers to replace cracked or broken ones; renailing the timber deck with twisted nails for a better grip; and replacing the timber deck with a concrete slab."

In conclusion, Elliott urged engineers to "Keep on top of your bridges—or better yet, spend more time underneath them. Know their condition. Know their weaknesses. Use your ingenuity.

"With a little luck and a lot of persistence, one of these days we'll have solved our dilapidated bridge problem."

COUNTY'S 'SOLO' DRIVE TO REPLACE BAD BRIDGES

The year was 1973, and Harvey County had a real problem. An inspection revealed that 82 of its 199 of the federal-aid system bridges were structurally deficient. But, the $5.75 million price tag for building new ones was well beyond the county's financial means

"Replacement was a necessity though," county engineer Mike Zobkiw recalls, "because the law requires that deficient bridges either be closed or replaced, and wholesale bridge closings would have disrupted the entire county." The county board and Zobkiw determined that a general obligation bond issue was the only solution, and put the question on the ballot for an Aug. 6, 1974, general election.

Similar bond issues had failed in the past, so an intensive citizen information campaign began. Pamphlets describing the situation were distributed countywide, slide presentations were made to local service organizations, and six public hearings were held.

"Light turnouts for public meetings had officials worried that the bond proposals would be defeated," Zobkiw said, but on election day the issue carried by a simple majority of 337 votes. In November of that year, $2.2 million in bonds were sold, and a second issue of $2.5 million was sold in 1976, for a total of $4.7 million.

Construction of the new bridges is now nearly complete, and the total program has come in about $1.4 to $1.5 million below the $5.75 million estimate. Zobkiw said this resulted for five reasons: "The slowdown in the rate of construction inflation; well-prepared, standardized plans; revised bidding procedures; competitive bidding by contractors and, our road and bridge crews doing as much work as possible."

Elaborating on this, Zobkiw, for example, noted that in order to have some work done throughout each geographic area of the county each year, the replacement schedule called for certain bridges in all parts of the county to be replaced in each of the three years work was going on. Each year's work was broken down into phases which consolidated similar structures in the same area in a letting, and this qualification proved beneficial in obtaining low bid prices. In all, nine bid lettings were held between March, 1975, and December, 1976.

Having county crews do as much work as they could saved some $375,000, Zobkiw estimates. "At the beginning of the program," he said, "they removed all structures, excavated sites for box bridges, and did all the grading work and box sites." By the final letting however, contracting was done for all work except, "construction engineering, material testing, fence removal and replacement, seeding, surfacing, and guardrail erection," Zobkiw said.

Of the 82 structures built, 35 are large, multi-span boxes and 47 are span bridges with lengths varying between 36 ft and 290 ft end to end of wearing surface. Most span bridges fall in the 150 to 160 ft range. Actual structure costs per sq ft of available roadway ran about $16.01 on boxes and $16.76 on bridges.

Reflecting on the county's success, Zobkiw said, "Quite often, it seems, government agencies initiate projects, obtain funding, and then find themselves spending tremendous amounts of dollars over publicized estimates to complete the project. We are awfully proud that we are bringing this program in 25% below estimated costs."

SCHOFIELD: KENT COUNTY BRIDGE PROGRAM . . . A SMASHING SUCCESS

Your May 1978 issue on Bridges was very interesting and timely, however, it points out only part of the problem.

In Kent County, Michigan, we surveyed our bridge problem on local roads in 1966, prior to the 1967 Silver Bridge collapse. To our dismay we found 73 percent of these bridges to be inadequate (51 inadequate of a total of 73). Our estimated replacement cost was $1,799,000. School buses were exceeding the load limit and crossing 47 unsafe bridges each day.

For 1172 miles of local roads we received from the state gas and weight tax (in 1966) $632,522.16 to cover our maintenance, snow removal and construction. Our maintenance and snow removal cost alone in 1966 was $824,244.05. Also the state statute states that this is the "total responsibility of the state for local county road support and that additional funds required for the support of any county local road system be supplied from other moneys returned to the township governments—or counties—."

Therefore, we went to the Townships and County with our problem and reached a solution whereby the Townships (21 unincorporated in Kent Co.) and the County (general tax) each paid 25 percent of the cost and the Road Commission paid 50 percent of the cost.

The bridge replacement program was cut to 45 bridges by eliminating some, where the traffic could be rerouted with little inconvenience. This was spread over a period of 10 years and this year, with the placement of 3 structures, will bring the program to a successful end.

At the same time we, with our regular state highway funds, kept up a program for replacing bridges on our primary road system. We also incorporated F.A.S. Funds on eligible bridges and saved these funds for several years to accumulate enough to meet 50 percent of the cost.

We have once again approached the Townships and the County for another 10 year program to take care of 16 bridges on our primary system, 8 culverts (under 20 ft span) and 39 culverts on our local road system. Because of the first 10 year local bridge program being a smashing success the 2nd program was much better to sell to these local officials.

However, it is difficult to state that we are not eligible for federal or state critical bridge funds, because we acted on "our" problem.

The State statute says local roads are only very limited to be a state responsibility, therefore, how can this be a Federal responsibility?

The Federal Government just recently cut back on the F.A.S. system stating it was just too large a system to ever conceive completion. Therefore, why now expand and use these critical bridge funds on any road?

In addition, these critical bridge funds on both the state and federal level came from the gas and weight tax that would normally be split by all users. This takes a portion that would normally come to us in F.A.S. funds to give to some other area that did not keep up on their responsibility. Me counties are also in this situation.

I suggest we eliminate these "specia funds and distribute one general fund. bridges are a problem in a certain coun then congress may set the priority by quiring the expenditure in that area. If t counties can demonstrate that the brid are adequate, then they should be allow to use the funds in other areas. We are starting to replace structurally deficient c verts (under 20 ft span) and, for safe bridges that are narrow and we are not e gible for the special critical bridge progra

Maybe we should wait and have an em gency to possibly get "special" aid.●

MRS. JACQUELINE L. LEVINE

● Mr. WILLIAMS. Mr. President, would like to take a moment to acknow edge the achievements of one of my co stituents, Mrs. Jacqueline L. Levine West Orange, N.J.

Because of her extraordinary leade ship and contributions to the cause justice, freedom, and human dignit she was recently honored with the fi Joachim Prinz Award from the New Je sey Region of the American Jewish Co gress.

Speaking of her involvement in Jewi affairs, Mrs. Levine said:

My commitment has been a liberal co cern for all people, their civil rights a civil liberties. It never has been enough me just to have nice clothes and go out an evening at the theater. I want to do som thing for this world. I'm here such a sho time, I want to have done something to ma it better for some people, some place, i should die tomorrow.

And she has done a great deal for pe ple—especially for the Jewish comm nity. Mrs. Levine has been active many community and Jewish activiti is a member of the board of trustees the Jewish Community Federation Metropolitan New Jersey and is a pa chairwoman of the women's division the United Jewish Appeal. Active Bryn Mawr College's alumni associatio she is chairwoman of the campaign f a Judaic studies program at the colle

She has become identified with t Soviet Jewry freedom movement throu various activities, and was national vi president of the Council of Jewish Fe erations from 1971 to 1974. In 1971, a member of the Soviet Jewry federatio community relations committee, and president of the women's division, s helped initiate and served as the fi chairwoman of the Women's Plea f Soviet Jewry, the coordinating body 39 national Jewish organizations co cerned with the plight of Soviet Jews.

The list of Mrs. Levine's accomplis ments goes on, as does her energy a dedication. I am sure that is why s was chosen to receive this award, a confident that she will continue to wo hard promoting peace in the Middle E and fair treatment for Soviet Je through her dedication and activities the United States.●

I LOVE HER A LOT

● Mr. TOWER. Mr. President, the Su day Sentinel of Nacogdoches, Tex., r cently featured an article by Ms. Diann

Webb concerning an important event

Miss Middlebrook received additional in-

During these years, Monte was the

Webb concerning an important event honoring Miss Mamie Middlebrook for a wonderful 62-year career as a teacher of music in Nacogdoches. The occasion was highlighted by a benefit piano recital sponsored by the Nacogdoches Music Teachers Association and the Department of Music at Stephen F. Austin State University.

The article speaks of the universal love and esteem that are accorded to "Miss Mamie" by all who are privileged to know her; it refers to the tremendous contributions she has made to the development of the talents and character of her students; it lists the outstanding professional achievements of several of her students; and, most of all, the article describes a life that has been exemplary in unselfish and inspired service to God, country, and community.

I am told that the essence of the events honoring Miss Middlebrook's service of 62 years was best summed up by a promising young American who is currently Miss Mamie's youngest pupil, Mr. Danny Wier. He said, "I love her a lot." In that expression of appreciation and affection, Danny is joined by a grateful citizenry of Nacogdoches.

Mr. President, I ask that Ms. Webb's Sentinel article concerning Miss Middlebrook be printed in the RECORD.

The article follows:

MISS MIDDLEBROOK'S 62 YEARS OF PIANO TEACHING RECOGNIZED TODAY

In recognition of the influence and rapport which Miss Mamie Middlebrook has enjoyed with thousands of piano students and their families in 62 years of teaching in Nacogdoches, the Nacogdoches Music Teachers Association and the Department of Music at Stephen F. Austin State University will honor Miss Middlebrook today, Sunday, with a benefit piano recital at 6 p.m. in the Recital Hall of the SFASU Music Building.

Miss Middlebrook's name is synonymous with the outstanding teaching of music in Nacogdoches, and several of her former pupils have become professional musicians—Monte Hill Davis, Charlotte, Dorsey Tull, Sandra Pulmer Davidson, Ruth Reavley Harris, Starr Davis, Jill Street, and Jerry Street— to name a few.

The soft-spoken, dignified Miss Mamie is beloved by those who know her and have had the privilege of being her friend, her pupil, or, perhaps, both.

Her teaching and her students are her greatest rewards, and she quickly mentions that she wants to give credit to those friends, relatives, and teachers who have helped her throughout the years—never does she mention the profound influence she has had on others.

She wants the compliments and laurels to be given to those people who have helped her become one of the best-loved and best-known music teachers in East Texas, she says.

Miss Mamie was born Jan. 19, 1899, in Nacogdoches, the daughter of Hannah Jan and Vernon Eugene Middlebrook. She grew up and lived for many years in one of the lovelier old Victorian homes on the south side of Irion Hill.

She attended Trinity University in Waxahachie from 1920–21, and received her B.A. degree from Stephen F. Austin State University in 1935. Her piano teachers included Mrs. Robert Lindsey and the late Ida Pritchett, both of Nacogdoches; Silvio Scionti, Clarence Eidam, Harold von Mickwitz, and Hans Barth.

Miss Middlebrook received additional instruction at the Cosmopolitan School of Music in Chicago; Northwestern University in Evanston, Ill.; Julliard School of Music in New York City; the Conservatory of Music in Mexico City, the University of New Mexico, and numerous workshops throughout the United States.

Miss Mamie said there have been several people who have been strong influences in her life, and she hesitates to mention any of the for fear of leaving out some beloved person she feels has contribtued to her success.

"I was 12 years old when I began to study piano, and I was so fortunate to have the teacher that I did. The happiest day of my younger life was when I began lessons with Mrs. Robert Lindsey.

"She (Mrs. Lindsey) had the most beautiful music room; and, in fact, it was a small auditorium, equipped with a nine foot Baldwin grand piano and an upright piano.

"I could write volumes about Mrs. Lindsey. All of us adored her. She taught us the right kind of repertoires from the right composers, so we had the right beginning—whereas, so many people studying piano have a very poor beginning."

Miss Mamie mentioned that her father played by ear and her mother had had music lessons. "They were such an inspiration to us (Miss Mamie and her sister Fannie Middlebrook Buchanan).

"I think I learned very much from my father about reading music from the bass upward, which, in my estimation, is the right way to read music—bass, tenor, alto, soprano—something like architecture.

"I can just hear my father saying (to my sister), 'Fan, play the bass for me,' and she would do so. He had a very good bass voice, and he loved hymns."

Music and those who want to learn music have been her life and the key to her ability to inspire others with her pleasure in and gratitude for an art form as enduring as time itself, she says.

People who were inspirations to Miss Mamie and whom she especially wants recognized are Miss Willie Gramling, a long-time Nacogdoches piano teacher and friend; Mrs. Tom (Fannie) Buchanan, her sister; Carolyn Sturdevant Miller, a Nacogdoches pianist; and Ida Pritchett (now deceased), who was head of the Music Department at SFASU when it was first established.

According to Miss Middlebrook, the first piano teacher at SFA was Minnie Lucille Summers, "a very beautiful woman and graduate of Baylor University."

Miss Middlebrook said Miss Summers did not stay long at the university because she married and became Minnie Lucille Summers Weinrich and moved to San Antonio. Now deceased, Mrs. Weinrich was the aunt of Mrs. Branch Pattos of Nacogdoches.

"After she (Mrs. Weinrich) left, our beloved first president (Dr. A. W. Birdwell) of SFA called me into his office and he told me that Miss Pritchett had suggested that I take Minnie Lucille's place; and thus it was that I began teaching piano at SFA, and I built up a large class and worked on my B.A. degree and did much on my degree."

Miss Middlebrook said she will always be indebted to Monte Hill Davis, one of the professional pianists who will play in today's concert, for having had her as a pupil.

When she was five years old, Monte Hill Davis began piano lessons with Miss Mamie. Said Miss Middlebrook, "Her (Monte Hill's) beautiful talent brought these other pupils, Charlotte (Tull) and Jill (Street) to me."

At age nine, Monte Hill Davis appeared as a soloist with the Houston Symphony Orchestra. Three years later she began studying with one of Miss Mamie's former teachers, Dr. Silvio Scionti at North Texas State University, and his wife Isabel Scionti.

During these years, Monte Hill Davis won the G. B. Dealy Award, the Gulf Sulphur contest, the Austin Symphony competition; and the Amarillo Symphony contest. In 1953, she went to Europe where she won several top piano prizes and subsequently played in a New York Town Hall recital, for which she received critical acclaim.

Jill Street, another of Miss Mamie's former students, and a professional musician, said upon learning of the benefit recital for Miss Middlebrook, "I appreciate very much the opportunity to help honor Miss Mamie. She is one of the dearest ladies my family and I have ever known."

Charlotte Tull, who will also perform in the recital today, is the wife of Dr. Fisher Tull, chairman of the Music Department at Sam Houston State University in Huntsville.

Said Mrs. Tull, in a letter to Dr. Robert Blocker, about the recital, "Thanks for everything. I had a letter from Mamie yesterday, and she is just almost overcome with excitement."

Mrs. Tull mentioned in her biographical data that all her professional and musical activities are a direct result of the fact that "from an early age I was instilled with a love for music, and in particular piano, that has developed into a rewarding career. Mamie Middlebrook is responsible to a great extent for the nurture and growth of that early interest."

Also appearing in today's recital will be Danny Wier, seven-year-old son of Mr. and Mrs. Don Wier of Nacogdoches. Danny began studying with Miss Mamie in October of 1977, at the age of six. Miss Middlebrook said of Danny, "His ear training is perfectly marvelous. He feels the slow movements better than any child I've ever had."

After cooperating quietly and playing beautifully during his lessons with Miss Middlebrook, Danny said about his music teacher, "I love her a lot."

The simple statement of this young student seems to sum up the feeling of all who know Miss Mamie Middlebrook, a beloved person who deserves the acclaim of her community and her contemporaries.●

SALT: THE SAME SECURITY FOR LESS

● Mr. MCGOVERN. Mr. President, the current issue of Arms Control Today, the publication of the Arms Control Association, contains a very thoughtful analysis of the projected SALT treaty and its benefits for the United States by the senior Senator from Idaho, Mr. CHURCH.

The Senator makes a particularly compelling argument on the question of whether strategic arms control should be linked with Soviet misbehavior elsewhere. He says:

The notion that SALT II can be held hostage for changes in Soviet behavior in other areas flies in the face of the fundamental precept that makes the arms limitation talks possible at all; that is, that an agreement to limit strategic arms equally serves the vital interests of both powers, and further, is mutually perceived to do so. The linkage theory presumes that an agreement is more in the interest of the Soviets than of the United States, and we can therefore "punish" the Kremlin by delaying conclusion of the talks. But if the SALT talks are more in the interest of the Soviet Union than our own country, why are we engaging in them?

On the treaty itself, Senator CHURCH notes that while the outline constrains quite sharply what the Soviets might

otherwise do, according to intelligence projections, it does not interfere significantly with our own strategic plans. Moreover, as the Senator's article points out:

Even if the Russians did not step up their own strategic programs in the event of a SALT breakdown, the United States would have to spend an extra $20 billion, at the very least, between now and 1985, just to maintain the relative force strength that would be guaranteed by SALT II.

In the same vein, the Senator cites a Budget Committee staff estimate that over 13 years, the incremental cost to the United States could be $90 to $100 billion if SALT II is not concluded and ratified.

This, it seems to me, is an extraordinarily powerful argument. Certainly there will be technical questions and a complete evaluation of the treaty provision by provision. It will be a long and complex document. But on the whole, I think the treaty will be unattractive only to those who think it is somehow beneficial in itself for us to drain our resources on arms.

Mr. President, I ask that the article by Senator CHURCH, entitled "SALT II, Linkage and National Security," be printed in the RECORD.

The article follows:

SALT II, LINKAGE AND NATIONAL SECURITY

(By Senator FRANK CHURCH)

Since 1973, the United States and the Soviet Union have been endeavoring, slowly and haltingly, to achieve a new treaty limiting strategic offensive arms. Now, on the verge of agreement, the SALT process itself is under attack.

The strategic arms limitation effort has been caught up in the maelstrom of our stormy relationship with the Soviet Union. As a result, no one knows whether a new agreement will emerge in weeks, in months, or at all.

PROBLEM OF LINKAGE

Some of my Senate colleagues have suggested that the United States should unilaterally break off the SALT negotiations to protest the political trials of Soviet dissidents, Anatoly Scharansky and Aleksandr Ginzburg. The Carter Administration says it is opposed to using the SALT talks as a tool for pressuring the Kremlin on its internal human rights policies. However, the President, himself, may have opened the door to this kind of linkage, when he suggested that the successful conclusion of SALT II could be jeopardized by Soviet and Cuban activities in Africa. Once the concept of linkage between strategic arms negotiations and other extraneous political developments has been legitimized, it is inevitable that this same principle will be invoked by others to argue in favor of suspending the arms control talks for a myriad of other reasons. In the process, the hope of ever negotiating an end to the nuclear arms race may fade altogether.

If we persist in tying SALT to Russian behavior in the Horn of Africa, in Central Africa, or even in Moscow, we are quite unlikely to find that perfect moment in the flow of events at which we can say, "At last, our persistent competitor, the Soviet Union, is comporting itself to our complete satisfaction. Now, we should discuss the conclusion of a SALT agreement."

And if we hold the Kremlin responsible for Castro's every move in Angola or Ethiopia, then what is to stop the Russians from arguing that SALT cannot proceed until our allies, the French and Belgians, pull out of Zaire or Chad? Once you espouse the theory of linkage, where do you break the chain?

Finally, the notion that SALT II can be held hostage for changes in Soviet behavior in other areas flies in the face of the fundamental precept that makes the arms limitation talks possible at all; that is, that an agreement to limit strategic arms equally serves the vital interests of both powers, and further, is mutually perceived to do so. The linkage theory presumes that an agreement is more in the interest of the Soviets than of the United States, and we can therefore "punish" the Kremlin by delaying conclusion of the talks. But if the SALT talks are more in the interest of the Soviet Union than our own country, why are we engaging in them?

I agree wholeheartedly with Secretary of State Vance that this issue must be treated differently from others:

"The imperatives to go to Geneva now are that we are dealing with negotiations that affect the national security of our nation and the security and well-being of the world in general. . . . It is a question which deals with the prospect of mutual annihilation. . . ."

THE NEED FOR A STRATEGIC ARMS LIMITATION AGREEMENT

SALT is the only realistic alternative to a senseless nuclear arms race which neither side can win. We have already assembled a nuclear arsenal of such staggering proportions that the United States could destroy the Soviet Union several times over, even after enduring an attack upon itself. This ability to strike back devastatingly if attacked—an ability the Soviet Union also possesses—has brought the two sides to a state of mutual deterrence and a suicidal holocaust has thus far been averted.

But we are on the verge of a new, even more dangerous stage of the arms race. The United States and the Soviet Union are developing new counterforce weapons which could enable each side to destroy the other's ICBM's. If these weapons are deployed, each nation's fear of a first strike will be dramatically increased. The psychology of the arms race is such that without a mutual agreement between the U.S. and the U.S.S.R. to limit these new weapons developments, the race will escalate—even though it is obvious that we would never reach a point through competition at which we would feel secure enough to stop. In fact, a new counterforce competition would make us feel less secure, because the stability of mutual deterrence would be weakened. In short, the only practical way to achieve stability, enhance our national security and, simply put, keep the lid on, is through strategic arms limitation agreements.

Secretary of Defense Harold Brown said in his presentation this year to the Senate Armed Services Committee:

"We want mutual deterrence to be so stable that it cannot be upset in a crisis. We want it to be so well designed that neither side will be tempted to try to upset it over the longer term. These are the two essential types of strategic stability that we seek."

There is no question in my mind that strategic arms limitation agreements are indispensible if we are ever to achieve this kind of strategic stability.

The value of arms limitation is much more obvious when we consider how indefatigably we and the Soviets have pursued the other path—only to secure a stalemate. We kicked off the nuclear weapons age in 1945 and outdistanced the Soviets throughout the 1950s. We maintained both a quantitative and qualitative lead in the 1960s, and we still hold a qualitative lead. But from the start, the Soviet catch-up has only been a matter of time.

In 1966, the Soviet Union had 244 Intercontinental Ballistic Missiles (ICBMs). We were then approaching our present total of 1,054 land-based ICBMs. The Russians had 29 Submarine-Launched Ballistic Missiles (SLBMs) and we had almost finished our program of 656 such missiles.

In the late 1960s, with forces more than adequate for deterrence, we decided to stick with our missile totals, at least for the near future. Meanwhile, the Soviet Union was coming from behind, and its land-based missile force exceeded ours by the end of the decade. Their submarine force grew larger than ours a few years ago.

But we were not idle while the Soviet Union was increasing its missile totals. In 1970, we began installing multiple independently targetable re-entry vehicles (MIRVs)—a technical name for strategic warheads—atop both our land-based Minuteman missiles and our submarine-based Poseidon missiles. (We also installed a less sophisticated multiple warhead on our Polaris submarine missiles.) The Soviet Union did not start MIRVing its land-based missiles until 1975 and only recently acquired the ability to deploy MIRVs on submarine-based missiles. By comparison, every one of our submarine-based ballistic missiles boasts a multiple warhead.

As a result of our earlier start and better technology, we presently possess more than twice as many deliverable strategic nuclear warheads as the Soviet Union. Our analysts tell us that we will maintain a warhead lead for the foreseeable future.

Some discount this lead by pointing out that the Soviets have developed generally larger ICBMs and more of them—about 1,500 compared to our 1,054. They have also installed more submarine-launched ballistic missiles, although we have built more bombers. The total forces, as measured by the number of strategic delivery systems, compare at more than 2,500 for the Soviets to about 2,100 for us. But the numerical disparity is not in itself a cause for concern since our current forces are capable of hitting twice as many targets as theirs, with a punch many times larger than the blast which destroyed Nagasaki and Hiroshima.

A BETTER ALTERNATIVE

To understand why we should welcome the prospective new treaty now being negotiated, we should look at some of the contemplated controls and limitations. We should also consider both the added cost and uncertainty that would face us without a new treaty.

The basic element of a new SALT package will be a treaty to last until 1985, which will establish certain ceilings on overall strategic delivery systems, as well as sub-limits on missiles with MIRVs, upon heavy bombers carrying cruise missiles, and upon land-based MIRVed ICBMs. The second component will be a protocol applying temporary additional limitations until around the end of 1980. The third component will be a statement of principles and guidelines for SALT III.

The emerging three-part SALT agreement would hold many benefits for the national security interests of the United States:

The maximum limit of 2,250 on strategic delivery systems will force the Soviet Union to dismantle about 300 of its missiles and/or bombers. This reduction is even more striking by comparison with what the Soviets might add without SALT. The Department of Defense projects more than 3,000 Soviet strategic weapons by 1985, without a treaty. If so, then we can correctly credit SALT II with removing the threat an additional 300 Soviet intercontinental bombers and/or ballistic missiles would pose. By contrast, the ceiling will not force us to make any reductions in the number of our strategic weapons. Indeed, if we choose to do so, we can add new weapons in sufficient number to equate our total force with that of the Russians.

The ceiling of about 1,200 on missiles with

MIRVs will constrain the United States only

the United States of building a maximum

dollars have been spent on this program

ing for employment, and this has caused

During their recent review of

MIRVs will constrain the United States only slightly. However, it will hold the Soviet side to a total hundreds below what we believe they would otherwise install.

We benefit most immediately from the expected allowance above the MIRV ceiling of 120 heavy bombers equipped with air-launched cruise missiles (ALCMs), as we are well along with our cruise missile program.

Since a far smaller proportion of our forces are on land, the Soviet side will be most affected by the limit of 820 on land-based ICBMs with MIRVs. Our intelligence believes that the Russians would deploy hundreds more land-based missiles with MIRVs by 1985 without a treaty.

The treaty limitations may cause the Soviets to give greater emphasis to seabased forces at the expense of land-based forces, a move which will be inherently less threatening and more stabilizing.

The mobile missile provisions in the protocol are decidely in our interest. A Soviet mobile missile now ready to be deployed, the SS-16, would be banned for the period of the protocol, while the development of our own mobile missile, the M-X, would not be constrained, should we decide to proceed with it.

The cruise missile provisions in the protocol will allow us to proceed as quickly as we are able with cruise missile development and deployment. The Soviets will not derive similar benefits, since they have no comparable program.

Against this background, one might ask, what is in this package for the Soviet Union that does not increase the danger to us?

First, the land-based missile forces of the Soviet Union possess a greater throw-weight in megatonnage than the comparable forces of the United States. This will compensate them for the threat posed by us of our far superior submarine missiles and our larger force of penetration bombers with ALCMs. Second, SALT II, by incorporating the principle of equal aggregates, will acknowledge the fact that the Soviet Union has become the relative equal of the United States in strategic nuclear arms. Third, the new agreement will save the Russians—as it will us—the heavy financial burden and the needless diversion of resources which would be entailed in an unrestrained continued competition.

To sum up, in no case will SALT II cause the United States to yield any advantage whatever to the Soviet Union in strategic nuclear arms. On the contrary, SALT II will leave the United States relatively better off, for the life of the treaty, than it would be if there were no treaty and each side continued to proceed through 1985 according to current plans.

Obviously, if there were no SALT II agreement, the United States would not sit still, militarily. If the Russians continued to expand their strategic force at the current rate, we could expect upward revisions in our own military budget.

Even if the Russians did not step up their own strategic program in the event of a SALT breakdown, the United States would have to spend an extra $20 billion, at the very least, between now and 1985, just to maintain the relative force strength that would be guaranteed by SALT II. This amount would cover the construction of 100 FB-111 bombers and modernization of existing ones, the deployment of additional sea-launched cruise missiles, the replacement of the remaining 450 Minuteman IIs, with MIRVed Minuteman IIIs, and the installation of more ICBMs.

If, in addition, we were to speed up development of the M-X mobile missile by two years, and restart the B-1 bomber program, we would have to pile on another $24 billion over the next 10 years. The Senate Budget Committee staff has estimated that over 13 years, the incremental cost to the United States of building a maximum force reasonably envisioned in the absence of a SALT agreement could be $90 to $100 billion!

The willingness of the American people to bear whatever cost is necessary is not in doubt, nor is the ability of our military to keep pace with the Russians. The question is, why should we pour additional billions of dollars for defense into a federal budget already deep in deficit and further inflame inflationary pressures, when precisely the same measure of security can be achieved by concluding a sensible arms agreement with the U.S.S.R.?●

THE HUMPHREY-HAWKINS BILL

● Mr. GARN. Mr. President, S. 50, the Full Employment and Balanced Growth Act of 1978, better known as the Humphrey-Hawkins bill, has been ordered reported from the Banking Committee with several changes from the earlier Human Resources Committee version. I must say that the Banking Committee made a number of significant improvements in S. 50, the most important of which was the inclusion of a goal of a zero rate of inflation to share the spotlight with the goal of full employment in the designation of national priorities. Indeed, the goals of a balanced budget, the reduction of the percentage of the gross national product accounted for by Federal spending, greater attention to the trade and balance-of-payments problem, and a better articulated agricultural policy are all quite useful improvements in the bill which the committee received. Nevertheless, the Humphrey-Hawkins bill represents an approach to Government which I (and a number of my colleagues) feel impelled to reject.

The basic underlying assumption of the Humphrey-Hawkins bill is that the major cause of our Nation's economic ills—particularly unemployment—is the lack of coordinated planning by agencies of the Federal Government charged with economic policy. To remedy this assumed defect, the bill directs planning and coordination on an unprecedented scale.

If you begin with the wrong assumption, as I would argue that the Humphrey-Hawkins bill does, then the remedies inevitably will be irrelevant to the problem. Worse still, those remedies may even compound the problems with which our Government seeks to cope.

Lack of economic planning is not a major source of our unemployment problem. Rather, it could be argued that unemployment has resulted from misdirected (and perhaps, too well coordinated) Federal programs, which have created disincentives to invest in the private sector and generally have impeded the free market forces essential to a healthy economy. What is needed is not more Government programs and the resultant greater Government monopolization of the capital markets. Rather, the need is for an elimination of impediments to the free flow of capital into useful and productive enterprises.

Counterproductive tax and regulatory policies have created a situation in which the rate of capital formation in the United States is the lowest of any of the industrialized nations of the West. Our productivity is growing far slower than that of our major trading rivals. These are serious and potentially crippling problems which go to the heart of the questions that this bill purports to address. Yet, S. 50 pays mere lip service to the creation of incentives for private capital formation. No specific programs are adumbrated. Indeed, this bill is an excuse for inaction on this front, calling for all sorts of good results from the executive branch but offering only public service employment as the alternative when those results fail to materialize.

Mr. President, I say that it is time for Congress to stop asking the Executive to make the current economic system work and start modifying the counterproductive tax and regulatory system structure in such a way that the economic system itself will have an opportunity to create useful and productive employment.

It is disheartening to note that in terms of programmatic content the major thrust of this bill is still toward public service employment, albeit on a standby basis. One might have hoped that our bad experiences with CETA (Comprehensive Employment and Training Act) programs would have chastened Congress to avoid any long-term commitment to public service employment. Yet title II of the bill mandates expansion of CETA programs and other countercyclical measures, if after 2 years from the enactment of the bill the President determines that such programs are necessary to help achieve the goals and timetables for the reduction of unemployment.

This approach will not solve the unemployment problem in any meaningful way. Instead, it is likely to compound the problem by increasing the Federal deficit to finance such programs (something the Banking Committee's version of S. 50 directs the President not to do). Any major increase in the deficit would draw off funds from the private sector which might otherwise have gone into job-creating investments in plant and equipment. A vicious circle is created thereby, with public service employment created to reduce the rate of unemployment but those very programs undermining private sector employment opportunities, thus worsening the unemployment problem over the longer run rather than alleviating it.

Mr. President, CETA was created to cope with the problem of structural unemployment, to provide individuals—particularly the so-called hard-core unemployed—with the training and skills to become meaningful members of our Nation's work force. But in his testimony before the Banking Committee, Secretary Marshall himself acknowledged that, as it stands, the present CETA program is not adequate to cope with the massive increase in public service employment and training programs envisioned in S. 50. He was optimistic that it can be made so. Based on past experience, however, I see no reason for optimism.

Almost daily, the American people are treated to a litany of CETA abuses and mismanagement recounted in the media. Tens of billions of taxpayers'

dollars have been spent on this program since its inception. Currently, it is a poorly managed $11 billion program. There is no telling how large it might grow if Humphrey-Hawkins becomes law.

The question needs to be asked: How many more jobs could have been created if such funds were provided to private industry in the form of tax relief or incentives? Almost certainly more jobs, and even more importantly, more productive employment and more useful job skills, could have been created by going the route of encouraging the private enterprise system to function at its full capacity. That is, however, a "road not taken," and I fear that title II of S. 50 is an invitation to even greater emphasis on public service employment and more of the same dead end, make work approach.

The ultimate question concerning S. 50 is why, if it is possible to enact programs to reduce unemployment to 4 percent or lower, without inflammatory impact, have not such programs been put into effect by the administration already? The converse of that question is that of whether legislating mandated goals for the administration to meet will have any appreciable effect on unemployment, given the present state of economic knowledge. If the administration cannot achieve low unemployment levels in the absence of congressional prodding, will such prodding have much appreciable effect? And what will Congress do, other than creating public service jobs, if the administration fails to achieve the prescribed goals?

There is the very real danger of raising expectations among the poor and disaffected only to dash them once more. If the unemployment goals are not achieved, and Congress balks at massive public employment programs as called for in the bill, then there is the likelihood of a feeling of betrayal among the poor and minorities. It has been argued that one of the major causes of the urban riots in the late 1960's was the disappointment and disillusionment resulting from the failure of the Great Society and the civil rights movement to change the life of the average ghetto dweller. Why do the proponents want to run that risk once more by indulging in the posturing and promises entailed in this bill? It is little more than a cruel hoax.

Despite all of the obstacles and counterproductive tax structures, the American economy has performed surprisingly well with regard to the production of jobs since the last recessionary trough. Since the first quarter of 1975, 12.6 million new jobs have been generated. During 1977 alone, 4.1 million new jobs were created. Currently, almost 59 percent of the working age population is employed, which is a greater percentage than the average employed during the 10 years of so-called full employment since World War II. In other words, both in absolute numbers and as a percentage of the working age population, more Americans are working today than the average of what are considered to be the best employment years of recent times. But, at the time, more people than ever are looking for employment, and this has caused the unemployment rate to rise.

Mr. President, I am not arguing that the country never had it so good. But I am saying that there is no reason for panic or for new and comprehensive legislation which would prescribe remedies for a disease that has not yet been adequately diagnosed. The ills of the American economic system are genuine enough. But, as I have argued, my prescription would be radically different from that found in the Humphrey-Hawkins bill. A transfusion for the private sector not the public sector is what the situation demands.

Mr. President, I ask that an article by Michael Kiernan in yesterday's Washington Star, revealing the latest evidence of CETA abuse, be printed in the RECORD.

The article follows:

FURTHER CETA ABUSES CITED IN DISTRICT

(By Michael Kiernan)

D.C. manpower officials have discovered hundreds of examples of sloppy bookkeeping and possible favoritism throughout the District's federally financed public service jobs program.

The new evidence of abuse and mismanagement in the District's use of federal funds under the Comprehensive Employment and Training Act goes well beyond hiring abuses that the D.C. City Council has already been accused of, city officials say.

The amount of federal funds spent on CETA workers questionably hired throughout the District could total several million dollars, one official estimated.

The CETA program is designed to train and provide temporary jobs for the most desperately unemployed.

Major irregularities uncovered by D.C. manpower officials in the CETA program include:

Several hundred examples of poor bookkeeping, including at least 129 cases in which no employment records exist to document the hiring of CETA employees now on the payroll.

Scores of examples of written requests for specific people by ranking city officials and heads of non-profit, community-based organizations in an attempt to "pre-select" CETA workers and circumvent normal hiring procedures.

An unspecified number of cases in which suburbanites, rather than city residents, have worked under the District's CETA program.

National, CETA is an $11 billion federal program. Of the $48 million the District is due to receive this year in CETA funds, $25 million is expected to go to 3,400 public service employees and the rest for job training and the employment of disadvantaged youth.

Controversy over the District's use of CETA funds surfaced last March when a Washington Star investigation found that the City Council had made extensive and at times illegal use of the program's money to create one of the largest city council staffs in the country.

Nearly half of the council's staff—60 of 130 employees—are CETA workers.

Last month a team of investigators from the U.S. Labor Department verified The Star's findings and demanded that the council justify the spending of hundreds of thousands of dollars in CETA funds since January 1975. The council's response to that report is due this week.

Meanwhile, in light of the Labor Department's report, city manpower officials have stepped up their own efforts to put all of the District's CETA employment records in order.

During their recent review of seve thousand CETA files, manpower offici came across numerous irregularities in oth city agencies besides the council.

"The Council's abuse of CETA's publ service jobs program was just the tip of t iceberg," said one source in the District newly created Department of Labor.

"CETA abuses have taken place in numer ous agencies, both in the District gover ment and in the community-based organ nations, and we're just beginning to get handle on them," said the official, who asked not to be identified by name.

Asked to comment on the recent man power findings, Lorenso White, acting de uty director of the D.C. Labor Departmen insisted yesterday that the District's CET program has vastly improved during the la year and that the recent findings represen "only a small part of the overall picture."

In addition, said White, the District "well on its way toward installing a compu erized system that will monitor and cate any (future) irregularities."

White agreed, however, that the findin were significant. "These problems are n something we can just dismiss out of han They are serious. We're concerned. We're d ing our best to clean it (the program) up

In their review of records for more th 5,000 past and present CETA employee D.C. manpower officials have found the fo lowing:

Hundreds of examples of poor bookkee ing: Among current CETA workers, 379 r cently were found to have incomplete em ployment records. Of these, 129 had no ver fied employment records at all on file. Fai ure to maintain such records is a direct vi lation of CETA guidelines.

The sloppy record keeping raises seriou questions about the eligibility of those wh apparently got CETA jobs without going the city's manpower office to fill out jo forms.

"This kind of thing is supposed to be im possible under the CETA guidelines, but he you have numerous examples of people hire apparently without ever filling out the prop employment forms," said one manpow official.

Scores of examples of possible favoritism D.S. manpower officials have uncovered least 82 letters requesting that 150 individ uals be assigned to specific CETA jobs.

Of the 82 letters, called "name referrals 21 came from the City Council, 22 from othe city agencies and 39 from non-profit, com munity-based organizations.

Though not always illegal, this practice selecting CETA workers with name requests widely regarded by U.S. Labor investigators a a red flag signaling favoritism and possibl political patronage.

The latest review shows that the Cit Council was only one of a number of CET agencies that engaged in the controversia practice.

An unspecified number of suburbanite working under CETA in the District: Rank ing manpower officials say they have un covered evidence that Maryland and Virgini residents are working under the District CETA program, which is supposed to al unemployed city residents.

According to manpower officials, city CET workers must reside in the District at th time of their employment, but manpower offi cials say they have found a number of in stances in which CETA workers have move from the District to the suburbs once the obtained their D.C. CETA jobs.

"We are currently reviewing our policy to ward these workers," said White, adding tha the CETA program clearly is designed to al city and not suburban residents.

Meanwhile, other manpower officials sa that some CETA workers have always lived i the suburbs. "We suspect that some give u

phony city addresses to get into the program, but it's usually difficult for us to find this out," said one official.

Last month, in its report on the City Council's CETA program, the U.S. Labor Department's regional office in Philadelphia demanded that the council justify all money paid to council CETA workers hired under questionable circumstances, including those who were hired without proper documentation.

How the regional office will react to similar findings in other D.C. agencies remains unclear as the District government prepares to respond to last month's report.●

IN SUPPORT OF A COMPREHENSIVE TEST BAN

● Mr. KENNEDY. Mr. President, last May I had the opportunity to participate in the strategic arms limitation and comprehensive nuclear test ban negotiations in Geneva. I was impressed with the administration's steady progress in negotiating a CTB treaty with the United Kingdom and the Soviet Union. This progress is reflected in growing diplomatic prospects for negotiating a CTB Treaty with the United Kingdom and the Soviet Union this year. Such a treaty is expected to be submitted to the Committee on Disarmament and the U.N. General Assembly before it is open for ratification, perhaps as early as mid-1979.

By the end of this decade, we will have the opportunity to complete the process begun with the Limited Test Ban Treaty, which was concluded at the beginning of the last decade under President Kennedy. A comprehensive nuclear test ban would be a major achievement for President Carter, who has been consistently committed to ban all nuclear testing for as long a period as possible. It would represent a significant qualitative constraint on the arms race among the nuclear powers. And it would represent a major opportunity to prevent the further spread of nuclear explosive capabilities—through a nondiscriminatory treaty adhered to by nuclear-weapon states and non-nuclear-weapon states alike.

Faced with this prospect of diplomatic success, the nuclear testing buffs have been scrambling for arguments to forestall the day when the United States will stop exploding bombs. Some of the most determined advocates of nuclear testing can be found in the bureaucracy of nuclear testing based on our nuclear test programs—within the Department of Energy and in DOE's nuclear weapons laboratories.

Unfortunately, the nuclear testing bureaucrats continue to work against a CTB Treaty, against our best national interests and despite the administration's clear commitment to this objective. Just 2 days ago, the Acting Assistant Secretary of Energy, Donald Kerr, testified that without nuclear tests—

confidence in the nuclear stockpile, in our best judgment, would degrade. Entire weapons systems would have to be deleted from the force structure, systems for which we now see no alternative . . . a total cessation of testing in the long run would inevitably result in a steady decline of our confidence in the reliability of our nuclear deterrent and risk a steadily growing asymmetry between US and Soviet military forces.

Not only are these statements which undercut the President's policy, but they amount to a gross misrepresentation of the implications of a CTB for our national security. The fact is that a CTB can be achieved without any significant degradation of our nuclear weapons stockpile. A CTB will serve to freeze nuclear technology—which is presently clearly in favor of the United States.

To demonstrate this, I am joining with the Federation of American Scientists in releasing a letter to the President from leading nuclear weapons experts in the United States; Dr. Richard Garwin, Dr. Noris Bradbury, and Dr. J. Carson Mark, joined by Dr. Hans Bethe. Their letter states unequivocally that under a CTB we can "provide continuing assurance for as long as may be desired of the operability of the nuclear weapons stockpile."

On the basis of my own review, I fully agree with these experts that safeguards programs short of nuclear testing can and should assure the integrity and reliability of our nuclear weapons stockpile. If there remain valid concerns despite all the evidence, they can surely be resolved by a review provision which permits the United States to take any stockpile impact into account before deciding to extend the duration of a CTB treaty.

Furthermore, a comprehensive test ban will not put U.S. strategic forces at a disadvantage vis-a-vis the Soviet Union. If anything, the reverse is the case, for a CTB would serve to preserve prevailing U.S. advantages in nuclear weapons design. Adm. Thomas Davies of the U.S. Arms Control and Disarmament Agency has testified that:

One of the major national security benefits to the U.S. of a CTB is the constraint it would impose on modernization of Soviet strategic nuclear forces. It is widey recognized that the United States currently enjoys an advantage over the Soviet Union in nuclear weapons design. A mutual cessation of nuclear testing would essentially freeze nuclear weapons technology at current levels, and would therefore preserve that advantage. A freeze on Soviet nuclear weapons technology, by inhibiting improvement of the yield-to-weight ratios of Soviet warheads, would prevent the Soviets from taking full advantage of the large throw-weights of their land-based missiles and from putting the much smaller throw-weights of their submarine-based missiles to more efficient use.

Mr. President, I request that the full text of the letter from and background information on Dr. Garwin, Dr. Bradbury, and Dr. Mark be printed in the RECORD. Their letter was subsequently reviewed and endorsed by Nobel Laureate Hans Bethe and by the Federation of American Scientists, about whom further information is also provided following the letter.

The material follows:

AUGUST 15, 1978.

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As individuals long involved in the conception, design, manufacture, test, and maintenance of many of the United States' nuclear and thermonuclear weapons, we want you to know of our judgment on a question which has assumed considerable prominence in connection with the Comprehensive Test Ban Treaty ("CTBT"). That is the question of the degree of assurance in the continued operability of our stockpiled nuclear weapons in the absence of any possibility of testing with significant nuclear yield (for instance, with testing limited to laboratory-type experiments.)

As you know, the assurance of continued operability of stockpiled nuclear weapons has in the past been achieved almost exclusively by non-nuclear testing—by meticulous inspection and disassembly of the components of the nuclear weapons, including their firing and fuzing equipment. Problems encountered in this inspection are normally validated by additional sampling and solved by the remanufacture of the affected components. This program is, of course, supplemented by the instrumented firing of the entire nuclear weapon with inert material replacing the fissile materials, and the entire program thus far described would be unaffected by the requirements of a CTBT. It has been exceedingly rare for a weapon to be taken from stockpile and fired "for assurance."

It has also been rare to the point of nonexistence for a problem revealed by the sampling and inspection program to require a nuclear test for its resolution. There are three acceptable approaches to the correction of deficiencies without requiring nuclear testing:

(1) Remanufacture to precisely the original specifications.

(2) Remanufacture with minor modifications in surface treatment, protective coatings, and the like, after thorough review by experienced and knowledgeable individuals.

(3) Replace the nuclear explosive by one which has previously been tested and accepted for stockpile.

A fourth option, to replace the troubled nuclear system by one not already proof-tested may result in improved performance, lesser use of special nuclear materials, or the like, virtues which have more to do with improvement of the stockpile than with confirming its operability.

We believe that the key question to be answered by those responsible for making and maintaining nuclear weapons is

"Can the continued operability of our stockpile of nuclear weapons be assured without future nuclear testing? That is, without attempting or allowing improvement in performance, reductions in maintenance cost, and the like, are there non-nuclear inspection and correction programs which will prevent the degradation of the reliability of stockpiled weapons?"

Our answer is "yes," and we now discuss the reasons why knowledgeable people may have answered "no" to seemingly similar questions.

First, we confined ourselves essentially to the question, "If the stockpile is not required to improve, can it be kept from degrading?" Others may have had in mind the normal work of the weapons laboratories, by which nuclear weapons are continuously made somewhat more efficient, less costly in terms of nuclear materials, adapted to new packaging requirements, and safer to handle—for instance by the substitution of insensitive explosion. We have participated in such programs and find them both interesting and useful. Were these "improvement programs" carried out long enough without nuclear testing, the weapons thus affected would indeed have uncertain performance; the solution under a CTBT would be to forego such programs in order not to sacrifice stockpile reliability to a desire for minor improvement in performance.

Second, it is true that certain deficiencies have in the past been corrected by the replacement of the affected nuclear system by another one, following a test certifying the replacement model as ready for stockpile.

This corrective measure would not be available under a CTBT. But the examples normally cited need not have been corrected in this way; for instance one Polaris warhead problem could readily have been solved by remanufacture with an acceptable change of surface treatment on the component which had caused the problem. The change of nuclear system was not absolutely necessary for the correction of the problem observed.

Finally, it is sometimes claimed that remanufacture may become impossible because of increasingly severe restrictions by EPA or OSHA to protect the environment of the worker. We note that additional protective measures which might be an intolerable cost burden in the manufacture of cardboard or of lightbulbs or of aircraft breaks are easily affordable in connection with the nuclear stockpile. Thus if the worker's environment acceptable until now for the use of asbestos, spray adhesives, or beryllium should be forbidden by OSHA regulations, those few workers needed to continue operations with such material could wear plasticfilm suits (supplied with external air) commonly used for isolation against germs and against certain pharmaceuticals. It would be wise also to stockpile in appropriate storage facilities certain commercial materials used in weapons manufacture which might in the future disappear from the commercial scene.

It has been suggested that under a CTBT a President or Congress or the Department of Energy might not provide funds for stockpile maintenance inspection and correction, or that a President might not provide a requested exemption from OSHA or EPA requirements. We see no reason to assume that the national security bureaucracy will not continue to serve the national interest, and we would welcome a statement in conjunction with a CTBT that non-nuclear testing, inspection, and remanufacture where necessary will be fully supported in order to ensure the continued operability of stockpiled nuclear weapons.

We believe that the Department of Energy, through its contractors and laboratories, can through the measures described provide continuing assurance for as long as may be desired of the operability of the nuclear weapons stockpile. We are making this statement available to others in the Executive and the Congress.

Sincerely Yours,

J. CARSON MARK.
NORRIS E. BRADBURY.
RICHARD L. GARWIN.

BACKGROUND

Hans Bethe is a Nobel Laureate and one of America's most senior experts in nuclear bomb technology. Connected with Los Alamos scientific laboratory since World War II, he was a key adviser to President Kennedy in the scientific debate that led to acceptance of the Limited Test Ban Treaty in 1963.

Norris Bradbury was the immediate successor to Robert Oppenheimer when, in 1945, Dr. Bradbury became Director of the Los Alamos scientific laboratory and served in that capacity for a quarter of a century until 1970. A physicist and member of the National Academy of Sciences, Dr. Bradbury was also Professor of Physics at the University of California during this period and is a recipient of the Legion of Merit and of the Fermi Award.

Richard Garwin has been a consultant to the Los Alamos Laboratory for almost three decades, since 1950, and is highly regarded in the national security community for his in-depth technical analyses of an extremely broad range of defense issues. A physicist and member of both the National Academy of Sciences and the National Academy of Engineering, he has served as a member of the President's Science Advisory Committee, as a member of the Defense Science Board and as a consultant to the Arms Control and Disarmament Agency, among other agencies.

J. Carson Mark was head of the Theoretical Division of the Los Alamos Scientific Laboratory from 1947 to 1973. This Division was responsible for, and played a key role in, the conception and design of US nuclear and thermonuclear weapons in the fifties and sixties. He continues to be involved in considerations of weapons effects and with the problem of the maintenance of a nuclear weapons capability under nuclear test limitations.

The Federation of American Scientists, founded by US atomic scientists in 1946, represents half of America's Nobel Prize winners and several thousand American scientists.●

PRESIDENT CARTER'S VETO OF THE MILITARY PROCUREMENT AUTHORIZATION BILL

● Mr. BARTLETT. Mr. President, President Carter's decision to veto the military procurement authorization bill is extremely disappointing, not only for its immediate impact—the rejection of a number of urgently needed defense programs—but for what his decision represents.

The President's decision today is the latest stage in the evolution of a curious, and I believe dangerous, new brand of foreign policy, a foreign policy which relies solely on political rhetoric, to the exclusion of a more fundamental and essential instrument of foreign policy—military strength.

In his public statements, President Carter has portrayed himself as being tough, firm, and determined in the area of foreign and military policy. His actions, however, have exposed this sham. The President's documented record is clearly one of weakness and indecision.

On March 30, 1977, after the collapse of Secretary Vance's Arms Talks in Moscow, President Carter announced that he would "hang tough" in his negotiations. "We put together a package which was fair and balanced. But we are not prepared to unilaterally forego an opportunity unless it's equivalent to a Soviet response," the President said. Three months later, Mr. Carter took the unilateral action of halting production of the B-1 bomber. There was no equivalent Soviet response.

On March 16, 1978, in a major national security statement at Wake Forest University, President Carter proclaimed that "strength is the final protection of liberty." The President said:

Even as we search for agreement in arms control, we will continue to modernize our strategic systems and to revitalize our conventional forces . . . by maintaining strategic nuclear balance; by working closely with our NATO allies to strengthen and modernize our defense in Europe.

Less than a month later, President Carter decided against proceeding with production of the enhanced radiation warhead—a weapon that is urgently needed for upgrading the defense of our NATO allies.

During his term, this President, who proclaims that "strength is the final protection of liberty," has also slashed the defense budget recommended by his Defense Secretary, terminated the Mi uteman III program, canceled pla to upgrade the Minuteman II, twice de layed the MX missile, and taken a mu titude of other actions which have di rectly undermined our national securit

On June 7, 1978, in another major ad dress at the U.S. Naval Academy, h promised that:

The United States will continue to mai tain equivalent nuclear strength . . . We w maintain a prudent and sustained level military spending, keyed to a stronger NAT more mobile forces, and undiminished pre ence in the Pacific. We and our allies ma and will be able to meet any foreseeable cha lenge to our security from either strateg nuclear forces or from conventional force

One wonders how this message mu have been received by our allies—tho in Western Europe, for example, wh were still recovering from the shock o the President's decision against the en hanced radiation warhead, or those i the Pacific who are faced with th hasty withdrawal of American groun forces from South Korea.

I think, it is safe to say that our a lies were not reassured by the President hardline rhetoric. I am certain that ou adversaries were not impressed.

I believe, as Teddy Roosevelt sug gested, that in world affairs, Americ should "walk softly and carry a bi stick." President Carter, on the othe hand, seems to be saying America shoul walk noisily and throw away the bi stick.

In the Soviet Union and elsewhe around the world, President Carter being judged not by his words, but b his deeds. The President's decision tode to veto the military procurement autho ization bill can only reconfirm the judgment that the United States is grow ing weak and indecisive, careless, an vulnerable.

The administration's policy of de pendence on political rhetoric, to the ex clusion of actual defense preparednes will place America at a grave disadvan tage if, on some future date, the Pres dent is called upon to either back up h rhetoric, or back down.●

CINCINNATI HOLDS ITS OWN

● Mr. METZENBAUM. Mr. Presiden in this day of the virtual economic co lapse of many of our major cities, it rare that we hear of a city that is act ually holding its own against the enemi all cities face: inflation, crumbling ba bases, and rising operating costs. Re cently, Mr. William V. Donaldson, th city manager of Cincinnati, Ohio, test fied at a House committee hearing in the financial problems of our cities. H explained how, with prudent manage ment, fiscal responsibility, and, perhap most important of all, increased publ participation, the city of Cincinnati ha been able to maintain a strong financia standing in these difficult times. I thin it would be wise to note some of the pro grams Mr. Donaldson is using to kee Cincinnati financially afloat.

In an article appearing in the Augu 15 edition of the Washington Post, co

umnist Neal R. Peirce noted the fact that

who lived there." Citizens were told if they

creased production. Last year, BSC lost

umnist Neal R. Peirce noted the fact that city employment had been reduced by 2,000. Also, the city has adopted a policy of asking the citizens to do more for themselves, and be less reliant on the city. To the credit of the citizens of Cincinnati, this program has been very successful, Mr. Donaldson has also instituted programs designed to motivate the city employees, and make more efficient use of their time. These policies are major ingredients in the success of Cincinnati.

Mr. President, in view of the remarkable record of Mr. Donaldson, and the people of Cincinnati, I ask that Mr. Peirce's article entitled, "Cincinnati's Entrepreneur-Manager" be printed in its entirety in the RECORD.

The article follows:

CINCINNATI'S ENTREPENEUR-MANAGER

(By Neal R. Peirce)

CINCINNATI.—When House Banking Committee Chairman Henry Reuss called hearings on what cities can do to cut costs and ward off Proposition 13-like taxpayer revolts, he selected Cincinnati's city manager, William V. Donaldson, as one of his witnesses.

The choice couldn't have been more appropriate. Donaldson, now 47, has licked successive obstacles over a colorful career. He started as a theological student in Toronto, worked as a night embalming clerk in Denver and served as city manager of Scottsdale, Ariz., and Tacoma, Wash. He shuns conventional approaches like a plague. Under his management, while such cities as Cleveland and Buffalo struggle to avert massive deficits and others survive only through massive tax increases that may trigger taxpayer revolts, this grand old Ohio River city has held its budget increases to about half the inflation rate—even while imposing no new taxes.

The Donaldson formula ranges from payroll freezes to sophisticated management improvements and motivating city workers to improve productivity. And Cincinnatians have been told that if they want expanded services, they'll have to do much more for themselves.

Donaldson's job has been lightened by Cincinnati's traditional German conservatism and 50 years of professionally managed city government. But when he took over in 1975, fiscal storm clouds were gathering. The city had overestimated its payroll-tax yield and underestimated inflation's impact. "It's inflation," notes Donaldson, "that kicks the —— out of city budgets." A $15-million deficit was looming.

The city council asked citizens to vote a payroll-tax hike; they refused. "That was our Proposition 13," says Donaldson. It was time to recognize, he said, that Cincinnati—like many Northern and increasing numbers of Sun Belt cities—"was getting smaller" and needed to reduce its government.

Donaldson started by halting new hiring; though some replacements are now allowed, the permanent work force has dropped from 9,200 to 7,300. Then he started looking for longer-term solutions. Several deserve emulation in other cities:

Enlisting citizen aid. Donaldson believes citizen participation too frequently boils down to citizens "yelling" at city government to provide new services or pick up the garbage more often. City councils, short on resources, often respond by playing one neighborhood off against another. Now Cincinnati says to its citizens, "What are the things, with minimal city assistance, that you can do for yourselves?"

Responding to neighborhood complaints about unclean streets, Donaldson noted: "It wasn't somebody from Mars that threw that stuff in the neighborhood. It was the people who lived there." Citizens were told if they really wanted cleanups, the city would provide public-service workers as "whitewings"—the people who push buckets along with brooms—provided neighborhoods would finance their uniforms and agree to keep track of their time.

Motivating the civil service. City governments "get in terrible trouble," he says, because workers "get off doing their own little thing and never see how that relates to what everyone else is doing." An example: A zealous health inspector treats a violator as "a terrible scofflaw" and won't counsel him on meeting code standards. Then the violator closes his business, and the tax base is weakened. Government, says Donaldson, is "miserable at telling people 'no' nicely and giving them the idea we're here because we want to help them."

To set a fresh, positive tone, Donaldson removed the door from his personal office and rotates two middle-management workers in and out of his office—with desks adjacent to his own—every two months. In quarterly two-day seminars, department heads who've engineered management breakthroughs relate their successes and methods to their colleagues. Donaldson tries to involve workers in developing new approaches. "If they're going to have to run it, they'd better be part of developing it," he says.

Productivity measures. With help of a labor-management committee, Cincinnati's highway maintenance department rescheduled its work crews, substituted labor-saving trucks, increased its work output despite personnel cuts. The sanitation department got rid of garbage trucks prone to breakdowns. With General Motors' help, the city developed specifications for new trucks with high capacity compactors that cut down the city's landfill fees.

Because officials have short terms, says Donaldson, cities often defer maintenance of streets and other facilities and fail to replace outmoded equipment that is unduly expensive to operate. But Cincinnati, with city council backing, is now making timely replacements and concentrating its capital budget "on maintenance of what we have."

Finally, Cincinnati is knee deep in economic development. It provides technical information to businesses so they'll stay put, promotes new service jobs for blue-collar workers, encourages downtown development—including relatively expensive new housing—to make the retail core secure and attractive for shoppers.

Donaldson makes no apologies for the city acting as entrepreneur. Cities, he observes, started out as promotional enterprises, exploiting rivers, highways or railroads. "But somehow we changed into being Giant Janitors," he says. "We picked up the trash, locked up the bad guys and put out fires. If cities are going to come back, they've got to become entrepreneurial again."●

BRITISH STEEL CONTINUES TO IGNORE ECONOMIC REALITIES

● Mr. HEINZ. Mr. President, there is general agreement that the productive capacity of the world stainless steel market exceeds demand. In spite of this situation, the British Steel Corporation (BSC) undertook on July 14, 1978 a $220 million investment program that will double the stainless steel productive capacity of BSC Stainless from 100,000 to 200,000 tons per year.

This project has serious implications for U.S. stainless producers not only because BSC is heavily subsidized by the British Government, but also because BSC Stainless expects to maintain its present level of exports under the increased production. Last year, BSC lost 443 million British pounds sterling, of which £30 million were directly attributable to the operations of the stainless division. The U.S. producers receive no comparable type or level of subsidy, yet they must compete in the international and domestic markets on the same basis as firms such as BSC. British Steel's total loss of more than U.S. $700 million last year has not deterred it. With government assistance it continues to compete and produce. When people in this country talk about the need to modernize and rationalize the industry, they should realize that the real need in that respect is not in the United States but elsewhere, particularly in Europe. The steel problem, therefore, is not simply an American issue, but one of rationalizing production and capacity throughout the world that will inevitably mean some hard economic decisions by several of our European allies.

I believe that Senators would benefit from the descriptions of the BSC stainless project that appeared in the Metal Bulletin (July 14, 1978) and the Financial Times (July 14, 1978), and I ask that they be printed in the RECORD.

The material follows:

BRAVERY SHOULD BRING RESULTS

(By Roy Hodson)

As the world steel recession enters its fourth year and the big international companies acknowledge there is no discernable prospect of an upturn, British Steel is commissioning in Sheffield the largest stainless steelmaking complex ever built in Europe. On the face of it the £130M investment (which was priced at £60M when the go-ahead was given in 1974) could be an unwanted baby for a nationalised industry which lost £443m last year and is expecting losses of the same order this year. Certainly it is proving a burden on the BSC Sheffield Division whose manager John Pennington says: "We have got to get the new stainless development into full operation and profitability because at present it is a major drain on the division." The division lost £30m in the last financial year—attributable to a large degree to servicing the new stainless investment capital.

Yet, paradoxically, British Steel has probably done exactly the right thing by pressing ahead with its big investment in stainless steelmaking. For stainless is one of the few growth areas that the marketing men can look towards with any degree of certainty. The growing sophistication of industrial equipment and consumer goods means that demand for stainless will grow faster than the general growth of steel demand in all industrialised societies. Indeed, the growth in stainless demand in Britain is virtually certain to be ahead of that of the rest of the world during the next few years because Britain's usage of the metal has lagged over the last decade.

A second reason why boldness is likely to pay in the case of British Steel's stainless investment is that the Corporation—already Europe's biggest steel company—is stealing a march on the competition which they will find hard to counter. In the present depressed climate with all companies facing huge losses no other European group is likely to try to match or outpace the new BSC plant.

In particular the Swedish steelmakers who have long regarded a big share of the British stainless steel market as their rightful possession acknowledge that they have not the resources to build new tonnage stainless steel production to be competitive with British Steel.

The total investment of £130m covers the establishment of two completely modernised integrated production complexes at Shepcote Lane, Sheffield, and Panteg, South Wales. Each centre is fully equipped for electric steelmaking, ingot and continuous slab casting, and cold rolling and the bright annealing. The Sheffield hot-rolled plate production facilities have been doubled in capacity.

"Frankly we are building for the long-term with this total investment and we cannot be influenced or deterred by short-term market conditions" said Derek Bray, director of British Steel Stainless—a unit which is operating with a degree of independence as a profit centre within the Corporation.

The Shepcote plants at Sheffield are based upon new stainless steel melting capacity of 350,000 liquid tonnes a year while Panteg, South Wales, contributes a further 50,000 tonnes liquid capacity. British Steel has, in fact, doubled its tonnage capability to make stainless with one investment spread over just four years.

Of the order of one-tenth of British Steel's total turnover will henceforth be in stainless steel.

The doubling of capacity is setting a hard road to follow for Gordon Hill, the stainless commercial manager and his newly-augmented sales staff. Yet there is great confidence at the Sheffield sales offices that new business can be won at home and abroad to absorb the extra output.

One lucky break for British Steel has been the Parliamentary decision in favour of the Windscale nuclear waste reprocessing facilities. That single project which will use stainless steel at a rate never seen before in Britain. Indeed, it is one strategic reason why the stainless investment was sanctioned originally.

Orders are now being placed for stainless steel for some of the first items of the £1bn Windscale project by British Nuclear Fuels. British Steel expects to supply up to 5,000 tonnes a year. Had the new Sheffield tonnage stainless facilities not been ready much of that business would necessarily have gone to Sweden, France, and other stainless steel makers.

The confidence of the stainless steel salesmen that they can make the new plant work for its living is based upon the new positions Britain is about to occupy in the world stainless steel leagues. Henceforth British Steel will be one of the senior producers of stainless hot rolled coil. The U.S., Japan, West Germany, and Sweden will still be above Britain in actual tonnages being made. So in that market British Steel is restoring itself to a strong position rather than going out on a limb with additional capacity.

PROSPECTS

In the other big stainless steel trade—cold rolled sheet and coil—Britain will still only be sixth in the table of world producers. France, Italy, West Germany, Japan, and the U.S. all will continue to have bigger capacities.

One of the brightest prospects is the opportunity now open to British Steel to build up home sales in two ways. Imports will be displaced by the provision of adequate supplies of home-produced stainless at competitive prices and good quality. Also the market itself can be expanded by simply making more home-produced stainless available. Britain still uses much less stainless steel per head of population than almost any other advanced nation.

To Sheffield—where much of the pioneer work on stainless steel was done in the early years of this century—the Shepcote investment with its new electric furnaces and the complacted installation of mills and finishing plants represents an important reaffirmation of the city as a world centre of special steels.

The site itself—actually two sites divided by marshalling yards—is within two miles of the city centre. Sheffield will not mind that, however, for equipment for extracting and cleaning fumes at every stage of the process is some of the most comprehensive ever installed by BSC.

The cleanliness of the works is remarkable. Heavy emphasis has been placed upon it, partly for environmental reasons and partly because the delicate nature of the product itself demands production without contamination. A trace of dirt can spoil the surface of a stainless steel sheet which has already passed through more than 10 different processes.

So the works is laid out in a way that gives a glimpse to other British Steel workers of the probable shape of things to come in the steel industry. Lawns are being encouraged outside the melting shop and trees have been planted.

British Steel is currently losing on average £25 a tonne on all its products and finds itself about half-way down the table of loss-making big international steel businesses. Clearly the new stainless complex will continue to be a drain in the early years as the heavy capital investment has to be serviced while sales and production are still being worked-up. But 1980–81, the year which Sir Charles Villiers, the chairman of British Steel, has set his managers as their target for returning to at least a "break-even situation," is also the year in which BSC Stainless is hoping to be achieving full production. From then on the stainless plants should be in a position to make an important contribution to BSC turnover and—more important—to BSC profits.

[From the Metal Bulletin, July 14, 1978]

BSC'S STAINLESS COMEBACK

Today the Duke of Edinburgh is to officially open British Steel Corp.'s £130m. stainless steel development programme which has been designed to put the UK back in the top half of the world stainless league. The scheme, undertaken by BSC Stainless, a profit centre of the Sheffield Division, represents a massive increase in capacity and is coming to the boil at a time of chronic over-capacity in the world stainless market.

The head of BSC Stainless, Derek Bray, described the project as the largest purpose-built stainless plant in the world and the biggest ever single injection of capital in stainless steel. The scheme will double BSC Stainless capacity by 1981 from 100,000 tpy to about 200,000 tpy, of which 50,000 tpy will be stainless plate and the balance CR sheet and coil.

The new plant at Shepcote Lane and Tinsley Park in Sheffield (the two sites are separated by a railway line) comprises, basically, a completely new melting shop, AOD vessel and continuous slab caster; two new Sendzimir CR mills together with additional processing and warehousing capacity; a new bright annealer; and additional plate finishing capacity (commissioned in 1977).

With the additional capacity BSC Stainless is hoping to double its share of the UK home market and expand exports. Gordon Hill, commercial manager, said he was looking for a 74 percent growth in the period 1976–81 and emphasised that BSC had not put in the new capacity irresponsibly. He said export manager Mike Gould had in the past four years secured good footholds in nearly every important overseas market. The profit centre had set up its own sales outlets in Germany (BSC Stainless GmbH based in Düsseldorf) and in France (BSC Stainless Sarl in Paris) and employed BSC's main sales outlets in the USA, Canada, South Africa and New Zealand. For other markets it had overhauled its arrangements with BSC sales agents.

Currently, BSC Stainless was exporting between 40–45 percent of its output and it was planned to maintain this percentage which would require it to double its sales overseas. The modern facilities now available, Hill con-tinued, would enable BSC to be cost-competitive with the world's leading stainless producers. It will allow BSC to produ 1,525mm. wide bright annealed ferritic stainless for the first time and this will also assi it to develop new outlets.

BSC is pinning a lot of its hopes on in creasing the level of consumption of stainless in the UK, which is running well belo the European average. It is mounting a b advertising campaign in both the nation press and trade and technical journals. It h hopes of increasing the use of the material what it calls mundane applications li strapping and at the same time secure "larg lump" business such as the Rover c bumper. Another area where it has hig hopes is the car exhaust business which being developed by the jointly-owned Grunc Auto Products.

The other side of its expansion plans home is the regaining of a much larger sha of the market (currently over 50 percen held by imports. Hill was asked how oth European producers would take BSC's pla to secure not only a larger slice of the U market, at their expense, and at the sam time expect a bigger part of their hom markets. He replied that it was now accepte among EEC producers that they would ha shares in each other's markets. (A descri tion of the new development will appear August's MB Monthly.)

Round Oak Steel Works has raised ba prices of non-alloy semis and rounds, squar and flats, effective July 9. The basis prices wide flats are unchanged but certain extr are increased, as are extras for other ba Quantity extras for structural sections ha also been raised.

Spanish steel industry formed one topic talks this week between a Spanish minist and EEC officials on the effects of Spani entry to the Community.●

UTILIZATION CONTROL UNDE MEDICAID—CLARIFICATION O CONGRESSIONAL INTENT

● Mr. HASKELL. Mr. President, in 197 Congress enacted legislation which re quires all States to have an effective pro gram of utilization control to review th care of patients in nursing homes an mental hospitals under the medical program. The law also provided for th imposition of fiscal sanctions in th event that a State failed to comply wit this statutory mandate.

Subsequent legislation clarified th conditions under which the sanction fo noncompliance was to be applied. Th interpretation of this statutory languag has recently become an issue betwee the State of Colorado and the Depart ment of Health, Education, and Welfar In an attempt to resolve this issue, have sought a clarification of congre sional intent from Senator HERMA TALMADGE, chairman of the Subcommitte on Health of the Committee on Finan and a principal author of the legislatio I ask that the correspondence betwee Chairman TALMADGE and myself with re spect to section 1903(g) of the Social Se curity Act be printed in the RECORD.

The letters follow:

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C., August 16, 1978.

Hon. HERMAN TALMADGE,
U.S. Senator,
Washington, D.C.

DEAR HERMAN: The Health Care Financi Administration recently notified me th Colorado may be penalized federal fundi

for its Medicaid program due to Colorado's alleged failure to comply with Section 1903 (g) of the Social Security Act. I consider such a penalty unwarranted and unnecessary at this time, for, to the best of my knowledge, Colorado is in compliance with the Medicaid program and has shown that it can and will comply with the provisions of Section 1903(g). As the Chairman of the Subcommittee on Health and a principal author of the Medicaid legislation, I think you would agree with me that the Department's interpretation of the statute is incorrect. Let me explain.

The problem grows out of the Department of HEW's interpretation of what a state would have to do to avoid the penalty prescribed in Section 1903(g). As you know, the Section requires each State to have an "effective" program of utilization control. An effective program must include an annual review of the care provided each patient in the State's Skilled Nursing Facilities, Intermediate Care Facilities, and Mental Hospitals. Additionally, each State must demonstrate every quarter to the Secretary the results of the utilization control program. HEW alleged that Medicaid reviews in Colorado were inappropriately performed during the first three quarters of 1977 and that to come into compliance with the statute, the State would have had to reperform all reviews conducted during the first three quarters of the year.

My understanding is that the Congressional intent in passing PL 95-245 was to require States to come into full compliance for inspections regularly scheduled during the last quarter of 1977. States which met this obligation would be free from the risk of penalties for the first three quarters of 1977. Assuming that a State also continued to comply after the last quarter of 1977, then no penalties would be necessary in the future.

The State of Colorado made the same interpretation of PL-245 as I do and was never informed of the contrary by HEW during 1977. Indeed, HEW, through its own action transmittal (HCFA A.T. N. 77-106) which was sent to each State, supports this interpretation. Therefore, the State proceeded in good faith with the inspections originally scheduled for the last quarter of 1977 and the first two quarters of 1978. These reviews were completed in an appropriate manner within the framework of the Act. The State has not gone back to re-do the earlier allegedly deficient inspections because of this understanding of the intent of PL 95-245.

Hoping you agree with me that the authors of this legislation would not have intended that a State be penalized under these circumstances, I propose that we submit this letter and one from you as an official exchange of correspondence for the record.

With best wishes,

Sincerely yours,

FLOYD K. HASKELL,
United States Senator.

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C., August 16, 1978.

Hon. FLOYD K. HASKELL,
U.S. Senator,
Washington, D.C.

DEAR FLOYD: Thank you very much for your letter concerning the possibility of action by the Department of Health, Education, and Welfare against the State of Colorado for alleged failure to comply with the provisions of Section 1903(g) of the Social Security Act. As an author of Section 20 of P.L. 95-142 relating to this section and the applications of penalties thereunder, I certainly agree with your interpretation that HEW action against Colorado under the present circumstances would be inappropriate and not in keeping with the intent of the law.

In passing Section 20 of P.L. 95-142, we meant to give States an opportunity to wipe the slate clean of all penalties which might otherwise be assessed under Section 1903(g) for quarters falling in 1977 if they conducted reviews of facilities in conformity with the requirements of the law in the fourth quarter. We certainly did not intend to require any state to review all facilities in the state in one quarter because the review done in the previous three quarters was in some way insufficient.

There can be no doubt that the penalty being considered now would be counterproductive and could seriously undermine the state's ability to administer a Medicaid program for its low income citizens. No one wants this to occur, and I believe it can and should be avoided.

I understand that Colorado is now in full compliance with the law, and was in compliance for all reviews conducted during the final quarter of 1977, and, therefore, it is my opinion that no penalty should be applied.

I gladly submit to the Record these remarks along with yours as an official exchange of correspondence.

Sincerely,

HERMAN E. TALMADGE,
United States Senator.●

VETO OF MILITARY PROCUREMENT AUTHORIZATION BILL

● Mr. HATCH. Mr. President, today the President vetoed the fiscal year 1979 defense authorization bill. In announcing this decision the President listed four reasons for this veto:

1. The bill contains authorization for a fourth Nimitz-class nuclear carrier, which the Administration opposes;
2. The Congress has "paid for" this carrier by reducing Administration requests for operations and maintenance;
3. The Congress has "paid for" this carrier by reducing Administration requests for so-called "NATO" programs; and
4. The Congress has exacerbated inflationary trends by voting too much money for defense.

I think that the administration has acted unwisely in this action, and not in the best interests of the defense of the Nation. Coupled with the announcement earlier in the week that the administration intended to "whip back into line" those Members of Congress that have not cooperated, this appears to be another case of the administration trying to dictate to Congress what the Congress knows it must do.

In view of the four points that the President has listed, I think that they are without justification. A careful examination of each of these will show that these objections are without substantial evidence to support the claims:

First. It is true that the administration has never favored the construction of a fourth nuclear carrier in the *Nimitz* class. However, the Navy has consistently testified that they favor the action taken by the Congress. Independent analysis of the problem demonstrated that the actual cost of the nuclear carrier was the same as the conventional powered carrier. In a context of the whole shipbuilding program proposed by the Carter administration, the request was for $4.712 billion in fiscal year 1979, which was in fact $1.048 billion lower than the amount appropriated for fiscal year 1978. The Senate Defense Appropriations Subcommittee has appropriated $5.482 billion for the shipbuilding program during fiscal year 1979. Thus, even with the addition of a fourth *Nimitz*-class carrier, the SDAS has appropriated an amount for shipbuilding that is $278 million less than the amount for fiscal year 1978, although it remains some $770 million over the amount requested by the administration.

Second. It is apparent that the administration is still attempting to decipher the difference between the Congress and the Georgia State Legislature. The operations and maintenance function of the budget falls exclusively within the jurisdiction of the Senate and House Appropriations Committees and not the Armed Service Committees that passed the authorization bill. The facts remain that it is the Senate Defense Appropriations Subcommittee that has reduced the administration's fiscal year 1979 O & M requests. But even with that fact accepted, they have only reduced this amount by $417 million which amounts to only 2.3 percent of the total. This figure represents only 21.6 percent of the funds needed to "pay for" the new *Nimitz*-class carrier. The subcommittee has appropriated a total of $30.818 billion for O & M in 1979, which figures out to be an actual increase of 10.7 percent over the amount appropriated the previous year.

Third. This point is so vague that I find it difficult to understand just what the President is attempting to get at in this accusation. By stating that the Congress was robbing the NATO funds to pay for the nuclear carrier, it appears that the President is playing on the emotion of the American public. This particular Congress, and in particular the Senate, is extremely cognizant of the NATO mission and the need to strengthen the military commitment of the United States in Europe. It is for this reason that the fourth *Nimitz*-class carrier has been funded; thus allowing the NATO naval command to fulfill its obligation of maintaining control of the sealanes.

Fourth. This claim is completely without justification. The Senate Appropriations Committee will apparently approve a figure that will be close to $1 billion below the amount requested by the administration. During the conference between the House and the Senate concerning the authorization bill, the total arrived at was $36.956 billion, which is only 3.9 percent over the administration's request.

Mr. President, once again I must state my surprise over the President's decision. There is no merit to his position, and I feel that he has been ill-advised to take such action. It smacks of a feeble attempt to find some catalys that will stimulate a resurgence of the administration's acceptability in the public opinion polls. I do not think that this is the method to accomplish this goal, nor do I think that the public will agree with the President. I stand firm in my resolve to vote to overturn this veto and urge my colleagues in both Houses of the Congress to do likewise.●

THE GAS COMPROMISE

● Mr. McGOVERN. Mr. President, I would like to call the attention of my

colleagues to an article that appeared in this morning's Washington Post regarding the so-called natural gas compromise. This article points out with great clarity the effects of this compromise on our Nation's millions of individuals living on fixed incomes. Specifically, low-income consumers and senior citizens in particular would be hard hit by the compromise agreement. Those in the lowest 10 percent of the income bracket spend almost 10 times as much of their income on home energy as those in the top 10 percent. Additionally, the serious indirect and residual impacts of rapidly rising gas prices indicate serious inflation and unemployment repercussions in the Nation's already unstable economy.

Mr. President, I ask that an article from the August 17, 1978, Washington Post by Kathleen F. O'Reilly entitled, "Immoral Gas Compromise" be printed in the RECORD.

The article follows:

[From the Washington Post, August 17, 1978]

"IMMORAL" GAS COMPROMISE

(By Kathleen F. O'Reilly)

In April 1977 President Carter urged the American public to embark with him on the "moral equivalent of war" against the energy crisis. It is clear now that war must be declared against the Carter energy package.

The administration and the Washington Post editorial "Illusions About the Gas Game" (Aug. 13) ignore the decidedly immoral and devastatingly anticonsumer effects of the natural-gas compromise. It will unnecessarily cost consumers tens of billions of dollars. By 1985 the average cost of gas would be at least 353 percent of what it was last year, 618 percent of what it was in 1975 and 1,608 percent of what it was in 1970.

Higher prices have been euphemistically justified by their proponents as incentives for production and conservation. Experience since 1970 demonstrates that even 100 percent price increases have failed to yield increased production. For billions of dollars more, we get less!

The Post's editorial considers failure of the compromise as a "failure of government" and a signal to the world that Americans do not care about a comprehensive energy policy. On the contrary, passage of this legislation would signal to the world that we are willing to sacrifice our most vulnerable citizens to appease the gas lobby.

Low-income consumers (and particularly senior citizens) would be the first casualties. The lowest 10 percent on the economic ladder spends a 10 times greater proportion of its income on home energy consumption than does the top 10 percent.

That is in part due to the condition of the housing they occupy. For example, insulation already exists in 94 percent of high- and moderate-income households but in less than half of the nation's poor households. Sixty percent of low-income households have no storm windows or insulating glass.

Declining block utility rate structures that charge low-volume users at a higher unit rate than high-volume users is also responsible for the disproportionate burden of natural gas price increases.

Any suggestion that residential users of natural gas (including 60 percent of all low-income households) can convert to other sources is brutally naive. Economically and practically speaking, conversion is not a viable option.

Undoubtedly consumers will be submerged with Madison Avenue slogans urging them to turn down their thermostats. For the 92 percent of the wealthy and upper-middle-class households that have heat control, that is an option. But what about the nearly 40 percent of low-income households who live in apartments that have no individual thermostats?

Low-income consumers will also be urged to equip their dwellings with better insulation, storm doors and storm windows, but will not have access to credit markets that would enable them to acquire the most efficient combination of weatherproofing, retrofit and insulation.

Low-income homeowners, community groups and government officials agree that rising utility prices and the condition of the housing stock have greatly contributed to the increased rate of mortgage defaults. Many low-income homeowners reported that their homes were like sieves, requiring a high temperature setting just to maintain bearable warmth. Inefficient boilers, damaged roofs and lack of storm windows or storm doors also played a major role in keeping utility bills at unaffordable levels.

The emotional price to senior citizens and low-income consumers is particularly high. In November 1977, a University of Michigan study predicted that last winter one out of five senior citizens would have to face the hard choice of paying his utility bills or eating.

Those people are victims of utility shutoffs, going for months without heat and becoming ill as a result—and in some cases freezing to death. Some families have been sleeping in their cars in the middle of winter because they were a few dollars short on the gas bill and were shut off.

Rising energy prices, which would be the product of the Carter package, would have other consequences:

Higher unemployment as increased spending on energy reduces aggregate demand for other goods and services.

Higher numbers of senior citizens forced to enter nursing homes or become wards of the state because they are no longer able to make ends meet on their meager fixed incomes (as a recent Michigan study confirms).

Increased health-care costs from poorer diets and colder living conditions.

Increased inflation in all production sectors (not just energy) because virtually all production, including agriculture, is energy intensive.

An even less equal distribution of wealth as the return on capital increases at a faster rate than the return on labor, and as property ownership among low- and middle-income consumers becomes less viable.

Increased political power for the already extremely powerful major oil and gas firms. Despite incomes they consider too meager for energy production, they have spent hundreds of millions of dollars advancing their positions on issues ranging from environmental policy to lower corporate tax rates. Further, the major oil companies will continue to use their enormous cash surpluses to purchase major non-energy firms such as Mobil's purchase of Montgomery Ward.

Worsening of the balance of trade. The price increases in domestically manufactured commodities would make them less attractive to the rest of the world and thus reduce exports.

Deregulation will only exacerbate these critical human problems, problems so callously ignored by the supporters of the compromise, who speak so confidently about foreign dependency and greater incentives for an industry that is already reaping unprecedented profits. Those who stand to lose the most are those least able to combat the industry lobbyists and champions. The president's current answer to the nation's "moral equivalent of war" is wracked with an immorality that is intolerable.●

RETURN OF THE ATLANTIC SALMON

● Mr. MUSKIE. Mr. President, it is a
ways heartening to hear of a Govern
ment program which works, especially
the success is recorded in one's hom
State.

The success being achieved in the effo
to clean up Maine's rivers is an outstand
ing example of how positive results ca
be achieved when the resources of th
Federal, State, and local governments a
joined with clearly directed priva
efforts.

I submit for the RECORD a letter an
news and release describing the return o
Atlantic salmon to the Penobscot Rive
and Kenduskeag Stream in Bango
Maine. The cover letter from Lester A
Decostie, New England regional manage
of the American Forest Institute ge
erously credits my efforts as instrumen
tal in the success in Maine. Real credi
though, belongs to the people of Main
and the industries of Maine which hav
responded so positively to the Feder
mandate to work toward fishable, swim
mable waters.

The progress discussed in the America
Forestry Institute news release is hear
ening but there is even more to the stor
I continue to hear reports of regula
landings of Atlantic salmon by comme
cial fishermen in the Gulf of Main
There is not now anything approachin
a commercial fishery for Atlantic salmo
but this incidental landing in the proce
of fishing for other species offers the ho
that Atlantic salmon may, in the not to
distant future, provide new opportuniti
for commercial fishing.

The material follows:

AMERICAN FOREST INSTITUTE,
August 2, 1978.

Hon. EDMUND S. MUSKIE,
Russell Senate Office Building, Room #145,
Washington, D.C.

DEAR SENATOR MUSKIE: Since one of yo
legislative goals has been to require fishab
and swimmable water in our industrializ
rivers, you would have enjoyed downtow
Bangor in July where people were fishing—f
Atlantic Salmon—and in the process, swim
ming, in Kenduskeag Stream.

As a prime mover in water clean-up legisla
tion you must be pleased to see public an
private efforts producing results like this.
hasn't been cheap, and I'm sure you have le
ters (some of them mine) complaining abo
the costs. But, you also deserve laurels f
the results.

Here's a news story on this summer's s
mon "experience" in Bangor, but there's o
thing left out—I should have included y
as one of the "institutions" instrumental
making it happen.

Best regards,

LESTER A. DECOSTIE,
New England Regional Manager.

AMERICAN FOREST INSTITUTE,
Bangor, Maine, July 20, 1978.

IS THAT A SALMON UNDER THE BUS STO

In Bangor, Maine this third week of Ju
you can catch a bus, a bank, or a salmo
Atlantic Salmon up to 30 inches long a
swimming up Kenduskeag Stream betwe
the new bank buildings and under the fi
bridges that span the stream.

Bangor would appear to be one of the fe
cities in the world where you can catch a
Atlantic Salmon in the midst of downtow
traffic.

Back of the nine-story Merrill Bank Building and under the bridge at the bus-stop young boys in blue jeans wade elbow-to-elbow with business-suited office workers wearing rubber boots, as spectators and game wardens watch the occasional taking of salmon weighing 12 to 20 pounds. Because the stream is tidal, no license is required, and some of the fishing methods used outrage the sensibilities of many salmon fishermen, moving them to propose that the stream be closed to fishing. The law does draw the line at clubbing, netting, and "jigging" (hooking by pulling a lure up sharply into a resting fish), and some arrests have been made.

The return of Atlantic Salmon to Bangor is a result of years of public and private efforts.

The first effort involved the Penobscot River, the main thoroughfare to Bangor for salmon. The seven pulp and paper mills on the 90-mile stretch of the Penobscot from Millinocket to the Atlantic Ocean have spent around $61 million on water pollution abatement facilities, and are spending close to $7 million per year operating those facilities. Most of the cities on the river also have water treatment plants with Old Town starting up this week and Bangor on line, except for one section awaiting federal funds. (Uncle Sam where are you?) Over 120 thousand people live along the banks of the Penobscot River—close to 84 thousand in the Bangor-Brewer and suburbs area.

A program of clearing obstructions, putting fishways on dams, and a salmon stocking program that started in 1966 have been the final ingredients for the return of the salmon.

Is this year's Atlantic Salmon fishing in Bangor only a one-time thing? According to Alfred Meister, Chief Biologist for the Atlantic Sea-Run Salmon Commission in Bangor, the fishing should continue to improve.

Presently, the commission is stocking approximately 300 thousand fish per year in the Penobscot River watershed. The salmon come from the Green Lake Hatchery near Bangor, with a $7 million expansion recently making it the biggest salmon hatchery in the world. According to Meister, a few fish returned in 1968, and by 1969 he knew we were on our way to an improved fishery. He hopes to be stocking 400 thousand to 500 thousand fish per year in the future. The biologist feels that the management of the river will be a put, grow, and take operation augmented by natural spawning and production. According to Meister, in most years, natural spawning would now keep salmon returning to the river, but stocking is still necessary to overcome the occasional year when dry weather conditions create low flows in the river, affecting natural reproduction. Meister feels that this may happen every decade or so.

Meister says there are now fishways or negotiable openings on all dams on the Penobscot, giving fish access to the headwaters. The old dams on Kenduskeag Stream have washed out, giving access to spawning areas on the Kenduskeag.

According to Meister, salmon are coming up the Kenduskeag through Bangor in large quantities this year because of a warm spell and decreased flow in the Penobscot River. Tidal flushing and groundwater in Kenduskeag Stream makes it cooler than the Penobscot, and thus attractive to salmon.

Approximately 70 percent of the salmon run has already come up the river, but there will be some fish coming in all summer with most of the run done in August. The spawning will be in mid-October ending by early November if the pattern runs true to form. Last year salmon were spawning under the Interstate 95 Bridge in the Kenduskeag at Bangor during the second week of October.

Salmon have been returning to the Kenduskeag for the last five to six years in reasonable numbers. They're attarcting attention in downtown Bangor this year, because of the unusually large numbers coming through the downtown area in midday.

The salmon are adding another dimension to water clean-up efforts. While watching the fish, many people became aware for the first time that there is a covered bridge spanning the Kenduskeag in the midst of the city; some people were moved to pull out some of the shopping carts, old tires, and hub caps that had been thrown into the stream and left there over the years; and people were using the handsome walkway that's been built along the stream, a walkway that has seen very little use before.

One of the goals set by the water pollution abatement laws was that of having "fishable and swimmable" water in our industrialized rivers. But, while we've been spending billions to meet these goals, people have grown used to driving far from the cities for their recreation, searching for their idea of "wilderness."

The "vanishing wilderness" appears to be returning under the bridges and behind the buildings of our towns and cities. Perhaps the presence of Atlantic Salmon in the midst of a small, Maine city will lead people to look at the land and water near their homes and offices again.

NOTE: Source of information on salmon program: Mr. Alfred Meister, Chief Biologist, Atlantic Sea-Run Salmon Commission, Building 34, Idaho Avenue, Bangor, Maine 04401, phone: (207) 947-8627.●

IN REMEMBRANCE OF BOB WARREN—AN ACTION CORPS VOLUNTEER

● Mr. STONE. Mr. President, this past May, Bob Warren, 26, a Daytona Beach, Fla., native stationed with the Action Corps—formally the Peace Corps—in Honduras, lost his life in a tragic truck accident. He was the son of Mr. Dan R. Warren and Mary Clegg Warren of Daytona Beach.

Although Bob Warren was in Honduras only 9 months, a library will be built there to honor him in Las Lajas, an isolated mountain village of adobe houses whose inhabitants still are living in a 17th century manner. The young people there want to learn, but do not have the books or other resources to help them. This library will have a special significance for the village, as Bob Warren was noted for his appetite for books. His love of forestry and his training of Honduran workers in forest inventory and management as well as his deep attachment to the people he came in contact with, will long be remembered.

I would like to take this opportunity to share a few of his father's sentiments concerning the Action Corps with my colleagues. I can think of no more appropriate reason for continued support of the Action Corps.

"You have no idea of how efficient this organization is and what tender care and concern each member expressed toward the Warren family during this very trying time. Julie Knight, of the Washington office, and Frank Almaguer, Director of the Peace Corps in Honduras, kept the family advised on a daily basis until Bob's body had been returned to us. Thereafter, they continued moral support to the family by very expeditiously handling all of Bob's personal affairs remaining to be accomplished in Honduras. I want you to know how much the Warren family appreciates the work of the Peace Corps. We hope you will support its ideas and its aims and especially give it the necessary funding it needs to carry out this vital work."●

ANNOUNCEMENT OF INTENTION TO HOLD HEARINGS ON USE OF EXPORT CONTROLS AND EXPORT CREDITS

● Mr. STEVENSON. Mr. President, the Subcommittee on International Finance of the Committee on Banking, Housing, and Urban Affairs will hold hearings shortly on the use of export controls and export credits for foreign policy purposes.

The United States is suffering from escalating trade deficits and a deteriorating dollar, but U.S. exports are being subjected to new restrictions based on unexamined premises. If exports and the jobs they create are to be thrown to foreign competitors, Congress and the public should at least know why such action is in the national interest.

The Export Administration Act, which provides the basic authority for controls on U.S. exports, states that it is U.S. policy to use export controls for three purposes: to protect the domestic economy in short supply situations, to the extent necessary from a national security standpoint, and "to the extent necessary to further significantly the foreign policy of the United States and to fulfill its international responsibilities."

Recently all oil technology exports to Communist countries were placed under validated license control and made subject to National Security Council review. The step was justified at first as a reprisal for the sentencing of Soviet dissidents Anatoly Scharansky and Aleksandr Ginzburg. Later it was said that controls on oil technology exports would make it harder for the Russians to develop their oil resources, and the notion has been advanced that threatening Russian oil development will make the Russians more willing to agree to arms limitations or to remove some of the more repressive measures against internal dissidents. This extraordinary thesis deserves thorough analysis. It may not influence Russian policy. It may punish free nations more dependent on foreign oil than the U.S.S.R. And it plainly could deprive the United States of exports.

Export credits are also being placed under new restraints for "leverage" purposes. The Export-Import Bank is required by statute to obtain the views of the Secretary of State before providing loans or financial guarantees for U.S. exports. The State Department is presently holding up billions of dollars of U.S. exports, not because State has advised the Eximbank not to support the exports in question, but because State cannot decide what advice to give, and is delaying a decision, hoping thereby to exert leverage on the internal policies of the importing countries.

Mr. President, the United States is in danger of reverting to "leverage" in its

crudest, least effective form. The notion that trade can be manipulated to serve foreign policy objectives is ancient, seductive, and not altogether fallacious. But the leverage trade and credits can provide will be gained through subtle and flexible employment of such instruments in support of U.S. policy objectives, using carrots as well as sticks I sense that the United States is talking loudly and carrying a small stick.

Leverage rejects a dangerous illusion when it attempts to exchange specific exports for specific political actions. Foreign governments are not likely to release political prisoners or grant freedom of the press in exchange for submersible pumps or hydroelectric generators. They might condition their behavior upon the expectation of an evolving and mutually beneficial economic relationship.

The subcommittee hearings will examine closely the assumptions which underlie reactive impulsive restrictions on U.S. exports and other commercial transactions and their effects on U.S. economic and political interests. Among the issues considered will be the following:

Where in the administration will the decisions be made on the foreign policy implications of exports—the State Department, Defense Department, Commerce Department, or the National Security Council?

What is the most effective way to insure that export controls and credits consistently serve U.S. foreign policy and economic interests?

Will foreign competitors supply the goods, services, and farm products if U.S. firms are prevented from doing so, or made to appear undependable, because of denials of export licenses or Eximbank credits?

Can U.S. trade be used effectively as an "on-off" lever to secure Soviet cooperation in Angola, the Horn of Africa, the Middle East, the arms limitation talks, and elsewhere?

Is it in the U.S. interest to inhibit or to threaten to inhibit the development of the oil resources of the Soviet Union? What effect would such action have on overall United States-Soviet relations, as well as arms control, the Middle East, the treatment of Soviet dissidents and the world economy?

On what grounds has the Department of State advised the Export-Import Bank to refuse financing for exports to Argentina?

Are export controls on sales to Communist China being liberalized for foreign policy reasons? Why are exports being licensed for Communist China which have been denied to the Soviet Union?

Dates and room locations for the hearings will be announced in the RECORD soon. Persons interested in testifying or desiring additional information concerning the hearings should contact Robert W. Russell, Counsel to the Subcommittee on International Finance, at (202) 224-0819.●

OPPRESSION IN THE SOVIET UNION

● Mr. PELL. Mr. President, in a recent editorial entitled, "A Tale of Two Cities," the Newport Daily News reflected on the disappointment of old time liberals concerning the continuing tyranny and neglect of human rights in the Soviet Union. In recounting and commenting on the disillusion of liberal visionaries over the chasm that has developed between the promises of Communist leaders and the reality of what they have produced, the Daily News suggested that the answer to what went wrong in the Soviet Union could be found in the history of two cities—St. Petersburg and Moscow—hence the title for the editorial.

St. Petersburg—now Leningrad—symbolized the promise of Western-style liberalization. The city was built by Peter the Great as his window on the West and was the site of many experiments in at least elements of Western Government. Moscow, on the other hand, symbolized the inward-looking medieval Russia. Just as Moscow won out over St. Petersburg as the seat of government of the Soviet regime, so also did the repressive medieval ways of old Moscow come to characterize the nature of the new Soviet state.

The Daily News concludes that Russian communism was oversold as the newest of the waves of the future and that it has proved to be just another disguise for tyranny and just another medieval political system. I agree with this conclusion; and in order that my colleagues may have the benefit of the historical analysis of the Newport Daily News, I ask that the full text of the editorial of July 27, 1978 be printed in full in the RECORD.

The editorial follows:

A TALE OF TWO CITIES

One of the great disappointments of old time liberals is the continuing tyranny and neglect of human rights exemplified by the Soviet Union. This was supposed to be the society of the future, a society based on workers receiving the fruits of their labor, a society especially concerned with human rights.

Many of these leftist visionaries rationalized the cruelty of the Stalin era as being an aberration—the product of a mentally sick and sadistic dictator. This was confirmed in their minds by Nikita Khrushchev's astonishing arraignment of Stalin as a monster. Ah, at long, long last, Soviet society would fulfill the dream of Marx, Engels and Lenin. It would become a more open society, a much fairer one. The Soviet state finally would usher in the promised Brave New World.

But somehow, the Soviet leaders, Khrushchev himself and his successor Leonid Brezhnev—have not delivered on the promise. Soviet society has become even more oppressive under Brezhnev, even less sensitive to human rights, Alexandr Solzhenitsyn told us in the "Gulag Archipelago" that the nightmare of Stalin's concentration camps never really has ended in Russia. The treatment of people wishing to emigrate, the trials of those who even hint at Soviet government failures, the touchy reaction to President Carter's critique of oppression in the Soviet Union, all attest to the truth of Soviet brutality.

What went wrong?

We submit that a detached historical look at the Russian experience since Peter the Great at the start of the 18th century wou provide important answers to this questio The study even might be called "A Tale Two Cities" (with apology to Chers Dickens).

The two cities are St. Petersburg (r named Leningrad by the communists) a Moscow.

When Peter the Great assumed the Russ throne, he realized that the country w backward, that if it ever were to progr it would have to become westernized. Shor after become tsar, Peter's army took a be ing from the Swedish army of Charles X who ruled a nation of fewer than one milli souls.

Peter himself spent some time in T Netherlands learning about the West. On h return, he reformed the army and made so changes in the government. Even more i portantly, he built a vast new city in t extreme northwest of the country, named after his patron saint and namesake, a made this new city, St. Petersburg, the ca tal of Russia. Peter never did understa western ways, and many of his reforms we merely formal, devoid of the spirit of t West. But the important thing is that tried to westernize Russia, that he took t first steps to bring that vast land into tr communion with the other western stat

Starting with Peter, the tendency in Rus was to modernize, although to anyone i patient with anything less than instant su cess, the progress must have been excru atingly slow. And there was backsliding. Ru sia remained essentially an autocratic mo archy. Some tsars like Paul, Alexander I his latter days, Nicholas I and Alexander ruled in the best tradition of Ivan the Te rible and worse.

But Alexander I in his earlier days h some liberal inclinations, Alexander II f free the serfs and Nicholas II ruled over country that finally had a rudimentary pa liamentary system, complete with several p litical parties (including the communist the Bolshevik wing of the Social Democrat

Can anyone imagine the communists Brezhnev, 60 years after the Revolution, a lowing other than orthodox communists sit in their parliament? Can one imagi Brezhnev permitting supporters of the t to sit in his parliament?

Actually, Russia was liberalizing under t last tsar, Nicholas II. Had Russia not suffer a disastrous defeat in World War I, it is co ceivable that it might have evolved into constitutional monarchy some day. Ironica ly, its very defeat may have been broug about by its acceptance in the western com munity of states. Russia, like most of t other leading nations caught up in Wor War I, was part of the western alliance sy tem. It was deep in Balkan politics, and w accordingly dragged into the war th brought about the downfall of the monarch and led to the communist triumph.

For a short while after the fall of the la tsar, an attempt was made to transform t Russian state into a democratic republi But lacking experience in democratic an parliamentary give-and-take, the go ernments of Prince Lvov and Alexande Kerensky proved ineffectual. It was into th vacuum that Lenin and his Bolshevik moved, and created their dictatorship of th proletariat.

Now, this dictatorship really had nothin in common with liberal philosophers lik Tolstoy and politicians like Kerensky wh hoped to modernize their country politicall socially and materially. The dictatorship o Lenin and his successors was inward looking regardless of the propaganda they exported

The capital was moved from St. Peters burg (renamed Petrograd and then Lenin grad) back to the ancient Russian city o

Moscow. And the new ruler of Russia (now

couch instead of in the farmer's barn-

gestation period is perhaps open to some

with the prospect of its own luxurious

sorry that the House took the

Moscow. And the new ruler of Russia (now called general secretary of the Communist party, rather than tsar) became as much the master of the Russian people as any tsar of the 250 years before Peter the Great. Communism, the new religion, was exactly what the communist dictator said it was. The supreme sin was to deviate from the doctrine as officially expressed.

This was pure traditional Russian practice with a vengeance, called caesaropapism in the time of the tsars—the man who ruled Russia was the official keeper of the faith. So it became under Lenin, Stalin and Khrushchev, and so it remains under Breshnev. The relatively free (and we must stress the word "relatively") politics of Nicholas II's time was and is no more.

Russian communism, overnold as the newest of the waves of the future, has proved to be another disguise for tyranny. Termed essentially economic by its advocates, it is just another medieval political system. Only the names and the titles have been changed to confuse the innocent. Moscow, its capital, is more symbolic of the reality of communism than St. Petersburg, Peter the Great's Window on the West, ever could have been.●

INFLATION THROUGH THE EYES OF A 9-YEAR-OLD

Mr. GRIFFIN. Mr. President, no issue is of greater concern to the American people than the problem of inflation.

Recently, I received a very perceptive letter about inflation from a constituent in Ann Arbor, Mich., the home of one of our greatest centers of learning, the University of Michigan.

The letter was very special. It did not come from a professor of economics; it came from an astute 9-year-old young lady, Jessica Porter.

Actually, the letter was addressed to President Carter. Jessica was thoughtful enough to send me a copy.

Here is what she had to say:

DEAR MR. CARTER: There is a majior problem going on, It is Inflatoin. I'd like to try to solve that problem. Here is my side of the story: You and congress keep making money so it isent as valualbe. The prices of things in the store go up but working peopl wagess do not so they can't buy as much as they need. I am trying to prevent this and would like to here your side of the story. Please write back and tell me your side of the story.

Sincerely,

JESSICA PORTER.

P.S. I'm 9.

Jessica may be young, but she is very wise.

Like Jessica, I would like to hear the President's side of the story.

USDA WINS AUGUST "GOLDEN FLEECE" AWARD

Mr. PROXMIRE. Mr. President, I am giving my Golden Fleece Award for August to the U.S. Department of Agriculture (USDA) for spending Federal tax dollars to exercise confined pregnant pigs on a treadmill and to relieve their boredom and psychological stress.

As an avid jogger myself, I think we need more joggers in this country but spending Federal funds on this "hog jog" is going too far.

And even though we humans are being psychoanalyzed more than ever these days, that is no reason to start putting pregnant pigs on the psychiatrist's couch instead of in the farmer's barnyard—especially at taxpayer's expense.

The folks at USDA went hog wild on this one. As a result, the taxpayers may get stuck with a pig in a poke.

Mr. President, as Senators know, I make monthly Golden Fleece Awards for the biggest or most ironic or most ridiculous example of wasting Federal tax funds. These monthly awards are followed by a "Fleece of the Year" winner in late December.

I should point out, too, that I am a member of the Senate Agriculture Appropriations Subcommittee, which oversees USDA's budget.

To help explain the irony that lies at the heart of this month's award, let me point out, first of all, that raising pigs in confinement is, according to USDA, the method used in perhaps as much as 40 to 50 percent of this Nation's hog production. But two separate issues need to be considered in looking at the confinement system: first, the marketing of pigs, and second, their breeding and gestation periods.

This confinement approach has some recognized advantages when it comes to marketing pigs. These include, for example, the more economical use of land, mechanized feeding, getting pigs fatter faster, and possibly cutting down on the disease rate.

Purely incidental to the raising of pigs in confinement is their breeding in confinement. And when sows are bred in confinement and kept there during the gestation period, it is not at all clear what advantages may result. We know, for example, that a bigger litter is not produced nor is the weight-per-pig increased.

But once the USDA-funded researchers decided to study pigs in confinement, all kinds of problems developed for the pregnant pigs that are a part of the experiment, including lack of exercise, boredom, and psychological stress.

To try to offset these problems, Federal funds were—and are still being—spent on an exercise treadmill and, to quote from USDA's research project description:

To identify methods of reducing psychological stress & boredom of the tethered sows during gestation.

All of this leaves us very much in the world of George Orwell. In fact, it links the title of one of Orwell's works—"Animal Farm"—with the thesis of another—"1984."

It may well be that raising hogs in a confinement system is the wave of the future. As I have said, it is already used, according to USDA, in producing a substantial percentage of the hogs in this country.

But what USDA is doing in this study is both ironic and ridiculous. First, it puts pregnant pigs in confinement. And then, it spends Federal tax dollars to try to ease the burdens produced by this confinement.

I am not questioning the economic and other advantages of the confinement system in getting pigs ready for market. And whether or not there may be positive effects when it comes to breeding and the gestation period is perhaps open to some debate.

But just how far do we want to go? What would the next steps be? Perhaps Federal funds might go to paying for the services of a psychiatrist to examine our tense and stress-laden pigs. Or someone might want to look into whether or not too much treadmill exercise for pregnant pigs is bad for their health.

The total amount of Federal funds being spent on this research is not in the stratosphere. It is a 5-year project that will involve perhaps as little as $5,000 of the Federal taxpayers' money to study the exercise, boredom, and stress issues. Other concerns are being addressed in the overall study. State funds will make up the bulk of the total expenditure along with some initial support from private industry.

I am not saying this research should not be done at all. Perhaps some good will come of it.

But there are enough questions in my mind about the use of Federal tax dollars to help pay for this study to convince me that—whatever the number of dollars involved—USDA deserves the "Golden Fleece" award for August.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. PROXMIRE. Yes.

Mr. TOWER. Is the Senator from Wisconsin assured that this experiment may not result in higher productivity for hogs or, perhaps, a better yield, dressing out at a higher precentage and all that sort of thing? Is there any consideration given to that?

Mr. PROXMIRE. We have given very careful consideration to that, yes, indeed.

What has happened, of course, is that farmers have found by confining pigs they do get better production, and that is fine. But to determine whether or not they can work with pigs to reduce their boredom and find out if they can change their psychological attitude, it seems to me they are going too far. I would not object if there was a matter of psychoanalyzing people, because if there is one area which I think is highly questionable for the expenditure of anybody's money, whether it is the private citizen's money or the taxpayer's money, it is psychoanalysis.

So I am opposed to psychoanalyzing these pigs. I think we have a better use for our money. I know in Texas they have all kinds of ideas, but even in Texas they would be opposed to putting pigs on a treadmill and seeing how far they can jog if they are pregnant.

THE THIRD SENATE OFFICE BUILDING

Mr. PROXMIRE. The House of Representatives was absolutely correct in knocking out supplemental appropriations for the outrageous third Senate office building. The Senate should agree to this virtually unprecedented interference with a Senate prerogative. We should recognize that on this issue the House spoke with far greater objectivity. The Senate was obviously overwhelmed

with the prospect of its own luxurious benefits.

Many people question the propriety of one House voting on matters which directly concern only the other House since in the past congressional courtesy has demanded that one House defer to the other in such matters. It is high time to end such a ridiculous precedent.

We are concerned here with spending huge sums of the taxpayers' dollars, and the House of Representatives has every right to step in where it sees that the interests of the taxpayers are being flouted by the Senate.

I hope that the Senate will concur with the overwhelming vote of the House on this matter. I will support the House position.

Senate opponents of this move will doubtless point out that all Members of the House are up for reelection this year and claim that this is a political issue. It sure is a political issue. The Congressmen who are up for reelection are well aware that the voters around the country are dead set against such extravagance on the part of the Senate. Their vote reflects that popular feeling, and the Senate should listen and learn.

I think few Senators realize how this has affected the country. When I was out in my State last weekend, I was at the State fair, and at least a dozen people came up to me and said, "There is one issue, PROXMIRE, we agree with you on, and that is not wasting money in the Senate."

Mr. ROBERT C. BYRD. Mr. President, on the matter of the Hart Office Building, if the Senator will yield——

Mr. PROXMIRE. I yield.

Mr. ROBERT C. BYRD. The Senate, I think, acted to correct its earlier mistakes when it put a ceiling on the amount of money we spent on that building. I do not like the fact that mistakes were ever made, and when Congress makes a mistake, of course, everybody knows it, and that is appropriate.

But there is such a thing as comity between the two Houses, and I hope the House will reconsider at some point the action it has taken with respect to the Hart Office Building. I do not think there is any argument but that there is a need for additional space. There is, of course, no justification for the frills, and I do not stand here to justify them. I think the mistakes were made early on in respect to the Hart Building. But the Senate attempted to rectify the mistake the other day by putting a ceiling on it. That does not gainsay the fact that there is a need for additional space, and I do not think the House should have acted as it did with respect to the Senate building. There is such a thing as comity between the two Houses.

May I say that while I find no fault with the distinguished Senator from Wisconsin (Mr. PROXMIRE) who takes the position that he has, I still do not think the House should have taken the action that it did. If the Senate has made mistakes, then the Senate will be held responsible for its mistakes, and the people will hold them responsible for their mistakes.

But so far as I am concerned, I am sorry that the House took the action that it did, and I hope it will think about it in due time, because if we begin the business of this body taking cuts at the other body and the other body taking cuts at this body, then I am afraid we will have disturbed the comity that needs to exist between the two bodies.

It is the Senate's judgment, I think, to act on what its needs are as to space, as we have always felt the House was in better position to make a judgment as to what its space needs were.

I must say that the viewpoint of the Senator from Wisconsin in complimenting the House on its actions, is not shared by this Senator.

Mr. PROXMIRE. Mr. President, I expected the majority leader to take that position, and I understand it fully. I think as majority leader that is a sensible and logical position to take.

I think, however, that the notion of comity between the House and the Senate—that is the Senate never under any circumstances challenging what the House does with its spending money on its own operations, and the House acting similarly—is something that has been honored for many years, ever since I have been in the Senate, for more than 20 years.

But again I think that principle is wrong. I recognize the view of the majority leader and I think it is probably a majority view in this Chamber and, perhaps, it is a majority view in the House on most things.

But I feel we have a responsibility to the taxpayers. Whether the money is spent by the Senate or by the House we vote on it and, I think, therefore, we have the right to complain about what they spend and they have a right to complain about what we spend. But I certainly honor the majority leader for his statement.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield to the Senator from South Carolina.

Mr. THURMOND. I do not want to get into a dispute here between the distinguished Senator from Wisconsin and our distinguished majority leader, but I want to commend the Senator from Wisconsin for the position he has taken.

Mr. ROBERT C. BYRD. Mr. President, there is no dispute between the Senator from Wisconsin and the majority leader, no dispute.

Mr. THURMOND. Well then, the discussion. I will change the verbiage.

Mr. ROBERT C. BYRD. All right.

Mr. THURMOND. I just want to state that, although it may have been the policy here throughout the years for each body to respect entirely the expenditures by the other body, I have often wondered how one body could have any check at all on what is being spent here in Congress unless it does come down and have some check on the other body.

It seems to me in a matter as important as a building that is going to cost at least $131 million that either body ought to have some say as to what, regardless of which body, that building is to serve.

Furthermore, I want to associate myself with the remarks of the distinguish Senator from Wisconsin on this bui ing. It is my feeling, and I have said for years, that the Federal Governme should get out of so many jurisdiction turn the Federal money over to t States, and they will run these projec more efficiently and more economicall and we could close a lot of buildings he in Washington, eliminate thousands employees and subsequently elimin thousands of retirement payments an in that way, we will not need as ma staff members as we now have here the Senate or in the House.

I think the Washington Governme has gotten entirely too big. It is my jud ment that people back in the States Wisconsin, West Virginia, South Car lina, or any other State are just as sma as the people are here in Washingto and that they can direct these projec and operate them more efficiently, an should do so. Then we can release a l of the employees we have, not only the bureaucracy here in Washington, b also in congressional staffs.

For that reason, I commend the ab Senator from Wisconsin upon his pos tion in this matter.

Mr. PROXMIRE. Mr. President, thank my friend from South Carolin He is absolutely right. He has been he for many years, more so than most Mem bers of the Senate, and has——

Mr. ROBERT C. BYRD. Let me as both Senators, why did they not raise finger when the House spent a hor rendous amount, a totally egregious su for the Rayburn Building?

Mr. PROXMIRE. The Senator asks good question. I should have done so, an I wish I had.

Mr. ROBERT C. BYRD. I would like t see a comparison of the cost per squar foot of the Rayburn Building as oppose to our building. I raised no question a the time, but suppose the Senate ha decided it would cut out the funds fo the Rayburn Building. Did the Senato from Wisconsin lead the attack on th Rayburn Building? Did he offer a amendment to do that?

Mr. PROXMIRE. The Senator from Wisconsin was in gross error in not offer ing such an amendment. I wish I had This precedent had not been broken a that time. It should have been. I thin that was a tremendous waste.

I think we could probably go to con ference and get back the Hart Buildin the way it is, but I would hope we coul cut it down in conference. We still hav all kinds of unnecessary expenditure over there, including marble, a gym w do not need, and a number of othe things that we should cut back, and would hope, in a spirit of compromise they would do so. But the Senator from Wisconsin was wrong in not offering an amendment to cut out the funds for the Rayburn Building. I should have done so, and I wish I had.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. PROXMIRE. Yes.

Mr. ROBERT C. BYRD. I certainly have no quarrel with the Senator's suggestion, and I hope that might be done. I am simply saying that the House, in my

judgment, should not have stricken the funds for the Senate office building. It is up to the Senate to rectify its own mistake. The Senate knows what its space needs are, and I do not think the Senate should be subjected to that kind of inconsideration of comity, the spirit of comity that has long existed between the two Houses.

Mr. PROXMIRE. If the Senator will yield on that point, the difficulty is that when we deal with ourselves, with our objectivity.

After all, it is our own space and our benefit and our luxury we are viewing. The House can take a more objective view, and in this case they did.

Mr. MATHIAS. Mr. President, will the Senator from Wisconsin yield to me?

Mr. ROBERT C. BYRD. Well, I was going to ask the Senator from South Carolina, at the time the House was considering the funding for the Rayburn Building, if he made an effort to reduce the amount.

Mr. PROXMIRE. This was the comity again. I thought we could not.

Mr. ROBERT C. BYRD. It seems to me it would have made a good political speech at that time in South Carolina to be able to say, "I offered the amendment, I voted for the amendment, I wanted to cut out that Rayburn Building; what a colossal waste of the taxpayers' funds."

I should think one would have been in a better position doing that than to stand up now and commend the House for the action it has taken. I say if the Senate has made a mistake, the Senate ought to correct it.

Mr. PROXMIRE. I criticized the Rayburn Building at the time, and did so vigorously, but I admit I did not try to stop it on the floor, because as far as I knew there was no way to do it, and I do not believe the Senate could have accomplished that at that time.

Mr. ROBERT C. BYRD. I want to commend the Senator from Wisconsin for his efforts over the years to cut out waste in Government. May I say that nothing I have said was meant to detract from the good work he has done, and I certainly share his view as to the mistake that the Senate made in the beginning. We made a mistake, and I think we ought to admit it. But I still think there is such a thing as a spirit of comity between the Houses that, in the final analysis, is beneficial to the people of this country. If we get into the business of tit for tat, the Senate might get into the business of cutting funds for employees on the House side.

Mr. PROXMIRE. Might not be a bad idea.

Mr. ROBERT C. BYRD. Then, in retaliation, the House might cut funds for Senate staff, and it could go from bad to worse.

I hope the House will reconsider what it has done, and correct what it has done.

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. The Senator from Wisconsin has the floor.

Mr. PROXMIRE. I yield to the Senator from Maryland.

Mr. MATHIAS. The Senator from Wisconsin has been leading us in making confessions of error here tonight, right on down the sawdust trail to the mourner's bench, in which the majority leader has joined, and I want to join them on that sawdust trail to the mourner's bench and join with them in confessing error.

I voted against the Senate office building. We did not have a Senate office building when I came here 10 years ago to the Senate and faced the problem of space, and the inefficiency involved in the lack of space; and I want to associate myself with the Senator from Wisconsin in saying that I am very conscious of the error I made. Where the conditions of crowding are so bad it has to be uneconomical, because the fine staffs that we have are not able to work at their highest efficiency, and I think in voting against additional space we have not served the people well.

So I want to say, while sitting on the mourner's bench with the Senator from Wisconsin and the Senator from West Virginia, that I, too, made an error, and that was in voting against the Senate office building.

I do not want to prolong my confession, but I am right down there on the sawdust trail with them.

Several Senators addressed the Chair.

Mr. PROXMIRE. I wish to agree with the Senator from Maryland. I think he is right in being on the mourners' bench, all right, but I think he was probably right the first time but wrong the second time.

Mr. RANDOLPH and Mr. TOWER addressed the Chair.

Mr. PROXMIRE. I yield to the Senator from West Virginia (Mr. RANDOLPH).

Mr. RANDOLPH. Mr. President, it is very important that the RECORD reflect that we are referring to 1972 in connection with the action on the Hart Building. Is that correct?

Mr. PROXMIRE. I was referring fundamentally to the action of the House today in voting against the additional funds over the $85 million we have already provided for the Hart Building.

Mr. RANDOLPH. I so understand.

Mr. PROXMIRE. They amended that.

Mr. RANDOLPH. I think the RECORD, though, should show certain additional facts in connection with the authorization of the Hart Building in 1972. The size of the building, as authorized by our committee at that time, was one-half of the size it has become, and about one-third the cost. We acted in response to the pleas of many Senators about the crowded and unsatisfactory conditions in which they had to work. The additional cost with which we are faced today resulted from subsequent enlargement, design changes, construction delays, and inflation.

Mr. ROBERT C. BYRD. I would imagine my senior colleague might have some information on the cost of the Rayburn Building as well.

Mr. PROXMIRE. The trouble is that the Architect's Office, in 1964, said the cost of the Rayburn Building was about $60 a square foot. Now they are saying it was something like $138 a square foot on that building. I suppose they are adjusting for some kind of inflation factor, but I believe they are overadjusting.

Mr. TOWER. Mr. President, I have a good suggestion. It seems to me we should check the voting record in the House on that amendment, and that any of those House Members who happen to get elected to the Senate should be identified and lodged in the Carroll Arms.

THE VETO OF THE MILITARY PROCUREMENT AUTHORIZATION

Mr. PROXMIRE. Mr. President, decision to veto the fiscal year 1979 military procurement authorization bill will actually strengthen our national defenses.

The President, Secretary of Defense, and Secretary of the Navy all have said that they did not want to spend $2.4 billion on a new *Nimitz*-class aircraft carrier (CVN-71). Yet the Congress forced this money on the executive department in the authorization bill and likely would have done the same in the appropriations bill.

This expenditure for another large aircraft carrier makes no sense. Here is why:

First, the carrier puts all our resources in one ship and starves other shipbuilding programs. At $2.4 billion, this one ship, which will not be at sea until 1987, takes 40 percent of the shipbuilding budget. Our fleet of warships has been cut in half the last 20 years due to the overemphasis on large expensive ships. Every large carrier means fewer ships in our Navy.

Second, the $2.4 billion is just a small downpayment on the final tab. A carrier needs aircraft at a cost of $1.5 to $1.8 billion. And it must have escort ships to protect it. Two or three nuclear escorts for the CVN-71 would cost $1.5 billion each or as much as $8.7 billion. And then we must add in the costs to man and operate this huge vessel. Over 30 years the full costs of the CVN—not counting escorts—would be $18 billion in uninflated dollars.

Third, this huge investment is the most vulnerable target afloat. In either a conventional or nuclear war, the large carriers would not be able to operate near land masses with hostile air forces. This rules out the carriers in the Mediterranean, North Sea, and Northwest Pacific. But these are precisely the areas where we need naval strength during a war.

Mr. TOWER. Mr. President, will the Senator yield at that point?

Mr. PROXMIRE. Just a minute. The carrier is vulnerable to land-based aircraft, sea-launched missiles from submarines and surface combatants, air-launched missiles, torpedoes, and new supersonic bombers such as the Backfire. Furthermore, Russian radar satellites can do a pretty good job of pinpointing just where our carriers are at any time.

Fourth, just as it took time to realize that the battleship was the dinosaur of the seas, so now it is time to start building a new Navy with smaller, less vulnerable and more maneuverable ships. The carrier has a role to play at sea but even without the CVN-71, the 11 remaining carriers are more than adequate for any

possible requirements. In the meantime, we need to emphasize the less expensive more survivable forms of naval power.

I am happy to yield to my good friend from Texas.

Mr. TOWER. The Senator is in error on the vulnerability of the aircraft carrier. The aircraft carrier is the least vulnerable ship at sea with the exception of the submarine, and it is less vulnerable than the submarine once the submarine has been detected.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PROXMIRE. In view of the interruptions, I ask for 5 additional minutes. Mr. President.

Mr. ROBERT C. BYRD. I ask the Chair to recognize me.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. I yield to the Senator from Wisconsin.

Mr. PROXMIRE. The Senator from Texas is absolutely right in a conventional war, but in a nuclear war that is as vulnerable as you can get. This is a ship as long as three football fields end to end, going about 40 miles per hour at full speed. It is like hitting a bull in the butt with a bull fiddle, as Senator Symington used to say. You cannot miss it. Even in World War II we found our aircraft carriers were put out of commission so they were not able to operate for many, many months at a time. Under the present circumstances, with nuclear weapons, this is a very, very vulnerable weapons system.

GENOCIDE CONVENTION UPHOLDS CRUCIAL CONSTITUTIONAL PRINCIPLES

Mr. PROXMIRE. Mr. President, the Constitution of the United States and its amendments are the fundamental law of our country. Throughout American history, the Constitution has guided our policies and our practices.

Why? Because the Constitution embodies the rights for which the United States was created. The fundamental values of the American people are enshrined in its articles. Our democratic heritage and our contemporary leadership of the free world are inextricably linked to this crucial document. Both our domestic and our foreign policy have been shaped by the Constitution. All of our actions, as lawmakers and as citizens, are examined in its light.

One foreign policy issue, in particular, merits close constitutional scrutiny. I am speaking of the United Nations Genocide Convention. Does the Genocide treaty uphold our fundamental constitutional principles? Will its ratification further the cause of human rights which our Constitution represents? Yes, Mr. President, unquestionably it will.

The 14th amendment to the Constitution contains an important section which has come to be regarded as one of the primary characteristics of our free and democratic society. I quote:

No State shall make or enforce any law which shall abridge the privileges and immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law;

What does the 14th amendment guarantee? Security, Mr. President. The right to live without the fear that one will be imprisoned or one's property seized at the whim of a corrupt government or a tyrannical ruler. More importantly, it protects each American life—it safeguards the right to live.

And what is the Genocide Convention about, Mr. President? Life—the right to live. By defining and punishing the crime of genocide under international law, the treaty helps to guarantee to every citizen of the world the right to live securely. They shall not be deprived of their lives without the due process of law.

Mr. President, the U.S. Constitution protects and guarantees the right to live to every American. It is time that we acted to help extend our constitutional freedoms around the world. It is time that we ratified the Genocide Convention.

DIPLOMATIC RELATIONS ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1028.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 7819) to complement the Vienna Convention on Diplomatic Relations, which had been reported from the Committee on Foreign Relations with amendments and from the Committee on the Judiciary with amendments to the amendments.

The amendments of the Committee on Foreign Relations are as follows:

On page 4, beginning with line 5, strike through and including line 13, and insert in lieu thereof the following:

SEC. 5. Any action or proceeding brought against an individual who is entitled to immunity with respect to such action or proceeding under the Vienna Convention on Diplomatic Relations, under section 3(b) or 4 of this Act, or under any other laws extending diplomatic privileges and immunities, shall be dismissed. Such immunity may be established upon motion or suggestion by or on behalf of the individual, or as otherwise permitted by law or applicable rules of procedure.

On page 5, beginning with line 18, insert the following:

SEC. 7. (a) That chapter 85 of title 28, United States Code, is amended by the addition of the following new section:

"§ 1364. Direct actions against insurers of members of diplomatic missions and their families; *actions against the United States*

"(a) The district courts shall have original and exclusive jurisdiction without regard to the amount in controversy, of any civil action commenced by any person against an insurer who by contract has insured an individual, who is a member of a mission (as defined in the Vienna Convention on Diplomatic Relations) or a member of the family of such a member of a mission, against liability for personal injury, death, or damage to property.

"(b) Any direct action brought against an insurer under subsection (a) shall be tried without a jury. *The said action shall be subject to the law of the place where the act or omission occurred*, but shall not be subject to the defense that the insured is immune from suit, that the insured is an indispensable party, or in the absence of fraud or collusion, that the insured has violated a term of the contract, unless the contract was can-
celled before the claim arose.".

(b) The chapter analysis of chapter 85 o
title 28, United States Code, is amended b
adding after the item relating to section
1363 the following new item:

"1364. Direct actions against insurers o
members of diplomatic mission
and their families; *actions agains*
United States.".

On page 6, line 21, strike "7" and insert
"8";

On page 8, line 2, strike "8" and insert "9"

The amendments of the Committee on th
Judiciary are as follows:

On page 5, line 22, strike the semicolon
and "actions against the United States";

On page 6, line 4, after "mission" insert
comma and "or an individual described i
section 19 of the Convention on Privileg
and Immunities of the United Nations o
February 12, 1946";

On page 6, line 10, beginning with the pe
riod, strike through and including th
comma in line 12;

On page 6, after line 19, strike "; action
against the United States".

The PRESIDING OFFICER. Is there
objection to the present consideration o
the bill?

There being no objection, the Senat
proceeded to consider the bill.

The PRESIDING OFFICER. Withou
objection, the amendments are agree
to.

Mr. SARBANES. Mr. President, th
bill before the Senate, H.R. 7819, a
amended, is the joint product of th
Committee on the Judiciary and th
Committee on Foreign Relations. I par
ticularly want to thank Senators SPARK
MAN, METZENBAUM, and MATHIAS for their
contribution to shaping and moving thi
legislation forward.

This legislation would set down ne
guidelines for determining the immuni
ties that the Government of the Unite
States extends to foreign diplomatic per
sonnel in this country. I very much wel
come this bill. It deals with a problem
about which I have been deeply con
cerned. It is a necessary complement t
and consequence of the Vienna Conven
tion on Diplomatic Relations, which en
tered into force with respect to th
United States in 1972. In addition, it ad
dresses the very serious problems which
diplomatic immunity may on occasion
cause the ordinary U.S. citizen o
resident.

Such situations do not usually attrac
great national or international atten
tion. Nonetheless they may affect indi
viduals in the most serious, even calami
tous way. This is a matter of special con
cern in the national capital area, where
the vast majority of persons enjoying
diplomatic immunity live and work. Sta
tistically speaking, the residents of th
District of Columbia and the adjacen
areas of my own State of Maryland an
of Virginia run a much greater risk o
finding themselves involved in an acci
dent in which the other party, even
though he or she may be entirely a
fault, enjoys absolute protection agains
any court action by virtue of diplomatic
immunity status.

Diplomatic immunity grants freedom
from criminal, civil, and administrative
jurisdiction to all diplomatic personnel,
their families and servants. A number of
incidents have occurred in which foreign

officials, their families, or their employees have invoked that immunity to shield themselves from the consequences of acts which, if committed by anyone else subject to our laws, would have resulted in severe penalties. Perhaps the most dramatic of these incidents have involved automobile accidents in which American citizens not at fault have suffered enormous damage and injury but have been unable to collect any compensation whatever. The whole burden of the accident has fallen on its innocent victim.

The problem of the scope of immunity from criminal, civil, and administrative jurisdiction has been compounded in recent years by the growing number of persons who under existing law—and that law dates back to 1790—are entitled to immunity. Over the nearly two centuries that have elapsed since enactment of the statute the number of diplomatic missions has increased, their size has increased, and the categories of diplomatic employees have increased. The 1790 law extends full immunity not only to full-fledged diplomats but to administrative and service personnel within diplomatic missions and their families, and their personal servants as well.

H.R. 7819 represents a timely and practical revision of our diplomatic immunity laws. It would accomplish four important objectives:

First, it would codify the privileges and immunities provisions of the Vienna convention as the sole U.S. law on the subject. The Vienna convention provisions formally recognize three categories of diplomatic personnel and extend total immunity only to that relatively small number of persons who are bona fide diplomats. The number of persons enjoying full immunity would be reduced by well over 50 percent.

Second, it would repeal existing Federal legislation inconsistent with the Vienna convention.

Third, it would require foreign diplomats in the United States to carry liability insurance against risks arising from the operations in the United States of automobiles, vessels, or aircraft, pursuant to regulations.

Fourth, as a matter of Federal law, it would establish a substantive right of an injured or damaged party to proceed directly against the insurance company where the insured diplomat enjoys immunity from suit. This right would put an end to the anomalous and inequitable situation where an injured party is unable to collect damages even though the diplomat responsible may carry insurance, often at the insistence of his own embassy, because the claim of diplomatic immunity is invoked.

Mr. President, H.R. 7819 would modernize our anachronistic laws governing diplomatic immunity, and its direct action provision would provide an effective remedy in case of certain injuries or damage to private individuals. The bill as amended has been reported favorably and expeditiously by both the Foreign Relations and Judiciary Committees, and I urge its adoption by the Senate.

Mr. METZENBAUM. Mr. President, I am pleased to join my colleagues—Senator SPARKMAN, Senator SARBANES, and Senator MATHIAS—in supporting H.R. 7819, the diplomatic relations act. This legislation represents the cooperative efforts of the Committee on Foreign Relations and the Committee on the Judiciary.

On February 6, 1978, the Subcommittee on Citizens and Shareholders Rights and Remedies, which I chair, held hearings on H.R. 7819. The Foreign Relations Committee, chaired by Senator SARBANES, held hearings on May 24, 1978. This bill passed the House on July 27, 1978. Since then, it has been refined to take into consideration the testimony presented by witnesses before both committees. Both committees agree that H.R. 7819, in its present form, is an improved bill and should be adopted by the Senate.

The House of Representatives and the executive branch have also worked for the passage of legislation on diplomatic immunity. Since 1966, members of the Senate and House have repeatedly introduced legislation to repeal our antiquated statute and pass complimenting legislation to the Vienna Convention on diplomatic relations. The Vienna Convention makes proper distinctions with regard to the kinds of cases for which immunity is granted. In each instance, these efforts have received the support of the Departments of State and Justice.

Reform in the area of diplomatic immunity has not been opposed on its merits, but has been defeated by inertia and apathy. We have a responsibility to our citizens and to the diplomatic community to conform our domestic law to existing international standards. There is a consensus that this action is long overdue.

In addition to updating United States law by implementing the Vienna Convention on Diplomatic Relations, H.R. 7819 also provides a much-needed remedy for insuring victim compensation. While studying this bill, it became evident to me that a remedial system which guaranted that an accident victim would have an opportunity to present his or her case in court was needed. A necessary adjunct to bringing a suit is the existence of a solvent defendant. As a matter of Federal law, this bill gives an injured or damaged party a substantive right to proceed directly against the insurance company when the insured diplomat enjoys immunity from suit. It also requires foreign diplomats in the United States to carry liability insurance against risks arising from the operation of a motor vehicle, vessel, or aircraft. In this manner, the bill solves the problem associated with immunity when it precludes recovery following an accident caused by a member of a diplomatic mission. Again, this practice is in line with methods employed by most nations.

Mr. President, the Senate should be satisfied with this legislation, and I urge its prompt passage. By enacting this bill, we will prevent the needless victimization of American citizens and advance the cause of diplomacy by removing a source of friction between our people and the diplomatic community.

● Mr. SPARKMAN. Mr. President, the principal purpose of H.R. 7819, as amended by the Committee on Foreign Relations is to complement the 1961 Vienna Convention on Diplomatic Relations, which entered into force with respect to the United States on December 13, 1972. This bill would: first, codify the privileges and immunities provisions of the Vienna Convention as the sole U.S. law on the subject; second, repeal existing Federal legislation which is inconsistent with the Vienna Convention; third, require foreign diplomats in the United States to carry liability insurance against risks arising from the operation in the United States of automobiles, vessels, or aircraft at a level to be established by the executive; fourth, create, as a matter of Federal law, a substantive right of an injured or damaged party to proceed directly against the insurance company where the insured diplomat enjoys immunity from suit; and fifth, make certain conforming amendments to the judiciary code.

The amendments proposed by the Judiciary Committee are perfecting in nature, and are constructive additions to the bill. It is my understanding that the administration strongly supports this legislation as amended by both committees.

The changes in U.S. law called for in the bill will go a long way to modernizing U.S. law governing the relationship between foreign diplomats and U.S. citizens. I urge the Senate to adopt this bill.●

Mr. MATHIAS. Mr. President, Senator SPARKMAN, Senator METZENBAUM, and Senator SARBANES have all made invaluable contributions to this legislation. In a few moments the Senate will vote on the bill that will bring our antiquated diplomatic immunity laws into the 20th century, and I have long looked forward to this day.

As a Senator from a State where a large number of diplomats live, I am keenly aware of the urgent need to modernize existing laws and to bring them into conformity with current international practice.

Since 1790, our Nation has provided absolute immunity from criminal, civil, and administrative jurisdiction to all diplomatic personnel, regardless of rank—from the cook to the Ambassador. The law not only immunizes all diplomatic personnel, it adds insult to injury by subjecting to possible criminal penalties anyone who attempts to bring an action against these individuals. Equally serious is the fact that our laws contain no adequate mechanism to compensate those injured in accidents caused by diplomats.

This has resulted in an intolerable situation where thousands of diplomats are above the law. Most of the diplomats who are our friends and neighbors are scrupulous in avoiding abuse of this privilege, but sadly a minority is not. In its simplest terms, this means that in a high-density diplomatic community like the Maryland suburbs, there are too many people driving cars under no effective constraints at all, even those that are self-imposed. The overwhelming number of diplomats have also taken out liability insurance. But there are exceptions, and in areas where life and death

are involved we simply cannot afford any exceptions.

The dangers inherent in our continued adherence to outmoded concepts of diplomatic immunity prompted me on April 6, 1977, to introduce S. 1256 and S. 1257. My bills were aimed at achieving two important and interrelated goals: narrowing the absolute immunity provided under the 1790 statute and helping insure that Americans who suffer personal injury and property damage in accidents caused by diplomats are not left without an avenue for redress. Specifically, these bills would:

Repeal the 1790 statute with its grant of absolute immunity;

Establish as the sole basis of determining the scope of diplomatic immunity in this country the 1961 Vienna Convention on diplomatic relations and immunities, which makes the degree of immunity commensurate with the rank and duty of the individual;

Require liability insurance for all diplomatic personnel;

Allow an injured party to sue the diplomat's insurance company; and

Preclude an insurance company from avoiding liability by invoking the immunity of the diplomat.

To its credit, Congress has been sensitive to the need for reform of our diplomatic immunity laws and has acted expeditiously. Since early 1977, Congress has conducted an extensive review of various diplomatic immunity proposals, among them my own bills and those introduced by Congressmen JOE FISHER and GEORGE DANIELSON. Both the Senate Judiciary and Foreign Relations Committees, as well as their House counterparts have devoted substantial time and effort in this important endeavor.

The bill now before the Senate is the product of these labors. A number of our colleagues, including Representatives FISHER and DANIELSON, DANTE FASCELL, and Senators METZENBAUM and SARBANES are to be commended for their efforts to bring this legislation to fruition.

I am extremely pleased that H.R. 7819 closely parallels my own bills. In effect, H.R. 7819 contains all of the major features of S. 1256 and S. 1257, and thus accomplishes all of the important goals of my own proposals. Not only will this bill substantially narrow the scope of the immunity we afford diplomatic personnel, it will also insure under its direct action provision that insurance companies can no longer frustrate the claims of injured Americans by hiding behind the immunity of the offending diplomat.

I approve of the scope of diplomatic immunity provided by the Vienna Convention and recognize that the purpose of such immunity is not to benefit individuals, but to insure the efficient performance of diplomatic duties. This purpose can best be fulfilled if the concept of diplomatic immunity keeps pace with the theory of risk sharing contained in our developing law of insurance. H.R. 7810 would do just that.

I urge my colleagues to support this important bill, and am confident that shortly Congress will send to the President for his signature a new diplomatic immunity law which will bring needed protection to American citizens without hampering diplomats in the performance of their duties.

Mr. THURMOND. Mr. President, I rise in support of H.R. 7819 as amended by the Senate Judiciary Committee.

Modernization of U.S. law on diplomatic immunity is long overdue and our passage of the bill—H.R. 7819, as amended—will provide the major improvements needed.

This change of law accomplishes three fundamental purposes. First, it would repeal the 1790 statute which is outdated and inapplicable to our modern world. Repeal of this outmoded legislation will allow application of the Vienna Convention on Diplomatic Relations of 1961 as the standard for granting privileges and immunities to the various categories of diplomatic mission personnel serving in official Government establishments today, as well as to certain of their dependents.

Secondly, it would establish a legal basis, on the Federal level, for requiring all persons enjoying diplomatic immunity to acquire adequate liability insurance against risks arising from the operation in the United States of automobiles, vessels, or aircraft and for creating, as a matter of Federal law, a substantive right of an injured or damaged party to proceed directly against the insurance company in those instances where the insured diplomat enjoys immunity from suit.

And thirdly, it makes certain conforming amendments to the Judiciary Code. With the adoption of this law, we are not only changing our immunity laws into conformance with the Vienna convention which this Government signed some years ago, but also into conformance with the way our own nationals working abroad in our missions are treated by foreign governments.

Mr. President, for too many years we have delayed making these needed improvements to modernize our laws relating to diplomatic immunity. Possibly this delay was due to lack of widespread recognition of this special and, in some sense, localized problem. But certainly these changes are very important in terms of the relief that they can bring to Americans who may be injured, one way or another, by acts done by foreign nationals.

So long as foreign nationals have the complete protection of immunity, there is virtually nothing that can be done. Our American citizens have to bear the brunt of this, and it is illogical and unfair—especially in view of the Vienna Convention on Diplomatic Relations of 1961, to which we have already agreed.

Since much of the concern for diplomatic immunity relates to automobile accidents, and thus to automobile insurance, I feel some comment is in order at this point to recognize this facet of the overall situation. Certainly we appreciate the feelings expressed by the automobile insurers at hearings concerning this matter. They stated their firm conviction that legislation was needed to provide for a reparations system which would allow for fair and just compensation to those innocent victims suffering injury and damage at the hands of foreign diplomats enjoying diplomatic immunity. Also, we understand the reservation and concern that these insurers have with respect to section 7 of this bi which allows, under certain conditio direct actions against insurers of me bers of diplomatic missions and the families. At the same time, however, has been brought to our attention th some insurers have indicated that th have offered, or contemplate offering, a underwriting requirement package carriers that would allow them to provi automobile coverage that would be bo attractive and profitable for the com panies.

I feel you would be particularly inte ested in some comments made on th subject at one of the recent hearings this bill by Mr. Howard B. Clark, who a former special assistant to the Feder Insurance Administration, and form chief insurance commissioner of th State of South Carolina, and a form member of the DOT automobile insu ance and accident compensation stud Mr. Clark is an extremely knowledgeab person in this matter of insurance th is so important in H.R. 7819 as amende

Mr. Clark, in his testimony, recog nized the possibility of concern by aut mobile insurers about the direct actio statute and he pointed to at least o other way that such direct action cou be handled. He suggested that Stat would be at liberty to require proof financial responsibility for the futu under which the insurers could not rai policy defenses. Substituted service the Secretary of State could then be pr vided if diplomatic immunity prevent service on individuals. The insurer wou then be brought to court, and the acc dent victim would recover on the ba of the same reparation system as ever one else.

Additionally, it is our understandin that most embassies are anxious a willing to cooperate with the insuran companies in order to help make the type insurance plans succeed. Certain this attitude and expression toward c operation is commendable and is vital the successful implementation of th provisions of this diplomatic immun legislation.

On another point, I am pleased th H.R. 7819, amends the Judiciary Code narrowing Federal exclusive jurisdicti to only civil actions against foreign co suls. At the same time, it is made cle that State courts are not denied juri diction to enforce the criminal laws the States against foreign consuls a members of their staffs. Legislative hi tory shows that Congress has change its position several times on the issue Federal courts exclusive jurisdiction ov actions against foreign consuls. I fe that it is necessary for Congress to r move a de facto immunity from crimin jurisdiction.

Mr. President, this "Diplomatic Rel tions Act" has received careful consid ation by several committees in the Sena and the House. I am especially plea to join with my colleagues of the Sena Judiciary Committee in recommendi favorable action on the bill as amended

The PRESIDING OFFICER. The b is open to amendment. If there be amendment to be proposed, the que tion is on the third reading of the bi

The bill was ordered to a third reading, read the third time, and passed.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MATHIAS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 1029 and 1030.

The PRESIDING OFFICER. Without objection, it is so ordered.

SAFEKEEPING, CARE, AND SUBSISTENCE OF UNSENTENCED FEDERAL PRISONERS

The bill (S. 1274) to provide the Attorney General of the United States with authority to contract with State and local authorities for the safekeeping, care, and subsistence of all Federal prisoners, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 18, United States Code, is amended by striking out "Director of the Bureau of Prisons" in section 4002 and inserting in lieu thereof "Attorney General".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. TOWER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONTRACT SERVICES FOR DRUG DEPENDENT FEDERAL OFFENDERS ACT OF 1978

The bill (S. 3336) to enable the Department of Justice and the administrative office of the U.S. Courts to provide services and special supervision to drug dependent Federal offenders in an efficient and effective manner, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Contract Services for Drug Dependent Federal Offenders Act of 1978".

SEC. 2. Section 3651 of title 18, United States Code, relating to suspension of sentence and probation, is amended by deleting from the second to the last paragraph the colon and everything thereafter, and inserting in lieu thereof a period.

SEC. 3. Section 4255 of title 18, United States Code, relating to supervision in the community of certain convicted offenders, is amended to read as follows:

"An offender who has been conditionally released shall be under the jurisdiction of the United States Parole Commission as if on parole, pursuant to chapter 311 of this title.

"The Director of the Administrative Office of the United States Courts may contract with any appropriate public or private agency or any person for supervisory aftercare of an offender. The Director may negotiate and award such contracts without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).".

SEC. 4. (a) To carry out the purposes of this Act, there are authorized to be appropriated sums not to exceed $4,006,000 for the fiscal year ending September 30, 1980; $4,246,360 for the fiscal year ending September 30, 1981; and $4,501,140 for the fiscal year ending September 30, 1982.

(b) The amendments made by this Act shall take effect on October 1, 1979.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. TOWER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1110), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

If enacted, S. 3336, the "Contract Services for Drug Dependent Federal Offenders Act of 1978", would assure effective implementation of title II of the Narcotic Addict Rehabilitation Act of 1966, as amended, by consolidating the authority for supervisory care for drug dependent persons in a single agency.

BACKGROUND

In 1966, Congress authorized supervisory drug aftercare for drug dependent offenders following their release to the community after conviction, or after having served a term of incarceration, in title II of the Narcotic Addict Rehabilitation Act of 1966 (18 U.S.C. 4255). In 1972, aftercare was extended to all Federal offenders with drug dependence problems by Public Law 92–293.

Authorized services that might be provided to such offenders are varied and include vocational guidance, education, and training, job placement and skill testing, psychological evaluation, psychotherapy, detoxification, temporary housing, residence in a community center and emergency financial assistance. Under current statutes, the Bureau of Prisons has the contracting, monitoring, and funding authority for drug aftercare. Drug aftercare services are provided by contractors almost exclusively on an outpatient basis, although there is a provision for temporary placement in a residential program. The Bureau of Prisons contracts with public and private agencies and individuals for all aftercare services.

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION TOMORROW OF S. 3073, FEDERAL AID HIGHWAY ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the orders for the recognition of Senators on tomorrow morning have been completed, the Senate proceed to the consideration of the Federal Aid Highway Act, S. 3073, with the understanding that any vote ordered on the Alaska railroad amendment by Mr. GRAVEL or the trust fund amendment by Mr. KENNEDY and Mr. WEICKER would go over until Monday.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, there will be votes tomorrow.

Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. Senators will please clear the well. Senators will retire to their seats.

Mr. ROBERT C. BYRD. Mr. President, the Federal Aid Highway Act is a big bill, and there is a time agreement on it.

There are several amendments included in the time agreement, and the votes on only two have been ordered over until Monday. There will be other rollcall votes in connection with the bill tomorrow. So Senators should not be under any illusion, because the cloture vote has been vitiated, that there will not be any rollcall votes tomorrow. There definitely will be.

Mr. STAFFORD. Mr. President, reserving the right to object—and I shall not object——

Mr. ROBERT C. BYRD. There is no request before the Senate. I was merely making a statement.

Mr. STAFFORD. I simply wanted to be assured that on Monday next, the Federal aid highway bill would not be called up for consideration in the Senate prior to 2 o'clock in the afternoon, when the manager on our side and the ranking minority member will be present.

Mr. ROBERT C. BYRD. I thank the Senator, because he had discussed this with me, and I should have stated it.

Mr. RANDOLPH. Mr. President, will the able majority leader yield to me?

Mr. ROBERT C. BYRD. I yield.

Mr. RANDOLPH. Mr. President, I appreciate the able majority leader giving me the opportunity to comment on his discussion of the legislation, of the voting process, the time limitations, and so forth, on the Federal Aid Highway Act of 1978.

I think I am joined by the knowledgeable Senator from Texas (Mr. BENTSEN), the chairman of our Subcommittee on Transportation, in saying that this measure has been reported from our Committee on Environment and Public Works for some time; that we had extensive and very thorough hearings in the subcommittee; that we have a highly important bill. It is a measure to which we hope all Members of the Senate will give attention, as has been indicated by the majority leader, by cooperating in the way we have discussed.

There will be votes that can be taken tomorrow, and then two votes on Monday, with the time agreement expressed by the Senator from Vermont, the ranking minority member of the committee.

My purpose is not to indicate that one bill is more important than the other, but this legislation means very much to the people of the country—to the mobility, the energy, and the very strength of our system.

I appreciate the attention that the majority leader and others are giving to the arrangements, which are entirely satisfactory to us.

Mr. ROBERT C. BYRD. I thank the distinguished Senator, my senior colleague.

I say in response to Mr. STAFFORD that we do have an understanding that on Monday, when the Senate comes in—and it will come in early—we will return to the D.C. representation amendment. After a few hours of debate and action on amendments thereto, the Senate then will turn to the Federal Aid Highway Act, which will not have been completed by the close of business tomorrow, by virtue of our putting over votes on two amendments. So Senator STAFFORD has that assurance. If we do not complete the bill on Monday, the same will be said as to Tuesday.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. THURMOND. Can the majority leader give us some idea of how soon the first vote will occur on Monday?

Mr. ROBERT C. BYRD. Mr. President, from here on out, until the end of this session, it is my view that we should not say any further that on Mondays there will be no votes before 3 o'clock. We will just have to take the votes when they occur, from here on out, if I may be candid with the distinguished Senator from South Carolina.

So votes could occur fairly early. I would say the Senate should come in by 9 o'clock or 10 o'clock on Monday—say, 10 o'clock on Monday—because we do have a great deal of business and we want to finish our work next week and be able to recess the following week for the Labor Day holiday.

Mr. President, there are several amendments that can be called up tomorrow.

Mr. KENNEDY has an amedment on planning and an amendment on truck lengths. Mr. ZORINSKY and Mr. ANDERSON have an amendment on rail crossings. Mr. HUDDLESTON has an amendment relative to coal haul roads. This amendment originally was offered by my senior colleague from West Virginia, Mr. RANDOLPH. Mr. ZORINSKY and Mr. ANDERSON have an amendment relative to rail crossings. Mr. CULVER has an amendment relative to bridges. There is a time agreement on the bill. So we will not be here just spinning our wheels. There will be votes.

I thank the distinguished Senator from Colorado for his patience.

Mr. CULVER. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. Will the Senator from Colorado seek recognition?

Mr. HART. Mr. President, I seek recognition.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. HART. Mr. President, I yield to the Senator from Iowa.

Mr. CULVER. I ask the majority leader just what is the nature of the time agreement that has been entered into and how much time has been accorded each of the pending amendments?

Mr. ROBERT C. BYRD. The time agreement was attained a day or so ago, and it is on the Calendar, at page 3.

The vote on the Kennedy-Weicker trust fund amendment will go over until Monday. There is a 1½-hour limit on that. On the Kennedy planning amendment there are 2 hours. On each of the amendments by Mr. GRAVEL on planning, the hydrofoil and the Alaskan railroad, there is 1 hour. On the amendment by Mr. KENNEDY relative to truck lengths there is 1 hour. On the two amendments by Senator ROTH relative to bridges and beach erosion there is a limit of 1 hour each. On the amendment by Mr. GRAVEL relative to New York streets, 1½ hours. On the amendment by Mr. HUDDLESTON and Mr. RANDOLPH relative to coal haul roads, 1½ hours. On the amendment by Mr. ZORINSKY and Mr. ANDERSON relative to rail crossings, 1½ hours. On the amendment by Mr. CULVER relative to bridges, 2 hours. On any other amendments that have not been specified there is a limit of 30 minutes.

That has not been specified.

Mr. JACKSON. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. I yield.

Mr. JACKSON. I wish to say that the House of Representatives has completed work on the Outer Continental Shelf bill, which is a very important bill in the area of energy, and the conference report on the OCS bill will be ready tomorrow to be called up.

Mr. ROBERT C. BYRD. The conference report. Very good.

Mr. JACKSON. I do not anticipate any major trouble on it, but it is very important.

Mr. ROBERT C. BYRD. But there presumably could be rollcall votes.

Mr. TOWER. Mr. President, if the Senator will yield, when does he propose to call up the conference report?

Mr. JACKSON. I will call it up tomorrow.

Mr. TOWER. Could the Senator put that over until Monday? Senator STEVENS has a great interest in that and he will not be here tomorrow.

Mr. JACKSON. Sure. I will be glad to do that.

Mr. ROBERT C. BYRD. Very well.

Mr. TOWER. I thank the Senator.

Mr. ROBERT C. BYRD. Mr. President, I ask Mr. KENNEDY if he anticipates any more rollcall votes on the D.C. representation matter today?

Mr. KENNEDY. No.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

Mr. President, there will be no more rollcall votes today.

The Senate will come in at 9 a.m. tomorrow morning and at approximately 9:30 a.m., or thereabouts, will begin its deliberations on the Federal aid to highway bill, which has been cleared with Mr. BENTSEN, the manager of the bill.

I thank the Senator from Colorado.

SPECIAL ORDERS FOR MONDAY, AUGUST 21, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders are recognized on Mon-
day, August 21, 1978, the distinguishe
Senator from Wisconsin (Mr. PROXMIR
be recognized for not to exceed 15 min
utes.

The PRESIDING OFFICER. Witho
objection, it is so ordered.

COMMITTEE MEETINGS TOMORROW

Mr. ROBERT C. BYRD. Mr. Preside
I ask unanimous consent that t
Health and Scientific Research Subcom
mittee of the Committee on Human R
sources be authorized to meet during t
session of the Senate on Friday, Augu
18, 1978, to hold a markup session
S. 2755, the drug bill.

The PRESIDING OFFICER. Witho
objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. Preside
I ask unanimous consent that the Pen
tentiaries and Corrections Subcommitt
of the Committee on the Judiciary
authorized to meet during the session
the Senate on Friday, August 18, 1978,
hold a hearing on S. 3227, the Therape
tic Community Act.

The PRESIDING OFFICER. Witho
objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. Preside
I ask unanimous consent that the Com
mittee on the Judiciary be authorized
meet during the session of the Sena
on Friday, August 18, 1978, to hold
hearing on FBI oversight pertaining
bank robberies.

The PRESIDING OFFICER. Witho
objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. Preside
I ask unanimous consent that the Com
mittee on the Judiciary be authorized
meet during the session of the Sena
tomorrow to hold a hearing on S. 23
the recodification of ICC rules.

The PRESIDING OFFICER. Witho
objection, it is so ordered.

SPECIAL ORDERS FOR TOMORRO

Mr. ROBERT C. BYRD. Mr. Preside
I ask unanimous consent that on tomo
row, after the two leaders are recognis
under the standing order, the followi
Senators be recognized for not to exce
15 minutes: Mr. HAYAKAWA, Mr. Tow
and Mr. MCCLURE; and that Mr. Hoe
be recognized for not to exceed 5 minut
thereafter.

The PRESIDING OFFICER. Witho
objection, it is so ordered.

ORDER OF PROCEDURES TOMORROW

Mr. ROBERT C. BYRD. Mr. Preside
I believe the order has been entered f
the taking up of the Federal Highw
Act bill on tomorrow after the order f
the recognition of Senators. Is th
correct?

The PRESIDING OFFICER. That
correct.

Mr. ROBERT C. BYRD. And the ord
for the convening of the Senate tomo
row is at 9 a.m.

The PRESIDING OFFICER. That
correct.

Mr. ROBERT C. BYRD. I thank the

Mr. TOWER. No, Mr. President.

If not, under the previous order, the

RENEGOTIATION BOARD SAVES

Mr. ROBERT C. BYRD. I thank the Chair.

Does Senator THURMOND have anything further today?

Mr. THURMOND. No, Mr. President.

Mr. ROBERT C. BYRD. Does Senator TOWER?

Mr. TOWER. No, Mr. President.

RECESS UNTIL 9 A.M. TOMORROW

The PRESIDING OFFICER. Do any other Senators wish to be recognized?

If not, under the previous order, the Senate stands in recess until 9 a.m. tomorrow.

Whereupon, at 6:35 p.m. the Senate recessed until tomorrow, August 18, 1978, at 9 a.m.

HOUSE OF REPRESENTATIVES—*Thursday, August 17, 1978*

The House met at 10 a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Keep yourselves in the love of God.—Jude 21.

Eternal Father, who art the source of our being, the goal of our moral efforts, and the companion of our way, amid the troubles of these trying times we turn to Thee. Grant unto us the strength of Thy spirit, the peace of Thy presence, and the glory of Thy goodness as we seek to make this planet a better place where people can learn to live together peacefully.

Bless our President, our Speaker, Members of Congress, and all who labor for them and with them. So rule their hearts and so direct their endeavors that justice, peace, and good will may come to new life in our country and in all nations.

May the blessings of Thy love and peace abide in our hearts now and evermore. Amen.

CALL OF THE HOUSE

Mr. WYDLER. Mr. Speaker, under rule I, clause 1, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. DANIELSON. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 714]

Ambro	Flynt	Neal
Andrews, N.C.	Ford, Mich.	Nichols
Archer	Ford, Tenn.	Pepper
Armstrong	Fountain	Pike
Ashley	Fowler	Pressler
AuCoin	Fraser	Preyer
Bedell	Frey	Pritchard
Bellenson	Gaydos	Risenhoover
Biaggi	Giaimo	Rodino
Bolling	Gibbons	Rose
Brodhead	Hagedorn	Santini
Buchanan	Harrington	Sarasin
Burke, Calif.	Harsha	Satterfield
Burton, John	Heckler	Sawyer
Burton, Phillip	Heftel	Schulze
Byron	Holland	Shipley
Cavanaugh	Hollenbeck	Sikes
Chappell	Huckaby	Simon
Conyers	Ireland	Sisk
Cornell	Johnson, Calif.	Skubitz
Crane	Kasten	Stangeland
D'Amours	LaFalce	Steiger
Davis	Le Fante	Stokes
Delaney	Leggett	Teague
Dent	Lloyd, Tenn.	Thompson
Devine	Lundine	Thone
Dodd	McDade	Tsongas
Duncan, Oreg.	McDonald	Tucker
Eckhardt	McKay	Udall
Edgar	McKinney	Waxman
Edwards, Okla.	Madigan	Wiggins
Eilberg	Meeds	Wilson, C. H.
Evans, Colo.	Mikulski	Young, Alaska
Fascell	Mikva	Young, Tex.
Fithian	Milford	Zeferetti
Flowers	Miller, Calif.	

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). On this rollcall 325 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

THE JOURNAL

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

Mr. SYMMS. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The question is on the approval of the Journal.

The Journal was approved.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Chirdon, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 8771. An act to amend title 5, United States Code, to authorize the Civil Service Commission to comply with the terms of a court decree, order, or property settlement in connection with the divorce, annulment, or legal separation of a Federal employee who is under the civil service retirement system, and for other purposes.

The message also announced that the Senate has passed with an amendment, in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 10899. An act to provide for Federal regulation of participation by foreign banks in domestic financial markets.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 11003) entitled "An act to clarify the authority for employment of personnel in the White House Office and the Executive Residence at the White House, to clarify the authority for employment of personnel by the President to meet unanticipated needs, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. RIBICOFF, Mr. CHILES, Mr. SASSER, Mr. PERCY, and Mr. STEVENS to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2539. An act to amend the Higher Education Act of 1965 to improve the basic educational opportunity grants program, and for other purposes.

FRENCH NEWSPAPER RECONSTRUCTED AND FABRICATED ANDREW YOUNG INTERVIEW

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, last month when the uproar broke over the interview our Ambassador to the United Nations, Andrew Young, gave to a French newspaper, I decided to try to find out for myself just what was said in that interview. It seemed the only fair and just thing to do. I would have wanted to do that even if Andy Young had not been my friend.

The outcome was that I obtained from the Department of State a transcription of the tape recording of the interview which was conducted in English. And, I made that transcription a part of the CONGRESSIONAL RECORD of July 24.

After the transcript appeared in the RECORD, one of our colleagues, the gentlelady from New Jersey (Mrs. FENWICK), raised a question about differences between its content and the content of a news article in the July 14, 1978, New York Times. The differences are substantial.

The Paris newspaper (Le Matin) translated the interview from English to French after which it misrepresented what Young said. The French Communist newspaper reconstructed and fabricated a story from the interview. The Associated Press translated this injustice to English. The New York Times compounded the situation by publishing the AP account in its prestigious newspaper. Andy Young, and the United States, were seriously damaged because of this outrageous misrepresentation.

I have requested permission to submit in the special order section of today's record a copy of the Times account and relevant parts of the Young interview for your review and judgment, as well as my correspondence to the publisher and executive editor of the Times urging that this injustice be righted.

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

RENEGOTIATION BOARD SAVES THE TAXPAYERS MONEY

(Mr. MINISH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MINISH. Mr. Speaker, there has been a lot of talk recently in the Congress and elsewhere about saving taxpayers' money. In the guise of protecting the taxpayer and saving money, a number of Members have set out to do exactly the opposite by killing the Renegotiation Board.

Before the Congress goes along with this move, it is time someone told the real story about who will benefit from the end of renegotiation and the Renegotiation Board. I intend to take a sepcial order later today in order to lay the facts on the table. I will spell out exactly who will gain from an end to renegotiation. One thing is clear—it is not the American taxpayer—he would be the biggest loser of all.

It is time the Congress decided whether its job is to protect taxpayers or big business. The issue here could not be clearer. I hope that my colleagues in the House and Senate, once they have all the facts, will come down on the side of taxpayers and preserve one of the few Federal agencies that saves the taxpayers money—the Renegotiation Board.

FRED JAFFE, GREAT HUMANITARIAN, PASSES

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

● Mr. SCHEUER. Mr. Speaker, our Nation has lost its most outstanding intellectual leader in the field of rational analysis of policies affecting fertility. Mr. Frederick Jaffe, president of the Alan Guttmacher Institute of New York, was struck down in the prime of his intellectual life and career at the age of 52. It is fitting that this prodigious worker for human well-being should have died at his desk, while working on issues of the greatest importance to the health and welfare of millions of people in the United States and abroad.

For well over a decade, Fred Jaffe has been the leading figure in objective analysis of the health and family planning needs of Americans. He was a seminal figure in the debate of the 1960's concerning the suitability of Federal-subsidized family planning programs for the 5 million women in need of such services.

It is a tribute to his courage, stick-toitiveness, and foresight that this program has now proved to be the most popular and oversubscribed of all U.S. public health programs. He contributed his energy, analytic skills, and great eloquence to the need for safer, more effective, and more acceptable contraceptives for all women and men.

He was instrumental in the establishment of the Center for Population Research at the National Institutes of Health, and contributed greatly to the most recent policy assessment of research needs in reproduction and contraception—the 1976 report entitled "Reproduction and Human Welfare," of which he was coauthor.

Fred Jaffe's goal was that every child be wanted, loved, and healthy. Where he spoke there was light and humanity; where he wrote there was insight and passion. Hundreds of millions of couples and their children around the world have benefited from his full and dynamic life, so tragically cut short yesterday afternoon.

TRIBUTE TO THE LATE JAMES GRANT BOLLING

(Mr. SKELTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKELTON. Mr. Speaker, along the path of life certain people stand out because of kindness and considerations shown to others. These certain people make life more pleasant and more enjoyable.

I found Jim Bolling, the wife of my colleague, the gentleman from Missouri, RICHARD BOLLING, to be such a person.

When I first came to Congress last year it was Jim Bolling who went out of her way to be kind and thoughtful to my wife and to me. The numerous courtesies she extended to us we will long remember. We found her to be a good friend, very considerate, and a most wonderful person.

I join the many friends of DICK BOLLING in extending sincere sympathy on his immeasurable loss. I will never forget how thoughtful and kind Jim Bolling was to my wife and to me.

She will be greatly missed.

SECOND ANNUAL DEMOCRATS VERSUS REPUBLICANS CONGRESSIONAL CHARITY TENNIS TOURNAMENT.

(Mr. DICKS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

● Mr. DICKS. Mr. Speaker, I wanted my colleagues to know about a very important tennis match that was played this morning at the prestigious Chevy Chase Club. This match was played as part of the planning process for the second annual Democrats versus Republicans Congressional Charity Tennis Tournament.

The team of JOEL PRITCHARD and Roland Evans—Evans and Novak—played myself and Jack Sloate. During the match Mr. Evans was heard to say that his and PRITCHARD's play reminded him of the Bay of Pigs invasion and that he and JOEL were on the wrong side. After the match Evans said that in 35 years of tennis he had never been beaten so badly. JOEL PRITCHARD kept mumbling about "how much this hurt".

If this match is any indication of what will happen this winter when the Republicans play the Democrats, it could foretell one of the most lopsided beatings since Billy Jean King played Bobby Riggs.

The score for those of my colleagues who are interested was 6–1, 6–1, 6–1. T match took a little less than 50 m utes.●

VOTING SYSTEM MUST BE MADE BETTER SYSTEM

(Mr. STAGGERS asked and was giv permission to address the House fo minute and to revise and extend remarks.)

Mr. STAGGERS. Mr. Speaker, August 10 on floor proceedings on bill H.R. 13511, the Revenue Act, I w pesent and voted on two occasi when my vote was not recorded in final tabulation of the vote. Today received a new card. I was told that was probably a problem with the ca I use in the machine. I have understo that many Members of Congress ha had to get new cards. For the record wish to say that I was present on bo of those occasions and voted aye on bo the votes in which I was not record as voting either way. I have witnes that I did vote on final passage for bill at that time, and I just think som thing has to be done with our syst to make it a better system, because s eral other Members have complained me that the same thing has happen to them, and many of them have got new cards. I have my new card tod I just want this to be a matter of reco that I was present and voted aye on bo of these occasions on August 10.

PRESIDENT COULD IMPOSE QUOTA ON IMPORT OF FOREIGN OIL

(Mr. WEAVER asked and was giv permission to address the House for minute and to revise and extend his r marks.)

Mr. WEAVER. Mr. Speaker, the doll is plummeting; inflation is sizzling; a OPEC is threatening to raise the price oil or put the price of oil in a bask of currencies. With one bold stroke t President could do much to resolve th situation by imposing quotas on the im port of foreign oil, and if OPEC threa ens to raise prices, by instituting tarif also on imported oil to allow the Unit States to get that money, not OPE and to funnel that money, I would su gest, into the social security progra where it is badly needed.

TEMPORARY PROGRAMS BECOMING PERMANENT CAUSE THE GREATEST DEFICITS

(Mr. REGULA asked and was giv permission to address the House for minute and to revise and extend his r marks.)

Mr. REGULA. Mr. Speaker, yesterda during the debate on the second budg resolution we debated extensively th countercyclical aid program. This is a excellent case study of how temporar programs become permanent. It is classic illustration of how we create de pendency with temporary programs an find it very difficult to shut them off whe the need is no longer in existence.

I think the lesson of the experienc yesterday is that we should weigh ou action very carefully before we start

so-called temporary program. We should reflect on what we are doing in terms of creating dependency on the part of those who are the beneficiaries. In my judgment the greatest cause of deficits is temporary programs that become permanent. As we work with future budgets, and other legislation we can profit from yesterday's experience, if we hope to achieve fiscally responsible budgets.

UPI UNEARTHS SECRET PLAN AT AGRICULTURE AND FDA TO BAN NITRITE

(Mr. MARTIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARTIN. Mr. Speaker, I want to alert the House of Representatives that United Press International has just unearthed a secret plan over at Agriculture and FDA to ban nitrite, probably after the Congress adjourns. It is based on feeding to cancer-prone rats a relatively large amount of nitrite, equivalent to that in a human diet of roughly 600 pounds of cured meat per day.

I further caution my colleagues that the risk estimates from FDA and Agriculture are typically high by a factor of about 100.

I would caution my colleagues further that their estimate assumes that all human lymphoma is attributable to nitrite in food, an improbable assumption. Furthermore, it ignores the fact that there is four times as much nitrate naturally in your natural saliva than in cured meat. It also neglects the fact that there is 40 times as much nitrite naturally formed in your intestines from the normal digestion of protein.

I would like to say, they have a lot of curious banning to do.

Finally, I would alert my colleagues that the gentleman from Virginia (Mr. WAMPLER) and I have introduced remedial legislation similar to the moratorium on banning saccharin. We invite your support.

REINTRODUCTION OF CONCURRENT RESOLUTION ON AMENDMENTS TO SOCIAL SECURITY ACT

(Mr. WAMPLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WAMPLER. Mr. Speaker, several weeks ago, I introduced a concurrent resolution which was based on concern for the fact that the 1977 amendments to the Social Security Act are a costly and temporary remedy to the problem of maintaining adequate funds in the various social security insurance accounts.

The resolution brought out that the 1977 amendments called for the joint Presidential and congressional appointment of a nine-person commission to undertake a continuing review, study, and investigation of the social security system. It noted that this commission has not yet been formed although more than 8 months have now passed since the amendment became law.

The resolution urges that the commission be formed and that it apprise the Congress of ways by which the insurance funds upon which the system is based can be reestablished as income-generating investment funds. This was the original concept for avoiding a wholly tax-supported system. It remains the most apparently feasible way to assure solvency of the fund without the burden of ever-increasing direct taxation. It is also the most obvious way to avoid converting social security to a welfare program by funding it from general revenues.

I am pleased that 36 Members of the House are cosponsors of the resolution which I introduce today. This cosponsorship may underlie the President's recent compliance with the requirement that he nominate five persons for the commission. The Speaker and the President pro tempore of the Senate nominate the other four. The Speaker has made his nominations.

When the commission is appointed, the resolution will become even more important since it assigns a mission of critical importance. In reintroducing the resolution, I therefore reopen it for cosponsorship and welcome the support of my colleagues.

FATE OF LOCK AND DAM 26 TIED TO WHITE HOUSE

(Mr. QUIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. QUIE. Mr. Speaker, sensible proposals by Congress authorizing construction of a vital waterways facility lock and dam 26 at Alton, Ill., have taken a terrible battering at the hands of the White House and Department of Transportation.

After more than 3 years of discussion, debate and delay, it is time for the administration to buckle down—to get together with Congress on a compromise.

Time is running out. Lock and dam 26 is vital to the upper Midwest, and I think it is about time President Carter starts bending a little, or we will have no legislation at all. Our ability to provide grain to customers and our need to "import" oil, coal, and other raw materials for manufacturing in Minnesota are highly dependent upon it. About 62 percent of Minnesota's grain exports are transported by barge, mostly through the outdated Alton Locks system.

The Alton facility has seen its better days. The walls are cracking, the locks have become wrenched and erosion threatens the dam's foundation.

Even though it will take 8 to 10 years to reconstruct the facility, there seems to be no sense of urgency at the White House. The administration has pursued a hard, inflexible line throughout crucial stages of H.R. 8309, which authorizes construction. It has continued to push for a cost-of-recovery principle, despite the fact that it has been beaten in both Houses of Congress, which have opted for a fuel tax charge instead.

President Carter is, of course, under no obligation to go along with these sentiments. But I urge him to compromise with Congress and accept a fuel tax, just as truckers pay a fuel tax for construction and rehabilitation of Federal-aid highways.

The President must cooperate, not confront. If Jimmy Carter does not act in the next month to help us get a compromise, he is putting the economic health of the upper Midwest in jeopardy.

SECRETARY OF AGRICULTURE STIFLING AGRICULTURE COMMITTEE

(Mr. MARLENEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARLENEE. Mr. Speaker, unfortunately, the Secretary of Agriculture and his staff have apparently decided to try to stifle some very fine Democratic and Republican members of the Agriculture Committee who are fighting for the American farmer and rancher. I think it is extremely unfortunate that the Department of Agriculture and the administration have sunk to such depths.

What the administration and the Agriculture Department officials seem to have also forgotten is that these good Democrats were elected by the people of their districts to represent them, not walk lock step with the President.

Mr. Speaker, agriculture requires a bipartisan concensus in Congress. In the House Agriculture Committee several courageous Democrats, along with Republicans have been prominent in getting legislation to keep American agriculture afloat—not prosperous or strong—just solvent. And they have had to fight the administration to do it. What the Agriculture Department officials seem to have forgotten is that the Agriculture Department, and the administration, should have been trying to strengthen the position of our farmers and ranchers—not consign them deeper and deeper to debt, and in some cases drive them from agriculture altogether.

Mr. Speaker, instead of pursuing a reported policy of attacking Agriculture Committee members of both parties, the Agriculture Department should look inward and find out why those of us who are correctly representing our constituents—and American agriculture—cannot support their bankrupt policies. Instead of being "totally irresponsible" as the Secretary of Agriculture had suggested, those members of the Agriculture Committee, and in fact the entire Congress, from both sides of the aisle, who have rejected the administration's farm program have done so for the most responsible of reasons. Their constituents, American agriculture, and their consciences demand they reject the Agriculture Department's policies and give American farmers and ranchers an opportunity to prosper and continue to meet world food needs.

STATEMENT OF CONGRESSMAN LAWRENCE COUGHLIN ON HOUSE CONCURRENT RESOLUTION 683—SECOND CONCURRENT RESOLUTION ON THE BUDGET—FISCAL YEAR 1979

(Mr. COUGHLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

● Mr. COUGHLIN. Mr. Speaker, 1 year ago, during consideration of the fiscal year 1978 second concurrent resolution on the budget, the House passed a Coughlin amendment to make provision in the budget for a system of tuition tax credits by a vote of 311 yeas to 76 nays. Not only was this the first time the House had ever been allowed to vote on the tax credits issue, but the overwhelming victory was won in spite of Budget Committee opposition. The continuing, broad bipartisan support for this concept was once again demonstrated by a vote of 227 yeas to 136 nays which trounced Budget Committee opposition to a Coughlin amendment—amended by Congressman LUKEN—to the first concurrent resolution on the budget for 1979. Subsequently, the legislation providing for tuition tax credits was passed by a vote of 237 yeas to 158 nays.

This time, the Budget Committee made provision for a system of tuition tax credits of their own volition. Revenue reductions include, among other things, $1.6 billion for miscellaneous tax measures such as tuition tax credit. In a colloquy yesterday with the distinguished chairman of the Budget Committee, Mr. ROBERT GIAIMO of Connecticut, I was assured that the cost of a system of tuition tax credits was covered.

It is said that "those who cannot remember the past are condemned to repeat it." The Budget Committee is to be commended for preventing the House, and itself, from falling into such a situation. Obviously, the success of the Coughlin amendments and the will of the House were "remembered."●

A SCHEME FOR QUIETER PLANES

(Mr. VANIK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VANIK. Mr. Speaker, in today's Washington Post, Hobart Rowen has an excellent article about the "Quiet Airplane" tax bill which will be on the floor after the recess. I commend the attention of the Members to this article, because Mr. Rowen describes very clearly how it is proposed to take $3 billion of the taxpayers' money and transfer it over to the airlines by shifting 2 cents of the airlines' tax from the airline safety trust fund and paying it to the aircraft and the commercial airlines industry.

This is a terrible bill The Committee on Rules reported out a closed rule on this bill, and as soon as this rule reaches the floor I am certainly going to support an effort to urge the House to vote down the previous question on this rule so that the House can have an opportunity to act on an alternate proposal to simply reduce the airlines' tax by 2 cents.

DESIGNATING "DAYS OF REMEMBRANCE OF VICTIMS OF THE HOLOCAUST"

Mr. LEHMAN. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 1014) designating April 27, 28, and 29 of 1979 as "Days of Remembrance of Victims of the Holocaust," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 1014

Whereas six million Jews and millions of other people were murdered in concentration camps as part of a program of extermination carried out by the Nazi party during World War II;

Whereas the people of the United States should recognize that all acts of bigotry are rooted in the cruelty of spirit and the callousness that led the Nazis to commit atrocities against millions of people, and should dedicate themselves to the principle of human equality;

Whereas the people of the United States should recognize that tyranny creates the political atmosphere in which bigotry flourishes, and should be vigilant to detect, and ready to resist, the tyrannical exercise of power;

Whereas on April 29 of 1945 the Armed Forces of the United States liberated the surviving victims of Nazi internment in the concentration camp in Dachau, Germany, and revealed to the world evidence of a tragic human holocaust that must never be forgotten, nor repeated; and

Whereas the Nazi concentration camp in Dachau, Germany, is not only a shocking symbol of Nazi brutality and destruction, but also a symbol of the danger inherent in tyranny, the pernicious quality of bigotry, and the human capacity to be cruel: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 27, 28 and 29 of 1979 are designated as "Days of Remembrance of Victims of the Holocaust", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such days with appropriate ceremonies and activities.

Mr. LEHMAN. Mr. Speaker, as one of over 230 cosponsors of this resolution, I would like to point out that only one generation has passed since the annihilation of 6 million Jews at the hands of the Nazis during World War II. We should not allow ourselves to forget this atrocity of history while people are still threatened by racial, national, or religious persecution.

Let us designate these dates, commemorating the April 29, 1945 liberation of the survivors of Dachau concentration camp by the U.S. Armed Forces as a time of remembrance and as a declaration of our resolve to never again witness another human tragedy reminiscent of the holocaust.

● Mr. WRIGHT. Mr. Speaker, there were 232 Members who joined in sponsoring House Joint Resolution 1014. This resolution designates the weekend of April 27, 28, and 29 of 1979 as the Days of Remembrance of Victims of the Holocaust.

The depth of concern which the American people have for the memory of those innocents who died at the han of the Nazis nearly 40 years ago is vealed in the broad sponsorship of t memorial resolution. Members from bo parties and every region of the coun are included among its sponsors.

Never in history has there been a m cruel, more calloused or more coldly c trived effort at genocide by a governm as was practiced against the Jews by Nazi tyranny.

By sponsoring this resolution th Members have committed themselves continue the fight against bigotry the tyrannical exercise of power wh led to the murder of 6 million Jews millions of other human beings dur the wretched days of World War II. T fire of righteous outrage which th crass murders kindled in the conscio ness of man must never be allowed die out.

By approving this resolution una mously today, the entire membership the House will be affirming that th terrible events must never be forgot by the human race, and so long as a j God reigns must never again be tolera by civilized humanity.

Mr. Speaker, the following list of Me bers were the sponsors of the holoca resolution:

SPONSORS OF HOLOCAUST RESOLUTION

Joseph P. Addabbo, Daniel K. Akaka, Alexander, Jerome A. Ambro, Joseph S. A merman, Glenn M. Anderson, John B. An son, Mark Andrews, Bill Archer, John Ashbrook.

Les AuCoin, Alvin Baldus, Max Bau Robin L. Beard, Anthony C. Beilenson, A Benjamin, Jr., Tom Bevill, Mario Bi Johnathan B. Bingham, James J. Bianch

Richard Bolling, David E. Bonior, Bonker, David R. Bowen, John Brade John B. Breckinridge, William M. Brodh Clarence J. Brown, John Buchanan, Clai Burgener.

J. Herbert Burke, Phillip Burton, Bruc Caputo, Charles J. Carney Tim Lee Car John J. Cavanaugh, Elford A. Cederberg, Chappell, Jr., Don H. Clausen, William C

William S. Cohen, E. Thomas Colem Silvio O. Conte, John Conyers, Jr., Tom C coran, James C. Corman, David L. Corn Baltasar Corrada, William R. Cotter.

Lawrence Coughlin, Norman E. D'Amo Robert W. Daniel, Jr., E de la Garza, Ron V. Dellums, Butler Derrick, William L. D inson, Charles C. Diggs, Jr., Christophe Dodd, Robert K. Dornan.

Thomas J. Downey, Robert F. Dri John J. Duncan, Robert W. Edgar, Don wards, Mickey Edwards, Joshua Elb David F. Emery, Allen E. Ertel, Thomas Evans, Jr.

John G. Fary, Dante B. Fascell, Millic Fenwick, Paul Findley, Hamilton Fish, Ronnie G. Flippo, Daniel J. Flood, James Florio, Walter Flowers, William D. Ford.

Edwin B. Forsythe, L. H. Fountain, Don M. Fraser, Bill Frenzel, Don Fuqua, Gammage, Robert Garcia, Joseph M. Gay Richard A. Gephardt, Robert N. Giaimo.

Sam Gibbons, Benjamin A. Gilman, Ginn, Dan Glickman, Barry M. Goldwa Jr., William F. Goodling, Albert Gore, Willis D. Gradison, Jr., Charles E. Grassle

S. William Green, Tennyson Guyer, S B. Hall, Jr., James M. Hanley, Augustus Hawkins, W. G. Hefner, Harold C. Hollenbe Marjorie S. Holt, Elizabeth Holtzman, Fra Horton.

James J. Howard, William J. Hugh Henry J. Hyde, Andy Ireland, Andr Jacobs, Jr., James M. Jeffords, Ed Jenkin Harold T. Johnson, James P. Johnson, Jam E. Jones.

Barbara Jordan, Robert W. Kasten, Jr., Jack F. Kemp, Martha Keys, Dale E. Kildee, Peter H. Kostmayer, John Krebs, Robert Krueger, Robert J. Lagomarsino, Delbert L. Latta.

James A. S. Leach, Raymond F. Lederer, Joseph A. Le Fante, Norman F. Lent, Elliott H. Levitas, Bob Livingston, Jim Lloyd, Marilyn Lloyd, Clarence D. Long, Thomas A. Luken.

Stanley N. Lundine, Edward R. Madigan, James R. Mann, Edward J. Markey, Marc L. Marks, Dan Marriott, James G. Martin, Jim Mattox, Romano L. Mazzoli, Matthew F. McHugh.

Stewart B. McKinney, Lloyd Meeds, Ralph H. Metcalfe, Helen S. Meyner, Barbara A. Mikulski, Abner J. Mikva, Norman Mineta, Parren J. Mitchell, Joe Moakley, Anthony Toby Moffett.

G. V. Montgomery, William S. Moorhead, Ronald M. Mottl, John M. Murphy, Michael O. Myers, Lucien N. Nedzi, Robert N. C. Nix, Richard Nolan, James L. Oberstar, George M. O'Brien.

Richard L. Ottinger, Leon E. Panetta, Edward J. Patten, Jerry M. Patterson, Donald J. Pease, Claude Pepper, Carl D. Perkins, Shirley N. Pettis, J. J. Pickle, Richardson Preyer.

Melvin Price, Joel Pritchard, Dan Quayle, Albert H. Quie, Tom Railsback, Charles B. Rangel, Henry S. Reuss, John J. Rhodes, Frederick W. Richmond, Matthew J. Rinaldo, Ted Risenhoover.

Peter W. Rodino, Jr., Robert A. Roe, Benjamin S. Rosenthal, Philip E. Ruppe, Jim Santini, Ronald A. Sarasin, Harold S. Sawyer, James H. Scheuer, Keith G. Sebelius, Paul Simon, B. F. Sisk.

Ike Skelton, Gladys Spellman, Stephen J. Solarz, Fortney H. Stark, Newton I. Steers, Jr., William A. Steiger, Louis Stokes, Samuel S. Stratton, Frank Thompson, Jr., Paul E. Tsongas, Morris K. Udall, Lionel Van Deerlin.

Guy Vander Jagt, Bruce F. Vento, Douglas Walgren, Robert S. Walker, Henry A. Waxman, Ted Weiss, Richard C. White, G. William Whitehurst, Charles Whitley, Bob Wilson.

Larry Winn, Jr., Timothy E. Wirth, Lester L. Wolff, Jim Wright, Sidney R. Yates, Gus Yatron, C. W. Young, Robert A. Young, Leo C. Zeferetti, Charles W. Whalen, Jr.●

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LEHMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

PROVIDING BETTER PROCEDURES TO PREVENT MAILING OF FRAUDULENT SOLICITATIONS

Mr. LEHMAN. Mr. Speaker, I call up from the Speaker's table the Senate bill (S. 2543) to amend title 39 of the United States Code to provide better enforcement procedures for preventing fraudulent solicitations through the mails, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, and I will not object, this is the bill sponsored by the gentleman from California (Mr. CHARLES H. WILSON) and other members of the Committee on Post Office and Civil Service to correct the present gaps in the law that relate to the mailing out of fraudulently proposed billings that make people believe they are receiving a legitimate billing when in fact they are not; is that correct?

Mr. LEHMAN. Mr. Speaker, if the gentleman will yield, the gentleman from California (Mr. ROUSSELOT) is exactly right. Under the provisions of this legislation, the Postmaster General will be able to stop the receipt of mail matter by these fraudulent businessmen as he may do in the case of other fraudulent mail schemes.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, the Senate has not changed this bill in any way from the time it left the House; is that correct?

Mr. LEHMAN. It is the identical bill.

Mr. GARY A. MYERS. Mr. Speaker, reserving the right to object, I would like to ask the gentleman, since we are dealing with sending out a billing which in fact is not a true billing, would this in any way affect the situation where a municipality—in fact, I am thinking of a rather large municipality in Pennsylvania—apparently has on a number of occasions sent out billings for parking violations, although the individuals and vehicles have never been in that city? Would that circumstance come under this provision of the law?

Mr. LEHMAN. No, it would not fall under this provision.

Mr. GARY A. MYERS. Mr. Speaker, further reserving the right to object, would the gentleman explain why it would not?

Mr. LEHMAN. Because that is not fraudulent solicitation. One would be a fraudulent solication scheme, and the other would not.

Mr. GARY A. MYERS. Mr. Speaker, further reserving the right to object, it was my impression in discussion with the gentleman from California (Mr. ROUSSELOT) that the intent here was to prevent the use of the mails in presenting to an individual a false billing procedure, and it would seem to me that communities or agents of communities could fall into that same sort of scheme.

Mr. LEHMAN. Mr. Speaker, I think the situation the gentleman describes does not really fall under the idea of false solicitation.

Mr. GARY A. MYERS. Mr. Speaker, I thank the gentleman from Florida (Mr. LEHMAN) for his answers.

Mr. LEHMAN. Mr. Speaker, if the gentleman will yield further, this legislation passed the Senate on August 14. It is identical to the bill H.R. 13369, which was reported from the Committee on Post Office and Civil Service on July 31, 1978. The chairman of our committee has requested that the committee's bill be placed on the suspension calendar. However, because the Senate has now passed an identical measure, it would expedite the business of the House to consider the Senate bill.

The purpose of this legislation is to simplify the procedure for halting fraudulent solicitations going through the mail. Under existing law, It is difficult for the Postmaster General to stop fraudulent advertising gimmicks because, although this mail matter is nonmailable, individual citizens who are innocently bilked by these schemes lose their money before the Postmaster Genera is able to take effective action.

Under the provision of this legislation, the Postmaster General would be able to stop the receipt of mail matter by these fraudulent businessmen as he is able to do in the case of other fraudulent mail schemes.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman for his very perceptive analysis, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. GARY A. MYERS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2543

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3005(a) of title 39, United States Code, is amended—

(1) by inserting "including the mailing of matter which is nonmailable under section 3001(d) of this title," after "false representations,"; and

(2) by adding at the end thereof the following: "For purposes of the preceding sentence, the mailing of matter which is nonmailable under such section 3001(d) by any person shall constitute prima facie evidence that such person is engaged in conducting a scheme or device for obtaining money or property through the mail by false representations.".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 13369) was laid on the table.

INTERNATIONAL BANKING ACT OF 1978

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 10899) to provide for Federal regulation of participation by foreign banks in domestic financial markets, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

SHORT TITLE; DEFINITIONS AND RULES OF CONSTRUCTION

SECTION 1. (a) This Act may be cited as the "International Banking Act of 1978".

(b) For the purposes of this Act—

(1) "agency' means any office or any place of business of a foreign bank located in any State of the United States at which credit balances are maintained incidental to or arising out of the exercise of banking powers, checks are paid, or money is lent but at which deposits may not be accepted from citizens or residents of the United States;

(2) "Board" means the Board of Governors of the Federal Reserve System;

(3) "branch" means any office or any place of business of a foreign bank located in any State of the United States at which deposits are received;

(4) "Comptroller" means the Comptroller of the Currency;

(5) "Federal agency' means an agency of a foreign bank established and operating under section 4 of this Act;

(6) "Federal branch" means a branch of a foreign bank established and operating under section 4 of this Act;

(7) "foreign bank" means any company organized under the laws of a foreign country, a territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands, which engages in the business of banking, or any subsidiary or affiliate, organized under such laws, of any such company. For the purposes of this Act the term "foreign bank" includes, without limitation, foreign commercial banks, foreign merchant banks and other foreign institutions that engage in banking activities usual in connection with the business of banking in the countries where such foreign institutions are organized or operating;

(8) "foreign country" means any country other than the United States, and includes any colony, dependency, or possession of any such country;

(9) "commercial lending company" means any institution, other than a bank or an organization operating under section 25 of the Federal Reserve Act, organized under the laws of any State of the United States, or the District of Columbia which maintains credit balances incidental to or arising out of the exercise of banking powers and engages in the business of making commercial loans;

(10) "State" means any State of the United States or the District of Columbia;

(11) "State agency" means an agency of a foreign bank established and operating under the laws of any State;

(12) "State branch" means a branch of a foreign bank established and operating under the laws of any State;

(13) the terms "bank", "bank holding company", "company", "control", and "subsidiary" have the same meanings assigned to those terms in the Bank Holding Company Act of 1956, and the terms "controlled" and "controlling" shall be construed consistently with the term "control" as defined in section 2 of the Bank Holding Company Act of 1956; and

(14) "consolidated" means consolidated in accordance with generally accepted accounting principles in the United States consistently applied.

DIRECTORS OF NATIONAL BANKS

SEC. 2. Section 5146 of the Revised Statutes (12 U.S.C. 72) is amended by striking out the period at the end of the first sentence and adding the following new provision: ", except that in the case of an association which is a subsidiary or affiliate of a foreign bank, the Comptroller of the Currency may in his discretion waive the requirement of citizenship in the case of not more than a minority of the total number of directors."

EDGE ACT CORPORATIONS

SEC. 3. (a) It is the purpose of this section to eliminate or modify provisions in section 25(a) of the Federal Reserve Act that (1) discriminate against foreign-owned banking institutions, (2) disadvantage or unnecessarily restrict or limit corporations organized under section 25(a) of the Federal Reserve Act in competing with foreign-owned banking institutions in the United States or abroad or (3) impede the attainment of the Congressional purposes set forth in section 25(a) of the Federal Reserve Act as amended by subsection (b) of this section. In furtherance of such purpose, the Congress believes that the Board should review and revise its rules, regulations, and interpretations issued pursuant to section 25(a) of the Federal Reserve Act to eliminate or modify any restrictions, conditions, or limitations not required by section 25(a) of the Federal Reserve Act, as amended, that (1) discriminate against foreign-owned banking institutions, (2) disadvantage or unnecessarily restrict or limit corporations organized under section 25(a) of the Federal Reserve Act in competing with foreign-owned banking institutions in the United States or abroad, or (3) impede the attainment of the Congressional purposes set forth in section 25(a) of the Federal Reserve Act as amended by subsection (b) of this section. Rules and regulations pursuant to this subsection and section 25(a) of the Federal Reserve Act shall be issued not later than 180 days after the date of enactment of this section and shall be issued in final form and become effective not later than 120 days after they are first issued.

(b) Section 25(a) of the Federal Reserve Act is amended by adding after the first paragraph (12 U.S.C. 611), the following new paragraph:

"The Congress hereby declares that it is the purpose of this section to provide for the establishment of international banking and financial corporations operating under Federal supervision with powers sufficiently broad to enable them to compete effectively with similar foreign-owned institutions in the United States and abroad; to afford to the United States exporter and importer in particular, and to United States commerce, industry, and agriculture in general, at all times a means of financing international trade, especially United States exports; to foster the participation by regional and smaller banks throughout the United States in the provision of international banking and financing services to all segments of United States agriculture, commerce, and industry, and, in particular small business and farming concerns; to stimulate competition in the provision of international banking and financing services throughout the United States; and, in conjunction with each of the preceding purposes, to facilitate and stimulate the export of United States goods, wares, merchandise, commodities, and services to achieve a sound United States international trade position. The Board of Governors of the Federal Reserve System shall issue rules and regulations under this section consistent with and in furtherance of the purposes described in the preceding sentence, and, in accordance therewith, shall review and revise any such rules and regulations at least once every five years, the first such period commencing with the effective date of rules and regulations issued pursuant to section 3(a) of the International Banking Act of 1978, in order to ensure that such purposes are being served in light of prevailing economic conditions and banking practices.".

(c) The second sentence of the fourth paragraph of section 25(a) of the Federal Reserve Act (12 U.S.C. 614) is amended by striking out ", all of whom shall be citizens of the United States" after "to elect or appoint directors".

(d) The first sentence of the sixth paragraph of section 25(a) of the Federal Reserve Act (12 U.S.C. 615(a)) is amended by striking ", but in no event having liabilities outstanding thereon at any one time exceeding ten times its capital stock and surplus"; and the first sentence of the twelfth paragraph of section 25(a) of the Federal Reserve Act (12 U.S.C. 618) is amended by inserting a period after "and in section of the Federal Reserve Act as amended", and by striking the remainder of the sentence.

(e) The third sentence of the sixth paragraph of section 25(a) of the Federal Reserve Act (12 U.S.C. 615(a)) is amended by striking ", but in no event less than ten percentum of its deposits" and inserting in lieu thereof "for member banks of the Federal Reserve System".

(f) The thirteenth paragraph of section 25(a) of the Federal Reserve Act (12 U.S.C. 619) is deleted and the following paragraph is inserted in lieu thereof:

"Except as otherwise provided in this section, a majority of the shares of the capital stock of any such corporation shall at all times be held and owned by citizens of the United States, by corporations the controlling interest in which is owned by citizens of the United States, chartered under the laws of the United States or of a State of the United States, or by firms or companies the controlling interest in which is owned by citizens of the United States. Notwithstanding any other provisions of this section, one or more foreign banks, institutions organized under the laws of foreign countries which own or control foreign banks, or banks organized under the laws of the United States, the States of the United States, the District of Columbia, the controlling interests in which are owned by any such foreign banks or institutions, may, with the prior approval of the Board of Governors of the Federal Reserve System and upon such terms and conditions and subject to such rules and regulations as the Board of Governors of the Federal Reserve System may prescribe, own and hold 50 per centum or more of the shares of the capital stock of any corporation organized under this section and any such corporation shall be subject to the same provisions of law as any other corporation organized under this section, except the terms 'controls' and 'controlling interest' shall be construed consistently with the definition of 'control' in section 2 of the Bank Holding Company Act of 1956. For the purposes of the preceding sentence of this paragraph the term 'foreign bank' shall have the meaning assigned to it in the International Banking Act of 1978.".

(g) The Board shall report to the Congress not later than 270 days after the date of enactment of this Act its recommendations with respect to permitting corporations organized or operating under section 25 or 25(a) of the Federal Reserve Act, to become members of Federal Reserve Banks.

(h) As part of its annual report pursuant to section 10 of the Federal Reserve Act, the Board shall include its assessment of the effects of the amendments made by this Act on the capitalization and activities of corporations organized or operating under section 25 or 25(a) of the Federal Reserve Act, and on commercial banks and the banking system.

FEDERAL BRANCHES AND AGENCIES

SEC. 4. (a) Except as provided in section 5, a foreign bank which engages directly in a banking business outside the United States may, with the approval of the Comptroller, establish one or more Federal branches or agencies in any State in which (1) it is not operating a branch or agency pursuant to State law and (2) the establishment of such branch or agency, as the case may be, by a foreign bank is not prohibited by State law.

(b) In establishing and operating a Federal branch or agency, a foreign bank shall be subject to such rules, regulations, and orders as the Comptroller considers appropriate to carry out this section, which shall include provisions for service of process and maintenance of branch and agency accounts separate from those of the parent bank. I

cept as otherwise specifically provided in this

greater of (1) that amount of capital (but

Comptroller shall have the power, after

cept as otherwise specifically provided in this Act or in rules, regulations, or orders adopted by the Comptroller under this section, operations of a foreign bank at a Federal branch or agency shall be conducted with the same rights and privileges as a national bank at the same location and shall be subject to all the same duties, restrictions, penalties, liabilities, conditions, and limitations that would apply under the National Bank Act to a national bank doing business at the same location, except that (1) the requirements of section 5240 of the Revised Statutes (12 U.S.C. 481) shall be met with respect to a Federal branch or agency if it is examined at least once in each calendar year; (2) any limitation or restriction based on the capital stock and surplus of a national bank shall be deemed to refer, as applied to a Federal branch or agency, to the dollar equivalent of the capital stock and surplus of the foreign bank, and if the foreign bank has more than one Federal branch or agency the business transacted by all such branches and agencies shall be aggregated in determining compliance with the limitation; (3) a Federal branch or agency shall not be required to become a member bank, as that term is defined in section 1 of the Federal Reserve Act; and (4) a Federal agency shall not be required to become an insured bank as that term is defined in section 3(h) of the Federal Deposit Insurance Act.

(c) In acting on any application to establish a Federal branch or agency, the Comptroller shall take into account the effects of the proposal on competition in the domestic and foreign commerce of the United States, the financial and managerial resources and future prospects of the applicant foreign bank and the branch or agency, and the convenience and needs of the community to be served.

(d) Notwithstanding any other provision of this section, a foreign bank shall not receive deposits or exercise fiduciary powers at any Federal agency. A foreign bank may, however, maintain at a Federal agency for the account of others credit balances incidental to, or arising out of, the exercise of its lawful powers.

(e) No foreign bank may maintain both a Federal branch and a Federal agency in the same State.

(f) Any branch or agency operated by a foreign bank in a State pursuant to State law and any commercial lending company controlled by a foreign bank may be converted into a Federal branch or agency with the approval of the Comptroller. In the event of any conversion pursuant to this subsection, all of the liabilities of such foreign bank previously payable at the State branch or agency, or all of the liabilities of the commercial lending company, shall thereafter be payable by such foreign bank at the branch or agency established under this subsection.

(g)(1) Upon the opening of a Federal branch or agency in any State and thereafter, a foreign bank, in addition to any deposit requirements imposed under section 6 of this Act, shall keep on deposit, in accordance with such rules and regulations as the Comptroller may prescribe, with a member bank designated by such foreign bank, dollar deposits or investment securities of the type that may be held by national banks for their own accounts pursuant to paragraph "Seventh" of section 5136 of the Revised Statutes, as amended, in an amount as hereinafter set forth. Such depository bank shall be located in the State where such branch or agency is located and shall be approved by the Comptroller if it is a national bank and by the Board of Governors of the Federal Reserve System if it is a State Bank.

(2) The aggregate amount of deposited investment securities (calculated on the basis of principal amount or market value, whichever is lower) and dollar deposits for each branch or agency established and operating under this section shall be not less than the greater of (1) that amount of capital (but not surplus) which would be required of a national bank being organized at this location, or (2) 5 per centum of the total liabilities of such branch or agency, including acceptances, but excluding (A) accrued expenses, and (B) amounts due and other liabilities to offices, branches, agencies, and subsidiaries of such foreign bank. The Comptroller may require that the assets deposited pursuant to this subsection shall be maintained in such amounts as he may from time to time deem necessary or desirable, for the maintenance of a sound financial condition, the protection of depositors, and the public interest, but such additional amount shall in no event be greater than would be required to conform to generally accepted banking practices as manifested by banks in the area in which the branch or agency is located.

(3) The deposit shall be maintained with any such member bank pursuant to a deposit agreement in such form and containing such limitations and conditions as the Comptroller may prescribe. So long as it continues business in the ordinary course such foreign bank shall, however, be permitted to collect income on the securities and funds so deposited and from time to time examine and exchange such securities.

(4) Subject to such conditions and requirements as may be prescribed by the Comptroller, each foreign bank shall hold in each State in which it has a Federal branch or agency, assets of such types and in such amount as the Comptroller may prescribe by general or specific regulation or ruling as necessary or desirable for the maintenance of a sound financial condition, the protection of depositors, creditors and the public interest. In determining compliance with any such prescribed asset requirements, the Comptroller shall give credit to (A) assets required to be maintained pursuant to paragraphs (1) and (2) of this subsection, (B) reserves required to be maintained pursuant to section 7(a) of this Act, and (C) assets pledged, and surety bonds payable, to the Federal Deposit Insurance Corporation to secure the payment of domestic deposits. The Comptroller may prescribe different asset requirements for branches or agencies in different States, in order to ensure competitive equality of Federal branches and agencies with State branches and agencies and domestic banks in those States.

(h) A foreign bank with a Federal branch or agency operating in any State may (1) with the prior approval of the Comptroller establish and operate additional branches or agencies in the State in which such branch or agency is located on the same terms and conditions and subject to the same limitations and restrictions as are applicable to the establishment of branches by a national bank if the principal office of such national bank were located at the same place as the initial branch or agency in such State of such foreign bank and (2) change the designation of its initial branch or agency to any other branch or agency subject to the same limitations and restrictions as are applicable to a change in the designation of the principal office of a national bank if such principal office were located at the same place as such initial branch or agency.

(i) Authority to operate a Federal branch or agency shall terminate when the parent foreign bank voluntarily relinquishes it or when such parent foreign bank is dissolved or its authority or existence is otherwise terminated or canceled in the country of its organization. If (1) at any time the Comptroller is of the opinion or has reasonable cause to believe that such foreign bank has violated or failed to comply with any of the provisions of this section or any of the rules, regulations, or orders of the Comptroller made pursuant to this section, or (2) a conservator is appointed for such foreign bank or a similar proceeding is initiated in the foreign bank's country of organization, the Comptroller shall have the power, after opportunity for hearing, to revoke the foreign bank's authority to operate a Federal branch or agency. The Comptroller may, in his discretion, deny such opportunity for hearing if he determines such denial to be in the public interest. The Comptroller may restore any such authority upon due proof of compliance with the provisions of this section and the rules, regulations, or orders of the Comptroller made pursuant to this section.

(j)(1) Whenever the Comptroller revokes a foreign bank's authority to operate a Federal branch or agency or whenever any creditor of any such foreign bank shall have obtained a judgment against it arising out of a transaction with a Federal branch or agency in any court of record of the United States or any State of the United States and made application, accompanied by a certificate from the clerk of the court stating that such judgment has been rendered and has remained unpaid for the space of thirty days, or whenever the Comptroller shall become satisfied that such foreign bank is insolvent, he may, after due consideration of its affairs, in any such case, appoint a receiver who shall take possession of all the property and assets of such foreign bank in the United States and exercise the same rights, privileges, powers, and authority with respect thereto as are now exercised by receivers of national banks appointed by the Comptroller.

(2) In any receivership proceeding ordered pursuant to this subsection (j), whenever there has been paid to each and every depositor and creditor of such foreign bank whose claim or claims shall have been proved or allowed, the full amount of such claims arising out of transactions had by them with any branch or agency of such foreign bank located in any State of the United States, except (A) claims that would not represent an enforceable legal obligation against such branch or agency if such branch or agency were a separate legal entity, and (B) amounts due and other liabilities to other offices or branches or agencies of, and wholly owned (except for a nominal number of directors' shares) subsidiaries of, such foreign bank, and all expenses of the receivership, the Comptroller or the Federal Deposit Insurance Corporation, where that Corporation has been appointed receiver of the foreign bank, shall turn over the remainder, if any, of the assets and proceeds of such foreign bank to the head office of such foreign bank, or to the duly appointed domiciliary liquidator or receiver of such foreign bank.

INTERSTATE BANKING OPERATIONS

SEC. 5. (a) Except as provided by subsection (b), (1) no foreign bank may directly or indirectly establish and operate a Federal branch outside of its home State unless (A) its operation is expressly permitted by the State in which it is to be operated, and (B) the foreign bank shall enter into an agreement or undertaking with the Board to receive only such deposits at the place of operation of such Federal branch as would be permissible for a corporation organized under section 25(a) of the Federal Reserve Act under rules and regulations administered by the Board; (2) no foreign bank may directly or indirectly establish and operate a State branch outside of its home State unless (A) it is approved by the bank regulatory authority of the State in which such branch is to be operated, and (B) the foreign bank shall enter into an agreement or undertaking with the Board to receive only such deposits at the place of operation of such State branch as would be permissible for a corporation organized under section 25(a) of the Federal Reserve Act under rules and regulations administered by the Board; (3) no foreign bank may directly or indirectly establish and operate a Federal agency thority of the State in which it is to be operation is expressly permitted by the State in which it is to be operated; (4) no foreign bank may directly or indirectly establish and

operate a State agency or commercial lending company subsidiary outside of its home State, unless its establishment and operation is approved by the bank regulatory authority of the State in which it is to be operated; and (5) no foreign bank may directly or indirectly acquire any voting shares of, interest in, or substantially all of the assets of a bank located outside of its home State if such acquisition would be permitted under section 3(d) of the Bank Holding Company Act of 1956 if the foreign bank were a bank holding company the operations of whose banking subsidiaries were principally conducted in the foreign bank's home State. Notwithstanding any other provisions of Federal or State law, deposits received by any Federal or State branch subject to the limitations of an agreement or undertaking imposed under this subsection shall not be subject to any requirement of mandatory insurance by the Federal Deposit Insurance Corporation.

(b) Unless its authority to do so is lawfully revoked otherwise than pursuant to this section, a foreign bank, notwithstanding any restriction or limitation imposed under subsection (a) of this section, may establish and operate, outside its home State, any State branch, State agency, or bank or commercial lending company subsidiary which commenced lawful operation or for which an application to commence business had been lawfully filed with the appropriate State or Federal authority, as the case may be, on or before July 27, 1978.

(c) For the purposes of this section, the home State of a foreign bank that has branches, agencies, subsidiary commercial lending companies, or subsidiary banks, or any combination thereof, in more than one State, is whichever of such States is so determined by election of the foreign bank, or, in default of such election, by the Board.

INSURANCE OF DEPOSITS

SEC. 6. (a) No foreign bank may establish or operate a Federal branch which receives deposits of less than $100,000 unless the branch is an insured branch as defined in section 3(s) of the Federal Deposit Insurance Act, or unless the Comptroller determines by order or regulation that the branch is not engaged in domestic retail deposit activities requiring deposit insurance protection, taking account of the size and nature of depositors and deposit accounts.

(b) After the date of enactment of this Act no foreign bank may establish a branch, and after one year following such date no foreign bank may operate a branch, in any State in which the deposits of a bank organized and existing under the laws of that State would be required to be insured, unless the branch is an insured branch as defined in section 3(s) of the Federal Deposit Insurance Act, or unless the branch will not thereafter accept deposits of less than $100,000, or unless the Federal Deposit Insurance Corporation determines by order or regulation that the branch is not engaged in domestic retail deposit activities requiring deposit insurance protection, taking account of the size and nature of depositors and deposit accounts.

(c)(1) The Federal Deposit Insurance Act (12 U.S.C. 1811–1832) is amended as set forth hereinafter in this subsection, in which section numbers not otherwise identified refer to sections of that Act.

(2) Section 3(h) is amended by inserting "(including a foreign bank having an insured branch)" immediately after "(h) The term 'insured bank' means any bank".

(3) Section 3(j) is amended by inserting "or of a branch of a foreign bank" immediately before the period at the end thereof.

(4) Section 3(m) is amended (A) by changing "(m) The" to read "(m)(1) Subject to the provisions of paragraph (2) of this subsection, the", and (B) by adding at the end thereof the following new paragraph:

"(2) In the case of any deposit in a branch of a foreign bank, the term 'insured deposit' means an insured deposit as defined in paragraph (1) of this subsection which—

"(A) is payable in the United States to—

"(i) an individual who is a citizen or resident of the United States,

"(ii) a partnership, corporation, trust, or other legally cognizable entity created under the laws of the United States or any State and having its principal place of business within the United States or any State, or

"(iii) an individual, partnership, corporation, trust, or other legally cognizable entity which is determined by the Board of Directors in accordance with its regulations to have such business or financial relationships in the United States as to make the insurance of such deposit consistent with the purposes of this Act;

and

"(B) meets any other criteria prescribed by the Board of Directors by regulation as necessary or appropriate in its judgment to carry out the purposes of this Act or to facilitate the administration thereof.".

(5) Section 3(q) is amended to read as follows:

"(q) The term 'appropriate Federal banking agency' shall mean—

"(1) the Comptroller of the Currency in the case of a national banking association, a District bank, or a Federal branch or agency of a foreign bank;

"(2) the Board of Governors of the Federal Reserve System—

"(A) in the case of a State member insured bank (except a District bank),

"(B) in the case of any branch or agency of a foreign bank with respect to any provision of the Federal Reserve Act which is made applicable under the International Banking Act of 1978,

"(C) in the case of any foreign bank which does not operate an insured branch,

"(D) in the case of any agency or commercial lending company other than a Federal agency, and

"(E) in the case of supervisory or regulatory proceedings arising from the authority given to the Board of Governors under section 7(c)(1) of the International Banking Act of 1978, including such proceedings under the Financial Institutions Supervisory Act, and

"(3) the Federal Deposit Insurance Corporation in the case of a State nonmember insured Bank (except a District bank) or a foreign bank having an insured branch.

Under the rule set forth in this subsection, more than one agency may be an appropriate Federal banking agency with respect to any given institution. For the purposes of subsections (b) through (n) of section 8 of this Act, the term 'insured bank' shall be deemed to include any uninsured branch or agency of a foreign bank or any commercial lending company owned or controlled by a foreign bank.".

(6) Section 3 is amended by adding at the end thereof the following new subsections:

"(r) The terms 'foreign bank' and 'Federal branch' shall be construed consistently with the usage of such terms in the International Banking Act of 1978.

"(s) The term 'insured branch' means a branch of a foreign bank any deposits in which are insured in accordance with the provisions of this Act.".

(7) Section 5 is amended (A) by changing "SEC. 5." to read "SEC. 5. (a)" and (B) by adding at the end thereof the following new subsections:

"(b) Subject to the provisions of this Act and to such terms and conditions as the Board of Directors may impose, any branch of a foreign bank, upon application by the bank to the Corporation, and examination by the Corporation of the branch, and proval by the Board of Directors, may come an insured branch. Before approv any such application, the Board of Direct shall give consideration to—

"(1) the financial history and condit of the bank,

"(2) the adequacy of its capital structu

"(3) its future earnings prospects,

"(4) the general character of its mana ment, including but not limited to the m agement of the branch proposed to be sured,

"(5) the convenience and needs of community to be served by the branch,

"(6) whether or not its corporate pow insofar as they will be exercised through proposed insured branch, are consist with the purposes of this Act, and

"(7) the probable adequacy and reliabi of information supplied and to be suppl by the bank to the Corporation to enabl to carry out its functions under this Ac

"(c)(1) Before any branch of a fore bank becomes an insured branch, the b shall deliver to the Corporation or as Corporation may direct a surety bond pledge of assets, or both, in such amou and of such types as the Corporation m require or approve, for the purpose set fo in paragraph (4) of this subsection.

"(2) After any branch of a foreign b becomes an insured branch, the bank sh maintain on deposit with the Corporati or as the Corporation may direct, sur bonds or assets or both, in such amou and of such types as shall be determi from time to time in accordance with s regulations as the Board of Directors m prescribe. Such regulations may impose fering requirements on the basis of factors which in the judgment of the Bo of Directors are reasonably related to purpose set forth in paragraph (4).

"(3) The Corporation may require of given bank larger deposits of bonds assets than required under paragraph (2) this subsection if, in the judgment of Corporation, the situation of that bank any branch thereof is or becomes such t the deposits of bonds and assets other required under this section would not a quately fulfill the purpose set forth in p graph (4). The imposition of any such ad tional requirements may be without no or opportunity for hearing, but the Corpo tion shall afford an opportunity to any s bank to apply for a reduction or removal any such additional requirements so i posed.

"(4) The purpose of the surety bonds pledges of assets required under this s section is to provide protection to the depo insurance fund against the risks entailed insuring the domestic deposits of a fore bank whose activities, assets, and person are in large part outside the jurisdiction the United States. In the implementation its authority under this subsection, howe the Corporation shall endeavor to avoid posing requirements on such banks wh would unnecessarily place them at a co petitive disadvantage in relation to dom tically incorporated banks.

"(5) In the case of any failure or thre ened failure of a foreign bank to comply w any requirement imposed under this su section (c), the Corporation, in addition all other administrative and judicial re edies, may apply to any United States d trict court, or United States court of a territory, within the jurisdiction of wh any branch of the bank is located, for an junction to compel such bank and any o cer, employee, or agent thereof, or any ot person having custody or control of any of assets, to deliver to the Corporation su assets as may be necessary to meet su requirement, and to take any other acti necessary to vest the Corporation with co trol of assets so delivered. If the court sh determine that there has been any su

failure or threatened failure to comply with any such requirement, it shall be the duty of the court to issue such injunction. The propriety of the requirement may be litigated only as provided in chapter 7 of title 5 of the United States Code, and may not be made an issue in an action for an injunction under this paragraph.".

(8) The first sentence of section 7(a)(1) is amended by inserting "and each foreign bank having an insured branch which is not a Federal branch" immediately before "shall make to the Corporation".

(9) The first sentence of section 7(a)(3) is amended (A) by inserting "and each foreign bank having an insured branch (other than a Federal branch)" immediately before "shall make to the Corporation" and (B) by inserting ", each foreign bank having an insured branch which is a Federal branch," immediately before "and each insured district".

(10) Section 7(a) is amended by adding at the end thereof the following new paragraph:

"(7) In respect of any report required or authorized to be supplied or published pursuant to this subsection or any other provision of law, the Board of Directors or the Comptroller of the Currency, as the case may be, may differentiate between domestic banks and foreign banks to such extent as, in their judgment, may be reasonably required to avoid hardship and can be done without substantial compromise of insurance risk or supervisory and regulatory effectiveness.".

(11) Section 7(b) is amended (A) by changing "(4) A bank's assessment base" to read "(4)(A) Except as provided in subparagraph (B) of this paragraph, a bank's assessment base" and (B) by adding at the end thereof the following new subparagraph:

"(B) in determining the assessment base and assessment base additions and deductions of a foreign bank having an insured branch, such adjustments shall be made as the Board of Directors may by regulation prescribe in order to provide equitable treatment for domestic and foreign banks.".

(12) Section 7(j)(1) is amended (A) by changing "(j)(1) Whenever" to read "(j)(1)(A) Except as provided in subparagraph (B) of this paragraph, whenever", and (B) by adding at the end thereof the following new subparagraph:

"(B) The Board of Directors may by regulation exempt from the reporting requirements of subparagraph (A) of this paragraph any transaction in the stock of a foreign bank to the extent that the making of any such report would be prohibited by the laws of the country of domicile of the foreign bank in effect at the time such bank makes its application under section 5(b) of this Act, or rendered impracticable by the customs and usages of such country, but the Board of Directors shall weigh the existence of any such prohibition or impracticability in connection with its consideraton of the factors enumerated in sections 5(b)(4) and 5(b)(7).".

(13) Section 7(j)(2) is amended by changing "(2) Whenever" to read "(2)(A) Except as provided in subparagraph (B) of this paragraph whenever" and by adding at the end thereof the following new subparagraphs:

"(B) The requirements of subparagraph (A) of this paragraph shall not apply in the case of a loan secured by the stock of a foreign bank if the lending bank is a foreign bank under the laws of whose domicile the report otherwise required by subparagraph (A) would be prohibited.

"(C) No foreign bank under the laws of whose domicile a report in compliance with subparagraph (A) of this paragraph would be prohibited in the case of a loan to acquire the stock of an insured bank which is not a foreign bank may make, acquire, or retain any such loan. Each report of condition filed under subsection (a) by any foreign bank to which this subparagraph applies shall contain either a statement of the amount of each loan made, retained, or acquired by the foreign bank in violation of this subparagraph during the period from the date it became an insured bank or the date of its last report of condition, whichever is later, to the date of the report of condition, or a statement that no such loans were made and no such loans were outstanding during such period.".

(14) The first sentence of section 8(a) is amended by inserting ", a foreign bank having an insured branch which is a Federal branch, a foreign bank having an insured branch which is required to be insured under section 6 (a) or (b) of the International Banking Act of 1978," immediately after "(except a national member bank".

(15) Section 8 is amended by adding at the end thereof the following new subsection:

"(r)(1) Except as otherwise specifically provided in this section, the provisions of this section shall be applied to foreign banks in accordance with this subsection.

"(2) An act or practice outside the United States on the part of a foreign bank or any officer, director, employee, or agent thereof may not constitute the basis for any action by any officer or agency of the United States under this section, unless—

"(A) such officer or agency alleges a belief that such act or practice has been, is, or is likely to be a cause of or carried on in connection with or in furtherance of an act or practice within any one or more States which, in and of itself, would constitute an appropriate basis for action by a Federal officer or agency under this section; or

"(B) the alleged act or practice is one which, if proven, would, in the judgment of the Board of Directors, adversely affect the insurance risk assumed by the Corporation.

"(3) In any case in which any action or proceeding is brought pursuant to an allegation under paragraph (2) of this subsection for the suspension or removal of any officer, director, or other person associated with a foreign bank, and such person fails to appear as a party to such action or proceeding and to comply with any effective order or judgment therein, any failure by the foreign bank to secure his removal from any office he holds in such bank from any further participation in its affairs shall, in and of itself, constitute grounds for termination of the insurance of the deposits in any branch of the bank.

"(4) Where the venue of any judicial or administrative proceeding under this section is to be determined by reference to the location of the home office of a bank, the venue of such a proceeding with respect to a foreign bank having one or more branches or agencies in not more than one judicial district or other relevant jurisdiction shall be within such jurisdiction. Where such a bank has branches or agencies in more than one such jurisdiction, the venue shall be in the jurisdiction within which the branch or branches or agency or agencies involved in the proceeding are located, and if there is more than one such jurisdiction, the venue shall be proper in any such jurisdiction in which the proceeding is brought or to which it may appropriately be transferred.

"(5) Any service required or authorized to be made on a foreign bank may be made on any branch or agency located within any State, but if such service is in connection with an action or proceeding involving one or more branches or one or more agencies located in any State, service shall be made on at least one branch or agency so involved.".

(16)(A) The first sentence of section 10(b) is amended (i) by inserting "any insured State branch of a foreign bank, any State branch of a foreign bank making application to become an insured bank," immediately after "(except a District bank)", and (ii) by inserting "or branch" before the comma after "any closed insured bank".

(B) The second sentence of section 10(b) is amended by inserting ", insured Federal branch of a foreign bank," between the words "national bank" and "or District bank".

(C) The third sentence of section 10(b) is amended by inserting ", and in the case of a foreign bank, a binding commitment by such bank to permit such examination to the extent determined by the Board of Directors to be necessary to carry out the purposes of this Act shall be required as a condition to the insurance of any deposits" immediately before the period at the end thereof.

(17) Section 11(c) is amended by inserting ", insured Federal branch of a foreign bank," immediately before "or insured District bank,".

(18) The first sentence of section 11(e) is amended by inserting "or any insured branch (other than a Federal branch) of a foreign bank" immediately before "shall have been closed".

(19) The second sentence of section 11(e) is amended by changing "such insured State bank," to read "such insured State bank or insured branch of a foreign bank,".

(20) Section 11(f) is amended by inserting "or insured branch of a foreign bank" immediately before "shall have been closed".

(21) The first sentence of section 11(g) is amended by inserting ", insured branch of a foreign bank," immediately before "or District bank,".

(22) The third sentence of section 11(g) is amended by changing "In the case of any closed insured bank," to read "In the case of any closed insured bank or closed insured branch of a foreign bank,".

(23) Section 12(a) is amended by inserting ", branch of a foreign bank," immediately after "a closed national bank".

(24) Section 13 is amended by adding at the end thereof the following new subsection:

"(g) The powers conferred on the Board of Directors and the Corporation by this section to take action to reopen a closed insured bank or to avert the closing of an insured bank may be used with respect to an insured branch of a foreign bank if, in the judgment of the Board of Directors, the public interest in avoiding the closing of such branch substantially outweights any additional risk of loss to the insurance fund which the exercise of such powers would entail.".

(25) Section 18(c) is amended by adding at the end thereof the following new paragraph:

"(11) The provisions of this subsection do not apply to any merger transaction involving a foreign bank if no party to the transaction is principally engaged in business in the United States.".

(26) Section 18(d) is amended by inserting the following new sentence immediately after the first sentence thereof: "No foreign bank may move any insured branch from one location to another without such consent.".

(27) The first sentence of section 18(g) is amended by inserting "and in insured branches of foreign banks" immediately after "in insured nonmember banks".

(28) Section 18(j) is amended by adding at the end thereof the following new sentence: "The provisions of this subsection shall not apply to any foreign bank having an insured branch with respect to dealings between such bank and any affiliate thereof.".

(29) Section 21 is amended by adding at

the end thereof the following new subsection:

"(i) The provisions of this section shall not apply to any foreign bank except with respect to the transactions and records of any insured branch of such a bank.".

(30) The first sentence of section 25(a) is amended by inserting "insured branch of a foreign bank," immediately after "No insured bank,".

AUTHORITY OF FEDERAL RESERVE SYSTEM

SEC. 7. (a)(1)(A) Except as provided in paragraph (2) of this subsection, subsections (a), (b), (c), (d), (f), (g), (i), (j), (k), and the second sentence of subsection (e) of section 19 of the Federal Reserve Act shall apply to every Federal branch and Federal agency of a foreign bank in the same manner and to the same extent as if the Federal branch or Federal agency were a member bank as that term is defined in section 1 of the Federal Reserve Act; but the Board either by general or specific regulation or ruling may waive the minimum and maximum reserve ratios prescribed under section 19 of the Federal Reserve Act and may prescribe any ratio, not more than 22 per centum, for any obligation of any such Federal branch or Federal agency that the Board may deem reasonable and appropriate, taking into consideration the character of business conducted by such institutions and the need to maintain vigorous and fair competition between and among such institutions and member banks. The Board may impose reserve requirements on Federal branches and Federal agencies in such graduated manner as it deems reasonable and appropriate.

(B) After consultation and in cooperation with the State bank supervisory authorities, the Board may make applicable to any State branch or State agency any requirement made applicable to, or which the Board has authority to impose upon, any Federal branch or agency under subparagraph (A) of this paragraph.

(2) A branch or agency shall be subject to this subsection only if (A) its parent foreign bank has total worldwide consolidated bank assets in excess of $1,000,000,000; (B) its parent foreign bank is controlled by a foreign company which owns or controls foreign banks that in the aggregate have total worldwide consolidated bank assets in excess of $1,000,000,000; or (C) its parent foreign bank is controlled by a group of foreign companies that own or control foreign banks that in the aggregate have total worldwide consolidated bank assets in excess of $1,000,000,000.

(b) Section 13 of the Federal Reserve Act is amended by adding at the end thereof the following new paragraph:

"Subject to such restrictions, limitations, and regulations as may be imposed by the Board of Governors of the Federal Reserve System, each Federal Reserve bank may receive deposits from, discount paper endorsed by, and make advances to any branch or agency of a foreign bank in the same manner and to the same extent that it may exercise such powers with respect to a member bank if such branch or agency is maintaining reserves with such Reserve bank pursuant to section 7 of the International Banking Act of 1978. In exercising any such powers with respect to any such branch or agency, each Federal Reserve bank shall give due regard to account balances being maintained by such branch or agency with such Reserve bank and the proportion of the assets of such branch or agency being held as reserves under section 7 of the International Banking Act of 1978. For the purposes of this paragraph, the terms 'branch', 'agency', and 'foreign bank' shall have the same meanings assigned to them in section 1 of the International Banking Act of 1978.".

(c)(1) The Board may make examinations of each branch or agency of a foreign bank, and of each commercial lending company or bank controlled by one or more foreign banks or by one or more foreign companies that control a foreign bank, the cost of which shall be assessed against and paid by such foreign bank or company, as the case may be. The Board shall, insofar as possible, use the reports of examinations made by the Comptroller, the Federal Deposit Insurance Corporation, or the appropriate State bank supervisory authority for the purposes of this subsection.

(2) Each branch or agency of a foreign bank, other than a Federal branch or agency, shall be subject to paragraph 20 and the provision requiring the reports of condition contained in paragraph 6 of section 9 of the Federal Reserve Act (12 U.S.C. 326 and 324) to the same extent and in the same manner as if the branch or agency were a State member bank. In addition to any requirements imposed under section 4 of this Act, each Federal branch and agency shall be subject to subparagraph (a) of section 11 of the Federal Reserve Act (12 U.S.C. 248(a)) and to paragraph 5 of section 21 of the Federal Reserve Act (12 U.S.C. 483) to the same extent and in the same manner as if it were a member bank.

(d) On or before two years after enactment of this Act, the Board after consultation with the appropriate State bank supervisory authorities shall report to the Committee on Banking, Finance and Urban Affairs of the United States House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the United States Senate its recommendations with respect to the implementation of this Act, including any recommended requirements such as limitations on loans to affiliates or capital adequacy requirements which should be imposed on foreign banks to carry out the purposes of this Act. Not later than one hundred and eighty days after the enactment of this Act, the Board shall report to such Committees the steps which have been taken to consult and cooperate with State bank supervisory authorities as required by subsection (a)(1)(B).

NONBANKING ACTIVITIES

SEC. 8. (a) Except as otherwise provided in this section (1) any foreign bank that maintains a branch or agency in a State, (2) any foreign bank or foreign company controlling a foreign bank that controls a commercial lending company organized under State law, and (3) any company of which any foreign bank or company referred to in (1) and (2) is a subsidiary shall be subject to the provisions of the Bank Holding Company Act of 1956, and to sections 105 and 106 of the Bank Holding Company Act Amendments of 1970 in the same manner and to the same extent that bank holding companies are subject thereto, except that any such foreign bank or company shall not by reason of this subsection be deemed a bank holding company for purposes of section 3 of the Bank Holding Company Act of 1956.

(b) Until December 31, 1985, a foreign bank or other company to which subsection (a) applies on the date of enactment of this Act may retain direct or indirect ownership or control of any voting shares of any nonbanking company in the United States that it owned, controlled, or held with power to vote on the date of enactment of this Act or engage in any nonbanking activities in the United States in which it was engaged on such date.

(c) After December 31, 1985, a foreign bank or other company to which subsection (a) applies on the date of enactment of this Act may continue to engage in nonbanking activities in the United States in which directly or through an affiliate it was lawfully engaged on July 26, 1978 (or on a date subsequent to July 26, 1978, in the case of activities carried on as the result of the direct or indirect acquisition, pur-

striking out "(h) The" and inserting in lieu

a bank holding company and any subsidiary

ing the right to object this bill is

suant to a binding written contract entered into on or before July 26, 1978, of another company engaged in such activities at the time of acquisition), and may engage directly or through an affiliate in nonbanking activities in the United States which are covered by an application to engage in such activities which was filed on or before July 26, 1978; except that the Board by order, after opportunity for hearing, may terminate the authority conferred by this subsection (c) on any such foreign bank or company to engage directly or through an affiliate in any activity otherwise permitted by this subsection (c) if it determines, having due regard to the purposes of this Act and the Bank Holding Company Act of 1956, that such action is necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interest or unsound banking practices in the United States. Notwithstanding subsection (a) of this section, a foreign bank or company referred to in this subsection (c) may retain ownership or control of any voting shares (or, where necessary to prevent dilution of its voting interest, acquire additional voting shares) of any domestically-controlled affiliate covered in 1978 which engages in the business of underwriting, distributing or otherwise buying or selling stocks, bonds and other securities in the United States. Except in the case of affiliates described in the preceding sentence, nothing in this subsection (c) shall be construed to authorize any foreign bank or company referred to in this subsection (c), or any affiliate thereof, to engage in activities authorized by this subsection (c) through the acquisition, pursuant to a contract entered into after July 26, 1978, of any interest in or the assets of a going concern engaged in such activities. Any foreign bank or company that is authorized to engage in any activity pursuant to this subsection (c) but, as a result of action of the Board, is required to terminate such activity may retain the ownership of control of shares in any company engaging on such activity for a period of two years from the date on which its authority was so terminated by the Board. As used in this subsection, the term "affiliate" shall mean any company more than 5 per centum of whose voting shares is directly or indirectly owned or controlled or held with power to vote by the specified foreign bank or company, and the term "domestically-controlled affiliate covered in 1978" shall mean any affiliate the majority of whose voting shares is owned by a company or group of companies organized under the laws of the United States or any State thereof, if it has been under continuous domestic majority-controlling ownership since July 26, 1978, and if a foreign bank or group of foreign banks does not own or control, directly or indirectly, 25 per centum or more of its voting shares.

(d) Nothing in this section shall be construed to define a branch or agency of a foreign bank or a commercial lending company controlled by a foreign bank or foreign company that controls a foreign bank as "bank" for the purposes of any provisions of the Bank Holding Company Act of 1956, section 105 of the Bank Holding Company Act Amendments of 1970, except that such branch, agency or commercial lending company subsidiary shall be deemed "bank" or "banking subsidiary", as the case may be, for the purposes of applying the prohibitions of section 106 of the Bank Holding Company Act Amendments of 1970 and the exemptions provided in sections 4(c)(1), 4(c)(2), 4(c)(3), and 4(c)(4) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(1), (2), (3), and (4)) to any foreign bank or other company to which section (a) applies.

(e) Section 3(h) of the Bank Holding Company Act of 1956 is amended (1)

striking out "(h) The" and inserting in lieu thereof "(h)(1) Except as provided by paragraph (2), the", (2) by striking out the proviso, and (3) by inserting at the end thereof the following:

"(2) The prohibitions of section 4 of this Act shall not apply to shares of any company organized under the laws of a foreign country (or to shares held by such company in any company engaged in the same general line of business as the investor company or in a business related to the business of the investor company) that is principally engaged in business outside the United States if such shares are held or acquired by a bank holding company organized under the laws of a foreign country that is principally engaged in the banking business outside the United States, except that (1) such exempt foreign company (A) may engage in or hold shares of a company engaged in the business of underwriting, selling or distributing securities in the United States only to the extent that a bank holding company may do so under this Act and under regulations or orders issued by the Board under this Act, and (B) may engage in the United States in any banking or financial operations or types of activities permitted under section 4(c)(8) or in any order or regulation issued by the Board under such section only with the Board's prior approval under that section, and (2) no domestic office or subsidiary of a bank holding company or subsidiary thereof holding shares of such company may extend credit to a domestic office or subsidiary of such exempt company on terms more favorable than those afforded similar borrowers in the United States.".

STUDY OF FOREIGN TREATMENT OF UNITED STATES BANKS

SEC. 9. The Secretary of the Treasury, in conjunction with the Secretary of State, the Board, the Comptroller, and the Federal Deposit Insurance Corporation shall within 90 days after enactment of this bill commence a study of the extent to which banks organized under the laws of the United States or any State thereof are denied, whether by law or practice, national treatment in conducting banking operations in foreign countries, and the effects, of any, of such discrimination on United States exports to those countries. On or before one year after enactment of this section, the Secretary of the Treasury shall be required to report his findings, conclusions, and recommendations from such study to the Congress and describe the efforts undertaken by the United States to eliminate any foreign laws or practices that discriminate against banks organized under the laws of the United States or any State thereof, or that serve as a barrier to the financing of United States exports to any foreign country.

REPRESENTATIVE OFFICES

SEC. 10. (a) Any foreign bank that maintains an office other than a branch or agency in any State shall register with the Secretary of the Treasury in accordance with rules prescribed by him, within one hundred and eighty days after the date of enactment of this Act or the date on which the office is established, whichever is later.

(b) This Act does not authorize the establishment of any such office in any State in contravention of State law.

CEASE-AND-DESIST ORDERS

SEC. 11. Subsection (b) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended by adding at the end thereof the following new paragraph:

"(4) This subsection and subsections (c), (d), (h), (i), (k), (l), (m), and (n) of this section shall apply to any foreign bank or company to which subsection (a) of section 8 of the International Banking Act of 1978 applies and to any subsidiary (other than a bank) of any such foreign bank or company in the same manner as they apply to a bank holding company and any subsidiary thereof (other than a bank) under subparagraph (3) of this subsection. For the purposes of this subparagraph, the term 'subsidiary' shall have the meaning assigned to it in section 2 of the Bank Holding Company Act of 1956.".

AMENDMENT TO THE BANKING ACT OF 1933

SEC. 12. Section 21 of the Banking Act of 1933 (12 U.S.C. 378) is amended by striking clause (B) of paragraph (2) of subsection (a) thereof and inserting in lieu thereof the following: "(B) shall be permitted by the United States, any State, territory, or district to engage in such business and shall be subjected by the laws of the United States, or such State, territory, or district to examination and regulations or,".

REGULATION AND ENFORCEMENT

SEC. 13. (a) The Comptroller, the Board, and the Federal Deposit Insurance Corporation, are authorized and empowered to issue such rules, regulations, and orders as each of them may deem necessary in order to perform their respective duties and functions under this Act and to administer and carry out the provisions and purposes of this Act and prevent evasions thereof.

(b) In addition to any powers, remedies, or sanctions otherwise provided by law, compliance with the requirements imposed under this Act or any amendment made by this Act may be enforced under section 8 of the Federal Deposit Insurance Act by any appropriate Federal banking agency as defined in that Act.

(c) In the case of any provision of the Federal Reserve Act to which a foreign bank or branch thereof is subject under this Act, and which is made applicable to nonmember insured banks by the Federal Deposit Insurance Act, whether by cross-reference to the Federal Reserve Act or by a provision in substantially the same terms in the Federal Deposit Insurance Act, the administration, interpretation, and enforcement of such provision, insofar as it relates to any foreign bank or branch thereof as to which the Board is an appropriate Federal banking agency, are vested in the Board, but where the making of any report to the Board or a Federal Reserve bank is required under any such provision, the Federal Deposit Insurance Corporation may require that a duplicate of any such report be sent directly to it. This subsection shall not be construed to impair any power of the Federal Deposit Insurance Corporation to make regular or special examinations or to require special reports.

REPORT ON M'FADDEN ACT

SEC. 14. (a) The President, in consultation with the Attorney General, the Secretary of the Treasury, the Board, the Comptroller, and the Federal Deposit Insurance Corporation, shall transmit a report to the Congress containing his recommendations concerning the applicability of the McFadden Act to the present financial, banking, and economic environment, including an analysis of the effects of any proposed amendment to such Act on the structure of the banking industry and on the financial and economic environment in general.

(b) The report required by subsection (a) shall be transmitted to the Congress not later than one year after the date of enactment of this Act.

Mr. ST GERMAIN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD. I shall endeavor to explain the Senate amendment.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, this bill, basically, is an improvement over the House bill as passed; is that correct?

Mr. ST GERMAIN. Exactly.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, I rise in support of the Senate version of H.R. 10899, the International Banking Act, for it represents a reasonable attempt to accommodate the competing interests of domestic and foreign banks and of State and Federal supervisory authorities.

The provisions of section 3 which significantly expand the powers of Edge Act corporations will improve the ability of domestic banks to conduct international business. Coupled with the grant of these same Edge Act powers to foreign banks, the branching provisions of section 5 will enable foreign banks to serve the needs of the multinational firms which are their clients and to foster international trade in States other than the traditional banking centers of New York, California, and Illinois. My own preference has been for the more liberal branching provisions of the House bill, because I have confidence in the ability of the State authorities to determine whether a full-fledged branch of a foreign bank best serves their needs and to take account of the effect which foreign entry would have on domestic banks. However, in view of the opposition expressed by domestic banks to interstate branching by foreign banks, this bill represents the most workable compromise that can be achieved for the time being, a compromise with which both domestic and foreign banks can live. A long-range resolution of the issue of interstate branching will await the completion of the study of the McFadden Act which is provided for in section 14 of the Senate bill. To be of greatest value, this study should address not only the interstate operations of banks but also of bank holding companies under section 3(d) of the Bank Holding Company Act.

The application of the insurance provisions of section 6 only to foreign banks which accept deposits of less than $100,000 is a major improvement over the House bill, for it recognizes the fact that most foreign banks conduct a strictly wholesale business. The imposition of mandatory deposit insurance upon these banks would have been unfair and discriminatory and would have unnecessarily involved the Federal Deposit Insurance Corporation in the insurance of large depositors in foreign banks when the only real concern was for the retail depositor who might unwittingly lose his savings in the event of the failure of an uninsured foreign bank.

Section 7 of the Senate bill contains valuable assurances that the Federal Reserve Board will indeed consult and cooperate with the State bank supervisors in the establishment of reserves for foreign banks. Within 180 days after enactment, the Board must report to the House and Senate Banking Committees on the steps it has taken to comply with the intent of the Brown amendment to the House bill. Section 7 also ensures that the primary supervisor of a foreign bank will have the authority to examine the bank and that the Federal Reserve

Board will have only residual and special examining authority.

The grandfather dates of July 27, 1978, for interstate operations of foreign banks—section 5—and of July 26, 1978, for nonbanking activities are reasonable in view of the reliance which foreign banks have placed upon their rights under existing law.

In summary, it is my belief that although this is not a perfect bill, it is a fair bill, and it deserves the support of the Members of this House.

Mr. REUSS. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. Further observing the right to object, Mr. Speaker, I yield to the gentleman from Wisconsin.

Mr. REUSS. I thank the gentleman for yielding.

Mr. Speaker, I heartily approve the bill before us, and I ask that it be well received.

Mr. Speaker, the Senate-passed version of H.R. 10899 refines the House version, but retains the intent of the House in all important respects. Most significantly, the Senate bill reaffirms the principle of national treatment, while at the same time recognizing the unique character of foreign banking operations in this country, and the benefits to the United States of these operations. I believe the House should accept the Senate bill.

The Senate bill adds provisions which will make it easier for Edge Act corporations to compete with foreign banks. Most importantly, the bill loosens capitalization requirements for these banking corporations making them comparable to capitalization requirements for banks with which they compete. These changes should make it easier for Edge Act corporations to carry out the congressional intent stated in the Senate bill that these corporations foster an increase in U.S. exports, particularly involving small banks, small business, and small agricultural interests.

The Senate bill retains the House provision under which foreign banks would continue to be able to establish branch or agency offices in any State where the State permits. However, such branches established outside of a foreign bank's home State would be limited to accepting foreign-source and international banking-related deposits permissible for Edge Act corporations. These deposit limitations would apply only to branches which had not been established or for which applications had not been filed on or before July 27, 1978.

These deposit limitations are important to insure that foreign banks do not obtain an unfair competitive edge over U.S. banks, while at the same time recognizing that important international business can be stimulated by interstate branching by foreign banks.

The Senate bill also retains mandatory FDIC deposit insurance for domestic deposits, but wisely limits this requirement to foreign banks which take deposits of under $100,000. This effectively limits the requirement to those foreign banks which do a "retail" business and protects those who the House bill was most concerned about protecting, the small depositor. Further flexibility is provided since the FDIC may waive the mandatory deposit insurance if the foreign bank is truly engaged in wholesale banking, even though it takes deposits under $100,000.

Though not all foreign banks are not required to have FDIC insurance, all may obtain it if they wish.

The Senate bill adds some residual examining authority for the Federal Reserve, but makes clear that the Fed should use the examination reports of the State bank supervisors, the Comptroller, and the FDIC before conducting its own exams.

The Senate moved forward the grandfather date for securities affiliates to July 26, 1978, to coincide with the Senate Banking Committee's markup date. In addition, the Senate made several refinements in the securities area, but retained the House basic orientation. The Senate added an amendment permitting a securities affiliate which is owned 25 percent or less by a foreign bank to be treated as any other U.S. securities corporation, that is, not subject to restrictions on further acquisitions of securities firms. The bill makes clear that a foreign-bank-owned business operating a subsidiary in the United States may continue to do so.

The relatively weak guideline-writing authority of the Secretary of the Treasury has been deleted from the Senate bill. In its place the Senate bill calls for a Treasury study of the treatment of U.S. banks operating overseas. This concern for reciprocity reflects a similar concern expressed by the House in adopting an amendment directing the Secretary of the Treasury to take the overseas treatment of U.S. banks into consideration when devising guidelines.

Finally, the Senate adopted a provision calling for a Presidential review of the McFadden Act's interstate branching restrictions. I have long believed that the McFadden Act was overdue for a thorough review and look forward to the administration's recommendations on this subject.

Mr. WYLIE. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Ohio.

Mr. WYLIE. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the Senate version, of the International Banking Act of 1978 on the theory that it is much better than the House passed bill. The Senate bill is certainly better than the present situation with the lack of guidelines for Federal regulation regarding participation by foreign banks in domestic financial markets. I do not feel that the bill before us is as good as the bill passed by the House in the 94th Congress, but the Senate bill is a compromise and I operate on the theory that half a loaf is better than none.

Mr. Speaker, I support the Senate version.

Mr. ST GERMAIN. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Rhode Island (Mr. ST GERMAIN).

Mr. ST GERMAIN. Mr. Speaker, on
again the House has an opportunity t
put in place a carefully structured reg
latory system that will recognize and in
sure some semblance of parity of trea
ment of foreign banks chartered in t
United States and in the process less
to some degree the increasing competiti
disadvantage of our own national bank
competing with gigantic multibillion do
lar international banking corporation
who have not, heretofore, been requir
to operate under the ground rules r
quired of our own banks.

The problem of unfair competitive a
vantage enjoyed by foreign banks opera
ing in our country has been recognized b
the Banking Committee for a number
years now. The subject of foreign ban
ing operations in the United States w
an important part of the FINE stu
Extended hearings and comprehensi
discussions with foreign central ban
concerning the regulations of intern
tional banking institutions were held
early as 1975, leading to the introducti
and subsequent House passage of—
July 29, 1976—by voice vote, a measu
more restrictive than the bill before t
House today. This earlier measure w
not acted upon by the Senate in the clo
ing days of the 94th Congress due
time constraints. The earlier bill pr
vided for Federal, as well as State reg
lation for foreign branches and age
cies, placing their offices under t
influence of Federal Reserve monet
policy and putting them on a near equ
footing in competing with domestic ban
in the United States.

In the intervening 2 years, foreig
bank operations have increased to t
point where their activities have grow
to a level of $93 billion in assets by yea
end 1977 and are now clearly a significa
portion of the U.S. banking market. Th
now account for 20 percent of all bu
ness loans nationally and that figure
even higher in some States—33 perce
in California and 37 percent in N
York. By the end of May, 271 forei
banking entities were operating in
United States, nearly triple the 101
November of 1972 with 61 having ente
during the past year alone. Omitting
vestments, foreign institutions accou
for more than $1 of every $5 of U.S.
bank deposits and loans. Thus the th
is long past due for the taking of acti
providing for a more rational regul
tory structure for the operations of th
gigantic business entities operating
the United States.

H.R. 10899, as amended by the Sena
has responded to the controversy invo
ing our own dual banking consideratio
and while carefully preserving and p
tecting the rights of the individu
States, has nonetheless established a
national national policy for the first ti
The Federal regulatory presence
quired by H.R. 10899, as amended by
Senate, is in my judgment a bare mi
mum—a presence that will not discou
age foreign investment while at the sa
time reducing to some degree the en
mous unfair competitive advantage
joyed by these entities in competiti
with our banks.

During House debate on April 6, 19
I urged unsuccessfully the adoption o

stronger measure, particularly in section 5—branching—and section 7—Fed-

ment of the managers be read in lieu of

so-called program accounts in title I

stronger measure, particularly in section 5—branching—and section 7—Federal Reserve regulation and reserve requirements—a position consistent with the action of the 94th Congress, by its passage of a stronger measure on July 29, 1976.

Because of the unprecedented foreign banking activity during the intervening 2 years with the subsequent involvement of State regulators, business-seeking chambers of commerce, et cetera, the national interest aspects as well as the increasing competitive disadvantage to our own banks were eclipsed. The Senate amendments have carefully struck strengthening compromises in section 3, Edge Act Corp. liberalization; section 5, restrictions upon interstate banking; and section 7, clarification of backup examination authority of the Federal Reserve Board. Thus in the truest spirit of compromise, I urge the adoption of the Senate-passed version of H.R. 10899. Given the highly controversial subject matter, the unique character of foreign banking operations in this country and their importance to our economy, the wide measure of support the Senate version now enjoys is a tribute to the highly balanced end product. I say to my colleagues, further delay will be catastrophic. Many of you have voiced your concern and questioned increased activity of foreign bank operations, largely clothed in secrecy, to the subcommittee in recent months. The financial pages are filled with forced takeovers, mergers and acquisitions by foreign banks, many of which are headquartered in countries with sluggish economies. The well-publicized problems of the dollar measured against the yen and the mark have increased investment opportunities in our country. Nothing in this bill will discourage these activities, but hopefully good order and discipline will be established, parity of treatment will ensue, and enlightened disclosure will ultimately be the result as a minimum Federal regulatory presence in furtherance of consistent and fair national policy comes into being.

I join with our distinguished chairman in urging House acceptance of the Senate amendments.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island (Mr. ST GERMAIN) that the Senate amendment be considered as read and printed in the RECORD?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Rhode Island (Mr. ST GERMAIN)?

There was no objection.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 13467, SECOND SUPPLEMENTAL APPROPRIATION

Mr. MAHON. Mr. Speaker, I call up the conference report on the bill (H.R. 13467) making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of August 10, 1978.)

Mr. MAHON (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

Mr. BAUMAN. Mr. Speaker, reserving the right to object, the program that is provided by the majority leader's office this morning contains no less than six conference reports and six major pieces of legislation to be considered today, between now and 5:30 p.m. There has been no indication as to where, on this rather unrealistic list, the cutoff will occur. Almost 130 Members failed to answer the first rollcall this morning, and obviously have either left town or are not here.

It is not the purpose of the gentleman from Maryland to delay consideration of this conference report at this time, but unless we receive shortly some indication as to exactly what we are taking up today and what bills will not be taken up, I think further conference reports may have to be read in full, or some similar action taken.

All I am really asking is that the leadership give us some indication of what the program is, rather than this wish list.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report presently under consideration, as well as the Senate amendments reported in disagreement, and that I might include extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. MAHON) will be recognized for 30 minutes, and the gentleman from Michigan (Mr. CEDERBERG) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Speaker, last Thursday we reached agreement with the conferees of the other body on the various items in disagreement in the big second supplemental appropriation bill, 1978. This was the bill considered by the House on July 20.

Mr. Speaker, this bill as passed the House provided some $6.3 billion and was about $300 million under the budget estimates submitted to the Congress. The bill included over 500 individual appropriation accounts. There were some 170 so-called program accounts in title I and some 340 pay-act accounts in title II. The largest single category of appropriations in the bill—some $3.2 billion—is for the cost-of-living pay increase which went into effect last October 1.

The bill as passed the other body totaled some $6.8 billion, about $300 million more than the House bill. However, the other body considered another $492 million in budget estimates not considered by the House.

The conference agreement before the House at this time aggregates $6.8 billion. It is $457 million over the House bill; $89 million over the Senate bill; but $359 million under the budget estimates submitted by the President.

Why is the conference agreement over the House bill by $475 million? The largest single reason is the $378 million for the disaster loan program of the Small Business Administration. This is the full amount of a new budget request not considered by the House. Other major items from a dollar standpoint in the conference agreement, which were not in the bill as passed by the House, include $54 million for the new Senate Office Building and $20 million toward a Coast Guard icebreaker for the Great Lakes. The conference agreement also includes funds not in the House bill for the rural health initiative program, the flu program, the National Fire Academy, and the James Madison Library.

Now what about Senate and conference action on items in the House version of the bill? In my judgment, the Senate made relatively few changes in the amounts provided by the House. The largest increase is the $22 million to Amtrak for capital improvements. Other increases in items in the House bill which are in the conference agreement include $5.5 million for economic development assistance, $3 million for certain expenses of U.S. attorneys and marshals, $4.5 million for Internal Revenue Service collection and taxpayer service, $8.5 million for operation and maintenance, Navy, and $6.5 million for operation and maintenance, Marine Corps.

The other body also made some reductions in amounts provided by the House for certain items. The conferees agreed to reductions of $2.5 million in IRS compliance, $4 million in salaries and expenses of the Farmers Home Administration, $5 million in the administration of territories under the Department of the Interior, $10 million in forest land management, and $100 million in the operation and maintenance, Army account. This last item had to do with the financing of the sum contained in the House bill for currency revaluation. The other body provided that some of the required funds for this purpose be made available from existing funds.

I would point out, Mr. Speaker, that with respect to items in the House-passed version of the bill, the conferees made net reductions in new budget authority of about $57 million. This is about $22 million more than was intended by the 2 percent general reduction amendment.

Mr. Speaker, I would observe that there is no particular theme or central thrust to this bill. There never is in a catch-all supplemental of this nature. As I in-

dicated, there are over 500 accounts in the bill. It involves, to some extent, virtually every department and agency of the Government. It involved 12 of the 13 appropriations subcommittees. There were 83 Senate amendments. All subcommittees involved in the bill were represented on the committee of conference and these representatives handled the items under the jurisdiction of the respective subcommittees.

As always, there will be some items in the bill which may not be completely satisfactory to every Member. But considering the range of items before us, I believe your conferees have done a reasonably good job.

Mr. Speaker, I urge adoption of the conference report.

Mr. OBERSTAR. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Speaker, I thank the chairman for yielding to me. On the point of the icebreaker, I do want to rise in support of the conference report and commend the chairman and his colleagues on the conference committee. This development means a major new breakthrough and a marked improvement for the entire Great Lakes. I thank the chairman on behalf of all the Great Lakes for this development.

Mr. Speaker, the conference committee, as the chairman indicated, included $20 million for design of an icebreaker for Great Lakes duty, to replace the aging World War II vessel, the *Westwind*.

This appropriation recognizes that adequate icebreaking capability is essential to winter navigation on the Great Lakes.

A more efficient 12-month season throughout the Great Lakes system means more jobs, increased payrolls, and higher industrial profits for the 11-State Great Lakes region. The Department of Commerce estimates full year-round shipping would add approximately $400 million—in 1967 dollars—to annual labor earnings, and nearly $1 billion by the year 2020.

As a member of the House Subcommittee on Coast Guard and Navigation, I have heard testimony for the past 3 years on the need to replace the outmoded *Westwind*.

The *Westwind* was built in 1944 for polar duty. Its size and outdated technology make it inadequate for lakes duty today. Its draft is too deep to navigate the narrow and shallow interconnecting channels of the lakes system effectively; and its large crew—135 men compared to a crew of 50 on modern icebreakers—makes it costly to operate.

The growing Great Lakes commerce, including rapidly expanding coal transportation to serve lower lakes industrial and homeowner energy needs, is at the year-round shipping stage. To make winter navigation reliable and safe, and to keep it low cost, we on the Great Lakes need modern icebreaking capability. The conference committee's action take a major step toward assuring that we will have it.

The conference committee also very appropriately recognized the importance of congressional oversight in the design and construction of the vessel. The conferees require the Coast Guard to report to Congress every 3 months on progress of the design work. I am very pleased with that requirement because it will c[illegible] much to keep the Coast Guard on targe[illegible]

We all want the best and most efficie[illegible] vessel for the lakes. It is my hope th[illegible] during the design period, Congress a[illegible] the Coast Guard will recognize the a[illegible] visability of constructing an icebreak[illegible] dedicated solely to lakes duty.

Because of the vast differences b[illegible] tween the lakes system and the pol[illegible] regions, a vessel designed for dual mi[illegible] sion will provide neither area with t[illegible] most efficient vessel for their respecti[illegible] needs.

Frankly, I would have preferred th[illegible] the full $60 million authorized by t[illegible] House had been appropriated. With f[illegible] funding of the authorization for "desi[illegible] and construction," the workflow wou[illegible] be much faster and the lakes could lo[illegible] forward to a much earlier delivery of [illegible] new icebreaker. Nonetheless, I am ve[illegible] happy with the conference action. [illegible] does assure that we will have the ic[illegible] breaker we need so much on the lak[illegible] To that extent, it is a major brea[illegible] through for the economy of the Gre[illegible] Lakes States.

House approval of the conference r[illegible] port represents a major step toward t[illegible] realization of the potential of the Gre[illegible] Lakes as America's fourth seacoast.

Mr. MAHON. As to the items in t[illegible] House-passed bill—and I would like f[illegible] the Members to mark these words [illegible] the conferees made net reductions [illegible] about $57 million, so we are below t[illegible] House bill in the items that were co[illegible] sidered and passed by the House.

Mr. Speaker, at this point I insert [illegible] the RECORD a comparative table [illegible] amounts recommended by the committ[illegible] of conference, the House and t[illegible] Senate:

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY

Requested in H. Doc. 95-281 as amended by [1]	New budget authority				Conference compared with—		
	Estimates, fiscal year 1978	House, fiscal year 1978	Senate, fiscal year 1978	Conference, fiscal year 1978	Fiscal year 1978 estimate	House bill	Senate
TITLE I—GENERAL SUPPLEMENTALS							
I—Agriculture: New budget (obligational) authority.	$6,136,000	$187,706,000	$151,226,000	$181,771,000	+$175,635,000	−$5,935,000	+$30,545,0[illegible]
II—Foreign operations: New budget (obligational) authority.	38,394,000	21,250,000	24,305,000	24,015,000	−14,379,000	+2,765,000	−290,0[illegible]
III—Housing and Urban Development-independent agencies:							
New budget (obligational) authority	560,777,000	538,553,000	539,553,000	539,553,000	−21,224,000	+1,000,000	
Appropriations	536,477,000	514,253,000	515,253,000	515,253,000	−21,224,000	+1,000,000	
Contract authority	24,300,000	24,300,000	24,300,000	24,300,000			
(Increase in limitations)	(250,000)				(−250,000)		
(Increased limitation for annual contract authority).	(24,300,000)	(24,300,000)	(24,300,000)	(24,300,000)			
IV—Interior and related agencies:							
New budget (obligational) authority	507,547,000	571,235,000	542,161,000	555,628,000	+48,081,000	−15,607,000	+13,467,0[illegible]
(By transfer)	(6,000,000)				(−6,000,000)		
V—Labor and Health, Education and Welfare:							
New budget (obligational) authority	487,752,000	379,674,000	298,325,000	394,964,000	−92,788,000	+15,290,000	+96,638,0[illegible]
(Increase in limitations)	(36,797,000)	(18,797,000)		(8,800,000)	(−27,997,000)	(−9,997,000)	(+8,800,0[illegible]
VI—Legislative branch: New budget (obligational) authority.	60,027,550	9,063,050	74,060,550	74,010,550	+13,983,000	+64,947,500	−50,0[illegible]
VII—Public works:							
New budget (obligational) authority	5,350,000	8,700,000	8,700,000	8,700,000	+3,350,000		
(By transfer)	(3,305,000)				(−3,305,000)		
VIII—State, Justice, Commerce, and the Judiciary: New budget (obligational) authority.	665,594,000	256,772,000	656,121,000	649,360,000	−16,234,000	+392,588,000	−6,761,0[illegible]
IX—Transportation:							
New budget (obligational) authority	93,429,000	49,044,000	131,044,000	91,044,000	−2,385,000	+42,000,000	−40,000,0[illegible]
(By transfer)	(9,000,000)	(9,000,000)	(9,000,000)	(9,000,000)			
(Appropriations to liquidate contract authority).	(9,940,000)	(9,940,000)	(9,940,000)	(9,940,000)			
(Increase in limitation on commitments)	(49,479,000)	(40,000,000)	(40,000,000)	(40,000,000)	(−9,479,000)		
X—Treasury, Postal Service, and general Government:							
New budget (obligational) authority	632,220,000	549,600,000	551,600,000	551,600,000	−80,620,000	+2,000,000	
(Increase in limitations)	(1,027,000)	(1,027,000)	(1,027,000)	(1,027,000)			
XI—Defense:							
New budget (obligational) authority	748,000,000	599,766,000	514,766,000	514,766,000	−233,234,000	−85,000,000	
(By transfer)			(100,000,000)	(100,000,000)	(+100,000,000)	(+100,000,000)	
XII—Military construction: New budget (obligational) authority.	73,540,000		8,500,000	8,500,000	−65,040,000	+8,500,000	

See footnote at end of table

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY—Continued

Requested in H. Doc. 95-281 as amended by [1]		New budget authority: Estimates, fiscal year 1978	House, fiscal year 1978	Senate, fiscal year 1978	Conference, fiscal year 1978	Conference compared with— Fiscal year 1978 estimate	House bill	Senate bill
	TITLE I—GENERAL SUPPLEMENTS—Con.							
	Total, title I—General supplementals:							
	New budget (obligational) authority	3,878,766,550	3,171,363,050	3,500,361,550	3,593,911,550	−284,855,000	+422,548,500	+93,550,000
	(Appropriation to liquidate contract authority).	(9,940,000)	(9,940,000)	(9,940,000)	(9,040,000)			
	(By transfer)	(18,305,000)	(9,000,000)	(109,000,000)	(109,000,000)	(+90,695,000)	(+100,000,000)	
	(Increase in limitations)	(38,074,000)	(19,824,000)	(1,027,000)	(9,827,000)	(−28,247,000)	(−9,997,000)	(+8,800,000)
	(Increased limitation for annual contract authority).	(24,300,000)	(24,300,000)	(24,300,000)	(24,300,000)			
	(Increase in limitation on commitments)	(49,479,000)	(40,000,000)	(40,000,000)	(40,000,000)	(−9,479,000)		
	TITLE II—INCREASED PAY COSTS							
	Total, title II—Increased pay costs:							
	New budget (obligational) authority	3,289,680,436	3,197,224,136	3,218,867,136	3,214,867,136	−74,813,300	+17,643,000	−4,000,000
	(By transfer)	(49,305,677)	(4,951,331)	(10,951,331)	(10,951,331)	(−38,354,346)	(+6,000,000)	
	(Increase in limitations)	(125,530,000)	(118,501,000)	(118,501,000)	(118,501,000)	(−7,029,000)		
	(Trust fund transfer)	(45,000)				(−45,000)		
	(Transfer from Commodity Credit Corporation).	(1,036,000)	(1,036,000)	(1,036,000)	(1,036,000)			
	(By transfer from FHA fund)	(10,929,000)	(10,929,000)	(10,929,000)	(10,929,000)			
	TITLE III—GENERAL PROVISIONS							
	Total, title III—General provisions		−35,198,000				+35,198,000	
	Grand total—Titles I, II, and III:							
	New Budget (obligational) authority	7,168,446,986	6,333,389,186	6,719,228,686	6,808,778,686	−359,668,300	+475,389,500	+89,550,000
	(Appropriation to liquidate contract authority).	(9,940,000)	(9,940,000)	(9,940,000)	(9,940,000)			
	(By transfer)	(67,610,677)	(13,951,331)	(119,951,331)	(119,951,331)	(+52,340,654)	(+106,000,000)	
	(Increase in limitations)	(163,604,000)	(138,325,000)	(119,528,000)	(128,328,000)	(−35,276,000)	(−9,997,000)	(+8,800,000)
	(Trust fund transfer)	(45,000)				(−45,000)		
	(Transfer from Commodity Credit Corporation).	(1,036,000)	(1,036,000)	(1,036,000)	(1,036,000)			
	(By transfer from FHA fund)	(10,929,000)	(10,929,000)	(10,929,000)	(10,929,000)			
	(Increased limitation for annual contract authority).	(24,300,000)	(24,300,000)	(24,300,000)	(24,300,000)			
	(Increase in limitation on commitments)	(49,479,000)	(40,000,000)	(40,000,000)	(40,000,000)	(−9,479,000)		
	CHAPTER I							
	DEPARTMENT OF AGRICULTURE							
	Agricultural programs							
	Production, Processing, and Marketing							
	Animal and Plant Health Inspection Service: Disease and pest control	1,255,000	3,675,000	1,455,000	2,000,000	+745,000	−1,675,000	+545,000
	Economic Research Service	950,000	950,000	950,000	950,000			
	Total, production, processing, and marketing	2,205,000	4,625,000	2,405,000	2,950,000	+745,000	−1,675,000	+545,000
	Farm Income Stabilization							
	Federal Crop Insurance Corporation: Subscription to Capital Stock	20,000,000	20,000,000	20,000,000	20,000,000			
	Rural Development Programs							
	Rural Development Assistance							
	Rural water and waste disposal grants		50,000,000	50,000,000	50,000,000	+50,000,000		
	Farmers Home Administration: Salaries and expenses	5,260,000	5,260,000	1,000,000	1,000,000	−4,260,000	−4,260,000	
	Total, rural development programs	5,260,000	55,260,000	51,000,000	51,000,000	+45,740,000	−4,260,000	
	Conservation							
	Soil Conservation Service:							
95-331	Conservation operations	$7,700,000	$7,700,000	$7,700,000	$7,700,000			
	Watershed and flood prevention operations		80,000,000	80,000,000	80,000,000	+$80,000,000		
	Agricultural Stabilization and Conservation Service							
95-335	Agricultural conservation program (rescission)	−30,000,000		−30,000,000		+30,000,000		
	Emergency conservation measures		20,000,000	20,000,000	20,000,000	+20,000,000		+$30,000,000
	Total, conservation	−22,300,000	107,700,000	77,700,000	107,700,000	+130,000,000		+30,000,000
	RELATED AGENCIES							
	Commodity Futures Trading Commission	971,000	121,000	121,000	121,000	−850,000		
	Total, chapter I: New budget (obligational) authority.	6,136,000	187,706,000	151,226,000	181,771,000	+175,635,000	−$5,935,000	+30,545,000
	CHAPTER II							
	FOREIGN ASSISTANCE ACT ACTIVITIES							
	Funds Appropriated to the President							
	Economic Assistance							
95-331	International organizations and programs	9,500,000	8,500,000	9,500,000	9,000,000	−500,000	+500,000	−500,000
	Payment to the Foreign Service retirement and disability fund.	2,770,000	2,770,000	2,770,000	2,770,000			
	Foreign Military Credit Sales							
	Foreign military credit sales	5,000,000				−5,000,000		
	INDEPENDENT AGENCY							
	ACTION—International Programs							
	Peace Corps	3,644,000		2,265,000	2,265,000	−1,379,000	+2,265,000	
	DEPARTMENT OF STATE							
95-331	Migration and refugee assistance	7,480,000	7,480,000	7,270,000	7,480,000			+210,000
95-331	United States Emergency Refugee and Migration Assistance Fund.	10,000,000	2,500,000	2,500,000	2,500,000	−7,500,000		
	Total, Department of State	17,480,000	9,980,000	9,770,000	9,980,000	−7,500,000		+210,000
	Total, chapter II: New budget (obligational) authority.	38,394,000	21,250,000	24,305,000	24,015,000	−14,379,000	+2,765,000	−290,000

See footnote at end of table.

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY—Continued

Requested in H. Doc. 95-281 as amended by [1]		New budget authority: Estimates, fiscal year 1978	House, fiscal year 1978	Senate, fiscal year 1978	Conference, fiscal year 1978	Conference compared with— Fiscal year 1978 estimate	House bill	Senate bill
	CHAPTER III							
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT							
	Housing Programs							
	Rent Supplement (contract authority)	24,300,000	24,300,000	24,300,000	24,300,000			
	(Increased limitation for annual contract authority).	(24,300,000)	(24,300,000)	(24,300,000)	(24,300,000)			
	Total, Department of Housing and Urban Development (contract authority).	24,300,000	24,300,000	24,300,000	24,300,000			
	(Increased limitation for annual contract authority).	(24,300,000)	(24,300,000)	(24,300,000)	(24,300,000)			
	INDEPENDENT AGENCIES							
	Environmental Protection Agency							
	Research and development	1,400,000	1,400,000	1,400,000	1,400,000			
	Abatement and control	8,000,000	8,000,000	8,000,000	8,000,000			
	Total, Environmental Protection Agency	9,400,000	9,400,000	9,400,000	9,400,000			
	National Commission on Air Quality							
	Salaries and expenses	2,000,000	500,000	500,000	500,000	−1,500,000		
	Veterans Administration							
	Compensation and pensions	489,600,000	489,600,000	489,600,000	489,600,000			
S. Doc. 95-113	Veterans insurance and indemnities	1,000,000		1,000,000	1,000,000		+1,000,000	
	Medical care	4,288,000	4,000,000	4,000,000	4,000,000	−288,000		
	General operating expenses	8,800,000	6,800,000	6,800,000	6,800,000	−1,800,000		
	Assistance for health manpower training institutions	21,589,000	3,953,000	3,953,000	3,953,000	−17,636,000		
	Total, Veterans Administration	525,077,000	504,353,000	505,353,000	505,353,000	−19,724,000	+1,000,000	
	Federal Home Loan Bank Board							
	(Limitation on nonadministrative expenses)	(250,000)				(−250,000)		
	Total, chapter III:							
	New budget (obligational) authority	560,777,000	538,553,000	539,553,000	539,553,000	−21,224,000	+1,000,000	
	Appropriations	536,477,000	514,253,000	515,253,000	515,253,000	−21,224,000	+1,000,000	
	Contract authority	24,300,000	24,300,000	24,300,000	24,300,000			
	(Increase in limitations)	(250,000)				(−250,000)		
	(Increased limitation for annual contract authority).	(24,300,000)	(24,300,000)	(24,300,000)	(24,300,000)			
	CHAPTER IV							
	DEPARTMENT OF THE INTERIOR							
	Land and Water Resources							
	Bureau of Land Management							
	Management of lands and resources	$53,000,000	$53,000,000	$53,000,000	$53,000,000			
	Fish and Wildlife and Parks							
	U.S. Fish and Wildlife Service							
	Resource management	1,583,000	1,583,000	1,583,000	1,583,000			
	Heritage Conservation and Recreation Service							
95-331	Land and water conservation fund	205,000,000	205,000,000	205,000,000	205,000,000			
	National Park Service							
	Operation of the National Park System	2,750,000	2,750,000	2,750,000	2,750,000			
	Total, Fish and Wildlife and Parks	209,333,000	209,333,000	209,333,000	209,333,000			
	Indian Affairs							
	Bureau of Indian Affairs							
95-331	Operation of Indian programs	16,113,000	21,310,000	19,310,000	20,817,000	+$4,704,000	−$493,000	+$1,507,000
	Construction			825,000	825,000	+825,000	+825,000	
	Total, Bureau of Indian Affairs	16,113,000	21,310,000	20,135,000	21,642,000	+5,529,000	+332,000	+1,507,000
	Office of Territorial Affairs							
95-331	Administration of territories	14,000,000	54,000,000	39,000,000	49,000,000	+35,000,000	−5,000,000	+10,000,000
95-331	Trust Territory of the Pacific Islands	5,549,000	7,809,000	5,049,000	7,009,000	+1,460,000	−800,000	+1,960,000
	Total, Territorial Affairs	19,549,000	61,809,000	44,049,000	56,009,000	+36,460,000	−5,800,000	+11,960,000
	Total, Department of the Interior	297,995,000	345,452,000	326,517,000	339,984,000	+41,989,000	−5,468,000	+13,467,000
	RELATED AGENCIES							
	DEPARTMENT OF AGRICULTURE							
	Forest Service							
	Forest protection and utilization: Forest land management.	204,000,000	204,000,000	194,000,000	194,000,000	−10,000,000	−10,000,000	

See footnote at end of table.

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY—Continued

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY—Continued

Requested in H. Doc. 95-281 as amended by [1]		New budget authority: Estimates, fiscal year 1978	House, fiscal year 1978	Senate, fiscal year 1978	Conference, fiscal year 1978	Conference compared with—: Fiscal year 1978 estimate	House bill	Senate bill
	DEPARTMENT OF ENERGY							
	Fossil energy research and development		12,000,000	12,000,000	12,000,000	+12,000,000		
	Economic Regulatory Administration		6,000,000	6,000,000	6,000,000	+6,000,000		
95-331	(By transfer)	(6,000,000)				(−6,000,000)		
	Total, Department of Energy		18,000,000	18,000,000	18,000,000	+18,000,000		
	(By transfer)	(6,000,000)				(−6,000,000)		
	DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE							
	Health Services Administration							
	Indian health services	2,888,000	2,241,000	2,241,000	2,241,000	−647,000		
	INDIAN CLAIMS COMMISSION							
95-331	Salaries and expenses	300,000	200,000	200,000	200,000	−100,000		
	NAVAJO AND HOPI INDIAN RELOCATION COMMISSION							
	Salaries and expenses	405,000	123,000	123,000	123,000	−282,000		
	SMITHSONIAN INSTITUTION							
	Salaries and expenses	1,100,000	580,000	580,000	580,000	−520,000		
	Salaries and expenses, National Gallery of Art	720,000	500,000	500,000	500,000	−220,000		
	Total, Smithsonian Institution	1,820,000	1,080,000	1,080,000	1,080,000	−740,000		
	JOINT FEDERAL-STATE LAND USE PLANNING COMMISSION FOR ALASKA							
5-331	Salaries and expenses	139,000	139,000			−139,000	−139,000	
	Total, chapter IV:							
	New budget (obligational) authority	508,547,000	571,235,000	542,161,000	555,628,000	+48,081,000	−15,607,000	+13,467,000
	(By transfer)	(6,000,000)				(−6,000,000)		
	CHAPTER V							
	DEPARTMENT OF LABOR							
	Employment and Training Administration							
	Employment and training assistance	76,540,000				−76,540,000		
	Community service employment for older Americans	30,000,000	21,300,000	21,300,000	21,300,000	−8,700,000		
	Total, Employment and Training Administration	106,540,000	21,300,000	21,300,000	21,300,000	−85,240,000		
	Labor-Management Services Administration							
	Salaries and expenses	$956,000				−$956,000		
	Employment Standards Administration							
	Salaries and expenses	940,000	$165,000	$165,000	$165,000	−775,000		
	Mine Safety and Health Administration							
	Salaries and expenses	9,433,000	8,000,000	8,000,000	8,000,000	−1,433,000		
	Bureau of Labor Statistics							
	Salaries and expenses	536,000				−536,000		
	Departmental Management							
95-311	Salaries and expenses	2,738,000	2,323,000	1,900,000	1,900,000	−838,000	−$423,000	
	DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE							
	Health Services Administration							
	Health services			6,000,000	6,000,000	+6,000,000	+6,000,000	
	Center for Disease Control							
95-311	Preventive health services	15,000,000		9,700,000	9,700,000	−5,300,000	+9,700,000	
	National Institutes of Health							
	National Institute of Allergy and Infectious Diseases		3,000,000				−3,000,000	
	Alcohol, Drug Abuse, and Mental Health Administration							
	Construction and renovation, St. Elizabeths Hospital	55,300,000	52,200,000		52,200,000	−3,100,000		+$52,200,000
	Health Resources Administration							
	Health resources		628,000		500,000	+500,000	−128,000	+500,000
	Health Care Financing Administration							
	Quality care management, research and administration	1,063,000	400,000			−1,063,000	−400,000	
	Limitation on administrative expenses (increase in limitation)	(36,797,000)	(18,797,000)		(8,800,000)	(−27,997,000)	(−9,997,000)	(+8,800,000)

See footnote at end of table.

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY—Continued

Requested in H. Doc. 95-281 as amended by [1]		New budget authority: Estimates, fiscal year 1978	House, fiscal year 1978	Senate, fiscal year 1978	Conference, fiscal year 1978	Conference compared with—: Fiscal year 1978 estimate	House bill	Senate bill
	Education Division							
	Office of Education							
	School assistance in federally affected areas	31,000,000	5,000,000	5,000,000	5,000,000	−26,000,000		
	Education for the handicapped		37,800,000	37,800,000	37,800,000	+37,800,000		
	Salaries and expenses	2,300,000	2,300,000	2,300,000	2,300,000			
	Student loan insurance fund	223,939,000	223,939,000	180,000,000	223,939,000			+43,939,000
	Total, Office of Education	257,239,000	269,039,000	225,100,000	269,039,000	+11,800,000		+43,939,000
	Total, Education Division	257,239,000	269,039,000	225,100,000	269,039,000	+11,800,000		+43,939,000
	Assistant Secretary for Human Development Services							
	Human development		600,000	5,300,000	5,300,000	+5,300,000	+4,700,000	
	Departmental Management							
	Office for Civil Rights	20,146,000	7,700,000	6,900,000	6,900,000	−13,246,000	−800,000	
	Office of the Inspector General	2,328,000	1,500,000	1,500,000	1,500,000	−828,000		
	General departmental management	1,047,000	359,000			−1,047,000	−359,000	
	Total, departmental management	23,521,000	9,559,000	8,400,000	8,400,000	−15,121,000	−1,159,000	
	RELATED AGENCIES							
	ACTION	1,400,000	217,000	217,000	217,000	−1,183,000		
	Corporation for Public Broadcasting	12,050,000	12,050,000	12,050,000	12,050,000			
	Federal Mine Safety and Health Review Commission	1,036,000	193,000	193,000	193,000	−843,000		
	Total, related agencies	14,486,000	12,460,000	12,460,000	12,460,000	−2,026,000		
	Total, chapter V:							
	New budget (obligational) authority	487,752,000	379,674,000	298,325,000	394,964,000	−92,788,000	+15,290,000	+96,639,000
	(Increase in limitations)	(36,797,000)	(18,797,000)		(8,800,000)	(−27,997,000)	(−9,997,000)	(+8,800,000)
	CHAPTER VI							
	CONGRESSIONAL OPERATIONS							
	SENATE							
S. Doc. 95-117	Payments to widows and heirs of deceased Members of Congress	57,500		57,500	57,500		+57,500	
	Expense allowances of the Vice President, President pro tempore, majority and minority leaders and majority and minority whips:							
	President pro tempore	10,000		10,000	10,000		+10,000	
	Majority leader	10,000		10,000	10,000		+10,000	
	Minority leader	10,000		10,000	10,000		+10,000	
	Salaries, Officers and Employees							
	Offices of the Majority and Minority Leaders	$110,000		$110,000	$110,000		+$110,000	
	Contingent Expenses of the Senate							
	Postage stamps	2,000		2,000	2,000		+2,000	
	Total, Senate	199,500		199,500	199,500		+199,500	
	HOUSE OF REPRESENTATIVES							
	Contingent expenses of the House							
	Payments to Widows and Heirs of Deceased Members of Congress							
	Gratuities, deceased Members		$115,000	115,000	115,000	+$115,000		
	Allowances and Expenses							
95-331	Equipment (purchase, lease, and maintenance)	584,250	584,250	584,250	584,250			
	Special and Select Committees							
S. Doc. 95-106	Salaries and expenses	5,500,000	5,500,000	5,500,000	5,500,000			
	Total, House of Representatives	6,084,250	6,199,250	6,199,250	6,199,250	+115,000		
	JOINT ITEMS							
	Contingent Expenses of the House							
	Joint Committee on Taxation							
S. Doc. 95-106	Salaries and expenses	252,800	252,800	252,800	252,800			
	Office of Technology Assessment							
S. Doc. 95-106	Salaries and expenses	2,000,000		1,000,000	1,000,000	−1,000,000	+1,000,000	
	ARCHITECT OF THE CAPITOL							
	Office of the Architect of the Capitol							
	Contingent expenses	90,000	90,000	90,000	90,000			
	Capitol Buildings and Grounds							
S. Doc. 95-106	Capitol Buildings	655,000	595,000	655,000	655,000		+60,000	
S. Doc. 95-110	Capitol Grounds	415,000	415,000	415,000	415,000			
	Master plan for future development of the Capitol Grounds and related areas	100,000	100,000	100,000	100,000			

See footnote at end of table.

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY—Continued

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY—Continued

Requested in H. Doc. 95-281 as amended by [1]		New budget authority: Estimates, fiscal year 1978	House, fiscal year 1978	Senate, fiscal year 1978	Conference, fiscal year 1978	Conference compared with— Fiscal year 1978 estimate	House bill	Senate bill
	Capitol Buildings and Grounds—Con.							
S. Doc. 95-106	Senate office buildings	1,110,000		1,110,000	1,110,000		+1,110,000	
S. Doc. 95-106	House office buildings	811,000	811,000	811,000	811,000			
S. Doc. 95-106	Capitol Power Plant (operation)	600,000	600,000	600,000	600,000			
	Total, Capitol buildings and grounds	3,691,000	2,521,000	3,691,00	3,691,000		+1,170,000	
	Capital improvements							
S. Doc. 95-110	Construction of an extension to the new Senate office building.	37,500,000		54,853,000	54,853,000	+17,353,000	+54,853,000	
S. Doc. 95-117	Library of Congress, James Madison Memorial Building.	10,000,000		7,675,000	7,675,000	−2,325,000	+7,675,000	
	Total, Architect of the Capitol	51,281,000	2,611,000	66,309,000	66,309,000	+15,028,00	+63,698,000	
	LIBRARY OF CONGRESS							
	Congressional Research Service							
	Salaries and expenses	210,000		100,000	50,000	−160,000	+50,000	−$50,000
	Total, chapter VI: New budget (obligational) authority.	60,027,550	9,063,050	74,060,550	74,010,550	+13,983,000	+64,947,500	−50,000
	CHAPTER VII							
	DEPARTMENT OF ENERGY							
	Energy		3,000,000	3,000,000	3,000,000	+3,000,000		
95-331	(By transfer)	(3,305,000)				(−3,305,000)		
	DEPARTMENT OF DEFENSE—CIVIL							
	Department of the Army							
	Corps of Engineers—Civil							
	General investigations		100,000	100,000	100,000	+100,000		
	Construction, general		2,000,000	2,000,000	2,000,000	+2,000,000		
	Total, Department of Defense—Civil		2,100,000	2,100,000	2,100,000	+2,100,000		
	INDEPENDENT OFFICES							
	Nuclear Regulatory Commission: Salaries and expenses.	5,350,000	3,600,000	3,600,000	3,600,000	−1,750,000		
	Total, chapter VII: New budget (obligational) authority	5,350,000	8,700,000	8,700,000	8,700,000	+3,350,000		
	(By transfer)	(3,305,000)				(−3,305,000)		
	CHAPTER VIII							
	DEPARTMENT OF STATE							
	Administration of Foreign Affairs							
	Salaries and expenses	$3,250,000	$1,450,000	$1,450,000	$1,450,000	−$1,800,000		
	Acquisition, operation, and maintenance of buildings abroad.	10,000,000	10,000,000	10,000,000	10,000,000			
	Payment to the Foreign Service retirement and disability fund.	11,008,000	11,008,000	11,008,000	11,008,000			
	Total, administration of foreign affairs	24,258,000	22,458,000	22,458,000	22,458,000	−1,800,000		
	International Organizations and Conferences							
	Contributions to international organizations	64,127,000	64,127,000	64,127,000	64,127,000			
95-331	Contributions for international peacekeeping activities	20,400,000	20,400,000	20,400,000	20,400,000			
	Missions to international organizations	1,117,000	900,000	727,000	727,000	−390,000	−$173,000	
	International trade negotiations	412,000	412,000	412,000	412,000			
	Total, international organizations and conferences.	86,056,000	85,839,000	85,666,000	85,666,000	−390,000	−173,000	
	International Commissions							
	International fisheries commissions	519,000	500,000	500,000	500,000	−19,000		
	Total, Department of State	110,833,000	108,797,000	108,624,000	108,624,000	−2,209,000	−173,000	
	DEPARTMENT OF JUSTICE							
	General Administration							
	Salaries and expenses	368,000	368,000	368,000	368,000			
	Legal Activities							
	Salaries and expenses, general legal activities	724,000	400,000	400,000	400,000	−324,000		
	Salaries and expenses, Antitrust Division	864,000	628,000			−864,000	−628,000	
S. Doc. 95-106	Salaries and expenses, U.S. attorneys and marshals	4,495,000	1,445,000	4,495,000	4,495,000		+3,050,000	
	Total, legal activities	6,083,000	2,473,000	4,895,000	4,895,000	−1,188,000	+2,422,000	
	Immigration and Naturalization Service							
95-331	Salaries and expenses	3,750,000	3,750,000	3,750,000	3,750,000			
	Total, Department of Justice	10,201,000	6,591,000	9,013,000	9,013,000	−1,188,000	+2,422,000	

See footnote at end of table.

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY—Continued

Requested in H. Doc. 95-281 as amended by [1]		New budget authority: Estimates, fiscal year 1978	House, fiscal year 1978	Senate, fiscal year 1978	Conference, fiscal year 1978	Conference compared with— Fiscal year 1978 estimate	House bill	Senate bill
	DEPARTMENT OF COMMERCE							
	Bureau of the Census							
	Periodic censuses and programs	2,530,000	2,180,000	2,180,000	2,180,000	−350,000		
	Economic Development Administration							
	Economic development assistance programs	117,000,000	106,000,000	117,000,000	111,500,000	−5,500,000	+5,500,000	−95,500,000
	Administration of economic development assistance programs.	250,000	40,000	40,000	40,000	−210,000		
	Total, Economic Development Administration	117,250,000	106,040,000	117,040,000	111,540,000	−5,710,000	+5,500,000	−5,500,000
	Industry and Trade Administration							
	Operations and administration	3,360,000	2,630,000	2,630,000	2,630,000	−730,000		
	National Oceanic and Atmospheric Administration							
	Operations, research, and facilities		549,000	1,740,000	1,238,000	+1,238,000	+689,000	−511,000
	National Fire Prevention and Control Administration							
	Facilities			6,150,000	6,150,000	+6,150,000	+6,150,000	
	Science and Technical Research							
	Scientific and technical research and services	1,569,000	900,000	900,000	900,000	−669,000		
	National Telecommunications and Information Administration							
95-331	Salaries and expenses	3,775,000	3,110,000	3,110,000	3,110,000	−665,000		
	Maritime Administration							
	Operations and training			750,000				−750,000
	Total, Department of Commerce	128,484,000	115,409,000	134,509,000	127,748,000	−736,000	+12,339,000	−6,761,000
	THE JUDICIARY							
	Supreme Court of the United States							
S. Doc. 95-106	Care of the building and grounds	750,000	750,000	750,000	750,000			
	Courts of Appeals, District Courts, and Other Judicial Services							
	Salaries of supporting personnel	156,000				−156,000		
	Travel and miscellaneous expenses	110,000				−110,000		
	Special rail reorganization court	5,875,000	2,000,000	2,000,000	2,000,000	−3,875,000		
	Total, courts of appeals, district courts, and other judicial services.	6,141,000	2,000,000	2,000,000	2,000,000	−4,141,000		
	Federal Judicial Center							
	Salaries and expenses	$55,000	$55,000	$55,000	$55,000			
	Total, the judiciary	6,946,000	2,805,000	2,805,000	2,805,000	−$4,141,000		
	RELATED AGENCIES							
	Arms Control and Disarmament Agency							
	Arms control and disarmament activities	2,570,000	2,370,000	2,370,000	2,370,000	−200,000		
	Board for International Broadcasting							
	Grants and expenses	10,468,000	10,000,000	10,000,000	10,000,000	−468,000		
	Equal Employment Opportunity Commission							
	Salaries and expenses	13,950,000	7,500,000	7,500,000	7,500,000	−6,450,000		
	Federal Communications Commission							
95-331	Salaries and expenses	434,000	150,000	150,000	150,000	−284,000		
	Federal Trade Commission							
	Salaries and expenses	418,000				−418,000		
	International Communication Agency							
	Salaries and expenses	1,500,000	1,500,000	1,500,000	1,500,000			
	Securities and Exchange Commission							
	Salaries and expenses	1,425,000	1,375,000	1,375,000	1,375,000	−50,000		
	Small Business Administration							
	Disaster loan fund	378,000,000		378,000,000	378,000,000		+$378,000,000	
	U.S. Metric Board							
95-331	Salaries and expenses	365,000	275,000	275,000	275,000	−90,000		
	Total, related agencies	409,130,000	23,170,000	401,170,000	401,170,000	−7,960,000	+378,000,000	
	Total, chapter VIII: New budget (obligational) authority.	665,594,000	256,772,000	656,121,000	649,360,000	−16,234,000	+392,588,000	−36,761,000

See footnote at end of table.

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY—Continued

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY—Continued

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY—Continued

Requested in H. Doc. 95-281 as amended by [1]		New budget authority: Estimates, fiscal year 1978	House, fiscal year 1978	Senate, fiscal year 1978	Conference, fiscal year 1978	Conference compared with—: Fiscal year 1978 estimate	House bill	Senate bill
	CHAPTER IX							
	DEPARTMENT OF TRANSPORTATION							
	Office of the Secretary							
	Working capital fund (by transfer)	(9,000,000)	(9,000,000)	(9,000,000)	(9,000,000)			
	Coast Guard							
95-331	Operating expenses	12,370,000	12,370,000	12,370,000	12,370,000			
	Acquisition, construction and improvements			60,000,000	20,000,000	+20,000,000	+20,000,000	-40,000,000
	Retired pay	2,399,000	2,000,000	2,000,000	2,000,000	-399,000		
	Total, Coast Guard	14,769,000	14,370,000	74,370,000	34,370,000	+19,601,000	+20,000,000	-'0,000,000
	Federal Highway Administration							
	Darien Gap Highway	20,000,000				-20,000,000		
	National Highway Traffic Safety Administration							
	State and community highway safety	524,000	524,000	524,000	524,000			
	Federal Railroad Administration							
	Office of the Administrator	500,000	150,000	150,000	150,000	-350,000		
	Rail Service Assistance	2,500,000	1,500,000	1,500,000	1,500,000	-1,000,000		
S. Doc. 95-121	Grants to the National Railroad Passenger Corporation	51,500,000	29,500,000	51,500,000	51,500,000		+22,000,000	
	Total, Federal Railroad Administration	54,500,000	31,150,000	53,150,000	53,150,000	-1,350,000	+22,000,000	
	Urban Mass Transportation Adminstration							
	Urban Mass Transportation Fund (limitation on commitments, increase in limitation)	(49,479,000)	(40,000,000)	(40,000,000)	(40,000,000)	(-9,479,000)		
	Materials Transportation Bureau							
	Materials transportation program	636,000				-636,000		
	Total, Department of Transportation	90,429,000	46,044,000	128,044,000	88,044,000	-2,385,000	+42,000,000	-40,000,000
	(By transfer)	(9,000,000)	(9,000,000)	(9,000,000)	(9,000,000)			
	(Increase in limitation of commitments)	(49,479,000)	(40,000,000)	(40,000,000)	(40,000,000)	(-9,479,000)		
	RELATED AGENCIES							
	Civil Aeronautics Board							
	Salaries and expenses	700,000	700,000	700,000	700,000			
	Payments to air carriers: (Appropriation to liquidate contract authorization)	(9,940,000)	(9,940,000)	(9,940,000)	(9,940,000)			
	Interstate Commerce Commission							
	Salaries and expenses	$2,300,000	$2,300,000	$2,300,000	$2,300,000			
	Total, chapter IX: New budget (obligational) authority.	93,429,000	49,044,000	131,044,000	91,044,000	-$2,385,000	+$42,000,000	-$40,000,000
	(By transfer)	(9,000,000)	(9,000,000)	(9,000,000)	(9,000,000)			
	(Appropriation to liquidate contract authority).	(9,940,000)	(9,940,000)	(9,940,000)	(9,940,000)			
	(Increase in limitation on commitments).	(49,479,000)	(40,000,000)	(40,000,000)	(40,000,000)	(-9,479,000)		
	CHAPTER X							
	DEPARTMENT OF THE TREASURY							
	Federal Law Enforcement Trainine Center	1,515,000	1,000,000	1,000,000	1,000,000	-515,000		
	Bureau of Government Financial Operations:							
S. Doc. 95-110	Salaries and expenses	11,250,000	6,750,000	6,750,000	6,750,000	-4,500,000		
S. Doc. 95-106	Payments to the government of Guam	3,000,000	3,000,000	3,000,000	3,000,000			
	Internal Revenue Service:							
	Salaries and expenses	400,000	400,000	400,000	400,000			
	Accounts, collection, and taxpayer service	10,800,000	5,400,000	9,900,000	9,900,000	-900,000	+4,500,000	
	Compliance	4,100,000	4,100,000	1,600,000	1,600,000	-2,500,000	-2,500,000	
	Total, Internal Revenue Service	15,300,000	9,900,000	11,900,000	11,900,000	-3,400,000	+2,000,000	
S. Doc. 95-106	U.S. Secret Service	5,400,000	5,000,000	5,000,000	5,000,000	-400,000		
	Total, Department of the Treasury	36,465,000	25,650,000	27,650,000	27,650,000	-8,815,000	+2,000,000	
	U.S. POSTAL SERVICE							
	Payment to the Postal Service fund	91,959,000	91,748,000	91,748,000	91,748,000	-211,000		
	EXECUTIVE OFFICE OF THE PRESIDENT							
	National Security Council	160,000	160,000	160,000	160,000			
95-331	Office of Management and Budget	1,512,000	1,512,000	1,512,000	1,512,000			
	Total, Executive Office of the President	1,672,000	1,672,000	1,672,000	1,672,000			
	INDEPENDENT AGENCIES							
	Civil Service Commission:							
	Salaries and expenses	447,000	372,000	372,000	372,000	-75,000		
	Increase in limitation	(1,027,000)	(1,027,000)	(1,027,000)	(1,027,000)			
	Payment to civil service retirement and disability fund.	428,758,000	428,758,000	428,758,000	428,758,000			
	Total, Civil Service Commission	429,205,000	429,130,000	429,130,000	429,130,000	-75,000		

See footnote at end of table.

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY—Continued

Requested in H. Doc. 95-281 as amended by [1]		New budget authority: Estimates, fiscal year 1978	House, fiscal year 1978	Senate, fiscal year 1978	Conference fiscal year 1978	Conference compared with—: Fiscal year 1978 estimate	House bill	Senate bill
	INDEPENDENT AGENCIES—Con.							
	General Services Administration:							
95-331	National Archives and Records Service: Operating expenses.	1,419,000	400,000	400,000	400,000	-1,019,000		
	Preparedness activities: Federal Preparedness Agency, Salaries and expenses.	70,500,000				-70,500,000		
	General activities: Refunds under Renegotiation Act.	1,000,000	1,000,000	1,000,000	1,000,000			
	Total, General Services Administration	72,919,000	1,400,000	1,400,000	1,400,000	-71,519,000		
	Total, independent agencies	502,124,000	430,530,000	430,530,000	430,530,000	-71,594,000		
	Total, chapter X:							
	New budget (obligational) authority	632,220,000	549,600,000	551,600,000	551,600,000	-80,620,000	+2,000,000	
	(Increase in limitations)	(1,027,000)	(1,027,000)	(1,027,000)	(1,027,000)			
	CHAPTER XI							
	MILITARY PERSONNEL							
	Military personnel, Army	13,300,000	17,800,000	17,800,000	17,800,000	+4,500,000		
	Military personnel, Navy	10,900,000	16,900,000	16,900,000	16,900,000	+6,000,000		
	Military personnel, Marine Corps	2,836,000	4,536,000	4,536,000	4,536,000	+1,700,000		
	Military personnel, Air Force	5,300,000	9,300,000	9,300,000	9,300,000	+4,000,000		
	Total, military personnel	32,336,000	48,536,000	48,536,000	48,536,000	+16,200,000		
	Retired Military Personnel							
	Retired pay, Defense	229,600,000	169,600,000	169,600,000	169,600,000	-60,000,000		
	Operations and Maintenance							
95-331	Operation and maintenance, Army	271,872,000	169,487,000	69,487,000	69,487,000	-202,385,000	-100,000,000	
	(By transfer)			(100,000,000)	(100,000,000)	(+100,000,000)	(+100,000,000)	
95-331	Operation and maintenance, Navy	59,580,000	57,900,000	66,400,000	66,400,000	+6,820,000	+8,500,000	
94- 31	Operation and maintenance, Marine Corps	17,989,000	16,298,000	22,798,000	22,798,000	+4,809,000	+6,500,000	
95-331	Operation and maintenance, Air Force	61,951,000	61,800,000	61,800,000	61,800,000	-151,000		
95-331	Operation and maintenance, Defense agencies	15,972,000	17,445,000	17,445,000	17,445,000	+1,473,000		
	Total, operation and maintenance	427,364,000	322,930,000	237,930,000	237,930,000	-189,434,000	-85,000,000	
	(By transfer)			(100,000,000)	(100,000,000)	(+100,000,000)	(+100,000,000)	
	Procurement							
	Weapons procurement, Navy	58,700,000	58,700,000	58,700,000	58,700,000			
	Total, chapter XI:							
	New budget (obligati n l) authority	748,000,000	599,766,000	514,766,000	514,766,000	-233,234,000	-85,000,000	
	(By transfer)			(100,000,000)	(100,000,000)	(+100,000,000)	(+100,000,000)	
	CHAPTER XII							
	MILITARY CONSTRUCTION							
95-331	Military construction, Army	$30,698,000				-$30,698,000		
	Military construction Navy			$8,500,000	$8,500,000	+8,500,000	+$8,500,000	
95-331	Military construction, Air Force	11,459,000				-11,459,000		
	Total, military construction	42,157,000		8,500,000	8,500,000	-33,657,000	+8,500,000	
	Family Housing							
95-331	Family housing, Defense	31,383,000				-31,383,000		
	Total chapter XII: New budget (obligational) authority.	73,540,000		8,500,000	8,500,000	-65,040,000	+8,500,000	
	TITLE II							
	INCREASED PAY COSTS							
	Total. new budget (obligational) authority	3,289,680,436	$3,197,224,136	3,218,867,136	3,214,867,136	-74,813,300	+$17,643,000	-$4,000,0
	TITLE III—GENERAL PROVISIONS							
	Sec. 303 reductions estimate		-35,198,000				+35,198,000	

[1] Documents are House documents unless otherwise noted.

Mr. BAUMAN. Mr. Speaker, will the gentleman from Texas yield for a question on that?

Mr. MAHON. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

We are in receipt of a letter from our colleague, the gentleman from Ohio (Mr. MILLER), this morning in which the statement is made that the conference agreement of $6.8 billion is more than $475 million above the House figure and around $90 million over the other body's figure. Is that correct? And how does that square with what the gentleman has told us?

Mr. MAHON. That results from the items considered by the other body and not considered by the House. The Senate considered, for example, $378 million for the Small Business Administration Disaster Loan Fund, not considered by the House. But this was a budget request sent to the Senate for consideration that was not considered by the House and not in the House bill. That is the major difference but there are some other items in the same category.

Mr. BAUMAN. So that the gentleman from Texas is confirming the truth of the statement in the letter this morning. It is over and above the House and Senate figures in the total amount.

Mr. MAHON. The other body considered estimates that were not presented to the House. Therefore, abo $492 million, was not considered by th House, and again the biggest item is th $378 million for disaster loans. Th would have been in the House bill would other things.

Mr. BAUMAN. I thank the gentlema from Texas.

Mr. YATES. Mr. Chairman, will th gentleman yield?

Mr. MAHON. I yield to the gentlema from Illinois.

Mr. YATES. Mr. Speaker, the supple mental includes a total of $555,628,00 for program items in the Interior chap ter. This is $15,007,000 under the bi passed by the House and $13,467,000 ove the amount passed by the Senate.

The conferees agreed to a reduction of this chapter is that of the $8.2 million issues, we reached what I believe to be a

The conferees agreed to a reduction of $10,000,000 in forest firefighting costs in the Forest Service. In the event this reduction cannot be sustained by the Service, funds will become available in the regular fiscal year 1979 bill which can be used to meet the actual costs incurred by the Forest Service.

A reduction of $5,000,000 was made for grants to the Territory of Guam. This leaves a total of $35,000,000 for Guam grants. Of that amount, $25,000,000 is for acquisition of a hospital, $5,000,000 is for Government operations, and $5,000,000 is for capital improvements. The $5,000,000 for capital improvements includes $3,800,000 for renovation of school facilities and $1,200,000 for emergency generating equipment.

Mr. Speaker, I urge adoption of the conference report.

Mr. MAHON. Mr. Speaker, I would say that in the formation of this supplemental appropriation bill, the various subcommittees of the Committee on Appropriations conducted hearings and the full committee approved the items that were contained in the original bill. The various subcommittee chairmen and their ranking minority members were very active, along with the other members of the committee, in these matters. So I would yield to the other members of the committee for any discussion that they may desire to make at this time.

Mr. CEDERBERG. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, I would like to mention several items with respect to the Labor-HEW chapter here because we have in this bill $394,964,000, an amount which represents an increase over both the House and the Senate amounts. It is $15.3 above the House and $96.6 over the Senate.

But the Senate made some very unrealistic cuts and I would point that out to my friend, the gentleman from Maryland (Mr. BAUMAN), who made inquiries of the chairman a few moments ago, and also to the gentleman from Ohio (Mr. MILLER), who might very well be offering an across-the-board cut later on this conference report.

I do not know whether the Senate was playing games, or not, but we restored most of those items in the conference.

For instance, they slashed the increase needed for interest for the guaranteed student loan program by nearly $44 million. These funds are needed to pay increased interest costs and default claims, and if the funds were not appropriated we would likely see the lenders leaving the program in droves. It was a phony cut, and the Senate conferees admitted as much.

So there is a big item of $44 million that the Senate did not have in the bill at all and that we insisted in having in the bill because if you do not pay it today, you will have to pay it tomorrow.

And if we are talking about a 2-percent, across-the-board cut on an item like this it is nonsense because it has got to be paid whether it is this week, next week, or the following month.

One of the most controversial items in this chapter is that of the $8.2 million agreed to to launch the flu vaccination program. As you will recall, we rejected this program by more than a two to one margin when this bill was originally on the House floor. However, it is my understanding now that the gentleman from California (Mr. MOSS) and the gentleman from Michigan (Mr. DINGELL) who joined me in opposing that amount during consideration of the matter on the House floor, are now satisfied with the kind of expression we have received in writing from the Secretary of HEW. So when there is that motion in disagreement, the gentleman from Tennessee (Mr. GORE), I believe, will offer a motion that this Member is prepared to support, because it does satify some of those objections that we raised at the time. Although, so far as this Member is concerned, shifting the burden of liability from the Federal Government to the States, I am not altogether satisfied with that, but I am certainly not going to make a point of it any further.

Among other items in this chapter, we have included language adopted by the Senate increasing funds for the OSHA onsite consultation program by $2 million, bringing the total of the program up to $11 million. The administration requested this increase basically because more States wish to participate. It will be done through reprograming.

The Senate added $6,000,000 for the rural health initiative program, a primary care program which serves medically undeserved areas, and the conferees accepted the increase. This was done despite the fact that currently available funding is already $2.8 million more than last year and is funding 94 more projects.

Now, here is another item and this is for St. Elizabeth's Hospital, $52.2 million, for renovation and construction. An amount which we had included but which the Senate had no money whatsoever. Here again, if we do not get started on that today and leave it go until next month, or next year the accreditation of that hospital will be lost.

Then there is another item, the Senate eliminated the 125 additional medic-aid quality control positions requested by the administration to step up the battle against waste. The conferees went along with the Senate on the basis that it is too late in the fiscal year now to hire these people. We had included these additional positions in the House in the original 1979 bill, which meant that they could be hired in October. However, if that bill is not enacted by then there could be some delays. So I am not sure whether it was wise to deny these positions this year, particularly when it was originally our idea to save a billion dollars in waste, fraud, and abuse in 1979, in the original bill I offered, and which was supported in the House.

Mr. CEDERBERG. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, I rise in support of the conference report on this second supplemental appropriation for fiscal year 1978.

The conferees met last Thursday and, after some hard bargaining on several issues, we reached what I believe to be a reasonable compromise version, reconciling the differences between the bills passed by ourselves and the other body. Though the conference total of approximately $6.8 billion exceeds the total of the House bill by nearly $500 million, this increase is almost entirely the result of late breaking requests which arose after House passage. I should note that the new budget authority recommended in this conference report is $360 million less than the initial budget estimates.

I do not want to take up your time unnecessarily by again covering ground which my colleagues have so well summarized, but I would like to comment briefly on several items of particular concern to me:

In the area of foreign operations, the conference report accepts the Senate appropriation of $2,265,000 for the Peace Corps. This amount will partially remedy a serious underfunding of the Peace Corps skill and language training programs which prepare volunteers for their service in the field. The Peace Corps has long been a well-received effort to meet basic and desperate human needs on a people-to-people basis. I applaud its efforts and strongly supported this additional funding for their vital training programs. This body has not previously considered this appropriation because the funds had not yet been authorized at the time of House passage.

The conference committee wisely restored $210,000 by the Senate from the Indochinese refugee program. The cut would have crippled this program to resettle refugees in the United States and get them into the mainstream of American life. The restoration benefits both the refugees and the American taxpayer, who would have borne the ultimate burden of failure to integrate these people into their adopted society.

The conference committee split the difference on the request for the voluntary U.S. contribution to the U.N. Relief and Works Agency for Palestine Refugees (UNRWA), an organization which seeks to provide basic services for 1.6 million Palestinian refugees and thus, reduce the smoldering unrest and potential violence which so often spring from denial of the most elementary necessities of life.

In the area of preventive health services, the conference report adopts the Senate appropriation of $8.2 million for an influenza vaccination program and deletes the House provision to give $3 million for research on influenza vaccine. The $8.2 million recommended by the conference report is primarily for a vaccine dissemination program, though it includes some funds for further research.

I believe that funding for this vaccination program is a wise move:

First, the program is purely voluntary, providing vaccination on an informed consent basis.

Second, it is a limited program—limited in identifying a specific target group of high-risk individuals—and limited in including only that subgroup who are also indigent and thus, unable to secure influenza vaccine from private physi-

cians who are expected to dispense 12 million doses of such vaccine to those high-risk individuals who can afford to pay.

Third, it is a matter of some urgency to gear this program up before the onset of the winter flu season, bearing in mind that last winter there were 29,000 "excess deaths" from flu-related causes, mostly in high-risk population groups.

I support making this potentially life-saving vaccine widely available through this purely voluntary program.

Finally, in the most spirited discussion of the conference, we secured modification of the Senate's $60 million appropriation to procure a replacement icebreaker for the Great Lakes.

The Coast Guard never requested this appropriation. It did not want it. The Coast Guard has assured us that it can fulfill its Great Lakes functions with its present fleet and the current phased-in commissioning of a new class of icebreaker tugs. It does not want to be forced into a hasty purchase of an unnecessary and probably foreign-built icebreaker.

We exposed this appropriation as a clear case of "too little, too soon." Too soon because, though the Coast Guard will need a new icebreaker in the mid-1980's, it is only in the planning design stage and will not require contract funds until fiscal year 1981—too little because, when that full contract award is made, it will total closer to $90 million.

The conference report embodies the following compromise: It affirms the eventual need for a new icebreaker, but provides for planning and design rather than procurement; and reduces the supplemental appropriation from $60 to $20 million. We have directed the Coast Guard to proceed "expeditiously" and to be ready to award the contract no later than December 31, 1980. We provided a monitoring mechanism by requiring progress reports from the Coast Guard every 3 months. The conference report includes additional reassuring language that the primary mission of the new vessel will be icebreaking on the Great Lakes, although it will have a dual draft capacity permitting operation in other areas when not required on the Great Lakes.

I urge adoption of the conference report.

Thank you, Mr. Speaker.

Mr. MAHON. Mr. Speaker, I yield 5 minutes to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Speaker, I would like to ask either the chairman of the committee or the chairman of the subcommittee about an issue that relates to one item in this bill, and that is amendment No. 82. I would read that amendment:

> The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amending 5 U.S.C. 8332 to provide that a credit shall be allowed for civil service retirement purposes for service as an employee of a Congressional campaign committee.

That did receive some newspaper discussion in The Washington Star the other night. I would ask the gentleman from Indiana (Mr. BENJAMIN), the acting chairman of the subcommittee, the following question. I realize, of course, this was not contained in the House bill and it would have been subject to a point of order, and our distinguished chairman would have never even thought about including it in a House bill, I am sure.

No. 1, has this ever been authorized under any section of law?

Mr. BENJAMIN. If the gentleman will yield, the authorization is incorporated in section 303 of the second supplemental. Section 303 is a provision which gives civil service retirement credit, up to a limit of 10 years, to former staff of House and Senate Democratic and Republican campaign committees who become Federal employees. To be eligible, these employees must make an appropriate deposit into the retirement fund to compensate the fund for the amount of their contributions if they had been covered.

The Senate had passed identical provisions on March 14, 1977, in Senate bill 992, and the House passed one on September 23, 1977, which was H.R. 9262. The bills have never gone to conference, but it is clear that both bodies have already considered the provisions.

Mr. GLICKMAN. Is the gentleman aware of the fact that the House bill was considered under the Consent Calendar, and it never actually received an affirmative vote in the House?

Mr. BENJAMIN. The gentleman is aware of the fact that it was considered under the Consent Calendar on September 23, 1977, and the gentleman is also aware that the gentleman from Kansas (Mr. GLICKMAN) made objections to that on Monday, September 26, 1977, but with specific objections to section 2 of that bill which is not incorporated in section 303 of this act.

Mr. GLICKMAN. I realize that. The next question I would ask is: Is this section, which allows a credit for civil service retirement purposes for campaign committee people, just reserved or grandfathered for three or four people, or is it applicable conceivably to all existing in future campaign committee people who otherwise qualify under the bill?

Mr. BENJAMIN. As the section is written, it would include 11 Democrats in the Senate and 16 Republicans in the Senate, 11 Democrats in the House and 13 Republicans in the House, a total of 51, with an average service of 4 years. If I might continue, this is not a precedent for the House. The House as well as the Senate in the Legislative Reorganization Act of 1970, Public Law 91-510, gave the Capitol guides credit for such service. Under that act the guides were given credit back to 1929, making some of them eligible for a credit of 41 years, whereas the provision in section 303 was limited to 10 years. Furthermore, the guides were not required to make a deposit in the retirement fund. I might also add that the photographers of the campaign committees have been included under similar provisions, and this body acted in House Resolution 315 to include beauty shop employees under the same provisions.

Mr. GLICKMAN. All right. I w
submit that Capitol guides and be
shop employees are different from c
paign committee staffs. I would again
the specific question: Is it conceiva
under the language of this bill, tha
addition to the 50 or 51 people the gen
man mentioned, the statute as so writ
could cover additional people in
future if they so qualified?

Mr. BENJAMIN. That is true. I
written so that if they qualify for a p
sion, after 5 years of congressional s
ice, they could come under the pr
sions of this particular section of
as long as they paid up to the 10 y
for the time that they had not paid
the annuity fund.

Mr. DICKS. Mr. Speaker, will
gentleman yield?

Mr. GLICKMAN. I yield to the gen
man from Washington.

Mr. DICKS. I thank the gentleman
yielding.

I am just curious on this point.
they have to pay the money into
retirement fund?

Mr. BENJAMIN. They must pay
percent with the computed inter
which is not required for the Cap
guides, the beauty shop operators, or
photographers of the congressional ca
paign committees who were previou
brought on the House and Senate p
roll.

Mr. DICKS. So the people will have
make this contribution?

Mr. BENJAMIN. Absolutely, w
interest.

Mr. MAHON. Mr. Speaker, I yield a
time as he may consume to the gen
man from Washington (Mr. DICKS).

Mr. DICKS. Mr. Speaker, I rise in s
port of the conference report.

Mr. Speaker, the Senate has provi
an additional amount for highways se
ing the Trident submarine support s
under the defense access roads progra
These funds are needed to insure co
pletion of the road by the time the bas
ready and at a scale appropriate for
traffic generated. Without the additio
funds, construction would be delayed
least a year. This would certainly
crease the cost of the road.

The design for the access road w
recently approved by the Federal Hig
way Administration which insures th
defense access highways meet minimu
acceptable standards. The funds app
priated in the bill will allow constru
tion of four lanes instead of two, a
separation of roadways at the two e
trances to the base, avoiding long del
from left-hand turns into rush ho
traffic. The Military Traffic Manageme
Command of the Department of Defen
which has joint responsibility with t
FHWA for the defense access roads pr
gram, agrees that the design is appr
priate for the base and most desirab
However, MTMC has expressed conce
because the road is also eligible for Fe
eral aid primary funding through t
highway trust fund.

Both the Senate and the House Appr
priations Committees have recogni
that the unique defense requiremen

and geographic location of the Trident support site preclude access to the base by any other than the primary highway now planned. If defense access funds were not available, the access road would not be on the State priority list, nor would it be built for at least 15 years, given the other pressing need for primary funds in Washington State at this time. Building this road now is also in the long-term best interests of Kitsap County and the State of Washington which accepted the Navy's decision to build the Trident base in our State.

In recognition of the desirability of SR 3 as planned by FHWA and DOD, the State of Washington has committed $13.8 million to the construction of the road and the County is contributing over $15 million in Trident community impact funds. The conferees agreed that this should not be a precedent for MTMC. It is an emergency situation.

I am grateful that my colleagues on the Appropriations Committee have recognized the need for these funds at this time, and respectfully request my colleagues in the House to accept the Senate amendment.

Mr. MAHON. Mr. Speaker, I yield such time as he may consume to the gentleman from West Virginia (Mr. RAHALL).

Mr. RAHALL. Mr. Speaker, I rise in support of the conference report. I would lie to commend the distinguished gentleman from Texas (Mr. MAHON) and all the conferees on the inclusion of $6 million for the rural health initiative program in this supplemental appropriations conference report.

Representing a rural area as I do in south West Virginia, as do my colleagues from other rural areas, especially Kentucky and West Virginia, I share an interest in this amendment which adds $6 million to the funds available for rural health initiative grants authorized by section 330 of the Public Health Services Act.

These funds are being used to aid clinics located in the coalfields where clinics are in financial and professional difficulty. Over the past year the entire financing picture for health care services have changed because of a lengthy coal strike and reductions in health care benefits under the coal wage agreement. Many communities have been faced with the loss of physicians and even minimal health care services. The Department of Health, Education, and Welfare created a special program pursuant to section 330 to fund "coalfield clinics." Several of these clinics, especially McDowell clinic in Kentucky and Tri-District, Oceana and North Fork in West Virginia have applied for and been approved for new funding. However, there are not enough funds to fully fund these applications. Without the additional funding in this supplemental bill the grants cannot be fully funded and the clinics will be unable to operate. The amount needed for these projects is $500,000.

I would hope these same clinics would be included in all the benefits of the final health initiative program including eligibility for continued funding.

At this point I include the following:

HOUSE OF REPRESENTATIVES,
Washington, D.C., August 9, 1978.

Hon. WILLIAM H. NATCHER,
Member of Congress, 2333 Rayburn Building, Washington, D.C.

DEAR BILL: As I am sure you know, the Rural Health Initiative Program holds potential for great good for our State. Since it was established under Section 330 of the Public Health Service Act it has been uniformly successful and it now has between 200 and 300 projects in 43 states. Unfortunately, the rural areas have been neglected and those are the areas that still have enormous health needs.

I understand that 51 applications for projects in 27 states have been approved but there is simply no money to fund them.

When the second supplemental appropriations bill was on the Senate floor last Friday Senator Leahy was able to win approval for unprinted amendment 1594 appropriating an additional $6 million to fund these grants that have already been approved. Two of them are for my district—the Daniel Boone and the McDowell Clinics in areas that have already been hard hit by the reduction in miners' health benefits.

I hope that when you and your House colleagues go to conference with the Senate tomorrow that you will be able to see that Senator Leahy's amendment is retained in the conference report. It means a lot to my people in Eastern Kentucky.

Also, in the Senate passed measure is $800,000 for a new weather radar installation in the head waters of the Big Sandy and Cumberland Rivers. I don't have to tell you how important this is to our people who have been punished so severely by floods in recent years. I hope it can be retained.

One other item in the Senate bill I hope you can look upon with favor is the $2.4 million for the Louisville Institute for physical, medical and rehabilitation. This was Senator Huddleston's amendment and I think it has great merit.

Any help you can give us in getting these items accepted will be appreciated.

Sincerely,

CARL D. PERKINS,
Member of Congress.

Mr. MICHEL. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. MILLER).

Mr. MILLER of Ohio. Mr. Speaker, I thank the gentleman from Illinois for yielding this time to me.

LEGISLATIVE PROGRAM FOR THE BALANCE OF THE DAY

Mr. MICHEL. Mr. Speaker, will the gentleman from Ohio yield to me?

Mr. MILLER of Ohio. I yield to the gentleman from Ohio.

Mr. MICHEL. Mr. Speaker, might I inquire of the distinguished majority leader if the gentleman would like to engage the minority leader in colloquy with respect to the program for the balance of the day?

I will make sure the gentleman from Ohio is given additional time, if the gentleman from Ohio will yield for that purpose.

Mr. MILLER of Ohio. I am happy to yield for that purpose.

Mr. RHODES. Mr. Speaker, is the distinguished majority leader in a position to inform the House as to the program for the balance of the day?

Mr. WRIGHT. Mr. Speaker, will the gentleman from Ohio yield?

Mr. MILLER of Ohio. I am happy to yield to the distinguished majority leader.

Mr. WRIGHT. Mr. Speaker, I can respond very directly and I think completely to the question posed by the distinguished minority leader.

Once this second supplemental appropriation conference report on the bill, H.R. 1346, has been concluded, we shall proceed immediately to the consideration of five additional conference reports.

First, is the conference report on the bill, H.R. 12935, legislative branch appropriations.

Next is a conference report on the bill, H.R. 12927, military construction appropriations.

Then the conference report on the bill, H.R. 13468, District of Columbia appropriations for fiscal year 1979.

This will be followed by the conference report on the bill, H.R. 12240, intelligence and related programs authorizations for fiscal year 1979.

Then finally, we will have the conference report on the Senate bill, S. 9, Outer Continental Shelf Lands Act of 1978.

If we are able to complete consideration of all six of these conference reports, we then would take up the bill, H.R. 10898, U.S. Rail Association authorizations for fiscal year 1979, under an open rule which provides for 1 hour of general debate.

If we are able to complete that, we will go to the bill, H.R. 12432, Civil Rights Commission authorization, and complete consideration of that bill, debate, and active consideration of which already is well along.

If we complete that, we then would go to the Senate joint resolution (S.J. Res. 4). Hawaiian Native Claims Study Commission.

Then we would go to the bill, H.R. 11711, adjustment assistance programs improvements.

We would then go to the bill, H.R. 11622, fuels transportation safety amendments.

Finally, we would go to the joint resolution (H.J. Res. 1088), New York City appropriations.

Now, the distinguished minority leader is surely aware that time constraints will not in all probability allow us to do all these things. We would hope to. On honest examination, I should have to say we do not fully expect to complete the schedule. It would be nice if we could.

We will rise, in any event, at 5:30 or very shortly thereafter, if the 5:30 hour should occur during the consideration of a bill which can be soon concluded.

Mr. RHODES. Mr. Speaker, will the gentleman from Ohio (Mr. MILLER) yield further?

Mr. MILLER of Ohio. I yield to the minority leader.

Mr. RHODES. Mr. Speaker, I thank the majority leader for his usual candor. I agree with him that the chances for completing the program probably are not good.

I suggest, if it were possible to determine this now, that some of the bills which were at the lower end of the spectrum might definitely be dropped and not be considered today under any circumstances, so that the rest of the work of the House might be expedited. I do not know if that is possible, but I rather suspect it is.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield further?

Mr. MILLER of Ohio. I yield to the majority leader.

Mr. WRIGHT. Mr. Speaker, the minority leader no doubt is aware of the hopes that spring eternal in the breasts of the majority leader and the minority leader.

The more of this program we can complete today, obviously the more likely is our hope for adjournment on or about October 7. Therefore, we would not want to foreclose any possibility of doing any or all or part of this program, but it would be sanguinary in the extreme to suppose that we could finish it.

I shall not lead the Members into any false expectations. Let us simply cooperate as best we can to get as much as possible done. I think it is most important that all of these conference reports be concluded today, and then we can complete as much of the remainder of the schedule as time will allow.

Mr. RHODES. Mr. Speaker, I thank the majority leader, and I thank the gentleman from Ohio (Mr. MILLER) for yielding.

The SPEAKER pro tempore. The time of the gentleman from Ohio (Mr. MILLER) has expired.

Mr. MICHEL. Mr. Speaker, I yield 5 additional minutes to the gentleman from Ohio (Mr. MILLER) so that he might use that time in his own right.

Mr. MILLER of Ohio. Mr. Speaker, I thank the gentleman for yielding me this additional time.

Mr. Speaker, as I started to say, I sent a "Dear Colleague" letter to the Members indicating that I would, if I have the opportunity, offer a recommittal motion on the conference report on H.R. 13467 to recommit the conference report to the committee on conference with instructions to the managers on the part of the House to insist on the House position on amendment No. 81.

Amendment No. 81 amounts to the 2-percent reduction that was approved by the House on July 20 by a majority of 256 to 114. This was a mandate to the managers on the part of the House to reduce the amount of the bill. Instead of that, it comes back today with a $475 million increase.

I think it is very important that we realize that this is a supplemental for the fiscal year that ends September 30, 1978. Some of the moneys will carry over, but as I have said in the well of this House before, the supplementals, as I understand them, are to be for emergencies.

I am not real sure why we would have, as an example, $10 million in this supplemental conference report to purchase 128 living units around the world for the State Department. That does not sound like an emergency. I know the prices are going up, we all know the prices are going up, but it certainly can be handled through the regular appropriation process.

We also have in the bill itself about 350 additional employees for the Equal Employment Opportunities Commission costing about $1.3 million.

We also have in the conference report $3 million for the Equal Employment Opportunities Commission for grants to the States. That is grants to the States on top of revenue sharing. We could hardly call that an emergency.

We had quite a colloquy before about the roof on the Supreme Court Building. We had Members who seemed to be quite knowledgeable on the floor speaking about the roof on the Supreme Court Building and how important it was, but I am not sure whether they have really been in contact with the situation to find out. For those who are so knowledgeable, I would like to say that the Supreme Court Building is right across the street. It is one of the items in this particular bill and included in the conference report, and if the Members would like to know what the roof looks like and whether we should spend $750,000 as an emergency supplement, at least it is close by where they can take a look at it.

Incidentally, this morning I did go over and go onto the roof of the Supreme Court Building to find out what we were talking about. I found out that during 1973–75 the two flat roof sections and the four promenade decks were replaced. The total flat part of the roof has been replaced. It is for the gutters that we are going to spend $750,000 in this emergency supplemental. The total project will cost $1.5 million. I know there is a problem, but I think that it should have been considered prior to a supplemental. Many other departments include items in the supplemental, they include them because they seem to be easy to get.

Mr. Speaker, I took this time to try to convey to the Members what we are attempting to do so that the Members of the House may have an opportunity to vote on a 2-percent reduction.

Again, if that is possible, I will have a recommittal motion. I am not sure that I will have the opportunity to offer it. The Members know how it works on the minority side, that those with the highest seniority will have the opportunity to make the recommittal motion. So any member of the Appropriations Committee with more seniority than I, who does not want to cut spending, can make the recommittal motion. But at least I wanted the House to know that we are passing a supplemental where the House Members said they wished to reduce it by 2 percent, but instead of the reduction, it comes back to the House increased by $475 million.

Mr. MAHON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when this bill was considered by the House on July 20, the gentleman from Ohio (Mr. MILLER) offered an amendment making a 2-percent general reduction in certain items in the bill. The precise language of the amendment reads as follows:

Of the total budget authority provided in this Act, for payments not required by law, two per centum shall be withheld from ligation and expenditure: *Provided*, Th the amount provided in this Act for each propriation, activity, and project, for ments not required by law, the amount w held shall not exceed five per centum.

During the debate on the amendm the gentleman from Ohio explained the intention of the amendment was it would apply to $1.75 billion of the propriations in the bill. That is in record.

Two percent of $1,750,000,000 $35,000,000.

I would point out, Mr. Speaker, tha conference we made additional net ductions of about $57 million in the it that were contained in the House pa version of the bill. In other words, other body, while providing for a items not considered by the House, m certain additions and reductions in it contained in the House bill and the effect of the action of the conferees a cut of some $57 million in new bud authority in items in the House bill.

So, Mr. Speaker, the conferees more than justified in deleting the M amendment in conference since provided $57 million in net reduction compared with the stated intent of ducing the bill by $35 million by vir of the Miller amendment.

I would add, Mr. Speaker, that I lieve across-the-board reductions rep sent a bad principle. Under the Con tution, it is the Congress which charged with the appropriation of enues to support the Government. Wh the Executive has the requirement to s mit budget estimates, it is the respo bility of the Congress to provide the s cific appropriations.

The Congress, through the tra tional authorization and appropriat process, makes deliberate decisions a program and project funding levels. T Congress must not go through mon and months of hearings and marku floor and conference deliberations thousands of budget items and then effect say to the President that ma we have not done our work so well, you go ahead and make certain red tions where you choose, notwithstand congressional intent. It seems to me t is not a very good way to conduct public business.

I am somewhat surprised, Mr. Spe er, that some Members have apparen forgotten the atmosphere that existed 1972, 1973, and 1974, when the battle raging between the Congress and Executive in regard to Presidential poundments. Members and others enraged by extensive impoundments congressionally approved and fund programs. There were numerous la suits, and mostly as a result of th Executive actions, the Congress ado title X to the then pending budget co trol legislation. That legislation eve tually bore the title "Congressio Budget and Impoundment Control A of 1974"—impoundment control.

Make no mistake about it; what we when we adopt unspecified general ductions is to turn over to the Executi the authority to impound moneys p vided by Congress for specific progra

Brinkley Hubbard Poage
Miller, Ohio Rinaldo Taylor

and activities. I just think this is a dangerous and unnecessary practice.

We must do our best to hold the line on Federal spending but we must do it on a sound, deliberate basis. If we want bills reduced, let us indicate specifically where the reductions are to be made and that is what we have done in conference on this bill.

Mr. Speaker, in summary, I would note that the conference agreement on this bill is $360 million—about 5 percent—under the President's budget estimates.

Mr. MICHEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma (Mr. EDWARDS).

Mr. EDWARDS of Oklahoma. Mr. Speaker, the Congress seems to have developed what the National Journal calls an edifice complex.

The two greatest concerns of the people who elected the Members of this Congress are taxes and inflation. The passage of Proposition 13 in California was no fluke. A year before Proposition 13 was passed, a Harris poll reported that 70 percent of the American people thought taxes were unreasonable. Two-thirds of the American people said taxes had reached the breaking point.

And in face of that the Congress is proceeding to build within three blocks of this Chamber the two most expensive Federal office buildings ever constructed.

The managers of this legislation are asking the House to concur in spending nearly $55 million to proceed with a new legislative palace. And it is a palace. The Washington Star called it another Taj Mahal.

We are trying to match the palaces and coliseums of Rome, but the old Roman empire is gone—gone because it knew no restraints, because it had no will power, because it could not say "No."

We have to learn to say "No."

We are being asked to approve $55 million so legislators can become accustomed to sitting in richly appointed offices with wood paneling 16 feet high.

Ceilings 16 feet high while we tell the American people we have an energy crisis and insist that all new buildings be energy efficient.

We have several legislative restaurants but no rooftop restaurant at all. So we are asked to take money from the pockets of our constituents to build a rooftop restaurant.

We have gymnasiums—but no tennis courts and so we are asked to take money from our constituents to build another gymnasium with a tennis court.

And we would spend this money while we ask the American taxpayers to tighten their belts, to bite the bullet, to sacrifice.

In 1972, we were told one of these buildings would cost $48 million. In 1973, we were told it would cost $68 million. In 1974, we were told it would cost $85 million. Now we are told it is going to cost $135 million.

These are not buildings that are being built. They are monuments to the ability of the Congress to thumb its nose at the people of this country.

Now we are going to be told, first of all, that we cannot step in now: construction has already been started. And it has been started. But it is not too late to make some very important architectural modifications to change this project into a new legislative office building and not a marble palace.

And we are going to be told that there is a comity between the two bodies and that it is a violation of tradition for one House to interfere with the internal business of the other; I understand the tradition of comity that exists between the bodies and I appreciate it. I do not rebel against the tradition of comity, but I ask what are its limits? We in this House must approve or disapprove of this expenditure, whether by record vote or silent consent.

We are not building this palace with our own funds; we are taking $135 million—at least $135 million—out of the pockets of the taxpayers—including the middle- and low-income taxpayer for whom we express such sympathy. And this body, the House of Representatives, has an obligation to watch over the spending of the taxpayers' dollars. That is why we are here, to represent the taxpayers, not to rubberstamp the building of marble palaces for legislators. This goes beyond the limits of what can by silence be consented to in the name of comity. Some of the people who will pay for our edifice complex are constituents. Some of that money is their money.

Today you are going home to face your voters and I cannot imagine that you want to go home and face them having gone along with the building of a great marble monument to excessive government.

A vote against this program cuts no money from national defense. It cuts no money from education. It cuts no money from people programs. It leaves more money for those programs, and I urge my colleagues to join me in refusing to roll over and play dead in the face of this huge and tremendously unpopular ripoff of the American taxpayer.

● Mr. ROGERS. Mr. Speaker, I think it is important to review for the record the recommendations of the scientific community concerning the proposed high-risk influenza immunization initiative.

The Subcommittee on Health and the Environment held hearings on this proposal on April 20, 1978. At that time the Department reviewed for us the significant involvement of the scientific community and the public in the development of the recommendation to initiate an ongoing program of high-risk influenza immunization.

The program being discussed today is a significant public health endeavor. It is estimated that by immunizing an additional 20 percent of high risk individuals, 1,200 excess deaths can be averted during a typical influenza epidemic. It is known that the risk of death from influenza in the population as a whole during a typical epidemic is more than 400 times the risk of dying from any known or suspected complication of vaccination. Obviously, that danger is even greater for high-risk populations. To deny protection against this disease—the only communicable disease still included among the 10 leading causes of death in this country—would be irresponsible on our part.

What has been proposed by the Department is a voluntary program to supplement normal private sector immunization efforts to provide vaccine—on a voluntary basis—to high-risk persons who are not reached—for financial or other reasons—by the private sector.

The committee has concluded, on the basis of information supplied by the Department, that the relative benefits of immunization for high-risk individuals do, indeed, outweigh the risks of such immunization.

Mr. Speaker, on the basis of the scientific evidence, and the broad involvement of the scientific community and the public in the development of the recommendations leading to this proposal, the wisdom of accepting the provisions of the conference report is clear.●

Mr. MICHEL. Mr. Speaker, I have no further requests for time.

Mr. MAHON. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

MOTION TO RECOMMIT OFFERED BY MR. CONTE

Mr. CONTE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. CONTE. I am, in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CONTE moves to recommit the conference report on H.R. 13467 to the committee of conference.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 198, nays 191, not voting 43, as follows:

[Roll No. 715]

YEAS—198

Addabbo
Akaka
Alexander
Ambro
Ammerman
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Ashley
Aspin
Baldus
Beard, R.I.
Bedell
Benjamin
Bevill
Biaggi
Bingham
Boggs
Boland
Bonker
Brademas
Breckinridge

Brinkley
Brodhead
Brooks
Brown, Calif.
Burgener
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Carney
Carter
Chappell
Chisholm
Cleveland
Collins, Ill.
Corman
Cornell
Cornwell
Cotter
Coughlin
Danielson
de la Garza
Delaney
Dellums
Derrick
Dicks
Dingell
Dodd
Downey
Duncan, Oreg.
Early
Edwards, Calif.
Eilberg
Fary
Fisher
Flippo
Flood
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fuqua
Garcia
Gaydos
Giaimo
Ginn
Gonzalez
Gore
Gradison
Green
Hamilton
Hanley
Hannaford
Harris
Hawkins
Hefner
Heftel
Hightower
Howard
Hubbard
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Krueger
Lederer
Leggett
Lent
Livingston
Long, La.
Long, Md.
Lundine
McDade
McFall
McHugh
McKay
Mahon
Mann
Markey
Marks
Marlenee
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mikulski
Mineta
Minish
Mitchell, Md.
Moakley
Mollohan
Moorhead, Pa.
Moss
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Michael
Natcher
Nedzi
Nix
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Pepper
Perkins
Pettis
Poage
Pressler
Price
Quie
Quillen
Rahall
Rangel
Regula
Reuss
Richmond
Roberts
Roe
Rogers
Roncalio
Rooney
Rosenthal
Rostenkowski
Roybal
Ryan
Santini
Scheuer
Seiberling
Simon
Skelton
Slack
Smith, Iowa
Spellman
St Germain
Staggers
Stanton
Steed
Steers
Stratton
Studds
Thornton
Traxler
Treen
Tucker
Udall
Ullman
Van Deerlin
Vento
Walgren
Wampler
Watkins
Waxman
White
Whitten
Wilson, Bob
Wilson, Tex.
Wolff
Wright
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—191

Abdnor
Anderson, Calif.
Anderson, Ill.
Archer
Armstrong
Ashbrook
AuCoin
Badham
Bafalis
Barnard
Baucus
Bauman
Beard, Tenn.
Bellenson
Bennett
Blanchard
Blouin
Bonior
Bowen
Breaux
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burke, Fla.
Burton, John
Butler
Byron
Caputo
Carr
Cavanaugh
Clausen, Don H.
Clawson, Del
Clay
Cochran
Cohen
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Davis
Derwinski
Devine
Dickinson
Diggs
Dornan
Drinan
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fenwick
Findley
Fish
Fithian
Forsythe
Frenzel
Gammage
Gephardt
Gibbons
Gilman
Glickman
Goldwater
Goodling
Grassley
Gudger
Guyer
Hall
Hammer-schmidt
Hansen
Harkin
Harsha
Heckler
Hillis
Hollenbeck
Holt
Holtzman
Horton
Hughes
Hyde
Ichord
Ireland
Jacobs
Johnson, Colo.
Jones, Okla.
Kelly
Kemp
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Leach
Levitas
Lloyd, Calif.
Lott
Lujan
Luken
McClory
McCloskey
McCormack
McEwen
McKinney
Madigan
Maguire
Marriott
Martin
Mathis
Mattox
Miller, Ohio
Mitchell, N.Y.
Moffett
Montgomery
Moore
Moorhead, Calif.
Motti
Myers, Gary
Myers, John
Neal
Nichols
O'Brien
Panetta
Pattison
Pease
Pickle
Pike
Pritchard
Pursell
Quayle
Railsback
Rhodes
Rinaldo
Robinson
Rousselot
Rudd
Runnels
Ruppe
Russo
Satterfield
Sawyer
Schroeder
Sebelius
Sharp
Shuster
Skubitz
Smith, Nebr.
Snyder
Solars
Spence
Stark
Steiger
Stockman
Stump
Symms
Taylor
Thone
Treble
Vander Jagt
Vanik
Volkmer
Waggonner
Walker
Walsh
Weaver
Weiss
Whalen
Whitehurst
Whitley
Wiggins
Winn
Wirth
Wydler
Wylie
Young, Fla.

NOT VOTING—43

Bolling
Burke, Calif.
Cederberg
Dent
Duncan, Tenn.
Eckhardt
Evans, Colo.
Fascell
Flowers
Flynt
Fountain
Fowler
Fraser
Frey
Hagedorn
Harrington
Holland
Huckaby
Kasten
Le Fante
Lehman
Lloyd, Tenn.
McDonald
Mikva
Milford
Miller, Calif.
Preyer
Risenhoover
Rodino
Rose
Sarasin
Schulze
Shipley
Sikes
Sisk
Stangeland
Stokes
Teague
Thompson
Tsongas
Wilson, C. H.
Young, Alaska
Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Thompson for, with Mr. McDonald against.

Until further notice:

Mr. Rodino with Mr. Cederberg.
Mr. Sikes with Mr. Kasten.
Mr. Dent with Mr. Sarasin.
Mr. Le Fante with Mr. Frey.
Mr. Mikva with Mr. Stangeland.
Mr. Fascell with Mr. Young of Alaska.
Mr. Teague with Mr. Harrington.
Mr. Shipley with Mr. Eckhardt.
Mr. Tsongas with Mr. Hagedorn.
Mr. Miller of California with Mr. Sisk.
Mrs. Burke of California with Mr. Holland.
Mr. Fountain with Mr. Duncan of Tennessee.
Mr. Risenhoover with Mr. Milford.
Mr. Rose with Mr. Huckaby.
Mr. Charles H. Wilson of California with Mr. Fraser.
Mr. Lehman with Mr. Flynt.
Mrs. Lloyd of Tennessee with Mr. Evans of Colorado.
Mr. Stokes with Mr. Flowers.
Mr. Preyer with Mr. Fowler.

Messrs. FOLEY, JOHNSON of California, BURLISON of Missouri, WAXMAN, SKELTON, POAGE, BEDELL, HUBBARD, RANGEL, MARKEY, and SCHEUER, changed their vote from "nay" to "yea."

Messrs. DIGGS, COHEN, HAMMERSCHMIDT, WHITLEY, HORTON, O'BRIEN, and EVANS of Delaware, changed their vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 9: Page 9, line 1, insert:

CONSTRUCTION

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I of
motion.

The Clerk read as follows:

Mr. MAHON moves that the Hou
cede from its disagreement to the am
ment of the Senate numbered 9 and c
therein.

The motion was agreed to.

The SPEAKER pro tempore. The C
will report the next amendment in
agreement.

The Clerk read as follows:

Senate amendment No. 15: Page 12, li
insert:

OCCUPATIONAL SAFETY AND HEALTH
ADMINISTRATION

Of the amount appropriated under
head for fiscal year 1978, the restricti
the amount which shall be available fo
imbursement to States under section 7(
of the Occupational Safety and Healt
of 1970 (29 U.S.C. 656(c)(1)) for furni
consultation services to employers unde
tion 21(c) of such act (29 U.S.C. 670(c
increased by $2,000,000.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I of
motion.

The Clerk read as follows:

Mr. MAHON moves that the House r
from its disagreement to the amendme
the Senate numbered 15 and concur th

The motion was agreed to.

The SPEAKER pro tempore.
Clerk will report the next amendm
in disagreement.

The Clerk read as follows:

Senate amendment No. 18: Page 14, li
insert: "For an additional amount fo
fluenza vaccination, $8,200,000, to re
available until expended.".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I of
motion.

The Clerk read as follows:

Mr. MAHON moves that the House r
from its disagreement to the amendme
the Senate numbered 18 and concur th

Mr. FLOOD. Mr. Speaker, I ris
support of the motion to recede and
cur in the Senate amendment.

The committee believes that the
ate amendment of $8.2 million is a
sonable compromise. Keep in mind
HEW had originally requested
million to initiate an influenza prog
This proposal is half of the origina
quest and will support a substant
reduced immunization program for
elderly and the chronically ill.

Keep in mind that we are ta
about a targeted immunization pro
for the elderly and chronically ill
not a massive program like the s
flu program.

According to HEW the $8.2 million
be spent as follows:

First, $1.2 million for research on
safety and efficacy of influenza vac

Second, $600,000 to conduct di
and laboratory surveillance of influe

Third, $6.4 million for the purpo
purchasing 4,100,000 doses of va
and to provide grant support to
States and localities in order to ad
ister the program.

I repeat for the purposes of emphasis—that this is not a swine flu program. According to the Secretary of HEW, this effort builds on the lessons we have learned from the swine flu program.

This program focuses on high-risk individuals most in need of flu shots—those individuals for whom the benefits of immunization clearly outweigh the risks.

This program builds on the efforts of the private sector and the capabilities of the States. Unlike the swine flu program, it does not seek to displace private and State purchases of vaccine with an exclusive Federal monopoly.

This program builds a continuing capacity in the States to provide influenza immunization. It is not a one-shot federally orchestrated effort like the swine flu program.

Immunization against the flu is an accepted medical practice. Whatever the Government's policy, private physicians will give flu shots to 12 million Americans during the coming flu season. This program seeks to expand the availability of flu shots to about 4 million additional high-risk individuals—and thereby save hundreds of lives.

I believe the proposed level of $8.2 million is a reasonable amount of money for this program and I believe it is a good compromise.

I urge the Members to vote aye on the motion to recede and concur in the Senate amendment.

Mr. GORE. Mr. Speaker, I demand that the question be divided.

The SPEAKER pro tempore. The question will be divided.

Does the gentleman from Texas (Mr. MAHON) seek time?

Mr. MAHON. No, Mr. Speaker.

The SPEAKER pro tempore. The question is on the motion to recede offered by the gentleman from Texas (Mr. MAHON).

The motion to recede was agreed to.

PREFERENTIAL MOTION OFFERED BY MR. GORE

Mr. GORE. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. GORE moves to concur in Senate amendment No. 18 with the following amendment: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: For an additional amount for influenza vaccination, $8,200,000, to remain available until September 30, 1978.

Mr. GORE. Mr. Speaker, I would like to insert in my remarks a letter from Secretary Joseph Califano outlining the terms of an agreement which was worked out after lengthy discussions by the Secretary and the gentleman from Michigan (Mr. DINGELL) and the gentleman from California (Mr. MOSS) regarding safeguards which they believe to be necessary and I believe to be necessary for this influenza vaccination program. The substance of this amendment is to limit the expenditure of $8,200,000 to the conclusion of the fiscal year on September 30, and to make any expenditures following that time subject to the conditions outlined in the letter from the Secretary.

Mr. Speaker, this has been discussed fully with the distinguished chairman, the gentleman from Texas (Mr. MAHON), and the distinguished subcommittee chairman, the gentleman from Pennsylvania (Mr. FLOOD), and the distinguished ranking Republican Member, the gentleman from Illinois (Mr. MICHEL).

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. GORE. I yield to the distinguished gentleman from Texas.

Mr. MAHON. Mr. Speaker, there is no objection to the amendment.

Mr. FLOOD. Mr. Speaker, will the gentleman yield?

Mr. GORE. I yield to the distinguished gentleman from Pennsylvania.

Mr. FLOOD. Mr. Speaker, we quite agree with the statement just made.

Mr. KAZEN. Mr. Speaker, will the gentleman from Tennessee yield?

Mr. GORE. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Speaker, what are those conditions? All Members want to know something about this situation, because as I recall, the House knocked out all money for this program with the exception of money for clinical testing and research when the bill was before us.

Mr. GORE. In a previous action, the House knocked out all but $3 million.

The Senate added the figure $8.2 million. The figure in the compromise is $8.2 million; but none of that will be expended under the terms of this amendment after September 30.

Let me read to the gentleman the conditions that have been agreed to by Secretary Califano, which will appear in full in the RECORD:

THE SECRETARY OF HEALTH, EDUCATION AND WELFARE,
Washington, D.C., August 16, 1978.

Hon. JOHN DINGELL,
House of Representatives,
Washington, D.C.

DEAR JOHN: In response to several concerns that have been raised about the supplemental appropriation for the influenza immunization program, I want to assure you that Fiscal Year 1978 funds for this program will not be expended by HEW after the end of FY 1978. In addition, this program will not be carried out until the following requirements have been satisfied:

(1) We have determined—and we will provide that determination to the Congress—that the vaccines to be used have been proven safe and effective by extensive clinical trials;

(2) We have provided full and complete warning to the public and to the States of the potential risks of side effects by providing an informed consent form to the States for distribution to those receiving immunization (a copy of this form will be provided to the Congress);

(3) We have identified the potential risks of injury involved in the program and listed those in the informed consent form:

(4) We will promptly report to the Congress on side effects recorded in the program and will make necessary recommendations to the States to protect the public health;

(5) We will report to the Congress every 60 days on the progress of the program, including reports from the States on the number of individuals immunized, the benefits the States estimate have been realized from the program, and State reports on any serious side effects, that are the result of immunizations provided by the program;

(6) We will report to the Congress on June 30, 1979—which is approximately 60 days after the close of the flu season—on the program's experience. At that time we will also make recommendations with respect to the future needs for influenza immunization and provide to the Congress any reports compiled on the safety and effectiveness of the vaccine and other experience during the 1978–79 program.

Let me finally stress that liability of the Federal government under our proposed program is wholly and totally different from that under the swine flu program. The Federal government is not assuming blanket liability as it did under the swine flu program. Rather, we have proposed that the issue of liability be handled on a State-by-State basis under State law—the same way liability is handled under our very successful childhood immunization program. There is little possibility that the Federal government could face a financial obligation similar to the one that arose in the swine flu program.

As far as State liability is concerned, under the childhood immunization program preliminary checks indicate that only two lawsuits are pending as far as we know against States under that program.

I hope this responds to your concerns.

Sincerely,

JOSEPH A. CALIFANO, Jr.

I believe the safeguards are full and complete and meet the objections expressed by many Members during earlier debate on this subject.

Mr. KAZEN. Mr. Speaker, if the gentleman will yield further, I would hope HEW would make sure vaccine is safe before it is administered and not leave the U.S. Government liable for millions of dollars in lawsuits, as it has been done in the past.

Mr. GORE. Mr. Speaker, the gentleman makes an excellent point. Let me read from the Secretary's letter. In addition, on the second page of the letter, he said as follows:

Let me finally stress that liability of the Federal government under our proposed program is wholly and totally different from that under the swine flu program. The Federal government is not assuming blanket liability as it did under the swine flu program. Rather, we have proposed that the issue of liability be handled on a State-by-State basis under State law—the same way liability is handled under our very successful childhood immunization program.

Mr. KAZEN. Mr. Speaker, I thank the gentleman from Tennessee (Mr. GORE) for yielding.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. GORE. I will be glad to yield to the distinguished ranking minority member of the subcommittee.

Mr. MICHEL. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I will just say this for the benefit of our good friend, the gentleman from Texas (Mr. KAZEN): The gentleman will recall that when we originally had the bill here on the floor, I had joined with the gentleman from Michigan (Mr. DINGELL) and the gentleman from California (Mr. MOSS) in opposition to the amount of money and frankly supported the move to cut it back to $3 million, which provided only for the clinical testing and the research ongoing money.

I think the fact that we did raise those

objections and reservations as we did prompted the kind of letter we now have from the Secretary, and I personally am satisfied, particularly with respect to that first paragraph having to do with making sure the vaccines are proven safe and effective by extensive clinical trials. I pointed out before, the very standard that guided HEW was not being adhered to in the numbers that they considered to be minimum for making a good clinical test.

I would assume from this kind of assurance from the Secretary now that they would follow that rigid standard. It was a tough judgment call because initially there was a problem, but I think with this kind of assurance we can live with it.

As the gentleman pointed out, the money lapses at the end of this fiscal year, and we will be guided by this new program.

Mr. GORE. Yes.

Mr. MICHEL. Mr. Speaker, if the gentleman will yield further for one quick observation, it would be rather strange if the conference report here would have been rejected a few minutes ago, because the committee would have had no guidance whatsoever as to why Members were voting against the conference report.

As the Members know, we had disaster aid money in here of nearly $300 million or $400 million, and we had student loan money in here. We had a lot of "goodies" in this bill, and I do not think the Members were advised to what they were voting against, because this is a conference report and we do have these follow-on disagreeing amendments. If the Members have some reservations as to this bill, they can make themselves heard on the disagreeing amendments.

As a result of this procedure, it was necessary for the Speaker to take the well and turn a number of votes around in order to pass the conference report. That is what we have to do sometimes, and then we can get on with the disagreeing amendments.

Mr. WAXMAN. Mr. Speaker, will the gentleman yield?

Mr. GORE. I yield to the distinguished gentleman from California.

Mr. WAXMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I, too, was a critic of this specific appropriation when it was on the floor, and I was also very concerned about the validity of the program when it was before the Committee on Interstate and Foreign Commerce and the Subcommittee on Health and the Environment.

I am satisfied, on the basis of this letter, that we ought to go ahead with the appropriation. I am particularly satisfied that the Subcommittee on Health and the Environment will have an opportunity to review this program after a 1-year period of time before we find ourselves with a permanent ongoing program.

The administration is treating it as if it were a permanent ongoing program, and it was clear to us, after my conversations with representatives of the administration, that the program has a 1-year period of time in which Congress will then decide whether it ought to be continued in terms of this authorization and go forward and whether there ought to be any further appropriations.

Mr. GORE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the preferential motion offered by the gentleman from Tennessee (Mr. GORE) to concur in Senate amendment No. 18 with an amendment.

The preferential motion to concur in Senate amendment No. 18 with an amendment was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 29: Page 15, after line 24, insert:

SPECIAL INSTITUTIONS

Gallaudet College, Howard University, the National Technical Institute for the Deaf, and the American Printing House for the Blind are authorized to make purchases through the General Services Administration.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 29 and concur therein with an amendment, as follows:

"SPECIAL INSTITUTIONS

"Hereafter, Gallaudet College, Howard University, the National Technical Institute for the Deaf, and the American Printing House for the Blind are authorized to make purchases through the General Services Administration."

The motion was agreed to.

Mr. MAHON. Mr. Speaker, inasmuch as amendments numbered 32 through 43 relate solely to housekeeping operations of the other body in which, by practice, the House concurs without intervention, I ask unanimous consent that Senate amendments numbered 32 through 43 be considered as read, printed in the RECORD, and that they be considered en bloc.

Mr. Speaker, I hasten to say that these amendments do not include the Senate Office Building matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I do so in order to ask the gentleman from Texas a question about one of the amendments which is in that group that he asks to have permission to be considered en bloc.

There is an amendment in here, as I understand it, that permits Members of the other body, Members-elect, beginning on October 1, of this year, to name immediately upon their election, two Members who will serve as their interim staff until their swearing in in the other body.

Am I correct in my reading of this provision that the funds of these two staff members will come out of the Senator's allowance, once he is elected, and is not an additional expenditure of funds over and above normal allowances?

Mr. MAHON. If the gentleman will yield, I would like to ask, if I may, if the gentleman will yield to the acting ch[illegible] man of the Legislative Subcommitte[illegible] respond to that inquiry.

Mr. BENJAMIN. Mr. Speaker wil[illegible] gentleman yield?

Mr. BAUMAN. Further reserving [illegible] right to object, Mr. Speaker, I yie[illegible] the gentleman from Indiana.

Mr. BENJAMIN. Mr. Speaker, in [illegible] sponse to the gentleman's question, [illegible] answer is that the gentleman is cor[illegible] it does come out of regular allow[illegible] and there are no additional funds in [illegible] bill for the two employees who ma[illegible] hired by the Senator-elect.

Mr. BAUMAN. Mr. Speaker, fur[illegible] reserving the right to object, I asked [illegible] question only because of the ob[illegible] precedent that this kind of an arra[illegible] ment will have upon the House. C[illegible] ously, demand will be made on our [illegible] for an interim staff, but if it means a[illegible] expenditures I would be opposed to i[illegible]

Mr. BENJAMIN. If the gentleman [illegible] yield, I can understand what the ge[illegible] man is saying. The other body has [illegible] independently and, because of the p[illegible] ciple of comity, we have gone along [illegible] them.

Mr. BAUMAN. Mr. Speaker, I w[illegible] draw my reservation of objection.

The SPEAKER pro tempore. Is t[illegible] objection to the request of the ge[illegible] man from Texas?

There was no objection.

Senate amendments Nos. 32 thr[illegible] 43 are as follows:

Senate amendment No. 32: Pag[illegible] line 3, insert: "SENATE".

Senate amendment No. 33: Page 19, l[illegible] insert:

PAYMENTS TO WIDOWS AND HEIRS OF DEC[illegible] MEMBERS OF CONGRESS

For payment to Maryon Pittman A[illegible] widow of James B. Allen, late a Senator [illegible] the State of Alabama, $57,500.

Senate amendment No. 34: Page 19, l[illegible] insert:

COMPENSATION AND MILEAGE OF THE [illegible] PRESIDENT AND SENATORS AND EXPENS[illegible] LOWANCES OF THE VICE PRESIDENT, P[illegible] DENT PRO TEMPORE, THE LEADERS, [illegible] WHIPS OF THE SENATE

EXPENSE ALLOWANCES OF THE VICE PRES[illegible] PRESIDENT PRO TEMPORE, MAJORITY AN[illegible] NORITY LEADERS AND MAJORITY AND M[illegible] ITY WHIPS

For an additional amount for "Ex[illegible] Allowances of the Vice President, Pres[illegible] Pro Tempore, Majority and Minority Le[illegible] and Majority and Minority Whips", $1[illegible] for the President Pro Tempore, $10,00[illegible] the Majority Leader, and $10,000 for th[illegible] nority Leader; in all $30,000: *Provided*, [illegible] these funds shall remain available for [illegible] respective allowances through Septemb[illegible] 1979. Effective fiscal year 1978 and each [illegible] year thereafter, the expense allowanc[illegible] the Majority and Minority Leaders o[illegible] Senate are increased to $10,000 each [illegible] year for each leader. Effective with fisca[illegible] 1978 and each fiscal year thereafter, th[illegible] hereby authorized an expense allowan[illegible] the President Pro Tempore which sha[illegible] exceed $10,00 each fiscal year. The Pres[illegible] Pro Tempore may receive the expense [illegible] ance (1) as reimbursement for actu[illegible] penses incurred upon certification and [illegible] mentation of such expenses by the Pres[illegible] Pro Tempore, or (2) in equal monthly [illegible] ments. Such amounts paid to the Pres[illegible] Pro Tempore as reimbursement of actu[illegible] penses incurred upon certification and [illegible]

mentation pursuant to this provision, shall not be reported as income, and the expenses

to the positions established under subsection (a) shall not exceed for any fiscal year

mental Appropriations Act, 1973 (2 U.S.C.

mentation pursuant to this provision, shall not be reported as income, and the expenses so reimbursed shall not be allowed as a deduction, under the Internal Revenue Code of 1954.

Senate amendment No. 35: Page 20, line 18, insert:

SALARIES, OFFICERS AND EMPLOYEES

OFFICES OF THE MAJORITY AND MINORITY LEADERS

For an additional amount for "Offices of the Majority and Minority Leaders", $110,000, to remain available for obligation until September 30, 1979: *Provided*, That, the amount authorized for the offices of the Majority and Minority Leaders is increased by $50,000 each fiscal year for each Leader.

Senate amendment No. 36: Page 21, line 1, insert:

CONTINGENT EXPENSES OF THE SENATE

Senate Amendment No. 37: Page 21, line 2, insert:

POSTAGE STAMPS

For an additional amount for "Postage Stamps", $2,000, to remain available for obligation until September 30, 1978: *Provided*, That, effective with the fiscal year ending September 30, 1978, the allocation for air mail and special delivery postage for the Office of the Secretary is increased to $4,625 each fiscal year.

Senate amendment No. 38: Page 21, line 9, insert:

ADMINISTRATIVE PROVISIONS

Senate amendment No. 39: Page 21, line 10, insert:

SEC. 101. Effective with the fiscal year ending September 30, 1978, the first sentence of section 101 of the Legislative Branch Appropriation Act, 1976 (2 U.S.C. 61a–9a), as amended, is amended by striking out $5,500" and inserting in lieu thereof "$7,500".

Senate amendment No. 40: Page 21, line 15, insert:

SEC. 102. Any funds made available for the purposes specified in section 109 of the Supplemental Appropriations Act, 1977, shall be transferred to and merged with the funds appropriated for such purposes for the fiscal year ending September 30, 1978.

Senate amendment No. 41: Page 21, line 20, insert:

SEC. 103. The seventh paragraph under the heading "Administrative Provisions" in the Senate appropriation in the Legislative Branch Appropriation Act, 1957 (2 U.S.C. 66b), as amended, is amended by striking out "$35 per day;" and inserting in lieu thereof "the rates in effect under section 5702 of title 5, United States Code, for employees of agencies;", and by striking out "$50 per day" and inserting in lieu thereof "the daily rate in effect under section 5702 of title 5, United States Code, for employees of agencies".

Senate amendment No. 42: Page 22, line 5, insert:

SEC. 104. (a) Effective November 1, 1978, in lieu of the seventeen statutory positions designated for the Stationery Room, the Secretary of the Senate may establish such number of positions in the Stationery Room (but not less than fifteen), as he determines necessary for the proper and efficient discharge of its functions, and to designate the titles and fix the compensation of such positions: *Provided*, That, upon implementation of the authority contained in this subsection, the Secretary of the Senate shall transfer to the positions so established those individuals employed in the Stationery Room on October 31, 1978, and may appoint individuals to any remaining positions so established or to any position which is established after November 1, 1978, or becomes vacant after that date.

(b)(1) The aggregate annual gross compensation (other than longevity and merit compensation) paid to employees appointed to the positions established under subsection (a) shall not exceed for any fiscal year $287,474 (A) increased by the percentage specified for positions under the jurisdiction of the Secretary of the Senate in the last Order of the President Pro Tempore of the Senate issued before November 1, 1978, under authority of section 4 of the Federal Pay Comparability Act of 1970, and adjusted to the next higher multiple specified in such Order, and (B) increased and adjusted as provided in Orders of the President Pro Tempore of the Senate issued after November 1, 1978, under authority of such section.

(2) The aggregate of payments of gross compensation (other than longevity and merit compensation) paid to employees appointed to positions established under subsection (a) shall not exceed at any time during each fiscal year one-twelfth of the amount specified in paragraph (1) multiplied by the number of months (counting a fraction of a month as a month) which have elapsed during that fiscal year.

(c) Nothing in this section shall be construed as abolishing the seventeen statutory positions designated for the Stationery Room, but in no event shall such positions be available during a period in which the Secretary is utilizing his authority under subsection (a) of this section.

Senate amendment No. 43: Page 23, line 19, insert:

SEC. 105. (a) Upon the recommendation of a Senator-elect (other than an incumbent Senator or a Senator elected to fill a vacancy), the Secretary of the Senate shall appoint two employees to assist such Senator-elect. Any employee so appointed shall serve through the day before the date on which the Senator-elect recommending his appointment commences his service as a Senator, except that his employment may be terminated before such day upon recommendation of such Senator-elect.

(b)(1) Salaries of employees appointed under subsection (a) shall be paid from the appropriation for "Administrative, Clerical, and Legislative Assistance to Senators".

(2) Salaries paid to employees appointed upon recommendation of a Senator-elect under subsection (a) shall be charged against the amount of compensation which may be paid to employees in his office under section 105(d) of the Legislative Branch Appropriation Act, 1968, as amended and modified (2 U.S.C. 61-1(d)) (hereinafter referred to as the "clerk-hire allowance"), for the fiscal year in which his service as a Senator commences. The total amount of salaries paid to employees so appointed upon recommendation of a Senator-elect shall be charged against his clerk-hire allowance for each month in such fiscal year beginning with the month in which his service as a Senator commences (until the total amount has been charged) by whichever of the following amounts is greater: (1) one-ninth of the amount of salaries so paid, or (2) the amount by which the aggregate amount of his clerk-hire allowance which may be paid as of the close of such month under section 105(d)(1)(B) of such Act exceeds the aggregate amount of his clerk-hire allowance actually paid as of the close of such month.

(c) Each Senator-elect and each employee appointed under subsection (a) is authorized one round trip from the home State of the Senator-elect to Washington, D.C., and return, for the purposes of attending conferences, caucuses, or organizational meetings, or for any other official business connected with the impending Congress. In addition, each Senator-elect and each such employee is authorized per diem for not more than seven days while enroute to and from Washington, D.C., and while in Washington, D.C. Such transportation and per diem expenses shall be in the same amounts as are payable to Senators and employees in the office of a Senator under section 506(e) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58), and shall be paid from the contingent fund of the Senate upon itemized vouchers certified by the Senator-elect concerned and approved by the Secretary of the Senate.

(d)(1) Each Senator-elect is authorized to be reimbursed for expenses incurred for telegrams and telephone services related to his position as a Senator-elect in an amount not exceeding one-twelfth of the total amount of expenses authorized to be paid to or on behalf of a Senator from the State which he will represent under section 506 of the Supplemental Appropriations Act, 1973. Reimbursement to a Senator-elect under this subsection shall be paid from the contingent fund of the Senate upon itemized vouchers certified by such Senator-elect and approved by the Secretary of the Senate.

(2) Amounts reimbursed to a Senator-elect under this subsection shall be charged against the amount of expenses which are authorized to be paid to him or on his behalf under section 506 of the Supplemental Appropriations Act, 1973, for each of the twelve months beginning with the month in which his service as a Senator commences (until all of such amounts have been charged) by whichever of the following amounts is greater: (1) one-twelfth of the amounts so reimbursed, or (2) the amount by which the aggregate amount authorized to be so paid under section 506(c) of such Act as of the close of such month exceeds the aggregate amount actually paid under such section 506 as of the close of such month.

(e) This section shall take effect on October 1, 1978.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendments of the Senate numbered 32 through 43 inclusive and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 44: Page 28, line 6, insert:

OFFICE OF TECHNOLOGY ASSESSMENT

SALARIES AND EXPENSES

For the comprehensive evaluation of energy policy alternatives, $1,000,000, to remain available until expended, and for ten staff employees to be available for the life of the project, notwithstanding any limitation currently or hereafter imposed by law.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 44 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 47: Page 29, line 10, insert:

SENATE OFFICE BUILDINGS

For an additional amount for "Senate Office Buildings", $1,110,000, to remain available until expended.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion. The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 47 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 48: Page 29, line 19, insert:

CONSTRUCTION OF EXTENSION TO THE NEW SENATE OFFICE BUILDING

For an additional amount for "Construction of Extension to the New Senate Office Building, $54,853,000" to remain available until expended: *Provided*, That the amount of $135,000,000 shall constitute a ceiling on the total cost for construction and initial furnishing of the Extension to the New Senate Office Building.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 48 and concur therein.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding.

Mr. Speaker, I wanted to speak on this for the purpose of clarifying something in my mind. Is this the controversial new office building that we read so much about, the new Taj Mahal that will be built for the other body for additional office space, for rooftop restaurants and new gymnasiums, and 16-foot ceilings?

Mr. BENJAMIN. If the gentleman will yield, I agree with so much of the gentleman's description as it pertains to the new office building. This is the amendment.

Mr. SYMMS. If the gentleman will yield further, I think my concern is, it seems to me, that over the last 40 years, as the Government continues to grow, the Congress, the House and the other body, grants authority to more regulatory agencies, we get more involved and we get more disputes, and our answer is, "Let's hire a bigger staff so we can take care of more constituent problems." I think we are just making a mistake to continue to expand the staff here on the Hill. What we should be doing is reducing responsibilities of the Congress and returning many of these responsibilities back to the States where they rightfully belong. Because of that, I think it is a mistake to build a new office building so that the other body will continue to have an expansion, a growth of the bureaucracy, within the legislative branch.

So, what we really need to do is to be revising and repealing laws and taking authority away from bureaucratic agencies instead of building a new office building so that we can write more letters to our constituents at taxpayers' expense. I would encourage the House to disapprove Senate amendment 48, and would like to ask for a vote at the proper time.

Mr. MAHON. I wish the gentleman would carefully consider this matter in the terms of traditional House-Senate relations. Does the gentleman not think that under the circumstances, since we insist upon the prerogatives of the House with respect to office buildings and housekeeping matters and otherwise, that we should accord to the Senate the customary privilege of making its decision with regard to these matters This is not a new subject. The whole matter has been deliberated over by the other body over a period of years. The pros and cons have been debated and the decisions have been reached under proper procedures. I think we ought to, as a matter of comity, leave it to the other body to make that determination. We ought not interfere.

Members should remain aware that it has been a longstanding tradition that each House determines its own institutional requirements. The Senate passes on House requirements without change while the House recedes on Senate requirements added to bills. This tradition has served the Congress well over the years and I see no reason to break with this tradition at this late date.

Mr. SYMMS. If the chairman would yield further, the frills such as the gymnasium and the rooftop restaurant do not bother me as much as the idea of expanding the office people on the Hill. What we need to do is probably to fire half the staff on the Hill and give everybody two secretaries, and then come in and legislate constitutionally.

Mr. MAHON. I would agree that we are moving toward too many staff positions in the House, and I think we have got to do something to hold these positions in line, but certainly this is not the way to do it.

Mr. SYMMS. If the chairman will allow me more time, I would like to ask the distinguished gentleman from Indiana, how many subcommittees do they now have over in the other body?

Mr. BENJAMIN. Mr. Speaker, I could not respond to that with any degree of accuracy. However, I might relate that this building, of course, dates back to 1972. It is the aftermath of the incompletion of the Dirksen Building. The hope is not to hire any staff or increase subcommittee strength. In fact, as the gentleman recalls, at the outset of the 95th Congress they reduced their committees and their committee strength.

However, this is to house 1,700 employees who are scattered throughout Washington, D.C. and try to get them under one roof for efficiency. Hopefully, they will not come back and increase the size of their staff.

Mr. SYMMS. I appreciate the gentleman's point, but $54 million—that is nearly half a million dollars per Senator—for expanded facilities is quite a bit. Sooner or later they are going to have to have more people to fill that up. Where does this all end?

Mr. BENJAMIN. If I may follow up on that theory, and that is a theory that is shared by many others, I must admit; this is not the first time this body has been asked to vote for an appropriation for the Hart Building. As the gentl[illegible] knows, having been here longer th[illegible] we approved Public Law 92-607, [illegible] included the first $47,925,000 fo[illegible] building which started out as a re[illegible] of the Dirksen Building. In 1974, [illegible] supplemental appropriation bill, [illegible] was $20,900,000, and in the same se[illegible] of Congress there was an additiona[illegible] propriation of $16,322,000.

But, this is the first appropriatio[illegible] which a ceiling has been placed. T[illegible] are two parts to the amendment [illegible] gentleman is alluding to which the [illegible] ate attached to the bill. The first w[illegible] finalize payment for the building, [illegible] second was to put a ceiling on the [illegible] including the furnishings. So, what [illegible] are doing is telling the Architect o[illegible] Capitol, the Senate Office Building [illegible] mission, and the Rules Committee o[illegible] Senate, which now has jurisdiction [illegible] the particular structure, that this [illegible] We do not anticipate that they are [illegible] to go up ad infinitum.

Mr. SYMMS. I appreciate the ge[illegible] man's efforts to achieve the passa[illegible] this, but I think my concern is tha[illegible] do not anticipate that there is any [illegible] but the gentleman and I both know [illegible] we cannot guarantee that in 2 [illegible] more years we are not going to be a[illegible] for more office space.

Only a year or two ago the Con[illegible] made an attempt to grasp the new hi[illegible] building to become House office spa[illegible]

As we have continued the expan[illegible] of the staff on Capitol Hill, I have [illegible] been able to see that it has impa[illegible] the quality of the legislation that c[illegible] from this body, for instance compa[illegible] the legislation of the forties and f[illegible] with what we produced in the sixties [illegible] seventies. There are so many peop[illegible] the staff we hardly know who they [illegible] They are highly qualified and motiv[illegible] people, I agree, but the end result i[illegible] continuation of the growth of Gov[illegible] ment. We continue to allow more p[illegible] sion for more extensions to more b[illegible] time and time again. I would like t[illegible] Congress come in and pass their j[illegible] ment on whether it is necessary to [illegible] on all those responsibilities. Maybe [illegible] had less bodies on the Hill we c[illegible] realign our responsibilities.

Mr. MAHON. Mr. Speaker, I think [illegible] gentleman has addressed this fully [illegible] I do not think it would be approp[illegible] for us to attempt to pursue this m[illegible] in the pending conference report.

I yield to the gentleman from Pen[illegible] vania (Mr. COUGHLIN).

Mr. COUGHLIN. Mr. Speaker, I th[illegible] the chairman.

I would say to my friend and colle[illegible] the gentleman from Idaho, that I a[illegible] with him wholeheartedly in terms [illegible] little need for conservation in our [illegible] House. I do not think we are in a [illegible] good position to judge what the Se[illegible] is doing. I know there are people o[illegible] gentleman's own persuasion in the [illegible] ate who are looking at this and with [illegible] same persuasion and perspective [illegible] gentleman has. I think we are in a [illegible] ficult position from the House standi[illegible] of judging this for the Senate, a[illegible]

think we should be a little careful from that standpoint.

Mr. SYMMS. Mr. Speaker, if the gentleman will yield, I appreciate the gentleman's point of view, but I do think for those Members of the other body it is very difficult for them in that very respectable and august group to be opposed to what will be their own facilities, that they will actually receive personal aggrandisement or benefit from in personal perquisites, so I think maybe in our case we are a little more distant and can be more objective in the overall view.

Mr. COUGHLIN. I have seen us in this House cutting back our own perquisites and I think the Senate is perfectly capable of policing themselves too.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion.

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. MAHON).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SYMMS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 133, nays 245, answered "present" 6, not voting 48, as follows:

[Roll No. 716]

YEAS—133

Addabbo
Akaka
Alexander
Anderson, Ill.
Andrews, N.C.
Annunzio
Barnard
Beard, R.I.
Benjamin
Biaggi
Bingham
Blanchard
Boggs
Brademas
Breckinridge
Brooks
Brown, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Carney
Carr
Carter
Chappell
Chisholm
Clay
Collins, Ill.
Corman
Cotter
Coughlin
Danielson
Delaney
Derwinski
Dicks
Diggs
Downey
Eckhardt
Eilberg
Fary
Flood
Foley
Ford, Mich.
Garcia
Gaydos
Giaimo
Ginn
Goldwater
Gonzalez
Gore
Hanley
Hawkins
Heckler
Holtzman
Howard
Johnson, Calif.
Jones, Tenn.
Jordan
Krebs
Lederer
Leggett
Levitas
Lloyd, Calif.
Long, Md.
Lundine
McCloskey
McEwen
McFall
McKay
McKinney
Maguire
Mahon
Mann
Marks
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mineta
Mitchell, Md.
Mollohan
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Michael
Natcher
Nedzi
Nix
Nolan
Nowak
Ottinger
Patten
Pattison
Pepper
Pettis
Pickle
Poage
Preyer
Price
Rahall
Rhodes
Roberts
Rogers
Roncalio
Rooney
Rose
Rostenkowski
Roybal
Ryan
Simon
Skubitz
Slack
Smith, Iowa
Staggers
Stark
Steed
Stratton
Thornton
Traxler
Ullman
Volkmer
Waggonner
Waxman
Whalen
White
Wilson, Bob
Wilson, Tex.
Wright
Yates
Zeferetti

NAYS—245

Abdnor
Ambro
Ammerman
Anderson, Calif.
Andrews, N. Dak.
Applegate
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Bauman
Beard, Tenn.
Bedell
Bellenson
Bennett
Bevill
Blouin
Boland
Bonior
Bonker
Bowen
Breaux
Brinkley
Brodhead
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Butler
Byron
Caputo
Cavanaugh
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Cornell
Cornwell
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Derrick
Devine
Dickinson
Dingell
Dornan
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Florio
Ford, Tenn.
Forsythe
Frenzel
Fuqua
Gammage
Gephardt
Gibbons
Gilman
Glickman
Goodling
Gradison
Grassley
Green
Gudger
Guyer
Hall
Hamilton
Hammer-schmidt
Hannaford
Hansen
Harkin
Harris
Harsha
Hefner
Heftel
Hightower
Hillis
Hollenbeck
Holt
Horton
Hubbard
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Kazen
Kelly
Kemp
Keys
Kildee
Kindness
Kostmayer
Krueger
LaFalce
Lagomarsino
Latta
Leach
Lehman
Lent
Livingston
Long, La.
Lujan
Luken
McClory
McCormack
McDade
McHugh
Madigan
Markey
Marlenee
Marriott
Martin
Mathis
Mikulski
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Pa.
Myers, Gary
Myers, John
Neal
Nichols
O'Brien
Oakar
Oberstar
Panetta
Patterson
Pease
Perkins
Pike
Pressler
Pritchard
Quayle
Quie
Quillen
Railsback
Rangel
Regula
Reuss
Richmond
Rinaldo
Robinson
Roe
Rousselot
Rudd
Runnels
Ruppe
Russo
Santini
Satterfield
Sawyer
Schroeder
Sebelius
Sharp
Shuster
Skelton
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Stanton
Steers
Steiger
Stockman
Studds
Stump
Symms
Taylor
Thone
Treen
Trible
Tucker
Udall
Van Deerlin
Vander Jagt
Vanik
Vento
Walker
Walsh
Wampler
Watkins
Weaver
Weiss
Whitehurst
Whitley
Whitten
Winn
Wirth
Wolff
Wydler
Wylie
Yatron
Young, Fla.
Young, Mo.
Zablocki

ANSWERED "PRESENT"—6

Bolling
Burke, Calif.
Cederberg
Conyers
Dellums
Huckaby
Jenkins
Kasten
Milford
Dodd
Dent
Faucus
Fowler
Fraser
Edwards, Calif.
Evans, Colo.
Flynt
Sikes
Burton, John
Hagedorn
Harrington
Holland
Frey
Fountain
Fascell
Mikva
Sisk

NOT VOTING—48

Seiberling
Lott
Scheuer
Miller, Calif.
Lloyd, Tenn.
Kastenmeier
Wiggins
Rosenthal
Sarasin
Rodino
Schulze
Le Fante
Pursell
Obey
Eisenhoover
Shipley
McDonald
Flowers
Stangeland
Stokes
Teague
Thompson
Tsongas
Walgren
Wilson, C. H.
Young, Alaska
Young, Tex.

The Clerk announced the following pairs:

Mr. Rodino with Mr. Cederberg.
Mr. Thompson with Mr. McDonald.
Mr. Dent with Mr. Milford.
Mr. Le Fante with Mr. Young of Alaska.
Mr. Fascell with Mr. Frey.
Mrs. Burke of California with Mr. Hagedorn.
Mr. Miller of California with Mr. Sarasin.
Mr. Obey with Mr. Stangeland.
Mr. Eisenhoover with Mr. Kasten.
Mr. Teague with Mr. Conyers.
Mr. Shipley with Mr. Dellums.
Mr. Fountain with Mr. Fraser.
Mr. Mikva with Mr. Pursell.
Mr. Tsongas with Mr. Holland.
Mr. Sikes with Mr. Harrington.
Mr. Charles H. Wilson of California with Mr. Sisk.
Mr. Edwards of California with Mr. Schulze.
Mr. Jenkins with Mr. Rosenthal.
Mr. Stokes with Mr. Flowers.
Mr. Walgren with Mr. Evans of Colorado.
Mr. Baucus with Mr. Flynt.
Mr. Huckaby with Mr. Fowler.
Mrs. Lloyd of Tennessee with Mr. Kastenmeier.

Mrs. PETTIS. Mr. RHODES, and Mr. GONZALEZ changed their vote from "nay" to "yea."

Messrs. QUIE, JEFFORDS, and OBERSTAR changed their vote from "yea" to "nay."

Mr. LOTT changed his vote from "yea" to "present."

So the motion was rejected.

The result of the vote was announced as above recorded.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House insist on its disagreement to Senate amendment No. 48.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate Amendment No. 49: Page 30, line 5, insert:

LIBRARY OF CONGRESS JAMES MADISON MEMORIAL BUILDING

For an additional amount for "Library of Congress James Madison Memorial Building", $7,675,000, to remain available until expended.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 49 and concur therein.

Mr. BAUMAN. Mr. Speaker, I wonder if the gentleman from Texas would yield for a question on that item?

Mr. MAHON. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, a year or two ago the Madison Memorial Library came before the House in a separate piece of legislation, I believe at which time the gentleman from Maryland raised a number of questions about the added additional cost of that Library.

I have not examined the record of that date, but I clearly recall putting questions to the authorizing committee members, I believe it was, as to whether this was the last amount of money necessary for the completion of this another of the grand edifices on Capitol Hill.

Now I find that the other body has added almost $8 million for the Madison Building. I thought 2 years ago I was told that the last amount of money was needed for furnishings and completion, so that the people could move into the Library.

Why do we now need this, since the House has not considered it?

Mr. MAHON. Mr. Speaker, I yield to the gentleman from Indiana (Mr. BENJAMIN), the acting subcommittee chairman, for a response to the question of the gentleman from Maryland.

Mr. BENJAMIN. Mr. Speaker, in response to the question of the gentleman from Maryland, this is the final amount that is needed to complete this James Madison Library Building. The actual amount requested by the Architect of the Capitol was $10 million. That was approved in the Senate version of the authorization bill; however, the House Committee on Public Works has only approved the amount which we find in this supplemental appropriation. Consequently, the conferees on the second supplemental settled on the lower amount, as approved by the authorization recommended by the House Committee on Public Works and Transportation.

Mr. BAUMAN. Mr. Speaker, if the gentleman will yield further, in view of what I thought were previous assurances that that was all, why must we now appropriate an additional almost $8 million, and what will it be used for? Why these cost overruns, or whatever it is?

Mr. BENJAMIN. Mr. Speaker, if the gentleman from Texas will yield further, this is for the completion of the construction of that building.

Mr. MINETA. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from California.

Mr. MINETA. Mr. Speaker, as part of that authorization, the necessity for this additional amount comes about because of some of the things the Congress has imposed on the Library of Congress in terms of additional duties since the original plans and specifications for the Madison Library were completed.

We went into this very thoroughly with the Architect of the Capitol, and I know that my distinguished colleague, the gentleman from New York, who is the ranking minority member of our subcommittee, and I were very insistent in the sense that this was going to be the last time, and as long as I was going to be there to chair that subcommitee, I said this was going to be the last time indeed that the Architect of the Capitol is going to be coming back to us for an additional amount.

But we did have to make some changes in terms of the movable partitions and movable walls available in order to take into consideration some of the additional responsibilities that have been imposed upon the Library of Congress by the Capitol itself.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield further?

Mr. MAHON. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I would like to inquire whether this includes the financing for the magnificent executive dining room that was planned for the Madison Library building. That received a great deal of comment in the press as perhaps being inappropriate for a library.

Mr. Speaker, what can the gentleman tell us about that?

Mr. MINETA. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from California.

Mr. MINETA. Mr. Speaker, the basic amount that was provided had already taken into consideration a dining room. It is not a large dining room. It is serviced by the kitchen that services the whole cafeteria complex for the building.

There is not any additional amount that is required beyond this $6.65 million. Although the bill had originally been entered for $10 million, we had cut it down to the figure that is in this report. That was done on a motion offered by our colleague, the gentleman from New York (Mr. WALSH).

Mr. WALSH. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from New York.

Mr. WALSH. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I share the concern of the gentleman from Maryland (Mr. BAUMAN) about the appropriations that we have for public buildings in the city of Washington.

This amount that is in the present bill today came about as a result of an amendment I introduced to reduce the appropriation from $10 million down to the present figure. This appropriation is necessary to complete many of the things that are in the building.

But I do want to point out to the Members of this House that is a typical example of what happens when a building is authorized in the city of Washington by the Committee on Public Works and Transportation. The matter then leaves the jurisdiction of the Committee on Public Works and Transportation, and it has no control over it after it has once been approved and the building is authorized.

This is a building on which they started out with an initial appropriation of $68 million. It is now up to a total of $133 million. The building that has been constructed—and it was started before I ever reached the Halls of Congress—is not the building that was intended when the initial legislation was passed.

Mr. Speaker, I think that this Congress has the responsibility to watch these appropriations and expenditures much more closely than it does. We started on that this morning in the Subcommittee on Public Buildings and Grounds of the Committee on Public Works and Transportation by considering an appropriation for the Smithsonian Institute. Before the final plans and specifications are complete, they are going to have to come back to the Committee on Public Works and Transportation and get further thorization from the committee b they let any bids or let anything g for bids or even solicit bids.

Mr. Speaker, the process has not working. That is what I want to say I share the concern of the gentle from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, if the tleman from Texas (Mr. MAHON) yield just briefly, I would say to the tleman from New York (Mr. WALSH) I hope those assurances prove t correct.

According to the latest plans avai from the Architect of the Capitol, we face the consideration of bids on 10 more Senatorial and other Federal b ings on Capitol Hill, and I suggest we are rapidly running out of Foun Fathers after whom to name build At some point it becomes rather ab

Mr. Speaker, I thank the gentlema yielding.

The SPEAKER pro tempore. The q tion is on the motion offered by gentleman from Texas (Mr. MAHO

The motion was agreed to.

The SPEAKER pro tempore. Clerk will report the next amendm in disagreement.

The Clerk read as follows:

Senate amendment No. 51: Page 30, 11, insert:

CONGRESSIONAL RESEARCH SERVICE

SALARIES AND EXPENSES

For an additional amount for "Sa and Expenses", $100,000, to remain avai for obligation until September 30, 1979

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I off motion.

The Clerk read as follows:

Mr. MAHON moves that the House re from its disagreement to the amendm of the Senate numbered 51 and co therein with an amendment, as follow lieu of the sum named in said amendm insert "$50,000".

The motion was agreed to.

The SPEAKER pro tempore. Clerk will report the next amendm in disagreement.

The Clerk read as follows:

Senate amendment No. 52: Page 30, 16, insert:

COPYRIGHT OFFICE

SALARIES AND EXPENSES

The proviso in the paragraph under heading in the Legislative Branch Ap priation Act, 1978 (Public Law 95-94 amended by striking out "$3,000,000" an serting in lieu thereof "$3,500,000".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I off motion.

The Clerk read as follows:

Mr. MAHON moves that the House re from its disagreement to the amendm the Senate numbered 52 and concur the

The motion was agreed to.

The SPEAKER pro tempore. The C will report the next amendment in agreement.

The Clerk read as follows:

Senate amendment No. 53: Page 31, 12, insert:

GENERAL PROVISION

The period of July 1, 1976 through tember 30, 1976 shall be treated as a f

way for the purposes of section 7 of the

compound one mistake with another. I social security as members of political

year for the purposes of section 7 of the Flood Control Act of 1941, as amended (U.S.C. 701c-3).

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 53 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 58: Page 34, line 1, insert: ", of which $3,050,000 shall be available for payments to United States Deputy Marshals for overtime duties performed between 1973 and 1978.".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 58 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 62: Page 36, line 1, insert: ": *Provided*, That not to exceed $200,000 may be reprogrammed from the fiscal year 1978 appropriations to be used for construction and installation of improvements to existing National Bureau of Standards buildings.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amend.nent of the Senate numbered 62 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert: ": *Provided*, That not to exceed $200,000 shall be available from existing appropriations made under this heading to be used for construction and installation of improvements to existing National Bureau of Standards buildings.".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 64: Page 38, line 15, insert:

SMALL BUSINESS ADMINISTRATION

DISASTER LOAN FUND

For an additional amount for the "Disaster Loan Fund", $378,000,000: *Provided*, That $375,000,000 of such amount shall remain available without fiscal year limitation and $3,000,000 shall be transferred to "Salaries and expenses".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 64 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 70: Page 45, line 23, insert: ", and in addition, $100,000,000 which shall be derived by transfer from "Secretary of Defense Readiness Fund, 1978".".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 70 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 79: Page 61, line 13, insert: "and $6,000,000 shall be provided by transfer from the appropriation for "Flood insurance";".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 79 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 82: Page 75, line 12, insert:

SEC. 303. (a) Section 8332 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(l) An individual who is entitled to an annuity upon separation from service as a congressional employee may be allowed credit for service as an employee of the Democratic Senatorial Campaign Committee, the Republican Senatorial Campaign Committee, the Democratic National Congressional Committee, or the Republican National Congressional Committee if such employee makes the deposit provided for in section 8334(c) of this title with respect to congressional employees for such service. The period of service which may be credited under this subsection by any individual shall not exceed 10 years.".

(b) The amendment made by subsection (a) shall apply to individuals who are entitled to annuities upon separation from service as congressional employees on or after the date of the enactment of this Act.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 82 and concur therein.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding.

Mr. Speaker, is this that section—somebody said yes, so I guess we know what we are talking about—that kind of takes advantage of taxpayers and sweeps a number of people into a pension system that they did not contribute to in their initial years?

Mr. MAHON. Mr. Speaker, this is an amendment which was handled in the conference by the Chairman of the Legislative Subcommittee, the gentleman from Illinois (Mr. SHIPLEY), and I yield to the Acting Chairman, the gentleman from Indiana (Mr. BENJAMIN), to respond to the gentleman's question.

Mr. BENJAMIN. Mr. Speaker, in response to the question of the gentleman from Ohio (Mr. ASHBROOK), in order to be eligible to participate in the civil service pension system, they would have to contribute 7½ percent per year plus pay a compounded interest payment of 3 percent. This is very similar to legislation passed earlier this year in H. Res. 315 dealing with the members of the beauty shop who were brought in as House employees.

It is comparable to legislation that was passed previously for photographers of the congressional campaign committees who were brought into House and Senate employ, and also comparable to the legislation adopted earlier in this decade for the Capitol guides, who were brought into House employ; except that it is not as liberal as those other three pieces of legislation I mentioned insofar as these must pay interest and must pay into the fund and only would be allowed up to 10 years' eligibility. It will not advance their retirement whatsoever. Capitol guides had to pay 5 years and beauty shop operators did not have to pay anything. Photographers had to pay 5 years.

Mr. ASHBROOK. I really do not think that is an appropriate comparison. The Capitol guides, at least, were working in a quasi-governmental position. As I understand it, most of the others were working purely for the parties, and unless we can agree that in the 18 years I have been here the Democrats have run everything, so I guess to that degree the parties were involved, but where they purely and simply worked for political parties, what is the justification for bringing them all of a sudden under a pension system which, as I understand it, no other American citizen would be entitled to? Is that correct? Are we not making a special case for them over any other American citizen?

Mr. BENJAMIN. No, we are not, if I may respond. The truth of the matter is that there are more Republicans that would be eligible for the pension than Democrats, 29 to 22.

Mr. ASHBROOK. That makes it worse.

Mr. BENJAMIN. Although I was not here—I know the gentleman from Ohio was here—when they did adopt the law bringing in the photographers who were with these congressional campaign committees, insofar as they work side-by-side with other congressional employees in the operation of the House, apparently the House and everybody at that time agreed that the service was so similar to House employment that they should be eligible for retirement, and made a set of conditions. The conditions are more stringent here, but the analogy is the same.

Mr. ASHBROOK. I would say to my colleague that he was correct in the previous vote. That was a lapse of judgment which I will correct at this point, because I do believe it is a mistake to

compound one mistake with another. I think we at least ought to have, in courtesy to the American taxpayer, a vote in order to see who is in favor and who is not.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I rise very much in opposition to this. It seems to me absolutely amazing that we should venture to do this for those who have worked for political parties. I objected to beauty shop operators; I objected to 25 employees being put on the backs of the taxpayers. I objected to the whole theory of our acting as though we were Buckingham Palace and we believe in having federally paid beauty shop operators.

I objected to the barber shop. We are not princes here. None of our parties are part of the whole governmental process in the sense that they should be included in the civil service. I am very distressed to see that this is brought to the floor.

Mr. MAHON. If the gentlewoman will permit me to interrupt, this amendment was placed in the bill over in the other body, and in conference it was agreed that we bring it back to the House. Under this procedure, of course, the House would have ample opportunity to vote on the amendment, since it is legislative in nature and the House can work its will on this issue as well as on others.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, when this resolution first passed the House, having read subsequently its terms, it excluded the persons who would qualify under this language from receiving social security payments in addition. Is that not correct, and is that prohibition still in this section?

Mr. MAHON. The gentleman from Indiana will be able to respond, and I yield to the gentleman from Indiana (Mr. BENJAMIN) for that purpose.

Mr. BENJAMIN. Yes, in terms of H.R. 9262, that prohibition was in that particular legislation as it passed this House on September 23. There is also an additional section in that bill pertaining to Members of Congress in regard to their retirement pay. Neither of those provisions are in section 303 of the supplemental report, so consequently there is no prohibition in terms of social security nor does it include Members of Congress.

Mr. BAUMAN. If the gentleman will yield further, so they could receive both these payments as well as social security if they have qualified?

Mr. BENJAMIN. That is true of anybody who has had service meeting the qualifications for social security and that includes Members of this body.

Mr. ASHBROOK. Mr. Speaker, would my colleague yield?

Mr. MAHON. I yield to the gentleman from Ohio.

Mr. ASHBROOK. They paid in their social security as members of political parties or campaign committees and now we are baptizing them for that era of service and now we are letting them have both civil service and social security benefits. I think that compounds a travesty.

Mr. BENJAMIN. If the gentleman will yield further, if it does, we should examine other examples. A similar bill has passed this body and the other body on other occasions. The aspect of any travesty or greed or rip-off is not here. It does not move up their retirement at all. It only says that since they were associated with this body, and until this year the House campaign committee worked in the same halls that the gentleman and his staff have worked in, so as a consequence they thought they were an integral part of this body. As a matter of fact, I think at times in the past some were assigned tasks as regular congressional employees—for example, members of the minority staff and the majority staff. Furthermore, the ones currently effected only have had 2 or 3 years of service.

Mr. ASHBROOK. If the gentleman will yield further, but from what the gentleman says, they still would be getting social security benefit entitlements for the years they worked for this body and now we are bringing that service in and defending it as an additional term of employment as employees of this Congress.

Mr. BENJAMIN. If they had 40 quarters of service, and I doubt seriously they would have had 40 quarters. Based on the statistical analysis I have, it shows they have generally less than 4 years of service with the respective campaign committees. Unless they have had service elsewhere on which they stacked up their social security contributions other than for the campaign committees, then they are not under what the gentleman would say is a double benefit or doubledipping.

Mr. ASHBROOK. I thank my colleague for his explanation.

Mr. GLICKMAN. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Speaker, I would again ask the gentleman from Indiana this. Assuming that all these things then may be true, and I understand the fact that the employees have had to pay in in order to be eligible, but why do it for future employees of the campaign committees? Why was the statute so written that employees of the campaign committees, Republican or Democratic, should be eligible for this?

Mr. BENJAMIN. I admit the language in section 303 is precisely that way, and it does allow that. Whereas the bill as it passed the House would not have provided that but would have provided only for those who already had service in the congressional campaign committees and then subsequently had been assigned to do House service would be eligible. This is the way we received it from the other body.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. MAHON).

The motion was rejected.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I of motion.

The Clerk read as follows:

Mr. MAHON moves that the House ins its disagreement to the amendment o Senate numbered 82.

The motion was agreed to.

The SPEAKER. The Clerk will r the last amendment in disagreeme

The Clerk read as follows:

Senate amendment No. 83: Page 76, l insert:

SEC. 304. The Supplemental Treasury Post Office Departments Appropriation 1949 (62 Stat. 561), also known as th of June 19, 1948, is amended by addi the end thereof the following:

"No disbursement may be made fro appropriation to the Treasury Depart entitled "Bureau of Internal Revenue funding Internal-Revenue Collections o (a) refunds to the limit of liability of a dividual tax account, and (b) refunds from any credit provision of the Int Revenue Code enacted prior to Janu 1978.".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I of motion.

The Clerk read as follows:

Mr. MAHON moves that the House r from its disagreement to the amendme the Senate numbered 83 and concur th

● Mr. STEED. Mr. Speaker, I a complete agreement with the obje of this Senate amendment—that o quiring that expenditures of p moneys stand the test of public scru through the appropriations pro However, there comes a time when scrutiny yields no benefit. This is o those instances. When the Committe Appropriations is given no discre concerning the appropriation of mo from the Treasury by the author legislation, the public interest is served by requiring the consideratio such appropriations during the appro ations process. One perfect examp the payment of interest on the p debt which amounts to over $55 bi dollars a year and is increasing ra all the time. No one of mature judgm would advocate that the Appropriat Committee should hold lengthy hear on that requirement for the expendi of public moneys because the requ ment is fixed. Any reduction below amount required during the appro tions process would be meaningless.

I consider that the present instan equally meaningless. Under existing islation, should a person become ent to a payment of "negative" income t the payment of an entitlement over above the amount of tax liability—su "refund" or payment would becom liability of the Government under Therefore, if the present Senate am ment is adopted, it would become ne sary for the Appropriations Comm to consider a request from the Execu to appropriate the necessary funds. urally any delay in the passage of an appropriation would entail delay "refunds" or payments to individ who are entitled under law. More portantly, of course, would be the

that the Executive could not accurately

that the Executive could not accurately estimate the requirement for funds and the Appropriations Committee would not have any real discretion in the amount of the appropriation.

Mr. Speaker, I make these comments because I feel that Members are entitled to know that the adoption of this Senate amendment will, in all probability, cause the unnecessary delay in refunds to citizens who are entitled, under law, to payments from their government. This can only result in further deterioration of the esteem in which this body is held by the public.●

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and the several motions was laid on the table.

FIRST BIENNIAL REPORT ON NATIONAL URBAN POLICY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read, and, together with the accompanying papers, without objection, referred to the Committee on Banking, Finance and Urban Affairs:

To the Congress of the United States:

I am forwarding herewith the First Biennial Report on National Urban Policy in accordance with Sections 702 and 703(a) of the Housing and Urban Development Act of 1970, as amended in 1977.

JIMMY CARTER.

THE WHITE HOUSE, *August 16, 1978.*

ANNUAL REPORT OF RAILROAD RETIREMENT BOARD FISCAL YEAR 1977—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read, and, together with the accompanying papers, without objection, referred to the Committee on Interstate and Foreign Commerce:

To the Congress of the United States:

I hereby transmit the annual report of the Railroad Retirement Board which summarizes its fiscal year 1977 operations under both the Railroad Retirement and Railroad Unemployment Insurance Acts.

Benefit payments under these Acts totaled almost $4 billion. Of this amount, $3.8 billion went to 1,100,000 retirement and survivor annuitants and $180 million was paid to 160,000 unemployment and sickness beneficiaries.

During the past year, I appointed a new Chairman and two Board members. To represent the public interest and advise the Congress of the Administration's position, I appointed as Chairman, William P. Adams, former Transportation Counsel for the House Committee on Interstate and Foreign Commerce. I appointed one Board member who was nominated by railroad management—Earl Oliver, a former official of the Illinois Central Gulf Railroad and the National Railway Labor Conference—and another Board member who was nominated by railroad labor—Charles J. Chamberlain, former President of the Brotherhood of Railroad Signalmen and Chairman of the Railway Labor Executives' Association. Each of these appointees is extremely well qualified and can be expected to set a high level of public service.

JIMMY CARTER.

THE WHITE HOUSE, *August 17, 1978.*

1977 ANNUAL REPORT OF FEDERAL PREVAILING RATE ADVISORY COMMITTEE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read, and, together with the accompanying papers, without objection, referred to the Committee on Post Office and Civil Service:

To the Congress of the United States:

In accordance with section 5347(e) of title 5 of the United States Code, I hereby transmit to you the 1977 Annual Report of the Federal Prevailing Rate Advisory Committee.

JIMMY CARTER.

THE WHITE HOUSE, *August 17, 1978.*

CONFERENCE REPORT ON H.R. 12935, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1979

Mr. BENJAMIN. Mr. Speaker, I call up the conference report on the bill (H.R. 12935) making appropriations for the legislative branch for the fiscal year ending September 30, 1979, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of August 9, 1978.)

Mr. BENJAMIN (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER pro tempore. The gentleman from Indiana (Mr. BENJAMIN) will be recognized for 30 minutes and the gentleman from Pennsylvania (Mr. COUGHLIN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Indiana (Mr. BENJAMIN).

Mr. BENJAMIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference agreement provides appropriations totaling $1,118,244,400 for fiscal year 1979, which is $127,996,600 above the fiscal year 1978 level enacted to date and $25,579,700 below the budget estimates. There is also $12,801,700 in the bill for 1978 supplemental items for the Senate. The conference action is $195,752,600 above the amount in the bill as it passed the House; however, it includes $195,556,600 for Senate items not considered by the House. Traditionally the Senate housekeeping items are left for decision and insertion by the other body and similarly the Senate does not act on our items. The conference total is the same amount as approved in the Senate bill.

These figures do not include the effects of a 5-percent withholding from obligation and expenditure of the total budget authority contained in the act. The conferees agreed to the 5 percent withholding, for payments not required by law, but since there is no actual deduction in budget authority, only in obligations and expenditures, we did not feel technically justified in deducting the 5 percent from the total.

consideration of this conference action, I will ask permission to include a comparative tabulation of the conference action at this point in the RECORD.

The tabulation referred to follows:

LEGISLATIVE BRANCH APPROPRIATION BILL, 1979 (H.R. 12935)—CONFERENCE SUMMARY

[Fiscal years]

	New budget authority					Conference compared with —			
	Enacted 1978	Estimates 1979 [1]	House 1979	Senate 1979	Conference 1979 [2]	1978 enacted	1979 estimate	House bill	Senate bill
TITLE I—CONGRESSIONAL OPERATIONS									
SENATE									
Payments to widows and heirs of deceased members of Congress	$180,000					−$180,000			
Compensation and Mileage of the Vice President and Senators and Expense Allowances of the Vice President, the Leaders, and Whips of the Senate									
Compensation and mileage of the Vice President and Senators	6,474,300	$6,480,000		$6,480,000	$6,480,000	+5,700		+$6,480,000	

See footnotes at end of table.

LEGISLATIVE BRANCH APPROPRIATION BILL, 1979 (H.R. 12935)—CONFERENCE SUMMARY—Continued

[Fiscal years]

	New budget authority					Conference compared with —			
	Enacted 1978	Estimates 1979 [1]	House 1979	Senate 1979	Conference 1979 [2]	1978 enacted	1979 estimate	House bill	Senate bill
Expense allowances of the Vice President, majority and minority leaders and majority and minority whips:									
Vice President	10,000	10,000		10,000	10,000			+10,000	
Majority leader of the Senate	5,000	5,000		5,000	5,000			+5,000	
Minority leader of the Senate	5,000	5,000		5,000	5,000			+5,000	
Majority whip of the Senate	2,500	2,500		2,500	2,500			+2,500	
Minority whip of the Senate	2,500	2,500		2,500	2,500			+2,500	
Total, expense allowances	25,000	25,000		25,000	25,000			+25,000	
Total, Vice President and Senators	6,499,300	6,505,000		6,505,000	6,505,000	+5,700		+6,505,000	
Salaries, Officers and Employees									
Office of the Vice President	687,500	767,000		767,000	767,000	+79,500		+767,000	
1978 supplemental		35,500		35,500	35,500			+35,500	
Office of the President pro tempore	111,100	116,000		116,000	116,000	+4,900		+116,000	
1978 supplemental		4,900		4,900	4,900			+4,900	
Office of the Deputy President pro tempore	111,100	116,000				−111,100	−116,000		
1978 supplemental		4,900					−4,900		
Offices of the majority and minority leaders	383,400	411,000		411,000	411,000	+27,600		+411,000	
1978 supplemental		27,600		27,600	27,600			+27,600	
Floor assistants to the majority and minority leaders	102,900	103,000		103,000	103,000	+100		+103,000	
1978 supplemental		100		100	100			+100	
Offices of the majority and minority whips	222,200	239,000		239,000	239,000	+16,800		+239,000	
1978 supplemental		16,800		16,800	16,800			+16,800	
Offices of the secretaries of the conference of the majority and the conference of the minority	127,300	132,000		132,000	132,000	+4,700		+132,000	
1978 supplemental		4,700		4,700	4,700			+4,700	
Office of the Chaplain	$36,800	$40,000		$40,000	$40,000	+$3,200		+$40,000	
1978 supplemental		3,200		3,200	3,200			+3,200	
Office of the Secretary	3,205,200	4,116,000		4,116,000	4,116,000	+910,800		+4,116,000	
1978 supplemental		220,800		220,800	220,800			+220,800	
Committee employees	9,284,700	10,528,000		10,528,000	10,528,000	+1,243,300		+10,528,000	
1978 supplemental		243,300		243,300	243,300			+243,300	
Conference committees	635,700	750,000		750,000	750,000	+114,300		+750,000	
1978 supplemental		52,300		52,300	52,300			+52,300	
Administrative, clerical, and legislative assistance to Senators	56,200,900	70,881,000		70,881,000	70,881,000	+14,680,100		+70,881,000	
1978 supplemental		4,464,100		4,464,100	4,464,100			+4,464,100	
Office of Sergeant at Arms and Doorkeeper	16,681,000	19,803,000		19,803,000	19,803,000	+3,122,000		+19,803,000	
1978 supplemental		1,219,000		1,219,000	1,219,000			+1,219,000	
Offices of the secretaries for the majority and minority	390,300	411,000		411,000	411,000	+20,700		+411,000	
1978 supplemental		20,700		20,700	20,700			+20,700	
Agency contributions and longevity compensation	6,500,000	7,785,000		7,785,000	7,785,000	+1,285,000		+7,785,000	
1978 supplemental		1,035,000		875,000	875,000		−258,000	+785,000	
Total, salaries, officers and employees	94,680,100	116,198,000		116,082,000	116,082,000	+21,401,900	−116,000	+116,082,000	
1978 supplemental		7,352,900		7,098,000	7,098,000		−254,900	+7,098,000	
Office of the Legislative Counsel of the Senate									
Salaries and expenses	759,700	815,000		815,000	815,000	+55,300		+815,000	
1978 supplemental		33,300		33,300	33,300			+33,300	
Contingent Expenses of the Senate									
Senate policy committees	1,178,500	1,388,000		1,388,000	1,388,000	+209,500		+1,388,000	
1978 pay supplemental		93,500		93,500	93,500			+93,500	
Automobiles and maintenance	50,000	60,000		58,000	58,000	+8,000	−2,000	+58,000	
Inquiries and investigations	28,441,200	30,625,000		30,625,000	30,625,000	+2,183,800		+30,625,000	
1978 pay supplemental		1,553,800		1,553,800	1,553,800			+1,553,800	
Folding documents	95,400	103,000		103,000	103,000	+7,600		+103,000	
1978 pay supplemental		7,600		7,600	7,600			+7,600	
Miscellaneous items	21,476,500	29,443,000		29,443,000	29,443,000	+7,966,500		+29,443,000	
1978 supplemental		4,015,500		4,015,500	4,015,000			+4,015,500	
Postage stamps	25,200	6,000		6,000	6,000	−19,200		+6,000	
Stationery (revolving fund)	37,300	39,000		39,000	39,000	+1,700		+39,000	
Total, contingent expenses of the Senate	51,304,100	61,664,000		61,662,000	61,662,000	+10,357,900	−2,000	+61,662,000	
1978 supplemental		5,670,400		5,670,400	5,670,400			+5,670,400	
Total, Senate	153,423,200	185,162,000		185,064,000	185,064,000	+31,640,800	−118,000	+185,064,000	
1978 supplemental		13,056,600		12,801,700	12,801,700		−254,900	+12,801,700	
HOUSE OF REPRESENTATIVES									
Compensation and Mileage for the Members									
Compensation of Members	27,760,400	27,699,300	$27,699,300	27,699,300	27,699,300	−61,100			
Mileage of Members	210,000	210,000	210,000	210,000	210,000				
Total, compensation and mileage for the Members	27,970,400	27,909,300	27,909,300	27,909,300	27,909,300	−61,100			
House Leadership Offices									
Office of the Speaker	520,400	545,300	545,300	545,300	545,300	+24,900			
Office of the majority floor leader	369,100	384,100	384,100	384,100	384,100	+15,000			
Office of the minority floor leader	464,100	479,100	479,100	479,100	479,100	+15,000			
Office of the majority whip	399,000	416,800	416,800	416,800	416,800	+17,800			
Office of the minority whip	304,000	321,800	321,800	321,800	321,800	+17,800			
Total, House leadership offices	2,056,600	2,147,100	2,247,100	2,147,100	2,147,100	+90,500			
Salaries, Officers and Employees									
Office of the Clerk	5,819,000	7,541,600	7,541,600	7,541,600	7,541,600	+1,722,600			
Office of the Sergeant at Arms	9,352,700	10,889,900	10,889,900	10,889,900	10,889,900	+1,537,200			
Office of the Doorkeeper	3,700,600	4,343,000	4,343,000	4,343,000	4,343,000	+642,400			

See footnotes at end of table.

LEGISLATIVE BRANCH APPROPRIATION BILL, 1979 (H.R. 12935)—CONFERENCE SUMMARY—Continued

[Fiscal years]

	New budget authority					Conference compared with —			
	Enacted 1978	Estimates 1979 [1]	House 1979	Senate 1979	Conference 1979 [2]	1978 enacted	1979 estimate	House bill	Senate bill
Office of the Postmaster	1,116,600	1,177,100	1,177,100	1,177,100	1,177,100	+60,500			
Office of the Chaplain	22,100	23,700	23,700	23,700	23,700	+1,600			
Office of the Parliamentarian	197,600	250,000	250,000	250,000	250,000	+52,400			
Compilation of precedents of the House of Representatives	288,600	295,000	295,000	295,000	295,000	+6,400			
Official reporters of debates	536,300					−536,300			
Official reporters to committees	619,600					−619,600			
2 printing clerks for majority and minority	31,300	33,500				−31,300	−33,500		
Technical assistant Office of the Attending Physician	28,700	30,700	30,700	30,700	30,700	+2,000			
House Democratic Steering Committee	382,000	308,900	308,900	308,900	308,900	−73,100			
House Democratic Caucus	73,300	83,600	83,600	83,600	83,600	+10,300			
House Republican Conference	455,300	542,500	542,500	542,500	542,500	+87,200			
6 minority employees	280,550	272,500	272,500	272,500	272,500	−8,050			
L.B.J. interns		562,000	562,000	562,000	562,000	+562,000			
Former Speakers' staffs		87,200	87,200	87,200	87,200	+87,200			
Total, salaries, officers and employees	22,904,250	26,441,200	26,407,700	26,407,700	26,407,700	+3,503,450	−33,500		
Committee Employees									
Professional and clerical employees (standing committees)	24,705,000	24,705,000	24,705,000	24,705,000	24,705,000				
Committee on Appropriations (Studies and Investigations)									
Salaries and expenses	2,768,000	2,895,000	2,895,000	2,895,000	2,895,000	+127,000			
Committee on the Budget (Studies)									
Salaries and expenses	261,000	261,000	261,000	261,000	261,000				
Office of the Law Revision Counsel									
Salaries and expenses	$394,350	$435,000	$435,000	$435,000	$435,000	+$40,650			
Office of the Legislative Counsel									
Salaries and expenses	1,682,000	1,879,000	1,879,000	1,879,000	1,879,000	+197,000			
Members' Clerk Hire									
Clerk hire	107,192,000	112,648,300	112,648,300	112,648,300	112,648,300	+5,456,300			
Contingent Expenses of the House									
Allowances and Expenses									
Official expenses of Members		38,367,989	38,367,989	38,367,989	38,367,989	+38,367,989			
Computer and related services for Members	3,500,000					−3,500,000			
Constituent communication expenses	2,738,400					−2,738,400			
Equipment (purchase, lease, and maintenance)	6,418,000					−6,418,000			
Official expenses	3,073,000					−3,073,000			
Postage stamps	97,700					−97,700			
Rental of district office space (private and Federal)	6,739,280					−6,739,280			
Transportation for Members and staff	3,494,000					−3,494,000			
Telegraph and telephone	10,812,500					−10,812,500			
Supplies and materials	1,712,000					−1,712,000			
Supplies, materials, and administrative costs		2,578,511	2,578,511	2,578,511	2,578,511	+2,578,511			
Furniture and furnishings	2,020,000	1,085,000	1,085,000	1,085,000	1,085,000	−935,000			
Reporting hearings	1,598,000	1,501,000	1,501,000	1,501,000	1,501,000	−97,000			
Salaries authorized by House resolutions	2,340,000					−2,340,000			
Reemployed annuitants reimbursement		2,099,700	2,099,700	2,099,700	2,099,700	+2,099,700			
Government contributions	12,343,000	14,000,000	14,000,000	14,000,000	14,000,000	+1,657,000			
Miscellaneous items	299,120	334,800	334,800	334,800	334,800	+35,680			
Total, allowances and expenses	57,185,000	59,967,000	59,967,000	59,967,000	59,967,000	+2,782,000			
Stationery (Revolving Fund)									
Allowances	2,853,500					−2,853,500			
Special and Select Committees									
Salaries and expenses	32,700,000	46,762,000	46,762,000	46,762,000	46,762,000	+14,062,000			
Total, contingent expenses of the House	92,738,500	106,729,000	106,729,000	106,729,000	106,729,000	+13,990,500			
Total, House of Representatives	282,672,100	306,049,900	306,016,400	306,016,400	306,016,400	+23,344,300	−33,500		
JOINT ITEMS									
Contingent Expenses of the Senate									
Joint Economic Committee	1,697,100	2,353,000	2,353,000	2,353,000	2,353,000	+655,900			
Joint Committee on Printing	1,081,000	656,000	656,000	656,000	656,000	−425,000			
Total, contingent expenses of the Senate	2,778,100	3,009,000	3,009,000	3,009,000	3,009,000	+230,900			
Joint Committee on Taxation									
Salaries and expenses	1,948,100	2,375,200	2,375,200	2,375,200	2,375,200	+427,100			
Office of the Attending Physician									
Medical supplies, equipment, expenses, and allowances	344,200	465,000	465,000	465,000	465,000	+120,800			
Capitol Police									
General expenses	724,800	750,100	750,100	750,100	750,100	+25,300			
Capitol Police Board	1,572,000	1,467,800	1,421,000	1,421,000	1,421,000	−151,000	−46,800		
Total, Capitol Police	2,296,800	2,217,900	2,171,100	2,171,100	2,171,100	−125,700	−46,800		

See footnotes at end of table.

LEGISLATIVE BRANCH APPROPRIATION BILL, 1979 (H.R. 12935)—CONFERENCE SUMMARY—Continued

[Fiscal years]

	New budget authority					Conference compared with —			
	Enacted 1978	Estimates 1979 [1]	House 1979	Senate 1979	Conference 1979 [2]	1978 enacted	1979 estimate	House bill	Senate bill
Education of Pages									
Education of congressional pages and pages of the Supreme Court	193,700	205,800	205,800	205,800	205,800	+12,100			
Official Mail Costs									
Expenses	48,926,000	64,944,000	64,944,000	64,944,000	64,944,000	+16,018,000			
Capitol Guide Service									
Salaries and expenses	403,700	544,000	544,000	544,000	544,000	+140,300			
Statements of Appropriations									
Preparation	13,000	13,000	13,000	13,000	13,000				
Total, joint items	56,903,600	73,773,900	73,727,100	73,727,100	73,727,100	+16,823,500	−46,800		
OFFICE OF TECHNOLOGY ASSESSMENT									
Salaries and expenses	7,400,000	10,000,000	9,700,000	9,700,000	9,700,000	+2,300,000	−300,000		
CONGRESSIONAL BUDGET OFFICE									
Salaries and expenses	10,400,000	11,368,000	11,172,000	11,368,000	11,368,000	+968,000		+196,000	
ARCHITECT OF THE CAPITOL									
Office of the Architect of the Capitol									
Salaries	$2,002,800	$2,645,300	$2,382,000	$2,382,000	$2,382,000	+$379,200	−$263,300		
Contingent expenses	120,000	210,000	210,000	210,000	210,000	+90,000			
Total, Office of the Architect of the Capitol	2,122,800	2,855,300	2,592,000	2,592,000	2,592,000	+469,200	−263,300		
Capitol Buildings and Grounds									
Capitol Buildings	5,516,000	6,414,500	6,157,000	6,157,000	6,157,000	+641,000	−257,500		
Capitol Grounds	1,919,500	4,241,300	2,565,000	2,565,000	2,565,000	+645,500	−1,676,300		
Senate office buildings	9,102,000	10,328,600		10,328,600	10,328,600	+1,226,600		$+10,328,600	
Senate garage	153,500	164,000		164,000	164,000	+10,500		+164,000	
House office buildings	18,176,900	21,065,100	21,065,000	21,605,000	21,065,000	+2,888,100	−100		
Capitol Power Plant (operation)	12,317,000	15,544,700	13,635,000	13,635,000	13,635,000	+1,318,000	−1,909,700		
Total, Capitol Buildings and Grounds	47,184,900	57,758,200	43,422,000	53,914,600	53,914,600	+6,729,700	−3,843,600	+10,492,600	
Total, Architect of the Capitol (except Library buildings and grounds)	49,307,700	60,613,500	46,014,000	56,506,600	56,506,600	+7,198,500	−4,106,900	+10,492,600	
LIBRARY OF CONGRESS									
Congressional Research Service									
Salaries and expenses	21,795,000	26,379,000	25,553,000	25,553,000	25,553,000	+3,758,000	−826,000		
GOVERNMENT PRINTING OFFICE									
Congressional printing and binding	71,674,000	73,961,000	73,961,000	73,961,000	73,961,000	+2,287,000			
Total, title I—Congressional operations	653,575,600	747,327,300	546,143,500	741,896,100	741,896,100	+88,320,500	−5,431,200	+195,752,600	
1978 supplemental		13,056,600		12,801,700	12,801,700	+12,801,700	−254,900	+12,801,700	
TITLE II—RELATED AGENCIES									
BOTANIC GARDEN									
Salaries and expenses	1,283,000	1,391,600	1,392,000	1,392,000	1,392,000	+109,000	+400		
LIBRARY OF CONGRESS									
Salaries and expenses	81,295,000	102,058,000	92,249,000	92,249,000	92,249,000	+10,954,000	−9,809,000		
Copyright Office, salaries and expenses	7,945,500	8,560,500	8,560,500	8,560,500	8,560,500	+615,000			
National Commission on New Technological Uses of Copyrighted Works, salaries and expenses	520,500					−520,500			
Books for the blind and physically handicapped, salaries and expenses	28,720,700	43,072,700	36,729,700	36,729,700	36,729,700	+8,009,000	−6,343,000		
Collection and distribution of library materials (special foreign currency program):									
Payments in Treasury-owned foreign currencies	3,184,600	3,603,500	3,603,500	3,603,500	3,603,500	+418,900			
U.S. dollars	256,600	256,600	256,600	256,600	256,600				
Total, collection and distribution of library materials	3,441,200	3,860,100	3,860,100	3,860,100	3,860,100	+418,900			
Furniture and furnishings	7,030,700	9,455,200	7,694,000	7,694,000	7,694,000	+663,300	−1,761,200		
Total, Library of Congress (except Congressional Research Service)	128,953,600	167,006,500	149,093,300	149,093,300	149,093,300	+20,139,700	−17,913,200		
ARCHITECT OF THE CAPITOL									
Library Buildings and Grounds									
Structural and mechanical care	2,169,100	2,794,700	2,776,000	2,776,000	2,776,000	+606,900	−18,700		
COPYRIGHT ROYALTY TRIBUNAL									
Salaries and expenses	726,000	935,000	805,000	805,000	805,000	+79,000	−130,000		

Footnotes at end of table.

LEGISLATIVE BRANCH APPROPRIATION BILL, 1979 (H.R. 12935)—CONFERENCE SUMMARY—Continued

LEGISLATIVE BRANCH APPROPRIATION BILL, 1979 (H.R. 12935)—CONFERENCE SUMMARY—Continued

[Fiscal years]

	New budget authority					Conference compared with —			
	Enacted 1978	Estimates 1979 [1]	House 1979	Senate 1979	Conference 1979 [2]	1978 enacted	1979 estimate	House bill	Senate bill
GOVERNMENT PRINTING OFFICE									
Printing and binding	12,952,500	11,476,000	11,476,000	11,476,000	11,476,000	−1,476,500			
Office of Superintendent of Documents, salaries and expenses	21,751,000	23,200,000	23,200,000	23,200,000	23,200,000	+1,449,000			
Total, Government Printing Office (except congressional printing and binding)	34,703,500	34,676,000	34,676,000	34,676,000	34,676,000	−27,500			
GENERAL ACCOUNTING OFFICE									
Salaries and expenses	167,000,000	187,843,000	185,756,000	185,765,000	185,756,000	+18,756,000	−2,087,000		
COST-ACCOUNTING STANDARDS BOARD									
Salaries and expenses	1,837,000	1,850,000	1,850,000	1,850,000	1,850,000	+13,000			
Total, title II—Related agencies	336,672,200	396,496,800	376,348,300	376,348,300	376,348,300	+39,676,100	−20,148,500		
Grand total, titles I and II: New budget (obligational) authority	990,247,800	1,143,824,100	922,491,800	1,118,244,400	1,118,244,400	+127,996,600	−25,579,700	+195,752,600	
1978 supplemental		13,056,600		12,801,700	12,801,700		−254,900	+12,801,700	
RECAPITULATION									
Title I—Congressional operations	653,575,600	747,327,300	546,143,500	741,896,100	741,896,100	+88,320,500	−5,431,200	+195,752,600	
1978 supplemental		13,056,600		12,801,700	12,801,700		−254,900	+12,801,700	
Title II—Related agencies	336,672,200	396,496,800	376,348,300	376,348,300	376,348,300	+39,676,100	−20,148,500		
Title I—Congressional operations:									
Senate	$153,423,200	$185,132,300		$185,064,000	$185,064,000	+$31,640,800	−$138,000	+$185,064,000	
1978 supplemental		13,056,600		12,801,700	12,801,700		−254,900	+12,801,700	
House of Representatives	282,672,100	306,049,900	306,016,400	306,016,400	306,016,400	+23,344,300	−33,500		
Joint items	56,903,600	73,773,900	73,787,100	73,727,100	73,727,100	+16,823,500	−46,800		
Office of Technology Assessment	7,400,000	10,000,000	9,700,000	9,700,000	9,700,000	+2,300,000	−300,000		
Congressional Budget Office	10,400,000	11,368,000	11,172,000	11,368,000	11,368,000	+968,000		+196,000	
Architect of the Capitol (except Library buildings and grounds)	49,307,700	60,613,500	56,014,000	56,506,600	56,506,600	+7,198,900	−4,106,900	+10,492,600	
Congressional Research Service, Library of Congress	21,795,000	26,379,000	25,553,000	25,553,000	25,553,000	+3,758,000	−826,000		
Congressional printing and binding, Government Printing Office	71,674,000	73,961,000	73,961,000	73,961,000	73,961,000	+2,287,000			
Total, title I—Congressional operations	653,575,600	747,327,300	546,143,500	741,896,100	741,896,100	+88,320,500	−5,431,200	+195,752,600	
1978 supplemental		13,056,600		12,801,700	12,801,700		−254,900	+12,801,700	
Title II—Related agencies:									
Botanic Garden	1,283,000	1,391,600	1,392,000	1,392,000	1,392,000	+109,000	+400		
Library of Congress (except Congressional Research Service)	128,953,600	167,006,500	149,093,300	149,093,300	149,093,300	+20,139,700	−17,913,200		
Library buildings and grounds, Architect of the Capitol	2,169,100	2,794,700	2,776,000	2,776,000	2,776,000	+606,900	−18,700		
Copyright Royalty Tribunal	726,000	935,000	805,000	805,000	805,000	+79,000	−130,000		
Government Printing Office (except congressional printing and binding)	34,703,500	34,676,000	34,676,000	34,676,000	34,676,000	−27,500			
General Accounting Office	167,000,000	187,843,000	185,756,000	185,756,000	185,756,000	+18,756,000	−2,087,000		
Cost-Accounting Standards Board	1,837,000	1,850,000	1,850,000	1,850,000	1,850,000	+13,000			
Total, title II—Related agencies	336,672,200	396,496,800	376,348,300	376,348,300	376,348,300	+39,676,100	−20,148,500		
Grand total, new budget (obligational) authority	990,247,800	1,143,824,100	922,491,800	1,118,244,400	1,118,244,400	+127,996,600	−25,579,700	+195,752,600	
1978 supplemental		13,056,600		12,801,700	12,801,700		−254,900	+12,801,700	

[1] Includes budget amendments for fiscal year 1979 totaling $9,307,000 in H. Doc. 95-331 and S. Doc. 95-106.

[2] In addition, the conference agreement provides that of the total budget authority provided in the act, for payments not required by law, 5 percent shall be withheld from obligation and expenditure.

Mr. Speaker, I will not attempt to speak to each of the items we considered in conference. There were a total of 55 amendments, 41 of which related solely to Senate housekeeping items. The remainder are explained fully in the statement accompanying the conference report which was printed in the CONGRESSIONAL RECORD on Wednesday, August 9.

Mr. Speaker, this is a good conference agreement. I urge its adoption.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield for a question at this point?

Mr. BENJAMIN. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for yielding.

In one of the amendments of the other body, number 37, there is a rather interesting formulation of expenses and what they are to be paid for. I ask this question again because there is an unfortunate tradition around here that when one body acquires some prerogative, the other has to have it immediately.

I have read this amendment. It pertains to any person who may be named by a Member of the other body to an advisory panel or a committee for recommendations for nominees for Federal judgeships or for recommendations for nominees to service academies. Many Members do have these advisory committees for service academy nominees. The amendment permits any of those committee persons to be paid out of taxpayers' funds for their travel within the State or from the State to the District of Columbia.

The question I have specifically deals with page 28, the last paragraph. Is my reading of the language correct that each of these persons may be reimbursed up to $3,000 for each calendar year, and that there is not any limit to the number of people who can be named to these committees?

Mr. BENJAMIN. The report language, as found on page 31 of the Senate report, document 95-1024, indicates that the amount of expenses incurred by individuals selected by Senators, for which reimbursement may be made under the subsection, shall not exceed $500 for each calendar year, and the total amount for which reimbursement may be made under the subsection shall not exceed $3,000 for each calendar year.

That is the language which is included in the report under section 108(a).

Mr. BAUMAN. If the gentleman could respond specifically to my question, on page 27 in amendment number 37, under section 108, subsection (h)(1), the language describes an individual who is selected by a Senator to serve on a panel, as I have described. The gentleman has just read the report concern-

ing that, which says that the reimbursement which may be made to such individuals under the section shall not exceed $3.000 in each calendar year.

My question is, Does this mean that an unlimited number of designees of Members of the other body may be able to get up to $3,000 a year in travel and other expenses?

Mr. BENJAMIN. It means that can be done in the category described, and that is the academy nominees and the Federal judgeships. Of course, there is a limitation imposed under present law, one in terms of the nominees to service academies and secondly, in terms of Federal judgeships.

I would have to respond in the affirmative to the gentleman's question and say that that is precisely what the other body has done.

Mr. BAUMAN. There is no limit on the number; is that correct? In other words, if 50 persons from the State of Maryland were named, each could be eligible for up to $3,000 annually in reimbursement for expenses; is that correct?

Mr. BENJAMIN. I have read the language of the report to the gentleman. I would have to concur with the gentleman's analysis.

Mr. BAUMAN. That is more than disturbing. The possibility of abuse is very great in such an unlimited arrangement.

Mr. COUGHLIN. Mr. Speaker, I yield myself such time as I may consume.

All of the minority members of the conference committee did sign the conference report.

Mr. Speaker, I think that as far as the House items in this conference report in particular are concerned, there is very little controversy. The 5 percent cut that was included and passed by the House is included here.

Mr. Speaker. I think the conference report is a good one, and I yield back the balance of my time.

Mr. BENJAMIN. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report .

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 255, nays 123, not voting 54, as follows:

[Roll No. 717]

YEAS—255

Addabbo
Akaka
Alexander
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Ashley
Aspin
Baldus
Beard, R.I.
Bedell
Bellenson
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bonior
Bonker
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Butler
Caputo
Carney
Carr
Carter
Chappell
Chisholm
Collins, Ill.
Conte
Conyers
Corcoran
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Deliums
Derrick
Dickinson
Dicks
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Evans, Ga.
Fary
Findley
Fish
Fisher
Flippo
Flood
Florio
Foley
Ford, Mich.
Ford, Tenn.
Garcia
Gaydos
Gephardt
Giaimo
Ginn
Glickman
Gonzalez
Gore
Green
Gudger
Hall
Hamilton
Hanley
Hannaford
Harkin
Harris
Heckler
Hefner
Hightower
Hillis
Hollenbeck
Holtzman
Horton
Howard
Hyde
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kildee
Krebs
Krueger
Lederer
Leggett
Lehman
Lent
Livingston
Lloyd, Calif.
Long, La.
Long, Md.
Lundine
McClory
McCloskey
McCormack
McDade
McFall
McHugh
McKay
McKinney
Maguire
Mahon
Mann
Markey
Mathis
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Michael
Natcher
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Preyer
Price
Pritchard
Pursell
Quie
Rahall
Railsback
Rangel
Reuss
Richmond
Rinaldo
Roberts
Robinson
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Runnels
Ryan
Satterfield
Sawyer
Scheuer
Sebelius
Seiberling
Sharp
Simon
Skelton
Skubitz
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Staggers
Stanton
Steed
Stockman
Stratton
Studds
Thornton
Traxler
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walsh
Wampler
Waxman
Weiss
Whalen
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wolff
Wright
Wydler
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—123

Abdnor
Ammerman
Anderson, Calif.
Archer
Armstrong
Ashbrook
AuCoin
Badham
Bafalis
Baucus
Bauman
Beard, Tenn.
Bennett
Blouin
Bowen
Broomfield
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Fla.
Burton, John
Byron
Cavanaugh
Clawson, Del
Cleveland
Cochran
Cohen
Coleman
Collins, Tex.
Conable
Crane
Cunningham
Derwinski
Devine
Dornan
Duncan, Tenn.
Edwards, Okla.
Emery
Ertel
Evans, Del.
Evans, Ind.
Fenwick
Fithian
Forsythe
Frenzel
Fuqua
Gammage
Gibbons
Gilman
Goldwater
Goodling
Gradison
Grassley
Guyer
Hammer-schmidt
Hansen
Harsha
Heftel
Holt
Hubbard
Hughes
Ichord
Jacobs
Jeffords
Jones, Okla.
Kelly
Kemp
Keys
Kindness
Kostmayer
LaFalce
Lagomarsino
Latta
Leach
Levitas
Lott
Lujan
Luken
McEwen
Madigan
Marks
Marlenee
Marriott
Martin
Mattox
Mikulski
Miller, Ohio
Montgomery
Moorhead, Calif.
Motti
Murphy, Pa.
Myers, Gary
Myers, John
Neal
Pease
Pressler
Quayle
Quillen
Regula
Rhodes
Rousselot
Rudd
Ruppe
Russo
Santini
Schroeder
Shuster
Snyder
Spence
Steers
Stump
Symms
Taylor
Thone
Treible
Walgren
Walker
Watkins
Weaver
Wirth
Wylie
Young, Fla.

NOT VOTING—54

Barnard
Boiling
Burke, Calif.
Cederberg
Clausen, Don H.
Clay
Cornwell
Danielson
Delaney
Dent
Diggs
Eckhardt
English
Evans, Colo.
Fascell
Flowers
Flynt
Fountain
Fowler
Fraser
Frey
Hagedorn
Harrington
Hawkins
Holland
Huckaby
Ireland
Jenkins
Kasten
Le Fante
Lloyd, Tenn.
McDonald
Mikva
Milford
Miller, Calif.
Risenhoover
Rodino
Sarasin
Schulze
Shipley
Sikes
Sisk
Smith, Nebr.
Stangeland
Stark
Steiger
Stokes
Teague
Thompson
Tsongas
Tucker
Wilson, C. H.
Young, Alaska
Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Thompson for, with Mr. Kasten against.
Mr. Rodino for, with Mr. McDonald against.

Until further notice:

Mr. Sikes with Mr. Cederberg.
Mr. Cornwell with Mr. Frey.
Mr. Danielson with Mr. Sarasin.
Mr. Delaney with Mr. Stangeland.
Mr. Dent with Mr. Milford.
Mr. Ireland with Mr. Holland.
Mr. Risenhoover with Don H. Clausen.
Mr. Shipley with Mr. Eckhardt.
Mr. Stark with Mr. Fowler.
Mr. Stokes with Mr. Fraser.
Mr. Teague with Mr. Hagedorn.
Mr. Tsongas with Mr. Steiger.
Mrs. Burke of California with Mr. Young of Alaska.
Mr. Charles H. Wilson of California with Mr. Miller of California.
Mr. Mikva with Mr. Barnard.
Mr. Fascell with Mr. Huckaby.
Mr. Fountain with Mr. Sisk.
Mr. Hawkins with Mr. English.
Mr. Diggs with Mr. Evans of Colorado.
Mr. Flowers with Mr. Tucker.
Mr. Flynt with Mrs. Smith of Nebraska.
Mr. Clay with Mr. Jenkins.
Mr. Le Fante with Mrs. Lloyd of Tennessee.
Mr. Harrington with Mr. Schulze.

Mr. DERWINSKI changed his vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore (Mr. MURPHY of New York). The Clerk will report the first amendment in disagreement.

Mr. BENJAMIN. Mr. Speaker, inasmuch as amendments Nos. 1 through 3 relate solely to housekeeping operations of the other body in which, by practice, the House concurs without intervention, I ask unanimous consent that Senate amendments Nos. 1 through 39 be considered as read, printed in the RECORD and that they be considered en bloc.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

an Assistant Reporter of Debates at not to

mittee $375,000 for each such committee in

There was no objection.

Senate amendments Nos. 1 through 39: Line 2, page 2, through line 3, page 33, insert:

SENATE

COMPENSATION AND MILEAGE OF THE VICE PRESIDENT AND SENATORS AND EXPENSE ALLOWANCES OF THE VICE PRESIDENT, THE LEADERS, AND WHIPS OF THE SENATE

COMPENSATION AND MILEAGE OF THE VICE PRESIDENT AND SENATORS

For compensation and mileage of the Vice President and Senators of the United States, $6,480,000.

EXPENSE ALLOWANCE OF THE VICE PRESIDENT, MAJORITY AND MINOTITY LEADERS AND MAJORITY AND MINORITY WHIPS

For expense allowances of the Vice President, $10,000; Majority Leader of the Senate, $5,000; Minority Leader of the Senate, $5,000; Majority Whip of the Senate, $2,500; and Minority Whip of the Senate, $2,500; in all, $25,000.

SALARIES, OFFICERS AND EMPLOYEES

For compensation of officers, employees, clerks to Senators, and others as authorized by law, including agency contributions and longevity compensation as authorized, which shall be paid from this appropriation without regard to the below limitations, as follows:

OFFICE OF THE VICE PRESIDENT

For clerical assistance to the Vice President, $767,000.

For an additional amount for "Office of the Vice President", fiscal year 1978, $35,500.

OFFICE OF THE PRESIDENT PRO TEMPORE

For Office of the President Pro Tempore, $116,000.

For an additional amount for "Office of the President Pro Tempore", fiscal year 1978, $4,900.

OFFICES OF THE MAJORITY AND MINORITY LEADERS

For Offices of the Majority and Minority Leaders, $411,000.

For an additional amount for "Offices of the Majority and Minority Leaders", fiscal year 1978, $27,600.

FLOOR ASSISTANTS TO THE MAJORITY AND MINORITY LEADERS

For Floor Assistants to the Majority and Minority Leaders, $103,000.

For an additional amount for "Floor Assistants to the Majority and Minority Leaders", fiscal year 1978, $100.

OFFICES OF THE MAJORITY AND MINORITY WHIPS

For Offices of the Majority and Minority Whips, $239,000.

For an additional amount for "Offices of the Majority and Minority Whips", fiscal year 1978, $16,800.

OFFICES OF THE SECRETARIES OF THE CONFERENCE OF THE MAJORITY AND THE CONFERENCE OF THE MINORITY

For Offices of the Secretaries of the Conference of the Majority and the Conference of the Minority, $132,000.

For an additional amount for "Offices of the Secretaries of the Conference of the Majority and the Conference of the Minority", fiscal year 1978, $4,700.

OFFICE OF THE CHAPLAIN

For Office of the Chaplain, $40,000.

For an additional amount for "Office of the Chaplain", fiscal year 1978, $3,200.

OFFICE OF THE SECRETARY

For office of the Secretary, $4,116,000, including $180,253 required for the purpose specified and authorized by section 74(b) of title 2, United States Code: *Provided*, That, effective October 1, 1978, the Secretary may appoint and fix the compensation of a Staff Assistant at not to exceed $27,745 per annum in lieu of not to exceed $25,776 per annum; an Assistant Reporter of Debates at not to exceed $33,115 per annum in lieu of not to exceed $35,084 per annum; an Assistant Keeper of Stationery at not to exceed $30,072 per annum in lieu of not to exceed $27,566 per annum; a Chief Clerk, Stationery Room, at not to exceed $21,480 per annum in lieu of not to exceed $19,332 per annum; a Bookkeeper, Stationery Room, at not to exceed $19,690 per annum in lieu of not to exceed $17,542 per annum; a Senior Counter Clerk, Stationery Room, at not to exceed $15,752 per annum in lieu of a Clerk at not to exceed $14,678 per annum; a Secretary to Parliamentarian at not to exceed $20,585 per annum in lieu of not to exceed $18,258 per annum; an Assistant Journal Clerk at not to exceed $34,368 per annum in lieu of not to exceed $21,480 per annum; a Counter Clerk, Stationery Room, at not to exceed $14,678 per annum in lieu of an Information Clerk, Digest, at not to exceed $11,277 per annum; a Counter Clerk, Stationery Room, at not to exceed $14,678 per annum in lieu of a Clerk at not to exceed $13,962 per annum; an Associate Historian at not to exceed $26,671 per annum in lieu of not to exceed $23,628 per annum; a Photo Historian at not to exceed $25,955 per annum in lieu of not to exceed $28,998 per annum; a Secretary at not to exceed $20,585 per annum in lieu of not to exceed $21,480 per annum; a Journal Clerk at not to exceed $44,034 per annum in lieu of not to exceed $45,645 per annum; a Secretary at not to exceed $20,585 per annum in lieu of not to exceed $19,332 per annum; a Second Assistant Journal Clerk at not to exceed $27,566 per annum in lieu of a Clerk of Enrolled Bills at not to exceed $25,776 per annum; a Legislative Clerk at not to exceed $44,034 per annum in lieu of not to exceed $45,645 per annum; an Assistant Legislative Clerk at not to exceed $34,368 per annum in lieu of not to exceed $44,034 per annum; a Second Assistant Legislative Clerk at not to exceed $27,566 per annum in lieu of not to exceed $32,578 per annum; a Technical Advisor at not to exceed $32,041 per annum in lieu of not to exceed $35,084 per annum, a Bill Clerk at not to exceed $32,578 per annum in lieu of not to exceed $29,177 per annum; an Assistant Bill Clerk at not to exceed $25,776 per annum in lieu of not to exceed $21,480 per annum; a Terminal Operator at not to exceed $12,351 per annum in lieu of a Clerk, Public Records Office, at not to exceed $16,110 per annum; a Messenger at not to exceed $12,172 per annum in lieu of a Reference Assistant at not to exceed $14,678 per annum; a Technical Services Specialist in the Library at not to exceed $20,406 per annum; and in the Office of Classified National Security Information: a Director at not to exceed $50,478 per annum; a Professional Staff Member at not to exceed $40,096 per annum; a Classified Documents Specialist at not to exceed $27,566 per annum; and two Secretaries at not to exceed $20,585 per annum each: *Provided further*, That the provisions of the preceding proviso shall not apply to the position of Legislative Clerk or Assistant Legislative Clerk so long as the position is held by an individual who has held the position continuously since December 31, 1977.

For an additional amount for "Office of the Secretary", fiscal year 1978, $220,800.

COMMITTEE EMPLOYEES

For professional and clerical assistance to standing committees and the Select Committee on Small Business, $10,528,000.

For an additional amount for "committee employees", fiscal year 1978, $243,300.

CONFERENCE COMMITTEES

For clerical assistance to the Conference of the Majority and the Conference of the Minority, at rates of compensation to be fixed by the Chairman of each such committee, $375,000 for each such committee; in all, $750,000.

For an additional amount for "conference committees", fiscal year 1978, $52,300.

ADMINISTRATIVE, CLERICAL, AND LEGISLATIVE ASSISTANCE TO SENATORS

For administrative, clerical, and legislative assistance to Senators, $70,881,000.

For an additional amount for "administrative and clerical assistants to Senators", fiscal year 1978, $4,464,100.

OFFICE OF SERGEANT AT ARMS AND DOORKEEPER

For Office of the Sergeant at Arms and Doorkeeper, $19,803,000: *Provided*, That, effective October 1, 1978, the Sergeant at Arms and Doorkeeper may appoint and fix the compensation of an Auditor at not to exceed $15,752 per annum; two Teletype Operators at not to exceed $12,530 per annum each; two Assistant Cabinetmakers at not to exceed $15,573 per annum each; six Parking Attendants at not to exceed $4,475 per annum each; a Secretary at not to exceed $15,036 per annum; a Layout Technician at not to exceed $13,962 per annum; a Manager, Computer Operations at not to exceed $34,368 per annum in lieu of an Operations Manager at not to exceed $31,862 per annum; a Manager, Planning, Budget and Administration at not to exceed $34,368 per annum in lieu of a Systems Supervisor at not to exceed $34,368 per annum; a Manager, Data Network at not to exceed $34,368 per annum in lieu of a Network Supervisor at not to exceed $34,368 per annum; a Manager, Systems Programming at not to exceed $34,368 per annum in lieu of a Senior Programmer Supervisor at not to exceed $34,368 per annum; a Manager, Legislative Applications Development at not to exceed $34,368 per annum in lieu of a Senior Programmer Supervisor at not to exceed $34,368 per annum; a Manager, Administrative Applications Development at not to exceed $34,368 per annum in lieu of a Systems Supervisor at not to exceed $34,368 per annum; a Manager, User Training and Liaison at not to exceed $34,368 per annum in lieu of a Systems Supervisor at not to exceed $34,368 per annum;

an Office Manager at not to exceed $20,048 per annum in lieu of an Office Supervisor at not to exceed $19,332 per annum; two Senior Applications Analysts at not to exceed $32,220 per annum each in lieu of two Senior Computer Specialists at not to exceed $31,146 per annum each; two Senior Applications Analysts at not to exceed $31,146 per annum each in lieu of two Senior Programmer Analysts at not to exceed $28,819 per annum each; four Senior Computer Specialists at not to exceed $31,146 per annum each in lieu of four Senior Programmer Analysts at not to exceed $28,819 per annum each; a Senior Computer Specialist at not to exceed $32,220 per annum in lieu of a Lead Analyst at not to exceed $29,535 $28,819 per annum each in lieu of a Senior Programmer Analyst at not to exceed $28,819 per annum; four Computer Specialists at not to exceed $28,819 per annum each in lieu of two Programmer Analysts at not to exceed $26,492 per annum each and a Programmer Analyst at not to exceed $26,134 per annum; ten Senior Programmer Analysts at not to exceed $26,492 per annum each in lieu of two Systems Programmers at not to exceed $26,492 per annum each, a Programmer Analyst at not to exceed $26,492 per annum, a Systems Analyst at not to exceed $26,492 per annum and a Computer Specialist at not to exceed $24,344 per annum; thirteen Senior Programmer Analysts at not to exceed $24,344 per annum each in lieu of seven Programmer Analysts at not to exceed $26,492 per annum each, a Systems Analyst at not to exceed $26,492 per annum, a Systems Programmer at not to exceed $26,492 per annum, two Computer Specialists at

not to exceed $24,344 per annum each, a Computer Specialist at not to exceed $23,270 per annum and a Programmer Analyst at not to exceed $21,838 per annum; six Programmer Analysts at not to exceed $21,838 per annum each in lieu of a Programmer Analyst at not to exceed $26,492 per annum, a Computer Specialist at not to exceed $23,344 per annum and a Computer Specialist at not to exceed $23,270 per annum; four Programmer Analysts at not to exceed $18,974 per annum each in lieu of a Programmer Analyst at not to exceed $26,492 per annum and two Program Analysts at not to exceed $21,838 per annum each; a Text Processing Specialist at not to exceed $19,332 per annum in lieu of an Office Systems Specialist at not to exceed $17,542 per annum; two Text Processing Specialists at not to exceed $17,542 per annum each in lieu of an Office Systems Specialist at not to exceed $17,542 per annum and a Liaison and Documentation Specialist at not to exceed $17,542 per annum; three Senior Systems Programmers at not to exceed $28,819 per annum each in lieu of three Senior Programmer Analysts at not to exceed $28,819 per annum each;

a Junior Systems Programmer at not to exceed $23,270 per annum in lieu of a Computer Specialist at not to exceed $23,270 per annum; a Data Base Systems Programmer at not to exceed $26,492 per annum in lieu of a Systems Analyst at not to exceed $26,492 per annum; a Network Technical Control Supervisor at not to exceed $32,220 per annum in lieu of a Senior Computer Specialist at not to exceed $31,146 per annum; a Communications Software Specialist at not to exceed $32,220 per annum in lieu of a Senior Computer Specialist at not to exceed $31,146 per annum; a Communications System Specialist at not to exceed $29,535 per annum in lieu of a Programmer Analyst at not to exceed $26,492 per annum; a Communications Software Programmer Analyst at not to exceed $26,492 per annum in lieu of a Systems Programmer at not to exceed $26,492 per annum; a Network Equipment Supervisor at not to exceed $26,492 per annum in lieu of a Systems Analyst at not to exceed $26,492 per annum; two Network Technicians at not to exceed $19,153 per annum each in lieu of not to exceed $23,270 per annum each; two Junior Network Technicians at not to exceed $15,215 per annum each in lieu of two Computer Terminal Installers at not to exceed $10,382 per annum each; three Computer Terminal Installers at not to exceed $12,888 per annum each in lieu of a Keypunch Operator at not to exceed $12,351 per annum, a Data Conversion Operator at not to exceed $11,277 per annum and a Computer Terminal Installer at not to exceed $10,382 per annum; an Office Systems Supervisor at not to exceed $28,819 per annum in lieu of a Training Specialist at not to exceed $26,492 per annum; a Technical Training Specialist at not to exceed $26,492 per annum in lieu of a Systems Programmer at not to exceed $26,492 per annum; an Office Systems Training Supervisor at not to exceed $26,492 per annum in lieu of a Training Specialist at not to exceed $26,492 per annum; seven Senior Office Systems Specialists at not to exceed $22,912 per annum each in lieu of two Training Specialists at not to exceed $22,912 per annum each and three Office Systems Specialists at not to exceed $17,542 per annum each; eight Office Systems Specialists at not to exceed $18,258 per annum each in lieu of a Training Specialist at not to exceed $22,912 per annum, four Office Systems Specialists at not to exceed $17,542 per annum each and a Printing Operator at not to exceed $16,826 per annum; nine Office Systems Specialists at not to exceed $16,647 per annum each in lieu of five Office Systems Specialists at not to exceed $17,542 per annum each, two Printing Operators at not to exceed $16,826 per annum each and a Quality Controller at not to exceed $16,826 per annum;

two Office Systems Specialists at not to exceed $15,036 per annum each in lieu of an Office Systems Specialist at not to exceed $17,542 per annum; a Senior Training Specialist at not to exceed $22,912 per annum in lieu of a Training Specialist at not to exceed $22,912 per annum; three Training Specialists at not to exceed $18,258 per annum each in lieu of three Office Systems Specialists at not to exceed $17,542 per annum each; four Training Specialists at not to exceed $16,647 per annum each in lieu of an Office Systems Specialist at not to exceed $17,542 per annum and two Printing Operators at not to exceed $16,826 per annum each; a Production Manager at not to exceed $25,060 per annum in lieu of not to exceed $23,986 per annum; a Hardware Manager at not to exceed $25,060 per annum in lieu of an Operations Supervisor at not to exceed $23,986 per annum; two Computer Resource and Performance Analysts at not to exceed $22,912 per annum each in lieu of two Data Standards Specialists at not to exceed $22,912 per annum each; a Documentation Specialist at not to exceed $22,017 per annum in lieu of a Computer Performance Analyst at not to exceed $22,017 per annum; six Job Controllers at not to exceed $16,826 per annum each in lieu of six Lead Operators at not to exceed $16,468 per annum each; six Lead Operators at not to exceed $16,110 per annum each in lieu of not to exceed $16,468 per annum each; a Data Conversion Operator at not to exceed $11,277 per annum in lieu of a Computer Terminal Installer at not to exceed $10,382 per annum; a Secretary at not to exceed $21,122 per annum in lieu of a Technical Writer at not to exceed $21,122 per annum; a Secretary at not to exceed $14,857 per annum in lieu of a Secretary Typist at not to exceed $13,962 per annum; a Secretary at not to exceed $14,141 per annum in lieu of a Junior Operator at not to exceed $14,678 per annum; three Secretaries at not to exceed $13,962 per annum each in lieu of a Secretary Receptionist at not to exceed $13,962 per annum, a Secretary Typist at not to exceed $13,962 per annum and a Secretary at not to exceed $12,888 per annum; a Secretary/Receptionist at not to exceed $13,604 per annum in lieu of a Quality Controller at not to exceed $16,826 per annum; a Secretary Typist at not to exceed $13,067 per annum in lieu of a Quality Controller at not to exceed $16,826 per annum; a Receptionist at not to exceed $12,172 per annum in lieu of an Operations Clerk at not to exceed $13,246 per annum; an Office Systems Supervisor at not to exceed $26,492 per annum; a Text Processing Specialist at not to exceed $14,678 per annum; two Senior Systems Programmers at not to exceed $31,146 per annum each; a Data Resources Manager at not to exceed $25,060 per annum; a Secretary at not to exceed $14,320 per annum;

two Senior Network Technicians at not to exceed $26,492 per annum each; a Technical User Liaison at not to exceed $16,468 per annum; a Special Projects Officer at not to exceed $32,220 per annum; a Receptionist at not to exceed $13,246 per annum; two Captains, Police Force at not to exceed $25,776 per annum each; two Sergeants, Police Force at not to exceed $17,900 per annum each; three Detectives, Police Force at not to exceed $16,826 per annum each; two Plainclothes Officers, Police Force at not to exceed $15,752 per annum each; a Clerk at not to exceed $13,962 per annum in lieu of not to exceed $12,888 per annum; a Clerk at not to exceed $12,888 per annum in lieu of not to exceed $11,814 per annum; an Auditor at not to exceed $12,888 per annum in lieu of not to exceed $11,814 per annum; a Purchasing Clerk at not to exceed $15,036 per annum in lieu of not to exceed $13,962 per annum; a Clerk at not to exceed $12,530 per annum in lieu of not to exceed $11,456 p annum; a Supervisor of Door Attendants not to exceed $19,153 per annum in lieu a Messenger Acting as Assistant Doorkeep at not to exceed $15,752 per annum; an A sistant Supervisor of Door Attendants at n to exceed $17,184 per annum in lieu of Messenger Acting as Assistant Doorkeep at not to exceed $15,036 per annum; a Dire tor, Service Department at not to exce $41,170 per annum in lieu of a Superinten ent, Service Department at not to exce $41,170 per annum; an Assistant Direct Service Department at not to exceed $26,6 per annum in lieu of an Assistant Superi tendent, Service Department at not to ceed $25,776 per annum; a Technical Cle at not to exceed $13,962 per annum in li of a Photostat Operator at not to exce $13,962 per annum; a Secretary to the Dire tor, Service Department at not to exce $16,468 per annum in lieu of a Secretary Superintendent, Service Department at n to exceed $16,468 per annum; ten Inserti Machine Operators at not to exceed $12,5 per annum each, in lieu of not to exce $11,814 per annum each; three Senior Pr Operators at not to exceed $17,542 per annu each, in lieu of three Printing Press Ope tors at not to exceed $16,468 per annum ea eleven Printing Press Operators at not exceed $16,468 per annum each, in lieu eleven Offset Press Operators at not to ceed $15,394 per annum each; a Sen Pressman/Repairman at not to exceed $1 900 per annum in lieu of not to exceed $1 363 per annum; an Assistant Night Supe visor, Duplicating Section at not to exce $18,709 per annum in lieu of not to exce $17,363 per annum; eleven Addressogra Operators at not to exceed $13,425 per annu each, in lieu of not to exceed $12,530 annum each; a Secretary at not to exce $13,425 per annum in lieu of not to exce $12,530 per annum;

a Secretary-Receptionist at not to exce $14,857 per annum in lieu of not to exce $13,962 per annum; a Supervisor, Supp Section at not to exceed $16,289 per annu in lieu of not to exceed $15,394 per annu a Technical Clerk at not to exceed $13,4 per annum in lieu of not to exceed $12,5 per annum; six Automatic Typewriter R pairmen at not to exceed $17,542 per annu each, in lieu of not to exceed $16,468 p annum each; three Repairmen at not exceed $16,110 per annum each, in lieu not to exceed $15,036 per annum each; Film and Video Cameraman at not to exce $25,597 per annum in lieu of not to exce $23,270 per annum; a Laboratory Supervis at not to exceed $25,597 per annum in li of not to exceed $23,270 per annum; an Aud Engineer at not to exceed $21,122 per annu in lieu of not to exceed $19,332 per annu an Audio Engineer at not to exceed $1 468 per annum in lieu of not to exce $15,036 per annum; a Skilled Laborer at n to exceed $12,888 per annum in lieu of n to exceed $11,814 per annum; a Skilled Labo er at not to exceed $12,530 per annum in li of not to exceed $11,456 per annum; Laborer at not to exceed $12,888 per annu in lieu of not to exceed $11,814 per a num; two Senior Door Attendants at not exceed $15,036 per annum each, in lieu two Messengers Acting as Assistant Doo keeper at not to exceed $15,036 per annu each; twenty-five Door Attendants at not exceed $12,530 per annum each, in lieu twenty-five Messengers at not to exceed $1 530 per annum each; six Door Attendan at not to exceed $11,814 per annum ea in lieu of six Messengers at not to exce $11,814 per annum each; a Door Attenda at not to exceed $10,740 per annum in li of a Messenger at not to exceed $10,7 per annum; a Door Attendant at not to ceed $10,382 per annum in lieu of a Me senger at not to exceed $10,382 per annu

a Chief Door Attendant for the Minority

MISCELLANEOUS ITEMS

(b) Effective April 1, 1978, the table con

"(b)(1) For purposes of subsections (a)

a Chief Door Attendant for the Minority at not to exceed $13,962 per annum in lieu of a Chief Messenger for the Minority at not to exceed $13,962 per annum; three Door Attendants for the Minority at not to exceed $12,530 per annum each, in lieu of three Messengers for the Minority at not to exceed $12,530 per annum each; a Secretary/Receptionist at not to exceed $15,394 per annum in lieu of a Receptionist at not to exceed $13,067 per annum: *provided further*, That, effective April 1, 1978, the Sergeant at Arms and Doorkeeper may appoint and fix the compensation of an Executive Assistant at not to exceed $42,065 per annum in lieu of a Special Assistant at not to exceed $30,788 per annum.

For an additional amount for "Office of Sergeant at Arms and Doorkeeper", fiscal year 1978, $1,219,000.

OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY

For offices of the Secretary for the Majority and the Secretary for the Minority, $411,000.

For an additional amount for "Offices of the Secretaries for the Majority and Minority", fiscal year 1978, $20,700.

AGENCY CONTRIBUTIONS AND LONGEVITY COMPENSATION

For agency contributions for employee benefits and longevity compensation, as authorized by law, $7,785,000.

For an additional amount for "agency contributions and longevity compensation", fiscal year 1978, $785,000.

OFFICE OF THE LEGISLATIVE COUNSEL OF THE SENATE

For salaries and expenses of the Office of the Legislative Counsel of the Senate, $815,000.

For an additional amount for "Office of the Legislative Counsel of the Senate", fiscal year 1978, $33,300.

CONTINGENT EXPENSES OF THE SENATE

SENATE POLICY COMMITTEES

For salaries and expenses of the Majority Policy Committee and the Minority Policy Committee, $694,000 for each such committee; in all, $1,388,000.

For an additional amount for "Senate Policy Committees", fiscal year 1978, $93,500.

AUTOMOBILES AND MAINTENANCE

For purchase, lease, exchange, maintenance, and operation of vehicles, one for the Vice President, one for the President pro tempore, one for the Majority Leader, one for the Minority Leader, one for the Majority Whip, one for the Minority Whip, for carrying the mails, and for official use of the offices of the Secretary and the Sergeant at Arms and Doorkeeper, $58,000.

INQUIRIES AND INVESTIGATIONS

For expenses of inquiries and investigations ordered by the Senate, or conducted pursuant to section 134(a) of Public Law 601, Seventy-ninth Congress, as amended, including $740,881 for the Committee on Appropriations, to be available also for the purposes mentioned in Senate Resolution Numbered 193, agreed to October 14, 1943, and Senate Resolution Numbered 140, agreed to May 14, 1975, $30,625,000.

For an additional amount for "Inquiries and Investigations", fiscal year 1978, $1,553,900.

FOLDING DOCUMENTS

For the employment of personnel for folding speeches and pamphlets at a gross rate of not exceeding $4.57 per hour per person, $103,000.

For an additional amount for "Folding Documents", fiscal year 1978, $7,600.

MISCELLANEOUS ITEMS

For miscellaneous items, $29,443,000.

For an additional amount for "Miscellaneous Items", fiscal year 1978, $4,015,500.

POSTAGE STAMPS

For postage stamps for the offices of the Secretaries for the Majority and Minority, $420; Chaplain, $200; and for air mail and special delivery postage for the office of the Secretary, $3,925; office of the Sergeant at Arms and Doorkeeper, $240; and the President of the Senate, as authorized by law, $1,215; in all, $6,000.

STATIONERY (REVOLVING FUND)

For stationery for the President of the Senate, $4,500, and for committees and officers of the Senate, $34,500; in all $39,000.

ADMINISTRATIVE PROVISIONS

SEC. 101. Any funds appropriated under the heading "Senate" in any appropriation Act for the fiscal year ending September 30, 1978, and any funds made available for obligation through September 30, 1978, by section 109 of the Supplemental Appropriations Act, 1977, shall remain available for obligation through September 30, 1979, for the same purposes for which appropriated or made available.

SEC. 102. Effective October 1, 1978, the number of employees in the Office of the Legislative Counsel of the Senate who may be designated as, and receive the compensation of, a Senior Counsel is increased to five.

SEC. 103. Effective on the first day of the first month following the date of the enactment of this Act, the Secretary of the Senate may appoint and fix the compensation of two Senior Assistants, Document Room at not to exceed $14,678 per annum each in lieu of two Assistants in Document Room at not to exceed $14,678 per annum each; a Senior Assistant, Document Room at not to exceed $14,678 per annum in lieu of an Assistant at not to exceed $13,246 per annum, a Senior Assistant, Document Room at not to exceed $14,678 per annum in lieu of an Assistant at not to exceed $12,530 per annum; two Senior Assistants, Document Room at not to exceed $14,678 per annum each in lieu of two Assistants at not to exceed $12,172 per annuam each; an Assistant, Document Room at not to exceed $12,530 per annum in lieu of a Reference Assistant at not to exceed $14,678 per annum; three Assistants, Document Room at not to exceed $12,530 per annum each in lieu of three Assistants in Document Room at not to exceed $14,678 per annum each; a Chief Messenger, Library at not to exceed $13,962 per annum in lieu of a Chief Messenger in Library at not to exceed $13,246 per annum; a Messenger, Library at not to exceed $13,246 per annum in lieu of a Messenger at not to exceed $13,962 per annum; and three Counter Clerks, Stationary Room at not to exceed $14,678 per annum each in lieu of three Clerks at not to exceed $14,678 per annum each: *Provided*, That an employee serving as an Assistant in Document Room at not to exceed $14,678 per annum on the last day of the month in which this Act is enacted and who continues to serve as an Assistant, Document Room, after such last day may be paid compensation at not to exceed $14,678 per annum so long as such employee continuously serves in such position.

SEC. 104. (a) Effective April 1, 1978, the clerk-hire allowance of each Senator from the State of Georgia is increased to that allowed Senators from States having a population of five million but less than seven million, the population of said State having exceeded five million inhabitants.

(b) Effective April 1, 1978, the table contained in section 105(d)(1) of the Legislative Branch Appropriation Act, 1968, as amended and modified (2 U.S.C. 61-1(d)(1)), is amended by striking out

"$644,937 if such population is 7,000,000 but less than 9,000,000;

and inserting in lieu thereof

"$644,937 if such population is 7,000,000 but less than 8,000,000;

"$664,627 if such population is 8,000,000 but less than 9,000,000;".

SEC. 105. (a) For the period beginning on October 1, 1978, and ending on December 31, 1980, there is established within the Office of the Secretary of the Senate an office to be known as the "Office of Classified National Security Information" (hereafter in this section referred to as the "Office"). The Office shall be under the policy direction of the Majority Leader, the Minority Leader, and the chairman of the committee on Rules and Administration of the Senate, and shall be under the administrative direction and supervision of the Secretary of the Senate. The Office shall have the responsibility for safeguarding such restricted data and such other classified information as any committee of the Senate may from time to time assign to it.

(b) The Office shall have authority—

(1) upon application of any committee of the Senate, to perform the administrative functions necessary to classify and declassify information relating to the national security considerations of nuclear technology in accordance with guidelines developed for restricted data by the responsible executive agencies;

(2) to provide appropriate facilities for hearings of committees of the Senate at which restricted data or other classified information is to be presented or discussed; and

(3) to establish and operate a central repository in the United States Capitol for the safeguarding of restricted data and other classified information for which such Office is responsible.

(c) All records, documents, and data in the custody of the Office of Classified National Security Information established by section 2 of Senate Resolution Numbered 252, Ninety-fifth Congress, are transferred to the Office established by subsection (a).

(d) As an exercise of the rulemaking power of the Senate, section 2 of Senate Resolution Numbered 252, Ninety-fifth Congress, is repealed effective October 1, 1978.

SEC. 106. Section 117 of the Second Supplemental Appropriations Act, 1976 (2 U.S.C. 61f-1a), is amended by striking out "$10,000" and inserting in lieu thereof "$25,000".

SEC. 107. During the fiscal year ending September 30, 1979, amounts required to be deposited in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund under section 8344 of title 5, United States Code, with respect to any officer or employee of the Senate (including an employee in the office of a Senator) shall be paid from the contingent fund of the Senate. Effective October 1, 1979, amounts required to be so deposited with respect to any individual who is an officer or employee of the Senate (including an employee in the office of a Senator) on September 30, 1979, shall be paid from the contingent fund of the Senate so long as the individual serves continuously as an officer or employee of the Senate.

SEC. 108. (a) Section 506 of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58), is amended by redesignating subsections (h) through (j) as subsections (i) through (k), respectively, and by inserting after subsection (g) the following new subsection:

"(h)(1) For purposes of subsections (a) and (e), an individual who is selected by a Senator to serve on a panel or other body to make recommendations for nominees to one or more Federal judgeships or to one or more service academies shall be considered to be an employee in the office of that Senator with respect to travel and official expenses incurred in performing duties as a member of such panel or other body, and shall be reimbursed (A) for actual transportation expenses and per diem expenses (but not exceeding actual travel expenses) incurred while traveling in performing such duties within the Senator's home State or between that State and Washington, District of Columbia, and each of the service academies (B) for official expenses incurred in performing such duties. For purposes of this subsection and subsection (a), 'official expenses' means expenses of the type for which reimbursement may be made under subsection (a)(9) when such expenses are incurred by or on behalf of a Senator, and, for accounting purposes, such expenses shall be treated as expenses for which reimbursement may be made under subsection (a)(5).

"(2) The amount of official expenses incurred by individuals selected by a Senator for which reimbursement may be made under this subsection shall not exceed $500 each calendar year, and the total amount of expenses incurred by such individuals for which reimbursement may be made under this subsection shall not exceed $3,000 each calendar year.".

(b) The amendment made by subsection (a) shall take effect on January 1, 1978.

SEC. 109. (a) Effective with the fiscal year beginning October 1, 1978, and each fiscal year thereafter, the appropriations for "OFFICE OF THE SECRETARY" and "OFFICE OF SERGEANT AT ARMS AND DOORKEEPER" under the heading "SALARIES, OFFICERS AND EMPLOYEES" shall be available for the payment of additional annual compensation (hereinafter referred to as "merit compensation") to employees rated as outstanding and exceptional by the Secretary of the Senate and Sergeant at Arms and Doorkeeper, respectively.

(b) Subject to the provisions of subsections (c) and (d), each fiscal year, the Secretary of the Senate may authorize merit compensation for not to exceed 8 employees of his Office and the Sergeant at Arms and Doorkeeper may authorize merit compensation for not to exceed 18 employees of his Office. Each such authorization shall continue in effect until it is terminated or changed by the Secretary of the Senate or the Sergeant at Arms and Doorkeeper, as the case may be.

(c) No employee shall be eligible to receive merit compensation unless such employee has occupied the same position for at least two years and is being compensated at the maximum annual salary for the position so occupied, except that, in the discretion of the Secretary of the Senate or the Sergeant at Arms and Doorkeeper, as the case may be, an employee who is receiving merit compensation and is transferred to another position in which he is compensated at the maximum annual salary shall be eligible to receive merit compensation while occupying such other position.

(d)(1) The amount of merit compensation which may be paid to an employee (as authorized by the Secretary of the Senate or the Sergeant at Arms and Doorkeeper, as the case may be) shall not exceed an amount equal to ten percent of the maximum annual rate of compensation of the position occupied by such employee rounded to the next highest multiple contained in section 1(a) of the applicable Order of the President pro tempore of the Senate issued under authority of section 4 of the Federal Pay Comparability Act of 1970.

(2) The amount of merit compensation which may be paid to an employee, when added to his regular annual compensation and his longevity compensation, shall not exceed the maximum annual compensation which may be paid to Senate employees generally as prescribed by law or orders of the President pro tempore issued under authority of section 4 of the Federal Pay Comparability Act of 1970.

(e) Within thirty days following the end of each fiscal year, the Secretary of the Senate and the Sergeant at Arms and Doorkeeper shall file reports with the Senate Committee on Appropriations detailing the use and implementation of the authority contained in this section. Such reports shall include the means of all employees receiving merit compensation under authority of this section at the end of the fiscal year, the positions occupied by them, and the date when each such employee first began to receive merit compensation.

SEC. 110. (a) Subsection (a) and (b) of section 106 of the Legislative Branch Appropriations Act, 1963 (2 U.S.C. 60j), are amended to read as follows:

"SEC. 106 (a) This section shall apply to—

"(1) each employee of the Senate whose compensation is paid from the appropriation for Salaries, Officers and Employees under the following headings:

"(A) Office of the Secretary, including individuals employed under authority of section 244 of the Legislative Reorganization Act of 1946 (2 U.S.C. 74b);

"(B) Office of the Sergeant at Arms and Doorkeeper, except employees designated as 'special employees'; and

"(C) Offices of the Secretaries for the Majority and the Minority;

"(2) each employee of the Senate authorized by Senate resolution to be appointed by the Secretary of the Senate or the Sergeant at Arms and Doorkeeper, except employees designated as 'special employees'; and

"(3) each employee of the Capitol Guide Service established under section 441 of the Legislative Reorganization Act of 1970.

"(b)(1) Except as provided in paragraph (2), an employee to whom this section applies shall be paid, during any period of continuous creditable service, additional annual compensation (hereinafter referred to as 'longevity compensation') at the rate of two times the multiple contained in section 1(a) of the applicable Order of the President pro tempore of the Senate issued under authority of section 4 of the Federal Pay Comparability Act of 1970 for (A) each year of creditable service performed for the first five years and (B) each two years of creditable service performed during the twenty-year period following the first five years.

"(2) The amount of longevity compensation which may be paid to an employee, when added to his regular annual compensation, shall not exceed the maximum annual compensation which may be paid to Senate employees generally as prescribed by law or orders of the President pro tempore issued under authority of section 4 of the Federal Pay Comparability Act of 1970.

"(3) For purposes of this section—

"(A) creditable service includes (i) service performed as an employee described in subsection (a), (ii) service performed as a member of the Capitol Police or as an employee of the United States Capitol Telephone Exchange while compensation therefor is disbursed by the Clerk of the House of Representatives, and (iii) service which i creditable for purposes of this section as i effect on the last day of the month in whic the Legislative Branch Appropriation Ac 1979, is enacted;

"(B) in computing length of continuou creditable service, only creditable servic performed subsequent to August 31, 196 shall be taken into account, except that, f the case of service as an employee employe under authority of section 244 of the Legi lative Reorganization Act of 1946, on creditable service performed subsequent January 2, 1971, shall be taken into accoun and

"(C) continuity of creditable service sha not be deemed to be broken by separatio from service of not more than thirty day by the performance of service as an em ployee (other than an employee subject the provisions of this section) whose com pensation is disbursed by the Secretary the Senate or the Clerk of the House of Re resentatives, or by the performance of activ military service in the armed forces of th United States, but periods of such separa tions and service shall not be creditab service.

"(4) Longevity compensation shall be pa able on and after the first day of the fir month following completion of each peri of creditable service upon which such com pensation is based.".

(b) The amendment made by subsectio (a) shall take effect on the first day of th first month which begins after the date the enactment of this Act. The gross com pensation of employees entitled to longevit compensation on such first day under se tion 106 of the Legislative Branch Appro priation Act, 1963, shall be adjusted in a cordance with the provisions of such sectio as amended by subsection (a). No increa in compensation by reason of such amend ment shall take effect for any pay period b ginning before such first day, and no mone tary benefit by reason for such amendmen shall accrue for any period before such fir day.

MOTION OFFERED BY MR. BENJAMIN

Mr. BENJAMIN. Mr. Speaker, I offe a motion.

The Clerk read as follows:

Mr. BENJAMIN moves that the House recede from its disagreement to the amendment of the Senate numbered 1 through 39 inclusi and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. Th Clerk will report the next amendment f disagreement.

The Clerk read as follows:

Senate amendment No. 45: Page 47, lin 20, insert:

SENATE OFFICE BUILDINGS

For maintenance, miscellaneous items an supplies, including furniture, furnishing and equipment, and for labor and materi incident thereto, and repairs thereof; fo purchase of waterproof wearing apparel, an for personal and other services; for the ca and operation of the Senate Office Building including the subway and subway tran portation systems connecting the Senate Of fice Buildings with the Capitol; uniforms a allowances therefor as authorized by law U.S.C. 5901-5902), prevention and eradica tion of insect and other pests without re gard to section 3709 of the Revised Statute as amended; to be expended under the con trol and supervision of the Architect of th Capitol in all $10,328,600, of which $310,00 shall remain available until expended.

MOTION OFFERED BY MR. BENJAMIN

Mr. BENJAMIN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BENJAMIN moves that the House recede from its disagreement to the amendment of the Senate numbered 45 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 46: Page 48, line 9, insert:

SENATE GARAGE

MOTION OFFERED BY MR. BENJAMIN

Mr. BENJAMIN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BENJAMIN moves that the House recede from its disagreement to the amendment of the Senate numbered 46 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 47: Page 51, line 3, insert: "Hereafter, notwithstanding any other provision of law, appropriations for the automatic distribution to Senators and Representatives (including Delegates to Congress and the Resident Commissioner from Puerto Rico) of the bound and biweekly Congressional Records shall not be available with respect to any Senator or Representative unless such Senator or Representative specifically, in writing, requests that he or she receive copies of such Records.".

MOTION OFFERED BY MR. BENJAMIN

Mr. BENJAMIN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BENJAMIN moves that the House recede from its disagreement to the amendment of the Senate numbered 47 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the last amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 52: Page 65, line 13, insert:

Sec. 310. (a) The provisions of subsections (a) and (b) of section 106 of the Legislative Branch Appropriation Act, 1963 (as amended by section 110 of this Act), shall apply to telephone operators (including the chief operator and assistant chief operators) on the United States Capitol telephone exchange and members of the Capitol Police whose compensation is disbursed by the Clerk of the House of Representatives in the same manner and to the same extent as such provisions apply to individuals whose compensation is disbursed by the Secretary of the Senate. For purposes of so applying such subsections, creditable service shall include service performed as an employee of the United States Capitol telephone exchange or a member of the Capitol Police whether compensation therefor is disbursed by the Clerk of the House of Representatives or the Secretary of the Senate.

MOTION OFFERED BY MR. BENJAMIN

Mr. BENJAMIN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BENJAMIN moves that the House recede from its disagreement to the amendment of the Senate numbered 52 and concur therein.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and on the several motions was laid on the table.

GENERAL LEAVE

Mr. BENJAMIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report just agreed to, and that I be permitted to include a table summarizing the House action, as well as to insert other extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

CONFERENCE REPORT ON H.R. 12927, MILITARY CONSTRUCTION APPROPRIATIONS

Mr. McKAY. Mr. Speaker, I call up the conference report on the bill (H.R. 12927) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see Proceedings of the House of August 15, 1978.)

Mr. McKAY (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

GENERAL LEAVE

Mr. McKAY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous matter on the conference report and on the Senate amendments.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The SPEAKER pro tempore. The gentleman from Utah (Mr. McKAY) will be recognized for 30 minutes, and the gentleman from New York (Mr. McEWEN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Utah (Mr. McKAY).

Mr. McKAY. Mr. Speaker, I yield myself such time as I may consume.

We are presenting today the conference report on H.R. 12927, providing for military construction for fiscal year 1979. The conference agreement provides $3,880,863,000, which is $372 million below the President's request and only $36 million above the House version of the bill. The amount recomended is a 9-percent reduction.

Although there have been a series of changes made by the conferees, which are all listed in the conference report and the statement of the managers, we were able to bring the conference agreement back substantially below the President's requested level in accordance with the sentiment of the House when it passed the bill earlier this year.

In spite of the fact that the amount recommended for appropriation is considerably below the requested level, we have provided in this bill for the most critical and important construction projects to maintain the operational readiness of our Armed Forces. In this context, I would like to highlight some of the major proppsals included in the conference agreement:

For NATO, we are recommending appropriations that sustain the House position that a greater share of the burden of funding NATO should be borne by NATO allies and that the U.S. contribution to NATO should be in the context of the mutually funded infrastructure program rather than through unilateral U.S. funding of facilities.

For the Reserve Components, the committee agreed to fund increases above the President's request up to the authorized level. The committee has felt that, with a very large backlog of construction requirements, there is a need to proceed now with reserve component construction. The projects included above the requested level are for facilities that are designed and ready to go to construction in fiscal year 1979.

For the Navy, the conference agreement provides for all major projects added by the Congress to upgrade the naval shipyards. These are essential to the continuing ability of the Navy to maintain the fleet in a high state of operational readiness.

For pollution abatement and energy conservation, the conferees agreed to continue the initiatives begun last year by the Congress to assure that military installations are not contributing to air or water pollution and are, in every way, energy efficient. The conference agreement emphasizes the need for defense installations to improve their safety programs as the Federal Government has required the private sector to do.

Military medical programs have been endorsed by the conference agreement and provide for two new major hospitals, additions to two others, and the construction of 14 dental clinics.

In summary, therefore, this conference agreement, while it shows a substantial reduction below the President's request, provides for the most important military construction projects proposed this year and recognizes congressional initiatives and priorities. It is in conformance with the authorization agreement.

There are three members, Mr. McEWEN, Mr. FLYNT, and Mr. CEDERBERG, excepting to the report language on the Panama Canal in the statement of the managers.

Mr. Speaker, I should like to include at this point in the RECORD a comparative tabulation of the conference action:

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY

[Fiscal years]

	New budget authority					Conference compared with—			
	Enacted, 1978	Estimates, 1979	House, 1979	Senate, 1979	Conference, 1979	1978 enacted	1979 estimate	House bill	Senate bill
Planning and design	219,812,000	198,450,000	186,450,000			−219,812,000	−198,450,000	−186,450,000	
Military construction, Army	461,369,000	814,500,000	628,644,000	712,053,000	711,509,000	+250,140,000	−102,991,000	+82,865,000	−544,000
Military construction, Navy	390,556,000	771,600,000	683,695,000	886,124,000	760,145,000	+369,589,000	−11,455,000	+76,450,000	−45,979,000
Military construction, Air Force	348,586,000	584,100,000	461,703,000	519,904,000	483,264,000	+134,678,000	−100,836,000	+21,561,000	−36,720,000
Military construction, Defense agencies	53,009,000	164,900,000	183,200,000	173,700,000	194,909,000	+141,671,000	+29,900,000	+11,600,000	+21,100,000
Transfer, not to exceed	(20,000,000)		(20,000,000)	(20,000,000)	(20,000,000)				
Military construction, Army National Guard	46,400,000	46,800,000	43,500,000	52,200,000	52,200,000	+5,800,000	+5,400,000	+8,700,000	
Military construction, Air National Guard	40,300,000	38,100,000	35,800,000	44,750,000	44,750,000	+4,450,000	+6,650,000	+8,950,000	
Military construction, Army Reserve	44,390,000	29,300,000	26,900,000	37,100,000	37,100,000	−7,290,000	+7,800,000	+10,200,000	
Military construction, Naval Reserve	20,300,000	18,900,000	16,600,000	21,850,000	21,850,000	+1,550,000	+2,950,000	+5,250,000	
Military construction, Air Force Reserve	10,200,000	11,200,000	8,900,000	13,000,000	13,000,000	+2,800,000	+1,800,000	+4,100,000	
Total, military construction	1,415,110,000	2,479,400,000	2,089,022,000	2,380,841,000	2,318,698,000	+903,588,000	−160,702,000	+229,676,000	−62,143,000
Family housing, Defense	1,457,138,000	1,689,350,000	1,688,615,000	1,701,605,000	1,679,865,000	+222,727,000	−9,485,000	−8,750,000	−21,740,000
Portion applied to debt reduction	−115,840,000	−119,200,000	−119,200,000	−119,200,000	−119,200,000	−3,360,000			
Total, family housing	1,341,298,000	1,570,150,000	1,569,415,000	1,582,405,000	1,560,665,000	+219,367,000	−9,485,000	−8,750,000	−21,740,000
Homeowners assistance fund, Defense	1,500,000	5,000,000		1,500,000	1,500,000		−3,500,000	+1,500,000	
Grand total, new budget (obligational) authority	2,977,720,000	4,253,000,000	3,944,887,000	3,964,746,000	3,880,863,000	+903,143,000	−372,137,000	+35,976,000	−83,883,000

Mr. McEWEN. Mr. Speaker, the chairman of our subcommittee has ably summarized what is in this conference report and what has been agreed to with the Senate. The minority concurs with everything the gentleman from Utah has said. I will take no further time of the House.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. McEWEN. I yield to the the gentleman from California.

Mr. LAGOMARSINO. I thank the gentleman for yielding.

I would like to ask the chairman of the subcommittee a question, if I might. During the discussion of the bill when it passed the House I engaged in a colloquy with the chairman about the Vandenberg Air Force Base space shuttle program.

Mr. McKAY. Yes.

Mr. LAGOMARSINO. I would like to ask the gentleman what funds are included in the conference report with respect to that item.

Mr. McKAY. The conference committee agreed to insert sufficient appropriations to accommodate the total request with the exception of the runway which is not needed in fiscal year 1979, and there will be at least a 6-month gap when the runway will sit unused and with no equipment in place. It was the feeling of the conference committee that we need not fund the runway this year. It is the feeling of the conference committee however that the request for the essential shuttle facilities at that base are needed in connection with the shuttle mission, and it is just a matter of timing rather than the need for the items.

Mr. LAGOMARSINO. I thank the gentleman.

Mr. McEWEN. Mr. Speaker, may I inquire of the gentleman from Utah (Mr. McKAY) whether or not in his remarks he made any reference to exceptions to the language regarding the Panama Canal?

Mr. McKAY. In my remarks, which will be revised and extended, I made reference to the exceptions to the language that three Members had relative to the conference report itself.

Mr. McEWEN. I thank the chairman.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. McKAY. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I certainly am not going to oppose the conference report, but it is my understanding when the bill passed here there was a restriction stated in the report on the spending of military funds in the Panama Canal Zone. I notice in the conference statement at least three Members have excepted to the language of the conference report regarding our funds. Reading on page 3, it appears to me that the conference committee may have given the military a blank check, so to speak, along with the President of the United States, to spend money before it is actually appropriated for specific purposes and for carrying out the canal treaties. It seems to me that is a circumvention of the appropriation process the House ought not to permit.

Mr. McKAY. Let me respond to the gentleman's inquiry.

I believe that the House has upheld the committee's intent when it was considered by the House originally. We could, when we came to the floor, have made no mention of the fact that the President, under his emergency construction authority and using funds already appropriated for that purpose, could have proceeded as he chose. When we came to the floor of the House, we said we did not think that was right and we thought the House should be apprised of anything of this type. Therefore we wrote language specifically designating that the administration, if there was any construction to be done, emergency or otherwise, should come back to the House with those requests to have the committee reaction, and so forth.

We changed that language slightly in conference to bring agreement back between the House and the Senate. Otherwise, we would have wound up with two different instructions from the House and the Senate. What we have done is to say that the administration has to come back to us. Otherwise, they would have been able to act by themselves with congressional review.

The language on page 3 of the conference report says:

Panama Canal: The conferees agree the funding for military construction in the Panama Canal Zone should be the subject of review by the House and the Senate, but that limited prior approval reprogramming of emergency construction required for the realignment of military installations consistent with the responsibility of the United States to defend the canal and provide for the security of U.S. personnel may be necessary before a budget amendment or supplemental could be acted on by the Congress. In such event, the requirement and emergency nature of such construction must be certified by the President of the United States before submission to the Committees on Appropriations of the House and Senate.

So what we have done is instruct them that they must come back here in order to get approval so that we as a committee could recommend approval or disapproval. Otherwise, it is our feeling that they could do it without us, and we thought we ought to have some hold on them.

Mr. BAUMAN. The House committee report contained a specific statement of the position of the House, which said that no money was to be spent for the purpose of implementing the Panama Canal Treaties unless the armed services came before the Committee on Appropriations, and justified the expenditure. Do I understand that by the conference agreement they still must do that?

Mr. McKAY. Yes, the gentleman understands the law. The Supreme Court decision on the Tellico Dam says that language in a report is not law and therefore is not commanding. It is our understanding and it is our full intent that any reprograming shall come for an approval to this committee. That is our full intent, and I think that is what this language says.

Mr. BAUMAN. I would say to the gentleman further that it does not appear to me that there exists any emergency situation in the Army, Air Force, or various other installations in the Panama Canal Zone to starting the implementation of the treaties, is not an emergency in my view that should require circumventing the appropriation process.

Mr. McKAY. That is the reason why

Mr. McKAY. That is the reason why we have instructed them on any of those things to come back to the committee before they attempt to do any such thing and justify to us that these items are an emergency; otherwise, it is the intent of the committee very clearly to turn them down.

Mr. BAUMAN. I hope the intent of the gentleman is carried out and that the military agencies realize the restrictions of the House and the intent of the House that no funds be spent for treaty implementation unless we approve them.

Mr. McKAY. As the gentleman knows, the makeup of this committee is not pro-canal giveaway, so to speak, so I think that anything that comes back to this committee is going to get absolutely thorough scrutiny before it is approved.

Mr. BAUMAN. I would say to the gentleman that his committee is one of the more magnificent subcommittees of the Committee on Appropriations.

Mr. HANSEN. Mr. Speaker, will the gentleman yield?

Mr. McKAY. I yield to the gentleman from Idaho.

Mr. HANSEN. I have asked the gentleman to yield so as to further question the gentleman on this matter.

As I understand it, in the military procurement authorization bill there is a restriction against any of the funds being used to implement the treaties without specific authorization by the Congress. Is that correct?

Mr. McKAY. I think the language of the Defense authorization act was much broader and much more liberal in its interpretations than our report language is. Of course, ours is strictly just report language of instruction. But the language of the Committee on Armed Services is much broader in its application, and they could proceed with implementation, if I read it correctly, in the authorization bill that passed the House and Senate. I will read it to you if you would like, it is in section 813, and it says:

> The Senate conferees offered an amendment which would restrict expenditure of funds authorized to be appropriated in this Act for the realignment of any military installation in the Canal Zone to such use as is consistent with the responsibility of and the necessity for the United States to defend the Panama Canal or with legislation which may be enacted to implement the Panama Canal Treaties of 1978. The House conferees concurred.

That, of course, was passed in the prior authorization bill.

Mr. HANSEN. If the gentleman will yield further, the gentleman feels what is here in the conference report is in that spirit?

Mr. McKAY. Our instruction is much more restrictive.

Mr. HANSEN. I appreciate it is more restrained.

One other question, there is no attempt here to, in a sense, legislate in an appropriation, and it is just a further clarification, is that correct?

Mr. McKAY. What it is is the committee sending instructions to the administration as to what we feel they should do before any funds are to be used in the Canal Zone—that they should come with justification to this committee.

Mr. HANSEN. One other point. I feel that it is important for the gentleman to understand and for this body to understand that the General Accounting Office, which was apprised of the fact that there has been apparently some juggling of funds to preimplement the Panama Canal treaties, has inspectors on the spot in Panama at this time to look into this particular matter and also has attorneys looking into what is going on at the Pentagon.

I think it is appropriate that the House knows that this is happening, and certainly I hope that this legislation is in keeping with the situation which has caused this investigation. As soon as the results are known, we will make them public.

I appreciate the gentleman's willingness to answer questions in this regard.

Mr. McKAY. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 355, nays 24, not voting 53, as follows:

[Roll No. 718]

YEAS—355

Abdnor
Addabbo
Akaka
Alexander
Ambro
Ammerman
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashbrook
Ashley
Aspin
Badham
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Belleneon
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bonior
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Caputo
Carney
Carter
Cavanaugh
Chappell
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Conable
Conte
Corcoran
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Okla.
Ellberg
Emery
English
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fuqua
Gammage
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Green
Gudger
Guyer
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harris
Harsha
Hawkins
Hefner
Heftel
Hightower
Hillis
Hollenbeck
Holt
Horton
Howard
Hubbard
Hyde
Ichord
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kazen
Kelly
Kemp
Keys
Kildee
Kindness
Kostmayer
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leach
Lederer
Lehman
Lent
Levitas
Livingston
Lloyd, Calif.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mikulski
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pursell
Quayle
Quie
Quillen
Rahall
Railsback
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Rudd
Runnels
Ruppe
Russo
Ryan
Santini
Satterfield
Sawyer
Schroeder
Sebelius
Selberling
Sharp
Shuster
Simon
Skelton
Skubitz
Slack
Smith, Iowa
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stanton
Steed
Steers
Stockman
Stratton
Studds
Stump
Symms
Taylor
Thone
Thornton
Traxler
Treen
Trible
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Waxman
Weaver
Weiss
Whalen
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—24

Anderson, Calif.
AuCoin
Bedell
Burton, John
Carr
Chisholm
Collins, Tex.
Conyers
Dellums
Edwards, Calif.
Fenwick
Forsythe
Frenzel
Harkin
Heckler
Holtzman
Hughes
Kastenmeier
Maguire
Miller, Ohio
Nolan
Rangel
Scheuer
Vento

NOT VOTING—53

Barnard
Bolling
Burke, Calif.
Cederberg
Clay
Cornwell
Cunningham
Delaney
Dent
Dicks
Eckhardt
Evans, Colo.
Fascell
Flowers
Flynt
Fountain
Fowler
Fraser
Frey
Hagedorn
Harrington
Holland
Huckaby
Ireland
Jenkins
Kasten
Le Fante
Leggett
Lloyd, Tenn.
McDonald
Mikva
Milford
Miller, Calif.
Nix
Pattison
Pritchard
Risenhoover
Rodino
Sarasin

Schulze
Shipley
Sikes
Sisk
Smith, Nebr.
Stangeland
Stark
Steiger
Stokes
Teague
Thompson
Tsongas
Wilson, C. H.
Young, Alaska

The Clerk announced the following pairs:

Mr. Rodino with Mr. Cederberg.
Mr. Thompson with Mr. Frey.
Mr. Le Fante with Mr. Sarasin.
Mr. Cornwell with Mr. Kasten.
Mrs. Burke of California, with Mr. Cunningham.
Mr. Delaney with Mr. Stark.
Mr. Dent with Mr. Flowers.
Mrs. Lloyd of Tennessee with Mr. McDonald.
Mr. Mikva with Mr. Holland.
Mr. Stokes with Mr. Hagedorn.
Mr. Clay with Mr. Schulze.
Mr. Ireland with Mrs. Smith of Nebraska.
Mr. Miller of California with Mr. Barnard.
Mr. Fascell with Mr. Eckhardt.
Mr. Fountain with Mr. Fraser.
Mr. Pattison of New York with Mr. Nix.
Mr. Sikes with Mr. Evans of Colorado.
Mr. Shipley with Mr. Harrington.
Mr. Risenhoover with Mr. Leggett.
Mr. Tsongas with Mr. Milford.
Mr. Charles H. Wilson of California, with Mr. Steiger.
Mr. Jenkins with Mr. Teague.
Mr. Flynt with Mr. Sisk.
Mr. Dicks with Mr. Fowler.
Mr. Huckaby with Mr. Pritchard.
Mr. Stangeland with Mr. Young of Alaska.

Mr. ARMSTRONG changed his vote from "nay" to "yea."

Mr. COLLINS of Texas changed his vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 3: Page 2, line 20, strike out "1983" and insert "1983: *Provided*, That of this amount, not to exceed $67,400,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations for both Houses of Congress of his determination and the reasons therefor".

MOTION OFFERED BY MR. M'KAY

Mr. McKAY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McKAY moves that the House recede from its disagreement to the amendment of the Senate numbered 3 and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert: "1983: *Provided*, That of this amount, not to exceed $64,400,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations for both Houses of Congress of his determination and the reasons therefor".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 5: Page 3, line 5, strike out "1983" and insert "1983: *Provided*, That of this amount, not to exceed $49,300,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor".

MOTION OFFERED BY MR. M'KAY

Mr. McKAY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McKAY moves that the House recede from its disagreement to the amendment of the Senate numbered 5 and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert: "1983: *Provided*, That of this amount, not to exceed $46,300,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor".

The motion was agreed to.

The SPEAKER, pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 7: Page 3, line 13, strike out "1983" and insert "1983: *Provided*, That of this amount, not to exceed $55,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor".

MOTION OFFERED BY MR. M'KAY

Mr. McKAY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McKAY moves that the House recede from its disagreement to the amendment of the Senate numbered 7 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert: "1983: *Provided*, That of this amount, not to exceed $52,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 8: Page 4, line 23, strike out "$183,280,000" and insert "$173,780,000".

MOTION OFFERED BY MR. M'KAY

Mr. McKAY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McKAY moves that the House recede from its disagreement to the amendment of the Senate numbered 8 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment, insert "$194,880,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No 9: Page 5, line 6, strike out "designate" and insert "designate: *Provided further*, That of the amount appropriated, not to exceed $11,400,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor".

MOTION OFFERED BY MR. M'KAY

Mr. McKAY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McKAY moves that the House recede from its disagreement to the amendment of the Senate numbered 9 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert: "designate: *Provided further*, That of the amount appropriated, not to exceed $9,400,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 15: Page 5, line 24, strike out "$1,688,615,000" and insert "$1,701,605,000".

MOTION OFFERED BY MR. M'KAY

Mr. McKAY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McKAY moves that the House recede from its disagreement to the amendment of the Senate numbered 15 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment, insert "$1,679,865,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 17: Page 6, line 6, strike out "$34,696,000" and insert "$43,451,000".

MOTION OFFERED BY MR. M'KAY

Mr. McKAY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McKAY moves that the House recede from its disagreement to the amendment of the Senate numbered 17 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment, insert "$33,446,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 20: Page 6, line 13, strike out "$1,404,400,000" and insert "$1,414,400,000".

MOTION OFFERED BY MR. M'KAY

Mr. McKAY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McKAY moves that the House recede from its disagreement to the amendment of the Senate numbered 20 and concur therein

with an amendment, as follows: In lieu of the sum proposed in said amendment, insert

The SPEAKER pro tempore. Is there objection to the request of the gentle

The SPEAKER pro tempore. Is there

with an amendment, as follows: In lieu of the sum proposed in said amendment, insert "$1,290,400,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the last amendment in disagreement.

Senate amendment No. 21: Page 6, line 16, strike out "1983" and insert "1983: *Provided further*, That of the amounts appropriated for operation and maintenance, not less than $685,000,000 shall be available only for the maintenance of real property facilities".

MOTION OFFERED BY MR. M'KAY

Mr. McKAY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McKAY moves that the House recede from its disagreement to the amendment of the Senate numbered 21 and concur therein.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and on the several motions was laid on the table.

AUTHORIZING CLERK TO MAKE TECHNICAL CORRECTIONS IN ENGROSSMENT OF H.R. 12927

Mr. McKAY. Mr. Speaker, I ask unanimous consent that the Clerk be permitted to make technical corrections in the engrossment of the bill, H.R. 12927, on which the conference report was just agreed to.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). Is there objection to the request of the gentleman from Utah?

There was no objection.

PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO HAVE UNTIL MIDNIGHT, FRIDAY, SEPTEMBER 1, 1978, TO FILE A REPORT ON H.R. 13817, AMENDING THE SOCIAL SECURITY ACT

Mr. VANIK. I ask unanimous consent that the Committee on Ways and means may have until midnight, Friday, September 1, 1978, to file a report on the bill, H.R. 13817, to amend the Social Security Act with respect to health programs authorized under it and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO HAVE UNTIL MIDNIGHT FRIDAY, SEPTEMBER 1, 1978, TO FILE A REPORT ON H.R. 11545

Mr. VANIK. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means may have until midnight, Friday, September 1, 1978, to file a report on the bill, H.R. 11545, to modify the method of determining quantitative limitations on the importation of certain articles of meat and meat products, to apply quantitative limitations on the importation of certain additional articles of meat, meat products, and livestock, and for other purposes, along with any separate or minority views.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO HAVE UNTIL MIDNIGHT, FRIDAY, SEPTEMBER 1, 1978, TO FILE A REPORT ON H.R. 13097, AMENDING CERTAIN PROVISIONS OF TITLE XVIII OF THE SOCIAL SECURITY ACT

Mr. VANIK. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means may have until midnight, Friday, September 1, 1978, to file a report on the bill H.R. 13097, to amend certain provisions of title XVIII of the Social Security Act as they relate to the medicare program established by part A of such title.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO HAVE UNTIL MIDNIGHT, FRIDAY, SEPTEMBER 1, 1978, TO FILE A REPORT ON H.R. 13814, AMENDING SECTION 8 OF PUBLIC LAW 93–233

Mr. VANIK. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means may have until midnight, Friday, September 1, 1978, to file a report on the bill H.R. 13814, to amend section 8 of Public Law 93–233 to permit California to continue cash payments to SSI recipients in lieu of food stamps.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman explain what this is?

Mr. VANIK. Mr. Speaker, if the gentleman will yield, I would ask the gentleman to yield to the gentleman from California (Mr. CORMAN), the chairman of the subcommittee, to respond to his question.

Mr. ROUSSELOT. I yield to my distinguished colleague, the gentleman from California (Mr. CORMAN).

Mr. CORMAN. Mr. Speaker, this bill will permit California to continue on a cash-out status for food stamps for their SSI recipients. The recipients will receive $10 in Federal funds in lieu of the $10 in Federal food stamps that they would otherwise be entitled to. We will save, with this bill, from $40 million to $75 million a year in administrative costs. One-half of that will be saved by the Federal Government and one-half of that will be saved by the State government.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, how much will we save on this bill?

Mr. CORMAN. If the gentleman will yield, somewhere between $40 million and $75 million.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman for his explanation, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO HAVE UNTIL MIDNIGHT FRIDAY, AUGUST 25, 1978, TO FILE SIX LEGISLATIVE REPORTS AND TWO OVERSIGHT REPORTS

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations have until midnight Friday, August 25, to file six legislative reports and two oversight reports.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERSONAL EXPLANATION

Mr. DON H. CLAUSEN. Mr. Speaker, I was unavoidably detained at a meeting with staff of the Interior Committee on issues related to the Alaska oil. Because of this I arrived at the floor of the House just after the time had ended for a vote on the conference report for the legislative branch appropriations bill for 1979, H.R. 12935.

Had I been present I would have voted against the conference report as I did when it was on the House floor in June. While the bill contains some good provisions such as the freeze on salaries for Members of Congress, it is still far too expensive and contains numerous unnecessary and/or wasteful expenditures.

The legislative branch should be in the forefront of our efforts to balance the budget—not falling behind. I hope we can get our spending habits under control.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a concurrent resolution of the House of the following title:

H. Con. Res. 696. Concurrent resolution providing for an adjournment of the House from August 17 to September 6, 1978.

CONFERENCE REPORT ON H.R. 13468, MAKING APPROPRIATIONS FOR THE GOVERNMENT OF THE DISTRICT OF COLUMBIA

Mr. NATCHER. Mr. Speaker, pursuant to the order of yesterday of the House of Representatives, I call up the conference report on the bill (H.R. 13468) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1979, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of August 16, 1978.)

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that further reading of the statement be dispsensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The gentleman from Kentucky (Mr. NATCHER) will be recognized for 30 minutes, and the gentleman from California (Mr. BURGENER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. NATCHER).

Mr. NATCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report now before us will provide the District of Columbia with total resources of $1,767,886,400 for the fiscal year 1979. Of this amount, $679,374,900 or 39 percent will be financed from Federal funds. The Federal payment for fiscal year 1979 as provided for in this conference report totals $235 million. This, Mr. Speaker, is the lowest Federal payment since 1975, and is $82 million below the budget request, $29 million below the bill as passed the House, and $3 million below the Senate proposal. The reduction below the House amount results mainly from additional revenues the city expects to collect from its new parking enforcement and traffic adjudication program which was not authorized at the time the House considered the bill. The conference agreement also provides $9,900,000 for the Federal share of the RFK Stadium bonds which become due on December 1, 1979. The city's share of $9,900,000 was included in the fiscal year 1978 bill.

As far as total Federal funds are concerned, Mr. Speaker, the bill provides $255,200,000, which is $140,916,000 below the request and $19,100,000 below the House bill.

Mr. Speaker, the conference agreement provides a total of $1,362,317,700 in District of Columbia funds including $1,285,102,700 in operating expenses and $77,215,000 for capital outlay. This is $66,124,300 below the amount requested in the budget, $14,132,600 above the House allowance and $2,463,900 below the amount included in the Senate version of the bill. In addition, Mr. Speaker, the conference agreement includes $21,341,500 in supplemental appropriations for fiscal year 1978. This is $6,064,600 less than the budget request and $568,600 below the amount provided by the Senate. The House did not consider the 1978 requests as they were submitted subsequent to House action on the bill.

The conference agreement includes new positions and additional funding to strengthen the city's efforts in child abuse prevention and enforcement, as well as the resources necessary to implement the new parking enforcement and traffic adjudication program. The conferees have denied the creation of five new agencies requested by the city and instead, have transferred the activities to the departments which are currently performing the functions. A total of $625,000 has been approved for the Advisory Neighborhood Commissions, an increase of $125,000 above the amount available for the current fiscal year.

Mr. Speaker, I will, at the appropriate time, request permission to insert at this point in the RECORD a tabulation summarizing the conference action.

The table referred to follows:

DISTRICT OF COLUMBIA APPROPRIATION BILL, 1979 (H.R. 13468)—CONFERENCE SUMMARY

Item	New budget (obligational) authority, fiscal year 1978, enacted to date	Budget estimates of new (obligational) authority, fiscal years 1978 and 1979	New budget (obligational) authority, House bill	New budget (obligational) authority, Senate bill	New budget (obligational) authority, Conference	Conference action compared with— Fiscal year 1978, enacted to date	Budget estimates, 1978 and 1979	House bill	Senate bill
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
TITLE I									
TEMPORARY COMMISSION ON FINANCIAL OVERSIGHT OF THE DISTRICT OF COLUMBIA									
Salaries and expenses	$3,000,000	$3,000,000	$3,000,000	$3,000,000	$3,000,000				
TITLE II									
DISTRICT OF COLUMBIA									
FEDERAL FUNDS									
Federal payment	276,000,000	317,000,000	264,000,000	238,000,000	235,000,000	−$41,000,000	−$82,000,000	−$29,000,000	−$3,000,000
Payment in lieu of reimbursement for water and sewer services to Federal facilities	28,116,000	10,300,000	10,300,000	10,300,000	10,300,000	−17,816,000			
Federal payment to retire R. F. K. Stadium bonds				9,900,000	9,900,000	+9,900,000	+9,900,000	+9,900,000	
Loans to the District of Columbia for capital outlay	92,000,000	129,790,000				−92,000,000	−129,790,000		
Total, Federal funds to District of Columbia	396,116,000	457,090,000	274,300,000	258,200,000	255,200,000	−140,916,000	−201,890,000	−19,100,000	−3,000,000
DISTRICT OF COLUMBIA FUNDS									
Operating expenses									
General operating expenses	(90,862,600)	(96,326,800)	(93,718,500)	(95,133,100)	(93,765,300)	(+2,902,700)	(−2,561,500)	(+46,800)	(−1,367,800)
1978 supplemental		(3,203,200)		(2,719,400)	(2,719,400)		(−483,800)	(+2,719,400)	
Public safety	(263,771,000)	(274,412,800)	(266,473,800)	(265,961,200)	(265,130,200)	(+1,419,200)	(−9,222,600)	(−1,283,600)	(−771,800)
1978 supplemental		(1,139,700)		(889,700)	(889,700)		(−250,000)	(+889,700)	
Education	(264,679,200)	(282,898,600)	(282,201,200)	(283,605,400)	(283,605,400)	(+18,926,200)	(+706,800)	(+1,404,200)	
1978 supplemental		(143,600)		(68,600)			(−143,600)		(−68,600)
Recreation	(17,551,000)	(18,677,400)	(18,392,700)	(18,392,700)	(18,392,700)	(+841,700)	(−284,700)		
1978 supplemental		(58,000)		(58,000)	(58,000)			(+58,000)	
Human resources	(283,462,300)	(294,474,800)	(284,767,700)	(283,321,300)	(283,321,300)	(−141,000)	(−11,153,500)	(−1,446,400)	
1978 supplemental		(9,353,900)		(8,086,000)	(8,086,000)		(−1,267,900)	(+8,086,000)	
Transportation	(59,713,900)	(77,551,700)	(71,380,900)	(78,735,200)	(78,735,200)	(+19,021,300)	(+1,183,500)	(+7,354,300)	
1978 supplemental		(4,340,400)		(1,082,200)	(1,082,200)		(−3,258,200)	(+1,082,200)	
Environmental services	(58,191,900)	(73,309,900)	(72,962,500)	(72,119,800)	(72,069,800)	(+3,877,900)	(−1,240,100)	(−892,700)	(−50,000)
1978 supplemental		(1,669,700)		(1,550,400)	(1,030,400)		(−639,300)	(+1,030,400)	(−520,000)
Personal services	(65,549,400)	(69,300,000)	(69,300,000)	(69,300,000)	(69,300,000)	(+3,750,600)			
1978 supplemental		(7,000,000)		(7,000,000)	(7,000,000)			(+7,000,000)	
Settlement of claims and suits			(72,800)	(322,800)	(322,800)	(+322,800)	(+322,800)	(+250,000)	
1978 supplemental		(21,800)					(−21,800)		
Repayment of loans and interest	(125,668,500)	(111,700,000)	(111,700,000)	(120,400,000)	(120,400,000)	(−5,268,500)	(+8,700,000)	(+8,700,000)	
1978 supplemental		(475,800)		(475,800)	(475,800)			(+475,800)	
Total, operating expenses	(1,239,449,800)	(1,298,652,000)	(1,270,970,100)	(1,287,291,500)	(1,285,102,700)	(+45,652,900)	(−13,549,300)	(+14,132,600)	(−2,188,800)
1978 supplemental		(27,406,100)		(21,930,100)	(21,341,500)		(−6,064,600)	(+21,341,500)	(−588,600)
Capital outlay									
Capital outlay	(129,173,400)	(129,790,000)	(77,215,000)	(77,490,000)	(77,215,000)	(−51,958,400)	(−52,575,000)		(−275,000)

DISTRICT OF COLUMBIA APPROPRIATION BILL, 1979 (H.R. 13468)—CONFERENCE SUMMARY

Item	New budget (obligational) authority, fiscal year 1978 enacted to date	Budget estimates of new (obligational) authority, fiscal years 1978 and 1979	New budget (obligational) authority, House bill	New budget (obligational) authority, Senate bill	New budget (obligational) authority, Conference	Conference action compared with— Fiscal year 1978, enacted to date	Budget estimates, 1978 and 1979	House bill	Senate bill
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Total, District of Columbia funds	(1,368,623,200)	(1,428,442,000)	(1,348,185,100)	(1,364,781,500)	(1,362,317,700)	(−6,305,500)	(−66,124,300)	(+14,132,600)	(−2,463,800)
1978 supplemental		(27,406,100)		(21,930,100)	(21,341,500)		(−6,064,600)	(+21,341,500)	(−588,600)
RECAPITULATION									
Grand total, new budget (obligational) authority	399,116,000	460,090,000	277,300,000	261,200,000	258,200,000	−140,916,000	−201,890,000	−19,100,000	−3,000,000
Consisting of—									
Temporary Commission on Financial Oversight of the District of Columbia	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000				
District of Columbia:									
Federal funds to the District of Columbia	396,116,000	457,090,000	274,300,000	258,200,000	255,200,000	−140,916,000	−201,890,000	−19,100,000	−3,000,000
District of Columbia funds	(1,368,643,200)	(1,428,442,000)	(1,348,185,100)	(1,364,781,500)	(1,362,317,700)	(−6,305,500)	(−66,124,300)	(+14,132,600)	(−2,463,800)
1978 supplemental		(27,406,100)		(21,930,100)	(21,341,500)		(−6,064,600)	(+21,341,500)	(−588,600)

Mr. Speaker, this is a good conference report and I urge its adoption.

Mr. BURGENER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is a real privilege to serve under the inspiring and dedicated leadership of the gentleman from Kentucky (Mr. NATCHER).

Mr. Speaker, let me say that this particular conference report may not be greeted with wild enthusiasm by perhaps the elected officials of the District of Columbia, but it indeed should be greeted with great enthusiasm by the citizens and the taxpayers of the District of Columbia, because, as our chairman noted, this is the lowest Federal payment in about 12 years. This, in turn, can lower the burden on local citizens.

What does that really mean? If we continually escalate the Federal payment we continue to encourage the local government to add employees, and they have more employees per 10,000 population by far than any other place in the Nation, and that tends to build demand on the local taxpayers for more and more taxes.

So, Mr. Speaker, I think this particular budget is a real service not only to the taxpayers of the entire country but, more particularly, to the taxpayers and residents of the District of Columbia.

One of the basic reasons we can continue to provide a good level of service in the District of Columbia and still have a lower Federal payment is because we have a declining population both generally and in the schools. We have 4,000 fewer students per year in the schools. But, in addition to that, there is a business boom occurring in the District of Columbia, which we are all pleased about. Therefore the local taxes are much higher; local income taxes, sales taxes, licenses and fees of all kinds have been increased. That is what makes it possible for us to have a lower Federal payment and still provide the vital and necessary services.

Mr. Speaker, unless there are some questions, I urge my colleagues to fully support this, what I consider to be, a very austere but fully responsible conference report, since it covers all the essential services needed in the District of Columbia.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I am pleased to yield to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I thank my good friend, the chairman, for yielding. The thing that catches my eye, and it is kind of a small item but rather interesting, is that on page 49 of the Senate report on the District of Columbia appropriation bill for 1979 it says, under the heading of dog pound:

> The Committee is concerned at the reports regarding rude and unresponsive behavior directed toward the public by the city employees who work at the Dog Pound. The Committee expects the employees at the Dog Pound and in fact all city employees to act responsibly and with courtesy in carrying out their duties to serve the public.

I would say over the years I do not think I can ever recall a reference to the dog pound in a bill.

I say in all seriousness that it must be pretty bad. I know we have a lot of dogs here in Congress, and most of them get voted on; but I did not know the problem in the District of Columbia was quite that acute.

Would my good friend and colleague comment on that?

Mr. NATCHER. Mr. Speaker, in answer to the distinguished gentleman from Ohio (Mr. ASHBROOK), I would like to say that the amount requested in the budget was $275,000 for renovations and an addition to the existing dog pound. After hearing the witnesses, our committee believed the amount was too much for what they were going to do so the request was denied. They have facilities now.

The language which the gentleman has just read is from the report prepared by the other body. The gentleman will be interested to know that the $275,000 requested was deleted.

Mr. ASHBROOK. Mr. Speaker, I thank my good friend, the gentleman from Kentucky (Mr. NATCHER). Those six lines did rather attract my attention. I am glad to get that information.

Mr. BURGENER. Mr. Speaker, if the chairman will yield, I would like to make one further comment. The manner in which the employees of the dog pound treat the dog owners really should be a matter of home rule, to be taken care of by the locally elected Council and Mayor and their constituents. It really is not that much of our business.

● Mr. STEERS. Mr. Speaker, I feel compelled to address a few brief remarks to my colleagues on the cuts which are proposed in this report in the Federal payment for the District of Columbia. The District of Columbia had requested, with the full support of the administration, a Federal payment of $317 million. This body chopped that justified request to $264 million. The other body lowered our figure to $238 million. Now, the conference committee brings a report to us which has further lowered the payment to $235 million, the lowest amount, according to an article in this morning's Washington Post, since 1967, measured as a percentage of the city's approved budget.

The Federal payment to the District of Columbia is not just some Federal dole to the city. It is not some kind of gift from a benevolent government to a territory. The Federal payment has existed from the time the District of Columbia was created not because the Federal Government loves to give away money, but because the District of Columbia deserves such a payment as a matter of right. Less than 40 percent of the property in the District is taxable, not because the District has done anything wrong, but because the Federal Government is present. No other city in the Nation faces such a problem.

The Federal payment is designed, in theory, to provide the city with revenues to make up for those revenues lost due to the Federal Government. It is not some gift to be taken away at our whim. It should never be used as a punitive measure. And yet, here we are considering a bill which proposes a payment lower than it has been in years.

And what is the so-called rationale for this dismally low payment? Because, we are told, the city is doing such a good job of collecting local revenues that they may make more money from local taxes this year than previously anticipated. In other words, the better job the city government does in collecting taxes, the more we "reward" it by drastically slashing the Federal payment.

What kind of incentive are we providing the local government to do a good job? Absolutely none.

What relationship does revenue collected from local residents have to revenue lost due to tax-free Federal property, diplomatic property, and other tax-free property? No relationship whatsoever.

Mr. Speaker, I pledge my every effort to help work out and get approval for a meaningful and permanent formula for the Federal payment for the future. I have introduced legislation to form a commission to determine, in as nonpolitical an atmosphere as possible, what that formula ought to be. My colleague from California, Mr. DELLUMS, has introduced legislation to actually set a formula at a given percentage of local revenues. Both approaches, and others, should be carefully reviewed and resolved so that this kind of shabby treatment of the District's legitimate needs is not repeated.●

Mr. NATCHER. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. RUDD. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 339, nays 31, not voting 62, as follows:

[Roll No. 719]

YEAS—339

Abdnor
Addabbo
Akaka
Alexander
Ambro
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Baucus
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boland
Bonior
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Dellums
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Fary
Fenwick
Findley
Fish
Fisher
Flood
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Frenzel
Fuqua
Garcia
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Green
Gudger
Guyer
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kemp
Keys
Kildee
Kindness
Koetnayer
Krebs
Krueger
LaFalce
Lagomarsino
Leach
Lederer
Leggett
Lehman
Lent
Levitas
Livingston
Lloyd, Calif.
Long, La.
Long, Md.
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mikulski
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Pa.
Moss
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Nedzi
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Price
Purcell
Quayle
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Roe
Rogers
Roncalio
Rooney
Rosenthal
Rostenkowski
Roybal
Runnels
Ruppe
Russo
Ryan
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Sebelius
Seiberling
Sharp
Simon
Skelton
Skubitz
Slack
Smith, Iowa
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stanton
Stark
Steed
Steers
Stockman
Stratton
Studds
Taylor
Thone
Thornton
Treen
Trible
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Waggonner
Walgren
Walker
Walsh
Wampler
Weiss
Whalen
White
Whitehurst
Whitley
Whitten
Wilson, Bob
Wilson, Tex.
Wirth
Wolff
Wright
Wydler
Wylie
Yatron
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—31

Archer
Ashbrook
Bauman
Coleman
Collins, Tex.
Crane
Dornan
Edwards, Okla.
English
Evans, Ind.
Fithian
Gammage
Gephardt
Hansen
Kelly
Latta
Lott
Miller, Ohio
Moorhead, Calif.
Mottl
Neal
Quillen
Rousselot
Rudd
Shuster
Stump
Symms
Volkmer
Watkins
Weaver
Wiggins

NOT VOTING—62

Armstrong
Barnard
Boggs
Bolling
Burke, Calif.
Cederberg
Clay
Cornwell
Cunningham
Delaney
Dent
Dicks
Diggs
Evans, Colo.
Fascell
Flippo
Flowers
Flynt
Fountain
Fowler
Fraser
Frey
Hagedorn
Harrington
Holland
Huckaby
Jenkins
Kasten
Le Fante
Lloyd, Tenn.
McDade
McDonald
Mikva
Milford
Miller, Calif.
Nix
Nolan
Preyer
Pritchard
Quie
Risenhoover
Rodino
Rose
Sarasin
Schulze
Shipley
Sikes
Sisk
Smith, Nebr.
Stangeland
Steiger
Stokes
Teague
Thompson
Traxler
Tsongas
Vento
Waxman
Wilson, C. H.
Winn
Yates
Young, Alaska

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Armstrong.
Mr. Rodino with Mr. Frey.
Mr. Risenhoover with Mr. Sarasin.
Mr. Thompson with Mr. Young of Alaska.
Mr. Le Fante with Mr. Winn.
Mr. Preyer with Mrs. Smith of Nebraska.
Mr. Dent with Mr. Hagedorn.
Mr. Delaney with Mr. Cederberg.
Mr. Cornwell with Mr. Fraser.
Mr. Miller of California with Mr. Pritchard.
Mr. Fascell with Mr. Quie.
Mr. Flippo with Mr. Milford.
Mrs. Burke of California with Mr. Kasten.
Mr. Mikva with Mr. Holland.
Mr. Shipley with Mr. Diggs.
Mr. Sikes with Mr. Fowler.
Mr. Stokes with Mr. Charles H. Wilson of California.
Mr. Clay with Mr. Steiger.
Mr. Vento with Mr. Stangeland.
Mr. Traxler with Mr. Sisk.
Mr. Tsongas with Mr. Harrington.
Mr. Waxman with Mr. Dicks.
Mr. Yates with Mr. Evans of Colorado.
Mr. Rose with Mr. McDade.
Mr. Flowers with Mr. McDonald.
Mr. Nolan with Mr. Nix.
Mr. Teague with Mr. Jenkins.
Mr. Flynt with Mr. Huckaby.
Mr. Barnard with Mr. Fountain.
Mrs. Lloyd of Tennessee with Mr. Schulze.

Mr. ASHBROOK and Mr. RUDD changed their vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 1: Page 2, line 25, strike out: "$264,000,000" and insert "$238,000,000,".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 1 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$235,000,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 2: Page 3, line 8, insert: *"Provided*, That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, $9,900,000, without fiscal year limitation, for the purposes of the sinking fund established by section 6(a) of the District of Columbia Stadium Act of 1957, as amended.".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 2 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 4: Page 5, line 1, insert: "For an additional amount for "General operating expenses", fiscal year 1978, $2,719,400, including payments made pursuant to the Water and Sewer Repair and Compensation Act of 1976, D.C. Law 1–98, effective March 29, 1977.".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 4 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 5: Page 5, line 11, strike out: "$266,473,800" and insert "$265,961,200,".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 5 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$265,190,200".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 11: Page 7, line 11, insert: "For an additional amount for "Recreation", fiscal year 1978, $58,000.".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 11 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 6: Page 6, line 4, insert "For an additional amount for "Public safety", fiscal year 1978, $889,700.".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 6 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 13: Page 8, line 9, insert: "For an additional amount for "Human resources", fiscal year 1978, $8,086,000.".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 13 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 18: Page 8, line 22, insert:

"For an additional amount for 'Transportation', fiscal year 1978, $1,082,200: *Provided further*, That authorization is hereby provided to the government of the District of Columbia to fund the additional cost of snow and ice removal out of funds heretofore appropriated to such government for fiscal year 1978 for Washington Metropolitan Area Transit Authority but not to exceed $1,254,700.".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 18 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 19: Page 9; line 5, strike out "$72,962,500", and insert "$72,119,800".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 19 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$72,069,800".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 20: Page 9, line 14, insert: "For an additional amount for "Environmental services", fiscal year 1978, $1,550,400.".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 20 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert "$1,030,400".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 21: Page 21, insert: "For an additional amount for "Personal services", fiscal year 1978, $7,000,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 21 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 25: Page 10, line 18, insert: "For an additional amount for "Repayment of loans and interest", for fiscal year 1978, $475,800.".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 25 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 29: Page 18, line 8, insert:

SEC. 220. (a) No funds appropriated by this Act shall be available to pay any part of the salary of any employee of the government of the District of Columbia, or any department, agency, office, or other entity thereof, if any part of such employee's salary is paid from funds appropriated pursuant to the authority of the Comprehensive Employment and Training Act of 1973 (or successor statute), and the annual salary of such employee is in excess of that paid for the position of GS–9, step 1, under the General Schedule, under section 5332 of title 5, United States Code.

(b) Subsection (a) of this section shall take effect upon the expiration of the ninety-day period following the date of the enactment of this Act.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 29 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 30: Page 18, line 21, insert:

SEC. 221. (a) No funds appropriated by this Act shall be available to pay any part of the salary of an employee of the government of the District of Columbia, or any department, agency, office, or other entity thereof, if any part of such employee's salary is paid from funds appropriated pursuant to the authority of the Comprehensive Employment and Training Act of 1973 (or successor statute), and has been so paid for an aggregate period of at least twenty-four calendar months.

(b) Subsection (a) of this section shall take effect upon the expiration of the ninety-day period following the date of the enactment of this Act.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 30 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 31: Page 19, line 8, insert:

SEC. 222. (a) No funds appropriated by this Act shall be available to pay any part of the salary of any employee of the Council of the District of Columbia, or committee or subcommittee thereof, or any employee of any elected official of the government of the District of Columbia, if any part of the salary of any such employee is paid from funds appropriated pursuant to the authority of the Comprehensive Employment and Training Act of 1973 (or successor statute).

(b) Subsection (a) of this section shall take effect upon the expiration of the ninety-day period following the date of the enactment of this Act.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 31 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement

The Clerk read as follows:

Senate amendment No. 32: Page 19, line 19, insert:

SEC. 223. No funds appropriated by this Act shall be available to pay any part of the salary of any individual hereafter employed by any department, agency, office, or other entity of the government of the District of Columbia, having ten or more employees, if, at the time of such employment, any part of the salary of more than ten per centum of the employees of such department, agency, office, or entity is paid partly from funds appropriated pursuant to the authority of the Comprehensive Employment and Training Act of 1973 (or successor statute), and partly from funds of the District of Columbia.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 32 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the last amendment in disagreement

The Clerk read as follows:

Senate amendment No. 33: Page 20, line 5, insert:

SEC. 224. Notwithstanding any other provision of this Act, the provisions of sections 220, 221, 222, and 223 of this Act shall be deemed repealed upon the date of the enactment of the Act entitled "An Act to amend the Comprehensive Employment and Training Act of 1973, to provide improved employment and training services, to extend the authorization, and for other purposes.".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 33 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

SEC. 224. Notwithstanding any other provision of this Act, the provisions of sections 220, 221, 222, and 223 of this Act shall be deemed repealed upon the date of the enactment of the Act entitled "An Act to amend the Comprehensive Employment and Training Act of 1973, to provide improved employment and training services, to extend the authorization, and for other purposes", or similar legislation.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and on the several motions was laid on the table.

GENERAL LEAVE

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on H.R. 13468, just agreed to, and that I be permitted to include a tabulation summarizing the action taken.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

PERMISSION FOR COMMITTEE ON SCIENCE AND TECHNOLOGY TO FILE CONFERENCE REPORT ON H.R. 11401, NASA AUTHORIZATION FOR FISCAL YEAR 1979

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent that the Committee on Science and Technology may have until midnight tonight to file a conference report on H.R. 11401, the NASA authorization bill for fiscal year 1979.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CONFERENCE REPORT ON S. 9, OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1978

Mr. MURPHY of New York. Mr. Speaker, I call up the conference report on the Senate bill (S. 9) to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the statement.

(For conference report and statem see proceedings of the House of Au 10, 1978.)

Mr. MURPHY of New York (during reading). Mr. Speaker, I ask unanim consent that further reading of the st ment be dispensed with.

The SPEAKER pro tempore. Is t objection to the request of the ge man from New York?

There was no objection.

The SPEAKER pro tempore. The tleman from New York (Mr. MURP will be recognized for 30 minutes, the gentleman from New York (Mr. P will be recognized for 30 minutes.

The Chair recognizes the gentle from New York (Mr. MURPHY).

Mr. MURPHY of New York. Speaker, I yield myself such time may consume.

Mr. Speaker, today, I bring before for consideration the conference port on S. 9 (H. Rept. 95–1474), a to amend the outmoded Outer Contin tal Shelf Lands Act of 1953 to estab a new statutory regime for the mana ment of the oil and gas resources of Outer Continental Shelf.

This report is almost identical to bill passed by this House—this part F ruary—by a vote of more than 3 to 1 to 91). It is supported and was sig by 12 of the 14 House conferees and but one of the Senate conferees. I supported strongly by almost all coa States, citizen groups and environm talists. It is strongly supported needed by smaller energy companie is considered by the Carter admini tion as one of the key energy/envir mental bills of the 95th Congress.

This is not a new issue, but this c ference report is much improved o that considered by the 94th Congr And it is extremely important for Nation that we expedite its approval

Over 2 years ago, I came before House to urge passage of H.R. 6218. A 10 hours of debate and consideration some 80 amendments, that bill was pa by the House overwhelmingly by a m gin of 247–140.

The bill then went to conference w the Senate-passed companion bill, S. 5 and a compromise bill was brought b to the House for consideration. U fortunately, due to a number of fact including: A massive national lobby campaign by big oil and other elemen the opposition of the Ford administ tion, which included the threat o veto; a scheduling logjam on the Ho floor; and a threat of a Senate filibust the conference report was narro defeated.

Only this past February, I brou before the House for consideration new version of the OCS bill, H.R. 16 After hours of debate, and the consider tion of over 70 amendments, that bill w again overpoweringly passed by t House by an even larger margin of to 91. A vote to recommit the bill was soundingly rejected. And I am hap to say that the House bill was support by most of the minority members of t Ad Hoc OCS Committee, who continue support and have signed the conferen

report—so the conference report you have before you is largely a bipartisan effort.

From May to July of this year, the conferees conducted an extended conference of 11 sessions with countless amendments in order to hammer out a bill that would be acceptable to the House. I can truly say that we have successfully accomplished that and preserved almost all of the House version of the OCS bill including the critical provisions. Because of this effort, S. 9 is now acceptable to many of the previous opponents of this measure.

I do not believe that it is necessary at this point to report the story in detail.

I would, however, like to point out that we have, in the last 4 years, carefully examined the proposed OCS amendments and have made many changes which I feel have improved the bill significantly. As revised, the conference report will expedite OCS development by: Eliminating bureaucratic conflicts; reducing the possibility of frivolous lawsuits; minimizing present opposition to offshore development on the part of States and other interests; and insuring proper financial relief to coastal States, fishermen, and those affected by oil spills. The conference report will also insure a more open OCS policymaking process by involving States, and through the States local governments, and citizens. The conference report will insure safe OCS development by providing for increased environmental and worker-safety controls. In addition, it will enhance competition by providing for new bidding systems which will facilitate the entry of smaller energy companies.

Let me briefly discuss some of the important provisions of the conference report.

ALTERNATE BIDDING SYSTEMS

The Senate bill provided that during the next 5 years, bonus bids cannot be utilized in less than 50 percent of the leases offered in previously undeveloped areas. The House amendment provided that new bidding systems are to be utilized in no less than 20 percent and no more than 50 percent of the leases offered in lease sales held for all areas during the next 5 years. The conference report follows the House amendment with an almost negligible amendment.

Bidding systems other than bonus bidding, including royalty, net profit, work commitment, and nonenumerated systems, are to be utilized in at least 20 percent and not more than 60 percent of the tracts leased in all OCS areas during the next 5 years. So with respect to new bidding systems the conference report is virtually the same as the House provision, which was introduced by the minority on the House floor.

For all practical purposes, there is only one method in the present statute for awarding leases to Federal Outer Continental Shelf lands: bidding on the basis of up front cash bonuses. However, we are now in a period in which investment capital is tight, and we are asking that oil companies find and produce oil in areas they have never developed before. With money tight and the risks high, cash bonus bidding may no longer be the best system for the years ahead. We must spur competition among the oil companies in the bidding process. In doing so, we must strike a balance between a fair profit to the oil companies, which must risk their investment capital, and a fair return to the Federal Government as the owner of the leased lands. The conference report would provide alternative leasing arrangements, and would require the Department of the Interior to use them during the next 5 years so that we may work out the best arrangements for the future.

FEDERAL EXPLORATORY DRILLING

Under the House version the Federal Government itself was not authorized to engage in drilling activities. However, the Secretary of the Interior was specifically directed to offer permits for on-structure exploratory drilling.

The Senate version not only allowed Federal exploration per se, it mandated exploratory drilling if the Secretary determined that drilling was necessary to acquire more accurate information. The Conference report eliminates both the House provision for on-structure drilling and the Senate mandate for Federal exploration, regarding the general authority for Federal exploration, both Houses receded and the conference report maintains the language of the original 1953 act. The conferees' action does not represent any intention to limit, modify, or expand whatever authority the Federal Government has under existing law to grant permits to applicants to conduct drilling operations. However, it does mean that the issue will undoubtedly be decided in court. Government exploration is no longer an issue in this bill. Present law—whatever I, and others believe it allows, or not allows—is maintained.

PARTICIPATION OF STATE AND LOCAL GOVERNMENTS IN THE OCS-DECISIONMAKING PROCESS

Under the existing OCS law, the Secretary of the Interior administers the Federal leasing program and controls the Federal regulatory machinery supervising the development of offshore oil. He does so with almost no outside input. On occasion he may consider the view of outsiders, but he acts under regulations that he himself devises. He is under no statutory compulsion to consider the views of State governments, local communities, or members of the public who may have a real interest. The conference report would open Interior's decisionmaking process so that relevant outsiders—and in particular, State governments and through States, local government—may present their views and must be heard. They would not have a veto—only an opportunity to present their views and assurances that those views will be considered. If we are to have intelligent decisions, they must be highly informed ones. Only an open decisionmaking process can insure this result.

FEDERAL ASSISTANCE TO AFFECTED STATES

The development of the oil and gas resources of the Outer Continental Shelf will have an extensive impact—on our coastal environment. Offshore oil and gas must be brought to shore, processed, stored, and transported. New offshore facilities will have to be built and operated. As new workers crowd into the communities near these facilities, they will need housing, schools, medical facilities, and a variety of municipal services. If the coastal States are to deal with the onshore environmental impacts and the secondary economic impacts of development, they must have Federal assistance. To provide this assistance, the conference report amends the Coastal Zone Management Act of 1972, to provide for increased grants to affected States.

The Senate bill amended the Coastal Zone Management Act, increasing authorization for the OCS formula grants section of the coastal energy impact program from $50 million to $75 million for each of the 8 fiscal years.

The House bill provided that of all Federal OCS rentals, royalties, revenues, or other sums, 20 percent—with a ceiling of $200 million—was to go into the coastal energy impact fund.

The conference report increases authorization for the OCS formula grants section of the coastal energy impact program from $75 million to $130 million beginning in fiscal year 1979 and for the following 9 fiscal years. Of the funds appropriated under this provision, a ceiling of 37½ percent and a floor of 2 percent is established to go to individual affected States. The funds would be allocated under a formula based on the following criteria: 50 percent to be based on a coastal State's adjacency to OCS acreage newly leased; 25 percent based on a coastal State's adjacency to OCS oil and gas produced; and 25 percent based on OCS oil and gas first landed in such coastal State.

Federal assistance to ameliorate the adverse coastal impacts of OCS activities is now made more than adequate.

PROTECTION OF THE ENVIRONMENT

The conference report contains other features designed to protect the environment. It would require the Department of the Interior, working through the Commerce Department, to gather information about the present environment of affected areas and to monitor the environment on a continuing basis. It would require the Department of the Interior to conduct an environmental review after exploration and before production, and to prepare a formal environmental impact statement for every undeveloped major lease area. It would establish liability for oilspills and provides for an offshore oilspill pollution fund to insure that damages from OCS activities are speedily compensated. The fund is to be established at a level of not less than $100 million and not more than $200 million. The fund is supported by an up to 3-cents-per-barrel charge paid by the lessees and permittees. It would provide for funds for damages to fishermen from OCS activities.

LIST OF OTHER PROVISIONS

Besides the above-mentioned provisions, the 1978 OCS Act—obviously a comprehensive bill—

Establishes a national policy for the management of oil and gas leasing on the Outer Continental Shelf;

Provides authority to insure expeditious activity (diligence) and to cancel leases for serious environmental threats;

Requires the Secretary of the Interior to prepare a 5-year leasing program for the orderly development of oil and gas resources on the Outer Continental Shelf, insuring that oil and gas development will be expedited to meet national needs in a balanced and environmentally sound manner;

Requires exploration and development plans to be formulated by the lessees and approved by the Secretary of Interior to insure orderly development of the Nation's oil and gas resources;

Provides for the consolidation of citizens' suits so that cases may be resolved expeditiously and fairly while resulting in minimal delay of development plans;

Provides for an information program in order to assess the Nation's OCS oil and gas resources so that the Government will receive a true value for those resources;

Establishes crewing and manning regulations for vessels and rigs engaged in OCS activities, authorizing procedures so that OCS rigs and vessels be manned and crewed by Americans with certain exceptions;

Allows the secretary to grant rights-of-way through submerged lands of the OCS for pipelines;

Provides that lessees shall produce oil and gas, according to regulations, to assure the maximum rate of production with regard to sound engineering and economic principles;

Requires that 20 percent of OCS production be set aside for small and independent refiners;

Provides for reviews of the competitive aspects of OCS leasing;

Provides for joint Federal/State leasing of areas underlying both the OCS and lands subject to State jurisdiction;

Requires a detailed annual report on OCS leasing;

Provides for the confidentiality of all privileged or proprietary information;

Charges the Secretary of Interior and the Coast Guard with the regulations and enforcement of OCS safety, including requiring on-site inspections and the use of the best available and safest technologies on all new drilling operations, and, wherever practicable, on existing operations;

Providies for the establishment of a policy for the transmission of OCS oil and gas produced by local distribution companies or their affiliates to the service areas of such companies. In short, I feel that S. 9 is a fair and equitable bill, which is an important component of this country's national energy program.

I must re-emphasize that S. 9 has the strong support of the Carter administration which has urged this Congress to move expeditiously and enact this needed legislation

This wholehearted support was reiterated by President Carter in the state of the Union message which stated

Legislation to improve the management of the Outer Continental Shelf for oil and gas development is a major item of unfinished business pending before Congress. Prompt passage is necessary so that we can have the benefit of the new law as we move to open more offshore areas to development and production.

As stated by the President in forwarding his national energy program last year and reiterated in his state of the Union message S. 9 is an important part of this country's national energy program

In addition to the administration the bill has the widespread support of State and local government representatives, gas distributors, many small energy companies union, environmentalists, fishermen, and other citizen groups.

The importance of OCS resources to the United States and the need for this legislation cannot be overstated. The prospects are that the U.S. Continental Shelf can be the largest domestic source of oil and gas between now and the 1990's.

When the select committee began its work over 3½ years ago, the Nation was importing approximately 35 percent of its crude oil. That percentage has risen quickly and steadily. Our imports of foreign crude oil now exceed periodically 50 percent of our domestic consumption.

We are now running a deficit in our balance of payments—and payments for foreign oil are a very large item on the debit side of the ledger—perhaps exceeding $45 billion a year. Furthermore, these dollars end up in the hands of countries whose interests do not always coincide with our own.

These figures underscore our vulnerability to another embargo by the producing nations that make up OPEC. If in fact another embargo occurs, the adverse economic impacts this country stands to suffer will be far more severe than those we suffered as the result of the 1973 embargo. I do not need to remind my colleagues of that difficult period of petroleum shortages and curtailments.

Another effect of the rising level of foreign oil imports is the continuing drain of American dollars to the oil rich OPEC countries. This, as you know, has led to the weakening of the U.S. dollar relative to other currencies in the international monetary market.

Another crucial point relates to our defense posture and the implications of excessive dependence of foreign sources of oil—for it is oil that runs the wheels of any national defense program. The oil lifeline from the Mediterranean and Persian Gulf to the United States could be easily cut by a foreign superpower with large naval strength.

The oil and gas resources that lie beneath our Outer Continental Shelf are enormous, and I know that every Member agrees with me that it is vital that we develop these resources as rapidly as modern technology will safely permit. There is, of course, a statute now in existence for the management of these lands, the Outer Continental Shelf Lands Act of 1953. But, it is now almost 25 years since that statute was enacted, and it is woefully archaic and inadequate.

Recent events have detailed the need for this bill: offshore oil spills, here, off France, and in the North Sea; reports of shut-in wells; delaying and unsuccessful lawsuits; and noncompetitive lease s
have all led to increased public dem
for reforms to the antiquated 1953

H.R. 1614 is a long, detailed and w
considered bill. It is the result of
years of extensive hearings, in which
select committee heard more than
witnesses and compiled a hearing re
totaling more than 10,000 pages,
months of markup, in which the c
mittee considered hundreds of ame
ments. It is the product of count
hours of consideration and numer
amendments on the House floor an
the conference committee. It is a c
ference report which, if approved,
make a profound contribution to
Nation's energy crisis and do so i
manner that takes into account
needs of our States and the protec
of our marine and coastal environm
The implications for the Nation's e
nomic security are clear.

I strongly urge the House to appr
the conference report for this m
needed legislation.

Mr. JOHN L. BURTON. Mr. Spea
will the gentleman yield?

Mr. MURPHY of New York. I yield
the gentleman from California.

Mr. JOHN L. BURTON. Mr. Spea
I thank the chairman, the gentlem
from New York (Mr. MURPHY) for yi
ing to me.

Mr. Speaker, I would like to comm
the chairman and all of the members
the committee for keeping in the ame
ment I proposed on the floor of the Ho
to prohibit the exploration and drill
within a certain radius of the P
Reyes National Seashore.

I agree with the limiting amendme
that were put in by the committee.

I would like to specifically pay
compliments not only to the chairm
and the members of the committee
general, but to our colleague, the gen
man from California, Mr. GEORGE M
LER, who worked so hard on this bill a
represented my interests as best he co
in the conference committee.

Mr. MURPHY of New York. M
Speaker, I reserve the balance of m
time.

Mr. FISH. Mr. Speaker, I yield mys
such time as I may consume.

Mr. Speaker, the conference report
S. 9 that we are considering today is t
culmination of over 3 years of work
both Houses of Congress.

In April of 1975, the House created t
Ad Hoc Select Committee on the Ou
Continental Shelf to amend the O
Outer Continental Shelf Lands Act
1953 to provide for accelerated, orde
and environmentally safe developme
and production of our energy resour
on the OCS.

The House felt that the Outer Con
nental Shelf contained vast reserves
oil and gas, and that these resour
would greatly increase domestic suppl
thereby cutting back on our dependen
of foreign oil.

In 1975, imports of foreign oil co
prised approximately 30 percent of o
national consumption of oil. Since th

bill provided for $200 million per year in

"Any agency of the United States

time, our consumption of imported oil has increased 66 percent to where imports now represent over 50 percent of our total consumption. It is obvious that legislative action should be taken at the earliest possible date.

However, the reason it has taken as long as it has is that legislation in the past has contained many provisions that the House obviously felt would not accomplish the goals we were after, and could, in fact, be detrimental to the development of OCS energy resources by creating untold delays, providing untold new Government regulations and redtape, add to the cost of development and production, as well as opening the door for the Federal Government to go into the oil business.

The OCS conference report contained many of these objectionable provisions. It was for these reasons that I urged and the House voted, to recommit the OCS bill to conference in 1976, where it ultimately died.

In the 95th Congress we began anew hearings on H.R. 1614, the 1977 amendment to the OCSLA. On January 26 we began consideration of this legislation and the bill reported by the committee again contained the objectionable provisions that caused recommittal in 1975.

On February 2, of this year, the House passed a greatly amended version of H.R. 1614 and almost all of the objectionable provisions contained in the committee bill were deleted or substantially changed.

Mandated Federal exploration and the right to conduct core and test drilling were completely eliminated; dual leasing eliminated; authority for the use of new and experimental bidding systems in up to 100 percent of the leases in frontier area was substantially changed by requiring their use in only 20 to 50 percent of all areas offered for lease; authority granting OSHA joint jurisdiction to promulgate safety and health regulations on the OCS was changed by giving the Coast Guard clear authority for safety regs while not prohibiting OSHA from issuing regulations under 4(b)(1) of the OSHA Act; the ability to export massive quantities of OCS oil and gas was abated; the controversial restrictions on employment provision was altered to comply with provisions of H.R. 1; and equitable funding for impacted States was accomplished. The conference substantially upheld these positions of the House.

However, the House will recall, we were not successful last February in altering or defeating amendments that caused unnecessary delays or added inflationary costs to OCS oil and gas such as: First, provided for separate reviews by the Attorney General and by the FTC of leasing programs and preparation and when completed, each lease sale, and in other areas; and Second, excessively stringent and unneeded air quality standards. The Conference Committee modified both these features. The Attorney General need only consent now with the FTC. Air quality standards now only apply to air quality of a State, not the OCS.

Mr. Speaker, the conference report on S. 9 substantially resembles the House-passed bill, and in some respects is an improvement. It retains most of the amendments the minority was successful in getting adopted on the floor, and improves most of the provisions we found objectionable.

After attempting for 3 years to establish a program that will provide for safe, accelerated production of OCS oil and gas, our last fossil energy frontier, I am now faced with casting a final vote on a bill that contains most of the provisions I have fought for. S. 9, while not perfect, is the result of a conference that accomplished what it set out to do—come up with an acceptable compromise from two pieces of legislation that contained divergent solutions to the same problems, and for this reason I urge my colleagues to join me in voting for passage of the conference report on S. 9.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. FORSYTHE), a member of the committee of conference.

Mr. FORSYTHE. Mr. Speaker, this legislation represents an idea whose time has come and gone. This bill is a classical example of the ability of Congress to do too much, too late.

Early in 1975, I was one of the first Members of this body to call for extensive overhaul of the laws and regulations governing development of oil and gas on the Outer Continental Shelf. Before the House Select Committee on the OCS was established, I introduced a package of three bills designed to streamline and update leasing and development procedures on the OCS, to provide more involvement of the States in the process, and to strengthen environmental protection on the OCS.

With that personal direction already clearly established, I became a Member of the Select Committee, only to see the committee create during the 94th Congress and again in this Congress a monster piece of legislation which complicates rather than streamlines the leasing and development procedures on the OCS while providing little, if any, true additional protection for the environment.

Since the inception of the OCS Committee, on the other hand, the Department of the Interior has made substantial positive changes in the regulations governing the OCS. In fact, the esteemed chairman of the select committee, my colleague from New York, stated publicly earlier today that since the beginning of hearings by the committee much of what is contained in this bill has already been incorporated in revised regulations.

I would go further, Mr. Speaker, and state that close to two-thirds of the provisions of this bill have already been incorporated in present regulation.

True, that fact might be cited as evidence that the bureaucracy will not move except under the threat of legislation. Whether that is true or not, the fact is that the 1953 act obviously provides the authority for the changes made. And those changes amply reflect the flexibility of the 1953 act and highlight the danger of locking in the granite of statute, provisions which must change to reflect the changing nature of technology and economics.

Mr. Speaker, I refuse to vote for this bill on the basis that it is not necessarily a good bill, but the best possible at the time. I am going to vote against it because I fail to see the reason for any bill at this time. I do not think we should lock up in unnecessary, inflexible statute, matters that best can be handled by flexible regulations.

Mr. Speaker, at this point we have a system governing oil and gas development on the Outer Continental Shelf that has largely accomplished through recent administrative changes the goals which I set out to achieve over 3½ years ago. We have streamlined regulations and have more flexible bidding systems. We have significantly enhanced protection of the environment. True, this progress was accomplished outside of these halls. Congress can take no direct credit, other than in having the foresight to pass a law in 1953 that still functions extremely well in 1978. I, for one, am not willing to tamper with that law now, simply to be able to claim victory after my years of work in this area.

I do feel, however, Mr. Speaker, that the entire United States has gained a victory through the better regulations now governing the OCS, and I hope that progress continues as the industry and the country change. I intend to vote against this conference report in order to provide the continued flexibility needed to cope with these changes.

Mr. FISH. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana (Mr. TREEN), a member of the committee of conference.

Mr. TREEN. Mr. Speaker, I want to compliment the chairman of this committee and the ranking minority member and all of those who worked on this bill.

I think I was probably one of the principal thorns in the side of my colleagues, but they tolerated me well, and I appreciate that.

Mr. Speaker, I do want to mention why it was that I did not sign the conference report, and I think I also speak for my colleague, the gentleman from Louisiana (Mr. BREAUX), who is not on the floor at present, who also did not sign the conference report. We felt that with respect to the coastal energy impact program, the single-State limit of 37.5 percent should not have been applied for the year 1979. We thought that it was the intent of the conference that this single-State limit would not apply until we got into appropriations against the larger authorization of $130 million per year, which this bill provides. Therefore, for that reason, we did not sign the conference report.

However, Mr. Speaker, I intend to vote for the bill and urge my colleagues to do so. One of the benefits of the bill is that the coastal energy impact program has been improved from an authorization of $50 million a year to $130 million a year for all of the coastal States. The House

bill provided for $200 million per year in a trust fund, but we had to compromise with the Senate, which had a figure of $75 million a year. We made some substantive improvements in the law.

Mr. Speaker, I want to commend our colleague from New Jersey (Mr. HUGHES), who was a principal architect of the House version of the coastal energy impact program amendments, for his work on this bill.

There is another thing in the bill which gives us reason to support it, and that is the fishermen's compensation fund, which was worked on diligently by the gentleman from Massachusetts (Mr. STUDDS). I collaborated with him on that. This sets up for the first time a means for fishermen who get their nets and their equipment damaged because of OCS activities, and who cannot identify the person or company responsible, to recover for the loss of that equipment.

Mr. Speaker, I will address myself to two issues that the conference compromised, which I believe should have been resolved in favor of the House bill. I refer to the question of Federal exploration, which led the House in the 94th Congress to recommit this bill to conference, and that of financial assistance for coastal States adjacent to OCS activity.

In discussing the Federal exploration question, let me make clear that I find the conference resolution of the issue superior to the Senate bill provisions and those reported to the House by the Ad Hoc Select Committee. The Senate bill mandated that the Secretary of the Interior expend our limited Federal funds on oil and gas exploration. This would have been a very expensive endeavor for which Federal agencies are ill equipped, and one that would have had to be very extensive to prove the extent of our OCS oil and gas resources. The reported version of H.R. 1614 had provided that the "Secretary or any other Federal department or agency * * * may conduct geological and geophysical explorations, including core and test drilling, in the Outer Continental Shelf." The conference report does not explicitly authorize the Secretary to conduct exploration himself. More importantly, it does not contain authority for core and test drilling, impliedly limiting the Secretary to seismic and other geophysical exploration techniques not involving drilling in a geological structure believed to contain oil and gas deposits.

The conference agreed to retain the language of section 11 of the 1953 Outer Continental Shelf Lands Act. In so doing, we explicitly state that it was not our intention to express any opinion as to whether exploration by the Secretary of the Interior or those with whom he contracts was authorized by the 1953 act.

I personally opposed the decision of the conference not to resolve the supposed ambiguities of present section 11. I believe the House overwhelmingly indicated on two occasions its desire to explicitly preclude the expenditure of tax dollars for risky oil and gas exporation. On January 31 the House approved by voice vote my amendment to the amendment of Congressman STUDDS striking from the 1953 act language the phrase "Any agency of the United States and * * *" There was no opposition to my amendment at all. And the House proceeded to adopt Congressman STUDDS' amendment (striking the words "including core and test drilling") as amended by my amendment by the overwhelming vote of 328 to 77.

The desire of the House to preclude Federal exploration could not have been more clear. But it should also be noted that Congressman STUDDS viewed his amendment without mine, which the conference has now adopted, as precluding Federal exploration. Let me quote from his remarks at that time:

> The original language in the statute appears on page 257 of the committee report, and it reads exactly as the paragraph contained in the bill, except that it does not have the words "including core and test drilling". Therefore, Mr. Chairman, in sum the only real effect of my amendment is to remove those controversial words "including core and test drilling" from this bill . . . My amendment removes the only remaining language in the bill which has been construed by some as authorizing Federal Exploratory drilling. If and when this amendment is adopted, there cannot be, in the course of debate on this bill, any further discussion whatsoever with respect to the desirability of the Federal Government's undertaking exploratory drilling, because with the adoption of the Treen amendment (Note: Congressman Studds refers to the Treen amendment on dual leasing which was previously adopted, and not to the amendment I later offered to the Studds amendment to Section 11) and mine, all sections and all language in the bill referring to this subject will have been stricken.

Later in that debate Chairman MURPHY promised "the House conferees are committed to keeping the House position * * * and I will make every endeavor to do the same, hopefully, in the forthcoming conference."

I was disappointed with the endeavors of the majority of the House conferees to support the language on exploration supported by 328 Members of the House. I would have expected more diligence considering the vote of the House in December of 1976 to recommit the conference report with instructions to delete all reference to Federal exploration. I do hope that the Secretary of the Interior will pay particularly close attention to the statements of Congressman STUDDS which I have quoted in interpreting the decision of the 95th Congress on section 11.

The provisions of title V, amending the Coastal Zone Management Act, are a step in the right direction. But they represent a step far too small and pitiful to meet the legitimate need of our coastal States which are adjacent to the oil and gas production we authorize in this legislation.

The conference declined to make the coastal energy impact program permanent but did extend it from fiscal year 1984 to fiscal year 1988. The conference declined to establish a trust fund as the House had done, but did increase the authorization from the present $50 million level to $130 million per year. The value of this increased authorization is, of course, dependent on the level of appropriations. To date appropriations have averaged less than 40 percent the present authorization level.

A major improvement in the coa energy impact program in S. 9 was subject to conference. Until now a St could only employ its formula gr funds for public facilities or public se ices (other than those needed to m gate the loss of environmental or rec ational resources) after having exhau ed its eligibility for coastal energy i pact loans. Those loans have been offe at an interest rate higher than m municipalities and States can borrow the market. This made no sense in much as the State would have the sa amount of funds regardless of eligibi for loans.

These small improvements fall short of the needs of coastal Stat which must provide the public facilit to serve OCS employees and busin without having the right to tax activ on the OCS. They are miserably shy the 50 percent of revenues from mine leasing that interior States receive, y in and year out, without appropriati or renewal of authorizations being quired. The defeat of House provisi establishing a permanent CEIP progra funded from OCS revenues placed in trust fund, and providing for imme ate disbursement of formula grants States to permit States to earn inter on those funds, can be attributed to strong opposition of the administrat to those worthwhile provisions.

The trust fund, to consist of $200 m lion annually, was approved by House on a bipartisan 279 to 120 vote majority of House conferees had s ported the Hughes amendment. But conference, after rejecting a 7-year $ million authorization, only two Ho Democrats opposed accepting a 10-y $130 million authorization in lieu o permanent $200 million program wit trust fund to encourage appropriatio A June 1 letter from Assistant Secret of Commerce Harmon must h strongly influenced the other se Democrats.

The administration opposition is h to understand in light of the Presiden strong promises in New Orleans 2 d before the election, and assertions Secretaries Andrus and Kreps that President intended to fulfill those pro ises through improvements to coa zone management rather than dir revenue sharing.

Most who heard the President sp in New Orleans understood his rema to have the meaning later attributed the media by his State campaign ma ager, his press secretary and issues visor. To quote the New Orleans Tim Picayune of October 31 quoting can date Carter:

> "I think it's time we had a fair allocat of Federal funds to give to local and St governments so you can still have a g quality of life and still supply oil and natu gas to the country."

Although Carter's statement was vag worded, press secretary Jody Powell said Democratic nominee was proposing splitt revenues from offshore drilling between Federal government and local governmen a program which could mean millions Louisiana in the future.

Afterwards, U.S. Senator J. Bennett Johns-

Afterwards, U.S. Senator J. Bennett Johnston—Carter's State campaign chairman—said the Democratic Presidential nominee's remarks amounted to a direct call for offshore revenue sharing.

At McAllen, Texas, Stuart Eizenstat—Carter's issues advisor—said the Democratic nominee intended to propose an offshore revenue sharing program similar to one pushed by Johnston and other State officials.

Under present law, most Federal offshore revenue sharing is designed to deal with onshore environmental effects of offshore drilling.

"He (Carter) would like to broaden that to have a more generalized sharing of fund," Eizenstat said. "It's more or less an offshore revenue sharing proposal for revenue that comes from Outer Continental Shelf leasing," he added.

The President may partially redeem those promises by seeking appropriations for the CEIP program in future years close to the level of the new authorizations. The combined effect of the ceiling on the CEIP grants which any one State may receive adopted in this bill (37½ percent) and the low appropriation requested by the President and approved by both House and Senate of $27.75 million will result in Louisiana receiving less in CEIP assistance in fiscal year 1979 than we did in fiscal year 1978. This result is unconscionable, and I do not believe it was one intended by the conferees. I believe the conference clearly had in mind applying the 37½-percent ceiling to future years in which Congress considered the higher level of appropriations authorized in this bill. I do not believe the conference intended it to apply to fiscal year 1979 since both Houses have already acted on fiscal year 1979 CEIP appropriations, arriving at a figure which is not subject to conference. I regret that Chairman MURPHY insisted on the bill being drafted as it was.

I think it is even more unfortunate that the report does not reflect the clear understanding of the conference on "proportional reduction." The new amendments to the coastal energy impact authorization entitle States to payment of more than 100 percent of the funds appropriated in order to guarantee "affected States," ineligible under the formula, 2 percent of the appropriation. This makes necessary the reduction of the share going to States eligible under the formula. The conference clearly agreed that this reduction was to be shared by States in proportion to their shares of the grant funds. Instead the staff drafted bill language which would exempt from reduction the first 2 percent of each State's allotment—thus putting a much greater burden on States with a share greater than 5 percent of the appropriation. This is patently unfair and contrary to what has been agreed to by the conferees. The chairman insisted, however, so that I could not in good conscience sign the report and attest that it represented the agreement of the conference.

Finally let me mention the provision of this bill amending section 307 of the Coastal Zone Management Act. The potential for delays in this legislation has been one of the prime concerns of a number of us in Congress. A serious source of delay, however, was contained in the present Coastal Zone Management Act which forbids the Secretary of the Interior to approve any exploration plan or development and production plan for 6 months from submission, unless the adjacent coastal State concurs that the plan is consistent with its State coastal zone management program.

The ad hoc select committee adopted my amendment, which was unchanged by the full House, shortening this nonaction period from 6 months to 3 months. This was consistent with the provisions of H.R. 1614 giving States 90 days to comment to these same plans. The Senate bill gave only 60 days for comments and the conference agreed to that time period, which is now used in the Secretary's regulations. Senator JACKSON had introduced legislation shortening the period for CZM concurrence to 60 days as well.

However, my amendment was rejected in conference in favor of a substitute by Chairman MURPHY which authorizes the Secretary to approve an exploration plan or a development and protection plan within 3 months if the State does not submit a status report explaining why it needs to use more than 3 months. If such a report is submitted the State has the present 6 months.

In conclusion, Mr. Speaker, in my judgment, amendments to the Outer Continental Shelf Lands Act were really not needed. But, because of the improvements in the coastal energy impact program, and the new fishermen's compensation program, both of which are included in S. 9, the bill warrants our support.

Mr. FISH. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I want to pay compliments to the chairman of the committee and the members of the conference committee in producing this legislation, which is of great importance to all of us who represent coastal areas, and to the entire Nation.

It is interesting to note, I believe, that this was the first ad hoc committee appointed by the Speaker under the changed rules which permitted this kind of joint legislation effort representing several committees of the House. I think it has worked well but it worked too long. I do not think that it is any secret that this bill might have been law 3 years ago. In fact, the bill before us today bears a striking resemblance to minority proposals made at that time, had various unfortunate events not occurred.

I am pleased, though, after this long and arduous trek, part of it on land and some of it walking on water, that we have finally reached this day when we can pass an OCS bill that will, indeed benefit the Nation.

Mr. Speaker, throughout my service as a member of the ad hoc committee, my primary concerns have been to provide a realistic method by which to develop badly needed energy resources but at the same time to assure that proper protection be given for coastal areas that might be affected, either by accidental pollution or on-shore impact.

Representing as I do Maryland's premier ocean resort, Ocean City, the last thing I wish is to allow off-shore exploration and production of gas and oil to damage the important tourist business or the fragile ecology of both Ocean City and Assateague National Seashore to the south.

I am satisfied that these concerns have been met in this legislation, however belated its passage may be today.

Mr. Speaker, as a member of the Ad Hoc Select Committee on the Outer Continental Shelf and having attempted to amend this bill not only in committee but on the floor, I must admit that I am pleasantly surprised and pleased by the conference report before us today.

In 1976, it was a different story, when a stubborn refusal to make necessary changes caused the defeat of the bill.

In January of this year during floor consideration of H.R. 1614 I raised several points that I felt must be corrected if Congress was going to pass legislation to provide a program that would accelerate production of OCS energy resources and protect the environment, while not providing mountains of red-tape, Federal intervention, and result in the wholesale giveaway of our energy resources on the OCS.

During consideration of H.R. 1614, I expressed my concern over the mandated use of new and experimental bidding systems in 50 to 100 percent of the leases offered each year in frontier areas. The Congressional Budget Office had stated that while they could not make an accurate estimate of the total loss to the American taxpayer, the loss from the application of this provision would be at least in excess of $2 billion over the next 5 years. The House accepted an amendment altering this provision providing for the use of new and experimental systems in no more than 50 percent of the leases offered each year. The conference report accepted the House provision but raised that ceiling to 60 percent.

H.R. 1614 as reported from the Committee also mandated that the Federal Government was to conduct on-structure and core and test drilling which might have turned into Federal oil production. The House, in its wisdom, rejected these provisions and the conference upheld the House action. I do not believe the Federal Government should be in the oil business.

However, the question of Federal exploration is still a bit cloudy. While the conference accepted the House's position on this issue, they retained the 1953 language dealing with exploration which has been a question of controversy as to whether the Government does or does not have authority to explore.

Dual leasing was another provision that was contained in H.R. 1614 and this inadvisable and dangerous section has also been struck from the bill we are considering today.

As a matter of fact, the bill before us

today looks a great deal like the minority substitute offered during consideration of H.R. 1614 which I supported.

While I find little wrong with the provisions of S. 9, it should be pointed out that many of the provisions of the bill currently exist in regulations that were drafted after hearings began on amendments to the 1953 OSCLA.

It occurs to me that if authority existed in the 1953 act for enabling these regulations to be promulgated there is no need for them to appear in statute where they are carved in granite and therefore inflexible.

I plan to vote for the passage of this bill, but will watch closely as regulations are drafted or altered to comply with these new provisions.

Mr. FISH. Mr. Speaker, I have no further requests for time.

Mr. MURPHY of New York. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. Mr. Speaker, I rise in strong support of the conference report to accompany S. 9, the Outer Continental Shelf Lands Act Amendments of 1977.

Our consideration of this conference report today culminates more than 3 years' work by the Select Committee on the Outer Continental Shelf to identify and correct the problems that have existed in the past, and make sure that we do not repeat these mistakes as offshore development moves into new and previously unexplored regions.

Unquestionably we have made mistakes in the past. Our leasing policies have tended to favor the very largest oil companies, although there are many smaller companies which are ready, willing and able to help us explore and develop our offshore resources for the benefit of the Nation. Moreover, it is clear that the Treasury of the United States has not always received a fair return for the sale of these public resources to private interests.

We have not adequately planned, in many instances, for the onshore impacts of offshore development. This has resulted in haphazard development, and the loss or destruction of valuable and irreplaceable coastal resources.

State and local government officials have not always enjoyed a meaningful voice in decisions relating to offshore development, even though these individuals represent important and valid concerns. This failure has resulted in numerous lawsuits and delays which were unnecessary.

We have not paid enough attention to the very serious danger of oilspills, both in terms of preventing them, and adequately compensating those who suffer damage or financial loss when an oilspill does occur.

Those are a few of the very important concerns which we have attempted to address in the legislation which is before us today. It is the product of innumerable hours of deliberation, thousands of pages of testimony, and consultation with individuals representing every conceivable point of view. Although I am not happy with everything in the bill it represents a balanced approach to the reforms which are necessary. Just as importantly it will permit us to move forward with the important job of producing offshore resources while paying due heed to the public interest.

Under the provisions of the bill, for the first time, we will have a statutory framework for State and local participation in decisions relating to offshore development. This decisionmaking will take place in an orderly framework which will not delay offshore development, but which will nevertheless provide opportunities throughout the process for State and local government participation.

Offshore producers will be required to use the best and safest available technologies to minimize the chance of a major offshore accident.

In the event that an oil spill should occur, the legislation establishes an oil spill liability program requiring offshore producers to carry up to $35 million in insurance. Beyond that protection, the legislation establishes a superfund of between $100 and $200 million which will be derived from a 3-cents-per-barrel levy on all offshore oil. This superfund will become available to pay damages or cleanup costs in excess of an operator's individual insurance, or if the source of an oil spill cannot be determined. If damages exceed both the operator's insurance and the amounts in the fund, the fund is authorized to borrow any additional amounts it requires from the Treasury at prevailing interest rates.

The oil spill liability provisions of this legislation are extremely important to all areas of the Nation, but especially those areas which have already developed a coastal and ocean economy based upon activities other than oil production. In my home area of South Jersey, for example, fishing and tourism are major economic activities which could be substantially damaged by an oil spill. Because these activities are highly seasonal in nature, an oil spill at the height of the season could very well result in an economic disaster, and this is why the insurance provisions of this legislation are so essential to assure that offshore development does not lead to any unnecessary disruption of other important economic activities.

The conference report also greatly increases the authorization for funding to State and local planning offices under the coastal energy impact program. These increased levels of funding will greatly enhance the ability of State and local governments to plan for and accommodate the onshore impacts of offshore development and minimize the haphazard development which has destroyed so many valuable ecological and economic resources in the past. It will also help State and local governments cope with increased pressures brought by new development and increased population which may result from discovery of oil or gas in one of the frontier regions.

The economic reforms provided in this legislation are also very important. During the long debate on this legislation, we often lost sight of the important fact that the OCS is comprised of publicly owned lands, and it is our responsibi to make sure these lands are admin tered in the public interest. We fou however, that the Treasury may not receiving a fair return for the sale these public lands, that we frequen had very little knowledge of the value the resources we were selling, and t our bidding systems tends to favor largest oil companies.

Under the legislation, alternative b ding systems are provided for which eliminate the artifical, Governme created risks that have resulted in exclusion of all but the very largest co panies from participation in the Ou Continental Shelf. The bill requires t these alternative bidding systems, s as royalty or net profit sharing, be u in not less than 20 nor more than percent of the leases sold. This greatly improve the ability of smaller companies to participate in offshore d velopment, and result in more equita treatment of both the Treasury and oil companies in the sale of public la

I do not need to remind my colleag that the discovery of natural gas off coast of New Jersey this week dramat ally underscores the need for the legis tion we are considering today. If preliminary indications prove corr there can be little question that we w see greatly increased activity and dev opment off the coast of the Mid-Atlan States. This may very well be repea off the coasts of New England and South Atlantic States, Alaska, Calif nia, and other areas.

As I mentioned before, we have m mistakes in the past. But we must not those mistakes repeated in these area it can be avoided. The legislation bef us today represents a responsible well thought-out approach to the important subject of energy developm on offshore public lands. I strongly u my colleagues to support it so that can place it on the President's desk the earliest possible time.

I want to compliment the chairman the committee, my colleague, the g tleman from New York (Mr. MURPH the ranking minority member and all my colleagues for, I think, a great eff I want to particularly thank the gent men from Louisiana (Mr. TREEN), (Mr. BREAUX), who joined me in c structing a fair and reasonable coa impact plan for the States. Interestin enough, we traveled to many of the ar that have or are about to experien OCS development. We were in Louisia for hearings; we were in California hearings; we were in Alaska to look the problems in Alaska; we looked at experiences in the North Sea area think we have come forward with major effort in bringing our leasing p cedures in this country into the 2 century. I am just proud to be a part this work product. I am proud of work of this committee. I urge your s port for this bill.

Mr. MURPHY of New York. Speaker, I yield 2 minutes to the gent man from Massachusetts (Mr. STUDD

Mr. STUDDS. Mr. Speaker, I rise strong support of the conference repo

in spite of the fact that I suspect most

This bill will become law in a matter

power and dispose of nuclear waste in a

in spite of the fact that I suspect most of the members of this ad hoc committee will not know quite what to do with themselves in the next Congress absent this committee, which has been a large part of our lives for the better part of 4 years.

No one would quarrel with the observation of the gentleman from Maryland (Mr. BAUMAN) that this process has taken longer than it ought to have. Some might even be able to resist the temptation to remind the gentleman that, had the conference report not been accidentally recommitted 2 years ago in the last week of the last Congress, it might have only taken 2 years.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

It was not by accident, I will say to the gentleman, and we got a much better bill as a result.

Mr. STUDDS. Yes. I expected that observation. I assure the gentleman I will agree with him, 4 years is a very, very long time. My support is as strong as it is notwithstanding the unexpected support of the distinguished "thorn," the gentleman from Louisiana (Mr. TREEN). We have enjoyed working together enormously. May I reciprocate very sincerely a compliment extended by the gentleman from Louisiana (Mr. TREEN). In those areas on which we agreed and on which we worked together very diligently, and also perhaps most especially in those areas on which we disagreed, I do not believe I have encountered a minority member who was more diligent and straightforward in expressing his very strong views. It has been an honor to serve with him and with the other members of this committee.

Mr. Speaker, I urge the overwhelming approval of the conference report.

The offshore oil drilling reform bill upon which Congress has now labored for almost 4 years constitutes, I believe, a remedy for the chaotic, unpredictable, and ineffective oil leasing schedule which we have had in the past.

This legislation provides a carefully worked-out balance between the economic and the environmental interests of the United States; it will allow both the public and the industry to have faith in the leasing process; and it will allow all of us to predict with some degree of certainty the future pace of offshore oil drilling in our own region of the country.

This bill will become law despite the lavishly financed campaign of opposition which has been waged by the oil industry, and despite the distortions which have been made concerning the potential delays in offshore drilling which this measure might produce. The truth of the matter is that it has been the absence of this legislation which has created delays and uncertainty; it has been the opposition to the bill by the oil industry and the threat of a veto by President Ford which killed the bill in 1976, which have stifled offshore drilling in this country.

This bill will become law in a matter of weeks. As a result, we can expect to see offshore lease sales held without a hitch in October, December, February, and probably next April. The reason is that we will finally have a system which protects the environment, fishermen, local economies, and those dependent on the tourist industry from the potential hazards inherent in the Federal decision to lease. We will have a leasing system open to all segments of the oil and gas industries, not just those with the greatest resources. We will have a method by which those damaged by an oil spill from an offshore oil rig will be compensated quickly and equitably for their loss.

The major provisions of the bill include—

A greater opportunity for State and local governments to participate in determining the timing, the location, and the extent of the oil drilling to be allowed off their shores;

A change in the methods by which oil tracts are put up for lease in order to increase competition within the oil industry, and to allow relatively small oil and gas companies to participate;

The creation of a fund which will be available to compensate State and local governments for the increased public services which may be needed to accommodate onshore support facilities made necessary by offshore drilling;

A system to protect fishermen from damage to their gear caused by offshore drilling operations; and

The creation of a fund to compensate fishermen, property owners, and those dependent upon tourism for any damages suffered as a result of an oil spill from offshore drilling activities.

The offshore oil reform bill is long, long overdue. I urge the adoption of the conference report.

Mr. MURPHY of New York. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I, too, as one of the conferees, would like to commend the chairman, the gentleman from New York (Mr. MURPHY), as well as the other members of this conference committee for a really outstanding job. The differences between the Senate bill and the bill passed by the House were considerable, and I think a reasonable balance has been struck among all of the various competing considerations. I strongly support the conference report.

In addition, I would like to commend the entire staff of the House OCS Committee—and particularly Marty Belsky and Tom Kitsos—for their exceptionally good work over the past 3½ years.

Although the conference bill does not contain all the provisions I favored, the bill is a reasonable compromise which protects the essential interests of all sides—including consumers, affected States and localities, environmentalists, small or independent refiners, and small and major producers. Everyone wins under the conference bill.

In the next half century—until our use of solar power and other renewable energy sources becomes prevalent, and until we have the technology to use nuclear power and dispose of nuclear waste in a safe and environmentally acceptable manner—the United States will continue to rely heavily on energy from nonrenewable fossil fuels.

In 1976, we took a major step toward increasing our production of coal, particularly in the West, when we enacted the Federal Coal Leasing Amendments Act over President Ford's veto.

Enactment of the OCS bill will be a comparable step towards increasing our domestic production of oil and gas. If the energy bill which is still in conference is not enacted, the OCS bill will certainly be the most important piece of energy legislation enacted by the 95th Congress.

Most of the increased domestic petroleum production this Nation needs in the next 10 to 20 years will come from the OCS. But we could not permit the development and production of oil and gas on the OCS—particularly in the "frontier areas"—to occur without overhauling the 1953 OCS Act in a manner which would respond to current and anticipated needs and concerns.

The conference bill, therefore, requires sound planning by both the government and the companies involved in OCS operations. The bill will ensure the rapid—but careful—development and production of offshore oil and gas.

From the standpoint of the companies, the bill provides the certainty they say they need. The bill enables the companies to make long-range plans and to know the government's long-range plans. It gives the companies the right to have their views heard at all stages. It enables the companies to spend their cash on development and production, instead of having to leave all their money on the table upon winning cash-bonus bids.

From the standpoint of consumers, the bill encourages and promotes and in some cases requires competition, which in the long-run will help achieve cost-based pricing or at least minimize the possibility of monopoly pricing. It requires that pipelines be operated in a manner which will promote competition and which will encourage sound planning in the decisions about initial sizings of pipelines. These decisions, I would stress, are among the most important ones in determining whether and how efficiently particular OCS fields will be developed. Bad pipeline planning leads to dramatically higher transportation costs and final prices and it may well prevent the orderly efficient development of major areas of the OCS because of the creation of "bottleneck monopolies." The bill will also require OCS producers to offer 20 percent of their production to small or independent refiners, in addition to the share they can get from Federal royalty oil. The bill also provides for a Justice Department and FTC antitrust review of OCS lease sales.

In addition, the bill will ensure that the Government—and, thus, the Nation's taxpayers—get fair value for the leasing of OCS lands.

From the standpoint of protecting the environment, the conference bill requires the use of the "best available and

safest technologies" on OCS operations. The bill mandates environmental studies, and it requires the application of Clean Air Act standards. It requires the maximum protection feasible for the human, coastal and marine environments. It authorizes citizens suits in appropriate circumstances, and it makes new regulations apply to old leases.

In addition, the bill provides for advice and participation in the decision-making process by affected States and localities.

Mr. Speaker, there were two areas in which I was particularly involved that probably deserve some elaboration: pipeline competition principles and the joint bidding ban.

PIPELINE COMPETITION

Proposed section 5(f) of the act would require that OCS pipelines "provide open and nondiscriminatory access to both owner and nonowner shippers" and (except in the case of Gulf of Mexico and Santa Barbara Channel pipelines) that there be a mechanism for requiring the expansion of throughput capacity under certain circumstances.

These requirements are almost identical to those in the amendment I offered which was defeated in the House committee and to the amendment Senator KENNEDY offered which was adopted on the Senate floor. The purpose is to prevent "bottleneck monopolies" in the transportation of OCS oil and gas and to ensure sound planning in the initial decisions on the sizing of OCS pipelines. In addition, the amendment was intended to—and the conference bill does—address the problem identified by Richard Levy in his paper for the National Science Foundation entitled "The Regulation of Offshore Crude Oil Pipelines and the Consequences for Competition" (1975). Mr. Levy found that—in disregard of the law—the USGS had issued permits for many crude oil pipelines under the old section 5(a) of the OCS Act, on the stated grounds that they were gathering lines, although they were in fact trunk lines. The effect of USGS's actions was to exempt most major transportation pipelines from the requirements of section 5(e) of the existing act.

The conference bill permits FERC to exempt only pipelines or classes of pipelines which are truly gathering lines. Previous USGS exemptions must be reexamined and may be renewed only if they qualify under the language of the bill. Of course, it should be noted that this reexamination might result in requiring existing pipelines to provide open and nondiscriminatory access to owner and nonowner shippers alike under section 5(f) to "transport or purchase without discrimination" OCS oil or gas under section 5(e). These requirements apply to all existing or new oil or gas pipelines except those exempted hereafter under the provisions of section 5(f)(2).

In considering whether to grant exemptions and in determining the particular conditions to be included in regulations and permits, FERC must consult with the Attorney General and should make its decisions in light of the facts found in the Levy report. The Justice Department's reports on the proposed Deepwater Ports and on the Alaska Natural Gas Transportation system and the FTC's report on the proposed Deepwater Ports also contain policy considerations and findings that FERC would do well to consider.

In addition, in determining whether to approve applications for pipeline permits, the issuing authorities should disapprove applications for pipelines which will be inadequate to meet the needs of the area. In other words, greater care is in order to insure that initial pipeline sizing decisions will promote transportation efficiency and prevent bottleneck monopolies.

Because of the interest in the pipeline provisions, particularly those relating to possible expansion of throughput capacity, I have prepared the following explanation in the form of questions and answers:

Q. With regard to OCS pipelines, explain how the expansion and compensation provisions of Section 5(f) will work.

A. This is best done by using an example. Take, for instance, an OCS pipeline built at a cost of $50 million, financed with $40 million of debt and $10 million of equity, with four equal owners. Each owner's equity is in the form of 1,000 shares of stock purchased at $2,500 per share.

Now, suppose that at some later time after the pipeline is operational, someone else seeks to expand capacity by, say, one-third. This could happen at a time when, for example, the owners of the line have already retired $5 million of the line's debt, and have experienced an equity appreciation of $5 million. If the line has not depreciated in value, the debt is now $35 million and the equity $20 million. Each share is now worth $5,000.

Q. What are the possible sources of the $5 million equity appreciation?

A. There are several possible sources of equity appreciation: (1) the owners could have invested some of the earnings in improvements; (2) the FERC could have permitted an allowance for the risks and burdens the initial owners experienced during the construction and start up of the pipeline; or (3) the FERC may have regulated the pipeline in such a way that part of the return to the owners is an increase in the rate base.

Now, getting back to the mechanism of the expansion, assume that this one third capacity increase will cost $15,000,000. The new entrant must agree to guarantee the throughput to fill the expansion. The expansion would require, for example, $5 million of equity and $10 million of debt. The new owners must buy 1,000 new shares at $5,000 each to provide the $5 million in equity. This brings the total number of issued shares to 5,000 or 1,000 for each owner or 20% each.

But, an adjustment is then necessary, because the new owner is responsible for 25% of the throughput but has only 20% of the shares.

Q. How would the share readjustment be accomplished?

A. The ownership would be readjusted so that the new owner's share is in proportion to its throughput in the line. The new owner should have 25% of the 5,000 shares or 1,250. Each of the (4) old owners must sell the new owner ¼ of 250 (or 62.5) shares at $5,000 each to put the ownership proportions in balance. Each of the old owners would then have 1,000—62.5 (or 937.5) shares, as an 18.75% ownership interest.

Q. Isn't this readjustment unfair in that the new owner has had to pay for not only the costs of providing the equity for the pansion but something in addition—eq appreciation to the old shareholders?

A. No, the additional payment is necess to insure that the economics of the expa line are shared by all shippers. If the eq sion shareholders did not make these a tional payments they would be getti "free ride" on the owners who initially the line. If that were allowed every sh would have an incentive to wait until line was built before seeking to be a sh holder in the expansion process. As a re there might be no one willing to const the initial line.

Q. Even so, isn't the expansion shareho paying an unfairly large amount? Eac the original holders paid $2,500 for eac 1,000 shares, or $2½ million. They have received $5,000 times 62.5 shares or $31 from the expansion holder. They now shares which effectively cost them $2,333.33, as compared with $5,000 for new shareholder.

A. The analysis is incomplete. Since equity of the line has increased to $5,000 share even without expansion, the old ow are just receiving the benefits from equity appreciation—essentially compe tion for earnings of the pipeline that not paid out as dividends or additional ments for the special risks and burden the initial construction and operation of facility.

Q. Don't these additional payments burdens and risks and retained earnings volve very complicated calculations agreements?

A. These calculations are not unuse complicated, and virtually all of the infor tion needed is part of proper rate-of-re regulation that would be needed even if t were no expansion sales. And there are p edents from shareholder agreements of type necessary to accomplish the expan contemplated, for example, the LOOP D water Port Shareholders' Agreement.

JOINT BIDDING BAN

The second issue deserving amplif tion concerns the joint venture lim tions.

The bill would impose a ban on j bidding between two major oil com nies, where more than one of the j bidders control average daily worldw production of 1.6 million barrels a d However, the bill further provides t the Secretary of Interior may grant exemption from this general prohibi where, first, the lease involves high exploration or development proble and, second, exploration and deve ment of the tract would not other occur. Two questions arise. First, w does "control" of average daily wo wide production of 1.6 million bar mean? Second, how does the Secre of Interior determine whether expl tion and/or development of a tract w not occur unless an exception to the g eral ban is granted?

With respect to the first quest "control" of 1.6 million barrels of cr by an oil producer refers to any cr which the oil company actually produ and also any crude which is attribut to that oil company.

For example, if a producer is par pating in a joint production ventur percentage of the production of the j venture could be allocated to that company based upon its share of earnings from that production.

However, it may be desirable to de special attribution rules for any je

production venture or field unitization

to the bid by the prohibited joint ven-

Act of 1978 I did [illegible]

production venture or field unitization agreement wherein one oil producer is designated as "manager," that is, is permitted to determine the level of production from the field without consulting the other members of the venture. In such cases, it might be appropriate to attribute production based on a venture's profit percentage for nonmanager firms or to attribute the entire production of the field to the manager, depending on the circumstances.

The second question—that is how the Secretary of Interior determines whether or not exploration or development would not occur unless an exemption to the prohibition or joint bidding is permitted—raises a series of complex problems. The bill does not prohibit all joint ventures. It merely prohibits joint bidding by ventures which contain more than one producer who controls production of more than 1.6 million barrels per day. In determining whether the field would be developed without granting an exemption, the Secretary must determine whether the tract in question could likely be developed by either a single company or a nonprohibited joint venture. Among the factors to be considered are: What are the estimated costs in developing the tract? Are these costs within the financial capabilities of either a single oil producer or a nonprohibited joint venture? Is the likelihood of finding a "sufficient" quantity of oil high enough to merit the investment? Are the alternative opportunities available to individual companies or nonprohibited joint ventures sufficiently attractive to discourage bidding on the tract in question? However, the Secretary would probably never be in a position to analyze these four factors directly.

Therefore, it would seem appropriate that the regulations governing exemption to joint bidding ventures be drawn so as to permit the Secretary to observe the market for the purpose of deciding whether a given tract would be developed in the absence of an exemption. This can be done by putting the tract up for lease and seeing whether the tract draws bids from either a single producer or from a nonprohibited joint venture.

The regulations could also prohibit any joint venture which consists of two or more oil companies controlling more than 1.6 million barrels per day from bidding on a tract which is being put up for lease for the first time. If a tract failed to draw a bid by a single producer or a nonprohibited joint venture in the first lease sale, the Secretary could then consider granting an exemption. The regulation could then permit an otherwise prohibited joint bidding venture to bid in the next lease sale upon a tract which drew no bids during the previous OCS lease sale. If the tract drew no other bids the second time around, an exemption might then be justified. However, if the tract drew a bid from either a single company or a nonprohibited joint venture, such a party, if otherwise qualified, would be awarded the tract in preference to the bid by the prohibited joint venture.

In this way, the market itself would determine whether it was possible for a single company or a nonprohibited joint venture to explore and develop a given lease tract.

Mr. MURPHY of New York. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. BREAUX).

Mr. BREAUX. Mr. Speaker, I am rising somewhat not as aggressively in support of the bill as my chairman of the committee, but I would like to take this opportunity to say that the members of this committee when it was initially formed were representative of some very divergent views on what we should or should not do on the Outer Continental Shelf.

I was convinced that the OCS leasing system was working very well and we did not need to tinker with a system that has been working and serving us very well for somewhat over 20 years. There were others that felt we needed some rather immediate massive changes. Out of those two divergent views we have a conference report which by and large I think is acceptable.

However there did develop some misunderstanding regarding the ceiling placed on the amounts of grants that any one State can receive and for that reason, along with my colleague from Louisiana, I did not sign the conference report, which indicated we did not agree with some of the language that was in the conference report. I still have that strong feeling and for that reason I have no regrets about not signing the conference report. However, when you look at the whole package, while in some areas we did not agree, I think we took some steps in the right direction, and I ask my colleagues to support final passage of the bill.

I want to point out that the gentleman from New York (Mr. MURPHY) really started the whole idea of putting together a select committee to work on this legislation. It is the first time in the Congress that the House ever asked a select ad hoc committee to bring together three separate major committees to work on one subject. It is true it took 4 years to do so; but I dare say had we approached it with three separate committees battling over jurisdiction, we would not have had a finished product before us. I think the system has worked and we should continue to use it in the future.

Mr. FISH. Mr. Speaker, I yield 1 minute to the gentleman from Maine (Mr. EMERY).

Mr. EMERY. Mr. Speaker, I offered an amendment when this was considered in the House to consider a leasing method of no less than 20 percent and not more than 50 percent of the leases. The committee amended that to no less than 20 and no more than 60. I think that is a desirable change. I am in strong support of that position.

● Mr. MOORE. Mr. Speaker, I voted against the conference report to accompany S. 9, Outer Continental Shelf Lands Act of 1978. I did when it originally passed the House in February 1978. Although I fully realize that the conference report has needed increased coastal zone funds for Louisiana and new funds to recompense damaged fishing interests, I still had to vote no as a protest.

I protest the other provisions of the conference report dealing with the exploration and production of oil in the OCS as they are entirely unnecessary. The difficulties and delays we presently experience in the exploration and production of oil in the OCS are due principally to Federal regulations. This conference report adds more regulations which will no doubt add additional delays and difficulties. No rational energy policy should contain additional delays and difficulties. Therefore, even though this conference report has new and important financial provisions for my State, the regulations which will stem from other provisions in the conference report are not in the best interests of energy production.●

● Mr. DINGELL. Mr. Speaker, I rise in support of the conference report on S. 9, the Outer Continental Shelf Lands Act Amendments of 1978.

At the outset, I want to commend the distinguished gentleman from New York (Mr. MURPHY) who chaired the committee in conference and the Ad Hoc Committee on the Outer Continental Shelf. It is a comprehensive piece of legislation that will protect the environment while encouraging in a proper way development of our resources to meet future energy needs. Mr. Speaker, the gentleman from New York (Mr. MURPHY) has done an effective job in the handling of this legislation during the past two Congresses and he is to be congratulated.

Mr. Speaker, the conference report includes the amendments that I offered on the House floor when we considered the House version of this legislation earlier this year. I offered five amendments. Each of those amendments were adopted by the conferees.

Of particular importance to me is the fact that the conferees agreed to the adoption of the definition of the term Secretary and to the adoption of the provisions in section 608 linking this legislation with the Department of Energy Organization Act of last year. The legislation before us and the managers statement takes recognition of the fact that Congress last year divided some of the responsibilities in the executive branch for the administration of the OCS. The DOE act transferred some of these responsibilities from the Interior Department to the Secretary of Energy and, of course, the Federal Energy Regulatory Commission. This bill does not in any way impinge on the action taken by the Congress last year under the DOE statute. At the same time, the bill defines in a number of places who indeed is the administrative agency responsible for administering the particular provisions.

In this regard, I want to take note of the fact that the DOE statute contemplated that the Secretary of Energy, the Secretary of the Interior, and FERC

would work out arrangements for the delegation of various responsibilities under the Outer Continental Shelf Lands Act and other mineral statues. A year has gone by, and no delegation and division of responsibility has been developed.

One of the concerns that I have is that the continuous squabbling that has gone on between the agencies over this matter would not be ended as a result of this legislation but would be perpetuated to the detriment of the program and those who are interested in it. It might end up in litigation at a future date, which I think would be unfortunate. Accordingly, the conferees, at my suggestion, have in a number of places specified in the legislation who in fact is the appropriate agency.

In other instances, the manager's statement discusses the roles of these agencies. I think that is useful, but at the same time, I urge the agencies involved to resolve their differences quickly and to inform the public and the Congress of the resolution of this matter. I can assure you that the Committee on Interstate and Foreign Commerce and the subcommittee which I chair will be looking after this matter with great interest.

In connection with section 5 of the OCS Act, I want to point out that the provisions in section 5(a) relative to the promulgation of rules and regulations to implement the statute have been retained in the form passed by the House of Representatives earlier this year. All regulations promulgated pursuant to the OCS Act shall apply to existing leases and to new leases, but, of course, they would only apply from the date of the promulgation. That is an important provision and is a provision that has been in existence under the 1953 statute since its inception. It is a provision that I sought to retain in my amendment on the House floor earlier this year and it has been agreed to by the conferees.

Mr. Speaker, the provisions of the new section 26 which is added to the OCS statute relate to the OCS oil and gas information program. It is a very important provision designed to provide additional information to the Government in the context of OCS operations. I want to stress, however, that there is nothing in this provision or in other information-gathering provisions of the OCS Act, as amended by this conference report which affect the authorities of the Secretary of Energy or the Federal Energy Regulatory Commission to collect data and to analyze such data under other provisions of law and to make such data available to other Federal agencies. Those authorities continue to apply to energy data collected by those agencies, including energy data relative to the OCS, under their independent authority. The conference report makes this very clear and my intention is only, at this stage, to reiterate that fact.

Section 603 of the legislation again is an amendment which I offered on the House floor and it has been adopted by the conferees with a few changes which are largely technical in nature. Those changes are discussed in the conference report.

The provision represents a clear understanding on the part of the conferees that the FERC should develop a policy statement as quickly as possible, considering all of its other responsibilities, to permit local distribution companies to acquire or participate in leases for the development of natural gas resources on the OCS and to transport the gas produced to their service areas. The methods, procedures, conditions, limitations, and requirements for doing all of this will be the responsibility of FERC, as is discussed in the statement of managers at pages 157 to 159.

The provision protects and guards against the problems I mentioned at the time of the debate on this provision during consideration of the House version of this legislation. Those problems, which I consider quite serious, should be avoided by the adoption of this amendment. It is my intention as the chairman of the Subcommittee on Energy and Power to keep careful watch over this provision and the development of a policy statement by FERC.

The House bill contained a provision that would have permitted employment of previously unused bidding systems only by rule after opportunity for a hearing. The Senate bill contained no such requirement and the conferees adopted the Senate approach, but the conferees were in agreement that any rulemaking necessary to carry out the new bidding systems authorized by this legislation be done in acordance with the requirements of the Administrative Procedure Act and any other applicable law.

For example, section 205 of this bill continues the requirement of section 8 (a) of the original Outer Continental Shelf Lands Act that bidding occur under procedural regulations promulgated in advance. The conferees recognized, however, that the Department of Energy Organization Act transferred to the Secretary of Energy the discretionary authority to promulgate rules related to the economic terms of leasing, including implementation of alternative bidding systems authorized by law. Section 205 of the conference agreement is not intended to impose any new rulemaking requirements as a condition for conducting lease sales under various bidding systems because such a requirement would hinder the program. However, any rules promulgated to carry out this section's provisions must be adopted in accordance with the Administrative Procedure Act any such rules promulgated by the Department of Energy must be adopted in accordance with section 501 of the Department of Energy Organization Act.

Again, let me congratulate our chairman, Mr. MURPHY, and the other House conferees, for their untiring efforts to develop effective and important OCS legislation applicable in the years to come. I also want to commend all of the staff of the ad hoc committee who were quite helpful during the conference. worked very hard and well.●

● Mr. UDALL. Mr. Speaker, I woul to take a few minutes to speak in of adopting the conference report o Outer Continental Shelf Lands amendments that is before us today

The Ad Hoc Committee on the has been considering this legislatio almost 4 years now. We have all h compromise to finally produce th we shall vote on today.

The conference committee met and argued out the many compli provisions of this bill with our S counterparts. I believe all the House ferees were mindful of the views o body and refused to accept, there any compromises that would be lo upon unfavorably by our colleagues.

This bill includes many important visions to allow the orderly and saf velopment of our offshore resource provides for State and local involve throughout the leasing and develop procedure. It requires lessees to pr development and production plan give States the leadtime necessar prepare for when these resources brought onshore. The bill change leasing system to give greater long- profits to the American public base more equitable bidding procedures.

This bill has had a lot of oppos in its time. Most of the arguments a this bill have focused on the que of delay—opponents saying that th will cause great delay in leasing development and supporters arguing it would not. We modified many p sions in the bill to quiet those fea would say to my colleagues, how that these modifications, to the s and enforcement provisions, for exa are a drop in the bucket. There are main reasons for delays in the petrol industry. One is because drilling is c plicated, costly, and risky, and no can change that. And the other is cause of the regulatory restrictions rounding the petroleum and most o industries in our Nation.

I would say to my colleagues who pose delay—and who support it— the major cause for delays, for burg ing bureaucracy, for unreadable reg tions, and for all the attendant b words on redtape is the increase in nomic concentration in our Nation. would be irresponsible if we did not ulate and oversee those industries have such a major control over our nomic life. But instead of treating symptom, we should be looking f cure.

As the size of conglomerates and m national corporations grow, so do unions that provides their workers the government that oversees its op tions. We can no longer depend u market forces to mitigate the mist of these giants.

In 1950, the Congress strengthened Clayton Antitrust Act. I believe that report of the House Judiciary Commi that accompanied that legislation apropos to our present dilemma:

Big business too has a tremendous in the maintenance of competition—wit

which capitalism cannot survive. The only alternative to capitalism is some form of statism—destructive alike to big and small business. The concentration of great economic power in a few corporations necessarily leads to the formation of large nationwide labor unions. The development of the two necessarily leads to big bureaus in the Government to deal with them.

I would ask my colleagues to support this conference report. The OCS Lands Act amendments are fair and equitable and have been honed to reflect the needs and fears of those most effected by offshore development, as well as the American people who are the owners of these great resources. I would just add that someday in the future I think we must examine the structure of the oil industry that has such a hold on our economic life.●

Mr. MURPHY of New York. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DERWINSKI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 338, nays 18, not voting 76, as follows:

[Roll No. 720]

YEAS—338

Abdnor
Addabbo
Akaka
Ambro
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Ashbrook
Ashley
Aspin
Badham
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bonior
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cavanaugh
Chappell
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Dellums
Derwinski
Devine
Dickinson
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fenwick
Findley
Fish
Fisher
Flood
Florio
Foley
Ford, Mich.
Ford, Tenn.
Frenzel
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Grassley
Gradison
Green
Gudger
Guyer
Hamilton
Hanley
Hannaford
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hillis
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kelly
Kemp
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Leach
Lederer
Lehman
Lent
Levitas
Livingston
Lloyd, Calif.
Long, La.
Long, Md.
Lott
Luken
Lundine
McClory
McCloskey
McCormack
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pickle
Pike
Preyer
Price
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Robinson
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Rudd
Runnels
Ruppe
Russo
Ryan
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Sebelius
Seiberling
Sharp
Shuster
Simon
Skelton
Skubitz
Slack
Smith, Iowa
Solarz
Spellman
Spence
St Germain
Staggers
Stark
Steed
Steers
Stockman
Stratton
Studds
Taylor
Thone
Thornton
Treen
Trible
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Waxman
Weaver
Weiss
Whalen
White
Whitehurst
Whitley
Whitten
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yatron
Young, Fla.
Young, Mo.
Zablocki

NAYS—18

Archer
Caputo
Collins, Tex.
Evans, Ga.
Forsythe
Gammage
Hall
Hammer-schmidt
Hansen
Hightower
Krueger
Moore
Myers, Gary
Poage
Roberts
Snyder
Symms
Young, Tex.

NOT VOTING—76

Alexander
Armstrong
AuCoin
Barnard
Bolling
Brown, Calif.
Brown, Mich.
Burke, Calif.
Cederberg
Chisholm
Cornwell
Crane
Cunningham
Delaney
Dent
Derrick
Dicks
Diggs
Eckhardt
Edgar
Evans, Colo.
Fascell
Fithian
Flippo
Flowers
Flynt
Fountain
Fowler
Fraser
Frey
Goldwater
Hagedorn
Harrington
Holland
Huckaby
Jenkins
Johnson, Colo.
Kasten
LeFante
Leggett
Lloyd, Tenn.
Lujan
McDade
McDonald
Mikva
Milford
Miller, Calif.
Nix
Nolan
Pettis
Preyer
Pritchard
Quie
Risenhoover
Rodino
Sarasin
Schulze
Shipley
Sikes
Siak
Smith, Nebr.
Stangeland
Stanton
Steiger
Stokes
Stump
Teague
Thompson
Traxler
Tsongas
Vento
Wiggins
Wilson, C. H.
Yates
Young, Alaska
Zeferetti

The Clerk announced the following pairs:

Mr. Le Fante with Mr. McDonald.
Mr. Thompson with Mr. Armstrong.
Mr. Rodino with Mr. Frey.
Mrs. Burke of California with Mr. Kasten.
Mrs. Chisholm with Mrs. Smith of Nebraska.
Mr. Cornwell with Mr. Stanton.
Mr. Mikva with Mr. Wiggins.
Mr. Stokes with Mr. Young of Alaska.
Mr. Diggs with Mr. Brown of Michigan.
Mr. Fascell with Mr. Cederberg.
Mr. Fithian with Mr. Crane.
Mr. Flippo with Mr. Johnson of Colorado.
Mr. Sikes with Mrs. Pettis.
Mr. Shipley with Mr. Schulze.
Mr. Teague with Mr. Sarasin.
Mr. Vento with Mr. Quie.
Mr. Tsongas with Mr. Stangeland.
Mr. Traxler with Mr. Sisk.
Mr. Yates with Mr. Nix.
Mr. Zeferetti with Mr. Preyer.
Mr. Miller of California with Mr. Charles H. Wilson of California.
Mr. Dent with Mr. Eckhardt.
Mr. Delaney with Mr. Flowers.
Mr. Flynt with Mr. Evans of Colorado.
Mrs. Lloyd of Tennessee with Mr. Lujan.
Mr. Nolan with Mr. McDade.
Mr. Derrick with Mr. Milford.
Mr. Dicks with Mr. Edgar.
Mr. Fountain with Mr. Fowler.
Mr. Huckaby with Mr. Fraser.
Mr. Jenkins with Mr. Hagedorn.
Mr. Harrington with Mr. Holland.
Mr. Stump with Mr. Goldwater.
Mr. AuCoin with Mr. Barnard.
Mr. Alexander with Mr. Cunningham.
Mr. Risenhoover with Mr. Leggett.

Mr. GOODLING and Mr. ENGLISH changed their vote from "nay" to "yea."

Messrs. ROBERTS, KRUEGER, HAMMERSCHMIDT, HALL, and SNYDER changed their vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 12240, INTELLIGENCE AND INTELLIGENCE-RELATED ACTIVITIES AUTHORIZATION ACT FOR FISCAL YEAR 1979

Mr. BOLAND. Mr. Speaker, I call up the conference report on the bill (H.R. 12240) to authorize appropriations for fiscal year 1979 for intelligence and intelligence-related activities of the U.S. Government, the intelligence community staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of August 2, 1978.)

Mr. BOLAND (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the conference

report (No. 95–1420) on H.R. 12240, since it has already been printed in the CONGRESSIONAL RECORD of August 2, 1978, and is available to Members, be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. BOLAND) will be recognized for 30 minutes and the gentleman from Virginia (Mr. ROBINSON) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. BOLAND).

Mr. BOLAND. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I call up the conference report on the bill H.R. 12240, to authorize appropriations for fiscal year 1979 for intelligence and intelligence-related activities of the U.S. Government, the intelligence community staff, the Central Intelligence Agency retirement and disability system, and for other purposes, and I ask unanimous consent that the statement of the managers be read in lieu of the report.

(During the reading). Mr. Speaker, in view of the fact that this conference report, 95–1420, was printed in the CONGRESSIONAL RECORD of August 2, 1978, and available to the Members of the House, I ask unanimous consent that further reading of the statement be dispensed with.

Mr. Speaker, House conferees on the Intelligence and Intelligence-Related Activities Authorization Act for fiscal year 1979 reached agreement with the Senate on July 25. The conference report was filed on August 2 and printed in the CONGRESSIONAL RECORD for that day except for a classified annex to the joint statement which has been available to Members in the committee office in the Capitol.

Several of the conference issues involved intelligence-related activities of the Department of Defense. For these matters, authorization is considered by both the Select Committee on Armed Services. In order to address these matters properly and thoroughly, conferees from the Select Committee on Intelligence were joined by the distinguished chairman of the Armed Services Committee, Mr. PRICE, by the chairman of its R. & D. Subcommittee, Mr. ICHORD, and by the ranking minority member of the committee, Mr. BOB WILSON who is also the ranking minority member of the Select Committee on Inteligence. I want to thank these gentlemen and all of the members of the Committee on Armed Services for their cooperation and support. Further, I want to thank the staff of that committee to whom fell many complex technical, administration and legislative matters.

Mr. Speaker, conferees from the Select Committee on Intelligence were drawn from the Subcommittee on Program and Budget Authorization which originally prepared this bill. To them, BILL BURLISON of Missouri, the chairman, NORMAN MINETA and J. KENNETH ROBINSON fell most of the considerable effort required in preparing for and conducting the conference. I turn now and yield to BILL BURLISON for a summary of conference actions which I fully support.

Mr. BURLISON of Missouri. Mr. Speaker, I thank the gentleman from Massachusetts, Mr. BOLAND, for yielding to me. I also thank the chairman for his kind words and for his considerable effort and support throughout the development of this bill. I join the gentleman in extending thanks to the gentleman from California, NORM MINETA, and the gentleman from Virginia, KEN ROBINSON, of our subcommittee and to the chairman, the gentleman from Illinois, Mr. PRICE, and the gentleman from Missouri, Mr. ICHORD, of the Committee on Armed Services, and the ranking minority member, the gentleman from California, BOB WILSON, of both committees.

Mr. Speaker, with regard to title I of the bill, intelligence activities, there were 37 matters at difference with the Senate. Debate on several of these issues was lengthy and spirited but an attitude of cooperation prevailed and sensible compromises were achieved. On matters of fiscal authority, the differences divided rather evenly between House and Senate. This is not to say, however, that the conferees split the difference on each issue simply to achieve agreement. Many programs are not logically subject to division as all parties recognized. Our compromises result in sensible programs and those which are interrelated are consistent.

Title II provides for the intelligence community staff which supports the Director of Central Intelligence in the conduct of the coordination and budgetary role in the national foreign intelligence program. The House bill had authorized a staff well below the size requested by the administration while the Senate bill authorized the full request. In this case an equal division between our two positions appeared sensible and was the compromise to which we agreed.

There were no differences between us regarding title III, the CIA retirement and disability system.

The House bill contained a title IV providing a reporting requirement when certain excludable aliens are admitted to the United States under certain provisions of the Immigration and Nationality Act. The Senate bill contained no such provision.

The conference substitute is essentially the same as the House provision except that the Attorney General is required to submit only one report covering only the period of fiscal year 1979. The conferees note in the joint statement that the report need only describe the general circumstances and need not include names. Further, the conferees note their intent that the FBI should notify the Attorney General of objection to admission of an alien only where the alien would be a legitimate target of FBI foreign counterintelligence or foreign counterterrorism intelligence concern.

Mr. Speaker, I fully endorse this conference report and urge its adoption by the House.

Mr. ROBINSON. Mr. Speaker, I y
myself such time as I may consume.

Mr. Speaker, I rise in support of
conference report on H.R. 12240.

This bill would authorize approp
tions for intelligence activities of
United States and is the result of m
months of exhaustive examination
the intelligence needs of our Gov
ment.

The funding and program details
the intelligence activities author
under title I are classified and I
therefore, not discuss specific confer
actions. However, details of these act
contained in a classified annex to
joint explanatory statement have b
available to all Members for more t
a week.

The conference recommendation
compromise which I believe repres
the best judgment of both sides.
House Permanent Select Committee
Intelligence and the Senate Select C
mittee on Intelligence conferees wo
to provide an authorization for natio
foreign intelligence activities that I c
sider to be a nearly optimum recon
ation of the two authorization bills
arriving at this compromise, some
gram funding levels originally auth
ized by the House were reduced
others were increased. The net ove
authorization level for these class
activities fell about halfway between
levels originally authorized by the Ho
and Senate.

For those programs contained wi
the defense budget request to pro
direct intelligence support to milit
operations—referred to as intellige
related activities—the House Perma
Select Committee on Intelligence sh
jurisdiction with the Armed Serv
Committee. Accordingly, the differe
between the House and Senate on
activities were worked out by a con
ence group consisting of both Int
gence and Armed Services Commi
Members of both Houses. I would
to join my chairman, the gentleman f
Massachusetts in thanking Chair
PRICE, Mr. ICHORD and especially my
league BOB WILSON who sits on
committees for their counsel in resol
the differences in intelligence-related
tivities.

As regards title II, which author
funding and establishes a personnel c
ing for the intelligence community s
I consider the conference recommen
tion an equitable compromise.

As has been mentioned, title III
authorize funding levels for the CIA
tirement and disability system, was
at difference between the House
Senate.

Finally, the conferees agreed to a
stitute provision to title IV which is
sentially the same as the original Ho
provision. It would require that the
torney General submit a one-time re
by October 30, 1979, generally describ
those cases during fiscal year 1979
which the FBI Director has notified
Attorney General that he has reason
believe an alien is excludable under c
tain provisions of the Immigration
Nationality Act and that alien is su
quently admitted into the United Sta

Overall, I believe the conference committee's recommendation for fiscal year 1979 provides sufficient resources to effectively meet our near-term intelligence needs as well as providing for some growth to modernize existing capabilities and to begin some new initiatives required to keep pace with our intelligence needs in the 1980's.

I urge the Members of the House to adopt this conference report.

Mr. Speaker, I yield such time as he may consume to my colleague, the gentleman from California (Mr. BOB WILSON).

Mr. BOB WILSON. Mr. Speaker, I would like to add my support to this conference report on H.R. 12240.

As a member of both the Select Committee on Intelligence and the Committee on Armed Services, I served as a conferee on intelligence-related matters which fall under the jurisdiction of both committees. I am pleased that this process worked smoothly and that our ability to relate Defense Department operational support intelligence programs to the national foreign intelligence program increases our understanding of these programs.

Mr. Speaker, I am happy with the outcome of this conference and urge the support of the House.

Mr. ROBINSON. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. BURLISON of Missouri. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New York (Ms. HOLTZMAN).

Ms. HOLTZMAN. Mr. Speaker, with respect to title IV of the bill, there is a question raised by the language of the conference report.

Is it the intention of the gentleman from Missouri (Mr. BURLISON), the distinguished chairman of the subcommittee, to preclude the Committee on the Judiciary from getting exactly the same information which the Select Committee on Intelligence would get under the conference report?

Mr. BURLISON of Missouri. If the gentlewoman will yield, Mr. Speaker, it certainly was not our intent to distinguish between the Committee on the Judiciary and the Select Committee on Intelligence. It was our intent that the Committee on the Judiciary would have the same prerogatives as the Select Committee on Intelligence as to the receipt of this information.

Ms. HOLTZMAN. I thank the distinguished gentleman for his assurance.

● Mr. DRINAN. Mr. Speaker, today Congress has another opportunity to consider the authorization of funds for intelligence activities. Described as a step forward in our continuing effort to provide a substantive review of our Nation's intelligence programs, the conference report on the intelligence authorization does nothing to remedy the absence of accountability to the American people. The people still remain totally in the dark as to how much of their money is being spent on intelligence activities and how it is spent. In addition, the bill and report before us today will not affect Executive Order 12036, by which the President is able to authorize the Central Intelligence Agency to conduct covert operations, to engage in surveillance of American citizens, to open mail surreptitiously, and, in general, to perpetuate the abuses which have been revealed in recent years.

There is no convincing reason for the continued refusal to disclose the budget of the intelligence agencies. Our own intelligence experts have for years been able to estimate with reasonable accuracy the amount of money the Soviet Union spends on intelligence; are we naive enough to believe that the KGB is not capable of making similar estimates of our intelligence expenditures? It is only the American people who are not permitted to know how much of their money is being used for intelligence. By failing to make intelligence expenditures public, we deprive the people of their right to know what their Government is doing, and at what cost.

By persisting in our refusal to reveal, even in general terms, the activities undertaken by our intelligence agencies under the banner of "national security purposes," we canot even try to prevent recurrences of past intelligence abuses. Today we take another vote on the intelligence authorization, but this vote is meaningless unless we remove the shroud of secrecy which still surrounds our intelligence activities and which frees the Government from accountability to the people in whose home these intelligence operations are conducted. Despite highly touted reforms, we have done nothing to halt the clandestine activities, at home as well as abroad, which generated so much critism and outrage on the part of the American people in the very recent past.

I was one of only eight Members of the House who took the time to look at the classified documents on this authorization. I spent a number of hours on these papers but due to the constraints placed upon us I am prevented from discussing them. Despite the fact that the amount of the authorization cannot be discussed and the fact that so few of us know its contents, we still present this charade to the American people and pretend that we are carefully considering the expenditure of their dollars.

It is my hope that we may openly discuss these expenditures and authorizations next year. It is also my hope that we will permit discussion of and votes upon the kinds of activities in which our intelligence agencies can engage. Until such time, I believe it is incumbent upon us to vote against the authorization of funds for intelligence purposes.

Mr. Chairman, I also rise against the provision of this conference report that requires the Attorney General to report to Congress on aliens who have been admitted to the United States despite an FBI recommendation that they be excluded. This is clearly an attempt to undermine both the authority of the Attorney General and the integrity of our immigration policy. The provision invites the FBI to make an end run around the Justice Department to the Congress. By law, the decision on exclusion is vested in the Attorney General; are we asked to assume that the Attorney General is unfit to make this determination? I do not believe that any U.S. Attorney General would want spies, terrorists, or the like to enter our country. Why should the FBI, a subordinate agency, have the authority to involve Congress in such decisions?

We must attempt to establish a true starting point toward complete legislative oversight of intelligence programs. We have not even the semblance of an effort to end covert operations abroad and invasions of privacy at home. We must end the insulation of the CIA and other intelligence agencies from the scrutiny of the public. Only then can we act in a truly informed manner in the consideration of funds for such programs. I will continue to oppose authorizations which are cloaked in secrecy and kept hidden from the American people. Approval of this report will only lead to the perpetuation of the abuses which spring from secrecy.●

Mr. BURLISON of Missouri. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WEISS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 323, nays 30, answered "present" 2, not voting 77, as follows:

[Roll No. 721]

YEAS—323

Abdnor	Brown, Ohio	Dickinson
Addabbo	Broyhill	Dingell
Akaka	Buchanan	Dodd
Ambro	Burgener	Dornan
Ammerman	Burke, Fla.	Downey
Anderson, Ill.	Burke, Mass.	Duncan, Oreg.
Andrews, N.C.	Burleson, Tex.	Duncan, Tenn.
Andrews, N. Dak.	Burlison, Mo.	Early
	Butler	Eckhardt
Annunzio	Byron	Edgar
Applegate	Caputo	Edwards, Ala.
Archer	Carney	Edwards, Calif.
Ashbrook	Carr	Edwards, Okla.
Ashley	Carter	Ellberg
Aspin	Cavanaugh	Emery
Badham	Chappell	English
Baucus	Clausen, Don H.	Erlenborn
Bauman		Ertel
Beard, R.I.	Cleveland	Evans, Del.
Beard, Tenn.	Cochran	Evans, Ga.
Benjamin	Cohen	Evans, Ind.
Bennett	Coleman	Fary
Bevill	Collins, Ill.	Fenwick
Biaggi	Collins, Tex.	Findley
Bingham	Conable	Fisher
Blanchard	Conte	Flood
Blouin	Corcoran	Florio
Boggs	Corman	Foley
Boland	Cornell	Ford, Mich.
Bonker	Cotter	Ford, Tenn.
Bowen	Coughlin	Forsythe
Brademas	D'Amours	Frenzel
Breaux	Daniel, Dan	Fuqua
Breckinridge	Daniel, R. W.	Gammage
Brinkley	Danielson	Gaydos
Brodhead	Davis	Gephardt
Brooks	de la Garza	Giaimo
Broomfield	Derrick	Gibbons
Brown, Calif.	Derwinski	Gilman
Brown, Mich.	Devine	Ginn
Glickman	McKay	Roe
Goldwater	McKinney	Rogers
Gonzalez	Madigan	Roncalio
Goodling	Mahon	Rooney
Gore	Mann	Rose
Gradison	Marks	Rostenkowski
Grassley	Marlenee	Rousselot
Green	Marriott	Rudd
Gudger	Martin	Runnels
Guyer	Mathis	Russo
Hall	Mattox	Ryan
Hamilton	Mazzoli	Santini
Hammer-schmidt	Meeds	Satterfield
	Meyner	Sawyer
Hanley	Michel	Seiberling
Hannaford	Mikulski	Sharp
Hansen	Miller, Ohio	Shuster
Harkin	Mineta	Simon
Harris	Minish	Skelton
Harsha	Mitchell, N.Y.	Skubitz
Heckler	Moakley	Slack
Hefner	Mollohan	Smith, Iowa
Heftel	Montgomery	Snyder
Hillis	Moore	Solarz
Hollenbeck	Moorhead, Calif.	Spellman
Holt		Spence
Horton	Moorhead, Pa.	St Germain
Howard	Moss	Staggers
Hubbard	Mottl	Steed
Hughes	Murphy, Ill.	Steers
Hyde	Murphy, N.Y.	Stockman
Ichord	Murphy, Pa.	Stratton
Ireland	Murtha	Symms
Jacobs	Myers, Gary	Taylor
Jeffords	Myers, John	Thornton
Jenrette	Myers, Michael	Treen
Johnson, Calif.	Natcher	Trible
Jones, N.C.	Neal	Tucker
Jones, Okla.	Nedzi	Udall
Jones, Tenn.	Nichols	Ullman
Jordan	Nowak	Van Deerlin
Kazen	O'Brien	Vander Jagt
Kelly	Oakar	Vanik
Kemp	Oberstar	Volkmer
Keys	Obey	Waggonner
Kildee	Panetta	Walgren
Kindness	Patten	Walker
Krebs	Patterson	Walsh
Krueger	Pattison	Wampler
LaFalce	Pease	Watkins
Lagomarsino	Pepper	Waxman
Latta	Perkins	Whalen
Leach	Pettis	White
Lederer	Pickle	Whitehurst
Leggett	Pike	Whitley
Lehman	Poage	Whitten
Levitas	Pressler	Wiggins
Lloyd, Calif.	Price	Wilson, Bob
Long, La.	Quayle	Wilson, Tex.
Long, Md.	Quillen	Winn
Lott	Rahall	Wirth
Luken	Railsback	Wolff
McClory	Rangel	Wright
McCloskey	Regula	Wydler
McCormack	Reuss	Wylie
McDade	Rhodes	Yatron
McEwen	Rinaldo	Young, Fla.
McFall	Roberts	Young, Mo.
McHugh	Robinson	Zablocki
Quie	Sisk	Traxler
Risenhoover	Smith, Nebr.	Tsongas
Rodino	Stangeland	Vento
Ruppe	Stanton	Wilson, C. H.
Sarasin	Steiger	Yates
Schulze	Stump	Young, Alaska
Sebelius	Teague	Young, Tex.
Shipley	Thompson	Zeferetti
Sikes	Thone	

NAYS—30

Anderson, Calif.	Garcia	Ottinger
	Hawkins	Richmond
Bedell	Holtzman	Rosenthal
Beilenson	Kastenmeier	Roybal
Bonior	Kostmayer	Scheuer
Burton, John	Lundine	Stark
Burton, Phillip	Maguire	Stokes
Chisholm	Markey	Weaver
Clay	Metcalfe	Weiss
Dellums	Mitchell, Md.	
Drinan	Moffett	

ANSWERED "PRESENT"—2

Schroeder	Studds

NOT VOTING—77

Alexander	Diggs	Jenkins
Armstrong	Evans, Colo.	Johnson, Colo.
AuCoin	Fascell	Kasten
Bafalis	Fish	Le Fante
Baldus	Fithian	Lent
Barnard	Flippo	Livingston
Bolling	Flowers	Lloyd, Tenn.
Burke, Calif.	Flynt	Lujan
Cederberg	Fountain	McDonald
Clawson, Del	Fowler	Mikva
Conyers	Fraser	Milford
Cornwell	Frey	Miller, Calif.
Crane	Hagedorn	Nix
Cunningham	Harrington	Nolan
Delaney	Hightower	Preyer
Dent	Holland	Pritchard
Dicks	Huckaby	Pursell

The Clerk announced the following pairs:

Mr. Rodino with Mr. McDonald.
Mr. Thompson with Mr. Armstrong.
Mr. Le Fante with Mr. Frey.
Mrs. Burke of California with Mr. Kasten.
Mr. Baldus with Mrs. Smith of Nebraska.
Mr. Cornwell with Mr. Young of Alaska.
Mr. Mikva with Mr. Cederberg.
Mr. AuCoin with Mr. Schulze.
Mr. Fascell with Mr. Sarasin.
Mr. Alexander with Mr. Quie.
Mr. Sikes with Mr. Sisk.
Mr. Flippo with Mr. Nix.
Mr. Shipley with Mr. Charles H. Wilson of California.
Mr. Teague with Mr. Johnson of Colorado.
Mr. Vento with Mr. Milford.
Mr. Traxler with Mr. Evans of Colorado.
Mr. Tsongas with Mr. Fowler.
Mr. Zeferetti with Mr. Fraser.
Mr. Miller of California with Mr. Hagedorn.
Mr. Dent with Mr. Holland.
Mr. Delaney with Mr. Lent.
Mrs. Lloyd of Tennessee with Mr. Steiger.
Mr. Fountain with Mr. Del Clawson.
Mr. Huckaby with Mr. Crane.
Mr. Harrington with Mr. Ruppe.
Mr. Stump with Mr. Thone.
Mr. Risenhoover with Mr. Pritchard.
Mr. Jenkins with Mr. Pursell.
Mr. Yates with Mr. Lujan.
Mr. Flynt with Mr. Bafalis.
Mr. Diggs with Mr. Cunningham.
Mr. Dicks with Mr. Fish.
Mr. Conyers with Mr. Stangeland.
Mr. Barnard with Mr. Livingston.
Mr. Fithian with Mr. Sebelius.
Mr. Hightower with Mr. Stanton.
Mr. Preyer with Mr. Nolan.

Mr. KOSTMAYER and Mr. OTTINGER changed their vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BURLISON of Missouri. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

INDEPENDENT SAFETY BOARD ACT AMENDMENT OF 1978

Mr. ANDERSON of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 12106) to amend the Independent Safety Board Act of 1974 to authorize additional appropriations, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate am
ment, as follows.

Strike out all after the enacting c
and insert: That this Act may be cit
the "Independent Safety Board Act Am
ment of 1978".

SEC. 2. Section 309 of the Indepe
Safety Board Act of 1974 (49 U.S.C. 19
amended by adding at the end thereo
following: "There are authorized to b
propriated for the purposes of this Act
to exceed $16,420,000 for the fiscal year
ing September 30, 1979, and $17,650,00
the fiscal year ending September 30,
such sums to remain available until
pended.".

The SPEAKER pro tempore. Is t
objection to the request of the gentle
from California?

Mr. SHUSTER. Mr. Speaker, rea
ing the right to object, I do not inten
exercise this right to object, but I d
in order to ask the distinguished ch
man of the subcommittee if he w
explain the reason for his request.

Mr. ANDERSON of California.
Speaker, will the gentleman yield?

Mr. SHUSTER. Mr. Speaker, fur
reserving the right to object, I yiel
the gentleman from California.

Mr. ANDERSON of California.
Speaker, the House previously pa
H.R. 12106, a bill to authorize appro
ations for the National Transporta
Safety Board for fiscal year 1979.
bill authorized $16,420,000. Last Mon
the Senate passed H.R. 12106, with
amendment in the nature of a substi
The amendment simply adds additi
funding for fiscal year 1980 in
amount of $17,650,000. The levels
increased for that 1 year to cover a
posed additional workload in the
of surface transportation per the Pu
Works and Transportation Committ
request. This amendment is accepta
and I urge favorable action by the Ho
on H.R. 12106, as amended by the Sen

Mr. SHUSTER. Mr. Speaker, fur
reserving the right to object, as the
tleman knows, I was the author of
section which provided for increased
phasis for highway safety. Because
Senate is accepting that, it seems
sonable that we should accept their
sition that we go to a 2-year author
tion instead of a 1-year authorizat
Since I was also the author of the ame
ment which struck the authoriza
from 2 years down to 1 year, I am
pared to accept the compromise of
Senate.

Mr. Speaker, I am further infor
that the distinguished gentleman f
Kentucky (Mr. SNYDER), the ranking
nority member on the Subcommittee
Aviation of the Committee on Pu
Works and Transportation, is also
pared to accept this compromise, so th
is no objection, to my knowledge, on
side.

Mr. ANDERSON. Mr. Speaker, I th
the gentleman from Pennsylvania
his contribution, and yield back the
ance of my time.

● Mr. JOHNSON of California.
Speaker, on July 14, 1978, the Ho
passed H.R. 12106, a bill to authorize
propriations for the National Transp
tation Safety Board for fiscal year 1
The bill authorized $16,420,000.

Monday, the Senate passed H.R. 12106

Monday, the Senate passed H.R. 12106 with an amendment in the nature of a substitute. The amendment simply adds additional funding for fiscal year 1980 in the amount of $17,650,000.

This amendment is acceptable, and I urge favorable action by the House on H.R. 12106 as amended by the Senate.●

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANDERSON of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendment to the bill H.R. 12106, just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1, ETHICS IN GOVERNMENT ACT OF 1977

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1505) on the resolution (H. Res. 1323) providing for consideration of the bill (H.R. 1) to require candidates for Federal office, Members of the Congress, and officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 12611, AMENDING FEDERAL AVIATION ACT OF 1958

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1506) on the resolution (H. Res. 1324) providing for consideration of the bill (H.R. 12611) to amend the Federal Aviation Act of 1958 to improve air service and provide flexibility in air fares, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 13059, PUBLIC WORKS AUTHORIZATION BILL

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1507) on the resolution (H. Res. 1325) providing for consideration of the bill (H.R. 13059) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 11733, AUTHORIZING APPROPRIATIONS FOR CONSTRUCTION OF HIGHWAYS

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1508) on the resolution (H. Res. 1326) providing for consideration of the bill (H.R. 11733) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF H.R. 10898, USRA AUTHORIZATIONS, 1979

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1231 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1321

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10898) to amend the Regional Rail Reorganization Act of 1973 to authorize appropriations for the United States Railway Association for fiscal year 1979. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment recommended by the Committee on Interstate and Foreign Commerce now printed in the bill, and all points of order against said amendment for failure to comply with the provisions of clause 7, rule XVI are hereby waived. It shall further be in order to consider the following amendment to said bill and all points of order against said amendment for failure to comply with the provisions of clause 7, rule XVI are hereby waived: "Section 211(d) of the Regional Rail Reorganization Act of 1973 is amended by adding a new sentence at the end thereof as follows: '*Provided*, That with respect to a loan made under subsection (a) of this section to a railroad in the region, the Association may approve any modification of such loan, including increasing the principal amount of the loan, upon a finding that such modification would permit the continuation of rail service determined by the Association, in the final system plan or under the goals of the Act, to be desirable.'". At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. NEDZI). The gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Illinois (Mr. ANDERSON), pending which I yield myself such time as I may consume.

Mr. Speaker, the resolution (H. Res. 1321) makes in order the consideration of the bill (H.R. 10898) to amend the Regional Rail Reorganization Act of 1973 to authorize appropriations for the U.S. Railway Association for fiscal year 1979.

It is a 1-hour open rule.

It also contains a major provision which makes in order an amendment to be offered by the distinguished chairman of the Subcommittee on Transportation and Commerce (Mr. ROONEY). The rule waives points of order against the amendment under clause 7 of rule XVI. Although technically not germane to the bill, the amendment is related to the subject matter.

Mr. Speaker, as reported from committee, the bill would authorize appropriations for fiscal year 1979 in the amount of $27.2 million for operating expenses of the U.S. Railway Association. It also contains a technical provision to permit members of the Board to serve 90 days after their terms expire, if no successor has been appointed. This provision deals with the problem that vacancies on the Board could prevent a quorum and bring the association's operations to a standstill.

The amendment to be offered by the gentleman from Pennsylvania (Mr. ROONEY) would simply waive certain requirements in law which would otherwise prevent the USRA from making urgent loans to the Delaware and Hudson Railway Co. This was the subject of emergency hearings by the gentleman's subcommittee on Tuesday, August 15. At this meeting, the subcommittee was persuaded that failure to act on this matter before we recess today would force that line into bankruptcy before the Congress returns in September. Although the procedure is unusual, the Committee on Rules is convinced that it is necessary to deal with the urgent situation of the D. & H. Railway and agreed to the bipartisan request of the Committee on Interstate and Foreign Commerce.

Mr. Speaker, I urge the adoption of the rule so that the House may proceed to consider this vital bill and the amendment.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a 1-hour, open rule, making in order the bill, H.R. 10898, the U.S. railway authorization for fiscal 1979. The rule waives the germaneness rule against the committee amendment which is section 2 of the bill. That amendment provides that when a board member's term expires, he may continue to serve until a successor has been appointed, but, in any event, no more than 90 days after the expiration of his term.

This rule also provides for the consideration of another amendment, the text of which is printed in this rule, and the germaneness rule is waived against this amendment. That amendment authorizes the association to approve any modification of a loan made to a railroad under the Regional Rail Organization Act, including increasing the principal amount of the loan, if the modification

is deemed necessary to permit the continuation of rail service considered to be desirable in the final system plan or under the goals of the act.

Mr. Speaker, this additional amendment specified in the rule is intended to remove a legal obstacle in the way of further loan advances by USRA to the Delaware and Hudson Railway. The final system plan approved by the Congress called for a rail system competitive to ConRail in the northeastern sector of the United States. The initial plan was for Chessie system extensions into areas in New York and Pennsylvania, but problems were encountered in negotiating the agreements, and the Chessie extensions thus failed to take place.

As a consequence, USRA encouraged the Delaware & Hudson Railway to extend its lines into these areas, and in fact imposed the extensions as a condition for a loan the D. & H. had already applied for to make improvements in its existing system. The D. & H. subsequently became overextended and made some management mistakes. USRA had increased the loan amount to the D. & H. by less than $3 million, even though the extensions more than doubled the D. & H. system. A strike of the Norfolk & Western Railway, the D. & H. outlet to the West further damaged its ability to compete. And USRA declined to grant further moneys to the system because it was not able to meet the financial conditions in the law.

The additional amendment made in order by this rule would enable USRA to increase the principal loan amount to the D. & H. if it finds that such an increase is desirable under the final system plan and goals of the act.

This matter was brought to the Rules Committee as an emergency matter on Wednesday, August 16, and this rule request was supported by the ranking minority member on the Transportation Subcommittee (Mr. SKUBITZ). The rule also had bipartisan support in the Rules Committee and was reported by a voice vote. I urge its adoption.

Mr. MOAKLEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make a point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 323, nays 6, not voting 103, as follows:

[Roll No. 722]

YEAS—323

Addabbo
Akaka
Alexander
Ambro
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashley
Aspin
Badham
Bafalis
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Bonior
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brodhead
Brooks
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Butler
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Coleman
Conable
Conte
Corcoran
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
de la Garza
Dellums
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fenwick
Findley
Fisher
Flood
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Frenzel
Fuqua
Gammage
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Green
Gudger
Guyer
Hall
Hamilton
Hammer-schmidt
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Hughes
Hyde
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kelly
Kemp
Keys
Kildee
Kindness
Kostmayer
Krebs
Krueger
Lagomarsino
Latta
Leach
Lederer
Lehman
Lent
Levitas
Lloyd, Calif.
Long, La.
Long, Md.
Lott
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Martin
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pettis
Pickle
Poage
Pressler
Price
Quayle
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Robinson
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Rudd
Runnels
Ruppe
Russo
Ryan
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Seiberling
Sharp
Shuster
Simon
Skelton
Slack
Smith, Iowa
Snyder
Solarz
Spellman
Spence
Staggers
Stark
Steers
Stockman
Stokes
Stratton
Studds
Thornton
Treen
Trible
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Volkmer
Waggonner
Walgren
Walker
Walsh
Watkins
Weaver
Weiss
Whalen
White
Whitehurst
Whitley
Whitten
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yatron
Young, Fla.
Young, Mo.
Zablocki

NAYS—6

Bauman
Collins, Tex.
Edwards, Okla.
Evans, Ga.
Pike
Symms

NOT VOTING—103

Abdnor
Armstrong
Ashbrook
AuCoin
Baldus
Barnard
Baucus
Boland
Bolling
Brinkley
Broomfield
Burgener
Burke, Calif.
Burton, Phillip
Cederberg
Clawson, Del
Collins, Ill.
Conyers
Cornwell
Crane
Cunningham
Davis
Delaney
Dent
Dicks
Diggs
Edwards, Ala.
Evans, Colo.
Fascell
Fish
Fithian
Flippo
Flowers
Flynt
Fountain
Fowler
Fraser
Frey
Hagedorn
Hannaford
Harrington
Hightower
Hillis
Holland
Huckaby
Ichord
Ireland
Jenkins
Johnson, Colo.
Jones, N.C.
Kasten
LaFalce
Le Fante
Leggett
Livingston
Lloyd, Tenn.
Lujan
McDonald
McHugh
Marriott
Mathis
Mikva
Milford
Miller, Calif.
Nix
Nolan
Preyer
Pritchard
Purcell
Quie
Quillen
Rissenhoover
Roberts
Rodino
Sarasin
Schulze
Sebelius
Shipley
Sikes
Sisk
Skubitz
Smith, Nebr.
St Germain
Stangeland
Stanton
Steed
Steiger
Stump
Taylor
Teague
Thompson
Thone
Traxler
Tsongas
Vento
Wampler
Waxman
Wiggins
Wilson, C. H.
Yates
Young, Alaska
Young, Tex.
Zeferetti

The Clerk announced the following pairs:

Mr. Rodino with Mr. McDonald.
Mr. Le Fante with Mr. Abdnor.
Mr. Thompson with Mr. Frey.
Mr. Zeferetti with Mr. Sarasin.
Mrs. Burke of California with Mr. Skubitz.
Mr. Phillip Burton with Mr. Steiger.
Mr. Dent with Mr. Johnson of Colorado.
Mr. Delaney with Mr. Ashbrook.
Mr. Flippo with Mr. Cunningham.
Mr. Mikva with Mr. Crane.
Mr. McHugh with Mr. Armstrong.
Mr. Ireland with Mr. Hillis.
Mr. Teague with Mr. Kasten.
Mr. Traxler with Mr. Livingston.
Mr. Vento with Mr. Thone.
Mr. Waxman with Mr. Wampler.
Mr. Charles H. Wilson of California with Mr. Wiggins.
Mr. St Germain with Mr. Young of Alaska.
Mr. Sikes with Mr. Pritchard.
Mr. Shipley with Mr. Purcell.
Mr. Rissenhoover with Mr. Quie.
Mr. Ichord with Mr. Del Clawson.
Mr. Conyers with Mr. Cederberg.
Mr. Baucus with Mr. Burgener.
Mr. AuCoin with Mr. Broomfield.
Mr. Diggs with Mr. Holland.
Mr. Fascell with Mr. Hagedorn.
Mr. Fithian with Mr. Fraser.
Mr. Fountain with Mr. Quillen.
Mr. Miller of California with Mr. Schulze.
Mr. Mathis with Mr. Taylor.
Mrs. Lloyd of Tennessee with Mr. Nix.
Mr. LaFalce with Mr. Sisk.
Mr. Huckaby with Mrs. Smith of Nebraska.
Mr. Hannaford with Mr. Stanton.
Mr. Steed with Mr. Sebelius.
Mr. Stangeland with Mr. Jenkins.
Mr. Baldus with Mr. Barnard.
Mr. Boland with Mr. Dicks.
Mr. Cornwell with Mr. Flowers.
Mr. Roberts with Mr. Flynt.
Mr. Preyer with Mr. Milford.
Mr. Nolan with Mr. Lujan.
Mr. Davis with Mr. Leggett.
Mr. Brinkley with Mr. Edwards of Alabama.
Mr. Evans of Colorado with Mr. Yates.
Mr. Stump with Mr. Tsongas.
Mr. Harrington with Mr. Hightower.
Mr. Fowler with Mr. Marriott.

Mrs. Collins of Illinois with Mr. Jones of

Mrs. Collins of Illinois with Mr. Jones of North Carolina.

Mr. GARCIA changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR ADJOURNMENT OF THE HOUSE FROM AUGUST 17 TO SEPTEMBER 6, 1978, AND OF THE SENATE FROM AUGUST 25, 26, 28, OR 29 TO SEPTEMBER 6, 1978

The SPEAKER pro tempore. The Chair lays before the House the following communication from the Senate.

The Clerk read as follows:

Resolved, That the concurrent resolution from the House of Representatives (H. Con. Res. 696) entitled "concurrent resolution providing for an adjournment of the House from August 17 to September 6, 1978," do pass with the following amendments: Page 1, line 4, after "1978" insert: ", and that when the Senate recesses on Friday, August 25, Saturday, August 26, Monday, August 28 or Tuesday, August 29, 1978, pursuant to a motion made by the Majority Leader in accordance with this resolution, it stand in recess until 10 o'clock a.m. on Wednesday, September 6, 1979".

Amend the title so as to read: "Concurrent resolution providing for an adjournment of the House from August 17 until September 6, 1978, and for a recess of the Senate from August 25, 26, 28, or 29 until September 6, 1978.".

The SPEAKER pro tempore. The question is on the Senate amendments.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

USRA AUTHORIZATIONS, 1979

Mr. ROONEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10898) to amend the Regional Rail Reorganization Act of 1973 to authorize appropriations for the U.S. Railway Association for fiscal year 1979.

The SPEAKER pro tempore (Mr. NEDZI). The question is on the motion offered by the gentleman from Pennsylvania (Mr. ROONEY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 10898, with Mr. MOAKLEY in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Pennsylvania (Mr. ROONEY) will be recognized for 30 minutes, and the gentleman from Kansas (Mr. SKUBITZ) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Pennsylvania (Mr. ROONEY).

Mr. ROONEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thought the gentleman from the Committee on Rules gave a very fine statement on the bill, H.R. 10898.

Mr. Chairman, I do have an amendment to offer at the proper time.

Mr. Chairman, H.R. 10898 authorizes appropriations for the U.S. Railway Association for fiscal year 1979 in the amount of $27,200,000.

The bill also adds a provision which permits USRA Board members whose terms have expired to continue serving on the Board for not more than 90 days during the interim before new Board members are appointed and take office.

The authorization of $27.2 million represents an increase of $4.2 million over the amount authorized to USRA for the present fiscal year. Congress created USRA in 1973, to develop a plan under which selected rail properties of the bankrupt carriers in the northeast and midwest regions were transferred to ConRail for continued operation. Subsequently, it was given authority to make loans to other railroads, as well as monitor the operations of ConRail and the railroads to which it awarded loans. USRA has made loans to both the Delaware & Hudson Railway Co., and the Missouri-Kansas-Texas Railroad Co.

The 4-R Act of 1976 gave the Association the responsibility to monitor ConRail's quality of service and its financial condition. The act also extended the planning functions of USRA, by providing the mechanism for a continuing reorganization process with transactions supplemental to the final system plan.

USRA is playing a central role on behalf of the Federal Government in defense of the final system plan, and in particular in connection with the valuation proceedings before the special court, established under the 3-R Act. The United States has a very major financial stake in the outcome of that litigation. In addition to requiring a substantial in-house legal staff, as well as legal fees for highly competent outside counsel, that litigation will require substantial expenditures during fiscal year 1979 for appraisers and other experts employed by USRA in assessing the value of rail properties transferred to ConRail, other railroads and government entities pursuant to the final system plan. ConRail plans to spend $21.5 million for this litigation during fiscal year 1979. This represents almost 80 percent of its authorization request and is $3.5 million more than was spent for this purpose in fiscal year 1978.

USRA must also continue to monitor ConRail's performance during the next fiscal year, which may be a very critical period for ConRail.

In addition, USRA must continue to review the financial condition of both the Delaware and Hudson Railway Co., and the Missouri-Kansas-Texas Railroad Co. in connection with the Federal funds loaned to them by USRA.

ConRail plans to spend $5.7 million on this monitoring during fiscal year 1979. This is approximately the same amount spent for this purpose in fiscal year 1978.

Finally, the provision in this bill with respect to the Board of Directors alleviates a situation which has hampered USRA for some time. The Rail Act of 1973 established a quorum for action by the USRA Board. When a sufficient number of Directors' terms expire without new ones taking office to replace them, the Association Board lacks sufficient membership to constitute a quorum under the statute. This amendment would allow those members whose terms are expiring to continue to serve, for 90 days and thus contribute to a quorum.

Mr. SKUBITZ. Mr. Chairman, I strongly support this piece of legislation. H.R. 10898 as reported by our committee was not so important that it could not be considered after the recess; however, subsequently to our committee reporting the bill, a condition arose on the D. & H. Railroad that made it necessary for our committee to take immediate action in order to stop a disaster. The D. & H. Railroad is on the verge of bankruptcy.

Bankruptcy of the D. & H. could easily happen unless we get off our duff and make available immediately $2.5 million that has already been committed by USRA to the D. & H. Railroad. If we do not do this, the D. & H. will be forced into bankruptcy and trustees will have to be appointed to operate the railroad until a reorganization plan can be formulated. It is estimated this if this took place, directed service might well cost this country $14 million to $17 million.

The issue that faced our committee when we asked that this amendment be added to H.R. 10898 was whether it was warranted, since there was no evidence that the D. & H. has been mismanaged or that it has not done a good job. There is evidence that because of the disastrous way we handled the railroad problem in the Northeast by forcing the D. & H. to take over 750 miles of railroad that it did not want.

If this is true, that this problem is our fault, we have one of two choices to make: Either force or prod USRA to give the $2.5 million, the balance due on the commitment it made to the D. & H. railroad so it can operate for 4 or 5 more months while we work on a reorganization plan, or let the railroad go into bankruptcy next week and probably have to pay out $14 million to $17 million.

Mr. Chairman, that is how clear and simple the issue is. I think the chairman of our committee used good judgment in deciding the thing to do would be to offer this amendment.

The Delaware & Hudson Railway is a special case which may go down in history as one of the worst illustrations of what Government interference can do to a railroad. Through a series of tragicomic regulations, we have uprooted a small but profitable railroad, assigned routes to it with strangling restrictions and, adding rape to incest, have foisted this railroad off in a classical shotgun marriage to another railroad that did not want any part of it. Can we really be

surprised that they come before us today with an urgent and imperative cry for assistance under the threat of immediate bankruptcy?

Yes, Mr. Chairman, I do support this limited assistance, this "organ tent" approach, but nevertheless I share the concern of our current Secretary of Transportation in these stopgap measures and recognize the limitations of holding off reorganization under chapter 77 of the Bankruptcy Act. I do not and could not support this bill and my chairman's amendment if it could only be qualified as a permanent bail out of an insignificant railroad leading us to write yet another chapter in the Guiness Book of Federal Foolishness.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I commend the chairman of the committee for the outstanding job he has done on this bill, and I commend the ranking Republican member, the gentleman from Kansas (Mr. SKUBITZ), as well.

Mr. Chairman, I rise in support of this USRA authorization bill. Despite the number of times that USRA and ConRail matters have been before this body, there still exists confusions between the two entities. The USRA serves banker to ConRail and monitors ConRail performance but it is not responsible for the daily operations of that railroad.

Serving in the twin roles as financier watchdog, the USRA has brought us a great deal of bad news concerning ConRail performance. As it turns out, USRA's original predictions for ConRail's early success have been erroneous. But, in the main, this has been so because of events outside the USRA control, including such occurrences as exceptionally bad weather, strikes, and poor ConRail car utilization of which it has been a persistent critic. Nevertheless, quarterly reports to Congress have accurately reflected the changed situation. And the findings of its most recent annual report to Congress have been largely confirmed by an independent ICC analysis.

It seems in pointing out the generally bad news about ConRail's financial condition, the USRA has incurred the wrath of some Members of Congress. However, if this body takes out its frustrations with inadequate ConRail performance by denying funds to USRA, it will be tantamount to killing the messenger because of the bad news he bears. This would be nothing to improve overall ConRail performance. Also, cutting back on the USRA would overlook its important role in managing the Government's defense in complex litigation stemming from reorganization of bankrupt railroads in the Northeast. USRA is playing a key role in bringing these Penn Central lawsuits to a successful conclusion. Its presence and expertise in these matters will ultimately save the Government millions of dollars, in reduced conveyance expenses. Without the USRA, it can be expected that ConRail would incur even graver difficulties than it has now in the management of railroads operations. Let us insist that the USRA do a better job in pressing ConRail for improvements through its handling of pursestrings but let us not kill the messenger simply because we do not like the news that he brings.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Chairman, I rise in support of the bill, and, first, I wish to commend the gentleman from Pennsylvania (Mr. ROONEY) and the gentleman from Kansas (Mr. SKUBITZ) for their fine work in bringing this bill to the floor.

Mr. Chairman, I rise to support the amendment and urge my colleagues to join with me in voting in favor of its passage. The amendment will, without the expenditure of new funds, prevent the bankruptcy of the only solvent railroad in the Northeastern United States.

Mr. Chairman, in order to properly evaluate this amendment we must look at the past to explain its necessity. The Delaware and Hudson Railroad has been in operation for more than 100 years. Most of those years were profitable. Suddenly, the D. & H. began to suffer more difficult operating conditions. Unfortunately, these conditions were caused by Federal action. First came the merger of the Pennsylvania Railroad and the New York Central. Our Federal response to this situation was to force the Norfolk and Western to purchase the stock of the D. & H. instead of dealing with the merger-caused loss of its friendly southern connection. We chose the expeditious answer instead of dealing with serious structural problems caused by this ICC approved merger.

Next came the final system plan collapse caused by a failure in negotiations that would have led to competition to ConRail. Because of the rush of events leading to congressional approval of the plan, we allowed, or perhaps forced, the D. & H. to accept twice as much trackage as they had ever before owned, as a remedy for the final system plan collapse. We left the D. & H. with friendly connections over their own tracks only to the east, while forcing them to use a hostile competitor's tracks for access to western and southern markets.

Then, as now, time was extremely important. Let us do the rational thing this time. Let us provide these funds so that the D. & H. can work out its own solutions instead of having unsuccessful ones forced upon them.

The alternatives are certainly not very hopeful. If the D. & H. goes into bankruptcy, we know from FRA's testimony that FRA's Emergency Rail Service Act funds for bankrupts would not be available. Therefore, the ICC would be required to authorize "directed service" by another carrier. That would cost taxpayers at the very least $15 million.

ConRail would be the most likely, in fact, the only real candidate for the operation of the D. & H. trackage. I am convinced that ConRail cannot now, nor in the near future, handle any additional responsibility. ConRail is only now beginning to respond to the probing of USRA's and ICC's substantially increased oversight staff. Its performance over the last 2 years rather clearly shows an inability to take on any more customers o trackage.

This amendment, gentlemen, is th only reasonable answer to this problem and it is the right one. Let D. & H. find it own answers in the marketplace and no on FRA's drawing boards. There will b no new cost if this proposal is adopte Whereas well over $15 million will b expended if we do not loan this mone to the D. & H.

To allow this solvent railroad to col lapse would be the last in a string o mistakes and could never be correcte

Mr. GILMAN. Mr. Chairman, will th gentleman yield?

Mr. SKUBITZ. I yield to my colleagu the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I rise i support of the authorizing appropria tions for the U.S. Railway Associatio

Mr. Chairman, the Delaware & Hudso Railway Co. has been a successful busi ness enterprise for over 100 years. I the post-World War II era, when rail road companies faced their greate crises, and line after line went into bank ruptcy, the D. & H. was an inspiration t us all, keeping itself operating, in th black, throughout the most trying cir cumstances.

In 1976, the Delaware & Hudson oper ated 700 miles of track, located mainly i upstate New York. Their facilities wer in need of improvement, and the com pany applied to the U.S. Railway Asso ciation for financial assistance. As a con dition for the authorization for a $3 million loan, as required under th "Triple R" Act, the D. & H. was require to take over some 700 miles of lines fro other, defunct railroad companies.

Unfortunately, this expansion was to much and too rapid for the D. & H. t absorb. As a result of too great an expan sion, the lack of expertise needed to ma a railway company which overnight be came twice the size it originally wa D. & H. ran into further financial diff culties. Exacerbating their cash flo crisis is the prolonged Norfolk & Wester strike which has resulted in daily losse to D. & H. of $50,000.

I have been informed that more tha 2,000 D. & H. jobs are at stake in thi crisis and that hundreds of shipper throughout New York State, New Jerse Pennsylvania, and New England rel heavily on D. & H. services.

This amendment would waive the pro visions of the Triple R Act which modi fies the criteria under which the USR can permit drawdown of loans by quali fying railroads thereby enabling th D. & H. to avert bankruptcy by a draw down of the existing balance on the cur rent loan of $2.5 million and to obtai approval of an additional loan of up t $20 million.

Mr. Chairman, I believe that it is es sential for the economic well-being o the entire Northeast that this amend ment be passed. The Delaware and Hud son provides services for not only th southern tier of New York but also th New York northern corridor and all o New England. As long as the D. & H. is i operation traffic can be diverted from th northern corridor between Buffalo and Albany, which is now so overburdened

that our shippers all through New York

has explained it succinctly and has told

amendment by all Members to allow the

that our shippers all through New York are forced to endure delays. Were the D. & H. to close shop, this northern corridor would become even more burdened, and the delays in rail traffic would become worse.

The closing of the D. & H. would drive more shippers away from rail transportation. From an environmental standpoint, rail traffic is ecologically a more desirable way to ship. We should not therefore discourage rail traffic, if at all possible.

Mr. Chairman, as an advocate of the free enterprise system, I believe that a healthy competition works to the advantage of the consumer. The Delaware & Hudson has been giving ConRail healthy competition in the areas that it services. With this additional assistance from Congress, the D. & H. will be able to survive and hopefully grow into a truly productive, profitable, railway concern. The bankruptcy alternative would be much more costly and detrimental to the economy of the State of New York and to the entire Northeast.

Accordingly, Mr. Chairman, I urge all of my colleagues to join in supporting this vital measure and I urge the distinguished chairman of this subcommittee, the gentleman from Pennsylvania (Mr. ROONEY), to provide the same kind of understanding rail relief to the Hudson Valley region or New York State by authorizing ConRail in subsequent legislation, to repair and reopen the Poughkeepsie Rail Bridge, another vital link between New York State and New England.

Mr. SKUBITZ. Mr. Chairman, let me say to my colleague, the gentleman from New York (Mr. GILMAN) that the history of this committee has been that it has made every effort to meet these problems relating to the railroad industry in a forthright manner, and I can assure the gentleman we will try to work out a sound solution.

Mr. GILMAN. Mr. Chairman, if the gentleman will yield further, I thank the gentleman for that assurance.

I wonder if I might just direct a question to the chairman of the subcommittee and ask him to comment with respect to the Poughkeepsie Rail Bridge.

Mr. ROONEY. Mr. Chairman, if the gentleman from Kansas (Mr. SKUBITZ) will yield, I assure the gentleman from New York (Mr. GILMAN) that this matter will be taken up when we discuss the ConRail bill next month.

Mr. GILMAN. Mr. Chairman, I hope we will have the gentleman's support in seeking the repair of that bridge.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. SKUBITZ. I yield to my colleague, the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I thank the distinguished gentleman from Kansas (Mr. SKUBITZ) for yielding.

Mr. Chairman, I want to commend the gentleman and the chairman of the subcommittee for their work on this particular bill. Particularly I want to commend my friend, the gentleman from Kansas (Mr. SKUBITZ), for his excellent explanation of this legislation. I think he has explained it succinctly and has told it as it is.

Mr. Chairman, without this legislation it is entirely possible that this particular railroad in question would be bankrupt within a very few weeks.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague's yielding.

The gentleman from Kansas (Mr. SKUBITZ) has mentioned to me before that the authorization in this bill is roughly $2.5 million; is that correct?

Mr. SKUBITZ. Mr. Chairman, the authorization is not $2.5 million. In the case of this amendment, we are really not in fact authorizing anything.

What we are doing here is instructing and enabling USRA to fulfill its obligation by loaning the D. & H. Railroad $2.5 million already committed.

Mr. ROUSSELOT. So there is no hidden guarantee or potential major provision in this that could potentially result from this legislation?

Mr. SKUBITZ. None that I know of at all.

Mr. ROUSSELOT. Mr. Chairman, I thank my colleague for his answer. I know the gentleman has worked hard to make sure that this emergency legislation has moved along, and at least we understand it is more necessitated now than it was in the past.

Mr. SKUBITZ. Mr. Chairman, I thank my colleague for his interest.

Mr. ROONEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. FLOOD).

Mr. FLOOD. Mr. Chairman, I appreciate the gentleman's yielding this time to me. I wish to express my appreciation for the extraordinary work the chairman of the subcommittee has done on this bill. His efforts in this regard are very important to us in Pennsylvania.

I could not agree more with my colleague from Pennsylvania (Mr. ROONEY), and I rise in support of the committee amendment. When I was a high school student in Wilkes-Barre, Pa., I spent my summers laying ties on the Port Buckley Bridge on the Lehigh Valley Railroad. There were hot summer nights when the smell of creosote was so bad, my family asked me to walk around the block for awhile. That is my first remembrance of the saga of the American railroads; in the days when six competing railroads all came into the center of downtown Wilkes-Barre. The railroads were the spirit of the free enterprise system and they provided the best there was in competition—but now, will the last of the competing railroads in the Northeast United States survive? Or will the D. & H. be left abandoned into imminent bankruptcy and that ugly octopus known as ConRail?

The loss of this loan authority to the D. & H. will cause the demise of the railroad and irreparable harm to rail service in the Northeast—service which is badly needed and without which, counties such as Luzerne in my district cannot live. I urge the support of the committee amendment by all Members, to allow the remaining $2.7 million of a $30-million loan to be drawn down by the D. & H. Railroad. I know that such action is consistent with the goals of the Rail Reorganization Act of 1973 and the final systems plan.

Mr. ROONEY. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. HANLEY).

Mr. HANLEY. Mr. Chairman, I too, commend the committee for its excellent work on this bill.

Mr. Chairman, I rise in support of the committee amendment to H.R. 10898, the U.S. Railway Association authorization for fiscal year 1979. This amendment is designed to head off a severe financial crisis that would result in the bankruptcy of the last major railroad in the Northeast. I refer to the Delaware and Hudson Railway, a railroad that has fallen victim to events arising out of the Federal reorganization process of rail service in the Northeast. By removing certain constrictions in the Railroad Reorganization Act of 1973 and bringing it more in line with the certain principles of continued competition outlined in the 3 R Act, we hope to keep the railroad running until a Federal reorganization and restructuring study under section 401 of the 3 R Act can be completed and acted upon. The amendment allows continued loan drawdowns on the remaining $2.7 million in USRA section 211(h) and will also enable the USRA to approve further loans on additional moneys expected to be repaid by other railroads into the section 211(h) fund. Specifically, other moneys that should become available are $2 million from the KATY System in October and those funds which will be paid by the Penn Central when it comes out of reorganization. I cannot emphasize strongly enough the critical need for this amendment. It is vital for continued freight service in the New England States and to maintain competition in the Northeast. Without this amendment the only really alternative is bankruptcy. In that event the ICC would have to order a 240-day directed service period by another railroad. The USRA estimates such a move will cost between $15 and $17 million in unrecoverable losses to the Treasury, making this procedure an option we should avoid at all costs. While this amendment does not go as far as the amendment I originally suggested during hearings on the D. & H. situation August 15, it represents an effective solution to the problem and has my wholehearted endorsement. I hope we can all support this very important emergency measure.

Mr. ROONEY. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Chairman, I thank my colleague for yielding this time to me.

Mr Chairman I want to join my distinguished colleague from New York (Mr. HANLEY), in support of his timely amendment to H.R. 10898. I think we can safely say that in articulating our concern that the Congress provide additional loan authority to prevent the bankruptcy of the Delaware & Hudson Railroad that I am speaking for all my northeastern colleagues.

The D. & H. Railroad offers the only competitive rail freight service to ConRail in most of New York State, parts of New Jersey, Pennsylvania, and Vermont. Moreover, this railroad is a veritable lifeline for the supply and marketing of all of New England's industry.

The amendment which is now before this House would do two things:

First. It would grant an additional $20 million in loan authority to the USRA pursuant to an existing "3R" act rail assistance program.

Second. And of equal importance it modifies the statutory standards which govern the USRA judgment—and so in a manner consistent with the congressionally approved final system plan. That is, it will help to assure the maintenance of competition to ConRail in the Northeast.

The alternatives which face us in bankruptcy are grim indeed. First, hundreds of businesses of which the strength of the Northeast economy so vitally rely will be forced to undertake costly changes to other modes of transportation, or even worse, to close shop entirely. Secondly, and we must not lose sight of this compelling fact, the Federal alternatives in bankruptcy would cost the U.S. taxpayer far more money than the option which the Hanley amendment offers. The Honorable A. Daniel O'Neal, Chairman of the Interstate Commerce Commission, testified as recently as Tuesday before Mr. ROONEY's Subcommittee on Transportation and Commerce that the directed service alternative would cost the Federal Government, in an outright subsidy, between $15 and $17 million to secure a mere 240 days of continued service. The D. & H. estimates that $15 million in loans would see the railroad through the next 12 to 18 months—and without incurring bankruptcy.

Furthermore, a directed service order issued by the ICC to have ConRail operate the D. & H. will result in no competitive rail service. Under this loan program, Federal aid is recoverable as evidenced by the fact that the D. & H. has already begun to pay back earlier loans with interest.

I urge my colleagues not to abandon this railroad. It is imperative that we permit the several federally sponsored studies which are underway to be completed. It hardly makes sense to preempt the congressionally established "401" study mechanism by allowing another bankrupt railroad to occur before proper options are presented.

We have before us an opportunity to work in partnership with our State governments and with an improved and revamped railroad management to save jobs and Federal dollars. New York State alone has provided nearly $25 million in outright grants in an effort to save this railroad. I urge my colleagues to support this amendment which will buy us the time needed to prove it can work.

Mr. ROONEY. Mr. Chairman, I have no further requests for time.

Mr. SKUBITZ. Mr. Chairman, I yield 5 minutes to my colleague, the distinguished gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Chairman, I oppose this authorization for the following reasons:

First. The exigent circumstances leading to the creation of USRA no longer exist.

Second. The political need for USRA no longer exists.

Third. The elimination of USRA will save taxpayer money.

Fourth. The elimination of USRA will foster a stronger, more unified transportation policy.

THE EXIGENT CIRCUMSTANCES LEADING TO THE CREATION OF USRA NO LONGER EXIST

USRA was created by Congress in the Regional Rail Reorganization Act of 1973 to deal with the crisis resulting in the bankruptcy of seven railroads in the Northeast. The USRA submitted a plan to Congress which was approved for the consolidation of most of those bankrupt railroads into ConRail. That consolidation has taken place, and rightfully, the agency should have died. Bureaucratic inertia, however, has continued to lead USRA toward finding excuses for their continued existence. Those bureaucratic excuses add up to the $27,200,000 request contained in this bill for fiscal year 1979. All of the functions presently conducted by USRA can be handled by other Government agencies at far less cost.

THE POLITICAL NEED FOR USRA NO LONGER EXISTS

When USRA was created, one political party controlled the executive branch and another political party controlled the Congress. When the political tensions of 1973 were added to the two-party control of Government, Congress decided that it would be able to trust its own special creation better than traditional transportation agencies of Government.

Today, the political tensions of 1973 have dissipated. Today, one political party controls both the legislative and executive branches of Government. There is no political advantage in having a governmental agency outside of the executive branch.

THE ELIMINATION OF USRA WILL SAVE TAXPAYER MONEY

Everything the USRA does can be done—and done more efficiently—by other agencies of Government. USRA estimates that $21,541,000, or 79 percent of the funds requested, will be needed to finance the litigation on behalf of the United States arising out of the reorganization of the bankrupt railroads in the Northeast. What that really means is that USRA will use most of the money to pay a couple Washington law firms to provide lawyers to argue the case on behalf of Uncle Sam. It also requires large payments to appraisers to prepare new valuations for the law suits. One has to wonder why it is that Justice Department lawyers have suddenly become incapable of arguing a case for the United States. The Justice Department has the staff, has the competency, and I suspect, if permitted, has the will to argue the valuation case growing out of the establishment of ConRail.

USRA estimates that $5,659,000, or approximately 21 percent of the funds requested, will be needed in order to oversee or monitor what ConRail is doing. It is interesting to note that the Federal Railroad Administration in the Department of Transportation also monitors ConRail's activities since it is that Department that must request the additional funds needed by ConRail. That Department also has responsibility for monitoring ConRail to make certain that it conforms to railroad safety laws and manages its business in a way which will minimize the need for future Government handouts. There is no reason the DOT and the FRA could not take full responsibility for monitoring ConRail.

It is entirely likely that the Justice Department and the Department of Transportation could completely absorb all of the things now being done at USRA without having to add a penny to the respective budgets. In my judgment, the elimination of USRA would mean an immediate savings of $27,200,000.

THE ELIMINATION OF USRA WILL FOSTER STRONGER, MORE UNIFIED TRANSPORTATION POLICY

For years, Congress has urged Government agencies to work toward the development of programs for a sound national transportation policy. In creating USRA Congress fragmented the development of transportation policy.

In 1965, when we created the Department of Transportation, it was for the purpose of bringing together all transportation functions involving Government regulation and subsidy. Continuation of USRA thwarts the purpose of the Transportation Act of 1965 and continues fragmentation of an area which needs consolidated Government policy. Elimination of USRA will permit the Department of Transportation to do the job it should be doing.

If there is any agency in need of sunset, USRA is that agency. I urge the rejection of this authorization so the Government processes can be returned to normal and the taxpayers can save $27,200,000 without harming any project or any Government policy.

We all want sunset laws to end unneeded Government agencies. Let us end this authorization and thereby end the USRA agency.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. SKUBITZ. Mr. Chairman, I yield 5 additional minutes to the gentleman from Texas.

Mr. RUDD. Mr. Chairman, will the gentleman yield for one question?

Mr. COLLINS of Texas. I yield to the gentleman from Arizona.

Mr. RUDD. Mr. Chairman, I would like to commend the distinguished gentleman from Texas on his diligence in this matter, but what I am hearing here indicates to me that perhaps this USRA is in the nature of a board of directors that no longer acts, is that correct?

Mr. COLLINS of Texas. They are acting. They have spent considerable time allocating funds. In other words, this is entirely an administrative agency

They do not operate a railroad. All they do is engage in lawsuits. We have got a Justice Department down here that spends too much time on bussing lawsuits. They ought to have more time to take care of railroad lawsuits. It is just too bad that we are not giving them enough time to work on the essential litigation this country really needs to have to protect the national interest.

Mr. RUDD. I certainly thank the gentleman for the concise, clear explanation.

Mr. COLLINS of Texas. Mr. Chairman, if I can, I would like to call on the gentleman from Pennsylvania (Mr. ROONEY) to give me some background. As I understand it, one of the pressing needs, and probably the most logical reason for this authorization, is because of this railroad that is in dire straits up here. Is that an absolute crisis that has to be acted on now?

Mr. ROONEY. Mr. Chairman, if the gentleman will yield, the authorization request is for the litigation the valuation case pertaining to the transfer of assets from the bankrupt estates to ConRail and the monitoring of ConRail. As I understand it, the USRA will be out of business as soon as the case is settled by the special court. I am in complete accord with the gentleman from Texas. I do not want to see USRA continue indefinitely. I think USRA must, however, continue to perform the essential functions of litigating the valuation case monitoring railroad operations in instances when they have received Federal funds. They are doing an exceptional job.

They have got the expertise and as soon as this case is settled, if I am still in Congress and still chairman of this committee, I can assure the gentleman from Texas the USRA will be back up.

Mr. COLLINS of Texas. Of course based on the average experience and knowledge and life expectancy, I doubt if the gentleman from Pennsylvania will be here when this is finished. When does the gentleman foresee this will be terminated? Can he give any date we can anticipate that?

Mr. ROONEY. The gentleman from Texas knows how the courts operate in this country. It is in the special court in Philadelphia, and the court is trying to settle it as quickly as possible. In fact it is attempting to have the matter settled out of court. If this is possible the matter should be settled expeditiously. As soon as it is settled I think the gentleman will see the USRA go out of existence.

Mr. COLLINS of Texas. Of course, the gentleman did not give a specific date.

Mr. ROONEY. I cannot tell the gentleman how long the court case will take. He knows the courts as well as I do. Sometimes it is like Congress.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I have heard rumbles from several of the gentleman's committee members, Mr. Chairman, and there is a real possibility we ought to pull this thing out of existence next year. Does the gestleman share that idea of putting it to sleep?

Mr. ROONEY. No. There is too much money involved in this, and for them to transfer it over to the Justice Department or the DOT I think would be illogical. The Justice Department and DOT requested that USRA handle this case. I think we need the USRA until this court case is settled.

Mr. ROUSSELOT. Does not the DOT have adequate machinery to handle that?

Mr. ROONEY. Absolutely not, if the gentleman will continue to yield. If the DOT has the responsibility it would be forced to hire outside counsel.

Mr. COLLINS of Texas. Mr. Chairman, I rise in opposition to the amendment.

I would just say that our basic problem with this whole legislation is that it is going on and on and on. The States are given a deadline on the time to act. They just keep putting it off and putting it off.

Mr. Chairman, there is no need for any further extension. The amendment just speaks for itself. Are we going on and on in perpetuity with this matter, or do we want to put a deadline on it?

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, I am somewhat surprised that the gentleman from Texas (Mr. COLLINS) would reject an opportunity for ConRail to derive revenue from a source other than the Federal Government, knowing of the gentleman's interest in avoiding further Federal support for this particular entity.

This amendment provides ConRail with an opportunity to unload unneeded trackage to someone who wants it. Thus, it will not be a burden on the Federal taxpayer.

I would think that if the gentleman thinks through his position and his rather philosophical statement with regard to the operation of USRA as well as ConRail, he would find this amendment a highly desirable one to support.

Mr. COLLINS of Texas. Mr. Chairman, I would say to the gentleman from New Jersey (Mr. FLORIO) in that regard that this is not a matter of unloading. It is a matter of making a decision. Some people just do not make decisions very quickly. They go over a deadline, and the greater the deadline that is given them, the longer they postpone the decision.

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. Mr. Chairman, I am concerned about the gentleman's interpretation.

He said the extension is needed so that the local municipalities can buy these lines at a reduced price. If that is true, that means that there will be less money in the till when the whole bankruptcy is disposed of in the courts; and it will, in fact, be the Federal Government which will have to make up the difference on that equipment which has been sold off at a reduced price. Therefore, I think in the long run, the Federal taxpayer will pay, in some sense, for the extension here, and we ought to recognize that.

Mr. COLLINS of Texas. The gentleman from Pennsylvania is exactly correct.

Mr. SKUBITZ. Mr. Chairman, I have no further requests for time.

Mr. ROONEY. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 10898

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 214(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(c)) is amended to read as follows:

"(c) ASSOCIATION.—For the fiscal year ending September 30, 1979, there are authorized to be appropriated to the Association for purposes of carrying out its administrative expenses under this Act such sums as are necessary, not to exceed $27,200,000. Sums appropriated under this subsection are authorized to remain available until September 30, 1980.".

Mr. ROONEY (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, after line 2, insert the following new paragraph:

SEC. 2. Section 201(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 71(e)) is amended by adding at the end thereof the following new sentence: "Upon the expiration of their terms of office, members of the Board shall continue to serve until their successors have been appointed and qualified, except that a member shall not serve for more than 90 days after the expiration of his term.".

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

AMENDMENT OFFERED BY MR. ROONEY

Mr. ROONEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROONEY: Page 2, immediately after line 9, insert the following new section:

SEC. 3. Section 211(d) of the Regional Rail Reorganization Act of 1973 is amended by adding a new sentence at the end thereof as follows: "*Provided*, That with respect to a loan made under subsection (a) of this section to a railroad in the region, the Association may approve any modification of such loan, including increasing the principal amount of the loan, upon a finding that such modification would permit the continuation of rail service determined by the Association, in the Final System Plan or under the goals of the Act, to be desirable."

Mr. ROONEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. ROUSSELOT. Mr. Chairman, reserving the right to object, I will not object, can the gentleman explain the amendment?

Mr. ROONEY. Yes, if the gentleman will yield, the Regional Rail Reorganization Act of 1973 requires that in awarding loans to railroads it must assure itself that it receives sufficient security to reasonably protect the interests of the United States and that the funds will be repaid within the time fixed by the loan. It has now been determined that these conditions are too restrictive in the cases of railroads in bankruptcy or bordering on bankruptcy. The proposed amendment would remove these restrictive conditions.

The necessity for this amendment was forcefully brought out last week when the USRA financial committee decided, with regard to an outstanding loan to the Delaware and Hudson Railway, that it was no longer able to make the required findings to the effect that adequate security existed and the loan would likely be repaid in a timely manner. Consequently, it voted to prohibit the draw down of the remaining $2.7 million of the $30 million commitment.

The D. & H. Railway is in very precarious financial condition. This has been of considerable concern for some time to my subcommittee as well as the Government agencies involved. It is now obvious that unless the railroad can receive the additional funds from the existing loan commitment, it will be forced to file for bankruptcy in a very few days.

The Subcommittee on Transportation and Commerce held a full day of hearings on this matter yesterday. It was determined that to a large extent this precarious financial condition is due to an overexpansion 2 years ago resulting from the final system plan. Thus, it is my belief that since the Government placed the railroad in this condition, it has a moral responsibility to keep the railroad from bankruptcy until such time as the presently ongoing restructuring plans are completed. Although this small railroad operates in the Northeast, it provides essential services for the entire Nation.

The amendment that I am proposing would give a needed flexibility to aid ailing railroads. In my opinion, it is much more preferable to aid an ailing railroad rather than to await bankruptcy and go through the horrendous project of restructuring under adverse conditions and undue pressure.

Our hearings disclosed that the action we are proposing is much cheaper to the Federal Government than the alternatives. It was brought out that the alternative to permitting the loan drawdown, which would be accomplished by the proposed amendment, would be for the Interstate Commerce Commission to direct service. The Chairman of the ICC testified that his directed service order would cost between $15 and $17 million and moreover, the funds would not be refundable. Obviously, an unsecured loan is preferable to a known giveaway. In addition, the directed service would only be in effect for 8 months. After the 8-month service period, a permanent solution may still not have been found and no means would remain for providing the essential services provided by this railroad. In addition, it was brought out that directed service may not be requested by the court and the trustees of the bankrupt railroad and hence it could proceed immediately to liquidation. This would create untold economic havoc, not only in the Northeast but in other parts of the country as well.

In a sense, the proposed amendment will buy time for the matter to be thoroughly studied and hopefully a permanent solution will be found. These studies are already in process.

I would also like to emphasize that no new funds are being requested. Rather, it is requested that the railroad be permitted to draw down the small remaining balance of an existing loan commitment and granted a new loan if necessary and justified under the new conditions.

Although I introduced this amendment, I want it clearly understood that I am able to introduce it because of the assistance and cooperation that I have received from a number of my colleagues. These colleagues are from both sides of the aisle and represent districts served by the D. & H. Railroad and districts far removed from this service area. During our hearings yesterday we received testimony and support from Mr. STRATTON, Mr. HANLEY, Mr. MCDADE, and Mr. CONTE. In addition, a number of other Members wanted to testify but were unable due to previous unalterable commitments. Moreover, the ranking minority member of the subcommittee, my good friend Mr. SKUBITZ, has been instrumental throughout all our deliberations and especially during this matter.

We all urge your support in adopting this amendment.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, what it means then is that the rules presently under which this agency operates are so strict that they would not be able to make this additional guarantee or loan?

Mr. ROONEY. That is correct.

Mr. ROUSSELOT. It is a loan?

Mr. ROONEY. That is correct.

Mr. ROUSSELOT. Then I would ask the gentleman this: Who put this railroad in that condition?

As I understand it, part of the problem is that we imposed upon them some additional track, is that correct?

Mr. ROONEY. Yes.

Mr. ROUSSELOT. That they had to take that additional track that was imposed upon them, and consequently the Government has created the bankruptcy?

Mr. ROONEY. That is right.

Prior to 1976 this was a financially profitable railroad that had some 750 miles of track and they added some 900 miles of additional track. This was necessary because the Chessie system failed to take over the part of the system designated to it in the final system plan.

Mr. ROUSSELOT. So that this is another example of the Government forcing upon a profitable operation an unnecessary burden and that is why we are here today.

Mr. ROONEY. Six railroads in the Northeast were bankrupt and had to reorganize. I think the law developing ConRail was the cure for nationalization. I think we would have seen nationalization of our railroads in this country had we not enacted this legislation in 1976.

I am hopeful that we will see ConRail become a profitable railroad. I am still bullish on ConRail because it is the only ballgame in town.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I rise in support of the amendment of the gentleman from Pennsylvania (Mr. ROONEY) which would amend section 211(d) of the 3-R Act to give the U.S. Railway Association the authority to modify loans guaranteed under its section 211(a) authority upon finding only that such modifications would permit the continuation of rail services determined by the association in the final system plan or under the act, to be desirable in achieving the goals of the act.

The purpose of this language is to allow the USRA, the banker under the section 211 program, more flexibility in responding to the problems of troubled railroads in the Northeast and Midwest. It provides the association with the tools needed to quickly help railroads through cash emergencies such as the one currently facing the Delaware & Hudson Railroad, where there is a real threat that a cessation of railroad operations otherwise may result. It also provides a means of attacking the railroad problems which have plagued the Northeast and Midwest in a rational manner, during a time when studies and suggestions for long-term solutions to such serious regional problems of overcapacity, deteriorated facilities and shortages of revenues are receiving careful attention.

The wisdom of the amendment is recognized when one considers the alternatives available—or lack thereof.

In the case of the Delaware & Hudson, these alternatives include shorted term "directed" service along its routes by another railroad at unrecoverable Government expense or a total cessation of service in the immediate future. Ultimately, it may mean the D. & H. being swallowed up by its behemoth competitor, ConRail. This is an alternative that should surely be avoided.

I feel that a precipitous event such as the D. & H.'s quick collapse could have a "domino" effect and be very harmful to the financial health of all railroads in the region. The very future of New England's main line, the Boston & Maine Railroad, is tied to the continued operation of the D. & H. The D. & H., along with ConRail, represents B. & M.'s only links to the west and south of New England. The Delaware & Hudson interchanges about one-half of its traffic with the B. & M., representing approximately one-third of the B. & M.'s volume. In order to gain perspective on the size of this freight volume, it can be pointed out that

the Delaware & Hudson's revenues run

man, and I withdraw my reservation of

Mr. FLORIO. That is correct

Is a separate vote demanded on any

Results Simon Yeager Jeff

Mr. Hansen, with 35 minutes

the Delaware & Hudson's revenues run around $70 to $80 million per year, while the Boston & Maine's revenues reach nearly $100 million.

In addition to the B. & M., the Vermont Railroad and ConRail interchange directly with the Delaware and Hudson on New England shipments. On top of this, quite a number of our other railroads are dependent on the D. & H. through B. & M. as a middle carrier. This is particularly true of States such as Maine and New Hampshire, where the Maine Central and the Bangor & Aroostook ship a good deal of freight through the B. & M. to the Delaware & Hudson lines. Thus it is clear that the continuation of the D. & H. service is very important to the success of New England economy in particular the New England economy in general.

Passage of this amendment will allow the D. & H. to drawdown funds from USRA under the present section 211 program, without an additional appropriation, which could sustain the railroad for approximately 2 years.

Other regional railroads, like the B. & M., Central of Vermont, or Bangor & Aroostook are potentially eligible for loans under this program, but any increase in the size of this program to accommodate any new loan requests would be subject to approval under the appropriations process. This fact provides the Congress with an additional opportunity to weigh the wisdom of this program.

Moreover, this amendment would allow future long-term solutions, such as those available under DOT's section 401 authority to waive certain antitrust provisions to encourage restructure of the railroads. The D. & H. and the B. & M. are now subject to a study under this provision. In addition, we in New England have already begun to deal with the issue of rationalization of our railroad system. The New England Regional Commission has been working with the USRA on a rail transportation study which focuses in large part of restructuring the D. & H. system. Also, Boston and Maine's President, Allan Dustin, recently submitted an interesting plan for reform of the working capital fund under the Emergency Rail Services Act that deserves close consideration as a future remedy.

In sum, we have before us an imperfect, but necessary solution to an imperfect situation brought about in the wake of the Penn Central bankruptcy and its aftermath. If we are to work out a rational cure to the resultant railroad facing the Northeast and Midwest, we should allow USRA the flexibility needed to deal with a crisis like the current D. & H. cash squeeze.

This amendment provides such flexibility and I urge its passage.

Mr. ROUSSELOT. Mr. Chairman, I think the gentleman has made the point. We need the amendment. The point I was trying to make is that it was the Government that caused the problem.

Mr. CONTE. I think the gentleman is right, and ConRail has not helped them at all and if we do not do this ConRail will be taking over the Delaware & Hudson.

Mr. ROUSSELOT. I thank the gentleman, and I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania (Mr. ROONEY) that further reading of the amendment be dispensed with and that it be printed in the RECORD?

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. ROONEY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FLORIO

Mr. FLORIO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FLORIO: Page 2, immediately after line 9, insert the following new section:

SEC. 3. Section 206(d)(5)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 216(d)(5)(C)) is amended by striking out "900 days" and inserting in lieu thereof "3 years".

Mr. FLORIO. Mr. Chairman, improving the quality of our Nation's commuter rail network was a major concern in the establishment of the Consolidated Railroad (ConRail) system. Congress provided a mechanism in the Regional Rail Reorganization Act of 1973 for ConRail and Amtrak to sell their surplus trackage, stations, and rights-of-way to States and other operating authorities at net liquidation value. States could thereby operate commuter services more efficiently with control of operations and track maintenance. The 900-day period was established as the time during which negotiations for purchases at this price would take place.

The State of New Jersey Department of Transportation and other operating authorities in the ConRail service area have been engaged in active negotiations under these provisions. NJDOT is planning to use property acquired through this option to bring new passenger rail service to seven counties, including direct access to New York from the former Erie Lackawanna lines, and extension of the Lindenwold high-speed line into the suburban areas of southern New Jersey.

The 900-day period runs out on September 17, 1978, and this deadline is becoming an obstacle to the completion of the purchase agreements. My amendment would remove the pressure of this immediate deadline from the negotiation process. The States and ConRail and Amtrak would have the time to settle their remaining differences, and reach agreement on this sale of vital rail property.

I urge adoption of this amendment in the interest of efficient rail transit service and for the immediate benefit of many of our districts in the ConRail service area.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, under existing law, the States are allowed 900 days to purchase railroad property; is that not correct?

Mr. FLORIO. That is correct.

Mr. SKUBITZ. And all the gentleman from New Jersey is trying to do here is to help some of the States which are trying to renegotiate with ConRail and take over some of the bankrupt railroads' property by giving them an additional 195 days; is that correct?

Mr. FLORIO. That is correct.

Mr. SKUBITZ. Mr. Chairman, we accept the amendment on this side.

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. Mr. Chairman, what would occur if the extension were not allowed with respect to ConRail? Is it not true that they would be able to simply eliminate these lines?

In other words, the question I have is, Will it cost ConRail more money to continue to operate these lines during this extended negotiation period?

Mr. FLORIO. Most of these lines are not being operated. They are excess lines which ConRail is being required to keep up, with all the maintenance costs associated with them.

If, in fact, this period is not extended, ConRail will not be able to continue negotiating with the States and with most of the agencies which desire to purchase these lines. Accordingly, what will happen is that ConRail will be required to keep the lines, and the States will not be able to buy them at the net liquidation price which the States regard as advantageous for their future needs.

Mr. GARY A. MYERS. If the gentleman will yield further, Mr. Chairman, is the gentleman saying that ConRail could not, on its own, even after this 900-day period expired, sell something off if it so desired or could not negotiate to sell it off?

Mr. FLORIO. They will not be in a position to negotiate under the terms of the 900-day option, by virtue of the 4-R Act, which specifically authorized ConRail to sell these lines at the net liquidation price to States desiring to take advantage of these prices so that they will not later have to negotiate at higher prices.

Mr. GARY A. MYERS. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. FLORIO).

The amendment was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. MOAKLEY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 10898) to amend the Regional Rail Reorganization Act of 1973 to authorize appropriations for the U.S. Railway Association for fiscal year 1979, pursuant to House Resolution 1321, he reported the bill back to the House with sundry amendments adopted by the Committee on the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 253, nays 67, not voting 112, as follows:

[Roll No. 723]

YEAS—253

Akaka
Ambro
Ammerman
Anderson, Ill.
Andrews, N.C.
Annunzio
Applegate
Ashley
Aspin
Beard, R.I.
Bedell
Bellenson
Benjamin
Biaggi
Bingham
Blanchard
Blouin
Boggs
Bonior
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brodhead
Brooks
Brown, Calif.
Brown, Mich.
Buchanan
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Butler
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clay
Cleveland
Cochran
Cohen
Coleman
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, R. W.
Danielson
Dellums
Derrick
Derwinski
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fenwick
Fisher
Fithian
Flood
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Frenzel
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Goodling
Gore
Grassley
Green
Gudger
Guyer
Hamilton
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hollenbeck
Holtzman
Horton
Howard
Hubbard
Hughes
Hyde
Jeffords
Jenrette
Johnson, Calif.
Jones, Tenn.
Jordan
Kastenmeier
Kemp
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lederer
Leggett
Lehman
Lent
Lloyd, Calif.
Long, La.
Long, Md.
Lott
Luken
Lundine
McClory
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mann
Markey
Marks
Marlenee
Mazzoli
Meeds
Metcalfe
Meyner
Mikulski
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Moss
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, John
Myers, Michael
Natcher
Nedzi
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pettis
Pike
Preeseler
Preyer
Price
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sawyer
Scheuer
Schroeder
Seiberling
Sharp
Shuster
Simon
Skelton
Skubitz
Slack
Smith, Iowa
Solarz
Spellman
Spence
Staggers
Stark
Steed
Steers
Stokes
Stratton
Studds
Thornton
Treen
Tucker
Udall
Ullman
Vander Jagt
Vanik
Volkmer
Walgren
Walsh
Waxman
Weiss
Whalen
Whitten
Wiggins
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Young, Mo.
Zablocki

NAYS—67

Abdnor
Anderson, Calif.
Archer
Badham
Bafalis
Bauman
Bennett
Bevill
Brown, Ohio
Broyhill
Burleson, Tex.
Collins, Tex.
Corcoran
de la Garza
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Okla.
English
Evans, Ga.
Findley
Gammage
Glickman
Goldwater
Gonzalez
Gradison
Hall
Hammer-schmidt
Hansen
Holt
Jacobs
Jones, Okla.
Kazen
Kelly
Lagomarsino
Latta
Leach
Levitas
McCloskey
Mahon
Martin
Mathis
Mattox
Miller, Ohio
Montgomery
Moorhead, Calif.
Mottl
Myers, Gary
Neal
Nichols
Poage
Quayle
Robinson
Rousselot
Rudd
Runnels
Ruppe
Satterfield
Snyder
Stockman
Trible
Walker
Watkins
Whitley
Wilson, Bob
Young, Fla.

NOT VOTING—112

Addabbo
Alexander
Andrews, N. Dak.
Armstrong
Ashbrook
AuCoin
Baldus
Barnard
Baucus
Beard, Tenn.
Boland
Bolling
Brinkley
Broomfield
Burgener
Burke, Calif.
Burton, Phillip
Cederberg
Clausen, Don H.
Clawson, Del
Collins, Ill.
Cornwell
Crane
Cunningham
Daniel, Dan
Davis
Delaney
Dent
Dicks
Diggs
Edwards, Ala.
Evans, Colo.
Fascell
Fish
Flippo
Flowers
Flynt
Fountain
Fowler
Fraser
Frey
Fuqua
Hagedorn
Hannaford
Harrington
Hightower
Hillis
Holland
Huckaby
Ichord
Ireland
Jenkins
Johnson, Colo.
Jones, N.C.
Kasten
Krueger
Le Fante
Livingston
Lloyd, Tenn.
Lujan
Marriott
McDonald
Michel
Mikva
Milford
Miller, Calif.
Nix
Nolan
Nowak
Pickle
Pritchard
Pursell
Quie
Quillen
Risenhoover
Roberts
Rodino
Ryan
Santini
Sarasin
Schulze
Sebelius
Shipley
Sikes
Sisk
Smith, Nebr.
St Germain
Stangeland
Stanton
Steiger
Stump
Symms
Taylor
Teague
Thompson
Thone
Traxler
Tsongas
Van Deerlin
Vento
Waggonner
Wampler
Weaver
White
Whitehurst
Wilson, C. H.
Wilson, Tex.
Yates
Yatron
Young, Alaska
Young, Tex.
Zeferetti

The Clerk announced the following pairs:

Mr. Thompson with Mr. Diggs.
Mr. Dent with Mr. Frey.
Mr. Addabbo with Mr. Schulze.
Mr. Mikva with Mr. Symms.
Mr. Delaney with Mr. Taylor.
Mr. Cornwell with Mr. Kasten.
Mr. Boland with Mr. Lujan.
Mr. Shipley with Mr. Marriott.
Mr. Sikes with Mr. McDonald.
Mr. St Germain with Mr. Michel.
Mr. Waggonner with Mr. Pritchard.
Mr. Zeferetti with Mr. Quie.
Mr. Hannaford with Mr. Wampler.
Mr. Dan Daniel with Mr. Young of Alaska.
Mr. Pascell with Mr. Cederberg.
Mr. Flippo with Mr. Don H. Clausen.
Mr. Pickle with Mr. Beard of Tennessee.
Mr. Risenhoover with Mr. Ashbrook.
Mr. Traxler with Mr. Del Clawson.
Mrs. Burke of California with Mr. Milford.
Mr. Phillip Burton with Mr. Thone.
Mr. Baucus with Mr. Steiger.
Mr. AuCoin with Mrs. Smith of Nebraska.
Mr. Fuqua with Mr. Hillis.
Mr. Ireland with Mr. Hagedorn.
Mr. Le Fante with Mr. Burgener.
Mrs. Lloyd of Tennessee with Mr. Broomfield.
Mr. Miller of California with Mr. Andrews of North Dakota.
Mr. Roberts with Mr. Nix.
Mr. Charles H. Wilson of California with Mr. Stanton.
Mr. Vento with Mr. Stangeland.
Mr. Teague with Mr. Sebelius.
Mr. Stump with Mr. Sisk.
Mr. Santini with Mr. Fraser.
Mr. Rodino with Mr. Crane.
Mr. Davis with Mr. Cunningham.
Mr. Huckaby with Mr. Holland.
Mr. Baldus with Mr. Armstrong.
Mr. Alexander with Mr. Johnson of Colorado.
Mr. Jenkins with Mr. Van Deerlin.
Mr. Tsongas with Mr. Barnard.
Mr. Brinkley with Mr. Dicks.
Mr. Evans of Colorado with Mr. Edwards of Alabama.
Mr. Fountain with Mr. Fish.
Mr. Flowers with Mr. Krueger.
Mr. Flynt with Mr. Ichord.
Mr. Hightower with Mr. Harrington.
Mr. White with Mr. Whitehurst.
Mr. Yates with Mr. Charles Wilson of Texas.
Mr. Yatron with Mr. Weaver.
Mr. Nowak with Mr. Nolan.
Mrs. Collins of Illinois with Mr. Livingston.
Mr. Fowler with Mr. Jones of North Carolina.
Mr. Ryan with Mr. Sarasin.
Mr. Pursell with Mr. Quillen.

Mr. LEVITAS and Mr. QUAYLE changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. RUSSO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 10898, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6669) entitled "An act to establish a national climate program, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing

votes of the two Houses on the amend-

adjournment of the House from August

votes of the two Houses on the amendment of the Senate to the bill (H.R. 11401) entitled "An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate numbered 1 to the bill of the Senate of the following title:

H.R. 10878. An act to extend until October 1, 1981, the voluntary insurance program provided by section 7 of the Fishermen's Protective Act of 1967, and for other purposes.

The message also announced that the Senate agrees to the amendment of the House of Representatives to the amendment of the Senate numbered 2 with amendments.

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 103. Concurrent resolution to correct the enrollment of H.R. 6669.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 8149, CUSTOMS PROCEDURAL REFORM ACT OF 1977

Mr. CORMAN. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 8149) to provide customs procedural reform, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I take this time to inquire of the distinguished majority leader as to the program for the week of September 4, 1978.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Texas.

Mr. WRIGHT. I thank the gentleman for yielding.

Mr. Speaker, in response to the request of the distinguished minority leader, it is our plan, upon resuming at noon on Wednesday, September 6, 1978, to take up first the Civil Rights Commission authorization, H.R. 12432, and complete consideration of that bill.

Then, we will proceed to House Joint Resolution 1088, providing financial assistance for the city of New York. Following that, we will take up H.R. 7308, Foreign Intelligence Surveillance Act. That would be an open rule with 3 hours of general debate.

The House will convene at 10 o'clock on Thursday. Immediately following this colloquy I shall ask unanimous consent that the consideration of any veto message received by the Clerk during the adjournment of the House from August 17 until September 6 may be postponed until Thursday, September 7, 1978, in order that all Members will have ample notice and may be present.

On Thursday, we also would plan again to take up H.R. 7308, Foreign Intelligence Surveillance Act, and complete its consideration.

Then, we will proceed to H.R. 11280, Civil Service Reform Act, and conclude consideration of that bill.

On Friday, September 8, we would meet at 10 o'clock.

We will consider Senate Joint Resolution 4, the Hawaiian Native Claims Study Commission, with an open rule and 1 hour of debate.

Following that, we will take up H.R. 11711, adjustment assistance programs improvements, with a modified open rule and 1 hour of debate.

Finally, we will take up H.R. 11622, fuels transportation safety amendments, also with an open rule and 1 hour of general debate.

The House will adjourn by 3 p.m. on Friday and by 9 p.m. on all other days.

Mr. RHODES. Is the majority leader in a position to inform the House as to the intention of the leadership with regard to the prospective veto of the defense authorization bill? Will the matter be brought to the floor of the House for a vote on Thursday, September 7, or will it be referred to a committee for further action?

Mr. WRIGHT. It is the present plan of the leadership to bring the veto message to the House for a vote on Thursday, if the unanimous-consent request is agreed to. All Members then would know exactly when the vote would be coming and could make their plans.

Mr. RHODES. May I ask the distinguished majority leader if we can look forward for the balance of this session, the second session of this Congress, to evenings which would run to, say, 8 or 9 o'clock? I know the first week we come back every evening, apparently, will run until about 9 o'clock. Is this the type of pattern which probably will be set for the balance of the session?

Mr. WRIGHT. I regret to say that I think we must continue in that pattern if we are to meet our adjournment target.

Mr. RHODES. Of course, I would hope that prior to this final determination of that, the distinguished majority leader and the Speaker and I could sit down, as we have talked before, and look at the list of bills which are pending, which could be brought up, to make sure that we do not waste the time of the House on legislation which cannot possibly become law in this session.

If this is done I am certain all the Members of the House would be perfectly willing to work as late as necessary in order to accomplish the legislative program of those bills which must be taken care of prior to the adjournment, but I certainly would hope that we would not subject the Members of the House to work on bills which might be brought up for the personal convenience of one or possibly two Members to the very inconvenience of the rest of us.

Mr. WRIGHT. If it would be agreeable with the gentleman from Arizona, the distinguished minority leader, I think it would be extremely useful for him and the Speaker and me to sit down together, as he has suggested, perhaps on Wednesday afternoon, the day of our return from our recess.

At that time, assuming the Speaker's availability, we could look at the entire list of legislation and have a discussion about which ones seem to be the most important, or the most necessary, and try to weed out some which would be fruitless effort on our part.

Mr. RHODES. I certainly agree with the majority leader and I will hold myself ready for such a meeting at the convenience of the majority leader and the Speaker.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, I asked the gentleman to yield so I may address a question to the distinguished majority leader.

I note a large number of amendments to the Foreign Intelligence Surveillance Act have been printed in the RECORD and filed by a large number of the Members, and I just wonder on Wednesday if it is the intention to conclude general debate and to defer the offering of amendments until Thursday.

Mr. WRIGHT. Mr. Speaker, if the minority leader would yield, this bill, as my friend knows, has been pending with a rule for some weeks. We think it is important that it be brought before the House and action taken. Depending upon the time available on Wednesday after completion of the Civil Rights Commission authorization and the New York City Financial Assistance Act, we would like to get as far as we can on that bill. We can probably get the general debate out of the way, at least, I should think, and then conclude with amendments on Thursday.

However, if the unanimous-consent request is agreed to, I believe we must reasonably consider that the centerpiece of Thursday's effort will be the vote on any veto that may be received.

Mr. McCLORY. So it is my understanding we would do the rule and the general debate, but the amendments would be on Thursday?

Mr. WRIGHT. If the gentleman would yield further, if we could get to some amendments by reason of any earlier expeditious action, I think we should not be tied down to a promise that we would not take them up. Realistically, however, I see no expectation that we could get to many amendments that evening.

Mr. McCLORY. I thank the gentleman.

Mr. RHODES. I thank the gentleman.

POSTPONING UNTIL THURSDAY, SEPTEMBER 7, 1978, CONSIDERATION OF ANY VETO MESSAGE RECEIVED DURING ADJOURNMENT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the considera-

tion of any veto message received by the Clerk during the adjournment of the House from August 17, until September 6, be postponed until Thursday, September 7, 1978.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING CLERK TO RECEIVE MESSAGES FROM SENATE AND SPEAKER TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS NOTWITHSTANDING ADJOURNMENT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Wednesday, September 6, 1978, the Clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING SPEAKER TO ACCEPT RESIGNATIONS AND TO APPOINT COMMISSIONS, BOARDS, AND COMMITTEES NOTWITHSTANDING ADJOURNMENT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Wednesday, September 6, 1978, the Speaker be authorized to accept resignations, and to appoint commissions, boards, and committees authorized by law or by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, SEPTEMBER 6, 1978

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, September 6, 1978.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

EXTENSION OF FISHERMEN'S PROTECTIVE ACT OF 1967

Mr. LEGGETT. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 10878) to extend until October 1, 1981, the voluntary insurance program provided by section 7 of the Fishermen's Protective Act of 1967, and for other purposes, with Senate amendments to the House amendment to Senate amendment No. 2 thereto, and concur in the Senate amendments to the House amendment to Senate amendment No. 2.

The Clerk read the title of the bill.

The Clerk read the Senate amendments to the House amendment to Senate amendment numbered 2, as follows:

Page 5, line 7, of the House engrossed amendments, after "terms" insert: fishery.

Page 6, of the House engrossed amendments, strike out lines 3 to 12, inclusive, and insert:

"(1) in the case of such vessel—

"(A) occurs when such vessel is engaged in any fishery subject to the exclusive fishery management authority of the United States under the Fishery Conservation and Management Act of 1976, and

"(B) is attributable to any vessel (or its crew or fishing gear) other than a vessel of the United States; or

"(2) in the case of such fishing gear—

"(A) occurs when such fishing gear is being used for fishing in any fishery subject to such exclusive management authority, and

"(B) is attributable to (i) any other vessel, whether such vessel is a vessel of the United States, or (ii) an act of God.

Mr. LEGGETT (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments to the House amendment to Senate amendment No. 2 be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. FORSYTHE. Mr. Speaker, reserving the right to object, I do so only in order to offer the chairman of our subcommittee, the gentleman from California (Mr. LEGGETT) an opportunity to explain what we are doing in this unanimous-consent request.

I yield to the gentleman from California (Mr. LEGGETT) for that purpose.

Mr. LEGGETT. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, the only provision of the House version of the bill that was rewritten has to do with the modified no fault insurance program. The change would simply result in the broadening of the coverage of the program to cover damage to U.S. fishing vessels and equipment, occurring beyond the zone as well as within the zone, so long as such vessel is engaged in a fishery subject to the exclusive management authority of the United States, and the equipment is damaged while being used in fishing in such fishery.

Mr. DE LUGO has brought to my attention that in his district of the U.S. Virgin Islands, damages to the equipment and boats of local fishermen are caused primarily by commercial vessels such as cruise ships and steamers. Due partly to a lack of identifiable sealanes, they enter Virgin Islands' waters and overrun the fish pots set by Virgin Islands' fishermen.

In 1 year alone small fishing industry lost over $800,000 in equipment.

I would like to make it clear that H.R. 10878 is applicable to the fishing industry of the Virgin Islands and it is the intent of this legislation to allow for compensation to fishermen for damages to equipment or vessels brought on as a result of the actions of these commercial vessels, as well as any other type of foreign issue.

Mr. FORSYTHE. Mr. Speaker, further reserving the right to object, I thank my chairman, the gentleman from California (Mr. LEGGETT) for his explanation, and I wish to compliment the chairman on his explanation. We have finally gotten to the point where this can now go to the White House. It does, as the gentleman pointed out, add no cost to the taxpayers and adds broad protection for fishing vessels and their gear. Also, as the chairman has pointed out regardless of where the damage comes from, whether it be from foreign fishing vessels, or whatever, it does afford them protection. I am very happy that we are in this posture.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California (Mr. LEGGETT) to dispense with further reading of the Senate amendments to the House amendment to Senate amendment numbered 2?

There was no objection.

The SPEAKER pro tempore. Is there objection to the first request of the gentleman from California (Mr. LEGGETT)?

There was no objection.

A motion to reconsider was laid on the table.

RESIGNATION AS MEMBER OF BOARD OF REGENTS TO SMITHSONIAN INSTITUTION

The SPEAKER pro tempore laid before the House the following resignation as a member of the Board of Regents to the Smithsonian Institution:

HOUSE OF REPRESENTATIVES,
Washington, D.C.

DEAR MR. SPEAKER: As I have discussed with you, and should like to tender my resignation as a congressional regent of the Smithsonian Institution.

I am most grateful to you for allowing me the privilege of serving as a regent. I have thoroughly enjoyed the experience and hope that I have represented the House diligently and energetically.

Any criticism of the former relationship between the institution and the Congress has hopefully been removed by the newly activated close association among the regents, the staff and the appropriate congressional committees.

All of the regents are devoted citizens and highly interesting personalities. I especially enjoyed my work with Judge Higginbotham on the African Museum.

Thank you very much, Mr. Speaker, for this exciting experience.

Warmest best wishes.

Sincerely,

LINDY.

Also, Mr. Speaker, I should report to you on the splendid arrangements initiated by Dorothy Rosenberg of the Smithsonian and Jan Schoonmaker, my chief legislative assistant, for coordination and cooperation among staff members at the Smithsonian and those appointed by the House and Senate regents. Their work has been most valuable.

LINDY.

The SPEAKER pro tempore. Without objection, the resignation will be accepted.

There was no objection.

APPOINTMENT AS MEMBER OF

SPEECH OF HONORABLE MARTY RUSSO BEFORE

foods. This goal was kept in mind during the

APPOINTMENT AS MEMBER OF BOARD OF REGENTS TO SMITHSONIAN INSTITUTION

The SPEAKER pro tempore. Pursuant to the provision of 20 U.S.C. 42, 43, and without objection, the Chair appoints as a member of the board of regents to the Smithsonian Institution the gentleman from California, Mr. RYAN, to fill the existing vacancy thereon.

There was no objection.

APPOINTMENT AS MEMBERS OF DELEGATION TO ATTEND CONFERENCE OF INTERPARLIAMENTARY UNION, BONN, GERMANY, FROM SEPTEMBER 3 TO 14, 1978

The SPEAKER pro tempore. Pursuant to the provisions of section 204(b), Public Law 94-141, as amended, and without objection, the Chair appoints as members of the delegation to attend the conference of the Interparliamentary Union held in Bonn, Germany from September 3 to 14, 1978, the following Members and delegates on the part of the House:

Mr. HAMILTON, Indiana, Chairman; Mr. LEHMAN, Florida, Vice Chairman; Mr. EVANS, Colorado; Mr. DUNCAN, Oregon; Mr. IRELAND, Florida; Mr. WON PAT, Guam; Mr. BROOMFIELD, Michigan; Mr. DERWINSKI, Illinois; Mr. MCCLORY, Illinois; Mr. VANDER JAGT, Michigan; Mr. WIGGINS, California; and Mr. BUTLER, Virginia.

There was no objection.

LEGISLATOR OF THE YEAR

(Mr. SMITH of Iowa asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

● Mr. SMITH of Iowa. Mr. Speaker, I have just been made aware that one of the Nation's largest independent trucker organizations has named MARTY RUSSO their "Legislator of the Year." This award comes but 2 months after MARTY received a similar award from the Independent Bakers Association. As a result, I would like to take a moment or two to commend one of our younger Members on his accomplishments as a subcommittee chairman in only his second term of Congress.

MARTY RUSSO of the Third District of Illinois was chosen as chairman of the Subcommittee on Special Small Business problems at the beginning of this Congress. Since that time he has shown great vigor and sincerity in investigating regulatory and other abuses against many small business persons, among them—independent truckers, movie producers, bakers, funeral directors, and travel agents. In addition to investigations in these areas, MARTY has held an extensive set of hearings on various bills which would lessen the impact of Federal regulation upon small business.

A speech he gave to the National Convention of Independent Bakers highlights his attitudes on the regulatory plight of our Nation's smaller businesses. I would like to share it with you:

SPEECH OF HONORABLE MARTY RUSSO BEFORE INDEPENDENT BAKERS ASSOCIATION, JUNE 8, 1978

Good morning. It certainly is a pleasure for me to be here this morning, and I can't think of a better way to start the day than spending it with my good friends, the independent bakers. We have had a very interesting and, for me, enlightening year together confronting one of this town's many bureaucracies. Quite frankly, before I came to Washington in 1975, I had heard many horror stories about the federal bureaucracy. Much to my amazement, things are even worse than I had imagined.

Now that I chair a small business subcommittee, bureaucratic issues affecting the struggling small businessman or woman reach me almost daily. Often a famous World War II story enters my mind:

During World War II, a Japanese spy was sent to Washington to spot targets for a bombing raid. Reporting back to his superiors, the spy said, "It is useless to bomb Washington. The American government has been very farsighted. If you completely destroy one building and everyone in it, you accomplish nothing, for they already have two other buildings completely staffed with people doing exactly the same thing."

Filling out forms, receiving federal inspectors and the like is not a funny business by any stretch of the imagination. But we have to admire the ingenious among us who fight fire with fire. Recently, a small businessman in the Midwest walked into his office on a Monday morning. He already was in a sour mood when he got the day's mail. There at the bottom of the pile was yet another federal form to be filled out. Our businessman took out his pen and began scrawling out answer after answer. Finally, when he reached the last question, he saw his chance for revenge. The last question read: How many employees do you have, broken down by sex? Our friend responded: Not a one, our problem is alcohol!

Before discussing the Subcommittee's final report on the labeling regulation, I would like to express my deep appreciation to all of you for presenting me with your prestigious Annual Congressional Award last evening. As usual, your reception was one of the year's highlights for all Members of Congress, more so obviously for me. I sincerely hope that last evening signaled not the end, but just a partial beginning of a warm, cordial long-time friendship.

Today the Small Business Committee will release its final report on the FDA's food labeling regulation and its effect on small business. We have copies with us to distribute. I would like to share with you some of our findings and conclusions and most important, our recommendations.

An accelerated decline in independent bakeries can only lead to a concentrated group of dominant companies which may well create a baking monopoly or oligopoly. Characteristics of monopolies and/or oligopolies are all too well known—controlled output, high prices, and excess profits. Such a situation would confront the consumer with a market functioning according to the whims of a few. An objective of federal regulation is to stop such concentration, not to create it.

In August 1977 the President asked for a comprehensive review of federal food and nutrition policy. The review was to focus on, among other things, regulatory activities affecting food which now involve 14 agencies and over 2,000 regulations. The objective of the review is to improve our ability to address the nation's need for adequate supplies of reasonably priced, safe, and nutritious foods. This goal was kept in mind during the Subcommittee's investigation.

The importance to the economy of independent bakers is evident in their employment statistics alone. Each IBA member has an average of close to 200 employees.

The small business entrepreneurs in this nation have been our vital source of innovative products and innovative techniques within an industry. The story is the same in the baking industry. The list of baking innovations attributed to independents is an impressive one: wrapped bread, sliced bread, baking of a continuous mixed bread, bag bread, end labels, bread in cellophane, bread without holes, and bake and serve items. One of the disturbing features of the new labeling regulation is its possible elimination of new product development by smaller- to medium-financed independents.

The Congress recognizes that it is the activities of the various government agencies that have the strongest effect on small business firms and their economic opportunities. That is why the Small Business Act of 1953 declared that: '. . . The government should aid, counsel, assist, and protect, insofar as is possible, the interests of small business concerns in order to preserve free competitive enterprise . . .' This means part of the role of the entire federal government is to be cognizant of the status and problems of small business.

Traditionally, small business has lacked specialized personnel, great resources, and a massive productive capacity. So too do the independent bakers. That is why they have established cooperatives. But it is also traditional that small business is known for its openness to new ideas and consumer grievances, and also for its ease of personal contact. So too is this true of our independent bakers. An example of this is the New York bakery that bakes items specifically for the children of the Feingold Association members.

If the Nation's small businesses departed the national scene tomorrow, one-half of our work force would be unemployed. Nine-tenths of all businesses would be gone. Innovation would be severely hampered. The independent bakers are but one rail on the small business track. Their elimination would further weaken an already battered and worn track. Such an event would foreshadow a world moving on a new track directed by a corporate board led by the few. This is not a pleasant thought. The Subcommittee, following the spirit and the letter of the Small Business Act of 1953, is not about to let this happen to independent bakers or anyone else.

The purpose of 21 CFR 101.4 sounds simple enough—to disclose fully the ingredients of a food product on the product's label. One of the main reasons the Subcommittee began an investigation of this rule's effect upon bakers was due to the nature of bakery products. They are unique foods. Bakers do not bake for inventory. Their success in the marketplace depends on readily available, fresh products. Flexibility is essential in their business.

Recognition of the baker's unique status is by no means new. As far back as 1940, the federal government recognized that bakery products were a special breed. From 1940 until the present, the terms dough conditioners, yeast nutrients, and leavening have been used by bakers seemingly without problems.

The Subcommittee accepts the idea that people are entitled to know what ingredients are in the food we eat. From all we have heard, the bakers accept this too. The problem comes in how we can best do it.

The most urgent and logical reason for full disclosure labeling is that of concern for the consumer's health and well-being. Various people are allergic to certain food products. The ingredients in bread, for example, are not exotic nor have they changed greatly over the years. Nor are bakers slipping mysterious chemicals into products and trying to conceal this.

The exemptions sought by the bakers would not have any bearing on health matters. Ingredients which would be added on occasion would be from an FDA approved list. IBA even mentioned some borderline ingredients in their petition. Such ingredients would have to be disclosed and clearly are disqualified from the exemption. All fats and oils by source also will be declared on all products. It also has been mentioned that the FDA did not receive one complaint in 5 years over a severe allergic reaction to a bakery product.

Obviously, we are at the present time in an age where there is a great controversy over ingredients going into our food. Bakers and the FDA are aware of this. Neither is going to allow any unsafe item to be put into a food product. However, it is impossible to produce an all-informative label that will satisfy everyone. Economics simply will not allow it. Testimony indicates independent bakers stand ready to work with consumers to insure people know what they are eating. Bakers also have shown that they are capable of making special products for a group of people if the demand is there. For example, in addition to Entermann's Bakery on Long Island, Ottenberg's Bakery in Washington, among others, bakes goods for hyperactive children. Other bakeries also bake special dietary products.

Admittedly, consumer pressure and demand created the original and some of the continuing impetus for this rule. The Congress responded, in part, by requiring careful and detailed labeling. Of course, what is detailed labeling for one person may not be for another. The full disclosure labeling regulation that was finally produced by the FDA was a strict one that independent bakers believed would be economically detrimental to them.

As we have seen, some of this rule's implications could have been very damaging. Without the 2 percent exemption, an inventory of 34 different labels would be required for an ordinary loaf of bread. With the exemption, a baker now probably will have only four or five different types of labels per product. This points out an interesting phenomenon. Consumer pressure for a certain point of view without exploring all the issues and ramifications involved can backfire by creating higher prices and an economic shakeup of an industry which may well come back someday to haunt all of us consumers.

On the basis of the testimony, evidence, and findings and conclusions, the Subcommittee recommends:

That the Department of Health, Education, and Welfare and the Food and Drug Administration review the matters incorporated in this report and:

A. In all future regulatory proceedings concerning the baking industry, consult with representatives of independent bakeries among others at the earliest possible date.

B. In all future economic impact statements done on regulations which will affect the baking industry, prepare an analysis of the regulation's effect on the industry's small businesses.

C. Consult current Small Business Administration size standards to determine which baking firms are small.

D. Send copies of any future proposed regulations with impact statements affecting the baking industry to both the Chairman of the House Small Business Committee and the Chief Counsel for Advocacy of the Small Business Administration.

E. As expeditiously as possible, consider pending petitions on new product innovation, catastrophic events, and snack food labeling and issue their decisions.

F. Prior to the end of 1978, fully consider printing problems created by 21 CFR 101.4 and subsequent exemptions when contemplating enforcement procedures after July 1, 1978. For example, no labels printed prior to April 7, 1978, would have the now-required statement, "Contains 2 percent or less of each of the following."

That copies of this report be forwarded to the chairman and ranking minority members of the appropriate legislative committees of the Congress so that they are advised of the issues in this matter, and finally, that representatives of the Independent Bakers Association establish an ongoing dialog with officials of the Food and Drug Administration so that they may be aware of new regulatory developments at the earliest possible date.●

THE MOVE AFOOT TO CHANGE CRITERIA FOR DESIGNATION OF STANDARD METROPOLITAN STATISTICAL AREAS

(Mr. WOLFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WOLFF. Mr. Speaker, I would like to bring to the atteniton of my colleagues an action by an obscure, and nonelected bureaucracy which threatens the districts and constituents of hundreds of Members of this Congress. I refer to an unpublicized sleight-of-hand by the Office of Federal Statistical Policy and Standards of the U.S. Department of Commerce, whereby there is a move afoot to change the criteria for designaiton of standard metropolitan statistical areas (SMSA's).

These changes are being proposed so that SMSA designations may be changed following the 1980 census. I am at a loss to understand why these changes are being proposed now, instead of after the 1980 census data is available. The proposed changes can have a great impact on local governments and business because SMSA data is used for Federal program administration purposes, for determining how many Federal dollars will flow into our districts, and in the private sector as a basis for assessing markets and placing advertising.

The question is, will these changes be rammed through without input from Members, constituents, local officials, and business leaders, or will we be given opportunity to participate in a matter so vital to our districts?

I call upon the President and the Department of Commerce to order a halt in these changes in the criteria until after the 1980 census so that these important decisions will be made in the light of available information and not in the darkness of ignorance and in secret.

If you believe as I do that the proposed changes are fraught with serious consequences and should not be made hastily then I urge you to join with other concerned Members in signing a letter to the President calling for a halt.

Mr. Speaker, I rise today to vehemently protest the recent Federal Commission on Standard Metropolitan Statistical Area's proposed rule th would remove SMSA status from Nassa and Suffolk Counties. The Commissio intends to place this area into the larg New York SMSA.

Back in 1972, after a concerted effo by government, political, and busine leaders, the Nassau/Suffolk region r ceived SMSA designation. Since th time, the Nassau/Suffolk SMSA, as a individual SMSA, has grown and pro pered. The Standard Rate and Da Services, a national marketing servic ranks the Nassau/Suffolk region as th eighth largest in the United States terms of retail sales. The region ran as the ninth largest SMSA area with total of about 2.75 million people resi ing in the two counties.

The logic and necessity of this pr posed rule concerns me. It was only few months ago that OMB Directo James McIntyre, granted separate r gional planning status to the Nassau Suffolk area thus demonstrating the fa that the area must be set apart fro New York City. Yet, if the proposed regu lation is put into effect, the plannin process would be totally unworkabl Further, the reasons given for the pr posal—the commutation rate and th lack of a core city in either county have both proven to be of little cons quence to the area's growth. These re sons give evidence that the suburba character of our country is threatene by administration policy.

I was also extremely distressed by th lack of departmental notification to an of the members of the Long Island dele gation. The Department of Commerc has not bothered to consult with me o my staff concerning this matter.

The proposed rule would seriousl hamper any attempts by suburban area such as Nassau and Suffolk Counties, t secure Federal assistance. A separat SMSA designation is also a key factor i the attraction of business to the are Stripping this status would be a devas tating blow to not only the economy o Long Island, but would hurt our coun try's continued economic growth. Le me state also, that I do not oppose th administration's urban policy per s what does bother me is the administra tion's insensitivity to the concerns o suburbia. I urge the Department o Commerce to reconsider and withdra this unjust and insane proposal.

PROTEST TO PRESIDENT ON SMSA DATA CHANGE

(Mrs. SPELLMAN asked and was give permission to address the House for minute and to revise and extend he remarks.)

Mrs. SPELLMAN. Mr. Speaker, w have just heard from our colleague, th gentleman from New York (Mr. WOLFF about the way the SMSA data is abou to be changed. There are many suc changes that are being made without ou being aware of them. As far as this par ticular item is concerned, we are draft ing a letter to the President to protes the action that is being taken. As ou colleague has pointed out, it affects th districts of at least 150 Members. W

hope to get the Members' signatures here

hope to get the Members' signatures here on the floor today, so if they will check with us, we will let them know whether they are among those whose districts are affected, and, if so, we know they will want to join with us. They will probably want to join with us in becoming much more watchful of these kinds of things, and we will tell them at the same time how we hope they might do that.

FUSION—VAST NEW SOURCE OF ENERGY

(Mr. PURSELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PURSELL. Mr. Speaker, recent developments in our national fusion program have given this potentially vast new source of energy the widespread public attention it deserves. I congratulate the media for excellent coverage of this issue, and call your attention to the Washington Post editorial of August 16, which I had printed in yesterday's RECORD.

Fusion can provide both electrical power and synthetic fuels in a way that is clean, safe, and virtually limitless.

The important evolutionary advances in the magnetic fusion program give us greater confidence than ever that fusion energy can be achieved, whether by lasers, magnetic devices, or other means.

Fusion power can be a base for a secure, inexhaustible future energy supply for America and all the people of the world. This is the great opportunity and the great challenge of our time.

The test of this Congress is whether we will seize this opportunity and launch an intensive, national commitment to develop fusion, and other alternative energy sources.

I invite my colleagues to join fully in this effort. We should pursue alternative energy sources with all the vigor of our successful space program. And I would ask the membership to look carefully at H.R. 12922, which I have introduced as a blueprint for a "space-program" type effort to accelerate the development of fusion and other alternative sources of energy which must provide the energy supply for coming generations.

We should be careful not to overplay the importance of the advances in the Princeton University fusion experiments; but neither should we allow the significance of these developments to escape us.

There is still a tremendous amount of scientific and engineering work to do before the potential of fusion is translated into real benefits for the American people; before we prove that we can overcome all the obstacles. There is still much experimental toil ahead before we know which method of inertial confinement or magnetic fusion can best fulfill our needs. But the Princeton experiments lend greater credence to what I, and other Members of Congress have long believed, and what experiments at many outstanding laboratories in our country have indicated: that fusion energy can be achieved, and that the real question is not so much if we can do it, but when and how.

All of us are aware of the precarious position of this Nation because of our energy problems, and the lack of a national drive to solve them. This situation is undermining the strength of the dollar, distorting our foreign trade, influencing our foreign policy, threatening both our economy and our national security.

I believe that if we can show our Nation and the world that the United States has a determined policy to overcome these energy problems, that we can correct some of the short-term difficulties of the dollar. With our Government and private sectors working in partnership, and in cooperation with other nations, to deliver new sources of energy to the world, we can begin to reverse our trade deficits. And a successful program of research and development for alternative energy sources can help to fully restore our economic vitality and solidify the security of our Nation.

America has the knowledge and the ability to achieve these goals. We are limited far more by our commitment than by our scientific, engineering, and innovative capabilities. Let us adopt policies that will focus the creative genius of this country full force on this great test of our wisdom and leadership.

RECREATIONAL BOATING AND FACILITIES SAFETY IMPROVEMENT ACT INTRODUCED

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, I am today introducing a bill—entitled "The Recreational Boating and Facilities Safety Improvement Act of 1978"—on behalf of myself and my colleagues, JOHN MURPHY of New York and DAVID TREEN of Louisiana.

Great progress has been made under the Federal Boat Safety Act of 1971 in promoting safety for recreational boaters. One of the key elements in this success has been the forging of a Federal-State partnership under which the Federal Government and the States have worked together to promote recreational boat safety.

This partnership was made posssible by a program which was authorized by the 1971 act—of the Federal Government matching grants to the States for boating law enforcement.

Civil law enforcement on the Nation's waterways is a constitutionally shared responsibility between the Federal Government and the States in our dual sovereign system of government.

The matching grant program is now being extended for 2 more years—but it appears unlikely that the program will be continued after fiscal year 1980.

I am afraid that the termination of this program could result in undoing much of the good that has been accomplished under the Federal Boat Safety Act—unless a viable alternative is developed.

The uniformity in approach in the administration of State boating safety programs—encouraged by the Federal Boat Safety Act—might be undermined.

The program's extension through fiscal 1980 gives the Congress some time to develop an alternative that will assure continuation of the safety benefits which have been obtained to date. However, we must start considering this issue now if we are to develop a satisfactory alternative program in a timely fashion.

A closely related issue is the increasing safety problems which are resulting from serious overcrowding of inadequate and unsafe recreational boating facilities. This is another issue which the Congress should address and, since it is so closely related to the question of Federal-State relationships in boating safety, it should be addressed at the same time.

Seventy-six percent of all Coast Guard search and rescue (SAR) cases are attributable to the rapid growth of recreational boating in this country in recent years. Virtually all of the annual 6 percent rise in SAR cases fall into this category. Boating accidents killed 1,312 persons in 1977; 1,779 persons were injured; and property damage in the sum of $11,572,500 resulted from 6,815 reported accidents.

My approach to promoting marine safety is predicated upon the notion that "an ounce of prevention is worth a pound of cure." This proposed legislation is aimed at reducing future search and rescue incidents involving recreational boaters by improving overall boating safety and by providing safe boating facilities for boaters—now estimated at 50 million nationwide.

Accordingly, I am introducing this bill in order to begin the process of developing a satisfactory program that will adequately address these two issues.

I do not contend that the program contemplated in this legislation is the only approach or the best solution. I do believe that it is deserving of serious consideration. Further, I hope that it will be a starting point for addressing these two and, eventually, other Federal and State shared responsibilities—including search and rescue, marine environmental protection and law enforcement, as well as boating safety.

Several important principles underlie this proposed legislation. I would like to briefly outline some of the most important of these.

Where an easily identifiable class of individuals benefits from a specific governmental service, they should ordinarily be willing to share the financial burden incurred in providing the service. This bill provides that boating safety and facility improvement services will be funded by motorboat fuels tax revenues—and thus insures that those who will benefit from the program are the same ones who will pay for it.

A boating and facilities safety program should be founded on and further existing Federal-State partnership that has been so instrumental in the demonstrated success of the Federal Boat Safety Act. This arrangement promoting Federal-State cooperation is the cornerstone for this program expansion.

The new program should have a reasonably assured source of funding. If

those who benefit from the program are to pay for it, they should be entitled to such an assurance.

Finally—the Coast Guard—with its experience in administering the Federal Boat Safety Act—is the obvious candidate for carrying out any new program.

Mr. Speaker, these are the basic considerations that prompted my introduction of this bill. In so doing, I have taken the first step in what will hopefully culminate in the development of a landmark program to assure continued progress in recreational boating and facilities safety.

THE CRIMINAL JUSTICE IMPROVEMENTS ACT OF 1978

(Mr. MANN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MANN. Mr. Speaker, I am today introducing, for myself and all of the members of the Subcommittee on Criminal Justice—ELIZABETH HOLTZMAN, SAM B. HALL, JR., LAMAR GUDGER, BILLY LEE EVANS, CHARLES WIGGINS and HENRY HYDE—a bill to begin the process of modernizing and updating Federal criminal laws. This bill is the product of a substantial amount of work by the subcommittee, and it embodies what the subcommittee believes to be the proper approach to modernizing Federal criminal laws.

The basic question confronting us, and anyone who considers the matter, is how to go about modernizing and updating Federal criminal laws in the most effective and responsible way. There are essentially two options. One is to take an omnibus approach—do everything, or nearly everything, at one time, in a single, comprehensive bill. The other option is to take an incremental approach—process a series of bills, each one making appropriate substantive changes in a specific area of the criminal law.

The Senate, in passing S. 1437 earlier this year, has adopted the first option. The Subcommittee on Criminal Justice, for reasons I will spell out, believes that the second option is the sounder and preferred approach and has adopted it. Our bill, then, should not be viewed as the end of the process of modernization, but as the beginning of it.

Before looking at the reasons why the subcommittee finds the omnibus approach undesirable, let me outline the subcommittee's efforts during this Congress on the subject of recodification of Federal criminal laws. The subcommittee began its work early in the first session with roundtable discussions involving people interested in the recodification of Federal criminal laws. Participants included several House colleagues, BOB KASTENMEIER, Bob MCCLORY, TOM RAILSBACK, and ABNER MIKVA; our colleague from the Senate, Senator EDWARD M. KENNEDY: together with representatives of the Justice Department, the Judicial Conference of the United States, the National Council on Crime and Delinquency, the American Civil Liberties Union, Americans for Effective Law Enforcement, the National Prison Project, and the Metropolitan Crime Commission of New Orleans; a Federal Public Defender; and a member of the National Commission on Reform of Federal Criminal Laws, as well as the Commission's staff director and deputy staff director.

Last fall the subcommittee began the first of some 16 briefing meetings. At these meetings, we went over, section by section, the Senate-passed bill, S. 1437, as well as the other recodification proposals, and we focused our attention upon how the proposals would change current law. Representatives of the Justice Department and Senate staffers familiar with the legislation participated in those meetings and were helpful in responding to questions.

The full subcommittee then held 23 hearings on recodification, receiving testimony from more than a hundred witnesses. The breadth of viewpoints and interests involved can be seen in the list of witnesses I am including as an appendix to these remarks. Nevertheless, it must be realized that for a number of issues there are no constituencies organized to affect the legislative process.

Upon completion of our hearings, the subcommittee began its markup. The subcommittee's work product was fashioned during the course of 19 markup meetings.

There are both practical and philosophical reasons why the omnibus approach is undesirable. Truly modernizing criminal laws means making substantive changes in them—"reforming" them to conform them to modern mores and to integrate court interpretations into statutory language. An omnibus reform bill, however, stands little chance of success because constituencies against change multiply in proportion to the number of reforms involved, particularly where the legislation deals with criminal laws and procedures that have governed human conduct for many decades and that supposedly have some relationship to basic concepts of right and wrong and, particularly in the Federal model, to practices that permeate our ways of doing business. The negative legislative impact of massive change upon an informed representative body is enormous.

At the beginning, the subcommittee idealistically and enthusiastically undertook to work with the Senate bill. However, it soon became apparent that the deliberative process customary in the House, which we think is the essence of good legislation, does not lend itself to massive changes in laws unless we satisfy ourselves that their effects have been thoroughly analyzed, that there has been adequate public input, and, indeed, that each change has been shown to be an improvement in existing law.

We tend to refer to Federal criminal law as if it were a unified body of criminal law that serves as the principal set of legal rules governing the lives of people. Federal criminal law is not that—the States in our federal system are primarily responsible for the maintenance of law, order, and justice. Federal criminal law is a collection of separate and distinct statutes which supplements State criminal statutes. Federal criminal laws are intended to protect or vindicate substantial Federal interests, not to be the basic set of rules regulating morality. Reforms in Federal criminal laws, therefore, are appropriately dealt with separately, after a careful, thorough, and conscientious consideration of all of the policy issues and constitutional questions that each proposed change presents.

It is clear that the Senate bill makes more changes in current law than its proponents would admit, especially when the cumulative effect of all of the bill's changes is considered. Nevertheless, the Senate bill does not attempt to reform every area of Federal criminal law. It does not, for example, deal with capital punishment, nor does it codify defenses as previous Senate bills have done. While this failure to deal with such issues is understandable in the light of legislative realities in the Senate, it is not consistent with omnibus reform.

Another problem with the omnibus approach is that it is objectionable on policy grounds. Federal criminal laws ought not to be the product of extensive horse trading. The greater the numbers of substantive changes, the more likely it is that such trade-offs will occur. The tremendous investment of time, energy, and emotion that goes into an omnibus bill results in a tremendous pressure to agree to things in order not to hold up the legislation. This sort of pressure was clearly evident during the Senate's debate on its bill.

The other policy objection to the omnibus approach concerns assessing the impact of the legislation. If we are going to enact an omnibus reform bill and change substantially our present criminal justice system, we must be able to state with reasonable certainty that the new system is a material improvement over the present one. The broader and more comprehensive the reforms made in the legislation, the more difficult it is to make such an assessment. Quite frankly, the record does not reflect that the Senate had available to it when it passed its bill the information and data necessary to make a reasoned assessment of the impact of its bill.

No thoroughgoing analysis appears to have been made by the proponents of the Senate bill as to what the bill will do to the present Federal criminal justice system. For example, there was no assessment of the bill's impact on the Federal prison population. The Criminal Justice Subcommittee generated a congressional research service study which suggests that the Senate bill will result in increased crowding in the Federal prisons. No such study was done before the Senate acted. Likewise, no careful analysis appears to have been made of the impact of the Senate bill's rather sharp curtailment of judicial discretion. Such an analysis would consider the effect on plea bargaining and on the power of the prosecutor. The budget implications of the Senate bill are uncertain, for no cost statement on it was issued by the Congressional Budget Office.

One particularly important area to analyze closely is the extent to which the legislation expands Federal criminal jurisdiction at the expense of the State.

I agree with Solicitor General Wade H. McCree that "We should reduce the role of the Federal Government in enforcing the criminal laws—the constitutional feasibility of asserting Federal law ought not obscure the fact that in many cases the investigation and prosecution might be better left to State authorities."

During the subcommittee's section-by-section analysis, we became aware of the expansion in Federal criminal jurisdiction brought about by the Senate bill. Testimony at our hearings underscored what we saw at our briefing sessions. California Attorney General Evelle Younger told us that the bill would "unnecessarily expand Federal criminal jurisdiction." The American Civil Liberties Union advised that—

> Perhaps the greatest threat posed by (the legislation) is its dangerous expansion of Federal criminal law. In section after section, the bill either creates new law, expands existing law, or erodes various procedural protection for defendants."

The National Conference of State Legislatures noted its support for revising Federal criminal laws, but pointed out that "as drafted the proposed revision may have the effect of expanding Federal criminal jurisdiction into areas of traditional State responsibility. Such broadened jurisdiction could lead to a much expanded Federal law enforcement role and lay the foundation for a national police force."

The subcommittee concluded that, overall, the effect of all of the changes made by the Senate bill is to expand significantly Federal criminal jurisdiction. In the subcommittee's opinion, this expansion is unwise.

For these and other reasons, the subcommittee unanimously and firmly concluded that the omnibus approach pursued by the Senate is fraught with pitfalls and is not legislatively feasible in the House of Representatives.

The subcommittee has concluded that the incremental approach—limiting legislation to making substantive changes in a discrete area of the criminal law—is the most appropriate way to proceed. This approach permits the thorough and careful study, analysis and drafting that ought to go into changing any Federal law, and especially Federal criminal laws. Because this approach limits the area where substantive changes are made, it does not foster legislative horse trading across a broad spectrum. Each change must stand on its own merits, and no one, even in the enthusiasm of reform, can challenge that principle. Moreover, the limited area of change means it is possible to assess with reasonable certainty how the bill will affect the people and the criminal justice system.

The subcommittee drafted its bill with the premise that substantive changes ought to be undertaken carefully and thoroughly, and this necessarily means incrementally. The subcommittee's bill does make significant substantive changes to limited parts of current law. It is, as I previously indicated, a beginning. If it is enacted, the subcommittee would turn to another part of current law and prepare legislation making any appropriate substantive changes in it. Even if it is not enacted, however, the subcommittee is firmly committed to the course of modernizing Federal criminal laws by dealing individually and deliberately with distinctive areas of the law.

During the course of the subcommittee's work on recodification, we asked the proponents of the Senate bill to identify the reasons for recodifying Federal criminal laws. They identified five goals for the legislation—first, the elimination of outmoded and unnecessary statutes; second, the updating of fine levels; third, reform of an unfair sentencing structure that permits unjustified disparity in the treatment of Federal offenders; fourth, a revised format and structure for title 18 of the United States Code that will eliminate inconsistent and overlapping provisions in current Federal criminal laws; and fifth, "reform" of various parts of the criminal law.

The subcommittee has concluded that these goals of recodification can be accomplished by the approach it has taken.

Let me turn now to the subcommittee's bill and describe in general terms what it does. First, it repeals as outmoded or unnecessary, several provisions of title 18 of the United States Code. For example, it repeals the oft-cited carrier pigeon statute (18 U.S.C. 45) which makes it a misdemeanor offense to detain or interfere with a carrier pigeon belonging to the United States. There are sections of present title 18 that consist entirely of a cross-reference to one of the Federal Rules of Criminal Procedure. The bill repeals these provisions also, as well as others.

Second, the bill establishes a uniform and graded fine structure with higher fine levels. These fines will be applicable to all title 18 offenses, as well as to criminal statutes in other titles of the United States Code—with the exception of title 26, the Internal Revenue Code.

Third, the bill makes substantive changes in the area of sentencing in order to promote greater fairness and eliminate unjustified and unwarranted disparities in punishment. In addition, some changes in maximum penalties are made in order to achieve a greater degree of consistency among title 18 offenses, and minor substantive changes are made in a number of other criminal statutes in the area of corrections. The latter changes were discussed with the agencies involved and should not, in all probability, be controversial. For example, the bill provides that the Chief of the Division of Probation of the Administrative Office of the U.S. Courts shall be a member of the National Institute of Corrections—other members include the Director of the Bureau of Prisons, the Chairman of the Parole Commission, and the Assistant Secretary for Human Development of the Department of Health, Education, and Welfare.

Finally, the bill restructures present title 18 in an effort to improve its organization. Part of the restructuring involves transferring into title 18 six criminal provisions presently located in other titles of the United States Code. It is interesting to note that one of the claims made for the Senate bill is that it consolidates Federal criminal statutes. Yet, as its proponents admit, the Senate bill leaves more criminal statutes outside of title 18 than it puts in title 18. While this may be understandable, it is inconsistent with the goal of total recodification and merely confirms that Federal criminal law is not a unified whole, that it is not the basic set of rules regulating morality.

In order to restructure title 18, so our legislative drafting experts advise, it is necessary, as a practical matter, to reenact it. We on the subcommittee recognize that there are many proponents for changing one or more existing provisions of title 18. In order to avoid creating the inference that by reenacting the provisions of title 18 we are putting a congressional imprimatur on each of them, or on any judicial or agency interpretation of any of them, the subcommittee has included a disclaimer provision making it clear that the reenactment of the provisions of title 18 is for the purpose of restructuring title 18, except insofar as the bill makes substantive changes.

The effective date of the bill is January 1, 1980. This should give the bench and bar sufficient time to become familiar with it and adapt to the new provisions and structure.

The subcommittee's bill makes a good start toward the fifth goal of recodification—substantive reform. As I indicated earlier, the subcommittee believes that substantive reform is best accomplished on an incremental basis. The subcommittee has begun the process with substantial reform in the area of sentencing. Let me emphasize again that the subcommittee's bill is the beginning of the modernization process, not the end of it.

This is an appropriate time to begin the recodification process. I hope that the subcommittee's bill will be acted upon favorably by the Committee on the Judiciary and will come before the House for its consideration in the remaining days of the 95th Congress. If the subcommittee's bill is acted upon favorably, we on the subcommittee will approach a conference with the other body ready to work out an honest compromise in areas where the subcommittee's bill makes substantive changes. Whatever the outcome of a conference, I expect the subcommittee next Congress to continue the process of reforming Federal criminal laws by dealing individually and deliberatively with discrete areas of Federal criminal law.

WITNESSES TESTIFYING BEFORE THE SUBCOMMITTEE ON CRIMINAL JUSTICE

Advisory Corrections Council, Hon. Harold R. Tyler, Jr., Chairman.

American Bar Association, Prof. William Greenhalgh, Chairperson, Criminal Code Revision Committee, Criminal Justice Section, accompanied by Laurie Robinson.

American Civil Liberties Union, John H. F. Shattuck, Director, Washington Office, accompanied by David E. Landau, Esq.

American Insurance Association, Wilfred J. Perry, Assistant Vice President, Claims-Administration.

American Newspaper Publishers Association, Jerry W. Friedheim, Executive Vice President and General Manager, accompanied by Arthur B. Hanson, General Counsel.

American Society of Newspaper Editors, Anthony Day, Chairman, Freedom of Information Committee.

Americans for Democratic Action, Prof.

Louis B. Schwartz, University of Pennsylvania Law School.

Anderson, Rep. Glenn M., 32d Congressional District, California.

Associated Builders and Contractors, Joseph Fagen, General Counsel, accompanied by Hon. John Reed, Director, Governmental Relations.

Associated Press Managing Editors Association, Frank Johnson, Chairman, Freedom of Information Committee.

Association of American Publishers, Henry Kaufman, Legal Counsel.

Association of the Bar of the City of New York, Murray Mogel, Esq.

Bazelon, Hon. David, United States Circuit Judge, District of Columbia Court of Appeals.

Bennett, Rep. Charles E., 3d Congressional District, Florida.

Bislock, Ira, Chairman, Oregon Parole Board.

Burke, Massachusetts State Rep. Kevin M., accompanied by Massachusetts State Rep. Paul Means.

Burns, Hon. James M., United States District Judge, District of Oregon.

Children's Rights, Inc., Arnold I. Miller and Rae Gummel.

Church of the Brethren General Board. See National Interreligious Service Board for Conscientious Objectors.

Citizens Commission on Human Rights, Lee Coleman, M.D., accompanied by Kathleen Wiltsey, Director.

Clark, Sheldon Esq., Cleveland, Ohio.

Coalition to End Grand Jury Abuse, Mary Emma Hixon, Executive Director, accompanied by Linda Backiel, Esq., Grand Jury Project of the National Lawyers Guild.

Commission of Social Action of Reform Judiasm, Rabbi David Saperstein, Director, Religious Action Center.

Communist Party U.S.A., Simon W. Gerson, accompanied by John J. Abt, General Counsel.

Community Services Society of New York, Harold Baer, Jr., Esq, Chairman, Committee on Criminal and Juvenile Justice.

Conyers, Rep. John Jr., First District, Michigan.

Creative Alternatives to Prison, Ira Lowe, Esq., accompanied by Tom Donelson.

Dennis, Hon. David W., Dennis, Reinke & Vertesh, Richmond, Indiana.

Direct Selling Association, Neil H. Offen, President.

Drinan, Rep. Robert F., 4th Congressional District, Massachusetts.

Dunn, James, Federal Public Defender, Central District of California.

Federal Bar Association, Arthur L. Burnett, Esq., Chairman, Criminal Law Committee.

Federal Bureau of Prisons, Norman Carlson, Director.

Fiske, Robert B. Jr., United States Attorney, Southern District of New York.

Frankel, Hon. Marvin E., United States District Judge, Southern District of New York.

Freed, Prof. Daniel J., Yale Law School, accompanied by Matthew Heartney.

Freeman, David, Federal Public Defender, Western District of Missouri.

Friends Committee on National Legislation, Prof. Harrop Freeman, Cornell Law School.

Georgetown Juvenile Justice Clinic, Ramona Powell and Wallace Mlyniec, Director.

General Accounting Office, William J. Anderson, Deputy Director, General Government Division.

Gottfredson, Don M., Dean, Rutgers University School of Criminal Justice.

Grand Jury Project of the National Lawyers Guild, See Coalition to End Grand Jury Abuse.

Halperin, Morton H., Director, Center for National Security Studies.

Hill, Rev. Morton A., S.J., New York City.

Hruska, Hon. Roman L., Omaha, Nebraska.

International Association of Chiefs of Police, Glen Murphy, Director, Bureau of Governmental Relations.

Judicial Conference of the United States, Hon. Alfonso J. Zirpoli, United States District Judge, Northern District of California, and Hon. Gerald B. Tjoflat, United States Circuit Judge, Fifth Circuit Court of Appeals.

Kansas Bar Association, Michael Lerner, Esq., Chairman, Criminal Justice Section.

Kennedy, Sen. Edward M.

Labor Organizers Defense Fund, Ronald Kokinda.

Legal Aid Society of New York City, Phyllis Skloot Bamberger, Chief, Appeals Bureau, Federal Defenders Service Unit.

Levitas, Rep. Elliott H., 4th Congressional District, Georgia.

Lewis, Prof. Melvin B., The John Marshall Law School.

Liebmann, George, Esq., Frank, Bernstein, Conaway & Goldman, Baltimore, Maryland.

Lilly, Francis X. Esq., Arent, Fox, Kintner, Plotken & Kahn, Washington, D.C.

Lowenstein, Roger A. Esq., Lowenstein, Sandler, Brodkin, Kohl & Fisher, Newark, New Jersey.

Madison Coalition to Stop S. 1, Peter Nemenyi.

Marcus, Prof. Paul, University of Illinois College of Law.

Marek, Edward, Federal Public Defender, Northern District of Ohio.

Mulcrone, Richard, Chairman, Minnesota Corrections Board.

National Association of Blacks in Criminal Justice, Prof. G LaMarr Howard, Executive Chairman.

National Association of Chain Drug Stores, Robert J. Bolger, President.

National Coalition to Ban Handguns, Samuel Fields, Field Director.

National Committee Against Repressive Legislation, Prof. Thomas I. Emerson, Yale Law School.

National Conference of State Legislatures, Ohio State Sen. Stanley Aronoff.

National Coordinating Committee for Trade Union Action and Democracy, Norman Roth, Convenor, Chicago, Illinois.

National Council of Jewish Women, Ms. Rav M. S. Tucker, Esq.

National Council on Crime and Delinquency, Milton Rector, President.

National Interreligious Service Board for Conscientious Objectors, Rev. Charles L. Boyer.

National Interreligious Task Force on Criminal Justice, Rev. Barry Lynn, accompanied by Steven Angell.

National Legal Aid and Defender Association, John Cleary, Director, Federal Defenders of San Diego, Inc.

National Moratorium on Prison Construction, Prof. Edith E. Flynn, Northeastern University.

National Organization for Reform of Marijuana Laws, Keith Stroup, National Director.

New Jersey Coalition to Defend the Bill of Rights, Daniel Crystel, Esq.

New Jersey Council of Churches, Rev. Dudley E. Sarfaty, Associate General Secretary.

New York Criminal Bar Association, Herald P. Fahringer, Esq.

Prison Project of the American Civil Liberties Union Foundation, Alvin J. Bronstein, Executive Director.

Quigley, Prof. John B., Ohio State University School of Law.

Railway Labor Executives Association, J. R. Snyder, Chairman, accompanied by Marshall Sage, Research Director, United Transportation Union, and Lawrence M. Mann, Esq.

Reporters Committee for Freedom of the Press, Jack C. Landau, accompanied by Charles J. Sennet.

Rodino, Rep. Peter W., 10th Congressional District, New Jersey.

Rothstein, Prof. Paul M., Georgetown University Law Center.

Schwartz, Irwin H., Federal Public D fender, Western District of Washington.

Scientific Games International Inc., Je Koss, Chairman of the Board.

Sears, Daniel, Federal Public Defender, D trict of Colorado.

Segal, Terry Esq., Siverman & Kud Boston, Massachusetts.

Skelton, Rep. Ike, 4th Congressional D trict, Missouri.

Small Business Administration, A. Ver Weaver, Administrator.

Smith, Rep. Neal, 4th Congressional D trict, Iowa.

Society of Professional Journalists, Rob Lewis, Freedom of Information Committe

Teske, David, Federal Public Defender, D trict of Oregon.

Tonry, Prof. Michael, University of Ma land School of Law.

United Electrical, Radio and Mach Workers of America, Lance Compa, Wa ington Representative.

United States Catholic Conference, Bis J. Francis Stafford, accompanied by Barb Stolz, Ph.D.

United States Department of Justice, torney General Griffin Bell and Deputy sistant Attorney General Ronald L. Gai accompanied by Karen Scriveth, Esq.

United States League of Savings Asso tions, Ira W. Thornton, Jr., President, View Federal Savings & Loan Association, Mateo, California, accompanied by H Laurie Battle, Legislative Consultant, John Rasmus, Assistant Vice Preside United States League of Savings Associatio

United States Parole Commission, Cecil McCall, Chairman, accompanied by Pe Hoffman, Ph.D., Director of Research.

Vincent, Robert, Regional Parole Comm sioner, North Central Region, United Sta Parole Commission.

von Hirsch, Prof. Andrew, Rutgers Univ sity School of Criminal Justice.

Washington Council of Lawyers, La Mirel, Esq.

Women's Lobby, Carolyn Bode.

Women Strike for Peace, Catherine Reeverts.

Younger, Hon. Evelle, Attorney Gene State of California.

Zimring, Prof. Franklin E., Director, Ce ter for Studies in Criminal Justice, Univ sity of Chicago Law School.

TENTH ANNIVERSARY OF SOVIE INVASION OF CZECHOSLOVAKIA

The SPEAKER pro tempore. Under previous order of the House, the gentl man from Illinois (Mr. DERWINSKI) recognized for 60 minutes.

(Mr. DERWINSKI asked and w given permission to revise and extend h remarks, and to include extraneou material.)

Mr. DERWINSKI. Mr. Speaker, commemorating the 10th anniversa of the Soviet invasion of Czechoslovaki I first wish to insert a copy of Hou Concurrent Resolution 667, which I in troduced on July 17 and now has th support of 35 co-sponsors:

H. CON. RES. 667

Whereas in 1968 Czechoslovakia was peace-loving country whose governmen headed by Alexander Dubcek, enjoyed pos tive support from the vast majority Czechs and Slovaks; and

Whereas the invasion of Czechoslovakia b the military forces of the Soviet Union 1968 contravened the independence of a sov ereign state and denied its peoples the righ of self-determination; and

Whereas such an unprovoked interventio was in violation of the United Nations Char ter which stipulates that "All Members re

frain in their international relations from the threat or use of force against the territorial sovereignty or political independence of any state"; and

Whereas the occupation of Czechoslovakia by a fellow member of the United Nations has continued for ten years and alters the European balance of power; and while opponents of such occupation and defenders of human rights are increasingly subjected to harassment, repression, persecution, and incarceration; and

Whereas their continued yearning for freedom has found a new expression in Charter 77, the Human Rights Manifesto which requests of the Government of Czechoslovakia the implementation of the principles of the Final Act as well as adherence to the Czechoslovak Constitution; and

Whereas the signers of Charter 77 and other champions of human rights in Czechoslovakia continue to oppose and to expose violations of human rights by the Soviet-imposed government of Czechoslovakia: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the President should use his influence and leverage to induce the Soviet Union to withdraw all troops occupying Czechoslovakia and, should such withdrawal not be effected by December, 1978, to—

(1) reevaluate sales of United States commodities and technology to the Soviet Union;

(2) reevaluate all licenses for the export to Warsaw Pact countries who participated in the invasion of all paramilitary and other high technology products, including computers and any other products used in the expansion of industrial development and communications systems;

(3) express support for the people of Czechoslovakia (as they commemorate August 21, 1968, as the "Soviet Day of Shame") in their efforts to achieve the withdrawal of the troops of the Soviet Union from Czechoslovakia;

SEC. 2. It is further the sense of the Congress that the President, acting through the United Nations and other international organizations, should take such additional steps as may be necessary to end as quickly as possible the continuing intervention in Czechoslovakia by the Soviet Union.

Next week, on August 21, it will be 10 years since the Soviet Union crushed the reform-minded government of Alexander Dubcek, but as the Congress will be in recess for a district work period, we are commemorating this historic tragedy today.

However, it is especially important to note that despite 10 years of Soviet military presence in Czechoslovakia, the spirit of the people remains uncrushed. This is especially evident by the continued activities of those brave men and women, known for their love of Democratic principles, who are demanding restoration of their fundamental civil and political rights in a charter entitled, "Petition 78." Following the signing of Charter 77, the country's human rights manifesto, which was signed by over 900 brave individuals in Czechoslovakia last year, the signatories and their supporters are still being persecuted by the Government of Czechoslovakia. "Petition 78" was developed for the practical purpose of supporting the signers of Charter 77.

The Soviet Union continues to suppress Czechoslovakia dissent in violation of the Helsinki Accords. The process of regeneration of national culture and Democratic public life remains arrested by the Communist oppressive rule.

In continuation of my remarks, I wish to insert an appeal to end the occupation of Czechoslovakia which was issued by the Council of Free Czechoslovakia, located here in Washington:

AN APPEAL: END THE OCCUPATION OF CZECHOSLOVAKIA

On the tenth anniversary of the invasion of Czechoslovakia by the armed forces of the Soviet Union we appeal to all the peoples of the world and the United Nations to support the demand of the Czechoslovakia people for the immediate withdrawal of all Soviet forces from the territory of their Republic.

On August 21, 1968, the Soviet army invaded and occupied Czechoslovakia. On August 28, 1968, the Soviet Communist Party leaders forced Czechoslovakia's kidnapped leaders in Moscow under duress to sign a communiqué sanctioning the temporary occupation of the Czechoslovak Republic.

This act of aggression was in violation of the Czechoslovak-Soviet Treaty of Friendship and Alliance of 1943, of several agreements among the Allied Powers on liberated Europe, of Article 2 of the Charter of the United Nations, and of the Soviet government's own declaration of October 30, 1956. The Soviet Union invaded Czechoslovakia on the pretext that the country was to be protected against a nonexistent "West—German revanchism."

The continuing occupation of Czechoslovakia is in violation of the agreement between the governments of Czechoslovakia and the Soviet Union of October 16, 1968, according to which Soviet armed forces were to be stationed in Czechoslovakia only provisionally. In this document to the Soviet Union acknowledged that its forces had entered Czechoslovak territory only temporarily and undertook to withdraw them as soon as the situation in Czechoslovakia had been normalised. Since then Czechoslovak as well as Soviet Communist leaders have declared on numerous occasions that condit'ons in Czechoslovakia have been normalized. But the country continues to be occupied.

The occupation also violated the provisions of the Final Act of Helsinki. But above all else it continues to violate the three principles which the Soviet Union itself has recognized as essential for the peace, stability, and prosperity of Europe:

The principle of the sovereignty of all European states and nonintervention in their internal affairs.

The principle of the independence of all states including the right of self-determination.

The principle of the renunciation of the use of force against any state.

The Soviet invasion and occupation of the Czechoslovak Republic have dangerously upset the military balance that had existed in Europe since the end of the Second World War. They violate wartime agreements about the deployment of Allied forces in Continental Europe. Czechoslovakia was to have neither Western nor Soviet troops on its territory. The occupation of Czechoslovakia keeps Soviet forces in the heart of Europe in such numbers that the military balance along the dividing line between East and West is heavily weighted in Soviet favor.

It is therefore imperative not only for Czechoslovakia's sovereignty, independence, and freedom but also for the peace, stability, and prosperity of Europe that the Soviet Union withdraw its armed forces from the territory of the Czechoslovak Republic.

This appeal is backed by documents in which the Soviet Union has committed itself to evacuate the territory of the Czechoslovak Republic, and by Czechoslovak citizen's to declarations of protest against the occupation of their country and resolutions demanding its end. The CHARTER 77 movement in Czechoslovakia and Czechoslovak exiles' endorsement of PETITION 78 bear witness to the determination of all Czechs and Slovaks to see their Republic rid of Soviet occupation forces and once more sovereign, independent, and free.

In submitting this appeal, we speak for the Czechoslovak exiles who left their country after the coup d'état of 1948 as well as for those who had to leave when Czechoslovakia was invaded by the Soviet army in 1968. We are absolutely certain that, speaking in their names, we speak for all Czechs and Slovaks. We believe that a new European order based on the principles of true sovereign equality, independence, self-determination, nonintervention, and renunciation of the use of force would be a great step toward satisfying the hopes, aspirations, and interests of all the European peoples.

It is of paramount importance for us to encourage the brave people of Czechoslovakia in their ongoing struggle for their fundamental rights. We must recognize that by its very nature, communism deprives people of their basic rights.

Czechoslovakia, between World I and World II was a progressive and thriving democracy. But this democratic structure of government was eliminated by the Communist takeover in 1948, when the Communist Party seized absolute control.

In 1968, the Soviet army and forces of Eastern European satellite states occupied the country to crush any resurgence of Czechoslovakian democracy. This day, which has been appropriately called the "Soviet Day of Shame" dealt the final deathblow to the liberalization that was developing in that small country.

The crushing of the Dubcek government was nothing but an unprovoked act of aggression that must not be forgotten.

Therefore, I wish to join with the millions of freedom-loving people throughout the world in supporting the people of Czechoslovakia in their efforts to achieve the withdrawal of Soviet troops.

In closing, I wish to express my appreciation to the Members who joined with me this afternoon to give support to the commitment of freedom for all those held captive behind the Iron Curtain.

GENERAL LEAVE

Mr. DERWINSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. RUDD. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Arizona.

Mr. RUDD. I thank the gentleman for yielding.

Mr. Speaker, I am pleased to join with my distinguished colleague from Illinois (Mr. DERWINSKI) in this solemn observation of the tragic 1968 Soviet invasion of Czechoslovakia.

My office inquired of the White House whether the President planned to issue

any proclamation or statement in connection with this anniversary, and the continued repression of human rights in Czechoslovakia.

I was informed that no such Presidential action was planned.

I cannot help but feel a sense of moral outrage that opposition to communism and chastisements of Soviet-supported tyranny in Eastern Europe and elsewhere around the world are no longer voiced at opportunities such as this at the highest levels of our own Government.

Where is the administration's denunciation of the Kremlin and the Soviet-backed Communist puppet Government of Czechoslovakia on this anniversary of the day that Soviet tanks rolled into Prague in violation of international law?

Where are the President's and U.N. Ambassador Andrew Young's strong protests against the continuing violations of human rights that are still taking place this very day against the freedom-loving people of Czechoslovakia?

Our leaders must be aware of published accounts of the inhumane ordeal suffered by the Czech people under Communist rule.

They have had no freedom since World War II, when Stalin ordered the Czech political hierarchy to be publicly hanged, and others imprisoned because of mere policy differences.

The ashes of Stalin's hanged Czech victims were poured into a potato sack, carried in the car that bore the other surviving prisoners to jail outside Prague, and then used to give the car traction when it skidded to a standstill on the icy road to the concentration camp.

Such is the total disregard for human life under communism.

Some apologists for Communist regimes throughout the world would have us believe that conditions under Soviet domination have improved since Stalin.

This is just a part of the propaganda line.

To be sure, some change has taken place.

But it is only a matter of degree.

Under Stalin, hundreds of thousands of anti-Communists and potential political opponents were exterminated.

Under current Communist regimes, mere tens of thousands are slaughtered.

And it is done quietly, in a more secret, sanitary way than under Stalin, so that the sensibilities of the rest of the world are not so badly hurt by the bloodshed and torture that still occurs.

But how does this make it any better?

How does this relieve our own leaders of the responsibility to exert moral leadership against such totalitarianism?

The aim of such atrocities is still the same, and just as effective.

It is to intimidate and frighten all the people into total submission to the Soviet Union and to Communist domination.

It is to impose a police state terror that allows no freedom for the people, no free press, no elections, and no religious observance.

I share with my colleagues the belief that our country still has a moral obligation to speak out, and to do everything possible to end Communist totalitarianism in all its forms throughout the world.

An administration that has made human rights a principal hallmark of its foreign policy has a moral obligation to do everything possible to bring about political, economic, social, and religious freedom for all people—especially those enslaved under Communist domination.

Opponents of a hard line against Communist dictatorships and their expansionist policies express fear that the United States must make peace with the likes of Brezhnev, Castro, and their ilk, in order to avoid political or military confrontation.

Their second article of faith is that the United States must disarm unilaterally in order to avoid a possible nuclear war.

Such statements have even been made by members of the President's top level national security staff, right in the White House.

Certainly our valiant Founding Fathers, who fought the American Revolution to preserve freedom for future generations of Americans, did not believe that war is the worst activity of mankind.

They believed man's worst activity to be acquiescence to slavery.

The refusal of many thousands of dissidents in Communist-dominated countries to acquiesce under slavery today is a heroic continuation of what our own country's struggle for freeodm was all about.

These victims of purge trials and other police-state terror are no longer succumbing to human degradation being imposed upon them by Communist slavemasters.

Far from confessing to trumped-up charges and alleged crimes, these dissidents now reaffirm through word and deed their belief in freedom, defy the police terror, and sometimes find ways to tell the world what is happening.

These valiant people have many friends in the United States and throughout the world.

I am proud with my colleagues here to count myself among those friends.

The administration should also be among these ranks, taking every available opportunity to publicize and bring pressure against international Communist atrocities.

Next week's 10th anniversary of the Soviet rape of Czechoslovakia would have been a perfect opportunity for the President to take public note of yet another sad event in the history of Communist imperialism.

I am sorry that the opportunity will be missed by the President.

But I am proud to join with other Members of Congress to reaffirm for the people of the world the commitment of the American people to their freedom.

I hope that one day we will also have leaders at the highest levels of our Government who will join us in proudly voicing the hopes for freedom—against tyranny—of all people under Communist domination, and who will take rea action to turn those hopes into rea

Mr. DERWINSKI. I thank the ge man for his comments.

Mr. DORNAN. Mr. Speaker, will gentleman yield?

Mr. DERWINSKI. I yield to the tleman from California.

Mr. DORNAN. I thank the gentle for yielding.

Mr. Speaker, I also want to comm the distinguished gentleman from nois (Mr. DERWINSKI) on recalling to memory this tragic series of event that hectic summer of 1968, which saw much violence in Chicago and flying of Communist flags in our m cities. I had the opportunity to trav Prague shortly thereafter, and the d figure that was released around world for the young "Freedom Fight in the city of Prague was about 300 i in action. I met with some of the y students there, and they told me the ure was much closer to 3,000, that in morgue alone there were more than bodies, and they took me down the impressive street of the center of Pr and showed me some of their buildings, literally covered and chi from top to bottom by machine bullets and ricocheting rifle firing think that to have seen this death of 3,000, compounded on top of the d toll in Hungary 12 years before of 50 of both of those countries' finest y men is a world tragedy that should n go unremembered, particularly o decade date. The fact that the W House, which will not be in recess ing this period, is not calling the tion's attention to it is just another of the confused foreign policy tha emanating therefrom.

Mr. DERWINSKI. I thank the g tleman for his comments.

● Mr. MURPHY of Illinois. Mr. Spea I join my colleague from Illinois (DERWINSKI) in commemorating the anniversary of Czechoslovakia's inva by the Soviet Union.

This tragic event, which has rig become known as the "Day of Shame, a vivid reminder of the Soviet Uni suppression of human rights in t country.

As a free people, the United St must speak out against the Soviets' nial of self-determination to Czecho vakia and other Eastern European co tries. This includes a denunciation of Soviet Union's violation of the Czec slovak Constitution, and more broa its flouting of the Helsinki accords the U.N. Charter.

Mr. Speaker, as we remember th who suffer under the yoke of Soviet pression, I call on all Americans to vo their support of the captive natio right to independence and self-deter nation.●

● Mr. SARASIN. Mr. Speaker, on A gust 21, 1978, the people of Czecho vakia and their friends of the free wo will commemorate the 10th anniversa of that tragic day in 1968 when 600,0 Soviet and other Warsaw Pact troo illegally invaded the borders of Czech slovakia. The Soviet oppression was

only in direct contradiction to article 2 (4) of the United Nations Charter, which explicitly opposes any members' "use of force against * * * the potential independence of any State * * *," but their action also suppressed the Czechoslovak's political and economic attempts under the Dubcek regime to institute reforms and secure a semblance of civil liberties within a Communist system.

This day, appropriately termed "Soviet Day of Shame," illustrates the little regard Russia has had for the objectives that nations have advocated under the auspicies of the United Nations. In the world's efforts for peace and harmony amongst all peoples, it is distressing to witness the Soviet Union's continued intervention and captivity of Czechoslovakia by their 80,000 troops. We must wonder to what extent we can believe any Soviet pledges for better understanding cooperation among all nations on the basis of true progress and humanity with the continuance of this act.

It is only fitting that we, the representatives of freedom-loving people who cherish the principles of self-determination, display our support and empathy for the plight of the Czechoslovakian people who suffer the denial of basic human rights under Soviet bondage. Since the imposition of the Moscow agreement on August 26, 1968, I think that we are all too aware of the harsh repercussions that men and women must face when they attempt to exercise political and intellectual freedoms that differ from the firmly established Soviet ideology.

We have a responsibility to the millions of Czech citizens who have lost most of their human liberties, but who have not lost their aspirations and yearnings for a future day when they will once again be able to control their own destiny. We must help them maintain their spirit for that day when their independence will become a reality. Our rememberance of the "Soviet Day of Shame" and our denouncement of Soviet tactics of Czechoslovakian oppression will encourage them in upholding their ideals which led to the birth of our own country.●

● Mr. VANDER JAGT. Mr. Speaker, 10 years ago, August 21, the people of Czechoslovakia suffered one of the most outrageous and brutal intrusions into their internal affairs ever witnessed by modern world. It has been just 10 short years since Soviet tanks and armed soldiers pushed their way into the lives of Czech citizens. The wounds opened by that Soviet invasion have never healed, and, in fact, are reopened daily by the ominous presence of more than 80,000 Soviet troops that patrol the land.

And today, following the Soviet elimination of Alexander Dubceks government and his Soviet-enforced, in-state exile, the peoples of Czechoslovakia are being denied their most fundamental human rights—the right of free expression; the right of equal educational opportunities; the right of religious freedom; and the right to assemble and participate in public affairs.

The best of the Czech people—those gifted with talents and skills and deserving of the chance to be productive—have been forced into lifestyles of subjugation. Citizens protesting the insidious force of Soviet intervention are faced with political ostracism or prison confinement, both of which strip them of the chance to fully exercise their human potential.

Suffering from the Soviet induced emigration of those Czechoslovakians who refuse to tolerate the injustice and repression, a country once upon the edge of reform and progress, is now forced to call upon memories and distant dreams to fuel its hope of freedom. A country once fundamentally supportive of democratic representation for her citizens has today become a gray satellite of the Soviets, a land filled with repressed people of unused talent.

However, Mr. Speaker, contrary to the oppressive intentions of Soviet occupation, the courage of Czechoslovakia's citizens has brought forth a statement of popular indignation—charter 77. Their appeal to the forces who impose inhuman persecution and neglect the Helsinki Final Act is daily signed and supported by Czeck citizens of all walks of life.

Mr. Speaker, taking our cue from the example of the signers and supporters of charter 77, I urge that each Member of Congress and the President fully embrace and support the principles which guarantee the right of self-determination for the people of Czechoslovakia; the restoration of a political process created and sustained by free Czech citizens; and all efforts which will contribute to making possible a society in which all citizens of Czechoslovakia can live and work as free people.●

● Mr. GREEN. Mr. Speaker, 10 years ago on August 21, 1968, over 500,000 troops of the Warsaw Pact entered Czechoslovakia under the leadership of the Soviet Union to crush the popular, reform-minded government of Alexander Dubcek. Today we take note in the House of Representatives of this tragic anniversary.

As recent press reports indicate, these past 10 years have not been hopeful ones for the people of Czechoslovakia. A June 23, 1978 article in the Christian Science Monitor described the mood in this nation as follows: "* * * in Czechoslovakia, after 10 years of narrow, Soviet-alined rule, many people appear to be resigned—and even indifferent—to the declining state of their economy and culture * * *. Czechoslovakia presents an unimaginative political and economic conservatism alined more submissively to Soviet precepts than almost any other of the Soviet Union's allies. The leadership has essayed no move whatever toward assuaging popular memory of 1968. Instead, the Czechoslovak leadership harps on the justification of Russia's forcible intervention." Human rights violations by the government, contrary to the "law" in the country, abound.

The last year has witnessed a dramatic flair of hope for all free-Czechoslovakia sympathizers. On January 7, 1977, a group of 242 leading Czechoslovaks published the charter 77 document calling for the observance of human rights embodied in the Helsinki accords of 1975, the U.N. Covenants and the Czechoslovak Constitution. While close to 1,000 signatures have been added in the last 18 months, the Moscow-backed Czech Government persists in harsher oppression against the signers. This document resurrects the hopes and ideals that were present during the Dubcek era.

Mr. Speaker, on the 10th anniversary of this sad day in the pages of world history, I speak out for the oppressed peoples of Czechoslovakia and express my hope that the human rights of the people there will be treated with the dignity and respect they deserve.●

● Mr. BURKE of Florida. Mr. Speaker, I rise to join my colleagues in this special order on the 10th anniversary of the Soviet invasion of Czechoslovakia. I commend our esteemed friend from Illinois (Mr. DERWINSKI) for his initiative and concern in bringing about this special order. We would indeed be remiss if we did not take a moment to remember the grisly events of August 1968 and their implications for today A momentary glimpse of liberty in Czechoslovakia, a fleeting moment of freedom from the politics of Communist dogma, led to a brutual act of intervention. Soviet tanks and infantry forceably crushed at the same time the Czechoslovakian moment of liberty and the fierce, but futile, resistance by the brave people of Prague.

There is a lesson in this. I think it worth noting that until 1968 Czechoslovakia was the best argument the Communists had that people would willingly submit to Communist rule. Even that example was questionable, because Czechoslovakia originally went Communist only after the suspicious suicide of Jan Masaryk in February 1948. For a decade no one in Eastern Europe dared assume that they were out of reach of Soviet armed might. For those who forgot this fact of life there was the Soviet intervention in Hungary and Poland in 1956 as a lesson to the contrary. Nonetheless, Czechoslovakia communism continued as the so-called showplace of communism for another dozen years.

By 1968 there was a false sense of progress with regard to Soviet relations with the West. While détente was not yet upon us, the cold war in Europe had abated slightly. American involvement in Vietnam had reached its peak. Vociferous critics blasted U.S. efforts on behalf of the Republic of Vietnam. The Soviet Union had not directly caused any international incidents since the Cuban missile crisis of 1962—too busy, perhaps, aiding Hanoi's aggression in South Vietnam. Short memories and wishful thinking lulled many in the United States and the West into believing that the Soviet Union had reformed.

The events of August 1968 should have permanently dispelled any doubts as to the Soviet Union's attitudes and behavior. They had not changed. Now 10 years later, the treatment of Shcharansky and thousands like him serve to remind us that Soviet attitudes have not changed. Soviet power still controls half the globe and, as much as possible, the minds of the Soviet people. Further, Soviet actions remembered should remind us that with very few exceptions no na-

tion has gone Communist and stayed that way except by force of arms. Of all the Socialist and Marxist states, it is hard to argue that any reflects the free will of its people as demonstrated in a genuine election. From the Gulf of Tonkin to the Baltic, from the polar north to the Tropics, Communist rule, of whatever stripe, remains an ugly imposition on subject peoples.

August 21, 1968, was clearly a day of infamy. It should remind us never to assume that peace is self-maintaining. We dare not conclude that the forces which threaten the security of the United States, or the West, or any of the increasingly fewer free states in the world, will go away after a year or 10 years or even 50 years of peace. We dare not forget the anniversaries which remind us of that truth.

Finally, and most important, we dare not forget that the ones who suffer first and most brutally are those, like the brave citizens of Prague, who fought Soviet tanks with clubs and stones, who resisted bravely but fatally. More than any other we honor them today. There is nothing more that we can say, except that if we remember, they did not resist, they did not die, in vain.●

● Mr. ZABLOCKI. Mr. Speaker, as we approach the 10th anniversary of the Soviet occupation of Czechoslovakia, I think it is fitting that we remind the world once again that a sense of outrage still exists toward the act of aggression committed by the Soviet Union against that small but courageous country on August 21, 1968. Who of us can forget the chagrin and sense of frustration that we felt as the news came in of Soviet tank forces occupying the major cities of that country? The Soviets did pay a heavy price in whatever good will and perhaps mistaken sense of trust they may have built up in some parts of the world at that time.

We should remember not only to condemn the Soviet Union but also to pay tribute once again to the valiant freedom-loving citizens of Czechoslovakia who gallantly and bravely resisted overwhelming Soviet forces.

Our thoughts and prayers continue to go out to the people of Czechslovakia who yearn for the freedoms and human rights that we in the United States take for granted. They should know that they are not alone in the struggle for their basic human rights, as promised in the Helsinki Final Act.●

● Mrs. HOLT. Mr. Speaker, 10 years ago Soviet tanks and armies rolled into Czechoslovakia to crush the popular spirit of self-determination. How well we recall the stories of civilians heroically resisting the armor and troops of the invaders.

Let us remember what provoked this cruel aggression. Czechoslovakia had installed a more liberal Communist regime that was relaxing some of the totalitarian controls which had been placed on the people. There was a spirit of nationalism among the people, and a longing for greater freedom.

To the Russian tyrants in the Kremlin, this was heresy. They were uneasy What if this heresy of liberalization spread beyond Czech borders, even to the Soviet Union itself?

The despots of the Soviet Union cannot tolerate even the smallest whiff of the fresh air of freedom. Wherever freedom exists in the world, wherever people are allowed to think and speak freely, that is where the Soviet leaders perceive a threat to their power.

Indeed, the very survival of freedom anywhere in the world is perceived by the Soviet rulers as aggression against them.

That, Mr. Speaker, describes the nature of our adversary, and it explains what happened in Czechoslovakia. It explains why the Soviet Union sends its own citizens to cruel labor camps for no offense except speaking their minds against the totalitarian system that rules them.

There is another lesson here, Mr. Speaker. The United States must not drop her defenses when such a power is loose in the world. We must support the right of the people of Czechoslovakia and others of Eastern Europe to self-determination.●

● Mr. MICHEL. Mr. Speaker, 10 years ago Russian tanks invaded Czechoslovakia and crushed the attempt of the Czech people to attain a measure of freedom. I say a "measure of freedom" because that, after all, is what was at stake. Alexander Dubcek, then head of the Czech Communist Party was experimenting with reforms of the Communist system and not attempting a wholesale overthrow of it. But even these reforms were too much for Leonid Brezhnev. He sent in the tanks. the ultimate argument of Communists everywhere. The rest is silence, the silence of a nation and a people whose brief "spring" is all but forgotten by the outside world.

Today there are still more than 80,000 Soviet troops in Czechoslovakia which is ruled by a puppet regime that dares not institute a single reform for fear of what might happen.

What more is there to say? The Soviets know they are breaking the Helsinki accord by their actions in Czechoslovakia. We know they are breaking the accord. They knew when they signed the accord that they would break it. But the United States, knowing all this, turns its face from the sight, as if it had come across the victim of a horrible accident and did not want to look at what had happened for fear of getting involved. And Leonid Brezhnev smiles and smiles and smiles and knows we will not even complain.

A few weeks ago I remarked about the amazing burst of outrage that came from unexpected places during the recent trial of the Soviet dissidents. I wondered why the same outrage was not shown over the long agony of the Captive Nations. No one has volunteered an answer to that question so I am left with my own guess which is that only when the media pays attention to a denial of human rights will certain prominent figures in politics and the media pay attention.

And so there will be no great public outcry over the fate of Czechoslovakia. But I am glad to have this opportunity to join with those who care and to express my condolences to the Czechs and Slovaks in their native country and to Amer-

icans who share their ancestry. I
want to do more than offer condol
on the Soviet occupation. I want t
that no matter what the present
like and no matter how grim the pa
been, the Czechoslovakian people a
not give up hope. They have a rig
self-determination. That fact shou
at the heart of our Nation's po
toward Czechoslovakia and the S
Union.

Ten years after the tanks the tra
of the Czechoslovakian people is al
forgotten. But I am happy that som
us in the Congress have not forgo
I am equally glad that the Voice of A
ica will be carrying a special repo
"Czechoslovakia since 1968" during
period of the anniversary, and the
Czech language broadcasts will defi
speak to the people of Czechoslo
about this subject. I also understand
the VOA will report on what we are
here today and on demonstrations
will take place in this country.●

● Mr. OTTINGER. Mr. Speaker,
gust 21, 1978, marks the 10th annive
of the invasion of Czechoslovakia b
Soviet Union, an event resulting i
severest violation of the human rig
the people of Czechoslovakia. On th
casion, we are obliged to denounc
Soviet Union's unwillingness to abi
the provisions of the Helsinki acc
the United Nations Charter, and
Czechoslovak Constitution.

The Soviet Army invaded Czech
vakia on August 21, 1968, on the pr
that their occupation would protec
country against an aggressive actio
the West Germans. The following
Soviet Communist Party leaders f
the Czech leaders to sign a commu
sanctioning the temporary occupati
Czechoslovakia. This act of aggre
violated the Czechoslovak-Soviet T
of Friendship and Alliance of
agreements among the allied power
ticle 2 of the United Nations Ch
and a declaration of the Soviets o
tober 30, 1956.

An agreement of October 16, 1968,
vides for the stationing of Soviet f
in Czechoslovakia for a temporary
riod. The Soviet Union acknowle
that it would maintain its force
Czechoslovakia until the situatio
that country was normalized. The
ditions in Czechoslovakia have
normalized, yet the Soviet forces re

The people of Czechoslovakia, as
as other peoples of Eastern Europe,
a right to self-determination, a prin
which the Soviet Union itself has r
nized but flouted. The Soviets con
to deny three basic principles: The
ciple of the sovereignty of all Euro
states and nonintervention in thei
ternal affairs, the principle of the
dependence of all states including
right of self-determination, and the
ciple of the renunciation of the u
force against any states.

On this occasion, the anniversa
the initial violation of the Czech pe
human rights, we express the co
of Congress for the renewal of the r
of self-determination, independ
sovereignty, and nonintervention f
country illegally deprived of these

rights. In the interest of Czechoslovakia's freedom, as well as the peace, stability, and prosperity of Europe, it is imperative that the Soviet Union withdraw its forces from Czechoslovakia. ●

● Mr. WEISS. Mr. Speaker, August 21 marks the 10th anniversary of the Soviet invasion of Czechoslovakia. This is therefore a most appropriate time to call public attention to the deplorable human rights situation in that nation today.

And we should also view this sad occasion as an opportunity to express our unyielding support for the continuing struggle being waged by thousands of Czechs for freedom and justice.

On August 21, 1968, the Czechoslovakian people were, both figuratively and literally, placed under house arrest. A systematic policy of brutal repression was then initiated.

The leaders of the short-lived movement to liberalize Czechoslovakia were exiled from Prague and imprisoned. Soviet troops were stationed throughout the country to enforce Moscow's dictates and to defend its puppet rigime.

Governmental oppression has not significantly lessened in the intervening decade. In some ways, the human rights record of the Czech Government is worse today than in 1968. Amnesty International reports, for example, that in 1977 "there were more known violations of human rights in Czechoslovakia than in the preceding year."

One of the most vivid examples of the degree of repression being experienced by the Czech people involves the official reaction to circulation by private citizens of a human rights declaration called "charter 77." This document urges the Czech Government to implement the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights which are included in the Czech legal code.

As a result of signing charter 77, 41 people have had their apartments searched and their personal possessions confiscated, Amnesty International reports. Karol Sidon, a writer, was held in custody for more than 100 hours without charges being brought against him. Many persons active in the charter 77 have been severely beaten by the Czech authorities, Amnesty International adds. More than 80 people have been dismissed from their jobs because of their involvement with human rights advocacy.

Charter 77 and the state's attempt to crush it and all it represents stand as testimony to the heroic resistance of the Czech people and their determination to be free. Let us take the opportunity afforded by this grim anniversary to express our solidarity with the unconquerable spirit of the people of Czechoslovakia.●

● Mr. WINN. Mr. Speaker, on August 21 concerned individuals everywhere will commemorate the 10th anniversary of a shocking and tragic event, the massive and brutal 1968 invasion of Czechoslovakia by armed forces of the Soviet Union and four of its obedient Warsaw Pact satellites, East Germany, Poland, Hungary, and Bulgaria. In a matter of a day or two the courageous Czechoslovak people were hopelessly overwhelmed by the tanks and bayonets of some 650,000 of the aggressors' troops.

Without the knowledge or consent of any legitimate Czechoslovak Government authorities or even of the officials of the Communist Party of Czechoslovakia, and in violation of the United Nations Charter and existing treaties, the heavy fist of Soviet imperialism struck a defenseless Czechoslovakia late on the night of August 20, 1968. This blatant act of aggression was allegedly justified by the absurdly transparent, flimsy, and bizarre explanation that the Soviet Union and its accomplices were responding to an anonymous Czechoslovak request for armed aid to protect true "socialist progress" against unidentified internal and external "counterrevolutionary forces." In fact, as was readily apparent, the purpose of the invasion was to crush the traditional spirit of freedom and dedication to self-determination of the Czechoslovak people which had begun to be manifested in the reforms of the popular Dubcek government.

With considerable difficulty the Soviets eventually recruited and installed a puppet government of contemporary "quislings." That present government in Czechoslovakia has now become infamous for its fanatically orthodox and servile adoration and limitation of Soviet communism. As Amnesty International's reports indicate, the current Czechoslovak Government is imitating the recent Soviet crackdown on human rights proponents, dissidents, and particularly former supporters of the Dubcek reform regime purged and harrassed since the invasion, and doing so with a vengeance.

Although an 80,000-man Soviet occupation force still garrisons Czechoslovakia, Russian language is compulsory in their schools, and their inflexible Soviet-style economy is stagnating, the traditional love of the Czechoslovak people for freedom has not been extinguished. People everywhere who share that love of freedom and the principle of self-determination applaud the patience, perseverence, and courage of the Czechoslovak people in their stoic efforts to adapt to and survive the burdens and constraints which they now endure. We join them in their inner hope that in the long run the sickness of Soviet tyranny will succumb to its own cancerous nature.●

● Mr. ADDABBO. Mr. Speaker, 10 years ago, on August 21, 1968, the Soviet armed forces, aided by troops from four other Warsaw Pact nations, invaded and occupied Czechoslovakia and overthrew its government. Realizing that resistance was futile, Czech leaders urged their people not to fight back. Yet, in spite of such warnings, the Czech people staged a general strike and various protests to the Soviet violation of their sovereignty. Invading troops fired at curfew violators, circular distributors, and other passive resistors. Within 3 days, 20 persons had been killed and more than 300 wounded in Prague alone.

International condemnation was quick and fierce; still, the Soviets were unmoved by the protests. Not only were non-Communist nations appalled by the invasion, but so were most of the world's Communist parties not involved in the crisis, including those of France, Italy, Rumania, Yugoslavia, and China. On August 22, the U.N. Security Council supported a seven-nation resolution condemning the invasion and calling for the withdrawal of occupying forces. The resolution was vetoed by the Soviet Union.

The Soviet invasion was a reaction to Alexander Dubcek's efforts to democratize Czechoslovakia. His government sought to give greater autonomy to the courts, trade unions, and economic enterprises. Perhaps more important, he sought a more independent stand from the Soviet Union in foreign affairs.

That great defender of all so-called wars of national liberation, the Soviet Union, reacted with a blatantly imperialistic, armed invasion to the Czech movement toward greater autonomy.

As a free people, we Americans have the responsibility of remembering the invasion and all other violations of human rights. For 10 years and more, the Soviet Union has imprisoned the people of Czechoslovakia in its sphere of influence and has denied to these people, as it has to so many millons of others, the fundamental right of self-determination.

The Czechoslovakian people have a long and commendable history of democratic free government. The Soviets have subjugated that brave and determined people twice, against all semblance of international law and human decency. I have faith that the Czech people will overthrow their Soviet oppressors and once again take control of their destiny. Let us pray that next year at this time the people of Czechoslovakia will once again stand as our brothers in the family of free and independent nations.●

● Mr. BOB WILSON. Mr. Speaker, with our commitment to human rights and in assuring the peoples of all nations of our commitment to peace and freedom, it is most important to note that this coming Monday, August 21, marks the 10th anniversary of the brutal takeover and forced suppression of the people of Czechoslovakia by the Armed Forces of the Soviet Union.

Prior to that date, the Czech people had struggled for years to end Soviet repression and to once again live in peace and freedom. That struggle was crushed 10 years ago, and the Czech people once again are under the domination of the Soviets.

Mr. Speaker, we must never forget, and must never let the world forget just how precious freedom is, and that America will never give up the battle against oppression. Let us hope and pray that the people of Czechoslovakia, and all over the world will one day gain that most priceless of all gifts—the right to live out their lives in peace and freedom.●

Mr. DERWINSKI. Mr. Speaker, I yield back the remainder of my time.

MOORHEAD REPORT TO THE HOUSE ON INFLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentle-

man from Pennsylvania (Mr. MOORHEAD) is recognized for 15 minutes.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, last year at about this time I reported to the House on the inflation situation and outlook. I did so in my capacity as chairman of the Subcommittee on Economic Stabilization of the Banking Committee, which has legislative jurisdiction over the Council on Wage and Price Stability and, as an outgrowth of that, a general oversight role in the inflation problem.

Today I make a second "annual report" on inflation. The news that I convey is not good. Not only are the figures worse than a year ago but also there is a clear lack of consensus—among the experts and among ordinary people—as to what we ought to do about the problem. However, while in no sense minimizing the seriousness of inflation, I want to begin by making a distinction between a problem and a catastrophe.

Although inflation has worsened over the past 12 months—contrary, I must say, to my own hopes and expectation of a year ago—we are not facing the kind of runaway situation that renders currencies worthless. There is legitimate debate over whether our fiscal and monetary policies are sufficiently restrictive, but in no sense are we resorting to the "printing press" on a grand scale. The best proof of this is in the price indexes for raw commodities, agricultural and nonagricultural. These prices are the most sensitive indicators of excess demand in the economy, and they are behaving very calmly, with most of them below their peaks of earlier this year. We are not in a world of shortages and bottlenecks, of "too much money chasing too few goods," of uncontrolled budget deficits.

To cite Paul Samuelson, one of our leading economists:

> Neither galloping inflation nor malignant slump are suggested for America by the visible signs.

It is instructive to look back over the past years and identify some of the things that have worsened the inflation picture, several of them unforeseen.

Food: Basic grain supplies have been ample all through this period, but we have learned that there can be large upward swings in meat prices even with moderate feed grain prices. Particularly troublesome—and unpredictable—was the impact of the severe winter on the supply of hogs. Fruit and vegetable prices also reflected weather conditions.

We must remember that there is an "underlying" inflation rate in food prices that is not much different from the rate for the economy as a whole, reflecting the inexorable rise in costs all along the chain of processing and transportation. Last year for the first time, as one of our hearings brought out, the identifiable cost of labor is getting food prepared and into the consumer's shopping bag exceeded for the first time the value of the food at the farm gate, though labor in the food industry did not receive wage gains out of line with those of workers generally.

But the sudden jump in food prices was another matter. We did not anticipate the severity of the beef cycle, with herd liquidation of earlier years now succeeded by reduced supplies, and the weather dealt us a harsh blow in other food sectors. Grain supplies, fortunately, remain ample and the food price picture may look better from now on, as indicated by the latest wholesale price index for July.

The dollar: The decline in the dollar's exchange rate against most of the other leading currencies went much farther than it was reasonable to expect a year ago, and this has added upward of half of one percent to our inflation rate according to estimates of the Federal Reserve Board, chiefly through higher prices for imports. The decline in the dollar's exchange rate reflected a trade balance that turned out to have a far larger deficit than had been anticipated—a deficit stemming mostly not from a further major worsening of our oil balance but rather from trade in all other goods.

Here again, there is reason to believe that the worst is over. The trade deficit has begun to diminish, thanks in part to the delayed effect of the exchange rate depreciation itself. In the past 3 or 4 months the only major decline of the dollar has been against the yen and the Swiss franc. I do not know, of course, whether the weighted exchange rate of the dollar will improve a little or worsen a little from now on, but it is doubtful that we face another huge drop such as occurred in late 1977 and early 1978.

Government actions: Contrary to the wishes of many of us, social security payroll taxes were raised substantially at the beginning of this year. Together with a catch-up increase in the minimum wage, this added about a half percent to labor costs and therefore to prices, according to the Council of Economic Advisers. Environmental, health, and safety regulations are increasingly reflecting the major legislation of recent years—legislation that in all principal respects I fully support—and are now adding about three-quarters of 1 percent a year to the price level, as estimated by the Council on Wage and Price Stability. To relieve a situation of genuine distress we acted legislatively to raise the domestic price of sugar above the world price. Some people would include in this list of Government actions contributing to inflation the handful of measures to curb imports that have been taken, but I doubt that this was of any importance. For example, the reduction in steel imports made possible by the new "trigger price" system has been a factor in improving the operating rate of the domestic industry, with a consequent check on the upward pressure of unit costs.

Monetary policy: I pointed out a year ago that one of our defenses against inflation was the new system by which the Federal Reserve establishes quarterly targets for the growth rate of the principal monetary aggregates and reports them to Congress. As it happens, over the past year the growth of one of those a gregates—the narrowly defined mon supply, or M-1—has been significan higher than the Federal Reserve's o targets. To those who place heavy e phasis on monetary developments in c plaining inflation, this "excessive ea of monetary policy has been a ma cause of the worsening of the inflati picture.

While I do not want to be dogma in this arcane field, my own view is th the Federal Reserve acted sensibly the whole during this period. If it h adhered with theological consistency its targets for M-1, it would have h to force up short-term interest rates ev more than it did. This could ha brought on a credit crunch and possi a needless recession. The payoff in r duced inflation would have been sli at best, based on the experience w recessions in this decade, but the suffe ing would have been widespread.

Mr. Speaker, I do not want to prete that I have a solution for the inflati problem. As testimony before our su committee from Government and no Government witnesses alike has i pressively demonstrated, inflation h acquired its own momentum—a mome tum that is resistant to the classic me icine of reduced demand. We m remember that the familiar "cures" a balanced budget and slower growth the money supply cannot halt inflati by magic; they can work only throu reduced total spending in the econo that is, reduced demand. The economi that we and other committees have h show a considerable consensus that th kind of medicine would indeed redu the inflation rate, but only very slow and at a high cost in the form of u employment, lower profits and reduc output for the economy. I do not me to imply unanimity on this point, b even those who still favor the "old-tim religion" concede that the anti-inflati payoff is likely to be gradual at best a that there will be a cost in producti and employment. In my view, the m striking economic lesson of our genera tion was the resistance of inflation to t extremely deep recession of 1974-7 when unemployment hit a 35-year pe and yet wages and prices kept right rising at a pace to yield an inflation ra of about 6 percent. There is no reas to think that another recession wou produce any better results on the i flation front.

It was in recognition of this m phenomenon that the Carter admini tration adopted its policy of volunta "deceleration" for wages and prices, as ing that the rise in each be kept bel the average of the two preceding yea If voluntary methods have any usefu ness at all, there was nothing wro with this formula. It seemed preferab in some ways to numerical guidelin But despite the heroic efforts of Robe Strauss, the President's inflation cou selor, I think we have to concede th the program has not succeeded, and pe haps never could have succeeded. Ind vidual labor unions, dealing with the

own particular bargaining situations,

bates can be influenced by halftruths,

still be facing the $262.5 billion tax in-

own particular bargaining situations, have never accepted the formula. A few large industries, including steel and automobiles, have announced conditional support and may turn out to be in compliance, but it is an open question whether this is because of the President's program or because of market and cost factors in those industries. Recognition that voluntary restraint of this kind has largely failed does not, I should emphasize, lead to the conclusion that there should be mandatory wage and price controls.

Mr. Speaker, we in Congress are frustrated by this problem and we are largely limited, for the time being at least, to an exercise in damage control. What that means in practice is a firm effort to keep inflation from accelerating, and I believe we are doing so—above all in fiscal policy. The tax cut we have passed in the House is much less than the President originally proposed and the second budget resolution incorporates a noticeable reduction in aggregate outlays. The combination will mean an impressive reduction in the size of the budget deficit from that planned by the President as recently as last January. To repeat what I said earlier, we must not expect a lower budget deficit to solve the inflation problem, but it constitutes a meaningful restraint on further acceleration. I believe that Federal Reserve monetary policy, despite the straying of M–1 above the Fed's targets, is operating in the same direction—not an effort to crush the expansion of the economy, but an effort to curb the tendency of inflation to get worse.

Our subcommittee will continue to explore the inflation problem and will keep our minds open to any constructive solutions that may be offered. We plan an early hearing, for example, on H.R. 13865, which I have cosponsored, that would require the President to proclaim more precise wage and price guidelines for the private economy, without going the route of controls. Among other things, the bill would mandate a serious study by the administration of the use of tax incentives to foster compliance with the guidelines—the interesting idea known as TIP, or tax based incomes policy.

But I do not want to create any illusions. We have good reason to hope that inflation will moderate from the 10.4 percent annual rate of the first half of this year, as measured by the Consumer Price Index. But the momentum of inflation is such that an era of price stability is nowhere in sight.

WHY A VOTE AGAINT KEMP-ROTH WAS A VOTE FOR HIGHER TAXES: THE BATTLEGROUND IN THE HOUSE NOW SHIFTS TO THE NOVEMBER ELECTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 10 minutes.

● Mr. KEMP. Mr. Speaker, political debates can be influenced by halftruths, and there is no more convincing evidence of this than what has happened in the House with respect to the Great Tax Cut Debate" in 1978. Under the guise of cutting taxes, the House has consciously acquiesced in allowing an increase in taxes.

One week ago today, August 10, the House passed the Revenue Act of 1978. It was billed by its sponsors as a major tax cut. Parenthetically, I was pleased it was in fact a cut in tax rates for capital gains. But the headlines the next morning carried the message, "House Passes $16 Billion Tax Cut," of which $10-plus billion was earmarked for individuals. But, that is far from the whole truth.

Why? Because Congress knew then, as it knows now, that the $10-plus billion cut for individuals will still leave the American taxpayers paying $16 billion more in 1979 than they paid in 1978. Plus, $29 billion more in 1980 and $52 billion more in 1981. A staggering $262.5 billion more through 1983.

There are two reasons why taxes are going up.

First, Congress has passed a $120 billion increase in social security taxes over the next 5 years. While there are many of us in Congress who voted against the payroll tax increase, there are just as many, or more, who want to keep it in place.

Second, inflation pushes taxpayers into tax brackets where the percentages they pay in additional tax dollars of income are increasingly higher, from 14 to 70 percent. The steep climb of these rates, coupled with inflation, has resulted in the middle class paying at rates once reserved for the wealthy. What is worse, the effects reduces incentives for workers, savers, and investors and those men and women who take economic risks. That causes an economic slowdown. It also accounts for another $215 billion in additional taxes through 1983.

The result? Unless individual income tax rates are reduced drastically, the American people will be paying $262 billion in additional Federal taxes through 1983. That's a quarter of a trillion in only 5 years. What is even worse to the incentive side of the economy is the fact that tax rates are increasing so rapidly that blue-collar men and women will soon be in the 50-percent marginal tax brackets when Federal and State tax rates are combined. I submit this will Britainize our economy and threaten every social program in our Nation.

What should Congress do? It should enact the Individual Income Tax Rates Reduction Act, which I offered as the substance of the motion to recommit last week. That measure would reduce individual income tax rates by about 30 percent over the next 3 years, starting January 1, 1979.

During the debate on that motion, I read into the proceedings a chart which showed that if the House rejected the motion and passed the committee-reported bill, H.R. 13511, instead and in tact, that the American people would still be facing the $262.5 billion tax increase to which I have just referred. That information was before my colleagues when they cast their vote on the motion to recommit. Here is that information, once again:

PENDING TAX INCREASE (DECREASES) UNDER CURRENT LAW, UNDER THE HOUSE-PASSED REVENUE ACT OF 1978, AND UNDER KEMP-ROTH

[In billions of dollars]

	1979	1980	1981	1982	1983	Total
Pending tax increases due to:						
Inflation [1]	16.6	27.8	40.8	55.2	72.4	213.0
Social security [1]	9.6	13.1	25.3	34.3	37.5	119.8
Total	24.6	40.9	66.1	89.5	109.9	332.8
Alternatives to offset these pending tax increases would result in the following tax ncreases/(decreases):						
H.R. 13511, the Revenue Act of 1975, as passed by the House	16.6	28.9	52.3	73.7	91.6	262.5
Kemp-Roth amendment [2]	3.6	(12.8)	(15.9)	(16.1)	(9.1)	(60.2)

[1] Based on calculations of the Joint Committee on Taxation, assuming 7.5, 7.0, 6.5, 6.0, and 6.0 inflation.
[2] To sec. 101 of H.R. 13511.

Now, what does that mean to the average family of four?

There are several ways to depict this. But irrespective of the way used, it means that the committee bill will result in substantial net tax increases over the next 3 years, whereas the Kemp-Roth amendment would have resulted in significant net tax decreases.

The first is a table prepared by the Associated Press and appearing around the country the morning after the vote. It shows what the cuts would be—without taking into account inflation or social security—according to the committee bill, the administration-backed Corman-Fisher substitute, and the Kemp-Roth amendment. This table shows, as will those which follow, that the Kemp-Roth amendment would have provided the greatest level of cuts over the next 3 years. It follows:

TAX CUT TABLE

Here is what congressional tax experts estimate federal income tax cuts would be under the bill which the House passed Thursday night and sent to the Senate.

Also shown are estimates for the two major alternative tax-cutting proposals which the House rejected.

This table is computed for typical taxpayers with deductible personal expenses of 23 percent of their income.

In this comparison:

"Income" is basic annual salary, wages, or self-employment income.

"Bill" is what the cut would be next year under the bill, which the House passed and sent to the Senate.

"Plan" is what the cut would have been next year under the Carter administration-backed plan sponsored by some Democrats. The House rejected this.

"GOP" is what the cut would have been under a Republican-sponsored alternative that would have phased in an average one-third reduction in personal tax rates over three years. The House rejected this.

"na" is figures which were not immediately available.

SINGLE PERSON

	Committee bill	Administration backed Corman-Fisher plan	Kemp-Roth amendment
SINGLE PERSON			
Income:			
$3,000	$2	NA	0
5,000	21	$58	$129
6,000	16	NA	199
8,000	12	NA	349
10,000	15	9	501
12,500	38	NA	655
15,000	71	56	817
17,500	87	NA	990
20,000	105	100	1,170
25,000	160	100	1,585
30,000	213	100	2,051
35,000	247	100	2,553
40,000	328	100	3,092
MARRIED COUPLE			
Income:			
$3,000	0	NA	0
5,000	0	NA	0
6,000	$31	NA	$78
8,000	47	NA	198
10,000	39	NA	318
12,500	14	NA	468
15,000	6	NA	624
17,500	25	NA	758
20,000	81	NA	912
25,000	160	NA	1,238
30,000	224	NA	1,616
35,000	286	NA	2,054
40,000	345	NA	2,516
FAMILY OF 4			
Income:			
$3,000	0	NA	0
5,000	0	NA	0
6,000	0	NA	0
8,000	$36	NA	$108
10,000	62	$260	228
12,500	105	NA	378
15,000	77	229	519
17,500	115	NA	653
20,000	146	228	792
25,000	232	308	1,103
30,000	304	423	1,451
35,000	388	NA	1,875
40,000	486	654	2,336

Now, taking inflation-pushed and social security tax increases into consideration, which we must do, because those are the realities we face, what does this mean to the average family of four, one with an adjusted gross income in 1978 of $12,000, $17,000, $20,000, $30,000, and $40,000?

In terms which do reflect inflation-pushed and social security tax increases, which we must if we are to have an accurate picture, here is what will happen if the committee bill becomes law, in contrast to what will happen if the Senate enacts Kemp-Roth and it is kept in the joint House-Senate conference committee:

1979–1981 CUMULATIVE TAX INCREASE (DECREASE) OVER 1978 TAXES [1]

[1978 constant dollars]

Adjusted gross income family of 4 in 1978	Kemp-Roth	Ways and means
$12,000	($260)	$335
$17,000	(749)	246
$20,000	(598)	660
$30,000	(1,756)	1,287
$40,000	(2,406)	1,579

[1] Includes social security and income taxes.

That is a dramatic difference in the amount of Federal income taxes paid over that 3-year period by those families.

I have had this cumulative information broken out for 1979, 1980, and 1981, for those with adjusted gross incomes of $12,000, $17,000, $20,000, $30,000, and $40,000. That information—showing the consequences just considering Federal individual income taxes, then showing those consequences when coupled with the increased social security taxes—follows:

CHANGE IN PERSONAL INCOME TAX LIABILITY UNDER WAYS AND MEANS BILL AND UNDER KEMP-ROTH FOR A FAMILY OF 4

[1978 constant dollars]

	Increase (decrease) over 1978 taxes under Kemp-Roth	Increase (decrease) over 1978 taxes under Ways and Means bill
1979 adjusted gross income: [1]		
$12,900	(82)	(2)
$18,275	(159)	(32)
$21,500	(225)	(66)
$32,250	(425)	(131)
$43,000	(663)	(160)
1980 adjusted gross income: [1]		
$13,803	(109)	85
$19,554	(286)	42
$23,005	(384)	33
$34,508	(734)	72
$46,010	(1,142)	174
1981 adjusted gross income: [1]		
$14,700	(160)	162
$20,825	(431)	107
$24,500	(558)	124
$36,750	(1,084)	260
$49,000	(1,688)	478

[1] Adjusted gross incomes shown reflect inflation rates of 7.5 percent in 1979, 7 percent in 1980, and 6.5 percent in 1981. The adjusted gross incomes were $12,000, $17,000, $20,000, $30,000, and $40,000 in 1978.

CHANGE IN PERSONAL INCOME TAX AND SOCIAL SECURITY TAX FOR A FAMILY OF 4 UNDER WAYS AND MEANS BILL AND UNDER KEMP-ROTH

[In 1978 constant dollars]

	Increase (decrease) over 1978 taxes under Kemp-Roth	Increase (decrease) over 1978 taxes under Ways and Means bill
1979 adjusted gross income: [1]		
$12,900	(73)	7
$18,275	(146)	(18)
$21,500	(70)	89
$32,250	(190)	104
$43,000	(428)	75
1980 AGI: [1]		
$13,803	(100)	94
$19,554	(273)	56
$23,005	(229)	188
$34,508	(425)	382
$46,010	(832)	484
1981 AGI: [1]		
$14,700	(87)	234
$20,825	(330)	208
$24,500	(299)	383
$36,750	(543)	801
$49,000	(1,146)	1,020

[1] Adjusted gross incomes shown reflect inflation rates of 7.5 percent in 1979, 7 percent in 1980, and 6.5 percent in 1981

Mr. Speaker, a vote against the Kemp motion to recommit was a vote for higher taxes, especially in the lower- and middle-income categories.

There is still time for Congress to reverse the House's position. The Senate will consider the bill in the coming weeks. And, there will be a newly elected House and Senate in January.

This, clearly, is the people's battle, and the outcome will depend on how much they demand these tax rates be reduced through their expressions to their Senators and through pulling the levers in the voting booths in November for the Senate and House candidates committ to a 30-percent tax rate reduction. T ambitious new idea and strategy m not have yet won a majority in the "I come-redistribution" oriented House, b it clearly has the majority of the Ame can people's support.

Despite the stridency of the rheto against Kemp-Roth and against my m tion to recommit, I firmly believe the who believe in these tax rate reductio have succeeded in advancing that n idea. We have raised the consciousn level of the debate in America as how to achieve noninflationary grow and jobs creation in our Nation. We w not give up our efforts to restore inc tive to America.

Mr. Speaker, I think Irving Kristol, t Henry Luce professor of urban valu at New York University, summed up t debate and the need for the Kemp-Ro legislation most articulately and perce tively in his column from the morning last week's debate:

POPULIST REMEDY FOR POPULIST ABUSES

(By Irving Kristol)

The spirited quarrels among economi in The Wall Street Journal and elsewh about the Kemp-Roth bill are interestin also more than a little confusing.

That liberal economists should oppose bill—which would slash individual inco tax rates by 30 percent over the next th years, and slightly reduce corporate rate well—is understandable. Most of them lieve, basically, that government can sp the people's money more wisely than people themselves. They are also commit to the egalitarian principle that affluent c zens should always pay more, never l taxes.

That some businessmen and some busin publications (e.g., Business Week and Forb should be distrustful of it is only a little understandable. For a good portion of business community still believes that tional economic policy should be govern by a simple and static principle: first bala the budget by cutting government's expen tures—and then cut taxes. This is prud bookkeeping but betrays a naive ignora of the dynamics of political economy.

What is extraordinary, however, is t so many conservative economists have a ambivalent attitudes toward the bill. O a few are opposed to it outright. Most them take the odd position that the think behind the bill is all wrong—"the Ken Roth Free Lunch," Milton Friedman call scornfully—but they (including Dr. Fri man) support it anyway. Why so critic And why such support, nevertheless?

There are two main arguments offered favor of the Kemp-Roth bill. The first is the effect that, without such a tax cut, assuming an average inflation rate of annually, marginal tax rates 10 years fr now will be absolutely horrendous. Speci ally, a four-person household with an ann income of $15,000 (in inflated dollars) 1987 will then find itself paying a 50% at the margin. This would be ruinous to economic incentives, and would proba provoke a major political convulsion as w The Kemp-Roth tax cut would permit taxpayer to avoid the "double whammy" c ated by inflation combined with the progr sive income tax.

The second argument is in response those who worry about the inflationary i pact of such a tax cut at this time, and w insist that it be accompanied by substant cuts in government spending. This argume is to the effect that, while every effort shou

certainly be made to hold down government spending—both Kemp and Roth, after all, are conservative Republicans—the tax cuts themselves will be so conducive to economic growth that government's revenues will eventually increase to such an extent as to make the budgetary deficit a negligible concern. And it is this issue—centering around the "Laffer curve" and its seemingly perverse promise of increased revenues through tax cuts—that creates a storm of controversy among conservative economists.

In fact, the argument from inflation, though it has a superficial plausibility, is—as Dr. Friedman would agree—beside the point. Paul Craig Roberts has shown persuasively in these pages that a cut in tax rates need not be inflationary. Inflation is a monetary phenomenon, and if the government does not finance its deficits via the printing press, there will be no inflation (though there can, of course, be other undesirable economic consequences). A tax cut can be funded by new debt, by borrowing from the public, rather than with newly-printed money.

Ah, Milton Friedman then intervenes, in that case you are not talking about a "real" tax cut at all! "The total tax burden on the American people," he writes, "is what the government spends, not those receipts called 'taxes.' And any deficit is borne by the public in the form of hidden taxes . . . ," for an increased deficit surely will have to be paid for with future tax revenues.

He is, as usual, absolutely right—from the point of view of academic economics. But academic economics is not quite the same thing as real-world economics. In the academic universe, little attention is paid to entrepreneurial innovation—an activity which, since it is not quantifiable in its extent or effects, is largely ignored by modern economic theory. Businessmen, who are growth-oriented, ought to understand this aspect of public economic policy better than they do. They are familiar enough with the example of a stagnant firm, already heavily in debt, restructuring itself internally to increase growth, and financing this process by increasing its debt in the hope that this will be more than compensated for by that future growth. In effect, Kemp-Roth represents such a restructuring and refinancing of the national economy, for purposes of growth.

That Dr. Friedman and other conservative economists nevertheless support Kemp-Roth, despite their continual sniping at it, is testimony to the fact that, if their economics is overly academic, their politics is not. They have learned the lesson of Proposition 13, which is that tax cuts are a prerequisite for cuts in government spending. The politics of the budgetary process is such that a cut in any particular program will provide intense opposition from a minority, and only indifference from the majority. In such a case, it is unreasonable to expect politicians to pay the high political costs involved. They can only cut when they are seen to have no alternative. The Federalist Papers refers to our complicated constitutional structure, with its checks and balances, as offering a "republican remedy for the abuses of republican government." The tax-cut movement represented by Proposition 13 and Kemp-Roth can, I think, with justice be described as a populist remedy for the abuses of populist government.

But to return to the controversial though by no means central economic question: Will, in fact, the Kemp-Roth tax cut generate enough economic activity, enough growth, and a sufficiently enlarged tax base, so that government's revenues actually increase to such a degree as to close the initial budgetary gap which such a tax cut will create? The only honest answer is that we don't know—no one knows—for certain. But we do know two things for certain.

First, it will surely generate a substantial degree of economic growth and will therefore probably result in some increase in government's revenues. The theory behind the Laffer curve is validated by both current and historical experience, even if—to the annoyance of academic economists—it does not lend itself to the kind of quantification that fits neatly into their macroeconomic procedures. Thus, one picks up The New York Times for Aug. 1 and reads a story on the sports page which begins as follows:

"SARATOGA SPRINGS, N.Y.—With a 'new deal' tax structure taking effect, New York horseplayers turned out in record numbers today for the start of Saratoga's 24-day thoroughbred meeting.

"With the parimutuel takeout reduced from 17 percent to 14 percent, a crowd of 21,228 showed up as America's oldest active race track opened its 110th meeting in 115 years. No first day here has ever been so busy."

As for our historical experiences with tax cuts, when Reg Jones of G.E. testified before the Senate Finance Committee last year he pointed out that we have had 11 tax cuts since World War II and that, in 10 out of those 11 cases, government revenues increased within a year. In the eleventh case—1948—it took two years for that to occur.

Secondly, if government's revenues should fail to increase sufficiently, and the budgetary imbalance is not ameliorated, then (and only then) can we anticipate that our political leaders will find it possible to make sharp cuts in spending. In politics, the necessary is sometimes a precondition for the possible.

So it seems to me that, for reasons both economic and politic, the Kemp-Roth bill is exactly the right medicine for what ails us at this time. It also seems a shame that so much intellectual energy should be expended in quarrels over whether the right medicine is being prescribed for precisely the right reasons.●

LEGISLATION TO AMEND INTERNAL REVENUE CODE WITH REGARD TO REAL ESTATE INVESTMENT TRUSTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. CONABLE) is recognized for 10 minutes.

● Mr. CONABLE. Mr. Speaker, I am today introducing, on behalf of Mr. CORMAN of California, and myself, a bill to amend sections 856 and 857 of the Internal Revenue Code of 1954, as amended, in certain respects. The amendments included in the bill would help solve some difficult problems faced by real estate investment trusts (REIT's) under the present provisions of section 856(e) and section 857(b)(6) of the code, which relate to the "foreclosure grace period" and imposition of the 100 percent "prohibited transactions" tax on gains from certain sales, respectively.

The Tax Reform Act of 1976 (Public Law 94-455) enacted a number of substantial changes regarding taxation of REIT's. Some of these changes were designed to reduce the consequences of certain acts which would result in the "disqualification" of a REIT. One area which has long been a problem relates to the limitation that a "qualified" REIT cannot hold "property primarily for sale to customers in the ordinary course of its trade or business." Since the determination in advance of what will constitute holding property for sale in the ordinary course of business is generally extremely difficult, the 1976 tax reform changed the statutory sanction against holding property for sale in the ordinary course of business for "disqualification" of the REIT to imposition of a 100-percent tax on the net gain from any such sales.

The substitution of the 100 percent "prohibited transactions" tax under section 857(b)(6) for "disqualification" was considered to be a helpful change for the REIT industry, although during the consideration of this measure in 1976, the industry urged that further refinement of this provision was needed. While both the Treasury Department and the Joint Committee on Taxation staffs recognized potential problems, there was not sufficient time to make the needed changes. Since enactment of the 1976 Tax Reform Act, trustees, in the management of their respective REIT's, have found themselves in an extremely difficult position as a consequence of the 100-percent tax possibility. Specifically, they have found it difficult to fulfill their fiduciary duty to manage their investment portfolios by upgrading their holdings to reflect changes in the economic climate affecting real estate investments.

Because the tests under present law as to what constitutes property "held for sale", as opposed to held for investment, are so subjective, tax counsel for trusts are unable to assure clients that a given sale may not constitute a "prohibited transaction." In addition, were trusts to make sales which could potentially be subject to the 100 percent tax, their auditing firms have indicated that they would be unable to certify subsequent financial statements of the trusts without indicating a large contingent liability related to the 100 percent tax danger. Given these difficulties, under present law trusts find themselves precluded from making certain sales which they otherwise should make, in the normal portfolio management of their trusts.

Accordingly, the bill is intended to aid both administration and compliance in the "prohibited transactions" area. It would establish guidelines as to certain sales, which, if met, would permit trustees to fulfill their responsibilities to their trusts' shareholders without unnecessary fear that any gain from such sales would later be subject to the 100 percent penalty tax. Basically, any sale of property which fits within such guidelines would possess the essential characteristics of an investment property, the sale of which is compatible with the overall policy underlying the REIT provisions in the code. The basic characteristics of the proposed "safe haven" contained in this bill are as follows:

First. A "qualifying" property would have been held by the taxpayer for a minimum of 4 years.

Second. The taxpayer may not make more than five sales of property in a given taxable year.

Third. During the 4-year holding period prior to sale all improvements to the property could not exceed 20 percent of the net selling price;

Fourth. The property sold would have to have been held for the production of rental income for at least four years within the period during which the trust held the property.

The "safe haven" created by the bill would affect only the applicability of the 100 percent "prohibited transaction" tax, and would have no impact upon the question of whether or not a particular gain would be treated as either a capital gain or ordinary income. On the other hand, a failure to meet the requirements for "safe haven" treatment would not create any negative inference as to whether or not such sale constituted a "prohibited transaction," that is, the failure would not be taken into account in determining whether or not the "nonqualifying" sale constituted a "prohibited transaction." That determination, as provided for in the bill, would be based on the facts and circumstances of each particular case by applying the general principles in the "holding for sale" area.

My cosponsor and I believe that the creation of this "safe haven" in the "prohibited transactions" area would greatly aid prudent investment management by REIT directors and trustees, permitting them to meet their fiduciary responsibilities to their shareholders, and at the same time reflect congressional intent in the enactment of the "prohibited transactions" tax to prevent "ordinary retailing activities" by real estate investment trusts.

EXTENSIONS IN THE FORECLOSURE GRACE PERIOD

The bill would also amend the Internal Revenue Code to permit the Internal Revenue Service to extend the "foreclosure grace period" provided for in section 856(e) to a maximum of 6 years, from the present maximum of 4 years. The "foreclosure property" provisions of the code were enacted in early 1975 (Public Law 93-625), when the real estate industry was in a substantial recession. The 1975 legislation permitted "qualified" real estate investment trusts to engage in certain otherwise nonqualified activities regarding properties which they had acquired through foreclosure and as to which they elected foreclosure property treatment, including the management of any such properties in a way not otherwise permitted. However, any profits from nonqualified activities are fully subject to taxation at the usual corporate income tax rates. This gives the trusts time within which to work out problem loans through completion and management of foreclosure properties until they can be sold.

Although it was realized in 1975 that recovery of real estate values would lag behind improvement in general economic conditions, the traditional lag in real estate recovery has been much longer in the most recent cycle than usual, as a consequence of the depth of the real estate recession. Therefore, the maximum 4-year "foreclosure grade period" thought to be sufficient at that time now appears to be too short. Conditions in the real estate market are beginning to improve and the REIT industry, in accord with the objectives of the original foreclosure property legislation, should have additional time to dispose of their remaining foreclosure properties in an orderly fashion. Accordingly, the bill would extend the maximum foreclosure grace period by 2 years.

Given the immediacy of the two problems faced by REIT's which this bill is designed to address, I urge its prompt consideration. I understand that these problems have been discussed with the Treasury Department and that the Treasury is in general agreement with the two proposals contained in the bill.●

TRIBUTE TO MANNY GORDON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. McDADE) is recognized for 5 minutes.

● Mr. McDADE. Mr. Speaker, I would like to take this moment to salute the individual who, for four decades, has been the environmental and conservation conscience of northeastern Pennsylvania, Manuel M. Gordon of Scranton.

Since his youth, Manny has had an abiding interest in the preservation of our land and has been actively engaged in forestry activities in the northern portion of our State.

In 1935, fresh out of Penn State University with a degree in forestry, Manny began his distinguished conservation career working at the Clearfield, Pa., CCC camp as a junior forester.

Four years later, Manny was named district forester of the Lackawanna Forest District headquartered in Scranton, a position he has held ever since. As district forester, Manny is in charge of programs in northeastern Pennsylvania dealing with forest management, including fire prevention and suppression. In fact, over the years, Manny has spearheaded a vigorous campaign to encourage individuals to take care of our precious land resources.

Folks throughout northeastern Pennsylvania feel as though they know Manny personally, for he has been featured in countless radio and TV spots urging the public to guard against initiating forest fires. His friendly admonitions have apparently been well taken, for the area has a first-rate record in forest fire prevention.

Manny has worked diligently to inform the public of the need to conserve our natural resources. He has been instrumental in efforts to locate a center for conservation education studies at the Milford, Pa., estate of noted conservationist Gifford Pinchot. This plan has been widely received and already has been accorded a measure of support from this House.

Manny's enthusiastic and effective approach to land conservation in the Lackawanna District has won him acclaim from numerous local and national organizations. His many recognitions include the Boy Scout Save Our American Resources award and the United Nations Distinguished Service Award.

I can think of no other person who has done more to promote the preservation of our natural resources in northeastern Pennsylvania than Manny Gordon. He is well deserving of our gratitude.●

THE QUESTION OF NITRITES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. WAMPLER) is recognized for 15 minutes.

● Mr. WAMPLER. Mr. Speaker, Friday the Department of Agric and the Department of Health, E tion, and Welfare issued a joint ment to the press which initiate following headlines: "New Study Nitrite Carcinogen—Findings May a U.S. Ban on Use of the Meat Addi "Nitrite-Cancer Link Cited in Study; FDA Hedges on Ban." "Pres tive Linked to Cancer—Meat Ind Pledges a Fight on Nitrites," and "U States Moves Cautiously on Nitrite sion After Study Suggests Direct C Link."

Our purpose in calling this press ference is to make our concern k about the MIT nitrite study and the it was handled and might be handl USDA and HEW in the future.

First, we want to reassure the suming public, the farmers of Am and the meat processing industry as Members of Congress, we are go insist that our Government is on and undisputed scientific ground b we allow any Federal agency to precipitous action to ban nitrites, we consider to be an essential pres tive used to guarantee the safety major portion of our food suppl was attempted last year by FDA w far less important substance—sacch

Second, we want to insure tha American people are properly and informed of the fact that there are serious economic, cultural, and h consequences involved in any consi tion to ban or remove nitrites as a servative in meats, poultry, and fis this regard, we believe this matter not been adequately explained to public.

Third, we, as Members of Congres deeply perturbed that our Govern has not addressed the real issue volved here, which are: What is a cinogen; what tests should be us determine the carcinogenic nature substance; how should test result interpreted; and how much exposure be permitted? If we do not make determinations, we will further co the public, create unnecessary infla ary pressures on the economy, and c needless adversarial pressures bet business, labor, and Government.

Fourth, we are deeply concerned the Department of Agriculture and Food and Drug Administration, u extreme pressures from activist cons groups, will take some precipitous a against nitrites between the time Congress adjourns and a new Con can be organized.

Finally, we note that while FDA USDA in their joint statement ackn edged specific problems in reaching sions on this case, they nonetheless nounced they are assessing several tions open to them and that a deci on these options would be forthcom In this regard, neither FDA nor U have approached the appropriate c mittees of Congress with these probl which we feel they should have done pecially since they have been awar these problems for several months.

Accordingly, Congressman Ma and I took action yesterday to intro

two separate pieces of legislation to assure that before any action is taken on nitrites, we receive answers to the same scientific questions which the Congress required in Public Law 95-203, in disposing of the saccharin situation last year.

The first bill, H.R. 13899, referred to the House Committee on Agriculture, delays the Secretary of Agriculture from taking any action respecting nitrites as a food preservative on the basis of any carcinogenic effect nitrites may be represented to have until 3 months after the saccharin study is completed.

The second action is House Resolution 1320, also introduced yesterday and referred jointly to the House Committee on Agriculture and Interstate and Foreign Commerce. This resolution states that it is the sense of the House of Representatives that any action respecting nitrites by the Secretary of Agriculture or the Secretary of Health, Education, and Welfare because of any carcinogenic effect that nitrites may be represented to have, should be delayed until after the completion of the saccharin study.

We expect to open both of these two pieces of legislation for cosponsorship to all Members of Congress shortly.

Before turning this press conference over to Congressman MARTIN, I would like each of you to note that the average value of processed meats, poultry, and fish sold in retail outlets in our country amounts to over $12.5 billion each year and that over two-thirds of the 5.6 million metric tons of pork produced in the United States in 1976 were cured and preserved with some form of nitrites. And that these nitrite-containing products, which appear daily on the breakfast and dinner tables of millions of American families—and in the lunch bags of our school children and the dinner pails of our working men and women, were made safe from deadly botulism and many stomach and intestinal disorders due to nitrite preservatives. Additionally, it should be noted that we have no known substitute that would be as cost effective to the American consumer for preserving and curing meat, poultry, and fish products as nitrites.

I would now like to turn this press conference over to my distinguished colleague from North Carolina, JIM MARTIN, who holds a Ph. D. in chemistry and taught in that field at Davidson College for 10 years before coming to the Congress.●

● Mr. MARTIN. Mr. Speaker, my colleague, Congressman WAMPLER, has described the legislation which we have introduced to head off any nitrite ban while Congress is adjourned. I will discuss briefly the benefits and risks associated with the normal use of nitrite as a preservative.

IS SODIUM NITRITE CARCINOGENIC?

The recent MIT study concludes that it is, though with some qualifications. When 1,380 Sprague-Dawley rats were fed a variety of diets laced with varying large amounts of sodium nitrite, averaging about 0.15 percent $NaNo_2$, or roughly 75 mg $NaNo_2$ per kilogram of body weight, 172 (12.5 percent) of them developed neoplasms of the lymphoreticular system. Significantly, 8.4 percent of the nitrite-free control group of this standard hypersensitive test animal also had lymphomas. No distinction was made between benign and malignant growths, except to point out there was no association with leukemia.

No proportionality between dose and tumorgenesis was reported. Increasing nitrite in an agar diet showed two ascending plateaus; while on a chow diet, the highest dose level of nitrite resulted in the same incidence of lymphomas as the control group, but one-third less than at an intermediate dose. When nitrite was added in water, doubling the dose led to a slight decrease in tumors.

The authors conclude that the average 4 percent elevation in response is grossly attributable to the 75 mg of $NaNo_2$ per kilogram of body weight, but offer no explanation for the wandering irregularity plotted against dose level. They summarize their own results as "a somewhat less than convincing case that nitrite is lymphomagenic." We do not quarrel with either conclusion, and acknowledge that in order to produce this small but statistically significant increase it was necessary to feed these cancer-prone rats 1,500 times as much nitrite on average as humans ordinarily ingest from cured meats, the human equivalent of eating 586 pounds of cured meats per day.

Now what does all this mean?

It means that if humans are proportionately as sensitive to very small amounts of nitrite as these rats are to rather large doses, which is a debatable assumption among toxicologists, then the normal intake of preservative $NaNo_2$ in cured meats would be expected to cause 267 additional cases of lymphoma per 10 million population, or 6,000 per year for the U.S. population—not all of which would be fatal.

The actual daily human intake of $NaNo_2$ in cured meats is 3.5 milogram, or 0.05 milogram per kilogram for a 155 lb. (70 kilogram) person. If you assume (which I do not) a proportional dose-response, then if 75 milogram per kilogram induces 4 percent incidence, 0.05 milogram per kilogram would induce 0.00267 percent of 27 per million, or one in 37,000.

The assumption of proportionality at low doses is very probably invalid, leading to a very high prediction. At least 2 dozen carcinogens have now been studied that show a threshold level, below which the cancer incidence drops off markedly.

More specifically, the 3.5 milogram amount of human ingestion of sodium nitrite from cured meats is about one-fourth the naturally occurring nitrite in your natural saliva, another 12.9 milogram (as $NaNo_2$). An additional 148 milogram is naturally generated from protein in the intestines and absorbed into the bloodstream. That is 42 times as much as is ingested.

To ban cured meats alone, thus would only remove about 2.1 percent of your daily exposure of nitrite, the other 98 percent not being readily subject to regulatory prohibitions. It would take a curious ban indeed to eliminate more than 2 percent of nitrite exposure.

So 6,000 cases—27 per million—is far too high. Even if all 18,600 a year in the United States were assigned to nitrite, which would be unjustified and highly improbable, only about 390—2.1 percent—would be the burden of cured meat, the other 18,210 being the share of saliva and digested protein. Cut these estimates in half, and 200 a year—1 per million—is the estimated toll for cured meats.

Bear in mind that the dose used on 1,380 rats was an average of 1,500 times as great. The equivalent human dose would be—3.55 times 1,500—or 5,325 milograms, almost 2 ounces a day.

Again, the outside risk of nitrite as a preservative in cured meat is on the order of 1 per million, or so.

Now, what about benefits?

ANTI-SPOILAGE BENEFIT OF NITRITE

The benefit from nitrite is best defined as the risk from not adding it: Botulism. Nitrite is processed into various meat products because it is unmatched in retarding spoilage. Nitrite inhibits the formation of botulinum toxin, as well as other less deadly food poisons.

There is, unfortunately, no satisfactory substitute. A sufficient amount of sodium chloride would increase the risk of various circulatory disorders. Freezing and drying and pickling have some applications but are limited. Only with nitrite can we confidently protect hotdogs, Vienna sausage, corned beef, canned ham, coldcuts, many poultry products, and so forth. Substitute meat products would not have the shelf life or the outdoor picnic convenience.

With nitrite curing, botulism in the United States has been reduced to five deaths a year, none due to cured meats. Without nitrite, we would frequently have outbreaks of this fatal nervous disorder.

WHAT IS THE ALTERNATIVE?

As indicated already, nitrite is nearly indispensable. Neither would it be sensible to avoid cured meats. What could you turn to that is free from any theoretically small risk of carcinogen?

Most natural foods contain small amounts of naturally occuring carcinogens, like estrogens, calcium salts, selenium, ergot, the potent aflatoxin, and other mycotoxins. Broiling meat will cause some steroid decomposition to form polycyclic aromatic hydrocarbons, fortunately in very small amounts. All protein contains the essential amino-acid tryptophan, which in large dose studies shows effects similar to saccharin.

Of all the factors associated with cancer, clearly the most indicated is a rich diet in animal fat.

Anyone who insists on avoiding exposure to all carcinogens in the food supply must starve. There is no escape from risk.

In the case of nitrite, we believe the risks for banning it far outweigh the moderately small risk derived at worst from this new evidence. We oppose any efforts to ban it. We will seek to counteract the pressure exterted by certain consumer advocates who insist on banning nitrite—just as we earlier successfully opposed their pressure to ban saccharin.

Real consumers are entitled to a bal-

anced diet where all the inherent risks of food are balanced to a minimum level.

Anyone who conscientiously and consistently insists on a zero-risk diet would be, by definition, a nonconsumer.

We recognize that the so-called consumer division of the Department of Agriculture has earnestly sought to ban nitrite. We believe that goal does not serve the best interest of real consumers, or their nutrition and health needs. While the Agriculture Department is "assessing several options" we suspect that one such option would be to wait until the Congress adjourns and then impose their ban before we return in January. A secret plan disclosed today by United Press International seems to confirm our suspicion.

Accordingly, we will seek to alert and persuade our colleagues that the best way to secure the benefits of nitrite is to move before we adjourn to address the issue and direct the Secretary of Agriculture to make no drastic moves on nitrate.●

LEGISLATION TO PERMIT VA LOANS DESPITE USURY PROVISIONS OF STATE CONSTITUTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. HAMMERSCHMIDT) is recognized for 5 minutes.

● Mr. HAMMERSCHMIDT. Mr. Speaker, the banking industry in Arkansas has reached a crisis state due to rising interest rates, and the State constitution's usury provision that forbids interest rates that exceed 10 percent on certain loans. As a result, billions of dollars may soon be leaving Arkansas, to be invested in other States where no such limitation exists.

I am a strong believer in the rights of States, and particularly our State, to control their own destinies, and have always opposed Federal intervention into State matters. However, I have been informed that mortgage and other loans in Arkansas are now rapidly drying up, and may be nonexistent by October. We have reached a crisis period for those who depend on Veterans' Administration insured or guaranteed loans. As a result, I am introducing legislation that will exempt Veteran's Administration insured or guaranteed loans from State constitutional limitations, unless the State Legislature votes to preserve such limitations. This will allow an immediate solution to the crisis, and at the same time preserve the right of Arkansas to control its own usury laws.●

ENORMOUS AMOUNT OF WASTE EXISTS IN CATEGORICAL GRANT SYSTEM ADMINISTERED BY HEW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Hampshire (Mr. CLEVELAND) is recognized for 5 minutes.

● Mr. CLEVELAND. Mr. Speaker, as most Members of Congress know, the HEW budget has grown enormously during the 25 years of its existence. Its budget ranks third in the world and is surpassed only by the budgets of the U.S. Government and the Soviet Union.

For this reason, it comes as no surprise that there have now been published reports of substantial waste and fraud in this enormous budget. What to do about this is a question of importance.

A while ago I received from a constituent, Robert W. Ray, chairman, school board of New Hampshire Public Schools Supervisory Union No. 47 in Peterborough, N.H., a letter which in my opinion deserves our attention. In an interesting and forthright manner he advocates less rather than more Federal aid to education. It came as quite a surprise to receive such a request. For this reason, I wish to share this interesting letter with my colleagues.

Mr. Ray points out in his letter "that the tax dollar which travels the least distance from its sources provides the most service." In my opinion, he is right.

Based on my experience over the years with Federal aid to education there is an enormous amount of waste inherent in the categorical grant system administered by HEW and supported by the Federal and State bureaucracies which enrich themselves by administering those programs. It is regrettable that any attempt to improve this delivery system by block grants is consistently opposed by the bureaucracies and special interests involved. The last attempt to adopt the block grant approach, by Mr. ASHBROOK of Ohio, occurred on July 13, 1978. It was rejected by a vote of 79 to 290.

Mr. Ray's thought-provoking letter follows:

NEW HAMPSHIRE PUBLIC SCHOOLS
SUPERVISORY UNION NO. 47,
Peterborough, N.H., October 14, 1977.

Hon. JAMES C. CLEVELAND,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN CLEVELAND: Our school system does not have sufficient funds to meet the needs of all handicapped children. Therefore, we request that you reduce Federal support for health, education, and welfare. A contradiction? Not at all! Sufficient funds are already available to meet the needs of handicapped children and a host of other problems. We do not need to collect a single additional penny in Federal taxes. The reason for our belief is apparent only when one stops looking for more money and starts looking at how current money is used. The truth might be stated as a principle; that the tax dollar which travels the least distance from its source provides the most service.

We have experienced (even participated in) the proliferation of Federal programs for human services during the past ten years. The legislative intent of statutes reducing discrimination due to race, sex or handicap is to be applauded and actively supported. The implementation of these intentions through Federal funding is to experience frustration, anger, rage, tears and finally cynicism. Add the waste of dollars through our staff time in application forms, budget reports, evaluations, and changes in guidelines for twenty or thirty different packages of Federal funding (approximately $1.00 in every $5.00) to the $1.00 in every $4.00 lost as the money is passed through the State and finally to the $1.00 in every $3.00 to $4.00 lost in the massive bureaucracy of HEW. The cumulative effect is almost beyond our imagination when viewed nationwide. In our small piece of New Hampshire we estimate that for every (dollar) of Federal taxes earmarked for human services less than fifty cents returns to produce real service. Even if we are only half right the effect on people is unforgivable.

Our small school system receives app
mately $100,000.00 in a variety of pac
from the Federal Government (the pe
ing alone is a source of much maladm
use). If we had allowed the original tax
lars to be raised and used locally, over
000.00 would have been available for ser
This difference of at least $100,000.00 is
bureaucracy is more than we need to
vide complete programs for all handic
children in our schools. Unless you ch
the system, the waste of our dollars wi
crease and the needs will continue u

Our message is simple. Drastically r
the scale of HEW. Hold us accountab
meet the requirements of the law with
lars raised and expended at the local
and pass the savings along to the p
through decreased Federal Income Tax

Very truly,

ROBERT W. RAY,
Chairman, School Board

INDIVIDUAL RETIREMENT ACCOUNTS

The SPEAKER pro tempore. Und
previous order of the House, the ge
man from Illinois (Mr. CORCORAN) is
ognized for 5 minutes.

● Mr. CORCORAN of Illinois.
Speaker, today I am introducing leg
tion to amend the Internal Revenue
to allow a savings deduction for pe
covered by certain pension plans.

It has been brought to my atte
by several of my constituents that
tax laws regarding pension plans
to prohibit individuals from taking
vantage of the maximum contrib
allowed by an individual retiremen
count (IRA). This situation is com
to many small businesses with
modest pension plans.

This legislation also addresses
situation in which an employee doe
work enough years with his/her
pany in order to qualify for the com
plan. A change in the law would
this person to set up his own IRA
though his company operates a pe
program.

This proposal is similar to many o
which have been introduced in Cong
in that it allows a taxpayer to su
ment his contribution to a tax-ex
fund for retirement security.

I urge my colleagues to support
legislation as soon as possible.●

AUGUST 21 MARKS 10TH ANIV SARY OF INVASION OF CZEC SLOVAKIA

The SPEAKER pro tempore. Und
previous order of the House, the ge
man from Florida (Mr. YOUNG) is re
nized for 5 minutes.

● Mr. YOUNG of Florida. Mr. Spe
August 21 will mark the 10th anniver
of the invasion of Czechoslovakia by
Soviet Union. It is important that Am
cans take time to memorialize the p
of the people of Czechoslovakia who
been overcome by the ruthless tyra
of the Soviet Union.

Our Nation carries a great burden
responsibility as the leader of the
world and the champion of oppre
people everywhere. We take for gra
many of the rights that citizens of
tive nations, like Czechoslovakia,
systematically denied. Our leaders

made human rights a major consideration of our foreign policy, but the basic human right of freedom of the individual is still denied to many millions. We must not take this obligation lightly. Our Nation was founded on the principles of liberty and democracy which are spelled out in our Constitution and Declaration of Independence. The human right of freedom knows no political or geographical boundaries and we who lived under a free government for all of our lives must be concerned with the plight of the freedom-loving Czechs and Slovaks.

Czechoslovakia exemplifies the true meaning of human rights. Soviet repression has been consistent and harsh. Human rights have been violated in numerous ways and these violations are continuing. This ongoing repression makes it even more incumbent upon us to uphold our heritage of a free and open society and we must champion the cause of self-determination for the Czech people. The United States must continue to support the aspirations for freedom, independence, and national self-determination of all peoples. We cannot accept foreign domination by any nation over another nation. To this end we remain committed and we must not waiver from our responsibility.●

KIM DAE JUNG: PRISONER OF CONSCIENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New Jersey (Mrs. FENWICK) is recognized for 5 minutes.

● Mrs. FENWICK. Mr. Speaker, I would like to bring to the attention of my colleagues the situation of Mr. Kim Dae Jung, who staged a hunger strike earlier this month to commemorate the fifth anniversary of his illegal kidnapping from Japan by agents of the South Korean Government.

A leading opposition leader and presidential contender in South Korea, Mr. Kim spoke out in 1976 against continuation of emergency rule in Korea, and in favor of releasing political prisoners and restoring basic liberties to the people of South Korea. Found guilty of agitating to overthrow the Government, Kim and 17 other men and women were arrested and sentenced to long prison terms.

Last spring, the last of the 17 other people were released, after signing statements repudiating their past actions. Only Kim has refused to do this, and only Kim remains incarcerated. He is now seriously ill with sciatica.

The case of Kim Dae Jung is a classic case of a prisoner of conscience. I join many others, including such organizations as Amnesty International, who have called for his unconditional release from prison.●

THE THWARTING OF LEGISLATION TO REFORM AND EXTEND THE RENEGOTIATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. MINISH) is recognized for 15 minutes.

● Mr. MINISH. Mr. Speaker, a concerted effort by defense and aerospace lobbyists, working with their allies in the Congress, has temporarily thwarted legislation to reform and extend the Renegotiation Act. Funding for the Renegotiation Board now is set to expire sometime early next year.

It is appropriate, at this point, to ask why the giant defense conglomerates and their lackeys in the House, have devoted such massive time and resources to the abolishment of the Renegotiation Board. Who benefits if there is no longer a Renegotiation Board to recapture excessive profits?

When the ancient Romans had to decide who had committed a crime, the first question they asked was "Who benefits?" The answer to this question usually gave them a good idea of who did what and for what reasons. Similarly in deciding whether to abolish a Federal agency, we, as Members of Congress, should ask, "Who benefits?" Who stands to gain from killing renegotiation?

DOES THE FEDERAL GOVERNMENT BENEFIT?

The basic reason for having renegotiation is that there is very little true competition in the defense industry. The Government consistently awards well over 50 percent of its defense contracts on a sole source basis. In 1977, 62.4 percent of Government business was awarded to sole sources. This figure is up from 57.4 percent in 1976. Most of the remaining Government contracts are awarded in situations where there are only a few competitors for Government business. The basic fact of life in defense procurement is little or no competitive pressure to keep price and profits at a reasonable level. Excessive profits occur because the defense industry is a sellers' market. In a sellers' market, the Government, as the buyer, is at a disadvantage. In most cases, Government contracting offers cannot foresee or prevent excessive profits. The only way to deal with the contractor's advantage of the sales in defense procurement is for the Government to go back and look at profits after contracts are completed. Only the Renegotiation Board can do this.

The defense contractors and those who support them suggest that the safeguard built in to the contracting process can prevent excessive profits. This simply is not so. In 1976, despite all the refinement in the contracting process, the Renegotiation Board found excessive profits of about $40 million dollars. The Renegotiation Board remains the only governmental agency which examines profits in retrospect, on an aggregate fiscal year basis. As the GAO report, entitled "Causes of Excessive Profits on Defense and Space Contracts" recognized, renegotiation is needed as a supplement to the contracting process. The GAO report said:

> While procurement is concerned with prices, including costs and profits, paid by the Government, renegotiation is concerned with eliminating excessive profits made by contractors. Renegotiation operates generally after contracts have been completed, to determine retrospectively, whether the profits made were excessive.

Even assuming we had efficient and effective price renegotiation for contract awards, we believe that renegotiation of actual profits realized is desirable to prevent excessive profits which result from changed conditions that cannot be anticipated at the time of contract award.

The defense contractors and their supporters put much stock in the protections afforded the Government with the contracting process. What they have not told the American public is that at the same time they talk about the protections within the procurement process they are trying to do away with them. At the same time, the contractors are trying to kill renegotiation they are pushing a bill called the Federal Acquisition Act which would substantially inhibit the effectiveness of the Cost Accounting Standards Act and other procurement safeguards which the contractors say make renegotiation unnecessary.

Clearly, the Federal Government does not benefit if renegotiation is abolished.

DOES SMALL BUSINESS BENEFIT?

Opponents of renegotiation continually moan about the affect of renegotiation on small businesses. Its about time they admitted who will profit most if renegotiation is killed. Many thousands of companies receive government contracts but over two-thirds of defense business goes to the largest 100 defense contractors every year. My bill, H.R. 5959, which would extend the Renegotiation Act, would also exempt practically, all small businesses from renegotiation. If renegotiation is killed, the bonanza will go to the big multi-million dollar defense contractors. This Congress and the American people should realize that when Congressmen oppose renegotiation they are doing so on behalf of Lockheed and McDonald Douglas and Hewlett-Packard and not on behalf of small businessmen.

DOES THE AMERICAN TAXPAYER BENEFIT?

Mr. Speaker, we all realize that the one thing that people want from their government more than anything else is accountability. People want their government to do everything in its power to insure that their money is not being wasted. Yet, if the Government pays more than it should for military hardware, it is wasting peoples' money. If there is no Renegotiation Board, the Government will not even know when excessive profits are occurring, much less be able to recoup them. Since 1971, the Renegotiation Board has made excessive profit determinations of over $230 million. Since the inception of the act, the Board has made excessive profit determinations of more than $1.3 billion and $1.168 billion has been recovered or is owed to the Treasury. During this entire period of time, the full 27 years, the Board's total salary and expenses totaled approximately $98 million, much less than 10 percent of the recoveries.

Renegotiation is not an unreasonable burden for defense contractors. Defense contractor lobbyists cite phoney studies to claim that it costs hundreds of millions of dollars to comply with Renegotiation Act requirements. This is pure baloney. Most of the data required by the Board is information companies need in their normal course of business. The cost of renegotiation is more than offset by the money recovered for the Government. But even if this were not the case,

renegotiation is necessary to deter those who would overcharge the Government.

Over the last 2 years, the Board has experienced internal and other problems. This and the need to reorganize with the new Board appointees, has slowed its work somewhat. Nevertheless, the Board during fiscal year 1978, with a budget of $6 million, has issued excessive profit determinations of $27.590 million. The reorganization is now behind them and it is my hope, that with a full and more stable Board, recoveries will increase significantly.

Mr. Speaker, I, for one, do not want to have to explain to my constituents why there is no longer a Federal agency to monitor and prevent the Government from overpaying defense contractors. It would be very hard to explain, given today justifiable concern with unchecked Government spending, to the voters why this Congress decided to do away with one of the few Federal agencies which actually returns money to the Treasury.

WHO DOES BENEFIT?

Opponents of renegotiation contend that it is useful only in wartime and is unnecessary in peacetime. This allegation does not stand up to the facts. We spend more for military hardware now than we did during many of the war years. For example, the Military Procurement Budget in dollar figures was higher for fiscal year 1977 than it was for any of the Vietnam war years. The Government spent $55.6 billion dollars on military procurement in 1977, as compared to $44.6 billion dollars in 1967, and $43.8 billion dollars in 1968; the peak Vietnam years. Just last week the House passed the largest appropriation bill in the Nation's history—$119.2 billion for the Department of Defense. Because of our increasingly high volume of military spending, the economic justifications for renegotiation exist in peacetime as well as in wartime.

In addition to allowing future excessive profits to go unchecked, elimination of the renegotiation process would wipe out a backlog of over $150 billion in defense contracts which were awarded in the last few years. Some of the largest corporations in the defense industry have billions of dollars worth of unexamined contracts in the Board's backlog. Not surprisingly, these corporations have lobbied the hardest—but quietly—through both their trade associations and various Members of the House, to see that the Renegotiation Board is abolished. Who are these contractors and how much do they have to gain from an end to renegotiation?

Amount of renegotiable sales in board's backlog (end of 1977)

[In billions]

McDonnell Douglas	$7.355
Lockheed	7.198
United Technologies Co	5.127
Boeing	5.055
General Electric	4.928
Rockwell International Corp	6.519
Grumman Corp	3.550
General Dynamics Corp	3.352
Hughes Aircraft	2.946
Northrup	1.906
Total	47.916

Mr. Speaker, if Congress does abolish the Renegotiation Board and wipe out its backlog, it will be very difficult indeed to explain to our constituents why we looked the other way as literally hundreds of millions of dollars in excessive profits were ignored or wiped away. We will have neglected our duty to make Government accountable for its actions.

There is a lot of talk around the country about a tax revolt. Many Members of this House have associated themselves with this movement—calling for reduced Government spending and reduced taxes. There is a strong feeling among many taxpayers that their money is being squandered by the Government—that there is considerable waste and inefficiency in defense procurement. They look to their Representatives in Congress to watch over the executive branch. And what do they see Members of Congress doing?—kowtowing to the lobbying pressures of large defense contractors who do not want to refund excessive profits they make on defense contracts. If defense contractors are not, in fact, making excessive profits, why should they object to a requirement that they demonstrate that fact to the Renegotiation Board?

Mr. Speaker, my constituents want accountability in government. They want to be reassured that their Government is not wasting their taxes—that it is not paying more than it should for military hardware. They do not want to see the Government dismantle their safeguards against excessive profits.

A vote against renegotiation is a vote against economy and integrity in government. It would signify to the people back home that when it comes to complex issues involving big business, their representatives in Washington are unable to stand up to the pressures that high-priced lobbyists can bring to bear.

How can a Member, in good faith, tell his constituents that he is looking out for their interests and then vote to kill the only agency in Government that saves taxes? He cannot. If the efforts of certain Members of this House in trying to kill the Renegotiation Act were fully known to their constituents, I doubt these Members would be with us next session.

In summary, renegotiation is necessary. It is economical. It helps insure some integrity in defense contracting. It safeguards against excessive profits. It actually helps small business by curbing excessive profits by its large competitors. It is preferable to the profit-limiting provision of the Vinson Trammell Act. It is in the public interest.

Therefore, I urge House support of the renegotiation process and strongly recommend that the House defeat those bills which would abolish, weaken, or curtail proper funding of the Renegotiation Board.●

TRADE NEGOTIATIONS MUST AID AGRICULTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. MCFALL) is recognized for 10 minutes.

● Mr. MCFALL. Mr. Speaker, I want share with my colleagues in the Hou some thoughts and observations co cerning the position of the United Stat in international trade, and more speci cally, the ongoing multinational tra negotiations in Geneva.

First, I wish to point out that I ha been impressed with the efforts and de ication to purpose demonstrated Ambassador Robert Strauss in headi the U.S. trade negotiating team.

By July 13, 1978, the negotations h resulted in the "Framework of Unde standing" issued on that date in Gene Unfortunately, the goal of achievi agreement on the basic principles for new trade pact by mid-July could not achieved. A month has now passed sin the "Framework of Understanding" w issued, and I believe an appraisal where we are now is appropriate.

December 15, 1978 is the new targ date for agreement in the negotiatio I sincerely hope that the negotiatio can be successfully concluded by th date. However, I am not willing to d scribe as "successful" any agreeme that could be produced at the Gene negotiations. I believe significant ne opportunities for U.S. agricultural pro ucts, and particularly California fru and vegetable crops, in foreign marke is the key to a "successful" new tra pact. I also believe that foreign mark access for U.S. agricultural products the primary item on the agenda to resolved before the negotiations c move forward.

In previous MTNs, the United Stat has maintained that it must improve t access to foreign markets for America agriculture. The European Communi and Japan responded that such mark access concessions could not be mad The United States insisted. The Eur pean Community and Japan insiste The United States backed down. Amer can agriculture got much less that deserved, and certainly much less tha it needed.

The United States is now paying t price for its performance in past mult national trade negotiations. From a reports I have heard, the European Com munity and Japan have thus far show no true willingness to open their marke more fully to American agricultural e ports. I suspect that they believe th United States will again backdown an negotiate away the needs of America agriculture. Ambassador Strauss h consistently stated that to have a ne trade pact, American agricultural e ports must have improved access to fo eign markets. I urge the European Com munity and Japan to heed the Ambass dor's words. The needs of America agriculture are no longer the price th United States is willing to pay in ord to get a trade pact—any trade pact.

I have heard some speculation that th European Community and Japan woul rather have no new trade agreemen than agree to any pact that would allo significantly increased volumes of Ame ican agricultural products to enter the countries. This may be true. I canno say. But if it is true, Japan and th European Community will be pursuin a very dangerous trade policy.

If the December 15 deadline is not met and there are no prospects for an early conclusion to the MTN, then I believe the domestic pressures for unilateral trade action by the United States may easily become impossible to restrain. The resulting deterioration of trading relations could be rapid, and threaten the entire framework of international commercial ties. Which country would come out on top is impossible to predict, although I suspect that all would lose more than any would gain.

Japan and the European Community must realize that the American people will not constantly endure the United States accepting an inferior trading position. Many Americans believe the United States should not allow European and Japanese products to enter this country if our exports, particularly agricultural commodities, are not allowed to enter their countries with equal ease. I expect that the Congress due to convene next January will be more "American first" and less "free trade" than the current Congress.

If the next Congress is more protectionistic, and the MTN has not produced a successful trade agreement, then our foreign trading partners must be prepared for the United States to take a more forceful stance regarding foreign trade. Mechanisms to protect American markets from foreign imports could be strengthened to the detriment of foreign producers.

On the other hand, if the next Congress is presented with a new trade pact that offers American agriculture improved access to foreign markets, I believe the Congress would not only ratify it, but also adopt a conciliatory posture toward international commerce generally.

The options are clear. The European Community and Japan must decide what the outcome will be. I note that Japan is sending to the United States in early September, a team of negotiators well versed in agriculture for discussions with our trade officials. Additionally, the European Community Council of Ministers is expected to meet at the end of September to consider the European Community posture on agriculture in the MTN. They should pay close attention during their deliberations to the clear, consistent, and absolute message from the American negotiators: American agricultural access to their markets must be increased significantly.●

ACHIEVEMENTS CHECKLIST FOR PRESIDENT CARTER AND THE 95TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

● Mr. BRADEMAS. Mr. Speaker, as Congress tonight begins a District Work Period, I take this time to make a few comments upon the work of the 95th Congress and of President Carter so far in dealing with the problems that face the American people.

Only yesterday the House of Representatives, by a vote of 217 to 178, approved the binding second budget resolution for fiscal 1979 setting a deficit of $39.790 billion—the lowest deficit in 5 years.

This action, Mr. Speaker, marks a one-third reduction from the $60.586 billion budget deficit requested by the President in January 1978, and a one-fifth cut from the $50.9 billion deficit proposed by the target first budget resolution in May.

In the budget resolution passed yesterday, the House cut outlays for fiscal 1979 by more than $10 billion from the President's January request and by $9 billion from the May target.

Following are the House-approved Federal budget figures for fiscal year 1979:

[In millions of dollars]

	President's budget	1st resolution	2d resolution	Difference from 1st
Revenues	439,588	447,900	450,000	+2,100
Budget authority	568,172	568,850	561,019	−7,831
Outlays	500,174	498,800	489,790	−9,010
Deficit	60,586	50,900	39,790	−11,110
Debt subject to limit	867,547	849,100	838,127	−10,973

Last week, Mr. Speaker, the House of Representatives passed a $16.3 billion tax reduction bill after first rejecting an inflationary alternative that would have reduced Federal revenues by 30 percent over 3 years and forced huge deficit spending.

Mr. Speaker, the 95th Congress and President Carter, working together, have already achieved the distinction of helping provide more jobs for Americans over a 12-month span—almost 4 million jobs in the year ending July 1978—than for any year since 1940.

Mr. Speaker, during the period since the coming to office of President Carter and the 95th Congress, we have seen an addition to the American economy of approximately 6 million new jobs. This remarkable employment surge is in part the result of the farsighted economic stimulus package of early 1977 which included tax cuts, local public works, anti-recession assistance to States and other localities, and other job-creating measures.

The unemployment rate for July, after correction for an abnormal dip in joblessness during the June summer hiring season, was down to 6.2 percent, a decrease in the rate of 1.6 percent since November 1976.

Mr. Speaker, I shall not now take time to try to analyze all of the legislative achievements of the 95th Congress to date.

I do however believe that it will be useful to Members if I here list these achievements as of August 11, 1978.

This "achievements checklist," which was prepared by the staff of the House majority whip, which responsibility I have the honor to hold, is organized by the following categories:

ACHIEVEMENT CHECKLIST

The Economy.
Housing and Other Economic Items.
Energy.
Social Services.
Special Tax Provisions.
Ethics Reform and Other House Activities.
General Government.
International Affairs.
National Defense.
Science.
Health.
Education.
Labor.
Consumers.
Justice.
Environment.
National Parks and Recreation Areas.
Maritime.
Transportation.
Indian Affairs.
Drought and Disaster Relief.
Federal Employees.
Veterans.
District of Columbia.
Appropriations.

THE ECONOMY

Revenue Act of 1978

The House has passed a bill cutting 1979 income taxes by $16.3 billion—$12.8 billion for individuals and $3.8 billion for business. The bill would provide substantial benefits to middle-income taxpayers, homeowners, small businesses, foster capital formation and make substantive changes in capital gains. Elements of the individual cuts include rate cuts in certain tax brackets, a widening of existing brackets, the effect of an increase in the standard deduction of prior law and an increase in the personal exemption to $1,000 per person (from $750). Capital gains changes include a new maximum tax of 35 percent, a 10-percent alternative minimum tax on certain gains, a one-time exclusion of up to $100,000 from sale of a principal residence, and an inflation adjustment to the basis of assets sold for gain. The bill would create a new targeted jobs tax credit program and cut corporate tax rates and make permanent and broaden the 10-percent investment tax credit. (H.R. 13511)

Tax Reduction and Tax Simplification

A new law will cut taxes by $34-billion over three years and give businesses a tax credit for certain new employees they hire in 1977 and 1978. The law also provides for simplication of tax computation for individuals, extends the sick pay exclusion and makes other revisions of the Tax Reform Act of 1976. (PL 95–30)

Public Works Jobs

A new law triples, from $2 billion to $6 billion, the authorization for federal grants for local public works. The projects will create an estimated 600,000 jobs, largely in construction and related industries in areas of high unemployment. (PL 95–28)

CETA Extension

Congress enacted a law providing for a simple extension through fiscal 1978 for existing programs under the Comprehensive Employment and Training Act. (PL 95–44)

CETA Amendments

The House began consideration of an extension of the Comprehensive Employment and Training Act that has the targeted aims of, first, combining the current Title I comprehensive manpower and Title II public employment programs into a single employment and training program for the structurally (without job skills) unemployed poor; and, second, creating a countercyclical public service employment program to employ 25 percent of the jobless in excess of four percent unemployment. The bill would also strengthen anti-abuse provisions, reauthorize Job Corps, summer youth jobs and the Young Adult Conservation Corps and create a new private sector initiative program. (HR 12452)

Supplemental Appropriations

Congress enacted a law appropriating $28.9 billion, mostly for federal programs, including $13 billion for assisted housing. The law also contains $200 million to help low- and moderate-income homeowners meet unexpectedly high home heating costs occasioned by the harsh winter. (PL 95–26)

Unemployment Compensation

Congress enacted a law extending unemployment compensation under the Federal Supplemental Benefits (FSB) program for seven months, to November 1, 1977, plus a three-month phase-out period through February 1, 1978. FSB, together with regular and extended benefits, provides 52 weeks of compensation. The law also requires roll call votes in the House and Senate on future congressional pay raises under PL 90–206. (PL 95–19)

Extended Unemployment Compensation Eligibility

The House passed a bill providing a 2-year limitation on the time within which an individual could receive any unemployment compensation benefits to which he or she is entitled under the federal-state extended unemployment compensation program. (HR 12380)

Economic Stimulus Appropriations

Congress enacted a law appropriating $20 billion for economic stimulus, including $7.9 billion to increase CETA public service jobs to 725,000 from 310,000 in fiscal 1978; $59 million for 14,800 jobs for older Americans; $4.9 billion for revenue sharing; and $100 million for railroad rehabilitation. (PL 95–29)

Second Budget Resolution, Fiscal 1978

Both houses adopted in final form the Second Budget Resolution for fiscal 1978 which sets guidelines for a national economic policy aimed at reducing unemployment to 6.5 percent and fostering a 4.8 percent rate of growth in the Gross National Product. The resolution sets a spending target of $458 billion in fiscal 1978 and a deficit of $61 billion. (HConRes 341)

First Budget Resolution, Fiscal 1979

Congress adopted in final form the First Budget Resolution for fiscal 1979, which would accommodate tax reductions effective January 1, 1979, totaling $19.4 billion on an annual basis, including further income tax cuts for individuals and business and $1.4 billion in structured cuts. The resolution provides for $498.8 billion in outlays—$2 billion less than the Administration's request, and a deficit of $50.9 billion—$10 billion less than the Administration. (SConRes 80)

Youth Jobs

A new law creates about 203,000 jobs and training positions for young persons by establishing a Young Adult Conservation Corps and authorizing a variety of innovative youth employment and training projects. The programs would be funded at an estimated $1.5 billion for fiscal 1978, including $350 million for the Young Adult Conservation Corps. (PL 95–93)

Anti-Recession Assistance

A new law authorizes $2.25 billion for countercyclical assistance to states and local governments through fiscal 1978. (PL 95–30)

Joint Economic Committee Investigation

Congress adopted in final form a concurrent resolution providing $900,000 for an 18-month study of United States and world economic changes and the impact of such changes on the economies of the U.S. and other nations. (HConRes 248)

River Basin Authorization

A bill in conference would authorize $1.2 billion for the continuation of projects in 18 river basin plans and $44 million for special projects in the states of California and Ohio. (H.R. 5885).

Temporary Debt Limit

A new law provides for a six-month, $52 billion increase in the public debt ceiling. (P.L. 95–120).

Temporary Public Debt Limit

A new law sets the public debt ceiling at $798 billion through March 31, 1979. (P.L. 9533).

HOUSING AND OTHER ECONOMIC ITEMS

Housing and Community Development Amendments

A bill in conference authorizes a $29.3-billion fiscal 1979 housing program, including $27.6 billion in annual assisted housing contract authority; establishes a new program in lieu of operating subsidies that emphasizes improved management as well as dollar aid for financially troubled low-and-moderate-income multi-family projects; raises authorizations and loan limits for rural housing programs; and create a deep subsidy rural home ownership program. S. 3084).

Housing and Community Development

A new law authorizes $13.7 billion over three years for the Community Development Block Grant Program and assisted housing programs. The new law includes special assistance for older, declining communities, especially at urban centers. Other provisions promote single family homeownership by decreasing down payments and increasing mortgago loans. (P.L. 95–128).

Supplemental Housing Authorization

Congress enacted a law providing $378 million in fiscal 1977 in additional contract authority for housing assistance programs, to support a total of some 400,000 assisted housing units. The law also authorizes an additional $19 million for last winter's heating costs in public housing projects, extends HUD crime insurance and riot reinsurance programs, and creates a National Commission on Neighborhoods. (P.L. 95–24).

Securities Investor Protection

A new law streamlines liquidation procedures to facilitate payment to an investor in the event of a broker or dealer failure, doubles to $40,000 and $100,000 respectively the insurance for customer cash and securities maintained with a brokerage firm, increases to $2.5 million (from $500,000 the public offering amount which SEC may exempt from registration and prospectus requirements, and delays until May 1, 1979, the ban on securities exchange transactions for a member's own account and certain other transactions. (P.L. 95–283).

New York City Loan Guarantee Act

A new law authorizes a maximum $1.65 billion in federal loan guarantees for 15 years for New York City debt issued during the next four years and held by state and local pension funds, subject to specific requirements for improved financial management by the city and a mandate for a balanced city budget by 1982. (P.L. 95–339).

Substitute Treasury Checks

The House passed a bill authorizing the Treasury to simplify the replacement of Treasury checks that are lost, stolen, damaged or destroyed. (H.R. 13087).

Investment of Public Funds

A new law authorizes the Secretary of the Treasury to invest for up to 90 days in obligations of depositaries maintaining Treasury tax and loan accounts. The law also authorizes federally insured and certain other savings and loan associations to act as fiscal agents and depositaries in the Treasury tax and loan account system. (PL 95–147)

Depository Institutions Amendments

A new law extends Regulation Q interest rate control authority until December 15, 1977, revives the authority of the Federal Reserve banks to purchase up to $5 billion in public debt obligations directly from th Treasury (until August 31, 1977), and moc ernizes the Federal Credit Union Act. (P 95–22)

Regulation Q

A new law extends through December 1 1978 the authority for federal regulation depository institutions interest rates and ser guidelines for Federal Reserve Board mone tary policy. (PL 95–188)

Treasury-Federal Reserve Draw Authority

A new law extends until April 30, 1978, th authority of the Federal Reserve to purchas U.S. obligations up to a limit of $5 billio from the Treasury on a direct basis. (P 95–154) The House passed a joint resolutio extending the direct purchase authority fo one year. (HJRes 816)

SEC Authorization

A new law provides $1.5 million supple mental authorization for the Securities an Exchange Commission for fiscal 1977, increas ing its total authorization for fiscal 1977 $56.5 million (PL 95–20) A new law autho izes $67 million for fiscal 1978 for the Secur ties and Exchange Commission. (PL 95–21 The House passed a bill authorizing $70 mi lion, $80 million and $91 million for fisc 1979–81 respectively for the Securities an Exchange Commission. (HR 11567)

Exchange Stabilization Fund

Both houses passed in differing forms a bi prohibiting and payment of administrati expenses from the Economic Stabilizatio Fund and authorizing $23 million for fisc 1979 for Department of Treasury interna tional affairs functions. (S 2093)

Council on Wage Price Stability

A new law extends the Council on Wa Price Stability Act for two years to Septem ber 30, 1979. (PL 95–121)

SBA Act Amendments

A law increased SBA's overall loan ceilin to $7.4 billion from $6 billion and increase the surety bond guarantees fund to $110 mi lion from $56.5 million. (PL 95–14)

Small Business Amendments

A new law authorizes an additional $2. billion for small business programs in fisc 1978 and 1979; increases loan authorizatio and surety bond guarantee authority; an improves the disaster assistance, certifica of competency and small business set-asi programs. (PL 95–89) A bill in conferen would authorize small business programs, in cluding disaster assistance, for fiscal 196 through 1982, at an estimated maximum co of $2.65 billion, and would continue prese low interest rates on loans to homeowners fo natural disasters occuring during fiscal 197 through 1982. (HR 11445)

Minority Small Business

The House passed a bill allowing minori enterprise small business investment com panies to obtain additional capital throug SBA and to provide that SBA section 8a con tracts for government supply be let only economically and socially disadvantage small businesses. (HR 11318)

ENERGY

National Energy Act

A bill in conference would establish comprehensive energy policy for the natio It would provide for pricing natural ga levying certain taxes on oil and gas, allow ing tax credits for business investment energy efficiency and for home insulatio stepping up the weatherization progran creating a variety of conservation measure setting mandatory energy standards for ma jor appliances and requiring that utility rat structure reflect peak and slack periods, an other energy actions. (HR 8444)

Energy Authorization

The House passed the bill authorizing $4. billion for energy research and developmen

in fiscal 1979, including $1.4 billion for nuclear energy of which $17.5 million is for the Clinch River breeder reactor and other funds are for the President's breeder conceptual design study; $749 million for fossil fuels research; $458 million for solar energy research; and $417 million for conservation. (HR 12163)

Energy Research and Development Administration

Congress enacted a law authorizing $1.6 billion for non-nuclear energy programs and amounts estimated at $3.9 billion for nuclear non-weapons programs for the Energy Research and Development Administration in fiscal 1977. (PL 95–39) A new law authorizes $6 billion for ERDA civilian research and development in fiscal 1978 and also authorizes loan guarantees for energy technology demonstration programs. (PL 95–238)

Ad Hoc Committee on Energy

The House established a House Ad Hoc Committee on Energy (40 Members appointed by the Speaker who also appointed Congressman Thomas L. Ashley as Chairman); the committee facilitated House consideration of President Carter's energy package. (HRes 508)

FEA Authorization

A new law authorizes an additional $60.7 million in fiscal 1977 (making a total of $404.6 million and $1.443 billion for fiscal 1978, including $1.210 billion for the Strategic Petroleum Reserve. (PL 95–70)

Department of Energy

A new law creates a Cabinet-level Department of Energy to coordinate the nation's energy programs. (PL 95–91)

Outer Continental Shelf

A bill in conference would guide federal policy on bidding and leasing offshore lands for oil and gas exploration and development, give states a greater say in the process, authorize $125 million a year for amelioration of onshore impacts, and establish an offshore oil pollution control fund. (S 9)

Alaskan Natural Gas Pipeline

A new law approves the President's decision selecting the Alcan system as the means of transportation for Alaska natural gas. (PL 95–158)

Emergency Natural Gas

A new law authorized the President to make emergency allocation of natural gas and to permit emergency purchase of unregulated gas during the 1976–77 winter shortage. (PL 95–2)

Urgent Power Supplemental Appropriations

A new law appropriates $6,400,000 for fiscal 1977 to meet the urgent power purchase requirements of the Southwestern Power Administration. The law also lifted limitations on use of ERDA funds. (PL 95–3) A new law provides $13 million for fiscal 1978 to meet the urgent power purchase requirements of the Southwestern Power Administration. (PL 95–246)

ERDA Budget Deferrals

The House passed three resolutions to disapprove deferrals of $25,600,000 for ERDA programs. (HRes 305, HRes 306, HRes 307) The House passed four resolutions to disapprove deferrals of $38,800,000 for ERDA programs. (HRes 851, HRes 852, HRes 853, HRes 854)

Deepwater Ports

Congress enacted a law extending the Deepwater Port Act of 1974 for three years and authorizing $2.5 million for each fiscal 1978, 1979, and 1980. (PL 95–36)

Solar Energy

The House passed a resolution authorizing $50,000 and directing the Architect of the Capitol to conduct a feasibility study on the use of solar energy in the House Office Building Complex. (HRes 322)

Solar Photovoltaic Energy

The House passed a bill authorizing funds to establish a Department of Energy ten-year solar photovoltaic energy research, development and demonstration program leading to commercial applicability. (HR 12874)

Solar Power Satellite Program

The House passed a bill authorizing $25 million for the Department of Energy in fiscal 1979 for research, development and demonstration of a solar power satellite for commercial purposes. (HR 12505)

SBA Solar Energy and Energy Conservation Loans

A new law authorizes $36.75 million to carry out a program of $30 million in direct and immediate participation loans and $45 million in guaranteed loans in fiscal 1979 for small businesses involved in the fields of solar energy, renewable energy sources or energy conservation. (PL 95–315)

Nuclear Regulatory Commission

A new law authorizes $297.7 million for the Nuclear Regulatory Commission for fiscal 1978. (PL 95–209)

SOCIAL SERVICES

Social Security Financing

A new law assures Social Security solvency in the short and long term by increasing employer-employee contributions from 6.05 percent in 1978 in steps to 7.65 by 1990, increases the taxable wage base, authorizes automatic loans from the Treasury whenever the trust funds drop below 25 percent of annual outgo, and includes a "decoupling provision" to guard against disproportionate growth in benefits for future generations. (PL 95–216)

Public Assistance Amendments

The House passed a bill to make administrative improvements in the Supplemental Security Income program and to extend SSI recipients' eligibility for food stamps to October 1, 1978; extend SSI to Puerto Rico, Guam and the Virgin Islands and revise funding provisions for these areas for welfare and social services; make permanent last year's $200 million increase in the Title XX social services annual limitation ($2.7 billion); improve funding and establish an entitlement rather than an authorization for the child welfare program; improve protection for children in foster care programs; allow federal matching funds for welfare children voluntarily placed in foster care, and authorize protective or vendor payments to benefit 20 percent (rather than 10 percent) of a state's welfare recipients. (HR 7200)

Social Services: Protective and Vendor Payments

A new law extends last year's $200 million increase (to $2.7 billion) in the Title XX social services annual limitation through fiscal 1970, continues the delay in the imposition of federal day care standards and authorizes protective or vendor payments to benefit 20 percent (rather than 10 percent) of a state's welfare recipients. States are forgiven payments made in violation of the 10-percent requirement for claims already officially made for periods between 1968 and April 1, 1977. (PL 95–171)

Public Assistance Medicare-Medicaid Amendments

Congress enacted a law extending for 15 months, until October 1, 1978, the current eligibility of SSI recipients for food stamps; extending until September 30, 1978, federal matching funds for child support collection and paternity establishment services provided for persons not receiving AFDC; extending the due date to April 1, 1978, for HEW day care standards appropriateness study; and to prevent the cut-off of $142 million in medicaid funds for 20 states which have not achieved certain statutory requirements for evaluations of long-term patient care. (PL 95–59)

Social Services Amendments

The House passed a bill to increase the entitlement ceiling to $2.9 billion in fiscal 1979 and $3.45 billion by fiscal 1981 and thereafter, and otherwise provide for an expanded social services program (child day care, homemaker, welfare work training, senior citizens, handicapped and other services), extend certain child care and other provisions for one year, and provide for better cooperation among states, localities and local public and private agencies. (HR 12973)

SSI Work Disincentives

The House passed a bill to remove certain work disincentives for the disabled under the supplemental security income benefits program by increasing the amount of earnings such individuals may have and still be considered eligible for SSI disability payments. (HR 12972)

SSI Presumptive Disability

The House passed a bill providing that an individual who applies for supplemental security income benefits on the basis of disability shall be considered presumptively disabled if he has received social security or supplemental security income benefits as a disabled individual within the preceding five years. (HR 10848)

Economic Opportunity and Community Services Amendments of 1978

A bill in conference would reauthorize the Community Services Administration and Headstart programs for two years and Follow Through programs for five years at an estimated $774 million in fiscal 1979 rising to $1.6 billion by fiscal 1981, restoring the 80/20 ratio of federal financing for community action agencies (from the present 60/40) and making other changes. (HR 7577)

Reimbursements for Social Services

A new law authorizes $543 million for settlement of claims for certain social services provided by states before October 1, 1975. (PL 95–291)

Rehabilitation Services Amendments

The House passed a bill to authorize $6.9 billion for the Rehabilitation Act of 1973 for five years, to establish a community service employment program for handicapped individuals and to provide for independent living rehabilitation services for the severely handicapped. (HR 12467)

Older Americans Act

A bill in conference would authorize $4.2 billion over three years to continue existing service and employment programs for the elderly; to establish new programs for legal services, ombudsman services for residents of long-term care facilities and home-delivered nutrition services; and to conduct a White House Conference on Aging in 1981. (HR 12255)

SPECIAL TAX PROVISIONS

Tuition Tax Credit

The House passed a bill providing a tax credit for tuition costs at undergraduate colleges and elementary and secondary schools. The credit, to be subtracted directly from taxes, would be limited to $100 in 1978 and $250 by 1980 for college and to $50 in 1978 and $100 by 1980 for grade and high schools. (HR 12050)

Tax Treatment Extension

Both houses passed in differing forms a bill to delay until 1978 Internal Revenue Service rulings on community expenses to temporary worksites and tax treatment of fringe benefits. The bill would also delay for various periods various provisions of the Tax Reform Act of 1976, including the new more restrictive exclusion on income earned abroad; the freeze on existing tax treatment of certain salary reduction plans; cash and

deferred profit sharing plans and fringe-benefit selection plans; the income exclusion for the Armed Forces health professions scholarship program; the special five-year amortization rules for certain rehabilitation of low income housing; and the new limitations on net operating loss carryover. (HR 9251)

Technical Corrections Act

A House-passed bill would make numerous changes in the Tax Reform Act of 1976, including provisions to except for one year from the tighter foreign-income loss recapture rules income earned in possessions of the United States; to limit to agricultural commodities futures the six-month holding period for long-term capital gains; to grandfather the appreciation in value of certain stock to be taxed under the new estate and gift tax provisions; and to extend the dead line by which charitable lead trusts may be made eligible as tax deductions. (HR 6715)

Miscellaneous Revisions of Timing Requirements of Revenue Laws

The House passed a bill revising the times for (1) payments of expenses owed to certain relatives, (2) election of special corporate liquidation treatment for involuntary conversions, (3) election of subchapter S status (tax treatment similar to partnerships) by corporations, (4) filing of income tax returns for tax-exempt organizations, (5) determining the status of a taxpayer as a farmer or a fisherman for estimated income tax purposes, (6) claiming credits or refunds arising from carrybacks, and (7) collection of penalty for failure to pay no withholding taxes where a bond is furnished. In addition, the bill also would provide a basis for adjustment for property distributions received by a corporation where gain is recognized by the distributing corporation. (HR 7320)

Rate of Interest on Individual Retirement Bonds

The House passed a bill allowing the interest rates paid on U.S. retirement plans and individual retirement bonds to be increased to the rate paid on U.S. series E savings bonds. (HR 6635)

Taxation of Fringe Benefits

Both houses passed in differing forms a bill to delay until 1980 Internal Revenue Service rulings relating to the taxation of fringe benefits and certain transportation expenses and to provide for the tax treatment of certain statutory subsistence allowances for state law enforcement officers. (HR 12841)

Tax Credit for Household and Dependent Care Expenses

The House passed a bill amending the Internal Revenue Code with respect to the treatment of certain payments to relatives as credit for household and dependent care expenses. (HR 8535)

Certain Telephone Company Income; Securities Lending Transactions

A bill cleared for the President would clarify the income-source requirement for mutual or cooperative telephone company exemption from federal income taxation. Other provisions concern securities lending transactions and would (1) permit payments on loans of securities from a tax-exempt organization or a mutual fund to a broker to be treated as dividends or interest for income tax purposes, and (2) establish the general rule that the lending of any securities to a broker and the return of identical securities does not constitute a taxable sale or exchange. (HR 7581)

Investment Income of Private Foundations

The House passed a bill to reduce the excise tax on the investment income of private foundations. (HR 112)

Utility Holdings of Private Foundations

The House passed a bill to permit certain private foundations to continue to hold certain stock in certain public utilities without being subject to the excise tax on excess business holdings. (HR 4030)

Tax Treatment of Magazine Returns

The House passed a bill to provide an exclusion from gross income with respect to magazines, paperbacks, and records returned after the close of the taxable year. (HR 3050)

Tax Treatment of Certain Crop Payments

A new law provides for 1977 tax year treatment of certain crop payments and extends for one year the deduction for state legislators' travel expenses. (PL 95–258)

Excise Tax on Tires and Tread Rubber

The House passed a bill revising the excise tax treatment of tires and tread rubber under certain conditions and imposing a tax on certain imported retreaded tires. (HR 5103)

Excise Tax on Certain Trucks and Buses

The House passed a bill to eliminate the "cost-floor" method for determining the construcive sale price with respect to taxable sales of certain trucks, buses, and highway tractors. (HR 1337)

Exemption of Certain Trailers from Excise Tax

The House passed a bill providing excise tax exemptions for trailers and semi-trailers suitable for use with a light duty towing vehicle designed for farming purposes or for transporting horses or livestock. (HR 2994)

Excise Tax on Fuels Used by Aerial Applicators

The House passed a bill permitting crop-duster aircraft operators, rather than farmers, to claim the excise tax refund or credit provided for aviation fuels used for farming purposes. (HR 2852)

Changes in Excise Taxes on Distilled Spirits

A new law amends certain provisions of the Internal Revenue Code relating to distilled spirits. (PL 95–176)

Home Production of Beer and Wine

The House passed a bill allowing any individual 18 years of age or older to produce wine and beer for personal and family use up to certain quantities without incurring the wine or beer excise taxes or any penalties. (HR 2028)

Excise Tax on Alcoholic Beverages Destroyed by Vandalism

The House passed a bill providing for repayment of excise tax on alcoholic beverages held for sale but destroyed by fire, flood, casualty, other disaster, vandalism or malicious mischief. (HR 1920)

Customs Procedural Reform

A bill in conference would provide customs procedural reform, simplify certain entry procedures, and revise certain personal duty-free exemptions for liquor, cigarettes and articles. (HR 8149)

Duty-Free Entry of Certain Canadian Petroleum

A new law permits the duty-free entry of Canadian crude oil if an equivalent amount of domestic or duty paid oil is exported to Canada. (PL 95–159)

Duty Suspensions

The House passed a bill to suspend the duty on 2-methyl 4-chlorophenol until June 30, 1980. (HR 5551)

Temporary Suspension of Duty on Strontium Nitrate

The House passed a bill to suspend a portion of the duties on strontium nitrate (used in making flares) until January 30, 1978. (HR 5044)

ETHICS REFORM AND OTHER HOUSE ACTIVITIES

Ethics Code

The House adopted a strong new financial ethics code as part of the rules of the House. The rules require broad financial disclosure by House Members and key staff; a 15-percent of salary limit on outside earned income by Members; a $750 limit on any honorarium; limits on gifts; prohibition on personal use of campaign funds; abolition of unofficial office accounts; restrictions on the use of the frank; and curbs on lameduck travel. (H Res 287)

Select Committee on Ethics

The House adopted a resolution establishing a Select Committee on Ethics to issue regulations to implement and interpret the financial ethics code, to render advisory opinions, and to work with the Senate in putting the new rules into permanent law. (H Res 383) The House passed a resolution to continue the Select Committee on Ethics into the second session of the 95th Congress. (H Res 871)

Korean Inquiry

The House adopted a resolution authorizing the Committee on Standards of Official Conduct to make an inquiry to determine whether Members of the House, their immediate families or associates accepted anything of value from the government of the Republic of Korea. (H Res 252)

U.S.-Korean Relations

The House authorized an International Relations Subcommittee to examine United States-Korean relations, including activities of the Korean CIA in the United States. (H Res 319)

Korean Cooperation With House Investigation

The House passed a resolution expressing the sense of the House that the Republic of Korea cooperate fully with the Committee on Standards of Official Conduct and with its special counsel to provide complete access to all facts relevant to the Committee's investigation to determine whether Members of the House were involved in accepting anything of value from the Government of the Republic of Korea. (HRes 868)

Korean Investigation

The House passed a resolution expressing the sense that the government of Korea should cooperate fully, in accordance with the principle of comity between allies, with the Committee on Standards of Official Conduct and its special counsel in that committee's efforts to obtain necessary information from former Korean Ambassador Kim Dong Jo. (HRes 1194)

Public Disclosure of Lobbying Act

The House passed a bill to require certain organizations to disclose specific information on their lobbying activities and expenditures. (HR 8494)

Select Committee on Assassinations

The House authorized the continuation of the Select Committee on Assassinations throughout the 95th Congress. The committee is to investigate the assassinations of President Kennedy and Martin Luther King, Jr. (HRes 433) The House passed a resolution granting the Select Committee authority to make applications to the courts and bring and defend certain lawsuits. (HRes 760)

Contempt Citation

The House passed a resolution certifying the case of Claude Powell, Jr., for contempt of Congress for failure to testify in the Martin Luther King, Jr., assassination inquiry. (HRes 1159)

Select Committee on Intelligence

The House passed a resolution establishing a permanent Select Committee on Intelligence in the House to oversee the CIA and other intelligence activities. (HRes 658)

Congressional Operations

The House established a House Select Committee on Congressional Operations to continue the work and functions of the now defunct Joint Committee on Congressional Operations. (HRes 430)

FEC Authorization

office of the Comptroller of the Currency

FEC Authorization

A new law authorizes $8.1 million for the Federal Election Commission for fiscal 1978. (PL 95–127) Both houses passed in differing forms a bill authorizing $8.6 million for the FEC for fiscal 1978. (S 3025)

Franked Mail Act of 1977

The House passed a bill establishing certain limitations on the use of the franking privilege. (HR 7792)

Eliminating October Pay Increases

A new law denies the October, 1977, pay comparability adjustment to senior officials of the executive, legislative and judicial branches. (PL 95–66) Earlier, Congress enacted a law requiring that future pay raises for Members of Congress recommended by the Quadrennial Commission on Executive, Legislative and Judicial Salaries be approved by a recorded vote in both the House and Senate. (PL 95–19)

District Office Space

The House passed a resolution providing an additional amount for district office rental. (HRes 687)

House Radio and Television Coverage

The House passed a resolution authorizing closed-circuit televising of House floor sessions to Member, Committee and other House offices; a study through February 15, 1978, of methods of providing radio and television coverage of House sessions to the media and public; and establishment after the study of a radio and television broadcasting system for the press and public under the direction of the Speaker. (HRes 866)

GENERAL GOVERNMENT

Reorganization Act of 1977

A new law gives the President authority for three years to transmit to Congress executive branch reorganization plans; such plans would take effect after 60 days unless either house of Congress passed a resolution of disapproval. (PL 95–17)

Reorganization Plan No. 1 of 1977

The House approved the President's Reorganization Plan No. 1 of 1977, providing for a reorganization of the Executive Office of the President. (HRes 688)

Reorganization Plan No. 2 of 1977

The House approved an executive reorganization plan consolidating the functions of the United States Information Agency and the State Department's Bureau of Educational and Cultural Affairs into a single agency, the International Communication Agency. (HRes 827)

Reorganization Plan No. 1 of 1978

The House approved the President's Reorganization Plan No. 1 of 1978, to consolidate several equal employment opportunity programs into the Equal Employment Opportunity Commission. (HRes 1049)

Reorganization Plan No. 2 of 1978

The House approved the President's Reorganization Plan No. 2 of 1978 relating to the Civil Service Commission. The Plan is the structural framework of the President's proposed civil service reform. (HRes 1201)

Federal Grant and Cooperative Agreement Act

A new law standardizes the meaning of the terms federal "contract," "grant" and "cooperative agreement" as recommended by the Commission on Government Procurement in 1972. (PL 95–224)

Federal Program Information

A new law provides for the efficient and regular distribution of current information to the public on federal domestic assistance programs. (PL 95–220)

Federal Banking Agency Audits

A new law authorizes the General Accounting Office to audit the operations of the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation and the Federal Reserve System. (PL 95–320)

Federal Reserve Reform

The House passed legislation setting guidelines for Federal Reserve monetary policy, requiring the Board to consult with Congress, broadening representation on the 12 Federal Reserve Bank boards, requiring Senate confirmation for the chairman and vice chairman of the Federal Reserve Board and prohibiting conflicts of interest. (HR 8094)

Postal Service Act

The House passed a bill providing for presidential appointment of the Postmaster General, increasing congressional oversight of the U.S. Postal Service, increasing public service authorizations by $800 million in each of the next three years for the U.S. Postal Service and revising postal rate setting procedures. (HR 7700)

Changes in Postal Services

The House passed a bill to provide for Congressional review of proposed changes in postal service before they become effective. (HR 9146)

GAO Audits of the IRS and the Bureau of ATF

A new law authorizes the GAO to audit and review the operations of the Internal Revenue Service and the Bureau of Alcohol, Tobacco, and Firearms of the Department of the Treasury. (95–125)

White House Personnel

A bill in conference would clarify the authority for employment of personnel by the White House Office, the Executive Residence, the Domestic Policy Staff, the Office of Administration and the Office of the Vice President. (HR 11003)

Offices of Inspector General

The House passed a bill establishing Offices of Inspector General in certain executive departments and agencies. (HR 8588)

Insular Areas Authorization

A bill cleared for the President would authorize funds and otherwise foster the continued economic and political development of the insular areas of the United States (Guam, the Virgin Islands, the Northern Marianas, American Samoa, and the Trust Territory of the Pacific Islands). (S 2821)

Intelligence Authorization

A bill reported from conference would authorize funds for intelligence and intelligence-related activities of the United States. (HR 12240)

INTERNATIONAL AFFAIRS

International Development and Food Assistance

A new law authorizes $1.6 billion for international food and economic development assistance in fiscal 1978. (PL 95–88) A bill in conference would authorize $3.7 billion in foreign economic assistance in fiscal 1979, make certain changes in the foreign assistance laws, and improve coordination and administration of U.S. development programs. (HR 12222)

International Security Assistance

A new law authorizes $3.2 billion for international security assistance in fiscal 1978, including funds for grant military assistance programs, grant military education and training programs, foreign military sales credits and guarantees, security supporting assistance, the Middle East Special Requirements Fund, the contingency fund, International Narcotics Control, and the Southern African Special Requirements Fund. (PL 95–92)

International Security Assistance

A bill in conference would amend the Foreign Assistance Act and the Arms Export Control Act, to authorize $999.3 million for international security assistance programs for fiscal 1979, to repeal the embargo on arms assistance to Turkey and to lift sanctions against Rhodesia after 1978 unless the President determines that a freely elected government has not been installed. (S 3084)

Foreign Relations Authorization

A new law authorizes $1.6 billion in fiscal 1978 for the Department of State, the U.S. Information Agency, and the Board for International Broadcasting. (PL 95–105) A bill in conference would authorize $1.9 billion for fiscal 1979 for the Department of State, the International Communications Agency, and the Board for International Broadcasting. (HR 12598)

State Department Supplemental

Congress enacted a law authorizing $89,650,000 in supplemental funds for the Department of State for fiscal 1977. (PL 95–45)

Nuclear Antiproliferation Act

A new law amends the Atomic Energy Act of 1954 to apply uniform standards for licensing of nuclear exports, defines specific criteria for the negotiation of new Agreements for Cooperation in the exchange of nuclear technology, and promulgates regulations for timely action on nuclear export licenses by the concerned government agencies. The law also spells out numerous multilateral steps to combat nuclear proliferation and instructs the President to pursue them. (PL 95–242)

Export-Import Bank

A new law realigns the authorization of the Export-Import Bank with the new fiscal year and requires certain bank actions concerning human rights, export subsidy programs and nuclear proliferation. (PL 95–143)

Export-Import Bank Extension

The House passed a bill to extend the Export-Import Bank for five years, to improve its ability to promote U.S. exports by increasing bank commitment authority by $15 billion (to $40 billion), to seek an end to predatory international competition and to prohibit financing of exports to South Africa unless its racial policies improve. (HR 12157)

Export Administration Act Amendments

Congress enacted a law to extend the Export Administration Act for two years and prohibit American compliance with foreign boycotts of nations friendly to the U.S. In addition, the bill would prohibit the export of Alaskan oil for two years if the President makes certain findings. (PL 95–52)

International Financial Institutions

A new law authorizes $5.2 billion for the World Bank and five other international development lending institutions. The law directs U.S. representatives to oppose loans to countries violating human rights unless programs are specifically directed to basic human needs. Representatives must consider the responsiveness of Vietnam, Cambodia and Laos in accounting for MIAs, and oppose loans for production of palm oil, sugar or citrus crops if the U.S. is a competing producer of that commodity. (PL 95–118)

International Monetary Fund

Both houses passed in differing forms a bill authorizing the United States to invest about $1.8 billion in the $10.5 billion Supplementary Financing Facility of the International Monetary Fund for loans to developing nations with oil cost problems. The bill would require the U.S. executive director of the new facility to oppose Fund transactions which would contribute to the deprivation of human rights. (HR 9214)

Overseas Private Investment Corporation Act Amendments

A new law strengthens the federal role in OPIC which insures operations of American companies in developing nations, extends OPIC through fiscal 1981, reinforces the development mandate of OPIC and prohibits claims if an investor has been determined to be involved in bribery of foreign officials. (PL 95–268)

International Banking Act

The House passed a bill setting guidelines for foreign bank operations in the United States with respect to federal charters, reserve and FDIC insurance requirements, interstate branching and other banking activities. (HR 10899)

International Investment Survey Act

Both houses passed in differing forms a bill authorizing an additional $3 million for the Departments of Commerce, Treasury, and Agriculture for fiscal 1979 to continue collection and analysis of data on international investment, including foreign investment in the United States. (S 2928)

Trading With the Enemy Act Reform

A new law limits the provisions of the Trading With the Enemy Act to declared wars and authorizes the President to regulate international economic transactions during national emergencies. (PL 95–223)

International Trade Commission

A new law authorizes $11.5 million for the International Trade Commission (ITC) in fiscal 1978 and makes administrative improvements in the commission's operation. (PL 95–106) Both houses passed in differing forms a bill authorizing $12.8 million for the United States International Trade Commission (ITC) for fiscal 1979. (HR 11005)

United States-Hungary Trade Agreement

Both houses passed a concurrent resolution approving nondiscriminatory (most-favored-nation) trade treatment for Hungary pursuant to a bilateral trade agreement. (HConRes 555)

Export of Uranium to India

The House approved the export of 7,638 kilograms of low-enriched uranium for India as proposed by Executive Order on April 27, 1978. (HConRes 599)

International Safe Container Act

A new law would implement the International Convention for Safe Containers of 1972 and the Annexes thereto by establishing uniform structural requirements for intermodal cargo containers within United States jurisdiction and designed to move in international trade. (PL 95–208)

Rhodesian Chrome

Congress enacted a law authorizing the President to reimpose the embargo on imports of chrome ore, ferrochrome and nickel from Rhodesia as a sanction against minority rule. (PL 95–12)

Military Assistance to Portugal

Congress enacted a law authorizing $32.25 million in supplemental military assistance to Portugal for fiscal 1977. Funds would be used to help equip and train a newly established 4,000 man air-transportable Portugese brigade which would be assigned to NATO. (PL 95–23)

Peace Corps Authorization

A new law authorizes $82.9 million for the Peace Corps in fiscal 1978. (PL 95–102) A new law authorizes $112.4 million for fiscal 1979 and a fiscal 1978 supplemental of $3.7 million for the Peace Corps. (PL 95–331)

American MIA's in Southeast Asia

The House passed a concurrent resolution expressing the sense of Congress that the Administration should work through United Nations agencies to secure a full accounting of Americans missing in Southeast Asia (HConRes 583)

Permanent Residence Status for Indochina Refugees

A new law authorizes the creation of a record of admission for permanent residences in the cases of certain refugees from Vietnam, Laos, or Cambodia. (PL 95–145)

Human Rights in Cambodia

The House passed a resolution expressing its concern over human rights violations in Cambodia. (HRes 724)

Human Rights Violations in Uganda

The House passed a concurrent resolution condemning violations of rights by the Government of Uganda and urging the President to take certain actions with respect to those violations. (HConRes 612)

Soviet Jews

The House and the Senate adopted in final form a concurrent resolution expressing the concern of Congress regarding the harassment of Soviet Jews and other minorities. (SConRes 7)

Expressing Concern About Repressive Acts in South Africa

The House passed a concurrent resolution expressing the concern of Congress about the circumstances surrounding the death of Steve Biko and other acts of repression by the Government of the Republic of South Africa. (HConRes 388)

Prisoner Exchange

A new law implements U.S. bilateral treaties with Mexico and Canada for exchange of nationals in each other's jails. (PL 95–144)

Romanian Earthquake Relief

Congress enacted legislation authorizing $20 million for relief and rehabilitation assistance to victims of earthquakes in Romania. (PL 95–21)

Commission on Domestic and International Hunger and Malnutrition

The House passed a resolution expressing the sense of the House that the President should establish a Commission on Domestic and International Hunger and Malnutrition. (HRes 784)

Diplomatic Relations

The House passed a bill repealing the immunity statute for the foreign diplomatic community in the United States. The bill also would require liability insurance for all embassy personnel and their families who plan to operate motor vehicles, vessels or aircraft while in the U.S. (HR 7819)

Cultural Property

The House passed a bill to implement Articles of the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. (HR 5643)

European Economic Community Regulations on Processed Fruits and Vegetables

The House passed a resolution expressing the sense of the House with respect to removal of certain regulations and import restrictions imposed by the EEC on imports of certain U.S. canned fruits, juices and vegetables. (HRes 238)

NATIONAL DEFENSE

Department of Defense Authorization

A new law authorizes $36 billion in fiscal 1978 for military procurement, research and development and civil defense and authorizes active-duty and reserve forces strength of 2.9 million and civilian personnel of 1 million. (PL 95–79)

Department of Defense Authorization

A bill cleared for the President authorizes $36.9 billion in fiscal 1979 for military equipment procurement, including $1.9 billion for a nuclear-powered aircraft carrier, and for research, development, test and evaluation and civil defense and authorizes active duty and reserve military strength of 2,090,625 and civilian personnel strength of 1,005,800. (H.R. 10929)

DOE National Security Programs

The House passed a bill authorizing $2.89 billion for fiscal 1979 for the national security programs and functions of the Department of Energy, including nuclear weapons research, development, test, and production; of special nuclear materials and military waste management; naval reactor development; special detection and intelligence; inertial confinement (laser and electron beam) fusion research; and program management and support. (H.R. 11986)

ERDA National Security Authorization

A new law authorizes $2.61 billion in fiscal 1978 for the national security functions and programs administered by the Energy Research and Development Administration (ERDA), including enhanced radiation weapons. (PL 95–183)

Arms Control and Disarmament Agency

A new law authorizes $14.6 million for the Arms Control and Disarmament Agency in fiscal 1978. (PL 95–108) A new law authorizes $18.4 million for the Arms Control and Disarmament Agency in fiscal 1979. (PL 95–338)

Military Construction Authorization

A new law authorizes $3.7 billion in fiscal 1978 for certain construction at military installations. (PL 95–82) A bill reported from conference would authorize $4.128 billion for fiscal 1979 for certain construction at military installations. (H.R. 12602)

Nuclear Rescission

A new law rescinds $664 million, including $453 million which had been intended for a new nuclear carrier and conversion of an existing ship to a nuclear-armed vessel. (PL 95–15)

Military Enlistment Bonus Extension

A new law extends for fifteen months, to September 30, 1978, existing authority to pay enlistment bonuses up to $2,000 and re-enlistment bonuses up to $15,000 for enlisted military personnel in the Armed Services. (PL 95–57)

Defense Production Act

A new law extends the Defense Production Act by two years, until September 30, 1979. (PL 95–37)

Battle Monuments Commission

The House passed a bill providing that any retired member of the Armed Forces recalled to active duty with the American Battle Monuments Commission shall not be chargeable against the authorized end strengths and grade limitations of the Department of Defense or the military departments concerned. (H.R. 7678)

Strategic and Critical Materials

The House passed a bill to amend the Strategic and Critical Materials Stock Piling Act by establishing a stockpile procurement fund, encouraging barter for stockpile materials, and requiring specific rather than standing authorization for acquisition of materials. (H.R. 4895)

National Defense Reserve Fleet

A new law authorizes the Secretary of Commerce to acquire Mariner class and other suitable vessels in exchange for obsolete vessels in the National Defense Reserve Fleet. (PL 95–177)

Department of Defense Supplemental Authorization

A new law authorizes $476.4 million in fiscal 1978 for military procurement of missiles and aircraft, and military research, development, test and evaluation, including funds for the air-launched cruise missile in lieu of the B–1 bomber and studies for converting commercial transports to cruise missile carriers. (PL 95–164)

Survivor Benefit Plan for Military Retirees

The House passed a bill making certain improvements in the Retired Serviceman's

Family Protection Plan (RSFPP) and the

Mine Safety and Health

Family Protection Plan (RSFPP) and the Survivor Benefit Plan (SBP). (H.R. 3702)

Defense Officer Personnel

The House passed a bill revising the retention, promotion and other personnel management procedures of the commissioned-officer active-duty force of the Armed Forces. (H.R. 5503)

Defense Cargo Capacity for Civil Aircraft

The House passed a bill authorizing contracts with civil air carriers to provide greater cargo capacity for national defense purposes. (H.R. 2637)

Military Retirement Pay

The House passed a bill revising the rule for recalculation of military retired or retainer pay to reflect later active duty. (H.R. 10342)

Reserve Enlisted Members' Retirement

The House passed a bill permitting Reserve enlisted members of the Army and Air Force to retire with 20 years of service. (H.R. 10341)

Reserve Retired Pay Eligibility

The House passed a bill to make certain otherwise ineligible reservists eligible for reserve retired pay if they served on active duty during the Berlin or Cuban Crises or the Vietnam War. (H.R. 11823)

SCIENCE

NASA Authorization

A new law authorizes $4.05 billion for the National Aeronautics and Space Administration for fiscal 1978. (PL 95-76) A bill in conference would authorize $4.42 billion for NASA for fiscal 1979. (HR 11401)

NSF Authorization

A new law authorizes $884 million for the National Science Foundation in fiscal 1978. (PL 95-99) Both Houses passed in differing forms a bill authorizing $934.4 million for the NSF for fiscal 1979. (HR 11400)

Standard Reference Data Act

A new law authorizes $13.1 million over three years for the National Bureau of Standards to carry out the National Standard Reference Data Act. (PL 95-322)

HEALTH

Health Programs Extension Act of 1977

A new law authorizes $3.8 billion for health programs in fiscal 1978, including health services research; health statistics; comprehensive public health services; hypertension programs; migrant health; community health centers; medical libraries; the National Cancer Institute; the National Heart, Lung, and Blood Institute, National Research Service Awards; population research and voluntary family planning programs; sudden infant death syndrome; hemophilia; national health planning and development; health resources development; and community mental health centers. (PL 95-83)

Renal Disease

A new law provides incentives to encourage the use of lower cost, medically appropriate self-dialysis as an alternative to high-cost institutional dialysis by suitable patients suffering from renal disease. (PL 95-292)

Medicare-Medicaid Antifraud Abuse

Congress enacted a law to strengthen the capability of the government to detect, prosecute and punish fraudulent activities under the medicare and medicaid programs. (PL 95-142)

Black Lung Benefits

A new law creates an industry financed trust fund for black lung benefits for coal miners disabled by pneumoconiosis (black lung disease) and their widows. (PL 95-227) Another new law expands eligibility and improves the black lung benefits program. (PL 95-239)

Mine Safety and Health

A new law improves health and safety protection for metal and nonmetal miners and transfers coal and noncoal mine safety enforcement to the Department of Labor. (PL 95-164)

Medicare-Medicaid Coverage for Rural Health Clinics

A new law provides medicare and medicaid eligibility for rural health clinics and authorizes demonstration projects for clinics in medically underserved urban areas and for outpatient mental health centers. (PL 95-210)

Saccharin Ban Moratorium

A new law authorizes a review of information on food additives, prohibits certain restrictions on saccharin for 18 months and authorizes during that period warnings in stores of health risks of saccharin. (PL 95-203)

Health Professionals Education Amendments of 1977

A new law revises capitation requirements for schools of medicine and dentistry by requiring medical schools in order to be eligible to receive capitation grants to increase third-year enrollment by five percent, authorizes an additional $1 million for public health traineeships in fiscal 1979 and 1980, expands traineeship eligibility and makes technical amendments to the health professions guaranteed student loan program. (PL 95-215)

Medicaid Payments to Guam, the Virgin Islands and Puerto Rico

The House passed a bill to increase the dollar limitation and federal medical assistance percentages for the medicaid programs of Puerto Rico, the Virgin Islands and Guam. (HR 9434)

Uranium Radiation Remedial Action Program To Protect Public Health

A new law authorizes $1.5 million and extends for four years the program to eliminate certain radiation hazards in buildings in Grand Junction, Colorado. (PL 95-236)

EDUCATION

Education Amendments of 1978

The House passed a five-year extension of the Elementary and Secondary Education Act, authorizing $10.3 billion in the first year rising to $12.9 billion in fiscal 1982 for the nation's major education programs, including grants for the disadvantaged to local education agencies, a revised allocation formula beginning in fiscal 1980 to focus aid on the neediest, $400 million in fiscal 1979 supplemental grants for school districts with large concentrations of poor children, $1.5 billion rising to $1.9 billion for impact aid, and other authorizations including the National Institute of Education, adult and Indian education, bilingual education and women's educational equity. (HR 15)

ESEA Extension

A new law extends through fiscal 1979 advance funding for Titles I (disadvantaged aid) and IV (libraries and other support) of the Elementary and Secondary Education Act of 1965 and the Adult Education Act. (PL 95-112)

ESEA

The House passed a bill to extend for one year the authority of the Commissioner of Education to waive provisions of Title I of the Elementary and Secondary Education Act for certain educational agencies. (HR 10551)

Vocational Education

A new law makes technical and miscellaneous amendments to the Vocational Education Act, including provisions relating to the use of federal funds for state and local administrative support. (PL 95-40)

School Lunch, Child Nutrition Amendments

A new law extends the summer feeding program three years through fiscal 1980, tightens administration, extends commodity purchase authority for the nutrition for the elderly program, makes improvements in the food service equipment program and the free breakfast program in extremely needy schools and authorizes federal grants of 50 cents per child for a national nutrition education program. (PL 95-166).

Education of the Handicapped

Congress enacted a law authorizing $1.1 billion over five years for the Education of the Handicapped Act. (PL 95-49)

Higher Education

A new law makes higher education technical amendments and authorizes $75 million for each fiscal 1978 and 1979 for Title VI of the National Defense Education Act—Foreign Area Studies and Language Development. (PL 95-43)

Law School Depository Libraries

A new law provides for the designation of libraries of accredited law schools as depository libraries of government publications. (PL 95-261)

Pacific Islands

A new law includes the Trust Territory of the Pacific Islands in the definition of "state" for the purpose of participating in programs authorized by the Higher Education Act. (PL 95-180)

Library Services

A new law extends the Library Services and Construction Act for five years, through September 30, 1982, and authorizes use of funds for services provided by urban libraries. (PL 95-123)

Center for the Book

A new law establishes a Center for the Book in the Library of Congress. (PL 95-129)

Appalachian Regional Development Act Amendments

A new law amends the Appalachian Regional Development Act to extend for two years the demonstration period for child development projects. (PL 95-193)

Career Education Act

A new law authorizes $325 million over five years to encourage programs of career education in elementary and secondary schools and $75 million for postsecondary educational demonstration projects over five years. (PL 95-207)

Grand Canyon School Districts

A new law authorizes $1.5 million minus impact aid for payments to Grand Canyon school districts for educational services to dependents of persons living at or near the Grand Canyon National Park on real property owned by the United States and therefore not subject to local school district taxation. (PL 95-244)

Alcohol and Drug Abuse Education Act Amendments

A new law authorizes $42 million over three years for the Alcohol and Drug Abuse Education Act. (PL 95-336)

Environmental Education Act Amendments

The House passed a bill authorizing $45 million over five years for the Environmental Education Act. (HR 10570)

American Folklife Preservation Act

A new law extends the authorization for the American Folklife Center at the Library of Congress for an additional three years. (PL 95-259)

White House Conferences on Arts and Humanities

A new law authorizes the President to call a White House Conference on the Arts and a White House Conference on the Humanities. (PL 95-272)

Hubert H. Humphrey Fellowship

A new law authorizes $1 million for a Hubert H. Humphrey Fellowship in Social

and Political Thought at the Woodrow Wilson International Center for Scholars at the Smithsonian Institution. (PL 95-286)

Humphrey Institute and Dirksen Center

A new law authorizes $7.5 million for the Hubert H. Humphrey Institute of Public Affairs and Everett McKinley Dirksen Congressional Leadership Center. (PL 95-270)

Education Advisory Councils

The House passed a resolution disapproving the Commissioner of Education's proposed consolidation of certain education advisory councils. (H. Res. 1072)

LABOR

Full Employment and Balanced Growth

The Humphrey-Hawkins bill, reaffirming the federal commitment to jobs for every American able and willing to work, has passed the House. The bill sets a goal of four-percent unemployment in five years, emphasizes our reliance on the private sector as the prime employer, provides for strong anti-inflation measures, and universally aims at work and wages, instead of welfare, for the unemployed. (HR 50)

Minimum Wage

A new law raises the minimum wage to $2.65 an hour on January 1, 1978, (from the present $2.30) and to $2.90 in 1979, $3.10 in 1980 and $3.35 in 1981, and decreases the allowance for tip credit. (PL 95-151)

Labor Law Reform

The House passed a bill to enlarge and strengthen the NLRB and expedite union representation elections under the National Labor Relations Act. (HR 8410)

Mandatory Retirement

A new law raises to 70 the age for mandatory retirement in the private sector and eliminates the mandatory retirement age for most federal workers. (PL 95-256)

Labor Act Exemption for Religious Objectors

The House passed a bill to exempt employees on grounds of religious objection from joining or financially supporting a labor organization. (H.R. 3384)

Employee Retirement Income Security Act Amendments

A new law increases to $2.60 (from the previous $1) per participant per year the premium for single-employer pension plans insured against termination by the Pension Benefit Guaranty Corporation. In addition the law would postpone for 18 months the date on which the Pension Benefit Guaranty Corporation begins mandatory insurance coverage of multi-employer pension plans. (PL 95-214)

Pregnancy Disability Anti-Discrimination

A bill in conference would prohibit sex discrimination in employment on the basis of pregnancy, including refusal to hire or promote pregnant women, termination of jobs of pregnant women, mandatory maternity leaves or refusal to cover pregnancy under an existing disability plan. (S 995)

National Commission on Unemployment Compensation

The House passed a bill to provide per diem compensation for members of the National Commission on Unemployment Compensation and to extend the period for filing of reports by the Commission. (HR 12232)

Summer Youth Jobs

A new law provides $63 million for a total of 1,165,000 summer youth jobs in 1978. (PL 95-284)

CONSUMERS

National Consumer Cooperative Bank

A bill cleared for the President would create a National Consumer Cooperative Bank to make loans at market interest rates to consumer cooperatives. The bill would also provide technical assistance to consumer cooperatives and establish a Self-Help Development Fund to assist emerging cooperatives in the inner cities and rural areas. (HR 2777)

Utility Pole Attachments

A new law requires the Federal Communications Commission to regulate the attachment of communication wires to utility poles when a state does not provide such regulation. (PL 95-234)

Debt Collection Practices

A new law prohibits professional debt collectors from harassing or intimidating any person in connection with the collection of a debt and from making false or misleading representations. (PL 95-109)

Saturday Mail Delivery

The House passed a concurrent resolution expressing the sense of the Congress that the U.S. Postal Service should not reduce the frequency of home mail delivery service. (HConRes 277)

Bankruptcy Reform

The House passed a bill to establish a system of independent bankruptcy courts, define creditors' and debtors' rights, facilitate the use of debt repayment plans, and protect the "fresh start" that bankruptcy is intended to give debtors. (HR 8200)

Petroleum Marketing Practices

A new law protects motor-fuel marketing franchises from arbitrary or discriminatory termination or non-renewal of their franchises. The law also requires the disclosure of octane ratings of automotive gasoline to consumers and approves a study of the subsidizing of motor fuel marketing by refiners and other suppliers with the profits from crude oil production, refining or other marketing activities. The study is to explore questions of market structure, competition and consumer costs. (PL 95-297)

Public Telecommunications Financing Act

The House passed a bill authorizing $720 million over five years to continue and increase long-term federal funding for noncommercial public telecommunications and to improve equal employment opportunity, fiscal accountability and public participation in public broadcasting. (HR 13605)

Insulation Safety Standards

A new law requires the Consumer Product Safety Commission to adopt as a mandatory interim standard modified General Services Administration specifications for flame resistance and corrosiveness of cellulose home insulation. (PL 95-319)

Fire Prevention

Both Houses passed in differing forms a bill authorizing $20.5 million for the National Fire Prevention and Control Administration and $5.1 million for the National Bureau of Standards Fire Research Center for fiscal 1979. (HR 11291)

FTC Amendments

A bill in conference would amend the Federal Trade Commission Act to authorize $63 million for fiscal 1978 and $70 million for fiscal 1979 for the FTC. (HR 3816)

JUSTICE

Privacy Protection Commission

Congress enacted a law extending the life of the Privacy Protection Study Commission two and a half months until September 30, 1977. (PL 95-38)

Federal Rules of Criminal Procedures

A new law approves certain proposed amendments to the Federal Rules of Criminal Procedure and disapproves other proposed changes. (PL 95-78)

Commission on Uses of Copyrighted Works

A new law extends until July 31, 1978, the term of the National Commission on New Technological Uses of Copyrighted Works. (PL 95-146)

Age Discrimination Report

A new law extends for six months th deadline for the U.S. Commission on Civ Rights' report on age discrimination. The la also extends the commodities provision of th Older Americans Act through fiscal 1978 an permits the acceptance of cash in lieu o commodities. (PL 95-65)

Drug Enforcement

A new law authorizes $645 million fo three years for drug enforcement under th Controlled Substances Act. (PL 95-137)

Juvenile Justice

A new law extends the Juvenile Justic and Delinquency Prevention Act of 1974 an authorizes $150 million in fiscal 1978, $17 million in fiscal 1979 and $200 million i fiscal 1980. The law also authorizes $25 mil lion in each fiscal 1978, 1979 and 1980 for th Runaway Youth Act and permits the Pres dent to submit a plan to transfer the latte program from HEW after April 30, 1978. (P 95-115)

Sexual Exploitation of Minors

A new law protects children from sexua exploitation through juvenile prostitutio and the making of films or photographs o children engaging in sexual conduct. (P 95-225)

Child Abuse Prevention and Treatment Amendments

A new law authorizes $147 million for th Child Abuse Prevention and Treatment A for four years, through September 30, 198 and prohibits sexual exploitation of minor (PL 95-266)

U.S. Commission on Civil Rights

A new law authorizes $10,480,000 for fisca 1978 for the U.S. Commission on Civil Right (PL 95-132)

Associate Attorney General

A new law establishes the position of Asso ciate Attorney General within the Depart ment of Justice. (PL 95-139)

Victims of Crime Compensation

The House passed a bill authorizing $2 million in fiscal 1978, $30 million in fisca 1979 and $35 million in fiscal 1980 to assi states in compensating innocent victims o crime. Federal assistance would be limited t $25,000 per person. (HR 7010)

Additional Federal Judgeships

A bill in conference would authorize th creation of 110 additional judgeships for th U.S. district courts and 35 additional appel late judgeships for the U.S. circuit court (H.R. 7843)

Administrative Conference of the United States

Both Houses passed in differing forms leg islation to authorize funds over three fisca years for the Administrative Conference o the United States. (S. 1792)

Diversity of Citizenship Jurisdiction

The House passed a bill to abolish diver sity of citizenship jurisdiction in the federa courts and to abolish the amount-in-contro versy requirement in federal question case (HR 9622)

Legal Services Corporation

A new law authorizes $305 million in fisca 1978 and necessary sums for each fiscal 197 and 1980 for the Legal Services Corporatio (PL 95-222)

Unlawful Corporate Payments Act

A new law prohibits corrupt use of inter state commerce by U.S. corporations an other domestic concerns to bribe foreign offi cials or foreign political parties or candidate (PL 95-213)

Immigration and Naturalization of Adopte Children

The House passed a bill to facilitate th admission into the United States of more

than two adopted children and to provide ants. The law

than two adopted children and to provide for the expeditious naturalization of adopted children. (HR 12508)

Worldwide Ceiling on Immigration

The House passed a bill to combine two hemispheric ceilings into a single worldwide ceiling on immigration of 290,000 a year and to create a Select Commission on Immigration and Refugee Policy. (HR 12443)

Civil Rights Commission

The House has under consideration a bill extending the U.S. Commission on Civil Rights for five years, clarifying its current jurisdiction and expanding it to include discrimination based on age and handicap status, and authorizing $12.7 million and $14 million for fiscal 1979 and 1980. (HR 12432)

Civil Rights of Institutionalized Persons

The House passed a bill authorizing the Attorney General under certain conditions to initiate or intervene in civil actions to protect the rights of persons in institutions for the mentally or physically incapacitated or in pretrial detention or juvenile facilities or correctional facilities if a court determines that conditions in a prison or correctional facility warrant civil action by the Attorney General, and to encourage the development of grievance mechanisms in correctional facilities. (HR 9400)

ENVIRONMENT

Clean Air

A new law would authorize $211.5 million for the Clean Air Act in each fiscal 1978–80; extend pollution compliance deadlines for automobiles, plants, and other emission sources and enlarge state authority to deal with significant deterioration of clean air areas and to permit growth in "non-attainment" (dirty air) areas. (PL 95–95)

Surface Mining Control and Reclamation

A new law provides for a state-federal program to regulate the surface mining of coal and the surface impact of underground mines, to provide for the reclamation of abandoned mines and to establish mining and mineral institutes, coal research laboratories and graduate research fellowships. Mining is prohibited on developed farmlands of alluvial valley floors, and procedures are established to determine areas unsuitable for surface mining. (PL 95–87)

Surface Mining Control and Reclamation Act

Both houses passed a bill authorizing additional funds through fiscal 1980 for certain programs under the Surface Mining Control and Reclamation Act. (S 2463)

EPA Authorization

A new law authorizes $253.6 million for research, development and demonstration activities of the Environmental Protection Agency (EPA) during fiscal 1978. (PL 95–155) The House passed a bill authorizing $431 million for environmental research, development and demonstration activities for fiscal 1979, mostly for the Environmental Protection Agency. (HR 11302)

Land and Water Conservation Fund

A new law establishes a special account of $450 million in the Land and Water Conservation Fund to be used for a 3-year program to acquire remaining private land in previously authorized units of the national park system. (PL 95–42)

Water Pollution Control

A new law authorizes $27.75 billion over seven years for federal water pollution control programs, including $25.5 billion over six years (fiscal 1977–82) for 75 percent grants to cities by the Environmental Protection Agency for construction of wastewater treatment works. The law sets July 1, 1984, generally, as the deadline for application of best available technology against toxic pollutants. The law redefines Corps of Engineers jurisdiction over dredged or fill materials, limiting such jurisdiction to traditionally navigable waters and adjacent wetlands. The law authorizes $200 million in fiscal 1979 and $400 million in fiscal 1980 for farm pollution control contracts. The law extends liability for oil spills to the 200-mile offshore limit. (PL 95–217)

Federal Water Pollution Control Act

The House passed a bill authorizing $13.9 million for fiscal 1979 and $14.039 million for fiscal 1980 for certain operating programs of the Federal Water Pollution Control Act. (HR 12140)

Water Research and Development

Both houses passed a bill re-enacting into one statute authority for water research and saline conversion programs and authorizing $36.6 million for such programs in fiscal 1979 and $72.9 million in fiscal 1980. (S 2704)

Water Resources Planning

A bill in conference would authorize $8.6 million for the Water Resources Planning Act for fiscal 1979 and abolish the Water Resources Council, transferring its functions to the Secretary of the Interior. (S 2701)

Water Resources Council

A new law authorizes $3,905,000 for the U.S. Water Resources Council in fiscal 1978 for coordinating and directing river basin planning. (PL 95–41)

Saline Water Conversion

A new law authorizes $61,950,000 for saline water research and general water research grants. (PL 95–84)

Oceans and Atmosphere

A new law establishes qualifications for individuals appointed to the National Advisory Committee on Oceans and Atmosphere (NACOA), sets the number of members at 18 and authorizes $520,000 for the committee in fiscal 1978. (PL 95–63) A new law authorizes $572,000 for the National Advisory Committee on Oceans and Atmosphere for fiscal 1979. (PL 95–304)

Ocean Pollution Research

A new law authorizes $5 million to establish a program of ocean pollution research and monitoring. (PL 95–273)

National Sea Grant Program

A new law authorizes $58 million for the National Sea Grant Program in fiscal 1978. (PL 95–58). Both houses passed in differing forms a bill authorizing $63 million in fiscal 1979 and $64.6 million in fiscal 1980 for the National Sea Grant College Program. (HR 10822)

Rivers and Harbors Improvements

A new law establishes a policy with respect to the roles of the Corps of Engineers and private industry in meeting national dredging needs. (PL 95–269)

Oil Pollution Liability and Compensation Act

The House passed a bill establishing a fee-funded $200,000,000 oil pollution damages fund and imposing a primary liability on the owner or operator of the pollution sources. (HR 6803)

Earthquake Hazards Reduction

A new law authorizes $56 million in fiscal 1978, $72 million in fiscal 1979 and $82 million in fiscal 1980 for national earthquake hazards reduction programs. (PL 95–124)

National Climate Program

A bill in conference would authorize $50 million in fiscal 1978 for the establishment of a national climate monitoring program. (HR 6669)

Navigation Development

A bill in conference authorizes replacement of locks and dam 26 near Alton, Illinois; levies a fuel tax of four cents in 1979 rising to six cents in 1981 for certain inland waterway users and requires a three-year study of user charges. (HR 8309)

Aquaculture Act of 1977

The House passed a bill to establish a national program for aquaculture—the cultivation of aquatic plants, fish, shellfish, and other creatures in marine, brackish and fresh water; the program would include technical assistance, information, $500 million in loan guarantees, $250 million for disaster loans and $1 billion in insurance coverage. (HR 9370)

National Wildlife Refuges

A new law authorizes $31.8 million for the National Wildlife Refuges at San Francisco Bay and the Great Dismal Swamp in Virginia and North Carolina. (PL 95–299)

Refuge Revenue Sharing Act

The House passed a bill revising the method of compensatory payments to local governments for National Wildlife Refuge System acreage within their boundaries. (HR 8394)

Endangered Species Act

A new law authorizes $16 million for fiscal 1978 through 1981 for cooperative agreements with the states under the Endangered Species Act and revises criteria to facilitate the making of such agreements. (PL 95–212)

Marine Mammal Protection (Tuna-Dolphin Bill)

The House passed a bill to reduce mortality and serious injury of dolphins incidental to commercial tuna fishing operations and to provide some relief to the United States tuna fleet when taking dolphins during such fishing. (HR 6970)

Marine Mammal Protection Authorization

A new law authorizes $15.7 million for marine mammal protection programs in fiscal 1978. (PL 95–136) A new law authorizes $47 million for fiscal 1979 through fiscal 1981 to carry out programs under the Marine Mammal Protection Act. (PL 95–316)

Marine Protection Authorization

A new law authorizes $11,800,000 in fiscal 1978 for the Marine Protection, Research and Sanctuaries Act and prohibits ocean dumping of municipal sewage sludge after 1981. (PL 95–153)

Council on Environmental Quality

A new law authorizes $8.1 million over three years for the Office on Environmental Quality which is used by the Council on Environmental Quality to carry out Council programs. (PL 95–300)

Tinicum National Environmental Center

A new law authorizes an additional $7.25 million for acquisition of land and development of the Tinicum National Environmental Center in Pennsylvania. (PL 95–152)

NATIONAL PARKS AND RECREATION AREAS

Chattahoochee River National Park

A bill cleared for the President authorizes $73.4 million for the establishment of the 48-mile-long Chattahoochee River National Recreation Area in Georgia, increases the development authorization for Fort Scott Historic Area in Kansas by $2.75 million and authorizes $6 million over three years for transportation projects by the Secretary of the Interior directly or by contract to provide public access to and within parks, especially those near urban areas. (H.R. 8336)

National Parks and Recreation Act

The House passed a $1.25 billion bill raising development and acquisition ceilings for national parks and recreation areas throughout the nation, revising boundaries within specific parks, designating nine new wilderness areas, establishing new areas of the National Trails System and adding segments to the Wild and Scenic Rivers. (H.R. 12536)

Alaska National Lands Conservation

The House passed a bill to preserve 123 million Alaska acres, thus doubling the nation's parkland, and creating in Alaska 10 new national parks and several new units of the National Wildlife Refuge, Wild and Scenic Rivers and National Wilderness Preservation System. (H.R. 39)

Redwood National Park

A new law authorizes necessary sums for a 48,000-acre expansion of the Redwood National Park in California, $33 million for land rehabilitation, and authorizes job training and aid for affected timber industry workers. (PL 95–250)

Absaroka-Beartooth Wilderness

A new law designates the Absaroka-Beartooth Wilderness in the Custer and Gallatin National Forests in Montana. (PL 95–249)

Appalachian National Scenic Trail

A new law authorizes an additional $85 million from the Land and Water Conservation Fund for the purchase of additional portions of the 2,000-mile Maine-to-Georgia Appalachian National Scenic Trail. (PL 95–248)

Wilderness Lands

A new law provides for the study of 970,000 acres in Montana for inclusion in the National Wilderness Preservation System. (PL 95–150)

Endangered American Wilderness Act

A new law designates 1.3 million acres in 10 western states for preservation under the national wilderness system. (PL 95–237)

Eleanor Roosevelt Memorial

A new law authorizes $995,000 for land acquisition and development of the Val-Kill retreat of Eleanor Roosevelt as a National Historic Site. (PL 95–32)

Manassas National Battlefield Park

The House passed a bill authorizing an 1800-acre expansion of the existing Manassas National Battlefield Park in Virginia. (H.R. 2437)

Bull Run Reserve

A new law permits general recreational access and other multiple uses for six months within a 42,500-acre portion of the Bull Run Reserve, Mt. Hood National Forest, Oregon. (PL 95–55)

Lowell National Historical Park

A new law authorizes $40 million for the establishment of the Lowell National Historical Park in Lowell, Massachusetts. (PL 95–290)

Oregon Trail

Both Houses passed in differing forms a bill authorizing $5 million for the establishment of the Oregon National Historic Trail and establishing National Historic Trails as a new category in the National Trails System. (H.R. 6900)

Friendship Hill National Historic Site

The House passed a bill establishing the Friendship Hill National Historic Site in Pennsylvania. (H.R. 10984)

Recognition of General Kosciuszko

Congress passed in final form a resolution calling for recognition of the sites of service of the Polish patriot, General Kosciuszko. (S. Con. Res. 44)

Boundary Waters Canoe Area Wilderness

The House passed a bill designating the one-million-acre Boundary Waters Canoe Area in northern Minnesota as wilderness. (H.R. 12250)

DuNoir Wilderness Addition

The House passed a bill providing for the DuNoir Basin Addition to the Washakie Wilderness in Wyoming. (H.R. 12349)

Bureau of Land Management Authorization

A bill cleared for the President authorizes $479.2 million, $544.9 million, $504.9 million and $658.4 million for fiscal 1979 through 1982 respectively for Bureau of Land Management programs, and increases the interest rate for mineral impact loans to states to the prevailing rate for tax exempt bonds (about 4.5 percent to 5.5 percent) in lieu of the present statutory three percent. (H.R. 10787)

MARITIME

Maritime Authorization

A new law authorizes $553.6 million for maritime activities in fiscal 1978, including ship construction and operating subsidies, research and the Merchant Marine Academy, and requires action against illegal rebating. (PL 95–173)

Maritime Authorization

A new law authorizes $496.8 million for fiscal 1979 for certain maritime programs, assists state marine schools in paying training ship fuel cost increases, and increases the Title XI Ship Construction Guarantee Program ceiling to $10 billion from $7 billion. (HR 10729)

Rebating Practices in U.S. Foreign Trade

The House passed a bill to increase civil penalties for illegal rebating in ocean shipping, authorize the Federal Maritime Commission to suspend tariffs if a carrier refuses to provide information and for the first time require foreign-flag ocean carriers to comply with FMC subpoenas and discovery orders or face exclusion from U.S. ocean trades. (HR 9518)

Intervention on the High Seas Act

A new law authorizes the implementation of the Protocol Relating to Intervention on the High Seas in Cases of Marine Pollution by Substances Other Than Oil of 1973. (PL 95–302)

Ocean Shipping Act

The House passed a bill providing for the regulation of rates or charges by certain waterborne carriers owned by other nations in the foreign commerce of the United States. (HR 9998)

Deep Seabed Hard Minerals Act

The House passed a bill establishing an interim licensing program to encourage and regulate deep ocean mining of manganese and other minerals by U.S. citizens pending adoption of a superseding international agreement, and to create an industry-supported trust fund to be shared among nations when a treaty takes effect. (HR 3350)

Intercoastal Shipping Act

The House passed a bill setting deadlines for Federal Maritime Commission determinations on shipping rate adjustments and prohibiting the Commission from suspending general rate adjustments of five percent or less. (HR 6503)

Fishing Vessel Loan Guarantees

A new law authorizes the Secretary of Commerce to guarantee private loans up to 87½ percent of the cost of constructing or reconstructing commercial fishing vessels. (PL 95–257)

Commercial Fisheries Research and Development

Congress enacted a law authorizing an additional $33.9 million through fiscal 1980 for the Commercial Fisheries Research and Development Act. (PL 95–53)

Fishery Conservation and Management Act

Congress cleared for the President a bill authorizing $30 million in fiscal 1979 for implementing the Fishery Conservation and Management Act of 1976, and providing U.S. fish processors with priority access to United States harvested fish. (HR 10372)

Fishermen's Protective Act

A new law extends the cooperative in[illegible] surance program of the Fishermen's Pro[illegible] tective Act of 1967 through fiscal 1978. (P[illegible] 95–194) A bill passed by both Houses in di[illegible] fering forms extends for three years the co[illegible] operative insurance program under the Fish[illegible] ermen's Protective Act, establishes a fishin[illegible] gear damage compensation fund and pro[illegible] vides additional protection to endangere[illegible] and threatened species of wildlife. (HR 1087[illegible]

Central, Western and South Pacific Fisheri[illegible] Development

A new law authorizes $16 million ov[illegible] four years for development of tuna an[illegible] other latent fishery resources in the Centra[illegible] Western, and South Pacific Ocean. (PL 9[illegible] 295)

Fish and Wildlife Programs

The House passed a bill to provide unifor[illegible] authority for enforcement of federal fi[illegible] and wildlife laws. (HR 2329)

Great Lakes Fishery Act Amendments

The House passed a bill increasing fro[illegible] three to four the number of U.S. Commi[illegible] sioners serving on the Great Lakes Fishe[illegible] Commission. (HR 2203)

North Pacific Fisheries Act

A new law implements the renegotiated I[illegible] ternational Convention for the High Se[illegible] Fisheries of the North Pacific Ocean sign[illegible] on February 10, 1977, by the countries [illegible] Canada, Japan and the United States. ([illegible] 95–326)

U.S.-Canadian Reciprocal Fisheries Agreement

A new law gives congressional approval [illegible] a Reciprocal Fisheries Agreement betwe[illegible] the United States and Canada during 197[illegible] (PL 95–73)

Fishery Conservation Zone Transition Act

A new law sanctions 200-mile internation[illegible] fishing agreements with six nations; anoth[illegible] new law sanctions such agreements for thr[illegible] other countries and the Common Mark[illegible] (PL 95–6; PL 95–8)

Atlantic Tuna Convention Act

Congress enacted a law authorizing nece[illegible] sary sums through 1980 to carry out t[illegible] Atlantic Tuna Convention Act of 1975. ([illegible] 95–33)

International Fisheries Agreement With Mexico

A new law sanctions a 200-mile fishi[illegible] limit agreement with Mexico and permits [illegible] reorganization of the National Oceanic a[illegible] Atmospheric Administration. (PL 95–21[illegible]

International Navigational rules

A new law implements the 1972 Conve[illegible] tion on the International Regulations f[illegible] Preventing Collisions at Sea. (PL 95–75)

Harp Seals

Congress adopted in final form a concu[illegible] rent resolution expressing the concern [illegible] Congress with respect to the killing of ne[illegible] born harp seals in Canadian waters. (H. Co[illegible] Res. 142)

Polar Living Marine Resources Act

The House passed a bill to establish [illegible] program for the study and assessment [illegible] living marine resources in the Arctic a[illegible] Southern Oceans. (HR 12668)

International Maritime Satellite Telecommunications

Both Houses passed in differing forms [illegible] bill to provide for the establishment, owne[illegible] ship, operation, and governmental oversig[illegible] and regulation of international maritim[illegible] satellite telecommunications services. (H[illegible] 11209)

Merchant Marine Academy Nominations

A new law entitles Delegates in Congre[illegible] from the District of Columbia, Guam and t[illegible]

Virgin Islands to make nominations for ap-

under the cargo deregulation program. (PL

Virgin Islands to make nominations for appointments to the Merchant Marine Academy at Kings Point, New York. (PL 95–323)

TRANSPORTATION

Emergency Highway and Transportation Repair Act of 1978

The House passed a bill authorizing $250 million in fiscal 1978 from the Highway Trust Fund for repair of paved roads and surface rails of urban mass transportation systems damaged by 1977–78 winter weather. (HR 10979)

Highway Funds

Both houses passed in final form a concurrent resolution directing the Secretary of Transportation to apportion highway sums authorized for fiscal 1979 for immediate expenditure on Interstate and Defense highways. (H. Con. Res. 282)

Federal Highway Obligations

The House passed a bill limiting obligations for federal-aid highways and highway safety construction programs to $7,445,000,000 in fiscal 1978. (HR 7462)

AMTRAK Improvement Act

A bill in conference would authorize $755 million for the National Railroad Passenger Corporation (AMTRAK) for fiscal 1979, would prevent changes in existing routes until October 1, 1979 and would provide for a reexamination of the AMTRAK route structure. (S 3050)

Rail Passenger Service

Both Houses passed a concurrent resolution expressing the sense of Congress that AMTRAK is permitted but not mandated to provide rail passenger service sought to be discontinued by the Southern Railway Company. (HConRes 494)

Rail Commuter Service

A new law authorizes without new funding an increase to 80 percent (from 50 percent) in the federal share of assistance to certain commuter rail lines and eliminates a restrictive eligibility requirement. In addition, the law authorize $30 million for the program in each 1979 and 1980 with a 50 percent federal matching ratio and adds $20 million for other commuter rail lines not covered by previous law. (PL 95–187)

U.S. Railway Association

A new law authorizes $13 million in fiscal 1978 for U.S. Railway Association litigation arising from the reorganization of the bankrupt railroads in the Northeast and Midwest. (PL 95–199) A new law provides $13 million in new budget authority in fiscal 1978 for administrative expenses of the Association. (PL 95–282)

Rail Public Counsel

A new law authorizes $1 million in fiscal 1978 for the Office of Rail Public Counsel in the Interstate Commerce Commission. (PL 95–231)

Premium Payments by ConRail

Both Houses passed in differing forms a bill requiring ConRail to assume the obligations of the estates of certain insolvent railroads for medical and life insurance coverage of employees who retired prior to the date the assets of such railroads were transferred to ConRail. (HR 5646)

National Transportation Safety Board

The House passed a bill authorizing $16 million for the National Transportation Safety Board in fiscal 1979. (HR 12106)

Air Cargo Deregulation

A new law provides for deregulation of all-cargo air service, for 15 days notice to the public of new freight rates and passenger fares and for standby reduced air fares for older persons and the handicapped. (PL 95–163)

Air Cargo Service

A new law permits certified supplemental air carriers to apply for all-cargo certificates under the cargo deregulation program. (PL 95–245)

Federal Aviation Act Amendments

A new law clarified United States registration requirements for aircraft owned by United States and foreign controlled corporations. (PL 95–241)

FAA Authorization

The House passed a bill authorizing $85 million for Federal Aviation Administration research in fiscal 1978 (HR 3965); and passed a bill authorizing $78.47 million for research and development in fiscal 1979. (HR 11495)

Coast Guard Authorization

A new law authorizes $1.3 billion for the Coast Guard in fiscal 1978. The law also authorizes active duty personnel of 38,145 and provides for average military training student loads. (PL 95–61) A new law authorizes $1.4 billion for the U.S. Coast Guard for fiscal 1979. (PL 95–308)

Coast Guard Employees' Transportation

The House passed a bill authorizing transportation for Coast Guard employees to remote work areas. (HR 185)

AGRICULTURE

Emergency Agricultural Act of 1978

A new law authorizes the Secretary of Agriculture to increase target prices for wheat, feed grains or cotton for the 1978 through 1981 crops whenever an acreage set-aside is in effect, increases the maximum cotton loan level for those crop years whenever an acreage set-aside is in effect, increases the maximum cotton loan level for those crop years to 48 cents a pound (from 44) and revises the cotton loan formula. The Administration was expected to use its discretionary authority to increase the target price for wheat (the only announced set-aside crop) to $3.40 a bushel (instead of $3) for the 1978 crop. The law will provide farmers with an estimated $699 million in fiscal 1979 and $1.58 billion over five years. (PL 95–279)

Agricultural Credit Act

A new law expands eligibility and increases loan limits for Farmers Home Administration loan programs; establishes a $4-billion, two-year emergency economic loan program for farmers facing economic stress conditions and sets a $650,000-per-borrower combined ceiling for both programs; extends the Emergency Livestock Credit Act through fiscal 1979; and authorizes target price adjustments for rice on a basis comparable to authority for wheat, feed grains and upland cotton in the Emergency Agricultural Act of 1978. (PL 95–334)

Commodity Exchange Act Extension

A bill in conference would extend the Commodity Futures Trading Commission for three years at an estimated cost of $13 million rising to $16 million a year; provide for consultation with the Treasury Department, the Federal Reserve System and the Securities and Exchange Commission on the trading of futures in securities issued or guaranteed by the United States; add stronger anti-fraud and abuse provisions; and authorize state prosecution in federal courts for certain violations. (S 2391)

Food and Agriculture Act of 1977

A new $12 billion, four-year farm and food law adjusts price supports, increases the limitation on payments to individual farmers, establishes an on-farm grain reserve program, extends the Food for Peace program, makes major revisions in the food stamp program and authorizes a variety of farm and rural conservation programs. (PL 95–113)

Disaster Payments

A new law exempts natural disaster payments from the individual payment limitation for the 1977 crop of wheat, feed grains, upland cotton, and rice. (PL 95–156)

Deferral of Wheat Referendum

Congress enacted a law deferring a 1977 wheat marketing quota referendum. (PL 95–48)

Federal Crop Insurance Corporation

Congress enacted a law to increase the authorized capital stock of the Federal Crop Insurance Corporation from $100 million to $150 million. (PL 95–47)

Paperwork Reduction in Agricultural Census

The House passed a bill providing for a 40-percent reduction in farmers' paperwork for the 1979 agricultural census and expanding the census to smaller farms. (HR 7012)

Grazing Fee Moratorium

A new law places a one-year moratorium on any planned or proposed increases in public lands grazing fees to give Congress time to legislate a grazing fee formula equitable to both the United States and public grazing lands lessees and permittees. (PL 95–321)

Public Range Lands Improvement

The House passed a bill that would authorize $360 million for a twenty-year public rangeland improvement program, establish on a 7-year trial basis a fair market value grazing fee formula which is tied to the costs of beef production and beef prices, and require adoption of humane destruction of excess wild horses and burros on the range. (HR 10587)

Federal Crop Insurance

A new law authorizes $200 million in capital stock for the Federal crop Insurance Corporation, an increase of $50 million, and authorizes a study of alternative insurance programs. (PL 95–181)

Timber Sales

A new law authorizes the Secretary of Interior to select the bidding method which best insures fair competition in the timber industry, economic stability for communities dependent on timber sales, and prevention of collusive practices. (PL 95–233)

FIFRA

A bill in conference would make major revisions in the Federal Insecticide, Fungicide and Rodenticide Act. The bill would expedite pesticide registration by EPA. It would aid small formulators by authorizing generic registration of chemicals. It would aid the industry by authorizing conditional registration under certain conditions which safeguard against risk to the environment. The bill would encourage research by allowing proprietary rights to manufacturers and formulators who develop safe and effective pesticides, and it would direct the Agriculture Department to give priority to research on biologically integrated alternates to pest control. (S 1678)

Forest and Rangeland Renewable Resources Research

A new law authorizes the Secretary of Agriculture to conduct forest and rangeland renewable resources research and to provide cooperative assistance for such research to states. (PL 95–307)

Renewable Resources Extension

A new law authorizes the Secretary of Agriculture to conduct a comprehensive extension program on forest and rangeland renewable resources in cooperation with state and eligible college and university officials. (PL 95–306)

Forest Service Volunteer Program

A new law removes the $100,000 annual authorization ceiling on payment of incidental expenses for the Forest Service's volunteer program. (PL 95–289)

Cooperative Forestry Assistance

A new law consolidates into one statute authority for existing cooperative forestry assistance programs. (PL 95–313)

INDIAN AFFAIRS

Indian Claims Commission Act Amendments

A new law authorizes a U.S. Court of Claims review of a Sioux claim for interest on unlawfully taken lands in the Black Hills. (PL 95–243)

Wichita Indian Claims

A new law authorizes the Wichita Indian Tribe of Oklahoma and its affiliated bands and groups of Indians, to file with the Indian Claims Commission certain land claims against the Untied States. (PL–95–247)

Indian Business Development

A new law authorizes $14 million for each fiscal 1978 and 1979 for the Indian Business Development program established by the Indian Financing Act of 1974. (PL 95–68)

Siletz Indians Restoration

A new law restores federal recognition, services, and assistance to the Confederated Tribe of Siletz Indians of Oregon and its members. (PL 95–195)

Indian Claims

A new law authorizes $2.25 million for the Indian Claims Commission for fiscal 1978 and facilitates the transfer of cases from the Commission to the United States Court of Claims. (PL 95–69)

Indian Claims Statute of Limitations

A new law extends until April 1, 1980, the deadline for commencing tort or contract actions for Indian claims which accrued before July 18, 1966. (PL 95–103)

Water Rights for Ak-Chin Indians

A new law authorizes $43 million over five fiscal years for emergency and permanent water supplies of the Ak-Chin Indian community of Arizona in settlement of claims against the United States. (PL 95–328)

Zuni Indian Land Claims

A new law directs the Secretary of the Interior to purchase and hold certain lands in trust for the Zuni Indian Tribe of New Mexico and confers jurisdiction on the Court of Claims for Zuni land claims. (PL 95–280)

Navajo-Hopi Relocation Commission

The House passed a bill authorizing an additional $500,000 a year for the Navajo-Hopi Relocation Commission. (HR 11092)

American Indian Religious Freedom

Congress cleared for the President a joint resolution affirming the right of native Americans to exercise their traditional religions. (SJRes. 102)

Pascua Yaqui Indians of Arizona

A bill reported from conference would extend federal recognition to the Pascua Yaqui Indians of Arizona, including eligibility for all federal services and benefits provided to Indians, recognition of tribal powers of self-government, and reservation status for the Yaqui lands. (S 1633)

DROUGHT AND DISASTER RELIEF

Congress enacted four related laws authorising $325 million and appropriating $275 million for drought assistance. Another law appropriated $200 million under a previous authorization for drought and cold disaster assistance.

Drought Emergency Relief

A new law authorizes $100 million in fiscal 1977 for water acquisition and other drought relief activities to mitgate the 1976–77 drought in several western States. (PL 95–18)

Community Emergency Drought Relief

Congress enacted a law authorizing $225 million in grants and loans to augment community water supplies in drought areas. (PL 95–31)

Two Appropriations Laws

The Supplemental Appropriations Act (PL 95–26) appropriates $100 million for the drought emergency authorization in PL 95–18, and the Economic Stimulus Appropriations Act (PL 95–29) appropriates $175 million for the community drought relief act. (PL 95–31)

Disaster Relief

Congress enacted an urgent supplemental appropriations law providing $200,000,000 under a previous authorization for disaster relief in several western and midwestern states suffering from drought or cold in 1976 and 1977. (PL 95–13)

Disaster Relief

A new law extends the Disaster Relief Act of 1974 through fiscal 1978 and authorizes certain drought assistance by the Corps of Engineers. (PL 95–51)

Disaster Relief

An emergency act provided $300 million for urgent disaster relief activities resulting from the severe weather conditions during 1977 and the winter of 1977–78. (PL 95–255)

SBA Disaster Loans

A new law provided an urgent supplemental appropriation of $758 million for Small Business Administration disaster loans which increased sharply in the wake of severe physical disasters in 1977 and 1978. (PL 95–304)

FEDERAL EMPLOYEES

Federal Life and Health Benefits During Retirement

The House passed a bill reducing from 12 to 5 years the length of service required to retain federal employee group life insurance and health benefits coverage during retirement. (HR 4319)

Restoration of Certain Annuities

A new law restores survivor annuities to certain surviving spouses of federal employees which were terminated because of the remarriage of the spouse before July 18, 1966, and the annuity of a surviving spouse of a Member of Congress who died before January 8, 1971, which was terminated because of the remarriage of such spouse. (PL 95–318)

Uniformity for Federal Employees Health Benefits

Both Houses passed in differing forms a bill providing that any contract under the Federal Employees Health Benefits Program shall preempt any conflicting state or local law. (HR 2931)

Hatch Act Reform

The House passed a bill to repeal the prohibitions on candidacy or campaign participation by most federal workers in partisan political elections. (HR 10)

Increase in Number of Hearing Examiners

A new law increases by 100 the number of hearing examiner positions which the Civil Service Commission may establish in grade GS–16. (PL 95–251)

U.S. Postal Service Arbitration Board

The House passed a bill to establish 3-member arbitration boards to consider disputes between the Postal Service and a supervisors' organization. (HR 7132)

Retirement Pay for Tax Court Judges

The House passed a bill permitting a United States Tax Court Judge to choose between the Tax Court retirement system and the civil service retirement system. (HR 8811)

Civil Service Retirement Credit for Japanese-Americans

The House passed a bill authorizing civil service retirement credit for employees and Members of Japanese ancestry who were interned during World War II. (HR 9471)

Payments to Former Spouses

The House passed a bill authorizing the Civil Service Commission to comply with the terms of a court decree or property settlement in connection with the divorce, annulment, or legal separation of an employee who is entitled to payments under the civil service retirement program. (HR 8771)

Travel Expenses of Government Officials

The House passed a bill to permit a private foundation to pay or reimburse government officials for certain expenses of foreign travel under similar limitations as apply currently to expenses of domestic travel. (HR 810)

Civil Service Annuities of Federal Judges

The House passed a bill authorizing the discontinuance of civil service annuity payments to former federal employees who, in the future, are appointed federal judges and to permit election of survivor annuities for certain retirees. (HR 4320)

Part-Time Career Employment in the Federal Service

The House passed a bill requiring agencies to establish programs to increase part-time career employment in the federal service. (HR 10126)

Retired Comptrollers General

The House passed a bill providing for cost-of-living adjustments in the annuities of a retired Comptroller General and survivors. (HR 12196)

Survivor Annuity

A new law gives civil service annuitants a year after remarriage to elect a survivor annuity for the new spouse and eliminates the survivor annuity reduction made by an unmarried annuitant if the proposed beneficiary predeceases the annuitant. (PL 95–317)

VETERANS AFFAIRS

Veterans Education Benefits

A new law provides a 6.6 percent $510-million-a-year increase in education benefits to some 1.9 million veterans and dependents effective October 1, 1977. The law authorizes accelerated payments for veterans going to higher-cost schools; increases veterans' loan limits to $2,500 (from $1,500) per school year and liberalizes eligibility; authorizes for veterans who successfully complete their education programs a joint state-federal cancellation of up to two thirds of the loan to be applied against tuition-and-fee charges in excess of $700 per school term; extends loan entitlement for each of the two years following the 10-year delimiting period for veterans with loan eligibility; and makes Women's Air Forces Service Pilots (WASPS) of World War II and certain other civilian federal employees eligible for veterans benefits, provided that the Secretary of Defense determines that their service constituted active military duty and issues to each eligible person an honorable discharge. (PL 95–202)

Pension Improvement Act

Both houses have passed in differing forms a bill overhauling the veterans' and survivors' pension system, increasing the maximum pension for a veteran alone to $4,000 a year (up $1,600), providing an additional $604 a year for veterans aged 80 and older, improving benefits for survivors, providing for automatic cost-of-living increases on the same basis as social security and giving the recipient the full pension and social security increases, at a net cost of $730 million in fiscal 1979 and $2.6 billion by fiscal 1983. (HR 10173)

Veterans Compensation

A new law increases by 6.6 percent service-connected disability compensation and dependency and indemnity compensation for veterans and their survivors. (PL 95–117)

Veterans and Survivors Pension Adjustment Act of 1977

A new law increases veterans and survivors pensions by 6.5 percent, provide a 25 percent differential to World War I surviving spouses age 78 or older, and increases the limits on outside income which beneficiaries may re-

ceive and still be eligible for a full pension. (PL 95–204)

and acquisition of VA medical facilities.

without further legislative action. (PL 95

ceive and still be eligible for a full pension. (PL 95–204)

Veterans' Disability Compensation

Both Houses passed in differing forms a bill providing a 6.5-percent increase in service-connected disability compensation and dependency and indemnity compensation for veterans and their survivors. (HR 11886)

Disabled Veterans' Compensation

The House passed a bill changing to 40 percent from 50 percent the minimum disability rating necessary to qualify a veteran for additional compensation for dependents. (HR 11888)

Severely Disabled Veterans Compensation

The House passed a bill providing entitlement to a higher monthly aid and attendance allowance to severely disabled veterans in need of constant medical aid and attendance. (HR 11891)

VA Dependency and Indemnity Compensation Benefits

The House passed a bill providing that certain survivors of a veteran who was rated totally and permanently service-connected disabled for at least ten years would be entitled to dependency and indemnity compensation as though the veteran had died from a service-connected disability. (HR 11890)

Veterans Housing Improvement

Both Houses passed in differing forms a bill to increase the maximum VA home loan guaranty to $25,000, to increase housing grants for disabled veterans to $30,000 and to liberalize the mobile home loan program. (HR 12028)

Disabled Veterans Housing Assistance

The House passed a bill providing specially adapted housing assistance to veterans with a permanent and total service-connected disability due to the loss or loss of use of one upper and one lower extremity. (HR 7658)

Veterans Benefits Entitlement

A new law denies veterans benefits to certain Vietnam-era veterans with upgraded discharges unless a Discharge Review Board makes a separate recommendation. (PL 95–126)

Physicians and Dentists Pay Comparability Act

A new law extends through September 30, 1978, special pay and incentive pay to physicians and dentists in the Veterans Administration. (PL 95–201)

Eliminating Mobile Home Inspections by the VA

The House passed a bill eliminating the requirement for inspections of the mobile home manufacturing process by the Administrator of Veterans Affairs. (HR 4341)

Veterans Home Facilities

A new law authorizes $15 million for each fiscal 1978 and 1979 to revise the program of grants to states for construction, remodeling, and renovation of state home facilities for veterans. (PL 95–62)

Medical Services for Veterans in the Philippines

Both houses passed in differing forms a bill extending for 15 months through fiscal 1979 at a rate of $2.1 million per year authority to provide hospital care and medical services for certain Philippine veterans. (H.R. 5029)

Hospital Care for Certain Veterans

The House passed a bill continuing the authority of the Administrator to furnish hospital care to certain eligible veterans living in the two non-contiguous states or in territories, Commonwealths, and possessions of the U.S. on a basis equal to VA hospital care in the contiguous 48 states. (H.R. 12011)

VA Medical Facilities Acquisition

The House passed a bill revising procedures relating to the construction, alteration, and acquisition of VA medical facilities. (H.R. 5025)

VA Medical Services for Veterans in Hawaii and Alaska

Both houses passed a bill in differing forms clarifying a requirement that medical services continue to be provided on a fee basis to service-connected disabled veterans in Alaska and Hawaii. (H.R. 5027)

Automobile Assistance Allowance for Disabled WWI Veterans

A new law provides an automobile assistance allowance and automotive adaptive equipment to certain disabled veterans of World War I. (PL 95–116)

Veterans Compensation for Paired Extremities

The House passed a bill providing increased awards of service-connected compensation to certain veterans who have suffered the loss or loss of use of paired extremities. (H.R. 6501)

Veterans Readjustment Appointment Authority

The House passed a bill extending and expanding eligibility for Vietnam-era veterans readjustment appointments in the federal service. (H.R. 12353)

Plot Allowance to State Veterans Cemeteries

The House passed a bill providing a $150 allowance to any state or agency or political subdivision of a state in reimbursement for expenses incurred in the burial of veterans. (H.R. 12252)

Medal of Honor Recipients' Pension

The House passed a bill to increase from $100 to $200 the monthly rate of special pension payable to each person who has been awarded the Medal of Honor. (H.R. 11889)

DISTRICT OF COLUMBIA

Borrowing Authority for the District of Columbia

A new law provides the District of Columbia with authority until October 1, 1979, to borrow from the U.S. Treasury to finance capital projects. (PL 95–131)

Retirement Funds for D.C. Police and Firemen, Teachers and Judges

The House passed a bill to establish actuarially-sound retirement funds for D.C. police and firemen, teachers, and judges and to make certain changes in retirement benefits. (HR 6536)

Federal Payment for D.C. Water and Sewer Services

A new law provides for a revised system for the billing and collection of charges incurred by the federal government for the consumption of water and sewer services provided by the District of Columbia. (PL 95–122)

Pretrial Release or Detention in the District of Columbia

The House passed a bill to restrict the pretrial release or detention of persons charged with certain violent crimes in the District of Columbia. (HR 7747)

Air Space Use for Postal Conveyor

A new law permits the construction of a conveyor bridge across First St., N.E., to carry mail between the post office and Union Station. (PL 95–235)

D.C. Armory Board Fiscal Year Change

A new law allows the D.C. Armory Board (which manages both the Robert F. Kennedy Stadium and the D.C. Armory, to operate on a calendar year basis, rather than, as present, under a fiscal year as observed by other D.C. government agencies. (PL 95–185)

Revenue Bonds for Private Colleges and Universities

A new law expedites the revenue bond process for private D.C. colleges and universities, by allowing the proceeds from the bond sales to be remitted to the institutions without further legislative action. (PL 95–218)

Home Rule Charter Amendment for Initiative and Referendum

Both houses passed in final form a concurrent resolution approving an amendment to the District of Columbia Home Rule Charter to provide for initiative and referendum. (HConRes 464)

Home Rule Charter Amendment for Recall of Elected Officials

Both houses passed in final form a concurrent resolution approving an amendment to the District of Columbia Home Rule Charter to provide for recall of elected officials, except the Delegate to Congress. (HConRes 471)

District of Columbia Representation in Congress

The House passed a joint resolution proposing an amendment to the Constitution to provide to the citizens of the District of Columbia full voting representation in Congress, fuller participation in the election of the President and Vice President, and the right to participate in the process of amending the Constitution (HJRes 554)

Appropriations, fiscal 1979

Agriculture (H.R. 13125)	$18, 014, 029, 000
Defense (H.R. 13635)	119, 017, 278, 000
District of Columbia (H.R. 13468)	277, 300, 000
Foreign Assistance (H.R. 12931)*	7, 352, 761, 483
HUD-Independent Agencies (H.R. 12936)	68, 208, 848, 000
Interior (H.R. 12932)	12, 690, 544, 000
Labor-HEW (H.R. 12929)	56, 585, 102, 000
Legislative (H.R. 12935)*	1, 118, 244, 000
Military Construction (H.R. 12927)	3, 844, 887, 000
Public Works (H.R. 12928)	10, 134, 801, 200
State - Justice - Commerce (H.R. 12934)	4, 588, 717, 900
Transportation (P.L. 95–335)*	8, 747, 553, 096
Treasury-Postal (H.R. 12930)	8, 634, 300, 000
Total	319, 214, 366, 079

*All figures are for bills as passed by the House, except for Foreign Assistance which is pending completion of floor action, Legislative which is reported from conference and Transportation which is signed into law.

Appropriations, fiscal 1978

Agriculture (P.L. 95–97)	$12, 749, 378, 000
Defense (P.L. 95–111)	109, 752, 766, 000
District of Columbia (P.L. 95–288)	399, 116, 000
Foreign Assistance (P.L. 95–148)	6, 772, 654, 000
HUD-Independent Agencies (P.L. 95–119)	69, 370, 554, 000
Interior (P.L. 95–74)	10, 026, 349, 000
Labor-HEW (H.R. 7555)	60, 168, 561, 000
Legislative (P.L. 95–94)	990, 067, 800
Military Construction (P.L. 95–101)	2, 977, 720, 000
Public Works (P.L. 95–96)	10, 294, 414, 000
State-Justice-Commerce (P.L. 95–86)	7, 709, 432, 000
Transportation (P.L. 95–85)	6, 196, 609, 023
Treasury-Postal (P.L. 95–81)	7, 478, 254, 000
Supplemental Fiscal 1978 (P.L. 95–240)	7, 336, 498, 000
Urgent Power Supplemental (P.L. 95–246)	13, 114, 000
Disaster Relief Supplemental (P.L. 95–255)	300, 000, 000
Railway Supplemental (P.L. 95–282)	13, 000, 000
Disaster Loan Supplemental (P.L. 95–284)	821, 180, 000
Black Lung Supplemental (P.L. 95–332)	253, 977, 000

Appropriations, fiscal 1978—Continued

Grain Supplemental (P.L. 95–301)	6, 488, 000
Agriculture Supplemental (P.L. 95–330)	57, 145, 000
Second Supplemental (H.R. 13467)*	6, 808, 778, 686
Fiscal 1978 Supplementals in fiscal 1979 bills*	12, 801, 700
Total, fiscal 1978	320, 508, 857, 209

*All figures are enacted except the second supplemental and the fiscal 1978 supplementals in fiscal 1979 bills, which are conference figures.

First Rescission

A law rescinded $47,500,000 in fiscal 1977 contract authority for purchase, processing or transportation of helium. (PL 95–10)

Second Rescission

A law rescinds fiscal 1977 appropriations totaling $644 million, including $453 million originally intended for a new nuclear carrier and adaptation of an existing ship to nuclear arms and $143.6 million for military retired pay. (PL 95–15)

Third Rescission

A new law rescinds fiscal 1977 appropriations of $21,090,000 for foreign military credit sales and $75,000,000 for the General Services Administration Federal Buildings Fund. (PL 95–186)

Deferrals

The House passed three resolutions disapproving deferrals totaling $25.6 million for energy research and development programs and required the Administration to spend the money. (HRes. 305, 306, 307)

Deferrals

The House passed four resolutions totaling $38.8 million for energy research and development programs and required the Administration to spend the money. (HRes 851, 852, 853, 854)

First Rescission, Fiscal 1978

A new law rescinds fiscal 1978 appropriations and borrowing authority totaling $55 million, including $10 million in borrowing authority for the Federal Home Loan Bank Board, $40 million in appropriations for military assistance funds, and $5 million in appropriations for contributions for international peacekeeping activities. (PL 95–254) ●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New Jersey (Mrs. MEYNER) is recognized for 5 minutes.

● Mrs. MEYNER. Mr. Speaker, I regret that, due to illness, I was unable to be present for all of the legislative session of August 16, 1978. If I had been present, I would have voted as follows:

Rollcall No. 709: "No";
Rollcall No. 710: "Aye";
Rollcall No. 711: "No";
Rollcall No. 712: "No";
Rollcall No. 713: "Aye." ●

COMING EUROPEAN CURRENCY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, coming events cast their shadow before. In reading and looking through the 10 or 12 volumes of the collected speeches and addresses of President Eisenhower, you find no reference whatsover to the European Common Market and its formation, all of which transpired during the period of his regime. It was not until 1962 when President Kennedy had the GAT, or the General Agreement on Trade, in Paris, that we had the first significant information on the development of the European Common Market.

Likewise, recently in the conference in Bonn where the German leader actually took over the conduct of the conference, there was one last sentence to the agreements by the President and the others representing their respective countries meeting there which like the development of the European Common Market I predict will be a coming tremendous challenge to the United States. That was an agreement by which President Carter agreed to for purposes of developing a common currency for Europe.

Mr. Speaker, we are just on the threshold of beginning to see what that means and implies to the United States. Similarly, very few Americans paid attention to the last sentence of the recent Bonn agreement.

The acquiesence of the United States to a drive toward European currency integration may or may not have been essential, but it certainly will give great impetus toward that.

Unfortunately for Americans, we paid little attention to this and less to its importance. The world at large has not been blind to these events however, and this may account for the continuing fall of the dollar—a fall that is far below anything that economic events would justify.

Americans did not recognize the strength and vitality of the Common Market until it was fully developed, when our trade balance began to fall off into persistent deficit. When the Bretton Woods monetary system collapsed, it was as much due to the inability of American commerce to maintain a favorable balance against the Common Market and Japan as anything else.

At the time we were told that with dollar devaluation we would be more competitive and the balance would soon be restored. Nothing like that has happened; we are still in deficit, though the value of our currency has dropped steadily.

This suggests—to me at least—that our competitors have much greater economic strength than we are willing to recognize. Now that economic strength is about to get a powerful new impetus, in the form of a common currency.

Few recognize it, but the unique growth and power of the United States came about not just because we occupied an empty and rich continent. There was more to it than that. A key, maybe the key, ingredient was the fact that the Constitution struck down trade barriers between the States and established a common currency for the whole Federal Union. We had the first common market on Earth, a vast area that traded freely and used a single currency.

It was just in this century, and after World War II at that, when Europe caught on and started breaking down the trade barriers between countries. The result was nothing less than an economic miracle, one that grew up without our even recognizing it. Today Europe produces nearly as much of the free world's goods as we in the United States do. Their economic power very nearly matches our own. But few Americans realize this.

If the vast productive power of the Common Market is now augmented by a common currency, we will see another European economic miracle. The power of that trading bloc will increase dramatically, and with that increase will come a further decline in our own relative ability. Rather than being dominant, if we even can claim that we are today, we will become a junior partner on the world economic scale.

There is the danger that the world will split into three great economic blocs: the United States, Europe, and Japan, with the Pacific area. Suppose that these trading blocs begin to place restraints on trade; suppose that the United States would be powerless to prevent that. Where then would we be? We would be in a mercantilist world, a world poorer and more volatile than ever before.

Possibly all this lies far in the future. Possibly there is nothing to be concerned about. But it is astonishing that we pay so little heed to the world's greatest economic events, which in turn have such fundamental impact on what happens to ourselves, and what will happen to our country.

How many Americans truly understand how great the economic power of Europe has become? How many Americans even know the importance of currency integration to the development and vigor of basic trade and commerce?

Ordinary citizens who are not touched by the world of international commerce, except as consumers, might be forgiven if they do not know these things or recognize their import. The real question is how well our national leaders understand these things, and how well they are prepared to deal with the consequences.

If the Common Market could grow up to full strength and maturity without once ever being publicly mentioned by President Eisenhower, it is not unreasonable for me to wonder if similarly, equally enormous events could also escape the notice of our national leadership today. I fervently hope that this is not so; and yet, despite all the exhortation about the declining dollar, I see very little evidence that basic trade issues are being treated with anything other than similar, and equally ineffective cosmetology. The times demand more than that. History is an impatient teacher.

IN SUPPORT OF THE EQUAL RIGHTS AMENDMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 5 minutes.

● Mr. PEPPER. Mr. Speaker, this past Tuesday, August 15, I had the pleasure of listening to my colleagues debate the pros and cons of extending the deadline for ratification of the equal rights

amendment; and the arguments had a

The whole question of the evolution of

amendment; and the arguments had a familiar ring to them, as if I had heard them before.

Thirty-five years ago during the 1st session of the 78th Congress (January 1943) as a Member of the Senate I cosponsored Senate Joint Resolution 25, "An amendment to the Constitution of the United States relative to the equal rights for men and women," along with Mr. Gillette and a number of my other distinguished colleagues in the Senate. As I rose in support of the resolution that day, I told my peers, "Women are entitled to enjoy all rights equally with all human beings, and that sex is not a sufficient line of demarcation for different rights." Today I say the same thing.

Two years later in the 79th Congress I again cosponsored, along with a number of my colleagues in the Senate, Senate Joint Resolution 61, "A proposed constitutional amendment providing equal rights for women and men." A year later in July of 1946 that resolution came to full debate. The beginning of the amendment began:

Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

I shared the following with my colleagues as I now share with you:

Is there anything extraordinary or revolutionary in that concept? Does anyone wish to stand up in the Senate or anywhere else and say that women, because they are women, should be discriminated against in respect to the enjoyment of civil rights?

Today I say the same thing.

Needless to say that proposed amendment, along with another attempt in the 80th Congress never got beyond the floor of the Senate. That was over 30 years ago. Today I feel privileged and honored that as a Member of the House of Representatives we have passed this so very important resolution; and to my colleagues in the Senate I say today as I said 32 years ago in that Chamber: (This constitutional amendment) "was intended to give, and in my opinion would be construed to give, to the wife, to the girl, to the woman, the same privilege, the same right, in that sense the man has. In doing that it is simply lifting the dignity of woman up from inferiority to equality, it is raising her from a position of servility and subordination to equality, to the same plane with man."

I will not ask to incorporate into the RECORD all my speeches in support of equal rights for women, but the first speech that I made in support of this amendment in the Senate back in January 1943.

Mr. PEPPER. Mr. President, I regret very much that the very few remarks I shall make should appear so proximate to contrary sentiments expressed by my distinguished colleague, for whom I have not only the greatest affection and deepest friendship, but to whose opinion I always very much defer. However, I cannot escape the conclusion that those of us who have advocated by our signatures the equal-rights amendment, which is now upon the desk and properly referred, as well as those who are favorably inclined toward it, advocate an ideal too long delayed, the complete emancipation of women.

The whole question of the evolution of human rights is a matter of interesting historical trend. There was a time when men were not regarded as entitled to many privileges or prerogatives, and protected by few immunities, if they happened to be men of poverty or without estate. I have read that at the time of the French Revolution in France it was permissible for one of the grand gentlemen of France, a member of the nobility, on a cold morning's hunt to have the privilege of warming his feet in the bowels of not to exceed two peasants.

We all know what great progress was made in the protection of human rights when the Magna Carta was promulgated.

There was a long time in this country when able, earnest, and honest men and women opposed the extension of the suffrage to women because they really thought that association with politics would contaminate women and to subject women to such taint was unworthy of men.

I remember very distinctly a clever gentleman who was later in the Senate, making a remark in my high school, when I was a high school student, when he spoke against woman's suffrage, to the effect that John was a suffragist and Mary was a suffragette, and they were both suffering it. Those were just a few of the sentiments of ridicule and scorn which were hurled at those who advocated what we all now take as a matter of fact and right, and the right of women to vote.

I feel, therefore, that the trend toward women enjoying equal rights has progressed until today they are entitled to enjoy all rights equally with all human beings, and that sex is not a sufficient line of demarcation for different rights. There may be instances where there would be a difference in duties, but that will depend upon the ability of the person or persons affected to perform the obligation required, not to their rights equally to share and to enjoy the benefits which are derived from citizenship and equality due to all.

When the Declaration of Independence was written, and those moving words that "all men are created equal" were incorporated therein, to lift the hopes and the hearts of the oppressed everywhere in the world, I do not believe that Thomas Jefferson was thinking only of mankind which happened to be masculine in sex. I think he spoke about human beings, and therefore that it is in accordance with the principles of the Declaration of Independence to say that women are born equal with men in the rights of citizenship and civil prerogatives.

I hope, therefore, that this may be the last hurdle which it will be necessary to surmount; that the race to bring equality, complete freedom, independence, and liberty for women shall at long last be won.●

OPPOSITION TO COMMERCE DEPARTMENT PROPOSAL TO CHANGE CRITERIA FOR DESIGNATING SMSA'S

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. AMBRO) is recognized for 5 minutes.

● Mr. AMBRO. Mr. Speaker, late last week, I was startled to discover that some rather innocuous sounding regulations published in the Federal Register on June 22, 1978, dealing with standard metropolitan statistical areas (SMSA's) were actually a far-reaching set of new criteria by which these geographical areas would be categorized after the 1980 census. In truth, hundreds of communities would be effected by these changes. While I must admit to having a vested interest in this proposed change, because my own area—the Nassau-Suffolk, N.Y., SMSA—would be abolished as a separate entity and would instead be folded into the already huge New York City SMSA, I think that the implications across the entire Nation are of such a magnitude as to require extensive further study in the future and an immediate halt in the regulations—changing procedure for the present.

By changing the definition of SMSA's hundreds of localities would be either included or excluded from the boundaries of dozens of old and new statistical areas. While this might seem like a minor technical adjustment, it involves a major alteration in the way in which the Federal Government and countless private organizations collect and organize their data affecting everything from Federal grants-in-aid to advertising rate schedules.

It is my understanding that these regulations have been undergoing in-house consideration in the Commerce Department's Office of Federal Statistical Policy and Standards since early 1976. Frankly, I am at a loss to understand the Commerce Department's haste. If, indeed, they are not to take effect until after the 1980 census, then why do we not wait until after the decennial enumeration has been completed and analyzed—probably sometime in 1982—so that we are in a better position to determine just what criteria ought to govern the designation of an SMSA in the 1980's. Something that seems important today may becloud the picture 4 years from now.

Mr. Speaker, yesterday, I joined with my colleagues of the suburban caucus and others concerned about these proposed regulations in a letter to President Carter suggesting that he call a halt to this premature alteration of the SMSA regulations. It is my hope that the President will listen to our arguments and will render a decision to halt the change in criteria.●

SECTION 1903(g) OF TITLE XIX OF THE SOCIAL SECURITY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. WIRTH) is recognized for 5 minutes.

● Mr. WIRTH. Mr. Speaker, I thought the following exchange of letters would be of interest to the Members.

AUGUST 16, 1978.

Hon. PAUL ROGERS,
U.S. House of Representatives,
Rayburn House Office Building,
Washington, D.C.

DEAR PAUL: The Health Care Financing Administration recently notified me that Colorado may be penalized federal funding for its Medicaid program due to Colorado's alleged failure to comply with Section 1903 (g) of the Social Security Act. I consider such a penalty unwarranted and unnecessary at this time, for, to the best of my knowledge, Colorado is in compliance with the Medicaid program and has shown that it can and will comply with the provisions of

Section 1903(g). As the Chairman of the Subcommittee on Health and the Environment and a principal author of the Medicaid legislation, I think you would agree with me that the Department's interpretation of the statute is incorrect. Let me explain.

The problem grows out of the Department of HEW's interpretation of what a state would have to do to avoid the penalty prescribed in Section 1903(g). As you know, the Section requires each State to have an "effective" program of utilization control. An effective program must include an annual review of the care provided each patient in the State's Skilled Nursing Facilities, Intermediate Care Facilities, and Mental Hospitals. Additionally, each state must demonstrate every quarter to the Secretary the results of the utilization control program. HEW alleged that Medicaid reviews in Colorado were inappropriately performed during the first three quarters of 1977 and that to come into compliance with the statute, the State would have had to re-perform all reviews conducted during the first three quarters of the year.

My understanding is that the Congressional intent in passing PL95–142 was to require states to come into full compliance for inspections regularly scheduled during the last quarter of 1977. States which met this obligation would be free from the risk of penalties for the first three quarters of 1977. Assuming that a state also continued to comply after the last quarter of 1977, then no penalties would be necessary in the future.

The State of Colorado made the same interpretation of PL 95–142 as I do and was never informed of the contrary by HEW during 1977. Indeed, HEW, through its own action transmittal (HCFA A.T. No. 77–106) which was sent to each state, supports this interpretation. Therefore, the State proceeded in good faith with the inspections originally scheduled for the last quarter of 1977 and the first two quarters of 1978. These reviews were completed in an appropriate manner within the framework of the Act. The State has not gone back to re-do the earlier allegedly deficient inspections because of this understanding of the intent of PL 95–142.

Hoping you agree with me that the authors of this legislation would not have intended that a state be penalized under these circumstances, I propose that we submit this letter and one from you as an official exchange of correspondence for the record.

With best wishes,

Sincerely yours,

TIMOTHY E. WIRTH.

AUGUST 16, 1978.

Hon. TIMOTHY WIRTH,
U.S. House of Representatives,
Washington, D.C.

DEAR TIM: Thank you very much for your letter concerning the possibility of action by the Department of Health, Education and Welfare against the State of Colorado for alleged failure to comply with the provisions of Section 1903(g) of the Social Security Act. As an author of Section 20 of P.L. 95–142 relating to this section and the applications of penalties thereunder, I certainly agree with your interpretation that HEW action against Colorado under the present circumstances would be inappropriate and not in keeping with the intent of the law.

In passing Section 20 of P.L. 95–142, we meant to give States an opportunity to wipe the slate clean of all penalties which might otherwise be assessed under Section 1903(g) for quarters falling in 1977 if they conducted reviews of facilities in conformity with the requirements of the law in the fourth quarter. We certainly did not intend to require any State to review all facilities in the State in one quarter because the review done in the previous three quarters was in some way insufficient.

There can be no doubt that the penalty being considered now would be counterproductive and could seriously undermine the State's ability to administer a Medicaid program for its low income citizens. No one wants this to occur, and I believe it can and should be avoided.

I understand that Colorado is now in full compliance with the law, and was in compliance for all reviews conducted during the final quarter of 1977, and, therefore, it is my opinion that no penalty should be applied.

I gladly submit to the Record these remarks along with yours as an official exchange of correspondence.

Sincerely yours,

PAUL G. ROGERS, M.C.,
Chairman, Subcommittee on Health and the Environment.●

FRENCH NEWSPAPER RECONSTRUCTED AND FABRICATED ANDREW YOUNG INTERVIEW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 5 minutes.

● Mr. ALEXANDER. Mr. Speaker, last month when the uproar broke over the interview our Ambassador to the United Nations, Andrew Young, gave to a French newspaper I decided to try to find out for myself just what was said in that interview. It seemed the only fair and just thing to do. I would have wanted to do that even if Andy Young has not been my friend.

The outcome was that I obtained from the Department of State a transcription of the tape recording of the interview which was conducted in English. And, I made that transcription a part of the CONGRESSIONAL RECORD of July 24.

After the transcript appeared in the RECORD, one of our colleagues, the gentlelady from New Jersey (Mrs. FENWICK), raised a question about differences between its content and the content of a news article in the July 14, 1978, New York Times. The differences are substantial.

The Paris newspaper—Le Matin—translated the interview from English to French after which it misrepresented what Young said. The French Communist newspaper reconstructed and fabricated a story from the interview. The Associated Press translated this injustice to English. The New York Times compounded the situation by publishing the AP account in its prestigious newspaper. Andy Young, and the United States, were seriously damaged because of this outrageous misrepresentation.

The transcript and newsstory have been closely compared. I submit a copy of the Times account and relevant parts of the Young interview for your review and judgment.

I wanted to make my colleagues aware of the debate and of my correspondence with the Times because I would think any responsible, free news media institution would consider it its duty to correct such a miscarriage of justice. A copy of my letter to Arthur Ochs Sulzberger, Times publisher and to A. M. Rosenthal, executive editor, follows:

CONGRESS OF THE U.S. OF AMERICA,
August 15, 1978.

Mr. A. M. ROSENTHAL,
Executive Editor, The New York Times Co.
New York, N.Y.

DEAR MR. ROSENTHAL: During the recent row over the alleged statements by United States Ambassador to the United Nations Andrew Young, I requested from the Department of State a transcription of the complete interview with Nina Sutton for Le Matin.

It was in the interest of providing my colleagues in the Congress with the opportunity of studying the full transcription of the interview that I subsequently inserted it into the Congressional Record. A copy of the section of the CR containing this reprint is attached (Attachment I). Following publication my attention was drawn to the fact that the transcript which I had received from the Department of State and the "Excerpts from Interview" which the New York Times published on July 14, 1978, under the headline "Young's Remarks to Paris Paper" are substantially different. The Times article was prepared by Associated Press, apparently.

I am advised that the interview between the Ambassador and Ms. Sutton was conducted in English and that the State transcript was made directly from the tape recording of that interview. The AP story notes that the interview was in English that Le Matin translated at least portions of it into French and published them, and that AP then translated the Le Matin material into English for its own distribution.

The material in the AP story does not make clear whether Le Matin represented its material as an exact, sequential translation or whether the French newspaper condensed the material from the interview. A careful review of the transcript provided by State indicates that a non-sequential, inexact condensation of the actual remarks in the interview could have resulted in the "excerpts" included in the AP story which the Times published generating a misleading impression of what had been said in the interview. For reference, may I suggest that you compare the "excerpts" from the AP story and from the reprint of the official transcript shown on Attachment II of this letter.

Assuming that the transcription provided by the Department of State is an accurate representation of the interview, the image that you have presented of Andy Young has resulted in a miscarriage of justice which I would think that any responsible, free news media institution would consider its duty to correct.

Have the appropriate officials of your organization reviewed the official Department of State transcription of the interview, comparing it with the AP transmission printed in the Times and the whole of the article published by Le Matin? If so, what conclusion or conclusions have been reached? And may I ask, what do you plan to do about it?

With kindest regards, I am

Sincerely,

BILL ALEXANDER,
Member of Congress.

YOUNG'S REMARKS TO PARIS PAPER

EXCERPTS FROM INTERVIEW

Question: How do you explain the opening of the trials of Scharansky and Ginzburg on the eve of a Vance-Gromyko meeting?

Answer: Oh, it's certainly a challenge, a gesture of independence on their part. But that will not prevent them from pursuing the SALT negotiations. And then, one doesn't know what can happen to the dissidents. After all, in our prisons, too, there are hundreds perhaps even thousands of people whom I would call political prisoners. Ten

years ago I myself was tried in Atlanta for

words, they have to destroy their own society

lated to ground water. It is noteworthy

ving the National Science Foundation

years ago I myself was tried in Atlanta for having organized a protest movement. And, three years later, I was a Georgia Representative. It's true that things do not change that quickly in the Soviet Union, but they do change.

Q: But one cannot compare the two systems . . .

A: I do not agree that these systems should be considered as opposing each other. Take the United States, for example. The society of today has nothing in common with the pre-Roosevelt one. In the years 1930–40 the trade union movement launched a radical revolution in American life, a revolution without which we certainly couldn't produce nine million automobiles a year today. In the 1950's there was a revolution of civil and racial rights. Today it is women who are participating more and more in our economy. And this constant evolution is the rule everywhere. I think the current Soviet dissidents could well be the salvation of the Soviet Union. They are a natural development of Soviet society, but the leadership has not yet realized it.

STATEMENT IN GENEVA

A lengthy interview has been excerpted to give an erroneous impression of my views on the trial of Mr. Anatoly Scharansky.

Let me assure you that I am fully in accord with the strong statements condemning the persecution of Soviet dissidents issued by President Carter and Secretary Vance and have actively supported the movement for universal human rights and freedoms and especially the cause of Soviet Jewry from my earliest days in the U.S. Congress.

Nor have I ever equated the status of political freedom in the United States with that in the Soviet Union. I know of no instance in the United States where persons have received penalties for monitoring our Government's position on civil or human rights.

Last June in Atlanta at a service of worship memorializing the Holocaust, I met the younger brother of Mr. Scharansky and I was greatly impressed by the courage and determination he expressed toward the pursuit of full cultural and religious freedom in his country. He said that Soviet citizens wanted and needed strong reactions from all freedom-loving people and praised the human rights concerns that we have expressed.

EXCERPT FROM CONGRESSONAL RECORD OF JULY 24, 1978

S: The strongest part of what you say is we don't have to compete with the Russians, we're better, have more to offer so let's not worry about what they do. What if you're right? Aren't you afraid that could lead to a very dramatic confrontation?

Y: No, I think we have been able to successfully avoid the confrontation because our restraint and our reasonable approaches to things have prevailed everywhere so far.

S: But the U.S. has more to offer.

Y: Not necessarily. The truth of it is in terms of natural resources yet to be developed, Russian has a tremendous amount. I think Russia's problems that we don't have are weather, and I think they haven't learned to master their bureaucracy as yet. And I am no authority on Russia, but I think for all the things that are wrong with the free enterprise system, one of the things that is right about it is it provides for rapid changes in producing things more efficiently.

Our system maximizes efficiency and their system, I guess, gets encumbered with bureaucracy.

S: OK, what you are telling me is the Russians will be OK once they understand our way of doing things and they can catch up with us peacefully, but that in other words, they have to destroy their own society in order to be competitive.

Y: No, they don't have to destroy it because I think that there is a kind of bureaucracy in the Japanese too and the Germans have been very rigid and bureaucratic in the past. They've got to find a healthier mixture just like I think we've got to find a healthier mixture to provide more government response to the problems of unemployment and inflation and more particularly, I think there has got to be more government involvement in our economy as we become more and more export-oriented.

Y: Our free market system was perfectly adapted for the continental United States. But as we start having to compete with the Japanese and the Germans and everybody else, we are going to have to do a little more for our businesses to help them function abroad. We're going to have to do a little more for American citizens working abroad. I resist this competition between systems. The United States as it was prior to Franklin Roosevelt just doesn't exist any more. The trade union movement in the 1930s and 1940s made a radical revolution in American lifestyle. And without the trade union revolution, we wouldn't be able to produce approximately nine million cars. In the 1950s and 1960s, we had a civil rights revolution and that has produced another whole qualitative difference in the American life and politics. In the 1970s, you had women becoming much more aggressive and involved in our economy. We have not yet been able to see the changes that that is going to produce. So, our system is constantly evolving just as their system is constantly evolving. I think the present Soviet dissidents may turn out to be the salvation of Russia.

S: But listen, they are all going on trial, they are being dismantled.

Y: It was just ten years ago that I was on trial. I was on trial in Atlanta, Georgia, for organizing garbage workers and ended up spending fortunately not long in jail. And three years after that, I was the Congressman from the district. Now, in Russia things don't move that fast. In Russia, the dissidents are an intellectual and cultural elite who just happen to be Jewish.

S: What about the trade unions?

Y: They haven't emerged yet as far as the dissident movement. Down South in the 1950s, they used to try to say that we were Communists and that everything the civil rights movement did was communist inspiration. And the Russians are saying it's the influence of the Capitalists and the CIA. That's ridiculous. It's a natural progression in development of Russian society that they don't have sense enough to understand.

S: So, in other words, the present Russian policy is one being pushed against the wall and possibly leading to some very, very big conflict.

Y: I don't think so. Our relations are too good.

S: On what level?

Y: On almost every level except publicly. Vance and Gromyko meet every month.

S: Yes, but what about? Decide to judge Scharansky the day before they meet?

Y: Yes, but judging Scharansky is one thing that is probably an act of defiance and independence on their part but they will continue to negotiate arms limitations and there's no telling what's liable to happen. We still have hundreds of people that I would categorize as political prisoners in our prisons. Maybe even thousands, depending on how you categorize them. During the war in Vietnam, whenever there was domestic pressure, most of these young people who went to jail for conscience were political prisoners. Where they had good legal assistance most of the time they got free. Our political system, especially our court system, does have a great deal more flexibility in it, but you still have to fight for it.●

"LEGISLATION ON GROUND WATER: A NEGLECTED PART OF THE WATER CYCLE"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BROWN) is recognized for 5 minutes.

● Mr. BROWN of California. Mr. Speaker, today I am introducing legislation which addresses a problem of growing concern in the management of our environmental resources. The problem is the lack of consideration we have given to understanding, planning and managing our ground water resources throughout the country. This legislation is an outgrowth of several years of interest, and extensive efforts over the past year by the Subcommittee on the Environment and the Atmosphere of the Committee on Science and Technology, which I chair.

Ground water is a major source of water supply in the United States, supplying approximately 24 percent of all fresh water used, 95 percent of the total domestic, agricultural and industrial needs of the rural population and 50 percent of all water used for agriculture, serving 48 percent of the total population.

There is inadequate information about the ground water resource, leading to increased importance of the socioeconomic impacts resulting from contamination and closing of wells. Although considerable progress has been made in the understanding of water shortage and movement in aquifer systems, there is inadequate technical data and other information about ground water resources—information which is needed to make sound decisions with regard to its management. Much needs to be done to fully understand the physical and chemical processes involved in the changes of water quality that take place within the aquifer. Detailed measurements and knowledge of the interactions are essential in all aspects of ground water use and conservation.

Furthermore, the ground water resources is now experiencing a broad and growing focus related to prominent public issues, including among others pollution, energy, water supply, land use, waste disposal, and urban development. We believe that providing for the protection of the ground water resource, assuring an adequate supply of ground water of good quality, and increasing the efficient use of the ground water resource and its conjunctive management with surface water are essential to national economic stability and growth, and to the well-being of our people. We therefore maintain that the Nation's capabilities for technological assessment and planning and policy formulations for ground water resource and its conjunctive use with surface water must be strengthened at both the Federal and State levels.

Several Federal agencies conduct research on and have responsibilities re-

lated to ground water. It is noteworthy that 22 Federal agencies are spending a total of $225 million annually on water resources research, of which only $12–$13 million—less than 6 percent—is being allocated to ground water R. & D. This discrepancy between the vital importance of ground water resources to our Nation's well-being and economy, and the inadequate rsources allocated to ground water R. & D. is symptomatic of the broader issues associated with ground water.

Following an intensive period of subcommittee hearings and workshop, an informal interagency task force was formed to address these problems. The legislation which I am introducing today is largely a product of these initial efforts and is aimed at rectifying past and current dangerous trends toward fragmented and duplicative efforts by promoting and fostering Federal interagency coordination, transfer of technical information and assistance, training of professionals, and research and development in ground water.

Title I of the bill establishes an Interagency Coordinating Committee (ICC) with a strong mandate to produce a comprehensive Federal budget analysis of ground water R. & D. efforts, interagency coordination and prioritization of R. & D. issues, and a comprehensive 5-year plan for ground water R. & D. which is responsive to and consistent with the purposes of the bill. The involvement of users of ground water research results is insured by the establishment of an advisory council which would consist of scientists, the academic community, the private sector, State, local and regional government officials, and other interest groups concerned with ground water R. & D.

Title II is devoted to the important issue of technical information transfer and assistance. The active involvement of State and local government in the technology transfer process is viewed as an essential prerequisite to the success of such a program. The bill thus provides incentives to State and local government to induce their participation. The ICC, with the advice of the advisory council, is responsible for examining the technology transfer mechanisms which presently are scattered throughout universities, industry, and State and Federal agencies. The ICC is then to submit to Congress within 6 months its recommendations for improving existing technical information transfer mechanisms related to ground water.

Title III concerns itself with the issue of training and retraining of professionals in the broad range of subject areas associated with ground water. The National Science Foundation and other Federal agencies that might be designated by the President would carry out the provisions of title III, resulting in the promotion and development of skilled manpower needed in the area of ground water technology and management, including scientists, engineers, and technicians.

Title IV of the bill addresses extramural ground water R. & D. by authorizing the National Science Foundation and other agencies to manage grants and contracts addressing ground water R. & D. issues.

We fully recognize the intrinsic relationship between ground and surface water and that between water quality and quantity. The entire water resource program should, of course, be integrated. As I have cited previously, however, there is good evidence that ground water has been ignored in the past and is continuing to be ignored in the present. This legislation is the result of the subcomittee's deliberations on the subject, singles out ground water in recognizing the critical national value of this vital resource and providing remedies to past and present inadequacies in ground water research, development, and conjunctive use with surface water. Because of the severe lack of attention to ground water problems, a mere effort to urge more attention to ground water R. & D. at this late date would be insufficient. Rather, it is essential that ground water R. & D. be given the kind of attention mandated in this bill.

It is my intention to consider this legislation as a basis for action in the next session. We will continue to work with all interested persons in this endeavor and to make appropriate legislative changes, as we continue our efforts to address this important national issue.●

REGIONAL POWER POOLING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. MEEDS) is recognized for 5 minutes.

● Mr. MEEDS. Mr. Speaker, today, on behalf of eight of my colleagues from the Pacific Northwest and myself, I have introduced legislation intended to assure adequate future power supplies for the Pacific Northwest. The fact that this legislation is being sponsored by so many of the Members from the Northwest on both sides of the aisle testifies to our belief that this proposal is the long-sought answer to problems we all recognize in our area. Most importantly, this answer is without cost to the taxpayers of this Nation.

Mr. Speaker, this legislation will assure long-term regional power self-sufficiency for the Pacific Northwest; will preserve the preference clause for existing and new public bodies and cooperatives; will extend the benefits of low-cost Federal power to residential and family farm irrigation customers regardless of who serves them; will assure industries of long-term power supplies; will maintain the diversity of ownership of power facilities while achieving the benefits of a "one-system" regional approach; assure the maximum feasible use of conservation and of renewable resources before adding conventional thermal generating plants to the region's supply. Additionally it will provide a means whereby the public can participate effectively in the shaping of regional policies and programs, giving Congress the veto power over any future acquisition of power or adoption of major program by BPA.

Mr. Speaker, the pathway leading t this comprehensive solution has bee marked with difficulty and dissensio We began shaping legislation on th matter at the beginning of the 95th Co gress. Hearings were held in Washing ton, Oregon, and Idaho on various pr posals. Objection was raised to all th existing proposals based on their fai ure to provide real impetus for conse vation. I concluded I would not suppo any legislation which failed to provi this focus. I am happy to inform my co leagues that the legislation we are intro ducing today not only provides impet for conservation, it mandates conserva tion and assures the funds to pay for

The great benefit to the Nation this legislation is that it is a region solution to a regional problem. And th solution is effected without cost to th taxpayers of this country. By combin ing the marketing system of Bonnevil with Federal and private dams a other facilities in a "one-system" a proach, savings are effected which ca be used to finance the benefits of th program. Direct service industries in th Pacific Northwest will pay considerab more for their power but they have e joyed exceedingly low rates for ma years. In return for substantially i creased rates, the direct service indu tries will be provided what they do n now have, which is long-term certain of their power supply.

Finally, Mr. Speaker, this propos sets up mechanisms for much great local public input in planning and pr graming. Lack of such mechanisms w one of the major objections to earli proposals.

Mr. Speaker, this is a carefully co sidered and precisely balanced respon to power problems in the Pacific Nort west. My colleagues from that area jo me in urging expeditious handling a strong support of this legislation by individuals and committees of th body.●

EXPORT-IMPORT BANK FINANCIN NOTIFICATIONS

The SPEAKER pro tempore. Under previous order of the House, the gentle man from North Carolina (Mr. NEAL) recognized for 5 minutes.

● Mr. NEAL. Mr. Speaker. I call to th attention of my colleagues two commu nications from the Export-Import Ban which have been referred to me as chair man of the Banking Subcommittee o International Trade, Investment, an Monetary Policy. Pursuant to 2(b)(3 and 2(b)(3)(iii), respectively, of the Ex port-Import Bank Act of 1945, the com munications notify Congress of propose transactions to assist in construction o an ammonia plant in Trinidad and To bago and to provide nuclear fuel enrich ment services to Spain.

Section 2(b)(3) of the act requires th Bank to notify the Congress of propose loans, financial guarantees or combina tion thereof in an amount of $60 millio or more at least 25 days of continuou

session of the Congress prior to the date

The Plant will consist of a two train, 2,086 benefit to the United States

session of the Congress prior to the date of final approval. Upon expiration of the period, the Bank may give final approval to the transaction unless the Congress dictates otherwise.

The Bank proposes to loan $66,170,000 to Fertilizers of Trinidad and Tobago Limited (Fertrin) to provide U.S. goods and services for the construction of a new plant to manufacture anhydrous ammonia. Fifty-one percent of Fertrin is owned by the Government of Trinidad and Tobago and 49 percent by Amoco International Oil Co. The Eximbank loan will facilitate $155,700,000 in U.S. exports and represent 42.5 percent of the total U.S. goods and services for the plant. Additional funds will be provided by private lenders and a cash payment by the purchaser.

The loan will bear interest at the rate of 8.375 percent and be repaid in 16 semiannual installments beginning January 5, 1982. The first eight installments will be applied to repayment of the private financing and the final eight to the Eximbank credit. A commitment fee of 0.5 percent per annum will be charged on the undisbursed portion of the Eximbank credit.

I am inserting at this point in the RECORD the letter from the Eximbank pertaining to this transaction together with the accompanying materials and I welcome any comments any of my colleagues may wish to offer concerning this proposed loan.

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C.

Hon. STEPHEN L. NEAL,
Chairman, Subcommittee on International Trade, Investment and Monetary Policy, Committee on Banking, Finance and Urban Affairs, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In accordance with Section 2(b)(3)(f) of the Export-Import Bank Act of 1945, as amended, I have reported to the President of the Senate and the Speaker of the House of Representatives on an application currently pending consideration by the Bank. I am taking the liberty of providing you with a copy of this statement.

Sincerely,

JOHN L. MOORE, Jr.

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C., August 15, 1978.

The SPEAKER OF THE HOUSE
OF REPRESENTATIVES,
The Speaker's Room, U.S. Capitol, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States House of Representatives with respect to the following transaction involving U.S. exports to Trinidad and Tobago.

A. DESCRIPTION OF TRANSACTION

1. Purpose

Eximbank has received a request from Fertilizers of Trinidad and Tobago Limited (FERTRIN) to assist in financing the export from the United States of goods and services of U.S. manufacture or origin required by FERTRIN for the construction of a new plant to manufacture anhydrous ammonia (Plant). The Plant is to be constructed at Point Lisas in Trinidad and Tobago and is one of several projects being developed to take advantage of the extensive natural gas reserves in the area.

The Plant will consist of a two train, 2,086 metric ton per day ammonia plant, plus ancillary equipment and systems. Construction is expected to be completed by mid-1981. The total costs of the Plant are estimated to be $250,000,000, of which 75% will be provided in the form of borrowings and 25% will be provided by equity contributions to FERTRIN from its two owners, the Government of Trinidad and Tobago (GOTT) and Amoco International Oil Company (Amoco).

Of the total estimated costs of the Plant, $155,700,000 represents the costs of U.S. goods and services. To meet the request of FERTRIN, Eximbank is prepared to extend a direct-credit of $66,170,000 to FERTRIN to assist in financing the export from the United States of the U.S. goods and services required for the Plant. Additional financing will be provided by private lenders.

2. Identity of the Parties

FERTRIN is a joint venture incorporated under the laws of Trinidad and Tobago for the purposes of the Plant and is owned 51% by GOTT and 49% by Amoco. Amoco is a subsidiary of Standard Oil Company of Standard Oil Company of Indiana.

GOTT and Amoco will enter into a cash deficiency and completion agreement with FERTRIN and Eximbank and the other lenders to the Plant whereby GOTT and Amoco will undertake, in proportion to their respective ownership interests in FERTRIN, to make up all cash deficiencies of FERTRIN required to complete the Plant and to cover all cash deficiencies in the operating costs of the Plant, including debt service to the lenders, until such debt has been paid in full. The undertaking of Amoco will be supported by a back-up undertaking of its parent company, Standard Oil Company of Indiana.

3. Nature and Use of Goods and Services

The principal U.S. goods and services to be exported from the United States for use in the construction and operation of the Plant will be piping and valves, tankage, piling, insulation, a boiler, heat exchangers, pumps and compressors, condensers, seawater pumps, refrigeration equipment, a demineralization plant, switchgear, transformers, instruments and engineering, design and construction services. It is anticipated that a wide range of suppliers located throughout the U.S. will provide the U.S. goods and services. The estimated value by category of the U.S. goods and services is set forth in Annex I to this letter.

The Pullman-Kellogg Division of Pullman Incorporated, Houston, Texas, has been designated as the prime contractor for design, engineering and construction. Technical leadership of the Plant will be provided by Amoco during the design, construction and start-up phases and for the first ten years of operation under a proposed technical assistance agreement.

B. EXPLANATION OF EXIMBANK FINANCING

1. Export Financing Support

The Eximbank credit of $66,170,000 will facilitate the export of $155,700,000 of United States goods and services. Although FERTRIN has indicated its preference to effect its procurement in the U.S., it has also made clear that, if Eximbank financing is not available, procurement can be accomplished from foreign sources. Any foreign procurement would be supported by the official export credit agencies of the exporting countries.

2. Impact of Imports on the U.S. Economy

The anhydrous ammonia to be manufactured by the Plant will be exported for agricultural and industrial use throughout the world. Approximately one-half of the anhydrous ammonia from the Plant is expected to be marketed in the United States. In evaluating the impact of these imports on the U.S. domestic economy, Eximbank has addressed itself to whether the net economic benefit to the United States resulting from Eximbank's financing of U.S. goods and services for the Plant is positive or negative. The net economic benefit measures the benefits gained by the U.S. from the jobs supported by the sale of U.S. goods and services to the Plant as well as any benefits gained from importing into the U.S. some of the output of the Plant, as compared to the potential costs to the U.S. of such imports. The economic analysis made in response to this issue strongly supports Eximbank assistance for the Plant.

U.S. suppliers estimate that the exports, excluding already manufactured components, would support the employment of some 2,200 American workers. Annual shipments of spare parts of approximately $5 to $7 million would support another 50 jobs a year (or a total of 400 jobs for the eight year repayment period of the Eximbank credit). The total favorable job impact should, therefore, reach approximately 2,600 jobs. Given the potential competition for this order from Europe and Japan, these jobs would very probably be lost to the U.S. if Eximbank financing support were not available.

The potential for adverse economic impact depends on the state of the world food and fertilizer markets in the mid and late 1980's when the Plant's output is expected to come on to the market. There currently is a substantial amount of excess ammonia capacity worldwide. Absent unusual incidents such as a drought, both the U.S. and world surpluses are projected to last into the early 1980's.

In times of a surplus, high cost producers are forced either to lose money or to shut down production. In this environment, producers who receive gas at a cost-of-extraction price have a decisive advantage. Only those U.S. producers who have long-term gas-purchase contracts entered into before 1970 have access to such low-priced gas. Other U.S. producers generally must pay approximately $2.00 per 1,000 cubic feet of gas (MCF). The Plant, however, will be able to purchase natural gas at a cost of $.25 per MCF and therefore be able to produce and sell ammonia in the U.S. at a price substantially less than that feasible for the U.S. producers. If there is still a surplus of ammonia during the peak years for the Plant (1985 to 1990), the product from the Plant probably would displace U.S. production. The present consensus forecast by experts in the field, however, calls for balanced markets by the mid-1980's; hence, there should be little or no adverse impact from the Plant. In such a situation, the net economic benefit to the U.S. would be a favorable job impact of over 2,000 jobs.

In addition, even if one assumes the worst situation, that is, the world surplus will continue throughout the 1980's and each imported ton of ammonia from the Plant will displace a ton of U.S.-produced ammonia, Eximbank's support will provide a net economic benefit to the U.S. of approximately 500 jobs. In the worst situation, the Plant would displace some 350,000 tons of U.S. ammonia production, or approximately 1.0 to 1.5 percent of expected U.S. ammonia capacity in the mid-1980's. This volume approximates the annual production of one 1,000 ton/day ammonia plant, which generally employs some 115 workers. As very few plants can profitably operate below 50 to 60 percent capacity, 350,000 tons of imports would probably put the workforce of slightly more than two plants out of work. Hence, the worst-case annual adverse employment impact is about 250 jobs. Using the projected production figures for 1981–89 and assuming a worst-case situation for each year, the total potential jobs displaced could come to some 2,100. As indicated below, however, even assuming the worst case, Eximbank's support produces a net economic benefit to the U.S. of approximately 500 jobs:

	Year											
	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	Te
Jobs supported	1,100	1,100	.....	50	50	50	50	50	50	50	50	7,0
Jobs displaced			125	225	250	250	250	250	250	250	250	2,1

If one assumes more likely conditions prevailing in the 1980's, Eximbank financing assistance supports over 2,000 U.S. jobs and offers the following other potential benefits for the United States:

The 350,000 tons of product imports would free 13.5 billion cubic feet of natural gas in the United States for higher priority uses. This volume of gas would heat a Northern city of 100,000 people through an entire winter.

Lower cost fertilizer enhances the price competitiveness of U.S. agricultural exports without impairing the financial health of America's farmers.

Lower cost food inputs could help alleviate some domestic inflationary pressures.

In sum, even in the worst-case situation Eximbank financing for the Plant should produce a net employment benefit to the U.S. Assuming a more realistic case, the employment benefits to the U.S. improve markedly. In addition, irrespective of the employment situation, Eximbank financing for the Plant offers other significant economic benefits to the U.S.

With or without Eximbank support and with or without U.S. procurement, FERTRIN is determined to construct the Plant. If Eximbank refuses to provide support for the U.S. goods and services, the Plant will be supplied by foreign exporters who will be supported by the official export credit agencies of the exporting countries.

3. The Financing Plan

Commercial banks are prepared to extend financing for this transaction without an Eximbank guarantee for a term not to exceed 7 years. In this transaction, there is a total term of approximately 11 years consisting of a three-year construction period and an eight-year repayment period. Thus, private financing is inadequate to meet the total financial requirements of the transaction and the Eximbank credit is necessary in order to generate sufficient financing for the U.S. exports.

The financing plan for the total U.S. goods and services of $155,700,000 is as follows:

	Percent of U.S. Costs	Totals
Cash payment	15.0	$23,360,000
Eximbank credit	42.5	66,170,000
Private credits not guaranteed by Eximbank	42.5	66,170,000
	100.0	155,700,000

The Eximbank credit will bear interest at the rate of 8¾ percent, payable semiannually. A commitment fee of one-half of 1 percent per annum will be charged on the undisbursed portion of the Eximbank credit. The financing will be repaid in 16 semiannual installments beginning January 5, 1982. The first eight installments will be applied to repayment of the private financing and the final eight installments to repayment of the Eximbank credit.

Sincerely,

JOHN L. MOORE, Jr.

[Annex I]

Export-Import Bank of the United States
Re: FERTRIN
Estimated Costs of U.S. Goods and Services

Estimated U.S. costs including contingency and escalation
[In millions]

Major items:	
Piping and valves	$12.14
Tankage	3.43
Piling	2.65
Insulation	3.11
Boiler	2.18
Heat exchangers	9.65
Plate type (exchangers)	4.67
Pumps and compressors	3.80
Condensers	0.78
Seawater pumps	5.92
Refrigeration equipment	1.56
Demineralization plant	3.42
Switchgear and transformers	3.11
Instruments	3.58
Engineering and design	28.86
U.S supervision and construction technicians	15.54
Other	51.21
Total	155.70

SECOND COMMUNICATION

The second communication notifies Congress of a proposed transaction to provide nuclear fuel enrichment services to Spain. Section 2(b)(3)(iii) of the act requires the Bank to notify the Congress of proposed loans or financial guarantees for nuclear-related exports at least 25 days of continuous session of the Congress prior to the date of final approval. Upon expiration of this period, the Bank may give final approval to the transaction unless the Congress dictates otherwise.

The Bank proposes to extend an additional loan of $8 million and to guarantee $9 million to Iberduero, S.A., a privately owned utility, for purchase of nuclear fuel enrichment services required for reloads one and two of Lemoniz I Nuclear Power Plant. Eximbank has financed U.S. participation in the construction and operation of the plant and for the initial core fuel load. The enrichment service will be made within the framework of the bilateral "Agreement on Atomic Energy: Cooperation for Civil Uses."

The total cost of the services will be $20 million, with the Eximbank loan representing 40 percent, the Eximbank guarantee, 45 percent, and a cash payment the remaining 15 percent. Disbursements under the Eximbank credit will be an interest at the rate of 8 percent per annum. A 0.5 percent commitment fee will be required on the undisbursed portion of the credit, a guarantee fee of 0.75 percent on the disbursed portion of the private loans guaranteed by Eximbank and a 0.125-percent guarantee commitment fee on the undisbursed portion of the private loan guaranteed by Eximbank will be charged, all fees payable semiannually.

The Eximbank credit and the private loan will be repaid in five semiannual installments on a parri passu basis.

I am inserting the letter from the Eximbank pertaining to this transaction, together with accompanying documents, at this point in the RECORD and I wel come any comments any of my colleagu may wish to offer concerning this pro posed loan.

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C., August 15, 1978.

Hon. STEPHEN L. NEAL,
Chairman, Subcommittee on Internation Trade, Investment and Monetary Polic Committee on Banking, Finance, an Urban Affairs, U.S. House of Represen atives, Washington, D.C.

DEAR MR. CHAIRMAN: In accordance wi Section 2(b)(3)(iii) of the Export-Impo Bank Act of 1945, as amended, I have r ported to the President of the Senate and t Speaker of the House of Representatives c an application currently pending consider tion by the Bank. I am taking the liberty providing you with a copy of this statemen

Sincerely,

JOHN L. MOORE, Jr.

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C., August 15, 1978.

The SPEAKER OF THE HOUSE OF REPRESENT TIVES,
The Speaker's Room, U.S. Capitol, Washin ton, D.C.

DEAR MR. SPEAKER: Pursuant to Sectio 2(b)(3)(iii) of the Export-Import Act 1945, as amended, Eximbank hereby subm a statement to the United States House Representatives with respect to the follo ing transaction involving the export of U. services to Spain:

A. DESCRIPTION OF TRANSACTION

1. Purpose

On January 20, 1972 Eximbank authoriz a direct credit of $143,614,000 to Iberduer S.A. to facilitate Iberduero's purchase goods and services from the United Stat for export to Spain for the construction an initial operation of Lemoniz I and II Nucle Power Plants and the initial core fuel lo located near Bilbao. On June 9, 1977 Exim bank also authorized a direct credit of $3 200,000 to Iberduero to facilitate financin the U.S. costs of fabrication services of nu clear fuel reloads for Iberduero's Lemonis Nuclear Power Plant (reloads one and tw and Lemoniz II Nuclear Power Plant (reloa one). Iberduero has now requested and Exim bank is prepared to provide financial assis ance of $17 million in the form of a cred of $8 million and a guarantee of private loan of $9 million for the purchase of nuclear fu enrichment services required for reloads on and two of Lemoniz I Nuclear Power Plan

Exports of the enrichment services will b made within the framework of the bilater "Agreement on Atomic Energy: Cooperatio for Civil Uses" between the United Stat and Spain, and the trilateral agreemen among the U.S., Spain and the Internation Atomic Energy Agency, relating to applica tion of IAEA Safeguards. Both of the Agreements became effective on June 2 1974, following consideration by the Con gress under the provisions of Section 123 o the Atomic Energy Act of 1954. Prior to ex port, licenses must be obtained from th Nuclear Regulatory Commission with respec to individual sales of the enrichmen services.

The nuclear fuel enrichment will be pro vided by the Energy Research and Develop ment Agency of the Department of Energ at ERDA's Oak Ridge, Tennessee, facility pur

suant to a fixed commitment, long-term con-

suant to a fixed commitment, long-term contract with DOE. Under the contract DOE is to provide enrichment services over the operating lifetime of the Lemonis I Nuclear Power Plant. Since this nuclear power facility has suffered delay in completion, Iberduero would take delivery of the fuel reloads sometime before they are needed. However, it is to Iberduero's advantage to take the enrichment services in accordance with the schedule of annual enrichment services in its contract with DOE in order to avoid very substantial cancellation penalties. Furthermore Iberduero will avoid an interruption of power generation by taking delivery of the reload fuel when available.

2. Executive branch approval

In accordance with established procedures, Eximbank requested through the Department of State the views of the Executive Branch on the proposed transaction. State's Bureau of Oceans and International Environmental and Scientific Affairs advised that the Executive Branch has no objection to Eximbank's proceeding with this transaction.

3. Identity of the borrower

Iberduero, S.A. was created in 1944 as a result of a merger of two electric utility companies. Headquartered in Bilbao, it is the largest electric utility and one of the largest privately owned industrial enterprises in Spain. The utility accounts for more than 20 percent of Spain's electricity sales.

B. EXPLANATION OF EXIMBANK FINANCING

1. Reasons

The Eximbank credit of $8 million and guarantee of $9 million will facilitate the export of $20 million of U.S. goods and services. Eximbank perceives no adverse impact on the U.S. economy from the export of these goods and services. This transaction will have a favorable impact on employment for United States workers, as well as on the United States balance of trade. The material to be exported is not in short supply in the United States.

2. The financing plan

The total cost of the United States goods and services to be purchased by Iberduero is $20 million which will be financed as follows:

	Amount	Percent of U.S. Costs
Cash	$3,000,000	15
Eximbank credit	8,000,000	40
Private loans guaranteed by Eximbank	9,000,000	45
Total	20,000,000	100

(a) *Eximbank charges.*—Disbursements under the Eximbnak credit will bear interest at the rate of 8.0% per annum, payable semi-annually. A commitment fee of 0.5% on the undisbursed portion of the Eximbank credit, a guarantee fee of .75% on the disbursed portion of the private loans guaranteed by Eximbank and a .125% guarantee commitment fee on the undisbursed portion of the private loans guaranteed by Eximbank will be charged, all fees payable semiannually.

(b) *Repayment Terms.*—The Eximbank credit and the private loan, which total $17 million, will be repaid by Iberduero in five semiannual installments on a *pari passu* basis.

Sincerely,

JOHN L. MOORE, Jr.●

THE NAZI NETWORK

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 5 minutes.

● Ms. HOLTZMAN. Mr. Speaker, a recent article in the Washington Post confirms something many of us have long suspected—that there is a secret Nazi underground which protects and supports former Gestapo and SS officers in South America. Shockingly, at the end of July, many of these war criminals met openly in Brazil to celebrate fascist dictator Benito Mussolini's birthday.

While we may not be able to control Brazil's policy of affording sanctuary to war criminals, we can take steps to deny them a haven in the United States. I have introduced legislation (H.R. 12509) to close a loophole in our immigration law which has existed since 1956 and which has allowed war criminals to come to the United States freely as visitors or permanent residents.

My legislation would bar Nazi war criminals and any others guilty of "persecution because of race, religion, national origin, or political opinion" from entering the United States and would authorize their deportation. This legislation, cosponsored by every member of the Immigration Subcommittee, was reported out of the full Judiciary Committee by an overwhelming bipartisan majority. I hope my colleagues will support its adoption when it reaches the House floor.

Mr. Speaker, the presence of Nazi war criminals in America constitutes the unfinished business of World War II. We must act swiftly and aggressively to deny those who have committed atrocities—both during the Nazi holocaust and under more modern regimes—from finding a haven in this country. After all, one Brazil is enough.

I commend this important Washington Post article to my colleagues' attention.

The text follows:

THE NAZI NETWORK—A BIRTHDAY PARTY FOR HITLER: THE BOYS ARE STILL IN BRAZIL

(By Larry Rohter)

ITATIAIA, Brazil.—*Die Kamaradenwerk. Odessa. Der Spinner.* For years, reports of a secret Nazi underground that shelters and supports former Gestapo and SS officials now hiding in South America have been commonplace, fed by best-selling novels and movies such as "The Boys From Brazil," "Marathon Man" and "The Odessa File."

Hard evidence, of course, has been more difficult to come by. But information emerging after the capture in South America of prominent Nazis such as Adolph Eichmann (Argentina, 1960) and Franz Paul Stangl (Brazil, 1967) has led investigators such as Simon Weisenthal to conclude that such a network does exist—and that it harbors some 8,000 to 10,000 Nazi fugitives.

The last time Alfred Winkelmann and his "friends of the 20th of April" got together at the Hotel Tyll here, their "celebration" of Adolph Hitler's birthday triggered an investigation that led to the arrest of an alleged Nazi war criminal: Gustav Franz Wagner, "the human beast" accused of supervising the extermination of over a million people as second-in-command at the notorious Treblinka and Sobibor concentration camps.

When police arrived on April 22 they found they had stumbled on to an international congress of Nazi and neo-Nazi organizations bringing together five groups from four nations.

The participants were questioned, photographed and released, and their private stocks of Nazi literature and emblems seized. One month later, Wagner, who had been identified in Vienna by Nazi-hunter Simon Weisenthal—mistakenly, as it turned out—as one of the participants at the Itatiaia conference, was arrested in Sao Paulo after 28 years at liberty in Brazil.

MUSSOLINI'S BIRTHDAY

That was "not the first time Nazis have met in Brazil," said Benno Milnitzky, president of the Jewish Federation of Brazil, "they have met here before, and they will meet here again."

This weekend, some of the same "friends" were again reunited at the hotel on the outskirts of this quiet mountain resort town 110 miles northwest of Rio de Janeiro. The occasion: July 29, a birthday shared by Benito Mussolini and Adaloisa Winkelmann, wife of the owner of the hotel.

Throughout the morning, a beefy man accompanied by a German shepherd straining at its leash patrolled the front of the Hotel Tyll. Shortly before noon, identifying himself only as "Mr. Winkelmann's son-in-law, Magno," he ordered reporters to leave.

At his side, Frederico Eisendecher, identified as one of the participants in the April conference, flicked a whip nervously against his thigh. Suddenly, Magno's conversation was interrupted, as Eisendecher struck out twice with the whip, leaving two bloody marks on a photographer's arm, and uttered a command that caused the dog to leap forward and attack the half-dozen reporters, who withdrew to the edge of the road.

Hours later, Eisendecher and Alfred Winkelmann emerged from the hotel, dressed in identical dark blue uniforms. "This is a private meeting," Winkelmann announced. "So I am sure that you will understand it when I ask you to leave."

A photographer took a picture, and Eisendecher again erupted: "Swine, filthy bastards," he hissed, striking out wildly and lunging at the photographer. Winkelmann turned on his heel and returned to the Hotel Tyll's dining room, where stylized swastikas served as wall decorations.

"We are not Nazis," said Magno in parting, "and even if we were, it wouldn't be a crime. This is a free country, thank God."

SHELTER GROUP

"The Kamaradenwerk is anything but fiction," says Henry Sobel, a Sao Paulo rabbi who is one of Nazi-hunter Weisenthal's Brazil informants. "It is the international umbrella group that shelters all the subgroups and keeps them in touch with each other.

"Winkelmann's is one of the subgroups that exists in Brazil, but it is not the only one," adds Sobel. "There are other groups, more sophisticated, more organized and more protected, that operate in the south and report, like the Winkelmann group, to the Kamaradenwerk command."

The head of the network is said to be Dr. Josef Mengele, whose experiments on prisoners at Auschwitz earned him the nickname "the angel of death." A Paraguayan citizen since 1959, owner of extensive land holding at Puerto Stroessner near Paraguay's borders with Brazil and Argentina, Mengele was named in a recent Amnesty International report as "technical adviser" to a government program described as designed to exterminate Paraguayan Indians.

Two other alleged Kamaradenwerk leaders, Kurt Manfred Richard Roeder and Hans Werner Shutte, were among the 16 people detained at Itatiaia in April. Roeder, who fled West Germany last year after being convicted of illegal Nazi activity, has since surfaced in Chile. Shutte, named in the German press as one of the key figures in a neo-Nazi group called "The German Reich Liberation Movement," is back in Germany.

"South America is a Nazi's paradise," Weisenthal once said, years ago. Nothing that has happened since has made him change his mind, at least in regard to Brazil. "Brazil is a virtual nest of Nazis," Weisenthal told reporters after Wagner's arrest in Sao Paulo was announced. "They just, slip right into the populace and make themselves right at home."

GERMAN IMMIGRANTS

Nazi activity in Brazil dates from the 1930s, when German bund groups sprang up in the far south of the country—Rio Grande do Sul, Santa Catarina and Parana. All three states had been settled largely by German immigrants, who founded cities with names like Blumenau, Westphalien and Novo Hamburg. To this day, there are areas in the interior of Santa Catarina where German is still the dominant tongue.

The existence of this large German-speaking colony made Brazil fertile ground for the Abwehr, the Nazi intelligence agency. Dozens of Nazi spies—including Alfred Winkelmann, who had entered Brazil in 1938, ostensibly as a salesman of military equipment—were arrested and imprisoned when Brazil joined the Allies in 1942. But after the war, a new wave of immigrants flocked to German-speaking enclaves in the south, including some 4,000 SS and Gestapo officers, concentration camp guards and Nazi officials, according to one Brazilian account.

The official Brazilian government attitude toward the Nazi and neo-Nazi presence has been one of unconcern. The justice ministry has ruled that meetings of Nazis are not illegal; and Col. Ruben Ludwig, press secretary to Brazilian President Ernesto Geisel and, like his boss, a South Brazilian of German descent, recently dismissed the Itatiaia gathering as "nothing more than a get-together of nostalgic old men."

Given this position, Nazi supporters here make no secret of their sympathies: Jose Luiz Deckmann, for example, openly displays and sells jewelry with Nazi motifs—including swastikas—at his ship in Rio Grande do Sul. Residents of Santa Rosa, also in Rio Grande do Sul, awoke one morning early this month to find a Nazi flag flying from the flagpole in the main square. And in nearby Ijui, members of a group that claims to be linked to Winkelmann have daubed slogans such as "Free Wagner" and "The Reich Shall Rise Again" on walls of schools and synagogues.

"The Nazi spirit is merely sleeping in a good number of the inhabitants of this region," one former Wehrmacht soldier now living in Santa Catarina told a Brazilian newsmagazine last week. "All it needs to be awakened is one intelligent leader."

NEW IDENTITIES

On Thursday afternoon, June 1, Gustav Franz Wagner sat in a reception room at the Sao Paulo headquarters of DOPS, Brazil's feared political police, his enormous hands, calloused and nicotine-stained, stabbing the air as he explained for the umpteenth time, in broken, German-accented Portuguese, how he got from Treblinka and Sobibor to the interior of Brazil.

Dressed in the same baggy gray pants and sweat-stained work shirt he had been wearing two days earlier, when, fearing that Israeli agents were on his trail, he had turned himself in to Sao Paulo police, Wagner had been handed over to the press for questioning. It is a common enough procedure in Brazil, but Wagner, a shambling giant of a man, clearly objected.

The story he told, after his initial reluctance to talk gradually melted away into indifference, was full of contradictions and gaps. But it offered a rare and tantalizing glimpse into how the international Nazi underground may operate.

"When the war ended, I was in Italy," he said. "I went back to Austria, and one day Stangl and I met at a park in Graz. We talked for a while, and Stangl told me that he was going to leave Austria, leave Europe, for someplace quieter."

The conversation ended with the penniless Wagner being asked by his former commander to come along. "Everyone has a friend, a man they can rely on to carry out a task for them," Wagner explained. "For Stangl, I was always that man."

After several days of "waiting for things to be arranged," the two set out for Salzburg, Austria. From there, Wagner said, they crossed the Alps on foot, so as to avoid problems with border guards at the Italian-Austrian frontier, and made their way to Rome by train.

First stop in Rome was the Vatican. Having been told that Caritas International, a Roman Catholic relief organization, was making passports available to displaced persons and refugees, Stangl and Wagner intended to assume new identities and slip away to some remote corner of the world.

"We had eaten and we were standing in line waiting to fill out some forms when a friend of Stangl's approached us. He told us that the Syrians were looking for ex-German army officers to train their new army."

At the consulate of the newly independent Arab state, Wagner said, he and Stangl were given Red Cross passports and a pair of plane tickets. After a stopover in Cairo, they proceeded on to Damascus, where they spent the next year.

"But then there was a change of government and the new president decided he wanted to use French soldiers, not German ones, to train the army," Wagner continued, "so the Syrians offered us money and passage out of the country." After contacting "friends" in the German colony in Damascus, Stangl told Wagner that it had been arranged for them to go to South America.

According to documents released by the Brazilian government after Wagner's arrest, the director-general of security in Damascus issued a "safe conduct" passport to Wagner on Nov. 22, 1949. Two weeks later, Wagner obtained a visa from the Brazilian legation in Beirut, and on April 12, 1950, after a long sea voyage from Naples aboard the Conte Grande, Wagner, still in the company of Stangl, disembarked under his own name in Rio de Janeiro.

"I used to go see Stangl at his house in Sao Paulo all the time," says Wagner. "Once I was even stopped on his doorstep by the police and asked to show my identification. But Theresa Stangl came to the door and told them I was a friend, and that was that."

The visits ended in 1967, when Stangl, by then an executive at the Volkswagen Brazil headquarters in a Sao Paulo suburb, was identified by a Jewish concentration camp survivor who had come to the plant looking for a job. Extradited to West Germany and convicted in Dusseldorf of war crimes on the basis of testimony given by Stanislaw Szmajzner, a Polish-born Jew and naturalized Brazilian citizen, Stangl died in a West German prison in 1971.

"When they arrested Stangl," says Wagner, "I wanted to give myself up. But my wife said to me 'don't be foolish, Gustav. If they want you, they'll come and get you.' "

POSTER OF HITLER

The host and his guests were singing the "Horst Wessel Lied" when police and reporters arrived at the Hotel Tyll at 6 p.m. on the evening of April 22. Their eyes were caught immediately by a poster of Adolph Hitler.

The poster was seized, as were the invitations that had been issued by Winkelmann. "As we did last year," said the invitations, "we cordially request your presence at the meeting of the friends of the 20th of April . . . also known as 'the meeting of the friends who have left from the same point of departure.'

"We will have announcements and news about emblems and titles of other circles of friends," the German-language documen continued. "They, like us, wish to be not a last from yesterday, but rather the first fo tomorrow."

To this invitation from "friends who hav embarked from the same station," had re sponded members of groups as far-flung a the British Movement for Reich and Natio and the Argentine militia. More than half o them had departed by the time the polic arrived, having had two full days to "ex change ideas about larger circles and im portant questions" at the Hotel Tyll.

The invitation had promised films, bu there were none to be found. However, th collection of books and magazines it spoke o were there in abundance, including "Quota tions from the Fuehrer" and "The End of th Lie of the 6 million." So too were record "Flags on High" and "Song of Germany among them.

Scattered among the rooms the "friends had occupied were swastika decals and stick ers with Nazi slogans, "*Kauft Nicht B Juden*" said one: "Don't Buy From Jews "We Are Back: The Day of Vengeance I Come" said another.

But for those who wanted even mo variety in their choice of Nazi paraphenali there was also a catalogue, in German, i sued by a supply house that declared: "Do nations on behalf of our common strugg will be gladly accepted." The address: Po Office Box 55A, Liverpool, W. Va. 252 U.S.A.●

DAY OF SOVIET SHAME

The SPEAKER pro tempore. Under previous order of the House, the gen tleman from Michigan (Mr. BLANCHAR is recognized for 5 minutes.

● Mr. BLANCHARD. Mr. Speaker, A gust 21, will mark the 10th anniversa of the Soviet occupation of Czech slovakia.

We commemorate this anniversa with sadness because freedom-lovin Czechs and Slovaks still suffer under th yoke of Soviet domination. Since Augu 21, 1968, when Soviet forces, in flagra violation of several U.N. charters, in vaded Czechoslovakia, the day of occupa tion has aptly been called the "Day Soviet Shame." For it was a day whe the Soviets quite shamelessly violat specific international agreements, in cluding even their own United Natio resolution, number 2131, by directly in terfering in the domestic affairs of independent and sovereign nation.

Yet, the Czechoslovakian's quest fo freedom has remained strong even in th face of Soviet persecutions and violation of human rights. They have rallie against Soviet oppression by formula ing a document, Charter 77, which is direct appeal to the Soviet Governme to abide by the provisions contained the Helsinki Act, the U.N. Covenants a the Czechoslovak Constitution. Th Czechoslovak National Council of Ame ca has learned that countless signatur are being added to this document eve week by courageous Czechoslovak cit zens from all walks of life. They contin to sign this document even as oth signers have been punished by havi their children denied the right to high education.

We in the free world can do no le than to try to capture the same strengt and spirit of these brave Czechosl

vakians and speak out, as they do, against the unjust and illegal occupation of their homeland. We must decry the so-called "Brezhnev doctrine" as a meaningless and baseless attempt to justify actions which are void of any legal or moral justification.

Again this year, I join with the many Czech and Slovak Americans in observance of this "Day of Soviet Shame." I urge my colleagues to also joiin in calling for an end to the illegal Soviet occupation of Czechoslovakia, and for a beginning of freedom and self-determination for the people of Czechoslovakia and all other peoples of Eastern Europe.●

PRODUCTIVITY: A CASE OF GROSS NEGLECT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 5 minutes.

● Mr. LAFALCE. Mr. Speaker, on Tuesday, August 15, 1978, I held hearings in my Small Business Subcommittee on Capital, Investment and Business Opportunity on the subject of productivity, our national record in this field, and how this affects the small businessman. What I heard from the witnesses was fully anticipated, but nonetheless distressing: Our Federal Government is ignoring for all practical purposes one of the most potent weapons in the war against inflation; namely, increased productivity.

Witnesses from the Council on Wage and Price Stability, the General Accounting Office, and the National Center on Productivity and Quality of Working Life all confirmed the horrible record which the United States has had in the field of productivity growth during the last few years. Preliminary data for this year, according to the Council on Wage and Price Stability, suggest a productivity disaster. Not only have we not improved our productivity performance, we appear to have backtracked on progress made in the past.

The implications of this are staggering. The rate of our productivity growth affects our ability to compete in foreign trade markets, to build a stable economy, to reduce inflation, and to improve our standard of living. Without improvements in our rate of productivity, the wage-price spiral in which we currently find ourselves will continue and even escalate. Productivity represents the "underpinnings of the economic health of our country" and "without a concerted effort" to improve productivity "* * * we're not going to get anywhere," according to George Kuper, executive director of the National Center for Productivity.

Productivity growth in the manufacturing sector of our economy has not slipped as much as it has in other areas. Even so, compared to the other industrialized nations, we are at the bottom of the list in our rate of productivity growth.

So, even taking our best effort, we are terrible.

It is worth noting that the nations at the top of the productivity growth scale have national productivity centers. Both Japan and West Germany have such centers, and spend far more encouraging the growth of productivity than we do. And their successes are obvious. I find it ironic that these centers were established at the direction of the United States to enable the nations to qualify for financial assistance under the Marshall plan following World War II. During the years since World War II, the United States has made only half-hearted efforts to make productivity a national priority, and now, as inflation spirals higher, this administration proposes to let the National Center on Productivity go out of existence, with its programs being shifted to existing Government agencies under the Office of Management and Budget's coordination and policy determination.

Now, I am as much a supporter of cutting needless Government bureaucracy as anyone. However, with a subject as important as productivity, it is essential that there be a single Government office to focus national attention on the issue and efforts to improve it. The GAO recognized this fact in its May 23, 1978, report on productivity in the United States and the performance of the national center. It stated that the best way for the Federal Government to assist the private sector in improving our record would be through a central office, adequately supported by the administration and fully funded.

The administration proposal, I fear, will cause such a diffusion of responsibility and resources, that we will not have any effective policy insofar as improved productivity is concerned. Such gross neglect for one of the major elements of the inflation problem and its solution is unconscionable.

The suggestion that responsibility for coordination an' policy be given to OMB will not work. This is not a condemnation of OMB or its personnel. Rather, the problem lies with the nature of the other tasks assigned to OMB and its ability to place sufficient emphasis on productivity to have any noticeable effect. OMB cannot have operational responsibility for one program when it is responsible for all the programs of the Federal Government. Something will always come in its way, whether it is the civil service reform bill, or the health, education, and welfare appropriations bill, or the foreign aid authorizations bill. You name It, something is always going to be moving that thing called productivity—which does not have any immediate consequences, but has tremendous long-range consequences—to the back burner.

This is understandable, but it must not happen. Productivity is not a glamorous issue. The impact of low productivity is not immediately felt, and thus it is extremely difficult to generate concern over the low rate of productivity growth or enthusiasm for those efforts which would improve it. Nevertheless, it must be done. We will suffer the consequences for years to come if we do not now attend to our slumping productivity rates. It is my sincere hope that the administration will acknowledge the seriousness of our present position, and take the necessary actions to cause a turnaround in our productivity decline.●

RAISE POSTAL SUBSIDIES TO KEEP RATES DOWN?

(Mr. WOLFF asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WOLFF. Mr. Speaker, the August 11, 1978, issue of the Christian Science Monitor carried a rather interesting article related to the U.S. Postal Service. It was authored by my colleague, Congressman JAMES M. HANLEY of New York, who serves as chairman of the House Subcommittee on Postal Operations and Services. I believe it fair to say that all of us are interested in the plight of the U.S. Postal Service and therefore I commend its reading to my colleagues.

RAISE POSTAL SUBSIDIES TO KEEP RATES DOWN?

(By JAMES M. HANLEY)

If the Postal Service is to continue as a viable communications system it must receive additional public service funding. If it does not, it will no longer be able to offer universal nationwide service at affordable prices. The problem is both as simple and as potentially disastrous as that.

Unfortunately, the Postal Reorganization Act of 1970 mandated the Postal Service to "break even" financially by 1984. This concept was based on the premise that a restructured, quasi-governmental Postal Service would somehow be able to change the negative financal posture that the Post Office Department had operated under for over a hundred years. Very simply, Congress set an unrealistic and unattainable financial goal for the Postal Service.

The Postal Service is first and foremost a public service entity and it, therefore, offers many services that are financial liabilities. It maintains thousands of rural post offices that will never turn in a profit. It delivers a letter going across this vast nation for the same price that it charges for a letter going across the street.

It delivers mail six days a week and in most areas of the country it still does this door-to-door. These are not luxuries. These are services that we have come to expect and rightly so.

However, in the last few years, the Postal Service, in attempting to cut costs, has threatened to close rural post offices and severely cut the number of delivery days. In addtion to this, since 1970 the Postal Service has dramatically increased postage rates.

In the last Congress, we responded to this unholy duo of rising postal rates and declining service. Congress passed and the President signed Public Law 94-421 which gave the Postal Service a billion dollars to help cover past debts. It also clearly stated that Congress intended to get back into the postal policymaking business by declaring temporary moratoriums on service cuts, rate increases and post office closings. This was a much needed influx of funds. However, it must be acknowledged that this legislation was only an interim solution akin to the little Dutch boy who fruitlessly attempted to stop a flood with one hand.

The Postal Service at the end of fiscal year 1977 had a deficit of $687 million. The Postal Service's equity of $1.7 billion in 1971 plummeted to *minus* $567 million by the end of 1977. The bulk mail system, costing nearly $1 billion and originally estimated to earn a return investment in excess of 30 percent, is now expected to earn a return of merely 3 percent, and even this may prove to be overly optimistic. Postal productivity has slightly improved—fewer employees are handling more mail—but since postal costs have increased from $9.2 billion in 1971 to approximately $17 billion in 1978, dollar efficiency—pieces of mail handled per dollar spent—has declined sharply.

We cannot afford to ignore this situation any longer. Those who say that the Postal Service should be given more time in order to see if it can break even are living in a dream world. The time has come to take the blinders off and face up to our responsibility to the Postal Service and the American people.

The House of Representatives did just that in April when it passed H.R. 7700, the Postal Service Act of 1978, by a vote of 384 to 11. It received this broad support because it approaches postal problems in a frank and direct manner—recognizing that we have to pay a price for good postal service. This bill abolishes the "break even" concept by continuing the current $920 million annual public-service appropriation through FY 1984 and authorizing additional public service funds provided they are detailed by function by the Postal Service by Feb. 1 of each year. It would also provide for a congressional veto of nationwide service changes and the presidential appointment of the postmaster general.

All of these changes will result in a Postal Service that will be more responsive to the needs of the American people.

The Postal Service is the only arm of the federal government that touches the lives of each American on a daily basis. Surely, it is about time for Congress and the administration to recognize that the survival of a viable postal system is essential in a democratic society and that additional public-service funding is a small price to pay.

RECOMMENDATIONS AND AGENDA FOR CITIZENS FOR JOBS

(Mr. DELLUMS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous mater.)

● Mr. DELLUMS. Mr. Speaker, as job development is of pressing concern to the Nation, I offer the following report outlining a thoughtful proposal from some of my constituents for deriving a comprehensive jobs plan. We must remember that long-term employment cannot be created in a vacuum; every job in our economic system depends on other aspects of our society such as the careful use of our resources, the goodwill of our people, and the consideration of human values. Thus, I urge my distinguished colleagues to consider carefully the "Recommendations and Agenda for Citizens for Jobs" as a grassroots response to our need for the development of jobs in harmony with our ecological and social needs.

RECOMMENDATIONS

Nine hours of exchanges of information, opinions, and ideas by 115 people produced a series of recommendations predicated on the unmet employment needs of residents of West Contra Costa County and their desire to involve the entire community in solving the problem.

But first, a special note of thanks to the panelists and resource people!

Special thanks goes to the panelists and resource people who contributed so generously of their ideas and information. The general feeling was that time was too short and the hope was expressed that these persons will come individually to meetings of Citizens for Jobs, one of the co-sponsors of the conference, so that their ideas and thinking may be explored in more detail. Citizens for Jobs reviewed and approved the recommendations which appear below and invites all of you who are interested to the Thursday, April 6 meeting at 7:30 p.m. at the Community Involvement Center. There will be no other way in addition to this invitation to reach you, so we hope you will make note of it and come!

For those of you unable to attend the Conference, there follows a list of the panelists and resource persons to whom we are all indebted:

David McFadden, Mid-Peninsula Conversion Project; Judy Ann Miller, Director, Contra Costa Manpower Office; Linda Wells, Advocates for Women; E. J. Minnifield, Unemployed Person (chosen at random at Unemployment Office—and we are delighted to report that Linda Wells contacted him about an employment opportunity two days later!); Darrell Reese, Contra Costa County Central Labor Council; Paul Hughey, Contra Costa County Development Association; Nicholas Bevilacqua, Assistant to Congressman George Miller; Kenneth Salter, Humanist, San Jose State University, attorney, and author; Moderator, Cleatter Saul, Member, League of Women Voters; Jan Mowry, Job Development Specialist; Crista Getz, New Ways to Work; Tony Di Francesco, San Francisco State University Faculty; Marsha Allen, Enchanted Forest Owner-Operator; Jeanne Eger, Editor & Publisher, Point Counter Point; Silas Darden, Counselor, West County Re-entry Program, Inc.; Moderator, Evelyn Johnson, Member, League of Women Voters; Steve Schmidt, Director, Marin Citizens for Energy Planning; Phil Brubaker, Chevron, U.S.A.; Chuck Papke, Director, E. C. ology; Brent Stuart, Ecumenical Peace Institute; Chuck Lewis, Regional Planner, A.B.A.G.; Moderator, Rebecca Proehl, El Cerrito Crime Prevention Committee; Libby Gunn, Ex-Offenders Skill Bank, Oakland; Robert Gilley, El Cerrito Personnel Agency; Sandré Swanson, Assistant to Congressman Ronald V. Dellums; Robert Campbell, Richmond City Councilman and Businessman; Pearl Fong, Employer Services Representative, Employment Development Department Richmond Office; Moderator, Barbara Vincent, Member, League of Women Voters; and Recorder-Reporter Hope Scott, Friends Committee on Legislation. Dr. Frederick Feied, Humanist and Author, University of California at Berkeley led the sum-up session.

The recommendations appear on the next page!

RECOMMENDATIONS AND AGENDA FOR CITIZENS FOR JOBS

1. A Viable Community as the Basis for Job Certain: Major efforts should be made to ccordinate the activities of labor, business, political figures and the community in West Contra Costa County to improve the prospects for employment here. The impetus should come from the community rather than from the outside.

The general atmosphere and needs of the community should be explored to provide a better "climate" for employment. Since World War II several areas in West Contra Costa County have been "urban staging areas" where people come from other parts of the country in research of better opportunity and then move away once they are in a position to obtain a better life. Also, some 50% of the people employed in WCCC live elsewhere, especially those with better jobs. Kenneth Salter, in his remarks, noted that there has been little change in this pattern as well as the high unemployment rate among residents since he left his work in the employment field here in 1968. Directly relating to this daily immigration and yearly outmigration is the need for all kinds of housing and community identification that would hold people in the area.

A pilot project for neighborhood renewal should be designed and funding sought. Environmental and cultural innovations should be its basis as these would attract small ne[w] businesses.

2. New Occupations and New Channels t[o] Existing Occupations: The main emphas[is] should be placed on creating new occupa[-] tions in industry, business, and service an[d] on providing new channels by which peopl[e] can enter already-existing occupations.

Suggestions for CETA: To this end, prin[-] ities should be established for innovativ[e] CETA-funded positions which lead to placem[-] ment in new occupations and filling existin[g] openings. This, instead of dead-end "slot[-] filling which leave people on the street a[t] the end of the CETA job. Such new occupa[-] tions should be "internships" leading t[o] "Certificates of Employability". (See unde[r] NEW JOBS below.) People should connec[t] ously be given the experience necessary t[o] fill existing entry-level occupations now i[n] heavy demand, such as office clerical work and those which will open up as a result o[f] industry coming into the area, such as tho[se] connected with the Port of Richmond. I[n] this way local people could compete f[or] openings.

New Channels to Existing Jobs: Offerin[g] employers temporary services and volunte[er] assistance as a way of entering permanen[t] occupations in the private and public sector were methods a number of participants ha[d] found to be practical.

An inventory should be taken to find ou[t] what "job applicant clinics" already exi[st] and if more are needed and how they relat[e] to what employers really want, not ju[st] stated needs.

Attempts should be made to deal with th[e] "hidden" job market which includes a[n] estimated 75 percent-80 percent of th[e] available jobs and uses the services of em[-] ployment agencies to screen applicants b[y] means of "teaser" ads.

The question of whether basic educatio[n] skills are being taught as effectively as th[e] could be should be examined with the id[ea] of promoting one-to-one teaching if that i[s] found necessary for people over 18.

The whole question of entry-level an[d] promotion from within should be examine[d] and the concept in practice of career ladde[rs] should be promoted as opposed to bringin[g] in people from outside to fill the better job[s]. In-service training by employers and com[-] munity colleges should be encouraged.

New Jobs in Existing Fields: It should b[e] determined which supplies and equipme[nt] industry located in this area subcontracts fo[r] and ask that advertising for these be don[e] locally so that local suppliers could bid fo[r] these contracts in competition with tho[se] outside the area. This process could help de[-] velop local small business & industry an[d] in so-doing could solve some communit[y] problems. Chambers of Commerce and th[e] Council of Richmond Industries should b[e] approached with this idea.

Transportation systems should be explore[d]. A small business to supply a jitney servic[e] (Walnut Creek has one) for increase[d] mobility & reduced isolation & access to job[s] as well as creating jobs was propose[d]. Richmond as a center for the expansion an[d] development of fast rail service would creat[e] many jobs in building tracks and facilitie[s] to support such a service.

New Jobs: A need was seen for a barte[r] service for skills & services. This could b[e] funded until it is well established. Hobbie[s] and crafts & special skills can be turned int[o] occupations as an alternative to working in [a] "slot" provided by others. People need to b[e] shown how this can be done. New occupa[-] tions abound in the fields of energy con[-] servation (informing people how to mak[e] "technical fixes"), recycling, one-to-one pe[er] tutoring, pre-sale housing refurbishing (aid[-] ing the real estate industry), convalescen[t] nursing home aides, information & refere[-] services, paralegal services, housing re[-] habilitation, foster parenting skills, neigh

borhood teen leaders, classroom teaching aides. All these are possibilities for on-the-job CETA training of people who would be trained for jobs in private as well as public jobs.

Sharing Existing Jobs and Changing Material Values to Cultural Values: A way to create more time for family and hobbies is to work less at some sacrifice in pay. Included here would be opposing mandatory overtime, a 30-hour work week, two persons sharing the same job.

3. Inventory Existing Employment and Training Services: The needs of the community for jobs and training should be surveyed and a rating made of existing manpower services to determine if improvements should be made.

4. Legislation: Support should be given to legislative attempts to oppose mandatory overtime (SB1295), transfer of funds from the military to the civilian sector (Transfer Amendment), and conversion from military production to civilian production as a means of creating more jobs, reducing inflation, and using our resources toward solving environmental, health, housing, and other problems. S. 2279, the Defense Economic Adjustment Act is a comprehensive national program for insuring that military cuts do not come at the expense of defense workers. Industries of West Contra Costa County should be inventoried with these ideas in mind.

5. Meaningful Jobs: In addition to creating new jobs that will be meaningful to the community, the need was expressed to make jobs more personally satisfying to the individual instead of having a person's life defined by a job he/she must have in order to exist.

Summing it all up: A lot of priorities need to be re-arranged! Putting our own community in order would also serve our ecological needs.●

WE ARE WASTING CONGRESSIONAL TIME

Mr. DANIELSON. Mr. Speaker, many of the Members are gravely concerned about the fact that the Congress appears to be falling behind in its work. That is not to say that the Congress is not working hard. I doubt that any Congress has worked harder than the 95th Congress. That is not to say that the Congress does not put in a full day of work—long hours. I doubt that any Congress has put in more hours of work per day of session than the 95th Congress.

We all work hard. We all work long hours. We are all about as busy as we can be. Yet the list of bills which await, require, and should receive floor action grows longer each day. And many of these are major bills, important bills, essential legislation. They are bills to which we have dedicated countless days and hours of committee hearings and markup.

It seems as if, as in the old saying, "the hurrier we go the behinder we get."

Something has to be done to correct this situation and to prevent it from destroying our system of representative self-government. This is an absolute must.

The Republic cannot survive many more years in which legislation upon which our system depends is spawned in a stampede rather than a deliberative parliamentary discussion.

I know not, Mr. Speaker, what the solution—or its component parts—will be. But there must be a solution, and there is no better time to commence the discussion than now—in the waning days of the 95th Congress and before the organization of the new Congress. It is certain that some changes in the Rules of the House will have to be made in order to bring about more efficient procedures, to improve the functioning of the House, and to avoid the governmental disaster which will ultimatly befall us if we do not win out in this challenge.

To start at the beginning, Mr. Speaker, we must, I repeat, must, devise methods of saving our one unalterable resource, our most precious resource—time. Our legislative problem and all of its subproblems have one common denominator—time.

The reason many items of important legislation languish at committee desks, on committee files, before the Rules Committee, on the Speaker's table, awaiting scheduling, and pending in conference, is simply that there has not been enough time, there is not now enough time, to give them the hearings, the mark-up, the debate, the consideration and the attention which they require and deserve. And the prospects now are that the 95th Congress will adjourn, sine die, with many important bills remaining to be considered and which will die with that adjournment. Along with that, America and the American taxpayers, will suffer the loss of valuable legislative time and effort. And our work will not be finished.

I submit, Mr. Speaker, that we should now commence discussions and debate as to how we can best streamline our procedure and make more effective use of our congressional resources.

How do we solve the problem of time, Mr. Speaker? We cannot create more time, and we appear to be using all that we have. The solution to our problem must contain changes in our procedures which will plug the leaks of our resources of time, for time is our most precious, our priceless resource.

Many aspects of our procedures would lend themselves to possible changes which would enable us to save time and thereby improve our performance.

SAVING TIME IN DEBATE

Some of my colleagues have agreed with my suggestion that perhaps a substantial savings of time could be achieved in debate.

DEBATING THE RULE

For example, in debating the rule under which a bill comes to the floor, we usually consume a full hour. Usually this is pointless since the rule itself is usually noncontroversial, and it is often approved by a unanimous vote or, at least, by an overwhelming majority. It would seem that debate on the rule could well be strictly limited to the merits of the rule, and that we could thereby save much congressional time which in turn would save money for the taxpayers.

GENERAL DEBATE—SPEAK ONCE

Time could also be saved in general debate and in debate on amendments if Members were limited to speaking one time only on each parliamentary procedure and if the extensions of "additional minutes" were curtailed or eliminated.

RULES LIMITING DEBATE

The Rules Committee would be well advised to consider granting rules from time to time which would limit the amount of time for debate on some or all amendments to a bill. At present, debate often goes on for hour after hour when nothing significant remains to be said.

THE ROLE OF THE RULES COMMITTEE

Increasingly I hear comments from Members that we spend too much time taking up bills that do not merit congressional consideration, bills which do not deserve the priority of congressional attention, while more important bills languish. Perhaps the Rules Committee could exercise a closer scrutiny over the flow of bills and perhaps screen out, or defer action on those of lower priority.

SELF-DISCIPLINE BY MEMBERS

In final analysis, it is we Members of the House who consume the time of the Congress.

For real and substantial progress to be made will require that the Members use self restraint and not abuse or over-use their privileges on the floor and in committee.

Oftentimes I, and others, have been embarrassed to be in committee, hearing witnesses who may have travelled across the country at great expense and inconvenience to themselves, only to have interruption after interruption in order that Members can respond to a vote to approve yesterday's journal or to go into the Committee of the Whole House.

I submit that that procedure is demeaning to the entire Congress and an affront to the American people who come to Washington to testify. In addition, it results in an inexcusable waste of everyone's time and money.

RECORDED VOTES—ROLL CALLS

This brings me to one obvious opportunity to save congressional time and the taxpayers' money. And with the savings in time perhaps we could consider some of the bills which now may die without benefit of a vote in the House.

I speak of our compulsive voting by recorded vote.

The Members should take note of our rapid increase in numbers of rollcalls. This is how they have increased from 1970 until June 30, 1978.

TOTAL NUMBER OF ROLL CALLS (INCLUDING QUORUMS)

1970—449.
1971—472.
1972—462.
1973—726.
1974—727.
1975—828.
1976—864.
1977—782.
1978—517 (through June 30).

These figures become more significant when we consider that during the current session of the Congress, through June 30th, 1978, we have run up these statistics:

Time in session: 515 hours, 14 minutes.

Time for rollcalls: 172 hours, 20 minutes.

Rollcalls as percent of time in session: 33.4 percent.

WHY 20 MINUTES PER ROLLCALL?

In computing time I have allocated 20 minutes to each rollcall since we must consider both start-up and closing time as well as the mandatory 15 minutes provided in the Rules.

Some may ask, how about the shortened rollcalls on suspensions? To which I reply that they, too, take longer than their allocated time. And, also, in assigning the 20 minutes I have not included the time spent on noticed quorums, of which there were 62 through June 30, 1978, consuming a total of 684 minutes or 11 hours and 24 minutes.

The average time of the noticed quorums was 11.03 minutes. Ten of them were converted to regular quorums. That time must be assigned to rollcalls.

TYPES OF ROLLCALLS

I have made a tally of the types of rollcalls and the days of the week on which they were made. Mr. Speaker, I am sure you will find it of interest.

For example, we approved the previous day's journal 15 times, at a cost of 5 hours, through June 30, 1978.

And do not forget, a vote on the journal is statistically as important as the vote on the HEW appropriations.

So far as our constituents will know so far as the press is concerned in the stories on congressional performance, a vote is a vote is a vote. And a Member who chafes at responding to the tyranny of running for the floor every time a frivolous rollcall is ordered, does so at his peril, for the public does not know why he committed the sin of missing that vote, his opponent uses the missing vote as a weapon against him, and rating organizations, meaning well, consider it as a demerit even though the Member may have done something far more useful while missing the frivolous vote.

TALLY OF ROLLCALLS IN HOUSE OF REPRESENTATIVES (BY DAY OF WEEK), JAN. 19 THROUGH JUNE 30, 1978

Type of rollcall [1]	Monday	Tuesday	Wednesday	Thursday	Friday	Total	Time consumed [2] Hours	Minutes
Agreeing to a conference			1			1		
Agreeing to a conference report		5	2	2		9	3	
Agreeing to the amendment	9	23	46	41	11	130	43	
Agreeing to the amendments	1		5	6		12	4	
Agreeing to the resolution	14	13	15	9	6	57	19	
Approving the Journal	1	2	6	5	1	15	5	
Concur in Senate amendment 37 with amendment		1				1		
Concur in Senate amendment to House amendment			1			1		
Dispense further call of House		1	1			2		
Motion to close conference				1		1		
Motion to instruct conferees				1		1		
Motion to limit debate			1	1		2		
Ordering a second	3	4	5			12	4	
Ordering the previous question			1			1		
Passage	12	14	15	19	8	68	23	
Quorum	17	14	17	16	3	67	22	
Reading Journal in full		1				1		
Recede and concur in Senate amendment 43			1			1		
Recommit with instructions	3			2	2	7	2	
Refer veto to Post Office			1			1		
Resolving in committee	1	5	12	11	4	33	11	
Strike enacting clause				1		1		
Suspend rules and pass	45	31	9			85	28	
Table motion to reconsider			1			1		
Table reconsider Journal vote		1	1			2		
Table reconsider rescliving				1		1		
Table to confer in Senate amendment with amendment		1				1		
Table to instruct conferees				1		1		
Table to recede and concur in Senate amendment 43				1		1		
Total	106	116	144	116	35	517	172	

[1] Vote descriptions and abbreviations are as reported in Member's individual voting record compiled by the Clerk of the House

[2] Time consumed is determined by using the conservative estimated average time of 20 m per rollcall. This does no. include the time spent on notice quorums but only that time consum once an official rollcall has been ordered.

HOW MANY ROLLCALLS ON A GIVEN DAY?

Sometimes, Mr. Speaker, we spend an unbelievable amount of time voting on a single day. Can it be that the future of the Republic depends on a proliferation of rollcalls? Here are some outstanding examples:

Date:	No. of Rollcalls
6–28–78	15
5–23–78	12
3–14–78	11
5–22–78	11
5–31–78	11
6– 1–78	11
6–14–78	11
3– 8–78	9
3–16–78	9
5–15–78	9
5–17–78	9
5–24–78	9
3– 7–78	8
3–13–78	8
5– 3–78	8
6– 5–78	8
6– 6–78	8
6– 7–78	8
2– 2–78	7
2–23–78	7
3–15–78	7
3–21–78	7
4–10–78	
4–13–78	
4–18–78	
5–25–78	
6–13–78	
6–22–78	

ROLLCALLS BY DESCRIPTION

I have mentioned before, Mr. Speaker that a recorded vote on approving the journal, or on going into the Committee of the Whole House, is the same kind of statistic as the vote on the HEW appropriation. Here is the list of rollcall votes by description through June 30, 1978:

ROLLCALL VOTES (JAN. 19, 1978, THROUGH JUNE 30, 1978) LISTED ALPHABETICALLY—ACCORDING TO VOTE DESCRIPTION

Roll	Date	Type of vote	Requester	Bill	Yea	Nay	Present	Percent Yea	Percent Nay	Day
181	780322	Agreeing to a conference	Yates	H.R. 6782	332	63		84.0	16.0	Wednesday.
175	780321	Agreeing to conference report	Allen	H.R. 5383	391	6		99.0	1.0	Tuesday.
12	780124	do	Ashbrook	S. 1585	401	0		100.0		Do.
148	780314	do	Burton, P	H.R. 3813	317	60	1	84.0	16.0	Do.
91	780228	do	Eckhardt	H.R. 3816	146	255		36.0	64.0	Do.
E2	780215	do	Erlenborn	H.R. 4544	264	113	1	70.0	30.0	Wednesday.
283	780504	do	Findley	H.R. 6782	212	182		54.0	46.0	Thursday.
54	780209	do	Ketchum	H.R. 3454	333	44		88.0	12.0	Do.
212	780411	do	Ryan	H.R. 9179	216	185	1	54.0	46.0	Tuesday.
214	780412	do	Volkmer	H.R. 6782	150	268	1	36.0	64.0	Wednesday.
457	780614	Agreeing to the amendment	Anderson (Illinois)	H.R. 12935	235	150		61.0	39.0	Do.
456	780614	do	do	H.R. 12935	133	249		35.0	65.0	Do.
458	780614	do	Armstrong	H.R. 12935	214	159		57.0	43.0	Do.
102	780303	do	Ashbrook	H. Res. 1012	321	13		96.0	4.0	Friday.
387	780531	do	do	H.R. 12598	237	135		64.0	36.0	Wednesday.

See note at end of table.

ROLLCALL VOTES (JAN. 19, 1978, THROUGH JUNE 30, 1978) LISTED ALPHABETICALLY—ACCORDING TO VOTE DESCRIPTION—Continued

ROLLCALL VOTES (JAN. 19, 1978, THROUGH JUNE 30, 1978) LISTED ALPHABETICALLY—ACCORDING TO VOTE DESCRIPTION—Continued

Roll	Date	Type of vote	Requester	Bill	Yea	Nay	Present	Percent Yea	Percent Nay	Day
291	780607	Agreeing to the amendment	Ashbrook	H. Con. Res. 559	198	189		51.0	49.0	Tuesday.
309	780612	do	do	H.R. 12222	148	155		48.0	52.0	Friday.
195	780405	do	do	H.R. 7700	180	218		45.0	55.0	Wednesday.
233	780418	do	do	H.R. 11400	174	229		43.0	57.0	Tuesday.
485	780602	do	do	H.R. 12157	116	219		35.0	65.0	Friday.
160	780316	do	do	H.R. 50	114	296		28.0	72.0	Thursday.
358	780524	do	Aspin	H.R. 10929	139	264	2	35.0	65.0	Wednesday.
278	780503	do	Bauman	H. Con. Res. 559	362	33		92.0	[illegible]	Do.
71	780131	do	do	H.R. 1614	328	77		81.0	19.0	Tuesday.
308	780531	do	do	H.R. 12598	202	164		55.0	45.0	Wednesday.
312	780515	do	do	H.R. 12222	200	172		53.0	47.0	Monday.
162	780316	do	do	H.R. 50	196	216		48.0	52.0	Thursday.
219	780413	do	do	H.R. 11003	180	215		46.0	54.0	Do.
451	780614	do	Beard	H.R. 12934	241	158	1	60.0	40.0	Wednesday.
489	780623	do	Blouin	H.R. 11493	119	186		39.0	61.0	Friday.
161	780316	do	Bolling	H.R. 50	259	153		63.0	37.0	Thursday.
232	780418	do	Breaux	H.R. 11400	111	291		28.0	72.0	Tuesday.
44	780207	do	Brooks	H.R. 6805	93	313		23.0	77.0	Do.
515	780629	do	Brown (Missouri)	H.R. 12433	244	140		64.0	36.0	Thursday.
294	780508	do	do	H. Con. Res. 559	196	196		50.0	50.0	Tuesday.
409	780605	do	Burton, P.	H. R. 12250	213	141		60.0	40.0	Monday.
296	780510	do	Caputo	H. Con. Res. 559	146	254		36.0	64.0	Wednesday.
480	780623	do	Carney	H.R. 11493	121	178		40.0	60.0	Friday.
394	780801	do	do	H.R. 12050	142	261		35.0	65.0	Thursday.
366	780524	do	Carr	H.R. 10929	115	287		28.0	72.0	Do.
360	780524	do	do	H.R. 10929	106	293		27.0	73.0	Do.
277	780503	do	Conable	H. Con. Res. 559	163	239		41.0	59.0	Do.
455	780614	do	Conte	H.R. 12935	220	168		57.0	43.0	Do.
197	780406	do	Corcoran	H.R. 7700	203	189		52.0	48.0	Do.
78	780223	do	Crane	H.R. 9179	166	199		45.0	55.0	Do.
84	780224	do	Cunningham	H.R. 3377	293	1		100.0		Friday.
236	780419	do	Danielson	H.R. 8494	195	212		48.0	52.0	Wednesday.
27	780201	do	Dodd	H.R. 1614	241	162		60.0	40.0	Do.
370	780524	do	Downey	H.R. 10929	145	246		37.0	63.0	Do.
440	780612	do	Eckhardt	H.R. 12933	180	194	1	48.0	52.0	Monday.
24	780131	do	Emery	H.R. 1614	219	188		54.0	46.0	Tuesday.
49	780208	do	Erlenborn	H.R. 6805	105	309		25.0	75.0	Wednesday.
28	780201	do	Fish	H.R. 1614	225	174		56.0	44.0	Do.
23	780131	do	do	H.R. 1614	196	207		49.0	51.0	Tuesday.
16	780125	do	do	H.R. 1614	143	229		38.0	62.0	Thursday.
293	780509	do	Fisher	H. Con. Res 559	195	203		49.0	51.0	Tuesday.
285	780504	do	Flowers	H. Con. Res. 559	227	136	1	63.0	37.0	Thursday.
279	780503	do	Fraser	H. Con. Res. 559	123	265		32.0	68.0	Wednesday.
303	780601	do	Frenzel	H.R. 12050	209	194		52.0	48.0	Thursday.
298	780510	do	Giaimo	H. Con. Res. 559	192	205		48.0	52.0	Wednesday.
110	780307	do	Gibbons	H.R. 11180	277	132		68.0	32.0	Tuesday.
220	780413	do	Gilman	H.R. 11003	171	232		42.0	58.0	Thursday.
312	780528	do	Hagedorn	H.R. 12433	173	218		44.0	56.0	Wednesday.
304	780511	do	Hansen	H.R. 12222	141	236		37.0	63.0	Thursday.
192	780405	do	Hanley	H.R. 7700	147	257		36.0	64.0	Wednesday.
292	780509	do	Hansen	H. Con. Res. 559	231	170		58.0	42.0	Tuesday.
389	780531	do	do	H.R. 12598	203	163		55.0	45.0	Wednesday.
274	780503	do	Holt	H. Con. Res. 559	197	203		49.0	51.0	Do.
193	780405	do	Hughes	H.R. 7700	292	112		72.0	28.0	Do.
297	780510	do	Jacobs	H. Con. Res. 559	45	352		11.0	89.0	Do.
157	780316	do	Jeffords	H.R. 50	398	0		100.0		Thursday.
127	780309	do	do	H.R. 50	239	177		57.0	43.0	Do.
306	780512	do	Johnson (Colorado)	H.R. 12222	126	189		50.0	60.0	Friday.
237	780419	do	Jordan	H.R. 8494	245	161		60.0	40.0	Wednesday.
401	780601	do	Kelly	H.R. 12157	157	190		45.0	55.0	Thursday.
379	780525	do	Kindness	H.R. 9400	178	109		62.0	38.0	Do.
256	780426	do	do	H.R. 8494	207	188		52.0	48.0	Wednesday.
49	780208	do	Krebs	H.R. 6362	295	78		79.0	21.0	Monday.
39	780206	do	do	H.R. 6362	136	239		36.0	64.0	Do.
305	780511	do	Lagomarsino	H.R. 12222	187	187		50.0	50.0	Thursday.
47	780208	do	Levitas	H.R. 6805	195	219		47.0	53.0	Wednesday.
294	780504	do	Luken	H. Con. Res. 559	199	173	1	53.0	47.0	Thursday.
245	780424	do	Madigan	H.R. 11504	151	215	1	41.0	59.0	Monday
76	780223	do	Mathis	H.R. 9214	253	141		64.0	36.0	Thursday.
290	780503	do	Mattox	H. Con. Res. 559	172	210		45.0	55.0	Wednesday.
151	780523	do	McCloskey	H.R. 10729	180	218		45.0	55.0	Tuesday.
159	780523	do	do	H.R. 10729	168	227		43.0	57.0	Do.
151	780522	do	do	H.R. 10729	126	241		34.0	66.0	Monday.
150	780523	do	do	H.R. 10729	111	289	1	28.0	72.0	Tuesday.
139	780612	do	McFall	H.R. 12933	237	143	1	62.0	38.0	Monday.
133	780608	do	Michel	H.R. 12929	290	87		77.0	23.0	Thursday.
186	780601	do	Mikva	H.R. 12050	155	239		39.0	61.0	Do.
146	780613	do	Miller (Ohio)	H.R. 12929	220	181		55.0	45.0	Tuesday.
177	780621	do	do	H.R. 12932	198	211		48.0	52.0	Wednesday.
184	780622	do	do	H.R. 13125	189	201		48.0	52.0	Thursday.
276	780503	do	Mitchell (Maryland)	H. Con. Res. 559	98	313		24.0	76.0	Wednesday.
175	780621	do	Moffett	H.R. 12932	190	221		46.0	54.0	Do.
176	780621	do	do	H.R. 12932	126	282		31.0	69.0	Do.
79	780223	do	Moore	H.R. 9179	191	167		53.0	47.0	Thursday.
453	780614	do	Moorhead	H.R. 12934	264	131		67.0	33.0	Wednesday.
31	780202	do	Murphy (New York)	H.R. 1614	201	208		49.0	51.0	Thursday.
30	780202	do	do	H.R. 1614	118	280		30.0	70.0	Do.
444	780613	do	Obey	H.R. 12929	198	212		48.0	52.0	Tuesday.
158	780316	do	Pike	H.R. 50	199	204		49.0	51.0	Thursday.
241	780420	do	Pressler	H.R. 8394	44	350		11.0	89.0	Do.
48	780208	do	Quayle	H.R. 6805	138	274		33.0	67.0	Wednesday.
163	780316	do	Quie	H.R. 50	137	276		33.0	67.0	Thursday.
242	780420	do	Railsback	H.R. 8494	251	135		65.0	35.0	Do.
257	780501	do	do	H.R. 9400	227	132		63.0	37.0	Monday.
492	780622	do	Rousselot	H.R. 13125	194	201		49.0	51.0	Thursday.
298	780510	do	do	H. Con. Res. 559	170	226	1	43.0	57.0	Wednesday.
516	780629	do	Russo	H.R. 12433	93	285		25.0	75.0	Thursday.
367	780524	do	Schroeder	H.R. 10929	266	136		66.0	34.0	Wednesday.
365	780524	do	do	H.R. 10929	107	297		26.0	74.0	Do.
58	780214	do	Sebelius	H.R. 8336	119	230		34.0	66.0	Tuesday.
452	780614	do	Smith (Iowa)	H.R. 12934	200	203		49.6	50.4	Wednesday.
303	780511	do	Solarz	H.R. 12222	183	212		46.0	54.0	Thursday.
430	780608	do	Stanton	H.R. 12426	401	0		100.0		Do.
488	780623	do	Steiger	H.R. 11493	93	207		31.0	69.0	Friday.
443	780613	do	Stokes	H.R. 12929	122	287		30.0	70.0	Tuesday.
371	780524	do	Stratton	H.R. 10929	142	247		36.0	64.0	Wednesday.
275	780503	do	do	H. Con. Res. 559	142	262		35.0	65.0	Do.

See note at end of table.

ROLLCALL VOTES (JAN. 19, 1978, THROUGH JUNE 30, 1978) LISTED ALPHABETICALLY—ACCORDING TO VOTE DESCRIPTION—Continued

Roll	Date	Type of vote	Requester	Bill	Yea	Nay	Present	Percent Yea	Percent Nay	Day
428	780607	Agreeing to the amendment	Symms	H.R. 12929	201	179		53.0	47.0	Wednesday.
447	780613	do	do	H.R. 12929	184	216		46.0	54.0	Tuesday.
221	780413	do	do	H.R. 11003	85	320		21.0	79.0	Thursday.
34	780202	do	Treen	H.R. 1614	159	230		41.0	59.0	Do.
338	780519	do	Udall	H.R. 39	157	150		51.0	49.0	Friday.
335	780518	do	do	H.R. 39	141	251		36.0	64.0	Thursday.
336	780518	do	do	H.R. 39	119	240		33.0	67.0	Do.
404	780602	do	Vanik	H.R. 12157	179	138		56.0	42.0	Friday.
425	780607	do	Volkmer	H.R. 12930	80	314		20.0	80.0	Wednesday.
445	780613	do	Walker	H.R. 12929	232	177		57.0	43.0	Tuesday.
2	780119	do	Weiss	H.R. 2329	215	131		62.0	38.0	Thursday.
325	780517	do	do	H.R. 11686	90	306		23.0	77.0	Wednesday.
465	780616	do	do	H.R. 12928	67	250		21.0	79.0	Friday.
418	780606	do	do	H.R. 12240	60	312		16.0	84.0	Tuesday.
22	780131	do	Wiggins	H.R. 1614	288	194		52.0	48.0	Do.
438	780622	do	Wright	H.R. 13125	273	125		68.0	31.0	Thursday.
15	780126	do	Yates	H.R. 1614	187	211		47.0	53.0	Do.
249	780425	do	Young (Florida)	H.R. 11877	169	228		43.0	57.0	Tuesday.
152	780315	Agreeing to the amendments	Ashbrook	H.R. 50	205	215		49.0	51.0	Wednesday.
153	780315	do	Baucus	H.R. 50	411	3		99.0	1.0	Do.
471	780619	do	Brown (Michigan)	H.R. 12936	73	211		45.0	55.0	Monday.
26	780201	do	Danielson	H.R. 6200	146	262		36.0	64.0	Wednesday.
463	780615	do	Edgar	H.R. 12928	142	234		8.0	62.0	Thursday.
126	780309	do	Jeffords	H.R. 50	198	223		47.0	53.0	Do.
255	780426	do	Kindness	H.R. 8494	197	211		48.0	52.0	Wednesday.
33	780202	do	Murphy (New York)	H.R. 1614	279	120		70.0	30.0	Thursday.
462	780615	do	Ottinger	H.R. 12928	108	284		28.0	72.0	Thursday.
128	780309	do	Quie	H.R. 50	264	150		64.0	36.0	Do.
155	780315	do	do	H.R. 50	194	216		47.0	53.0	Wednesday.
125	780309	do	Sarasin	H.R. 50	277	143		66.0	34.0	Thursday.
282	780504	Agreeing to the resolution	Anderson (Illinois)	H. Res. 1162	241	148		62.0	38.0	Do.
244	780424	do	Annunzio	H. Res. 1143	332	0		100.0		Monday.
385	780531	do	do	H. Res. 1204	363	10		97.0	3.0	Wednesday.
100	780303	do	Ashbrook	H. Res. 957	336	1		100.0		Friday.
375	780525	do	do	H. Res. 1165	360	0		100.0		Thursday.
88	780227	do	do	H. Con. Res. 471	350	4		99.0	1.0	Monday.
82	780224	do	do	H. Res. 1030	295	6		98.0	2.0	Friday.
363	780523	do	do	H. Res. 1188	330	71		82.0	18.0	Tuesday.
398	780601	do	Bauman	H. Res. 1208	339	13		96.0	4.0	Thursday.
420	780606	do	do	H. Res. 1208	339	21		94.0	6.0	Tuesday.
87	780227	do	do	H. Con. Res. 464	321	24		93.0	7.0	Monday.
252	780425	do	Broomfield	H. Con. Res. 573	380	0		100.0		Tuesday.
302	780511	do	do	H. Con. Res. 617	398	0		100.0		Thursday.
334	780518	do	do	H. Con. Res. 624	399	0		100.0		Do.
424	780607	do	Brown (Michigan)	H. Res. 1218	367	1		100.0		Wednesday.
492	780623	do	Davis	H. Res. 1214	292	5		98.0	2.0	Friday.
167	780320	do	Derwinski	H. Res. 986	326	13		97.0	3.0	Monday.
137	780313	do	do	H. Res. 956	047	175		54.0	46.0	Do.
497	780626	do	Devine	H. Res. 1235	383	16		95.0	5.0	Do.
461	780615	do	Dingell	H. Res. 1236	317	82		79.0	21.0	Thursday.
94	780301	do	Edwards (California)	H. Res. 1048	386	21		95.0	5.0	Wednesday.
411	780605	do	Frenzel	H. Res. 1191	344	2		99.0	1.0	Monday.
349	780522	do	Gibbons	H. Res. 1193	377	1		100.0		Do.
101	780303	do	Holland	H. Res. 953	318	15		95.0	5.0	Friday.
251	780425	do	Horton	H. Res. 1049	39	356		10.0	90.0	Tuesday.
265	780501	do	Kindness	H. Res. 1150	320	20		94.0	6.0	Monday.
168	780320	do	Lott	H. Res. 1078	387	0		100.0		Do.
330	780517	do	do	H. Res. 1106	354	42		89.0	11.0	Wednesday.
119	780308	do	do	H. Res. 1057	349	58		86.0	14.0	Do.
392	780601	do	do	H. Res. 1178	294	97		75.0	25.0	Thursday.
13	780125	do	do	H. Res. 964	247	150		61.0	39.0	Wednesday.
73	780222	do	Mathis	H. Res. 990	386	19	1	95.0	4.0	Do.
37	780206	do	McDonald	H. Res. 982	323	41	1	88.0	11.0	Monday.
423	780607	do	do	S. Con. Res. 80	329	50		87.0	13.0	Wednesday.
43	780207	do	Meeds	H. Res. 872	271	138		66.0	34.0	Tuesday.
474	780621	do	Montgomery	H. Res. 1230	353	27	2	93.0	7.0	Wednesday.
81	780224	do	Mottl	H. Res. 1024	382	1		100.0		Friday.
408	780605	do	do	H. Res. 1213	339	1		100.0		Monday.
323	780516	do	Quillen	H. Res. 1174	378	0		100.0		Tuesday.
215	780412	do	do	H. Res. 1067	374	5		99.0	1.0	Wednesday.
417	780606	do	do	H. Res. 1205	322	48		87.0	13.0	Tuesday.
174	780321	do	do	H. Res. 1093	198	208		49.0	51.0	Do.
170	780321	do	Rousselot	H. Res. 1082	398	0	1	100.0		Do.
218	780413	do	do	H. Res. 1127	395	1	1	100.0		Thursday.
397	780601	do	do	H. Res. 1168	364	4		99.0	1.0	Do.
496	780626	do	do	H. Res. 1243	311	2		99.0	1.0	Monday.
479	780621	do	do	H. Res. 1212	375	25		94.0	6.0	Wednesday.
328	780517	do	do	H. Res. 1176	320	77		80.0	20.0	Do.
435	780609	do	Russo	H. Res. 1219	309	16		95.0	5.0	Friday.
178	780322	do	do	H. Res. 1074	355	33		92.0	8.0	Wednesday.
348	780522	do	Schulze	H. Con. Res. 555	209	173		55.0	45.0	Monday.
272	780502	do	Stokes	H. Res. 1159	367	16	2	96.0	4.0	Tuesday.
113	780307	do	Symms	H. Res. 1003	399	1		100.0		Do.
235	780419	do	do	H. Res. 1139	379	15		96.0	4.0	Wednesday.
422	780607	do	do	H. Con. Res. 561	349	24		94.0	6.0	Do.
171	780321	do	Thone	H. Res. 1092	314	80		80.0	20.0	Tuesday.
108	780307	do	do	H. Res. 1056	285	115		71.0	29.0	Do.
104	780306	Approving the Journal	Ashbrook		331	11	2	97.0	3.0	Monday.
123	780309	do	do		386	15	5	96.0	4.0	Thursday.
150	780315	do	do		397	15		96.0	4.0	Wednesday.
141	780314	do	Bauman		371	29		93.0	7.0	Tuesday.
498	780628	do	do		326	11	2	97.0	3.0	Wednesday.
99	780303	do	Brademas		304	20		94.0	6.0	Friday.
29	780202	do	Broomfield		368	21		95.0	5.0	Thursday.
513	780629	do	Dickinson		338	11	4	97.0	3.0	Do.
116	780308	do	Russo		377	26		94.0	6.0	Wednesday.
253	780426	do	do		382	9	1	98.0	2.0	Do.
281	780504	do	Steiger		360	11	1	97.0	3.0	Thursday.
319	780516	do	Symms		348	12		96.0	4.0	Tuesday.
301	780511	do	Symms		377	15		96.0	4.0	Thursday.
380	780531	do	Wydler		318	14	1	96.0	4.0	Wednesday.
421	780607	do	Rousselot	H.R. 9005	331	15	3	96.0	4.0	Do.
322	780516	Concur in Senate amendment 37 with amendment.	Bauman	S. Con. Res. 80	199	183	1	52.0	48.0	Tuesday.
327	780517	Concur in Senate amendment to House amendment.			201	198		50.4	49.6	Wednesday.
115	780308	Dispense further call of House	do		372	34		92.0	8.0	Do.

See note at end of table.

ROLLCALL VOTES (JAN. 19, 1978, THROUGH JUNE 30, 1978) LISTED ALPHABETICALLY—ACCORDING TO VOTE DESCRIPTION—Continued

Roll	Date	Type of vote	Requester	Bill	Yea	Nay	Present	Percent Yea	Percent Nay	Day
130	780314	Dispense further call of House	Michel		331	72	1	82.0	18.0	Tuesday.
223	780413	Motion to close conference	Moffett	H.R. 5289	6	371		2.0	98.0	Thursday.
95	780330	Motion to instruct conferees	Davis	H.R. 7843	321	19		94.0	6.0	Do.
154	780410	Motion to limit debate	Bauman	H.R. 50	237	170	1	58.0	42.0	Wednesday.
243	780420	do	Downey	H.R. 8494	158	215		42.0	58.0	Thursday.
509	780520	Ordering a second	Annunzio	H.R. 11880	378	1		100.0		Wednesday.
581	780520	do	do	H.R. 11839	379	2		99.0	1.0	Do.
582	780520	do	do	H.R. 12841	379	3		99.0	1.0	Do.
583	780520	do	do	H.R. 12589	384	3		99.0	1.0	Do.
584	780520	do	do	H.R. 12874	376	5		99.0	1.0	Do.
144	780411	do	Bauman	H.R. 810	387	2	2	99.0	1.0	Tuesday.
143	780314	do	do	S. 1671	380	20	1	95.0	5.0	Do.
316	780515	do	do	H.R. 4030	334	16		95.0	5.0	Monday.
189	780404	do	do	H.R. 11003	239	147		62.0	38.0	Tuesday.
145	780314	do	Edwards (Oklahoma)	H.R. 2028	388	3		99.0	1.0	Do.
166	780320	do	Perkins	H.R. 11274	156	218	1	42.0	58.0	Monday.
131	780313	do	Symms	H.R. 6535	372	1		100.0		Do.
118	780309	Ordering the previous question	Bolling	H. Res. 1057	371	36		91.0	9.0	Wednesday.
315	780515	Passage	Ashbrook	H.R. 11291	360	11		97.0	3.0	Monday.
19	780130	do	do	H.R. 5646	314	50		86.0	14.0	Do.
473	780619	do	Bauman	H.R. 12936	332	47		95.0	5.0	Do.
441	780612	do	do	H.R. 12933	347	25		93.0	7.0	Do.
478	780621	do	do	H.R. 12932	356	50		88.0	12.0	Wednesday.
448	780613	do	do	H.R. 12929	338	61		85.0	15.0	Tuesday.
485	780622	do	do	H.R. 13125	326	59		85.0	15.0	Thursday.
3	780119	do	do	H.R. 2329	292	59	1	83.0	17.0	Do.
372	780524	do	do	H.R. 10929	319	67		83.0	17.0	Wednesday.
517	780529	do	do	H.R. 8099	292	80		78.0	22.0	Thursday.
35	780202	do	do	H.R. 1614	291	91		76.0	24.0	Do.
459	780614	do	do	H.R. 12935	279	90		76.0	24.0	Wednesday.
250	780425	do	do	H.R. 11877	297	102		74.0	26.0	Tuesday.
77	780223	do	do	H.R. 9214	267	125		68.0	32.0	Thursday.
380	780531	do	Bauman	H.R. 12598	240	124		66.0	34.0	Wednesday.
257	780425	do	do	H.R. 8494	259	140		65.0	35.0	Do.
129	780310	do	Blouin	H.R. 10982	318	0		100.0		Friday.
254	780425	do	Broomfield	H.R. 11832	332	74		82.0	18.0	Wednesday.
313	780515	do	do	H.R. 12222	225	148		60.0	40.0	Monday.
97	780302	do	Butler	H.J. Res. 554	289	127		69.0	31.0	Thursday.
454	780614	do	Collins	H.R. 12934	359	34		91.0	9.0	Wednesday.
329	780517	do	Conable	H.R. 12641	167	228		42.0	58.0	Do.
111	780307	do	do	H.R. 11180	165	248		40.0	60.0	Tuesday.
374	780525	do	Derwinski	S.J. Res. 137	370	0	1	100.0		Thursday.
222	780413	do	do	H.R. 11003	265	134		66.0	34.0	Do.
216	780412	do	do	H.R. 3161	241	129		65.0	35.0	Wednesday.
50	780208	do	Erlenborn	H.R. 6805	189	227	1	45.0	55.0	Do.
180	780322	do	Ford (Tennessee)	H.R. 9518	390	1		100.0		Do.
112	780307	do	Frenzel	H.J. Res. 746	353	50		88.0	12.0	Tuesday.
92	780228	do	do	H.R. 5981	306	80		79.0	21.0	Do.
289	780508	do	Gaimo	H.J. Res. 873	346	23		94.0	6.0	Monday.
198	780406	do	Hanley	H.R. 7700	384	11		97.0	3.0	Thursday.
468	780616	do	Harkin	H.R. 12927	287	13		96.0	4.0	Friday.
63	780215	do	Harsha	H.R. 9370	234	130		64.0	36.0	Wednesday.
231	780418	do	Hillis	H.R. 3787	347	48		88.0	12.0	Tuesday.
365	780601	do	Ketchum	H.R. 12050	237	158		60.0	40.0	Thursday.
172	780321	do	do	H.R. 11518	233	172		58.0	42.0	Tuesday.
300	780510	do	Latta	H. Con. Res. 559	201	197		50.5	49.5	Wednesday.
246	780424	do	Madigan	H.R. 11504	347	23	1	94.0	6.0	Monday.
362	780523	do	McCloskey	H.R. 10729	326	82		80.0	20.0	Tuesday.
377	780525	do	McDonald	H.R. 7814	288	57		83.0	17.0	Tuesday.
59	780214	do	do	H.R. 8336	273	79	1	78.0	22.0	Tuesday.
426	780607	do	Mikva	H.R. 12930	297	98		75.0	25.0	Wednesday.
18	780130	do	Mottl	H.R. 5798	318	44		88.0	12.0	Monday.
60	780214	do	Nichols	H.R. 5503	351	7		98.0	2.0	Tuesday.
486	780622	do	Ottinger	H.R. 12505	267	96	1	74.0	26.0	Thursday.
260	780427	do	Quillen	H.J. Res. 859	202	196		51.0	49.0	Do.
164	780316	do	Rhodes	H.R. 50	257	152		63.0	37.0	Do.
83	780224	do	Rousselot	H.R. 9757	257	47		84.0	16.0	Friday.
85	780224	do	do	H.R. 3377	226	68		77.0	23.0	Do.
234	780418	do	Rudd	H.R. 11400	364	37		91.0	9.0	Tuesday.
80	780223	do	Ryan	H.R. 9179	191	165	2	54.0	46.0	Thursday.
410	780605	do	Sebelius	H.R. 12250	324	29		92.0	8.0	Monday.
53	780209	do	do	H.R. 3813	328	60	1	85.0	15.0	Thursday.
211	780411	do	do	H.R. 11662	326	76		81.0	19.0	Tuesday.
412	780605	do	Snyder	H.R. 12481	292	54		84.0	16.0	Monday.
198	780406	do	St Germain	H.R. 10899	367	2	1	99.0	1.0	Thursday.
432	780608	do	Stanton	H.R. 12426	247	155		61.0	39.0	Do.
491	780623	do	Steiger	H.R. 11493	204	89		70.0	30.0	Friday.
434	780609	do	Symms	H.J. Res. 945	237	72	1	77.0	23.0	Do.
314	780515	do	do	H.R. 10392	222	152		59.0	41.0	Monday.
340	780519	do	Udall	H.R. 39	277	31		90.0	10.0	Friday.
350	780522	do	Volkmer	H.R. 12602	363	18		95.0	5.0	Monday.
326	780517	do	do	H.R. 11686	348	46		88.0	12.0	Wednesday.
258	780427	do	Walker	H.R. 11302	367	33		92.0	8.0	Thursday.
419	780606	do	Weiss	H.R. 12240	323	43	5	88.0	12.0	Tuesday
248	780425	do	do	H.R. 11401	345	54		86.0	14.0	Do.
467	780616	do	do	H.R. 12928	263	59		82.0	18.0	Friday.
177	780322	do	Wilson, C. (California)	H.J. Res. 796	393	4		99.0	1.0	Wednesday.
165	780320	Quorum	Addabbo				349			Monday.
70	780222	do	Allen				379			Wednesday.
88	780227	do	Ashbrook				320			Monday.
194	780405	do	do				370			Wednesday.
280	780410	do	do				323			Monday.
286	780508	do	do				311			Do.
332	780517	do	do				173			Wednesday.
364	780524	do	do				351			Do.
386	780531	do	do				342			Do.
14	780126	do	Bauman				360			Thursday.
51	780209	do	do				354			Do.
122	780308	do	do				265			Wednesday.
130	780313	do	do				333			Monday.
149	780315	do	do				372			Wednesday.
400	780601	do	do				298			Thursday.

See note at end of table.

ROLLCALL VOTES (JAN. 19, 1978, THROUGH JUNE 30, 1978) LISTED ALPHABETICALLY—ACCORDING TO VOTE DESCRIPTION—Continued

Roll	Date	Type of vote	Requester	Bill	Yea	Nay	Present	Percent Yea	Percent Nay	Day
106	780307	Quorum	Bolling				375			Tuesday.
114	780308	do	do				378			Wednesday.
173	780321	do	do				387			Tuesday.
98	780303	do	Brademas				305			Friday.
183	780403	do	do				328			Monday.
213	780412	do	do				401			Wednesday.
341	780522	do	Bracianese				324			Monday.
470	780619	do	Brown (Michigan)				361			Do.
310	780515	do	Burke (Massachusetts)				329			Do.
333	780518	do	Danielson				345			Thursday.
169	780320	do	Derwinski				353			Monday.
373	780525	do	Findley				338			Thursday.
487	780623	do	Foley				264			Friday.
511	780628	do	Hagedorn				353			Wednesday.
381	780531	do	Hamilton				353			Do.
378	780525	do	Kindness				259			Thursday.
261	780105	do	Leggett				382			Monday.
207	780411	do	Levitas				380			Tuesday.
76	780223	do	Mathis				358			Thursday.
306	780512	do	Moakley				286			Friday.
238	780420	do	Moffett				370			Thursday.
4	780123	do	Montgomery				343			Monday.
9	780124	do	do				370			Tuesday.
45	780208	do	do				367			Wednesday.
32	780202	do	Murphy (New York)				355			Thursday.
1	780119	do	O'Neill				338			Do.
266	780501	do	Railsback				318			Monday.
138	780314	do	Rhodes				371			Tuesday.
17	780130	do	Rousselot				326			Monday.
41	780207	do	do				347			Tuesday.
109	780307	do	do				359			Do.
268	780502	do	do				363			Do.
480	780622	do	do				326			Thursday.
352	780523	do	Schulze				349			Tuesday.
38	780206	do	Simon				332			Monday.
413	780606	do	Staggers				342			Tuesday.
331	780517	do	Studds				285			Wednesday.
427	780607	do	Symms				321			Do.
103	780306	do	Tsongas				326			Monday.
124	780309	do	Weiss				384			Thursday.
188	780404	do	Wilson, C. (California)				361			Tuesday.
436	780612	do	do				29			Monday.
460	780615	do	do				340			Thursday.
61	780215	do	do				363			Wednesday.
64	780221	do	do				351			Tuesday.
69	780222	do	do				376			Wednesday.
74	780223	do	do				366			Thursday.
89	780228	do	do				364			Tuesday.
93	780301	do	do				393			Wednesday.
217	780413	do	do				364			Thursday.
391	780601	do	do				356			Do.
228	780418	do	Wylie				365			Tuesday.
140	780314	Reading Journal in full	Bauman		99	301		25.0	75.0	Do.
72	780222	Recede and concur in Senate Admendment 43	Dornan	H.R. 9375	234	182	1	56.0	44.0	Wednesday.
135	780313	Recommit with instructions	Ashbrook	H. Res. 1010	161	216		43.0	57.0	Monday.
136	780313	do	Bauman	H. Res. 956	182	198		48.0	52.0	Do.
52	780209	do	Clausen	H.R. 3813	116	274	1	30.0	70.0	Thursday.
466	780616	do	Conte	H.R. 12928	93	228		29.0	71.0	Friday.
472	780619	do	Miller (Ohio)	H.R. 12936	156	222		41.0	59.0	Monday.
431	780608	do	Stanton	H.R. 12426	109	291		27.0	73.0	Thursday.
339	780519	do	Young (Alaska)	H.R. 39	67	242		22.0	78.0	Friday.
499	780628	Refer veto to post office	Annunzio	H.R. 3161	279	109		72.0	28.0	Wednesday.
481	780622	Resolving into Committee	do	H.R. 13125	369	5		99.0	1.0	Thursday.
25	780201	do	Ashbrook	H.R. 8200	405	4		99.0	1.0	Wednesday.
176	780321	do	do	H.R. 7700	364	2	1	99.0	1.0	Tuesday.
429	780608	do	do	H.R. 12426	302	3	2	99.0	1.0	Thursday.
399	780601	do	do	H.R. 12157	314	13		96.0	4.0	Do.
196	780406	do	Bauman	H.R. 7700	386	1	3	100.0		Do.
273	780503	do	do	H. Con. Res. 559	383	4	2	99.0	1.0	Wednesday.
376	780525	do	do	H.R. 7814	338	2		99.0	1.0	Thursday.
449	780614	do	do	H.R. 12935	344	2		99.0	1.0	Wednesday.
121	780308	do	Bolling	H.R. 50	364	32		92.0	8.0	Do.
469	780619	do	Crane	H.R. 12936	347	4		99.0	1.0	Monday.
95	780301	do	Dornan	H.J. Res. 554	369	15		96.0	4.0	Wednesday.
239	780420	do	Downey	H.R. 8494	369	15		96.0	4.0	Thursday.
151	780315	do	Edwards (Oklahoma)	H.R. 50	380	19	2	95.0	5.0	Wednesday.
442	780613	do	Hagedorn	H.R. 12929	383	5		99.0	1.0	Tuesday.
156	780316	do	Hawkins	H.R. 5	379	8	2	98.0	2.0	Thursday.
46	780208	do	Levitas	H.R. 6805	377	25	1	94.0	6.0	Wednesday.
258	780427	do	Montgomery	H.R. 11302	384	5		99.0	1.0	Thursday.
295	780510	do	do	H. Con. Res. 559	392	4		99.0	1.0	Wednesday.
402	780602	do	do	H.R. 12157	318	3	1	99.0	1.0	Friday.
247	780425	do	Rousselot	H.R. 11401	387	3		99.0	1.0	Tuesday.
307	780512	do	do	H.R. 12222	300	6		99.0	1.0	Friday.
514	780629	do	do	H.R. 12433	362	3	1	99.0	1.0	Thursday.
57	780214	do	do	H.R. 8336	325	7		98.0	2.0	Tuesday.
450	780614	do	do	H.R. 12934	368	6		98.0	2.0	Wednesday.
179	780322	do	Russo	H.R. 9518	376	0		100.0		Do.
337	780519	do	Schulze	H.R. 39	280	8		97.0	3.0	Friday.
96	780302	do	Symms	H.J. Res. 554	394	12		97.0	3.0	Thursday.
55	780209	do	do	H.R. 2664	337	17	1	95.0	5.0	Do.
324	780517	do	Weiss	H.R. 11686	355	4		99.0	1.0	Wednesday.
191	780405	do	Wilson, C. (California)	H.R. 7700	386	4	2	99.0	1.0	Do.
290	780509	do	do	H. Con. Res. 559	380	3		99.0	1.0	Tuesday.
464	780616	do	do	H.R. 12928	300	4		99.0	1.0	Friday.
159	780316	Strike enacting clause	Wiggins	H.R. 50	106	310		25.0	75.0	Thursday.
10	780124	Suspend rules and pass	Allen	H.R. 8811	399	1		100.0		Tuesday.
509	780628	do	Annunzio	H.R. 12589	344	54	1	86.0	14.0	Wednesday.
20	780131	do	Ashbrook	H.R. 9851	403	0	1	100.0		Tuesday.

See note at end of table.

ROLLCALL VOTES (JAN. 19, 1978, THROUGH JUNE 30, 1978) LISTED ALPHABETICALLY—ACCORDING TO VOTE DESCRIPTION—Continued

Roll	Date	Type of vote	Requester	Bill	Yea	Nay	Present	Percent Yea	Percent Nay	Day
406	780605	Suspend rules and pass	Ashbrook	H.R. 188	344	1		100.0		Monday.
344	780522	do	do	H.R. 11778	373	3		99.0	1.0	Do.
283	780410	do	do	H.R. 10882	377	8		98.0	2.0	Do.
282	780410	do	do	H.R. 10878	365	14		96.0	4.0	Do.
209	780411	do	do	H.R. 2497	368	33		92.0	8.0	Tuesday.
508	780628	do	do	H.R. 12841	386	12		70.0	30.0	Wednesday.
230	780418	do	do	S. 2452	267	127		67.0	33.0	Tuesday.
317	780515	do	Bauman	H.R. 12255	361	6		99.0	1.0	Monday.
7	780123	do	do	H.R. 9471	366	12		97.0	3.0	Do.
68	780221	do	do	H.R. 10606	356	53		87.0	13.0	Tuesday.
66	780221	do	do	H.J. Res. 649	341	65	1	84.0	16.0	Do.
42	780207	do	do	H.R. 7843	319	80	1	80.0	20.0	Do.
263	780501	do	do	H.R. 10392	219	137		62.0	38.0	Monday.
416	780606	do	Brown (Michigan)	H.R. 12668	268	103		72.0	28.0	Tuesday.
185	780403	do	Burton, P	H. Con. Res. 359	358	0		100.0		Monday.
186	780403	do	do	H.R. 6900	353	4		99.0	1.0	Do.
184	780403	do	do	H.R. 10984	351	6		98.0	2.0	Do.
187	780403	do	do	H.R. 11662	228	132		63.0	37.0	Do.
269	780502	do	Butler	H.R. 11713	375	17		96.0	4.0	Tuesday.
438	780612	do	Collins	H.R. 12441	190	188		50.3	49.7	Monday.
383	780531	do	Cunningham	H.R. 7041	369	0		100.0		Wednesday.
405	780605	do	do	H.R. 185	336	0	1	100.0		Monday.
384	780531	do	do	H.R. 212	350	4		99.0	1.0	Wednesday.
345	780522	do	do	H.R. 11779	377	7		98.0	2.0	Monday.
407	780605	do	do	H.R. 12140	338	9		97.0	3.0	Do.
358	780523	do	do	H.R. 11370	377	25		94.0	6.0	Tuesday.
353	780523	do	do	S.J. Res. 4	210	194		52.0	48.0	Do.
495	780626	do	do	S. 666	118	204		37.0	63.0	Monday.
382	780531	do	Findley	H. Res. 1194	321	46		87.0	13.0	Wednesday.
107	780307	do	Flowers	H.R. 10551	404	0	1	100.0		Tuesday.
288	780508	do	Guyer	H. Con. Res. 583	369	0		100.0		Monday.
210	780411	do	do	H.R. 11092	361	43		89.0	11.0	Tuesday.
507	780628	do	Hammerschmidt	H.R. 10173	398	5		99.0	1.0	Wednesday.
134	780313	do	Hanley	H.R. 9146	371	6		98.0	2.0	Monday.
67	780221	do	Jeffords	H.R. 10569	489	0		100.0		Tuesday.
105	780306	do	Lehman	H.J. Res. 715	348	7		98.0	2.0	Monday.
229	780418	do	Levitas	H.R. 8588	388	6		98.0	2.0	Tuesday.
11	780124	do	do	H.R. 7662	292	103		74.0	26.0	Do.
510	780628	do	McCormack	H.R. 12874	385	14		96.0	4.0	Wednesday.
318	780515	do	Mikva	H.R. 4030	218	145		60.0	40.0	Monday.
224	780417	do	Mottl	H.R. 3489	357	1		100.0		Do.
311	780515	do	do	H.R. 11209	350	0		100.0		Do.
347	780522	do	do	H.R. 12353	388	0		100.0		Do.
201	780410	do	do	H.R. 10730	380	5		99.0	1.0	Do.
343	780522	do	do	H.R. 11777	373	2		99.0	1.0	Do.
208	780411	do	do	H.R. 7101	390	14		97.0	3.0	Tuesday.
271	780502	do	do	H. Res. 1158	384	10	1	97.0	3.0	Do.
227	780417	do	do	H.R. 11465	357	11	1	96.0	4.0	Monday.
5	780123	do	do	H.R. 9165	351	22		94.0	6.0	Do.
225	780417	do	do	H.R. 10822	341	23		94.0	6.0	Do.
262	780501	do	do	H.R. 11657	326	23	1	93.0	7.0	Do.
494	780626	do	do	H.R. 10342	292	30		91.0	9.0	Do.
493	780626	do	do	H.R. 10341	283	35		89.0	11.0	Do.
226	780417	do	do	H.R. 10823	317	47		86.0	14.0	Monday.
90	780228	do	do	H.R. 9622	266	133		67.0	33.0	Tuesday.
270	780502	do	do	H.R. 8099	256	138		65.0	35.0	Do.
354	780523	do	do	H.R. 12299	201	205		49.5	50.5	Do.
206	780410	do	Myers	H.R. 11445	310	72		81.0	19.0	Monday.
65	780221	do	Myers (Pennsylvania)	H.R. 10979	274	137		67.0	33.0	Tuesday.
437	780612	do	Pease	H. Con. Res. 612	377	0		100.0		Monday.
320	780516	do	Quie	H.R. 12467	382	12		96.0	4.0	Tuesday.
36	780206	do	Rogers	H.R. 9434	253	106		70.0	30.0	Monday.
146	780314	do	Roncalio	S. 167	405	7		98.0	2.0	Tuesday.
6	780123	do	Rousselot	H.R. 8771	369	7		98.0	2.0	Monday.
204	780410	do	do	H.R. 10732	329	55	1	86.0	14.0	Do.
264	780501	do	do	H.J. Res. 816	278	77		78.0	22.0	Do.
133	780313	do	Schroeder	H.R. 10126	294	84		78.0	22.0	Do.
190	780404	do	do	H.R. 11003	207	188		52.0	48.0	Tuesday.
132	780313	do	Solarz	H.R. 7814	242	141		63.0	37.0	Monday.
357	780523	do	Steiger	H. Res. 238	407	0		100.0		Tuesday.
414	780606	do	Symms	H.R. 8394	340	28		92.0	8.0	Do.
8	780123	do	do	H.R. 9169	309	68	1	82.0	18.0	Monday.
205	780410	do	do	H.R. 10884	307	76		80.0	20.0	Do.
415	780606	do	Thone	H.R. 12637	368	0		100.0		Tuesday.
147	780314	do	Ullman	H.R. 810	372	38		90.0	10.0	Do.
348	780522	do	Volkmer	S. 2370	378	5		99.0	1.0	Monday.
356	780523	do	do	H.R. 8535	363	44		89.0	11.0	Tuesday.
355	780523	do	do	H.R. 3050	358	50		88.0	12.0	Do.
342	780522	do	do	H. Res. 1072	269	109	1	71.0	29.0	Monday.
287	780508	do	do	H.R. 12481	203	170		54.0	46.0	Do.
505	780628	do	Wylie	H.R. 11886	400	1		100.0		Wednesday.
506	780628	do	do	H.R. 11888	385	16		60.0	40.0	Do.
120	780308	Table motion to reconsider	Boiling	H.Res. 1057	368	29		93.0	7.0	Do.
142	780314	Table reconsider Journal vote	Edwards (Oklahoma)		308	91		77.0	23.0	Tuesday.
117	780308	do	Moore		313	91		77.0	23.0	Wednesday.
240	780420	Table reconsider resolving	Downey	H.R. 8494	362	26		93.0	7.0	Thursday.
321	780516	Table to concur in Senate amendment with amendment.	Bauman	H.R. 9005	190	199	1	49.0	51.0	Tuesday.
182	780322	Table to instruct conferees	Moore	H.R. 6782	224	167		60.0	40.0	Wednesday.
71	780222	Table to recede and concur in Senate amendment 43.	Lloyd (California)	H.R. 9375	172	244	1	41.0	59.0	Do.

Note: The percentage of yea-and-nay votes has been figured on the basis of the yea-and-nay votes only and does not include those voting "present."

ARE THEY REALLY NECESSARY? ALWAYS?

Why wouldn't it be enough to have a voice vote now and then? It would save a lot of time and the national interest would not be imperiled. And think of the savings in congressional time and taxpayers' money.

Through June 30, 1978, out of 517 rollcalls, 450 were on "issues" and there were 67 regular quorums. Of the 450 votes on issues, the question carried 338 with 178, or 52.7 percent of the 338, passing with a vote of 90 percent or more.

This is the list and consider the notes at the end of the table:

ROLLCALL VOTES (JAN. 19 THROUGH JUNE 30, 1978) LISTED IN ORDER OF THE PERCENTAGE OF YEA VOTES (THIS DOES NOT INCLUDE THE 67 QUORUM CALLS)

Roll	Date	Type of vote	Requester	Bill	Yea	Nay	Present	Percent Yea	Percent Nay	Day
84	780224	Agreeing to the amendment	Cunningham	H.R. 3377	293	1		100.0		Friday.
81	780224	Agreeing to the resolution	Mottl	H. Res. 1024	302	1		100.0		Do.
129	780310	Passage	Blouin	H.R. 10962	318	0		100.0		Do.
244	780424	Agreeing to the resolution	Annunzio	H. Res. 1143	332	0		100.0		Monday.
100	780303	do	Ashbrook	H. Res. 957	336	1		100.0		Friday.
405	780605	Suspend rules and pass	Cunningham	H.R. 185	336	0	1	100.0		Monday.
408	780605	Agreeing to the resolution	Mottl	H. Res. 1213	339	1		100.0		Do.
406	780605	Suspend rules and pass	Ashbrook	H.R. 188	344	1		100.0		Do.
311	780515	do	Mottl	H.R. 11209	350	0		100.0		Do.
224	780417	do	do	H.R. 3489	357	0		100.0		Do.
185	780403	do	Burton, P	H. Con. Res. 359	358	0		100.0		Do.
375	780525	Agreeing to the resolution	Ashbrook	H. Res. 1165	360	0		100.0		Thursday.
415	780606	Suspend rules and pass	Thone	H.R. 12637	368	0		100.0		Tuesday.
288	780508	do	Guyer	H. Con. Res. 583	369	0		100.0		Monday.
383	780531	do	Cunningham	H.R. 7041	369	0		100.0		Wednesday.
374	780525	Passage	Derwinski	S.J. Res. 137	370	0	1	100.0		Thursday.
131	780313	Ordering a second	Symms	H.R. 6535	372	1		100.0		Monday.
179	780322	Resolving into Committee	Russo	H.R. 9518	376	0		100.0		Wednesday.
424	780607	Agreeing to the resolution	Brown (Michigan)	H. Res. 1218	376	1		100.0		Do.
349	780522	do	Gibbons	H. Res. 1193	377	1		100.0		Monday.
437	780612	Suspend rules and pass	Pease	H. Con. Res. 612	377	0		100.0		Do.
323	780516	Agreeing to the resolution	Quillen	H. Res. 1174	378	0		100.0		Tuesday.
500	780628	Ordering a second	Annunzio	H.R. 11886	378	1		100.0		Wednesday.
196	780406	Resolving into Committee	Bauman	H.R. 7700	386	1	3	100.0		Thursday.
168	780320	Agreeing to the resolution	Lott	H. Res. 1078	387	0		100.0		Monday.
252	780425	do	Broomfield	H. Con. Res. 573	388	0		100.0		Tuesday.
347	780522	Suspend rules and pass	Mottl	H.R. 12353	388	0		100.0		Monday.
180	780322	Passage	Ford (Tennessee)	H.R. 9518	390	1		100.0		Wednesday.
218	780413	Agreeing to the resolution	Rousselot	H. Res. 1127	395	0	1	100.0		Thursday.
157	780316	Agreeing to the amendment	Jeffords	H.R. 50	398	0		100.0		Do.
170	780321	Agreeing to the resolution	Rousselot	H. Res. 1082	398	0	1	100.0		Tuesday.
302	780511	do	Broomfield	H. Con. Res. 617	398	0		100.0		Thursday.
10	780124	Suspend rules and pass	Allen	H.R. 8811	399	1		100.0		Tuesday.
113	780307	Agreeing to the resolution	Symms	H. Res. 1003	399	1		100.0		Do.
334	780518	do	Broomfield	H. Con. Res. 624	399	0		100.0		Thursday.
505	780628	Suspend rules and pass	Wylie	H.R. 11886	400	1		100.0		Wednesday.
12	780124	Agreeing to conference report	Ashbrook	S. 1585	401	0		100.0		Tuesday.
430	780608	Agreeing to the amendment	Stanton	H.R. 12426	401	0		100.0		Thursday.
20	780131	Suspend rules and pass	Ashbrook	H.R. 9851	403	0	1	100.0		Tuesday.
107	780307	do	Flowers	H.R. 10551	404	0	1	100.0		Do.
357	780523	do	Steiger	H. Res. 238	407	0		100.0		Do.
67	780221	do	Jeffords	H.R. 10569	409	0		100.0		Do.
307	780512	Resolving into Committee	Rousselot	H.R. 12222	300	6		98.0	1.0	Friday.
464	780616	do	Wilson, C. (California)	H.R. 12928	300	4		99.0	1.0	Do.
496	780626	Agreeing to the resolution	Rousselot	H. Res. 1243	311	2		99.0	1.0	Monday.
402	780602	Resolving into Committee	Montgomery	H.R. 12157	318	3	1	99.0	1.0	Tuesday.
376	780525	do	Bauman	H.R. 7814	338	2		99.0	1.0	Thursday.
411	780605	Agreeing to the resolution	Frenzel	H. Res. 1191	344	2		99.0	1.0	Monday.
449	780614	Resolving into Committee	Bauman	H.R. 12935	344	2		99.0	1.0	Wednesday.
469	780619	do	Crane	H.R. 12936	347	4		99.0	1.0	Monday.
88	780227	Agreeing to the resolution	Ashbrook	H. Con. Res. 471	350	4		99.0	1.0	Do.
186	780403	Suspend rules and pass	Burton, P	H.R. 6900	353	4		99.0	1.0	Do.
324	780517	Resolving into Committee	Weiss	H.R. 11686	355	4		99.0	1.0	Wednesday.
384	780531	Suspend rules and pass	Cunningham	H.R. 212	359	4		99.0	1.0	Do.
317	780515	do	Bauman	H.R. 12255	361	6		99.0	1.0	Monday.
514	780629	Resolving into Committee	Rousselot	H.R. 12433	362	3	1	99.0	1.0	Thursday.
176	780321	do	Ashbrook	H.R. 7700	364	2	1	99.0	1.0	Tuesday.
397	780601	Agreeing to the resolution	Rousselot	H. Res. 1168	364	4		99.0	1.0	Thursday.
199	780406	Passage	St Germain	H.R. 10899	367	2	1	99.0	1.0	Do.
481	780622	Resolving into Committee	Annunzio	H.R. 13125	369	5		99.0	1.0	Do.
343	780522	Suspend rules and pass	Mottl	H.R. 11777	373	2		99.0	1.0	Monday.
344	780522	do	Ashbrook	H.R. 11778	373	3		99.0	1.0	Do.
215	780412	Agreeing to the resolution	Quillen	H. Res. 1067	374	5		99.0	1.0	Wednesday.
504	780628	Ordering a second	Annunzio	H.R. 12874	376	5		99.0	1.0	Do.
346	780522	Suspend rules and pass	Volkmer	S. 2370	378	5		99.0	1.0	Monday.
501	780628	Ordering a second	Annunzio	H.R. 11888	379	2		99.0	1.0	Wednesday.
502	780628	do	do	H.R. 12841	379	3		99.0	1.0	Do.
201	780410	Suspend rules and pass	Mottl	H.R. 10730	380	5		99.0	1.0	Monday.
290	780509	Resolving into Committee	Wilson, C. (California)	H. Con. Res. 559	380	3		99.0	1.0	Tuesday.
429	780608	do	Ashbrook	H.R. 12426	382	3	2	99.0	1.0	Thursday.
273	780503	do	Bauman	H. Con. Res. 559	383	4	2	99.0	1.0	Wednesday.
442	780613	do	Hagedorn	H.R. 12929	383	5		99.0	1.0	Tuesday.
258	780427	do	Montgomery	H.R. 11302	384	5		99.0	1.0	Thursday.
503	780628	Ordering a second	Annunzio	H.R. 12589	384	3		99.0	1.0	Wednesday.
191	780405	Resolving into Committee	Wilson, C. (California)	H.R. 7700	386	4	2	99.0	1.0	Do.
144	780315	Ordering a second	Bauman	H.R. 810	387	2	2	99.0	1.0	Tuesday.
247	780425	Resolving into Committee	Rousselot	H.R. 11401	387	3		99.0	1.0	Do.
145	780314	Ordering a second	Edwards (Oklahoma)	H.R. 2028	388	3		99.0	1.0	Do.
175	780321	Agreeing to conference report	Allen	H.R. 5383	391	6		99.0	1.0	Do.
295	780510	Resolving into Committee	Montgomery	H. Con. Res. 559	392	4		99.0	1.0	Wednesday.
177	780322	Passage	Wilson, C. (California)	H.J. Res. 796	393	4		99.0	1.0	Do.
507	780628	Suspend rules and pass	Hammerschmidt	H.R. 10173	398	5		99.0	1.0	Do.
25	780201	Resolving into Committee	Ashbrook	H.R. 8200	405	4		99.0	1.0	Do.
153	780315	Agreeing to the amendments	Baucus	H.R. 50	411	3		99.0	1.0	Do.
492	780623	Agreeing to the resolution	Davis	H. Res 1214	282	5		98.0	2.0	Friday.
82	780224	do	Ashbrook	H. Res. 1039	295	6		98.0	2.0	Do.
57	780214	Resolving into Committee	Rousselot	H.R. 8336	325	7		98.0	2.0	Tuesday.
105	780306	Suspend rules and pass	Lehman	H.J. Res. 715	348	7		98.0	2.0	Monday.
60	780214	Passage	Nichols	H.R. 5503	351	7		98.0	2.0	Tuesday.
184	780403	Suspend rules and pass	Burton, P	H.R. 10984	351	6		98.0	2.0	Monday.
450	780614	Resolving into Committee	Rousselot	H.R. 12934	358	6		98.0	2.0	Wednesday.
6	780123	Suspend rules and pass	do	H.R. 8771	369	7		98.0	2.0	Monday.
134	780313	do	Hanley	H.R. 9146	371	6		98.0	2.0	Do.
203	780410	do	Ashbrook	H.R. 10882	377	8		98.0	2.0	Do.
345	780522	do	Cunningham	H.R. 11779	377	7		98.0	2.0	Do.
156	780316	Resolving into Committee	Hawkins	H.R. 50	379	8	2	98.0	2.0	Thursday.
253	780426	Approving the Journal	Russo		382	9	1	98.0	2.0	Wednesday.
229	780418	Suspend rules and pass	Levitas	H.R. 8588	388	6		98.0	2.0	Tuesday.
146	780314	do	Roncalio	S. 1671	405	7		98.0	2.0	Do.
337	780519	Resolving into Committee	Schulze	H.R. 39	280	8		97.0	3.0	Friday.
498	780628	Approving the Journal	Bauman		326	11	2	97.0	3.0	Wednesday.
104	780306	do	Ashbrook		331	11	2	97.0	3.0	Monday.
407	780605	Suspend rules and pass	Cunningham	H.R. 12140	338	9		97.0	3.0	Do.

See note at end of table.

ROLLCALL VOTES (JAN. 19 THROUGH JUNE 30, 1978) LISTED IN ORDER OF THE PERCENTAGE OF YEA VOTES (THIS DOES NOT INCLUDE THE 67 QUORUM CALLS)—Continued

ROLLCALL VOTES (JAN. 19 THROUGH JUNE 30, 1978) LISTED IN ORDER OF THE PERCENTAGE OF YEA VOTES (THIS DOES NOT INCLUDE THE 67 QUORUM CALLS)—Continued

Roll	Date	Type of vote	Requester	Bill	Yea	Nay	Present	Percent Yea	Percent NAY	Day
313	780529	Approving the Journal	Broomfield		338	11	4	97.0	3.0	Thursday.
281	780504	do	Russo		360	13	1	97.0	3.0	Do.
315	780515	Passage	Ashbrook	H.R. 11291	360	11		97.0	3.0	Monday.
305	780531	Agreeing to the resolution	Annunzio	H. Res. 1204	363	10		97.0	3.0	Wednesday.
7	780123	Suspend rules and pass	Bauman	H.R. 9471	366	12		97.0	3.0	Monday.
167	780320	Agreeing to the resolution	Derwinski	H. Res. 996	367	13		97.0	3.0	Do.
169	780405	Passage	Hanley	H.R. 7700	384	11		97.0	3.0	Thursday.
271	780502	Suspend rules and pass	Mottl	H. Res. 1158	384	10	1	97.0	3.0	Tuesday.
280	780511	do		H.R. 7101	390	14		97.0	3.0	Do.
96	780202	Resolving into Committee	Symms	H.J. Res. 554	394	12		97.0	3.0	Thursday.
468	780616	Passage	Harkin	H.R. 12917	278	13		96.0	4.0	Friday.
300	780601	Resolving into Committee	Ashbrook	H.R. 12157	314	13		96.0	4.0	Thursday.
300	780531	Approving the Journal	Symms		318	14	1	96.0	4.0	Wednesday.
182	780323	Agreeing to the amendment	Ashbrook	H. Res. 1012	321	13		96.0	4.0	Friday.
421	780607	Approving the Journal	Wydler		331	15	3	96.0	4.0	Wednesday.
300	780531	Agreeing to the resolution	Bauman	H. Res. 1208	339	13		96.0	4.0	Thursday.
319	780516	Approving the Journal	Steiger		348	12		96.0	4.0	Tuesday.
227	780417	Suspend rules and pass	Mottl	H.R. 11465	357	13	1	96.0	4.0	Monday.
282	780410	do	Ashbrook	H.R. 10878	365	14		96.0	4.0	Do.
272	780502	Agreeing to the resolution	Stokes	H. Res. 1159	367	16	2	96.0	4.0	Tuesday.
95	780201	Resolving into committee	Dornan	H.J. Res. 554	369	15		96.0	4.0	Wednesday.
230	780420	do	Downey	H.R. 8494	369	15		96.0	4.0	Thursday.
260	780502	Suspend rules and pass	Butler	H.R. 11713	375	17		96.0	4.0	Tuesday.
301	780511	Approving the Journal	Symms		377	15		96.0	4.0	Thursday.
235	780419	Agreeing to the resolution	do	H. Res. 1139	379	15		96.0	4.0	Wednesday.
320	780516	Suspend rules and pass	Quie	H.R. 12467	382	12		96.0	4.0	Tuesday.
510	780628	do	McCormack	H.R. 12874	385	14		96.0	4.0	Wednesday.
73	780222	Agreeing to the resolution	Mathis	H. Res. 990	386	15	1	96.0	4.0	Do.
123	780309	Approving the Journal	Ashbrook		386	15	5	96.0	4.0	Thursday.
150	780315	do			387	15		96.0	4.0	Wednesday.
467	780525	Agreeing to the resolution	Devine	H. Res. 1235	303	16		95.0	5.0	Monday.
435	780609	do	Russo	H. Res. 1219	309	16		95.0	5.0	Friday.
161	780303	do	Holland	H. Res. 953	318	15		95.0	5.0	Do.
473	780519	Passage	Bauman	H.R. 12936	332	47		95.0	5.0	Monday.
316	780515	Ordering a second	do	H.R. 4030	334	16		95.0	5.0	Do.
55	780200	Resolving into Committee	Symms	H.R. 2664	337	17	1	95.0	5.0	Thursday.
350	780522	Passage	Volkmer	H.R. 12602	363	18		95.0	5.0	Monday.
29	780202	Approving the Journal	Brademas		368	21		95.0	5.0	Thursday.
143	780314	Ordering a second	Bauman	S. 1671	380	20	1	95.0	5.0	Tuesday.
151	780315	Resolving into Committee	Edwards (Oklahoma)	H.R. 50	380	19	2	95.0	5.0	Wednesday.
94	780201	Agreeing to the resolution	Edwards (California)	H. Res. 1048	386	21		95.0	5.0	Do.
99	780203	Approving the Journal	Bauman		304	20		94.0	6.0	Friday.
265	780501	Agreeing to the resolution	Kindness	H. Res. 1150	320	20		94.0	6.0	Monday.
55	780200	Motion to instruct conferees	Davis	H.R. 7843	321	19		94.0	6.0	Thursday.
420	780605	Agreeing to the resolution	Bauman	H. Res. 1206	339	21		94.0	6.0	Tuesday.
225	780417	Suspend rules and pass	Mottl	H.R. 10822	341	23		94.0	6.0	Monday.
289	780508	Passage	Giaimo	H.J. Res. 873	346	23		94.0	6.0	Do.
246	780424	do	Madigan	H.R. 11504	347	23	1	94.0	6.0	Do.
422	780607	Agreeing to the resolution	Symms	H. Con. Res. 561	349	24		94.0	6.0	Wednesday.
5	780123	Suspend rules and pass	Mottl	H.R. 9165	351	22		94.0	6.0	Monday.
479	780621	Agreeing to the resolution	Rousselot	H. Res. 1212	375	25		94.0	6.0	Wednesday.
46	780208	Resolving into committee	Levitas	H.R. 6805	377	25	1	94.0	6.0	Do.
116	780309	Approving the Journal	Dickinson		377	26		94.0	6.0	Do.
358	780523	Suspend rules and pass	Cunningham	H.R. 11370	277	25		94.0	6.0	Tuesday.
87	780227	Agreeing to the resolution	Bauman	H. Con. Res. 464	321	24		93.0	7.0	Monday.
262	780501	Suspend rules and pass	Mottl	H.R. 11657	326	23	1	93.0	7.0	Do.
441	780612	Passage	Bauman	H.R. 12933	347	25		93.0	7.0	Do.
474	780621	Agreeing to the resolution	Montgomery	H. Res. 1230	353	27	2	93.0	7.0	Wednesday.
240	780420	Table reconsider resolving	Downey	H.R. 8494	362	26		93.0	7.0	Thursday.
120	780308	Table motion to reconsider	Bolling	H. Res. 1057	368	29		93.0	7.0	Wednesday.
141	780314	Approving the Journal	Ashbrook		371	29		93.0	7.0	Tuesday.
410	780605	Passage	Sebelius	H.R. 12250	324	29		92.0	8.0	Monday.
414	780608	Suspend rules and pass	Symms	H.R. 8394	340	28		92.0	8.0	Tuesday.
278	780503	Agreeing to the amendment	Bauman	H. Con. Res. 559	362	33		92.0	8.0	Wednesday.
121	780308	Resolving into Committee	Bolling	H.R. 50	364	32		92.0	8.0	Do.
178	780322	Agreeing to the resolution	Russo	H. Res. 1074	365	33		92.0	8.0	Do.
259	780427	Passage	Walker	H.R. 11302	367	33		92.0	8.0	Thursday.
200	780411	Suspend rules and pass	Ashbrook	H.R. 2497	368	33		92.0	8.0	Tuesday.
115	780308	Dispense further call of House	Bauman		272	34		92.0	8.0	Wednesday.
404	780525	Suspend rules and pass	Mottl	H.R. 10342	292	30		91.0	9.0	Monday.
454	780614	Passage	Collins	H.R. 12934	359	34		91.0	9.0	Wednesday.
234	780419	do	Rudd	H.R. 11400	364	37		91.0	9.0	Tuesday.
118	780308	Ordering the previous question	Bolling	H. Res. 1057	371	36		91.0	9.0	Wednesday.
340	780519	Passage	Udall	H.R. 39	277	31		90.0	10.0	Friday.
147	780314	Suspend rules and pass	Ullman	H.R. 310	272	38		90.0	10.0	Tuesday.
483	780626	do	Mottl	H.R. 10341	383	35		89.0	11.0	Monday.
37	780206	Agreeing to the resolution	McDonald	H. Res. 982	323	41	1	89.0	11.0	Do.
330	780517	do	Lott	H. Res. 1186	354	42		89.0	11.0	Wednesday.
210	780411	Suspend rules and pass	Guyer	H.R. 11092	361	43		89.0	11.0	Tuesday.
256	780323	do	Volkmer	H.R. 8535	363	44		89.0	11.0	Do.
18	780130	Passage	Mottl	H.R. 5798	318	44		88.0	12.0	Monday.
419	780605	do	Weiss	H.R. 12240	323	43	5	88.0	12.0	Tuesday.
54	780200	Agreeing to conference report	Ketchum	H.R. 3454	333	44		88.0	12.0	Thursday.
231	780418	Passage	Hillis	H.R. 3787	347	48		88.0	12.0	Tuesday.
326	780517	do	Volkmer	H.R. 11686	348	46		88.0	12.0	Wednesday.
112	780307	do	Frenzel	H.J. Res. 746	353	50		88.0	12.0	Tuesday.
478	780621	do	Bauman	H.R. 12932	356	50		88.0	12.0	Wednesday.
355	780523	Suspend rules and pass	Volkmer	H.R. 3050	358	50		88.0	12.0	Tuesday.
302	780511	do	Findley	H. Res 1194	321	46		87.0	13.0	Wednesday.
417	780605	Agreeing to the resolution	Quillen	H. Res. 1205	322	48		87.0	13.0	Tuesday.
423	780607	do	McDonald	S. Con. Res. 89	329	50		87.0	13.0	Wednesday.
68	780221	Suspend rules and pass	Buaman	H.R. 10606	356	53		87.0	13.0	Tuesday.
19	780130	Passage	Ashbrook	H.R. 5656	314	50		86.0	14.0	Monday.
226	780417	Suspend rules and pass	Mottl	H.R. 10832	317	47		86.0	14.0	Do.
204	780410	do	Rousselot	H.R. 10732	329	55	1	86.0	14.0	Do.
500	780628	do	Annunzio	H.R. 12589	344	54	1	86.0	14.0	Wednesday.
244	780425	Passage	Weiss	H.R. 11401	345	54		86.0	14.0	Tuesday.
119	780308	Agreeing to the resolution	Lott	H. Res. 1057	349	58		86.0	14.0	Wednesday.
485	780622	Passage	Bauman	H.R. 13125	326	59		85.0	15.0	Thursday.
53	780200	do	Sebelius	H.R. 3813	328	60	1	85.0	15.0	Do.
448	780613	do	Bauman	H.R. 12929	338	61		85.0	15.0	Tuesday.
88	780224	do	Rousselot	H.R. 9757	257	47		84.0	16.0	Friday.
412	780605	do	Snyder	H.R. 12481	292	54		84.0	16.0	Monday.
148	780314	Agreeing to conference report	Burton, P.	H.R. 3813	317	60	1	84.0	16.0	Tuesday.

See note at end of table.

ROLLCALL VOTES (JAN. 19 THROUGH JUNE 30, 1978) LISTED IN ORDER OF THE PERCENTAGE OF YEA VOTES (THIS DOES NOT INCLUDE THE 67 QUORUM CALLS)—Continued

Roll	Date	Type of vote	Requester	Bill	Yea	Nay	Present	Percent Yea	Percent Nay	Day
181	780322	Agreeing to a conference	Yates	H.R. 6782	332	53		84.0	16.0	Wednesday.
66	780221	Suspend rules and pass	Bauman	H.J. Res. 649	341	65	1	84.0	16.0	Tuesday.
377	780525	Passage	McDonald	H.R. 7814	298	57		83.0	17.0	Thursday.
3	780119	do	Bauman	H.R. 2329	292	59	1	83.0	17.0	Do.
372	780524	do	do	H.R. 10929	319	67		83.0	17.0	Wednesday.
467	780616	do	Weiss	H.R. 12938	263	59		82.0	18.0	Friday.
8	780123	Suspend rules and pass	Symms	H.R. 9169	309	68	1	82.0	18.0	Monday.
363	780523	Agreeing to the resolution	Ashbrook	H. Res. 1188	330	71		82.0	18.0	Tuesday.
139	780314	Dispense further call of House	Michel		331	72	1	82.0	18.0	Do.
254	780426	Passage	Broomfield	H.R. 11832	332	74		82.0	18.0	Wednesday.
206	780410	Suspend rules and pass	Myers	H.R. 11445	310	72		81.0	19.0	Monday.
211	780411	Passage	Sebelius	H.R. 11662	326	76		81.0	19.0	Tuesday.
21	780131	Agreeing to the amendment	Bauman	H.R. 1614	328	77		81.0	19.0	Do.
205	780410	Suspend rules and pass	Symms	H.R. 10884	307	76		80.0	20.0	Monday.
171	780321	Agreeing to the resolution	Thone	H. Res. 1082	314	80		80.0	20.0	Tuesday.
42	780207	Suspend rules and pass	Bauman	H.R. 7843	319	80	1	80.0	20.0	Do.
328	780517	Agreeing to the resolution	Rousselot	H. Res. 1176	320	77		80.0	20.0	Wednesday.
362	780523	Passage	McCloskey	H.R. 10729	326	82		80.0	20.0	Tuesday.
40	780206	Agreeing to the amendment	Krebs	H.R. 6362	295	78		79.0	21.0	Monday.
92	780228	Passage	Frenzel	H.R. 5981	306	80		79.0	21.0	Tuesday.
461	780615	Agreeing to the resolution	Dingell	H. Res. 1236	317	82		79.0	21.0	Thursday.
59	780214	Passage	McDonald	H.R. 8336	273	79	1	78.0	22.0	Tuesday.
264	780501	Suspend rules and pass	Rousselot	H.J. Res. 816	278	77		78.0	22.0	Monday.
517	780629	Passage	Bauman	H.R. 8099	292	80		78.0	22.0	Thursday.
133	780313	Suspend rules and pass	Schroeder	H.R. 10126	294	84		78.0	22.0	Monday.
85	780224	Passage	Rousselot	H.R. 3377	226	68		77.0	23.0	Friday.
434	780609	do	Symms	H.J. Res. 945	237	72	1	77.0	23.0	Do.
433	780608	Agreeing to the amendment	Michel	H.R. 12929	290	87		77.0	23.0	Thursday.
142	780314	Table reconsider Journal vote	Edwards (Oklahoma)		308	91		77.0	23.0	Tuesday.
117	780308	do	Moore		313	91		77.0	23.0	Wednesday.
459	780614	Passage	Bauman	H.R. 12935	279	90		76.0	24.0	Do.
35	780202	do	do	H.R. 1614	291	91		76.0	24.0	Thursday.
392	780601	Agreeing to the resolution	Lott	H. Res. 1178	294	97		75.0	25.0	Do.
426	780607	Passage	Mikva	H.R. 12930	297	98		75.0	25.0	Wednesday.
486	780622	do	Ottinger	H.R. 12505	267	96	1	74.0	26.0	Thursday.
11	780124	Suspend rules and pass	Levitas	H.R. 7662	292	103		74.0	26.0	Tuesday.
250	780425	Passage	Bauman	H.R. 11877	297	102		74.0	26.0	Do.
416	780606	Suspend rules and pass	Brown (Michigan)	H.R. 12668	268	103		72.0	28.0	Do.
499	780628	Refer veto to Post Office	Annunzio	H.R. 3161	279	109		72.0	28.0	Wednesday.
193	780405	Agreeing to the amendment	Hughes	H.R. 7700	292	112		72.0	28.0	Do.
342	780522	Suspend rules and pass	Volkmer	H. Res. 1072	269	109	1	71.0	29.0	Monday.
108	780307	Agreeing to the resolution	Thone	H. Res. 1056	285	115		71.0	29.0	Tuesday.
491	780623	Passage	Steiger	H.R. 11493	204	89		70.0	30.0	Friday.
36	780206	Suspend rules and pass	Rogers	H.R. 9434	253	106		70.0	30.0	Monday.
62	780215	Agreeing to conference report	Erlenborn	H.R. 4544	264	113	1	70.0	30.0	Wednesday.
33	780202	Agreeing to the amendments	Murphy (New York)	H.R. 1614	279	120		70.0	30.0	Thursday.
508	780628	Suspend rules and pass	Ashbrook	H.R. 12841	386	12		70.0	30.0	Wednesday.
483	780622	Agreeing to the amendment	Wright	H.R. 13125	273	125	1	69.0	31.0	Thursday.
97	780302	Passage	Butler	H.J. Res. 554	289	127		69.0	31.0	Do.
77	780223	do	Bauman	H.R. 9214	267	125		68.0	32.0	Do.
110	780307	Agreeing to the amendment	Gibbons	H.R. 11180	227	132		68.0	32.0	Tuesday.
453	780614	do	Moorhead	H.R. 12934	264	131		67.0	33.0	Wednesday.
90	780228	Suspend rules and pass	Mottl	H.R. 622	266	133		67.0	33.0	Tuesday.
230	780418	do	Ashbrook	S. 2452	267	127		67.0	33.0	Do.
65	780221	do	Myers (Pennsylvania)	H.R. 10979	274	137		67.0	33.0	Do.
390	780531	Passage	Bauman	H.R. 12598	240	124		66.0	34.0	Wednesday.
222	780413	do	Derwinski	H.R. 11003	265	134		66.0	34.0	Thursday.
367	780524	Agreeing to the amendment	Schroeder	H.R. 10929	266	136		66.0	34.0	Wednesday.
43	780207	Agreeing to the resolution	Meeds	H. Res. 872	271	138		66.0	34.0	Tuesday.
125	780309	Agreeing to the amendments	Sarasin	H.R. 50	277	143		66.0	34.0	Thursday.
216	780412	Passage	Derwinski	H.R. 3161	241	129		65.0	35.0	Wednesday.
242	780420	Agreeing to the amendment	Railsback	H.R. 8494	251	135		65.0	35.0	Thursday.
270	780502	Suspend rules and pass	Mottl	H.R. 8099	256	138		65.0	35.0	Tuesday.
257	780426	Passage	Bauman	H.R. 8494	259	140		65.0	35.0	Wednesday.
63	780215	do	Harsha	H.R. 9370	234	130		64.0	36.0	Do.
387	780531	Agreeing to the amendment	Ashbrook	H.R. 12598	237	135		64.0	36.0	Do.
515	780629	do	Brown (Michigan)	H.R. 12433	244	140		64.0	36.0	Thursday.
76	780223	do	Mathis	H.R. 9214	253	141		64.0	36.0	Do.
128	780309	do	Quie	H.R. 50	264	150		64.0	36.0	Do.
267	780501	do	Railsback	H.R. 9400	227	132		63.0	37.0	Monday.
285	780504	do	Flowers	H. Con. Res. 559	227	136	1	63.0	37.0	Thursday.
187	780403	Suspend rules and pass	Burton, P.	H.R. 11662	228	132		63.0	37.0	Monday.
132	780313	do	Solarz	H.R. 7814	242	141		63.0	37.0	Do.
164	780316	Passage	Rhodes	H.R. 50	257	152		63.0	37.0	Thursday.
161	780316	Agreeing to the amendment	Bolling	H.R. 50	259	153		63.0	37.0	Do.
379	780525	do	Kindness	H.R. 9400	178	109		62.0	38.0	Do.
2	780119	do	Weiss	H.R. 2329	215	131		62.0	38.0	Do.
263	780501	Suspend rules and pass	Bauman	H.R. 10392	219	137		62.0	38.0	Monday.
439	780612	Agreeing to the amendment	McFall	H.R. 12933	237	143	1	62.0	38.0	Do.
189	780404	Ordering a second	Bauman	H.R. 11003	239	147		62.0	38.0	Tuesday.
282	780504	Agreeing to the resolution	Anderson (Illinois)	H. Res. 1162	241	148		62.0	38.0	Thursday.
457	780614	Agreeing to the amendment	do	H.R. 12935	235	150		61.0	39.0	Wednesday.
13	780125	Agreeing to the resolution	Lott	H. Res. 964	247	158		61.0	39.0	Do.
432	780608	Passage	Stanton	H.R. 12426	247	155		61.0	39.0	Thursday.
409	780605	Agreeing to the amendment	Burton, P.	H.R. 12250	213	141		60.0	40.0	Monday.
318	780515	Suspend rules and pass	Mikva	H.R. 4030	218	145		60.0	40.0	Do.
182	780322	Table to instruct conferees	Moore	H.R. 6782	224	167		60.0	40.0	Wednesday.
313	780515	Passage	Broomfield	H.R. 12222	225	148		60.0	40.0	Monday.
396	780601	do	Ketchum	H.R. 12050	237	158		60.0	40.0	Thursday.
27	780201	Agreeing to the amendment	Dodd	H.R. 1614	241	162		60.0	40.0	Wednesday.
451	780614	do	Beard	H.R. 12934	241	158	1	60.0	40.0	Do.
237	780419	do	Jordan	H.R. 8494	245	161		60.0	40.0	Do.
506	780628	Suspend rules and pass	Wylie	H.R. 11888	385	16		60.0	40.0	Do.
314	780515	Passage	Symms	H.R. 10392	222	152		59.0	41.0	Monday.
404	780602	Agreeing to the amendment	Vanik	H.R. 12157	179	138		58.0	42.0	Friday.
292	780509	do	Hansen	H. Con. Res. 559	231	170		58.0	42.0	Tuesday.
172	780321	Passage	Ketchum	H.R. 11518	233	172		58.0	42.0	Do.
154	780315	Motion to limit debate	Bauman	H.R. 50	237	170	1	58.0	42.0	Wednesday.
458	780614	Agreeing to the amendment	Armstrong	H.R. 12935	214	159		57.0	43.0	Do.
455	780614	do	Conte	H.R. 12935	220	168		57.0	43.0	Do.
445	780613	do	Walker	H.R. 12929	232	177		57.0	43.0	Tuesday.
127	780309	do	Jeffords	H.R. 50	239	177		57.0	43.0	Thursday.

See note at end of table.

ROLLCALL VOTES (JAN. 19 THROUGH JUNE 30, 1978) LISTED IN ORDER OF THE PERCENTAGE OF YEA VOTES (THIS DOES NOT INCLUDE THE 67 QUORUM CALLS)—Continued

Roll	Date	Type of vote	Requester	Bill	Yea	Nay	Present	Percent Yea	Percent Nay	Day
29	780201	Agreeing to the amendment	Fish	H.R. 1614	225	174		56.0	44.0	Wednesday.
72	780222	Recede and concur in Senate Amendment 43	Dornan	H.R. 9375	234	182	1	56.0	44.0	Do.
308	780531	Agreeing to the amendment	Bauman	H.R. 12598	202	164		55.0	45.0	Do.
309	780531	do	Hansen	H.R. 12598	203	163		55.0	45.0	Do.
348	780522	Agreeing to the resolution	Schulze	H. Con. Res 555	209	173		55.0	45.0	Monday.
446	780613	Agreeing to the amendment	Miller (Ohio)	H.R. 12929	220	181		55.0	45.0	Tuesday.
89	780223	Passage	Ryan	H.R. 9179	191	165	2	54.0	46.0	Thursday.
227	780440	Suspend rules and pass	Volkmer	H.R. 12481	203	170		54.0	46.0	Monday.
137	780313	Agreeing to the resolution	Derwinski	H. Res. 956	204	175		54.0	46.0	Do.
283	780504	Agreeing to conference report	Findley	H.R. 6782	212	182		54.0	46.0	Thursday.
212	780411	do	Ryan	H.R. 9179	216	185	1	54.0	46.0	Tuesday.
24	780131	Agreeing to the amendment	Emery	H.R. 1614	219	188		54.0	46.0	Do.
79	780223	do	Moore	H.R. 9179	191	167		53.0	47.0	Thursday.
294	780504	do	Luken	H. Con. Res. 559	199	173	1	53.0	47.0	Do.
312	780515	do	Bauman	H.R. 12222	200	172		53.0	47.0	Monday.
428	780607	do	Symms	H.R. 12929	201	179		53.0	47.0	Wednesday.
322	780516	Concur in Senate Amendment 37 with amendment.	Rousselot	H.R. 9005	199	183	1	52.0	48.0	Tuesday.
197	780405	Agreeing to the amendment	Corcoran	H.R. 7700	203	189		52.0	48.0	Thursday.
190	780404	Suspend rules and pass	Schroeder	H.R. 11003	207	188		52.0	48.0	Tuesday.
256	780426	Agreeing to the amendment	Kindness	H.R. 8494	207	188		52.0	48.0	Wednesday.
22	780131	do	Wiggins	H.R. 1614	208	194		52.0	48.0	Tuesday.
383	780601	do	Frenzel	H.R. 12050	209	194		52.0	48.0	Thursday.
353	780523	Suspend rules and pass	Cunningham	S. J. Res. 4	210	194		52.0	48.0	Tuesday.
338	780519	Agreeing to the amendment	Udall	H.R. 39	157	150	1	51.0	49.0	Friday.
291	780505	do	Ashbrook	H. Con. Res. 559	198	189		51.0	49.0	Tuesday.
260	780427	Passage	Quillen	H.J. Res. 859	202	196		51.0	49.0	Thursday.
300	780510	do	Latta	H. Con. Res. 559	201	197		50.5	49.5	Wednesday.
327	780517	Concur in Senate amendment to House amendment.	Bauman	S. Con. Res. 80	201	198		50.4	49.6	Do.
438	780612	Suspend rules and pass	Collins	H.R. 12441	190	188		50.3	49.7	Monday.
365	780511	Agreeing to the amendment	Lagomarsino	H.R. 12222	187	187		50.0	50.0	Thursday.
294	780505	do	Brown (Michigan)	H. Con. Res. 559	196	196		50.0	50.0	Tuesday.
452	780614	do	Smith (Iowa)	H.R. 12934	200	203		49.6	50.4	Wednesday.
354	780523	Suspend rules and pass	Mottl	H.R. 12299	201	205		49.5	50.5	Tuesday.
321	780516	Table to concur in Senate amendment with amendment.	Bauman	H.R. 9005	190	199	1	49.0	51.0	Do.
482	780622	Agreeing to the amendment	Rousselot	H.R. 13125	194	201		49.0	51.0	Thursday.
293	780505	do	Fisher	H. Con. Res. 559	195	203		49.0	51.0	Tuesday.
23	780131	do	Fish	H.R. 1614	196	207		49.0	51.0	Do.
274	780503	do	Holt	H. Con. Res. 559	197	203		49.0	51.0	Wednesday.
174	780321	Agreeing to the resolution	Quillen	H. Res. 1093	198	209		49.0	51.0	Tuesday.
158	780316	Agreeing to the amendment	Pike	H.R. 50	199	204		49.0	51.0	Thursday.
31	780202	do	Murphy (New York)	H.R. 1614	201	208		49.0	51.0	Do.
152	780315	Agreeing to the amendments	Ashbrook	H.R. 50	205	215		49.0	51.0	Wednesday.
309	780512	Agreeing to the amendment	do	H.R. 12222	148	155		48.0	52.0	Friday.
440	780612	do	Eckhardt	H.R. 12933	180	194	1	48.0	52.0	Monday.
136	780313	Recommit with instructions	Bauman	H. Res. 956	182	198		48.0	52.0	Do.
444	780522	Agreeing to the amendment	Miller (Ohio)	H.R. 13125	189	201		48.0	52.0	Thursday.
237	780510	do	Giaimo	H. Con. Res. 559	192	205		48.0	52.0	Wednesday.
236	780419	do	Danielson	H.R. 8494	195	212		48.0	52.0	Do.
162	780316	do	Bauman	H.R. 50	196	216		48.0	52.0	Thursday.
255	780426	Agreeing to the amendments	Kindness	H.R. 8494	197	211		48.0	52.0	Wednesday.
444	780613	Agreeing to the amendment	Obey	H.R. 12929	198	212		48.0	52.0	Tuesday.
477	780621	do	Miller (Ohio)	H.R. 12932	198	211		48.0	52.0	Wednesday.
15	780126	do	Yates	H.R. 1614	187	211		47.0	53.0	Thursday.
155	780315	Agreeing to the amendments	Quie	H.R. 50	194	216		47.0	53.0	Wednesday.
47	780208	Agreeing to the amendment	Levitas	H.R. 6805	195	219		47.0	53.0	Do.
126	780309	Agreeing to the amendments	Jeffords	H.R. 50	198	223		47.0	53.0	Thursday.
219	780413	Agreeing to the amendment	Bauman	H.R. 11003	180	215		46.0	54.0	Do.
303	780511	do	Solarz	H.R. 12222	183	212		46.0	54.0	Do.
447	780613	do	Symms	H.R. 12929	184	216		46.0	54.0	Tuesday.
475	780621	do	Moffett	H.R. 12932	190	221		46.0	54.0	Wednesday.
401	780601	do	Kelly	H.R. 12157	157	190		45.0	55.0	Thursday.
78	780223	do	Crane	H.R. 9179	166	199		45.0	55.0	Do.
280	780503	do	Mattox	H. Con. Res. 559	172	210		45.0	55.0	Wednesday.
471	780619	Agreeing to the amendments	Brown (Michigan)	H.R. 12936	173	211		45.0	55.0	Monday.
195	780405	Agreeing to the amendment	Ashbrook	H.R. 7700	180	218		45.0	55.0	Wednesday.
361	780523	do	McCloskey	H.R. 10729	180	218		45.0	55.0	Tuesday.
50	780208	Passage	Erlenborn	H.R. 6805	189	227	1	45.0	55.0	Wednesday.
512	780628	Agreeing to the amendment	Hagedorn	H.R. 12433	173	218		44.0	56.0	Do.
135	780313	Recommit with instructions	Ashbrook	H. Res. 1010	161	216		43.0	57.0	Monday.
350	780523	Agreeing to the amendment	McCloskey	H.R. 10729	168	227		43.0	57.0	Tuesday.
249	780425	do	Young (Florida)	H.R. 11877	169	228		43.0	57.0	Do.
298	780510	do	Rousselot	H. Con. Res. 559	170	226	1	43.0	57.0	Wednesday.
233	780418	do	Ashbrook	H.R. 11400	174	229		43.0	57.0	Tuesday.
166	780320	Ordering a second	Perkins	H.R. 11274	156	218	1	42.0	58.0	Monday.
243	780420	Motion to limi. debate	Downey	H.R. 8494	158	215		42.0	58.0	Thursday.
329	780517	Passage	Conable	H.R. 12641	167	228		42.0	58.0	Wednesday.
220	780413	Agreeing to the amendment	Gilman	H.R. 11003	171	232		42.0	58.0	Thursday.
245	780424	do	Madigan	H.R. 11504	151	215	1	41.0	59.0	Monday.
472	780619	Recommit with instructions	Miller (Ohio)	H.R. 12936	156	222		41.0	59.0	Do.
34	780202	Agreeing to the amendment	Treen	H.R. 1614	159	230		41.0	59.0	Thursday.
277	780503	do	Conable	H. Con. Res. 559	163	239		41.0	59.0	Wednesday.
71	780222	Table to K. & C. n Senate amendment 43	Lloyd (California)	H.R. 9375	172	244	1	41.0	59.0	Do.
480	780620	Agreeing to the amendment	Carney	H.R. 11493	121	178		40.0	60.0	Friday.
300	780512	do	Johnson (Colorado)	H.R. 12222	126	189		40.0	60.0	Do.
111	780307	Passage	Conable	H.R. 11180	165	248		40.0	60.0	Tuesday.
489	780623	Agreeing to the amendment	Blouin	H.R. 11493	119	186		39.0	61.0	Friday.
305	780601	do	Mikva	H.R. 12050	155	239		39.0	61.0	Thursday.
463	780615	Agreeing to the amendments	Edgar	H.R. 12928	142	234	1	38.0	62.0	Do.
16	780126	Agreeing to the amendment	Fish	H.R. 1614	143	229		38.0	62.0	Do.
495	780626	Suspend rules and pass	Cunningham	S. 666	118	204		37.0	63.0	Monday.
304	780511	Agreeing to he amendment	Hagedorn	H.R. 12222	141	236		37.0	63.0	Thursday.
370	780524	do	Downey	H.R. 10929	145	246		37.0	63.0	Wednesday.
38	780206	do	Krebs	H.R. 6362	136	239		36.0	64.0	Monday.
335	780510	do	Udall	H.R. 39	141	251		36.0	64.0	Thursday.
371	780524	do	Stratton	H.R. 10929	142	247		36.0	64.0	Wednesday.
26	780201	Agreeing to the amendments	Danielson	H.R. 8200	146	262		36.0	64.0	Do.
91	780228	Agreeing to conference report	Eckhardt	H.R. 3816	146	255		36.0	64.0	Tuesday.
296	780510	Agreeing to the amendment	Caputo	H. Con. Res. 559	146	254		36.0	64.0	Wednesday.
192	780405	do	Hanley	H.R. 7700	147	257		36.0	64.0	Do.
214	780412	Agreeing to conference report	Volkmer	H.R. 6782	150	268	1	36.0	64.0	Do.
403	780602	Agreeing to the amendment	Ashbrook	H.R. 12157	116	219		35.0	65.0	Friday.

See note at end of table.

ROLLCALL VOTES (JAN. 19, 1978, THROUGH JUNE 30, 1978) LISTED ALPHABETICALLY—BY MEMBER REQUESTING THE ROLLCALL—Continued

Roll	Date	Type of vote	Requester	Bill	Yea	Nay	Present	Percent Yea	Percent Nay	Day
456	780614	Agreeing to the amendment	Anderson (Illinois)	H.R. 12935	133	240		35.0	65.0	Wednesday.
368	780524	do	Aspin	H.R. 10929	139	264	2	35.0	65.0	Do.
275	780503	do	Stratton	H. Con. Res. 559	142	262		35.0	65.0	Do.
394	780601	do	Carney	H.R. 12050	142	261		35.0	65.0	Thursday.
58	780214	do	Sebelius	H.R. 8336	119	230		34.0	66.0	Tuesday.
351	780522	do	McClaskey	H.R. 10729	126	241		34.0	66.0	Monday.
336	780518	do	Udall	H.R. 39	119	240		33.0	67.0	Thursday.
163	780316	do	Quie	H.R. 50	137	276		33.0	67.0	Do.
48	780208	do	Quayle	H.R. 6805	138	274		33.0	67.0	Wednesday.
279	780503	do	Fraser	H. Con. Res. 559	123	265		32.0	68.0	Do.
488	780623	do	Steiger	H.R. 11493	93	207		31.0	69.0	Friday.
476	780621	do	Moffett	H.R. 12932	126	282		31.0	69.0	Wednesday.
52	780209	Recommit with instructions	Clausen	H.R. 3813	116	274	1	30.0	70.0	Thursday.
30	780202	Agreeing to the amendment	Murphy (New York)	H.R. 1614	118	280		30.0	70.0	Do.
443	780613	do	Stokes	H.R. 12929	122	287		30.0	70.0	Tuesday.
466	780616	Recommit with instructions	Conte	H.R. 12928	93	228		29.0	71.0	Friday.
462	780615	Agreeing to the amendments	Ottinger	H.R. 12928	108	284		28.0	72.0	Thursday.
232	780418	Agreeing to the amendment	Brown	H.R. 11400	111	291		28.0	72.0	Tuesday.
360	780523	do	McClaskey	H.R. 10729	111	289	1	28.0	72.0	Do.
160	780316	do	Ashbrook	H.R. 50	114	296		28.0	72.0	Thursday.
366	780524	do	Carr	H.R. 10929	115	287		28.0	72.0	Wednesday.
369	780524	do	do	H.R. 10929	106	293		27.0	73.0	Do.
431	780608	Recommit with instructions	Stanton	H.R. 12429	109	291		27.0	73.0	Thursday.
365	780524	Agreeing to the amendment	Schroeder	H.R. 10929	107	297		26.0	74.0	Wednesday.
516	780629	do	Russo	H.R. 12433	93	285		25.0	75.0	Thursday.
140	780314	Reading Journal in full	Bauman		99	301		25.0	75.0	Tuesday.
49	780208	Agreeing to the amendment	Erlenborn	H.R. 6805	105	309		25.0	75.0	Wednesday.
159	780316	Strike enacting clause	Wiggins	H.R. 50	106	310		25.0	75.0	Thursday.
276	780503	Agreeing to the amendment	Mitchell (Maryland)	H. Con. Res. 559	98	313		24.0	76.0	Wednesday.
325	780517	do	Weiss	H.R. 11686	90	305		23.0	77.0	Do.
44	780207	do	Brooks	H.R. 6805	93	313		23.0	77.0	Tuesday.
339	780519	Recommit with instructions	Young (Alaska)	H.R. 39	67	242		22.0	78.0	Friday.
465	780616	Agreeing to the amendment	Weiss	H.R. 12928	67	239		21.0	79.0	Do.
221	780413	do	Symms	H.R. 11003	85	320		21.0	79.0	Thursday.
425	780607	do	Volkmer	H.R. 12930	80	314		20.0	80.0	Wednesday.
418	780606	do	Weiss	H.R. 12240	60	312		16.0	84.0	Tuesday.
241	780420	do	Pressler	H.R. 8494	44	350		11.0	89.0	Thursday.
297	780510	do	Jacobs	H. Con. Res. 559	45	352		11.0	89.0	Wednesday.
251	780425	Agreeing to the resolution	Horton	H. Res. 1049	39	356		10.0	90.0	Tuesday.
223	780413	Motion to close conference	McHugh	H.R. 5280	6	371		2.0	98.0	Thursday.

Note: The percentage of yea-and-nay votes has been figured on the basis of the yea-and-nay votes only and does not include those voting "present."

Percent voting yea	Number of rollcalls	Total rollcalls	Aggregate percent of rollcalls	Percent voting yea	Number of rollcalls	Total rollcalls	Aggregate percent of rollcalls
100	42	42	9.3	94	13	157	34.9
99	42	84	18.7	93	7	164	36.4
98	15	99	22.0	92	8	172	38.2
97	14	113	15.1	91	4	176	39.1
96	20	133	29.6	90	2	178	39.6
95	11	144	32.0				

There were 450 recorded votes (yeas and nays) plus 67 regular quorum calls, making a total of 517 rollcalls from January 19, 1978, through June 30, 1978. Of those 450 recorded votes, the question carried on 338, and was defeated 112 times. The chart above shows that 178 recorded votes carried by a percentage of yea votes of 90 percent or more. In other words, 39.6 percent of all recorded votes carried by 90 percent or more, and, of those votes where the question carried, 178, or 52.7 percent, were passed by a vote of 90 percent or better. Those 178 rollcalls cost 59 hours, 20 minutes, which is 11.5 percent of the total time spent in session by the House in 1978 through June.

LIMITING ROLLCALLS WOULD BE CONTROVERSIAL

My study makes it apparent that some Members apparently consider rollcalls to be more important than do others.

Some Members have requested a large number of rollcalls while others have requested none at all. Some Members are referring to the rash of rollcalls as being a "form of tyranny." I have heard one Member describe them as "the largest permanent floating filibuster in parliamentary history." Others consider them the building blocks of democracy. Everyone should be consulted before we make any changes.

Be that as it may, it is interesting to note that some Members regard rollcalls as more necessary than others, as is shown from the following:

ROLLCALL VOTES (JAN. 19, 1978, THROUGH JUNE 30, 1978) LISTED ALPHABETICALLY—BY MEMBER REQUESTING THE ROLLCALL

Roll	Date	Type of vote	Requester	Bill	Yea	Nay	Present	Percent Yea	Percent Nay	Day
165	780320	Quorum	Addabbo				349			Monday.
175	780321	Agreeing to conference report	Allen	H.R. 5383	391	6		98.0	1.0	Tuesday.
70	780222	Quorum	do				379			Wednesday.
10	780124	Suspend rules and pass	do	H.R. 8811	399	1		100.0		Tuesday.
457	780614	Agreeing to the amendment	Anderson (Illinois)	H.R. 12935	235	150		61.0	39.0	Wednesday.
456	780614	do	do	H.R. 12935	133	249		35.0	65.0	Do.
282	780504	Agreeing to the resolution	do	H. Res. 1162	241	148		62.0	38.0	Thursday.
244	780424	do	Annunzio	H. Res. 1143	332	0		100.0		Monday.
385	780531	do	do	H. Res. 1204	353	10		97.0	3.0	Wednesday.
500	780628	Ordering a second	do	H.R. 11886	378	1		100.0		Do.
501	780628	do	do	H.R. 11886	379	2		99.0	1.0	Do.
502	780628	do	do	H.R. 12841	379	3		99.0	1.0	Do.
503	780628	do	do	H.R. 12589	384	3		99.0	1.0	Do.
504	780628	do	do	H.R. 12874	376	5		99.0	1.0	Do.
499	780628	Refer veto to post office	do	H.R. 3161	279	109		72.0	28.0	Do.
481	780622	Resolving into committee	do	H.R. 13125	369	5		99.0	1.0	Thursday.

See note at end of table.

ROLLCALL VOTES (JAN. 19, 1978, THROUGH JUNE 30, 1978) LISTED ALPHABETICALLY—BY MEMBER REQUESTING THE ROLLCALL—Continued

Roll	Date	Type of vote	Requester	Bill	Yea	Nay	Present	Percent Yea	Percent Nay	Day
500	780628	Suspend rules and pass	Annunzio	H.R. 12589	344	54	1	86.0	14.0	Wednesday.
458	780614	Agreeing to the amendment	Armstrong	H.R. 12935	214	159		57.0	43.0	Do.
12	780124	Agreeing to conference report	Ashbrook	S. 1585	401	0		100.0		Tuesday.
182	780303	Agreeing to the amendment	do	H. Res. 1012	321	13		96.0	4.0	Friday.
307	780531	do	do	H.R. 12598	237	135		64.0	36.0	Wednesday.
291	780509	do	do	H. Con. Res. 559	198	189		51.0	49.0	Tuesday.
300	780512	do	do	H.R. 12222	148	155		48.0	52.0	Friday.
195	780405	do	do	H.R. 7700	180	218		45.0	55.0	Wednesday.
233	780418	do	do	H.R. 11400	174	229		43.0	57.0	Tuesday.
403	780602	do	do	H.R. 12157	116	219		35.0	65.0	Friday.
160	780316	do	do	H.R. 50	114	296		28.0	72.0	Thursday.
152	780315	Agreeing to the amendments	do	H.R. 50	205	215		49.0	51.0	Wednesday.
100	780303	Agreeing to the resolution	do	H. Res. 957	336	1		100.0		Friday.
375	780525	do	do	H. Res. 1165	360	0		100.0		Thursday.
88	780227	do	do	H. Con. Res. 471	350	4		99.0	1.0	Monday.
82	780224	do	do	H. Res. 1030	295	6		98.0	2.0	Friday.
363	780523	do	do	H. Res. 1188	330	71		82.0	18.0	Tuesday.
104	780308	Approving the journal	do		331	11	2	97.0	3.0	Monday.
123	780309	do	do		386	15	5	96.0	4.0	Thursday.
150	780315	do	do		387	15		96.0	4.0	Wednesday.
141	780314	do	do		371	29		93.0	7.0	Tuesday.
315	780515	Passage	do	H.R. 11291	360	11		97.0	3.0	Monday.
19	780130	do	do	H.R. 5646	314	50		86.0	14.0	Do.
86	780227	Quorum	do				320			Do.
194	780405	do	do				370			Wednesday.
200	780410	do	do				323			Monday.
288	780508	do	do				311			Do.
332	780517	do	do				173			Wednesday.
364	780524	do	do				351			Do.
386	780531	d	do				342			Do.
135	780313	Recommit with instructions	do	H. Res. 1010	161	216		43.0	57.0	Monday.
25	780201	Resolving into Committee	do	H.R. 8200	405	4		99.0	1.0	Wednesday.
176	780321	do	do	H.R. 7700	354	2	1	99.0	1.0	Tuesday.
429	780608	do	do	H.R. 12426	382	3	2	99.0	1.0	Thursday.
300	780601	do	do	H.R. 12157	314	13		96.0	4.0	Do.
20	780131	Suspend rules and pass	do	H.R. 9851	403	0	1	100.0		Tuesday.
405	780605	do	do	H.R. 188	344	1		100.0		Monday.
344	780522	do	do	H.R. 11778	373	3		99.0	1.0	Do.
203	780410	do	do	H.R. 10882	377	8		98.0	2.0	Do.
202	780410	do	do	H.R. 10878	365	14		96.0	4.0	Do.
209	780411	do	do	H.R. 2497	368	33		92.0	8.0	Tuesday.
508	780628	do	do	H.R. 12841	386	12		70.0	30.0	Wednesday.
230	780418	do	do	S. 2452	267	127		67.0	33.0	Tuesday.
368	780524	Agreeing to the amendment	Aspin	H.R. 10929	139	264	2	35.0	65.0	Wednesday.
153	780315	Agreeing to the amendments	Baucus	H.R. 50	411	3		99.0	1.0	Do.
278	780503	Agreeing to the amendment	Bauman	H. Con. Res. 559	362	33		92.0	8.0	Do.
21	780131	do	do	H.R. 1614	328	77		81.0	19.0	Tuesday.
369	780531	do	do	H.R. 12598	202	164		55.0	45.0	Wednesday.
312	780515	do	do	H.R. 12222	200	172		53.0	47.0	Monday.
162	780316	do	do	H.R. 50	196	216		48.0	52.0	Thursday.
219	780413	do	do	H.R. 11003	180	215		46.0	54.0	Do.
380	780601	Agreeing to the resolution	do	H. Res. 1208	339	13		96.0	4.0	Do.
420	780606	do	do	H. Res. 1206	339	21		94.0	6.0	Tuesday.
87	780227	do	do	H. Con. Res. 464	321	24		93.0	7.0	Monday.
408	780628	Approving the Journal	do		326	11	2	97.0	3.0	Wednesday.
99	780303	do	do		304	20		94.0	6.0	Friday.
327	780517	Concur in Senate amendment to House amendment.	do	S. Con. Res. 80	201	198		50.4	49.6	Wednesday.
115	780308	Dispense further call of House	do		372	34		92.0	8.0	Do.
154	780315	Motion to limit debate	do	H.R. 50	237	170	1	58.0	42.0	Do.
144	780231	Ordering a second	do	H.R. 810	387	2	2	99.0	1.0	Tuesday.
143	780314	do	do	S. 1671	380	20	1	95.0	5.0	Do.
316	780515	do	do	H.R. 4030	334	16		95.0	5.0	Monday.
189	780404	do	do	H.R. 11003	239	147		62.0	38.0	Tuesday
473	780619	Passage	do	H.R. 12936	332	47		95.0	5.0	Monday.
441	780612	do	do	H.R. 12933	347	25		93.0	7.0	Do.
478	780621	do	do	H.R. 12932	356	50		88.0	12.0	Wednesday.
448	780613	do	do	H.R. 12929	338	61		85.0	15.0	Tuesday.
495	780622	do	do	H.R. 13125	326	59		85.0	15.0	Thursday.
3	780119	do	do	H.R. 2329	292	59	1	83.0	17.0	Do.
372	780524	do	do	H.R. 10929	319	67		83.0	17.0	Wednesday.
517	780629	do	do	H.R. 8099	292	80		78.0	22.0	Thursday.
35	780202	do	do	H.R. 1614	291	91		76.0	24.0	Do.
459	780614	do	do	H.R. 12935	279	90		76.0	24.0	Wednesday.
250	780425	do	do	H.R. 11877	297	102		74.0	26.0	Tuesday.
77	780223	do	do	H.R. 9214	267	125		68.0	32.0	Thursday.
380	780531	do	do	H.R. 12598	240	124		66.0	34.0	Wednesday.
257	780426	do	do	H.R. 8494	259	140		65.0	35.0	Do.
14	780126	Quorum	do				360			Thursday.
51	780209	do	do				354			Do.
122	780308	do	do				265			Wednesday.
130	780313	do	do				333			Monday.
149	780315	do	do				372			Wednesday.
400	780601	do	do				298			Thursday.
140	780314	Reading Journal in full	do		99	301		25.0	75.0	Tuesday.
136	780313	Recommit with instructions	do	H. Res. 956	182	189		48.0	52.0	Monday.
196	780406	Resolving into Committee	do	H.R. 7700	386	1	3	100.0		Thursday.
273	780503	do	do	H. Con. Res. 559	383	4	2	99.0	1.0	Wednesday.
376	780525	do	do	H.R. 7814	338	2		99.0	1.0	Thursday.
449	780614	do	do	H.R. 12935	334	2		99.0	1.0	Wednesday.
317	780515	Suspend rules and pass	do	H.R. 12255	361	6		99.0	1.0	Monday.
7	780123	do	do	H.R. 9471	366	12		97.0	3.0	Do.
68	780221	do	do	H.R. 10606	356	53		87.0	13.0	Tuesday.
66	780221	do	do	H.J. Res. 649	341	65	1	84.0	16.0	Do.
42	780207	do	do	H.R. 7843	319	80	1	80.0	20.0	Do.
263	780501	do	do	H.R. 10392	219	137		62.0	38.0	Monday.
521	780616	Table to concur in Senate amendment with amendment.	do	H.R. 9005	190	199	1	49.0	51.0	Tuesday.
451	780614	Agreeing to the amendment	Beard	H.R. 12934	241	158	1	60.0	40.0	Wednesday.
480	780623	do	Blouin	H.R. 11493	119	186		39.0	61.0	Friday.
129	780310	Passage	do	H.R. 10962	318	0		100.0		Do.
161	780316	Agreeing to the amendment	Bolling	H.R. 50	259	153		63.0	37.0	Thursday.
118	780308	Ordering the previous question	do	H. Res. 1057	371	36		91.0	9.0	Wednesday

See note at end of table.

ROLLCALL VOTES (JAN. 19, 1978, THROUGH JUNE 30, 1978) LISTED ALPHABETICALLY—BY MEMBER REQUESTING THE ROLLCALL—Continued

Roll	Date	Type of vote	Requester	Bill	Yea	Nay	Present	Percent Yea	Percent Nay	Day
106	780307	Quorum	Bolling				375			Tuesday.
114	780308	do	do				378			Wednesday.
173	780321	do	do				387			Tuesday.
121	780308	Resolving into Committee	do	H.R. 50	364	32		92.0	8.0	Wednesday.
120	780308	Table motion to reconsider	do	H. Res. 1057	368	29		93.0	7.0	Do.
29	780202	Approving the Journal	Brademas		368	21		95.0	5.0	Thursday.
98	780303	Quorum	do				385			Friday.
183	780403	do	do				328			Monday.
232	780418	Agreeing to the amendment	Brown	H.R. 11400	111	291		28.0	72.0	Tuesday.
44	780207	do	Brooks	H.R. 6805	93	313		23.0	77.0	Do.
252	780425	Agreeing to the resolution	Broomfield	H. Con. Res. 573	388	0		100.0		Do.
302	780511	do	do	H. Con. Res. 617	388	0		100.0		Thursday.
334	780518	do	do	H. Con. Res. 624	388	0		100.0		Do.
513	780629	Approving the Journal	do		338	11	4	97.0	3.0	Do.
254	780426	Passage	do	H.R. 11832	332	74		82.0	18.0	Wednesday.
313	780515	do	do	H.R. 12222	225	148		60.0	40.0	Monday.
213	780412	Quorum	do				401			Monday.
341	780522	do	do				324			Monday.
515	780629	Agreeing to the amendment	Brown (Michigan)	H.R. 12433	244	140		64.0	36.0	Thursday.
294	780509	do	do	H. Con. Res. 559	196	196		50.0	50.0	Tuesday.
471	780619	Agreeing to the amendments	do	H.R. 12936	173	211		45.0	55.0	Monday.
424	780607	Agreeing to the resolution	do	H. Res. 1218	376	1		100.0		Wednesday.
470	780619	Quorum	do				361			Monday.
416	780606	Suspend rules and pass	do	H.R. 12668	268	103		72.0	28.0	Tuesday.
310	780515	Quorum	Burke (Massachusetts)				328			Monday.
148	780314	Agreeing to conference report	Burton, P.	H.R. 3813	317	69	1	94.0	16.0	Tuesday.
409	780605	Agreeing to the amendment	do	H.R. 12250	213	141		60.0	40.0	Monday.
185	780403	Suspend rules and pass	do	H. Con. Res. 350	350	0		100.0		Do.
186	780403	do	do	H.R. 6980	353	4		98.0	1.0	Do.
184	780403	do	do	H.R. 10984	351	6		98.0	2.0	Do.
187	780403	do	do	H.R. 11662	228	132		63.0	37.0	Do.
97	780302	Passage	Butler	H.J. Res. 554	280	127		69.0	31.0	Thursday.
269	780502	Suspend rules and pass	do	H.R. 11713	375	17		96.0	4.0	Tuesday.
296	780510	Agreeing to the amendment	Caputo	H. Con. Res. 559	146	254		36.0	64.0	Wednesday.
490	780623	do	Carney	H.R. 11493	121	178		40.0	60.0	Friday.
394	780601	do	do	H.R. 12050	142	261		35.0	65.0	Thursday.
366	780524	do	Carr	H.R. 10929	115	267		28.0	72.0	Wednesday.
369	780524	do	do	H.R. 10929	106	293		27.0	73.0	Do.
52	780209	Recommit with instructions	Clausen	H.R. 3813	116	274	1	30.0	70.0	Thursday.
454	780614	Passage	Collins	H.R. 12934	359	34		91.0	9.0	Wednesday.
438	780612	Suspend rules and pass	do	H.R. 12441	190	189		50.3	49.7	Monday.
277	780503	Agreeing to the amendment	Conable	H. Con. Res. 559	163	239		41.0	59.0	Wednesday.
329	780517	Passage	do	H.R. 12641	167	228		42.0	58.0	Do.
111	780307	do	do	H.R. 11180	165	248		40.0	60.0	Tuesday.
455	780614	Agreeing to the amendment	Conte	H.R. 12935	229	168		57.0	43.0	Wednesday.
466	780616	Recommit with instructions	do	H.R. 12928	93	228		29.0	71.0	Friday.
197	780406	Agreeing to the amendment	Corcoran	H.R. 7700	283	180		52.0	48.0	Thursday.
78	780223	do	Crane	H.R. 9179	166	199		45.0	55.0	Do.
469	780619	Resolving into Committee	do	H.R. 12935	347	4		99.0	1.0	Monday.
84	780224	Agreeing to the amendment	Cunningham	H.R. 3377	293	1		100.0		Friday.
383	780531	Suspend rules and pass	do	H.R. 7041	359	0		100.0		Wednesday.
405	780605	do	do	H.R. 185	336	0	1	100.0		Monday.
384	780531	do	do	H.R. 212	359	4		99.0	1.0	Wednesday.
345	780522	do	do	H.R. 11779	377	7		98.0	2.0	Do.
407	780605	do	do	H.R. 12140	338	9		97.0	3.0	Do.
358	780523	do	do	H.R. 11370	377	25		94.0	6.0	Tuesday.
353	780523	do	do	S.J. Res. 4	210	194		52.0	48.0	Do.
495	780626	do	do	S. 656	118	204		37.0	63.0	Monday.
236	780419	Agreeing to the amendment	Danielson	H.R. 8494	195	212		48.0	52.0	Wednesday.
26	780201	Agreeing to the amendments	do	H.R. 8200	146	252		36.0	64.0	Do.
333	780518	Quorum	do				345			Thursday.
492	780623	Agreeing to the resolution	Davis	H. Res. 1214	282	5		98.0	2.0	Friday
56	780209	Motion to instruct conferees	do	H.R. 7843	321	19		94.0	6.0	Thursday.
167	780320	Agreeing to the resolution	Derwinski	H. Res. 996	367	13		97.0	3.0	Monday.
137	780313	do	do	H. Res. 956	204	175		54.0	46.0	Do.
374	780525	Passage	do	S.J. Res. 137	370	0	1	100.0		Thursday.
222	780413	do	do	H.R. 11003	265	134		66.0	34.0	Do.
216	780412	do	do	H.R. 3161	241	129		65.0	35.0	Wednesday.
169	780320	Quorum	do				353			Monday.
497	780626	Agreeing to the resolution	Devine	H. Res. 1235	369	16		95.0	5.0	Do.
116	780308	Approving the Journal	Dickinson		377	25		94.0	6.0	Wednesday.
461	780615	Agreeing to the resolution	Dingell	H. Res. 1236	317	82		79.0	21.0	Thursday.
27	780201	Agreeing to the amendment	Dodd	H.R. 1614	241	162		60.0	40.0	Wednesday.
72	780222	Recede and concur in Senate amendment 43	Dornan	H.R. 9375	234	182	1	56.0	44.0	Do.
95	780301	Resolving into Committee	do	H.J. Res. 554	369	15		96.0	4.0	Do.
370	780524	Agreeing to the amendment	Downey	H.R. 10929	145	246		37.0	63.0	Do.
243	780420	Motion to limit debate	do	H.R. 8494	158	215		42.0	58.0	Thursday.
239	780420	Resolving into Committee	do	H.R. 8494	369	15		96.0	4.0	Do.
240	780420	Table reconsider resolving	do	H.R. 8494	362	26		93.0	7.0	Do.
91	780228	Agreeing to conference report	Eckhardt	H.R. 3816	146	255		36.0	64.0	Tuesday.
440	780612	Agreeing to the amendment	do	H.R. 12933	180	194	1	48.0	52.0	Monday.
463	780615	Agreeing to the amendments	Edgar	H.R. 12928	142	234	1	34.0	62.0	Thursday.
94	780301	Agreeing to the resolution	Edwards (California)	H. Res. 1048	386	21		95.0	5.0	Wednesday.
145	780314	Ordering a second	Edwards (Oklahoma)	H.R. 2028	388	3		99.0	1.0	Tuesday.
151	780315	Resolving into Committee	do	H.R. 50	380	19	2	95.0	5.0	Wednesday.
142	780314	Table reconsider journal vote	do		308	91		77.0	23.0	Tuesday.
24	780131	Agreeing to the amendment	Emery	H.R. 1614	219	180		54.0	46.0	Do.
62	780215	Agreeing to conference report	Erlenborn	H.R. 4544	264	113	1	70.0	30.0	Wednesday.
49	780208	Agreeing to the amendment	do	H.R. 6805	105	300		25.0	75.0	Do.
50	780208	Passage	do	H.R. 6805	189	227	1	45.0	55.0	Do.
283	780504	Agreeing to conference report	Findley	H.R. 6782	212	182		54.0	46.0	Thursday.
373	780525	Quorum	do				338			Do.
382	780531	Suspend rules and pass	do	H. Res. 1194	321	46		87.0	13.0	Wednesday.
28	780201	Agreeing to the amendment	Fish	H.R. 1614	225	174		56.0	44.0	Do.
23	780131	do	do	H.R. 1614	196	207		48.0	51.0	Tuesday.
16	780126	do	do	H.R. 1614	143	229		38.0	62.0	Thursday.
293	780509	do	Fisher	H. Con. Res. 559	195	203		49.0	51.0	Tuesday.
285	780504	do	Flowers	H. Con. Res. 559	227	136	1	63.0	37.0	Thursday.
107	780307	Suspend rules and pass	do	H.R. 10551	404	0	1	100.0		Tuesday.
487	780623	Quorum	Foley				264			Friday.
180	780322	Passage	Ford (Tennessee)	H.R. 9518	390	1		100.0		Wednesday.
279	780503	Agreeing to the amendment	Fraser	H. Con. Res. 559	123	265		32.0	68.0	Do.
393	780601	do	Frenzel	H.R. 12050	209	194		52.0	48.0	Thursday.
411	780605	Agreeing to the resolution	do	H. Res. 1191	344	2		99.0	1.0	Monday.
112	780307	Passage	do	H.J. Res. 746	353	50		88.0	12.0	Tuesday.

See note at end of table.

ROLLCALL VOTES (JAN. 19, 1978, THROUGH JUNE 30, 1978) LISTED ALPHABETICALLY—BY MEMBER REQUESTING THE ROLLCALL—Continued

ROLLCALL VOTES (JAN. 19, 1978, THROUGH JUNE 30, 1978) LISTED ALPHABETICALLY—BY MEMBER REQUESTING THE ROLLCALL—Continued

ROLLCALL VOTES (JAN. 19, 1978, THROUGH JUNE 30, 1978) LISTED ALPHABETICALLY—BY MEMBER REQUESTING THE ROLLCALL—Continued

Roll	Date	Type of vote	Requester	Bill	Yea	Nay	Present	Percent Yea	Percent Nay	Day
92	780228	Passage	Frenzel	H.R. 5981	306	80		79.0	21.0	Tuesday.
239	780510	Agreeing to the amendment	Giaimo	H. Con. Res. 559	192	205		48.0	52.0	Wednesday.
289	780608	Passage	do	H.J. Res. 873	346	21		94.0	6.0	Monday.
110	780307	Agreeing to the amendment	Gibbons	H.R. 11180	277	132		68.0	32.0	Tuesday.
349	780522	Agreeing to the resolution	do	H. Res. 1193	377	1		100.0		Monday.
220	780413	Agreeing to the amendment	Gilman	H.R. 11003	171	232		42.0	58.0	Thursday.
288	780608	Suspend rules and pass	Guyer	H. Con. Res. 583	369	0		100.0		Monday.
210	780411	do	do	H.R. 11092	361	43		89.0	11.0	Tuesday.
512	780628	Agreeing to the amendment	Hagedorn	H.R. 12433	173	218		44.0	56.0	Wednesday.
304	780511	do	do	H.R. 12222	141	236		37.0	63.0	Thursday.
511	780628	Quorum	do				353			Wednesday.
442	780613	Resolving into committee	do	H.R. 12929	383	5		99.0	1.0	Tuesday.
381	780531	Quorum	Hamilton				333			Wednesday.
507	780628	Suspend rules and pass	Hammerschmidt	H.R. 10173	398	5		99.0	1.0	Do.
192	780405	Agreeing to the amendment	Hanley	H.R. 7700	147	257		36.0	64.0	Do.
196	780405	Passage	do	H.R. 7700	384	11		97.0	3.0	Thursday.
134	780313	Suspend rules and pass	do	H.R. 9146	371	6		98.0	2.0	Monday.
292	780609	Agreeing to the amendment	Hansen	H. Con. Res. 559	231	170		58.0	42.0	Tuesday.
389	780531	do	do	H.R. 12598	203	163		55.0	45.0	Wednesday.
468	780616	Passage	Harkin	H.R. 12927	278	13		96.0	4.0	Friday.
[redacted]	780215	do	Harsha	H.R. 9370	234	130		64.0	36.0	Wednesday.
156	780316	Resolving into committee	Hawkins	H.R. 50	379	8	2	98.0	2.0	Thursday.
231	780418	Passage	Hillis	H.R. 3787	347	48		88.0	12.0	Tuesday.
101	780303	Agreeing to the resolution	Holland	H. Res. 953	318	18		95.0	5.0	Friday.
274	780503	Agreeing to the amendment	Holt	H. Con. Res. 559	197	203		49.0	51.0	Wednesday.
251	780425	Agreeing to the resolution	Horton	H. Res. 1049	39	356		10.0	90.0	Tuesday.
183	780405	Agreeing to the amendment	Hughes	H.R. 7700	292	112		72.0	28.0	Wednesday.
297	780510	do	Jacobs	H. Con. Res. 559	45	352		11.0	89.0	Do.
157	780316	do	Jeffords	H.R. 50	398	0		100.0		Thursday.
127	780309	do	do	H.R. 50	239	177		57.0	43.0	Do.
126	780309	Agreeing to the amendments	do	H.R. 50	198	223		47.0	53.0	Do.
67	780221	Suspend rules and pass	do	H.R. 10569	409	0		100.0		Tuesday.
398	780512	Agreeing to the amendment	Johnson (Co)	H.R. 12222	126	189		40.0	60.0	Friday.
237	780419	do	Jordan	H.R. 8494	245	161		60.0	40.0	Wednesday.
481	780601	do	Kelly	H.R. 12157	157	190		45.0	55.0	Thursday.
54	780209	Agreeing to conference report	Ketchum	H.R. 3454	333	44		88.0	12.0	Do.
396	780501	Passage	do	H.R. 12050	237	158		60.0	40.0	Do.
172	780321	do	do	H.R. 11518	233	172		58.0	42.0	Tuesday.
379	780525	Agreeing to the amendment	Kindness	H.R. 9400	178	109		62.0	38.0	Thursday.
256	780426	do	do	H.R. 8494	207	188		52.0	48.0	Wednesday.
255	780426	Agreeing to the amendments	do	H.R. 8494	197	211		48.0	52.0	Do.
265	780501	Agreeing to the resolution	do	H. Res. 1150	320	20		94.0	6.0	Monday.
378	780525	Quorum	do				259			Thursday.
40	780206	Agreeing to the amendment	Krebs	H.R. 6362	295	78		79.0	21.0	Monday.
39	780206	do	do	H.R. 6362	136	239		36.0	64.0	Do.
305	780511	do	Lagomarsino	H.R. 12222	187	187		50.0	50.0	Thursday.
300	780510	Passage	Latta	H. Con. Res. 559	201	197		50.5	49.5	Wednesday.
261	780105	Quorum	Leggett				302			Monday.
105	780306	Suspend rules and pass	Lehman	H.J. Res. 715	348	7		98.0	2.0	Do.
47	780208	Agreeing to the amendment	Levitas	H.R. 6805	195	219		47.0	53.0	Wednesday.
207	780411	Quorum	do				380			Tuesday.
46	780208	Resolving into Committee	do	H.R. 6805	377	25	1	94.0	6.0	Wednesday.
229	780418	Suspend rules and pass	do	H.R. 8588	388	6		98.0	2.0	Tuesday.
11	780124	do	do	H.R. 7662	292	103		74.0	26.0	Do.
71	780222	Table to recede and concur in Senate amendment 43.	Lloyd (California)	H.R. 9375	172	244	1	41.0	59.0	Wednesday.
168	780320	Agreeing to the resolution	Lott	H. Res. 1078	387	0		100.0		Monday.
330	780517	do	do	H. Res. 1186	354	42		89.0	11.0	Wednesday.
119	780308	do	do	H. Res. 1057	349	58		86.0	14.0	Do.
392	780601	do	do	H. Res. 1178	294	97		75.0	25.0	Thursday.
13	780125	do	do	H. Res. 964	247	158		61.0	39.0	Wednesday.
284	780504	Agreeing to the amendment	Luken	H. Con. Res. 559	199	173	1	53.0	47.0	Thursday.
245	780424	do	Madigan	H.R. 11504	151	215	1	41.0	59.0	Monday.
246	780424	Passage	do	H.R. 11504	347	23	1	94.0	6.0	Do.
76	780223	Agreeing to the amendment	Mathis	H.R. 9214	253	141		64.0	36.0	Thursday.
73	780222	Agreeing to the resolution	do	H. Res. 990	386	15	1	96.0	4.0	Wednesday.
75	780223	Quorum	do				358			Thursday.
290	780503	Agreeing to the amendment	Mattox	H. Con. Res. 559	172	210		45.0	55.0	Wednesday.
361	780523	do	McCloskey	H.R. 10729	180	218		45.0	55.0	Tuesday.
350	780523	do	do	H.R. 10729	168	227		43.0	57.0	Do.
351	780522	do	do	H.R. 10729	126	241		34.0	66.0	Monday.
360	780523	do	do	H.R. 10729	111	289	1	28.0	72.0	Tuesday.
362	780523	Passage	do	H.R. 10729	326	82		80.0	20.0	Do.
510	780628	Suspend rules and pass	McCormack	H.R. 12874	385	14		96.0	4.0	Wednesday.
37	780208	Agreeing to the resolution	McDonald	H. Res. 982	323	41	1	89.0	11.0	Monday.
423	780607	do	do	S. Con. Res. 89	329	50		87.0	13.0	Wednesday.
377	780525	Passage	do	H.R. 7814	288	57		83.0	17.0	Thursday.
59	780214	do	do	H.R. 8336	273	79	1	78.0	22.0	Tuesday.
439	780612	Agreeing to the amendment	McFall	H.R. 12933	237	143	1	62.0	38.0	Monday.
43	780207	Agreeing to the resolution	Meeds	H. Res. 872	271	138		66.0	34.0	Tuesday.
433	780608	Agreeing to the amendment	Michel	H.R. 12929	290	87		77.0	23.0	Thursday.
139	780314	Dispense further call of House	do		331	72	1	82.0	18.0	Tuesday.
395	780601	Agreeing to the amendment	Mikva	H.R. 12050	155	239		39.0	61.0	Thursday.
426	780607	Passage	do	H.R. 12930	297	98		75.0	25.0	Wednesday.
318	780515	Suspended rules and pass	do	H.R. 4030	218	145		60.0	40.0	Monday.
446	780613	Agreeing to the amendment	Miller (Ohio)	H.R. 12929	220	181		55.0	45.0	Tuesday.
477	780621	do	do	H.R. 12932	198	211		48.0	52.0	Wednesday.
484	780622	do	do	H.R. 13152	189	201		48.0	52.0	Thursday.
472	780619	Recommit with instructions	do	H.R. 12935	156	222		41.0	59.0	Monday.
276	780503	Agreeing to the amendment	Mitchell (Maryland)	H. Con. Res. 559	98	313		24.0	76.0	Wednesday.
306	780512	Quorum	Moakley				286			Friday.
475	780621	Agreeing to the amendment	Moffett	H.R. 12932	190	221		46.0	54.0	Wednesday.
476	780621	do	do	H.R. 12932	126	282		31.0	69.0	Do.
223	780413	Motion to close conference	do	H.R. 5289	6	371		2.0	98.0	Thursday.
238	780420	Quorum	do				370			Do.
474	780621	Agreeing to the resolution	Montgomery	H. Res. 1230	353	27	2	93.0	7.0	Wednesday.
4	780123	Quorum	do				343			Monday.
9	780124	do	do				370			Tuesday.
45	780208	do	do				367			Wednesday.
258	780427	Resolving into committee	do	H.R. 11302	384	5		99.0	1.0	Thursday.
295	780510	do	do	H. Con. Res. 559	392	4		99.0	1.0	Wednesday.
402	780602	do	do	H.R. 12157	318	3	1	99.0	1.0	Friday.
79	780223	Agreeing to the amendment	Moore	H.R. 9179	191	167		53.0	47.0	Thursday.

See note at end of table.

ROLLCALL VOTES (JAN. 19, 1978, THROUGH JUNE 30, 1978) LISTED ALPHABETICALLY—BY MEMBER REQUESTING THE ROLLCALL—Continued

Roll	Date	Type of vote	Requester	Bill	Yea	Nay	Present	Percent Yea	Percent Nay	Day
117	780308	Table reconsider Journal vote	Moore		313	91		77.0	23.0	Wednesday.
182	780322	Table to instruct conferees	do	H.R. 6782	224	167		60.0	40.0	Do.
453	780614	Agreeing to the amendment	Moorhead	H.R. 12934	264	131		67.0	33.0	Do.
81	780224	Agreeing to the resolution	Mottl	H. Res. 1024	302	1		100.0		Friday.
408	780605	do	do	H. Res. 1213	339	1		100.0		Monday.
18	780130	Passage	do	H.R. 5798	318	44		88.0	12.0	Do.
224	780417	Suspend rules and pass	do	H.R. 3469	357	1		100.0		Do.
311	780515	do	do	H.R. 11200	350	0		100.0		Do.
347	780522	do	do	H.R. 12353	398	0		100.0		Do.
201	760410	do	do	H.R. 10730	380	5		99.0	1.0	Do.
343	780522	do	do	H.R. 11777	373	2		99.0	1.0	Do.
208	780411	do	do	H.R. 7101	380	14		97.0	3.0	Tuesday.
271	780502	do	do	H. Res. 1158	384	10	1	97.0	3.0	Do.
227	780417	do	do	H.R. 11465	357	13	1	96.0	4.0	Monday.
5	780123	do	do	H.R. 9165	351	22		94.0	6.0	Do.
225	780417	do	do	H.R. 10822	341	23		94.0	6.0	Do.
262	780501	do	do	H.R. 11657	326	23	1	93.0	7.0	Do.
494	780626	do	do	H.R. 10342	292	30		91.0	9.0	Do.
493	780626	do	do	H.R. 10341	283	35		89.0	11.0	Do.
226	780417	do	do	H.R. 10823	317	47		86.0	14.0	Do.
90	780228	do	do	H.R. 9622	266	133		67.0	33.0	Tuesday.
270	780502	do	do	H.R. 8099	256	138		65.0	35.0	Do.
354	780523	do	do	H.R. 12299	201	205		49.5	50.5	Do.
31	780202	Agreeing to the amendment	Murphy (New York)	H.R. 1614	201	208		49.0	51.0	Thursday.
30	780202	do	do	H.R. 1614	118	280		30.0	70.0	Do.
33	780202	Agreeing to the amendments	do	H.R. 1614	279	120		70.0	30.0	Do.
32	780202	Quorum	do				355			Do.
206	780410	Suspend rules and pass	Myers	H.R. 11445	310	72		81.0	19.0	Monday.
65	780221	do	Myers (Pennsylvania)	H.R. 1097	274	137		67.0	33.0	Tuesday.
60	780214	Passage	Nichols	H.R. 5503	351	7		98.0	2.0	Do.
444	780613	Agreeing to the amendment	Obey	H.R. 12929	198	212		48.0	52.0	Do.
1	780119	Quorum	O'Neill				338			Thursday.
462	780615	Agreeing to the amendments	Ottinger	H.R. 12926	108	284		28.0	72.0	Do.
486	780622	Passage	do	H.R. 12505	267	96	1	74.0	26.0	Do.
437	780612	Suspend rules and pass	Passe	H. Con. Res. 612	377	0		100.0		Monday.
166	780320	Ordering a second	Perkins	H.R. 11274	156	218	1	42.0	58.0	Do.
158	780316	Agreeing to the amendment	Pike	H.R. 50	199	204		49.0	51.0	Thursday.
241	780420	do	Pressler	H.R. 8494	44	350		11.0	89.0	Do.
48	780208	do	Quayle	H.R. 6805	138	274		33.0	67.0	Wednesday.
163	780316	do	Quie	H.R. 50	137	276		33.0	67.0	Thursday.
128	780309	Agreeing to the amendments	do	H.R. 50	264	150		64.0	36.0	Do.
155	780315	do	do	H.R. 50	194	216		47.0	53.0	Wednesday.
320	780516	Suspend rules and pass	do	H.R. 12467	382	12		96.0	4.0	Tuesday.
323	780516	Agreeing to the resolution	Quillen	H. Res. 1174	378	0		100.0		Do.
215	780412	do	do	H. Res. 1017	374	5		99.0	1.0	Wednesday.
417	780606	do	do	H. Res. 1205	322	48		87.0	13.0	Tuesday.
174	780321	do	do	H. Res. 1093	198	209		49.0	51.0	Do.
260	780427	Passage	do	H.J. Res. 859	202	196		51.0	49.0	Thursday.
242	780420	Agreeing to the amendment	Railsback	H.R. 8494	251	135		65.0	35.0	Do.
267	780501	do	do	H.R. 9400	227	132		63.0	37.0	Monday.
266	780501	Quorum	do				318			Do.
164	780316	Passage	Rhodes	H.R. 50	257	152		63.0	37.0	Thursday.
138	780314	Quorum	do				371			Tuesday.
36	780206	Suspend rules and pass	Rogers	H.R. 9434	253	106		70.0	30.0	Monday.
146	780314	do	Roncalio	S. 1671	405	7		98.0	2.0	Tuesday.
482	780622	Agreeing to the amendment	Rousselot	H.R. 13125	194	201		49.0	51.0	Thursday.
298	780510	do	do	H. Con. Res. 559	170	226	1	43.0	57.0	Wednesday.
170	780321	Agreeing to the resolution	do	H. Res. 1082	398	0	1	100.0		Tuesday.
218	780413	do	do	H. Res. 1127	395	1	1	100.0		Thursday.
397	780601	do	do	H. Res. 1168	364	4		99.0	1.0	Do.
496	780626	do	do	H. Res. 1243	311	2		99.0	1.0	Monday.
479	780621	do	do	H. Res. 1212	375	25		94.0	6.0	Wednesday.
328	780517	do	do	H. Res. 1176	320	77		80.0	20.0	Wednesday.
322	780516	Concur in Senate amendment 37 with amendment.	do	H.R. 9005	199	183	1	52.0	48.0	Tuesday.
83	780224	Passage	do	H.R. 9757	257	47		84.0	16.0	Friday.
85	780224	do	do	H.R. 3377	226	68		77.0	23.0	Do.
17	780130	Quorum	do				326			Monday.
41	780207	do	do				347			Tuesday.
109	780307	do	do				350			Do.
268	780502	do					363			Do.
480	780622	do	do				326			Thursday.
247	780425	Resolving into Committee	do	H.R. 11401	387	3		99.0	1.0	Tuesday.
307	780512	do	do	H.R. 12220	300	6		99.0	1.0	Friday.
514	780629	do	do	H.R. 12433	362	3	1	99.0	1.0	Thursday.
57	780214	do	do	H.R. 8336	325	7		98.0	2.0	Tuesday.
450	780614	do	do	H.R. 12934	368	6		98.0	2.0	Wednesday.
6	780123	Suspend rules and pass	do	H.R. 8771	369	7		98.0	2.0	Monday.
204	780410	do	do	H.R. 10732	329	55	1	86.0	14.0	Do.
264	780501	do	do	H.J. Res. 816	278	77		78.0	22.0	Do.
234	780418	Passage	Rudd	H.R. 11400	364	37		91.0	9.0	Tuesday.
516	780629	Agreeing to the amendment	Russo	H.R. 12433	93	285		25.0	75.0	Thursday.
435	780609	Agreeing to the resolution	do	H. Res. 1219	309	16		95.0	5.0	Friday.
178	780322	do	do	H. Res. 1074	365	33		92.0	8.0	Wednesday.
253	780426	Approving the Journal	do		382	9	1	98.0	2.0	Do.
281	780504	do	do		360	13	1	97.0	3.0	Thursday.
179	780322	Resolving into Committee	do	H.R. 9518	376	0		100.0		Wednesday.
212	780411	Agreeing to conference report	Ryan	H.R. 9179	216	185	1	54.0	46.0	Tuesday.
80	781223	Passage	do	H.R. 9179	191	165	2	54.0	46.0	Thursday.
125	780308	Agreeing to the amendments	Sarasin	H.R. 50	277	143		66.0	34.0	Do.
367	780524	Agreeing to the amendment	Schroeder	H.R. 10929	266	136		66.0	34.0	Wednesday.
365	780524	do	do	H.R. 10929	107	297		26.0	74.0	Do.
133	780313	Suspend rules and pass	do	H.R. 10126	294	84		78.0	22.0	Monday.
190	780404	do	do	H.R. 11003	207	188		52.0	48.0	Tuesday.
348	780522	Agreeing to the resolution	Schulze	H. Con. Res. 555	209	173		55.0	45.0	Monday.
352	780523	Quorum	do				349			Tuesday.
337	780519	Resolving into committee	do	H.R. 39	280	8		97.0	3.0	Friday.
58	780214	Agreeing to the amendment	Sebelius	H.R. 8336	119	230		34.0	66.0	Tuesday.
410	780605	Passage	do	H.R. 12250	324	29		92.0	8.0	Monday.
53	780209	do	do	H.R. 3813	328	60	1	85.0	15.0	Thursday.
211	780411	do	do	H.R. 11662	326	76		81.0	19.0	Tuesday.
38	780206	Quorum	Simon				332			Monday.
452	780614	Agreeing to the amendment	Smith (independent agency)	H.R. 12934	200	203		49.6	50.4	Wednesday.
412	780605	Passage	Snyder	H.R. 12481	292	54		84.0	16.0	Monday.

See note at end of table.

ROLLCALL VOTES (JAN. 19, 1978, THROUGH JUNE 30, 1978) LISTED ALPHABETICALLY—BY MEMBER REQUESTING THE ROLLCALL—Continued

ROLLCALL VOTES (JAN. 19, 1978, THROUGH JUNE 30, 1978) LISTED ALPHABETICALLY—BY MEMBER REQUESTING THE ROLLCALL—Continued

ROLLCALL VOTES (JAN. 19, 1978, THROUGH JUNE 30, 1978) LISTED ALPHABETICALLY—BY MEMBER REQUESTING THE ROLLCALL—Continued

Roll	Date	Type of vote	Requester	Bill	Yea	Nay	Present	Percent Yea	Percent Nay	Day
303	780511	Agreeing to the amendment	Solarz	H.R. 12222	183	212		46.0	54.0	Thursday.
132	780313	Suspend rules and pass	do	H.R. 7814	242	141		63.0	37.0	Monday.
199	780406	Passage	St Germain	H.R. 10899	367	2	1	99.0	1.0	Thursday.
413	780606	Quorum	Staggers				342			Tuesday.
430	780608	Agreeing to the amendment	Stanton	H.R. 12426	401	0		100.0		Thursday.
432	780608	Passage	do	H.R. 12426	247	155		61.0	39.0	Do.
431	780608	Recommit with instructions	do	H.R. 12026	109	291		27.0	73.0	Do.
408	780523	Agreeing to the amendment	Steiger	H.R. 11493	93	207		31.0	69.0	Friday.
319	780516	Aproving the Journal	do		348	12		96.0	4.0	Tuesday.
491	780623	Passage	do	H.R. 11493	204	89		70.0	30.0	Friday.
357	780523	Suspend rules and pass	do	H. Res. 238	407	0		100.0		Tuesday.
443	780613	Agreeing to the amendment	Stokes	H.R. 12929	122	287		30.0	70.0	Do.
272	780502	Agreeing to the resolution	do	H. Res. 1159	367	16	2	96.0	4.0	Do.
371	780524	Agreeing to the amendment	Stratton	H.R. 10929	142	247		36.0	64.0	Wednesday.
275	780503	do	do	H. Con. Res. 559	142	262		35.0	65.0	Do.
331	781517	Quorum	Studds				285			Do.
428	780607	Agreeing to the amendment	Symms	H.R. 12929	201	179		53.0	47.0	Do.
447	780613	do	do	H.R. 12929	184	216		46.0	54.0	Tuesday.
221	780413	do	do	H.R. 11003	85	320		21.0	79.0	Thursday.
113	780307	Agreeing to the resolution	do	H. Res. 1003	399	1		100.0		Tuesday.
235	780419	do	do	H. Res. 1139	379	15		96.0	4.0	Wednesday.
422	780607	do	do	H. Con. Res. 561	349	24		94.0	6.0	Do.
301	780511	Approving the Journal	do		377	15		96.0	4.0	Thursday.
380	780531	do	do		318	14	1	96.0	4.0	Wednesday.
131	780313	Ordering a second	do	H.R. 6635	372	1		100.0		Monday.
434	780608	Passage	do	H.J. Res. 945	237	72	1	77.0	23.0	Friday.
314	780515	do	do	H.R. 10392	222	152		59.0	41.0	Monday.
427	780607	Quorum	do				321			Wednesday.
96	780302	Resolving into committee	do	H.J. Res. 554	394	12		97.0	3.0	Thursday.
55	780208	do	do	H.R. 2664	337	17	1	95.0	5.0	Do.
414	780606	Suspend rules and pass	do	H.R. 8394	340	28		92.0	8.0	Tuesday.
8	780123	do	do	H.R. 9169	309	68	1	82.0	18.0	Monday.
205	780410	do	do	H.R. 10884	307	76		80.0	20.0	Do.
171	780321	Agreeing to the resolution	Thone	H. Res. 1092	314	80		80.0	20.0	Tuesday.
108	780307	do	do	H. Res. 1056	285	115		71.0	29.0	Do.
415	780606	Suspend rules and pass	do	H.R. 12637	368	0		100.0		Do.
34	780202	Agreeing to the amendment	Treen	H.R. 1614	159	230		41.0	59.0	Thursday.
103	780306	Quorum	Tsongas				326			Monday.
338	780519	Agreeing to the amendment	Udall	H.R. 39	157	150	1	51.0	49.0	Friday.
335	780518	do	do	H.R. 39	141	251		36.0	64.0	Thursday.
336	780518	do	do	H.R. 39	119	240		33.0	67.0	Do.
340	780519	Passage	do	H.R. 39	277	31		90.0	10.0	Friday.
1147	780314	Suspend rules and pass	Ullman	H.R. 810	372	38		90.0	10.0	Tuesday.
404	780602	Agreeing to the amendment	Vanik	H.R. 12157	179	138		58.0	42.0	Friday.
214	780412	Agreeing to conference report	Volkmer	H.R. 6782	150	268	1	36.0	64.0	Wednesday.
425	780607	Agreeing to the amendment	do	H.R. 12930	80	314		20.0	80.0	Do.
350	780522	Passage	do	H.R. 12602	363	18		95.0	5.0	Monday.
326	780517	do	do	H.R. 11686	348	46		88.0	12.0	Wednesday.
346	780522	Suspend rules and pass	do	S. 2370	378	5		99.0	1.0	Monday.
356	780523	do	do	H.R. 8535	363	44		89.0	11.0	Tuesday.
355	780523	do	do	H.R. 3050	358	50		88.0	12.0	Do.
342	780522	do	do	H. Res. 1072	269	109	1	71.0	29.0	Monday.
287	780508	do	do	H.R. 12481	203	170		54.0	46.0	Do.
445	780613	Agreeing to the amendment	Walker	H.R. 12929	232	177		57.0	43.0	Tuesday.
258	780427	Passage	do	H.R. 11302	367	33		92.0	8.0	Thursday.
2	780119	Agreeing to the amendment	Weiss	H.R. 2329	215	131		62.0	38.0	Do.
325	780517	do	do	H.R. 11686	90	306		23.0	77.0	Wednesday.
465	780616	do	do	H.R. 12928	67	259		21.0	79.0	Friday.
418	780606	do	do	H.R. 12240	60	312		16.0	84.0	Tuesday.
419	780606	Passage	do	H.R. 12240	323	43	5	88.0	12.0	Do.
248	780425	do	do	H.R. 11401	345	54		86.0	14.0	Do.
467	780616	do	do	H.R. 12928	263	59		82.0	18.0	Friday.
124	780309	Quorum	do				384			Thursday.
324	780517	Resolving into Committee	do	H.R. 11686	355	4		99.0	1.0	Wednesday.
22	780131	Agreeing to the amendment	Wiggins	H.R. 1614	208	194		52.0	48.0	Tuesday.
159	780316	Strike enacting clause	do	H.R. 50	106	310		25.0	75.0	Thursday.
177	780322	Passage	Wilson, C. (California)	H.J. Res. 796	393	4		99.0	1.0	Wednesday.
188	780404	Quorum	do				361			Tuesday.
436	780612	do	do				329			Monday.
460	780615	do	do				340			Thursday.
191	780405	Resolving into Committee	do	H.R. 7700	386	4	2	99.0	1.0	Wednesday.
290	780509	do	do	H. Con. Res. 559	380	3		99.0	1.0	Tuesday.
464	780616	do	do	H.R. 12928	300	4		99.0	1.0	Friday.
483	780622	Agreeing to the amendment	Wright	H.R. 13125	273	125	1	69.0	31.0	Thursday.
61	780215	Quorum	do				363			Wednesday.
64	780221	do	do				351			Tuesday.
69	780222	do	do				376			Wednesday.
74	780223	do	do				366			Thursday.
89	780228	do	do				364			Tuesday.
93	780301	do	do				393			Wednesday.
217	780413	do	do				364			Thursday.
391	780601	do	do				356			Do.
421	780607	Approving the Journal	Wydler		331	15	3	96.0	4.0	Wednesday.
229	780418	Quorum	Wylie				365			Tuesday.
505	780628	Suspend rules and pass	do	H.R. 11886	400	1		100.0		Wednesday.
506	780628	do	do	H.R. 11888	385	16		60.0	40.0	Do.
181	780322	Agreeing to a conference	Yates	H.R. 6782	332	63		84.0	16.0	Do.
15	780126	Agreeing to the amendment	do	H.R. 1614	187	211		47.0	53.0	Thursday.
339	780519	Recommit with instructions	Young (Alaska)	H.R. 39	67	242		22.0	78.0	Friday.
249	780425	Agreeing to the amendment	Young (Florida)	H.R. 11877	169	228		43.0	57.0	Tuesday.

Note: The percentage of yea-and-nay votes has been figured on the basis of the yea-and-nay votes only and does not include those voting "present."

GENERAL LEAVE

Mr. RUDD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on the subject of the special order today of the gentleman from Virginia (Mr. WAMPLER).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

CONFERENCE REPORT ON H.R. 8149

Mr. ULLMAN submitted the following conference report and statement on the bill (H.R. 8149) to provide customs procedural reform, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 95-1517)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8149) to provide customs procedural reform, and for other purposes, having met after full and free conference, have agreed to rec-

ommend and do recommend to their respective Houses as follows: That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 55, 57, 59, 60, 61, 62, 63, 64, 65, 66, 67, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 115, 116, 117, 118, 119, 120, 121, 122, 124, 125, 126, 127, 129, 131, 132, and 133 and agree to the same.

Amendment numbered 8: That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment as follows: In lieu of the matter proposed to be stricken out by the Senate amendment, insert the following: (at the time required under paragraph (2)(B) of this subsection).

And the Senate agree to the same.

Amendment numbered 40: That the House recede from its disagreement to the amendment of the Senate numbered 40, and agree to the same with amendments as follows:

On page 5 of the Senate engrossed amendments, strike out lines 5, 6, and 7 and insert in lieu thereof the following:

"(b) SANCTIONS.—(1) For so long as any person, after being adjudged guilty of contempt for neglecting or refusing to obey a lawful summons issued under section 509 of this Act and for refusing to obey the order of the court, remains in contempt, the Secretary may—

On page 5 of the Senate engrossed amendments, strike out lines 14 through 19, inclusive, and insert in lieu thereof the following:

"(2) If any person remains in contempt for more than one year after the date on which the Secretary issues instructions under paragraph (1)(B) with respect to that person, the appropriate customs officers shall cause all merchandise held in customs custody pursuant to such instructions to be sold at public auction or otherwise disposed of under the customs laws.

And the Senate agree to the same.

Amendment numbered 54: That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with amendments as follows:

On page 8, line 24, of the Senate engrossed amendments strike out "$250" and insert in lieu thereof the following: "$500".

On page 9, line 5, of the Senate engrossed amendments, after the period insert the following: "If such officer determines that there was no violation, he shall promptly issue a written statement of the determination to the person to whom the notice was sent.".

And the Senate agree to the same.

Amendment numbered 56: That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with amendments as follow:

On page 9 of the Senate engrossed amendments, strike out lines 15 through 21 and insert in lieu thereof the following:

"(1) GENERAL RULE.—Without regard to whether the United States is or may be deprived of all or a portion of any lawful duty thereby, no person, by fraud, gross negligence, or negligence—

"(A) may enter, introduce, or attempt to enter or introduce any merchandise into the commerce of the United States by means of—

"(i) any document, written or oral statement, or act which is material and false, or

"(ii) any omission which is material, or

"(B) may aid or abet any other person to violate subparagraph (A)."

On page 11, line 21, of the Senate engrossed amendments, after the period insert the following: "If such officer determines that there was no violation, he shall promptly issue a written statement of the determination to the person to whom the notice was sent.".

On page 12, line 2, of the Senate engrossed amendments, after the period insert the following: "Such person shall have a reasonable opportunity under section 618 of this Act to make representations, both oral and written, seeking remission or mitigation of the monetary penalty. At the conclusion of any proceeding under such section 618, the appropriate customs officer shall provide to the person concerned a written statement which sets forth the final determination and the findings of fact and conclusions of law on which such determination is based.".

On page 12, lines 6, 11, and 22, of the Senate engrossed amendments strike out "dutiable" and insert in lieu thereof "domestic".

And the Senate agree to the same.

Amendment numbered 58: That the House recede from its disagreement to the amendment of the Senate numbered 58, and agree to the same with an amendment as follows:

On page 16, beginning with line 13, strike out through line 5 on page 17, and insert in lieu thereof the following:

(f)(1)(A) Except as provided in subparagraphs (B) and (C), subsections (a), (b) and (c) (other than new subsection (e) of section 592 of the Tariff Act of 1930 as added by subsection (a)) shall be effective with respect to proceedings commenced after the 89th day after the date of enactment of this Act.

(B) Except as provided in subparagraph (C), section 592 of the Tariff Act of 1930 (as such section existed on the day before the date of enactment of this Act) shall apply to any alleged intentional violation thereof involving television receivers that are the product of Japan and that were or are the subject of antidumping proceedings if the alleged intentional violation—

(i) occurred before the date of enactment of this Act, and

(ii) was the subject of an investigation by the Customs Service which was begun before the date of enactment of this Act.

(C) Except as provided in the next sentence, subsection (e) of section 592 of the Tariff Act of 1930 (as added by subsection (a)) shall be effective on the date of enactment of this Act. Notwithstanding any provision of law, in any proceeding in a United States district court commenced by the United States pursuant to section 604 of the Tariff Act of 1930 for the recovery of any monetary penalty claimed under section 592 of such Act for an alleged intentional violation described in subparagraph (B)—

(i) all issues, including the amount of the penalty, shall be tried de novo; and

(ii) the United States shall have the burden of proof to establish such violation by a preponderance of the evidence.

And the Senate agree to the same.

Amendment numbered 68: That the House recede from its disagreement to the amendment of the Senate numbered 68 and agree to the same with an amendment as follows: In lieu of the matter proposed to be stricken out by the Senate amendment insert the following:

SEC. 113. Section 641 of the Tariff Act of 1930 (19 U.S.C. 1641) is amended by adding at the end thereof the following new subsection:

"(e) Triennial Reports by Customhouse Brokers.—On February 1, 1979, and on February 1 of each third year thereafter, each person who is licensed as a customhouse broker under this section shall file with the Secretary a report as to—

"(1) whether such person is actively engaged in business as a customshouse broker; and

"(2) the name under, and the address at, which such business is being transacted.".

And the Senate agree to the same.

Amendment numbered 82: That the House recede from its disagreement to the Senate amendment numbered 82 and agree to the same with an amendment as follows:

On page 19 of the Senate engrossed amendments strike out the matter appearing after line 3 and insert in lieu thereof the following:

"

	Other articles, including not more than 100 cigars, acquired abroad as an incident of the journey from which the person is returning if such person arrives from the Virgin Islands of the United States or from a contiguous country which maintains a free zone port, or arrives from any other country after having remained beyond the United States for a period of not less than 48 hours, for his personal or household use, but not imported for the account of any other person nor intended for sale, if declared in accordance with regulations of the Secretary of the Treasury and if such person has not claimed an exemption under item 813.30 or 813.31 within 30 days preceding his arrival, and does not claim an exemption under the other item on his arrival:		
813.30	Articles, accompanying a person, not over $300 in aggregate fair retail value in the country of acquisition, including (but only in the case of an individual who has attained the age of 21) not more than 1 quart of alcoholic beverages	Free	Free
813.31	Articles, whether or not accompanying a person, not over $600 in aggregate fair market value in the country of acquisition, including (but only in the case of an individual who has attained the age of 21) not more than 1 wine gallon of alcoholic beverages, not more than 1 quart of which shall have been acquired elsewhere than in American Samoa, Guam, or the Virgin Islands of the United States, if such person arrives directly or indirectly from such insular possessions not more than $300 of which shall have been acquired elsewhere than in such insular possessions (but this item does not permit the entry of articles not accompanying a person which were acquired elsewhere than in such insular possessions)	Free	Free

And the Senate agree to the same.

Amendment numbered 123: That the House recede from its disagreement to the amendment of the Senate numbered 123 and agree to the same with amendments as follow:

On page 26, line 4, of the Senate engrossed amendments, after "merchandise" insert the following: "bearing a counterfeit mark (within the meaning of section 45 of the Act of July 5, 1946 (commonly referred to as the Lanham Act, 60 Stat. 27; 15 U.S.C. 1127)).".

On page 26, line 10, of the Senate engrossed amendments, after "forfeiture," insert the following: "obliterate the trademark where feasible and."

Beginning with line 18 on page 26 of the Senate engrossed amendments, strike out through line 2 on page 27 of such amendments and insert in lieu thereof the following:

"(3) more than 1 year after the date of forfeiture, by sale by appropriate customs officers at public auction under such regulations as the Secretary prescribes, except that before making any such sale the Secretary shall determine that no Federal, State, or local government agency or eleemosynary institution has established a need for such merchandise under paragraph (1) or (2), or

And the Senate agree to the same.

Amendment numbered 128: That the

House recede from its disagreement to the amendment of the Senate numbered 128 and agree to the same with an amendment as follows:

On page 27 of the Senate engrossed amendments, strike out lines 21 and 22 and insert in lieu thereof the following:

(1) entitled to the admission of his or her baggage and effects free of duty without entry; or

And the Senate agree to the same.

Amendment numbered 130: That the House recede from its disagreement to the amendment of the Senate numbered 130 and agree to the same with an amendment as follows:

On page 28, line 23, strike out beginning with "not" through "1979." on line 24 and insert in lieu thereof the following: "and to the Committee on Ways and Means of the House of Representatives not later than September 1, 1979."

AL ULLMAN,
CHARLES A. VANIK,
DAN ROSTENKOWSKI,
JAMES JONES,
SAM GIBBONS,
W. A. STEIGER,
BILL FRENZEL,
Managers on the Part of the House.

RUSSELL B. LONG,
HERMAN E. TALMADGE,
ABRAHAM RIBICOFF,
HARRY F. BYRD, JR.,
GAYLORD NELSON,
DANIEL PATRICK MOYNIHAN,
CARL T. CURTIS,
CLIFFORD P. HANSEN,
BOB PACKWOOD,
WILLIAM V. ROTH, JR.,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8149) to provide customs procedural reform, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The following Senate amendments made technical, clerical, clarifying, or conforming changes: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 41, 42, 44, 46, 47, 49, 50, 51, 52, 53, 55, 57, 59, 60, 61, 62, 63, 69, 70, 71, 72, 73, 74, 75, 76, 77, 79, 80, 81, 83, 84, 85, 86, 87, 88, 89, 90, 92, 93, 94, 95, 96, 97, 98, 99, 100, 102, 103, 104, 105, 107, 108, 109, 110, 111, 112, 113, 115, 116, 117, 118, 119, 120, 121, 122, 124, 125, 126, 128, 129, 131, and 132. With respect to these amendments, the House either recedes or recedes with amendments which are technical, clerical, clarifying or conforming in nature.

AMENDMENT NUMBERED 13

The House bill contains a provision relating to the new entry procedures which was intended as a guideline for the Secretary of the Treasury in prescribing appropriate regulations. The provision states that the Secretary shall, to the maximum extent practicable, provide for the protection of the revenue, the timely collection of import statistics, the facilitation of the commerce of the United States, and the equal treatment of all consignees of imported merchandise.

Senate amendment numbered 13 would require the Secretary of the Treasury to transmit immediately to the Bureau of the Census any corrections to the statistical information included in the import documents if inspection of the goods and information obtained at a later time reveals an error. Census would be required to make all necessary corrections. In addition, the Secretary would be required to insure the accuracy of statistics, particularly on classification and valuation of imports, collected under the new entry procedures.

The House receded from its disagreement with the Senate amendment and agreed to the same. The managers intend that the Census Bureau will make all corrections that are necessary to maintain the statistical validity of the import data. They do not expect trivial errors, not affecting the validity of the data, to be immediately corrected by Census.

AMENDMENT NUMBERED 15

The House bill would make the new entry procedures effective on the date of enactment of H.R. 8149.

Senate amendment numbered 15 would delay the effective date of the entry procedures until 60 days after the date of enactment of H.R. 8149. The delay was meant to give the Customs Service time to prescribe regulations implementing the new procedures.

The House receded from its disagreement with the Senate amendment and agreed to the same.

AMENDMENT NUMBERED 40

Section 107 of the House bill, dealing with judicial enforcement of administrative summons, stated that if a person fails to obey a court order to produce records or give testimony as ordered by the Customs Service under section 509 of the Tariff Act of 1930, he could be punished for contempt. In addition to contempt penalties, a person adjudged guilty of contempt could, at the discretion of the Secretary of the Treasury and for so long as he remains in contempt, be prohibited from importing merchandise into the customs territory of the United States or obtaining release from Customs of any of his merchandise of which it has custody. If he remains in contempt for 1 year, all of his goods the Customs custody would be sold at public auction or otherwise disposed of under the customs law.

Senate amendment numbered 40 restructured the House provision to state that "for so long as a person fails to comply with a summons with which he has been ordered by the court to comply," the same sanctions would apply.

The House receded from its disagreement with the Senate amendment and agreed to the same with an amendment which clarifies that an individual must be adjudged guilty of contempt by a court before the additional sanctions which may be imposed by the Secretary of the Treasury are operative, and that the sanctions would continue as long as the individual remains in contempt of court.

AMENDMENT NUMBERED 43

Sections 557 and 559 of the Tariff Act of 1930 permits goods to remain in a customs bonded warehouse at the owner's expense for up to 3 years without entry and the payment of duty. A 1951 Presidential Proclamation declaring a national emergency due to the Korean War permits Customs to extend the present 3-year period by an unlimited number of successive 1-year extensions. The Presidential Proclamation will be terminated September 14, 1978, by the National Emergencies Act.

Senate amendment numbered 43 would permit goods to remain in a custom bonded warehouse at the owner's expense for up to 5 years. The 5-year period could not be extended. Goods in a bonded warehouse on the date of entactment of the bill could remain in the warehouse for up to 5 years from the date of enactment.

The House bill contained no similar provision. The House receded from its disagreement with the Senate amendment and agreed to the same.

AMENDMENT NUMBERED 45

The House bill would amend section 584 of the Tariff Act of 1930 to extend liability for discrepancy in a ship's manifest to those persons directly or indirectly responsible for the discrepancy, including the importer or broker. The master or owner of the vessel would continue to be liable as under present law.

Senate amendment numbered 45 further amended section 584 to limit the maximum penalty to the lesser of $10,000 or the domestic value of the goods to which the error relates.

The House receded from its disagreement with the Senate amendment and agreed to the same.

AMENDMENT NUMBERED 46

Section 584 of the Tariff Act of 1930 makes the master or owner of a vessel liable for discrepancies in a ship's manifest. Liability does not extend to clerical errors. Senate amendment numbered 46 clarifies the meaning of the term "clerical error" for the purposes of section 584 to mean "a nonnegligent, inadvertent, or typographical mistake in the preparation, assembly, or submission of the manifest."

The House receded from its disagreement with the Senate amendment and agreed to the same. The managers intend that the term "clerical error" as used in this section would not include a fraudulent violation.

AMENDMENT NUMBERED 54

The House bill would amend section 584 of the Tariff Act of 1930 which relates to penalties for discrepancies in ship's manifests. Senate amendment numbered 54 would amend section 584 further to:

1. Require a prepenalty notice for any proposed penalty greater than $250; and

2. Require the Customs Service to consider representations made as a result of the notice before issuing a penalty claim.

The House receded from its disagreement with the Senate amendment, and agreed to the same with two amendments:

1. The prepenalty notice would be required only for any proposed penalty greater than $500; and

2. If the appropriate customs officer determines that there was no violation, he must promptly issue a written statement of the determination to the person to whom the notice was sent.

AMENDMENT NUMBERED 56

The House bill would completely revise section 592 of the Tariff Act of 1930, the most frequently invoked customs penalty, which penalizes any person who imports, attempts to import, or aids or procures the importation of merchandise into the United States "by means of any fraudulent or false invoice, declaration, affidavit, letter, paper, or by means of any false statement, written or verbal, or by means of any false or fraudulent practice or appliance whatsoever," unless that person has "reasonable cause to believe the truth of such statement." Violation of section 592 is penalized by forfeiture of the merchandise or a payment equal to the value of merchandise. The penalty applies to negligent as well as intentional violations and whether or not an underpayment of duties results from the violation.

Under the House revision, the persons covered and the nature of the offense are intended to remain the same as they are under present law. The procedural provisions adopted by the House are patterned after procedures in current Customs' regulations and guidelines.

If a customs officer has "reasonable cause to believe" there is a violation and determines that "further proceedings are warranted," then he would have to issue a written prepenalty notice which includes "all material facts" establishing the violation. The notice would not be required in noncommercial cases, i.e., violations by noncommercial travelers, or if the proposed penalty is less than $1,000. This provision would enact into law the prepenalty notice requirement now in the regulations with several changes: (1) The minimum penalty amount for which a prepenalty notice is required would be reduced from $25,000 to $1,000, and (2) the prepenalty notice would have to include "all material facts which establish the alleged violation" and the estimated amount of the duty underpayment. Presumably, the Service will continue to assess no penalty in small cases, i.e., less than $250 revenue loss.

After considering representations by the importer, the appropriate customs officer would determine whether a section 592 violation has occurred and notify the importer of his decision.

The penalty for violation of section 592 would be changed from an in rem penalty, forfeiture of the merchandise, to an in personam penalty, a monetary liability of the importer. However, seizure of the merchandise would be permitted if the Secretary of the Treasury has "reasonable cause to believe" the importer is insolvent, outside U.S. jurisdiction, or that seizure is "necessary" to protect the revenue or prevent the importation of restricted goods. The seized merchandise would, in general, be forfeited to the United States only if the monetary penalty is not paid.

Although nonnegligent clerical errors and mistakes of fact would continue to be violations of section 592 under the House provision, no penalty could be assessed because of those errors or mistakes.

The monetary penalty would be changed from a fixed amount, the domestic value of the goods, to an amount varying according to the culpability of the importer. The penalty for a fraudulent violation could not exceed the domestic value of the merchandise. The penalty for gross negligence could not exceed the lesser of the domestic value or four times the duty underpayment involved. If there is no underpayment, the penalty for gross negligence would be the lesser of domestic value or twice the duty underpayment. If there is no underpayment, the negligence penalty could not exceed 20 percent of dutiable value.

In voluntary disclosure cases involving fraud, the penalty could not exceed an amount equal to 100 percent of the duty underpayment or 10 percent of the dutiable value of the merchandise if there is no underpayment. If a nonfraudulent violation is voluntarily disclosed, the penalty could not exceed the amount of interest accruing on the underpayment.

If the customs officer issues a penalty claim and the importer petitions for mitigation under section 618, then the importer would have the opportunity to make written and oral representations to the Service. Notice of the final decision in a mitigation proceeding, including findings of fact and conclusions of law, would be required to be sent to the importer. This provision would enact into law existing practice with several changes: (1) The importer would have the right to make representations in a mitigation proceeding before any decision on mitigation is made, and (2) the Service would be required to supply the importer with a detailed explanation of the factual and legal basis for its mitigation decision.

If an importer refuses to pay a section 592 monetary penalty and is sued by the United States in a district court, all issues, including the appropriateness of the penalty amount, would be considered by the court. In a fraud case, the government would have to prove the section 592 violation by "clear and convincing" evidence.

In gross negligence and negligence cases, the Government would have to prove the elements of the violation or the act or omission constituting the violation, respectively. This means the Government would have to prove, by a preponderance of the evidence, that the importer acted in reckless disregard of his legal duties in a gross negligence case. In a negligence case, the Government would have to prove, by a preponderance of the evidence, that the importer did an act which violates section 592. Thereafter, the importer would have to prove, by a preponderance of the evidence, that he exercised that care which was reasonable under the circumstances.

This provision would change existing law by (1) permitting a court to make its own judgement about the appropriate remedy for a section 592 violation, and (2) changing the burden of proof in fraud cases and shifting the burden of production in a proceeding to collect a section 592 penalty to the United States.

A suit brought to enforce a section 592 penalty arising out of gross negligence or negligence would have to be brought within 5 years after the violation occurs. Under present law, suits may be brought within five years after the violation is discovered.

The House revision of section 592 would be effective with respect to proceedings commenced 90 days after the date of enactment, i.e., proceedings in which a prepenalty notice is issued 90 days or more after the date of enactment. Any section 592 case will be subject to judicial review as of the date of enactment.

Senate amendment numbered 56 reorganized the House amendment and clarified the substantive prohibition in subsection 592(a).

The House bill had two bases used in computing maximum penalties, i.e., domestic value, if there is a duty underpayment, and a percentage of dutiable value, if there is no duty underpayment. Domestic value is generally equivalent to retail value while dutiable value is generally equivalent to wholesale value. Senate amendment numbered 56 amended the House provision to require the use only of dutiable value in computing maximum penalties under section 592.

The House receded from its disagreement with Senate amendment and agreed to the same with amendments as follows—

First, the addition of culpability levels in the General Rule itself is made. The language thus reads: "No person may, *by fraud, gross negligence, or negligence,* enter, introduce, etc. . ."

Second, the language regarding "aiding or procuring" is recast in such a way that it relates to a material and false statement or act, and not merely the entry of merchandise. This is meant to prevent innocent parties who are somehow involved in the entry from being charged with a 592 violation.

Third, as part of the General Rule, there is added language found in the present law, as well as in the House version, to the effect that the 592 violations are punishable "whether or not the United States is or may be deprived of the lawful duties, or any portion thereof."

Fourth, the standards for determining t[illegible] maximum penalties for violations of secti[illegible] 592 remain as provided in the House b[illegible] *e.g.*, "domestic value" of the merchandi[illegible] would be the standard for the maximu[illegible] penalty for fraudulent violations.

Fifth, conferees added language requiri[illegible] that an individual will be promptly notifi[illegible] in writing when Customs determines, aft[illegible] considering any representations made [illegible] response to the prepenalty notice, that th[illegible] is in fact no violation.

Sixth, the conferees also added House la[illegible] guage, deleted in the Senate, that an alleg[illegible] violator shall have a reasonable opportunit[illegible] under the mitigation procedures, to ma[illegible] both oral and written representations con[illegible] ing remission or mitigation of the monetar[illegible] penalty. At the conclusion of any such pr[illegible] ceeding, the appropriate Customs officer sh[illegible] provide to the person concerned a writt[illegible] statement which sets forth the final dete[illegible] mination and the findings of fact and co[illegible] clusions of law on which such determinatio[illegible] is based.

For 592 cases which are before the cour[illegible] after the date of enactment but prior [illegible] the effectiveness of the revised section 5[illegible] the managers intend that, for the purpose [illegible] applying the judicial review provisions, t[illegible] court will have full discretion to look at t[illegible] merits of the case and make its own inde[illegible] pendent determination on the appropria[illegible] amount of the penalty and would not [illegible] bound by the old maximum penalty whic[illegible] was set out in the old 592. The court woul[illegible] not, of course, be authorized to assess [illegible] penalty *above* the maximum penalty allow[illegible] able under old section 592.

AMENDMENT NUMBERED 58

The House bill revision of section 592 [illegible] the Tariff Act of 1930 would be effective wit[illegible] respect to proceedings which begin on [illegible] after the 90th day after the date of enact[illegible] ment of H.R. 8149. The only exception to th[illegible] rule would make section 592(g), providin[illegible] for de novo judicial review of all issues in [illegible] 592 case, effective on the date of enactmen[illegible]

Senate amendment numbered 58 woul[illegible] apply section 592 as existed on the day be[illegible] fore the date of enactment to all intentiona[illegible] acts or omissions committed before the da[illegible] of enactment if the violation of section 59[illegible] was the subject of a Customs Service in[illegible] vestigation before such date. The Senat[illegible] amendment would apply the Senate revisio[illegible] of section 592 to all proceedings, excep[illegible] proceedings described in the preceding sen[illegible] tence, begun after the 89th day after th[illegible] date of enactment. The only exception t[illegible] both effective date rules in the Senat[illegible] amendment would make de novo judici[illegible] review under section 592(e) effective on th[illegible] date of enactment.

The House receded from its disagreemen[illegible] with the Senate amendment and agreed t[illegible] the same with an amendment. The confer[illegible] ence agreement would apply section 592 a[illegible] it existed on the day before the date o[illegible] enactment to any alleged intentional viola[illegible] tion of such section 592 involving televisio[illegible] receivers that are the product of Japan an[illegible] that were or are the subject of antidumpin[illegible] proceedings if the alleged violation—

(1) occurred before the date of enactmen[illegible] of H.R. 8149, and

(2) was the subject of an investigation b[illegible] the Customs Service which was begun befor[illegible] the date of enactment of H.R. 8149.

De novo judicial review would be availabl[illegible] for all issues arising in section 592 case[illegible] covered by the preceding sentence when th[illegible] Government commences a proceeding unde[illegible] section 604 of the Tariff Act of 1930 to col[illegible] lect a monetary penalty imposed under sec[illegible] tion 592. In such a proceeding, the Unite[illegible] States would have the burden of proof t[illegible]

establish such an intentional violation by a

mines that the Internal Revenue Code stemp

[illegible]

establish such an intentional violation by a preponderence of evidence. The de novo review would include the amount of the penalty, which as in all cases to which new section 592(e) applies, could be reduced by the court or increased up to the maximum amount provided by law.

Except for intentional violations described in the preceding paragraph, the conference revision of section 592 would be effective for all proceedings begun after the 89th day after the date of enactment. The only exception to this rule would be section 592(e), providing for de novo review, which would be effective on the date of enactment.

The managers intend that, for purposes of the effective date rules, proceedings begin when the Customs Service issues a prepenalty notice, or, if none is, required, when Customs issues a penalty notice. The managers also intend that the entry or attempted entry of merchandise into the commerce of the United States by means of a document or statement reporting a price for such merchandise in excess of the price ultimately paid for such merchandise, after rebates, kickbacks, or other devices, for the purpose of avoiding assessment of antidumping duties be considered to be false within the meaning of section 592.

AMENDMENTS NUMBERED 64, 65, 66 AND 67

The House bill would add a new section 625 to the Tariff Act of 1930 requiring any ruling under the Tariff Act of 1930 with respect to "prospective customs transactions" to be published in the Customs Bulletin or otherwise be made available for public inspection. This provision would enact into law part of existing regulations.

Senate amendments numbered 64, 65, 66 and 67 would require all precedential decisions, including a ruling letter, internal advice memorandum, or protest review decision, to be published or otherwise made available to the public.

The House receded from its disagreement with the Senate amendments and agreed to the same.

AMENDMENT NUMBERED 68

The House bill would require brokers' licenses to be renewed every 3 years. Brokers would have to apply for renewal during the 90-day period before their current license expires. Outstanding licenses would not have to be renewed until 3 years after the date of enactment of H.R. 8149.

Senate amendment numbered 68 deleted the House provision.

The House receded from its disagreement to the Senate amendment with an amendment which would require each licensed customhouse broker to report to the Secretary of the Treasury on February 1, 1979, and on February 1 of each third year thereafter. The report would state whether the individual, partnership, or corporation reporting is actively engaged in business as a customhouse broker and the name under, and address at which such business is being transacted. In the case of a reporting partnership or corporation, the managers intend that the names and addresses of the licensed individuals who qualify the partnership or corporation for a license also be reported.

AMENDMENT NUMBERED 78

The House bill would amend section 5205 (a)(2)(C) of the Internal Revenue Code of 1954 to exempt from the Code's mandatory stamping requirement imported distilled spirits, the stamping of which may be required under customs laws, whether or not it is in fact stamped.

Senate amendment numbered 78 deleted the House provision.

The House receded from its disagreement with the Senate amendment and agreed to the same. The managers believe that if and when the Secretary of the Treasury determines that the Internal Revenue Code stamping requirement is not necessary for the collection and protection of the revenues, he can propose such a change to Congress for consideration.

AMENDMENT NUMBERED 82

The House bill would increase the amount of personal exemption accorded returning residents of the United States under TSUS item 813.31. The present exemption is $100 (or $200 in the case of persons arriving directly or indirectly from American Samoa, Guam, or the Virgin Islands); these amounts would be increased to $250 and $500, respectively. The House bill would continue the requirement under present law which permits duty-free entry under item 813.31 only with respect to articles accompanying the returning resident.

Senate amendment numbered 82 would increase the personal exemption for a returning U.S. resident under TSUS item 813.31 from $100 to $500. The amendment would increase the exemption from $200 to $1,000 for a U.S. resident returning directly or indirectly from American Samoa, Guam, or the Virgin Islands of the United States. Not more than $500 of the merchandise eligible for the $1,000 exemption could be acquired elsewhere than in those insular possessions.

The Senate amendment would also permit U.S. residents arriving directly or indirectly from American Samoa, Guam, or the Virgin Islands of the United States to apply the personal exemption to articles they purchase in the possessions but which do not accompany the arriving traveler through customs. That is to say, travelers would be allowed to apply the personal exemption to goods which they purchase in the possessions and then ship home. Customs would be required to publish regulations to carry out this provision.

The House receded from its disagreement with the Senate amendment and agreed to the same with an amendment which would increase the personal exemption from $100 to $300 (or $600 in the case of persons arriving directly or indirectly from the insular possessions). Not more than $300 of the merchandise eligible for the $600 exemption could be acquired elsewhere than in the possessions. Furthermore, the duty-free exemption would apply to articles not accompanying the traveler only if those articles are purchased in and shipped from the insular possessions.

AMENDMENT NUMBERED 91

The House bill would apply a flat 10-percent rate to all articles accompanying a returning resident which are intended for personal or household use, are not imported for another person and are not for resale, and are not worth more than $600 fair retail value, exclusive of duty-free articles. The flat rate of duty would be 5 percent for articles acquired in American Samoa, Guam, or the Virgin Islands of the United States. The flat rate would not apply to commercial entries or to articles not accompanying the person through customs. If the application of the flat rate of duty to particular merchandise results in increases in imports of that merchandise which adversely affect the economic interest of the United States, then the Secretary could exclude that merchandise from this provision.

Senate amendment numbered 91 would amend the House bill to apply the 5 percent rate (applicable to articles acquired in the insular possessions) to articles purchased by travelers while they are in the possessions even if the articles do not accompany the arriving traveler through customs, i.e., the traveler ships the goods home.

The House receded from its disagreement to the Senate amendment and agreed to the same. The managers intend the flat rate provisions to apply even if the fair retail value of eligible articles exceed $600. For example, if a traveler claims the benefit of item 869.00 or 869.10 and has eligible articles with a fair retail value of $700, then the appropriate flat rate would apply to $600 worth of the articles and rates otherwise applicable under the Tariff Schedules would apply to the excess $100 worth of articles.

AMENDMENT NUMBERED 101

The House bill would amend section 466 of the Tariff Act of 1930 to provide a monetary penalty up to the value of the vessel as an alternative to forfeiture of the vessel for the willful and knowing neglect or failure to report, make entry, and pay duties on repairs or equipment purchases made in a foreign country for a vessel of U.S. registry. It also would expand the acts penalized under section 466 to include the making or procuring of any false statement in respect to the purchases or repairs without reasonable cause to believe the truth of such statement.

Senate amendment numbered 101 leaves intact the House provision but would provide a prepenalty notice procedure to insure persons suspected of violating section 466 of an opportunity to discuss the circumstances of the alleged violation and the appropriateness of any possible penalty with Customs prior to the issuance of a penalty claim.

The House receded from its disagreement with the Senate amendment and agreed to the same.

AMENDMENT NUMBERED 106

The House bill would amend section 491 of the Tariff Act of 1930 to reduce from 1 year to 6 months the time in which merchandise must be retained in a general order warehouse before it is considered abandoned.

Senate amendment numbered 106 deleted the amendment in the House bill which would reduce from 1 year to 6 months the time in which the merchandise must be retained before it is considered abandoned.

The House receded from its disagreement to the Senate amendment and agreed to the same. While the Customs Service originally believed the present provision of 1 year was excessive in light of modern communications and the storage costs which Customs incurs, it reconsidered its position and believes the 1-year period provided by present law should be retained to conform with present commercial practices.

AMENDMENT NUMBERED 114

The House bill would add a new section 504 to the Tariff Act of 1930. Subsection (a) of the new section would provide that an entry is deemed liquidated if not actually liquidated within 1 year from: (1) the date of entry, (2) the date of final withdrawal of all the merchandise covered by a warehouse entry, or (3) the date of withdrawal from warehouse for consumption where duties may be deposited after the filing of an entry or withdrawal from warehouse. The merchandise would be deemed liquidated at the rate of duty, value, quantity, and amount of duties asserted by the importer, his consignee, or agent in the entry document and import documents filed with Customs under section 484 of the Tariff Act at the time of entry. Notice of liquidation by customs would not be required for entries deemed liquidated.

Senate amendment numbered 114 would require Customs to provide notice of liquidation in cases where an entry is deemed liquidated. The Senate recedes.

AMENDMENT NUMBERED 123

Section 42 of the Act of July 5, 1946, (15 U.S.C. 1124) prohibits the importation of merchandise which copies or simulates a registered trademark or which bears any mark or name calculated to induce belief that the merchandise is manufactured in the United States. Section 526 of the Tariff Act of 1930 (19 U.S.C. 1526) prohibits importation of goods bearing a trademark owned by a corporate or real citizen of the United States and registered in accordance with the

1946 Act, unless written consent of the trademark owner to the goods' importation has been given.

The House bill would amend section 526 to permit the entry of imported trademark merchandise accompanying persons arriving in the United States. The trademark goods would have to be for the arriving person's personal use and within limitations of type and quantity to be specified by the Secretary of the Treasury in regulations. It also would modify section 42 to except from the general trademark restrictions merchandise which falls within the exception under amended section 526.

Senate amendment numbered 123 would require the following with respect to imported goods which violate the provisions of section 42 relating to merchandise which copies or simulates a registered trademark:

(a) Notification of the trademark owner when such goods are seized;

(b) Forfeiture to the Government of all such goods seized unless the trademark owner provides written consent to some other disposition of the goods, e.g., reexportation, entry after obliteration of the counterfeit trademark, etc.;

(c) Delivery of forfeited goods to a Federal, State or local government agency which needs the goods for an official purpose or to a charitable institution;

(d) Sale of the goods at public auction if, after 1 year, Customs cannot deliver the goods to a government agency or charity; the counterfeit trademarks on goods put up for auction would have to be obliterated where feasible, i.e., when to do so would not destroy the goods or be disproportionately expensive vis-a-vis the value of the goods; and

(e) Destruction of goods which are unsafe or a hazard to health.

The House receded from its disagreement with the Senate amendment with amendments to clearly limit the Senate amendment to merchandise bearing a counterfeit mark as defined in section 45 of the Act of July 5, 1946 (the Lanham Act) as the amendment is intended solely to strengthen the remedies available to prevent the importation of merchandise bearing such a mark, and to require the obliteration of the counterfeit trademark where feasible in all cases before disposition of the merchandise by the Customs Service. The conferees intend that the Customs Service need do no more than publish a public notice of the availability of forfeited goods to State and local Government agencies and charitable institutions and allow a reasonable opportunity for response to the notice in order to meet its obligations to determine that these agencies or institutions have no need for such goods.

AMENDMENT NUMBERED 127

Section 2654, 4381, 4382, and 4383 of the Revised Statutes (49 U.S.C. 58, 46 U.S.C. 329, 330, and 333) impose specific dollar fees for certain enumerated services provided by customs officers to United States and foreign vessels. The House bill would repeal the statutes enumerated above and authorize the Secretary of the Treasury to set fees for furnishing the required services in an amount necessary to cover the cost of those services.

Senate amendment numbered 127 would clearly provide specific authority for the Secretary of the Treasury to set fees necessary to cover the costs of providing services similar to or the same as services furnished by customs officers under the sections repealed.

The House receded from its disagreement to the Senate amendment and agreed to the same.

AMENDMENT NUMBERED 130

Senate amendment numbered 130 would direct the Comptroller General of the United States, in cooperation with the Customs Service and Immigration and Naturalization Service, to study clearance procedures for individuals entering or reentering the United States. The Comptroller General must report his findings and recommendations to the Committee on Finance not later than February 1, 1979. There is no comparable provision in the House bill.

The House receded from its disagreement to the Senate amendment and agreed to the same with an amendment requiring the Comptroller General to make his report to the Committee on Ways and Means of the House, as well as to the Committee on Finance. The Conferees understand that the report will include a consideration of the necessity for officials of both the Customs Service and Immigration and Naturalization Service to process persons entering the United States, or whether the functions performed by these officials could be appropriately and adequately consolidated into one procedure. The report will be made by September 1, 1979.

AMENDMENT NUMBERED 133

The House bill would require, beginning in fiscal year 1980, an authorization of appropriations to the Department of the Treasury for the U.S. Customs Service. The authorization would be examined in the House and Senate by the Ways and Means Committee and Finance Committee, respectively. The House bill would authorize Customs Service appropriations of such sums as may be necessary for fiscal years 1980 and 1981, making appropriations for fiscal year 1982 the first year requiring separate authorization.

Senate amendment numbered 133 deleted that part of the House bill authorizing the appropriation of such sums as may be necessary for the Customs Service for fiscal years 1980 and 1981. This change would require a separate annual authorization beginning with fiscal year 1980.

The House receded from its disagreement with the Senate amendment and agreed to the same.

AL ULLMAN,
CHARLES A. VANIK,
DAN ROSTENKOWSKI,
JAMES JONES,
SAM GIBBONS,
W. A. STEIGER,
BILL FRENZEL,
Managers on the Part of the House.
RUSSELL B. LONG,
HERMAN E. TALMADGE,
ABRAHAM RIBICOFF,
HARRY F. BYRD, JR.,
GAYLORD NELSON,
DANIEL PATRICK MOYNIHAN,
CARL T. CURTIS,
CLIFFORD P. HANSEN,
BOB PACKWOOD,
WILLIAM V. ROTH, JR.,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 11401

Mr. BROWN of California submitted the following conference report and statement on the bill (H.R. 11401) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 95-1509)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11401) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows: That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That there is hereby authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1978:

(a) For "Research and development", for the following programs:

(1) Space Shuttle, $1,443,200,000;

(2) Space flight operations, $315,900,000;

(3) Expendable launch vehicles, $74,000,000;

(4) Physics and astronomy, $265,500,000;

(5) Lunar and planetary exploration, $187,100,000;

(6) Life sciences, $42,600,000;

(7) Space applications, $280,200,000;

(8) Technology utilization, $12,100,000;

(9) Aeronautical research and technology, $275,100,000;

(10) Space research and technology, $111,300,000;

(11) Energy technology applications, $5,000,000; and

(12) Tracking and data acquisition, $305,400,000;

(b) For "Construction of facilities", including land acquisition, as follows:

(1) Modification of unitary plan wind tunnel, Ames Research Center, $5,290,000;

(2) Modification of 3.5-foot wind tunnel, Ames Research Center, $1,870,000;

(3) Modification of 12-foot pressure wind tunnel, Ames Research Center, $2,510,000;

(4) Modifications and additions for logistics and supply functions, Goddard Space Flight Center, $5,640,000.

(5) Modifications and addition to the space flight operations facility, Jet Propulsion Laboratory, $3,060,000;

(6) Modifications to various buildings for seismic protection, Jet Propulsion Laboratory, $1,570,000;

(7) Modifications for utility control system, Langley Research Center, $1,980,000;

(8) Rehabilitation of unitary plan wind tunnel, Langley Research Center, $4,520,000;

(9) Construction of research analysis center, Lewis Research Center, $6,140,000;

(10) Large aeronautical facility: construction of national transonic facility, Langley Research Center, $24,500,000;

(11) Large aeronautical facility: modification of 40- by 80-foot subsonic wind tunnel, Ames Research Center, $31,600,000;

(12) Space Shuttle facilities at various locations as follows:

(A) Modifications to launch complex 39, John F. Kennedy Space Center, $13,570,000;

(B) Modification of manufacturing and final assembly facilities for external tank, Michoud Assembly Facility, $13,960,000;

(C) Modifications to solid rocket motor manufacturing and assembly facilities, Thiokol Plant, Wasatch, Utah, $1,920,000;

(D) Minor Shuttle-unique projects, various locations, $1,600,000;

(13) Rehabilitation and modification of facilities at various locations, not in excess of $500,000 per project, $15,200,000;

(14) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $250,000 per project, $4,200,000; and

(15) Facility planning and design not otherwise provided for, $10,650,000;

(c) For "Research and program management", $914,000,000, and such additional amounts as may be necessary

for increases in salary, pay, retirement or total cost of all work authorized and

for increases in salary, pay, retirement, or other employee benefits authorized by law.

(d) Notwithstanding the provisions of subsection 1(g), appropriations for "Research and development" may be used (1) for any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the Administration for the performance of research and development contracts, and (2) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to insure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" pursuant to this Act may be used in accordance with this subsection for the construction of any major facility, the estimated cost of which, including collateral equipment, exceeds $250,000, unless the Administrator or his designee has notified the Speaker of the House of Representatives and the President of the Senate and the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the nature, location, and estimated cost of such facility.

(e) When so specified and to the extent provided in an appropriation act, (1) any amount appropriated for "Research and development" or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities, and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of 12 months beginning at any time during the fiscal year.

(f) Appropriations made pursuant to subsection 1(c) may be used, but not to exceed $25,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator and his determination shall be final and conclusive upon the accounting officers of the Government.

(g) Of the funds appropriated pursuant to subsections 1(a) and 1(c), not in excess of $25,000 for each project, including collateral equipment, may be used for construction of new facilities and additions to existing facilities, and not in excess of $50,000 for each project, including collateral equipment, may be used for rehabilitation or modification of facilities: *Provided*, That of the funds appropriated pursuant to subsection 1(a), not in excess of $250,000 for each project, including collateral equipment, may be used for any of the foregoing for unforeseen programmatic needs.

SEC. 2. Authorization is hereby granted whereby any of the amounts prescribed in paragraphs (1) through (14), inclusive, of subsection 1(b)—

(1) in the discretion of the Administrator or his designee, may be varied upward 10 percent, or

(2) following a report by the Administrator or his designee to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the circumstances of such action, may be varied upward 25 percent,

to meet unusual cost variations, but the total cost of all work authorized under such paragraphs shall not exceed the total of the amounts specified in such paragraphs.

SEC. 3. Not to exceed one-half of 1 percent of the funds appropriated pursuant to subsection 1(a) hereof may be transferred to the "Construction of facilities" appropriation, and, when so transferred, together with $10,000,000 of the funds appropriated pursuant to subsection 1(b) hereof (other than funds appropriated pursuant to paragraph (15) of such subsection) shall be available for expenditure to construct, expand, or modify laboratories and other installations at any location (including locations specified in subsection 1(b)), if (1) the Administrator determines such action to be necessary because of changes in the national program of aeronautical and space activities or new scientific or engineering developments, and (2) he determines that deferral of such action until the enactment of the next authorization act would be inconsistent with the interest of the Nation in aeronautical and space activities. The funds so made available may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No portion of such sums may be obligated for expenditure or expended to construct, expand, or modify laboratories and other installations unless (A) a period of 30 days has passed after the Administrator or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate and to the Committee on Science and Technology of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a written report containing a full and complete statement concerning (1) the nature of such construction, expansion, or modification, (2) the cost thereof including the cost of any real estate action pertaining thereto, and (3) the reason why such construction, expansion, or modification is necessary in the national interest, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

SEC. 4. Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the House Committee on Science and Technology or the Senate Committee on Commerce, Science, and Transportation.

(2) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by subsections 1(a) and 1(c), and

(3) no amount appropriated pursuant to this Act may be used for any program which has not been presented to or requested of either such committee,

unless (A) a period of 30 days has passed after the receipt by the Speaker of the House of Representatives and the President of the Senate and each such committee of notice given by the Administrator or his designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

SEC. 5. It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

SEC. 6. Section 203 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473) is amended—

(1) by inserting "(1)" after "(b)" in the subsection which was added by section 15(c) of Public Law 94-413; and

(2) by redesignating the subsection which was added by section 4 of Public Law 93-409 (and redesignated by section 15(c) of Public Law 94-413) as paragraph (2) of subsection (b).

SEC. 7. (a) Section 102 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451) is amended (1) by redesignating subsection (f) as subsection (g) thereof; and (2) by inserting immediately after subsection (e) thereof the following new subsection.

"(f) The Congress declares that the general welfare of the United States requires that the unique competence of the National Aeronautics and Space Administration in science and engineering systems be directed to assisting in bioengineering research, development, and demonstration programs designed to alleviate and minimize the effects of disability.".

(b) The subsection of section 102 of such Act redesignated as subsection (g) by subsection (a) of this section is amended by striking out "and (e)" and inserting in lieu thereof "(e), and (f)".

SEC. 8. The Administrator of the National Aeronautics and Space Administration will report to the House Committee on Science and Technology and the Senate Committee on Commerce, Science, and Transportation no later than December 31, 1978, on the Administration policy regarding conflicts of interest, standards of conduct and financial disclosure and the implementation of that policy.

SEC. 9. This Act may be cited as the "National Aeronautics and Space Administration Authorization Act, 1979".

And the Senate agree to the same.

OLIN E. TEAGUE,
DON FUQUA,
ROBERT A. ROE,
DALE MILFORD,
JAMES F. LLOYD,
JOHN W. WYDLER,
LARRY WINN, JR.,
Managers on the Part of the House.

HOWARD W. CANNON,
WARREN G. MAGNUSON,
ADLAI E. STEVENSON,
WENDELL H. FORD,
BARRY M. GOLDWATER,
HARRISON H. SCHMITT,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11401) to authorize appropriations to the National Aeronautics and Space Administration for fiscal year 1979 for Research and Development, Construction of Facilities and Research and Program Management, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The NASA request for fiscal year 1979 totaled $4,371,600,000. The House authorized $4,415,300,000 and the Senate amendment authorized $4,388,600,000. The committee of conference agrees to a total authorization for fiscal year 1979 of $4,401,600,000 as follows:

SUMMARY, FISCAL YEAR 1979

Fiscal year 1979	Budget request	House action	Senate committee action	Committee conference
Research and development:				
Space Shuttle	$1,439,300,000	$1,443,300,000	$1,443,300,000	$1,443,300,000
Space flight operations	311,900,000	308,900,000	318,900,000	315,900,000
Expendable launch vehicles	76,500,000	71,500,000	76,500,000	74,000,000
Physics and astronomy	285,500,000	285,500,000	285,500,000	285,500,000
Lunar and planetary exploration	187,100,000	187,100,000	187,100,000	187,100,000
Life sciences	40,600,000	40,600,000	42,600,000	42,600,000
Space applications	274,300,000	288,300,000	274,300,000	280,300,000
Technology utilization	9,100,000	14,600,000	9,100,000	12,100,000
Aeronautical research and technology	264,100,000	292,300,000	264,100,000	275,100,000
Space research and technology	108,300,000	111,300,000	111,300,000	111,300,000
Energy technology applications	3,000,000	6,000,000	4,000,000	5,000,000
Tracking and data acquisition	305,400,000	304,400,000	305,400,000	305,400,000
Total	3,305,100,000	3,353,800,000	3,322,100,000	3,337,000,000
Construction of facilities	152,500,000	147,500,000	152,500,000	150,000,000
Research and program management	914,000,000	914,000,000	914,000,000	914,000,000
Grand total	4,371,600,000	4,415,300,000	4,388,600,000	4,401,600,000

The points in disagreement and the conference resolution of them are as follows:

1. NASA requested $311,900,000 for the space flight operations program.

The House authorized $308,900,000, a reduction of $3 million in the request resulting from a $10 million cut in the development, test and mission operations subprogram and the addition of $7 million to the advanced programs subprogram.

The Senate authorized $318,900,000, agreeing with the NASA request for the development, test and mission operations subprogram as necessary to support shuttle development and other space flight activity, and adding $7 million to the NASA request increasing the amount for advanced programs from $5 million to $12 million.

The conference substitute authorizes $315,900,000 for the space flight operations program.

The conferees are concerned that the subprogram categories within the space flight operations program are not sufficient to serve budgeting and costing policies as the space shuttle development effort declines and new projects, including shuttle operations, command a larger share of technical support resources provided under this program. Of particular concern is the need to assure that all appropriate costs are allocated to shuttle operations so that all users bear an equitable share of the cost of technical support. Accordingly, the conferees request that the budget categories in this program be reviewed and that changes be made so costs are related as precisely as possible to the program activities which they support. The fiscal year 1980 budget presentation should reflect this request.

2. The House authorized $71,500,000 for the expendable launch vehicles program, a reduction of $5 million in the NASA request, believing that the phaseout of these vehicles in favor of the shuttle presented opportunities for economies.

The Senate approved the NASA request of $76,500,000 noting the importance of adequate technical and other support to assure successful launch performance for expensive payloads.

The committee of conference authorizes $74 million for the expendable launch vehicles program.

3. NASA requested $40,600,000 for the life sciences program.

The House authorized the NASA request.

The Senate authorized $42,600,000, increasing the NASA request by $2 million for additional work on life science experiments for the spacelab program.

The conference substitute authorizes $42,600,000.

4. The House authorized $288,300,000 for the space applications program, an increase of $14 million in the NASA request of $274,300,000. Of the $14 million increase, the House allocated $10 million to augment earth resources applications transfer and demonstration activities, including support to State and private sector users, with the remaining $4 million to be used to initiate development of a stereosat remote sensing satellite system contingent upon industrial financial participation in the project.

The Senate authorized the NASA request, $274,300,000.

The conference substitute authorizes $280,300,000 for the space applications program.

The conferees request that NASA, utilizing not to exceed $1 million of the funds authorized for the space applications program, resume definition studies for a stereosat spacecraft system in preparation for initiation of the project in the fiscal year 1980 budget. The conferees agree that such a project initiation is to be contingent upon agreement with industry for substantial cost participation therein, and request NASA to continue its current efforts to achieve such an agreement as expeditiously as possible.

5. NASA requested $9,100,000 for the technology utilization program.

The House authorized $14,600,000, an increase of $5,500,000 of which $1,500,000 was to increase the scope and effectiveness of industrial applications centers, dissemination mechanisms and other aspects of the program, and of which $4 million was to be used to support the maintenance of aggressive programs in bioengineering applications in the areas of materials, human factors engineering and electronics to assist the handicapped and to alleviate the problems of the disabled.

The Senate authorized the NASA request noting that a collaborative study effort involving NASA and several other agencies is underway to examine and better understand the technology transfer process to determine how and where additional resources could be productively applied, and also noting that NASA has supported for several years a biomedical applications activity addressing problems of the handicapped as well as other medical problems and that $1,700,000 is authorized to continue such activities.

The conference substitute authorizes $12,100,000 for the technology utilization program.

The conferees agree that NASA should increase the scope of the industrial applications centers and maintain an aggressive program for transferring its technology to bioengineering applications. These applications should be directed to aiding the handicapped, utilizing NASA's unique competence and expertise in materials, human factors engineering, electronics and automated systems. The conferees agree further that NASA shall enhance its working relationships with the Department of Health, Education, and Welfare, the Veterans Administration, and other interested agencies of the Government to assure that the maximum benefit to the handicapped results from these activities.

6. NASA requested $264,100,000 for the aeronautical research and technology program.

The House authorized $292,300,000 for this program, an increase of $28,200,000. Of the increase, $26,700,000 was to be applied to restore an OMB reduction in work on composite primary aircraft structures, and $1,500,000 was to establish a subline item for aerial applications technology. Also the House added $12 million to accelerate the variable cycle engine and supersonic cruise aircraft research programs, offsetting the addition with an equivalent reduction from the near-term components of the engine components improvement and the energy efficient transport programs.

The Senate authorized $264,100,000, the NASA request, to permit time for further study of the problem of "free-floating" graphite fibers used in the fabrication of composite structures and to provide funds for the aircraft energy efficiency program at the level requested by NASA. The Senate also requested NASA to provide for continuation of its aerial applications technology activity after fiscal year 1979.

The conference substitute authorizes $275,100,000 for the aeronautical research and technology program.

The committee of conference agrees to support the NASA budget request, together with an increase of $11 million to be applied on a priority basis to variable cycle engine, supersonic cruise technology, aerial applications technology, and composite materials technology, for a total authorization of $275,100,000 for the aeronautical research and technology program.

The conferees also urge NASA to review the near-term vs. far-term balance of the aeronautical research and technology program with a view toward achieving a greater emphasis on far-term work.

7. The House increased the NASA request of $3 million for the energy technology applications program by $3 million for space-related technology advancement for the solar power satellite (SPS) concept.

The Senate authorized $4 million for this program, increasing the NASA request by $1 million to support additional activity to identify and verify potential contributions to national energy needs. The Senate noted that a joint Department of Energy/NASA SPS concept development and evaluation program is underway and that funding for this and related SPS activities is the responsibility of the Department of Energy.

The conference substitute authorizes $4 million for the energy technology applications program.

8. NASA requested $305,400,000 for the tracking and data acquisition program.

The House authorized $304,400,000, a decrease of $1 million from the request, the net result of a $5 million cut to assure full advantage is taken of cost reduction opportunities in network operations, and the addition of $4 million to initiate development of and equipment procurement for a new spacelab data processing center at the Goddard Space Flight Center.

The Senate authorized $305,400,000, the NASA request, believing that full funding of network operations is essential to mission success and that the spacelab data center, for which significant research and development and construction of facilities funds

are required, should be presented in the fis-

HOWARD W. CANNON,

remarks on S. 9 Outer Continental Shelf

are required, should be presented in the fiscal year 1980 budget.

The conference substitute authorizes $305-400,000 for the tracking and data acquisition program.

The conferees agree that NASA may utilize to the extent required up to $4 million of the funds authorized in the operations subprogram for the development and procurement of long leadtime items of equipment for a spacelab data processing center.

9. The House reduced the NASA request for the rehabilitation and modification of facilities line item by $5 million, reducing it from $17,800,000 to $12,800,000, indicating that several projects did not appear to be high priority for fiscal year 1979 authorization.

The Senate authorized $17,800,000, the NASA request, noting the importance of this line item to maintaining the $6.1 billion NASA plant investment, upgrading facilities to support new technologies and changing missions, and to attacking special problems such as energy conservation.

The committee of conference authorizes $15,300,000 for the rehabilitation and modification of facilities line item.

10. The House bill consolidated the two construction of facilities projects for large aeronautical facilities in subsection 1(b)(10), designating them as items (10)(A) and (10)(B), respectively.

The Senate amendment established each of these projects as an individual line item within the construction of facilities subsection noting they are major, individual, unrelated and separate undertakings, and believing they should be presented accordingly. The remaining line items in subsection 1(b) were renumbered to conform with this change.

The committee of conference adopts the Senate position.

11. The House bill, in section 7, included complementary amendments to sections 102 and 203 of the National Aeronautics and Space Act of 1958, as amended, directing NASA to carry out research, development, demonstrations, and related activities in bioengineering to assist handicapped individuals and lessen or alleviate the problems of disability.

The Senate did not include an equivalent section in its amendment noting that the conduct of such activities by NASA, to the extent desired and appropriate, is embodied in the Space Act as now constituted.

The conference substitute adopts a section 7 amending section 102 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451), as amended, to declare that NASA competence in science and engineering should be used to assist in bioengineering research, development and demonstration programs to alleviate and minimize the effects of disability.

12. The House adopted, as section 8 of its bill, a provision requiring the Administrator of NASA to report, by December 31, 1978, to the respective authorizing committees of the House and the Senate on NASA policy regarding conflicts of interest, standards of conduct, and financial disclosure and the implementation of that policy.

The Senate amendment to the bill did not include a comparable provision.

The committee of conference adopts the House position including the House provision as section 8 of the conference substitute.

OLIN E. TEAGUE,
DON FUQUA,
ROBERT A. ROE,
DALE MILFORD,
JAMES F. LLOYD,
JOHN W. WYDLER,
LARRY WINN, Jr.,
Managers on the Part of the House.

HOWARD W. CANNON,
WARREN G. MAGNUSON,
ADLAI E. STEVENSON,
WENDELL H. FORD,
BARRY M. GOLDWATER,
HARRISON H. SCHMITT,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. RODINO (at the request of Mr. WRIGHT), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. MOORHEAD of Pennsylvania, for 15 minutes today, and to include extraneous matter.

(The following Members (at the request of Mr. RUDD), to revise and extend their remarks, and to include extraneous matter to:)

Mr. KEMP, for 10 minutes, today.
Mr. CONABLE, for 10 minutes, today.
Mr. MCDADE, for 5 minutes, today.
Mr. WAMPLER, for 15 minutes, today.
Mr. HAMMERSCHMIDT, for 5 minutes, today.
Mr. CLEVELAND, for 5 minutes, today.
Mr. CORCORAN of Illinois, for 5 minutes, today.
Mr. YOUNG of Florida, for 5 minutes, today.
Mrs. FENWICK, for 5 minutes, today.
Mr. GRASSLEY, for 30 minutes, today.
Mr. BOB WILSON, for 5 minutes, today.
Mr. GREEN, for 5 minutes, today.

(The following Members (at the request of Mr. AKAKA) to revise and extend their remarks and include extraneous material:)

Mr. MINISH, for 15 minutes, today.
Mr. MCFALL, for 10 minutes, today.
Mr. BRADEMAS, for 5 minutes, today.
Mrs. MEYNER, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. PEPPER, for 5 minutes, today.
Mr. AMBRO, for 5 minutes, today.
Mr. WIRTH, for 5 minutes, today.
Mr. ALEXANDER, for 5 minutes, today.
Mr. BROWN of California, for 5 minutes, today.
Mr. DE LA GARZA, for 5 minutes, today.
Mr. MEEDS, for 5 minutes, today.
Mr. NEAL, for 5 minutes, today.
Ms. HOLTZMAN, for 5 minutes, today.
Mr. BLANCHARD, for 5 minutes, today.
Mr. LAFALCE, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. GORE, in the permanent RECORD, on H.R. 13511, on August 10, 1978.

Mr. WEISS, to include statement in permanent RECORD as part of debate on H.R. 13551 on Thursday, August 10, 1978.

Mr. DINGELL, to revise and extend his remarks on S. 9, Outer Continental Shelf Lands Act Amendments of 1978, prior to vote on the conference report.

(The following Members (at the request of Mr. RUDD), and to include extraneous matter:)

Mr. PURSELL in two instances.
Mr. ANDERSON of Illinois in four instances.
Mr. BOB WILSON.
Mr. DERWINSKI in three instances.
Mr. COUGHLIN.
Mr. RHODES.
Mr. KEMP.
Mr. HYDE.
Mr. LUJAN.
Mr. DORNAN in two instances.
Mr. HAGEDORN.
Mr. PRITCHARD.
Mr. HANSEN in nine instances.
Mr. RUPPE.
Mr. CRANE.
Mr. ROUSSELOT in five instances.
Mrs. HOLT.
Mr. SPENCE.
Mr. PINDLEY in four instances.
Mr. STEERS.
Mr. MICHEL.
Mr. LENT.
Mr. WYDLER in two instances.
Mr. GILMAN.
Mr. MOORE.
Mr. CARTER.
Mr. WIGGINS.
Mr. PRESSLER in two instances.

(The following Members (at the request of Mr. AKAKA), and to include extraneous matter:)

Mr. SIMON.
Mr. EVANS of Georgia.
Mr. ADDABBO in two instances.
Mr. MAZZOLI in two instances.
Mr. PATTISON of New York.
Mr. GORE.
Mr. HARRINGTON in two instances.
Mr. MOORHEAD of Pennsylvania.
Mr. BAUCUS in 10 instances.
Mr. PEASE.
Mr. DODD in two instances.
Mr. HAMILTON.
Mr. GONZALEZ in three instances.
Mr. ANDERSON of California in three instances.
Mr. O'NEILL.
Mr. WEISS in six instances.
Mr. OTTINGER.
Mr. RANGEL in three instances.
Mr. TRAXLER.
Mr. SOLARZ in two instances.
Mr. PEPPER in two instances.
Ms. HOLTZMAN.
Mr. NOLAN in two instances.
Mr. EDGAR.
Mr. LONG of Maryland.
Mr. MINETA.
Mr. MILLER of California.
Mr. LUKEN.
Mr. BRECKINRIDGE in four instances.
Mr. LAFALCE.
Mr. RICHMOND.
Mr. MURTHA.
Mr. ZABLOCKI in two instances.
Mr. MOSS in three instances.
Mr. FISHER.
Mr. STARK in two instances.
Mrs. MEYNER.
Mrs. BOGGS.
Mr. DRINAN.

Mr. ROSTENKOWSKI.
Mr. MANN.
Mr. HAWKINS.
Mr. BRADEMAS.
Mr. RUSSO in three instances.
Mr. MATHIS in three instances.
Mr. EVANS of Indiana.
Mr. CONYERS.
Mr. MIKVA.

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 8771. An act to amend title 5, United States Code, to authorize the Civil Service Commission to comply with the terms of a court decree, order, or property settlement in connection with the divorce, annulment, or legal separation of a Federal employee who is under the civil service retirement system, and for other purposes.

ADJOURNMENT

Mr. AKAKA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. Pursuant to the provisions of House Concurrent Resolution 696, 95th Congress, the House stands adjourned until 12 o'clock meridian, Wednesday, September 6, 1978.

Thereupon (at 5 o'clock and 57 minutes p.m.), pursuant to House Concurrent Resolution 696, the House adjourned until Wednesday, September 6, 1978, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4836. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of certain defense equipment and services to Saudi Arabia (transmittal No. 78-95), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

4837. A letter from the Secretary of the Interior, transmitting the annual report for calendar year 1977 on administration of the Federal Metal and Nonmetallic Mine Safety Act pursuant to section 20 of the act (Public Law 89-577); to the Committee on Education and Labor.

4838. A letter from the Deputy Under Secretary of State for Management, transmitting notice of a proposed change in a records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4839. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense services to Saudi Arabia (transmittal No. 78-81), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4840. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment and services to Saudi Arabia (transmittal No. 78-95), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4841. A letter from the Secretary of Agriculture, transmitting notice of a delay in preparation of the report on the review of primitive areas in the National Forest System to determine appropriate areas for redesignation to class I where air quality related values are important attributes of the area, required by section 164(d) of the Clean Air Act, as amended; to the Committee on Interstate and Foreign Commerce.

4842. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting the first annual report of the Task Force on Environmental Cancer and Heart and Lung Disease, pursuant to section 402 of Public Law 95-95; to the Committee on Interstate and Foreign Commerce.

4843. A letter from the Secretary of the Army, transmitting a final environmental impact statement and supplemental information on the Theodore Ship Channel, Mobile Harbor, Ala., pursuant to section 404(r) of the Federal Water Pollution Control Act, as amended (86 Stat. 884; 91 Stat. 1605); jointly, to the Committees on Public Works and Transportation, and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DIGGS: Committee on the District of Columbia. S. 3120. An act to enhance the flexibility of contractual authority of the Temporary Commission on Financial Oversight of the District of Columbia (Rept. No. 95-1504). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLLING: Committee on Rules. House Resolution 1323. Resolution providing for the consideration of H.R. 1. A bill to require candidates for Federal office. Members of the Congress, and officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions (Rept. No. 95-1505). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 1324. Resolution providing for the consideration of H.R. 12611. A bill to amend the Federal Aviation Act of 1958 to improve air service and provide flexibility in air fares Rept. No. 95-1506). Referred to the House Calendar.

Mr. LONG of Louisiana: Committee on Rules. House Resolution 1325. Resolution providing for the consideration of H.R. 13059. A bill authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood controls, and for other purposes (Rept. No. 95-1507). Referred to the House Calendar.

Mr. MURPHY of Illinois: Committee on Rules. House Resolution 1326. Resolution providing for the consideration of H.R. 11733. A bill to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes (Rept. No. 95-1508). Referred to the House Calendar.

Mr. TEAGUE: Committee of conference. Conference report on H.R. 11401 (Rept. No. 95-1509). Ordered to be printed.

Mr. UDALL. Committee on Interior and Insular Affairs. H.R. 9945. A bill to amend the act creating the Indian Claims Commission to repeal the provision limiting the activities of Commissioners during the 2 years following their terms of office; with amendment (Rept. No. 95-1510). Referred to the House Calendar.

Mr. JOHNSON of California. Committee on Public Works and Transportation. H.R. 12597. A bill to authorize the Architect of the Capitol to install solar collectors for furnishing a portion of the energy needs of the Rayburn House Office Building and House Office Building Annex No. 2, and for other purposes; with amendment (Rept. No. 95-1513). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 12086. A bill to provide that members of the Sisseton-Wahpeton Sioux Tribe may request the Secretary of the Interior to acquire certain lands, and to provide that the tribe shall have a preference right to purchase certain lands held in trust by the United States for tribal members; with amendment (Rept. No. 95-1511). Referred to the Committee of the Whole House on the State of the Union.

Mr. TEAGUE: Committee on Science and Technology. H.R. 12559. A bill to establish a research and development effort resulting in the commercialization of native latex rubber; with amendment (Rept. No. 95-1512, Pt. I). Ordered to be printed.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 13808. A bill to designate the "Omar Burleson Federal Building"; with amendment (Report No. 95-1514). Referred to the House Calendar.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 13809. A bill to designate the "George H. Mahon Building"; with amendment (Report No. 95-1515). Referred to the House Calendar.

Mr. ULLMAN: Committee of conference. Conference report on H.R. 8149 (Rept. No. 95-1517). Ordered to be printed.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. ULLMAN: Committee on Ways and Means. H.R. 13814. A bill to amend section 8 of Public Law 93-233 to permit California to continue cash payments to SSI recipients in lieu of food stamps; with amendment (Rept. No. 95-1516, pt. I). Referred to the Committee on Appropriations for a period not to exceed 15 legislative days with instructions to report back to the House as provided in section 401(b) of Public Law 93-344.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of California (for himself, Mr. JOHNSON of California, and Mr. HANNAFORD):

H.R. 13908. A bill to provide assistance to airport operators to prepare and carry out noise compatibility programs, to provide assistance to aircraft operators to comply with noise standards, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. ANDERSON of Illinois:

H.R. 13909. A bill to secure and protect the freedom of the press from unwarranted intrusions by persons acting under color of law; to the Committee on the Judiciary.

By Mr. AUCOIN:

H.R. 13910. A bill to amend the Tariff Schedules of the United States to provide

temporary suspension of the duty on certain freight car parts; to the Committee on Ways and Means.

By Mr. BIAGGI (for himself, Mr. MURPHY of New York, and Mr. TREEN):

H.R. 13911. A bill to improve recreational boat safety through the financing of boating safety services projects and recreational boating facilities, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. BURKE of Florida:

H.R. 13912. A bill to amend title 39 of the United States Code to provide free postal service to the States and political subdivisions thereof for the mailing of sample ballots in connection with elections conducted by such States and political subdivisions; to the Committee on Post Office and Civil Service.

By Mr. CONABLE (for himself and Mr. CORMAN):

H.R. 13913. A bill to amend sections 856 and 857 of the Internal Revenue Code of 1954 to exclude from the application of the 100 percent tax on prohibited transactions the sale of certain property held for more than 4 years and to extend the period during which property may be treated as foreclosure property; to the Committee on Ways and Means.

By Mr. COBCORAN of Illinois:

H.R. 13914. A bill to amend the Internal Revenue Code of 1954 to allow a retirement savings deduction for persons covered by certain pension plans; to the Committee on Ways and Means.

By Mr. CORMAN (for himself and Mr. ROSS):

H.R. 13915. A bill to amend title XVIII of the Social Security Act to authorize payment under the medicare program for certain services performed by chiropractors; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. CORMAN (for himself, Mr. AUCOIN, Mr. PRITCHARD, and Mr. RYAN):

H.R. 13916. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for optometric and medical vision care; jointly, to the Committee on Ways and Means, and Interstate and Foreign Commerce.

By Mr. CORMAN (for himself, Mr. MURPHY of Illinois, Mr. PEPPER, and Mr. SHARP):

H.R. 13917. A bill to amend title XVIII of the Social Security Act to provide for the coverage of certain psychologists' services under the supplementary medical insurance benefits program established by part B of such title; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. CRANE:

H.R. 13918. A bill to protect the freedom of the press under the first amendment to the Constitution; to the Committee on the Judiciary.

By Mr. DE LA GARZA (for himself, Mr. ANDREWS of North Dakota, Mr. BAFALIS, Mr. IRELAND, and Mr. ROGERS):

H.R. 13919. A bill to make storage space available for 1978 sugar crop; to the Committee on Agriculture.

By Mr. GORE:

H.R. 13920. A bill to direct the President to seek an agreement with other countries to prohibit restrictive business practices, to amend the Trade Act of 1974 to allow the President to take certain actions against countries engaging in restrictive business practices, and for other purposes; jointly, to the Committees on International Relations, the Judiciary, and Ways and Means.

By Mr. GORE (for himself and Mr. MOSS):

H.R. 13921. A bill to amend the Federal Trade Commission Act to impose certain reporting requirements on U.S. persons with respect to restrictive business practices abroad, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, and the Judiciary.

H.R. 13922. A bill to amend the Federal Trade Commission Act to impose certain reporting requirements on U.S. persons with respect to restrictive business practices abroad, to direct the President to seek an agreement with other countries to prohibit restrictive business practices, and for other purposes; jointly, to the Committees on International Relations, Interstate and Foreign Commerce, the Judiciary, and Ways and Means.

By Mr. GRADISON (for himself, Mr. BARNARD, Mr. BEARD of Tennessee, Mr. BUTLER, Mr. MCCLOSKEY, Mr. RUDD, Mr. BOB WILSON, Mr. WAMPLER, and Mr. SEIBERLING):

H.R. 13923. A bill to amend the Internal Revenue Code of 1954 to provide for automatic cost-of-living adjustments in the income tax and withholding rates; to the Committee on Ways and Means.

By Mr. HAMMERSCHMIDT:

H.R. 13924. A bill to authorize veterans loan guaranty benefits notwithstanding usury provisions of State constitutions or statutes, and for other purposes; to the Committee on Veterans' Affairs.

By Mrs. HOLT (for herself, Mr. BADHAM, Mr. BROWN of Ohio, Mr. CEDERBERG, Mr. COCHRAN of Mississippi, Mr. DERWINSKI, Mr. GEPHARDT, Mr. GRASSLEY, Mr. GUYER, Mr. KINDNESS, Mr. LAFALCE, Mrs. LLOYD of Tennessee, Mr. LOTT, Mr. ROBINSON, Mr. RUDD, Mr. STANGELAND, and Mr. TRIBLE):

H.R. 13925. A bill to improve the congressional budget process by the establishment in the House of Representatives of a two-step budget procedure for the consideration of a first required concurrent resolution on the budget; to the Committee on Rules.

By Mr. HORTON:

H.R. 13926. A bill to amend section 131(c) of title 23, United States Code, to permit nonprofit organizations to advertise the availability of free coffee for individuals traveling on highways on the Interstate System or the primary system; to the Committee on Public Works and Transportation.

By Mr. JACOBS (for himself, Mr. BENJAMIN, Mr. CHAPPELL, Mr. CORNWELL, Mr. COTTER, Mr. MARTIN, Mr. PICKLE, Mr. SAWYER, Mr. STEIGER, and Mr. WHITEHURST):

H.R. 13927. A bill to amend title II of the Social Security Act to provide that renewal commissions, received by a retired insurance agent from life insurance policies which were sold by him before his retirement, shall not be taken into account in determining his net earnings from self-employment for purposes of the earnings test; to the Committee on Ways and Means.

By Mr. JEFFORDS (for himself and Mr. HOLLENBECK):

H.R. 13928. A bill to provide for the timely and safe disposal of radioactive ores, minerals, and mill tailings as well as physical facilities and material wastes of all types which are produced as a result of the use of nuclear energy; jointly, to the Committees on Armed Services, Interior and Insular Affairs, International Relations, and Interstate and Foreign Commerce.

By Mr. LENT:

H.R. 13929. A bill to amend the Trade Act of 1974; to the Committee on Ways and Means.

By Mr. MITCHELL of New York (for himself, Mr. KETCHUM, Mr. NEAL, Mr. MCDONALD, Mr. LEGGETT, Mr. LOTT, Mr. WALSH, Mr. TRIBLE, Mr. MANN, Mr. WHITEHURST, Mr. HALL, Mr. JENRETTE, Mr. EDWARDS of Oklahoma, Mr. SPENCE, Mr. ROSE, Mr. BOB WILSON, Mr. COBCORAN of Illinois, and Mr. DE LUGO):

H.R. 13930. A bill to amend the Federal Civil Defense Act of 1950 to authorize appropriations for the purposes of such act for fiscal years 1979 through 1985; to the Committee on Armed Services.

By Mr. MEEDS (for himself, Mr. ULLMAN, Mr. FOLEY, Mr. DUNCAN of Oregon, Mr. DICKS, Mr. MCCORMACK, Mr. CUNNINGHAM, Mr. HANSEN, and Mr. SYMMS):

H.R. 13931. A bill to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River Power System to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes; jointly, to the Committee on Interior and Insular Affairs, and Interstate and Foreign Commerce.

By Mr. MOTTL (for himself, Mr. BROOMFIELD, Mr. BRODHEAD, Mr. ASPIN, Ms. OAKAR, and Mrs. SPELLMAN):

H.R. 13932. A bill to direct the Civil Aeronautics Board to disapprove any renewal and terminate any effect of the Airlines Mutual Aid Pact and to prohibit the approval by the Civil Aeronautics Board of any agreement or pact the purposes of which are similar to the Airlines Mutual Aid Pact; to the Committee on Public Works and Transportation.

By Mr. PICKLE (for himself, Mr. FORD of Tennessee, and Mr. JONES of Oklahoma):

H.R. 13933. A bill to provide for the deferral of proposed arbitrage bond regulations; to the Committee on Ways and Means.

By Mr. PURSELL (for himself, Mr. OTTINGER, Mr. WHITEHURST, Mr. LAGOMARSINO, Mr. EILBERG, Mr. COLEMAN, Mr. WON PAT, Mr. KREBS, Mr. HOWARD, Mr. FRENZEL, Mr. MILFORD, Mr. DOWNEY, Mr. YATRON, Mr. CONTE, Mr. HUGHES, Mrs. SPELLMAN, Mr. PATTISON of New York, and Mr. FOUNTAIN):

H.R. 13934. A bill to encourage on-the-scene emergency care aboard aircraft by relieving physicians, registered nurses, and aircraft employees from civil liability for damages resulting from any act or omission in rendering such care; to the Committee on the Judiciary.

By Mr. QUAYLE:

H.R. 13935. A bill entitled the "Fair Treatment for Skilled Trades Act of 1978"; to the Committee on Education and Labor.

By Mr. SAWYER (for himself, Mr. MCCLOSKEY, Mr. FRENZEL, Mr. JOHNSON of Colorado, Mr. MCCLORY, Mr. HYDE, Mr. BUTLER, Mr. LEACH, Mr. PRITCHARD, Mr. GRADISON, Mr. WHITEHURST, Mr. COCHRAN of Mississippi, Mr. HILLIS, Mr. ANDERSON of Illinois, and Mr. ANDREWS of North Dakota):

H.R. 13936. A bill to amend title 18, United States Code, to restrict the issuance of search warrants with respect to certain property possessed by persons who are not suspects in a criminal investigation; to the Committee on the Judiciary.

By Mr. SEIBERLING:

H.R. 13937. A bill to amend title 28 of the United States Code to make certain changes in the division within the Northern District of Ohio; to the Committee on the Judiciary.

By Mrs. SPELLMAN:

H.R. 13938. A bill to amend title 5, United States Code, to provide that civilian air traffic controllers of the Department of Defense shall be treated the same as air traffic controllers of the Department of Transportation for purposes of retirement, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. TEAGUE (by request):

H.R. 13939. A bill to provide for the establishment of a Commission on the Impact of Science and Technology on Society in order to examine trends and future developments in science and technology and their impact, delineate choices for promoting America's well-being in the light of these trends and developments, and to present options for their implementation in the context of societal requirements; to the Committee on Science and Technology.

By Mr. WALKER:

H.R. 13940. A bill to amend the Internal Revenue Code of 1954 to provide a credit against income tax to owners of certain farmland who, in a convenant binding themselves and all future owners of their land, restrict the use of such land to use as farmland; to the Committee on Ways and Means.

By Mr. WAMPLER (for himself and Mr. HANSEN):

H.R. 13941. A bill to amend the Occupational Safety and Health Act of 1970 to provide that the requirements of such act with respect to employers shall apply to the Occupational Safety and Health Administration; to the Committee on Education and Labor.

By Mr. WAMPLER (for himself and Mr. MARTIN):

H.R. 13942. A bill to delay any action which may be taken by the Secretary of Agriculture and the Secretary of Health, Education, and Welfare respecting nitrites used as a food preservative on the basis of any carcinogenic effect nitrities may be represented to have; jointly, to the Committees on Agriculture, and Interstate and Foreign Commerce.

By Mr. BOB WILSON (for himself, Mr. DAN DANIEL, Mr. DICKINSON, Mr. SPENCE, Mr. TREEN, Mr. TRIBLE, and Mr. WHITEHURST):

H.R. 13943. A bill to authorize the United States Navy Memorial Foundation to erect a memorial in the District of Columbia or its environs; to the Committee on House Administration.

By Mr. WIRTH:

H.R. 13944. A bill to require the provision by utilities of lifeline rates for essential residential gas and electric utility service and to provide a tax credit for residential users of propane or heating oil, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

By Mr. BENNETT (for himself, Mr. PRICE, Mr. BOB WILSON, Mr. MITCHELL of New York, Mr. CHARLES H. WILSON of California, Mr. STUMP, Mr. WHITEHURST, Mr. MCDONALD, Mr. TREEN, Mrs. HOLT, Mr. ICHORD, Mr. DICKINSON, Mr. NICHOLS, Mr. DAN DANIEL, Mr. MOLLOHAN, Mr. SPENCE, and Mr. HILLIS):

H.R. 13945. A bill to amend titles 10, 14, and 32, United States Code, to aline the Reserve Forces of the Armed Forces with active duty forces so as to provide for the national security on a more effective, efficient, cost-effective, and representative basis, and for other purposes; jointly, to the Committees on Armed Services, and Merchant Marine and Fisheries.

By Mr. BROWN of California:

H.R. 13946. A bill to promote and assist in the conduct of environmental research and development on ground water; jointly, to the Committee on Science and Technology, and Interior and Insular Affairs.

By Mr. COCHRAN of Mississippi:

H.R. 13947. A bill to amend the Internal Revenue Code of 1954 to increase the amount allowable as a deduction for retirement savings and to allow a deduction for retirement savings of individuals covered by certain types of retirement plans; to the Committee on Ways and Means.

By Mr. CONYERS:

H.R. 13948. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to improve the Federal system of assistance to the criminal justice system, and for other purposes; to the Committee on the Judiciary.

By Mr. DANIELSON:

H.R. 13949. A bill to amend title 28, United States Code, to provide for a declaratory judgment in certain cases involving public utilities; to the Committee on the Judiciary.

By Mr. EDWARDS of California (for himself, Mr. SEIBERLING, Mr. DAVIS, Mr. VOLKMER, Mr. BEILENSON, Mr. BUTLER, Mr. MCCLORY, and Mr. CORMAN):

H.R. 13950. A bill to amend title 28 of the United States Code to provide that certain judicial pleadings and proceedings in the Commonwealth of Puerto Rico may be conducted in the Spanish language, and for other purposes; to the Committee on the Judiciary.

By Mr. GEPHARDT:

H.R. 13951. A bill to amend the Internal Revenue Code of 1954 to treat as public charities certain institutions which operate libraries; to the Committee on Ways and Means.

By Mr. GRADISON (for himself, Mr. MOORHEAD of California, Mr. FLORIO, and Mr. PURSELL):

H.R. 13952. A bill to amend the Internal Revenue Code of 1954 to provide for automatic cost-of-living adjustments in the income tax and withholding rates; to the Committee on Ways and Means.

By Mr. GRASSLEY (for himself, and Mr. THONE):

H.R. 13953. A bill to amend the Internal Revenue Code of 1954 to provide that nonresident aliens are taxable on gain from the sale or exchange of farming property and undeveloped real property at capital gains rates; to the Committee on Ways and Means.

By Mrs. HECKLER (for herself, Mr. HANNAFORD, Mrs. LLOYD of Tennessee, Mr. GUYER, Mr. WHITEHURST, Mr. CONTE, Mr. CORNELL, Mr. MOAKLEY, Mr. EILBERG, Mr. BURKE of Massachusetts, Mr. WINN, Mr. BOB WILSON, Mr. STOKES, Mr. GILMAN, Mr. DRINAN, Mr. NOLAN, Mr. HUGHES, Mr. BEDELL, Mrs. SPELLMAN, Mr. HARRINGTON, Mr. PEPPER, and Mr. HILLIS):

H.R. 13954. A bill to amend title 38, United States Code, to establish within the Department of Medicine and Surgery of the Veterans' Administration an Office of Assistant Chief Medical Director for Geriatrics, Gerontology and Extended Care, to establish demonstration centers of geriatric and gerontological research, education, and clinical operations within the Veterans' Administration; to the Committee on Veterans' Affairs.

By Mr. HORTON (for himself, Mr. BROOKS, and Mr. STEED):

H.R. 13955. A bill to improve the economy and efficiency of the Government and the private sector by improving Federal paperwork management, and for other purposes; to the Committee on Government Operations.

By Mr. LUKEN:

H.R. 13956. A bill to amend title 18 and title 39 of the United States Code to permit the transportation, mailing, and broadcasting of advertising, information, and materials concerning lotteries conducted by nonprofit organizations in accordance with State law; jointly to the Committees on the Judiciary, and Post Office and Civil Service.

By Mr. LUKEN (for himself, Mr. BENJAMIN, Mr. APPLEGATE, Mr. FITHIAN, Mr. GUYER, Mr. FARY, Mr. NOWAK, Mr. DERWINSKI, Mr. EILBERG, Mr. BEVILL, Mr. JENRETTE, Mr. BUCHANAN, Mr. FLOWERS, Mr. CORNWELL, Mr. MURPHY of Illinois, Mrs. LLOYD of Tennessee, Mr. GAYDOS, Mr. LEGGETT, Mr. WALSH, Mr. CARNEY, Mrs. BOUQUARD, Mr. KULSKI, Mr. GOODLING, and Mr. BOB WILSON):

H.R. 13957. A bill to establish a reasonable and fair preference for domestic products and materials in Government procurement and in procurement with Federal funds, and to promote free and fair trade in Government procurement of foreign products and materials; to the Committee on Government Operations.

By Mr. MAGUIRE (for himself, Mr. RUNALDO, Mr. ROSENO, Mr. ROE, Mr. SIMON, Mrs. SPELLMAN, Mr. THOMPSON, Mr. THOMAS, Mr. WALGREN, and Mr. WAXMAN):

H.R. 13958. A bill to amend section 307 of the Communications Act of 1934 to provide that each State shall have at least one very high frequency commercial television station located within the State; to the Committee on Interstate and Foreign Commerce.

By Mr. MANN (for himself, Mr. HOLT, Mr. HALL, Mr. GUYER, Mr. EVANS of Georgia, Mr. WHEATLEY, and Mr. HYDE):

H.R. 13959. A bill to revise title 18 of the United States Code, and for other purposes; to the Committee on the Judiciary.

By Mr. MARLENEE:

H.R. 13960. A bill to amend section 2(a) of the act of October 20, 1976 (90 Stat. 2662) to revise the formula governing payments under that act; to the Committee on Interior and Insular Affairs.

H.R. 13961. A bill to amend the act of October 20, 1976 (90 Stat. 2662) to provide that the computation of the amount of payments to any State under that Act shall take into account Indian lands located within such State; to the Committee on Interior and Insular Affairs.

By Mrs. MEYNER:

H.R. 13962. A bill to amend the Internal Revenue Code of 1954 to increase the amount allowable as a deduction for retirement savings; to the Committee on Ways and Means.

By Mr. MOSS (for himself, Mr. KETCHUM, Mr. MAZZOLI, Mr. GOSS, Mr. HUGHES, Mr. EDWARDS of California, Mr. DERWINSKI, Mr. CORCORAN of Illinois, Mr. DRINAN, Mr. RAILSBACK, Mr. LENT, Mr. MARKS, Mr. PRITCHARD, Mr. NIX, Mr. LEVITAS, Mr. ANDERSON, Mr. CONYERS, Mrs. CHISHOLM, Mr. RUNALDO, Mr. WAXMAN, and Mr. HARRIS):

H.R. 13963. A bill to establish, as an office of the Congress, the Office of Congressional Legal Counsel, and to provide a procedure for civil court enforcement of congressional cou subpoenas; jointly, to the Committee on House Administration, the Judiciary, and Rules.

By Mr. MURPHY of Pennsylvania (for himself, Mr. MOAKLEY, Mr. SANTINI, Mr. WHITEHURST, Mr. LAGOMARSINO, Mr. RANGEL, Mr. PANETTA, Mr. STAGGERS, Mr. MATHIS, Mr. LEHMAN, Mr. BETHUNE, Mr. BURKE of Florida, Mr. EILBERG, Mr. FOUNTAIN, and Mr. PENDLEY):

H.R. 13964. A bill to amend title 36, United States Code, to provide for an official memorial flag to honor war veterans; to the Committee on Veterans' Affairs.

By Mr. NOLAN (for himself, Mr. BENNETT, Mr. CONYERS, Mr. DOWNEY, Mr. EDGAR, Mr. FRASER, Mr. JOHNSON, Mr. LEHMAN, Mr. MAGUIRE, Mr. MILLER of California, Mr. MOAKLEY, Mr. PRICE, Mr. PRITCHARD, Mr. RANGEL, Mr. REUSS, Mr. ROSENO, Mr. ROSTENKOWSKI, Mr. SCHEUER, and Mrs. SPELLMAN):

H.R. 13965. A bill to provide grants to rehabilitate existing structures for use as youth hostels and to construct four new structures for use as youth hostels in order to further the

development of a national system of youth hostels and increase the opportunity for outdoor recreation and educational travel and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs, and Interior and Insular Affairs.

By Mr. RICHMOND:

H.R. 13966. A bill to establish a commission to plan observances to commemorate the bicentennial of the Constitution of the United States; to the Committee on Post Office and Civil Service.

By Mr. ROGERS (for himself, Mr. PEPPER, Mr. SCHEUER, Mr. WAXMAN, Mr. MAGUIRE, Mr. MARKEY, Mr. OTTINGER, Mr. WALGREN, and Mr. CARTER):

H.R. 13967. A bill to amend the Federal Food, Drug, and Cosmetic Act to revise and strengthen the authority of the Secretary of Health, Education, and Welfare under that act with respect to the distribution and labeling of food, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. RUPPE:

H.R. 13968. A bill to provide a unified Federal approach to regional development; jointly, to the Committees on Agriculture, Banking, Finance and Urban Affairs, Education and Labor, Interior and Insular Affairs, Interstate and Foreign Commerce, and Public Works and Transportation.

By Mr. SOLARZ:

H.R. 13969. A bill to require the U.S. Postal Service to release, issue, and sell postage stamps commemorating the Jewish holiday of Chanukah; to the Committee on Post Office and Civil Service.

H.R. 13970. A bill to amend the Urban Mass Transportation Act of 1964 to authorize grants to be made for the reduction of noise associated with certain rail mass transportation systems, to authorize research, development, and demonstration programs for the reduction of noise associated with urban mass transportation, and for other purposes; to the committee on Public Works and Transportation.

By Mrs. SPELLMAN (for herself and Mr. MARTIN):

H.R. 13971. A bill to assist cities and States by amending section 5136 of the Revised Statutes, as amended, with respect to the authority of national banks to underwrite and deal in securities issued by States and local governments, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. UDALL:

H.R. 13972. A bill to designate the Great Bear Wilderness, Flathead National Forest, and enlarge the Bob Marshall Wilderness Flathead and Lewis and Clark National Forests State of Montana; to the Committee on Interior and Insular Affairs.

By Mr. WHITE:

H.R. 13973. A bill to permit the Tigua Indian Tribe of Texas to file with the U.S. Court of Claims any claim of such tribe for compensation for lands allegedly taken from such tribe by the United States without the payment of adequate compensation; to the Committee on Interior and Insular Affairs.

By Mr. BAFALIS (for himself, Mr. IRELAND, and Mr. LENT):

H.J. Res. 1123. Joint resolution proposing an amendment to the Constitution of the United States to provide that appropriations made by the United States shall not exceed its revenues, except in time of war or national emergency; and to provide for the systematic paying back of the national debt; to the Committee on the Judiciary.

By Mrs. HOLT (for herself, Mr. HUCKABY, Mr. GOLDWATER, Mr. EDWARDS of Oklahoma, Mr. RUDD, and Mr. GRASSLEY):

H.J. Res. 1124. Joint resolution proposing an amendment to the Constitution of the United States for the purpose of limiting the power of Congress to tax; to the Committee on the Judiciary.

By Ms. KEYS (for herself, Mr. RANGEL, Mrs. LLOYD of Tennessee, Mr. DELLUMS, Mr. DERWINSKI, Mr. JACOBS, Mr. EILBERG, Mr. GREEN, Mr. MURPHY of Pennsylvania, Mr. BRADEMAS, Mr. RICHMOND, Mr. MCHUGH, Mr. WEAVER, Mr. COCCORAN of Illinois, Mr. BALDUS, Ms. MIKULSKI, Mrs. BOGGS, Mr. CORMAN, Mr. BONIOR, Mr. SOLARZ, Mr. WAXMAN, Mr. MILLER of California, Mr. ROYBAL, Mr. BRODHEAD, and Mr. STARK):

H.J. Res. 1125. Joint resolution to provide for the designation of September 3, 1978, as "Working Mothers' Day"; to the committee on Post Office and Civil Service.

By Ms. KEYS (for herself, Mr. RANGEL, Ms. HOLTZMAN, Mr. PANETTA, Mr. STOKES, Mr. FORSYTHE, Mr. ADDABBO, Mr. BEDELL, Mr. FARY, Mr. MAGUIRE, Mr. NOLAN, Mr. PRICE, Mr. ALEXANDER, Mr. LUNDINE, Mr. REUSS, Mrs. MEYNER, Mrs. CHISHOLM, Mr. DOWNEY, Mr. BINGHAM, Mr. BUCHANAN, Mr. BOWEN, Mr. MINETA, and Mr. GOLDWATER):

H.J. Res. 1126. Joint resolution to provide for the designation of September 3, 1978, as "Working Mothers' Day", to the Committee on Post Office and Civil Service.

By Mr. DON CLAUSEN (for himself and Mr. LAGOMARSINO):

H.J. Res. 1127. Joint resolution requiring studies of certain grants; to the Committee on Government Operations.

By Mr. LAGOMARSINO (for himself and Mr. DON H. CLAUSEN):

H.J. Res. 1128. Joint resolution requiring studies of certain grants; to the Committee on Government Operations.

By Mr. DERWINSKI (for himself and Mr. BROWN of Ohio):

H. Con. Res. 698. Concurrent resolution relating to the occupation of Czechoslovakia by the Soviet troops; to the Committee on International Relations.

By Mr. FORSYTHE:

H. Con. Res. 699. Concurrent resolution expressing the sense of the Congress with respect to the Baltic States; to the Committee on International Relations.

By Mr. PEPPER:

H. Con. Res. 700. Concurrent resolution to seek the resurrection of the Ukrainian Orthodox and Catholic Churches in Ukraine; to the Committee on International Relations.

By Mr. SOLARZ (for himself, Mrs. CHISHOLM, Mr. BEDELL, Mr. STEERS, Mr. WEISS, Mr. HARKIN, Mrs. MEYNER, Mr. OTTINGER, Mr. NIX, Mr. STUDDS, Mr. DOWNEY, Mr. DELLUMS, Mr. DODD, Mr. GREEN, Mr. CLEVELAND, Mr. MOAKLEY, Mr. CORNWELL, Mr. MCDONALD, Mr. FINDLEY, Mr. BONIOR, Mr. KOSTMAYER, Mr. PATTISON of New York, Mr. CONTE, and Mr. WHALEN):

H. Con. Res. 701. Concurrent resolution relative to refugees from Cambodia; to the Committee on the Judiciary.

By Mr. SOLARZ (for himself, Mr. WAXMAN, Mr. ANDERSON of Illinois, Mr. CAVANAUGH, Mr. WHITEHURST, Mr. DRINAN, Mr. LAGOMARSINO, Mrs. FENWICK, Mr. SEIBERLING, Mr. RICHMOND, Mr. WYDLER, Mr. EDWARDS of California, Mrs. SCHROEDER, Mr. KEMP, Mr. BLANCHARD, Mr. DICKS, Mr. GLICKMAN, Mr. HYDE, Mr. SIMON, Mr. HARRINGTON, Mr. MOFFETT, Mr. MCKINNEY, Mr. MCHUGH, Mr. DORNAN, and Mr. BINGHAM):

H. Con. Res. 702. Concurrent resolution relative to refugees from Cambodia; to the Committee on the Judiciary.

By Mr. SOLARZ (for himself, Mr. WOLFF, and Mr. QUIE):

H. Con. Res. 703. Concurrent resolution relative to refugees from Cambodia; to the Committee on the Judiciary.

By Mr. WAMPLER (for himself, Mr. BOWEN, Mr. JONES of North Carolina, Mr. SIMON, Mr. TRIBLE, Mr. JOHNSON of Colorado, Mr. BUTLER, Mr. COLEMAN, Mr. RAILSBACK, Mr. FITHIAN, Mr. DON H. CLAUSEN, Mr. TRIBLE, and Mr. MICHEL):

H. Con. Res. 704. Concurrent resolution to effect appointment of the commission to study, investigate, and review the Federal old-age, survivors, and disability insurance program, and for other purposes; to the Committee on Ways and Means.

By Mr. BRECKINRIDGE (for himself, Mr. ROSE, Mr. PRESSLER, Mr. BAUCUS, Mr. WATKINS, Ms. KEYS, Mr. SIMON, Mr. EVANS of Georgia, Mr. ABNOR, Mr. RAILSBACK, and Mr. FOUNTAIN):

H. Res. 1327. Resolution to establish a select committee to study nonmetropolitan America; to the Committee on Rules.

By Mr. STEERS (for himself, Mr. AMBRO, Mr. AUCOIN, Mr. BRODHEAD, Mr. BLANCHARD, Mr. BINGHAM, Mr. BUCHANAN, Mr. BENJAMIN, Mr. BURKE of Florida, Mr. COTTER, Mr. CAPUTO, Mr. COHEN, Mr. DODD, Mr. DOWNEY, Mr. DRINAN, Mr. EILBERG, Mr. EDWARDS of California, Mr. EMERY, Mr. ERTEL, Mr. EDGAR, Mr. FRASER, Mr. FRENZEL, Mrs. FENWICK, Mr. FORD of Tennessee, and Mr. FISH):

H. Res. 1328. Resolution calling upon the President to communicate to the Government of the Soviet Union the concern of the United States that Isaac Zlotver be granted permission to emigrate to Israel in order to be reunited with his family; to the Committee on International Relations.

By Mr. STEERS (for himself, Mr. GUYER, Mr. GILMAN, Ms. HOLTZMAN, Mr. HUGHES, Mr. HANNAFORD, Mr. HARKIN, Mr. KOSTMAYER, Mr. KEMP, Ms. KEYS, Mr. KEMP, Mr. LAGOMARSINO, Mr. LEHMAN, Mr. LENT, Mr. MOAKLEY, Mr. MITCHELL of Maryland, Mr. MCDONALD, Mr. MURPHY of Illinois, Mr. MAGUIRE, Ms. MIKULSKI, Mr. MITCHELL, Mr. MARKEY, Mr. OTTINGER, Mr. PATTISON of New York, and Mr. PEPPER):

H. Res. 1329. Resolution calling upon the President to communicate to the Government of the Soviet Union the concern of the United States that Isaac Zlotver be granted permission to emigrate to Israel in order to be reunited with his family; to the Committee on International Relations.

By Mr. STEERS (for himself, Mr. ROE, Mr. BOONEY, Mr. RODINO, Mr. ROSENTHAL, Mr. RICHMOND, Mr. RANGEL, Mr. SOLARZ, Mr. SIMON, Mr. SAWYER, Mr. SCHEUER, Mr. TRAXLER, Mr. TSONGAS, Mr. VENTO, Mr. WAXMAN, Mr. WALKER, Mr. WEISS, Mr. QUIE, Mr. NIX, and Mr. YATES):

H. Res. 1330. Resolution calling upon the President to communicate to the Government of the Soviet Union the concern of the United States that Isaac Zlotver be granted permission to emigrate to Israel in order to be reunited with his family; to the Committee on International Relations.

By Mr. WIRTH:

H. Res. 1331. Resolution expressing the sense of the House of Representatives with respect to the need for a balanced budget and the steps which must be taken to achieve such a budget by 1981; jointly, to the Committees on Government Operations, and Ways and Means.

By Mr. ERTEL:

H. Res. 1332. Resolution to amend the Rules of the House of Representatives to provide that a motion to suspend the rules and pass a bill or resolution shall not be in order if it makes or authorizes appropriations which may be in excess of $100 million for any fiscal year; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. EDGAR introduced a bill (H.R. 13974) for the relief of Ekaterini Paradia, which was referred to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

529. The SPEAKER presented a petition of Beverly S. Lee, Honolulu, Hawaii, relative to redress of grievances, which was referred to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1

By Mr. STRATTON:

(Amendment offered to the amendment in the nature of substitute.)

—In section 207(f) of title 18, United States Code, as proposed to be amended by section 241(a) of the amendment in the nature of a substitute, insert "with respect to the making of communications solely for the purpose of furnishing scientific or technological information under procedures acceptable to the department or agency concerned or" after "shall not apply"

—In section 207(c)(iii) of title 18, United States Code, as proposed to be amended by section 241(a) of the amendment in the nature of a substitute, strike out "0–6" and insert in lieu thereof "0–7".

H.R. 11280

By Mr. COLLINS of Texas:

—On page 137, line 12 after "(ii)" insert the following: "the Federal Bureau of I[illegible] vestigation,".

—On page 213, line 5: after "(B)" insert t[illegible] following: "the Federal Bureau of Investig[illegible] tion,".

On page 258, line 7: strike out 10,920 a[illegible] insert in lieu thereof "10,780".

On page 258, line 13: strike out "Manage[illegible] ment," and insert in lieu thereof the follo[illegible] ing: "Management, except that the Direct[illegible] of the Federal Bureau of Investigation, wit[illegible] out regard to any other provision of this a[illegible] tion, may place a total of 140 positions [illegible] the Federal Bureau of Investigation in G[illegible] 16, 17, and 18."

—On page 273, line 15: after "(B)" insert t[illegible] following: "the Federal Bureau of Investig[illegible] tion,".

H.R. 12462

By Mr. MAGUIRE:

—Page 29, line 16, insert immediately aft[illegible] the period the following: "In the event [illegible] any such withholding, the Secretary may o[illegible] der the prime sponsor to conduct the pr[illegible] gram as specified in the applicable plan a[illegible] the basis of funds other than funds und[illegible] this Act and may enforce such order b[illegible] appropriate civil action (if such withholdin[illegible] results from fraud and abuse as determine[illegible] by the Office of the Secretary)."

EXTENSIONS OF REMARKS

CONSTITUTION BICENTENNIAL: TIME FOR REFLECTION, EVALUATION, AND CELEBRATION

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. RICHMOND. Mr. Speaker, although 2 years have elapsed since the celebration of the Bicentennial of the Revolutionary War, Americans are still very much aware that the Bicentennial itself—the commemoration of 200 years in independence—has significance beyond 1976.

Just as Americans took the opportunity to reflect on the past during the 1976 Bicentennial celebration, we must now look to the future. The next important historical commemoration will be in 1987 when Americans celebrate the 200th birthday of the U.S. Constitution.

Our Constitution remains the most durable written charter of government conceived in modern history. It has demonstrated its ability to adapt to many changing social, economic, and technological institutions in America; it has, in effect, given us a basis upon which we may continually build.

Mr. Speaker, today I am introducing a bill that would provide Americans with a means of evaluating the longevity of our Constitution in terms of its impact on the past and its potential for the future. My bill would establish the American Constitution Bicentennial Commission to serve as the national coordinator of activities and observances associated with this historic event.

The Commission would work closely with State and local governments in coordinating major public observances, as well as seek to develop educational programs on the U.S. Constitution. Without such Federal coordination, State, county, and city governments can be expected at best to develop an awkward patchwork or unrelated and uncoordinated activities and observances. I believe the Commission would provide a much-needed mechanism for States and localities to plan and implement meaningful community projects.

Mr. Speaker, as we in Congress look toward the 1980's and the new Bicentennial commemoration, it is imperative that we provide future Congresses with the tools they will need to effectively serve the American people. I believe this legislation is an important step in our long-term celebration of the Bicentennial of the United States.

I urge my colleagues to examine the following section-by-section analysis of the American Constitution Bicentennial Commission Act and rise in support of this important legislation.

The analysis follows:

SECTION-BY-SECTION ANALYSIS

THE AMERICAN CONSTITUTION BICENTENNIAL COMMISSION ACT

Section 1. Title: "The American Constitution Bicentennial Commission Act."

Section 2. Establishes the American Constitution Bicentennial Commission.

Section 3. Establishes Commission duties, including the planning of educational activities and observances to commemorate the Bicentennial of the U.S. Constitution; efforts would be coordinated with state/loc[illegible] governments.

Section 4. Requires the appointment of [illegible] members to the Commission: Two U.S. Se[illegible] ators, two members of the House; the U.[illegible] Chief Justice, the U.S. Attorney Gener[illegible] the Secretary of the Interior, the Librari[illegible] of Congress, and the U.S. Archivist, or the[illegible] delegates; and 10 specially qualified perso[illegible] appointed by the President.

Section 5. Sets pay levels for the Commi[illegible] sion Director and such staff as the Commi[illegible] sion Chairman deems necessary.

Section 6. Authorizes the Commission [illegible] conduct hearings and utilize the services a[illegible] information resources of Federal agenci[illegible] to carry out its duties as established in t[illegible] Act.

Section 7. Requires the Commission to f[illegible] an annual report containing a detailed surve[illegible] of progress during the preceding year an[illegible] recommendations for appropriate legislati[illegible] and/or administrative action.

Section 8. Terminates the Commission o[illegible] January 31, 1990.

Section 9. Authorizes appropriations o[illegible] $250,000 per year for fiscal years 1980, 19[illegible] and 1982.

Section 10. Defines terms referred to in th[illegible] Act.●

RADIO READING SERVICES OF GREATER CINCINNATI

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. LUKEN. Mr. Speaker, I woul[illegible] like to take this opportunity to recogni[illegible] and bring to the attention of my col[illegible] leagues the upcoming initiation of th[illegible]

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

Radio Reading Services of Greater Cin[illegible]

Radio Reading Services of Greater Cincinnati. The program is designed to significantly increase the independence of those constituents in my district who suffer with physical conditions which render them "reading-handicapped." I am sure that no one who has the full use of their sense of sight can appreciate the isolation and frustration which results from the loss of reading capability. Radio Reading will open a new world of information and understanding to these people through the use of the broadcast media.

I fervently hope that Greater Cincinnati's support of this service will encourage other communities to join in this exemplary effort to help handicapped people help themselves in closing their communication gap.

On behalf of all Americans, especially the reading handicapped, I want to thank the many people who have donated time, money, and other resources to make this program work, and Dr. Elmer E. Fischer, who guided the Radio Reading Services of Greater Cincinnati from a desirable dream to a working reality.●

VOTES ON EQUAL RIGHTS EXTENSION

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. PICKLE. Mr. Speaker, I support the equal rights amendment. I supported it when it passed the House in 1971; I support it today; I will support an equal rights amendment again in the Congress if necessary.

In votes this week, I did not support the legislation to extend the time for ratification of the ERA. Nor did I support the effort to allow States to rescind their previous ratification of the ERA.

I would like to set out why I felt this the proper position to take.

I think every Member here, when it comes to the procedures regarding the U.S. Constitution, feels that procedures and precedents must take priority over any political question or any question of the merits of a particular issue.

The votes yesterday were not votes on the ERA. A vote for extension was not a vote for the ERA, and a vote against extension was not a vote against the ERA. To argue, as some extension supporters did, that one's vote on extension "sends a message" about our position on the ERA while also saying that a two-thirds vote was not required because the extension is a matter of detail, not of substance, is a contradiction. The votes on extension are matters of detail. They are votes on matters of procedure. And as such, we must consider those procedures as they affect the Constitution for all time.

A NEW ISSUE

The time extension proposal breaks new ground in terms of constitutional procedure. The Congress first set a time limit for ratification in the 18th amendment. This procedure was upheld by the Supreme Court in *Dillon* v. *Gloss* 256 U.S. 368 (1921). Thus the power of the Congress to determine a reasonable period for ratification at the beginning of the process was established and tested.

In a subsequent decision, *Coleman* v. *Miller* 307 U.S. 433 (1939), the Supreme Court refused to decide whether or not the proposed child labor amendment was still available for ratification after it had been before the States for 13 years. The Court held that issue must be settled in the Congress. Thus, precedent was established for the Congress to determine what constitutes a reasonable time for ratification at the end of the process.

But this is the first time the question has been proposed regarding the role of the Congress in the middle of an ongoing ratification process.

I do not attempt to claim that the Court would rule the Congress does not have the power to intervene regarding matters of procedure during a ratification process. No one can say for certain how the Court will rule. Moreover, the precedents established do not preclude a ruling affirming congressional authority in this area.

But I cannot cast my vote solely on suppositions regarding how the Court might rule. Each member also reviews the issue in light of his or her own best judgment about its advisability as a precedent for the Constiution.

Article V, under the mode of ratification chosen for the ERA, outlines a sequential procedure: The Congress proposes an amendment by a two-thirds vote. Three-fourths of the State legislatures ratify the amendment. The Congress declares the amendment a bonafide part of the Constitution.

For the Congress to interject itself into the ratification debate while the amendment is before the States violates the spirit—and perhaps the constitutional requirements—of the sequential procedure.

It also means Congress could, by this precedent, interject itself into future debates. If Congress can extend the time, it can curtail it. We could find ourselves discussing an amendment and needing only one or two more States to ratify—and Congress could step in and say, "Sorry, time's up."

Moreover, if we do not abide by the action of the Congress which passed the ERA, no future Congress would be bound by our action on the extension. Thirty-eight ratifications could be secured only to have some future Congress disallow all ratifications after the original deadline.

It is conceivable for an amendment to pass the Congress which would be repugnant to the citizens of some States, and supporters could seek extension after extension to keep pressure building when "fair play" would indicate the supporters should come back for a new amendment passed by two-thirds of a new Congress. I have to ask what the situation would be today if this were an amendment on school busing, or prayer in schools, or abortion, or any number of other amendments which have been proposed to the Congress.

The framers of our Constitution sought a procedure for amendment which would be difficult but not impossible and which would be relatively free from maneuver and extraneous pressure. The President is precluded from entering into the debate in the Congress. The National Government should not enter into the debate of the States.

RESCISSION ALSO IMPROPER

For many of the same reasons, I did not support the effort to allow States to rescind their prior action.

If extension is an improper meddling with the debate before the States, so is a ruling on rescission at this time.

A ruling on rescission now would not be binding on the future Congress which had to determine if 38 States had indeed ratified the ERA.

Moreover, there are other considerations which reinforce the argument against approval of rescissions at any time, much less in the middle of the States' deliberation of the amendment. First, the language of article V mentions only affirmative action by the States. Second, James Madison wrote in a letter to Alexander Hamilton ratifications must be in toto and forever. Finally, Congress has ignored former attempts at rescission, and Court comments support Congress' position.

Two other votes occurred during debate on the ERA extension, both aimed at requiring the legislation to pass by a two-thirds vote. I voted not to require a two-thirds vote. The time limit is basically a matter of detail, not of substance. Second, I think the extension is improper procedure regardless of the vote. Even a unanimous vote could not erase the confusion and constitutional quagmires raised by the extension.

In conclusion, there are some who have argued that they would like to "take their chances" with the future problems of constitutional procedure which could occur as a result of the extension. I will have to take my chances that these people will understand I cannot to do that. I am sworn not to take chances with the Constitution, and I feel I should adhere to that commitment above all others as best I can.●

NEIGHBORHOOD FISCAL EMPOWERMENT EXPERIMENT

HON. JOEL PRITCHARD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. PRITCHARD. Mr. Speaker, yesterday, Congressman BLANCHARD and I introduced H.R. 13894, the neighborhood fiscal empowerment experiment, which seeks to develop a new concept of neighborhood self-help and empowerment that will ultimately enable the residents of our Nation's neighborhoods to regain partial control over their own destinies.

Up to now, programs relating to Federal involvement in neighborhood improvements have followed a familiar pattern. The Federal Government taxes A, the taxpayer; with the approval of B, the city government, it redistributes the

money to C, a neighborhood organization, for the benefit of D, the neighborhood residents.

If we have learned anything from 14 years of experience, it is that this mechanism is simply not viable as a means of supporting long-term neighborhood improvements. It brings with it three major problems which appear unavoidable.

The first problem is that of legitimacy. Does the recipient organization truly represent the wishes and enlist the support of the great majority of residents of the neighborhood? Who decides? HUD? City hall? The legitimacy question is often resolved by a political process built around winning the favor of the sponsoring Federal agency and city hall. Urban Members of Congress are often drawn into this question if the program expands.

The second problem is that of accountability. Whenever public funds are disbursed, the receiving organization must necessarily be held strictly accountable for the proper use of the funds. Programs usually come with considerable rules, regulations, inspection, and audits. Compliance puts a very substantial burden on the neighborhod organization. History teaches us that regulation makers and auditors will use every possible technique to prevent anything from "going wrong" at the local level. They want to forestall scandal, bad publicity, and the loss of public and congressional support for their program. The recipient organization must therefore be ever mindful of its relations with the grantor; particularly if it has any thought of securing future funding. This tends to confine the activities of the grantee and orient its policies toward satisfying those who provide the funding. It can lead to debilitating bureaucratic and political intrigue.

The third problem is cooptation. A major strength of neighborhood organizations is their responsiveness to their own residents, and their willingness to represent the interests of those residents against outside institutions. Often neighborhood organizations cannot stand up for neighborhood interests without jeopardizing their existence, which is tied to the continuing goodwill and support of city hall and Washington.

So long as we employ a Federal direct funding mechanism with local government concurrence, these three problems are unavoidable. However, H.R. 13894 is an alternative mechanism which avoids these problems, and which is particularly suited to the encouragement of broadly based neighborhood self-help programs under neighborhood direction and control. It would authorize a pilot program, under the direction of the Assistant Secretary of HUD for Neighborhoods, Voluntary Associations, and Consumer Protection, to provide Congress with practical field experience.

This alternative approach calls for the Federal Government to give the resources back to the people of the neighborhood and let them allocate those resources to those organizations which they believe are doing the best job of responding to local neighborhood needs.

This bill provides for a wholly new mechanism, never before employed in a Federal program. It solves the legitimacy problem because the neighborhood people themselves would decide, by secret ballot, which organizations are legitimate. It solves the accountability problem because the organizations involved would no longer receive grants from city hall or Washington. It solves the cooptation problem because funding would come from as many dispersed sources as there are neighborhood residents contributing to the program.

But the strength of this approach is not merely in that it avoids the problems of the direct grant approach. By its very nature it encourages the spirit of self-help and citizen participation more than any other approach.

The leaders of the neighborhood organizations, under this approach, must appeal not to city hall or Washington for support, but to their own neighbors, who, thanks to this program, have fiscal power in their own hands. This guarantees that participating organizations will redirect their efforts toward the consumers of their "product." not toward the suppliers of the raw materials. It necessarily will involve large numbers of neighborhood residents, who will be making a real investment in a self-help effort of their own choice.

To continue to receive funding in subsequent years, the neighborhood organization must continue to satisfy residents. The painful decision to defund a grantee—in which many a Member of Congress has become involved—will be transferred to the thousands of individual citizens who are in a far better position than any city or Federal bureaucrat to decide whether their money is being used to their benefit.

H.R. 13894 will give citizen initiative the maximum chance to work because it will put fiscal power at the disposal of individual citizens to allocate in their own best interests.

Mr. Speaker, I urge my colleagues in the House of Representatives to give careful consideration to this proposed legislation.●

BALANCE(S) OF POWER, BOOK IV (C)(i), SOVIET STRATEGIC DOCTRINE

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, in the CONGRESSIONAL RECORD of July 10, 1978, page 20017, I outlined book IV of the Balance(s) of Power series regarding the intentions of the Soviet state in world affairs, and more specifically with regard to warfare and strategic doctrine.

The following article, by Prof. Richard Pipes of Harvard University, is one of the most comprehensive and important analysis of Soviet political and military thought to appear in the English language since the cold war.

The idea of nuclear war is so alien to western mentality, including basic U.S. deterrence strategy, that the burden of Pipes' article, "Why the Soviet Union Thinks It Could Fight and Win a Nuclear War," when published in "Commentary" (July 1977)—sent shock waves across both sides of the Atlantic. But with a cold and scientific rigor and with access to unlimited resources, Pipes proved beyond any plausible doubt that the Soviet leadership does, indeed, think in rational and traditional ways about a subject that most westerners would rather forget.

Polish by birth, and fluent in Russian, Pipes had access to thousands of Russian language publications on nuclear warfare. His conclusions may affront the liberal mind, and repulse the arms control doctrinaire; nonetheless, one cannot dismiss this powerful article. It points with clarity and cold logic to the profound differences in thought and intentions extent between Soviet and American leadership with regard to the conduct of modern warfare.

In addressing what is perhaps the crucial issue of our age, we ignore Pipes' main point at our peril. The first half of Professor Pipes' article follows:

WHY THE SOVIET UNION THINKS IT COULD FIGHT AND WIN A NUCLEAR WAR

(By Richard Pipes)

In a recent interview with the New Republic, Paul Warnke, the newly appointed head of the Arms Control and Disarmament Agency, responded as follows to the question of how the United States ought to react to indications that the Soviet leadership thinks it possible to fight and win a nuclear war: "In my view," he replied, "this kind of thinking is on a level of abstraction which is unrealistic. It seems to me that instead of talking in those terms, which would indulge what I regard as the primitive aspects of Soviet nuclear doctrine, we ought to be trying to educate them into the real world of strategic nuclear weapons, which is that nobody could possibly win."[1]

Even after allowance has been made for Mr. Warnke's notoriously careless syntax, puzzling questions remain. On what grounds does he, a Washington lawyer, presume to "educate" the Soviet general staff composed of professional soldiers who thirty years ago defeated the Wehrmacht—and, of all things, about the "real world of strategic nuclear weapons" of which they happen to possess a considerably larger arsenal than we? Why does he consider them children who ought not to be "indulged"? And why does he chastise for what he regards as a "primitive" and unrealistic strategic doctrine not those who hold it, namely the Soviet military, but Americans who worry about their holding it?

Be all that as it may, even if Mr. Warnke refuses to take Soviet strategic doctrine seriously, it behooves us to take Mr. Warnke's views of Soviet doctrine seriously. He not only will head our SALT II team; his thinking as articulated in the above statement and on other occasions reflects all the conventional wisdom of the school of strategic theory dominant in the United States, one of whose leading characteristics is scorn for Soviet views on nuclear warfare.

American and Soviet nuclear doctrines, it needs stating at the outset, are starkly at odds. The prevalent U.S. doctrine holds that an all-out war between countries in possession of sizable nuclear arsenals would be so destructive as to leave no winner; thus resort to arms has ceased to represent a rational

Footnotes at end of article.

policy option for the leaders of such countries vis-a-vis one another.

The classic dictum of Clausewitz, that war is politics pursued by other means, is widely believed in the United States to have lost its validity after Hiroshima and Nagasaki. Soviet doctrine, by contrast, emphatically asserts that while an all-out nuclear war would indeed prove extremely destructive to both parties, its outcome would not be mutual suicide: the country better prepared for it and in possession of a superior strategy could win and emerge a viable society.

"There is profound erroneousness and harm in the disorienting claims of bourgeois ideologies that there will be no victor in a thermonuclear world war," thunders an authoritative Soviet publication.[2] The theme is mandatory in the current Soviet military literature. Clausewitz, buried in the United States, seems to be alive and prospering in the Soviet Union.

The predisposition of the American strategic community is to shrug off this fundamental doctrinal discrepancy. American doctrine has been and continues to be formulated and implemented by and large without reference to its Soviet counterpart. It is assumed here that there exists one and only one "rational" strategy appropriate to the age of thermonuclear weapons, and that this strategy rests on the principle of "mutual deterrence" developed in the United States some two decades ago.

Evidence that the Russians do not share this doctrine which, as its name indicates, postulates reciprocal attitudes, is usually dismissed with the explanation that they are clearly lagging behind us: given time and patient "education," they will surely come around.

It is my contention that this attitude rests on a combination of arrogance and ignorance; that it is dangerous; and that it is high time to start paying heed to Soviet strategic doctrine, lest we end up deterring no one but ourselves. There is ample evidence that the Soviet military say what they mean, and usually mean what they say.

When the recently deceased Soviet Minister of Defense, Marshal Grechko, assures us: "We have never concealed, and do not conceal, the fundamental, principal tenets of our military doctrine,"[3] he deserves a hearing. This is especially true in view of the fact that Soviet military deployments over the past twenty years make far better sense in the light of Soviet doctrine, "primitive" and "unrealistic" as the latter may appear, than when reflected in the mirror of our own doctrinal assumptions.

Mistrust of the military professional, combined with a pervasive conviction, typical of commercial societies, that human conflicts are at bottom caused by misunderstanding and ought to be resolved by negotiations rather than force, has worked against serious attention to military strategy by the United States. We have no general staff; we grant no higher degrees in "military science"; and, except for Admiral Mahan, we have produced no strategist of international repute.

America has tended to rely on its insularity to protect it from aggressors, and on its unique industrial capacity to help crush its enemies once war was under way. The United States is accustomed to waging wars of its own choosing and on its own terms. It lacks an ingrained strategic tradition. In the words of one historian, Americans tend to view both military strategy and the armed forces as something to be "employed intermittently to destroy occasional and intermittent threats posed by hostile powers."[4]

This approach to warfare has had a number of consequences. The United States wants to win its wars quickly and with the smallest losses in American lives. It is disinclined, therefore, to act on protracted and indirect strategies, or to engage in limited wars and wars of attrition. Once it resorts to arms, it prefers to mobilize the great might of its industrial plant to produce vast quantities of the means of destruction with which in the shortest possible time to undermine the enemy's will and ability to continue the struggle.

Extreme reliance on technological superiority, characteristic of U.S. warfare, is the obverse side of America's extreme sensitivity to its own casualties; so is indifference to the casualties inflicted on the enemy. The strategic bombing campaigns waged by the U.S. Air Force and the RAF against Germany and Japan in World War II excellently implemented this general attitude. Paradoxically, America's dread of war and casualties pushes it to adopt some of the most brutal forms of warfare, involving the indiscriminate destruction of the enemy's homeland with massive civilian deaths.

These facts must be borne in mind to understand the way the United States reacted to the advent of the nuclear bomb. The traditional military service—the army and the navy—whose future seemed threatened by the invention of a weapon widely believed to have revolutionized warfare and rendered conventional forces obsolete, resisted extreme claims made on behalf of the bomb. But they were unable to hold out for very long.

An alliance of politicians and scientists, backed by the Air Force, soon overwhelmed them. "Victory through Air Power," a slogan eminently suited to the American way of war, carried all before it once bombs could be devised whose explosive power was measured in kilotons and megatons.

The U.S. Army tried to argue after Hiroshima and Nagasaki that the new weapons represented no fundamental breakthrough. No revolution in warfare had occurred, its spokesmen claimed: atomic bombs were merely a more efficient species of the aerial bombs used in World War II, and in themselves no more able to ensure victory than the earlier bombs had been.

As evidence, they could point to the comprehensive U.S. Strategic Bombing Surveys carried out after the war to assess the effects of the bombing campaigns. These had demonstrated that saturation raids against German and Japanese cities had neither broken the enemy's morale nor paralyzed his armaments industry; indeed, German productivity kept on rising in the face of intensified Allied bombing, attaining its peak in the fall of 1944, on the eve of capitulation.

And when it came to horror, atomic bombs had nothing over conventional ones: as against the 72,000 casualties caused by the atomic bomb in Hiroshima, conventional raids carried out against Tokyo and Dresden in 1945 had caused 84,000 and 135,000 fatalities, respectively.

Furthermore, those who sought to minimise the impact of the new weapon argued, atomic weapons in no sense obviated the need for sizable land and sea forces. For example, General Ridgway, as Chief of Staff in the early 1950's, maintained that war waged with tactical nuclear weapons would demand larger rather than smaller field armies since these weapons were more complicated, since they would produce greater casualties, and since the dispersal of troops required by nuclear tactics called for increasing the depth of the combat zone.[5]

As we shall note below, similar arguments disputing the revolutionary character of the nuclear weapon surfaced in the Soviet Union, and there promptly came to dominate strategic theory. In the United States, they were just as promptly silenced by a coalition of groups each of which it suited, for its own reasons, to depict the atomic bomb as the "absolute weapon" that had, in large measure, rendered traditional military establishments redundant and traditional strategic thinking obsolete.

Once World War II was over, the United States was most eager to demobilize its armed forces. Between June 1945 and June 1946, the U.S. Army reduced its strength from 8.3 to 1.9 million men; comparable manpower cuts were achieved in the navy and air force.

Little more than a year after Germany's surrender, the military forces of the United States, which at their peak had stood at 12.3 million men, were cut down to 3 million; two years later they declined below 2 million. The demobilization proceeded at a pace (if not in a manner) reminiscent of the dissolution of the Russian army in the revolutionary year of 1917. Nothing could have stopped this mass of humanity streaming homeward. To most Americans peacetime conditions meant reversion to a skeletal armed force.

Yet, at the same time, growing strains in the wartime alliance with the Soviet Union, and mounting evidence that Stalin was determined to exploit the chaotic conditions brought about by the collapse of the Axis powers to expand his domain, called for an effective military force able to deter the Soviets. The United States could not fulfill its role as leader of the Western coalition without an ability to project its military power globally.

In this situation, the nuclear weapon seemed to offer an ideal solution: the atomic bomb could hardly have come at a better time from the point of view of U.S. international commitments. Here was a device so frighteningly destructive, it was believed, that the mere threat of its employment would serve to dissuade would-be aggressors from carrying out their designs.

Once the Air Force received the B-36, the world's first intercontinental bomber, the United States acquired the ability to threaten the Soviet Union with devastating punishment without, at the same time, being compelled to maintain a large and costly standing army.

Reliance on the nuclear deterrent became more imperative than ever after the conclusion of the Korean war, in the course of which U.S. defense expenditures had been sharply driven up. President Eisenhower had committed himself to a policy of fiscal restraint.

He wanted to cut the defense budget appreciably, and yet he had to do so without jeopardizing either America's territorial security or its worldwide commitments. In an effort to reconcile these contradictory desires, the President and his Secretary of State, John Foster Dulles, enunciated in the winter of 1953–54 a strategic doctrine which to an unprecedented degree based the country's security a single weapon, the nuclear deterrent.

In an address to the United Nations in December 1953, Eisenhower argued that since there was no defense against nuclear weapons (i.e., thermonuclear or hydrogen bombs, which both countries were then beginning to produce), war between the two "atomic colossi" would leave no victors and probably cause the demise of civilization.

A months later, Dulles enunciated what came to be known as the doctrine of "massive retaliation." The United States, he declared, had decided "to depend primarily upon a great capacity to retaliate, instantly, by means and at places of our choosing." Throughout his address, Dulles emphasized the fiscal benefits of such a strategy, "more basic security at less cost."

The Eisenhower-Dulles formula represented a neat compromise between America's desires to reduce the defense budget and simultaneously to retain the capacity to respond to Soviet threats. The driving force was not, however, military but budgetary: behind "massive retaliation" (as well as its

Footnotes at end of article.

offspring, "mutual deterrence") lay fiscal imperatives. In the nuclear deterrent, the United States found a perfect resolution of the conflicting demands of domestic and foreign responsibilities. For this reason alone its adoption was a foregone conclusion: the alternatives were either a vast standing army or forfeiture of status as a leading world power.

The Air Force enthusiastically backed the doctrine of massive retaliation. As custodian of the atomic bomb, it had a vested interest in a defense posture of which that weapon was the linchpin. And since in the first postwar decade the intercontinental bomber was the only available vehicle for delivering the bomb against an enemy like the Soviet Union, the Air Force could claim a goodly share of the defense budget built around the retaliation idea.

Although the Soviet Union exploded a fission bomb in 1949 and announced the acquisition of a fusion (or hydrogen) bomb four years later, the United States still continued for a while longer to enjoy an effective monopoly on nuclear retaliation, since the Soviet Union lacked the means of delivering quantities of such bombs against U.S. territory.

That situation changed dramatically in 1957 when the Soviets launched the Sputnik. This event, which their propaganda hailed as a great contribution to the advancement of science (and ours as proof of the American educational system!), represented in fact a significant military demonstration, namely, the ability of the Russians to deliver nuclear warheads against the United States homeland, until then immune from direct enemy threats.

At this point massive retaliation ceased to make much sense and before long yielded to the doctrine of "mutual deterrence." The new doctrine postulated that inasmuch as both the Soviet Union and the United States possessed (or would soon possess) the means of destroying each other, neither country could rationally contemplate resort to war. The nuclear stockpiles of each were an effective deterrent which ensured that they would not be tempted to launch an attack.

This doctrine was worked out in great and sophisticated detail by a bevy of civilian experts employed by various government and private organizations. These physicists, chemists, mathematicians, economists, and political scientists came to the support of the government's fiscally-driven imperatives with scientific demonstrations in favor of the nuclear deterrent.

Current U.S. strategic theory was thus born of a marriage between the scientist and the accountant. The professional soldier was jilted.

A large part of the U.S. scientific community had been convinced as soon as the first atomic bomb was exploded that the nuclear weapon, which that community had conceived and helped to develop, had accomplished a complete revolution in warfare. This conclusion was reached without much reference to the analysis of the effects of atomic weapons carried out by the military, and indeed without consideration of the traditional principles of warfare.

It represented, rather, an act of faith on the part of an intellectual community which held strong pacifist convictions and felt deep guilt at having participated in the creation of a weapon of such destructive power.

As early as 1946, in an influential book sponsored by the Yale Institute of International Affairs, under the title The Absolute Weapon, a group of civilian strategic theorists enunciated the principles of the mutual-deterrence theory which subsequently became the official U.S. strategic doctrine. The principal points made in this work may be summarized as follows:

1. Nuclear weapons are "absolute weapons" in the sense that they can cause unacceptable destruction, but also and above all because there exists against them no possible defense. When the aggressor is certain to suffer the same punishment as his victim, aggression ceases to make sense.

Hence war is no longer a rational policy option, as it had been throughout human history. In the words of Bernard Brodie, the book's editor: "Thus far the chief purpose of our military establishment had been to win wars. From now on its chief purpose must be to avert them. It can have almost no other useful purpose" (p. 76).

2. Given the fact that the adjective absolute means, by definition, incapable of being exceeded or surpassed, in the nuclear age military superiority has become meaningless. As another contributor to the book, William T. R. Fox, expressed it: "When dealing with the absolute weapon, arguments based on relative advantage lose their point" (p. 181).

From which it follows that the objective of modern defense policy should be not superiority in weapons, traditionally sought by the military, but "sufficiency"; just enough nuclear weapons to be able to threaten a potential aggressor with unacceptable retaliation—in other words, an "adequate" deterrent, no more, no less.

3. Nuclear deterrence can become effective only if it restrains mutually—i.e., if the United States and the Soviet Union each can deter the other from aggression. An American monopoly on nuclear weapons would be inherently destabilizing, both because it could encourage the United States to launch a nuclear attack, and, at the same time, by making the Russians feel insecure, cause them to act aggressively.

"Neither we nor the Russians can expect to feel even reasonably safe unless an atomic attack by one were certain to unleash a devastating atomic counterattack by the other," Arnold Wolfers maintained (p. 135). In other words, to feel secure the United States actually required the Soviet Union to have the capacity to destroy it.

Barely one year after Hiroshima and three years before the Soviets were to acquire a nuclear bomb, The Absolute Weapon articulated the philosophical premises underlying the mutual-deterrence doctrine which today dominates U.S. strategic thinking. Modern strategy, in the opinion of its contributors, involved preventing wars rather than winning them, securing sufficiency in decisive weapons rather than superiority, and even ensuring the potential enemy's ability to strike back.

Needless to elaborate, these principles ran contrary to all the tenets of traditional military theory, which had always called for superiority in forces and viewed the objective of war to be victory. But then, if one had decided that the new weapons marked a qualitative break with all the weapons ever used in combat, one could reasonably argue that past military experience, and the theory based on it, had lost relevance. Implicit in these assumptions was the belief that Clausewitz and his celebrated formula proclaiming war an extension of politics were dead.

Henry Kissinger, who can always be counted upon to utter commonplaces in the tone of prophetic revelation, announced Clausewitz's obituary nearly twenty years after The Absolute Weapon had made the point, in these words: "The traditional mode of military analysis which saw in war a continuation of politics but with its own appropriate means is no longer applicable."[6]

American civilian strategists holding such views gained the dominant voice in the formulation of U.S. strategic doctrine with the arrival in Washington in 1961 of Robert S. McNamara as President Kennedy's Secretary of Defense. A prominent business executive specializing in finance and accounting, McNamara applied to the perennial problem of American strategy—how to maintain a credible global military posture without a large and costly military establishment—the methods of cost analysis.

These had first been applied by the British during World War II under the name "operations research" and subsequently came to be adopted here as "systems analysis." Weapons' procurement was to be tested and decided by the same methods used to evaluate returns on investment in ordinary business enterprises. Mutual deterrence was taken for granted: the question of strategic posture reduced itself to the issue of which weapons systems would provide the United States with effective deterrence at the least expense.

Under McNamara the procurement of weapons, decided on the basis of cost effectiveness, came in effect to direct strategy, rather than the other way around, as had been the case through most of military history. It is at this point that applied science in partnership with budgetary accountancy—a partnership which had developed U.S. strategic theory—also took charge of U.S. defense policy.

As worked out in the 1960's, and still in effect today, American nuclear theory rests on these propositions: All-out nuclear war is not a rational policy option, since no winner could possibly emerge from such a war. Should the Soviet Union nevertheless launch a surprise attack on the United States, the latter would emerge with enough of a deterrent to devastate the Soviet Union in a second strike.

Since such a retaliatory attack would cost the Soviet Union millions of casualties and the destruction of all its major cities, a Soviet first strike is most unlikely. Meaningful defenses against a nuclear attack are technically impossible and psychologically counterproductive; nuclear superiority is meaningless.

In accord with these assumptions, the United States in the mid-1960's unilaterally froze its force of ICBM's at 1,054 and dismantled nearly all its defenses against enemy bombers. Civil-defense was all but abandoned, as was in time the attempt to create an ABM system which held out the possibility of protecting American missile sites against a surprise enemy attack.

The Russians were watched benignly as they moved toward parity with the United States in the number of intercontinental launchers, and then proceeded to attain numerical superiority. The expectation was that as soon as the Russians felt themselves equal to the United States in terms of effective deterrence, they would stop further deployments.

The frenetic pace of the Soviet nuclear build-up was explained first on the ground that the Russians had a lot of catching up to do, then that they had to consider the Chinese threat, and finally on the ground that they are inherently a very insecure people and should be allowed an edge in deterrent capability.

Whether mutual deterrence deserves the name of a strategy at all is a real question. As one student of the subject puts it:

"Although commonly called a 'strategy,' 'assured destruction' was by itself an antithesis of strategy. Unlike any strategy that ever preceded it throughout the history of armed conflict, it ceased to be useful precisely where military strategy is supposed to come into effect: at the edge of war. It posited that the principal mission of the U.S. military under conditions of ongoing nuclear operations against [the continental United States] was to shut its eyes, grit its teeth, and reflexively unleash an indiscriminate and simultaneous reprisal against all Soviet aim points on a preestablished target list.

"Rather than deal in a considered way with the particular attack on hand so as to

Footnotes at end of article.

minimize further damage to the United

tarpart, Melvin Laird. Laird divided wars

FOOTNOTES

minimize further damage to the United States and maximize the possibility of an early settlement on reasonably acceptable terms, it had the simple goal of inflicting punishment for the Soviet transgression. Not only did this reflect an implicit repudiation of political responsibility, it also risked provoking just the sort of counterreprisal against the United States that a rational wartime strategy should attempt to prevent." [7]

I cite this passage merely to indicate that the basic postulates of U.S. nuclear strategy are not as self-evident and irrefutable as its proponents seem to believe; and that, therefore, their rejection by the Soviet military is not, in and of itself, proof that Soviet thinking is "primitive" and devoid of a sense of realism.

The principal differences between American and Soviet strategies are traceable to different conceptions of the role of conflict and its inevitable concomitant, violence, in human relations; and secondly, to different functions which the military establishment performs in the two societies.

In the United States, the consensus of the educated and affluent holds all recourse to force to be the result of an inability or an unwillingness to apply rational analysis and patient negotiation to disagreements: the use of force is *prima facie* evidence of failure. Some segments of this class not only refuse to acknowledge the existence of violence as a fact of life, they have even come to regard fear—the organism's biological reaction to the threat of violence—as inadmissible. "The notion of being threatened has acquired an almost class connotation," Daniel P. Moynihan notes in connection with the refusal of America's "sophisticated" elite to accept the reality of a Soviet threat. "If you're not very educated, you're easily frightened. And not being ever frightened can be a formula for self-destruction." [8]

Now this entire middle-class, commercial, essentially Protestant ethos is absent from Soviet culture, whose roots feed on another kind of soil, and which has had for centuries to weather rougher political climes. The Communist revolution of 1917, by removing from positions of influence what there was of a Russian bourgeoisie (a class Lenin was prone to define as much by cultural as by socio-economic criteria), in effect installed in power the *mushik*, the Russian peasant.

And the mushik had been taught by long historical experience that cunning and coercion alone ensured survival: one employed cunning when weak, and cunning coupled with coercion when strong. Not to use force when one had it indicated some inner weakness. Marxism, with its stress on class war as a natural condition of mankind so long as the means of production were privately owner, has merely served to reinforce these ingrained convictions. The result is an extreme Social-Darwinist outlook on life which today permeates the Russian elite as well as the Russian masses, and which only the democratic intelligentsia and the religious dissenters oppose to any significant extent.

The Soviet ruling elite regards conflict and violence as natural regulators of all human affairs: wars between nations, in its view, represent only a variant of wars between classes, recourse to the one or the other being dependent on circumstances. A conflictless world will come into being only when the socialist (i.e., Communist) mode of production spreads across the face of the earth.

The Soviet view of armed conflict can be illustrated with another citation from the writings of the late Marshal Grechko, one of the most influential Soviet military figures of the post-World War II era. In his principal treatise, Grechko refers to the classification of wars formulated in 1972 by his U.S. counterpart, Melvin Laird. Laird divided wars according to engineering criteria—in terms of weapons employed and the scope of the theater of operations—to come up with four principal types of wars: strategic-nuclear, theater-nuclear, theater-conventional, and local-conventional. Dismissing this classification as inadequate, Grechko applies quite different standards to come up with his own typology:

"Proceeding from the fundamental contradictions of the contemporary era, one can distinguish, according to sociopolitical criteria, the following types of wars: (1) wars between states (coalitions) of two contrary social systems—capitalist and socialist; (2) civil wars between the proletariat and the bourgeoisie, or between the popular masses and the forces of the extreme reaction supported by the imperialists of other countries; (3) wars between imperialist states and the peoples of colonial and dependent states fighting for their freedom and independence; and (4) wars among capitalist states." [9]

This passage contains many interesting implications. For instance, it makes no allowance for war between two Communist countries, like the Soviet Union and China, though such a war seems greatly to preoccupy the Soviet leadership. Nor does it provide for war pitting a coalition of capitalist and Communist states against another capitalist state, such as actually occurred during World War II when the United States and the Soviet Union joined forces against Germany.

But for our purposes, the most noteworthy aspect of Grechko's system of classification is the notion that social and national conflicts within the capitalist camp (that is, in all countries not under Communist control) are nothing more than a particular mode of class conflict of which all-out nuclear war between the superpowers is a conceivable variant.

In terms of this typology, an industrial strike in the United States, the explosion of a terrorist bomb in Belfast or Jerusalem, the massacre by Rhodesian guerrillas of a black village or a white farmstead, differ from nuclear war between the Soviet Union and the United States only in degree, not in kind.

All such conflicts are calibrations on the extensive scale by which to measure the historic conflict which pits Communism against capitalism and imperialism. Such conflicts are inherent in the stage of human development which precedes the final abolition of classes.

Middle-class American intellectuals simply cannot assimilate this mentality, so alien is it to their experience and view of human nature. Confronted with the evidence that the most influential elements in the Soviet Union do indeed hold such views, they prefer to dismiss the evidence as empty rhetoric, and to regard with deep suspicion the motives of anyone who insists on taking it seriously.

Like some ancient Oriental despots, they vent their wrath on the bearers of bad news. How ironic that the very people who have failed so dismally to persuade American television networks to eliminate violence from their programs, nevertheless feel confident that they can talk the Soviet leadership into eliminating violence from its political arsenal!

Solzhenitsyn grasped the issue more profoundly as well as more realistically when he defined the antithesis of war not as the absence of armed conflict between nations—i.e., "peace" in the conventional meaning of the term—but as the absence of all violence, internal as well as external. His comprehensive definition, drawn from his Soviet experience, obversely matches the comprehensive Soviet definition of warfare. . . .

FOOTNOTES

[1] "The Real Paul Warnke," *New Republic*, March 26, 1977, p. 23.

[2] N. V. Karabanov in N. V. Karabanov, et al., *Filosofskoe nasledie V. I. Lenina i problemy sovremennoi voiny* ("The Philosophical Heritage of V. I. Lenin and the Problems of Contemporary War") (Moscow, 1972) pp. 18–19, cited in Leon Gouré, Foy D. Kohler, and Mose L. Harvey, eds., *The Role of Nuclear Forces in Current Soviet Strategy* (1974), p. 60.

[3] A. A. Grechko, *Vooruzhonnye sily sovetskogo gosudarstva* ("The Armed Forces of the Soviet State") (Moscow, 1975), p. 345.

[4] Russel F. Weigley, *The American Way of War* (1973), p. 368.

[5] Matthew B. Ridgway, *Soldier* (1956), pp. 296–97.

[6] In Michael Howard, ed., *The Theory and Practice of War* (London, 1965), p. 291.

[7] Benjamin S. Lambeth, *Selective Nuclear Options in American and Soviet Strategic Policy* (Rand Corporation, R–2034–DDRE, December 1976), p. 15. This study analyzes and approves of the refinement introduced into the U.S. doctrine by James R. Schlesinger as Secretary of Defense in the form of "limited response options."

[8] Interview with *Playboy*, March 1977, p. 72.

[9] Grechko, *Voorozhunnye sily sovetskogo gosudarstva*, pp. 347–48, emphasis added.●

A TRIBUTE TO PAUL G. ROGERS

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. BRADEMAS. Mr. Speaker, when the 95th Congress concludes its business this year, it will mark the end of 24 years of distinguished service by the Congressman from the 11th District of Florida, PAUL ROGERS. Those of us who have served with PAUL ROGERS have indeed been most fortunate. We have all benefited from his wisdom, decency, and statesmanship. We cannot help being saddened by his announcement that he will not seek another term even as we wish him every success and happiness in whatever future endeavors he pursues.

PAUL ROGERS will be deeply missed by his colleagues in the House for we are all familiar with his exceptionally intelligent, dedicated, and fair leadership as chairman of the Subcommittee on Health and Environment.

Mr. Speaker, I would like to share with the Members an editorial from the July 24, 1978, issue of Medical World News which speaks to the high esteem in which PAUL ROGERS is held across the country.

The editorial follows:

A LEGISLATOR WHO'LL BE MISSED

Paul G. Rogers is leaving the House of Representatives after 24 years. During the past eight years, as chairman of the Subcommittee on Health and Environment, he has been a dominant figure in health affairs. No matter who replaces him in that post, Rogers will be sorely missed.

Most of all, MWN will miss his hearings. They were marked by careful preparation and reasoned tone. Though we did not always agree with him, as reporters we were confident his hearings would be worth covering.

As such they were frequently different from other similar gatherings on a number of counts.

First, Rogers himself usually arrived well prepared, with at least a basic grasp of the subject at hand. Second, the hearings were just that—forums in which information needed to make decisions could be developed. Rarely, if ever, was a Rogers hearing choreographed to support a narrow, predetermined point of view. And almost as rarely were the hearings laid on with an eye toward publicity rather than the information to be generated.

This is not to suggest that the 57-year-old Floridian was not a politician of considerable finesse. A moderate Democrat from a solidly Republican area, he was returned to office two years ago with a plurality of 91%, the largest given any Congressman in the 1976 elections. His political acumen was also demonstrated repeatedly within his committee. Take, for example the little-known but critical point in the development of a bill called "markup". It is here that, after all the staff work and hearings, bills often come to disaster as the individual views and votes of committee members are brought into play. Under Paul Rogers, the markup process was nearly always democratic and smooth.

In large part this was due to his ability to achieve compromise. This talent paved the way for passage of such landmark laws as the 1970 Clean Air Act, the 1971 National Cancer Act, the 1970 National Health Service Corps Act, and the 1976 Medical Devices Amendments. Indeed, in the early 1970s his subcommittee turned out so many bills on such subjects as health manpower, community mental health centers, regional medical programs, communicable disease control, drug abuse, and the creation of a new aging institute at NIH that is was called the "Disease of the Month Club".

It was during this time that Rogers, always impeccably dressed and with Southern-accented courtesy, established himself as an implacable examiner. Evasive witnesses soon discovered that he already knew the answers to many of the questions he asked. In addition, documents were usually available to help "refresh" memories. Where there were conflicts in statements, the reasons were fully explored. You did not have to agree with Paul Rogers, but it was always best to answer as candidly and completely as possible.

On the whole, Rogers should be judged a friend of the private sector. There are rumors he will remain on the Washington health scene in some private or appointive capacity. We hope so, because his kind of knowledge and style are rare indeed.●

THE HONORABLE RICHARD GARDNER—U.S. AMBASSADOR TO ITALY

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. ZABLOCKI. Mr. Speaker, on June 6 of this year, I was privileged to chair a Capitol Hill breakfast meeting as part of a regular series of such meetings under the sponsorship of the Georgtown University Center for Strategic and International Studies.

The guest speaker on that particular occasion was the Honorable Richard Gardner, U.S. Ambassador to Italy, who commented at some length about political and economic trends in his country of assignment, as well as U.S. foreign policy concerns. The meeting was well attended and afforded Members of Congress the opportunity to question the Ambassador on a broad range of topics, including U.S. attitudes toward Euro-Communism in general and the role of the Italian Community Party (PCI), in particular. Judging from the comments I have received from a number of my colleagues who participated in the event, it was a useful exchange in all respects.

Subsequently, this meeting was referred to in various accounts appearing in the Italian press. Predictably, coverage of the event was mixed, including, in some instances, a mixture of fact and fantasy. One article in particular left the impression that Ambassador Gardner is on the verge of being transferred after only 15 months at his present post—essentially because of widespread congressional criticism of his role and policies.

Nothing, Mr. Speaker, could be further from the truth. While there are—and always will be—differences of opinion within this body on the best course for the United States to pursue in its dealings with the Italian Government, I have seen no indication of a ground swell of opposition to the Ambassador's performance in a difficult, challenging, and sensitive assignment. On the contrary, I believe he enjoys bipartisan admiration and respect.

Just to set the record straight on b half of this Member, let me register m own confidence in Ambassador Gardne and my personal appreciation for th job he is doing as our Ambassador t Italy.

Mr. Gardner has outstanding crede tials, having brought to his position a extraordinary background in govern ment and academia. He is a member o the Trilateral Commission and was f many years a distinguished professor o international law at Columbia Univer sity. He has also served with distinctio in the Department of State, is fluent i Italian, and has followed Italian affai closely for many years.

In short, it appears clear to me tha we are indeed fortunate to have, as ou Ambassador to Italy, a man who enjoy the respect of his friends and colleagu in the universities, the Congress, the ex ecutive branch, and the broader commu nity of those concerned with America foreign policy.●

THE 103D ARMORED DIVISION

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. MURTHA. Mr. Speaker, it ha come to my attention that the 103 Armored Division based in Johnstow has won the 1978 award as the Na tional Guard's outstanding armored ba talion. This is particularly significa because this is the fourth year in a ro that the division has won the award. T the best of our knowledge, no division i the Nation has ever won this award fou times in a row.

Col. Joseph Latch will accept th award in St. Louis later this year. I Congress we have debated the role of th National Guard, and this unit certainl exemplifies how the National Guar should be performing.

I extend my congratulations to th excellent effort by this unit.●

SENATE—*Friday, August 18, 1978*

(Legislative day of Wednesday, August 16, 1978)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. DONALD W. RIEGLE, JR., a Senator from the State of Michigan.

PRAYER

The Reverend Dr. Robert B. Harriman, director, the Presbyterian Council for Chaplains and Military Personnel, Washington, D.C., offered the following prayer:

Let us pray. Almighty God, we thank Thee for this Nation, born in freedom and maturing in union. The bounty of the Earth and the wealth of human talents have made us a nation of power among the nations of the world. Thou dost hold us responsible for the proper use of all we receive, and demand faithful stewardship of the resources of land and people. May power neither make us insensitive to the cries of the weak nor tempted to turn aside from their needs. May we who enjoy many privileges be aware of those for whom privileges are few. May we, who are aware of God-given rights, be alert to any denial those rights to others. Thou hast made strong so that we may lift the faller Thou has given us privileges so that w may share generously with others; Tho has shown us our rights so that we ma guarantee them for all Thy people. Wit an appreciation of those who have le this Nation in the past, and prayers fo all who lead this Nation now, we ask Th continued guidance and blessin through all the days ahead. In the Ma ter's name we pray. Amen.

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., August 18, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DONALD W. RIEGLE, Jr., a Senator from the State of Michigan, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. RIEGLE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I do not believe I have any requests for time on my side.

RECOGNITION OF LEADERSHIP

Mr. SCHMITT addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

AMERICAN BALLOONISTS LAND IN FRANCE

Mr. SCHMITT. Mr. President, the world is once again thrilled by the actions of American adventurers. In this case, three New Mexicans have completed their flight in a balloon across the Atlantic to the cheers, once again, of Frenchmen.

It is one of the most exciting periods in New Mexico's history. I think once again it is an exciting period for not only Americans but also the rest of the world.

Ben Abruzzo, Maxie Anderson, and Larry Newman have bound the two continents together again by a human endeavor much more than a technological endeavor.

So, with Charles Lindbergh and many other American explorers and adventurers, they have written their story in history.

Mr. President, I ask unanimous consent that today's article describing that adventure that appeared in the Washington Post be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AMERICAN BALLOON LANDS IN FRANCE

(By Milton R. Benjamin)

Three American daredevils who crossed the Atlantic in a giant silver balloon landed in a wheat field outside Paris yesterday and were mobbed by Frenchmen in a scene reminiscent of the welcome for Charles Lindbergh a half-century ago.

The 11-story-high Double Eagle II, flying both the Stars and Stripes and the French tricolor, touched down just before dusk near the hamlet of Miserey, 50 miles west of Paris, ending a six-day, 3,200-mile odyssey which had begun in Presque Isle, Maine.

As light planes buzzed overhead dipping their wings in salute, Frenchmen who had been trailing the balloon along country roads drove wildly across fields to embrace the first balloonists to successfully cross the Atlantic.

"I cannot believe this welcome," exclaimed a bearded Ben Abruzzo, 48, as he jumped from the red and yellow gondola along with coadventurers Maxie Anderson, 44, and 31-year-old Larry Newman.

After quickly securing their balloon in a stiff evening breeze, the three men uncorked a bottle of champagne they had brought with them and doused each other as the rapidly growing crowd cheered wildly.

Half an hour after touchdown, the celebration was still growing. Gendarmes all but abandoned their efforts to hold back the thousands who had converged on the site, and the balloon's gondola was ripped apart for souvenirs.

"Lindbergh was a much bigger thing, of course, but this is really something, too," exulted Emile Lasne, 73, who remembered the landing of Charles Lindbergh at Le Bourget airport in 1927 following the first nonstop Atlantic crossing by air.

The three balloonists, all from Albuquerque, N.M., had hoped to follow in "Lucky Lindy's" footsteps and end their flight at Le Bourget, but a wind shift yesterday forced them to abandon that goal.

It hardly seemed to matter.

"This is fantastic," shouted a woman holding her baby high for a glimpse of the balloonists.

"This is fabulous, fabulous," echoed Gregoire Mussayan, a motorist who joined the celebration. "This is a victory for the American people."

At the height of the celebration Newman's father, Herb, who had been trailing the balloon, arrived to greet his son.

"I did it, dad. I did it," shouted Newman, burying his head in his father's shoulder and weeping.

Before a helicopter arrived to take the three adventurers to Paris, the village doctor gave them a rapid checkup. He found them tired, but otherwise in good health.

The three balloonists also donned fresh T-shirts before boarding the helicopter that proudly proclaimed, "First Transatlantic Crossing by Balloon."

In Paris, another hero's welcome—and a reunion with their wives—awaited the trio. Earlier in the day, as the Double Eagle II drifted across southern England, the three wives had flown close enough to the balloon in a private plane to blow kisses at their husbands.

In Paris, Youth and Sports Minister Jean-Pierre Soisson termed the achievement "a new bridge between America and France," and announced that he had awarded the balloonists his ministry's gold medal.

The French government also planned a champagne welcome to Paris for the Americans, although the balloonists—who dined during their six-day flight on hot dogs and canned sardines—radioed ahead that they were looking forward to a meal of french fries and hamburgers.

Air France also suggested that the three balloonists avail themselves of somewhat faster transportation on their return across the Atlantic to the United States, offering them free passage aboard the supersonic Concorde.

President Carter congratulated the three by telegram and invited them to the White House.

"Your daring voyage through the silent sky is a welcome reminder that individual acts of bravery and skill still capture our collective imagination," Carter said.

In downtown Paris, crowds of Frenchmen gathered on the Rue du Faubourg St. Honore outside the U.S. Embassy residence where the balloonists and their wives were put up for the night.

The youngest of the three, Newman, and his wife Sandra won the right to spend the night in the Lindbergh bed, where Lucky Lindy slept following his epic flight.

Anderson, a veteran pilot and industrial engineer who along with Abruzzo had attempted the same voyage a year ago aboard the Double Eagle I, said the balloonists ran into trouble only four times on their flight.

The most serious problem, he said, was "when we iced up badly about halfway across the Atlantic. It cost us a lot of ballast and height."

But recalling his previous transatlantic effort, he added: "Last year we went down off Iceland. We're kind of glad to be here in France this time."

Abruzzo, who is in real estate and other business, is also a veteran balloonist and pilot. Newman, a newcomer to ballooning, manufactures hang gliders and had hoped to arrive on the European continent on a hang glider that had been attached to the gondola of the Double Eagle II. Ballast problems, however, forced the balloonists to jettison the glider over the Atlantic.

The three men actually achieved the century-old dream of crossing the Atlantic by balloon Wednesday night, when the Double Eagle II crossed the coast of Ireland 121 hours and 18 minutes after liftoff.

Propelled by brisk winds, they pressed on across Wales and southwest England, over the English channel, and crossed the French coastline near Le Havre.

"We intended to go to Le Bourget airport because Lindbergh landed there," Abruzzo said. But as the balloon soared across the hedgerows of Normandy toward Paris, the wind began to shift.

"The direction of the balloon was changed," Abruzzo said, so the three men decided to land.

When they finally set the Double Eagle II gently down in the wheat field, they had been in the air 137 hours and 18 minutes and had traveled an estimated 3,233 miles—both records.

Despite their disappointment at not making it to Le Bourget, the balloonists were clearly delighted to have succeeded in reaching France.

"I guess Ireland would have done it," Anderson said.

"But the reason we wanted to come to France was Charles Lindbergh," he added. "He's an inspiration to many generations of Frenchmen and Americans."

ADVENTURERS' HOME TOWN TAKES BALLOON FEAT IN STRIDE

ALBUQUERQUE, N.M.—The people of this town are used to hearing about their adventurous citizens rising higher, flying straighter and going farther than most in balloons.

Ben ABUZZO, 48, Maxie Anderson, 44, and Larry Newman, 31, added the biggest prize to the local collection when their helium-filled Double Eagle II reached the coast of Ireland Wednesday, making them the first men to cross the Atlantic by balloon.

"I think it's tremendous," said Paul Woessner, an Albuquerque resident who won the world hot-air balloon championship in England. "If any body had to do it, I'm glad it was someone from Albuquerque."

THE UPCOMING SUMMIT CONFERENCE

Mr. SCHMITT. Mr. President, I think all of the Members of the minority would join me in wishing the President, Mr. Begin and Mr. Sadat success in their upcoming summit conference.

It is extremely important to our three countries, as well as to the peace of the world, that this conference is marked by success.

The measure of that success is unknown at this time. Certainly, we hope some of the major differences we know about that divide the peoples in the Middle East will be resolved. But, it may also be possible to set out ahead of those differences, to agree to disagree for some period of time more and find a means by which all the peoples of that region can work together for their future economic advancement. The ties of economy, of need, of resources, of ingenuity and imagination that could be forged by the great peoples of the Middle East, certainly, would make a worthwhile aim of that conference.

Let us hope that they, in fact, are forged and that some steps toward permanent peace in that region can be reached.

ORDER OF BUSINESS

Mr. SCHMITT. Mr. President, I ask unanimous consent that the special orders for Mr. TOWER and Mr. MCCLURE be transferred to Mr. HAYAKAWA this morning.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. SCHMITT. Mr. President, I yield the remainder of my time to the distinguished Senator from Wyoming.

Mr. HANSEN. Mr. President, I ask unanimous consent that Danny Boggs, of the Energy and Natural Resources Committee, be granted privilege of the floor during the day throughout the debate and any votes on any measures which may come up.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HANSEN. I thank my colleague.

SPECIAL ORDER

Mr. SCHMITT. Mr. President, I have no further need for the leadership time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from California (Mr. HAYAKAWA) is recognized for not to exceed 45 minutes.

The Senator from California.

VOTING RIGHTS FOR THE DISTRICT OF COLUMBIA

Mr. HAYAKAWA. Mr. President, I wish to address myself to the question of voting rights for Washington, D.C.

I remark, first of all, that Washington, D.C. is a kind of incredible dream city, a kind of fairyland, a unique place in this country. There is no seaport. There is no industry. There is no agriculture.

We have no automobile factories like Detroit, no golden fields of corn like Iowa or Indiana, no dairy farms like Wisconsin, no shipping like New Orleans, Baltimore, Seattle, or Galveston, no clothing industry like New York, no movie studios or wineries or orchards like California, no wheat fields like the Dakotas, no pineapples and sugar cane like the glorious islands of Hawaii, no mineral resources like Alaska, no lumber resources like those of Alaska and the State of Washington.

There is just no wealth-creating business here in Washington, but only one great money-spending entity, the Federal Government.

The majority of those working in the District of Columbia work for the Federal Government, or the closely related service industries whose workers service those who work for the Government.

Add to that, all the lobbying groups, the law firms who are here because the Federal Government is here, and one begins to understand what is meant by the term "Federal City."

This city makes laws and regulations. In the course of history, some of those laws and regulations have helped to produce wealth, like the Homestead Act, or the Morrell Act that created the land grant colleges.

It is in the business, largely, of making laws and regulations to prevent the formation of wealth, like OSHA and FDA and the Department of Energy.

The people in the States of the Union work to create wealth, a large amount of which they send in the form of taxes to Washington, D.C., for us to spend. Our major economic concern, then, is not how much wheat we can grow, or chickens we can hatch, or shoes, tractors or dresses we can manufacture, but rather how much money we can get the wealth-creators of the 50 States to send us. We live and work here only on the strength of other people's taxes.

Washington creates no wealth, but we wallow in wealth. If there were to be voting Representatives from the District of Columbia in Congress, they would then be in the position of representing the interests of the Federal Government to the Federal Government. This situation could easily provide an opportunity for the abuse of power, or at the very least, severe conflict of interest.

To further illustrate my point, I would like to read, for the benefit of my colleagues, an article by Tom Bethell, recently published in Harper's magazine, entitled, "The Wealth of Washington."

Talking about wealth in general, Mr. Bethell says that we have had two basic theories about wealth and its distribution:

> The first system is sometimes described as "trickle-down" economics. According to this system, people were allowed to accumulate as much money as they were able, on the theory that they would spend it, allowing the benefits therefrom to "trickle down" to others who had not been able to accumulate so much.
>
> * * * * *
>
> Unfortunately, trickle-down economics got a bad name in the end.
>
> * * * * *
>
> Along came the new system, based instead on fairness. There would be an unfortunate but necessary "trade-off" between efficiency and equality. Under the new system, people would still be allowed to make money, but after they had made a certain amount their earnings would be transferred to others who had made less. This money would be transferred as though it were water in a bucket. Then a very important discovery was made. In the process of traveling from the rich to the poor, the bucket leaked. Thus the "leaky bucket" economic system eventually came to replace the "trickle-down" system.
>
> * * * * *
>
> Here is an excellent description of leaky-bucket economics by Arthur Okun, an economist with the Brookings Institution and formerly chairman of President Johnson's Council of Economic Advisers. Okun postulates a program that takes away $4,000 from each of several affluent families and gives the money to another group, four times larger, of poor families. This transfer should, as Okun says, "finance a $1,000 grant for the average low-income family."
>
> "However," he continues, "the program has an unsolved technological problem: the money must be carried from the rich to the poor in a leaky bucket. Some of it will simply disappear in transit, so the poor will not receive all the money that is taken from the rich. The average poor family will get less than $1,000, while the average rich family gives up $4,000."
>
> * * * * *
>
> Washington is right underneath the leaky bucket, and, I am tempted to add, the mansions are not being built in Newport anymore; they are being built in Washington. Not for individuals, of course—heavens no. There are no multimillionaires in the new scheme. That's precisely the beauty of it. Greed has been ostensibly eliminated from the picture and replaced by good works. This is what makes it so hard to point an accusatory finger at anyone. No, the new structures, on a much larger (although not grander) scale than the Newport mansions, are called "agencies" and "departments," and to be fair about it they employ far more people than The Breakers ever did. What's more, today's government employees evidently have a lot of money to spend.
>
> The lavish spending now going on in Washington might have warmed the heart of old Commodore Vanderbilt himself. The expensive restaurants ($70 or more a couple) are becoming harder and harder to get into. The nightly display of evening dress at the Kennedy Center keeps plenty of couturiers happy. Soaring property values have enabled plenty of residents (New Dealers, et cetera) to refinance their houses and spend $10,000 more landscaping their gardens. But this is all effect. Money will be spent, and it doesn't mind who spends it. Let us look at the cause.
>
> The wealth of Washington derives primarily from federal pay, which is high and keeps getting higher all the time. Federal pay is a complex subject, but worth trying to simplify. Since 1970 federal pay has been based on the idea of "comparability," meaning that federal workers are supposed to be paid the same as those doing comparable jobs in the private sector. To compute private-sector pay, the Bureau of Labor Statistics does a survey between January and April every year.
>
> But somehow the pay is not comparable. The pay in Washington is enormously better than it is elsewhere. It is so attractive to come to Washington that, as Bethell says:
>
> It is a remarkable fact that in 1977 the equivalent of the entire population of Texas inquired about the possibility of a job with the Federal Government. And, as Mike Causey noted in his "Federal Diary" column in the Washington Post, these statistics "represent only people who got through." Nobody knows how many job hunters have been frustrated by long lines or seemingly forever busy telephone numbers, and have given up. They aren't counted in the statistics.
>
> "Production workers" (lowly blast-furnace types) are paid less than government work-

ers. People who work on docks, farms, and

money. Washington, as a city, has only fur-

employees are on the federal

edied, "it became enshrined in myth as the

TABLE 2.—Richest counties, median family

powerfully to ensure that all the Presidents

era. People who work on docks, farms, and oil wells are simply not "comparable" to the people in Washington, who work on paper.

Bethell notes:

. . . there are many people in Washington who earn more than government workers; the burgeoning class of lawyers inevitably comes to mind (according to *Time* there are 20,000 of them in Washington, and all of them must surely get down on their knees every night to say a prayer of thanks to the Patron Saint of Lawyers, Ralph Nader); and then, of course, there are the lobbyists and the psychiatrists—there are more of the latter per square inch than anywhere else in the world, thanks to government health insurance plans that seem to have been designed on the assumption that people will very likely go crazy working for the government.

There are also the consultants—the "beltway bandits," as they are sometimes called. These are the people who do government work for a fee. A large fraction of government work is contracted out these days, a fact that is always worth bearing in mind, because this is one of the main ways in which the true extent of government employment is disguised. (Defenders of the federal bureaucracy frequently also use the following argument: It is not the federal government that has grown, it is the state and local governments. That is true, but misleading. The growth of state and local governments has has been very largely mandated by federal regulation and augmented by revenue sharing and "matching" spending arrangements.)

So, I say, the wealth of Washington is enormous. Washington creates no wealth but wallows in wealth.

Mr. President, I ask unanimous consent that Mr. Bethell's article from Harper's magazine be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE WEALTH OF WASHINGTON

(By Tom Bethell)

(Above this race of men stands an immense and tutelary power, which takes upon itself alone to secure their gratifications and to watch over their fate. That power is absolute, minute, regular, provident and mild. It would be like the authority of a parent if, like that authority, its object was to prepare men for manhood; but it seeks, on the contrary, to keep them in perpetual childhood: it is well content that the people should rejoice, provided they think of nothing but rejoicing. . . . It covers the surface of society with a network of small complicated rules, minute and uniform, through which the most original minds and the most energetic characters cannot penetrate, to rise above the crowd. . . . Such a power does not destroy, but it prevents existence; it does not tyrannise, but it compresses, enervates, extinguishes, and stupefies a people, till each nation is reduced to nothing better than a flock of timid and industrial animals of which the government is the shepherd.—ALEXIS DE TOCQUEVILLE.

Economics is one of those subjects that become more interesing with the passage of time. In this respect it is unlike, say, metaphysics. Well do I remember my first day at university and my tutor handing me a copy of Paul Samuelson's *Economics*, with the request that I write an essay entitled "What Is Money?" Having no confidence that I could solve the mystery by the following week, I handed the volume back and inquired if there were, by any chance, alternative courses in Hegel or Kant.

Years later I moved to Washington, and by then I had become a more diligent student of money. Washington, as a city, has only furthered this financial education, because it is so rich. Among the largest cities in the country, it is the only one that can really be said to be booming. There is hardly a vacant lot without a new office building about to rise on it, or a deep pit being excavated within it, wherein hard-hatted architects gaze at blueprints, fluttering in the breeze, and plan for the future. Once built, the new office buildings (shaped like well-regimented ice cubes, obedient to stringent height regulations), fill up with dramatic speed—often with burgeoning regulatory agencies overflowing from their original premises, and simultaneously (on adjacent floors) with the lobbyists and lawyers who are hired to grapple with the new regulations. Sometimes the new government quarters are on a lavish scale, the new Senate Office Building being an example. Sen. William Proxmire has observed that it "would make a Persian prince green with envy." Originally scheduled to cost $49 million in 1972, its cost has now risen to $123 million, and it will be completed (perhaps) in 1981. It includes a "physical fitness center" (convertible basketball/tennis court), and a Senators-only dining room with a rooftop view of Washington.

The prospect is good for Washington. All the indicators are up. Government salaries are up; employment is up; rented office space is up; and real estate values are up, up, and up. Property is the most engrossing topic of conversation at those famous Georgetown dinner parties, people blushing slightly about what a killing they have made, but then always reassuring themselves that "it's only on paper"—a caveat that is perhaps truer than they realize. The dollar is down in the foreign-exchange market, which means that the Germans, the Japanese, even the British have little confidence in it. They are not alone. People in the nation's capital have little confidence in it, too, which is surely not a good sign, because the manufacture of dollars is one of the main industries in Washington. Some (Milton Friedman, for example) would say that it is the only industry, but then it is well known that he is cynical about government. However, I am getting ahead of my story.

First, some statistics. Washington has now become the richest metropolitan area in the United States, according to figures compiled by Marketing Economics Institute, Ltd. (see table 1). Advertising Age, the journal that published these figures in a special section entitled "Profiles of Top 100 Markets in U.S.," noted without a trace of irony:

Washington took the change of administrations in stride. Government, the area's largest employer, experienced few significant changes during the year. A few hundred upper-crust policy makers' jobs changed hands, but many of the newcomers were old Washington hands, and the transition hardly made a ripple in the housing market.

In fact, the transition improved the housing market, because most of the newcomers arrived from Georgia, and, in the Washington way, a good many of the outgoing Republicans stayed on to reap the benefits of having worked for the government. Thus more people were looking for the same number of houses. Real estate agents in and around Washington were definitely pulling for Carter on the night of November 3, 1976. In 1980 they will be on the Republican side.

Here are some more figures. Two Washington suburban counties lead the list of the "50 Richest Counties" as measured by the 1970 Census (see table 2). By mid-decade, these counties were still doing very well in the rankings (see table 3), despite some fierce competition from Alaska, where, in addition to the Alaska pipeline then under construction, there were also high levels of federal spending.

I could provide more figures for the Washington area, but they would be superfluous. Suffice it to say that 25 percent of the area's employees are on the federal payroll. These people have managed, over the years, to evolve a system whereby they pay themselves well. As a result, Time magazine recently noted, Washington has become a "privileged ghetto, home of a pampered class all but immune to the disheartening tantrums of the economic weather." During the 1974 recession, unemployment in the capital was 30 percent below the national average.

The laws of supply and demand not only do not apply to Washington, they are turned inside out. Problems elsewhere in the country merely contribute to the wealth of Washington. The fuel crisis takes the shape of a new Department of Energy, where 19,000 bureaucrats under Dr. James Schlesinger's command will have $10 billion to play with—roughly equal to the total profits of all the oil companies. Figures such as these are enough to make one wonder if the energy crisis can't be traced to some action originally taken in Washington; the recent history of price controls does nothing to allay this suspicion.

When considering the economic success of Washington, an innocent might conclude that this is indeed surprising, bearing in mind that those who come here to work in the government are mostly compassionate, public-spirited people—admirers of Franklin D. Roosevelt and his wife. So one surmises that it must be just an accident that they ended up doing so well. These were people who wanted to do good; who saw poverty and wanted to stamp it out; saw discrimination and determined to end it; saw slums and dreamed of humane dwelling spaces (solid 1890s structures built practically with slave labor, now rehabbed to perfection, filled with greenery and occupied by urban planning consultants). They saw all this opportunity for doing good, and yet, somehow, a good many of them ended up sipping French wines in the quiet of their pocket-sized Georgetown backyards, discussing real estate investments before retiring early to bed because they had next day an urgent "report" to write on the sad state of the economy.

LESSONS IN ECONOMICS

How did this come to pass? To look, very briefly, at the broad canvas, one can see that in the course of this century one economic system has slowly but surely replaced another. Both are conveniently described by aquatic metaphors. The first system is sometimes described as "trickle-down" economics. According to this system, people were allowed to accumulate as much money as they were able, on the theory that they would spend it, allowing the benefits therefrom to "trickle down" to others who had not been able to accumulate so much. By way of an example, although it is an extreme one, Mrs. Cornelius Vanderbilt put trickledown economics to work when she employed thirty-three servants and sixteen footmen dressed in wigs and maroon silk breeches at "The Breakers," her summer "cottage" in Newport.

TABLE 1.—*Richest metropolitan areas, per household income, 1976*

1. Washington, D.C.	$27,702
2. Nassau-Suffolk, N.Y.	27,422
3. Bridgeport-Stamford - Norwalk-Danbury, Conn.	23,989
4. Houston, Tex.	23,672
5. Sacramento, Calif.	21,743
* * * * *	
30. New York, N.Y.	17,615

Source: Marketing Economics Institute, Ltd.

Unfortunately, trickle-down economics got a bad name in the end. Its heyday, as Milton Friedman has remarked, "was a period of the greatest progress in the well-being of the ordinary man that the world has ever seen," but still there was something about it that people didn't like. As a result, Friedman

added, "it became enshrined in myth as the period when robber barons were grinding the poor people under their heels out of sheer malice."

The system worked as well as it did because lots of people worked hard so that they could build factories and end up with sixteen footmen in silk breeches, too. There was great economic growth, therefore, but there was also a flaw: the resulting wealth didn't trickle down to everyone, and thus it was "unfair." The system was efficient, it was conceded, but efficiency wasn't everything.

Along came the new system, based instead on fairness. There would be an unfortunate but necessary "trade-off" between efficiency and equality. Under the new system, people would still be allowed to make money, but after they had made a certain amount their earnings would be transferred to others who had made less. This money would be transferred as though it were water in a bucket. Then a very important discovery was made. In the process of traveling from the rich to the poor, the bucket leaked. Thus the "leaky bucket" economic system eventually came to replace the "trickle-down" system.

Here is an excellent description of leaky-bucket economics by Arthur Okun, an economist with the Brookings Institution and formerly chairman of President Johnson's Council of Economic Advisers. Okun postulates a program that takes away $4,000 from each of several affluent families and gives the money to another group, four times larger, of poor families. This transfer should, as Okun says, "finance a $1,000 grant for the average low-income family."

"However," he continues, "the program has an unsolved technological problem: the money must be carried from the rich to the poor in a leaky bucket. Some of it will simply disappear in transit, so the poor will not receive all the money that is taken from the rich. The average poor family will get less than $1,000, while the average rich family gives up $4,000."

That is a most instructive and lucid analysis, and it continues in that vein with a discussion of how much leaking is acceptable (10 to 20 percent for Okun, a respectable centrist; unlike John Rawls of Harvard, who wouldn't object to 99 percent leakage, or Friedman, who wouldn't want any). Nevertheless, there is one point in the foregoing that I must disagree with, much as I hate to argue with so experienced an economist: the money that leaks out of the bucket doesn't "disappear"—it waters Washington and transforms the arid regions of federal bureaucracy into a land of milk and honey.

Washington is right underneath the leaky bucket, and, I am tempted to add, the mansions are not being built in Newport anymore; they are being built in Washington. Not for individuals, of course—heavens no. There are no multimillionaires in the new scheme. That's precisely the beauty of it. Greed has been ostensibly eliminated from the picture and replaced by good works. This is what makes it so hard to point an accusatory finger at anyone. No, the new structures, on a much larger (although not grander) scale than the Newport mansions, are called "agencies" and "departments," and to be fair about it they employ far more people than The Breakers ever did. What's more, today's government employees evidently have a lot of money to spend.

The lavish spending now going on in Washington might have warmed the heart of old Commodore Vanderbilt himself. The expensive restaurants ($70 or more a couple) are becoming harder and harder to get into. The nightly display of evening dress at the Kennedy Center keeps plenty of couturiers happy. Soaring property values have enabled plenty of residents (New Dealers, et cetera) to refinance their houses and spend $10,000 more landscaping their gardens. But this is all effect. Money will be spent, and it doesn't mind who spends it. Let us look at the cause.

TABLE 2.—*Richest counties, median family income, 1970 census*

1. Montgomery, Md.	$16,710
2. Fairfax, Va.	15,707
3. Nassau, N.Y.	14,632
4. Du Page, Ill.	14,468
5. Marin, Calif.	13,935

Source: Bureau of Census.

The wealth of Washington derives primarily from federal pay, which is high and keeps getting higher all the time. Federal pay is a complex subject, but worth trying to simplify. Since 1970 federal pay has been based on the idea of "comparability," meaning that federal workers are supposed to be paid the same as those doing comparable jobs in the private sector. To compute private-sector pay, the Bureau of Labor Statistics does a survey between January and April every year.

The Bureau of Labor Statistics reports its findings to the President's "Pay Agent," a triumvirate consisting of the Chairman of the Civil Service Commission, the Secretary of Labor, and the Director of the Office of Management and Budget. Another group, called the Federal Employees Pay Council, also has a say in the matter. The council consists of representatives of the largest federal employee unions, of which the most important is the American Federation of Government Employees, which represents 750,000 federal employees. Then there is a third group, called the Advisory Committee on Federal Pay, consisting of people from the private sector who represent the interest of taxpayers.

The President listens to all three groups, who may disagree with one another. The Pay Agent, for example, might recommend that the pay raise suggested by the BLS survey be held down to a smaller percentage—i.e., that the pay increase be "capped." There is every indication that this will happen this year. The BLS survey for 1978 has led federal employees to expect a raise of about 6.5 percent. But Carter's Pay Agent want to hold it to 5 percent. When they heard about this threat, the Federal Employees Pay Council vowed to attend the next meeting with the Pay Agent wearing coal miners' helmets. This was meant to remind the White House that the recent coal strike was settled only after the miners got a wage increase of about 31 percent spread over three years. Federal employees, incidentally, are by law not allowed to strike. Postal workers, however, did strike in March, 1970, and as a result they got the collective-bargaining rights and the pay raise they were looking for. Unfortunately for many federal employees, however, there is often no identifiable service that they can threaten to withdraw from the public, and so the likelihood of "wildcat" strikes from them is minimal.

In other years the President may accept the "comparability" figure, and if he does, then that percentage pay raise goes into effect in October, unless the Congress does something to stop it. Notice that Congress is thus put into the convenient position of "approving" government pay raises without having to vote on the issue or take any public action at all. It is automatic as long as the President accepts the BLS survey figure and the Congress does not act.

In Jimmy Carter's first year on the job, when pay-comparability time came around in October, 1977, and the recommendation was that federal workers all get a 7.05 percent raise, Carter signed on the dotted line immediately, unlike his two predecessors in the White House, who usually put up a fight. Carter evidently had no desire to get into a fight with the bureaucracy. Who knows, maybe he had visions of Watergate, and of the time that President Nixon's income tax returns popped up on the front page of a daily newspaper. The clandestine coupling between bureaucracy and press, which the First Amendment is said to protect, acts powerfully to ensure that all the President's men stay in the bureaucracy's good graces. If the President decides to be stubborn about holding down the pay increase this year . . . who knows what stories we may soon be reading in the Washington press.

The gentleman explaining the intricacies of federal pay to me was Ed Preston, an assistant director of the OMB and plainly a veteran of bureaucratic wars. Having listened to him, I pointed out that the problem with "comparability" was all the evidence that government workers earn more than those in the private sector. I cited some figures put out by the Advisory Commission on Intergovernmental Relations that especially indicated this. Preston's reply suggested that if the government were an army it would be deficient in privates and corporals. More and more, the jobs government workers do are being defined in such a way that they correspond to upper-level jobs in the private sector. Here is what Prestion said:

"The federal government has shifted to an increasingly professional, technical, and scientific work force. Twenty or thirty years ago we had essentially a government of clerks. But now, with moonshots, the space program, and so on, all that has changed."

Notice how this explanation makes a mockery of those miners' helmets. Anyway, I called Dr. John Shannon at the Commission on Intergovernmental Relations, the little-known commission that had innocently contrasted civilian and government pay. I told Shannon that I had found his figures very revealing. "We got a real nasty letter from the head of the Civil Service Commission about that," he said. "They claim that the government is now made up mostly of atomic physicists and people like that."

It is, in fact, an extremely difficult matter to ascertain whether the correct functioning of government now really does demand the skills of highly qualified scientists and managers, or whether job descriptions have merely been inflated to give this impression: no doubt partly both. I spent an afternoon phoning the Civil Service Commission, being routed from one office to the next, but made little headway.

There is not even a simple answer to the question: What kind of work does, say a GS-5 do? (See table 5.) In response to this question, Eugene Dahlman, assistant chief of the Standards Division, told me: "It varies from occupation to occupation. You can have a grade 5 engineer or a grade 5 secretary. The grade 5 engineer would be just out of school, of course."

This was peculiar, surely, because a grade 5 engineer is paid the same as a grade 5 secretary, on a scale of pay assumed to be "comparable" to that for work done in the private sector, and yet clearly engineering work is in no way comparable to secretarial work. How, then, can they be lumped together and be called comparable to anything?

Robert W. Hartman, an economist with the Brookings Institution, has pointed out that it is precisely this lumping together of various private-sector jobs into one pay rate that results in federal pay nosing ahead as it does. In March, 1977, a GS-5 clerical worker was paid $10,677 annually, Hartman writes. At that time BLS investigators returned from their travels and reported their findings: The salary for comparable jobs in the private sector was $10,100.

TABLE 3.—*Richest counties (over 50,000 pop.), median household effective buying income*

	1975	1976
1. Fairfax, Va.	$32,321	$34,06[illegible]
2. Du Page, Ill.	31,814	33,4[illegible]
3. Anchorage, Alaska	31,091	34,7[illegible]
4. Nassau, N.Y.	30,736	31,72[illegible]
5. Montgomery, Md.	30,674	32,01[illegible]

Source: Sales & Marketing Management.

Hartman comments as follows: "This find-

collective bargaining with the government

of the local work force. Christmas come

Hartman comments as follows: "This finding—which a hard-nosed type might regard as an excuse for a pay reduction—was transformed into a pay raise under what is called the government comparability method." How was this achieved? "At GS–5, the private-sector secretarial wage was combined with technical jobs paying $11,770, administrative posts at $12,346, and professional slots at $13,439 to reach an average survey salary for GS–5 of $10,736."

This means, of course, that a GS–5 employee doing "technical" work (the recent engineering graduate, no doubt) would be slightly underpaid at this grade, but then he will soon be promoted to GS–7 (even-numbered grades are skipped by many employees at this level). Salary inflation in the government has been partly caused by grade inflation.

There are numerous other criticisms of the pay-comparability procedure. One is that in doing its survey, the BLS focuses on companies with 100 employees or more—the higher-paying companies. (According to the Chamber of Commerce, as many as 90 percent of U.S. businesses have fewer than fifty employees.) This criticism is conceded, but again with more than a trace of institutional arrogance.

"It is not feasible to find 'job-matches' in the smaller firms," Preston told me. "The federal government is so big that its functions are divided up into many parts. In a smaller firm one person may do everything. In the federal government one person may just write checks, another may just type; another may be a job analyst, or a specialist in various kinds of personnel problems."

Nevertheless, Preston said, OMB would be willing to include smaller firms in the BLS survey," but the federal employee unions have opposed us bitterly on this."

I phoned Dr. Shannon of the Intergovernmental Relations Commission once again the next day. He told me about a new book that had just been published by Princeton University's industrial relations section, and he seemed pretty excited about it. Apparently it was a hot underground item in the bureaucracy, with one or two copies circulating, as it were, in *samizdat*. Shannon said he wasn't even sure he could show me a copy, but he gave me the name of a friendly budget examiner, who agreed to see me, after he had extracted from me a vow of silence as to his identity.

He was seated rather nervously at his desk, and as he spoke he seemed to be looking nervously over my shoulder, worried that at any moment Alan K. Campbell, the chairman of the Civil Service Commission, might walk into the room and catch him in the act of betrayal.

He pulled a dog-eared paperback out of his desk drawer. It was bristling with paper clips. He slid it cautiously over in my direction. It was called Equal Pay in the Public Sector: Fact or Fantasy, by Sharon P. Smith.

Evidently she had taken a different approach, measuring not comparable jobs but comparable people, as defined by such factors as age, education, sex, location, and race. Her finding: "The federal wage advantage was estimated to be at least 13 percent and possibly as much as 20 percent in 1975."

The budget examiner took the book back and handed me something else. He seemed to be operating on the theory that he would be safe as long as he didn't say anything. He tapped his forefinger at a table in the middle of a page. "Take a look at that," he said, pointing to some figures indicating the rate at which people quit their jobs ("quit rates"—see table 4).

"Since 1970, when they got collective bargaining, the Postal Service's pay has skyrocketed," my man said, warming up a bit. "The government can't go broke, and so that element of discipline has been removed from collective bargaining with the government. The unions know that." This was obviously an important point, and I decided to explore it later on.

"Another thing," the budget man went on. "Check with Civil Service and find out about the queues of people trying to get into government these days. Just tremendous numbers of them." Using a paper clip as a thumb index, he turned to a page of Smith's book and silently pointed again:

If the comparability process suggests that wages should be increased for a particular group of government workers and yet there are already long queues of individuals awaiting such jobs, the increase is unnecessary to attract the required manpower.

I later called the Civil Service Commission, and the information it provided suggests that government pay increases could very easily be halted completely for a number of years. (Carter might also consider that such a public-sector pay freeze would undoubtedly do wonders for inflation. The pressure that would be generated within the federal bureaucracy to cut back on federal spending as a way of bringing inflation under control would be something wonderful to see. Alas, it is a pipe dream.)

It is a remarkable fact that in 1977 the equivalent of the entire population of Texas inquired about the possibility of a job with the federal government (see table 6). And, as Mike Causey noted in his "Federal Diary" column in the Washington Post, these statistics "represent only people who got through. Nobody knows how many job hunters have been frustrated by long lines or seemingly forever busy telephone numbers, and have given up. They aren't counted in the statistics."

Before concluding my interview with the budget examiner, I asked him what he had thought of a recent newspaper column by Nicholas Von Hoffman entitled "Inflationary Trend of the Federal Payroll."

He threw caution to the winds and slapped his thigh. Then he lit up a pipe. "He was right but he didn't know it," he said, cackling away between puffs. Apparently there had been quite a bit of discussion about this column. Von Hoffman had made what was technically a mistake, saying that federal workers get raises "to offset the inflationary degradation of the dollar." In fact, of course, federal pay is not tied to the Consumer Price Index. But, bearing in mind the criticisms of comparability raised by Sharon Smith and Robert W. Hartman, the indications are that federal pay is soaring ahead of inflation.

Nevertheless, a letter of sharp reprimand from Alan Campbell of the Civil Service Commission was soon published in the Washington Post. His comments are highly instructive:

The reason income levels are higher in Washington (and they undeniably are) is not that government workers are concentrated here. In fact, only 12 percent of the federal workers are located in the Washington area. The reason is that Washington lacks basic industry. It has no docks, farms, oil wells, assembly plants, factories, canneries, blast furnaces, and the like. Hence it cannot be home to millions of American production workers who operate our massive industrial society, and whose relatively lower pay pulls the overall average salary down in other cities.

In other words, those "production workers" (lowly blast-furnace types) are paid less than government workers. People who work on docks, farms, and oil wells are simply not "comparable" to the people in Wahington, who work on paper.

Campbell made a mistake himself in his letter. He noted that, whereas "the average household income in this area may indeed be $27,702," the average federal employee earned "only $18,862 last year, and federal employees constitute less than 25 percent of the local work force. Obviously some other large and affluent groups in the area's economy are pushing the average up."

TABLE 4.—*Annual quit rates, 1972*

	Percent
Postal Service	6.7
Federal workers	8.4
All manufacturing	26.6

Source: Douglas K. Adie, American Enterprise Institute.

This neglects to take into account Washington's numerous working couples. Examples that come to mind are Mary King, deputy director of ACTION, and her husband, Peter Bourne, a psychiatrist lurking in Carter's entourage; and Secretary of HUD Patricia R. Harris and her husband, William Beasley Harris, an administrative law judge. Couples such as these have combined incomes approaching $100,000, in some cases, which helps to explain why household income is as high as it is.

Campbell's statement also presumes that the nationwide average government employee grade level is the same as the Washington average. Needless to say, it is not. Most of the chiefs are in Washington, most of the Indians are in the provinces. The average Washington metropolitan area government salary was $20,740 in 1977.

Nevertheless, Campbell is of course right when he says that there are many people in Washington who earn more than government workers; the buregoning class of lawyers inevitably comes to mind (according to *Time* there are 20,000 of them in Washington, and all of them must surely get down on their knees every night to say a prayer of thanks to the Patron Saint of Lawyers, Ralph Nader); and then, of course, there are the lobbyists and the psychiatrists—there are more of the latter per square inch than anywhere else in the world, thanks to government health insurance plans that seem to have been designed on the assumption that people will very likely go crazy working for the government.

There are also the consultants—the "beltway bandits," as they are sometimes called. These are the people who do government work for a fee. A large fraction of government work is contracted out these days, a fact that is always worth bearing in mind, because this is one of the main ways in which the true extent of government employment is disguised. (Defenders of the federal bureaucracy frequently also use the following argument: It is not the federal government that has grown, it is the state and local governments. This is true, but misleading. The growth of state and local governments has been very largely mandated by federal regulation and augmented by revenue sharing and "matching" spending arrangements.)

Lester A. Fettig turned out to be the man to see about contracted-out government. His office of Federal Procurement Policy in the New Executive Office Building overlooks the White House, with the Washington Monument and National Airport in the distance. Fettig (executive level 4: $50,000 a year; see table 7) said that the government was now contracting out more than $80 billion worth of work annually—about one-sixth of the budget. This expenditure is administered by about 80,000 full-time employees. In their book The Shadow Government, Daniel Guttman and Barry Willner point out that "the government has little precise information on many characteristics of the shadow bureaucracy." But in the upper echelons of those working "off the organizational chart," salaries range well over $100,000.

Fettig told me that "60 percent of the money goes out on 'sole source.'" No competition, in other words. "We've become the modern contract state," he said enigmatically. As far as I could gather, his argument was that about $30 billion of this could very

well be done by the full-time government, while $30 billion of current full-time government work could in turn be contracted out. This would "reorganize" things without getting anyone too upset, which seems to be a Carter priority.

Fettig explained—and in the course of a couple of weeks talking to people in the Carter Administration I must have heard this ten times—that Presidents Nixon and Ford tried to reorganize things, too, but they didn't do it right. They didn't go through channels. They tried here and there to cut the Gordian knot: razor blades were quietly applied to red tape. Mistakenly imagining that when he became President it would be easy to get things done, Nixon was finally reduced to slamming his fist down on the desk and saying to Chuck Colson, "I want it now!"

Carter's people in the White House and at the OMB know very well what happened after that, and so they are proceeding carefully, cautiously . . . procedurally . . . as gingerly as a jackass eating briars. They are going to go through channels just as it says in the government manuals. Fettig further explained how brutally the Ford Administration went about contracting out government. "If they found they could save $1 million by contracting out garbage collection, they would order it done," he said. "Let's say four jobs would be lost in the public sector. Then the employee unions would get upset and call the Congressman who represented these people . . ."

TABLE 5.—DISTRIBUTION OF FULL-TIME FEDERAL CIVILIAN EMPOYEES, AS OF MARCH 1976 WITH EXAMPLES OF WORK DONE

Grade	Number	Work done
GS–1	2,256	Messenger.
GS–2	25,256	File clerk.
GS–3	99,330	Typist.
GS–4	174,146	Senior-stenographer.
GS–5	182,211	Engineering technician.
GS–6	85,741	Secretary.
GS–7	127,553	Computer operator.
GS–8	27,790	Do.
GS–9	139,334	Buyer.
GS–10	22,090	("Not used very much").
GS–11	146,954	Job analyst.
GS–12	139,682	Attorney.
GS–13	107,310	Chief accountant.
GS–14	49,379	Personnel director.
GS–15	24,532	Do.
GS–16	3,309	Supergrades—supervisors, directors of bureaus ("no comparable jobs in private sector").
GS–17	990	
GS–18	348	

TABLE 6.—NUMBERS SEEKING FEDERAL JOBS

	1972	1974	1977
Inquiries	6,649,867	9,061,363	11,921,964
Applications	1,758,348	1,788,932	1,671,119
Selections	183,267	231,410	151,614

TABLE 7.—EXECUTIVE LEVEL

	Current salaries	Distribution	Examples of who they are
I	$66,000	13	Cabinet members.
II	57,500	49	Deputy secretaries, heads of large agencies.
III	52,500	91	Undersecretaries, heads of smaller agencies.
IV	50,000	357	Assistant secretaries and commission members.
V	47,500	232	Unit administrators within large departments.

Source: Civil Service Commission.

"But presumably four people in the private sector would get the jobs instead," I said.

"Yeah, but the Congressman doesn't know those other four will vote for him. But if he saves the jobs of the people who already work for the government, they will vote for him. There's a high discount rate."

That evening I bought a copy of the Washington Star as I went home. The following front-page story caught my eye:

POLITICS MAY PROTECT U.S. PAY RAISE

Fear of getting branded as "anti-labor" may deter the Carter Administration from trimming federal-pay raises to fight inflation, according to high-ranking officials.

That was odd, I thought. Now the nuclear physicists were forgotten and the coal miners' helmets were back in place. On the one hand, at pay-comparability time, the government is composed of scientists and top managers to explain why the pay is so high, but at pay-cut time the work force is abruptly transmuted back into "labor." I was beginning to think that Jimmy Carter had a very slim chance of reorganizing this government.

The next day I had a drink with a friend of mine at one of those subterranean Washington bars that somehow contrive to be full of people already well into their second cocktail at five minutes past five. My friend landed a good job with the Carter Administration a little more than a year ago. He ordered a Bass ale and began: "A fourfold increase in salary does wonders, I'll admit." He told me that his job is to manipulate the press so that his boss, a Cabinet member, comes out looking good. It turns out to be easier to do this than he thought it would be. The daily press is the easiest, he said. "If someone writes something I don't like, then I don't return his phone call for a week. They're always on deadline, so they need me." He then began to talk about the fringe benefits of government.

"The per diem travel allowance is generous," he admitted. "Seventy-five dollars a day in Paris. Forty to fifty dollars a day in the U.S. I bet not many people lose money on that. Then there's parking. It costs us $5 a month, although normal Washington rates are $4 a day. All the top people get parking spaces—in other words, just the people who could afford to pay the going rate. Then there are the federal credit unions. I can get 7 percent on a savings account, and if I want to get a loan to buy a car, I pay 8 percent on the loan."

He thought for a moment and lit a cigarette. "We get no expenses for lunch," he said. "That's one of the drawbacks. Why do you think there has been all this fuss about the three-martini lunch? It's one of the few fringes enjoyed by the private sector but not by us. And according to the new conflict-of-interest laws I am not allowed to be taken out to lunch by someone who does business with the department. Luckily, the New York Times has no business dealings with us."

He ordered another beer. "Oh," he said. "Many hotels have government rates. Everyone tries to get into the Essex House in New York because it gives government rates—about $35 for a double. It's very hard to get in at weekends."

I asked him why hotels had lower rates for government employees. (Essex House's standard rate is $70–$90 for a double.)

"It's a tradition in the hotel going back to World War II," he said. "Government per diem used to be very low then. But to justify higher per diems today, I notice, the employee unions talk about the high cost of staying in hotels."

"Anything else you can think of?"

"Sabbaticals," he said. "I know it sounds crazy. But the government is more and more filling up with professors and more and more seems to resemble a university. I have a friend at the Law Enforcement Assistance Administration who applied for and was granted a sabbatical to work on a dissertation."

My friend turned next to the complex subject of pensions and retirement benefits. "Basically," he said, "we pay 7 percent of our gross income instead of paying into Social Security." (Which is 6.05 percent [illegible] present and will rise to 7.05 percent by 198[illegible] But then most private-sector employees also contribute to pension plans in addition [illegible] paying social security.) A recent change [illegible] the law raised the retirement age in the private sector from 65 to 70, but federal employees were exempted from any compulsory retirement due to age. This raises the question of ending up with a government of octogenarians, or would if there were not [illegible] eral inducements built into the pension structure to encourage relatively early retirement. (Pensions, unlike salaries, do get an annual cost-of-living adjustment.)

"Oh, the biggie—I nearly forgot it," my friend continued. "The WATS line. There's no excuse for anyone above about GS-[illegible] level having a long-distance phone bill, because you can call from the office. All you have to do is dial 8. . . . It's a wonderful freebie. I'm involved with a girl in Boston right now and my phone calls would normally be costing me about $500 a month. It's better to call early in the day, I've found, because after 4:00 p.m. everybody suddenly realizes the day has gone by and they haven't called their mother yet. Nobody minds. It's not anybody's money. . . ."

With that appropriate "bottom line" [illegible] seemed time to go. As we were getting into his car my friend told me: "I'm seeing a psychiatrist at the moment because I don't know when I'll be able to afford it again."

"How does the health plan work?" I asked.

"First of all, every government employee has a choice of about ten health plans to choose from," he said. "So you can figure out the one that best works in your favor. I'm on Blue Cross High Option, for which I pay $9.50 every two weeks, plus 20 percent of the shrink's fee, plus $100 deductible."

He dropped me at my door and said he was going on to a function somewhere. "If you get on the White House invite circuit you never have to pay for dinner all the time you're in Washington. Ciao."

One fringe benefit he didn't mention was the near impossibility of getting fired, although this did not apply to him and the approximately 2,000 others whose jobs are classified as "Schedule C," meaning that they are political appointees. But for the vast majority there are now so many grievance procedures and courts of higher appeal that the story is told of the supervisor who, [illegible] trying to fire an insolent and indolent underling, spent so much time filling out forms and meeting with adjudicators over a period of eighteen months that he ended up himself receiving an unfavorable performance rating for neglecting his regular work.

According to an authoritative article by Leonard Reed, "Firing a Federal Employee: The Impossible Dream, published last year in the Washington Monthly, federal employees are fired at a rate such that, if carried over into the private sector, "a small business employing ten people would fire one person for inefficiency every 70 years."

By the time I went to see Carter's top reorganization man, Richard A. Pettigrew, and his assistant, Chris Matthews, I was beginning to appreciate the magnitude of the problem facing them. It was paradoxical that this should be so, however, because there could be no doubt that Carter and his reorganization team had the support of a large majority of Americans—perhaps as many as 80 percent of the voters. Certainly they had the conservatives behind them, and an increasing number of disaffected liberals. This was, after all, the issue above all others that had propelled Carter-the-Outsider into office.

Who, then, was against him on the issue? The answer can best be described as a "federal triangle." The term "federal triangle" in Washington refers to nine square blocks of government buildings lying between Pennsylvania Avenue and Constitution Avenue

but there is also a conceptual federal triangle, and it is important to understand, because the wealth of Washington essentially derives from it. Its three vertices are: Congress, the Executive departments and agencies, and the federal employee unions.

In the first place, federal employees in the various Executive departments band together into unions. Skillfully appropriating the terminology of trade unionism, they dub themselves "labor" at this moment, thus again revealing the chameleon-like nature of the beast we are dealing with. These employee unions then "bargain" on such matters as fringe benefits, hours of work, grievance procedures. Just a minute, you may be wondering. With whom do they bargain? I wondered this myself and phone the American Federation of Government Employees, by far the largest federal employee union, and I was routed to a Mr. Dick Calistri. I asked him how this "bargaining" worked.

"Well," he said, "we sit down and we have a give-and-take. Maybe we're bargaining on working conditions. . . ."

"Who's on the other side of the bargaining table?" I asked.

"Management!" Calistri said, in a tone indicating he was surprised that I could ask so stupid a question.

What is this "management"? Everyone involved is on the federal payroll, after all. The bifurcation of government into labor and management is surely a sleight of hand intended to conjure up a vision of dark satanic mills, robber barons, and child labor.

I asked Calistri who actually represented "management" at the bargaining table. Maybe it was the political appointees. As these people really do come and go from government, that would at least set them apart from the permanent civil service labor force.

"They're not necessarily political appointees," Calistri said. "They may be high-level civil service people."

That was what I had been afraid of. In other words, the difference between labor and management in government is one of degree (seniority), not kind. It was all beginning to look more and more like a shell game to me. No wonder government ends up winning no matter what.

The next "side" of the triangle is particularly important: the lobbying of Congress. As Calistri told me: "That's our bag, really."

The question in my mind was, How important is the federal employee vote to the average Congressman? Ten percent of his constituency (approximately) may be on the federal payroll—which means that 90 percent is not. Therefore he shouldn't have to worry too much about the federal vote, should he?

"Yes, he should, and will," Chris Matthews told me in the Old Executive Office Building, next to the White House. Before coming to work for the Carter Administration, Matthews who is young and commendably enthusiastic about the daunting topic of government reorganization (second only to "budget" in its lack of reader appeal, he feels), worked for three years on Capitol Hill, and so is familiar with Congressional sentiment on the subject.

"Federal employees are a vocal, high-intensity group," he said. "Government change affects them directly. They know exactly who to call on the Hill, and their voice is heard in the media if they decide to make a fuss."

At that point his boss, Richard Pettigrew, stuck his head in the door to ask about the progress of a memo. Pettigrew was Speaker of the Florida House of Representatives and helped organize Carter's Florida primary. Now he has been "rewarded" with this Sisyphean task. Matthews told him what we were discussing.

"All it takes is a well-organized group of voters who are all going to vote the same way on one issue—their own self-interest—and the Congressman will respond," Pettigrew said. "Especially when they are as well-organized a network as federal workers."

After Pettigrew left, Matthews said: "You've also got to bear in mind that all the relevant legislation goes through the House Civil Service and Post Office Committee, and the Congressmen with high percentages of federal employees in their districts—such as Herb Harris of Virginia and Gladys Spellman of Maryland—always gravitate to that committee. And they shape that legislation. Same with the comparable committee in the Senate, which is where I worked for three years. All of those Senators had close ties to the federal employee unions." Once it emerges from these committees, such legislation is only amended on the floor in the most minor ways, if it is amended at all.

And this brings us to the third side of the triangle. Because they want to be reelected, Congressmen are generally on the lookout for ways in which to increase government programs. This is because enlarged federal programs enlarge the number of constituents that a Congressman can "service," thus adding the number of voters who will be suitably grateful on election day. The result is a power ratchet effect, with federal programs and expenditures getting larger, but almost never smaller. To make matters worse, Congressmen who routinely oppose this trend on fiscal grounds have been very successfully packaged by opinion makers, and albeled Neanderthat; Heartless. Their concern about abstractions like the soaring national debt has made it easy to dismiss them as "uncompassionate."

Congressmen are therefore ever on the alert for ways in which to expand government beneficence, and the precise ways in which they do this involve, as one might guess, expanding the definition of people who are alleged to be "deprived" by handicaps, minority status, shortage of money, or by broadening the boundaries of poverty, and so on. Public service job creation, such as the Comprehensive Employment and Training Act, is an example. The upshot is that as government programs expand, the Executive departments' budgets increase, and so do the number of federal employees needed to administer them. This increases the number of people putting pressure on Congress to increase their pay and benefits. And so on.

A cybernetician will notice that the "triangle of forces" in this model is unstable. Each step tends to reinforce the next. There is no "negative feedback," and as is well known, such unstable systems have a short life-span before they collapse. An outsider observing our political system might well conclude, therefore, that its fundamental defect is that each Congressman separately has a desire to be reelected that is more compelling than his concern for fiscal stability. Each one therefore tries to get more than his share of the fiscal cake to spread around his constituency, and in fact all, or almost all, succeed in doing so. The "cake" is then artificially enlarged—or perhaps "inflated" would be a better word—with the overtime use of what is perhaps the government's prize possession, a printing press housed within the Bureau of Engraving and Printing. This press comes to the Congressmen's rescue by turning out what Milton Friedman has uncharitably described as "green pieces of paper."

One check to this unstable system, of course, is vested in the Presidential veto, requiring that legislative measures pass by a two-thirds majority, but President Carter scorned this so much in his campaign that to use it with any frequency would require one more *volte-face* on his part.

The currency thus inflated, it is not surprising that such well-known lawmakers as Senators Edward Brooke and George McGovern, big spenders both, should have invested so much of their own money in real estate, nor is it surprising that so many Congressional wives in Washington are getting into the real estate agent business (mentioned in a recent issue of *Dossier*, Washington's society magazine: Lee Hart, Antoinette Hatfield, Shirley Bellmon, Pat Derwinski). No doubt they have plenty of opportunity to observe the reason for the declining confidence in the dollar, which results in a rising confidence in land.

PAPER CITY

These unwelcome developments have come about little by little—so slowly that hardly any audible objection has been heard. *The Washington Post* will roar its thunder at *transient* Washington—the Presidents and their entourages who come and go at regular intervals—but on the subject of permanent Washington, the entrenched civil servants and their increasingly lavish emoluments, the *Post* has preserved a dignified editorial silence. One appreciates that they do not wish to offend the main body of their readers. Nor, indeed, would the many *Post* reporters who rely on the bureaucracy for their stories want to offend their sources. Perhaps this is why the *Post*'s front page so often seems to end up looking like a hearty endorsement of greater government in the guise of news. (Headlines from just one recent issue: "AN UNEQUAL SOCIETY: Brutality, Bias Afflict Hispanics" and "CUTBACK THREATENS TO DISRUPT FAMILIES: A Squeeze on Federal Day Care Centers.")

Although the redistributors end up doing so well, the benign intent of redistribution masks its shortcomings; the redistributor carries the bucket of wealth, which slops all over his turf en route to the poor. Too bad. He didn't mean it to happen. (Daniel P. Moynihan's book, *The Politics of a Guaranteed Income*, does admittedly raise some doubt on this score. The attempt to construct a nonleaking bucket, in the shape of a "Family Assistance Plan," a Republican-inspired minimum-income proposal, was opposed by the social-worker professionals. "The first hostile reaction to FAP came from the poverty program," Moynihan writes.) So there is no scandal, no "story" as far as the journalist is concerned. Redistributors are said to be motivated by fairness; trickle-down capitalists were motivated by greed. In this way, then, Washington's new class of newly rich, with the town houses in Northwest and weekend dachas on the Maryland shore or in the Virginia Piedmont, enjoy an overwhelming rhetorical advantage over their capitalist predecessors. It's nobody's fault . . . nobody is to blame, nobody is responsible . . . everyone meant well, everyone was compassionate, it's the system's fault . . . and besides, *it isn't anybody's money*.

For a final opinion about the wealth of Washington, I drove out to Rockville in Montgomery County, Maryland, where I had a lunch appointment with James P. Gleason, the Montgomery County Executive—a position comparable to that of mayor. I drove out Wisconsin Avenue, past the white marble Mazza Galleria housing Neiman-Marcus and satellite boutiques (it opened in November and is now almost fully rented), past Lord & Taylor, Saks Fifth Avenue, out further beyond the beltway and past the White Flint Mall, which also opened last year and has as its principal attraction Washington's *second* Bloomingdale's, and a few minutes later arrived at the County Office Building in Rockville.

Gleason's special assistant, Charles Maier, drove me to a nearby restaurant where we were due to meet Gleason. On the way Maier pointed out the Montgomery County jail, a contemporary structure.

"The inmates have color TV and air conditioning," he said. "Basketball. A little track.

We had a breakout the other day. They were watching a rock 'n' roll show on TV called 'Soul Train.' Had it turned up real loud, and they were all singing along with it. Meanwhile some other guys banged a hole in a wall with their weight-lifting equipment. Then they jumped out. We caught one of the guys who escaped because he hid out in a police car. The other one is still at large." He drove into the restaurant parking lot. "Now they want a new gym built," Maier said as we went inside.

Gleason, sitting alone, vaguely senatorial looking, seemed to be weary of government and its works. At the end of this year he retires, having been County Executive for eight years. He started on his career working as an assistant to Senators Richard Nixon and William Knowland of California. He told me that he has been under fire recently from the Equal Employment Opportunity Commission because Montgomery County, whose population is 7 percent black, has a police force only 4 percent black. Even though the department has been actively recruiting blacks on campus, they have been sued because of this statistical discrepancy.

We ate some food and he changed the subject. "One-third of all money going into government is being redistributed today," he said. "In 1970 it was 21 percent. And boy, that is a change. One out of five people in the U.S. is now working for government. And government is getting so big that it is getting harder and harder for it to do anything effective. The tragedy of our times is that no one is really thinking about what is going on. That's the sin of it. . . ." He thought ahead to his retirement, when he hoped to do some writing, and then back to the time when he worked for Senator Knowland. After Knowland had retired he came back to Washington once and Gleason met him. "Remember," Knowland warned, "don't stay around here too long. It's not the real world. . . ."

This is the oldest and most tired of Washington clichés—not the real world—but there is surely an important element of truth to it. Bloomingdale's, Mazza Galleria, Saks, the Palm Restaurant, Sans Souci, all the private-sector enterprise that feeds on the huge volume of tax dollars pouring into Washington is real enough, but what contribution to productive endeavor do the government toilers themselves really make?

Contemplating bureaucracy, C. Northcote Parkinson enunciated his famous law, that work expands to fill the time available for its completion, with its important corollary, that "an official wants to multiply subordinates, not rivals."

All perfectly true, but it seems to me th government activity today is increasing dominated by one of the most ominoo trends of our time (and is no doubt respo sible for it in large measure): A person our society will be paid more money, and more highly esteemed, if instead of solving problem materially he solves it on paper.

Don't work for an oil company—you mig get your hands dirty. Work for the Depar ment of Energy and ponder energy "polic This is much more prestigious. You are nurse? The pay is low and you change ba pans. Better try and get on a health "ta force" and write a memo on "health care de livery systems." You want to paint a pictur Hard work. Better go to work for the Nation Endowment and talk about creative partne ships at a meeting. Your salary is assured.

At some point in the complex Washingto scheme, the problems jump across from re life onto a piece of paper. At that point th become much more pliable, remunerativ and status-laden (see table 8). And that the sense in which Washington is not the re world. It is Paper City, where paper problem are confronted, ultimately being provid with paper solutions. The more of these prob lems it can lay its hands on, the richer th city gets—rich with paper money, that is.

TABLE 8.—NEW FEDERAL PAY SCHEDULE

Years in service	1	2	3	4	5	6	7	8	9	
GS-1	$6,219	$6,426	$6,633	$6,840	$7,047	$7,254	$7,461	$7,668	$7,875	$8,
GS-2	7,035	7,270	7,505	7,740	7,975	8,210	8,445	8,680	8,915	9,
GS-3	7,930	8,194	8,458	8,722	8,986	9,250	9,514	9,778	10,042	10,
GS-4	8,902	9,199	9,496	9,793	10,090	10,387	10,684	10,981	11,278	11,
GS-5	9,959	10,291	10,623	10,955	11,287	11,619	11,951	12,283	12,615	12,
GS-6	11,101	11,471	11,841	12,211	12,581	12,951	13,321	13,691	14,061	14,
GS-7	12,336	12,747	13,158	13,569	13,980	14,391	14,802	15,213	15,624	16,
GS-8	13,662	14,117	14,572	15,027	15,482	15,937	16,392	16,847	17,302	17,
GS-9	15,090	15,593	16,096	16,599	17,102	17,605	18,108	18,611	19,114	19,
GS-10	16,618	17,172	17,726	18,280	18,834	19,388	19,942	20,496	21,050	21,
GS-11	18,258	18,867	19,476	20,085	20,694	21,303	21,912	22,521	23,130	23,
GS-12	21,883	22,612	23,341	24,070	24,799	25,528	26,257	26,986	27,715	28,
GS-13	26,022	26,889	27,756	28,623	29,490	30,357	31,224	32,091	32,958	33,
GS-14	30,750	31,775	32,800	33,825	34,850	35,875	36,900	37,925	38,950	39,
GS-15	36,171	37,377	38,583	39,789	40,995	42,201	43,407	44,613	45,819	47,
GS-16	42,423	43,837	45,251	46,665	[1] 48,079	[1] 48,493	[1] 50,907	[1] 52,321	[1] 53,735	
GS-17	[1] 49,696	[1] 51,353	[1] 53,010	[1] 54,667	[1] 56,324					
GS-18	[1] 58,234									

[1] The rate of basic pay for employees at these rates would be limited by section 5308 of title 5 of the United States Code to the rate for level V of the Executive Schedule which, pursuant to Pub Law 95-66, would remain $47,500.

states, an idea unique in the world, they created a district separate and apart from

and if every entity of 700,000 population

The assistant legislative clerk proceeded

Mr. HAYAKAWA. Mr. President, the major argument in favor of House Joint Resolution 554 is the sentiment that it is "unfair" that the people of the District have no voting representation in the House and Senate. Given the special circumstances of the people in the District, I would think it would be unfair if they did.

This is especially true when considering representation in the Senate. While the House represents the people, the Senate is set up to represent the States. This is why a State with a relatively small population, such as Alaska or Rhode Island, has the same number of Senators as California or New York, with more than 20 million people in each. The Senate represents the States.

Our Federal Government is made up of independent States which come together to form a union. The District is a non-State entity, and it is not independent. Under the Constitution, Congress has the power to exercise exclusive legislation in all cases over the District. Therefore, all of the traditional State's duties—taxing, spending, creating and executing law, punishing crime and administering justice—that are carried out by the District City Council are subject to congressional approval. So the District is not an autonomous body, as the States are autonomous, and therefore not qualified to participate as a State in the workings of the Federal Government.

Section 1 of the proposed amendment provides that for the purposes of the Presidential elections, the District will be treated as though it were a State. This presents a problem, as the State legislatures are constitutionally granted the power of appointing the manner in which the delegates to the electoral college are chosen.

If this amendment were passed, Congress would be granted the power to establish the selection process for the electors from the District. This gives Congress a special say in Presidential elections, which until this time was a power reserved exclusively to the States. Likewise, the ratification of constitutional amendments is done by the State legislatures. Since the District is not a State and does not have a State legislature, it would again be up to Congress to decide whether or not the city council could function as a legislature for the purpose of ratifying constitutional amendments. It is left to the Congress to decide how to fit the District of Columbia into the constitutional provision that states that the ratification of constitutional amendments is a righ reserved for the State legislatures.

Even if Congress decides that the ci council should have the powers of Sta legislature, it cannot be forgotten tha Congress always has absolute veto pow over any action taken by the counc And since the budget of the District controlled legislatively by Congress, Con gress would be appropriating funds nec essary to hold the elections of its ow Members. Congress, in many instance would have a dangerous ability to doub its power in the District of Columbi and the District could become a speci wing of power for Congress, as the Sta legislatures are protected from becom ing under the Constitution.

At this time, I call to the attention o my colleagues the text of a radio com mentary by Ronald Reagan entitl "District of Columbia." I shall read now for the benefit of my colleagues:

Thirteen colonies have become 50 sove eign states each with its own capital, own government, with powers firmly fix by the Constitution. And these states a joined together in a federation.

Which colony or which of the 50 stat should be the locale of the national capit The founding fathers solved that proble with great common sense. Wanting to mak sure we preserved the system of sovereig

states, an idea unique in the world, they created a district separate and apart from the states to serve as the site for the nation's capital. That very simply is the "D.C."—District of Columbia.

By doing this the issue of conflict of interest was neatly solved, the federal government cannot in any way be charged with favoring one state over the others. Federal employees living in the national capital cannot have an undue influence on the congress with regard to their own interests because they don't vote for representatives in Congress. It is all spelled out in Article One, Section Eight of the Constitution that the seat of government would be exempt from the political process so that federal government would remain the servant of the people and not become their master.

Over the years, as the national government has taken on more and more tasks and thus assumed greater and greater power, Washington has become the fastest growing city in America probably because it created the fastest growing industry—government. The citizens of the District elect officials of city government and also vote for President and Vice President.

The district receives an annual grant from the federal government—no strings attached—which makes up 38% of its budget. Federal aid amounts to more than $1000 per capita per year. No state receives that level of handout from Washington. Incidentally, Washington is the richest metropolitan area in the United States. Problems in the rest of the country mean more prosperity for Washington, where the government will happily try to solve anything. Per household income averages $10,000 higher than in New York City, possibly because 38 percent of those working in the district are employed by the federal government and another 25 percent work in related service industries.

But now comes Senator Edward Kennedy of Massachusetts who says the citizens of the District of Columbia are victims of taxation without representation and that possibly they also suffer racial discrimination. His answer is to make the District our 51st state. Properly lobbied, his bill soared through the House 189 to 127 and moved to the Senate for hearings.

If this were implemented, the District of Columbia would have two United States Senators and one or two representatives in the House. Their constituency would be for the most part government employees and there is no way that the 51st state's representatives would free themselves from a built-in conflict of interest. They would undoubtedly vote for higher taxes and expansion of the government payroll, claiming that was in the best interest of their constituency.

In light of the many weaknesses of this proposal, I am, quite frankly, surprised at the rapidity with which this proposed amendment was accepted by the House. It seems that many feel that it is "unfair" that the District has no voting representation in the House and Senate. But I think that I have demonstrated how substantially more "unfair" it would be if they did, given the special circumstances of the people in the District, and their unusual relationship with Congress. House Joint Resolution 554 would result in the granting of special privileges to both Congress and the District, to the disadvantages of the States.

A gentleman stopped me in the corridor the other day to say that Washington, D.C., has a population of 700,000 which is larger than the population of seven States of the Union and therefore it should be treated as a State.

If we are going to argue by numbers and if every entity of 700,000 population is entitled to be a State, then with California having 22 million population we are easily entitled to at least the equivalent of 31 States of such size, in which case we should be entitled to 62 Senators.

And one could say the same kind of thing for New York, Chicago, Philadelphia, or many other places which have far more than 700,000 population.

Lastly, some say that this issue, whether or not you are for voting rights for the District of Columbia, is a racial one, because the majority of the members of the District are black, liberal, and Democratic.

Mr. President, the fact the majority of the members of the District are black does not worry me. For 7 years in my life I was employed by a black firm. The fact they may be liberal does not worry me, either. I have been associated with liberals all my life and have been notoriously a liberal at certain times in my life. And as for Democrats, I am even married to one, so I am not afraid of them.

This sentiment that there is a racial issue involved in the recognition of the District of Columbia as a State for voting rights for the District of Columbia is so far from the mark as to be laughable, and the argument itself is a racist one. This racial argument is a poor coverup for the important constitutional principles involved in this debate. No matter what race happens to be in the majority in Washington, D.C., the arguments I have marshaled against the recognition of voting rights for the District of Columbia would still be perfectly sound. This racial argument may soon be proved wrong, given the changing demographics of the District.

So, Mr. President, unconstitutional as I believe this proposed amendment for voting rights for the District of Columbia to be, I will predict it will not be ratified by 38 States in 7 years. The other States simply will not accept this. This I confidently predict.

I urge my colleagues in the Senate to look beyond the political advantages for the moment and examine the disturbing implications and constitutional questions presented by this amendment.

I thank the Chair.

The ACTING PRESIDENT pro tempore. The Chair would advise the Senator from California he used less than the 45 minutes that were available to him.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Arkansas (Mr. HODGES) was to be recognized for a period not to exceed 5 minutes. I know he is close by and, possibly, it might be in order, if the Senator from California were so inclined, to suggest the absence of a quorum and then, perhaps, we could locate Mr. HODGES.

Mr. HAYAKAWA. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro temtempore. Without objection, it is so ordered.

READING OF CONFERENCE REPORTS DURING REMAINDER OF SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the remainder of this session the reading of conference reports may be suspended by nondebatable motion.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Chair shall not entertain any unanimous-consent requests during the remainder of this session to suspend this order.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

(Later the following occurred:)

Mr. ROBERT C. BYRD. Mr President, earlier today I asked unanimous consent that reading of conference reports could be dispensed with by nondebatable motion. I also obtained consent that the Chair not be allowed to entertain a request to change that order.

I have found some correspondence now which by some very broad interpretation might be taken to mean that a request has been made of me not to enter any kind of unanimous-consent order whatsoever that would deal directly or indirectly with certain specific legislation. As it was written, I do not really interpret the correspondence as binding because I consider the language vague. Moreover, I made no commitment in response.

But in any event, I ask unanimous consent that the Chair may now entertain a request to vitiate the order entered earlier.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Conclusion of earlier proceedings.)

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that while the Senate is awaiting the arrival of Mr. HODGES there be a brief period for the transaction of routine morning business

not to extend beyond 15 minutes, with statements limited therein to 5 minutes.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

THE ELECTED OFFICIAL'S OBLIGATION TO THE VOTER AND TO HIMSELF

Mr. HODGES. Mr. President, Arkansas is a small State in population. In the last 50 years, however, we have sent some exceptional men and women to Congress.

I say women, which may raise some eyebrows, because one of the Senators in the 1930's from Arkansas was a woman, Mrs. Hattie Caraway, who was first appointed and then elected to the U.S. Senate.

As we begin to reflect, we can see some great names in the history of the Senate who have served from Arkansas in the last 50 years. Coming to mind immediately, of course, is my predecessor, Senator John L. McClellan, who was chairman of the Government Operations Committee and chairman of the Appropriations Committee.

Senator Fulbright served recently as chairman of the Committee on Foreign Relations, and served with great distinction.

In addition to that, of course, we have had Wilbur Mills, who served as chairman of the Committee on Ways and Means, and I think history will look back upon him as one of the most brilliant men ever to serve in Congress. He knows more about the tax code than all of the rest of Congress put together.

But one of the most distinguished Arkansans who has ever served is a man named Brooks Hays, who was defeated for his ninth term in Congress in 1958. He was defeated by a write-in candidate who principally defeated Brooks Hays because of Congressman Hays' stand on the Central High integration issue.

It was a great loss to Arkansas and a great loss to this country.

Brooks Hays is not only a courageous man, but a very articulate one. This past Sunday, he wrote an editorial published in the Arkansas Gazette, the title of which is "The Elected Official's Obligation to the Voter and to Himself," in which he explores what I think has a very difficult and thorny problem for everyone who has ever served in elective office. That is the relationship between one's own conscience and the views of one's constituents when they come in conflict.

I ask unanimous consent that the entire editorial be printed in the RECORD

There being no objection, the editorial was ordered to be printed in the RECORD as follows:

[From the Arkansas Gazette, Aug. 13, 1978]

THE ELECTED OFFICIAL'S OBLIGATION TO THE VOTER AND TO HIMSELF

(By Brooks Hays)

I appreciated the *Gazette* account of an awakened interest this year among some Arkansas candidates and voters in the extent of an elected official's obligation to follow the sentiments of his constituency. More simply put, should he act in accordance with their views, or, in case of conflict, should he use his own judgment in voting upon public questions?

My own opinion is that his judgment should prevail, particularly if the issue is a basic one in which grave principles are involved. This is consistent with the concepts upon which our representative form of government was established; in fact, it is an essential part of our system. Representatives are sent to Little Rock and to Washington to act in the people's interest, and they serve that interest by having access to facts not available to the constituency and by exercising independent judgments. They are chosen because a majority believes them capable of getting and interpreting facts, and also has confidence in their intelligence and integrity. Polls can never take the place of legislative debates and conscientious judgments by the representatives.

At the same time, what people think about public questions, and how communications between them and their representatives are maintained are vital parts of the process.

Only an ignoble person would be contemptuous of the views of his constituents, and it would be a strange representative who enjoyed casting an unpopular vote. Secretary of State Dean Acheson once said to me (referring to a State Department policy), "I don't care whether it's popular or not."

I quickly answerd, "Well, Mr. Secretary, I do! I have to stand between you and the people. My job is, to first, study your policy, and if convinced of its soundness to defend and popularize it."

I was not always able to do that, and I was not always convinced of the correctness of Department policies myself, but I found that Department officials respected my point of view, even when not in accord with theirs.

Edmund Burke, the great British statesman and friend of America in our early struggles for independence, gave members of legislative bodies a fine standard. To the voters of Bristol he said, "Your representative owes you, not his industry only but his judgment, and he betrays instead of serving you if he sacrifices it to your opinion."

He was defeated in the next election, but his classic statement has been a guideline and inspiration for countless legislators of succeeding generations.

I think of two spokesmen for the opposite point of view, both cynical advocates of the so-called "practical" philosophy. Robespierre, during the French revolution, said, "The crowd is in the street. I must find which way they are going, for I am their leader."

The other was a candidate in Louisiana for a parish office. He wound up his speech to the voters by saying in an aggressive manner, 'Now, mah friends, them's mah sentiments, and if you don't like 'em . . ." Then shifting to a soft voice and winsome style, he finished, "I'll change 'em."

While I adhere to the idea that a representative of the people must always be prepared to sacrifice popularity, and even his office, for his principles, I believe that by good communications and friendly explanations of a controversial position he can often retain the people's goodwill.

I can cite some situations in which I resisted (for good reasons, I thought) appeals by home folks, often including close friends, to take a certain course, and, except in one case, escaped political penalties.

While a member of the House, I voted to sustain President Truman's veto of a bill increasing the allowance for nonservice-connected disabilities of war veterans. The veterans constituted a strong influence, and consequently, political risks were involved. When I returned to Little Rock at the end of that session, one of my first visitors was a leader of a veterans' organization. He quickly put me at ease.

"I didn't come to scold you," he said. "I think you were wrong, but you did what y thought was right, and I haven't forgott that you were one of the authors of the Bill of Rights, and you put through a l providing that government-owned la lands be sold on generous terms in famil size tracts to veterans with farm bac grounds."

Here was a good example for those w tend to determine their support on a "o issue basis."

Another example of the efficacy of go communications was a visit to my distr office by a delegation of rental property ow ers to protest my support of rent ceilin during the war emergency. Unlike my w eran friend, some of the group were hosti but their mood changed as I explained, aft hearing their grievance, that I was dete mined to help control inflation, an oblig tion the government owed the tenants, pa ticularly to the families of servicemen st tioned at Camp Robinson. Moreover, I w able to convince many of them that th had a stake in that policy. They helped the own cause with me, however, and I pro ised them to follow developments ve closely. I did recommend to OPA later o perhaps earlier than I might have otherwi that controls be lifted, advising their orga zation that this could be done without fee ing inflation.

One of my severest tests was a result the cotton industry's drive for an increase textile prices, calculated to increase the pri of cotton. I joined the opposition to th effort and was in disfavor with the cott farmers for awhile. But we succeeded in hol ing the line and it was an important victo in the struggle to control inflation duri the war. The farmers of my district we either convinced that I was right on ec nomic grounds or were willing to forgive m My point is that one should not assume th political leadership always requires yieldi to pressures.

My absorption in politics has covered period of 56 years, beginning with my servi as secretary of the state Democratic conve tion in 1922. My defeat for a ninth term the Congress in 1958 did not terminate m political activity—it merely changed th scenery, providing exciting experiences TVA, the White House and, since 1964, classroom duties, producing contacts wi college students who are interested in publ affairs. I have not been a text-book instru tor, but rather a counselor, sharing and i terpreting my own experiences, trying to helpful to those who want to hold electi office. I have upheld the philosophy set for in these comments, a philosophy termed "in practical" by some, but in my view, a ba ancing of idealism and progmatism. In urgin these eager young people to renounce th Robespierre approach, I have encourag them to follow Edmund Burke and to pr serve a patient reliance upon the people ultimately siding with the right.

I have suggested that in opposing som popular positions, they avoid militant ex pressions, and that they be discreet and so spoken as well as candid.

This has sometimes drawn the charge "fence straddling." I had to face that crit cism in the Little Rock school crisis, bu even in that emotion-charged situation was able, while losing the election, to con vince a great number of people that I w acting in the best interests of the city an of the nation. I believe that ultimately, majority came to that conclusion.

One friend stopped me on the street to sa "Why don't you come out strongly and sa you are an integrationist?" My answer w that when one is on an unpopular side, h is entitled to be softspoken and appealin I told this friend that I was like President Taft, who was asked why fat men are s agreeable and pleasant. He said, "We hav to be—we can't run fast."

It was not long after these events that I

But how about the rest of the world?

It was not long after these events that I sensed a changed attitude toward those of us who defended the use of federal authority to enforce court orders and prevent violence. This change became more pronounced as the years rolled by.

Considering the magnitude of the problems which confronted the city in 1957 and 1958 it is amazing how much and how quickly the Little Rock image has changed, and I base this on conversations with people in every part of the United States and abroad.

Many who are not moved, as I naturally am, by sentimental feelings about Little Rock speak in highest praise of the progress made by the city that was once a symbol of strife. In spite of the fact that the campaign against me in 1958 was of the sudden-death type I was conditioned for it. The tensions that had developed over a four-year period following the Supreme Court's desegregation decision in 1954 were responsible for that. The November blitz came at the peak of resentments over desegregation, and I was aware of the mood of our people. I could even smile over the comment of a lady living a few blocks from us who said the day after the 1958 election, "My goodness, if I had known Brooks was in any trouble I wouldn't have voted against him." My defeat did not mar my relations with the people of Little Rock and of Arkansas, and I am deeply grateful for all their kindnesses to me and my family.

Mr. HODGES. I would commend this article to everyone in the U.S. Senate, because I think it contains great wisdom and words of use and benefit to all of us as we seek to determine what our decision ultimately ought to be on any particular issue.

Mr. President, I yield the floor.

AMERICANS HAVE A RESPONSIBILITY TO RATIFY THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, as Americans we enjoy the fullest measure of human rights. Defined and protected by the Constitution and our common law tradition, we are free to pursue life in whatever way we choose.

Can Americans speak freely? Can we openly criticize the Government? Yes, we can. Criticism and protest are both important parts of our American tradition, and crucial components of our contemporary political process.

Can Americans live where they choose to? Can they work at the jobs that they are best qualified to hold? Again, the answer is yes. Discrimination on the basis of race, sex, religion, national origin, or ethnicity is prohibited by law.

Can Americans worship God according to their personal beliefs? We most certainly can. Freedom of religion was one of the founding precepts of this country.

Americans enjoy every reasonable freedom. We are free to assert our rights as long as they do not violate the rights of others. But with every freedom there is an inherent responsibility. A crucial part of every right is the responsibility to protect that right not only for oneself but for others.

To merit freedom a nation must continuously strive for it. In our own country, the struggle for human rights has been enormously successful. Today, Americans are concerned with practical implementation rather than formal legislation.

But how about the rest of the world? Does our responsibility to freedom end at our borders? Do we not have the responsibility to to carry the struggle for human rights to other nations?

Indeed we do. The United States has been a continuous advocate of universal human rights. Human rights has become the cornerstone of our foreign policy, and we have had many notable successes. But, Mr. President, this Senate has abdicated its responsibility on one particular human rights issue. We have not acted to protect the right to live. We have not ratified the United Nations Genocide Convention.

Mr. President, we must accept the responsibility of our freedom. We can begin with the most fundamental of human rights—the right to live. We can begin with the Genocide Convention.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Is there further morning business?

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there are three measures that have been cleared on the other side of the aisle, Calendar Order Nos. 1009, 1010, and 1035. I ask unanimous consent that the Senate proceed to the consideration of those three calendar orders.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will state the first measure.

BUDGET ACT WAIVERS

The resolution (S. Res. 510) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 3279, was considered and agreed to, as follows:

S. RES. 510

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 3279. Such waiver is necessary to allow for the authorization of funds from the trust fund established by the Airport and Airway Development Act of 1970 for airport planning and programs to achieve noise abatement and for airport construction and development. Funds authorized by the Airport and Airway Development Act are insufficient to carry out these programs and additional authorization is required.

Compliance with section 402(a) was not possible by May 15, 1978, because the Committee on Commerce, Science, and Transportation contemplated only one major piece of aviation legislation during the Ninety-fifth Congress, that is, the Air Transportation Regulatory Reform Act of 1978, which passed the Senate on April 19, 1978. It is now clear that the House of Representatives wants these additional spending programs. Therefore, the committee must proceed to accommodate these programs. The effect of defeating consideration of this authorization may result in the failure to enact regulatory reform legislation during this Congress. The committee does not anticipate that consideration of this authorization will delay the appropriations process.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1088), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE RESOLUTION

Section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House or the Senate to consider any bill or resolution which directly or indirectly authorizes the enactment of new budget authority for a fiscal year unless that bill or resolution is reported in the House or Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year. Because S. 3279 authorizes the enactment of new budget authority which would be available in fiscal year 1979, and the bill was reported after May 15, 1978, a resolution waiving section 402(a) with regard to S. 3279 must be adopted before the Senate may consider the bill. In reporting favorably on Senate Resolution 510, the Budget Committee is recommending that the Senate proceed to consideration of S. 3279, but is not otherwise prejudging the merits of the bill.

The resolution (S. Res. 527) waiving section 303(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 3279, was considered and agreed to, as follows:

Resolved, That pursuant to section 303(c) of the Congressional Budget Act of 1974, the provisions of section 303(a) of such Act are waived with respect to the consideration of S. 3279, a bill to provide assistance to aircraft operators to aid them in complying with Federal aircraft noise standards, to amend the Airport and Airway Development Act of 1970 to provide assistance to airport operators and aircraft operators to aid them in complying with noise standards, and for other purposes.

Such waiver is necessary to permit consideration of new spending authority (as detailed below) to become effective in a fiscal year for which the first concurrent resolution on the budget has not been agreed to. Specifically, the new spending authority for which this waiver is needed arises from the authorization of additional funds from the Airport and Airway Trust Fund, as contained in titles I and II of S. 3279, for a future fiscal year not yet considered by the Budget Committee. The total amount of the additional funding for fiscal year 1980 is $295,000,000.

Compliance under section 303(a) of the Budget Act was not possible because of the multiyear nature of airport development projects under the Airport and Airway Development Act. These projects are for airport development and construction that may take several years to complete and call for assurance that Federal funding will be committed to that project in order to permit the airport operator to sell municipal bonds to raise the local authority's share of the project costs. This need for future commitment for planning purposes has been recognized by the Congress since the creation of the trust fund in 1970.

The entitlements contained in S. 3279 represent both renewals and extensions of existing spending programs under the Airport and Airway Development Act. The need for action on future year spending is clearly demonstrated by the increased appropriations for these programs contained in the Department of Transportation appropria-

tions legislation for fiscal year 1979, which appropriated funds in excess of those authorized in the ADAP program for that fiscal year.

Because Congress anticipated possible modification and review of the ADAP program, the legal basis for expenditures of trust fund moneys for discretionary programs expires at the end of fiscal year 1979, leaving no authority to spend discretionary funds in 1980. Yet the need for continued and increased discretionary funding for 1980 has been clearly demonstrated and is documented by a backlog of over $900,000,000 in accumulated requests for ADAP funds of which over $600,000,000 have been identified by the Federal Aviation Administration as high priority programs. Without the renewed and increased discretionary level for 1980, many airport safety programs will not be funded. The Airport and Airway Trust Fund, from which these needed projects are in major part sponsored, is currently running a surplus of nearly $2,000,000,000 which will not be significantly reduced by either the additional spending programs and authority contained in S. 3279 or by the proposed reductions in the ticket and freight weighbill taxes contemplated by S. 3279.

The comparable legislation pending before the House of Representatives contains substantially similar spending programs for fiscal year 1980 as are contained in the Senate bill, S. 3279. Yet the funding levels are higher than those contained in the Senate measure. The possibility therefore exists that the conference committee agreement will contain slightly higher figures than those contained in S. 3279. While this possibility exists, it should be noted that the Senate version incorporates a somewhat different approach than the House bill to solve the current funding crisis, which if accepted by the conference committee, will either reduce or eliminate the increases that might otherwise be expected in reaching a compromise on the two pieces of legislation.

Finally, as the Airport and Airway Development Act was created in 1970 and reviewed in 1976, it expires at the close of fiscal year 1980. The levels of authorization written in 1976 to run through 1980 could not have anticipated the dramatic growth in air traffic which has not only increased the pressures on airport development and construction but also created a significant surplus in the trust fund.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1089), explaining the purpose of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE RESOLUTION

Section 303(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House or the Senate to consider any bill or resolution or any amendment thereto providing new budget authority, new spending authority, or changes in revenues or public debt for a fiscal year until the first concurrent resolution on the budget for such fiscal year has been adopted. Since S. 3279 would provide direct spending authorizations for fiscal year 1980, a year for which the Congress has not enacted a First Budget Resolution, a waiver of section 303(a) of the Budget Act is necessary before the bill can be taken up on the Senate floor. In reporting favorably on the resolution waiving application of Section 303(a) to S. 3279, the Budget Committee is recommending that the Senate proceed to consideration of the bill, but is not prejudging the merits of the bill.

CARL HAYDEN BEE RESEARCH CENTER

The bill (S. 3274) to designate the United States Department of Agriculture's Bee Research Laboratory at Tucson, Ariz., as the "Carl Hayden Bee Research Center", was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Department of Agriculture's Bee Research Laboratory in Tucson, Arizona, shall hereafter be known and designated as the "Carl Hayden Bee Research Center". Any reference to such laboratory in any law, regulation, document, record, or other paper of the United States shall be deemed a reference to it as the Carl Hayden Bee Research Center.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1115), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

SHORT EXPLANATION

S. 3274 would provide for naming a bee research laboratory in Arizona as the Carl Hayden Bee Research Center in honor of the late Member of Congress, Carl Trumbull Hayden. His strong support and efforts toward the establishment of the Federal facility for research, development, and study of bees and to all agriculture were constant.

BACKGROUND AND NEED

I

Carl Hayden was an avid supporter of American agriculture throughout his 57 years of service in the U.S. Congress. When Arizona became a State on February 14, 1912, Carl Hayden was elected as its Congressman at Large. In 1926, he was elected to the U.S. Senate and served in the Senate until his retirement in 1969. On January 25, 1972, Carl Hayden died. His dedication to agriculture and the Nation was unfailing.

Carl Hayden understood agriculture and put his own firsthand knowledge, experience, and expertise to work for the benefit of the Nation, the people of Arizona, and the Department of Agriculture. His achievements for agriculture were numerous. A member of the Appropriations Committee when he first became a Senator, and chairman beginning in 1955, his efforts and active interest for development and growth in agriculture were decisive in determining what projects would get funded. Of great importance to him, while serving on the Department of Agriculture Appropriations Subcommittee, were the study of honeybees and their significance to the Nation's economy. Hayden recognized the vital role that bees play in agricultural production. It was his awareness that brought about the necessary funding to build a bee research laboratory in Tucson. In addition to his interest in hon bee research, he was a champion of all ma agricultural legislation, including the cr tion of the Farmers Home Administrati

WHAT CONFERENCE REPORT?

Mr. HANSEN. Madam Preside there has been considerable discuss of late concerning the consumption mind-distorting substances in the Wh House. While that is a matter of so concern, it occurs to me that we sho be more concerned about the mind-d torting effect of being in the Wh House. I am referring to the effe which I understand from press repo took place there last night concerni the natural gas conference report. I reported that a majority of both Ho and Senate conferees have signed a s nature sheet entitled "Natural Gas Co ference Report." This is remarkable light of the fact that apparently n of the members so signing were able state what the natural gas confere report is. Some 3 weeks ago, there released in accordance with an agre ment confirmed by correspondence tween Senator JACKSON, Senators M CLURE, and DOMENICI, and other Sena members of the conference committ a document for review during a peri of at least 72 hours. This document w not acceptable to a majority of the co mittee, and secret negotiations involvi the conferees, the Secretary of Ener and officials of the Federal Ener Regulatory Commission have been progress ever since. I have seen a doc ment dated August 16, entitled "Co ference Discussion Draft", containi changes on at least 119 pages of the 17 page legislative language, which doc ment was produced by House staff Wednesday afternoon. Whether t document is the document that confe ees think they signed, I do not kno It is clear that the original stateme of managers language would not be a propriate to this revised legislative la guage, but I am informed that no revis statement of managers language exis or was known to those who signed t conference report.

It seems quite anomalous that m who would not sign a check or a co tract in blank for a few dollars w essentially sign in blank a bill affecti billions of dollars. Perhaps this too c be chalked up to the hallucinatory a mosphere of the White House.

That atmosphere too appears able cause Senators to ignore commitmen expressed in documents that they the selves have signed. Senator MCCLURE, letter of July 12 to Senator JACKSON, co firmed that any conference report natural gas would be available for hours before signatures would be o tained. And Senator JACKSON, by letter July 14, confirmed that "the 72-hour r view period agreed upon earlier will n begin to run until the final draft has be prepared and circulated to all conferee It is clear that this did not occur. as "t conference report," whatever it may tu out to be, is not the language which w released 3 weeks ago. I personally co sider it to be outrageous that a car

fully constructed agreement designed to facilitate careful consideration of this most important legislation should be abrogated under White House auspices in the dead of night. Perhaps on his foreign journeys the President, like "the shadow", has acquired the power to cloud men's minds.

I am inserting for the record a series of correspondence and documents relating to the agreements made among Senators for the consideration of draft conference reports before signing. These documents taken together spell in clear and unequivocal language that the 72-hour review period would only run once the final conference report and statement of managers was available. Finally, I particularly note the transcript of the final conference meeting in which Senator JACKSON agreed to reconvene the conference if any Senator had problems with the final language. The extraordinary actions of last night make it difficult for me to assert with complete confidence that I have problems with the conference report, as I am not sure just what the conference report is. However, as I certainly have problems I would like to raise both with the document originally released and with the 119 pages of changes, I would now call upon Senator JACKSON to honor his agreement in the conference and to reconvene the conferees in order that we may examine and express our problems with the language which he now believes to constitute "the conference report."

The material referred to follows:

Attached is the official transcript for the last day of the formal House-Senate Natural Gas Conference. Senator Jackson committed himself to reconvene the Senate Conference if any one Senator had any problems with the final language. The documents which will be discussed refer back to this agreement to reconvene the Senate Conference.

(1) June 26, 1978, letter to Senator Jackson from the Senate Conferees. This letter (which was never delivered) was written to insure that all Senators would have an opportunity to review the final legislative language by announcing that they would withhold their signatures from the conference report until the review was completed

(2) July 12, 1978, meeting on the Senate floor between Senators Hansen, Jackson, and McClure regarding formalizing the signature process. This meeting resulted in the 72 hour review process and your memo to all the Republican Senators.

(3) July 12, 1978, letter from McClure to Jackson stating the conference report would be distributed to Senators the press and public for a 72 hour review period. The report then could be filed after the review period.

(4) Memorandum dated July 12, 1978, to Members of the Committee from Senator Jackson regarding the procedure for review of conference reports. The Natural Gas Conference Report will be made available to the Members of the Committee, press and the public for a 72 hour period before filing.

(5) Letter dated July 13, 1978, from Senators McClure and Domenici to Senator Jackson commenting on the review process. First paragraph: "While we concur in that agreement, we are concerned about the process to be followed for conferees and their staffs to review and comment on drafts of those documents prior to submission for final review and approval." ". . . Scoop, we simply recommend that as the initial and subsequent product of the drafting groups for the report and joint statement become available, an opportunity for meaningful review and comment by conferees and staff be provided prior to presentation of those documents for final approval."

(6) Letter dated July 14, 1978, to Senators McClure and Domenici from Senator Jackson responding to their letter of July 13: "The 72 hour review period agreed upon earlier will not begin to run until the final draft has been prepared and circulated to all conferees."

These documents taken together spell in clear and unequivocal language that the 72 hour review period would only run once the final conference report and statement of managers was available. Therefore, this document entitled, "Conference Discussion Draft", of August 16, 1978, which amends the 171 page final version, makes substantial changes. In fact, there are changes on 119 of the total 171 pages. Therefore, earlier review periods will not suffice to fulfill the 72 hour review period committed. Any Senator may still exercise the option of asking Senator Jackson to reconvene the Senate conference.

TRANSCRIPT OF THE FINAL CONFERENCE MEETING

Mr. DINGELL. Mr. Chairman, I thank you. I believe that the Chair has said that it would be the Chair's intention to circulate the signature sheets, in conformity with the practices of this Committee; and members would, of course, have the opportunity to review and view the draft without the necessity for either circulating draft or having a formal meeting, which I would think—a formal meeting could invite discussions and slow progress.

Mr. BROWN (Ohio). Would my colleague here yield on that?

Senator JACKSON. I think that is the important thing. It is not necessary to have a meeting of this Conference in order to sign the Conference Reports.

Mr. DINGELL. I concur.

Senator JACKSON. I would hope we would keep it in mind so that we could do this as expeditiously as possible on the Conference Reports that we have finished and are ready for signatures.

Mr. BROWN (Ohio). Would the gentleman yield?

Mr. DINGELL. Yes, I yield to my good friend.

Mr. BROWN (Ohio). I would hope that it is true, although it seems to me that one man's meat might be another man's poison in terms of the interpretation in the formal and final language, if, in fact, that fails to get sufficient signatures on the Conference Report.

Mr. DINGELL. Just like my friend and colleague, and I do observe that is the reason the Minority Staff is going to have an important part to play in preparation of this language.

Chairman STAGGERS. Would you yield to the Chair? I would just like to say this. Mr. Jackson has to leave. I want to thank the Senate, not only the Senate, but all members of the House, for their courtesy.

I want to especially thank Don Dingell for the very effective script he has given. I think they have done a tremendous job on both sides; Mr. Ashley, also, for the Ad Hoc Committee.

I will yield to the gentleman from New Mexico.

Senator DOMENICI. Mr. Chairman, I want to raise this point with Senator Jackson on our side. I don't want to leave with any misunderstanding. Do I understand that if you can get a majority of the Conferees to sign the report, without calling a Conference, you will do that.

But if we have objections, and that needs some further discussion, you do intend to seek the signatures indicating their acceptance of the legislation, and the Conference Report, from a majority of the Senators who support the legislation, do you not?

Senator JACKSON. The Senator is correct. I want to avoid more meetings, because I think that we have met the test of meetings. I am just fearful of more meetings, and more confusion that can arise; but I will say, on the Senate side, that I would call our Conferees together upon the request of any one Senator.

We held off here today. We had a meeting at 1:30 in order to accommodate one Senator, and I would have that rule on our side. And I know that our Chairman, Congressman Staggers, will always be collaborative, but the point is we have completed all the basic work here except on one bill, the Energy Conservation as it relates to fuel efficiency standards.

We normally circulate signature sheets, and those who will sign, can sign. We hope there will be a majority on both sides. I just want to say, Mr. Chairman, that we all salute you, Don Dingell, and Len Ashley, and the Minority, especially Bud Brown—are you listening, Bud?

Mr. BROWN (Ohio). Mr. Chairman, I always have one ear open to the gentleman from Washington, but I would have to say that he doesn't really have to include me in the enthusiastic acrimoniums that are being given around. I am only glad to report—I think the gentleman from Connecticut is not here, of the two of us might have some comments to make.

Senator JACKSON. We just want to make sure you stay with the military-industrial complex, at least, and count on your vote there.

Mr. BROWN (Ohio). I will follow you anywhere.

[Laughter]

Senator JACKSON. Mr. Chairman, we all want to thank you, the Majority and Minority alike, on both sides, my colleagues, for your patience, above all else. This you have done. You have met the supreme test, and we are all grateful for your help.

Chairman STAGGERS. Thank you very much. I would like——

(Applause)

Chairman STAGGERS. I would like to say to the press that we appreciate your patience in having stayed with us all of this time, and your generousness.

With that, we will adjourn, subject to the call of the Chair.

(Whereupon, at 5:10 p.m. the Conference was adjourned, subject to the call of the Chair.)

U.S. SENATE,
Washington, D.C., June 26, 1978.

Hon. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR SCOOP: Because of the uncertainty with regard to the process of obtaining signatures on conference reports, we will withhold our signatures from conference reports, on the National Energy Plan until (1) all Senate conferees have been given copies of the legislative language and conference reports, and (2) each has had adequate time to study the contents of these documents.

We believe this process is essential to assure conformity with your commitment to reassemble Senate conferees should the legislative language or conference reports not comport with the understandings reached during the Energy Conference.

Sincerely,

CLIFFORD P. HANSEN,
JAMES MCCLURE.
PETE V. DOMENICI,
PAUL LAXALT,
DEWEY F. BARTLETT,
WENDELL H. FORD.

JULY 12, 1978.

To: Senators Mark O. Hatfield, James A. McClure, Dewey F. Bartlett, Lowell P. Weicker, Jr., Pete V. Domenici and Paul Laxalt

From: Clifford P. Hansen

Subject: Energy Conference Reports

The following agreement has been reached with regard to the handling of energy conference reports.

1. *Coal Conversion.*—Senators will have the period until tomorrow night, July 13, to analyze the legislative language and Statement of Managers. If sufficient signatures are collected, the bill will be acted on by the full Senate on Friday, July 14.

2. *Energy Conservation.*—Senators will have 48 hours from the time of distribution to analyze the legislative language and Statement of Managers. Provided there are sufficient signatures, the measure will then be brought to the floor of the Senate.

3. *Utility Rate Reform.*—Senators will have 48 hours from the time of distribution to analyze the legislative language and Statement of Managers. Provided there are sufficient signatures, the measure will then be brought to the floor of the Senate.

4. *Natural Gas.*—Senators will have 72 hours from the time of distribution to analyze the legislative language and Statement of Managers. Provided there are sufficient signatures, the measure will then be brought to the floor of the Senate

Implicit in this agreement is that the Statement of Managers and the text of the legislative language will be available publicly.

U.S. SENATE,
Washington, D.C., July 12, 1978.

Hon. HENRY M. JACKSON,
Chairman, Committe on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR SCOOP: This is to confirm our conversation earlier this afternoon regarding the procedure for review of the conference reports of the Conservation, Coal Conversion, Utility Regulation, and Natural Gas Provisions of the National Energy Act.

It is my understanding, pursuant to our discussion, that these individual conference reports will be filed under the following procedure:

Coal Conversion: Copies of the conference report will be made available to Senators, Press and Public 24 hours prior to filing. It is understood that this conference report has been distributed for comment on July 12, 1978, and can be filed at Midnight on July 13, 1978.

Conservation and Utility Regulation: No sooner than July 14, these conference reports will be distributed to Senators, the Press and Public for a 48-hour review period. After this 48-hour review period, these conference reports can be filed.

Natural Gas: No sooner than July 14, this conference report will be distributed to Senators, the Press and Public for a 72-hour review period. The conference report can then be filed after this 72-hour review period.

As I mentioned during our meeting, it is my understanding that this procedure is acceptable for a majority of Senate Conferees.

Sincerely,

JAMES A. MCCLURE,
U.S. Senator.

JULY 12, 1978.

MEMORANDUM

To: Members of the Committee.

From: Senator Jackson.

Re: Procedure for Review of Conference Reports

Copies of the conference report on the coal conversion bill have been made available to members of the Committee today and are also available for examination by the press and public at the Committee offices. If the necessary signatures are obtained, this report will be filed after the close of business on July 13.

With respect to the conference reports on the conservation and utility rate reform bills, these reports will be made available to members of the Committee, the press and the public for a 48-hour review period prior to filing. In the case of the conference report on the natural gas bill, the review period prior to filing will be 72 hours.

U.S. SENATE,
Washington, D.C., July 13, 1978.

Hon. HENRY M. JACKSON,
Russell Senate Office Building,
Washington, D.C.

DEAR SCOOP: We are aware of the agreement yesterday to the effect that Senators will have 72 hours to analyze the legislative language for the Natural Gas Conference Report and the Statement of Managers prior to filing of those documents. While we concur in that agreement, we are concerned about the process to be followed for Conferees and their staffs to review and comment on drafts of those documents prior to submission for final review and approval.

In view of the complexities involved in this legislation, we feel that it is extremely important to provide a procedure for Conferees and their staff members to have ample opportunity to review the drafts of these documents, to discuss those drafts with the drafting groups, and to suggest modifications and clarifications. We are concerned that without such a process for development of the final report and statement, the 72 hour time limit for final review and approval cannot be met.

In addition, it could well develop that, absent the kind of meaningful prereview and comment process we recommend, disruptive and destructive disagreements could arise at the last moment, a situation that could undo all the hard work and negotiating we are so painfully familiar with. We must not let that happen when we are so close to completing what we consider to be the most important component of the Energy Plan likely to be passed in the foreseeable future.

In summary, Scoop, we simply recommend that as the initial and subsequent products of the drafting droups for the report and the joint statement become available, an opportunity for meaningful review and comment by Conferees and staff be provided prior to presentation of those documents for final approval.

As always, thank you for your attention to our concerns and consideration of our requests.

Sincerely,

JAMES A. MCCLURE,
PETE V. DOMENICI.

Hon. JAMES MCCLURE,
U.S. Senate,
Washington, D.C.

DEAR JIM: Thank you for your July 13th letter concerning the review process for the natural gas conference report and the accompanying Statement of Managers.

I understand from the Staff that a first draft of the statutory language and Statement of Managers should be completed by next week. That draft has not yet been reviewed by anyone outside of the drafting group which consists of Bill Braun, Bill Demarest, David Schooler, Chip Schroeder, and Kathy Segerson of the House Energy and Power Subcommittee staff; Paul Smith of the House Office of Legislative Counsel; and Mike Harvey and Betsy Moler of our Committee staff.

Staff of the Conferees, and other Committee staff, will have an opportunity to review the first draft and to suggest appropriate modifications and clarifications as soon as it is completed. The 72 hour review period agreed upon earlier will not begin to run until the final draft has been prepared and circulated to all Conferees.

I agree with you that it is essential to provide a procedure for Conferees and their staff members to have ample opportunity to participate in the process for development of the final report and statement. If any Conferee personally wishes to review the documents in his office, I have instructed the staff to comply with such a request.

I hope that the process I have outlined will meet your needs as well as those of the other Conferees.

Sincerely yours,

HENRY M. JACKSON,
Chairman.

Hon. PETE V. DOMENICI,
U.S. Senate,
Washington, D.C.

DEAR PETE: Thank you for your July 12th letter concerning the review process for the natural gas conference report and the accompanying Statement of Managers.

I understand from the staff that a first draft of the statutory language and Statement of Managers should be completed by next week. The draft has not yet been reviewed by anyone outside of the drafting group which consists of Bill Braun, Bill Demarest, David Schooler, Chip Schroeder, and Kathy Segerson of the House Energy and Power Subcommittee staff; Paul Smith of the House Office of Legislative Counsel; and Mike Harvey and Betsy Moler of our Committee staff.

Staff of the Conferees, and other Committee staff, will have an opportunity to review the first draft and to suggest appropriate modifications and clarifications as soon as it is completed. The 72 review period agreed upon earlier will not begin to run until the final draft has been prepared and circulated to all Conferees.

I agree with you that it is essential to provide a procedure for Conferees and their staff members to have ample opportunity to participate in the process for development of the final report and statement. If any Conferee personally wishes to review the documents in his office, I have instructed the staff to comply with such a request.

I hope that the process I have outlined will meet your needs as well as those of the other Conferees.

Sincerely yours,

HENRY M. JACKSON,
Chairman.

ORDER FOR RECESS UNTIL 9:00 A.M. ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:00 a.m. on Monday next.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask that morning business be closed.

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

FEDERAL-AID HIGHWAY ACT OF 1978

The ACTING PRESIDENT pro tempore. Under the previous order, the Sen-

ate will now proceed to the consideration

Mr. RANDOLPH. I wish to express our

ate will now proceed to the consideration of S. 3073, which the clerk will state.

The assistant legislative clerk read as follows:

Calendar No. 764, a bill (S. 3073) to amend title 23, United States Code, to authorize Federal-aid highways programs through fiscal year 1980, and for other purposes.

The ACTING PRESIDENT pro tempore. Under the previous order, the time for debate on this measure is limited to 3 hours, with 2 hours on title I of the bill, to be equally divided and under the control of the Senator from Texas (Mr. BENTSEN) and the Senator from Rhode Island (Mr. CHAFEE); and 1 hour on title II, to be equally divided and controlled by the Senator from Nevada (Mr. CANNON) and the Senator from New Mexico (Mr. SCHMITT). The time for amendments, except those on which a special time allocation has been made, shall be limited to 30 minutes, with a limitation of 20 minutes on any debatable motion, appeal, or point of order.

Who yields time?

Mr. BENTSEN. Mr. President, will the Chair repeat who is in control of the time on this bill?

The ACTING PRESIDENT pro tempore. The Chair will be happy to do so. On title I there is 2 hours, to be divided equally between and controlled by the Senator from Texas (Mr. BENTSEN) and the Senator from Rhode Island (Mr. CHAFEE).

Mr. BENTSEN. I thank the Chair very much. That was my question.

Mr. President, I ask unanimous consent that during consideration and voting on S. 3073, the Federal-Aid Highway Act of 1978, the following staff members of the Committee on Environment and Public Works, be granted privilege of the floor: John Yago, Bailey Guard, Richard Harris, Barbara Webb, Larry Roth, Lee Puller, Katherine Cudlipp, Hal Brayman, Rick Herod, Lee Rawls, Ric Fenton, and Phil Cummings.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BENTSEN. I also ask unanimous consent for floor privileges for Mike Naeve and Jack Albertine of my staff; Sam Stern of Senator ANDERSON's staff; and Robin Carpenter of Senator McGOVERN's staff.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I want to first acknowledge the presence of the chairman of the full committee, the distinguished Senator from West Virginia (Mr. RANDOLPH), a man who has labored hard on this piece of legislation, and one who has done much to build the Interstate Highway System of this country, who has been in the forefront of the fight, who has helped mastermind the greatest investment in transportation that the world has ever seen; a man who is highly respected by his colleagues for his perseverance, his vigor, his drive, his intellect, and his concern for his concern for his constituency and for his country. It is my pleasure to serve on his committee, and to have his advice and counsel, which I truly respect.

Mr. RANDOLPH. Mr. President, will the chairman yield?

Mr. BENTSEN. I am happy to yield.

Mr. RANDOLPH. I wish to express genuine appreciation what the manager of this legislation has just said. Only one exception would I take. He is too generous. Where he said "his committee," referring to the chairman, I want to have the RECORD modified to show it is our committee. I have always considered the 15 members of this committee, Democrats and Republicans, as a working team of this program.

Mr. BENTSEN. I thank the chairman very much.

I also want to acknowledge my colleagues, Senator CHAFEE and Senator STAFFORD, with whom it has been a real pleasure to work with.

It is a tough thing, when we talk about a bill of some $8.5 billion, which affects every segment of transportation insofar as the highways across this land are concerned. There is probably nothing closer to the people than the roads on which they drive. Everyone wants part of the action. Everyone has a particular project for their particular area. To be able to bring fiscal responsibility to it is not easy.

Mr. President, S. 3073, the Federal-Aid Highway Act of 1978, is a 2-year, $16 billion bill of direct and immediate importance to every State in this Nation. The legislation we bring before the Senate today is complex and, in some respects, controversial. It represents an honest, creative, and responsible effort to make maximum effective use of finite resources.

S. 3073, Mr. President, is the product of 10 days of hearings at which over 100 witnesses from the administration, State, local and regional government, the highway industry, and environmental groups presented testimony. This testimony, and the problems inherent in the highway program, were carefully analyzed by the Subcommittee on Transportation and by the members of the Public Works Committee.

Throughout our deliberations, we have been guided by several premises, the most important being fiscal responsibility. S. 3073 is lean legislation; make no mistake about it.

There are going to be many attempts in today's debate to try to fatten it up. We must reject those efforts because this bill is fiscally responsible. It is a reflection of our willingness to live within the limits of the Highway Trust Fund. It reflects the transportation community's overriding concern for a more flexible easier-to-administer Federal highway program. It is keyed to the expedited completion of the Interstate System.

This system is now over 90-percent completed. We have tried to really home in on the segments which must to expedited to finish it. The bill also addresses other urgent national highway needs such as deterioration of existing roads and bridges.

Before addressing specific aspects of this legislation, Mr. President, I would like to comment briefly on the general level of funding proposed—about $8 billion a year.

The figure should not be construed as a judgement on the magnitude of our Nation's actual highway needs. Clearly, the program could use substantially higher levels of funding. We should be closing gaps in the system as soon as possible; costs are escalating at an alarming rate.

Inflation mean it will cost us more next year. We have severe maintenance problems that require urgent attention; many of the bridges in this country are downright dangerous and need repair.

The basic question—at least in my mind, Mr. President—is not how much money the program needs, but the measure of resources available to sustain it. We must weigh highway needs against available trust fund revenues and do the best we can with the funds we have. To ignore factors such as inflation and deficit financing in developing highway legislation would be easy, but it would also be irresponsible and shortsighted. And it would wreck the highway trust fund.

Mr. President, the Subcommittee on Transportation and the Committee on Environment and Public Works have opted for prudence: We have chosen to live within our means.

That may be a little unusual these days, and particularly so for Members of the Congress.

We have maintained the "user pay" principle. We took a close look at the trust fund, determined the size of program it could be expected to support, and used that figure as the basis for this legislation. Rather than tinker with the trust fund concept, with some phony accounting approach, we have chosen instead to make better, more effective use of the moneys available to us.

Let us talk about the trust fund for a minute. Obviously, if you raise the Federal gasoline tax, you will generate more revenue into the trust fund, and we can spend more money on highways. If Congress makes this extra money available, we will do our best to see that it is well spent. I have followed this situation with some care, and I can assure you that the trust fund could use more revenue. The 4-cent tax has not been increased since 1959.

But the fact of the matter is that Congress has not increased the Federal gasoline tax; the fact of the matter is that we have $8 billion a year to work with, no more and, hopefully, no less.

When we talk about raising the gasoline tax, I proposed that step during the embargo, and I received bales of mail over it. I remember going to the Policy Committee and suggesting it as a means of cutting back on the use of gasoline, as a means of putting more money into the trust fund, as a means of taking care of the bridges and the repairs on the highways. I can still recall the distinguished Senator from Rhode Island, John Pastore, who said, "Not me. I am not going to vote for any increase in the gasoline tax." I said, "Why not, Senator?" He said, "Well, I will tell you, when I was Governor I voted for a 1-cent increase in the gasoline tax and they named it after me."

Well, those are the political facts of life that we face in this kind of a situation. So we are trying to live within what we are receiving. I still do not discount the fact that at some point in the future

to meet the increased problems we are having with inflation, the increased problems in deterioration of bridges and highways, we are gong to have to raise that gasoline tax. I will just have to figure out how to answer the bales of mail.

The committee has accepted a fixed gasoline tax rate as a point of departure. The authorization contained in S. 3073—$8.3 billion for each of the next 2 years, with $7.9 billion drawn from the trust fund—are the highest levels we can, in good conscience, recommend to the U.S. Senate. It is the highest level consistent with present economic realities; to exceed it, without increasing the Federal gasoline tax, could jeopardize the integrity of the trust fund which has been such an effective and reliable financing mechanism for more than 20 years.

Now, Mr. President, let me explain some of the steps we have taken to maximize the cost-effectiveness of the highway program. Let me explain how we have attempted to get maximum mileage out of finite funds.

We are giving priority attention to expediting the completion of the interstate system. During the past 22 years we have spent $51.9 billion on the system, which is now 92 percent complete. The problem, Mr. President, is the remaining 8 percent, some portions of which may not be completed until the 21st century under current projections.

With the cost of inflation, that last 8 percent might well cost as much as the first 92 percent before we get through.

Given the fact that highway construction costs have risen by 216 percent over the last 10 years, completing the remaining 8 percent of the system could cost as much as we spent to build the 92 percent already in place. The longer we wait, the more expensive it is going to become.

S. 3073 recognizes that fact and has been carefully drafted to speed up the process of completing the system.

First, the bill authorizes an additional $20 million annually for fiscal year 1980 and 1981 to hasten construction of remaining segments of the interstate system.

By decreasing the period of availability we are attempting to channel funds to the States that are ready to utilize them. Lapsed funds—estimated to be some $1.2 billion in fiscal year 1980—would be redistributed to States with ready to build projects, with preference accorded to essential gap projects.

Fourth, S. 3073 makes more cost-effective use of interstate funds by advancing moneys to States that are in a position to obligate interstate funds beyond their annual apportionments. Under this provision, a State which has spent its allocation in a given year can increase its available Federal funds up to its next year's interstate apportionment.

Any such advance, of course, would be deducted from the next fiscal year apportionment.

Fifth, S. 3073 contains a bonding option for those States that have exhausted all sources for interstate funding but still have ready-to-construct projects on the boards. This provision gives States the ability to issue State Revenue bonds for interstate construction and guarantees that the Federal Government will repay 90 percent of both interest and principal. While, for the first time, interest on such bonds would become a Federal responsibility. This provision would prevent the inflationary impact of project delay and save substantial costs over the longer range.

Finally, in addition to changes in interstate financing, S. 3073 contains several administrative innovations designed to speed up completion of the system. Environmental impact statements for all unconstructed segments of the system must be completed by 1982. After that date, any route without an approved EIS will be withdrawn from the system. To insure that construction begins in a reasonable period of time, we have provided that any interstate or substitute system must be underway by 1985 or it will become ineligible for assistance.

Taken as a package, Mr. President, these initiatives to speed up construction of the system and use our resources more efficiently are worth hundreds of millions of dollars in new resources. They should provide a significant and welcome spur to finishing a job that has dragged out too long, a job that becomes more expensive with each passing day.

There are two other noteworthy provisions of this legislation, two areas in which we have tried to be responsive to problems in the program.

The first item is maintenance. It makes little sense to spend over a hundred billion dollars for a highway network and then permit it to crumble for lack of maintenance. We have no choice but to protect this enormous investment, and maintenance is the key to protection.

Since the inception of the Federal highway programs, the States have been required to adequately maintain their federally funded roadways. In recent years, however, it has become apparent that overall maintenance is beyond the financial capability of most States. In 1976, Congress responded to this problem by broadening the definition of construction so as to include the three R's of maintenance: Rehabilitation, restoration and resurfacing; and a separate authorization was made for 3R work on the Interstate System.

Nevertheless, 2 years later, many portions of the Interstate System are in disrepair; there is a backlog of $2.3 billion of work that needs to be done. Our Interstate System, funded 90 percent with Federal tax dollars, is wearing out 50 percent faster than we are repairing it.

This process cannot be permitted to continue, and the committee has made several changes in the Interstate 3R program to insure better maintenance. We have required an annual Federal inspection of Interstate routes. If a State fails to meet maintenance standards established by the Secretary of Transportation, approval of all Federal-aid primary projects is suspended until the Secretary is satisfied that the State is making a good faith effort to maintain its interstate mileage.

Under the terms of S. 3073, toll roads designated part of the Interstate System become eligible for Federal maintenance assistance; traffic volume is factored into the 3R apportionment formula; and the Federal share is reduced to 70 percent, making it compatible with the primary program.

Mr. President, the final area of concern to the transportation community and to the committee is an expanded special bridge replacement program.

The current annual authorization of $180 million is clearly inadequate to reconstruct the 33,500 deficient bridges on the Federal-aid system. Let us remember that when we are talking about bridges, we are talking more than highway access: we are dealing with human lives.

The committee has recommended increasing the bridge replacement program; from $180 million last year to $450 million this year—250 percent of last year's program. A survey conducted by the Federal Highway Administration suggest that a $450 million annual program accurately reflects the resources the States could obligate next year for bridge replacement.

While on the subject of safety, Mr. President, let me also point out that we have made a major effort toward consolidation in the highway safety program in order to provide administrative flexibility at the State and local levels and to help the States get the greatest return from their highway safety dollars.

I sincerely hope, Mr. President, that as we debate S. 3073, the Senate will understand that we have to hold the line on this program. I should like to spend more money on the interstate program and I acknowledge that there is a legitimate need for more money. But the $8 billion we recommended, we think, is the limit on a user tax, we run the risk of destroying a successful program of long standing that has helped create an Interstate Highway System of vast significance to this Nation.

We have shunned the line of least resistance; we have made an honest and concerted effort to preserve the highway trust fund and to live within our means. We have tried to stretch available funds by effecting internal economies, by getting a better cost-benefit ratio from available funding.

The House has been less reticent; they are going to take an expensive and inflationary bill to conference and we shall have to attempt to negotiate them down from that figure if the integrity of the trust fund is to be preserved.

I hope the Senate will keep these factors in mind as we move to consider this legislation

I reserve the remainder of my time, Mr. President.

(Mrs. ALLEN assumed the chair.)

Mr. CULVER. Madam President, will the Senator yield for a unanimous-consent request?

Mr. BENTSEN. I am delighted to yield to the distinguished Senator from Iowa, who is a very valued member of this committee.

Mr. CULVER. Madam President, I ask unanimous consent that Peter Rosen-

berg, of my staff, may have the privilege

berg, of my staff, may have the privilege of the floor.

Mr. HODGES. Madam President, I ask unanimous consent that Jon Abele, of my staff, may have the privilege of the floor.

Mr. McGOVERN. I make the same request for Robin Carpenter, of my staff.

Mr. CHAFEE. Madam President, I make the same request for Miss Mimi Feller, of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Madam President, first, I want to pay tribute to the distinguished chairman of our subcommittee (Mr. BENTSEN) for the very able leadership he has given in this matter and to say what a pleasure it was to work with him through all the hearings and the markup on this bill. I have considered it a district treat.

Also, Madam President, I want to pay tribute to the chairman of our full committee (Mr. RANDOLPH) who has given us very able leadership, and the ranking minority member, Senator STAFFORD of Vermont. Both of them have been very, very helpful. As was pointed out by the chairman of our subcommittee (Mr. BENTSEN) in his remarks, these gentlemen have long experience in improving the road and highway system of our Nation.

Madam President, the chairman of our subcommittee presented an excellent summary of the Federal Aid-Highway Act of 1978. I wish to associate myself with his views on this bill and say that he and I have agreed on most of the major provisions through the subcommittee deliberations and through the full committee deliberations.

At this time, I want just to touch briefly on some of the major features of the legislation. I believe the provisions to speed completion of the Interstate System are extremely important. For example, as was pointed out, those States that do not use their funds within 2 years, those funds are lapsed back into the trust fund so that the States who are prepared to move ahead can do so. That is a new provision in this act. I believe that it will prove very effective.

Taken together, the changes in the funding procedures should insure that States receive funds equal to their capability to move ahead with interstate construction. These provisions will reduce the large sums of money tied up on projects that the States are not yet ready to move on.

Another provision in this bill also requires the States to make final decisions by September 30, 1982, on which routes they will proceed. In other words, the thrust of this measure is to get on with the construction of the interstate highway program. As the chairman pointed out, now we have 90 percent of the mileage of this program built—90 percent. Yet 33 percent of the funds for this program have to be spent on the last 10 percent of the program. That is not because the last 10 percent is the most difficult section; it is because the delays have caused these remaining sections, the last 10 percent, to rise in price through inflation, through escalation, through all the problems that we are familiar with.

By 1986, these routes or substitutes must be under construction or completed. Firm dates for these decisions are needed, as less definite deadlines in both the 1970 and 1973 highway acts have been ineffective. The country has been preoccupied too long with completing the Interstate System. It is time to get a fresh perspective on highway and transportation needs and the appropriate Federal role in meeting these needs.

As the chairman has mentioned, the mere cost of highway construction has gone up over 200 percent in the last 7 years. So what we have done in this bill is to require that the routes be chosen by September 30, 1982, and by 1986 these routes or substitutes have to be under construction.

In other words, let us get on with it. People might say, "Well, there might be delays," and so forth. We have not allowed any exceptions in the 1986 deadline.

Now, we have to reconsider this bill every 2 years. So, if there are problems, we can consider those as they come up.

But we say to the States, "Get on with it. If you delay, you delay at your own risk."

As our Nation grew, Madam President, and the population shifted during the last several decades, we planned and designed extensive new highway systems. When this program started, there was plenty of land around. Environmental laws were not yet passed. Costs were lower. People wanted the roads built. We wanted to connect the communities, encourage the flow of commerce from city to city.

But now we need to redirect our thoughts to the way of making more efficient use of highways already in place. This involved increased attention to maintaining, improving and adapting our roads.

Official and unofficial reports from around the country, as has been mentioned by the chairman, suggest that portions of the interstate are already badly deteriorated. The Federal Highway Administration report estimates the costs of needed resurfacing and reconstruction of the older sections of our interstate amount to some $2.6 billion.

So the committee considered this and we continued the authorization of the so-called 3R program, for restoration, resurfacing, and rehabilitation.

In addition, we have strengthened the requirements that States adequately maintain the interstate routes.

These requirements reflect the committee's view that there is an overriding national interest in maintaining these expensive interstate highways at their peak efficiency.

What we want to do is to squeeze the highest possible productivity out of the 40,000-some miles already in existence.

While current funding for the 3R category of resurfacing, rehabilitation, and restoration is relatively low, in future years this will be a greater part of our concern. The needs for interstate reconstruction may vary from year to year and the States will still want to have the flexibility to use these funds in the most productive manner.

This bill, S. 3073, provides this flexibility by permitting States to use the 3R funds on other primary roads whenever interstate needs have been met.

Another important thing we have done here, Madam President, is that we have reduced the Federal share for the interstate 3R from 90 percent to 70 percent.

We might say, "Well, if we are anxious to keep the roads repaired, why cut down the share of the Federal contribution?"

The Federal share for the primary system is already 70 percent. By making the State matching requirements for the interstate and the primary systems the same, we should eliminate any temptation for a State to undertake low priority interstate work instead of doing needed primary work.

In other words, we are looking at the whole highway system as a unit and, certainly, we have seen many instances in the States where they will proceed to upgrade and do useless and, indeed, wasteful projects on the Interstate System because it is 90-percent Federal dollars.

In other words, it only costs the States 10 cents, so they go ahead and spend the money.

There is another measure in this bill to discourage unwise use of Federal funds. The States are prohibited from spending interstate construction funds to clear zones adjacent to existing interstate roads.

Under existing regulations, the States can use the 90-percent funds to eliminate trees and other natural features from within 30 feet of the interstate highways.

I am personally very familiar with such projects which were undertaken, not because these obstacles 30 feet from the edge of the highway had a high priority on the State's list, but because, again, the State wanted this easy Federal money.

No one pays for the Federal money, so that the States take it and spend it in devastation of the sections adjacent to highways.

So this bill requires that where they want to do these types of measures, the State has to put up 30 percent of the cost. This should insure that this type of work will only be done where needed and not as a mere means of using up Federal dollars.

During hearings the subcommittee heard from several witnesses that heavy vehicles—in other words, those carrying large amounts per axle and large amounts per vehicle—do damage to the highway to a far greater extent than more numerous, but lighter vehicles. The heavier the vehicle and axle loads, the higher the vehicle's contribution to road deterioration.

This is a proven fact.

Several provisions in the bill address this problem. States for the first time are permitted to use Federal-aid funds to purchase and install scales for monitoring vehicle weights.

Up to this time, we have not permitted the Federal dollars to be so used. The scales are expensive and a lot of States have not built scales. As a matter of fact, my State is one of those. Also, the Secre-

tary of Transportation is clearly given authority to require documentation from the States to show that they are adequately enforcing weight laws.

Unfortunately, they are not doing it, and, if they do not, they can lose their Federal aid assistance.

Finally, two studies are called for. One requires the Secretary to evaluate the effect and desirability of reducing those State weight limits which are currently in excess of the 80,000 pounds which the Federal Highway System mandates.

What happened is when we put in this program we grandfathered in certain States and let them have higher than the 80,000-pound limit. The question now is whether we should permit those States to continue to have those higher weight trucks running on their highways—they are not their highways, they are our highways since they are Federal aid highways.

We started off, Madam President, by requiring that those States come down to the Federal limit. But I must say, we received considerable mail from our States, and calls. So we said, "All right, we will have a study on it."

It is my hope, before we rewrite this bill 2 years from now, that we will have have the information and recommendations on how best to limit road damage caused by excessively heavy vehicles.

The second study involves cost allocation. It will examine existing revenue sources of the highway trust fund to determine if taxes on the various classes of highway users are equitable.

What is the tax on trucks? Is it fair? The tax on automobiles or tires, are all these fair?

Such a study will be useful in distributing tax burdens among highway user classes. In addition, this study should lay the foundation for evaluating indirect costs of highway transportation. This could lead to more informed decisions on Federal investments in various transportation modes.

I do believe there is much that can be done to improve decisions on transportation investments at all levels of government.

Madam President, I was sorry that an effort to consolidate transit and highway planning procedures was not successful. In other words, there was a suggestion that we combine the planning for transit and the planning for highway—put them all in one package, since it is all transportation. The exact requirements of the planning procedure were less important to me than the need to show that the Federal Government regards transit and highways as complementary and not conflicting programs. In other words, look at them together and do not have them compete.

Under existing Federal programs, transit and highway planning funds are distributed by different procedures, and there is an implication that the planning for the two programs is different. This is detrimental, in my judgment, to the creation of an integrated planning process, which is so badly needed in urban areas.

The section included by the subcommittee and adopted by the Banking Committee in the Federal Public Transportation Act of 1978, S. 2441, would provide a single funding process for transit and highway planning. I think this could be useful.

The committee bill does add some specificity to the statement of goals in the existing planning provision. On my motion, the committee agreed to make it explicit that the lessening of certain adverse social, economic, and environmental effects are goals of our national transportation policy. In my judgment, we need to make our transportation systems "good neighbors" to the people and the communities they serve. Many of our cities are old and polluted. They need revitalization. The competition, as has been mentioned by our chairman, for the national budget, our dollars, is intense. Scarcity of energy supply is on our minds, as can be seen from the fuel efficiency standards for autos and incentives for carpools; so we cannot any longer build in a vacuum.

Senator BENTSEN has ably described other provisions of this act. I think the bill responsibly addresses bridge needs, which are a serious problem in many States. The program and funding changes should produce major improvements in the effectiveness of the program.

Also, I am in complete agreement with the provisions for program consolidation and increased transferability among categories. One of the things we have to fight against in these highway programs is to have a little money for this and a little money for that and a little money for the third thing. That is not necessarily in the best priorities in the States. So we combine the money as much as possible in this bill and let the States use it where they think it would be most productive.

A final major thrust of this bill, as Senator BENTSEN mentioned, is in the whole area of funding levels and Federal-State involvement. The Federal share of noninterstate Federal highway projects was 50 percent up to 1973. Then it went up to 70 percent. This year, there is a push to go to 80 percent. As a matter of fact, the administration so recommended. But we resisted that. Where are we going to stop? We want to see the States get the maximum amount of highways built for the limited amount of Federal money there is, and we feel strongly that the Federal share should be restricted to 70 percent on the noninterstate State programs.

I must say that I suspect we are going to be under a good deal of pressure to push that up, but I think it is well to bear in mind that the Federal Government not only has a limited amount of money, but also, we are running a tremendous deficit—some $40 billion to $50 billion—so I think the Federal share should be kept at 70 percent.

One last general issue deserves discussion: overall funding levels contained in the bill. The committee made a conscientious effort to relate authorizations to expected highway trust fund revenues. In other words, we are spending more than we will have coming in from the various taxes that go into the highway trust fund. The Senate bill thus far can approximately be supported by current highway taxes. Cars will consume less gasoline, and less money will come into the trust fund. Not taking into account fuel efficiencies soon to be realized, the Congressional Budget Office indicates that the Senate bill may require an increase in revenues of less than 2 percent.

Authorizing a program now which is based upon anticipated increases in the gasoline tax or some other anticipated tax increases is irresponsible. I do not think anybody believes that an effort to increase the gasoline tax over the 4 cents per gallon is going to pass Congress.

Madam President, this is a good bill. It strikes a balance between needs and revenues. It insures that States and the Federal Government remain partners in the highway building enterprise. Finally, it makes adjustments in overall program structures to recognize new priorities.

I urge my colleagues to support the Federal-Aid Highway Act of 1978.

Madam President, I reserve the remainder of my time.

Mr. STAFFORD. Madam President, will the distinguished manager of the bill for the minority yield me 5 minutes?

Mr. CHAFEE. I yield to the Senator from Vermont, the distinguished ranking minority member of our committee, such time as he may require.

Mr. STAFFORD. I thank the distinguished Senator.

Madam President, I should like to start by complimenting the managers of the bill, the Senator from Texas (Mr. BENTSEN) and the Senator from Rhode Island (Mr. CHAFEE), for the outstanding way in which they have guided this bill through the Committee on Environment and Public Works. It is always a pleasure to work with the chairman of the committee, Senator RANDOLPH, whose guidance is always very helpful in proposing sound legislation for the highway systems of the United States.

The bill has been covered so well by Senator BENTSEN and Senator CHAFEE that my comments will be brief and will be directed to another part of the bill, in the main.

At the outset, Madam President, I want to add my endorsement of S. 3073, the Federal Aid Highway Act of 1978, to those already given by the distinguished floor managers and the chairman of the Committee on Environment and Public Works.

I believe the committee has reported a bill which authorizes responsible spending levels and provides necessary program changes to achieve important national goals.

The bill strikes a proper balance between interstate completion and the rehabilitation and restoration of older roads. It is my personal belief that the Federal role in the near future will be even more dramatically one of preserving existing roads and service levels.

It may be, Madam President, that many of us and many other people in the country have forgotten the fact that when the Federal aid program was originated for construction of the Interstate Highway System, one of the basic purposes was that of national defense. A system of major roads which would make possible, if necessary, the rapid move

ment of men and material in any national military emergency the Nation might face. That still is one of the purposes of the Interstate Highway System and the associated systems that serve this country.

In general, the bill provides greater flexibility to States and encourages better use of Federal highway dollars. A continuing emphasis on low-cost safety construction is a feature of the bill I especially applaud.

I do, however, have one general area of concern. It is less with what S. 3073 contains than with what I see as a trend.

As we worked on the bill in full committee, several amendments to the highway beautification program were raised. This program is only a small part of the total Federal-aid scheme but, in my opinion, is one which functions the least well, raises more controversy, and provides fewer benefits than any other program element.

It seems to me that we have succeeded in tying the hands of those States, such as my own, which want to move aggressively to clear highways of billboards. At the same time we have achieved very little in States which are less interested in the scenic value of their roads. We are fostering the worst of two worlds.

And at the funding levels provided by Congress since the program began in 1965 it is evident that the program has little support from its creators.

Several amendments proposed in the Senate committee and provisions actually adopted by the House Committee on Public Works and Transportation in its Surface Transportation Act strengthen my feeling that the Federal program will never achieve its original goal. In fact, in some instances it seems as if the Beautification Act has been turned around and now promotes rather than discourages billboards.

Because of the piecemeal dismembering of the beautification program by each succeeding highway act, because of the woefully inadequate funding levels, and because of the disruption it has caused in State and local beautification efforts, I have seriously entertained the idea of proposing what, in effect, would be a repeal of the Federal program.

Federal assistance would continue to be available to States which wanted it, but other States would be free to pursue their own programs without the threat of lost Federal highway aid.

Such a change could hardly result in fewer sign removals than we see currently and would permit faster progress in some States with strong State programs.

I did not offer such an amendment in committee, as the changes we made in the program were minimal and authorizations were higher than the funding levels of recent years. I was sorry to note the small amount appropirated for fiscal 1979 by Public Law 95–335.

I will not offer such an amendment during Senate debate on S. 3073 unless attempts are made to further weaken the program. I want my colleagues to consider, however, the possibility that repeal of the highway beautification experiment may ultimately prove to be the only way to further the goals originally sought.

Madam President, in closing I want to repeat my support for S. 3073. My concern over the future of the beautification program does not reflect on the merits of the bill as reported.

I especially want to commend the subcommittee chairman and the whole committee for their responsible actions in setting funding levels for the highway program. The levels are consistent with State's abilities to obligate funds and with expected highway trust fund revenues.

I urge the Senate to support the committee's bill and to reject proposals which would cause a proliferation of programs and increase authorizations beyond those levels in the committee bill.

Madam President, I yield back the remainder of the time granted to me by the minority manager and yield the floor.

Mr. CHAFEE. Madam President, we reserve the remainder of our time.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Madam President, I yield time to the distinguished chairman of the committee such as he desires.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Madam President, we are discussing the provisions of S. 3073 with the leadership and the members of our committee, particularly the chairman of the Transportation Subcommittee, Mr. BENTSEN of Texas, and Mr. CHAFEE of Rhode Island, and, of course, the ranking minority member of our committee, Mr. STAFFORD of Vermont. These three knowledgeable members of the Committee on Environment and Public Works have addressed substantially the provisions of S. 3073.

We are faced with a critical time in the development and strengthening of the road system of our country.

Transportation continues to be a major influence in our Nation's development. As our methods of travel become more modern and sophisticated, the American lifestyle changes in response. Thanks to our coordinated system of air, water, and surface transit, we are now the most mobile people on Earth.

Perhaps no transportation initiative has played a larger role in America's growth than the Federal-aid highway program. Today the continental United States are joined from coast to coast by 975,000 miles of federally aided highways. More than 90 percent of the 42,500-mile Interstate System is open to traffic. The program has proved so successful because it remains flexible. Since the pioneer Federal-Aid Road Act was passed in 1916, the highway program has continually responded to our society's changing transportation needs.

I am proud that S. 3073 represents another major step forward in the Federal-aid highway program. It authorizes over $1 billion annually in additional highway construction funds beyond the current levels. Just as important, the bill makes several substantive improvements in the financing of Federal highways.

For example, S. 3073 provides the legislative groundwork for completion of the Interstate System by expediting funds to States which can best put them to use. Millions of Federal interstate dollars will no longer languish in the accounts of States which are not prepared to use them. Instead interstate funds will be available for only 2 years instead of the present 4 years. Should they lapse, the Secretary of Transportation will redistribute them to States, like my home State of West Virginia, with ready-to-build interstate propects. The costly inflationary impacts of unnecessary project delays will be minimized.

In addition, the legislation gives priority to the construction of missing intercity links in our interstate system. Our expanding economy is dependent upon our highway system, particularly the interstate, for most of its transportation needs. To facilitate the cross-country exchange of farm products, raw materials, manufactured goods, and energy sources, a truly connected national highway network is a necessity. S. 3073, therefore, targets interstate funds to the completion of the so-called essential interstate gaps.

In addition, the committee determined that the current gap designation does not adequately reflect all gaps in the Interstate System. S. 3073 revises the essential gap definition by including two-lane toll roads already eligible for interstate assistance. Thus, two important routes, the West Virginia Turnpike and I–75 in Florida, qualify for priority treatment as essential gaps. The Congress has already recognized the national significance of these highways. The Federal-Aid Highway Acts of 1970 and 1973 authorized that they be brought to four-lane interstate standards.

Those who have traveled the West Virginia Turnpike know firsthand that in its current state, it is truly an essential interstate gap. The congested two-lane road joins our State capital of Charleston with Beckley, W. Va. As part of both I–77 and I–64, it serves as major north-south and east-west connector. Expediting construction of the turnpike as quickly as possible is a vital part in completion of a unified national system.

The bill's added emphasis on interstate completion is coupled with closer attention to the condition of existing interstate mileage. To protect the enormous Federal investment in our Federal-aid highways, rehabilitation must become a Federal priority. S. 3073 focuses on the 3R program and refines requirements for adequate interstate maintenance by the States. In doing so, the legislation provides smooth transition to the approaching postinterstate era which, with the financial mechanisms for accelerated construction contained in the bill, is within future reach.

S. 3073 addresses another serious road deterioration problem, weather-related damage. By broadening the definition of construction, States may use their Federal highway funds to seal the road surface and prevent potholes. The last two winters have been particularly damaging to our roadways. Almost no State escaped the effects of the severe temperature changes during 1977 and 1978. S. 3073 gives the States the added flex-

ibility to prevent potholes during construction and repair of Federal roads.

With the distinguished Senator from Kentucky, I have proposed another amendment for addressing road rehabilitation in the highway program. Nearly every State has or will soon experience the destruction of highway corridors serving the movement of vital energy supplies. As the Federal emphasis has shifted toward coal and other domestically produced resources, regional systems of energy roads must be adequately maintained. Many States have already suffered the consequences of increased coal traffic. Other States, particularly in the West, will undergo similar road deterioration problems caused by expanding energy production in the near future. The proposed amendment is yet another addition to the highway program in response to America's changing national priorities and needs. Congress and the administration have recognized that a sound energy policy, which I think includes an adequate energy transportation system, is of foremost importance.

Perhaps the most widely recognized highway need in the country is greater Federal involvement in bridge replacement and repair. The Department of Transportation estimates that 33,500 bridges on the Federal-aid system are in need of replacement, and the need is over twice as great for off-system bridges. These are startling figures in light of the all too often tragic consequences of bridge collapse. I need not remind my colleagues of the Silver Bridge catastrophe in Point Pleasant, W. Va., which preceded the establishment of the special bridge replacement program, which I authored in 1970. Given the number which remain to be replaced, however, the current $180 million annual authorization is clearly inadequate. S. 3073 increases the Federal allocation to $450 million, which represents a more realistic assessment of our national bridge crisis.

Another meaningful addition to the special bridge program is the creation of a discretionary bridge fund. Because construction of new bridges over major waterways is very costly, it is often beyond the financial capability of many States to undertake important projects. S. 3073 authorizes a discretionary bridge category from which the Secretary provides assistance to States for costly high traffic bridges over major waterways. Funds for the program are deducted from the primary and bridge replacement authorizations and would amount to approximately $48 million yearly. Prior to project approval, all environmental reviews and navigational assessments must be completed.

One project which would be eligible for assistance under this program is a bridge across the Ohio River in Huntington, W. Va. This facility is essential to the economic development of the tri-State area and to the mobility of people and goods, particularly coal, across the Ohio River.

The Senate highway bill is landmark legislation. It symbolises the best in both fiscal responsibility and programmatic innovation. S. 3073 builds on the responsiveness and flexibility which have hallmarked the modern Federal highway program since its inception in 1956. The creation of this fine piece of legislation was very deliberate indeed. I wish to take this opportunity to commend Senator BENTSEN for his leadership as chairman of the Subcommittee on Transportation and the other Members of the Environment and Public Works Committee, Republican and Democrat alike. With the cooperation of the administration and the entire transportation community, we worked hard and long to design a progressive highway bill which embraces and builds on the best of the Federal highway program. And where necessary, we have instituted changes to make most creative and efficient use of our limited highway trust fund dollars.

This is a particularly crucial time for the Federal-aid highway program. It is essential that the Congress adopt highway legislation before the end of the second session of the 95th Congress. Without it, an estimated 39 States will be forced to cease various aspects of their construction and rehabilitation programs. We must act quickly on S. 2072 to insure that this vital Federal program continues, uninterrupted.

UP AMENDMENT NO. 1667

(Purpose: Amends S. 3073, the Federal aid highway act to increase the authorization for the special bridge replacement program and to require a minimum and maximum range of funds that can be spent for the rehabilitation and replacement of bridges that are not part of the Federal-aid highway system)

Mr. CULVER. Madam President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Iowa (Mr. CULVER), for himself and Mr. HEINZ, proposes an unprinted amendment numbered 1667:

On page 4, line 5, strike the numeral and—

Mr. CULVER. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4, line 5, strike the sum "$450,000,000" and insert in lieu thereof, the sum "$525,000,000".

On page 34, strike lines 13 through 25 and insert in lieu thereof, the following:

"(7) Section 144(c) of title 23, United States Code, is amended by adding the following at the end thereof: Not less than 15 per centum and not more than 25 per centum of the funds authorized to any State to carry out the provisions of this section shall be expended for the replacement or rehabilitation of bridges that are not on any Federal-aid highway."

Mr. CULVER. Madam President, this amendment increases the authorization in the special bridge replacement program to $525 million, and requires that no less than 15 percent and no more than 25 percent of these funds be spent on the replacement or rehabilitation of bridges that are not part of the Federal-aid highway system.

Madam President, our original amendment, which was cosponsored by a number of Senators, called for a $600 million authorization for the special bridge replacement program. In the judgment of many of us, that amount of funds could very effectively be used to meet the pressing bridge replacement needs of this country.

However, after consultation with the floor managers of this bill—and I wish to commend them both for their leadership and their concern, not only in this area but in those other important areas that are involved in this legislation—we have agreed on a compromise level of funding of $525 million, which is represented in the amendment sent to the desk by the distinguished Senator from Pennsylvania (Mr. HEINZ) and myself.

Now, this amount of $525 million does represent a reasonable first step in providing an adequate funding level that hopefully can begin to reverse the nationwide bridge repair situation.

I believe that adoption of this amendment is necessary to make this program more consistent with urgent national needs to reverse the serious state of disrepair which characterizes thousands of bridges both on and off the Federal-aid highway system.

In general, we have one of the finest and most efficient road systems in the world. But one of the major links in an effective road system is safe and well constructed bridges. And this link is deteriorating at an alarming rate. Our network of roads and highways is all too often connected by outmoded or antiquated bridges that are unsafe and better attuned to the requirements of 19th century transportation and commerce than that of the 20th century.

Over 70 percent of the estimated 564,000 bridges in this country are more than 40 years old, which means that 390,000 were built during the Great Depression or earlier, before modern, uniform design and construction standards were instituted. They were constructed to handle the Model T car—not modern commercial vehicles and farm machinery. This ever-expanding volume of traffic simply hastens the deterioration of these structures and compounds the inability of States, cities, and counties to satisfactorily maintain their bridges.

The number of unsafe bridges in this country is simply appalling. At least 105,000 bridges are classified by the Federal Highway Administration (FHWA) as either structurally deficient or functionally obsolete. That means that about one out of every six bridges in the entire United States cannot meet Federal standards of safety or efficiency. Merely calling a bridge "deficient" or "obsolete", however, does not convey a sufficiently realistic or vivid understanding of the hazards and inconveniences.

The term "structurally deficient" does not adequately describe a bridge that has to be posted at reduced weight limits or closed entirely because rusting steel girders crack at the slightest pressure or concrete sections crumble and buckle under the weight of a car or truck. Every 2 days, another "structurally deficient" bridge in the United States collapses like a house of cards

severing the road segment, disrupting traffic, and endangering lives.

Similarly, calling a bridge "functionally obsolescent" does not illustrate the major safety problems of bridges too low or too narrow to accommodate traffic efficiently. Many "obsolete" bridges are so narrow that trucks literally bump as they pass in opposite directions. The decks of other bridges are narrower than the approaching roadway, causing motorists—caught off guard—to lose control of their cars. Each year, over 1,000 fatalities result from collisions with a bridge abutment or overpass. Whether these structures are "deficient" or "obsolete", we have to underscore the fact that these bridges are dangerous and a threat to the well-being of everyone who uses them.

It is a popular misconception—and an erroneous one—that these unsafe bridges are situated in rural areas and have little implication for the nationwide flow of transportation and commerce. While many physically inadequate bridges are on low-volume roads, many of the worst bridges are found on our major highways. Of the 105,000 bridges listed by the Federal Highway Administration as unsafe, over 33,500 of them are on-system. The estimated cost of fixing these unsafe bridges which pockmark the Federal system is a staggering $12.5 billion.

Unfortunately, often only a tragedy forces public attention to focus upon a problem. In 1968, the Silver Bridge at Point Pleasant, W. Va., collapsed during the evening rush hour and fell into the Ohio River. Forty-six people died because of that bridge failure, and the resulting public outcry ultimately led Congress to enact the special bridge replacement program in 1970. Senator RANDOLPH, the chairman of the Committee on Environment and Public Works, provided significant leadership in formulating this program, which utilizes the Highway Trust Fund to help States replace some of their most critically deficient structures on the Federal system.

While it proved to be a constructive and necessary first step in recognizing and attempting to stem the growing deterioration of bridges, the special bridge replacement program has not been completely successful in reversing the trend of more unsafe bridges at increasingly higher replacement costs. Despite this program, we are continuing to lose ground in our attempt to solve our national bridge crisis.

The amount of funds made available to the States under the special bridge replacement program has been woefully inadequate when compared with our pressing unmet needs. During the 7 years of the program, only $835 million has been authorized and made available for obligation by the States. Currently, the annual authorization for all 50 States under this program is $180 million. During the last 2 years alone, by comparison, the cost of replacing unsafe bridges on the Federal highways has increased by over $2 billion. Like the man on the treadmill who has to run harder and harder just to stay where he is, a substantial increase in the special bridge replacement program is warranted merely to keep the vast number of bad bridges from accelerating even more sharply.

Another inadequacy of the special bridge replacement program has been its complete neglect of the monumental problem resulting from unsafe bridges located on roads not included in the Federal-aid system. In the past, none of these bridges has been eligible for special bridge replacement program funds despite their critical importance for the economic and personal well-being of small communities. The Federal Highway Administration conservatively estimates that 72,000 "off-system" bridges are deficient or obsolete. As staggering as this figure is, it may well underestimate the extent of the "off-system" problem, since systematic inventories have only recently begun. One recent survey of the National Association of Counties concludes that over 160,000 such bridges are unsafe. At a minimum, reconstructing the 72,000 bridges listed by the FHWA represents an additional $12.6 billion price tag.

My own State is representative of many rural and agricultural areas with substantial "off system" bridge needs. With about one-half of its total production related to agriculture, Iowa's economy is critically dependent upon an efficient and cost-effective transportation system. Particularly at a time of economic difficulty for midwestern railroads, it is imperative that Iowa and other Midwestern States be able to ship their produce to markets over safe and well-maintained local and county roads. Each year, over 45 million tons of grain and 5 million tons of milk traverse the 21,000 bridges located on Iowa's "off system" roads. An estimated 7,000 of these bridges are inadequate. They place a heavy economic burden upon farmers who must detour miles out of their way to get modern tractors—which weigh 10,000 to 12,000 pounds—out to fields or commodities to market. This results in higher costs to consumers and producers alike.

In Iowa and elsewhere, it is commonplace for school children to get off buses and walk across bridges that cannot accommodate loaded buses, before continuing their ride on the other side. Iowa has over 4,000 bridges that a loaded school bus cannot cross.

In other communities, fire trucks have been unable to get to burning houses in time because bridges across the most direct roads could not accommodate the weight of the vehicle. These are not isolated incidents; they are facts of life that citizens in small communities and rural areas must live with every day.

The problem that local and county officials have in trying to maintain or reconstruct inadequate bridges on local roads has been accentuated by the recent reassignment of a significant number of bridges—primarily from secondary roads in rural areas—to the "off system" network. The 1973 Federal-Aid Highway Act mandated this reassignment, but did not amend the special bridge replacement program to extend Federal funds to any of these formerly Federal-aid highway bridges. This realinement has placed an additional economic burden upon local governments already experiencing great difficulties in meeting their bridge replacement needs. Iowa's Federal system network was reduced from 33,000 miles to 13,000 miles.

Some 1,680 bridges were reassigned to the "off system" at an estimated replacement cost of $100 million. Nationally, there are 14,000 fewer bridges on the Federal-aid system than there were in 1976. While some of these bridges have been replaced with Federal funds from the "safer off system road program," the Federal Government has compounded the local bridge problem by adding outmoded and unsafe spans to the "off system" without concurrently providing financial resources through the special bridge replacement program to help alleviate this additional burden.

Mr. President, as a member of the Transportation Subcommittee, I held a series of hearings which examined the critical bridge problem facing this Nation. Testimony from Federal, State, and local transportation officials were unanimous concerning the need for a more comprehensive bridge replacement program. I introduced legislation designed to expand that program in order to bring the Federal effort more in line with the nationwide magnitude of the problem. S. 394 amended the special bridge replacement program to permit funds to be spent on the rehabilitation—as well as replacement—of existing bridges. By allowing Federal dollars to be used to repair bridges where it is cost-effective to do so, States can leverage their expenditures in a more satisfactory fashion. They would no longer exhaust their funds replacing completely one or two expensive structures that could be repaired at lower cost. In order to help meet the "off system" crisis that has been neglected for so long, I also provided that a minimum of 5 percent of special bridge replacement funds be directed specifically to bridges under the jurisdiction of counties. S. 3073 also authorized an annual increase in the special bridge program from $180 million to $600 million annually.

Several of these provisions have been incorporated in the Federal-aid highway legislation we are considering now. I want to acknowledge the efforts of the Senator from Texas, the chairman of the transportation subcommittee, in expanding the special bridge replacement program. The amendment that I am offering in no way detracts from those efforts, but complements them by providing additional resources to reverse this $25 billion problem which threatens our lives.

This amendment increases the authorization for the special bridge replacement program from $450 million to $525 million. These additional funds can be used by the States to accelerate the rehabilitation and replacement of deficient and obsolete bridges. During the last 7 years, 1,648 bridges have been replaced—or are currently being replaced—with special bridge replacement funds. This represents only about 10 percent of the more than 16,000 bridges that States have registered with the FHWA as potential recipients of these funds. Additional moneys can be directed toward many of these bridges that have already been identified as priority candidates for replacement.

A $525 million can also be obligated by the States in a timely and effective manner. The FHWA's inventory of State highway departments indicated that $493 million could be obligated by the States in 1978 for work on Federal system bridges alone. In its most recent report to Congress, the FHWA also stated that "in light of all the congressional activity that has transpired this past year regarding the Nation's deficient bridges, the States are expecting an expanded bridge replacement and rehabilitation program. The Federal Highway Administration has encouraged the States to obtain required permits and to prepare plans in anticipation of the availability of bridge construction funds." With the States gearing up to expand their bridge programs—and with "off system" bridges becoming eligible for specific Federal special assistance for the first time—$525 million does not tax the ability of the States to plan for the obligation of these funds in an orderly and constructive fashion.

Most importantly, an increase in the authorization by $75 million does not threaten the integrity of the highway trust fund nor provide an unwarranted or unjustified commitment of resources by the Federal Government.

Mr. President, we are all aware that the Federal Government has a $60 billion deficit, while a majority of States enjoy budget surpluses. During the hearings I conducted on the nationwide bridge problem, I repeatedly cautioned State, local, and county officials that a consistent, good faith effort would have to be forthcoming from them in meeting their share of the costs of bridge replacement and rehabilitation. All too often, States have relied on the Federal Government to commit an overabundance of resources in order to meet pressing needs. Perhaps the States have been too complacent by seeking an almost exclusive reliance on Federal moneys to meet State and local problems in some instances. I firmly believe that the effort to reduce the number of unsafe bridges must be a genuine Federal-State-local effort. The Federal Government cannot—and should not—undertake the task of trying to correct a $25 billion problem by itself. My amendment does not change the Federal cost share formula from that in S. 3073. States must demonstrate that they consider this of sufficient importance to place a high priority on authorizing the revenues necessary to obtain Federal matching funds. But I also strongly believe that an increase in the Federal authorization to $525 million is a prudent and responsible use of public funds.

This amendment also requires that a minimum of 15 percent and no more than 25 percent of the funds a State receives will be expended for work on bridges not part of the Federal system. This is, I believe, preferable to the permissive language currently in S. 3073 which may allow up to 30 percent of the special bridge replacement funds to be used for rehabilitating or replacing structurally deficient bridges on non-Federal roads.

To many towns and markets whose economic vitality and community well-being depend upon an adequate transportation system, modern and safe bridges are absolutely essential. Yet, one reason that "off system" bridges have deteriorated so dramatically in recent years has been their ineligibility for special bridge replacement program funds. Local and county officials have often had to defer maintenance of these structures because the full financing of bridge costs is well beyond their means. I strongly believe that—having recognized the seriousness and extent of the "off system" bridge crisis—this legislation should assure that a minimum amount of funds do, in fact, reach these bridges. If we are really serious about reversing the "off system" situation—remembering that at least 72,000 such bridges are unsafe—a level of funds to these "off system" bridges is warranted.

Mr. President, the very fact that we are discussing the nationwide bridge situation is an encouraging sign that we are finally going to make a consistent, sustained effort to turn this $25 billion problem around. No practical solution can solve this backlog overnight. But increasing the authorization for the special bridge replacement program to $525 million and directing between 15 and 25 percent of those funds to the long neglected "off system" network is a necessary first step in addressing this national problem in a systematic and effective fashion.

Mr. President, I ask unanimous consent that "Unsafe Bridges," an article in the current edition of Transportation USA published of the Department of Transportation, and this table depicting the number of deficient and obsolete bridges on the Federal-aid system be included as part of the RECORD.

At the same time, the amendment puts a 25-percent ceiling on the amount of funds that a State can direct to its "off system" bridges. This "cap" assures that the majority of funds are spent for the reconstruction or replacing of "on system" bridges which do carry the majority of people and vehicles. The amendment thus provides an equitable and reasonable allocation of funds between the two systems.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNSAFE BRIDGES

(By Elliott Himelfarb)

Tragedy struck the small West Virginia town of Point Pleasant during the height of the 1967 Christmas shopping rush, when the Silver Bridge gave way and fell into the icy waters of the Ohio River. Forty-six people died—the largest number ever killed in a highway bridge disaster.

The collapse began on the Ohio side and moved rapidly eastward toward West Virginia. Within one minute after a suspension support joint separated, the 700-foot center span, both 380-foot side spans, and the two towers had fallen. Thirty-one vehicles on the bridge fell with the structure.

Not all deficient bridges kill people, but once a bridge is weakened by age or a structural defect, the potential for catastrophe exists.

When the Federal-Aid Highway Act was signed into law in the spring of 1968, it contained a provision for the establishment of a nationwide bridge inspection program—the direct result of the Silver Bridge collapse a few months earlier. The inspections that followed revealed the shocking extent to which the bridges on U.S. roads had deteriorated: approximately 105,000 bridges need to be rehabilitated or replaced. The estimated cost is a staggering $25 billion.

"The condition of our bridges is one of this country's major highway problems," says Acting Federal Highway Administrator Karl Bowers. "It's not just that many of them are deficient. Poor bridges lead to wasted fuel when drivers have to take long detours to get where they are going. There is the added problem of traffic tieups when forced rerouting puts an overload on roads not designed to handle these volumes of traffic."

Winters can be especially hard on bridges and the past two have been particularly cold and wet in some parts of the country. As the sign says, "Bridges freeze before roadways" since they get the effects of frigid winds from both top and bottom. The action of freezing and thawing can damage a bridge and the salt used to keep snow and ice from accumulating can seep through the deck to corrode the reinforcing steel and crack the concrete.

Another problem is old age. A good many of the nation's bridges were built prior to 1935.

And overloaded trucks can do great damage to even the newest of bridges.

The Federal Highway Administration's bridge design and inspection branch, headed by Stanley Gordon, puts inadequate bridges into two categories: structurally deficient and functionally obsolete. "A structurally deficient bridge has a defect that has caused it to be restricted to light vehicles or closed," Gordon says. "A functionally obsolete bridge is one whose deck geometry, load-carrying capacity, clearance, or approach roadway alignment can no longer safely service the system of which it is an integral part."

Out of the 234,000 bridges on the federal-aid highway system, FHWA has found about 33,500 to be deficient. Of these, about 6,900 are structurally deficient and 26,600 are functionally obsolete.

As a means of dealing with this overwhelming problem, Congress created the Special Bridge Replacement Program in 1970. Funding was supplied for the replacement—but not the repair—of deficient bridges on the federal-aid system. By the end of 1977, work on 1,648 bridges had been approved and funded. Approximately one-third of these are now open to traffic.

The total amount of money originally allotted to the program was $816 million, of which $655 million was obligated to the states from 1970 through 1977. Since there are so many deficient bridges around the country, the demand for these funds is high. In fact, during fiscal year 1977, many states exhausted their allocations. As a result, the federal government advanced them funds from their fiscal year 1978 allocations so some important projects could keep moving.

To help decide which bridges should be replaced first, the Federal Highway Administration is working with state highway departments on assigning a rating to each bridge. The lower that rating, the higher the priority for replacement. The ratings take into account such things as structural soundness, safety, and necessity for public use.

The federal government is also encouraging the states to use regular federal-aid highway funds for bridge replacement whenever possible, and some work is being done entirely with state and local money.

A major difficulty is that the money from the Special Bridge Replacement Program can

be used only for bridges on the federal-aid highway system, so the program is no help to the many deteriorating bridges that are off the system. In fact, about 70 percent of the more than 100,000 deficient bridges identified by FHWA are not on the federal-aid system.

Many of these bridges are in rural areas and are the only bridges for miles around. Crossing a particular bridge may be the only convenient way for a farmer to get his crops to market, for shoppers to get to stores, or for children to get to school.

Pope County, a rural area in southern Illinois, has a serious problem with deficient bridges. In 1975, a truck carrying the local road commissioner fell through a county bridge. The commissioner was killed, and the person with him was injured. Since school buses were using many similar bridges each day, the superintendent of the county school system became concerned that the children were not safe as they went to and from school.

It turned out that twelve bridges within the school district were able to support a weight of eight tons or less, not enough to carry a loaded school bus, which weighs in at about nine tons. Pope County's solution to the problem was—and is—to have the buses stop on the near side of a deficient bridge. The students all get out and walk across, the driver takes the empty bus across, the students get back in, and the trip continues.

Not only is this solution time-consuming, it also creates other problems: First, the driver is not able to maintain discipline while the children are outside on foot and he or she is maneuvering the bus across the bridge. Second, children exposed to rain or snow may have to spend the day in wet clothes. Third, and most important, since the bridges do not have hand rails, smaller children could fall off the side while they are crossing.

The superintendent wrote to the federal government and then appealed to his county highway department for help. He was told that it would cost more than $2 million to make the 12 bridges meet minimum Illinois standards. With only $18,000 available each year for bridge construction, it was considered "unlikely" that improvements would be made.

The Department of Transportation, through the Federal Highway Administration, has been giving support and advice to state and local efforts to upgrade bridges not on the federal-aid system. The Department hopes, however, that in the future it will be able to give more.

In its seventh annual report to Congress on the status of the nation's bridges, the Department recommended that the states be allowed to use up to 30 percent of their bridge allocations for work on bridges off the federal-aid system.

The report also recommended that the existing replacement program be expanded to include rehabilitation. This change would make the program more cost-effective since it takes a lot less money to fix a bridge than to wait until it becomes unsafe and then replace it.

Another recommendation calls for increasing the federal share of bridge-replacement costs from 75 percent to 80 percent, which would put the bridge ratio on a par with that proposed for other highway programs.

Finally, the report suggests that $450 million be authorized for each of fiscal years 1979 and 1980 and that $500 million be made available in 1981 and again in 1982.

This country's bridges are the weakest and most hazardous link in our highway network. As many of these structures approach the end of their useful lives, the amount needed to replace or rehabilitate them is overwhelmingly large. No one expects $25 billion to be made available right away, but neither does anyone want the inconvenience and danger of bridges that are unsafe to travel on.

The Special Bridge Replacement Program has been making a dent in the problem for seven years. If the changes being recommended this year are accepted, even more can be done to make sure we have no more tragedies like Silver Bridge.

LIST OF DEFICIENT BRIDGES ON FEDERAL-AID SYSTEM BY STATE

State	Total Federal-aid bridges	Structurally deficient	Functionally obsolete	Number of deficient bridges	Percent
Alabama	6,353	154	389	543	8.54
Alaska	507	11	12	23	4.54
Arizona	3,999	24	125	149	3.73
Arkansas	5,134	57	706	763	14.86
California	12,269	85	589	674	5.49
Colorado	3,062	105	37	142	4.64
Connecticut	1,509	23	52	75	4.97
Delaware	456	14	21	35	7.68
District of Columbia	193	9	12	21	10.88
Florida	4,788	107	664	771	16.10
Georgia	7,350	180	1,515	1,695	23.60
Hawaii	564	37	34	71	12.59
Idaho	1,542	210	34	244	15.82
Illinois	9,285	276	1,790	2,066	22.25
Indiana	5,861	101	399	500	8.53
Iowa	6,808	172	895	1,067	15.68
Kansas	9,544	523	1,391	1,914	20.05
Kentucky	4,635	66	1,169	1,235	26.64
Louisiana	4,964	85	1,900	1,985	39.99
Maine	1,169	37	74	111	9.50
Maryland	2,338	20	191	211	9.03
Massachusetts	2,310	61	146	207	8.96
Michigan	5,328	200	325	525	9.85
Minnesota	4,466	70	751	821	18.31
Mississippi	6,177	638	320	958	15.51
Missouri	7,558	277	335	612	8.09
Montana	2,186	29	129	158	7.23
Nebraska	4,119	395	661	1,056	25.64
Nevada	718	32	100	132	18.39
New Hampshire	1,121	53	266	319	28.46
New Jersey	2,259	100	105	205	9.08
New Mexico	2,715	22	217	239	8.80
New York	6,639	277	933	1,210	18.22
North Carolina	3,981	186	690	876	22.36
North Dakota	1,753	166	380	546	31.15
Ohio	11,259	397	547	944	8.38
Oklahoma	7,222	220	358	578	8.01
Oregon	3,514	65	282	347	9.88
Pennsylvania	7,949	185	723	908	11.43
Rhode Island	503	7	26	33	6.56
South Carolina	3,997	124	259	383	9.58
South Dakota	2,674	85	1,220	1,305	48.80
Tennessee	6,845	263	1,130	1,393	20.35
Texas	23,800	51	1,360	1,411	5.92
Utah	1,183	35	149	184	15.56
Vermont	1,307	22	465	487	37.26
Virginia	5,424	215	871	1,086	20.02
Washington	3,782	41	159	200	5.28
West Virginia	2,503	172	354	526	21.01
Wisconsin	5,912	207	916	1,123	18.99
Wyoming	1,839	13	256	269	14.63
Puerto Rico	706	8	171	179	25.35
Total	234,016	6,912	26,603	33,515	14.32

Mr. CULVER. I thank the Chair.

Madam President, I ask unanimous consent, on behalf of Senator NELSON, that Peter Connolly of his office may be accorded the privilege of the floor during consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CULVER. I am delighted to yield to the distinguished Senator from Pennsylvania, who throughout his service in Congress has been concerned with this particular problem and who has been so instrumental in fashioning this amendment. He appeared before our subcommittee and gave valuable testimony during the course of our earlier consideration of this problem. It has been a great pleasure to be associated with him in this common effort.

Mr. HEINZ. I thank the distinguished Senator from Iowa (Mr. CULVER) for the effective work he has done in the Senate Environment and Public Works Committee in behalf of making the bridge repair and rehabilitation program a reality.

I particularly compliment him for working so effectively with me and the other members of the committee to bring about this amendment, which would increase the sum for bridge repair and replacement to $525 million and insure that not less than 15 percent nor more than 25 percent of the funds authorized to any State be earmarked to carry out the provisions of the replacement and repair section, and that those bridges which are not on any Federal-aid highway system will be eligible for this help.

I am also very grateful to the other Members of the Senate Public Works and Environment Committee. I thank Chairman BENTSEN and I thank Senator CHAFEE for the long hours they have put in, including the time they spent listening to my testimony back on March 6, 1978, and for the very intelligent and probing questions that were asked at that session. I think that, as a result of their careful work, we can now say that we have come an enormous and very necessary distance in meeting an essential but heretofore unmet need. Senator CULVER has spoken at length on the problems of bridge repair and replacement in the United States.

Madam President, the present special bridge replacement program was established primarily as a result of a sobering tragedy which occurred 10 years ago at Point Pleasant, W. Va., when the Silver Bridge collapsed into the icy waters of the Ohio River, carrying 46 people to their deaths.

However, the existing program, the special bridge replacement program, is not working. At the 1977 replacement rate, 670 bridges, it would take 150 years

to replace existing deficient bridges, not to mention bridges which will fall into disrepair. For those who remember the Silver Bridge and other disasters, 150 years is too long a time to gamble that more rotting bridges will not collapse.

We must do something about the problem of unsafe bridges and we must do it fast. Inaction by Congress on this issue could cost lives. We have a chance today to act before tragedy happens, to anticipate it, and not simply to react to it. I would hope that we seize this opportunity.

There are 564,000 bridges in the United States, and 72 percent or 407,000 were built prior to 1935. In 1935, the first uniform design standards and construction material qualifications were instituted. Thus, the bridges constructed before this date are very likely to be unsafe by today's standards. Furthermore, bridge usage has changed drastically in the last 50 years; vehicles are heavier, more numerous, and travel at greater speeds. The impact of these changes on substandard, obsolescent bridges threatens public health and safety.

On the Federal-aid system alone there are over 248,000 bridges. Over 33,000 of these bridges are structurally deficient or functionally obsolete. If off Federal-aid system bridges are included, the total number of bridges requiring major repairs or replacement is 105,000.

I must emphasize that the Commonwealth of Pennsylvania faces an emergency situation.

According to DOT statistics as of September 30, 1976, no bridges had been replaced in Pennsylvania and only 14 were being constructed or were being prepared for construction. The inadequacy of this effort is unquestionably established by the fact that the vast majority of Pennsylvania's 67 counties have deficient bridges. Thirteen counties have 10 or more.

Permit me to discuss briefly one of these counties, Allegheny County, where I make my home. The $19,700,000 allocated to Pennsylvania under the existing program is only a fraction of the amount which would be needed to repair the bridges in Allegheny County alone. In the 6 years since it was created, the present bridge program has resulted in Federal aid to only one bridge in that county, only one bridge out of the 115 which are classified as deficient.

I find this unacceptable and I am sure that the residents of Allegheny County, who must use these dangerous bridges daily find it unacceptable. How can we expect them to accept the fact that ambulances and other emergency vehicles are forced to take long detours in order to avoid deteriorated, obsolescent bridges? I assert we cannot.

However, the bridge crisis is not by any means limited to my own State. Every State of the Union is affected by it. Six of our States, Iowa, Kansas, New York, Oklahoma, Pennsylvania, and Texas, have over 5,000 deficient bridges and another 13 have over 2,500 bridges in need of major repairs or replacement. As evidence of the disturbing magnitude of this problem and of the fact that it is a truly national problem, I ask unanimous consent to have printed in the RECORD a modified form of the "List of Deficient Bridges by State," which was contained in the seventh annual report in the special bridge replacement program prepared by the Secretary of the Department of Transportation.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

LIST OF DEFICIENT BRIDGES ON FEDERAL-AID SYSTEM BY STATE

State	Total Federal-aid bridges	Structurally deficient	Functionally obsolete	Number of deficient bridges	Percent
Alabama	6,353	154	389	543	8.56
Alaska	507	11	12	23	4.54
Arizona	3,999	24	125	149	3.73
Arkansas	5,134	57	706	763	14.84
California	12,269	85	589	674	5.49
Colorado	3,062	105	37	142	4.64
Connecticut	1,509	23	52	75	4.97
Delaware	456	14	21	35	7.68
District of Columbia	193	9	12	21	10.88
Florida	4,788	107	664	771	16.10
Georgia	7,350	180	1,515	1,695	23.60
Hawaii	564	37	34	71	12.59
Idaho	1,542	210	34	244	15.82
Illinois	9,285	276	1,790	2,066	22.25
Indiana	5,861	101	399	500	8.53
Iowa	6,808	172	895	1,067	15.68
Kansas	9,544	523	1,391	1,914	20.05
Kentucky	4,635	66	1,169	1,235	26.64
Louisiana	4,964	85	1,900	1,985	39.99
Maine	1,169	37	74	111	9.50
Maryland	2,338	20	191	211	9.03
Massachusetts	2,310	61	146	207	8.96
Michigan	5,328	200	325	525	9.85
Minnesota	4,466	70	751	821	18.31
Mississippi	6,177	638	320	958	15.51
Missouri	7,558	277	335	612	8.09
Montana	2,186	29	129	158	7.23
Nebraska	4,119	395	661	1,056	25.64
Nevada	718	32	100	132	18.39
New Hampshire	1,121	53	266	319	28.46
New Jersey	2,259	100	105	205	9.08
New Mexico	2,715	22	217	239	8.80
New York	6,639	277	933	1,210	18.22
North Carolina	3,981	186	690	876	22.36
North Dakota	1,753	166	380	546	31.15
Ohio	11,259	397	547	944	8.38
Oklahoma	7,222	220	358	578	8.01
Oregon	3,514	65	282	347	9.88
Pennsylvania	7,949	185	723	908	11.43
Rhode Island	503	7	26	33	6.56
South Carolina	3,997	124	259	383	9.58
South Dakota	2,674	85	1,220	1,305	48.80
Tennessee	6,845	263	1,130	1,393	20.35
Texas	23,800	51	1,360	1,411	5.92
Utah	1,183	35	149	184	15.56
Vermont	1,307	22	465	487	37.26
Virginia	5,424	215	871	1,086	20.02
Washington	3,782	41	159	200	5.28
West Virginia	2,503	172	354	526	21.01
Wisconsin	5,912	207	916	1,123	18.99
Wyoming	1,839	13	256	269	14.63
Puerto Rico	706	8	171	179	25.35
Total	234,016	6,912	26,603	33,515	14.32

Mr. HEINZ. Madam President, the statistics speak for themselves. They cry out for a greatly expanded bridge program. The legislation which is presently before the Senate, the Federal-Aid Highway Act of 1978, makes a step, a positive step, a justified step, in the right direction. The funding level for the special bridge replacement program is increased to $450 million a year, the rehabilitation as well as the replacement of bridges is authorized, and up to 30 percent of the funds may be used to rehabilitate or replace bridges which are not on the Federal-aid system. I applaud the Committee on Environment and Public Works, and especially the chairman, the Senator from West Virginia, and the chairman of the Subcommittee on Transportation, the Senator from Texas, for the unquestionable improvements in the existing bridge program.

I do want to emphasize that the need that struck me as one of our highest priorities in 1976, when I testified before the House Public Works Committee on this issue has, at long last, after 2 years of careful study, been recognized and partially, if not wholly, addressed.

The amendment that Senator CULVER and I are offering today represents what I would call both a way station and a watershed on the route to an adequate bridge repair and replacement program. It is a way station because it does mark significant progress and, to me personally, it is a watershed because it goes nearly two-thirds of the way to the goal that I set in 1976—namely, $720 million a year for bridge repair and replacement—and between the current and existing level of funding, which has been authorized at $180 million a year for the past several years. That difference, that increase of $345 million, from $180 million authorized to $525 million by virtue of this amendment, is a 64 percent or nearly two-thirds increase toward the goal of $720 million that I recommend in 1976.

The scope of the bridge crisis, Madam President, its magnitude, its universality, frankly, requires a still more comprehensive effort, not just more comprehensive than the $525 million, but more comprehensive still, in my judgment, than the $720 million I recommended 2 years ago.

I would say that the $525 million figure proposed by our amendment is a much more realistic addressing of our Nation's bridge needs, one which authorizes funds that can be readily and effectively obligated by the States. It is, as my good colleague from Iowa has pointed out, accurate that the Federal Highway Administration estimates that the States can more than efficiently ob-

ligate approximately $500 million in fiscal 1979 alone for bridges on the Federal system alone. That, or course, does not count the amount of money they are prepared to obligate on off-system bridges. Insofar as this earmarking of 15 to 25 percent will go to those off-system bridges, we should expect the States to be able to handle proportionately more obligated bridge repair and replacement money and to see that money obligated most efficiently. The increase, therefore, in this total authorization to $525 million, given the eligibility and given the neglect of the off-system bridges in our country, is warranted and, I think, should be favorably acted upon by the Senate.

I want to say that the minimum 15 percent earmarked that we have proposed to be expended for off-system bridges is to assure that smaller communities, especially rural communities, are going to obtain the money they need to repair and maintain their critically deficient bridges.

The inability to use an isolated rural bridge could result in economic isolation of farmers who need to get their goods to market. It can result in residents who, for years, have depended on that bridge as their only means of access to the closest market, being literally cut off.

On Tuesday, I visited just such a bridge in south central Pennsylvania, in Dauphin County. It was a typical Federal off-system highway bridge. It had originally been built in 1902. Its original weight limit, at least as far as we could research it about 10 years ago, had been in the neighborhood of 13 tons. But it had been posted now at 5 tons, with the result that a farmer whose land adjoined that bridge and who had a typical farm truck—not a giant highway truck, just a typical farm truck—could not bring his truck across that bridge empty, let alone full. One could see by looking at the bridge that some people had not been as careful and judicious as that farmer, Dale Mangle, and had taken a heavy truck on the bridge and literally bent it.

We could see both the mesh surface of the bridge bent and we could see the underlying structural elements also distorted.

This, Madam President, is an example of the severe kind of off-system bridge problems that have been exacerbated not only by constant unrelenting deterioration, but by the reclassification by the Federal Highway Administration of bridges from the Federal-aid system to an off-system category where they have been ineligible for any assistance whatsoever.

In the sixth annual report on the special bridge replacement program, which sumarized the statistics as of December 1976, the Department of Transportation noted that there were 39,900 deficient bridges on the Federal-aid system. The seventh annual report stated that as of December 1977, there were 33,515 deficient bridges.

But what happened to the difference? What happened to the more than 6,000 bridges? Did they disappear, did they fall down, did a good fairy come along and magically replace them?

No. The fact is that they are still there. They are still deficient. The only thing that happened is that they have been reclassified, taken off the Federal-aid system and put onto somebody else's highway rolls.

Thus, nationwide nearly 6,385 bridges were eliminated from the federal system. The burden of repairing these bridges falls squarely on those governmental entities least able to bear it, smaller communities and rural counties.

My State of Pennsylvania has what I believe to be the largest rural population of any State in the Union. Three and one-quarter million Pennsylvanians live in rural areas. Partly because I suspect they are not right next to or part of the jurisdiction of a big city with a powerful political machine, they simply are not able, either financially or politically, to get the help they need to solve this serious problem without the Federal assistance and I think Senator Culver's and my amendment will provide for them. That is why the amendment mandates a set-aside for establishing a minimum level of dependable funding to be spent for these off-system bridges.

I know that there are many States that have the same kind of critically unsafe bridge problem as my home State of Pennsylvania.

In my State, there are more than 1,700 off-system bridges that we know about which have been rated critically unsafe.

But I would have to say, Madam President, that there are probably thousands of other bridges that we do not know about simply because they have never been inspected, never been rated, never been evaluated, and without doubt the vast majority of both the bridges we know about and those we do not know about are located in rural areas.

As to the ones we do know about, at present prices, it will cost more than $222 million to replace these bridges in my State alone, or, roughly, $142,000 per bridge.

Now, that $142,000 per bridge amount simply is beyond the means, the financial abilities, of most rural counties and rural communities.

Many rural bridges are victims of years of neglect simply because they are not located near major population centers. But many people forget that these bridges are vital to our agricultural system. Without these bridges, millions of dollars worth of Pennsylvania's—and other States—crops would rot on the farms, school buses would have to make long and torturous and extremely inconvenient detours, ambulances could not get to the nearest hospital expeditiously, and large areas of our most scenic countryside would become inaccessible to tourists and sportsmen.

The amendment we offer today would clearly further the public interest.

First, by taking care of the obsolete, deteriorating bridges that threaten public safety.

Second, by insuring that our highway system is more effective and not restricted by load restrictions and bridge closings.

Third, it will have the very beneficial effect of creating thousands of jobs in an industry where unemployment is often very high.

Madam President, the amendment Senator CULVER and I offer is clearly, critically needed. It is modest. It is responsible. I urge my distinguished colleagues to seize this opportuntiy to focus Federal assistance on a serious national problem by supporting this amendment.

Mr. MCGOVERN. Will the Senator yield briefly?

Mr. CULVER. I am delighted to yield to the Senator from South Dakota.

Mr. MCGOVERN. Madam President, I rise to offer my support on this amendment offered by Senator CULVER and Senator HEINZ, which I am happy to cosponsor, to increase the authorization for the special bridge replacement fund.

I say in that connection, Madam President, that we are all indebted to Senator BENTSEN, the chairman of the Transportation Subcommittee, not only for bringing an excellent bill to the floor dealing with our Federal-aid highway system, but also for increasing the funding for bridge replacement.

The purpose of this amendment is to further build on what Senator BENTSEN and his colleagues have done in recognizing the seriousness of this problem.

I heard Senator HEINZ describing the situation in his State and Senator CULVER speaking about the situation in Iowa.

In my State, we have bridges in the near state of collapse, bridges being used that are dangerous to be used, some that have been taken out of use almost entirely because of their dilapidated state. We do not have the resources to repair, replace, and upgrade those bridges, and it is hampering the entire transportation system across the State.

I welcome this opportunity to join with my colleagues Senator CULVER and Senator HEINZ in support of an increased authorization for the special bridge replacement fund.

One of our most serious and growing transportation problems is the ever increasing number of unsafe and obsolete bridges spanning the Nation's highways and roads.

For the past several years, our Nation's bridges have been deteriorating at a rate faster than States and local governments can repair them.

This has become an especially critical problem in our Nation's rural regions where inadequate bridge and highway funding through State and Federal sources has long been a problem.

Rural America saw some relief last year after the enactment of a special bridge replacement fund; however, the $180 million authorized at that time is not enough to allow us to keep pace with this steadily growing dilemma.

According to the Federal Highway Administration, over 33,500 bridges on the Federal-aid system are either structurally deficient or obsolete.

At this time we do not even have accurate figures to determine exactly how

many off-system bridges have these same problems, although data from individual States indicate that the problem may be much worse on our off-system bridges than those currently on the Federal-aid system.

However, even rough estimates from the FHWA indicate that over 72,000 off-system bridges are unsafe.

The minimum investment of funds needed to correct both bridge types is now estimated at over $25 billion.

I applaud the Environment and Public Works Committee for their realization of the need to assure adequate and safe bridges and their actions to increase the annual authorization for this fund to $450 million. This amendment builds on the committee increase to meet more of the remaining need for improved bridges.

Already, especially in energy development areas, hundreds of bridges are rapidly deteriorating, becoming unsafe and collapsing as heavy loads become more frequent.

In the new energy development and production fields, these bridges were not designed to carry this traffic.

Oil rigs and coal trucks of more than 100,000 pounds cross several such bridges daily.

In South Dakota, where a few small oil fields exist, some bridges have been closed to all traffic because of the increased travel of such energy production equipment.

And the bridges have remained closed due to lack of funds for repair.

The situation in my State and others will continue to worsen until we expand the bridge replacement fund and mandate minimum requirements to be used on off-system bridges.

I believe the centerpiece of this amendment to be its minimum required assistance for off-system bridges.

While in some States this provision will greatly benefit declining urban bridges, in rural agricultural States this provision is an absolute necessity.

In South Dakota, a primarily rural State, we have 4,276 off-system structures, as compared to 2,674 Federal-aid bridges.

While almost 50 percent of our Federal-aid bridges are deficient or obsolete. over 70 percent of our off-system structures are unsafe.

The great majority of these off-system structures are located on county roads throughout the State.

The counties in my State have made considerable efforts to repair these bridges on their own and with minimal help from our financially distressed State transportation development.

In fact, the major budget expenditures of several counties have been for bridge replacement and repair, many times to the detriment of other needed programs.

The provision within this amendment to mandate at least 15 percent of funds from the special replacement fund is vital to the safety of the off-system bridges.

However, the increased funding level requested by this proposal is also essential.

To establish minimum off-system funding through the present committee proposal is deficient, as it would reduce the flow of badly needed revenue for the repair of our Federal aid structures.

The requested increased authorization would allow States to increase essential repairs as well as establish some assistance for the most critical needs for off-system repairs.

Again, I must reiterate that given the Federal Highway Administration's own figures regarding the Nation's deficient and obsolete bridges, I am firmly convinced that this program is crucial to the safety of human lives and to every American's right to adequate transportation.

Mr. BENTSEN. Madam President, Senator CULVER, a very distinguished member of our committee, has devoted a great deal of effort and time in holding hearings, working on them here in Washington and again in Iowa, to concentrate on the problems of bridges. We do not argue the question of urgency. We understand that. We felt it strongly enough to raise the amount expended from $180 million to $450 million, 250 percent of the previous authorization.

We went further than that and set up a special fund for the replacement of bridges from the primary system over substantial bodies of water. That was an additional $37.5 million.

The problem we run into is finite resources and competition for funds. The Senator from Alaska wants additional funds for Alaska and for New York. The Senator from Kentucky wants additional funds for coal haul roads.

But with respect to Senator CULVER, Senator HEINZ, and Senator MCGOVERN, who have worked long on this project, when they talk about bridges, they are talking about something for the entire Nation, not for any one region. We all share in that concern.

We have listened to their eloquent presentations, and we have arrived at what we think is a reasonable compromise, raising the authorization an additional $75 million, putting a limitation of a minimum of 15 percent and a maximum of 25 percent on the off-system bridges, realizing that the priority efforts must address on-system bridges.

I, for one, in managing the bill for the majority, am willing to accept that amendment, subject to the manager of the bill for the majority. I understand he has a modification to the amendment. I will withhold the remainder of my time and yield to the Senator.

Mr. CHAFEE. Madam President, there is no question that the distinguished Senator from Iowa has been a persistent battler for this cause. He is a member of the subcommittee dealing with this matter. Since rejection, he has regrouped his forces, prepared another onslaught in the full committee, was repulsed, but was not discouraged. He came up with a further modification and plunged on to success here, before the full Senate. So the Senator from Iowa deserves high marks for his persistence and determination on this bridge matter.

Also, the Senator from Pennsylvania has appeared before the committee, with some persistence, and has stated his views here very eloquently. So their oratory has carried it.

I am persuaded—perhaps not enthusiastically, but nonetheless persuaded. I suppose that if one is doing something, one might as well do it graciously.

I suggest a caveat, which will go completely unheeded, I am certain. I point out that we are embarking into a new area here. We are going into bridges on off-system highways. We do not have enough money to care properly for the responsibilities that the trust fund presently has, but nonetheless we are going off in this direction.

However, there is no point in adding what might be considered a sour note to the otherwise happy proceedings, so I will join my distinguished chairman in supporting this.

I might propose to the Senator from Iowa a slight modification, if I may, to take care of particular situations.

In his State and in the State of Pennsylvania there are, of course, many miles of off-system roads. In some States either there are not that many miles of off-system roads and consequently the bridges, or there may be that many miles of off-system roads but not many bridges that require the maintenance that is so necessary in the States of Iowa, Pennsylvania, South Dakota, and some others.

My amendment would do the following: If the Secretary, after consultation with State and local officials, with respect to the requirement for expenditure on bridges not on the Federal-aid system, determines that such State has inadequate needs such bridges which justifies such an expenditure, he may reduce the 15 percent requirement.

How often that will come up, I do not know, but I suspect that in my own State we may not have as much off-system bridge work.

So I suggest this modification to the Senator from Iowa, and I send it to the desk.

The PRESIDING OFFICER. Until the time on the amendment has expired——

Mr. CULVER. Madam President, we have 2 hours on the amendment.

The PRESIDING OFFICER. The Senator is correct. The time expires at 12:53.

Mr. BENTSEN. Madam President, I understand that the parliamentary point is being made that all time has to expire before there can be an amendment to the amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. BENTSEN. I would be willing to yield back the remainder of my time if the proponents would, and then have the modification considered. Would that be appropriate?

The PRESIDING OFFICER. That the State has inadequate needs such bridges

The PRESIDING OFFICER. That could be done.

Mr. CHAFEE. Madam President, a parliamentary inquiry. I would consider this to be an addition to the Senator's amendment, rather than an amendment. Is such possible?

Mr. ROBERT C. BYRD. It still is an amendment.

Mr. BENTSEN. Madam President, a parliamentary inquiry. Could the proponent of the amendment, by unanimous consent, change the submission of his amendment?

The PRESIDING OFFICER. The Senator from Iowa could modify his amendment by unanimous consent.

Mr. BENTSEN. Could that be done?

Mr. HEINZ. Madam President, I do not have a copy of the amendment by the Senator from Rhode Island. Is a copy available?

Mr. BENTSEN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

Mr. HEINZ. I think that could be withheld.

Mr. BENTSEN. Madam President, I withhold the request for the quorum call.

Mr. HEINZ. I might enter into a colloquy with the Senator from Rhode Island, if he would be willing to do so.

As I understand the amendment of the Senator from Rhode Island, which I believe he is about to ask Senator CULVER to incorporate in our amendment, it would allow the Secretary of Transportation to waive the minimum 15 percent set-aside under certain conditions.

Mr. CHAFEE. He first has to consult with the State and with the local officials. He then could reduce the requirement for the expenditure, when he determines that such State has inadequate needs on such bridges to justify such expenditure.

Mr. HEINZ. I appreciate that and I understand that, but I would like to be a little clearer on who is in the driver's seat.

Would it be the intention of the Senator's amendment that the Secretary could waive such requirement if the State was against waiving such requirement?

Mr. CULVER. Madam President, if the Senator will yield, the language of the proposed amendment does not speak in terms of waiver. It refers to reducing. There may be a technical distinction.

Mr. HEINZ. I will restate my question: Is it the intention of the Senator from Rhode Island that his amendment will allow the Secretary of Transportation to reduce or completely eliminate or waive the 15 percent requirement set-aside for off-system bridges if the State did not request it or was opposed to it?

Mr. CHAFEE. Let me read the amendment.

Mr. HEINZ. I have listened carefully to the amendment. I know what it says. I am trying to understand what it means.

Mr. CHAFEE. Madam President, the Secretary has to consult prior to doing anything about reducing the 15 percent. He has to consult with the State and the local officials and then if he, the Secretary of Transportation, determines that the State has inadequate needs on such bridges to justify this expenditure, then he can reduce it.

So in the final analysis, yes, it is the Secretary of Transportation who has the say. That is correct.

But I can just suggest that the amendment mandates that there be a minimum of 15 percent expended on off-system bridges. I think you would find a Secretary very, very reluctant to unilaterally get in here and violate the 15-percent rule unless indeed he found after consultation with State and with local—I assume the Senator is concerned with the local people where the bridges are—the local officials, he would be very reluctant to make the reduction.

Mr. HEINZ. Let me be very explicit about what my concern is. I say this to the Senator. The fact is that the smaller communities we are talking about do not have the political clout of the major population areas, and I am concerned about some Governor who owes his election to a big city mayor is going to make a deal with the Secretary of Transportation and return us to the situation in which we now find ourselves, namely that we are not just ignoring the off-system of bridges but they are being added to by virtue of action by the Federal Highway Administration loping off of the Federal-aid system, as we have seen in just the last year some 6,300 bridges, and putting them on system and consigning them there to a future of inadequate maintenance, repair, or no replacement whatsover.

I appreciate the desire of the Senator from Rhode Island to have flexibility. I salute him on the intention, and I do not question the good intentions of vesting flexibility in the Secretary.

On the other hand, I think we have to face some of the political realities here, and the political realities are not very favorable to these smaller communities.

Mr. CHAFEE. I think that the Senator's point has been well expressed here in the colloquy and certainly in the RECORD. I think it is clear that the thrust of the pending Senator's amendment is to see that 15 percent of the $5.25 million of the States' allocation is spent on bridges on off-system roads, and that it be not more than 25 percent. The Secretary would be, I believe, extremely loath to reduce that percentage, and indeed the suggested amendment provides he has to consult with State and local officials. So I think the record is pretty clear on what the intent of the language is and I think we could safely proceed.

Mr. CULVER. Madam President, will the Senator yield at this point?

Madam President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CULVER. Madam President, I just wish to say that I have had an opportunity to discuss this proposed amendment to the pending Culver-Heinz amendment with the author, the distinguished Senator from Rhode Island, Senator CHAFEE. It seems to me that he has raised a valid point. It really does not make much sense to arbitrarily require a rigid application of 15 percent of the total amount of funds available to a particular State for the off-system if in fact, as is the case in his own native State of Rhode Island, there is not a sufficiently large off-system to responsibly, reasonably, sensibly accommodate these funds unless you required those bridges to be paved in gold.

I think that his concern for some flexibility is valid, although the legislative history should emphasize that this is a unique situation that does not otherwise obviate the need for required funding for off-system bridges.

So I think we should have the most powerful expression here of legislative intent and I think that the reduction of the minimum 15 percent requirement for the off-system must not be used as a vehicle for denying local and county units of government their allotment of special bridge program funds when a demonstrable need is evident.

I hope that this emphasis in the course of our consideration of this amendment will be a very strong indication to the Secretary of Transportation that a reduction of the 15-percent requirement would be considered only in the most exceptional situations and only in the absence of demonstrable need to avoid what is frankly a very real and serious potential loophole that could be subjected to serious abuse if it is not carefully watched and constrained.

I certainly agree with the description of the kind of situation that concerns local officials in terms of the priority allocation of these scarce resources and how easy it might be to bypass their very legitimate needs through an overcentralized political determination of where these funds are to be applied.

But I hope, Madam President, that with that general explanation the Senator from Pennsylvania will agree with me that we have emphasized the very special circumstances under which this legislation, as amended, could tolerate that kind of reduction of the 15-percent requirement.

Mr. HEINZ. Madam President, will the Senator yield?

Mr. BENTSEN. Madam President, I think the Senator from Pennsylvania has pointed out something that has to be highlighted. I think he has made a major contribution in showing how you could go through some political machinations that would really deny the utilizations of the funds as you would want them. But I believe, as Senator CULVER has said, we have built a legislative record here now because of what the Senator from Pennsylvania has brought forth that will accomplish the objective that he is striving for and at the same time assure what the Senator from Rhode Island is concerned about that we do not mandate the 15 percent when we cannot use it, do not have a reason for it, no place to put it, and as the Senator from Iowa

says, have to goldplate some project to expend the funds. So this is the way these things finally are worked out, and I think a contribution has been made here if it is acceptable to the Senator from Pennsylvania.

Mr. HEINZ. Madam President, if the Senator will yield, I compliment the Senator from Iowa and the Senator from Texas on making very clear the legislative record on this amendment. I think what they have said and with which I will concur makes very clear the intention that this amendment offered by Senator CHAFEE be very carefully and narrowly construed, and with that being made clear on the legislative record, as I think has been by both Senator CULVER, the author of the principal amendment, and Senator BENTSEN, the chairman of this subcommittee, I can accept the Chafee amendment and will support it.

Mr. BENTSEN. Madam President, I ask as a parliamentary point that the author of the amendment urge the modification of his amendment by unanimous consent.

Mr. CULVER. I so move at this time, Madam President.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The amendment is so modified.

Will the Senator please send the amendment, as modified, to the desk?

Mr. BENTSEN. If there is no further debate on it, and if the proponents of the legislation—the yeas and nays have been ordered, as I understand it.

The PRESIDING OFFICER. Yes.

Mr. BENTSEN. I am ready to yield back my time if the proponents are ready to yield back their time.

Mr. CHAFEE. I am prepared to yield back my time.

Is there any reason for the yeas and nays?

Mr. CULVER. They have been requested and have been ordered.

Could we have the clean language of the amendment, as modified, the Culver amendment, as modified, read?

The PRESIDING OFFICER. The clerk will report the amendment, as modified.

The assistant legislative clerk read as follows:

On page 4, line 5, strike the sum "$450,000,000" and insert in lieu thereof, the sum "$525,000,000".

On page 34, strike lines 13 through 25 and insert in lieu thereof, the following:

"(7) Section 144(c) of Title 23, United States Code, is amended by adding the following at the end thereof: Not less than 15 per centum and not more than 25 per centum of the funds authorized to any State to carry out the provisions of this section shall be expended for the replacement or rehabilitation of bridges that are not on any Federal-aid highway.

"The Secretary, after consultation with State and local officials may, with respect to a State, reduce the requirement for expenditure for bridges not on any Federal-aid system when he determines that such State has inadequate needs on such bridges to justify such expenditure."

Mr. FORD. Mr. President, I rise in strong support of Senator CULVER's amendment to increase the authorization for the special bridge replacement program from $450 million to $600 million, with a minimum of 15 percent available for off-system bridges.

This additional funding is desperately needed to alleviate the bridge crisis faced by nearly every State in the Union. With well over 30,000 bridges on the Federal highway system either structurally deficient or obsolete, and with at least 72,000 off-system bridges unsafe for normal use, it is unrealistic to expect the States to adequately shoulder the burden of repair and replacement.

A case in point is my State of Kentucky. Among Kentucky's highest priorities is a replacement structure for the U.S. Grant Bridge between Portsmouth, Ohio, and Greenup County, Ky. This bridge, close to collapse now, has been closed to motor traffic since July and soon will not even be safe for pedestrian traffic.

As one can imagine, the effect upon the Portsmouth service area and Greenup County has been severe. Portsmouth depends on the citizens of Kentucky for its economic stability. Businesses in the city rely on Kentuckians for 25 percent to 40 percent of their inventory turnover. Many ventures require movement of goods that are dependent on Grant Bridge. Forcing such movement to another bridge down the river would both raise the cost of the goods and add to their delivery time. The economic viability of the area is clearly in danger.

Kentucky residents depend heavily on the facilities of Portsmouth for such essential services as fire and police protection, ambulance and hospital services. Obviously, they cannot be provided without a bridge and, obviously, a community cannot exist without them. I might also add that Kentuckians use the bridge daily to travel to and from their jobs.

Finally, the closing of Grant Bridge has had a significant impact on the atomic energy facility at Piketon, Ohio. One of the critical issues considered in locating the enrichment facility at Piketon was the adequate employment resources found in southern Ohio and northeast Kentucky. Currently over 150 Kentuckians are employed there, with two to three times more projected in the future. Since local union arrangements may require significant additional representation of Kentuckians in the construction work force, both the construction of the facility and the potential work pool for the completed facility are significantly affected by the loss of Grant Bridge.

The cost of a new structure is roughly estimated at about $30 million. Under the Culver amendment, Kentucky's allotment of Federal funding would increase from $15 million to $20 million, a total figure that falls short of the money needed to replace Grant Bridge and from which must come funds for other projects, too.

With 27 percent of Kentucky's on-system bridges deficient—we have 1,235 bridges that are either structurally unsound or functionally obsolete, Mr. President, the sixth largest number in the Nation—I feel that the Culver proposal is not at all too much to ask and I urge my colleagues to support the amendment.

Mr. EAGLETON. Mr. President, I have cosponsored the Culver-Heinz amendment because I think the issue of bridge repair and replacement has managed for too long to escape the serious concern of Federal budget makers.

The problem is twofold. First, the current funding level of $100 million is totally inadequate. Second, the current special bridge replacement program cannot reach thousands of bridges which are not on the Federal aid system, and this is where some of the greatest needs occur.

The funding problem is well illustrated by my own State of Missouri's situation, a situation which I am sure is duplicated in many States. It is now estimated that Missouri has as many as 4,700 faulty bridges. Bringing these existing bridges up to safe standards will cost by some estimates at least $1.7 billion. But under the special bridge program, Missouri will receive only $4.8 million this year. This level of funding is not even adequate to keep pace with the continuing decay of Missouri's bridges, let alone to make any progress toward solving the overall problem. Increasing the funding level of this program to $600 million annually, as is proposed by this amendment, would be a constructive step, albeit still far from a sufficient commitment of dollars to get the job done.

Dollars alone will not help users of many off-system bridges, however, and the amendment also attempts to deal with this problem. Many of the bridges, especially in rural areas, are under county jurisdiction. These structures often provide the only link between the farmer and his markets, and between his children and their schools. Under this amendment, these county bridges would be eligible for a minimum of 15 percent of the money allocated to a State under the program.

I strongly urge adoption of this amendment to expand the Federal commitment in insuring the safety of the bridges in this country. We have let this problem fester too long, and we must now pay the price. The only question is whether we will act now and pay the price in dollars, or whether we will wait and risk paying the price in human lives.

Mr. CULVER. Madam President, if it is agreeable with the floor managers of the bill, I see no need to have a rollcall vote, and I ask unanimous consent that the order for the rollcall vote be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered. The yeas and nays are vitiated.

Do the Senators yield back their time?

Mr. CULVER. I yield back my time.

Mr. BENTSEN. I said that earlier. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment, as modified.

The amendment, as modified, was

gress and the Federal Highway Admin-

the time to be

The amendment, as modified, was agreed to.

Mr. CULVER. Madam President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CULVER. Madam President, I ask unanimous consent to include the cosponsors who have requested to be transferred from the original amendment to the one just agreed to, the amendment, as modified.

The following Members were added as cosponsors: Mr. JOHNSTON, Mr. CHURCH, Mr. INOUYE, Mr. FORD, Mr. MCGOVERN, Mr. ZORINSKY, Mr. DURKIN, Mr. MORGAN, and Mr. ANDERSON.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STAFFORD. Madam President, will the Senator yield?

Mr. CHAFEE. Before I do that, I ask unanimous consent that the following staff members be accorded the privileges of the floor: Senator BARTLETT, Ben Kirk and Tom Wasinger; Senator THURMOND, Eddie Twilley; Senator HEINZ, Bob Hepler; Senator JAVITS, Barbara Washburn; Senator YOUNG, Karen Steidl; Senator DANFORTH, Charles Wood; and Senator STEVENS, Chip Wagoner.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1668

(Purpose: Amend S. 3073, Federal-Aid Highway Act to permit construction of new road segments for the Great River Road)

Mr. CULVER. Madam President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa (Mr. CULVER) proposes an unprinted amendment numbered 1668.

Mr. CULVER. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, line 18, insert the following: after the word "for," the new words "construction or".

On page 5, line 22, after the word "for," the new words "construction or".

Mr. CULVER. Mr. President, this amendment to S. 3073, the 1978 Federal-Aid Highway Act, allows funds authorized by the Great River Road program to be used for both construction and reconstruction of road segments. It amends section 104, subsection 15 of this bill, which authorizes $35 million annually for this project in fiscal years 1979 and 1980.

This amendment is consistent with guidelines regarding the scope of the Great River Road developed by the Congress and the Federal Highway Administration. As the conference report accompanying the 1976 Federal-Aid Highway legislation specifically stated:

The Great River Road is not meant to be a major roadway along the Mississippi River. It is to be one road that criss-crosses the River several times. The conferees want to confirm that existing road beds should be used feasibly except where there are significant breaks in the continuity of the Great River Road.

In 1977, I worked closely with then Federal Highway Administrator William Cox to further clarify the specific focus of the Great River Road. Consistent with the original mandate that this be a scenic road, we worked out language which was included in the conference report of the fiscal year 1978 Transportation Appropriations Act. That language stated that no State could obligate Great River Road funds to construct new segments until 60 percent of the road is completed. This agreement underscores the point that priority consideration be given to preliminary planning, acquisition of scenic easements and areas of scenic, historical, and scientific interest, and construction of rest areas, overlooks, and bicycle trails, but that reconstruction and rehabilitation of existing route segments and the construction of new route segments will also be permitted.

The amendment adopted by the Environment and Public Works Committee this year authorized $35 million annually for both reconstruction and construction of the Great River Road through fiscal year 1980. Inadvertently, the word "construction" was left out of the printed copy of S. 3073. This technical amendment, which, I believe, has been discussed fully with the floor managers of this legislation, simply addresses this error in the final filing of the legislation and puts back in language that was already approved by the committee.

I urge its adoption.

Mr. BENTSEN. The author of the amendment has discussed it with the manager of the bill, with the manager for the minority side, and it is a constructive amendment. We are prepared to accept it.

Mr. CULVER. I want to thank the distinguished Senator from Texas for his consideration and cooperation in this and other matters with respect to this legislation. I am very grateful to him indeed.

The PRESIDING OFFICER. Does the Senator from Iowa yield back his time?

Mr. CULVER. Yes, I yield back my time.

The PRESIDING OFFICER. Does the Senator from Texas yield back his time?

Mr. BENTSEN. I yield back my time.

Mr. CHAFEE. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa.

The amendment was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Madam President, I suggest the absence of a quorum, with the time to be equally charged to both sides.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3476

Mr. CRANSTON. Madam President, I call up my amendment No. 3476 and ask that it be considered immediately.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an amendment numbered 3476.

Mr. CRANSTON. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 35, line 4, strike "and", and in line 7, strike the period and insert in lieu thereof a semicolon and the word "and".

On page 35, between lines 7 and 8, insert the following:

"(10) adding at the end the following new subsection:

"'(i) Notwithstanding any other provision of law, any toll bridge which is owned and operated by an agency (1) which does not have taxing powers, and (2) whose functions include operating a federally assisted public transit system subsidized by toll revenues, shall be eligible for assistance under this section, but the amount of such assistance shall in no event exceed the cumulative amount which such agency has expended for capital and operating costs to subsidize such transit system. Before authorizing an expenditure of funds under this subsection, the Secretary shall determine that the applicant agency has insufficient reserves, surpluses, and projected revenues (over and above those required for bridge and transit capital and operating costs) to fund the necessary bridge replacement or rehabilitation project.' ".

Mr. CRANSTON. Madam President, this is a noncontroversial amendment which I have discussed with the distinguished chairman of the Subcommittee on Transportation and he has agreed to accept it. The purpose of the amendment is to enable toll bridges which subsidize another federally promoted and assisted program—such as mass transit—to receive Federal funds for bridge replacement or rehabilitation which are required as a result of their commitment of revenues or reserve funds to broader transportation purposes than merely the operation of a bridge.

In offering this amendment, I believe it is important to establish stringent test of financial need. Consequently, my amendment differs in two respects from a similar amendment in the House bill. First, Federal assistance should be limited to the cumulative amount an agency has actually spent on transit capital and

operating costs. Second, the amendment requires that the Secretary of Transportation determine that a toll bridge has insufficient reserves, surpluses, and projected revenue to fund the necessary work.

Given Federal policy to reduce congestion, pollution, and energy consumption through the promotion of public transit, an expansion of eligibility for bridge replacement funds to include only toll bridges that use vehicle tolls to subsidize transit would seem a highly laudable policy in the broad public interest.

My amendment is also consistent with fiscal restraint. It would not require an appropriation of more moneys than would otherwise be necessary under the act. It merely expands eligibility to a very small number of toll agencies that are supporting transit. The role of the States and the role of the Secretary of Transportation in determining priorities would remain as they are.

The Senate bill provides new and much-needed flexibility in the bridge replacement program, and I believe my amendment is in concert with these important new provisions as well as the committee's policy of fiscal restraint.

Mr. BENTSEN. Madam President, the amendment offered by the Senator from California (Mr. CRANSTON) seeks to address the problem of toll bridges on the Federal-aid system where the revenues assist a transit system. Currently the special bridge replacement program prohibits the use of these funds on any bridge on which a toll is collected. This is done because one of the purposes of the collection of tolls other than paying off bonds used in construction, is the operation and maintenance of the structure. To allow the use of Federal funds on such a structure would run contrary to the general policy of the highway program.

However, the Senator from California brings to us a very unique problem in that a bridge which is of a toll nature supports a federally assisted transit system. Under this type of arrangement all of its revenues are not directed to the usual purpose. In this unique situation there is a Federal interest in seeing that the bridge is maintained and, if necessary, replaced to continue its important use. I support the inclusion of such a bridge within the program authorized by section 144.

With that in mind, I support the amendment as presented by the distinguished Senator from California, subject to the concurrence of the manager of the minority and his comments.

Mr. CRANSTON. I thank the Senator very much.

Mr. CHAFEE. Madam President, I join with our colleague from Texas in support of this amendment. Representatives of the California group spoke to me about it. They have a unique situation there, where they are using the funds for the support of other transportation systems. I think it is a good amendment to support.

I yield back any time I may have remaining.

Mr. BENTSEN. I yield back the remainder of my time, subject to the proponent of the amendment doing likewise.

Mr. CRANSTON. I thank both Senators, and yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

The amendment was agreed to.

Mr. BENTSEN. Madam President, I suggest the absence of a quorum, with the time to be charged equally to both sides.

Mr. CRANSTON. Madam President, if the Senator will withhold that, I ask unanimous consent that Kathy Hoffman of my staff be accorded the privilege of the floor during the consideration of this measure and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. I thank both Senators very much for their cooperation and understanding.

Mr. BENTSEN. Madam President, I ask unanimous consent that Tom Dougherty of Senator GLENN's staff be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Madam President, I make the same request on behalf of Patty White of Senator HAYAKAWA's staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Madam President, I renew my suggestion of the absence of a quorum, and request that the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BENTSEN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Madam President, I ask unanimous consent that the Senator from Mississippi (Mr. STENNIS) be recognized for 5 minutes on a nongermane subject, without the time being charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Mississippi.

VETO OF THE MILITARY PROCUREMENT AUTHORIZATION BILL

Mr. STENNIS. Madam President, I deeply appreciate the courtesy extended by the Senator from Texas and the Senator from Rhode Island, and that of the Chair. I am compelled to leave shortly.

With reference to the veto of the military procurement authorization bill by President Carter, I will not join in or be drawn into any attacks on the President for what he has done, either by implication or in any other way.

On the other hand, we do have a very serious matter here. It concerns the authorization bill which is the basis for appropriations; that is the bill that was vetoed. Appropriations bills have to rest on the outcome of an authorization bill. So this stops the proceedings on the defense appropriations bill also, which was within a few hours of completion by the full Senate Committee on Appropriations, having already been passed by the House of Representatives.

I am not here to complain. We must be constructive, and we must proceed, because our military program is a must. I personally think the best way out of this situation—the President has exercised his constitutional function of a veto, and I think the best, way is to exercise our function in the same way, and pass the bill, the veto notwithstanding, which is no slap at the President and represents no fight with the President. Absolutely we must keep the military program separate and above partisan politics.

We are now faced, though, with a great number of facts. It seems from the President's remarks that he was using one set of facts, and we have found a far different set of facts in our perusal of these bills for almost 8 consecutive months by highly competent staff people as well as the membership.

The fiscal year 1979 defense appropriations bill has the greatest sum of money of any bill ever presented to the Senate, and there are more than 3,300 line items in it, requiring someone to pass on those items.

Secretary Brown is an honest man, a man of great competence. I know he is not misleading anyone intentionally, but I am told, as an illustration, that this morning on an early morning national television show, Secretary Brown said that Congress is cutting three antisubmarine warfare ships.

He is bound to have been referring to what we call the TAGOS ships, three ocean surveillance ships totaling $98 million. Those ships are in the authorization bill that was vetoed, Mr. President. That is an illustration of the false facts. Those three ships are in the bill the President vetoed.

The real facts are that the House did not provide appropriations for the ships. The further facts are that the Senate Defense Subcommittee on Appropriations did approve those three ships. The Senator from North Dakota and I were the subcommittee of the subcommittee, and we recommended them, the subcommittee approved them, and the full committee has not challenged them in any way.

So those are just false facts. The President made reference to matters that had been taken out of the bill. There was a reference to a $500 million reduction in the operation and maintenance accounts.

Here is what this is: In those operation and maintenance accounts there is an allowance of 6 percent for inflation in fiscal year 1979. That comes to about $1.5 billion—think of that, a billion and a half dollars.

I know what a family taxpayer does when inflation hits him so hard he can-

not buy what he has been buying. He tightens his belt a little, and he gets along on a little less. So the Defense Appropriations Subcommittee figured that the military could absorb at least a part of that $1.5 billion, and the subcommittee reduced the amount by one-third, to see how it works if they try it. If they cannot do it, we can consider a supplemental appropriation.

All right; that came on to the full Appropriations Committee of the Senate, and the Senator from Missouri (Mr. EAGLETON) moved further reduction, and the full committee voted to reduce it by another $150 million, making somewhat beyond the one-third reduction. These operation and maintenance funds are not included in the authorization bill which the President is vetoing.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STENNIS. May I have an additional 2 minutes?

Mr. BENTSEN. Madam President, I ask unanimous consent that the Senator be allowed to proceed for 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. I thank the Chair.

Madam President, I have been speaking from the record through every bit of this, from the record before us now.

The President certainly did not fully understand what we had done in regard to research and development concerning alleged reductions.

Madam President, I thank the Senate again. We look at the facts, and we should pass on these things with regard to the facts.

I am greatly disappointed that the President has decided to veto the fiscal year 1979 Department of Defense authorization bill. It is certainly within the President's constitutional power and responsibility to veto any legislation passed by the Congress which in his judgment does not pass muster. However, Congress has the constitutional power and responsibility to pass legislation even in the event of a Presidential veto. This bill passed the Senate Armed Services Committee unanimously and passed the Senate by a vote of 87 to 2. I believe that this bill is so well balanced and represents so much agreement on the part of the Congress that I will work to override the veto of this legislation.

The committees of Congress have worked since January preparing this bill hearing expert witnesses, visiting field locations and factories and analyzing the budget in detail. The President's veto is based on information provided by his advisers which may not have been complete or fully covered the situation.

In view of the world situation and the need to maintain our military preparedness, we must move along with our defense programs. If we must go back into every item in this bill it will mean months of delay, and I doubt a new bill can be drawn that way by the end of the year. The new fiscal year begins October 1—only 6 weeks away. Unless this veto can be overriden or a new bill produced the Defense Department will have to go on a continuing resolution for money which means no new starts, no increase from last year, and no movement forward—either Presidential or congressional initiatives. This is no way to run a military department.

This bill does not "bust the budget." It has been carefully drawn to be both within the President's overall budget figures and the congressional figures. It is a fiscally responsible bill.

This bill gives the President most of what he requested in the budget. It, together with the appropriations bill it precedes, represents the largest defense spending in any year in history—wartime or peacetime.

In the R. & D. area the bill authorized $12.3 billion, which is $900 million more than last year and an 8-percent increase. It is the largest increase in R. & D. spending in at least 6 years. While the Senate bill was about $100 million above the President's request for R. & D., the final bill is only $200 million or 2 percent below the request. Some 80 percent of the 750 line items in the R. & D. budget were approved as requested. Many of the reductions were small and for the most part represented changes or delays that occurred after the time the budget was submitted.

This R. & D. contains seed money for new classes of smaller Navy ships and VSTOL aircraft so that in the future we will have alternatives to the large carrier. Most of this money was not requested in the budget. Even though strongly opposed by some, the R. & D. budget provides for the President's request for the M-X missile. It provides funds for the cruise missile carrier, and it provides more funds than requested for a go ahead on cruise missiles—air launched, sea launched and ground launched.

This bill does contain $1.9 billion for a nuclear powered *Nimitz*-class aircraft carrier for the Navy. This was not requested in the budget. It should be noted, however, that every witness both from the civilian side and the military side all agreed that the Navy must have another carrier. The President indicated he might request another conventionally powered large deck carrier in next year's budget. The overwhelming sense of the Congress, as I see it, is that if we are going to have another carrier it should be a nuclear carrier. I want to note that after the President's budget was submitted it was discovered that $1 billion for a Trident submarine that had been requested was not needed in fiscal year 1979 because of slippages and construction difficulties in shipyards. This billion dollar deferral of the submarine goes a long way toward paying for the carrier.

There are a number of initiatives to improve both our NATO forces and the readiness of our armed forces overall. In addition to a number of items requested in the President's budget this bill would add to the number of tanks to be modernized for the Army. It would add funds for the development of an infantry fighting vehicle and would add funds for the Army tank gun program done in cooperation with the German Government. It would add funds for increasing the procurement of modern Navy torpedoes. In the personnel area, military personnel were added to improve training and improve the readiness of the Armed Forces. Civilian personnel were added to aircraft maintenance depots to improve the maintenance and operational readiness of our aircraft. The Reserve components were strengthened with additional manpower, as well as equipment and hardware for the Reserves. In summary, this is a balanced bill. It is a fiscally responsible bill and it is a bill that moves forward for our military preparedness both now and in the future.

FEDERAL-AID HIGHWAY ACT OF 1978

The Senate continued with the consideration of the bill.

Mr. ZORINSKY. Madam President, I ask unanimous consent that Delbert Terrill and John Mussman of my staff be granted the privileges of the floor during the course of debate on this bill and during rollcall votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1669

(Purpose: To require the Secretary of Transportation to conduct a study of the adverse community impacts occasioned by increased coal unit train traffic and to recommend appropriate legislation)

Mr. ZORINSKY. Madam President, I send an unprinted amendment to the desk on behalf of Senator ANDERSON and myself and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Nebraska (Mr. ZORINSKY), for himself and Mr. ANDERSON, proposes an unprinted amendment numbered 1669.

Mr. ZORINSKY. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 58, line 8, insert the following:

SEC. 146. (a) The Secretary of Transportation, in cooperation with the State highway departments, and appropriate officials of local government, is authorized and directed to undertake a comprehensive investigation and study of techniques for alleviating the environmental, social, economic, and developmental impacts of increased unit train traffic to meet national energy requirements in communities located along rail corridors experiencing such increased traffic. Such study and investigation shall include, but not be limited to, the following:

(1) identification of specific adverse impacts on affected communities;

(2) examination of specific techniques to alleviate such impacts, including but not limited to low cost systems management methods, grade crossing separation, and rail line relocation, together with an assessment of the cost and benefits of each such technique;

(3) delineation of criteria to determine whether grade crossing separation or rail line relocation is appropriate for a given location;

(4) determination of the proper share of the cost of implementation for each such technique to be borne by the railroad or railroads based on the net benefit derived, and;

(5) determination of various costs for different types of separation construction based on such factors as number of rail lines and number of highway lanes intersecting at the crossing.

(b) In the conduct of the investigation and study authorized by subsection (a) of this section, the Secretary shall specifically consider the following rail corridors:

(1) The Burlington Northern mainline from Beach, North Dakota to Staples, Minnesota, from Staples, Minnesota to Minneapolis/St. Paul, Minnesota and from Staples, Minnesota to Duluth, Minnesota/Superior, Wisconsin;

(2) The Burlington Northern line from Joder, Nebraska to Rulo, Nebraska;

(3) The Chicago Northwestern line from Harrison, Nebraska to Blair, Nebraska; and

(4) The Union Pacific line from Scottsbluff, Nebraska to Steele City, Nebraska.

(c) The Secretary shall report to the Congress on the results of the investigation and study authorized by subsection (a) of this section not later than March 31, 1979. Such report shall include the information required by subsection (a) together with the Secretary's conclusions and recommendations for appropriate legislation.

(d) There is hereby authorized to be appropriated not to exceed $350,000 to carry out this section.

The PRESIDING OFFICER. Is this the amendment on which there is to be 1½ hours of time?

Mr. ZORINSKY. That is correct.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. ZORINSKY. Thank you, Madam President.

The amendment I offer this morning I believe will form one more link in the process of alleviating the impact of unit coal trains on many of this Nation's communities.

In September almost a year ago I introduced legislation (S. 2164) cosponsored by my colleagues Senators ANDERSON, HART, HASKELL, HUMPHREY, GRAVEL and RIEGLE. This legislation would have created a new category of funding from the Highway Trust Fund by which energy impacted rail and highway crossings would be separated. On March 16, 1978, during hearings before the Subcommittee on Transportation of the Committee on Environment and Public Works on the bill now pending before the Senate, the cosponsors and I testified in support of the inclusion of such a new category.

Such an effort was not to prevail in the wake of pressure to stop the proliferation of categories and especially in light of the actual consolidation of categories which took place during executive session in committee and subcommittee.

Madam President, I was prepared to make this issue a fight here on the floor of the Senate by offering the amendment I had previously had printed. However in view of the adamant opposition of the manager of the bill to new categories, I am therefore sending forth an amendment which I believe will help facilitate the passage of comprehensive coal transportation legislation early in the session next year.

The amendment I send forward today provides for a study by the Secretary of Transportation of the impact of unit coal trains on communities and the costs to help alleviate such impacts. This amendment also requires that the Secretary of Transportation come forward with recommended legislation on this issue.

I understand that this amendment has been cleared with the manager of the bill and is acceptable to him.

Finally, it is also my understanding that the manager of the bill in accepting this amendment has committed himself to helping move comprehensive legislation on this issue early in the 1st session of the 96th Congress.

Mr. BENTSEN. The manager of the bill has committed himself to hold hearings on this legislation and, dependent upon the outcome of those hearings, as to whether the committee votes for it and pushes the legislation. That is all that was committed. I do not doubt the seriousness of the problem as stated by the Senator from Nebraska. The record documents the potential community disruption by coal trains. As manager, I am prepared to accept the amendment for a study. We will hold hearings and it is subject to the outcome of those hearings as to what disposition we will make.

Mr. JACKSON. Will the Senator yield for a unanimous-consent request?

Mr. BENTSEN. Yes.

Mr. JACKSON. I ask unanimous consent that Larry Phillips and Denny Miller have the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAVEL. Madam President, I ask unanimous consent that Janet Iak, Richard Aks, and Bill Hoffman, of my staff, be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, is is so ordered.

Mr. CHAFEE. On behalf of the minority we are prepared to accept the study to go further into the problem that the Senator from Nebraska testified about before our committee, the problems he pointed to in his home State and the problem with these long coal hauling trains.

Mr. BENTSEN. The Senator from Nebraska has been very effective and persuasive in his presentation. I am prepared to accept the amendment and yield back the remainder of my time.

Mr. ZORINSKY. I thank the manager of the bill and the minority manager of the bill for their acceptance and their fine consideration. Hopefully, as the Senator from Texas indicated, the hearings will substantiate or validate my concerns with the proliferation of the increased hundred unit coal trains which currently are increasing on a daily basis from the coal fields in the western part of our country.

I yield back the remainder of my time.

Mr. ANDERSON. Madam President, I would like to join my distinguished colleague from Nebraska (Mr. ZORINSKY) in thanking the floor managers of S. 397 for agreeing to our unprinted amendment, No. 1669. I am particularly pleased to have a public commitment to hold hearings next year to bring about legislation which will finally alleviate the rail/highway grade crossing conflict problems brought about by America's increased dependence on coal mined from the Western States and shipped to markets in the East.

It has been nearly a year since I first referred my colleagues to a growing transportation problem faced by communities in the Western United States. On September 7, 1977, during debate on Senator DURKIN's railroad rehabilitation amendment to the Coal Utilization Act, I warned that Congress must soon address itself to problems of incompatibility between highway traffic and rail traffic in rail corridors experiencing increased coal transportation between western mines and eastern consumers.

This problem may seem regional on its face. However, I have pushed for Federal legislation for nearly a year now because I believe it is the responsibility of the Nation as a whole to help solve the rail/highway grade crossing conflict problems. Madam President, a Federal solution is only equitable since the increase in coal traffic results from our efforts to meet skyrocketing domestic energy needs through significantly increasing consumption of western coal.

I believe the action we take today goes a long way toward recognizing that the Federal Government has a responsibility to protect residents of communities experiencing increased coal train traffic. Of the $350,000 authorized in our amendment, $150,000 is earmarked to fund a study in the rail corridor consisting of the Burlington Northern mainline from the west border of North Dakota to the cities of Minneapolis and St. Paul, Minn. and to the Minnesota/Wisconsin border near the Port of Superior.

This corridor contains the communities which make up the Rail Traffic Task Force, an organization devoted to evaluating how local communities can work together to solve the rail/highway grade crossing conflict problem. This evidence of local concern demonstrates a deep commitment to solving the problems presented. Moreover, Madam President, it is a credit to Burlington Northern Railroad that it has cooperated fully with members of the Rail Traffic Task Force to evaluate ways of alleviating the adverse impacts of increased coal traffic on the communities.

Now, with this study and the promise of hearings next year, the Rail Traffic Task Force will have the advantage of being in the forefront of communities eligible for Federal aid. Since the Minnesota and North Dakota highway departments and the Federal Departments of Energy and Transportation have all endorsed the proposed Rail Traffic Task Force study, we start on this endeavor

with the promise of full cooperation by all parties involved. Moreover, Madam President, weary taxpayers will take heart in the fact that a major emphasis of the proposed study is to determine the feasibility of low cost alternatives to grade separations and rail line relocations.

Finally, Madam President, I would like to share with my colleagues three letters from officials in communities in Minnesota which have experienced serious adverse impacts from the increased coal traffic. Each letter, written in support of our withdrawn amendment to S. 3073, No. 2233, cites the experiences of the respective communities as they face a future of increased coal production and transportation from the West.

I am confident that the steps we take today will lead to the solution of the rail/highway grade crossing conflict problems faced by these communities without impairing the financial security of the transporting railroads or the energy needs of coal-dependent America.

I ask unanimous consent that the texts of the letters from the mayors of St. Cloud and Moorhead, Minn., and from the city engineer of Sauk Rapids, Minn., be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

CITY OF ST. CLOUD, MINN.,
July 27, 1978.

Hon. WENDELL R. ANDERSON,
U.S. Senate,
Russell Building,
Washington, D.C.

DEAR SENATOR ANDERSON: It has come to my attention that the Federal-Aid Highway Act of 1978, S3073, may be passed without any provision addressing the problems caused on local streets by the increased transport of coal. On a previous occasion, I provided some comments in regard to St. Cloud's auto/rail conflict problems. I would like to review these comments and add my thoughts on funding.

The City of St. Cloud initiated a study on the rail impact. The study identified that our rail traffic will increase from 25 thru trains per day in 1976 to 46 thru trains per day by the year 2000. This constitutes an 84 percent increase over a 24-year period. It should be noted that this does not include local switching activities. Most of the increase can be attributed to increased coal train traffic. For example, in 1976, there were approximatetly 2.5 coal trains per day traveling through St. Cloud and by 2000, based upon the best information available, we anticipate approximately 15 coal trains per day. These increases will cause a number of problems. They are:

(1) Frequent and prolonged delays to highway, street and sidewalk users. According to the study, there will be approximately a 42 percent increase in delay time at major crossings in the St. Cloud area by the year 2000.

(2) The safety of pedestrians and vehicle operators at grade crossings. The rate of accidents at the crossings, based upon the Minnesota Department of Transportation's Hazardous Rating System, will increase approximately 67 percent.

(3) Disruption of emergency vehicle service including ambulance, police and fire vehicles. The small communities along the rail line are greatly concerned because most of them do not have grade separation facilities. Bearing in mind that unit coal trains as well as many freight trains exceed 1¼ miles in length, grade crossings may be occupied for long periods of time. Based upon average speeds and lengths of trains, it takes at least two minutes for one unit coal train to clear a grade crossing. For fire and ambulance vehicles, a two-minute delay in response time can be critical.

(4) Environmental Degradation. In St. Cloud, noise levels along the rail corridor (East St. Cloud) exceed state standards. More specifically, residential noise standards established by the Minnesota Pollution Control Agency are currently being exceeded and will continue to be exceeded in the future.

(5) Impairment of Redevelopment Potential. This particular concern applies moreso to the St. Cloud and Fargo-Moorhead metropolitan areas. As you may be aware, both communities are extensively involved in redevelopment efforts. The disruptive nature of frequent and long train traffic through downtown areas has been a deterrent to attracting investments in the downtown areas.

Because of the rapid development of coal, we feel it is urgent that the Congress move expeditiously in establishing programs to assist impacted communities. I understand there is opposition to funding a program from the Highway Fund. Although it may not be the most appropriate source of funds for 100 percent funding, it certainly seems reasonable to include it as a funding source. Therefore, we support and urge your colleagues to support your Printed Amendment 2233.

Thank you for your concern and your efforts.

Sincerely,

AL G. LOEHR,
Chairman, Rail Traffic Task Force.

CITY OF MOORHEAD, MINN.,
July 25, 1978.

Senator WENDELL ANDERSON,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR ANDERSON: The City of Moorhead is facing an ever increasing problem because of the increased rail traffic volume passing through the central business district. Once regarded as a blessing, the railroad tracks on the north and south side of the central business district are now strangling the vitality of the downtown by restricting access.

In the central business district of Moorhead there are 15 crossings within a ten block area for two existing, and near parallel, railroad tracks (only two blocks apart). According to the Minnesota Department of Transportation 5 of these crossings are among the top 30 crossing points in the State causing extreme exposure and delay. Four of the crossings are critical for access to the urban renewal area. The crossing on 8th Street South is regarded as one of the 10 worst crossings in Minnesota. This street is a major north/south arterial with an average daily traffic volume of 12,000. It is also the major connector to the interstate highway system.

The present rail traffic is 53 trains a day, consisting of 12 coal trains (Fargo Forum). In contrast with the coal train traffic volume of 11 trains weekly in 1970, this shows a 750% increase in seven years. Using the Burlington Northern growth rate projection of 10% annually for coal trains, the number of coal trains will double within 10 years with the overall number of trains reaching 65 per day (assuming no change in other rail traffic). If each train, depending on the speed, blocks the intersections 2–5 minutes, the result is a tie up of 2:10 hours to 5:25 hours daily. This amount of delay is devastating to the businesses and services in the central business district and will cause a total shifting of the retail and service functions to the outlying areas.

This community has recently completed a successful urban renewal project in which $30 million dollars was reinvested into the downtown from many levels of funding—private and public. Instead of experiencing the anticipated growth from the renewal plan, however, the City is watching its central business district slowly suffocate due in part by the restricted access caused by train traffic.

In the past few years the downtown has lost Moorhead's only hotel service. It has also been unsuccessful in attracting a major department store to the downtown. In addition, the Moorhead Center Mall containing some 20 retail stores has continued to have a constant turnover in businesses; and the Center Avenue Plaza, another retail complex, is in the process of dissolving as a retail center. This demonstrated inability to generate any sizable interest in the downtown can be attributed in part to the restricted access caused by the increased train traffic passing through our community.

It is our position that Moorhead and other communities, large and small, along the main coal routes are being adversely impacted as a direct result of national energy policies in regard to the mining of western coal. The Federal Government has the responsibility to aid such communities in addressing this growing rail problem. We heartily support your printed Amendment No. 2233 to the Federal-Aid Highway Act which will aid communities in solving their rail related problems along the main coal routes. Thank you for your support on this important issue.

Sincerely,

WAYNE INGERSOLL,
Mayor, City of Moorhead.

CITY OF SAUK RAPIDS, MINN.,
July 28, 1978.

Senator WENDELL ANDERSON,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR ANDERSON: We wish to thank you for your involvement in the writing of the Federal Highway Act of 1978—especially as it relates to provisions for future funding of railroad-highway grade separations. As you know, we have had one fatality and many serious accidents at our two major crossings in town, and we have effectively been severed for purpose of fire, ambulance and commercial traffic, all due to increased coal and general rail traffic.

We encourage you to press for the adoption of your Printed Amendment No. 2233, a measure we feel is vital to the future well being of our community.

Sincerely,

MARK A. JOHNSON, P.E.,
City Engineer, City of Sauk Rapids.

Mr. BENTSEN. I yield back the remainder of my time.

Mr. CHAFEE. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. STONE). All time has been yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ZORINSKY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT 1670

Mr. CHAFEE. Mr. President, I send to the desk an unprinted amendment and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Rhode Island (Mr. CHAFEE) proposes unprinted amendment No. 1670.

NATIONAL TRANSPORTATION POLICY STUDY COMMISSION

Page 58, line 8, insert:

SEC. 146. Section 154(c) of the Federal-Aid Highway Act of 1976 is amended by striking out "December 31, 1978" and inserting in lieu thereof "July 1, 1979."

EXTENSION OF THE REPORTING DATE OF THE NATIONAL TRANSPORTATION POLICY STUDY COMMISSION

Mr. CHAFEE. Mr. President, as a member of the National Transportation Policy Study Commission, I offer this amendment today to extend the reporting date of the final report of the Commission from December 31, 1978, to July 1, 1979. This amendment has already been adopted in the House Public Works and Transportation Subcommittee.

As you are aware, Mr. President, and I am sure you are aware, the Transportation Commission was established by the 1976 Federal-Aid Highway Act and given the mandate of examining all modes of transportation, both domestic and international, and both passenger and freight, the final report is to contain recommendations to Congress and to the President on transportation policy that must be implemented to bring about a more responsive balanced transportation system through the year 2000. As you can readily tell, this is a job of great magnitude.

Unfortunately, because of start-up difficulties, the Commission completed hiring its top staff only in June of 1977. This means that the bulk of the study has only been underway for less than a year. Congress originally envisioned a 2-year study for this critical Commission, and I think it only appropriate that the reporting deadline be extended to allow the full 2-year time period. I wish to stress at this point that no new additional appropriations are anticipated to meet the 6-month extension.

I believe that we should provide the time needed by those of us on the commission to deliberate the alternative policy recommendations being developed.

That completes by statement. I move that the amendment be agreed to.

Mr. BENTSEN. Mr. President, I have discussed the amendment with the manager of the bill for the minority. It certainly appears to be a worthwhile contribution and a necessary one, the extension for 6 months to complete the study. I support it and yield back the remainder of my time.

Mr. CHAFEE. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1671

(Purpose: To amend the Federal Aid to Highways Act)

Mr. JACKSON. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON) proposes an unprinted amendment numbered 1671.

Mr. JACKSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 31, after line 6, insert the following:

(c) Clause (3) of subsection (c) of section 131 of title 23, United States Code, is amended by inserting immediately after "devices," the following "including those which may be changed at reasonable intervals by electronic process or by remote control,". (d) Subsection (j) of section 131 of title 23, United States Code, is amended by inserting immediately after "agreement" at the end of the first sentence, the following: "; provided that permission by a State to erect and maintain information displays which may be changed at reasonable intervals by electronic process or remote control and which provide public service information or advertise activities conducted on the property on which they are located shall not be considered a breach of such agreement or the control required thereunder.

Mr. JACKSON. Mr. President, the purpose of this amendment is to clarify the on-premise exemption under section 131 to accommodate improvements in sign technology. We need to update what is permissible under the Bonus Act agreements that many States entered into before this modern technology existed.

Current law permits signs visible from the highway if they describe activities being conducted on the premises. However, confusion in the interpretation of these Bonus Act agreements has resulted in extensive litigation, and differing interpretations between State highway departments as to the interpretation of these agreements has compounded the confusion.

Purely and simply, what this amendment will allow is the use of electronic signs on the premises of businesses adjacent to interstate highways. It does not extend beyond this as some have advocated to off premise commercial and industrially zoned properties. That is an entirely different matter.

The Federal Interstate Highway Systems now use these electronic information displays to communicate important highway safety information, such as warnings to the motoring public. They have proven to be of positive safety and public information benefit.

Mr. President, the second part of my amendment insures that States which permit the use of these modern information displays will not be penalized under the Bonus Act. By this subsection the Secretary of Transportation would take the necessary action to make the Bonus Act contracts comply with the purpose of the amendment.

Mr. STAFFORD. Mr. President, will the manager of the bill yield me some time?

Mr. BENTSEN. If I might just comment for a moment, then I will yield.

From what I have seen of the Senator's amendment, I think it is a clarification that will be helpful and deals with the on-premise signs.

I have great concern about the House version which would go off premise and would mandate it, in effect, instead of just a study of regulations.

Therefore, I hope the Senator from Vermont is going to deal with that particular question because, as I understand it, he shares the same concern.

Mr. STAFFORD. Mr. President, I do, indeed, share the same concern as the distinguished manager of the bill on the majority side, with respect to further electronic signs beyond those which might be under this amendment authorized onpremise for activities carried on premise.

Mr. BENTSEN. I yield such time as the Senator desires.

Mr. STAFFORD. Mr. President, I thank the manager of the bill for yielding me time, which I will not require at any great length.

I have examined the existing law and the amendment of the distinguished Senator from Washington (Mr. JACKSON).

Mr. President, I want to register my concern over any proliferation of these electronic signs off premise. My concern is that these signs, if sanctioned off premise, may be a threat to highway safety.

No one at this time can say with certainty that those signs are more hazardous than regular billboards.

We can say with assurance that an illuminated sign diverts the motorist's attention more than a nonilluminated one.

We also know that flashing signs are more distracting than illuminated ones.

And we have good evidence that 25 percent of automobile accidents involve distractions—by signs and other objects—as a principal cause.

As I understand the distinguished Senator's amendment it removes any Federal barrier only to electronic signs which provide public service information or advertise activities on the property on

which they are located. This does not change Federal regulations forbidding these signs in commercial or industrial areas, where the signs are not on-premise. Is that correct?

Mr. JACKSON. That is correct.

Mr. STAFFORD. Is it fair to say that permitting these signs only onpremise is as far as the Senator from Washington believes it advisable to go, given the lack of experience in judging the effect they may have on the traveling public?

Mr. JACKSON. I think that is a fair statement.

Mr. STAFFORD. Would the Senator agree that a good assessment of the effect of electronic signs on highway safety should be made before these signs are permitted to proliferate further?

Mr. JACKSON. I think that is imperative.

Mr. STAFFORD. I thank the Senator from Washington.

Mr. President, I say to the managers of the bill that, having long been deeply interested in the highway beautification program, I personally will not object to the acceptance of this amendment.

Mr. JACKSON. Mr. President, I thank the distinguished Senator from Vermont and the distinguished Senator from Texas who have been consulted in connection with this amendment. I think it will greatly clarify the existing law. I appreciate the cooperation. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. CHAFEE. No, not on this side.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I am deeply interested in this whole subject, as is, of course, the Senator from Washington and the Senator from Vermont.

As we know, we originally got into a bonus system for the States willing to agree to more restrictive agreements 7 years prior to passage of the Highway Beautification Act. Those States are continuing to receive this bonus.

It seems to me we have got to be careful here to make certain that those States receiving the bonus are, indeed, putting some more extensive restrictions on themselves, or are adhering to more severe restrictions than are on the other States which are not entitled to the bonus.

To a degree, this amendment, it is true, is a question of interpretation. I understand that. But it seems to be chipping away a bit on the restrictions that are imposed in order to receive the bonus.

Now, it is a close call, and there are many who would maintain, and I find it hard to dispute, that these electronic signs were not the type that they were attempting to prohibit when the agreements were signed and the bonuses granted.

Mr. President, I am not going to object to this, on the part of the minority in connection with this bill I am not going to object, but I do think it behooves us on the committee to monitor this bonus provision which, I believe, gives an additional half of 1 percent of individual interstate apportionments to the different States that originally made this commitment around 1958. We must look to see if, indeed, they are doing anything more than States who are not getting the bonus.

The States getting the bonus are controlling on-premise signs, something not covered by the Highway Beautification Act, but if we keep chipping away at what the on-premise restrictions, I am not sure they should still be entitled to the bonus.

I am prepared to support the amendment and yield back the remainder of my time.

Mr. JACKSON. Mr. President, I thank the distinguished Senator from Rhode Island for his statement. I just say that at the time the original legislation was adopted, this technology was not known. It is now being used, however, by State highway departments for safety purposes. I am sure we have seen all those signs.

I feel very strongly, as both of my colleagues have expressed it here, Mr. President, that we should not extend the sign business in terms of what is now prohibited by law. It is only in connection with that interpretation that this amendment is offered.

Mr. CHAFEE. Mr. President, just one minute. I say that I certainly agree with the Senator from Washington. I think the colloquy the Senator from Vermont had is going to be very valuable when we go to the conference.

Mr. JACKSON. I agree, and I thank the Senator.

Mr. RANDOLPH. Mr. President, Senators BENTSEN, CHAFEE, and STAFFORD have discussed this amendment proposed by the knowledgeable Senator from Washington (Mr. JACKSON).

I do feel it is important to indicate for the record that no member of our Committee on Environment and Public Works has been closer to the continuing development of highway beautification than has the Senator from Vermont (Mr. STAFFORD).

He has brought to it a commitment and expertise which we all recognize.

After having studied the amendment, we feel it is equitable, it is valid, and can well be a part of this legislation.

So from the standpoint of the committee we are ready to accept the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. RANDOLPH. I yield back the remainder of my time.

Mr. JACKSON. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1672

(Purpose: To provide authorizations for the priority primary program)

Mr. STEVENSON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) proposes an unprinted amendment numbered 1672.

Mr. STEVENSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 13, strike $1,475,000,000 and insert in lieu thereof, $1,600,000,000.

On page 8, after line 11, insert:

(3) In the case of priority routes, $125,000,000 per fiscal year of the sums authorized for each of the fiscal years ending September 30, 1979, and September 30, 1980 by subsection (a)(1) of this section for such routes shall not be apportioned. Such $125,000,000 of each such authorized sum shall be available for obligation on the date of apportionment of funds for each such fiscal year, in the same manner and to the same extent as the sums apportioned on such date, except that such $125,000,000 shall be available for obligation at the discretion of the Secretary of Transportation only for projects of unusually high cost or which require long periods of time for their construction. Any part of such $125,000,000 not obligated by such Secretary on or before the last day of the fiscal year for which authorized shall be immediately apportioned in the same manner as funds apportioned for the next succeeding fiscal year for such routes, and available for obligation of the same period as such apportionment.

Mr. STEVENSON. Mr. President, this amendment would add $125 million per year to the Federal-aid primary program. These funds would not be apportioned like ordinary primary program moneys. They would be available for obligation at the discretion of the Secretary of Transportation, but only for primary system projects of unusually high cost or which require unusually long periods of time for their construction. Because of the need to use regular primary program apportionments to maintain primary system routes, funds are not available to upgrade or add needed capacity to high-priority, heavily used primary system roads.

Consequently, the House bill contains $125 million for such a Federal aid primary program. The purpose of this amendment is to add to the Senate bill the same amount for the same purpose.

The amendment I am offering will help provide the States with the extra help they need to finance these needed highway projects. Two Illinois projects are good examples of the type of project that this amendment is designed to assist—the Rockford-Decatur expressway and the Chicago-Kansas City highway.

The Rockford-Decatur route runs for 156 miles through the center of Illinois. Because of the heavy traffic on this route, which will reach over 20,000 vehicles per day in the near future, the State of Illinois is expanding the present inadequate two-lane road into a four lane divided highway. Discussion and study of this project have been going on for over 30 years. The State has invested over $55 million in State and Federal highway funds in this project to date. However, the remaining cost to complete the route is estimated to be between $360 to $415 million. At the current pace of construction, completion of the project is over 10 years away.

The project is important to Illinois. It provides the connection between Rockford and Decatur, the 2d and 5th largest cities in Illinois. It acts as a connecter for five existing interstate routes: I-90, I-80, I-35, I-74, and I-72. This route was included in every recommended Interstate System plan, since 1945, but was dropped from the plan that was finally adopted for cost reasons. If priority primary funding is made available in sufficient amounts, the completion time for this route could be cut by 50 percent, enabling the route to open to traffic by the mid-1980's.

Mr. President, the Chicago-Kansas City route is another example of the type of project that could be aided by priority primary funding. The proposed freeway has been under discussion for over 20 years; it was the subject of a special study mandated by the Federal-Aid Highway Act of 1973. In 1977, the Department of Defense called for upgrading the Chicago-Kansas City corridor as part of the Nation's Strategic Highway Corridor Network.

The segment of the route between Peoria and Quincy, a distance of 172 miles, is now served only by two-lane highways. These roads, are inadequate, due to deficient bridges, narrow pavement, and insufficient capacity. Construction of an upgraded four-lane highway for this segment is estimated to cost over $388 million, but unless priority primary funds can be made available, completion is many years away.

The problems caused by the inadequate highways in this area will continue to grow. The area served by this route is rich in agricultural and coal resources. The urban areas along the route, including Peoria, Macomb, and Quincy, are sites of numerous manufacturing firms. Employment in the region is expected to increase 27 percent by the year 2000. The existing highways are simply not adequate to meet the demand that will result from this growth, and if they are not upgraded, could actually impede attainment of the area's development potential.

The State of Illinois recognizes the importance of this route, and has begun construction, but because its primary system apportionment must be used almost exclusively for maintenance and rehabilitation work, completion of the road is not in sight. Priority primary funding is a necessity if the needed additional highway capacity is to be made available in the near future.

Mr. President, highways in Illinois, like highways across the Nation, are wearing out twice as fast as they are being maintained, which means that States must use more and more of their highway funds, including their Federal highway funds, for maintenance and rehabilitation projects. As a result, many States do not have the funds to add needed highway capacity to priority primary routes. My amendment would provide additional assistance designed to aid the States in financing the construction of these needed links. This assistance is necessary if the highway system is to meet future needs.

I hope, therefore, that the distinguished managers of the bill will look with some favor on this amendment.

Mr. RANDOLPH. Mr. President we, are gratified that the able Senator from Illinois (Mr. STEVENSON) has brought this matter to the attention of the Senate. We all are sympathetic with respect to the concerns he has expressed. We also are grateful for his understanding of the need for a commitment to the continuing repair and rehabilitation of our roads. For that reason, I would hope the amendment could be accepted.

However, in our committee we have decided, after careful consideration by many members, not to authorize additional funds for the priority primary program. This is because there are very severe demands placed on somewhat limited financial resources of the highway trust fund at the present time.

We know the importance to the State of Illinois of what the Senator is talking about.

Since what the Senator is discussing is actually in the House bill, we would take a second look at it in conference. I hope that would be a sufficient indication to the Senator, without his attempting at this point to press for action in this body on the amendment he has just discussed.

Mr. STEVENSON. Mr. President, the able managers of the bill have had a difficult task, and they have discharged it well.

I am grateful for those words by the distinguished chairman of the Committee on Environment and Public Works. The concerns which I expressed, and which the chairman has indicated he shares, are shared by many others. This is not a matter of concern to the State of Illinois alone.

I can understand that the distinguished Senator from West Virginia might desire to go to conference with the House with a good deal of flexibility. The House bill is excessive.

It contemplates expenditures that are far in excess of the revenues that will be received into the highway trust fund. I can recognize, therefore, that there is a need to compromise the differences between these two bills, and for that reason the distinguished Senator is reluctant to see additional large sums added to the Senate bill.

Mr. President, I ask unanimous consent that the name of the Senator from Florida (Mr. STONE) be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. STONE. Mr. President, I support this amendment offered by the senator from Illinois. U.S. 19 in the State of Florida is a primary road that would certainly qualify for this type of priority assistance. There are other such roads in Florida greatly in need of extra attention such as U.S. 41 and I hope that a reasonable compromise can be worked out in conference.

I associate myself in all respects with the remarks of the distinguished Senator from Illinois and his withdrawal of the amendment to facilitate the Senate position.●

Mr. STEVENSON. Mr. President, because I recognize the situation and appreciate the indications by the Senator from West Virginia that this subject will receive additional and sympathetic consideration in the conference—and I am very grateful for that—I will not press this amendment. With those expressions by the distinguished Senator from West Virginia and with my gratitude to him, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. RANDOLPH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CANNON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, I ask unanimous consent that Aubrey Sarvis, Bill Johnson, Dan Jaffe, Tim Lynch, and Chip Barclay of the Commerce Committee staff, be accorded the privilege of the floor during consideration of the highway bill, S. 3073.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, the Senate Environment and Public Works Committee, due to its regulation of highway construction, and the Senate Commerce, Science, and Transportation Committee, due to its jurisdiction over highway safety, have joint jurisdiction over various aspects of the 55 miles per hour national maximum speed limit. As a reflection of this fact, there are identical provisions in the Fedreal Aid to Highways Act and the Highway Safety Act in regard to the development of State enforcement standards for the national maximum speed limit. In order to avoid duplication concerning these provisions, I will offer an amendment to delete the specific provisions in the Highway Safety Act concerning State enforcement standards for the 55 miles per hour speed limit. This action, however, will not alter these enforcement standards in any way. Also this amendment, of course, will not affect the Highway Safety Act's discretionary authorization of funding to assist

the States in carrying out their 55 miles

I thank the Chair

the States in carrying out their 55 miles per hour enforcement programs. The Commerce, Science, and Transportation Committee looks forward to continuing to work closely with the Senate Environment and Public Works Committee in regard to this issue.

Mr. President, I may say that it has been agreed that the Highway Safety Act will be offered as a separate title to S. 3073 once we have completed the title that is presently under consideration.

Mr. RANDOLPH. Mr. President, I very much appreciate this action by the distinguished chairman of the Senate Commerce, Science, and Transportation Committee. As the chairman has rightly stated, this amendment is strictly technical and will not affect the requirements of the enforcement provisions, as an identical provision is contained in title I of S. 3073. The Senate Environment and Public Works Committee intends to continue our close, effective, and cooperative relationship with the Commerce Committee in carrying out our joint jurisdiction relating to the standards for the national maximum speed limit.

Mr. President, I am sure that Senator CHAFEE and others who are managing the legislation will feel that in this instance we appreciate the action that the able chairman of the Commerce, Science, and Transportation Committee, Mr. CANNON, of Nevada, brings to our attention.

He has correctly stated this amendment will not affect the requirements of the enforcement provision. I think that it is important that the record so reflect his feeling. That provision, of course, is contained in title I of S. 3073.

Our committee intends to continue a very close and cooperative relationship with the Commerce Committee. We have joint jurisdiction, on the standards for the national maximum speed limit. I assure him that it is the feeling of the committee.

Mr. CANNON. I thank the chairman very much for his kind remarks. We have a close working relationship. I did want to get some clarification in the RECORD concerning the speed limit because I was afraid it might be misunderstood if we offered an amendment to remove these provisions from the highway safety portion of the bill because we do not intend to lessen the requirements under that 55-mile-per-hour speed limit as we think it has been useful from the highway safety standpoint. It has saved many lives throughout this country, and served to facilitate conservation of fuel.

I thank the chairman.

Mr. RANDOLPH. I thank the knowledgeable Senator who brings this matter to our attention.

Mr. CHAFEE. Mr. President, I join in expressing our appreciation on this side to the chairman of the Commerce, Science, and Transportation Committee for the cooperation and effort he has made to work these matters out.

I yield back any time I might have remaining.

I thank the Chair.

Mr. RANDOLPH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Chair inquires of the distinguished Senator from West Virginia, on whose time?

Mr. RANDOLPH. I ask unanimous consent that it be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1673

(Purpose: Repeal of section 142(k) of title 23, U.S.C.)

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an unprinted amendment numbered 1673.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 33, line 4, after "Sec. 127." insert "(a)".

On page 33, between lines 14 and 15 insert the following:

"(b) Subsection (k) of section 142 of title 23, United States Code, is repealed."

Mr. KENNEDY. Mr. President, first of all, I would like to thank the floor managers of the bill, the Senator from Texas (Mr. BENTSEN), and the Senator from Rhode Island (Mr. CHAFEE), and also Senators RANDOLPH and STAFFORD for the cooperation they and their staffs have given on a number of different issues during the consideration of this legislation and during the course of their own hearings and markup.

I have found them greatly responsive to a number of different questions we face, and I am enormously grateful for their help and assistance.

Later I will have an opportunity to have a brief dialog with my friend and colleague from Nevada on a different issue. I am grateful for his understanding and support.

Mr. President, this amendment, just very briefly, is an amendment with respect to section 142(k) of this legislation which says:

The Secretary of Transportation shall not approve an interstate transfer project when there has been enacted an urban transportation trust fund or similar assured funding for both highways and public transportation.

This amendment would delete this provision. The provision was added in conference the last time the highway authorization bill was approved, in 1973. It was not part of the House or Senate bills, and the effect of this provision on funding of transfer projects and urban transportation as a whole really has not been considered. It was not considered in 1973 nor was it considered this year.

It is unclear what might trigger this particular provision. The conference report in 1973, in referring to this particular section says:

In addition, the Secretary shall not approve any project for buses and rail facilities in any fiscal year when there has been enacted an urban transportation fund or similar assured funding for both highways and public transportation.

We really do not know what "assured funding" means. Proposals which assure money for mass transit might eliminate the interstate transfer. Section 142(k) cannot assure that funding would be adequate to the mass transit needs of the Nation; cannot assure us of the conditions which would attach to its use; cannot assure us that it would be distributed in a way which provides enough to replace the funds now available after a locally determined decision to move ahead with mass transit funded from an interstate transfer.

This may very well deter communities, from moving toward an interstate transfer when they feel that they want to meet their transportation needs by public transportation, such as improving a rail system.

And, we must remember what we are talking about are nonessential links of the highway system here, and in these situations we have tried to provide flexibility to the States and local communities to exercise their judgment.

Mr. President, the effect of such a termination could be enormous. It would surely prevent the transfer of funds from the interstate system to other uses. Currently, there are 185 miles of urban interstate not yet started. Four hundred and seventy-five are only in the preliminary stage. Of this 500 miles are potential transfers and this represents between $3 and $4 billion.

In addition, the language might prevent the use of already transferred funds which have not yet been obligated. This could wreak havoc—by stopping some project that an urban area is counting on, while the former interstate route may already have been turned over to other purposes. The conference report says that the Secretary shall not approve any project for buses and rail facilities when a trust fund has been set up—it does not just forbid the initial transfer. If this were the case many of the cities which have transferred funds which are not yet obligated might not be able to use them. These cities include Boston ($725 million); Philadelphia ($190 million); Maryland-D.C. suburbs ($75 million); District of Columbia ($130 million); Hartford, Conn. ($270 million); Portland, Oreg. ($200 million); Tucson, Ariz. ($40 million); Salem, Oreg. ($35 million); Albany, N.Y. ($35 million); Minneapolis ($70 million). This represents over $2.4 billion.

We should not eliminate the potential for transfers and perhaps prevent the obligation of funds already transferred, as an automatic consequence of some other fund being set up which might aid urban public transit when we do not know how much money might be allotted to that fund; when we do not know the conditions under which funds could be drawn; when we may confound the plans of a locality which has switched money or has applied to switch money for a particular purpose.

The concern I have and my colleagues have is with a trigger on interstate transfer caused by the establishment of a mass transit system. It may very well vitiate the planning and the programs of many States and local communities.

That is why the amendment is offered.

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. RIBICOFF. I wish I could have the attention of the managers of this bill, because the Senator from Massachusetts (Mr. KENNEDY) makes a very important point, and I am not quite sure whether the managers realize the inequities involved.

Take my own State of Connecticut: There local and State authorities have decided not to go forward with $270 million in highway projects. That money is apportioned to Connecticut under the basic Federal aid highway law formula that divides money among all of the States. Instead of building highways that no longer serve our transportation needs, local and State authorities plan to use that money for public mass transit projects.

That is what Congress intended when it passed what is now section 142(c) of the Federal Aid Highways Act.

But that money which is apportioned to Connecticut and other States which have made similar transportation decisions could disappear under the authority granted to the Secretary of Transportation by section 142(k) of that same act. Should Congress at some point enact and fund a trust fund that provides money for both highways and mass transit, Connecticut and similarly situated States will lose money that has been lawfully and fairly apportioned for transportation.

For example, last year, the Senate approved the creation of an Energy Production Conservation and Conversion Trust Fund. That was our amendment. We passed it in the Finance Committee, and we passed it on the floor of the Senate. It is now in conference, and I do believe has the enthusiastic backing of the Senator from Texas. One of the major purposes of this trust fund was to assist in the development and construction of energy efficient forms of transportation. Currently, the most energy efficient form of transportation is mass transportation. The thrust and purpose of the energy production, conservation, and conversion trust fund would be substantially thwarted if, because of the existence of this trust fund, certain States were denied other Federal funds for mass transportation purposes.

We were very careful, in devising that amendment in the Senate Finance Committee, about reserving for the proper committee the authorization process, and also preserving the appropriation process. If we pass this energy trust fund measure, the Public Works Committee would determine how that trust fund would be allocated, and the Appropriations Committee would allocate the appropriation.

You could, then, make up your mind in the authorization process whether you were going to allocate part of the trust fund for States like Massachusetts, Connecticut, and other States which were using the funds under 142(c) for mass transit. It is completely within your jurisdiction. The Senator from Massachusetts is absolutely right, because we believe there is an oversight here, and there will be a complete penalty to our States, which I do not think was intended at all.

I believe if our States decide to use our highway funds for mass transit, they should be encouraged to do so, instead of our forcing them to go into the construction of highways which they believe will not solve their transportation needs.

So I hope the managers of the bill will accept the Kennedy proposal, and I ask unanimous consent to be a cosponsor of the Kennedy amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I understand the concern of the Senator from Connecticut.

Senator KENNEDY is concerned that if a crude oil equalization tax is enacted into law, some sort of "energy efficient trust fund" might be established on the basis of COET revenues and would pose a threat to the successful transfer provisions provided by the committee.

My initial reaction to this concern is that it is by now generally conceded, openly by many and tactically by the administration, that there will be no crude oil equalization tax and, hence, no cause for concern on this score. If COET is somehow resurrected, the committee would have ample opportunity to deal with the problem.

Let me make some general observations on this amendment and how it developed. Senator KENNEDY played a big role in that I have noted on several occasions that we have made a conscious effort to build flexibility into the Federal-aid highway system; we have tried to be responsive to the requirements of urban areas. Senator KENNEDY's amendment is testimony to our success.

I guess we saw this in—was it 1974?

Mr. KENNEDY. 1973.

Mr. BENTSEN. 1973. I think we had 40 conferences with the House in trying to bring it about.

Let me say that this drive toward flexibility was not always easy or popular. We have to overcome substantial objections from people and businesses whose prosperity depends on a sound, stable transportation system. People who actually pay for the system through gas and other user charges and were concerned that revenues would be diverted to subsidize other, competitive transportation modes.

But we rose above this controversy and provided highway dollars for those with other transportation concerns like urban mass transit assistance. That was the big fight in 1973.

There has been no corresponding correlative legislation on mass transit. Even though cities get unneeded mass transit funds, it is not flexible; it does not go back to highways. Our cities do not have the flexibility to use transit funds for road constructions if the needs of a particular urban area justify such a shift in expenditures.

Mr. RIBICOFF. Mr. President, will the Senator yield at that point?

Mr. BENTSEN. I yield.

Mr. RIBICOFF. I think that the flexibility should go both ways, if the State authorities or local authorities make that choice. I would vote to support that.

But that is not the issue the Kennedy amendment presents at this time.

Mr. BENTSEN. I think unless you get that kind of flexibility, there is a concern by the people we finally got to go along with this that they will withdraw their support, and we will have some problems.

The original administration bill provided flexibility in both directions, from roads to transit and from transit to roads. We bought the concept, we provided greater flexibility. The transit people did not. Transfer has always been—and continues to be—a one-way street.

That is what we are up against.

Mr. KENNEDY. Mr. President, if the Senator will yield, our concern here is with transfers from nonessential aspects in the Interstate System, not that which obviously has a national importance to maintain the integrity of the interstate highway transportation system.

We want to provide maximum flexibility to States and localities under the legislation as it exists. The amendment seeks to protect those who make the decision to do an interstate transfer under this existing legislation. Where communities believe their transportation needs can be met by means other than highways and develop alternative programs, they should not lose their interstate resources or the right to propose and get a transfer if there is the establishment of a mass transit fund. That is our concern.

There is nothing in the language that would protect us. Some $2.4 billion has already been transferred, but not yet obligated. An additional $3 to $4 billion is eligible for transfer. I cannot see the establishment of a mass transit fund that would begin to provide those resources let alone meet the other mass transit needs of communities throughout this country. That is what we are concerned about.

Mr. CHAFEE. Mr. President, I wonder

Mr. DECONCINI. Will the Senator

Creek Freightway be printed in

Mr. CHAFEE. Mr. President, I wonder if I could yield a minute to the Senator from Wyoming (Mr. HANSEN).

Mr. KENNEDY. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER (Mr. CHILES). The Senator from Massachusetts has 6 minutes remaining. The Senator from Texas has 11 minutes.

Mr. CHAFEE. Could I yield time on the bill to the Senator from Wyoming (Mr. HANSEN)?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I yield to the distinguished Senator from Maryland.

Mr. SARBANES. Mr. President, if I could have the attention of the manager of the bill, it seems to me that the problem that is in the bill, and the reason the amendment is a constructive one, is that there is a trigger mechanism which would jeopardise these interstate transfers, either to be done or maybe to be done but not yet obligated, unrelated to what might be contained in an urban transportation process.

I agree with the Senator from Connecticut about a two-way street and would be prepared to support that concept in a proper context.

But what has been done here is, in effect, to have established a trigger unrelated to the substance of the fund and its context that will endanger and jeopardise these transfers on which State and local communities have based their transportation planning. That is the difficulty with this. It has a retroactive impact upon it. That is why I think it really ought to be taken out of the law.

Mr. BENTSEN. Let us see if we can work this out. The concern in this fight was that it was a one-way street. The Senator from Connecticut and I have addressed ourselves to the problem that it ought to be a two-way street. Can we work out this language that if there is such a fund established and it provides for the two-way street, that this provision will not apply?

In trying to put this through finally, we have put together very diverse interests and it was a tough and bloody fight. I want to be able to hold this together if we can. Can we phrase this language—and I say this to the Senator from Connecticut and the Senator from Massachusetts—where this would be stricken, if comparable transferability is provided for transit?

Mr. KENNEDY. The only problem is that if we are talking about a two-way street, we have to talk about a two-way street for the whole program. We have spent 10 times as much on the Federal aid to highways on transit.

Mr. BENTSEN. Then we are getting into the user tax question.

Mr. KENNEDY. I know. But if the Senator accepts this now, we will be glad to work with the Senator. I think the importance is to leave it to the local communities and the States to make their judgments. We will work with the Senator on it in the future. We want to meet our particular problem.

Mr. DECONCINI. Will the Senator yield?

Mr. KENNEDY. I yield 3 minutes to the Senator.

Mr. DECONCINI. I support the distinguished Senator from Massachusetts with the amendment to eliminate this particular section. It could be very damaging and devastating to communities in my State. I daresay if a careful scrutiny was made of many States the option ought to remain available for exactly what the Senator from Massachusetts is proposing.

I would like to address a question to the Senator from Texas, unless he has given an explanation prior to my arriving.

How was section 142(k) enacted to begin with?

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum without the time being charged to either side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, in discussing this with the Senator from Maryland, the Senator from Connecticut, the Senator from Massachusetts, and the Senator from Arizona, we are trying to achieve the same objective. I fought hard for this in the conference in 1973. Senator KENNEDY led the fight on the floor to try to get these funds used in urban areas. We have gone further than that. When cities give up part of the interstate we now allow that money to go into mass transit. The concern is that there also be given consideration for transfer of transit funds to be used by the local area to build roads, if they so want. I think we are all in agreement in trying to achieve that kind of an equitable treatment of these funds.

With that in mind, for the majority on the committee I will accept the amendment with the understanding that we will also work to bring that about.

Mr. RIBICOFF. Personally, I would like to pay my thanks to the distinguished Senator from Texas who always is able to see the implications of complex problems and act with a degree of statesmanship which takes the national interest into account. I find that working with him constantly. He can be assured, whether it is in the Finance Committee or on the floor, we will try to work this out to put into effect the agreement that we all have had during these last few minutes.

Mr. DECONCINI. I join in thanking the Senator from Texas for his consideration and great understanding of this particular problem.

Mr. HANSEN. Mr. President, I ask unanimous consent that excerpts from a letter written by Ed Crowell, senior vice president and general manager of Salt Creek Freightways, be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

SALT CREEK FREIGHTWAYS,
Casper, Wyo., July 18, 1978.

Hon. CLIFFORD P. HANSEN,
U.S. Senate,
New Senate Office Building, Washington, D.C.

DEAR CLIFF:

* * * * *

To give you some specifics in why I oppose any reduction in the length from 45 feet to 40 feet and also any reduction in lengths now established by the various states, Salt Creek Freightways, due to the distances traveled and the sparse population in the states of Wyoming, Montana and Idaho, has actively pursued methods through the legislatures and through our own equipment purchasing and handling over the past three years towards fuel conservation, increased productivity and a constant on-going safety program. The most productive method which we have so far been able to implement is the use of the 85 foot combination which is comprised of one 45 foot trailer with a trailing 27 foot trailer. We have had this combination in operation in Montana since October 1975 and in Wyoming since June of 1977 when it was authorized by the Wyoming 1977 General Session.

The period June 1977 through May 1978, Salt Creek operated this combination a total of 1,208,604 miles. Our data indicates that by combining the 27 foot trailer with the standard 45 foot unit, we estimate a fuel savings in the 12 month period of 143,881 gallons, for which Salt Creek has been cited as contributing to fuel conservation by the Governor's Committee on Energy Conservation. We also estimate an increase in productivity of somewhere between 40% and 50% in our over-the-road operation.

Since Wyoming observes the 80,000 pound federal interstate highway gross limitations, we have not been able to implement this unit in as many cases as we could have if we could operate on federal interstate highways with the same gross weight as we have been allowed since 1974 to operate on other than interstate highways in the state of Wyoming.

We also are, in some cases, limited to the utilization of this vehicle configuration by the demands of service and scheduling to the commercial communities of the state of Wyoming. However, considering the limitations of 80,000 pounds on the federal interstate highways, we still have been able to experience a very high ratio of fuel savings and increased productivity, both of these factors which have been main points of the federal government's administration as goals to be attained by industry. This is not only contributory to savings in fuel but acts as a definite depressant to any future rate increases aiding in cooling of the present inflationary spiral.

In relationship to any safety hazard that might be introduced by the use of multiple trailers as far as the present twin 27 foot combination which has been utilized by our company since the early 1960's, or the present twin combination of a 45 foot and a 27 foot, we have absolutely no evidence of a safety hazard. Since the full utilization of this combination on June 1, 1977 in both the states of Wyoming and Montana, Salt Creek has operated this 85 foot combination for the previously cited 1,208,604 miles completely accident free and as further information, when this increased length was proposed before the Wyoming legislature, one of our drivers, Ramon Greene, who operated this vehicle a considerable amount of time

in Montana, testified before the joint House-Senate Transportation Committee of the Wyoming Legislature that in his own personal opinion this was an extremely stable and safe combination.

* * * * *

I feel that traditionally the various states have been quite competent and effective in enforcing the length laws that are applicable to their particular region of the United States and that any federal intrusion would place, particularly the western states, in a position that they must conform to economic and populace conditions indicative of the east and not compatible with the western way of life.

Very truly yours,

ED CROWELL,
Senior Vice President
and General Manager.

Mr. BENTSEN. With the understanding that the proponent of the amendment is yielding back the remainder of his time, I will yield back the remainder of mine.

Mr. KENNEDY. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I do not think it is necessary, but I move to reconsider the vote by which the previous amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

S. 3431

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to ready the amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, this legislation deals with truck length, which is an important safety issue for truckdrivers and indeed for all motorists. It is an issue which I have had the opportunity to talk about with the distinguished chairman of the Commerce Committee (Mr. CANNON). I have also exchanged views with the manager of the bill (Mr. BENTSEN).

The issue before us is an issue of safety. What we are concerned with is removing the economic incentive for truckers to have to choose increased profits—meaning longer trailers—over safety. This proposal would require the States to set lengths of trailers only, exclusive of overall length.

The increased truck weights Congress has allowed on the Interstate System has encouraged trucking companies to order larger trailers, and has fostered the development of dangerously foreshortened tractors with limited cab space. This weight increase took place in the years of the energy crisis, yet the States had limitations on the length of the trailer. In order to meet the length laws, truck manufacturers have had to significantly reduce tractor lengths and cab sizes to the point where, in many instances, they appear to pose potential threats to the safety of those who use the Interstate System. While some segments of the trucking industry dispute the evidence of this, I find it satisfactory and indeed persuasive.

If States still want to set overall length under this amendment, they can. However, those overall lengths must exceed by at least 15 feet the trailer lengths they set, to allow enough space for a comfortable and safe cab.

Congress must act, Mr. President, to alleviate this conflict between the increased weight allowances and State length laws. I know the Senator from Illinois (Mr. PERCY) has noticed a vast increase of traffic fatalities involving trucks—over a 20-percent increase since 1975. Many of the drivers strongly feel that this is due to the increased length of trailers combined with shorter tractors.

I know Senator CANNON has requested that the Committee on Commerce have a chance to consider this proposal. The Senator from Nevada and I had an opportunity to visit with truckdrivers and to see for ourselves the problems passed by the new truck and trailer designs. I know that he anticipates having a hearing on this and come back to Congress. I should like to elicit his ideas on this issue and see if we can reach a common understanding.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield whatever time the Senator from Nevada needs.

Mr. CANNON. Mr. President, first, I want to take a moment to commend Senator KENNEDY for his interest in motor carrier safety and for focusing attention on the issues of motor carrier length laws and highway safety. I would also like to point out that the Commerce Committee, which has jurisdiction over highway safety, has been active over the years in the area of motor carrier safety. The committee has scheduled 2 days of hearings on motor carrier safety for the first week in September. Specifically, the question of vehicle length, both tractor/trailer combinations and individual trailers, will be the subject of a hearing on September 7.

There are a number of legitimate questions raised by Senator KENNEDY's amendment concerning driver safety and comfort, State motor carrier length laws, motor carrier operating efficiencies, and various tractor/trailer configurations that should carefully be reviewed and evaluated during the September 7 hearing. Though it is my understanding that the amendment is intended to carefully balance a Federal safety standard with the historical role that individual States have played in setting tractor/trailer and trailer length standards, there are a number of questions concerning the impact the legislation will have on State length laws. It is my understanding that this proposal will allow States to concentrate their efforts in setting vehicle length standards to trailer size and to permit tractor size to be dictated solely by safety and driver comfort considerations.

It is my hope that Senator KENNEDY will introduce his proposal as a bill in order that the Commerce Committee may have the benefit of legislative language during the course of the September 7 hearing. I look forward to working with Senator KENNEDY on this issue during the course of the Commerce Committee's review and consideration of motor carrier length standards.

I hope he will not press this amendment now so that we can have the benefit of the hearings that are currently scheduled before legislating in this area.

Mr. KENNEDY. I thank the chairman of the committee and I look forward to working with him. I recognize completely both the jurisdiction and the long-time interest of the Senator from Nevada and the Commerce Committee in this issue. We want to cooperate and work with the committee in every possible way. What he suggests seems not only a satisfactory, but an appropriate way to proceed.

I want to thank the Senator from Texas as well for his interest.

Mr. President, I am, therefore, going to offer the language of this amendment in the form of a new bill, and I ask that it be appropriately referred as a bill.

(See S. 3431 under bills introduced.)

The PRESIDING OFFICER. The amendment is withdrawn and the bill is appropriately referred.

Mr. KENNEDY. I thank the floor manager and Senator CANNON.

Mr. BENTSEN. Mr. President, I commend the Senator from Massachusetts for his interest in transportation and safety. Our committee deals with highway safety. It addresses the width of trucks and the weight of trucks. I well understand the problem he is concerned with on the length of trucks. I have had some truckdrivers tell me that with these cabs over the motors, they now arrive at the accident first. I can understand their concern on that.

I am delighted to see that the chairman of the Committee on Commerce shares the concern and will be interested in the legislation.

Mr. CANNON. Mr. President, I commend Senator KENNEDY for his decision to introduce this as separate legislation. It will facilitate the consideration of this complex issue and I look forward to working with him on this proposal during the hearings before the Commerce Committee on September 7 and 8. We certainly will review and give full consideration to this very complex issue of motor carrier length. I am sure that we can come out with some legislation that will be reasonable, but we shall have the facts to support whatever legislation we come out with.

I thank the chairman of the subcommittee for his participation.

(Later the following proceedings oc-

Should these States choose to

(Later the following proceedings occurred:)

Mr. BARTLETT. Mr. President, I rise in opposition to the amendment that was introduced by the Senator from Massachusetts (Mr. KENNEDY), and was taken down by Senator KENNEDY.

The PRESIDING OFFICER. Who yields time to the Senator from Oklahoma?

Mr. CHAFEE. Can we yield time on the bill?

The PRESIDING OFFICER. Yes.

Mr. CHAFEE. How long will the Senator require?

Mr. BARTLETT. Could I have 5 minutes?

Mr. CHAFEE. I yield the Senator 5 minutes from our side's time on the bill.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I ask unanimous consent that these remarks be placed in the RECORD at the conclusion of the dialog on the amendment on trucks introduced by Senator KENNEDY.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, I rise in opposition to this amendment. My objection is not founded on the amendment's intent; surely none of us here are opposed to improving highway safety. My objection is rooted in the substance of the amendment itself. This amendment, which is being promoted as a safety measure, is no guarantee that highway safety would be improved by its adoption. The anticipated improvement in safety is only theoretical, as the manufacturers and the motor carriers would still be able to use whatever size cab they choose. If we pass this legislation, we are only assuming that the motor carriers would stop purchasing cab-over engine (COE) tractors except for limited use and the manufacturers would voluntarily slow down or cease production of the small COE power unit.

More importantly, this measure would force all but a handful of States to rewrite their existing laws on truck length limitations. The amendment stipulates that if a State does not comply by June 1, 1980, the Congress will withhold all of that State's Federal aid highway funds.

I believe that we should not be debating what we feel is best for the States. On a matter of commerce such as this, only a State legislature can accurately make this judgment. They are the ones who best know the capacities of their State's highway system and the subsequent needs of their constituents. By proposing this amendment the authors appear to be saying that the States do not care about improving highway safety, and they are not qualified to do so.

Mr. President, this issue should be left to the individual legislatures to determine what is best for their State.

This amendment will also greatly affect the future utilization of twin trailers. Only five States would not have to revise their statues in order to avoid the elimination of twin trailer usage. Of the 26 States which presently allow twin trailers, an average increase of 7 feet would be required in overall length limit. Should these States choose to comply with the proposed amendment by setting only trailer lengths, an average decrease of 7 feet would be necessary.

In my own State of Oklahoma, if we wish to protect the future use of twin trailers, we would have to either decrease our present trailer length to 57 feet or increase the overall length limit to at least 72 feet.

The twin trailer, according to a recent Supreme Court decision (S. Ct. (76-558)), is the safest of all trailers. Furthermore, this type of trailer is the most fuel efficient for nearly every type of cargo load. The Federal Energy Administration estimates that these trailers could save 30 percent in terms of vehicular trips and 21.4 percent in fuel consumption.

Mr. President, I ask unanimous consent that these and other pertinent statistics be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C.

Hon. JAMES B. LONGLEY,
Governor of Maine,
Augusta, Maine.

DEAR GOVERNOR LONGLEY: As part of the Federal Energy Administration (FEA), the Office of Conservation and Environment has the primary goal of increasing the efficiency of energy utilization in the transportation sector of the economy. Priority issues include emphasis on cost-effective and maximum efficiency savings among the modes in the intercity freight market.

The Project Independence Report published in November 1974, by FEA, listed "liberalization of truck sizes and weights" as one of the possible fuel conservation options. The report stated, "For example, substituting twin trailers for conventional trailers could save 30 percent in terms of vehicular trips and 21.4 percent in fuel." More recently, in connection with the Federal Grant Program authorized by the Energy Policy and Conservation Act (EPCA) to implement State Energy Conservation Plans, the option of fuel saving through liberalization of truck sizes and weights has received further study. The Stanford Research Institute (SRI), evaluated the energy savings which could be achieved by expanded use of 65-foot twin trailer combinations. SRI concluded that more than 181 million gallons of fuel could be saved annually in the 19 States which now do not permit operation of these combinations. Fuel savings of 2.2 million gallons annually would be achieved in Maine.

Our conclusion is that such action in all of the States would be a positive step toward improved fuel efficiency in highway freight transportation. For this reason, FEA supports efforts in the States to secure nationwide operation of 65-foot twin trailer combinations as an effective means for conserving fuel.

Sincerely,

MARTIN E. SENECA, Jr.,
Acting Assistant Administrator, Conservation and Environment.

EXCERPTS FROM REPORT

Even more such specialization is expected in the future, a trend that militates against the establishment of arbitrary national fuel-use standards that would apply equally, for example, to the 55-foot moving van and the 55-foot dumptruck carrying crushed gravel. As the Post 1980 Goals Study determined, "attempts to standardize the national fleet about some 'average' could destroy the service evidenced today and result in greater national fuel consumption."

TWIN TRAILERS ARE FUEL SAVERS

Recent studies have shown that twin trailers, that is, tractors hauling two 26- to 28-foot trailers, with an overall length of 65 feet, are the most energy-efficient mode of freight transportation in common use. Twins have even made a better showing in fuel-use tests than "piggyback" trains—trailers on flat cars (TOFC)—widely touted as the ideal hybrid of road and rail transportation.

A 1975 study conducted for the U.S. Department of Transportation by Reebie Associates of Greenwich, Conn., found that twin trailers used less fuel than other modes of transportation in a test run between Portland, Oreg. and Los Angeles, Calif. comparing fuel consumed in loading, transfer, pickup and delivery as well as that used in traversing the 950-mile route.

Fully expecting to find the railroads to be more efficient than trucks, and an improved intermodal system using both trucks and trains to be better than either, the Reebie researchers were surprised at the results of their study—"piggyback" trains required 120 more gallons per 40-foot container equivalent than triple-trailers, and 80 more gallons per container than twins. Although regular rail carloads outperformed tractor-semitrailers by 10 gallons per container, twin and triple-trailers proved much more fuel-efficient than any rail operation.

Moreover, the authors reported:

"Part of the hypothesis for this study was that an improved intermodal system could have environmental advantages which would supplement whatever economic advantages were identified. Certainly, based on traditional comparisons of rail and truck fuel consumption, such advantages would seem self-evident. But close investigation revealed that the traditional analysis was insupportable in terms of a unit of delivered freight, as it is actually moved in this corridor. It was found, instead, that in comparing a hypothetical, improved intermodal operation with an efficient truck operation trucks use less fuel per unit of freight."

The study went on to present an even greater contrast between the fuel-efficiency of truck operations and the fuel use of railroads. "Almost 60 per cent of the truck fuel is used 'productively' in providing the energy to move the payload, assuming the same five percent empty equipment ratio as has been used elsewhere in this report. In contrast, only 34 per cent of the rail carload fuel, and only 24 per cent of the TOFC fuel, is used for the payload, while the rest is consumed in moving empty equipment, equipment tare (weight), and excess mileage."

Twin trailers' economies show up not only in comparisons with rail freight operations. Sixty-five-foot twin combinations carry one-third more freight than conventional 55-foot tractor-semitrailer combinations and it has been estimated that transferring light and bulky freight from semitrailer combinations to twins would reduce by 30 per cent the number of vehicle trips required to move a given amount of freight and would result in a 21.4 per cent fuel saving.

The use of 65-foot twin trailer combinations in the 30 states in which they are permitted has already saved the nation billions of gallons of fuel. The Stanford Research Institute estimates that changing the laws of the states in which twins are not now permitted would save more than 180 million gallons of diesel fuel each year in those 20 states alone. The fuel savings in the entire country would be vastly increased if those states allowed twin trailers because cross-country haulers would not have to bypass the states with shorter length limits or stop and reload into conventional trailers to pass through those states.

Recognizing the fuel economies that can be gained with twin trailers, officials of the Federal Highway Administration, Federal

Energy Administration, U.S. Agriculture Department and the American Association of State Highway and Transportation Officials, among others, have endorsed the use of 65-foot twins nationwide.

TABLE VIII.—POSSIBLE PERCENTAGE SAVINGS IN TRUCK TRIPS AND FUEL CONSUMED IN HAULING 1,000,000 TONS OF HIGHWAY FREIGHT IN VARIOUS TRUCK COMBINATIONS

	Percent of truck trips saved	Percent of fuel saved
Light and bulky freight:		
Substitute 45-ft for 40-ft semi-trailers	14.4	8.5
Substitute 65-ft twin trailers for 40-ft semitrailers:		
At old twin trailer weight limit	27.2	22.0
At new twin trailer weight limit	32.4	25.9
Substitute 65-ft twin trailers for 45-ft semitrailers:		
At old twin trailer weight limit	17.8	14.7
At new twin trailer weight limit	23.7	18.9
Dense freight:		
Substitute new for old weight limits:		
With 40-ft semitrailers	11.3	7.7
With 45-ft semitrailers	11.4	7.8
With 65-ft twin trailers	13.2	9.1
Substitute 65-ft twin trailers at new limit for:—		
40-ft semitrailer at old limit	12.1	9.0
45-ft semitrailer at old limit	12.9	9.8

Legal or maximum practical	Old limit	New limit
Light and bulky freight:		
40-ft semitrailer	60,725	60,725
45-ft semitrailer	65,250	65,250
65-ft twin trailer	73,280	76,677
Dense freight:		
40-ft semitrailer	73,280	79,000
45-ft semitrailer	73,280	79,000
65-twin trailer	73,280	80,000

TABLE X.—FUEL SAVINGS POSSIBLE IN STATES NOT PERMITTING GROSS VEHICLE WEIGHT OF 80,000 LB OR TWIN TRAILERS

State	Possible gallons saved by— Increased weight	Use of twin trailers	Total
Alabama	0	12,100,000	12,100,000
Arkansas	1,300,000	0	1,300,000
Connecticut	2,200,000	7,900,000	10,100,000
Florida	0	19,400,000	19,400,000
Georgia	0	17,900,000	17,900,000
Illinois	5,800,000	0	5,800,000
Indiana	7,100,000	0	7,100,000
Iowa	4,400,000	0	4,400,000
Maine	0	2,600,000	2,600,000
Maryland	6,900,000	0	6,900,000
Massachusetts	0	6,600,000	6,600,000
Minnesota	[1] 2,300,000	0	2,300,000
Mississippi	2,600,000	6,800,000	9,400,000
Missouri	2,700,000	0	2,700,000
New Hampshire	0	1,100,000	1,100,000
New Jersey	0	9,700,000	9,700,000
New York	0	13,300,000	13,300,000
North Carolina	0	16,400,000	16,400,000
Pennsylvania	10,400,000	20,000,000	30,400,000
Rhode Island	0	2,900,000	2,900,000
South Carolina	0	7,400,000	7,400,000
Tennessee	6,900,000	14,900,000	21,800,000
Vermont	0	1,000,000	1,000,000
Virginia	0	12,300,000	12,300,000
West Virginia	0	2,500,000	2,500,000
Wisconsin	[1] 4,200,000	6,500,000	10,700,000
Total	56,800,000	181,300,000	238,100,000

[1] 80,000 lb effective January 1978.

Source: Based on energy savings stated in Btu's in a 1976 Stanford Research study for the Federal Energy Administration and converted to gallons at the rate of 136,000 Btu's per gallon of diesel fuel. Revised, August 1977.

Mr. BARTLETT. Finally, Mr. President, this amendment represents a needless duplication of efforts. There is presently a comprehensive study being conducted by the Bureau of Motor Carrier Safety on truck length limitations with respect to safety. The results of this study can be expected later in the year.

In addition, there is a proviso in the Federal Aid Highway Act of 1978 in section 122(b)(1)(a) which authorizes the Secretary of Transportation "to study and investigate the need for, and desirability of uniformity in maximum truck size and weight limits throughout the United States."

Mr. President, this measure, though meritorious in its intent, represents a hasty solution to an as yet undefined problem. I recognize the need to continue to improve upon highway safety, but I recommend to the Senate that we defer action on this measure or any of a similar context until these studies have been completed and the results carefully analyzed.

Thank you, Mr. President.

Mr. CHAFEE. Mr. President, I would like to say that I agree with the points the Senator was making. There are certain things around here which should be left to the States. Everything does not have to be determined by big brother, the Federal Government. However, this is going to the Commerce Committee and they are going to look at it. I agree with the Senator from Oklahoma, that this is something the Federal Government should not be involved in. I hope it will not go any further.

(Conclusion of later proceedings.)

UP AMENDMENT NO. 1674

(Purpose: To permit certain use of the Dulles Airport Access Highway)

Mr. HARRY F. BYRD, JR. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Virginia (Mr. HARRY F. BYRD, JR.) proposes an unprinted amendment numbered 1674.

On page 36, line 7, after the period, insert the following:

Notwithstanding any other provision of law, the Secretary of Transportation shall permit carpools and vanpools (as defined by the Secretary) to enter and leave the Dulles Airport Access Highway during rush hours using those entrances, exits and ramps which are in existence on the date of enactment of this Act.

Mr. HARRY F. BYRD, JR. Mr. President, the amendment that I am offering today would require the Secretary of Transportation to permit carpools to use the Dulles Airport access road during rush hours.

The Dulles access road is within the boundaries of the airport, and access to the road is controlled by the Federal Aviation Administration. The 1973 amendments to the Federal Aid Highway Act authorized funds for a demonstration program to improve mass transit service between Washington and Dulles Airport.

The Metropolitan Washington Council of Governments conducted a study to determine the elements of the demonstration program. Although the primary objective of the study was to analyze ways to improve accessibility of the airport, a secondary objective was to study the potential for improving commuter travel in the corridor between the airport and Washington.

The study has been completed, and on the subject of improving commuter travel, the study recommends to the council of governments a demonstration program permitting carpool vehicles use of the Dulles access road during the peak commuter periods in both the peak and off-peak direction. My amendment would facilitate implementation of the recommendation of the Dulles Airport access study for commuter travel, and is similar to language included in H.R. 11733, as reported by the House Public Works Committee.

Mr. President, I yield to the Senator from Nevada.

Mr. CANNON. Mr. President, I must reluctantly, at this time, oppose the distinguished Senator from Virginia's amendment. While the concept of the amendment is commendatory, this issue must be reviewed more carefully before we act.

A number of potential problems, which may or may not materialize, must be examined, including police powers and traffic enforcement; commuter traffic "turn-arounds" in the terminal area; and of course potential traffic versus the road capacity. I am aware that one study, conducted by the Metropolitan Council of Governments, was published only 2 months ago and is currently under review by the Department of Transportation.

I may say, that study was authorized in 1973 and has only just 2 months ago been referred to the Department of Transportation for review.

I have also been informed that DOT has a task force independently reviewing the issue of opening the access road to commuters.

Therefore, to be certain that we do not act to the disservice of commuters and passengers, I would suggest a revision to the Senator's amendment. If Senator BYRD will modify his amendment to require that DOT complete the agency examination and provide the Senate with a Department recommendation, within 90 days after enactment, I would support such an amendment. I assure my colleague from Virginia that the Aviation Subcommittee will consider this matter as soon as all the facts we need to make a decision are provided.

I am, myself, very sympathetic, completely sympathetic, toward what he is trying to achieve, but I do not want to see the solution of one problem create six more, at the same time, without having the necessary facts to support it.

So we have contacted DOT and they have suggested they will have their independent study ready within 6 months.

But I am willing to see it written into the law here, that they come to us with the results of their study and report their recommendations within 90 days, so that we can get at this matter in an expeditious fashion and try to act as rapidly as we can.

Mr. HARRY F. BYRD, JR. I think it is very important that this matter be handled as expeditiously as possible. The Dulles limited access road is underutilized. I hope that it will be possible that carpools will be permitted to use that road.

I can understand the viewpoint of the Senator from Nevada that, since there

have been no congressional hearings on this matter, there could be points that would need to be considered before opening that road to commuter traffic.

The Senator from Nevada indicated that he would express no opposition to writing into law that the Department of Transportation must act quickly in bringing the facts to the appropriate Senate committees. While I would prefer that the Senate go ahead with the amendment I originally introduced, in view of the observations made by the Senator from Nevada, I will modify my proposal. Probably it would be the most expeditious way to resolve the problem.

I think it would be unfortunate to enact legislation and then later find that, after the commuters began to use the road, there were elements involved that had not been anticipated and have to shut the commuter traffic off.

So for that reason, and acting on the assurances given by the able Senator from Nevada (Mr. CANNON) that his committee will move expeditiously to attempt to resolve this problem with which he is sympathetic, I send to the desk a modification and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the modification.

The assistant legislative clerk read as follows:

On page 36, line 7, after the period, insert the following:

The Secretary of Transportation shall, within 90 days after enactment of this Act, complete its ongoing study of commuter access to the Dulles Airport Access Highway, and report its findings and recommendations to the appropriate committees of Congress.

The PRESIDING OFFICER. The Senator from Virginia modifies his amendment.

Is there further discussion?

Mr. BENTSEN. Mr. President, with the understanding of the colloquy the manager of the bill heard between the chairman of the Commerce Committee and the Senator from Virginia for the study to be made, the manager of the bill is prepared to accept the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. BENTSEN. Yes.

Mr. HARRY F. BYRD, JR. Yes.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Virginia, as modified.

So the amendment (UP No. 1674), as modified, was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Mr. Parker be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1675

(Purpose: To amend the discretionary bridge program)

Mr. ROTH. Mr. President, I call up my unprinted amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Delaware (Mr. ROTH) proposes unprinted amendment numbered 1675.

Mr. ROTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 53, between lines 15 and 16, insert the following:

(e) Notwithstanding the preceding provisions of this section, the Secretary, in making available the amounts authorized under this section, shall give priority to any otherwise eligible project in any State where:

(A) the State allocation of funds under the special bridge replacement and rehabilitation program of section 144 of title 23, United States Code, for the fiscal year in which project approval is requested does not exceed two-tenths of one per centum of the aggregate sum of the amounts authorized to be appropriated in the same fiscal year for the said special bridge replacement and rehabilitation program; and

(B) the total project cost for such project is an amount in excess of the product of the amount of such allocation for such year multiplied by five, but in no case in excess of $8,000,000.

The PRESIDING OFFICER. Is this the amendment on which the Senator from Delaware has a 1-hour time agreement?

Mr. ROTH. Yes, that is correct, But I do not expect it will take that long, Mr. President.

Mr. President, I have spoken to the distinguished chairman and ranking member concerning my amendment, and I appreciate the interest they have shown and the cooperation they have given in responding to the needs of States such as Delaware.

I am especially interested in how this legislation affects my own home State of Delaware. The $50 million discretionary bridge program established by section 140 of this bill addresses the needs of these States to be able to fund high-cost bridge projects which cannot be funded in a reasonable time under the regular bridge program.

However, Mr. President, the States with the smallest annual allocations under the regular bridge program, such as Delaware, are in a real bind when it comes to funding bridge replacement projects. The annual allocations of these small States are so small and so miniscule under the regular bridge program, that in no way can they even accumulate enough funds in a reasonable time to undertake moderate-cost projects, much less the large-scale projects contemplated by section 140 as now drafted.

For example, Delaware's annual allocation in fiscal 1978 was $216,481, or only 0.12 percent of the total $180 million available under the regular bridge program.

Under this formula as carried through in the bill now before us, Delaware would be unable to complete a moderate-cost, $5 million bridge replacement project in less than 9 years.

Mr. President, my amendment, simply stated, would require the Secretary of Transportation in making funds available under the discretionary bridge program to give priority to those otherwise eligible projects whose total project cost would exhaust at least 5 years of a State's annual allocations under the regular bridge program, but whose cost in no case would exceed $8 million. In addition, only projects in those States whose annual allocations under the regular bridge program do not exceed two-tenths of 1 percent of the total funds available annually nationwide would be eligible.

The $8 million ceiling placed on projects given priority under my amendment insures that the needs of States such as Delaware to be able to fund moderate-cost but high-traffic volume bridge projects over a reasonable period of time will not outweigh the needs of other States for larger projects whose costs exceed $8 million. For example, the Secretary of Transportation could fund a $5 million bridge project over a period of 2 years—$2.5 million each year—under the discretionary bridge program without significantly depleting the total $50 million available annually nationwide under the program.

Mr. President, I use the example of a $5 million bridge because my home State of Delaware and its half a million citizens are in just the bind I have spoken of over the replacement of a high-traffic-volume bridge of similar cost. The 93-year-old Augustine Bridge over the Brandywine River in Wilmington, Del. was closed to all traffic as unsafe on May 24, 1978, on the unanimous recommendation of structural engineers from the State of Delaware, the Federal Highway Administration, and Lehigh University.

The bridge, built by the B. & O. Railroad in 1885 and converted to public highway use in 1920, is nearly 1,000 feet long and 110 feet above the water, and carries average weekday traffic of 17,000 vehicles on a principal arterial route through the heart of the metropolitan commercial center of Wilmington, Del., the largest city in my home State. Mr. President, I ask unanimous consent that a description of Augustine Bridge prepared by bridge engineer R. C. McDowell in May 1978 be placed in the RECORD at this point in my remarks.

The Federal Highway Administration has given the Augustine Bridge the maximum sufficiency rating possible on its list of bridges with highest priority for replacement under the special bridge replacement program. The FHWA in 1977 estimated the replacement cost of the Augustine Bridge at $4 million. Now, after inflation, design costs, and the costs of complying with environmental and historic preservation requirements are factored in, Delaware officials advise me replacing the bridge will cost $5 million.

There is the rub, Mr. President—$5 million to replace a high-traffic-volume bridge of critical importance to the commercial and economic well-being of a metropolitan area of half a million people—in a State whose total annual allocation under the regular bridge program was only $216,000 in 1978 and will be only $631,000 under this legislation.

I believe the committee has intended the discretionary bridge program they have wisely added to this year's highway

bill to cover the needs of large States similar to the needs of small States which the Augustine Bridge exemplifies. I believe my amendment is fiscally sound and reinforces the priorities the Environment and Public Works Committee places on bridge replacement under this bill.

In closing my remarks, I would like to address a question to the distinguished Senator from Texas in connection with the Discretionary Bridge Program:

Is it not true that the Augustine Bridge as I have described it is the type of bridge the committee has in mind for eligibility under the Discretionary Bridge Program in section 140(a) of this bill, as an example of "high traffic volume bridges located on the non-interstate primary system which traverse major bodies of water"?

Mr. BENTSEN. That is correct. The Senator from Delware is correct in stating that that is the type of bridge the committee had in mind.

Mr. ROTH. I appreciate that answer, and I appreciate the interest that the members of the committee have taken in my problem.

At this time, I yield the floor.

Mr. STAFFORD. Mr. President, will the Senator from Delaware yield for a question or two?

Mr. ROTH. I am happy to yield.

Mr. STAFFORD. It is my understanding that this amendment at the present time, under current circumstances, will affect only the States of Alaska, Delaware, Hawaii, and Nevada. Am I correct in that understanding?

Mr. ROTH. The Senator is correct.

Mr. STAFFORD. Is there a cap of $8 million on any single bridge project that might be authorized under the Senator's amendment?

Mr. ROTH. Yes, there is a cap of $8 million on any project that would be considered.

Mr. STAFFORD. I thank the Senator for his responses.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, we are prepared to accept the amendment offered by the Senator from Delaware.

The PRESIDING OFFICER. Is all time yielded back?

Mr. ROTH. I yield back the remainder of my time.

Mr. BENTSEN. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ROTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROTH. Mr. President, I thank the distinguished Senator from Texas as well as the distinguished chairman of the committee, the Senator from West Virginia (Mr. RANDOLPH), and Senator STAFFORD for their consideration and acceptance of my amendment.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 3507

Mr. RANDOLPH. Mr. President, I call up amendment No. 3507.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. RANDOLPH), for himself and Mr. HUDDLESTON, Mr. MCGOVERN, Mr. BAYH, Mr. GRAVEL, Mr. FORD, Mr. MELCHER, Mr. PAUL G. HATFIELD, and Mr. HEINZ, proposes an amendment numbered 3507.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 58, line 8, insert the following:

ENERGY IMPACT ROAD REHABILITATION PROGRAM

SEC. 145. (a) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 157. Energy impact road rehabilitation program

"(a) A Governor with the concurrence of the Secretary of Transportation may designate an area or areas within his jurisdiction as an energy impact road area if the Governor finds that—

"(1) there is an existing energy resource development involving exploration, mining, or production of energy supplies;

"(2) a substantial amount of the energy produced in such development will not be consumed in the designated area;

"(3) without assistance under this provision there will be an immediate or long-range deterioration in the physical condition and safety of Federal-aid primary and secondary roads within the designated area.

The Governor shall consider any request or petition for such designation by elected officials of local governments in an affected area. The Secretary of Transportation may refuse to concur in any designation only where the Secretary finds that a requirement of this subsection is not satisfied.

"(b) The Secretary of Transportation may approve as a project on the Federal-aid primary or Federal-aid secondary system roads the repair of routes which have incurred a substantial increase in use and subsequent deterioration as a result of the transportation of coal, uranium, oil, and gas resources and related resource recovery and exploration equipment to meet national energy requirements and will continue to be used for such transportation. To be eligible for assistance under this section, projects shall be designed to enable such routes to accommodate the maximum vehicle weight allowed thereon by State law where appropriate and to permit subsequent maintenance at reasonable cost.

"(c) For the purpose of subsection (a) of this section, there is authorized to be appropriated, out of the Highway Trust Fund, not to exceed $100,000,000 for each of the fiscal years ending September 30, 1979 and September 30, 1980. Such funds shall be apportioned to the States in accordance with a fair and equitable formula developed by the Secr tary including, but not limited to, the respe tive mileage of such routes, number of mil traveled by vehicles transporting energy r sources and related equipment, and to production of energy supplies.

"(d) All of the provisions of this chapt applicable to the Federal-aid secondary sy tem shall apply to projects approved und subsection (a) for this section, except pr visions relating to the apportionment fo mula and provisions limiting expenditure funds to routes located on such Federal-a system. The Federal share payable on accou of any such project shall not exceed 70 p centum of the cost thereof.

"(e) Each agreement executed for a proje approved under subsection (a) of this se tion pursuant to section 110 of this title sha provide for State enforcement of applicab vehicle weight limitation to the satisfacti of the Secretary in accordance with sectio 141 of title 23, United States Code.".

(b) The analysis of chapter 1 of title 23 the United States Code is amended by addin at the end thereof the following:

"157. Energy impact road rehabilitatio program.".

Mr. STAFFORD. Mr. President, w the Senator yield for a unanimou consent request?

Mr. RANDOLPH. I yield.

Mr. STAFFORD. Mr. President, I a unanimous consent that Malcolm Ste rett, Cindy Douglass, and Ronald John son of the Commerce Committee mino ity staff be granted the privilege of t floor during the debate and votes o S. 3073, the Federal aid to highways bi

The PRESIDING OFFICER. Witho objection, it is so ordered.

Mr. RANDOLPH. Mr. President, th able Senator from Kentucky (Mr. HU DLESTON) is unable to be present toda But in his absence and with his unde standing, I wish to offer an amendmen of which I am a cosponsor, which w have his further attention on Mond when we return to the completion of th pending measure. This proposal wou establish an energy impact road r habilitation program.

Too often in past years, in formula ing or attempting to formulate a n tional policy on energy, we have tende to neglect the crucial question of ho our energy resources are to be tran ported from the area of production the areas of consumption.

This problem has been studied exte sively. Section 153 of the Federal-A Highway Act of 1976 required the Se retary of Transportation to report to th Congress by May of 1977 on the need fo special Federal assistance for constru tion or reconstruction of on-syste highways necessary to promote the sol tion of the Nation's energy problem This long-delayed report, entitle "Highway Needs To Solve Energy Pro lems," arrived only this week.

Yet another Department of Transpo tation study was released in January this year. That study, entitled "Tran porting the Nation's Coal—A Prelimi nary Assessment," recommended tha and I quote:

Immediate consideration be given to th establishment of a coal roads and highwa program to assure that near-term highw transportation problems will not seriou hamper coal production.

While the Congress has awaited these studies, the road and highway networks in those areas where energy resources are produced or extracted have continued to deteriorate. The increased volume of energy-related traffic on roads not designed for such traffic together with often lax enforcement of State vehicle weight limitation laws are responsible for this deterioration. The time for action is now.

The magnitude of need in this area is staggering. The effort to meet the projected increase in energy production, primarily in coal, as called for in the President's energy plan, will place unprecedented demands on our highway system. For example, our State of West Virginia, with its vast coal reserves, has the energy producing potential of the equivalent of 246 billion barrels of oil.

In fact, in the Appalachian region of 13 States, eight of those States produce about 64 percent of all the coal that is mined in this country.

For some 6 or 7 weeks we have had a shutdown of the Norfolk & Western Railway, perhaps, with one other rail carrier, the most important carrier of coal in the United States of America. Very few people know that that coal is not moving over the rail system. That is another reason why we must think in terms of the mobility of energy products, notably coal, over not rail but over the highway network.

The amendment we offer today is specifically designed to address these problems of roadway reconstruction. It is entirely consistent with the emphasis of S. 3073 on highway rehabilitation and repair. While it is true that we must protect the massive Federal investment in our Nation's roads and highways, this notion applies with even greater force when those roads and highways are vital links in meeting our national energy needs. Delay on this issue can only result in the creation of serious bottlenecks in energy deliveries to the Nation's consumers.

I note that the able Senator from Florida (Mr. CHILES) is in the chair. In connection with the conversion of powerplants from natural gas and petroleum to the use of coal, I point out that in his State is located the Florida Power & Light Co.

Mr. STONE. Mr. President, will the Senator yield for a unanimous consent request?

Mr. RANDOLPH. I yield.

Mr. STONE. I thank the distinguished Senator from West Virginia.

Mr. President, I ask unanimous consent that Bruce Rowen of my staff, be accorded the privilege of the floor during debate and votes on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STONE. I thank the Senator.

Mr. RANDOLPH. That one utility, the Florida Power & Light Co. is committing $3.3 million annually for the purchase of coal for the generation of electricity. It is this very increase in the demand for coal which necessitates the adoption of the measure before us.

Our amendment, the amendment of Senator HUDDLESTON, myself, and others empowers a State Governor, with the concurrence of the Secretary of Transportation, to designate as an energy impact road area those regions where there is ongoing energy resource development which will result in a substantial amount of energy being transported to consumers outside the area, provided that without assistance under this program, immediate or long-range deterioration in the area's primary and secondary system roads would result. Eligibility for assistance would be restricted to projects located on these Federal-aid systems, and assistance would be provided for 70 percent of project cost.

I believe, along with many of my colleagues, that if a State is not required to finance a significant portion of project cost, frivolous projects may result. The ratio of 70 to 30 addresses this concern.

An even stronger assurance of responsibility is provided by the requirement that the State commit itself to enforce applicable vehicle weight limitations to the satisfaction of the Secretary. Without that commitment, the requirement that projects be designed to enable routes to accommodate the heaviest traffic allowed by State law and to permit subsequent maintenance at reasonable cost would be meaningless. Further, this State commitment to enforce vehicle weight limitations to the Secretary's satisfaction is consistent with the amendment to section 141 of title 23, United States Code, contained in section 126 of S. 3073.

Finally, the amendment authorizes $100 million for each of fiscal years 1979 and 1980. At a time when the revenues available to the highway trust fund are limited, we must carefully examine the need for substantial increases in authorization for existing programs as well as for significant authorizations for new programs.

I submit that the need for this new program has been firmly established. The most recent Department of Transportation study, "Highway Needs To Solve Energy Problems," cites a $4.1 billion backlog in energy related highway needs. This figure is exclusive of the normally accruing needs through 1985, the period of the greatest projected increase in coal production. The study recommends that in the short term these needs be addressed by the Federal-aid highway program, especially for those roads on the primary and secondary systems.

(Mr. SASSER assumed the chair.)

Mr. RANDOLPH. It is clear that the need for this program is thoroughly documented and well-established, as is the need for a significant increase in funding provided for the special bridge program in S. 3073.

While I have supported the effort to restrict highway spending to responsible levels, as the able Senator from Texas has continued to emphasize, I think there are some matters that are important to the Nation and to our people, and this justifies increased expenditures in some categories.

So let us not forget the people of the energy-producing regions. It is those men, women, and children who inhabit these regions, who have their livelihood there, whose children are educated there and who, as good citizens, take part in the community life of the area.

With the energy consumers at the other end, away from the production line, everyone in this country will benefit. These energy-impacted roads are their lifeline to the rest of the world.

When the Middle East embargo came with a shocking impact in 1973, it was not something that took months and months to have its impact dawn upon the consciousness of the American people. They found almost overnight that the flow of petroleum in the form of gasoline was not available for the cars they used to go to and from their work.

So often we are acting in this country after the fact rather than before, not anticipating what we need to do ahead of time.

I have said this before, and I repeat, we have spent $12.5 billion of taxpayers' money in this country merely to store petroleum as a partial hedge against another Middle East embargo. Had we worked before the fact and realized the independence which we could achieve in this country through synthetic fuels, we might have avoided a serious fuel shortage.

These roads of which I speak carry not only coal but other industrial goods to and from these regions.

These roads are in an almost shocking, a tragic state of disrepair. This is something that I cannot overemphasize as I conclude these remarks.

Mr. EAGLETON. Mr. President——

The PRESIDING OFFICER. Who yields time?

Mr. EAGLETON. Mr. President, I have an amendment.

The PRESIDING OFFICER. There is an amendment pending.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the pending amendment be temporarily put aside, and that the Senator from Missouri may proceed with his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1676

(Purpose: To allow the Secretary to reallocate funds not expended)

Mr. EAGLETON. Mr. President, for myself and Senator DANFORTH, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON), for himself and Mr. DANFORTH, proposes an unprinted amendment numbered 1676.

Mr. EAGLETON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 22, line 19, insert the following: "(a)" after "SEC. 118." and by adding on page 23, after line 16 the following:

(b) Section 118(b) of title 23 is further amended by adding after the first sentence the following:

The Secretary at any time thereafter may make available sums apportioned under section 104(b)(6) and not obligated within the time period preserved by the preceding sentence to any other state applying for such funds for the Urban System, if the Secretary determines that the applicant is willing and able to (1) obligate the funds within one year of the date the funds are made available; (2) apply them to a ready-to-commence project; and (3) for construction work, begin work within ninety days of obligation. Any funds allocated pursuant to the preceding sentence and not used by a State in accordance with the requirements of this subsection shall be available for reallocation by the Secretary in accordance with the preceding sentence.

Mr. EAGLETON. Mr. President, the purpose of this amendment is to give the Secretary of Transportation authority to reallocate unused urban highway moneys. It would create a discretionary power similar to that which the Secretary already has with regard to interstate highway moneys.

According to the Federal Highway Administration, more than $27 million in Federal-aid urban system funds are about to lapse and be lost to the program simply because States and communities to which they were allocated under formula grant were unable to obligate them. Under present law, those moneys would be returned to the trust fund. Under my amendment the Secretary would be able to make those funds available to communities further along in their urban highway programs.

In my own State of Missouri, there is a significant backlog of urban highway projects owing to the lack of Federal funds. The Kansas City, Mo., area has estimated that it has over $13 million worth of priority urban projects which have had to be deferred because of insufficient Federal support. Similar situations exist in the St. Louis area and I am sure a great number of other urban areas throughout the country.

Given the necd that exists, it makes no sense to have unused urban highway money sent back to the Treasury. The Secretary ought to have flexibility to reprogram this money, and that is all my amendment does. It simply gives him a tool to carry out a rational plan for meeting urban highway needs.

Mr. President, I have talked with the distinguished floor manager about this amendment. I am grateful to the committee for their help in drafting it. I am hopeful that it may be accepted.

Mr. BENTSEN. Mr. President, as manager for the majority, I have no objection to the amendment. I defer to the manager for the minority for his comments.

Mr. CHAFEE. Mr. President, on behalf of the minority, we concur in the amendment. I think it is a good one, and we give it our support.

Mr. EAGLETON. Mr. President, I thank my colleagues, the Senator from Texas and the Senator from Rhode Island.

Mr. BENTSEN. Mr. President, I yield back the remainder of my time, subject to the proponent yielding his.

Mr. EAGLETON. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment (UP No. 1676) of the Senator from Missouri.

The amendment was agreed to.

Mr. BENTSEN. Mr. President, I ask unanimous consent that Mr. Mike Harvey of the staff of the Committee on Energy and Natural Resources be given the privilege of the floor during the debate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1677

(Purpose: To clarify policies relating to the accommodation of utilities on highway rights-of-way)

Mr. BENTSEN. Mr. President, I send to the desk an amendment on behalf of Senators HUMPHREY and ANDERSON, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN) proposes and unprinted amendment, on behalf of Mrs. HUMPHREY and Mr. ANDERSON, numbered 1677.

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, the amendment offered by the Senator from West Virginia will continue to be set aside.

Without objection, further reading of the amendment is dispensed with.

The amendment is as follows:

At the end of the bill insert a new section as follows:

UTILITIES ON RIGHTS-OF-WAY

SEC. 146. Section 109 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(l)(1) In determining whether any right-of-way on any Federal-aid system should be used for accommodating any utility facility, the Secretary shall—

"(A) evaluate the direct and indirect environmental and economic effects of any loss of productive agricultural land or any impairment of the productivity of any agricultural land which would result from the disapproval of the use of such right-of-way for the accommodation of such utility facility; and

"(B) consider such environmental and economic effects together with any interference with or impairment of the use of the highway in such right-of-way which would result from the use of such right-of-way for the accommodation of such utility facility.

"(2) For the purpose of this subsection—

"(A) the term 'utility facility' means any privately, publicly, or cooperatively owned line, facility, or system for producing, transmitting, or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, or any other similar commodity, including an fire or police signal system or street light ing system, which directly or indirectly serve the public; and

"(B) the term 'right-of-way' means an real property, or interest therein, acquired dedicated, or reserved for the construction operation, and maintenance of a highway."

Mr. BENTSEN. Mr. President, thi amendment which I am offering on be half of Senator HUMPHREY and Senato ANDERSON simply clarifies Federal poli cies relating to the accommodation o utilities on Federal-aid highway rights of-way.

Mr. President, American agriculture i the economic backbone of our Nation The toil of our farmers and the produc tivity of our farms has to a large exten made our great bounty possible.

Therefore, Mr. President, whenever Federal policies interfere with our farm community's ability to provide for ou citizens, the policies ought to be closely examined. A case in point is the Federa policy of discouraging accommodation of utility facilities, such as powerlines along Federal-aid highways. There are good reasons for the present policy. Safe ty, environmental, and esthetic consid erations all play a part in the curren policy. However, as a result of the policy the only alternative often available t persons responsible for planning th siting of utility powerlines is to us productive farmland.

This amendment would help remedy this situation by allowing the Secretary of Transportation to weigh the detri mental effect on productive agricultura land likely to result if utility facilitie are not sited along a Federal-aid high way right-of-way. The bill does nothing to impair the Secretary's consideration of other factors relating to highway ac commodation of utility facilities such a issues relating to safety and traffic flow Rather, the intent and effect is merely to give Federal highway officials the legislative authority to consider the in terests of the farmer and the impairment of his ability to provide for us all, if his land, and not the highway rights-of-way, is used to site utility facilities.

Mr. President, the necessity of constructing future powerplants and future powerlines is a fact of life for energy consuming America. Even if the most optimistic conservation forecasts come true, our energy demands will continue to grow. If Congress does not act to give the Federal Highway Administration some leeway in the accommodation of utility facilities along Federal highway rights-of-way, more and more productive agricultural land will be lost and the farmers' ability to produce that all-important energy source, food, will be increasingly impaired.

Mr. President, this amendment will be a useful addition to Federal policy and I urge my colleagues to give it their support.

Mr. President, the manager for the majority believes this amendment will be helpful and I am prepared to accept the amendment.

Mr. CHAFEE. Mr. President, this amendment is a good one. On behalf of

the minority we, too, will accept it. I ask for engineering studies of Aall-

the minority we, too, will accept it. I yield back any remaining time.

Mr. BENTSEN. I yield back the remainder of my time and urge adoption of the amendment.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1678

(Purpose: To permit a State or local government to use its Federal-aid funds, except funds for the Interstate System, to study a privately-owned toll bridge as necessary to determine whether the facility should be acquired by a public body)

Mr. DANFORTH. Mr. President, I send an amendment to the desk and ask for it immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH), for himself and Mr. EAGLETON, proposes an unprinted amendment numbered 1678.

On page 29 after line 19 insert the following new section and renumber the succeeding sections accordingly:

TOLL BRIDGES

SEC. 123. Section 129 of title 23, United States Code, is amended by adding a new subsection (i) as follows:

"(i) Notwithstanding section 301 of this title, the Secretary may permit Federal participation, through funds for any Federal-aid system other than the Interstate System, in any engineering and fiscal assessments, traffic analyses, network studies, preliminary modification planning, and any other study necessary to determine whether a privately owned toll bridge should be acquired by a state or political subdivision thereof."

Mr. DANFORTH. Mr. President, the purpose of this amendment is to permit a State or local government to use its Federal aid funds, except funds for the Interstate System, to study a privately owned toll bridge as necessary to determine whether the facility should be acquired by a public body. This amendment is offered on behalf of myself and Senator EAGLETON. It concerns a serious traffic problem which currently exists on the Mississippi River bridges in the St. Louis area between the State of Missouri and the State of Illinois. Various units of government are considering the possible rehabilitation of Eads Bridge, which is a very old toll bridge over the Mississippi, to help alleviate this problem.

Such rehabilitation would be very costly, yet under a provision of existing law Federal highway funds are not available for this purpose unless the bridge is publicly owned. Eads Bridge is owned by the Terminal Railroad Association, a private company. Therefore, before Federal funds could be available, Eads Bridge would have to be purchased by a public entity. No purchase will take place, however, unless an engineering study is conducted as to the feasibility of Eads' rehabilitation.

An engineering study of Eads would also be expensive. Therefore, the local governments need the financial help of Federal highway funds. Unfortunately under the same provision of law already referred to, Federal funds are not available for engineering studies of toll bridges unless the toll bridges are publicly owned.

At the present time, Poplar Street Bridge carries most of the traffic between the city of St. Louis and Illinois.

Poplar Street Bridge is a multilane, toll-free structure opened in 1967. Poplar serves as a Mississippi River crossing for three interstate highways.

Traffic on Poplar has already exceeded projections for 1990. On the other hand, four other bridges on the St. Louis waterfront are underutilized. They include: Eads, McKinley, Douglas MacArthur, and Martin Luther King. Tolls are charged on Eads, McKinley and King. None of the four bridges is currently part of the Federal-aid system.

St. Louis groups have sought Federal funds for a series of studies—and I am told they are very expensive studies—to determine if and how any of the existing underutilized structures could be used to relieve Poplar by attracting local traffic.

Existing Federal law provides that Federal money is available for bridge rehabilitation and related engineering studies only in the form of aid for one of the Federal-aid highway systems. The bridge replacement program provides money only for replacement, not rehabilitation. The new highway legislation would remove that limitation, but because the four St. Louis area bridges are not State-owned, there is no guarantee that money would actually be made available by Missouri or Illinois. A more certain source, therefore, is the apportionment for the Federal-aid urban system.

As I have already stated, with respect to one of the bridges, Eads, there is in current law an obstacle to Federal aid. 23 U.S.C. 129, 301 require as a condition of Federal aid with respect to toll bridges that such bridges be publicly owned.

My amendment would permit a State or local government to use its Federal-aid funds, other than for the Interstate System, to study a privately owned toll bridge as necessary to determine whether the facility should be acquired by a public entity. No money would be available for repair or replacement of such privately owned facility.

Although my reason for offering this amendment is related to a particular problem in St. Louis, the amendment is drafted generally because I believe that St. Louis cannot be the only area where a privately owned bridge that is inadequately maintained might be of significant value to such area if acquired by a public entity and then rehabilitated. Before a State or local government can decide whether or not to acquire a privately owned bridge, expensive engineering studies will often be necessary. I believe Federal-aid funds should be available for such purposes.

I believe my amendment is acceptable to the distinguished floor managers of the bill.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. Mr. President, the Senator has how much time on his amendment, evenly divided?

The PRESIDING OFFICER. Thirty minutes, evenly divided.

Mr. CHAFEE. I shall take the time on the other side, if I might.

Mr. President, this amendment by the Senator from Missouri seems to me to be a fine amendment. As I understand it, the Secretary must give his permission before such funds can be used for a study of a nonpublic bridge; that is, for a privately owned toll bridge.

Mr. DANFORTH. That is correct.

Mr. CHAFEE. Furthermore, the funds that would be used by the State of Missouri in this instance would come out of the funds that the State of Missouri has already received from the Federal Government. In other words, this is not extra money?

Mr. DANFORTH. It is not extra money, that is correct.

Mr. CHAFEE. That is my understanding of it.

Certainly, we have no objection on this side to the amendment, Mr. President.

Mr. BENTSEN. Mr. President, I have examined the amendment and discussed it with staff and with the Senator from Missouri. It appears to be a meritorius amendment. I am pleased to accept it on behalf of the majority.

I yield back the remainder of my time, subject to the proponent's yielding back his.

Mr. EAGLETON. Mr. President, I support Senator DANFORTH's amendment providing for a St. Louis bridge acquisition study.

In St. Louis, we have a very critical problem with Mississippi River crossings. One bridge, the Poplar Street Bridge, carries traffic for four interstate highways, two U.S. routes, and the bulk of local traffic between downtown St. Louis and Illinois. The bridge has exceeded its design capacity, and an alternate structure is needed.

There are four currently existing bridges in the area which could be better utilized. Local jurisdictions, in cooperation with the Missouri and Illinois highway departments, have funded a $22,000 network study to determine how traffic patterns can be altered to better utilize these bridges. There is a good possibility that a feasible plan will be developed; however, one of the bridges that could well be the best alternative, the historic Eads Bridge, is ineligible for Federal urban system funds because it is owned privately. The other bridges under review would be eligible under existing law, provided that certain agreements are entered into to retire the tolls, for further Federal study money. This amendment would simply permit Federal funds to be used to determine if it is in the public interest to acquire the Eads Bridge. I urge approval of Senator DANFORTH's amendment.

Mr. DANFORTH. I yield back any time I have.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1679

(Purpose: To relieve States of the obligation to repay monies disbursed for withdrawn Interstate Highway routes)

Mr. JAVITS. Mr. President, I send an amendment to the desk for myself and Mr. MOYNIHAN and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) for himself and Mr. MOYNIHAN proposes unprinted amendment numbered 1679.

On page 12, strike lines 6 through 10, and insert in lieu thereof:

(3) Strike out the last sentence of such paragraph and insert in lieu thereof the following: "After the date of enactment of this sentence the Secretary may not redesignate any mileage as part of the Interstate System as a consequence of any withdrawal made pursuant to this paragraph.

On page 11, line 2, insert (a) after Sec. 107 and on page 12 between lines 10 and 11 insert the following new subsection:

(b) Section 103(e) of title 23, United States Code, is amended as follows:

(1) Redesignate paragraph (5) as paragraph (6); and

(2) Insert after paragraph (4) the following new paragraph:

"(5) Notwithstanding any other provision of law—

"(A) Upon the withdrawal of approval of any route or portion thereof on the Interstate System under this section, a State, subject to the approval of the Secretary, shall not be required to refund to the Highway Trust Fund any sums paid to the State for intangible cost.

"(B) refund will not be required for the costs of rights-of-way or construction and materials, provided that the obligation to pay the costs of such construction and materials has been incurred prior to the enactment of this paragraph, of the withdrawn route or portion of the Interstate System which will be or have been applied (i) to a transportation project permissible under this title, (ii) to a public conservation or public recreation purpose, or (iii) to such other purpose as may be determined by the Secretary to be in the public interest: *Provided*, That the State shall make assurances satisfactory to the Secretary that such construction items or materials or rights-of-way have been or will be so applied by the State or any political subdivision thereof to a project under clause (i), (ii), or (iii) within 10 years from the date of the withdrawal of approval; and

"(C) sums due the State from the Highway Trust Fund which the State has paid or is legally obligated or otherwise committed to pay on the date of the withdrawal of the approval and which are attributable to such nonrefundable cost items shall be paid promptly to the State upon the enactment of this paragraph or the incurrence of such costs, whichever last occurs.".

(3) The amendment made by paragraphs (1) and (2) of this subsection shall apply to any withdrawal of approval before, on, or after the date of the enactment of this subsection.

Mr. JAVITS. Mr. President, this amendment would relieve the States of the responsibility or repaying funds paid from the trust fund for interstate highways where the property has been withdrawn from construction and the State proposes to use the land in question for another public purpose, such as parks or housing or the supplies and equipment for another public project, subject, under the criteria of the amendment, to the discretion of the Secretary.

The amendment has also been revised after consulting with the professional staff of the committee to provide that, as to materials—let me read that proviso, because I think it is very important:

provided that the obligation to pay the costs of such construction and materials has been incurred prior to the enactment of this paragraph.

And so on.

Mr. President, we have a letter from the Secretary of the Interior which was addressed to a similar amendment to be made in the other body by Congressman WYCHE FOWLER, which approves of this effort. I think it makes a point which is critical and which I hope will commend the amendment to the managers of the bill. I read from this letter, which is dated August 9 and addressed to Brock Adams, the Secretary of Transportation. It reads as follows:

As you may know, the Department of the Interior completed its National Urban Recreation Study earlier this year. Mr. Fowler's amendment and your recent policy directive provide an opportunity to directly respond to some of the recommendations of this study. As pointed out in the study, the greatest urban recreation deficiencies for land and facilities exist in the inner cores of the Nation's largest cities. It is precisely in these areas that the abandoned interstate segments lie. Implementation of these provisions would permit the transfer of these properties to other Federal agencies, States, and localities at no cost. To attempt to duplicate a similar effort through land acquisition today would be prohibitive due to the costs involved.

It seems to me, Mr. President, that that gives a very strong endorsement to and rationale for the amendment which is proposed by Senator MOYNIHAN and myself.

My amendment would add little cost to the Federal Treasury for, with few exceptions, the moneys have already been disbursed from the trust fund. The additional cost is small when compared to the benefits to be derived from utilization of lands for worthy public projects.

The Department of Transportation recently proposed regulations to implement such a program. However, the statutory basis for such regulations is vague. It is for that reason that we have offered the amendment, in order to deal with the possibility that legal challenges could tie up the program indefinitely rather than facilitate it by working in concert with the administration to achieve this important goal.

I hope very much, Mr. President, that the managers of the bill may find this amendment acceptable in its redrafted form.

Mr. BENTSEN. I think there is merit in the proposal of the Senator from New York. I would like to ask him a few questions to clarify the way in which the amendment would operate.

First, as I understand it, the Secretary of Transportation is given the authority to disapprove a request from a State for waiver of the refund. He would disapprove the request if the proposed use of the property was not for a transportation project or project he determined to be in the public interest. In any event, if the State sold the property, the Federal Government would recoup the same percentage share of the proceeds as the share it provided for acquisition of the property. Is this correct?

Mr. JAVITS. That is correct.

Mr. BENTSEN. The Secretary of Transportation has proposed regulations on the use and disposition of property in cases such as your amendment addresses. The proposals prohibit the Secretary from approving reuse of property where State laws have not been observed or where the property will be used as part of the State or local matching share for a Federal program. Do you agree these limitations on reuse are appropriate?

Mr. JAVITS. Yes.

Mr. BENTSEN. Do you agree that a State should assure the Secretary that all Federal requirements for the relocation assistance will be observed in the reuse of the property?

Mr. JAVITS. I certainly do.

Mr. BENTSEN. I note that your amendment applies to withdrawals already made and to those which may be approved after enactment. Is it correct to say that your proposal will not affect any case in which a State has already made a refund to the Federal Government?

Mr. JAVITS. I do not intend my amendment to reopen previously closed projects and would answer that the Senator's interpretation is correct.

Mr. BENTSEN. In addition to that, there is some question about the authority of the Secretary to issue the regulations, and this would buttress the authority.

Mr. JAVITS. Exactly. It would make it clear that that is what we want.

Mr. BENTSEN. The manager of the bill for the majority has no objection and will be willing to accept it in behalf of the majority.

I defer to the manager for the minority.

Mr. CHAFEE. Mr. President, on originally looking at this, one gets the impression that it is using Federal funds for purposes other than highways, of which the Federal Government has paid 90 percent, then the local community or the State has changed its mind and the Federal Government has lost its 90 percent. However, when one takes the next step and sees that under this measure, the land which has been condemned or the construction that has taken place can only be used for very limited purposes; namely, for a transportation project or for a public conservation or public recreation purpose or such other purposes as may be determined by the Secretary to be within the public interest, it does seem that it is in the best interest of the Nation to do this.

In other words, I do not think we ought to encourage States to plunge ahead with highway programs when, indeed, they do not want them and they are not necessary and they might have substituted mass transit, or some other form of transportation, in lieu thereof.

So I think it is a good amendment. I commend the Senator from New York for bringing it up. I certainly support it.

Mr. JAVITS. I thank my colleague.

Mr. President, I yield back the remainder of my time.

Mr. BENTSEN. I yield back the remainder of my time and suggest adoption of the amendment.

The PRESIDING OFFICER. All time has been yielded back. The ques-

tion is on agreeing to the amendment

tion is on agreeing to the amendment of the Senator from New York.

So the amendment (UP No. 1679) was agreed to.

Mr. JAVITS. Mr. President, I wish to thank the managers of the bill very much.

The PRESIDING OFFICER. Who yields time?

Mr. GRAVEL. I am prepared to go ahead with some of my amendments if the managers of the bill will accommodate me.

UP AMENDMENT NO. 1680

(Purpose: To authorize for a five-year period the transportation within the State of Alaska of passengers and merchandise in foreign-built hovercraft)

Mr. GRAVEL. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. GRAVEL) proposes unprinted amendment numbered 1680.

Mr. GRAVEL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is as follows:

At the end of the bill insert a new section as follows:

Sec. 146. (a) Effective during the five year period beginning on the date of enactment of this Act, nothing in section 27 of the Merchant Marine Act, 1920, or any other provision of law restricting the coastwise trade to vessels of the United States shall prohibit the transportation within the State of Alaska of merchandise or passengers by foreign built hovercraft.

(b) For the purpose of this section the term "hovercraft" means a vehicle which travels over land or water on a cushion of air generated by such vehicle.

Mr. GRAVEL. Mr. President, I am offering an amendment which authorizes the use of foreign-built hovercraft within the State of Alaska for the purpose of transporting passengers or merchandise.

A hovercraft is an extremely unique vehicle of which most U.S. citizens are unfamiliar. It was invented in Britain, and the technology has mainly been developed there. The vehicle can travel over land, water, and even ice and is supported by a cushion of air trapped beneath the vehicle through the use of a flexible skirt. The usual means of propulsion is through an air propeller, powered by a gas or turbine engine.

Hovercraft are especially well suited to Alaskan terrain. They can span ice-clogged rivers, marshlands, and delicate tundra with only a minimum of ecological damage. No friction is established with the surface over which they are traveling since the vehicle rides on a cushion of air.

The all-weather capability of hovercraft also makes it especially appealing to my State. So many areas of Alaska are inaccessible by the usual modes of transportation for a large part of the year due to the harsh climate. The hovercraft is not slowed down when the rivers are frozen over in winter. They are unaffected by the storms and wind which can ground air traffic. For this reason, Alaska hopes to be able to employ them in a search-and-rescue capacity when such emergencies arise. While other vehicles are grounded, the hovercraft can be in full operation.

Since 1886, transportation of passengers in foreign vessels between points in the United States has been forbidden. In 1920, foreign-built vessels were prohibited from engaging in the carriage of merchandise between U.S. points. These provisions, commonly referred to as the Jones Act, were enacted for the protection of the U.S. shipbuilding industry and maritime trade. Currently hovercraft are subject to the requirements, although a domestic hovercraft industry has not yet developed.

In 1969, the Treasury Department issued a ruling classifying hovercraft as "vessels" when operating over water. Thus, hovercraft are subject to the Jones Act. However, until a U.S. market is demonstrated, a domestic industry will never be realized. For this reason, I am requesting a 5-year waiver from the Jones Act for the use of foreign-built hovercraft in Alaska. The State legislature has already appropriated funds for a hovercraft demonstration project, of which the main purpose is to determine the economic viability of such craft. One million dollars was also set aside under the urban mass transportation administration's fiscal year 1979 authorization for the program.

Hovercraft, also known as air-cushion vehicles, are actually more closely tied to aerospace technology than to the maritime industry. They are powered by aviation equipment and built to aviation standards. Aircraft manufacturers, such as Boeing and Bell Aerospace, have been involved with development of the technology. Hovercraft actually serve to complement shipping when used for lighterage purposes. They can reach inland areas where boats cannot travel and are best suited for short-range high-speed transport. Hovercraft are not very adaptable to the high winds of the open seas and prefer sheltered areas as the best environment for operation.

The Seafarers International Union has been consulted regarding this amendment and is in support of a 5-year waiver for Alaska. They are also hopeful that with a hovercraft demonstration project in Alaska, the craft can be shown to be economically viable and, thus, appealing to even more areas of the country.

Introduction of this technology into not only Alaska, but elsewhere in the United States is an exciting prospect. My amendment will encourage the development of a domestic hovercraft industry through the demonstration of a market within the United States.

To recount, Mr. President, is very simple. Right now, nobody is doing this in the United States. If we can create a viable economic market, Boeing would get involved, Bell would get some manufacturing. It could serve areas not only in Alaska because we are suggesting that rather than putting roads in, the Yukon and other rivers could be our roads. We would not have to pave any roads.

Puget Sound would open to rapid transit because some of these go 50 miles an hour.

They are already using this from Great Britain to France. The gulf coast and east coast of the United States, Puget Sound, all of these could use them.

We just have to bring about the feasibility. Alaska has put up some money. There are Federal authorizations to this. We need the waiver and the unions involved are prepared.

Mr. BENTSEN. The Senator is really asking for a waiver from the Jones Act for hovercraft, a craft which is quite a departure from a normal naval vessel. It is probably more airplane than it is a ship.

Mr. GRAVEL. No question.

Mr. BENTSEN. I think the Senator has made a very good case. I, as manager for the majority, would be willing to accept it, subject to the comments of the manager for the minority.

Mr. CHAFEE. I have had some experience with hovercraft and can testify that they do just what the Senator from Alaska has pointed out. The ones I have ridden on have been British-made.

Although the U.S. Navy was experimenting with some craft domestically made, I take it they do not have those in production and, indeed, have gotten a little bit discouraged with them.

So, I would support the amendment of the Senator from Alaska.

Mr. GRAVEL. I was instrumental in getting two hovercraft to Alaska during the construction of the pipeline. They did have a lot of problems with respect to the skirts freezing up. We had a big one, during construction of the pipeline, for a bridge across the Yukon River.

They used the hovercraft to ferry it back and forth. It just needs more work on the technology and experience on what is involved.

I think that eventually we will go ahead in this whole area.

I appreciate the concern of my colleagues. I would not anticipate any difficulties in conference. One never knows, but I hope we will try the best we can.

Mr. BENTSEN. Mr. President, I am prepared to yield back the remainder of my time, and I urge adoption of the amendment.

Mr. GRAVEL. Does the Senator from Arizona wish me to yield any time?

Mr. GOLDWATER. I was not going to address myself to this subject.

Mr. BENTSEN. Perhaps we could dispose of this matter first.

Mr. GOLDWATER. In today's Journal of Commerce is a very interesting article on the Finn jet, which tells how the Finnish Government is making money out of this same kind of transportation.

I have piloted the Boeing craft like this, and I think there is a real market for it. In fact, Japan is the best customer going for it.

Mr. GRAVEL. I thank my colleague.

I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. MATSUNAGA). All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BENTSEN. Mr. President, I ask

unanimous consent that the Senator from Arizona be allowed to speak for 2 minutes on a nongermane subject.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

The Senator from Arizona is recognized for 2 minutes.

Mr. GOLDWATER. I thank the Senator from Texas.

VETO OF THE MILITARY PROCUREMENT AUTHORIZATION BILL

Mr. GOLDWATER. Mr. President, I had hoped to make this announcement yesterday, but I could not get the floor.

I approve of the President's veto of the military authorization bill because it contains a little more than $2 billion for a nuclear powered aircraft carrier.

We do not need another large carrier, in my opinion. What the Navy needs is more ships of the fleet, ships of the line.

I was glad to hear the President say that the money that would be saved from this nuclear carrier would not be counted as money saved but would be spent for weapons for all the services.

Mr. President, it was saddening to watch the operations of some of the subcommittees of the Appropriations Committee as they began to cut aircraft out of all the services—the Navy, the Army, and the Air Force—such as F-16's, A-10's, A-14's, AWACS, and cutting tanks out of the Army, all for justification to spend this money on an aircraft carrier that most strategic thinkers believe we can exist without.

I would hope that we could spend this money to strengthen the Navy.

Mr. President, a very peculiar commentary: Every President this country has had since Herbert Hoover, except two, has been a member of the Navy, and those two were Harry Truman and Dwight Eisenhower. All of them were Navy. Yet, the Navy is probably in worse shape today, from an inventory standpoint, than it ever has been.

I backed the President's decision to veto this bill, and I will work my hardest on the floor to see that this veto is sustained. I congratulate him for having done this.

Again, I thank my friend from Texas for his kindness and his courtesy in yielding.

FEDERAL-AID HIGHWAY ACT OF 1978

The Senate continued with the consideration of the bill.

Mr. GRAVEL. Mr. President, if I could engage the managers of the bill in a brief colloquy, we might be able to save a good deal of time.

The PRESIDING OFFICER. Does the Texas Senator yield to the Senator from Alaska?

Mr. GRAVEL. Will the Senator yield me 1 minute?

Mr. BENTSEN. I yield.

Mr. GRAVEL. If I could have the attention of the Senator from Rhode Island, also, since he will be passing judgment on this, I would appreciate it.

I have an amendment which is supported by Senator STEVENS, and I will be working with him on it. I do not know that the managers of the bill would have any difficulty with it. It is nothing that would cost money. It is to permit greater flexibility for the use of highway funds within the State of Alaska.

We have a community that you cannot get to by air or by road. You can get to it only by railroad through a tunnel. The ferry system comes into that and carries vehicles, the vehicles are put on a train, and the train takes them to Anchorage.

We would rather leave the vehicles off on the other side of the tunnel and maybe in some cases actually build a highway inside the tunnel, so that normal vehicles could ride in the tunnel, since it is only used twice a day.

We in Alaska pioneered the use of highways funds for ferries where you have no highways. This certainly has not impaired the health of the highway system in the Nation.

All this amendment does is to ask for greater flexibility because of the unique situation we have, and there may be other unique situations in other parts of the country.

I hope the managers of the bill will accept the amendment. If not, I will wait for Senator STEVENS on Monday and offer it, and we will push for a vote. To me, the amendment seems so minor and reasonable that I cannot understand why there would be any difficulty. That is why I requested time to judge the temper of the managers of the bill. I will be guided by whichever way they want to approach the problem.

Mr. BENTSEN. I say to the distinguished Senator from Alaska that the problems of transportation for Alaska are unique, and we have addressed ourselves to them at length.

In this situation, the Senator is talking about the railroads. We already have provided highway funds for ferries, and now to say that the same should be done for the railroads—yes, I would have to oppose it. We should wait until Monday.

Mr. CHAFEE. Mr. President, I second the comments of the floor manager of this bill.

This proposal by the Senator from Alaska is unique. I must say that he has been very vigorous in fighting for funds for Alaska. However, as he recalls, we gave Alaska, which does not have any interstate highways, the 3-R money that they normally have for the interstate, and we let them use it for their primary system.

Now he apparently is attempting to go one step further and use these primary funds not just for the construction of the railroad but also for the financing of the railroad's operations.

I was in Alaska recently and rode on that railroad, and I could not have been treated in a more splendid fashion. It is with some regret that I would oppose the amendment by the Senator from Alaska because of the new territory it is breaking into. I take it that we are going to discuss this matter further on Monday.

Mr. GRAVEL. Yes. I think we should reserve the debate until Monday, at which time I will discuss it with my colleague from Alaska.

To respond to the point raised by the Senator, it is a question of flexibility. I think the arguments to have some flexibility in a unique situation are overpowering.

I can appreciate my colleague holding forth to prevent the railroad industry from invading highway funds. If they want to put the staff to work over the weekend to find ways by which they can restrict it adequately——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GRAVEL. Mr. President, will the Senator yield me 1 additional minute?

Mr. BENTSEN. I yield the Senator an additional minute.

First, I should like to add to what Senator CHAFEE has said: The Senator from Alaska has been extremely vigorous in pursuing the interests of his State and trying to help his State. In fact, we have gone the extra mile time and time again in that regard; and I must say that when I look at this amendment, perhaps the appropriate word is "chutzpah."

Mr. GRAVEL. I would be happy to confess to "chutzpah" any time I fight for my State. However, I am baffled by the argument that when you have nothing and you get a half-loaf, when you should be getting a whole loaf, you should go away happy.

We will have time on Monday to address ourselves to this subject.

Mr. CHAFEE. The Senator will come back on Monday and try to get the bakery.

[Laughter.]

Mr. GRAVEL. My colleagues do me more service than I deserve. This may read well in Alaska, but I would not stand here and ask for more than my fair share. I have too much concern for this great country of ours and its justice, and I will demonstrate that with an amendment I have coming up shortly.

I shall call up my next amendment.

I notice the presence of the distinguished Senator from the State of Washington, the distinguished chairman of the committee, who has a great interest in Department of Interior affairs. I do have an amendment that may involve that. I wish to accommodate his time.

The PRESIDING OFFICER. The time of the Senator from Alaska has once more expired.

UP AMENDMENT NO. 1681

(Purpose: To promote transportation planning on Federal lands)

Mr. GRAVEL. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. GRAVEL) proposes unprinted amendment numbered 1681.

Mr. GRAVEL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert a new section as follows:

TRANSFER OF CERTAIN AUTHORITY OVER FEDERAL LANDS FOR TRANSPORTATION PURPOSES

SEC. 146. (a) Except as provided in subsection (b) of this section all authority and duties of the Secretary of the Interior with respect to—

(1) the approval of any application from a State or local government for a right-of-way, easement, use permit, lease, or license for highway, road, railroad, pipeline, airport, or other transportation purpose on Federal land; and

(2) the preparation of the environmental impact statement pursuant to section 102 of the National Environmental Policy Act of 1969 with respect to the actions on such application,

is transferred to the Secretary of Transportation to be exercised in accordance with the law relating to such applications and statements and the transportation policies of the Federal Government.

(b) The Secretary of the Interior shall review the final action of the Secretary of Transportation under the authority transferred pursuant to subsection (a) (1) and (2) and shall on the basis of such review approve or disapprove any such final action with any recommendations he deems appropriate. Any such approval or disapproval and recommendations with respect to an environmental impact statement shall be made available in the same manner provided for such statement in section 102 of the National Environmental Policy Act of 1969.

(c) In the event one Secretary approves and the other disapproves an application described in subsection (a)(1) the final decision on such application shall be made by the President.

(d) Notwithstanding any other provision of law, action on applications subject to this section shall not be final until the requirements of this section are complied with.

(e) The provisions of this section shall be effective only with respect to applications filed after thirty days following the date of enactment of this section.

Mr. GRAVEL. Mr. President, today I am offering an amendment which will inject a broader perspective into the transportation planning process on Federal lands. My amendment will require the Department of Transportation to approve applications regarding transportation corridors on these Federal lands. Applications for rights-of-way, easements, use permits, leases, and licenses relating to transportation corridors or sites will be covered by this provision.

Present policy routes all such applications to the Department of Interior. This leaves the Department of Transportation virtually no voice in matters which clearly impact the transportation planning process in any State with large areas of public land. Establishment of the Transportation Department as the lead agency for the processing of such applications will lend a much needed broader perspective to management of Federal land.

My amendment would encourage wise land-use planning. Incorporation of the Department of Transportation into the process would insure the necessary input of the transportation perspective. Presently transportation officials can only comment in the aftermath—after final decisions have been issued. The Department of Transportation is, after all, where the expertise lies with regard to transportation planning issues. It is only reasonable to place the responsibility for such decisionmaking where the resources can be found.

The PRESIDING OFFICER. The Chair wishes to inquire of the Senator from Alaska whether this is the amendment on which he has been given 1 hour of debate.

Mr. CHAFEE. One hour totally, evenly divided.

The PRESIDING OFFICER. Yes, 1 hour total, divided equally.

Mr. GRAVEL. Yes, this is.

The PRESIDING OFFICER. The Chair thanks the Senator from Alaska.

Mr. GRAVEL. Mr. President, the Department of Transportation is a relatively young agency. It was created by statute in 1966 when the major role that transportation plays in American society was finally recognized and the need for coordination on the Federal level led to its establishment. In contrast, the Interior Department has been with us for 129 years. Various functions have been added and subtracted over the years that it has served as landlord for the U.S. Government, and a great deal of power has been allowed to accumulate with time. This amassing of power has brought us to the point today where, although a Cabinet-level department has been created to handle just such issues, transportation planning is still in the jurisdiction of the Department of Interior.

When the Department of Transportation was created in 1966, however, it was specifically called upon "to assure the coordinated, effective administration of the transportation programs of the Federal Government." I am confident that the Department would be able to assume the responsibility for these new transportation planning decisions with little problem. The resources are already present. The mechanisms are in operation. This amendment will simply be one more step toward further coordination of our Federal transportation policy.

The present administration has stated that transportation policy must be fashioned in a manner to integrate all transportation modes and to coordinate programs so that this multimodal perspective can be implemented. My amendment would encourage the integration of such a policy perspective into the transportation planning process, relative to the planning process on Federal lands. It is necessary for States to obtain right-of-ways for roads, airstrips, tunnels, and railroad beds in cases where these modes of transportation cross federally owned lands. In light of the jurisdiction which the Department of Transportation holds over all these transportation modes, it is surprising that it has not been included in the planning process on Federal lands previously. It is time to amend that previous exclusion.

I think it is time to make that change. I think it is an intelligent coordination of Federal activities.

It has baffled me up to this point in time why transportation for the Federal Government has to be different from transportation for the rest of our society when they are both at the Cabinet level. I am not suggesting we should leave out the Interior Department. What I am suggesting is that the lead agency in question be Transportation and not the Interior Department, and that the Interior Department be involved in the process.

But it is preposterous, it is truly preposterous, and I can cite some examples of what happens in this regard. We had a letter from the Secretary of Transportation who pushed away the cup of additional power and influence that was offered him in this regard because quite obviously there was a contest between the Department of Interior and Department of Transportation in this regard. They could not resolve their act. And so we get a situation where we have the Interior Department as the lead agency for transportation on Federal lands. It is truly preposterous, and I will be interested to hear the comments why this has to be so.

I reserve the remainder of my time.

Mr. BENTSEN. Mr. President, I yield such time as the Senator from Washington desires of my time.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. JACKSON. Mr. President, I am strongly opposed to this amendment.

So the Senate will understand what we would be doing in effect is to amend the entire body of law applicable to Federal lands administered by the Secretary of Interior.

This includes national parks and monument, national recreation areas, national wildlife refuges and ranges, national resource lands, national conservation areas, and areas of the national wilderness preservation system.

It would also amend the law governing grants of rights-of-way over all Federal lands for oil, gas, and other fuel pipelines.

Mr. President, I point out that it would amend the basic statute relating to the Alaska pipeline and it would amend the basic statute relating to the grants of rights-of-way over Federal lands for gas and oil pipelines.

It is that far-reaching, without any hearings. This matter had no hearings. It is one of the most far-reaching amendments that could be offered in this Chamber.

Mr. President, I can only say that I see no justification for this sweeping change which would affect matters under the jurisdiction, may I say, of several comittees, including the Committee on Energy and Natural Resources; the Committee on Environment and Public Works; the Committee on Agriculture, Nutrition, and Forestry; and the Committee on Commerce, Science, and Transportation.

Mr. President, I finally wish to state and point out that the Department of Transportation is now involved both by statute and by an executive agreement in the planning process in connection with roads. But I think it would be obviously most unfortunate if the Senate were to adopt this amendment.

I can only refer to one other matter, and I understand and I appreciate what the Senator is desiring to do as far as

Alaska is concerned, but this matter is now pending before our Committee on Energy and Natural Resources in connection with the markup on what we call the d2 lands. This involves a program which is extremely important in making decisions as to the classification of the Federal lands in Alaska pertaining to parks, national preserves, monuments, wilderness areas, scenic rivers, wild rivers, and so on.

I would point out, Mr. President, as my distinguished colleague in the chair (Mr. MATSUNAGA) knows, we have been holding night sessions. I cannot think of anything more disorderly than in the midst of our final markup to turn around and remove that which we are now addressing in the committee on the question of access. We are dealing with this problem, and some of the amendments we have already adopted, Mr. President, relating to access in transportation do involve the work of the Department of Transportation on a consultative basis. That has already been agreed to.

I think it would be most unfortunate for the Senate to adopt this amendment, and I shall have to oppose it and, at the appropriate time, will offer a motion to table.

Mr. CHAFEE. Mr. President, let me just say it seems to me the Senator from Washington has set forth pretty clearly the problems with the proposed amendment, and certainly, speaking for this side, we would not be prepared to move into anything as substantial as proposed under this amendment without some type of hearings for a far better understanding of the ramifications of the amendment than we have now. So we would be opposed to it.

Mr. BENTSEN. Mr. President, on behalf of the managers of the bill on the majority side, I would have to endorse the statement that was made by Senator CHAFEE and be in opposition to the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. GRAVEL. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Alaska has 23 minutes remaining.

Mr. GRAVEL. Mr. President, just speaking to the issue, the distinguished Senator from Washington has stated the obvious. He really has not responded to the question I raised, but stated the obvious, that it is far-reaching legislation and it amends a lot of laws. Of course, it does, and I mean it to do so. So I certainly intend to do that. We pass far-reaching laws at all times in this body.

The second point made by the distinguished Senator is that this is being treated in the markup on d-2 legislation. That understates the problem considerably. The amendment I have deals with the United States of America and not just with the State of Alaska.

So nobody has spoken to the obvious, and that is we have a Department of Transportation. It is quite interesting that the managers of the bill—and I interpret their positions to be that they think the question has been raised and we should have hearings—I do not interpret their position as being that this should not be undertaken.

I think the statement was made by the Senator from Rhode Island that we should find out what the situation is, and I am prepared to accept that. I think this is probably putting a lot on the table very quickly. I think this should have some extensive hearings because I think it is well-nigh time to stop this tomfoolery of letting one department keep something that it had just because of historical precedent, particularly when we went to the trouble to set up a Department of Transportation.

Think how odd it looks to the average citizen to see that the Department of Transportation is the lead agency with respect to Penn Central, but then when you are dealing with Federal ground in the State of Pennsylvania of course it is not. It is the Department of Interior. They are supposed to know more about transportation than does the Department of Transportation.

I can understand Members jumping forward here and not wanting to give up prerogatives and powers, and wanting to safeguard their facet of their sphere of influence, but that battle should have been fought when we set up the Department of Transportation. If there was any thought we were going to lose any of our influence, we should have done it then.

So this amendment is very clear. It is to treat the Government like we treat the rest of the private sector. Since it is so far-reaching, I would be happy to withdraw my amendment with the hope that since I am on the committee—I would obviously press for it as a member of the committee—that we would have hearings on this subject. The Interior Committee should similarly have hearings on the subject, and if it can make a case for hanging on to this sphere of influence, then let it make that case.

If they cannot, then some of us will come back to the floor of the Senate and lay down logic and, hopefully, not always, but hopefully, that logic will prevail in this body.

It is very simple: We have a department that deals with transportation, and all I am suggesting is that it deal with all transportation in the United States and not make an exception for a part of the country.

I think on closer examination my colleagues will realize this is a very, very sound amendment.

So, therefore, with the thought of having hearings and pursuing this subject in greater detail, in a more methodical pattern than I have done this far, since this issue has only come to my attention within the last month, I will withdraw this amendment and bring it through the normal committee process of the Senate.

The PRESIDING OFFICER. The amendment is withdrawn. The Senator has a right to withdraw it.

UP AMENDMENT NO. 1622

(Purpose: To provide Federal assistance to improve the appearance of New York City)

Mr. GRAVEL. Mr. President, I have one additional amendment.

The PRESIDING OFFICER. The clerk will report.

Mr. GRAVEL. I have an amendme[illegible] Mr. President, and I ask for its immed[illegible] ate consideration.

The PRESIDING OFFICER. The Cle[illegible] will report the amendment.

The assistant legislative clerk read [illegible] follows:

The Senator from Alaska (Mr. Grave[illegible] proposes an unprinted amendment nu[illegible] bered 1622.

Mr. GRAVEL. Mr. President, I a[illegible] unanimous consent that further readi[illegible] of the amendment be dispensed with.

The PRESIDING OFFICER. Witho[illegible] objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert a new se[illegible] tion as follows:

NEW YORK CITY PROGRAM

SEC. 146. (a) The Congress finds and d[illegible] clares the poor physical appearance of t[illegible] City of New York and particularly the Bo[illegible] ough of Manhattan to be a matter of n[illegible] tional concern and further finds it to [illegible] in the national interest to establish a pr[illegible] gram of grants to the City of New York f[illegible] the express purpose of improving the phy[illegible] ical appearance and attractiveness of Ma[illegible] hattan Island through rehabilitation a[illegible] reconstruction of Manhattan's street a[illegible] highway system.

(b) The Secretary of Transportation is a[illegible] thorized to make grants to the City of N[illegible] York for the purpose of improving the phy[illegible] ical appearance and attractiveness of t[illegible] Borough of Manhattan through the rehab[illegible] itation and reconstruction of the street a[illegible] highway system. No grant shall be approv[illegible] under this section until:

(1) New York City submits to the Sec[illegible] tary of Transportation and the Committee [illegible] Environment and Public Works of the Se[illegible] ate and the Committee on Public Works a[illegible] Transportation of the House of Represent[illegible] tives an appropriate plan to insure da[illegible] collection of refuse and garbage within Ma[illegible] hattan and the regular provision of str[illegible] cleaning services and provides satisfacto[illegible] assurance that such plan will be carried ou[illegible]

(2) New York City submits to the Sec[illegible] tary of Transportation and the Committee [illegible] Environment and Public Works of the Se[illegible] ate and the Committee on Public Works a[illegible] Transportation of the House of Represent[illegible] tives an appropriate plan for a demonstr[illegible] tion program to provide sanitation servic[illegible] through contract with a private sector pr[illegible] vider;

(3) New York City submits to the Sec[illegible] tary of Transportation and the Committee [illegible] Environment and Public Works of the Sen[illegible] and the Committee on Public Works a[illegible] Transportation of the House of Represent[illegible] tives an appropriate plan to develop and e[illegible] force standards and safety codes for taxic[illegible] operated in New York City.

(c) There are authorized to be appropr[illegible] ated $50,000,000 for the fiscal year endi[illegible] September 30, 1980 and for the fiscal ye[illegible] ending September 30, 1981 for the purpose [illegible] carrying out the provisions of this section.

The PRESIDING OFFICER. Is th[illegible] the amendment on which the Senat[illegible] has an agreement of 1½ hours divid[illegible] equally?

Mr. GRAVEL. Yes, it is the amen[illegible] ment.

The PRESIDING OFFICER. Th[illegible] Chair so notes.

Mr. GRAVEL. Mr. President, th[illegible] would be somewhat of a unique approa[illegible] because——

Mr. ROBERT C. BYRD. Mr. Preside[illegible]

will the distinguished Senator yield? Might I get an understanding as to whether or not there will be a rollcall vote on the amendment?

Mr. GRAVEL. I would have to get a feel for the tenor of the leadership before I make the decision.

Mr. ROBERT C. BYRD. I thank the Senator. I thought we ought to let the Senate know.

Mr. GRAVEL. If there is a rollcall. I would be happy to put it over until Monday.

Mr. ROBERT C. BYRD. There is no request to do that. If the Senator decides there is going to be one, as soon as he can do that, we can alert Senators so that they will know. I thank the Senator.

Mr. GRAVEL. I thank my colleague.

This is a little unique because I am placed in the role of advocating something for another State that will have an unusual impact, and I will go through the philosophical background for this action if it is not thoroughly explained in the course of my statement.

This amendment would set aside $50 million, beginning in fiscal year 1980, and, incidentally, I stretch it out that far so that it will not have impact on the present budget and require a waiver under the Budget Act.

Mr. President, this amendment would set-aside $50 million beginning in fiscal year 1980 for the city of New York for the express purpose of improving the physical appearance of Manhattan Island. In return, the city would be required to develop plans to phase-in private sanitation services, to insure daily collection of refuse and garbage and to develop standards and safety codes for city taxicabs.

There is little doubt that New York City is one of the most important cities in the world. It is clearly the world center in finance and industry, transportation, communications, medicine, graphic arts, culture, and entertainment. Manhattan is the cultural, economic, and entertainment center of the city. It is the residence of 1.5 million people. More than 2 million people from the city and region work in the borough and more than 14 million people from throughout the world visit it each year.

Some of the financial data for New York City is incredible. Six of the seven largest banks in the Nation are headquartered in New York City, with combined assets in excess of $438 billion. The volume of stocks and bonds traded on the New York Stock Exchange accounts for 83 percent of the market value of all securities traded nationally; 84 of the Fortune 500 largest corporations are headquartered there. Each year New York City ports handle $30 billion in foreign trade, accounting for 17 percent of the Nation's annual foreign trade.

Mr. President, one of the most eloquent spokesmen for the unique role that New York City plays in the world is none other than the distinguished Senator from Wisconsin (Mr. PROXMIRE). During consideration of the conference report on the New York City financing legislation, he said:

> If you really want to be challenged . . . whether it is law, whether it is accounting, whether it is writing, whether it poetry, whether it is art, whether it is ballet—regardless of what it is, that is the place to go, if you want a challenge, if you want to take on the toughest place in the world and aspire to the greatest heights.

From my own personal perspective, the State of Alaska has been quite dependent on the financial resources which are made available through the New York City marketplace. Much of the capital that was used to finance the trans-Alaska oil pipeline and much of the capital that will be used to finance the Alaska highway natural gas transportation system originated in New York. These projects play a major role not only in economic development in Alaska but in securing energy independence for the United States.

Within this framework, I am proposing today that the Senate go on record recognizing the importance of New York City to our national well-being. I propose that we begin to treat New York as an international capital and as a national treasure. I propose that we make nationwide commitment to improve the physical appearance of this most important city so that New York City can remain the crown jewel of the free enterprise system.

My colleagues should be aware that more people visit New York City than any other city in the Nation, including our political capital, Washington, D.C. The Department of Commerce has provided me with data indicating that over 8 million people visited New York City in 1972, compared with 5.5 million for Washington, D.C. I ask unanimous consent to have printed in the RECORD a chart showing data relating to tourism.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Tourism—1972

City:	*Number of person/trips*
Atlanta	3, 625, 800
Boston	3, 225, 213
Chicago	6, 644, 072
Cleveland	2, 481, 712
Columbus, Ohio	2, 729, 569
Dallas	3, 044, 108
Denver	2, 882, 330
Detroit	3, 342, 393
Houston	3, 529, 273
Las Vegas	2, 726, 693
Los Angeles	7, 345, 227
Miami	3, 260, 756
Minneapolis-St. Paul	3, 861, 744
New Orleans	2, 267, 051
New York	8, 480, 030
Orlando	2, 920, 366
Philadelphia	4, 109, 198
Pittsburgh	2, 780, 060
Riverside, Calif	3, 926, 768
Sacramento	3, 541, 397
St. Louis	4, 029, 312
San Diego	4, 473, 482
San Francisco-Oakland	6, 098, 745
San Jose	1, 916, 986
Tampa	3, 092, 593
Washington, D.C	5, 535, 915

Source: "National Travel Survey," Bureau of the Census, Department of Commerce, 1972.

Mr. GRAVEL. Mr. President, the focus of my amendment is on improvement of the physical appearance of Manhattan through the rehabilitation and reconstruction of the streets and highways. In addition, the city of New York must make certain commitments to improve sanitation services in the borough.

I have no doubt that my colleagues share my distress that the current state of disrepair of the streets in New York as well as the amount of dirt and filth that pervades the city's thoroughfares. However, nowhere else in the Nation do streets and highways take the pounding they do in New York. According to the city's department of transportation, Manhattan's streets supports an average daily traffic volume of 26,800 vehicles. The next highest city is Dallas, with a volume of 19,000 vehicles. I ask unanimous consent to insert in the RECORD a table comparing street mileage and usage among several major cities.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

COMPARISON OF MILEAGE AND STREET USAGE IN MAJOR CITIES

City	Miles of street in main business district	Average daily traffic (vehicles)
Manhattan	153	26, 800
Dallas	27	19, 000
Los Angeles	51	16, 200
Austin	34	13, 500
Seattle	13	10, 000

Source: New York City Department of Transportation.

Mr. GRAVEL. Just to recapitulate, Mr. President, that list shows Manhattan at 26,800 vehicles, Dallas 19.000 vehicles, Los Angeles 16,200, Austin 13,500, and Seattle 10,000 vehicles.

Mr. President, a well-known urbanologist, Jane Jacobs, has articulated the concept that the quality of the streets has a very direct bearing on the quality of city life. In her work "The Death and Life of Great American Cities", Ms. Jacobs says that "streets provide the principal visual scenes in cities". Not only do streets draw people together and create the diversity that brings vitality to the city, but streets also create a sense of trust among residents. Ms. Jacobs says that city residents make "an almost unconscious assumption of general street support when the chips are down".

In my mind, these academic generalizations support that which is obvious to many people on an emotional level. The streets of New York make the city an exciting place to be, and the quality of the streets has a very direct bearing on the future quality of life within the city.

I regret to report to the Senate that the fiscal crisis in New York has crippled the city's ability to maintain those streets. New York City has over 6,200 miles of streets, covering 30 percent of the land area. Streets should be resurfaced every 10 years and reconstructed every 30 years. Before the fiscal crisis, funds were allocated on a 120-year replacement cycle. Now, funds are allocated on a 200-year replacement cycle.

Over the last 7 years, the city has faced 35,000 lawsuits over potholes and defective sidewalks and paid out over $61 million in damages.

Inadequate replacement and poor maintenance has removed 35 percent of all sanitation trucks and 265 of the city's 400 mechanical brooms from service.

It is important to keep in mind that city streets also serve as the pathway for water, gas, and electric supply and for sewers. City engineers estimated that reasonable street replacement standards will cost $200 million a year. Installing new water mains and sewer pipes should cost in the neighborhood of $300 million. Thus, a reasonable program to upgrade New York thoroughfare will cost about $500 million a year for 30 to 40 years.

Not only do I believe that New York City cannot afford this type of improvement, but I also believe it should be a matter of national pride that the Federal Government become involved in the effort.

Mr. President, I am sure my colleagues are somewhat taken aback by another proposal to provide financial assistance to New York City. There has been a lot of talk on the Senate floor in recent weeks that New York City is undeserving of Federal support. According to the latest data available from the Treasury Department, there are many more cities which have been treated to terrific beneficence on the part of the Federal Government and have not made anywhere near the effort made by New Yorkers to be self-sufficient.

The Treasury has compiled a list of cities which shows the percent of municipal revenues obtained from the Federal Government over the period of 1972 to 1976. New York City received 4.8 percent of its revenues from the Federal Government during this period. Houston received 13 percent, Boston 26.6 percent, Detroit 24.0 percent, and Philadelphia 13.0 percent. I ask unanimous consent to insert in the RECORD a table on this subject.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Fiscal profiles—1972–76 Federal revenues as percent of city's general revenue

[In percent]

City:	
Boston	26. 6
Chicago	14. 4
Cleveland	16. 8
Detroit	24. 0
New Orleans	14. 5
Newark	4. 4
Philadelphia	16. 4
St. Louis	13. 7
Atlanta	13. 8
Dallas	4. 9
Kansas City	17. 6
New York	4. 8
Houston	13. 0
Los Angeles	10. 9
Nashville-Davidson	10. 6
Omaha	20. 5
San Antonio	24. 4
Toledo	20. 3
Denver	15. 1
Memphis	7. 0
Phoenix	16. 9

Source: "Report on the Fiscal Impact of the Economic Stimulus Package on 48 Large Urban Governments, Department of Treasury, Office of State and Local Finance, January 23, 1978.

Mr. GRAVEL. Some have claimed that the State of New York has not done its fair share in assisting New York City. The Treasury has also published data on the percent of municipal revenues derived from State governments. New York City has one of the highest percentages at 44.5 percent. Houston shows 1.8 percent in State assistance, Boston 20.8 percent, Detroit 16.9 percent, and Philadelphia 15.0 percent. I ask unanimous consent that this table be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Fiscal profiles—1972–76 State revenues as percent of city's general revenue

City:	*Percent*
Boston	20. 8
Chicago	14. 6
Cleveland	11. 8
Detroit	16. 9
New Orleans	28. 1
Newark	49. 1
Philadelphia	15. 0
St. Louis	11. 2
Atlanta	11. 3
Dallas	3. 0
Kansas City	4. 6
New York	44. 5
Houston	1. 8
Los Angeles	13. 1
Nashville-Davidson	21. 5
Omaha	14. 5
San Antonio	2. 9
Toledo	11. 1
Denver	19. 1
Memphis	52. 5
Phoenix	20. 8

Source: "Report on the Fiscal Impact of the Economic Stimulus Package on 48 Large Urban Governments", Department of Treasury, Office of State and Local Finance, January 23, 1978.

Mr. GRAVEL. Finally comes the issue of effort on the part of the city residents. According to Treasury data, New Yorkers pay the highest per capita taxes, both to the city and to the State. New Yorkers paid $1,660 per capita in 1975. Again, compare this with Houston at $652 per capita, Boston at $1,346 per capita, Detroit at $890 per capita and Philadelphia at $878 per capita.

In addition to this data, a recent article appeared in the New York Daily News detailing the results of a survey which showed that 6 percent of New Yorkers would prefer to improve the physical condition of the city instead of cutting taxes. The most highly taxed people in the Nation on a per capita basis are willing to pay more to improve the quality of life in this most important city.

I ask unanimous consent that a table showing per capita tax effort be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

FISCAL PROFILES

City	1975 city average per capita taxes	1975 State average per capita taxes	1975 combined
Boston	$532	$814	$1, 346
Chicago	188	730	918
Cleveland	134	534	668
Detroit	208	682	890
New Orleans	145	566	71
Newark	314	725	1, 03
Philadelphia	242	636	87
St. Louis	251	523	77
Atlanta	162	508	67
Dallas	176	515	69
Kansas City	210	523	73
New York	635	1, 025	1, 66
Houston	137	515	65
Los Angeles	175	850	1, 02
Nashville-Davidson	290	451	74
Omaha	119	577	69
San Antonio	67	515	58
Toledo	104	534	63
Denver	230	631	86
Memphis	110	451	56
Phoenix	106	658	76

Source: Statistical Abstract of the United States, Bureau of the Census, Department of Commerce, 1977.

Mr. GRAVEL. In my mind, this data shows that New Yorkers have made a sincere effort to help themselves and that the Federal Government has been less than generous in its relationship with New York City. As a final note, in 1977 Washington, D.C., received $2.2 billion in Federal assistance or $3,021 per capita. New York City received $4.97 billion or $660 per capita. I would hope that we can begin to even out this inequity by equating the importance of New York City with that of Washington, D.C.

With regard to my amendment, I am proposing that New York City be eligible to receive $50 million a year to improve the physical appearance of Manhattan. Keep in mind that this is about one-tenth of the city's projected needs. In return the city must take the following steps:

First, the city must prepare a plan for a demonstration program for provision of sanitation services through contract with a private sector provider. I share the chagrin of some of my colleagues at the high cost of provision of services through the public sector and this element would offer the mayor an opportunity to reverse that trend.

Second, the city must prepare a plan for daily collection of garbage and regular street cleaning. I have discussed this proposal with Mayor Koch and he is prepared to undertake some real creative action in this area.

Third, the city must prepare a plan to implement and enforce a code of standards for city taxicabs. As a former New York City cabbie, I have some experience in this area. I have found that Checker Cabs are the most efficient, long-lasting, comfortable vehicles on the streets of New York. We should have the same pride in the cabs on the streets of New York that Londoners have in their cabs in that great city.

All of these plans would be submitted to the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation as well as the Secretary of Transportation for review.

Let me conclude by saying that I believe New York City deserves a Federal commitment to improve the quality of life in the city. It is deserved because New York is an international city. It is deserved because New York City has made

a good faith effort to improve their own quality of life. It is deserved because of the need to preserve this national treasure for future generations.

At the close of debate on the New York City bill, Senator PROXMIRE recited the invitation to the tired and the poor which is inscribed at the foot of the Statue of Liberty, he then said:

Nothing expresses America better than those words. In my view, it also expresses New York. New York has not only said this to the world, we often view this as an invitation to Europe, or the people abroad, to come to our country.

It is also in my view an invitation to people to come to New York, American people to come to New York and not simply visit, but to come and face it, to face the biggest challenge in so many fields of endeavor anywhere.

Mr. President, if we did not have New York as the economic capital of the world, Americans would have to travel as they did in days of old on clipper ships to London, to the financial heart of the world at that point in time, and negotiate their financial affairs.

There is not a mayor or a Governor in the United States of America who does not have to travel to New York City now to sign bonds to finance the capital improvements in his or her community.

If we did not have New York City as the capital of the world, we, the superpower of the world, would be prepared to spend billions of dollars to acquire it. I, as an American, am ashamed when I go to New York City and see the level of disrepair, when I think that this is the heart of the free enterprise system. In many respects it looks like a pigsty.

When I travel to Moscow and see the status of Moscow or any other city under Communist domination and make a comparison on surface values, I am appalled.

For too long we have ridiculed, we have made fun of, this great city. We are truly making fun of ourselves. I would hope that this ridiculousness would begin to end.

I would like to hear a response from the managers of this bill as to why this situation should not be attended to, and why we should continue to let this neglect go forward when the statistics show that quite obviously in 200 years New York will not be able to dig itself out of this dilemma.

I would hope that we would begin to take New York, the city, and put it aside and look at Manhattan Island, New York, the capital of the world which just happens to be under the American flag, in which I take great pride.

I reserve the remainder of my time.

Mr. BENTSEN. Mr. President, I rise to strongly oppose the amendment of my friend, the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. He said that New York City is a world capital. I agree it is a great city. It is a city which has been traditionally a magnet of opportunity for the people of America, a city which has been a vital element in forging American prosperity and American development. But I am constrained to strongly disagree with my friend from Alaska when he says that New York City has not been treated fairly by the Federal Government. When we examine the figures of the Senator from Alaska, we become convinced that the hand is really quicker than the eye.

Let us take a look at the numbers that the Senator sent out on his account "fact sheet." The Senator says that the Federal assistance to New York City received in 1977 was $4.97 billion.

Those are the numbers. Then I go down a little farther on the page and he says that the Federal revenue as a percent of the city's general revenue was 4.8 percent.

If I am to believe those numbers, then the city must have had about $100 billion of revenue. The revenue of the Federal Government is only $500 billion. I do not think the numbers stand up at all.

One of the things that has not been included in here, of course, is the passthrough funds from the State. That is approximately $5.9 billion. Roughly $2 billion of that is money passed through from the Federal Government, through the State as a conduit, which obviously would very materially change these numbers.

Let us examine these figures: According to the Bureau of Census study entitled "City Government Finances in 1975–76," in fiscal year 1976, New York City's general revenue was $13.45 billion. Federal aid to New York City totaled $961 million. That means Federal assistance, just direct, was 7 percent of total city revenues.

But the catch is that only $6.8 billion of the city's $13.8 billion general revenue was generated by the city itself.

For example, $5.9 billion of the city's $13.8 billion general revenue actually came from the State of New York. And much of this money represents an actual passthrough from the Federal Government through the State government to the city.

If you take Federal assistance New York City received as a percentage of the revenue actually generated by New York City, the figure roughly doubles, up to 14 percent. If you add to this the money which comes to the city from the Federal Government via the State, of course, as I said earlier, that percentage gets much higher.

For example, for this year, there are estimates that total Federal assistance as a percentage of city generated revenue could range all the way up to 45 percent. So instead of New York receiving only 4.8 percent in Federal revenues, as Senator GRAVEL has suggested, the actual figure is closer to 40 or 50 percent.

If the Senator believes such estimates to be exaggerated, he should remember that in 1976, State aid to New York City—much of which comes from the Federal Government—constituted a full 86 percent of the total revenues generated by New York City.

Mr. President, Senator GRAVEL says that New York gets shortchanged on a per capita basis in terms of Federal assistance. Well, let us compare the largest city in the Nation with the fifth largest city in the Nation.

The Senator has made that comparison. Let us compare it with Houston.

Between 1974 and 1976, New York City received 15.75 times more in Federal aid than did Houston, even though New York City has only five times the population of Houston.

That works out to New York City receiving more than three times per capita what Houston received.

Between 1973 and 1976 New York City, a city of 320 square miles, received three times as much money under the Federal aid urban systems program as did Houston, even though Houston is a city of some 540 square miles.

Mr. President, Houston is a very large city. You could fit Boston, Denver, Atlanta, Louisville, Detroit, and San Francisco within the city limits of Houston. That means Houston has a lot of streets and the public works department tells me that, like New York City, Houston is on a replacement cycle of 200 years—a lengthy cycle which, in the view of the Senator from Alaska merits a special setaside for New York City but not for Houston.

Mr. President, New York City is receiving fair treatment, indeed more than fair treatment, from the Federal Government. To suggest otherwise is to ignore the facts in an attempt to prove that a great city is being swindled in its transactions with the Federal Government.

Furthermore, Mr. President, the amendment by the Senator from Alaska would establish a dangerous precedent for the use of Federal aid highway funds. For very practical reasons, we have never permitted funds to be used for the routine repair of city streets.

We were bombarded in the spring by cities all over this Nation talking about potholes. Every person in an urban community was being subjected to them. There was an outcry to have them repaired. If we had succumbed to that, we would have destroyed the Federal highway system. We would never finish it. Can the Senator say that the people of Manhattan Island had any greater discomfort in that situation, or any greater right to have attention paid to their local streets?

Because Federal highway funds actually amount to a very small percentage of the total public expenditures on roads and streets, we have intentionally chosen to limit their use to the construction of roads that are of national significance. Otherwise, the funds we authorize would be no more than a small drop in a very large bucket. We would see no measurable impact on the transportation system as a result of our Federal efforts.

This great Interstate Highway System that General Eisenhower called for is the biggest public works project in the history of the world. Have you ever stopped to think what our transportation problems would be in this country and how much additional energy and fuel we would be using if we had not done what we did on the Interstate Highway System?

We have, however, attempted to be responsive to the needs of urbanized areas. The bill reported by the Environment and Public Works Committee authorizes $700 million annually for roads on the Federal aid urban system. These

funds are not widely available for all city streets, but rather, must be spent on important urban arteries designated by local governments in cooperation with their State transportation agencies.

Even though Senator GRAVEL's amendment would not authorize the expenditure of highway trust fund revenues, I must nonetheless object because it would, for the first time, permit Federal aid funds to be used on urban routes that are not a part of the designated Federal system. I can think of nothing more local in nature than the maintenance of average urban roads. Congress simply cannot afford to get into the business of fixing city streets. I strongly urge my colleagues to defeat this amendment.

Mr. President, I reserve the remainder of my time. I yield to the distinguished Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I am on the time in opposition to the amendment.

The PRESIDING OFFICER. The Senator is recognized.

Mr. CHAFEE. Mr. President, I join wholeheartedly in the sentiment so ably expressed by my colleague from Texas. This is really, a very, very far-reaching and unique amendment which the Senator from Alaska has proposed. He has proposed that we get into the business, as the Senator from Texas mentioned, of paving the streets of the city of New York, tied to some kind of proposal dealing with a safety code for the taxis and street cleaning and daily sanitation pickup.

Mr. President, we just have a limited amount of money. I have not seen anybody around the Senate floor propose that we increase the amount of money in the highway trust fund. As a matter of fact, as was mentioned earlier; we cannot get anybody to budge from the 4-cents-a-gallon tax which is presently imposed. Even with that amount of money presently existing, $70 million annually is paid to the State of New York for urban highways; in other words, urban through-streets, such as Park Avenue; that would qualify. The bulk of that $70 million a year goes to the city of New York and, as of June 30, just a month and a half ago, there were $145 million in New York's urban highway funds unspent.

So if the city of New York is so anxious for this money, they should approach the State of New York, where the funds are presently existing and unspent. They would be under a 70-percent-Federal 30-percent-local ratio. The proposal of the Senator from Alaska would be a flat, outright grant of $50 million. But it seems to me if New York wants to get on with this urgent project, that some of the unspent $145 million in urban system funds should be used for this purpose.

We have not received any indication on the floor here from the Senator from Alaska that the city of New York has proposed this program, or requested it. We do not even know what the requirements will be for daily garbage collection and other provisions.

So, Mr. President, I think that while this is laudatory in certain respects, while we all would like to have our streets paved—I wish they would stop by Providence, R.I., while they are doing it and take care of some there, then move up to Pawtucket and Central Falls—there is no way in the world that the Government can start on a program like this.

I join my colleague in opposition to it.

Mr. BENTSEN. I say to Senator CHAFEE that I noted that the city of New York has passed a new ordinance on dog sanitation. That appears to be one of the requirements of the Senator from Alaska on a sanitation program.

I suppose this is a help in that regard.

Mr. GRAVEL. Yes, they launched a "pooper-scooper" campaign up there.

The PRESIDING OFFICER (Mr. PROXMIRE). Who yields time?

Mr. GRAVEL. Mr. President, I yield myself whatever time I need at this point.

I just announce that I will not press for a vote on this. This is something I made my mind up on in the last 45 days.

I think the process should go through more of a committee deliberation. I think what I am trying to do is begin to see if a movement cannot be generated with respect to what I think is something important.

Although my colleagues have made good points, I do not think they have addressed themselves, really, to the goals that I am going after.

First speaking to the remarks of my distinguished colleague from Rhode Island, for whom I truly hold great affection, he is right. Let us stop and pave all streets in Providence and all streets in Anchorage. But the truth of the matter is that Providence and Anchorage are not the international capitals of the world. We do not get 8 million people coming to Providence nor to Anchorage. Nor do we get 8 million people coming to Houston, and Houston is a very important community in this country. But it is not as important as Manhattan Island because Manhattan Island is the capital of the world, both politically, in my mind, and also economically, culturally, artistically, and it happens to be under the American flag.

There is no question, we can take my figures or the Senator's figures. He can make a case and I can make a case.

The figures I was using, incidentally, were from 1972 to 1976 because that is where we had the relative data in charts.

I think the Senator knows, and certainly the distinguished Senator in the chair knows, that from 1976 to today there has been an unusual effort in New York, there has been a lot of targeting because of the recession and because New York took the brunt of the recession, like a few other communities in this country.

But I think we cannot walk away from the fact that New York City is making as good a tax effort as anybody else in the United States, and more than most.

There is no one, on a per capita basis in the United States, that is paying any more taxes than a resident of Manhattan—no one.

So we must deduct from empirical evidence that the effort they are doing for their own community is not sufficient.

We could turn around and say, "T hell with it," to their community.

It is not their community. It is ou community. We have as much at stak as a citizen anywhere in the Unite States, in New York City as a New Yor City resident has.

So we must deduct from empirical evi dence that, regardless of what is bein done, it is not going to be enough.

If we can tolerate the situation, t have the capital of the Western worl the capital of the free enterprise system look as it does, then fine. I, for one, a an American, am fed up with having m capital look that bad. I am prepared t stand here as a Senator from Alask and say that I am prepared to take m cut, percentagewise with the rest of th people of this country, take that on area of ground, Manhattan Island, an to make it look like something to b proud of in the free enterprise worl make it a showcase.

But now we can walk across tow faster than we can take a cab and th streets are the worst in the world. Ther are no streets like that in Anchorag Alaska. I have been to Houston. It is a fine community. Texas can be proud o Houston. But Houston does not begin t have the problems of New York City.

I am not talking about the borough of Staten Island or Queens. I am talkin about the area within Manhattan. I we were to take a foreigner and com in on the Triborough Bridge and get o at 125th Street, do not scoot down th FDR Drive, but get off at 125th Stree take the streets down, you would thin your were driving through Berlin in 1944

That is the window of the world the we have, to tell the world, "Boy, isn't th free enterprise system something great?

That is what they see. That we ca let our capital get into such disrepair preposterous.

So I do not make an appeal on th basis of, "Well, my people in Anchorag are not getting as much as the person i Manhattan." I hope my colleague woul not make his appeal and say the peopl in Houston are not getting that much or the people in Wisconsin are not get ting that much. That is not the issue.

The issue is that they are taxing them selves as much as they can. They a they are prepared to tax themselve more, and that will not do the job.

So the obvious question is, do we wan the job done?

I, for one, starting today, am goin to look for programs in the American budget, for the balance of my term i office, and if that is extended by th people of Alaska, even further on int that, I will look for moneys and pro grams so I can focus on that unique problem of making Manhattan look bet ter than it looks now. That is the Sun day suit that I, as a member of the free enterprise society, wear to Sunday meet ing. That suit is tattered now, and the people who hold that suit cannot afford to do more than they are doing now. So it is our responsibility.

With that placed in the RECORD, hope fully there will be other Americans that will believe such as I, and other Mem-

bers of the Senate and the Congress that will believe such as I, and that will come forward, hopefully, we can make efforts as time goes on to try to do something about this problem.

I want to reemphasize again, we have put our partisanship aside. We have to think of our nationality in terms of not an Alaskan or a Texan or an Arizonian.

We have to think, first, we are Americans, that we believe in a free enterprise system, and that the window of that system to the world is Manhattan Island, located just accidentally in the city of New York.

We can let that window look the way it looks now, tattered. As we know, we judge a person by the way he looks. So if he looks like a slob, we tend to treat him like a slob. But if he looks good, then we are inclined to treat him good.

So when the leaders of the world come to the United Nations to address that august body in the political heart of the world, what they ride through to get to the United Nations is what we exhibit as our economic system, this great and successful economic system.

I wish we at least had the decency to let that city mirror the success of that system, and it does not. If you landed from Mars and you walked the streets of Moscow and you landed from Mars and walked the streets of New York, you would have to say that Moscow has a much more successful economic system than the economic system that shelters the city of New York.

So, obviously, the only answer is to recognize that they are making an effort, a greater tax effort, than anybody else in the United States. Obviously, through empirical observation, that is not enough.

You can drive to Rhode Island and you can drive to Texas and you can drive to Alaska, and in no instance is it as bad as driving through Manhattan. I think that is a national disgrace, and I hope this speech will launch the effort to do something about this problem, extraneous to our normal biases to our own communities and constituencies.

With that in mind, Mr. President, since I will be coming to the floor on numerous occasions to make the case, we will attempt to refine our figures more precisely, work them over a little more, try to get more current data, and will come back again, and we will come back at hearings, not only on the highways but also on mass transit and a whole host of other areas, to try to do something to give us a little more pride in our capital city.

We have expressed that pride in Washington, where we have put in more than $3,000 per capita. I hope we do not have to equal that in New York. But I hope we will do substantially more for not New York City the city, but New York City the capital of the free world.

I thank my colleagues for their patience, and I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

UP AMENDMENT NO. 1683

(Subsequently numbered amendment No. 3513)

(Purpose: To provide funds for the Arkansas share for the I-40 Arkansas River bridge)

Mr. BARTLETT. Mr. President, the senior Senator from Oklahoma and I have an unprinted amendment at the desk, and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BARTLETT), for himself and Mr. BELLMON, proposes an unprinted amendment numbered 1683:

At the end of the bill insert the following:

SEC. 146. (a) There is hereby authorized to be appropriated from the General Fund of the Treasury the sum of $640,100 to provide the share of the State of Arkansas for the Interstate 40 bridge across the Arkansas River.

(b) Sum authorized by this section shall remain available until expended.

The PRESIDING OFFICER. Without objection, the amendment is in order.

Mr. BARTLETT. Mr. President, I should like to give a little background on this amendment.

As Congress knows, and the Senate very well knows, through the efforts of Senator McClellan and Senator Kerr, the United States embarked on a very expensive and expansive development program of the Arkansas Basin. This program has cost $1.2 billion and provides water transportation for the area served by the Arkansas River, which benefits particularly certain States, such as Arkansas and Oklahoma, but also Kansas, Nebraska, Colorado, and many others.

Indirectly, and actually even directly, it benefits other States on the inland waterway system. As part of the interstate highway system, Interstate Highway 40 crosses the Kerr-McClellan Waterway at Little Rock. The bridge is a important part of Arkansas interstate system, and it is important that this river be traversed by a modern bridge. The bridge is being held up because of a difference of opinion between the State of Arkansas and the State of Oklahoma as to the size of the span over the channel of the waterway.

There was testimony in a recent hearing by the St. Louis Division of the Coast Guard that this channel should be traversed by a span of 600 feet. The State of Arkansas would prefer building a span of 500 feet which, of course, would cost less than a span of 600 feet. There are people in the State of Oklahoma who filed suit in this matter and then set it aside for the hearing to which I referred.

After the hearing, notwithstanding the fact that the decision of the Coast Guard recommended the 600-foot span, the admiral in charge of the Coast Guard made a suggestion—and the Department of Transportation, I suppose, actually made the ruling—for a 500-foot span to be built.

What is at stake here? The barge owners have testified and agreed with the Division of the Coast Guard from St. Louis that a 600-foot span is needed over the waterway at this particular point because it occurs in the bend of the river opposite the port at Little Rock; that because of the two things impacting on each other—the curve of the channel in the river and the activity around the port—it would be unsafe to carry a normal towload of barges up the river if the 500-foot span is constructed. If the 500-foot span is constructed, they would be able to tow only eight barges, plus a towboat. The towboat would be able to tow safely eight barges; whereas, with a 600-foot span, it would be able to tow 17 barges safely.

It is very obvious that the cost of transportation for that segment from Little Rock to Catoosa would be much larger, because of the smaller load permitted, than for the remainder of the segment of the Arkansas waterway and the entire inland waterway.

Let us look at it from the point of view of the Federal Government. It has this tremendous investment in the Arkansas waterway, for partly the purpose of inland waterway transportation. I think it is very vital that its interests in having a waterway that is fully usable at its most efficient rate be available for the full extent of the waterway. Yet, the Federal Government engaged in the construction of the whole Arkansas basin development, including the waterway. Why? For the reason that the States which directly and intimately benefit from it would not be able to support it. They, themselves would not be able to construct such a project, which some have called a boondoggle.

I might say that the amount of transportation, the tonnage, on the Arkansas to Tulsa is larger than anticipated for this stage of development.

Here we have two States that are disagreeing over the size of the bridge, one-tenth of the bridge to be paid for—on a 90 to 10 basis—by the State of Arkansas, and the benefits accruing to the State of Oklahoma.

I think we have the same kind of situation as we have with the construction of the Arkansas Basin, where the Federal Government steps in because the States are incapable of dealing with the problem themselves.

The State of Oklahoma, through its legislature, would not be in a position to authorize the necessary appropriation for the increased span from 500 to 600 feet of the bridge crossing the Arkansas at Fort Smith.

The State of Arkansas, for reasons of constructing the bridge as soon as possible and because of the extra costs involved prefers the 500-foot span.

It appears that there will now be, because of the recent Department of Transportation decision favoring the 500-foot span, a new lawsuit filed or the old lawsuit reactivated and that there will be definitely delays. So there is going to be a delay it appears either way, whether the Federal Government would step in to make certain that the waterway, in which they have such a tremendous investment, is going to be properly constructed or, on the other hand, whether the decision is reached not to finance this span of the bridge.

So it gets down just to the question of whether or not Congress, and first the Senate, should authorize the appropriation of a very small amount of money, an amount totaling $640,100, which would pay the share of the State of Arkansas of the additional cost of constructing the bridge with a 600-foot span instead of a 500-foot span over the channel of the Arkansas waterway.

I hope that the floor managers of the bill will accept what appears to this Senator to be a most reasonable position for the Federal Government, for this Congress to make certain that the navigation of the Arkansas which is proceeding very well is going to continue to proceed very well. Efficiency and the benefits accrue to all citizens of the country in lower transportation costs, not only in barge transportation but competing transportation of all kinds.

So, it is my pleasure to participate in this with my distinguished colleague from Oklahoma, and I am sorry that I have taken so long in making my presentation but, I know that he wishes to make some remarks, and I yield for that purpose.

Mr. BELLMON. Mr. President, how much time remains on the amendment?

The PRESIDING OFFICER. Two minutes remain for the Senator from Oklahoma.

Mr. BELLMON. Mr. President, I shall be very brief. I believe my colleague from Oklahoma has covered the matter thoroughly and succinctly and there is not a great deal more to be said. I am very proud to join in sponsoring this amendment.

It is a matter of utmost importance to the State of Oklahoma and in a way to the Nation because of lowering the cost of moving grain and other commodities up or down the navigation channel will certainly increase the efficiency of our commerce. It makes no sense to be in this case pennywise and pound foolish. A few dollars we may save in building the shorter span will cost more overtime in increased freight cost.

This is one of those unusual situations where the action of one State, which is perhaps in that State's interest, is contrary to the interest of a neighboring State and it seems that the only solution to the problem is for the Federal Government to step in and to pay the very nominal cost of building the 600-foot span which will properly serve the needs of the users of the channel.

I might say that we have discussed this matter, and I believe my colleague will agree, with both the Senators from Arkansas and I believe they are in agreement that this is the proper action and will join us in support of this amendment. I cannot speak for them with total assurance, but I believe they are in agreement, that this is a joint effort between the Senators from both Arkansas and Oklahoma.

I urge the adoption of the Bartlett amendment.

The PRESIDING OFFICER. Who yields time?

The Senator from Texas.

Mr. BENTSEN. Mr. President, I rise in opposition to the amendment. I do it with great reluctance because of my high regard for the two Senators from Oklahoma and in turn the two Senators from Arkansas, my colleagues and my neighbors.

But as I understand what they are seeking to do is to increase the span from approximately 500 feet to approximately 600 feet. The primary reason for that is not highway transportation, I would deem that the highway purpose would be equally served by a 500-foot span. So the reason is for navigation, and here we are talking about trying to put it on the highway bill.

In addition to that, it seems to me it is a very bad precedent when you talk about adding the excess span from 500 to 600 feet and then saying the Federal Government, in effect, is going to come in and pick up all of the State's portion. It is like saying "Even though you are going to 90–10, that is not enough. Give us the extra 10 percent from the Federal Government."

I cannot remember such a precedent in our highway programs and if there is one I think it is a very bad one. I hate to have this one become a precedent in that regard.

So, as much as I am concerned about the problem, I am further concern on what we will be looking on down the road in this kind of precedent-setting amendment.

Therefore, I have to oppose the amendment.

I withhold the remainder of my time.

Mr. BARTLETT. Mr. President, it is my understanding that we have used up all of our time.

The PRESIDING OFFICER. The Senator from Oklahoma is correct.

Who yields time?

Mr. BARTLETT. Will my good friend from Teaxs yield me 2 minutes?

Mr. BENTSEN. I am delighted to yield 2 minutes to the Senator from Oklahoma of my time.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 2 minutes.

Mr. BARTLETT. I thank the distinguished Senator and my good friend from Texas.

I wish to point out that I do not believe that this would establish a precedent. The purpose, as the distinguished Senator from Teaxs very clearly and succinctly outlined, is to facilitate construction of a bridge for the purpose of having a navigational channel that will be fully and efficiently usable so that it will not require the barge operators to shift their loads around and reduce the size of the tow which obviously raises the transportation costs. So this is a very unusual, unique, and I am certain not repeatable kind of request.

But it happens to be a bridge, and the bridge happens to carry a road and the road happens to be an interstate highway, and so obviously we need both the interstate highway bridge to be constructed for the purpose of carrying Interstate 40 which we, Texas, Oklahoma, Arkansas and across the Nation, are interested in.

We are also interested, as is Texas and other States, in the navigation part. So I do not think there is any precedent here. I am sure this has not been done before because I cannot imagine this ever happening before. It happens to involve two States in which the costs accrue to one, the benefits accrue to the other. So I think this is the kind of situation in which the Federal Government has an obligation to enter for the purpose of making certain that their plans with the Arkansas waterway are going to go through and not be interfered with because of a disagreement between two States.

This, according to my colleague from Oklahoma, is supported by the Senator from Arkansas (Mr. BUMPERS), and in my conversation with the other Senator from Arkansas (Mr. HOGAN) it is supported by him.

So as far as this legislation is concerned, there is no disagreement between the two States. Therefore, we would like a vote on this. If the Senator, the floor manager of the bill, does not accept it——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BARTLETT. Mr. President, if I could have 30 seconds more.

Mr. BENTSEN. I yield 30 seconds to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator is recognized for half a minute.

Mr. BARTLETT. The Senators from Oklahoma—and I am speaking for my colleague, Mr. BELLMON—of course, would like to have it accepted today. If the distinguished floor manager does not find it acceptable to him, then we would like to have a vote on it Monday, with the yeas and nays.

Mr. BENTSEN. Would the Senator like to have it now?

I understand we have a quorum. I frankly, do not know who is here, so I do not know who would be favored by a vote now. Would the Senator like to have a vote now? I would like to get it out of the way, if we can, one way or the other.

Mr. BARTLETT. I think it would be unfair to the Senators who are not here, those who have gone. It is my understanding that both cloakrooms have notified the Senators that there will not be another vote.

Mr. BENTSEN. That is not correct. In fact, the leadership has continued to advise them that there probably will be a vote, and the leadership is asking that we get as many votes as we can out of the way.

Mr. BARTLETT. I do not know how the vote would come out today as compared with Monday.

Mr. BENTSEN. I think there are as many here today as there will be Monday.

Mr. BARTLETT. I think it would be fairer to have it on Monday because we would have at least an opportunity to present the matter, which is a little bit—it does not take long to present it, I think, but it is a rather unusual request and we would like to have the opportunity of doing that over the weekend, and Monday morning. Therefore we would much prefer a vote on Monday.

Mr. BELLMON. Mr. President, I am on Monday. We should check with

Mr. BARTLETT. I ask for the yeas and

The PRESIDING OFFICER. Ind

Mr. BELLMON. Mr. President, I would agree. This matter needs to be explained in a dear colleague letter which we will send out this afternoon, and we hope the manager and assistant manager will take it. It is $640,000, and it would not seem to be much of a strain.

Mr. BENTSEN. I would say to my good friend when we talk about strain, I have the distinguished Senator from Maryland waiting for another strain, and his is a unique situation also. It is once again the precedents we are concerned about.

Mr. BELLMON. Mr. President, if the Senator will yield, the problem with precedents would not seem to be that troubling. I cannot imagine another situation like this occurring where one State's interests are contrary to the other State's interests, and where only the Federal Government would be able to straighten it out. We would like as much as possible to make it plain that this is not a precedent-setting action.

Mr. President, I ask unanimous consent that there be a time set for a rollcall on the matter on Monday. Are there other votes set for Monday?

Mr. BENTSEN. No.

The PRESIDING OFFICER. No time has been set for votes on Monday as of now.

Mr. BENTSEN. I could move to table, of course, and have the vote now.

Mr. CHAFEE. Mr. President, may I just make a comment or two?

The PRESIDING OFFICER. Who yields time? Does the Senator from Texas yield time?

Mr. BENTSEN. Is the Senator speaking for or against the amendment?

Mr. CHAFEE. I am speaking for it.

The PRESIDING OFFICER. All time has expired.

Mr. BENTSEN. I would yield 5 minutes to my friend from Rhode Island.

Mr. CHAFEE. That is what you would call above and beyond the call of duty.

Mr. President, I have spoken to the two Senators from Oklahoma on this subject, and they have made a very persuasive plaintiff's case for their side, and I have indicated to them that I would support the amendment.

I guess the question now being debated——

Mr. BENTSEN. Well, considering the two Senators want to make their case over the weekend with a dear colleague letter, I will not move to table. I would hope they would have given us a vote today. We have been trying all day to get votes, and everyone says wait until Monday. I do not know why the odds change at all on Monday.

I ask unanimous consent that we schedule a vote—for what time would you gentlemen like?

Mr. CHAFEE. I would like it in the afternoon if we could.

Mr. BENTSEN. How about 2:00?

Mr. CHAFEE. How about 2:30?

Mr. BENTSEN. That is fine.

Mr. BARTLETT. That would be fine with us.

Mr. BENTSEN. I ask unanimous consent that this vote be scheduled for 2:30 p.m. on Monday. We should check with the leadership. Let me withhold that.

Mr. SCOTT. Mr. President, I suggest the absence of a quorum.

Mr. CHAFEE. Will the Senator withhold that?

Mr. President, I wonder if I might make an inquiry?

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. I think I still have some time left on the bill. I will take 1 minute on the bill.

The PRESIDING OFFICER. The Senator has that right.

Mr. CHAFEE. Mr. President, just a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CHAFEE. What is the vote situation for Monday? Are the votes to be in the afternoon so far? In other words, we have some stacked up that were assigned for Monday, such as the Alaska Railroad, the Kennedy-Weicker amendment dealing with the highway trust fund, the Huddleston amendment dealing with coal haul roads. Those I understand were to be in the afternoon.

The PRESIDING OFFICER. No time has been set. They will occur on Monday, but no time has been set.

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. CHAFEE. Yes. I just have a little bit left.

Mr. SCOTT. Mr. President, there was a unanimous-consent agreement with regard to the District of Columbia representation bill whereby we would have an allocation of time, and it was agreed by the majority leader that we would have the time fairly equally divided between Monday and Tuesday. There is a special order on this, I believe, and we would not want to be put in a cramp on Monday because we would hardly have time to dispose of the bill and vote at 6 o'clock Tuesday.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Is the Senator from Texas charging his time on the bill?

Mr. BENTSEN. I ask unanimous consent that it be charged to both sides equally.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote occur in relation to the amendment by Mr. BARTLETT at 5 o'clock p.m. on Monday.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. BARTLETT. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, that request does not rule out a motion to table. I hope the Senator understood my request.

Mr. BARTLETT. I understand.

Mr. ROBERT C. BYRD. Mr. President, the amendment is automatically temporarily laid aside; or, if not, I ask unanimous consent that it be so.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Is there time remaining on the amendment?

The PRESIDING OFFICER. Five minutes remain in opposition. No time remains in favor.

Mr. ROBERT C. BYRD. Very well. I believe the Senator from Maryland (Mr. MATHIAS) has an amendment that he is about to call up, and on which he wants a rollcall vote today.

Mr. MATHIAS. Mr. President, I have three amendments. Two of them, I think, are agreeable to the committee. So the two can be disposed of very rapidly, and then we can go to the other one.

UP AMENDMENT NO. 1684

(Purpose: To amend the provisions relating to Interstate substitutions)

Mr. MATHIAS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS) proposes an unprinted amendment numbered 1684.

Mr. MATHIAS. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, between lines 1 and 2, insert the following:

Sec. 107. (a) Section 103(e)(2) of title 23, United States Code, is amended in the fourth sentence by striking out all beginning with ", except" to the period at the end thereof.

On page 11, line 2, strike out "Sec. 107." and insert in lieu thereof "(b)".

Mr. ROBERT C. BYRD. Mr. President, will the Senator want the yeas and nays on his amendment?

Mr. MATHIAS. Not on this one, but on a succeeding one.

Mr. ROBERT C. BYRD. And today?

Mr. MATHIAS. And today.

Mr. ROBERT C. BYRD. Could we get the order for the yeas and nays, so that Senators will be on notice? I ask unanimous consent that it be in order to order the yeas and nays on the——

Mr. MATHIAS. I-95 tunnel amendment.

Mr. ROBERT C. BYRD. On the I-95 tunnel amendment at this time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Does the distinguished Senator wish to have the rollcall vote this afternoon on that amendment?

Mr. MATHIAS. I have no objection, if that is the desire of the leadership. We will meet the leadership's desires.

Mr. ROBERT C. BYRD. No, do not put it on the leadership. I am always willing to take it if nobody else will.

Mr. MATHIAS. Well, let me advise the distinguished majority leader that I do not want to preclude the manager of the bill from the opportunity of accepting the amendment.

Mr. ROBERT C. BYRD. Well, the yeas and nays have been ordered. Senators should know if the rollcall vote will occur today. There has been no indication that we would not have rollcall votes today.

I think the important thing is to make progress on the bill. Shall we say to the cloakrooms that the rollcall will occur today?

Mr. BENTSEN. That is fine with the manager of the bill.

Mr. MATHIAS. Very well.

Mr. President, unprinted amendment No. 1684 provides for continued Federal share participation and cost escalation for interstate highway routes which have been substituted by certain States. Under present law, the cost of transit routes which are substituted for interstate highway routes are permitted to fully escalate. The cost escalation is pegged to rises in the construction cost index. The cost of interstate highway substitutions, however, are not permitted to full rise with inflation to their true project costs.

Yet, such substitutions, which have been designated as interstate routes, are frequently better routes which have been carefully planned, designed, and evaluated from a citizen and environmental point of view to minimize disruption. This effort to propose and build the best possible interstate route does take time, however. The process of interstate substitution involves delay which means money. In the interim, material costs can escalate due to changes in highway design or construction standards.

Mr. President, we ought to be consistent in our funding treatment of interstate highways. They should all be treated the same regardless of whether they are substituted routes, transit routes, or were fully funded originally. This amendment provides for such an equitable situation.

Mr. CHAFEE. Mr. President, this is a good amendment. It just makes sense that sometimes substitutions are necessary, and the substitutions are accepted because they are better than the original route. I think it would be unfortunate if the substituted route had to be done at the fixed sum for the original route, without taking the escalation into account.

So I believe this is just common sense, and should be accepted.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. BENTSEN. Mr. President, I would say, as manager of the bill for the majority, that I favor the idea of an equal escalator for both sides, and I am pleased to accept the amendment on behalf of the majority.

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. MATHIAS. I yield back the remainder of my time, and move the adoption of the amendment.

Mr. BENTSEN. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maryland. Without objection, the amendment is agreed to.

UP AMENDMENT NO. 1685

(Purpose: To modify the standards for the reconstruction of the Baltimore Washington Parkway)

Mr. MATHIAS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS) proposes an unprinted amendment numbered 1685.

Mr. MATHIAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert a new section as follows:

BALTIMORE-WASHINGTON PARKWAY

SEC. 146. Section 146(a) of the Federal-Aid Highway Act of 1970 is amended (1) by striking out "to six lanes" and (2) by striking out "for the National System of Interstate and Defense Highways" and inserting in lieu thereof a comma and "agreed upon by the Secretary of Transportation and the Secretary of Transportation of the State of Maryland, which preserve the Parkway characteristics".

Mr. MATHIAS. Mr. President, this amendment simply confirms an agreement which has been worked out between the Federal Highway Administrator and the Maryland Department of Transportation concerning the Baltimore-Washington Parkway.

The Federal Aid Highway Act of 1970 authorized the rebuilding of the Baltimore-Washington Parkway which was orginally constructed in 1952. The 1970 legislation stated the roadway was to be rebuilt to interstate standards, which meant a significant widening of the roadway and interchanges, additional lanes, and a high cost. This would mean a substantial change in the character of the Parkway.

Subsequent planning, environmental reviews, and citizens participation concerning the rebuilding of the Parkway led highway planners to conclude that the parkway-like setting should be retained. As many of my colleagues know, the Baltimore-Washington Parkway is one of the more pleasant roadways linking Baltimore and Washington with its green spaces, trees, and buffers from the adjacent urban areas.

This amendment simply authorizes the reconstruction of the parkway to standards acceptable to the Secretary of Transportation, which, by agreement, would be in keeping with the parkway nature of the roadway.

Mr. BENTSEN. Mr. President, I not only accept that amendment for the majority as manager of the bill, but I enthusiastically endorse it. I think it is an admirable thing to do. It is a beautiful parkway. I met with the Secretary of Transportation in Maryland and with the distinguished Senator about the matter, and I applaud him on it.

Mr. CHAFEE. Mr. President, let me say that this is not only an excellent amendment, but it makes one wonder why it is necessary, why we are so bogged down in bureaucracy that in order to maintain a beautiful highway like the Baltimore-Washington Parkway, we have to have a special act of Congress in order to retain its beauty and yet have it deemed an interstate road. It makes us wonder about some of the procedures around here.

I commend the Senator from Maryland for his amendment. I am delighted that the beauty of that road can be preserved.

The PRESIDING OFFICER. Does the Senator yield back the remainder of his time?

Mr. CHAFEE. Yes.

Mr. MATHIAS. I retain only so much of my time as necessary to thank both managers of the bill for their enthusiastic support of this amendment.

Mr. BENTSEN. I yield back the remainder of my time.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

UP AMENDMENT NO. 1686

(Purpose: To authorize advances for the completion of certain essential gaps in the Interstate System)

Mr. MATHIAS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS) proposes an unprinted amendment numbered 1686.

Mr. MATHIAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 16, between lines 10 and 11, insert the following:

(c) Section 124 of title 23, United States Code, is amended by adding at the end thereof the following: "Notwithstanding the above, in the case of any toll bridge, tunnel or approach thereto which meets the requirements of section 120 of this title and will complete an essential gap in the Interstate System; upon the request of a State highway department, the Secretary shall at any time during the period of construction of such bridge, tunnel, or approach and up to one year after it is opened for traffic, subject to the conditions and limitations set forth in such section 120, advance to such State out of any existing appropriations 100 percent of the cost of construction thereof. If the total amount so advanced exceeds the Federal share, 50 per centum of the excess shall be repaid to the United States within one year of the opening of such bridge or tunnel to traffic, 25 per centum of the excess shall be repaid within two years o

such opening, and the balance of the excess

sponsible for the construction, main-

Why not turn to the State government

such opening, and the balance of the excess shall be repaid within three years of such opening.".

Mr. MATHIAS. This amendment is a little more difficult than the two we have just considered, Mr. President. This amendment would authorize the Secretary of Transportation to advance 100 percent the cost of constructing any toll bridge or tunnel as part of the Interstate System which has been determined by the Secretary of Transportation to be an essential gap in that system. The amendment further requires that the 10-percent difference between the 100-percent construction financing and the normal 90 percent Federal share shall be repaid—repaid—let me repeat that for the third time: repaid—by the locality to the highway trust fund over a 3-year period.

There are only two essential gaps in the Interstate System which would benefit from this amendment. This is information supplied to me by the Federal Highway Administration. The two essential gaps that could possibly benefit from this amendment are the proposed I-95 tunnel under the Baltimore Harbor and the proposed Boston I-90 airport-spur tunnel. So we are not here suggesting something which is going to prove to be a cornucopia of golden fruit for construction companies across the country. There are just two places, Mr. President.

It is important to note that this amendment involves no increase in either budget authority or in outlay.

As Senators know, virtually all the Interstate Highway System is now complete. The few remaining sections to be built are those in the most congested urban areas. The new I-95 tunnel is planned to relieve the existing Baltimore Harbor Tunnel which, as anyone knows who has traveled I-95 going north, is the worst bottleneck on the entire Northeast corridor from Washington to Boston. The existing harbor tunnel through Baltimore was opened in 1957, and it was a masterpiece of its time. It is a four-lane, narrow tunnel, which daily becomes congested due to rush hour traffic and/or vehicle breakdowns in the tunnel itself. Too many Northeast corridor commuters have had the unfortunate experience of being stalled in the traffic buildup of the Baltimore Harbor Tunnel, their engines idling, pollution building, their temperatures and frustration rising, and wishing that they had the capacity to jog that some Members of the Senate enjoy. But the new I-95 tunnel will, I urge upon the managers of the bill, end that kind of problem.

It will be an eight-lane roadway completing Interstate 95 through Baltimore. While the approaches of this new tunnel are presently under construction, there is a significant reason why the tunnel has not gotten under construction as yet. That reason is that the city of Baltimore, a municipality, and not the State of Maryland, as is normally the case, must provide the entire local share of the construction cost.

Maryland law provides for the separation of financing authorities. Under that law, Baltimore City is completely responsible for the construction, maintenance, and operation of all highways and streets within its corporate limits, including 1,400 miles of streets and a $1.9 billion, 32-mile interstate system.

The I-95 tunnel will complete the final 2 miles of Interstate 95 remaining to be completed within the State of Maryland. The estimated cost to the city of Baltimore for the interest charges during the construction period on the city funds for the I-95 tunnel is 27 percent of the city's total debt service on highway bonds during the period. That is an enormous amount of money for the city of Baltimore to pay in interest costs to finance a project which benefits the entire east coast transportation network.

You are asking the citizens of one city to pick up the bill for those good Rhode Islanders who are coming to the Nation's Capital: for those Texans who may come up through Washington to go on to New York and Boston.

You are asking the citizens of Baltimore to pay for everybody else's transportation.

The city has already spent $210 million on the interstate system within the city limits.

Mr. President, I will reserve the remainder of my time. I see the distinguished Senator from Texas is prepared to speak.

Mr. BENTSEN. I would say to the distinguished Senator from Maryland that his eloquence is only matched by his financial genius in preparing this piece of legislation, and with the trouble the dollar is in these days we ought to put him in charge trying to solve its problems. Geneva, London, or Wall Street would be no match for him at all.

Here he has proposed a very costly transportation facility at little or no cost to the city of Baltimore or to the State of Maryland, and a very high cost to the Federal Government. Let us look at what is proposed here.

During the construction and for 1 year after the opening of the Fort McHenry tunnel—who knows how long it will take to build it and how much interest is going to pile up during that period of time—during that time, the Federal Government would pay 100 percent of the construction bills which come due. How do you like that, Mr. President? One hundred percent. At the end of the first year the tunnel is opened and the tolls are collected, then the Federal Government, which has been paying 100 percent, is going to get 50 percent of the local share of the project. The remainder of the local share, which ultimately is 10 percent of the total cost of $140 million, is going to be repaid in installments during each of the next 2 years. That is pretty sharp.

I think that is about one of the cleverest financial things Maryland will ever get. I congratulate the Senator.

This repayment would come from toll collections and would require no contribution from State or city revenues.

I understood the Senator from Maryland to say that the city of Baltimore has certain limitations placed on it in borrowing money and, therefore, has to turn to the Federal Government.

Why not turn to the State government, which is a major beneficiary of this transportation aid?

It is said that the tunnel will provide a vital link for interstate traffic along the east coast. There already exists two such links, the Baltimore Harbor Tunnel and the Francis Scott Key Bridge, which I think a Texan would go over anyway because that gives him such a beautiful view of that magnificent area. So the travelers through the Baltimore area are provided for.

It is also pointed out that the tunnel provides critical access to and from the Port of Baltimore. That is certainly true. But as a document from the Maryland Transportation Department says, "the port is the single most important element of Maryland's economy." It is a magnificent port. I have been up there on a boat and I have seen the great construction, all the ships lined up, and I know how much it must contribute to the economy of the Senator's great State. I revel in it with the Senator.

But should not Maryland and the city contribute to a facility which means so much to its welfare?

The relatively modest cost to the Federal Government is noted as well as the limited application the amendment would have to other projects. While almost $10 million is small compared to the total size of the highway program, it is the principle, again, which is important. We saw that demonstrated by the amendment which was proposed earlier.

The provision relieves the local or State governments of any substantial burden for a project from which they gain great benefits, and a very expensive project. I do not think it is too much to ask the State or local area to come up with $1 for each $10 of Federal funds it receives.

Surely, there is a kind of desirable discipline involved in saying that whoever undertakes this project and builds this project does a good job and does an economical job.

For the foregoing reasons, I oppose the amendment of the distinguished Senator from Maryland with as much enthusiasm as that with which I endorsed his previous amendment.

The PRESIDING OFFICER. Who yields time? Does the Senator from Texas yield time to the Senator from Rhode Island?

Mr. BENTSEN. I am delighted to yield time. I want to reserve a minute, at least, of my time.

The PRESIDING OFFICER. The Senator has 10 minutes remaining.

Mr. BENTSEN. Then I shall ask that the distinguished Senator from Maryland allow his amendment to be set aside for a period of a couple of minutes, so the Senator from Kansas can propose an amendment that I understand the managers are going to take.

Mr. BIDEN. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BIDEN. What is the rationale for setting aside a vote at 5 o'clock in the afternoon for something that is not a vote? I am not sure I understand what is going on.

Mr. BENTSEN. We are trying to take 1 minute to take care of the Senator from Kansas today who cannot be here on Monday. We are going to accept his amendment. Then we are going to go right to a vote.

That is a pretty good rationale. We are trying to accommodate two Senators.

The PRESIDING OFFICER. How much time does the Senator from Rhode Island wish?

Mr. CHAFEE. Five minutes.

Mr. President, we certainly admire the Senator from Maryland because he comes in here with a delightful smile and a tremendous presentation on a proposal that, really, would make most people smile as they presented it. To term it "outrageous" is perhaps going too far, but it is certainly the key to the Treasury of the United States. There is a man I knew once who was a good lawyer. They said he could talk a dog off a meat wagon. If this Senator can put across that proposal, he qualifies under that title.

Just remember that the Federal Government is going to pay 90 percent of the cost of this tunnel to start with. That only leaves a teeny-weeny 10 percent for the State of Maryland or the city of Baltimore to carry. Yet they do not even want to do that.

Furthermore, this is a self-liquidating proposition. They are going to charge tolls until the thing is entirely paid for.

It seems to me that to ask that the Federal Government come up with 100 percent and then wait to be paid back for the 10-percent local share over a period of 4 years strains my imagination.

Mr. MATHIAS. Three years.

Mr. CHAFEE. Only 3 years. It seems to me that is still pressing the case a little far.

Mr. STAFFORD. Will the distinguished Senator yield for a question?

Mr. CHAFEE. Yes.

Mr. STAFFORD. During that 3 years of repayment, could the distinguished Senator tell me what the interest rate would be to be paid on the indebtedness of the city of Baltimore?

Mr. CHAFEE. Oh, no interest. Do not talk such a mean word as the city of Baltimore or the State of Maryland paying interest on a sum they borrow. That would not fit in with this proposal. This proposal does not deal with things like paying the Federal Government interest. It is a wonder that we are not asked to pay them interest while they have our money.

I think, Mr. President, that this amendment so graciously presented should receive the deep six.

The PRESIDING OFFICER. Who yields time?

Mr. MATHIAS. Mr. President, the distinguished former Secretary of the Navy remembers his nautical vocabulary when he talks about giving this amendment the deep six. He has joined with the distinguished Senator from Texas in saying some very nice personal things that I appreciate.

But let me tell you, I do not want sweet talk, I want a little commonsense.

The Senator from Texas says, well, the State of Maryland ought to pick up the bill. Well, you can argue that. I guess it is a good question to ask. But the fact is that the law does not let the State of Maryland pick up the bill. It puts it all on the citizens of Baltimore. The Senators may not like that and I may not like that, and the citizens of Baltimore may not like that, but that is what the law is.

If wishes were horses, beggars would ride. The State of Maryland and the city of Baltimore have looked at that law and the possibility of changing the law has been explored.

Mr. BENTSEN. Will the Senator yield for a question?

Mr. MATHIAS. Yes.

Mr. BENTSEN. Will he agree that the law also does not allow the Federal Government to do it? It is a question of changing the law in either place.

Mr. MATHIAS. We are talking about changing the law as it relates to a national construction project. This is a Federal project. It seems to me that, rather than change the basic law, to require the State of Maryland to change a basic organic law which affects every aspect of State highway construction, we can change one small aspect of the law which deals with the national highway system, of which this is an "essential gap."

Mr. President, in conclusion, I reemphasize that this amendment does not require any additional outlay. It does not require any new budget authority. The city is prepared to repay the additional 10 percent Federal money within 3 years after the tunnel is completed.

The Senator from Texas treated that with the kind of disdain with which the humorists say that Texans deal with large sums of money, but I take that as a very serious commitment—a very serious commitment.

This amendment not only calls for repayment, it mandates it, it requires it. Under the provisions of section 129 of title XXIII of the United States Code, the new tunnel would be a toll facility until such time as local costs are recovered. This amendment will enable the tunnel to become a toll-free facility at an earlier date because it will reduce the total bond offering which must be sold by Baltimore to finance its share of the construction cost. Thus, the bonds can be retired sooner and, therefore, the tunnel becomes toll free sooner. One of the goals of the Federal Highway Administration is to eliminate toll facilities on the Interstate System at the earliest possible date.

This will benefit Texans, it will benefit Rhode Islanders, it will benefit the people in Delaware. In fact, the distinguished Senator from Delaware is a commuter. I do not want to put him in a position where it will be a conflict of interest if he votes for this amendment, but the citizens of his State stand to benefit by this amendment. All citizens of the United States who use the Interstate Highway System will benefit.

Mr. President, this is not something that has come up overnight. The Maryland State Highway Administration has been working on the problem of financing this vital link for several years. And, I might add, they have done a very thorough job of analyzing all the alternatives in this situation. Once they determined that a 100-percent Federal advance was necessary, they sought out the opinions of each of the other States on this amendment. As of August 16 of this year, they had received 43 responses. Of those responses, 30 States either supported or had no objection to this amendment. Three opposed it and 10 had no position.

Now, you might say with some proposals that this is self-serving, because these States would hope to gain something. But let me remind the Senate that there are only two "essential gaps" in the national highway system. So, Mr. President, I ask unanimous consent that a chart listing these State responses be printed in the RECORD at this point.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

State	Prior sec. 129 projects		Planned sec. 129 projects		Position of proposed amendment			
	Yes	No	Yes	No	Support	No objection	Oppose	No position
Alabama		X		X	X			
Alaska								
Arizona		X		X		X		
Arkansas								
California								
Colorado		X		X				X
Connecticut		X		X	X			
Delaware		X		X	X			
District of Columbia		X		X	X			
Florida		X	X		X			
Georgia		X		X			X	
Hawaii		X		X		X		
Idaho								
Illinois		X		X				X
Indiana	X			X		X		
Iowa		X		X		X		
Kansas								
Kentucky		X		X	X			
Louisiana		X		X	X			
Maine	X							X
Massachusetts								
Michigan		X		X				X
Minnesota		X		X				X
Mississippi		X		X		X		
Missouri		X		X	X			
Montana		X		X		X		
Nebraska		X		X		X		
Nevada		X		X		X		
New Hampshire		X		X		X		
New Jersey		X	X					X
New Mexico		X		X				X
New York	X		X		X			

State	Prior sec. 129 projects: Yes	Prior sec. 129 projects: No	Planned sec. 129 projects: Yes	Planned sec. 129 projects: No	Position of proposed amendment: Support	No objection	Oppose	No position
North Carolina		X		X				X
North Dakota		X		X				X
Ohio		X		X		X		
Oklahoma		X		X		X		
Oregon	X			X		X		
Pennsylvania		X		X	X			
Puerto Rico								
Rhode Island		X		X	X			
South Carolina		X		X		X		
South Dakota		X			X			
Tennessee								
Texas				X			X	
Utah				X				
Vermont				X		X		
Virginia				X				X
Washington	X			X	X			
West Virginia	X			X				
Wisconsin		X		X		X		
Wyoming		X		X		X		
Total	6	37	3	38	12	18	3	10

Mr. MATHIAS. Mr. President, the new I-95 tunnel has been in planning and design for some time. It has received the necessary environmental clearances. It is ready to go. The Secretary of Transportation has designated it an "essential gap;" That is, a route that must be completed to connect an intercity system. I note that the Environment and Public Works Committee report on the Federal-Aid Highway Act of 1978 pays special attention to the early completion of these essential gaps of the Interstate.

As the committee appropriately notes:

Some estimates conclude that at current funding levels some portions of the system may not be completed until the twenty-first century. With costs rising swiftly, this could mean that the remaining ten percent of the system will cost as much as that completed in prior years.

The new I-95 tunnel is one of those last vital links, which, if further delayed, could well end up costing the highway trust fund substantially more than its present cost estimate.

Mr. President, passage of this amendment would assist Baltimore in completing its total interstate program, as well as benefiting the entire Northeast corridor.

The economic effect of this amendment is minimal as it would apply to only two interstate projects. It would, however, alleviate a serious local financing problem that is unique to Baltimore and the State of Maryland and it would expedite completion of the Interstate System in the Northeast corridor.

Mr. BIDEN. Before the Senator yields back his time, may I have 30 seconds for a question?

Mr. MATHIAS. I am happy to yield to the distinguished Senator from Delaware.

Mr. BIDEN. The Senator from Delaware, I think, has this argument in perspective. I want to make sure I do.

The Senator from Texas and the Senator from Rhode Island are sure that the people of Baltimore are beggars and the Senator from Maryland wants to give them all horses. Is that the way it all works out?

Mr. MATHIAS. No, I do not think the Senator from Delaware has quite the perspective.

Mr. BIDEN. The Senator from Delaware wants to know how much the horses are going to cost that we are giving all the beggars in Baltimore.

Mr. MATHIAS. That is the nice thing, they are not going to cost anything.

Mr. BIDEN. They are good ones, then.

Mr. MATHIAS. All we are doing is financing, for the brief period of 3 years, the 10 percent which the State normally invests in a section of the Interstate Highway System but which, under the peculiarities of this situation, are required to be advanced by the city of Baltimore. In so doing, we provide for all of the users of the Interstate System, from whatever State or whatever city they may come. We provide for them sooner a toll-free interstate facility.

Mr. BIDEN. I thank the Senator.

Mr. BENTSEN. Mr. President, I ask unanimous consent that we temporarily lay aside this amendment to consider the amendment of the Senator from Kansas and return forthwith to this amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Texas?

Without objection, it is so ordered.

The Senator from Kansas is recognized.

UP AMENDMENT NO. 1687

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 1687:

On page 423, line 2, insert immediately before the period a comma and the following: "including criteria which take into account the variability of speedometer readings and criteria which are based upon the speeds of all vehicles or a representative sample of all vehicles".

Mr. DOLE. Mr. President, the Federal-aid highway bill includes a provision that authorizes the Secretary to withhold up to 5 percent of a State's Federal highway aid if a certain percentage of vehicles in that State are violating the 55 mile-per-hour limit.

I do not quarrel with that, but by this amendment I would change that provision to apply to all vehicles, or a representative sample of all vehicles.

In my home State, the highway patrol has considerable difficulty enforcing the 55 miles-per-hour speed limit, despite an enforcement program that is universally recognized as one of the best in the country—and maybe the best. My amendment is designed to improve the gathering of speed statistics in a way that makes this provision a little less onerous for the States. My amendment in no way limits our commitment to the 55 miles-per-hour speed limit.

It does, however, provide a more realistic statistical basis for applying the compliance formula set out in the bill.

Currently, statistics on compliance with the speed limit are based on the "free-flow" monitoring system. Basically, this means that only certain vehicles are measured—vehicles driving under the best road conditions, without cars in front of them, on straight, flat roads. Obviously, this produces artificially high statistics on the speeds of vehicles and lowers the level of compliance with the 55 miles-per-hour speed limit.

Now that we are going to start penalizing States for noncompliance, it is important that we change our statistical base to include the speeds of all vehicles. This is obviously more fair, and the Department of Transportation has already been thinking about going to a "full monitoring" system of measuring speeds once this bill goes into effect. My amendment mandates that they do so.

In addition, the amendment requires that statistics take into account the effect of inaccurate speedometers on speed.

Mr. President, I urge adoption of this amendment.

Mr. BENTSEN. Mr. President, this amendment, I think, is an important one for the enforcement of the 55-mph speed limit, to make it work, to enforce it, to check the tolerances in the speedometers. I think it would make it a more equitable enforcement.

The PRESIDING OFFICER. Does the Senator from Texas yield to the Senator from Rhode Island?

Mr. BENTSEN. I am delighted to.

Mr. CHAFEE. Mr. President, on behalf of the minority, we agree on the amendment.

The PRESIDING OFFICER. Do the Senators yield back the remainder of their time?

Mr. DOLE. I yield back the remainder of my time.

Mr. BENTSEN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Kansas.

So the amendment (UP No. 1687) was agreed to.

UP AMENDMENT NO. 1686

Mr. BENTSEN. Mr. President, I ask unanimous consent that we now return to the amendment of the Senator from Maryland.

The PRESIDING OFFICER. The question automatically recurs.

Mr. MATHIAS. One final brief comment.

Some wise man once said, "Oh, that mine enemy should write a book."

The committee in this case wrote a book. I hope they are not my enemy, but they did write a book.

In that book, the committee noted:

Some estimates conclude that at current funding levels some portions of the system may not be completed until the twenty-first century. With costs rising swiftly, this could mean that the remaining ten percent of the system will cost as much as that completed in prior years.

Mr. President, I agree totally with the committee on this. I think any artificial delays in completing the system are going to artificially escalate the cost.

If we do not adopt this amendment, there will be continued delays on one of the essential gaps in the system.

So I urge the Senate to adopt the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. BENTSEN. I yield back the remainder of my time.

Mr. MATHIAS. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. MATSUNAGA). All time having been yielded back, the question is on agreeing to UP amendment No. 1686 of the Senator from Maryland. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Arkansas (Mr. BUMPERS), the Senator from North Dakota (Mr. BURDICK), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Arizona (Mr. DECONCINI), the Senator from New Hampshire (Mr. DURKIN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Kentucky (Mr. FORD), the Senator from Maine (Mr. HATHAWAY), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from North Carolina (Mr. MORGAN) the Senator from New York (Mr. MOYNIHAN), the Senator from Maine (Mr. MUSKIE), the Senator from Wisconsin (Mr. NELSON), and the Senator from Georgia (Mr. NUNN), the Senator from Rhode Island (Mr. PELL), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Mississippi (Mr. STENNIS), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON) would vote "nay."

Mr. BAKER. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from New Jersey (Mr. CASE), the Senator from Missouri (Mr. DANFORTH), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Wyoming (Mr. HANSEN), the Senator from Oregon (Mr. HATFIELD), the Senator from Pennsylvania (Mr. HEINZ), the Senator from North Carolina (Mr. HELMS), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY) the Senator from Delaware (Mr. ROTH), the Senator from New Mexico (Mr. SCHMITT), the Senator from Alaska (Mr. STEVENS), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) and the Senator from Michigan (Mr. GRIFFIN) would each vote "nay."

On this vote, the Senator from New Jersey (Mr. CASE) is paired with the Senator from South Carolina (Mr. THURMOND). If present and voting, the Senator from New Jersey would vote "yea" and the Senator from South Carolina would vote "nay."

The result was announced—yeas 8, nays 45, as follows:

[Rollcall Vote No. 331 Leg.]

YEAS—8

Bellmon	Domenici	Sarbanes
Byrd, Robert C.	Javits	Weicker
Chiles	Mathias	

NAYS—45

Allen	Gravel	Metzenbaum
Baker	Hart	Packwood
Bartlett	Haskell	Proxmire
Bayh	Hatch	Randolph
Bentsen	Hatfield, Paul G.	Riegle
Biden	Hayakawa	Sasser
Byrd, Harry F., Jr.	Hodges	Schweiker
Chafee	Inouye	Scott
Clark	Jackson	Sparkman
Culver	Long	Stafford
Curtis	Lugar	Stone
Dole	Magnuson	Wallop
Eagleton	Matsunaga	Williams
Garn	McGovern	Young
Glenn	Melcher	Zorinsky

NOT VOTING—47

Abourezk	Hansen	Moynihan
Anderson	Hatfield, Mark O.	Muskie
Brooke	Hathaway	Nelson
Bumpers	Heinz	Nunn
Burdick	Helms	Pearson
Cannon	Hollings	Pell
Case	Huddleston	Percy
Church	Humphrey	Ribicoff
Cranston	Johnston	Roth
Danforth	Kennedy	Schmitt
DeConcini	Laxalt	Stennis
Durkin	Leahy	Stevens
Eastland	McClure	Stevenson
Ford	McIntyre	Talmadge
Goldwater	Morgan	Thurmond
Griffin		Tower

So the amendment (UP No. 1686) was rejected.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). The Senator from New Mexico is recognized.

UP AMENDMENT NO. 1688

Mr. DOMENICI. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes an unprinted amendment numbered 1688.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 16, after line 10, insert the following new subsection:

"(c) Out of the sums apportioned under Section 104(b)(5)(A) of title 23, United States Code, for fiscal years 1980 and 1981, each State may obligate an amount not to exceed one-half of 1 per centum of the total so apportioned to all States for projects to resurface, restore or rehabilitate those lanes on the Interstate System which have been in use for more than five years, except that that portion of each State's apportionment which is based on the estimated cost to complete essential gaps on the Interstate System may not be obligated for such projects. Eligible projects under this subsection must be located on Interstate segments which are essential to a unified and connected Interstate System and which are deficient with respect to pavement or bridge deck serviceability. The Federal share payable on account of any project authorized under this subsection shall be the same as that authorized under Sec. 105(b) of this Act."

The PRESIDING OFFICER. The Senator from New Mexico has the floor.

Mr. DOMENICI. Mr. President, this bill pending before the Senate has taken giant strides in a very difficult area of maintenance of the interstate system. My amendment that is pending has been discussed at length with the chairman of the full committee and with the chairman of the subcommittee and the distinguished Republican ranking member. It merely seeks to allow States a further option to use some of the interstate money that is not absolutely necessary, to fill critical gaps and for major rehabilitation projects for maintenance up to a certain amount of money out of their interstate funds if they so elect.

It just adds to and buttresses the 3R program that is in the bill for rehabilitation. I have stated the purposes and the goals in more detail in a statement.

Mr. President, S. 3073 contains a provision requiring States to adequately maintain their interstate routes. Failure to comply results in a suspension of Federal-aid funding.

I supported the provision. I believe it is imperative that we not neglect existing, heavily traveled interstate routes in our rush to finish new mileage. Closing existing interstate gaps will serve little purpose if we let new gaps open up in the completed system.

I was concerned when we mandated adequate maintenance, however, that we were not providing a realistic level of assistance to get the job done. The costs of resurfacing, restoring, and rehabilitating interstate routes are staggering. The Federal Highway Administration esti-

mates there is a $2.6 billion backlog of Interstate 3R work. Annual expenditures to do the job right are estimated to be over $900 million. S. 3073 authorizes $175 million annually for this work.

There is an understandable desire to get the interstate system built. Much of the committee's attention was focused on this need. I agree we ought to do what we can to accelerate its completion. But we must seriously, at this point think about the whole system, including older segments. Two-thirds of the mileage now open to traffic has been in operation 10 years; 37 percent for 15 years and 14 percent for more than 20 years.

My amendment is not a permanent solution to the Interstate 3R program. I think it is a useful interim measure to address the deterioration problem while we are still concentrating on completing all essential segments.

My proposal would let a State with seriously deteriorating interstate segments use up to $16 million a year of its interstate construction money to restore those segments. The State would not be allowed to spend money apportioned to it to complete essential gaps for rehabilitation of older routes. Only funds—up to the $16 million figure—apportioned to complete nonessential gaps would be available for reconstruction.

The amendment further limits diversion of funds from construction to reconstruction by setting the Federal share for rehabilitation at 70 percent rather than the 90 percent share for new routes. Thus, a State would have to have a serious deficiency in interstate payment or bridge decking before it would undertake projects requiring a 30-percent State match instead of a 10-percent share.

Finally, routes eligible for 3-R type work under my amendment would have to be routes that are essential to a connected, unified system. This is to insure that only routes of national significance are eligible for this special interim program.

Mr. President, the provision is permissive, only. No State is required to use these funds for 3-R work. Where there are few serious problems on existing interstate routes, States will not have to avail themselves of this option. But where poor road conditions pose safety hazards and unwarranted delays, the States will need this flexibility to make costly improvements.

Mr. President, I ask unanimous consent to print three tables in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

INTERSTATE 3-R PAVEMENT NEEDS [1]

[In millions, 1975 dollars]

State	Existing backlog 1976–78	Immediate future 1979–80	Total needs through 1980	Total long-range needs 1976–96
Alabama	$41.7	$39.6	$81.3	$599
Alaska				
Arizona	31.1	9.6	40.7	137
Arkansas	55.6	9.0	64.6	424
California	99.6	58.6	158.2	936
Colorado	14.7	38.4	53.1	409
Connecticut	20.4	69.5	89.9	231
Delaware				20
District of Columbia	5.4	.4	5.8	17
Florida	75.3	41.9	117.2	573
Georgia	201.0	20.7	121.7	689
Hawaii	3.8		3.8	16
Idaho	28.4	42.6	71.0	157
Illinois	169.7	164.7	334.4	1,177
Indiana	38.4	64.0	102.4	625
Iowa	27.7	39.5	67.2	354
Kansas	44.1	14.2	58.3	324
Kentucky	94.5	22.2	116.7	334
Louisiana	100.0	47.4	147.4	398
Maine	4.8	11.9	16.7	74
Maryland	28.5	15.0	43.5	191
Massachusetts	4.7	60.9	65.6	155
Michigan	40.7	20.8	61.5	276
Minnesota	15.3	48.2	63.5	208
Mississippi	18.7	91.5	110.2	366
Missouri	100.8	54.6	155.4	593
Montana	44.3	27.6	71.9	213
Nebraska	7.1	13.0	20.1	132
Nevada	4.9	12.4	17.3	100
New Hamsphire	3.1	4.6	7.7	60
New Jersey	3.4	16.7	20.1	105
New Mexico	16.0	29.8	45.8	338
New York	204.5	54.5	259.0	888
North Carolina	25.0	16.5	41.5	249
North Dakota	0.4	1.9	2.3	242
Ohio	26.7	24.8	51.5	232
Oklahoma	15.1	17.8	32.9	169
Oregon	27.9	36.6	64.5	235
Pennsylvania	21.7	86.8	108.5	724
Rhode Island	4.5	8.4	12.9	46
South Carolina				157
South Dakota	83.6	2.3	85.9	171
Tennessee	228.8	38.9	267.7	954
Texas	133.1	140.0	273.1	1,220
Utah	28.3	20.6	48.9	126
Vermont	14.3	3.4	17.7	81
Virginia	8.8	16.4	25.2	102
Washington	24.4	9.8	34.2	185
West Virginia	34.1	8.6	42.7	268
Wisconsin	10.7	31.7	42.4	304
Wyoming	40.4	16.9	57.3	188
Total	2,276.0	1,595.0	3,801.2	16,772

[1] Needs as reported by the States U.S. DOT's "Intercity Resurfacing, Restoration, and Rehabilitation Study." This does not include bridge deck needs.

ADJUSTED [1] 3-DOLLAR COSTS BY YEAR OF NEED

[In millions, 1975 dollars]

Year of need	Pavement costs	Bridge costs	Total costs
1976–77	$965	$325	$1,290
1978	950	350	1,300
1979	640	350	990
1980	715	200	915
1981	655	175	830
1982	695	150	845
1983	735	50	785
1984	745	50	795
1985	1,080	50	1,130
1986	905	50	955
1987	870	50	920
1988	915	100	1,015
1989	715	100	815
1990	950	100	1,050
1991	765	100	865
1992	1,110	100	1,210
1993	995	100	1,095
1994	860	100	960
1995	950	100	1,050
Total	16,215	2,600	18,815

[1] Adjusted to eliminate presently available R-R-R funds.

COMPARISON OF INTERSTATE 3-R PAVEMENT NEE^S [1] TO INTERSTATE 3-R FUNDING UNDER THE SENATE HIGHWAY BILL (S. 3073)

[In millions]

State	Total needs through 1980	Available I-3R funding, fiscal years 1979–80
Alabama	$81.3	$3.8
Alaska		
Arizona	40.7	8.2
Arkansas	64.6	4.6
California	158.2	30.1
Colorado	53.1	7.2
Connecticut	89.9	4.3
Delaware		.2
District of Columbia	5.8	.2
Florida	117.2	9.2
Georgia	121.7	9.4
Hawaii	3.8	.4
Idaho	71.0	4.2
Illinois	334.4	13.4
Indiana	102.4	9.1
Iowa	67.2	5.6
Kansas	58.3	4.8
Kentucky	116.7	6.0
Louisiana	147.4	4.7
Maine	16.7	1.9
Maryland	43.5	4.4
Massachusetts	65.6	4.8
Michigan	61.5	11.5
Minnesota	63.5	6.5
Mississippi	110.2	4.8
Missouri	155.4	10.3
Montana	71.9	6.6
Nebraska	20.1	3.8
Nevada	17.3	3.6
New Hampshire	7.7	1.5
New Jersey	20.1	3.5
New Mexico	45.8	7.4
New York	259.0	8.6
North Carolina	41.5	6.2
North Dakota	2.3	3.9
Ohio	51.5	14.4
Oklahoma	32.9	5.7
Oregon	64.5	6.1
Pennsylvania	108.5	10.4
Rhode Island	12.9	1.0
South Carolina		5.5
South Dakota	85.9	4.3
Tennessee	267.7	8.9
Texas	273.1	27.6
Utah	48.9	5.4
Vermont	17.7	2.0
Virginia	25.2	8.8
Washington	34.2	7.5
West Virginia	42.7	2.4
Wisconsin	42.4	5.1
Wyoming	57.3	6.2
Total	3,801.2	337.7

[1] Needs, in 1975 dollars, as reported by the States, from U.S. DOT's "Interstate Resurfacing, Restoration, and Rehabilitation Study." This does not include bridge deck needs.

Mr. DOMENICI. I understand the Senator from Rhode Island, the ranking Republican, might have a question with reference to this amendment, and I would be pleased to try to answer it.

Mr. CHAFEE. Yes; Mr. President.

This amendment would provide that the Federal share for the 3-R work would be at the 70 percent level, which we currently have in the bill, and I think the Senator from New Mexico has made a good suggestion here. I just want to ask him one question.

As the Senator mentioned, there is a requirement in our bill, S. 3073, that each State adequately maintain its interstate routes or cease receiving the Federal aid primary funds. In other words, this is the requirement under the bill.

Mr. DOMENICI. Right.

Mr. CHAFEE. The requirement for adequate maintenance is independent of the amount of Federal 3-R funds made available to a State. In other words, the States have to maintain the roads regardless of the 3-R funds, although the 3-R funds are for the interstate system primarily, but they then can be used for what the Senator is seeking here.

Is it correct to say that the Senator's amendment in no way relaxes the requirement for adequate maintenance or makes the requirement conditional upon the availability of the Federal funds?

Mr. DOMENICI. Absolutely.

Mr. CHAFEE. Then I think the Senator's amendment is helpful, and I would certainly urge its acceptance.

Mr. RANDOLPH. Mr. President, the amendment offered by the able Senator from New Mexico (Mr. DOMENICI), a member of our Committee on Environment and Public Works, certainly is one that I think is a valid approach.

Senator CHAFEE of Rhode Island, of course, has had the colloquy which is fully explanatory. We agree to the amendment, and I see no reason for me to talk longer.

Mr. DOMENICI. I thank my good friend, the chairman of the full committee, and I thank the Senator from Rhode Island.

I yield back the remainder of my time.

Mr. CHAFEE. We yield back the remainder of our time.

Mr. RANDOLPH. I yield back the remainder of our time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico.

The amendment was agreed to.

Mr. DOMENICI. I move to reconsider the vote by which the amendment was agreed to.

Mr. RANDOLPH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

● Mr. STONE. Mr. President, I rise in support of S. 3073, the Federal-Aid Highway Act of 1978. I believe that the Environment and Public Works Committee and especially the Subcommittee on Transportation is to be commended for the work they have done on this important legislation.

I am particularly pleased that this bill would give States the authority to issue bonds to accelerate interstate construction and pay back a percentage of the principal and interest of these bonds out of their future trust fund apportionments. In March of this year, I testified before the Transportation Subcommittee and urged them to include such an option in their bill. This bonding option is similar to legislation, S. 563, that I had introduced in 1977.

The State of Florida has more interstate mileage to complete than any other State. Under current levels of funding, Florida would not be able to complete its interstate system until the next century. However, because of the bonding option and the other acceleration measures found in S. 3073, Florida will be able to complete its system in the late 1980's. By accelerating completion of our interstate system, we are substantially reducing the increased costs of inflation while we save lives and energy.●

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business of not to exceed 30 minutes, with Senators permitted to make statements therein of not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks and Mr. Chirdon, two of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVALS

A message from the President of the United States reported that on August 17, 1978, he approved and signed the following act:

S. 2424. An act to amend the act incorporating the American Legion so as to redefine eligibility for membership therein.

The message also reported that on today, August 18, 1978, he approved and signed the following act:

S. 2821. An act to authorize appropriations for certain insular areas of the United States, and for other purposes.

MESSAGES FROM THE HOUSE

At 11:40 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the amendment of the House to the amendment of the Senate numbered 2 to H.R. 10878, an act to extend until October 1, 1981, the voluntary insurance program provided by section 7 of the Fishermen's Protective Act of 1967, and for other purposes.

The message also announced that, pursuant to the provisions of 20 U.S.C. 42 and 43, the Speaker appoints Mr. RYAN as a Member of the Board of Regents to the Smithsonian Institution, vice Mrs. BOGGS, resigned.

The message further announced that, pursuant to the provisions of section 204 (b), Public Law 94-141, as amended, the Speaker appoints Mr. HAMILTON, Chairman, Mr. LEHMAN, Mr. EVANS of Colorado, Mr. DUNCAN of Oregon, Mr. IRELAND, Mr. WON PAT, Mr. BROOMFIELD, Mr. DERWINSKI, Mr. MCCLORY, Mr. VANDER JAGT, Mr. WIGGINS, and Mr. BUTLER as members and delegate on the part of the House to attend the conference of the Interparliamentary Union held in Bonn, Germany, from September 3 to September 14, 1978.

At 3:15 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 10898. An act to amend the Regional Rail Reorganization Act of 1973 to authorize appropriations for the U.S. Railway Association for fiscal year 1979; and

H.J. Res. 1014. A joint resolution designating April 28 and 29 of 1979 as "Days of Remembrance of Victims of the Holocaust."

ORDER TO HOLD H.R. 10898 AT DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 10898, an act to amend the Regional Rail Reorganization Act of 1973 to authorize appropriations for the U.S. Railway Association for fiscal year 1979, be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOUSE JOINT RESOLUTION REFERRED

The following joint resolution was read twice by its title and referred as indicated:

H.J. Res. 1014. A joint resolution designating April 28 and 29 as "Days of Remembrance of Victims of the Holocaust"; to the Committee on the Judiciary.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC-4199. A communication from the President of the United States, transmitting requests for supplemental appropriations for the fiscal year 1978 in the amount of $3,330,000 and an amendment to the request for appropriations for the fiscal year 1979 in the amount of $1,300,000; to the Committee on Appropriations.

EC-4200. A communication from the Acting Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Army's pro-

posed letter of offer to Saudi Arabia for de-

posed letter of offer to Saudi Arabia for defense articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-4201. A communication from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting, pursuant to law, a report on the average number of passengers per day on board each train operated and the on-time performance at the final destination of each train operated, by route and by railroad, for the month of May 1978; to the Committee on Commerce, Science, and Transportation.

EC-4202. A communication from the Secretary of Energy, transmitting, pursuant to law, a financial statement for all of the electric power generating projects and the transmission system comprising the Federal Columbia River Power System (FCRPS); to the Committee on Energy and Natural Resources.

EC-4203. A communication from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting, pursuant to law, justification of an increase in the funding level of our proposed basic fiscal year 1978 program in Kenya; to the Committee on Foreign Relations.

EC-4204. A communication from the Deputy Under Secretary of State for Management, transmitting, pursuant to law, a report of the Department's proposal to alter a record system; to the Committee on Governmental Affairs.

EC-4205. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an Act adopted by the Council on July 11, 1978, which would provide for priorities of distribution of general assets and to provide for early access to the assets of an insolvent insurer for the benefit of the guaranty associations (act 2-254); to the Committee on Governmental Affairs.

EC-4206. A communication from the Assistant to the Deputy Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, a report regarding NASA's intention to alter a system of records; to the Committee on Governmental Affairs.

EC-4207. A communication from the Chairman, U.S. Railroad Retirement Board, transmitting, pursuant to law, the annual report of the Railroad Retirement Board for the fiscal year ended September 30, 1977; to the Committee on Human Resources.

EC-4208. A communication from the Secretary of Health, Education, and Welfare and the Secretary of Commerce, transmitting, pursuant to law, a report on alternative methods of estimating the number of children in poverty, August 1978; to the Committee on Human Resources.

EC-4209. A communication from the Acting Executive Secretary of the Department of Health, Education, and Welfare, transmitting, pursuant to law, interim final regulations for: First, supplemental education opportunity grant program (20 U.S.C. 1070b, subpart 2 of part A of title IV of the Higher Education Act of 1965, as amended, Public Law 92-318, amended by Public Law 94-482, Education Amendments of 1976); second, college work-study program (42 U.S.C. 2751, part C of title IV of the Higher Education Act of 1965, as amended, Public Law 92-318, amended by Public Law 94-482, Education Amendments of 1976, and third, national direct student loan (20 U.S.C. 1087aa, part E, title IV of the Higher Education Act of 1965, as amended, Public Law 92-318, amended by Public Law 94-482, Education Amendments of 1976); to the Committee on Human Resources.

EC-4210. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on the status of health professions personnel in the United States; to the Committee on Human Resources.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM-779. A petition from the Scarsdale Friends Meeting of the Religious Society of Friends (Quakers), Scarsdale, N.Y., relating to transfer of funds from the military functions of government to Departments and functions in the civilian sector; to the Committee on the Budget.

ORDER FOR PERMISSION TO FILE REPORT

Mr. JACKSON. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources and the Committee on Commerce, Science and Transportation be given permission to file their report on S. 2053, the Deep Seabed Mining Act, until midnight, Saturday, August 19, 1978.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR STAR PRINT

Mr. DOMENICI. Mr. President, I respectfully ask unanimous consent that a star print be made of S. 3199 with the following corrections: That the word "cancer" be replaced by the word "disease" on page 1, the title and line 8, on page 2, lines 14, 15, and 18, on page 3, line 18, on page 4, lines 7 and 19, on page 5, lines 12, 14, and 19, on page 6, lines 5, 8, 11, 12, 15, and 19, on page 10, line 4, and on page 14, line 12. On page 2, line 3, replace the word "cancer" with "lung disease." On page 13, line 16, replace "textile plant" with "uranium mine" and on line 20, correct the spelling of "dessertion" to read "desertion." On page 14, line 14, that "plants" be replaced by the word "mines."

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MUSKIE, from the Committee on the Budget, without amendment:

S. Con. Res. 104. A concurrent resolution revising the congressional budget for the U.S. Government for the fiscal year 1979 (together with additional and minority views) (Rept. No. 95-1124).

By Mr. BUMPERS, from the Committee on Energy and Natural Resources, with an amendment, and from the Committee on Commerce, Science, and Transportation, with amendments:

S. 2053. A bill to promote the orderly and environmentally sound exploration for and commercial recovery of hard mineral resources of the deep seabed, pending adoption of an international regime relating thereto (together with additional views) (Rept. No. 95 1125). Referred to the Committee on Foreign Relations, pursuant to order of August 14, 1978, for not to exceed 30 days.

NATURAL GAS POLICY ACT OF 1978—CONFERENCE REPORT

By Mr. JACKSON, from the committee of conference, submitted a report on the disagreeing votes of the two Houses on the amendment of the House to the amendment numbered 8 of the Senate to the bill (H.R. 5289) for the relief of Joe Cortina of Tampa, Fla. (Rept. No. 95-1126).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. NELSON:

S. 3430. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income the value of stock received under qualified dividend reinvestment plans; to the Committee on Finance.

By Mr. KENNEDY:

S. 3431. A bill to amend certain provisions of title 23, United States Code, relating to commercial vehicle lengths and axle weight loads; to the Committee on Commerce, Science, and Transportation.

By Mr. DOLE:

S. 3432. A bill for the relief of Roman Enriquez, Andrietta Enriquez, and their son Sol Allan Enriquez; to the Committee on the Judiciary.

By Mr. TALMADGE:

S. 3433. A bill to amend the Internal Revenue Code of 1954 to clarify the application of the investment tax credit to certain enclosures or structures used for single purpose food or plant production; to the Committee on Finance.

By Mr. HART:

S. 3434. A bill to amend chapter 5 of title 37, United States Code, to revise the special pay provisions for certain health professionals in the uniformed services; to the Committee on Armed Services.

By Mr. BENTSEN:

S. 3435. A bill to rename the Palmetto Bend Reservoir, located on the Navidad River near Edna, Tex., Lake Texana; to the Committee on Energy and Natural Resources.

By Mr. HASKELL (for himself and Mr. NELSON):

S. 3436. A bill to provide for the valuation of options to purchase stock in a small business; to the Committee on Finance.

By Mr. CULVER (for himself, Mr. CHAFEE, Mr. HATHAWAY, Mr. BENTSEN, Mr. HATCH, Mr. NUNN, Mr. PERCY, Mr. RIBICOFF, and Mr. THURMOND):

S. 3437. A bill to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 and other laws to prevent the illicit importation of controlled substances into the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. BARTLETT (for himself and Mr. BELLMON):

S.J. Res. 154. A joint resolution authorizing the President to invite the States of the Union and foreign nations to participate in the International Petroleum Exposition to be held at Tulsa, Okla., from September 10, 1979, through September 13, 1979; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NELSON:

S. 3430. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income the value of stock received under qualified dividend reinvestment plans; to the Committee on Finance.

QUALIFIED DIVIDEND REINVESTMENT PLANS

● Mr. NELSON. Mr. President, today I am introducing legislation which would defer current Federal tax dividends reinvested in original issue stock of any com-

pany having a qualified dividend reinvestment plan. A qualified reinvestment plan would be defined as a plan which provides for reinvestment of a cash dividend in the original issue stock of a company.

Under the proposal, a single taxpayer would be allowed to reinvest a maximum of $1,500 in dividends annually. A married taxpayer filing a joint return would be allowed a maximum of $3,000.

The purpose of this proposal is to encourage capital formation and to provide a stimulus to construction of essential capital facilities, employment opportunities and a stronger economy. In essence, this proposal would encourage increased reinvestment of dividends in original issue stock of capital intensive companies by deferring current taxes on dividends which are reinvested.

This legislation would be beneficial not only to the companies involved, in assisting them to obtain essential equity capital, but also to the participating stockholders, in providing them with a simple, convenient and economical way to build up their investment.

In recent years businesses requiring periodic infusions of new capital have had great difficulty raising equity capital at reasonable cost. Utility companies in particular, are capital intensive and must continually offer new common stock to finance their capital requirements. However, they find it more and more difficult and expensive to attract this necessary capital through large public offerings in the marketplace.

Accordingly, many of these companies have adopted dividend reinvestment plans under which their stockholders have the option of automatically investing any cash dividends declared by a company in original issue stock of the company.

Under existing law, Federal income tax is imposed currently on the value of the stock received by the stockholder who opts to participate in a dividend reinvestment plan and take stock instead of cash. This is a disincentive to those stockholders who may be pressed to use the cash dividends to pay the current tax. Deferral of the current tax would greatly encourage increased participation.

Several provisions in the proposal prevent abuse of the tax deferral privilege. If a corporation purchases its own stock within 1 year of making a distribution pursuant to a dividend reinvestment plan, the distribution shall be presumed not to have been made pursuant to a qualified dividend reinvestment plan.

Moreover, although stock purchased with reinvested dividends would basically be regarded as the equivalent of a conventional stock dividend, the cost basis of the stock would be zero and the holding period of the stock would commence on the date of purchase.

Under the proposal, a shareholder purchasing stock with reinvested dividends would be required to hold the stock for at least 1 year. If the shareholder sells stock acquired with reinvested dividends within 1 year of acquisition, any gain on the sale would, in effect, be taxed at ordinary, rather than capital gains rates.

Because this proposal is aimed at encouraging capital formation, dividend reinvestment plans which use reinvested dividends to purchase a company's previously issued and outstanding stock in the marketplace will not qualify. The proposal is strictly limited to plans which purchase original issue stock.

This proposal would provide substantial, direct, and immediate help in the formation of new capital. This proposal would represent a step in the direction of reducing the double tax on dividends by eliminating the tax imposed at the stockholder level when the dividends are reinvested in the corporation.

Finally, this proposal would encourage savings by supplementing retirement income. In this respect, it is analogous to Keogh and IRA programs which have been encouraged by favorable tax treatment.

Last month, Congressman PICKLE introduced H.R. 13581 in the House of Representatives, a bill identical in principle to this proposal. This measure differs from H.R. 13581 in that it sets a limitation on the amount of dividends that may be reinvested under its provisions.

I have introduced this proposal so that its merits may be considered and evaluated during the scheduled tax hearings before the Senate Finance Committee.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3430

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 305 of the Internal Revenue Code of 1954 (relating to distributions of stock and stock rights) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) QUALIFIED DIVIDEND REINVESTMENT PLANS.—

"(1) IN GENERAL.—Notwithstanding the provisions of subsection (b) and subject to the limitation under paragraph (2), subsection (a) shall apply to a distribution of stock of a corporation made by such corporation to a shareholder under a qualified dividend reinvestment plan if such shareholder elects under paragraph (4) to have this subsection apply to such distribution.

"(2) LIMITATION.—The amount of any distribution excluded from income by any taxpayer under subsection (a) by reason of paragraph (1) shall not exceed $1,500 ($3,000 in the case of a joint return under section 6013).

"(3) DEFINITION OF QUALIFIED DIVIDEND REINVESTMENT PLAN.—The term 'qualified dividend reinvestment plan, means a plan under which the common and preferred shareholders of a domestic corporation (other than a regulated investment company) who elect to participate in such plan receive a distribution otherwise payable in property only in shares (including fractional shares) of authorized but unissued common stock of the corporation which is—

"(A) designated by the board of directors of the corporation as issued for purposes of this subsection, and

"(B) priced at not less than 95 percent of fair market value of such common stock as of the date of distribution.

"(4) SHAREHOLDER ELECTION.—A shareholder may elect to have this subsection apply to any distribution of stock under a qualified dividend reinvestment plan by making an election, in such manner and form as the Secretary may by regulation prescribe, on the shareholder's Federal income tax return for the taxable year in which such distribution is received.

"(5) BASIS AND HOLDING PERIOD.—Notwithstanding any other provision of this title, the basis of stock received as a distribution pursuant to a qualified dividend reinvestment plan by a shareholder who makes an election under paragraph (4) shall be zero and the holding period of such stock shall commence on the date of such distribution.

"(6) DISPOSITIONS.—Under regulations prescribed by the Secretary, if a shareholder sells common stock of a corporation within 1 year following the receipt of stock described in paragraph (5) of the same corporation, the stock so sold shall be deemed to be the stock so described commencing with the first shares received during said 1-year period.

"(7) PRESUMPTION.—If a corporation, or a member of its 'affiliated group' within the meaning of section 1504(a), has purchased or purchases its common stock within 1 year of making a distribution pursuant to a dividend reinvestment plan, such distribution shall be presumed not to have been made pursuant to a qualified dividend reinvestment plan. Under regulations prescribed by the Secretary, the corporation may establish that it had a business purpose for purchasing such stock which is not inconsistent with the intent of this subsection, in which event the distribution will not be disqualified hereunder."

(b)(1) Subsection (c) of section 116 of such Code (relating to partial exclusion of dividends received by individuals) is amended by adding at the end thereof the following new paragraph:

"(4) Any amount excluded from gross income under section 305(a) by reason of section 305(e) shall not be treated as a dividend."

(2) Subsection (c) of section 243 of such Code (relating to dividends received by corporations) is amended by adding at the end thereof the following new paragraph:

"(5) Any amount excluded from gross income under section 305(a) by reason of section 305(e) shall not be treated as a dividend."

SEC. 2. The amendments made by this Act shall apply with respect to distributions made after December 31, 1978.

By Mr. KENNEDY:

S. 3431. A bill to amend certain provisions of title 23, United States Code, relating to commercial vehicle lengths and axle weight loads; to the Committee on Commerce, Science, and Transportation.

(The remarks of Mr. KENNEDY when he introduced the bill appear elsewhere in today's proceedings.)

By Mr. DOLE:

S. 3432. A bill for the relief of Roman Enriquez, Andrietta Enriquez, and their son Sol Allan Enriquez; to the Committee on the Judiciary.

ROMAN, ANDRIETTA, AND SOL ALLAN ENRIQUEZ

● Mr. DOLE. Mr. President, today I am introducing a bill on the behalf of Dr. and Mrs. Roman Enriquez, and their son Sol Allan, of Kansas.

The Enriquez family have been residing in the United States on nonimmigrant status so that both Dr. Enriquez and his wife could complete their medical training at the University of Kansas

Dr. Enriquez has been licensed to practice medicine in both Missouri and Kansas, while Mrs. Enriquez is presently completing her residency in psychiatry. Working closely with the outreach program of the Kansas University Medical Center, the Enriquezs found an extreme need for physician care in the rural community of Howard, Kans.

As most of us know, the rural areas of this Nation are in critical need of adequate health care personnel and services. The creation of the Health Professions Education Assistance Act of 1976 was based on this critical need and the placement of these physicians in these areas, through such programs as outreach, will not only fulfill the intent of this act but exemplify the success in meeting this critical shortage of physicians in rural America.

Mr. President, the citizens of Howard first approached the Enriquezs to locate and establish a medical practice there some months ago, and after a meeting with the townspeople last month, interest of both parties has greatly intensified.

Mr. President, the intent of this bill will allow the Enriquezs to remain in the United States and allow them to begin practicing the medical services that this community has needed for so long. I ask unanimous consent that letters of support and the text of the bill be printed in the RECORD.

There being no objection, the bill and letters were ordered to be printed in the RECORD, as follows:

S. 3432

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of paragraphs (14) and (32) of section 212(a) and section 212 (e) of the Immigration and Nationality Act, for purposes of such Act, Roman Enriquez, Andrietta Enriquez, and their son Sol Allan Enriquez shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under paragraphs (1) through (8) of section 203(a) of such Act.

ST. JOSEPH MEDICAL CENTER,
Wichita, Kans., July 25, 1978.

Hon. BOB DOLE,
U.S. Senate, Washington, D.C.

DEAR SENATOR DOLE: We understand that you are working with U.S. immigration authorities and the Republic of the Philippines in an effort to obtain permanent visas for Roman Enriquez, M.D., an internist, and Andrietta Enriquez, M.D., a psychiatrist, who wish to establish practices in Howard, Kansas.

As you know, Elk County (Pop., 41,175), of which Howard is the county seat, is one of the U.S. counties without a medical doctor. The latest figures available to us show that Elk County is one of 15 Kansas counties without an M.D.

Four years ago, St. Joseph Medical Center arranged to fly one of our resident physicians to Howard three afternoons a week in an effort to help meet the county's urgent medical needs. We had to discontinue the program when it became necessary for the resident physician to have an on-site supervision by a practicing physician if our residency training program was to remain accredited.

We still have some medical equipment stored in Howard that we will make available to an established practice.

We always have regretted that circumstances over which we had no control forced us to withdraw our small effort to help this rural Kansas community, and we sincerely hope you can help make it possible for these two physicians to practice in Howard. Please be assured that we will do anything we can to help the young physicians establish their practice in a community that needs their services.

Sincerely,

Mother MARY ANNE,
Executive Director.

PENN VALLEY MEDICAL GROUP, INC.,
Kansas City, Mo., July 25, 1978.

Re: Enriquez, Roman
Mr. JAMES W. EBY,
Howard National Bank,
Howard, Kans.

DEAR MR. EBY: I have known Dr. Roman Enriquez for approximately one year. I have observed him closely during his rotations at Trinity Lutheran Hospital. In this last year, he has spent approximately six months of the time at this hospital.

I can unquestionably say that Roman is an excellent physician. His clinical judgment is very good and he is well respected by his peers and patients alike. All of his preceptors at this hospital have been very impressed with Roman's diligence and attention to detail. He is a very fine physician. In addition, his integrity is above reproach. He is extremely honest, forthright person.

In summary, I would enthusiastically recommend Dr. Enriquez. I think he will make an outstanding addition to the Howard community. If there are any further questions regarding Dr. Enriquez, or I can be of any further help to you, please do not hesitate to contact me.

Sincerely,

DOUGLAS B. BOGART, M.D.●

By Mr. TALMADGE:

S. 3433. A bill to amend the Internal Revenue Code of 1954 to clarify the application of the investment tax credit to certain enclosures or structures used for single purpose food or plant production; to the Committee on Finance.

AMENDMENT TO ALLOW INVESTMENT TAX CREDIT ON STRUCTURES USED FOR FOOD AND PLANT PRODUCTION

● Mr. TALMADGE. Mr. President, I am today introducing a bill that would put an end to extensive tax litigation that has resulted from the position taken by the Internal Revenue Service that structures designed and used for the housing, raising and feeding of poultry and livestock and for the production of plants are not eligible for the investment tax credit. These structures are specifically designed for single purpose food and plant production and should have been eligible for the investment tax credit.

When the investment credit was restored by the Revenue Act of 1971, the Senate Finance Committee in its accompanying report tried to make it clear that the credit was intended to apply to special purpose agricultural structures. The report noted that although buildings are not eligible for the credit, the term "building" was not intended to include structures which house property used as an integral part of a manufacturing or production activity. To illustrate the type of structure which should be eligible for the credit, the committee gave the following example of a unitary hog-raising facility:

One example of a type of structure closely related to the product it houses which was called to the attention of Congress is a unitary system for raising hogs which includes automatic feed systems, special airflow units, slatted flooring, pens and partitions. The structure which can be added to, according to the number of hogs raised, is no more than a cover and way of tying together the specially designed pens, automatic feed systems, etc. There is no other practical use for the structure and it can, therefore, be expected to be used only so long as the equipment it houses is used. Such a structure would be eligible for an investment credit. (S. Rept. 92-437, 92d Cong., 1st Sess. (1971))

It was the intention of Congress to make clear that the investment credit as restored would apply to structures for raising livestock and poultry, despite references in certain revenue rulings to the contrary.

Despite the clear statement in the 1971 committee report, the Internal Revenue Service nevertheless in numerous cases has denied the credit to special purpose agricultural structures or enclosures for raising poultry, livestock, and horticultural products or for producing eggs. These structures have uses and physical attributes which are very similar to the unitary system for raising hogs described in the Finance Committee report, and the U.S. Tax Court has correctly sustained the taxpayers' position and allowed the credit in many of these cases.

Mr. President, the courts have ruled that structures for raising chickens and hogs, for aging liquor, and for greenhouses, qualify for this credit. For example, the Ninth Circuit Court of Appeals in 1974, and the District Court for the Western District of Missouri, August 10, 1978, ruled a greenhouse eligible for the credit. The ninth circuit court held that the functional test rather than the appearance test is the proper test for determining whether a structure constitutes a building. The court concluded, and I quote:

Under the functional test, greenhouses do not function as "buildings" as the term is employed in section 48. The greenhouses supply the controlled environment that is essential to the commercial production of more and finer flowers.

With no exception, a greenhouse is a specially designed, single-purpose environment growth chamber integrally necessary in the production of floricultural plants. The greenhouse is a piece of product equipment that provides a climate control system that regulates temperature, light, and humidity so vital to the production of plants and flowers. Furthermore, it is impossible to expect a greenhouse to serve any alternate function other than that which it is designed to do unless significant capital expenditures are invested in major modifications.

Seven years after the restoration of the credit it is time to end the effort by the Service to deny the credit in these cases contrary to the clear intent of Congress as expressed in the 1971 committee report and affirmed by the Tax Court.

Continued litigation is expensive and wasteful to both parties involved. This needless expenditure of time and money prompts the provision in the bill to make it effective for all taxable years ending on or after August 15, 1971. Many of the taxpayers involved are relatively small farmers and are unable to bear the expense of such litigation.

Also, Mr. President, it should be the Government can do for these producers we are talking about here—those who raise poultry, livestock, and plants—have no Government subsidy program. They sometimes must bear severe losses for long periods of time. The least that the government can do for these producers of essential agricultural commodities is to give them the same access to the investment tax credit that is available to other industries.

This bill would amend the Internal Revenue Code of 1954 to make structures or enclosures used for single purpose food or plant production eligible for the investment tax credit. The Internal Revenue Code denies the investment tax credit to buildings. The IRS has taken the position that structures used in the production of food and plants are buildings and, thus, are not eligible for the credit.

To be eligible for the credit under the bill, the structure would have to be specifically designed and used solely for the production of poultry, eggs, beef, pork, or plants. General purpose structures, such as barns, would therefore not be eligible for the credit.

The effective date of the amendment is August 15, 1971, which is the date upon which the investment tax credit was restored by the Revenue Act of 1971.●

By Mr. HART:

S. 3434. A bill to amend chapter 5 of title 37, United States Code, to revise the special pay provisions for certain health professionals in the uniformed services; to the Committee on Armed Services.

UNIFORM SERVICES HEALTH PROFESSIONALS SPECIAL PAY ACT OF 1978

● Mr. HART. Mr. President, today the military health care system is faced with a critical shortage of qualified military health professions. Department of Defense figures indicate that the three military services are currently in need of approximately 1,130 physicians—the Army alone has fallen 13 percent below its 4,539 physician requirement. Furthermore, these figures do not reflect the severe shortages which exist in certain medical specialties such as radiology, anesthesiology and internal medicine.

This doctor shortage in the military services has been caused by a combination of factors including the termination of the doctor draft in 1973, the diminishing pool of Berry plan physicians and the increasing difficulties in retaining physicians once their initial obligation is completed.

This shortage, coupled with increasing medical costs, has forced military medical facilities to reduce services provided for active duty, dependents and retired beneficiaries. These reductions have in turn caused a corresponding increase in the use of the civilian health and medical program of the uniformed services (CHAMPUS). CHAMPUS not only places an additional financial burden on eligible beneficiaries, but results in additional costs to the taxpayer since such medical services are provided by civilian physicians on a fee-for-service basis. These contracted services do not come cheaply.

For example, nearly $8 million in contracted radiology services for the military were expended in the last fiscal year. As the physician shortage worsens, more money will have to be spent hiring civilian physicians to meet the needs of the military services. This is, at best, only a stop-gap solution because these civilian physicians cannot be deployed in the event of military mobilization.

The shortage in military medical services has had a profund effect on the attitudes of service members. According to Department of Defense officials, health care benefits have been consistently cited by service members as one of the most important influences in making military career decisions. The deterioration of the military health care services will make it increasingly difficult to recruit and retain qualified personnel throughout the armed services.

At present, the military is temporarily authorized to offer variable incentive special pay programs for health professionals. These special pay programs have six different methods of disbursement and confusing eligibility criteria which diminish their effectiveness. For example, variable incentive pay is not available to officers serving their initial active duty obligation. Similarly, medical officers trained under the military medical scholarship program are not eligible for incentive pay until the Federal assistance they have received is paid back through a specified period of military service. Inequitable requirements like these seriously undermine the armed services' effort to maintain a staff of qualified physicians.

The legislation I am proposing today would correct these inequities and replace the current temporary special pay program with a stable, long-term health professions special pay program. It will give the military the needed tools to enhance recruitment and retention of qualified health professionals.

Although this bill will not bring the pay of military medical officers up to civilian levels, it will make a career in the military health service substantially more attractive than it is now.

The major provisions of the bill include:

First, primary special pay for physicians, dental officers, veterinary officers and optometry officers called or ordered to active duty for a period of at least 1 year. This special pay is based on years of creditable service and varies from $1,200 per year to a maximum of $11,000 per year.

Second, incentive special pay would be offered physicians and dentists in selected specialty fields. To be eligible for this pay, the health professional must sign a written agreement to remain on active duty for at least 1 year.

Mr. President, I believe this bill will provide an effective incentive to persuade health professionals to enlist in our Nation's military services, and will give the military the tools necessary to improve its health services. We must insure that our military health care system meets its mission requirements effectively and economically, and provides the high quality medical care which its eligible beneficiaries deserve.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3434

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Uniformed Services Health Professionals Special Pay Act of 1978".

SEC. 2. (a) Chapter 5 of title 37, United States Code, relating to special and incentive pays for members of the uniformed services, is amended by striking out sections 302, 302a, 302b, and 303 and inserting in lieu thereof the following:

"§ 302. Special pay: medical officers

"(a)(1) Except as provided in paragraph (2), a commissioned officer who is an officer of the Medical Corps of the Army or the Navy, an officer of the Air Force designated as a medical officer, or a medical officer of the Public Health Service and who is on active duty under a call or order to active duty for a period of not less than one year is entitled to primary special pay at the following applicable rate:

"(A) $2,000 per year, if the officer has less than five years of creditable service under subsection (c);

"(B) $7,000 per year, if the officer has at least five but less than eight years of creditable service under subsection (c);

"(C) $9,000 per year, if the officer has at least eight but less than fourteen years of creditable service under subsection (c); or

"(D) $11,000 per year, if the officer has fourteen or more years of creditable service under subsection (c).

"(2) A commissioned officer described in paragraph (1) who is serving in the pay grade of 07, 08, or 09 is entitled to primary special pay at the following applicable rate regardless of the number of years of creditable service such officer may have under subsection (c):

"(A) $6,000 per year if the officer is serving in a pay grade of 09;

(B) $7,000 per year if the officer is serving in a pay grade of 08; or

"(C) $10,000 per year if the officer is serving in a pay grade of 07.

"(3) The annual rate of primary special pay to which an officer is entitled under paragraph (1) or (2) shall be increased by—

"(A) $5,000 for any period during which the officer is not undergoing medical internship or residency training, as determined under regulations prescribed under section 302d(a); and

"(B) $2,000 if the officer is board certified, as determined under regulations prescribed under section 302d(a).

"(b)(1) Subject to paragraph (2) and under regulations to be prescribed under section 302d(a), an officer who is entitled to

primary special pay under subsection (a)(1) and who is not undergoing medical internship or residency training may be paid incentive special pay in an annual amount not to exceed the following applicable amount:

"(A) $8,000, if the officer has at least five but less than eight years of creditable service under subsection (c);

"(B) $6,000, if the officer has at least eight but less than fourteen years of creditable service under subsection (c); or

"(C) $4,000, if the officer has fourteen or more years of creditable service under subsection (c).

"(2) No officer shall be eligible for incentive special pay under this subsection unless the Secretary concerned has determined that the officer is qualified in the medical profession.

"(3) To be eligible for incentive special pay under this subsection for any year, an officer must first execute a written agreement under which the officer agrees to remain on active duty for a period of not less than one year beginning on the date the officer accepts the award of such special pay.

"(4) In developing the Budget for any fiscal year for transmittal to the Congress under section 201(a) of the Budget and Accounting Act, 1921, the President shall limit the amount to be paid during that year for incentive special pay under this subsection to an amount equal to not more than 5 percent of the amount to be paid in that year for primary special pay under subsection (a).

"(c) For purposes of this section, creditable service of an officer of the Medical Corps of the Army or the Navy, an officer of the Air Force designated as a medical officer, or a medical officer of the Public Health Service is computed by adding—

"(1) four years;

"(2) all periods which the officer spent in medical internship or residency training during which the officer was not on active duty; and

"(3) all periods of active service in the Medical Corps of the Army or Navy, as an officer of the Air Force designated as a medical officer, or as a medical officer of the Public Health Service.

"§ 302a. Special pay: dental officers

"(a)(1) Except as provided in paragraph (2), a commissioned officer who is an officer of the Dental Corps of the Army or the Navy, an officer of the Air Force designated as a dental officer, or a dental officer of the Public Health Service and who is on active duty under a call or order to active duty for a period of not less than one year is entitled to primary special pay at the following applicable rate:

"(A) $1,200 per year, if the officer has at least four years of creditable service under subsection (c) and is undergoing dental internship training, as determined under regulations prescribed under section 302d(a);

"(B) $2,000 per year, if the officer has at least four but less than seven years of creditable service under subsection (c) and is not undergoing dental internship training, as determined under regulations prescribed under section 302d(a);

"(C) $7,000 per year, if the officer has at least seven but less than fourteen years of creditable service under subsection (c); or

"(D) $9,000 per year, if the officer has fourteen or more years of creditable service under subsection (c).

"(2) A commissioned officer described in paragraph (1) who is serving in the pay grade of 07 or 08 is entitled to primary special pay at the rate of $7,000 per year regardless of the number of years of creditable service such officer may have under subsection (c).

"(3) The annual rate of primary special pay to which an officer is entitled under paragraph (1) or (2) shall be increased by—

"(A) $3,000 for any period during which the officer is not undergoing dental internship or residency training, as determined under regulations prescribed under section 302d(a); and

"(B) $2,000 if the officer is board qualified in a dental specialty, as determined under regulations prescribed under section 302d(a).

"(b)(1) Subject to paragraph (2) and under regulations prescribed under section 302d(a), an officer who is entitled to primary special pay under subsection (a)(1) and who is not undergoing dental internship or residency training may be paid incentive special pay in an annual amount not to exceed $2,000.

"(2) No officer shall be eligible for incentive special pay under this subsection unless the Secretary concerned has determined that the officer is qualified in the dental profession.

"(3) To be eligible for incentive special pay under this subsection for any year, an officer must first execute a written agreement under which the officer agrees to remain on active duty for a period of not less than one year beginning on the date the officer accepts the award of such special pay.

"(4) In developing the Budget for any fiscal year for transmittal to the Congress under section 201(a) of the Budget and Accounting Act, 1921, the President shall limit the amount to be paid during that year for incentive special pay under this subsection to an amount equal to not more than 2½ percent of the amount to be paid in that year for primary special pay under subsection (a).

"(c) For purposes of this section, creditable service of an officer of the Dental Corps of the Army or the Navy, an officer, of the Air Force designated as a dental officer, or a dental officer of the Public Health Service is computed by adding—

"(1) four years;

"(2) all periods which the officer spent in dental internship or residency training during which the officer was not on active duty; and

"(3) all periods of active service in the Dental Corps of the Army or Navy, as an officer of the Air Force designated as a dental officer, or as a dental officer of the Public Health Service.

"§ 302b. Special pay: veterinary officers

"(a) A commissioned officer who is an officer of the Veterinary Corps of the Army, an officer or the Air Force designated as a veterinary officer, or a veterinary officer of the Public Health Service and who is on active duty under a call or order to active duty for a period of not less than one year is entitled to special pay at the following applicable rate:

"(1) $1,800 per year, if the officer has less than three years of creditable service under subsection (b);

"(2) $2,400 per year, if the officer has at least three but less than six years of creditable service under subsection (b);

"(3) $3,000 per year, if the officer has at least six but less than ten years of creditable service under subsection (b); or

"(4) $4,200 per year, if the officer has ten or more years of creditable service under subsection (b).

"(b) For purposes of this section, creditable service of an officer of the Veterinary Corps of the Army, an officer of the Air Force designated as a veterinary officer, or a veterinary officer of the Public Health Service is computed by adding—

"(1) all periods which the officer spent in veterinary residency training during which the officer was not on active duty; and

"(2) all periods of active service in the Veterinary Corps of the Army, as an officer of the Air Force designated as a veterinary officer, or as a veterinary officer of the Public Health Service.

"§ 302c. Special pay: optometry officers

"(a) commissioned officer who is an officer of the Army, Navy, or Air Force designated as an optometry officer or who is an optometry officer of the Public Health Service and who is on active duty under a call or order to active duty for a period of not less than one year is entitled to special pay at the following applicable rate:

"(1) $1,800 per year, if the officer has less than three years of creditable service under subsection (b);

"(2) $2,400 per year, if the officer has at least three but less than six years of creditable service under subsection (b);

"(3) $3,000 per year, if the officer has at least six but less than ten years of creditable service under subsection (b); or

"(4) $4,200 per year, if the Officer has ten or more years of creditable service under subsection (b).

"(b) For purposes of this section, creditable service of an officer of the Army, Navy, or Air Force designated as an optometry officer or of an optometry officer of the Public Health Service is computed by adding—

"(1) all periods which the officer spent in optometry residency training during which the officer was not on active duty; and

"(2) all periods of active service as an optometry officer.

"§ 302d. Special pay: health professionals; general provisions

"(a)(1) The Secretary of Defense, with respect to the Army, Navy, and Air Force, and the Secretary of Health, Education, and Welfare, with respect to the Public Health Service, shall prescribe regulations for the administration of sections 302, 302a, 302b, and 302c.

"(2) For purposes of sections 302, 302a, 302b, and 302c, the terms "board eligible', 'board qualified', and 'initial residency training' shall have such meanings as shall be prescribed in regulations issued by the Secretary of Defense.

"(b) Special pay authorized under sections 302, 302a, 302b, and 302c is in addition to any other pay or allowances to which a member is entitled, and the amounts set forth in such sections shall not be included in computing the amount of any increase in pay under any other provision of this title or in computing retired pay, severance pay, or readjustment pay.

"(c) Special pay under sections 302(a), 302a(a), 302b, and 302c shall be paid monthly.

"(d) An officer who voluntarily terminates his service on active duty before the end of the period for which a payment was made to such officer under section 302(b) or 302a(b) shall refund to the United States an amount which bears the same ratio to the amount paid to such officer as the unserved part of such period bears to the total period for which the payment was made.

"(e) The special and incentive pays to which an officer of the health professions of the uniformed services is entitled under sections 302 through 302c are to be adjusted each year by the same percentage rate that the monthly basic pay and allowances of members of the uniformed services is adjusted pursuant to section 8 of the Act of December 16, 1967 (Public Law 90-207; 81 Stat. 654).".

(b) Sections 311 and 313 of title 37, United States Code, are repealed.

(c) Section 306(e) of such title, relating to exclusions from special pay for officers holding positions of unusual responsibility, is amended by striking out "302 or 303" and inserting in lieu there "302, 302a, 302b, or 302c".

(d) The table of sections at the beginning of chapter 5 of such title is amended—

(1) by striking out the items relating to sections 302, 302a, 302b, and 303 and inserting in lieu thereof the following:

"302. Special pay: medical officers.
"302a. Special pay: dental officers.
"302b. Special pay: veterinary officers.
"302c. Special pay: optometry officers.
"302d. Special pay: health professionals; general provisions.";

and

(2) by striking out the items relating to sections 311 and 313.

Sec. 3. Unearned amounts received by officers under the provisions of sections 311 and 313 of title 37, United States Code, on the day before the effective date of this Act shall be recouped by the United States from the officer concerned on a pro rata basis. An officer receiving pays under the provisions of any of the sections amended or repealed by this Act shall continue, under regulations prescribed by the Secretary of Defense, to be entitled under the amendments made by this Act to an annual amount of special pay equal to not less than the annual amount to which such officer would have been entitled had such sections not been amended or repealed by this Act.

Sec. 4. This Act shall become effective on October 1, 1979.●

By Mr. HASKELL (for himself and Mr. NELSON):

S. 3436. A bill to provide for the valuation of options to purchase stock in a small business; to the Committee on Finance.

● Mr. HASKELL. Mr. President, today I am introducing a bill for myself and the distinguished Senator from Wisconsin (Mr. NELSON) which provides an outline of a method which can be used in valuing nonqualified stock options in a small business.

The stock option is a very useful tool, especially to small business. It is used to attract competent management when startup funds are tied up in acquiring other necessary services and assets. The stock option gives employees a stake in the future of the company they are building.

The Internal Revenue Code provides that if the options have a readily ascertainable fair market value, the employee may elect to include in gross income the value of the option at the time of receipt. If the option cannot be valued, it must be included in income at the time of exercise.

I recognize that these options are difficult to value. However, if stock in a small business is included in an estate or if the options are included in an estate, the IRS has methods of valuation.

I was a conferee during the 1976 Tax Reform Act. We decided to put the following language in the conference report concerning the valuation of the options:

The conferees intend that in applying these rules for the future, the Service will make every reasonable effort to determine a fair market value for an option (i.e., in cases where similar property would be valued for estate tax purposes) where the employee irrevocably elects (by reporting the option as income on his tax return or in some other manner to be specified in regulations) to have the option valued at the time it is granted (particularly in the case of an option granted for a new business venture). The conferees intend that the Service will promulgate regulations and rulings setting forth as specifically as possible the criteria which will be weighed in valuing an option which the employee elects to value at the time it is granted.

The conferees intend that under these rules, the value of an option would be determined under all the facts and circumstances of a particular case. Among other factors that would be taken into account would be the value of the stock underlying the option (to the extent that this could be ascertained), the length of the option period (the longer the period, the greater the chance the underlying stock might increase in value), the earnings potential of the corporation, and the success (or lack of success) of similar ventures. Corporate assets, including patents, trade secrets and know how would also have to be taken into account. House Report No. 94-1515, 94th Congress, 2nd Session, 428-429 (1976).

The regulations which were proposed by the Treasury Department do not contain a description of the election to be afforded taxpayers nor do they detail the valuation criteria to be employed.

Because of my concern for the viability of the stock option for small business, I am introducing this bill which I think will provide the guidance needed in this area of valuation and which will carry out the intent of the conference committee in 1976.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3436

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 83 of the Internal Revenue Code of 1954 (relating to property transferred in connection with performance of services) is amended by redesignating subsection (i) as subsection (j) and by adding after subsection (h) the following new subsection:

"(i) REGULATIONS TO VALUE CERTAIN SMALL BUSINESS STOCK OPTIONS.—

"(1) IN GENERAL.—The Secretary shall prescribe such regulations as may be necessary to provide for determining the fair market value of an option to purchase stock in a small business if the option does not have a readily ascertainable fair market value.

"(2) FACTORS.—The regulations prescribed under this subsection shall set forth factors which are to be taken into account in determining the fair market value of such options. Such factors may include, but shall not be limited to—

"(A) the type of small business,

"(B) an industry survey,

"(C) the earnings of the small business and the value of assets (including trademarks and copyrights) owned by the small business,

"(D) dividends,

"(E) intangibles,

"(F) arm's length sale of the stock with respect to which the option is granted,

"(G) the length of the option period, and

"(H) the value of the stock of small businesses which are similar to the small businesses issuing the option.

"(3) DEFINITION OF SMALL BUSINESS STOCK.—For purposes of this subsection, the term 'stock in a small business' means stock issued by a domestic corporation during the 5-year period after its incorporation and at a time when the equity capital (within the meaning of the last sentence of section 1244 (c)(2)) of such corporation was less than $1,000,000.".

(b) Section 83(e) of such Code (relating to applicability of section) is amended by adding at the end thereof the following:

"Paragraph (3) shall not apply to an o tion to purchase stock in a small busine (within the meaning of subsection (i)(3)) the taxpayer elects, at such time and in su manner as the Secretary may by regulati prescribe, to have the fair market value such option determined under regulatio prescribed under subsection (i). Paragra (4) shall not apply to the transfer of pro erty pursuant to an option with respect which the taxpayer has made an electi under the preceding sentence.".

(c) The amendments made by this subse tion shall apply with respect to optio granted after December 31, 1977.●

By Mr. CULVER (for himself, M CHAFEE, Mr. HATHAWAY, M BENTSEN, Mr. HATCH, Mr. NUN Mr. PERCY, Mr. RIEGLE, an Mr. THURMOND):

S. 3437. A bill to amend the Compre hensive Drug Abuse Prevention an Control Act of 1970 and other laws t prevent the illicit importation of con trolled substances into the United State and for other purposes; to the Commit tee on the Judiciary.

DRUG TRAFFICKING CONTROL ACT OF 1978

● Mr. CULVER. Mr. President, today am introducing a bill to increase the e fectiveness of U.S. efforts to control i ternational drug trafficking. Entitled th Drug Trafficking Control Act of 1978, would close certain loopholes in U. laws that are currently being exploite by drug traffickers.

Specifically, the legislation would:

First, authorize U.S. authorities prosecute the crews of so-calle "mother-ships" which now distribu drugs along the coastlines of the Unite States with almost complete immunit from prosecution;

Second, intercept the profits of dru trafficking by strengthening the curren requirement that anyone entering leaving the United States with monetar instruments exceeding $5,000 must re port them to the Customs Service; and

Third, require the master of any vess carrying foreign merchandise to imme diately report its arrival in the Unite States.

The Subcommittee on Juvenile Delin quency, which I chair, has had a lon history of concern with internations drug trafficking, the subcommittee ha conducted a number of hearings and in vestigations on major smuggling route and methods. Unfortunately we hav found that as soon as U.S. authoritie are able to place effective controls o one source of illegal drugs, the illici traffickers begin to develop new method to smuggle drugs into the country.

In the last few years, certain Sout American countries have become a majo source of illegal drugs for the Unite States. Federal authorities estimate tha nearly all of the cocaine and 50 per cent of the marihuana smuggled into th United States each year now originate in South America. The great majorit of these drugs are being brought in b air and by sea, using sophisticated ne techniques which have presented ne challenges to law enforcement official

In order to maintain effective control over illegal drugs, we must respond t each new challenge as rapidly and a effectively as possible.

POSSESSION OF CONTROLLED SUBSTANCES ON THE

POSSESSION OF CONTROLLED SUBSTANCES ON THE HIGH SEAS

Among the present challenges is the need to halt "mother ship" smuggling operations. These mother ships, which carry huge amounts of illegal drugs, proceed to points that are off the U.S. coast but beyond the 2-mile territorial waters of the United States. From this position of safety the mother ship transfers its load of illegal drugs to smaller high-speed vessels such as fishing boats, cabin cruisers, and yachts. These smaller boats then mingle with the thousands of other small boats in U.S. waters along our coastline while transporting the illegal drugs to the mainland.

Recent enforcement efforts against this threat have documented the extent of such operations. In the first 7 months of this year, the Coast Guard seized 101 vessels, arrested 494 persons and confiscated over $700 million in drugs.

Unfortunately because of a loophole in existing U.S. laws, only about 40 percent of those arrested are ever prosecuted. The rest are either released or deported. Under U.S. law it is illegal to distribute drugs outside the United States only if the defendant intended or knew that such drugs would be unlawfully imported into the United States (21 U.S.C. 959). Thus, if a vessel with drugs is seized on the high seas, prosecutors cannot bring a charge for mere possession of illegal drugs on the high seas since this is not a crime under U.S. law. Similarly they cannot bring a charge of possession of drugs on the high seas with intent to distribute since this is not a crime under U.S. laws. Instead, they must prove that the crew of the vessel actually distributed drugs with the knowledge or intent that such substances were to be unlawfully imported into the United States. Since it is extremely difficult for U.S. authorities to actually observe such transactions on the high seas, it is often impossible to prove that they took place.

This legislation would remedy this problem by making it unlawful for anyone to possess dangerous drugs on board a vessel on the high seas if he intends or knows that such drugs will be unlawfully imported into the United States. U.S. authorities would no longer have to prove that such drugs were actually distributed. The United States would have authority to enforce this section against U.S. vessels, vessels without nationality, and vessels of a foreign nation when that nation authorizes the United States to assert jurisdiction over the vessel for the purposes of enforcing this act.

The bill also contains a related provision that makes it unlawful for any person to possess certain dangerous drugs on board a vessel or aircraft of the United States. This additional authority is possible because under international law, a U.S. vessel or a U.S. aircraft is considered U.S. territory when on or over the high seas.

ILLEGAL EXPORT OF CASH

We know that the sale of narcotics and dangerous drugs in the United States produces vast sums of money, much of which ultimately leaves the United States to be "laundered" or to be exchanged for additional drugs. By monitoring the flow of such funds, Federal authorities obtain valuable intelligence concerning the flow of drugs and frequently are able to disrupt drug trafficking networks by seizing large amounts of cash or negotiable instruments.

To assist in this effort, the Currency and Foreign Transactions Reporting Act of 1970 requires reports to be filed by persons transporting or causing to be transported monetary instruments in excess of $5,000 into or out of the United States. Recently, however, the U.S. district court dismissed a criminal proceeding against a defendant who was departing the United States with unreported currency on the grounds that no violation had occurred because the individual had not actually left the United States without filing the required report.

This legislation would remedy this situation by amending the Currency and Foreign Transactions Reporting Act to require a report to be filed prior to departure by any person who wishes to transport or have transported out of the United States any amount exceeding $5,000. A person departing by aircraft or vessel would have to file the report prior to boarding the carrier. Failure to file the report would then be a detactable violation.

Currently the Currency and Foreign Transactions Reporting Act requires the issuance of a search warrant in all cases in order to seize monetary instruments being taken from the United States in violation of these reporting requirements. In many instances it is impossible to obtain a search warrant in time to seize such funds before they leave the country. The Drug Trafficking Control Act would authorize customs agents to conduct warrantless searches under exigent circumstances if they have probable cause to believe that the Currency and Foreign Transactions Reporting Act is being violated. It should be noted that these searches could be conducted only if it is likely that a delay would result in the monetary instruments leaving the area and the customs officer has probable cause to believe the law is being violated. Under these restrictions, this new authority is similar to the existing authority of customs officers to examine other types of exports.

PROMPT REPORTING OF VESSELS

In recent years, the use of private yachts and pleasure vessels to smuggle narcotics and dangerous drugs has created a significant detection and interdiction problem for the Customs Service. The current law contributes to this problem by permitting, with the exception of vessels arriving from Canada or Mexico, 24 hours in which to report arrival of the vessel. A narcotics smuggler using a small boat can often land in the United States, unload his illegal cargo, and depart within 24 hours, thereby avoiding the current reporting requirement. This problem has become particularly acute in Florida where private vessels have easy access to nearby foreign islands.

The proposed bill would require the master of any vessel arriving from a foreign place, or of a foreign vessel arriving from a domestic port, or a vessel of the United States carrying foreign merchandise to immediately report arrival of the vessel at the nearest customhouse. U.S. authorities could therefore concentrate enforcement activities on those vessels failing to report immediately.

Mr. President, I believe this bill will provide law enforcement authorities with effective new weapons to stop the flow of illicit drugs into the United States. I am hopeful Congress can complete its consideration of the Drug Trafficking Control Act soon.

Accordingly, as chairman of the Senate Subcommittee on Juvenile Delinquency, I have scheduled a hearing to be held on August 22, 1978, on the scope of these drug enforcement problems and suggested improvements to combat them. The subcommittee will receive testimony from appropriate officials of the White House, the Drug Enforcement Administration, the U.S. Customs Service, the U.S. Coast Guard and the Department of State. We will also look at a recent White House plan to step up and coordinate the enforcement efforts of Federal, State and local authorities. Finally, we will examine the legislation that I am introducing today which is designed to close certain loopholes in existing law that are hampering these enforcement efforts.

Mr. President, I ask unanimous consent that the witness list for next Tuesday's hearing, the summary of the White House's recent plan to intensify drug enforcement in the Southeastern United States, and the text of the Drug Trafficking Control Act be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 3437

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Drug Trafficking Control Act of 1978".

TITLE I—POSSESSION OF A CONTROLLED SUBSTANCE ON THE HIGH SEAS

SEC. 101. Section 1009 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 959) is amended to read as follows:

"MANUFACTURE, DISTRIBUTION OR POSSESSION FOR PURPOSES OF UNLAWFUL IMPORTATION

"SEC. 1009. It shall be unlawful for any person to manufacture or distribute a controlled substance in Schedule I or II, or to manufacture, distribute or possess a controlled substance in Schedule I or II on board a vessel subject to the jurisdiction of the United States as defined in section 1001—

(1) intending that such substance will be unlawfully imported into the United States; or

(2) knowing that such substance will be unlawfully imported into the United States.

This section is intended to reach acts of manufacture or distribution outside the territorial jurisdiction of the United States, and acts of manufacture, distribution and possession on vessels on the high seas. Any person who violates this section shall be tried in the United States district court at the point of entry where such person enters the United States, or in the United

States District Court for the District of Columbia.".

SEC. 102. Section 1005 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 955) is amended by—

(a) striking the heading for the section and inserting in lieu thereof: "POSSESSION ON BOARD VESSELS, AIRCRAFT AND OTHER VEHICLES";

(b) inserting "(a)" immediately after "SEC. 1005."; and

(c) adding at the end thereof the following new subsection:

"(b) It shall be unlawful for any person to bring or possess on board any vessel or aircraft of the United States, or on board any vehicle of a carrier of the United States, a controlled substance in schedule I or schedule II or a narcotic drug in schedule III or IV, unless such substance or drug is part of the cargo entered into in the manifest or part of the official supplies of the vessel, aircraft, or vehicle. This subsection is intended to reach acts of possession committed outside the United States or the customs territory of the United States. Any person who violates this section shall be tried in the United States district court at the point of entry where such person enters the United States, or in the United States District Court for the District of Columbia.".

SEC. 103. Subsection (a)(3) of section 1010 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 960(a)(3)) is amended to read as follows:

"(3) contrary to section 1009, manufactures, distributes or possesses a controlled substance,".

SEC. 104. Subsection (a) of section 1001 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 951) is amended by adding at the end thereof the following:

"(3) The term "high seas" means all waters beyond the territorial sea of the United States and beyond any foreign nation's territorial sea which is recognized by the United States and includes the Customs waters as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401).

"(4) The term "vessel of the United States" means any vessel documented under the laws of the United States, or numbered as provided by the Federal Boat Safety Act of 1971, as amended, or owned in whole or in part by the United States, or any citizen of the United States, or any corporation created under the laws of the United States, or any State, Territory, District, Commonwealth or possession thereof, unless such vessel has been granted nationality by a foreign nation in accordance with article 5 of the 1968 Convention on the High Seas.

"(5) the term 'vessel' includes every description of watercraft used or capable of being used as a means of transportation on the water.

"(6) The term 'vessel subject to the jurisdiction of the United States' includes (A) any vessel without nationality; (B) any vessel assimilated to a vessel without nationality in accordance with paragraph (2) of Article 6 of the 1958 Convention on the High Seas; (C) any hovering vessel or any vessel within the Customs waters as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401); (D) any vessel on the high seas registered in a foreign nation when that nation authorizes the United States to assert jurisdiction over such vessel for the purposes of enforcing this Act; and (E) any vessel of the United States.".

SEC. 106. The table of contents of the Compreesensive Drug Abuse Prevention and Control Act of 1970 is amended by—

(a) striking out "SEC. 1005. Possession on board vessels, etc., arriving in or departing from United States." and inserting in lieu thereof

"SEC. 1005. Possession on board vessels, aircraft and other vehicles."; and

(b) striking out "SEC. 1009. Manufacture or distribution for purposes of unlawful importation." and inserting in lieu thereof

"SEC. 1009. Manufacture, distribution, or possession for purposes of unlawful importation.".

TITLE II—ILLEGAL EXPORT OF CASH

SEC. 201. Section 231(a) of the Currency and Foreign Transactions Reporting Act (31 U.S.C. 1101) is amended to read as follows:

"(a) Except as provided in subsection (c) of this section, whoever, whether as principal, agent, or bailee, or by an agent or bailee—

"(1) intends to transport, or have transported, monetary instruments from any place within the United States to or through any place outside the United States in an amount exceeding $5,000 on any one occasion shall file a report or reports in accordance with subsection (b) prior to departing from the United States;

"(2) knowingly transports, or causes to be transported, monetary instruments from any place outside the United States to or through any place within the United States in an amount exceeding $5,000 on any one occasion shall file a report or reports prior to or at the time of arrival in accordance with subsection (b); or

"(3) receives monetary instruments at the termination of their transportation by common carrier to the United States from or through any place outside the United States in an amount exceeding $5,000 on any one occasion shall file a report or reports in accordance with subsection (b).".

SEC. 202. Section 235 of the Currency and Foreign Transactions Reporting Act (31 U.S.C. 1105) is amended by redesignating subsection (b) as subsection (c) and by adding a new subsection (b) as follows:

"(b) When because of exigent circumstances a warrant cannot be obtained, any officer of Customs may search without a warrant any of the individuals or objects included in subsection (a) of this section if he has probable cause to believe that monetary instruments are in the process of transportation and with respect to which a report required under section 231 of this Act (31 U.S.C. 1101) has not been filed or contains material omissions or misstatements.".

TITLE III—PROMPT REPORTING OF VESSELS

SEC. 301. Section 433, Tariff Act of 1930, as amended (19 U.S.C. 1433), is amended to read as follows:

"The master of any vessel from a foreign port or place, or of a foreign vessel from a domestic port, or of a vessel of the United States carrying bonded merchandise, or foreign merchandise for which entry has not been made, arriving at any port or place within the United States, shall immediately report the arrival of the vessel at the nearest customhouse or such other place as the Secretary of the Treasury may prescribe in regulations. The Secretary may by regulation prescribe the manner in which arrival shall be reported and may extend the time, not to exceed twenty-four hours after the arrival of the vessel, in which to report arrival.".

SEC. 302. Section 459, Tariff Act of 1930, as amended (19 U.S.C. 1459), is amended by substituting a comma for the word "or" wherever it appears between the words "entry" and "customhouse", and inserting after the word "customhouse" the phrase "or other places as the Secretary of the Treasury may prescribe in regulations.".

WITNESS LIST—HEARING ON DRUG TRAFFICKING CONTROL ACT OF 1978

U.S. Senate, Subcommittee To Investigate Juvenile Delinquency, August 22, 1978, 424 Russell Senate Office Building, 9:30 a.m.

Honorable John Chafee, U.S. Senator, State of Rhode Island.

Lee I. Dogoloff, Associate Director, Domestic Policy Staff, White House.

PANEL

Peter Bensinger, Administrator, Drug Enforcement Administration, Department of Justice.

G. R. Dickerson, Deputy Commissioner, U.S. Customs Service.

Capt. Robert H. Overton, III, Chief of Ocean Operations, U.S. Coast Guard.

PANEL

Morris Busby, Director, Office of Ocean Affairs, Department of State.

Mathea Falco, Senior Advisor to the Secretary and Director for International Narcotics Control Matters, Department of State.

THE WHITE HOUSE,
Washington, D.C., July 18, 1978.

DRUG TRAFFICKING IN THE SOUTHEASTERN UNITED STATES

There is growing concern over the illegal drug trafficking in marihuana and cocaine into and through Florida and other States along the Eastern seaboard and Gulf Coast. Originating in South American and Caribbean countries, huge quantities of marihuana are being smuggled by sea and air into the United States. Statistics indicate that over 2.5 million pounds have been seized through May of this fiscal year compared to less than 950,000 pounds during the same period last year. Seizure of multi-ton loads is commonplace. The amount of cocaine seized also has increased significantly. Federal, State and local law enforcement agencies and prosecutors in Florida report being overloaded with pending drug cases.

The U.S. economy is directly affected by the hundreds of millions of dollars paid to the sources of the drugs. The financial dealings connected with the illegal drug trade of several billion dollars a year. It is reported that corporations, sponsored by illegal drug profits, have been set up to purchase businesses to provide the mechanism for placing the illegal profits back into legitimate channels. The potential for major expansion of organized crime and for all forms of corruption is obvious.

The Executive Branch, the Congress, and State and local officials have indicated concern over this situation. To provide an effective and timely response, a White House review has been initiated under the direction of Dr. Peter Bourne, Special Assistant to the President. The principal Federal agencies involved (DEA, Customs, Coast Guard and the State Department) are participating in the review.

The initial intent is to develop a more comprehensive response to this situation which capitalizes on the full capabilities of the Federal, State and local law enforcement authorities. Investigations are targeting on the illegitimate profit associated with the traffic and the effect of these large amounts of money on business and government. There will be a continuing emphasis on seeking longer term solutions through legislative, judicial and diplomatic initiatives.

The preliminary actions which have been initiated or are planned are based on attacking the entire chain. All Federal capabilities for air and sea surveillance are being reviewed for potential support of the anti-smuggling effort. The State Department will coordinate with foreign governments. Special joint law enforcement operations are being planned. The Federal agencies will open new offices in areas which are not currently covered. Support of State and local law enforcement will be expanded.

The following actions have been initiated or are planned in response to the need to stem the growing drug traffic in the Southeastern United States. Legislative needs are

included. The White House review team will

tions of Customs statutes and laws enforced

June 30, the Attorney General approved

included. The White House review team will continue to monitor the situation, coordinate the effort and provide follow-up recommendations.

I. SOURCE AND TRANSIT COUNTRIES

An intensive assessment of the drug sources and traffic routes has been initiated by the interagency narcotics intelligence committee. This report will address the South American and Central American countries, as well as the Caribbean and will be completed in mid-July.

Customs will conduct an intensified operation in the Virgin Islands in the near future. DEA has scheduled a seminar on conspiracy investigation in October 1978 for law enforcement officials in the Virgin Islands.

A Department of Justice team will travel to Colombia to discuss how Colombian nationals can be prosecuted under Colombian law either in the U.S. or Colombia if it can be shown directly or indirectly that they possess or have facilitated the possession of huge sums of money, largely using international banking facilities, where the assets can be directly linked with illicit drug trafficking.

The team will also discuss twelve cases where major Colombian traffickers are currently under indictment in the United States or scheduled for indictment in the near future. The Colombian Attorney General has indicated that he will prosecute these violators in Colombia if presented with sufficient evidence.

A proposal is under study which would turn over approximately twelve small ships (previously seized by U.S. authorities) to the Government of the Bahamas for maritime drug enforcement.

A Coast Guard and Customs team visited Colombia in May 1978 to evaluate and develop increased Colombian cooperation in coastal maritime interdiction. As a result of this visit, assistance is being furnished to the Colombians in developing an effective maritime drug interdiction force and for establishing a mutually beneficial exchange of intelligence information. An orientation visit to the United States by the Commandant of the Colombian Coast Guard is planned for this fall. A Colombian naval officer will accompany a U.S. Coast Guard interdictive patrol in the near future to observe our patrol strategy.

The U.S. delegation to the current General Assembly of the Organization of American States (OAS) is pressing for general recognition of drug trafficking as a hemisphere-wide problem requiring cooperative action by OAS members.

The Colombian Government will be encouraged to take aggressive steps to discourage the growth of marihuana.

II. FLORIDA

DEA, Customs and the Coast Guard will expand their cooperation, coordination, intelligence exchange, and training activities with State and local law enforcement officials in the Florida area. Specific coordination responsibilities will be assigned and an expanded drug training effort will begin in late summer of 1978.

DEA has detailed 15 additional special agents to Florida to assist in handling the heavy case load and to assist in developing conspiracy cases.

DEA will open new offices in Panama City and Ft. Meyers, Florida and increase the permanent staff in Miami.

Customs will open a patrol station in Ft. Meyers and increase staffing at Key West and Ft. Lauderdale. New patrol stations at Crystal River and Ft. Pierce are under consideration.

A Currency Investigation Task Force is being formed in Miami by Customs. This group of investigators will seek to expand upon violations of the Bank Secrecy Act, applying them in concert with other violations of Customs statutes, and laws enforced by Customs. The group will coordinate with the DEA in all violations of the currency laws that involve smuggling or trafficking in narcotics.

The trend toward low bail and low sentencing in South Florida is a significant factor in reducing the deterrent effect of arrest and conviction. An example given was that of 73 defendants released on bond, only eight reappeared to be tried and sentenced, and these eight are now fugitives. The Attorney General has been informed of this problem and asked to take action to encourage more aggressive bail and sentencing policies. Steps are being taken to ensure that adequate information is furnished to the judges so that appropriate bail is set and adequate sentences are meted out.

DEA and the FBI established a joint task force in Miami in October 1977 to investigate the financial aspects of drug trafficking and the use of U.S. banks to facilitate payments for drug shipments. This investigation includes the manner in which illegal drug profits are converted into apparently legitimate monetary transactions. More arrests are expected as this program continues.

DEA will continue to participate in the Federal/State and local task force in Orlando, Florida.

DEA is finalizing negotiations with the Florida Department of Criminal Law Enforcement regarding the possibility of that agency serving as a statewide clearinghouse for information and an interface with the El Paso Intelligence Center (EPIC) for other non-Federal agencies within the State. DEA is negotiating similar initiatives with Georgia and South Carolina.

III. MARITIME AND AIR

Discussions have begun with DoD to determine the feasibility of increased involvement of U.S. military resources, in conjunction with normal National Defense missions, to assist in surveillance and communications support of Federal law enforcement efforts against drug traffickers penetrating our sea and air borders.

Coast Guard maritime drug interdiction efforts will be increased in proximity to Florida coastal areas, through expanded WPB class vessel patrols, participation of small utility boasts in coastal anti-drug activity, and increased surveillance by major surface and air units.

On June 21, the Navy agreed to a Coast Guard request that Navy vessels would report sightings of known or suspected drug smuggling vessels to the Coast Guard.

This activity is part of the normal Navy maritime surveillance and is not to interfere with normal Navy operations.

DEA, Customs and Coast Guard will plan special operations for early fall 1978.

The Coast Guard will continue to support DEA and Customs with available drug interdiction resources, both surface and air.

Customs has been negotiating with DoD to furnish four T-39 jet aircraft for the Customs air interdiction program. While DoD has indicated agreement to the long term loan of these aircraft, it will require at least another 18 months to modify them with suitable radar and sensor equipment. Discussions will be undertaken with DoD to determine if suitably equipped aircraft could be loaned to Customs on a short term basis until the T-39's are modified and available for use.

IV. OTHER ACTIONS

The Attorney General has been asked to give special consideration to requests for LEAA grants which have the potential for significant impact on the drug trafficking originating in or transiting the Caribbean area. Particularly useful would be funding assistance to the Florida Statewide Grand Jury and to other prosecutorial areas. On June 30, the Attorney General announced award of a $360,000 grant in support of a Joint Organized Crime Investigation Program requested by the Dade County Department of Public Safety in Florida.

The Coast Guard is expanding, in coordination with Customs, their PADIE (Prevention and Detection of Illegal Entry) Program. This Program was created for National Security purposes to detect and deter smuggling and illegal entry into the United States from the sea. It should help solve one of the major problems—the lack of capability to monitor the vast coastline vulnerable to smuggling operations.

"PADIE" provides an organized way to make use of all agencies, organizations and individuals in reporting any unusual activity taking place along the waterfront or beach. It has significant potential for collection of information on smuggling when coordinated with similar on-going activities of Customs.

Coordination at the Federal level between the U.S. Attorneys and DEA is being increased. In addition, the staff of the U.S. Attorneys has been augmented by temporary assignment of three attorneys from the Narcotics and Dangerous Drugs Section of the Criminal Division of the Department of Justice, and additional assignments are under consideration. The Executive Office of the U.S. Attorneys is reviewing the possible assignment of additional Federal prosecutors to Miami and Puerto Rico.

White House representatives will discuss the proposed initiatives with the Governor of Florida and other officials to ensure that the efforts of the Federal Government and the State Government are working in concert to reduce drug traffic into and through their jurisdictions.

The White House review team will continue to monitor, coordinate and follow-up on these initiatives.

V. LEGISLATIVE INITIATIVES

On June 12, 1978, the Department of Justice sent to Congress the "Controlled Substances Seizure and Forfeiture Act of 1978". This proposal would: (1) provide for the forfeiture of proceeds and funds used or intended for use in connection with a violation of the Controlled Substances Act; (2) require the reporting of monetary instruments leaving the United States, or intended to do so; (3) require the prompt reporting of vessels carrying foreign cargo arriving in the United States; and (4) increase the administrative forfeiture amount from $2,500 to $10,000. Early passage of this proposed legislation will greatly facilitate the ability of Federal agencies to attack the economic base supporting the illegal drug traffic.

Current legislation does not allow the arrest of a person on board a United States vessel on the high seas or a United States citizen on board a foreign vessel on the high seas who is in possession of large amounts of illegal drugs. The Administration is currently preparing comments on H.R. 10371, which will amend the Controlled Substances Act. A pending amendment to the Criminal Code Reform (S. 1437) also addresses this issue. The Administration will support enactment of legislation to strengthen enforcement activities in this area.

Other proposals are under study.●

DRUG TRAFFICKING CONTROL ACT OF 1978

● Mr. HATHAWAY. Mr. President, I am pleased to join with the Senator from Iowa (Mr. CULVER) and a number of my distinguished colleagues in introducing the Drug Trafficking Control Act of 1978. I look forward to working for its prompt enactment.

The bill would close some loopholes in existing Federal law which have been exploited by drug smugglers, and have

frustrated their prosecution by the Government. Taken together, they should substantially upgrade our ability to combat the growing problem of drug smuggling.

These changes are urgently needed if we are going to deal effectively with drug smuggling, particularly smuggling involving so-called mother ships. These ships contain large quantities of illicit drugs. But they remain outside the 12-mile limit of U.S. territorial waters, and off-load their cargo onto much smaller and faster vessels—fishing boats and pleasure craft. These boats then carry their destructive cargo to isolated portions of the coast. Within the last year this has become a problem along the coast of New England, and Maine in particular.

The first of these would amend the Comprehensive Drug Abuse Prevention and Control Act to stipulate that it is a crime to possess on the high seas a controlled substance with the intention of illegally distributing or dispensing that substance. Under existing law, it is necessary to prove that the defendant actually dispensed or distributed the drug with the intention that the drug would be imported unlawfully into the United States. For successful prosecution under this statute it was often necessary to catch the smuggler in the act of unloading drugs off mother ships.

As a practical matter this often precluded prosecution of those on the mother ship.

Second, the bill would strengthen our ability to successfully prosecute smugglers on the basis of currency transactions. Under existing law, individuals coming into the country, or leaving it, must file a report whenever they transport monetary instruments in excess of $5,000. This is intended to allow the authorities to monitor such activity, with a view toward determining when it is connected to illicit smuggling or other illegal conduct. However, in a recent court case involving an individual who attempted to leave the country with $250,000 in unreported currency, the judge dismissed the case because the arrest took place prior to the time the individual actually left the United States. Under the terms of this decision, it will be virtually impossible to bring prosecutions in the future.

Therefore, this bill would amend the Currency and Foreign Transactions Reporting Act to require the reports to be filed prior to departure, and stipulate that persons must file such reports prior to boarding outbound common carrier vessels or aircraft.

The bill would also clarify existing law with respect to searches for such currency. It would permit warrantless searches by customs agents under exigent circumstances if they have probable cause to believe this law is being violated. This is consistent with prior Supreme Court interpretations of the fourth amendment.

Finally, the bill would tighten existing law with respect to the reporting of vessels entering domestic ports from foreign nations. Presently, these vessels must report their arrival within 24 hours. This allows more than enough time to unload illicit cargo. The bill would amend the law to require immediate reporting.

I am pleased to note that this legislation is supported by the Drug Enforcement Administration, the U.S. Customs Service, and the U.S. Coast Guard.●

THE PROPOSED DRUG TRAFFICKING ACT OF 1978

Mr. THURMOND. Mr. President, as a cosponsor of the proposed "Drug Trafficking Control Act of 1978," I rise in support of that measure. In doing so, I join with the distinguished junior Senator from Iowa (Mr. CULVER) in submitting this bill for consideration by the Senate Judiciary Subcommittee on Juvenile Delinquency which the distinguished Senator chairs.

It is my understanding that early hearings are scheduled on this measure, with the first day scheduled for August 25.

The thrust of the bill is straightforward. It would plug three "loopholes" that have developed in Federal attempts to enforce the Comprehensive Drug Abuse Prevention and Control Act of 1970. From my perspective, the most important provision of the bill is its title I. This title attempts to get at the so-called mother ships, those ships operating just outside the U.S. territorial 12-mile limit, which are large ships often bulging with huge quantities of illicit drugs. The mother ships serve as a source of supply for scores of smaller vessels, such as fishing trawlers, yachts, and other small boats. These boats ply off our coastal shores, smuggling illicit drugs into the mainland of the United States.

Just this past week, such a ship was discovered off the Florida coast and over 300 tons of marihuana were seized.

Until recently, this traffic on the east coast has been centered primarily off the Florida coast. However, concentrated enforcement activity by the Drug Enforcement Administration, the U.S. Coast Guard, and the U.S. Customs Service in that territory, has driven many of these operations farther up the east coast. Regrettably, one of the primary areas where this trafficking now occurs is off the coast of my own State of South Carolina.

I find this to be a truly shocking turn of events. If these reports are true, then immediate corrective action is essential to provide our enforcement agencies with the needed legal tools to stop these intrusions. Mr. Peter Bensinger, the Director of the Drug Enforcement Administration, has told me of this situation. I understand he will be the lead-off witness for this subcommittee hearing of the 25th. We will look forward to his testimony. If the facts are as I now understand them, I will join with my judiciary colleagues to secure expeditious handling of this legislation.

Mr. President, I ask unanimous consent that a letter from Mr. Bensinger be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DRUG ENFORCEMENT ADMINISTRATION,
Washington, D.C., Aug. 16, 1978.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: This is in response to your request with respect to marihuana drug trafficking in South Carolina.

Last November, Beet Island, a remote island in Colleton County accessible only by water, was used by drug traffickers as a "stash and move" site for marihuana. An 80-foot sailing vessel flying under foreign registry unloaded multi-ton quantities of marihuana which had come directly from Colombia, South America. The seizure of the vessel by law enforcement authorities interrupted the plans to shuttle the marihuana by smaller boats to other locations.

Several months later, law enforcement authorities intercepted a 40-foot boat that was scheduled to enter international waters to meet an 85-foot vessel laden with marihuana. Due to severe weather conditions and mechanical difficulties, both vessels returned to Hutchinson Island in Colleton County. Eight subjects, seven of whom were not residents of South Carolina, were arrested and seven tons of marihuana were seized.

These cases are typical of the trends in maritime smuggling that DEA is monitoring. "Mother ships," commercial-sized vessels which transport illicit drug cargoes from South America, proceed to areas off the U.S. coasts and wait in international waters to transship their loads to smaller high-speed vessels. These smaller boats blend in with the legitimate vessel traffic, making law enforcement action difficult. There has been a rapid expansion in both the number and sophistication of these "mother ships" operations, especially between Colombia, South America, and the East Coast of the United States. South Carolina, with its jagged coast and many islands, affords these smugglers just the shelter they need to stash the large loads of marihuana for subsequent distribution.

I will keep you advised of the situation in South Carolina. Please feel free to call me if I may be of further assistance.

Sincerely,

PETER B. BENSINGER,
Administrator.

ADDITIONAL COSPONSORS

S. 297

At the request of Mr. PACKWOOD, the Senator from Minnesota (Mr. ANDERSON) was added as a cosponsor of S. 297, a bill to require that imported meat and meat food products made in whole or in part of imported meat be subjected to certain tests and that such meat or products be identified as having been imported; to require the inspection of imported dairy products and that such products comply with certain minimum standards of sanitation, to require that the cost of conducting such tests, inspections, and identification procedures on imported meat and meat food products and on dairy products, as the case may be, be borne by the exporters of such articles, and for other purposes.

S. 2856

At the request of Mr. MORGAN, the Senator from North Dakota (Mr. YOUNG) was added as a cosponsor of S. 2856, the Uniformed Services Survivor Benefit Plan Amendments Act of 1978.

S. 2860

sire to take substantive action in protest.

S. 2860

At the request of Mrs. ALLEN, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 2860, the Solar Power Satellite Research, Development, and Demonstration Act of 1978.

S. 2867

At the request of Mr. GOLDWATER, the Senator from Mississippi (Mr. STENNIS) was added as a cosponsor of S. 2867, to remove residency requirements and acreage limitations applicable to land subject to reclamation law.

S. 3262

At the request of Mr. BENTSEN, the Senator from Louisiana (Mr. LONG), the Senator from Utah (Mr. GARN), the Senator from Montana (Mr. PAUL G. HATFIELD), the Senator from Wyoming (Mr. HANSEN), the Senator from California (Mr. HAYAKAWA), the Senator from Hawaii (Mr. INOUYE), the Senator from North Dakota (Mr. BURDICK), the Senator from Nebraska (Mr. CURTIS), and the Senator from Arkansas (Mr. HODGES) were added as cosponsors of S. 3262, the Regulatory Cost Reduction Act of 1978.

S. 3419

At the request of Mr. CULVER, the Senator from Mississippi (Mr. EASTLAND), the Senator from Arkansas (Mr. HODGES), and the Senator from Missouri (Mr. EAGLETON) were added as cosponsors of S. 3419, a bill to amend the Internal Revenue Code of 1954 to exclude from gross income a portion of payments made under certain Federal and State cost-sharing programs the primary purpose of which is conservation of soil and water resources, environmental protection or restoration, forest enhancement, or the provision of wildlife habitat.

SENATE JOINT RESOLUTION 111

At the request of Mr. GLENN, the Senator from Iowa (Mr. CLARK) was added as a cosponsor of Senate Joint Resolution 111, to authorize participation by the United States in parliamentary conference with Japan.

SENATE RESOLUTION 543—SUBMISSION OF A RESOLUTION RELATING TO HUMAN RIGHTS IN CAMBODIA

Mr. DOLE submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. RES. 543

Whereas the moral intent of United States foreign policy is comprised, in part, of efforts to advance international human rights observance; and

Whereas, there have been numerous credible accounts by refugees from Cambodia telling of countless executions of Cambodian citizens and other barbaric violations of fundamental human rights by the Government of "Democratic Kampuchea"; and

Whereas, these repressive measures represent serious violations of the basic rights of the Cambodian people, and deserve the condemnation of all those who cherish the cause of freedom;

Whereas, the President of the United States has publically designated the Government of Democratic Kampuchea "the worst violator of human rights in the world today;"

Whereas, the Senate has concurred with this determination and has expressed its desire to take substantive action in protest, through its unanimous approval of unprinted Senate Amendments No. 1537 and No. 1585;

Whereas, the Government of Democratic Kampuchea thus far has shown itself unresponsive to expressions of international disapproval and condemnation; Now, therefore be it

Resolved, That the United States Senate—

(1) emphatically denounces the continuing disregard for basic human rights and human life by the Government of Democratic Kampuchea for its own people;

(2) calls upon the President to use his contacts and influence with those countries who do maintain diplomatic relations with the Government of Democratic Kampuchea to urge them to utilize their offices to end these inhuman violations of basic human rights;

(3) calls upon the President to cooperate with other nations, through appropriate international forums such as the United Nations, in an effort to bring more direct pressure to bear on the Government of Democratic Kampuchea to end these violations;

(4) reiterates its abiding concern for the welfare of those who seek refuge from the excessive human rights violations of the Kampuchean Government; and

(5) calls upon the President to direct the Assistant Secretary of State for Human Rights and Humanitarian Affairs to undertake a formal inquiry and documentation of Cambodian human rights violations, and to have this evidence formally presented to the United Nations.

SEC. 2. The Secretary of the Senate is directed to transmit a copy of this resolution to the President.

CAMBODIAN RESOLUTION

● Mr. DOLE. Mr. President, I am submitting a resolution in regard to the deplorable violations of human rights in Cambodia, violations which have persisted despite increasing international disapproval and condemnation.

Last November, I introduced a similar amendment, Senate Resolution 323, which expressed recognition of the barbaric situation that exists in so-called democratic Kampuchea, and called upon the President for a formal condemnation. The distinguished majority leader introduced a similar amendment this May, Senate Resolution 469.

These expressions of Senate concern and protest over the excessive policies of the Communist Government of Cambodia have been accompanied by other legislative actions. Last month, the Senator from Kansas proposed an amendment to the International Monetary Fund authorization bill, instructing the U.S. representative to oppose any financial assistance to Cambodia, which was approved by voice vote. Earlier this month, the Senate unanimously approved another amendment, offered by this Senator, to the State-Commerce-Justice Department appropriations bill, which urges the Attorney General to exercise his parole authority to allow 15,000 Cambodian refugees, located in camps in Thailand, to emigrate to the United States.

SENATE OPINION CLEAR

These resolutions and amendments reflect a clear expression of Senate concern. The situation in Cambodia is thoroughly condemned. The Senate has expressed a willingnes to help the victims of this tragedy. Our strong concern for the future of the Cambodian people is clear.

NEW RESOLUTION

In view of this increasing concern and disapproval of one of the worst crimes of this century, I am introducing a resolution further condemning this situation, and calling for further protest and pressure, in an attempt to bring this nightmare to an end. The Senator from Kansas is pleased to note that the Senate Foreign Relations Committee will be holding hearings on the previous resolution. I hope that this resolution shall be included as well on August 21.●

SENATE CONCURRENT RESOLUTION 104—ORIGINAL CONCURRENT RESOLUTION REPORTED—SECOND CONGRESSIONAL BUDGET RESOLUTION, 1979

Mr. MUSKIE, from the Committee on the Budget, reported the following concurrent resolution, which was placed on the calendar:

S. CON. RES. 104

Resolved by the Senate (the House of Representatives concurring), That the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1978—

(1) the recommended level of Federal revenues is $447,200,000,000, and the amount by which the aggregate level of Federal revenues should be decreased is $23,400,000,000;

(2) the appropriate level of total new budget authority is $557,700,000,000;

(3) the appropriate level of total budget outlays is $489,500,000,000;

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $42,300,000,000; and

(5) the appropriate level of the public debt is $839,500,000,000, and the amount by which the temporary statutory limit on such debt should accordingly be increased is $41,500,000,000.

SEC. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1978, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are as follows:

(1) National Defense (050):

(A) New budget authority, $127,000,000,000;

(B) Outlays, $112,500,000,000.

(2) International Affairs (150):

(A) New budget authority, $12,600,000,000;

(B) Outlays $7,200,000,000.

(3) General Science, Space, and Technology (250):

(A) New budget authority, $5,200,000,000;

(B) Outlays, $5,000,000,000.

(4) Energy (270):

(A) New budget authority, $8,900,000,000;

(B) Outlays, $8,900,000,000.

(5) Natural Resources and Environment (300):

(A) New budget authority, $13,600,000,000;

(B) Outlays, $11,700,000,000.

(6) Agriculture (350):

(A) New budget authority, $12,200,000,000;

(B) Outlays, $7,200,000,000.

(7) Commerce and Housing Credit (370):

(A) New budget authority, $5,500,000,000;

(B) Outlays, $2,800,000,000.

(8) Transportation (400):

(A) New budget authority, $19,500,000,000;

(B) Outlays, $17,500,000,000.

(9) Community and Regional Development (450):

(A) New budget authority, $8,900,000,000;

(B) Outlays, $9,600,000,000.

(10) Education, Training, Employment, and Social Services (500):

(A) New budegt authority, $31,500,000,000;

(B) Outlays, $30,200,000,000.

(11) Health (550):

(A) New budget authority, $51,900,000,000;

(B) Outlays, $48,600,000,000.

(12) Income Security (600):

(A) New budget authority, $191,500,000,000;

(B) Outlays, $159,600,000,000.

(13) Veterans Benefits and Services (700):

(A) New budget authority, $20,900,000,000;

(B) Outlays, $20,400,000,000.

(14) Administration of Justice (750):

(A) New budget authority, $4,300,000,000;

(B) Outlays, $4,200,000,000.

(15) General Government (800):

(A) New budget authority, $4,100,000,000;

(B) Outlays, $4,000,000,000.

(16) General Purpose Fiscal Assistance (850):

(A) New budget authority, $8,800,000,000;

(B) Outlays, $8,800,000,000.

(17) Interest (900):

(A) New budget authority, $48,100,000,000;

(B) Outlays, $48,100,000,000.

(18) Allowances (920):

(A) New budget authority, $500,000,000;

(B) Outlays, $500,000,000.

(19) Undistributed Offsetting Receipts (950):

(A) New budget authority, —$17,300,000,000;

(B) Outlays, —$17,300,000,000.

AMENDMENTS SUBMITTED FOR PRINTING

DISTRICT OF COLUMBIA REPRESENTATION—HOUSE JOINT RESOLUTION 554

AMENDMENT NO. 3512

(Ordered to be printed and to lie on the table.)

Mr. CURTIS submitted an amendment intended to be proposed by him to House Joint Resolution 554, a joint resolution proposing an amendment to the Constitution to provide for representation of the District of Columbia in the Congress.

FEDERAL-AID HIGHWAY AUTHORIZATIONS—S. 3075

AMENDMENT NO. 3513

(Ordered to be printed.)

Mr. BARTLETT (for himself and Mr. BELLMON) proposed an amendment to S. 3075, a bill to amend title 23, United States Code, to authorize Federal-aid and highway programs through fiscal year 1980, and for other purposes.

NOTICES OF HEARINGS

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. PROXMIRE. Mr. President, on August 9, 1978, I announced that the Committee on Banking, Housing, and Urban Affairs will hold oversight hearings on August 21 and 22 on new types of mortgage instruments. I want to add that that will include Senate Concurrent Resolution 9, which expresses the sense of the Congress that the Federal Home Loan Bank Board should authorize the use of a wide variety of mortgage instruments.

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

● Mr. HARRY F. BYRD, JR. Mr. President, the Subcommittee on Taxation and Debt Management of the Senate Finance Committee, will hold a hearing on August 28, 1978, on miscellaneous tax bills.

The hearing will be held on Monday, August 28, 1978, at 9:30 a.m. in room 2221 Dirksen Senate Office Building.

The following pieces of legislation of general application, unless otherwise noted, will be considered:

H.R. 810, sponsored by Congressman CONABLE, a bill amending section 4941 of the Code to permit private foundations to pay or reimburse Government officials for expenditures (up to certain limits) incurred for travel outside the United States. It is estimated that this bill will not have any direct revenue effect.

H.R. 4030, sponsored by Congressman GUYER, a bill to increase from 50 percent to 51 percent the maximum amount of voting stock that private foundations may hold in certain public utilities without being subject to the excise tax (imposed by section 4943 of the Code) on excess business holdings. It is estimated that the bill will not have any direct revenue effect.

H.R. 5099, sponsored by Congressman MOORHEAD, a bill for the relief of Brian Hall and Vera W. Hall to make them eligible for nonrecognition of gain treatment under section 1034 of the Code on the reinvestment of the proceeds of sale of their personal residence. It is estimated that the bill will reduce revenues by less than $25,000 for fiscal year 1979.

S. 2771, sponsored by Senator HATHAWAY, a bill to exempt from the tax on unrelated business income the proceeds from the operation of certain games (such as beano). It is estimated that the bill will reduce budget receipts by about $15 million annually. This estimate does not take into account the retroactive effective date.

S. 1611, sponsored by Senator CULVER, a bill to provide a deduction for additions to a reserve for product liability losses.

S. 3049, sponsored by Senators CULVER and NELSON, a bill to provide a deduction for amounts placed in a reserve for product liability losses and expenses and for amounts paid to captive insurers.

S. 3176, sponsored by Senator LAXALT, a bill to allow public utilities to exclude from gross income, as contributions to capital, amounts received in aid or construction of electrical energy, steam, or gas facilities. If all the contributions in aid of construction were treated as income, the annual increase in tax liabilities is estimated to be in the range of $130–$200 million. If the electric and gas utilities rely on past treatment and fi tax returns as if Revenue Ruling 75-55 applied only to water and sewage com panies, and if court decisions are in fav of the utilities, then the proposal broaden section 2120 of Public Law 94 455 would have no revenue effect becau it could be viewed as codifying the his toric tax treatment of contributions aid of construction of regulated publ utilities.

S. 3345, sponsored by Senator NELSO a bill to amend the tax treatment small business investment companies. is estimated that the bill would redu budget receipts by about $200,000 in fi cal year 1979 and less than $500,000 a nually thereafter.

Revenue estimates for S. 1611 and 3049 are currently not available. T committee will make revenue estimat available prior to or on the day of th hearings.

Requests to testify. Persons who d sire to testify at the hearing should sub mit a written request to Michael Ster staff director, Committee on Financ room 2227, Dirksen Senate Office Buil ing, Washington, D.C. 20510, by no lat than the close of business on Thursda August 24, 1978.

Written testimony. The subcommitt would be pleased to receive written te timony from those persons or organiz tions who wish to submit statements f the record. Statements submitted for i clusion in the record should be typewri ten, not more than 25 double-spac pages in length and mailed with fi copies by September 8, 1978, to Micha Stern, staff director, Committee on F nance, room 2227 Dirksen Senate O fice Building, Washington, D.C. 20510.●

ADDITIONAL STATEMENTS

THE SLIPPING DOLLAR

● Mr. STEVENSON. Mr. President, would like to bring to the attention my colleagues a recent article by Robe J. Samuelson in the August 5 Nation Journal entitled "Is the Dollar Slippin on a Slope of Weak Exports?" I sh submit the text of the article to printed in the RECORD at the conclusi of my remarks.

The point made by this article is th U.S. exports are becoming less com petitive in world markets. This conclu sion is reinforced in the extensive hea ings which the Subcommittee on Inte national Finance has recently held U.S. export policy.

The reasons for this decline in com petitiveness are largely self-inflicte Business too often ignores export ma kets, or fails to compete aggressively f them. It has seen increasing numbers foreign competitors, including the LDC beat it with superior technology a marketing. Labor concentrates on pr tecting jobs from import competiti instead of creating jobs through mo exports. Thus, it warmly endorses impo restrictions, which threaten the fabr of international trade, and reacts grud ingly to export incentives. And we Congress, with the best of motives, e cumber trade laws with a maze of restri

tions, limitations, and conditions de-

intensified pressures for stiff protectionism,

termining the strength of the dollar

tions, limitations, and conditions designed to promote everything from emigration to environmental protection, but not exports.

This article contains a rude awakening—we are not longer the indispensable supplier of the world's commodities, goods, and services. For every sale we forego—for lack of effort, for other objectives—there is someone else ready to make the sale, to create jobs in their own country. I hope my colleagues will keep this in mind when we begin debate on the Eximbank bill. Any more unnecessary restrictions on exports, no matter how well intentioned, well be but another case of shooting ourselves in the foot. Soon, we may have no feet to stand on in international markets.

We are at a watershed in our international economic history. Either we compete, to sell more abroad to reduce the trade deficit or face the prospect of becoming a second-rate economic power. That may sound a harsh statement, but it is a harsh reality.

The article by Mr. Samuelson follows:

IS THE DOLLAR SLIPPING ON A SLOPE OF WEAK EXPORTS?

Harry Jones, a vice president of the Westinghouse Electric Corp. and director of overseas affairs for the company's Washington office, likes to remind people that he's been a salesman for 32 years. He's traveled most of the world peddling Westinghouse's products—including power turbines and nuclear reactors—and, as an old salesman, he thinks he knows why American exports don't sell so well anymore.

Too much government interference.

Jones's villains sprawl across the bureaucracy: there's the State Department, which can block exports for foreign policy reasons; there's the Nuclear Regulatory Commission, which can impose time-consuming reviews of nuclear exports; and there's Congress, which has directed the Export-Import Bank of the United States to consider "human rights" before making export loans. A new candidate looms: the Council on Environmental Quality, which wants to require environmental impact statements for government actions affecting exports.

"All these uncertainties are scaring the customers away," according to Jones. "Most of the customers [for U.S. exports] are government officials. Their necks are out. If it [an export order] is held up for a year because of a license or an environmental review, they're going to get fired. They say, 'Hell, I can do this kind of business with the French and the Germans and not go through all this.'"

C. Michael Aho is not a salesman. He's an economist at the Labor Department, but when he processes mounds of trade statistics through his computer, he arrives at a conclusion strikingly similar to Jones's: something's wrong with American exports. He thinks the United States has suffered a "structural" loss of export competitiveness, though he's not sure why. Possible explanations are legion: inadequate aggressiveness by U.S. firms; lack of investment or research in new products; and the emergence of technologically advanced competitors abroad.

Aho's analysis and Jones's intuition should interest the White House. For despite an improvement in the most recent monthly trade report—the June deficit dropped to $1.6 billion, the first time since September it had been below $2 billion—America's continuing trade imbalance has rapidly emerged as one of President Carter's major headaches. It has caused a long slide in the dollar, unsettled relations with America's major allies and intensified pressures for stiff protectionism. Just last week, Rep. Charles A. Vanik, D-Ohio, chairman of the House Ways and Means Subcommittee on Trade, urged that the White House slap a heavy surcharge on Japanese imports.

Against that background, the message from Aho and Jones is a new and disturbing one. For their theory—that the United States is suffering a long-term decline in international competitiveness as a result of technological and political changes—raises a grim possibility: a continuing depreciation of the dollar that attempts to offset in cheaper prices what the country has lost in the quality of its products. In effect, they are prophesying the fate of Great Britain—before North Sea oil—for the United States.

CHILLING IMPLICATIONS

The theory, of course, is far from proven, but some statistics provide superficial support. After adjustment for inflation, U.S. exports of manufactured goods—the backbone of America's overseas trade—actually declined slightly between 1974 and 1977. During the same period, the exports of manufactured goods from other major developed countries rose 13 per cent. Since late last year, the United States has actually run a deficit in manufactured goods, accounting for much of 1977's record $31 billion over-all trade deficit.

Moreover, to increasing numbers of government officials and business executives, the lackluster export performance confirms the erosion of U.S. technological superiority. The United States still dominates the world market for commercial jets—accounting for about 85 per cent to 90 per cent of today's jet airlines—and remains the major seller of computers. But, in most other areas, businessmen say, U.S. firms compete with equal or better products.

"There has been a tremendous change in the last 15 years," said E. C. Chapman, vice president of Caterpillar Inc., a major manufacturer of construction and mining equipment and one of the largest U.S. exporters. "Today, there are manufacturers of our type of product that are [so] close to what we have . . . , [that] there are no significant differences."

The implications of such a fundamental change are chilling. Among the possibilities:

An international money panic. For better or worse, the dollar remains the world's chief form of international money. Countries keep about 80 per cent of their reserves in dollars; multinational firms and individuals also hold vast amounts of dollars. Any shift by these dollar holders—including the large oil producers—into other currencies could cause further depreciation and a stampede of dollar sales.

A decision by the Organization of Petroleum Exporting Countries (OPEC) to abandon the dollar as the sole currency for pricing oil. That change would mean that depreciation of the dollar immediately would translate into higher oil prices for Americans—and more domestic inflation. Ominously, a study group for OPEC recommended just such a change in mid-July.

A further loss of America's economic and political leadership among its western allies. For them, the dollar is both a symbol of American economic stability and a key determinant of their own economic performance. Because the currencies of many developing countries are linked to the dollar, a dollar depreciation also makes those countries' exports cheaper—and more competitive against European and Japanese products. The decline in U.S. economic leadership is already evident. The recent economic summit meeting in Bonn reconfirmed the unwillingness of other countries, particularly Germany and Japan, to follow American prescriptions for the world's economic problems.

Exports, of course, aren't the sole factor determining the strength of the dollar; foreigners' desire to invest in the United States and their willingness to hold surplus dollars also count heavily.

Moreover, comparisons of the United States to Britain are risky. In the late 1960s and early 1970s, Britain had social and economic problems—class conflicts, union militancy and a rate of inflation nearing 30 per cent—far more serious than anything the United States has experienced recently. The United States also remains the world's largest agricultural exporter, and, as Frank Vargo, the Commerce Department's top trade analyst, points out, "One of Britain's problems was that it was so heavily concentrated in a few industries—such as textiles—and the United States has never been concentrated like that."

Still, the slide in exports has proceeded beyond anything that can be explained simply by a rebuilding of the war-ravaged economies of Europe and Japan, which restored these areas as major competitors (*See chart above.*) Week export performance has now clearly intensified pressures on the United States to accept slower economic growth—to cut both imports and inflation—and has highlighted the growing conflict between U.S. commercial and diplomatic objectives abroad.

The conflicts have surfaced in a series of decisions to block—or stall—more than $600 million worth or exports, including the sale of trucks and commercial jets to Libya, power equipment and commercial jets to Argentina and a computer to the Soviet Union. Each decision reflected important U.S. political goals: the Libyan sales were rejected because of that country's support of terrorism and its hostility toward Egyptian President Anwar el-Sadat; the Argentinian sales were stalled because that country's "human rights" policies fall short of U.S. standards; and rejection of the Soviet computer sale was intended as a signal of U.S. displeasure with the prosecution of Russian dissidents.

But business groups are increasingly upset by the restrictions, and some government officials regard them as futile gestures. "Treating our exports as a stick with which to beat people [is] completely ineffective," said Henry G. Wallich, a member of the Federal Reserve Board. "Every time we deny a country access [to sales], there's another country to take our place. . . . We get a reputation as an unreliable supplier."

Official anxiety about exports is relatively new. Until recently, large oil imports—up $10 last year to $44.7 billion—and fast U.S. economic growth, which also attracts imports, were considered the main problems. But their impact is now clearly diminishing. Alaskan oil is finally reducing oil imports, which are down 10 percent in the first six months of 1978, and U.S. economic growth is expected to slow to between 3.5 percent and 4.0 percent this year against 4.8 percent in 1977.

More important, the role of these pressures in the slide of the dollar may have been somewhat overstated. For example, the oil exporting countries have invested a large portion of their surplus dollar earnings in the United States. As long as that happens, the oil deficit does not directly cause a drop in the dollar, because the surplus dollars aren't being sold on foreign exchange markets. When more dollars are offered for sale on foreign exchange markets than people want to buy—to pay for U.S. exports, for example—the price declines.

Likewise, faster growth in the United States has clearly raised U.S. imports and slow growth in Europe, a major market for U.S. goods, has hurt U.S. exports. But even excluding other countries' exports to the United States, their overseas sales have been growing faster than U.S. export sales.

Consequently, the United States is losing its position in many markets. The following

table indicates U.S. exports as a proportion of the total exports of the 22 members of the Organization for Economic Cooperation and Development (OECD), the world's major industrialized countries, including the United States, Canada, Japan and the members of the European Community. Between 1974 and 1977, the U.S. share of total OECD exports dropped from 18.5 percent to 16.8 percent—a postwar low—and the share in most major markets dropped, too. These figures indicate that sluggish exports can't be attributed solely to slow growth in Europe.

U.S. EXPORTS TO MAJOR MARKETS

(*U.S. share of OECD exports*)

[In percent]

	1974	1977
Japan	52.4	48.2
European community	11.0	9.8
Developing countries	27.2	24.6
Communist countries	12.4	8.4

Although some of this drop may reflect a leveling off of U.S. farm exports—which have grown modestly since 1974, increasing from $22 billion to $23.7 billion in 1977—the same pattern emerges when manufactured exports alone are considered.

PERMANENT DAMAGE?

What remains unclear is whether the erosion is permanent. Some economists attribute much of the poor U.S. export performance to a sharp rise in the exchange rate of the dollar in late 1975 and 1976; from its 1975 low to its 1976 high, the dollar's value increased by about 18 percent, although the average change was much less. In retrospect, the jump reflected the temporary effect of the 1974–75 recession, which cut America's demand for imports and produced a record trade surplus of $9 billion in 1975. But, in the process, American exports became more expensive, and these higher costs could explain some, or all, of the loss of market shares.

The next year should show how much. Economists believe that changes in trade patterns lag behind changes in exchange rates because today's export shipments reflect contracts negotiated and signed a few months to a few years earlier. By this reasoning, the dollar's sharp depreciation in late 1977 and early 1978—followed by further depreciation this summer—should stimulate a rise in exports sometime in 1979.

For the depreciation has been substantial. Since early 1977, the dollar has dropped about 15 percent against the German mark, 35 percent against the Japanese yen and 10 percent against a basket of 10 major foreign countries. In practice, the actual price advantage conferred by the depreciation may be somewhat less, because inflation has been higher in the United States than in either Germany or Japan, offsetting some of the currency drop. Still, after price adjustment, the dollar dropped more than 5 percent between the end of 1976 and June 1978 against 16 foreign currencies, according to an index constructed by the Morgan Guaranty Trust Co. By the end of July, the drop had increased to 6.4 percent.

But economists like Aho wonder how pronounced the impact will be. At best, Aho believes that the dollar depreciation of the early 1970s permitted the United States to maintain its share of export markets but did not allow substantial improvement.

Aho's conclusion emerged from an elaborate analysis of OECD export data. His study attempted to show how much of a country's export growth could be attributed to its "competitiveness" and how much to other factors: the over-all growth in world trade; the trade growth of the commodities in which the country specialized; and the growth of a country's specific exporting partners. The reasoning was simple. If, for example, a country exports widgets, and, suddenly, the world experiences a widget boom, the country's exports would soar without any basic change in "competitiveness."

Aho consistently found that the U.S. export position had declined between 1970 and 1976, despite the impact of two devaluations. (The dollar was devalued against other currencies in the Smithsonian Agreement of December 1971 and again in early 1973; after that, currencies generally have been allowed to "float," meaning that their price is determined by supply and demand.) If the United States had been able to hold its 1970 export share, Aho found, its shipments to the European Community would have been $6 billion higher in 1976 than they actually were. The same conclusion resulted from an analysis of specific types of exports. If the United States had maintained its market share for heavy machinery (such as turbines and electric motors) and transportation equipment, these exports, to, would have been $6 billion higher in 1976.

Taking a closer look at the data, Aho discovered a slight improvement between 1973 and 1976, indicating some impact of the devaluations. But the magnitude of the changes didn't impress him. Instead, the dominant trends seemed to be a continual slide in the positions of the United States and the United Kingdom, contrasted with sharp gains by Japan and more modest gains by Germany.

Aho's study portrays the United States and Great Britain as well-established old stores that are slowly losing their customers. He speculates that the change reflects greater investment and research and development in Japan and Germany.

"If these trends continue, the increased research and development expenditures and larger investment overseas will in the long run improve the competitive position of those economies with respect to the United States," Aho concluded. "This will sustain the lagging performance of U.S. exports and not help to improve the value of the dollar in world markets. Other things equal, a lagging export performance by the United States will necessitate further dollar depreciation."

NEW REALITIES

Aho is not alone in believing that competitive realities have altered. Increasingly, U.S. companies are selling in new markets, facing new demands—both economic and political—and encountering competitors that seem to enjoy the backing of their governments. The added political dimension of export sales raises further doubts about the effectiveness of the dollar depreciation to generate more sales.

The shift in markets is clear. Between 1971 and 1977, for example, the percentage of U.S. exports going to developing and Communist countries rose from 31 per cent to 38 per cent.

Although most of that increase reflects a jump in exports to oil producers, part of the trade deficit can be attributed to U.S. inability to increase sales to many non-oil developing countries. In the 1970s, they have generally expanded their exports to the United States faster than the United States has increased its exports to them. Between 1971 and 1977, for example, the Asian "developing countries (mainly Korea, Taiwan, Hong Kong, Singapore and the Philippines) quadrupled their exports to the United States, from $3.9 billion to $17.8 billion, including a vast array of consumer products ranging from shoes and textiles to stereos and toys. But, over the same period, U.S. exports to those countries rose only two-and-a-half times, from $4 billion to $10.7 billion.

There is no agreement on why American firms have not been more successful. In some cases, rapidly expanding economies may simply be diversifying their sources of imports. Last year, the United States supplied about 30 per cent of the goods Korea imported from OECD countries, but that was down sharply from the 35 per cent the previous year and 41 per cent in 1968.

In other cases, unfamiliarity with new markets may hurt. Reginald H. Jones, chairman of the General Electric Co., recently noted that his company "spent four profitless years establishing a presence in Nigeria before we finally won an $11 million export order." Inexperience can cost sales. Pullman Standard recently lost a $200 million to $300 million order for subway cars and rails for the Caracas subway in Venezuela. "I don't think we did our marketing homework right," a company official said later.

A top executive at another U.S. company put it this way: "In places like Lagos [Nigeria], Jidda [Saudi Arabia] or Teheran [Iran] . . . it's hard to make a phone call down the street, never mind to the United States."

But there's a less charitable view of U.S. corporate export performance. Last spring, a report by the Boston Consulting Group for the Treasury Department attributed much of the large U.S.-Japanese trade imbalance to lack of aggressiveness by U.S. companies. The report noted that the U.S. share of Japan's imports had slipped, and then added:

"The fact that the United States is losing its share of the Japanese market . . . puts the trade balance issue into a rather different perspective. Trade barriers cannot explain these data. Whatever the barriers, the United States is supplying a smaller part of what Japan does in fact take in. This is the case despite the U.S. advantages over other suppliers—a long history of close trade association; much the highest level of foreign investment in Japan; and close stategic association."

Frank A. Weil, assistant secretary of Commerce for industry and trade, also argues that U.S. companies—especially medium-sized and smaller firms—are too inward-looking, too preoccupied with a large domestic market and too unwilling to take risks to create sales abroad. An Administration export task force, chaired by Weil, recently concluded that many firms are "biased" against exporting and deterred by fears of "language difficulties, the financial reliability of foreign customers, the mysteries of export documentation, exchange rate conversion [and] the regulatory restraints of foreign governments. . . ."

TOUGH COMPETITION

But if lack of interest were ever fatal, it is now. With large oil bills and high unemployment, most countries are desperate for export sales. Consequently, the bargaining advantage has shifted increasingly from seller to buyer—from exporter to importer—and the changed climate is making it more difficult for U.S. firms to compete.

The competition takes increasingly bizarre forms. To win orders, companies often have to agree to share a large amount of the production work with the importing country. In effect, the "exporter" provides management, technology and sophisticated parts. But much of the labor-intensive, less-skilled work is subcontracted to the "importer." In other cases, exports depend on barter (or "counter-trade") arrangements. A country will buy only if the exporter is willing to take some of its products in partial or complete payment.

The growth of this type of trade may work against the United States, both because American companies dislike such exchanges and because barter arrangements often require trade agreements between governments.

The skepticism of U.S. firms is not simply stuffiness. Bartering can be risky. In Europe,

many Communist countries paid for new

Import Bank, under its new chairman-presi-

erately, from $4.1 billion in the 1977 period

many Communist countries paid for new chemical plants by shipping the plants' output back to the West; now, those shipments have aggravated a chemical glut on Western European markets.

But bartering seems likely to continue. Earlier this year, Japan and China signed an eight-year, $20 billion trade agreement under which China will sell oil and coal for Japan's exports of steel mills, construction materials and heavy equipment.

As the Japan-China agreement suggests, the desperate drive for exports also means more politics in export promotion. Just how much more is unclear, but U.S. firms insistently contend that any politics puts them at a further disadvantage.

"In 1976, our engineering company bid a $600 to $700 million major petrochemical complex in Latin America," Joseph F. Condon, vice president-international of Combustion Engineering, Inc., recently told a trade conference sponsored by *National Journal*. "We were head to head against European competition. We were told that our technology had an edge and our price was competitive. However, the European competitor offered extraordinarily aggressive export credit coupled with a government grant. This tipped the scale."

Whether the active intervention of other governments plays the decisive role described by U.S. companies is impossible to say. But the importance of "big ticket" exports seems to be growing, and their mere size gives them political overtones. Some projects assume staggering proportions. Western Electric Co., Inc., for example, is now bidding on a contract estimated at nearly $3 billion to expand and improve Egypt's telephone system; about 80 percent of that is reckoned to represent U.S. exports. (Western Electric recently lost a similar contract in Saudi Arabia to Sweden's L. M. Ericsson Telephone Co.)

Such huge stakes require some trust and goodwill between governments; otherwise, the importer may lack confidence that the contract will be fulfilled, including an ongoing supply of spare parts and continuing maintenance.

Nor is there much doubt that the United States has already done considerable damage to its reputation, mainly as a result of actions in the past that subordinated other countries' import needs to U.S. domestic and international political objectives. Typical is the experience of Japan, as the Boston Consulting Group reported to the Treasury Department last spring:

"Japan cannot be at the mercy of the world spot market for its basic requirements. . . . U.S. past practices here raise policy questions for Japan. The long series of restrictions on wood-product exports, the restrictions on North Slope crude [oil] and the abrogation of soybean contracts [in 1973, the United States placed an embargo on soybean exports]—these kinds of U.S. decisions are a real issue for Japan."

Under the best of circumstances, such suspicion might take years to dissipate but circumstances today are far from the best. The Administration has yet to find a clear way to boost exports—and help stabilize the dollar—while simultaneously serving all its other political goals.

It has attempted to reconcile some of the conflicts by limiting competition among major industrial nations on sensitive items. Thus the Administration is quietly pursuing negotiations to set common ground rules for military and nuclear exports and is continuing talks with other major exporting countries to limit the use of government subsidies of export credit to stimulate overseas sales.

But these efforts have met only modest success, and the Administration is being pushed increasingly toward aggressive export promotion policies. It has made a few halting steps in that direction. The Export-Import Bank, under its new chairman-president, John L. Moore Jr., has reversed the Ford Administration's policy of providing government export loans only as a last resort. Under Moore, new loans have risen rapidly; between last October and this June, new loans hit $2.1 billion against $394 million in the same period a year earlier. (*See box, p. 1238.*)

In mid-July, the Administration's Export Policy Task Force, chaired by Weil, urged the President to go even further. It recommended that exports not be halted on political grounds except in extraordinary circumstances. Such denials, the task force argued, not only give the United States a bad reputation abroad, but discourage U.S. exporters, who "become increasingly reluctant to undertake the expense and effort of seeking export markets . . ." a draft of the task force report said.

Even if the President were to adopt this and other recommendations, though, the immediate impact on exports isn't likely to be great. In fact, short of massive subsidies to exporters—which are great under the General Agreement on Tariffs and Trade (GATT) and probably would provoke retaliation from America's trading partners—there isn't much the White House can do to push exports. Unless the trade balance changes sharply and unexpectedly for the better, the huge deficit may resolve itself in one of three old-fashioned ways: through lower growth, more dollar depreciation or more protectionism.

To the White House, the choices cannot look very appealing.

THE EXIMBANK: GROWING MORE BOLD

The Export-Import Bank of the United States is in the hot seat. On the one hand, exporters want it to become increasingly aggressive in financing their overseas shipments and, on the other, Congress wants it to become increasingly selective in the types of exports it will support.

In late July, for example, the House passed legislation restricting the bank's loans to South Africa and prohibiting loans to any country that "aids or abets any individual or group which has committed an act of international terrorism." In the Senate, the same legislation—which authorizes a continuation of the Eximbank through 1983—has run into another contentious issue: should the bank's export loans be subject to an environmental review?

Meanwhile, the bank's new president, John L. Moore, Jr., has attempted to reverse the cautious policy of his predecessor, Stephen M. DuBrul Jr. DuBrul believed the bank should provide funds only as a "lender of last resort"—when exporters couldn't obtain private financing—but Moore has attempted to stimulate loans by lowering interest rates, even though the general level of interest rates has been rising.

Generally, the bank makes direct loans on exports and guarantees private loans. Often, a financing package includes a combination of a direct loan and a guaranteed loan. Under DuBrul, the Bank generally limited itself to a 42.5 percent maximum in direct financing; Moore is willing to go as high as 85 percent. (Anything higher than that would violate an agreement among major industrial countries to require at least a 15 percent down payment on officially financed exports.) Exporters generally prefer direct loans not only because the rate is lower but also because the interest rate is fixed. Private lenders usually require a "floating" rate that could move up during periods of tight money.

Not surprisingly, therefore, there's been a dramatic shift towards more direct loans under Moore In the nine months ending in June, direct loan authorizations hit $2.1 billion, up from $394 million in the same period a year earlier. Total Eximbank financial support (including guarantees) rose more moderately, from $4.1 billion in the 1977 period to $5.3 billion this year.

Congress is expected soon to approve the legislation authorizing the five-year extension of the bank and increasing its total lending authority from $25 billion to $40 billion. Guaranteed loans (counted at 25 percent of their face value in the $40 billion total) could rise from $20 billion to $35 billion.

THE AGENCIES THAT REGULATE EXPORTS

The only form of government control on about 90 per cent of U.S. exports is a simple export declaration—a bookkeeping formality used to help the Census Bureau record the level of shipments. But the other 10 per cent is becoming increasingly controversial, and more and more exports are being stalled before they ever reach the docks.

Consider what happened to Allis-Chalmers Corp. Earlier this year, it asked the Export-Import Bank of the United States for a "letter of interest" to finance $270 million worth of power turbines and generating equipment for a new hydroelectric plant to be built on the border between Argentina and Paraguay. The Eximbank wanted to give the letter, but, under a recent congressional amendment, it must consider "human rights" conditions.

After consultations with the State Department, the Eximbank denied the company's request on the basis of Argentina's human rights policies. Consequently, Allis-Chalmers says it will probably be forced to supply the turbines to Argentina from a plant outside the United States.

Most export controls are administered by the Commerce Department, although the Eximbank and other agencies sometimes get involved. The Nuclear Regulatory Commission (NRC), for example, must approve all overseas shipments of nuclear fuels and reactors. If it prevents a shipment, the President can overrule the agency, and Congress can overrule the White House (both chambers must act within 60 legislative days). Thus President Carter recently approved a shipment of fuel to India's Tarapur reactor, nullifying a 2–2 vote of the NRC. Other agencies that have export authority include the Agriculture Department (over some foods) and the Justice Department (over some drugs).

Commerce's authority stems from the Export Administration Act of 1969. About 80 per cent of the exports that require "validated export licenses" are advanced goods, which are reviewed on strategic and military grounds. These include a large number of computers, advanced machine tools, lasers, avionics and sophisticated telecommunications systems. Many of the licenses are approved automatically, but important cases are reviewed by the Advisory Committee on Export Policy, an interagency group whose members include the State, Commerce, Defense, Energy and Treasury Departments.

Although Commerce administers the controls, the real power lies elsewhere. When one U.S. firm wanted to ship about $60 million worth of trucks to Libya, for example, Commerce told the firm that the shipment wouldn't require an export license. State learned of the deal and insisted that Commerce issue new rules requiring a license—which, it was indicated, would be denied. State thought the trucks would be used to haul Libyan tanks across the desert.

On foreign policy grounds, the country has virtually total export embargoes with four countries: Vietnam, Cambodia, North Korea and Cuba.●

SUPPORT CONTINUES STRONG FOR A LIMIT ON CONGRESSIONAL TENURE

● Mr. DANFORTH. Mr. President, early in this Congress Senators DECONCINI, SCHMITT, HAYAKAWA, WALLOP, GOLDWATER, and GARN joined me in introducing Senate Joint Resolution 28, a joint resolution calling for a constitutional amendment which would limit the tenure of Members of Congress.

In December 1977, Dr. George Gallup reported that 60 percent of the American people believe Congressmen should be limited to no more than 12 years of service as U.S. Representatives or Senators. Now, in its August issue, Nation's Business reports "overwelming" support among its readers for a 12-year limit on congressional tenure.

In June, Nation's Business "Sound Off to the Editor" column asked "Should congressional service be limited to 12 years?" To date, over 1,600 readers have responded, with more than 1,400—87 percent—supporting the concept of limited tenure for Members of Congress. With ballots continuing to come in, the actual figures now show 1,467 readers supporting limited tenure, 123 opposed, and 36 undecided.

Mr. President, I ask that the text of this report be printed in the RECORD.

The report follows:

12 YEARS IN WASHINGTON IS TIME ENOUGH

Overwhelmingly, NATION'S BUSINESS readers think congressmen should be limited to a dozen years in Washington.

While quite a few representatives and senators make it through only a single term, many are returned year after year by the voters.

By sheer endurance they move up the ladder to committee chairmanships and awesome power. And once elected, most congressmen find that the advantages of the incumbency are hard to beat.

Sen. John C. Danforth (R.-Mo.) has proposed a constitutional amendment that would limit each senator and representative to a total of 12 years' service—two six-year Senate terms and six two-year House terms.

Sen. Danforth says that our Founding Fathers intended members of Congress to be private citizens on leave to their government, not lifetime legislators. The sad results of many congressmen spending most of their adult lives in Washington are obvious, he says.

"First, Congress has grown more distant from the American people. Second, the growth and the cost of government have skyrocketed as congressmen say anything, do anything, and spend anything to get themselves reelected."

Sen. Danforth's proposed amendment requires approval of two thirds of the Senate and the House of Representatives and then three quarters of the states before it can become part of the Constitution.

Critics of the proposed amendment argue that the length of congressional service is a matter for the voters of each state and congressional district. Continuance of a legislator in office should be decided by his constituents, not by an arbitrarily restrictive constitutional amendment.

In June, the Sound Off to the Editor question was, "Should congressional service be limited to 12 years?" Judging by the response received from Nation's Business readers, Sen. Danforth seems to be on the right track. Overwhelmingly, the answer was yes.

John R. McAlpine, vice president and manager of administration at Young & Rubican-Detroit, says: "Sen. Danforth's observations are right on target; one of our problems is the serious lessening of competence of what we once regarded as the world's greatest deliberative body."

"Even better," suggests Roy W. Gronauer, president of TriTan Corp., Houston, "let's consider one term and no reelection unless it is separated by one term out of office."

"It is necessary to diminish the sustained influence of the legisaltive demigods," says Robert L. Riebow, director of government sales for Best Foods, Englewood Cliffs, N.J. "Authentic servants of the people can continue their contributions outside government. No state or congressional district is so short of talent that it cannot replace a legislator with another equally as effective."

Roger L. DeRaleau, vice president of Valley Bank and Trust Co., Springfield, Maine, says: "Definitely. New men bring in constructive and different outlooks, attitudes, and foresight on existing and proposed legislation."

"A thousand times yes," says attorney Wilbert E. McReynolds of McReynolds and Jantz, DeRidder, La.

"Nothing is as damaging to our form of government as the long personal reign in office of an elected official." He adds that "retirement from elective office should be unheard of in a democracy."

Walter H. Chapman, president of El Paso Corrosion Co., El Paso, Texas, speaks for the other side of the issue. "It's my decision as a voter," he says. "We believe we are sending the best to Washington. The important thing is it's the people's choice."

Another response opposing Sen. Danforth's plan is from William Weiss, president of The Rotary Co., Inc., Buffalo, N.Y. He says: "A time limit would result in the loss of experience a good legislator has accumulated." What should be scrapped, he says, is the present automatic rise to committee chairmanship based on seniority.

Keith T. Smith, director of corporate market development for Hercules, Inc., Wilmington, Del., sides with Sen. Danforth. "I believe," he says, "this move would make our elected officials more concerned about the next generation than about the next election."

"Congressmen should be professionals from every walk of life, but politics itself should not be a profession," says Joseph R. Farrell, Jr., president of Joseph R. Farrell, Inc., West Conshohocken, Pa. "Unfortunately power does corrupt, and while there are some good politicians, the upgrading of the whole Congress would far outweigh their loss."

Eldon Seelig, vice president of American Bank and Trust Co., Minot, N. Dak., agrees. He feels that many of our present economic and social problems are directly linked to our elective system. He says that congressmen are much too concerned about reelection.

L. P. Lathem, Jr., president of Lathem Time Recorder Co., Atlanta, is of a different opinion. He feels that "a good, honest career-type congressman could be lost to the nation. Experience takes time to replace," he says, "and we would have even more amateurs in office.

"If somehow voters learned to vote intelligently instead of selfishly, bad old congressmen would be voted out and good old congressmen kept in."

Charles L. Johnson, executive vice president of the Wayne Chamber of Commerce, Wayne, N.J., answers yes and would go even further than the proposed amendment. He suggests: "Perhaps consideration should also be given to requiring that the President, when elected, become disassociated from any political party. Hopefully, this would result in a more effective President because he would not have to give support to either party. Reelection would be as an independent incumbent running on his record."

"Fresh, energetic new people every 12 years would be a blessing to the U.S.," according to Roy E. Brooks, president of Louisville Mobile Homes, Inc., Louisville, Ky. "Congressional service should be just that," he says, "a service rather than a vocation for life."

Mark E. Large, branch manager of Cater-Vend, Inc., Centralia, Ill., votes no to Sen. Danforth's proposal but offers an alternative. The salary of congressmen should be lowered to the median national income, and the sessions of Congress should be limited to 60–90 days. Then only public-spirited people would be interested in serving."

E. A. Bishop, district manager of Armstrong Cork Co., Saddlebrook, N.J., favors limiting congressional terms. "Some will use the argument that it takes time to learn the ropes of government; therefore, the longer the time spent in office, the better the efficiency." But, he notes, that argument will be used "by those who have tangled the ropes."

John L. Colmar, attorney, Morton Grove, Ill., agrees that 12 years of congressional service is enough. "Let the legislators live and work some of their lives under the laws they pass."

Harold F. Knowles, executive vice president of the Greater Randolph Area Chamber of Commerce, Universal City, Texas, comments: The longer a congressman serves outside his constituency the more he loses touch with why he is in Washington. He can reach a point where being in Washington is more important than representing his constituents."

Kathleen A. Embry, bookkeeper for Sherlock's Glass Co., Elko, Nev., definitely favors Sen. Danforth's proposed amendment. You're damn tootin'," she says. "I've often wondered how congressmen have the temerity to restrict the President's term of office yet still leave their own wide open. Tenure, coupled with old age, often leads to arrogance or petulance, and opinions become as inflexible as old bones.

"Seniority can easily lead to corrupt power," she says. "I'm no cocky sprout letting off steam. I'm 61 years old."●

NATIONAL LUPUS WEEK

● Mrs. HUMPHREY. Mr. President, last Friday the Senate voted its approval of House Joint Resolution 682 which authorizes the President to proclaim the week of September 17–23, of this year, as "National Lupus Week." It is important that this time has been designated to bring attention to this disease. For we should all know more about this relatively new and little-known malady.

If you are not familiar with lupus, do not be embarrassed as many patients who have been diagnosed as having lupus erythematosus have never heard the term before either. Actually, the disease has been known to doctors since 1828 when it was first described by a French dermatologist, Biett. In those days the disease manifested itself by skin changes. Some years later it was determined that some patients who had LE skin lesions were also affected by the disease through their internal organs. Then it was observed that systemic LE could affect internal organs without skin changes.

In 1948, Dr. Malcolm Hargraves of the Mayo Clinic, discovered that there was a particular cell in the blood of patients with SLE, and was able to describe it. More recently it has been found that the individual has unusual antibodies that act against the patient's own tissues.

The cause of discoid LE, the skin form,

is unknown. Systemic LE has no known cause either, although it is thought that certain medicines, excessive sun exposure, and infections may contribute to its onset. Neither form is contagious.

The number of cases is hard to estimate because it is thought many people have mild cases and are unaware of it. Systemic LE cases, however, seem to be increasing. This may be attributed to either doctors recognizing the disease more readily or due to toxic changes in our environment triggering its cause.

For some undetermined reason, 7 out of 10 patients with discoid LE are women, usually in their late twenties. Nine out of 10 patients with systemic LE are women, half of them developing their first symptoms between ages 15 and 25. LE is rare in children under the age of 5.

The seriousness of the disease can range from being mild to life-threatening and depends on what parts of the body are affected. Some of the symptoms exhibited are muscle and joint pain, fever, skin rashes, chest pain, swelling of hands and feet, hair loss. There are periods of time when the symptoms clear and remission takes place. A large number of people with SLE have few symptoms and are able to live a nearly normal life.

Thus, lupus is a very real challenge to physicians and researchers in finding the cause of this disease. It is appropriate then that we have set aside these days to make the general public aware of a disease that is becoming increasingly prevalent.●

THE 10TH ANNIVERSARY OF THE SOVIET INVASION OF CZECHOSLOVAKIA

● Mr. DOLE. Mr. President, Monday marks the occasion of the 10th anniversary of the Soviet invasion of Czechoslovakia. To commemorate that sad event, I introduced Senate Resolution 526 which has been cosponsored by 10 of my distinguished colleagues. The 1968 invasion, however, should be observed with more than just a commemorative resolution. On August 21, we should pause and seriously examine the implications of the Soviet invasion of 1968 and resolve to apply the lessons to our policies in 1978.

PRAGUE SPRING

In 1968, under the leadership of Alexandr Dubczek, Czechoslovakia was experiencing what has come to be known as Prague Spring. People were free to express themselves in print, in conversations, in the various art media. Czechoslovakia became a prosperous nation with hard-working, happy and creative citizens. The tone and tempo of life in Czechoslovakia was admired and envied. On August 21, 1968, it all ended under the treads of Soviet tanks.

SOVIETS ARE PHILOSOPHICALLY OPPOSED TO FREEDOM

The question we should ask and seriously ponder, is why did the invasion happen? Why was Prague Spring terminated? The answer is simple, not particularly original, but enormously frightening. The Kremlin saw the people of Czechoslovakia enjoying freedom and prospering under its influence and they did not like it. It went against the basic philosophy of Soviet rule. The trials of Helsinki Monitors throughout this past summer are a dramatic reminder that the Soviets have not changed. Other repressive actions in the last 10 years since the Czechoslovakia invasion indicate consistent Soviet hostility to free and creative expression. Soviet foreign policy in Africa, the Middle East and Asia in the last decade has been designed to export and spread the same philosophy that gave us the Brezhnev doctrine. I realize that anyone who points out these facts risks being labeled "hard-line," but we still have the Czechoslovakia invasion to explain. That event is something we dare not forget or ignore.

INVASION MUST NOT BE FORGOTTEN

Certainly the Soviet Union has not forgotten—several divisions of Soviet troops still occupy Czechoslovakia to maintain the icy status quo that drove out Prague Spring. But that is only part of the story. The encouraging part of the story is the fact that the citizens of Czechoslovakia have not forgotten Prague Spring and are struggling to bring it back. In the wake of the Helsinki agreement—an agreement we must continue to remind the Soviets that they agreed to honor—hundreds of Czechoslovak citizens formed the Charter 77 Group, a grassroots movement committed to the implementation of the Helsinki agreement and dedicated to the return of basic human rights to Czechoslovakia. Last Wednesday, Reuters News Service reported that for the first time, representatives of the Charter 77 Group met with members of the Union for the Defense of Polish Workers, another group committed to the implementation of the Helsinki agreement.

The meeting of these two groups to discuss strategy indicates that despite repressions, the spirit of human rights is strong and growing in Eastern Europe. I believe the continued vitality of this historic movement is to a large degree attributable to the moral support the American people have offered the courageous men and women in Eastern Europe who struggle to achieve a happy, prosperous life through the fulfillment of basic rights and liberties.

WE MUST REMAIN FIRMLY COMMITTED TO HUMAN RIGHTS

As we commemorate 1968, we should also cast a glance backward to 1938, for it was then that the people of Czechoslovakia served as victims of the aggressive foreign policy designs of another powerful nation. In 1938, the free world chose to trade the freedom of Czechoslovakia for what was called "peace in our time."

We, of course, paid dearly in human lives, physical destruction, and human suffering for choosing to ignore the fate of this noble country. Now, in 1978, we owe it to the people of Czechoslovakia to remember their plight in the only truly meaningful way.

We must continue to give moral and diplomatic support for the just struggle of the Charter 77 Group to achieve the implementation of the Helsinki agreement within the borders of Czechoslovakia. We must also deal realistically with the Government of the Soviet Union—recognizing them for what they are, while taking what steps we can to encourage the citizens of the Soviet Union and other Eastern European governments to work peacefully for the realization of those rights they are now guaranteed on paper.

Above all, we must be strong in our own defense, firm and consistent in our foreign policy and cooperative but realistic in our dealings with the Soviet Union. Let the citizens of East and West meet and work together in cultural, commercial, athletic, and civic enterprises.

But let us not be naive and think that we can change a government that invades small nations, by indiscriminately offering them the technology and know-how their own system cannot produce. Unwavering support of human rights, coupled with a resolve to remain strong and firm will be the most meaningful way we can commemorate the unhappy anniversary of Czechoslovakia's invasion and the most realistic approach to an eventual return of Prague Spring.●

SHORT LINE RAILROADS

● Mr. PELL. Mr. President, I was delighted to read in last Monday's Wall Street Journal an article entitled, "Rolling Along: Short-Line Railroads Are on Profits Track After Years of Neglect." The article featured the Providence and Worcester Railroad of Rhode Island, and portrayed "the little railroad that could" on its way to becoming the "big railroad that can." At a time when so many private railroads are fighting debt, decay and bankruptcy, it is reassuring to see the great success of the P&W over the past 5 years, as well as a great source of pride to Rhode Islanders. The Providence and Worcester Co., with its innovative management, is truly a model for others seeking to turn around privately owned railroads, and Mr. President, it is with pleasure that I ask that the article appearing in the Wall Street Journal on August 14, 1978 be printed in the RECORD.

The article follows:

ROLLING ALONG: SHORT-LINE RAILROADS ARE ON PROFITS TRACK AFTER YEARS OF NEGLECT

(By William Gilmer, Jr.)

WOONSOCKET, R.I.—In 1973 the Providence & Worcester Co. went into the railroad business with six leased locomotives, a handful of boxcars and 44 miles of track taken over from the Penn Central. Hardly an auspicious beginning for anyone in the railroad industry, you might think.

Think again. It now owns 140 miles of track in Massachusetts, Rhode Island and Connecticut, it operates 10 locomotives and a fleet of 600 boxcars, and its first-quarter earnings this year were $346,000.

On its way to becoming "the little railroad that could," the Providence & Worcester has been helped by innovative labor agreements, a knack for obtaining public financing and by leasing its rolling stock. But it also has provided old-fashioned good service to its freight customers. "The P&W does a hell of a lot better than the Penn Central ever did," says an official with Federal Paperboard Co., which ships its products on the tiny railroad.

A lot of other businessmen are equally pleased with many of the 300 other short-line railroads across the country. Many of them are going against the tide of an industry known for its financial troubles by making a profit or breaking even.

NO ROAD TO RICHES

"Nobody's getting rich," but the short lines are holding their own, says Howard Croft, president of the American Short Line Railroad Association. Washington transportation consultant W. G. Moore agrees that the industry is "generally sound" across the U.S.

A short-line railroad is generally less than 100 miles long and often connects a plant or a factory to a major railroad. Many of them have been created in the past few years as large railroads have merged and lopped off unwanted sections of track.

Many of these abandoned sections have been bought by the major industries they serve: U.S. Steel owns about a dozen short lines. Bethlehem Steel has about five, and others are owned by such concerns as textile mills and paper companies. Other sections have been bought by private investors and by state governments.

It's not known how many of these little lines are profitable. But according to the Interstate Commerce Commission, in 1975, the latest year available, 245 railroads that could be classified as short line had total profits of $27.4 million. By itself that isn't very much. In fact it's less than the Southern Railway's 1978 record first-quarter profit of $28.8 million. The Southern is only one of about a dozen major railroads, most of them in the South and the West, that are booming. The Union Pacific Corp., for example, had record first-quarter profit of $56.1 million.

DEBT, DECAY, AND BANKRUPTCY

But the short lines' small success is in sharp contrast to the bleak railroad picture in much of the U.S., particularly in the Northeast. In New England alone the large roads are fighting debt, decay and bankruptcy. The Boston & Maine is bankrupt and the Delaware & Hudson lost $12.6 million last year. The government-sponsored Consolidated Rail Corp., or Conrail, which took over six bankrupt northeastern railroads in 1976, including the bulk of the Penn Central's rail system, lost more than $1 million a day last year.

By comparison with the lumbering, money-losing Conrail there is the little Columbus & Greenville Railway. It operates just 180 miles of track in Mississippi, but last year it made a $171,000 profit, and it earned $68,000 in the first five months of this year. Craig Burroughs the railroad's president, says that before it became an independent line, the C&G had been deteriorating for years as an "unwanted section" of the Illinois Central Gulf Railroad.

Mr. Burroughs, who is a Chicago investor, also owns two railroads, the Erie-Western and the 77-mile Louisiana-Midland, which he bought for only $1,500. He predicts that both these roads will be in the black by the end of the year.

ESSENTIAL INGREDIENTS

The essential ingredients for success in running a short-line railroad, says Mr. Burroughs, are nonunion labor, making extensive track and equipment repairs and persuading Uncle Sam to help cover operating losses while the railroad is getting back on its feet.

The little P&W line has added its own refinements to this recipe. Indeed, a Massachusetts transportation official says the railroad has made "an aggressive use of public funds." In 1977, for instance, state highway-trust funds from Massachusetts and Rhode Island provided the railroad with $850,000 for grade-crossing improvements. In addition, it got $672,500 for rail rehabilitation from the New England Regional Commission.

The company says it also has plowed back 35 cents out of every dollar earned into track improvements, "an extremely high" around for any railroad, according to one industry source. The P&W blames this high cost of improvements, "an extremely high" amount $2.6 million last year. However, the line made a net profit of $835,000 after the addition of $3.6 million in income from real-estate and other sources. So far this year, though, its rail operations have been profitable.

The history of the P&W goes back to the 1840s when it was created to run the railway from Providence to Worcester, Mass. In 1888 it began leasing its line to larger railroads. By 1968 the lease had been taken over by the Penn Central, although it was still owned by the P&W, which had for many years been a real-estate-investment concern.

In 1973, Robert Eder, a lawyer who had been president of the P&W since 1966, obtained permission from the Interstate Commerce Commission to take back the lease from the ailing Penn Central. And the tiny company began to operate the line itself.

The railroad then consisted of the single line from Worcester to Providence. Since then, two other lines have been added from Worcester, one south to Plainfield, Conn., and one north to Gardner, Mass.

One of Mr. Eder's first successes was in persuading the United Transportation Union to accept an unusual contract allowing the P&W to pay employes an annual salary and an annual share of company profits, compared with the hourly wages and overtime normal at other railroads. The union also allowed the P&W to operate with three-man crews, instead of the usual four, and no caboose, something the major railroads have sought for many years.

The company's 99 union employes earn an average of $19,000 a year. "You might make more money on another railroad with hourly wages, but you'd have to jump all around the country to do it," says Mark McKeon, a P&W trainman. The employes also like the railroad's profit-sharing plan: Last year each employe received a bonus of $1,600.

The railroad is so small that working conditions tend to be informal. Supervisors regularly work as crew members and all employes are expected to make on-the-spot management decisions. "Just the other night we decided to set off (uncouple) a damaged car because we thought it was unsafe," says trainman Russell Brown. "Another railroad would have stopped the whole train until a supervisor came down from the main office to make the inspection."

All of this apparently is good for employe morale. The railroad says it has virtually no employe turnover and hasn't had a single strike or grievance hearing to date.

A major capital expense for railroads is new rolling stock. But not for the P&W. The company leased six new locomotives that the state of Rhode Island bought with industrial-revenue bonds. For its boxcars it went to Itel Corp. in San Francisco. Itel is one of a growing number of companies that have bought short-line railroads and are leasing their boxcars and flatcars to other railroads.

Joseph Costella, Itel's rail-division president, explains that many railroads, particularly the short lines, simply don't have the capital to invest in new cars and are forced to lease them. The company now has 14,000 cars leased to 43 railroads, including the 2,600 on order or being used by the P&W, Itel's largest customer.

Along with improved track and new equipment, the P&W also provides good service, according to its freight customers. "If any complaints about P&W's service should arise, which is rare, we can go straight to the president or the board of directors for an immediate answer," says Sidney Dressler, president of Colfax Inc. of Pawtucket, R.I. "With other railroads it's difficult to get to the person in charge," he says.

The Massachusetts Department of Transportation says it hasn't received a single complaint about the P&W, "which certainly isn't the case with all the other railroads running through our state," says a spokesman. Transportation consultant Mr. Moore notes that because short lines are so small there is a "closeness among management, employes and shippers."

But not everyone likes the P&W, mainly because of the more than 10 heated court cases it has fought since 1973 with oil companies, government agencies and other railroads over a variety of issues. "The P&W just seems to look for areas of trouble to get into," says David Stein, director of transportation for the New England Regional Commission.

In one case, the P&W took the Penn Central to court on libel charges, but the case was settled out of court. Most of the court cases have involved so-called interline settlements, or the distribution of fees for freight carried over the lines of more than one railroad. P&W itself is being sued at present in U.S. court in Delaware by Conrail over such settlements.

But the P&W's persistence in challenging other railroads seems to be paying off. For some time it has been trying to take over a section of track in Connecticut between Plainfield and Groton, a line rich in big shippers. The line is now operated by Conrail but the state of Connecticut has been urging its takeover by P&W which, it thinks, will operate the line more efficiently.

A few days ago the Department of Transportation in Washington agreed with the state and ordered the transfer of the line from Conrail to P&W. Details of the transfer and the price to be paid have to be worked out by other agencies and finally presented to a special court.

Now the P&W wants to buy track that would extend its service to the Hudson River. Ultimately, Mr. Eder says, the line wants to own 1,000 miles of track and to become "the big railroad that can."●

LEADERSHIP FOUNDATION POLL ON VOLUNTARY PRAYER IN SCHOOLS

● Mr. HELMS. Mr. President, an attempt is being made to create the impression that churches and church leaders are opposed to restoring voluntary prayer in the public schools. Time after time we see published statements which purport to represent the thinking of various denominations. But when one examines those statements, and looks at the persons who actually make those statements then it becomes clear that we are usually listening to the views of some tiny bureaucracy that has enmeshed itself in the national headquarters of the denomination.

On the grassroots level, there is a tremendous support for voluntary prayer in the schools. The Leadership Foundation under the capable direction of Miss Martha Rountree, has recently taken a poll of various churches around the country. Hundreds of churches were contacted directly. In almost every case the response was immediate and def-

nite: The Nation ought to restore voluntary prayer in the schools.

Mr. President, I have been provided with a list of chuches from around the country that wish to go on public record as supporting voluntary prayer in the schools, and I submit it to be printed in the RECORD.

The material follows:

BACK TO GOD MOVEMENT—SURVEY OF CLERGY

(Re: Return of Voluntary Prayer To Our Schools)

SUMMARY SHEET

Denomination	*Number churches replied*
Assembly Of God	31
Baptist	211
Christian and Missionary Alliance	2
Catholic	15
Church Of Christ	3
Church Of God	9
Congregational	2
Disciples Of Christ	1
Episcopal	4
Lutheran	21
Mennonite	2
Methodist	19
Nazarene	2
Non or Inter Denominational	43
Presbyterian	35
United Brethren	40
Christian Broadcasting Network	1
Total	441

ASSEMBLY OF GOD CHURCHES

Bethel Temple, Rev. Powell H. Lemore, Fresno, Calif. 93627

Keyser Assembly of God, Rev. Donald W. Goldizen, Keyser, W. Virginia 26726

Valley Church, Rev. Robert J. Smith, Salt Lake City, Utah 84118

Calvary Pentecostal Church, Rev. Stephen Landis, Keyser, W. Virginia 26726

Ester Assembly Church, Rev. Eugene G. Wooten, Fairbanks, Alaska 99701

Full Gospel Church, Rev. Robert W. Rosin, Alcove, N.Y. 12007

Hazel River Church, Rev. Stanley Bowbeer, Castleton, Virginia 22716

Assembly of God, Rev. Park Benner, Latrobe, Penn. 15650

Assembly of God, Rev. Willard Hutsell, Elmer, Missouri 63538

Cathedral of Light, Rev. L.D. Field, Selma, Calif. 93662

Assembly of God, Rev. Archie M. Minnieweather, Bonita, La. 71223

Mission Sendero de La Crus, Rev. Dennis Rivera, Pocatello, Idaho 83201

Assembly of God, Rev. Edw. R. Neulaus, Fitchburg, Maine 01420

Assembly of God, Rev. Richard J. Thomas, Ithaca, N.Y. 14850

The Calvary Assembly of God, Rev. Wayne Hampton, Cobleskill, N.Y. 12043

Assemblies of God Headquarters*, Rev. W. R. Leisy, Anchorage, Alaska 99504

First Assembly of God, Rev. Wesley J. Bransford, Ketchikan, Alaska 99901

Assembly of God, Rev. Darrell Redfearn, Anchorage, Alaska 99510

Assembly of God, Rev. Fred Francisu, Dalton, N.Y. 14836

Assembly of God, Rev. Leroy J. Miller, Eloy, Arizona 85231

Assembly of God, Rev. Franaisca Riedel, San Leandro, Calif. 94577

First Spanish Assembly of God, Rev. Simon Melendres, Greeley, Colo. 80631

First Assembly of God, Rev. C. E. Wilson, Bristol, Virginia 24201

Ambridge Assembly of God, Rev. Clinton P. Elliott, Baden, Penn. 15005

Calvary Assembly of God, Rev. Dr. Edgar R. Lee, Atlanta (Dunwoody) Georgia 30338

Christian Life Center, Rev. Tom Miskovich, Dillon, Montana 59725

First Assembly of God, Rev. R. T. Sandbach, Belvidere, Ill. 61008

First Assembly of God, Rev. Carl E. Guiney, Woonsocket, R.I. 02895

First Assembly of God, Rev. Robert D. Goree, Freemont, Calif. 94536

Teen Challenge Chapel, Rev. Mike Zello, Washington, D.C. 20001

Assembly of God, Rev. Bruce Thomas, Priestriver, Idaho 83856

Assembly of God, Rev. Louise Barrett, Martinsburg, W. Virginia 25401

Pentecostal Church, P. H. Church, Rev. Oscar E. Bryant, Gordonsville, Virginia 22942

Assembly of God, Rev. Ed. R. Neuhaus, Fitchburg, Mass. 01420

BAPTIST CHURCHES

Galilee Baptist Church, Rev. Fred J. Bartz, Austintown, Ohio 44515

Community Baptist Church (G.A.R.B.C.)*, Rev. Daryl E. Sell, Brighton, Colo. 80601

Baptist Church (G.A.R.B.C.)*, Rev. Ernest Bloom, Akron, Ohio 44312

First Baptist Church, Rev. Paul G. Williams, Maine, N.Y. 13802

Berean Baptist Church, Rev. Richard Rahlgrin, Springfield, Ill. 62703

Heritage Baptist Church, Rev. Dr. John Kagir, Jacksonville, Fla. 32221

Baptist Church, Rev. Gerald C. Armstrong, Lebanon Junction, Ky., Route 1, 44050

New Unity, Rev. James S. Williams, Baltimore, Md. 21213

First Baptist Church, Rev. E. Hudspith, Pasadena, Calif. 91101

Baptist Church, Pastor Earl Abbott, London, Ky. 40741

Liberty Baptist Church, Rev. Wilson B. Waldorf, Charlottesville, Virginia 22901

Bon-Air-Arl. Baptist Church, Evangelist Dale Crowley, Washington, D.C. 20011

Faith Baptist Church, Rev. Willis O. Booth, Strathmore, Calif. 93267

Seward Avenue Baptist Church, Pastor Harold F. Tucker, Topeka, Kansas 66616

Baptist Church, Rev. Yhreadri Jones, Charlottesville, Virginia 22901

Calvary Baptist Church, Rev. David A. Tucker, Larkspur, Calif. 94939

Emmanuel Baptist Church, Rev. Robert L. Weiss, Loveland, Colo. 80537

First Baptist, Oglesey (G.A.R.B.C.)*, Rev. Thomas M. Parsons, Oglesby, Ill. 61348

Community Baptist Church, Rev. Elvin G. Nyhuis, Edwardsburg, Mich. 49112

Bethel Baptist Church, Rev. Clay Nuttall, Fruitport, Mich. 49415

First of Kouts Baptist Church (G.A.R.-B.C.)*, Pastor G. A. Heyboer, Kouts, Ind. 46347

First Baptist Church, Pastor Gary E. Carpenter, Chelan, Wash. 98816

Baptist Church, Rev. Wm. L. Taylor, D.D., Parkersburg, W. Virginia 26101

First Baptist Church (G.A.R.B.C.)*, Pastor Vick Perry, Pulaski, N.Y. 13042

Baptist Church (Independent), Pastor Mick Hill, San Jose, Calif. 95123

American Baptist Church, Pastor R. D. McClain, Ithaca, N.Y. 14850

Flint Hill Baptist Church, Pastor R. W. Weeks, South Birmingham, Ala. 35205.

Mt. Joy Baptist Church, Rev. Henry L. Brinkley, Washington, D.C. 20001.

Faith Baptist Church (G.A.R.B.C.)*, Rev. Merlyn E. Jones, Defiance, Ohio 43512.

Baptist Church, Rev. Dr. Robert B. Diffee, Oxon Hill, Md. 20735.

Emmanuel Baptist, Pastor Robert L. Weiss, Loveland, Colo. 80537.

North Uxbridge Baptist Church, Rev. Mel Hansen, North Uxbridge, Mass. 01538.

Faith Baptist Church, Pastor Lloyd Learned, Greenville, Ohio 45331.

Leonard Heights Baptist Church, Pastor John H. Kleis, Grand Rapids, Mich. 49504.

*General Association Regular Baptist Church.

Baptist Church, Pastor Bill Berry, Tucker, Ga. 30084.

Immanuel Baptist Church, Pastor Murray M. Boyd, Ridgecrest, Calif. 93555.

Parma Baptist Church, Rev. Paul Randall, Parma, Mich. 49269.

Southwood Baptist Church, Rev. Jack Williamson, Jamesville, N.Y. 13078.

Baptist Church (G.A.R.B.C.)*, Rev. Paul Rickins, Weaverville, Calif. 96093.

Shaw Heights First Baptist Church, Pastor E. A. Slaugherhaupt, Denver, Colo. 80221.

Bible Baptist Church (Independent), Pastor Joseph Rock, Grove City, Ohio 43123.

Fellowship Baptist Church, Pastor Stanley Lightfoot, Jr., Marine City, Mich. 48039.

Baptist Church (Independent) Pastor John B. Schrimshire, Mt. Lake, Md. 21550.

Union Baptist Church (G.A.R.B.C.)*, Pastor Marley Evans, Union Mills, Ind. 46382.

Baptist Church, Pastor Richard T. Bray, Jr., Roanoke, Va. 24014.

Baptist Church, Pastor James W. Abington, Austin, Texas 78749.

Baptist Church (G.A.R.B.C.)*, Pastor Norman C. Warner, Stoney Fork, Ky. 40988.

Faison Baptist Church, Rev. D. W. Branch, Faison, N.C. 28341.

Baptist Church, Pastor Adam Bausman, Yakima, Washington 98902.

Baptist Church, Treas. Kester O. Williams (for the church), Star, N.C. 27356.

Primitive Baptist Church, Elder Loren H. Wilson (for the church), Fairfax, Va. 22030.

Missionary Baptist Church, Rev. Marvin F. Bishop, Birmingham, Ala. 35214.

Baptist Church (Independent), Rev. Daniel Schieber, Mt. Ephraim, N.J. 08059.

Baptist Church, Pastor James W. Wynn, Scott, La. 70583.

Baptist Church, Pastor R. D. McClain, Ithaca, N.Y. 14850

Baptist Church (Independent), Rev. Don P. Porter, Key Largo, Fla. 33037

Baptist Church, Pastor A. R. Wynn, Sheffield Lake, Ohio 44054

Baptist Church, Rev. Louis J. Di Placido, Wheaton, Md. 20906

Baptist Church (G.A.R.B.C.),* Rev. John H. Tubbr, Nichols, N.Y. 13812

Baptist Church, Pastor Wallace R. Berry, Corryton, Tenn. 37721

Liberty Baptist Church, Rev. Hugh Biggers, Thomasville, N.C. 27360

Baptist Church, Pastor Donald R. Billman, Indiana, Pa. 15701

Baptist Church, Rev. Paul Yarnall, Cassville, Mo. 65625

First Baptist (American), Rev. John Epp, Visalia, Calif. 93277

Faith Baptist (G.A.R.B.C.),* Pastor Glenn H. Davis, Lancaster, Ohio 43130

Rocky Fork Baptist Church, Pastor Harold M. Guthrie, Cahanna, Ohio 43230

First Baptist of Wissinoming (G.A.R.B.C.),* Rev. Walter E. Kruckow, Philadelphia, Pa. 19135

Spruce Street Baptist Church, Rev. Dr. James L. Lowe, Newton Square, Pa. 19073

First Baptist Church, Rev. Leland Hüfhand, Lock Haven, Pa. 17745

Grace Baptist Church, Rev. Thomas W. Noyes, Norristown, Pa. 19400

Faith Baptist (Independent) Pastor Ronald C. Laube, Lynchburg, Va. 24501

Bible Covenant Baptist Church, Rev. Robert G. Walter, Media, Pa. 19063

Berean Baptist Church, Pastor Sydney G. Brestel, Marion, Ohio 43302

Independent Baptist Church (G.A.R.B.C.),* Rev. Donald Leitch, North Jackson, Ohio 4451

New Lyme Baptist Church, Pastor Don L. Bennett, New Lyme, Ohio 44066

Oberlin Calvary Baptist, Pastor Allen Curtis, Oberlin, Ohio 44074

Tabernacle Baptist Mission, Pastor Fred Patrick, Louisa, Va. 23093

Calvary Baptist Church (G.A.R.B.C.),* Pastor Roger L. Williams, Mesa, Arizona 85205

First Baptist, Rev. L.D. Grant, Caro, Mich. 48723

Temple Baptist Church (Independent), Pastor Lennon E. Hakes, Glen Burnie, Md. 21061

Faith Baptist Church, Rev. Victor E. Bilboe, Smyrna, Del. 19977

Grace Independent Baptist, Pastor Thomas J. Hawkins, Crownsville, Md. 21032

Evangel Baptist Church, Rev. Ernest Thompson, Hagerstown, Md. 21740

Faith Independent Baptist Church, Rev. E. Duane King, Frostburg, Md. 21532

Bible Baptist Church, Pastor Willmont L. Thurlow, Mattawamkeag, Maine 04459

Cedar Run-Crooked Tower Rapidan, Baptist Church, Rev. Floyd T. Binns, Culpeper, Va. 22701

Baptist Church, Rev. Milton S. Jones, Orange, Va. 22960

Trinity Baptist Church, Pastor Jack R. Jackson, Verona, Va. 24482

Faith Baptist Church (Independent) (G.A.R.B.C.)* Rev. James J. Pinkerton, ThM, Vero Beach, Fla. 32960

First Baptist Church, Pastor Wayne C. Vawter, Plainfield, Ill. 60544

First Regular Baptist Church, Pastor Ronald L. Gustine, Grant Park, Ill. 60940

First Regular Baptist Church, Pastor E. Guess, Kansas City, Mo. 64127

First Baptist Church, Pastor John D. Neese, Marion, Montana 59925

Baptist Church (Independent), Pastor Larry Leonard, Medina, Ohio 44256

St. Mark's Institutional Baptist Church, Rev. Spencer Dobson, Baltimore, Md. 21216

First Baptist Church, Pastor Sam H. Ingram Gordon, Ga. 31031

First Baptist (G.A.R.B.C.)* Pastor Ervin Miller, Onaway, Mich. 49765

Wolf Lake Baptist Church, Pastor Charles W. Stark, Muskegon, Mich. 49441

Grandview Park Baptist Church (G.A.R.B.C.)*, Pastor Paul Tassell, Ph.D., Des Moines, Iowa 50317

Skyline Baptist Church, Rev. John M. Mitchell, Rome, N.Y. 13440

Waveland Baptist Church, Pastor Eldon J. Coons, Brownsburg, Ind. 46112

St. Joe Baptist Church, Pastor Carl Boutiller, Homer, Mich. 49245

West Bethel Baptist Church, Rev. Roy Hendershot, Cleveland, Ohio 44102

Calvary Baptist Church, Pastor Joe Gerard, Adrian, Mo. 64720

Calvary Baptist Church (Independent), Rev. Daniel Schieber, W. Collingswood Hts., N.J. 08059

Calvary Baptist Church (G.A.R.B.C.,* Pastor David E. Strong, Wilmington, N.Y. 12997

First Baptist Church, Pastor Frederick W. Thomas, Massapegua, N.Y. 11758

Baptist Church (G.A.R.B.C.),* Pastor William H. Heinrich, Delphi, Ind. 46923

Hillcrest Baptist Church, Rev. Don Reiter, Rochester, Ind. 46975

Marantha Baptist Church, Pastor Russell Schelling, Jeffersonville, Ind. 47130

Five Mile Baptist Church (Independent), Pastor Gary L. Briggs, Allegany, N.Y. 14706

Calvary Baotist Church, Rev. Ronald McLucas, Decorah, Iowa 52101

Lincoln Avenue Baptist (G.A.R.B.C.),* Pastor Jack E. Cook, Ionia, Mich. 48846

Temple Baptist Church, Rev. Richard W. Johnson, Lincoln, Nebr. 68510

Emmanuel Baptist Church, Rev. David R. Crandall, Penn Yan, N.Y. 14527

First Baptist of Bay City, Postor Donald K. Olsen, Essexville, Mich. 48732

Baptist Church, Pastor Leonard J. Bowden, Huntsville, Ala. 35810.

*General Association Regular Baptist Church.

Berean Baptist Church, Pastor Maynard Nutting, Utica, Mich. 48087

First Baptist Church, Rev. C. Ray Vistue, Merton, Wis. 53056.

Baptist Church (G.A.R.B.C.),* Rev. Fred W. Roff, Salem, Ohio 44460

Gwinnett Hall Baptist Church, Rev. M. H. Everett, Lawrenceville, Ga. 30245

Mt. Zion Baptist Church, Deacon Perry Kimbo, Lawrenceville, Ga. 30245

Rolling Hills Baptist Church, Pastor Virgil A. Barrows, Laurel, Md. 20810

Woodruff Baptist Church, Rev. James Patterson, Woodruff, Wis. 54568

Gospel Light Baptist Church, Pastor Harold J. Elting, Jr., Kearney, N.J. 07032

First Baptist Church, Pastor Delbert Wren, Tonasket, Wash. 98855

Bible Baptist Church (Independent), Pastor William E. Carnes, Kissimmee, Fla. 32741

Lemoyne Baptist Church, Pastor Charles Alexander, Walbridge, Ohio 43465

First Baptist Church (G.A.R.B.C.),* Pastor Robert J. Smot, Moorcraft, Wyo. 82721

Beth Haven Baptist Church, Pastor Ardy Parlin, Louisville, Ky. 40272

Grace Baptist Church, Pastor John Gregory, Gadsden, Ala. 35901

First Baptist Church, Pastor Richard L. Shoup, Hartland, Wis. 53029

Calvary Baptist Church (Independent), Pastor Donald W. Reynolds, Denton, Md. 21629

Carmel Baptist Church, Pastor James N. Birkitt, Ruther Glen, Va. 22546

Calvary Baptist Church, G.A.R.B.C.*, Pastor J. Howard Jones, Bucypus, Ohio 44820

First Baptist Church, Pastor Kenneth Brougham, Paden City, W. Va. 26159

Northside Baptist Church, Pastor Weldon F. Burnett, Jr., Una, S.C. 29378

Grace Baptist Church (Independent), Rev. Paul M. Monroe, Lexington, N.C. 27292

Salem Baptist Church (Independent), Dr. Donald R. Suttles, Director of Business Affairs, Piedmont Bible College, Winston-Salem, N.C. 27107

Sunnyside Baptist Church, Pastor Dalton Carrington, Toccoa, Ga. 30577

First Baptist Church, Pastor Paul G. Williams, Maine, N.Y. 13802

Calvary Baptist Church, Pastor Kenneth I. Smith, Fremont, Calif. 94538

Hampden Baptist Church, Pastor James P. Carter, Baltimore, Md. 21212

Northern Virginia Primitive Baptist Church, Pastor Hoyt B. Simms, Fairfax, Va. 22030

Grace Independent Baptist, Pastor Thomas J. Hawkins, Jr., Crownsville, Md. 21032

First Baptist Church, Pastor W. A. Burkey, Fairfield, Ga. 94533

Bible Baptist Church, Rev. Earl E. Jones, Fayetteville, N.C. 28306

Faith Baptist Church (G.A.R.B.C.)*, Pastor Donald G. Hager, New Hampton, Iowa 50659

Fellowship Baptist Church, Rev. Frank McQuade, Glen Mills, Pa. 19342

Wheelersburg Baptist Church, Rev. Richard L. Sumner, Wheelersburg, Ohio 45694

First Baptist Church, Rev. R. H. Fitzpatrick, Riverdale, Md. 20840

The Bible For Today, Collingswood, N.J., Rev. D. A. Waite, Director (Th.D., Ph.D.), Member, Bethel Baptist Church, Cherry Hill, N.J. 08000

First Baptist Church (Independent), Rev. Audron Seymour, Dilliner, Pa. 15327

Grace Baptist Church, Pastor Jack Dean, Bowie, Md. 20715

Baptist Church, Pastor James R. Hartman, Shell Rock, Iowa 50670

Independent Baptist Church, Pastor Randy Shook, Hickory, N.C. 28601

Freewill Baptist Church, Rev. James A. Pittman, Grifton, N.C. 28530

Primitive Baptist Church, Elder Loren H. Wilson, Brooklet, Ga. 30415

SOUTHERN BAPTIST CHURCHES

(Southern Baptists are members of the Southern Baptist Convention)

First Baptist Church, Rev. Robert L. Scruggs, Capital Heights, Md. 20027

Middleton Road Baptist Church, Pastor Ralph F. Carter, Anderson, S.C. 29624

Giant City Baptist Church, Rev. Larry E. Allen, Grant City, Mo. 64456

Hepzibah Baptist Church, Pastor J. William Canaday, Talladega, Ala. 35160

Baptist Church, Pastor Paul R. Baxter, Crittenden, Ky 41030

Baptist Church, Dr. W. R. Bates, La Mirada, Calif. 90637

Baptist Church, Pastor Coy R. Bates, Upper Marlboro, Md. 20870

Baptist Church, Pastor Bill Blackburn, Shelbyville, Ky. 40065

Baptist Church, Rev. Joseph L. Aaron, Opp, Ala. 36467

Morgans Baptist Church, Pastor David Brooks, Moneta, Va. 24121

First Baptist Church, Pastor William L. Brown, Clearwater, S.C. 29822

Baptist Church, Rev. Lyndol E. Adams, Midwest City, Okla. 73130

No. Waco Baptist Church, Pastor H. O. Bilderback, Waco, Texas 76706

Baptist Church, Pastor James N. Birkitt, Ashland, Va. 23005

Baptist Church, Pastor Arles L. Bingham, Strongsville, Ohio 44136

Baptist Church, Pastor Robert Benson, Kackson, Tenn. 38301

Baptist Church, Pastor C. C. Bennett, Lincoln, Ala. 35096

Baptist Church, Rev. Dale Pl Wyatt, Portsmouth, Va. 23707

Baptist Church, Pastor Douglas W. Bauldree, Foley, Ala. 36535

Baptist Church, Pastor Jack E. Beck, Austin, Texas 78753

Oak St. Baptist Church, Pastor Thomas C. Biggar, Maryville, Tenn. 37801

Baptist Church, Pastor David Berryhill, Willow Springs, Mo. 65793

Baptist Church, Pastor B. R. Yarbrough, Manassas, Va. 22110

Baptist Church, Rev. W. B. Bolt, Greenville, S.C. 29609.

Baptist Church, Pastor D. E. Beasley, Lenox, Ga. 31637

Baptist Church, Pastor Norman S. Bell, Potsdam, N.Y. 13676

Baptist Church, Pastor Jerald P. Belzer, Fremont, Nebr. 68025

Bolivar Drive Baptist Church, Rev. Phil Swanson, Bradford, Penna. 16701

First Grifton Baptist Church, Pastor Wm. S. Brown, Grifton, N.C. 28530

Cray Baptist Church, Rev. Oscar L. Everett, Spotsylvania, Va. 22553

Parkville Baptist Church, Rev. Claud Logan Asbury, Baltimore, Md. 21234

Wayne Hills Baptist Church, Pastor Nevin S. Alwine, Waynesboro, Va. 22980

Mt. Ed. Baptist Church, Pastor Ronald J. Nickell, Batesville, Va. 22924

Baptist Church, Pastor Ty Berry, Dexter, Mo. 63841

Curtis Baptist Church, Pastor Lawrence V. Bradley, Augusta, Ga. 30901

Northwest Baptist Church, Dr. F. William Chapman, Miami, Fla. 33168

CHRISTIAN AND MISSIONARY ALLIANCE

Christian and Missionary Alliance, Rev. Nolan J. Brisco, Swanton, Ohio.

Christian and Missionary Alliance, Rev. David Carlson, Gainesville, Georgia.

CHURCH OF GOD

Lake Road Church of God, Rev. Richard Hines, Charlottesville, Va.

Pine Valley Church of God, Rev. I. C. Morris, Jr., Wilmington, N.C.

Church of God, Rev. Ronald E. Grooms, Kynx, Ohio.

Church of God, Rev. Alton Stone, Jr., Wilmington, N.C.

Church of God, Rev. D. D. Cordell, Enid, Okla.

First Church of God, Rev. Howard Liverett, Santa Maria, Calif.

Church of God, Rev. John R. Gouge, Abingdon, Va.

Cleveland Church of God, Rev. W. H. Valentine, Wooster, Ohio.

First Church of God, Rosalie E. Vierra (Dir. Christian Educ.), Sacramento, Calif.

Church of God, Rev. R. W. Hines, Waynesboro, Va.

DISCIPLES OF CHRIST

Disciples of Christ, Rev. Pettit H. Coffey, Louisa, Va.

Disciples of Christ, Rev. Herman Trauernicht, York, Nebr.

EPISCOPAL

Christ Church, Rev. Gordon B. Davis, Gordonsville, Va.

Grace Episcopal Church, Rev. Frank Young, Fork Union, Va.

St. Raphael's, Rev. D. Crandall, Oakhurst, Calif.

St. John's, Rev. Joseph A. Dunaway, Waynesboro, Va.

CHURCH OF THE BRETHREN

Community Brethren Church, Rev. George Arthur Carey, Grass Valley, Calif.

Church of the Brethren, Rev. M. Ward Halterman, Bergton, Va.

First Church of the Brethren, Rev. Guy S. Fern, Altoona, Pa.

Church of the Brethren, Rev. Clarence M. Moyers, Staunton, Va.

Church of the Brethren, Rev. Dwight Hargett, Decatur, Ind.

Stonelick Church, Rev. Roscoe Pringle, Goshen, Ohio.

Bethel Church, Rev. James O. Eikenberry, Carleton, Nebraska

Church of the Brethren, Rev. Stanley M. Waybright, Oakland, Md.

Muskegon Church OTB, Rev. Otto S. Zuckschwerdt, Muskegon, Michigan

Church of the Brethren, Rev. Robert M. Latshaw, Pottstown, Pa.

Little River Church OTB, Rev. Elwood F. Humphreys, Craigsville, Va.

Church of the Brethren, Rev. Clyde Carter, Dolesville, Va.

Spindale Church OTB, Rev. Chas. F. Rinehart, Spindale, N.C.

Church of the Brethren, Rev. Walter Snyder, Freedom, Pa.

Germantown Brick Church, Rev. Sylvus D. Flora, Rocky Mount, Va.

Boones Chapel Henry Fork, Rev. Harold M. Kenepp, Penhook, Va.

Prairie View Church, Rev. Richard L. Deemy, Friend, Kansas

Morrolluill Church, Rev. Chalmer C. Dilling, Johnstown, Pa.

Stover Memorial, Rev. Berwyn L. Oltman, Des Moines, Iowa

Pittsburg Church, Rev. Bruce Noffsinger, Delphi, Indiana

Bethel Center, Rev. Doyle Peyton, Hartford, Indiana

Church of the Brethren, Rev. Willis H. Freed, Jr., Hagerstown, Md.

South Bend City Church, Rev. E. Myrl Weyant, South Bend, Indiana

Church of the Brethren, Rev. H. S. Craig, Staunton, Va.

County Line Church OTB, Rev. Dave Thompson, Lima, Ohio

Church of the Brethren, Rev. N. W. Crumpacker, Roanoke, Va.

Church of the Brethren, Rev. John E. Grimley, Brookville, Ohio

Church of the Brethren, Rev. R. Dean Fawley, Bridgewater, Va.

Church of the Brethren, Rev. Andrew S. Bontrager, Paradise, Calif.

Poages Mill Church OTB, Rev. Dr. Allen D. Pugh, Roanoke, Va.

Church of the Brethren, Rev. B. A. Smith, Christiansburg, Va.

Church of the Brethren, Rev. Archie P. Naff, Pilot, Va.

Bassett First Church OTB, Rev. William C. Stovall, Bassett, Va.

Mount Ida Church OTB, Rev. Ralph Loshbaugh, Westphalia, Kans.

Church of the Brethren, Rev. Fred R. Clayton, Kasson, W. Va.

UNITED BRETHREN IN CHRIST

United Brethren in Christ, Rev. Herbert Householder, Junction City, Ohio.

United Brethren in Christ, Rev. Carl V. Hinkle, Staunton, Va.

CATHOLIC

St. Thomas Catholic Church, Rev. Bernard Michalik, Riverside, Calif.

Sacred Healer, Rev. D. A. Farinba Jr., Patterson, N.J.

Fatima, Rev. Anthony McGowan, San Clemente, Calif.

Mary Queen of Heaven, Sister Roseanna, Erlanger, Ky.

New Orleans, Rev. Robert G. Howes, New Orleans, La.

St. Anthony, Rev. James O. Rielly, Riverside, Calif.

St. Adelaide, Rev. William Erstad, Highland, Calif.

Our Lady Of Perpetual Help, Rev. Donald Casey, Riverside, Calif.

St. Catherine's, Rev. John Donald Quinn, Avalon, Calif.

St. Matthews, Rev. Bernard C. Cronin, San Mateo, Calif.

St. Augustine's, Rose M. Moffett, Oakland, Calif.

St. Paul, Rev. Cathal M. J. Brennan, Silverton, Oreg.

St. Patrick, Rev. John P. Farrell, Scotia, Calif.

St. Mary's, Rev. Michael F. Logan, Whittier, Calif.

CHURCH OF CHRIST

Willow Street COC, Rev. Bernard Bliss, Effingham, Ill.

Church Of Christ, Rev. Clifford E. Reeves, Fresno, Calif.

Bethany United COC, No Pastor, Cuyahoga Falls, Ohio.

Church Of Christ, Rev. Philip H. Powers, East Alton, Ill.

Montgomery COC, Rev. Roger O. Williams, Cincinnati, Ohio.

CONGREGATIONAL

W. Williamsfield Church, Rev. Kenneth R. Roden, Dorset, Ohio.

Lake Avenue Congregational Church, Rev. Ed Holtz, Los Angeles, Calif.

LUTHERAN

Lutheran Church Missouri Synod, Rev. Kenneth L. Zank, Roseburg, Oreg.

Lutheran Church, Rev. L. Beale, Anaheim, Calif.

Lutheran Church, Rev. Dennis A. Kastens, Aiea, Hawaii.

St. Luke Lutheran Church, Rev. Luther Herman, Benton, Ark.

Peace Lutheran Church, Rev. Norman L. Hammer, Honolulu, Hawaii.

Lutheran Church, Rev. Gregory Bye, Dayton, Wash.

Lutheran Church Missouri Synod, Rev. Ralph A. Weinrich, Cocoa Beach, Fla.

Lutheran Church, Rev. Kasimir Kachmarek, Sweet Home, Oreg.

American Lutheran Church, Rev. Herbert W. Wolber, Englewood, Fla.

Bethlehem Lutheran Church, Rev. Eldon L. Pickering, Sedro Woolley, Wash.

Lutheran Brethren Church, Rev. Allen J. Foss, East Hartland, Conn.

Lutheran Church, Rev. E. G. Meseke, Baldwin, Ill.

St. Peter Lutheran Church, Rev. E. H. Pfeiffer, Carlsbad New Mexico.

Lutheran Church, Rev. Robert E. Ward, Portland, Oreg.

Lutheran Church Missouri Synod, Rev. Eldon K. Winker, Blytheville, Ark.

Lutheran Church, Rev. Frank Zirbel, Gillett, Ark.

Lutheran Church Missouri Synod, Rev. Thomas E. Meyer, Aurora, Colo.

American Lutheran Church, Rev. Erling A. Jacobson, Bensenville, Ill.

Lutheran Church, Rev. Norman M. Nesset, Corvallis, Oreg.

Lutheran Church, Rev. William Gittner, Montgomery, Ala.

Grace Lutheran Church, Rev. Robert E. Cassell, Elkhart, Indiana.

Good Shepherd Lutheran Church, Rev. Wendell Brown, Salinas, Calif.

Lutheran Church Missouri Synod, Rev. Arnold E. Strohschein, Portland, Oregon.

MENNONITE

Stuarts Draft Mennonite Church, Rev. Charles C. Ramsey, Lyndhurst, Va.

Mountain View Mennonite Church, Rev. Roy D. Kiser, Stuarts Draft, Va.

UNITED METHODIST (EXCEPT AS NOTED)

New Milton UMC, Rev. Robert H. Pimto, Highland Mills, N.Y.

St. Lukes UMC, Jacob R. DeHaven (Chmn. Soc. Concerns), Martinsburg, W. Va.

St. Lukes UMC, Rev. Richards C. Chambers, Martinsburg, West Virginia.

First UMC, Rev. Gordon L. Hemphill, Brewer, Maine.

United Methodist Church, Rev. Lucy S. Norton, Asheville, N.C.

United Methodist Church, Rev. Claude B. Dickenson, Greenville, Va.

United Methodist Church, Rev. Charles K. Root, Farmingdale, N.J.

United Methodist Church, Rev. Donald E. Wildman, Tupelo, Miss.

Emerickville UMC, Rev. G. K. Marshall, Brookville, Pa.

Etlaw Free Methodist Church, Rev. Ronald I. Shultz, Etlaw, Va.

Mineral Wesleyan Methodist Church, Rev. Samuel R. Swinney, Mineral, Va.

Glovier Memorial UMC, Rev. Lee G. Bowman, Waynesboro, Va.

Frances Childs UMC, Rev. Kenneth P. Stevens Jr., West Collingswood, N.J.

United Methodist Church, Rev. Ronald E. Dunk, Brick Town, N.J.

Garden Heights UMC, Rev. Malvin F. Warntz, Altoona, Pa.

United Methodist Church, Rev. Henry W. Burruss, Charlottesville, Va.

St. Stephens UMC, Rev. A. K. Shumake, Staunton, Va.

United Methodist Church, Rev. Jerry D. Ruff, Sea Isle City, N.J.

Linvale UMC, Rev. Stuart A. Snedeker, Vincentown, N.J.

First UMC, Rev. Ralph W. Widman, Bucyrus, Ohio.

Essex UMC, Rev. Robert Hurley, Essex, Md.

Allegheny Wesleyan Methodist Church, Rev. Clifford A. & Ruth Holen, Sacramento, Calif.

Chevy Chase UMC, Rev. Elmer Kimmel, Chevy Chase, Md.

United Methodist Church, Rev. Orion N. Hutchinson, Asheville, N.C.

NAZARENE

Chrisman Church of the Nazarene, Rev. Martin Arni, Chrisman, Ill.

First Church of the Nazarene, Rev. A. Ralph Montemuro, Salisbury, Md.

Oak Grove Church of the Nazarene, Rev. Leslie Wooten, Decatur, Ill.

Eldorado Church of the Nazarene, Rev. Wayne Bowers, Eldorado, Ill.

Church of the Nazarene, Rev. S. Oren Woodward, Charlottesville, Va.

UNITED PRESBYTERIAN

Granger UPC, Rev. William W. Ainley, Granger, Wash.

Parker Heights UPC, Rev. Paul V. Neel, Wapato, Wash.

United Presbyterian Church, Rev. Osborn McKay, Williston, Fla.

United Presbyterian Church, Rev. J. B. Martin, Elkton, Va.

Culpeper Presbyterian Church, Rev. Horace D. Douty, Culpeper, Va.

United Presbyterian Church, Rev. John H. Rogers, Cashmere, Wash.

United Presbyterian Church, Rev. Ernest L. Vermont, Skagway, Alaska

First Presbyterian Church, Rev. Donald Meekhof, Ellensburg, Wash.

United Presbyterian Church, Rev. Elbert G. Harlow, Port Angeles, Wash.

United Presbyterian Church, Rev. Vernon A. Anderson, Dallas, Tex.

United Presbyterian, Rev. Robert S. Chamberlain, Washington, D.C.

Cottage Lake Presbyterian Church, Rev. Richard L. Grout, Woodinville, Wash.

White River UPC, Rev. James F. Armstrong, Auburn, Wash.

Cranbury UPC, Rev. Fred W. Quigley, Cranbury, N.J.

First UPC, Rev. Frank D. Svoboda, East Islip, N.Y.

Oliver UPC, Rev. Victor I. Alfsen, Minneapolis, Minn.

Bedford Presbyterian Church, Rev. Thomas A. Hughart, Bedford, N.Y.

United Presbyterian Church, Rev. Gabriel Abdullah, Jacksonville, Fla.

Lakewood Presbyterian Church, Rev. Ernest Eric Pelz, Tacoma, Wash.

United Presbyterian Church, Rev. Lane G. Adams, Memphis, Tenn.

United Presbyterian Church, Rev. Andrew A. Jarvis, Grandview, Wash.

Southern Presbyterian Church, Rev. Harry W. Alexander, Lexington, Ky.

United Presbyterian Church, Rev. M. L. Andrews, Orlando, Fla.

United Presbyterian Church, Rev. Wayne R. Aughinbaugh, Charlotte, N.C.

United Presbyterian Church, Rev. Young Karl Choi, Seattle, Wash.

United Presbyterian Church, Rev. Elliott R. Ohannes, Republic, Wash.

Sumner First UPC, Rev. R. B. Snelling, Sumner, Wash.

Community UPC, Rev. Jim Forbes, St. Maries, Idaho.

Community UPC, Rev. Darrell Udd, Buckley, Wash.

Church of the Atonement, Rev. Stewart J. Rankin, Silver Spring, Md.

INTER OR NONDENOMINATIONAL

Independent Christian Church, Rev. William E. Stork, Mattoon, Ill.

Church of the Open Bible, Rev. Roger V. Seacord, Greenwich, N.Y.

Catacombs Outreach Church, Rev. Randy Shanley, Gilbertsville, Pa.

Ivis Bible Church, Rev. Dave Minturn, Hindman, Ky.

Christian Church, Rev. Phil Hansen, Rochester, Ill.

First Christian Church, Rev. E. T. Phelps, Jr., Flora, Ill.

Church at Northern Virginia, Rev. J. Topping, Oakton, Va.

Orcutt Christian Church, Rev. Kevin Don Levellie, Santa Maria, Calif.

Thoroughfare Chapel, Rev. George W. Johnson, Jr., Brightwood, Va.

Forcey Memorial Church, Rev. Gerald G. Small, Silver Spring, Md.

Free Holiness Church, Rev. Pressley L. Pullen, Craigsville, Va.

Evangelistic Center Church, Rev. A. J. Rowden, Kansas City, Mo.

Faith Community Church, Rev. J. Harvey Dixon, Salisbury, Md.

Interdenominational Church, Rev. David H. Hine, Portland, Oreg.

Full Gospel Church, Rev. Fred P. Chacon, Carmichael, Calif.

Some-One-Cares, Rev. Lance J. Antoss, Wheaton, Md.

Life Bible Fellowship, Rev. David H. Hine, San Bernardino, Calif.

Stokesville Community Church, Rev. Ray E. Tabor, Staunton, Va.

Four States Christian Missions, Rev. James M. Resh, Hagerstown, Md.

The Federated Church, Rev. Russ Reinn, Waterville, Wash.

The Salvation Army, Rev. Capt. Fred Marshall, Concord, N.H.

Moores Corner Church, Rev. William C. Floge, Leverett, Mass.

Interdenominational Church, Rev. S. R. Schwambach, Evansville, Ind.

Christian Broadcasting Network, Rev. Milton Markworth, Terre Haute, Ind.●

CIVIL SERVICE REFORM

● Mr. RIBICOFF. Mr. President, we are soon to consider the Civil Service Reform Act. This legislation is most important and is needed so that our Government can operate efficiently and effectively. The needs have beeen recognized over the years by members of the Cabinet of both parties. I submit for the RECORD a letter to me from former Secretary of Health, Education, and Welfare John W. Gardner, cosigned by the following distinguished former members of the cabinets of various Presidents: Alan Boyd, Clark M. Clifford, Wilbur Cohen, Arthur S. Flemming, Henry H. Fowler, Orville L. Freeman, Arthur J. Goldberg, Nicholas J. Katzenbach, Elliot L. Richardson, George Schultz, William E. Simon, Alexander B. Trowbridge, Stuart Udall, Robert C. Weaver, Willard Wirtz:

The letter follows:

WASHINGTON, D.C.,
June 1, 1978.

Hon. ABRAHAM RIBICOFF,
Chairman, Committee on Governmental Affairs, U.S. Senate, Washington, D.C.

DEAR CHAIRMAN RIBICOFF: As former Cabinet members we have maintained a deep interest in improving the civil service system. We join together in support of the President's proposed Civil Service Reform Act and Reorganization Plan.

The reform program provides for broader delegation of authority for personnel decisions to heads of departments and agencies in the Executive Branch. The consequence would be to decentralize personnel decision-making in the Federal government, making it more certain that decisons will be made on a timely basis and be based on program need.

The proposals seek to strike that balance necessary in a public personnel system, a balance which simultaneously provides managers with the tools to manage while providing for appropriate employee protections. The division of the Civil Service Commission into the Office of Personnel Management and the Merit Systems Protection Board gives the Federal government the necessary institutional framework for attaining this balance while the legislation incorporates those powers necessary to the operation of these institutions.

The President proposes to create a Senior Executive Service, which will make it much easier to effectively utilize and reward those top level career people who are the backbone of the public service.

The Civil Service Reform Bill also proposes an incentive pay system for supervisors and managers at the GS-13 through 15 levels. Tying financial rewards to standards of organizational and individual performance provides a critically needed tool to make government work well.

While we might differ as to detail on the President's proposals, we agree unanimously on the need for comprehensive civil service reform and on the sound objectives which shaped the proposed legislation.

Given the urgency of improving governmental efficiency and effectiveness, we urge your Committee to act promptly. Your actions can go a long way to restore public confidence in the Federal government.

Sincerely,

Alan Boyd, Clark M. Clifford, Wilbur Cohen, Arthur S. Flemming, Henry H. Fowler, Orville L. Freeman, John W. Gardner, Arthur J. Goldberg, Nicholas J. Katzenbach, Elliot L. Richardson, George Shultz, William E. Simon, Alexander B. Trowbridge, Stuart Udall, Robert C. Weaver, Willard Wirtz.

It was physically impossible to arrange for the actual signing of this letter by each of the above, but they fully endorse it.

JOHN GARDNER.●

IMPACT OF LONGSHOREMEN ACT ON SMALL BUSINESS

● Mr. CRANSTON. Mr. President, I submit for the record a recent statement by my colleague from California, Congressman GEORGE MILLER of Contra Costa County. Congressman MILLER and I have sponsored legislation in this Congress to amend the Longshoremen and Harbor Workers' Act in order to remove from coverage small recreational boat works and marinas whose workers were never intended to be covered. Congressman MILLER has prepared a fine summary of the issues and the need for this legislation, which I would like to share with my colleagues.

The statement by Congressman MILLER follows:

MILLER INVESTIGATION OF IMPACT OF LONGSHORE ACT ON SMALL BUSINESS

(By Congressman George Miller)

A great crisis has been brewing over the last several years in the recreational boat and marina industry which threatens not only the future of these small businesses, but also the millions of boat owners who utilize them. In my own district, the cities of Richmond, Martinez and Pittsburg have all constructed new marinas for use by the citizens of Contra Costa County, and throughout the country, other cities and private interests have similarly invested large amounts of money into such projects.

Now, the future of these marinas, and the future of the small, recreational boat business in general, is in serious jeopardy. This crisis has been precipitated by the decision of a Department of Labor bureaucrat who, without any justification in law, decided to apply the Longshoremen and Harbor Workers' Act to the small boat industry. Overnight, insurance rates skyrocketed without any corresponding increase in injuries among employees. In some areas, rates rose by as much as 400 percent, forcing businesses either to pay the higher rates (and correspondingly increase their prices to boatowners), or close down.

Working conditions in the small boat business, and at marinas, make wholly inappropriate the application of insurance rates which were designed for large scale, injury-prone shipbuilding and repair yards. Assistant Secretary of Labor Donald Elisberg, who as a Senate staff person participated in the

drafting of the 1972 amendments to the Longshoremen's Act, recently acknowledged this disparity before the Subcommittee on Compensation, Health and Safety, of which I am a member. Mr. Eliseberg told the subcommittee: "There have been relatively few injuries reported by this industry. During the three months July-September, 1977, when we conducted a survey, only 158 such injuries were reported nationwide, of which only 62 involved lost time from work. In February, there were 24 lost time injuries reported; in March, 44; and in April, 28."

For the sake of comparison, I would like to point out that there were 171,300 injuries in all occupations covered by the Longshoremen's Act throughout the Nation in 1976. Given the infinitesimal injury rate in the recreational and marina businesses, it strikes me as nothing short of preposterous to impose the high rates of the LHWA, which were designed for hazardous occupations, to these small scale firms.

The United States District Court for the Northern District of California reached a similar conclusion earlier this year. In the case, Boating Industry Associations, et al., v. Ray Marshall, the Court found no legal justification for applying the 1972 amendments to recreational boat builders and marinas. The Court ordered the Department of Labor to rescind Notice 21 and instructed the federal government to declare "that it is no longer the official position of the Labor Department that the LHWA applies to recreational boat builders and marinas."

Together with 31 House and Senate colleagues, I wrote to the Secretary of Labor and requested that he accept the ruling of the District Court and not file an appeal. Unfortunately, the Labor Department has decided to pursue the appeal.

It was because of the obvious failure of either the courts or the bureaucracy to address the concerns of small businessmen and their millions of affected customers that I introduced H.R. 8878 last year. This bill would remove small boat builders and marinas from coverage under LHWA if the workers do not work over the navigable waters of the United States, and if the workers are covered by state workman's compensation laws. Despite a great deal of testimony before the Subcommittee on Compensation, Health and Safety, it now appears unlikely that H.R. 8878 will be enacted this year. For boatmen in California, the problem will take on even more serious overtimes because the State Legislature has not renewed the coverage of these yards under the State Fund. For many builders and marinas, the future appears extremely bleak.

I am very disappointed that enactment of H.R. 8878 will have to be delayed. For many months, I discussed this legislation with business and labor organizations, Members of Congress, representatives of the Department of Labor, and others. I do not believe that the specific provisions of this bill would cause any of these interests any significant problems. Yet promises of cooperation and good faith have apparently gone by the board, and the penalty will unjustifiably be paid by small boatmen.

In order to establish a sound empirical base for next year's action on this legislation, I intend to request the General Accounting Office to begin immediately an investigation of the legislative history and fiscal impacts of Notice 21 on small recreational boat builders and marinas. I also am requesting the GAO to investigate the ripple effect of Notice 21 with respect to the closure of yards, increases in mooring, launching and storage fees for boatowners, and other related cost increases which are passed along to those who patronize marinas and recreational boat yards. GAO will, in addition, be asked to compare the injury rates in small businesses with the rates in larger shipbuilding establishments in order to determine whether there is any rational basis for imposing the high LHWA rates on small employers.

In addition, I will ask the GAO to investigate whether evidence exists to determine if insurance companies are exploiting Notice 21 in order to impose unjustifiably high rates for recreational boat makers and marinas.

This investigation will lay important groundwork for legislative action in the next session. I intend to pursue the policy of H.R. 8878 because it is evident to me that the Longshoremen and Harbor Workers' Act has been seriously misinterpreted and misapplied by the Department of Labor. The effects of Notice 21 are being felt by employers, workers, and customers alike. This unreasonable, and legislatively unjustified policy, represents a very serious sword over the heads of the entire recreational boating industry which must be corrected. I am hopeful that, armed with additional evidence of the illwisdom of this interpretation, the Congress will move more expeditiously next year.●

UTILIZATION CONTROL UNDER MEDICAID—CLARIFICATION OF CONGRESSIONAL INTENT

CORRECTION

● Mr. HASKELL. Mr. President, in the RECORD of yesterday, August 17, 1978, at page 26710, in some correspondence between myself and Senator TALMADGE, with respect to section 1903(g) of the Social Security Act, reference was made in column 1, paragraph 3, line 2 paragraph 4, line 2, and paragraph 4, line 15, to Public Law 95-245. This should have been Public Law 95-142. I ask that the permanent RECORD be corrected.●

INDIAN HEALTH CARE: A NEED TO UPGRADE PREVENTIVE HEALTH CARE SERVICES

● Mr. DOMENICI. Mr. President, among the growing problems confronting the United States today, there continues to be an increased need for accessible and available preventive health care services for our American Indian and Alaska Native populations. The Department of Health, Education, and Welfare established the Indian Health Service (IHS) in 1955 with the goal "to raise the health status of the American Indian to the highest possible level." Notwithstanding this effort, the health care problems of this population subgroup continue to grow. In spite of the significant gains which have been made, much more remains to be done.

Current statistics of the health status of the American Indian and Alaska Native population demonstrate the continuing inadequacy of available preventive health care services. The statistics I am about to discuss demonstrate that health problems among this segment of our population continue to be greater than those of the rest of our citizens.

The tuberculosis rate for the American Indian-Alaska Native population is 4.4 times the U.S. rate.

The infant mortality rate is 1.3 times the U.S. rate.

The influenza and pneumonia rate is 2.3 times the U.S. rate; and

Otitis media (inflammation of the inner ear) affects 40 percent of the American Indian-Alaska Native population aged 1-4. If this problem is not corrected at an early period of life, it can cause permanent ear damage.

The health problems of the American Indian-Alaska Native population extend far beyond the parameters of the areas listed above. Alcoholism and alcohol abuse continues to be a serious health problem facing this population. The alcoholism death rate for American Indian-Alaskan Natives during the past 10 years has ranged from 4.3 to 5.6 times the overall U.S. rate. In fact, in my own State of New Mexico, five of the ten leading causes of death among Indians are alcohol-related. According to a recent report prepared by the Association of American Indian Physicians, Inc., some of this can be attributed to "understaffing and underfunding of Indian health and alcohol-treatment centers . . ." But that does not explain why the American Indian-Alaska Native population should receive inadequate preventive health care services. It is time for us to reevaluate what this country's true commitment is to the American Indian-Alaska Native population and begin to seriously correct these inadequacies. By providing adequate and accessible preventive health care services now, we can develop a national approach to minimize premature institutionalization of elderly Indians, and prevent unnecessary hospitalization.●

VETERANS' AFFAIRS COMMITTEE

● Mr. SASSER. Mr. President, as we move closer to the end of this legislative session, I would like to take this opportunity to commend my colleague Senator ALAN CRANSTON, chairman of the Senate Veterans' Affairs Committee, and the distinguished members of that committee for the work they have done to aid the veterans of our Nation's Armed Forces.

In particular, I would like to commend Senator CRANSTON and his colleagues for their untiring efforts in the areas of veterans' and survivors' pensions, disability compensation, and housing benefits. These three areas, embodied in bills H.R. 10173 (S. 2384), S. 2828 and H.R. 12028, respectively, comprise three major areas regarding veterans' benefits.

Mr. President, a brief look at H.R. 10173 (S. 2384) indicates that this bill makes substantial strides toward providing a restructuring of the pension program for wartime veterans disabled by reason of non-service-connected disability. Further. S. 2828 will provide for an increase in the rates of disability compensation for disabled veterans, and increase the rates of dependency and indemnity compensation for their surviving spouses and children. And, finally, H.R. 12028 will provide additional assistance to veterans by increasing the basic rate for home loans from $17,500 to $25,000, as provided under chapter 37 of title 38, United States Code, as well as expand the entitlements relating to certain wartime service to include Vietnam-era veterans.

Mr. President, passage of this legislation is, I feel. recognition by Congress of America's debt to those veterans who

defended her shores and her democratic ideals in times of crisis. The Senate Veterans' Affairs Committee, led by its very able chairman, has distinguished itself this year by presenting legislation that so positively expresses the Nation's gratitude to the veterans of our Armed Forces. I commend that committee, and support it for its outstanding efforts.●

REGENERATION: GROWING NEW LIMBS

● Mr. GLENN. Mr. President, an article, "Growing New Limbs", appeared in the August 6, 1978 Washington Post which I found fascinating and exciting. The author, Ms. Susan Schiefelbein, an associate editor of Saturday Review magazine, from which the article was reprinted, tells of the advances that have been made in the regeneration of severed parts of amphibians and mammals by electrical stimulation, and of the potential far-reaching benefits for humans. Regeneration has already been used to heal broken human bones, and physicians may possibly one day use electrical stimulation to regrow reformed, damaged limbs and crippled joints, and even to regenerate severed spinal cords that cause paraphlegia. Many questions have been raised and need to be answered about the possible uses of regeneration in preventing and treating cancer.

By tracing the progress that has been made since Italian physiologist Luigi Spallanzani first wrote about regeneration in 1768 to the work being done today by Dr. Robert Becker, chief of orthopedic surgery at the Veterans' Administration Hospital in Syracuse, N.Y., Dr. Marcus Singer of Case Western Reserve University in Cleveland, and other scientists, Ms. Schiefelbein gives a good example of the value of basic research. She shows how different areas of science that seem unrelated, and how the work of many individual scientists over a long period of time, come together to bring about significant advances.

We sometimes hear criticism of individual experiments which sound ridiculous or unworthy of the time and money being spent on them, and occasionally there are obvious excesses. But often, as is shown in this article, previously unrelated bits and pieces of new knowledge eventually come together to bring about exciting, new scientific advances of great and unforeseen benefit.

Efforts to explore the unknown, to exercise a curiosity which adds to the known, is not readily amenable to the normal rigors of today's cost accounting. In fact, that uniquely human characteristic of wondering "why," and also of "why not," are at the heart of every step in human progress since time immemorial.

I am glad to have the opportunity to bring this article to the attention of my colleagues and ask that it be printed in the RECORD.

The article follows:

[From the Washington Post, Aug. 6, 1978]

GROWING NEW LIMBS

(By Susan Schiefelbein)

Physicians may one day treat patients who have shattered limbs, crippled joints and injured spines in a way that man never before dared to dream of: regrowing the damaged part—whole, perfect and undiseased.

For centuries man has watched in wonder as the salamander regenerated its severed limbs, never imagining that complicated human parts could grow back in such a way. The halt and the lame could be made whole, it seemed, only by the healing waters of Bethesda or the touch of a god incarnate. But in recent years, scientists have grown back a frog's leg from elbow to toes and a rat's leg from shoulder to the top half of the elbow, with cartilage and bone, muscle, nerves and veins, all in awesome anatomical precision.

One of the pioneers in the field, Dr. Robert Becker, chief of orthopedic surgery at the Veterans Administration Hospital in Syracuse, N.Y., has already applied the newly found healing mechanism to broken human bones, successfully knitting fractures that previously had failed to heal even after extensive surgical procedures. He and his colleagues have now reached the point where they can confidently predict that regeneration of human parts can and will be achieved, possibly in the next few decades.

A brave new world? Not a bit. The magic of regeneration has been with us all along, hidden in the wondrous complexity of every organism's bodyworks. These scientists are not performing miracles; they are witnessing them.

Their challenge, then, has been not so much to recreate a limb as to discover how some animals do so naturally. The chronicle of their quest reads like a detective story; for clue by clue, Becker and his colleagues have been unraveling a medical mystery that began with creation.

The tale begins with a few known biological principles about regeneration that were to serve as the departure point for their search. The way regenerative healing works has been observed, if not explained, for hundreds of years; the process still seems so magical that even the most clinical of researchers must shake his head in amazement as he watches the microscopic metamorphosis unfold.

The body of every animal, from the flatworm on up the evolutionary scale, possesses primitive, undifferentiated cells that could best be described as being like raw clay. When a creature which can regenerate loses a limb, these cells migrate to the injury, forming a mass called a blastema. Some of the mature, specialized cells at the site of the injury dedifferentiate, reverting to primitive form, and add further to the blastema. The blastema then respecializes, transforming itself into whatever types of cells are needed to replace the missing part—bone cells, cartilage cells and so forth. Somehow, the blastema absorbs information about what to produce along the way, so that at the appropriate moment, it creates an elbow joint or a tibia or a fibula, a left leg or a right one.

TWO IMPORTANT CLUES

The first formal paper on regeneration was written by the great Italian physiologist Luigi Spallanzani and appeared in 1768. Spallanzani's experiments uncovered the first two important clues: The younger the animal, the greater its capacity for regeneration; and the lower an animal is on the evolutionary scale, the greater its capacity for regeneration.

This latter finding was especially interesting, for it provided a clue in itself. The lower orders that regenerate are biologically just as complicated as man; their parts are just as difficult to replace. The main difference is—and this was later to become a significant clue—that animals in the lower orders have comparatively more nerves in their extremities.

A third clue was buried in the writings of the late 1700s. Every time a creature is injured, an electrical charge is generated at the site of the injury. This phenomenon is called the current of injury, and it is proportionate to the severity of the wound.

It was not until some 180 years later that scientists again began to delve into the mystery of regeneration. In 1945, the biologist Meryl Rose (a retired professor of anatomy at Tulane University College of Medicine who is currently affiliated with Woods Hole Marine Biological Laboratories) amputated the forelegs of some frogs below the elbows. Thinking he could perhaps promote growth by preventing the injuries from scarring over, he bathed the stumps of the frogs' limbs in a strong salt solution.

The result was startling. About half of each amputated limb regenerated, developing new bone and muscle and in some cases even showing the beginnings of digital growth. Thus Rose became the first to prove that an animal which cannot regenerate naturally can be made to do so artificially.

The next year, a Russian named Vladimirovic Polezhaev amputated frogs' legs in a similar fashion and then irritated the stumps by repeatedly jabbing them with needles. The result? Astonishingly, he regenerated about the same amount of growth that Rose had with the salt solution. It was possible that the salt not only had prevented scarring but, like the needle punctures, had actually execerbated the injuries and thereby stimulated growth. Now there was another clue: Regeneration may somehow be connected to the severity of injury.

In the early 1950s, Marcus Singer, now a professor of anatomy at Case Western Reserve University in Cleveland, became the next to uncover important evidence. He transferred nerves from a frog's healthy hind legs to the stump of its foreleg; his frog also regenerated about the same amount of growth that Rose's had. Singer's contribution to the collection of clues is an almost mathematical formulation: The nerve tissue required for regeneration must constitute at least 30 percent of the total tissue at the site of the injury.

Then, in 1958, a Russian named A. V. Zhirmunskii discovered that the current of injury is proportionate not just to the severity of the injury but also to the amount of nerve tissue in the area.

Becker's turn at medical detection also came in 1958. He assembled his evidence as a good detective would assemble his suspects: Injury is related to regeneration; nerve tissue is related to regeneration, and both injury and nerve tissue are related to the current of injury. Could the current of injury, Becker reasoned, thus be related to regeneration?

He measured the current of injury in a salamander's regenerating leg and in a frog's scarring stump. Sure enough, his finding seemed to support his hunch. On the day the legs were amputated, both creatures generated the same current of injury—a positive voltage. But there the similarity ended: As the frog's stump scarred over, the current of injury in its leg declined to zero; but the current of injury in the salamander's leg switched from a positive to a negative polarity and only then began to decline, reaching zero when regeneration was complete.

Becker had definitely discovered a connection between the current of injury and regeneration. In a sense, however, his discovery complicated rather than clarified the mystery. The way the current of injury worked in those limbs was simply not concurrent with the way nerves are supposed to produce electricity.

Nerve fibers have traditionally been thought to respond to stimulation in only one way: Sodium penetrates into the nerve cell and potassium leaks out, creating a chemical reaction that generates a charge called an action potential. Whatever the stimulus—a gentle touch or an injury—the action potential is exactly the same. Moreover, each nerve fiber can create only one of these poten

tials at a time. Becker compares the system to that of a digital computer, which transmits single impulses in rapid succession.

Herein lay Becker's problem: How could the action potential—a constant—account for the switch from positive to negative polarity that he had seen in the salamander's current of injury? How could the action potential account for the fact that the current of injury lasted many days after the stimulated nerve cells should have either died or repaired themselves and ceased their impulses? How could the action potential, which responds in the same way to every stimulus, account for the fact that creatures feel intensities of pain?

Becker guessed that in addition to its digital-computer impulses, the central nervous system can carry steady currents and potentials—in the way an analog computer can. He further theorized that the body's analog computer system has an input signal—could it be pain?—that triggers an output signal which switches on the heating function.

To verify his theory, Becker measured the electrical potentials of different points on the skin of humans and other animals. He found an electrical field that roughly parallels the nervous system. A disturbance in that field, such as an injury, might stimulate cells to begin repairs.

Becker's theory ran counter even to basic textbook explanations of the nervous system, and medical men let him know it. "That cells are capable of sensing and responding to levels of electrical current is hardly universally accepted," he wrote in one medical journal. But he stuck to his convictions; and today, more than a decade later, doctors are coming to accept his hypothesis. "They no longer march out of my lectures," he says. "The response has changed from complete rejection through amused disbelief to—at present—almost enthusiastic acceptance."

BONE REGENERATION

And no wonder. The experiments that Becker based on his unorthodox vision of the nervous system produced remarkable results. First, in 1964, Becker began to examine the spontaneous regeneration of human bone. Given the fact that bone is not well innervated, the theories about electrical stimulation would not apply—unless bone could generate its own electricity. Becker knew that bone accommodates automatically to mechanical stress. When he measured the currents around a stressed bone, he discovered that it generated a positive charge on the stretched side (which dissolved some bone) and a negative charge on the other side (which built up bone and provided the necessary added support). Then Becker administered a negative charge to a mouse's broken leg bone to see if he could artificially stimulate bone growth. He did.

In 1964, Steven Smith, then a student of Meryl Rose and now an associate professor in the department of anatomy at the University of Kentucky, studied Becker's findings and got the idea of implanting a simple electrode right into the muscle tissue of the stump of a frog's leg. He soldered together a piece of platinum wire, which has a positive charge, and a piece of silver wire, which has a negative charge, and embedded the metal into the animal tissue—with the negative end at the stump—thus improvising a crude battery. It worked. He regenerated about as much growth as the Rose, Poleshaev and Singer experiments had the decade before.

Breakthrough followed breakthrough. Becker examined his healing frog bones under a microscope and saw that the blastema around the revenerating bone was coming from a blood clot that had formed there. (A frog's red blood cells are prime candidates for blastema, for, unlike the red blood cells of mammals, they have nuclei and thus can easily divide and dedifferentiate.)

His next step? He had a student expose frog blood to various levels of electrical current in order to find out exactly how much of a charge is needed to turn blood cells into blastema. Days passed, then months. The student administered smaller and smaller currents to the blood (high ones either did nothing or began to cook the cells), but he saw no evidence of change. Finally, the week before the student was supposed to quit and return to his classes, he found that blood cells revert to blastema at a few billionths of an ampere.

In 1973, armed with the knowledge of how much current produces a blastema, Becker decided to brave the step from regenerating amphibians to regenerating mammals. He amputated a rat's foreleg below the shoulder and implanted the platinum-silver electrode device at the stump. Again, success—this time, the most exciting ever. The animal regenerated nerves and tissue and even formed the humerus, the upper-arm bone, complete with the rounded end that fits into the elbow joint. Other parts of the elbow joint began to take shape, including cartilage and two bony structures that Becker surmised were the forerunners of the radius and ulna bones of the lower leg. Everything about the new growth was precisely as it had been in the original limb. And all this growth took place in just three days.

But then the growth ended; for the electrode remained implanted in the shoulder tissue, while the end of the stump, where regeneration was taking place, had grown beyond the reach of its vital current.

The rat's growth, though incomplete, was nevertheless significant, particularly in one respect: The fact that the rat, whose red blood cells have no nuclei, could form a blastema—probably from bone marrow—indicated that in all probability humans could do so as well.

About this time in London, two newborn infants lost their fingers, and the fingers regenerated naturally. The explanation, in Becker's view, probably lies with Spallanzani's early finding that the younger the creature, the better its ability to regenerate. But what was most significant about the babies' growth was that it indicated that the human body contains within it the capacity for regeneration.

Later in 1973, Smith devised an electrode that would travel with the regenerating stump. Again he amputated a frog's leg below the elbow. With the new device, the frog's entire leg grew back.

The year 1973 marked a third triumph as well: Becker began using his findings about the body's electricity in experiments on human bone. A patient of his who had fractured his ankle two years earlier suffered from a mild diabetic condition that was interfering with the bone's ability to regenerate. The ankle had failed to mend despite two corrective operations; and the bone on both sides of the break had deteriorated.

Under normal circumstances, Becker would have had to amputate the leg. Instead, he implanted an electrode into the fracture and administered the same current that he found had divided the frog's red blood cells. He waited three months, the time an ankle fracture would normally take to heal, and the fracture regenerated. A sample of the new bone showed it to be normal in every respect.

CLUE IN THE NERVES

The next year, during the course of routine experiments, Becker stumbled on another clue that finally shed considerable light on his nervous system theory. With the intention of impeding growth, he and his staff broke the tibia in a rat's leg and then cut the nerve that led to the broken limb, assuming that without a nerve supply the rat's bone would heal poorly, if at all. But the fracture healed well; the only drawback was that it took twice the normal time. Perhaps the severed end of the nerve needed time to degenerate, they thought. So they cut the nerve six days before breaking the bone. To their astonishment, the bone healed in the normal amount of time, as if the nerve had never been cut at all.

What was going on? They opened up the leg, only to discover that the nerve fiber had not healed. What *had* healed was the nerve's sheath of Schwann cells—one of a dozen types of cells that make up the "perineural group"—traditionally thought to serve no purpose other than the insulation of the nerve fiber. The perineural cells in the brain were known to carry a steady current—for what reason, no one knew. It now seemed apparent that Schwann cells also carry a steady current. This was proof enough for Becker that the analog computer system he had theorized was indeed contained in the perineural cells—cells that sheathe the entire central nervous system.

The perineural discovery is by no means the end of the tale. Experiments must still be conducted to determine if electrical regeneration is entirely safe. Could applications of electricity to the peripheral nervous system, for example, induce some sort of behavorial disorder? Or damage our cognitive powers? Every human body contains dormant cancer cells. Could an implanted electrode shock them into fatal multiplication?

Nevertheless, much of the mystery has been solved. Only the last chapter—the most exciting one—has yet to be written. It may well describe the modern world as a Shangri-La where damaged human parts are simply cut off and grown back properly. Our future may lie not with the bionic man but with the natural man.

The replacement of arthritic hip joints with Teflon parts, for example, is now a costly and not altogether satisfactory operation. The Teflon wears out. If the device is implanted in a young person, it may have to be replaced some four or five times in the course of his life. And with each hip operation, there is the risk of infection, which can be a deadly prospect. The alternative—growing a natural hip—would be safer and cheaper.

We may also someday regenerate a damaged heart. Becker has discovered that salamanders replace some 50 percent of their cardiac muscles by regeneration. And Polezhaev has cut away the scar tissue on the hearts of dogs which had suffered severe heart attacks; all of the hearts regenerated and less than 5 percent of the dogs died. We may even replace parts defective at birth, given that damaged genes do not garble the instructions given to the blastema.

Becker himself is hesitant to herald regeneration as an immediate cure for amputees. The replacement of severed parts, he says, is still pretty far off. Why not aim for more immediate uses that would be beneficial to greater numbers of people? Severing the spinal cord in man produces paraplegia because man's spinal cord does not regenerate. Becker, however, thinks that since salamanders regenerate their spinal cords, man's spinal cord could perhaps be electrically stimulated to do the same thing. It would take only a year to see whether electrical stimulation works without complications in a paraplegic dog or monkey. And if such stimulation works safely in them, it could be safely applied to humans.

UNANSWERED QUESTIONS

The outstanding disappointment of the entire regeneration tale is that no one is conducting that experiment with paraplegic animals. Why? Money. Becker's own $100,000 grant from the Veterans Administration just covers staff salaries. Experiments are costly; keeping paraplegic animals in particular is frightfully expensive.

Still, it must not be forgotten that the financial problem—serious though it is—is

the only laggard in regeneration's exhilarating face toward the future. It is the promise of regeneration—not the problems—on which we must focus attention. Hundreds of questions wait to be answered.

Animals that regenerate don't get cancer. If a tumor is implanted in a lizard's body, which does not regenerate, it grows to fatal proportions. But if it is implanted in the tail, which does regenerate, the tumor disappears. If we learn how to turn on regeneration (controlled growth), can we learn to turn off cancer (uncontrolled growth)?

Hormones play an important role in regeneration. A chopped-up adrenal gland when implanted in a frog will generate some growth. Moreover, if the adrenal gland is removed from a lizard, the creature will lose its ability to regenerate its tail. If the hormone prolactin is then injected, the lizard will regain its regenerative potential. It has also been hypothesized that hormones secreted during stress can cause cancer. Prolactin is secreted during stress. Is there a connection? Do carcinogens impose a stress on the body, which then triggers a hormonal release that oversensitizes the body to its own electrical forces, thus sparking wild division of cells?

If a negative charge builds up bone and a positive charge dissolves bone, could positive charges have an effect of malignancies?

If pain is the input signal needed by the brain to trigger healing, does anethesia—the muffing of the pain signal—impede healing?

When power lines are stretched across the sea, amplifiers are put in at regular points to boost the current along. The body's electrical system may run the same way, equipped with special spots along the analog nervous system that boost the signals as they are carried to or from the brain. Becker has found that half of the traditional acupuncture points correspond to the spots in the nervous system that seem to be amplifiers of electricity. Could acupuncture simply involve the insertion of a metal needle into one of the amplifiers, short-circuiting the pain signal so that it never reaches the brain?

Does the body's sensitivity to electricity explain why reversals in the earth's magnetic field are related to the extinction of certain animals?

When one electrical field is imposed on another, the currents are altered. When one human being approaches another, do their biological electric systems overlap? Is this a scientific explanation for the "psychic" mystery of ESP?

The characteristics of the analog nervous system are such that it should be influenced by external electrical fields. Becker has already found experimental evidence that would indicate that electrical fields such as those produced by power transmission lines produce stress in animals—with consequent physical effects that are shocking indeed to the layman. What is the relation between this unseen electrical pollution and human stress?

The possibilities seem infinite. Each is like a silver key. Which one will open the door to a new world?●

COMMUNIST DEBT AND TECHNOLOGY TRANSFER

Mr. THURMOND. Mr. President, it appears to me that the Western nations of the world are in the process of financing their own destruction.

Western governments and international monetary organizations are loaning money or grantnig credit to Communist nations and even to Russia in the hundred millions of dollars.

As a perfect example of this, the World Bank just voted to loan Communist Vietnam $60 million interest free for an irrigation project. Granted the United States did vote against loan approval, but still U.S. money will be used to assist a Communist country.

The United States itself has water projects which cannot get Government financing but a Communist country against which we have a trade embargo can get money interest free. Mr. President, I just cannot understand why this country feels it necessary to help its sworn enemies.

An informative chart, which appeared in the July 1977 edition of "Foreign Affairs" shows the East European debt to the West. Since 1970 this debt has increased from $8.3 billion to $45.3 billion at the end of 1976. The Russian debt alone has increased from $2.5 billion to $14.4 billion during the same period. Mr. President, I ask unanimous consent that this table be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. THURMOND. These loans to Communist countries are financing such things as chemical industries, capital equipment, copper industry, steel mill equipment, steel, heavy duty trucks, et cetera. Such equipment can and very possibly will be used in an attempt to overtake the Western world.

A study prepared by the Congressional Research Service of the Library of Congress in July 1977 entitled "U.S. Trade and Payments With Communist Countries: An Overview," indicates that there is rising concern in the West about the political and strategic implications of the growing Eastern debt. The study goes on to say:

There are fears among some Western observers that the large exposure of Western banks in the East gives leverage to Eastern debtors. These observers believe that the most exposed banks will have to continue lending in order to protect the loans that they have already made, and that private banks will pressure their governments to increase and protect their loans.

A perfect example of this latter situation was the recently enacted Panama Canal treaties. Panama is heavily indebted to U.S. banks and these banks were very much opposed to our country taking any action that would jeopardise repayment of this money. It is quite possible that if Western banks continue to loan money to Eastern European and other Communist nations, the United States could be placed in a position of being reluctant to take necessary action because of jeopardizing repayment of this money.

Mike Tharp of the Wall Street Journal wrote in the June 16 edition an article entitled "North Korea Failing To Pay Foreign Debts." He writes:

The Japanese are trying to get the North Koreans to repay overdue trade debts of an estimated $370 million owed to banks and companies. Agreement was reached in 1976 for North Korea to pay interest on these import debts in 1977 and to repay the principal this year. But, say the Japanese, the last payment by Pyongyang was in February, when it sent $3.6 million in interest that was due last September.

The Japanese experience with North Korea is being repeated in several other countries as Pyongyang struggles to find ways to pay its foreign debts, estimated by Japanese bankers to be over $2-billion, of which $1.3 billion is owed to Western banks and companies. These debts are from North Korea's imports of industrial plant and equipment from Europe and Japan that have helped fuel the nation's rapid growth over the past few years.

Mr. President, the article went on to point out that not only are the Japanese unable to get the North Koreans to repay the debt, they cannot even get the North Koreans to discuss the matter because of the North Koreans' passion for secrecy.

Mr. President, I recently read an article entitled "National Suicide: Military Aid to the Soviet Union" which appeared in the February 6, 1978 edition of Research Report, published by American Institute for Economic Research. The article says:

Lenin reportedly wrote that capitalists would sell the communists the rope with which the communists would hang them.

The article went on to say,

All modern technology including modern military technology depends on the use of computers. To make any progress in weapons systems the Soviets have to utilize modern high-speed computers. These computers and the necessary computer technology have come from the West and still come from the West almost exclusively from the United States.

Mr. President, I ask unanimous consent that this article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. THURMOND. The distinguished Senator from Washington (Mr. JACKSON) recently disclosed further alarming proof that we continue to transfer our high technology to the Soviets. Senator JACKSON revealed that Dresser Industries is proposing to build a multi million dollar plant in the Soviet Union that would turn out tungsten carbide oil drilling bits essential to Soviet energy resource development. In spite of significant congressional and public opposition, the sale was approved.

Further, the administration was considering a sale to the TASS News Agency of a Sperry Univac computer system vastly larger than any comparable system previously sold to the Soviets. Fortunately, because of congressional pressure, the Sperry Univac was canceled.

In the August 3, 1978 edition of Defense/Space Daily, it was reported that last year the United States sold $1 billion worth of food and $586 million worth of industrial and commercial goods to the Soviets, while buying $234 million goods from the Russians.

In the July 31, 1978 edition of Barron's Robert M. Bleiberg wrote an article entitled, "Dirty Business—the U.S. Should Ban Technology Transfers to the Soviets." This article points out the fine work done by Antony C. Sutton, forme

research fellow of the Hoover Institution and author of several volumes on Western technology and Soviet economic development, Mr. Sutton said:

In general, I find that almost all Soviet technology has originated in the West.

Mr. President, I ask unanimous consent that this article be placed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. THURMOND. Mr. President, I have urged President Carter to end even consideration of technology transfer to the Soviets. Our biggest advantage over the Soviets is our advanced technology. Congressional pressure on the White House has prevented several transfers recommended by the State and Commerce Departments.

Further, I would urge the President to take a leadership role in ending the flow of U.S. money to the Soviet through private or international banks. I am confident the American taxpayer is not sympathetic with the practice of his or her tax dollar supporting international monetary groups which in turn loan money to the Soviets, Vietnam or any other Communist state. If we continue to follow such a policy we are financing our own destruction. Our country is still the greatest country on Earth and I want to see it remain that way. I urge my colleagues to join with me in urging President Carter to halt involvement of the U.S. taxpayer's money in loans to Communist countries.

EXHIBIT 1

TABLE 1.—EAST EUROPEAN DEBT TO THE WEST

[In billions U.S. dollars]

	End 1970	End 1974	End 1975	End [1] 1976
Bulgaria	(2)	1.7	2.4	2.8
Czechoslovakia	(2)	1.1	1.5	2.1
G.D.R. (East Germany)	(2)	3.6	4.9	5.6
Hungary	(2)	2.3	3.2	3.5
Poland	(2)	4.9	7.8	10.4
Romania	(2)	2.4	2.8	2.8
East Europe (exclc. U.S.S.R.)	5.8	16.0	22.6	27.4
U.S.S.R.	2.5	5.9	11.4	14.4
Country total	8.3	21.9	34.0	41.8
CMEA banks	0	2.1	2.8	3.5
Overall total	8.3	24.0	36.8	45.3

[1] Preliminary estimates.
[2] Not available.

Sources: 1970, 1974 and 1975 based on data provided by Chase Manhattan Bank. Estimate of increments in U.S.S.R. debt during 1976 from World Financial Market, December 1976. Chase estimates of net indebtedness at end 1976 used to derive estimates for other countries.

EXHIBIT 2

[From American Institute for Economic Research, Feb. 6, 1978]

NATIONAL SUICIDE: MILITARY AID TO THE SOVIET UNION

In our research activities connected with a forthcoming bulletin on national defense, we have read one of the most important books about U.S.–U.S.S.R. trade ever to be published. In that book, National Suicide: Military Aid to the Soviet Union, Mr. Antony Sutton assesses some effects of trade between the Western countries, particularly the United States, and the Soviet Union. He prefaces his book by stating that the evidence therein "will come as a surprise—and perhaps an unwelcome shock—to almost all readers."

Mr. Sutton asserts: (1) that Western countries, particularly the United States, have provided military aid to the Soviet Union; (2) that this aid has involved both the direct transfer of arms and, more importantly, through the guise of "peaceful trade," the transfer of modern technology to an otherwise technologically primitive Russia; (3) that this "peaceful trade" has been conducted since the Bolshevik Revolution in 1917 through the present; (4) that this trade has been an integral part of the creation of the Soviet military-industrial complex; (5) that the development of the Soviet military-industrial complex would not have been possible without this Western help; and (6) that the connection between Western trade and Russian military power is known by the highest ranking Washington officials, who have extended great efforts to keep this information hidden from the American public.

Assertions unsubstantiated by evidence merit little attention, even when they might be consistent with one's preconceptions. Actions based on unsupported assertions probably will be harmful as often as helpful. This would apply to claims made by Mr. Sutton if all that he did was to make assertions. If, however, Mr. Sutton can provide sufficient evidence that the above assertions are correct, it would be, as he says, "one of the most tragic stories in the 200-year history of the American republic."

The reason that National Suicide was written is, itself, some evidence that the facts have been hidden from the public. Mr. Sutton had completed the manuscript for the third volume, covering the period 1945–65, of his scholarly Western Technology and Soviet Economic Development. However, the Hoover Institute, which had funded his research and had published the first two volumes of this work, withheld publication of the third volume for more than 3 years. Mr. Sutton then wrote National Suicide to put before the American public the salient findings and primary implications of his unpublished work. Once the Hoover Institute learned of the impending publication of National Suicide, officers there rushed into publication the third volume of Mr. Sutton's Western Technology.

MILITARY AID

A sure way to demonstrate that a nation provided another nation with military aid is to provide evidence of direct shipments of armaments between the two. Mr. Sutton documents his evidence of this in these words: "Purchases of war materials were made directly from American manufacturers. Thus, in 1938 the William Sellers Company of Philadelphia received a contract for heavy machinery for the manufacture of 12-inch steel-plate for armor-plate manufacture. In March 1939 the State Department approved a proposal (already approved by the Navy Department) under which the Electric Boat Company of Groton, Connecticut, would furnish plans, specifications, and construction services to the Soviet Union for a submarine. This weapons-acquisition process of the 1930's culminated in the 1941 Lend-Lease program, under which large quantities of war materials were transferred to the Soviet Union."

The U.S. Lend-Lease program involved direct shipments of aircraft, tanks, guns, trucks, explosives, and naval and marine equipment to the Soviet Union during World War II. In aircraft alone, Mr. Sutton says, "A total of 14,018 aircraft were shipped, including pursuit planes, light bombers, medium bombers, one heavy bomber, transport planes, flying boats, observation planes, and advanced trainers. In addition, link-trainers, and a considerable quantity of aircraft landing mats and communications equipment were shipped."

Some might defend those armament shipments with the argument that they were made before or during World War II and for the benefit of the allied effort against Nazi Germany. However, the sale of strategic materials by Western nations continued after the conclusion of the war. Through the guise of "peaceful trade," Western nations have provided the Soviet Union with materials and technology that could be and have been converted to military use. To believe that only direct military shipments have military applications is sheer folly. Almost anything with an industrial application has a military application. About U.S. shipments of industrial products to Russia, Mr. Sutton writes:

". . . No Army has a machine that churns out tanks. Tanks are made from alloy steel, plastics, rubber and so forth. The alloy steel, plastics and rubber are made in Soviet factories to military specifications. Just like in the United States.

"Missiles are not produced on missile-making machines. Missiles are fabricated from aluminum alloys, stainless steel, electrical wiring, pumps and so forth. The aluminum, steel, copper wire and pumps are also made in Soviet factories.

"In other words the Soviet military gets its parts and materials from Soviet industry. There is a Soviet military-industrial complex just as there is an American military-industrial complex."

Any automobile or truck manufacturing plant can be converted easily to the production of military vehicles, including tanks, weapons carriers, and personnel carriers. In connection with this, Mr. Sutton says, "Although the military output of Gorki and ZIL is well known to U.S. Intelligence and therefore to successive administrations, American aid for construction of even larger military truck plants was approved in the 1960's and 1970's.

"The Volgograd automobile plant, built between 1968 and 1971, has a capacity of 600,000 vehicles per year, three times more than the Ford-built Gorki plant, which up to 1968 was the largest auto plant in the USSR.

"Although Volgograd is described in Western literature as the 'Togliatti plant' and the 'Fiat-Soviet auto plant,' and does indeed produce a version of the Fiat-124 sedan, the core to the technology is American. Three-quarters of the equipment, including the key transfer lines and automatics, came from the United States.

"Up to 1968, American construction of Soviet truck plants was presented as 'peaceful trade.' In the late 1960's Soviet planners decided to build what is going to be the largest truck factory in the world. This plant, situated on the Kama River, will have an annual output of 100,000 multi-axle 10-ton trucks, trailers, and off-the-road vehicles.[1] It was evident from the outset, given the absence of adequate Soviet technology in the automotive industry, that the design, engineering work, and key equipment for such a facility would have to come from the United States.

"In 1972, under President Nixon, the pretense of 'peaceful trade' was abandoned and the Department of Commerce admitted (*Human Events*, Dec. 1971) that the Kama plant will have military potential. Not only that, but according to a department spokesman, military capability was taken into account when the export licenses were issued."

Most, if not all, ship designs and marine engines of course can be used for military purposes. One would have to be a fool to believe otherwise. Yet, Mr. Sutton reveals two telling facts about the Soviet merchant marine:

[1] Ed.—This plant covers 36 square miles. Its maximum output of large trucks is more than that of all U.S. manufacturers combined.

"First: over two-thirds (66 percent to be exact) of its ship tonnage has been built in Soviet yards and to a great extent with shipbuilding equipment from the West, particularly Finland and the NATO allies, Great Britain and Germany.

"Second: four-fifths (79.2 percent to be exact) of the main marine diesel engines used to propel the vessels of the Soviet merchant marine were built in the West. In other words, only one-fifth of the main diesel engines were built in the USSR. Moreover, even this startling statistic does not reflect the full nature of Soviet dependence on foreign marine diesel technology because all of the main engines manufactured in the USSR are built to foreign designs."

Although some of these vessels were built before or during World War II, many others were produced later. Mr. Sutton cities evidence indicating "that thirty-seven out of the ninety-six Soviet ships on the Haiphong [North Vietnam] run had Western-built engines, manufactured after 1951, which could have been restricted by the State Department."

COMPUTERS

What about computers? Obviously, they too can be used for military purposes. Information processed so fast and efficiently by computers can be military information as easily as nonmilitary. There is no such thing as a computer guaranteed to have no military application.

According to Mr. Sutton, "All modern technology, including modern military technology, depends on the use of computers. To make any progress in weapons systems the Soviets have to utilize modern high-speed computers. These computers and the necessary computer technology have come from the West and still come from the West, almost exclusively from the United States.

"American computer sales may be traced from 1959 with sale of a Model-802 National-Elliott sold by Elliott Automation, Ltd., of the United Kingdom. (Elliott Automation is a subsidiary of General Electric in the United States.) Toward the end of the sixties Soviet purchases of computers were stepped up, and by late 1969 it was estimated that Western computer sales to all of Communist Europe, including the USSR, were running at $40 million annually, in great part from European subsidiaries of American companies.

"In sum, Soviet military computers are either imported American 'civilian' computers or copies of imported American computers redesigned for specific military purposes."

The evidence presented in National Suicide and referred to therein makes a convincing case that Western nations have provided substantial military aid to the Soviets. Although the Soviet Union fought with the Western allies against Hitler's Germany during World War II, since that time the military technology and materials provided by the West to Russia have been used to kill hundreds of thousands of American and other Western soldiers and to support military adventures by Communist puppet leaders throughout the world.

Mr. Sutton describes how the North Koreans and North Vietnamese used Soviet-built trucks, tanks, planes, and vessels to kill hundreds of thousands of American and allied soldiers during the Korean and Vietnamese wars. Much of this military equipment either came directly from Western countries or was produced in Russian factories that were built by Western companies. The Soviet Union almost surely could not have produced these military supplies without Western help. Mr. Sutton has accumulated clear evidence that few Soviet military goods are of Soviet design and that advances in Soviet technology mostly have been copied from Western technological advances.

According to Mr. Sutton's evidence, the Soviets have been so inept at technological development that they could not have become a world military power without Western help. He quotes Leonid Vladimirov, a Russian engineer, in support of this conclusion: "The Russians were never ahead in space . . . the Soviet Union's backwardness in space research is perfectly natural and inevitable, because the Soviet Union is a backward country and in particular is a technologically backward country."

But what about Russian space technology? There is no denying that Russia launched the first space satellite, but the only way that they were able to do so was by capturing intact during World War II German production facilities for rockets and 6,000 German technicians. Entire German rocket facilities were dismantled in Germany and reassembled in Russia. Sputnik I was launched by modified German V–2 rockets strapped together.

UNDOING OURSELVES

Lenin reportedly wrote that capitalists would sell the Communists the rope with which the Communists would hang them. *National Suicide* describes the vast amount of rope thus far provided by the U.S. and our allies. Moreover, the evidence suggests that we even give them detailed instructions on how to use it.

Most Americans are totally ignorant of the facts exposed in this book. In spite of the need for the American public to know this type of information so that wise political choices might be made, effective measures have been taken by U.S. officials to hide these facts from them. Why? How could U.S. officials, in view of this evidence, defend before the American public their practices of promoting and permitting such trade with Russia while at the same time spending hundreds of billions of dollars for defense against the Russian military strength arising from the trade? The inconsistency of U.S. trade policy with the Soviet Union and massive Government expenditures to defend our nation against Russian military power would be obvious.

Mr. Sutton offers this explanation for the inconsistent policies: "If a policy is based on erroneous information or on lack of facts, or if it is developed from accurate data by nonlogical, i.e., mystical, methods, the policy is not likely to achieve its objectives.

"There is adequate reason to believe that Western policy toward the USSR in the field of economic relations is based, first on an inadequate observation of fact, and second, on invalid assumptions. In no other way can one explain the extraordinary statements made, for example, by State Department officials to Congress, by academic writers, and by 50 years of policies which prescribe first the establishment and then the continuing subsidy of a system that simultaneously calls forth massive armaments expenditures. Those countries which have been the prime technical subsidizers of the USSR are also the countries with the largest expenditures on armaments against a presumably real threat from the Soviet Union.

"To subsidize and support a system that is the object of massive military expenditures is both illogical and irrational. In other words, it calls into question not only the ability and the wisdom but indeed the basic common sense of the policymakers.

"The choice therefore is clear: either the West should abandon massive armaments expenditures because the Soviet Union is not an enemy of the West, or it should abandon the technical transfers that make it possible for the Soviet Union to pose the threat to the Free World which is the *raison d'etre* for such a large share of Western expenditures."[2]

If the U.S. were to discontinue trade with Russia, would that deter other Western powers from such trading? The mechanism for assuring that further shipments of strategic materials or technology to the Soviet Union will be stopped already is in place. In 1951 Congress passed the Battle Act, which provides for U.S. participation in CoCom (Coordinating Committee). CoCom is an informal group of representatives of Western nations. Mr. Sutton writes, "Under CoCom arrangements in the Battle Act, the State Department can enter an objection to CoCom concerning any technological exports to the Soviet Union. No CoCom member can make such exports over the objection of any other member of CoCom." Thus, the U.S. could have, and still can, prevent Western trade with the Soviet Union.

U.S. trade with the Soviet Union must be ended. As a defense matter, the ultimate folly is to provide the avowed enemy with any help whatsoever. In times of active war such provision is treason. Who is ready to claim that the U.S. system is not in a struggle for survival with the Soviet system? As an economic matter, the net effect on the U.S. economy from trading with Russia and having to commit huge quantities of our resources to defense activities clearly is enormously negative and costly. Only when the American public forces their elected representatives to end these inconsistent policies will that change be made. Mr. Sutton urges "Congress must publish the names and corporate affiliations of all lobbyists and other persons who have previously influenced it to relax the export control laws, together with the inducements and arguments offered.

"Congress should further require the Department of Commerce to publish each month a full, detailed list of all exports to Communist countries, together with the names of the firms involved, brief technical descriptions, and a departmental statement that the exports cannot be used for military purposes against the United States."

If this were required, the Government might be forced to halt trade with Russia. Oppositely, as long as the American public remains ignorant of the national suicidal trade policies now in effect, they probably will continue.

Although the original edition of *National Suicide* no longer is in print, a new edition is expected to be available in a few months. When it becomes available, we shall inform readers how to obtain a copy. We urge all our readers to read this book, and, when possible, to send a copy to their Congressman and to anyone else who is concerned with our about American's future.

EXHIBIT 3

[From Barron's, July 31, 1978]

DIRTY BUSINESS—THE U.S. SHOULD BAN TECHNOLOGY TRANSFERS TO THE SOVIETS

Real Life, somebody once quipped, follows art; in what passes for real life these days in the nation's capital, that's no joke. Early on in the Carter Administration, we watched with amazement as the Chief Executive sought to foist on the country a conscientious objector as head of the Central Intelligence Agency and a hawk-turned-dove as Secretary of Defense. The incongruous, if not downright bizarre, nominations moved us to make one or two of our own: as head of the Social Security Administration, the ex-boss of Equity Funding; to run the Federal Bureau

[2] These words are from Mr. Sutton's *Western Technology and Soviet Economic Development*, 1945 to 1965, published by Hoover Institution Press, 1973.

of Investigation, Willie Sutton. Little did we know at the time that the Presidential crony in charge of the Office of Management and Budget happened to be one of the last of the big-time spenders, or that the chief counsel to the White House on Drug Abuse was a user. Thus encouraged by events, we are moved to put forward another modest proposal. To make the really hard decisions on whether to do business with totalitarian states—to decide, for example, whether or not to sell super computers to the Soviets, or to buy cigars from Castro—we urge the appointment of either Kirby Jones, whose Alamar Associates packages trips to Havana for American businessmen, or William C. Norris, chairman of the Control Data Corp.

To judge by the headlines, what this country needs is a take-charge guy. Consider, for example, the confusion that has erupted over the recent decision by the White House to prohibit the sale by Sperry Rand of data processing equipment to Tass, the Soviet propaganda organ. In announcing the move (at least according to J. Paul Lyet, who runs Sperry and presumably should know), the Chief Executive credited the computer with far more capacity than it actually commands, a miscalculation that doubtless falls afoul of some FTC or SEC stricture. By the same token, a number of arms of the Executive branch for nearly a year have been carrying on a "study of the national security and military implications of international technology transfer." Scheduled for release this Friday, the study, say some who have worked on it, concerns itself largely with procedural rather than substantive issues.

Or take the fascinating bureaucratic flap which our Washington editor, Shirley Scheibla, uncovered the other day. Seems that under existing regulations, oil drilling and exploration machinery, which is supposed to be strictly non-military in nature, may be freely shipped abroad. However, last Monday, the Department of Commerce drew up—and nearly made official by publishing in the *Federal Register*—changes which in future would have imposed export controls on drilling rigs and their components, a policy shift that triggered a fresh dispute among the Executive movers and shakers.

No such shilly-shallying for Norris or Jones. The latter, of course, is the former aide to Sen. George McGovern (D. S.D.) who has gone on to fame and fortune by building bridges between the U.S. and Cuba. Heedless of the billions of dollars which the Cubans owe a clutch of American companies, not to mention the tens of thousands of Cuban mercenaries deployed on the African continent, Kirby Jones, at $30,000–$40,000 per plane load, is briskly running package tours for U.S. businessmen from the mainland to Havana. Says an admiring colleague: "He's got a lot of chits he can pick up if things go through."

Control Data's Norris strikes us as equally hardheaded. Last year, until Washington put the kibosh on the deal, his company was all set to sell the Soviets the Cyber 76, an advanced computer with perhaps 40 times the capability of anything now available east of the Iron Curtain. At a press conference held in mid-April to observe the signing of a 10-year pact with the Communist government of Romania, Mr. Norris, so to speak, laid it on the line. Hailing his new partner, he went on to complain to his receptive audience, which included Nicolas Ceausescu, Romanian chief of state, that the major obstacle to expansion of trade between the two countries is the Department of Defense.

Barron's by and large doesn't suffer bureaucrats gladly; on the whole, we are all in favor of cutting red tape. In this strategic realm, however, we would opt for making haste slowly. If U.S. industry doesn't sell to the Soviet Union, runs the standard sales pitch, the competition will. Undoubtedly—someone can always be found to peddle pornography to minors or bribe his customer's buyer, but that doesn't necessarily make it right. There is, after all, such a thing as dirty business. Moral issues aside, the national security happens to be one of the few legitimate provinces of the federal government, one which, by the way, it has handled very badly. Computers, after all, boast military as well as civilian applications. However, for years, in pursuit of the will o' the wisp of detente, Washington has drastically relaxed constraints on their shipment abroad. Long before the latest series of outrages involving Russian dissidents and American nationals, it should have been clear to anyone not blind to the color red that the Soviet Union is an implacable foe. Yet until just the other day, official policy, in effect, has encouraged trading with the enemy. Apologists will find handy rationales for such a course: pragmatism, expediency or live-and-let-live. But along with Alexandr Solzhenitsyn, we call it a betrayal of the Western world and all its values.

And its history dates back about as far as the Gulag Archipelago. On this score, weigh the evidence given to a House Subcommittee by Antony C. Sutton, former Research Fellow of the Hoover Institution, distinguished scholar and author of several volumes on *Western Technology and Soviet Economic Development* (*Barron's*, Feb. 9, 1970). After painstaking research into Soviet progress in the manufacture of ball bearings, merchant ships, military trucks and computers, Dr. Sutton voiced these jolting views: "In general, I find that almost all Soviet technology has originated in the West: This conclusion holds good from 1917 to 1974. There has been some Soviet innovation in recent years, but it is concentrated in a very few fields . . . The reason for Soviet technical dependence appears to be that a centrally planned system cannot generate indigenous innovation . . . that will compete with Western innovation. The Russians are intelligent and capable people. It is the planned economic system that is their problem."

Professor Sutton's research stopped at 1974, but, with occasional reversals, the trend that he underscored (and deplored) persists. U.S. exports to the Soviet Union in 1976 hit a peak of $2.3 billion, from which it dropped last year to $1.6 billion. Most of the business done between the two trading partners represents U.S. sales of wheat and corn—under the Czars, the Ukraine was the granary of Europe, but since November, 1918, the weather has been bad. Nonetheless, tranfers of technology, notably in the field of computers, loom large. At the behest of then Secretary of State Henry Kissinger, fourth generation IBM machines and sophisticated computers from Control Data were sold to the Soviets.

Back in 1973, Control Data broke fresh ground by setting up with the Government of Romania a joint venture "for the purpose of manufacturing computer peripheral equipment . . . and to exchange and develop technology related to those products." Amidst considerable fanfare last spring (at which time he launched his attack on Defense), chairman Norris signed a "unique" 10-year agreement under which Control Data plans a series of joint ventures with Romania.

Such transactions, as noted, have rarely raised the hackles of the powers-that-be, but there have been exceptions. Last summer, until the Commerce Department demurred, Control Data was all set to ship Moscow the Cyber 76, described as a scientific marvel, capable of processing up to 40 million operations per second and estimated to be at least 40 times faster than the best Soviet counterpart. Over the company's protests, Commerce, citing the likelihood of "diversion to military or strategic uses," blocked the sale. Similarly, after an outcry from Rep. Paul S. Trible (R., Va.), the General Electric Co. withdrew its application to sell a dozen CF6 jet engines to the Soviets. Developed with $315 million of taxpayer's money, and installed in the world's largest passenger and cargo planes, the engine is roughly twice as powerful as anything Moscow can boast. It would have given the Soviets overnight parity with U.S. airlift capability. Win some, lose some.

Until the sudden—albeit perhaps temporary—stiffening of U.S. policy, this country was letting far too much go by default. Now at least some in Washington are having sober second thoughts. Barring the Sperry Rand transaction is a welcome, if belated, step in the right direction, as would be cancellation of a huge sale of sophisticated oil field equipment by Dresser Industries. Still better news has come from the office of Rep. Robert K. Dornan (R., Calif.), who is looking into the possibility of either cutting off—or subjecting to Congressional oversight—all transfers of technology to the Soviets. Capitalists, so Lenin once boasted, would sell rope to their hangman, a chilling figure of speech which Alexander Solzhenitsyn, in his first address in this country, brought up to date. "Don't," pleaded the greatest dissident of them all, "sell earthmoving equipment to our gravediggers."

THE HART BUILDING

Mr. MELCHER. Mr. President, we have been experiencing an onslaught of criticism, often incomplete or misguided, although satirically hilarious in opposition to the addition of the Hart Building for Senators' offices connected to the present Dirksen Building.

I have no idea of why the Architect of the Capitol would plan, if he has, 16-foot ceilings. This is my 10th year in Congress and I have had offices in the Longworth Building on the House side and now in the Russell Building here on the Senate side. My current Senate office has ceilings 15 feet high which, in my view, is impractical and an unnecessary waste of space while, typically, we jam our staffs, their desks, chairs, files, typewriters, and books into an average of 10 feet by 6 feet of floor space per person.

Contrary to the average space for Federal workers in Washington or throughout the country, which is double or more, we ignore the questions of inefficiency and health by allowing such little space that we have to group staffs according to their personal size, their tolerance of noise and their susceptibility to tobacco smoke, in what still amounts to an almost unbearable concentration of tight quarters for human beings.

A few senior Members of both the House and Senate have suggested that the solution is to reduce staff. That mostly comes from those who have additional space for staff in committees, or in additional offices assigned to them in the Capitol enclave on the basis of their seniority and feel no pressure. That solution is often echoed by a few junior Members whose home States are only an hour or two away from the Capitol and, of course, by news media editorialists or funny cartoonists who realize that congressional staff is a popular target for criticism and a newer target than pornography, nuclear war, or hard drugs. Yet they ignore the problem of adequate, healthful space for essential workers doing essential work.

I do not believe that Montanans are any different from other people in that they have a lot of problems with, and a lot of criticism of, the Federal Government. Montanans are not very close to Washington and it takes both time and money to come here, so they expect their representatives to dig into their written and verbal complaints and do something about them. That requires staff. We are never caught up, and we are never completely fulfilling our constitutional mandate to control Federal actions through sufficient oversight.

To effectively control or curb a $500 billion Federal budget with only a handful of staff would require daily miraculous feat more stunning than David's slingshot slaying of Goliath. The entire staff of the 535 Members of Congress is only 0.002 percent of the federally paid Government work force who expend that $500 billion and crank out each year thousands of new Federal regulations to regulate citizens' lives and their opportunity to make a living.

Unless the object of the game is to make the Federal Government even more inefficient than it is today, believe me, congressional staff is needed.

The fact is that these office buildings are woefully inefficient. The fact is that at least 3 out of the 5 House and Senate office buildings are unsafe and would not be permitted in any other jurisdiction of the country to continue with the public and employee hazards that now exist in them. Fire marshals in any other jurisdiction would condemn them as public hazards. In 3 out of the 5 principal congressional office buildings there are open stairwells, an absence of fire control and no plans or procedures for the thousands of employees and the public in case of fire. It is the responsibility of the Architect of the Capitol to install those safeguards and Congress should fund the necessary fire precautions that that official has already cited.

It is the responsibility of the Congress itself to protect their employees' health. Since OSHA by law is explicitly excluded from enforcing safe and tolerable working conditions in these buildings on its own initiative, I have requested the Architect to have OSHA survey these buildings—promptly—this month. I shall expect their report to be publicized.

Meanwhile, the public should at least be warned by posted notice at every entrance and on every floor of these three congressional office buildings of the lack of both adequate fire protection and adequate means of escape from fire. I have requested the Architect to promptly post such information for the public. And also, the public is entitled to know that office buildings that are safe and healthful for the employees who work in them must be provided if representative government is expected to control and curb the Federal encroachment into the daily lives of America's citizens.

New Senate offices are essential. If the plans for the proposed Hart Building are not economical—and I do not think we should erect a bunch of bunkhouse buildings around the U.S. Capitol—let us get them altered and get on with the provision of decent office space.

OLDER AMERICANS RURAL AND SPECIAL TRANSIT INSURANCE

Mr. DOMENICI. Mr. President, transportation services continue to be a major problem for our older Americans. Although commendable efforts have been made in recent years, thousands of older Americans remain isolated because they lack mobility within their own communities. The elderly still face physical and economic barriers to public and private transportation that deny them adequate, inexpensive transportation services. In 1974, I testified before the Senate Special Committee on Aging that—

Inadequate transportation systems intensify other severe problems confronting the elderly. Low income people suffer most, but individuals with low and median fixed retirement incomes also suffer when suitable transportation is not available . . . Transportation, especially in my rural State of New Mexico, is a constant problem to senior citizens . . . The 1971 White House Conference on Aging pointed out that rural transportation problems must be solved before there can be effective solutions to the rural health, income, employment, and housing difficulties faced by the elderly.

Mr. President, in rural America transportation for the elderly is extremely limited and in most instances nonexistent.

In many ways, rural areas need more effective transportation systems than do urban areas, and yet rural residents are rapidly losing access to even inadequate modes of transportation. Rural transportation studies have indicated that transportation systems must be planned in accord with population growth. Most of the elderly prefer to stay in their own communities. They are reluctant to move to urban areas or be institutionalized. Needed social and medical services are located in urban areas. In Bernalillo County, N. Mex., which includes our largest city—Albuquerque—for example, better than 25,000 of the county's 41,000 elderly—61 percent—lack personal transportation or reasonable access to public transportation. Existing public transit, limited to the metropolitan Albuqeurque area, is wholly inadequate in the rest of the county.

The Administration on Aging, through the aging network, the Federal Department of Transportation, nonprofit organizations, civic groups and social service agencies, has made some progress in alleviating the transportation difficulties faced by the elderly. However, these efforts have come face to face with a number of acute problems, including spiraling inflation, rising fuel and maintenance costs, and the unavailability of—or exorbitant cost of insurance.

The Senate Special Committee on Aging, on which I serve as the ranking minority member, held hearings in July of 1977 on "Transportation and the Elderly: Problems and Progress—The Insurance Issue." At the hearing I noted:

I am appalled at the information which has recently come to our attention as to the increase in insurance costs for vehicles which serve the elderly. I am also dismayed at the apparent evidence of age discrimination in the practices of certain insurance companies.

We know that older Americans are severely hampered in getting to and from places to which they need to travel. In many rural areas there is no public transportation at all. This has led to the development of alternative services provided by titles III and VII of the Older Americans Act. Furthermore much-needed help is given by RSVP volunteers. Many volunteers will be forced to drop out of the program if these insurance problems are not promptly resolved.

We also know that transportation is given by social workers in public and private agencies, sometimes by public health nurses. It would be interesting to know how many agencies in large and in rural areas provide some kind of transportation for the elderly. What are the regulations required by each agency for use of the van or bus? Is there a means test? An age test? A handicapped test? A family with many problems would have to travel in separate buses to the proper place for care.

It seems to me that coordination for our various specialized transportation systems would make it possible for insurance coverage on a group basis. We seem to have the same problems in transportation, of fragmentation and restrictive regulations, as we do with delivery of home care services. I sincerely hope that today's witnesses can give us some ideas as to how we can solve this problem of insurance.

In September 1977 at a meeting of the National Association of Independent Insurers in Des Plaines, Ill., industry representatives raised the following concerns to the Senate Special Committee on Aging staff.

In the event of a suit brought by an injured passenger, will they be able to have the court apply the standard of care owed by a common carrier? This is part of the larger question—what legal degree of care is owed by these social service carriers to their aged passengers?

If they accept this type of risk as a social responsibility, will they be forced by State regulators to accept other high-risk business they do not want to take on?

Will the insurers be classified as Federal contractors if they accept this business?

If a volunteer driver is reimbursed for mileage, will his service be classified as a public livery?

Can total liability be limited to help lower rates? If this is done, will the courts permit it?

It is clear that the Federal Government and the insurance industry have not come to terms in seeking solutions to this most serious problem. This problem is not one which lends itself to a Federal solution inasmuch as individual States have the responsibility for regulating the insurance industry.

It has recently come to my attention that the White House is now working to address this problem as part of an effort to deal with the problems of rural America. I am pleased to see that the White House is taking an active interest in resolving the insurance crisis facing many rural social service and transportation providers. It is my understanding that a number of task forces will be appointed to formulate recommendations

which can be the focus for discussion at a later White House seminar.

I believe we must continue to seek every avenue available to promptly resolve this situation. We must use every resource at our disposal to assure a speedy solution to this serious problem. I am pleased that the President has begun to take action on this issue, and I hope he will do everything possible to expedite this study. I believe this task force will find a need for vigorous Federal, State, and local action to overcome this pressing problem. I hope the President will act promptly and forcefully when the task force study reaches his desk.

TECHNICAL AND CLERICAL CORRECTIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of Senate Resolution 540.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order Nos. 1002, 1003, 1005, and 1007.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the first bill.

RETENTION OF INSURANCE BENEFITS BY CERTAIN RETIRED EMPLOYEES

The Senate proceeded to consider the bill (H.R. 4319) to amend subchapter III of chapter 83 of title 5, United States Code, to provide that employees who retire after 5 years of service, in certain instances, may be eligible to retain their life and health insurance benefits, and for other purposes, which had been reported from the Committee on Governmental Affairs with an amendment to strike all after the enacting clause and insert the following:

That (a) section 8706 of title 5, United States Code, is amended—

(1) by striking out subsections (b) and (c) and inserting in lieu thereof the following new subsection:

"(b) If on the date the insurance would otherwise stop—

"(1) the employee—

"(A) retires on immediate annuity, or

"(B) is receiving compensation under subchapter I of chapter 81 of this title because of disease or injury to the employee, and is certified by the Secretary of Labor or his delegate as being unable to return to duty; and

"(2) the employee has been insured under this chapter during—

"(A) the 5-year period immediately preceding such date, or

"(B) if the employee was entitled to be insured during only a part of such 5-year period, the entire period for which he was so entitled,

life insurance only may be continued under conditions determined by the Commission. The amount of life insurance continued under this subsection shall be reduced by 2 percent at the end of each full calendar month after the date the employee becomes 65 years of age and is retired or is receiving such compensation for work injury. The Commission shall prescribe minimum amounts, not less than 25 percent of the amount of life insurance in force before the first reduction, to which the insurance may be reduced.";

(2) by redesignating subsection (d) through (f) as subsections (c) through (e), respectively;

(3) by striking out "The" in the first sentence of subsection (c), as redesignated by paragraph (2), and inserting in lieu thereof "Notwithstanding subsections (a) and (b) of this section, the"; and

(4) by striking out "(a)–(c)" in subsection (d), as redesignated by paragraph (2), and inserting in lieu thereof "(a) and (b)".

(b) Section 8705(a) of title 5, United States Code, is amended by striking out "or (c)".

(c) Paragraph (2) of section 8714(a) of title 5, United States Code, is amended to read as follows:

"(2) So much of the standard optional life insurance (without accidental death and dismemberment insurance) in force on an employee on the date he retires on an immediate annuity or becomes entitled to receive compensation for work injuries under subchapter I of chapter 81 of this title which has been in force under this chapter during—

"(A) the 5-year period immediately preceding such date, or

"(B) any period of service during such 5-year period which the standard optional insurance was available to him if not available the entire 5-year period,

may be continued, under conditions determined by the Commission, after retirement or during the period the employee is receiving compensation for work injuries and is certified by the Secretary of Labor or his delegate as being unable to return to duty, subject to the same monthly reductions required for regular life insurance under section 8706(b) of this title.".

SEC. 2. Section 8901(3)(A) of title 5, United States Code, is amended by striking out "12" and inserting in lieu thereof "5".

The committee amendment was agreed to.

UP AMENDMENT NO. 1689

(Purpose: Providing an effective date)

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), for Mr. SASSER, proposes an unprinted amendment numbered 1689.

Mr. ROBERT C. BYRD. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, after line 3, insert the following new section:

SEC. 3. The amendments made by this Act shall take effect on the later of—

(1) the date of the enactment of this Act, or

(2) October 1, 1978.

Mr. ROBERT C. BYRD. The purpose of this amendment is to assure that this legislation is in conformity with the Congressional Budget and Impoundment Control Act of 1974, specifically section 401(b).

The amendment was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that a statement by the Senator from Alaska (Mr. STEVENS) be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR STEVENS

I wish to join the distinguished Chairman of the Subcommittee on Civil Service and General Services (Mr. SASSER) in support of H.R. 4319, which will amend the existing law to reduce from 12 to 5 years the length of service required by a retiring Federal employee to retain his group life insurance and health benefits coverage during retirement. This action will equate the years of creditable service necessary to retain the insurance benefits with retirement benefits. Under present legislation, disability retirees are the only group of employees who may continue their life and health insurance coverages after retirement with 5 years of service.

Under this bill, there will be no increase in the unfunded liability of the Retirement Fund during the first 5 years following enactment. During the ensuing years, the increase in the unfunded liability would be minimal. H.R. 4319 would make retirement possible for many eligible employees over age 62, who now stays on the job solely to complete the required 12 years of service for life insurance and health benefits retention. Finally, it would standardize at 5 years the service requirement for vesting of employee life insurance and health benefits coverage, the same as the present 5-year service requirement for a vested right to retirement benefits.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed, as amended.

Mr. ROBERT C. BYRD. I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1080), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

PURPOSE

The purpose of H.R. 4319, as amended, is to reduce from 12 to 5 years the length of service required by a retiring employee to retain his group life insurance and health benefits coverages during retirement.

Thereafter, the subcommittee on July 12, 1978, recommended favorable action on the bill, as amended.

The provisions of H.R. 4319, as amended by the committee, reflect two basic changes in the legislation as it was passed by the House of Representatives. First, it will become effective immediately upon enactment. Second, the committee amended the legislation relating to life insurance to make it conform with the Commission's proposal to revise the Federal Employees' Group Life Insurance law, chapter 87 of title 5, United

States Code. Both changes were recommended to the committee by the Civil Service Commission.

Regarding the effective date, as pointed out by the Commission, the effective date of the legislation was originally set 5 years in the future (1982) primarily because of the provision for mandatory separation at age 70 after 5 years of service. However, since elimination of age 70 mandatory retirement was being considered and has since been enacted as Public Law 95–256, the House deleted that provision from the bill but they did not change the effective date off the health benefits and life insurance provisions. The Commission also stated that "because the additional cost would be minimal, the Commission recommends that it become effective upon enactment."

On April 20, 1978, the Civil Service Commission submitted a proposal to the Congress to amend the Federal Employees' Group Life Insurance (FEGLI) Law. The proposed in part provides for the continuation into retirement of both regular and optimal life insurance after 5 years of participation. The Civil Service Commission in order to avoid conflict recommended to the committee that H.R. 4319 be amended to conform with the Commission's proposal. As a result, the legislation as amended will permit all insured employees who retire on immediate annuity, or become entitled to receive workmen's compensation under 5 U.S.C., chapter 81 and are determined by the Department of Labor to be unable to return to duty, to continue optimal and/or regular FEGLI life insurance if they have been insured for such coverage for a minimum of 5 years or from the first opportunity to elect coverage, if less than 5 years.

BACKGROUND

The Federal Employees' Group Life Insurance law (section 8706(b) of title 5, United States Code) and the Federal Employees' Health Benefits law (section 8901(3)(A) of title 5, United States Code) provide for the retention of life and health insurance coverage after an employee's retirement on an immediate annuity, either on disability or after having completed at least 12 years of creditable service. The committee believes that, in light of the fact that an employee has vested rights under the civil service retirement system after 5 years of creditable civilian service, the 12-year service requirement for retention of health and life insurance benefits during retirement no longer can be justified and that it unduly discriminates against many employees.

EXTENSION OF CERTAIN BENEFITS TO FORMER EMPLOYEES

The Senate proceeded to consider the bill (S. 408) to amend title 5, United States Code, to extend certain benefits to former employees of county committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, and for other purposes, which had been reported from the Committee on Governmental Affairs with an amendment on page 1, beginning with line 3, strike through and including line 5, and insert in lieu thereof the following:

That (a) section 5334(f) of title 5, United States Code, is amended—

(1) by inserting a comma after "may"; and

(2) by striking out "under the Department of Agriculture,".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 5334(f) of title 5, United States Code, is amended—

(1) by inserting a comma after "may"; and

(2) by striking out "under the Department of Agriculture,".

(b) The first sentence of section 6312 of title 5, United States Code, is amended by striking out "in the case of any officer or employee in or under the Department of Agriculture".

(c) Section 3502(a)(C) of title 5, United States Code, is amended by striking out "who is an employee in or under the Department of Agriculture".

SEC. 2. The amendments made by the first section of this Act shall take effect on the date of the enactment of this Act.

The amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a statement by the Senator from Tennessee (Mr. SASSER) be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR SASSER

S. 408, which was introduced by Senators Huddleston and Dole, amends current law in order to grant former employees of the Agricultural Stabilization and Conservation Service, who become employed by a Federal agency, certain benefits such as: transferring accumulated sick and annual leave, receiving full credit for prior service in determining the annual rate of annual leave accrual and reduction-in-force preference, and transfer of previous rate of pay.

I am personally very much aware of the contributions made by employees of the Agricultural Stabilization and Conservation Service (ASCS). The work which they do in administering specified commodity and related land use programs is absolutely vital to the country. The programs which they implement are developed by the President, the Congress and the Secretary of the Department of Agriculture. The ASCS employees operate on the county level, working directly with local farmers to implement Federal programs designed for voluntary production adjustment, resource protection, and price, market, and farm income stabilization. Although the Federal government develops, finances, and provides for the implementation of these programs, the ASCS employees are not considered to be federal civil service employees. However, they are eligible to participate in the civil service retirement system and other employee programs. In addition, should an ASCS employee become competitively employed by the Department of Agriculture he or she is eligible to transfer annual and sick leave, creditable service for leave earning and reduction-in-force purposes, and the highest previous rate of pay for salary determination purposes. Furthermore, should such an employee then become employed in another federal agency, he or she will retain all previous benefit coverage.

The Subcommittee on Civil Service and General Services, which I chair, held hearings on this subject on March 17, 1978 and the Governmental Affairs Committee, on August 10, 1978 issued a favorable report on the legislation.

S. 408 addresses an important issue for a relatively small number of people who are thoroughly dedicated public servants. The legislation simply attempts to establish some uniformity and consistency in the treatment of county committee employees who transfer into federal agencies. I urge my colleagues to give S. 409 their wholehearted support.

Mr. BAKER. Mr. President, I ask unanimous consent that a statement by Senator STEVENS be printed in the R ORD at this point.

The PRESIDING OFFICER. With objection, it is so ordered.

STATEMENT BY SENATOR STEVENS

After P.L. 90–367 was enacted in county committee employees of ASCS (Agricultural Stabilization and Conserva Service) could enter into Federal emp ment with the Department of Agricul with three benefits. These included (1 entry into any Federal agency at their hi est previous salary level, (2) the transfe of annual and sick leave to the new p tion, and (3) the crediting of service the purpose of leave and reduction of fo These former county committee emplo desiring Federal jobs still must meet c petitive selection procedures for positi in the Department.

Under present law, the committee m bers are entitled to the benefits listed ab solely with regard to employment in Department of Agriculture. The Subcomm tee on Civil Service and General Services extensive hearings on this bill. Thus I Senators Dole and Helms in supporting 408 which extends the three provisions include all departments and agencies in Executive Branch. By expanding the guage of the current legislation to incl all Federal agencies, S. 408 will provide benefits for former ASCS employees and courage their entry into Federal service

The bill was ordered to be engros for a third reading, read the third ti and passed.

Mr. ROBERT C. BYRD. I move to consider the vote by which the bill passed.

Mr. BAKER. I move to lay that mot on the table.

The motion to lay on the table agreed to.

Mr. ROBERT C. BYRD. Mr. Preside I ask unanimous consent to have prin in the RECORD an excerpt from the port (No. 95–1081), explaining the p poses of the measure.

There being no objection, the exce was ordered to be printed in the Rec as follows:

EXCERPT

PURPOSE

The purpose of S. 408, as amended, i broaden the applicability of Public 90–367 by granting to former employees the Agricultural Stabilization and Conser tion Service, who become employed by a F eral agency, certain benefits, such as tra ferring accumulated sick and annual le receiving full credit for prior service in det mining the annual rate of annual leave crual and reduction-in-force preference, transfer of rate of pay.

BACKGROUND

The Agricultural Stabilization and Con vation Service (ASCS) was established by Secretary of Agriculture in 1961 pursuant section 8(b) of the Soil Conservation Domestic Allotment Act. ASCS adminis specified commodity and related land programs designed for voluntary product adjustment, resource protection, and pr market, and farm income stabilization. each State, ASCS operations are supervi by a State committee of three to five me bers appointed by the Secretary of Agric ture. A State executive director, appointed the Secretary, and staff carry on day-to- operations of the State office. In each of proximately 2,800 agricultural counties, lo ASCS programs are administered by a cou committee of three members who are elec to the committee by farmer-elected delega

to a county convention. The county committees employ necessary staff to carry on day-to-day operations of the county office.

Currently, there are approximately 7,200 ASCS county committee employees in the United States. Although, these county committee employees are treated as if they are Federal employees for purposes of granting most benefits which Federal employees receive, such as retirement, and life and health insurance, the Civil Service Commission feels that they do not meet the established criterion to be considered as Federal employees. In addition to such retirement, life and health insurance benefits, Public Law 90-367, enacted in June 29, 1968, extended to ASCS county committee employees who enter into Federal employment with the Department of Agriculture certain additional benefits. These benefits include transferring annual and sick leave to the new position, creditable service for leave earning and reduction-in-force purposes, and the highest previous rate of pay for salary determination purposes. County committee employees, however, still have to meet competitive selection procedures for positions in the Department of Agriculture.

S. 408, as amended, extends the benefits accorded by Public Law 90-367 to county committee employees who transfer to any department or agencies in the executive branch, thereby providing for the transfer of annual and sick leave, creditable service for leave earning and reduction-in-force purposes, and highest previous rate salary determination. County committee employees must, however, be competitively selected for positions in such Federal department or agencies.

The committee believes that county committee employees perform vital functions to their localities under direction and supervision of the Federal Government. They are paid with Federal funds and they are already eligible for retirement, health and life insurance benefits which Federal employees are eligible for. Those county committee employees who become employed at the Department of Agriculture can, as a result of Public Law 90-367, carry over their leave and pay benefits. In fact, should such an employee leave the Department of Agriculture and transfer to another Federal agency he continues to count his county committee service for leave, pay, and reduction-in-force purposes.

S. 408 establishes uniformity and consistency in the treatment of county committee employees who transfer into Federal agencies. For these reasons, the committee urges the enactment of S. 408, as amended.

FEDERAL EMPLOYEE WITHHOLDING OF LOCAL TAXES

The Senate proceeded to consider the bill (H.R. 8342) to amend title 5 United States Code, to provide for the application of local withholding taxes to Federal employees who are residents of such locality.

Mr. BAKER. Mr. President, I ask unanimous consent that a statement by the Senator from Alaska (Mr. STEVENS) be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR STEVENS

H.R. 8342 requires withholding of local taxes from Federal employees who are residents of a given locality but are employed elsewhere within the same state. If enacted, this bill will simply correct an oversight in the law which requires the withholding of taxes when an employee works and lives within the locality but is only voluntary when an employee only lives in the locality.

Currently, localities are unable to ensure that taxes are withheld for Federal employees. Often, Federal employees are saddled with large local tax bills which were not anticipated by the employee. This bill would eliminate this problem. It has the support of the Treasury Department, the Civil Service Commission and local governments.

Some officials have expressed increasing concern over the difficulty in collecting local tax when the Federal employee lives in a city but is employed elsewhere within the state. H.R. 8342 would allow a city or county qualifying for mandatory local tax withholding and having an agreement for this withholding currently in effect, to include employees who live in that city but are employed elsewhere within the state in that negotiated agreement.

I would like to thank Senator SASSER for his work on this bill. Due to his efforts action was taken on this legislation. I urge my friends to join me in support of this bill.

The bill was ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1083), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of H.R. 8342 is to extend application of section 5520 of title 5, United States Code, relating to the withholding of city or county income or employment taxes from the pay of Federal employees, to employees who are residents of (but are employed outside of) cities or counties with which the Secretary of the Treasury has entered into a tax withholding agreement under the provisions of section 5520 of title 5.

BACKGROUND

Public Law 83-340, enacted July 10, 1974 (5 U.S.C. 5520), provided for the withholding of city income or employment taxes from the pay of Federal employees where a city ordinance provided for the collecting of such taxes and imposes a duty on employers within the taxing jurisdiction to withhold taxes. Subsequently, the law was amended by section 408 of the Tax Reduction and Simplification Act of 1977 (Public Law 95-30) to extend the application of the tax withholding provisions to county governments.

Currently, the law provides that the Secretary of the Treasury, under certain conditions, shall enter into an agreement with a city or county to provide for such withholding from the pay of Federal employees who are subject to the tax and who are regularly employed within the city or county. Such agreements do not apply to employees who are residents of the city or county with which the agreement is made but who are employed outside of the city or county. Also, the agreements do not apply to employees who are not residents of the State in which the taxing city or county is located unless the employees specifically consent to have the tax withheld from their pay.

RETIREMENT CREDIT FOR JAPANESE-AMERICANS FOR TIME IN WORLD WAR II INTERNMENT CAMPS

The Senate proceeded to consider the bill (H.R. 9471) to amend title 5, United States Code, to provide that Japanese-Americans shall be allowed civil service retirement credit for time spent in World War II internment camps.

UP AMENDMENT NO. 1690

(Purpose: Amending the effective date)

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Virginia (Mr. ROBERT C. BYRD), on behalf of Mr. SASSER, proposes an unprinted amendment numbered 1690.

Mr. ROBERT C. BYRD. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, strike out lines 14 through 16, and insert in lieu thereof the following:

Sec. 2.(a) The amendments made by this Act shall take effect on the later of—

(1) the date of the enactment of this act, or

(2) October 1, 1978.

Mr. ROBERT C. BYRD. Mr. President, the purpose of this amendment is to assure that this legislation is in conformity with the Congressional Budget and Impoundment Control Act of 1974, specifically section 401(b).

The amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that statements by Senators CHURCH and INOUYE be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR CHURCH

I am very pleased to join in urging the Senate to pass H.R. 9471, which would allow Japanese-Americans civil service retirement credit for time spent in World War II internment camps in the United States. As a cosponsor of S. 224, the Senate version of this bill introduced by Senator Inouye, I have long felt that this step is necessary compensation for what all Americans now recognize was a dark chapter in our Nation's history.

In 1952, Congress enacted legislation to provide some compensation for certain Japanese-American internees. Years later, Congress finally repealed the statutory authority which permitted this tragedy to occur. Later, legislation which I sponsored repealed and clarified national emergency powers in order to see to it that this terrible episode will not be repeated.

In 1972, Congress belatedly returned its attention to the wrongs our Japanese-American citizens had suffered by passing legislation to provide social security credit for those years of internment. And now, in 1978, Congress is taking another action toward redressing these grievances by enactment of H.R. 9471. Again, I urge its adoption by the Senate.

Actually, relatively few Japanese-Americans will benefit from the bill before the

Senate today. There is another group of Americans, also few in number, who also have legitimate grievances that should be redressed. These Americans were civilian employees working in the Pacific at the outbreak of World War II, who were captured and held as prisoners-of-war for all of the years of that conflict.

I have introduced a bill, S. 407, which, not unlike H.R. 9471 and its predecessors, would provide credit for government retirement programs and social security for these prisoners-of-war. I am very pleased to have Senator Inouye as a cosponsor of my bill, and, although the Senate will not consider it this year, I intend to press for its passage in the upcoming 96th Congress.

I recognize that the Executive Branch has opposed H.R. 9471, and S. 407, based largely on the argument that benefits should not be provided unless traditional work or service has been performed. Nevertheless, Alan Campbell, Chairman of the Civil Service Commission, has commented on H.R. 9471:

Therefore, while still opposing the principle of granting credit for non-Federal service, the Commission, because of the unique circumstances of this group of Japanese-Americans and because non-Federal employees receive credit for similar service under Social Security, does not oppose enactment of H.R. 9471.

I would hope that the Executive Branch will also come to appreciate the unique circumstances of all Americans who were interned during World War II. In fact, prisoners-of-war do perform unique "work and services" for our Government and our Nation, and I feel strongly that it is only just that we compensate them appropriately.

STATEMENT BY SENATOR INOUYE

For a number of years, I have been interested in securing credit for retirement purposes to those working adult Japanese-Americans interned during WW II for the period of their internment. By the enactment of Public Law 92-603 such coverage was granted to those who are covered under the Social Security Act. Federal retirement credit had also been granted to some who were Federal employees at the time of their internment under the provisions of Public Law 82-545 and 86-782. No coverage existed, however, for those who entered Federal employment subsequent to their internment for the time spent in internment camps in involuntary service to the government. H.R. 9471, which is before us today, will provide such credit for such coverage.

H.R. 9471, similar to my own bill, S. 224, will give Federal Civil Service retirement credit to those who were interned under Executive Order 9066 or related legislation and authority. As you may know, H.R. 9471 passed the House on January 23, 1978, by an overwhelming vote of 366 to 12.

We are here today to consider H.R. 9471 which I hope will be interpreted as having the widest possible applicability when it is implemented. The number affected is small but their coverage is essential if we are to achieve equity.

The atmosphere after the bombing of Pearl Harbor by the Japanese on December 7, 1941, was oppressive. Fear, hate, and suspicion of Japanese-Americans was stifling in Hawaii, where Americans of Japanese ancestry composed 40 percent of the population. The tension was multiplied tenfold in the West Coast states of California, Oregon, and Washington, where Japanese-Americans were a much smaller minority and anti-Asian sentiment was already widespread. Grossly discriminatory law long prevented citizenship for first-generation Asian-Americans and state law limited ownership of property by non-citizens.

It was bad enough for those living in Hawaii, a State more isolated and less prejudiced than most, but the people who experienced the mistrust of their country in the mainland United States went through a particularly degrading and humiliating experience.

When we heard in Hawaii that 110,000 Americans of Japanese ancestry in West Coast states were rounded up and whisked to internment camps—virtual prisons—the news was frightening and nightmarish. Could such a thing be happening in the land of freedom? Could a mass imprisonment of persons whose only crime was their ancestry actually take place here?

I was soon to witness these camp-prisons firsthand. On leave from my military training with the 422nd Regimental Combat Team, I accompanied a few of my mainland Army buddies to visit their families at one of these camps. After witnessing the desolate surroundings, crowded tar-paper barracks and degrading prisonlike atmosphere, I gained new respect for my comrades, who had the courage to volunteer to defend the country which put their families through this demeaning ordeal.

Despite the 1948 Evacuation Claims Act, which attempted to compensate Japanese-Americans for their losses, it is estimated that the evacuees recovered only 10 percent of their losses. It is further estimated that the total loss came to approximately $400 million, of which only $35-$40 million was recovered.

Our Government has attempted, through the Evacuation Claims Act, to compensate for the heavy monetary losses suffered by Americans of Japanese ancestry. But no government can ever fully pay for the trampling of pride, breaking of the spirit, and loss of human dignity experienced by the internees.

Legislation has been enacted at various times to attempt to correct this injustice. Public Law 82-545 of 1952, and Public Law 86-782 gave credit for pay and retirement purposes to Civil Service employees who were in or about to enter the Civil Service before interment. A weakness of the legislation is that the law provided credit only to those who were still in the Civil Service in 1952, when the legislation was enacted. Thus, those who had retired, were on maternity or other prolonged leave without pay, or were no longer working for the Civil Service at the time of enactment did not receive credit.

Public Law 92-603 has a provision giving social security credit for time spent in internment camps to those who were 18 years or older at the time of interment. In practical terms, however, the social security credit formula is such that the years of interment do not prove beneficial to many in determining the level of social security benefits.

While credit has already been given to internees, through the Federal retirement credit of Public Law 82-545 and Public Law 86-782, those Japanese-Americans who did not have the opportunity to enter the Civil Service prior to internment have not received any credit. My bill would provide credit to those who entered the Civil Service at any time after internment.

Mr. President, Congress has since guaranteed that the injustice perpetrated against Japanese-Americans cannot happen to any other racial group in this country. In 1971, legislation introduced by myself and Representative Spark Matsunaga was enacted into public law which repealed Title II of the Internal Security Act of 1950, also known as the Emergency Detention Act, which allowed the President to detain, without due process of law, anyone for suspected acts of espionage or sabotage in times of "internal security emergency." Those who experienced internment bear a permanent scar. Thousands of families were summarily uprooted, taken from their homes, often on 13 hours' not and moved to "relocation" camps on incredible grounds that this whole class Americans—rich and poor, alien and citi men, women, and children—was a secur risk.

Congress has before it the opportunity further rectify the wrong that was co mitted against this group of loyal Ame cans. The bill before you affects an estimat 500 to 1,000 persons at a modest cost $400,000 to $600,000 annually. It is my si cere hope that my colleagues will act expeditiously and affirmatively on this me ure, while Congressional action is still me ingful to these former internees. Many now among the older members of their co munities and further delay will but perpet ate a great injustice.

Mr. BAKER. Mr. President, I a unanimous consent that a statement Senator STEVENS in respect to the pa sage of this measure may be printed the RECORD.

The PRESIDING OFFICER. Witho objection, it is so ordered.

STATEMENT BY SENATOR STEVENS

This bill H.R. 9471 is an attempt remedy an inequity in current law affect a small group of Japanese-Americans a to bring about over-due justice. H.R. 9 would provide that Japanese-Americans allowed Civil Service retirement credit time spent in World War II internme camps.

Several laws have been enacted granti special pay and retirement benefits to ce tain groups of Japanese-Americans. Provi ing Civil Service retirement credit to the who were in internment camps is a logi and overlooked step that has not been i cluded in any other legislation althou efforts have been made in the past.

It is hoped through this legislation t Federal government can rectify any un tentional inequities which may have be suffered by these Japanese-Americans. Th measure passed the House on January 1978.

Extensive hearings were held in which t need for this legislation was expressed. urge support of the final passage of th bill.

Mr. MATSUNAGA. Mr. President, rise in support of H.R. 9471, a bill whi would provide civil service retireme credit for Japanese American Feder employees who were interned durin World War II.

Although its estimated cost is min mal and the number of beneficiari relatively small, H.R. 9471 would a right a grave injustice stemming fro the early days of World War II. Th recent television production of "Hol caust" brought home to millions Americans the unspeakable horror Germany's wartime treatment of Jew Too few recall, however, the feelings fear, suspicion, and hysteria which th December 7, 1941 attack on Pearl Har bor aroused in the hearts and minds Americans and which were directed their fellow Americans of Japanese an cestry.

Those feelings were particularl strong on the west coast, where the was a significant minority population Japanese Americans. In 1942, mor than 110,000 Japanese Americans wh lived on the west coast were rounded u by military authorities and imprisone

in so-called detention centers, which

QUORUM CALL

in so-called detention centers, which had the semblance of concentration camps, complete with barbed wire fences and armed guards. Not one of them had ever been convicted of a crime and none were subsequently found to be disloyal to the United States.

In retrospect, the internment of the Japanese Americans is regarded as a tragic example of wartime hysteria, a blot on the pages of American history. Nevertheless, the Federal Government has been slow to make restitution to those who fell victim to such hysteria.

In addition to the physical, emotional, and mental hardships which the internees suffered, their detention imposed on them severe economic hardships. Many lost their homes and businesses. Some were interrupted in the course of promising careers and lost seniority and retirement credit. Youngsters who normally would have entered college or the labor market during those years were deprived of these opportunities. Moreover, none of the internees were fairly compensated for work performed within the detention camps, where they served as doctors, teachers, clerks, and laborers.

Long after the war ended, those whose properties were seized were finally compensated, but only to the extent of 10 cents for every dollar lost. The 82d Congress provided certain benefits for those who were Federal employees prior to internment and were fired or denied reinstatement. Still later, under the provisions of the Social Security Act Amendments of 1971, Public Law 92-603, former internees who were subsequently employed in the private sector were permitted to include the time spent in detention camps in the computation of social security retirement benefits.

The pending bill, H.R. 9471, is similar to this last measure in that it would permit former internees to include in the computation of their Federal retirement benefits the time spent in detention camps. It would extend to former internees employed by the Federal Government after World War II the same type of benefits already enjoyed by those in the private sector. Only a few hundred Federal employees now nearing retirement age would be affected.

H.R. 9471 is an exceptionally fair and reasonable measure. In addition to unanimous support in the Asian American community, it enjoys very broad support among Federal employees in general, whether or not they are of Japanese ancestry. Under the circumstances, I urge the passage of H.R. 9471, so that a longstanding injustice will at last be in part set right.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill (H.R. 9471), as amended, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MATSUNAGA. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HAWAII CELEBRATES 19 YEARS OF STATEHOOD

Mr. MATSUNAGA. Mr. President, today, August 18, is being celebrated by the people of Hawaii as the 19th anniversary of statehood, for this is admission day for the Aloha State.

The inspiring story of Hawaii's fight for statehood has been told and retold. The deep belief of the people of Hawaii in the democratic ideals which form the basis of our Government is illustrated by the fact that the first petition calling for statehood was presented to Congress as early as 1903—only 3 years after Hawaii became a territory of the United States. Prince Jonah Kuhio Kalanianaole, Hawaii's second territorial delegate to Congress, authored the first statehood resolution and similar resolutions were introduced in subsequent Congresses by all of the delegates who followed him.

Not only were the people of Hawaii eager to share the benefits of statehood, they were more than willing to bear the responsibilities of statehood. Over the years, they have given to their fellow Americans just as much as they have received in return, adding to and enhancing the democratic traditions of our Nation. Among other things, Hawaii has contributed the following:

First. Leadership in the field of civil rights.—It was no accident that President John F. Kennedy selected the recently admitted Island State as the site of his first major civil rights address in 1963. "Hawaii," he said, "is what the United States is striving to be." With its multiethnic, multicultural population, Hawaii still is the embodiment of the revolutionary American dream of our forefathers.

Second. Leadership in foreign affairs.—Hawaii's strategic location in the mid-Pacific has made it a natural bridge between the nations of Asia and the nations of the Western world. Through the Center for Cultural and Technical Interchange Between East and West (the East-West Center), Hawaii has helped the United States to become a "Pacific Power" through peaceful cultural, technical, and educational exchange, and is helping to banish forever the spectre of "the ugly American" in Asia and the Pacific Basin.

Third. Leadership in scientific research and development.—Hawaii is rapidly becoming the Pacific center of scientific research and development, and its leadership in this area will benefit the entire Nation, both domestically and abroad. An island State with no indigenous sources of fossil fuel, Hawaii has embarked on an ambitious but realistic effort to make itself energy self-sufficient early in the next century. Indeed, Hawaii will serve as the national laboratory for energy self-sufficiency. Its abundant sunshine and agreeable trade winds will be used to produce power, as will steam from its volcanoes and ocean thermal energy from the Pacific Ocean.

Hawaii is also a leader in the field of tropical agriculture and is exploring new crops and agricultural methods appropriate for use in the developing nations of the Third World. We will probably pave the way to solving the problems of world hunger. Moreover, because of research in the field of tropical medicine underway in Hawaii, we are well on the way to eliminating some of the major diseases of the tropical zone. Finally, research in Hawaii will help to unlock the remaining secrets of the universe. The clear atmosphere atop Hawaii's tallest mountain, Mauna Kea, led scientists from the United States, France, and Canada to select that spot as the site of the world's second largest telescope.

LEADERSHIP IN TRADE AND COMMERCE

Fourth. Perhaps because the United States No. 1 trading partner, Japan, is a Pacific nation, Hawaii has in recent years become the Pacific center of business, trade, and commerce. Its role will become even more important as we continue to normalize our relations with China.

Finally, it goes without saying that the Aloha State is No. 1 in hospitality. In the last 19 years, millions of Americans have had a chance to share with the people of Hawaii the island State's beautiful scenery, clean air, and fine beaches. Long ago, Hawaii recognized the value of its unique natural resources and moved to protect them. It was the first State to adopt a land use law and first to designate its beaches a public resource. These and other innovative policies designed to enhance the quality of life for residents and visitors alike are also gifts which Hawaii's sister States are just beginning to appreciate.

Mr. President, as one who was born and raised in Hawaii, and one who fought hard for statehood, I may be a little biased. I know, however, that my colleagues share my pride in Hawaii's achievements since statehood and that they would wish to join me and the people of Hawaii in celebrating the 19th anniversary of Hawaii's admission to the Union. As a grateful citizen of the United States, I thank the people of the other 49 states for having granted the great privilege of full American citizenship to the people of Hawaii, myself included, 19 years ago.

Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, will the Senator withhold that, please?

Mr. MATSUNAGA. Yes.

ORDER FOR INDEFINITE POSTPONEMENT OF SENATE RESOLUTION 39, RELATING TO THE DISAPPROVAL OF THE PAY RECOMMENDATIONS OF THE PRESIDENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar Order No. 1041 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

KEUM SUN LEE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1013. This is a bill which I believe I introduced for Mr. ANDERSON.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2366) for the relief of Keum Sun Lee.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

There being no objection, the bill was considered, ordered to be engrossed for third reading, read the third time, and passed as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Keum Sun Lee may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by Mr. and Mrs. Ed Roach, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

SEC. 2. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on the executive calendar on page 12, beginning with the Department of State.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, I wish only to advise the majority leader that these items he has just identified are cleared on our calendar and we have no objection to proceeding to their consideration and confirmation at this time.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader.

The PRESIDING OFFICER (Mr. SPARKMAN). Without objection, it is so ordered.

DEPARTMENT OF STATE

The legislative clerk read the nomination of Nicholas A. Veliotes, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Hashemite Kingdom of Jordan.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

INTERNATIONAL COMMUNICATION AGENCY

The legislative clerk read the nomination of James David Isbister, of Maryland, to be an Associate Director of the International Communication Agency.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of Harold F. Schneidman, of Pennsylvania, to be an Associate Director of the International Communications Agency.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

COUNCIL ON ENVIRONMENTAL QUALITY

The legislative clerk read the nomination of Jane Hurt Yarn, of Georgia, to be a member of the Council on Environmental Quality.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

FEDERAL HIGHWAY ADMINISTRATION

The legislative clerk read the nomination of Karl Smith Bowers, of South Carolina, to be Administrator of the Federal Highway Administration.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to reconsider the votes by which the nominations were confirmed en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I so move.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE NEXT WEEK

ORDER FOR RECESS UNTIL 9:30 A.M. MONDAY AUGUST 21, 1978

Mr. ROBERT C. BYRD. Mr. President the Senate will come in at 9:30 a.m. o Monday, by unanimous consent.

The PRESIDING OFFICER. Withou objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. Presiden are there any orders for the recognitio of Senators on Monday?

The PRESIDING OFFICER. There i an order for Senator PROXMIRE for 1 minutes.

Mr. ROBERT C. BYRD. Very well.

RESUMPTION OF CONSIDERATION OF HOUSE JOINT RESOLUTION 554 AND S. 3073 MONDAY

Mr. ROBERT C. BYRD. Mr. Presiden I ask unanimous consent that at the con clusion of Mr. PROXMIRE's order on Mon day the Senate resume its consideratio of the D.C. representation amendmen and that at no later than 3 p.m. in th afternoon the Senate resume its consid eration of the Federal aid highway bil

The PRESIDING OFFICER. Is ther objection?

Mr. SCOTT. Mr. President, reservin the right to object, and I do not plan t object, will the distinguished majorit leader allow a few minutes for routin morning business after the 15 minutes That would delay for 15 to 20 minute possibly the resumption of this D.C measure.

Mr. ROBERT C. BYRD. Mr. Presiden I would not want to delay it because th original intention was to come in at a.m., and then we moved it to 9:30 a.m We have both these measures to con front us on Monday.

Mr. SCOTT. I was wondering if th distinguished majority leader will let u resume consideration at 10 a.m.

Mr. ROBERT C. BYRD. Yes; 10 a.m

Mr. SCOTT. I thank the Senator.

Mr. ROBERT C. BYRD. Yes.

Mr. President, I ask unanimous con sent that at 10 a.m. on Monday mornin the Senate resume its consideration o the D.C. representation amendment an at no later than 3 p.m. on Monday th Senate resume its consideration of th Federal aid highway bill.

The PRESIDING OFFICER. Withou objection, it is so ordered.

ORDER FOR RECESS AT CONCLUSION OF BUSINES MONDAY TO 9 A.M. TUESDAY, AUGUST 22, 1978

Mr. ROBERT C. BYRD. Mr. Presiden I ask unanimous consent that when th Senate completes its business on Monda it stand in recess until the hour of 9 a.m on Tuesday.

The PRESIDING OFFICER. Withou objection, it is so ordered.

RESUMPTION OF CONSIDERATION OF HOUS JOINT RESOLUTION 554 ON TUESDAY, AUGUS 22, 1978

Mr. ROBERT C. BYRD. Mr. Presiden I ask unanimous consent that after th two leaders or their designees have bee recognized on Tuesday and after th completion of any orders that may be en-

tered prior thereto, the Senate resume the highway bill before we turn to Dis- before the recess

tered prior thereto, the Senate resume its consideration of the D.C. representation amendment at that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes today. The Senate has done a good day's work.

I compliment the distinguished Senator from Texas (Mr. BENTSEN), the distinguished Senator from Rhode Island (Mr. CHAFEE) and the distinguished Senator, the chairman of the committee (Mr. RANDOLPH) and all Senators for the work that has been done. It is my understanding that 19 amendments have been disposed of today.

I would hope the Senate could complete its action on the Federal highway bill on Monday. The order has already been entered, of course, for final action on the D.C. representation amendment on Tuesday at 6 p.m.

The D.C. representation amendment is under a time agreement, and there will be rollcall votes on Monday very likely in connection with amendments to that measure. Mr. MCCLURE has seven amendments he intends to call up either Monday or Tuesday or on both days, and there is a time limitation on each of his amendments of 30 minutes.

The Federal aid to highways bill is, of course, under a time agreement. There will be rollcall votes on it on Monday. There is no hour set for the beginning of rollcall votes on Monday. There is a rollcall vote on Monday at 5 p.m. on an amendment by Mr. BARTLETT, but I would hope that Senators would clearly understand that this does not mean there will not be rollcall votes prior to 5 p.m. The vote at that hour is on the Bartlett amendment.

During the morning and early afternoon votes may occur on the D.C. representation amendment. During the early and midafternoon and late afternoon and evening votes may occur, and probably will occur, on the highway bill, so there will be rollcall votes on Monday.

I will yield to my distinguished friend, the minority leader.

THE HIGHWAY BILL

Mr. BAKER. I thank the majority leader. I, too, wish to commend the distinguished ranking minority member of the subcommittee and the chairman of the subcommittee for their handling of this matter, as well as the chairman of the full committee and the ranking minority member (Mr. STAFFORD) for their work in bringing up a complex and difficult package and handling it so well.

Mr. President, judging from the description of the majority leader which he gave us with respect to the job to be done, there is some possibility that we may be late in on Monday.

Mr. ROBERT C. BYRD. Yes, I am glad the Senator raised that point.

I see no alternative, unless we finish the highway bill but that we will have to stay in late.

Mr. BAKER. In any event, it is the intention of the majority leader to finish the highway bill before we turn to District of Columbia representation?

Mr. ROBERT C. BYRD. It is my intention to finish the highway bill on Monday. The District of Columbia representation bill will be first. It will come up at 10 o'clock on Monday and go possibly as late as 3 o'clock, but not necessarily. We might turn to the highway bill by 1:30 or 2 p.m. Mr. CHAFEE or Mr. STAFFORD will be able to begin consideration of the highway bill by 1:30 p.m. or 2 p.m., if it is convenient to all sides, and the Senate might resume consideration of the highway bill at that point.

THE WORKLOAD NEXT WEEK

But it will be the intention to finish that bill that day because I would hope, Mr. President, that the Senate could complete action on a good many measures next week, and if a good dent can be made in the workload next week, the Senate will not be in on Monday and Tuesday of the following week as had been earlier announced and contemplated. The holiday, according to the announcement, was to begin on Wednesday of the following week or at the conclusion of business on Tuesday of the following week. But this would allow Senators to have additional days away from the floor to do work in their offices or in their home States or whatever.

But I think we ought to try to accomplish as much as possible next week, with the understanding, may I say to my friend the minority leader—Mr. President, I am having just too much competition here.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BAKER. I think the majority leader has answered my question.

Mr. ROBERT C. BYRD. I am trying to pick up where I left off.

As earlier had been stated, the Senate would be in on Monday and Tuesday of the week after, but if we can work long days next week and accomplish a good bit, I would hope we could add those days to the holidays so that Senators can be in their home States or their offices or whatever away from the floor and not be troubled with the Senate floor work.

I thank the distinguished minority leader.

Mr. BAKER. Mr. President, I thank the majority leader.

Mr. DOMENICI. Mr. President, may I ask the leader a question about scheduling?

Mr. ROBERT C. BYRD. Yes.

Mr. DOMENICI. It is not the leader's intention that the natural gas conference be brought before the Senate until after the Labor Day recess?

Mr. ROBERT C. BYRD. I will say this: It will not be brought up before next Wednesday, I can say that with certitude. I would like to not go beyond that point today.

Mr. DOMENICI. I thank the majority leader.

Mr. ROBERT C. BYRD. I thank the Senator. I think he may be reasonably assured that it will not be brought up before the recess, but I would like at least to withhold that option at the moment.

RECESS UNTIL 9:30 A.M., MONDAY, AUGUST 21, 1978

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9:30 a.m., Monday.

The motion was agreed to; and at 6:02 p.m. the Senate recessed until Monday, August 21, 1978, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate August 18, 1978:

DEPARTMENT OF STATE

Marilyn Priscilla Johnson, of New Hampshire, a Foreign Service information officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Togo.

Edith Huntington Jones Dobelle, of Massachusetts, for the rank of Ambassador during her tenure of service as Chief of Protocol for the White House.

TENNESSEE VALLEY AUTHORITY

Richard Merrell Freeman, of Illinois, to be a Member of the Board of Directors of the Tennessee Valley Authority for the term expiring May 18, 1987, vice Aubrey J. Wagner, term expired.

U.S. INTERNATIONAL TRADE COMMISSION

Paula Stern, of the District of Columbia, to be a member of the United States International Trade Commission for the term expiring June 16, 1987, vice Daniel Minchew, term expired.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION ON SCIENCE

Charles William Benton, of Illinois, to be a member of the National Commission on Libraries and Information Science for the remainder of the term expiring July 19, 1980, vice Frederick H. Burkhardt, resigned.

CONFIRMATIONS

Executive nominations confirmed by the Senate August 18, 1978:

DEPARTMENT OF STATE

Nicholas A. Veliotes, of California, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Hashemite Kingdom of Jordan.

INTERNATIONAL COMMUNICATION AGENCY

James David Isbister, of Maryland, to be an Associate Director of the International Communication Agency.

Harold F. Schneiderman, of Pennsylvania, to be an Associate Director of the International Communication Agency.

COUNCIL ON ENVIRONMENTAL QUALITY

Jane Hurt Yarn, of Georgia, to be a member of the Council on Environmental Quality.

FEDERAL HIGHWAY ADMINISTRATION

Karl Smith Bowers, of South Carolina, to be Administrator of the Federal Highway Administration.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

A TRIBUTE TO THE VOLUNTEER FIRE DEPARTMENT OF CHEEKTOWAGA, N.Y.

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. KEMP. Mr. Speaker, on September 9, 1978, the Rescue Volunteer Hose Company No. 1 of Cheektowaga will be observing its 75th anniversary—three quarters of a century of dedicated volunteer fire service to the residents of the Walden Fire District No. 2 and the township of Cheektowaga.

There is no finer example of selfless service than the risks and hazards endured by volunteer firefighters. As early as the late 1600's and early 1700's such groups were formed in our country and volunteer firefighting organizations have been an important part of our history throughout the development of our great Nation.

Because of the nature of this job and the dedication of the people, I feel strongly that volunteer firefighting organizations deserve the help of the Congress in enacting key legislation such as classification of arson as a major crime, a spark arrester bill, exemption from excise taxes on gasoline and others they have assigned a priority classification. I urge my colleagues to give strong support to such proposals which will benefit the volunteer firefighter organizations in their districts. Certainly there is no more positive way to acknowledge and exhibit appreciation than passage of bills which will make the volunteer's job a little easier.

Mr. Speaker, included as part of my remarks is a history of Rescue Hose Company No. 1, written by my constituents, Robert Jurek and Thomas Adamczak, a history which details the volunteer firefighters' outstanding service to the people of the Cheektowaga community. And, since this spirit of unselfish responsibility to the community is shared by volunteer firefighting organizations throughout our country, I would like to express my admiration for all volunteer firefighters who have so ably protected the people of this Nation:

A HISTORY—SEPTEMBER 1903 TO SEPTEMBER 1978

The Town of Cheektowaga at the turn of the century consisted of thousands of acres of farmland. Shopping malls, residential subdivisions, and sprawling factories were nonexistant. At this time, most of the Town's five thousand inhabitants were situated along the city line, the area's population was growing fast and building was progressing at a tremendous rate. It was in 1903 that the residents of the Walden area realized they needed some form of fire protection.

The date was September 3rd, in the year 1903, and the first meeting was held to establish a firefighting organization. The people were gathered at the home of Joseph Forestor and he was selected to chair the meeting. On a motion by Bernard Fossett, the group was incorporated under the name of Rescue Hose Company No. 1 Volunteer Fire Department of Cheektowaga. Their first order of business was to acquire a hose cart and hose.

At a meeting on September 8, 1903, Jacob Hasselback was elected the first president of the company and Bernard Fossett the first chief. Money was needed to purchase the equipment so the company held its first fund raiser, a clambake.

The company now needed a fire house. Joseph Forestor, already involved as an organizer, made available to the company for $1,000 a month a building he owned. The building was known as the Arlington Club House. The house was located on Walden Ave. across from Pine Ridge Road. The first major expense was 1,000 feet of hose purchased for $700. This was followed by a hose cart purchased in November for $63.50. Such expenses were covered by dues, donations, and fund raising events.

No time was wasted in raising money for more equipment purchases. A social and dance was held November 14, 1903 followed January 21, 1904 by another. The tickets at that time went for 25¢. During the first twenty years or so, the company held smokers and dances as frequent as once a month. All firefighting apparatus and other equipment in the early years was purchased by the company with monies they gathered. Today the purchases are made with property tax monies under the control of the elected Board of Fire Commissioners.

On November 21, 1903, at a regular meeting of Rescue Hose Co. No. 1, the members were informed that the company had been duly incorporated in the State of New York. This made Rescue Hose the first officially incorporated and recognized fire company in the Town of Cheektowaga.

Rescue Hose was not immune from the very enemy it was to fight. In 1905, a hotel next to the firehouse erupted in flames. The fire was so intense, the Arlington Club House became engulfed in flames and the area's first firehouse was reduced to nothing more than smoldering ashes. All was not lost in this most embarrassing fire. The hose cart was salvaged and the company was able to carry on from temporary quarters further down Walden Ave. The need was seen for some sort of financial support which could be depended upon for replacing the lost equipment and provide for future expenditures. In 1905 the Walden Fire District No. 2 was formed. The taxes helped to build a fire house located on the site of the present fire house. The hose cart was sold to the fire district for $75.00 in May of 1905 and was soon after replaced with a 4-wheel wagon. The wagon, having been custom built, with it's buggy sorings, carriage lamps, green varnished wood, and gilded lettering was as beautiful as it was functional. It carried hose, axes, ladders, lanterns and all the equipment necessary for firefighting procedures of that day.

The fire district in the early days did not have benefit of radios and sirens. The men were summoned to the fire house or the scene of the fire by telephone or the neighbors. At the January 6, 1909 meeting, the chief reported that a house burned to the ground because of the lack of hydrants in the area and that most of the men were unaware that there was a fire. The blame for this was put on the inadequate alarm system. It wasn't until the middle of 1910 that a bell and then a whistle was installed to sound an alarm.

In 1911 the company formed a Ladies Auxiliary which met for several years until it was disbanded. A drum corps was started at the same time. This group performed in parades and for special events for many years and was considered quite good. The company acquired the drums and sticks while the members of the corps took care of all other expenses.

The hose cart which served the company and fire district for so many years was finally sold in March of 1914 to the Rochester Exempts Association for $75.00. The first rumors of a new truck and fire siren were circulated at the end of 1914 and by the end of 1915 the fire district had its first gas-powered apparatus. Even the fire company was not immune from crime, the magneto was stolen from the truck not long after being put in service.

The company was continually making purchases of recreational items for use by the members. The first item was a Victrola and a dozen records. Later a piano and pool table were added. Almost all acquisitions as such were made by the company with their funds since the district and town were not as sound financially back in 1928 as they are today. As a matter of fact, the company made two loans to the district and town totaling $2,200.

The year 1929 is of special importance to the company. It was in the early part of this year that Rescue Hose bought the old school house at 72 Randolph. This building was the nucleus around which the present Randolph Hall was built. Along with the building, the entire corner property was bought. At the corner of Doat and Randolph was a two-story building which was used as a meeting house for a Boy Scout troop sponsored by the company. This building was demolished some years ago due to the age and the need for more parking spaces for hall patrons.

January of 1931 was a time when the company was re-organized. On a motion by Edw. Janiak and seconded by B. Zablotny, the company voted to have eight directors elected every September. These directors would have full charge of building finance bonds and the company treasury.

1932 was also the first year that any formal training was given the active members of the company. Seven men were instructed to drill with the Buffalo Fire Department for a period of time. First aid courses were also attended by twelve men, giving them their first training in that field.

At this point in time, the firefighting apparatus and the fire District office was located at temporary quarters at 1236 Walden Ave. The present firehouse was officially dedicated to the public and put into service on October 25, 1936. The original structure was a two-story brick and concrete building having two truck bays. In 195 , an addition was erected to the north. From housing two trucks, the firehouse now has five trucks under its roof.

On June 26, 1938, the Board of Fire Commissioners presented the first 25 Year awards to eight members of the company. This practice is still followed as a way of honoring the unselfish dedication of the men.

The trophy case in the firehouse contains a wooden axe. This axe was presented to the company on December 6, 1939 by the Captain of the Welland Hose Company No. 1 of Ontario, Canada. This was the first of many times that the Canadian firefighters were represented at an inspection or event.

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

Through the efforts of all the members,

at the University of Montreal, Canada, and

before April 17, 1975) were told that the

Through the efforts of all the members, the fundraising activities, and the donations of friends, the first mortgage for the Randolph Hall was burned on September 3, 1941—the 38th anniversary of the company.

The war years made it rough for all volunteer organizations, especially the fire companies. Manpower was at its lowest. Some companies allowed high school boys to answer alarms just to assure the people that someone would respond. Rescue Hose, just as other companies, even had a "guard" on duty 24 hours a day to sound the alarm for any reason.

The original uniform consisted of dark pants, a red shirt with a large emblem in front, and a "pillbox" hat. In 1962 the fire commissioners voted to adopt the double-breasted blue serge uniform of the Buffalo Fire Department. The uniform is the same as today's, except that newer materials are used.

The Fiftieth Anniversary of Rescue Hose Company No. 1 was celebrated on September 3rd, 1963. The banquet was held at the Buffalo Trap and Field Club located at the Buffalo Airport. This year, for the Seventy-Fifth Anniversary, the celebration will be held at the Executive Inn on Genesee St.

From 1963 until 1978, the company experienced many of the common problems and growing pains all fire companies have at one time or another.

In the following twenty five years, 1953 to 1978, the company continued to grow. The Randolph Hall was remodeled and in the early 1960's the company started the annual coin card drive to raise funds for the many functions run for the membership. The district also was growing. It had acquired five trucks by 1978. This consisted of a snorkel, two pumpers, a quad (ladder truck), and an emergency truck. The chief and assistant chief also had district cars.

The people of Walden Fire District No. 2 should be proud of the men that serve them. Rescue Hose has always been No. 1 in the town and the members of the company intend to continue this tradition.●

ONE CAMBODIAN'S STORY

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. ANDERSON of Illinois. Mr. Speaker, I would like to place in the RECORD extracts of a report by an American Foreign Service officer who interviewed Pin Yathay, after Mr. Yathay successfully escaped from Cambodia in June 1977:

[Extracts from an airgram report by an officer of the American Embassy at Bangkok, Oct. 26, 1977]

THE STORY OF PIN YATHAY*: ONE MAN'S TREK THROUGH CAMBODIA

EVACUATION FOR "THREE DAYS"

Pin Yathay, 34, Director for Supply-Procurement, one of four directorships in the former Ministry of Public Works of the Government of the Khmer Republic, was distressed over corruption in the Government of the Khmer Republic (GKR) and felt some sympathy for the Khmer Rouge in the spring of 1975. On April 17, he joined most Phnom Penhois, he said, in welcoming the peace which was expected to follow the Khmer Rouge takeover. He planned to remain in Cambodia to serve in rebuilding the country. He was an engineer, trained for five years at the University of Montreal, Canada, and thought that his talents could serve the nation.

At 11:00 A.M., April 17, 1975, white flags began to appear throughout Phnom Penh. The Khmer Rouge were soon thereafter reported to be urging the citizens to leave the city temporarily. Several non-Khmer Rouge messengers arrived in south Phnom Penh where Pin Yathy resided and urged the families to leave the city. At that point no force backed the exhortation. Huddled with his family of eighteen—his wife, 3 children aged 9, 6, and 3, his parents, a brother and his family, a sister and her family, and an 18-year-old male cousin—they decided to try to remain, both in Phnom Penh and in Cambodia. Later in the evening they joined hundreds of others taking refuge in a major Pagoda of south Phnom Penh. The next day, April 18, Khmer Rouge soldiers appeared at the Pagoda and demanded that everyone quit Phnom Penh. Weapons were used to emphasize the point. Pin Yathay and his family left the Pagoda. After temporarily taking refuge in a school on the outskirts of Phnom Penh, Pin Yathay was forced to leave the city. Khmer Rouge soldiers told the citizens of Phnom Penh that they must leave the city for three days so that the city could be "purified." Moreover, the Americans were going to bombard Phnom Penh. They were told not to bother to take much with them since they would return quickly to the city. Pin Yathay, in retrospect, thinks the Khmer Rouge cadre probably thought the evacuation would last only three days, but he is convinced that Angka intended the evacuation to be permanent and to lead to the death of most of the population. . . .

Deaths occurred in the first few days of the evacuation. Being the hottest month, the April heat was unbearable. Those forced to leave hospital beds, pregnant women and the aged were the first to succumb. There were only scattered reports of executions. During the first days, Pin Yathay was aware of the execution of one youth, who attemoted to return to Phnom Penh to get his papers. After one failure, he tried again and was summarily shot. Other, similar stories were heard. . . .

Although in general he had wanted to stay in Cambodia, conditions enroute to Chakmau led Pin Yathay to decide that they should attempt to escape through Viet-Nam. He changed his mind, however, when he heard on the Voice of America that the United States would evacuate its mission in Vietnam during the next week. How ruefully, he said, he later regretted that decision.

EARLY DAYS

When he arrived in Chakmau, a village previously controlled by the Khmer Rouge, his family was assigned a house along with others. They were put to work immediately. Being strong, he was assigned to cutting forests and bamboo, the most difficult work. At that time they worked only during daylight hours. All were required to register and write biographic resumes. Pin Yathay abbreviated his name and wrote merely that he was an engineer.

Food was adequate, although a shock for those accustomed to a good life in Phnom Penh. Death from disease among the weak became common. Extreme nervous conditions were frequent and deaths resulted. Suicides were also not rare. When a former GKR Lt. Colonel heard that his identity had been discovered, he took his own life. Pin Yathay was not aware of widespread executions, but said that, during that period, individuals or small groups were called away and disappeared. He presumed they were executed.

RETURN TO ANCESTRAL HOMES?

After remaining for about three months in Chakmau, the "new Cambodians" (those who were not under Khmer Rouge control before April 17, 1975) were told that they should return to their ancestral homes. With that news Pin Yathay determined to move across Cambodia to try to escape into Thailand. He claimed that Cudong was his ancestral home. The "new Cambodians" were then loaded on trucks, presumably to return to their old homes. However, when the trucks reached Takeo, the new Cambodians were told to unload. They were asked rhetorically how they could expect to return to their homes when crops needed to be cultivated. Pin Yathay and his family remained in Takeo for three months.

During this period in Takeo, undernourishment began seriously to affect the health of most "new Cambodians." Pin Yathay himself remained in comparatively good health and was assigned the difficult labor of digging new canals. Khmer Rouge cadres were ignorant and forced them to dig canals in such ways that frequently the water would flow in the opposite direction from that desired or would not flow at all. He kept quiet, even though he was an engineer and could have helped. Criticism was not welcome. In Takeo, executions became more common. With identities known or suspected, former Phnom Penhois began disappearing in increasing numbers. Pin Yathay mentioned specifically the execution of former Undersecretary of the Ministry of Culture, the writer, Lien Hap An; former colonels; and other government functionaries. He ceased calling himself an engineer, claiming that he had been a low level technician in the Public Works Ministry.

TO PHUM LEACH

In December, 1975, the "new Cambodians" in Takeo were again told that they should return to their ancestral homes. Attempting to get as close as possible to Thailand, Pin Yathy claimed Battambang as his home province. In fact he only had relatives of his wife in Battambang. Again the several thousand "new Cambodians" were loaded on trucks, supposedly to return to their old homes. People were pressed like sardines on the trucks, forced to leave behind most of the few belongings they had managed to retain thus far. Pin Yathay's family lost their last bicycle at that point. An invalid woman confined to a wheelchair was left to care for herself in the road, since there was no room for her wheelchair on a truck. Her death was certain, Pin Yathay said, but characteristic of the Khmer Rouge policy of deliberately reducing the population.

The trucks headed toward Battambang, but at Pursat (Pouthisat Province) the caravan turned left through Phum Leach to the forested mountain area about ten miles south of Phum Leach. Pin Yathay estimated that half the Cambodians, undernourished, weakened by disease and exposure to heat and weather, died enroute to Pursat.

The survivors were little better off. They were dumped in the forest in torrential rains and told to build their own huts. Still relatively fit, Pin Yathay was assigned work as a tree cutter. During this period many "old Cambodians" who had been living in the Cardamom Mountain range moved into the area of Pin Yathay's camp. He assumed that Khmer Rouge were emptying the mountainous area of its population to prevent their escape into Thailand. Pin Yathay noted rising resentment against Angka, even among the "old Cambodians."

Toward the end of 1975 many in the group were moved again to a location about ten miles west of Phum Leach. Pin Yathay volunteered to go with them, even knowing that conditions would be worse than in the present site. The move would take them closer to Thailand. Moreover, the more often one moved the less likely that one's former identity would be discovered.

Pin Yathay stayed in the Phum Leach area from December, 1975, to October, 1976. Food was adequate until early 1976, primarily because the communal kitchens which were established seemed to get greater supplies. However, after January, 1976, supplies dwindled. By April, 1976, Pin Yathay estimated that eight persons were sharing one tin of rice per day (¼ kilo per day). Work was extremely hard. Mosquitoes and disease plagued the population. Large numbers of the "new Cambodians" died. Pin Yathay used the money and treasures the family had brought from Phnom Penh to supplement their ration, usually through bribery of all too receptive Khmer Rouge cadre. Fourteen of the eighteen members of Pin Yathay's family who left Phnom Penh together died during this period in Phum Leach. His parents, a sister and brother, their children and his three-year-old child died. Pan Yathay, his wife, and their other two children were constantly sick.

During this period Pin Yathay made his first attempt to escape to Thailand. He failed, however, since other members of the escape party changed their minds. He recounted the difficulties he had with the Khmer Rouge when he returned, since he had been reported as having fled the camp. He finally managed to convince the Khmer Rouge cadres that he had been gathering wild potatoes and had left his children with a friend. His fabrication was accepted.

In March, 1976, Pin Yathay was sent without his family to the Tonle Sap, to assist in a drive to catch fish for food. The area had many "old Cambodians", but they rarely spoke to the "new". One evening, however, Pin Yathay was bathing alone when an "old Cambodian" approached him and whispered to Pin Yathay that he should not distrust all "old Cambodians". "Many of us are with you", he said. Pin Yathay did not dare respond, since it was possible that he was being provoked. Nevertheless, he believed the man.

At the Tonle Sap Pin Yathay also learned of a highly secret police organization, which he referred to as the "Chhlop" (phonetic). According to what he learned, the "Chhlop" have authority above even Angka, but few people are even aware of the organization's existence.

In May or June, 1976, Pin Yathay contracted beriberi. He was near death and begged to be permitted to return to Phum Leach to see his family. The Khmer Rouge finally relented but refused to allow a friend to accompany him to Phum Leach. With pills he purchased and took with him, he miraculously made it back to his family. He exchanged a gold necklace with a Khmer Rouge cadre for twenty-four tins of sweet palm syrup. Despite the fact that the palm oil can be dangerous, even lethal, it was soothing and Pin Yathay wanted to ease what he thought would be his last days. However, he recovered after a month . . .

ESCAPE

Until this time, Pin Yathay had managed to keep his nine year old son at home even though children of his age should have been assigned to live with the youth league.

He was repeatedly harangued for this. Khmer Rouge cadre accused him of being a reactionary, of having the "thought of imperialism's dandruff". "How could he selfishly keep his son at home, when the commune needed him?" The son, whom Pin Yathay clearly adored, finally told his father that he should go. Pin Yathay acquiesced. Three days later he learned that his son was dead. He cried as he recounted this story.

Pin Yathay then began plans for his escape. A group of several men and women, not all directly known by anyone but Pin Yathay, developed together an escape plan. Pin Yathay told his wife that he was planning to escape, but that she should stay behind. Women seemed to be standing the ordeal better than men. In their weakened condition he felt he would never be able to get them through the jungles and mountains to Thailand. His wife cried and pleaded with him to take her. Finally, he agreed that she could go.

So that he could make preparations, Pin Yathay managed to be transferred temporarily from his work in the forest and to be hospitalized. In fact, he managed each day to spend most of his time free. This arrangement provided time for planning and enjoying what Pin Yathay thought might be the last days of his life.

Plans were delayed by indecision among the eleven other escapees, some of whom wished to wait. Discovery by a Khmer Rouge cadre that Pin Yathay was neither in the hospital nor at work precipitated a decision. Pin Yathay was ordered to return the following day to the forest work, accompanied by the Khmer Rouge cadre. Final arrangements for flight required an additional day and Pin Yathay hoped to have a full night's flight to put distance between himself and the camp. He contrived the following scheme. His wife would feign sickness and he would plead for a day's delay.

When Pin Yathay failed to appear at the cadre's house to return to work, the cadre came to Pin Yathay's hut looking for him. He was greeted with the moans and cries of Pin Yathay's wife who said that Pin Yathay had gone to find medicine. Pin Yathay then appeared and explained that he could not leave until the next day. If his wife was still sick, he would take her to the hospital; then he could return to work. The cadre finally insisted that Pin Yathay accompany him to work where his superior could decide. Pin Yathay deliberately left his hammock in his hut.

CORRUPTION AMONG THE CADRES

Noting that the cadre had a Japanese watch, not a preferred Omega or Rolex, Pin Yathay asked the cadre the time and when the cadre informed him of the time, Pin Yathay commented that he thought the watch was slow. He should have an Omega. Pin Yathay added that he knew where he could get one, but it would cost the cadre, who worked in the commune kitchen, fifty tins of rice (25 kilos). When the cadre complained that this was too much, Pin Yathay said that he might be able to get it for 30 tins, but he would have to act quickly, the next day, since the owner of the Omega was being reassigned almost immediately to another camp. The cadre smiled, and Pin Yathay knew he had gained an ally to help him with his superior at the forestry worksite.

At first the superior was adamant that Pin Yathay must stay. Too bad that he had been so improvident as to leave his hammock in his hut. He would have to sleep on the wet ground. Finally Pin Yathay told the superior that the other cadre should be asked for confirmation if his wife's illness, since he had seen his sick wife and heard her cries. Eager for the Omega watch, the cadre vouched for the truth of Pin Yathay's story. He was permitted to return to his wife. Pin Yathay commented to me with disgust that corruption is common in Democratic Cambodia.

All twelve of Pin Yathay's cohorts gathered later that evening for the escape. It was May 24, 1977. At least two of the group were Khmer Rouge. Only three survived the trip. Pin Yathay's wife became extremely ill, forcing him to remain behind, briefly, until she died. Afterward, he could not find the others and trooped on alone. He ran into Khmer Rouge patrols three times, but was captured only once. He outwitted the Khmer Rouge and managed subsequently to escape. Without rations, he ate berries, roots, and occasionally trapped wild animals and insects in the rough, jungled mountain terrain. His sandals fell apart. His body was extremely weak, he said, but his spirit remained strong.

On June 20, 1977 he arrived at the Thai border, to be greeted by the pointed rifles of the Thai Border Patrol Police, who suspected that he was a Khmer Rouge soldier. He finally convinced them otherwise. He was stripped of his ragged remnants of clothes to make sure that no valuables were sewed in the linings, he said, and given the shirt and trousers he wore.

POLICIES OF DEATH

Commenting generally, Pin Yathay said that the new leaders of Democratic Cambodia seem to be committed deliberately to eradication of a large part of the population—the "dandruff of imperialism". He estimated that perhaps only three to four million Cambodians are still alive. One million of the pre-war population of seven million died during the war, and nearly half of the five million "new Cambodians" have survived the policy of the Khmer Rouge to reduce their ranks. This would leave, in Pin Yathay's view, a population of three to four million. Death is the primary policy instrument of the Khmer Rouge, Pin Yathay concludes.●

*Pin Yathay agreed to the use of his name in a public document.

CLOCK RUNNING ON WILSONVILLE

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. FINDLEY. Mr. Speaker, on August 1, 1977, more than a year ago, I introduced H.R. 8657 the Resource Conservation and Recovery Act Amendments of 1977, and desiring to have the views of the administration, requested Chairman HARLEY O. STAGGERS of the House Committee on Interstate and Foreign Commerce to ask for such a report. Chairman STAGGERS did so promptly.

After long delay I finally received a letter from the Department of the Interior, dated March 31, stating that its report on the bill had been forwarded to the President's Office of Management and Budget for final action.

I then addressed a request to James T. McIntyre, Director of OMB, urgently requesting the administration position. It is now August 17 and I have yet to hear from Mr. McIntyre or anyone else at OMB. I still do not know the administration's attitude.

I cannot understand why it should take OMB more than 4½ months to clear a report.

Passage of this type legislation is critically important for the entire nation, and especially because of the existence of a hazardous waste dump located within the town of Wilsonville, Ill.

No doubt many of my colleagues have read of dangerous problems that the people of Niagara Falls, N.Y., face. Beginning 35 years ago toxic chemicals were buried in a hazardous waste dump similar to the one at Wilsonville. Later a school and housing subdivision was built on the dumpsite. Now ooze believed to be highly poisonous and carcinogenic is bubbling out of the ground in this populated area. Women living there have suffered 50 percent more miscarriages than would be expected. And there is an abnormally high incidence of birth defects among children. Their future is permanently clouded. The lives of people may be harmed just because they have for years lived on top of a chemical dump.

There is nothing currently in law to

policy was insufficiently attentive to the

There is nothing currently in law to keep the people of Wilsonville from suffering the same fate. At Wilsonville hundreds of steel drums of benzine, pesticide residue, PCB leftovers, and other substances are buried on the edge of a residential area.

My bill would correct weaknesses in the Solid Waste Disposal Act of 1976. It was my hope that this legislation would receive prompt consideration so as to eliminate or minimize the potential hazards that chemical wastes possess to human and animal life.

Under my bill hazardous wastes could not be buried near residential areas, and any so located would have to be moved. Property on which hazardous wastes were buried would have to be dedicated to public ownership.

Regulations of such sites is today totally inadequate.

The situation is critical as the tragedy at Niagara Falls obviously shows. Too much time has already elapsed and the clock continues to run on Wilsonville.●

NUCLEAR NONPROLIFERATION ACT OF 1978

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. BINGHAM. Mr. Speaker, the Nuclear Nonproliferation Act of 1978, which it was my privilege to sponsor, gave impetus to many important and necessary processes. One of these was the U.S. sponsored international nuclear fuel cycle evaluation (INFCE). Hopefully, this international evaluation—the first of its kind—will result in a consensus as to which new technologies and institutions can best help to provide security against the spread of nuclear weapons in the years ahead.

In forging such a consensus, sober but imaginative thought will be required, not only by the United States but by all participating governments. An example of such thought was recently provided by Dr. Joseph Nye, Deputy to the Under Secretary for Security Assistance, Science and Technology, in a July 12 speech before the Uranium Institute in London. In his speech, Dr. Nye discusses not only a possible framework for a more proliferation-resistant world, but also details the technological possibilities now being pursued by the United States in increasing the efficiency of the existing light water power reactor. Among Dr. Nye's other points, two of the most important are: First, that plutonium does not provide a solution to the short- and mid-term energy security problems which we and the world at large now face, and second, that if we fail now to fashion responsible and credible solutions to the proliferation risks posed by advanced nuclear systems, we may be deprived of their use altogether in the future as a result of public fears and hostility.

I am sure that those who have worried in the past that the U.S. nonproliferation policy was insufficiently attentive to the energy needs of other countries will find Dr. Nye's speech balanced, conciliatory, and free from dogmatism and exhortation. His remarks encourage us, however, to think more critically about the prospects for the future and about the complex trade-offs that necessarily must be made.

I insert herewith the final section of Dr. Nye's address:

URANIUM AND THE ROLE OF PLUTONIUM

U.S. policy is based [among other considerations] on . . . the need to keep perspective in balancing energy and military security problems. Plutonium does not provide a solution to the short and mid-term energy security problems, while its dispersal and utilization before the international system has learned how to cope with it threatens to add to the world's security burden. Other technologies on the other hand do not *now* commit us to political problems we don't know how to deal with. For these reasons, the United States Government has opposed plutonium recycle in thermal reactors, which offers only marginal (if any) economic or energy security benefit. Diminished dependence on uranium imports can be accomplished more economically and safely through modest national stockpile programs.

At the same time, we have not opposed breeder reactor R&D programs because of the greater range of uncertainty surrounding estimates of their energy costs and benefits. A key element in this evaluation is the question of probable uranium resources. And since no one knows the answer to that question with certainty, we must be sure that we weigh the risks of being wrong from both the energy and the military security point of view.

Essentially, nations are making energy and economic security bets about the availability of uranium and its likely price on the one hand versus the capital costs of the breeder reactor on the other. There are large uncertainties in the breeder capital costs and fuel cycle costs. If we consider the range of these estimates, we see that the lower priced breeder would compete with present LWR's using uranium oxide priced at about $60/pound; while the more expensive breeder would compete with uranium oxide priced at about $200/pound. The improved LWR would compete at even higher uranium prices. We do not know *now* what the competitive costs will be, but it does raise the following questions. Will the capital costs of the breeder escalate as has occurred with many high technology projects during the commercialization process? Will uranium reserves be exhausted and prices increase rapidly? Or will more resources be found as higher prices stimulate further drilling?

No one can answer these questions with certainty. Yet given long lead times in high technology R&D projects, decisions must be made before all the facts are known. In order to maximize our area of common interest, we should strive for a situation in which nations can place different long term energy bets without jeopardizing each other's security interests. We ask those who bet on breeders to include security costs which they impose on others, particularly safe fuel cycles, in their economic calculations. At the same time, they can rightly ask us for greater assurance on fuel supplies, and we are presently exploring bilateral and multilateral fuel assurance options. Then each nation can bet as it wishes on the economics of the breeder without imposing the political costs of its actions on others.

We ask those who choose to go ahead now with the breeder to include the following factors in their decisionmaking process: First, avoidance of the temptation to reduce per unit capital costs by premature exports. The commercialization of the breeder (and reprocessing) should be limited to situations where it has compelling advantages. Economies of scale arguments dictate that only the largest nuclear programs could satisfy such a condition for commercialization. Second, fuel cycle facilities should be designed to make their misuse difficult and time-consuming, even though such design, as in the case of hot fuel fabrication, may involve additional cost. Third, efforts should be made to minimize flows of cold plutonium or fuels with high concentrations of fissionable materials even if this adds to transport costs. Fourth, multinational institutional arrangements should be utilized where there are compelling reasons to proceed with new technology. While such arrangements could produce benefits in economic efficiency, such steps would be desirable even if they led to a net cost.

Measures that would make these sorts of compromises possible are currently under discussion in INFCE. Certainly the way the U.S. will respond to requests for transfers for reprocessing of U.S. origin spent fuel will depend on the extent to which other countries have made serious efforts to recognize and take proliferation concerns into account. At the same time, we are ready to take their energy security concerns into account.

PROSPECTS FOR STABILITY AFTER INFCE

The United States sees INFCE as a cooperative international effort to evaluate the role of nuclear power technology in an international context and help develop an objective appreciation of the non-proliferation, economic, and other implications or different fuel cycle approaches. INFCE provides a two-year period in which nations can re-examine assumptions and find ways to reconcile their overlapping but somewhat different emphasis on the use of nuclear energy. While INFCE has a technical cast, it is part of the political process of laying a basis for a stable international regime to govern nuclear energy through the end of the century.

A stable international regime should build upon and reinforce the previous accomplishments of the Atoms for Peace Program, the IAEA and the NPT. Even if all new institutions are not under the jurisdiction of the IAEA, they should be consistent with it, and help to reinforce the safeguards system that has separated peaceful and military uses of nuclear energy in the past. The IAEA should be envisaged as the center of the institutional system.

A stable regime should be designed to minimize the global distribution of weapons usable materials and vulnerable points in the fuel cycle, while adequately meeting the energy security needs of all countries. One can visualize five basic norms for a strengthened international regime: (1) full scope safeguards; (2) avoidance of unnecessarily sensitive facilities; (3) use of diversion resistant technologies; (4) joint control of sensitive facilities; and (5) institutions to insure the availability of the benefits of nuclear energy.

The first norm—full scope safeguards—is basic to the existing international regime that we are trying to reinforce. It is increasingly accepted that full scope safeguards provide a credible assurance of peaceful intent, without interference with research or power programs. The second norm says countries should avoid sensitive facilities that involve weapons-usable materials unless they can be shown to be economically necessary. While allowing a range of interpretation, this norm rules out certain activities when they are clearly economically indefensible. This does not reserve sensitive facilities only to existing sites, but it does emphasize the shared interest of members of the international community in minimizing the vulnerable points in the global fuel cycle, and thus reducing the burden upon the international safeguards system.

The third norm—use of technology that is as proliferation resistant as possible or appropriate in a particular institutional situation—appears to be attracting support. A number of interesting ideas have been suggested in the past years. While still too new to judge fully, such ideas indicate the value of continuing the search. At the front end of the fuel cycle, France has been investigating chemical enrichment techniques that ideally could increase the difficulty of producing weapons-grade material. The proponents of CIVEX reprocessing for a breeder system have suggested processes and stipulated a useful set of criteria for terrorist proofing against which their technical suggestions can be judged.

These criteria are:

1. No pure plutonium in storage.
2. No pure plutonium at any intermediate point.
3. No way to produce pure plutonium by simple process adjustment.
4. No way to produce pure plutonium without equipment modifications.
5. No way to carry out equipment modifications with facilities and components normally on site.
6. No way to carry out the required equipment modifications without plant decontamination or entry into extremely high radiation fields.
7. Length of time required for successful diversion should be such that adequate time is available for national and/or international responses.

In the area of research reactors, both France and the U.S. are developing high density fuels that will provide sufficient neutron flux at lower levels of enrichment to cover nearly all experiments for which most research reactors are used. In short, developments and explorations in technology can help to create an environment for a stable regime, though it should be remembered that technical fixes alone do not solve the problem of proliferation.

The fourth and fifth norms suggest the need to develop two types of institutions, both of which are included in the INFCE terms of reference. First we need to explore the characteristics of institutions to deal with the possibilities of effective joint control. Where sensitive facilities are economically essential and difficult to safeguard nationally, we should examine together forms of multinational ownership and management which might help to reinforce the effect of international safeguards. The political costs of abrogating an arrangement that involves a number of states would be added to the costs of dismissing IAEA inspectors. Criteria and procedures can be developed for "effective multinationality" which requires the involvement of a number of states while inhibiting replication or dissemination of the sensitve technology to national facilities.

Finally, we need to develop institutions to implement the principle of assurance of benefits. Supply assurances, fuel trusts and international spent fuel repositories are good examples. We are already making progress in discussions of a fuel trust, and President Carter has announced willingness to make a substantial commitment. Essentially this could be a stockpile of fuel to be released to countries which have all their facilities under safeguards, have a clean safeguards record, and have chosen not to develop sensitive facilities on a national basis. By relieving the burden on the world safeguards system, these actors deserve special recognition and help with their potential energy security problem. Such a fuel trust need not be unduly large to accomplish its purpose of reinforcing the reliability of the uranium market by reducing political risks. Complementary bilateral and multilateral assurance measures can also contribute to this goal.●

MILLER INVESTIGATION OF IMPACT OF LONGSHOREMEN ACT ON SMALL BUSINESS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. MILLER of California. Mr. Speaker, a great crisis has been brewing over the last several years in the recreational boat and marina industry which threatens not only the future of these small businesses, but also the millions of boat owners who utilize them. In my own district, the cities of Richmond, Martinez, and Pittsburg have all constructed new marinas for use by the citizens of Contra Costa County, and throughout the country. Other cities and private interests have similarly invested large amounts of money into such projects.

Now, the future of these marinas, and the future of the small, recreational boat business in general, is in serious jeopardy. This crisis has been precipitated by the decision of a Department of Labor bureaucrat who, without any justification in law, decided to apply the Longshoremen and Harbor Worker's Act to the small boat industry. Overnight, insurance rates skyrocketed without any corresponding increase in injuries among employees. In some areas, rates rose by as much as 400 percent, forcing businesses either to pay the higher rates—and correspondingly increase their prices to boatowners—or close down.

Working conditions in the small boat business, and at marinas, make wholly inappropriate the application of insurance rates which were designed for large scale, injury-prone shipbuilding and repair yards. Assistant Secretary of Labor, Daniel Elisberg, who as a Senate staff person participated in the drafting of the 1972 amendments to the Longshoremen's Act, recently acknowledged this disparity before the Subcommittee on Compensation, Health, and Safety, of which I am a member. Mr. Elisberg told the subcommittee:

> There have been relatively few injuries reported by this industry. During the three months July–September, 1977, when we conducted a survey, only 158 such injuries were reported nationwide, of which only 62 involved lost time from work. In February, there were 24 lost time injuries reported; in March, 44; and in April, 28.

For the sake of comparison, I would like to point out that there were 171,300 injuries in all occupations covered by the Longshoremen's Act throughout the Nation in 1976. Given the infinitesimal injury rate in the recreational and marina businesses, it strikes me as nothing short of preposterous to impose the high rates of the LHWA, which were designed for hazardous occupations, to these small scale firms.

The U.S. District Court for the Northern District of California reached a similar conclusion earlier this year. In the case, Boating Industry Associations, and others, against Ray Marshall, the court found no legal justification for applying the 1972 amendments to recreational boat builders and marinas. The court ordered the Department of Labor to rescind notice 21 and instructed the Federal Government to declare—

> That it is no longer the official position of the Labor Department that the LHWA applies to recreational boat builders and marinas.

Together with 31 House and Senate colleagues, I wrote to the Secretary of Labor and requested that he accept the ruling of the district court and not file an appeal. Unfortunately, the Labor Department has decided to pursue the appeal.

It was because of the obvious failure of either the courts or the bureaucracy to address the concerns of small businessmen and their millions of affected customers that I introduced H.R. 8878 last year. This bill would remove small boat builders and marinas from coverage under LHWA if the workers do not work over the navigable waters of the United States, and if the workers are covered by State workman's compensation laws. Despite a great deal of testimony before the Subcommittee on Compensation, Health and Safety, it now appears unlikely that H.R. 8878 will be enacted this year. For boatmen in California, the problem will take on even more serious overtones because the State legislature has not renewed the coverage of these yards under the State fund. For many builders and marinas, the future appears extremely bleak.

I am very disappointed that enactment of H.R. 8878 will have to be delayed. For many months, I discussed this legislation with business and labor organizations, Members of Congress, representatives of the Department of Labor, and others. I do not believe that the specific provisions of this bill would cause any of these interests any significant problems. Yet promises of cooperation and good faith have apparently gone by the board, and the penalty will be unjustifiably paid by small boatmen.

In order to establish a sound empirical base for next year's action on this legislation, I intend to request the General Accounting Office to begin immediately an investigation of the legislative history and fiscal impacts of notice 21 on small recreational boat builders and marinas. I also am requesting the GAO to investigate the ripple effect of notice 21 with respect to the closure of yards increases in mooring, launching and storage fees for boatowners, and other related cost increases which are passed along to those who patronize marinas and recreational boat yards. GAO will, in addition, be asked to compare the injury rates in small businesses with the rates in larger shipbuilding establishments in order to determine whether there is any rational basis for imposing the high LHWA rates on small employers.

In addition, I will ask the GAO to investigate whether evidence exists to determine if insurance companies are exploiting notice 21 in order to impose unjustifiably high rates for recreational boat makers and marinas.

Mr. Speaker, this investigation will lay important groundwork for legislative action in the next session. I intend to pursue the policy of H.R. 8878 because it is

evident to me that the Longshoremen and Harbor Worker's Act has been seriously misinterpreted and misapplied by the Department of Labor. The effects of notice 21 are being felt by employers, workers, and customers alike. This unreasonable, and legislatively unjustified policy, represents a very serious sword over the heads of the entire recreational boating industry which must be corrected. I am hopeful that, armed with additional evidence of the ill-wisdom of this interpretation, the Congress will move more expeditiously next year.●

BOSWORTH MUZZLING

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. ANDERSON of Illinois. Mr. Speaker, yesterday the chairman of the Economic Stabilization Subcommittee (Mr. MOORHEAD of Pennsylvania) sent me a copy of a letter he received from the President's principal economic adviser, Charles Schultze, in response to charges that the director of the Council on Wage and Price Stability, Barry Bosworth, had been muzzled by the administration. Chairman MOORHEAD also placed a copy of the Schultze letter in yesterday's CONGRESSIONAL RECORD at page 26561.

Both Mr. Schultze and Chairman MOORHEAD insist that the Council on Wage and Price Stability continues to be free of "all political and bureaucratic pressures," even though any future comments by Mr. Bosworth on pending wage negotiations must be cleared by a new "coordinating committee" on wage negotiations, to be chaired by Labor Secretary Marshall. How now downed COWPS can be free of political and bureaucratic pressures when its findings are filtered through a political-bureaucratic censorship board is beyond me.

At this point in the RECORD I include the text of a letter I wrote yesterday to Chairman MOORHEAD raising certain questions which have not been satisfied by the Schultze letter. I seriously hope the Economic Stabilization Subcommittee will take a hard look at this rather than simply swallowing whole the administration's weak defense. The letter follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., August 16, 1978.

Hon. WILLIAM S. MOORHEAD,
Chairman, Subcommittee on Economic Stabilization, Committee on Banking, Finance and Urban Affairs, Washington, D.C.

DEAR BILL: Thank you for showing me the courtesy of sending me a copy of Charles L. Schultze's letter to you on the Bosworth muzzling charge along with an advance copy of your press release.

I certainly would not presume to suggest any changes or additions to your press release. I would, however, be interested in knowing whether your apparent acceptance of and agreement with the Schultze explanation indicates that you consider your inquiry closed.

I ask this because it seems to me a number of facts have yet to be ascertained and a number of questions answered. Have you asked for and received a copy of the specific instructions, if any, given to Bosworth and others regarding their future statements on pending wage negotiations? Have you received from Secretary Marshall, who will be chairing the new "coordinating committee," any written information on the specific responsibilities of the committee and how it will operate? Have you asked Director Bosworth whether he thinks the required clearance of his statements on pending wage contracts with the "coordinating committee" will in any way undermine his ability to function as intended? What, for instance, would happen if the COWPS staff studied a pending wage matter and found it had great inflationary potential, and yet the "coordinating committee" refused to permit COWPS to make this finding public? Why has the Administration's top liaison with labor, Landon Bulter, been placed on the "coordinating committee?" Does his presence indicate that all future statements on pending wage negotiations must also be cleared by organized labor as well as the coordinating committee? How can Chairman Schultze (and you in your release) insist that COWPS will continue to be free of political and burcaucratic pressures when it is at the same time conceded that future COWPS statements must be approved by a political and bureaucratic "coordinating committee?"

In reading Chairman Schultze's letter I have no problem with the Administration attempting to "coordinate" its policies with respect to pending wage contracts. Obviously, the Administration should speak with one voice on its approach, strategy, and role, if any, on specific negotiations. But policy must be distinguished from economic findings. To subordinate the findings to the policy and, if they're not consistent, to suppress the findings, would be dishonest. To take an example closer to House and home, it would be like asking the Congressional Budget Office to report on the inflationary impact of a particular bill, then concealing that report if it were not consistent with the policy embraced by the committee in reporting that bill.

I would again remind you that the chief justification for creating the Council on Wage and Price Stability was to have an "independent" inflation monitoring capability within the Administration that could serve as an early warning system and focus government and public attention on inflationary situations. It was never intended to be an economic policy-making or policy advisory board in the sense that the Council on Economic Advisers is. It is essentially an inflation fact-finding and whistleblowing board and, to the extent that its findings are filtered through a political/bureaucratic "coordinating committee," its principal mission is jeopardized if not destroyed.

In view of the above comments and questions I hope you will see fit to pursue this matter further through public hearings and additional inquiries of the Administration on the matters I have raised.

With warm personal regards, I am

Very truly yours,

JOHN B. ANDERSON,
Member of Congress.●

IMPROVING THE CLIMATE FOR INVESTMENTS, ESPECIALLY FOR SMALL BUSINESS

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. LAFALCE. Mr. Speaker, one of our most deeply troubling economic problems is the inadequate level of investments in the private sector. This is certainly not a new phenomenon, but it has been worsening in recent years.

Investment decisions are made on the basis of many considerations, including labor costs, transportation possibilities, communications, energy supplies, and local taxes. However, the general trend of investments is less flexible and is dependent on fewer variables. Among these, one of the most crucial is Federal tax policies for businesses; and it is quite clear that existing Federal business taxes have not been encouraging investments in the private sector. I might add at this point that it is all too often forgotten that without investments, the private sector may dry up and wither away.

The House's passage on August 10 of H.R. 13511, the Revenue Act of 1978, is a welcome first step toward rectifying this lamentable situation. This bill contains a number of provisions which will directly affect the supply of equity capital and will indirectly induce more investments in the private sector. They should form the basis of future measures which could further improve the climate for investments in this country.

The Revenue Act has four provisions which provide investment-related tax relief to industry. First, it lowers the corporate normal tax rate on taxable incomes above $100,000 from 48 percent to 46 percent, which could free hundreds of millions of dollars for reinvestment in corporations and industries. Second, it allows more flexibility in the use of the investment tax credit by businesses, makes the 10 percent credit permanent (under current law, it would revert to 7 percent in 1981), and extends the credit to rehabilitation expenditures for existing buildings used for business activities. Third, it allows use of the full credit on pollution control facilities which are amortized over 5 years and have actual useful lives of at least 5 years. Presently, only one-half of the investment may be covered. Fourth, it increases from $5 million to $10 million the limit on capital expenditures made over a 6-year period financed with industrial development bonds.

This bill also contains a number of provisions that are of special interest to small businesses. First and foremost, it introduces the long-overdue concept of a progressively graduated corporate income tax for incomes below $100,000. The following chart shows the new system and compares it to current tax rates:

Taxable income	New rate (in percent)	Current rate (in percent)
Less than $25,000	17	20
$25,000–$50,000	20	22
$50,000–$75,000	30	48
$75,000–$100,000	40	48

This momentous change is directly targeted at the equity problems which many small business owners have been confronting.

Further, certain changes have been made to the subchapter S provisions of the tax code. The subchapter S election permits owners to utilize the corporate form for business purposes, while still being taxed as if they had not incorporated. This election has been used by

many small businesses, but certain technical problems have caused a great deal of confusion and litigation, which has increasingly limited the effect of this provision. This bill corects some of these problems by: First, increasing the number of permitted shareholders in the companies; second, changing the eligibility rules with respect to shareholders who are husband and wife; and third, greatly simplifying the manner of making the election.

Another provision liberalizes the provision which allows individuals to deduct capital losses on certain venture capital investments against ordinary income. Finally, it expands the additional first-year depreciation allowance for both the percentage and the maximum dollar amount. This last change is specifically and solely targeted to small businesses.

The bill contains numerous provisions that will be of considerable assistance to owners of small businesses. As chairman of the Small Business Subcommittee on Capital, Investment, and Business Opportunities, I strongly applaud these changes which I have long backed; and I will work along these lines to further assist small businesses in retaining their very noteworthy and indispensable place in the American economy.

The Revenue Act affects the amount of equity capital available for new investments by cutting taxes on capital gains by $1.9 billion and setting a maximum tax rate on capital gains of 35 percent, instead of the present 49 percent. In addition, the bill employs the concept of indexing the capital gains tax, which means that the capital gains to be taxed would be those realized after the cost of an asset is adjusted for increases in the rate of inflation. These represent the first step in a complete reappraisal of the complicated relationship between the level of taxation on capital gains and the level of investments.

Mr. Speaker, all of these provisions can only work to improve the presently mixed climate for investments which are vital for the continued health of our economy.●

ENCROACHMENTS ON FREEDOM OF THE PRESS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. CRANE. Mr. Speaker, "were it left to me to decide whether we should have a government without newspapers or newspapers without a government, I should not hesitate for a moment to prefer the latter." Though Thomas Jefferson declared his choice close to 200 years ago, he could very easily be standing here today addressing you, my distinguished colleagues. M. A. Farber sits in jail today, the victim of the latest judicial trespass into constitutionally protected areas. Twenty-six States boast shield laws, yet many have been weakened by interpretation and provide little or none of the thrust originally intended; in the Farber case, the judge required the production of privileged information, the New Jersey shield law notwithstanding. As a result of the recent Zurcher decision, law enforcement officers, armed with search warrants, can make surprise searches of newsrooms looking for information on possible crimes by third parties. In regard to freedom of the press, judicial restraint is foreign indeed, and we the citizens stand to lose the most should this trend not be halted.

Because of the recent encroachments on the freedom of the press, specifically the Farber affair, and the accompanying threats to our individual liberties and well-being, I am introducing today a bill to protect this constitutionally enumerated freedom. By prohibiting the courts from issuing search warrants and subpenas on journalists, this bill insures that their right to pursue their profession, the gathering of news information, shall not be abridged.

That the Founding Fathers recognized the need for a vital press is well-documented, and Thomas Jefferson's devotion to this principle needs little expansion. Others joined the cry. In the Annals of Congress, James Madison asserted:

> If we advert to the nature of republican Government, we shall find that the censorial power is in the people over the Government, and not in the Government over the people.

Even so Federalist a leader as Alexander Hamilton recognized the rightness of this cause. In the oft quoted People against Croswell case, he affirmed:

> The liberty of the press is the right to publish with impunity, truth, with good motives, for justifiable ends though reflecting on government, magistracy, and individuals.

The message set forth was clear: An adversary relationship between the press and the Government is not only acceptable, it is absolutely necessary in a democratic system of Government. The ballot box demands a knowledgeable electorate; no more reliable source of information exists than a free press.

Recognizing the essentiality of free speech, members of the court have echoed these sentiments in more recent times as well. In the late 1930s, the court elevated freedom of the press and freedom of speech to a "preferred position," with the burden of proof clearly laid upon the Government to show the unconstitutionality of an utterance or printed word. In the 1961 case of Konigsburg against State Bar of California, through a dissenting opinion that would prevail with time, Mr. Justice Hugo Black declared that he—

> . . . did not subscribe to the doctrine that permits constitutionally protected rights to be "balanced" away whenever a majority of this Court thinks that a state might have interest sufficient to justify the abridgement of those freedoms . . . I believe that the First Amendment's unequivocal command that there shall be no abridgement of the rights of free speech and assembly shows that the msn who drafted our Bill of Rights did all the "balancing" that was to be done in that field.

Those who doubt the desirability of such a bill are likely to raise two concerns. First, what empowers the national Congress to place such restrictions on courts at the lower levels of Government? Clearly, the very authority Congress exercised in the 1964 Civil Rights Act limiting the States' powers to set qualifications for voting and the 1965 Civil Rights Act limiting the powers of the States to discriminate on the basis of sex and race in employment allows the National Legislature to step into his realm. Freedom of the press involves dissemination of information and necessitates a marketplace of ideas involving interstate exchange—interstate commerce. To fetter such intercourse to State boundary lines prevents the free and general discussion of public matters absolutely crucial to prepare the people for intelligent exercise of their responsibilities and rights as citizens.

The second concern is still more fundamental. People, especially those in public office, are likely to describe the dangers of press abuse. Indeed, the fear of a zealot press has been present throughout history. Many can cite example of misrepresentations, reports of less than the whole story, and outright lies. I have been the victim of such print at times. However, I return to the Constitution and Thomas Jefferson to explain that this risk is one that must be taken to insure that our basic liberties are not usurped. Only in the cases of freedom of the press and religion does the Constitution specify that Congress shall make no law to abridge. The press is the only constant and vigilant watchdog of the Government, the overexpansion of which our Founding Fathers so feared. Yes, the abuses by the press have occurred, yet I would argue that abuses by the Government have been more numerous and more egregious in nature.

In my own lifetime, in fact, in my children's lifetimes, those events called to mind by the key words "Watergate" and "the Pentagon Papers" brought to light the dangers of uncircumscribed power in the hands of those in office. Without a press free to disseminate information and expose wrongdoing, there is no restraint. Those who look to the Supreme Court for guidance and support in a clear interpretation of the Constitution come back with a list of decisions that caused the Wall Street Journal to dub it "the imperial Court." it is clearly time for Congress to get actively involved in this debate.

The legislation that I introduce today reflects the pure, straightforward, and absolute terms found in the first amendment. No journalist must respond to search warrant or subpena regarding the production of journalistic property. Essentially, this bill insures him the absolute confidentiality of sources, the unqualified freedom to gather news, and the uncircumscribed ability to distribute this information.

The essentiality of a free press to the control of Government interference in our lives is absolute. This need transcends the problems that have arisen in the past and those likely to occur in the future. As the rights of the press are usurped, so endangered are those very liberties which are the lifeblood in our American society. Without full exchange of information, our actions as citizens become shallow and we risk being mis-

directed. Examine the tenuous situation

article of considerable interest. They

for a narrow territorial sea

directed. Examine the tenuous situation created by recent restrictions on the freedom of the press and the ramifications in our democratic society. After such study, I urge my colleagues to join me in this effort to insure that we travel no further down the path to restricted press and expanded Government.●

THE COMMON HERITAGE ON LAW OF THE SEA

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. EDGAR. Mr. Speaker, at the recent meetings of the United Nations Conference on the Law of the Sea in Geneva, the Nepal delegation introduced a most interesting proposal. It took the form of 10 treaty articles, which would establish a "Common Heritage Fund" as part of the comprehensive Law of the Sea treaty on which the Conference has been working for 4½ years. On August 11, I introduced a resolution, House Resolution 1312, which would put the House on record as supporting the establishment of a common sense heritage fund. I am inserting below the text of the resolution for the benefit of my colleagues. To help explain the proposal, I am also inserting an article written by Dr. John J. Logue which appeared in the March issue of WORI Report entitled "Nepal 'Common Heritage Fund' Proposal Aims to Revive Sharing in Sea Conference." Dr. Logue is director of Villanova University's World Order Research Institute.

I believe that Nepal's proposal deserves our attention. For with it, Nepal is trying to revive the concept which inspired the calling of the giant Law of the Sea Conference, the concept that a substantial portion of the oceans and their resources should be regarded as "the common heritage of mankind."

What Nepal proposes is that a substantial amount of ocean mineral wealth, as much as $3 to $5 billion a year in the near future, be paid into a common heritage fund and used for four purposes. At least 70 percent of the revenues would be used to assist Third World development. The remaining revenues could be used to protect the marine environment, to assist in the transfer of marine technology to Third World countries, and to help the work of the United Nations, especially in the area of peacekeeping.

Nepal proposes that the source of the fund's revenues would be specified contributions from the exploitation of seabed mineral resources by coastal states. The seabed minerals in question would include those offshore as well as those in the deep ocean. In his background paper, Upadhyay argued that some offshore sharing was essential. He said that this was so because the overwhelming proportion of presently exploitable seabed mineral wealth is within the proposed 200-mile exclusive economic zone (EEZ) and because most of that offshore wealth will go to a very few nations, most of them rich.

I think Members will find Dr. Logue's article of considerable interest. They may be especially interested in his statement that, in his view, a generous common heritage fund would make it easier to secure agreement on other issues which have been troubling the Conference, especially the issue of the nature and powers of the International Seabed Authority. I might add that Dr. Logue is a close student of the law of the sea and has attended all seven sessions of the Law of the Sea Conference.

NEPAL COMMON HERITAGE FUND PROPOSAL AIMS TO REVIVE SHARING IN SEA CONFERENCE

The landlocked country of Nepal had introduced a major proposal for revenue sharing in the deadlocked United Nations Conference on the Law of the Sea. It is an attempt to revive the concept which inspired the convening of the giant Conference, the concept of ocean mineral wealth as "the common heritage of mankind." It comes at a time when there is pessimism about the future of the four-year old Conference as it moves toward its seventh working session to be held in Geneva from March 28 to May 12 (or 19).

The Nepal proposal would establish a generously financed "Common Heritage Fund" (CHF) as a key part of the comprehensive law of the sea treaty on which the Conference is working. The Fund's revenues, which might reach as much as three billion dollars a year in the near future, would be used principally to assist the development plans of low income states. Smaller amounts could be used to protect the marine environment, assits the transfer of marine technology to developing countries and to assist the work of United Nations, especially in peacekeeping.

At the Conference's February 6–17, "intersessional" meeting in New York, Nepal's UN Ambassador, Shailendra K. Upadhyay, circulated the text of ten treaty articles concerning the Fund. Carefully drafted, the Nepal proposal would require coastal states to contribute a certain percentage of the net revenues from their 200-mile "exclusive economic zones" (EEZ's) to the Fund. The amount contributed would depend on the size of those revenues and on the per capita income of the coastal state. The largest per capita payments would go to the poorest states. (Some sample figures are given below.)

Upadhyay believes that his country's proposal might make it easier for the delegates to reach agreement on the question which has stalled the Conference for more than two years, the nature and powers of the proposed International Seabed Authority (ISA). He feels that best way to revive the Conference is "to bring the Common Heritage back to life." In a background paper which he circulated with his CHF proposal he said:

"Future generations will judge the Law of the Sea Conference by its success or failure in implementing the Common Heritage principle. They will judge it especially by its success or failure in seeing that a substantial portion of ocean mineral wealth is used to build a just and peaceful world society.

"Unfortunately in the more than ten years since it was enunciated by Ambassador Pardo in the fall of 1967, the Common Heritage principle has suffered from misinterpretation, from attrition and from neglect. As the concept of the economic zone increased in popularity some nations insisted, wrongly and tragically in our view, that the economic zone and the Common Heritage were mutually exclusive. That idea makes a cruel hoax of the concept of the Common Heritage. For the overwhelming proportion of ocean mineral wealth and of marine species are found within the economic zone. And under traditional international law all that area, except for a narrow territorial sea, was traditionally regarded as res nullius, no one's property or as res communis, i.e. common property."

Upadhyay stressed that a very few nations would get most of the world's economic zone:

". . . only twenty-five nations would gain control of 76 percent of the world economic zone Out of these twenty-five nations, thirteen are developed nations like U.S.A., Australia, New Zealand, Canada, U.S.S.R., Japan, Norway and South Africa. These thirteen developed nations will acquire 48 percent of 76 percent of the world economic zone, while the developing twelve among the lucky twenty-five will only get 28 percent of the same. It will make the rich richer and the poor poorer, thus making the task of the establishment of the New International Economic Order well nigh impossible."

SOME DETAILS OF THE PROPOSAL

The Nepal proposal establishes institutions to govern the Fund and provides guidelines for determining the revenue to be paid into the Fund and the way in which those revenues are to be disbursed. (The following outline borrows to some degree from Richard Hudson's excellent study, 'Three Scenarios Revisited: The Law of the Sea, Ocean Mining and the New International Economic Order," available from the Center for War/Peace Studies, 218 E. 18th Street, New York, N.Y. 10003 for $1. That study includes the text of the Nepal proposal and a very valuable table indicating how much each of 129 nations and territories can expect from each billion dollars of development revenues disbursed by the Fund.)

Governance of the Fund.—A 36-member CHF Board of Governors would be the Fund's executive. Key decisions would require the consent of the one nation-one vote Assembly of the ISA. The Board would, in effect, have three chambers. The first, with eighteen members, would be based on geographical regions. The second, with nine members, would be drawn from "net contributors." The third, also with nine, would be elected from "net recipients." Substantive resolutions would need the votes of two-thirds of the Board to succeed. They would also require a majority within each of the three chambers.

Income of the Fund. This would come from three sources: revenues earmarked by the ISA from the international area; revenues from the continental margin where it extends beyond 200 miles; revenues from the EEZ itself. However the EEZ would be the major source of revenues and it is the major concern of the Nepal proposal. Two alternative plans, A and B, are offered for determining the amount the coastal state is required to contributed from its EEZ. Each would depend upon the per capita income of the coastal state as well as on the amount of the net revenues from mineral exploitation within the zone. ("Net revenues shall be defined as the difference between the cost of bringing the minerals to the surface and their selling price. The term cost shall include operating costs and amortization costs but not national royalties and taxes.")

Plan A developed out of the August 1976 *Barba Negra* proposal by which Ambassador Upadhyay was an original sponsor. That proposal was subsequently endorsed by leading internationalists such as Thor Heyerdahl, Jan Tinbergen, Maurice Strong, Lord Wilberforce, Charles Yost and Congressman Don Fraser. In the first five years of its operation the percent of net revenues required would vary from ½ to 10 percent, depending on per capita income, and, after that, from 1 to 20 percent. In hardship cases the Board and Assembly could reduce the required contributions of individual states by as much as one half. The great majority of Third World nations would "pay in" only ½ percent the first five years and one percent after that. And the great majority of them would receive much more than they would pay in.

Plan B tries a different approach. It focuses on this situation at the time the treaty comes into force. Production which is ongoing at that time will be required to make a very small contribution (0.1 percent-1.0 percent depending on per capita GNP) to the Fund. The contribution from areas under lease but not yet in production will be much higher (1 to 10 percent) once production starts. The contribution from deposits undiscovered at that point will be even higher (2 to 20 percent) once those deposits come into production. (See below "A Note on Amounts to be Contributed.")

Disbursement of Revenues from the Fund.—The ingenious system for disbursing the Fund's development revenues insures that the poorest states get the largest per capita amounts from the Fund. Roughly speaking, the nations which include the lowest tenth, in per capita income, of the world's population would get forty percent of the annual disbursement, the next lowest tenth would get thirty-two percent, the next lowest tenth would get sixteen percent, then eight, then four percent. Naturally the amount received would depend on population as well as on per capita income. However no state could receive more than fifteen percent of the total annual disbursement of the Fund for development purposes. The following figures (from Hudson's table) illustrate what certain countries might expect as their share of each billion dollars disbursed by the Fund.

AMOUNT TO BE RECEIVED FROM EACH BILLION DOLLARS OF CHF DEVELOPMENT FUNDS BY REPRESENTATIVE NATIONS

Country	GNP/cap	Population (millions)	Disbursement (millions)
Bangladesh	$70	72.5	$77.6
Mali	80	5.3	5.7
Burma	90	28.9	30.9
Zaire	100	22.9	24.5
Tanzania	108	14.0	15.0
India[1]	110	610.1	[1] 150.0
Kenya	151	12.1	5.9
China	170	852.1	[1] 150.0
Bolivia	200	5.2	1.1
Egypt	240	34.9	7.7
Philippines	262	39.0	8.6
Honduras	282	2.7	.6
Syria	320	6.7	1.5
Peru	335	14.5	3.2
Angola	390	5.8	1.3
Colombia	426	22.5	5.0
Turkey	435	36.4	5.4
Jamaica	741	1.9	.2
Mexico	750	52.4	< 5.8
Singapore	1,268	2.2	.2

[1] As indicated above, no nation may get more than 15 percent of total annual disbursement.

A NOTE ON AMOUNTS TO BE CONTRIBUTED

It is more difficult to give precise figures for the amount which representative countries would be required to contribute to the Fund each year. The following are examples of these difficulties. First, no contribution would be required from the revenues from the first twelve miles offshore, i.e. the territorial sea. However we are not aware of studies which indicate, country by country, the percent of production outside 12 miles. It would certainly vary widely. Second, it is clear that net revenues would be substantially higher in some areas, e.g., the Persian Gulf, than others, e.g. the North Sea. Third, where, as in the United States, price controls keep prices below the world market there would tend to be lesser net revenues. Fourth, relevant to Plan B, whether an oilfield is in production, or leased but not in production, or undiscovered will depend on just when the treaty becomes operative.

During the first 5 years the basic yardstick for contributions would be one percent for every $300 of per capita annual income or major fraction thereof. However those with per capita incomes of more than $6000, a handful of states, would pay the same rate as those with $6000, i.e., twenty percent. It bears repeating that during the first five years that the treaty is operative the contribution percents would be cut in half. And they could be cut in half again for hardship cases.

The following are very rough estimates of the annual contributions of major contributors under Plan A. While they are based on Hudson's data, they have been adjusted, rather arbitrarily, to reflect some of the factors indicated above. They are, to use American slang, "guesstimates."

Plan A: Rough Estimate of Annual Contribution to CHF Revenues by Leading Producers During First Year of Treaty

(In millions of dollars)

Saudi Arabia	$500
U.S.A.	500
United Arab Emirates	140
Norway	90
Qatar	80
Australia	80
United Kingdom	80
Iran	8
Nigeria	5
Egypt	3

Note that the first six are very high income nations and the last two low income nations. It is assumed, arbitrarily, that the U.K. may qualify as a "hardship case" because of balance of payment and other difficulties and the figures are therefore 50 percent less than they would otherwise be. We do not have a table for Plan B. However it appears that the average required contribution of the states listed above would be about one-eighth of the above figures, with some above and some below that amount.

It will take further studies to have good rough estimates of what future years may bring from the two categories where the contribution would be high: Areas under Lease but not yet in Production (high income U.S.A. would have to contribute 10 percent of these net revenues); Deposits Undiscovered at Time Treaty Comes into Force (high income U.S.A. would have to contribute 20 percent of these net revenues). However the contribution required from Ongoing Production is quite low (high income U.S.A., though in the highest bracket, would only have to give one percent of these net revenues. And low income Bangladesh (see below) would only have to give one tenth of one percent of revenues in this category.)

SOME REFLECTIONS ON THE NEPAL PROPOSAL

In our view Nepal is to be congratulated for launching this bold and imaginative proposal. The first reactions to it within the Conference have been cautious but "interested." Ambassador Upadhyay hopes to have it on the agenda of the spring session in Geneva and of the meeting of the Group of 77 (developing nations) which precedes that session.

Because the proposal is a detailed one it should be relatively easy for states to calculate how it will affect them. The studies it has—or will—give rise to should be very helpful in this regard. (See especially the Hudson study referred to above.) Third World countries may be pleasantly surprised not only by how much they get under the plan—and get by right rather than by charity—but also by how little, if any, most would have to contribute.

A rich nation like the United States may at first consider half a billion dollars a heavy burden—but is it? It is about one tenth the 1948 appropriation for the Marshall Plan, one of the best investments in peace and prosperity the United States ever made. Indeed it is closer to one twentieth (or one thirtieth) that appropriation if one remembers the toll that inflation has taken in the last thirty years. And the resulting Common Heritage Fund would make a major contribution not only to Third World development but also to peace and the preservation of the marine environment. It should also be remembered that in exchange for this relatively small contribution coastal states, including the United States, will be getting clear title to immense mineral riches, i.e. thirty trillion dollars, minus these required contributions. The United States gets by far the largest economic zone—and probably the richest as well.

The authorization of some seabed funding for the United Nations and for UN peacekeeping is important practically and symbolically, especially as the UN approaches its very important Special Session on Disarmament. And, within the Law of the Sea Conference, this imaginative attempt to revive the common heritage principle could have a very positive effect. It is hard to find a delegate in the Conference who is not distressed by the undercutting of the common heritage principle by "realism." Perhaps we are naive, but we believe the delegates when they tell us they are disappointed and they wish that something could be done. The Nepal proposal offers them an opportunity to put new wind into the sails of the Conference.

Let us hope they will grasp it!

RESOLUTION

Whereas the vitally important United Nations Conference on the Law of the Sea is now well into its fifth year; and

Whereas impatience with the progress of the Conference has helped precipitate further unilateral claims to ocean resources and jurisdiction by a number of coastal States; and

Whereas recent marine disasters have underlined the need for an international treaty to protect the oceans' ecological system, to preserve marine species and to reconcile the many competing uses of the marine environment; and

Whereas the development of effective international institutions to deal with important aspects of the ocean problem will help build experience in and sentiment for world community and world peace; and

Whereas the trillions of dollars of ocean mineral wealth, almost all of which was traditionally regarded as "common property" or as "no one's property" could provide a major source of assistance to Third World development, to peacekeeping, and to the protection of the oceans against the growing menace of marine pollution; and

Whereas the Delegation of Nepal recently introduced a proposal into the Law of the Sea Conference which would establish a Common Heritage Fund which would use a significant share of those revenues for those very worthwhile objectives: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) the United States should continue to work to achieve agreement on a comprehensive and broadly supported law of the sea treaty;

(2) such a treaty should assure the protection of such traditional law of the sea freedoms as freedom of navigation and freedom of research while, at the same time, providing protection for the marine environment and for marine species threatened with depletion;

(3) an international seabed or ocean authority should be established to regulate the exploitation of deep ocean minerals in an equitable manner, with appropriate roles for private, national, and international entities;

(4) a significant portion of ocean mineral revenues, both offshore and in the deep ocean, should be regarded as "the common heritage of mankind" and used in a "Common Heritage Fund" to assist developing nations, to fight pollution and to assist in some measure, the work of the United Nations, especially in the area of peacekeeping; and

(5) the House of Representatives welcomes the recent initiative of Nepal in proposing the establishment of such a fund.●

CIVIL SERVICE REFORM AND THE HATCH ACT CONTROVERSY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. DERWINSKI. Mr. Speaker, I regret that we have run into a delay in the passage of civil service reform legislation. This is certainly a long overdue step that we must take on behalf of the general public.

The bill, which may be brought to the floor early in September, possesses a sound, basic structure of civil service reform, but is encumbered by provisions to repeal the Hatch Act.

I wish to insert a letter I received from Prof. Dwight A. Ink, director of the office of sponsored research and continuing education of the college of public affairs/school of business administration at American University here in Washington. His letter focuses on the subject of civil service reform in relation to the Hatch Act controversy:

THE AMERICAN UNIVERSITY,
Washington, D.C., August 16, 1978.

Hon. EDWARD J. DERWINSKI,
Speaker of the House of Representatives, U.S. House of Representatives, Washington, D.C.

DEAR MR. DERWINSKI: As a long time careerist in the Federal government and Executive Director of President Carter's Personnel Management Project, I would like to personally urge most strongly that revision of the Hatch Act not be added to the Civil Service Reform Legislation.

If one were supportive of the Hatch Act revision, it would be a poor strategy because this action would combine both the opposition to changing the Hatch Act and the opposition to Civil Service Reform, thus jeopardizing any action.

However, many of us who have devoted our careers to public service see a more basic set of problems. We believe that in practice this rider would result in the following:

1. Weakened protection of the careerist from many types of subtle political pressures, against which the bill's safeguards are largely unenforceable.

2. Increased careerist political activity, undermining our merit principles. One recalls the resourcefulness of a recent Administration attempting to politicize the career service, and how the Watergate leaders chafed under the Hatch Act restrictions.

3. Increased partisan activity permitted under the Act, causing incoming political leaders to question whether an employee can campaign or run for office in the opposite party and yet energetically carry out Administration policies.

4. Weakened presidential accountability because he must depend upon large numbers of employees who have actively and publicly campaigned against him.

5. Increased danger of federal programs, particularly grants and contracts, being maladministered by partisan employees to influence elections.

6. Temptation for some union leaders to shift attention from the welfare of public employees to the use of employees as pawns in political campaigns.

In summary, I believe this proposed change fails to consider adequately the employee's right to be protected from political pressure and it fails to meet the public's right to impartial execution of the laws.

Sincerely,

DWIGHT A. INK, *Director.*●

TEACH THE EXPENSIVE COLLEGE A LESSON

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mrs. HOLT of Maryland. Mr. Speaker, it is no secret that the costs of higher education have soared in recent years. Parents and students are alarmed at the situation, but may not completely realize that inflation is not the sole cause of the rising costs of post-secondary education. A concurrent problem is the steady decline of the quality of education at our colleges and universities. We are simply not preparing our young adults for managing their own lives. In a recent column in the Washington Post, Nicolas von Hoffman cites the program at St. John's College, in Annapolis, as a good example of what a nonelective college can do to provide a well-rounded education. He also examines reasons, other than inflation, that are causing the spiralling expenses of higher education:

DON'T RAISE THE MONEY—TEACH THE EXPENSIVE COLLEGES A LESSON

(By Nicholas von Hoffman)

This summer the Advertising Council is putting on a vehement scare campaign to get people to give to the college of their choice. Our colleges and universities are broke, or so the message goes, and unless they get mucho dinero, great thoughts will go unthunk with a concomitant drop in our exports and our life expectancy. No commercials are to be heard imploring colleges and universities to do their part.

Yet even the extravagant medical industry doesn't run its hospitals on a nine-month year. The nine-month school year originally came about so that students could work on the family farm. With less than 5 percent of our population engaged in agriculture, pots of money could be saved for parents and public if our colleges were to adopt the normal work calendar of this society. It would mean that college might take three years instead of four. No small saving when a year's study at a local multiuniversity can cost $5,000 plus.

A year's work for a year's pay has always been resisted by higher education, just as it has ignored its own proclivity to offer too many courses. "Despite the drop in enrollment on many campuses the size of catalogs virtually doubled and the number of courses with less than five students in them also proliferated," writes Gerald Grant and David Riesman (see "The Perpetual Dream: Reform and Experiments in the American College," University of Chicago Press 1978, $15, and worth it.)

Nor after decades of complaint and ridicule has our higher education disciplined itself out of offering the most costly diddleybop to indolent students looking for gut courses. Thus Grant and Reisman have caught some of the profs teaching "such hobbies as Chinese gourmet cooking, harpsichord making, and indeed, astrology."

Such nonsense isn't new, but it expanded enormously during the 1960s Gold Flow into higher education. New colleges were founded and old colleges changed so that students could do anything they wanted and it was called learning, just as faculty could do anything they wanted and it was called teaching.

"The most important change was the virtual or complete abolition of fixed requirements in many departments and of mandatory distribution requirements, including class attendance and the time, mode, and kinds of credits needed to secure a baccalaureate degree," is how the two sociologists in education sum up what happened.

In due course there were complaints from dissatisfied customers. "I have never read anything by Sigmund Freud or Karl Marx. I know nothing about the history of Africa, the history of Latin America or the history of Asia. I have not come within a quarter mile of a test tube since I took chemistry in my senior year in high school," writes Jonathan Kaufman, who graduated from Yale in June.

In practice there is no waiting line to get into St. John's College, Annapolis, where Mr. Kaufman would not only have been required to learn chemistry, but also to read Plato in Greek. There are no electives at St. John's. There it is supposed that the teachers know more than the students and therefore should prescribe the course of studies.

It's a buyer's market of higher education where there are more places than there are students to fill them. Colleges like St. John's lose out to schools where you can get a B.A. by spending four years in a TM group and graduate summa cum laude by cultivating organic radishes. But even schools with sufficient fame and prestige so as not to have to fish for customers have not been able to save money and improve quality by offering fewer and better courses to bring forth from adolescent flesh the fully rounded educated person promised in so many college brochures.

Harvard and Yale both are cutting back on electives and insisting their students take at least a few classes leading to that much talked-about condition of well-roundedness. It won't be the first time efforts have been made to reverse higher education's adherence to the fragmentation and miscellany of the elective system. But it's not just the student-customers who oppose significant change; the specialized departments and their competition for the same students make any general, core curriculum impossible.●

DOMESTIC SUGAR PROBLEMS

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. DE LA GARZA. Mr. Speaker, since the President signed the Food and Agriculture Act of 1977 on September 29, 1977, section 902 has not been implemented accordingly with the intent of this Congress. There have been numerous delays and administrative problems that have occurred in the sugar price support program.

Today I am submitting this bill to require the administration to make storage space available for 1978 crop sugar.

Millions of tons of foreign sugar have been dumped into this country since the passage of the Food and Agriculture Act of 1977 because of the faulty administration of the law. This has depressed the domestic price of sugar to such an extent that domestic sugar has gone under loan rather than move into the marketplace.

This bill would do two things. First, it would accelerate the maturity date on 1977 crop sugar to August 31, 1978, or the date of enactment of this bill, whichever is earlier. Second, it would require the Secretary to move this sugar out of producing areas within 30 days so that producers will have a place to store the sugar that will be produced by the current crop of cane and beets.●

SEUFFERT BAND CELEBRATES 80TH ANNIVERSARY

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. ADDABBO. Mr. Speaker, on August 20 the Seuffert Band will celebrate its 80th anniversary, having been founded by George Seuffert, Sr., in 1898. That date also marks the 50th anniversary of George Seuffert, the son of the founder, as its conductor. George F. Seuffert joined local 802 of the American Federation of Musicians on his 16th birthday, and shortly thereafter conducted his first free concert with the Seuffert Band.

The Seuffert Bank, consisting of 48 of New York City's finest professional musicians, has provided the people of New York with a continuing series of the finest free concerts in the United States. During the past 50 years, Dr. Seuffert has conducted an average of 30 free public concerts a year—for a total of at least 1,500 programs. As audiences range from 8,000 to 12,000 people for each concert, an aggregate of 1,500,000 people have heard the Seuffert Band under George's baton.

George served in the USMC during World War II. He returned home to teach in the public schools of New York City for 36 years. He is still a member of the faculty of Fordham University, where he has directed the Fordham Band for the past 27 years.

During George's tenure with the board of education, he developed an enthusiasm for the All City High School Chorus. As music consultant to the then mayor, John Lindsay, he prevailed upon the mayor to use their services at all important city functions. Since that time, this great chorus, under the inspired direction of John L. Moltey, director of music for the board of education, has musically greeted all distinguished visitors to New York City. Its most recent appearance at city hall marked the occasion of President Carter's historic visit on August 8, 1978.

The city of New York has presented George with its highest cultural award, the coveted Handel Medallion; the National Arts Club presented him with their Medal for Music; and the West German Government awarded him the Officer's Cross of the Order of Merit.

The Seuffert Band and its conductor, George F. Seuffert, have provided the people of the city of New York an outstanding service and are to be commended on the band's 80th anniversary, and George F. Seuffert's 50th anniversary. If any of my colleagues are in Queens, N.Y., on this Sunday, August 20, come to Forest Park for an enjoyable afternoon of wonderous music.●

FISHER-CONABLE BILL DESERVES PROMPT CONSIDERATION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. MAZZOLI. Mr. Speaker, currently, taxpayers may not receive tax deductions for their charitable contributions if they do not itemize deductions on their income tax returns.

Increases in the standard deduction in the past several years have drastically reduced the number of taxpayers who itemize their deductions. Consequently, there has been a substantial reduction in charitable giving in these same years.

Charitable and nonprofit organizations estimate that their contributions have declined $5 billion because of the reduction in the number of persons now itemizing their deductions.

Our distinguished colleagues, the Honorable BARBER CONABLE and the Honorable JOSEPH FISHER, have introduced legislation to correct this serious problem. Their bill, H.R. 11183, would allow taxpayers to receive a tax deduction for their charitable contributions whether or not they itemize their deductions.

I had hoped that the House Ways and Means Committee would include the Fisher-Conable proposal in the Revenue Reform Act of 1978. Unfortunately, that was not the case.

The Senate can still add this laudable proposal to its version of the Revenue Reform Act. However, the outlook for Senate approval of the Fisher-Conable measure is uncertain at best.

Americans can ill-afford to forego the good work done by American charitable organizations. It is, therefore, imperative that H.R. 11183 be expeditiously ushered into the statute books.

I commend to the attention of my colleagues the following articles which appeared, respectively, in Time magazine and the Washington Post. These articles offer a good explanation of the need for the enactment of the Fisher-Conable bill.

[From Time Magazine, May 22, 1978]

THREAT TO AN AMERICAN TRADITION

(NOTE.—John W. Gardner, the founding chairman of Common Cause and formerly Secretary of Health, Education, and Welfare, sees danger in certain proposals that have come forth lately from various tax reformers to eliminate or reduce the charitable contributions that Americans can deduct from taxable income. He stated his case recently at a United Way conference in a speech on which this essay is based:

"These Americans are a peculiar people. If, in a local community, a citizen becomes aware of a human need which is not being met, he thereupon discusses the situation with his neighbors. Suddenly a committee comes into existence. The committee thereupon begins to operate on behalf of the need and a new community function is established. It is like watching a miracle, because these citizens perform this act without a single reference to any bureaucracy, or any official agency.")

Just so, 150 years ago, Tocqueville described a unique feature of the American system. It is the spontaneous working of a creative public spirit. Out of this fundamental national trait have come such vitally important institutions as libraries, museums, civic organizations, great universities, the United Way, the Little Leagues, the Salvation Army, symphony orchestras, garden clubs, historical societies, adoption services, hospitals, religious organizations, Alcoholics Anonymous, the 4-H clubs. Indeed, this American spirit reaches into almost every field of human interest. Tied to another powerful American tradition—that of private given for public purposes—the volunteer spirit has released incredible human energy and commitment in behalf of community all over the country.

Yet in the next two or three years the Federal Government may destroy this feature of the American system. The destruction could be accomplished silently and invisibly—in the name of tax reform. The threat lies in proposals that would reduce directly and indirectly, the charitable contributions Americans itemize as deductions from taxable income. And there are even those who, with the intent of simplifying the tax code, would eliminate such deduction entirely. With due respect to the reformers, the alarm should be shouted: Our tradition of private giving for public purposes is endangered by some of their good intentions.

Up till now, Government tax policy has deliberately fostered that tradition. The deductibility of charitable gifts is based on the idea that it is good for a great many people, independently, privately, to contribute to charitable, religious, scientific and educational activities of their choice. Such giving supports the American pluralism that allows all kinds of people to take the initiative in all kinds of activities. In reality, the tradition that has produced the innumerable institutions that are sometimes called the nonprofit sector lies at the very heart of our intellectual and spiritual strivings. The deductibility of charitable donations has been only an expression of that larger philosophy.

Now there is a new school of thought with a very different view. It holds that a deductible dollar donated, say, to a school for blind children, would have found its way into the federal treasury—if it had not been deductible. That dollar is therefore to be regarded as Government money—and labeled a "tax expenditure." This new doctrine began innocently enough with a concern about the multiplicity of existing tax loopholes. It made sense to calculate the amount of benefits granted by the Government through allowable deductions—as, say, certain industrial tax credit.

So the term "tax expenditure" was invented as a convenient way to describe such an amount. Some tax-simplification theorists just have not given much thought to the implications of applying that term to voluntary charitable donations. But there is another type of theorist we have to cope with: the Government-knows-best type, who positively resents the freedom of the tax-deductible gift. His argument is to eliminate the deductibility of that dollar given to the school for the blind, take the money into the treasury and, if the school needs money, let Congress and the federal agencies appropriate it.

Such a doctrine makes the head ache. The American people have been remarkably resourceful in launching activities to serve their communities. They freely give $30 billion a year and contribute God knows how many billion more in nonmonetary services. Now Americans are told that Congress and the Government bureaucracies could do a better job.

Somehow the available evidence on Government efficiency (speaking with the respect of one who served two tours of duty in Government) does not drive one toward that conclusion. But apart from the question of efficiency, if Government pre-empted "charitable" functions, what outlet would be left

for personal caring and concern? Can anyone believe that a manual of regulations from Washington would unlock the miraculous energy which has been so impressive since the days of Tocqueville?

The truth is that the present charitable deduction is not adequate to bring out the best of which Americans are capable. Even recent increases in the standard deduction—five in the last eight years—decreased the number of taxpayers itemizing deductions from almost 50 percent in 1970 to less than 25 percent today. The result damaged the voluntary sector. Contributions to public charities decreased, with losses recently estimated at $5 billion. In 1977 alone, greater use of the standard deduction could cost voluntary American institutions some $1.3 billion. It is estimated that only 16 percent of taxpayers will itemize deductions (and thus have an added incentive to make charitable donations) if the Carter Administration's tax reform proposals are enacted.

What would result if the new antideduction doctrine ever were in force is not pleasant to contemplate. As it is, the trend is already running against voluntarism. The only way to reverse this trend is to amend the tax code to allow all taxpayers to deduct charitable gifts whether they itemize or not. This change alone would eliminate a two-fold danger: first, that denying most Americans any encouragement to give will bring more Government into their lives; second, that charitable giving will become the province of only the wealthy.

The Government will best contribute to the health of the society if it actively furthers the vitality of the private, voluntary sector. We must wake up to the fact that the government of a gigantic, tumultuous society cannot be administered entirely by a conventional, centralized, top-down governmental hierarchy. Local levels of government and local private institutions are going to have to figure out how they can collaborate to make things work in the community. The old American trait of voluntary activity and giving is indispensable to that end.

Finally, it is not easy to make a blanket defense of private giving; after all, it consists of so many unrelated, unofficial, unclassifiable activities. Yet that diversity is one of the qualities that make it beautiful. It is an area in which freedom survives and flourishes. Let's keep it that way.

[From the Washington Post]

TAX BREAKS, WITH CHARITY

(By George F. Will)

Reps. Barber B. Conable Jr. (R-N.Y.) and Joseph L. Fisher (D-Va.) want to allow taxpayers to deduct charitable contributions even if they take the standard deduction. Like much tax legislation, this proposal to extend the charitable deduction to the large majority of taxpayers who do not itemize deductions seems, on the surface, dry as dust. But it touches fundamental political issues.

It would mean a revenue loss to government. But recent tax changes have meant an even larger loss to institutions dependent on contributions. And the administration's tax-reform proposals would mean new losses.

The standard deduction has been increased five times in eight years and the percentage of taxpayers itemizing deductions has been halved. Thus, charitable giving has fallen substantially short of what otherwise would have been expected. Organizations estimate they lost $5 billion in contributions in eight years.

In 1970, only 52 percent of taxpayers took the standard deduction. The 1977 increase in the standard deduction increased from 69 to 75 the percentage of taxpayers who would benefit from using it. And the administration's proposals to decrease deductions would increase to 83 the percentage of taxpayers who would benefit from taking the standard deduction.

Government usually does not intend some of the significant consequences of its actions. The government had no intention of penalizing the charities when it raised the standard deduction. It has raised the standard deduction primarily to simplify the task of paying taxes for more and more citizens. If the administration's tax proposals are enacted, only 17 percent of taxpayers would itemize deductions and, therefore, have a deduction incentive for charitable giving.

This would injure some kinds of organizations more than others, because wealthy people and less affluent people tend to contribute to different kinds of organizations. The wealthy favor cultural institutions such as universities, museums and orchestras. Less affluent people tend to favor churches and United Funds, and those are the organizations that will suffer most if the Conable-Fisher plan is rejected.

Professor Martin Feldstein, a Harvard economist, estimates that the proposal would increase charitable giving 12 percent ($4.1 billion) annually over giving under present laws. The revenue loss to government would be less than that ($3.6 billion). And the money would be directed to worthwhile social purposes more surely than if it had been put at the government's disposal.

In addition, there is strong evidence of a correlation between the level of charitable giving and the level of participation in charitable activities . . . Conable-Fisher proposal would have a multiplier effect on contributions of time and energy to the voluntary associations that do much of society's work.

In 1835, de Tocqueville noted that Americans "are forever forming voluntary associations. . . . At the head of any new undertaking, where in France you would find the government or in England some territorial magnate, in the United States you are sure to find an association." The expansion of the welfare state has altered the role of such associations. But because of the remoteness, clumsiness and other shortcomings of the modern state, voluntary associations are especially important today as sources of experiment, free choices and personalized caring.

The Conable-Fisher proposal is evidence of a new political division, a division less along party lines than along institutional lines. On one side are statistatist legislators and voluntary associations. On the other side are executive branch bureaucracies and dependent constituencies that have a stake in the expansion of statism.

The Conable-Fisher proposal resembles the proposal to permit families to subtract from tax payments the amount paid in tuitions, up to $500 per student. This tax credit would stimulate private competition with state education. Hence it is opposed by statists within government, such as Joseph Califano, secretary of health, education, and welfare, and statists outside of government, such as Albert Shanker, head of a teachers union, who says the proposal would engender conflict "of the kind created by the Civil War."

Such hyperbole indicates the fear and loathing that statists have for measures that would mitigate the tendency of government to expand at the expense of private voluntary associations. The Conable-Fisher proposal, like the tuition tax credit, would cause government to nurture, for a change, the pluralism that governments tend to diminish. It is a timely example of how to enhance the stature, without expanding the size, of government.●

POLITICAL REFORMS

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. ANDERSON of Illinois. Mr. Speaker, although our legislative session is drawing to a close, I believe Members always seek to be as aware as possible of public sentiment on various issues. A concise summary of public opinion on six political reforms was presented in the August edition of the Reader's Digest. Although the congressional public financing proposal which the Gallup poll presents to the pubic differs from the idea recently debated by the House, I believe it shows that the concept of congressional public financing is supported by well over half of the American people. I feel even more would be supportive if a survey would ask if they favored a proposal which matched some small individual contributions with money from a voluntary check-off fund.

The article follows:

[From the Reader's Digest, August 1978]

SIX POLITICAL REFORMS MOST AMERICANS WANT

In conducting thousands of surveys on almost every conceivable issue for nearly half a century, I have learned three significant things about our fellow Americans. One is that the judgment of the American people is extraordinarily sound. Another is that the public is almost always ahead of its leaders. The third is that the electorate has become better educated and more sophisticated politically than ever before.

This is why I am so disturbed by the disillusionment Americans have expressed, through our surveys, with the workings of the political system. Too many Americans regard politics as a "dirty business." In a poll last year evaluating honesty and ethics in 20 occupations, U.S. Senators and Congressman stood 10th and 13th, respectively, on the list. In an earlier poll, two out of three persons interviewed believed that some legislators had won election by employing "unethical and illegal methods" in their campaigns; even today, only one third of those polled approved of the way Congressmen were doing their jobs. Two out of three American parents would not like to see their children enter politics as their life's work.

Disgust with politics has not, however, diminished Americans' faith in their country. In the latest Gallup surveys, three citizens out of four give the United States a "highly favorable" rating, with only about 2 percent rating it unfavorably; and 68 percent expressed, in an earlier poll, confidence in the nation's future. But what the surveys also make abundantly clear is that the public wants the political health of the nation improved. Here is what the polls show on six major proposed political reforms:

Reform 1. By 60 percent, with 30 percent opposed and 10 percent undecided, Americans favor a resolution offered by freshman Senators John Danforth (R., Mo.) and Dennis DeConcini (D., Ariz.) that would limit the tenure of representatives in Congress to a maximum of 12 years. That means no more than two six-year terms for Senators and six two-year terms for members of the House.

U.S. Presidents have been limited to two terms since 1951, and a 12-year restriction for U.S. legislators was advocated by Harry S. Truman and Dwight D. Eisenhower. Stated

Eisenhower: "Each man so serving would tend to think of his Congressional career as an important and exciting interlude in his life, a period dedicated to the entire public rather than as a way of making a living. The members would probably give more attention to national good and less to their personal political fortunes."

One major advantage of the plan is that it would tend to make ability, rather than length of service, the criterion in filling committee chairmanships. Another is that it would bring in younger men and women, perhaps more in tune with the will of the people than those who have been following the same mental routines for decades. There are those who argue that it might deprive the nation of the services of individuals of extraordinary talent, and government is so complex that years are required for a legislator to familiarize himself with it. But room would also be made for individuals of equal, or greater, talent, who might otherwise never get to Congress.

Reform 2. Sums spent on election campaigns average at least $100,000 for those seeking seats in Congress. A candidate must either be wealthy or look for contributions, which may come from those seeking legislative favors. In a poll last year, 57 percent (32 percent opposed and 11 percent undecided) of Americans advocated that the government provide a fixed amount of money for Congressional election campaigns, and contributions from all other sources be prohibited (the ban to include use of the candidate's personal funds). The additional cost to taxpayers would be an estimated $2 per adult citizen. It could be the bargain of the century.

Would government funding of campaigns encourage a horde of minor, frivolous candidates? Perhaps, but the problem has been dealt with successfully in Great Britain. There, candidates must put up a substantial money deposit, which must be forfeited if they do not draw at least 12.5 percent of the vote.

Reform 3 would end the chaotic system of nominating Presidential candidates in state-by-state primaries or by state and national conventions. Sixty-eight percent of the voters favor (with 21 percent opposed and 11 percent undecided) a nationwide primary, to be held on the same day in all 50 states, in which voters would choose the Presidential candidates for their parties by popular vote.

This proposal has had overwhelming support for nearly a quarter-century. Under the present system, many citizens are denied the opportunity to vote for the candidate of their choice because not all candidates enter all state primaries. And at political conventions the party "pros" often pay little attention to the popular will.

Reform 4. The seemingly interminable Presidential campaigns, which stretch over the better part of a year (from the first primaries in January to the November elections), exhaust the candidates, thoroughly bore the electorate—and end up changing few votes. By a majority of 66 percent to 21 percent (with 11 percent undecided), Americans would like to shorten the campaign period. They favor advancing election day to September, and holding the inauguration in November of the election year to allow an incoming President more time to prepare his recommendations for the opening of Congress in January.

Reform 5. Probably the least popular political institution in America is the Electoral College, with its "unit rule" whereby a candidate who wins a plurality in a state gets all of that state's votes. The public has favored doing away with the Electoral College since the first survey was taken on this issue in 1948. In a 1977 poll, 75 percent approved amending the Constitution to provide direct popular election of the President (14 percent were opposed and 11 percent undecided).

Such a bill actually passed the House of Representatives by a lopsided margin in 1969—only to be filibustered to death by Senators who felt that it would diminish their states' power. But the Electoral College system makes possible the election of a President who receives fewer popular votes than his opponent. This has occurred three times (John Quincy Adams, Rutherford B. Hayes and Benjamin Harrison), and almost happened again in 1968 and in 1976.

Reform 6. Perhaps the most controversial innovation Americans advocate is the right to be consulted on important legislation. By a majority of 57 to 21 percent (with 22 percent undecided), in a recent Gallup poll, they supported a proposal introduced by Senators James Abourezk (D., S.D.) and Mark Hatfield (R., Ore.) that would allow Americans to initiate federal legislation when a group of voters equal to three percent of the number who voted in the last Presidential election sign a petition requesting such a vote. Although the procedure would be new to the federal government, it is a familiar practice in almost half the states.

The initiative—or the threat of invoking one—should expedite passage of legislation bottled up in Congress for years. Were the measure in effect now, our Gallup surveys indicate that:

Mandatory busing to achieve racial balance in schools would be abolished by 65 percent of the voters.

The Equal Rights Amendment for Women (ERA) would be approved by a majority of 57 percent, including more men than women.

Tough gun-control laws requiring the licensing of all firearms carried outside the home would be enacted by 77 percent, including a large majority of gun owners.

Achieving the reforms referred to in this article would necessitate amending the Constitution in some cases. The customary procedure requires passage of each amendment by two thirds of each House of Congress, then three fourths of the states must approve. It is unlikely, however, that many Congressmen or Senators would approve legislation diminishing their powers and curtailing their continuance in office.

A surer way to get the proposals considered by the nation, as President Eisenhower pointed out, is through the alternate method of amendment prescribed by the Constitution—a constitutional convention, which can be assembled at the request of two thirds of the states. (The amendments would also have to be ratified by the legislatures of three fourths of the states. However, they require only a simple majority vote to be passed at the constitutional convention itself.)

Amending the Constitution that has served the nation so well is not a step to be undertaken lightly, and some suggest that a constitutional convention might itself carry risks. But the measures described here, in my opinion, would help restore the kind of government that the framers of that document actually had in mind—a government that owes nothing to political bosses, pressure groups or campaign contributors, guided by the will of the people.●

NEW MEXICO MEN CROSS ATLANTIC IN BALLOON

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. LUJAN. Mr. Speaker, it is with a great deal of pleasure that I rise to inform my colleagues of a victory in mankind's quest to conquer nature and the unknown.

Three New Mexico men, all of whom I am lucky to count among my friends, have accomplished something which for 119 years has defeated every attempt. These three have crossed the Atlantic in a balloon.

The names of Maxie Anderson, Ben Abruzzo, and Larry Newman will now join the likes of Sir Edmund Hillary, the Wright brothers, and Neil Armstrong.

The accomplishment of a goal which has been a dream in the minds of men for many decades serves as a glimmer of hope during times which tend to dampen the human spirit. Whenever human beings overcome great odds through determination and hard work we all win because we all feel a sense of elation and sharing in the victory. It helps us to realize that even in our mundane worlds there is the possibility to reach out and grab the gold ring.

To these brave adventurers who have given us an opportunity to smile during the dog days of August I say congratulations and thank you. And, I ask my colleagues to join me in raising three cheers for the victors.●

BALTIMORE VARIETY CLUB GROUP RAISES FUNDS FOR PEDIATRIC CANCER CARE

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. LONG of Maryland. Mr. Speaker, on September 11, the Ladies' Auxiliary of Tent 19 (Baltimore) of Variety Clubs International will present a fashion show and luncheon.

Special guests will include award-winning fashion designer Oscar de la Renta, actor Tony Randall, and Variety Clubs' International President Eric Morley.

The dedicated efforts of Chairwoman Shirley Howard and the auxiliary indicate that this event will be a sell-out, with over 600 in attendance, to raise funds for a pediatric oncology isolation unit at the Johns Hopkins Hospital. This luncheon is the first in a series of major fund-raising events planned by Tent 19 to finance construction of a special isolation unit for children undergoing chemotherapy and other treatments to combat cancer.

The fashion show will honor Mr. de la Renta for his contributions to American couture. Mr. Morley and Mr. Randall are widely known for their active role in supporting the charitable activities of Variety Clubs International.

The outstanding work of Variety Clubs International's 15,000 men and women is well known. Their aid, focused on the needs of children, supports birth defects research, pediatric cancer research and care, services for the physically and mentally handicapped child, and childhood nutrition programs throughout the world.

My best wishes go to the Ladies' Auxiliary and Tent 19 for a successful fund-

raising effort for their most worthy

We can't know what kind of specific leg-

truth—the

raising effort for their most worthy cause, and my congratulations to the many private citizens and businesses who have contributed time and energy toward the success of this event. The Baltimore community thanks Mr. de la Renta, Mr. Randall and Mr. Morley for their support.●

END OVERREGULATION OF INDUSTRY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. DERWINSKI. Mr. Speaker, if we are to achieve such noble goals as a balanced budget, reduction in taxes, and the diminishment of the bureaucracy, one of the steps that we must take is deregulation of overregulated industries.

The Chicago Sun-Times, in their lead editorial of August 15, directs attention to the over regulation of the trucking industry. The editorial follows:

FREE THE CHAINED TRUCKERS

In the business community at large, it's always open season for taking potshots at government regulation. Not so in the trucking industry. The American Trucking Assns. and the 2.3 million-member teamsters union positively revel in the embracing security of their federal chains.

And why not? Under solicitous laws and the mollycoddling of the Interstate Commerce Commission, the $30-billion-a-year trucking industry is free to prosper through restrained competition and the power to set its own rates immune from antitrust law.

At the public's expense.

Jerry Ford tried to change all that by lifting some of the regulations, but he was beaten around the curve by congressional friends of the truckers and teamsters. Now, in the next few weeks, Jimmy Carter will be called upon by his staff to decide whether his White House should submit similar legislation to the next Congress.

We say he should.

Our argument was spoken for us by Stanley E. Morris of the President's budget office, who said: ". . . the past regulatory practices of the ICC have been carried out in an unfair, highly costly and highly litigious fashion. This administration is a firm believer that in cases such as this, competitive principles can be a better regulator than the government."

And a current proof of that is the ongoing deregulation of the airline industry, which is thriving under unprecedented passenger loads stimulated by liberated and, thus, reduced fares. It's the best kind of treatment for an inflation-bedevilled economy.

The laws protecting truckers were born in the chaos of the Great Depression to protect a young industry. They authorize the ICC to regulate truckers' entry into the business, the routes to be served, the commodities to be transported and the rates to be charged (in co-operation with the truckers' own regional rate bureaus).

Foes of deregulation say the existing rules ensure security and stability in the industry, that loosening them would cause excessive competition, leading to bankruptcies that would reduce service.

But the American economic system did not acquire its muscle under a security blanket. It grew strong by the tug and shove of competition, which enforced the delivery of the best service at the lowest cost. That kind of market rewards the deserving consumer as well as the deserving entrepreneur.

We can't know what kind of specific legislation Carter might propose, if indeed he proposes any. But, in principle, we're in favor of a strong dose of free enterprise for the captains of the wheeled fleets. The best of them will like it.●

CONGRESSMAN RUDD VERSUS THE METRIC CONVERSION ACT

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. HYDE. Mr. Speaker, our distinguished colleague from Arizona, ELDON RUDD, has introduced legislation to repeal the Metric Conversion Act. In so doing he has performed a most valuable service in alerting us to the problems inherent in this entire concept. Columnist Bob Greene has written an interesting article in the August 16, 1978, Chicago Tribune about our colleague and this issue, and I commend it to the Members' thoughtful consideration:

REPEAL BILL COULD PUT METRICS 6 FEET UNDER

(By Bob Greene)

WASHINGTON.—There is wonderful news for all you members of WAM!, and that news is right here in Washington.

WAM!—which stands for We Ain't Metric!, the vigilant anti-metric organization founded by this column—has found a true national hero.

He is a Congressman. His name is Eldon Rudd, and he is a Republican from Arizona.

Rep. Rudd has introduced legislation in the House of Representatives that would repeal the Metric Conversion Act. The Metric Conversion Act is the horrible law passed by Congress in 1975—the law that brought the foreign and unwanted metric system to our shores.

And now, hand in hand with WAM!, Rep. Rudd is trying to send that sinister system back where it belongs.

"It is wrong to impose the metric system on America," Rudd said. "Our system of measures has never been a problem in the history of this country. We already have a system that has done a magnificent job for us. My bill is intended to preserve that system that has worked so well."

A word of explanation for those who are unfamiliar with WAM!:

WAM! was started by this column because we believe America does not want the metric system. WAM! is a voluntary organization; there are no dues, and anyone who hates the metric system is automatically a member. Our reasons for opposing the metric system are simple: We don't like it; we don't want to learn it. We Ain't Metric!

Since the founding of WAM! was announced here, thousands of persons from all over the United States have written to express their support and approval. But to be a member of WAM!, you do do not have to write. All you have to do, as already stated, is hate the metric system.

That surely makes Rep. Rudd a member in good standing. And Rep. Rudd surely makes the hearts of all other WAM! members glad.

"I first got interested in this whole question fairly recently," Rep. Rudd said. "I looked at my mail, and a great many people were very much against the idea of this country going metric. And after thinking about it, I decided that I was against the idea too."

Rep. Rudd, of course, was going through the phenomenon that all WAM! members have gone through at their moment of truth—the seething anger and bitter resentment at the thought of the metric system being crammed down our throats.

But the congressman was in a better position than the rest of us. He could do something about it.

"I have introduced House Resolution 12881—the Metric Repeal Bill," Rep. Rudd said. "The focus of this bill is to repeal the Metric Conversion Act, an act that is not needed or supported by the American people."

Rep. Rudd said that support for his bill in Congress has not been overwhelming.

"There are so many congressmen trying to pass so many bills," he said, "and it doesn't look as if we may get this bill into law this session."

Well, maybe. But with WAM! behind a plan, great things can happen. Last year WAM! members were so outraged by plans for highway traffic signs to be converted to metric that we barraged the Department of Transportation with protest letters—and as a result, the Federal Highway Administration backed down and announced that the road signs would remain miles-per-hour.

And now is our chance to do it again.

"I will welcome any support I can get on this bill," Rep. Rudd said. "Anyone who is in favor of getting the Metric Conversion Act repealed should write to his or her senators and representatives in Washington, and ask their congressmen to support H.R. 12881, the Metric Repeal Bill."

Rep. Rudd was an agent for the Federal Bureau of Investigation for 20 years before going to Congress, and said that his travels around the world convinced him of the futility of the metric system.

"I spent a good deal of time in countries that used the metric system, and I never did get the hang of it," he said. "There is nothing wrong with the system we have.

"The people who are standing up for the metric system are people who want to impose a European culture on our Nation. Many of these people were born and raised in European nations, and they think that the system they lived by is the system we should have here. But they are wrong.

"Those who favor the metric system say we need to have it to keep up with the rest of the world. But the United States has never had any problem keeping up with the rest of the world. We've led the world for at least 150 years. We've accomplished all the great things we have for all these years because people in this country have freedom of choice."

And now, Rep. Rudd said, we have the opportunity to exercise that choice.

"I will keep introducing this bill as long as I am in Congress," he said. "If it doesn't pass this session, I'll introduce it again next session. As long as people want to get rid of the metric system, I'll keep this bill going.

Brave words. Strong words. WAM! members, your duty is clear. Write to your senators and representatives. Tell them that if they don't vote for H.R. 12881, they won't be going back to Congress. This is our chance. The metric system is on the ropes. We can knock it out.●

POPE PAUL VI

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. EVANS of Delaware. Mr. Speaker, the world has lost an invaluable force for peace and understanding with the passing of Pope Paul VI.

Since 1963, Pope Paul worked tirelessly to promote peace in many corners of the world. In October 1965, Paul VI journeyed to the United Nations in New York to deliver his famous "Never Again War" speech with a fervor which surprised many of the assembled delegates. He worked for an end to conflicts in Southeast Asia, Nigeria, Northern Ireland, the Middle East, and other areas, and he used the diplomatic offices of the Vatican in a relentless effort toward international harmony.

Pope Paul VI also strove to bring the church to the people. As the first Pope to leave Italy since 1809, Paul VI took his message to such diverse points as Latin America, the Philippines, the Holy Land, India, Portugal, Turkey, Columbia, Switzerland, Uganda, the Far East, and the United States. His commitment to humanity was worldwide, and nothing better demonstrated this commitment than his desire to bring his message personally to so many millions of people.

Pope Paul also did much to promote interreligious cooperation and harmony. He met with leaders of Protestant and Orthodox faiths, and generally tried to further the spirit of ecumenical cooperation.

The world now awaits the election of a new Pope. But whomever it is, the new Pope will benefit greatly from the work of Paul VI. Pope Paul presided over a difficult period in the history of the church and of the world. It is a tribute to his work that he accomplished so much during so turbulent a time.

People everywhere shall miss his kind and gentle work on behalf of all mankind.●

DAILY BREEZE CELEBRATES 50 YEARS OF OUTSTANDING JOURNALISM

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. DORNAN. Mr. Speaker, the Daily Breeze, a highly esteemed newspaper in my district, is celebrating its golden anniversary as a Copley newspaper.

In 1928, when Col. Ira C. Copley purchased the paper, it was published in the basement of a bank building with a circulation of less than 3,000. Today the Daily Breeze, boasts a daily paid circulation of 87,000, has its own building located on a 5-acre site, and ranks at the top nationally in terms of advanced publication technology.

The Daily Breeze has succeeded in achieving a blend of world and national affairs while continuing to maintain its detailed coverage of the events of California's South Bay area. Because of its recognized accuracy in reporting and strong dedication to a policy of respectable journalism, it has earned a reputation as an outstanding publication by its subscribers and all of us who have had the pleasure of dealing with the paper's staff.

Mr. Speaker, I ask you and my colleagues in this 95th Congress to join me in commending and congratulating the entire 450-person staff of the Daily Breeze, from the editor to the young men and women who deliver the paper to our homes. It is because of their tremendous individual and group effort that the Daily Breeze has become the outstanding credit to the southern California area that it is today.●

HUMAN RIGHTS AND CAPTIVE NATIONS IDEOLOGY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. DERWINSKI. Mr. Speaker, during the past two Captive Nations Week observances, much national discussion centered on the relationship between a human rights policy and captive nations ideology. As a result of the discussion, it has been made amply clear that human rights is indeed "old hat" for captive nations ideology. Not only this, in advancing the ideology, there is a wholesome pressure on the advocates of human rights to expand their advocacy to the third and broadest sphere of human rights, namely national rights. The point was again underscored in the recent 20th Captive Nations Week observance.

Reflecting this theme are further evidences of the 20th observance which I wish to insert at this point: (1) Proclamations by Mayor Gilbert R. Gunn of Sunnyvale, Calif.; Governor Jerry Apodaca of New Mexico; Mayor Marvin Randle of Irving, Tex.; (2) the syndicated column by Robert Morris on Captive Nations Week; (3) articles in the Chicago Sun-Times and St. Louis Post-Dispatch of July 16; (4) a report in the July 21, China Post; (5) and a note in the July 25 Philadelphia Inquirer:

CITY OF SUNNYVALE CALIFORNIA

PROCLAMATION

Whereas the imperialistic politics of Russian Communists have led to the subjugation and enslavement of the people of Poland, Hungary, Czechoslovakia, Romania, East Germany, Bulgaria, China, North Korea, Albania, Vietnam, Cuba, Cambodia, Laos and others; and

Whereas the desire for liberty by the overwhelming majority of peoples in these nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas the freedom loving peoples of the captive nations look to the United States as the citadel of human freedom and human rights; and

Whereas the Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and invites people to observe such a week with prayers, ceremonies, and activities; expressing their support for the just aspirations of the captive nations:

Now therefore, I, Gilbert R. Gunn, Mayor of Sunnyvale do hereby proclaim the week of July 16–22, 1978, as Captive Nations Week in Sunnyvale, and call upon our citizens to join with others in observing this week by dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.

GIL GUNN, *Mayor.*

PROCLAMATION BY JERRY APODACA, GOVERNOR, STATE OF NEW MEXICO, SANTA FE, N. MEX.

Whereas, the imperialistic politics of Russian Communists have led, through direct and indirect agression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, Byelorussia, Romania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet Cossackia, Turkestan, North and South Vietnam, Cambodia, Cuba, Laos and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom-loving peoples of the captive nations look to the United States as the citadel of human freedom and human rights and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Naticns Week and inviting the people of the United States to observe such week with appropriate prayers, ceremonies, and activities; expressing their sympathy with and support for the just aspirations of the captive nations;

Now, therefore, I, Jerry Apodaca, Governor of the State of New Mexico, do hereby proclaim the week of July 16 through 22, 1978 as: "Captive Nations Week" in New Mexico and call upon all citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.

Done at the Executive Office this 14th day of July, 1978 witness my hand and the great seal of the State of New Mexico.

JERRY A. APODACA,
Governor.

Attest:

ERNESTINE D. EVANS,
Secretary of State.

OFFICE OF THE MAYOR, CITY OF IRVING—PROCLAMATION

Whereas: The imperialistic politics of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, Byelorussia, Romania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam, Laos and others; and

Whereas: The desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas: The freedom loving peoples of the captive nations look to the United States as the citadel of human freedom and human rights and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas: The Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of the captive nations.

Now, therefore, I, Marvin Randle, Mayor

of the City of Irving, Texas do hereby proclaim the week of July 16–22, 1978, as "Captive Nations Week" in Irving, and call upon our citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.

MARVIN RANDLE, *Mayor.*

AROUND THE WORLD—CAPTIVE NATIONS WEEK

(By Robert Morris)

I am hoping that the fury engendered by the 1978 Moscow trials will ignite a burning interest in the observance of the twentieth Captive Nations Week. Last year despite President Carter's professed espousal of human rights, the national rights of the peoples in bondage, an integral category thereof, were virtually passed over in silence.

Dr. Lev E. Dobriansky, the most articulate spokesman for the Captive Nations, regularly lists the nations now enslaved with the dates of their captivity and the mere chronology is informative.

As he has pointed out the indicator which he calls the list with the dates, infuriates Moscow because it refreshes people's memories and enables them to readily relate to today's evolving takeovers. i.e Angola, Ethiopia, Mozambique and Rhodesia. It also exposes the true nature of the USSR, as a combine of conquered peoples rather than, as President Carter erred again in his Annapolis speech, is referring to it as a "nation."

The indicator expels the misconception that the Captive Nations are essentially the East European bloc. Armenia, Azerbaijan, Georgia, the Ukraine were all absorbed in 1920. Then came the Far Eastern Republic and Turkestan in 1922, Mongolia in 1924 and Estonia, Latvia and Lithuania in 1940. The litany goes on and on to Laos in 1975 and now stands ready to include Mozambique, Angola, Ethiopia and Afghanistan.

Captive Nations Week helps those who would be interested to keep their eye on the ball. It should engender concern about Angola, Mozambique, Namibia and Rhodesia where once again United States policy is affirmatively pushing peoples onto the Captive Nations list.

As I look at the indicator I am reminded of how many nations U.S. policy has caused to move into Captivity. It is demonstrably true of China, Cuba and Yugoslavia. F.D.R.'s assent to the creation of spheres of influence during World War II was responsible for Poland, East Germany, Romania, Bulgaria, Hungary and Czechoslovakia being absorbed.

All together there are thirty nations enchained and the four of five more that I have mentioned are sliding down into dungeondom.

The liberty—spiritual and political—of these human beings, our brothers and sisters, should be of great concern to every sector of our society, led by our churchmen.

I believe that is truly a measure of our decline as a civilization that this exciting spiritual institution—Captive Nations Week—evokes barely a yawn from the leaders of our nation.

MANTOLOKING, N.J.

[From the Chicago Sun-Times, July 16, 1978]

ADDRESSES DALEY PLAZA CROWD—DISSIDENT PRAISES CARTER ON RIGHTS

(By Larry Ingrassia)

There are "tens of thousands" of political prisoners in Russia for their stance on human rights, former Soviet Army Gen. Pyotr Grigorenko said Saturday.

The exiled dissident applauded President Carter's support of other human rights activists in the Soviet Union and called for U.S. sanctions to put pressure on Russian officials.

Speaking through an interpreter at a Captive Nations Day celebration at the Daley Plaza, Grigorenko reminded the audience that recently convicted Soviet dissidents Anatoly Shcharansky and Alexander Ginzburg are not alone.

"Not just those you read about, but tens of thousands are now in prison who support this fight for human rights," the general said.

Grigorenko was stripped of his citizenship and barred from returning to the Soviet Union last March after being permitted to leave to visit a stepson in New York.

But he told the crowd of several hundred: "The people of the Soviet Union are arising and I believe I will yet return to a free Ukraine." Many in the crowd were fellow Ukrainians and did not have to wait for the interpreter to applaud this declaration.

Grigorenko said he was pleased that Carter "has taken a hard line" toward the persecution of Shcharansky and Ginzburg. Both received lengthy prison terms.

He added that the United States "should use sanctions of government to fight this" but did not elaborate. Western nations also should demand that the 1975 Helsinki accord—which included guarantees of human rights—should be nullified unless the Soviets and other Eastern bloc nations stop prosecuting political dissidents, he said.

Grigorenko accused the Soviet Union of "merciless genocide" against the people of the Ukraine and other nationalities within the U.S.S.R. National identity as well as human rights is a major concern of the dissidents, he said.

"Every expression in favor of human rights or national identity is punished by imprisonment," Grigorenko added.

Grigorenko was a leader of the so-called Helsinki Human Rights Group in Russia along with Ginzburg and Shcharansky. A World War II hero, he rose to the rank of major general before his criticism of Soviet officials led to a demotion. He later spent two terms in psychiatric hospitals for his outspoken support of human rights.

U.S. Rep. Henry J. Hyde (R-Ill.), who spoke before Grigorenko, called on Carter to adjourn the strategic arms limitation talks because of the "contemptuous" Soviet attitude in prosecuting Shcharansky and Ginzburg.

"SALT is as important to the Russians as it is to us," Hyde contended.

He also called for a hard-nosed attitude toward the expansion of Soviet influence in Africa. The United States could have thwarted a "Marxist take-over" in Angola if Congress had approved military aid, he said.

The Captive Nations group seeks the end of Communist rule throughout the world.

[From the St. Louis Post Dispatch, July 16, 1978]

SUFFERING AND TEARS BEHIND THE IRON CURTAIN

The battle against communism cannot be fought on a military level, according to a Lutheran pastor who spent 14 years in prison for aiding Christians in Communist Romania.

"The only thing that can conquer Communists is sainthood," the Rev. Richard Wurmbrand said in a speech Sunday opening Captive Nations Week. "We need not anti-Communist fighters, but saints."

Commenting on the softness of American life, the Rev. Mr. Wurmbrand said, "We can't even understand the toil and suffering of others . . . All the suffering and tears should not belong to those behind the Iron Curtain."

Captive Nations Week, which has been proclaimed by Congress for the last 28 years to remind Americans of imprisoned countries, should not even exist, he said. "We should always remember our fellow brothers in faith. Captive Nations Week should be 52 weeks a year."

Those who do not remember their brothers in prison will fare no better than Communist torturers at Judgment Day, the Rev. Mr. Wurmbrand predicted.

In prison, he said, "not a night passed that prisoners did not pray for America—its churches, its youth, its people, its president."

After he was ransomed from Romania by a group of Norwegians and came to America, "I was sure I would hear a prayer or reminder of those in Romania with 50-pound chains at their feet. I have rarely heard a mention," he said.

Christians have a responsibility to share the suffering of the imprisoned people in captive nations, he said.

The minister heads an organization that smuggles Bibles and Christian literature into Communist countries. He was arrested in 1948 for his underground ministry to captive Romanians and to Soviet soldiers in the invasion force.

He was released twice and rearrested for continuing his work. After his third release, he left Romania and founded Christian Missions to the Communist World, whose U.S. affiliate is Jesus to the Communist World Inc.

Captive Nations Week activities here are directed by the St. Louis group Free Friends of the Captive Nations.

[From the China Post, July 21, 1978]

TAIPEI RALLY TO MARK CAPTIVE NATIONS WEEK

A mass rally with over 3,000 people taking part, including high ranking government officials, foreign distinguished guests, foreign envoys and representatives from all walks of life, will be held at the Sun Yat-sen Memorial Hall in Taipei this morning to commemorate the 1978 Captive Nations Week.

Dr. Ku Cheng-kang, honorary chairman of the World Anti-Communist League, will chair the rally.

Premier Y. S. Sun will also make a speech at the rally.

Other speakers at the rally will include U.S. Congressman John Ashbrook; Chairman of the National Center of Independents and Farmers of France Bertrand Motte; Vice-President of the Supreme Court of the Ivory Coast, Georges Creppy; Japanese Diet Member Taikan Hayashi: the publisher of "Replica" in Saudi Arabia, Sheik Mohammed Salahuddin; and the Counselor of State Council of Uruguay, Willy Patocchi.

The Taiwan Provincial mass rally to mark the week will also be held in Taichung this morning, to be attended by some 2,000 people. The rally will be presided over by Tsai Hung-wen, speaker of the Taiwan Provincial Assembly.

[From the Philadelphia Inquirer, July 25, 1978]

NATIONAL AND INTERNATIONAL NEWS IN BRIEF NOTES

Fifty thousand persons attending a Taipei, Taiwan, rally to mark the end of Captive Nations Week adopted a resolution strongly criticizing the normalization of relations between the United States and Peking. . . .●

TRIBUTE TO STACY "STAC" ALDRICH—OUTSTANDING BOY SCOUT

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. ROUSSELOT. Mr. Speaker, I was recently made aware at a board of directors meeting of the San Gabriel Valley Council of the Boy Scouts of America that last year, on November 10, 1977, their medal of merit was awarded to a young man who lives in the city of Baldwin Park which is in the 26th Congressional District of California which I serve. Because I am extremely proud of

the distinguished conduct of my constituent, Stacy "Stac" Aldrich, I am bringing to the attention of my colleagues in the U.S. House of Representatives, and placing in the public record, the statement on the medal of merit award which describes the remarkable act of bravery which Stac performed.

THE MEDAL OF MERIT

For outstanding service putting into practice Scout skills and ideas is awarded by the Boy Scouts of America upon the recommendation of the National Court of Honor on November 10, 1977 to Stacy "Stac" Aldrich.

While on his way home from school in Baldwin Park, California, on May 13, 1976, Star Scout Stac Aldrich, 12, spotted a five-and-a-half foot long snake crawling toward a young boy playing on the ground. Acting without regard to his own safety, Stac struck the snake with his fist and suffered two puncture wounds on his hand when the snake turned on him. His action saved the boy, five-year-old Larry Green, from harm. Stac was hospitalized for observation but suffered no ill effects. His quick, courageous action reflected great credit upon him and his Scout training.●

THE REGIONAL DEVELOPMENT ACT OF 1978

HON. PHILIP E. RUPPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. RUPPE. Mr. Speaker, today I am introducing a bill which would update, clarify, and consolidate under one act, title V of the Public Works and Economic Development Act, and the Appalachian Regional Development Act. This is a reform that is long overdue. Further, this legislation would extend the life of the Appalachian and Title V Commissions through 1985, and reestablish the Title V Commissions as independent of the Department of Commerce.

In 1965 Congress demonstrated its support of regional commissions by enacting the Appalachian Regional Development Act. Subsequently, Congress also enacted title V within the Public Works and Economic Development Act which created other regional commissions outside of the Appalachian Regional Commission. These acts have highlighted the Federal Government's increased recognition that Federal programs affecting State and local areas must display greater sensitivity to regional, State and local needs.

The Title V Commissions and their counterpart, the Appalachian Regional Commission, were established through the voluntary support of the participating States. The Commissions, such as the Upper Great Lakes Regional Commission, are planning commissions that provide technical and supplemental grant assistance for regional development and represent State and local concerns at the Federal level. The Upper Great Lakes Regional Commission, for example, has been a particularly effective agency to my constituents in Northern Michigan.

To date, nine commissions have been established, including the Appalachian Regional Commission under a separate act. Because of the success of these existing commissions, 17 more States have filed applications to form seven new regional commissions in just the past 2 years. This demonstrates a general consensus among State governments that a regional approach to economic development has been effective.

The legislation I have introduced maintains State initiatives in commission organization, emphasizes the key role sub-State districts play in the overall regional development process, and reaffirms the importance of supplemental grant and aid programs.

During recent years it has become apparent that revisions of title V are necessary in order to conform to changing economic conditions. These changes are not only needed for revising the Title V Commissions, but have also been recognized as beneficial for the Appalachian Regional Commission by both the Appalachian Regional Commission itself and the Regional Commission Task Force established within the Department of Commerce.

Incorporated within the Department of Commerce, the Title V Commissions have found themselves the victims of cost-cutting initiatives and political manipulation which has blunted the effectiveness and ability of the Commissions to fully realize their goals. The result of these actions has been a drastic reduction in funding levels authorized under the Public Works and Economic Development Act, and has limited the Commissions' ability to coordinate important projects of interest to various levels of State government.

The effectiveness of the Appalachian Regional Commission has been due largely to its superior funding, its highly placed position within the Federal Government, and its inter-governmental planning and policy coordination system which reaches from the local level to the White House. However, Appalachian Regional Commission officials also realize the benefits to be gained by updating the legislation and consolidating their status with Title V Commissions.

My legislation, by granting independence to the title V commissions, would provide the commissions with the necessary authority and status to insure their increased effectiveness in the future.

Suggestions have been made to move toward a State block-grant system and place greater emphasis on urban concerns. Such a system would eventually result in the ignoring of multi-State and rural concerns, the initiation of increased expenditures, and be irresponsible toward the expressed interest of the States in maintaining a regional commission concept.

This bill will provide the commissions with greater direction and a mandate backed by the funding necessary for the commissions to play their intended role in economic development. The authorization levels would not increase above the present level of $250 million for the first 3 years, and would only be gradually increased up to a maximum of $500 million in order to permit the expansion and establishment of present and new commissions.

At a time when Congress is faced with demands for less Federal interference, a streamlining of Federal agencies and commissions, and a demand for a better return on each tax dollar, the title V commissions have proven their worth even though meagerly funded. In comparison to the LPW and CETA programs, this regional commission is a bargain and, best of all, it is also responsive to State and local needs without an overbearing Federal bureaucracy.

The present legislation covering the title V and Appalachian Regional Commission will expire next year. This act is too important to be left for last minute consideration. Congress should become familiar with the revisions of this act now, and that is why I have introduced my proposal at this time.

I am hopeful that the appropriate committee can schedule oversight hearings on this legislation before Congress adjourns in mid-October. This legislation deals with an issue that has received the active consideration of all 50 States and the U.S. Commonwealths this year, and should be a priority issue for the Congress as well.●

HUMAN RIGHTS VIOLATIONS IN THE SOVIET UNION

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I wish to again comment on human rights violations in the Soviet Union. Human rights arise from a fundamental respect for the simple dignity inherent in all people. As the Declaration of Independence said with eloquent reserve, "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness . . ." Simply put, human beings, wherever they are in the world, should be accorded certain essential rights simply because they are people.

All countries say they provide their citizens with such essential human rights. As we know, many nations say one thing and do another. The Soviet Union is one such country, as the recent trials of Anotoly Scharansky and Alexander Ginzburg demonstrate. Scharansky and Ginzburg are Jewish activists. They are asserting their rights of free speech, of freedom of religion, and the opportunity to emigrate, as protected by articles 50 and 52 of the Soviet Constitution and the Helsinki agreement.

What do Scharansky and Ginzburg get for exercising their purported rights, as "guaranteed" by the Soviet Government? Jail. The Russians say human rights are well and fine—but do not rock the boat. Dissent is not allowed. Liberty is a lovely word—but do not do anything the Government disapproves. The individual is in complete control of his life—unless the Soviet State decides—arbitrarily and capriciously—that the individual has done something wrong and then so much for individual life.

Human rights are precious. They are more than just words. They mean some-

thing. They mean that human beings have the opportunity to do certain things, notwithstanding whatever the governments of this world do or do not want. They mean that human beings have innate value and respect and dignity, and that this must be recognized and indeed cherished by others. They mean that governments are to serve and protect the interests of their citizens, and not the reverse. They mean that human beings have culturally evolved above the stone man mentality where there were no rights, only individual will where the strongest survived and dominated.

The city council of Pittsburgh recently passed a resolution concerning the recent trials in the Soviet Union, condemning the trials and urging the release of Scharansky and Ginzburg. I wholeheartedly agree with it. I ask unanimous consent to have this resolution printed in the RECORD.

RESOLUTION No. 795

Whereas, Americans of various races, religions, and political persuasions share a profound belief that mankind, through natural instincts, seeks freedom of thought and deed, and that in this blessed land of America, we believe in freedom as essential in asserting the supremacy of Human Rights; and

Whereas, Jewish human rights activists Anotoly Scharansky and Alexander Ginzburg were tried and convicted in the Soviet Union on charges of treason and espionage, such charges causing shock and dismay among the free peoples of the world; and

Whereas, the tenor and severity of the charges against the two defendents indicates they may not have received a fair and equitable trial in an air of suspicion and hostile attitudes toward Jews living in the Soviet Union; and

Whereas, President Carter, indignant concerning the obvious renunciation of the men's civil and human rights, personally has denied that Mr. Scharansky ever worked for the Central Intelligence Agency, one of the allegations against him; and

Whereas, American officials have warned the Soviets repeatedly that the nature of the trials of both Mr. Scharansky and Mr. Ginzburg and any harsh sentences against them could seriously damage American-Soviet relations;

Now, therefore

Be it resolved that the Council of the City of Pittsburgh on behalf of the freedom loving citizens of the City of Pittsburgh does hereby join with the Pittsburgh Conference on Soviet Jewry in condemning this display of anti-Semitism on behalf of the Soviet Union;

And, be it further resolved that we urge President Carter and American officials to remind leaders of the Soviet Union of their commitment to extending Human Rights to all their citizens, and to urge the USSR to dissolve these unreasonable charges and release these men from custody so they may rejoin their families and pursue their rights to freedom of thought and expression.●

CROSSING THE ATLANTIC BY BALLOON

HON. HAROLD RUNNELS

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. RUNNELS. Mr. Speaker, last night three men from New Mexico achieved a goal that has eluded aviation enthusiasts since 1859. Ben Abruzzo, Max Anderson, and Larry Newman did what no one else has ever done before—they completed a crossing of the Atlantic Ocean by balloon.

The three New Mexicans began their flight in a balloon called the *Double Eagle II* last Friday evening from Presque Isle, Maine. Last night they passed over the Irish port town of Louisburgh, County Mayo, the first persons to ever soar from the North American Continent to Europe in a balloon.

I am proud to report the men are still airborne. They were passing over England this morning, and in their words and hoping to "follow in the footsteps of Lindbergh and fly direct to Paris."

Not only are Ben Abruzzo, Max Anderson, and Larry Newman the first persons to ever complete a trans-Atlantic journey by balloon, they have set a new endurance record for unpowered balloon flight. Yesterday they surpassed the old record of 107½ hours and they are still going.

I would like to point out that the New Mexico men have succeeded in their adventure after 17 previous attempts to cross the Atlantic by balloon have failed. In fact, two of the men, Mr. Abruzzo and Mr. Anderson, made an unsuccessful attempt last year, but they have come back to triumph. As they crossed the Irish coast to officially complete their crossing they radioed to observers, "We are on top of the world."

There are some who would say a balloon crossing of the Atlantic means little, that it will not open the way to a new enterprise as the flight of Charles Lindbergh did or have any lasting effect in this complex world of ours other than a few lines in a book somewhere. But I believe those people are missing the point. The flight of the *Double Eagle II* was never intended to do that.

Instead, it is a reaffirmation of the fact that ordinary men can confront the elements, find a challenge and conquer it, and doing that is justification in itself. That is what this balloon flight across the Atlantic Ocean was all about and I am proud that three men from New Mexico were able to meet this challenge and overcome it.●

JUDGE FRED S. LUCERO

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. MINETA. Mr. Speaker, today I rise in honor of a man who has ably served the people of Santa Clara County for many years: The Honorable Fred S. Lucero, judge of the superior court.

On August 31 Judge Lucero will be honored at a dinner by the woman's alliance. This multiethnic organization was created to help low-income minority women, especially those victims of domestic violence.

They believe, as I do, that Judge Lucero brought to the superior court bench a fresh sensitivity to the problems women have, especially in the area of family law.

Judge Lucero began his career in the Santa Clara County Public Defender's Office. During his 13 years in that organization he held many of the top positions. He was the supervising attorney, juvenile court division and later the senior felony trial attorney. He was eventually made assistant public defender in 1972.

In November 1976, Judge Lucero was appointed to the superior court bench in Santa Clara County. Since his appointment, Judge Lucero has served as the supervising judge in family court. In this capacity he has worked with the bar association, other members of the bench and various community groups to improve the administration of justice in the critical field of family law. He is now also a member of the executive committee of the superior court.

Mr. Speaker, I ask you and my colleagues to join with me and many of the fellow Santa Clara County residents in thanking Judge Lucero for the great contribution he has made to the administration of justice.

Further, let us all wish him the best of luck and success in all his future endeavors.

FUSION FOR ENERGY

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. PURSELL. Mr. Speaker, I would like to take this opportunity to express my thanks to the Baltimore Sun for its candid editorial regarding fusion.

I have been plugging fusion—sometimes in a lonely atmosphere—and now we have gained some allies. Fusion does have a great opportunity for success. I submit this article for the RECORD:

[From the Baltimore Sun, August 16, 1978]

FUSION'S UNLIMITED PROMISE

As Congress's effort to adopt comprehensive energy legislation verges on collapse, the most heartening energy news is not the Texaco discovery of natural gas off the New Jersey coast. It is a successful scientific experiment in Princeton, N.J.

Though scientists dislike the usually misleading word "breakthrough," fusion energy researchers cannot disguise their joy at the results of the Princeton experiment: Using magnetic lines of force in a doughnut-shaped containment chamber called a "Torus," they produced a "plasma" with a temperature of 60 million degrees.

Not only does that get them closer to the 100-million degree temperature needed for actual fusion, it verifies that physical laws work, as earlier anticipated, at such high temperatures. "We can predict with confidence now," said one administrator, "that when we get a larger machine at Princeton [scheduled for completion in 1981] we can achieve actual controlled fusion in an experimental setting."

Fusion is the ultimate form of energy, the source of the sun's light and heat, the reaction that makes the hydrogen bomb work. But containing it for peaceful generation of electricity is a formidable task. Two experimental approaches are being taken: magnetic reactors like the Princeton one, and "inertial" techniques in which fuel is compressed and heated with laser, electron or heavy-ion beams. The latter technique may render container walls radioactive, but it will create no dangerous radioactive isotopes, such as the bone-seeking strontium 90 produced in conventional fission reactors. Moreover, there is

no danger in fusion of an inadvertent explosion. And heavy hydrogen fuel can be extracted cheaply from seawater in almost infinite quantities. Both approaches are promising—the magnetic one more so at the moment.

Commercial use of fusion, if it comes, is so far off (the current target date being about 2025) that other energy avenues for the interim must be explored. Scientists believe judicious increases in the federal fusion budget could hasten fusion's development. Yet the Carter administration has actually cut the modest budget. The promise is for unlimited energy, enough to make not only the Texaco find seem paltry but even to render Arab petroleum reserves of minor importance. With the success of the Princeton experiment, the promise is significantly nearer fulfillment. It is time for the administration to review its attitudes toward the fusion energy budget.●

AN ANALYSIS OF OUR FOREIGN POLICY

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. RHODES. Mr. Speaker, I want to bring to the attention of my colleagues an astute analysis of our past foreign policy under Democrat administrations by Robert J. Pranger, director of foreign and defense policy studies of the American Enterprise Institute for Public Affairs.

Mr. Pranger notes that for 80 years Democrat Presidents have wavered between quiescence and emergencies. He also points out the dangers of such vacillation in the current nuclear age. He notes that Mr. Carter seems to be continuing this unfortunate policy, with his utopian rhetoric on human rights being undermined by cutbacks in our defenses.

In this perilous world, Mr. Pranger's tracing of our foreign policy history should remind us of past mistakes, and impel us to take precautions against repeating those blunders.

Text of Mr. Pranger's article is as follows:

THE DEMOCRATIC PARTY'S UNSTEADY FOREIGN POLICY LEADERSHIP IN THE TWENTIETH CENTURY: QUIESCENCE AND EMERGENCY

The Democratic Party's record in foreign affairs during this century, while not precisely fitting the "party of war" description, nonetheless might be called "the party of two foreign policies," neither policy sufficient for preventing war, because both are unsteady in their application. On the one hand, from Wilson to Carter, the Democrats have espoused quiescence in foreign policy: our major problems are domestic ones and these should be given top priority. On the other hand, this same party has been the ruling party in the White House during the onset of all major emergencies in our foreign relations since 1900. And this is precisely the problem with the foreign policy of the Democratic party: it is not so much warlike as unstable, vacillating between quiescence and emergency. Indeed, the two extremes of the pendulum are related. First comes inattention to foreign affairs, then comes the explosion. Every Democratic president in this century has started his term with promises to keep the nation from excessive foreign adventures by concentrating on domestic ills, or at least to de-emphasize the military aspects of our international commitments, and yet eventually each has led us into some new major international emergency.

Roosevelt's first inaugural words, "We have nothing to fear but fear itself", came less than two months after Hitler became Chancellor. By 1937 Franklin D. Roosevelt was talking about "quarantining" dictators. In 1940 we were engaged in lend-lease assistance to Great Britain. Yet, in all this period our own military buildup was minimal and we were caught off-guard at Pearl Harbor. Despite some advance warning to American public opinion, December 7 was an enormous shock for which no one, including Roosevelt, was prepared. History repeated itself in Korea in 1950, Cuba in 1962, Vietnam in 1965—in each case under a Democratic president. Are we due for another such shock under President Carter, but now under conditions of nuclear parity with the Soviet Union?

President Carter's current vacillating policy toward the Soviet Union might be contrasted with the confidence and firmness of his Republican predecessors over the past eight years. From 1969 until 1977 detente was firmly coupled with defense. Now detente is in trouble and so is our defense. Any sense of compatibility between negotiations and strength, typical of the 1972 Nixon-Brezhnev summit, has been lost. In January 1977, as President Ford left office, the United States and Soviet Union were on the verge of a SALT II agreement, but our nation was also embarking on its first real increase in defense spending in recent years. After all, the Soviet Union saw nothing incongruous about strengthening itself militarily while negotiating on nuclear arms control. Why should we?

President Carter proceeded along a more adventurous course by announcing his highly idealistic human rights policy, confusing the SALT negotiations by his abortive March 1977 proposal (applauded by conservatives in his party), meanwhile cutting the Ford defense budget programs (applauded by liberals in his party). The B-1 bomber was not an issue in SALT, but surely helped shore up confidence in our national defense.

President Carter cancelled the B-1 program. Improvements in our land-based missiles were provided for in the 1978 Ford defense budget, but these were delayed in the Carter approach to defense. Not an issue in SALT, the neutron warhead has been at least temporarily shelved by the Carter administration. And an expanded naval shipbuilding program in the last Ford defense budget was severely trimmed by President Carter one day after he had delivered a hard-line speech in Winston-Salem. The pendular swings between quiescence and emergency, typical of his Democratic predecessors, seem part of the Carter foreign policy as well, only now, rather than coming in historical sequence, we find the two themes jumbled together in obvious confusion.

Defense preparedness is not linked by the Carter administration to a long-term diplomatic process for stabilizing world affairs and lessening tensions. Despite the numerous historical lessons from international politics about the importance of military power as an adjunct for sound and reliable negotiations, President Carter's approach seems consistent with his party's tradition, if in a somewhat exaggerated way: he believes in a utopian vision of a world without military conflict, and yet when disappointed he petulantly exhorts us to see this same world in terms of emergencies and Soviet expansion. He offers conflict or cooperation, either one or the other. His speech at Annapolis on 7 June of this year highlights this. Rather than rest secure with the idea that the world, as we know it, will have both competition and cooperation, he offers the Soviet Union (and presumably ourselves) a choice. In the world we have experienced in this century is there really such a choice, or do we have to live with contradictions? Must we strain for moral absolutes in world affairs, or can settle for limited virtures bought at g sacrifice?

[Perhaps this is the most striking feat of Democratic Party foreign policy in t century, the fact that it eschews a fore policy of inevitable constraints and ambig ties for international programs of st alternatives.] Wilson the dove became flaming hawk. Unprepared at Pearl Har after negotiating without strength, R sevelt was outraged after being sudd betrayed by the militarily powerful Japan Having drawn defense lines that effecti excluded Korea from our defense comm ments in early 1950, Truman moved the tion to emergency footing when South Ko was suddenly attacked from the north mid-year. With his stirring and hig idealistic inauguration speech still much on the public mind, Kennedy bec embroiled in the tawdry Bay of Pigs epi in 1961 and then in a near-war with Soviet Union over Cuba in 1962. Presid Johnson turned a deaf ear on Republi proposals in early 1964 that our escalat involvement in Vietnam be subject to national debate, only to call for major arm commitment in 1965.

Such inconstancy coupled with a tende to deal in absolutes—quiescence and em gency, idealism and disillusionment—give appearance of unsteadiness in world affa More than appearance, however, this u steadiness has proved quite real. Ad hoc action has become an established tradit in Democratic Party foreign policy, a President Carter does not seem able to br the spell of this tradition. If anything, inexperience has only exaggerated it. Wh the "war party" label may be a bit strong stated bluntly, the Democratic Party sho be held responsible for its failure to est lish long-term stability in our conduct world affairs during this century. Under present administration we have become predictable and problematic for ally a adversary alike. In place of a steady impro ment in our defense and in our relati with the Soviet Union, carried on simulta ously and without fear of contradiction, t administration has substituted confusion both areas by emphasizing unreal choi between utopia and instability. The vis of a new world order has been juxtaposed a fear of inexorable Soviet expansion. C has been attributed to Secretary Vance, other to Dr. Brzezinski, but the problem much deeper in Democratic Party hist than this.

One might ask why the Democratic Pa has displayed such unsteadiness. Why sho Wilson proudly campaign in 1916 on slogan "He kept us out of war," and th bring the country to war-time emergen footing scarcely a year later? Why sho Roosevelt, having promised no American involvement in Europe's war during the li campaign, be faced with a surprise attack Pearl Harbor in late 1941? Why should Pre dent Carter, who took then-President Fo to task in their second presidential deb in 1976 for starting a new Vietnam Angola, now cry alarm over Soviet and Cub expansion in Africa? Have such tu abouts—and others like them under Truma Kennedy and Johnson—been mere histori accidents? Europe was at war in 1916 and were already involved on the high sea this war. By November 1940 we stood as de facto ally of Great Britain in the strug against Hitler, and were deadlocked in u productive negotiations with militaris Japan. And surely Brezhnev and Castro h come to a meeting of minds on Africa bef the November 1976 presidential election. T tides of world affairs do not operate acco ing to four-year presidential cycles. Qu the contrary, new Presidents find themsel in the stream of world history stretchi back long before their arrival in office a

reaching ahead beyond the end of their tenure.

Then why such unsteadiness in the Democratic Party? Why the pendular swings between quiescence and emergency in its foreign policy? Why the absence of prudent statemanship that combines the long-term with the immediate, negotiation with strength? Why the tendency toward impulsive reaction and sudden shifts? One explanation has to do with the Democratic Party intelligentsia, its ideolgical elite, which is more utopian in orientation than is the intellectual vision of the Republican Party. This might be attributed to a contrast between liberals and conservatives, but even foreign policy conservatives in the Democratic Party—witness President Johnson and his party supporters during Vietnam—seem prone to unsteadiness. For utopians, the world is a lesson in abstraction, a form of moral geometry that can be set right by pure reason. In turn, what's wrong with the world is most often seen by this intelligentsia as the result of ignorance or deliberate falsification. The idea that reason itself is limited to finite programs, and only with great difficultly, seems defeatist. Also, the notion that reasonable persons may differ is alien. Out of such idealism, of course, comes a belief in progress through expanded reason. Quite naturally, the realities of life soon catch up with this utopian vision: expansion of reason may bring forth more learned arguments, but not necessarily their resolution. Or reason may never prove expansive enough to keep up with the nonrational and irrational forces of history, from explosion of populations to the need for people to live—and governments to govern—by myth as well as by scientific thought.

A second explanation for unsteadiness in Democratic Party foreign policy has something to do with the party's voting constituencies. Since the advent of Wilson's "New Freedom" in 1912, the Democratic Party has been highly biased toward domestic affairs rather than international politics. So much "unfinished business" (the utopian bias again!) seems to be present in our own country, it is argued, that we should turn toward internal reform before trying to save the world. Or perhaps worse still, we should try to transfer the lessons of our own reform to the wider world by vigorously spreading democracy. Even the Johnson realists, such as Secretary of State Rusk, were prone to argue the merits of our involvement in Vietnam on the ground that we were fighting to save free elections there. And now we appear embarked on a policy of preaching human rights to a world where the very concept has been used by some nations to enslave millions.

The combination of a utopian intelligentsia and a voting base heavily committed to domestic reform has been central to the identity of the Democratic Party in this century. This identity has not equipped the Democrats for steady foreign policy leadership. So perhaps it is time to drop the war party label for the Democrats, changing it instead to the "unsteady party" in foreign policy. President Carter is now at an unprecedented low point in the polls after 18 months in office. Part of his sagging popularity can be traced to his handling of foreign affairs. Once again the wisdom of the American public seems confirmed. But is this a problem for President Carter alone, or a judgment on his party as well? I think the latter.

The record of the first nearly 80 years of our twentieth-century history and of six Democratic presidents who have served the nation in this period would seem to indicate that unsteadiness in foreign policy is an endemic problem for the Democratic Party. Its tendency to traffic in utopian ideals about world affairs, its pendular swings between quiescense and emergency, its bias toward domestic reform to the neglect of long-term foreign policy planning, its transfer of ideas about domestic policy to the more complicated international arena, and its propensity to pose the problems of humanity as stark alternatives all have made the Democratic Party an unreliable resource for national leadership in foreign policy. This problem has by no means been confined to the liberal sector of the party, but extends to some of its more conservative elements as well. Given American responsibilities for worldwide stability, affecting ourselves and others, this unsteadiness could lead to great calamity in this nuclear age. The weakness appears to be a trait of the Democratic Party itself no matter who leads it.

Wilson, Roosevelt, Truman, Kennedy and Johnson all operated either in a world environment without atomic weapons or with American nuclear superiority. If quiescence led to national emergency, the consequences for the American public were never disastrous. There were large numbers of casualties among brave combatants from this country, of course, and so the responsibility for not having long-term foreign policy programs that combine negotiations and strength has been great. In this sense, the "party of war" label pasted on the Democratic Party has some validity. Yet, today the stakes for the American public are much vaster. Our own civilian population is now under the sign of nuclear holocaust in this age of nuclear parity between the United States and Soviet Union. President Carter is the first leader of his unsteady party to serve in this era of full-fledged nuclear parity where Soviet power may even surpass that of the United States during his tenure in office.

Under conditions of nuclear parity we cannot afford bad foreign policy, and I associate such faulty policy with unsteadiness or a failure to combine negotiations to reduce the danger of war with the strength to make these negotiations last in an international order where lawful authority is still weak. Has President Carter inherited his party's propensity to engage in unsteady foreign policy? If he has and cannot find a cure, then the American public could suffer terribly before the end of his term. At the very least, he must resort to a bipartisan foreign policy which will give stability to his own inherited tendencies toward unstable policies. Given the difficulties he seems to be having in accomplishing this, it may well be safer to propose another alternative: the Republican Party should be elevated by the American people into a genuine majority party, first with substantial gains in Congress in the 1978 Congressional elections including majority status in the House of Representatives, and then to the Presidency in 1980. Parties do make a difference in this country, no less in foreign than domestic policy. The record of the two parties since 1900 has been steadiness in foreign policy by the Republicans, unsteadiness in the Democratic Party.●

RECOMMENDATION BY REPRESENTATIVE JOHN WYDLER TO USE THE BARNWELL NUCLEAR FUEL PLANT

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

Mr. SPENCE. Mr. Speaker, the House Science and Technology Committee has released a report entitled "Oversight of European Nuclear Energy Development" prepared by my good friend and colleague, JOHN WYDLER, the committee's distinguished ranking minority member.

I urge my colleagues to obtain a copy of the report and read the account of how European nations are accelerating their nuclear power development while the United States pauses to question commercial nuclear fuel reprocessing. Of particular interest to me is Mr. WYDLER's recommendation dealing with the Barnwell nuclear fuel plant in my district in South Carolina. He recommends:

The United States should reinstate the plan to reprocess light water reactor fuel at the Barnwell Nuclear Fuel Plant under modern safeguards. This country should develop a comprehensive plan for nuclear waste management, civilian and military, which recognizes that fact that nuclear reprocessing cannot be indefinitely deferred.

In the report's summary of findings is the statement:

Our present policy on the breeder and reprocessing ignores the advances which have been made in safeguards technology as well as the chief mechanism for implementing these safeguards, namely, the International Atomic Energy Agency.

Finally, Mr. WYDLER's report on his discussions with officials of the IAEA should cause us all to be concerned about the administration's nuclear policy when he notes "* * * the world is developing a mistrust of American reliability because of our shifts in Atomic policy. Ironically, this policy causes more countries to get into the reprocessing an enrichment field, leading to more, not less nuclear proliferation."

THE GOOD SAMARITAN ACT

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. PURSELL. Mr. Speaker, it is with great pleasure that I reintroduce today, the Good Samaritan Act along with 17 cosponsors. I first introduced this bill (H.R. 10740) on February 2, 1978, in response to a great concern voiced by one of my constituents.

Basically, the Good Samaritan Act encourages on-the-scene emergency medical care aboard aircraft by relieving physicians, registered nurses, and aircraft employees from civil liability for damages resulting from any act or omission in rendering such care. This bill will provide the necessary legal protection for the aforementioned people, so that they will be encouraged to assist airline passengers who experience medical problems during a flight.

The inspiration for this legislation is Dr. Melvin Reinhart of Ann Arbor, Mich. Several years ago, Dr. Reinhart was on an airline flight on which another passenger suffered a heart attack. He was very disturbed that basic medical equipment was not available to him and the other doctors on board, to assist the stewardess in caring for the heart patient. The doctor promptly began efforts to require airlines to carry basic medical supplies on their planes.

Through contacts with the Federal Aviation Administration, it was learned that such equipment was not available on the airlines because their stewardesses and pilots, and doctors and nurses who were on board, could be held personally and legally liable in suits growing out of the emergency care.

Thus, we now have the vehicle to protect these people in this legislation.

The Air Line Pilots Association and the Flight Attendants Association—those people who will be affected by this legislation—have strongly endorsed the bill, and are actively working for its passage.

I urge all of my colleagues to look favorably on this legislation as I intend to keep up my efforts to enact this bill.●

CLEVER SCHEME TO PAY FOR QUIETER PLANES

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. SIMON. Mr. Speaker, one of the great public raids of our time is being perpetrated by the airlines, a raid that makes Jesse James look like a symbol of virtue and rectitude.

This morning's Washington Post carries an excellent article by Hobart Rowen about that Treasury raid. I am inserting it in the RECORD at this point.

The obligation of the House is clear. We should defeat the legislation. And if it should pass the House and Senate the President should veto it.

If the airlines are interested in a Government guarantee on some long-term loans because of the noise standards, I would agree to that. I might agree to a gradual imposition of the air standards so that as the new planes come on line we will be heading in a responsible direction.

But multibillion treasury raids I shall oppose.

"CLEVER SCHEME" TO PAY FOR QUIETER PLANES

(By Hobart Rowen)

If the airlines have their way, every time you buy a ticket for a flight in this country, 25 percent of the taxes you pay would go directly to them to buy $3.3 billion worth of new aircraft and equipment. And every time you go abroad, $10 would go from your pocket to the airlines' treasuries—it wouldn't even go first to Uncle Sam—to finance their new equipment.

This rip-off is part of a clever scheme concocted by the airlines to have the public pay for the less noisy planes they are supposed to acquire. It is a lovely make-work project for the aircraft manufacturers. And among the more interesting aspects is that airline fares could be reduced by the amount of this bonanza to the industry if administration officials and congressional leaders have the guts to oppose the scheme.

Wage-price watchdog Barry Bosworth wrote a private internal memorandum to the Office of Management and Budget on Sept. 18, 1977, exposing the plan. But he has not been allowed to go public with it. The details of the proposed "Treasury raid" were first publicized by Rep. Gene Snyder (R-Ky.).

Here's what has happened: The airlines now collect, to pay for air-safety measures, an 8 percent tax on domestic tickets, 5 percent on domestic air freight, and a fixed $3 fee on each foreign departure.

Those monies go into a trust fund financing airport safety measures, including the salaries of personnel and the detection equipment used in the pre-boarding routines. But the money collected is said to be more than needed, suggesting that the 8 percent tax ought to be lowered to about 6 percent and the other charges accordingly. Wouldn't a 25 percent reduction in airline taxes be a nice anti-inflationary gesture?

But no. The airlines, required by a 1976 Federal Aviation Administration regulation to use less noisy aircraft after 1984, saw an opportunity to make the public pick up the check. Instead of lowering the tax bill by about $3.3 billion, the airlines' lobby has had two measures (H.R. 8720 and H.R. 11986) introduced in Congress.

They would divert 2 points of the 8 percent passenger tax (25 percent) and 2 points of the 5 percent freight charge (that's 40 percent) into a kitty to finance new planes. The $3 departure tax would be upped to $10, with all of it going to the airlines. And a brand-new 5 percent surcharge would be placed on international cargo—all going to the carriers.

So far, these measures appear to be moving with little opposition through the House Public Works and Ways and Means committees.

In 1976, the FAA estimated that the airlines could modify their planes to conform to anti-noise requirements for a total cost of $950 million. "Retro-fitting" a Boeing 727 by installing sound-absorbent material costs only about $225,000. A new plane can run to $12 million.

But if the airlines can squeeze $3.3 billion out of an unsuspecting public, they will have acquired all new equipment, by putting up barely over half of the total cost, estimated at $7 billion. You and I will pay for the rest.

If the airlines get away with this bad precedent, then the public should expect to be the victim—through taxes—of the cost of meeting any environmental standard.

But the devious nature of this particular proposal is extraordinary. The tax is sneaky, because it is already on the books for another purpose. Without publicity, the "raid" would have taken place, and no one would be the wiser.

This gift to the airlines ought to be vigorously contested by the Carter administration. Instead, it is keeping quiet, in the hopes that it will get some congressional votes as a trade-off for an airline regulation reform bill.

Privately, Carter aides hope to get the House bills weakened in the Senate. But if the White House really wants to control inflation, and be convincing in denials that it has muzzled Bosworth (whose jawboning has offended George Meany), it can do so easily. It can unleash Bosworth and others for an active role in whipping an inexcusable handout to the airline industry at the taxpayers' expense.●

NO LAUGHING MATTER

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. ROSTENKOWSKI. Mr. Speaker, it appears that we have finally reached the end: the end of decency, responsibility, and respectability.

Today, in theaters across the United States, a movie is being shown to the American public. Burt Reynolds is cast in the lead role, and he also produced and directed the film. I am referring to the movie, "The End."

"The End" is a gross and obscene degradation of not only Polish people, but also people of every ethnic heritage. This movie has senselessly inflicted injury on an entire race of people. Under the guise of entertainment, Mr. Reynolds has recklessly and maliciously slurred those of [illegible] who are fiercely proud of our herita[illegible]

"The End" has no socially redeem[illegible] value. In fact, it has no artistic va[illegible] either. I found the plot at best mediocr[illegible] the theme nihilistic, the acting shod[illegible] and the direction nonexistent. I do n[illegible] consider myself a movie critic, but [illegible] only thing this movie accomplishes is [illegible] sulting one's intelligence. The only [illegible] deeming value of "The End," and [illegible] one value the motion picture indus[illegible] places above all others, is its box[illegible] pull.

I have patiently endured years, re[illegible] a lifetime, of Polish jokes. My patie[illegible] is at the end. I cannot abide ethnic sl[illegible] I am shocked, outraged, and demor[illegible] ized by "The End." This movie is a b[illegible] and cruel Polish joke.●

CONGRESSIONAL OVERSIGHT IMPROVEMENT ACT

HON. JOHN E. MOSS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. MOSS. Mr. Speaker, I am plea[illegible] to at this time introduce legislati[illegible] which would aid Congress in effectiv[illegible] exercising its oversight responsibilit[illegible] Joining me in the sponsorship of this [illegible] are 20 Members who are chairmen [illegible] ranking minority members of investig[illegible] tive committees or who are otherw[illegible] intimately aware of the need for t[illegible] legislation.

We believe that vigorous congressio[illegible] oversight is an essential part of regul[illegible] tory reform. Oversight by the peopl[illegible] representatives is needed in order to d[illegible] termine whether administrative agenc[illegible] are faithfully executing laws consist[illegible] with sound public policy and the leg[illegible] lative intent behind our laws.

The U.S. Supreme Court has long r[illegible] ognized the powers of Congress in t[illegible] regard. In the landmark case of Watki[illegible] against United States, the co[illegible] explained:

The power of the Congress to conduct [illegible] vestigations is inherent in the legislat[illegible] process. That power is broad. It encompas[illegible] inquiries concerning the administration [illegible] existing laws as well as proposed or possi[illegible] needed statutes. It includes surveys of [illegible] fects in our social, economic or politi[illegible] system for the purpose of enabling the Co[illegible] gress to remedy them. It comprehends prob[illegible] into departments of the Federal Governme[illegible] to expose corruption, inefficiency or wa[illegible] 354 U.S. 178, 187 (1957).

But the powers of Congress are co[illegible] tinuously being challenged and are b[illegible] coming increasingly more costly a[illegible] burdensome to defend, especially as o[illegible] legislative schedule becomes mo[illegible] crowded. This much-needed bill wou[illegible] do two things.

First, it establishes an Office of Co[illegible] gressional Legal Counsel in order to d[illegible] fend the powers of Congress whenev[illegible] those powers are challenged. Establis[illegible] ment of this Office enables the Congre[illegible] to further preserve its status as a c[illegible] equal branch of Government by not ha[illegible] ing to rely on the Justice Department, [illegible] arm of the executive branch, to defe[illegible] Congress.

This bill would not result in increased

Mr. Rosen has served the city of San

ing—If you cannot take the heat, get out

This bill would not result in increased spending. It could even save money. At present, the Justice Department assigns six lawyers to represent Congress on a full-time basis. The use of expensive law firms has still been needed, costing hundreds of thousands of dollars a year.

The number of occasions when one or both Houses of Congress is a party to litigation has grown during the past decade. Congress is now participating in from 15 to 20 court cases per year.

The work of this Office would be controlled by a bipartisan leadership committee which would use a two-thirds vote for all resolutions. The full House would also have to approve these resolutions.

The second part of this legislation, providing for civil court enforcement of congressional subpenas, is equally sound. Presently, the only means available for enforcement of congressional subpenas are contempt proceedings instituted with a resolution by either House involving a criminal action prosecuted by the executive branch or using the common law method of trial before the bar of the Houses.

Contempt proceedings have become much too cumbersome for a Congress already burdened with a crowded legislative schedule. Civil court enforcement of our subpenas would place these proceedings in a forum which is eminently experienced in such activities, the courts. This provision would not replace contempt proceedings, but it would provide an attractive alternative to them.

Both of these measures are included in S. 555 which passed the Senate earlier by a margin of 85 to 5. Both provisions have received equally strong support in the legal community. The New York City Bar Association has endorsed these proposals, concluding in a recent report, "We favor the establishment of an Office of Congressional Legal Counsel and the granting of civil jurisdiction to congressional subpenas."

For the reasons outlined above, we are proud of this carefully crafted legislative answer to problems that have long plagued Congress. Let me introduce, Mr. Speaker, the distinguished colleagues who join me in sponsoring this bill: Mr. KASTENMEIER, Mr. MANN, Mr. GORE, Mr. HUGHES, Mr. EDWARDS of California, Mr. DERWINSKI, Mr. CORCORAN, Mr. DRINAN, Mr. RAILSBACK, Mr. LENT, Mr. PREYER, Mr. NIX, Mr. LEVITAS, Mr. ADDABBO, Mr. CONYERS, Mrs. CHISHOLM, Mr. RINALDO, Mr. WAXMAN, Mr. HARRIS, and Mr. MARKS.●

HAROLD S. ROSEN

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. MINETA. Mr. Speaker, it gives me great pleasure to rise today in honor of a man whom I have come to know over the past few years, and for whom I have a tremendous amount of respect and admiration: Mr. Harold S. Rosen.

On Friday, September 1, Mr. Rosen is to be honored by the city of San Jose on his retirement as deputy city manager.

Mr. Rosen has served the city of San Jose for the last 5 years as deputy city manager. In the previous 12 years he served the county of Santa Clara as director of personnel and chief negotiator.

Mr. Rosen was the first director of personnel for the State of Colorado and for 5 years served as a consultant to the Philippine Government and several local and State governments.

Mr. Rosen has not only benefited this community as a fine administrator but has contributed to the academic world as author of a number of articles and pamphlets on various labor relations subjects. Further, Mr. Rosen has been a lecturer and instructor at the University of San Francisco, University of California, Berkeley and San Jose State University.

Just a few of Mr. Rosen's other credits include serving as manpower consultant to the National League of Cities/U.S. Conference of Mayors, faculty member of the Mayors Leadership Institute, U.S. Conference of Mayors, and he is currently on the California League of Cities Labor Relations Task Force.

Harold Rosen is an asset to any community and I am proud to say he is a part of San Jose.

Mr. Speaker, I ask you and my colleagues to join with me in thanking Harold Rosen for his dedication to San Jose and wishing him the best of luck and success in all his future endeavors.●

IF YOU CANNOT STAND THE HEAT

HON. BILLY LEE EVANS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. EVANS of Georgia. On January 11, 1978, Secretary Joseph Califano proposed to launch a nationwide anti-smoking campaign which would require $30 million to operate in the first year alone.

Last Thursday, August 10, Dr. Gio Batta Gori, Deputy Director for cancer cause and prevention at the National Cancer Institute, reported that the average daily smoker of some of the current brands of low tar and nicotine cigarettes faces no more extra risk of death than someone who smoked only two cigarettes a day before 1960.

I feel that Mr. Califano is using the power and prestige of his office as Secretary of HEW to dictate against contradictory statements to his previously announced plans of mandating a total ban on smoking in the United States.

Mr. Califano should not be allowed to repress, contradict, and condemn scientific findings which have evolved through one of the most well-funded, well-staffed, and well-equipped research efforts in the history of the United States simply because those findings are opposite to what he would like them to be.

I am very sorry that this 14-year effort on the part of learned and knowledgeable scientists have stepped on the toes of a lawyer who has no scientific training and who through political process was appointed Secretary of HEW.

To Mr. Califano I direct the following—If you cannot take the heat, get out of the kitchen. If you cannot accept documented, scientific evidence which happens to be contrary to your personal belief, and if you launch a vendetta against the scientist who produced this research by pressuring his superiors to fire him by threatening to withhold funding, then I have but one demand—resign, for the betterment of the scientific community of this country and the people in it. ●

MIDLOTHIAN COUNTRY CLUB

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. RUSSO. Mr. Speaker, this year we have the pleasure to commemorate the 80th anniversary of an outstanding institution dedicated to the object for which it was formed 80 years ago—that being, pleasure, recreation and the promotion of outdoor sports. This organization is the Midlothian Country Club of Chicago.

The game of golf, at the turn of the century, gathered momentum as a social and recreational sport rapidly in the Chicago area. By 1900, there were 26 golf clubs, and among them was the Midlothian, organized on January 22, 1898. The man credited as founder of the club is George R. Thorne, who, at that time, was head of Montgomery Ward and Co. Many prominent people in Chicago's history were among the original members of Midlothian Country Club, including Reuben Donelly, J. E. Stack, O. B. Taft, Richard Fitzgerald and A. Montgomery Ward. The oldest active member today is Mr. Jennings Stansberry, and the oldest senior member is Dr. Earle Pronger who joined the club in 1937. The club is fortunate to have quite a few members of 30 years or more. They are: Mr. Eugene A. Barreet, Dr. Leon DePree, Mr. Pierre DeMets, Mr. Stanley Heidenrich, Mr. George T. Howe, Mr. Wesley Miller and Mr. Roy L. Proctor.

The country club, designed by Herbert James Tweedie, the foremost golf architect of his day, boasts some of the finest facilities in Chicago's South Side. There is a beautiful Championship 18-hole Golf Course, Par 71. At one time, it possessed the only railroad owned exclusively by a country club, which consisted of a small locomotive with two coaches and a crew of four. It made 14 trips daily and ran until 1929. Through the naming of the train's depot after the club, the surrounding area became known as Midlothian.

Throughout its 80-year history the Midlothian Club has been host to many fine events, such as the prestigious U.S. Open in 1914, with the immortal Walter Hagen defeating Chick Evans for the championship. Three Western Opens were held at the club—one in 1901, won by Lawrence Anchterlance, and others in 1969 and 1973, both won by Billy Casper. The Hagen Invitational in 1939, and the Women's Amateur in 1907, 1911 and 1915 were other important tournaments held at the club.

Today, Chicago Baseball Charities annually sponsor the Hutch Tournament at the club which nets a fine profit for the Cancer Society. Other events include a husband-wife tournament and a caddie day, where caddies are given the opportunity to compete. Prizes, games and a dinner are provided to thank the caddies, and in a small way show appreciation for them. Midlothian was also the scene of a "swim for heart" marathon, a fund raising event for the Heart Association. Children, sponsored for a specific amount per lap, earned approximately $1,400.

It is a pleasure to find an organization so dedicated to charitable causes, and the promotion of family recreation while remaining nonprofit. And today I would like to commend the club for its 80 years of service to the community.●

REV. HENRY L. PINCKNEY: OUTSTANDING RELIGIOUS AND COMMUNITY ACTIVIST

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. STOKES. Mr. Speaker, I rise on this occasion to pay tribute to one of the leading citizens of Cleveland, Ohio, Rev. Henry L. Pinckney. A year ago, Mr. Speaker, I had the pleasure of informing my colleagues in the House of some of Reverend Pinckney's outstanding contributions to the city of Cleveland, especially in the black community and low-income areas. At that time, I cited his work with the Glenville Task Force on Education and also his establishment of a hot supper program at his church, the Glenville United Presbyterian Church, where 50 children receive free meals throughout the year. In 1974, he established a sandwich, fruit, and milk program which enabled 450 children in Glenville social service agencies to receive free lunches.

In 1975, Mr. Speaker, Reverend Pinckney negotiated with the Council on Economic Opportunity for creation of the first senior citizens program in Glenville. He was one of the organizers of the Glenville Concerned Parents Organization and in 1973, received the Council on Economic Opportunity's Award for outstanding service in Glenville.

Mr. Speaker, in addition, in 1974, Reverend Pinckney was president of the distinguished organization, the Greater Cleveland Interchurch Council and served as moderator of Presbytery of the Western Reserve, comprised of 61 United Presbyterian churches in greater Cleveland, with total membership of 33,000. Reverend Pinckney was active in the Kathryn Tyler Neighborhood Center, on the board of Neighbors Organized for Action in House, chairman of Glenville Community Center and served as volunteer chaplain at Forest City Hospital. His church is fiscal agent for a juvenile action program, counsels youths, and provides them with programs.

Mr. Speaker, Reverend Pinckney has a distinguished educational background. He received his B.S. degree, cum laude, in elementary education from South Carolina State College under the GI bill and his divinity degree from Johnson C. Smith College where he was on the dean's list during all semesters and the winner of the National Presbyterian Scholarship for 2 years.

Mr. Speaker, the reason that I am reciting some of Reverend Pinckney's accomplishments in our city is due to the fact that he has decided to leave Cleveland after years of outstanding service. He has been called to Atlanta, Ga., to assume duties. No doubt, his absence will be a considerable loss to his parishioners, his friends, and the community. Reverend Pinckney has provided inspiration, guidance, and comfort to thousands of citizens, both young and old, black and white, rich and poor. He has won the respect and admiration of all those who know him.

At this time, Mr. Speaker, I ask that my colleagues join me in paying tribute to the distinguished Reverend Pinckney and to wish him success in his future endeavors. In closing, I would like to share with you and my colleagues a quote by Reverend Pinckney which summarizes his high religious principles and deep commitment to humanity:

> A church is the only institution that relates to personal and spiritual being and makes people concerned citizens who have to love themselves and their neighbors. It is an experience on people working together and sharing responsibilities.

I am certain that I speak for the citizens of Cleveland when I say thank you, Reverend Pinckney, for a job well done.●

FLORENCE MALONE—SUPER CITY CLERK

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. PATTERSON of California. Mr. Speaker, Florence Malone, city clerk for the city of Santa Ana, Calif., is suspending her distinguished career of public service on September 15, 1978. Mrs. Malone has served as the Santa Ana city clerk for nearly 10 years and has provided examplary service to every elected official and every city employee during that time. Her professionalism, dedication, and devotion have not only guided and inspired the staff, but have endeared her to everyone with whom she works. There are none in the city family who have been more conscientious or knowledgeable of the intricacies and interworkings of the city of Santa Ana.

Florence has a diversity of experience that few can claim. Her public service includes, in addition to Santa Ana, the cities of La Puente and Monterrey Park, and the school district of Rowland Heights. She has worked for the Social Security Administration, Boeing Aircraft, and has even used her many talents while working for the Pinkerton Detective Agency.

Florence and her husband, Ben, are the parents of five children and have five grandchildren. Upon her retirement from the city, the Malones will make t[illegible] home in Vista, Calif., where Florence [illegible] expand her experience even further [illegible] studying law. It has been my good f[illegible] tune to have worked with Florence [illegible] several years when I was the mayor [illegible] Santa Ana, and I count her as a spe[illegible] friend. It is with a great deal of pride [illegible] affection that I urge my colleagues to j[illegible] me in paying tribute to a super [illegible] clerk and a truly fine lady—Flore[illegible] Malone.●

DEDUCTION FOR RETIREMEN[illegible] SAVINGS

HON. HELEN S. MEYNER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVE[illegible]

Thursday, August 17, 1978

● Mrs. MEYNER. Mr. Speaker, I am [illegible] day introducing a bill to amend [illegible] Internal Revenue Code of 1954 to [illegible] crease the amount allowable as a ded[illegible] tion for retirement savings.

I would like to discuss both the n[illegible] for, and the specifics of, this legislati[illegible]

Before 1974, a worker not covered [illegible] a payroll retirement plan really had [illegible] place to go if he or she wanted a pl[illegible] Then, with the enactment of the E[illegible] ployee Retirement Income Security [illegible] of 1974, these "pension-less" peo[illegible] finally had someplace to turn.

Specifically, individuals not cove[illegible] with a company pension plan can o[illegible] an Individual Retirement Acco[illegible] (IRA), which allows them to take a [illegible] deduction of 15 percent of earned [illegible] come up to $1,500 a year for retirem[illegible] savings, and to defer the tax liabil[illegible] on their contributions to these pl[illegible] until they actually start drawing th[illegible] pensions.

With IRA's American workers h[illegible] the opportunity to supplement th[illegible] eventual social security income to p[illegible] vide for dignity and economic stabil[illegible] in their retirement years. In additi[illegible] IRA's encourage savings and provide [illegible] investment capital to stimulate our s[illegible] ging economy.

There is, however, a problem: T[illegible] $1,500 limit on contributions to an I[illegible] is too low. The $1,500 limit on IRA co[illegible] tributions was first proposed in Dece[illegible] ber 1971 and became a part of the 19[illegible] Employee Retirement Income Secur[illegible] Act.

Since that time, the cost of living h[illegible] risen 51 percent—a fact that, in its[illegible] should bring the current limit to $2,[illegible] a year. Unlike limits for contributio[illegible] to corporate retirement plans, the I[illegible] limit is not subject to cost-of-livi[illegible] adjustments.

It would make sense to adapt the I[illegible] program to allow it to provide real d[illegible] lars for people who are going to dr[illegible] on their plans 20 or 30 years down t[illegible] road. And this is precisely the reas[illegible] I have introduced legislation to ena[illegible] a new ceiling for IRA's. The first thi[illegible] my bill would do is establish a new ce[illegible] ing or $2,300 for contributions to IR[illegible] accounts, effective January 1, 1978. A[illegible]

then, it proposes that future increases in the IRA contributions limit be tied to yearly cost-of-living adjustments.

Whatever reductions in revenues to the U.S. Treasury this bill would cause would be more than offset by the economic benefits of increased private savings and investment. Moreover, small business owners and operators—who represent the kind of individuals who most need a protected pension plan, deserve the opportunity to insure themselves retirement years that are economically stable. As much as anyone else, they deserve real dollars, not inflation-eaten dollars, when they retire. ●

BLACK YOUTH: A LOST GENERATION

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. RANGEL. Mr. Speaker, I rise to call to the attention of the chair and this distinguished body an article in the August 7, 1978 issue of Newsweek magazine entitled "Black Youth: A Lost Generation?" The people at Newsweek, especially the team of reporters who worked on the article, deserve commendation for excellent journalism and service.

As pleased as I am about Newsweek's professional, journalistic product, I am even more disturbed, even frightened, at what I read. The despair, frustration, helplessness and, yes, creeping defeat of a generation, perhaps two, of black youngsters are being captured in vivid description and detail on those pages. It is a sad situation, my colleagues, and has threatening implications for the future. Something must be done.

You will hear no clarion call from me, today, for more social experiments, poverty programs or increase welfare. I do not seek to make the case for helping those youngsters by appealing to your sense of social justice. But I will make the case for help for you, for the country, for the taxpayer, based solely on economics, on cost.

The question is relatively simple: What will it cost to help get them into the job market today as compared to what it will cost to ignore them tomorrow?

To assist us all in answering this question, I plan to call for the General Accounting Office to launch an investigative study to determine future expense to the taxpayer, stemming from the costs of penal institutions, health care, welfare, courts, insurance premiums, business losses and human lives so detailed in the Newsweek article.

[From Newsweek, Aug. 7, 1978]

BLACK YOUTH: A LOST GENERATION

NOTE.—You are cutting off an underclass which is not needed, not employable . . . You must create out of this underclass, or their children at least, human beings who fit into modern America, who are needed, who are productive, who have a value. This is what the question is about.—Gunnar Myrdal, updating "An American Dilemma," 1968.

(Sometimes I sleep late, then go hang out. Play ball all day. That ain't cool—it's gettin' me nowhere, I know. I go lookin' for work when I hear where somebody's hirin'. But it just ain't the jobs for somebody like me. What you expect?—Ronnie Dozie, 18, assessing his life as a black dropout in Detroit, 1978.)

Ten years later—ten years after the riots and the Great Society and a time of unprecedented black advancement—America is in danger of losing that generation of children Myrdal warned us about. Some competent observers believe that it may be lost already. The slums of the nation's aging and blackening cities have bred a population of young people for whom the norms of existence are unemployment, crumbling neighborhoods, fatherless homes, failing schools and dependency on the dole—or crime—as a means of survival. Many escape by sheer bootstrap effort, but more are caught in the demoralizing, dead-end life around them. "A lot of black kids simply feel they don't count, and they don't," says the black psychiatrist Alvin Poussaint. "In terms of what makes this society run, they're expendable."

The statistics of the workplace bear witness to that bleak conclusion. The unemployment rate among black teen-agers has exploded from one and one-half to nearly three times the white rate since the middle 1950s, and has hovered near 40 per cent for the past three years. Some analysts believe that the numbers overstate the gravity of the problem, and that most young blacks seeking jobs find them in their 20s anyway. But others argue that the reality in the big-city slums is a fact worse than the figures—that joblessness among the black young there is on a runaway curve untouched by economic recovery, poverty programs, affirmative action or the emergence of a large and growing black middle class. If the real numbers were fed into a computer, says Diana Durham of the National Urban League, "the projection would read 'riot'."

What the black young indeed have left is the power to disrupt, in a degree frightening not only to whites but to their own parents; in this, they are at once the symbol and the end product of the malaise of America's cities. Yet even the fiercest of insurrections of the '60s have sputtered out into the random, one-to-one street violence of the '70s. The spark of rebellion, like the will to succeed, must fight for life among young people growing up black in America—a world in which half of all black children are born out of wedlock, two in five live in fatherless homes, two in five grow up in poverty, and one in three is supported by welfare. The too-common alternatives are for the young to reproduce the failures of their elders: for boys to slide into crime or hustles—which a recent study in Watts calls the major single source of income for ghetto youth—and for girls to bear their own out-of-wedlock babies in their teens.

The will to succeed has nevertheless survived. Perhaps a fourth of black America has scrambled above what the government considers the intermediate income line—$16,236 a year for a family of four—and has established a secure and stable toehold in the middle class. The black young stay in school longer—two-thirds finish high school where three-fourths dropped out a generation ago—and more often stick at their books against the lure of the streets and the derision of their peers. They seek out work, often against the most discouraging odds; a crowd of 120,000, heavy with minorities, lined up overnight for 55,000 government-funded summer jobs in New York City. "These people will work," says Detroit dropout Ronnie Dozie, sweeping one hand across his neighborhood panorama of ramshackle tenements and litter-clogged alleys. "They'll work. I know they want something out of life besides this."

The problem remains that the work is not there, in spite of the revival of the economy since the 1975 recession and the renewed interest of the Federal government under Jimmy Carter. The Administration has, in the new vogue phrase, targeted in on youth unemployment with a series of imaginative new programs—among them a multicity experiment at guaranteeing government-paid work for the young poor if they agree to stay in school. But these programs have not perceptibly improved the lot of black teen-agers; their unemployment rate still hung above 37 per cent in June, despite a dramatic dip in the over-all national rate. Their plight, moreover, has resisted national solutions in the past, in part simply because they are relatively few in number—perhaps 400,000 are out of work by current official estimates—and are scattered in ghettos across the country.

Other public and private institutions, combat-fatigued and underfunded, have had little better luck finding or creating work for unskilled, semiliterate young black men and women who may not even know how to dress for a job interview or fill out a rudimentary application form. It is indeed arguable that the single most hopeful force working in their favor is a demographic accident—the end of the postwar baby boom that doubled the number of black teen-agers, from 1.2 million to 2.4 million, between 1960 and 1975. The sheer size of their generation inflated rates of unemployment street crime, drug addiction and family disintegration in that period; now, the big-city crime rate has begun turning down, and some analysts believe the other numbers will follow.

But there is otherwise small ground for cheer either in the anomie of the slums or the flow of history outside—the flight of industry to the suburbs and the Sun Belt, the rising competition of white women and the elderly for what work remains, the enduring irrationality of a welfare system that penalizes work and family stability. The rate of unwed motherhood and broken homes have, like teen-age joblessness itself, taken on a breakaway life of their own; the new generation of black children who will reach adolescence in the 1990s will be smaller, but a majority will have been born out of wedlock, raised for at least part of their lives by only a single parent, and propelled into a high-skill 21st-century economy. "Many black kids at 13 or 14 are already obsolete," says Douglas Glasgow of Howard University's School of Social Work, and at least some of the trends that make them obsolete are accelerating.

Some hopeful countercurrents have germinated in the black community itself, like flowers poking up through the cracks in the city pavement; one is a growing revival of the gospel of self-help, notably—but by no means exclusively—in the mod ministry of the Rev. Jesse Jackson of PUSH, for People United to Save Humanity. But the resources for self-help in the black slums, never large, have got smaller with the slackening of public and private financial aid since the 1960s, and the gospel rings faintly for those of the young already acquiescent in their defeat. "We're going to slowly disappear—get doped up or put in jail or shot," says Ellery Thomas, a Detroit ghetto 15-year-old. "Something's goin' to happen to all of us, 'cause, see, for us right now all the stuff in the street—dope, guns, fast money—we see people makin' tops doin' that every day. We're gonna want a piece of the rock too. Nobody wants to walk around poor."

SITUATIONS WANTED

Larry Callahan, 19, left his sister's apartment in Atlanta's Grady Homes housing project early one morning to see about a job. The woman he spoke to at a Federal job office directed him to the Atlanta Urban League office. A woman there told him to talk to a

man at the Indian Springs condominium complex in suburban Atlanta. Larry borrowed the bus fare but then got on the wrong bus. Determined, he walked 45 minutes in the rain to make the appointment—but the man he was to see wasn't there yet. "He showed up at 5:45." Larry recalls. In the end, Larry was told that government funding for the maintenance job he sought hadn't come through yet. Call back, the man said, and Larry has been doing just that for six months. "I really thought I had that job," he says. "But it turned out the same way they all do, a loser."

Larry has been losing a lot lately. When he graduated from high school last year, he stepped right into a $4.25-an-hour maintenance-trainee job that a friend had told him about. He never thought he would make that much right away, he says. "It was like a dream come true." But it didn't last. Two and a half months after Larry was hired, the company moved out of Atlanta. Since then, he's been making the rounds several mornings a week, following up tips. "I've got applications out all over town," he told NEWSWEEK's Vern E. Smith.

Work is nothing new for Larry. He's been at it since he was 8—when he cut up beans in a neighborhood cafe. Now, when he's short on bus fare or job leads, Larry spends time baby-sitting for his 7-year-old niece, umpiring softball games at the Boys' Club or playing pinball in a neighborhood soda shop. "I've got to keep active," he explains. "I have a friend who got into trouble. He'll be on probation until 1980. The trouble thing ain't me."

That he has stayed straight is attributable, in part, to a solid upbringing—although even there, Larry has had his share of problems. When he was 11, his mother died, and he went to live with his grandmother. Larry now divides his time between her place and the apartment of one of his sisters. "Without them I never would've made it," he says. "I've told them I'm going to do something good for them before I leave here." His father dropped out of the picture early on. "He lives in Atlanta somewhere," the youth says disdainfully. "I've seen him on the street and tried to flag him down but he keeps on like he didn't see me. I had a bottle in my hand once. I started to throw it, but then I told myself, 'No'."

If he can get a job to pay his way, Larry would like to take up plumbing at a trade school. He thinks he is being turned down for jobs mainly because he is unskilled, not because he is black. "Everywhere I go I see signs saying 'equal opportunity employer,' but they look at some blacks and say they just ain't got the skill. I just want to have me a good job with decent pay. Everybody keeps saying hang loose, hang loose. But it's hard to hang loose living like this."

Hanging loose, for the Larry Callahans, is too often all there is to do. They are part of what James W. Compton of the Chicago Urban League calls a glut of young, big-city blacks "who have no skills, are not getting and job experience, and probably are not developing life-styles that include any work at all." That a majority, like Callahan, keep trying is testimony to the hardihood of the American dream even in those urban barrens where it has most vividly failed. A minority, unsurprisingly, give up. One day recently, a young black man grabbed Sue Ann Berry Freeman, a Berkeley youth worker, in the street and begged her for money. Another panhandling derelict, she thought—until she recognized him as an ex-client with a wasted 150 IQ.

Even the numbing unemployment figures are an inadequate measure of conditions in the slums. The view of some revisionist students is that they are not quite so catastrophic as they look—that they are statistically shaky to begin with; that they are swollen by the children of the baby boom; that they count some young people who are actually working "off the books"; that the jobless rate in any case is halved among blacks in their early 20s, and halved again after they turn 25. But there remains little doubt that the numbers, however inexact, are bad and have got worse at a rate far exceeding that among the white young. Some analysts believe that they are in fact worse than they look: the Urban League's Vernon Jordan argues that, when you add in the underemployed and people who are too discouraged even to look for work, the real unemployment rate for black teen-agers may approach 60 per cent.

The causes are numerous, and intractably interwoven. Age and color both count against the black young in the job market, and so do the feral stereotypes they conjure up among whites and middle-class blacks. Technology, even in such everyday forms as automatic elevators and ditch-digging machines, makes old-fashioned sweat labor obsolescent. Blacks have been moving to the suburbs in quickening numbers, but jobs have moved farther and faster; there are now more in Chicago's suburbs than in the city. The black young pay further for the most benignly intended customs and public policies—for minimum-wage rises that price them out of jobs; for the surge of women into the labor market, and relief of the elderly from mandatory retirement at 65; for the demand for credentials like high-school diplomas, without regard to whether a particular job really requires one.

Neither do the disabilities of growing up in the ghetto travel well where the jobs are. Schooling in the slums has improved far more in quantity than in quality. Fedco Food, a black-run New York supermarket chain, aggressively hires black youths, but a majority of the 2,000 it screens for 250 jobs every year flunk out on a single three-R-level test question—"If three cans cost 39 cents, how much does one can cost?" Police records are easily acquired and hard to live down; on some blocks in some cities, most of the black boys have one, for offenses ranging from hustling "herb"—marijuana—to burglary and robbery.

Even the elementary etiquette of job hunting, bred into the white and black middle class from early childhood, can be a distant and frightening mystery for a teen-ager in Harlem or Watts. "You have to tell them, 'You don't go looking for a job with sneaks on, your shirt out and cornrows in your hair'," says Carver Leach, a Washington youth-work supervisor. "'You put on a shirt, tie and coat, and real shoes, and you press your pants. Don't lean over the desk, take your hat off, state your name fully and slowly.' You've got to tell them all these things, because a lot of them don't know, and they come back from an interview angry 'cause the white ——— didn't hire them."

A corollary to the revisionist view of the problem is that short, intermittent periods of unemployment may even be good for young blacks—an off-the-job education in seeking and finding work. If so, practice does not quite make perfect; unemployment among blacks in their early 20s, though greatly reduced, remains at a depression-level 20 percent. The view, in any case, is not widely shared by makers of public policy, who still cleave to the traditional view that jobs are the simplest and most effective way to begin helping the ghetto poor. It is held in even lower regard among blacks beset by the costs of joblessness among their children—the retarded hopes and ambitions of those who survive it, the tug of the street and the dole for those who do not.

TRAPS OF POVERTY

The world of Patricia Davis was crowded and chaotic. She lived with her mother, five younger brothers and sisters and her mother's sometime boyfriend in a two-bedroom apar-ment in the vast, palm-treed ghetto of south central Los Angeles. Her life revolved arou school and friends, an always-on TV set a a blaring stereo. But when she was down, s would sit by herself in the garage to thi about things—about other kids she kn getting into trouble with the law, about wh she really wanted for her life. Sometimes s would talk to adult friends, including h grandmother who lived around the corn But Patricia felt she needed something ot something of her own. So she had a bal

The decision was easy—and almost tra tional. Patricia's mother, Beverly, was on 17 when she had Patricia by a husband fro whom she was divorced after half a dozen years. Patricia's grandmother was 16 a unmarried when she had Beverly. In fa when Patricia looked after tots in a chil care center last summer, her mother warn her about the temptations of maternity. " you work there, you're going to have a baby Patricia ignored the warning. She was seei a boy named Theodore Johnson, who had ju graduated from her school. She called hi "Theodie," they made love, and Patricia to a chance. "I didn't take no birth contro she told NEWSWEEK's Martin Kasindo "Secretly, I wanted to have a baby. It w something to keep me happy, I guess. wanted to start a life of my own."

Her mother was mortified. "I wanted her get rid of it," Beverly Davis says. "I want her to get an abortion." Instead, Patric borrowed money from her grandmother to to Houston, where her father lived. But h drinking got on her nerves, she grew hom sick and soon returned to L.A. to atte "pregnant school"—a program for you mothers and mothers-to-be where chil rearing techniques are taught along wi schoolwork. Last spring, two months befo junior-year finals and Patricia's seventeent birthday, Taneshia Patrice Johnson was bor

Lately, Patricia's mother has reconcil herself to the situation. An electronics a sembler in a bus factory, she is "on th county"—receiving welfare aid—for her children and new granddaughter as we Theodore, a liquor-store cashier, often visi his daughter and occasionally contribut money for the child's support. He has ask Patricia to marry him several times, but sh refused. "I said I'm not ready yet," she say "I tell him to give me time. I have to ge everything straight."

In the peculiar psychology of the welfar cycle, Patricia would now like to get "on th county" herself—as a mark of independenc But she doesn't mean to be a "welfar queen," she says, and has vainly sought summer employment at a Zodys discoun department store, a Jack-In-The-Box fast food shop and an optician's office. What sh would really like to be is an assembler, lik her mother. What is certain is that she want to be somebody—and despite all the odd she believes that Taneshia will help. "Havin the baby pushes me forward to do somethin better," she says. "You know, like, hey, gotta make it for me and my baby. I wan to graduate so my baby can see me. She'll b in the audience saying, 'There go my mom my'." Yet Patricia has already conceded tha Taneshia's fate may ultimately be the sam as hers, her mother's and her grandmother' "One day she might feel like I do," she say "and want something of her own to be de pendent on her." And the cycle would begi once again.

The Patricia Davises, multiplied by th tens of thousands, are the prisoners of wha Harvard's Dr. Poussaint calls a "doll syn drome"—babies having babies and coming prematurely into an adulthood mired i poverty, dependency and broken homes. Th folk notion that welfare is what tempts the is mostly myth; in a community where near ly half the children are born out of wedloc and none are counted "illegitimate," Pous

saint observes, "It makes you feel like somebody to have a baby call you 'mama'." But welfare remains the most common outcome. Nearly a fourth of all black families and a third of all black children depend in some measures on it—and some still unmeasured fraction of them may be turning into a permanent and hereditary welfare class.

The social tragedy hidden in those figures is the continued rise in the percentage of black families headed by women, from 25 percent when Daniel Patrick Moynihan wrote his famous 1965 report on the problem to 35 percent now. As a consequence, fewer than half of all black children live with both parents—compared to 85 percent of white youngsters—and two in five grow up fatherless and poor. One outcome of the doll syndrome is the dole syndrome—a life drifting on and off welfare and a long and frequently losing struggle to keep the cycle from repeating itself. "There's nothing my mother can tell me," says Dee, a Chicago welfare daughter who became a welfare mother six years ago, at 15. "If she were so smart, why was she stuck with seven children and no man?"

The consequences can be devastating. Fathers disappear, encouraged by welfare laws in 24 states that still deny checks to poor two-parent families. Children start shopping, fixing meals, even hustling extra money at 5 or 6—an education in life at the expense of being a child. Boys grow up with no role models except those they find on the street corner—and sometimes no concept of work as a way of life. "I don't have no heroes," says Marcus, a bravado slum kid of 15 in Detroit. "See, I live in a houseful of women—my grandmother, my mom, two aunts, and they all have daughters—and I won't look up to them." So he has become his own hero, prowling the streets with his hair done up in a net, a derby atilt on his head, and a .22-caliber "bop gun" stuck in his waistband. When a grownup asked him what he expects to be doing at 20, he answered impishly: "Three years in jail."

The schools have been powerless to help manchildren like Marcus; he bumped along for years on that conveyor-belt system known euphemistically as social promotion—"See, I can just *sit* there and pass"—and when he was expelled last winter for fighting, it seemed to him pointless to go back. The statistics of black education are in some respects profoundly hopeful: blacks now are nearly as likely as whites to finish high school, are more likely than whites to perform *above* grade level and are going on to college in growing numbers. Thirty-four states have tried, moreover, to brake the conveyor belt by requiring students to pass competency tests in the three R's for promotion or graduation.

But staying power has far outstripped achievement in ghetto schools where pupils and teachers share a mutual expectation of failure; where students commonly disrupt because they are not coping; where maintaining order has sometimes supplanted schoolwork as the first priority. More blacks than whites perform *below* grade level as well as above—39 percent of the girls and 42 per cent of the boys in their teens. Magical teachers and experimental teaching sometimes waken their dormant possibilities; at Detroit's Kettering High, for one example, a 32-year-old ex-football player named Luther Campbell has coaxed good work out of a small problem class with nothing but the daily newspaper for his text. It remains a Sisyphean labor. He sparked one of his 16-year-olds to a bleak bit of poetry—"Communities get worn and turn into ghettos/It's hardly fit for living but that's how it go's . . ." The poem still hangs on the classroom bulletin board. The poet has dropped out.

The problem remains that the ghetto young see little in school directly relevant to their own survival, and less reward at the bottom line. In St. Louis, Jimmie Harris, 23 and unemployed, ticked miserably down his list of credentials—high-school and technical-school diplomas, a Job Corps certificate, an Army discharge—and said: "This stuff doesn't mean a thing out there." His case is at least arguable in a society in which white high-school dropouts are still more likely to find work than black high-school graduates. It is, in any case, a view widely held in the ghetto. "Why," asked a young hustler on Chicago's South Side, "should I waste my time going to school so I can end up with a $13,000-a-year job at the post office? Hell, man—I can *steal* that much."

THE MEAN STREETS

Times were hard—but not all that hard—for Gary Weaver growing up on Wharton Street in the shabby heart of black South Philadelphia. His mother drew welfare to supplement her job as a waitress and always managed to hold things together for Gary and his two brothers and sister. "We were poor, but not poor poor," Gary says, shrugging. "I've got no beefs." Yet he and some friends walked into a store two years ago and killed the owner for little more than pocket money, police say. Gary Weaver is now in jail, awaiting his second trial for murder, and those who know him best can only shake their heads and blame "the street."

Gary was a tall, unexceptional kid partial to Bally shoes, Pierre Cardin shirts and a girl named Rosetta. His father was a spit-and-polish cop who left home when Gary was 1 but came around periodically to see the boy and take him on fishing trips down in Jersey. Following his parents' example, Gary tried to work hard—he spent summers collecting trash around city parks and babysitting—and he attended a special high-school program for the disadvantaged. He couldn't read a word when he entered the program, but by the end he was doing well enough to consider a job as truck driver or construction worker. "I thought he would amount to something," laments a school official, Tammy Williams.

But Gary couldn't find a full-time job, and at 18 he finally gave himself up to the risky changes of the street. He rose past noon to dribble, pass and shoot away the summer days in a nearby schoolyard, then play cards and shoot dice into the night. He stayed high on marijuana and sold "nickel bags" ($5 each) for spending money. He got busted once for mugging, but the case was thrown out. "You get awful bored sometimes on the street," Gary told Newsweek's Tony Fuller. "There's just not that much to do."

One idle Sunday morning two years ago, Gary and three pals thought of something. The police reconstructed it this way: the foursome sauntered to The Drugstore, a variety shop across the street from Gary's house where he had bought candy since childhood. "Hello, kids," said Joseph Cohen, 65, the white proprietor. Suddenly, one of the four lowered the protective iron grate over the front door and then helped the others drag Cohen into a back room where they tied a venetian-blind cord around his neck and hung him from a metal shelf. "Please don't, I'm your friend," Cohen cried, but they stuffed a pillow over his face—and stabbed him repeatedly in the chest until the knife blade broke. One of the youths found another knife and buried it hilt-deep in the old man. Then they ran off with $128. "We thought we needed the money," Gary told Newsweek. He insists that he stood lookout during the stabbing, but admits that all four youths agreed that Cohen should be killed because he would recognize them.

All four were arrested and Gary gave the police a statement that was tantamount to a confession. They were tried together, convicted and sentenced to life in prison, but the convictions were overturned last year because Pennsylvania's joint-trial statute was found unconstitutional. Gary is awaiting retrial in Holmesburg prison, a humid, aging place as bleak as his future. "I'm responsible for what I did," he admits with little apparent emotion. "I don't blame anybody else. It was something that happened." He still spends a lot of time playing basketball—it's about all there is to do in jail—but sometimes he simply sits in his cell, overcome by the knowledge that "things could have been different." Or he writes long letters to Rosetta, talking about how—if he ever gets out of jail—he wants to marry her and move down South to work the land. "Just a little bit of land," he writes, "where it's real quiet and there's no street and no trouble."

In the big-city black slums, the street tugs constantly at the Gary Weavers, and trouble is never far distant. Their world is one in which two-thirds of the men work in blue-collar or menial jobs—when they work at all—and in which the wealth most conspicuously displayed has been earned outside the law. The temptations are obvious, contagious and often irresistible. "You ask a little white boy what he wants to be," says James Taylor, a June high-school graduate in Detroit, "and he may say some kind of big-time executive. You ask a little black child the same question, and he may say, 'I want to be a pimo'." Or a fence, or a numbers banker, or, most profitable of all, a drug dealer: one apprentice currently circulating in Oakland, Calif., is said to be pocketing $200 a week running narcotics—at age 10.

The specter of black crime has made the ghetto young, guilty or innocent, the objects of fear in middle-class America—an anxiety unrelieved by the facts that most of it happens in the ghetto and that the appalling statistics have at last started down. Black youth, in fact, do account for a vastly disproportionate share of arrests for teenage crimes of violence—52 per cent nationwide—and, as a result, police records are ten times as commonplace among the ghetto young as in the middle-class world around them. But if the jails are full of the failures, the streets are thick with the ones who got away. New York City's Vocational Foundation Inc. calculated that the odds against a juvenile's doing time in city jails for a major felony were 100 to 1, and concluded: "There is simply no clear pattern of rewards for good behavior and penalties for bad."

Crime flows from the emptiness of slum life as well as from its poverty. The ghetto is full of young people who never leave their neighborhoods and never see the world outside except on TV. It is a place, as well, where careers in crime are born on whims simply because nothing else is happening. "I was with one of my partners," says James S., a child of Watts, "and he said, 'Are you down for snatchin' a purse?' I wasn't thinkin', so I just snatched it." He got caught that time, but progressed anyway from purse-snatching to gang-fighting to burglary—and now a stretch in a California youth prison at 15.

But the most powerful temptation is the obvious one for young people raised on the dole and commonly unemployed: crime pays. "We're in the position," says Barbara Burk-Tatum, a Boston youth-service administrator, "of talking about diplomas and minimum-wage jobs to kids who've been making a hell of a lot more hustling—and tax-free, too." It is low-risk, high-yield work, accessible even to grade-school-age entrepreneurs dealing "loose joints"—single marijuana cigarettes—for a dollar apiece on a stairwell landing. The Watts study conducted by research economist Paul Bullock reached the conclusion that victimless crimes alone—the

street traffic in drugs, bets, numbers and women—constituted "probably the greatest single source of market income for young men in the central city."

The temptation seems unlikely to fade for the young blacks caught, unemployed and sometimes unemployable, in the backwash of the mainstream economy. "I hate to wake up some mornings," says Eugene Franklin, a 21-year-old dropout in the St. Louis slums. "I ain't got no gig, and even if I had one, it wouldn't be payin' nothin'—by the time I got a check it'd be gone. So you'd rather take your chances hustlin' on the streets. You got to do *somethin'* to stay alive." The siren song is a powerful one in the asphalt wastes of the nation's inner cities; it is the dismal suspicion of some social scientists that it is too often the best and brightest of the ghetto young who answer it—and the misfits who have the will and the courage to resist.

BREAKING THROUGH

Linda Carmichael has lived all her 18 years in a gritty South Side Chicago tenement staked out by winos, junkies and petty hustlers. She has done four years in a high school whose academic reputation is a bad joke and whose students, all black, come from the poorest families in the city. She has watched playmates exhaust their youth—and their potential—while still in their mid-teens. Yet she herself has survived, even triumphed. Pretty and petite, Linda graduated fourth in her class of 360 last June, one of a handful of bona fide honor students, and, come fall, she will fulfill a family and personal dream when she packs off to tiny Luther College in Decorah, Iowa—the first in her family to seek higher education. "Linda is a classic over-achiever," says Luke Helm, assistant principal at DuSable High. "She has done much better than anyone had any reason to expect."

The motivation in Linda's case is plain. "Her aim is to get the hell out of the ghetto," says Helm—and Linda agrees. "I've wanted to go to college since I was in grade school," she explains. "As long as I can remember, I would look at the people on the street who didn't go to school, and I knew I didn't want to be like them." She gives all the credit to her father, a restaurant-chain cook, and mother, a school-lunchroom attendant—both Southern-born with old-time values and a gift for nurturing ambition in the rockiest ghetto soil. "My parents are always there," she says. "Whenever I had something bothering me, I could always come to them."

Having a family to fall back on, it seems, helped her to achieve independence. When she was 15, Linda got tired of asking her parents for money and decided to get a part-time job. She listened to rejections for two years before being signed on as a salesclerk in Wieboldt's department store downtown. After school she took the train to work five afternoons a week, then dragged herself home to plow through homework on the bed she shares with her sister. (Her two brothers share the other bedroom; her parents sleep on a small sofa in the room that serves as living room, dining room and kitchen.) Only then did she go out with friends, stubbornly refusing liquor and pot in favor of milk and pop. Predictably, her discipline has provoked resentment from some of her peers—"some people tell me I think I'm smart," she shrugs—and passing regrets by Linda herself. "There were times when I got tired of all the work. I wanted to be out partying and goofing off like everyone else," she confesses. "But I'd start thinking about all those people on the streets with nothing to look forward to, and where would I be without school. That kept me going." Her goals now include a degree in physical therapy, a job in which she can help other people—and enough money to help her parents buy a home of their own. Says Linda: "It's something they've always wanted."

She finds it odd that so few of her peers see things her way. "What makes me happiest is seeing people trying to do things for themselves," she says. "I'm saddest when I see so much crime—people trying to get too much vengeance back on the world. We can't help it because we are darker than other people, and we can't make up for what happened hundreds of years ago." But in fact, making up for that lost time is what Linda's life is all about. She is, like others before her, a believer, determined to make a way where there is none. "The problem with our people is that some of us just give up too easily," she told Newsweek's Sylvester Monroe. "I feel I've accomplished a lot—more than my mother and father had the opportunity to do. I'm proud of myself."

It is pride, finally, that raises the Linda Carmichaels up from under—pride and grit and a stubborn resistance to the pull of the street. The strivers who stay at their books and fight free of the downward spiral of poverty do so against formidable discouragements—the simple difficulty of finding a quiet place for study, the competing necessities of bringing in money and helping keep a household together; the demoralization of the schools and the demoralizing opposition of the dropouts and the flunk-outs they leave behind. "There's no program for achievers," says Dale Hines, a black Los Angeles gang-control cop who made it out himself. "If they fail, there's programs. If they're a thug or a crook, there's programs. For them—nothing. Everybody beats up on them."

For a privileged middle-class minority of the black young, that struggle was fought and won a generation ago or more. "I know I'm very fortunate," says Bridgett Gidron, 18, the daughter of a self-made and successful black Cadillac dealer who bought his family a future in the moneyed New York suburbs. "The only ghetto experience I've had was driving through the South Bronx once or twice on the way into the city." For those who live there, the process blacks call "getting over"—finding work, finishing school, scuffing to a life better than one's parents led—can be a lonely labor. "Over here," says Raymond Noble of his life as a striving eleventh grader in Boston, "are people who don't know me; over there, people who don't like me; behind me, people who are making fun of me and want to beat me down."

Still, for a majority of the black young, the struggle goes on, and it has lately found a rousing cheerleader in Jesse Jackson and his "Excel" campaign. Jackson's self-help revivalism has flourished in direct proportion to the failure of old-style, megabuck Federal programs to dent the problem and the flickering of the nation's will to keep trying.

He brings his ministry into a school, rousing assemblies with his exhortations ("No one can save us from us but us") and leaving "contracts" in which children, parents, and teachers all pledge to do better. The suspicion lingers that the program is stronger on theater than on follow-up, but after a promising beginning in ten Chicago schools, it is expanding into Kansas City and Los Angeles.

What has faded is the millenarian dream of the 1960s that Washington could drown the sorrows of the ghetto in ten-figure appropriations and twelve-point programs. Some worked—the Job Corps, for one useful if expensive example—but others suffer from bad design and inflated expectations. The real promise of Carter's billion-dollar, 250,000-job cluster of programs under the new Youth Employment and Demonstration Projects Act may indeed be its rifle-shot targeting and its conscious modesty of ambition—to see what, if anything, really helps. The new wisdom, in Washington and in the street, is that at least some of answers may be surprisingly cheap and to hand—lowering the minimum age drivers' licenses and beauticians' papers laxing laws and regulations that bar m from working nights or operating machinery, creating a new credential young people who complete a ninth-g education.

But the rescue of a generation in ghetto is not an easy or an inexpensive b and the battle-worn men and women in front lines commonly despair of Ame will even to try. They spend their day discouraging struggle against conditions for the children of the big-city black s are demonstrably worse—much worse— they were before the riots of a decade What they really fear among their chang something even more destructive than ing: the surrender of a generation to its defeat.●

THE CRIMINAL JUSTICE ASSIS ANCE ACT OF 1978

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVE

Thursday, August 17, 1978

● Mr. CONYERS. Mr. Speaker, it is difficult to understand the widesp dissatisfaction with the Law Enfo ment Assistant Administration. L has spent nearly $8 billion with l or no impact on the rate of crime, fear of victimization, or the sense o justice experienced by persons—e cially minorities and the poor— come into contact with the criminal tice system.

In the 10 years since the creation LEAA, criminal justice expendit have escalated fourfold from $5 bil to about $20 billion. To quote the torney General's own study group LEAA:

The increase in personnel and funds not had a significant impact on the c rate . . . They have not stemmed the in the backlog of the Nations courts, have they curbed the over-population o Nation's correctional institutions.

For the most part, LEAA funds been funneled into the burgeoning c inal justice budgets, with very little perimentation or innovation result Typically LEAA-funded programs sist of hiring more policemen, buil detention centers, conducting p training and public relations, and chasing communications and comp equipment.

The problem with LEAA is not si that the agency needs to be adminis tively streamlined and redtape el nated, nor is the solution to be foun increased appropriations. An enti new policy direction is needed for Federal role in financing State and innovation in crime fighting and de quency prevention.

In proposing legislation for rest turing LEAA, I am very aware of sev political and institutional realities. L law enforcement agencies want Fed money with as few restrictions as sible. This was true in 1968 when L was created and it is no less true to These are the same agencies that

criticized 10 years ago for failing to de-

law enforcement efforts to reduce crime

ing more stability to the funding process

criticized 10 years ago for failing to devise new crime-fighting strategies, which was an important part of the rationale for creating LEAA. However, the block grant approach of the Safe Streets Act yielded too much to local discretion and did not clearly delineate the nature of the criminal justice improvements to be funded. As a result, there has been great confusion and uncertainty as to what constitutes an "improvement," with the result that the traditional criminal justice agencies and programs have dominated the funding process and been able to resist change. Finally, the planning, evaluation, and statistics components of the LEAA funded system at all governmental levels generally, with a few notable exceptions, have been unproductive.

After 10 years, the General Accounting Office is still unable to evaluate LEAA's overall program:

> . . . We determined that there is very little feedback of valid and reliable evaluation information to policymakers . . . on the relative effectiveness . . . of funded LEAA and state programs. . . . As a consequence, decisions and policies made at the state and local levels regarding continued federal funding or assumption of costs by states or localities are frequently unaffected by the results of evaluations which have been conducted.

The ability of State and local planning agencies to engage in "comprehensive planning" is undermined by several operational realities: By vagueness in the LEAA authorizing statute; by the State, regional and local LEAA mandated supervisory boards whose members are usually composed of the leading criminal justice practitioners, all of whom understandably want a generous piece of the pie for their institutions, agencies and constituencies; and by the planning organizations' lack of control or even influence over the budgets of line agencies.

Since LEAA funding only accounts for about 3 percent of total criminal justice expenditures, it is misleading to conceive of this program as a fiscal relief measure. Distributing LEAA funds merely to increase criminal justice agency budgets dilutes the potential impact of what little LEAA funds exist. Instead, the Federal Government should establish program priorities, and then having demonstrated the effectiveness of specific projects within these priority areas, provide incentives to get the States and localities to adopt them.

The legislation I am introducing would address many of these problems by designating three national priorities as fundable criminal justice program areas:

Neighborhood-based community anticrime efforts;

Alternatives to traditional incarceration; and

Programs to prevent juvenile delinquency.

Ten years of LEAA experience and 6 years of hearings on LEAA before my Subcommittee on Crime has convinced me that merely pumping more dollars into the existing law enforcement and criminal justice apparatus will not stem the crime problem. Involving people in their neighborhoods and communities in law enforcement efforts to reduce crime is the only way we are going to significantly impact on juvenile and adult crime problem. This vitally important ingredient of crime prevention—community participation—is most in need of Federal assistance at this time.

I find it deplorable in principle and practice that the United States has one of the highest incarceration rates in the industrialized world, exceeded only by South Africa. Prisons are by far the most expensive, inhumane, and counterproductive remedies to crime and, moreover, are unnecessary for the vast majority of offenders who are nonviolent. Postimprisonment recidivism rates of 60 percent and higher suggest that prisons produce more and worsened criminal behavior and certainly fail to help the offender become a positive and contributing member of society. Therefore, one of the priorities of my bill is Federal financing of alternatives to prisons, jails and detention facilities, of alternatives to including community service orders, restitution, 24-hour supervision in the community, group homes, and more extensive use of fines.

Youth and young adults under the age of 22 now account for about one-half of all arrests. The crime problem is in many ways a juvenile and youth crime problem. My legislative proposal for restructuring LEAA designate as a priority prevention programs aimed specifically at preventing juvenile crime: programs to strengthen families; educational programs that encourage juveniles to remain in school; youth service bureaus; and incentives to reduce the number of juveniles who are incarcerated. Since this legislation designates juvenile delinquency as a national priority area, there would be no need for a separate office of juvenile justice and delinquency prevention within LEAA. Hence, the Juvenile Justice and Delinquency Act of 1974 would be repealed.

Within each of these categories, States and localities would still retain ample discretion to allocate funds on whatever percentage basis selected. There would be no earmarking. In addition to formula grants to the States and localities, the new Bureau of Criminal Justice Assistance (formerly LEAA) would manage a special emphasis discretionary program, funding exemplary programs to improve the quality and fairness of the criminal justice system and reduce the reliance on the justice system as a whole.

Formula grants would initially be allocated among the States on the basis of population. Within each State, funds would be divided between the States and localities on the basis of some equitable formula to be developed in the course of hearings to restructure LEAA. States and localities could fund up to 100 percent of the cost of each project selected under the formula or special emphasis program.

In order to facilitate local implementation, larger units of local government and combinations of smaller units could apply to the State planning agency for a miniblock grant—that is, one grant for the entire 3-year authorization reflecting all project activity, thus lending more stability to the funding process than the submission of individual grant applications and guaranteeing localities a certain fixed amount of funds. The requirement for an annual State plan would be eliminated, and in its place, a 3-year plan would be substituted. The appropriate population levels to qualify for a mini-block grant will be established only after hearings have been conducted to consider various alternatives.

State and local planning units would be able to secure Federal planning dollars, but such funds would be derived from that jurisdiction's formula grant allocation. Unlike the administration's bill, there would be no separate planning appropriation and no match requirements. Planners must justify their share of formula funds in competition with action programs. Hopefully, this will insure that only those jurisdictions seriously interested in planning will undertake such efforts.

A separate community anticrime program would be established, in addition to the formula grant program, to provide both technical and grant assistance to community groups. These funds would enable communities to help define and alleviate the crime problems facing them, as well as apply for and manage community anticrime funds. Twelve percent of the overall Federal assistance would be provided to support these efforts.

Like the administration's bill, my proposal would create both a separate research institute and statistics bureau within the Department of Justice. Unlike their proposal, our National Institute of Justice would be concerned solely with criminal justice research (excluding civil matters) and would be governed by a 12-man policy board of presidential appointees designed to insulate the Institute from the political pressures of the Justice Department. The Institute would also be required to evaluate the effectiveness of programs funded by the Bureau of Criminal Justice Assistance and the Bureau of Justice Statistics. The Bureau of Justice Statistics would be responsible for both civil and criminal statistics, and would also be governed by a policy board, as opposed to an advisory board under the administration's plan.

The current LEAA civil rights provisions would be retained and strengthened to include a preaward compliance review, with the understanding that additional resources would be assigned to civil rights compliance efforts.

There is no provision in my bill for the Law Enforcement Education program (LEEP) due to the likelihood that this program will be transferred to the proposed Department of Education. In a similar vein, the public safety officers' death benefits program will be transferred to the Department of Labor, which seems to be a more appropriate agency to administer this program.

LEAA has been such a wasteful program that we ought to proceed cautiously in authorizing funds for another 3 years. By focusing on the block grant program, Congress can maintain more accountability over how Federal assistance is spent, as well as prioritise an ample

amount of funds for criminal justice experiments at the State and local levels of government. Since we reject the assumption that Federal funds must be equally distributed among all components of the criminal justice system, there is no justification for appropriating huge sums of Federal tax dollars.

Mr. Speaker, if the primary function of LEAA is to distribute funds to the criminal justice system, then there are simpler and most cost-effective methods than working through the LEAA bureaucracy. Specific revenue sharing would be one such method. My colleagues should be aware, however, that a recent Brookings study concluded that most general revenue sharing funds spent on public safety go towards the maintenance of existing law enforcement programs (for example, primarily personnel and equipment costs). I am opposed to this approach, but if this is what Congress really wants, then we at least ought to be frank with the public.

On the other hand, if the primary goal is to use Federal funds to support truly innovative programs, then a smaller program with specific objectives, to be carefully evaluated by Federal and State researchers, would seem more desirable. My proposal is designed to accomplish this very task.

Mr. Speaker, for the RECORD, I offer the following section-by-section analysis of the "Criminal Justice Assistance Act of 1978":

The analysis follows:

SECTION-BY-SECTION ANALYSIS—TITLE I

Section 101 amends Title I of the Omnibus Crime Control and Safe Streets Act as follows:

"Sec. 101. The Declaration and Purpose Clause in section 101 sets forth the following purposes of the Criminal Justice Assistance Act of 1978: (1) support community anti-crime efforts; (2) provide for alternatives to incarceration; (3) encourage the development of basic and applied research directed towards methods for the prevention and reduction of crime; (4) develop and conduct programs to prevent delinquency, divert juveniles from the traditional juvenile system, and provide critically needed alternatives to institutionalization; (5) encourage the collection and analysis of statistical information concerning crime, juvenile delinquency, civil disputes, and the operation of the justice system; (6) reduce the reliance on the criminal justice system as a means of social control; and (7) reduce the number of people under the control of the criminal justice system.

PART A—BUREAU OF CRIMINAL JUSTICE ASSISTANCE

Sec. 102. Section 102 creates a new Bureau of Criminal Justice Assistance within the Department of Justice. The Bureau shall be headed by an Administrator appointed by the President with the advice and consent of the Senate. The duties and functions of the Administrator are specified herein.

Sec. 103. Section 103 creates within the Bureau an Office of Community Anti-crime Program. The Office shall dispense technical assistance and grants to nonprofit community groups in crime prevention programs.

Sec. 104. Section 104 authorizes the Administrator to make grants to the states for the following purposes: (1) community anti-crime projects; (2) projects to prevent juvenile delinquency; divert juveniles from the traditional juvenile justice system; and provide critically needed alternatives to institutionalization; (3) alternatives to incarceration; and (4) planning projects at the state, regional, and local levels of government.

All planning funds are match-free and shall be derived from the formula allocation to the states and units of local government. Formula grant funds shall be allocated annually among the states according to their respective populations.

Sec. 105. Section 105(a) requires that each state establish a Criminal Justice Coordinating Council for the purpose of preparing a state application and reviewing, accepting, or disapproving applications for formula funds made by other state agencies and units of local government. Several other duties are specified, including the preparation of an annual report, the provision of technical assistance, and the auditing of formula grant projects.

Subsection (b) provides for the establishment of a Criminal Justice Council by state law and specifies the composition of its membership. Representatives of the general public would comprise a majority on the Council.

Sec. 106. Section 106 provides for the allocation of formula grant funds within each state between state agencies and local units of governments. Following further testimony and research concerning various allocation options, a specific allocation formula will be inserted.

Sec. 107. Section 107 requires that each state desiring formula funds shall submit an application to the Bureau for all anticipated activities over the period which appropriations are authorized (3 years). State agencies, units of local government, and combinations of such units desiring formula funds shall also file an application with the Criminal Justice Council. Larger units of local government and combinations of smaller units of local government may submit a single three-year application to the Council (mini-block) and such application shall be deemed approved unless the Council finds that the application is inconsistent with Federal law or the priorities established in Section 104. Testimony will be taken on what the appropriate population level for mini-block eligibles should be.

Local government units would have the option of establishing their own criminal justice offices to administer formula funds, and planning grants would be available to support the activities of such offices. The members of local planning offices must be broadly representative of criminal justice and other local government agencies, with at least a majority consisting of members of the general public.

All applications under this part must provide citizens adequate information concerning the nature and scope of proposed programs, including public hearings and the opportunity to participate in the development of applications. Grant recipients would be required to file an annual performance report concerning the impact of their activities.

Sec. 108. Section 108 establishes procedures for the approval of applications submitted by the states to the Bureau of Criminal Justice Assistance. No formula funds could be spent for the purchase of equipment of hardware, or the payment of personnel costs unless such expenditures were incurred as an incidental and necessary part of the program. Construction projects and salary increases would be ineligible to receive such funds as well as projects which have been demonstrated to be ineffective. The Bureau would be required to suspend funding for an approved application that has failed to conform to the statutory objectives of this Act as evidenced by the content of the annual performance report or based on an evalaution of the project.

Sec. 109. Section 109 grants authority to each Criminal Justice Coordinating Council to review formula grant applications submitted by units of local government. Each Council must suspend funding to an outst project that has failed to conform to the quirements or statutory objectives of t title as evidence by the annual performa reports or other such evaluations.

Sec. 110. Section 110 sets forth requ ments for the provision of special emph grants to any public or private entity. S grants and technical assistance may be signed to (1) improve the quality and f ness of the criminal justice system; (2) duce the reliance on the criminal just system as a means of social control; (3) duce the number of persons under the ju diction of the criminal justice system; train criminal justice personnel and citi who have demonstrated concern in crim justice; (5) fund innovative projects wh have the approval of the National Insti of Justice; and (6) identify, evaluate, distribute models of successful projects sisted under this part.

PART B—NATIONAL INSTITUTE OF JUSTI

Sec. 201. Section 201 establishes a Nati Institute of Justice within the Departme Justice.

Sec. 202. Section 202 creates a Boar establish the policies and priorities of Institute. The Board shall consist of tw members appointed by the President with advice and consent of the Senate. All B members shall serve until their succes are appointed and have qualified. Var duties and powers of the Board are spec herein, including the composition of Board, the terms of office of each mem and the authority to create formal peer view procedures.

Sec. 203. Section 203(a) provides that Institute shall be headed by a Director pointed by the President with the advice consent of the Senate. The Director have demonstrated significant expertis justice research, shall have final autho over all grants and contracts awarded by Institute, and shall carry out the policies priorities established by the Board.

Subsection (b) sets out the respons ities of the Institute. The Institute have the authority to make grants and duct research designed to identify the ca of criminal behavior, develop method preventing and reducing crime, improve quality and fairness of the criminal and venile justice systems, insure citizen ac to and participation in crime prevent and devise alternatives to incarceration the criminal justice system in general.

Among other responsibilities the Insti shall evaluate the effectiveness of progr funded by the Bureau of Criminal Ju Assistance and the Bureau of Justice St tics.

Subsection (c) authorizes the Dire with the approval of the Board, to req and obtain relevant information from Federal agency.

Sec. 205. Section 205 requires that re ents of grant assistance provide, when feasible, money, facilities, or other ser to carry out the purposes for which grant is sought.

PART C—BUREAU OF JUSTICE STATISTIC

Sec. 301. Section 301 establishes within Department of Justice a Bureau of Ju Statistics.

Sec. 302. Section 302 creates a Boar establish the policies and priorities of Bureau. The Board shall consist of tw members appointed by the President the advice and consent of the Senate. Board members shall serve until their cessors are appointed and have quali Various duties and powers of the Board specified, including the composition of Board, the terms of office of each mem and the authority to create formal peer view procedures.

Sec. 303. Section 303 provides that Bureau shall be headed by a Director

pointed by the President with the advice and consent of the Senate. The Director shall have demonstrated significant expertise in statistical programs, shall have final authority over all grants and contracts awarded by the Bureau, and shall carry out the policies and priorities established by the Board.

Sec. 304. Section 304 authorizes the Bureau to enter into grants, contracts, or cooperative agreements designed to improve civil and criminal justice statistics. The Bureau is required to collect, analyze, disseminate, and maintain accessible data systems concerning the prevalence and attributes of crime, juvenile delinquency, and civil disputes at the Federal, state and local levels. Other functions of the Bureau are specified, including the mandate to collect statistics relating to criminal victimization, white-collar crime, civil disputes, and the processing of criminal, juvenile and civil cases.

Among other powers, the Director shall have the authority to request and obtain relevant information from any federal agency.

Sec. 305. Section 305 requires that recipients of grant assistance provide whenever feasible, money, facilities, or other services to carry out the purposes for which the grant is sought.

PART D—ADMINISTRATIVE PROVISIONS

Sec. 401. Section 401 authorizes the Administrator of the Bureau of Criminal Justice Assistance and the Directors of the National Institute of Justice and the Bureau of Justice Statistics, respectively, to establish such rules as are necessary to carry out their functions under this title.

Sec. 402. Section 402 provides general authority under this title for the appropriate Bureau or Institute to terminate, reduce or otherwise limit funds to recipients of assistance under this title who have failed to comply with any provisions of federal law. All recipients of such action shall be entitled to adequate notice, hearing, and appeal procedures.

Sec. 403. Section 403 prohibits the transfer of duties of both Bureaus and the Institute elsewhere in the Department of Justice unless specifically authorized by Congress.

Sec. 404. Section 404 provides both Directors and the Administrator with the authority to select, employ, and compensate personnel pursuant to existing civil service provisions.

Sec. 405. Section 405 authorizes the appropriate Bureau or Institute to reimburse other federal agencies for work performed under this title.

Sec. 406. Section 406 permits both Bureaus and the Institute to obtain the services of experts and consultants in accordance with Title 5, United States Code.

Sec. 407. Section 407 prohibits the discrimination or denial of employment on the basis of race, color, religion, national origin, or sex in connection with any programs funded under this Title.

Before approving any grant or contract in excess of $200,000.00 the appropriate Director or Administrator shall conduct a pre-award review to determine compliance with this section.

Should any program be found in violation with this section, the appropriate Bureau or Institute shall suspend further payment of any funds following proper notice and hearings. Procedures relating to cause of action, notice, appeal, hearings, attorney fees, and resumption funds are included herein.

Sec. 408. Section 408 requires the Administrator of the Bureau of Criminal Justice Assistance to report annually to the President and to the Committees of the Judiciary of both the House and Senate on activities pursuant to this title.

Sec. 409. Section 409 permits the appropriate Bureau or Institute to maintain such records as it may require recipients of assistance under this title. It authorizes the appropriate Bureau or Institute to obtain access for the purpose of audit and examination to any records of grant recipients. Similar provisions are provided for the General Acounting Office.

Sec. 410. Section 410(a) prohibits any federal employee or recipient of assistance under this title from revealing any research or statistical informaiton furnished under this title which is identifiable to any person, other than the purpose of the research. Such information shall be immune from legal process unless the person furnishing such information consents. An exception is granted to legislative bodies.

Subsection (b) requires the appropriate Bureau or Institute to assure the security of all criminal history information collected, stored, or disseminated through assistance under this title. Such information shall be kept reasonably current and shall contain, wherever feasible, disposition date where arrest data is present. A fine of up to $10,000 is provided for violation of this section.

Sec. 411. Section 411 permits any member of the public to inspect all records of recipients of grants, contracts, or cooperative agreements which relate to the performance of that grant, contract, or agreement under this title.

Sec. 412. Section 412 authorizes the Institute or appropirate Bureau to accept the voluntary and uncompensated services of qualified individuals.

Sec. 413. Section 413 prohibits the expenditure of any assistance under this title for land acquisition.

Sec. 414. Section 414 permits the Administrator to waive state liability with respect to Indian tribes, and pursue appropriate legal remedies concerning enforcement of the grant provisions contained in this title.

Sec. 415. Section 415 authorizes sums to be appropriated for fiscal years ending September 30, 1980, September 30, 1981, and September 30, 1982. Of the sum appropriated for Sections 103, 108, and 110, 10 percent is authorized for the Office of Community Anti-crime Program; 60 percent for formula grants to states and localities (including planning funds); and 30 percent for special emphasis grants. Fifteen million dollars is specifically authorized for the National Institute of Justice; and forty million dollars for the Bureau of Justice Statistics. Sums appropriated for any fiscal year shall remain available until expended.

Sec. 416. Section 416 defines the following terms used in this title: 'state,' 'unit of local government,' and 'criminal justice.'

PART E—CRIMINAL PENALTIES

Secs. 501, 502, 503. Sections 501, 502, and 503 continue to effect prior sections 651, 652, and 653 of the Omnibus Crime Control and Safe Streets Act, as amended, relating to the criminal misuse of funds received from the Bureau of Criminal Justice Assistance, the National Institute of Justice, or the Bureau of Justice Statistics."

Sec. 102. Section 102 amends Section 5314 of Title 5, United States Code, to provide for the schedule of compensation for the Administrator of the Bureau of Criminal Justice Assistance, the Director of the National Institute of Justice, and the Director of the Bureau of Justice Statistics. This section also deletes several administrative positions under the Law Enforcement Assistance Administration.

Sec. 103. Section 103 repeals Titles I and II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended.

Sec. 104. Section 104 authorizes the Attorney General to make such rules as to assure the orderly termination of programs eliminated by this title and the orderly transition to activities initiated by this title.

TITLE II

Secs. 201, 202, 203, 204, 205, 206. Sections 201, 202, 203, 204, 205, and 206 transfer the provisions of the Safe Streets Act that pertain to the public safety officers' death benefit program to the Department of Labor.●

MEMBERS EXPLANATION OF VOTE AGAINST H.R. 13511

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. DODD. Mr. Speaker, I am making this statement on behalf of the following Members: Mr. STARK, Mr. NOLAN, Mr. MARKEY, Mr. GARCIA, Mr. DELLUMS, Mr. BRODHEAD, Mr. EDWARDS of California, Mr. CLAY, Mr. WEISS, Ms. MIKULSKI, Mr. MOFFETT, Mr. CLAY, Mr. GORE, Mr. PHILLIP BURTON, Mr. WEAVER, Mr. DIGGS, Mr. DRINAN, Mr. SOLARZ, Mr. BONIOR, Mr. STUDDS, Mr. HARRINGTON, Mr. MAGUIRE, Mr. REUSS, Ms. CHISHOLM, Mr. RICHMOND, and Mr. CORNELL.

On August 10, the House passed H.R. 13511, a tax reform bill that we cast our votes against. Where others could approve of a tax bill that rejects the entire concept of tax equity by providing the greatest amount of tax relief to those who need it the least, we could not. Where other Members could ignore the lack of any provision that would soften the dual blow of inflation and increased social security taxes, we could not. To say that H.R. 13511 is a tax reform bill is a hoax. To say that it is a tax regression bill that opens loopholes for the very rich even wider than before would be a far more accurate description.

The final passage of H.R. 13511 will do little to lessen the load for the lower and middle-income earners who represent 87 percent of the taxpayers in this country, but for the wealthiest in our society the results will be more than satisfactory. The bill allots 96 percent of the benefits from capital gains tax reductions to taxpayers earning over $50,000, the top 2 percent of all taxpayers. Over 75 percent of these reductions will go to persons with incomes in excess of $100,000. In short, the vast majority of Americans are being shortchanged.

As approved, H.R. 13511, when coupled with social security tax increases scheduled to take effect in 1979, will actually result in tax increases for most people. It is an undisputed fact that the social security tax is levied most heavily on workers in the lower and middle-income brackets. This legislation offers no genuine relief to these groups, and the scheduled rise in social security taxes will exacerbate the inequities already evident. For example, the net increase in the tax bills of people making between $20,000 and $30,000 a year will rise from between $83 to $261. These figures belie the arguments by proponents of H.R. 13511 that the bill is a tax cut measure for the middle-income wage earner.

Although the administration compromise can hardly be viewed as a cure all for our economic ills, the House would have been much better off passing the Corman-Fisher amendment that offered a far more equitable distribution of tax cuts. For instance, a typical family of four with $20,000 of income would have received a $228 tax cut under Corman-Fisher, but only a $146 cut under the House bill. It would have provided 38 percent of the tax cuts to those earning less than $20,000, while H.R. 13511 gives only 25 percent of its relief to that group.

To make matters worse, the new law in some cases would impose a miniscule tax of only 5 percent on an investment gain of up to $800,000. The Corman-Fisher plan lowers the maximum capital gains tax rate to 35 percent as in H.R. 13511, while insuring that the superrich do not escape their fair share of taxes. More specifically, the tax bill provides three-quarters of its capital against tax reductions to those earning over $100,000 a year or more, and repeals the present minimum tax. It replaces that minimum tax with a "microminimum" tax that is of little real significance and which will allow huge gains to remain untaxed. The Corman-Fisher proposal would have created a new, more meaningful minimum tax to insure that windfall gains of more than $800,000 would be taxed at a rate of 17.5 percent.

The Corman-Fisher approach was a selective one that sought to provide a more valid distribution of tax cuts along with incentives to spur capital formation. Furthermore, it retained the business tax reductions of the committee bill and the homeowners' relief provisions while still maintaining the integrity of our tax system: That everyone contributes according to his or her ability to pay. The legislation that the House has approved ignores tax equity, ignores the effects of inflation, and ignores reform. Its attention is directed toward the theory that as the rich get richer the not-so-rich will benefit from whatever may "trickle down" to them.

It is time that Congress recognized the need to relieve tax pressure at its source: At the low- and middle-income levels where the need is greatest. It should be obvious by now that American taxpayers do not want hand-me-downs. That is what the tax bill is offering, and that is what we are opposing.●

PERSONAL EXPLANATION

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. MIKVA. Mr. Speaker, I was unable to take part in two rollcall votes on Tuesday, August 8, 1978.

Had I been present, I would have voted as follows:

Rollcall 661, Mitchell amendment, that sought to reduce total appropriations not required by law by 1 percent, yea; rollcall 662, Harkin amendment, that sought to reduce total appropriations not required by law by 2 percent, yea.●

INDICTMENT OF FORMER FBI OFFICIALS

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. BOB WILSON. Mr. Speaker, a short time ago, I spoke to my colleagues about the Justice Department's indictments of three former FBI agents. I commended to their attention a resolution adopted by the Society of Former Special Agents of the FBI. I would now like to put forward to you the following policy statement which that society has also adopted. It presents a forceful argument and is well worth reading. I recommend it to each of my colleagues.

POLICY STATEMENT BY BOARD OF DIRECTORS, RE: INDICTMENT OF FORMER FBI OFFICIALS

NEW INDICTMENT DEPLORED

The 7,400 members of the Society of Former Special Agents of the FBI, Inc., are shocked by the unjustified, unconscionable, and unprecedented action of the U.S. Department of Justice in obtaining Federal indictment against three former top officials of the FBI, as a result of the performance of their official duties to investigate the terrorists and bomb-throwers of the Weatherman underground.

Our Society members, all of whom served honorably in defense of the United States, consider the indictment on April 10, 1978, of former Acting Director L. Patrick Gray III, former Acting Associate Director W. Mark Felt, and former Assistant Director Edward S. Miller to be a travesty of justice.

We affirm that any criminal prosecution of FBI Agents for actions taken totally without criminal intent, while performing their duties with honor and determination to protect the country from criminals and subversives, is completely unwarranted. None of these officials obtained personal gain or profit. They acted to protect the country, to prevent terrorism, and to apprehend Federal fugitives.

FBI INVESTIGATED TERRORISTS

These dedicated FBI men, now charged with criminal offenses, firmly believed they were discharging responsibilities imposed on the FBI by our government. They utilized long-standing investigative procedures which had been condoned or approved by the Congress, Attorneys General and Presidents, going back to World War II.

The FBI acted shortly after the Capitol of the United States and numerous other facilities in our country had been bombed by the Weatherman underground in the early 1970's. At that time the FBI was expected and urged by government officials and the citizens of our nation, to take whatever steps were necessary to stop the terrorist activities of the Weatherman organization.

The indictments, based on actions taken five years ago (December 1972 to May 1973) resulted from the conclusion by certain attorneys in the Criminal and Civil Rights Divisions of the Department of Justice that these prior acts were deemed to be illegal. These actions were taken by the FBI during a time of national crisis. No statutory guidelines existed. As a matter of fact, such guidelines are still nonexistent and, on the very day that Gray, Felt, and Miller were arraigned on the April indictment, the Attorney General was testifying before Congress regarding future guidelines for the very same investigative techniques utilized by the FBI to investigate the Weatherman underground.

To now deem criminal those good faith actions taken years ago by Special Agents is a gross miscarriage of justice and the height of hypocrisy. Our Society is convinced that such ill-conceived attempts to prosecute FBI employees will be regarded by the American public as abhorrent to our nation's sense of fair play and justice.

AMERICAN INTELLIGENCE SHAKEN

Current attempts to press criminal charges against former FBI officials are a tragic blow to the effectiveness of the Bureau. FBI morale has been devastated. The efficiency of all intelligence—FBI, CIA, NSA, DIA, Secret Service, and others—in the performance of their mission to protect and defend the United States from its enemies has been seriously eroded. All branches of law enforcement are affected.

Our Society fears that these criminal charges, declaring illegal those actions which were taken years ago, will benefit only foreign enemies, domestic subversives, and criminals. The vulnerability of the United States to political terrorism, hostage kidnapping, skyjacking, and extortion, now rampant in Europe, North Africa, and parts of South America, is greatly enhanced by these unfair prosecutions. They have the effect of shackling and handcuffing our intelligence community. Who will be responsible tomorrow if the present wave of terrorism comes to America and our government or industrial leaders or the victims of political kidnapping or assassination?

FBI HARASSED AND PERSECUTED

Attorney General Griffin B. Bell and others now or formerly in the Department of Justice have been investigating FBI procedures for five years. They have caused grand juries in New York City and the District of Columbia to obtain testimony from more than 1[illegible] Agents and former Agents over a 3-year period. They waited until one month before the normal statute of limitations would have run in May 1978, before obtaining the Gray, Felt, and Miller indictment. The tactics of the Department of Justice in prolonging the investigation of FBI procedures are tantamount to harassment and persecution.

Unauthorized leaks to news media, by representatives of the Department of Justice, of confidential information regarding restricted grand jury testimony, and the public release of names and unsubstantiated charges of misdeeds by FBI Agents, have prejudiced their right to a fair trial. This is contrary to the American code of justice, which proclaims all citizens to be innocent until proven guilty in a court of law. Our Society insists that these malicious leaks of restricted information be fully investigated by the Department of Justice and appropriate action taken with regard to responsible individuals.

In his press release, April 10, 1978, the Attorney General admitted publicly that "one or more Justice Department attorneys failed to make full disclosure." He further stated that "the possibilities of the involvement of Justice Department attorneys in one or more of the alleged failures to disclose will be investigated fully by the Department." Our Society urges that a full and complete investigation be conducted of present and former Department of Justice attorneys and officials regarding their knowledge and approval of FBI investigative procedures.

KEARNEY INDICTMENT TERMINATED

On April 7, 1977, John J. Kearney, former Supervisor of Squad 47, New York City Division of the FBI (which Squad was responsible for the investigation of the Weatherman underground) was indicted by the Federal Grand Jury for the Southern District of New York. He was charged in a 5-count indictment with illegal wiretapping, obstruction of the mail, and conspiracy. Two of the counts were thrown out by U.S. District Judge Kevin J. Duffy, and the conspiracy count was under serious attack. Throug

Inspection and Discovery Motions, Kearney's Justice made public, for the first time, the

Inspection and Discovery Motions, Kearney's attorneys obtained voluminous records from the Department of Justice files regarding the Department's knowledge of and policy for handling wiretapping and mail-opening investigations. These documents perfied the government's case and delays in the prosecution of Kearney occurred for over one year.

The Federal District Court in the Southern District of New York, on motion of the Department of Justice, dismissed all remaining charges against former FBI Agent John Kearney on April 10, 1978.

In a news release from the Attorney General's office the day the nolle prosique was issued, it was stated that Kearney had been under investigation or indictment for more than 33 months. The conclusion of the Department of Justice was "that it would be in the interests of justice for this case now to be dismissed," and added, "to allow the Kearney prosecution to continue under these circumstances would violate basic tenets of fair and equal justice."

This conclusion was reached belatedly. Kearney's 25-year career of distinguished FBI service had been besmirched, his reputation subject to public attack, his current employment jeopardized, his physical health impaired, and his freedom imperiled by threat of fine and imprisonment.

DEPARTMENT REFUSAL TO PAY LEGAL COSTS

The Department of Justice steadfastly refused to provide legal counsel for Kearney's defense. Kearney was forced to obtain his own attorneys and obligated himself to pay over $158,000 in defense counsel fees. Our Society, realizing the devastation being wrought on Kearney's family finances, paid all his criminal attorney fees through its Special Agents Legal Fund.

On August 2, 1977, the Society's Board of Directors passed a Resolution calling for the dismissal of the Kearney indictment and reimbursement by the Department of Justice of the legal expenses for Kearney's private counsel. This Resolution was disseminated to the President, the Attorney General, members of Congress, and the media.

It took almost three years for justice to run its course and for John Kearney to be completely vindicated. The Department of Justice, as late as April 27, 1978, still refused to pay his legal expenses.

OTHER FBI AGENTS THREATENED

Kearney, Gray, Felt, and Miller are not the only present or former FBI Agents called before Federal Grand Juries, interrogated by Department of Justice attorneys, and threatened with criminal prosecution.

Approximately 120 other FBI Agents have been similarly investigated and required to obtain private counsel to defend themselves from Department of Justice threats of Federal criminal prosecution for investigating the Weatherman underground. The cumulative legal fees were staggering. These beleaguered FBI Agents faced serious financial problems. Again our Society, through its Special Agents Legal Fund, provided in excess of $150,000 in attorney fees, to insure their adequate legal representation.

In the previously mentioned cases (Kearney, Gray, Felt, Miller), the Department of Justice instituted criminal proceedings. Regarding J. Wallace La Prade, former Assistant Director of the New York Division of the FBI, the Department of Justice announced, in its April 10, 1978, public press release, that it was initiating "administrative disciplinary proceedings" for his conduct in the performance of his official duties in connection with the Weatherman underground investigation.

The Department of Justice subsequently announced that as many as 68 other FBI Agents were being considered for disciplinary action, ranging from censure to dismissal, because of their investigation of the Weatherman. On June 13 the Department of Justice made public, for the first time, the names of 30 present and former FBI Agents which it listed as "unindicted conspirators."

Our Society firmly believes that the Department of Justice has pilloried the FBI long enough!

CONGRESSIONAL RESOLUTIONS

Our Society has taken cognizance of the opposition of many members of the United States Congress to the indictment of Kearney, Gray, Felt, and Miller. Many members of the House of Representatives and the Senate have spoken out in the Congressional Record and elsewhere against the Department of Justice action.

Of special significance are two Resolutions now before Congress. The first, introduced by Senator S. I. Hayakawa (R-Cal.), designated as S.Con.Res. 85, May 10, 1978, urges the Attorney General to seek dismissal of the Gray, Felt, and Miller indictments. Similarly, Representative Leo C. Zeferetti (D-N.Y.) introduced H.Con.Res. 619, which concludes: "It is astonishing that we can grant amnesty to the draft dodgers of the period, consider upgrading the dishonorable discharge of those who deserted during the war, talk of normalizing relations with Cuba and Vietnam, and still prosecute FBI Agents on such charges. I respectfully suggest that the Congress urge that these indictments be dismissed and that we continue to form guidelines for the future conduct of intelligence personnel."

Our Society commends Senator Hayakawa and Representative Zeferetti for the courageous and forthright stand they have taken, and has observed increasing support in Congress for these companion Resolutions.●

RAY VILLA—A MAN FOR THE PEOPLE

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. PATTERSON of California. Mr. Speaker, Ray Villa, executive director of the Orange County Operation SER program, has received many honors during his long and distinguished career of public service. However, none will be more meaningful than the one to be bestowed upon him at a ceremony on August 27, 1978, by the Santa Ana League of Latin American Citizens—"The Ray Villa Scholarship."

Ray Villa has helped and inspired countless American citizens of Latin descent, and it is only fitting that this scholarship be established in his name. As director of operation SER, Ray has been instrumental in perhaps the most successful training and employment program in Orange County.

A former Santa Ana city councilman and owner of a successful insurance business, Ray has been a tireless worker in community service projects throughout his career in Santa Ana. His dynamic leadership has provided guidance to many programs that may have otherwise floundered. He has constantly advanced the cause of the disadvantaged and given them hope.

I urge my colleagues to join me in paying tribute to a man who has devoted his life to helping others; a man who is respected by all segments of the community; and a man who richly deserves this honor—Ray Villa.●

IMPORTED FARM LABOR

HON. EDWARD W. PATTISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. PATTISON of New York. Mr. Speaker, the growing of apples is an important part of my district's economy, particularly along the Hudson River in Columbia County. The apple industry is constantly changing, with new growth and harvesting methods continually being tried. But one factor that defines the economics of harvesting is that apples are still picked by hand. So far, no one has devised a method of picking apples mechanically without bruising the fruit.

In the past, much of the community postponed other duties and did the harvesting. Schools in the area let out so the children could participate. Today, however, the world is a different place. Like it or not, our present culture is not particularly suited to the demands of applegrowing. Although pickers can earn very good wages during the season, the season doesn't last long. Even if they wanted to, workers employed in stores and factories can't leave their jobs for 8 weeks of harvest.

Why not hire those receiving welfare to pick apples? First of all, the vast majority of welfare recipients are aged, blind, disabled, or children. They can't pick apples. Second, those on welfare who are able-bodied but unemployed often simply lack the strength and skills required, or the motivation. That may be a shame, but that is one major reason they are on welfare. They are human beings and society should direct its attention to helping them by training, education, and incentive that can help them become productive citizens. But in general, with individual exceptions, welfare recipients simply don't make very good, reliable applepickers.

Consequently, applegrowers face a yearly dilemma: How to get the crop picked? For years, the answer has been to hire migrant U.S. laborers as well as to import a number of foreign pickers, generally from Jamaica. Jamaicans are considered good pickers: The wages are far higher than in their country, and because their culture does not put agricultural workers on the bottom of the social scale, they are highly motivated and reliable.

Under current law, in order to import pickers, the growers are annually put through a most maddening process. Job requests are filed with the Labor Department for both domestic and foreign workers at least 80 days before the harvest begins. The Labor Department must give priority to U.S. workers; many of the job orders are filled with migrants and Puerto Ricans, all of whom are U.S. citizens. Sixty days is allowed for recruitment, which is done by both the growers and the Labor Department. Only if not enough U.S. workers are available, will Labor certify the temporary employment of foreign workers. Uncertainty is the major problem: Uncertainty about whether or not, when, and how many of the requested number of workers will be

certified, about how many of the recruited domestic laborers will arrive, and about how many will stay until the end of the harvest. However, there is no uncertainty about the need to pick the apples when they ripen.

To witness the frustration, anger and confusion of a grower that desperately seeks new pickers for crops that are already ripe because his request for foreign workers was rejected by the Labor Department and because many of the domestic workers never arrived as promised or left after 3 days—makes one ask why we are making it so difficult for an earnest and hardworking farmer or small businessperson to survive.

This is an issue of national policy, the rules of which are defined by our laws. I do want the jobs of U.S. workers protected and decent living and working conditions of temporary agricultural labor insured. However, the present situation which makes harvesting a nearly impossible task for so many growers every year, is not good public policy.

An op-ed piece by S. Steve Karalekas and Thomas J. Bacas in the Washington Post of August 11, 1978, discusses the issue in some detail. I invite my colleagues to take a few minutes to read the article so that they will understand the problem. The article follows:

[From the Washington Post, Aug. 11, 1978]

IMPORTED FARM LABOR: A MATTER OF SURVIVAL

(By S. Steven Karalekas and Thomas J. Bacas)

With 7 million Americans unemployed, it should be no problem to find 3,800 workers willing to harvest the East Coast apple crop. In 1975, however, the State of Vermont sent "call-in" postcards to all 28,812 residents drawing unemployment or welfare benefits, inviting them to accept employment in Vermont's apple orchards. The effort produced 19 apple pickers. In 1976, apple growers and the Department of Labor conducted an expensive and intensive 10-day recruitment campaign in New York City to obtain workers for the apple orchards in the Hudson Valley, less than 25 miles away. Only 75 New Yorkers, out of an estimated 500,000 unemployed, signed up for the apple-picking jobs, only 12 arrived at the orchards, and none of those 12 lasted on the job more than a week. Without the use of temporary foreign labor, most of Vermont's and New York's apples would have been lost. The belief that there is an army of unemployed Americans eager to pick apples or harvest other crops, however, is a major fallacy underlying Ronald Goldfarb's distorted description of the foreign labor certification program ["Imported Farm Labor: How Growers Manipulate the System," op-ed, Aug. 2]. It is by no means the only one.

Goldfarb portrays the secretary of labor engaging in a "minuet of malfeasance" with "powerful farm owners," "sidestepping" the immigration laws and stamping on the rights of unemployed American workers. It is not clear what law Goldfarb has in mind. The Immigration and Nationality Act specifically provides that foreign workers may be temporarily admitted into the United States when not enough qualified American workers are willing to accept a particular job or class of jobs. Congress recognized that, at times, not enough qualified American workers are willing to fill certain jobs and that American employers facing such labor shortages would suffer severe economic injury unless foreign workers were admitted on a temporary basis. The law recognizes both the need to give priority to American workers and the equally compelling need to provide growers access to foreign labor markets when not enough willing American workers are available.

The East Coast apple growers, mostly small, family-owned enterprises, would find Golfarb's portrayal laughable if their struggles with the secretary of labor were not so expensive. They have often had to resort to expensive, time-consuming litigation against the secretary of labor over the administration of the foreign labor certification program; last year, they were forced to bring five separate lawsuits. They were successful in all five. Only days before the 1977 apple harvest was to begin, they again had to sue to require the secretary of labor to certify their need for temporary foreign workers. A federal court ordered the secretary either to produce enough American workers to pick the apples or to allow temporary foreign workers into the country. The secretary's lawyers argued in court that there were at least 3,000 American workers immediately available to harvest the apples. When the secretary could produce only 60 American workers, approximately 3,800 foreign workers were allowed into the country.

Since World War II, American farmers have experienced a shortage of American workers willing to harvest crops. Some farmers have been able to solve their problem by substituting machines for people. Farmers who grow labor-intensive crops, like apples, however, have faced real problems.

They have had to contend with a federal government that devotes virtually all its training and employment funds to getting people out of agricultural work. They have had to compete with generous unemployment compensation and welfare benefits. (There is no provision for cutting off an individual's public welfare benefits for refusing to accept temporary agricultural work.) They have encountered the social reality that no parent in the United States is raising his child to become an agricultural worker. And they have had to deal with complex federal regulations that make nationwide recruitment a difficult exercise at best.

Despite Goldfarb's contentions, the foreign labor certification program is designed to extend every possible protection to the American worker. An American farmer may not hire any temporary foreign worker if enough qualified American workers accept his job offers. Before he is permitted to bring in temporary foreign workers, he must engage in nationwide recruitment efforts. Contrary to Goldfarb's contention that growers often wait until the "last minute" before attempting the recruit American workers, the secretary of labor's regulations require a grower to begin his recruitment efforts at least 60 days before the harvest season begins. Most apple growers file their requests for workers more than three months before the harvest season.

The American farmer seeking temporary foreign workers also must offer wages and working conditions that substantially exceed those offered by farmers not using offshore workers. For example, he must pay a wage rate 30 to 40 cents per hour higher than the prevailing farm wage rate in his area, provide free housing, pay the worker for his transportation expenses from his home to the place of employment regardless of distance, and provide insurance and other benefits. Only if the farmer does not obtain enough American workers can he obtain temporary foreign workers, and he must offer the same benefits to foreign workers that were offered to American workers.

In 1977, only 15,281 foreign workers were certified to work on American farms, approximately 0.004 percent of the total U.S. labor force. Moreover, those foreign workers merely supplement the American work force. For example, only 20 percent of the apple pickers used by the East Coast apple growers in 1977 were foreign workers. Rather than depriving Americans of jobs, the foreign labor certification program actually gives employment to many American workers. For example, [illegible] Americans work in packing houses and [illegible] lated jobs that are dependent upon the [illegible] harvest.

While it does appear anomalous for [illegible] United States to allow the importation [illegible] temporary foreign workers when there [illegible] millions of Americans unemployed, the [illegible] lem does not result from the growers' [illegible] nipulation of the system." Both Goldfarb [illegible] the secretary of labor must come to grips [illegible] the reality that there are some jobs [illegible] Americans no longer care to accept. Gold[illegible] would make a more useful contribution [illegible] were to suggest changes in our system [illegible] would encourage unemployed Americ[illegible] especially those drawing welfare benefits [illegible] unemployment compensation, to accept [illegible] available jobs that go begging.●

SELF-DETERMINATION FOR PUERTO RICO

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. GILMAN. Mr. Speaker, July 2[illegible] this year marked the 80th year of Pu[illegible] Rico's association with the United St[illegible] It also marks the 26th anniversary of [illegible] founding of the Commonwealth [illegible] Puerto Rico. The significance of Pu[illegible] Rico and of her relationship to [illegible] United States during this period [illegible] called world attention to the progress [illegible] has made in liberty, prosperity and [illegible] nomic freedom.

In the period after World War II, [illegible] litical reforms to abolish the remain[illegible] colonialism came rapidly with the [illegible] consent and support of the Un[illegible] States. In 1952, Puerto Rico approve[illegible] constitution under which she became [illegible] terms of international governmen[illegible] self-governing commonwealth associ[illegible] with the United States. The attainm[illegible] of commonwealth status was of g[illegible] importance to Puerto Rico not only po[illegible] ically and economically, but also [illegible] turally, permitting its people to re[illegible] and even strengthen their native cul[illegible] of Spanish derivation and also t[illegible] identity as Puerto Ricans.

In recognition of the rights of [illegible] Puerto Rican people, a fundamental [illegible] of American policy toward the comm[illegible] wealth since its beginning has been t[illegible] right of self-determination. As state[illegible] President Carter in his Presiden[illegible] Proclamation to the People of Pu[illegible] Rico on July 25, 1978:

The United States remains fully commi[illegible] to the principle of self-determination for [illegible] people of Puerto Rico. President Eisenho[illegible] made that commitment in 1953, and this [illegible] been the position of all U.S. Administrat[illegible] since that time. We continue to regard [illegible] the fundamental principle in deci[illegible] Puerto Rico's future.

My Administration will respect the wi[illegible] of the people of Puerto Rico and your r[illegible] to self-determination. Whatever decision [illegible] people of Puerto Rico may wish to ta[illegible] statehood, independence, commonwe[illegible] status or mutually agreed modifications [illegible] that status—it will be yours, reached in [illegible] cordance with your own traditions, de[illegible] cratically and peacefully.

The current freely elected Gover[illegible] of the Commonwealth, Carlos Rom[illegible]

Barcelo, has taken steps to exercise this self-determination by his commitment to begin the plebiscitary process by 1981 on the future status of Puerto Rico.

The debate about the future of Puerto Rico and its form of government has been complicated by perennial attack on the United States by Cuba. Since its establishment, the Cuban dictatorship has sought to use the Puerto Rican nation and its people as a political tool to attack the United States. Cuban attempts to have the status of Puerto Rico scrutinised by the United Nations have been repeatedly rejected by that body on the grounds that relations between the Commonwealth and the Federal Government are an internal matter.

It is quite possible, however, that when the United Nations General Assembly Decolonization Committee meets during the last week of August 1978, it may vote to place Puerto Rico on its list of non-self-governing territories. Due to a decided increase in anti-American hue during the last year, the committee may approve a Cuban proposal that Puerto Rico, despite its Commonwealth status, should be considered as a colony of the United States.

This effort will be to place Puerto Rico on the list of territories governed by article 73 of the United Nations Charter ("Declaration on Non-Self-Governing Territories"). It is important to note that Puerto Rico was removed from this list by a vote of the General Assembly in November 1953 following the advent of Commonwealth status. As stated by the U.N. resolution removing Puerto Rico, the General Assembly:

Recognise(d) that, in the framework of their Constitution and of the Compact agreed upon with the United States of America, the people of the Commonwealth of Puerto Rico have been invested with attributes of political sovereignty which clearly identify the status of self-government attained by the Puerto Rican people as that of an autonomous political entity.

Governor Romero has announced that he will take the courageous and unprecedented step of participating in the U.N. debate to represent the legitimate rights of the Commonwealth and people of Puerto Rico. It is anticipated that he will make at least three points: First, Puerto Rico is a Puerto Rican matter and not a Cuban one; second, President Carter's reaffirmation of self-determination is to be applauded; and third, the matter of Puerto Rico is one whose ultimate destiny will be decided by Puerto Rico and the United States without any outside interference.

The past 26 years have been ones of growth and progress for Puerto Rico, economically, socially, and politically. While much remains to be accomplished, the successes of this unique democracy have been an example to that area of the Western Hemisphere, serving to demonstrate the strength and vitality of her people. Governor Romero is to be congratulated and supported in his efforts to continue this progress and protect the rights of self-determination for the people of Puerto Rico.

The Government and the people of the United States must help in this effort to continue this great experiment and protect it from being subverted as a propaganda tool for foreign interests. In honor of the 26th anniversary of Puerto Rico's Constitution Day, the American people salute and stand beside that nation in defense of her rights to self-determination.●

GOVERNMENT AND THE AMERICAN FARMER

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. FINDLEY. Mr. Speaker, recently an article appeared in the Quincy Herald-Whig, written by one of the Midwest's outstanding agricultural journalists, Keith Wilkey, which pretty well summarizes the history and growth of the Federal Government interacting with American agriculture. I found it to be an interesting article, and I encourage my colleagues to read the following clipping keeping in mind the enormous impact that Government has today on the role of the American farmer.

NO MIDDLE GROUND FOR GOVERNMENT AND FARMERS

There has been a complete generation of farmers that has never known anything but government farm programs. They perhaps haven't participated personally in these practices, but throughout their farming career, a sort of partnership between government and farmers has existed. It has been a way of life.

But it wasn't always so. The first government assistance for farmers was seriously proposed just 50 years ago this month.

Speaking in West Branch, Iowa, his birthplace, Republican presidential nominee Herbert C. Hoover, on August 21, 1928, proposed the creation of a federal farm board to deal with the low commodity prices and surplus stocks of grain farmers.

Hoover was elected and was successful in getting through Congress the Agricultural Marketing Act, and signed it into law on June 15, 1929. The Federal Farm Board was created as a result of this legislation.

Both the Farm Board and other organizations, plus the administration felt that a businessman should head the newly created agency. Money was not appropriated as a direct subsidy to agriculture, but as a revolving fund: $500 million was placed at the disposal of the Farm Board to stabilize prices.

With the revolving fund, the Farm Board was authorized to buy various farm commodities then in surplus condition, to be released to the market when supplies diminished, and consequently the price improved.

The Farm Board had hardly started when the stock market crash of October 29, 1929, occurred. The general economy gradually fell to pieces. Farmers had produced most of their crops on credit and could not sell them. The panic in farm prices paralleled the panic in business and industry.

The Farm Board made loans to wheat and cotton farmers, which helped momentarily, but the ferocity of the depression whirlwind could not be withstood.

As prices declined, surpluses increased. The Farm Board asked for a 30 percent voluntary crop reduction for the 1932 crop. But the '32 crop was bigger than ever.

With the election of 1932, all farm programs then in effect came to an end. The Farm Board was all but disgraced as the members, puzzled by the savageness of the depression, returned to their homes.

America has never experienced another similar depression. Many strong men actually feared the U.S. economic and political system would fail. Passions were high and fear stalked the land. Those in government, like those in the private sector, wanted to help, but no one was sure just what to do.

At the time the Farm Board and its principles were ridiculed. But every farm program the government has had has been actually a continuous program, under different names, administered by both Democratic and Republican administrations and Congresses, has employed the principles of the Federal Farm Board of 1929.

Government purchases of commodities, done today by the Commodity Credit Corporation (CCC), the present day Farm Board, works reasonably well during times of price stability and/or price rises.

In a plummeting market, such as was experienced in the early 1930's, these practices cannot function, for the orderly processes of marketing are virtually immobilized.

The Farm Board was like all its successors, including the Food and Agriculture Act of 1977. Either the government enters and becomes directly involved with market agriculture, or it stays out.

Such philosophy has been argued by government leaders and others from 1928 to 1978. The wisdom of government action is as much a matter of controversy today as 50 years ago.●

FULL EMPLOYMENT NEEDED NOW

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. HAWKINS. Mr. Speaker, I want to comment briefly about what appears to be a mysterious phenomenon, one which I hope will end very quickly. This mysterious phenomenon—entirely without rational explanation—is a slowdown in manifest determination, through national policy, to deal with the problem of unemployment and even to continue 6-percent unemployment as a hedge against inflation. On March 16, 1978, this House approved the Humphrey-Hawkins bill, the "Full Employment and Balanced Growth Act of 1978," by a majority in the neighborhood of 100 votes. This approval was not lightly undertaken. It was preceded by years of careful consideration and public discussion of the bill. It includes months of negotiations between representatives of the President and representatives of my office and the late Senator Hubert Humphrey's office, culminating in complete agreement about every word and comma in the bill, and the unqualified endorsement of President Carter.

On the Senate side, two committees, the Committee on Human Resources and the Committee on Banking, Housing, and Urban Affairs voted to bring the bill to the Senate floor.

While there is speculation in some quarters—which I do not share—that the bill may not even be disposed of by the Senate at this session of the Congress, commonsense dictates action not apathy.

I must emphasize that what I am saying here today involves no criticism of the other body nor of any Member, since I understand the nature of the Congress overwhelming legislative responsibility. But I am also equally concerned about the approximate 1 month of vigorous congressional activity before adjournment now scheduled for early October, and the question of scheduling the full employment bill for Senate action before adjournment.

Both Houses of the Congress therefore, in my judgment, have a serious responsibility for coming to grips with the formulation of a national economic policy on employment, and for promoting prompt enactment of the "Full Employment and Balanced Growth Act of 1978," which fundamentally addresses this issue.

For all of these reasons, I have been searching for an explanation for the deterioration of congressional interest in bringing this important piece of legislation to enactment and to effective operation which was so manifest earlier this year, and even much earlier.

Certainly, no rational explanation can be found in ignoring the current and foreseeable unemployment situation in the United States. Full-time unemployment as officially measured was 6.2 percent in July 1978, or higher than the average for the first 6 months of 1978. This 6.2-percent rate of unemployment occurred, not during a year of recession or during early stages of recovery, but instead occurred after more than 3 years of a so-called recovery movement. This 6.2-percent rate of unemployment should be compared with 4.1 percent in 1956, 2 years after the recession year 1954, 5.5 percent in 1959, 1 year after the 1958 recession, and 4.9 percent in 1973, 3 years after the 1970 recession. These comparisons hardly indicate that we have made even a tolerable economic recovery. Indeed, the 6.2-percent unemployment rate in July 1978, and the average rate only slightly below that during the first 7 months of 1978, was higher than the unemployment rate of only 5.5 percent in the recession year 1954, only 4.9 percent in the recession year 1970, and only 5.6 percent in the recession year 1974.

Nor is the apparent disappearance of adequate concern about unemployment justified by other measurements of economic trends, nor by informed—and troubling—forecasts as to our economic future. In real terms, total national production was about 5 percent higher in 1977 than in 1976. But in the first quarter of 1978, it was the same as in the fourth quarter of 1977.

Now after a brief resumption of a high growth rate, a slowdown is in process again. Most reliable forecasts indicate a real economic growth rate of somewhere between 2.5 and 3.5 percent during the next year or so, with substantial chances of another absolute recession before the end of 1979. Viewing the tendency of the five most recent recessions to be of increasing severity, it appears that under current national economic policies and those now under active consideration, we may suffer an unemployment rate of 7 to 9 percent or even higher before the end of 1979.

We have heard recently that inflation has supplanted unemployment as our No. 1 domestic problem. Even if this were the case, it would have nothing whatsoever to do with the imperative need to achieve more satisfactory and comfortable results regarding the reduction of unemployment. This is urgent because an official rate of 6.2 percent imports a true unemployment rate of almost 9 percent, and especially in that the unemployment rate of 6.2 percent means an unemployment rate above 15 percent for all teenagers and coming perilously close to 40 percent for black teenagers. How long can this continue, without progressive alienation, increased human demoralization, and dangerous recurrences of civil disturbance?

Equally foolhardy is the deviously promoted campaign to misrepresent the need and public demand for genuine tax relief, or reform, as an excuse to irresponsibly cut Government expenditures for high priority domestic needs in order to shift the tax burden from those already undertaxed to those in the middle- and low-income brackets.

But the entire proposition that inflation has supplanted unemployment as our No. 1 domestic problem is absolutely unsupportable. It is unsupportable because the evidence has increased year by year and month by month that tremendous idleness of human power willing and able to work, and tremendous idleness of plant and other production resources, are at the heart of the inflationary problem itself. The empirical evidence during the past quarter century that more unused resources mean more inflation, and that less unused resources mean less inflation has by now become so weighty that it was the accepted view of those Members of this House who spoke when the "Full Employment and Balanced Growth Act of 1978" was approved by the House. It is also the accepted view, on the record, of the two Senate committees who have concurrent jurisdiction regarding the proposed legislation.

The most recent experience is all in the same direction. The scarcities and other evils generated by high idleness of human power and other production powers, the hurtful effects upon productivity growth under these conditions, have increasing inflationary impacts when they have continued for many years. The reappearance of double-digit inflation, after an intolerable rate of inflation even before that, has occurred with the pronounced slowdown in the real rate of economic growth. Concurrent with these factors is the most recent evidence that unemployment is not really being reduced and in fact is moving upward again. Most forecasts, which are projecting dismal predictions about real economic growth and about unemployment, indicate that there will be little or no relief from an intolerably high rate of inflation. The only real road to the reduction of inflation is the reduction of unemployment and of other idle resources.

The size of the Federal deficit, e
cially as it impacts on employment,
matter of special concern, to those o
who are advocates of a full employm
economy, so it is encouraging to note t
the deficit has moved sharply downw
in the recent past, and is likely to be e
lower in the next fiscal year. But ev
one who looks at the facts knows t
this reduction in the deficit is not du
skillful management of the Federal bu
et, nor to cuts in spending, nor to
straint thus far with regard to some
the excessive tax cuts which may be
the way.

Everyone who looks at the facts kn
that the huge deficits occurred beca
of abysmally low economic performa
and extremely high unemployment; t
the deficits have been reduced, tho
not enough, because we have now b
in a recovery movement, although a s
insufficient one, for about 3 years;
that the deficit will rise again and
new peaks if forecasts about another
cession and an accelerating upw
movement in unemployment are bo
out by actual developments.

Finally, the mysterious disappeara
of adequate pressures for immediate
actment of the "Full Employment
Balanced Growth Act of 1978" canno
attributed to some brilliant and sud
discovery that the provisions of the
are no longer adjusted to current
foreseeable economic conditions. No s
claim has come from any credita
source. To the contrary, the only opp
tion to the proposed act comes fr
those who have opposed it, over the ye
and whose unsupportable pleas w
overruled by this House when it appro
the Humphrey-Hawkins bill on March
1978. More than this, there is more e
dence every day that the core feat
of the Humphrey-Hawkins bill are e
more needed now than previously
that be possible.

Everyone is talking and writing ab
the intensification of our current diffic
ties in the formulation of national e
nomic policies, but most of the explan
tion of these tend to be sensational
superficial.

There are complaints that the Pre
dent and the Congress are at odds o
this issue, but this is partly because
do not have the provisions of
Humphrey-Hawkins bill which would
tablish systematic and periodic pro
dures for bringing the administrat
and the Congress closer together.
complain that we do not seem to be he
ing anywhere as an economically via
nation, but this is because we have n
adopted nor even expressed the de
nite goals which enactment of
Humphrey-Hawkins bill would establi
We all know that, through recent enac
legislation and currently pending leg
lation, we are moving in conflicti
directions simultaneously. Thus we co
tinue to take one jump in the dark af
another, because we have not adop
and put into operation the one piece
legislation which would make so pow
ful a contribution toward developm
and application of a consistent, unifi
and comprehensive national econo

policy. Until we have such legislation, we will not be able to effectively measure the pros and cons regarding success or failure of legislation already put into effect, and thus we will continue to make the same blunders in 1979 and 1980 that we have been making during the past decade and longer.

On top of all this, in the international economic arena the dollar is going to you know where in a handbasket. We have not stopped to consider that the most fundamental of all reasons for this is the poor performance of the U.S. economy, and the inability of others to discern what our evolving national economic policies are going to be because we appear not to know what they were last year, what they are now or what they will be in the future.

This House should be proud of the fact that it has made available to the Congress, the President and the American people the opportunity, through enactment of the Full Employment and Balanced Growth Act of 1978, to think more clearly about national economic policies, to act more wisely, and to achieve improved results. I hope that all those who have spent so much time and effort toward enactment of the Humphrey-Hawkins bill will formidably reassert and dramatically intensify their efforts to demand congressional passage of this bill during the days immediately ahead, so that the opportunity which this House made available when it approved the Humphrey-Hawkins bill will be translated into achievement.●

PASSAGE OF THE TUITION TAX CREDIT BILL BY THE SENATE

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. COUGHLIN. Mr. Speaker, it gives me great pleasure to comment today on the passage of the tuition tax credit bill by the Senate on Tuesday night. Many of us in both the House and the Senate, who have worked long and hard for the chance to provide middle-income families with the educational assistance they so desperately need and want, can feel a real sense of accomplishment in the passage of tuition tax credit measures by both the House and the Senate.

I first began my efforts on behalf of education tax credits eight years ago in the 91st Congress with the introduction of a bill which would have provided income tax credits for higher education. Eighty-seven of my colleagues joined me in cosponsoring the same bill in the 92d Congress, and during the same year I first sponsored a bill which included parents of students attending elementary and secondary schools. In the following Congress, the number of cosponsors of some form of tuition tax credits for higher education rose to 103, and I am pleased to say that during this session, over 250 Members sponsored 170 bills to provide some form of tuition tax relief before passing the tuition tax credit bill on June 1, 1978 by the overwhelming vote of 237 to 158. The Senate, before strongly approving the tuition tax credit bill by a 65 to 27 vote Tuesday, had passed some form of education tax relief six times since 1967.

I hope that President Carter now realizes the irrefutable popularity of tuition tax credits, and reconsiders his threat to veto this fair and sensible bill. He can certainly see that this concept is the will of the Congress by looking at the substantial margins by which both the House and the Senate passed the bills. He cannot deny that tuition tax credits are also the will of the people, as shown by both a recent Harris poll showing that a 65 to 25 percent majority of Americans support tuition tax credits, and by the recent trend seen throughout the country of support for lower taxes.

I personally regret that the tuition tax credit bill passed by the Senate does not include an education tax credit for parents of children in elementary and secondary schools. The conferees will face a great challenge in attempting to reconcile the differences between the two bills, and I truly hope that a suitable compromise can be reached expeditiously.●

EQUAL RIGHTS AMENDMENT

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. FISHER. Mr. Speaker, the House has passed a resloution to extend the ratification time limit for the equal rights amendment. I am a long-time supporter of the ERA. I voted for the extension resolution and against the Railsback amendment allowing for recission by a State which has previously ratified the ERA. I would like to set forth my reasons for voting as I did. Much has been said about matters of extension of time, rescission of ratification and the like. On these matters I will say more later but let me address first what I feel is the central issue.

The central issue to me—one which has been overshadowed in the recent months of debate—is the equal rights amendment itself, and the meaning behind it. There are those who have said that the amendment is unnecessary, that any inequities that still exist—and there are many—can be settled individually by court case or by legislation. I say that these people are missing the central point.

The greatest thing that this country really had going for it in the 1770's was a philosophy, a fundamental belief that every person had the same inalienable rights as every other person. This was a philosophy that was quite new to the rest of the world. The United States wrote its Declaration of Independence around that principle. Our ancestors went to war because of that principle. They tried to base our Government upon that principle.

The philosophy with which we started is contained in our basic Government document—the Constitution. Any statement reaffirming the principle of equal rights should be included in that document as well. Piecemeal legislation and individual court decisions simply will not have the same symbolic importance.

We have heard in the last few months, many arguments opposing the extension resolution. Much has been said about the constitutionality of an extension of the time limit. The argument is that Congress retains only those powers specifically conferred upon it by the Constitution, and that since the Constitution does not expressly state that Congress can extend the deadline it set on this amendment, such an extension is unconstitutional. Well, I thought about this point, and it seems to me that if this is true, then the imposition of any time limit at all must also be unconstitutional, since the Constitution does not specifically confer upon the Congress any power to set ratification time limits.

Much also has been said about rescission, the argument being that if the time limit were extended, then rescission must be allowed in order to be fair to those States that have changed their minds. I feel that the responsibility the amendment process involves must be taken seriously by each State, and the sanctity of a ratification must be preserved. If there is a question about the validity of a particular State's ratification, then that matter should be decided by the Congress sitting at the time of the last ratification required for passage.

In summary, Mr. Speaker, I believe the House has taken the proper course. The equal rights amendment should become a part of the Constitution, and States such as my own should be given more time to consider it. The full Virginia General Assembly has never voted on the ERA. Now they have time to do so.●

FEDERAL TRADE COMMISSION REPORTS

HON. JOHN E. MOSS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. MOSS. Mr. Speaker, last year, I called to the attention of the House a U.S. district court order upholding the Federal Trade Commission's line of business and corporate patterns reports. Those two report forms seek financial information that will enable the Commission to compile a large economic data base concerning industry concentration, diversifications, expenditures, and profitability. These data are valuable to the Commission, the Congress, and the public for aiding antitrust investigations, setting economic and antitrust policy, and making investment decisions.

In recent years, detailed financial information about various industries has become unavailable as smaller industries have been acquired by giant conglomerates. I have therefore enthusiastically supported the Commission's programs to obtain this information, and I and other

Members of Congress have strongly opposed past efforts to deny appropriations for the Commission's efforts.

Accordingly, I am pleased to note that the district court's enforcement of the line of business and corporate patterns reports was recently affirmed by the court of appeals. Unfortunately, because of continued resistance by a minority of the companies involved, the Commission has not yet received reports from all respondents. I look forward to the time when this protracted delay is terminated and the Congress can receive and employ the Commission's published reports and analyses of this information.●

BUSINESS COMMUNITY COOPERATION TO IMPROVE EDUCATION IN NEW ORLEANS, LA.

HON. LINDY BOGGS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mrs. BOGGS. Mr. Speaker, I would like to share with my colleagues news of an innovative effort in my district to improve primary and secondary education through the assistance and cooperation of the New Orleans business community.

In response to studies which show that poor education is a detriment to local economic development, the New Orleans/River Region Chamber formed a business task force on education. Recently the task force agreed to conduct a management assistance study of the New Orleans public schools, and the agreement is a real landmark in cooperation between business and education.

The task force will not produce "just another study" which will gather dust after the press releases are issued. Local leaders in business, education, and the city government have pledged to continue to work together to implement the findings and recommendations of the study to improve education for the area's children.

Other communities may wish to study the example of the New Orleans Business Education Task Force, and therefore I include in the RECORD a summary of the plans and progress of the management assistance study.

BTF TO IMPLEMENT STUDY OF NEW ORLEANS PUBLIC SCHOOLS

Martin C. Miler and Floyd W. Lewis, representing the Business Task Force on Education, Inc. (BIF), today signed an agreement with Drs. Mack J. Spears and Gene A. Geisert, president and superintendent of the Orleans Parish School Board, to implement a Management Assistance Study of the New Orleans Public Schools. Miler is the BTF chairman, and Lewis is chairman of the BTF's Management Assistance Team.

The study will be the first of its kind in the country between a public school system and the business community where senior officers are loaned from local business and industry to design and carry out the project. These volunteers will be recruited by Walter J. Amoss, Richard W. Freeman, Jr., T. R. Fiddler and G. Frank Purvis, Jr., all BTF members.

The study, expected to begin shortly and require eight to ten weeks for completion, will examine revenues and cash management, extramural resources, budget development and control, financial and audit systems, facilities management and maintenance, and long-range planning and evaluation. Members of the school staff will work with the loaned executives in each of the study areas.

The BTF, organized to strengthen elementary and secondary education in Orleans Parish, is composed of 21 chief executives of business and industry. Important to the BTF effort is a thorough understanding of the resources now available to the New Orleans Public Schools, how those resources are being managed and used, and the efficiency of such management and use. The study is designed to provide this understanding, and will enable the BTF, in cooperation with the New Orleans Public Schools, to develop methods for improving efficiency of the use and existing resources, in the event a need for this should be indicated, and to work for the identification and acquisition of additional resources as needed.

Miler, chairman of the Board of Hibernia National Bank in New Orleans, also presented the five year goals of the BTF, which are:

1. To create an active, viable constituency within the business community and the total community that would support educational improvement, especially in the public school system;

2. Systematically review and delineate the financial needs of the school systems, seeking additional modes of support if such funds are needed and justifiable;

3. Provide sound business advice and expertise to the public and non-public schools for improving educational services and programs;

4. Seek out and help redirect federal and state support, as available, to strengthen the financial base of the local school systems;

5. Assist in improving the economic strength and competitiveness of New Orleans by insuring that high school graduates possess the requisite basic skills needed to participate effectively and productively in the labor force.●

DAWNE NAPUAMOHALAONAONAAMEKAWEHIWEHIONAKUAHIWIANENAAWAWAKEHOOMAKAKEHOAALAKEEAONAAINANANIAKEAOHAWAIIIKAWANAAO LEE

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. HEFTEL. Mr. Speaker, what's in a name? If Shakespeare had known Dawne N. Lee of Honolulu, he wouldn't have asked.

It is a pleasure to include the following article from The Honolulu Advertiser for the enjoyment of my colleagues. As you will see, in Dawne's case, there's a great deal in a name.

A TRIBUTE TO THE RECORDHOLDER FOR THE LONGEST CHRISTIAN NAME IN THE WORLD

(By Beverly Creamer)

People laughed 11 years ago when longtime Hawaii musician William K. "Billy" Lee gave his new daughter an enormously long Hawaiian middle name that means something about the blossoms smelling good in Hawaii.

"She's going to get writer's cramp," people told him.

There were no less than 102 letters in her middle name. It wasn't until that Dawne N. Lee, was eight years old that finally mastered the delicate art of just ing the thing.

"My father taught me," she says.

Even today, at 11, she can't spell it y

"I can just say it," she says. "My fr at school keep asking 'what was your die name again?' One of them memorie It took a week."

But today Billy Lee, now 73 and the who concocted that typically Hawaiian die name and tagged his youngest with it, is having the last laugh.

For as far as anyone knows, Dawne's die name is the longest Christian na the world.

And because of that Dawne has been vited to appear on Japanese television program roughly equivalent to "What's Line."

She and her parents, Billy and Agnes, received an all-expenses paid trip to J from the Nippon Television Network, Ja national TV network. They leave Aug. 2

"We're practicing now for her to do hula over there," says an excited Billy. I'm prepared to do one or two songs t

Lee is also the father of the late Kui popular and beloved Hawaii singer and writer who died of cancer in 1966. Kui the youngest child of Lee's first marr Dawne is the youngest of his second.

It all happened, apparently, because o Guinness Book of World Records.

Dawne's middle name (and we'll tell what it is any minute now) has been in it for a number of years as the lo Christian name in the world, even th they didn't spell it right, says Billy.

It has been misspelled in every edition Lee never bothered to have it correcte cause he figured "the damage is al done." He still doesn't know how the G ness people got it.

Anyway, the people at Nippon TV sa name in the 1977 edition and late last decided to trace Dawne. They sent a re sentative, Tsugio Saotome, to Hawai find her.

And that's where it got complic "Saotome went all over Honolulu a people if they knew Dawne Lee and family, chuckles Billy. No one could him so he turned to the governor for Al Miyasato, one of Gov. George Ariyo administrative assistants, entered the ture.

"The guy couldn't speak English a and naturally they sent him to me," Miyasato, the only person in the gover office who speaks fluent Japanese.

"He walked in with this book in his h the Guinness Book of World Records."

Miyasato got in touch with the Department of Health's Bureau of V Statistics to see if someone there c track Dawne. And that's where ever got lucky.

"The deputy registrar over there kn me and knew my baby had that long n because they struggled to get it on birth certificate," says Billy, picking the story.

"They made one error too," he sa "They left an 'a' out."

With the knowledge of whose child Da N. Lee was, Miyasato sent the Nippon representative over to the Lee home Aala Street.

"He came in a taxi cab frantic as he remembers Billy. "His hair was dishev he looked like he had been beat up. He this overcoat on.

"We brought him up here and gave a beer and let him rest first. Then I a a couple of songs for him and Dawne one or two hulas."

Over his beer and dinner that night Nippon TV man heard the Lee life s and how Billy had once spent two y

as a traveling musician cum baseball player with a Hawaiian band in Japan. (Billy still speaks Japanese.)

That was from 1925 to 1927 and Lee played his drums, sang and even danced hula for Madame Tenkatsu's magic show extravaganza.

Billy had to dance the hula because the Japanese police refused to let his wife do it. "The Japanese considered that immoral back then," he chuckles. (On the side the band played baseball.)

A few months after the Nippon TV representative returned to Japan, the Lees were officially invited to Japan. But along with that invitation came a request for a full explanation of Dawne's long middle name.

Billy has a whole story for it.

It all came to him, he says, the night Dawne was born, just before midnight Feb. 21, 1967 at Kaiser Foundation Medical Center.

He had left his wife and new baby at the hospital and gone to the Ilikai for a snack. Afterwards, maybe 4:30 a.m., he was walking home across the YMCA grounds in Waikiki.

"A very slight breeze was blowing and I smelled the sweet fragrance of flowers . . . ginger, mock orange . . . and the dew on the grass," he says. "And it was close to dawn."

So they named the new baby Dawne. But then it took Billy another 20 minutes or so to come up with the rest.

For that he pulled from his boyhood memories of what it was like smelling the flowers as he hiked through Hawaii's valleys and mountains. *Voila*, his daughter's name was born:

"The abundant beautiful blossoms adorning the mountains and valleys begin to fill the air with their fragrance throughout the breadth and width of the glorious Hawaiian islands at dawn."

In Hawaiian, it goes like this, and it has been broken down into syllables for easy reading though it really should be run all together.

"Na-pua-mohala-onaona-a-me-ka-wehi-wehi-o-na-kuahiwi-a-ne-na-awawa-ke-hoomaka-ke-hoaala-ke-ea-o-na-aina-nani-akea-o-hawaii-i-ka-wanaao."

How they're ever going to say that on Japanese television is anybody's guess.●

A SALUTE TO A DISTINGUISHED AMERICAN

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. O'NEILL. Mr. Speaker, I want to take this opportunity to pay a special tribute to one of America's most respected and admired soldiers, Col. Lloyd L. "Scooter" Burke. With great honor and distinction, Scooter Burke gave 34 years of dedicated service to the Army of the United States.

Scooter Burke has recently retired after 11 years as the Army's Chief Liaison Officer for the House of Representatives. It was in this capacity that I became acquainted with him. Through his untiring efforts to strengthen the efficiency and support assistance of the Army's service operation in the House, the Army Liaison Office has become an integral part of every Member's constituency service. The importance of the Army Liaison Office is measured by the fact that all members—freshmen and seniors alike—must rely on the liaison office to help them cut the redtape of the Pentagon bureaucracy to assist their constituents with their problems.

Those of us who were privileged to work with Scooter Burke over the years quickly learned to admire and appreciate his competence, diligence, and resourcefulness in directing an active and responsive service organization. He has earned the gratitude of all the Members of the House of Representatives who have called upon the services of his office, just as he won the admiration, support, and respect of all the soldiers who served under him on the battlefield.

I know I speak for all the members of the House of Representatives who have known Scooter Burke in expressing our sincere gratitude and appreciation for a job well done. To Scooter and his family, I wish them every success in the years ahead.●

LABOR REFORM

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. ROUSSELOT. Mr. Speaker, despite the recommittal by the Senate of H.R. 8410, the so-called "Labor Reform Act," there is still a chance that the issue will be reconsidered before the end of this 95th Congress. It is unfortunate, in my judgment, that a "labor reform" bill should be used to facilitate the organization of employees when there are real issues affecting the civil rights of labor union members which are not addressed by H.R. 8410.

Douglas Caddy is a noted attorney and authority on labor law who has written several books, including one on labor union political activity entitled "The Hundred Million Dollar Payoff." Doug Caddy has recently written a thoughtful article on the subject of labor law reform entitled "Can Organized Crime Be Eliminated From Labor Unions?" which appeared in the July 1, 1978, edition of Human Events.

I urge my colleagues to read this article because it contains many interesting facts which may alter the perspective from which Members may view the issue of labor law reform. The following are some pertinent excerpts:

CAN ORGANIZED CRIME BE ELIMINATED FROM LABOR UNIONS?

(By Douglas Caddy)

For years prominent law enforcement officials have propagandized the public on innumerable occasions, without their statements ever being challenged, that organized crime is attempting to take over organized labor. Recently, for example, one Justice Department prosecutor with experience in the area declared: "Organized crime in labor is probably the most serious problem in the criminal field It overrides everything else. I can name four national unions now in the hands of hoodlums. And [the Department of] Labor is not doing the job of getting at them."

Are these dire assessments true or are they merely the stuff put out for public consumption to keep law enforcement budgets generously funded?

Strangely, after years of public rhetoric on hoodlum penetration of labor unions, Congress only recently got around to holding an inquiry into the subject when the Senate Permanent Investigations subcommittee sponsored two days of hearings in April. (*Organized Crime Labor Racketeering Investigations*. Hearings before the Permanent Subcommittee on Investigations. Committee on Governmental Affairs, U.S. Senate, April 24-25, 1978. Available in late summer. Single copies free from the committee, Room 101, Russell Senate Office Building, Washington, D.C. 20510.)

Sen. Sam Nunn (D.-Ga.), who chaired the hearings, set the tone in his opening remarks:

"The dollars paid into union treasuries and pension and other benefit plans by rank-and-file union members should be as safe as money in the bank and have to be protected against exploitation by criminals. . . .

"The purpose of these hearings is to seek clarification, to inform the Senate of the magnitude of the organized crime labor-management racketeering problem as seen not only by the Department of Justice but by the Labor Department as well."

Ranking Minority member Sen. Charles Percy (R.-Ill.) in his opening statement articulated his concerns:

"In the 1950s this subcommittee, under the distinguished chairmanship of the late Sen. John McClellan (D.-Ark.), launched a massive three-year investigation into corrupt practices in labor-management relations. That investigation resulted in passage of the historic Landrum-Griffin Act, which gave the Department of Labor a key role in eliminating organized crime from the unions, mandated by law.

"It is now all too apparent that labor-management racketeering has not disappeared in the 20 years since those hearings."

What is at stake in organized crime's inroads into the union movement? A key witness before the subcommittee, Justice Department official Robert Stewart (from whom more will be heard later), zeroed in on this:

"What we have here today is the exact same problem as in the 1950s involving many of these exact same suspects, but the problem has become infinitely more difficult because of the financial sophistication which has been developed to circumvent the labor reform legislation. And the prize today is some $40 billion in benefit fund assets which are not adequately protected because the government does not have the legislative tools and the investigative and prosecutorial resources to enforce the regulatory legislation which is in the statute books."

No one who sat through the two days of hearings or who has read the hearings' transcripts of the testimonies of 11 Justice Department and four Labor Department officials can fail to come to one inescapable conclusion: The U.S. government program to ferret out organized crime in organized labor is a bust, a massive failure, more bark and no bite, only a cream puff, and taken as a whole, is virtually non-existent. This, after decades of rhetoric and budgets of millions to fight crime.

As witness Stewart declared in his testimony:

"The unfortunate reality of today is that little or no progress has been made to control labor racketeering over the past 20 years, despite some good legislation. The same schemes and the same forces and the same tyranny dominate the field of labor racketeering today as they did during the original McClellan Committee hearings.

"If no progress is made in the next 20 years and if the present rate of improvident

investments and outright looting continues, this nation will face a benefit fund default of catastrophic proportions. The statutory framework to protect the assets of organized labor is generally sound . . . but those laws are not being obeyed in either letter or spirit in far too many cases and they will not be obeyed in the future unless there is a drastic improvement in the government's enforcement capabilities."

At the core of the failure of the government's anti-crime program lies a serious defect, a loophole, in the Landrum-Griffin Act: The Act places the power to enforce the law in the Labor Department, not the Justice Department. Observed Percy at the hearings:

"There are persistent indications that the Labor Department has deliberately shied away from taking an aggressive role in ferreting out the corrupt and venal persons—interested only in personal gain and power—who hold sway over certain unions to the detriment of the rank-and-file.

"In light of this, suggestions voiced over the last few months before congressional committees that the Labor Department would all but end its participation in the Organized Crime Program are almost unbelievable. . . ."

Responsibility within the Labor Department for fighting crime lies in the Office of Labor-Management Standards Enforcement. By statute, Compliance Officers located in this office have the primary investigatory responsibility to enforce key criminal labor laws. Yet, Deputy Atty. Gen. Benjamin Civiletti, testifying before the Senate subcommittee, complained that when the Justice Department last year conducted a survey of its Strike Forces, "we could only find 44 Labor Department employes working in the Strike Forces. Most of them were not full time, and we estimated they were working about 28 man-years, as the Labor Department would measure them."

The Justice Department's Strike Forces, recently increased to 15 with the addition of New Orleans, are its principal anti-crime tools. The Strike Force concept is that attorneys from the Justice Department, from the inception of a criminal investigation, work with the investigative agents from the various federal agencies charged with conducting criminal investigations. Thirteen different agencies participate in the Strike Force Program, including Labor Department Compliance Officers.

Sen. Nunn was critical of Labor's poor record of participation. The Senate committee's "staff inquiry shows that over the last four years there has been an erosion of the [Labor Department's] support. Strike Force attorneys interviewed by the staff have complained that the manpower made available by the Labor Department has declined to a point where many labor-management racketeering cases cannot succeed because no one is available to work them."

Percy echoed his fellow senator, pointing out:

"The Strike Forces, almost out of desperation, have turned to the FBI for help. The FBI has responded well, but is far more limited in its access to the underlying evidence of corruption—the union's financial records—and has little experience in this complex area of investigation."

A big difference exists in the powers of an FBI agent and a Compliance Officer in union crime cases. As Civiletti observed, "Compliance Officers have contacts in the labor movement who can and do provide such information. The FBI does not have authority to obtain access to records kept by labor unions without a grand jury subpoena. Compliance Officers have such authority."

A graphic indication of the low priority of the Labor Department in combatting crime, although mandated by Landrum-Griffin to do so, is its budget request for FY 1979 which asked for only 15 Compliance Officers to be assigned to Strike Forces. This is a ridiculous number from a government agency supervising the expenditure of $25 billion annually. When that extremely low, almost purposely insulting, figure became public, key senators reacted with alarm. So, according to Sen. Nunn, "On March 9, 1978, Senator Percy and I wrote to Atty. Gen. Bell expressing the subcommittee's concern that such a reduction [to 15] in Labor Department manpower might seriously impair the Justice Department's capability to pursue criminal violations of the labor laws."

For every action there's a reaction and the Nunn-Percy letter produced just that. On April 13, about two weeks before the Senate hearings were to start, Secretary of Labor Ray Marshall announced that the Justice and Labor Departments were about to conclude a new agreement concerning the Labor Department's participation in the Organized Crime Program. The next day, April 14, Marshall sent a letter to Atty. Gen. Bell indicating his intention to submit a revision in the FY 1979 budget to reflect an increase, to a total 125 Compliance Officers assigned to combat crime.

Clearly, Secretary Marshall's turnabout was a response to pressure being exerted by Senators Nunn and Percy. Even now, there are many who doubt that Marshall will remain true to his word in increasing the number to 125. "My enthusiasm is guarded," Percy said, "because, to date, participation by the Labor Department in the Organized Crime Program has been little more than a numbers game—some even consider it almost a charade."

Even if Labor Department personnel are beefed up, there still exist statutory and bureaucratic demands on these same personnel which will undercut their effectiveness.

For example, it is required by statute that challenges to union elections be resolved by the Labor Department within 60 days, so Compliance Officers working with Strike Forces are frequently called away on emergency assignments to resolve election disputes. This has obviously been disruptive when these Compliance Officers were conducting a complex labor-management racketeering investigation which often takes many months to complete, and which had to be shelved pending the resolution of the election dispute.

Another problem has been the rotational system imposed by the Department of Labor on its employes. Every 18 months a Compliance Officer is rotated out of the Strike Forces into another assignment. This has meant his replacement spends considerable time catching up.

Finally, a third problem exists in the Labor Department's practice of accounting assignments in man-years rather than men actually assigned. Assigning three men, one-third time to a Strike Force for a year is not as effective in conducting investigations as assigning one man full-time for a year.

The Senate hearings were unique in that among the witnesses were the heads of nine Strike Forces. If awards were given for public drama to witnesses at congressional hearings, these nine would be among the top contenders. Their testimonies thoroughly shocked the audience and alarmed the senators. When they had finished, Percy exclaimed that "in my 12 years in the Senate this has been one of the most valuable sessions I have had and some of the finest witnesses we have ever had. . . ."

Before the Strike Force heads began to testify, Nunn set the stage:

"We have encouraged each of the Strike Force attorneys to make a frank, candid assessment of their own individual districts and we have not asked them to get all of their opinions signed off for by the Justice Department.

"Once you do that, you have to go through OMB [Office of Management and Budget] and then have a never-ending process. So what we encouraged, frankly, is their candid assessment of the situation. We not ask them to speak officially for the tice Department, but rather their indiv views."

Deputy Attorney Gen. Civiletti, pres the testimony, admitted that even he not read the prepared statements of Strike Force heads.

• • • • •

What, then, can be concluded from t hearings into organized crime labor ra eering, the first such congressional vestigation since the Landrum-Griffi was passed 19 years ago?

1. From the day Landrum-Griffin enacted, under both Republican and D cratic administrations, the Departme Labor has sought to protect the labor m ment, not necessarily the union membe key part of this strategy has been to ig its mandate to protect labor unions corruption by organized crime. A succe investigation and prosecution of union ruption may take up to three years to c plete. Yet there has been steadily weake Labor Department participation in Ju Department Strike Force efforts ag labor racketeering.

2. Since Congress passed legislation in ing pension funds, the task of investig labor racketeering has become even demanding. If organized crime can ob control and use the vast assets of pen funds, amounting to tens of billions of lars, the pension funds will eventuall bankrupt and the taxpayers will pick the tab for funding organized crim activity.

3. The Labor Department should fulf promise to commit a minimum of 125 C pliance Officers to ferreting out corru These men should be accounting-type f investigators and should be allowed to main in their posts, without being rot until their jobs are done.

4. Should the Labor Department fai commit adequate skilled manpower to task (and its record over the past 20 would seem to predict failure), then leg tion should be passed transferring enfo ment authority to the FBI and the Crim Division of the Justice Department.

5. The Criminal Division of the Justice partment should be authorized to hire 70 additional prosecutors for its racketeering program.

6. Federal law should be amended to law extortion by making it a felony union official to receive payments from or more employers simultaneously or wi a three-month interval; to forbid con from heading any union employment prohibit payment of attorney's fees or a tional salaries or benefits to union of accused or convicted of felonies; to fo deprivation of a union member's right violence (the federal government's inq into the abduction and presumed murde Hoffa ludicrously had to be based on a year misdemeanor).

7. The Labor Department should cease phasizing civil actions over criminal p cutions. The only way to ferret out cor tion is through the criminal process. But Labor Department has instead chosen civil action route, which takes much long less effective and allows the defendant use union treasury funds to pay for t legal defense.

Thus, for example, the Labor Departm last February with great fanfare filed suit against the trustees of the Teamst Central States Pension Fund. In doing s gave the Justice Department only one d notice. Observed Deputy Atty. Gen. Civil to the senators, "We did not have an opp tunity . . . to fully study this suit, the sons against whom the suit was going to brought, and whether or not the suit in t was premature and should be combined w

some other remedy relief sought or some

the following five articles on this subject

confront the problem and design their in

some other remedy relief sought or some other activities or should except out some individual defendants who may have been cooperating in the criminal investigation."

Such civil suits can only complement, not substitute for criminal prosecutions.

Jimmy Carter, at the 1976 Democratic convention, declared:

"We can end the double standard of justice in America. . . . I see no reason why big-shot crooks should go free while the poor ones go to jail." To which all honest Americans still say, "Amen, brother," but must now wonder when their born-again President in the White House will begin to practice what he has preached.

Mr. Speaker, the article also contains revealing and intriguing excerpts from the testimony of members of Justice Department task forces. Members who are following the labor reform issue closely may wish to obtain copies of the full text of the Caddy article as well as of the hearings themselves.

AN EVALUATION OF THE SPECIAL SESSION ON DISARMAMENT

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. DRINAN. Mr. Speaker, earlier this year I participated as a congressional adviser at the United Nations special session on disarmament, a conference with implications which go far beyond the session's 31-page final document.

Participants in the special session did not expect that nuclear disarmament would be an immediate result. Nor were they simply giving lipservice to the urgent need for international arms limitation agreements. The goals of the conference, and the criteria by which it should be evaluated, are the discovery and discussion of means by which different sovereign states view the arms race and the prospect of disarmament.

Evaluated on the basis of its own expectations, the special session was highly successful. It revealed the views not only of the superpowers who have the potential to destroy the world through nuclear holocaust, but also of the nonnuclear states who fear a forced dependence on the nuclear powers.

In providing a forum for discussion of these diverse views, the special session reflected the dynamic nature of the current political world order. Because a nuclear war would affect the entire human race, nonnuclear nations are rightfully becoming increasingly unwilling to accept the position of powerless "have-nota." This positive development, which was a constant theme in the discussions and decisions of the special session, reinforced the principle that each state is important in political decisions on arms control and disarmament.

I believe that the special session on disarmament demonstrated the usefulness of continuing, multilateral discussions on disarmament. I also believe that it helped to establish the spirit necessary to foster a SALT II agreement. I commend to the attention of my colleagues the following fine article on this subject by J. Bryan Hehir in the August 19, 1978, issue of America, the national Catholic weekly. Father Hehir, a member of the Vatican delegation to the United Nations special session on disarmament, evaluates the "modest but real" accomplishments of the session.

TOWARD A WORLD WITHOUT WEAPONS

(By J. Bryan Hehir)

HOW JUDGE THE RECENT U.N. SPECIAL SESSION ON DISARMAMENT? ITS ACHIEVEMENTS WERE MODEST BUT REAL, AS IN OTHER CONFERENCES WHERE GLOBAL CONCERNS COMPETE WITH POLITICAL RIVALRIES

The Special Session of the United Nations devoted to disarmament (S.S.D.) closed on June 30, concluding six weeks of debate, which produced a 31-page final document. The S.S.D. was the largest gathering in history devoted to the topic; it attracted several heads of state, although neither President Carter nor Chairman Brezhnev were among them. Pope Paul VI addressed a special message to the S.S.D. During the session, nongovernmental organizations (N.G.O.'s) played a sustained and significant role, climaxed by a special day set aside for N.G.O.'s to address the General Assembly. Among the N.G.O.'s, religious organizations, representing all the major world religions, made a substantial contribution officially and through the special participation of key N.G.O. representatives, such as Homer Jack (World Conference on Religion and Peace), Barry Hollister (Quakers) and Alan Geyer, all of whom were instrumental in publishing (throughout the S.S.D.) the informative and widely read Disarmament Times. These dimensions of S.S.D. were all important, deserving more attention than this article can provide, yet they do not address the central question: How evaluate the S.S.D.?

To answer this question it is necessary to establish criteria of evaluation for sessions of this type. Within the United States, two kinds of evaluation, mirror images of misperception, need to be resisted: those who expected nothing and those who expected everything from S.S.D. The first view, reflected often in passing comments in the media, is a species of self-fulfilling prophecy. U.N. sessions are by nature long, wordy, monotonous and ultimately unproductive. Supposedly a hard-headed and realistic view, such a position is often superficial and narrow. It fails to assess in any rigorous fashion what the capabilities of the United Nations are; such an omission, in turn, deprives the analysis of any nuanced perspective for sorting out the real themes of the meeting from the symbolic rhetoric that inevitably surrounds a gathering like S.S.D. The second view, expecting too much, similarly distorts the analysis by failing to assess what the United Nations can do on an issue as central to states as security and armaments. Expecting too much leads to disappointment because unrealizable objectives, when not fulfilled, overshadow the more modest results that are attained.

In setting forth these positions, the intent is not to contend with caricatures but to illustrate how expectations govern evaluation. At its present stage of development, the United Nations should be evaluated in terms of modest expectations. "Modest" does not mean "minimalist," but it does imply a careful calculus of how an organization of sovereign states (not a superstate) must deal with an issue as complex and as deeply rooted in the doctrine of sovereignty as the arms race. Such a modest perspective is able to acknowledge that a special session of the United Nations produces the following results: It highlights a key question facing the international community; it forces governments, through a process of peer pressure, to confront the problem and declare their intentions; it provides a comprehensive framework for review; and it concludes with a systematic response to the problem.

At the same time, a modest view will acknowledge from the beginning that it would be highly unlikely for any state to move in a U.N. session significantly beyond positions it had taken in more specific and detailed bilateral or multilateral negotiations (SALT or the Non-Proliferation Treaty). The atmosphere of the United Nations can provide a different framework for issues, but it provides neither a mechanism for coercion nor incentives for political conversion. Given these limits of a modest perspective, it is the burden of this essay to ask whether even modest achievements should be credited to the S.S.D. The S.S.D. can be tested by its relationship to other U.N. conferences on particular global issues, by its final product and by its linkage to other arms-control forums.

SPECIAL SESSIONS AND THE S.S.D.

The significance of examining the S.S.D. in relationship to similar meetings is that it isolates two characteristics that these sessions have in common. First, they are the only forum where problems that are not only transnational but universal in scope are examined by an assembly that is universal in its makeup. The S.S.D. is particularly illustrative; no one doubts that if the nuclear "moment of truth" ever comes, it will have implications for the entire human community (through direct attack, fallout, disruption of the minimal degree of political order that exists). Yet the forums in which the arms question is debated and decided are seldom broadly representative (e.g., SALT, Mutual Balanced Force Reductions).

Second, in the other specialized U.N. conferences (Environment 1973, Food 1974, Population 1974, New International Economic Order 1976), there has been a double agenda under review. On one level, the debate is about the specific technical issue at stake in the session (trade, arms, prices); on a second level is the pervading question of political order in the globe today. The political-order issue has pervaded these global discussions, seldom surfacing in specific terms but always shaping the nature of the debate. Whether it is the claims of "The 77" in the N.I.E.O. debate, or "The Non-Aligned" in the S.S.D., the unifying theme is the prevailing pattern of political order and the inability of those on the margin of power to influence key decisions that affect their states.

To ignore this topic of political order, more precisely this challenge to the present order, is to render an abiding dimension of a special session unintelligible. The case in the S.S.D. that illustrates the point is nonproliferation of nuclear weapons. This question split the assembly more decisively than any other issue precisely because it always involved more than the specific technical issues about proliferation. At stake in the proliferation debate is the way in which possession of nuclear weapons reflects prevailing patterns of political order, bestows major-power status and legitimates a division of the globe into (nuclear) haves and have-nots.

This distinction should not be overplayed in terms of its ultimate significance in world politics; it could be argued that Japan and West Germany, nonnuclear states, exercise greater influence through economic power than Britain, France or China wield with their nuclear stockpiles. At the same time, the distinction does make a difference, especially for those states devoid of either military or economic status. The nonaligned states view the Non-Proliferation Treaty (N.P.T.) of 1968 as discriminatory on two counts. First, the treaty binds the nonnuclear states to a commitment to forego nuclear weapons in return for a pledge from nuclear states "to pursue negotiations in

good faith on effective measures relating to cessation of the nuclear-arms race at an early date and to nuclear disarmament" (Article VI). In the judgment of the nonnuclear states, the promised negotiations have proceeded too slowly and have thus far produced peripheral results. Almost all support a SALT II treaty, but they also see it as very limited and very late. Second, nonnuclear states see existing and foreseen restrictions on the transfer of nuclear technology and access to nuclear energy as a barrier to future economic development. (In this regard, the apparent unanimity of the developing countries in their quest for nuclear energy stood in striking contrast during the S.S.D. to the position of several U.S.-based groups, which link nuclear disarmament to prohibitions on uses of nuclear energy.)

The topic of political order, however, was confined to conflict over nonproliferation. On a limited but critical point, the major achievement of the S.S.D. was realized in the area of political order. This was the decision to change the international negotiating structure on disarmament. The decision involves expanding the membership of the Conference of the Committee on Disarmament (C.C.D.) and rotating the chairmanship of the C.C.D. among all member states rather than confining it to the superpowers. The move is admittedly an incremental and bureaucratic outcome of six long weeks of negotiation. At the same time, it does institutionalize a major objective of the nonaligned states that were the moving forces behind the S.S.D. The new C.C.D. opens the arms control-disarmament debate on a regular basis to those who have neither the political prestige nor the military capacity to influence the nuclear actors. The new framework for C.C.D. has motivated France to return to the Geneva disarmament negotiations and, in time, is expected to bring the Chinese into the discussion for the first time. The Chinese were active participants in S.S.D. and are expected to continue their participation in some regular fashion. A long-term result of bringing all the nuclear powers around the negotiating table, and of giving representative nonnuclear states a voice and a stake in future disarmament negotiations is a modest but crucial gain in political order. Recognition of this step, however, is not a sufficient evaluation of the S.S.D.; the specifics of the document need to be assessed.

THE PRODUCT OF THE S.S.D.

The final product of the S.S.D. was the document adopted by consensus on the last day of the session. The document has four parts: an introduction; a declaration of principles; a program of action; and a concluding section on machinery for future disarmament negotiations. The introduction, which provided a synthetic review of the arms race, and the declaration of principles expressed an existing consensus and were relatively uncontested in the session. The section on machinery, restructuring the Conference of the Committee on Disarmament in Geneva and establishing a U.N. Commission on Disarmament to follow through on the S.S.D., were the successes of the session. Both were procedural rather than substantive in nature, but on international questions procedural measures can in time produce substantive results.

If the machinery section is the place to look for progress in S.S.D., the Program of Action illustrates the present limits of the United Nations as a disarmament forum. The final version of the Program of Action resembles an agenda more than a program; all points of disagreement were deleted. The result is that the Program of Action is minimalist in tone and content.

The Program of Action was potentially the most substantive part of the document, containing proposals for nuclear and conventional disarmament, a comprehensive test ban (C.T.B.), the establishment of nuclear free zones and zones of peace, nonproliferation and the establishment of links between disarmament and development. Although all these topics are mentioned in the final document, the tone is either descriptive or exhortatory, not analytical or programmatic.

The intrinsic limits of the S.S.D., when it came to specific action items on the disarmament agenda, were evident on the topics of both nuclear and conventional disarmament. When it dealt with "the nuclear package" (SALT, C.T.B., nonuse of nuclear weapons), the session was confronted by the desires of the nonnuclear states for significant moves and the determination of all the nuclear states to keep their negotiating options open (e.g., by confining them to bilateral forums like SALT, or the three-power talks on C.T.B.). The dynamic of the S.S.D. nuclear debate, evident from the opening general statements through the final week of intense, private negotiations, involved the nonaligned and nonnuclear states (e.g., Sweden and Norway) trying to apply political and moral pressure on the nuclear powers, with the latter ready to concede marginal points, but not to make qualitatively new moves. The end product of this diplomatic minuet is a series of statements in the Program of Action that urge conclusion of ongoing nuclear-arms control measures and reassert the imperative of ultimately eliminating nuclear weapons from the arsenals of states.

On the conventional arms front, the dynamic and product of the S.S.D. was not much different. Lincoln Bloomfield and Harlan Cleveland, in a study prepared prior to the S.S.D., note that 80 percent of global military expenditures are for conventional armaments, and military spending by developing countries has been growing at 10 percent a year for the last 20 years. Although the intense political struggle in the Middle East accounts for much of this growth rate, these statistics illustrate how the pattern of debate shifted in the S.S.D. when the agenda changed from nuclear to conventional disarmament. In the conventional debate, it was often the nonaligned and/or the developing nations whose military expenditures were under scrutiny. Their response was not unlike that of the nuclear states; those under scrutiny moved to protect their freedom to decide. This strategy was illustrated in the resistance of the nonaligned states to any proposal linking nuclear and conventional disarmament. Their position was that such a principle distracted attention from the central problem of the arms race, nuclear arms. While the assertion contains some truth, it also serves to parry sustained analysis of the conventional arms race, including the galloping arms trade involving both industrialized and developing nations. The reluctance to focus on conventional arms control produced the same modest language and proposals that one finds in the nuclear section of the Program of Action.

A third problem that illustrated the difference between the S.S.D.'s capacity for identifying central aspects of the arms race and its capability to address those problems was the relationship of disarmament and development. This abiding concern of the United Nations (and of Paul VI, who, in his message to the S.S.D., cited again the scandal of "the crying disproportion between the resources in money and intelligence devoted to the service of death and the resources devoted to the service of life") received much attention, yet produced little action in the S.S.D. Here again, evaluation of the session should not devalue too rapidly the explicit consensus reiterated at the S.S.D., that a link should and does exist between these two major themes of world politics. But the final conclusion of the S.S.D. on disarmament and development was simply to urge the Secret General to initiate a study on the poten contribution disarmament can make to establishment of a new international e nomic order and to report the findings to General Assembly.

BEYOND THE S.S.D.

The essential limitation that constrai the Program of Action on every front is fact that individual states still control decision making on disarmament. Co quently, even in the face of an internatio problem, being dealt with in an internatio assembly, it is not possible to take conce action that jumps over or beyond the poli and policies of the individual states. decisive conclusion to be drawn from is not how bad the prospects for disar ment are at present, but how essential c certed action is within key states. No st including the Soviet Union, is more cruci located in the disarmament drama than United States. What are the prospects the post-S.S.D. agenda?

First, it is significant to see how arms c trol and disarmament have again bec visible and viable topics. The last m political and moral debates about disar ment were the A.B.M. decision in 1968 the Partial Test Ban Treaty in 1963. J after the latter was signed, the United St began the disastrous slide into Vietn Almost all parties concerned about morality of the use of force were consu in the bruising Vietnam debate. The di sions in the last 18 months picked up thread of an argument that had been abeyance for at least a decade. Although advocacy of arms control stalled, the a race did not; we return, therefore, to old questions faced with qualitatively problems.

Those problems are illustrated, altho not exhausted, by the SALT II debate, wh is now upon us and will certainly inten in the next several months. Viewed agai the background of the disarmament age SALT II appears as a rather limited a control measure. Yet the very problem status of achieving a SALT II agreement will be ratified by the Senate manifests complexity and difficulty of taking even cremental steps toward disarmament. S measure of the obstacles facing SALT ratification can be made by comparing with the recent ratification debate over Panama Canal treaties. The intrinsic p lem of ratification, guaranteeing 67 vo is aggravated in SALT II by the increa complexity of the problem.

The content of the Panama Canal bate (as opposed to the rhetoric and my was exhausted after the first few weeks. SALT II debate involves technological, s tegic and political problems that admit honest intellectual differences. In my vie sound and compelling case can be made a SALT II agreement that caps the nuc race quantitatively and qualitatively, opens the way to the "deep cuts" in the a race that are promised in SALT III. this case will have to be *made* in the Se and with the wider public; it cannot be sumed to be evident.

Making the case for SALT II in the pu debate is a task that invites participat by the church. One of the principal fu tions of the traditional moral doctrine war was to help set the terms of public bate on the morality of the use of force. we enter the heart of the SALT II deb there is no well-defined, visible constitue for arms control and disarmament measu The cultivation of an informed constitue of conscience that could be relied upon stand for and speak for SALT II and bey is a political and moral necessity. To for such a constituency is not to envi that most Catholics will grasp the techn intricacies of the SALT II debate. Such

expectation borders on fantasy. It is possible,

expectation borders on fantasy. It is possible, however, to build an atmosphere of public opinion that sustains a climate favorable to a sound SALT II treaty. Shaping such an ambit of opinion within which the technical policy choices can be made is a contemporary exercise of the church's teaching ministry, which is worthy of the vision of Vatican II's "Gaudium et Spes" and John XXIII's "Pacem In Terris."

The religious participation in the S.S.D. was a beginning. The forms of participation varied from a broadly representative presence in the Mobilization for Survival program, to the specifically Catholic liturgy sponsored by Pax Christi, to the religious service for S.S.D. delegations conducted by the Holy See Mission to the United Nations. This superbly planned and inspiring Pax Christi liturgy, concelebrated by Bishops Gumbleton, Dozier, Sullivan, Kelly and Bettatzi (Pax Christi International), was complemented by the blend of political realism and moral urgency in the Holy Father's message presented by Archbishop Agostino Casaroli. Both of these events provide hope that in the post-S.S.D. period, the church can draw upon the resources of faith and moral insight to shape a constituency of conscience that can address the political and ethical dimensions of the nuclear era.

Over 20 years ago, Romano Guardini wrote that the essential problem that the "post-modern world" faces is whether we can develop the moral insight to control and direct the power we have created. Nothing symbolizes this cosmic question more clearly than the nuclear arms race. The S.S.D. vividly portrayed how the future of the human family rests upon the race between moral wisdom and technological power. As the United States moves from S.S.D. to SALT II, the political will of the nation will be tested. Under no less scrutiny, however, will be the moral wisdom of the church.

[The Rev. J. Bryan Hehir, *associate secretary of the U.S.C.C. Department of Social Development and World Peace, was a member of the Vatican delegation to the U.N. Special Session on Disarmament.*]●

HARLEM CELEBRATES MARCUS GARVEY MONTH

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. RANGEL. Mr. Speaker, in honor of the contributions Marcus Garvey has made to blacks in America, a number of black communities around the country are paying tribute to Marcus Garvey this month. Special ceremonies were held in my district, during which the borough president proclaimed the month of August 1978 to be Marcus Garvey month in the borough of Manhattan. I should like to present excerpts from the proclamation for inclusion in the CONGRESSIONAL RECORD:

Whereas, few men in history have done as much to arouse the identity of an oppressed people as Marcus Garvey, and

Whereas, Marcus Garvey, who by his willingness to dream new things and meet the adversity of his time head-on has set a high example for people of every race and creed to follow, and

Whereas, Marcus laid the groundwork for the principle which Martin Luther King would later make clearer to us all that "injustice anywhere is a threat to freedom everywhere," and

Whereas, the philosophy Marcus Garvey helped set in motion—that of self-help, self-respect and economic self-determination—are precepts which must be realized now more than ever.

For many black Americans living in my district, the message of Marcus Garvey has reawakened their pride and instilled a sense of dignity and purpose. Children are discovering Garvey for the first time, and adults are rediscovering him. His legacy has meaning not only for black Americans, but white Americans as well.●

INTERNATIONAL TRADE PROBLEMS

HON. BUTLER DERRICK

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. DERRICK. Mr. Speaker, our country's problem in international trade, including the enormous deficits that we have been running for some time, the fact that many of our trading partners are unwilling to take steps necessary to open their doors to our products while we continue to be flooded with those manufactured under conditions that are illegal here, raises further serious questions for this country.

Indeed, our present policies in today's world seem totally passé. A clear example of this appeared in the August 7, 1978, edition of Forbes magazine, entitled "Thinking the Unthinkable." It was written by E. M. Bernstein, a former high Treasury official and one of the key founders of the post-World War II International Monetary Fund. Mr. Bernstein's observations should cause all of us to ponder most seriously the current direction we are taking in our international trade matters.

I ask unanimous consent for the article to be inserted in the RECORD at this point.

[From Forbes magazine, Aug. 7, 1978]

THINKING THE UNTHINKABLE

Since the Germans and Japanese are unwilling to take the painful measures needed to bring their trade with the U.S. into better balance, what is to be done? Simply permitting the dollar to decline in value against the yen and the deutschemark seems not to have done the trick. From Edward M. Bernstein, the sage of Bretton Woods and a lifelong advocate of free trade, comes this reluctant proposal: Raise U.S. tariffs.

Says Bernstein, now 73 and author of Washington-based analytical reports on monetary affairs read by central bankers and economic officials throughout the world: "A uniform U.S. tariff on imports of, say, 10% might be beneficial."

This from a man who is no narrow-minded protectionist mouthing propaganda from the American Iron & Steel Institute. He played a key role in formulating the U.S. postwar liberal trade policy.

Sure, he acknowledges, oil is an enormous problem that cannot be ignored. True, our faster economic growth vis-à-vis Europe and Japan has hurt. Oh yes, less inflation in this country would help and success of the current Geneva trade talks would be a good thing.

But to Bernstein the principal problem in our dismal trade picture is this: "A lot of countries look upon us as a depression market where they can sell that part of their output that cannot be absorbed by their home markets." Dumping? "Let's call them 'unfair' trade practices," says Bernstein with a wry smile. "We must be diplomatic about these things."

Bernstein reels off a dismal—and convincing—set of statistics. Since the fourth quarter of 1975, our current account (which includes trade and investment income) has deteriorated by nearly $50 billion a year, a staggering sum.

Between 1975–1977, domestic spending on goods increased $180 billion. Of that, nearly 29% was supplied by increased imports. "Such a proportion is unprecedented in our history," says Bernstein. Last year U.S. output of goods increased only 7%, yet imports from Western Europe soomed 36% and imports from Japan almost 47%. In the first half of 1978, our current account deficit with Japan just about equaled that with the OPEC countries.

Concludes Bernstein: "There's no way to account for these extraordinary increases by the normal patterns of trade. It appears some countries are behaving like the mercantilists of old," whose philosophy was to get a trade surplus regardless of the methods.

Oil? "Between the first quarter of 1977 and first-quarter 1978, our deficit with OPEC was reduced by $1.1 billion as imports fell by 11.9%. By contrast, our trade balance with Western Europe fell from a large surplus to a deficit and our deficit with Japan increased by 160%."

Bernstein chuckles at Japan's and Europe's finger-wagging at the U.S. "They blame the dollar's troubles on energy and say we should reduce imports of oil. They say we should lower our rate of inflation and thus become better exporters. That's what they would like us to believe."

Bernstein doesn't think the U. S. can get rid of its deficits through more exports alone. "Politically, other countries are unwilling to accept the increase in U.S. exports it would take to put our trading account into balance." Nor will Germany and Japan, moreover, willingly undergo the domestic economic disruption that would arise from cutting back exports to this country.

Volatile exchange rates and unfair trade practices are why we have to consider something like 10% tariffs, says Bernstein.

"This is not protectionism where you have different rates for different products. This would be a tax on *all* imports." What if Europe and Japan put a similar levy on U. S. imports? "I don't mind that at all," responds Bernstein. He argues that the hurdles will affect Japan and Germany far more than the U.S.

A man with intimate knowledge of international finance, Bernstein maintains that the costs of a continuing import flood in lost U. S. production far exceed what we'd lose by erecting a 10% tariff.

The reason the U.S. has been rather tolerant so far is that employment in this country has grown significantly during this period. But for a variety of reasons, including a coming slowdown in our economy, he feels that this safety valve will be shut off and that the U.S. government will be under growing pressure to slow down those imports. Bernstein has never believed the much-touted virtues of floating exchange rates. "The experience of the recent past does not encourage the view that falling exchange rates will of themselves, in all circumstances, result in a marked change in the trade balance."

He devoutly hopes that the devalued dollar will really turn things around, but if it doesn't, he says, we should be ready to get tough.●

MOBILE HOME DISCRIMINATION

HON. LARRY PRESSLER

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. PRESSLER. Mr. Speaker, in South Dakota, many low- and middle-income people simply cannot afford the cost of housing.

Mobile homes provide shelter for over 10 million Americans. In South Dakota, more than 55,000 people live in mobile homes.

Since mobile homes provide important home ownership opportunities for so many Americans, I am concerned that reasonable financing is available to those Americans who cannot afford, or do not wish to purchase, nonmobile homes.

Persons who wish to purchase a mobile home have a hard time getting mortgages. Congress recently approved extended mortgage loan maturity terms for mobile homes. This new provision allows potential purchasers of mobile homes longer mortgage repayment periods.

At present, the FHA will insure mortgages on nonmobile homes for up to 30 years and for a maximum of $60,000. However, FHA guarantee loans on mobile homes are limited to only 12 or 15 years, up to $16,000 for single wide, and $24,000 for double-wide homes. Although the price of a mobile home is far less than that of a conventional home, these limitations make it impossible for many individuals to own their own homes. This inequity in financing opportunities represents a grave injustice to these people.

In passing the Community Development Act of 1977, this Congress included a provision authorizing the Secretary of Housing and Urban Development to extend loan maturity terms from 15 to 23 years for loans made to finance double-wide homes. Unfortunately, the Federal Home Loan Bank Board, which is responsible for governing loan activities of federally chartered savings and loan associations which invest in mobile home loans, has not yet revised its regulations to include the longer maturity terms.

Today's mobile homes are built according to HUD regulations and are certainly durable enough to last the 15 and 23 years proposed by the Congress as maturity terms for FHA-insured loans. The 50 to 60 percent rise in mobile home prices over the past 8 years makes it nearly impossible for many families to afford the high monthly payments on mobile home loans. It is essential that the Federal Home Loan Bank Board and HUD extend the length of maturity terms if these families are to be able to afford suitable housing.

In an effort to correct this situation, I have worked throughout this Congress to lengthen the maturity terms of federally insured mobile home loans. After voting in favor of the Community Development Act of 1977, I have contacted Secretary Harris of HUD on numerous occasions to express my support for extending the maturity terms. I have also encouraged my constituents to express their views directly to HUD.

In addition, I recently supported the Housing and Community Development Act amendments, which provide annual rental assistance payments to low-income mobile home owners who rent the space on which their mobile homes are located. At present, rental fees in many trailer parks are too expensive for mobile home owners to afford. Without this legislation, the mobile home will no longer provide an opportunity for low-cost, respectable housing for many Americans.

I believe we must put an end to this injustice to owners of mobile homes. It is certainly time for the Department of Housing and Urban Development to extend the maturity terms of FHA-insured loans for mobile homes so that savings and loan associations will be able to adequately service the great number of mobile home owners wishing to borrow money. An extension of these terms is the first step toward equal opportunity regardless of type of housing. I urge my colleagues to join me in this effort.●

CAMBODIAN REFUGEES

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. SOLARZ. Mr. Speaker 15,000 Cambodian exiles have been languishing for 3 years in refugee camps in Thailand. Having escaped from the atrocities of the Khmer Rouge, these refugees find themselves with little hope of permanent resettlement. Through no fault of their own, the vast majority are ineligible to enter the United States under the terms of the current Indochinese parole program which gives preference to refugees with relatives in the United States or with close ties to the U.S. Government.

While these Cambodian refugees are only about 10 percent of the total Indochinese refugee population, I believe that the unspeakable sufferings they have endured give them a special claim on our emergency immigration procedures. Reliable sources indicate the 1 million Cambodians have been ruthlessly murdered and another 1 million have died due to the deliberate deprivation of food and medical care by the leaders of so-called Democratic Kampuchea. The Khmer Rouge, upon seizing control of the country in 1975, sought to destroy all vestiges of the previous government and culture of Cambodia. The cities, towns, and villages were abandoned and the survivors of the waves of terrorism were forced into labor camps.

In the Congress we have passed resolutions expressing our outrage at what has occurred in Cambodia and calling upon the governments of the world to pressure the leaders of Democratic Kampuchea to stop the slaughter. But now it is time to go further. Now it is time for us to reach out to those 15,000 victims if an Asian holocaust who have been able to escape and to offer them the chance for a n life in a new homeland.

Forty years ago the innocent victi of a European holocaust could find place of refuge. Today, we have the portunity to open our doors to these Cambodian survivors and demonstr in a most concrete way that the Uni States remains committed to assist the innocent victims of war and terror and that we will not remain silent in face of the moral atrocity that contin in Cambodia today.

Today, I am proud to be introduc with 50 of my colleagues a resolut that calls upon the Attorney General exercise his powers under section 212 (5) of the Immigration and Nationa Act to grant a special parole over next 2 years for those Cambod refugees who desire to come to United States.

By offering this special parole to Cambodian refugees, we will give th victims of the worst human catastro since Nazi Germany the opportunity establish new lives in a free society goal they have already risked their l to achieve. For the penalty for attem ing to flee Cambodia is death.

Like the other Indochinese who h come to the United States under parole authority, the Cambodians hard working and willing to make necessary adjustments. Already 95 p cent of these Indochinese refugees employed and they have become g citizens and loyal Amerians.

In recent testimony before the S committee on Asia and Pacific Affa of the International Relations Comm tee, Albert Shanker, president of American Federation of Teachers, dorsed the proposal for a special pa for the Cambodian refugees. A la number of church and civic groups h also expressed their support, and h urged the President to call upon Attorney General to announce such parole as a humanitarian gesture.

On August 3, Senator DOLE introdu a sense of the Senate amendment H.R. 12934 calling upon the Attor General to grant a special parole these Cambodian refugees. The amen ment was adopted by voice vote. Se tor KENNEDY, in the debate, commen favorably upon the amendment:

I think it is a clear reflection of huma tarian concern. I think it is desirable worthwhile.

Mr. Speaker, I insert the text of resolution at this point in the Reco

H. CON. RES. 701

Resolved by the House of Representat (the Senate concurring),

Whereas the United States Governmen committed to the maintenance of inter tionally recognized human rights;

Whereas the President of the United St has called Cambodia the worst violator human rights in the world and has pled assistance from the United States to C bodian refugees in Thailand;

Whereas the House of Representatives requested that the President cooperate w other nations in an effort to end the flagr violations of internationally recognized man rights in Cambodia;

Whereas the fifteen thousand Cambod refugees in Thailand are subject to deb tating living conditions and constant f

of border raids, and have not received offers of resettlement from other nations;

Whereas the Indochinese parole program recently announced by the Attorney General will not apply to most of the Cambodian refugees in Thailand;

Whereas Indochinese refugees already admitted in to the United States have become meaningful contributors to United States society, without depriving United States citizens of employment opportunities; and

Whereas it is the policy of the United States to encourage the nations of the world to accept Indochinese refugees for resettlement: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that

(1) the Government of the United States should give special consideration to the plight of refugees from Democratic Kampuchea (Cambodia) in view of the magnitude and severity of the violations of human rights committed by the Government of Democratic Kampuchea (Cambodia); and

(2) the Attorney General should exercise his authority under section 212(d)(5) of the Immigration and Nationality Act to parole into the United States—

(A) for the fiscal year 1979, 7,500 aliens who are nationals or citizens of Democratic Kampuchea (Cambodia) and who are applying for admission to the United States; and

(B) for the fiscal year 1980, 7,500 such aliens.●

WHERE THE "INS" AND THE VISITORS EAT IN THE NATION'S CAPITAL

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. STARK. Mr. Speaker, noted English poet William Cowper once remarked that "No man can be a patriot on an empty stomach." After hours of walking through the museums, the Mall and the monuments, sightseers love their country, but would also love a bite to eat.

An article has recently come to my attention that describes some of the better cafes and cafeterias that tourists can cure their hunger blues. I commend it to my colleagues' attention so that they might share it with their visiting constituents.

[From the New York Times, Nov. 6, 1977]

WHERE THE INS AND THE VISITORS EAT IN THE NATION'S CAPITAL

(By Alice Shabecoff)

(Alice Shabecoff, consumer affairs writer for the Department of Housing and Urban Development, is a bureaucrat who likes to eat well.)

Compassion impels me to share with the foot-weary sightseer my inside advice on the best places to eat in the area around Washington's Mall. Between the White House and Capitol Hill are not only the thickly touristed Smithsonian museums but also an alphabet soup of Government agencies, commissions and departments, the I.C.C., the F.A.A., H.E.W., H.U.D., I.R.S.

We bureaucrats, disdaining the brown-bag lunch, have through years of gastronomic self-interest ferreted out the delectable cafes and restaurants in the vicinity. On my confident way to such a spot, I often pass tourist families walking blocks to find something to eat or waiting in line with bedraggled patience for dried-out hamburgers at overcrowded cafeterias.

Let me help these sightseers find quiet spots with good food or mammoth places where prices are low and seats always available. Some of these are museum cafes overlooked by many tourists, while others are cafeterias in Government buildings, open but unknown to the public. The restaurants that follow are limited to those around the Mall or easily accessible to it, in descending order of eating pleasure or of convenience.

The uncontested jewel, both for atmosphere and cuisine, in my mind is the cafeteria in the courtyard formed by the architectural marriage some years ago of the National Collection of Fine Arts (8th and G Streets N.W.) and the National Portrait Gallery (7th and F Streets N.W.). It is called Patent Pending because the present galleries incorporate the old Patent Office Building.

The cafeteria, run by a young graduate of the Ecole de Cuisine Fracaise, in Dijon, offers a menu of whimsy, variety and excellence. Choose Tomatoes Alice B. Toklas ($1.65)—half of a scooped-out tomato is stuffed with chick peas vinaigrette, the other half with dill egg salad. Or try their Courtyard Salad ($1.55), with fresh mushroom slices, tiny cauliflowers and pieces of tomato on a bed of salad greens, under a subtle but spicy yogurt-based dressing. Their nitrite-free hot dogs are prepared as a Bulldog ($1.25, covered with homemade chili and sliced onions), a Krautdog ($1.15, groaning with sauerkraut and kosher pickles) and a Hot Diggity Dog (95 cents, usual trimmings plus pepperoncini). Soups (lentil, succhini or corn chowder) at 85 cents for big bowls, can be paired with sandwiches for a fine lunch. The best-selling dessert is homemade apple pandowdy, 85 cents.

A tray may be taken outdoors or to one of two vaulted rooms, which are hung with paintings and elegantly carpeted. The table centerpieces are small brown crocks holding parsley bouquets. Each table has a jar of Dijon mustard, a reminder of the chef's credentials. The quiet outdoor courtyard is set with small tables among modern sculpture, two fountains and towering elms.

Lunch is served weekdays from 11:00 A.M. to 3:30 P.M.; Saturday and Sunday, 11:30 to 4:00 P.M.

If you are on the Mall, you have the extra delight of getting to the National Portrait Gallery by free shuttle service on a red double-decker bus. The vehicle, presented a few years ago by an anonymous donor, had been used on the streets of Norwich, England. Now every half hour between 10:30 A.M. and 5 P.M., seven days a week, it leaves from in front of the National Museum of History and Technology (13th Street and Constitution Avenue N.W.). Free fans are given out as souvenirs.

On a small triangle of land adjacent to the National Gallery of Art (Fourth Street and Constitution Avenue N.W. entrance), . . . [stands an I. M. Pei designed building. It houses the] . . . overflow from the National Gallery of Art collection, as well as special exhibitions. An underground arcade links this new museum to the existing National Gallery, and already in operation in this arcade is the Mall's second-ranking restaurant.

Pei's architectural skill dispels any closed-in feeling. A sculpture of large triangular crystals, at ground level, creates the skylight in the restaurant's ceiling. One wall is a wide expanse of window well, looking out on the cascade of an Islamic-style waterfall. Called a "chadar," it has water flowing down narrow cuts in the wall.

Planters divide the room in half. To the right is a buffet, offering prosaic fare for the hamburger/hot dog generation, plus a carving board for meats (hot corned beef sandwich for $2.10). To the left, nearest the waterfall, is the elegantly set cafe, where one sits at a marbel-topped pedestral table to be waited upon courteously by uniformed waitresses. The menu has become more cosmopolitan since J. Carter Brown, the museum's director, brought in professional culinary consultants James Beard was one, and a Beard choice appears on each menu, which changes with the season. A recent menu included shrimp crepe with Mandarin sauce and a garden salad for $3.25, and poached salmon with cucumber marinade for $4.25. Private-label Spanish wine is 80 cents a glass. Hot fudge sundaes tempt in the summer-time, and pastry is served from a cart.

Another peaceful place for good food is the Refectory in the Capitol itself. It is on the ground level in the north wing, the Senate side, of the Capitol Building. The Refectory, which serves the general public, consists of a series of small rooms with tiled floors and vaulted ceilings. The waitresses wear dresses from the 1870's period, an atmosphere the restaurant captures nicely. "Good, simple, natural foods" is promised on the menu, and the promise is kept. Children will especially like the hefty Uncle Samburger ($2.25) or hot roast beef with mashed potatoes and gravy ($2.50). Salad platters included chef's salad, fruit and cheese, and cold cuts. And here's a chance to try the famous Senate bean soup (45 cents a bowl), which is hearty and delicious. For dessert, hot Southern pecan pie (75 cents) is recommended for everyone except dieters.

The same word of caution applies to the Refectory as to all eating places in the Capitol, Senate or House. Avoid the standard lunch hour. The Refectory, with its limited capacity, often has long lines from noon to 1 P.M. The other places in these buildings are supposed to serve staff only from noon to 1:30 p.m. Children and adults with cameras or other tourist trappings might be turned away, especially if the restaurants are crowded. Over in the south wing (House side) of the Capitol, in the basement, is a small, pleasant cafereria where a good selection of standard items (steak sandwich, $1.25, roast beef sandwich, $1.10, hamburger, 60 cents, or tacos, 65 cents each) is available.

The Senate dining room in the Dirksen Building, B level, is marble-pillared and enormous. The food is bland but acceptable. Hamburgers (80 cents) or hot dogs (65 cents), along with a changing main course, such as shrimp fried rice ($1.25), are offered. A takeout shop, which might inspire picnics by the fountain at the foot of the Capitol, is also in this building. The House of Representatives restaurant is in the basement of the Longworth building (the middle one of the three House office buildings). The restaurant's odd architecture boasts stone walls and curtained fake French windows. Like the Senate cafeteria, it has standard fare with substantial main courses. Someone well-versed in nutritional controversy has noted in red on the menu wherever sugar has been added to an item—Harvard beets, for example.

Carry-out shops are found in each of the three House office buildings. They offer basic hot and cold sandwiches (75 cents to $1), hoagies for $1, and good soups at 40 cents a cup. An ideal place for a picnic is the fountain courtyard of the Rayburn Building (lowest on the Hill).

A fine secret I would now like to share with Washington visitors is the cafeteria in the penthouse of the new Health, Education and Welfare building, on Independence Avenue between First and Second Streets S.W. It's a nice alternative when the lines in the House office building's cafeterias are too long for tired souls to bear. The cafeteria is an immense room, with a white ceiling that cantilevers into outdoor balconies, with views of the House, Senate, Capitol and reflecting pool.

The food, though not inspired, is passable. Lunch is offered from 11:30 A.M. to 1:30 P.M.

As with all agency buildings, breakfast is served, from 8 to 9 A.M., and is a bargain—compared with hotel breakfast prices—bacon at 14 cents a portion and hash browns for 20 cents. (Across the street, by the way, is the U.S. Botanic Garden Conservatory, Maryland Avenue S.W., quiet, lush, beautiful and worth a visit.)

One of the best lunches in town, analyzed bureaucratically on a cost-benefit ratio, is the buffet in the Museum of Natural History, available to members of the Smithsonian Associates. (Membership may be obtained for individuals, couples or families. For more information, write to Smithsonian Associates, Reception Center, 1000 Jefferson Drive S.W., Washington, D.C. 20560.) The buffet is smorgasbord, with roast beef sliced to order, surrounded by other main dishes (fried chicken, shrimp quiche), soup, salad and bread, for $3.95. This is, however, not an insider's place, so avoid rush-hour traffic between noon and 1.30 P.M. Breakfast is available during the summer.

For sheer splendor nothing can surpass picnicking between the Henry Moores and the Alexander Calders in the courtyard of the Hirshorn Museum. The Hirshorn is Washington's rotund repository of contemporary art, at Independence Avenue and Eighth Street S.W. The courtyard, now closed, will reopen in the spring.

A block away is the Air and Space Museum, the Smithsonian's newest and most popular attraction. On the third floor at the east end is a pleasant glass-walled dining room. Its ordinary food is presented on a revolving counter while prospective diners stand and choose what appeals—somewhat like airline passengers retrieving items from a rotating baggage counter. It is jammed. If there are crowds when you want to eat, I suggest you simply retreat across the street, to the monolithic NASA building (Seventh Street and Independence Avenue S.W.), and make use of their basement cafeteria. Outside NASA is a sunken playground with wooden climbing structures for kids and benches for parents.

A cafeteria in the basement of the Smithsonian History and Technology Museum has sandwiches (roast beef, $1.35, hot dog, 85 cents) on one side of the room and hot dishes (fried chicken, $1.39, baked whitefish, $1.49) on the other. The immense undistinguished room is enlivened by a wall of Horn & Hardart Automat windows in marble and cut glass. Alas, it's an exhibit, displayed as an antique, and the pies inside are plastic. A nostalgia for the good old days of Automat, and its atmosphere, architecture and food, does not speak particularly well for today's menu.

Every day of the week, except Monday, you are likely to find these cafeterias mobbed, the rows of guard rails lined by families with glazed eyes and sore feet. If the lines are truly discouraging, you can always hop across the street to the Interstate Commerce Commission building where, in the basement, you can get a roast beef platter for $1, or a chicken salad for 75 cents. No crowds here, and you have a chance, while on your way through the corridors, to see bureaucracy at work. The Justice Department and I.R.S. buildings, across the street from the Natural History Museum, also have cafeterias they admit only government workers or visitors with passes.

BEAN SOUP

Here is the recipe for the famous Senate Restaurant Bean Soup: Take two pounds of small Michigan Navy beans, wash and run through hot water until beans are white again. Put on the fire with four quarts of hot water. Then take one and one-half pounds of smoked ham hocks, boil slowly (approximately three hours) in covered pot. Braise one chopped onion in a little butter and, when light brown, put into bean soup. Season with salt and pepper, then serve. (Do not add salt until ready to serve). Eight portions.●

TUITION TAX CREDIT

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. MAZZOLI. Mr. Speaker, as we draw near a House-Senate conference on tuition tax credit, worries are being expressed that this bill will only contribute to the decline of the public school system. In his recent column in the Washington Post, James Kilpatrick stresses that the bill will not signal a Government commitment to private schools and will not lead to the diminishment of its commitment to a strong and excellent system of public education. Mr. Kilpatrick's article is well worth reading.

HYSTERICS ON TUITION TAX CREDITS

(By James J. Kilpatrick)

Opponents of tuition tax credits are in a bad way. They have come down with spavins, heaves, and hysterics. Consider, if you please, this splendid denunciation from Sen. Ernest F. Hollings of South Carolina:

"This proposal would turn our education on its head, benefit the few at the expense of the many, proliferate substandard segregation academies, add to the federal deficit, violate the First Amendment, and destroy the diversity and genius of our public schools."

And after that, the skies would fall, the planet would tilt on its axis, and tidal waves would engulf South Carolina as far inland as Columbia, Camden and Kershaw. Cows would be born with two heads, and sea serpents would swarm in the Santee River.

The senator has a full head of steam. Tuition tax credits are "horrendous." The idea is budget-busting: In just three years, the annual cost would approach $1.1 billion. The scheme is blatantly unconstitutional. More than that, it is undesirable. The *Washington Post*, breathing heavy approval of the senator's hyperbole, adds some bombast of its own: "This bill is a fundamental assault on the public schools. Any vote for it in the Senate is a threat to the public school system."

There, there, one would like to say to these fever victims, dry your eyes; stop sobbing. Simmer down! Let us take things one at a time.

What is proposed is an amendment to the Tax Code that would permit parents to take a tax credit of up to $250 for every dependent in college, or up to $100 for every dependent in an accredited non-public elementary or secondary school. In terms of administrative burdens, the plan is clean, clear-cut, and could be put into effect by a simple declaration on a Form 1040. A qualifying taxpayer would have the same right to the credit that he has to deduct the interest on his mortgage in computing net taxable income.

By contrast, the administration's idea is vastly to enlarge the existing program of BEOG's—Basic Educational Opportunity Grants. The two approaches could not be more diametrically opposite. Mr. Carter's plan involves applications, approvals, disapprovals, rules and regulations, eligibility standards, the whole bureaucratic swamp. And it would have precisely the same billion-dollar impact on the deficit that tuition tax credits would have.

Now, is the tax credit approach "blatantly unconstitutional"? On this score, one lawyer's judgment is as good as another's. The Supreme Court is so divided on state tuition plans that the nine justices have go[illegible] off in six different ways. A good argume[illegible] can be made that Congress has full a[illegible]thority under its 16th Amendment pow[illegible] "to lay and collect taxes on incomes fro[illegible] whatever sources derived."

On this point, senators and editors wou[illegible] do well to read the Supreme Court's opini[illegible] of May 4, 1970, in *Walz* vs. *Tax Commission of New York*. With only Mr. Just[illegible] Douglas dissenting, the Court upheld N[illegible] York's law granting tax exemption [illegible] churches. True, the effect of relieving "[illegible]lievers" of a tax burden, as Douglas [illegible] is to impose an additional burden on "no[illegible] believers," but the majority found "no gen[illegible]ine nexus between tax exemption and [illegible] establishment of religion." Neither is the[illegible] a nexus between a tax credit and an [illegible]tablishment of religion.

It is a curious manifestation of the criti[illegible] hysteria that they believe tax credits wou[illegible] "destroy" or even "threaten" the pub[illegible] school system. This is palpable nonsen[illegible] but even if the charge contained a gr[illegible] of truth, the proper response would be [illegible] this effect—that something must be gro[illegible] wrong with our public schools if th[illegible] could be threatened or destroyed so eas[illegible]

Senator Hollings is mistaken when he [illegible]serts that "the government's duty to t[illegible] public is to provide public schools." T[illegible] government's duty is to provide education[illegible] opportunities toward the end that childr[illegible] grow up to be responsible adults. It is i[illegible] material—or it should be immaterial [illegible] whether these opportunities are provid[illegible] in public, private, parochial, permissive, [illegible] highly disciplined schools. It is the [illegible] product that is the state's concern.

The senator is right on one point, a[illegible] those of us who support tuition tax cred[illegible] should give it careful thought. Federal [illegible] involves federal control. Just as Congr[illegible] has put conditions on other provisions [illegible] the Tax Code, so a future Congress cou[illegible] condition tuition tax credits in terms [illegible] certified teachers and courses of study. It [illegible] something to think about, but that pe[illegible] is a way down the road.●

JAMES GRANT BOLLING

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 14, 1978

● Mr. MOAKLEY. Mr. Speaker, I wi[illegible] to join my friend from Louisiana (M[illegible] LONG) in expressing my profound sho[illegible] and sorrow on learning of the untime[illegible] death of Jim Bolling.

All of us who knew Jim share the te[illegible]rible loss DICK BOLLING has suffered a[illegible] I wish to join their many friends in e[illegible]pressing deep sympathy in this dif[illegible]cult hour.

DICK BOLLING has lost at once a lo[illegible]ing wife, a trusted adviser, devot[illegible] friend, and tireless aide. And the Co[illegible]gress has lost a woman whose contrib[illegible]tions to this institution are known to [illegible] all. Although she rarely sought a hea[illegible] line or ever notice in the House, sh[illegible] worked with steady dedication for man[illegible] years to make the House worthy of th[illegible] affection which she and her husban[illegible] gave it.

Few men or women elected to Congre[illegible] have had the impact that Jim Bollin[illegible] did, from no official capacity, in reform[illegible]ing Congress and bringing the organiz[illegible]tion and procedure of the House into lin[illegible] with the democratic concepts of our tim[illegible]

Mr. Speaker, all of us will miss Jim Bolling. We will miss her strength, her courage, her wisdom, and her vision. For myself and my wife, Evelyn, I express my deepest sympathy to DICK BOLLING and his family and to join the House in mourning their loss.●

TRIBUTE TO DAVID NEWBY

HON. DAVID W. EVANS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. EVANS of Indiana. Mr. Speaker, it is with great pleasure that I bring to my colleagues' attention the achievements of David Newby, a constituent of mine. Too often the youth of our country are criticized. It is refreshing to encounter a young person who exemplifies such virtue and determination. My congratulations to Dave Newby and to the Order of DeMolay for their outstanding choice.

The son of Harry and Gloria Newby, 9 Almond Court, Plainfield, David has been a leader at Plainfield High School, at Boys State and Boys Nation, in local and international DeMolay and in Boy Scouts.

"My parents were a constant source of encouragement and inspiration," said National Merit finalist Newby, bound for Wabash College on a Lilly scholarship to study political science.

"I've always enjoyed self-expression," said Newby, the senior class president who was active in speech, debate, drama, wrestling, and even played tenor sax in the pep band.

He went to the State finals in improvisations and acted in several plays and a musical in high school.

Newby, past master counselor of the Plainfield Order of DeMolay, has been named "Indiana DeMolay of the Year," "International DeMolay of the Year" and received the International Distinctive Service Award of the Order of DeMolay.

Newby says the backbone of the organization is its precepts or Seven Cardinal Virtues of its members: love of parents, reverence, courtesy, comradeship, fidelity, cleanliness, and patriotism.

"DeMolay is a fraternity like Elks, Eagles or Masons, open to anyone 13 to 20 years old of any race or religion, with a belief in God and good standing in the community.

"But when you get down to brass tacks, it's basically a boys' club, a civic service organization," said Newby. The 20-member Plainfield chapter made nearly $400 last year in their 36-hour "Euchre-a-thon," which paid for an assortment of new chairs for the Hendricks County Home for the Aged.

The Plainfield native said when he was 14 years old he became interested in the Muscular Dystrophy Association's Labor Day fundraiser. He helped the Plainfield group begin annual operation of the MD donations fishbowl in downtown Indianapolis. Last year the group collected and bagged more than $50,000, he said. He has held many offices on the local, State, and international level.

In June 1977, more than 950 delegates to Hoosier Boys State elected Newby governor. From the week-long mock State government session on the Indiana State University campus, the political hopeful journeyed to Washington, D.C., for 1977 Boys Nation.

Newby was elected to enter the American Academy of Achievement, and was inducted with leaders in entertainment, sports, service, and journalism fields. Erma Bombeck, John Sirica, Gen. Omar Bradley and Adm. Stansfield Turner were among those inducted with the Plainfield youth.

An active member of Boy Scout Troop 304, Plainfield, Newby achieved the rank of Eagles several years ago. "The most rewarding scouting experiences have been traveling to scout jamborees and to Philmont scout camp," he said. Newby has been lay Sunday speaker at Zion Evangelical United Church of Christ, Indianapolis, where he also serves as an usher.●

RECODIFICATION OF FEDERAL CRIMINAL LAWS

HON. CHARLES E. WIGGINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. WIGGINS. Mr. Speaker, the Subcommittee on Criminal Justice has drafted and reported to the full Committee on the Judiciary a bill to begin the process of modernizing and updating Federal criminal laws. The chairman of the subcommittee, JAMES R. MANN, on behalf of all of the members of the subcommittee, has today introduced the subcommittee's bill.

There are two basic ways to go about modernizing Federal criminal laws. One way is to do everything at one time in an omnibus reform bill. The other way is to work individually on discrete areas of the criminal law and process several bills—in other words, to modernize on an incremental basis.

The Subcommittee on Criminal Justice unanimously believes that the latter way is the most appropriate method. That belief is underscored by a letter written to the subcommittee chairman by Prof. Harold Norris, of the Detroit College of Law. Besides teaching law, Professor Norris has been involved in recodifying his own State's criminal laws, as well as in rewriting its constitution. Consequently, he is in an excellent position to evaluate how best to approach recodification. Professor Norris concludes that the subcommittee's approach is the best approach.

I am inserting the full text of Professor Norris' letter so that all my colleagues will have the benefit of his comments.

WEST BLOOMFIELD, MICH., *August 8, 1978.*

HON. JAMES R. MANN,
Rayburn House Office Building,
Washington, D.C.

DEAR MR. MANN: Thank you for seeing me recently to discuss the House Criminal Justice Subcommittee's work on the new Federal Criminal Code. I am aware of the time constraints upon Members of the House of Representatives and appreciate your fitting me into your crowded schedule.

As you may recall, we discussed during our meeting the criticism leveled at your Subcommittee by the Washington Post and by the New York Times for the Subcommittee's refusal to reform the Code in an omnibus package along the lines of S. 1437. My experiences in code reform have led me to conclude that the more limited approach that you advocate is to be preferred.

In 1961, I served as a delegate to the Michigan Constitutional Convention, and in 1965 as Counsel to the Committee on Constitutional Revision of the Michigan Legislature. In 1967 and again in 1977, I served on the State Bar of Michigan Special Committee to Revise the Michigan Criminal Code. In these capacities, I devoted a considerable amount of time to the manner in which revision should be undertaken. As a professor and a student of law, the omnibus approach had initial appeal for me, since it would result in a symmetrical document that would be neat, streamlined, and intellectually satisfying. Unfortunately, this manner of proceeding, I soon concluded, was impractical and ill-suited to the reform of laws that are complicated and impact upon significant civil and political rights. What I have read of S. 1437 confirms that judgment.

Because of the enormous scope of S. 1437, it is difficult to highlight and focus upon the serious issues it raises and the pervasive and permeative effect its redrafted provisions will have upon our system of criminal justice. Its size also militates against the proper education of the legislators who have the right and responsibility to know what they are enacting into law. I suspect that only a few Members of the Senate had the time and assistance to acquire a secure grasp of the bill's provisions at the time of its passage.

The June 27, 1978, draft of the Criminal Justice Subcommittee is a small but positive step toward the reform of our Criminal Code. I commend you for your approach, although I had hoped that you would hold new hearings on the sentencing provisions rather than report the draft to the full Committee on the Judiciary. Sentencing is among the most delicate of the areas to be revised and yet, it is a subject upon which much possibility for consensus exists, since many believe some form of structuring of judicial sentencing is needed.

Your bill is an important beginning, and we are all in your debt for your thoughtful and deliberate work.

Sincerely,

HAROLD NORRIS,
Professor, Detroit College of Law.●

DIGESTIVE DISEASES INFORMATION CENTER

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. CARTER. Mr. Speaker, I call to the attention of my colleagues the fact that a new, philanthropically supported, information center has been established to bring to the attention of the American public facts about digestive diseases: Opportunities for cure and care, as well as for prevention; opportunities for improvement in public and professional education; and opportunities for new areas of biomedical research. It will be known as the Digestive Diseases Information Center, and will be located at 6410 Rockledge Drive, No. 208, Bethesda, Md. 20034. The president of the center will be Fred

Kern, Jr., M.D., professor of medicine and head of the division of gastroenterology at the University of Colorado Medical Center.

I believe that such a program is necessary now. Too little information has been given to the public in the past; too little research has been supported; too little concern has been shown for the sufferers of these diseases.

On March 2 of this year, in my testimony before the National Commission on Digestive Diseases (which, by the way, was created through legislation I coauthored and supported): I said that the Commission had a unique opportunity to help shape the future direction and organization of our national resources for digestive diseases.

At that time, I testified that one out of every nine Americans is affected by chronic or recurrent digestive diseases—in other words, over 18 million Americans have such a condition. Digestive diseases are the second most frequent cause of visits to physicians.

The list of serious problems of digestive diseases could go on and on, but I would like to indicate a few here, because my colleagues might not be aware of them:

Digestive diseases account for one of every 10 deaths in the United States; if deaths due to cancerous tumors of the digestive system are included, digestive disease ranks as the third most common cause of death in the United States.

One of every three surgical procedures is performed for a digestive disease.

One of every six men who miss work do so because of a digestive disease complaint. Digestive disease is the second ranking cause of disability among workers in the United States.

Over 2 million people have digestive disease problems affecting their capacity to work; of these 2 million, almost 25 percent are totally disabled.

Ten percent of all personal health expenditures are for digestive diseases-related problems.

In 1973, annual economic loss from digestive diseases was calculated at $16.5 billion. That was over 10 percent of the annual economic cost from all diseases.

Digestive disease is the leading reason for hospitalization of people aged 45 to 64, and the second ranking reason at other ages.

These are not simply assertions of facts—they are facts, supported by data supplied by the National Center for Health Statistics of the Public Health Service. Recently, in a study published by the Institute of Medicine of the National Academy of Sciences reporting on the "Current Burden of Illness in the United States," Rice, Feldman, and White reported that in terms of direct economic costs of illness, digestive diseases represented 14.7 percent of the total, with only one category of illness being higher, that of the diseases of the circulatory system.

Of course, persons in rural areas suffer these diseases as well as those in urban areas; however, it is likely in most cases that their care will be poorer, because of the lack of medical facilities and personnel, as well as the lack of continuing education for those who deliver care.

Mr. Speaker, the new Digestive Diseases Information Center has laid out an ambitious program for itself, including publications of factsheets on the diseases, newsletters, a campaign to educate science writers, a campaign for professional and lay education, and the placement of articles about digestive diseases in national magazines, labor, and industry publications. The Center also hopes to involve radio and television.

It is my understanding that the Center will rely upon private, not Government funding for its work, and although it will not become a voluntary health organization in the sense of seeking members, establishing chapters around the country, and developing broad-based fund drives, it will support and enhance the work of those voluntary groups already in the field. This kind of effort to support like-minded groups, and to coordinate efforts, is to be strongly commended. I wish the Center great success.

Finally, Mr. Speaker, I want to indicate my support for the Natinal Digestive Disease Commission. Ever since the legislation to initiate the Commission was passed 18 months ago, a dedicated band of more than 25 outstanding individuals have worked hard, traveling at considerable inconvenience in effort and time to all geographic areas of the Nation, to learn of the experiences, information and insights of patients, researchers, physicians, nurses, and many others. These commissioners have worked hard, and soon will send the Congress a full report on their findings and recommendations. I am looking forward to receiving them.●

CONGRESSMAN DRINAN'S 25TH ANNIVERSARY IN PRIESTHOOD

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. HARRINGTON. Mr. Speaker, my irrepressible colleague from Massachusetts (Mr. DRINAN) has celebrated an anniversary recently which ought to be cause for some celebration in our delegation. We have known for quite some time of BOB's longstanding liaison with all causes liberal and humane. And there has been always assumed a "meaningful relationship" between BOB and the Law, with a capital L. It is also no secret among the well connected in Massachusetts circles that BOB DRINAN has turned what was once an occasional filing with partisan politics into a living arrangement which we all hope will continue for many years. But the anniversary I refer to today, Mr. Speaker, is a celebration which gives shape and coherence to all of these various indiscretions. We celebrate this year, in celebrating BOB DRINAN's 25th anniversary of entering the priesthood, the fact that for the past 25 years, he has been running in the black, which is a lot more than we can say for the rest of the U.S. Government.

Having now jeopardized my standing with the church, the Jesuit order, and St. John's Prep in Danvers, Mr. Speaker, I would like to bring to my colleagues' attention a tribute paid more de[illegible]erentially to BOB DRINAN by Willia[illegible] Leonard, a member of BOB's fellowshi[illegible] I recommend it to my colleagues, a[illegible] include it in the RECORD:

SERMON AT THE 25TH ANNIVERSARY CELEBRA[illegible]TION OF THE ORDINATION OF FR. BOB[illegible] F. DRINAN, S.J.

Many of us remember vividly that sum[illegible] June day in 1953 whose silver anniversa[illegible] we are observing today. The celebrant of t[illegible] Mass was the same, though perceptib[illegible] younger. Dr. Frank, whose absence today [illegible] such a pull on our heartstrings, was he[illegible] with Helen and Catherine. A legion [illegible] friends crowded the pews. The eloquence [illegible] the then-bishop of Worcester filled t[illegible] church. And we all rejoiced and gave than[illegible] to God for a new priest. The day was brig[illegible] with gladness and immense promise. Was [illegible] all twenty-five years ago? As Pogo sa[illegible] "They don't make years the way they d[illegible] when I was a boy. In those days they ma[illegible] a year that would last." And what a que[illegible]ter-century it has been; the age of Sputn[illegible] the age of Aquarius; the stormy sixties a[illegible] the sorrowful seventies; Vietnam and Wate[illegible]gate; Vatican II, the "new morality," litur[illegible]cal changes, resignation of priests, departu[illegible] of nuns, closing of parochial schools . . . [illegible] am reminded of the story about the you[illegible] English officer, just out of military academ[illegible] who was drilling his company for the fir[illegible] time near the cliffs of Dover. "Forwa[illegible] march!" he shouted, and the troops swu[illegible] off. But then he couldn't remember a[illegible] other commands. The company drew clo[illegible] and closer to the edge of the cliff, and [illegible] last the sergeant spoke up: "Do my som[illegible] thing, sir, if it's only to say goodbye."

And what have all of us been doing duri[illegible] these twenty-five years? Let me make [illegible] immense, sweeping simplification and p[illegible] it this way: we have been trying to becom[illegible] converts. Under all the goings and comin[illegible] the growing up, the marrying, the rearri[illegible] of children, the pursuit of a career, the co[illegible]ing with sorrow and loss, we have been tr[illegible]ing, against the drag of the flesh and t[illegible] perverse blindness of self-seeking, to reali[illegible] how profoundly we are loved by our God a[illegible] to respond adequately to that love. This [illegible] conversion: a turning away from the ido[illegible] a turning toward God.

If we were ever fully converts, what wou[illegible] we be? In the first place, we would be adu[illegible] mature disciples—not blown about by eve[illegible] word of doctrine, not riders of an emotion[illegible] roller-coaster. We would be conscious of o[illegible] consecration as the holy people of God, a[illegible] unwavering in our loyalty to it. We would [illegible] enthusiastic, because of our conviction th[illegible] our world has been loved and redeemed [illegible] God. We would be realistic, because we wou[illegible] have assessed accurately the forces array[illegible] against us, but optimistic, because of o[illegible] confidence in the mercy and power of hi[illegible] who can bring good out of evil. We would [illegible] endlessly grateful for what we have be[illegible] given: life, light, hope, love.

But, over and above this full humanity [illegible] a personal sense, we would—if we we[illegible] wholly converted—be alert to the will of Go[illegible] for the coming of His kingdom. Solid ce[illegible]ters ourselves, we would know we are call[illegible] to go out, to give ourselves to others in lov[illegible] to humanize the world and make life livab[illegible] for our fellows. We would be men and wome[illegible] for others, bent on imitating our Maste[illegible] Jesus Christ, who came to serve, not to [illegible] served. We would be striving not only to a[illegible]leviate the misery and unhappiness of in[illegible]dividuals in our immediate acquaintanc[illegible] not only to resist the forces of injustice an[illegible] oppression, but to reform the structures [illegible] our society which bring about and perpetu[illegible]ate injustice.

Where does the priest fit into all this? [illegible] must collaborate, like any Christian, in h[illegible] own conversion. But his particular grac[illegible]

the grace of Holy Orders, is given not for

the grace of Holy Orders, is given not for himself but for others. He is to spend and be spent for the building up of community on the Earth. He is to lead the voices of men and women as they speak to God, but he must also make it possible as far as he can for them to speak to one another. He is called to be a bridge across which God will come to men and men will go to God, and across which, also, men can walk into one another's hearts. Painfully conscious of his own frailty and fallibility, an ordinary believer like anyone else, he must be sympathetic with doubts, uncertain about problems, modest in giving advice, and yet, as commissioned ambassador and courier, he must speak in the name of him who came to cast fire on the Earth; he must make us uncomfortable; he must dispense a new hunger, a new thirst. There are better things to be done than we are doing now for God and for our brothers and sisters.

And if unjust structures in our society are to be reformed, if the elderly, the destitute, the oppressed, the powerless are to have an advocate, where better than in the halls where the country's laws are framed, where public policy is debated and established? Fr. Drinan's proudest priestly title may be seen one day to have been not professor, not dean, not doctor of laws, but representative, a priestly office, indeed, as we know from the Letter to the Hebrews, a Christ-like office. When I examine the congressional committees and subcommittees on which he serves I find that their concerns are these: civil rights, the administration of justice, consumer affairs, environment, energy and long-term care of the aging. Are these not worthy concerns for one who would imitate natural resources, the housing, health, and in our day the Good Shepherd, the author of the parable of the Good Samaritan?

And when I look over the titles of his books and of the organizations in which he is active I find an absorption in kindred matters: the war in Vietnam, family law, the right to be educated, civil liberties, religion and the courts, bread for the world, retarded children, the rights of black people, and—this seems to me singularly appropriate in a disciple of the Jewish Christ—a profound dedication to the sufferings of Jews in Soviet Russia and to the struggle for survival of the tiny nation of Israel. I turn from a consideration of Fr. Drinan's preoccupations in the last twenty-five years to the document of the Second Vatican Council on the Church in the Modern World and I find an extraordinary consonance of ideals and objectives. I read over Father General Arrupe's exhortation to us Jesuits, asking us to become "men for others," and I find it a summary of Fr. Drinan's ministry, carried on with courage, hope, humor, inflexible purpose, and a store of energies that I can only envy.

A man I know was talking recently about a certain priest. "He's a good preacher," he said, "but he has a slight speech defect. He can't stop talking." Lest you put me in the same category, I shall conclude by telling two very short stories. The first concerns a letter I received from a good friend, a Protestant minister whose theology is Calvinist, at a time when I was experiencing a good deal of misunderstanding and opposition. After assuring me of his sympathy and giving me generous encouragement, he said, "Bill, never forget who is the true judge of men. I think Calvinists and Jesuits especially need to be told that."

I read recently that a priest's vocation is to seek the greatest possible making present of God in the world, and I was reminded of an incident that took place a few years ago, when I was visiting Georgetown University in Washington. It was Holy Thursday, and I went over to Dahlgren Chapel to join the community in the solemn liturgy of the day. We were all assembled, vested and waiting in the sacristy for the signal to begin when the door flew open and the Congressman representing the Fourth District of Massachusetts, fresh from the debates of the Congress and the business of his office, burst in, flung off his jacket, vested swiftly in alb and stole, and joined the line of priests now moving toward the altar. The next time I saw him he was helping to distribute Holy Communion. An unusual vocation? A unique vocation? Yes, but an unusual priest, even a unique priest. Today we give thanks both to God, who called, and to Fr. Drinan, who answered.●

THE CONVINCING CASE AND NEW INFORMATION ON WHY THE 1980 OLYMPIC GAMES SHOULD BE MOVED OUT OF THE SOVIET UNION

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. KEMP. Mr. Speaker, during the past year and a half, I have addressed the House on a number of occasions on what the Soviets have up their sleeves for the 1980 summer Olympic games now scheduled to be held there. But new information, reinforcing the points I have made, continues to come to me, much of it from the International Monitoring Committee, and I feel compelled to bring that new information to the attention of my colleagues. It strengthens the summary case against the event remaining in the Soviet Union.

The Soviet Union has forfeited its privilege of hosting the games. Examine the continuing violations of human rights in the Soviet Union, the indications that it intends to exclude the athletes of certain countries with which it has major political differences, its refusal to guarantee freedom of the press for coverage of the games, and the nature of its training of athletes, and you will have a convincing case for removing these games from the Soviet Union.

Let me elaborate on this case, both referring to my prior RECORD remarks for anyone wishing to research the matter further and bringing in new information.

HUMAN RIGHTS

There is little doubt but that the Soviets intend to forcefully clear out all of the "dissidents" from the geographical areas surrounding the location of the games' events: not just Moscow, but also Tallinn, Kiev, and Minsk. They intend to remove them not only for the period of the games but in advance of and immediately following, in order that athletes, spectators, camera crews, and correspondents will not be able to meet with or interview them.

"The Vigil," a publication of the Washington Committee for Soviet Jewry, has brought us new information on this point:

CLEANSING MOSCOW

For many months now, Soviet Jews have been telling us that they have information that the authorities intend to "cleanse" Moscow of all activists for Jewish emigration and dissidents so that no dissenters will be visible during the Moscow Olympics of 1980. Their predictions are becoming more and more plausible each day, as one by one leaders of the Jewish movement are sentenced to exile. The court case against two American reporters and an article in the newspaper criticising a third are further evidence that the Soviets are attempting to raise a smoke screen on information about refuseniks and dissidents emanating from the USSR, so that they will be free to perform their acts of tyranny in the darkness.

Vladimir Slepak, Ida Nudel and Josef Begun have been sentenced to five, four and three years exile, respectively. Slepak and Nudel were major factors in the transmittal of information regarding Soviet Jews to the West.

There are still those in Moscow who transmit information to the West, but the major figures cannot perform this function and the information, especially that which comes from the provinces and the Prisoners of Conscience, has already begun to taper off.

The Kremlin, beginning two years before the Olympic games, is attempting to divert the West from news of oppressive actions closer to the 1980 starting gun, to avoid adverse publicity then. They probably reason that no one will connect arrests of Soviet Jews and attacks on Western newsmen two years in advance of the 1980 Olympics. We must take seriously what the Soviet Jews have told us—their worst predictions are coming true. History has shown that the Kremlin acts in this way when foreign visitors are in their country. During the visits of President Nixon in 1972 and 1974, Soviet Jews were rounded up and put in prison for two weeks and, this past April, after visiting Congressmen met with Jews in Moscow and Leningrad, English speaking refuseniks were sent out of Kiev on work details to prevent them from meeting with the Congressmen.

Jim Gallagher, the Moscow correspondent for the Chicago Tribune, has also provided additional evidence of this in a very recent column:

[From the Chicago Tribune, July 27, 1978]

OLYMPICS' FIRST EVENT: CRACKDOWN ON DISSIDENTS

(By Jim Gallagher)

Moscow.—Orlov, Ginzburg, Shcharansky, Whitney, and Piper will not be competing in the 1980 Olympics here, but you can score them as casualties of the competition.

Western observers following the action from the sidelines say that Soviet concern about the image of the games was part of the motivation for recent moves against the five, three local dissidents and two American correspondents.

The Soviets are determined that the Olympics two years hence will reflect nothing but glory on this city and society. Well-organized games in a well-behaved city will lend credence to the Communist contention that a brave new world is being built here.

On the other hand, the worldwide attention attracted by the Olympics makes them a potential source of great embarrassment to the Soviets, who worry that dissidents will demonstrate for the TV cameras and that foreign journalists will file on all the shortcomings here.

In the view of some experienced and knowledgeable westerners here, the current campaign against human rights activists, as well as efforts to isolate and intimidate the foreign press, stem in no small way from a determination to keep the games from turning into a fiasco.

Yuri Orlov, Aleksander Ginzburg and Anatoly Shcharansky—members of the Helsinki watch group set up to monitor the denial of human rights in this country—were sentenced in the past weeks to long terms of prison and hard labor.

Their trials were the latest engagements in an 18-month crackdown on the dissident

movement, during which almost all of its leaders have been jailed, banished to Siberia, or stripped of their citizenship and exiled abroad.

There were several reasons for the crackdown: to curtail anti-Soviet criticism at last year's Belgrade conference on human rights, to show President Carter that his campaign on behalf of dissidents is counterproductive, and to throw a bone to the hardliners here while continuing to pursue a policy of detente.

Not least important, the observers maintain, was the desire to defuse the dissident movement well in advance of the 1980 competitions, thus allowing time for the bitterness to subside before the games get under way.

"There are still, people around who might stage protests in conjunction with the Olympics," one western diplomat said. "For example, there's a group of Jewish women whose families have been denied permission to emigrate to Israel and who have become somewhat militant in the last six months or so.

"And there are some nationalist extremists, such as in Georgia, who could conceivably use the occasion as an excuse for violence. But by and large the leadership here was saved itself a big headache by sweeping the dissident under the rug at this time. My guess is that by 1980 the whole furor will be forgotten."

The Soviets are also concerned about the hundreds of newsmen who will visit Moscow during the Olympics, a prospect that many officials here must find appalling.

Based on what they know about their own newsmen sent abroad, they fully expect that the Olympic press corps will consist largely of propagandists and provocateurs.

To make matters worse, the hectic atmosphere of the games will make it impossible to impose on the visiting newsmen anything like the scrutiny and supervision that full-time correspondents here must put up with all the time.

Thus, the possibility that, in between the high hurdles and the platform dives, journalists will be interviewing the few dissidents remaining at large (such as Nobel Peace Prize winner Andrei Sakharov), snooping into the realities of life here, and writing stories about the backwardness of Soviet society.

No doubt the Soviets are searching for some way to put a leash on all this enterprise. The slander suit against Whitney and Piper should be seen in this context.

Craig Whitney of the New York Times and Hal Piper of the Baltimore Sun were found guilty of civil slander for reporting that friends and relatives of a Georgian dissident doubted the authenticity of his televised confession admitting anti-Soviet conduct.

The two Americans refused to take part in the proceedings, arguing that the results were a foregone conclusion and the real intent of the litigation was to make other foreign newsmen here reluctant to cover dissident stories and thereby risk court action.

U.S. Ambassador Malcolm Toon said the "principal motive" of the suit was "to get the message across to you people (American journalists) that unless you confine your quotations to statements made by Soviet officials, you run a serious risk of being tried for libel and slander."

Eventually the court ordered Whitney and Piper to publish retractions, but both they and their newspapers have flatly stated that the order will not be complied with.

"Sure the Soviets want to limit the contract of the full-time press corps with dissidents and the like," a knowledgeable American living in Moscow said. "But at the same time they're sending a message to all those reporters who will drop in for a few weeks during the Olympics. 'Want to get out without any trouble? Then stick to sports.'

"The regular reporters here may shrug off the suit as just the latest attempt to intimidate western newsmen. But don't you think this will have a chilling effect on the sports writers and other one-time hotshots who will be here in 1980?"

We know what is in the mind of the Soviet leadership with respect to human rights. We know that from the recent "kangaroo court" trials and sentencing of Anatoly Shcharansky and Alekrandr Ginsburg and of other brave men and women seeking to assure Soviet compliance with the terms of the Helsinki agreements which it signed and to which it bound itself. And we know that in light of what the Soviets must have known would be the impact upon consideration of the Olympic games. (July 10, 1978, 20029; July 17, 1978, 21243–4; July 21, 1978, 22247.)

REFUSAL TO GUARANTEE FREEDOM OF THE PRESS FOR COVERAGE OF THE GAMES

There can be no doubt but that the Soviets do not intend to guarantee freedom of the press for coverage of the games. There is much evidence on this point.

The Soviets are trying to rewrite the Olympic rules governing the admission and activities of news correspondents, in order to permit them to thereafter exclude in conformity with those rewritten rules, "hostile reporters and newspapers, radio and television stations that are established to destroy the spirit of peace and friendship between the people and the principles of the Olympic movement." That is a direct quote from the "Daily World," the official organ of the Communist Party of the United States, referring to an action of the Soviet Olympic Committee. (July 10, 1978, 20029.)

The Soviets want to exclude Radio Free Europe and Radio Liberty specifically. But it goes beyond those two. Such a precedent could be used against anyone who writes or otherwise reports unfavorably about Soviet training, or the conditions under which reporters covering the events must function—such as writing or reporting about the lack of freedom and restraints on human rights, or even any poor Soviet performance in the game.

We also know that the Soviet Ambassador to the United States, Anatoly F. Dobrynin, at a recent news conference here, refused to give assurances of freedom of the press during the games coverage. (July 10, 1978, 20029.)

We know also of the recent trials in Moscow of 2 American newspaper correspondents, and we know of the growing harrassment of foreign business representatives, diplomats, and newspersons in general.

These matters and their relevance to the Olympic games have not escaped the attention of the world's press, as this June 29 editorial from the Washington Post illustrates:

SPIRAL OF SHIN-KICKING

We are angered as journalists and troubled as citizens by the Soviet Union's apparently unprecedented decision to bring civil slander charges against two American correspondents in Moscow—for reporting they had been told that a dissident's televised "
fession" to a charge of anti-Soviet agita
had been falsified. It is an escalation in
of the "normal" intimidation practiced
the foreign press. It represents an evi
effort at censorship. It is a plain violatio
the Soviet government's Helsinki pledg
permit journalists to do their professi
work. Further, it substantially adds to
queasiness many people feel over Mosc
hosting of the 1980 Olympics. Just
controls do the Russians plan to impo
the Olympic press?

That is, unfortunately, not all. When
United States last month arrested and
on high bail two Soviet spy suspects (ra
than simply expelling them in the usual
ner), the Kremlin tersely stated that
can play at this game" and locked up
American businessman in Moscow. Quie
plomacy has since gotten all three of t
men out of jail, perhaps as prelude to a
that, however distasteful from a legal st
point, has a certain political rationale.
as American officials were hoping that
upward spiral of shin-kicking had
halted, however, the suits were filed ag
the correspondents of the Baltimore Sun
The New York Times. Between the announ
ment of the suits on Tuesday and the ac
bringing of them Wednesday, Secretary
State Cyrus Vance raised the matter
the Soviet ambassador. The Soviet gov
ment nonetheless chose to proceed.

Protests are important but, we fear, in
quate. Timely reciprocal action to protect
integrity of the American news-gathe
process in Mocow is called for. There sh
be no action taken against Soviet co
spondents for what they write: That is
the American way and, anyway, the Am
can judicial system does not lend itself to
Soviet sort of political manipulation. But
taliatory action should be taken to rest
the ability of Soviet journalists in Wash
ton to do their professional work. For j
nalistic and other reasons, Moscow values
license to rub shoulders and roam that
correspondents enjoy amply here. While
specter of judicial intimidation hovers
American journalists in the Soviet Un
that license for Soviet press representat
in America should be abridged.

SOVIET POLITICIZATION OF THE OLYMPIC GA

The attempted politicization of
1980 Summer Games by the Soviet Un
was predictable. Why the Internatio
Olympic Committee did not face that
ality at the time of its decision is bey
me, for they cannot be totally blind
Soviet actions over the past six deca

This politicization has been most
vious in a combined Soviet and cert
Third World countries campaign to
clude the athletes of certain countr
most notably Israel, from participat
The targeted countries, which can
come as a surprise either, are those w
whom Moscow and those Third Wo
capitals have had the most intense po
ical, philosophical, differences.

This attempt is now indirect, but
less it is checked it will be direct w
the Olympics are actually held. The
direct campaign's shape is one of try
to make those targeted countries inel
ble for participation in Moscow un
existing or rewritten Olympics rules.

Israel could be vulnerable to an in
gibility because it belongs to only a
of the winter sporting events. (A coun
must belong to no less than five to
eligible.) And attempts have alre
been made to exclude Israel from the
ropean and Asian regional games s

from the soccer, basketball, yachting

Soviet-produced 1-hour television

from the soccer, basketball, yachting, chess events. The New York Times, as recently (July 1, 1977, 22083; August 2, 1977, 26222–3; September 14, 1977, 29206–7.) The New York Times, as recently as June 7, carried an article about Israel being excluded from participation in the forthcoming Eighth Asian Winter Games. (July 10, 1978, 20029.)

When the athletes from throughout the world are arriving in the Soviet Union in the summer of 1980, the Soviets—either on their own motion or through their Third World surrogates—could move to deny Israel's admission on the grounds of "racism," equating Zionism with racism, as they have tried to do already, and could try to enforce that, knowing that it would be too late for the other countries to do anything less drastic than completely withdrawing in protest. This is what happened to the Republic of China at the last minute in 1976 in Montreal, and the World reaction and national withdrawals in protest never came. (August 2, 1977, 26222.)

SOVIET TRAINING

The founders of the modern games wanted individual athletes to compete against individual athletes, not countries against countries. The games were intended to transcend traditional national rivalries, to give athletes irrespective of nationality or persuasion, that guaranteed right to participate. Implicit in this was participation on equal ground.

The Soviets do not believe in training according to this spirit. Soviet athletes are subsidized. They receive benefits, luxurious according to Soviet standards, which others do not receive. They are not only trained in sports but they are indoctrinated in politics. If they succeed, they are national heroes; if they fail, they are disgraced and their "perks" taken away. All of this happens under the watchful eye of the First Chief Directorate and the Second Chief Directorate of the KGB, responsible for foreign and internal operations, respectively.

Anyone having any doubts about the realities of Soviet training should read the Jack Anderson and Les Whitten column in the RECORD of July 10, 1978, pages 20028–9.

THE PROPAGANDA BONANZA

The Soviets intend to use the Olympics, in violation of the spirit in which these games are supposed to be held, for a propaganda blitz the likes of which have not been intended in amateur sports since the 1936 Olympics in Nazi Germany. I have addressed myself to this important parallel between the 1936 games in Germany and the 1980 games in Moscow. (April 21, 1977, 11612; July 1, 1977, 22092; July 21, 1978, 22248; August 2, 1978, 24047–8.)

The Soviets intend to use the games for the maximum political benefit of the Soviet Union and the maximum ideological benefit of Marxism-Lenninism.

How will that be facilitated, beyond the Soviet athletes?

NBC's $72-plus million contract with the Soviets for television rights for the coverage contains provisions for the showing in America of approximately 15 Soviet-produced, 1-hour television spots, through LBA Associates, the company of Lothar Bock, a West German publicist who handles pro-Soviet public relations in the West. NBC will also show Soviet produced vignettes, of half-a-minute to 1 minute, during the actual coverage of the games, vignettes showing smiling athletes, happy villagers and dancing school children. We cannot expect to see examples of Soviet failures, their crimes against humanity, violations of human rights, the massive weapons buildup or evidence of their aggressive international policies (April 21, 1977, 11612; April 29, 1977, 12892–3).

GROWING WORLDWIDE REACTION

Because the Soviets have been so blatant, their actions have aroused worldwide indignation.

The International Monitoring Committee for the 1980 Olympics, under the direction of Irene Manekofsky, Ernie Shalowitz, and Irv Losman, has now organized in the United States, France, England, Canada, Holland, and Israel. They are gathering signatures on a worldwide basis for moving the Olympics, preferrably to Montreal where there are adequate and new facilities. (August 2, 1978, 24047.)

AFL-CIO president, George Meany, has refused to serve again as the honorary chairman of the U.S. Olympic Committee for labor (July 21, 1978, 22247–8).

The Valley Forge Roadrunners Association, a chapter of a nationwide joggers association, has even run a relay from Valley Forge, a symbol of freedom throughout the world, to Washington in support of removing the games.

Editorial comment in the world's most influential papers has been clearly in opposition to the Soviets politicizing the event and any refusals of admission of countries, athletes, or newspersons.

Much has happened in Congress too. My colleague from Massachusetts (Mr. DRINAN) has introduced a resolution calling for a boycott of the games, a point to which I will return. My colleague from New York (Mr. GREEN) has forwarded two letters cosigned by a bipartisan group of House Members to Olympic officials, requesting the 1980 games be moved out of the Soviet Union. My colleague from Colorado (Ms. SCHROEDER) has helped organize staff meetings with leaders in this struggle. I have introduced sense of Congress legislation, now cosponsored by 32 colleagues, to move the games from the Soviet Union.

BOYCOTT OR REMOVAL

I wish to close my remarks today on this point of Congress most appropriate—and effective—response to this problem. Which is preferable: a boycott or a removal? I have several thoughts.

First, there are alternative sites to Moscow.

Second, there is still time to do this.

Third, a boycott would hurt our outstanding athletes, because while they might voluntarily remove themselves from the games, athletes of other countries probably would not.

Fourth, a boycott is an event which happens at the time of the event, and is subject to all the last minute confusion and reluctance (July 21, 1978, 22247).●

THE SACCHARIN CONTROVERSY

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. PEPPER. Mr. Speaker, as chairman of the House Select Committee on Aging I have followed the saccharin controversy with some concern. I pointed out at the outset of public debate on this issue that the elderly would be sorely affected by a proposed ban on saccharin, particularly those who suffer from diabetes and other chronic illness in which weight control is a necessary element.

When Congress, in its wisdom, adopted legislation imposing an 18-month moratorium on a proposed Food and Drug Administration ban, I felt that the bill would provide an opportunity for further study and would prevent hasty regulatory action based upon only preliminary information and suspicion.

During the past year evidence has mounted which demonstrates that the benefits of saccharin outweigh the risk. In particular, two recent scientific reports have added confirmation to this view. One was the epidemiological study by Drs. Irving J. Kessler and J. Page Clark, which appeared in the Journal of the American Medical Association. In this study, hospital bladder cancer patients were compared with a control group. The conclusion of the researchers was that—

> Neither saccharin nor cyclamate is likely to be carcinogenic in man, at least at the moderate dietary ingestion levels reported by the patient sample.

Of special significance was a 700-page study done by FDA's own scientist. Dr. Morris Cranmer, director of the National Center for Toxicological Research, reviewed results of 19 animal studies of saccharin as well as 36 human studies from around the world and said:

> The cancer risk of the carbohydrates that saccharin replaces are several hundred times greater than the cancer risk from saccharin.

Prior to the release of these studies, we learned that the prestigious British medical journal, the Lancet, had also reviewed the Canadian rat studies which prompted the FDA to consider a saccharin ban. Lancet said the meaning of the tests was "unclear," and that the case against saccharin is "unimpressive." Similarly, the Swiss Association for Nutrition declared that fear of saccharin carcinogenicity was "not justified" and a report by Dr. D. Schmahl of the German Cancer Research Institute indicated that even diabetics who use saccharin lifelong have no reason to believe that cancer will develop as a result of their saccharin consumption.

FDA Commissioner Donald Kennedy, who once said that it is "virtually certain that saccharin is a human carcinogen" has not, to my knowledge, publicly commented on any of the foregoing studies which tend to run counter to his earlier views. Of course, the machinery set in motion by the saccharin moratorium bill

continues to produce more information. A $1.4 million epidemiological study is being carried out by the National Cancer Institute and the Committee for a Study on Saccharin and Food Safety Policy of the National Academy of Science has invited all interested parties to present their views on subjects relevant to food safety policy at an open meeting to be held here September 7. The information gathered here, and at a previous NAS meeting on saccharin held June 19, will lead to a report to Congress from the investigating NAS committee. I am confident that the accumulated data will lead to a wiser regulatory policy.

Mr. Speaker, the public—which produced quite an outcry at the start of the saccharin ban debate—has fortunately been able to learn of the scientific studies which contradict the original FDA viewpoint. Through articles like the one written by columnist Richard Spong, which appeared in the August 5 Miami Herald, people have been able to read about the opposing views of credentialed scientists and thus become better informed. Therefore, I ask that the article by Mr. Spong appear in the RECORD following my remarks:

[From the Miami Herald, Aug. 5, 1978]

COUNTERATTACK AGAINST "CARCINOGENS"

(By Richard Spong)

It was Alexander Woollcott, if memory serves, who once mourned that everything he enjoyed was "illegal, immoral, or fattening." If the pudgy Town Crier were with us today he would have to amend that to "unconstitutional, unlicensed, or carcinogenic."

First they made us cut down on sugar and salt and tobacco. Then they banned our hair and deodorant sprays, and warned us that there could be arsenic in our toothpaste. They told us to throw away the children's nighties and made us patronize a speakeasy delicatessen if we wanted rare roast beef. They took away the meat tenderizer and told us not to fry our hamburgers in a pan or broil them over charcoal. Having scared the Old Ned out of us about sugar they tried to take away our artificial sweeteners. They swiped our Red Dye No. 2 and warned us not to stay too long in the noonday sun. They tried to sanitize our ice cream—we lucked out on that one—and to take the nitrites out of our bacon, and on that the jury is still out.

A good deal of this they did because some rats up in Canada got bladder tumors. Even though, as *Science* magazine observed in the midst of the saccharin controversy: "Many scientists point out that when it comes to bladders, rats are a special breed."

Well, by a nice coincidence, "they"—meaning mainly the U.S. Food and Drug Administration but also all the other do-gooders who have been sticking their long noses into practically everything most of us get a kick out of—are about to be challenged on two fronts.

First came a series of impressive reports that indicate that saccharin in diet drinks might in fact be less dangerous to your life expectancy than excess weight. Back in February, Dr. Bernard Cohen of the University of Pittsburgh suggested that whereas one diet drink daily for life might reduce life expectancy by two days, a 45-year-old male who was 20 pounds overweight might be cutting a full year and a half off his normal life span.

Then last month one of FDA's own, Morris Cranmer, director of the FDA's National Center for Toxological Research, said in a report to Commissioner Donald Kennedy that the use of saccharin might actually—in some cases—tend to reduce the expectancy of cancer. "Chronic caloric restriction inhibits the formation of many types of tumors," Cranmer wrote, "decreasing the incidence and delaying the time at which tumors appear."

And just the other day Dr. Irving Kessler of the University of Maryland School of Medicine reported in the Journal of the American Medical Association on an interesting study made on more than 1,000 hospital patients in the Baltimore area. "Our findings suggest that ingestion of NNS (nonnutritive sweetener), at least at the moderate levels reported by the patient sample," wrote Dr. Kessler, "is not associated with an increased risk of bladder cancer. It is concluded that neither saccharin nor cyclamate is likely to be carcinogenic in man."

Add the three reports up and they seem to be saying: 1) Saccharin users are likely to live longer than fat people; 2) Saccharin users are less likely to get tumors than are fat people, and 3) Saccharin and cyclamates in modest amounts probably don't cause cancer in man, anyway.

Comes now Dr. Elizabeth Whelan, Harvard School of Public Health graduate and researcher and her newly founded American Council on Science and Health. Mrs. Whelan says her outfit will provide a "voice of reason" when it comes to chemicals and food. She makes no bones about opposing Ralph Nader's Health Research Group, which, says Mrs. Whelan "has had a monopoly on the ear of the press on health issues" and has "given a biased representation on chemicals and human health."

"Anybody who says saccharin is injurious is an idiot," Teddy Roosevelt declared back in 1907. A good many congressmen and 80 per cent of the American people—according to one food-industry poll—think T.R. was absolutely right.

One of my less dedicated chums has suggested that this whole cancer kick would fade away like an old soldier if somebody would come up with a study implying that newsprint was carcinogenic. Which somebody probably will.●

BALANCE(S) OF POWER SERIES BOOK III E—SUB-SAHARAN AFRICA

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, in my last selection dealing with the military balance in regional perspective, the problems posed in the Horn of Africa were viewed in the context of Soviet strategic objectives in Africa as a whole. Today's article views the military balance interior to the Horn from the national perspective of Kenya.

The article, "The Military Balance in East Africa: A Kenyan View," shows trends of military buildup and increasing prospects for confrontation among the nations of diverse ideological, political and economic persuasions in sub-Saharan Africa.

The author, Maj. J. R. Kibwana, of the Kenyan Navy, conveys the concerns which we Americans must share in recognition of the need to defend ourselves and our allies against unpredictable m
tary exploitation of turmoil in this
veloping area of the world.

This article, which first appeared
the fall 1977 Naval War College Revi
follows:

THE MILITARY BALANCE IN EAST AFRICA:
KENYAN VIEW

(By Maj. J. R. Kibwana, Kenya Navy)

The past 5 years have seen a dram
increase in the level of military buildup
the East African states of Somalia, Ethio
Sudan, Uganda, Tanzania and Kenya—a
velopment that has, in certain cases, led
an extravagant diversion of very sca
human and financial resources. To und
stand this shift from that postulated b
great many African statesman during th
palmy days in the early independence peri
when any military expenditure was vie
with great abhorrence, a brief overview of
history of the relevant armed forces is
propriate.

With the exception of the Tanzania m
tary forces, which were rebuilt complet
from scratch after the 1964 mutiny, and
Ethiopian forces, the rest of the East Afric
Armed Forces were a legacy of the colon
regimes. They were essentially police inst
ments geared to internal security roles a
frontier defense, external security hav
been the responsibility of the colonial pow
As could be expected, therefore, the size, co
position and doctrine of these forces w
unimpressive, to say the least. Ill-formed a
incipient, they had scant capacity to proj
military power effectively to their own bo
ers, let alone sustain operations beyond the

This, then, was the situation with reg
to the military forces of the newly indepe
ent states of Somalia, Sudan, Uganda, T
zania and Kenya in the early 1960's. Lack
an industrial base with which to supp
themselves and hampered by financial
technological constraints, these institut
depend almost entirely on the former met
poles for military equipment, logistics, tra
ing and certain specialized supporting se
ices. The overall effect of this continued
pendence on the excolonial power was stul
fying in most cases, since any planned
pansion or modernisation of these forces
subtly tempered by the former metropol
own perception of the military requireme
of that particular country vis-a-vis their
political economic or overall global strat
interests.

Little or no opposition over this overt li
itation of arms supplies to their countr
was voiced by the respective political lead
ships. This was hardly surprising, consider
that at this time civil-military relatio
were not particularly happy. An authoritar
military regime was in power in the Sud
short-lived abortive military coups d'etat h
erupted in December 1960 in Ethiopia in D
cember 1961 in Somalia, and there had be
the Tanzanian, Ugandan and Kenyan m
tinies of January 1964.

Against this background, the notion of a
military expansion was viewed with gre
hostility and in certain extreme cases ev
the abolition of the armed forces was adv
cated.[1] Several other factors were also co
tributory to this continuing relationsh
with the former metropoles:

A general ignorance, albeit excusab
among African politicans (who had succes
fully followed the advice to seek first the p
litical kingdom) not only of the function
the armed forces, but even in the vagu
terms, of their equipment, organization a
capabilities.

The external threat to national indepen
ence was viewed not so much in milita

Footnotes at end of article.

terms as in politicoeconomic terms—the neo-imperialist threat.

The benefits of standardization accruing from a single source of supply of military hardware in terms of costs in maintenance and training.

Up to the beginning of the 1970's, the external political relations within East Africa were more or less stable. There had been general public acceptance of the three principles of coexistence. That no consideration—historical, geographical or ethnic, could permit any African State to claim sovereignty over another, or part of its territory; that colonial boundaries were fixed, and that self-determination was the only criterion for any change. This doctrine had been embodied in the Charter of the Organization of African Unity (OAU) enjoining all signatories to respect "the sovereignty and territorial integrity of each member state and for its inalienable right to independent existence." [2]

However, the early 1970's heralded in almost all these countries difficulties of varying severity in the political, administrative and economic spheres, some of which were influenced by external forces and others arose from pressures of rapid development on weak economies.

The facade of African unity and coexistence began, therefore, to show signs of cracks as each country began to reexamine its national interests vis-a-vis regional considerations. Differences stemming from dormant ideological convictions or unsatisfactorily defined borders now manifested themselves by giving rise to growing hostilities between individual countries. These difficulties sometimes culminated in the sort of border skirmishes that occurred between Ethiopia and Somalia.

The situation was further exacerbated by internal upheavals and subversion by political, ethnic or occasionally religious minorities, often supported from outside. In this regard, Kenya had to contend with the "Shiftra" [3] insurgents supported by Somalia, while Ethiopia had the problem of the Eritrean separatist movement and the Sudan experienced a major rebellion by the Christian minority in the south. All these problems brought into sharp focus the need for military self-sufficiency at the national level in these affected countries.

Other factors that led to a great deal of attention being paid to the military establishment were:

The painful realization of the African countries of their inability to participate effectively in major strategic military questions affecting the continent and more specifically the liberation of Southern Africa. This was particularly true of Tanzania, which had to face harassment and intrusion at here southern border by Portuguese forces in Mozambique.

Pressure from the military elite, as in the case of Sudan, Somalia and Uganda, which had military governments. It is a peculiar phenomenon of the military governments to expand their armed forces independently of external threats. A study of military expenditures of these countries over the period immediately preceding a coup d'état bears this fact out.[4] With these regimes, the flourish of jet aircraft, the rumble of heavy tanks, artillery, etc., were sure symbols of power and authority.

With the initial goodwill of coexistence now eroded and the restraining influence of the ex-metropoles severed, all of these neighboring countries sought to improve their military capabilities according to their own perception of national security issues. More often than not, however, the relative sizes of their armed forces and their defense budgets indicated the importance placed by individual governments on the role of military power in their relationships with neighbors.

It should be noted here that even prior to this situation, the then level of military expenditures was a burden that these countries could ill-afford. Indeed, the subsequent military expansion would not have been possible without the assistance of foreign powers in the provision of military hardware as grant aid or on easy credit terms. Such arms transactions were, in most cases, out of all proportion to the defense needs of the recipient states and, in fact, tended to perpetuate the vicious circle of an arms "walk" in the region.

For instance, the U.S. aid to Ethiopia during the 1960's and early 1970's had a perceptible influence on Somalia's acceptance of military assistance from the Soviet Union (amounting to about U.S. $32 million) and the subsequent Soviet military presence in that area.[5] On the other hand, this sharp increase in Somalia's military strength was itself viewed by Kenya as a real threat to her national security, necessitating a reassessment of her own defense forces.

Kenya's Armed Forces policy in the first decade of independence was directed towards fashioning a cohesive and balanced military force commensurate with the perceived needs and priorities of the new nation. It was according to the government's defense policy, "not considered necessary to build up massive and unnecessarily large armed forces which would be an extravagant and wasteful drain on the country's scarce economic resources."

In pursuance of this policy, the armed forces were kept at a low level, consisting of a 7,500-man army, an 800-man air force and a small 350-man navy.[7] In comparison with her neighbors, this was modest, both in terms of numerical strength and in terms of military expenditure which remained in the area of 1–2 percent of the Gross National Product.

However, as could be expected, Kenya could not remain unresponsive in the light of an escalation of arms by her neighbors, made possible by assistance on a lavish scale from the Soviet Union and the People's Republic of China. A brief overview of the military situation in these countries is given to illustrate Kenya's security problem at this time relative to the countries with which she shares her lengthy and permeable borders:

SOMALIA

Since its formation in 1960, the Somali National Army has expanded from 5,000 to a formidable well-armed force of 23,000 men in 1975.[8] For a country with a population of only 3,150,000, the size of the force is quite out of proportion to its defensive needs. This situation is viewed with extreme suspicion by Kenya, in view of Somalia's irredentist claim to the North Eastern province of Kenya, and one can only assume that the level of Somalia military preparedness is linked to its continued policy of settling the border issues in one way or another.

ETHIOPIA

Although the Ethiopian Armed Forces are relatively large (a total figure of 44,800 in 1975.[9]) they are not considered excessively large for a population of 27,430,000, with potential enemies at almost every point around her circumference. Indeed, it was Ethiopia's vulnerability to concerted action by the Eritrean Liberation Front and the Somali dissidents in the east, not to mention the hostile regime in the Sudan, that led to an extensive modernization of the armed forces with assistance in the form of equipment, financial credits, grants and training from the Western countries, principally the United States. Furthermore, the governments of Ethiopia and Kenya signed a mutual defense agreement in July 1963 as a result of this common threat.

Nevertheless, the relations (from Kenya's point of view) with the present turbulent military regime are uncertain, and the treaty may not be much of an assurance to Kenya in the future.

SUDAN

Although the Sudanese Armed Forces are formidable at 48,000 men for a population of 17,870,000 relations between Kenya and Sudan are amicable to the point where Kenya administers roughly 30,000 square miles of Sudanese territory under mutual agreement. The length of the common border is under 100 miles and the chances of conflict between these two countries are remote.

UGANDA

With the assumption of power by the military regime of General Idi Amin in 1971, the Ugandan Forces underwent a rapid expansion from 6,000 to the present level of 21,000 men.[11] The continuing instability in Uganda under the flamboyant leadership, often predisposed to military adventurism and bullyism,[12] has emerged as one of the more serious threats to Kenya's security. With the current relative imbalance in the arms level between these two countries, one would well visualize a situation where a limited armed conflict could ensue, perhaps as a result of an effort by the military regime to provide distraction from some severe internal crisis.

TANZANIA

The Tanzanian Armed Forces were completely rebuilt from scratch following the 1964 mutiny and have grown steadily through the years to the present level of 14,600, a modest size for a country of a population of 15,110,000.[13] Relations with Tanzania, once one of Kenya's closest associates, at the moment are cool, largely owing to diametrically opposed ideological philosophies, especially in the economic field. However, political and diplomatic agreements appear to be the future means of resolving conflicts between these two countries.

It is against this background of superior forces of her neighbors in a period of strained relations, that Kenya must examine her capabilities to offer credible deterrence. Even using the yardstick of effectiveness and numbers rather than the old yardstick of size and numbers of units as a measurement, Kenya's security appears to be wanting. It appears, for instance, that Somalia is the strongest naval power in East Africa, with Ethiopia second, Tanzania third and Kenya fourth. It seems prudent at this time for Kenya to pursue a modest expansion program of its armed forces and to acquire more advanced equipment to redress this imbalance. Indeed, it is desirable that this situation be addressed now rather than permitting it to develop to a point where the outcome of a possible conflict would be a humiliating and costly defeat.

The pattern of military development in East Africa to date indicates that the arms buildup will increase. Against this background must be viewed the increasing tendency to resort to force in civil conflicts, the emergence if violent military regimes and the impotence of the OAU in solving disputes. One other factor likely to assume a new dimension in the future is the commitment by OAU member states to a policy of confrontation in the liberation of South Africa.[14] The policy of the 1960's of not to "build up Armed Forces which are extravagant and a drain on the country's scarce resources" [15] becomes redundant. Rather, it should be accepted that the goals of economic development and social justice can only be expected where an atmosphere of security and stability exists. No price is too high for us where the preservation of the independence, liberty and freedom of the Kenyan people is concerned.

FOOTNOTES

[1] Dr. Julius K. Nyerere, *Observer*, 30 August 1964.

[2] Article III, Paragraph 3 of the Charter of the Organisation of African Unity.

[3] Shiftra—a term meaning bandit, used to describe the dissident of Somali ethnic region who sought to break away from Kenya and join Somalia in the 1960's.

[4] U.S. Arms Control and Disarmament Agency, *World Military Expenditures* (Washington, D.C.: 1971), vp.

[5] M.J.V. Bell, *Military Assistance to Independent African States*, The Adelphi Papers, No. 15 (London: Institute for Strategic Studies, 1964), p. 14.

[6] Kenya, Ministry of Defense. *Ministry of Defense, Annual Report 1970–71*, p. 2.

[7] Irving Kaplan, et al., eds., *Area Handbook for Kenya*, 2nd ed. (Washington: American University. Foreign Area Studies, 1976), p. 399.

[8] *The Military Balance, 1975–1976* (London: International Institute for Strategic Studies, 1975), p. 43.

[9] *Ibid.*, p. 41.

[10] *Ibid.*, p. 37.

[11] *Ibid.*, p. 44.

[12] John Worrall, "Mounting Dangers for Latest U.S. 'Ally' in Africa," *U.S. News & World Report*, 2 August 1976, p. 49 .

[13] *Ibid.*, p. 44.

[14] OAU Doc. CM/Res. 271(XIX), July 1967.

[15] *Ministry of Defence Annual Report 1970–71.* ●

JAMES GRANT BOLLING

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 14, 1978

● Mr. O'NEILL. Mr. Speaker, it is with great sadness that I join my colleagues in expressing my profound sympathy to DICK BOLLING for the loss of his beloved wife, James Grant Bolling.

"Jim" Bolling was a loyal and steadfast friend to me and my wife, Millie, for nearly two decades. The entire O'Neill family will greatly miss her.

I remember Jim as a woman of great warmth and dignity, with a heart filled with compassion and concern for all people. A superb individual, she possessed a marvelous and unique sense of humor, a rhetorical wit, a gifted and incisive mind, and astute political instincts that earned superlative points on everyone's poll. I have admired and loved Jim for the courage to stand up and be counted for her convictions and beliefs, and for her fearless outspokenness as an advocate of justice and that which is best for America.

I think it was highly fitting that the House of Representatives passed this week the extension of the equal rights amendment which, to those of us who knew and admired Jim Bolling, will be viewed as a memorial tribute to her efforts on behalf of women. No one devoted more natural talent, energy and resourcefulness to the causes in which she believed than Jim Bolling. To her way of thinking, right would always triumph—with some forceful assistance from its friends.

Jim and DICK BOLLING made a competent partnership, both in public and private: a partnership marked by mutual courage, intelligence, strength of character, moral fortitude, and indomitable spirits that never gave in to defeat. To Jim and DICK BOLLING defeats were only temporary setbacks that spurred them forward with renewed vigor and determination to meet a brighter and victorious tomorrow. Jim provided firm and resolute encouragement to her husband, and perhaps no other Member's spouse ever shared a greater sence of the agonies and the ecstacies that a public office holder experiences; no spouse ever followed the political and legislative process in greater detail than Jim Bolling; no spouse could perform with finer brilliance or effectiveness in political Washington than Jim Bolling; no other spouse had a better understanding of political pragmatism and realism than Jim Bolling; and no other spouse did more for congressional colleagues and their families than Jim Bolling.

Some of the Members of the House have described Jim Bolling as a member without portfolio. I would simply say that she was all of that and more—she was a parliamentarian without portfolio, a clerk, a sergeant at arms and, a chaplain without portfolio. She understood the "ins and outs" of a congressional office, recognized the role that the politics of personalities plays in determining the success or failure of legislation, and knew when and how to direct Members and staff to effect a particular legislative result.

Jim Bolling was as beautiful a human being as she was bright and talented. She was realistic, pragmatic, hard-nosed and, darned tough—no one could be more immovable if she believed in something based on principle and conviction. Yet she could be as soft as a kitten when someone needed her help and assistance, advice, or friendship. Whether that someone was a constituent, a staff employee, Congressman, Senator, or Presidential adviser, Jim Bolling responded immediately and compassionately as the caring and thoughtful person she was.

A confidante, adviser, consultant, and advocate, Jim Bolling truly was DICK BOLLING's best friend. I know how deeply proud of Jim DICK was, and I realize how difficult her loss is to DICK.

I join my colleagues in honoring Jim Bolling's memory. My wife Millie and I extend sincerest sympathy to our good friend, DICK BOLLING, to his family, and to Jim's family for their deep and irreplaceable loss.●

PERSONAL EXPLANATION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. MAZZOLI. Mr. Speaker, I was unavoidably absent for one rollcall on August 14, 1978.

Had I been present, I would have voted "no" on rollcall No. 234, the Young of Florida amendment to prohibit indir aid to Vietnam.●

PRIVATE DEVELOPMENT IN THI WORLD COUNTRIES

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVE

Thursday, August 17, 1978

● Mr. NOLAN. Mr. Speaker, very of neither Members of the Congress nor t general public fully appreciate the co tinuing benefit resulting from wi used private contributions to devel ment in Third World countries. I wo like to call the attention of my colleag to a report of a very successful train project for rural youth still going on Dahomey (formerly Benin) under nancing by the American Freedom Fr Hunger Foundation.

Rural youth in some 200 clubs h been helped in getting their own agric tural enterprises started by this proj and are still being assisted as a result a revolving fund created by loan repa ments. When training can be linked w supply of simple tools and equipme the training has a practical applicati In this instance, a relatively sm amount of money has been made to g long way in rural development.

The project has been carried out behalf of the American Freedom Fr Hunger Foundation by the Food and A riculture Organization of the United N tions, working through its Freedom Fr Hunger Campaign Action for Develo ment headquarters in Rome.

Mr. Speaker, I would like to quote fr a letter from Mr. Herbert J. Wate president of the Foundation, who h kindly called my attention to this proje report:

As you will see from the progress rep prepared by Mr. M. Archaimbault, the F expert who is supervising the project, an vestment of $78,698 by the American Fr dom from Hunger Foundation in 1972 to gi agricultural training to rural youth in wh was then Dahomey, is continuing to bene rural youth in 200 clubs through creation a rotating fund from which the young cl members can borrow to purchase on ploughs, harrows, and hand tools, payi back the loans out of subsequent crops. W like the concept of converting from on-tim grants to the revolving loan fund, trainin young people in how to manage loans—as t report indicates, the young people themselv decided what to buy, how much to borro and how to repay it. The fact that the small agricultural loans were responsibly a cepted by youth groups, who managed avoid incurring debts beyond reasonab limits, is attested to by the fact that a ba ance of $22,378.55 is still available for r lending in the revolving fund.

Mr. Speaker, I believe Mr. Waters an the American Freedom From Hunge Foundation deserve being commende for this project, one of many they hav assisted with around the world.

I hope my colleagues will read the re port from FAO describing the success o this project and that it may inspir

enough support for similar efforts among rural youth in other countries.

The report follows:

FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

TRAINING PROJECT FOR RURAL YOUTH IN BENIN: TF/BEN.15(FH)

(Progress report on project by M. Archaimbault)

TF/BEN/15/FH. Phase II—Agricultural training for rural youth

Source of funds: American FFH Foundation.

Object of fund: To give agricultural training to rural youth in Benin.

Credit available: $78,696.

Interest accrued 1970–76: $11,145.

Total: $89,843.

Present state of account	Mar. 3, 1977	Available Dec. 31, 1977
Expenditure prior to Dec. 31, 1976	$62,331	
Code 4242.53.60 equipment	18,633	$14,123.84
Code 4242.53.70 leases	1,500	1,468.50
Code 4242.53.80 grants or bursaries	4,000	3,999.88
Code 4242.53.90 P.S.C., 14 percent	3,379	2,786.33
Subtotal 1977	27,512	22,378.55
Total	89,843	

BACKGROUND

This fund was requested by the project BEN/72/027 as a follow-up to the phase I fund which had made it possible to purchase the equipment needed for 200 Clubs over the period 1968–72. In his report to the Government of Dahomey (now Benin) in 1974, entitled "Agricultural Extension Work", the expert mentioned a number of achievements attributable to the FFH loans:

20 houses with tiled roofs.
27 brick houses still under construction.
140 sheds of straw or thatch.
25 wells.
17 cisterns or tanks.
18 grass-drying huts.
5 tobacco-drying huts.
28 3½-ton silos.
10 pigsties.
30 henhouses.
15 cowsheds.

A certain amount of equipment was also bought including vehicles, photographic apparatus, slide projectors, cassette recorders, etc.

It was because this fund had made it possible for the FAO expert's activity to achieve such success that the FFH was asked to seek support for a second phase.

In 1973–74 the Clubs were further improved by the purchase of tiles to replace the thatched roofs of their premises, of cement to lay floors which could be kept clean and hygienic or for erecting parpeng walls of reinforced soil, of netting for henhouses, of shelters for small animals and gardens, and of hand tools for field and garden work.

At the beginning of 1975, purchases with these loans came to a halt when the first Project Manager left, and for two years the fund was not used. In the meantime there was a change of government, and agricultural policy underwent a radical alteration. It was then decided that the balance left in the Fund should be used to form a rotating fund as a source of agricultural credit for rural youth.

There were two main reasons for this: 1) the first was to do away with the earlier policy of making free gifts on the grounds that young people ought in future to get whatever they need as easily as possible, but never gratis; 2) the second was more particularly to train young people in how to manage loans—that is to say, it was for the young people themselves to decide what to buy, how much to borrow, and how to repay it. Agricultural loans were readily and responsibly accepted by youth groups, who managed to avoid incurring debts beyond reasonable limits.

There was yet another point considered. Thanks to the rotating fund, the Government was gradually able to dispense with foreign aid, since repayments by earlier groups made it possible to grant loans to new groups in process of formation.

PRESENT SITUATION

On this premise, 40 oxen were bought along with the necessary ploughs, harrows, etc. Youth groups who wanted to work the land with animal traction then nominated a drover and an assistant drover to do a fifteen-day training course at an ox-driving centre which was also financed by FFH.

At the conclusion of this course, the two young men returned to their group with their couple of oxen, their cart and their plough. The group had to repay the initial outlay in five annual instalments, beginning after a delay of one year.

Just for the moment there are some administrative and financial difficulties which have to be overcome if the CARDER* agents are to receive their annual grants and to clear them with the rotating fund's bank account. It looks however as if this problem may now be solved with the creation of CNAC (Centre National d'Appui aux Clubs), since the director of this centre also handles the account.

All these procedures may appear somewhat lengthy and drawn out to western minds but it must be understood that Benin is still looking for a way outside the classic or traditional western patterns and that every innovation has to be discussed at great length before it can be applied.

SETTLEMENT OF RURAL YOUTH AT BANIKOARA

Thanks to a United Nations volunteer, two youth groups are now settling in methodically in such a way as to grasp the cost of an operation and its specific difficulties. These two groups of a dozen youths, full of vigour, are doing an excellent job in clearing the land and bringing it under cultivation by working full time on their joint holding and on their own farms.

They work a four-year rotation of crops on well defined pieces of land, with fertilizers and sowing in drills. They have a couple of oxen, a plough or harrow and a small cart. The oxen are kept in a cowshed of straw or thatch, and their manure is used in the garden.

At the present time, the young men are fitting up large henhouses for producing more eggs and also table birds which are rare in this region. They are proposing to improve the size of the birds by cross-breeding them with pedigree cocks introduced for the purpose.

SETTLEMENT OF RURAL YOUTH IN THE ATACORA

Five youth groups in the Atacora have also been equipped with oxen, carts and ploughs. These groups have been carefully selected and trained by the CARDER of Atacora; but it is still too early to form any final judgement on the settlement and whether it will in fact work. It would seem that the mobility of the extension agents which had strongly influenced the agricultural supervision of the rural youth is now at last becoming more stable.

It would nonetheless be advisable to make full allowance for the tastes and aspirations of the basic trainers; some have considerable talent for training rural youth and quickly establish a relationship with them, but others are more interested in other aspects of agriculture.

Young people respond very quickly towards anyone who will lend a patient and sympathetic ear to their problems. They are quick to carry out any work programme which is clearly explained to them, especially if the results show their elders that they are now reliable and credible members of the village community, able to take a full and intelligent part in its councils and affairs, and are no longer irresponsible children.

The roles of the basic trainer and of the delegate to rural youth are therefore of crucial importance for the success or failure of a group of rural youth. It would be a very good thing if during their first year on the job these men could be given a good supplementary course in teaching methods, so as to be able to discharge their functions among the young people more satisfactorily in and after their second year.

The UNDP/FAO project, with the support of the FFH project, should see to it that this teacher training can be found a place among all the other activities of the Centre National d'Appui aux Clubs (C.N.A.C.) and of the Centre Régional d'Appui aux Clubs which is to be established at Natitingou.

RESETTLEMENT OF YOUNG PEOPLE OF THE AYOU CLUB

In accordance with the government's instructions, the young members of the Ayou pilot club, who had been established individually, have now agreed to work together on a communal plot of ground.

Before starting to clear this new plot, they have appealed to the rotating fund to equip them with axes, picks or mattocks, hoes, rakes and ropes, etc . . . , they have now been supplied with these tools and must repay the cost of them out of the proceeds of the next crop year.

They have furthermore sent two of their numbers to the training course for draught oxen, and have been given an outfit which will be used mainly for transport during their first years. In their second year they should be able to cultivate plots of land entirely destumped.

These young people, however, do need a store place of their own, independent of the 4D Club's, and help in improving their living accommodation. It would be as well for the Atlantic CARDER to make abundantly clear its interest in this club and in the young farmers who should become a model for all rural youth to follow.

RECOMMENDATIONS

1. The FFH Fund has rendered, and still continues to render, great service to rural youth in Benin. If there has been some slowing down of expenditure in the course of the last three years, this should be regarded as an indication of the Government's concern not to waste foreign aid on new structures which have not yet achieved full stability or become fully operational.

2. To use the FFH Fund as a rotating fund for rural youth is an excellent way of enabling young people to become aware of the value of the means put at their disposal. For the moment, however, the procedures for repaying the loans and of refunding the central account is still operating rather uncertainly. It is to be hoped that the Director of CNAC will take on this responsibility as soon as possible.

3. A certain number of government loans are still made available to CARDER for development projects which also affect rural youth. It is much to be hoped that all the help and support given to rural youth will be made in the same way through the same channels and centralized by one single agency. It is CNAC which should be responsible for harmonizing all the loans and for judging whether free gifts are opportune or not in certain special cases.●

* CARDER—Centres d'action régionale pour le développement rural.

THE UNITED STATES MUST ACT AGAINST THE SOVIET UNION'S NEW ANTI-JEWISH CAMPAIGN

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. LENT. Mr. Speaker, I am deeply disturbed by two articles which appeared in the Christian Science Monitor August 16 detailing the launching of a major new Soviet propaganda attack against Jews and Zionism, along with the sentencing of still another courageous Soviet dissident. These accounts, which I request be reprinted in full at the conclusion of my remarks, show clearly that the Kremlin leaders have not been influenced by U.S. protests against their disregard for human rights. In fact, the Soviet officials are becoming even more reckless and callous in their bigoted propaganda attacks, and in their total disregard for human rights of their citizens of Jewish faith.

Mr. Speaker, these articles should convince our reluctant White House and State Department officials that far stronger action must be taken to curb the Kremlin-led campaign of brutality and oppression.

The most disturbing of the Christian Science Monitor articles was titled "Soviets Renew Verbal Assault on Jews, Zionism." This article details what the reporter calls an "unprecedented" Soviet attack on "Jewish controlled capitalism" and "Zionist terror." Using language that is straight out of Hitler's Nazi Germany, two of the most important weeklies in the Soviet Union have printed the most inflammatory kind of charges and allegations. This kind of brutal racial denunciation—under government sponsorship and encouragement—is truly alarming. We can never forget what happened the last time a dictatorship blind to human rights used its propaganda machine to assault the world with such blatant phrases of bigotry.

We must never let that happen again.

At the same time, the Christian Science Monitor reports the sentencing of Soviet dissident Alexander Podrabinek. He drew 5 years in "internal exile" (that is, Siberia or the Soviet North) for compiling a list of some 200 Soviet citizens who had been sent to mental hospitals as punishment for their political activities. Podrabinek is the latest in the long list of Soviet dissidents who have been sent to prison or into exile for so courageously trying to call attention to Soviet violations of the Helsinki accords on human rights.

Last month, after the sentencing of Anatoly Scharansky, his courageous wife, Avital came to Washington to discuss the tragic case with Members of Congress. I had the great pleasure of meeting this resolute woman. She told us the time for words is past—it is now time to act. But little action has been taken since her visit. In fact, in recent weeks, President Carter has approved the sale of valuable oil drilling equipment to the Soviet Union.

It is time to stop such favored treatment of the Soviets. Many of us in the Congress have recommended actions which President Carter could take. As a first move, the President must suspend exports of new technology to the Soviets until the Kremlin leaders can demonstrate why they should benefit from such favoritism. We must shift the 1980 Olympic Games from Moscow. We should suspend the SALT II talks. There are further actions in the diplomatic field, in the many scientific exchanges now going on, and in all areas where the Soviets seek our expertise, cooperation or dollars which are open to the President. The important thing is action.

Helpless hand wringing in the face of the Kremlin's ugly racist attitudes has no effect. We must show the Soviet leaders their cruel, inhuman actions will lead only to painful results for them. This is the only language the Soviets understand, and it will be effective, if the actions are taken now.

Mr. Speaker, I urge my colleagues to read the full text of the alarming articles which are reprinted here.

[From the Christian Science Monitor, August 16, 1978]

ANOTHER DISSIDENT MUFFLED

(By David K. Willis)

In defiance of Western criticism, the Soviet Union has sentenced an able, energetic leader of the younger generation of dissidents here to five years in internal exile in its latest crackdown on political opposition at home.

Alexander Podrabinek, a vigorous, dark-haired 25-year-old, will serve his exile in a remote part of Siberia or the Soviet north. His sentence came Aug. 15 at the end of a one-day trial in Elektrostal, an industrial city 40 miles last of Moscow, which was off limits to foreigners and Western correspondents.

Mr. Podrabinek is exactly the kind of up-and-coming opponent the authorities here dislike most.

For three years he researched allegations that Soviet officials consign political prisoners to psychiatric hospital wards as punishment. A former medical orderly, he is a member of the monitoring committee on the Helsinki human-rights accords and has formed a subgroup devoted to psychiatric abuses.

LOBBYING FOR PRISONERS

Mr. Podrabinek lobbied on behalf of prisoners in wards, issued statements, talked to Western correspondents, and established a reputation for intelligence and industry.

He compiled a manuscript of 265 pages circulated among dissidents here. It found its way to Amnesty International in London last summer—and let to worldwide condemnation of Soviet practices.

Amnesty said the manuscript, entitled "Punitive Medicine," contained documented details of about 200 cases and the names of some 100 Soviet doctors who had sat consigning commissions.

Largely at the urging of Mr. Podrabin preface, the World Psychiatric Associa passed a resolution at its conference in Ho lulu last September censuring the Soviet

Mr. Podrabinek is the latest in a long of leading Soviet dissidents who have st trial recently. The charge: defaming Soviet state. About 20 activists have b arrested or tried since the Helsinki group set up by Dr. Yuri Orlov in the summe 1976.

As a result of his five-year sentence, Podrabinek will be out of Moscow and a from world headlines until well past 1980 Olympic Games in Moscow.

One of the aims behind the current cr down against prominent dissidents is remove as many activists as possible f Moscow before they can try to use the ga as a forum for more headlines—either using contacts here or by trying to ge touch with some of the 300,000 foreig expected to attend the games.

Mr. Podrabinek's name is less well kn than those of activists Anatoly Scharan Mr. Orlov, or Vladimir Slepak. Althoug is Jewish (his name in Russian means sistant to the rabbi"), he has never ap to emigrate.

He has said that the KGB (secret pol told him that, if he, his brother Kirill, his father (his mother has passed on) ag to emigrate to Israel, charges pending aga his brother would be dropped. But all t refused and decided to stay.

SOVIETS RENEW VERBAL ASSAULT ON JEW ZIONISM

(By Paul Wohl)

On the heels of the recent treason and pionage trials of Jewish dissidents the viets have launched an unprecede offensive against "Jewish controlled cap ism," and "Zionist terror."

This new Soviet propaganda line seek intimidate the remaining Soviet Jews blacken the reputation of the capitalist in the eyes of the third-world countries w scoring political points with the Arabs.

The new propaganda is carried by tw the Soviet Union's most important weekl by Nedelya, the Sunday supplement Izvestia, and by the popular illustr weekly Ogonyok with a circulation million.

A long two-part article entitled "The Zionist of businesses" was published Ogonyok on July 18 and 29. Its author, Alexandrovich Korneyev, is a scientific ciate of the Institute for the Study of A and African Countries, which is affili with the Academy of Sciences.

SUBJECT: ARMS TRADE

His approximately 6,000-word "St deals with an alleged Jewish strangle over the world's multibillion weapons t "the most Zionist of businesses which the dividends of blood collected by the mopolites of the lord of hosts."

Not even in Stalin's day did the Soviet this kind of terminology. The famous "P tors Murderers" of Stalin's last year largely Jewish names. They were accuse trying to poison high members of the P buro but were not explicitly singled ou Jews.

Mr. Korneyev's "Study" has the earm of a Nazi pamphlet in academic disg complete with scores of footnotes and h dreds of figures culled from reputable pu cations and quotes from the Business W the New York Times, The Christian Sci Monitor and, last but not least, Lenin.

In his conclusions Mr. Korneyev wr "A main feature of the expansionist as

tions of the big Jewish bourgeoisie is its fast

tions of the big Jewish bourgeoisie is its fast growing financial might thanks to the monopoly of Jewish capital on an international scale and its constant search for new sources of profit."

ZIONISM ACCUSED

"By following the line of expansion inherent in the capitalist system, Zionism strives to lay its hands on the military-industrial complex as the most profitable business sphere."

In his second article Mr. Korneyev attempts to analyze what he views as the interlocking structure of Jewish or Jewish-controlled monopolies of the armament industry, their links to Zionism, and the profits they derive from "the industry of death."

The first article deals particularly with what Mr. Korneyev calls "one of the world's principal financial empires (Lazard Frères), founded and controlled by Jewish bankers, Kuhn Loeb, the Rothschilds etc. . . . Tell me who your banker is and I shall tell you who you are. . . ." Another sample of Mr. Korneyev's prose is his reference to "Goldwater linked to the Jewish-Sicilian Mafia."

"It is true," writes Mr. Korneyev soothingly, that "not all Jews living in the capitalist world are Zionists nor are all supporters of Zionism Jews," but essentially the writer sees Zionism active "in secret, never in the open."

In his second article Mr. Korneyev writes: "It is difficult to determine the share of the national wealth in the West which belongs to the bourgeoisie of Jewish origin."

Mr. Korneyev's conclusion points in the same direction: "The activities of espionage, subversion, and terror of the Zionist International and their secret services seek to build up centers of tension in many parts of the world; to undermine good-neighborly relations among peoples, and to create a nauseous international climate."

Two weeks after the publication of Mr. Korneyev's "study" in Ogonyok, Nedelya No. 29 of July 17 to 23 carried an article by Mr. Korneyev called "Terror a Weapon of Zionism."

This article dealt with an alleged "pogrom" led by "Rabbi Kahane Jewish Defense League against the seminary of the Russian Orthodox Cathedral of the Trinity in Jerusalem . . . an Arab city seized by the Israelis.

"This barbarous pogrom by Zionist fascist bandits became possible only because of the subversive terrorist activities of the ruling circles of Israel." ●

THE PENDING CETA AMENDMENTS WILL NOT RESOLVE THE PROBLEMS IN THAT PROGRAM

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. KEMP. Mr. Speaker, I had originally intended not to address the House on the legislation to amend the Comprehensive Employment and Training Act—CETA, the Federal Government's largest public service jobs program.

But after a thorough review of my files on this program and the abuses within it and after its withdrawal from the active agenda of the House until later at least the August recess, I have concluded that there is time to convince Members of what is wrong with the program and what ought to be done about it. It is toward those ends that I have decided to offer these remarks.

The CETA program rests upon the wrong premises, and if the premises are wrong, how can we expect the conclusions to be right?

One premise is that a job-creating dollar spent by Government goes farther in creating permanent jobs and expanding the economy than does a job-creating dollar in the private sector.

Why is it, I ask CETA supporters, that all the billions of dollars Government has spent on jobs creation have left us with unemployment levels nearly as high as they were at the depths of the 1974 recession.

Why is it, I ask, that all this Government spending has not created the prosperity they predicted? In fact, that spending has worsened the inflation which makes prosperity impossible to attain.

Another premise is that those unemployed who should be helped first by the program are those least likely to be employed. Think about that. It is exactly opposite of what it should be.

If we are to reduce total unemployment through this program—and then keep unemployment down without having to rely on its continued funding—we should help those first who are most likely to be thereafter employed in the private sector. Most likely, not least likely: that should be our focus.

To reduce unemployment, you must start by giving those people on the margin of employment or unemployment the first help. That gets them into a private sector job that they can keep, allows that CETA money to then be used to hire another unemployed person, and thereby reduces total unemployment most rapidly. Then you must work through the harder cases, eventually ending up with the very hardest.

In the process of lowering unemployment—taking tax consumers and helping them become tax generators—you will have done more to help the private sector of the economy create even additional jobs. That will help create the "snowball" effect faster in jobs creation and economic revitalization.

As the principal sponsor of the CETA reforms of 1977, H.R. 4734, and antecedent legislation of prior Congresses, I have followed closely the conceptual and specific problems in the program.

Buffalo has been particularly hard hit by scandals in CETA. GAO investigations, one which took 2 years, did little more than say the problems were being taken care of. Less than a month after that GAO final report, another series of CETA scandals hit the newspapers as a result of their own first-rate investigations, the Buffalo Evening News and the Buffalo Courier-Express. The Department of Labor—Washington, regional, and local offices—did not uncover these wrongdoings. Neither did GAO. It was the dollar-conscious and resourceful local newspapers and the U.S. attorney's office in Buffalo which did.

But Buffalo is not alone. Everywhere I travel I read of CETA scandals. You can start right here in the District of Columbia. Or Atlanta, Boston, New York City, Philadelphia, Gary, Phoenix, or unfortunately many other major cities. The newspapers and air waves are full of the accounts.

Yet we are told by the Department of Labor that these cases are "less than 1 percent" of the CETA program. I do not believe that. It may be that the number of local projects in which there are known scandals, ones so bad that they hit the newspapers, are only 1 percent of the total number of projects, but that 1 percent is just the tip of the iceberg. If the Department of Labor did not find the newest Buffalo area scandals, how can we assume they have found them elsewhere?

Take the District of Columbia, for example. The D.C. City Council's flagrant use of CETA funds to hire personal aides hit the newspapers, but the replacement of non-CETA employees and the rehiring of CETA-funded ones at a D.C. children's museum this summer has gone unnoticed in the press. There are probably hundreds, if not thousands, of these examples nationally.

Then you have the reality that the Department of Labor calculates the Buffalo CETA program as only one program in trouble. It does not total the inconceivable number of separate and distinct abuses which have grown out of that one program since its initiation. Let me give you some representative headlines from the Buffalo Evening News and Buffalo Courier-Express about that one program over just the past 90 days:

"Thefts Tied to CETA Are probed."

"Probe of CETA Staff, 'Sting' Thefts Widens; Supervisor Suspended."

"CETA Workers Charged in Theft of Food Stamps."

"'Sting' Net May Catch More CETA Workers."

"Worker Blasts Officials of CETA Projects Unit: Resigns, Charges Program's Ruin."

"Phony Health Survey Data Linked to CETA Workers."

Those headlines all occurred following a May 5 one, "GAO Says CETA Fund Control OK." As a matter of fact, they started within 23 days after that May 5 headline.

This is some kind of 1 percent, Secretary Marshall.

The situation has become so hopelessly enmeshed in controversy, and has taken the program so far off course, that both Buffalo papers felt compelled last weekend to reign it in.

On August 11, the Buffalo Courier-Express editorialized against its continuation:

CETA'S HOPES STILL UNREALIZED

The handwriting was on the wall from the inception nearly five years ago of the federal Comprehensive Employment and Training Act (CETA). It was the type of program in which the cards appeared to be stacked against its success. On March 6, 1976, we commented in this space: "As it stands now, this tawed, patchwork CETA program has been largely a waste and futility, full of pregnant but unfilled promise."

There is some evidence that this sense of disillusionment has spread to Congress. On Wednesday, the House, debating the four-year, $11-billion extension of the agency that administers the program, voted to cut funding by $1-billion (enough to hire about 100,000 public-service jobs) and to reduce the wages for CETA jobs, the aim being to discourage CETA employes from staying too long in their public jobs rather than seeking work in the private sector.

The CETA program has never lived up to the high hopes that it initially generated. It is not enough just to provide jobs—often makework jobs—by propping up the public payroll at a time when the public clearly wants to move in the other direction, away from increasing a bloated bureaucracy. As Rep. Jack F. Kemp, R-Hamburg, has said, the CETA program's fault was that it limited local governments to the creation of tax-consuming, rather than tax-creating, jobs.

Those congressmen, mayors, county leaders and governors who have pushed for more funds for this much-abused program must bear the main responsibility for pushing people into a blind alley.

It would be sad, of course, if there were substantial job cuts among the thousands of CETA workers employed by Buffalo and Erie County. It's a devasting thing for people to lose their jobs; we wish it could be avoided. But CETA administrators have clearly failed in moving to convert what was supposed to be temporary public-service employment into permanent, private-sector work.

And on August 12, the Buffalo News supported last week's House action in reigning in CETA and admonished the Senate to follow suit:

CORRECTING CETA DEFECTS

For months Washington has displayed justified concern over the growth, direction and more than occassional abuses of the huge national CETA program, which costs about $11 billion and employs 725,000 people in public service jobs.

President Carter and key congressional committees which had studied the Comprehensive Employment and Training Act program had urged reforms. They want greater involvement by private business in training, stricter safeguards against waste and corruption, and curbs against the mere shuttling of government workers from local to federal CETA payrolls.

The House has now approved such changes. But it has also gone beyond them, trimming the program's overall size and cost in ways that seem to us desirable.

In the last two or three years, the number of job slots has ballooned from about 300,000 to 725,000, an expansion that looks questionable in a period not of economic decline but expansion. So a cutback on the order of 100,000, as approved by the House, should not be ruinous. Indeed, President Carter has favored a gradual job cutback later on. Half of the $1 billion trimmed from the job programs designed to counter recession, moreover, would be rechanneled into youth employment projects and job plans involving business.

Also reasonable were House votes to lower CETA pay ceilings (to $12,000 from $15,000) in high-wage areas and average wages (to $7000 from $7800). These jobs should clearly be considered temporary, tiding people over during hard times or providing useful training. Obviously, earnings levels should not be so lucrative as to discourage a search by CETA employees for permanent jobs elsewhere. Lower earnings levels, in addition to strengthening the incentives for moving on, would lighten the financial burdens of CETA for taxpayers.

We believe there is a place for public-service job programs in training workers and easing the dislocations and hardships caused by recession. But CETA has mushroomed too fast and grown too large. And it is but one way to create jobs. Its skyrocketing costs even work against another, more effective way to stimulate job creation in the private sector—tax reductions. The House has now acted to counter such drawbacks in CETA, and we hope the Senate, where similar legislation is pending, will do likewise.

There is also growing evidence, Mr. Speaker, of what this program has really become. A massive Federal dollars program for State and local governments and politicians. Perhaps one of the largest patronage programs in history. A program designed to funnel an ever-increasing portion of this administration's take of tax dollars from the people to that constituency from which they see 1980 votes coming? They might be in for a surprise as to where those votes are going to go.

Along that line, let us look at the CETA program in Massachusetts. I offer the following article by Warren T. Brookes, a specialist in economic affeirs and a columnist for the Boston Herald American, a man for whom I have the highest professional regard and personal respect:

MASSACHUSETTS EXAMPLE—CETA: CAN GOVERNMENT REALLY "CREATE" JOBS?

(By Warren T. Brookes)

Given the exorbitant levels of unemployment, particularly among inner-city minority youth, one can only wish President Carter well in his ambitious plans to create one million additional jobs through the CETA (Comprehensive Employment and Training Act) programs.

Unfortunately, the history of nearly all such Government jobs programs is anything but reassuring.

They almost always succeed, not in generating additional jobs, but simply transferring jobs from the private sector to the public.

In the process some marginal workers lose private jobs, while other marginal workers gain public jobs, but the net effect is almost always negative.

If you don't believe this, you need only realize that since CETA started in the early 1970s, unemployment among urban teen-age minorities has risen steadily to record levels, despite a CETA budget which has also risen steadily to nearly $11 billion in 1978.

There is, of course, a perfectly rational and non-ideological explanation of why this is happening.

Since the government produces no wealth of its own, it must finance CETA-type jobs by taking the money from the private sector, either by taxes, borrowing, or inflation.

When it does this, the money it takes nearly always comes, not from the major established industrial corporations whose incomes can compete with the government securities' 7–8 per cent interest rates, but from the marginal businesses which cannot compete for capital against Uncle Sam.

The result is that the very industries that have always supplied the most employment to marginal workers (unskilled inner-city youth in particular) are precisely those who are squeezed out by government deficit spending and borrowing.

Thus, the CETA jobs program turns out to be nothing more than an expensive transfer program, taking jobs away from one group of marginal workers in the private sector and giving them to another group in the public sector—and in the process destroying part of the nation's permanent private productive job base.

Furthermore, the CETA program directly competes against the marginal inner-city businesses by paying salary levels that are between 40 and 60 per cent above the going wages for unskilled factory work, and 80 per cent above the minimum wage.

Small wonder that economists are now telling Congress that CETA is having a very adverse effect on private industry in the [illegible] place where it is needed most—urban cent[illegible]

There is no better example of this "[illegible] tian" exchange than Massachusetts. Betw[illegible] July 1974 and January 1978, the Massac[illegible] setts economy had a net loss of about 6[illegible] non-agricultural jobs (not counting seas[illegible] adjustments).

But during that period, government [illegible] ployment (state and local) rose by 23[illegible] jobs (mostly CETA) while the state's pri[illegible] sector actually lost 36,700 jobs.

In other words, during the four-year [illegible] riod when the state put on about 23[illegible] CETA workers, it lost more private jobs t[illegible] it gained in government.

What is troubling about all this is the [illegible] gree to which the CETA program in Ma[illegible] chusetts (as esewhere) is being accelera[illegible] almost entirely in the public sector.

As of April 1978, the state had a tota[illegible] some 45,000 CETA jobs of which about 13[illegible] were in the private sector (as training un[illegible] Title I) and some 32,000 were in state [illegible] local government (Title II and IV).

This represents a spectacular growth [illegible] more than 22,000 CETA jobs "created" s[illegible] May 1977—in only 10 months, and all be[illegible] tiny fraction of that growth has been in [illegible] ernment employment.

The following table tells the story of [illegible] how quickly state and local government[illegible] Massachusetts have been putting on C[illegible] workers:

CETA employment (public service) May 1977 to March 1978

	May 1977	March [illegible] 1978 cha[illegible]
State government	5,941	18,150
Boston (city)	1,221	3,207
Springfield	820	2,196
Worcester	498	1,764
N. Bedford-F. River	402	2,106
Lowell	392	1,142
Entire State	9,954	31,424

In just 10 months the state governm[illegible] has put on 12,318 new CETA workers—w[illegible] Boston has added nearly 2,000, and other [illegible] les a proportionate amount. All of these [illegible] ernment entities are now carrying blo[illegible] bureaucracies as a result.

Since the average pay scale of these [illegible] is about $10,000 (80 percent above the m[illegible] mum wage), it is not surprising that m[illegible] ginal urban businesses all over the Comm[illegible] wealth are suddenly feeling competitive h[illegible]

Testifying before a congressional subco[illegible] mittee in March, Dr. James Howell, C[illegible] Economist for the First National Bank [illegible] Boston, reported that in 41 New Engl[illegible] cities "there has been an 18 percent red[illegible] tion in absolute manufacturing cap[illegible] spending from 1973–74," and he warned [illegible] it was going to get much worse, as m[illegible] inner-city businesses could not compete w[illegible] CETA.

As he told us, "How can you get 18-y[illegible] olds to take $7,000 or $8,000 factory [illegible] when they can work on CETA jobs do[illegible] light office work at $10,000?"

He pointed out that in fiscal 1978, of [illegible] $37 million spent on CETA in Boston, [illegible] $27 million was spent just on padding [illegible] Boston city bureaucracy, and only $1.4 m[illegible] lion had actually gone for on-the-job tr[illegible] ing in the private sector.

This year, the CETA program in Ma[illegible] chusetts will cost federal tax payers betw[illegible] $350 and $400 million—enough to pro[illegible] the investment capital for 20,000 or m[illegible] permanent tax-productive private jobs.

Instead, all but a handful of this mo[illegible] is gong to make the state and local burea[illegible] racies larger—and to make our politic[illegible]

more powerful; to hide the real size and cost of our government.

An example of this is the attempt be-

and outside studies and recommenda-

more powerful; to hide the real size and cost of our government.

Indeed, the only employment that is really growing in Massachusetts (long term) is government employment, at the state and local level, and largely through CETA.

In Boston, for example, over the last year, total seasonally adjusted employment grew by less than 2,000 jobs, and virtually all of that growth was in CETA jobs, working for City Hall.

Small wonder that a lot of congressmen in Washington are beginning to take another hard look at the whole CETA operation. Sen. Edward Kennedy to his credit has introduced an amendment to the CETA Act designed to strengthen and expand the Title I private sector portion of it, with $75 million in new funding premised on performance rather than body count. It is a useful effort, should be supported, and may help to change CETA's present dismal performance.

Other measures are designed to curb the excessive use of CETA by state and local governments are just another form of revenue sharing, with CETA employes simply taking the place of regular government employes, but local politicians are fighting this all the way to the White House.

But none of these measures deals with the fundamental fact that government employment almost never adds to the nation's job base—it merely transfers people from productive private sector jobs to the public payroll; as such it reinforces the wrong trend.

And in the process, more and more marginal urban businesses are going down the tube in the credit crunch with Uncle Sam, leaving more and more inner-city youth jobless and hopeless.

As Dr. Howell told Congress, "The CETA program is actually making it more difficult than ever before for business to operate in the central cities."

In other words, like so many government programs it is probably doing more harm than good.

If there is any doubt on the administration's intent to keep the program in place whether there is an unemployment need or not, I ask them to look at a recent Washington Star, article, entitled "Marshall Vows To Continue Full Public Jobs Program." I quote:

Labor Secretary Ray Marshall said today the Carter Administration has no plans to reduce the number of public jobs in spite of dramatic improvement in the employment situation in the last 18 months.

If there is one thing which ought to be clear to every public official in this country, it seems it would be the rapidly growing dissatisfaction with the burden of total taxes.

Proposition 13 in California, the Jarvis-Gann amendment, was but one of many, many indications of public dissatisfaction with tax rates, burdens and incidences. That dissatisfaction is directed at all levels of government too—Federal, State and local. And the rejection of higher taxes on one hand is not intended as an invitation to raise them on the other. Tax reductions should not be pea and shell games with the public seeing the lowering of taxes one place offset by an increase in another.

Yet this is what some would have happen, and those "some" are mostly those who were the losers in the proposition 13 fight. And the losers in all the other referendums, initiatives, propositions, and constitutional amendments, including those on bonds, with the same result.

An example of this is the attempt being made by certain mayors and other officials in California right now to shift positions and persons discharged or in danger of being discharged, as a result of proposition 13 or legislation enacted pursuant to its mandate, to CETA payrolls. Thus, instead of being paid from State or local funds, those positions and persons would be paid from Federal funds. No reduction in the total tax burden upon the people, mind you, just a shift of that burden, moving the pea from one shell to another.

We cannot allow this to happen. We cannot allow it to happen in California with the CETA program. We cannot allow it to happen elsewhere as the prairie fire of tax rate reductions and tax limitations sweep this country in the coming months.

If this legislation gets to the Senate, I hope a Member of that body will offer the following amendment to it, an amendment which I would have offered had it not been for the time pressure of my efforts to amend the Revenue Act to include individual income tax rate reductions of about 33 percent over the next 3 years:

(1) No funds authorized in this Act or appropriated pursuant to it may be used to pay the salary or expense of any position or person which would have been otherwise terminated or discharged from an agency of government or any other entity described in this Act as a result of reductions in work force or payroll cost caused by fiscal restraint or reorganization arising either from propositions, referendums or initiatives, the defeat of bond issues, or the amending of constitutions determined by public ballot or from legislation enacted pursuant thereto.

Mr. Speaker, H.R. 12452 should be defeated.

The CETA bill should be defeated. This public service jobs program should be eliminated and replaced with jobs creation in the private sector. The tax dollars, taken from the American taxpaying people and businesses to pay for the program, should be returned to those taxpayers, so they can save and invest those dollars, thereby creating more jobs in the private sector, more total jobs than CETA can create, and help restore the economy.

SMALL BUSINESS AND SCIENTIFIC AND TECHNOLOGICAL INNOVATION

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, I take this opportunity to address my colleagues on the subject of small business' role in the scientific and technological innovative process—a process essential to our continuing industrial leadership and national defense—which also was recently the subject under consideration by an unusual joint hearing of the House and Senate Small Business Subcommittees—one of which I am privileged to chair.

A review of a number of government and outside studies and recommendations—including the OMB commissioned Rabinow Report released last week at the Small Business Subcommittee public hearing—shows that Federal agencies in effect discriminate against small businesses in awarding research and development contracts, despite that fact that small businesses are far more innovative and cost effective than large corporations.

In summarizing the studies that have analyzed this program, let me first say that subcommittee testimony, and massive evidence compiled by the many studies, suggests that we have studied this problem to death—that what we need now is action.

In 1966 a blue ribbon panel—commissioned by the Department of Commerce to study the contributions of small business to the development of science and technology—concluded that small business is responsible for over one-half of the scientific and technological innovations that have taken place in this century, a finding that was a matter of common knowledge in the scientific community.

Since that time, numerous studies and panels have arrived at the same conclusion: in our society small business is the *sine qua non* to the creative, innovative process that lies at the heart of scientific and technological advancement and therefore, the growth and expansion of our economy and the increase of employment in the private sector.

However, Richard S. Morse, an observer of research and development trends and a former university professor, government official and corporate manager, warned our joint House-Senate hearing that:

Since 1967 almost every action taken by both the executive and legislative branches of our government has resulted in a further deterioration in the climate for technological innovation in the United States.

It is ironic that small businesses have been receiving about 3½ percent of all Government research and development contracts when these same companies have been historically responsible for more than 50 percent of all American inventions and innovations

In his study entitled "Federal Support of Research and Development Activities in the Private Sector", Edwin Mansfield stated that:

Small firms play a large, perhaps disproportionately large, role in conceiving major new ideas and important inventions.

The National Science Foundation's study, Industrial Research and Development and Innovation, quantifies Mr. Mansfield's statement, saying:

On the basis of a sample of major innovations introduced to the market between 1953 and 1973, small firms (up to 1,000 employees) were found to produce about four (4) times as many innovations per research and development dollar as medium-sized firms (1,000 to 10,000 employees) and about twenty-four (24) times as many as large firms (over 10,000 employees). The total number of innovations produced by small firms was greater than for large firms, and both produced more than medium-sized firms.

Another important aspect of the relationship between small business and

technological innovation is this: Small high technology firms create far more jobs than low technology firms. Accordingly, a Massachusetts Institute of Technology study concluded that small high technology firms increased employment at a rate of forty (40) percent between 1969 and 1974, geometrically creating 25,558 new job opportunities.

Another study, conducted by Data Resources, Inc., supported this conclusion and included some other interesting economic data, stating:

. . . employment in U.S. high technology industries grew almost nine times as fast as that in low technology ventures during the period between 1950 and 1974, while output grew almost three times as fast. Prices, by contrast, rose for high technology products at only a sixth of the rate for low technology ones.

In an analysis conducted for the Senate Small Business Committee, the American Electronics Association found that these small, innovative companies registered a growth rate in employment of 23.7 percent compared to older, larger companies' rate of 3.2 percent for the 5 years under study.

I have been exploring and describing, Mr. Chairman, outside studies showing small business accounts for more than one-half of all inventions and innovations.

I would like to further comment on the previously mentioned, 1977 study prepared by the White House Office of Management and Budget. The findings are just as astonishing as the knowledge is appalling that the recommendations have not been carried out by the Executive branch. The inter-agency study, headed by Jacob Rabinow, informed the President that "Small firms have compiled a striking record of innovation in the private sector." The Rabinow Report also found that "The ratio of innovations to sales is about one-third greater in smaller firms . . . the cost per R. & D. scientist or engineer is almost twice as great in firms over 1,000 employees than in firms with less than 1,000 employees . . ." The report concluded that "Small firms are inadequately used" in the Federal Government's acquisition of $26 billion worth of research and development, and that "our country will lose significantly high technology capabilities in the absence of a concerted effort to increase small business research and development awards."

Given this well-documented, undeniably impressive account of small business' achievements in jobs creation, cost efficiency, innovation and development, it is passing strange to me that—one year after the study was completed and the recommendations were made—OMB did not see fit to publish the Rabinow Report nor to implement through the departments and agencies its recommendations. The Federal Government continues its discrimination in awarding research and development contracts to small business, even though it has been known for at least a decade—and documented again by the 1977 Rabinow Report—that a disproportionately large share of Federal research and development funds go to large corporations who deliver significantly fewer results.

While the amount of Federal dollars invested in research and development has increased from $8.7 billion in 1960 to over $20 billion in 1976, the amount of Federal research and development contracts going to small business has hovered around 3½ percent. It makes absolutely no sense that small business receives such a paltry amount of the funds earmarked for a function that it performs best.

But let us consider the other side of the coin; although historically the United States has been blessed with more than its share of entrepreneurs who have developed entire new industries through their genius, testimony presented before last week's joint House-Senate hearing indicates this may not always be true. Problems ranging from Government regulations and indifference to the increasing difficulty of raising capital, adversely affect the process of technological innovation by small business throughout the country.

Consider capital availability. Richard Morse testified that—

Investment liquidity, the increased capital gains tax, and reduced incentives for management represent the three most important factors which now influence the financing of new enterprises.

Dr. Frank Press, Director, Office of Science and Technology Policy, concurred saying:

Data suggest that small firms are encountering difficulties in entering the public markets to obtain venture capital. The number of public issues of common stock by small new companies has declined from nearly 650 to 1969 to 1 in the first half of 1975; the issues for small companies engaged in technologically intensive activities declined from 204 to 0.

It is obvious that without capital—be it from the private sector or from government research and development contracts—a small company will not get started, will die young or will ultimately merge with large corporation.

However, the spirit of entrepreneurship is still alive in the United States, and scientific and management talents are continually available as indicated by testimony received before a year-long series of hearings on The Future of Small Business, which I initiated in March as Chairman of the House Small Business Subcommittee on Antitrust, Consumers and Employment.

To further underline the importance of small business to our economy, and more particularly that of innovative, high technology entities, our hearings show that an analysis of the Fortune 1000 largest corporations verifies that it is small business that is creating jobs for our expanding work force, showing that the first 500 largest firms increased their employment by only 0.15 percent for the years 1969 to 1976 while the second 500 increased their work force by only 2.8 percent. Simply speaking, the Fortune 1000 generated less than 1 percent of just over 14 million new jobs created during that period. Excluding the increase in Government employees, 98 percent of the increased employment from 1969 to 1976 came from the remaining small business. The above-mentioned Massachusetts Institute of Technology's study of 16 innovative, high technology companies, showed that they created 25,[illegible] new jobs in the period from 1969 to 19[illegible]

Despite the irrefutable, dynamic achievements of small business, and federally sponsored studies recommending specific actions, the bureaucracy continues to refuse to address itself to the greatest tool in fighting inflation and unemployment: our small business community and its multifaceted potential. We continue by taxation, regulation, paperwork and a multitude of disincentives to deny and disencourage entrepreneurial initiatives. By our actions, and inaction, small business rapidly approaches becoming an endangered species.

Mr. Speaker, the Congress of the United States must act now to recreate a national environment—in cooperation with our industry and our academic community—in which our small innovative high technology companies can flourish, new enterprises can be generated and new jobs created.

The following is a March 10, 19[illegible] memorandum from the Office of Management and Budget, testifying to the overwhelming importance of small business to the innovative process. Included are several attachments in the form of reports summing up the countless contributions small business has made to the advancement of science and technology in this century. It is my hope that with the wider dissemination of this information—especially the Rabinow Report—the unwitting if not unconscionable discrimination by the Federal Government against small businesses in awarding research and development contracts will finally end after going uncorrected for more than a decade. For truly the role of small business in the scientific and technological innovative process is vital to not only our Nation's economic well-being but to its national defense posture as well. ●

THE SHROUD OF TURIN

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. DORNAN. Mr. Speaker, in the late 19th century, the alleged conflict between the articles of religious faith and the principles of modern science was elevated to dogma. In the late 20th century, this dogma may turn out to be as laughable as phrenology. But consider this point. Could there be any greater manifestation of the power of Providence to a doubting secularized world than the provision of a 2,000-year-old evidence that could only be discerned with modern man's most advanced technology?

The Shroud of Turin, said to be the burial shroud of Christ Jesus himself, is a remarkable item. Seventy-five years of research has yielded positive scientific findings. Further exciting scientific wo

is to be done this year. All the results thus far, virtually all parties agree, are awesomely impressive. I recommend a recent article by Mr. Harold Lewis of the National Enquirer on the subject. This holy shroud goes on exhibit for only the fourth time in this century between the dates of August 27 to October 8, 1978.

The Western World may be in for a most miraculous scientific and historical announcement.

NEW EVIDENCE PROVES THIS IS THE SHROUD THAT COVERED CHRIST

"If I were asked in a court of law to stake my professional reputation on the validity of the Shroud of Turin, I wou'd answer very positively and firmly that it's the burial cloth of Christ—and that it is Jesus whose figure appears on the shroud."

That's the stunning declaration of top pathologist Dr. Robert Bucklin after thorough examination of a life-sized photograph of the Holy Shroud—the ancient cloth which legend says covered the body of Christ.

Dr. Bucklin revealed in a exclusive Enquirer interview that not only did he conclude the shroud was genuine—he also was able to arrive at the expert opinion that Christ:

Probably died of a combination of heart failure and asphyxiation.

Died within three hours of being nailed to the Cross.

Dr. Bucklin's detailed examination—made while he was chief medical examiner of Travis County, Tex.—came at the request of David Rolfe, the producer-director of the new documentary film on the shroud, "The Silent Witness."

Rolfe told the Enquirer: "Dr. Bucklin is one of the world's leading pathologists, and his international reputation prompted me to ask him to carry out an investigation."

Rolfe added that while other experts, including NASA scientists, have presented evidence to show the shroud is not a fake, "the most startling evidence of all is that uncovered by Dr. Bucklin."

According to Dr. Bucklin, the markings on the Shroud of Turin "are so clear and so medically accurate that the pathological facts which they reflect concerning the suffering and death of the man depicted are, in my opinion, beyond dispute."

The man had been savagely beaten—as Jesus was—and the beating instrument was used "in a flicking fashion in such a way as to pull out bits of skin," revealed the expert, now clinical professor of pathology at the University of Southern California in Los Angeles.

"There was a particular whip used at the time of Christ which could have inflicted those injuries. The thongs had the ends weighted with heavy balls made of metal or bone."

The number of strokes "was . . . more than 120."

On the figure's shoulder blades the investigator found two strange areas in which the skin had been badly cut and bruised. "These were caused by a heavy object resting across the back," he concluded. "It's easy to imagine a beam that at the time of Pontius Pilate was put across the shoulders and tied. Marks of this beam can be seen on the left and upper right shoulder blades."

But the most convincing of the evidence, said the expert, is a series of odd bloodstains on the forehead and scalp.

"These wounds correspond to a crown of thorns—and probably more than any others identify the man as Jesus Christ. The Gospels state clearly that the soldiers invented this torture for Christ alone," he said.

"A forger would have shown the wounds as a circlet, as all artists did. Instead the whole head is covered, suggesting a rough clump of thorns."

Dr. Bucklin said he also found a puncture-type wound on the left wrist. "Christ was nailed through the wrist—not through the hand. If the nail had gone only through the palm of the hand, it wouldn't have supported the weight of the body."

In addition, the heel of the left foot is elevated higher than the right, "suggesting that the left foot was on top of the right instep and that a single spike was used to impale the two feet together. Suspended only by the arms, the victim would die too quickly. So the feet were nailed to provide the support necessary to extend the agony."

Finally, there is the evidence of an apparent wound in the side, he said. Jesus had such a wound, inflicted by a Roman soldier's spear just before His death on the Cross.

"In my opinion the most likely cause of death was asphyxia (suffocation) . . . exhaustion and the postural change it brought about producing cardiac failure and fluid around the lungs," he concluded.

"It would be reasonable to assume that it took three hours for death to take place.

"All the medical evidence uncovered is all borne out in some way in accounts in the Bible. There is nothing that's inconsistent."

Dr. Joseph Jachimczyk, chief medical examiner for Harris County, Tex., said: "Dr. Bucklin is board-certified in anatomical, clinical and forensic pathology. His integrity cannot be challenged." ●

BALANCE(S) OF POWER SERIES, BOOK IV–C (ii)—SOVIET STRATEGIC DOCTRINE AND NUCLEAR WAR

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, yesterday I inserted the first half of Professor Pipes' analysis of Soviet military doctrine—"Why the Soviet Union Thinks It Can Fight and Win a Nuclear War"—into the CONGRESSIONAL RECORD as part of the continuing study of Soviet intentions and doctrine—Book IV of the Balance(s) of Power Series.

Today's insertion is the second half of Professor Pipes' article, in which he reviews the chief differences between Soviet and American interpretations on nuclear war and corresponding doctrines. As in the earlier article, the conclusions are sober and compelling for all Americans concerned with deterrence and security in the nuclear age. I offer this article in the hope that our security will be enhanced through a serious and comprehensive understanding of the nature and intentions of our chief antagonist.

Professor Pipes' conclusion follows:

We know surprisingly little about the individuals and institutions whose responsibility it is to formulate Soviet military doctrine. The matter is handled with the utmost secrecy, which conceals from the eyes of outsiders the controversies that undoubtedly surround it. Two assertions, however, can be made with confidence.

Because of Soviet adherence to the Clausewitzian principle that warfare is always an extension of politics—i.e., subordinate to overall political objectives (about which more below)—Soviet military planning is carried out under the close supervision of the country's highest political body, the Politburo. Thus military policy is regarded as an intrinsic element of "grand strategy," whose arsenal also includes a variety of nonmilitary instrumentalities.

Secondly, the Russians regard warfare as a science (*nauka*, in the German sense of *Wissenschaft*). Instruction in the subject is offered at a number of university-level institutions, and several hundred specialists, most of them officers on active duty, have been accorded the Soviet equivalent of the Ph.O. in military science. This means that Soviet military doctrine is formulated by full-time specialists: it is as much the exclusive province of the certified military professional as medicine is that of the licensed physician. The civilian strategic theorist who since World War II has played a decisive role in the formulation of U.S. strategic doctrine is not in evidence in the Soviet Union, and probably performs at best a secondary, consultative function.

Its penchant for secrecy notwithstanding, the Soviet military establishment does release a large quantity of unclassified literature in the form of books, specialist journals, and newspapers. Of the books, the single most authoritative work at present is unquestionably the collective study, Military Strategy, edited by the late Marshal V. D. Sokolovskii, which summarizes Soviet warfare doctrine of the nuclear age.[10] Although published fifteen years ago, Sokolovskii's volume remains the only Soviet strategic manual publicly available—a solitary monument confronting a mountain of Western works on strategy. A series called "The Officer's Library" brings out important specialized studies.[11] The newspaper Krasnaia zuezda ("Red Star") carries important theoretical articles which, however, vie for the reader's attention with heroic pictures of Soviet troops storming unidentified beaches and firing rockets at unnamed foes. The flood of military works has as its purpose indoctrination, an objective to which the Soviet high command attaches the utmost importance: indoctrination both in the psychological sense, designed to persuade the Soviet armed forces that they are invincible, as well as of a technical kind, to impress upon the officers and ranks the principles of Soviet tactics and the art of operations.

To a Western reader, most of this printed matter is unadulterated rubbish. It not only lacks the sophistication and intellectual elegance which he takes for granted in works on problems of nuclear strategy; it is also filled with a mixture of pseudoMarxist jargon and the crudest kind of Russian jingoism. Which is one of the reasons why it is hardly ever read in the West, even by people whose business it is to devise a national strategy against a possible Soviet threat. By and large the material is ignored. Two examples must suffice. *Strategy in the Missile Age*, an influential work by Bernard Brodie, one of the pioneers of U.S. nuclear doctrine, which originally came out in 1959, and was republished in 1965, makes only a few offhand allusions to Soviet nuclear strategy, and then either to note with approval that it is "developing along lines familiar in the United States" (p. 171), or else, when the Russians prefer to follow their own track, to dismiss it as a "ridiculous and reckless fantasy" (p. 215). Secretary of Defense McNamara perused Sokolovskii and "remain unimpressed" for nowhere in the book did he find "a sophisticated analysis of nuclear war."[12]

The point to bear in mind, however, is that Soviet military literature, like all Soviet literature on politics broadly defined, is written in an elaborate code language. Its purpose is not to dazzle with originality and sophistication but to convey to the initiates messages of grave importance. Soviet policy-makers may speak to one another plainly in private, but when they take pen in hand they invariably resort to an "Aesopian" language, a habit acquired when the forerunner of today's Communist party had a function in the Czarist underground. Buried in the flood of seemingly meaningless verbiage, nuggests of precious information on Soviet perceptions and intentions can more often that not be unearthed by a trained reader. In 1958–59 two American specialists employed by the Rand Corporation, Raymond L. Garthoff and Herbert S. Dinerstein, by skillfully deciphering Soviet literature on strategic problems and then interpreting this information against the background of the Soviet military tradition, produced a remarkably prescient forecast of actual Soviet military policies of the 1960's and 1970's.[13] Unfortunately, their findings were largely ignored by U.S. strategists from the scientific community who had convinced themselves that there was only one strategic doctrine appropriate to the age of nuclear weapons, and that therefore evidence indicating that the Soviets were adopting a different strategy could be safely disregarded.

The predisposition helps explain why U.S. strategists persistently ignored signs indicating that those who had control of Soviet Russia's nuclear arsenal were not thinking in terms of mutual deterrence. The calculated nonchalance with which Stalin at Potsdam reacted to President Truman's confidences about the American atomic bomb was a foretaste of things to come. Initial Soviet reactions to Hiroshima and Nagasaki were similar in tone: the atomic weapon had not in any significant manner altered the science of warfare or rendered obsolete the principles which had guided the Red Army in its victorious campaigns against the Wehrmacht. These basic laws, known as the five "constant principles" that win wars, had been formulated by Stalin in 1942. They were, in declining order of importance: "stability of the home front," followed by morale of the armed forces, quantity and quality of the divisions, *military equipment*, and, finally, ability of the commanders.[14] There was no such thing as an "absolute weapon"—weapons altogether occupied a subordinate place in warfare; defense against atomic bombs was entirely possible.[15] This was disconcerting, to be sure, but it could be explained away as a case of sour grapes. After all, the Soviet Union had no atomic bomb, and it was not in its interest to seem overly impressed by a weapon on which its rival enjoyed a monopoly.[16]

In September 1949 the Soviet Union exploded a nuclear device. Disconcertingly, its attitude to nuclear weapons did not change, at any rate not in public. For the remaining four years, until Stalin's death, the Soviet high command continued to deny that nuclear weapons required fundamental revisions of accepted military doctrine. With a bit of good will, this obduracy could still have been rationalized: for although the Soviet Union now had the weapon, it still lacked adequate means of delivering it across continents insofar as it had few intercontinental bombers (intercontinental rockets were regarded in the West as decades away). The United States, by contrast, possessed not only a fleet of strategic bombers but also numerous air bases in countries adjoining Soviet Russia. So once again one could find a persuasive explanation of why the Russians refused to see the light It seemed reasonable to expect that as soon as they had acquired both a stockpile of atomic bombs and a fleet of strategic bombers, they would adjust their doctrine to conform with the American.

Events which ensued immediately after Stalin's death seemed to lend credence to these expectations. Between 1953 and 1957 a debate took place in the pages of Soviet publications which, for all its textural obscurity, indicated that a new school of Soviet strategic thinkers had arisen to challenge the conventional wisdom. The most articulate spokesman of the new school, General N. Talenskii, argued that the advent of nuclear weapons, especially the hydrogen bomb which had just appeared on the scene, did fundamentally alter the nature of warfare. The sheer destructiveness of these weapons was such that one could no longer talk of a socialist strategy automatically overcoming the strategy of capitalist countries: the same rules of warfare now applied to both social systems. For the first time doubt was cast on the immutability of Stalin's "five constant principles." In the oblique manner in which Soviet debates on matters of such import are invariably conducted, Talenskii was saying perhaps, after all, war had ceased to represent a viable policy option. More important yet, speeches delivered by leading Soviet politicians in the winter of 1953–54 seemed to support the thesis advanced by President Eisenhower in his United Nations address of December 1953 that nuclear war could spell the demise of civilization. In an address delivered on March 12, 1954, and reported the following day in *Pravda*, Stalin's immediate successor, Georgii Malenkov, echoed Eisenhower's sentiments: a new world war would unleash a holocaust which "with the present means of warfare, means the destruction of world civilization."[17]

This assault on its traditional thinking—and, obliquely, on its traditional role—engendered a furious reaction from the Soviet military establishment. The Red Army was not about to let itself be relegated to the status of a militia whose principal task was averting war rather than winning it. Malenkov's unorthodox views on war almost certainly contributed to his downfall; at any rate, his dismissal in February 1955 as party leader was accompanied by a barrage of press denunciations of the notion that war had become unfeasible. There are strong indications that Malenkov's chief rival, Khrushchev, capitalized on the discontent of the military to form with it an alliance with whose help he eventually rode to power. The successful military counterattack seems to have been led by the World War II hero, Marshall Georgi Zhukov, whom Khrushchev made his Minister of Defense and brought into the Presidium. The guidelines of Soviet nuclear strategy, still in force today, were formulated during the first two years of Khrushchev's tenure (1955–57), under the leadership of Zhukov himself. They resulted in the unequivocal rejection of the notion of the "absolute weapon" and all the theories that U.S. strategists had deduced from it. Stalin's view of the military "constants" was implicitly reaffirmed. Thus the re-Stalinization of Soviet life, so noticeable in recent years, manifested itself first in military doctrine.

To understand this unexpected turn of events—so unexpected that most U.S. military theorists thus far have not been able to come to terms with it—one must take into account the function performed by the military in the Soviet system.

Unlike the United States, the Soviet government needs and wants a large military force. It has many uses for it, at home and abroad. As a regime which rests neither on tradition nor on a popular mandate, it sees in its military the most effective manifestation of government omnipotence, the very presence of which discourages any serious opposition from raising its head in the country as well as in its dependencies. It is, after all, the Red Army that keeps Eastern Europe within the Soviet camp. Furthermore, since the regime is driven by ideology, internal politics, and economic exigencies steadily to expand, it requires an up-to-date military force capable of seizing opportunities which may present themselves along the Soviet Union's immense long frontier or even beyond. The armed forces of the Soviet Union thus have much more to d than merely protect the country from po tential aggressors: they are the mainsta of the regime's authority and a principa instrumentality of its internal and externa policies. Given the shaky status of the Com munist regime internally, the declining ap peal of its ideology and the non-compet itiveness of its goods on world markets, persuasive case can even be made that, rubl for ruble, expenditures on the military rep resent for the Soviet leadership an excelle and entirely "rational" capital investmen

For this reason alone (and there were othe compelling reasons too, as we shall see): th Soviet leadership could not accept the the ory of mutual deterrence.[18] After all, th theory, pushed to its logical conclusion means that a country can rely for its securit on a finite number of nuclear warheads an on an appropriate quantity of delivery ve hicles; so that, apart perhaps from som small mobile forces needed for local action the large and costly traditional military es tablishments can be disbanded. Whatever th intrinsic military merits of this doctrine ma be, its broader implications are entirely un acceptable to a regime like the Soviet on for whom military power serves not only (o even primarily) to deter external aggressors but also and above all to ensure internal sta bility and permit external expansion. Thu ultimately, it is *political* rather than strict strategic or fiscal considerations that may b said to have determined Soviet reactions t nuclear weapons and shaped the content o Soviet nuclear strategy. As a result, Sovie advocates of mutual deterrence like Talensk were gradually silenced. By the mid-1960' the country adopted what in military jargo is referred to as a "war-fighting" and "war winning" doctrine.

Given this fundamental consideration, th rest followed with a certain inexorable logi The formulation of Soviet strategy in the nu clear age was turned over to the military wh are in complete control of the Ministry o Defense. (Two American observers describ this institution as a "uniformed empire." The Soviet General Staff had only recent emerged from winning one of the greates wars in history. Immensely confident of the own abilities, scornful of what they perceive as the minor contribution of the Unite States to the Nazi defeat, inured to casual ties running into tens of millions, the Sovie generals tackled the task with relish. Lik their counterparts in the U.S. Army, the were professionally inclined to denigrate th exorbitant claims made on behalf of the ne weapon by strategists drawn from the scien tific community; unlike the Americans, how ever, they did not have to pay much heed t the civilians. In its essentials, Soviet nuclea doctrine as it finally emerged is not all tha different from what American doctrine migh have been had military and geopolitical ra ther than fiscal considerations played th decisive role here as they did there.

Soviet military theorists reject the notio that technology (i.e., weapons) decide strategy. They perceive the relationship t be the reverse: strategic objectives determin the procurement and application of weapons They agree that the introduction of nuclea weapons has profoundly affected warfare, bu deny that nuclear weapons have altered it essential quality. The novelty of nuclea weapons consists not in their destructive ness—that is, after all, a matter of degree and a country like the Soviet Union which as Soviet generals proudly boast, suffered i World War II the loss of over 20 million cas ualties, as well as the destruction of 1,71 towns, over 70,000 villages, and some 32,00 industrial establishments to win the war an emerge as a global power, is not to be intimi dated by the prospect of destruction.[1 Rather, the innovation consists of the fac that nuclear weapons, coupled with intercon tinental missiles, can by themselves carry ou

Footnotes at end of article.

strategic missions which previously were accomplished only by means of prolonged tacti

rather than relying on pragmatic considera

utes), not to be surprised by the enemy

silos, before they have been fired (which

have been caused by 400 "Improved" Flin

strategic missions which previously were accomplished only by means of prolonged tactical operations:

Nuclear missiles have altered the relationship of tactical, operational, and strategic acts of the armed conflict. If in the past the strategic end-result was secured by a succession of sequential, most often long-term efforts [and] comprised the sum of tactical and operational successes, strategy being able to realize its intentions only with the assistance of the art of operations and tactics, then today, by means of powerful nuclear strikes, strategy can attain its objectives directly.[21] In other words, military strategy, rather than a casualty of technology, has, thanks to technology, become more central than ever. By adopting this view, Soviet theorists believe themselves to have adapted modern technological innovations in weaponry to the traditions of military science.

Implicit in all this is the idea that nuclear war is feasible and that the basic function of warfare, as defined by Clausewitz, remains permanently valid, whatever breakthroughs may occur in technology. "It is well known that the essential nature of *war as a continuation of politics does not change with changing technology and armament.*"[22] This code phrase from Sokolovskii's authoritative manual was certainly hammered out with all the care that in the United States is lavished on an amendment to the Constitution. It spells the rejection of the whole basis on which U.S. strategy has come to rest: thermonuclear war is not suicidal, it can be fought and won, and thus resort to war must not be ruled out.

In addition (though we have no solid evidence to this effect) it seems likely that Soviet strategists reject the mutual-deterrence theory on several technical grounds of a kind that have been advanced by American critics of this theory like Albert Wohlstetter, Herman Kahn, and Paul Nitze.

1. Mutual deterrence postulates a certain finality about weapons technology: it does not allow for further scientific breakthroughs that could result in the deterrent's becoming neutralized. On the offensive side, for example, there is the possibility of significant improvements in the accuracy of ICBM's or striking innovations in anti-submarine warfare; on the defensive, satellites which are essential for early warning of an impending attack could be blinded and lasers could be put to use to destroy incoming missiles.

2. Mutual deterrence constitutes "passive defense" which usually leads to defeat. It threatens punishment to the aggressor after he has struck, which may or may not deter him from striking; it cannot prevent him from carrying out his designs. The latter objective requires the application of "active defense"—i.e., nuclear preemption.

3. The threat of a second strike, which underpins the mutual-deterrence doctrine, may prove ineffectual. The side that has suffered the destruction of the bulk of its nuclear forces in a surprise first strike may find that it has so little of a deterrent left and the enemy so much, that the cost of striking back in retaliation would be exposing its own cities to total destruction by the enemy's third strike. The result could be a paralysis of will, and capitulation instead of a second strike.

Soviet strategists make no secret of the fact that they regard the U.S. doctrine (with which, judging by the references in their literature, they are thoroughly familiar) as second-rate. In their view, U.S. strategic doctrine is obsessed with a single weapon which it "absolutizes" at the expense of everything else that military experience teaches soldiers to take into account. Its philosophical foundations are "idealism" and "metaphysics"—i.e., currents which engage in speculative discussions of objects (in this case, weapons) and of their "intrinsic" qualities, rather than relying on pragmatic considerations drawn from experience.[23]

Since the mid-1960's, the proposition that thermonuclear war would be suicidal for both parties has been used by the Russians largely as a commodity for export. Its chief proponents include staff members of the Moscow Institute of the USA and Canada, and Soviet participants at Pugwash, Dartmouth, and similar international conferences, who are assigned the task of strengthening the hand of anti-military intellectual circles in the West. Inside the Soviet Union, such talk is generally denounced as "bourgeois pacifism."[24]

In the Soviet view, a nuclear war would be total and go beyond formal defeat of one side by the other: "War must not simply [be] the defeat of the enemy, it must be his destruction. This condition has become the basis of Soviet military strategy," according to the *Military-Historical Journal*.[25] Limited nuclear war, flexible response, escalation, damage limiting, and all the other numerous refinements of U.S. strategic doctrine find no place in its Soviet counterpart (although, of course, they are taken into consideration in Soviet operational planning).

For Soviet generals the decisive influence in the formulation of nuclear doctrine were the lessons of World War II with which, for understandable reasons, they are virtually obsessed. This experience they seem to have supplemented with knowledge gained from professional scrutiny of the record of Nazi and Japanese offensive operations, as well as the balance sheet of British and American strategic-bombing campaigns. More recently, the lessons of the Israeli-Arab wars of 1967 and 1973 in which they indirectly participated seem also to have impressed Soviet strategists, reinforcing previously held convictions. They also follow the Western literature, tending to side with the critics of mutual deterrence. The result of all these diverse influences is a nuclear doctrine which assimilates into the main body of the Soviet military tradition the technical implications of nuclear warfare without surrendering any of the fundamentals of this tradition.

The strategic doctrine adopted by the USSR over the past two decades calls for a policy diametrically opposite to that adopted in the United States by the predominant community of civilian strategists: not deterrence but victory, not sufficiency in weapons but superiority, not retaliation but offensive action. The doctrine has five related elements: (1) preemption (first strike), (2) quantitative superiority in arms, (3) counterforce targeting, (4) combined-arms operations, and (5) defense. We shall take up each of these elements in turn.

Preemption. The costliest lesson which the Soviet military learned in World War II was the importance of surprise. Because Stalin thought he had an understanding with Hitler, and because he was afraid to provoke his Nazi ally, he forbade the Red Army to mobilize for the German attack of which he had had ample warning. As a result of this strategy of "passive defense," Soviet forces suffered frightful losses and were nearly defeated. This experience etched itself very deeply on the minds of the Soviet commanders: in their theoretical writings no point is emphasized more consistently than the need never again to allow themselves to be caught in a surprise attack. Nuclear weapons make this requirement especially urgent because, according to Soviet theorists, the decision in a nuclear conflict in all probability will be arrived at the initial hours. In a nuclear war the Soviet Union, therefore, would not again have at its disposal the time which it enjoyed in 1941–42 to mobilize reserves for a victorious counteroffensive after absorbing devastating setbacks.

Given the rapidity of modern warfare (an ICBM can traverse the distance between the USSR and the United States in thirty minutes), not to be surprised by the enemy means, in effect, to inflict surprise on him. Once the latter's ICBM's have left their silos, once his bombers have taken to the air and his submarines to sea, a counterattack is greatly reduced in effectiveness. These considerations call for a preemptive strike. Soviet theorists draw an insistent, though to an outside observer very fuzzy, distinction between "preventive" and "preemptive" attacks. They claim that the Soviet Union will never start a war—i.e., it will never launch a preventive attack—but once it had concluded that an attack upon it was imminent, it would not hesitate to preempt. They argue that historical experience indicates outbreaks of hostilities are generally preceded by prolonged diplomatic crises and military preparations which signal to an alert command an imminent threat and the need to act. Though the analogy is not openly drawn, the action which Soviet strategists seem to have in mind is that taken by the Israelis in 1967, a notably successful example of "active defense" involving a well-timed preemptive strike. (In 1973, by contrast, the Israelis pursued the strategy of "passive defense," with unhappy consequences.) The Soviet doctrine of nuclear preemption was formulated in the late 1950's, and described at the time by Garthoff and Dinerstein in the volumes cited above.

A corollary of the preemption strategy holds that a country's armed forces must always be in a state of high combat readiness so as to be able to go over to active operations with the least delay. Nuclear warfare grants no time for mobilization. Stress on the maintenance of a large ready force is one of the constant themes of Soviet military literature. It helps explain the immense land forces which the USSR maintains at all times and equips with the latest weapons as they roll off the assembly lines.

Quantitative superiority. There is no indication that the Soviet military share the view prevalent in the U.S. that in the nuclear age numbers of weapons do not matter once a certain quantity had been attained. They do like to pile up all sorts of weapons, new on top of old, throwing away nothing that might come in handy. This propensity to accumulate hardware is usually dismissed by Western observers with contemptuous references to a Russian habit dating back to Czarist days. It is not, however, as mindless as it may appear. For although Soviet strategists believe that the ultimate outcome in a nuclear war will be decided in the initial hours of the conflict, they also believe that a nuclear war will be of long duration; to consummate victory—that is, to destroy the enemy—may take months or even longer. Under these conditions, the possession of a large arsenal of nuclear delivery systems, as well as of other types of weapons, may well prove to be of critical importance. Although prohibited by self-imposed limitations agreed upon in 1972 at SALT I from exceeding a set number of intercontinental ballistic-missile launchers, the Soviet Union is constructing large numbers of so-called Intermediate Range Ballistic Missile launchers (i.e., launchers of less than intercontinental range), not covered by SALT. Some of these could be rapidly converted into regular intercontinental launchers, should the need arise.[26]

Reliance on quantity has another cause namely, the peculiarly destructive capability of modern missiles equipped with Multiple Independently-targettable Reentry Vehicles, or MIRV's. The nose cones of MIRVed missiles, which both superpowers possess, when in mid-course, split like a peapod to launch several warheads, each aimed at a separate target. A single missile equipped with three MIRVs' of sufficient accuracy, yield, and reliability can destroy up to three of the enemy's missiles—provided, of course, it catches them in their

Footnotes at end of article.

silos, before they have been fired (which adds another inducement to preemption). Theoretically, assuming high accuracy and reliability, should the entire American force of 1,054 ICBM's be MIRVed (so far only half of them have been MIRVed), it would take only 540 American ICBM's, each with three MIRV's, to attack the entire Soviet force of 1,618 ICBM's. The result would leave the United States with 514 ICBM's and the USSR with few survivors. Unlikely as the possibility of an American preemptive strike may be, Soviet planners apparently prefer to take no chances; they want to be in a position rapidly to replace ICBM's lost to a sudden enemy first strike. Conversely, given its doctrine of preemption, the Soviet Union wants to be in a position to destroy the largest number of American missiles with the smallest number of its own, so as to be able to face down the threat of a U.S. second strike. Its most powerful ICBM, the SS–18, is said to have been tested with up to 10 MIRV's (compared to 3 of the Minuteman–3, America's only MIRVed ICBM). It has been estimated that 300 of these giant Soviet missiles, authorized under SALT I, could seriously threaten the American arsenal of ICBM's.

COUNTERFORCE

Two terms commonly used in the jargon of modern strategy are "counterforce" and "countervalue." Both terms refer to the nature of the target of a strategic nuclear weapon. Counterforce means that the principal objective of one's nuclear missiles are the enemy's forces—i.e., his launchers as well as the related command and communication facilities. Countervalue means that one's principal targets are objects of national "value," namely the enemy's population and industrial centers.

Given the predominantly defensive (retaliatory) character of current U.S. strategy, it is naturally predisposed to a countervalue targeting policy. The central idea of the U.S. strategy of deterrence holds that should the Soviet Union dare to launch a surprise first strike at the United States, the latter would use its surviving missiles to lay waste Soviet cities. It is taken virtually for granted in this country that no nation would consciously expose itself to the risk of having its urban centers destroyed—an assumption which derives from British military theory of the 1920's and 1930's, and which influenced the RAF to concentrate on strategic bombing raids on German cities in World War II.

The Soviet high command has never been much impressed with the whole philosophy of countervalue strategic bombing, and during World War II resisted the temptation to attack German cities. This negative attitude to bombing of civilians is conditioned not by humanitarian considerations but by cold, professional assessments of the effects of that kind of strategic bombing as revealed by the Allied Strategic Bombing Surveys. The findings of these surveys were largely ignored in the United States, but they seem to have made a strong impression in the USSR. Not being privy to the internal discussions of the Soviet military, we can do no better than consult the writings of an eminent British scientist, P.M.S. Blackett, noted for his pro-Soviet sympathies, whose remarkable book "Fear, War and the Bomb," published in 1948–49, indicated with great prescience the lines which Soviet strategic thinking were subsequently to take.

Blackett, who won the Nobel Prize for Physics in 1948, had worked during the war in British Operations Research. He concluded that strategic bombing was ineffective, and wrote his book as an impassioned critique of the idea of using atomic weapons as a strategic deterrent. Translating the devastation wrought upon Germany into nuclear terms, he calculated that it represented the equivalent of the destruction that would have been caused by 400 "improved" Hiroshima-type atomic bombs. Yet despite such punishment, Nazi Germany did not collapse. Given the much greater territory of the Soviet Union and a much lower population density, he argued, it would require "thousands" of atomic bombs to produce decisive results in a war between America and Russia.[27] Blackett minimized the military effects of the atomic bombing on Japan. He recalled that in Hiroshima trains were operating forty-eight hours after the blast; that industries were left almost undamaged and could have been back in full production within a month; and that if the most elementary civil-defense precautions had been observed, civilian casualties would have been substantially reduced. Blackett's book ran so contrary to prevailing opinion and was furthermore so intemperately anti-American in tone that its conclusions were rejected out of hand in the West.

Too hastily, it appears in retrospect. For while it is true that the advent of hydrogen bombs a few years later largely invalidated the estimates on which he had relied, Blackett correctly anticipated Soviet reactions. Analyzing the results of Allied saturation bombing of Germany, Soviet generals concluded that it was largely a wasted effort. Sokolovskii cites in his manual the well-known figures showing that German military productivity rose throughout the war until the fall of 1944, and concludes: "It was not so much the economic struggle and economic exhaustion [i.e., countervalue bombing] that were the causes of the defeat of Hitler's Germany, but rather the armed conflict and the defeat of its armed forces [i.e., the counterforce strategy pursued by the Red Army.]"[28]

Soviet nuclear strategy is counter*force* oriented. It targets for destruction—at any rate, in the initial strike—not the enemy's cities but his military forces and their command and communication facilities. Its primary aim is to destroy not civilians but soldiers and their leaders, and to undermine not so much the will to resist as the capability to do so. In the words of Grechko:

The Strategic Rocket Forces, which constitute the basis of the military might of our armed forces, are designed to annihilate the means of the enemy's nuclear attack, large groupings of his armies, and his military bases; to destroy his military industries; [and] to disorganize the political and military administration of the aggressor as well as his rear and transport.[29]

Any evidence that the United States may contemplate switching to a counterforce strategy, such as occasionally crops up, throws Soviet generals into a tizzy of excitement. It clearly frightens them far more than the threat of Soviet cities posed by the countervalue strategic doctrine.

Combined-arms operations. Soviet theorists regard strategic nuclear forces (organized since 1960 into a separate arm, the Strategic Rocket Forces) to be the decisive branch of the armed services, in the sense that the ultimate outcome of modern war would be settled by nuclear exchanges. But since nuclear war, in their view, must lead not only to the enemy's defeat but also to his destruction (i.e., his incapacity to offer further resistance), they consider it necessary to make preparations for the follow-up phase, which may entail a prolonged war of attrition.

At this stage of the conflict, armies will be needed to occupy the enemy's territory, and navies to interdict his lanes of communications. "In the course of operations (battles), armies will basically complete the final destruction of the enemy brought about by strikes of nuclear rocket weapons."[30] Soviet theoretical writings unequivocally reject reliance on any one strategy (such as the *Blitzkrieg*) or on any one weapon, to w wars. They believe that a nuclear war w require the employment of all arms to att final victory.

The large troop concentrations of War Pact forces in Eastern Europe—well in exc of reasonable defense requirements—ma sense if viewed in the light of Soviet co bined-arms doctrine. They are there not o to have the capacity to launch a surpr land attack against NATO, but also to atta and seize Western Europe with a minimu of damage to its cities and industries af the initial strategic nuclear exchanges ha taken place, partly to keep Europe hoste partly to exploit European productivity a replacement for that of which the Sov Union would have been deprived by American second strike.

As for the ocean-going navy which t Soviet Union has now acquired, it cond primarily of submarines and ground-ba naval air forces, and apparently would ha the task of cleaning the seas of U.S. ships all types and cutting the sea lanes conne ing the United States with allied powers a sources of raw materials.

The notion of an extended nuclear war deeply embedded in Soviet thinking, desp its being dismissed by Western strategi who think of war as a one-two exchange. Blackett noted sarcastically already in 194 49: "Some armchair strategists (includi some atomic scientists) tend to ignore t inevitable counter-moves of the enemy. Me chess playing and less nuclear physics mig have instilled a greater sense of the rea ties."[31] He predicted that a World War I waged with the atomic bombs then availa would last longer than either of its predece sors, and require combined-arms ope tions—which seems to be the current Sov view of the matter.

Defense. As noted, the U.S. theory of m tual deterrence postulates that no effect defense can be devised against an all-o nuclear attack: it is this postulate th makes such a war appear totally irration In order to make this premise valid, Ame can civilian strategists have argued agai a civil-defense program, against the AB and against air defenses.

Nothing illustrates better the fundamen differences between the two strategic do trines than their attitudes to defense agai a nuclear attack. The Russians agreed certain imprecisely defined limitations ABM after they had initiated a program this direction, apparently because they we unable to solve the technical problems i volved and feared the United States wou forge ahead in this field. However, th then proceeded to build a tight ring of an aircraft defenses around the country wh also developing a serious program of ci defense.

Before dismissing Soviet civil-defense e forts as wishful thinking, as is customa in Western circles, two facts must be emph sized.

One is that the Soviet Union does not r gard civil defense to be exclusively for t protection of ordinary civilians. Its chi function seems to be to protect what Russia are known as the "cadres," that is, t political and military leaders as well as i dustrial managers and skilled workers—tho who could reestablish the political and eco nomic system once the war was over. Judgin by Soviet definitions, civil defense has much to do with the proper functioning the country during and immediately aft the war as with holding down casualties. I organization, presently under Deputy Mini ter of Defense, Colonel General A. Altuni seems to be a kind of shadow governmen charged with responsibility for administe ing the country under the extreme stresses nuclear war and its immediate aftermath.

Secondly, the Soviet Union is inherent less vulnerable than the United States to

Footnotes at end of article.

countervalue attack. According to the most

innately destabilizing in the very fact that

[32] Blackett, *Fear*, p. 22. As a matter of fact

countervalue attack. According to the most recent Soviet census (1970), the USSR had only nine cities with a population of one million or more; the aggregate population of these cities was 20.5 million, or 8.5 per cent of the country's total. The United States 1970 census showed thirty-five metropolitan centers with over one million inhabitants, totaling 84.5 million people, or 41.5 per cent of the country's aggregate. It takes no professional strategist to visualize what these figures mean. In World War II, the Soviet Union lost 20 million inhabitants out of a population of 170 million—i.e., 12 per cent; yet the country not only survived but emerged stronger politically and militarily than it had ever been. Allowing for the population growth which has occurred since then, this experience suggests that as of today the USSR could absorb the loss of 20 million of its people and be no worse off, in terms of human casualties, than it had been at the conclusion of World War II. In other words, all of the USSR's multimillion cities could be destroyed without trace or survivors, and, provided that its essential cadres had been saved, it would emerge less hurt in terms of casualties than it was in 1945.

Such figures are beyond the comprehension of most Americans. But clearly a country that since 1914 has lost, as a result of two world wars, a civil war, famine, and various "purges," perhaps up to 60 million citizens, must define "unacceptable damage" differently from the United States which has known no famines or purges, and whose deaths from all the wars waged since 1775 are estimated at 650,000—fewer casualties than Russia suffered in the 900-day siege of Leningrad in World War II alone. Such a country tends also to assess the rewards of defense in much more realistic terms.

How significant are these recondite doctrinal differences? It has been my invariable experience when lecturing on these matters that during the question period someone in the audience will get up and ask: "But is it not true that we and the Russians already possess enough nuclear weapons to destroy each other ten times over" (or fifty, or a hundred—the figures vary)? My temptation is to reply: "Certainly. But we also have enough bullets to shoot every man, woman, and child, and enough matches to set the whole world on fire. The point lies not in our ability to wreak total destruction: it lies in intent." And insofar as military doctrine is indicative of intent, what the Russians think to do with their nuclear arsenal is a matter of utmost importance that calls for close scrutiny.

Enough has already been said to indicate the disparities between American and Soviet strategic doctrines of the nuclear age. These differences may be most pithily summarized by stating that whereas we view nuclear weapons as a deterrent, the Russians see them as a "compellant"—with all the consequences that follow. Now it must be granted that the actual, operative differences between the two doctrines may not be quite as sharp as they appear in the public literature: it is true that our deterrence doctrine leaves room for some limited offensive action, just as the Russians include elements of deterrence in their "war-fighting" and "war-winning" doctrine. Admittedly, too, a country's military doctrine never fully reveals how it would behave under actual combat conditions. And yet the differences here are sharp and fundamental enough, and the relationship of Soviet doctrine to Soviet deployments sufficiently close, to suggest that ignoring or not taking seriously Soviet military doctrine may have very detrimental effects on U.S. security. There is something innately destabilizing in the very fact that we consider nuclear war unfeasible and suicidal for both, and our chief adversary views it as feasible and winnable for himself.

SALT misses the point at issue so long as it addresses itself mainly to the question of numbers of strategic weapons: equally important are qualitative improvements within the existing quotas, and the size of regular land and sea forces. Above all, however, looms the question of intent: as long as the Soviets persist in adhering to the Clausewitzian maxim on the function of war, mutual deterrence does not really exist. And unilateral deterrence is feasible only if we understand the Soviet war-winning strategy and make it impossible for them to succeed.

FOOTNOTES

[11] *Voennaia strategiia* (Moscow, 1962). Since 1962 there have been two revised editions (1963 and 1968). The 1962 edition was immediately translated into English; but currently the best version is that edited by Harriet Fast Scott (Crane-Russak, 1975) which renders the third edition but collates its text with the preceding two.

[11] To date, twelve volumes in this series have been translated into English and made publicly available through the U.S. Government Printing Office.

[12] William W. Kaufmann, *The McNamara Strategy* (1964), p. 97.

[13] Garthoff's principal works are *Soviet Military Doctrine* (1953), *Soviet Strategy in the Nuclear Age* (1958), and *The Soviet Image of Future War* (1959). Dinerstein wrote *War and the Soviet Union* (1959).

[14] Cited in J.M. Mackintosh, *The Strategy and Tactics of Soviet Foreign Policy* (London ,1962), pp 90-91, emphasis added.

[15] Articles in the *New Times* for 1945–46 cited in P.M.S. Blackett, *Fear, War and the Bomb* (1949), pp. 163–65.

[16] We now know that orders to proceed with the development of a Soviet atomic bomb were issued by Stalin in June 1942, probably as a result of information relayed by Klaus Fuchs concerning the Manhattan Project, on which he was working at Los Alamos, *Bulletin of the Atomic Scientists*, XXIII, No. 10, December 1967, p. 15.

[17] Dinerstein, *War and the Soviet Union*, p. 71.

[18] I would like to stress the word "theory," for the Russians certainly accept the *fact* of deterrence. The difference is that whereas American theorists of mutual deterrence regard this condition as mutually desirable and permanent, Soviet strategists regard it as undesirable and transient: they are entirely disinclined to allow us the capability of deterring them.

[19] Matthew P. Gallagher and Karl F. Speilmann, Jr., *Soviet Decision-Making for Defense* (1972), p. 39.

[20] The figures are from Grechko, *Vooruzhonnye sily*, p. 97.

[21] *Metodologicheskie problemy voennoi teorii i praktiki* ("Methodological Problems of Military Theory and Practice") (Moscow, Ministry of Defense of the USSR, 1969), p. 288.

[22] V.D. Sokolovskii, *Soviet Military Strategy* (Rand Corporation, 1963), p. 99, emphasis added.

[23] See, e.g., *Metodologicheskie problemy*, pp. 289–90.

[24] Gouré et al., *The Role of Nuclear Forces*, p. 9.

[25] Cited *ibid.*, p. 106.

[26] I have in mind the SS–20, a recently developed Soviet rocket. This is a two-stage version of the intercontinental SS–16 which can be turned into an SS–16 with the addition of third booster and fired from the same launcher. Its production is not restricted by SALT I and not covered by the Vladivostok Accord.

[27] Blackett, *Fear*, p. 88. As a matter of fact, recent unofficial Soviet calculations stress that the United States dropped on Vietnam the TNT equivalent of 650 Hiroshima-type bombs—also without winning the war: *Kommunist Vooruzhonnykh Sil* ("The Communist of the Armed Forces"), No. 24, December 1973, p. 27, cited in Gouré et al., *The Role of Nuclear Forces*, p. 104.

[28] Sokolovskii, *Soviet Military Strategy* (3rd edition), p. 21

[29] A.A. Grechko, *Na strazhe mira i stroitel'stva Kommunizma*, ("Guarding Peace and the Construction of Communism") (Moscow, 1971), p. 41.

[30] *Metodologicheskie problemy*, p. 288.

[31] Blackett, *Fear*, p. 79.

[32] On the subject of civil defense, see Leon Goure, *War Survival in Soviet Strategy* (1976).●

CONGRESSMAN DON PEASE'S VOTING RECORD

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. PEASE. Mr. Speaker, it seems that the average citizen has no reasonable way to check the voting record of his or her representative. Lacking the resource material, the time, and the expertise needed to wade through the CONGRESSIONAL RECORD or other publications, citizens are left pretty much at loose ends. For this reason, I have assembled this complete record of all the votes I cast in the 95th Congress from January 4, 1977, through July 1, 1978. My constituents have a right to know how I voted and I want to accommodate them.

My votes are tabulated in such a way that each issue is described in language which can be easily understood. Each item in the list begins with the rollcall number of the vote, followed by a description of the question on which the vote was taken. This is followed by my own vote on the issue, either "yes," or "no," or "DNV" (did not vote). Finally, the vote of the entire House of Representatives on the issue is indicated by "passed" or "failed," followed by yea-nay totals:

VOTING RECORD

(2) Election of the Speaker of the House. O'Neill, 290; Rhodes, 142. voted for O'Neill.

(3) To bar amendments to Rules of the House for 95th Congress. Yes. Passed, 261–140.

(4) Rules of the House for 95th Congress. Yes. Passed, 256–142.

(9) Authorize the President to establish a 90-day emergency natural gas program. Yes. Passed, 367–52.

(10) Approve Journal of Feb. 1 proceedings. Yes. Passed, 413–2.

(11) Emergency Natural Gas Act: 90-day emergency allocation program; 180-day emergency purchase program; delete ceiling price on gas purchased from intrastate suppliers for interstate markets. Yes. Passed, 336–82.

(12) To adopt rule on resolution to create a Select Committee on Assassinations. Yes. Passed, 265–145.

(13) To eliminate language defining scope of investigation of Select Committee on Assassinations. No. Failed, 165–237.

(14) To reestablish until March 31, 1977, the Select Committee on Assassinations. Yes. Passed, 237–164.

(15) To approve journal of Feb. 2 proceedings. Yes. Passed, 329–3.

(16) Emergency appropriation ($6.4 million) for Department of Interior's Southwestern Power Administration. Yes. Passed, 341–5.

(17) To approve fishing agreements between U.S. and Bulgaria, Romania, East Germany, Poland, the Soviet Union, and the Republic of China. Yes. Passed, 353–35.

(18) To approve journal of Feb. 9 proceedings. Yes. Passed, 364–3.

(19) To direct Committee on Standards of Official Conduct to conduct an inquiry to determine whether Members of the House, their immediate families or their associates have accepted anything of value from the South Korean government or its representatives. Yes. Passed, 388–0.

(20) To raise ceiling on Small Business Administration loans and investments in FY 1977 from $6 billion to $8 billion. Yes. Passed, 381–0.

(22) To adjourn from Feb. 17 to Feb. 21. No. Failed, 109–224.

(23) Reduced air fares for the handicapped and the elderly. Yes. Passed, 403–0.

(24) To authorize medal to Marian Anderson in recognition of her distinguished career. Yes. Passed, 398–4.

(25) Budget Resolution: To adjust revenue and spending levels downward, assuming permanent tax cuts instead of expenditures for job programs. No. Failed, 148–258.

(26) Budget Resolution: Set spending ceiling and revenue floor for FY 1977. (Spending, $419.1 billion; revenue, $348.8 billion.) Yes. Passed, 239–169.

(27) To adopt rule on public jobs bill (Locale Public Works Capital Development and Investment Act of 1977). DNV. Passed, 384–6.

(28) To require that 65 per cent of funds for public works projects go to states based on number of unemployed in the state, and that 35 per cent of funds be set aside for states with unemployment rates in excess of 6.5 per cent. Yes. Failed, 187–201.

To base public works funds allocation on number of unemployed in state in relation to national rate. No. Passed, 229–158.

(30) To make $6 billion available for public works projects on which construction could begin within 90 days. Yes. Passed 295–85.

(31) To extend arrest and police authority of fish and wildlife enforcement officials. Yes. Failed, 206–136. (Two-thirds required).

(33) To approve fishing agreements between U.S. and Spain, Japan, South Korea, and European Economic Community. Yes. Passed, 377–18.

(34) Depository Institutions Amendments of 1977 on interest rate regulation, federal credit unions, Federal Reserve Banks. Yes. Passed, 401–4.

(36) To close debate on H. Res. 267 a new code of financial ethics for the House of Representatives. Yes. Passed, 267–153.

(37) To remove provision of ethics bill abolishing unofficial office accounts and instead, increase official expense allowance. No. Failed, 187–235.

(38) To remove ethics code restriction on Members' outside income. No. Failed, 79–344.

(39) Code of financial ethics, strengthening financial disclosure requirements, prohibit unofficial office accounts and lame duck travel, and restrict franking privilege and outside earned income. Yes. Passed, 402–22.

(41) To provide $200 million authority for disaster relief activities made necessary by severe weather in eastern U.S. Yes. Passed, 411–4.

(42) To restore $81.6 million to budget for long lead time funds for Nimitz-class nuclear aircraft carrier. No. Failed, 161–252.

(43) To restore to budget $371 million for converting U.S.S. Long Beach nuclear cruiser to anti-aircarrier cruiser. No. Failed, 137–269.

(44) Conference report (House-Senate compromise) on Third Budget Resolution calling for spending ceiling of $417.4 billion, revenue floor of $347.7 billion. Yes. Passed, 226–173.

(46) To consider (adopt rule) on Kennedy Center Act Amendments. Yes. Passed, 292–22.

(47) To reduce funds for Kennedy Center repairs from $4.7 million to $3.3 million. No. Failed, 101–213.

(48) Kennedy Center repairs. Yes. Passed, 239–78.

(50) To reestablish committe to study need for sports legislation. No. Failed, 75–271.

(51) To accept resignation of Rep. Henry B. Gonzales as chairman of Select Committee on Assassinations. Yes. Passed, 296–100.

(52) To close debate on Tax Reduction and Simplification Act. Yes. Passed, 209–181.

(53) To phase out $50 rebates for persons earning more than $25,000 per year; to provide $50 payments to recipients of social security and veterans benefits. Yes. Passed, 312–103.

(54) Tax Act: To provide flat standard deduction of $2,400 for single persons and $3,000 for married couples. Yes. Passed, 286–99.

(55) To provide tax credit of 40 per cent on the first $4,200 of wages paid a new employee who represents actual increase in employer's payroll. Yes. Passed, 341–74.

(56) Tax Act: To substitute permanent tax cut in seven lowest brackets for $50 tax rebates. No. Failed, 194–219.

(57) Tax Act: Final passage providing $12.7 billion in tax cuts and payments in 1977, change standard deductions, etc. Yes. Passed, 282–131.

(59) To end debate on resolution establishing Select Committee on Ethics. Yes. Passed, 242–175.

(60) To establish Select Committee on Ethics to issue interpretive regulations for new code of financial ethics. Yes. Passed. 410–1.

(61) To recommit Judiciary Committee funding and earmark $300,000 to investigate subversive activities. No. Failed, 159–249.

(62) To consider Supplemental Housing Auth. Act. Yes. Passed, 411–0.

(63) Supplemental Housing: to increase Section 8 contract term from 20 to 30 years. Yes. Passed, 323–67.

(64) Supplemental Housing: Equal number of men and women on the National Commission on Neighborhoods: Yes. Passed 249–157.

(65) Supplemental Housing: To eliminate provision creating Commission on Neighborhoods. Yes. Passed, 243–166.

(66) Supplemental Housing: Additional authority of $378 million for Section 8; $19.6 million for public housing; $10 million for urban homesteading. Yes. Passed, 380–30.

(67) To raise overall loan limit of Small Business Administration. Yes. Passed, 355–1.

(68) To prohibit importation of chrome from any nation which violates the human rights provisions of U.N. charter. No. Failed, 153–246.

(69) To delay for 3 days effective date of Rhodesian Chrome bill. No. Failed, 160–236.

(70) To allow prohibition on importation of Rhodesian Chrome. Yes. Passed, 250–146.

(72) To allow and evaluate 90-day test televising of House proceedings. Yes. Passed, 398–10.

(73) To consider (adopt rule) on Economic Stimulus. Appropriations. Yes. Passed, 333–71.

(74) To reduce countercyclical aid from $632.5 million to $250 million. Yes. Failed, 183–225.

(75) To prohibit public works funds fo projects unless at least 10 per cent of those employed had lived in area 30 days and been unemployed for at least 30 days. No. Failed 165–245.

(76) Economic Stimulus Appropriations $22.3 billion. Yes. Passed, 281–126.

(77) To consider (adopt rule) on Supple mental Appropriations for FY 1977. Ye Passed, 331–68.

(78) Supplemental Appropriations: $30 million for emergency assistance to low-in come families to help with fuel bills. Ye Passed, 233–170.

(79) Supplemental Appropriations: To be use of funds for salaries and expenses i connection with military pardon program No. Passed, 220–187.

(80) Supplemental Appropriations: To de lete International Development Associatio funds. No. Failed, 171–234.

(81) Supplemental Appropriations: $27.9 billion, for various departments and pro grams. Yes. Passed, 306–98.

(82) To consider (adopt rule) on Nations Aeronautics and Space Administratio (NASA) Authorization Act. Yes. Passe 389–0.

(83) To authorize $4.05 billion for NASA FY 1978. No. Passed, 338–44.

(84) To authorize $275 million for expand ing public library services (two years). Ye Passed, 368–1.

(85) Unemployment Extension: To be amendments to the rule. Yes. Passed, 213 164.

(86) To consider (adopt rule) on Emer gency Unemployment Compensation Exten sion Act. Yes. Passed, 226–141.

(87) To extend Federal Supplemental Ben efits (Unemployment Act) and reduce b one-half maximum number of FSB weeks Yes. Passed, 227–63.

(89) To amend Vocational Education Tech nical Amendments to remove $35 millio limit on federal funds for state administra tion and no limit on local administration o vocational educational programs. Yes. Passed 396–1.

(90) Resolution protesting the lack o freedom of emigration from the Soviet Union Yes. Passed, 400–2.

(92) To consider (adopt rule) on Common Situs Picketing. Yes. Passed, 207–112.

(93) Common Situs: To limit right t picket a common site to employees of per sons "primarily engaged in the constructio industry on the site." No. Passed, 212–209.

(94) Common Situs: To exempt employer using "fast-track" or phased method of con struction. No. Failed, 181–241.

(95) Common Situs: To exempt certai residential builders. No. Passed, 252–167.

(96) Common Situs: To require strike b approved by a majority of all workers af fected, including union and non-union. No Failed, 115–304.

(97) Common Situs: Sarasin Substitut (similar to original bill). Yes. Passed, 246 177.

(98) Common Situs: Final passage, to per mit picketing of an entire construction site even if the dispute was with one employe on the site. Yes. Failed, 205–217.

(99) To approve Journal of March 23. DNV Passed, 386–3.

(100) To authorize $85 million for Fed eral Aviation Administration. Yes. Passed 402–6.

(101) To authorize $868 million for Na tional Science Foundation. Yes. Passed, 378 29.

(102) To authorize $89.7 million supple mental funds for State Department activ ities. Yes. Passed, 292–114.

(104) To create Select Committee on Con gressional Operations. Yes. Passed, 211–147.

(106) To provide that governmental reco

ganization plans become effective only if

agencies provided financial aid to Cuba, Viet-

(161) Budget Resolution: To increase

ganization plans become effective only if both House and Senate approve the plan. No. Failed, 87–329.

(107) To renew for three years the President's authority to submit reorganization plans to Congress, to become effective within 60 days unless rejected by either house. Yes. Passed, 395–22.

(109) To consider (adopt rule) bill to continue the Select Committee on Assassinations. No. Passed, 285–124.

(110) To withdraw authority given Assassinations Committee to bring, defend, or intervene in lawsuits. No. Passed, 223–195.

(111) To go into secret session to continue consideration of Assassinations Committee resolution. No. Failed, 185–226.

(112) Final passage, to continue Select Committee on Assassinations. No. Passed, 230–181.

(113) To approve section of H. Res. 393 authorizing additional funds for House leadership offices. Yes. Passed, 276–128.

(114) To authorize additional funds and personnel for House majority and minority leadership offices. Yes. Passed, 276–122.

(115) Strategic and Critical Materials Stockpiling Act Amendments. Yes. Passed, 373–24.

(116) To extend for one year authorizations for national cancer program; heart, blood vessel, lung and blood program, etc. Yes. Passed, 385–4.

(117) To increase authorization for home health services demonstration and training programs. Yes. Passed, 322–69.

(118) To extend for one year authorizations for grants to states for material and child health and cripped children, services, etc. Yes. Passed, 376–4.

(119) To restore to VA authorization to provide medical services on a fee basis to certain veterans outside VA facilities. Yes. Passed, 402–0.

(120) To authorize $30 million (two years) for VA grants to states to construct veterans homes and nursing homes. Yes. Passed, 399–0.

(121) To change effective date of sick pay excusion to Jan. 1, 1977, for taxpayers who wish to claim old sick pay exclusion. Yes. Passed, 404–0.

(122) To adopt conference report on extending Federal Supplemental Benefits Program through Mar. 31, 1978, and reduce number of FSB weeks from 26 to 13. Yes. Passed, 406–2.

(123) To consider (adopt rule) on Debt Collection Practices Act. Yes. Passed 347–44.

(124) To amend Consumer Credit Protection Act to regulate debt collectors' activities, including a prohibition on harassing and intimidating consumers and making false or misleading representations. No. Passed, 199–198.

(125) To authorize $20 million for earthquake disaster relief activities in Romania. Yes. Passed, 322–90.

(126) To authorize grants to states to help local and state educational agencies provide career education programs in elementary and secondary schools. Yes. Passed, 398–14.

(127) To protect petroleum franchisees from cancellation. Yes. Passed, 404–3.

(128) To consider (adopt rule) on Federal Water Pollution Control Act Amendments. Yes. Passed, 348–60.

(129) To authorize $18.2 billion (three years) for municipal wastewater treatment works. Yes. Passed, 361–43.

(130) To approve journal of April 5 proceedings. Yes. Passed, 373–8.

(131) To consider (adopt rule) on Increased U.S. Participation in International Banking Agencies. Yes. Passed, 366–15.

(132) To require U.S. opposition to international banking loans for production of palm oil, citrus and sugar. No. Passed, 216–145.

(133) To provide withdrawal of U.S. funds from international banking agencies if the agencies provided financial aid to Cuba, Vietnam, Laos or Cambodia. No. Failed, 165–189.

(134) To increase to $5.2 billion (four years) U.S. participation in several international development lending institution. Yes. Passed, 194–156.

(135) To permit tax deductible business use of residence for day care services. Yes. Passed, 320–1.

(136) To approve journal of April 18 proceedings. Yes. Passed, 367–4.

(137) To amend Federal Rules of Criminal Proceedure, changing language relating to secrecy of grand jury proceedings, cases tried by juries of less than 12 persons, and cases tried without a jury. Yes. Passed, 376–3.

(138) To authorize $288 million for research, development and demonstration projects of Environmental Protection Agency Yes. Passed, 358–31.

(139) To consider (adopt rule) on Export Administration Act Amendments. Yes. Passed, 399–2.

(140) To extend Export Administration Act through FY 1979. Yes. Passed, 364–43.

(142) To adopt conference report on FY 1977 supplemental appropriations of $29 billion. Yes. Passed, 264–142.

(143) Supplemental appropriations: $12.5 million for Uniformed Services University of the Health Sciences (trains doctors for the armed services). No. Passed, 250–162.

(144) Supplemental appropriations: $20 million to reimburse local governments for snow removal costs in emergency areas. Yes. Failed, 124–279.

(145) To approve journal of April 21 proceedings. Yes. Passed, 326–8.

(146) Defense: To prohibit procurement of Airborne Warning and Control System aircraft. Yes. Failed, 135–222.

(147) To allow Treasury Department to earn interest on its idle tax and loan accounts by investing in interest-bearing securities. Yes (11–0). Passed, 384–0.

(148) Defense: To deactivate 17,000 troops stationed overseas and reduce total force by 50,000. No. Failed, 86–301.

(149) Defense: To place all future enlistees under congressional retirement plan. No. Failed, 148–237.

(150) Defense: To prohibit use of funds to advertise the review program for less-than-honorable discharges. No. Passed, 291–96.

(151) Defense: To authorize $35.9 billion for military procurement, research and development; to set active duty troop level at 2,090,425. Yes. Passed, 347–43.

(152) To consider (adopt rule) First FY 1978 Budget Resolution. Yes. Passed. 400–1.

(153) Budget Resolution: To increase revenue target by $900 million (Third 1977 Budget Resolution), by assuming deletion of business tax credits contained in Tax Reduction Act of 1977. Yes. Failed, 109–302.

(154) Budget Resolution: To reduce targets for budget authority and outlays by $7 million by assuming deletion of funds for recent pay raise for Members of Congress, (Cancel cost-of-living raise). No. Passed, 236–179.

(155) To resolve into committee of the whole House to consider First Budget Resolution. Yes. Passed 409–0.

(156) Budget Resolution: To transfer $7.95 billion from defense spending to reduce the national debt. No. Failed, 64–344.

(157) Budget Resolution: To increase target for budget authority for defense by $4.15 billion and target for defense outlays by $2.3 billion. No. Passed, 225–184.

(158) Budget Resolution: To affirm previous vote to increase defense targets. No. Passed, 218–185.

(159) Budget Resolution: To transfer $6.5 billion from military spending into spending for domestic programs. Yes. Failed, 102–306.

(160) Budget Resolution: To increase budget authority by $249 million for Law Enforcement Assistance Administration. No. Passed, 224–179.

(161) Budget Resolution: To increase budget authority and outlays by $500 million in veterans' benefits and services. Yes. Passed, 329–73.

(162) Budget Resolution: to reduce authority and outlays in natural resources by $100 with the intention of striking funds for water projects. Yes. Failed, 143–252.

(163) Budget Resolution: To produce outlays by $23 billion; deficit by $18 billion; assume permanent 10 percent across-the-board tax cut for individuals. No. Failed, 150–250.

(164) Budget Resolution: to reduce outlays target by $55 billion; increase revenue targets by $11 billion; install 10 percent tax cut. No. Failed, 131–271.

(165) Budget Resolution: Final passage, to set new budget at $505.7 billion; outlays at 466.7 billion; revenues at $398.1 billion; deficit at $69.6 billion. No. Failed, 84–320.

(166) To approve journal of April 27 proceedings. Yes. Passed, 329–13.

(167) To approve conference report, $318 supplemental appropriation for Section 8 housing. Yes. Passed, 355–47.

(168) Funding ($2.5 million) for Assassinations Committee. No. Passed, 213–192.

(169) To consider (adopt rule) on strip mining bill. Yes. Passed, 340–58.

(170) To resolve into committee of the whole. Yes. Passed, 309–1.

(171) To ban strip mining in Western alluvial valleys. Yes. Passed 170–149.

(172) To require $300 million from Outer Continental Shelf oil leasing be diverted to pay for abandoned strip mine reclamation. No. Failed, 85–226.

(173) Motion to recommit Surface Mining Control and Reclamation Act. No. Failed, 83–228.

(174) Passage of strip mining bill. Yes. Passed, 241–64.

(175) Appropriations for U.S. territories. Yes. Passed, 379–3.

(176) To authorize $31.1 million for San Luis reclamation project. Yes. Passed, 377–14.

(177) To authorize $1.6 billion for Energy Research and Development Administration. Yes, Passed, 360–30.

(178) Veterans Administration Medical Facilities Acquisition Act, requiring tighter congressional oversight. Yes. Passed, 373–19.

(179) To permit state legislators to deduct away-from-home expenses in connection with legislative duties in 1976–77. Yes. Passed, 372–6.

(180) To extend Defense Production Act for two years. Yes. Passed, 385–3.

(181) To provide $440,000 for expenses of Select Committee on Congressional Operations. Yes. Passed, 262–131.

(182) To extend Export-Import Bank authority to coincide with new fiscal year; require consideration of human rights in authorizing loans; congressional review of nuclear-related loans (introduced by Neal). Yes. Passed, 281–126.

(183) To strike language from Public Works Employment Act which would require spending money previously allocated for water resources projects. Yes. Failed, 108–302.

(184) Final passage, Public Works Employment Act (jobs bill). Yes. Passed, 335–77.

(185) To consider (adopt rule) on U.S. Railway Association Authorization, for FY 1978. Yes. Passed, 409–0.

(186) To require feasibility reports on verifying arms control agreements. No. Passed, 259–148.

(187) To authorize $14.6 million for Arms Control and Disarmament Agency. Yes. Passed, 395–15.

(188) To authorize $13 million for administrative expenses of U.S. Railway Assn. Yes. Passed, 358–50.

(189) To adopt rule on Foreign Relations Authorizations. Yes. Passed 391–23.

(190) To provide $20.1 billion budget authority for economic stimulus package. Yes. Passed, 326–87.

(191) To reduce authorization for U.N. Ambassador's office. No. Failed, 91–318.

(192) To reduce U.S. contribution to United Nations. No. Failed, 149–257.

(193) To change language of Foreign Relations Authorization to require that any new Panama Canal treaty must "protect the vital interests of the United States," instead of "prohibiting use of funds for negotiations to surrender or relinquish the Panama Canal." Yes. Passed, 220–182.

(194) To prohibit use of foreign relations funds to negotiate any aid for Vietnam. No. Passed, 236–131.

(195) $1.68 billion for foreign relations operations. State Department, etc. Yes. Passed, 285–111.

(197) Budget Resolution: To increase defense spending targets by $8 billion in authorizations, $2 billion in outlays. No. Failed, 176–233.

(198) Budget Resolution: To increase defense authorizations by $2 billion, outlays by $1 billion. No. Failed, 184–223.

(199) Budget Resolution: To increase defense authorizations by $1 billion, outlays by $1 billion. No. Failed, 190–214.

(200) Budget Resolution: To reduce defense authorizations $1.15 billion and outlays target by $300 million. Yes. Failed, 88–315.

(201) Budget Resolution: To increase authority and outlays for veterans' benefits by $175 million, with intention to provide new pension for World War I veterans. No. Passed, 282–100.

(202) Budget Resolution: To increase defense spending targets $3 billion and outlays $2 billion; decrease budget authority and outlays targets for interest on national debt by $2.1 billion; and increase revenue target $3.3 billion. No. Failed, 85–306.

(203) Budget Resolution: To reduce outlays by $24 billion and the deficit by $21 billions and give across-the-board 10% tax reduction for individuals. No. Failed, 150–240.

(204) Budget Resolution: Final passage, setting spending limit at $464.5 billion. Yes. Passed, 213–179.

(205) To consider (adopt rule) on Housing and Community Development Act Amendments. Yes. Passed, 280–4.

(206) To establish Eleanor Roosevelt National Historical Site at Hyde Park, N.Y. Yes. Passed, 337–43.

(207) To authorize $1.1 billion through 1982 for programs under Education of the Handicapped Act. Yes. Passed, 376–2.

(208) To extend deadline for Civil Rights Commission report on age discrimination. Yes. Passed, 379–0.

(209) Higher Education Technical Amendments. Yes. Passed, 382–1.

(210) To authorize funds and continue appointment of counsel to represent the House and its Commerce Committee in court case, U.S. versus AT&T. Yes. Passed, 246–143.

(211) To recommit resolution dismissing the election of Rep. Gammage. No. Failed, 126–260.

(212) To dismiss the election contest against Rep. Mikva. Yes. Passed, 272–107.

(213) To dismiss the election contest against Rep. Pursell. Yes. Passed, 371–8.

(214) To approve journal of May 9. Yes. Passed, 381–12.

(215) To prohibit Alaskan pipeline oil from being exported for two years. No. Passed, 240–166.

(216) To increase authorization and extent Tinicum National Environmental Center. Yes. Passed, 374–32.

(217) To authorize U.S. contribution to International Commission for Conservation of Atlantic Tunas. Yes. Passed, 407–2.

(218) To authorize $13.5 million for Commercial Fisheries Development Act for FY 1978–80. Yes. Passed, 402–9.

(219) To strike dual formula for allocating Community Development Block Grants. No. Failed, 149–261.

(220) To approve journal of May 10. Yes. Passed, 386–12.

(221) To require 25% of Urban Development Grant funds go to communities under 50,000 population. Yes. Passed, 279–129.

(222) To delete sanctions against communities which refuse to participate in flood insurance programs (Housing and Community Development Act). No. Passed, 220–169.

(223) Final passage, reauthorizing for three years the Housing and Community Development block grants. Yes. Passed, 369–20.

(224) To adopt rule (consider) International Development and Food Assistance Act. Yes. Passed, 380–14.

(225) To reduce U.S. funds by $25.8 million to international development agencies. No. Passed, 233–171.

(226) To remove tobacco as an agricultural commodity eligible for export financing under P.L. 480 program. Yes. Passed, 229–178.

(227) To prohibit aid to Vietnam and Cuba under P.L. 480 program. No. Passed, 288–119.

(228) To authorize $1.68 billion for international development and international disaster assistance. Yes. Passed, 252–158.

(229) To consider (adopt rule) on Intergovernmental Antirecession Assistance Act. Yes. Passed, 390–3.

(230) To resolve into Committee of the Whole. Yes. Passed, 322–0.

(231) To base countercyclical fund on state and local effort, instead of unemployment rates. No. Failed, 127–216.

(232) To extend countercyclical aid program and revise formula. No. Passed, 243–94.

(233) To authorize $560,000 for National Committee on Atmosphere and Oceans. Yes. Passed, 387–6.

(234) To extend funding authority for Seal Beach National Wildlife Refuge. Yes. Passed, 384–4.

(235) To increase authorization for Canal Zone Biological Area. Yes. Passed, 245–141.

(236) To extend voluntary insurance program of Fisherman's Protective Act. Yes. Passed, 239–151.

(237) To adopt conference report, Tax Reduction and Simplification Act, providing tax cuts in FY 1977, 1978 and 1979. Yes. Passed, 383–2.

(238) To add Intergovernmental Antirecession Assistance Act to the tax bill. No. Passed, 252–134.

(240) Final passage, to create a Young Adult Conservation Corps and other youth employment measures. Yes. Passed, 334–61.

(241) To extend and fund Drug Enforcement Administration. Yes. Passed, 393–1.

(242) To authorize $67 million for Securities and Exchange Commission Yes. Passed, 375–22.

(243) To authorize $10 million for water resources planning and management. Yes. Passed, 397–2.

(244) To authorize $5.9 million for U.S. Water Resources Council. Yes. Passed, 390–6.

(245) To authorize continued funding for 18 river basin projects. Yes. Passed, 310–89.

(246) To authorize survey of Medicine Bow National Forest. Yes. Passed, 371–26.

(247) To allow Secretary of Transportation to provide aviation insurance to cover losses from riots, civil disorders, hijackings and similar acts. Yes. Passed, 388–8.

(248) To authorize "such sums as necessary" for the administration of federal disaster programs in fiscal year 1978. Yes. Passed, 393–5.

(249) To authorize $3.5 million a year for administration of Deepwater Port Act. Yes. Passed, 387–6.

(250) To authorize feasibility study of installing solar energy equipment in House of Representatives buildings. Yes. Passed, 368–29.

(251) To authorize $225 million for fiscal year 1977 and "such sums as necessary" in 1978 to make loans and grants to drought-affected areas. Yes. Passed, 395–2.

(252) To adopt conference report. First fiscal year 1978 Budget Resolution, including an outlays target of $460.95 billion. Y Passed, 221–177.

(254) To consider (adopt rule) on N tional School Lunch and Child Nutriti Amendments. Yes. Passed, 388–10.

(255) To limit number of children in ea State who could participate in summer fo ing program to 200% of children ages 5- in families with poverty-level incomes. N Failed, 180–216.

(256) To limit number in local summ feeding program to local number eligible reduced-price meals in regular school pr grams. No. Failed, 192–216.

(257) To give local school districts cho of cash or commodities for school lunch pr grams. No. Failed, 138–272.

(258) Final passage, to extend the summ feeding program of School Lunch A revising provisions to control fraud a abuse. Yes. Passed, 393–19.

(259) To consider (adopt rule) on Inte national Security Assistance for FY 19 Yes. Passed, 359–48.

(260) To consider (adopt rule) on Fede Employees Political Activities Act. Y Passed, 348–60.

(261) To assert federal employee's right refrain from forming, joining, or participa ing in any organization or group which e courages political activity. No. Passed, 25 144.

(262) To prohibit job referrals by Membe of Congress, etc., for job applicants seeki employment with Civil Service. Yes. Faile 153–248.

(263) To limit debate on Federal Emplo ees Political Activities Act. No. Failed, 16 237.

(264) To prohibit federal employees fro running for federal or full-time state or lo offices. No. Failed, 143–266.

(265) To prohibit intimidation or coercio of federal employees by an employee org nization in regard to political activity. N Passed, 229–168.

(266) To delete language from Politic Activities bill relating to criminal penalti for extortion. No. Failed, 73–319.

(267) To rise from consideration of Polit cal Activities Act. Yes. Passed, 326–94.

(268) To extend Juvenile Justice and D linquency Prevention Act for three yea Yes. Passed, 389–5.

(270) To extend for three months the Pr vacy Protection Study Commission. Ye Passed, 387–3.

(271) To increase by 6% the disabili compensation to veterans and for dependen and indemnity compensation to their su vivors. Yes. Passed, 393–0.

(272) To increase disability compensatio for some veterans who have suffered loss paired extremities. No. Passed, 385–7.

(273) To extend automobile assistance a lowance to disabled veterans of World War No. Passed, 386–11.

(274) To authorize $10.54 million for U. Commission on Civil Rights for FY 1978. Ye Passed, 365–34.

(275) To allow closed conference meeting on Military Procurement Authorizations fo FY 1978. Yes. Passed, 273–114.

(276) To delete $700,000 for military edu cation and training programs in Argentin and prohibit arms sales to that country. N Failed, 187–200.

(277) To resolve into Committee of th Whole to consider International Security A sistance. Yes. Passed 400–0.

(278) To delete $100 million for Souther Africa Special Requirements Fund (Inter national Security). No. Failed, 204–208.

(279) To delete requirements for "majo ity-ruled" for receiving funds from Souther Africa Special Requirements Fund. Ye Passed, 238–173.

(280) To reduce authorized ceiling fo FY 1978 military sales by $102.8 million. N Failed, 139–260.

(261) To recommit International Security Assistance bill with instructions to permit the President to lift arms embargo against Turkey. No. Failed, 150–256.

(262) International Security: To authorize $3.2 billion in U.S. grant military assistance, foreign military credit sales and guarantees, and security supporting assistance. Yes. Passed, 242–163.

(263) To consider (adopt rule) on Clean Air Act Amendments. Yes. Passed, 363–1.

(264) To resolve into Committee of the Whole to consider Clean Air Act Amendments. Yes. Passed, 269–1.

(265) To permit governors to grant variances in clean air standards for stationary sources such as power plants. Yes. Failed, 170–237.

(266) To permit governors, after public hearings, to grant variances so new or modified sources (industries and power plants) could exceed allowable limits for sulfur oxide and particles for 5 percent of days of the year. No. Passed, 237–172.

(267) To postpone new compliance provisions for areas that have not attained health standards for clean air, until 60 days after EPA's required one-year study of non-attainment policy. No. Failed, 162–242.

(268) To resolve into Committee of the Whole to consider Clean Air Act Amendments. Yes. Passed, 380–55.

(269) To modify auto emissions standards. Yes. Failed, 190–202.

(290) To put off standards for auto hydrocarbon emissions until 1980 and allow higher emissions of carbon monoxide and nitrogen oxides. Yes. Passed, 255–139.

(291) Final passage. Clean Air Act Amendments. Yes. Passed, 326–49.

(292) Peace Corps Authorization (rule). Yes. Passed, 333–2.

(293) Marine Mammal Protection, porpoise quota amendment. Yes. Passed, 244–109.

(294) Marine Mammal, porpoise kill penalties. No. Failed, 158–194.

(295) Marine Mammal Protection, final passage. Yes. Passed, 334–20.

(293) Peace Corps Authorization, final passage. Yes. Passed, 305–43.

(297) Rule on Department of Energy. Yes. Passed, 346–2.

(298) To establish National Energy Board. No. Failed, 83–277.

(299) To strike authority to regulate well head price of natural gas. No. Passed, 236–119.

(300) To remove DOE oversight of individual leases. Yes. Failed, 170–180.

(301) To allow congressional veto of DOE regulations. No. Passed, 200–125.

(302) Resolve into Committee of the Whole. Yes. Passed, 313–0.

(303) Prohibit DOE employees from taking jobs in private regulated industry. Yes. Failed, 146–184.

(304) "Sunset" date of 1982 for DOE. No. Passed, 202–126.

(305) Final passage, Department of Energy. Yes. Passed, 310–20.

(306) To increase Federal Crop Insurance Corp. stock limit from $100 million to $150 million. Yes. Passed, 377–5.

(307) To appraise soil and water conservation resources and develop long-range policy for orderly development. Yes. Passed, 365–16.

(308) To extend Federal Energy Agency through FY 1978 and give FEA authority to require power plants to convert to coal. Yes. Passed, 272–111.

(309) To exempt Members of Congress from the taxes of states and localities other than those from which they were elected. Present. Passed, 294–83.

(311) To repeal language in Military Construction bill relating to Davis-Bacon Act on projects to which it would not otherwise apply. No. Failed, 76–298.

(312) To authorize $3.5 billion for FY 1978 for military construction and family housing. Yes. Passed, 351–24.

(313) To resolve into Committee of the Whole to consider Federal Employees Political Activities Act. Yes. Passed, 371–26.

(314) To bar use of organization funds for political purposes, etc. No. Failed, 131–277.

(315) To clarify language pertaining to use of dues. Yes. Passed, 266–139.

(316) To eliminate all exceptions under which persons in restricted categories may participate in political campaigns. No. Failed, 56–344.

(317) To define extortion as including coercion through use of authority and the use of fear or violence. No. Failed, 190–219.

(318) To prohibit federal employees from soliciting campaign funds from fellow employees. Yes. Failed, 156–251.

(319) Final passage, Federal Employees Political Activities Act of 1977. Yes. Passed, 244–164.

(320) Conference report authorizing $4.7 million for Kennedy Center repairs. Yes. Passed, 291–90.

(321) To provide $7.52 budget authority for Treasury Department, Postal Services, Executive Office of the President, and various independent agencies. Yes. Passed, 359–45.

(322) To prohibit SST operations at New York unless SST met FAA noise standards for subsonic aircraft. No. Failed, 128–274.

(323) To provide $5.9 billion budget authority for Department of Transportation and related agencies. Yes. Passed, 391–11.

(324) To consider (adopt rule) on Victims of Crime Act. Yes. Passed, 213–79.

(325) To consider (adopt rule) on Interior Appropriations for FY 1978. No. Passed, 332–65.

(326) To increase funding for Energy Research and Development Administration. Yes. Failed, 145–251.

(327) Final passage, to appropriate $9.5 billion for Department of the Interior and related agencies. Yes. Passed, 395–7.

(328) To consider (adopt rule) on Legal Services Corp. Act Amendments. Yes. Passed, 352–52.

(329) To prohibit legal service attorneys from engaging in political activity or running for public office. No. Failed, 178–198.

(331) Conference report to extend Export Administration Act. Yes. Passed, 306–41.

(332) To prohibit use of State Department funds for U.S. diplomatic personnel assigned to Cuba or the Swiss Embassy in Cuba. No. Failed, 139–206.

(333) To resolve into Committee of the Whole to consider State-Justice-Commerce-Judiciary appropriations. DNV. Passed, 354–2.

(334) To increase LEAA authorization from $500 million to $704.5 million. No. Failed, 172–210.

(335) To appropriate $7.62 billion for State-Justice-Commerce-Judiciary. Yes. Passed, 353–42.

(336) To authorize $900,000 for investigation of past and prospective changes in world economy. Yes. Passed, 324–79.

(337) To make changes in Supplemental Security Income benefits, etc. No. Passed, 335–64.

(338) Public Works: To delete funding for 16 water projects. Yes. Failed, 194–216.

(339) Public works: To provide $10.2 billion in budget authority for FY 1978. Yes. Passed, 356–54.

(340) To consider (adopt rule) on HUD and related agencies appropriations. Yes. Passed, 370–20.

(342) HUD: To require 75% of new low income housing units be for elderly and handicapped. No. Failed, 183–214.

(343) HUD: To strike provision preventing Comprehensive Planning Grant funds from going to cities of over 50,000. No. Failed, 156–248.

(344) To prohibit use of VA funds to adjudicate claims or pay benefits to persons whose military discharges have been upgraded under President's Special Discharge Review program. No. Passed, 273–136.

(345) HUD: To reduce total budget authority by 1% for nonentitlement programs. No. Failed, 169–237.

(346) HUD: Final passage, $70.23 billion for HUD, NASA, Veterans Administration. DNV. Passed, 374–32.

(347) To resolve into Committee of the Whole to consider Labor-HEW appropriations. Yes. Passed 342–4.

(348) Labor-HEW: To reduce funding for OSHA. No. Failed, 192–231.

(349) Labor-HEW: To reduce total appropriations by $563.5 million, affecting 11 health, education and elderly programs. No. Failed, 72–334.

(350) Labor-HEW: To prohibit HEW from requiring the busing of students beyond the schools nearest their homes. No. Passed, 225–157.

(351) To insist on human rights considerations in activities of International Banking Agencies. No. Failed, 161–200.

(352) Labor-HEW: To prohibit use of federal funds to pay for abortions. No. Passed, 201–155.

(353) To consider (adopt rule) on Agriculture Appropriations. Yes. Passed, 352–5.

(354) Agriculture: To prohibit use of funds for subsidy payments to sugar processors. No. Failed, 119–272.

(355) To direct House conferees to insist on "sunset" clause for Department of Energy. No. Passed, 228–179.

(356) Agriculture: To reduce appropriation for food stamp program by $673 million. No. Failed, 154–262.

(357) Agriculture: $12.7 new budget authority for agricultural, rural development, and domestic and international food programs. Yes. Passed, 380–35.

(358) Military Construction: To consider (adopt rule). Yes. Passed, 404–0.

(359) Military Construction: To provide new budget authority of $2.8 billion for military construction and family housing. Yes. Passed, 391–16.

(360) To consider (adopt rule) on Foreign Assistance Appropriations. Yes. Passed, 349–41.

(361) Foreign Assistance: To cut $31 million from the $120 million for the UN Development Program. No. Failed, 182–232.

(362) Foreign Assistance: To delete $50 million for development of Sahel region of Africa. No. Failed, 160–255.

(363) Foreign Assistance: To delete $100 million for the Southern African Special Requirements Fund. No. Failed, 199–209.

(364) Foreign Assistance: To prohibit use of $700,000 earmarked for training military forces in Argentina. Yes. Passed, 223–180.

(365) Foreign Assistance: To prohibit use of funds from being used directly or through multilateral lending institutions in Uganda, Cambodia, Laos or Vietnam. No. Passed, 295–115.

(366) Foreign Assistance: To prohibit payment of reparations to Vietnam. Yes. Passed, 359–33.

(367) Foreign Assistance: To resolve into Committee of the Whole. Yes. Passed, 382–5.

(369) To reduce U.S. contributions to the International Development Association by $477 million to $473 million. No. Failed, 175–233.

(370) Foreign Assistance: Motion to limit debate. Yes. Failed, 171–220.

(371) Foreign Assistance: To reinstate funds for military assistance for Nicaragua. No. Passed, 225–180.

(372) Foreign Assistance: To oppose international loans to expand sugar production, palm oil, or citrus crops. No. Passed, 209–179.

(373) Foreign Assistance: To prohibit use of funds for trade or assistance to Cuba. No. Passed, 274–112.

(374) Foreign Assistance: To reduce funds by 5 per cent. No. Passed, 214–168.

(375) Foreign Assistance: Final passage, $7 billion for foreign aid, international lending institutions, and operations of State Department. Yes. Passed, 208–174.

(376) Defense Appropriations: To consider (adopt rule). Yes. Passed, 337–1.

(378) Defense: To delete $65 million for Lance missile. Yes. Failed, 123–226.

(379) To resolve into Committee of Whole to consider Legal Services Corp. Act. DNV. Passed, 359–1.

(380) Legal Services: To reduce authorization from $238.7 million to $175 million. No. (8–2–1). Failed, 158–221.

(381) Legal Services: To require Office of Management and Budget to approve any budget request made by the corporation. No. Failed, 160–223.

(382) Legal Services: To prohibit corporation-funded lawyers from becoming involved in school desegregation cases. No. Passed, 208–174.

(383) Legal Services: To terminate funding for Legal Services Corp. on Sept. 30, 1979. No. Failed, 166–214.

(384) Legal Services: To prohibit legal services attorneys from providing legal assistance in cases involving homosexual rights. No. Passed, 230–133.

(385) Legal Services: Motion to recommit with instructions. No. Failed, 154–213.

(386) Legal Services Corp.: To authorize $492 million for two years. Yes. Passed, 267–103.

(387) To approve journal of June 27. DNV. Passed, 377–15.

(388) To deny the Oct. 1, 1977, cost-of-living adjustments to persons, including Members of Congress, who received pay raises on March 1. Yes. Passed, 397–20.

(389) Defense Appropriations: To delete $1.5 billion for the production of five B–1 bombers. Yes. Failed, 178–243.

(390) To reduce production of A–10 attack aircraft from 144 to 96 planes. No. Failed, 122–299.

(392) Legislative Appropriations: Adoption of the rule. Passed, 279–139.

(393) Legislative: To rescind March 1 pay raise for Members of Congress, the Vice President, White House staff and other executive branch officials. No. Failed 181–241.

(394) Legislative: To provide salary expense funds for the Joint Committee on Defense Production. Yes. Failed, 172–244.

(395) Legislative: To delete $55 million for extension of the west front of the Capitol building. Yes. Failed, 204–212.

(396) Legislative Appropriations: Final passage, $928.8 million for operation of the legislative branch and related agencies and extension of the Capitol building. Yes. Passed, 250–161.

(397) Defense Appropriations: To resolve into Committee of the Whole. Yes. Passed, 399–1.

(398) Defense: To delete $26 million for development of a new engine for F–14 fighter. No. Failed, 122–282.

(399) Defense: To delete provision to phase out civilian technicians employed by the National Guard. Yes. Passed, 288–119.

(400) Defense: To prohibit use of funds to review the status of MIAs in Southeast Asia. No. Failed, 160–246.

(401) Defense: To strike prohibition against military retirees receiving both retirement pay and salary for a federal job. No. Passed, 219–174.

(402) Defense Appropriations: Final passage, $110.6 billion in new budget authority and transfers from other accounts. Yes. Passed, 333–54.

(403) To designate week of Sept. 18 "National Lupus Week." Yes. Passed 297–3.

(404) To authorize memorial to 56 signers of the Declaration of Independence. Yes. Passed, 302–3.

(405) To consider (adopt rule) Indian Claims Filing Extension. DNV. Passed, 299–0.

(406) Veterans: To extend eligibility for specially adapted housing grants to veterans who have lost one upper and one lower extremity. Yes. Passed, 403–0.

(407) Veterans: To provide 7 percent cost-of-living increase in VA benefits and other beneficial adjustments. Yes. Passed, 403–0.

(408) To extend for two years the limit under which the Federal Government, as trustee for the Indians, may file suit for monetary damages. Yes. Passed, 231–69.

(409) Defense: To adopt conference report. $36.1 billion for Military Procurement and Research and Development. No. Passed, 350–40.

(410) To prohibit subsidies for shipment of grain to the Soviet Union in U.S. ships. Yes. Failed, 143–251.

(411) To authorize $553.6 million for maritime programs, including subsidies for vessel construction and operation. Yes. Passed, 355–40.

(412) To consider (adopt rule) National Consumer Cooperative Bank Act. Yes. Passed, 339–55.

(413) Consumer Bank: To resolve into Committee of the Whole. Yes. Passed, 349–1.

(414) Consumer Bank: Substitute to establish a two-year pilot. Yes. Failed, 170–228.

(415) Consumer Bank: To terminate the Act on Dec. 31, 1982, transferring loans and contracts to another agency. No. Passed, 203–196.

(416) Consumer Bank: To establish a National Consumer Cooperative Bank to make loans at market interest rates to consumer cooperatives. Yes. Passed, 199–196.

(417) To establish a permanent Select Committee on Intelligence. Yes. Passed, 227–171.

(418) To consider (adopt rule) Federal Mine Safety and Health Act. DNV. Passed, 359–11.

(419) To resolve into Committee of the Whole to consider Mine Safety Act. Yes. Passed, 298–3.

(420) Mine Safety: To keep Interior Secretary as administrator of the Act and retain safety enforcement in Interior, instead of Labor, Department. No. Failed, 112–227.

(421) Mine Safety: Substitute bill, transferring to Labor Department, etc. No. Failed, 151–188.

(422) Mine Safety: To permit states to administer non-coal mine health and safety programs. Yes. Failed, 165–169.

(423) Mine Safety: Final passage, transferring to Labor Department, combining coal and non-coal standards, setting mandatory dollar penalties for violations. Yes. Passed 244–88.

(424) To authorize $8.1 million for Federal Election Commission. Yes. Passed, 382–22.

(425) To proclaim Thanksgiving week "National Family Week." Yes. Passed, 400–3.

(426) To direct Department of Commerce to determine the paperwork burden of the 1974 agricultural census and take steps to reduce it by 40 percent. Yes. Passed, 401–0.

(427) To increase salaries of director and deputy director of Office of Management and Budget. No. Passed, 252–158.

(428) To approve additional supergrade positions for Administrative Office of the U.S. Courts. No. Failed, 189–224.

(429) To authorize 100 additional hearing examiners (administrative law judges). Yes. Passed, 284–131.

(430) To reduce time federal employee must serve to retain life and health insurance benefits during retirement. No. Passed, 373–37.

(431) To adopt conference report, $6.2 billion in new budget authority for Dep ment of Transportation. Yes. Passed, 37

(432) To adopt conference report, billion in new budget authority for St Justice-Commerce-Judiciary. Yes. Pa 326–65.

(433) Conference report, $69.5 billion new budget authority for Department Housing and Urban Development and i pendent agencies, including Veterans ministration. Yes. Passed, 379–30.

(434) To strike from HUD appropriat $20.7 million for Jupiter Orbiter Probe. Failed, 131–280.

(435) HUD: To insist on House lang prohibiting use of VA funds to adjudi claims or pay benefits to individuals re ing upgraded discharges under Preside program. No. Passed, 251–160.

(436) Conference report authorizing billion for National Aeronautics and S Administration. Yes. Passed, 379–29.

(437) Conference report authorizing billion for military construction and fa housing. Yes. Passed, 370–34.

(438) Conference report establishing Young Adult Conservation Corps. Passed, 356–58.

(439) To consider (adopt rule) Agri tural Act of 1977. Yes. Passed, 367–38.

(440) To approve journal of July 19, 1 Yes. Passed, 386–12.

(441) Conference report to authorize fu (61.9 million) for water resources rese and saline water conversion. Yes. Pa 401–1.

(442) Conference report, extending authorizing $3.4 billion for federal he services, biomedical research, and he planning and resources development grams. Yes. Passed, 401–6.

(444) Farm: To set the payment limita for wheat, feed grains, rice and cotton $20,000. No. Failed, 182–230.

(445) Farm: To prohibit non-farm co rations from receiving payments on f production. Yes. Failed, 199–207.

(446) Defense: To allow closed meeti on Defense Appropriations when classi information is under consideration. Passed, 376–0.

(447) Conference report, authorizing $ billion for international development food assistance. Yes. Passed, 254–158.

(448) Conference report, authorizing billion for international security assista and foreign military sales. Yes. Passed, 2 147.

(449) Farm: To limit to $50,000 the ann payments sugar producers could receive der any farm program. No. Failed, 167–

(450) To establish a federal-state progr to regulate coal surface mining and requ the reclamation of mined lands. Yes. Pas 325–68.

(451) To resolve into Committee of Whole to consider Agricultural Act. Passed, 352–4.

(452) Farm: Establish standards for milk content of ice cream. Yes. Passed, 3 11.

(453) Farm: To establish a mandat grain reserve of up to 6 million tons. Failed, 141–223.

(454) Conference report, $10.2 billion public works and energy research appropr tions. Yes. Passed, 318–61.

(455) To consider (adopt rule) Black Lu Benefits Reform Act. Yes. Passed, 306–

(456) Conference report, $890 million activities of the Legislative Branch and lated agencies. Yes. Passed, 252–152.

(457) Conference report, to recede fr disagreement with Senate amendment p viding $225,000 for Joint Committee on D fense Production. Yes. Failed, 160–250.

(458) Farm: To reduce peanut price su ports from Agricultural Act level of $420 ton. Yes. Failed, 207–210.

(459) Farm: To provide that Title I of t

P.L. 480 program give priority to financing food and fiber commodities, thus restoring tobacco to the program. Yes. Passed, 260–151.

(460) Farm: Conference report appropriating $12.7 billion for agricultural, rural development, food stamp, domestic and international food programs. Yes. Passed, 377–33.

(461) To resolve into Committee of the Whole to resume consideration of Agricultural Act. Yes. Passed, 410–4.

(462) Farm: To bar use of food stamps to buy foods designated by Secretary of Agriculture as having negligible nutritional value, such as chewing gum, ice cubes, carbonated beverages, etc. No. Failed, 185–227.

(463) Farm: To limit food stamp expenditures in 1978 to $5.6 billion. No. Failed, 168–248.

(464) Farm: To set limit of food stamp program expenditures at $5.85 billion for FY 1978; $6.16 billion for FY 1979; $6.19 billion for FY 1980; and $6.24 billion for FY 1981. No. Passed, 242–173.

(465) Farm: To exempt strikers from Kelly amendment (barring food stamps for strikers) if they had households with children under age 16. No. Failed, 152–266.

(466) Farm: To exclude strikers' households from Kelly Amendment if they contained children under 16, or disabled or elderly dependents. No. Failed, 190–227.

(467) Farm: To bar strikers from food stamp program unless the household was eligible before strike. No. Failed, 170–249.

(468) Farm: To restore to the bill the purchase requirements provisions of the current food stamp program. No. Failed, 102–317.

(469) Farm: To provide for government recovery of excess allocation of food stamps. No. Failed, 149–262.

(470) Farm: To resolve into Committee of the Whole to consider Agricultural Act. Yes. Passed, 386–4.

(472) Farm: To require USDA to implement any additional work/workfare projects which state agencies request. No. Failed, 159–255.

(473) Farm: To eliminate purchase requirement and tighten eligibility standards for food stamps. Yes. Passed, 320–91.

(474) Farm: To delete establishment of a wheat and wheat foods research and nutrition education program. Yes. Passed, 300–109.

(475) Farm: To add sugar beets and sugar cane to list of commodities eligible for government price supports. Yes. Passed, 246–165.

(476) Farm: To provide price supports of up to 13.5 cents a pound for sugar beets and sugar cane for 1977. Yes. Failed, 173–238.

(477) Farm: Motion to recommit Agricultural Act with instructions to set payment limitation of $30,000 for wheat, feed grains, rice and sugar. No. Failed, 201–210.

(478) Farm: Final passage, Agricultural Act extending major commodity programs for four years, etc. Yes. Passed, 294–114.

(479) To approve Journal of July 28. Yes. Passed, 342–18.

(480) To adjourn from Aug. 5 to Sept. 7. Yes. Passed, 320–54.

(481) To establish two positions on Capitol Police Force. Yes. Passed, 383–2.

(482) To extend several programs of HUD, including Farmers Home Administration rural housing program. DNV. Passed, 383–2.

(483) To bar amendments and close debate on the rule on National Energy Act. Yes. Passed, 231–156.

(484) To consider (adopt rule) National Energy Act, permitting one day of debate. Yes. Passed, 238–148.

(485) To affirm vote on the rule, National Energy Act. Yes. Passed, 254–120.

(486) To consider (adopt rule) Fair Labor Standards Amendments. Yes. Passed, 331–44.

(487) To resolve into Committee of the Whole to consider National Energy Act. Yes. Passed, 365–12.

(488) To adopt rule on conference report, Department of Energy Organization Act. Yes. Passed, 294–115.

(489) Energy: Motion to recommit conference report. No. Failed, 157–257.

(490) Energy: Conference report, to establish a cabinet-level Department of Energy. Yes. Passed, 353–77.

(491) Energy: To reconcile differing versions of the utility weatherization program reported by the Commerce and Banking committees. No. Passed, 217–205.

(492) Energy: To direct Department of Transportation to study the fuel savings potential of off-highway recreational vehicles and recommend efficiency standards. Yes. Passed, 212–210.

(493) Energy: To direct DOT to study energy saving potential of increased bicycle use. Yes. Passed, 252–166.

(494) Energy: To extend Davis Bacon Act to construction work funded by grants for energy conservation in municipal buildings. Yes. Passed, 265–151.

(495) Energy: To authorize $65 million in grants to state and local government for implementing energy-saving maintenance. No. Passed, 317–105.

(496) Labor, HEW: Conference report, to appropriate $60.2 billion for Labor-HEW Related Agencies. Yes. Passed, 337–82.

(497) Labor-HEW: Amendment to conference report stating that none of the bill's funds shall be used to perform abortions except where the life of the mother would be endangered, etc. No. Passed 238–182.

(498) Energy: To resolve into Committee of the Whole. Yes. Passed, 404–5.

(499) Energy: To remove price controls from new on-shore natural gas as of April 30, 1978. Yes. Failed, 199–227.

(500) Energy: To delete provision extending federal antitrust jurisdiction to the siting of fossil fuel electric generating plants. No. Passed, 257–160.

(501) Energy: To delete the van pooling program for federal employees. No. Passed 232–184.

(502) Energy: To resolve into Committee of the Whole. Yes. Passed, 378–3.

(503) Energy: To impose additional 5-cent-a-gallon gasoline tax—half going for mass transportation, half for improving bridges, roads and highways. No. Failed, 82–339.

(504) Energy: To increase gasoline tax by four cents a gallon in two stages. No. Failed, 52–370.

(505) Energy: To permit oil and gas producers to recover part of their oil equalization taxes if they invested more than 25% of gross production in the exploration and production. No. Failed, 198–223.

(506) Energy: To transfer all revenue from crude oil equalization tax in 1978 to Social Security Trust Fund. No. Failed, 190–226.

(507) To provide $302,499 for investigations and studies by the permanent Select Committee on Intelligence. Yes. Passed, 342–10.

(508) Energy: To increase the earned income credit instead of providing rebates and tax credits for the crude oil equalization tax. DNV. Failed, 175–232.

(509) Energy: To delete exemptions from the oil and gas users tax that were provided for new plants which are exempt from the coal conversion program. Yes. Passed, 221–198.

(510) Energy: Anderson substitute for National Energy Act. No. Failed, 147–278.

(511) Energy: To delete the federal van pooling program. No. Passed, 239–180.

(512) Energy: To recommit National Energy Act with instructions to delete crude oil equalization tax. No. Failed, 203–219.

(513) Energy: Final passage, National Energy Act, providing tax credits for converting boilers to coal and weathering homes. It also increased the price of natural gas, set a national policy for regulating electric utilities, required efficiency labeling of appliances and cars, and set a program for fuel conservation in federal facilities. Yes. Passed, 244–177.

(516) To adopt conference report on defense appropriations ($109 billion in new budget authority). Yes. Passed, 361–36.

(518) Amendment to conference report to delete $1.4 billion to build five B–1 bombers. Yes. Passed, 202–199.

(520) Budget resolution: To reduce outlays ceiling by $52 billion and increase revenue floor by $8 billion to achieve a balanced budget. No. Failed, 169–230.

(522) Budget: To reduce revenue floor by $175 million to provide tax credit for tuition of full-time college and vocational school students. Yes. Passed, 311–76.

(523) Budget: To reduce budget authority ceiling by $109 million and outlays ceiling by $108 million to reduce U.S. food commodity support programs for South Korea. No. Failed, 181–205.

(524) Budget: To lower budget ceiling $144 million and outlays ceiling $110 million to reduce U.S. military and economic aid to S. Korea. No. Failed, 102–268.

(525) Budget: Adoption of the Second FY 1978 Budget Resolution setting outlay ceiling at $459.5 billion and a projected deficit of $61.6 billion. Yes. Passed, 199–188.

(526) To consider (adopt rule) ERDA National Security Authorization for FY 1978. Yes. Passed, 348–0.

(527) To consider (adopt rule) ERDA Civilian R&D Authorization for FY 1978. Yes. Passed, 338–14.

(528) To consider (adopt rule) Federal Banking Agency Audit Act. Yes. Passed, 312–47.

(529) To consider (adopt rule) Age Discrimination in Employment Act Amendments. Yes. Passed, 362–0.

(530) To consider (adopt rule) Earthquake Hazards Reduction Act. Yes. Passed, 350–3.

(531) To consider (adopt rule) National Climate Program Act. Yes. Passed, 348–2.

(532) To authorize $210 million for national earthquake hazards reduction program. No. Passed, 229–125.

(533) To establish a federal National Climate Program Office to develop a climate prediction program. Yes. Passed, 282–60.

(535) To authorize $302 million for salaries and expenses of Nuclear Regulatory Commission. Yes. Passed, 396–2.

(536) To designate 16 areas containing 1.2 million acres in western U.S. for inclusion in the National Wilderness Preservation System. Yes. Passed, 380–18.

(537) To require VA to review any discharge upgraded under President's Special Discharge Review Program before extending benefits to the veteran. Yes. Passed, 321–75.

(538) To increase educational assistance allowances for all veterans' educational programs by 6.6 per cent. Yes. Passed, 397–0.

(539) To authorize special incentive pay for VA physicians and dentists. Yes. Passed, 397–1.

(540) To repeal requirement that VA make random inspections of mobile homes purchased with VA loans. Yes. Passed, 394–1.

(541) To increase liability of persons who cause oil spills and establish $200 million fund to pay for clean-up and damages caused by oil pollution. Yes. Passed, 332–59.

(542) To authorize cost-of-living increases under the Retired Servicemen's Family Protection Plan. Yes. Passed, 391–0.

(545) To adopt conference report on Second FY Budget Resolution setting an outlay ceiling of $458.8 billion and projecting a deficit of $61.3 billion. Yes. Passed, 215–187.

(546) Minimum Wage: to Delete indexing minimum wage to the average production worker's wage. No. Passed, 223–193.

(547) Minimum Wage: To establish Minimum Wage Study Commission to study the effects of increases in minimum wage, the indexing procedure, youth subminimum wage, etc. Yes. Passed, 301–118.

(548) Minimum Wage: To reinsert into

bill the indexing provision. Yes. Failed, 169–227.

(549) Minimum Wage: To retain 50% tip credit. Yes. Passed, 264–161.

(550) Minimum Wage: To continue exemption for seasonal, recreational and theme parks. Yes. Passed, 241–183.

(551) Minimum Wage: To allow employers to pay 85% of minimum wage to youths under 19 for first six months. Yes. Failed, 210–211.

(552) Minimum Wage: To allow Secretary of Labor to waive minimum wage between June 1 and October 15 for children under age 12 in hand harvested agriculture, under certain protective conditions. No. Passed, 282–132.

(553) Minimum Wage: To increase enterprise threshold and expand definition of small businesses to include all businesses. No. Failed, 116–289.

(554) Minimum Wage: To increase enterprise coverage threshold to $500,000, but retain existing definition of small business. No. Passed, 221–183.

(555) Minimum Wage: Final passage, increasing minimum wage to $2.65 in 1978; $2.85 in 1979, and $3.05 in 1980. Yes. Passed, 309–96.

(557) To adopt conference report on Food and Agriculture Act, extending food stamp and Food for Peace Programs for four years, new payment limits for commodities, new target prices and loan levels, revising allotment, set-aside and disaster payments. Yes. Passed, 283–107.

(558) Conference report, to increase U.S. participation in International Banking Agencies. Yes. Failed, 153–230.

(559) To provide $323.5 million in federal payments and $1.4 billion from D.C. treasury for the District of Columbia government for FY 1978. Yes. Passed, 298–64.

(561) To permit filing for black lung benefits with Labor Department for only one year after the bill took effect. No. Failed, 108–268.

(562) To prohibit miners from collecting compensation on other disabilities while they are receiving total disability payments for black lung disease. Yes. Failed, 106–268.

(563) To permit mine operations to question a black lung claim based solely on X-rays by the claimant's physician. Yes. Failed, 136–242.

(564) Final passage, to establish an industry-financed Black Lung Disability Insurance Fund to pay all claims filed after June 30, 1973. Yes. Passed, 283–100.

(565) To consider (adopt rule) Increasing the Temporary Debt Limit. Yes. Passed, 284–96.

(566) To increase the debt limit to $775 billion from $700 billion. Yes. Failed, 130–201.

(567) To approve journal of Sept. 19 proceedings. Yes. Passed, 383–17.

(568) To increase district office spaces allowance from 1,500 to 2,500 square feet. Yes. Passed, 215–193.

(569) To cut ERDA funds for Clinch River Project from $150 million to $17 million to close out the project. No. Failed, 162–246.

(570) To cut ERDA funds for Clinch River Project to $17 million and delay project for one year. Yes. Failed, 129–277.

(571) To consider (adopt rule) Medicare-Medicaid Antifraud and Abuse Amendments. Yes. Passed, 374–6.

(572) To consider (adopt rule) Nuclear Antiproliferation Act. Yes. Passed, 388–0.

(573) To consider (adopt rule) Federal Insecticide, Fungicide and Rodenticide Act. Yes. Passed, 383–10.

(574) To resolve into Committee of the Whole House. Yes. Passed, 390–1.

(575) To require private industry to pay part of construction costs of Clinch River Breeder Reactor demonstration project. Yes. Failed, 196–206.

(576) To earmark $28 million to purchase four megawatts of solar photovoltaic equipment for the Federal Government and to provide $10 million to develop mass production techniques for photovoltaic equipment. Yes. Passed, 227–179.

(577) To approve journal of Sept. 21 proceedings. Yes. Passed, 283–6.

(579) To approve journal of Sept. 22 proceedings. Yes. Passed, 332–14.

(580) To authorize $6.6 billion for ERDA civilian research and development programs, including $150 million for Cinch River project. Yes. Passed, 217–47.

(581) To amend Medicare and Medicaid to establish stricter penalties for fraud and abuse, etc. Yes. Passed, 362–5.

(582) To raise the mandatory retirement age for private workers to 70. Yes. Passed, 359–4.

(583) To establish separate retirement funds for D.C. police, firefighters, teachers, and judges, etc. Yes. Passed, 348–21.

(584) To restate the charter of George Washington University. Yes. Passed, 363–4.

(585) To appropriate estimated cost of water and sewer service provided by D.C. to Federal Government. Yes. Passed, 375–1.

(586) To prohibit use of any loans in D.C. Borrowing Authority for acquisition of land or beginning construction of a convention center without prior congressional approval. No. Failed, 187–196.

(587) To extend until October, 1979, the D.C. interim authority to borrow funds from the U.S. Treasury to finance capital improvements. Yes. Passed, 266–119.

(588) D.C. Pretrial Detention Amendments: To include armed robbery as a crime for which defendants could be denied bail and be detained pending trial. No. Passed, 346–43.

(589) To extend Child Abuse Prevention and Treatment Act and strengthen protective and treatment services. Yes. Passed, 375–12.

(590) To express the sense of Congress that the Postal Service should not reduce the frequency of mail delivery service. Yes. Passed, 377–9.

(592) Second on a motion to pass Black Hills Claim. Yes. Passed, 376–19.

(594) To reject Senate language on abortion (exemptions to the ban on federal funding of abortions in cases of rape, incest, where mother's life is endangered, and certified as "medically necessary"). Yes. Failed, 164–252.

(595) To consider (adopt rule) Status of Indochina refugees. Yes. Passed, 390–22.

(596) To increase the authorization for staff allowances of former presidents from $96,000 to $150,000 per year for 30 months following termination of funds under Presidential Transition Act. (⅔ required). No. Failed, 211–203.

(597) To allow Court of Claims to determine the Sioux claim that the U.S. took the Black Hills in violation of the Fifth amendment. No. Failed, 173–239.

(598) To direct a five-year study of nine areas in Montana for possible inclusion in the National Wilderness Preservation System. (⅔ required). Yes. Failed, 256–155.

(599) To direct GAO audits of Internal Revenue Service and the Bureau of Alcohol, Tobacco and Firearms. Yes. Passed, 402–5.

(601) To establish a 16-member Select Committee on Population to study causes and effects of changes in world population of U.S. options on global population policies. Yes. Passed, 258–147.

(602) To give Select Committee on Assassinations power to defend lawsuits and make certain applications to courts. Yes. Passed, 290–112.

(603) To consider (adopt rule) on Increasing Temporary Debt Limit. Yes. Passed, 312–96.

(604) To increase the temporary debt limit to $700 billion. Yes. Passed, 213–202.

(605) To establish safeguards against U. S. nuclear fuel exports being diverted and used in nuclear weapons or explosive devices. Y
Passed, 411–0.

(607) To resolve into Committee of t
Whole to consider H.R. 6566. Yes. Pass
361–7.

(608) To prohibit use of any funds in E
ergy Research and Development Administ
tion National Security Authorizations
production or deployment of neutron we
ons Yes. Failed, 109–297.

(609) To authorize $2.67 billion for ERDA
national security nuclear energy progra
No. Passed, 330–78.

(610) To approve recissions of $21.09 m
lion in appropriations for foreign milit
credit sales and $75 million for Federal Buil
ings Fund. Yes. Passed, 403–1.

(611) To resolve into Committee of t
Whole to consider H.R. 7010, Victims
Crime Act. Yes. Passed, 377–17.

(612) To compensate only victims of cri
older than age 62. No. Failed, 133–253.

(613) To approve journal of Sept. 20 p
ceedings. Yes. Passed, 317–11.

(614) To reduce to 25 percent from 50 p
cent the amount the federal governme
would contribute to state programs for v
tims of crime. Yes. Passed, 216–144.

(615) To require eligible states to ins
that proceeds from articles, interviews
statements by an individual formally
cused or convicted of a crime be put into
escrow fund for benefit of the victim or s
vivors if the accused is found guilty.
Passed, 245–113.

(616) Final passage, to provide federal
sistance to state victim compensation p
grams and federal compensation to victi
of violent crimes in federal enclaves to co
medical bills and lost wages. No. Pass
192–173.

(617) To increase staff allowance for form
presidents from $96,000 a year to $150,0
Yes. Passed, 262–95.

(619) To require president to present
plan for transferring the functions of Cou
cil on Wage and Price Stability to other fe
eral agencies. No. Failed, 178–215.

(620) To extend Council on Wage a
Price Stability for two years. Yes. Pass
251–145.

(622) To adopt amended Senate bill
creasing the temporary debt limit to $7
billion. Yes. Passed, 223–194.

(623) To close debate and bar amendmen
to National Labor Reform Act. Yes. Pass
267–152.

(624) To consider (adopt rule) H.R. 34
National Labor Reform Act. Yes. Passed, 2
128.

(625) Conference report, reauthorizi
Community Block Grants, etc. Yes. Pass
384–26.

(626) To resolve into Committee of t
Whole to consider Labor Reform Act. Y
Passed, 384–5.

(627) Labor reform: To delete provisi
which directed NLRB to promulgate regul
tions to insure that employees have equ
opportunity to obtain information pertai
ing to unionization from organizers and e
ployers. No. Failed, 168–247.

(628) Labor reform: To insure employe
the right to present their side of a unioniz
tion argument whenever and wherever unio
representatives present their views. Y
Passed, 406–8.

(629) Labor reform: To permit judicial r
view of NLRB's failure to implement or pr
mulgate regulations within a reasonable p
riod of time. No. Passed, 246–174.

(630) Labor reform: To increase time lim
for holding representational elections fro
15 days to 28 days. No. Failed, 185–229.

(631) Labor reform: To increase, und
certain conditions, the time limit for repr
sentational elections from 15 days to 25 day
Yes. Passed, 418–0.

(632) Labor reform: To strike provisi
permitting the Labor Secretary to prohib

government contracts for three years with

(656) To authorize General Accounting

more land for the Appalachian Trail. Ye

government contracts for three years with companies or unions that willfully violate NLRB orders. No. Failed, 111–301.

(633) Labor reform: To grant Labor Secretary authority to remove or reduce the period of time a company or union is barred from receiving federal contracts because of violations or NLRB orders. Yes. Passed, 394–8.

(634) To approve Journal of Oct. 5 proceedings. Yes. Passed, 364–16.

(635) To consider (adopt rule) Marine Protection, Research and Sanctuaries Authorization. Yes. Passed, 388–2.

(636) To close debate, bar amendments to the rule on Navigation Development Act. No. Passed, 241–169.

(637) Labor reform: To delete provision which would authorize NLRB to award employees compensation for lost pay due to an employer's refusal to bargain on the first contract. No. Failed, 162–250.

(638) Labor reform: To recommit Labor Reform Act with instructions to change election set-aside provisions. No. Failed, 139–279.

(639) Labor reform: Final passage, National Labor Reform Act, setting limits within which elections must be held, strengthening penalties for ignoring NLRB orders or violating labor laws, and authorizing NLRB to summarily affirm Administrative Law Judge decisions in unfair labor practice cases. Yes. Passed, 257–163.

(641) To recommit conference report appropriating $6.8 billion for foreign economic and military assistance programs. Yes. Passed, 272–126.

(642) To table request for a conference on Fair Labor Standards Act amendments. No. Failed, 138–266.

(643) To consider (adopt rule) House Administrative Reorganization. Yes. Failed, 160–252.

(644) To recede from the abortion language House had adopted in the conference report on Labor-HEW Appropriations. Yes. Passed, 209–206.

(645) To add to Hyde amendment abortion language, which prohibited federal funding for abortions except when mother's life was endangered, a second exception for medical procedures necessary for prompt treatment of forced rape or incest. No. Passed, 263–142.

(646) To authorize $561 million for research and development of cruise missile program and $151.6 million for F-14A aircraft and parts. DNV. Passed, 347–37.

(648) To adopt conference report establishing stricter penalties for Medicare and Medicaid fraud. Yes. Passed, 402–5.

(649) Amendment to strike from Federal Trade Commission Amendments the section authorizing class action suits. No. Passed, 281–125.

(650) Motion to recommit FTC Amendments with instructions to provide for congressional review and veto of FTC regulations. No. Passed, 272–139.

(651) To authorize $133 million for FTC and make certain changes in its enforcement of rules and orders. Yes. Passed, 279–131.

(652) To authorize replacement of locks and Dam 26 on Mississippi River. Yes. Passed, 331–70.

(653) To approve Senate compromise abortion language which dropped the "medically necessary" exception. Instead, would have prohibited federal funding of abortions except in cases where the mother's life is endangered, in cases of rape or incest, and in cases where "the mother or fetus would suffer serious health damage." Yes. Failed, 163–234.

(654) To adopt conference report on Export-Import Bank Amendments. (Neal bill). Yes. Passed, 281–62.

(655) Resolution to disapprove President Carter's proposal for reorganization of the Executive Office of the President. No. Failed, 20–350.

(656) To authorize General Accounting Office to audit the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and non-monetary policy functions of the Federal Reserve System. Yes. Passed, 336–28.

(657) To authorize $11.8 million for marine protection programs. Yes. Passed, 359–1.

(659) To prohibit HEW from implementing, for 18 months, the FDA's proposed ban on saccharin. Yes. Passed, 376–23.

(660) To revise law governing customs procedures and penalties for customs violations. Yes. Passed, 386–11.

(661) To make numerous clarifying, conforming, clerical and technical changes to provisions of the Tax Reform Act of 1976. No. Passed, 268–128.

(662) To exempt disaster payments for the 1977 wheat, feed grains, upland cotton and rice crops from the 1977 payment limitations ($20,000 per crop, $55,000 for rice). No. Passed, 265–127.

(664) To provide for a five-year Agriculture Department study of nine areas in Montana for possible inclusion in the National Wilderness Preservation System. Yes. Passed, 315–103.

(665) To appropriate $6.8 billion for foreign aid programs, international financial institutions, and State Department operations (conference report). Yes. Passed, 229–195.

(666) To allow the president to waive the prohibition of direct aid to Mozambique and Angola under certain conditions. Yes. Failed, 188–219.

(667) To strike from a House-passed bill restriction reducing aid to the Phillippines. No. Failed, 160–254.

(669) To consider (adopt rule) Energy Transportation Security Act. No. Passed, 249–167.

(670) To define as "fair and reasonable rates" in Cargo Preference Bill as those no more than 50% higher than world market rates for carrying oil. Yes. Passed, 253–167.

(671) Final passage, Cargo Preference Bill, which would require that U.S.-flag ships carry 9.5% of imported oil by 1982. No. Failed, 165–257.

(672) To provide $9.1 million to build model intercultural centers at Georgetown and Tufts universities. Yes. Passed, 215–202.

(673) To delete language which would prohibit spending appropriated funds for the Clinch River Breeder Reactor project unless authorization bill was enacted. Yes. Passed, 252–165.

(674) To instruct conferees on Legal Services Corp. Act amendments to insist on prohibiting LSC-paid lawyers from handling cases on the desegregation of any elementary or secondary school or school system. No. Passed, 230–186.

(676) Minimum wage: To adopt conference report to increase minimum wage in steps to $3.35 by 1981. Yes. Passed, 236–187.

(677) To authorize $6.2 billion for civilian energy research and development programs. Yes. Passed, 336–52.

(678) To increase supplemental appropriations for Small Business Administration disaster loans by $675 million. No. Passed, 318–102.

(679) To end debate on adding $1.4 billion for B–1 bomber in Supplemental Appropriations bill. No. Passed, 212–187.

(680) Motion that the Committee rise from consideration of Supplemental Appropriations. Yes. Failed, 190–215.

(681) To add $1.4 billion to supplemental appropriations for production of five B–1 bombers. No. Failed, 194–204.

(682) Motion that the Committee rise from consideration of Supplemental Appropriations bill. No. Failed, 169–205.

(684) To order a second to a motion to suspend the rules and pass H.R. 7442, Utility Pole Attachments. Yes. Passed, 389–7.

(685) To permit expenditure of up to $30 million per year for three years to acquire more land for the Appalachian Trail. Yes. Passed, 409–12.

(686) To make it a federal offense to use children under age 16 in the production of pornographic materials, with penalties up to 10 years in prison, a $10,000 fine, or both. Yes. Passed, 420–0.

(687) To permit accredited law school libraries to serve as depositories of government publications. Yes. Passed, 397–20.

(688) To extend the effective date of several provisions of the Tax Reform Act of 1976. Yes. Passed, 411–5.

(689) To authorize acquiring suitable U.S. built mariner-class vessels in exchange for vessels in the National Defense Reserve Fleet that are scheduled for scrapping. Yes. Passed, 412–3.

(690) To increase from 50% to 80% the federal contribution for operating expenses of commuter rail services that have been adversely affected by the Regional Rail Organization Act. Yes. Passed, 308–106.

(691) To implement treaties with Mexico and Canada to permit transfer of convicted prisoners. Yes. Passed, 400–15.

(692) To instruct House conferees to agree with Senate provisions that imposed criminal penalties for the transportation, sale, or distribution of pornographic material depicting children. Yes. Passed, 368–54.

(693) To provide $7.2 billion supplemental budget authority for various departments and programs, including $4.5 billion for EPA construction grants, $1.4 billion for SBA disaster loans, and $80 million for Clinch River Breeder Reactor. Yes. Passed, 313–98.

(694) To authorize $253.6 million for Environmental Protection Agency research and development programs. Yes. Passed, 353–19.

(696) To consider (adopt rule) Social Security Financing Amendments. Yes. Passed, 265–153.

(697) Social security: To delete provision requiring social security coverage of federal, state, and local government employees, etc. in 1982 and instead require a study recommending by Jan. 1980 a fair plan of universal coverage. Yes. Passed, 386–38.

(698) Social security: To affirm the action taken on the previous vote. Yes. Passed, 380–39.

(699) Social security: To raise social security payroll tax rates faster than the bill required in order to permit more gradual increases in the taxable wage base. No. Failed, 136–281.

(700) Social security: To delete provision granting the Social Security System standby authority to borrow from the federal general revenues whenever trust fund reserves drop below 25% of annual outgo. No. Failed, 196–221.

(701) Social security: To eliminate the minimum benefit from the social security program. Yes. Failed, 131–271.

(703) Social security: To resolve into Committee of the Whole House for consideration of H.R. 9346. Yes. Passed, 405–3.

(704) Social security: To phase out outside earnings ceiling (the maximum annual wage that a beneficiary age 65 to 72 may earn without losing any benefits) by 1982. No. Passed, 268–149.

(705) Social security: Motion to recommit with instructions to mandate social security coverage for federal employees. No. Failed, 57–363.

(706) Social security: Final passage, to raise social security payroll taxes by increasing the taxable wage base for employers and employees, beginning in 1978, and increasing employer and employee tax rates, beginning in 1981. Yes. Passed, 275–146.

(707) To adopt conference report to transfer administration of coal and non-coal mining health and safety programs from Interior Department to the Labor Department. Yes. Passed, 376–35.

(708) To adopt conference report, extending the Summer Food Program through FY 1982 and revising it in order to control fraud and abuse. Yes. Passed, 386–17.

(709) To authorize the Speaker of the House to devise and implement a system for closed circuit broadcasting of House floor proceedings to offices and committees. Yes. Passed, 342–44.

(710) To consider (adopt rule) Bankruptcy Law Revision. Yes. Passed, 358–11.

(711) To resolve into Committee of the Whole House to consider Bankruptcy Law Revision. Yes. Passed, 329–2.

(712) To delete provisions of Bankruptcy Law Revision which would establish an independent bankruptcy court system. No. Passed, 182–158.

(713) Motion that the committee rise from consideration of Bankruptcy Law Revision. Yes. Passed, 268–62.

(716) To make domestic raisins subject to the federal marketing order. Yes. Passed 396–7.

(717) To extend Regulation Q through Dec. 15, 1978, set guidelines of the Federal Reserve Board to follow in determining monetary policy, etc. Yes. Passed, 395–3.

(718) To extend until April 30, 1978, Federal Reserve Bank authority to purchase U.S. obligations of up to $5 billion directly from the Treasury. Yes. Passed, 388–14.

(719) To extend the Select Committee on Ethics until the end of the 95th Congress, or completition of its official business. Yes. Passed, 385–22.

(720) To express the sense of the House that the Government of Korea should extend full and unlimited cooperation to the House investigation of whether Members of the House accepted anything of value from the Korean Government or its agents. Yes. Passed, 407–0.

(721) To denounce acts by the Government of South Africa which suppress expression and violate individual human rights. Yes. Passed, 347–54.

(722) To recommit conference report on Maritime Authorization with instructions to insist that anti-rebate provisions take effect immediately instead of eight months after enactment. No. Failed, 166–231.

(723) To expedite EPA's registration and reregistration of pesticides. Yes. Passed, 368–21.

(725) To second motion to suspend rules and pass Congressional Salary Deferral. Yes. Failed, 167–233.

(726) To uphold religious right to refrain from joining unions. Yes. Passed, 400–7.

(727) To increase the interest rates charged by Small Business Administration (SBA) from 3 percent to 5 percent on disaster loans between $40,000 and $250,000. (Two-third required). Yes. Failed, 234–170.

(728) To make employees of House Beauty Shop eligible for employee benefits. No. Passed, 273–131.

(729) To express the sense of the House that the President should appoint a 15-member Commission on World Hunger. Yes. Passed, 364–38.

(731) To permit the District of Columbia government to disburse the proceeds of revenue bonds to private colleges and universities in D.C. Yes. Passed, 403–0.

(732) To adopt conference report authorizing $2.6 billion for ERDA's nuclear weapons program. No. Passed, 336–69.

(734) To prohibit Overseas Private Investment Corp. from making any loans or guaranteeing or insuring any borrowings of the National Finance Corp. of Panama without prior congressional approval. No. Failed, 188–215.

(736) To require that at least 50% of all Overseas Private Investment Corp. insurance, reinsurance guarantees and financing activities go to U.S. small business. No. Passed, 285–111.

(738) To adopt rule on Labor-HEW Conference report. Yes. Passed, 361–9.

(739) To concur in Senate compromise abortion language. Yes. Failed, 172–193.

(740) To consider (adopt rule) Continuing Appropriations for FY 1978. Yes. Passed, 344–5.

(742) To approve journal of Nov. 5 proceedings. Yes. Passed, 184–14.

(747) To authorize $325 million (5 years) to help state and local educational agencies provide career education programs in elementary and secondary schools. Yes. Passed, 372–20.

(748) To resolve into Committee of the Whole House to consider H. Res. 827, Disapproving Reorganization Plan No. 2. Yes. Passed, 367–2.

(749) To disapprove plan to consolidate U.S. Information Agency and Bureau of Educational and Cultural Affairs into a new International Communications Agency. Yes. Failed, 34–357.

(751) To concur in Senate compromise abortion language. Yes. Failed, 183–205.

(753) To close debate and prohibit amendments on a motion to recommit Supplemental Appropriations bill to conference. No. Failed, 125–270.

(754) To recommit Supplemental Appropriations to conference with instructions to increase funding for Amtrak to $18 million. Yes. Passed, 256–141.

(755) To affirm the vote on Amtrak appropriations. Yes. Passed, 258–138.

(756) To order the previous question, thereby closing debate and barring amendments to a motion to instruct conferees on Social Security Financing Amendments. Yes. Passed, 214–181.

(757) To instruct conferees to insist on phasing out the outside earning provisions of Social Security Financing Amendments by 1982. No. Failed, 183–209.

(759) To provide an additional $10,000 in FY 1977 for foreign travel on official business relating to the investigation of Korean-American relations. Yes. Passed, 366–2.

(761) To express sense of Congress that any national health planning guidelines should recognize and take into account the special problems of rural health care, to assure quality health care for rural residents. Yes. Passed, 357–0.

(762) To consider (adopt rule) Continuing Appropriations for FY 1978. Yes. Passed, 331–21.

(763) To further limit abortion language already voted on by requiring that rapes be forced, that incidents of rape or incest be reported promptly, for abortions to be federally funded. Yes. Failed, 170–200.

(764) To concur to a Senate amendment to conference report, Supplemental Appropriations, to provide $200 million for the Community Services Administration's Crisis Intervention Program. Yes. Passed, 182–181.

(765) To concur in a Senate amendment to rescind $462 million for production of two B–1 bombers. Yes. Failed, 166–191.

(767) To adopt conference report on H.R. 9418, which repealed an existing requirement that medical schools had to reserve positions in their third year classes for ratios of Americans studying in medical schools abroad. Yes. Passed, 344–0.

(768) To extend Legal Services Corporation for three years. Yes. Passed, 236–110.

(769) To consider (adopt rule) Continuing Appropriations for FY 1978. Yes. Passed, 251–86.

(770) To concur in Senate compromise language on abortion requiring that rape and incest be reported "promptly" to qualify as exception to prohibition of federal funds for abortion. Yes. Failed, 171–178.

(771) To consider (adopt rule) ERDA Civilian Authorization for FY 1978. Yes. Passed, 329–18.

(772) To adopt conference report, authorizing $64 million for operations of the Securities and Exchange Commission. Yes. Passed, 348–2.

(773) To adopt conference report making it illegal for a SEC-registered corporation to other domestic concern to bribe a foreign official, etc. Yes. Passed, 349–9.

(774) To consider (adopt rule) Continuing Appropriations for FY 1978. Yes. Passed, 240–109.

(775) To amend compromise abortion language so the final version stipulated the exceptions permitted federally funded abortions only for cases where childbirth would cause a woman "severe and long-lasting health damage "when so determined by two physicians," and for "medical procedures necessary for the victims of rape and incest when such rape and incest have been reported promptly to a law enforcement agency or public health service." Yes. Passed, 181–167.

Congressman Pease missed the following votes at the end of the session because he was holding public meetings in the Fifth District. He had either paired or announced in advance his intention to vote "yes" on each of the five following rollcalls.

(776) To approve the journal of Dec. proceedings. Yes. Passed, 204–14.

(777) To adopt rule conference report on Clean Water Act. Yes. Passed, 326–6.

(778) To adopt conference report on Clean Water Act, authorizing $25.7 billion, including $24.5 billion for sewage treatment construction grants for FY 1978 through 1982. Yes. Passed, 346–2.

(780) To adopt rule on conference report Social Security Financing Amendments. No. Passed, 178–175.

(782) To adopt conference report, Social Security Financing Amendments. The bill raised social security payroll taxes by increasing the rates and taxable wage base for both employers and employees, beginning in 1979. It also stabilized the system's benefit structure, provided equal treatment for women, and increased the outside earning ceiling in steps to $6,000 by 1982. Yes. Passed 189–163.

VOTING RECORD OF CONGRESSMAN DON J. PEASE
2ND SESSION, 95TH CONGRESS

(2) Clarify authority granted for warrantless search and seizure under Fish and Wildlife Improvement Act. No vote. Passed, 215–131.

(3) Fish and Wildlife Improvement Act. No vote. Passed, 292–59.

(5) To authorize State Department to acquire a statute of General George G. Marshall. Yes. Passed, 351–22.

(6) To grant divorced or separated spouses of federal employees rights with regard to civil service pensions. Yes. Passed 369–7.

(7) To give retirement credit for internees Japanese-Americans. No. Passed, 366–13.

(8) To increase the federal loan guarantee for fishing vessels from 75% to 87.5% of actual costs. Yes. Passed, 309–68.

(10) To permit federal tax court judges who had chosen to be covered by the tax court pension system to revoke that decision before those benefits began to accrue. Yes. Passed, 399–1.

(11) To authorize appropriations for the Administrative Conference of the U.S. Yes. Passed, 292–103.

(12) To make it a federal offense to use children under age 16 to produce or distribute pornography. Yes. Passed, 401–0.

(13) To adopt the rule on the Outer Continental Shelf Lands Act Amendments. Yes. Passed, 247–158.

(15) To make pre-lease drilling subject to appropriations acts if done at federal expense, to prohibit dual-leasing and to authorize alternative bidding systems. No. Failed, 187–211.

(16) To eliminate dual leasing, prohibitions against joint bidding, compulsory compliance with states' clean air standards, lease cancellation provisions and OSHA's jurisdiction over OCS. No. Failed, 143–329.

(18) To authorize funding for the Office

(41) To approve substitute bill

(18) To authorize funding for the Office of Rail Public Counsel. Yes. Passed, 318–44.

(19) To require Conrail to assume bankrupt railroads' obligations to pay medical and life insurance premiums for former employees of railroads who retired before Conrail took over the railroads. Yes. Passed, 314–50.

(20) To allow supplemental or charter all-cargo carriers to qualify for new air cargo certificates immediately instead of waiting one year. Yes. Passed, 403–0.

(21) To delete Interior Department authority for core and test drilling and for geological and geophysical exploration. Yes. Passed, 328–77.

(22) To strike provision that a lessee is entitled to recover his investment less any revenues he may have received from that investment if the Interior Department cancels his lease. No. Passed, 206–194.

(23) To limit the use of new bidding systems to at least 10% of newly leased areas, but not more than 30%. No. Failed, 196–207.

(24) To require that new bidding systems be used for at least 20% of newly leased acreage, but not more than 50%. No. Passed, 219–188.

(25) To resolve into the Committee of the Whole House for consideration of Bankruptcy Law Revision. Yes. Passed, 408–4.

(26) To strike provisions of the bill establishing an independent bankruptcy court system and making bankruptcy judges federal life-term judges. No. Failed, 146–262.

(27) To provide discretionary authority for Justice Department to review proposed OCS lease sales for possible antitrust implications. Yes. Passed, 241–162.

(28) To strike provisions in OCS bill requiring random selection of tracts to be used under the new bidding system. Yes. Passed, 225–174.

(29) To approve the Journal of the last day's proceedings. Yes. Passed, 368–21.

(30) To strike provisions in OCS bill to establish documentation, registry, and manning requirements for vessels and rigs operating on the OCS. Yes. Failed, 118–280.

(31) To require that all building and rebuilding of vessels, platforms and rigs for the OCS be performed in the U.S. No. Failed, 201–208.

(33) To stipulate that 20% of OSC revenues, up to a maximum of $200 million per year, be shared with the coastal states most directly affected by offshore development. No. Passed, 279–120.

(34) To exempt states which receive OCS revenue sharing funds from existing requirements that they have federally approved Coastal Zone Management Plans. No. Failed, 159–230.

(35) Passage of the Outer Continental Shelf Lands Act Amendments. Yes. Passed, 291–91.

(36) To increase ceilings for FY 78 and FY 79 on federal matching funds under Medicaid for Puerto Rico, the Virgin Islands, and Guam and to provide automatic increases at the same rate as the Consumer Price Index after that. Yes. Passed, 253–106.

(37) To adopt the rule on Chattahoochee River Recreation Area. Yes. Passed, 323–41.

(39) To direct the Secretary of Agriculture to take appropriate action to prevent collusive practices in bidding for publicly owned timber. Yes. Failed, 136–239.

(40) To establish an advisory Committee on Timber Sales Procedure to be appointed by the Secretary of Agriculture. No. Passed, 295–78.

(42) To authorize 145 new federal judgeships, 110 in U.S. district courts and 35 in the U.S. circuit court of appeals. Yes. Passed, 319–80.

(43) To adopt the rule on the Office of Consumer Representation Act. Yes. Passed, 271–138.

(44) To approve substitute bill that would have established an Office of Consumer Counsel in each of 23 departments and major agencies. No. Failed, 93–313.

(46) To resolve in Committee of the Whole for consideration of Office of Consumer Representation Act. Yes. Passed, 377–25.

(47) To extend to all agencies the requirement that the President be notified 30 days before the Office of Consumer Representation sought judicial review of an agency action. No. Failed, 195–219.

(48) To remove exemption for labor injunction suits, certain proceedings of the National Labor Relations Board and activities of Federal Mediation and Conciliation Service. No. Failed, 138–274.

(49) To remove exemption for proceedings of the Agriculture Department, Conservation Service, Farmers Home Administration and Federal Crop Insurance Corporation. Yes. Failed, 105–309.

(50) Passage of Office of Consumer Representation Act. Yes. Failed, 189–227.

(52) To recommit the Redwood National Park Amendments. No. Failed, 116–274.

(53) To expand Redwood National Park in California by 48,000 acres. Yes. Passed, 328–60.

(54) To designate 1.3 million acres in the western U.S. for inclusion in the National Wilderness Preservation System. Yes. Passed, 333–44.

(55) To resolve into Committee of the Whole for consideration of Black Hills Claim. Yes. Passed, 337–17.

(56) To direct House conferees to insist upon merit selection of district court judges. Yes. Passed, 321–19.

(57) To resolve into the Committee of the Whole for consideration of the Chattahoochee River Recreation Area Act. Yes. Passed, 325–7.

(58) To make land acquisition conditional upon a State of Georgia agreement to take over ownership and operating expenses of the area by June 30, 1978. No. Failed, 119–230.

(59) Passage of the Chattahoochee River Recreation Area Act. Yes. Passed, 273–79.

(60) To limit the number of commissioned officers in the three military branches. Yes. Passed, 351–7.

(62) Black Lung Benefits Reform Act—to establish eligibility requirements and procedures for applying for black lung disability payments. Yes. Passed, 264–113.

(63) To facilitate development of commercial aquaculture facilities in the U.S. through creation of a National Aquaculture Development Plan and loan guarantees. No. Passed, 234–130.

(65) To authorize $250 million out of Highway Trust Fund for 100% federal share grants to states to repair potholes and other road damages caused by severe winters. Yes. Passed, 274–137.

(66) To authorize the President to call separate White House Conferences on the Arts and Humanities. Yes. Passed, 341–65.

(67) To extend the Alcohol and Drug Abuse Education Act through FY 1983. Yes. Passed, 409–0.

(68) To authorize $5 million for Hubert H. Humphrey Institute of Public Affairs at the University of Minnesota. Yes. Passed, 356–53.

(71) To table motion to rescind $462 million for production of two B–1 bombers. No. Failed, 172–244.

(72) To rescind $462 million in FY 78 supplemental appropriations for B–1 bombers. Yes. Passed, 234–182.

(73) To adopt the rule on IMF Supplementary Financing Facility. Yes. Passed, 386–15.

(76) To limit salaries of representatives to the IMF Supplementary Financing Facility. Yes. Passed, 253–141.

(77) To authorize the U.S. to invest $1.8 billion in the IMF Supplementary Financing Facility. Yes. Passed, 267–125.

(78) To prohibit OPIC loans or guarantees to the National Finance Corporation of Panama unless approved by House resolution. No. Failed, 166–199.

(79) To prohibit OPIC from insuring or financing any project to establish or expand production or processing of palm oil, sugar, or citrus crops for export. No. Passed, 191–167.

(80) Overseas Private Investment Corporation—to extend OPIC through FY '80, strengthen its development mandate, eliminate direct under-writing with private insurance companies, encourage concentration on countries with per capita income of $520 or less. Yes. Passed, 191–165.

(81) To adopt rule on Grazing Fee Moratorium Act. Yes. Passed, 302–1.

(82) To adopt rule on Wichita Indian Tribal Lands Act. Yes. Passed, 295–6.

(83) To place a one year moratorium on increases in public lands grazing fees. Yes. Passed, 257–47.

(84) To delete waiver of *res judicata* and *collateral estoppel* and provide for transfer of claims to Court of Claims when the Indian Claims Commission expires. Yes. Passed, 293–1.

(85) To authorize the Wichita Indian Tribe to file its land claims against the U.S. government with the Indian Claims Commission. Yes. Passed, 226–68.

(87) To allow D.C. voters to initiate laws and disapprove Council acts by referendum. Yes. Passed, 321–24.

(88) To amend D.C. Home Rule Charter so the D.C. voters can recall elected officials. Yes. Passed, 350–4.

(90) To abolish diversity of citizenship as a basis for federal court jurisdiction. No. Passed, 266–133.

(91) Federal Trade Commission Amendments of 1978. Yes. Failed, 146–255.

(92) To authorize funds in Fiscal Years 1979, '80 and '81 for activities of the American Folklife Center in the Library of Congress. Yes. Passed, 306–80.

(94) To adopt rule on D.C. Representation in Congress. Yes. Passed, 386–21.

(95) To resolve into the Committee of the Whole for consideration of D.C. Representation in Congress. Yes. Passed, 369–15.

(96) To resolve into the Committee of the Whole for consideration of D.C. Representation in Congress. Yes. Passed, 394–12.

(97) To propose a constitutional amendment to provide D.C. with voting representation in Congress (two senators and the number of representatives to which it would be entitled by population). Yes. Passed, 289–127.

(99) To approve the Journal of the last day's proceedings. Yes. Passed, 304–20.

(100) To provide $400,000 for Veterans Affairs Committee investigations and studies during the second session of the 95th Congress. Yes. Passed, 336–1.

(101) To provide $375,000 for D.C. Committee investigations and studies during the second session of the 95th Congress. Yes. Passed, 318–15.

(102) To provide $49,500 for Rules Committee investigations and studies during the second session of the 95th Congress. Yes. Passed, 321–13.

(104) To approve the Journal of the last day's proceedings. Yes. Passed, 331–11.

(105) To designate May 3, 1978 as Sun Day to promote and call attention to the possibilities of solar energy. Yes. Passed, 348–7.

(107) To extend through FY79 the authority of the Commissioner of Education to waive certain provisions regarding the use of grants for 13 school districts which participated in National Institute of Education's study of ESEA Title I, so that demonstration projects could be continued. Yes. Passed, 404–0.

(108) To adopt the rule on Increasing the

Temporary Debt Limit Act. Yes. Passed, 285–115.

(110) To eliminate the need for separate debt ceiling legislation. Yes. Passed, 277–132.

(111) To increase the temporary debt ceiling to $824 billion effective through March 1, 1979. Yes. Failed, 165–248.

(112) To authorize Southwestern Power Administration to purchase $13.1 million in electric power to fulfill its delivery contracts. Yes. Passed, 353–50.

(113) To provide $2 million for Transportation Committee investigations and studies during the second session of the 95th Congress. Yes. Passed, 399–1.

(115) To agree to a motion that the House dispense with further proceedings under the call of the House. Yes. Passed, 372–34.

(116) To approve the Journal of the last day's proceedings. Yes. Passed, 377–26.

(117) To table a motion to reconsider the vote approving the previous day's Journal. Yes. Passed, 313–91.

(118) To order the previous question and thus close debate on adoption of the rule on the Full Employment and Balanced Growth Act (Humphrey-Hawkins Bill). Yes. Passed, 371–36.

(119) To adopt the rule on the Full Employment and Balanced Growth Act. Yes. Passed, 349–58.

(120) To agree to a motion to table a motion to reconsider the vote adopting the rule on the Full Employment and Balanced Growth Act. Yes. Passed, 368–29.

(121) To resolve into the Committee of the Whole for consideration of the Full Employment and Balanced Growth Act (Humphrey-Hawkins bill). Yes. Passed, 364–32.

(123) To approve the Journal of the previous day's proceedings. Yes. Passed, 386–15.

(125) To require the President to include in the annual economic report specific price stability goals and policies and programs with which to achieve the goals. Yes. Passed, 277–143.

(126) To mandate a specific goal of reducing inflation to 3% by 1983. No. Failed, 198–223.

(127) To require the President in the annual economic report to use two sets of employment statistics: one to measure all employment and one to count workers in public service employment programs as still unemployed. Yes. Passed, 239–177.

(128) To add to the economic goals in the bill a goal of 100% parity of income for farmers at the marketplace by 1983. No. Passed, 264–150.

(129) To approve rescissions of $40.2 million in appropriations for the military assistance program, $10.1 million in borrowing authority for the Federal Home Loan Bank Board and $5 million in appropriations for contributions to international peacekeeping activities. Yes. Passed, 318–0.

(131) To order a second on a motion to suspend the rules and pass a bill to increase the interest rate on U.S. retirement plan bonds and U.S. individual retirement bonds. Yes. Passed, 372–1.

(132) To suspend the rules and authorize the Civil Service Commission to conduct a 3-year experiment for executive branch employees with flexible and compressed work schedules. Yes. Failed, 242–141 (two-thirds vote required).

(133) To establish a uniform federal policy on part-time employment and require federal agencies to establish part-time career employment programs. Yes. Passed, 294–84.

(134) To provide Congress with the opportunity to review proposed changes in the level of national postal services before they take effect. Yes. Passed, 371–6.

(135) To require $300,000 to be allocated to internal security functions of the Judiciary Committee. No. Failed, 161–216.

(136) To reduce the Select Committee on Assassinations' funding to $600,000. Yes. Failed, 182–198.

(137) To provide $2.5 million for investigations and studies of the Select Committee on Assassinations for the second session of the 95th Congress. No. Passed, 204–175.

(139) To agree to a motion that the House dispense with further proceedings under the call of the House. Yes. Passed, 331–73.

(140) To agree to a motion that the previous day's Journal be read in full. No. Failed, 99–301.

(141) To approve the Journal of the last day's proceedings. Yes. Passed, 371–29.

(143) To order a second on a motion to suspend the rules and pass the Absaroka-Beartooth Wilderness Act. Yes. Passed, 380–20.

(144) To order a second on a motion to suspend the rules and pass the Travel Expenses of Government Officials Paid by Private Foundations Act. Yes. Passed, 387–2.

(145) To order a second on a motion to suspend the rules and pass the Home Production of Beer and Wine Act. Yes. Passed, 382–3.

(146) To suspend the rules and pass the Absaroka-Beartooth Wilderness Act. Yes. Passed, 405–7.

(147) To suspend the rules and pass Travel Expenses of Government Officials Paid by Private Foundations Act. Yes. Passed, 372–38.

(148) To adopt the conference report expanding the Redwood National Park in California by 48,000 acres. Yes. Passed, 317–60.

(150) To approve the Journal of the last day's proceedings. Yes. Passed, 387–15.

(151) To agree to a motion to resolve into the Committee of the Whole for consideration of Full Employment and Balanced Growth Act (Humphrey-Hawkins bill). Yes. Passed, 380–19.

(152) To add the specific goal of a balanced budget by 1983 and mandate the President to pursue policies consistent with that goal. No. Failed, 205–215.

(153) To declare that one of the purposes of the Act was achievement of a balanced budget consistent with achievement of the unemployment goals enumerated in the bill. Yes. Passed, 411–3.

(154) To agree to a motion to end debate at a specified time on Title I and all amendments thereto to Full Employment and Balanced Growth Act. Yes. Passed, 237–170.

(155) To add to the bill the goal of a permanent reduction in individual federal income taxes by 10% per year for three years, accompanied by a 1% reduction in corporate taxes annually for three years and an increase in the corporate surtax exemption to $100,000. No. Failed, 194–216.

(156) To agree to a motion to resolve into the Committee of the whole for consideration of the Full Employment and Balanced Growth Act. Yes. Passed, 379–8.

(157) To add to the section on national priority programs the implementation through financial assistance of programs already established by law as major national priorities, such as the removal of architectural barriers to the handicapped. Yes. Passed, 398–0.

(158) To omit the following persons from unemployment statistics used for purposes of the Act: persons unemployed because of strikes, those unemployed less than 4 weeks, persons not seeking full-time jobs, persons who voluntarily left their jobs, and those who have been hired but have not started work. No. Failed, 199–204.

(159) To strike the enacting clause and thus kill the Full Employment and Balanced Growth Act. No. Failed, 106–310.

(160) To require the President, in carrying out the Act, to consider the impact of all provisions of the U.S. Code and Code of Federal Regulations on the national economy. No. Failed, 114–296.

(161) To strike the provisions of the bill which would have required the Joint Economic Committee to submit its own concurrent resolution to Congress each year wit congressional goals for employment and ec nomic growth. Yes. Passed, 260–163.

(162) To terminate the Act on Septemb 30, 1983 unless Congress extends it beyon that date. No. Failed, 196–216.

(163) To accept a substitute bill the would have set national goals by 1983 of 4 unemployment, 3% inflation, 100% parity farm prices, reduced tax levels and a bal anced budget and prohibit the use of publ service jobs to meet the unemployment goa No. Failed, 137–376.

(164) Passage of the Full Employment an Balanced Growth Act (Humphrey-Hawkin bill). Yes. Passed, 257–152.

(166) To approve consideration of a bill t expand educational grant and loan program for middle-income students by $1.2 billion No. Failed, 156–218.

(167) To authorize funds for an investiga tion and study of Korean-American relation by the International Relations Committe Yes. Passed, 367–13.

(168) To adopt the rule on Postal Servic Act Amendments. Yes. Passed, 367–0.

(170) To condemn the kidnapping of Ald Moro and to call upon the President to in struct the U.S. Representative to urge th United Nations to consider the subject o terrorism and sponsor proposals for solvin the problem. Yes. Passed, 398–0.

(171) To adopt the rule on the Public Deb Limit Extension. Yes. Passed, 314–80.

(172) To extend the existing temporar debt limit of $752 billion through July 3 1978. Yes. Passed, 233–172.

(174) To make in order an amendment t begin partial public financing of House elec tion campaigns. Yes. Failed, 198–209.

(175) To adopt conference report whic abolishes compulsory retirement for mos federal employees and raises the mandator retirement age for non-federal workers fro 65 to 70. Yes. Passed, 391–6.

(176) To resolve into the Committee of th whole for consideration of Postal Service Ac Amendments. Yes. Passed, 384–2.

(177) To appropriate $300 million in FY7 for the Federal Disaster Assistance Adminis tration to spend in connection with disaster declared as a result of severe winter weather Yes. Passed, 393–4.

(178) To adopt the rule on Shipping Ac Amendments on 1978. Yes. Passed, 365–33.

(179) To resolve into the Committee of th Whole for consideration of Shipping Ac Amendments of 1978. Yes. Passed, 365–33.

(180) Passage of Shipping Act Amendments of 1978 stiffening penalties for illegal rebates in the shipping industry and strengthening enforcement. Yes. Passed 390–1.

(181) To request conference on Senate amendments diverting 31 million acres of wheat, corn, soybeans and cotton from production, increasing target prices and loan rates for wheat, corn and cotton and instituting a system of flexible parity. Yes. Passed, 332–63.

(182) To table a motion to instruct the House conferees to support the Senate amendment providing a flexible parity program of graduated target prices for wheat, corn and cotton in 1978. Yes. Passed, 224–167.

(183) Call of the House. Present.

(184) To provide for the establishment of the Friendship Hill National Historic Site in Pennsylvania. Yes. Passed, 351–6.

(185) To provide recognition of the services of General Thaddeus Kosciuszko. Yes. Passed, 358–0.

(186) To designate the Oregon National Historic Trail and Travelway as a unit of the National Trails system. Yes. Passed, 359–4.

(187) To provide for the establishment of the Lowell National Historic Park in Massachusetts, two-thirds vote required. Yes. Failed, 228–132.

(188) Call of the House. Present.

(189) To order a second to clarify the au-

thority for employment of personnel in the

(216) To improve basic work week of fire-

tion spending at least 1% of its total annual

thority for employment of personnel in the White House. Yes. Passed, 239–147.

(190) To clarify authority for employment of personnel in the White House, two-thirds vote required. Yes. Failed, 207–188.

(191) To resolve into the Committee of the Whole to consider the Postal Act. Yes. Passed, 386–4.

(192) To prohibit the Postal Service from setting parcel post rates at levels which undercut rates of private delivery services. No. Failed, 147–257.

(193) To require that rates for each class of mail bear not only the direct but the indirect cost incurred in providing the service. Yes. Passed, 292–112.

(194) Call in Committee. Absent.

(195) To provide a mechanism for Congressional review of Postal Rate Commission decisions on postal rates. No. Failed, 180–218.

(196) To resolve into the Committee of the Whole to consider the Postal Service Act. Yes. Passed, 386–1.

(197) To require the Postmaster General to submit a report to the Congress by February 1 of each year detailing by function the expenditure of public service funds during the preceding fiscal year, and the proposed expenditure of public funds for the fiscal year in which the report is submitted. No. Passed, 203–189.

(198) Bill to establish congressional review of postal rate decisions, increase congressional oversight of U.S. Postal Service and abolish the Board of Governors of the Service. Yes. Passed, 384–11.

(199) To provide for federal regulation of participation by foreign banks in U.S. financial markets. Yes. Passed, 367–2.

(200) Call of the House. Present.

(201) To authorize appropriations to carry out the Marine Mammal Protection Act of 1972 during fiscal years 1979, 1980 and 1981. Yes. Passed, 380–5.

(202) To extend the voluntary insurance program provided by Section 7 of the Fishermen's Protective Act of 1967 until October 1, 1981. Yes. Passed, 365–14.

(203) To authorize appropriations to carry out conservation programs on military reservations and public lands during fiscal years 1979, 1980, and 1981. Yes. Passed, 377–8.

(204) To authorize appropriations for Fishery Conservation and Management Act of 1976 during fiscal years 1979, 1980 and 1981. Yes. Passed, 329–55.

(205) To authorize appropriations for the Council on Environmental Quality for 1979, 1980 and 1981. Yes. Passed, 307–76.

(206) To amend the Small Business Act and the Small Business Investment Act of 1958. Yes. Passed, 310–72.

(207) Call of the House. Present.

(208) To amend certain provisions of law relating to land claims by the U.S. in Riverside County, California. Yes. Passed, 390–14.

(209) To reinstate the Modoc, Wyandotte, Peoria and Ottawa Indian Tribes of Oklahoma as federally supervised and recognized. Yes. Passed, 362–33.

(210) To increase the authorization of appropriations under the Act of December 22, 1974. Yes. Passed, 361–43.

(211) To provide for establishment of the Lowell National Historical Park in Massachusetts. Yes. Passed, 326–76.

(212) Conference Report on Overseas Private Investment Corporation. Yes. Passed, 216–185.

(213) Call of the House. Present.

(214) Conference Report on bill to permit marketing orders to include provisions on marketing promotion, including paid advertisement, of raisins and distribution among handlers of the pro rata costs of such promotions. No. Failed, 150–268.

(215) Resolution to provide for consideration of bill to improve the basic work week of firefighters in executive agencies. Yes. Passed, 374–5.

(216) To improve basic work week of firefighters in executive agencies. No. Passed, 241–129.

(217) Call of the House. Present.

(218) Resolution to provide for consideration of the bill to clarify the authority for employment of personnel in the White House. Yes. Passed, 395–1.

(219) To reduce total number of employees authorized at level II from 25 to 15, at level III from 25 to 20 and at GS 18 from 50 to 40. Did not vote. Failed, 180–215.

(220) To require the President to submit to Congress a new authorization request for Executive office personnel and related expenses within 1 year of assuming office. Yes. Failed, 171–232.

(221) To prohibit any employees funded under this bill from seeking to influence state legislatures on proposed constitutional amendments. No. Failed, 85–320.

(222) Bill to clarify authority for employment of personnel in the White House. Yes. Passed, 265–134.

(223) Motion to close conference meetings on national energy bill. No. Failed, 6–371.

(224) To entitle delegates in Congress from Guam and Virgin Islands to make nominations for appointments to Merchant Marine Academy. Yes. Passed, 357–1.

(225) To improve operations of the national sea grant program and to authorize appropriations for 1979 and 1980. Yes. Passed, 341–23.

(226) To authorize appropriations for 1979 and 1980 for the National Advisory Committee on Oceans and Atmosphere. Yes. Passed, 317–47.

(227) To authorize appropriations for the U.S. Coast Guard for fiscal year 1979. Yes. Passed, 357–13.

(228) Call of the House. Present.

(229) Bill to reorganize the executive branch and increase its economy and efficiency by establishing Offices of Inspector General in various departments. Yes. Passed, 388–6.

(230) To authorize funds for the Hubert Humphrey Institute of Public Affairs and the Everett Dirksen Congressional Leadership Center. Yes. Passed, 267–127.

(231) To direct the Secretary of the Interior to purchase and hold certain lands in trust for Zuni Indian Tribe of New Mexico. Yes. Passed, 347–48.

(232) To increase the authorization for the National Science Foundation by $3.2 million for the recommission and conversion of the deep sea vehicle, Glomar Explorer, to a deep sea drilling vessel. No. Failed, 111–291.

(233) To reduce the National Science Foundation authorization by $6 million for biological, behavior and social sciences. No. Failed, 174–229.

(234) To authorize appropriation for National Science Foundation. Yes. Passed, 364–37.

(235) Resolution to provide for consideration of bill to regulate lobbying and related activities. Yes. Passed, 379–15.

(236) To expand scope of the geographic exemption to permit communication by individuals on behalf of organizations in the area where the individual works as well as where he/she resides. No. Failed, 195–212.

(237) To require any registered lobbying organization to report all lobbying solicitations, such as mass mailings, made by or paid for by the organization or its unregistered affiliates. Yes. Passed, 245–161.

(238) Call of the House. Present.

(239) To resolve into the Committee of the Whole. Yes. Passed, 369–15.

(240) To table motion to reconsider vote resolving into Committee of the Whole. Yes. Passed, 362–26.

(241) To require the reporting of executive branch lobbying by any department, agency or the White House. No. Failed, 44–350.

(242) To require any registered organization spending at least 1% of its total annual income on lobbying activities to disclose the name and address of any organization contributing $3000 or more during a given year to the reporting organization. Yes. Passed, 251–135.

(243) Motion to limit debate on bill to regulate lobbying activities. No. Failed, 158–215.

(244) Resolution providing for consideration of bill to authorize appropriations to NASA for research and development. Yes. Passed, 332–0.

(245) To establish a program offering 100% insured and guaranteed "Bridge" loans to meet payments on outstanding loans due between January 1, 1977 and December 31, 1979 and to provide operating loan financing to farmers and ranchers. Yes. Failed, 151–215.

(246) Bill to provide an economic emergency loan program to farmers and ranchers to extend the Emergency Livestock Credit Act. Yes. Passed, 347–23.

(247) To resolve into Committee of the Whole for consideration of bill to authorize appropriations for NASA. Yes. Passed, 387–3.

(248) To authorize appropriations for NASA for research and development. Yes. Passed, 345–54.

(249) To prohibit the Peace Corps use of funds in the Central African Empire. No. Failed, 169–228.

(250) To authorize supplemental appropriations for the Peace Corps in fiscal year 1978 and FY 79. Yes. Passed. 297–102.

(251) Resolution to disapprove Reorganization Plan #1 submitted by the President. No. Failed, 39–356.

(252) Concurrent resolution denouncing government of Cambodia for its disregard of basic human rights. Yes. Passed, 388–0.

(253) On approving the Journal. Yes. Passed, 382–9.

(254) Bill to authorize appropriations for FY 79 under the Arms Control and Disarmament Act. Yes. Passed, 332–74.

(255) To require the GAO to conduct a study of lobbying communications by federal, state and local governmental units and associations of elected state or local officials to determine if such groups should fall within scope of lobbying bill. Yes. Failed, 197–211.

(256) To remove lobbying communications that deal only with the existence or status of a legislative matter from the provisions of the lobbying bill. Yes. Passed, 207–188.

(257) Bill to regulate lobbying and related activities. Yes. Passed, 259–140.

(258) To resolve into the Committee of the Whole to consider bill authorizing appropriations for environmental research, development and demonstrations for FY 79. Yes. Passed, 384–5.

(259) Bill to authorize appropriations for environmental research, development and demonstrations for FY 79. Yes. Passed, 367–33.

(260) To make supplemental appropriations for U.S. Railway Association for FY 78. Yes. Passed, 202–196.

(261) Call of the House. Present.

(262) To authorize appropriations to carry out the Central, Western and South Pacific Fisheries Development Act until the end of FY 83. Yes. Passed, 336–23.

(263) To establish a Hubert H. Humphrey Fellowship in Social and Political Thought at the Woodrow Wilson International Center for Scholars at the Smithsonian Institution. Yes. Failed, 219–137.

(264) To extend the authority of the Federal Reserve banks to buy and sell certain obligations. Passed, 278–77.

(265) Resolution providing for consideration of bill to authorize actions for redress in cases involving deprivations of rights of institutionalized persons. Yes. Passed, 320–20.

(266) Call in Committee. Present.

(267) To remove prisons, jails and other adult correctional institutions from coverage under the bill. Yes. Passed, 227–132.

(268) Call of the House. Present.

(269) Bill to create a solar and renewable energy sources loan program within Small Business Administration. Yes. Passed, 375–17.

(270) Bill relating to the settlement between the U.S. and the Ak-Chin Indian community of certain water right claims. Yes. Failed, 138–256.

(271) Resolution to provide consideration of Securities Investor Protection Act of 1970. Yes. Passed, 384–10.

(272) To certify the report of Claude Powell's contempt of Congress to the U.S. Attorney for criminal contempt. Yes. Passed, 367–16.

(273) To resolve into the Committee of the Whole to consider fiscal year 1979 budget. Yes. Passed, 383–4.

(274) To reduce the total budget authority by $13 billion, new budget authority by $21.4 billion, outlays by $13 billion, federal revenues by $3.2 billion and public debt level by $9.8 billion. No. Failed, 197–203.

(275) To increase by $2.4 billion the budget authority for national defense. No. Failed, 142–262.

(276) To transfer $4.8 billion in budget authority and $2.8 billion in outlays from the national defense category to employment and economic development programs. Yes. Failed, 98–313.

(277) To decrease federal revenue target to $440 billion to be accomplished through a $25 billion cut in income taxes, $3.2 billion cut in social security taxes, $1 billion for tuition tax credits and $500 million in miscellaneous tax reductions. No. Failed. 163–239.

(278) To increase budget authority by $1 billion and outlays by $844 million for veterans programs. Yes. Passed, 362–33.

(279) To add $435 million in budget authority and $390 million in outlays, for youth and older American employment programs. No. Failed, 123–265.

(280) To reduce budget authority and outlays by $255 million for FY 79 accommodating a reduction in pay raise increases for federal workers from 6% to 5.5%. Yes. Failed, 172–210.

(281) To approve the Journal. Yes. Passed, 360–13.

(282) Resolution waiving points of order against conference report on bill to permit marketing orders to include provisions on marketing promotion, including paid advertisement, of raisins and distribution of pro rata costs of the promotion among handlers. Yes. Passed, 241–148.

(283) Conference report on raisin marketing bill. Yes. Passed, 212–182.

(284) To reduce revenues by $635 million to permit a primary, secondary and postsecondary education tuition tax credit. Yes. Passed, 199–173.

(285) To reduce revenues by $500 million for a higher and vocational education tax credit and to extend the credit for primary, secondary, and postsecondary education. Yes. Passed, 227–136.

(286) Call of the House. Present.

(287) To authorize appropriations for certain insular areas of the U.S., two-thirds vote required. No. Failed, 203–170.

(288) Concurrent resolution relating to Americans missing in action. Yes. Passed, 369–0.

(289) Joint resolution making an urgent supplemental appropriation for the disaster loan program of Small Business Administration for FY 78. Yes. Passed, 346–23.

(290) To resolve into the Committee of the Whole to consider First Budget Resolution for FY 79. Yes. Passed, 380–3.

(291) To reduce by $3.15 billion funding for HEW programs. No. Passed, 198–189.

(292) To provide that revenues collected by Panama Canal Company and Canal Zone government be placed in the federal treasury and be subject to appropriation procedure and House oversight. No. Passed, 231–170.

(293) To provide a 2% across-the-board cut in all budget authorities and outlays. No. Failed, 195–203.

(294) To reduce outlays by $195.4 million and budget authority by $178.2 million. No. Failed, 196–196.

(295) To resolve into the Committee of the Whole to consider the First Budget Resolution for fiscal year 1979. Yes. Passed, 392–4.

(296) To reduce budget authority and outlays by $56 million to delete funds for Food for Peace for South Korea. No. Failed, 146–254.

(297) To provide for continuation of temporary tax cut enacted in 1975. No. Failed, 45–352.

(298) To reduce budget authority from $568.2 billion to $521.4 billion and outlays from $501.4 billion to $464.6 billion, and increase revenues from $443.3 billion to $464.4 billion to eliminate the deficit. No. Failed, 170–226.

(299) To reduce budget authority and outlays by $3.15 billion for HEW programs. No. Failed, 192–205.

(300) First Concurrent Budget Resolution for fiscal year 1979. Yes. Passed, 201–197.

(301) Approve the Journal. Yes. Passed, 377–15.

(302) Resolution denouncing the assassination of Aldo Moro. Yes. Passed, 398–0.

(303) To reduce authorization of Foreign Assistance Act for population and health planning by $20 million, American schools and hospitals abroad by $17 million, international organizations and programs by $1.3 million, economic support assistance for South African countries by $20 million and to cut the $300,000 for the U. N. trust on South Africa. No. Failed, 183–213.

(304) To terminate agricultural aid to countries not making reasonable progress toward eliminating agricultural disincentives. No. Failed, 141–236.

(305) To limit aid to Panama to 25% of the revenues it receives from the Canal. No. Failed, 187–187.

(306) Call of the House. Present.

(307) Motion to consider International Development and Food Assistance Act of 1978. Yes. Passed, 300–6.

(308) To delete tobacco and tobacco products from Food for Peace program. Yes. Failed. 126–189.

(309) To prohibit only "direct" aid for Vietnam, Cambodia, Uganda and Cuba. Yes. Failed, 148–155.

(310) Call of the House. Present.

(311) To provide for maritime satellite services. Yes. Passed, 350–0.

(312) To cut 5% across-the-board to less developed countries except in food and nutrition programs. No. Passed, 200–172.

(313) International Development and Food Assistance Act of 1978. Yes. Passed, 225–148.

(314) To create the Humphrey Fellowship at the Smithsonian Institution. Yes. Passed, 222–152.

(315) To fund and name the U.S. Fire Administration. Yes. Passed, 360–11.

(316) To order a second on a bill to amend the IRS code to allow certain private foundations to hold more public utility stock. Yes. Passed, 334–16.

(317) To improve programs for senior citizens. Yes. Passed, 361–6.

(318) To amend the IRS code to allow certain private foundations to hold more public utility stock, two-thirds vote required. No. Failed, 218–145.

(319) Approve the Journal. Yes. Passed, 348–12.

(320) To extend and create new community programs under the Rehabilitation Act of 1973. Passed, 383–12.

(321) Motion to table D.C. appropriati bill. No. Failed, 190–199.

(322) Approval of a Senate amendment D.C. appropriations bill requiring Cong sional approval of Washington Civil Co Yes. Passed, 199–183.

(323) Resolution providing for consid tion of bill to authorize FY 79 appro tions for Department of Energy natio security programs. Yes. Passed, 378–6.

(324) Motion to resolve into Committe the Whole. Yes. Passed, 365–4.

(325) To delete language authorizing fu for neutron bomb at President's certificat of need. Yes. Failed, 90–308.

(326) To provide Congressional veto production of neutron bombs. Yes. Pas 318–46.

(327) To project a fiscal year 1979 bud deficit of $50.9 billion, $7 billion bel deficit in House-passed resolution. Y Passed, 201–198.

(328) Resolution providing for consid tion of bill to allow temporary increase public debt limit. Yes. Passed, 320–77.

(329) Bill to raise public debt limit. Y Failed, 167–228.

(330) Resolution providing for consid tion of Alaskan Lands bill. Yes. Passed, 3 42.

(331) Call in Committee. Present.

(332) Call in Committee. Absent.

(333) Call of the House. Present.

(334) Resolution to support the Soviet d sidents. Yes. Passed, 399–0.

(335) To reduce number of acres in Al kan Land bill by 5 million. No. Failed, 1 251.

(336) To eliminate 41 million acres fr wilderness. No. Failed, 119–249.

(337) To resolve into the Committee the Whole. Yes. Passed, 290–8.

(338) To continue mineral assessment p grams on Alaskan public lands and ov President to provide a procedure to evalu mineral exploration and extraction allo tions. No. Passed, 157–150.

(339) Motion to recommit the Alask Lands bill. No. Failed, 67–242.

(340) Alaskan Lands bill. Yes. Passed, 2 31.

(341) Call of the House. Present.

(342) Resolution to disapprove action the Commissioner of Education in consolida ing advisory councils as proposed by Co missioner's annual report. No. Passed, 3 100.

(343) To authorize the Secretary of Ag culture to provide cooperative forestry assi ance to the States. Yes. Passed, 373–3.

(344) To authorize the Secretary of Ag culture to carry out forest and rangeland r newable resources research. Yes. Passed, 37 3.

(345) To provide for expanded forest a rangeland extension program. Yes. Pass 377–7.

(346) To remove the limitation on the a thorizations under the Volunteers in the N tional Forests Act of 1977. Yes. Passed, 37

(347) To extend the period of eligibili for veterans readjustment appointments Vietnam War Veterans. Yes. Passed, 389–0.

(348) Concurrent resolution approving t extension of non-discriminatory treatment Hungarian products. Yes. Passed, 209–173.

(349) Resolution providing for consider tion of bill to authorize military constru tion at installations for FY 79. Yes. Pass 377–1.

(350) Bill to authorize certain constructio at military installations in FY 79. Ye Passed, 363–18.

(351) To increase ship mortgage guarant loan program to $10 billion. No. Failed, 12 241.

(352) Call of the House. Present.

(353) To establish the Aboriginal Hawaiia Claims Settlement Study Commission, tw thirds vote required. DNV. Failed, 210–194.

(354) To establish a commission on domestic violence. No. Failed, 201–205.

(355) To provide a special rule to include display magazine sales as income. Yes. Passed, 359–50.

(356) To amend IRS code with respect to treatment of amounts paid to relatives for purposes of credit of expenses for household and dependent care services needed for gainful employment. Yes. Passed, 363–44.

(357) Resolution expressing concern over a unilateral action of the European Economic Community. Yes. Passed, 470–0.

(358) To reimburse certain expenses by the states under the Social Security Act. Yes. Passed, 377–25.

(359) To prohibit funds paid for any item of wage costs paid to Transportation Institute, Joint Maritime Congress or American Maritime Officers Service. No. Failed, 168–227.

(360) To prohibit funds paid for wage costs for training expenses of new entrants into maritime industry. No. Failed, 111–289.

(361) To prohibit funds paid to subsidize grain shipments to Russia. Yes. Failed, 180–218.

(362) Bill to authorize fiscal year 1979 appropriations for maritime programs of Commerce Department. Yes. Passed, 326–83.

(363) Resolution providing for consideration of bill to authorize FY 79 Defense Department appropriations. Yes. Passed, 330–71.

(364) Call of the House. Present.

(365) To earmark $29.2 million for continued research and development of a wide-bodied cruise missile carrier. Yes. Failed, 107–297.

(366) To delete $1 billion for construction of Trident submarine. Yes. Failed, 115–287.

(367) To delete $8.1 million authorized for a Gulfstream II jet for the Marine Corps. Yes. Passed, 266–136.

(368) To delete $2.1 billion for CVN Nimitz-class nuclear aircraft carrier and replace it with funds for a smaller CVV conventionally powered carrier. Yes. Failed, 139–264.

(369) To delete funds for nuclear aircraft carrier. Yes. Failed, 106–293.

(370) To earmark $29,200,000 for development of wide-body strategic cruise missile carrier. Yes. Failed, 145–246.

(371) To prohibit any funds being used to withdraw troops below 26,000 level from South Korea. No. Failed, 142–247.

(372) Bill to authorize FY79 appropriations for Defense Department. Yes. Passed, 319–67.

(373) Call of the House. Present.

(374) Resolution reaffirming NATO commitment. Yes. Passed, 370–0.

(375) Resolution providing for consideration of federal flexitime bill. Yes., Passed, 360–0.

(376) Resolve into Committee of the Whole to consider flexitime bill. Yes. Passed, 338–2.

(377) Federal flexitime bill. Yes. Passed, 288–57.

(378) Call in Committee. Present.

(379) To require that petition or complaint regarding alleged violation of individuals' civil rights be filed with a court. Yes. Passed, 178–109.

(380) Approve the Journal. DNV. Passed, 318–14.

(381) Call of the House. Yes.

(382) To withhold certain types of aid to South Korea for testimony of Kim Dong Jo. Yes. Passed, 321–46.

(383) To rename two lakes now completed as Glenn Cunningham Lake and Standing Bear Lake. Yes. Passed, 369–0.

(384) To rename West Point Lake Project on the Chattahoochee River as R. Shaefer Heard Park. Yes. Passed, 350–4.

(385) Resolution providing for consideration of bill to authorize FY79 appropriations for State Department and other agencies. Yes. Passed, 363–10.

(386) Call in Committee. Present.

(387) To delete authorization for Commission on proposals for a Center for Conflict Resolution. No. Passed, 237–135.

(388) To delete authorization for Institute for International Human Rights. No. Passed, 202–164.

(389) To prohibit any funds in bill being used to implement new Panama Canal treaties. No. Passed, 203–163.

(390) Bill to authorize FY79 appropriations for State Dept. and other federal agencies. Yes. Passed, 340–124.

(391) Call of the House. Present.

(392) Resolution providing for consideration of tuition tax credit bill. Yes. Passed, 294–97.

(393) To make private, non-profit elementary and secondary schools tuition expenses eligible for tax credit. Yes. Passed, 209–194.

(394) To increase tuition allowable for credit from 25% to 50%, but not more than $100. No. Failed, 142–261.

(395) To provide tax deferral of $1000 of tuition expenses after FY77, $1500 after FY81 and $2000 after FY85. No. Failed, 155–239.

(396) Bill to provide federal tuition tax credit. Yes. Passed, 237–158.

(397) Resolution to provide for consideration of Export-Import Bank authorization. Yes. Passed, 364–4.

(398) Resolution to provide for consideration of bill to extend certain elementary, secondary and other education programs for five years. Yes. Passed, 339–13.

(399) To resolve into Committee of the Whole to consider Export-Import Bank bill. Yes. Passed, 314–13.

(400) Call in Committee. Present.

(401) To allow Export-Import Bank to extend credit to South Africa so long as credit can be extended to Angola, Cambodia, Vietnam or any Communist country. No. Failed, 157–190.

(402) To resolve into Committee of the Whole to consider Export-Import Bank bill. Yes. Passed, 318–9.

(403) To delete language prohibiting Bank's participation in transactions with South Africa. No. Failed, 116–219.

(404) To delete language that would have permitted the Bank to extend credit to People's Republic of China. Yes. Passed, 179–138.

(405) To provide the Secretary of Transportation with authority to transport Coast Guard employees to and from certain places of employment. Yes. Passed, 336–0.

(406) To implement the protocol relating to intervention on high seas in cases of marine pollution by substances other than oil. Yes. Passed, 344–1.

(407) To provide additional authorization for operating programs under the Federal Water Pollution Control Act. Yes. Passed, 338–9.

(408) Resolution providing for consideration of Boundary Waters Canoe Area Wilderness Bill. Yes. Passed, 339–1.

(409) To amend the bill with substitute removing national recreation area from bill and redesignating it as a mining protection area, liberalizing the restrictions on motor boat use within BWCA, and permitting use of motor boats on an increased number of lakes. Yes. Passed, 213–141.

(410) Boundary Waters Canoe Area Wilderness Bill. Yes. Passed, 324–29.

(411) Resolution providing for consideration of bill authorizing FY79 appropriations for certain insular areas of the U.S. Yes. Passed, 344–2.

(412) Bill to authorize FY79 appropriations for certain insular areas of the U.S. Yes. Passed, 292–54.

(413) Call of the House. Present.

(414) To provide for payments to local governments based upon the acreage of the National Wildlife Refuge System within their boundaries. Yes. Passed, 340–28.

(415) To amend the North Pacific Fisheries Act of 1954. Yes. Passed, 368–0.

(416) To establish a conservation program for the living marine resources of the Arctic and Southern Oceans. No. Passed, 268–108.

(417) Resolution providing for consideration of bill to authorize FY79 appropriations for intelligence and intelligence-related activities. Yes. Passed, 322–48.

(418) To require Attorney General to notify House and Senate intelligence-related committees of the admission of any alien he believes is excludable under the Immigration and Naturalization Act. No. Failed, 60–132.

(419) Bill to authorize FY79 appropriations for intelligence and intelligence-related activities. Yes. Passed, 323–43.

(420) Resolution providing for consideration of bill providing financial assistance to New York City. Yes. Passed, 339–21.

(421) Approve the Journal. Yes. Passed, 331–15.

(422) To authorize the printing as a House document the folder "The United States Capitol." Yes. Passed, 349–24.

(423) To authorize the printing of additional copies of Volume II of the Senate hearings "Korean Influence Inquiry." No. Passed, 329–50.

(424) Resolution providing for consideration of bill making FY 79 appropriations for Treasury Department, U.S. Postal Service, Executive Office of the President and other independent agencies. Yes. Passed, 376–1.

(425) To restore $4.2 million to the bill for implementation of new BATF firearms regulations. No. Failed, 80–314.

(426) FY79 Appropriations bill for Treasury Department, U.S. Postal Service, Executive Office of the President and certain other independent agencies. No. Passed, 297–98.

(427) Call in Committee. Present.

(428) To reduce by $28 million the fiscal year 1979 appropriation to OSHA. No. Passed, 201–179.

(429) To resolve into Committee of the Whole to consider bill to provide financial assistance for New York City. Yes. Passed, 382–3.

(430) To conform bill to the Congressional Budget Act. Yes. Passed, 401–0.

(431) To recommit bill for financial assistance to New York City to provide for a 3-year extension of the New York Seasonal Financial Act of 1975 and provide $2 billion in loan assistance for 1979, $1.5 billion in 1980 and $800 million in FY81. No. Failed, 109–291.

(432) Bill to provide financial assistance to New York City. Yes. Passed, 247–155.

(433) To reduce the Labor-HEW appropriations by $1 billion for FY79. Yes. Passed, 290–87.

(434) Resolution for urgent supplemental appropriation for the black lung program under the Department of Labor for FY78. Yes. Passed, 237–72

(435) Resolution providing for consideration of bill making FY 79 appropriations for Department of Transportation and related agencies. Yes. Passed, 309–16.

(436) Call of the House. Present.

(437) Resolution condemning gross human rights violations in Uganda and urging the President to impose a trade ban. Yes. Passed, 377–0.

(438) To increase the authorization of appropriations under the Toxic Substances Control Act, two-thirds vote required. No. Failed, 190–188.

(439) To prohibit the use of funds for implementation of regulation requiring installation of air bags in cars. No. Passed, 237–143.

(440) To allow funding to continue for research and development of occupant restraint systems. Yes. Failed, 180–194.

(441) FY 79 Appropriations Bill for Department of Transportation and related agencies. Yes. Passed, 347–25.

(442) Resolve into the Committee of the Whole to consider FY 79 Labor-HEW appropriations bill. Yes. Passed, 383–5.

(443) To delete language that restricts the use of federal funds for abortions except where the life of the mother would be endangered by carrying the fetus to term. No. Failed, 122–287.

(444) To replace restrictive abortion language with compromise language agreed to in 1977 prohibiting federal funds for payment for abortions except in cases of reported rape, incest or where severe and long lasting physical health damage to mother would result from carrying fetus to term, as determined by two physicians. Yes. Failed. 198–212.

(445) To prohibit funds in the bill to implement or enforce racial quotas by HEW or Labor Departments. No. Passed, 232–177.

(446) To reduce the Labor-HEW appropriations bill by 2 percent No. Passed, 220–181.

(447) To reduce the Labor-HEW appropriations bill by $28 million earmarked for OSHA. No. Failed, 184–216.

(448) FY 79 Appropriations Bill for Departments of Labor and HEW, and related agencies. Yes. Passed, 338–61.

(449) To resolve into Committee of the Whole to consider FY 79 Legislative Appropriations. Yes. Passed, 344–2.

(450) To resolve into Committee of the Whole to consider FY 79 appropriations for Departments of State, Justice and Commerce, Judiciary and related agencies. Yes. Passed, 368–6.

(451) To prohibit any funds for payment of expenses of maintaining American mission in Cuba. No. Passed, 241–158.

(452) To reduce funding for Legal Services Corporation by $30 million. Yes. Failed, 200–203.

(453) To prohibit the Legal Services Corporation from using any of its funds to support or defeat legislation pending before the Congress or state legislatures. No. Passed, 264–131.

(454) FY 79 Appropriations bill for Departments of State, Justice, Commerce, the Judiciary and related agencies. Yes. Passed, 359–34.

(455) To reduce by 5% the funding of the Legislative Appropriation for FY 79. Yes. Passed, 220–168.

(456) To prohibit funds to buy new color television cameras to broadcast House proceedings without prior House approval. No. Failed, 133–249.

(457) To prohibit funds being used to televise House proceedings if cameras will not be controlled by House employees. Yes. Passed, 235–150.

(458) To prohibit funds to provide wall calendars, U.S. Historical Society calendars, USDA yearbooks, plants from Botanical Garden and shipping trunks unless reimbursement is made. Yes. Passed, 214–159.

(459) FY79 Legislative Appropriation. Yes. Passed, 279–90.

(460) Call of the House. Present.

(461) Resolution providing for consideration of bill making appropriations for public works for water and power development and energy research in FY 79. DNV. Passed, 317–82.

(462) To reduce funding level in bill by $49 million for three water projects. Yes. Failed, 108–284.

(463) To prohibit funds in bill being used for five water projects. Yes. Failed, 142–234.

(464) To resolve into Committee of the Whole to consider bill making appropriations for public works for water and power development and energy research in FY79. Yes. Passed, 300–4.

(465) To prohibit funding for production of neutron warheads. Yes. Failed, 67–259.

(466) To reduce by 3% the funding of the bill making appropriations for public works water and power development and energy research in FY79. No. Failed, 93–228.

(467) FY79 Appropriations for public water and power development and energy research. Yes. Passed, 263–59.

(468) To reduce by 2% the funding in the bill making appropriations for military construction for the Department of Defense for FY79. Yes. Passed, 278–13.

(469) To resolve into Committee of the Whole to consider bill making appropriations for HUD and other independent agencies for FY79. Yes. Passed, 347–4.

(470) Call in Committee. Present.

(471) To reduce funding for EPA abatement and control and enforcement programs to FY78 levels plus 7%. No. Failed, 173–211.

(472) To reduce by 2% the funding in HUD and Independent Agencies Appropriations bill, for FY79. Yes. Failed, 156–222.

(473) FY79 HUD and Independent Agencies Appropriations. Yes. Passed, 332–47.

(474) Resolution calling for consideration of bill making appropriations for Department of Interior and related agencies in FY79. DNV. Passed, 353–27.

(475) Limit funds Economic Regulatory Administration may use to pay expenses of parties intervening in proceedings before them to $100,000. Yes. Failed, 190–221.

(476) To strike language prohibiting use of funds to pay the expenses of parties intervening in regulatory proceedings before Economic Regulatory Administration. No. Failed, 126–282.

(477) To provide a 2% reduction in bill making appropriations for Department of Interior and related agencies in FY79. Yes. Failed, 198–211.

(478) FY79 Interior Appropriations Bill. Yes. Passed, 356–50.

(479) Resolution calling for consideration of bill to extend authorization of appropriations under Rail Passenger Service Act for one year. Yes. Passed, 375–25.

(480) Call of the House. Present.

(481) To resolve into Committee of the Whole to consider the bill making appropriations for Department of Agriculture, Rural Development and related agencies programs for FY79. Yes. Passed, 369–5.

(482) To reduce funding for food stamp program by $290,200,000. No. Failed, 194–201.

(483) To prohibit Food for Peace assistance to South Korea. No. Passed, 273–125.

(484) To reduce by 2% appropriations to Department of Agriculture, Rural Development and related agencies in FY79. Yes. Failed, 189–201.

(485) FY78 Agriculture Appropriations bill. Yes. Passed, 326–59.

(486) To delete nuclear concepts from inclusion in any technical assessment of a potential solar powered satellite program. No. Passed, 267–96.

(487) Call of the House. Present.

(488) To strike provisions of bill requiring Amtrak to buy American products in those instances where the cost exceeds $100,000. Yes. Failed, 93–207.

(489) To require a discontinuance hearing for any passenger train receiving a federal subsidy exceeding $100 per passenger over any successive 3-month period. No. Failed, 119–186.

(490) To require approval of the U.S. Special Trade Representative of any purchase of foreign products by Amtrak when Secretary of Transportation determines that "Buy American" requirement would not be in the public interest. No. Failed, 121–178.

(491) To extend for 1 year the authorization for appropriations for Amtrak. Yes. Passed, 204–89.

(492) Resolution providing for consideration of bill to extend federal laws pertaining to housing, community and neighborhood development and preservation and related programs. Yes. Passed, 282–5.

(493) To authorize reserve enlisted members of the Army and the Air Force to retire within 20 years of service. DNV. Passed, 269–35.

(494) To revise the rule for recalculation of military retired or retainer pay to reflect later active duty performed between October 1, 1963 and October 1, 1973. DNV. Passed, 292–30.

(495) To allow federal employment preference to certain employees of the Bureau of Indian Affairs & Indian Health Service who are not entitled to benefits of or have been adversely affected by certain federal laws allowing employment preference to Indians. DNV. Failed, 118–204.

(496) Resolution providing for consideration of bill making changes in some park and recreation areas. DNV. Passed, 311–2.

(497) Bill to extend authorization for Civil Rights Commission for 5 years. DNV. Passed, 303–16.

(498) Approve the Journal. Yes. Passed, 326–11.

(499) Motion to refer presidential veto to Post Office and Civil Service Committee on bill to improve the basic work week of firefighters of executive agencies. No. Passed, 279–109.

(500) To order a second on bill to increase disability compensation rates for disabled veterans and to increase rates of dependency and indemnity compensation for their survivors. Yes. Passed, 378–1.●

LEGISLATION TO CURTAIL CARTELS

HON. ALBERT GORE, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. GORE. Mr. Speaker, today I am introducing legislation, along with the Honorable JOHN MOSS, which will help prevent the spread of international cartels and stem participation by American corporations in cartel activities.

The need for this legislation is painfully evident in the energy industry. A cartel controls world oil and prices and in effect controls the very fiber of the U.S. economy. Hearings before the Oversight and Investigations Subcommittee, chaired by the Honorable JOHN MOSS, uncovered a sophisticated uranium cartel that successfully manipulated a sevenfold increase in uranium prices between 1972 and 1975.

Our antitrust jurisdiction and our regulatory powers do not generally cross our borders. Yet, the United States can minimize the adverse impact on U.S. commerce by limiting participation by American firms in international cartels and by applying pressure through normal trade channels to prevent cartels from forming. My four-part legislation would require U.S. companies to report any solicitation of cartel activities, give new presidential authority to impose economic sanctions on foreign nations participating in cartels, require the special trade representative to enter into negotiations to amend international trade agreements restricting cartels, and strengthen the application of present antitrust law.

BACKGROUND

In 1972, uranium producers and uranium exporting countries were faced with a world glut of uranium supply and organized a cartel to stabilize prices. The

cartel secretly set up a formal headquarters in Paris and began dictating prices to the world market. The elaborate scheme of bid rigging and market allocation was so successful that uranium prices sky-rocketed from $6 per pound in 1972 to $41 per pound in 1975. The cartel went so far as to direct its members to submit differing bids to preserve the appearance of a competitive market.

There is no doubt that the cartel existed. There is also no doubt that one of the active participants in the cartel was the Gulf Oil Co. through its Canadian subsidiary, Gulf Minerals Canada Ltd. The controversy is over the cartels' impact in the world market and particularly in the United States. The United States has little control over the corporations of France, South Africa, or Australia, but it is imperative that we assert our antitrust jurisdiction when international cartel activities are dictated by a parent firm in the United States.

The Gulf Oil Corp., invoking the "Act of State" doctrine as a defense, contended that the Canadian Government forced them to join the cartel. Yet, after listening to Gulf's defense during three sets of hearings, it became less and less clear whether the Canadian Government coerced Gulf to join the cartel or whether Gulf urged the Canadian Government to ask them to join the cartel. I think the answer to who was pushing who is plainly seen in Gulf's internal memos. Gulf, aware that any disclosure of their role could make them vulnerable to either United States or Canadian antitrust laws, asked the Canadian Government to set up a wall of insulation that they could use to fall back on as a future legal defense, should one become necessary. In one instance, a Gulf official drafted a letter, which was ultimately signed by the Canadian Assistant Deputy Minister of Energy, Mines, and Resources, requesting Gulf to participate on the operating committee of the cartel. Clearly, Gulf's role was more than passive.

Gulf also insisted that the cartel did not affect U.S. commerce. To the contrary, evidence uncovered in the hearings demonstrated that a number of U.S. utilities, including the Tennessee Valley Authority, were forced to pay cartel prices for their uranium. TVA alone bought 20 million pounds of uranium in 1974 at cartel rigged prices from members of the "club." Similarly Duke Power, Commonwealth Edison, and Carolina Power & Light also bought uranium from cartel members during the active period of the cartel.

Mr. Speaker, Gulf was not the only U.S. firm to be asked to join the cartel. A similar offer was also extended to Getty Oil, through an Australian subsidiary. Yet, while Gulf's attorneys determined that their participation did not violate U.S. antitrust laws, Getty's attorneys believed that there were severe antitrust implications. In addition, it is very ironic to note that Gulf's partner in Canada, a German firm, declined to join the cartel because of strict German antitrust laws. Yet, Gulf sought to evade U.S. law by seducing the Canadian Government into "requiring" Gulf's participation; allowing Gulf the "Act of State" doctrine as a defense.

Clearly the United States and its captive consumers need a stronger hand in dismantling cartels. Our present policy is one of indifference which merely encourages cartel activity. The United States needs to take a tougher stance to discourage cartel activities. I believe this legislation, had it been law, would have minimized the impact of the uranium cartel, if not prevented it altogether. It can be an important deterrent to future cartel activities.

At this point I include the following:

BILL SUMMARY

SECTION 1

Gulf's internal discussions lead me to the conclusion that Gulf would not have participated in the cartel if they had been required to report their activities to the federal government.

Section 1 requires that any U.S. firm or subsidiary of a U.S. firm that engages in, or is requested to engage in, restrictive business practices report this information to the Federal Trade Commission. The FTC has the expertise to rigorously enforce this provision through its administrative procedures, without the necessity of going through lengthy court proceedings. In turn the FTC would notify the Attorney General, the Secretary of State, and the Special Trade Representative. Failure of the corporation to report any evidence of cartel activity would result in a civil penalty of $1 million and a $25,000 civil penalty for each corporate officer involved in the failure to report.

This section will not inflict further burdensome regulations—it is merely a simple reporting requirement. However, the penalty is stiff enough and the coverage broad enough to encourage U.S. firms to inform U.S. authorities of cartel activities in which they are asked to join.

SECTION 2

Section 2 calls on the President to take the necessary and appropriate steps to initiate negotiations on a new international agreement, in the form of an amendment or protocol to the General Agreement on Tariffs and Trade, that would obligate member countries to adopt legislation to control cartel and monopoly activity that affects international trade. There have been many attempts to introduce such an obligation into international law, and some legal scholars have suggested that there might be an implied obligation in the GATT.

The failure of such attempts is due in large measure to a lack of American leadership, and the efforts of multinational firms to frustrate efforts that reduce their ability to extract monopoly rents. The Charter of Havana (that would have established the International Trade Organization as a sister organization to the International Monetary Fund and the World Bank Group) included sections which would have obliged each country to control "restrictive business practices" which affect international trade. In today's highly interdependent world, that can be logically construed to mean an obligation to adopt wide-scale antitrust policies that would have the effect of increasing the wealth and economic efficiency of all countries that participate in international trade.

The Common Market has in principle adopted such a policy in regard to trade among its members, as evidenced by sections 85, 86, and 87 of the Treaty of Rome. However, their policies regarding trade with nonmembers leave much to be desired. During the investigation of the international uranium cartel, we found that large multinational firms were able to manipulate supposedly sovereign governments in order to win approval and support for their cartel activities. New international agreements are needed so that all member states will bear an international obligation to maintain the integrity of free markets. Failure to curtail specific cartel activities such as price-fixing, market splitting, production limiting, etc. should be considered an international delinquency. The GATT would provide an appropriate forum, since it has undertaken most of the functions once envisioned for the ITO and still represents the most important international agreement regarding trade. It should not be the only avenue of approach. The OECD has from time to time also suggested a tightening of policy regarding restrictive business practices.

SECTION 3

Section 3 strengthens the President's authority to deal with other nations that allow and encourage cartel activities to persist, distorting the flow of trade and robbing consumers in all countries. This amendment to section 301 of the Trade Act of 1974 would allow the President to impose trade sanctions on countries which permit their own nationals and/or require American nationals, real or juridical, to operate or participate in cartels and cartel activities that adversely affect American trade or international commerce. These sanctions would be similar to those available for use in retaliation for explicit violations of the GATT. These sanctions may include punitive tariffs, embargoes, licensing requirements and other such sanctions as are permitted for restrictive trade practices.

This legislation will serve notice on our industrialized trading partners that we will no longer tolerate government condoned cartels and monopolies that serve to distort the balance of trade in their favor through artificial manipulation of markets, prices, and production.

SECTION 4

Section 4 would disallow the use of the federal "Act of State" doctrine as a defense for firms that participate in cartels sponsored or condoned by foreign governments. Simply put, activities in violation of this act and the anti-trust laws of the United States by U.S. firms or firms that engage in U.S. commercial activity would be triable even though condoned or sponsored by a foreign government. Under the Act of State doctrine, the public acts of foreign governments cannot be adjudicated in U.S. courts. U.S. firms that participate in cartel activities have often pleaded that they did so at the request of the foreign government or a state trading agency.

The "Act of State" doctrine is unique to Anglo-American jurisprudence, and was originally formulated prior to the emergence of modern economic laws and the complexities of international trade and foreign direct investment. Multinational firms that participate in foreign cartels do so for their own enrichment, usually as an active partner of the foreign government if not as actual instigator of the cartel. The abuse of the Act of State doctrine in circumstances not in existence at the time of its origin is a glaring loophole that has long outlived its usefulness.●

PERSONAL EXPLANATION

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. LEHMAN. Mr. Speaker, earlier today I met with HUD Secretary Patricia Harris and several of my Miami constituents to discuss urban redevelopment efforts in Miami. Because this meeting

took place at the Secretary's office, I had to miss the vote on the conference report on H.R. 13467, supplemental appropriations for fiscal year 1978. Had I been present, I would have voted in favor of the conference report.●

CAPTIVE NATIONS WEEK

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. DERWINSKI. Mr. Speaker, during the third week in July, we commemorated the 20th anniversary of Captive Nations Week. Contrary to the impressions and illusions of some of our analysts, this observance is not a ritual for mourning or mere commemoration of lost once-free nations, but rather it is a period for reexamination of our foreign policy. In short, Captive Nations Week reminds us of the cumulative past in order to understand the meaning and significance of the present.

I wish to conclude my remarks with the following:

First. Proclamations by Governor Richard A. Snelling of Vermont; and Mayor Richard E. Olson of Des Moines, Iowa;

Second. A letter of rebuttal appearing in the August 4, Washington Post;

Third. An interview appearing in the July 30th Manion Forum, South Bend, Ind.; and

Fourth. Articles in the China Post of July 24, on the Week in Free China:

STATE OF VERMONT EXECUTIVE DEPARTMENT

A PROCLAMATION

Whereas, the imperialistic policies of international communism have led, through direct and indirect aggression, to the subjugation and enslavement of many peoples throughout the world; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom loving peoples in the captive nations look to the United States as the citadel of human fredom and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such a week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of captive peoples;

Now, therefore, I, Richard A. Snelling, Governor of the State of Vermont do hereby proclaim the week beginning July 16 through July 22, 1978, as "CAPTIVE NATIONS WEEK" in Vermont, and call upon the citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of the captive nations.

PROCLAMATION

Whereas, the imperialistic politics of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, Byelorussia, Romania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaipan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Solvenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam, Laos and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom loving peoples of the captive nations look to the United States as the leaders in bringing about their freedom rights and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas, The Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of the captive nations;

Now, therefore, I, Richard E. Olson, Mayor of the City of Des Moines, Iowa, do hereby proclaim the week of July 16 to July 22, 1978, as "Captive Nations Week" in Des Moines, and call upon our citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.

[From the The Washington Post, Aug. 4, 1978]

"CAPTIVE NATION'S FANTASY"

(By Walter B. Smalley)

I found Stephen Rosenfeld's confession about how he felt about "Captive Nations" in the 1960s and how he feels now very interesting (op-ed, July 14). Also, he concludes that the United States dare not provoke Soviet power at this time.

Unfortunately, Mr. Rosenfeld does not go on to point out how the one-time, lone resistance to Soviet power by Yugoslavia among communist-oriented nations in Europe has grown into general resistance all over the world. Communism is still all-powerful, but it is no longer a monolith controlled by Moscow. Red China is at Russia's back, and to its front are all the Eurocommunist nations and political parties making it clear to Moscow that it no longer rules the roost. True, Mother Russia has Cuba's Castro aiding and abetting the Russians in Africa, but just how far can Castro go?

The "captive nations" fantasy may be just that, but let Mr. Rosenfeld look at the reverse side of the coin. Moscow has overplayed its hand. There is more fact than fantasy in the rumblings of discontent. The dangerous dream of which Mr. Rosenfeld speaks with such knowledge could be more dangerous to the Russians than he dares to believe possible.

THE UNCHANGING MARXIST-LENINIST IDEOLOGY "COMMUNISTS . . . . WILL ALWAYS STRUGGLE FOR WORLDWIDE TRIUMPH"

(By Joseph Sheftick)

Dean Manion: Another Captive Nations Week has come and gone. Its annual observance, during the third week of every July, was established by the unanimous vote of Congress in 1959, and the first annual Presidential Proclamation of its observance was made unequivocally and immediately by President Eisenhower.

The then reigning Russian Communist Dictator Nikita Khrushchev was shocked and surprised at this anti-Communist unanimity in Congress and the enthusiastic public response of the American people from coast to coast. Khrushchev saw the great potentialities of this American expression of faith
God, human freedom, and national self-g
ernment. He feared that its exploitat
might prove to be the handwriting on
wall for the Kremlin dictatorship. He w
to work immediately to dilute and dim
our anti-Communism, by subversion in t
country, and iron-fisted police state meth
in all of the countries that Communism
captured at the end of World War II.

Unfortunately, Khrushchev and his s
cessors have had great success in their c
paign for the dilution and dissolution of
once all but unanimous anti-Commun
dedication. The success of this Kremlin
fort was climaxed on May 30, 1977, when
new President of the United States presu
to speak for the American people when
proclaimed that we had "lost our inordin
fear of Communism."

But there were informed and alarmed p
ple in this country who have kept the a
Communist spirit of our first Captive
tions Week alive. One of them is Dr. Jos
Sheftick, President of the American Cou
of Captive Nations. A few weeks ago,
Sheftick brought a big audience of Ameri
Legionnaires in Washington to their
cheering his passionate eloquent appeal
the defense of our country by the revive
knowledgeable anti-Communism in Ame
Immediately thereafter, our friend Cap
Frank Manson, Foreign Relations Couns
for the American Legion, interviewed
Sheftick for this broadcast which you
hear today.

Now here is Captain Manson.

Captain Manson: Dr. Joseph Sheftick,
come to the Dean Manion Forum.

The American Legion was most fortun
to have you as one of our speakers in Wa
ington. You received tremendous appl
and all of the members of the Foreign R
tions Commission requested copies of
speech on Communism. Why do you th
that the response was so great? Why do
think it happened that way?

Dr. Sheftick: There was a statement m
one time by Theodore Roosevelt in answe
a question asked by General Douglas M
Arthur on why the American people
sponded so favorably and with great insp
tion to words spoken by Theodore Roose
He responded, "I say what is in the he
and minds of the people before it is on t
lips."

So, I felt that the response to the spe
that I gave to the American Legion was
to the fact that I told them about the vic
that is necessary to bring Communism to
end, to establish a decent world, that
must overcome this evil that brings so m
suffering to all people. This is what is in
hearts of the American people.

Captain Manson: I must say that you
a tremendous response and I thought th
would be valuable to reach a much wider
dience through the Manion Forum. So, I
going to ask you some of the questions
came up in the course of your speech.

As you know, we are striving here in
United States to coexist with the So
Union, to establish mutual supporting
ing policies, to have all sorts of sports, m
and cultural exchanges. Dr. Sheftick, do
think that it is possible to coexist side
side—capitalism and Communism?

Dr. Sheftick: As I study the theory
Marxism-Leninism by reading many speec
proclamations and statements made by C
munist leaders throughout the world, an
reviewing the World Marxist Review, I
come to the understanding that it is
idealogy of Marxism and Leninism that
them their power, their conviction and
determination of world conquest.

As I look to the United States and the
World, there is no understanding of the
tivation of this Marxist-Leninist princ
by which Communist live, breathe and
upon. Therefore, it is not possible for

Free World, for capitalism, for democracy, for humanity to live in coexistence with Communism.

Captain Manson: Dr. Sheftick, being the Devil's Advocate now, you know that on the Manion Forum we feel strongly as you do that Communism is evil, but what we need to do is go one step further and explain why. What is the problem?

Dr. Sheftick: Again, it is the attitude of the Communists, centering in this ideology. For example, let us examine a statement made in a Communist magazine on the Leninist course of foreign policy. This was sponsored by the Communist Party of the Soviet Union. "They said, "The ideological struggle retains all of its sharpness and acquires even greater significance. Communists will never give up their ideas and principles. They have always struggled and in the future, will always struggle for worldwide triumph." This is the problem.

Captain Manson: It is the idea that they will never surrender the ideology. Is that it—the nub of it?

Dr. Sheftick: That is the nub of it. That is what is going on in the world and it is the motivation of the Soviet Union's foreign policy.

Unfortunately, in our government, those who lead our government, the Congress, I have yet to find those who understand that it is the ideology that is the problem. Since they don't understand the ideology and don't understand the firm belief and conviction that the leaders of the Communist world have in this ideology and in their struggle for world conquest, we will always react or act according to the Communist's desire rather than have a positive foreign policy based on our own initiatives and democratic principles.

Captain Manson: Your thought is then that there is no way that these two systems—capitalism and Communism—can coexist.

COEXISTANCE IS IMPOSSIBLE

Dr. Sheftick: There is no way. They tell us that. They leave us no choice. They say that it is impossible for capitalism and Communism to live side by side. Their theory, their ideology states this, and states it openly.

Since the beginning of Marxism, all Communist leaders, including Lenin, Stalin, Khrushchev, Mao, and even Castro, just 90 miles from our shores, tell us time and time again that it is inevitable that capitalism will be destroyed and that Communism will be the conqueror. I pray that our leaders would listen and understand the words. This is not just rhetoric from the Communist leaders. They truly believe it.

Captain Manson: I know that you are dedicating your life to trying to get across to the American people the very thing you are saying here. At this point in time, how would you say we are doing? Are we winning or losing?

Dr. Sheftick: Unfortunately, it is a sorrowful situation to see that our direction in the past year has worsened. Communism has advanced more and more. It is reaching out now even into our back yard in the Panama Canal situation.

Captain Manson: If I understand the present strategy of the Administration, particularly Zbigniew Brzezinski, his theory is that you can split off these various Communist parties from the mother party in Moscow, and that eventually they will dissipate and that they will converge or merge with other systems. I believe this is the theory they are working on. Is that correct?

Dr. Sheftick: Yes, in fact, I recently read in the Washington Post, of all papers, that we seem to have been getting a positive response from the Eastern European countries. They said we now have good relations with Poland, Hungary, Romania and all of the Captive Nations. There are just a few exceptions of hard core nations like Czechoslovakia and East Germany. They are hoping to increase trade and cultural exchanges with these other Captive Nations countries in order to woo them away from the international Communist Party movement.

This will never take place. Communist ideology says that this kind of thinking is false. It is on a pseudo foundation, it is a bad tactic for the West to use because it will never be able to woo these countries away from Communism and convert them to capitalism. The Communist is truly convinced of the truth, the historical value and significance of Marxist-Leninist principles. This is the difference.

Captain Manson: We have had a few cases in the United States where people have defected. I am sure you are familiar with some of them. Whittaker Chambers was one, as you will remember, and there have been others. Do you believe that these people really sometimes see the light and turn back to capitalism?

Dr. Sheftick: I think that it is possible for people to change their mind. But, again, we have to deal with the true ideologist, the true Communist, one who has lived under Communism and lives and breathes Leninism. There is a difference. I have never met a Communist who denies this. They always reiterate Marxism-Leninism, Marxism-Leninism.

Captain Manson: They do. They keep that going all the time.

Dr. Sheftick: Men who act as traitors or agents for Communist countries have been convinced that maybe capitalism isn't so good, so they move over and try to help a Communist nation. They oscillate back and forth. But this is not the true ideologist.

Captain Manson: Looking at the situation as you evaluate it at the moment, where is the front line, the battle line, between Communism and capitalism?

Dr. Sheftick: I would love to tell you because the American people must know where the line is. It is here in the United States. This country is determining the future destiny of all the nations in the world by its response, by its relationship to, and its method of relating to Communism. We are deciding the destinies of millions of people. The front line is here.

If we don't take a strong position against Communism, if we don't stand up and say that Communism is wrong, a wrong way of life, that Christian ideals and a God-centered way of life, is the best way for people to live by, to experience happiness and joy, then the destiny of other nations is weakened.

Captain Manson: Now, who is we? Are you talking about the President of the United States and the leaders in Congress? Is that who you regard as "we," or are you talking about all of us?

Dr. Sheftick: I'm talking about everyone, the leaders, the people. This war began in, I would say, in 1848 when Karl Marx issued the Communist Manifesto and asked the working people of the world to unite and to throw off the chains of capitalism. He called for all people to unite.

This is not just a national battle or race or societal battle, it is an individual battle for the mind of everyone. We must all confront Communism, recognize what it is, what it preaches, what it teaches, what its goals and purposes are, and fight against it.

Captain Manson: I know that you have a young son in your family. What sort of a world do you think he and children like him are going to live in, the way things are going?

KHRUSHCHEV'S PREDICTION

Dr. Sheftick: This is really a big question in the minds of parents. I was shocked several years back when Khrushchev visited our country and said that the American people should not be angry or fear the fact that their grandchildren would live under Communism or socialism. Khrushchev said that he pursued the process of detente, but without giving up Marxism and Leninism principles.

Every parent should ask themselves, what kind of world are my children going to live in? Is it going to be one which is dominated by Communism, one in which they will have to live under Atheistic principles that deny God, that deny the basic liberties and dignity that comes as a child of God?

Captain Manson: I suppose that it comes down to the fact that we have to ask ourselves, are we really a nation under God, or are we not? Is that what it comes down to?

Dr. Sheftick: Yes. I think that if our people would really look at the history of our nation, they would realize the very definite, special and close relationship that exists between God and America. In our Declaration of Independence, it states that all of our rights are guaranteed by God, are endowed by our Creator, and those are the rights of life, liberty and the pursuit of happiness.

Thomas Jefferson expressed this opinion at the time of the Revolutionary War when he said, "Can the liberties of a nation be secure when we have removed the conviction that these liberties are the gift of God? Indeed, I tremble for my country when I reflect that God is just and that his justice cannot sleep." So, we can see the very definite relationship and the feeling of the men who led the American Revolution, that they were motivated by God and felt a very definite, close relationship with God.

In our Pledge of Allegiance, we find that it states, "one nation under God, indivisible, with liberty and justice for all." On our currency is stamped, "In God We Trust."

Captain Manson: You know that the American Legion's motto is "God and Country." I suppose that if we didn't have God, we wouldn't have a country.

Dr. Sheftick: Exactly. I am so impressed by the Legion's motto. It even shows the priority, that God really should come first in our lives. If God does come first, then our country and our way of life will truly be a happy and joyful one.

Captain Manson: Speaking of God, do you think, do you see that there is any way that religions can coexist with Communism?

Dr. Sheftick: No. When we see the strategy of Communists, when they take over a country, when they first took over Russia, they abolished the Russian Orthodox Church. When Mao brought Communism to China, they outlawed Confucianism. In Viet Nam and Cambodia, Buddhism was outlawed. In Tibet, the Dalai Lama had to leave his people and escape into India because of religious persecution.

If we allow the Communists to take over America, you can be sure that they will wipe out Christianity as well as our way of life.

Captain Manson: Dr. Sheftick. I'd like to end this broadcast on an optimistic note. Do you see any way that we can have victory? Can capitalism have victory over Communism?

Dr. Sheftick: Yes, very definitely. The most important thing that we have to do is recognize what the problem is in the world and the problem facing our country. It is Communism. There is no doubt that it is the ideology of Communism.

We must teach our children, friends and associates that ideology is the motivating force behind the Communist movement. We must show the people of the world that Atheism is not the right way, and that the ideology of Communism is wrong, that there is a God and that a God-centered way of life is the right way and the best way.

Captain Manson: So, Communism is an attack on God. That is really what it is all about?

Dr. Sheftick: Too many of us haven't yet realized that Communism is the enemy of man and, most importantly, it is the enemy of God.

Captain Manson: Thank you very much, Dr. Joseph Sheftick, for coming to the Manion Forum. I'm sure that you had an appreciative group here just like you did before the American Legion gathering.

Dean Manion: Thank you, Captain Manson, for bringing us this timely and appropriate message from Dr. Sheftick. And thank you, Doctor, for your continuing fight for God and country, by spreading the truth about the Atheistic evil of Communism.

[From the China Post, July 24, 1978]

RALLY CLIMAXES CAPTIVE NATIONS WEEK

Songs and dances filled the air at the Taipei Municipal Stadium last week as the 1978 Captive Nations Week activities climaxed in an evening rally the theme of "Strive in Unity."

Some 50,000 people from all walks of life packed the stadium waving the flags of the World Anti-Communist League, cheering, and applauding while distinguished guests gave their speeches and students demonstrating their performances.

The evening rally was opened with an address by Dr. Ku Cheng-kang, honorary chairman of the World Anti-Communist League, after a song entitled "To the Memory of President Chiang Kai-shek" was sung.

Distinguished guests included U.S. Representative Delwin Clawson, John Ashbrook, chairman of National Center of Independents and Framers of France Bertrand Motte, and Vice President of the Supreme Court of the Ivory Coast Georges Creppy also gave speeches at the rally.

In his address, Dr. Ku urged unity, will power and strength among all Chinese to oppose Communism and slavery to overthrow the Communist tyranny and recover the mainland of China.

"Push the human rights campaign behind the Chinese mainland's Iron Curtain and save all the 800 million compatriots," Dr. Ku said.

"To bring about an early victory of our struggle against slavery," Dr. Ku said, "We must smash Peiping's international united front schemes, and stop Washington's move towards 'normalization' with the Chinese Communists."

He added Washington's "China card playing" will harm the free world and produce serious consequences.

The evening performance started with the release of thousands of balloons in red, yellow, blue and green colors into the sky.

The programs included a horse riding demonstration, dragon and lions dances, and gymnastic and other performances by associations and middle and primary school students.

The performance ended with a fireworks display.

Chiang Cheng-tao, a freedom fighter, and world renowned singer Dalia Kucenas from the United States also sang at the evening rally.

The evening rally also adopted messages to U.S. President Carter, U.S. Senators and Representatives and the U.S. National Conference of State Legislators.

U.S. Representative Delwin M. Clawson: He noted at the evening rally that "The right of each individual to make his own decisions from among many alternatives should be available to all mankind."

He pointed out that Communism cannot allow men to think freely, nor can it exist where men are free to choose an individual and independent way of life.

U.S. Representative John M. Ashbrook: Congressman Ashbrook told the rally that the majority of the American people is on the side of the Republic of China and its people. He said we have to win the freedom not only for ourselves but also for future generations.

Every people loves their country, their home and longs for liberty, he added.

Bertrand Motte, Chairman of the National Center of Independents and Farmers of France: Motte noted that the Republic of China is a model for free countries, and has an astonishing economic growth and progress under it free system.

He said the achievement of the Republic of China bring hope to the free world, and human rights and dignity should not be given up.

Georges Creppy, Vice President of Supreme Court of Ivory Coast: The final victory will be on the side of the free world in its war with the Communism, Creppy noted.

'Down the Communism, down the Communism." he called to people at the rally.

He said glory belongs to the people and the government of the Republic of China.

FREE WORLD ASKED TO HELP AFRICAN COUNTRIES RESIST COMMUNISM

Georges Creppy, vice president of the Supreme Court of the Ivory Coast urged the Free World yesterday to give the African countries a helping hand to ensure their security, as violence and wars are going on in the continent, brought about by the moves of Communist China and the Soviet Union.

He said that he was worried about the future of Africa when commenting on the expansion of Communist power in the region.

In a press conference participated in by five distinguished guests at the 1978 Captive Nations Week, Georges Creppy said the problems facing the African countries today concerned with security and ignorance of the true face of Communism.

He pointed out that some people have a wrong idea in thinking that Africa is an undeveloped land where any system can be adapted.

U.S. Representative John Ashbrook told the press that the upcoming visit to mainland of China by Ronald Reagan has nothing to do with politics.

Nor in his opinion does it mean any change in Reagan's support for the Republic of China.

Congressman Ashbrook, however, noted that several mass-circulation liberal newspapers and weekly magazines are influenced by the propaganda of Communist China.

"People cannot avoid making mistakes. The same is true of countries, including the United States", said the U.S. Congressman.

Bertrand Motte, chairman of the National Center of Independents and Farmers of France said in the press conference that Communist parties in Europe are still in a minority.

He considered it is impossible that Communist parties in France, Italy and Spain will become dominate in their countries.

He also pointed out that the Communist party in Italy has brought violence, robbery, kidnaping and killing to the country.

Willy Patocchi, counselor of the Uruguay State Council, warned that the Communists have stepped up their penetration into South American countries recently.

He said democracy is the best system, but it should be carried out in various forms to fit in with various backgrounds and the character of various nations.

CAPTIVE NATIONS WEEK RALLY CABLES CARTER

U.S. President Carter was told yesterday that the human rights campaign and efforts to set the captive people free are inseparably related, in a message sent by the 1978 Republic of China Captive Nations Week "Strive in Unity" evening rally. The message read "Because of the Communist trampling on human rights, peoples behind the Iron Curtain of East and West, particularly those on the Chinese mainland, are harshly treated in chains."

It stated that diplomatic recognition of such a regime (Communist China) would amount to an open statement that the Chinese Communists can continue their enslavement of the 800 million innocent individuals.

TO U.S. SENATORS

In its message to U.S. Senators and Re-
resentatives, it said "We furthermore r
quest all Americans to see that if the U
and the Republic of China stick togeth
both will benefit; if they are separated, bo
will suffer. We therefore sincerely hope th
the U.S. will abide by her treaty obligatio
and defense commitments for the ROC
as to safeguard the common security of t
entire Asian-Pacific region."

In the message to the U.S. National Co
ference of State Legislators, it said, "We, t
rally participants, ardently hope that all
you will continue to uphold your righteo
stand and make the public exert its i
fluence so that Mr. Carter and the Congre
will resolutely decide to maintain Americ
alliance and mutual defense relations wi
the Republic of China, reject all Chine
Communist offers, review the U.S. poli
towards Peiping." ●

PRESS PROTECTION ACT OF 197

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. ANDERSON of Illinois. M
Speaker, in my judgment, the rece
Stanford Daily decision by the Supren
Court threatens a fundamental tenet o
our democracy—that of a free press. Th
5-to-3 decision exposed news offices
surprise police searches for and seizur
of evidence that might be related to
crime in which neither the newspap
nor any of its employees were involve
This ruling effectively upholds the use
search warrants which may be obtaine
if a law enforcement official can sho
probable cause that a group or indivi
ual may possess evidence of a crim
Thus, the Court's ruling encourages su
prise searches of news offices, allowin
officers to go through file after file un
they come across the object of the
search.

As expected, reaction from newspap
editors and professional organizatio
has been bitter, and their disapprov
has been unanimous. Gene Cryer, exec
tive editor of the Rockford Newspape
in my hometown of Rockford, Ill., note
* * * the Court has given police agenci
a fishing license to inspect confidential fil
without providing the possessor of tho
records the opportunity to object in a cou
of law.

Attorneys for the Stanford Dail
argued that free speech consideratio
justified an exception to the Court's co
struction of the fourth amendme
search and seizure clause, but the Cou
rejected this reasoning. In essence, th
Court said that the first amendment do
not exempt the press from unannounce
third-party searches.

Mr. Justice Stewart disagreed wit
the majority and in his dissent he wrot

Perhaps as a matter of abstract policy
newspaper office should receive no more pro
tection from unannounced police search
than, say, the office of a doctor or the offi
of a bank. But we are here to uphold th
Constitution. And our Constitution does n
explicity protect the practice of medicine o
the business of banking from all abridge
ment by government. It does explicity pro
tect the freedom of the press.

I agree with Mr. Justice Stewart and was deeply distressed by the majority's decision. The Court's holding reflects an almost callous indifference to the unique protections afforded the press in the first amendment. Apparently the Court believes that if the framers of the fourth amendment had wanted to give special protection to the press, they would have incorporated those protections into the fourth amendment.

Furthermore, the Court naively tossed aside cogent apprehensions concerning the possible abuses of the search warrant procedure. Keep in mind that a law officer does not have to convince the court that a newspaper's officials or employees are involved in a crime. Nor must the police give prior notice that they will be searching news offices. Under these circumstances, the potential for abuse is almost limitless. One might wonder whether Americans might ever have read the Pentagon papers if this ruling had been in effect earlier this decade.

Fortunately, the majority decision expressly invited legislative relief, and for this reason, I am today introducing legislation designed to protect the press from these unreasonable searches.

Specifically, my bill would prevent any person acting under color of law from conducting any search or seizure of the premises of persons engaged in the gathering or dissemination of news, without an adversary court proceeding. Such a proceeding would give news operations the opportunity to contest the search and seizure of its documents, files and other materials.

My bill provides an exception to the requirement of an adversary court proceeding prior to the search. This exemption requires law enforcement officials to show probable cause that a newspaper's officials or employees have committed or are committing a criminal offense. In such cases, the police would be required to meet the strict standards set up by the Court in interpreting the fourth amendment.

Additionally, the bill provides civil and criminal remedies for violating its proscriptions. Any person affected by an unlawful search or seizure pursuant to the prohibitions of the bill could sue in State or Federal court to obtain damages or injunctive relief. The court is further authorized to award appropriate relief including punitive damages up to $10,000 per willful violation.

The bill would also permit the court to award reasonable attorney fees to the prevailing party other than the United States. Similar provisions exist in the Civil Rights Act of 1964, and other laws, and under these statutes, the prevailing plaintiff ordinarily would recover its attorney fees unless special circumstances rendered the award unjust.

Finally, the bill provides a criminal sanction in addition to civil remedies. Any person acting under color of law who willfully violates the bill's proscriptions could be prosecuted and fined up to $10,000.

Mr. Speaker, many of our colleagues have displayed their strong support for some type of remedial legislation. All of the bills which have been introduced as a result of the Stanford Daily decision address the situation but vary in their scope and approach. Today, I am adding my voice to this ever-expanding body, and while I realize it may be too late in this Congress to consider such legislation, it is my sincere hope that action can be taken as early as possible in the 96th Congress.

At this point, I would like to insert a copy of the bill in the RECORD.

H.R. 12952

A bill to secure and protect the freedom of the press from unwarranted intrusions by persons acting under color of law.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Press Protection Act of 1978".

SEC. 2. Notwithstanding any other provision of law or any rule or other authority to the contrary, it shall be unlawful for any person acting under color of law, without a prior adversary court proceeding, to search any place or seize any things in the possession, custody, or control of any person engaged in the gathering or dissemination of news for the print or broadcast media unless such search or seizure is conducted pursuant to a warrant issued by a court upon probable cause that such person has committed or is committing a criminal offense.

SEC. 3. (a) Any person aggrieved by a violation of this Act may commence a civil action in an appropriate United States district court or State court at any time not later than three years after the alleged violation occurred or terminated, or one year after the discovery of such alleged violation, whichever is later.

(b) In any civil action under this section, the court, if it finds a violation of this Act, shall award such relief as may be appropriate, including general damages, equitable or declaratory relief, and punitive damages not to exceed $10,000 for each willful violation.

(c) In any civil action under this section, the court, in its discretion, may allow the prevailing party (other than the United States, or an agency, officer, or employee thereof) reasonable attorney fees as part of the costs, and the United States (and any agency, officer, or employee thereof) shall be liable for such costs.

SEC. 4. Any person acting under color of law who willfully violates this Act shall be fined not more than $10,000.●

HOW TO REDUCE JET NOISE COMPARATIVELY PAINLESSLY

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. ANDERSON of California. Lately there have appeared some articles in Washington area newspapers which, using distorted logic and incomplete facts, have attacked legislation currently pending which will effectively and efficiently reduce jet aircraft noise which presently batters those living in the vicinity of our airports, both large and small.

However, there have been some newspapers which have printed editorials correctly stating the purpose of the bill and how it will reduce noise at no cost to the general taxpayer and at only very little additional cost to some users of commercial air transportation on international flights. One such newspaper is the Independent Press-Telegram published in Long Beach, Calif. It is with pleasure that I share with those of you who do not subscribe to this fine paper their editorial of Sunday, August 13, which is as follows:

HOW TO REDUCE JET NOISE COMPARATIVELY PAINLESSLY

As residents around Long Beach Airport, Orange County Airport and many other fields well know, aircraft noise continues to be a major problem in the jet age.

To overcome this problem, the Federal Aviation Administration has adopted anti-noise standards and has ruled that no person shall operate an aircraft in the United States after 1984 that does not meet these standards.

In the case of the airlines, the ruling applies, retroactively, to aircraft such as the Boeing 707 and 727 and the Douglas DC-8 and early DC-9, which were approved by the federal government for noise standards when first purchased.

Airlines have three options with such aircraft: to add soundproofing material to present engines, to replace the old engines with engines that meet the new standards, or to purchase new aircraft which meet the standards.

Such action will be required on nearly 1,600 aircraft, about two-thirds of the operating fleets, and the industry estimates it will cost about $8 billion to bring them into conformity.

Two measures to help bring about this noise reduction—H.R. 8729, the Airport and Aircraft Noise Reduction Act, and H.R. 11986, the Noisy Aircraft Revenue Credit Act—are now before the House of Representatives, and may come up for discussion this week. Both should be approved.

Basically, the bills would do two things: provide funds for airports to acquire land for buffer zones between the field and adjacent residential property, and provide funds through a 2 percent excise tax on the users of air transportation to help airlines retrofit, reengine or replace aircraft to meet noise limitations.

At present, the federal government imposes an 8 percent passenger ticket tax and a 5 percent freight waybill tax. Revenue from both goes into the Airport and Airways Development Program fund, which helps airports install safety features such as lighting and radar, or lengthen runways.

The fund currently has a $3 billion surplus. Consequently, sponsors of the legislation, including Rep. Glenn Anderson, D-Long Beach/Harbor City, propose to reduce the tax on the passenger ticket to 6 percent and on the freight waybill to 3 percent and then add a 2 percent excise tax to each to build up a fund within the Treasury Department to finance the noise-abatement work.

Airlines could draw only on money their service had generated, and then only within certain limits. Purchase of a new aircraft which meets noise limit standards, for example, would be eligible for 25 to 40 percent reimbursement, less the value of the aircraft replaced.

Because the 2 percent excise tax would be taken from revenue now going into the special Airport and Airways Development fund, there would be no increase in cost to the general taxpayer. There would be no cost to the airline customer because the tax on passenger tickets and freight waybills would be reduced in proportion.

Passage of the two bills also would stimulate aerospace industry employment. Anderson estimated replacement of the 707s and DC-8s alone would directly create 23,000 new jobs and at least another 22,000 indirect jobs.

But most important, it will make feasible a comparatively rapid replacement of noisy jet aircraft with planes which meet federal anti-noise standards—to the relief and well-being of those who live near airports.●

SENATE—*Monday, August 21, 1978*

(Legislative day of Wednesday, May 17, 1978)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by Hon. KANEASTER HODGES, JR., a Senator from the State of Arkansas.

PRAYER

The Reverend Dr. Robert B. Harriman, director, the Presbyterian council for Chaplains and Military Personnel, Washington, D.C., offered the following prayer:

Heavenly Father, we thank Thee for continuingly raising up from among the people those who have dedicated themselves within the halls of government. We pray now for those who serve within this Senate. Grant wisdom to discern Thy will so that they may be wise in all their judgments. Open eyes and minds to see and comprehend that which is right. Grant health and energy for arduous tasks and long hours of deliberation. Give patience and thoroughness in efforts to understand the complex and difficult. Deliver them from words or action which would foster prejudice or encourage division. May desire for the Nation's welfare surpass any self-seeking or narrow-visioned concern for a privileged few. Let no deception destroy trust, but rather may honesty firmly establish confidence. When we are right, keep us from gloating pride. When we are wrong, may our admission be followed by correction.

We pray for all entrusted with the guidance and welfare of the Nation. May those engaged in creating, administering, and judging our laws be so led by Thy wisdom that they shall faithfully lead the people in ways of righteousness and peace. Through Jesus Christ our Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., August 21, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KANEASTER HODGES, JR., a Senator from the State of Arkansas, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. HODGES thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader, the Senator from West Virginia, is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

THE ARGUMENTS AGAINST A DEEP TAX CUT NOW

Mr. ROBERT C. BYRD. Mr. President, the serious problems that could befall the American economy if a very deep tax cut were enacted in fiscal year 1979 were examined in an article by Seymour Zucker which appeared in the August 7, 1978 issue of Business Week. The author provides data suggesting that a tax cut over the next 3 years on the order of $124 billion would not pay for itself through increasing the tax base. To the contrary: The deficit would soar to $100 billion by 1983, according to one study cited by Mr. Zucker. At the same time, the rate of inflation would be almost 2 percentage points higher with such a cut by 1982. The weight of the economic evidence is against a very deep tax cut at this moment in our economic recovery.

Mr. President, I ask unanimous consent that the article, "The Fallacy of Slashing Taxes Without Cutting Spending," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE FALLACY OF SLASHING TAXES WITHOUT CUTTING SPENDING

(By Seymour Zucker)

Arthur B. Laffer first drew the curve on a napkin in a Washington restaurant back in 1974. It popped into his head as he was trying to persuade an aide of former President Ford that U.S. tax rates were so high that they were stifling economic growth. Lower tax rates, he maintained, would send employment and investment soaring to the point where tax revenues would actually rise, despite the lower rates. Laffer has been preaching that gospel ever since. And the Laffer curve—which purports to show the perverse effects of a high tax rate on government revenues—is being advanced as the economic rationale for the Kemp-Roth bill, the biggest tax-cut proposal in history.

Riding in the wake of Proposition 13, which cut California property taxes by 60%, Kemp-Roth is picking up strong support, especially among congressional Republicans. No one expects it to pass this year, but it stands a good chance of becoming the key domestic issue in the Republican congressional campaign in November and could also play a role in the Presidential election in 1980. The bill, introduced by Representative Jack Kemp (R.-N.Y.) and Senator William V. Roth Jr. (R.-Del.), would reduce everyone's taxes over the next three years by one-third, thus costing about $124 billion in tax revenues. Its sponsors are pushing the Laffer argument that the tax cut will generate an economic boom of such proportions that in a few years the government will recoup all the initial revenue loss and then some. The reason: The huge tax cut will spark the incentive to work and invest, thus increasing the tax base. The effect is to shrink the deficit without cutting government spending by as much as a nickel.

Elementary. Laffer may have sold some politicians, but not his fellow economists. The economics profession—including some leading Republican economists who support Kemp-Roth—think Laffer would have done well to leave the napkin behind for the waiter to dispose of. They see huge deficits and a rip-roaring inflation if Kemp-Roth is enacted without offsetting cuts into expenditures. To Harvard's Martin Feldstein, the theoretical principal that at some point reducing rates actually increases tax revenues "is something we teach in the first week of the course in public finance." The critical empirical question is to determine when the tax schedule gets into that range, he notes.

"The Laffer curve is more or less a tautology," says conservative economist George J. Stigler of the University of Chicago, where Laffer taught before going to the University of Southern California in 1976. "It has to be right at some level. If enterprise is not discouraged at 95%, then move it to 105% and Laffer would be right by definition." But in Stigler's view, Laffer has failed to show that the current tax structure—where the highest rate on earned income is 50%—has such an adverse effect on incentives that reducing rates would actually increase revenue. "Laffer is no longer a very serious scholar," says Stigler. "He is playing the role of a propagandist, and as such he is performing some service. But I would not base a $125 billion tax cut on his work."

Feldstein and Stigler are not alone in their criticism of Laffer. Alan Greenspan, chairman of the Council of Economic Advisers under President Ford, favors Kemp-Roth—with some changes—because he holds that the only way to cut the growth of government spending is to cut taxes. So he says: "I'm for cutting taxes, but not for Laffer's reasons. I don't know anyone who seriously believes his argument."

Just how far off base is Laffer on the tax-revenue effects of Kemp-Roth? Otto Eckstein, president of Data Resources Inc., has run the Kemp-Roth proposal through DRI's huge computer forecasting model. Assuming that it takes effect in 1979 and that there are no compensatory spending cuts, the DRI model shows that the deficit will grow progressively worse. By 1983, the red ink in the budget—including additional interest payments—will increase to a mind-numbing $100 billion. So rather than recouping the entire tax cut, as Laffer argues, DRI finds that the Treasury gets only about $25 billion of it.

OVERWHELMING EVIDENCE

To be sure, economists agree that a tax cut would increase total demand and national income and thus partly offset the initial revenue loss. But to offset the effect of lower tax rates fully, total income would have to rise by some four times the original amount of the cut. And the evidence is overwhelming that no cut in taxes could generate a rise in spending and income of that size. A $10 billion tax cut, for example, produces roughly an extra $15 billion of gross national product. The current marginal tax rate against total GNP works out to 25%, so the $15 billion creates $3.75 billion in new taxes—thus recovering barely a third of the initial

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

$10 billion. And under Kemp-Roth, which

harge have endured. The OPEC action

Urgent Power Supplemental Appropriations

$10 billion. And under Kemp-Roth, which would cut into the marginal rate itself, the outcome would be worse.

Laffer argues that this kind of calculation greatly underestimates the stimulative effect of the tax cut, because it ignores the impact of the cut on the incentives to work and save. This incentive effect unleashes a sharp increase on the supply side because more people are willing to work, save, and invest. But virtually no one else sees the magic. For example, Herbert Stein, CEA chairman under President Nixon, claims there is no evidence that the supply responses are anywhere near the magnitude necessary to prevent revenues from falling.

Stein's analysis stands in stark contrast to the Laffer contention that the tax revenues will flow back within a few short years. Using the most favorable assumptions about the response of workers and savers to the lower tax rates, he concludes that it would take "about 30 years to regain the revenue level that would have been achieved without the tax cut."

RUNAWAY INFLATION

Laffer also maintains that Kemp-Roth not only will increase real output but should actually have a dampening effect on inflation. "Excessive money growth has long been recognized as a cause of inflation. It is equally true, however, that too few goods will also cause prices to rise." So as the economy booms, more goods will be produced, and this he believes, will result in lower prices.

To be sure, Laffer is correct that Kemp-Roth would increase real output—at least in the short run. Eckstein's model shows that the economy in a few years would be booming, with unemployment falling below 5%. But inflation would be on the march. By 1982, for example, the rate of inflation would be almost 2 percentage points higher than without the cut, he calculates. And even this scenario may be overly optimistic. Econometric models have been notorious for underestimating inflation. More important, the model assumes that monetary policy is neutral even in the face of accelerating inflation. But as the deficit soars and inflation really gets rolling, the monetary authorities will have no choice but to tighten the monetary vise. And that means that capital spending and housing get clobbered, and the economy goes tailspinning into recession. So even the spurt in real growth generated by Kemp-Roth may be short-lived.

Laffer and other proponents of Kemp-Roth point to the Kennedy tax cuts of 1962 and 1964 as examples of how sharp reductions in tax rates can generate sustained bursts of economic growth. But their claims have been dismissed as wildly excessive by none other than Walter W. Heller, CEA chairman under Kennedy and Johnson. Heller fought hard for the Kennedy tax cuts, and he would dearly love to take credit for engineering the above-average economic growth that took place between 1962 and 1967. The beneficial effects of those cuts—about $12 billion, or $36 billion in today's prices—were on the demand side, not on the supply side, he holds. The key difference between the early 1960's and now is that the current inflation rate hovers near the double-digit level, compared with about 1.5% then. A tax cut—even one of only $36 billion—carries with it the danger of fueling an inflation from which the nation will take years to recover.

ENERGY ACCOMPLISHMENTS

Mr. ROBERT C. BYRD. Mr. President, less than 5 years ago the OPEC cartel imposed an oil embargo on our country. Although the serious shortage of oil we experienced ended after 5 months, the energy problems highlighted by the embargo have endured. The OPEC action told the American people in no uncertain terms that our national security as well as our energy supplies could be threatened.

Since the beginning of this decade the Congress has worked to establish a practical energy policy. We have addressed the issue in a methodical manner. Step-by-step, congressional efforts have produced many important laws to contend with the energy problem.

The 95th Congress was not yet a month old on February 2d when it passed the Emergency Natural Gas Act of 1977 (Public Law 95–2). That law gave the President authority to allocate certain natural gas supplies to help alleviate the shortage which occurred during that fearsome winter.

On March 1, 1977, President Carter transmitted to the Congress a proposal for the creation of a Department of Energy. By August, the legislation was on his desk. Congress made clear its intention that the Department would serve as the central instrument through which energy policy would be implemented. Due to the size of the Department itself and the complexity of energy issues, this is a difficult task. Yet it is an absolutely vital job which cannot be shunned.

There has been a great deal of action in the Congress on other energy-related legislation. It is clear from the titles of many of these bills that they address the energy problem directly. But there are other pieces of legislation, such as the Housing Amendments of 1978, which contain energy-related programs of great importance.

I believe these significant pieces of legislation should be recognized.

I, therefore, ask unanimous consent that a list of energy-related legislation that has been enacted by the 95th Congress or is in conference or has passed the Senate, although not having passed the House, be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

ENERGY MEASURES—95TH CONGRESS

ENACTED

Alcan Pipeline (H.J. Res. 621, P.L. 95–158).
Clean Air (H.R. 6161, P.L. 95–95).
Deepwater Ports Extension (H.R. 6401, P.L. 95–36).
Department of Energy (S. 826, P.L. 95–91).
ERDA Nonnuclear Authorization, 1977 (S. 36, P.L. 95–39).
ERDA Nuclear Authorization (S. 1339, P.L. 95–183).
ERDA Nuclear/Nonnuclear Authorization—Civilian (S. 1340, P.L. 95–238).
Export Control—Arab Boycott (H.R. 5840, P.L. 95–52).
FEA Authorization (S. 1468, P.L. 95–70).
Mine Safety (S. 717, P.L. 95–164).
Natural Gas Emergency (S. 474, P.L. 95–2).
Petroleum Marketing Practices (H.R. 130, P.L. 95–297).
Public Works—Energy Research Appropriation (H.R. 7553, P.L. 95–96).
Radiation Exposure (S. 266, P.L. 95–236).
Small Business Energy Loans (H.R. 11713, P.L. 95–315).
Strategic Petroleum Reserve Plan No. 1 (S. Res. 429–S, agreed to disapprove resolution).
Stripmining (H.R. 2, P.L. 95–87).
Stripmining Program Authorization (S. 2463, P.L. 95–343).
Urgent Power Supplemental Appropriation (H.J. Res. 227, P.L. 95–3).
Nuclear Nonproliferation Act (H.R. 8638, P.L. 95–242).
Emergency Agricultural Act (H.R. 6782, P.L. 95–279)—Gasohol program.

IN CONFERENCE

Coal Conversion (H.R. 5146–S, agreed to July 18, 1978).
Energy Conservation (H.R. 5037).
Energy Taxation (H.R. 5263).
Military Construction Authorization, 1979 (H.R. 12602—Conf. rep. filed).
Natural Gas Pricing (H.R. 5289).
Outer Continental Shelf (S. 9—Conf. rep. filed).
Public Utility Rate Reform (H.R. 4018).
Public Works Energy Research Appropriations, 1979 (H.R. 13928—Conf. rep. filed).
H.U.D. Authorization (S. 3084)—Solar and home insulation programs.
Agriculture Appropriations (H.R. 13125)—Energy conservation programs.
Water Resource Projects—Waterway User Fee—Fuel Use Taxes.
International Development Assistance (H.R. 12222)—Bilateral assistance for energy resource development.
Military Construction Authorization—solar, geothermal, and utilities systems programs.
Interior Appropriation (H.R. 12932)—Energy production, supply, and regulation programs.
Energy and Water Development (Public Works) (H.R. 12928)—Energy research project.

PASSED SENATE, NOT HOUSE

Alaska Pipeline Destruction (S. 1496).
Educational Institution Energy Savings Grants (S. 701—Provisions are now in energy conservation bill).
ERDA Nuclear Authorization—Civilian/Military (S. 1341).
ERDA Synthetic Fuel Loan Guarantee Program (S. 37).
Natural Gas Pipeline Safety (S. 1895).
Oil Shale Commercialization (S. 419).
Pipeline Destruction (S. 1502).
Rate Discrimination (S. 2249).
Endangered Species (S. 2899)—Possible exemptions for certain energy supply projects.

INSPIRATIONAL PORTRAITS

Mr. ROBERT C. BYRD. Mr. President, a portrait of one of our greatest Presidents, Abraham Lincoln, hangs in the Senators' dining room. President Lincoln has achieved a worldwide esteem in the generations since his death. His memory is universally admired. Thus, it is appropriate that his portrait is hanging in the Senators' dining room.

Since Abraham Lincoln was the first Republican President, I know our Republican colleagues take special pride in the presence of his portrait in our dining room. However, an American of Mr. Lincoln's caliber transcends all party labels ultimately. His portrait is a genuine inspiration to all Members of the Senate.

Mr. President, it is appropriate to place the portrait of a Democratic President in the Senators' dining room, as well. He should be, like President Lincoln, a man admired by the members of both parties, who has significantly influenced national and international events through his courageous actions and decisions.

Such a man was President Harry S. Truman. In the few short years since his death, President Truman's renown and prestige have grown enormously. Among

Democrats and Republicans alike, his sagacity, character, decisiveness, and ability have received increasing recognition and acclaim. Abroad, our friends and allies give credit to President Truman for halting the post-World War II advance of communism in Europe that threatened to engulf the entire continent if unchecked; moreover, President Truman's policies helped to restore economic and political health and stability to the war-shattered nations of the non-Communist world. Harry S. Truman is a man in whom all Americans can take pride. In addition, he is a man in whom Senators can take special pride, for he served with notable distinction in the Senate, before becoming Vice President and President of the United States.

Mr. President, a portrait of President Truman will be placed in the Senators' dining room as a source of inspiration and challenge to the members of both of our great and historic political parties represented in the Senate.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I have no further need for my time. I ask if the Senator from Wisconsin would like some of it.

Mr. PROXMIRE. I would like it, but I have 15 minutes under an order.

Mr. ROBERT C. BYRD. Would the Senator like my remaining time, also?

Mr. PROXMIRE. I would, if the Senator would like to give it to me.

Mr. ROBERT C. BYRD. Mr. President, how much time do I have left?

The ACTING PRESIDENT pro tempore. Six minutes.

Mr. ROBERT C. BYRD. I yield it to the Senator from Wisconsin if he wishes to use it.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I use my time only long enough to say I have no use for my time and no request for time under the standing order. I ask the Senator from Wisconsin if he would like some of it.

Mr. PROXMIRE. I think I shall have enough with that of the majority leader. I thank the distinguished minority leader.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Wisconsin is recognized for not to exceed 15 minutes in his own right. He has additional time if needed.

INFLATION—AN UNPRECEDENTED PEACE-TIME PROBLEM—WHY WE SHOULD CUT $25 BILLION FROM THE PRESIDENT'S BUDGET

Mr. PROXMIRE. Mr. President, I rise today to address the Nation's No. 1 problem; namely, rampaging inflation. Somehow, Congress has not gotten the message. We are following policies, especially spending policies, that aggravate inflation. We are doing almost nothing to reduce inflation. And it is our primary, fundamental, elementary, crucial problem.

THE PROBLEM

Inflation is having a devastating effect.

Millions of Americans with fixed incomes or relatively fixed incomes are unable to cope with their economic problems. Their costs for food, shelter, heat, light, clothing, and transportation are going up and have been going up faster than the rise in their incomes. They are therefore suffering from a decline in their living standards in real terms.

Young people are unable to afford to buy a house and must postpone having a family.

Two or more people in many families are now at work just to make ends meet.

Elderly persons are in dire straits as they have to make their fixed incomes cover large costs and thus must either use up their savings, borrow from their children, or get aid from welfare or public sources. To many who have worked hard and have been self-sufficient, this is a demeaning state of affairs. Here they are, at the end of a productive and self-sufficient life, now thrown on welfare or required to borrow when, under ordinary circumstances, the plans they have made and the estates they have built would carry them through in a self-respecting way.

We are seeing the collapse of the dollar abroad, due almost entirely to the doubts raised by our inability to combat inflation.

And what is the Government doing about inflation? Consider: In the past year or the past year and a half, we have seen an explosion of jobs and employment. So, is the Federal Government restraining spending, running a surplus, to stem inflation? No, it is deeply in the red, with a deficit this year in the neighborhood of $50 billion. To those who believe in countercyclical economic policies, this is a great blow to both theory and belief. Many have justified government deficits in times of recession and depression on grounds that we should and would run surpluses in periods of relative prosperity and recovery. But we are now finding that in periods of recovery and high levels of employment the deficits are unprecedented in the history of the country.

John Maynard Keynes, if he walked on the floor, the person some people have blamed for the spending in the thirties and forties, would be aghast at what this Congress is doing. He would not believe it. Here we are, following a policy of big deficits at a time when unemployment is dropping sharply and inflation is worsening.

Men and women employed in our stores, factories, and mines, who ordinarily would be willing to limit their demands for wages and conditions to reasonable levels, are finding that, merely to make up for the inflation of the pas
let alone to get an increase in real in
come, they must make demands whic
appear to be excessive but which in fa
fall short of keeping pace with the
costs.

HISTORICAL FIRST

Furthermore, this is an unprecedente
situation in the peacetime history of ou
country. From the Bureau of Labor Sta
tistics and the Joint Economic Commit
tee I have gathered the facts on the ri
in consumer prices in our modern hi
tory, namely since 1850 or for almost 1
years. It shows nothing like the increa
of 100 percent during this 10-year perio
if it continues at its present rate.

Here is what it shows by decades: f
the 1850's, consumer prices rose by
total of 10.6 percent, or slightly mo
than 1 percent a year.

During the 1860's, a wartime decad
the Civil War, the bloodiest decade in ou
history, they went up by 47 percent o
an average of 4.7 percent a year. Almo
all of it was in the period 1862 to 1865. I
the last half of that decade, prices ac
tually dropped by over 15 percent, or
percent a year.

What did prices do in the 1870's? Di
they rise?

In the 1870's, prices dropped 25 per
cent or 2.5 percent a year.

And in the 1880's, did they rise?

In the 1880's, and the 1890's, pric
were down by 3 percent in each decad

From 1900 to 1910 they rose by 33 pe
cent, or an average of 3.3 percent a yea

During World War I a tremendou
war, one of the biggest in our histor
they rose 160 percent, but the big pus
was in the war years and immediat
postwar years from 1916 to 1920.

And in the 1920's?

From 1920 to 1930 the year by year de
clines outpaced the increases by 20 pe
cent.

And in the 1930's?

The decade of the 1930's showed a
18-percent decrease, admittedly the pe
riod of the Great Depression offset onl
by some rises at the end of the decade.

The World War II decade showed a 7
percent annual increase, or an averag
equal to the inflation which we face i
peacetime today. This, of course, was
a time when we were pouring as muc
as 50 percent of our GNP into our wa
effort, so, of course it was inflationary.

In the 1950's, even with the Korea
war, we suffered only a 20-percent in
crease or an average of 2 percent a yea
Today that would be considered a for
of heavenly reprieve.

In the 1960's, with Vietnam, there wa
a 32 percent rise or 3.2 percent per yea

But thus far in the 1970's, we have see
price rises of 58 percent or 8 percent pe
year.

In summary, we are a country whic
historically has been a relatively stabl
price level which, year in and year ou
decade by decade, has risen little mo
than the average statistical margin o
error.

Yet this year and in this decade, w
are seeing peacetime inflation rates i

excess of those we have faced historically in wartime.

That is the magnitude of the problem.

Mr. President, I might point out that it is getting worse because even our top policy advisers in the administration cannot seem to get a grip on it. In January of this year the Secretary of the Treasury predicted 1978 inflation, 6.1 percent. In July he readjusted it to 7.2 percent. In August, only a week ago, he said it would be 8 percent for this year. Every month, the Secretary of the Treasury has given out a higher estimate of inflation.

NEED DRASTIC ACTION

Mr. President, I proposed that Congress, during its proceedings on the first budgetary resolution to reduce the ceiling on the President's budget by $25 billion.

That is the kind of dramatic and vigorous action which would send a message both to those here at home and abroad that we mean business on the anti-inflation front. We should still do it.

WHY IT IS NECESSARY

Such action is necessary and desirable for a number of reasons.

First, there is no other anti-inflation program in sight. Neither the President nor Congress, business or labor favor wage or price controls. They do not work. They are counterproductive. No one wants them. They are not going to happen.

Second, certain other alternatives are simply not adequate. The move to limit hospital and medical costs, even if started, would not solve the problem. It may be a good step, but it is very limited. An increase in both Government and private productivity is highly desirable but insufficient to stop inflation now. We should make Government more efficient, cut out excessive paperwork, and reduce regulation, but everyone knows that will take a very long time to achieve if it is achieved at all.

Some very able and public spirited and qualified persons are advocating a tax-based incomes policy or TIP under which employers and employees who forego wage and cost increases would be rewarded through the tax system. TIP, however, is complicated. There is yet no concensus supporting it, and it would take far longer both to pass and for its results to occur than the time we have. TIP is a last desperate act. It could be compared to the life jacket or log thrown to a man drowning at sea and surrounded by sharks. It is a frail answer but not to be downgraded at a time of desperation.

VALIANT INDIVIDUAL EFFORTS

Third, some very responsible persons here in Congress have made valiant efforts to deal with the inflation and budgetary problems. But the forces in favor of spending and increases are so overwhelming that they have been fortunate to hold their own.

I want to pay tribute to the Senator from Maine (Mr. MUSKIE) and the Senator from Oklahoma (Mr. BELLMON) who as chairman and ranking minority member of the Senate Budget Committee have not only held the line but reduced the budget level somewhat in face of overwhelming odds. Without them things would indeed be very much worse.

The Senator from Washington (Mr. MAGNUSON), as chairman of the Senate Appropriations Committee, has brought in a series of money bills whose totals are below the requests. That has not been easy.

The Senator from Delaware (Mr. ROTH) has stood on the Senate floor and proposed general cuts time after time in the face of the withering fire of other Senators who wish to preserve the present levels of spending or raise them.

And the Senator from Virginia (Mr. HARRY F. BYRD, JR.) has been our Horatius at the Bridge or the Dutch Boy with his finger in the dike as he has questioned bill after bill to determine if it is within the budget restraints. He has been the watch dog of the Senate on this issue.

In spite of all those efforts, and they are good efforts, and these Senators certainly deserve commendation, nevertheless, this is not the kind of vigorous, effective action to hold down the spending that we need.

We have done little more than to hold our own. It is now time to act and act decisively.

It may seem to be a cruel and callous thing to cut programs—for health, education, food stamps, and other worthy efforts. Some will think such actions lack understanding or are mean and base acts. That might be true except for the crisis we face over these unprecedented rises in prices. They must be brought to a stop. We must act. A $25 billion budget cut is the best way to do it.

WHY A $25 BILLION GENERAL CUT

It will be said, it is one thing to propose a general cut of $25 billion but another thing to be specific.

Let me answer that.

First, when we propose general cuts it is said we should cut the particular. When we propose particular cuts, those favorable to the program rise in its defense. One is criticized for doing it either way.

Second, a $25 billion cut in a $500 billion budget, while a dramatic cut which would send a message to the country, is still only a 5-percent cut. As one who has presided over the hearings for the budget requests of 40 or more departments and agencies of the Government, I do not believe there is a single one which could not be cut 5 percent and have a leaner, better, more efficient program.

Third, while I believe we should first set a ceiling of $475 billion and then force the various committees in Congress and the executive agencies to keep within the overall total, I am delighted to propose areas where cuts could be made. Here is a list as openers.

SPECIFIC LIST

Congress could start out by cutting back or cutting out the third Senate Office Building. We could also put a cap on our employees and actually reduce the number through attrition.

HOW TO SAVE $640 MILLION NOW—ABOLISH LEAA

Attorney General Bell's dramatic reversal of his earlier decision to work for the abolition of the Law Enforcement Assistance Administration (LEAA) dramatizes exactly why Federal spending is on a one-way escalator: up-up-up.

At a time when this administration cries out for some way to hold down spending increases, one of its top leaders throws in the sponge in his fight against what he himself has identified as a wasteful program that should be abolished. This is a great disappointment to me, and, I am sure, to the American taxpayer.

And at a time when the inflation rate is soaring into double digits, Mr. Bell suddenly favors pouring $825 million into the discredited LEAA program rather than saving $640 million through its abolition.

I refer, of course, to the Attorney General's flip-flop at last week's Senate hearing on the fate of LEAA. Instead of fighting to disband this spendthrift and sorry agency, Mr. Bell is caving in to those thousands of law enforcement officials who now have been hooked on the multi-million dollar Federal 'fix' and, rather than kick their wasteful habit, want to squander millions more of the taxpayers' money on LEAA's continued existence.

Last year, Attorney General Bell sent President Carter a memorandum, still not made public, recommending that LEAA be abolished. While not taking a position at that time on the other recommendations in the memo, I strongly urged the President to accept Mr. Bell's recommendation on the abolition of LEAA.

I have long advocated that LEAA be abolished. I was one of only two U.S. Senators to vote against LEAA's reauthorization in 1976.

Why? Because LEAA failed miserably to meet its responsibilities for reducing crime and improving the criminal justice system.

LEAA has spent over $6 billion since its inception in 1969. But over that same time span, according to the latest FBI statistics, the crime rate has increased an alarming 43 percent. Clearly, LEAA has been woefully ineffective in trying to solve the problem of crime and violence in America.

One example can illustrate LEAA's inept and wasteful approach to crime reduction. Earlier this year, I gave LEAA my "Golden Fleece" award for a $2 million prototype police car. Because its load of problems exceeded even its load of gadgets, plans for field testing the model car were halted. But this welcome relief came only after $2 million had been drained from the Federal Treasury to pay for this goldplated disaster.

Unfortunately, LEAA has done no bet-

ter in its efforts to improve the criminal justice system. Consider these facts:

State and local courts, with few exceptions, remain overloaded;

Jails and prisons remain run-down and overcrowded; and

Many legal procedures, including sentencing, probation, and parole, remain sorely in need of reform.

Again, one example can illustrate LEAA's ill-conceived and wild-spending approach to improvement of our criminal justice system. Last year, I gave LEAA another one of my "Golden Fleece" awards, this time for spending nearly $27,000 to determine why inmates want to escape from jail. Since it should be obvious to one and all why someone in jail would want to get out, this expenditure was, in my view, a flagrant waste of the taxpayers' money.

Finally, I should point out that the public's perception of the crime problem has worsened during the life of LEAA.

A Gallup poll earlier this year, for example, found that 20 years ago, less than 1 urban dweller in 20 mentioned crime as the city's most important problem, but today 2 in 10 cite crime as the most important problem, with the proportion rising to 4 in 10 in central city areas of the Nation's largest cities.

What all this adds up to is the plain and simple truth that LEAA has failed in its mission.

LEAA is not the answer to this Nation's crime problem. It has not worked. And it has cost the taxpayers billions of dollars.

In the face of this overwhelming evidence, how can Attorney General Bell possibly support the continuation of LEAA, much less favor a 25-percent increase in its budget?

Mr. Bell was right the first time—LEAA should be abolished.

Instead of increasing the Law Enforcement Assistance Administration (LEAA) by 25 percent as the Attorney General has proposed, we should abolish it as he has previously proposed to the President. He was right to begin with and wrong now. Instead of raising the funds to $825 million we should stop the program and save the $640 million it costs.

We should support the President's veto of the military procurement bill and stop the nuclear attack carrier (CVN-71). That ship will cost $2.4 billion. Its aircraft will add another $1.5 to $1.8 billion. Its nuclear escort ships would add another $8.7 billion. There is then the manpower and operating costs. Over 30 years the full costs of the CVN, not counting its escorts, would be $30 billion in uninflated dollars. Yet as our former colleague, the Senator from Missouri, Mr. Symington, said, sinking a big carrier is like hitting a bull in the butt with a bass fiddle.

There is scarcely an agency which could not be cut. There is the big project foreign aid at the State Department which has been a failure.

The Defense Department is pouring out billions in military aid at a time when it should be cut and when it is often used by one ally to fight another ally instead of using it as a shield against the Russians.

The shipbuilding and ship claims scandal is another area where defense funds could be saved.

We pour out massive subsidies for public works, reclamation projects, mineral stockpiles, sugar and wool, and highways, to name only a few.

At HEW there are massive medicaid excesses, more money than can effectively be used at the Institutes of Health, and inefficiency and waste in welfare. A cut in the budget would force us to come to grips with these problems.

And who is to say that the Post Office is run efficiently? Could we not improve our housing programs through better administration? Why not target the funds we now have to the area of great need and cut back on the money we give to affluent communities and areas through general revenue sharing or the community development program?

NASA's space shuttle is absolutely cost-ineffective. It cannot be justified, but we rush ahead with it in any case.

We all know certain education programs could be cut. Impacted aid is only the first that comes to mind.

The National Endowments for the Arts and Humanities have been given a 20-percent increase in funding this year alone and in the past they have seen 33- and 50-percent increases routinely.

Why should college students from well-to-do families draw food stamps? And they do.

Perhaps these programs could be justified in normal times. But these are not normal times. We suffer from the highest inflation rate in our peacetime history.

We should act. We should cut the ceiling on the President's budget by $25 billion. That action would send a message to both those at home and abroad that finally we mean business.

Mr. President, one of the outstanding economists in the country, Paul McCracken, is also a man who understands Keynesian economics, is at the University of Michigan, and served as President Nixon's Chairman of the Council of Economic Advisers.

Mr. President, I ask unanimous consent that an article from the Wall Street Journal for Friday, August 18, by Mr. Paul McCracken entitled "The Cosmetic War on Inflation," which adds detail and substance to many of the points I have tried to make in general, be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE COSMETIC WAR ON INFLATION
(By Paul W. McCracken)

Barry Bosworth's basic trouble is that he has been right. And the rewards in our Babylon on the Potomac for those who insist on speaking the obvious about such unpleasant matters as inflation are not much different from those in ancient times who were disengaged from their heads for bringing to the King bad news from the wars. In Washington, success in Fighting Inflation apparently consists not in such quaint and straightfor-

ward things as reducing inflation but in pu
ducing pyrotechnics and cosmetics whi
will persuade the citizenry that there
progress where none in fact is really occu
ring. Indeed, the danger is not so much th
the citizenry will be confused, having the
selves demonstrated a considerable capac
for clearheadedness, as that managers
policy will mislead themselves.

The fact is that we are not gaining grou
against inflation. While the monthly figu
will bounce one way or the other, and
might have a few good readings now, th
are persuasive reasons for expecting the ba
rate of inflation to continue rising. For o
thing the underlying trend since the begi
ning of 1976 has been upward. It is,
course, true that speaking about a "tren
during a 2½-year period will make the ca
ful statistician wince, and food prices ha
given the CPI a bad upward push. But
2½-year period contains 30 monthly observ
tions, and some subgroup of prices (abo
half of them, in fact) will always be risi
more rapidly than the average.

UPWARD, EVER UPWARD

Moreover, the underlying "trend" in lab
costs per unit of output during the last t
years has also been upward. Apart from
ratic quarter-to-quarter wobbles, the unde
lying rate of increase in unit labor costs h
itself been rising about a half a percent p
quarter—a track which would bring us
double digit rates by 1979.

And it is not easy to make a persuasi
case that labor costs will be rising l
rapidly. For one thing we are not getti
anything like the gains in productivity.
offset the impact of wage increases on co
that the economy has historically delive
Quarterly gains in output per man ho
(annualized) have averaged a 1.6% annu
rate in 1976, 1977, and thus far in 19
and even with the strong second-quart
gain in real output, productivity in the no
farm private sector rose at the rate of o
0.6% per year. In fact, these sluggish ga
in productivity now extend back for
decade, strongly indicating that a fundame
tally unfavorable structural problem h
emerged in the economy.

If there were reason to expect a moderati
trend in the rate of wage increases duri
the year ahead, that would provide so
reason for optimism about the price lev
This trend is more apt also to be perve
Next year will give us a heavy schedule
collective bargaining, and this means a d
proportionate share of wage increases w
be the large first-year, front-loaded adju
ments. And the probability that the avera
size of the overall packages negotiated w
be enlarged further is also uncomfortabl
high.

All of this might, of course, be consiste
with a declining rate of inflation. Some ma
items that consumers buy might experien
a sharp decline in their prices—though
this were food, while one part of gover
ment tried to take credit for progress agai
inflation another part would be busy viewi
with alarm the low level of farm prices.

Rising labor costs also might not fully
press themselves in the price level if pro
margins were to be squeezed further. B
ported profits are now double those of
decade ago, and they have increased almo
50% in the last five years. Here is, ho
ever, an illustration of the extent to whi
inflation itself can confuse facts. With
proper accounting for current costs, whi
conventional procedures fail to do, tr
profits after taxes are up only one-thi
from those of a decade ago, which means th
in real terms they are down. While so
businessmen prefer the comfort of the mi
leading conventional figures on profits, th

could be expected to have a short-lived effect

could be expected to keep a short leash on their capital budgets if profit margins were to decline further.

After all of the rhetoric about inflation's being the dominant economic problem, a view which surveys show consumers share emphatically, we are losing ground.

What is the problem?

The problem is that our strategy for reducing the rate of inflation is, to borrow an apt phrase from D. H. Robertson, "a grin without a cat."

While there is plenty for the profession to be humble about when it comes to the economics of inflation, there is one conclusion that is supported both by logic and the facts of historical experience. The rate of inflation will not come down so long as pressures of demand pushing on supplies are strong enough so that higher prices and higher wages have no adverse effect on sales volume and employment. Indeed, holding prices and wages below these market-clearing levels by some sort of brute force or ad hoc process would produce the queue-line economy.

The rate of inflation will embark on a downward trend when the result of posting inflationary price increases or extracting excessive wage increases is a painful loss of sales and employment. Ours is the only major industrial country that has not yet mustered the will to face this basic fact of economic life. And the OECD secretariat now projects the 1978 rise in U.S. labor cost per unit of output in manufacturing to be above the average for the "Big Seven" countries, and significantly lower than the increases projected only for the U.K. and Italy.

That we have not really been willing to bite this bullet is indicated by the demand management (fiscal and monetary) policies that have been deployed. The upward pressure the budget (fiscal policy) exerts on the economy is equal to the rise in expenditures plus the revenue value of any net reduction in tax rates) which indirectly has an expansive effect by increasing after tax incomes). In the period from 1958 to 1965, when the price level was quite stable, this measure of "fiscal pressure" averaged about 1% of GNP. Since 1965 it has been 2% to 3%, and would be close to 3% in 1978–79.

This same fear of facing fundamentals seems to be evident for monetary policy. With the emergence of rates of monetary expansion during the first quarter consistent, if sustained, with more discipline on the price-cost level, nervous protests were heard about the adverse effects on the economy. Those protesting presumably were calling for more rapid rates of monetary expansion (which is the only way the Federal Reserve could relieve pressures on interest rates), which would set the stage for a more rapid and inflationary expansion, which would in the end produce the even higher interest rates that are always the accompaniment of higher rates of inflation.

ANOTHER PART OF THE PROBLEM

A part of our problem is that we have also been reluctant to be realistic about how high the economy's operating rate could be pushed before pressures would begin to build. With the unemployment rate at 6% and the operating rate in manufacturing at only 84% of capacity (according to the Federal Reserve), plenty of slack seemingly remains available to assure that more demand would translate into employment and output rather than higher prices and costs.

This is far too simplistic. After a decade in which the economy's operating rate has been low, the capacity situation and labor markets are uneven, and bottlenecks are bound to develop at lower average operating rates than after a sustained period adjusted to performing closer to overall capacity. This is particularly evident in the labor market, where lack of skilled and experienced labor may impede that expansion of output which would provide jobs to those who are unemployed.

There is empirical evidence that the economy is in the pressure zone now. The proportion of companies reporting slower deliveries is now in the range reached in late 1972, or 1969, or 1965–66. And the incidence of help-wanted advertising is now higher relative to the labor force than at all cyclical peaks during the last decade (including, even 1969).

When we are unwilling to face the fundamental realities of the economy and prefer to deal with symptoms and cosmetics, we should not be surprised that we are losing ground against inflation. Washington should not be confused about this. The citizenry is not.

Mr. PROXMIRE. Mr. President, Dr. McCracken points out in his article:

The upward pressure the budget (fiscal policy) exerts on the economy is equal to the rise in expenditures plus the revenue value of any net reduction in tax rates (which indirectly has an expansive effect by increasing after tax incomes). In the period from 1958 to 1965, when the price level was quite stable, this measure of "fiscal pressure" averaged about 1% of GNP. Since 1965 it has been 2% to 3%, and would be close to 3% in 1978–79.

Dr. McCracken points out that our anti-inflation war is like a "grin without a cat." There is just no substance to it.

THE GENOCIDE CONVENTION AND THE ENDANGERED SPECIES ACT

Mr. PROXMIRE. Mr. President, in one of the more interesting debates of this session, the Senate a few months ago reconsidered the Endangered Species Act. That act was very much in the public eye, because of a recent Supreme Court decision. When it seemed likely that the construction of a certain dam would destroy the habitat of the snail darter and lead to its extinction, the Court ruled, and rightly so, that the construction of the dam be halted.

Mr. President, I have consistently supported legislation to prevent the destruction of animal and plant species, and I am happy to say that Congress has once again shown its concern by reauthorizing the Endangered Species Act. But I cannot help but notice a certain ironic inconsistency in our actions.

Mr. President, is it not ironic that, on the one hand, we have consistently voted to protect the existence of groups of animals and plants, and yet for 30 years we have refused to ratify a treaty that would protect the existence of groups of human beings? That is what the genocide treaty would do. It would prevent the extermination of an entire group of people, the way Hitler tried to exterminate the Jews in Europe and, of course, the way the Cambodians are being exterminated and the Ugandans are being exterminated. Yet, we have not ratified that treaty.

The Genocide Convention has enjoyed the support of every President since Truman. Over the years, it has garnered the signatures of 83 nations. As soon as possible, we should add another signature to that multitude. We should ratify the Genocide Convention.

But ratification is not enough. The convention is written so that each party outlaws genocide within its own state, and then the convention binds it to uphold that law. Once again, is it not a grave inconsistency that, although we have laws to prohibit the genocide of wildlife, there is no domestic law that prohibits the genocide of human beings? Of course, we have laws against murder. But genocide is a crime more insidious than murder. The cold, premeditated destruction of human beings simply because they belong to a national, ethnic, racial, or religious group is an entirely detestable act. Genocide is the gravest crime of which man has shown himself capable.

The route we must take is clear. We must eliminate the inconsistency that allows us to protect wildlife and not human life. We must make it domestic law and international law that genocide is a punishable crime.

CONGRESSMAN OBEY'S MASTERFUL WORK IN THE HOUSE

Mr. PROXMIRE. Mr. President, a bright, young Congressman from Wisconsin has done a superb job in an unpopular cause in the House this year.

I happen to disagree with him on the issue, but that does not dampen my enthusiasm for the remarkably able work he has done. Congressman DAVID OBEY has gone to work on behalf of the President's embattled foreign aid program, and thanks in a big way to him, the program seems headed for success in the House.

Yesterday, the Milwaukee Journal published an article reporting on the astonishing job Congressman Obey has done in this regard, and I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CARTER LAUDS OBEY FOR VICTORY ON FOREIGN AID

(By Frank A. Aukofer)

WASHINGTON, D.C.—In the humid early morning hours one day last week, Rep. David R. Obey went to Bob Beckel's home for a celebration. Obey had some drinks, played his harmonica and listened to Willie Nelson records.

A few hours later, Beckel went to work at the White House and dropped in to see President Carter. He walked in grinning.

"Dave Obey did a magnificent job on that," the president commented. "We owe him a great deal."

Carter was talking about House approval the previous day of a foreign aid bill totaling nearly $7 billion. It was a hard fought, major victory for the beleaguered administration, and Obey, by all accounts, put it together.

Beckel is a special assistant to the president for congressional relations, specializing in foreign policy.

"He was the single biggest key to our success," Beckel said of Obey. "We just never expected to emerge with a bill that was even viable this year, and here we've wound up with the best foreign policy bill to emerge from the Congress in over a decade."

Foreign aid is never popular, especially in an election year. Moreover, Obey—the second ranking Democrat on the foreign operations subcommittee of the House Appropriations Committee—was in the awkward position of bucking his own chairman.

Subcommittee Chairman Clarence Long (D-Md.) wanted to cut $584 million from the bill, but Obey managed to defeat him with a substitute to cut just $25 million.

Earlier, to almost everyone's surprise, administration forces narrowly (203 to 198) beat an amendment that would have prohibited indirect U.S. aid, through international banks, to Cambodia, Uganda, Laos and Vietnam.

Last year, a similar amendment passed 295 to 115, but was later knocked out in conference committee. In defeating the amendment this time, Obey and other administration backers turned around nearly 100 votes.

William P. Dixon, one of two U.S. directors at the World Bank, said the defeat of the amendment was critically important because the bank could not accept money under such restrictions. If it did, he said, every one of the bank's 133 member countries could wind up enacting political restrictions.

DATES TO JANUARY

Dixon, a former Milwaukee lawyer and aide to Rep. Henry Reuss (D-Wis.), ran Carter's Wisconsin campaign in 1976. Along with Carter aides, Dixon worked to drum up support for the foreign aid bill. He, too, called Obey the key to victory.

Obey's involvement dates back to January, when he met with Carter to start planning an approach to the bill.

In February, he produced a memorandum for Vice President Mondale, outlining a strategy and the sort of bill he thought was possible.

"That became the basic document for our strategy," Beckel said. "We met virtually on a weekly basis. He did all the strategy; he led the battle in the subcommittee and the full committee, and then on the House floor."

Obey said the final bill came out about the way he expected, except that the administration—in defeating the restriction on indirect aid to the four countries—won more than he thought it would.

"The administration did a superb job on this one," Obey added. "They pulled in the business groups and unions like the steelworkers and church groups. We were 100 votes down on the bank amendment when we started our count."

SUPPORT IS NEW

The bill did end up with restrictions on indirect aid to Cuba and Vietnam, but Obey said he expected those provisions would be eliminated in conference committee with the Senate.

Obey said this was only the second foreign aid bill he had even voted for, but that this was because foreign aid is changing.

"It used to be fundamentally military aid," he said, "with a big share to military dictatorships. This bill is prudent financially. We made a 20% cut across the board in military training and military credit sales. . . .

"I think it's important to remember that the per capita cost, the cost to every person in the country, is about 57 cents a week—the price of a pack of cigarettes. I think that's a pretty small price to pay for the stability and influence it buys in a world in which 70 million people are starving every year. It's morally essential."

Besides, Obey said, the money does not go directly overseas. He said studies had shown that 80% of it was spent in the U.S. providing jobs for U.S. workers.

WISCONSIN SUPPORT FOR PRESIDENT CARTER

Mr. PROXMIRE. Mr. President, the big political story this year has been the fall in the popularity of President Carter. But in the last few days there has been some interesting evidence of new support for the President.

The Milwaukee Journal, generally considered one of the outstanding papers in the country, published an editorial recently calling for a letup in the carping criticism of the President and pointing to some of his accomplishments.

The Milwaukee Sentinel, which often has been critical of the President, this Sunday led off with an editorial headed "Carter Shows Grit, Astuteness in Veto," in praising the President's veto of the military authorization bill to stop the aircraft carrier.

Mr. President, I ask unanimous consent that both editorials be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

LET'S GIVE CARTER MORE ELBOW ROOM

A national magazine reports that Washington is beginning to hear talk of a public backlash against criticism of President Carter by congressmen and the media. It's about time.

The president has been subjected to relentless scrutiny and to ridicule far out of proportion to the rebukes he has earned. And he has received scant recognition for the things he has done right. The treatment isn't just crippling him politically. It is also diminishing the office of president, interfering with the passage of needed legislation and impairing America's ability to command respect abroad.

Of course, Carter has made mistakes, as we have noted many times in these columns. But all presidents err and some have made far more serious blunders than has Carter.

He has not led the country into war or even into any foolish foreign adventure. In fact, contrary to the usual criticism of his foreign policy, he hasn't done badly overall in dealing with other nations.

Nor has he precipitated an economic recession. Business expansion has continued and unemployment has dropped sharply since he took office.

No major scandals have marred his administration. Bert Lance's publicised transgressions took place before he became Carter's budget director. Moreover, Lance's banking manipulations were nothing on the order of Spiro Agnew's felonious tax evasion or Richard Nixon's complicity in the obstruction of justice. Carter's chief mistake was to keep defending Lance ("Bert, I'm proud of you") after Lance's actions were obviously indefensible. Yet Carter is not the only president ever to let loyalty to a friend interfere with good judgment.

Moreover, despite all that has been said about broken promises, Carter is still roughly pursuing the course that he charted in his campaign. Changing circumstances have caused him to abandon some goals, but no president should be too inflexible to ad[illegible] to change and reality. To be sure, Carter h[illegible] had limited success getting his progra[illegible] through Congress, but Congress seems m[illegible] to blame for that than the president.

Carter is often depicted as incompete[illegible] but the charge is off the mark. Old Wa[illegible] ington hands such as Democrat Clark Cl[illegible] ford and Republican Melvin Laird rank Ca[illegible] ter as very bright. He masters both essenti[illegible] and details very quickly and remembers wh[illegible] he has learned. Inexperienced in the wa[illegible] of Washington? Yes. Too tolerant of a poo[illegible] organized staff? Yes, until recently. B[illegible] incompetent? No.

Yet Carter's approval rating in the pu[illegible] lic opinion polls have plummeted lower th[illegible] President Ford's did after his untimely pa[illegible] don of Nixon. Even Nixon's popularity ra[illegible] ings did not drop below Carter's pres[illegible] ranking until Watergate became very hea[illegible]

Carter's depressed popularity can be par[illegible] attributed to a variety of factors—a colle[illegible] tion of small and moderate mistakes by t[illegible] president and his aides; a collapse of vote[illegible] exaggerated expectations (which candid[illegible] Carter had unduly inflated), general malai[illegible] in a public that is not galvanized by a[illegible] crisis or overriding issue.

These things, however, do not fully expla[illegible] Carter's image problem. Part of the troub[illegible] must be blamed on commentators who pi[illegible] at him incessantly without mentioning [illegible] strong points; on congressmen who won't [illegible] a kind word about him even when th[illegible] agree with his policies; on Washington ve[illegible] erans who still resent his presumptuous co[illegible] ture of the White House without their advi[illegible] or help.

Of course, some of that friction was inev[illegible] table. Carter won by running against the sy[illegible] tem and could scarcely expect the establis[illegible] ment to flock to him immediately. But he h[illegible] been in Washington 19 months now. I[illegible] time for the regulars to quit freezing hi[illegible] out.

As Lyndon Johnson liked to say of himse[illegible] Carter "is the only president you've go[illegible] Barring tragedy, he is likely to be the on[illegible] one until at least January, 1981. Althou[illegible] those who seriously disagree with him o[illegible] policy are entitled to oppose him, even th[illegible] should permit him some elbow room. It is[illegible] simply unkind or impolite to subject a pre[illegible] dent to undeserved derision. It is also foolis[illegible]

So far, Carter has been remarkably co[illegible] under attack, but sooner or later the unfa[illegible] needling may get to him. It might even beg[illegible] to affect his judgment, to push him in da[illegible] gerous directions.

Even if Carter keeps his composure, t[illegible] essential stature of his office can be withere[illegible] by unbalanced criticism. We do not yea[illegible] for a revival of the imperial presidency, b[illegible] the pendulum may have swung so far th[illegible] presidential authority—a crucial element [illegible] leadership—has become too fragile.

In any case, it's certainly time to qu[illegible] cuffing Carter around just for the heck of [illegible] He deserves better, and the country cann[illegible] afford to have another crippled presidency.

CARTER SHOWS GRIT, ASTUTENESS IN VET[illegible]

In terms of both policy and politics, Pre[illegible] dent Carter made a smart move in attemp[illegible] ing to sink congressional plans for a nucle[illegible] powered aircraft carrier which he opposed.

In order to do so, Carter had to take t[illegible] dramatic step of vetoing the entire $37 bi[illegible] lion defense procurement authorization bi[illegible] Congress now has the choice of giving in [illegible] the president or holding up this substanti[illegible] part of the defense budget.

It looks as if the president will be a winn[illegible] in this battle, as well he should be. If Co[illegible] gress tries to hold up other vital defen[illegible]

funding by insisting on spending an extra $700 million (the approximate difference in cost between the nuclear craft and the conventionally powered carrier Carter preferred) members had better think up some good excuses for the voters before election time.

Some critics are already berating Carter for creating still another confrontation with Congress. That isn't the case. The president worked hard to obtain a compromise on the issue before it came to a vote in the House, advocating the conventionally powered flattop instead of the nuclear ship. Despite his pleas, however, the proposal met defeat by an unexpectedly large margin.

Carter's basic contention is that the supercarrier is too vulnerable and that future Navy policy should involve the use of smaller and more varied vessels. As commander in chief of the armed forces, he should have a strong say on this matter and the veto was his only recourse if his policy was to survive.

The situation, as many have noted, also offers the president an opportunity to come off as a strong chief executive by challenging a belligerent Congress on a major issue.

Congress, with its obstinate refusal to bend to compromise, played right into Carter's hands. And in using the veto as a trump card, in this instance, the president shows not only strength, but a degree of political astuteness which should gain him some congressional respect in the future.

QUORUM CALL

Mr. PROXMIRE. Mr. President, I yield back the remainder of my time, and I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE MEETING AUGUST 23

Mr. PROXMIRE. Mr. President, I ask unanimous consent for the Subcommittee on Energy, Nuclear Proliferation and Federal Services to hold a business meeting on Wednesday, August 23, 1978, at 2:30 p.m., for the purpose of marking up S. 3411, S. 3412, and S. 1493.

S. 3411 and S. 3412 deal with the GAO, and S. 1493 deals with energy impact assistance.

I understand that this matter has been OK'd on both sides of the aisle.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETING

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the East Asian and Pacific Affairs Subcommittee of the Committee on Foreign Relations be authorized to meet during the session of the Senate today to hold a hearing on the current situation in Indochina.

This matter has been approved on both sides of the aisle.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

QUORUM CALL

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPRESENTATION OF THE DISTRICT OF COLUMBIA IN CONGRESS

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 10 a.m. having arrived, the Senate will now resume consideration of House Joint Resolution 554, which will be stated by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 554) proposing an amendment to the Constitution to provide for representation of the District of Columbia in Congress.

Mr. HATCH. Mr. President, I ask unanimous consent that Dan Livingston, of my staff, have the privilege of the floor during the pendency of this bill and any votes thereon.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Tom Southwick be accorded the privileges of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATCH. Mr. President, we were privileged last week to hear from the proponents of House Joint Resolution 554, who eloquently spoke of their commitment to "human rights" for the residents of the District of Columbia. I would like to respond to some of the points raised in regard to this important question now facing us.

Many of the proponents of what is, in my view, a poorly drafted amendment, employ the phrase "taxation without representation" to illustrate the injustice which residents of the District supposedly endure. This phrase is obviously intended to cause Americans today to draw a parallel between the conditions in the Colonies at the time of the Revolutionary War and the present situation in Washington. Although a noble battle cry in the struggle for our national independence, for the purpose of this debate it serves to lay yet another blanket of rhetoric upon an issue already obfuscated by emotional slogans.

To compare the status of the American colonies in British Parliament in the 18th century to the status of the District of Columbia today is to sidestep the constitutional problems created by the proposed amendment, the problems which stem from the fact that the District of Columbia simply does not possess the attributes of statehood required by our federal system. Moreover, such an analogy ignores the special provisions which have been made to attend the needs of the people of the District of Columbia. The District is the only city in the United States with a committee of the House of Representatives and a subcommittee of the Senate wholly devoted to its needs. Far from a neglected and oppressed distant land, it is rather the seat of an ever expanding and prospering National Government.

I do not know whether "prospering" is the correct word because we certainly have a Government that is tremendously in debt right now. By September of 1979, we will be in debt $886.9 billion. The interest against that debt is more than the whole Federal budget was back around 1945, just the interest against that debt which today is about $56 billion a year. People think we owe that interest only to ourselves, but of course we owe it to banking institutions and to other lenders all over the world, including many American citizens.

I was just reading today in the Wall Street Journal about how our dollar is indebted throughout the world and how much we owe to foreign banking concerns which have been purchasing our dollars in order to bolster the American dollar because of the profligacy of our Federal Government in this Federal welfare mentality that we have right here in Washington, D.C.

So, as I have said, far from a neglected and oppressed distant land, the District of Columbia is rather the seat of an ever-expanding and, if not prospering, at least money-manufacturing National Government and reaps millions upon millions of dollars in benefits as a result. Many of our Senators and Representatives reside here as well and are thus as acutely aware of the problems of the District as they are of the areas they were elected in.

In terms of per capita spending by the Federal Government, the District received nearly four times that of any other State except Alaska. New York City is the only city to receive more in Federal aid. Clearly, this is a city whose residents have not been ignored by the Government which resides within its boundaries. Thus, the situation which gave rise to the phrase "Taxation without representation" is in no way comparable to the one we are now discussing.

I might also add that, when the early colonists complained about taxation without representation, they were governed by a distant land, governed by people who did not really care for them, governed by an imperialist parliament which literally did not take into consideration their needs and taxed without any representation in that parliament.

Mr. President, I ask unanimous consent that the time under control of Senator SCOTT be transferred to me until he arrives.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATCH. In fact, this city is one

of the best kept and most well financed cities in the world today as a result of the taxes from people all over this country, certainly not here, because only about 29 cents of the taxes here on every dollar pay for the needs of the District of Columbia.

Those who favor House Joint Resolution 554 have accused opponents of being motivated by fear of the "four toos" that the Senators in the District might be "too liberal, too urban, too black, and too Democratic." Such rhetoric completely ignores the serious constitutional flaws which this amendment contains.

Mr. President, I suggest that attaching motives to your opponents which they do not possess undermines the serious purpose of what I hope will be a meaningful debate.

On the other hand, I think there is no question that this is a Federal enclave and a large percentage of residents within the District of Columbia do receive their income and support either directly or indirectly from the Federal Government and indirectly from taxpayers throughout this country.

The District is the only city in the United States with a committee, as we have said, of the House of Representatives and a subcommittee of the Senate wholly devoted to its needs.

As I have repeatedly stated, I am in favor of giving every American citizen the right to vote. There has been no sentiment expressed on my part or on those of my distinguished colleagues who have risen in opposition to this amendment to the effect that those Americans who live within the Federal enclave should not be allowed to participate in our electoral process. As you know, they do except in the area of electing Senators and a Congressman who can vote. The problem, however, lies in the nature of the amendment that is before us, rather than in the intent. My objections stem entirely from the poorly-drafted provisions of House Joint Resolution 554 and the new problems these poorly drafted provisions would create.

In addition, I have lots of problems with the fact that this amendment attacks the very basic foundation of our Federal Republic.

When our Founding Fathers established this country, they were concerned about the strength of a central form of government. They were concerned about putting too much power in a monarch or too much power in a select few people who might govern us, and so they wanted to diffuse this power by establishing various States, 13 at the beginning of this country, and these various geographical entities would determine, through representatives sent to Washington, the limits of that power in Washington. And if the representatives did not determine and circumscribe the limits of the central form of government, then two other ways we have provided for doing it.

No. 1, the Executive, who himself could circumscribe the central form of government, and a number of Presi-

they can have a job and are capable of a young person is unemployed for 3

dents of the United States have done just that by not allowing the Federal Government to expand to such unprecedented dimensions as we have today. A number of them have done just the opposite, and we have had, in essence, 42 of the last 46 years of one-philosophy rule, and that is building bigger and bigger and greater and greater government in Washington, D.C.

That was contrary to the ideals of the early Founding Fathers who were afraid of too central a government, and were reacting against too much monarchial control, and so in addition to the President and Congress, they established the Supreme Court of the United States which itself has been continually expanding the power of the Federal Government but on occasion curtailing that power as it should.

As I have said before, the proposed amendment treats three different kinds of voting procedures—electing Members of Congress, electing the President and Vice President of the United States, and ratifying amendments—as one and the same, allowing residents of the District to participate in direct election of the latter two items, privileges which no Americans now possess, including the residents of the District of Columbia. In other words, the District, unlike the States, has no legislature, and the resolution now before us would seem to give District residents the right to ratify or reject constitutional amendments by direct election or direct ratification.

No other citizen in this country has that right. Although section 2 of this amendment vaguely speaks of "The exercise of the rights and powers by the people of the District and as shall be provided by the Congress," it is not at all clear which politcal body would exercise those powers.

If ratification is determined "by the Congress" the Congress suddenly has new power to ratify the amendments it proposes in direct contradiction to the explicit language of article IV of the Constitution.

Similar problems arise with the question of electoral votes which are always cast in the form of electors chosen by State legislatures. Again the District has no State legislature. Congress does not possess the authority to appoint electors, so we must assume that this proposed amendment would endow District voters with the right to choose the President and Vice President by direct popular vote, which no other State can now do.

There are those in Congress today and in the Senate today who would like to have direct election of the President, in spite of the fact that our electoral college system, our system of electing the President, has worked well ever since the beginning of this country, and there are arguments that can be made for direct election of the President.

But the fact of the matter is that as of right now we do not have that, and I think there are very good reasons why we do not have it. I, for one, hope we never have it, because I do believe that our Founding Fathers, in their infinit wisdom, and I believe they were inspire in formulating the Constitution, but f their infinite wisdom, decided to have th electoral college.

All I can say is that as the Feder Government is the single largest inte est group in the District, the Senato representing this city would be litt more than spokesmen for that interes They would not face the competing i terests which are found in the State themselves, which must be balance against the national interest.

I would again like to emphasize th fact that my objection has nothing wha ever to do with whether Senators fro the District would be "too liberal," "to urban," "too black," or "too Democratic My objection simply focuses on the fa that this amendment ignores the i tent and, I think, the intent was a wi one, of the framers to have the se of the National Government in a neu tral enclave, and it would obviously lea to further overrepresentation of an ex panding Federal bureaucracy.

When the Founding Fathers decide we would have a representative form o government rather than a monarchic form of government or a super stron central form of government, which, seems to me, we are now evolving int and to which this proposal would giv even more impetus, that they did so be cause they realized that the States them selves are geographical entities with di verse populations, many cities with di fering intents and viewpoints, residin in counties with diverse interests suc as agricultural, mining, manufacturin and so forth, and that there would b a diversity of representation from eac State rather than a solidarity of repre sentation.

In hardly any State in our country to day is there a complete solidarity o viewpoint politically, philosophicall morally, ethically, or otherwise.

So when a Senator comes back her to represent his State and his countr this Senator represents a diversity o interests, and he has to balance tho diversities of interests in order to be good Senators. He has to think of all th problems, not just, if he is liberal, estab lishing a stronger central form of gov ernment, establishing a greater bureauc racy, to interfere with all of our live which is, of course, the hallmark of thos it seems to me, who are called "liberals today.

They have been the people who hav saddled us with this almighty Feder Government that is telling us what t do, when to breathe, how to act, what t fish for, what kinds of plants to establis and you can go on and on and on.

The Federal Government has inte fered so much that the cost of living ha escalated to the point where I wond how people who live on the average i come in our society get by. Sometimes think there is a dividing line where man people feel it is better to be on welfar better to be on transfer payments, tha it is to get out and work, even thoug

they can have a job and are capable of working.

Not too long ago I met a man who runs a series of dry cleaning shops in this area. He has his people trained, they are essential to his business. It is a year-round business. It is not just a seasonal business. But every spring about 15 percent of his employees in this area just quit.

Now, ordinarily when you quit a job you are not entitled to transfer payments. You are not entitled to unemployment insurance. You are not entitled to some of these benefits that we so often take for granted today.

But these people get them because nobody is going to reject them. Nobody is going to make them stand up and be counted.

He goes down to the unemployment office and says, "Look, I need all these people, I can give them jobs, I will keep them working, and they will be paid well. Why should they just quit and still go on relief or welfare or unemployment compensation?"

He has received some very deaf responses; deaf ears are turned to him, and that is because of some of the liberal central government mentality that continues to demean many citizens in our society by keeping them on welfare and taking away their responsibilities and their obligations to work, and the self-esteem which comes from it.

I remember not too long ago we were arguing about the minimum wage and what we wanted to do was to have a youth opportunity wage differential to give at that time 42 percent of our young black youth an opportunity to work. What we were going to do was allow employers, as an incentive to hire these young people, pay 85 percent of the prevailing minimum wage which, of course, has been expanded from last year, from $2.30 an hour to $2.65; the first of this year $2.90, then $3.15, and then $3.35 an hour. All it would do would be to give them the right, as an incentive, to hire, to pay 85 percent of the prevailing minimum wage for a 6-month period. That bill was shot down in the United States Senate.

Three years ago I filed a bill called the job opportunity bonus bill. That bill is to give people who are structurally unemployed, basically unemployable people, the opportunity of working. What it would do would be to give any employer, as an incentive, a job opportunity bonus at the end of a year if he will employ the structurally unemployed people for a year or better and train them. At the end of that year the employer would be entitled to a job opportunity bonus of between $2,500 and $4,000.

People say, "Well, are you not using the Federal Government to do that?" That is right. But the fact is it will not cost us a dime because we will be taking these people off unemployment rolls, these people who are formerly unemployable, and giving them opportunities to get out and work, and giving them opportunities that they otherwise would not have because, as you know, when a young person is unemployed for 2 years he then becomes unemployable.

You know I am finding that the libcrals here in the Congress are not interested in this type of solution because they owe an obligation and fealty, it seems to me, to certain special interest groups that want to keep the marketplace, as they want to keep the employment marketplace, completely monopolized by their particular groups, and not allow the competition that can arise in a free enterprise system, in a free economic system, that is allowed to work as this system should be allowed to work.

Well, I do support the idea of the District of Columbia residents having the right to vote for representation. I do not think that is the issue that needs to be debated. I think they ought to have that right.

But, on the other hand, I notice that some of the liberals here in Congress who know darned well that this amendment has almost no chance at all of being ratified by 38 States—it will be ratified by a number of States, but I think almost anybody would admit it has a very difficult time being ratified by 38 States. It is a good political issue, I suppose, if you can convince people that the four "too's" really are accurate.

I suppose that instead of solving the problem as it could be solved by either retrocessing to Maryland and allowing Maryland to make that decision—I suspect that Maryland would make the decision. I suspect the people would be glad to have these citizens paying taxes into Maryland and participating in Maryland. But nobody will know until they are given the opportunity, which could occur in a matter of a few years rather than the 7 years it would take here, if at all, and the odds are it will not be at all.

So for all the liberality, for all of the desire to give District citizens a right to vote, this simply is not the way to do it. It is a nice political approach, but it is not the way to do it.

I suggested that if you do not like the retrocession idea then why do we not consider allowing the residents of the District of Columbia voting anywhere they want to? They can vote in the State of their choice or if we think that is unconstitutional or unsound let us give District of Columbia citizens the right to vote in the State of their last residence or the residence of their ancestors.

Mr. President, these are issues that I think could be resolved. I think we could have them resolved in a very short period of time, rather than in the lengthy period of time, probably without success, that this approach involved.

Nevertheless, as I say, there is a seeming lack of interest among the liberals to have a short term, good approach that would solve these representation problems for the residents of the District of Columbia.

I think it is pretty important to note that Washington, D.C., is steadily decreasing in population. As a matter of fact, it appears that the number of blacks is decreasing, in proportion to the number of whites, to the point where some are indicating that the proportions will be about 50–50, blacks and whites, probably by the year 1990, certainly by the year 2000. I do not know whether that is true or not, but there is an argument which can be made along those lines.

I think it is important for people to realize that Congress has, through its committees, the committee in the House and the subcommittee in the Senate, made great clinical efforts to keep the District of Columbia in line from a spending standpoint, especially since this Government spends about a billion dollars a year for the District of Columbia, for Washington, D.C.

Let me give you some illustrations. Actually to be appropriated for fiscal year 1979 for the District of Columbia, the appropriations bill demands $1,364,781,500. That is what it is going to take. We have a temporary commission on financial oversight of the District of Columbia that costs us $3 million a year. We have a $238 million Federal payment to the District of Columbia, $10,300,000 for payment in lieu of reimbursement for water and sanitary sewer services furnished the facilities of the U.S. Government; $9,900,000 for repayment of RFK Stadium bonds, added by the Senate committee. As to the division of the money, it has provided for payments such as $1,287,291,500 for general operating expenses, including $265,961,200 for public safety, $283,605,400 for education, $18 million for recreation, $283 million for human resources, $78 million for transportation, $72 million for environmental services, $69 million for personal services, $323,000 for settlement of claims and suits, $120 million for repayment of loans and interest, and $77 million for capital outlays.

The provisions of oversight which Congress has exercised on the District of Columbia are as follows:

First. All vouchers covering expenditures of paid by check issued by designated disbursing official; second, when amount is specified for particular purpose, amount to be considered maximum amount for that purpose; third, funds, when authorized or approved by Mayor, to be used for privately owned conveyances used on official business at 13 cents per mile (but not to exceed $45 per month) for automobiles and at 8 cents per mile (but not to exceed $30 per month) for motorcycle, except that 113 (including 18 for veneral disease investigators) such automobile allowances at not more than $715 per year.

Fourth, funds to be used for travel expenses and dues to organizations concerned with District of Columbia Government work when authorized by Mayor; fifth, no funds to be used in any way with regulation or order of Public Service Commission regarding installation of meters in taxicabs, and so forth; sixth, no funds to be used for payment of rates for electricity for street lighting in excess of 2 cents per kilowatt-hour.

Seventh, funds to be used for payment of any judgment entered by any court against District of Columbia Government except requiring payment for electricity for street lighting at rates in excess of 2 cents per kilowatt-hour; eighth, funds to be used for public assistance from District of Columbia; ninth, funds available for obligation only in fiscal year 1979; tenth, no funds to be used to pay for chauffeur or driver for any District of Columbia officer or employee, except for Mayor, chief of police, and fire chief with $12,000 per year limit on such payment.

Eleventh, pay for overtime or temporary positions may not exceed 4.5 percent of total funds; twelfth limit on authorized travel and per diem costs outside District of Columbia, Maryland, and Virginia to be $225,000; thirteenth, sets personnel ceilings as follows: (a) 37,239 full-time employees appointed to permanent, authorized positions and (b) temporary or part-time employees limited by month to same so employed in same month last fiscal year; fourteenth, no funds to be used for partisan political activities, except school buildings may be used by any community group during nonschool hours; fifteenth, provide annual District of Columbia budget for fiscal year 1980 to be sent to Congress by February 1, 1979; sixteenth, no funds to pay employees whose names and salaries are not available for public inspection.

Seventeenth, no funds to be used for publicity or propaganda, and so forth, dealing with lobbying legislation before Congress or any State legislature; eighteenth, no funds to be used to supplement salary of CETA employee if effect is to provide salary in excess of GS–9, step 1, level (added by Senate committee); nineteenth, no funds to be used to supplement salary of CETA employee if that employee has been CETA employee for total period in excess of 24 months (added by Senate Committee).

Twentieth, no funds to be used to supplement salary of CETA employee who works for an elected official or who works on city council committee staff (added by Senate committee); twenty-first, no funds to be used to supplement salary of CETA employee hired subsequent to passage of bill if that CETA employee is to be assigned to any agency of city government that already has CETA employees in number in excess of 10 percent of its appropriated employment base, except not applicable to agencies with 10 or fewer employees (added by Senate committee); and, twenty-second, provide last four provisions dealing with CETA employees to become inoperative on date of enactment of CETA Amendments of 1978.

This is an incredible degree of control which Congress, both the Senate and the House of Representatives, exercises over the District of Columbia. Why have they wanted to do this? Is it because Congress is vicious, and just wants to mistreat D.C. citizens?

The reason that Congress keeps all these controls is that it has got to. But where do the controls go when you have two Senators and a Representative from a city?

The Founding Fathers never intended cities to become States. They never intended a city to have two Senators. As a matter of fact, the reason why we have Senators is so that they can represent geographical areas with diversity of interests, and represent the whole country as well, so that we have a chance of having people of diverse philosophical interests here in the Senate, and it is not all one point of view, so that we will have true and effective debate in the U.S. Senate. Not cities. It is ludicrous to say that New York will now have a right to argue that it should have Senators. My goodness, why is that so ludicrous? There are 8 million people in New York, or approximately that many, better than 10 times the number of people in this city. I am sure a lot of their boys got shot up in the wars, also.

Why should New York City not have Senators so its citizens can have their interests represented? It is ludicrous to argue that, and yet is it, in light of this amendment? If the Founding Fathers intended cities to have Senators, they would have provided for that. They did not intend them to have Senators; they intended geographical States, with diversity of interests, to have Senators, so that we would have diversity of interests in the U.S. Senate.

That is a tremendous difference.

Some have said here on the floor of the Senate that those who argue against ratifying this amendment giving the District representation in the Congress do so out of a fear that the new Senators may be black. I, for one, would like to see more black Senators here. I do not think it would hurt this body one bit. As a matter of fact, it would be a good thing for this country. Those fears are without justification. Besides, there is no certainty that D.C. Senators will always be nonwhite. Even if blacks are elected, there is no reason to believe that they would not represent the District's white population, which is increasing.

Granting voting representation to the District would demonstrate, it seems to me, this Nation's commitment to equality in human rights. And yet, if the District were to have two voting Senators, without, at the same time, having the attributes of statehood, I think it would be a denigration of the rights of the sovereign States throughout this country. That is something to think about.

It would be contrary to the intent of the framers of the Constitution, as it was the intent of our Founding Fathers, that the seat of the National Government be located in a special area, set aside for that purpose only, outside the jurisdiction of any State, secure from harassment and free of entangling interests. Accordingly, they made provision for the establishment of a Federal district over which the Congress would have exclusive legislative authority and plenary power.

Clause 17 of article I, section 8, was referred to by James Madison in Federalist No. 43 as follows:

The indispensable necessity of comple authority at the seat of government carri its own evidence with it. It is a power ex cised by every legislature of the Union, might say of the world, by virtue of its ge eral supremacy. Without it not only t public authority might be insulted and b proceedings interrupted with impunity, b a dependence of the members of the ge eral government on the State comprehen ing the seat of the government for prote tion in the exercise of their duty might bri on the national councils an imputation awe or influence equally dishonorable the government and dissatisfactory to t other members of the Confederacy. This co sideration has the more weight as the gra ual accumulation of public improvements the stationary residence of the governme would be both too great a public pledge be left in the hands of a single State. .

It is apparent that the District w not intended by the framers to be "State" in the same as sense as th members of the Union. This would ha created another sovereign power in th Nation's Capital which might come conflict with the Federal Governme on some issues. Those elected to repre sent the residents of the District woul place the needs and concerns of Wash ington, D.C., paramount to the nation interest. Giving to District residents th voting leverage in the Congress woul enable them to put undue pressure o the Congress.

Because of the framers' notion tha the Federal Government should hav exclusive jurisdiction over the Distric they did not consider the need for rep resentation in the Congress for the res dents of the Nation's Capital. Their fai ure to provide for representation onc the District was established as the sea of government was not entirely an acci dent of history. It was anticipated tha the people of Washington could hav what Madison in Federalist No. 4 termed "a municipal legislature for loca purposes, derived from their own suf frages." On the other hand, representa tion in the Congress was a privilege ex clusively reserved to the States. Ha they thought of representation in th Congress the Founding Fathers woul probably have rejected it, to prevent th kind of local influence, control and con flict that they wished to avoid in a Na tional Capital.

GRANTING THE DISTRICT FULL REPRESENTATIO "AS THOUGH IT WERE A STATE" WOULD VIOLAT THE CONSTITUTION AND WORK A QUALITATIV CHANGE UPON OUR FEDERAL SYSTEM

The provisions of the Constitutio dealing with the Congress and the elec toral system make clear that only State can have full representation in the Na tional Legislature. Article I and the 17th amendment use the word "State" in ref erence to membership in the Senate an the House of Representatives. There i no language to suggest that the Distric or any political entity other than a Stat would qualify for voting representatio in either Chamber.

The courts have held that the Distric is a "State" for some purposes and no

for others. No less a constitutional ex-

portionately divided between the two

for others. No less a constitutional expert than Chief Justice John Marshall held that the term "State" as used in the first and second articles of the Constitution referred only to members of the Union and did not include the District. Subsequent Supreme Court decisions have not overruled that view.

For purposes of representation in the Congress, the District cannot be considered a "State" since it lacks the powers common to States. It is totally unlike these distinct political entities which are independent and sovereign members of the United States.

Under article I, section 8, clause 17, the Congress has the power of "exclusive legislation" over the affairs of the District. Congressional authority over the District is equivalent to that of a State legislature over a State. The Congress can exercise all the police and regulatory powers which a State or municipal government possesses. Even though the District, under home rule, exercises many of the powers of a State—for instance, it can tax and spend, legislate and execute laws, prosecute criminals, administer justice, and the like—it is completely dependent upon the Congress for many things, including its budget and appropriations for the operation of the city. The Congress can, for instance, veto the decisions of the city council. It could even abolish the city government altogether, if it so desired, as it did in the 1870's after some 50 years of home rule. So long as clause 17 of article I, section 8, is in effect and the District remains the seat of the Federal Government, the people of the District will not have the complete right to structure their own government as they like or to legislate on purely internal affairs as they see fit.

Therefore, the District lacks the necessary indicia of sovereignty which would make it a "State" within the meaning of the Constitution. To give it full representation in the Congress and treat it "as though it were a State" would not make it so. The proposed amendment would merely introduce a new political entity within the federal system, a unique creature having rights heretofore accorded only to a State, and, in fact, as we pointed out, rights in addition to those that citizens of States have.

To allow the District to elect a U.S. Representative and two Senators without also elevating its status to that of a State is to treat as a State an area which lacks the essential elements of a sovereign State. To create a "pseudo-State" or "quasi-State" and grant it full representation would do violence to the Constitution and undermine the nature of the federal system in our Republic.

It should be noted that, except for the 13 original States, the only areas which have achieved voting representation in Congress have done so by becoming States pursuant to the congressional power to create new States under article IV, section 3, clause 1 of the Constitution.

I could go on and on, but, Mr. President, I ask unanimous consent that we have a quorum call, with the time proportionately divided between the two parties.

Mr. KENNEDY. I object.

The ACTING PRESIDENT pro tempore. The objection is noted.

Mr. HATCH. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATCH. I ask unanimous consent that we have a quorum call, with the time to be divided proportionately.

Mr. KENNEDY. Well, it is 1 to 3 in terms of the time.

Mr. HATCH. Then it would be 1 to 3.

Mr. KENNEDY. I should certainly agree to that tomorrow, but just today, with 2 hours versus the 6 hours——

Mr. HATCH. Is it 1 to 3 both days?

Mr. KENNEDY. Yes. I should be glad to do it tomorrow, but we can get to a de minimis situation where the other side has hours and we are changing off minutes.

Mr. HATCH. Let us divide it proportionately, but in any event, I ask unanimous consent that the proponents of the amendment not be reduced below an hour, an hour total time today. In other words, we shall charge it proportionately right now and——

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. MELCHER. Will the Senator inform me on what amendment it is?

Mr. HATCH. What we are going to do is have a quorum call. I have asked unanimous consent to have a quorum call divided proportionately, but that, in any event, the time of the proponents of the amendment not go below an hour on this quorum call.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, would the manager grant me some time?

Mr. HATCH. I yield 20 minutes to the distinguished Senator from Montana. If he needs more, I will give it to him.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. MELCHER. I thank the Senator for yielding me the time.

Mr. President, as I said Thursday, I think there is a paramount issue here that is so basic that there should not be much argument over it. That paramount issue is whether or not some citizens of this country can be denied the right of voting for representation in both the House and the Senate.

I have long felt that the framers of the Constitution erred, made a grievous mistake, in requiring that residents of the District not be allowed to vote. It seems a very profound contradiction of many fine concepts on individual liberty, individual justice, and individual citizen's rights we find throughout the Constitution.

So I am very much in favor of ending that wrong. However, it occurs to me there are a number of ways to correct it that have always been available to the Congress, to correct a contitutional flaw, and I consider this a rather grevious constitutional flaw.

I wonder if the Senator from Massachusetts would accommodate me by expressing his opinion on a point or two concerning the historic aspects of this constitutional requirement, or constitutional prohibition, against citizens of the District voting.

Would the Senator yield to me for answering some questions?

Mr. KENNEDY. I am delighted, to the best of my ability.

What I would like to do is yield, though, on the time of either the Senator from Montana or the Senator from Virginia, since there is a three-to-one time differential. Otherwise, if we are going to get into a dialog or discussion, I would be restrained just to respond briefly.

The ACTING PRESIDENT pro tempore. All time on colloquy is being charged to the Senator from Montana's 20 minutes.

Mr. MELCHER. I thank the Chair and I thank the Senator from Massachusetts for agreeing to the colloquy.

Would the Senator agree with me that the Constitution as drawn and accepted had this basic flaw: the prohibition against residents of the District being able to vote for representation in the Congress?

Mr. KENNEDY. The Senator is correct, but it is more an oversight than a prohibition.

Mr. MELCHER. I thank the Senator.

If the framers of the Constitution had not made that error, what would have been the outcome if the District of Columbia had been treated in the Constitution fairly and without that prohibition? What would be the consequence right now?

Mr. KENNEDY. Where would they have voted?

Mr. MELCHER. No. If the Constitution had not prohibited the residents of the District from electing Representatives to the House and operating in the procedure then provided in the Constitution for election of Senators, what would have been the effect precisely? Where would somebody that lived on the other side of the Potomac be voting on now, and where would the resident of the District on this side of the Potomac be voting for House members and Senators?

Mr. KENNEDY. That has to be answered in the context of the history of the period.

The history of the District of Columbia, as I pointed out in the debate last week, began with the Philadelphia

mutiny in 1783, when soldiers from the Continental Army besieged the Continental Congress in Philadelphia. Later at the Constitutional Convention in 1787, the Founding Fathers decided to create a separate Federal district, under the exclusive control of Congress, in order to protect the seat of government.

In the First Congress in 1790, the geographical site was discussed. There was a debate over whether the site was going to be in the northern part of the country or in the South. An accommodation was made under which a southern site was chosen, in return for the agreement of the southern States to allow the Federal Government to take over the debts owed by the States from the Revolutionary War. As a result, Maryland and Virginia ceded certain lands to the Federal Government, from which the site of the District of Columbia was chosen. The two portions are shown on the map at the back of the Senate Chamber.

If we were asking about the understanding at the time Article I was written, there was no understanding, since no site for the capitol had been chosen.

The founders simply did not address the question of whether or not the residents of the capital area would have a vote in the House or Senate. It was an oversight.

The question was asked earlier whether there was a flaw in the Constitution. I would say, "yes," but I believe it was more in the context of a historical oversight. Now, 200 years later, we are dealing with a completely different situation.

Mr. SCOTT. Mr. President, will the distinguished Senator from Montana yield briefly?

Mr. MELCHER. I will yield briefly after making this comment, then perhaps the Senator will want to comment with us.

That does not seem to answer the question I asked: What if there were no prohibition in the Constitution of residents voting for representation in the Congress.

Now I yield to the Senator from Virginia because I suspect he would like to discuss this.

Mr. SCOTT. Mr. President, I want to clarify the allocation of time. If this were a compromise arrived at in which the sponsors of the bill have 5½ hours, if the distinguished Senator from Massachusetts responds to questions I would expect them to be charged against his time because he willingly entered into this agreement, and, to me, if we decide the time we have with the distinguished Senator from Massachusetts, when we had only 5½ hours at the beginning of today's session, for 2 days, we will not have the time we need for the opposition to speak.

So that was the understanding.

Mr. MELCHER. Mr. President, if the Senator will allow me to inform him of what transpired prior to his walking onto the floor, I asked the Senator from Massachusetts whether he would be willing to answer these questions because I think they are pertinent to the whole debate.

I also asked for time, was given 20 minutes, and additional time if I felt it were necessary.

Mr. SCOTT. Mr. President, of course, the distinguished Senator from Montana can use his 20 minutes as he sees fit. After the lapse of 20 minutes, I would ask that the Chair allocate the time in the manner that was agreed upon.

Mr. MELCHER. Mr. President, if I am going to participate in this debate, I would just as soon participate in it on my own terms. I think it is very appropriate that the Senator from Massachusetts, who only has one-third the amount of time that the opposition has, be able to reserve his time. I prefer to use this time on my own, in drawing out what I think are some pertinent points and the basic point that should be debated on this issue. The Senator from Massachusetts has been very kind in agreeing to this.

(Mr. ZORINSKY assumed the chair.)

Mr. KENNEDY. The Senator from Montana, who has followed this debate and has discussed it with enormous interest and with great seriousness, wanted to enter into a dialog. I indicated that I could respond to his questions, but a fuller examination, which I think the Senator from Montana deserves, would take additional time.

We can do it in whatever way the Senator desires, and I will be glad to proceed now to respond to any questions.

Mr. MELCHER. I thank the Senator.

My question is this: If there were not a prohibition in the Constitution against the residents of the District voting for representation, what precisely would be the case with respect to their voting today?

Mr. KENNEDY. The Senator asks a very hypothetical question. He asks, if the Founding Fathers had not created a Federal district, what would they have done instead? I do not know. Perhaps the Capital could have been located in Philadelphia or now as it was for temporary periods at the beginning.

If the Senator is going to ask what else might have been in the minds of the Founding Fathers at the time they did the drafting, he will have to answer me as to whether at that time they anticipated the Capital was going to be somewhere else, in Philadelphia or in New York.

Mr. MELCHER. I will be delighted to answer.

Mr. KENNEDY. Let me complete my question.

If the answer is that it was going to be located in Philadelphia or New York City or Boston, then I imagine that the people who lived in that area would be represented in the House of Representatives and in the Senate of the United States. But it is impossible to determine what else might have been in the minds of the Founding Fathers, if they had not created a Federal district. I suspect that, if they had picked on very populated location, the people in the Capital area would have been given the right to representation in the House and Senate. But that is just a guess. In fact, they left the site open, for Congress to decide a few years later.

Mr. MELCHER. My answer to it—and I invite the Senator to respond to my answer if he disagrees—is this: The Senator says, "What if it had been Philadelphia for the Capital?" My answer is that whether New York, Philadelphia, or the District became the Capital, if there were not a constitutional prohibition against those residents voting for House Members and for Senate Members, they would be voting just exactly the way the people of New York and Philadelphia are voting today; and that is the way they would be voting today in the District of Columbia if there had not been a constitutional prohibition.

Does the Senator disagree with that?

Mr. KENNEDY. It is all speculative. We do not know who they thought would have been representing the people in the Louisiana Purchase area. Would they have been represented in the Congress of the United States? Who is going to be able to say today, looking back to then, how many States actually would have been developed in that area, or how congressional representation would have been worked out. It had to be developed over the years.

What we are talking about is the evolution and development of a federal system. We cannot take the relationship as it exists today, and relate it back to 1787. We cannot say that in their magnificent wisdom, the Founding Fathers—who drafted the greatest document for the protection of individual rights and liberties ever known—intended that the 700,000 people in the District of Columbia in 1978 were not going to vote. We cannot say that, therefore, we should not be overriding their decision. They simply did not, and could not, foresee what 200 years were to bring. As I understand the Senator's question, it is a hypothetical question, and it can only be answered with additional questions.

Mr. MELCHER. I still go back to the same point: It is a prohibition against the residents of the Capital City voting. If such a prohibition had not been in the Constitution—and the Senator from Massachusetts has agreed with me that such a prohibition was wrong at the time and should not have been in there—if the Constitution were silent, rather than the prohibition, obviously wherever the Capital City was, wherever the Federal city was, the residents would be voting, as they do in other cities, for their Representatives and their Senators.

Does the Senator not agree with me?

Mr. KENNEDY. As I have said, it was basically an oversight. The Founding Fathers, at the time they drafted the Constitution, did not understand what the nature of the district was going to be. There was no decision, at the time of the drafting of this, about where the Capital was going to be. It was only several years afterward that the States of Virginia and Maryland actually ceded the land.

And even in the period 1790 to 1800, when the District was being set up as the seat of government, the citizens continued to vote in Maryland and Virginia elections. They voted in that manner in the Presidential election of 1800. But on the date specified for the Federal takeover in the 1790 act—the first Monday in December, 1800—they lost their status as citizens of the States of Maryland or Virginia, and they lost their right of representation. In 1801, there was an immediate outcry by the people against this loss of rights. But they were only two small communities—Georgetown and Alexandria, with populations of about 5,000 each—far too small to be a State or even a congressional district. Their protests were of no avail. But the historical point is that it was not until 1800 that they actually lost out as their right to representation, long after the Constitution was ratified.

At the time of this oversight in 1787, the intent of the Founding Fathers was to deal with the issue presented in Philadelphia, in 1783, when dissident soldiers invaded the Continential Congress and demanded payment. They were attempting to deal with the issue of the right of Congress to protect itself and to protect the capital.

We cannot stretch that point, or suggest they foresaw the fact that, at some time farther down the road, years later, land would be added and rights would be lost.

Mr. MELCHER. The Senator uses this word "oversight" in connection with the Constitution and this prohibition against the residents of the District voting.

Why does the Senator want to use the term "oversight"? "Oversight" would mean something you forgot, something you did not think of.

Mr. KENNEDY. That is correct.

Mr. MELCHER. As I read it, it is explicit, it is a prohibition against those residents voting. That is not forgetting something. That is being firm and saying, "We envision that they are not going to vote."

Does the Senator read the Constitution differently than I do on that point?

Mr. KENNEDY. No. I think any reading of the debates at the Constitutional Convention would not support the Senator's point. There is no specific prohibition. The prohibition arises indirectly, because the Constitution said that States were to be represented by the House and Senate.

Mr. MELCHER. I do not want to go into the debates. I want to go into the principle in the Constitution that we have to live with.

Mr. KENNEDY. The Senator is asking me what the Founding Fathers were thinking. It is my position that it was an oversight. There was no District of Columbia, no large city, no 700,000 people. There is nothing in the constitutional debates or discussions that would indicate anything other than that. There is nothing in there that said, "Look, we will prohibit people who live in the District from participating in the affairs of our country." There is absolutely nothing to indicate that. As a matter of fact, there are important statements to the contrary.

In Federalist 43, Madison refers to the District in this way: He speaks of the fact that the people "will have had their voice in the election of the government which is to exercise authority over them." That is consistent with the view that they should be represented in Congress.

That is what the Founding Fathers were talking about.

> . . . as they will have had their voice in the election of the government which is to exercise authority over them; . . . .

Mr. MELCHER. Meaning in the District.

Mr. KENNEDY. Meaning in the Congress and Senate of the United States. That is what those words mean, I say to the Senator. It is a government over them if you can draft them and send them to Vietnam and can make them pay their taxes. These Founding Fathers had been out fighting a revolution. Madison uses the words " * * * as they will have had their voice in the election of the government which is to exercise authority over them; * * *" which suggests a right to be represented.

Mr. MELCHER. I agree completely with the Senator from Massachusetts.

Mr. KENNEDY. That is good.

Mr. MELCHER. We are in agreement on that.

Does the Senator not read a prohibition against that very thing in the Constitution as it was drafted and adopted and is before us today?

Mr. KENNEDY. There is no specific prohibition. They never even thought about this aspect of the District. It was too remote in the future. They were settling the immediate problems.

Mr. MELCHER. In relationship to the seat of the Government where the Federal enclave was and those residents were not to be allowed to vote.

Mr. KENNEDY. No. I do not agree.

Mr. MELCHER. If the Senator does not read it that way why do we want to amend the Constitution?

Mr. KENNEDY. They were talking about the functions of the Government, the institutions of the House and the Senate of the United States, the building of the Capital and their security. We are talking now about the 700,000 people who have bakery shops, supermarkets, and mom and pop stores. Through the accident of being born here or living here and paying taxes here and sending their sons and daughters to war. They should be entitled to vote.

Mr. MELCHER. I agree.

Mr. KENNEDY. That was never foreseen.

The PRESIDING OFFICER. The 20 minutes yielded to the Senator from Montana have expired.

Mr. KENNEDY. It was never foreseen.

Mr. MELCHER. I ask the Senator to yield me another 15 minutes.

Mr. SCOTT. I am glad to yield an additional 5 minutes to the distinguished Senator and regret due to the limitation of time not being able to yield more at this time.

The PRESIDING OFFICER. The Senator from Montana has 5 additional minutes.

Mr. MELCHER. I thank the Senator.

What the Senator states is in perfect agreement with what I espoused, that the people regardless of where the district was going to be, regardless of what you call it, should have the right to vote. Who knows? What if the capital had been in Philadelphia or New York? They would never sell the idea that some enclave within that city would not be allowed to vote. The same is true here in these circumstances in this enclave.

We talk about ceding the land from Virginia to the District and from Maryland to the District. That part that was ceded from Virginia went back to Virginia and those people, of course, have their full voting rights. That part that was ceded from Maryland for the District is still separate. But it would not make any difference if there were not a prohibition within the Constitution. Those people would be voting just the way the rest of the people in Maryland are voting today and they would have been voting in Maryland throughout all the time since the creation of the District.

The Senator from Massachusetts and I do not disagree on the basic concept, but what the Senator from Massachusetts does not agree on is that having that historic background, if the Constitution had not had the prohibition in there, these citizens in the District would be voting in Maryland today as they should have been all during this time. The Senator from Massachusetts agrees with me. There is a flaw in the way the Constitution was drafted. He agrees with me on that point. But what he cannot conceive is that if that flaw had not existed—and to waltz around the point as this being something no one had thought of, no one had conceived there would be so many people living around the Nation's Capital at this time when they drafted the Constitution, that does not mean anything—if that prohibition had not been written into the Constitution, they would have been voting.

We are amending the Constitution because of that prohibition. If it were necessary just to correct some flaw that Congress had made, we would correct that by law by changing the statute. But we are amending the Constitution because it is a constitutional prohibition. I say that the proposition should never have started. The people were denied the right to vote. I say that the correction should be made. Part of the correction was made when part of the District was ceded back.

I now say that a complete correction of that law in the Constitution could be made as if it had never begun in the first place, as if there had never been a constitutional prohibition against those people living here to vote. They would have been voting in Maryland all that time. That correction can be made now.

Does the Senator find fault with that argument?

Mr. KENNEDY. I will respond.

I do find fault with the argument to be very specific.

Mr. MELCHER. I reserve the remainder of my time because I deeply want to listen to the fault of the argument.

The PRESIDING OFFICER. The Senator has 1 minute remaining.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the argument which is made by my friend and colleague from Montana is basically the retrocession argument, which we debated during the past several days. The Founding Fathers established a Federal district. It is quite clear from a reading of the Constitution, as well as the circumstances of the time, that they did not anticipate where the district would be located, what the population of the district would be, or any other factor.

The fact of the matter is that the site of the Nation's Capital was originally swampland and marshland. That was 200 years ago. The argument of the Senator from Montana is, "Well, because it was Maryland swampland and marshland 200 years ago, now we should give it back to Maryland," even though the Maryland Senators and Maryland legislators, the Maryland people, say that this is an unacceptable situation. They understand that the country has changed after 200 years. There has been the development and the fashioning here of an entirely unique and separate entity, a community of 700,000 people, which is no more associated today with Maryland than it is with Virginia, or Montana, or any other State.

The Senator's point is an entirely different thing from the historical background of the retrocession to Virginia in 1846. That was accomplished with the consent of Virginia. There had been no Federal buildings located there. Partly, that fact is attributable to the embarrassment felt by George Washington who had gone outside the scope of the 1790 Act to locate the site of the Capital near Mount Vernon. So he decides not to use Virginia for any functions of the Federal Government. The Virginia retrocession was also involved in the creation of the State of West Virginia. The slaveholding eastern part of the State needed the votes of Alexandria to offset the abolitionist western part of the State. But the retrocession made no difference—in 1863 after the Civil War had begun, West Virginia entered the Union as a separate State.

The retrocession of Virginia is an entirely different historical development.

It is not a precedent in 1978. The lack of congressional representation for the District was an oversight in 1787, and that oversight should be remedied by separate congressional representation for the District now, not by trying to fit the District back into Maryland.

In addition, of course, the concept of political participation has changed a great deal over the years. Women could not vote in 1787. Slavery still existed, and slaves could not vote. So it is hardly surprising that no thought was given to the possible future representation of the District. Probably, if you had asked the Founding Fathers, they would have said, "Let us wait and see how the capital develops."

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. KENNEDY. If I may finish briefly. On this issue, clearly the action of the founders was an oversight. For almost 200 years, they have been denied what Madison felt, at least from his writings, was their rightful voice in the election of the Government which was to exercise authority over them.

They could not have known what this place where we meet today would have actually looked like. Who knows whether it would have become farm and agricultural land? Who knows whether it would have been a community of 50,000 or 500,000? But the reality is that, 200 years later, it is 700,000 people, who are denied their effective voice in the House and Senate of the United States.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. KENNEDY. I withhold the remainder of my time. Yes, I yield.

The PRESIDING OFFICER. Who yields time? Does the Senator wish to use the remaining 1 minute of his time?

Mr. MELCHER. No, the Senator yielded to me on his own time.

Mr. KENNEDY. I withheld the remainder of my time.

Mr. SCOTT. I will yield 4 minutes to the Senator, and the Senator has 1 minute, so he has 5 minutes.

Mr. MELCHER. The Senator uses the term "oversight" with respect to women not being able to vote in the Constitution as if that were an oversight. That was very deliberate. Slaves could not vote. There was no oversight. That was very deliberate. They were prohibited from voting.

Abigail Adams, I think, wrote to her esteemed husband, who came from a very auspicious State, something which the Senator from Massachusetts shares——

Mr. KENNEDY. The Senator is quite incorrect. That is not what the Constitution provided. It left the qualifications for voting to the States. That was an issue for the States to decide.

Mr. MELCHER. To which point is the Senator referring?

Mr. KENNEDY. The right of slaves to vote.

Mr. MELCHER. Slavery.

Mr. KENNEDY. And the right of women to vote.

Mr. MELCHER. Women, correct. It would not permit them to vote by constitutional mandate, by saying the States cannot deny that right. The Constitution was deliberate on that, and said that the Federal Government is not of a nature to enforce the right of voting for women, for slaves and, thirdly, for those people who live in what became the District of Columbia, the seat of Government.

It is not an oversight, it was a deliberate act, a prohibition.

The question of retrocession is not the argument that I am making. I am not asking for retrocession. Retrocession involves land. I do not think that is practical to give the District back or to force Maryland to accept the District back. What I am talking about is the question which we have had come up in other areas of Federal ownership.

If you live out here at Andrews in the State of Maryland, an Air Force base, the Federal Government owns it. It is there and they run it. If your residency is there, that is where you claim residency, you vote in Maryland.

What this Federal enclave is is not, however, the same as other Federal enclaves of any nature. This is a prohibition against voting for those people who reside in this particular Federal enclave.

The Senator from Massachusetts dares to treat that deliberate prohibition as some sort of an oversight. It was a deliberate prohibition. I happen to think it was wrong at the time and still wrong now. If that mistake had not been made in the Constitution, the people within the District would be voting in Maryland just as the people in Andrews, which is in Maryland, just outside the District line, a Federal ownership, where they vote in Maryland if that is their residency.

I think this correction should be made, but I do not think that we owe it to the people of the District to give them such power, with two Senators, which they would not have had if we had not had that prohibition in the Constitution. I know of other areas that would like to have a Senator of their own.

I have often thought that Exxon probably would love to have one of their own Senators. But we have never found favor with that sort of concept.

I think we ought to make a correction to this historic flaw in the Constitution without overdoing it and to recognize that if that prohibition had not existed from the adoption of, the time of the adoption of, the Constitution, regardless of where the land was ceded for this Federal enclave for the purpose of the seat of the Government, regardless of where it occurred, the people in there, who live in that area, would be voting in the State in which they lived.

It is perfectly fair and proper that the District should have its own representatives in the House of Representatives, and it follows that it is also perfectly fair that the residents of the District be treated just like the residents anywhere else in this country, where they live on Federal property, that they have the right of residency, the right of voting for Senators in that particular State.

I think it is pretty simple.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. MELCHER. I thank the Chair and I thank the Senator from Massachusetts for engaging in colloquy, and I thank the Senator from Virginia for granting me the time.

Mr. SCOTT. Mr. President, I regret the necessity of having to limit the allocation of time to the distinguished Senator from Montana. In fact, we have 5½ hours for both today and tomorrow, and in the event that we use the entire 5½ hours today, or use 5 hours, we would have little or no time to utilize tomorrow.

The agreement which was worked out, however, whereby other Senate business has intervened between the debates on

the proposed constitutional amendment

citizens left the States of their resi-

rather it is a selected area set apart for

the proposed constitutional amendment to provide full congressional representation for the District of Columbia, has afforded an opportunity over the weekend to probe more deeply into history.

During the Constitutional Convention there were suggestions that there be proportional representation in both Houses of the Congress but the smaller States were dissatisfied with this suggestion and a 5-to-5 deadlock developed between the States. Therefore, the problem was referred to a committee of 11 to effect a compromise. This compromise resulted in the recommendation that each State should have equal representation in the Senate with representation in the House based upon population.

We turn, therefore, to article I, section 3 of the Constitution which provides "the Senate of the United States shall be composed of two Senators from each State, chosen by the legislature thereof, for 6 years; and each Senator shall have one vote." This was subsequently changed in 1913 upon ratification of the 17th amendment to provide for the direct election of Senators.

We should recall, Mr. President, that ours is a Federal Government, composed of the several States, that only States are represented in the Senate, each having two Members, that in order for the District of Columbia, under our system, to have representation in the Senate, it would have to either be a State or be treated as a State.

Just as States are represented in the Senate, people of the States are represented in the House. It would be as equally violative of the Federal principle to admit voting representation in the House from political entities which are not States as to admit nonstate membership in the Senate. Argument could be made that since no State may be deprived without its consent of its equal suffrage in the Senate, an amendment providing for Senators from the District of Columbia could not be made effective without ratification by all 50 States. The contention is that the admission of two Senators from the District would dilute the power of a State. But this dilution would affect all of the States equally, so that none would be deprived of its equal Senate suffrage.

It would appear that admission of Senators from the District would no more deprive a State of equal suffrage in the Senate than would the admission of any new State into the Union.

We might consider, however, the position of our two most recently admitted States. Both Alaska and Hawaii were territories of the United States and as territories they did not have representation in the Senate.

Today, not only does the District of Columbia have a nonvoting delegate in the House but so does Guam, Puerto Rico, and the Virgin Islands. In the event the District of Columbia was given two Senators could not an argument be made that Guam, Puerto Rico, and the Virgin Islands are equally entitled to have two Senators to represent them in the Congress?

Every Senator is aware that during the 19th and 20th centuries, American citizens left the States of their residence and migrated into new lands, which were subject to the jurisdiction of the United States but were not States.

As migration into these areas increased, they were organized into territories, but at no time did the American citizens residing in the territories elect voting members of the Congress; not until the territory was admitted as a State did it have that representation.

As residents of territories the most representation any enjoyed was that of a single territorial delegate who had no vote. Yet, I am not aware of any widespread belief that the people of the territory were discriminated against because they had no direct voting representation in Congress.

In large part they had left the States where they enjoyed direct voting representation in Congress, willingly surrendering the right of direct voting representation for other advantages they sought in the West. By analogy, the large majority of the residents of the District of Columbia are not native Washingtonians but citizens who willingly left their States in order to live at the seat of Government, surrendering the advantages of direct voting representation for other advantages considered by them to be important.

Some, of course who have retained a legal domicile elsewhere vote by absentee ballot in the States from which they came. Be that as it may, direct representation in the Congress by a voting Member has never been a right of U.S. citizenship. Instead the right to be so represented has been the right of citizens of the States. The design of the Federal Union is a union of States.

No power is conferred upon the Congress, Mr. President, more important than that of proposing amendments to the Constitution. None should be exercised with greater care or vision. Inasmuch as the Constitution is the foundation upon which our Federal Government rests, it would appear that deference should be given to the existing structure of Government and it should not be changed unless there is a compelling reason for the change. The Constitution is a declaration of broad governmental powers and should not be utilized, in my judgment, to meet temporary situations.

Our present system is buttressed on our faith in federalism—independent States join together as a union. This system has served us well and should be altered only for the most persuasive of reasons. If the District of Columbia were given two Senators it would be in a position not afforded any other city in the Union. It would also be in a position not afforded any territory of the United States. So, perhaps we should look once again at the District of Columbia while it was once known as the territory of Columbia, its official designation long ago was changed to the District of Columbia.

The District is unique. It is unlike a territory in its status and characteristics in that it is not an ephemeral subdivision of the outlying dominion of the United States, nor is its government temporarily transitory or impermanent, but rather it is a selected area set apart for the enduring purpose of the Federal Government and it is the capital and permanent seat of the Government of the United States, wherein all of the supreme departments of the Government permanently abide and in which all offices attached to the seat of Government are required to be exercised except as otherwise provided by law.

In article I, section 8 of the Constitution, it is provided that—

> The Congress shall have power . . . to exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square), as may, by cession of particular States, and acceptance of Congress become the seat of Government of the United States . . .

The Founding Fathers' insistence on having as the seat of Government a place over which the Congress would have exclusive jurisdiction and control as you know was due in part to a soldiers' mutiny which threatened the Continental Congress meeting in Philadelphia and the failure of either the city or State to protect the Members. The District of Columbia was choseen as the permanent seat of Government so decisions affecting the entire Nation could be made free from undue influence of any State and immume from harassment or political entanglement.

Mr. President, a few minutes ago during the dialog between the distinguished Senators from Montana and Massachusetts, the question of Madison's remarks was brought up. The distinguished Senator from Massachusetts referred to No. 43 of the Federalist Papers prepared by Madison. Let me just read the paragraph in question in its entirety.

> The indispensable necessity of complete authority at the seat of government carries its own evidence with it. It is power exercised by every legislature of the Union, I might say of the world, by virtue of its general supremacy. Without it not only the public authority might be insulted and its proceedings interrupted with impunity, but a dependence of the members of the general government on the State comprehending the seat of the government for protection in the exercise of their duty might bring on the national councils an imputation of awe or influence equally dishonorable to the government and dissatisfactory to the other members of the Confederacy. This consideration has the more weight as the gradual accumulation of public improvements at the stationary residence of the government would be both too great a public pledge to be left in the hands of a single State, and would create so many obstacles to a removal of the government, as still further to abridge its necessary independence. The extent of this federal district is sufficiently circumscribed to satisfy every jealousy of an opposite nature. And as it is to be appropriated to this use with the consent of the State ceding it; as the State will no doubt provide in the compact for the rights and the consent of the citizens inhabiting it; as the inhabitants will find sufficient inducements of interest to become willing parties to the cession; as they will have had their voice in the election of the government which is to exercise authority over them; as a municipal legislature for local purposes, derived from their own suffrages, will of course be allowed them; and as the authority of the legislature of the State, and of the inhabitants of the ceded part of it, to concur in the cession will be derived from the whole people of the State in their adoption of the Constitution, every imaginable objection seems to be obviated.

Mr. President, I did feel that rather than just to recite a portion of this, the entire paragraph should be read.

Washingtonians are undoubtedly in a far superior position than any territory of the United States. They have authority to elect their own school board, their city council, mayor, participate in Presidential elections, and have a nonvoting delegate in the House of Representatives. Citizens of the District of Columbia in fiscal year 1977 contributed $275.9 million toward Federal grants and received $942.1 million in return. The Library of Congress has confirmed that the Federal Treasury collected only 29 cents for every dollar it provided the city. The per capita income is the second highest in the Nation. The Federal Government employs almost 40 percent of the work force on the city of Washington and an additional 25 percent work in industries servicing the Government. It would appear to be comparable to a "company town" with virtually everyone dependent upon Government for his or her livelihood.

If this proposed resolution were passed and ratified by three-fourths of the States, it would insure the election of Senators sympathetic to the desires and concerns of big Government; Senators who would promote the welfare of Government agencies; Senators who would be under no compulsion to consider the needs of any competing interest such as farmers, miners, manufacturers, or other business and industrial activities as exist throughout the various States. I wonder if the Congress saw fit to move the seat of Government to a more central geographic location if States in the Middle West would not be glad to cede territory for a Federal City with all the benefits that accrue to the city and if the people of the District of Columbia would not raise a hue and cry against moving the capital to another location.

It seems unreasonable, Mr. President, to provide the benefits of statehood to the people of the District of Columbia without corresponding liabilities. Washington even today is a city with decreasing population, a city of less than 700,000 people at the present time but with a news media espousing the views of city residents and Members of Congress being dependent upon the Washington media as a major source of knowledge of events and developments.

Mr. President, I think this has been illustrated in the last few days by the views that have been in the media.

In the event there were two Senators from the District of Columbia, would it not be reasonable to assume that their thoughts and actions would permeate the news most readily available for consumption by the Congress. Two Senators for the city of Washington, in my judgment, would not be in the national interest and would inevitably lead to the kinds of pressure that the framers of the Constitution wanted to avoid when they provided for a Federal City.

Washington is not a State but a city, exceeded in population by 10 other American cities. There is no basis under the Federal concept of government for electing Senators from the District of Columbia. Senators are representatives of their States and the city of Washington is not a State.

Of course, all of us are concerned for the welfare of the people of the Nation's Capital, all of us want a capital city of which we can be proud; all of us represent the people of the District of Columbia, as well as the people of our constituent States.

But our concern for the welfare of the people of the city should not detract from the realization that the welfare of the entire Nation is paramount, and it was concern for the general welfare of the country that caused the Constitutional Convention in 1787 to adopt the Federal City concept. It was a wise decision made by our Founding Fathers. It has served us well for almost 200 years. I see no pressing reason to depart from it now.

In reviewing the House Joint Resolution 554—and that is the resolution before us, Mr. President, because we bypassed the Senate Judiciary Committee, where a Senate bill was pending. We have done this at a time when the chairman of the Senate Judiciary Committee is out of the country. But from looking at the House resolution, it appears there is no provision for the filling of vacancies in the event the proposal should be adopted and the District of Columbia should become entitled to two Members of the Senate. The 17th amendment to the Constitution, providing for the direct election of Senators, provides that the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancy by election as the legislature may direct. Of course, the Congress has exclusive legislative jurisdiction over the District of Columbia and we might well assume that the Congress would have authority to authorize the executive to make temporary appointments but, once again, Washington is a city, not a State, with an elected city council, an elected chairman of the council and an elected mayor. Would the city council authorize the mayor to appoint a Senator or would the Senate authorize the mayor of a city to appoint a Senator? It would appear that the latter would be true or the Senate itself could, acting in its capacity as the legislature for the District of Columbia, appoint someone from the District to serve in the Senate until such time as the people of the District of Columbia could elect a Senator. This adds some confusion to the proposal to provide for two Senators for a city that is not ordinarily present under our constitutional concept of having Senators represent States rather than cities.

The resolution also provides, both in the preamble and in the body of the resolution, that the proposed amendment to the Constitution shall only be valid when ratified by the legislatures of three-fourths of the several States within 7 years from the date of submission by the Congress. The equal rights amendment had a similar provision but a proposal to extend it for an additional period is now upon the Senate Calendar. Almost every one in the country believes in equality between the sexes, but many have reservations as to the practical effect of ratification of the equal rights amendment and, not knowing its full ramifications, are fearful to vote for ratification. I submit, Mr. President, that in the event the proposal before us were adopted by the Senate, there would be many hand caps to obtaining ratification by the necessary three-fourths of the States. State legislatures are not likely to favor the expansion of the size of the Senate to allow a city to have the same voting strength in both the House and Senate possessed by sovereign States.

Taxpayers could well oppose giving residents of the District, many of them Government employees—and I speak, Mr. President, as one who has been a Government employee for 38 years—preferential treatment to that afforded other cities. Indeed, the city of Washington is a unique city. It is the seat of Government, its business is government. The question would naturally arise as to whether the present membership of the House of Representatives would remain at 435 or whether an additional two House Members would be added for the benefit of the city of Washington. State legislatures would question having 102 Senators and whether this would, in fact, diminish the effectiveness of the Senators from their own States. Opposition would arise from concerns about a number of constitutional provisions.

I believe, Mr. President, it will serve the national interest for the Senate to reject this proposal and not ask the States to resolve this matter, imposing even greater division among the States than presently exists over the equal rights amendment. Mr. President, I should like to review some of the proposed amendments, including two of my own, but I see that the distinguished Senator from North Carolina is present on the floor and I shall forgo that at the present time and just take a minute or so to conclude my remarks.

At this time, Mr. President, I am not sure whether to bring up two printed amendments that I have. One would permit the States, under their police power, to pass upon the whole question of abortions, as has been the case in the past under a State's police power, under its right to regulate the health and morals of the people, or whether to bring up the proposed amendment in which tenure would be provided for Federal judges rather than lifetime appointments that they now enjoy.

We speak of serving during good behavior, but for practical effect, that is lifetime tenure. This can be decided later today or perhaps tomorrow. Nevertheless, with the restriction on time, let me yield the floor at this time so that other Senators will have an opportunity to discuss the pending issue. To me, the issue is so important to the States we represent that every Member of the Senate should have an opportunity to comment on the resolution if he so desires.

Mr. President, I yield such time as he may consume, not exceeding 20 minutes to the distinguished Senator from North Carolina.

Mr. HELMS. Mr. President, I thank (Mr. MUSKIE) proposed an amend-

Mr. HELMS. Mr. President, I thank the able Senator from Virginia for yielding and I thank the Chair for recognizing the Senator from North Carolina.

Mr. President, we are assembled in a virtually empty Chamber. If I count correctly, there are five Senators in this Chamber, one of whom is presiding, on a Monday morning, 1 minute before noon, to discuss what surely is one of the most obvious political charades in recent years.

The political boat is loaded with Presidential candidates seeking the support of black citizens on this issue. I am speaking candidly, Mr. President, but I do not want to speak harshly. Still, the facts deserve to be laid out for what they are. I dare say that there is not a Senator in or out of this Chamber who really believes that this constitutional amendment will be ratified by the requisite number of States. Last week, I was talking to my able former colleague from North Carolina, the distinguished Sam Ervin, Jr., about this proposition. The Senator chuckled and said, "Well, Jesse, I guess it is good politics for anybody running for President."

That is precisely what it is—politics. Whether it is good politics or whether it is bad, I shall not attempt to pass judgment. But I say again, Mr. President, there is not a Member of the Senate who, deep in his heart, really believes that this proposed constitutional amendment will be ratified by the requisite number of States.

(Mr. HATHAWAY assumed the chair.)

Mr. HELMS. So what are we doing? The Senate is conducting a charade. There is no way the Senator from North Carolina—or any Senator—can cast a completely intellectually honest vote on this proposition. If he votes for it, he is voting for something that is not wise. If he votes against it, he risks falling prey to the false predicate that was laid down in the beginning of this debate. The assumption is that if we do not support this proposition we are against blacks, we are against liberals, we are against Democrats, and probably against apple pie.

Let me say again, Mr. President, this is a charade. If it were not a charade, this proposal would have gone through the normal processes of the Senate. But instead of going through the committees, it was virtually bludgeoned onto the Calendar. This maneuver ought to be regarded for what it is. The black citizens of the District of Columbia and the black citizens across America should not be deluded by this bit of gamesmanship. Everyone knows that this amendment is not going to be ratified by the requisite number of States.

Of course whether I will be proved right or whether I will be proved wrong will occur far in the distant future—7 years from now. But I say again, I do not believe that one Member of the U.S. Senate today, deep in his heart, feels that this proposed amendment will, indeed, be ratified by the requisite number of States.

The Senate had an opportunity last week to assure representation for the people of the District of Columbia. The distinguished Senator from Montana (Mr. MELCHER) proposed an amendment that made sense. I supported that amendment because I favor the concept of District of Columbia representation.

I think any Senator who is truly worried about the civil rights of the residents of the District of Columbia should have been an enthusiastic supporter of that Melcher amendment, which was defeated last week.

Mr. President, if we examine House Joint Resolution 554, we can see that it is deeply—deeply—flawed in both concept and execution. House Joint Resolution 554, as it stands, distorts the meaning and purpose of Senate representation. In fact, it dilutes the guarantee of article V to the Constitution, which is supposed to protect the equal suffrage of each State in the Senate.

It is obvious that if the 50 States have equal representation, the adding of two more Senators who do not represent a State cheapens the representation and dignity of the States themselves. We all know the inflation that results for the dollar when we expend the money supply to pay the Federal deficit. This proposal is inflation of the vote in the Senate.

Indeed, article V says specifically that "no State without its consent shall be deprived of its equal suffrage in the Senate" as a result of the amendment process.

Now, this being the case, Mr. President, the prospects of this proposed amendment, as it stands, of ever being approved by ratification by the requisite 38 States is remote, to say the least.

In the first place, I reiterate that three-fourths of the States will never approve the dilution of their constitutional rights. We could well end up with another ERA situation. As a matter of fact, Mr. President, if anybody thinks that the battleground across this country today in connection with the equal rights amendment has been heated, just wait until this amendment comes up in the State legislatures around the country. The ERA battle will have been a cakewalk compared to this one, and I think every Senator knows that.

So what are we doing? Are we advancing Presidential campaigns? I say again: The political boat is getting mighty loaded with candidates who are obviously or reportedly running for President in 1980.

Mr. President, we ought to level with the citizens of the District of Columbia and those citizens across the country who view this as a vote against or for their race. We ought to be intellectually honest enough to tell them, "This is not going to do it because this proposed amendment will not be ratified by the requisite number of States."

I am hearing from people all over this country who resent this proposition's having been converted into a racial issue. It is not a racial issue.

Mr. SCOTT. Will the Senator yield briefly at that point?

Mr. HELMS. I am delighted to yield to my friend from Virginia.

Mr. SCOTT. Mr. President, when the provision for the District of Columbia to be the seat of government or for a Federal city concept was developed, as I recall the black situation, it was later determined by the Dred Scott decision, that blacks were not citizens and, therefore, could not vote.

There was no black problem.

Then the suggestion has been made that the city is too urban. The city was not urban at the time that the Founding Fathers at the Constitutional Convention made this decision, or that three-fourths of the States ratified the Constitution.

Then, it was not too liberal at that time. As I recall, George Washington was elected by all of the people, not by any political party.

There is a fourth issue that has been raised, too Democratic.

Well, there were no political parties at that time in this country, as I recall again, the first President being elected by all of the people, and only later that the question of partisan politics arose.

So I rise to agree with the statement of the distinguished Senator from North Carolina. This decision was made, without these factors being considered, and I believe it is a false issue to be raised at this time.

Mr. HELMS. I thank the Senator.

Obviously, it is a charade. That is why the Senator from North Carolina came to this floor this morning because, frankly, I have heard enough of the pious pretense that proponents are doing something to protect the "human rights" of the residents of the District of Columbia. It is time to identify this political charade for what it is.

I mentioned the ERA a moment ago. As the distinguished occupant of the Chair knows, there is an issue looming in the Senate to extend the period of ratification for the equal rights amendment.

At the end of the 7-year period designated for this amendment, House Joint Resolution 554, we can bet our boots there will be an effort to extend that period for ratification, also, because nobody believes that this constitutional amendment will be ratified by the States.

The proponents of the amendment will be back here in 6 or 7 years, asking for an extension; and this process is going to drag on, in agony. It is going to deny the hope to the black citizens who have been assured that, yes, we are going to do this for you.

However, let us assume that all that were not so and that the Senate went along and approved this seriously flawed House Joint Resolution 554. Where would the next pressure come from? Puerto Rico? Guam? The Virgin Islands? The Pacific Trust Territories? You can count on it, Mr. President.

This resolution has so many defects of a constitutional nature that its enactment and ratification will invite unending litigation because of the serious omissions in this legislation—omissions that show clearly that it was drafted without thought as to all the constitutional implications.

Then, too, the proponents of this measure talk about the 700,000 population of the District of Columbia. But I do not recall that anybody has been able to

identify the untold thousands of residents of the District who maintain their legal residencies and vote in various States. Are we really talking about two Senators from 700,000 population, or are we talking about two Senators for 600,000 population, or are we talking about two Senators for 500,000 population? What are we really talking about? The answer to that is that nobody seems to know or care what we are talking about. There is just a mad scramble for political advantage. That is what it boils down to.

If this amendment were approved, any State could challenge—and I jolly well expect that many will challenge—the constitutionality of the process in the Supreme Court of the United States. Article V says that no State, without its consent, shall be deprived of equal suffrage. If one State withholds its consent, that State will have grounds to challenge the adoption of the amendment in the court. And we might as well count on it.

So the constitutional ramifications of this amendment are so complicated and so unjust and so improper that surely we have to realize the fact that this amendment has little chance of ratification by the required 38 States.

I do not like to be in the position of having to come here to say these things this morning. I would much have preferred to stay out of it. But I have read and I have listened to specious arguments to the point that I have had my fill. Somebody needs to speak out. Whether or not I am heeded, I want it on the record that I said this morning, Monday, August 21, 1978, that this amendment is not going to be ratified by the requisite number of States, and that the proponents of this amendment know it.

Mr. President, it is very clear to the Senator from North Carolina that any Senator who is sincere about the voting rights of the residents of the District of Columbia should have supported the Melcher amendment. There was the Senate's opportunity to show good faith to the residents of the District of Columbia. Then was when we had the chance to do something. But the Melcher amendment was tabled, Mr. President. Every Senator who voted to table that amendment was voting against realistic and fair representation for the people of the District of Columbia.

Mr. President, I ask unanimous consent that the rollcall vote on the tabling of the Melcher amendment be printed at this point in the RECORD, so that it will be clear in the future which Senators voted affirmatively to table the Melcher amendment, and kill hope for a realistic constitutional amendment.

There being no objection, the vote was ordered to be printed in the RECORD, as follows:

ROLLCALL VOTE NO. 329 LEGISLATIVE

YEAS—52

Bayh, Bellmon, Bumpers, Robert C. Byrd, Case, Chafee, Chiles, Church, Clark, Cranston, Culver, Danforth, Dole, Durkin, Eagleton, Glenn, Griffin, Hart, Haskell, Hathaway, Heinz, Hodges, Hollings, Huddleston, Humphrey, Inouye, Javits, Kennedy, Leahy, Magnuson, Mathias, Matsunaga, McGovern, Metzenbaum, Morgan, Muskie, Nelson, Packwood, Ribicoff, Riegle, Sarbanes, Sasser, Schmitt, Schweiker, Sparkman, Stafford, Stevenson, Stone, Talmadge, Thurmond, Weicker, and Williams.

NAYS—33

Allen, Bartlett, Bentsen, Burdick, Harry F. Byrd, Jr., Cannon, Curtis, DeConcini, Domenici, Ford, Garn, Gravel, Hansen, Hatch, Paul G. Hatfield, Hayakawa, Helms, Jackson, Laxalt, Long, Lugar, McClure, Melcher, Nunn, Pell, Proxmire, Randolph, Roth, Scott, Stevens, Tower, Wallop, and Zorinsky.

NOT VOTING—15

Abourezk, Anderson, Baker, Biden, Brooke, Eastland, Goldwater, Mark O. Hatfield, Johnston, McIntyre, Moynihan, Pearson, Percy, Stennis, and Young.

So the motion to lay on the table UP amendment No. 1664 was agreed to.

Mr. HELMS. Mr. President, the Melcher amendment, for the first time would have given full representation in the House of Representatives to the people of the District of Columbia. Furthermore, it would have given senatorial representation to the people of the District of Columbia by allowing them to vote in the State of Maryland for two senatorial candidates—that is all those except the undetermined number of residents of the District of Columbia who maintain their official residences in the various States of the Union.

I repeat: This proposition, Mr. President, is a charade. It is misleading the black citizens—not only of the District of Columbia but also the black citizens of North Carolina and all other States. That is why I am here speaking this morning, because I want it a matter of record that they were put on notice as to what is going on.

The Melcher amendment, which was rejected by the Senate last week, would have given senatorial representation to the people of the District of Columbia. It would have allowed them to vote in the State of Maryland for senatorial candidates. But more important than that, it would not have diluted the representation of the 50 States by giving representation to an entity that is not a State.

So we go back to the question of who is next if the Senate makes the mistake of approving this proposed constitutional amendment. Guam? Puerto Rico? How much further would the proponents go in diluting the representation of the existing 50 States? I say again that the Melcher amendment, which was defeated last week by this body, would not—would not—have diluted the representation of the 50 States by giving representation to an entity that is not a State. No State could claim under article V of the U.S. Constitution that its right to equal suffrage had been diluted, had the Melcher amendment been approved.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. SCOTT. Mr. President, I am glad to yield an additional 5 minutes to the distinguished Senator from North Carolina.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. HELMS. I thank the Senator.

Mr. President, had the Melcher amendment been approved, no precedent would have been set for further dilution by granting representation in the Senate to the Virgin Islands or Guam, or any other entity.

In addition, the Melcher amendment would have made it possible for the District of Columbia to be truly self-governing with respect to these rights and these powers.

Finally, the Melcher proposal would have based the District's vote in the electoral college upon population, based upon the number of Representatives. It is plain, therefore, that the Melcher amendment would have gone much further to restore civil rights to the people of the District of Columbia than the original proposal that is now before us.

As the vote was proceeding last week on the Melcher amendment, I found myself wondering, where are the Senators who are so worried about civil rights of the residents of the District of Columbia? Why were they not rushing forward to support the substitute of the Senator from Montana? Why did they not support a proposal that could reasonably be expected to be ratified by the requisite number of States? Why did they support the preposterous idea that entities which are not States should be entitled to the privileges of States?

Mr. President, I thank the able Senator from Virginia for yielding time to me.

Let me say, in conclusion, that I have not intended to reflect unkindly upon any Senator who disagrees with me, but I think that, in the rush of the politics-as-usual process, there has been a little slippage in terms of intellectual integrity. My point here is: At least let us level with the residents of the District of Columbia who believe or who have been led to believe that, if the Senate approves this measure, the citizens of the District of Columbia will be well on their way to obtaining representation in the Senate.

I say again that I cannot believe there is one Senator who belongs to this body today who truly believes that the requisite number of States will ratify this amendment.

I thank the Senator from Virginia.

Mr. SCOTT. Mr. President, the distinguished Senator from Idaho (Mr. McCLURE) is on his way to the Chamber.

I suggest the absence of a quorum and ask unanimous consent that time not be charged against either side.

The PRESIDING OFFICER. Is there objection.

Mr. KENNEDY. I object.

The PRESIDING OFFICER. Objection is heard.

Who yields time?

Mr. SCOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. SCOTT. On my time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SCOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT. Mr. President, we have a number of amendments to the joint resolution presently before us, and there is

one that I was thinking about that has

The power to regulate the circumstances

Mr. SCOTT. Mr. President, I have no

one that I was thinking about that has not been put in writing, but I have asked that it be drafted. That would be an addition to section 2, and it would eliminate some uncertainty as to who would appoint a Senator from the District of Columbia in the event that a vacancy should occur.

We know that under the Constitution the Governor, the chief executive of the State, may make an appointment if he is authorized by the State legislature to make an appointment. And certainly if he is not authorized why he cannot do it.

The question arises, then, what is the legislature of the District of Columbia?

We have in article I, section 8 of the Constitution that exclusive legislative jurisdiction resides in the Congress of the United States. That would mean both Houses of Congress. So, both Houses of Congress under the Constitution will have to decide whether or not the mayor of the District of Columbia would have the authority to make an appointment to the Senate from the District of Columbia in the event a vacancy should occur. In the absence of some provision in this proposed constitutional amendment, it could well be argued that the City Council for the District of Columbia, being comparable to the State legislature, could decide who should be appointed or whether or not the Mayor should have the power to make appointments to the Senate in the event of a vacancy.

So I am having an amendment prepared that would clarify this.

I hope that the distinguished Senator from Massachusetts might give consideration to this and perhaps we could agree to accept an amendment for the purpose of clarification.

We have a number of other amendments, Mr. President, and I believe that some of them are good amendments. I know that the distinguished Senator from Idaho (Mr. McCLURE), who I am told is on his way to the Chamber, has 21 different amendments. He does not propose to offer all of these amendments, but, as I understand, he intends to propose some of the amendments and certainly it is a question for him to decide how many, if any, of the amendments he will offer.

He has time under the bill to take 20 minutes for each of seven amendments that he indicated, during the compromise we worked out, he would offer.

This amendment that I spoke of a few minutes ago that I have is with regard to the abortion question. This abortion question is something that has taken an awful lot of time of the Senate. We have debated it pro and con. The Senate has been fairly evenly divided. Frankly, I voted on both sides, on one side on most occasions and on the opposite side on another occasion.

Now, I did that just to resolve the question so that we could terminate the debate that was taking up so much time in the Senate.

I can see some merit on both sides of the abortion question. But my proposed amendment would not address this bill to the merits of this question. It provides this, after the preface:

The power to regulate the circumstances under which pregnancy may or may not be terminated is reserved to the respective States and territories of the United States.

That is where it did reside prior to a Supreme Court decision of a few years ago.

I believe this is an appropriate amendment, Mr. President. Under our dual system of sovereignty, the Federal Government, being a Government of limited power, has only the power that is expressly given to it or may reasonably be implied from the powers expressly given, and the powers not given to the Federal Government are reserved to the States and to the people.

It is under this concept that those things that are closest to the people, the question of marriage and divorce, the question of property rights, there are so many things that under the police power of the States are reserved to the people of the respective States.

AMENDMENT NO. 3467

(Purpose: To propose an amendment to the Constitution relating to the termination of pregnancy)

Mr. SCOTT. Mr. President, I call up my amendment No. 3467 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Virginia (Mr. SCOTT) proposes an amendment numbered 3467.

The amendment is as follows:

At the end of the joint resolution, add the following:

SEC. 2. The following article is proposed as an amendment to the Constitution of the United States, to be valid only if ratified by the legislatures of three-fourths of the several States within seven years after the date of final passage of this joint resolution:

"ARTICLE —

"The power to regulate the circumstances under which pregnancy may or may not be terminated is reserved to the respective States and territories of the United States.".

Amend the title so as to read: "Joint resolution proposing amendments to the Constitution to provide for representation of the District of Columbia in the Congress, and to reserve to the States the power to regulate the circumstances under which pregnancy may or may not be terminated.".

Mr. SCOTT. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. SCOTT. Mr. President, since there is not a quorum, I ask that time not be charged against either side and I suggest the absence of a quorum until we can get a sufficient number of Senators on the floor.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

Mr. KENNEDY. Reserving the right——

Mr. SCOTT. Mr. President, I renew my request.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SCOTT. Mr. President, I have no desire to prolong the debate on this amendment. I do not know whether the distinguished Senator from Massachusetts desires to discuss it or not. I am ready to vote on it.

Mr. KENNEDY. Mr. President, I ask unanimous consent that it be in order to have the yeas and nays on a tabling motion in just a minute.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, this amendment would kill the District of Columbia representation amendment. I think the Members of this body, as we have seen from past votes, are divided as to what the proper policy on this issue should be. This amendment is really not appropriate as an add-on amendment.

As I mentioned previously, the only time that any constitution amendments were ever considered en bloc was at the time of the submission of the Bill of Rights to the States. Since that time, historically, amendments have been considered individually, one at a time, and it seems to me to be a sound historical precedent.

If the Senator wishes to address this issue, he ought to do so in and of itself. For the reasons I have mentioned here I will move to table his amendment.

Mr. SCOTT. Mr. President, will the Senator withhold his motion temporarily?

Mr. KENNEDY. I will withhold it, reserving the right to the floor. I will yield for a brief comment from the Senator.

Mr. SCOTT. Mr. President, this is an amendment that was considered by the subcommittee of the Senate Judiciary Committee. It failed to carry by an equal vote. The members of the subcommittee were equally divided. So it is a matter that has been under consideration. It was during the 94th Congress that it was considered in the Judiciary Committee.

The matter we have before us today we have had no vote on in the Judiciary Committee. So I think there is more credence to the offering of this amendment than to the amendment that is presently before us, which is a House version of a joint resolution rather than a Senate resolution.

I appreciate the distinguished Senator's delaying his motion to table so that I might have time to speak on this.

Mr. KENNEDY addressed the Chair.

Mr. THURMOND. Mr. President, will the Senator yield me just 2 or 3 minutes?

Mr. KENNEDY. I yield 3 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in opposition to this amendment being considered at this time and would favor a tabling motion for this reason: I agree with the able and distinguished Senator from Virginia concerning the merits of this amendment. I think he has put his finger right on the question concerning

the solving of the abortion matter from the Federal standpoint.

His amendment reads this way:

The power to regulate the circumstances under which pregnancy may or may not be terminated is reserved to the respective States and territories of the United States.

Mr. President, I was disappointed when the Supreme Court handed down a decision on this question. I was disappointed that they took jurisdiction of this question. The word "abortion" is not even found in the Constitution of the United States. Therefore, the Federal Government really had no jurisdiction in this field, because the Constitution is clear that matters not specifically delegated to the Federal Government are reserved to the States.

Abortion has not been so delegated. Therefore, it is reserved to the States. But since the Supreme Court entered this field anyway, then I feel we should pass an amendment to turn it back to the States. I thoroughly agree with the merits of this amendment as proposed by the distinguished Senator from Virginia.

However, Mr. President, this is a very important question. It is one that ought to stand on its own merits. It is one that should be considered separately, and I am not too sure whether it is offered here to stop the proposed amendment or to be considered on its own merits.

At any rate, whatever the purpose is, I agree with the distinguished Senator from Virginia on this amendment, but I do not think this is the place to offer it. I think he ought to offer it separately and let it be considered separately. I would support it if that is the case. I will vote to table it because I think the amendment is being offered at the wrong time.

Mr. KENNEDY. Mr. President, I thank the Senator from South Carolina for his comments.

As the Senator from Virginia pointed out, the vote was evenly divided in the Subcommittee on The Constitution. I think the issue also divides the Senate.

This amendment for D.C. representation has been overwhelmingly accepted by the House of Representatives. This is the next-to-final action that has to be taken on that issue. If it is approved by the Senate, it goes to the States for ratification.

Therefore, because of the reasons I mentioned earlier, I renew my motion to table the amendment of Mr. SCOTT.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Massachusetts to lay on the table the amendment of the Senator from Virginia.

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

(Mr. GLENN assumed the chair.)

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Minnesota (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Arkansas (Mr. BUMPERS), the Senator from North Dakota (Mr. BURDICK), the Senator from California (Mr. CRANSTON), the Senator from Iowa (Mr. CULVER), the Senator from Arizona (Mr. DECONCINI), the Senator from Mississippi (Mr. EASTLAND), the Senator from Montana (Mr. HATFIELD), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Rhode Island (Mr. PELL), the Senator from Maryland (Mr. SARBANES), the Senator from Tennessee (Mr. SASSER), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I also announce that the Senator from New Hampshire (Mr. DURKIN) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mrs. HUMPHREY) would vote "yea."

Mr. BAKER. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. GARN), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Maryland (Mr. MATHIAS), the Senator from Illinois (Mr. PERCY), the Senator from Vermont (Mr. STAFFORD), and the Senator from Alaska (Mr. STEVENS), are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD), would vote "yea."

The result was announced—yeas 48, nays 19, as follows:

[Rollcall Vote No. 332 Leg.]

YEAS—48

Bentsen	Hollings	Nunn
Brooke	Huddleston	Packwood
Byrd, Robert C.	Jackson	Pearson
Cannon	Javits	Proxmire
Case	Kennedy	Randolph
Chiles	Leahy	Ribicoff
Clark	Long	Riegle
Danforth	Lugar	Schmitt
Ford	Magnuson	Sparkman
Glenn	Matsunaga	Stennis
Gravel	McGovern	Thurmond
Hart	Melcher	Wallop
Haskell	Metzenbaum	Weicker
Hathaway	Morgan	Williams
Hayakawa	Moynihan	Young
Hodges	Muskie	Zorinsky

NAYS—19

Baker	Eagleton	Nelson
Bartlett	Goldwater	Roth
Biden	Hansen	Schweiker
Byrd, Harry F., Jr.	Hatch	Scott
Church	Helms	Stone
Curtis	Laxalt	Tower
	McClure	

NOT VOTING—33

Abourezk	Domenici	Johnston
Allen	Durkin	Mathias
Anderson	Eastland	McIntyre
Bayh	Garn	Pell
Bellmon	Griffin	Percy
Bumpers	Hatfield, Mark O.	Sarbanes
Burdick	Hatfield, Paul G.	Sasser
Chafee	Heinz	Stafford
Cranston	Humphrey	Stevens
Culver	Inouye	Stevenson
DeConcini		Talmadge
Dole		

So the motion to lay on the table amendment No. 3467 was agreed to.

(Later the following proceedings occurred:)

Mr. EAGLETON. Mr. President, I ask unanimous consent that on vote No. 332, amendment No. 3467, my vote be recorded as being "no" rather than "aye."

Mr. ROBERT C. BYRD. Reserving the right to object, the Senator knows I am not going to object, but for the record, the Senator has stated that this would not change the outcome. He did vote and, under the rule, the Senator can change his vote, if he has voted.

So, I have no objection.

The PRESIDING OFFICER. Without objection, it so ordered.

(The above rollcall vote reflects the foregoing order.)

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. METZENBAUM. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time?

UP AMENDMENT NO. 1691

(Purpose: To authorize a State to rescind its ratification prior to adoption of the proposed constitutional amendment)

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment No. 1691.

Mr. McCLURE. Mr. President, I wonder if we can have order so that Members can hear the amendment?

The PRESIDING OFFICER. May we have order in the Senate? Will the people wishing to converse please retire to the cloakrooms or the lobbies? The Senator's point is well taken. Will all those not conversing please take their seats or retire to the cloakrooms?

The clerk will state the amendment.

The assistant legislative clerk read as follows:

On page 1, line 9, after "Congress" insert "(but no such ratification by a legislature shall continue to be effective or counted toward the necessary number of ratifications on and after the date of a rescission by the legislature of that ratification, unless this article of amendment has been adopted prior to the date of that rescission)".

On page 2, line 16, after "submission" insert "(but no such ratification by a legislature shall continue to be effective or counted toward the necessary number of ratifications on and after the date of a rescission by the legislature of that ratification, unless this article of amendment has been adopted prior to the date of that rescission)".

UP AMENDMENT NO. 1692

Purpose: To prohibit a State from rescinding its ratification of the proposed constitutional amendment.

Mr. McCLURE. Mr. President, I ask unanimous consent to withdraw that amendment and submit another amendment which I now send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Will the Senator please use his microphone?

Mr. McCLURE. I ask unanimous con-

Mr. McCLURE. I ask unanimous consent to withdraw that amendment and submit another amendment which I have sent to the desk and ask the clerk to report.

The PRESIDING OFFICER. Is there objection? Without objection it is so ordered. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 1692.

On page 1, line 9, after "Congress" insert "(but no such ratification once made by a State legislature shall be subject to rescission)".

On page 2, line 16, after "submission" insert "(and no such ratification once made by a State legislature shall be subject to rescission)".

Mr. McCLURE. Mr. President, I presented the amendment in that manner so that the Senate could see the alternative that might be presented to us for consideration. As you know, Mr. President, we are involved at this moment in a nationwide debate with respect to the equal rights amendment. One of the debates concerning that equal rights amendment is whether or not a State legislature, once having ratified the proposed amendment, has the right to rescind that ratification, and if they have taken the action to rescind the ratification which they had earlier made, will that be honored by the Congress in the computation of whether or not there have been a sufficient number of States ratifying the amendment.

The first amendment which I offered and then withdrew said very clearly that the States would have the right to consider the second time and change their mind by rescinding a prior ratification. I have withdrawn that amendment.

Mr. SCOTT. Will the distinguished Senator yield for a unanimous-consent request?

Mr. McCLURE. I am very happy to yield to my distinguished friend.

Mr. SCOTT. Mr. President, I am advised that under the previous unanimous-consent agreement, the time allotted to me, only a few minutes remains of that time. I have talked with the distinguished majority leader and the distinguished Senator from Massachusetts, the floor manager of this proposal. I ask unanimous consent, as to 30 minutes of the time that is allocated to me for tomorrow, that I be permitted to utilize it today. Also, Mr. President, I ask unanimous consent that the distinguished Senator from Massachusetts yield 10 minutes to the Senator from Montana (Mr. MELCHER) and I would yield 20 minutes to Mr. MELCHER of the time that is allotted to us respectively so that Senator MELCHER would have a total of 30 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. SCOTT. I thank the distinguished Senator.

Mr. McCLURE. Mr. President, after having withdrawn the amendment which would have clearly stated that the States had the right to rescind a prior ratification of this amendment, I submitted the amendment that says the alternative, that says the States do not have the right to rescind. People to whom I have been talking and with whom I have discussed the matters pending on this bill are afraid that the submission of either of these amendments will inevitably get involved in the debate over the equal rights amendment, and it is not my purpose to do that.

I know that in discussing the question of rescission, it is inevitably involved in our thinking and we certainly cannot avoid some consideration of this other issue. But I think, as we prepare to submit a constitutional amendment to the people of the United States for action by the State legislatures, that we ought to be as clear as we can be about what we intend at the time we submit it to the State legislatures. We should not wait until a period of time has expired and we are confronted with a specific case as to whether it will aid or prejudice the passage of an amendment or whether it will put more or less pressure upon a given State legislature. We ought to make the decision now as to what it is that we intend to do. What is it that we, as the Congress of the United States, have in mind? What are the rules under which we will determine whether or not that amendment has been ratified?

It is my judgment, Mr. President, that one of the issues which must be considered as we go through this proposed amendment is whether or not we will recognize the right of a State to take a second look. The arguments must inevitably follow the following line: Those who do not wish a State to have that right must inevitably say that, the States once having acted, the Constitution provides that they have the right to act to approve a constitutional amendment, but the Constitution does not specifically say that they have the right to remove that approval.

The argument on the other side of that issue is one of equity and fairness, as well as a construction of the Constitution which says that, certainly, if a legislature can consider and reject an amendment and then reconsider and reject an amendment, and reconsider and reject an amendment, and reconsider and then ratify it and that stops the reconsiderations, it is a one-way street. People who believe in equity and fairness, as well as a proper construction of the Constitution, will say that the State legislatures cannot be constrained in their opportunity to consider, reconsider, and reconsider whatever actions they may wish to take during the time limited by the submission to them and up until the time that the ratification has been certified as having been adopted by the total number of States required by the Constitution to ratify a proposed amendment to the Constitution.

Mr. President, my purpose in offering the amendment is to give the Senate the opportunity to go on record now as to what they desire to do with respect to the question of rescission as it relates to this specific amendment. It is not my deside to try to prejudice the debate over whether or not rescission should be allowed in the equal rights amendment. Every amendment is submitted separately to the people of the United States. Each one is submitted under the rules and subject to the considerations in each individual proposal.

The equal rights amendment was submitted under one resolution; this proposal is being submitted under another. It is not necessary, under the Constitution, that what we decide on this particular proposal is necessarily binding upon the other proposals. It certainly, however, will have some effect upon the considerations by future Congresses and, perhaps, by the courts with respect to the right of the States to reconsider not just the actions that they took in rejecting a proposed amendment, but also the right to reconsider the action taken by a State legislature in supporting the proposed amendment.

Mr. President, I reserve the remainder of my time.

Mr. KENNEDY. Mr. President, as I understand it, we are under the previous time agreement. Am I correct? Twenty minutes for the proponents of the amendment, 10 minutes for the opposition?

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. I yield myself 5 minutes.

Mr. President, I am at somewhat of a loss to understand the reasoning of the Senator from Idaho. First of all, he has an amendment that permits the rescission; then he withdraws that and submits an amendment to prohibit rescission. He is the sponsor of both amendments, so I am really not quite sure what the strategy is on an issue of very great importance to the Constitution, as well as to the intent of the Founding Fathers.

If we are serious about this particular amendment, and I am sure the Senator is, I think that any fair interpretation of the constitutional and legal history would indicate that the language reflects the law of the land at the present time. I am satisfied to that effect, having given it study as a member of the Committee on the Judiciary. We reviewed the issues and the constitutional arguments that were made to the committee on the issue of rescission. Of course, the issue of rescission as it applies to this amendment is quite a bit different from the same issue as it applies to the equal rights amendment.

Nonetheless, I believe, Mr. President, most of the testimony that the Committee on the Judiciary has heard on this issue would be that the language of this amendment currently is the law of the land. Since it is the law of the land, it does not seem to me that this particular amendment is required to be included. Another reason, of course, would be that its acceptence by us it would require acceptance by the House of Representatives or a conference, and from what we have seen over the period of the last few days, perhaps an extended comment by Members of the Senate if a conference report were to be voted upon.

I feel, Mr. President, that this amendment is merely a restatement of the current law. I do not think it is necessary,

nor do I think it is desirable, so I shall oppose the amendment and, at the appropriate time, make a motion to lay it on the table. I do not know whether the Senator wants additional time to speak on it. I do not want to foreclose that opportunity. If he does not, I intend, at an appropriate time, to make such a request.

Mr. McCLURE. I had hoped the Senator would not offer a motion to table, although I recognize that he has the right, under the rules of the Senate, to do so. Aside from his own sense of strategy, I could appeal to his sense of fairness in allowing us to have a vote on the issue, rather than a vote on the motion to table.

Unlike the Senator from Massachusetts, however, I do not believe that the law of the land is set on this issue. I think any careful reading of the precedents that apply would indicate that the issue is in doubt. The courts have not been clear on that issue. They have not ever ruled in clear fashion on that issue, and it will undoubtedly be the subject of court challenges if, as a matter of fact, there is a rescission that is not recognized by the Congress unless the Congress at this time, as a part of this submission, says it cannot be rescinded, which I think would lay to rest the possibility of court challenges.

But it is my understanding of the law that it is not well set, that in all likelihood the courts would be asked to rule as they have not clearly ruled in the past and that they might again be pushed back into the Congress for decision, which I would view as the most likely result under the current precedents and current rulings of the Supreme Court and the inferior courts of the land.

It is my purpose to avoid having it bounced back to the Congress at some future date, at a time when we would be not involved purely with the constitutional issue of whether or not rescission should be permitted.

But we get involved in all kinds of side and extraneous issues that deal with which States have rescinded, which are likely to, which legislatures can be called upon to reverse their actions in favor of or against a particular amendment.

I think as a matter of policy we ought to state what it is we intend to do.

Mr. President, I do not desire to prolong the debate. But it is my intent to ask for the yeas and nays on the amendment. There are not a sufficient number of Senators on the floor at the moment. I wonder if the Senator from Massachusetts would join with me in getting a sufficient number on the floor that we might get the yeas and nays on the amendment.

Mr. KENNEDY. Yes, but I would just like to make a final comment.

Mr. President, on the question of rescission, which the Judiciary Committee has examined in some considerable detail, I was hopeful my colleague would withdraw this amendment, and the chairman of the Constitutional Rights Subcommittee would be able to join us on the floor at this time, but he is unable to do so.

Nevertheless, the overwhelming opinion of leading constitutional authorities on the issue of rescission is that the issue of rescission is resolved in article V of the Constitution.

The issue of rescission is clearly resolved in article V. If we are going to alter and change article V to any extent, then I think we ought to follow the constitutional process that has been established. We will then have an opportunity in the committees of both the House and the Senate to address that issue.

If this amendment is a restatement of the existing law, it is really unnecessary. I have studied the issue of rescission, and this is my own personal view.

So I do suspect we will probably see this issue presented to us in a different form in several minutes, and the argument will be on that issue again.

For those reasons, Mr. President, I can understand a Senator introducing both sides of the amendment, figuring there must be a majority on one side or the other and, if it is on one side or the other, it may very well be the death of the amendment. I do not conclude that is the motivation of the Senator from Idaho, although I do think if we end up with a complete 180 degrees on the next amendment, that there may be those who feel that way.

But I intend to make a motion to table.

Mr. President, I ask for the yeas and nays on a motion to table.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent it be in order to order the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KENNEDY. I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I move to lay on the table UP amendment No. 1692 of the Senator from Idaho.

Mr. McCLURE. I yield back the remainder of my time.

Mr. KENNEDY. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the motion to lay on the table UP amendment No. 1692 of the Senator from Idaho.

The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mr. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Arkansas (Mr. BUMPERS), the Senator from North Dakota (Mr. BURDICK), the Senator from California (Mr. CRANSTON), the Senator from Iowa (Mr. CULVER), the Senator from Arizona (Mr. DECONCINI), the Senator from Mississippi (Mr. EASTLAND), the Senator from Montana (Mr. HATFIELD), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from New Hampshire (Mr. McINTYRE), the Senator from Maryland (Mr. SARBANES), the Senator from Alabama (Mr. SPARKMAN), the Senator from Georgia (Mr. TALMADGE), and the Senator from Indiana (Mr. BAYH) are necessarily absent.

I also announce that the Senator from New Hampshire (Mr. DURKIN) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mrs. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Kansas (Mr. DOLE), the Senator from Utah (Mr. GARN), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Maryland (Mr. MATHIAS), the Senator from Illinois (Mr. PERCY), and the Senator from Vermont (Mr. STAFFORD) are necessarily absent.

The result was announced—yeas 67, nays 5, as follows:

[Rollcall Vote No. 333 Leg.]

YEAS—67

Baker	Haskell	Nelson
Bartlett	Hatch	Nunn
Bentsen	Hathaway	Packwood
Biden	Hayakawa	Pearson
Brooke	Hodges	Pell
Byrd, Harry F., Jr.	Hollings	Proxmire
Byrd, Robert C.	Huddleston	Randolph
Cannon	Inouye	Ribicoff
Case	Jackson	Riegle
Chiles	Javits	Roth
Church	Kennedy	Sasser
Clark	Laxalt	Schmitt
Curtis	Leahy	Schweiker
Danforth	Long	Stevenson
Domenici	Lugar	Stone
Eagleton	Magnuson	Thurmond
Ford	Matsunaga	Tower
Glenn	McGovern	Wallop
Goldwater	Melcher	Weicker
Gravel	Metzenbaum	Williams
Hansen	Morgan	Young
Hart	Moynihan	Zorinsky
	Muskie	

NAYS—5

Helms	Scott	Stevens
McClure	Stennis	

NOT VOTING—28

Abourezk	DeConcini	Heinz
Allen	Dole	Humphrey
Anderson	Durkin	Johnston
Bayh	Eastland	Mathias
Bellmon	Garn	McIntyre
Bumpers	Griffin	Percy
Burdick	Hatfield, Mark O.	Sarbanes
Chafee	Hatfield, Paul G.	Sparkman
Cranston		Stafford
Culver		Talmadge

So the motion to table the amendment (UP No. 1692) was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the motion to lay on the table UP amendment No. 1692 was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1693

(Purpose: To grant to the people of the District authority to decide how the rights and powers conferred shall be exercised)

Mr. McCLURE. Mr. President, I have

an amendment which I send to the desk

an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 1693.

On page 2, line 9, beginning with the comma, strike out all through "Congress." in line 10 and insert a period and the following: "The Congress shall grant to the people of the District the power and authority to establish a mechanism by which the people shall exercise those rights and powers.".

Mr. McCLURE. Mr. President, the purpose of this amendment is to provide clarification and eliminate ambiguities in section 2 of House Joint Resolution 554.

Mr. KENNEDY. Mr. President, does the Senator have an extra copy of the amendment?

Mr. McCLURE. Yes.

Mr. KENNEDY. I thank the Senator.

Mr. McCLURE. I might just mention parenthetically to the Senator from Massachusetts that I talked with him last week and said I would try to get copies of all of these amendments printed in the RECORD. I do apologize to him for failing to have done that on Friday of last week. But we were somewhat involved in a little matter known as the natural gas deregulation bill and the President had a greater call on my time.

The purpose of the amendment is to provide clarification and to eliminate the ambiguity in section 2 of House Joint Resolution 554, in accordance with the intention of the framers of the joint resolution.

The House Judiciary Committee report on this resolution states, and I quote from that report:

Section 2 provides that the people of the District shall exercise the rights and powers conferred by the article and that the Congress, consistent with its power of exclusive legislation (art. I, sec. 8, cl. 17), shall determine the mechanism by which the people of the District exercise those rights and powers. The language of section 2 was chosen to insure that, for example, Congress itself would not ratify constitutional amendments on behalf of the District, set district lines, fill vacancies or choose electors for the offices of President and Vice President; such decisions would be made by the people of the District, but consistent with its article I power the Congress would determine the structure by which those determinations would be made.

The last phrase of section 2—

and as shall be provided by the Congress—

Read together with the first part of the sentence, implies that the exercise of the foregoing "rights and powers" must be made jointly with the "people of the District" and Congress, each holding veto power over the other. The effect of this language might be, for example, that Congress would be required to vote twice on the ratification of a constitutional amendment, first in discharging its constitutional role under article V in proposing an amendment and a second time as a sort of legislative body—since the District lacks a State legislature—endorsing the action taken by the "people of the District" under the proposed amendment.

I think it is obvious that it would be ridiculous to expect ratification of an amendment that starts out with one affirmative vote, because Congress having voted to submit it also votes to affirm it on behalf of the people of the District.

The intent of section 2 was apparently to provide that Congress may enforce the proposed article by appropriate legislation as has been provided in other constitutional amendments.

The intent of section 2 was apparently to provide that the Congress may enforce the proposed article by appropriate legislation, as has been provided in other constitutional amendments. However, the language of House Joint Resolution 554 is unclear on this point and is so ambiguous that it does not accomplish its intended purpose. Such poor draftmanship and ambiguity do not belong in a proposed amendment to the Constitution.

My amendment would prevent confusion in interpretation and assist in the proper execution of the amendment if it is adopted. It would enable Congress to adopt future enabling legislation to provide the District with the necessary authority and power to carry out the purposes of the amendment.

Mr. President, I think it is obvious that the amendment is needed to clarify what the House of Representatives in its report said was the intention of the amendment but which the amendment does not on its face accomplish.

Mr. President, I urge the adoption of the amendment and urge the managers of the proposed legislation to consider seriously the issue that has been raised, and I hope that they will agree with the amendment.

Mr. President, I reserve the remainder of my time.

Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays at this time.

The PRESIDING OFFICER. The yeas and nays on what?

Mr. McCLURE. On this amendment.

Mr. KENNEDY. On this amendment, and I also ask that it be in order that the yeas and nays be in order for a tabling motion as well.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there a sufficient second on the motion to table? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, the amendment of the Senator from Idaho, as I understand it, would provide that Congress shall grant to the District the power and authority to establish the mechanism by which the people shall exercise their rights and powers under the amendment.

In effect, what he is doing is to give the District the power to implement the provisions of the amendment. For example, the District would divide the boundaries of the various congressional districts, the filling of vacancies, and other matters that would be related to representation in Congress and other issues under the amendment. House Joint Resolution 554 gives Congress the power to decide these questions in future legislation.

Under the language in the current amendment, the power over these matters is retained in the Congress of the United States. The language of section 2 states:

The exercise of the rights and powers conferred under this article shall be by the people of the District constituting the seat of government and as shall be provided by the Congress.

The intent of the section is to require all such issues to be resolved by future legislation enacted by Congress. Such legislation is to provide for appropriate participation of the people of the District. But within that general mandate, the power of Congress would be plenary, by contrast, the Senator's amendment would confer this power on the District itself, and eliminate the oversight of Congress.

That is an unwise step to take in the amendment. What the Senator seeks could be accomplished by statute, later, after the amendment is adopted. For the purpose of this amendment, it would be wise to retain that authority and that power in the Congress of the United States.

I welcome the confidence that the Senator from Idaho has in the ability of the people of the District to make these judgments. By the amendment, he suggests that the people in this community ought to be able to make the regulations and rules implementing the amendment. In effect, the Senator's amendment is a proposal for home rule.

But it does seem, because of the particular nature of the Federal district, to be desirable at this time to retain the final authority in the Congress of the United States, and to decide these questions in the future by legislation, rather than turn over blanket authority in advance.

So, Mr. President, I will offer a motion to table after the Senator from Idaho has made whatever additional comments he would like to make.

Mr. McCLURE. Mr. President, I understand what the Senator from Massachusetts is saying. I hope people will understand that the junior Senator from Idaho, who has been trying to say all along throughout all of this debate and the comments that have been made outside of this Chamber with respect to the pending resolution, that I want the people of the District of Columbia to have full voting representation in the Congress of the United States. That is what the people on the other side of the issue have been saying, too.

Now, curiously enough, when I offer an amendment that says that we are really going to make it full voting representation, these sponsors of the resolution say:

Oh, but we don't trust them quite that much. We have to control what they do

under this amendment. We cannot let them have full rights under this amendment. We have to retain in the Congress the right to direct how they exercise their voting rights.

That seems to me to be so totally absurd as to be beyond the realm of intelligent debate. If we really want to give the people of the District of Columbia full voting rights that other people in this country enjoy, as the junior Senator from Idaho does want to give them, then we should not condition that upon saying, "All right, but we in Congress are going to continue to control how you do it." I do not think that is what the people of the District want. That is certainly not what the junior Senator from Idaho wants.

If we are going to give them a full right to vote, they ought to have the full control over the way in which they vote. I do not believe Congress ought to retain that right, on the one hand, while, on the other hand, saying, "We are giving you the same representation, the same right to vote, as everyone else in the United States has."

I think on the face of it the resolution as submitted to us by the House of Representatives is ambiguous because it does imply that Congress can retain, if it wishes, unto itself the right to do what other citizens throughout the country can do on their own behalf. What an absurdity it would be if, as a matter of fact, Congress should submit an amendment to a resolution for an amendment to the Constitution of the United States and, at the same time, say, "We are retaining the rights on behalf of the people of the District of Columbia to determine whether or not it will be approved."

That is exactly what I understand the import of the argument against the amendment to be.

I do not think that is what the resolution is intended to say. It is clear from the House report that the managers on the part of the House did not intend to say that. They intended to say the opposite. They realized they had not said it clearly in the language of the amendment, so they went to the trouble of writing in the report what it was they meant.

All I am trying to do is on the face of the resolution and the amendment what is clearly the intention of the House of Representatives and what is clearly the intention of the junior Senator from Idaho, and what I believe to be clearly the intention and desire of the people of the District of Columbia.

I am sorry that the managers of the bill have not seen fit to adopt the amendment. While I understand, if indeed they do not wish to, the motion to table will be made, I assume, that as things have been going, the motion to table will probably be agreed to. I hope not.

Mr. President, if the Senator is prepared to offer the motion to table I will be prepared to yield back the remainder of my time.

Mr. KENNEDY. I just want to make a brief comment. If the Senator from Idaho will refer to the Constitution, if he looks at the 18-year-old vote amendment, the XXVI amendment. The amendment states:

The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.

Section 2 says:

The Congress shall have power to enforce this article by appropriate legislation.

Or, take the XV amendment which says:

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Section 2 says:

The Congress shall have power to enforce this article by appropriate legislation.

Then in the XIX amendment, giving the women the right to vote, it says the same thing. The fact of the matter is in instance after instance, that has been the basic boilerplate language of constitutional amendments. Congress is given the power to enforce the new constitutional rights. There might never have been a voting rights act if Congress had not been given the power to enforce the XV amendment. Unless Congress retained that kind of authority and power, the job could not be done. It is boilerplate language which has been accepted time and again to secure the effective implementation of constitutional rights. It has been the case in instance after instance in the approval of various constitutional amendments to insure that what has been supported by two-thirds of the Members of Congress and three-quarters of the States, will actually be implemented. Congress has retained this authority, and it has properly done so.

That is the reason for it. There will always be the opportunity to turn those powers back at any time in the future. But in terms of the fashioning and shaping of this particular constitutional amendment, we have accepted what has been boilerplate language in past constitutional amendments. The language is not identical to the language used before, but that is the clear intent.

Mr. McCLURE. Mr. President, I do not mean to prolong the debate, but I must respond to my friend from Massachusetts by pointing out that the language he has referred to in other amendments is not the language which appears in this joint resolution. The language that he quotes is different from the language in the joint resolution.

The second thing that must be pointed out is that the power he was talking about is not the right to write the statute on behalf of the people, but the right of Congress to enforce the provisions. There is a vast difference between enforcing the provisions and actually doing it for them on their behalf.

If, as a matter of fact, it had been simply the desire of the framers of the resolution to enforce the provisions, they would have said so. But, curiously, they did not do that, and I have to assume that that difference was not casual or inadvertent if, as a matter of fact, it is being argued now that my amendment is inappropriate. Because there seems to be a conscious desire to withhold from the people of the District the right t vote the way they want to vote, or th right to set the lines the way they wa to set them.

It seems to me that was not the in tention of the people in the House o Representatives, who went to very grea pains in committee to write in their re port precisely the opposite. As a matte of fact, then, there is a difference be tween the language in the joint resolu tion as before the Senate and the lan guage of other ratifications of othe amendments, that contain the enforce ment provision which this one does no contain, but this one contains, rathe curiously, the lack of either that lan guage, and apparently the intention o the part of some, though certainly no this Senator and I think not the Hous of Representatives, to imply that Con gress has the right to retain to itself th power to tell the people of the Distric of Columbia how it will come out, an the power in the Congress of the Unite States to vote on behalf of the Distric of Columbia on constitutional amend ments.

Mr. President, if the Senator is pre pared to make his motion to table, I would be prepared to yield back the re mainder of my time.

Mr. KENNEDY. Just this furthe point, Mr. President——

Mr. McCLURE. I then reserve the re mainder of my time.

Mr. KENNEDY. Mr. President, sectio 2 of this amendment reads as follows:

The exercise of the rights and powers con ferred under this article shall be by th people of the District constituting the se of government, and as shall be provided b the Congress.

The word "and," which is the eight word from the end, means "in such man ner." As a matter of drafting expertis I think "in such manner" might hav been preferable to the word "and"; bu this is the clear intent, and it was als the intent of the House of Represents tives in approving the amendment.

In response to the merits of the argu ment of the Senator from Idaho, th Senator is quite correct that the lan guage is different from the language read about retention of the power b Congress to enforce the various othe constitutional amendments; but the sub and substance of the language in th joint resolution is the same. It should b interpreted in the same way. It retain authority in Congress to insure that th rights conferred by the amendment ar actually implemented in the way the should be. By contrast, the Senator' amendment would turn over all such power to the District.

Congress could act by statute to carr out the Senator's amendment. Congres could delegate all its powers of imple mentation to the District. But we shoul not lock such a rule into the amendmen itself. Previous constitutional amend ments have retained the final authorit over implementation for Congress. It i desirable in this case also.

Mr. BAYH. Mr. President, will th Senator permit one observation?

Mr. KENNEDY. I yield——

Mr. BAYH. A couple of minutes would

Mr. BAYH. A couple of minutes would be fine.

The PRESIDING OFFICER. The Senator from Massachusetts has 1 minute remaining.

Mr. KENNEDY. I yield 3 minutes on the bill.

The PRESIDING OFFICER. Time cannot be taken off the bill on these amendments.

Mr. BAYH. I do not think anything I want to say is of great importance, anyway.

Mr. KENNEDY. I ask unanimous consent to yield 3 minutes on the bill.

The PRESIDING OFFICER. Is there objection? Without objection, the Senator from Indiana is recognized for 3 minutes on the bill.

Mr. BAYH. I would just like to point out to our distinguished colleague from Idaho, that I think the thrust of the argument of the Senator from Massachusetts is absolutely on square with everything we have heard in the hearings process over a rather lengthy period of time.

This matter is not a new one to come before Congress; however, it is a new one to actually reach the floor with this degree of legislative history behind us.

The thrust of this is to understand that on this partcular kind of process, the mechanisms of the process must rest with the District. Like all other constitutional amendments, if indeed the State or the District refuses to exercise what is the reasonable intent of the amendment in question, then Congress has the opportunity to have the final word.

By the implementation of this, the election process and all matters of that nature, as the distinguished Senator from Massachusetts has pointed out, shall stay with the District.

Mr. KENNEDY. Mr. President, if I have any further time, I am prepared to yield it back.

Mr. McCLURE. I yield back the remainder of my time.

Mr. KENNEDY. Mr. President, I move that the amendment be laid on the table.

The PRESIDING OFFICER. The question is on the motion to lay on the table the amendment (No. UP 1693) of the Senator from Idaho (Mr. McCLURE). The yeas and nays have previously been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Arkansas (Mr. BUMPERS), the Senator from North Dakota (Mr. BURDICK), the Senator from California (Mr. CRANSTON), the Senator from Arizona (Mr. DECONCINI), the Senator from Mississippi (Mr. EASTLAND), the Senator from Montana (Mr. HATFIELD), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from New Hampshire (Mr. McINTYRE), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from New Hampshire (Mr. DURKIN) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mrs. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Rhode Island (Mr. CHAFEE), the Senator from Kansas (Mr. DOLE), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Maryland (Mr. MATHIAS), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 50, nays 28, as follows:

[Rollcall Vote No. 334 Leg.]

YEAS—50

Bayh	Hathaway	Nunn
Bentsen	Hodges	Pell
Biden	Hollings	Proxmire
Brooke	Huddleston	Randolph
Byrd, Robert C.	Inouye	Ribicoff
Case	Jackson	Riegle
Chiles	Javits	Sarbanes
Church	Kennedy	Sasser
Clark	Leahy	Sparkman
Culver	Magnuson	Stafford
Danforth	Matsunaga	Stevenson
Eagleton	McGovern	Stone
Ford	Metzenbaum	Thurmond
Glenn	Morgan	Weicker
Gravel	Moynihan	Williams
Hart	Muskie	Zorinsky
Haskell	Nelson	

NAYS—28

Baker	Hansen	Pearson
Bartlett	Hatch	Roth
Bellmon	Hayakawa	Schmitt
Byrd, Harry F., Jr.	Helms	Schweiker
Cannon	Laxalt	Scott
Curtis	Long	Stevens
Domenici	Lugar	Tower
Garn	McClure	Wallop
Goldwater	Melcher	Young
	Packwood	

NOT VOTING—22

Abourezk	Dole	Heinz
Allen	Durkin	Humphrey
Anderson	Eastland	Johnston
Bumpers	Griffin	Mathias
Burdick	Hatfield, Mark O.	McIntyre
Chafee	Hatfield, Paul G.	Percy
Cranston		Stennis
DeConcini		Talmadge

So the motion to lay on the table UP amendment No. 1693 was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was laid on the table.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1694

(Purpose: To retrocede the District of Columbia to the State of Maryland, except for lands owned by the United States)

Mr. McCLURE. Mr. President, I have an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. MOYNIHAN). The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes unprinted amendment No. 1694.

On page 2, strike out lines 2 through 10 and insert the following:

"SECTION 1. Except as provided in section 2, the lands comprising the District constituting the seat of the government of the United States on the day before the day on which this article is ratified are retroceded to the State of Maryland.

"SEC. 2. Section 1 shall not apply to lands owned by the United States on the day before the day on which this article is ratified and such lands shall, on and after the day on which this article is ratified, comprise the District constituting the seat of the Government of the United States.

Amend the title so as to read: "Joint Resolution proposing an amendment to the Constitution to retrocede to the State of Maryland all lands within the District of Columbia except lands owned by the United States.".

Mr. McCLURE. Mr. President, this amendment would provide for full retrocession. We touched on this discussion of the retrocession and part of its aspects in the Melcher amendment, but this would provide a complete and full retrocession of all of the area within the District to the State of Maryland except for a small Federal enclave for the seat of the Federal Government.

Mr. President, I offer an amendment which would provide for full retrocession. This proposal would cede back to the State of Maryland the entire District except for a small Federal enclave for the seat of the Federal Government.

The precedent for such action was the District's prior retrocession of lands originally granted by Virginia, constituting the area around the modern city of Alexandria, to the Commonwealth in 1846. That was accomplished by statute; this retrocession would be made by constitutional amendment, thereby requiring the ratification of three-fourths of the State legislatures and avoiding the problems, constitutional or otherwise, inherent in other proposals such as House Joint Resolution 554.

Returning the populated portion of the District to Maryland would afford the residents of the District full voting representation in the Congress through the election of U.S. Representatives and Senators from the State of Maryland.

Retaining a "Federal enclave" would satisfy the provisions of the Constitution and the intention of the framers concerning the seat of government.

Residents of the retroceded area would be able to vote for a Governor, members of the State legislature, and local government officials on the same basis as other residents of Maryland.

Residents of the District would attain, through full retrocession, the full political rights enjoyed by all other citizens of the United States.

Full retrocession can be accomplished without violating the spirit of the Constitution or impairing the Federal system.

The mere fact that the people of the District and Maryland have expressed no interest in this approach is no argument against it. Attention has focused on other constitutional amendments primarily. It is not surprising that District politicians would prefer to have their own U.S. Representatives and Senators. The Constitution should not be arbitrarily amended for every purpose, however questionable. Retrocession is a more reasonable approach which should be thoroughly examined and discussed before an attempt is made to radically change the Constitution, as House Joint Resolution 554 would do.

Mr. President, I see my colleague from Maryland on the floor and he is on his feet. I assume he will have some comments he wishes to make. Rather than continue my discussion of the amendment at this point, Mr. President, I reserve the remainder of my time.

Mr. KENNEDY. Mr. President, I yield 5 minutes to the Senator from Maryland.

Mr. SARBANES. Mr. President, let me say at the outset that it is gratifying to the people of the State of Maryland that some Members of the Senate now seem so anxious to retrocede one or another part of the District of Columbia, one way or another to the State of Maryland. This has all occurred now that we are confronted with the issue of whether the people of the District of Columbia ought to be given direct representation in the House of Representatives and the Senate of the United States. These proposals have not heretofore been advanced as positive propositions viewed as a reasonable or desirable thing to do. They appear on the scene as a negative diversion; to seek in effect to preclude giving voter representation to the residents of the District of Columbia.

I must say that it is in this perspective that I see this proposal, as I do other similar proposals which have been made. The Members are going to have to face this representation issue squarely. There are reasonable arguments for having a Federal district for the National Capital; in fact if it were proposed to do away with the Federal district altogether, we would then, perhaps, be hearing, from the same people that are putting forward the limited retrocession proposals, the arguments why a National Capital district is desirable and ought not to be completely done away with. The proposals we have had, none of which is complete retrocession, all carry with them inherent problems. This one, which would exclude from retrocession, all land owned by the Federal Government—which I understand amounts to about 40 percent of the present District of Columbia, involves exclusive property that is not contiguous, that is interspersed with private or other public property throughout the District—this proposal would result in an absolute hodge-podge of alternating geographical areas which would result in an impossible situation in terms of trying to make government work.

Very frankly, I think we ought to face squarely the representation issue. If Senators do not want residents of the District of Columbia to be represented in the National Legislature and want them to continue to be disenfranchised, then they ought to put forward the underlying arguments for that position, not divisionary proposals, and let that basic position be accepted or rejected.

But the various retrocession proposals are but a diversion to try and shift the focus and the attention of Members of this body from the central underlying issue.

This amendment does not really move away from that diversionary approach. The exception which it contains for federally owned property is, of course, one that makes the whole proposition utterly unworkable.

The only logical proposition, which would be to retrocede all of the territory, then carries with it problems involving the arguments, reasonable arguments, which can be made as to why there ought to be a Federal district.

I just think Members ought to face that situation and face what is at stake in House Joint Resolution 554, which is to enfranchise 700,000 of our citizens who have been denied representation in the National Legislature of our country, even though they have, of course, been given representation with respect to the choice of the national Executive.

The PRESIDING OFFICER. Who yields time?

Mr. McCLURE. Mr. President, I know how troubling this is to elected representatives in the State of Maryland, not just the Senators from the State of Maryland, but the other Congressmen, the Governor, and, indeed, the political structure of both parties within the State of Maryland.

But, it seems to me, if we are talking about establishing for the people of the District of Columbia their full civil rights, we ought to be attempting to do exactly that when we have the opportunity to do so.

The proposal before the Senate in the form of the House resolution does not do that. It does not grant them the same rights that every other citizen of the United States exercises. It grants them some of the rights that other citizens of the United States exercise. Only by retrocession or by the creation of the 51st State could we give the people of the District of Columbia the same voting rights, the same civil rights, that every other citizen of the United States enjoys.

I know that it is troubling to people who are more concerned about the political structure of the State of Maryland than they are the civil rights of the residents of the District to accept that change. But the fact remains that if they are to get the same right to vote for Senators and Representatives, a Governor, a State legislature, that every other citizen of the United States enjoys, it must be either by statehood or by retrocession.

Mr. SCOTT. Will the Senator yield?

Mr. McCLURE. I am happy to yield to the Senator from Virginia.

Mr. SCOTT. Mr. President, I certainly support the amendment by my distinguished colleague from Idaho. But I would point out, and I know he is aware of this, that there are other American citizens who do not have representation in the Senate.

Only States have representation. There is Puerto Rico. The people of Puerto Rico are citizens of the United States. They do not have a Senator. They have a Delegate. The people from the Virgin Islands, from Guam, have a non-voting Delegate. The incorporated territories of the United States have this.

The question would logically follow, if we give two Senators to the District of Columbia and we want to be fair to all American citizens, would it not, that we should have two Senators from Puerto Rico, two Senators from the Virgin Islands, and two Senators from Guam?

It seems logical to the Senator from Virginia that we would increase this body by eight Senators rather than two.

Mr. McCLURE. I thank the Senator from Virginia for pointing out that additional argument that can be made with regard to fairness to all people who are under the umbrella of U.S. citizenship.

But, Mr. President, the argument can be even more pointedly focused on the people of the District of Columbia and on the political system in the State of Maryland because I am told very often by various people that we cannot do this because the State of Maryland does not want it.

It was hinted early in the debates on this measure that those of us who were opposed to it are somehow racist. I think my colleague from Massachusetts said that we do not want them to be voting because they are too black and too liberal.

Well, I can tell my friend that I have never opposed voting rights on the basis of either, although I certainly do oppose people who are liberal on their policies. But I have never opposed anybody on the basis of his race, and I shall not do so.

But if, as a matter of fact, there is resistance to full civil rights for the people of the District of Columbia, if there is any racism in that argument, the racism lies in the political structure of the State of Maryland, not in those who are opposed to investing the people of the District of Columbia with some rights which no one else in the United States enjoys.

Mr. SARBANES addressed the Chair.

Mr. McCLURE. Then denying them other rights which every other citizen of the United States presently enjoys.

Mr. SARBANES. Will the Senator yield?

Mr. McCLURE. I will yield briefly.

Mr. SARBANES. I do not think the Senator, because of a sensitivity which he seems to have to the criticisms which have been made, apparently, of him, and perhaps others who oppose this amendment, should then seek to ascribe to the people of the State of Maryland or its political leaders motives completely absent and not present.

The Senator may speak as to his own motivation, but I do not think, out of some sense of apparent resentment on that matter, he should seek to ascribe to the people and the leaders of my State a motivation which is completely absent.

Mr. McCLURE. I understand what the Senator is saying. But I did not see the Senator on his feet when those other suggestions were being made about the motivations of other people.

I understand what he is saying. I just want to get the motivation question, this issue question, in the proper context.

Those who may oppose——

Mr. SARBANES. That is exactly the reason I rose, in an effort to get it into the proper context.

Mr. McCLURE. I understand.

Mr. SARBANES. I appreciate the Senator now seeking to do that and I would hope he would do that.

Mr. McCLURE. I understand what the Senator is saying.

Mr. SARBANES. Has the Senator from Maryland made any charge about either the Senator from Idaho's motivation or that of the people of the State of Idaho?

Mr. McCLURE. I cannot answer that question. I have not heard it myself.

Mr. SARBANES. Certainly, speaking for this Senator, there has been no such charge, and I would be prepared to assert, knowing the character and the quality of my distinguished colleague from the State of Maryland, that there has been no such charge in his instance, either.

Mr. McCLURE. I thank the Senator for his contribution and I understand his concern about the remarks I have made.

I make those remarks out of the strong conviction that people who have tried to inject race as the motivation on either side in these issues ought to have that pointed out, that they are appealing to the emotions and not to the intellect of the voters of this country and of this body.

Mr. SARBANES. If the Senator has that sensitivity, it seems to me the reasonable way to have approached it would have been to deny the presence of such motivation in his instance, if that allegation were made, but not to go beyond that and cast a similar aspersion on the people of my State and on the political leaders of my State. There is no basis for the Senator undertaking to do that.

Mr. McCLURE. Mr. President, I understand the concern of my friend from Maryland.

I am not going to yield further to him at this time on my time to beat that dead horse.

I do want to reiterate that if we are going to invest the people of the District of Columbia with their full civil rights, in absolute equality with every other citizen of this country, we cannot do it and do not do it under the resolution which has been brought to the floor. But we can and would do it under the amendment which the Senator from Idaho has offered. The fact that, for whatever reason, it may be disturbing to the people of Maryland should not be the overriding concern of the Members of this body. If, as a matter of fact, the overriding is concerned, as I think it should be, with the rights of the individual residents of the District of Columbia, then let us address that squarely. Let us not slide around the issue by injecting other issues, such as denial of due process, denial of voting rights, denial of the fact that racism may be a quotient in the arguments and the emotions in this debate.

The Senator from Idaho is as dedicated as any other to the notion that the exclusion of the voting rights of the people of the District is an anachronism from an earlier age, that the reasons it may have existed and may have been valid at an earlier time no longer exist, that the people who vote in the District of Columbia and reside in the District of Columbia do not universally and uniformly work for the Federal Government.

As a matter of fact, I suspect there is a higher number who live in Maryland and in Virginia who work for the Federal Government than the residents of the District itself. Those patterns have shifted over the years. But certainly that, as a major motivation, is no longer reason to deny to the people who live here the full rights of citizenship.

The pending resolution, brought to the floor of the Senate not through the regular processes of the committees in the Senate but directly from the House and directly to the floor of the Senate, would deny the people of the District of Columbia full voting rights, full civil rights—and I think they should have them. There is no reason why the Senate cannot redress that wrong, rather than create two other wrongs by passing the pending resolution.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. McCLURE. Mr. President, before yielding, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 7 minutes remaining.

Mr. McCLURE. I yield briefly to the Senator from Indiana.

Mr. BAYH. Has the Senator given consideration to how the citizens of the District would be treated in the area of reapportionment as provided under the Constitution? Would their numbers be added to the numbers of the people of Maryland in the reapportionment after the next census?

Mr. McCLURE. Under the amendment I have suggested, the desire of the people of the District as to their separate representation would be accomplished by granting them representation in the House of Representatives as though they were a State, granting them the right to have their Senators voted upon statewide, as all other citizens of this country have their Senators voted upon.

Mr. BAYH. I thought the Senator's amendment just struck section 2, lines 2 through 10.

Mr. McCLURE. This simply corrects an error in the resolution, from my viewpoint.

Mr. BAYH. The Senator is familiar with the fact that the language in the constitution talks in terms of reapportionment within the bounds of the given States. Does the Senator suggest that he is creating some sort of non-State entity, which would not qualify them, under the present language, for reapportionment?

Mr. McCLURE. The Senator is correct. But this would not conform exactly in that respect to the treatment in other areas of the country. It would preserve the identity of the District for the reapportionment and the representation in the House of Representatives.

Mr. BAYH. I thank the Senator.

Mr. President, is there additional time?

Mr. KENNEDY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Massachusetts has 6 minutes.

Mr. McCLURE. Mr. President, I reserve the remainder of my time.

Mr. KENNEDY. I will take 2 or 3 minutes. I will be glad to yield to the Senator, and then I would like to make a concluding comment. I yield 3 minutes to the Senator.

Mr. BAYH. Mr. President, I have two basic concerns about this kind of resolution.

One is a set of constitutional concerns as to the reapportionment question, which I just raised. The other is the question of qualification, that is, how the qualifications for voters would be established for the House of Representatives, when the Constitution says that the qualifications must be the same as the qualifications for the most numerous branch of the State legislature?

That concern puts the District of Columbia in a no man's land. Would that mean that Annapolis would establish the criteria for the voters in the District? What about where a candidate should come from? Would it be possible for someone who lived in the District of Columbia to serve in the House of Representatives? Suppose Annapolis said you had to live in Maryland, as a right to qualify voters?

I say this because it seems to me that we are establishing a rule here in which we would put into the Constitution something that would create a very confusing situation.

In addition, I think a good case could be made relative to article 4, section 3, and the only precedent we have is retrocession to Virginia, when it was ruled at that time that the State had to determine, under the Constitution, whether or not they could accept that property.

I say to my colleagues that I look at it a little differently from the way the Senator from Idaho looks at it. I think he is giving away part of my property in Indiana. In Indiana we have 5.5 million people who feel that the District of Columbia is part of their Capital; and they want us to find a way in which the people who live here can vote without, in essence, giving away the city. I guess I feel he is doing that. I know he does not.

I hope we will turn this down and support the resolution which is ably supported by the Senator from Massachusetts and the Senator from Maryland.

Mr. MELCHER. Mr. President, will the Senator from Idaho yield?

Mr. McCLURE. I yield to the Senator from Montana.

Mr. MELCHER. I thank the Senator for yielding.

I hardly think this poses the problem that the Senator from Indiana conjectures. The question of voting within a State on a Federal enclave has been addressed many times. A person who lives at Andrews Air Force Base, in the State of Maryland, is not denied his voting rights. In many other instances where one lives on Federal property, he is eligible to vote in that State, and it has been found by the courts that he is eligible to vote in that State.

So we are not really going into unplowed ground or some never-never land that has not been tried and tested before.

The Senator from Idaho, as I understand, would leave the city as it is for that purpose, to exercise those functions, and would allow the residents within the ceded portion of the District to have the opportunity to participate in the procedures granted to other citizens of Maryland.

I would rather that the debate on the Senate floor would be factual as to the case and factual as to what has happened before in a similar instance. It certainly has happened before in similar instances.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. McCLURE. I yield briefly.

Mr. BAYH. I hope the Senator from Montana does not suggest that just because one disagrees with him, one uses the wrong facts.

I ask this of the Senator from Idaho: Who does he think would prescribe the qualifications for people who vote in the District of Columbia when the Constitution says "the most numerous branch of the State Legislature"? Would it be possible for the legislature in Annapolis to prescribe residency qualifications that, in essence, state you could not vote unless you lived in the State in question, which the Constitution says you have the right to do?

That means they could establish residency provisions to vote in Maryland in order to serve in the Senate or in the House, which would deny anybody who lived in the District the chance to do that.

That is the concern I have. I do not know where you would finally come down on that, but I point out that those requirements exist in the Constitution today; they are factual in the Constitution today.

Mr. McCLURE. Mr. President, there is no doubt that the pending resolution before the Senate—not my amendment—contains virtually the same list of uncertainties and ambiguities which my friend has mentioned. I sought to cure some of that ambiguity by the amendment I offered just before this one, which was rejected when a tabling motion by the Senator from Massachusetts was approved by the Senate.

The Senate did not want to resolve those ambiguities. The Senate wanted to leave it within the power of Congress to deal with those ambiguities, and that is where it resides now.

So my friend from Indiana may raise the question of uncertainty, but the question of uncertainty resides in the language of the resolution, not the language of the amendment of the Senator from Idaho.

Mr. President, again we have two choices if we really want to give the residents of the District of Columbia their full civil rights. We must choose either statehood for the District or allow them to vote in a State which does exist because the ambiguities to which the Senator makes reference, the other constitutional provisions that make references to State control and State authority in certain instances over voting by the residents of the State apply equally to the pending resolution.

To simply allow them to have a Senator and a Representative does not lay to rest the other issues which the Senator from Indiana has raised.

Do I understand from the faint tapping at the desk that my time may have expired?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. McCLURE. I thank the Chair.

Mr. KENNEDY. Mr. President, I yield myself 3 minutes.

Mr. President, it seems to me that the argument of the Senator from Idaho would have some consistency if he were suggesting that we substitute a statehood proposal that would effectively conform with what I gather to be his desire at least presented here in the Senate this afternoon. But the fact of the matter is——

Mr. McCLURE. Mr. President, will the Senator yield on that point?

Mr. KENNEDY. I only have 3 minutes.

Mr. McCLURE. Will the Senator yield only briefly?

Mr. KENNEDY. I yield for 15 seconds.

Mr. McCLURE. I have that amendment. If this one is defeated I will offer it.

Mr. KENNEDY. Fine.

Mr. McCLURE. And I hope the Senator will support it.

Mr. KENNEDY. Then we will have a chance to debate and I will not make it now.

Mr. President, home rule and representation for the District of Columbia in Congress have moved along two tracks over the history of our Nation. We should not confuse these two different concepts.

The Senator from Idaho says that we are not doing all the things that we could do for a State. Therefore, he says, the more limited step of providing the citizens of the District of Columbia with the right to elect their own Members of the House and the Senate should not be accepted. That is effectively what his amendment would do, and it is for those reasons that I move to table it.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. KENNEDY. I yield back the remainder of my time.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table UP amendment No. 1694 of the Senator from Idaho.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator fro Minnesota (Mr. ANDERSON), the Senat from Arkansas (Mr. BUMPERS), the Sen tor from California (Mr. CRANSTON), t Senator from Arizona (Mr. DECONCINI the Senator from Mississippi (Mr. EA LAND), the Senator from Montana (M HATFIELD), the Senator from Minne sota (Mrs. HUMPHREY), the Senator fro Louisiana (Mr. JOHNSTON), the Senat from New Hampshire (Mr. MCINTYRE and the Senator from Georgia (Mr. TA MADGE) are necessarily absent.

I further announce that the Senat from New Hampshire (Mr. DURKIN) absent on official business.

I further announce that, if present an voting, the Senator from Minneso (Mrs. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that th Senator from Kansas (Mr. DOLE), th Senator from Michigan (Mr. GRIFFIN the Senator from Oregon (Mr. HA FIELD), the Senator from Marylan (Mr. MATHIAS), and the Senator fro Illinois (Mr. PERCY) are necessary ab sent.

The result was announced—yeas 4 nays 35, as follows:

[Rollcall Vote No. 335 Leg.]

YEAS—47

Bayh	Haskell	Muskie
Bentsen	Hathaway	Nelson
Biden	Heinz	Pearson
Brooke	Hodges	Randolph
Byrd, Robert C.	Hollings	Ribicoff
Case	Huddleston	Riegle
Chafee	Inouye	Sarbanes
Chiles	Jackson	Sasser
Church	Javits	Sparkman
Clark	Kennedy	Stafford
Culver	Leahy	Stevenson
Danforth	Magnuson	Stone
Eagleton	Matsunaga	Thurmond
Ford	McGovern	Weicker
Glenn	Metzenbaum	Williams
Hart	Moynihan	

NAYS—35

Baker	Hansen	Pell
Bartlett	Hatch	Proxmire
Bellmon	Hayakawa	Roth
Burdick	Helms	Schmitt
Byrd, Harry F., Jr.	Laxalt	Schweiker
Cannon	Long	Scott
Curtis	Lugar	Stennis
Domenici	McClure	Stevens
Garn	Melcher	Tower
Goldwater	Morgan	Wallop
Gravel	Nunn	Young
	Packwood	Zorinsky

NOT VOTING—18

Abourezk	Durkin	Humphrey
Allen	Eastland	Johnston
Anderson	Griffin	Mathias
Bumpers	Hatfield, Mark O.	McIntyre
Cranston	Hatfield, Paul G.	Percy
DeConcini		Talmadge
Dole		

So the motion to lay on the table U amendment No. 1694 was agreed to.

Mr. ROBERT C. BYRD. Mr. Presi dent, I move to reconsider the vote b which the motion was agreed to.

Mr. KENNEDY. I move to lay that mo tion on the table.

The motion to lay on the table wa agreed to.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. Presiden under the order entered last week, th Senate was to have turned to the Fed eral aid highways bill today at no late than 3 o'clock p.m. I ask unanimous con sent——

The PRESIDING OFFICER. Will th Senator kindly suspend? The majorit

leader has the floor; will the Senate please be in order?

The Senator from West Virginia will kindly proceed.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I ask unanimous consent that the resumption of debate on the highway bill be delayed temporarily, that the Senate proceed to the consideration of one more amendment by Mr. McCLURE, and the Senator from Virginia (Mr. HARRY F. BYRD, JR.), I think, wants 5 minutes on the D.C. Representation Act, and Mr. MELCHER wishes to speak also this afternoon.

Mr. MELCHER. I would take 10 minutes for my allotment.

Mr. SCOTT. Mr. President, will the Senator yield briefly?

Mr. ROBERT C. BYRD. Yes.

Mr. SCOTT. I have two amendments that I would like to take 5 minutes on, not to offer them, but so that the Senate would know of the two amendments I intend to offer tomorrow.

Mr. ROBERT C. BYRD. Very well. Mr. President, I ask unanimous consent that Senator McCLURE be recognized to offer his amendment.

Mr. McCLURE. Mr. President, did I understand that the Senator from Virginia (Mr. HARRY F. BYRD, JR.) wishes to present his statement at this time?

Mr. ROBERT C. BYRD. Very well.

Mr. McCLURE. And that I would then be recognized to offer my amendment?

Mr. ROBERT C. BYRD. Very well. I ask unanimous consent that after the Senator from Virginia (Mr. HARRY F. BYRD, JR.) is recognized to make his statement, the Senator from Idaho (Mr. McCLURE) be recognized to offer his amendment, that Mr. MELCHER then be recognized for his statement, and that Mr. SCOTT then be recognized for his statement, after which the Senate turn to the consideration of the military construction conference report, on which there be 10 minutes to be equally divided between Mr. HUDDLESTON and Mr. STEVENS, and that after the conference report, the Senate return to the consideration of the highway bill.

Mr. McCLURE. Mr. President, the amendment I shall offer will be one which would grant statehood to the District of Columbia.

Mr. ROBERT C. BYRD. That would require a rollcall vote.

Mr. McCLURE. That would probably require a rollcall vote.

Mr. ROBERT C. BYRD. I ask unanimous consent that it be in order to order the yeas and nays on the amendment of the Senator from Idaho.

The PRESIDING OFFICER. Without objection, it is so ordered. The yeas and nays are not mandatory, unless requested.

Mr. ROBERT C. BYRD. Does Senator McCLURE wish for the yeas and nays on his amendment?

Mr. McCLURE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that it be in order at this time to order the yeas and nays on a motion to table the McClure amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Now, Mr. President, I renew my unanimous-consent request.

The PRESIDING OFFICER. Is there objection?

Mr. RANDOLPH. Mr. President, reserving the right to object, and I shall not object, it is a little difficult for me to put together the time frame here as to when the highway bill will be resumed for debate and, hopefully, passage.

Mr. ROBERT C. BYRD. Mr. President, that would probably be, if all time is taken on Mr. McCLURE's amendment, in approximately 1 hour and 10 minutes.

Mr. MELCHER. Mr. President, reserving the right to object——

Mr. ROBERT C. BYRD. No, I beg the Senator's pardon. It would be 1 hour and 35 minutes.

Mr. RANDOLPH. Very well. I thank the Senator.

Mr. MORGAN. Mr. President, I wonder if we could have an agreement that it not be before 4:30.

Mr. ROBERT C. BYRD. That would be perfectly agreeable. It will work out that way anyway, but I will include that in the request.

Mr. BAKER. Mr. President, reserving the right to object, I wonder if the majority leader could give us some idea on how long we may stay on the highway bill after we turn to that later today, and at what time might we expect to adjourn or recess for the night.

Mr. ROBERT C. BYRD. I cannot accurately assess that situation, may I say to my distinguished friend the minority leader. I would hope we would be prepared to stay in late, however, so we might finish the highway bill tonight.

Mr. BAKER. It is the majority leader's intention to finish the highway, if possible?

Mr. ROBERT C. BYRD. I would hope so. I would hope we could finish with it, because we have a very full day tomorrow, with the D.C. representation amendment, so that Senators would not have to be in next Monday or Tuesday. As Senators will recall, when the original schedule was announced earlier this year, the holiday was to begin at the close of business next Tuesday. That will probably mean we will have to be in late every day this week, with the likelihood of a Saturday session, but if we accomplish our work that we have targeted, we will not have to be in next Monday and Tuesday.

Mr. HUDDLESTON. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Mr. President, was the request granted?

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? Without objection, it is so ordered.

Mr. HUDDLESTON. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield the floor.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that Tim Dudgeon, of my staff, be accorded the privilege of the floor during the consideration of the highway bill, when called up.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I make the same request for Mr. Conley, of Senator NELSON's staff, during the consideration of the D.C. representation measure.

The PRESIDING OFFICER (Mr. SASSER). Without objection, it is so ordered.

The Senate will be in order.

The Senator from Virginia (Mr. SCOTT) is recognized.

Mr. SCOTT. Mr. President, I yield 5 minutes to my distinguished colleague from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. HARRY F. BYRD, JR. Mr. President, Washington, D.C., is a city. It is a Federal city. Its interest, its economics, its future are tied to the Federal Government.

It has none of the characteristics of a State. It is not a State, nor was it ever meant to be.

It was planned as the seat of the Federal Government, and for nearly 200 years it has served that purpose well.

In area, only two States of the 50 have less than 5,000 square miles. Rhode Island, being the smallest, has approximately 1,200 square miles.

Washington, D.C., has an area of 67 square miles.

Under the Constitution, Members of the House of Representatives represent people divided into congressional districts, with each congressional district at the present time representing roughly 500,000 persons.

But in the Senate, Senators represent States. California with 22 million population has two Senators; Wyoming with 400,000 population has two Senators.

Under the Constitution, only States are permitted to have Senators. Although New York City has a population of 8 million, 10 times greater than Washington, it is not entitled to a Senator.

I see no justification for the pending legislation which would give Washington, D.C., two representatives in the U.S. Senate. This legislation would not confer statehood on Washington, D.C., but would grant it representation in the Senate if it were a State.

I think the pending legislation is wrong in principle and dangerous in precedent.

Will this lead, as it well could, for a demand for two Senators for Puerto Rico whose residents are citizens of the United States? Or Senators for Guam and for the Virgin Islands whose residents likewise are citizens of the United States?

Washington, D.C. is not a State, it is a city. A fine city, but still a city.

There is no diversity of interest, there is no rural population, there are no small towns, there is no agricultural area.

In brief, Washington, D.C., is a densely populated city of 690,000 persons in a 67-square-mile area.

I shall vote against giving two Senators to Washington, D.C., which action would simultaneously distort the Constitution, set a dangerous precedent of city representation, and diminish the influence in the Senate of each of the 50 States.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. HODGES). The Senator has 2 minutes remaining.

Mr. HARRY F. BYRD, JR. I yield that additional 2 minutes to the Senator from Montana (Mr. MELCHER) when his time comes to speak.

Mr. MELCHER. I thank the Senator.

The PRESIDING OFFICER. Under the previous order the Senator from Idaho is recognized to offer his amendment.

UP AMENDMENT NO. 1695

(Purpose: To grant statehood to the District of Columbia)

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 1695.

On page 2, strike out lines 2 through 10 and insert the following:

"Section 1. The District constituting the seat of government of the United States is hereby admitted into the Union as a State of the United States on an equal footing with the other States in all respects.

"SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

Mr. McCLURE. Mr. President, during the debate on the previous amendment, which would have retroceded the non-Federal Government in the District to the State of Maryland so that the people of the District might have the opportunity to have full civil rights, it was argued by the distinguished Senator from Massachusetts that we should instead grant them statehood, or at least that that would be more logically consistent.

Without conceding the fact as to where logical consistency might lie as between those two alternatives, certainly the arguments raised by the Senator from Indiana with regard to the difficulties of interpretation and application of voting rights as though they are a State without granting statehood is inherent to the pending resolution granting voting rights without statehood and would be completely solved by granting statehood.

(Mr. SASSER assumed the chair.)

Mr. McCLURE. This, at least, Mr. President, would be logically consistent with the stated thrust and purpose of the sponsors and floor managers of this House Joint Resolution 554.

In my opinion, this is the only way to provide a permanent solution to the issue of extending the full rights of political participation to all citizens of the District and at the same time avoid the insurmountable constitutional objections that mar other proposals, including House Joint Resolution 554.

While statehood is possible by means of a simple majority vote in both Houses of Congress, under article IV, section 3, any attempt to admit the District to the Union as a State without amending the Constitution would pose major legal problems. For one thing, statehood by legislative enactment would abrogate the "exclusive legislation" power of the Congress over the District under article I, section 8, clause 17. Moreover, article IV, section 3, clause 1 makes the consent of the legislatures concerned a prerequisite for forming new States. When Maryland ceded lands to the Federal Government for establishing the District of Columbia, it consented only to the creation of a Federal district, not the creation of a new State. Thus, to make the District by congressional enactment alone would violate that provision of the Constitution.

Under amendment XXIII the District has three votes in the electoral college, that is, no more than the number of electors accorded to the least populous State. however, it could be entitled to as many as four electors, according to the most recent census. Amendment XXIII would become a virtual dead letter since the District would cease to exist. Such a change in the Constitution should be made by amendment, rather than by legislation.

Granting statehood to the District would not only guarantee to D.C. residents voting representation in both Houses of Congress, under article I of the Constitution. They would also be able to participate in the process of ratification of proposed amendments to the Constitution, article V; they would be entitled to as many electors for President and Vice President as they have Senators and Representatives, article 2, section 1; they would be assured of territorial integrity and protection against absorption into other States, article IV, section 3; and they would have complete legislative control over internal matters, free of congressional veto. All congressional authority over the District now provided in article I, section 8, clause 17 would be effectively turned over to the people of the District acting through their elected representatives in a State legislature.

This amendment would not only assure to D.C. residents equal citizenship rights with other Americans; it would grant to the District complete self-government according to the wishes of its own people, without Federal interference. It would free the Federal Government of the responsibilities of providing special treatment for the District at a tremendous expense to other U.S. citizens. The people of the District would not only enjoy the rights and powers of statehood, they would also assume the full burden and responsibilities of citizens of a State of the Union. No longer would District citizens be considered second class Americans or be victims of "tax tion without representation."

Full representation is consistent wit the principles of democracy upon whic our Nation was founded. Statehoo would attest to our commitment to equal ity and freedom for all America citizens and our concern for guarante ing human rights thoughout the worl

Mr. President, I reserve the remainde of my time.

Mr. BAYH. Mr. President, I have lis tened to my good friend and distin guished colleague from Idaho struggli with how this business of representatio for the people of the District, some 750 000 of them, can be accomplished. I kno he is sincere about this desire. But I sa with all respect that it seems to me he i making it an overcomplex issue, a mor difficult one to resolve than it really nee be.

First of all, those of us who are sup porting and have supported for som time the right of representation for th District citizens, have said from the be ginning that the District of Columbia i a unique part of the United States o America. It is a unique bit of geography It is a capital city. For reasons that hav already been thoroughly discussed, basi cally size and security, our Foundin Fathers established it to be separate an different from States early on.

Just as this unique characteristic ex ists, it seems to me that there is no nee to go the statehood route in providin representation for the citizens of the Dis trict.

As I said earlier, I guess as a Senato from Indiana I hate to see us taking th Nation's Capital from 500,000 Hoosier It is part ours. I do not see why the Dis trict should be a State because it is, in deed, the Nation's Capital.

As I said earlier, there is no need to g the statehood route in order to resolv the inequities which exist here.

I will not belabor the Senator or th Senate with some of the distinctions be tween means of approaching statehoo and the thrust of the Senator's remarks The question of statehood is very much up in the air in the District of Columbia

There is a core of support for state hood here. But nothing approaching th clear majority wishes of the people fo representation short of statehood, th majority support for the very resolution which we now have before us.

I say to my good friend from Idaho it seems to me, if one gets into the whole fundamental study of government, we can see why the approach recommended by the Senator from Massachusetts, the Senator from Indiana and the rest of us in this resolution is more appropriate to the need than statehood.

We have three levels of government, and we are all aware of this, local government, State government, and National Government. The District of Columbia, very clearly, is a local government. It is a city. It has a city structure. Imperfect as it is, it is chosen by the people of this city. The city government controls the confines, the geographic limits of this city, which also happens to be the Nation's Capital.

So there is adequate government, there is representation. Some say it is inadequate, and you could make a good case of that. But at least, there is a participation in the representative process at the local level. I see no reason to have a State government, which would cover the same identical geographic description as the local government. That would be an absolute duplication of governmental responsibilities.

There is no other State in the United States that has a city which covers the total geography of the State; yet we would be establishing one if we went along this particular route.

No, it seems to me that what we are after here is not to create a State level of bureaucracy to deal with problems that are already dealt with by the local government, but to see that the citizens of the District are fully represented at the national Government level. They have the right to vote for the President now, as of the 23d amendment. What we are saying is give the citizens of the District the right to vote for and be represented in this body and our other body, the House of Representatives, to have the chance to affect the outcome of national decisions, national decisions that affect the lives of the people who live here.

Mr. McCLURE addressed the Chair.

Mr. BARTLETT. Will the Senator yield?

Mr. McCLURE. I am happy to yield to the Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I ask unanimous consent that Edward King of my staff may be accorded the privilege of the floor during any vote on this bill and the transportation bill. I further ask that this request not interfere with the dialog that the Senator from Idaho is having.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I shall be very brief. I suspect we can either terminate the debate at this moment or debate for the next week. We cannot adequately cover the subject in a few brief moments and to attempt to cover it in much less than a week, in all of its ramifications, must be an exercise in frustration.

Let me respond to my friend from Indiana in this way: It seems to me that the arguments that have been used by the Senator in opposition to my amendment are really the arguments that the opponents of the resolution have been using. All of the arguments that have been raised against statehood are equally applicable against House Joint Resolution 554. I do not understand the distinction that says they are to be granted full voting rights without voting responsibilities. The effort to establish in people rights unassociated with responsibilities has been proven to be destructive of individual fiber, and it certainly is destructive of government structure as well.

It seems to me that this is really the crux of part of the dilemma, that there is the effort to invest the District of Columbia with all the rights of statehood with none of the responsibilities of statehood. It seems to me that has led us into the impasse of trying to find a way to give them something without giving them everything. We end up saying we are going to give them full civil rights, but we do not give them full civil rights; we give them some civil rights.

My friend from Indiana has indicated that this would be taking something away from the people of Indiana, because they own this Capital City. There are two answers to that. First of all, we could, by legislation, construct a Federal enclave within the city, which would then be a State, and allow them to have statehood and full rights and responsibilities of citizenship under statehood; at the same time, guaranteeing to the people of Indiana their sole share of the hold on the city as a seat of Government.

At the same time, my friend from Indiana is saying that we must pass the resolution granting representation in order to give them their rights as citizens, but whatever tenuous hold the people of Indiana have on the seat of Government is sufficient reason to deny them full rights as citizens.

I wonder if, really, the people of Indiana want to deny the people of the District of Columbia their right to full citizenship, full participation, full civil rights under the Constitution in exchange for, or as the price of, a tenuous hold on some nebulous concept of the Nation's Capital. I do not think the rights of citizenship are to be sold or bartered for such a small consideration as is implied by that statement.

Mr. President, if the Senator from Indiana is prepared to yield back the remainder of his time, I shall yield back the remainder of my time.

Mr. BAYH. I should like to respond.

Mr. McCLURE. Then I shall reserve the remainder of my time.

Mr. BAYH. I should like to say that, although the Senator from Indiana may not be as articulate as the Senator from Idaho, I should hate to see his argument used as my own argument against the resolution, as a cosponsor of the resolution.

I think what we are trying to do here is to say that whenever there is a process of Government that affects the lives of people, the people affected ought to have a right to have some influence on that process. We have wrangled over several things; some of them have been voted up and some have been voted down here this year.

About all the things we have discussed are going to affect the lives of the citizens of the District, but they will not have any representative here to help resolve that problem. That is what we are after. Inasmuch as there are not State responsibilities as far as the citizens of the District of Columbia are concerned, I do not know that we ought to give them States rights. What we are after is to see that they are represented in this form of Government which affects their lives, as far as taking their sons in war and taking their taxes in times of peace.

Mr. WALLOP. Will the Senator yield for a question?

Mr. BAYH. I am glad to yield. I do not know how much time I have; this is a one-sided apportionment. I am not complaining, but recognizing the facts of life.

Mr. WALLOP. I just have one question, on hearing what he is saying and the Senator from Idaho is saying. How do we square what the senior Senator from Virginia asked rhetorically: What do we now do, granting this on this basis, about the citizens of American Samoa, of Puerto Rico, or the Virgin Islands, who are subject to draft, who have all the other problems, whose sons go to war and other things? How do we now say they are not entitled to voting representation on the same basis that the District is?

I really ask that in all sincerity.

Mr. BAYH. I must say that I have asked myself that same question as the chairman of the committee that handles constitutional questions. I frankly believe, if the Senator from Wyoming is asking the Senator from Indiana, I think they are entitled to have a chance to vote for President. Whether they should be represented in Congress or not depends upon the size of the entity involved and the disposition of the people involved.

The fact of the matter is, we have a distinction here. We do not have any other territory urging to be heard as a State. We have had territories that have asked to be included in this direct popular vote amendment so they will have a chance to vote for President. Frankly, I think they ought to be. From a practical standpoint, I do not think there is any way of including them in there.

If the Senator would address himself to the real distinction, in all but Puerto Rico, there is a real distinction of size. That was one of the distinctions that caused the Founding Fathers to treat the District differently than they did other States.

Another distinction is that they are not a contiguous part of the United States. You could say the same thing about Alaska and Hawaii, but there again, you get into distinct size situation, with the exception of Puerto Rico.

If the time comes when the people of Puerto Rico can, by unanimous vote, decide that issue and then petition us and ask us to accept them, then I think we have a real question that we must deal with. Frankly, I would say we either have to fish or cut bait. I am not for having territories against their will.

Mr. BARTLETT. Will the Senator yield?

Mr. BAYH. Yes.

Mr. BARTLETT. As I understand it, the distinguished Senator from Indiana said that the citizens of the District need representation and need to have a person or two in this body representing them. As I understand it, at the present time, they are represented by all Members of this body and they are represented by specific Senators who serve on the District Committee.

My question is, If this resolution is passed and ratified by the States and becomes part of our Constitution and our basic law, then does it also provide that this extra representation that the District still has by virtue of having its own subcommittee here, by having the entire Senate and the House responsible for much of the care of its own citizens, is it written into this resolution that the District will no longer receive this extra representation they now have?

Mr. BAYH. I must say to my friend from Oklahoma, I do not think they have extra representation. I do not see how we can say the people in the District are represented by the Senator from Indiana, the Senator from Oklahoma, the Senator from Wyoming, and other places.

It is like saying the Senator's State can be represented by Senators from Texas or mine can be represented by Senators from Illinois.

Mr. BARTLETT. Let me say to the fine Senator from Indiana, that in the first 2 years I was here I was on the District Committee. I felt that I did a halfway decent job of representing the District, at least I tried to.

The PRESIDING OFFICER. The time of the Senator from Indiana has expired.

Mr. BAYH. Will someone else yield me some time to respond?

Mr. SCOTT. Mr. President, I yield myself time on the bill.

The PRESIDING OFFICER. Under the unanimous-consent agreement, there is no provision which would allow the Senator to do that without unanimous consent.

Mr. McCLURE. Mr. President, I ask unanimous consent the Senator from Virginia may yield himself time on the bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SCOTT. Mr. President, I had 18 minutes some time ago, and I agree with the ruling of the Chair.

But I just want to say to my distinguished friend from Wyoming, the questions he posed were discussed by the junior Senator from Virginia in some detail earlier this morning when we had almost an empty Chamber.

I have asked my staff to prepare copies to put on every Senator's desk, and it will be available later in the afternoon.

It addresses itself to these very questions and to the various States where they did have Senators and went into the territories throughout the 19th and 20th centuries.

Mr. President, I just thought I should clarify that.

Mr. BAYH. Mr. President, I ask unanimous consent to have 5 minutes on the bill to respond to some of these questions, if I might, only to the questions which were posed.

Mr. BARTLETT. Would the Senator from Idaho yield 2 minutes to the Senator from Indiana to respond to my question?

Mr. McCLURE. Mr. President, I understand he asked for 5 minutes on the bill, and I have no objection.

The PRESIDING OFFICER. Is there objection to the Senator from Indiana having 5 minutes on the bill?

Without objection, it is so ordered.

Mr. BAYH. I appreciate that.

I do not want to unnecessarily belabor the Senate, but I think we all want these questions out on the table so we can make a decision.

I say, after hearing the remarks of my friend from Virginia, that if this has any relevance to people leaving other States and going out into the territories, is to ignore the fact that when enough of them got out there they could become a State.

I say to my my friend from Oklahoma, with all respect to the kind of service he represented as a member of the District Committee, that I had the distinction of being the chairman of the Appropriations Subcommittee of the District. So we both had that responsibility and we tried our best.

But it is contrary to the basic premise of the Democratic principles of our society to suggest we can ever be fully represented, but not from the constituency being represented.

Try as we will, it seems to me the people who live here have a right to determine how their representatives are going to be chosen, and if they do not like them, get rid of them and send us other representatives.

I say to my good friend from Oklahoma, they cannot do this.

Mr. BARTLETT. Let me say to my good friend from Indiana, the point I was making was that if this resolution is ratified into the Constitution as basic law, then the District, in addition to two Senators and some Representatives, will have the District subcommittees representing the District. They will also have responsibilities of the Congress to the District in addition to what is normally a responsibility of the Congress to the other States.

So what we are creating is a hybrid State, sort of a hybrid super State, which is different from going out to the territories, as the Senator was talking about earlier.

The original colonies, when they conveyed sovereignty to the National Government, also conveyed the right to extend that sovereignty by extending statehood, but not for this kind of hybrid super State.

Mr. BAYH. I think we should say super city, not super State. Because in the District, the Federal City, if one wants to address himself to the reason why there would be a District of Columbia Committee, it seems to me they have an entirely different issue than saying the people of the District can be adequately represented by Senators and Congressmen they do not choose, cannot effect, cannot get rid of, cannot have, and whose views may be entirely different on the issues than all of the people who actually live here and are affected by the taxation, war-making, and all those kinds of things.

The District of Columbia Committee, I assume, will continue to exist as long as the Congress feels there is a need to address special attention to the aspects of the District government which are unique. Because of the fact that it is the Nation's Capital, large parts of the territory are, indeed, consigned to the Federal Government. They cannot be taxed. The large percentages of the District's revenues are assessed for police and fire for protecting Federal properties, and providing some of the regalia and pomp and circumstance of the foreign dignitaries that are part of the National Capital, not of the city of Washington, D.C.

Mr. BARTLETT. But this could be done with other committees.

But what the Senator sets up here is extra representation and also a hybrid State that does not have the responsibilities a State has.

Mr. BAYH. May I ask the Senator a question, would he support this resolution if we do away with the District Committee in the House and Senate?

Mr. BARTLETT. No, and I have other reasons for it.

But I am giving the Senator one argument based on what he was saying earlier about representation, because what we are doing is creating a hybrid State. It is not a hybrid city or super city.

I think, if we were, New York City could later on look forward to better representation or direct representation as a supercity, because they certainly qualify, I believe, to a greater extent, because of their large population, than does Washington, D.C.

Mr. BAYH. I do not think I will persuade my friend from Oklahoma by making the same argument a third time when I have not the first two times.

I respect his judgment, but I respectfully disagree with his conclusions.

Mr. BARTLETT. I do not think I will persuade my good friend to change his amendment.

Mr. McCLURE. Mr. President, how much time do I have remaining on this amendment?

The PRESIDING OFFICER. The Senator from Idaho has 10 minutes remaining.

Mr. McCLURE. Mr. President, I do not expect to use all that time.

Let me respond to only two points that have been raised in the colloquy since I last addressed the Senate.

One, the argument that the Senator from Wyoming had raised with respect to the territories, invalid because of the size.

On size, I do not see anything in the Constitution that deals with the question of size. If the question of size were involved, Rhode Island would not have equal representation in this body with Alaska or Texas.

Certainly, size is not a matter that was addressed in the Constitution of the United States.

The Constitution addressed two principles: one was the representation of States within this body and the other was the representation of individuals in the other body. The pending resolution before us does not do either of those things correctly. It does not grant representation in this body as a State. It does not give full rights and responsibilities to the citizens of the District of Columbia with regard to statehood. It does not give them full civil rights as individual citizens of this country.

The pending resolution that they have

asked us to adopt simply creates, as the Senator from Oklahoma has suggested, a city-State, a new entity, different from any other that this country has known. It is being done under the guise of presenting to the people of the District their full civil rights, and it fails to do that.

There are only two means by which full civil rights can be granted to the residents of the District, and the Senate had better face up to that. One is by retrocession, so that they can vote within an existing State, the State of Maryland, which ceded the territory in the first place—and, incidentally, where the residents voted for the first several years after the creation of the District; and the second is the creation of another State, invested with all the rights, the duties, the responsibilities, and the full civil rights of its residents as citizens of this country. This resolution does neither.

The Senate has rejected the amendment I offered, which would have allowed them to exercise all those full civil rights within the State of Maryland; so I have offered this amendment, to allow them to exercise all their full civil rights, at the same time accepting all their full responsibilities as a State. To do less is unfair and unequal treatment with respect to all the other States and all the citizens of the other States. It does not achieve equity and equality. It creates a new inequity and a new inequality.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment.

Mr. BAYH. Mr. President, I move to table the amendment of the distinguished Senator from Idaho. I think the yeas and nays have been called for already.

The PRESIDING OFFICER. The Senator from Indiana is correct.

The question is on agreeing to the motion to table the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Arkansas (Mr. BUMPERS), the Senator from California (Mr. CRANSTON), the Senator from Arizona (Mr DECONCINI), the Senator from Mississippi (Mr. EASTLAND), the Senator from Montana (Mr. HATFIELD), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mrs. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Kansas (Mr. DOLE), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 67, nays 17, as follows:

[Rollcall Vote No. 336 Leg.]

YEAS—67

Bayh	Hart	Muskie
Bellmon	Haskell	Nelson
Bentsen	Hathaway	Nunn
Biden	Hayakawa	Pearson
Brooke	Heinz	Pell
Burdick	Hodges	Proxmire
Byrd, Harry F., Jr.	Hollings	Randolph
Byrd, Robert C.	Huddleston	Ribicoff
Case	Inouye	Riegle
Chiles	Jackson	Sarbanes
Church	Javits	Schweiker
Clark	Kennedy	Sparkman
Culver	Leahy	Stafford
Curtis	Long	Stennis
Danforth	Lugar	Stevenson
Durkin	Magnuson	Stone
Eagleton	Mathias	Thurmond
Ford	Matsunaga	Tower
Glenn	McGovern	Weicker
Goldwater	Melcher	Williams
Gravel	Metzenbaum	Young
Hansen	Morgan	Zorinsky
	Moynihan	

NAYS—17

Baker	Hatch	Sasser
Bartlett	Helms	Schmitt
Cannon	Laxalt	Scott
Chafee	McClure	Stevens
Domenici	Packwood	Wallop
Garn	Roth	

NOT VOTING—16

Abourezk	Eastland	Johnston
Allen	Griffin	McIntyre
Anderson	Hatfield, Mark O.	Percy
Bumpers	Hatfield, Paul G.	Talmadge
Cranston	Humphrey	
DeConcini		
Dole		

So the motion to lay on the table UP amendment 1695 was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Montana is recognized for 10 minutes.

Mr. MELCHER. I thank the Chair.

Mr. President, earlier today we discussed whether or not the situation wherein the Constitution does not provide for D.C. voting for the House and Senate, whether it was deliberate or whether it was an oversight, whether it was a prohibition or whether it was something that slipped through.

Well, it certainly was not——

The PRESIDING OFFICER. The Senate is not in order. The Senate will be in order. Senators will confine their conversations to the cloakrooms. The Senator from Montana.

Mr. MELCHER. The Constitution, I think, is extremely clear on this, and I see little reason for prolonging discussion on whether or not it was a deliberate prohibition. The clause of article I, section 8, that deals with the District is clause 17. It mentions that "The District shall not exceed 10 miles square."

It mentions that it will not exceed 10 miles square, and that it will be a Federal district, the seat of the Government.

The Constitution is explicit on who gets membership in the House of Representatives. It says very simply that Representatives "shall be apportioned among several States according to their respective numbers," according to their population.

The District is not a State. It has no representation in the House. The District is not a State and it has no representation in the Senate, because the language of the Constitution says that each State will have two Senators.

There is little reason to quibble over whether that is an oversight, as the Senator from Massachusetts chooses to say, or whether it is deliberate. I maintain it was a deliberate, a conscious, decision.

I have no reason at all not to want the remedy to be applied now, and I have voted for it on previous occasions. I voted for it in 1976 in the House of Representatives, where it failed.

But representative government should be provided for the District, and it should be done now. There should be a remedy and it should be a proper remedy.

The Senator from Massachusetts, my friend Senator KENNEDY, argues for a special deal for the District in order to enlarge the Senate, to provide equal representation for the District on the basis of not making a mistake but on the basis of just saying in this special instance they may have two Senators.

On that point I disagree. There are other remedies available to us that are more proper and are more likely to succeed.

(Mr. METZENBAUM assumed the chair.)

Mr. MELCHER. If there is any merit to the argument that the opponents of the constitutional amendment believe that the District is either one or more of these: too liberal, too democratic, too black, or too urban, I do not think there is much merit to it. But if there was merit to that argument, would not the converse be true? In order to give the District representation in the Senate then it would be an opportunity for more liberalism, more Democrats, more blacks, and more urban?

I would discount either argument. I would not uphold either argument. In fact, I disagree with either argument.

How are the State legislatures going to view this? Jefferson said that a State represents both expansiveness and diversity. Our procedure here will be, if it is approved by a two-thirds vote, that the State legislatures look at it where three-fourths of them must ratify. What is going to be their view of it? I think the States, or at least many States, will view this constitutional amendment pretty much in the same light as Jefferson envisioned it. He envisioned the makeup of the Senate to be different, to allow for a truly bicameral type of legislature, a legislature where the House is represented on the basis of population and the Senate is represented on the basis of States to properly reflect the expansiveness and the diversity of the States.

The legislatures, if the Senate will bear with me, are debating this issue of whether or not that legislature or those legislatures should approve this constitutional amendment if it is presented to them. The legislators will argue un-

doubtedly on the question of whether or not the District, having two Senators would dilute the Senate by how much to their particular State? Will not the argument be made in many cases that a State that is primarily interested in agriculture, which is its basic industry, along with all of its other interests, along with all of its diversity, will not the argument be made in the legislature of such a State that two Senators from the District will cancel out their States' two Senators' vote on a question, for instance, of farm prices? Will not the aspects of a farm State's Senators' representing a basic industry in their State be different from the District's two Senators who represent no diversity in terms of agriculture within the District? Will they not be voting on, perhaps, the side of what seems to be consumerism to, say, farm prices should be lowered?

What about other issues, such as mining or forest products or what about the basic argument of rural interests versus urban interests? Of course, there is a difference that will have to be debated by each individual State legislature.

It is a rather compelling argument that the State legislature could view that very seriously in terms of the basic industry to recognize that, perhaps—no certainty but, perhaps—the District's two Senators would view it entirely contrary to the interests of that basic industry or several basic industries within a State?

So I say to my colleagues that a better remedy should be found that can get the overwhelming approval of the Senate and assure its rapid ratification among the 50 State legislatures to at least three-fourths, and then by that process to rapidly allow the enfranchisement of the District residents in both the House and in the Senate.

For that reason I offered on Thursday the amendment that would treat the District on the question of population exactly as they wish to be treated, exactly on the basis of population as if they were a State, recognizing the validity of the bicameral situation where diversity and expansiveness are indicative of a State and should be represented here in a different light in the Senate.

I call for the voters of the District to vote in Maryland for their Senators as if they were residents of Maryland. That was exactly the case the way it was here in the District prior to 1800, when in 1800 the United States accepted the ceded land from the State of Maryland.

From that point on, article I, section 8, clause 17 forbade, and the residents that were here at that time were no longer permitted to vote for their Representatives for the House of Representatives, or for their Senators for the Senate.

I think that was an error. I think it was a fault within the Constitution itself, one that should be corrected and corrected properly, in the manner I have described.

I yield 30 seconds to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I appreciate——

The PRESIDING OFFICER. The time of the Senator from Montana has expired.

Mr. MELCHER. Mr. President, I have 2 additional minutes yielded to me by the Senator from Virginia.

The PRESIDING OFFICER. The Senator is correct.

Mr. MELCHER. I yield 30 seconds to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I would like to associate myself with the remarks made by the distinguished Senator from Montana. I think he is eminently accurate and fair in his assessment.

I think the proposition he has offered to the Senate makes good sense. It would seem to me to achieve all of the rights it is heard in both bodies of this Congress that residents of the District of Columbia are yearning for, without incorporating in it the shortcomings that would flow from the kind of proposal we are faced with now.

I hope very much that the proposition as it now seems to be before the Senate will not be adopted. I thank the Senator from Montana.

Mr. MELCHER. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator's time has expired.

PROPOSED AMENDMENTS BY MR. SCOTT

Mr. SCOTT. Mr. President, the 17th amendment provided that when vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies, provided that the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancy by election, as the legislature may direct.

Mr. President, under the joint resolution before, House Joint Resolution 554, there is no provision for the filling of vacancies. We know that under article I, section 8 of the Constitution, Congress has exclusive legislative jurisdiction over the seat of Government, but that we have passed an act within the past several years delegating a portion of our legislative jurisdiction to the Council of the District of Columbia, subject to the right of Congress to override any decision that might be made by the City Council of the city of Washington.

So there is doubt, under this joint resolution, as to whether the legislature that is spoken of in the 17th amendment, the legislature of the State—if we apply that to the District of Columbia, are we talking about the U.S. Congress, both bodies of Congress, or are we talking about the City Council of the District of Columbia?

Mr. President, in order to clarify this, I send to the desk two amendments and ask that they be received and printed. It is not my intention to call up these amendments today, but I want them to be before the Senate so that Senators will know the purpose.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. SCOTT. Certainly.

Mr. ROBERT C. BYRD. Does the Senator intend to ask for a roll call vote on either or both of those?

Mr. SCOTT. It is my intention tomor row, at the proper time, to ask for ro call votes on the amendments.

Mr. ROBERT C. BYRD. Would it b possible for the Senator to begin o those amendments in the morning, t lay them down at the close of busine today?

Let me say it this way: Will it be pos sible to lay them down now, as we pre pare to move off this bill, so that it woul be possible to go to them in the morning

Mr. SCOTT. You know, some of u Members of the Senate are late peopl some of us are early people. Some of u get up at 6 o'clock in the morning, an some get up late and stay up late. frequently do not go to bed until 1 o'cloc so I am one of the late people.

I would prefer not to do that, becau I do not know—I believe the distin guished Senator is going to convene th Senate at 10 o'clock in the morning?

Mr. ROBERT C. BYRD. Perhaps w can get Mr. MCCLURE, then, to lay dow an amendment. Let us leave it at that.

Mr. KENNEDY. Maybe we ought t find out whether he is an early one or late one.

Mr. SCOTT. Mr. President, as long a we are speaking in a somewhat humo ous vein, let me say that when I com back to the floor of the Senate in a fe minutes I will have a patch over one o my eyes. I hasten to say that has no thing to do with the business pendin before the Senate. Over the weekend, was riding on a lawnmower, and I got piece of bark from a tree in one of m eyes. It is gone now, but there is a litt scratch on there, and the doctor is go ing to put a patch over it. I just though I would explain to the Senate that it ha nothing to do with the matter before th Senate.

Mr. BAYH. Mr. President, will th Senator yield?

Mr. SCOTT. I would rather complet my explanation of these amendments. I the distinguished Senator wants to tal about my eye, I am happy to yield.

Mr. BAYH. I thank the Senator. I a talking about your health. When yo say, "It is gone now," are you talkin about the bark, or your eye?

Mr. SCOTT. I hope it is the bark.

Mr. HANSEN. Can the Senator fro Virginia tell us whether that will im prove his vision?

Mr. SCOTT. I hope so.

If I may continue here for a moment Mr. President, the amendments that have sent to the desk are offered o behalf of myself and the distinguishe Senator from Wyoming (Mr. WALLOP)

The first amendment would provide new section 3 in the joint resolution be fore us that says that when vacancie happen in the representation of the Dis trict of Columbia in the Senate or th House of Represenatives, the Mayor o the District of Columbia shall issue writ of election to fill such vacancies, excep that the Council of the District of Co lumbia may empower the Mayor thereo to make temporary appointments unti the people of the District of Columbia fil the vacancies by election, as the Counci of the District of Columbia may direct

Then it provides technical changes to renumber the paragraphs.

In other words, the first amendment would put the District of Columbia, insofar as the appointment of Senators to fill vacancies is concerned, on the same level with the legislatures and the executives of the States.

The second amendment that would be offered is to add to section 2, which now reads:

The exercise of the rights and powers conferred under this article shall be by the people of the District constituting the seat of government, and as shall be provided by Congress.

It does not indicate which shall be superior, the Congress or the people of the District of Columbia. I would add a phrase to make it read thusly:

SEC. 2. The exercise of the rights and powers conferred under this article shall be by the people of the District constituting the seat of Government and to the extent not in conflict with the people of the District of Columbia as shall be provided by the Congress.

The proponents of this joint resolution seem to want to give the people of the District of Columbia authority to elect the Senators and it seems to me that it should be clarified so that Congress will be taken completely out of the picture insofar as the selection of Senators for the District of Columbia is concerned. These are both clarifying amendments. They do not add to the substance of the joint resolution, but they do clarify some inconsistencies or some vagueness in the joint resolution.

Mr. President, I yield back the remainder of my time.

Mr. President, for purposes of clarification, I yield back the remainder of my time allocated for today.

Mr. KENNEDY. Mr. President, as I understand with the agreement of the Senator from Virginia we have concluded the discussion on District of Columbia representation today and will now move, as the leader mentioned, to the Federal-Aid Highway Act. That is my understanding.

The PRESIDING OFFICER. It is in order to proceed for 10 minutes on the conference report on military construction.

TIME-LIMITATION AGREEMENT—OUTER CONTINENTAL SHELF CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be an overall time limitation on the OCS conference report to be equally divided as follows: 15 minutes under the control of Mr. JACKSON; 15 minutes under the control of Mr. HANSEN; 10 minutes under the control of Mr. BARTLETT at such time as the conference report is called up. That is on the Outer Continental Shelf.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. I thank the Chair and the Senators.

MILITARY CONSTRUCTION APPROPRIATIONS, 1979—CONFERENCE REPORT

Mr. HUDDLESTON. Mr. President, I submit a report of the committee of conference on H.R. 12927 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12927) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of August 15, 1978.)

Mr. HUDDLESTON. Mr. President, this conference agreement provides $3,880,863,000 in new budget authority for fiscal year 1979 military construction and family housing programs of the Department of Defense. This amount is $83,883,000 below the bill as it passed the Senate, and $35,976,000 above the House level. It is, in total, $372,137,000 below the original budget estimate, a reduction of almost 9 percent.

I ask unanimous consent that a table displaying these comparisons by appropriation be printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HUDDLESTON. Although this year's House and Senate bills were only $119 million apart, there were actually more than 200 items and over $750 million in disagreement. Considering this difference, of course, neither House was able to sustain all of the items contained in its bill. On balance, however, I believe that the conference agreement represents a fair compromise which I do not hesitate to endorse.

In the interests of time, I do not plan to address the details of the agreement; the conference report was printed in full in the CONGRESSIONAL RECORD of August 15. I do, however, wish to again call the attention of my colleagues to the fact that new fiscal year 1979 appropriations constitute a $372 million, or almost 9 percent, decrease to the budget request. I emphasize this point because, during floor debate on the Senate bill, I argued that a proposed 2-percent general reduction was not only inappropriate, but unnecessary in light of probable conference outcome. I think we have a case in point here which members might bear in mind for future bills.

At this point, I would like to publicly commend my House counterpart, the Honorable GUNN MCKAY of Utah, whose spirit of cooperation materially expedited what would have otherwise been a difficult conference. And, while it almost goes without saying, I owe a considerable debt to my colleague from Alaska (Mr. STEVENS) for his untiring support as ranking minority member of our subcommittee. He has played a direct and active role in the formulation of this bill, and I thank him.

In conclusion, Mr. President, I urge that the Senate adopt the conference agreement on military construction appropriations for fiscal year 1979.

EXHIBIT 1

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY

	Budget authority					Conference compared with—			
	Enacted, fiscal year 1978	Estimates, fiscal year 1979	House, fiscal year 1979	Senate, fiscal year 1979	Conference, fiscal year 1979	Fiscal year 1978 enacted	Fiscal year 1979 estimate	House bill	Senate bill
Planning and design	219,812,000	198,450,000	186,450,000			−219,812,000	−198,450,000	−186,450,000	
Military construction, Army	461,369,000	814,500,000	628,644,000	712,053,000	711,509,000	+250,140,000	−102,991,000	+82,865,000	−544,000
Military construction, Navy	390,556,000	771,600,000	683,695,000	806,124,000	760,145,000	+369,589,000	−11,455,000	+76,450,000	−45,979,000
Military construction, Air Force	348,586,000	584,100,000	461,703,000	519,984,000	483,264,000	+134,678,000	−100,836,000	+21,561,000	−36,720,000
Military construction, Defense agencies	53,009,000	164,900,000	183,280,000	173,780,000	194,880,000	+141,871,000	+29,980,000	+11,600,000	+21,100,000
(Transfer, not to exceed)	(20,000,000)		(20,000,000)	(20,000,000)	(20,000,000)		(+20,000,000)		
Military construction, Army National Guard	46,400,000	46,800,000	43,500,000	52,200,000	52,200,000	+5,800,000	+5,400,000	+8,700,000	
Military construction, Air National Guard	40,300,000	38,100,000	35,800,000	44,750,000	44,750,000	+4,450,000	+6,650,000	+8,950,000	
Military construction, Army Reserve	44,390,000	29,300,000	26,900,000	37,100,000	37,100,000	−7,290,000	+7,800,000	+10,200,000	
Military construction, Naval Reserve	20,300,000	18,900,000	16,600,000	21,850,000	21,850,000	+1,550,000	+2,950,000	+5,250,000	
Military construction, Air Force Reserve	10,200,000	11,200,000	8,900,000	13,000,000	13,000,000	+2,800,000	+1,800,000	+4,100,000	
Total, military construction	1,415,110,000	2,479,400,000	2,089,022,000	2,380,841,000	2,318,698,000	+903,588,000	−160,702,000	+229,676,000	−62,143,000

	Budget authority					Conference compared with—			
	Enacted, fiscal year 1978	Estimates, fiscal year 1979	House, fiscal year 1979	Senate, fiscal year 1979	Conference, fiscal year 1979	Fiscal year 1978 enacted	Fiscal year 1979 estimate	House bill	Senate
Family housing, defense	1,457,138,000	1,689,350,000	1,688,615,000	1,701,605,000	1,679,865,000	+222,727,000	−9,485,000	−8,750,000	−21,740
Portion applied to debt reduction	−115,840,000	−119,200,000	−119,200,000	−119,200,000	−119,200,000	−3,360,000			
Total, family housing	1,341,298,000	1,570,150,000	1,569,415,000	1,582,405,000	1,560,665,000	+219,367,000	−9,485,000	−8,750,000	−21,740
Homeowners assistance fund, defense	1,500,000	5,000,000		1,500,000	1,500,000		−3,500,000	+1,500,000	
Grand total, new budget (obligational) authority	2,977,720,000	4,253,000,000	3,844,987,000	3,964,746,000	3,880,863,000	+903,143,000	−372,137,000	+35,976,000	−83,883

Mr. HUDDLESTON. If there is to be a response from the other side of the aisle, Mr. President, I will yield at this point.

Mr. STEVENS. Mr. President, the distinguished chairman of our subcommittee, Mr. HUDDLESTON, has provided us with the details of the conference agreement on the fiscal year 1979 military construction appropriations bill.

The conferees diligently reviewed the items in disagreement and have appropriated $3.8 billion for military construction in fiscal year 1979. I think it is commendable on the part of the committees of both the House and Senate that this bill is about $372 million under the President's budget and yet still provides for the necessary construction as requested by the Defense Department.

I would like to thank our able chairman (Mr. HUDDLESTON) for his leadership in getting this bill through the Senate as well as for his mood of cooperation when we went to conference. Under his leadership and with the cooperation of the House subcommittee chairman, Mr. MCKAY, we were able to settle the differences without major difficulty.

The military construction appropriations bill for fiscal year 1979 is a sound bill. I urge adoption of the conference report by the Senate.

Mr. HUDDLESTON. Mr. President, I move the adoption of the conference report.

Mr. STEVENS. Mr. President, I have been requested to ask for the yeas and nays. I previously indicated I thought it would not be necessary, but there has been a request on our side. I do ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Do the Senators yield back the remainder of their time?

Mr. STEVENS. I yield back the remainder of my time.

Mr. HUDDLESTON. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announced that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Arkansas (Mr. BUMPERS), the Senator from Arizona (Mr. DECONCINI), the Senator from Mississippi (Mr. EASTLAND), the Senator from Montana (Mr. HATFIELD), the Senator from Arkansas (Mr. HODGES), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that if present and voting, the Senator from Minnesota (Mrs. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Kansas (Mr. DOLE), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon Mr. HATFIELD), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois (Mr. PERCY) and the Senator from Michigan (Mr. GRIFFIN) would each vote "yea."

The result was announced—yeas 83, nays 1, as follows:

[Rollcall Vote No. 337 Leg.]

YEAS—83

Baker	Gravel	Nelson
Bartlett	Hansen	Nunn
Bayh	Hart	Packwood
Bellmon	Haskell	Pearson
Bentsen	Hatch	Pell
Biden	Hathaway	Pressler
Brooke	Hayakawa	Randolph
Burdick	Heinz	Ribicoff
Byrd, Harry F., Jr.	Helms	Riegle
Byrd, Robert C.	Hollings	Roth
Cannon	Huddleston	Sarbanes
Case	Inouye	Sasser
Chafee	Jackson	Schmitt
Chiles	Javits	Schweiker
Church	Kennedy	Scott
Clark	Laxalt	Sparkman
Cranston	Leahy	Stafford
Culver	Long	Stennis
Curtis	Lugar	Stevens
Danforth	Magnuson	Stevenson
Domenici	Mathias	Stone
Durkin	Matsunaga	Thurmond
Eagleton	McGovern	Tower
Ford	Melcher	Wallop
Garn	Metzenbaum	Weicker
Glenn	Morgan	Williams
Goldwater	Moynihan	Young
	Muskie	Zorinsky

NAYS—1

McClure

NOT VOTING—16

Abourezk	Eastland	Hodges
Allen	Griffin	Humphrey
Anderson	Hatfield,	Johnston
Bumpers	Mark O.	McIntyre
DeConcini	Hatfield,	Percy
Dole	Paul G.	Talmadge

So the conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table w agreed to.

Mr. HUDDLESTON. Mr. Preside there are amendments in technical d agreement. Since they are not controv sial, I ask unanimous consent they considered en bloc.

The PRESIDING OFFICER. (M MUSKIE). Without objection, it is so o dered. The clerk will state the amen ments in disagreement.

The legislative clerk read as follows

Resolved, That the House recede from disagreement to the amendment of the Se ate numbered 3 to the aforesaid bill, a concur therein with an amendment as f lows:

In lieu of the matter inserted by the s amendment, insert: "1983: *Provided*, That this amount, not to exceed $64,400,000 sh be available for study, planning, desi architect and engineer services, as autho ized by law, unless the Secretary of Defen determines that additional obligations a necessary for such purposes and notifies Committees on Appropriations for bo Houses of Congress of his determination a the reasons therefor".

Resolved, That the House recede from disagreement to the amendment of t Senate numbered 5 to the aforesaid bill, a concur therein with an amendment follows:

In lieu of the matter inserted by s amendment, insert: "1983: *Provided*, That this amount, not to exceed $46,300,000 sh be available for study, planning, desi architect and engineer services, as autho ized by law, unless the Secretary of Defen determines that additional obligations a necessary for such purposes and notif the Committees on Appropriations of bo Houses of Congress of his determinati and the reasons therefor".

Resolved, That the House recede from disagreement to the amendment of the Se ate numbered 7 to the aforesaid bill, a concur therein with an amendment follows:

In lieu of the matter inserted by s amendment, insert: "1983: *Provided*, That this amount, not to exceed $53,000,000 sh be available for study, planning, desi architect and engineer services, as autho ized by law, unless the Secretary of Defen determines that additional obligations a necessary for such purposes and notif the Committees on Appropriations of bo Houses of Congress of his determination a the reasons therefor".

Resolved, That the House recede from disagreement to the amendment of the Se ate numbered 8 to the aforesaid bill, a concur therein with an amendment follows:

In lieu of the sum proposed in said amen ment, insert "$194,880,000".

Resolved, That the House recede from disagreement to the amendment of the Se ate numbered 9 to the aforesaid bill, a

concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: "designate: *Provided further*, That of the amount appropriated, not to exceed $9,400,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 15 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed in said amendment, insert "$1,679,865,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 17 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed in said amendment, insert "$33,446,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 20 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed in said amendment, insert "$1,399,400,000".

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the Senate concur in the amendments of the House to the amendments of the Senate as stated by the clerk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion was agreed to.

FEDERAL-AID HIGHWAY ACT OF 1978

The PRESIDING OFFICER. The Senate will now resume the consideration of S. 3073, which the clerk will state by title.

The second assistant legislative clerk read as follows:

A bill (S. 3073) to amend title 23, United States Code, to authorize Federal-aid highway programs through fiscal year 1980, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. CHILES. Mr. President, on Friday I had the opportunity to read an opening statement of the Senator from Texas on the highway bill. It was one of the most incisive and precise statements that I have ever read. I was very much impressed with it. I think it is the kind of statement that this body really needs to hear.

The Senator from Texas stood in the Senate Chamber last Friday and felt moved to make a statement that I think will be of great help to this body. I merely wish to call the attention of all Senators to the speech to make sure they were alert and listening. I certainly associate myself with the remarks.

Mr. ROBERT C. BYRD. Mr. President, if the Senator from Kentucky will allow me, I also want to express appreciation to the Senator from Texas. He did well to stand on his feet, even, last Friday. He had a terrible sore throat, yet he stood here all day and disposed of 19 or 20 amendments on Friday.

I thank the Senator from Kentucky.

Mr. BENTSEN. I thank the distinguished Senator from Florida.

Mr. BARTLETT. I ask unanimous consent that the amendment submitted by me and Mr. BELLMON, amendment No. 3513, be withdrawn.

The PRESIDING OFFICER. Is there objection to withdrawing the amendment? Without objection, it is so ordered.

AMENDMENT NO. 3507

The PRESIDING OFFICER. The pending business is the amendment of the Senator from Kentucky (Mr. HUDDLESTON).

Who seeks time?

Mr. HUDDLESTON. Mr. President, would the Chair indicate how much time there is and how it is divided?

The PRESIDING OFFICER. There are 21 minutes of the Senator from Kentucky and 45 minutes of the Senator from Texas.

Mr. BENTSEN. Let me say to the Senator from Kentucky, we wanted to get along as far as we could on Friday. If the Senator would like some more time I can give him some of my time.

Mr. HUDDLESTON. It is my opinion right now that this will be adequate time.

Mr. BENTSEN. If the Senator finds he wants more time, we will rediscuss it.

Mr. HUDDLESTON. I regret I was not here on Friday. I had the distinct understanding the amendment would not be called up until today.

Mr. BENTSEN. I do not know who the Senator had the understanding with. It was not with this manager of the bill.

Mr. HUDDLESTON. That is correct. It was not with this manager of the bill.

Mr. President, I am extremely pleased to join with the distinguished chairman of the Senate Environment and Public Works Committee, Senator RANDOLPH, and our other colleagues in introducing this most important amendment to S. 3073, the 1978 Federal-Aid Highway Act. Our amendment, if adopted, will address a critical situation with respect to the adequacy of our Nation's highway system and the increasing amount of energy supplies that this system must carry.

No one can argue that highways play a major role in the energy transportation system. The establishment of the program called for in our amendment should serve as the first plank in the development of such a system. Though I will place the emphasis in this statement on the importance of our highways in transporting coal, the amendment before us makes it clear that routes used for transportation of not only coal but also uranium, oil, and gas, as well as related resource recovery and exploration equipment used to increase national energy supplies would be eligible for the program.

Particularly in coal-producing regions, the Nation's extensive road and highway network allows trucks to extend the reach of railroads and waterways. The effort to meet projected increases in energy production will place unprecedented demands upon our highway system. There will undoubtedly be major challenges with respect to construction of new routes to carry energy supplies and perhaps more importantly to the reconstruction and maintenance of the existing impacted highway network.

We all know that a truly significant problem exists. As long as 5 years ago the Kentucky Department of Transportation made an assessment of the needs in the Commonwealth and came up with projections that have held true through today; the Appalachian Regional Commission completed a review of the problems in January of this year; the Department of Interior has issued a very detailed national energy transportation "atlas"; the U.S. Department of Transportation in a "preliminary assessment report" to the Secretary of Transportation has at long last noted the Federal Government's responsibility in this area. The following are quotes from the DOT's preliminary assessment:

There's every indication that coal road problems will become even more severe in the future unless existing federal policies are altered.

Coal road problems could well become so severe as to become a bottleneck on coal production.

Present apportionment formulas for federal highway aid do not recognize that many states have significant special needs attributable to coal production.

Immediate consideration should be given to the establishment of a coal roads and highways program to assure that near term highway transportation problems will not seriously hamper coal production.

Unless reconstruction and repair of the energy impacted routes is undertaken quickly, there will undoubtedly be bottlenecks in coal deliveries to the Nation's consumers.

In addition to the possibility that there will be bottlenecks for consumers, it should be pointed out that implementation of an energy impacted road program would provide a most valuable aspect for the population of producing regions. It is the men, women, and children who inhabit these regions that must employ the energy-impacted road system as their lifeline to the rest of the world. It is the energy-impacted road system that carries other industrial goods to and from these regions. It is the energy-impacted road system, now in a tragic state of disrepair, that carry the youth of the region to and from their schools. To be sure, the Nation as a whole benefits by increased energy supplies. However, there are just as certainly immediate negative impacts which are evident in several regions. Several legislative proposals have been introduced in an effort to offset social and economic boomtown situations, however, no one has yet adequately addressed the physical deterioration of the roads and accompanying safety problems in these areas. Our amendment is an attempt to do that. We feel that the short-term relief offered in this amendment will prevent further deterioration of our highway network as well as provide the basis for the development of an overall energy transportation system.

I believe certain facets of our amendment merit close attention. First, in an effort to make certain that States are shouldering their fair share of the costs involved, we have asked that they con-

tribute a 30-percent matching share for each project which is approved.

Additionally, to be absolutely sure that overloaded trucks do not contribute to further damage to the highways involved, we have mandated that the State enforce applicable vehicle weight limitations to the satisfaction of the Secretary of Transportation in order for that State to be eligible. We have placed this language in the amendment to emphasize our desire to see vehicle weight laws strictly enforced. Our language is an addition to the very effective language already in section 126 of S. 3073.

To assure that our Nation's energy producing capabilities will not be stifled, because of a lack of transportation capabilities, we urge that Senators join us in supporting this amendment.

Mr. President, the amendment we are addressing is really very simple in nature. It is designed to meet a very desperate need that exists in much of the Nation and which will undoubtedly exist in much more of the Nation as we seek to meet our energy requirements in this country.

The President has called for, and all energy experts have confirmed, that if we are to meet our energy problems in the short term, it will be necessary to increase vastly the production and utilization of coal. To achieve that requires a number of things. It cannot be done simply by Government fiat or Presidential decree. Getting coal out of the ground is a consideration. Further, once it is taken out of the ground in environmentally acceptable ways, it has to be transported to the points where it is to be used.

A very important chain in that transportation link is the highways over which that coal must be transported, whether it is transported to the ultimate user by highway or whether it is transported to a rail center, where it then is transported by rail, or whether it is transported to a river port, where then it is carried by barge.

The fact is that already we are seeing that this vastly increased production is placing an unbearable strain upon the roads and highways over which coal must be transported.

I point out that we are not talking only about coal. This amendment has been referred to variously as a coal-haul amendment or coal-road amendment. Actually, we are talking about energy resources of any kind. We are talking about the need for opening up new oilfields and new gasfields. We are talking about the need to recover uranium and transport it to markets.

So what we have had is a situation that is now becoming intolerable in certain areas of the country and certainly will grow much worse, in which the addition of the many extra tons of energy that have to be transported has deteriorated the highway system, has made the highways extremely hazardous for other citizens who must use the same highways, and has impaired seriously the ability to move the coal from the place it is produced to the place where it is going to be used.

As I pointed out, the President has indicated that the national interest requires that we have this greatly increased production and utilization of coal and other resources. So the national interest is involved, and in my judgment it is in the national interest that the highways and roads be available to transport the coal from the production areas to the areas where it is consumed.

I know there have been arguments that this is an amendment that affects only a few States because only a few States benefit, according to one school of thought. That is not true, because the entire Nation benefits from the production and utilization of energy resources, wherever they may come from.

If we look at our State of Kentucky—and we are a major coal-producing State, the largest in the United States right now—we produce the coal that goes all over the United States, virtually. Incidentally, we produce the coal that provides the electricity to light and heat and cool this very building we are standing, in because the Potomac Electric & Power Co. is a customer of Kentucky coal. The coal has to be transported here.

As far back as 1970, we were supplying 8.4 million tons of coal per year to the State of Michigan to heat and light the homes there; 6.4 million tons for the same purposes in Georgia; 9.9 million for North Carolina; 7.2 million for Florida. Alabama and Mississippi also receive coal produced in Kentucky, as does Wisconsin.

So we are not talking about a regionalized problem. We are talking about the national interest and the way best to serve that interest and what the national interest dictates the Federal Government's participation and share should be in providing the means of moving these energy supplies from production to consumption.

It also has been argued that this is a problem that the individual States should solve, that the States where production occurs are not doing enough. I cannot speak for all the States that produce coal or oil or uranium, or whatever energy supply is necessary, but I know that in Kentucky we addressed this problem some time ago.

The Department of Transportation in the State of Kentucky, in 1974, completed an extensive coal-haul study entitled "Kentucky Coal and Its Transportation Impact."

We established a coal severance tax in Kentucky. The current rate is 4.5 percent of the value of the coal being produced; the minimum tax of 50 cents a ton.

In 1974, an industrial haul-road program was established and funded with $22 million, the primary purpose being to reconstruct certain essential haul roads. An energy road fund has been established in Kentucky for the purpose of concentrating money on the repair of coal-haul roads. This program was funded in the 1976–78 biennium with $25 million.

A new program has been established, called "The Resource Recovery Road Program," which enabled bonds to be sold for the construction and reconstruction of critical resource recovery roads in the Commonwealth. Kentucky Highway 80 was the first project under wh this program has been funded with $ million worth of funds, more than tw what we are asking for on an ann basis in this bill for the entire Nation

A special appropriation of $30 mill was made last year in Kentucky for tremely critical road damage due floods, coal hauling, and winter dam

The completion of the Daniel Bo Parkway, which extends to the heart the eastern Kentucky coalfields, was complished with a funding level of $ million of State funds.

For 1978 through 1980, the reson recovery roads program has authori 15 major projects, with funding of $ million.

The 1977–78 fiscal year resurfac budget for the Kentucky Department Transportation has increased from to $8 million, and the budget has b increased from $8 to $13 million 1978–79.

The point is, Mr. President, that K tucky is doing what it can. Kentucky doing, and already has committed, mu more than this amendment is ask the entire Nation to do to meet critical problem.

We recognize, as has been argued, li perhaps this problem exists, because States have allowed overweight trucks these roads. Certainly, overweight tru have exacerbated the problem, but li in itself is not the total problem. It the number of trucks that are travelin Also, even if the surface of the road w not damaged, we still would have an most impossible situation, as the la number of trucks necessary to transp the increased fuel production is in f quent conflict, constant conflict, with need of the citizens in the area to those roads. The idea that this is so how an amendment that will benefit o coal producers, and that they sho be carrying this burden, should be d pelled by the fact that it is the citiz in the area who are faced with the h ardous task of traveling these roads order to get from place to place.

I point out that this amendment r ognizes the overweight problem mandates that the State must enfo weight limits in order to participate the funding made available here.

This amendment does not ask for n funds, any spent beyond what the calls for. It simply asks for a category energy impact roads where the Fede Government will participate on a 70- percent sharing basis to help areas this country provide the means of tra porting energy whether it is coal, gas, or uranium from the area of p duction to the area of consumption

I think it is vital. It is vital to the N tion's effort to produce energy that needs and utilize that energy here the short term as we try to find alt nate sources and try to reduce our d pendence on energy from abroad.

So I believe, Mr. President, that up consideration of this amendment Members from whatever section of t country, whether they are depending the importation of energy from so other section of the Nation, or wheth they are in fact the major product

areas of this energy, it is in the interests fuel is as important as is the produ

areas of this energy, it is in the interests of each section that we provide the method to get the coal or get the energy to where it needs to be used in the most efficient, most effective, most cost-effective way. I know that we need to consider all of our energy problems in this country. We really do need a comprehensive transportation policy for the country, taking into account all the various modes. But our immediate need, and certainly this will not be contrary at all to the overall and comprehensive plan, is to make sure that we can move what is necessary to move so that it can be utilized in the most efficient and effective way.

This amendment is designed to accomplish that short-term need.

Mr. President, I yield at this point to the Senator from West Virginia who I believe is ready to make some remarks.

Mr. RANDOLPH. Yes, if agreeable.

How much time, may I inquire, is allotted to the able Senator from Kentucky?

The PRESIDING OFFICER. The Senator has 8 minutes remaining.

Mr. RANDOLPH. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BAYH addressed the Chair.

Mr. RANDOLPH. Will the Senator yield?

Mr. HUDDLESTON. I yield such time as the Senator from West Virginia may require.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. RANDOLPH. Did the Senator want unanimous consent?

I yield to my colleague from Indiana.

Mr. BAYH. I want a couple minutes after the Senator from West Virginia. I wish to join him in supporting the amendment which we coauthored with the Senator from Kentucky.

Mr. RANDOLPH. I wish to be notified at the end of 5 minutes, if it will be agreeable to the Chair.

Mr. President, I thank the knowledgeable Senator from the leading coal-producing State of the Nation. A West Virginian finds it a little difficult to say that Kentucky is the leader, but we are very close in production. We vary back and forth in the volume of production. The amendment under consideration, as the able manager of the bill, Senator BENTSEN, has indicated was discussed for a considerable time on Friday.

I am always reluctant to oppose the chairman of the Transportation Subcommittee. As the chairman of the full committee, I try to work constantly with the subcommittee, and in this case it is difficult for me to work for an amendment with which he is in disagreement.

I hope, perhaps, that there might be an inclination on the part of the manager of the bill for our committee to perhaps accommodate this need not because it is offered by the Senators from coal-producing States, but because there is the need, a very real need, to formulate not only an energy policy but a transportation policy also. The means of moving the coal from mine to the market, to the consumers of this abundant fossil fuel is as important as is the production of the coal.

The magnitude of the problem in certain areas of our country is almost staggering, as we attempt to look at it. We do know that there will be an increased production of coal and other energy supplies. Frankly that means that we are not against other forms of energy that will come along later, but now, now is the time when the coal must be moved from, of course, the miles to the marketplace.

This has meant an unprecedented use of our highway system and in the several States, not just Kentucky and West Virginia. The roads, of course, have deteriorated by the coal hauling which has been absolutely necessary, and we are also faced with the fact that at the present time there is a strike which is now in its 6th week which affects the Norfolk and Western, one of the greatest, perhaps the greatest, rail hauler of coal in the country.

As we think of the construction of roads and the reconstruction of roads, it is not wrong for me to say that I think the immediacy of the problem can only be met by, let us say, a substantial sum of money, not an excessive sum of money.

The PRESIDING OFFICER (Mr. CULVER). The Senator's 5 minutes have expired.

Mr. RANDOLPH. I have no further statement to make except to say that I do hope and I know the manager of the bill will give careful consideration to his position on behalf of the reported bill from the Senator from Texas.

Mr. BENTSEN. Mr. President, I yield such time as he desires to the Senator from Maine.

Mr. MUSKIE. Mr. President, a little later in the debate on this pending measure I will make a more extensive statement with respect to the budget implications of the Highway Act.

For the moment, I regret that I find myself in opposition to the amendment of my good friend and colleague from Kentucky, Senator HUDDLESTON, and my colleague, the chairman of my committee, my good friend, Senator RANDOLPH, who, as chairman of the Public Works Committee, is proceeding in very responsible fashion from the point of view of the budget resolution with respect to the pending bill.

But the amendment of my good friend from Kentucky, Senator HUDDLESTON, simply creates budget problems and it is my responsibility as budget chairman to point them out. His proposal would add funding of $100 million per year from the Highway Trust Fund for energy-impacted roads. The bill reported by the Public Works Committee is a fiscally responsible bill as I will say at greater length later. The reported bill is consistent with the budget resolution for fiscal 1979, but there is very little leeway to increase the authorizations. The Senate already approved a $75 million increase for bridges, as was pointed out by Senator RANDOLPH, using up what little room there was. Therefore, Mr. President, I must oppose further add-ons to this bill.

Furthermore, Mr. President, to accept this special program is to create a "wedge" for future increases which it is difficult to estimate. A report from the Appalachian Regional Commission projects needs of $4 billion to $5 billion to rehabilitate and redesign these roads to carry heavy coal trucks. Mr. President, the reason we have the problem of energy-impacted roads is clear—energy traffic involves very heavy loads, often exceeding statutory weight limits as Senator HUDDLESTON has suggested. Hearings earlier this year before the Oversight Subcommittee of the House Ways and Means Committee showed that in many places coal trucks were consistently in excess of legal weights. Senator BENTSEN's subcommittee also heard testimony on the inadequacy of State weight enforcement.

Mr. President, if it is true as seems the case, that a principal reason for coal road deterioration is inadequate enforcement of truck weight limits, then if we remove from the States the major burden of repairing the damage, would we not also be removing the incentive for them to improve their policing of truck weight limits? Indeed, might not the problems caused by overweight trucks become even more severe if the Federal Government assumes the major cost for repairing the damage caused to local roads?

Before we create a special-purpose highway program, taking user taxes collected from across the country to pay for road improvements unique to a few areas, I think other alternatives should be explored. For example, the committee bill has several provisions which would strengthen enforcement of weight limits, and these provisions properly address the problem at its source. Further, it seems to me also pertinent to recognize that increased extraction of coal generates employment, profits, and State collection of severance taxes, presenting alternative funding sources. In addition, we already have a special program for Appalachian highways for which more than $2 billion has been appropriated from general funds since 1965.

I urge the Senate, therefore, Mr. President, considering the potential magnitude of the program that may be generated by this wedge, and considering the tightness of present budget considerations, to resist adding further authorizations to the highway bill, and to vote against this amendment.

Mr. BENTSEN. I thank the distinguished Senator. Mr. President, I yield myself 10 minutes.

I, too, Mr. President, oppose the amendment, and I must say with some regret because of my high esteem for the Senators from Kentucky and from West Virginia. But my friend, the Senator from Maine, has referred to what has been done for Appalachia before. If the people of West Virginia and the people of Appalachia really knew and understood what the chairman of the committee has done for Appalachia they would duplicate Mount Rushmore in Appalachia with Senator RANDOLPH at the head of that team.

I do not begrudge them any of it. I think it is well deserved, and it has helped that area immensely, and it should be so understood by everyone here.

But, Mr. President, I would like to dispel the notion that we are talking about anything here other than a program for coal-damaged roads. The sponsors of this amendment have attempted to broaden its appeal by referring "energy-impacted" highways; by not limiting its scope to coal-haul roads. This is little more than a smokescreen. According to a study by the Department of Transportation, once a program like this is implemented, noncoal-producing States will be left holding an empty bag. By and large, energy-impacted roads are coal-haul roads.

This amendment would target its funds to the restoration and repair of existing roads damaged by energy transportation and development. The Department of Transportation study indicated that 95 percent of the energy damaged roads are in seven Appalachian States; 60 percent of the needs are in Kentucky alone. If these funds are distributed on the basis of current needs, as we assume they would be, only 5 percent would be left for the rest of the Nation after these seven States have taken their share. Its obvious we are really talking about coal-haul roads. There is not much oil, uranium, or natural gas in Appalachia. Furthermore, because the Western coal-producing States have not permitted their coal roads to deteriorate, they also would be left out of the picture as the amendment is drafted.

It should be understood that this amendment will address a regional problem at best, one which has arisen primarily because these States have been lax in enforcing their own State laws on highway weight limitations. It is common knowledge that overweight trucks pose the greatest threat to the life and durability of road surfaces. When you consistently permit trucks to exceed a road's designed weight limitations, you quickly destroy it.

The State of Kentucky, which would be the primary beneficiary of this amendment, has not enforced its own weight limitations on coal trucks. Trucks weighing as much as 130,000 pounds—which is 50,000 pounds over the interstate weight limit and two or three times the limit of most primary and secondary roads—have been permitted to abuse these highways with virtual impunity from the law. The Governor of Kentucky, testifying before the Public Works Committee, apologized for the situation by saying,

". . . Local courts are understandably reluctant to restrict the activities of their best, sometimes only, industry."

Well, Mr. President, I am equally reluctant to reward those same local courts for their unwillingness to enforce the law. Although the sponsors of this amendment have attempted to cast this as a national problem, it is really a regional problem brought on by the negligence of their own local law enforcement officials.

Furthermore, the same States that would benefit from this amendment are already the target of special highway assistance—assistance which is not available to other States. Thirteen years ago we were singling out Appalachia for special treatment because it was distressed. We created a new program—the Appalachian Development Highway System—and authorized the construction of 2,350 new miles of highways and 1,000 miles of access roads. Since then, we have added an additional 550 highway miles and 400 miles of access roads. By 1981, when the present funding for the Appalachian Highway System expires, these seven States will have received over $2 billion in extra Federal highway assistance. Even the $100 million price tag on this amendment looks small in comparison to the special Federal assistance they are already receiving.

Although the Appalachia Highway System was created to promote economic development in the region, the funds from this program have greatly assisted these States in providing for coal transportation. This point was clearly made by the distinguished senior Senator from West Virginia and the Governor of Kentucky in hearings held by the Public Works Committee in 1976

Now, today, we are being asked to target the same region for special assistance because it is growing, because the area is developing its resources and destroying its roads in the process. If this amendment is accepted, Appalachia will continue to receive one pool of Federal funds because it is underdeveloped, and a second pool of funds because it is developing and cannot keep up with the rapid growth of its major industry.

Mr. President, when you have an $8 billion kitty like the highway trust fund, it is tempting to think that you can grab off a hundred million here and a hundred million there without destroying the integrity of the fund. Well, that just is not so. There is no fat in the highway trust fund and there is no fat in this highway bill. We are working off a Federal gasoline tax that has not been raised in 19 years. We are trying to do the best we can with the limited funds we have. We are trying to serve national needs while providing State and local governments the flexibility to address their own peculiar needs. We cannot afford to divert substantial chunks of money into special categories to address regional problems.

I am sympathetic to the problem of coal-haul roads; I understand the importance of these roads to the economy and prosperity of millions of Americans.

There exists a remedy to the coal-haul road problem, but the answer is not found in this amendment. We all realize that the easiest solution to any local problem is to turn to Uncle Sam for help, but in this case it would not be fair to those States which have stretched thin their Federal highway dollars to meet their own special needs.

The answer to the coal-haul road problem lies in the judicious use of a combination of existing resources including:

Their regular Federal highway assistance, which provides the flexibility to shift funds to address regional problem such as this,

Their special Federal highway assi ance from the Appalachian developme highway program, and

Their revenues from severance tax and other energy-related income. In study released Friday by the Departme of Transportation, the severance tax recommended as the most appropria source of revenues for repairing energ related road damage.

Finally, this problem can never su cessfully be addressed until coal produ ing States like Kentucky get their a together and begin enforcing their o State weight laws. As long as these Stat permit coal trucks to operate with i punity from the law, the plight of co haul roads will persist. But clearly, t is a local problem, and one that cann be solved by throwing Federal money it.

Mr. President, I join the good peo of Kentucky in commending their jun Senator for his imaginative solution a very serious local problem. If he su ceeds with this amendment, I am su other Members of this body will atten to follow his lead, and rush forth wi their own amendments to address t special problems of the States th represent. We can look forward to t establishment of a patchwork of Fede programs for coal-haul roads in Ke tucky and Appalachia, grain-haul ro for the plains States, timber-impact roads for the Pacific Northwest, a citrus-impacted roads for Florida a the lower Rio Grande valley of Texas.

Each region of the country has its o unique economic climate and spec transportation requirements. But rath than establishing individual categories address each of these special proble the committee has attempted to devel an extremely flexible highway progr that gives each State the ability to ap its Federal assistance to addressing own peculiar transportation needs. T bill we have reported to the Senate i cludes several changes designed to ev further increase the flexibility of t progam. It consolidates 6 special fun ing categories, and provides for up to percent transferability from one ca gory to another. Our efforts in this a have been applauded by all participa in the highway program; from the D partment of Transportation to the Sta and local governments that are recipie of the funds.

But the amendment offered by t Senator from Kentucky would fly dire ly in the face of the reforms we have a complished in this bill. It would esta lish yet another special category to a dress a particular regional problem; a would do so at the expense of progr flexibility and at the expense of eve other region of the country.

Therefore, I urge the defeat of t amendment.

Mr. BAYH. Mr. President, what is t time situation? I ask my friend fr West Virginia for some time as a sponsor of this amendment. Will he yi me 3 minutes?

Mr. President, I hesitate to take is

with my distinguished friend from Texas not only because I respect him but I know how difficult it is to fill the role which he now fills with such admiration, inasmuch as I had the good fortune to have a similar capacity some time ago, and I want to salute him for the prudent way in which he has ironed out all of the problems and presented them to us. My cosponsoring of this amendment in no way reflects my attitude toward him or the good work he has done as the chairman of the subcommittee.

I think it is important for us to look at the impact of this amendment as one that goes beyond Appalachia. There are some who may like to think of southern Indiana as part of Appalachia. I do not know whether that is a compliment or an indictment. I accept it either way. But we produce a good chunk of coal down in that part of our State, and it just so happens that I was down in that part of the State this last weekend.

The road conditions between the present mine operations and the points of distribution are almost impossible to describe. I think "chuckhole" is the most often used word in the vocabulary of most Hoosiers. And I think we need to understand that this is going to get worse in those areas where coal is presently being produced.

I notice from the report that we produced 23 million tons of coal, and the Department suggests that it will be 27 million tons by 1985, but the State feels it will be 50 million tons. So the problem is going to get worse, much worse, instead of better.

When I think of this bill, I think in terms of the importance of the contribution the coal conservation bill and the coal conservation effort are going to make to the solution of our energy problems. We have to find a way to get all possible uses of oil and gas off those short commodities and on to coal. We have a bill to accomplish that, which hopefully will be passed by Congress and signed into law.

If we are going to do something about the shortage of oil and something about the shortage of natural gas, we had better see that the line between the production and the end use of coal is a strong one. Right now we find the roads breaking down. It is going to get worse instead of better, and as I see it, this amendment is an important part of the energy package, to see that the pipeline of distribution from miner to user is a strong one.

The condition of our roads as they now are cannot be tolerated. We have to do something about strengthening them. I think the whole country will benefit by this amendment, not just the particular States involved in coal production.

Mr. FORD. Mr. President, could I have 3 minutes?

Mr. BENTSEN. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Kentucky has utilized the time available to him. There is 31 minutes remaining on the side of the Senator from Texas.

Mr. BENTSEN. I am happy to give the Senator from Kentucky 5 minutes of my time.

Mr. HUDDLESTON. I would like to have about 10 minutes, but half of it belongs to my colleague.

Mr. FORD. I will take 3.

Mr. BENTSEN. How much time remains?

The PRESIDING OFFICER. Thirty-one minutes.

Mr. BENTSEN. All right. I give 10 minutes of my time to the Senators from Kentucky.

Mr. HUDDLESTON. I yield my colleague 3 minutes.

Mr. FORD. Mr. President, I ask to be notified when 3 minutes have expired.

The PRESIDING OFFICER. The Senator from Kentucky (Mr. FORD) is recognized for 3 minutes.

Mr. FORD. Mr. President, I rise in support of the Huddleston amendment, but before addressing it, would like to make clear a few points about my State.

Mr. President, I represent the State with the largest coal production in the Nation. Kentucky now mines 147 million tons of coal annually with over 200 million tons annually projected in the future. We have both low and high sulphur coal: coal for now, coal for later, coal for use in synthetic solvent refining, coal for liquefaction, coal for gasification. Kentucky can meet existing environmental standards in all of these categories and can help keep the country supplied with energy for years to come.

Over the past decade, the amount of coal mined in Kentucky has more than doubled. As a result of this upsurge in production, the State's coal-haul road system has been subjected to excessive demands. Existing roads are not adequate to sustain their increased burden and all of the Kentucky highway system—Federal, State and local, have suffered extensive damage.

For the sake of the Nation, the President has asked Kentucky to double current coal production by 1985. At best, this will be a difficult task, but we believe we can handle the production part of this equation provided that we have an effective energy delivery system.

The amendment before us would earmark $100 million annually of the Highway Trust Fund for reconstruction and repair of roads impacted by energy transportation. When spread among energy producing States, this money will amount to only a drop in the bucket. But, it is a start and a desperately needed one at that.

In a "Dear Colleague" letter sent 2 weeks ago, the managers of the bill wrote of their opposition to the Huddleston amendment because it, and I quote:

> * * * diverts funds from throughout the nation to utilize them for a problem in a limited number of states.

End quote. A limited number of States.

Mr. President, since when has the energy crisis been a limited problem? Opponents of the amendment act as though it is the responsibility, even the privilege, of energy-producing States to tear up their land, destabilize their communities, and ruin their highways so that the rest of the country can drive cars and keep warm in winter. They seem to think it is quite fair that the citizens of these States foot the bill for road repair and reconstruction so that the rest of the country can have energy.

I do not agree.

The energy problem is everyone's problem and it is not right to ask the citizens of the energy-producing States to assume responsibility for the interests of an entire Nation.

I would remind the managers of the bill that it is not the people of the Southwest who bear the full cost of transporting natural gas to the rest of the Nation. It is all the people of America who share the cost of gas transmission lines.

I am sure the Senator from Texas will say they are producing the natural gas and oil, but you have to take into consideration that the rest of the country pays for that transportation, and it is included in their charges.

I would remind the managers of the bill that it is not the people of New England who bear the full cost of the entitlement program that fuels that region's energy. It is all the people of America who share the cost of that program.

We will be asked, why give money to the ARC, when many of the Appalachian States have had 100 percent Federal funds? I remind the managers of the bill that a lot of these roads being torn up were built with 100 percent State money. There is some 50–50 money being spent, also some 70–30. I do not agree that any of it is 100 percent Federal funds; there is also State money. The State of Kentucky raised over $100 million last year for its road program. Since 1959, they have put $1 billion into Appalachia, but that is much less than we are working on, for our State, in the amount of $100 million a year.

They are trying to blame the State for not enforcing the Federal speed limit. There may be other States which might be interested to know that Kentucky has passed a judicial reform bill, and it is now in place. We now have district judges. The county judges do not handle these cases, and I have a press clipping today showing where the district judges are doing an excellent job, the court procedure has been accelerated, and we have tried our best to eliminate the problem we are being accused of here today.

So, Mr. President, I think, as we try to do the job, the next thing is gasification, liquefaction. These things will come from coal, and they will be the items we will lean on to help this country solve its energy problem.

We are grateful to the other States for natural gas, and we are grateful to the other States for oil, but I hope you will allow those States which have coal to produce it and be able to transport it.

In closing, I would like to point out to my colleagues that the energy crisis is upon us and that the demand for national energy sources will only increase. We are on the verge of reaching consensus here in the Congress on a national energy policy, but to increase our domestic energy supply without maintaining the mechanisms to move that energy to the

people would be a totally meaningless act.

I urge the adoption of the amendment.

Mr. METZENBAUM. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. BENTSEN. I yield.

Mr. METZENBAUM. I ask unanimous consent that Rick Sloan and Rick Wilson of my staff be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas has the floor.

Mr. DURKIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DURKIN. What is the time situation?

The PRESIDING OFFICER. Twenty-seven minutes remains on the amendment. It is in the possession of the Senator from Texas.

Mr. BENTSEN. Mr. President, I yield 10 minutes to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, if I may respond briefly to the comments of the Senator from Kentucky, it appears that under this amendment the money can only go to those roads in the Federal-aid system. Second, it can only go for the repair of roads which have incurred a substantial increase in use and subsequent deterioration as a result of the transportation of coal. In other words, we are talking in the past tense.

The Secretary of Transportation has come up with a survey of those roads that qualify, and the Western States do not qualify under the survey by the Secretary of Transportation. The only States that qualify are the States primarily in the Appalachian region. That is why the Senator from Texas has been talking about the Appalachian situation particularly.

It seems to me the points to be made, Mr. President, are that in this area where we are primarily going to give the aid for these roads, the Appalachian area—since 1965 that area has received $3 billion for authorized Federal-aid roads, in addition to the national highway program from the Trust Fund, which the rest of the Nation has not participated in at all. In other words, the area we are talking about has received a substantial bonanza from the Federal Government in the form of $3 billion. That is point 1.

Point 2 is that when you have coal in an area, you are getting something out of it. The State is getting a very substantial return in the form of taxes and in the form of jobs that come with mining of the coal. I wish we had a bonanza like that in our State. Unfortunately, we do not. Sometimes when you have a bonanza like that, some problems come along with it.

We are asking only that all these problems, in other words, the construction and repair of roads, over which the coal is hauled, not be turned over to the Federal Government; that the local communities in the State carry them; that these problems not be turned over to the highway trust fund to carry that burden from which the States have a dividend returned.

So, Mr. President, I think this $100 million is something that should not come from the income of the highway trust fund. It is going beyond what we expect of the fund. It is something very, very special for an area which is already receiving a form of benefit because they have the coal.

Mr. President, I hope the amendment would be defeated.

Mr. HUDDLESTON. Mr. President, I will respond to the statements which have been made. First of all, as to the budget implications, it is somewhat difficult to get hard and fast figures on the estimate of the trust fund, but we do have from the Secretary of Transportation, the Honorable Brock Adams, a table which suggests that the revised fiscal year 1979 estimates are $9.1 billion.

The bill we are dealing with is in the neighborhood of $8 billion. So it would seem that there certainly is a likelihood that there is enough flexibility there to accommodate this modest increase we are talking about at the present time.

The distinguished Senator from Maine made the point that if the Federal Government assumes this responsibility, it will take the burden off the States and decrease their incentive for doing what they can and ought to do.

I think I dispelled that notion by pointing out that the State of Kentucky alone is already spending several times what we are asking the entire Nation to spend on this particular problem. There is no thought that this approach is going to take care of all of the need. As the distinguished Senator has pointed out, many of these roads are off the Federal system and the States and counties are hard pressed to meet the needs there at the present time.

The suggestion has been made that already the Federal Government is doing enough through the Appalachian program, the Appalachian Regional Commission. But I would point out that the need there and the programs there were developed before the doubling of coal production became a national mandate. Those roads are set for other purposes, a wide variety of things—economic development—and are not necessarily applicable to the kinds of roads we are talking about at the present time.

The Department of Transportation study, which has been quoted as saying that 75 percent of the need exists in the Appalachian area, was a 1975 study and did not take into account the new energy development which is going to be necessary in the vast areas of the West where the production of coal, the production of oil, and the production of other energy resources will certainly be accelerated in the coming year. There will be a need there, too.

My colleague from Kentucky (Mr. FORD) has already addressed the weight limit problem. I would point out again that the amendment we have before us mandates that the States enforce the weight limits that are in effect.

In talking about the regional concep
I am delighted that the Senator fro
Indiana, a State which is outside of th
Appalachian Regional Commission, an
the chairman of the Subcommittee o
Appropriations, is a cosponsor and ha
spoken in favor of this bill. Other co
sponsors are from Montana and Sout
Dakota. Those are certainly areas fa
away from the few States which com
prise the Applachian region of th
country.

Let me say finally that we are talkin
about a situation that exists now, a nee
which exists now, and conditions whic
can only get worse day by day and ho
by hour as we try to meet our energ
needs.

I have read the study by the Depar
ment of Transportation. It makes som
suggestions for meeting the curre
need, short-term suggestions. Well, asi
from being illegal, they are also som
what impractical when they sugge
that we take from the reclamation fun
established by the Surface Mining A
funds to build and construct these ne
essary energy impacted roads.

As I say, the Department of the I
terior was quick to point out that th
is not within the scope of the legisl
tion, it is not a priority. They will n
have enough funds to come close to mee
ing the reclamation needs, much le
meet these critical needs which exist
the present time.

The study did say that in the lo
term a national severance tax ought
be considered as providing the necessa
funding for this kind of a need. I thi
that is worthy of consideration. But th
cannot be done overnight. By the tim
that kind of legislation could be enacte
and that kind of program put into plac
we would be so hopelessly far behi
there would be no chance of ever catc
ing up. In the meantime, our ability
move energy resources will be severe
restricted.

This is the manner in which we c
address this problem immediately. T
need is there and has been demo
strated. It is my judgment that there
enough flexibility in the highway tru
fund to supply these modest amoun
without any undue hardship, witho
any great budget impact. It seems to m
it is appropriate to move now to addre
this problem before it gets so totally o
of hand that we will not be able to ev
ever catch up with it.

Mr. MELCHER. Will the Senator yie
me 2 minutes?

Mr. HUDDLESTON. I will yield if
have 2 minutes remaining from the tim
the manager of the bill so generous
gave me a moment ago.

The PRESIDING OFFICER. The Se
ator has 2 minutes.

Mr. HUDDLESTON. I yield 2 minut
to the Senator.

Mr. MELCHER. I thank the Senato

I would hope that no argument again
the amendment would be lodged when
question of safety is involved. We h
a discussion during the D.C. represent
tion debate concerning the number
lives of D.C. residents lost during th
Vietnam war. That is an argument whi
carries a lot of weight.

In my own county in Montana we have 30 miles of road where we have had over 30 lives lost in the last 20 years. It is a situation which should not continue to exist. It should be corrected. The amendment offered by the Senator from Kentucky, which I am delighted to cosponsor, addresses a problem where a 30–70 matching fund can be arrived at for critical needs.

We have such a critical need. If the amendment is adopted, I would hope that the Secretary of Transportation would look at our need. The State can make the 30 percent. We have scratched around trying to find where we could draw up some more money and we simply have not been able to come up with it, even though safety is involved and it is a very serious situation in that regard.

I think the amendment is a meritorious amendment and I think in the light of the vast needs which have been described, the Senate should adopt the amendment. I thank the Senator for yielding.

Mr. CHAFEE. How much time remains, Mr. President?

The PRESIDING OFFICER. The Senator from Texas has 18 minutes remaining.

Mr. BENTSEN. I yield 3 minutes to the Senator from Rhode Island.

Mr. CHAFEE. I would like to make one point, if I might, Mr. President. It is terribly important to look at the language of the amendment with which we are dealing. The Secretary of Transportation has said that seven Appalachian States account for over 98 percent of the reported backlog needs. The Senator from Montana may hope that his State is going to get something out of this, but it is very clear that they are not going to get anything. If they do get something, it will be so small it will not amount to very much.

Over 98 percent of this amount is for roads to be used for coal hauling, with the Appalachian States again reporting the greatest needs.

Mr. MELCHER. Will the Senator yield?

Mr. CHAFEE. If I might continue, please.

That is a quote from the Secretary of Transportation. The point we are making here, Mr. President, is that, first of all, this proposal that we have before us presents a fiscal issue, in that there is already a question whether there is going to be adequate funding for the highway programs that are already in place.

Second, it is very clear that the Appalachian States that are going to receive this money have already received some $3 billion extra, outside of what the rest of the Nation gets, for roads.

Finally, to suggest that States that have roads that are hauling coal get nothing out of it seems to me to be a very odd suggestion. Obviously, the States are receiving a return in the form of taxes and jobs. To ask the Federal Government to step in and cover this as an added bonus seems to me to be stretching it a little far.

I thank the Senator.

Mr. MELCHER. Will the Senator yield?

Mr. BENTSEN. For a question? Yes, without losing the floor.

Mr. MELCHER. The question I should like to propound is, is not the study that the Senator from Rhode Island referred to based on the previous amendment and not the amendment before us, which deals, in a broader concept, with energy?

Mr. BENTSEN. I did not get the question.

Mr. MELCHER. The Senator from Rhode Island referred to a study undertaken by the Secretary of Transportation, which was based on the narrow concept of coal-hauling roads.

Mr. BENTSEN. That is not correct.

Mr. MELCHER. That is not correct?

Mr. BENTSEN. No, it is energy-impacted roads. That is why it is my judgment and the judgment of the Senator from Rhode Island that the Senator will get little or nothing from it.

Mr. MELCHER. The point of my question was, was the study based and applied to the other amendment of the Senator from Kentucky and not to the broader concept of the amendment that we are looking at today, at this time?

Mr. BENTSEN. The information was based on replies from the States themselves. The States were surveyed regarding the impact on highways from all forms of energy production. The Department of Transportation assimilated the information that came out of the survey. It reported that all repair needs were associated with coal haul roads. Based on the needs described in the report 60 percent of the funds generated by this amendment would go to Kentucky, 95 to 98 percent to seven Appalachian States. I would say the Senator's State would get little, if anything.

Mr. DURKIN. Will the Senator yield?

Mr. BENTSEN. If I may make my comments now, please; I have yielded quite a bit today.

Mr. President, in recent years the Federal Government has assumed a responsibility for providing financial assistance to communities and regions of the country that are suffering from social and economic decline. Although many of our efforts in this area have been costly. We have decided that it is in the national interest to focus Federal assistance on economically disadvantaged areas.

But Senator HUDDLESTON's amendment would do just the opposite; it would direct Federal assistance to a part of the country that is on the threshold of economic development and prosperity. Instead of giving aid to declining communities, it would award Federal funds to areas that are facing tremendous economic growth—the type of growth that every other State would like for itself.

In Texas, we are familiar with both the benefits and problems that come with rapid development of energy resources. And although there is no question that the discovery of oil brought with it a bundle of problems, I doubt, if many Texans would want our "black gold" to go away. The growth of the oil industry in Texas brought with it a period of unprecedented economic growth and prosperity. With the increase in State revenues from the expanded economic activity and severance taxes, Texas has managed to maintain the lowest per capital tax burden in the Nation.

The black gold of the 1980's, however, will not be oil, but coal. We have had our shot at prosperity, and wish Kentucky well with its promising future. Our only regret is that when we struck it big at spindletop, we did not have the inventiveness to appeal to the U.S. Senate for special impact assistance.

Mr. President, each day the Members of this body must make difficult decisions on how to allocate limited Federal resources among a wide variety of worthy programs. Given the tremendous competition for Federal assistance, I think it would be irresponsible to embark on a new course of directing Federal tax dollars to developing areas with growth-related problems, but also which have expanding resources for addressing those problems.

I do not argue that coal-haul roads are not a serious problem, but I do not think that declining communities should see their tax dollars directed to solving the problems of States which are expecting unprecedented growth and new prosperity.

I yield back the remainder of my time.

Mr. HEINZ. Mr. President, will the Senator yield?

The PRESIDING OFFICER. All time having been yielded back and all time on the amendment therefore having been used, it is now in order——

Mr. HEINZ. Mr. President, I ask for 1 minute on the bill.

The PRESIDING OFFICER. Does time remain on the bill? Who is in charge of the time?

Mr. BENTSEN. Mr. President, we have debated this thing now for 2 days. We would like to get to a vote, if we can.

Mr. HEINZ. I ask for 30 seconds on the bill.

Mr. BENTSEN. For 30 seconds on the bill, I yield to the distinguished Senator from Pennsylvania.

Mr. HEINZ. I thank my distinguished colleague. I shall take 29 seconds to commend the Senator from Texas and 1 second to commend similarly Senator HUDDLESTON and Senator RANDOLPH.

Mr. President, transporting energy-related materials is only one of a number of complex demands which have been placed on our highway system. I congratulate the distinguished chairman of the Subcommittee on Transportation (Mr. BENTSEN) and the capable ranking minority member of the subcommittee (Mr. CHAFEE) for the commitment and effort they have made, along with all of the members of the committee, to present the Senate with the well-focused, balanced legislation we are considering today. But that does not mean that the legislation is perfect. Indeed, when the question of matching this Nation's energy priorities with our transportation system is concerned, I believe we are making a grave mistake. Our amendment seeks to correct this shortsighted error.

Mr. President, I commend the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Kentucky (Mr. HUDDLESTON) for the diligence and dedication which they have shown in the

development of the energy impact road rehabilitation program which would be established by the amendment we are considering. This amendment addresses a problem not only of West Virginia, Kentucky, and Pennsylvania, but of States throughout the Nation whose roads are presently deteriorating because of increased usage of them to transport coal and other energy-related materials.

The need for this energy impact road rehabilitation program was dramatically pointed to in a report entitled "Transporting the Nation's Coal—A Preliminary Assessment," which was published by the Department of Transportation earlier this year. The report stated:

> Significant increases in coal truck traffic on the nation's highways and particularly on Appalachian roads (will require) new roads to be built and increased maintenance on the existing network.

A separate report issued by the Appalachian Regional Commission indicated coal-hauling trucks in the region now travel over 6,800 miles of roadway and 900 bridges that were not designed for such heavy traffic. This same report estimated that, by 1980, more than 8,500 miles of roadways and between 1,100 and 1,300 bridges will be unsafe for coal-hauling purposes.

The problem of coal transportation affects more than just Appalachian States. By 1985, increased production of coal west of the Mississippi River and in the South will place new demands on our national transportation system, especially on our roads. I stress the immediacy of the problem. There is no doubt that our Nation will eventually depend heavily on coal. Without adequate transportation to move it, energy plans will be impeded. All States, even if they do not produce coal themselves, will be affected. The DOT report indicated that while rail, water, and pipeline problems are either addressed by existing legislation or will not be severe, highway inadequacies will be a significant problem. The report recommends "immediate consideration" of a coal road and highway program. If Congress does not act to establish a program this year, our inadequate coal road system may prevent us from transporting the amounts of coal which we must produce in order to meet our energy needs without spending billions of dollars annually on foreign oil.

I have seen the deplorable conditions of roads which are extensively used to transport coal. Approximately 1 year ago today, I inspected coal haul roads in Cambria County, Pa. These deteriorating roads are a threat to public safety. It was possible to crumble the pavement with your bare hands. Similarly unsafe, unacceptable conditions exist in other counties throughout Pennsylvania and the Nation. We must act now to provide assistance for the repair of these roads. The residents of Cambria County and other counties should not be forced to sacrifice their safety, their roads, and their own wages as increased taxes for road repair to produce the energy which all Americans need.

Mr. President, this amendment will help us realize two goals: First, maintaining and improving highways which will be used to transport the increased amounts of coal which we must produce in order to meet the energy needs of a strong, growing economy and second, protecting the public safety by repairing roads which are presently in unacceptably bad condition because of heavy, necessary use by coal trucks. These are worthy objectives and I urge my colleagues to support this amendment.

Mr. McGOVERN. Mr. President, I appreciate this opportunity to join with my colleagues, Senator HUDDLESTON and Senator RANDOLPH, in introducing this important amendment.

I am especially pleased at the success of our efforts to expand this proposal to include assistance for roads rapidly deteriorating from not only coal production but also uranium, oil and gas development. This modified amendment is also designed to allow State and local governments flexibility to designate those areas within their jurisdiction as facing the most critical needs for road impact aid.

The necessity of this program is well established in the numerous energy impact aid proposals that Congress has attempted to legislate, some of them with full support of the administration.

However, the vast majority of programs presently being considered by Congress concern the serious social and economic impacts being faced by energy boomtowns and not with the transportation dilemma created by resource development. In order to fully present this issue, I would like to briefly discuss the relationship between resource development and energy impacts.

Over the past decade, States throughout the Nation have experienced dramatic increases in energy resource production in an attempt to alleviate potential national energy shortages through increased development of our conventional fuels. I firmly believe this production, in conjunction with rapid development of our renewable energy resources, is essential to assure adequate short-term energy supplies and to reduce our dependence on imported fuels.

Yet, due to the rapid expansion of domestic energy production and the accompanying population increases, hundreds of communities in the heart of these developments have experienced wide ranging impacts, straining their capacity to provide minimum essential services.

One of the key problems is that energy developments often locate in rural areas. Consequently, any increase in population and traffic creates some strain on community services and transportation.

While several legislative proposals have been introduced to offset socio-economic impacts experienced by boomtown communities, virtually no proposals for impacted and deteriorating roads and highways have received similar consideration.

A key issue at stake is that impacted roads may not be eligible for any of the pending energy impact assistance programs. Most of these roads do not fall within community boundaries and roads obviously do not experience population increase, a major requirement for mu of the proposed impact assistance.

The majority of the affected ro were never designed to accommodate t weight and frequency of travel of dri ing rigs, seismic trucks, coal truc and exploration rigs. Critics of this p posal contend that if State vehicle weig limit laws were properly enforced, the road deterioration problems would n exist.

This is not true.

If weight limit laws were enforc without special overweight vehicle p mits, we would have little energy produ tion and would jeopardize our futu national energy needs.

For example, many States allow maximum weight on State roads of 9 000 pounds, and between 70,000 and 8 000 pounds on interstates. Consequent under the law, heavier loads may a do travel on the more poorly construct highways. However, the average weig of drilling rigs in South Dakota is w over 100,000 pounds, while the oil, wat and cement vehicles used to service wells are generally between 50,000 a 70,000 pounds.

Additionally, while some of the vehicles may be marginally within t legal limit, the frequency of their tra on these roads contributes substantia to their rapid deterioration. It is not u usual for cement and water trucks make 120 to 180 trips to each produ ing oil well.

The Buffalo oilfield in South Dak is a comparatively small oilfield a has over 45 producing wells alone. T frequency and weight of oil relat vehicles on roads near major oilfields staggering. The county in which th field is located has estimated that ro repairs stemming from existing resour development could amount to over $50 000. This amendment at least wou make some assistance available to the seriously impacted areas.

With regard to coal transportatio several companies are now finding cheaper and faster to ship western co for short hauls by truck rather than coal unit trains. Several companies South Dakota are now contracting f truck shipments from the coalfields northeastern Wyoming. Coal truc weigh as much as 75,000 pounds a it takes several truckloads of coal transport the same amount in one r hopper car. Many trucks in my regi use the more poorly constructed no interstate routes to transport coal shi ments.

South Dakota has already doc mented serious road impacts due increasing coal truck shipments fro northeastern Wyoming and North D kota, and such shipments are anti pated to increase greatly in the ne future.

The administration and other crit of this amendment have stated that t proposal would result in trust fu revenues flowing to only a few Stat primarily Kentucky and West Vi ginia. Under the modified amendme expanded to include several energy r sources and resource recovery equi ment, the benefits would flow to a lar

number of States, including Colorado, Senator from Michigan (Mr. GRIFFIN) highway or route on the Interstate System

number of States, including Colorado, Wyoming, New Mexico, Utah, Idaho, Montana, North Dakota, South Dakota, Texas, Louisiana, Indiana and Illinois, as well as the Eastern coal States and other Northern and Western energy producing States.

Additionally, the administration has opposed this amendment based on the need to keep a lid on the expenditures from the highway trust fund. I am well aware of and sensitive to that need.

It would be folly to increase expenditures that may cripple the trust fund. However, we are not requesting a massive or crippling amount of revenue. We are not legislating handouts to a few communities. We are attempting to legislate a fair and equitable proposal to assure adequate and safe transportation on these roads. I believe this proposal is essential to assure adequate and safe transportation on these roads.

I am also aware that the Department of Transportation would appreciate additional time to study the problem. The Department was scheduled to release a study on this dilemma over a year ago, and today it is still not available. However, we do have studies conducted by several States and local governments conclusively documenting the severity of deteriorating road conditions.

Additionally, while we do not have the Department's study, we do know that the problems have grown worse and they will continue to worsen unless we take immediate action. Several counties in South Dakota have already attributed a number of accidents to the deteriorating conditions on roads in energy development areas.

I do not believe we can afford to further jeopardize human lives for the sake of a long overdue agency study. It is imperative to act now to assure the safety to those who travel these highways and to facilitate the energy development in these areas.

The PRESIDING OFFICER. The vote now occurs on agreeing to the amendment of the Senator from Kentucky.

Mr. BENTSEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? Evidently, there is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Arkansas (Mr. BUMPERS), the Senator from Arizona (Mr. DECONCINI), the Senator from Mississippi (Mr. EASTLAND), the Senator from Montana (Mr. PAUL G. HATFIELD), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Kansas (Mr. DOLE) and the Senator from Michigan (Mr. GRIFFIN) are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. GRIFFIN) would vote "nay."

The result was announced—yeas 37, nays 51, as follows:

[Rollcall Vote No. 338 Leg.]

YEAS—37

Baker	Inouye	Percy
Bayh	Javits	Randolph
Byrd, Robert C.	Kennedy	Riegle
Case	Long	Sarbanes
Chiles	Lugar	Sasser
Cranston	Magnuson	Schweiker
Domenici	Mathias	Scott
Durkin	Matsunaga	Sparkman
Ford	McGovern	Stennis
Glenn	Melcher	Stone
Gravel	Metzenbaum	Williams
Heinz	Morgan	
Huddleston	Nelson	

NAYS—51

Bartlett	Hansen	Nunn
Bellmon	Hart	Packwood
Bentsen	Haskell	Pearson
Biden	Hatch	Pell
Brooke	Hatfield, Mark O.	Proxmire
Burdick	Hathaway	Ribicoff
Byrd, Harry F., Jr.	Hayakawa	Roth
Cannon	Helms	Schmitt
Chafee	Hodges	Stafford
Church	Hollings	Stevens
Clark	Jackson	Stevenson
Culver	Laxalt	Thurmond
Curtis	Leahy	Tower
Danforth	McClure	Wallop
Eagleton	McIntyre	Weicker
Garn	Moynihan	Young
Goldwater	Muskie	Zorinsky

NOT VOTING—12

Abourezk	Dole	Humphrey
Allen	Eastland	Johnston
Anderson	Griffin	Talmadge
Bumpers	Hatfield, Paul G.	
DeConcini		

So the amendment (No. 3507) was rejected.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1696

(Purpose: Relating to the continuation of certain establishments serving Interstate motor vehicle users)

Mr. METZENBAUM. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER (Mr. MATSUNAGA). The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an unprinted amendment numbered 1696.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . Section 111 of title 23, United States Code, is amended by adding at the end thereof the following new sentence: "Nothing in this section, or in any agreement entered into under this section, shall require the discontinuance, obstruction, or removal of any establishment for serving motor vehicle users on any highway which has been, or is hereafter, designated as a highway or route on the Interstate System (1) if such establishment (A) was in existence before January 1, 1960, (B) is owned by a State, and (C) is operated through concessionaires or otherwise, and (2) if all access to, and exits from, such establishment conform to the standards established for such a highway under this title.".

Mr. BENTSEN. Mr. President, may we have order, so that the Senator can be heard?

The PRESIDING OFFICER. The point is well taken. The Senate will be in order. Members will cease conversations. Authorized staff will retire to the rear of the Chamber.

Mr. METZENBAUM. Mr. President, this amendment will preserve existing service plazas on the Ohio Turnpike, the Kentucky Turnpike, and several other State turnpikes which soon will become a part of the interstate highway system. This amendment has been approved by the Department of Transportation and by the Office of Management and Budget. I have also been told that this amendment is acceptable to the committee.

This amendment will not require any new Federal funds. Instead, it is designed to protect the substantial investment that taxpayers have already made for service plazas on State turnpikes that were built before 1960 and which predated the development of our national interstate highway system. These plazas have been serving the public safely for 20 years. But unless this amendment is approved, those service plazas, which are worth millions of dollars, must be torn down because of one provision in the existing law.

Under the present law, title 23, section 111, all Federal interstate highways must be free of commercial service plazas in order to become eligible for 90 percent Federal improvement funds. In Ohio, this means that 16 service plazas that now operate along the Ohio Turnpike must be torn down before that road can become part of the interstate highway system.

According to the Ohio Turnpike Commission, the 16 plazas along the 241-mile Ohio Turnpike were originally constructed at a cost of $16 million. Since that time another $25 million worth of construction has taken place at those plazas. The commission estimates that it would cost taxpayers today more than $50 million to duplicate those facilities. Those plazas employ 2,000 people and generate about $6 million a year for the State in rental fees. But all of this would be lost if this amendment is not approved. This would be a tremendous and unnecessary waste of taxpayers dollars. The present law was never intended to eliminate the existing State-owned service areas. It was intended to prevent unsightly and possible unsafe commercial development along the interstate highways. This amendment would preserve the integrity of our interstate roads without forcing us to lose these needed service plazas along State turnpikes.

Mr. President, I point out that this is not an idle threat. The State of Kentucky Turnpike Commission has already been informed by the Federal Highway

Administration that access to one service plaza along I-65, formerly the Kentucky Turnpike, must be eliminated to conform with title 23. The Ohio Turnpike Commission has already announced its intention to remove tolls from the Ohio Turnpike by 1981 and allow it to become part of the Interstate Highway System. Ohio would face the same problems that Kentucky has already encountered unless this amendment is accepted.

This amendment would preserve only those service plazas that were constructed before 1960 and which are owned by the State. It will not allow new commercial development. It will also help other States, possibly including Maine, West Virginia, and others, which may decide to remove their turnpike tolls in the future. This amendment will prevent the unnecessary and wasteful destruction of existing service plazas that have been serving the driving public for the past two decades. I urge my colleagues to support this amendment.

Mr. BENTSEN. Mr. President, the manager for the majority on this measure has discussed this amendment with the Senator from Ohio and finds that it improves the proposed legislation and that it should be accepted, subject to the comments of the minority manager.

Mr. CHAFEE. The minority has the same position as the majority on this, Mr. President.

Mr. METZENBAUM. I appreciate that.

Mr. President, I yield back the remainder of my time.

Mr. BENTSEN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment offered by the distinguished Senator from Ohio.

The amendment was agreed to.

UP AMENDMENT NO. 1697

Mr. MORGAN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. MORGAN) proposes an unprinted amendment numbered 1697.

Mr. MORGAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 10, after line 25 add the following new subsection:

"(c) Section 101 of title 23, United States Code, is further amended by adding at the end thereof the following new subsection:

"'(f) It is hereby declared to be the national policy that annual authorizations for programs to be financed from Highway Trust Fund be closely related to anticipated annual receipts accruing to the fund in order that the decision on appropriate program levels and the decision on sources of revenue to finance the program be made in conjunction with each other.

"'It is further declared that whenever authorizing legislation provides for growth in program levels, such growth should be consistent with (1) the rate of growth of revenues from existing sources, (2) the ability of States responsibly to obligate increased Federal funds, and (3) a sound overall Federal fiscal policy.'"

Mr. MORGAN. Mr. President, I am submitting an amendment to the Highway Assistance Act to insure that the highway trust fund remains on a fiscally sound basis in the years ahead. Ever since its creation in 1956, the highway trust fund has been on sound financial footing. My amendment would insure that this continues to be the case.

The fiscal integrity of the Federal highway assistance program is today under serious assault. There is a move afoot in the House of Representatives to violate the most simple principles of sound fiscal management. Simply stated the House wants to authorize expenditures far beyond the revenues which can reasonably be expected to be available to the trust fund from the Federal gasoline excise tax. The unsound practice has been dubbed "anticipatory financing." "Anticipatory financing" is a new word for deficit spending; let there be no doubt about that. To extend deficit spending to the highway assistance program at a time when the economy is already reeling under the impact of massive Federal deficits is the height of irresponsibility.

Congress has tried the route recommended by the House of Representatives. Several years ago this Congress increased social security benefits without a corresponding increase in taxes. The result of this folly was that last December we faced the prospect of a bankruptcy of the social security system. To cover the benefits we had voted before, we had to vote a major tax increase. If we do not take positive action today to stem the tide of misdirected generosity, we will face the same problem we faced last December. We must not embark upon an expanded spending program unless we are willing to increase taxes to pay for the additional services.

I commend the Highway Subcommittee of the Environment and Public Works Committee for reporting to the Senate a bill which sets expenditure levels near the levels of expected revenues. If the pressures for increased spending I have felt are any indication, the members of this subcommittee are to be congratulated for their adherence to the principles of fiscal responsibility.

Unfortunately, the House of Representatives has not shown similar restraint. Although the exact totals have not been agreed upon, all indications are that the House will send to conference a bill spending several billion a year more than will be available from the excise tax. Reasonable predictions place the revenues available from the gasoline excise tax at about $8 billion per year. The Senate bill authorizes about $8 billion a year, but the House wants to authorize around $11 billion a year. This $3 billion a year shortfall between expenditures and revenues will bankrupt the trust fund by the early 1980's. To pay for this $11 billion a year expenditure, Congress will have to raise taxes or use general revenues to prevent the bankruptcy of the highway trust fund. Passage of this amendment will set the Senate clearly on record in opposition to this departure from the principles of sound fiscal ma agement.

I emphasize that this amendment d not establish a ceiling on highway penditures. It only requires that expe itures not exceed revenues over the ried of the program. If Congress sees to increase taxes in order to spend m on the highways, then Congress sho explicitly and clearly do so. We sho not spend the money and then be put a position where we have to incre taxes. We in this country must return the tradition that public services m be paid for by taxes. In my view there no better way to separate the wheat fr the chaff in Federal spending than link the decision to spend with the cision to tax. I think we would all much more realistic in our evaluation the value of Federal programs if we h to explicitly and clearly levy a tax each expenditure.

The highway trust fund has been of the few parts of the Federal bud that has remained on sound fiscal fo ing over the years. Organized aroun "pay as you go" user fee system, highway trust fund has served us since its creation 20 years ago. I think would be a national tragedy of the f magnitude if we destroyed the soundn of this institution for the sake of sho term expediency. At a time when public is awakening to the consequen of Federal fiscal irresponsibility, the S ate should go firmly on record agai new spending that we are not willing pay for. I hope that my colleagues reaffirm the fiscal integrity of the hi way trust fund by agreeing to amendment.

Mr. MUSKIE and Mr. BENTSEN dressed the Chair.

The PRESIDING OFFICER. The Se ator from Texas.

Mr. BENTSEN. I yield such time he may desire to the Senator fr Maine, the chairman of the Bud Committee.

The PRESIDING OFFICER. The Se ator from Maine is recognized.

Mr. MUSKIE. Mr. President, Senate has before it S. 3073, the Feder Aid Highway Act of 1978. I shall t a few minutes to comment upon major budgetary aspects of this leg lation, particularly as they relate to spending targets which Congress est lished in the first budget resolution fiscal year 1979.

As reported in the Senate, S. 3073 p vides highway program authorizatio for fiscal years 1979 and 1980 of $ billion each year. The bulk of these thorizations, $7.9 billion in fiscal 19 and $7.8 billion in fiscal 1980, provi contract authority from the highw trust fund, and thus represent dir spending authorizations not requiri appropriations except for liquidatio The balance of the authorizations for appropriated highway program some of which are funded from t trust fund and some from the gene fund.

I am pleased to be able to report the Senate that these reported autho izations are consistent with the bud

resolution for fiscal 1979. Further, the spending pattern established by the bill suggests that highway spending through fiscal 1983 also will be consistent with the 5-year targets set forth in the report on the first budget resolution. I feel I must warn the Senate, however, that very little leeway exists to increase the reported authorizations.

Mr. President, I take this opportunity to compliment the Committee on Environment and Public Works, and particularly its distinguished chairman, Senator RANDOLPH, its ranking minority member, Senator STAFFORD, and its excellent Transportation Subcommittee, led by Senators BENTSEN and CHAFEE, for the exceptionally fine job they have done in writing this 1978 highway bill. Rarely in the time I have been in the Senate—and never in the time I have served as chairman of the Budget Committee—have I seen a Senate committee approach such a difficult task in a more deliberate, objective and fiscally responsible manner. It is because of their efforts that S. 3073 is such a responsible piece of legislation, and one which the Senate can be proud to support.

I base my compliments for this legislation and for its authors on three major features of S. 3073—its budget totals which are consistent with the congressional budget; its rejection of policy changes which could lead to an unnecessarily expanded role for the Federal Government in highway development and maintenance; and its preservation and protection of the fiscal integrity of the highway trust fund.

First, as I have indicated, S. 3073 is within and totally consistent with the congressional budget. The reason for this is not blind good fortune. Rather it is that the Public Works Committee intended that to be the result and consciously worked to achieve it. In the early months of this year the committee's members were faced with two proposals, both representing significant departures from current Federal highway policy. On the one hand, the administration proposed only a moderate increase in highway spending for fiscal year 1979, but recommended substantial policy changes which if enacted would create pressures to increase Federal highway spending significantly in the future. The leadership of the House Public Works Committee, meanwhile, was proposing to increase Federal highway spending by billions of dollars per year, starting immediately.

Exerting its independence and drawing upon its own substantial knowledge and resources, the Public Works Committee charted its own course and drafted legislation that represents its own more realistic and viable judgment of the appropriate future of Federal highway assistance. The committee carefully assessed the need for increased Federal financial assistance, and concluded that some increase above the administration's request is warranted. It wisely rejected, however, the excessive multibillion-dollar increase proposed in House legislation. The committee then reported its recommendation to the Committee on the Budget, which concurred and included similar budget targets for highway spending in the first budget resolution approved by the Congress. Thus, the fact that S. 3073 is consistent with the congressionally approved budget is no accident. Rather it is because of the good judgment and effective leadership of the Committee on Environment and Public Works.

A second reason to compliment the authorizing committee relates to the policy direction the reported bill establishes. The Department of Transportation's proposal submitted to the Congress in January contained a number of policy changes which, if enacted, would seem certain to result in a new and significantly expanded role for the Federal Government in highway spending. These proposals included: Extension of eligibility for Federal assistance under the urban highway program to all urban roads; extension of eligibility for assistance under the small urban and rural grant program to any public road; expansion of eligibility under the special bridge program to bridges off as well as on the Federal-aid highway systems; and, perhaps most significant of all, a further increase in the Federal share of noninterstate projects from the current 70 to 80 percent.

Wisely, the Senate Committee chose to reject most of these proposals. The only one which it incorporated into S. 3373 is the one that would open Federal assistance for bridge repair and replacement to bridges not on a Federal-aid system. I remain somewhat concerned about the implications of the precedent this provision establishes, but for now I accept the recommendation of the Public Works Subcommittee which has studied this issue more thoroughly than I, and which has concluded that this new policy is necessary in order to deal with a unique and serious problem. I would not, however, that while the Senate bill as reported included a reasonable authorization of $450 million to fund this expanded bridge program, this amount already has been increased to $525 million on the Senate floor, so that the authorization now exceeds the maximum amount which DOT says can responsibly be obligated in fiscal 1979. And if this is not sufficiently frightening, the House bill as reported provides a $2 billion authorization for fiscal 1979.

I strongly urge the Senate conferees to stand firm against any further increases to the bridge program above the Senate figure. Further, I believe that the Senate should take the House's proposed authorization level as a warning of what could happen to this program if we are not careful. Clearly, the program warrants continued examination to assure that what is intended to be a limited expansion of eligibility for Federal assistance does not produce undesired and unintended financial impacts on the Federal budget.

While I am on this topic of questionable policy changes, I would note also that while the Senate authorizing committee has prudently rejected the Transportation Secretary's proposal to increase the Federal matching share to 80 percent, its House counterpart has not. This means that the provision will be an important issue in conference, and I would therefore like to take this opportunity to encourage the Senate conferees to hold fact to the Senate position that the Federal share should remain at 70 percent. Were it to increase to 80 percent, it would be certain to stimulate significant increases in Federal highway spending in the near future. This is because of the increased leverage it provides to program beneficiaries.

To be more specific, $1 billion of State and local spending on noninterstate products currently can produce $2.3 billion in matching Federal expenditures. With an increase in the Federal share to 80 percent, however, that same $1 billion could produce $4 billion of matching Federal expenditures. Thus, what looks like a 10-percent change could increase Federal expenditures by 74 percent without an additional cent of State and local spending.

Such a shifting of the highway spending burden to the Federal Government is not warranted, particularly when State and local governments are, collectively, in a much more liquid financial position than is the Federal Government. Further, I would remind the Senate that it has been only 5 years since we increased the Federal share on noninterstate projects from 50 to 70 percent. The push for that increase also came from the House, and as I recall it, the principal argument was that Federal spending on the interstate system was about to drop sharply, and it was therefore necessary to increase noninterstate spending in order to preserve prevailing overall highway spending levels. Of course, no such sharp reduction in interstate spending ever materialized. Total Federal highway spending rose steadily, and is projected to continue to do so. In the face of this, however, the House is now proposing yet a further increase in the Federal matching share. If they were consistent in their approach, they should be suggesting instead that the Federal share be returned to its previous 50 percent level.

Mr. President, the third reason—this is really the point I wanted to get at in connection with Senator MORGAN's amendment—I see for complimenting the Public Works Committee is that its reported bill preserves the fiscal integrity and fundamental soundness of the Highway Trust Fund. It does this by preserving a policy which has long prevailed in the management of the Federal highway program, that there should be a basic equality of projected trust fund expenditures and receipts.

This is pretty fundamental. But the House-reported bill proposes to ignore this established policy, and to provide annual expenditure authorizations for programs financed from the trust fund at levels which exceed projected trust fund receipts by more than $3 billion per year!

Those critical of former Redskins coach George Allen's financial management skills claim that "he was given an unlimited budget and he exceeded it." Well, considering what the House is doing with the 1978 highway bill, I would

say that in comparison George Allen looks like Ebenezer Scrooge.

Were the new policy proposed in the House bill to be enacted, CBO projects that the highway trust fund would be broke by fiscal 1985. At best, there would be an excessive accumulation of unfunded liabilities mortgaging several years of future revenues. More likely, the cash would be exhausted and the program seriously disrupted.

Financial calamity could be avoided only by one of four means, none of which would be acceptable. One option would be for Congress to again surrender the power of purse to the executive branch by allowing the President to protect the trust fund by impounding highway funds. Or, the Congress could temporarily suspend all or a significant portion of Federal highway spending. Or, it could enact sharp increases in highway excise taxes to finance the "unexpected emergency," which in fact was entirely predictable. Or, it could use appropriations from the general fund to bail out the trust fund.

If this sounds familiar, it is for the simple reason that it is very similar to the financing mess in which we find ourselves in the case of the social security program and its trust fund.

Mr. President, I believe the Senate must do its best to assure that the House cannot "social securitize" the Federal highway program and highway trust fund.

Further, I believe we can strengthen the conference position of the Senate by stating in statutory language the policy implicit in the Senate bill's responsible approach to managing the highway trust fund. The amendment offered by Senator MORGAN does this. It provides simply that trust fund spending policy and revenue policy should be consistent, and that significant alterations to one cannot responsibly be considered without considering compatible alterations in the other.

Overwhelming approval of the bill before us, amended to include the policy statement proposed by Senator MORGAN, will demonstrate to the House the Senate's concern that the fiscal integrity of the trust fund be protected. I therefore urge my fellow Senators to vote in favor of the amendment offered by Senator MORGAN and for the Senate bill as thus amended.

Mr. BENTSEN. Mr. President, I appreciate the remarks of the distinguished chairman of the Budget Committee and those of my able friend, the Senator from North Carolina. In reading his amendments, it is a very sound statement of principle in budget fiscal prudence, one that we have tried very much to comply with, and it has not been easy. But I believe it is a contribution to the legislation and I for one am pleased to accept it subject to the comments of the minority manager of the bill.

Mr. CHAFEE. Mr. President, first, I ask unanimous consent that Patty White of Senator HAYAKAWA's staff, and Donna Maddox of Senator PERCY's staff have the privileges of the floor during the consideration of this measure and the votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I would like to join with the Senator from North Carolina in support of this amendment. It sets forth a philosophy to which we can adhere in the future. So I join with my colleague from Texas in support of this amendment.

Mr. BENTSEN. I yield back the remainder of my time.

Mr. MORGAN. I am willing to yield back the remainder of my time, but to strengthen the hand of the conference committee, some of those who support the amendment with whom I have talked feel that a rollcall vote would be helpful in that committee and, for that reason, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. RANDOLPH. Mr. President, will the Senator from North Carolina add me to his amendment as a cosponsor?

Mr. MORGAN. I would be happy to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Arkansas (Mr. BUMPERS), the Senator from Arizona (Mr. DECONCINI), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Montana (Mr. HATFIELD), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Kansas (Mr. DOLE), the Senator from Michigan (Mr. GRIFFIN), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. GRIFFIN) would vote "yea."

The result was announced—yeas 86, nays 0, as follows:

[Rollcall Vote No. 339 Leg.]

YEAS—86

Baker	Garn	Mathias
Bartlett	Glenn	Matsunaga
Bayh	Goldwater	McClure
Bellmon	Hansen	McGovern
Bentsen	Hart	McIntyre
Biden	Haskell	Meicher
Brooke	Hatch	Metzenbaum
Burdick	Hatfield, Paul G.	Morgan
Byrd, Harry F., Jr.	Hatfield, Mark O.	Moynihan
Byrd, Robert C.	Hathaway	Muskie
Cannon	Hayakawa	Nelson
Case	Heinz	Nunn
Chafee	Helms	Packwood
Chiles	Hodges	Pearson
Church	Hollings	Pell
Clark	Huddleston	Percy
Cranston	Inouye	Proxmire
Culver	Jackson	Randolph
Curtis	Javits	Ribicoff
Danforth	Kennedy	Riegle
Domenici	Laxalt	Roth
Durkin	Leahy	Sarbanes
Eagleton	Long	Sasser
Ford	Lugar	Schmitt
	Magnuson	Schweiker
Scott	Stevenson	Weicker
Sparkman	Stone	Williams
Stafford	Thurmond	Zorinsky
Stennis	Tower	
Stevens	Wallop	

NAYS—0

NOT VOTING—14

Abourezk	Eastland	Johnston
Allen	Gravel	Talmadge
Anderson	Griffin	Young
Bumpers	Hatfield, Paul G.	
DeConcini	Humphrey	
Dole		

So the amendment (UP amendme No. 1697) was agreed to.

The PRESIDING OFFICER. The Se ator from Texas.

Mr. BENTSEN. Mr. President, I yi for a unanimous-consent request to t Senator from Vermont.

Mr. LEAHY. Mr. President, I ask una imous consent that Susan Branigan my staff may have the privilege of t floor for the rest of the evening, throug out the debate and votes.

The PRESIDING OFFICER. Witho objection, it is so ordered.

UP AMENDMENT NO. 1698

(Purpose: Terminating the Highway Tru Fund)

Mr. KENNEDY. Mr. President, I se an unprinted amendment to the desk behalf of myself and the Senator fro Connecticut (Mr. WEICKER).

The PRESIDING OFFICER. T amendment will be stated.

The second assistant legislative cle read as follows:

The Senator from Massachusetts (M KENNEDY, for himself and Mr. WEICKER), pr poses an unprinted amendment number 1698.

Mr. KENNEDY. Mr. President, I a unanimous consent that further readin of the amendment be dispensed with.

The PRESIDING OFFICER. Witho objection, it is so ordered.

The amendment is as follows:

At the end of the bill, insert the followin

HIGHWAY TRUST FUND

SEC. 146. Effective after September 3 1978—

(1) the Highway Trust Fund is terminate and the amount in such Fund, including a obligations held in such a Fund, shall covered into the general fund of the Trea ury;

(2) any outstanding appropriations fro or obligations of, such Trust Fund shall paid from such general fund;

(3) any authorizations for appropriatio to be made from such Trust Fund shall considered to be authorizations for appr priations from such general fund; and

(4) section 209 of the Highway Revenue A of 1956 is repealed.

The PRESIDING OFFICER. Th Chair inquires of the Senator from Ma sachusetts whether this is the amen ment on which there has been an agree time limitation of 1½ hours.

Mr. KENNEDY. The Chair is corre I yield myself 7 minutes.

Mr. BENTSEN. Mr. President, will th Senator yield for a question?

Mr. KENNEDY. I yield.

Mr. BENTSEN. The manager of th bill would inquire how long the Senat expects us to be here.

Mr. KENNEDY. I do not know ho long my colleague and cosponsor (M WEICKER) wishes to speak, but this is a

issue which has been before the Senate many times. I do not think it will require more than 10 minutes on my part to explain the amendment. It is well understood, I think; the Members are familiar with the subject matter.

Mr. BENTSEN. Would the Senator care to agree to limit the time?

Mr. KENNEDY. As soon as my cosponsor arrives, I would be glad to inquire how much time he would require; but for my part, I would be more than willing to cut it in half. I do not intend to take a long time.

Mr. President, I yield myself 7 minutes. First of all, I wish to express my appreciation to the managers of the bill, the Senator from Texas (Mr. BENTSEN) and the Senator from Rhode Island (Mr. CHAFEE), and to the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Vermont (Mr. STAFFORD) and the other members of the committee for the accommodations they have made to a number of different suggestions and recommendations that have come before the committee. They have, I think, been extraordinarily responsive and helpful to those of us who have followed this issue.

Their attitude has made a very important and significant difference in the whole development of transportation, in my State and in other parts of the country. The interstate transfer provisions, for example, the reduced number of highway categories, the ability to transfer within various road categories, have, I think, given greater flexibility and insured important accommodations of different interests in the field of transportation.

I am very much appreciative of the reception with which a number of these ideas have been received by my colleagues on the committee.

The amendment that we offer today, myself and the Senator from Connecticut, is an amendment which we have offered, each congress for a period of 8 years, since 1970. It would abolish the highway trust fund.

The highway trust fund and the funds which it keeps from the general revenues make an enormous impact on our budget. Income to the highway trust fund is around $10 billion a year. Expenses are over $8 billion.

The total cost for the Interstate Highway System is now projected to be $104.3 billion.

This enormous amount of money should not be reserved to one mode of transportation or to transportation as a whole regardless of conditions. Rather, funding should be subject to the regular authorization and appropriations process. If that process is good enough for our national defense, if it is good enough for our health expenditures, if it is good enough for our education programs, it should be good enough for highways.

Flexible funding is especially important now:

The most essential parts of the interstate system have been completed. Of a total system of 42,500 miles, 91.9 percent—39,050—have been finished. Another 1,432 miles are under construction, leaving less than 2,000 which have not yet been started.

Meanwhile, the drawbacks of private auto transportation have become of greater concern. The private auto uses far more energy than public transportation. The average auto uses over three times the energy of a bus, over twice the energy of light rail systems like trolleys, and over twice the energy of commuter rails.

The private auto creates more pollution. The private auto requires a great investment of our lands, including downtown areas and farm lands.

And, a separate fund for any construction project—which is the primary mission of the highway fund—is dangerous to the economy as a whole. The costs of construction have been rising the fastest in the last couple of years and have been a primary factor in the inflation rate. It was for this reason that the Senate voted last month to take $600 million out of the authorization for federally subsidized housing. We should also be able to control construction expenditures here.

The Congressional Budget Office in a report issued in March clearly called for the liquidation of the highway trust fund. It said:

> The existing financing practices have several serious shortcomings and relatively few strengths. Current Federal practices are not conducive either to coordinated policy making or to sound fiscal control, and they are highly uneven in their treatment of different modes. By far the most significant practical advantage of the current system is that it already exists.

CBO concluded:

> The option of no trust funds appears to be the most promising of those reviewed here because it substantially strengthens the ability of the Congress to make policy and to exercise fiscal control. By placing all modes on an equal and flexible footing, the Congress would increase its coordination of transportation policies through both the authorizing and appropriating committees.

Mr. President, for these reasons, I am hopeful that the amendment will be accepted by the Senate. It seems to me that for reasons of good transportation policy, for reasons of sound expenditure policy, and for reasons of prudent economic policy: for all these reasons, this particular amendment deserves to be accepted.

Hopefully those who support this amendment recognize that there must be important support for automotive transportation, and certainly the importance of trucking and trucking transportation is fundamental to the commerce of this Nation.

We believe those resources ought to be devoted to both the completion of the system and providing within the States, within the rural areas and the urban areas of this country, the kinds of transportation services which are absolutely essential for the American people. This definitely includes a strong component for roads. But our transportation funding should be put in the context where the committees themselves can view other alternative means of transportation and make final judgments on what should be authorized and what should be appropriated in the different forms of transportation. I would hope this amendment would be accepted.

Mr. President, before I yield such time as the Senator from Connecticut desires, I would like to make special mention of a few of the valuable features of the bill now before us.

For many years I have introduced highway legislation along with the distinguished Senator from Connecticut (Mr. WEICKER).

In this legislation we have recommended many changes in the way the Federal Government assists in the construction and operation of roadways. We have advocated the consolidation of many aid categories, the establishment of the interstate transfer provision and the elimination of the trust fund form of funding.

In many of these areas we have been successful in convincing others that the Federal-aid system should be changed. When the administration introduced its bill reauthorizing expenditures from the highway trust fund, Senator WEICKER and I introduced an act, S. 2953, the Highway and Public Transportation Improvement Act of 1978, which incorporated a series of amendments in that bill.

Mr. President, Senator BENTSEN and Senator CHAFEE for the Transportation Subcommittee of the Environment and Public Works Committee, and Senator RANDOLPH and Senator STAFFORD for the full committee have given thoughtful consideration to different transportation needs and to the effect of our transportation policies on energy and the environment. I am pleased to see that many of our ideas have been incorporated in S. 3073, the bill before us today.

I would like to enumerate some of the proposals that we made in our bill which have also been incorporated into the committee bill.

We consolidated a number of existing highway programs into four Federal-aid systems, the interstate, primary, urban and small urban and rural. We allowed great transferability of funds among the system. The committee also consolidated down to four transit categories and it too allows the transferability of up to 50 percent of the funds in one category to another category.

The committee also showed its dedication to the concept of flexible transit planning by setting the Federal match for an interstate transfer at 90 percent of the cost. Previously, the Federal match was set at the match for the mode into which the funds were being switched. This was usually 80 percent of the total cost.

Our next amendment restored the sentence to section 103(e)(4) which the administration took out of its proposed bill which says that any funds transferred from an interstate project would be a supplement to and not a substitute for money due under UMTA. We certainly do not want to penalize those who make the decision to switch funds from highways to mass transit. Yet, deleting this sentence might suggest that DOT has the authority to do so. We want to allow a State to transfer money but without the sentence DOT might be able to force the State into merely choosing whether to forsake a highway.

We also restored to the act another provision involving the obligation to match funds for those projects transferred between 1973 and 1976, between the time when the interstate transfer provision was first put in and the 1976 amendments to the Highway Act. Under the 1973 interstate transfer amendment the Federal Government undertook a contractual obligation to fund the Federal share of any transferred project. Under the 1976 amendments, subsequent transferors were not guaranteed that the Federal Government would continue to provide its share till completion. The administration bill took the contractual obligation off of the Federal Government for the projects switched between 1973 and 1976. But, the Federal Government should maintain its terms after a State has irretrievably committed to a transfer.

In both of these areas, the Environment and Public Works Committee maintained current law, so that interstate transfer funds remain a supplement to UMTA funds and not a susbtitute for them and so that the Federal commitment to meet its transfer obligations remains as strong as ever.

S. 2953 also changed the law to allow a State to impose a toll on Federal aid system highways for purposes of managing peakload demands. The Clean Air Act allows use of such tolls in nonattainment areas, where air pollution is too great. But the Highway Act currently disallows such tolls. The purpose of these tolls is to set a price on the use of the road equal to the external costs that the use produces at peak hours.

The committee now allows States and metropolitan areas in nonattainment areas to impose tolls in order to help reduce air pollution.

Finally, Mr. President, on the floor last Friday, the committee accepted an amendment which repeals section 142(k) of the act. This section would terminate interstate transfer projects if a mass transit trust fund were set up. But, the section could not assure us of the size of the mass transit fund, the conditions under which it would operate, or that localities which have switched funds would in any way be reimbursed for the interstate transfer funds they would no longer be allowed to invest in alternative projects. I was glad to see this amendment accepted.

The committee has made some important improvements in this act. I thank the committee for the careful review it has given in reauthorizing the Federal-Aid Highway Act.

Mr. President, I still believe that the funding mechanism that we use for our transportation expenditures should be changed. The current system of financing freezes congressional review. We should abolish the Highway Trust Fund.

I yield to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. WEICKER. I thank the Senator from Massachusetts.

I rise to support the amendment.

In reminiscing a moment ago with my staff, I noted that it has been 9 years since the Senator from Massachusetts and I first proposed this principle in the form of an amendment or one bill or another. For 9 years we have been defeated. I do not know what the result will be this evening. I have a feeling it might adhere to past historical patterns.

I think it has to be pointed out that certainly life in this country and around the world has very much changed within that period of time. And yet the highway trust fund is still with us in basically its original form.

I have read a great deal as to the concern of the administration as it relates to the failure of this Nation to adopt any sort of an energy program. Yet in its initial presentation to the country and the Congress, the administration's energy program specifically skirted around the issue of mass transit and public transportation, as a conservation measure. That is still the case today. Not just so far as the administration is concerned, but also the Congress.

There is nothing that we can do that would further the cause of conservation more than to make available to the citizens of this country transportation other than the automobile. Yet that has not been the will of the Congress, nor has it been the will of the President.

I realize that this is not the forum for legislation to discuss the production side as a solution to the energy crisis. It is, however, the forum to discuss the demand side, the consumption side.

The Senator from Massachusetts and I have, for 9 years, put forth the idea that there are means with which to move about this Nation other than the automobile.

We do not insist that you take a subway or that you take a train or that you take a bus. What we are saying is that, in the resolution of our transportation difficulties, at least, let us have the option to decide what is the best solution. Right now, the best solution is a highway, because you can be guaranteed 90 percent Federal dollars if you adopt a highway solution. Well, that is not good traffic engineering; it is good politics. In my State of Connecticut, we have almost totally completed our highway system, but we desperately need bus transportation. None of our cities is big enough for mass transit rail, but we need mass transit bus. Indeed, as the population centers shift to many of the cities of the South and Southwest and the West, believe me, what will be demanded there is rail facilities in order to move people about.

Today, in Los Angeles, Calif., they are stuck with the automobile, period. There is nothing else that they can do, even though it chokes them to death; not just in the sense of the early morning commuter hour, but in the sense of their bodies. They are getting choked to death.

It is not a situation we have to live with.

Mr. President, I am pleased to have joined with the Senator from Massachusetts (Mr. KENNEDY) in offering this amendment to abolish the highway trust fund. Since the trust fund was created 22 years ago, the needs of our society have been drastically affected by changing energy, safety, and environmental considerations. In 1956, energy w plentiful and cheap. In 1978, our n tional security is threatened by he reliance on insecure sources of fore oil. In 1956, air pollution alerts w virtually unheard of.

Today, auto emissions are among main pollutants in our cities and considered the cause of millions of nesses annually. In 1956, our road s tem was obviously deficient. Today, Interstate System is 92 percent comp and we have the finest highway syst in the world. Yet our Federal transpor tion programs continue to allocate fu according to the priorities of 22 ye ago. The stumbling block here is highway trust fund, and the problem face is this:

The revenues flowing into the fu tend to become the driving force allocations of transportation doll rather than having Congress, toget with the States and localities, set transportation needs. If the fund gen ates $10 billion of revenue, then it easy for Congress to spend that billion. The process should operate other way around: Congress should view the transportation needs and p vide funding up to the levels it consid appropriate. This is how we act on other programs and how we should on transportation.

The trust fund tends to operate an automatic pilot which pumps billi of dollars into a separate and sac pool; the levels of revenue are arbitr and bear no logical relation to the n for further highway construction. I not trying to stop highway construct or maintenance or bridge repair, or other highway programs, and so for All this amendment is trying to do is give Congress a chance to exercise proper responsibility in reviewing ann transportation funding needs throu the appropriations process. We may cide that even more money is needed roads or repairs or bridges. But wh ever is decided, I would rather Congr make that decision than have it d tated by the arbitrary mechanism o trust fund.

Senator KENNEDY and I first int duced this kind of amendment back 1973. This Nation's economic situat has changed dramatically since then, a I am talking here in an energy conte At that time, our transportation p gram—legitimately perhaps—focused the automobile and its needs. Our d pendence on the automobile is alm total: 90 percent of all urban travel by car or truck. More than 4 out o American families own cars. Of the million barrels of oil that this Nati consumes per day, cars and trucks bu up nearly 45 percent or over 8 milli barrels. The message here is clear: a nation we have to try and balance o transportation system. Energy cons erations, along with environmental a safety considerations, need to be given higher visibility in the overall transpo tation equation. I repeat: This does n necessarily mean less money for hig ways. It may mean more coordinat intermodal planning so that we do n

duplicate our spending by building both a new road and a new mass transit system in the same corridor. But whatever the final decisions on spending, we should not put ourselves in the straitjacket of the trust fund which reduces the flexibility we need to move funds to those areas of greatest need.

Mr. President, there are too many sacred cows already clogging up the Halls of Congress. The highway trust fund is one sacred cow which has been milked for too long by highway interests. It is ready for the slaughter. But let us make this a mercy killing—we do not want to strangle our highway programs because our Nation needs a strong road system and will need it as far into the future as we can see. But let us give ourselves the flexibility and control we need here in the Congress to make our transportation system more balanced and more responsive to the needs of this Nation as we enter the 1980's.

My purpose in taking the floor at this moment to support this amendment is to ask that we do the unusual. That is to apply a little logic, a little common sense to a problem, a little grasp of the facts as they exist today in the year 1978, rather than as they existed at the end of World War II. I am afraid that 9 years of frustration will not end here this evening, but it really makes no sense to continue a system in 1978 that was based on 1946 and 1947 facts. I shall be more than delighted to debate any of the advocates of the highway trust fund as to why it is that we have to continue with this mechanism rather than applying the regular appropriation and budgetary process to the needs as they come before us in a highway sense.

The fact is that logic cannot sustain their arguments any longer. Facts cannot sustain their arguments any longer. So the only thing that they raise is a trust fund concept, with all the fiduciary obligations that go along with that. Purely and simply today, it is insane, it is illogical, and it is a payoff to the lobbying groups. It certainly cannot be explained in terms of supplying a logical transportation system to the United States of America.

I yield the floor, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. Mr. President, I should like to speak in favor of the amendment. Who is in control of the time?

Mr. KENNEDY. I yield the Senator whatever time he needs.

Mr. CHAFEE. Five minutes will be plenty, Mr. President.

It seems to me that, in running any kind of government, those in charge of the government, be they Congress or the State legislatures or whatever government it might be, should be able to take all the money into a common pool and then decide what their top priorities are for spending that money, what the needs of the State are or, as in this case, of the Nation, that should be met. The trouble with restricted funds is that those funds do not take their position in line, seeking their priority. Such funds work with a set amount of money—in this case, some $8 billion. Whether the program covered by the restricted fund is the top priority of the Nation is not considered. All that is considered is that the fund has x dollars and they can spend x dollars, on the program under the fund, roads in the instance.

Mr. President, I feel strongly that the amendment of the Senators from Massachusetts and Connecticut is a good one. It would force all that money to go into a common fund. Then the President, through the OMB and the Congress, could decide on whether, that year, the highest priority of the Nation indeed was to spend it on highways. Perhaps it might be, in that particular year, that it could be better spent on other programs. Or at least, the total amount may not be needed. But these funds are beyond the reach of Congress as to whether they should be spent in this particular manner or that particular manner, and they have to be spent on highways. I agree with the amendment of the Senators from Connecticut and Massachusetts.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Mr. President, in this changing world of ours, an uncertain world, it is very comforting and helpful to know that there is a certain sense of order, a certain discipline; that every 2 years we are going to have a highway bill, and every 2 years we are going to have an amendment to end the highway trust fund; and that the Senator from Massachusetts and the Senator from Connecticut will make their very able and impassioned speeches to carry out that initiative. Fortunately, in each instance, logic has prevailed in this body and the amendment has been defeated.

Let me say to my friend from Connecticut, who talks about this hulk of a highway trust fund, this inflexible hulk. Much has been done, because of the initiative of the Senator from Connecticut and the Senator from Massachusetts, insofar as adapting this trust fund to the needs of the people: The great fight that they made in 1973 on the urban trust fund, allowing that to go to mass transit.

Let me say that I think that time has overcome the idea of ending the trust fund because, as the Senator from Connecticut has said, times have changed. We have found, through our experience, that there are very few areas that are really adaptable to rail mass transit; that you really have to have concentrations along population corridors for it to work.

The Interstate Highway System, Mr. President, is one of the great public works achievements of this century; it is of enormous significance to every citizen and every business in this country. The highway trust fund has always been essential to the success of this program. To abolish the trust fund would be to gut the highway program.

Over time, we have developed new additions to our transportation needs. We have given special lanes for buses going out the Shirley Highway. Nothing has the psychological impact of having a fellow driving on a freeway at 16 miles an hour, breathing the fumes of a car in front of him, then having a bus go by in a special lane, with some fellow sitting there reading a newspaper and grinning at him as he goes by. Those kinds of things have been proving themselves as we go along.

We have seen a situation where, to develop just the needs of the highways and hold them to the 1975 standards of use, between now and 1990, we will need $21.8 billion. But we can forsee only $16.9 billion that will be available to it. When it comes to the question of priorities and trying to fulfill those priorities, we are not going to have enough money in the trust fund to accomplish that.

We do have a "user pays" principle that we are using here. One of the interesting things about this particular program that sets it apart from some other Government programs is that this one happens to work. It has been effective. But we are now having a study made by the Department of Transportation to be sure that we are really fairly allocating that cost, that the user who burns up those highways is the one who pays the full share of the cost.

Mr. President, the most persuasive arguments in favor of abolishing the trust fund have been overtaken by events. Trust fund termination is an issue whose time has come and gone.

For example, it has become apparent that the all-too-familiar "either/or" mentality that pitted highway transportation against mass transit in the past has largely disappeared. During our extensive deliberations on S. 3073 both sides to this controversy came to recognize that these modes are not inherently competitive, but are in fact complementary. This is especially true when we have a national commitment today to reduce air pollution and to save energy.

We have seen that only a limited number of metropolitan areas possess the population density to support nonhighway mass transportation. In other areas, mass transportation must take the form of multipassenger motor vehicles which traverse the regional road and highway network. Any significant departures in small urban and rural public transportation will depend on good roads and highways.

Now, Mr. President, opponents of the trust fund have long maintained that it serves as a straitjacket inhibiting Federal flexibility in meeting national transportation requirements. This argument may have had relevance in the past, but recent legislative developments have demonstrated the enormous adaptability of this funding concept in responding to our ever-changing pattern of highway-related needs.

Consider, for example, some of the innovations contained in the 1973 Federal-Aid Highway Act. The act broke with past practice by permitting the transfer of highway funds for the purchase of buses, for the construction of bus lanes, highway traffic control devices, bus passenger loading facilities, and fringe parking lots to serve mass transportation passengers. The 1973 act, for the first time, permitted urban areas to substitute a mass transit project for an unwanted interstate segment. Contingent on approval by the Secretary of Transportation.

The 1976 act gave the trust fund even greater flexibility. It authorized financing for the resurfacing rehabilitation of interstate and other Federal-aid routes; it gave urban areas the ability to reject an unwanted interstate segment and use equivalent funds for mass transit projects or a noninterstate highway, if they so desired.

Clearly, there is a great deal of flexibility in the highway trust fund; it is not some "incredible hulk" that stands in the path of legislative innovation. And let me point out that S. 3073, the bill before the Senate today, continues this process of flexibility and innovation.

We worked hard at it. We have even included a program now to encourage the use of bicycles.

It provides trust fund financing for capital improvements to facilitate State enforcement of weight limits; for projects to encourage the use of carpools and vanpools; and for programs to encourage the use of bicycles.

It is also argued, Mr. President, that the trust fund stands as an obstacle to effective congressional control over expenditures. This argument is without merit. There is nothing in the trust fund that requires highway authorizations to keep pace with revenues. Congress has always been free to provide authorizations that fall short of revenue levels. We have generally not done so, because highway needs have generally far exceeded revenue generated by the fund. But neither, Mr. President, have we made it a practice to provide authorizations that exceed revenues. In this respect the trust fund has operated as a cap on highway expenditures.

During this decade Congress has also moved to control highway spending. The Congressional Budget and Impoundment Control Act of 1974 eliminated funding commitments in advance of appropriations, or contract authority, for those Federal highway programs not funded by the trust fund. As a result, programs like highway beautification, territorial highways, and safer off-system roads must now await appropriations before obligations can be incurred.

Two years later, in 1976, Congress took another step toward controlling highway expenditures. The DOT Appropriations Act, for the first time, imposed an overall limitation on obligations for the Federal aid program. In subsequent acts, both overall and specific program limitations have been utilized.

In this manner, Congress has evolved a mechanism for controlling highway spending, and the trust fund has not been an obstacle. And finally, Mr. President, the Senate today, at this very moment, has total control over highway expenditures for the coming 2 years. We are recommending $8.3 billion a year. If the Senate feels the figure is too high or too low, the legislation can be amended.

I mentioned earlier in my remarks that the concept of "user pays" has been fundamental to the trust fund. I said this is a principle worth preserving; it is also a principle worth improving. We have sought to improve it by directing the Secretary of Transportation to undertake a study of the design, construction, rehabilitation, and maintenance costs for Federal aid highways occasioned by the use of vehicles of different specifications and the proportional share of such costs attributable to each class of persons and vehicles using the highways. We want to make sure that each highway user is paying his fair share of the construction and maintenance costs.

Mr. President, perhaps the strongest argument in favor of retaining the trust fund is that it is urgently needed to finance outstanding highway needs. Typically, highway-related projects have long leadtimes. The ability to enter into obligations without waiting for appropriations allows State agencies to plan their programs far in advance and make the necessary financial arrangements. To abolish the trust fund would be to replace a proven, effective program with uncertainty—uncertainty that we can ill afford.

The fact of the matter is that we are living within the constraints of revenues generated from the trust fund, revenues that simply are not commensurate with the magnitude of our highway needs.

What is the measure of these needs? First and foremost is the completion of the Interstate System, which is now 90 percent finished at current funding levels, certain segments may not be open to traffic before the end of the century. With current rates of inflation, the outstanding 10 percent could cost as much as the 90 percent of the system already completed.

S. 3073 contains a number of important provisions designed to accelerate interstate completion; this has been one of our priority objectives, and it is an objective that can only be frustrated if the trust fund were to be terminated at this time. I think it is safe to assert that such an action would delay interstate completion by at least a decade.

We have an enormous investment—over $100 billion—in the Interstate System, an investment that must be protected. You protect a highway network through maintenance, and maintenance costs money, a lot of money. More money than we have available. A recent FHA study estimates that there is a $2.3 billion backlog of work in this area.

Many of the bridges in this country are critically deficient or functionally obsolete. Many of our bridges, both on and off the Federal-aid system, are downright dangerous. S. 3073, with revenue from the trust fund, devotes $450 million to bridge repair and replacement; that is a 250 percent increase over last year.

What I am saying, Mr. President, is that we have a job to do; an important job. We must complete the Interstate System as rapidly as possible and we must maintain what we have built.

Take away the trust fund and you will inhibit—perhaps cripple—our ability to do the job.

For these reasons, I strongly urge rejection of the Kennedy amendment.

Mr. RANDOLPH. Will the Senator yield?

Mr. BENTSEN. I am glad to yield to the chairman of the full committee.

Mr. RANDOLPH. Mr. President, urge the Senate to reject the amen ment to terminate the highway tr fund offered by the distinguished S ator from Massachusetts, my frie Senator KENNEDY and the able Se tor from Connecticut (Mr. WEICKE I stress that the trust fund has pro a valuable as well as a flexible asset meeting the highway needs of the tion over more than 20 years.

It has afforded financing for greatest public works program e undertaken by any country in age—the construction of the Interst Highway System. I am sure we rec nize that this task is not yet complet This is not the time to terminate existance of the mechanism which been responsible for the monumen accomplishment already achieved this program.

We must also remember that priority accorded interstate constru tion—a justified priority, I add— obscured a number of other pres highway needs. I speak of such needs bridge replacement and rehabilitati roadway resurfacing and repair highway safety. I repeat, we should terminate a financing source which proven itself equal to the task of dressing needs of the magnitude of highway transportation system.

Mr. BENTSEN. I fully agree with observations of the chairman. It through his leadership that we have b able to further the highway program develop our mobility.

Mr. President, I see that my collea from Vermont desires to speak and I reserve the remainder of my time. I yi to the Senator from Vermont.

Mr. STAFFORD. Will the dist guished manager yield me a couple minutes?

Mr. BENTSEN. I am delighted to yi 5 minutes if the Senator desires it.

The PRESIDING OFFICER. The S ator from Vermont is recognized fo minutes.

Mr. STAFFORD. Mr. President, I start by saying that I do take some co fort from the fact it has been pointed earlier that the highway trust fund one of the few funds in the Federal G ernment in which in the past income equaled outgo. This Senate has voted unanimously to emphasize its co mitment to having income and outgo the highway trust fund equal in future.

I think that is a very worthwhile th and something that we should keep mind with the rest of the future hist here in the U.S. Congress.

Mr. President, I also take the posit on the amendment of the distinguis Senator from Massachusetts and his c league from Connecticut that I was of those who helped bring about change in the Federal highway tr fund in the summer of 1973 when we h a very long committee of conference w the House, and I was one of those w held out to open up the highway tr fund to give urban areas an option to whether they spent their urban s tems highway trust fund for highway for other mass transit, rail or bus.

So I believe that that was a good time

We are prisoners of the system

reason why we cannot change

So I believe that that was a good time to make that change and open up the trust fund to that degree.

But I do not believe, Mr. President, that the time has come to abolish the trust fund and turn that money into the general fund of the Treasury as proposed by the distinguished authors of the amendment.

Mr. President, I agree with much the distinguished minority floor manager has said with one exception: I believe it is a least one step too early—too early, Mr. President—to abolish the highway trust fund.

The 92 percent of the system is open to traffic, but only 26 percent is essentially complete. There remain 1,891 miles that still require major improvements. And well over 2,000 miles of so-called "essential gaps" remain to be completed.

With this large a portion of interstate work still to be done, it seems premature to abolish the funding mechanism created to do the job. By 1982, under the terms of this bill, States will have to decide which interstate routes to complete and which to withdraw.

By 1982 a substantial amount of work on essential gaps will have been finished. We will be turning our attention even more to rehabilitation needs. Such a change in emphasis should necessitate less assurance of long term funding than was needed to undertake the Interstate System.

At the time we next consider highway legislation I think it will be clear that we can consider ending the trust fund without doing damage to the highway program. At present however, I think we should continue to make flexible the use of trust funds while continuing to earmark user taxes for completion of the Interstate System.

Mr. President, I yield the remainder of my 2 minutes, if I have any, back to the manager of the bill and I yield the floor.

Mr. WEICKER. Mr. President, I intend to be brief. I do not know whether my distinguished colleague, the Senator from Massachusetts, expects to speak any further on the matter and I am quite prepared to go to a roll call vote.

Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER (Mr. SARBANES). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WEICKER. Mr. President, there are several points that I think are worthy of response, insofar as they have been raised. First of all, let us understand this.

I drive, at the present time, an automobile. That is just about all that is left for me to do with the exception of airplane travel. Therefore, I pay the Federal tax on gasoline.

I want it understood, as a member of the motoring public, that I am not paying my Federal tax for highways. I am paying my Federal tax to move—to move—and many times I would prefer moving in something other than an automobile.

We are prisoners of the system.

But I daresay, of course, as to anybody that pays the user taxes, that that phrase is a favorite expression of the lobbying which is also behind maintaining the trust fund. For some reason or another, everybody that drives an automobile appears, by that phrase, to be part of their organization. I am not. I would far prefer to take a bus.

In many areas of my own State and in many other areas of the Nation bus systems are not available. Indeed, in the State of Connecticut, which is relatively small geographically—the third smallest in the country—the bus systems existant in the year 1978 are probably one-half of what they used to be 20 years ago.

This is within a time when we are supposed to be geared toward mass transit.

We had far better bus systems in the State of Connecticut 20 years ago.

So let us get that point clear. The highway lobby, as it is represented by tire manufacturers, automobile manufacturers, cement manufacturers, asphalt manufacturers, and truckers, does not represent me when I pay my tax at the gas pump. They represent their own special interests.

I, like most Americans, want to be able to move in the safest and most expeditious way.

Now we get to the point raised, since I have mentioned buses, and it has been mentioned by the distinguished Senator from Texas: The bus lanes are not the issue. The fact is that if a State wants to go ahead and enhance its bus service, it cannot use Federal funds to purchase that equipment. Make clear that all that is there is the highway, not the means to travel across it, and certainly not an enhanced bus system.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. WEICKER. Finally—and then I will conclude by an attempted exercise in logic and fact and subject it to the forces of irrelevancy—here we are in a day and age when gasoline is scarcer in supply and more expensive insofar as the product is concerned, when we know from statistics that, since the Arab oil embargo, we have become more and more dependent on the automobile. These are the facts, not the opinions of this Senator. We continue to vote through legislation that causes the United States to become more dependent on the automobile, by virtue of where the Federal dollars go. Mind you, this is not something being imposed upon us by the OPEC cartel. This is not something being thrust upon the United States of America. This is something America is doing to itself. The Federal dollars should go where the crises exist.

Yes, we need more rail systems. Yes, we need more mass transit systems, and we need more buses. We might very well need better airports, and so forth. But none of these options is available to the American public, because Congress insists that, regardless of the energy crisis, we will continue to feed the taxpayers' dollar to those who control this particular form of energy. In that sense, nothing has changed since 1946, and it is the reason why we cannot change anything that has occurred since 1974.

I yield the floor.

SEVERAL SENATORS. Vote! Vote!

Mr. BENTSEN. Mr. President, I yield such time as he may require to the senior Senator from Texas.

Mr. TOWER. Mr. President, I have discovered that everybody is ready to vote; therefore, I will be extremely brief.

My good friend from Connecticut proceeds on the assumption that if alternative transportation were available, all the people who travel by highway would travel by some other means. I think that is not supportable by verifiable data.

I further note that goods and services move along the highways, and this benefits the people; and the better our highways are, the more expeditiously these goods and services are going to move over these highways. Therefore, I see nothing in the argument of the distinguished Senator from Texas that I think would lie strongly against the maintenance of the highway trust fund.

Mr. WEICKER. Mr. President, I should like to respond to the two distinguished Senators from Texas—Senator TOWER and Senator BENTSEN.

Mr. TOWER. I apologize to everybody here for starting this.

[Laughter.]

Mr. WEICKER. Contra to what has been the traditional, popular view of my section of the country, I always have responded very favorably to the pleas of both distinguished Senators from Texas when it comes to the production side of our energy crisis. So far as the consumption side is concerned, not only do I disagree, but I would suggest that perhaps the time has come on this matter that you start voting contra to what had been the subsidy interests of your constituency; and, believe me, when we both do that, we will have a solution to the energy crisis.

SEVERAL SENATORS. Vote! Vote!

Mr. BENTSEN. Mr. President, if the proponents are ready to yield back their time, I am ready to yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. KENNEDY. I yield back the remainder of my time.

Mr. BENTSEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Arizona (Mr. DECONCINI), the Senator from Mississippi (Mr. EASTLAND), the Senator from Montana (Mr. HATFIELD), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Tennessee (Mr. BASSER), the Senator from Georgia (Mr. TALMADGE), and the

Senator from Minnesota (Mr. ANDERSON) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Kansas (Mr. DOLE), the Senator from Michigan (Mr. GRIFFIN), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting the Senator from Michigan (Mr. GRIFFIN) would vote "nay."

The result was announced—yeas 10, nays 75, as follows:

[Rollcall Vote No. 340 Leg.]

YEAS—10

Brooke	Kennedy	Proxmire
Chafee	Mathias	Weicker
Cranston	Pell	
Javits	Percy	

NAYS—75

Baker	Hansen	Moynihan
Bartlett	Hart	Muskie
Bayh	Haskell	Nelson
Bellmon	Hatch	Nunn
Bentsen	Hatfield, Mark O.	Packwood
Biden	Hathaway	Pearson
Burdick	Hayakawa	Randolph
Byrd, Harry F., Jr.	Heinz	Ribicoff
Byrd, Robert C.	Helms	Riegle
Cannon	Hodges	Roth
Case	Hollings	Sarbanes
Chiles	Huddleston	Schmitt
Church	Jackson	Schweiker
Clark	Laxalt	Scott
Culver	Leahy	Sparkman
Curtis	Long	Stafford
Danforth	Lugar	Stennis
Domenici	Magnuson	Stevens
Durkin	Matsunaga	Stevenson
Eagleton	McClure	Stone
Ford	McGovern	Thurmond
Garn	McIntyre	Tower
Glenn	Melcher	Wallop
Goldwater	Metzenbaum	Williams
Gravel	Morgan	Zorinsky

NOT VOTING—15

Abourezk	Eastland	Johnston
Allen	Griffin	Sasser
Anderson	Hatfield, Paul G.	Talmadge
Bumpers	Humphrey	Young
DeConcini	Inouye	
Dole		

So the amendment (UP No. 1698) was rejected.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. RANDOLPH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRAVEL and Mr. MAGNUSON addressed the Chair.

UP AMENDMENT NO. 1699

(Purpose: To provide for a study concerning urban blight)

Mr. MAGNUSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment. Will the clerk suspend momentarily so that we can have order in the Chamber? Will the Senator suspend for a moment until we obtain order? Will Members please clear the well.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. MAGNUSON) proposes an unprinted amendment numbered 1699.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 29, after line 19 insert the following new section and redesignate the following sections accordingly:

"SEC. 123. The Secretary shall conduct a study of the potential for reducing urban blight adjacent to federal-aid primary and interstate highways located in central business districts, which shall include but not be limited to the following—

(a) a catalogue and evaluation of adverse impacts on adjacent land use;

(b) development of a list of potential ways that these adverse impacts could be eliminated or reduced;

(c) estimates of potential increases in value of adjacent land and air rights resulting from reduction of adverse highway impacts together with estimates of potential costs of highway improvements and related measures needed to reduce adverse impacts;

(d) an assessment of the feasibility of using air rights and adjacent land after the improvements are completed to contribute to urban employment, recreational opportunities, low and moderate income housing, and commercial, retail, institutional and higher income residential development;

(e) the development of financing proposals, including legislative proposals, involving all appropriate levels of government and private capital where appropriate, which would finance improvements identified as desirable;

(f) such other matters as the Secretary shall deem appropriate.

Mr. MAGNUSON. Mr. President, this amendment would require the Federal Highway Administration to conduct a thorough study of the potential benefits and costs of special projects that would bring certain blighted areas adjacent to urban freeways into more productive use. In many urban areas of our Nation, we have built elevated or otherwise dominant freeways, and they have brought us both significant benefits and in some cases significant costs in terms of blight and decay to areas that are immediately adjacent to them. These blight areas of our cities could possibly be brought back to more productive use, contributing to the revitalization of urban life and adding to the urban tax base. This amendment is intended to help identify the benefits and costs of such projects, and also to identify potential financing mechanisms to carry them out.

Mr. President, in the city of Seattle in my State we have examples of both the problem of urban freeway related decay and an example of some of the possible ways in which local jurisdictions, together with the Federal Government, can act to alleviate that decay. We have an elevated freeway along the city's waterfront that has caused substantial blight in what would otherwise be valuable properties nearby. On the other hand, we also have recently completed a park—called Freeway Park—which has covered over a depressed freeway in the center of the city with a public facility that not only is an asset to all who use it, but has also led to the revitalization of an entire area. It has led to significant interest in further private development in adjacent properties, which will assist in providing more housing, a greater urban tax base, and so forth.

Mr. President, I am informed that there are several other cities in the Nation which have similar problems and which could also benefit from the study that would be required by this amend[illegible] ment. San Antonio, Boston, and San Francisco have elevated freeways simi[illegible] lar to Seattle's, and could benefit from this study. I am hopeful that the study results will lead to the development of a program that is addressed to this need.

I am informed that the committee [illegible] aware of this amendment and is prepared to accept it.

Mr. BENTSEN. Mr. President, the manager for the majority has studied the amendment and is ready to accept it subject to the comment of the manager for the minority.

Mr. STAFFORD. We would be glad to accept it for the minority.

Mr. BENTSEN. Mr. President, I yield back the remainder of my time.

Mr. MAGNUSON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back, and the question is on agreeing to the amendment of the Senator from Washington.

The amendment was agreed to.

Mr. MAGNUSON. I thank the Senator.

UP AMENDMENT NO. 1700

(Purpose: Amendment to essential gaps language)

Mr. KENNEDY. Mr. President, I have an amendment which I send to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposed an unprinted amendment numbered 1700.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 15, insert after the word "Code" in line 20 the following: "and shall also include those routes in urbanized areas which are on the Interstate System on the date of enactment of the Federal-aid Highway Act of 1978 which were constructed prior to 1960 without Federal highway funds, which are substandard with reference to the standards for the Interstate System adopted by the Secretary under section 109(b) of this title, and which are, prior to September 30, 1982, jointly determined by the Governor and the local governments concerned to be a route which is essential to the sound functioning of the Interstate System in such urbanized area."

Mr. KENNEDY. Mr. President, I had an opportunity to talk with the manager of the bill as well as the ranking member on this. This amendment adds to the definition of essentiality to include gaps within city areas that were built before 1960, that were so important to the State involved that they were built completely with local and State funds and which are now substandard according to Interstate System criteria.

This would permit certain parts of the Interstate System, if they can meet these factors, to be eligible for funding under the essential gap category.

Mr. BENTSEN. Mr. President, the manager of the bill for the majority has examined the amendment and feels it is a good amendment, makes a contribution and helps the transportation needs in that State, and we will be pleased to

accept the amendment on behalf of the majority.

Mr. CHAFEE. Mr. President, on behalf of the minority, we have examined the amendment and agree with it and recommend its adoption.

Mr. KENNEDY. I yield back the remainder of my time.

Mr. BENTSEN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time being yielded back, the question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

UP AMENDMENT NO. 1701

(Purpose: To authorize use of highway funds for rail operations in non-highway areas)

Mr. GRAVEL. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment of the Senator from Alaska.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. GRAVEL) proposes an unprinted amendment numbered 1701.

Mr. GRAVEL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment is as follows:

At the end of the bill insert a new section as follows:

RAIL OPERATION PROJECTS IN NON-HIGHWAY AREAS

SEC. 146. (a) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following section:

"157. Rail operation projects in non-highway areas

"The Secretary may approve for Federal financial assistance from funds apportioned under section 104, projects to provide such assistance for the operation of those portions of a publicly or privately owned railroad serving an area not served by a highway, and on which portions, automobiles are transported for the purpose of linking highways or other transportation modes receiving Federal financial assistance from funds apportioned under such section.

Any such approval shall be subject to the conditions that—

"(1) fares or other charges made in such operations shall be under the control of a Federal or State agency or official; and

"(2) all revenues derived from operation of such portions shall be used to pay for the cost of construction or acquisition of the railroad (including equipment) involved in such operation, debt service thereon, and actual and necessary costs of operation, maintenance, repair, and replacement.

"(b) A project authorized by this section shall be subject to and carried out in accordance with all provisions of this title, except those provisions which the Secretary determines are inconsistent with this section.".

(b) The analysis of chapter 1 of title 23 is amended by inserting at the end thereof the following:

"157. Rail operation projects in non-highway areas.".

Mr. BENTSEN. Mr. President, will the Senator yield for a question?

Mr. GRAVEL. I would be happy to yield.

Mr. BENTSEN. Because of the lateness of the hour is the Senator ready to accept a limitation on time somewhat less than that which had been ordered? I believe the Senator talked about 30 minutes, 15 minutes to each side.

Mr. GRAVEL. I think that would be more than adequate, and I would be happy to agree to that time limitation. I would be happy to agree to 15 minutes to each side. I ask unanimous consent that there be such time limitation.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. GRAVEL. Mr. President, I would like to have the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second for the yeas and nays? There is a sufficient second.

The yeas and nays were ordered.

Mr. GRAVEL. Mr. President, it is my intention to call for a vote unless there can be some persuasive argument propounded by the managers of the bill as to why this amendment I am offering is not reasonable. It does not cost a dime. All it speaks to is the flexibility of a highway program within a State. Of course, flexibility in government cannot be a bad thing. So I am waiting with bated breath as to why the managers of the bill chose not to accept this amendment.

Mr. President, today I am offering an amendment which would allow States to use Federal-aid highway funds for rail operations in those areas of the country where no highway exists.

Additionally, the amendment requires that those portions of a railroad to receive such funds must be used for the transporting of automobiles between linking highways or other transportation modes receiving Federal-aid highway funds. Highway dollars are apportioned to the States, who must decide which highways projects should receive attention each year. Federal-aid system apportionments can be used for all expenses incidental to the construction or reconstruction of a highway—surveying, mapping, rights-of-way acquisition, and improvements which directly facilitate and control traffic flow, such as grade separation of intersections, widening of lanes, channelization of traffic, traffic control systems, and passenger loading and unloading areas in Alaska, however, the majority of communities are unconnected by the highway system. It will be some time before Alaska's transportation system reaches the level of advancement now enjoyed by systems throughout the continental United States.

In many areas, Alaskan citizens must rely on whatever single mode of transportation is available, be it airplane, ferry, train, or automobile. They often do not have the option of choosing between flying or driving or catching the train. For this reason, I am asking that the State be allowed to use Federal-aid highway moneys for the operation of those portions of a railroad, publicly or privately owned, in an area not served by a highway—areas where the railroad could be the only means to travel in and out.

The rail service of particular need is the Portage-Whittier section of the Alaska railroad. The Alaska railroad is presently the only method of transportation between these two communities. The ferry docks at Whittier, and a highway leads out of Portage. Automobiles are transported to and from Whittier via the ferry and are then transported by train in and out of Portage where a highway leads to Anchorage.

My amendment would give the State the flexibility to use highway funds to insure that passengers traveling by automobile will continue to be able to take the train from Portage to Whittier. At present, the train operates every day in the summer and will operate three times per week this winter. There is no increase in the bill's authorization level; more flexibility is simply granted for use of the funds already authorized.

There are relatively few areas of the country where this amendment could actually be applied. Most localities throughout the country are connected to some form of highway system. This would allow only those areas of the country not served by a highway to use the available Federal-aid highway funds on a rail system if such rail system transports automobiles. This provision would not subsequently apply if a roadway were later constructed into the region. Such construction would require recission of such funding.

A similar precedent was established in 1970 when States were allowed to apply highway funds for use on marine highway facilities. Alaska now has 773 miles of ferry routes included in its Federal-aid primary system. By granting this flexibility in 1970, Alaska has been able to use highway dollars on the marine highway rather than undertaking the expensive construction of bridges and roadways connecting the many islands of southeast Alaska. The ferry system also operates in Prince William Sound and down to Kodiak Island. Granting this flexibility to the Portage-Whittier shuttle would again prove to be a much more cost-effective alternative.

Many aspects of Alaska's transportation system, although limited, are quite multimodal. In 1977, 7,332 passengers and 1,659 motor vehicles boarded the ferry liner, the Bartlett, which serves the port of Whittier. Eight thousand four hundred and sixty-eight passengers and 1,862 motor vehicles disembarked the Bartlett at Whittier. In arriving or departing Whittier, these individuals and vehicles had to use the railroad. The marine highway system and rail system truly complement eath other at present and I would like to continue to encourage this concept. When the Environment and Public Works Committee was considering the urban transportation planning section of this bill, the need to include various objectives in such planning was discussed. As a result, the bill now before us includes the language declaring it to be "national transportation policy to encourage and promote the development of transportation systems embracing various modes of transportation that will serve the States and local communities efficiently and effectively * * *."

I would suggest that adoption of my amendment would contribute to the achievement of such goals.

ALASKA AND THE FEDERAL-AID HIGHWAY SYSTEM

In all the 586,400 square miles of Alaska, only 6,430 miles of Federal-aid highway exist. Much of that remains unpaved; only this summer will the Alaska highway paving begin and interior Alaska will be connected to southeast, which contains Juneau, by more than a dusty gravel road. This is only one indication of how far Alaska is below the standards expected and demanded by U.S. citizens in the other 49 States.

Alaska was simply not included when the first Federal Aid Highway Act was passed in 1916 and it continued to be excluded for 40 years, although Alaska paid all Federal taxes throughout those years. In 1956, Alaska was asked to pay further taxes on tires, trucks, trailers, and gasoline to pay for highways throughout the lower 48. Finally, in 1956, however, Alaska was given one-third the amount it should have been entitled to as a public domain State. This inequitable arrangement continued for 3 years until statehood.

In 1959, the Bureau of Public Roads within the Department of Commerce estimated that if Alaska had received equitable treatment for all those years, it would have received $575 million. As it was, Alaska was 50 years behind the rest of the Nation in development of its highway system.

As Alaska undertook the huge task of developing a highway system, the general policy was to build as many highways as possible with the minimal funds available. For this reason, the existing highway system is still built to minimum standards and is finding it difficult to meet the needs of a developing State with increased population and economic activity. It is only recently that Alaska and her abundance of resources have been recognized as important to States throughout the United States. More strain than was ever anticipated was placed on the highway system with construction of the Alaska oil pipeline and the State has suffered accordingly.

The Department of Transportation has issued a draft study on the impact of the pipeline on Alaska roads which attributes $40 million of repair on Alaska roads directly to construction of the pipeline. From 1972–75 (the time of the study), motor vehicle traffic increased by 68 percent in the State. It has increased by another 84 percent since then. On the pipeline routes studied, total truck equivalent wheel loadings increased an average of 170 percent. Alaskan roads were not constructed to absorb this much increased traffic in such a short time and they are requiring the extra attention.

Alaska receives 96 percent Federal funding on highway projects usually assigned 70 percent.

Alaska receives 96/4 ratio because 96.4 percent of its lands is held by the Federal Government. There are only four States which do not receive more than 70 percent due to this adjustment for Federal land.

This percentage will decrease after passage of D–2 next year when more land is transferred into national parks, national forests, and national monuments—land which is not included when calculating this ratio for clause A States, such as Alaska.

Alaska was given funds in committee for maintenance of interstate mileage which it does not have.

Alaska is the only State in the Union without Interstate mileage. It already receives Interstate construction money for use on its primary and secondary roads. It is only reasonable that it receive the funds to maintain the roads built with the construction money.

Alaska was discriminated against in the past, which is why there is no Interstate mileage and less than 10,000 miles of road—paved and unpaved—in a State of 586,000 square miles. Only 4,102 miles of Federal-aid highway.

For every $1 Alaska contributes to the highway trust fund, it receives $9.77.

This is a misleading figure. Ratios do not build highways, dollars do. Roads must still connect our 430,000 people and across much more land area than any other State. The population centers are separated.

Alaskans pay a larger per capita Federal income tax than any other State—$3,011. No other State comes close. These go into general Treasury moneys which fund many highway programs. For example, outdoor advertising control, territorial highways, parkways, Indian reservation roads, forest development roads and trails, park roads and trails.

What this amendment says is the State of Alaska or any State, if they have a unique situation of a community that cannot be reached by air and cannot be reached by highways and is only reached by railroad, that you can use highway moneys to help the transportation of vehicles over that railroad system for the part in question.

When and if in the future you can reach this community by air or by highways, then there is a rescission, and you cannot do that with these funds. That is the only flexibility involved.

Let me tell you the community which is affected. It is a community by the name of Whittier, Alaska. It sits in the bowl of Prince William Sound. There is no way to have an airport because it is almost all vertical ground.

It has 2,000 people. It used to be a military base, and it is a port where you bring in materiel into this port and it goes onto the railroad and goes into Anchorage and then out to Fairbanks.

There is a tunnel into this town so there are no roads into the town. All you have is a railroad tunnel. We have a ferry system that goes through all of the Prince William Sound area, hits Valdez and Cordova, and Seward, and then Whittier, and tourists and cars get off the ferry and then drive immediately onto railroad flatcars and then are brought into a place called Portage or taken off of the flatcars and they then drive their way on up to Anchorage or Fairbanks or the Alcan Highway, whatever they choose to do.

So all I am asking for is, because of this unique situation—and we have many unfortunate unique situations in Alaska, because it is a unique part of our national geography—all we are asking for is not any extra money to do this, and I am prepared to put any kind of limitations on this exception that might be reason able to effect the proposition—one of th possible things we might be able to do take wood and go inside this trestle an build a wooden highway so cars ca drive in and out.

We are not talking about a lot of train a day—at most, in peak season, one o two a day, and in winter two or thre times a week. But it becomes quite burden; if you come in with a ferry an leave your car, you have to wait two o three days to get out.

That reasonable people cannot com forward with reasonable employment o government resources to transcend thes natural difficulties strikes me as odd.

That, essentially, is my amendmen It does not add one single sou to th budget, and when this unique situatio disappears, the exception would disap pear. I do not know what could be a mor reasonable request.

I reserve the remainder of my tim waiting to see the logic of the manager of the bill in opposing what I conside to be a most reasonable amendment t accommodate the many thousands o visitors to my State and those who liv in my State.

Mr. BENTSEN. Mr. President, I ris in opposition to the amendment of m good friend from Alaska.

Alaska is a unique State, and we hav recognized that time and time again be fore our committee and before the Sen ate. Let me give you a few examples o that.

Over the 20-year life of highway trus fund, Alaska has received $9.46 in retur for every dollar it has contributed. That I submit, is not a bad investment fo Alaska. It is a rate of return almost 1 times better than that received by th average State; no other State can eve approach Alaska in this regard.

Let us also understand that S. 307 already contains a provision, inserted b Senator GRAVEL in committee, tha would further increase Alaska's already disproportionate share of the trust fund dollar. Under this legislation, Alaska will receive $1.25 million in interstate maintenance money, despite the fact that there is not 1 mile of interstate highway in Alaska. Senator GRAVEL has convinced the committee of the wisdom of counting ferry miles for maintenance purposes; if he were to succeed in passing this amendment, so as to also include rail miles, Alaska would receive more interstate 3R funds than eight States; States like West Virginia and Vermont and Delaware.

I acknowledge that rail transportation is particularly important in Alaska. That fact alone argues in favor of a well-maintained system. It does not, however, present an adequate justification for the use of highway trust fund revenues to maintain Alaska's rail system.

Users of the Alaska railroad pay fees for use of the system, but they do not contribute to the highway trust fund. If revenues from the railroad are insufficient to cover operating costs, then the people of Alaska can determine whether they should increase the fees or subsidize the railroad from State funds.

I see no good reason for making the Alaska Railway a ward of the Federal

Government, especially at the expense of the highway trust fund.

Mr. CHAFEE. Mr. President, I would like to stress a couple of the points that the Senator from Texas has made.

Alaska has no interstate roads; yet it receives interstate funds. Currently Alaska has received $16.8 million in interstate construction funds, although it has no interstate mileage, and this money can be used for primary, secondary, or urban roads.

As has been mentioned, this authorization has been used not only for good road needs, but extended to include the purchase of ferries. There has not been a limit on where they can go with this.

Under this amendment, the money would not go for the purchase of railroads or the construction of railroads, but for the operation of a railroad. Mr. President, I share with the chairman of the subcommittee the view that that is just going too far. The purpose of the primary highway program is to provide Federal assistance chiefly for needs of the Nation's major highways, and I join in opposition to the amendment.

Mr. BENTSEN. Mr. President, if the proponent of the amendment is prepared to yield back his time, I am prepared to yield back the remainder of mine.

Mr. GRAVEL. No, I am not prepared to yield back the remainder of my time.

I might say that neither one of you has addressed yourself to this amendment. You make a big case as to what I got in committee and what Alaska is receiving. Let me tell you, we pay twice as much tax per capita as anyone else in the United States. Many times we get put upon by saying Alaska is getting so much of this and so much of that.

We do not have interstates in Alaska. All you have to do is drive the roads to find out we do not have any interstates.

It is not my fault that Alaska is one-fifth the size of the United States, and that it costs us more to build roads than anyone else.

You give me all the ratios you want, but let me tell you, ratios do not build roads, dollars build roads. If you want to build a road from Anchorage to Fairbanks, it costs a lot more than it costs to build a road from Dallas or Houston to San Antonio, by a big factor.

I do not think you can argue what you have given me and not address yourself to what the amendment does. It does not cost anybody one penny. All it is saying is that in Alaska we get a little flexibility because we have an unusual situation. You have not responded to that argument.

So often we are quick to beat on the bureaucracies because they are inflexible, unresponsive, and have rigor mortis. But what about what is being demonstrated here? I am not asking for anything. If you want to limit it to one community, you can limit it. But here is a community that cannot get an airport because of the configuration of its location; you cannot get a highway to it; all it has is a railroad tunnel, and you people are all upset because of the principle that you cannot use highway moneys to fix up the inside of this railroad tunnel.

You have not addressed yourselves to the simpleness of this amendment, except to say how much Alaska is getting. Alaska is not getting all that much.

I would remind my colleagues that we were left out of the highway funds all through our territorial days, and at one time were were authorized $70 million of highway money, but we were rescinded 2 years ago, and now you have a program to pay for everybody else's highways, but you say we are getting too much money. I admit the numbers do look unusual on a per capita basis, because unfortunately when you measure distances in Alaska in numbers of people, these are very unusual numbers, and there is nothing I can do about it.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. GRAVEL. I yield.

Mr. LONG. Am I to understand that if the Senator's amendment is agreed to, Alaska would not get $1 of additional revenue?

Mr. GRAVEL. Not one penny more.

Mr. LONG. Do I understand also that Alaska has no interstate highways?

Mr. GRAVEL. That is correct.

Mr. LONG. Then, if Alaska has no interstate highways and it cannot benefit from that program, would it not stand to reason that whatever money might be made available should be made available the way the Alaskans think they can use it?

Mr. GRAVEL. I thank my colleague for making a very simple point. That is all we are asking, and I am prepared to limit it to just this one community. In fact, the amendment limits it to the extent that if the community later develops a road where you can get to it, you rule out the money in conjunction with the railroad.

You have to see this community. You can get in and out of it by railroad three times a week in the wintertime. That means you walk out. Or if you have a friend on the railroad, you ride out on the railroad car, you know the kind I mean, a little bus-like thing. This is preposterous, to make life so inflexible to these people. For what? I do not see the principle involved.

Mr. LONG. The Senator and I are together. I heard Alaska was using some money for a ferry boat rather than building a bridge. My impression was that if you had a choice, you would build a bridge. But if you cannot find enough money for a bridge, you would have a ferry boat. I cannot understand why Alaska would be using a ferry boat, when anyone would prefer a bridge if you had the money to built it with.

Mr. GRAVEL. We have ferries because the cost of building roads are preposterous and the cost of building bridges is preposterous. We do not get any extra money for the ferries. This charge that because we use highway moneys for ferries violates something is ridiculous. We get money through a formula like anybody else, and we choose to use it for ferries because it is preposterous to build roads.

In the bill, and this is something really unusual for Alaska—well, it is not in this bill. Hopefully, we hope to use hover craft to be able to use the Yukon River for a ferry system that will stop us from building roads, so that we would not have to build an expensive road. We cannot afford it and we know it.

We come in asking for the same kind of formula anybody else has, but we ask for flexibility in using the money. What we are fed up with is a reference that we are ripping off something that, one, we do not deserve, and, two, it is unfair we are getting it. That is the argument we have just heard.

There was no addressing this amendment that is trying to help out 2,000 people—well, it is more than 2,000 people because this is part of our tourist system when people come in on tours and come into this community, get off the ferry, and then have to get on a train, put their cars on flat cars, and come out.

I cannot understand why anybody would be opposed to flexibility in governmental action so people can do something intelligent.

It would be different if I were standing here asking for money to do this which really altered principle, which was mixing railroads with roads. I am not. I am being very precise in this amendment saying if you have a community anywhere in the United States that meets the criteria of Whittier, then you ought to have this intelligent flexibility.

I hope my colleagues will vote for me. There is such a thing as opposing an amendment because it should be opposed and there is a reasonable argument for opposing it. But when there is rigor mortis and you oppose it just because you do not want to pick up the amendment, then I think there is something vitally wrong in the legislative process.

Mr. MATSUNAGA. Will the Senator yield?

Mr. GRAVEL. I yield.

Mr. MATSUNAGA. I rise in support of the amendment because I find Alaska's situation is very much like the situation in Hawaii. We are not connected to the mainland United States. We find ourselves uniquely situated as noncontiguous States, both Alaska and Hawaii. As the Senator has stated, he is not asking for additional funds, but he is simply asking that those funds allocated to Alaska be allowed to be used for the improvement of railroad service to provide access to this town of 2,000 people.

May I pose this question to the Senator from Alaska: As I understand it, that railroad is used by tourists from other States of the Union. Is that correct?

Mr. GRAVEL. Very much so, and this would provide a convenience to those people from Texas, Rhode Island, and Louisiana who come to Alaska in the summertime, and Hawaii.

Mr. MATSUNAGA. So, in fact, the proposal does affect interstate commerce.

Mr. GRAVEL. Very much so.

Mr. MATSUNAGA. Would it, in fact, promote better relations between Alaska and the other States of the Union?

Mr. GRAVEL. I would hope it would with the State of Texas as we have a considerable number of Texans who come to Alaska.

Mr. MATSUNAGA. I thank the Senator.

Mr. GRAVEL. I want to add that whenever one stands here from Alaska and pleads flexibility with respect to highways, our highways in Alaska minimally cost $300,000 a mile. Now you can begin to believe that we try to find new ways of moving people.

Mr. BENTSEN. Will the Senator yield?

Mr. GRAVEL. I would be happy to yield.

Mr. BENTSEN. My concern is precedent in the user tax. If the Senator will limit this to Whittier, I would be happy to talk to the minority manager to see if we can accept the amendment.

Mr. GRAVEL. I would be happy to do that.

Mr. BENTSEN. And we would vitiate the yeas and nays?

Mr. GRAVEL. Yes.

Mr. BENTSEN. The manager from the minority is agreeable to that.

Mr. GRAVEL. I will yield back the remainder of my time and work out the language.

The PRESIDING OFFICER. Does the Senator from Alaska seek to modify his amendment?

Mr. GRAVEL. I do, but I will need a few minutes to find a location.

The PRESIDING OFFICER. Is there objection to vitiating the yeas and nays which have been ordered on the amendment?

Hearing no objection, it is so ordered.

Mr. GRAVEL. I would consider this a technical amendment. If the body would be willing, I will ask unanimous consent that the exclusion in this amendment be to Whittier, Alaska, because of its unusual arrangement. There is probably no other city in the United States which could meet this requirement. We could then treat this as a technical amendment.

Mr. BENTSEN. The manager of the bill is agreeable to that.

The PRESIDING OFFICER. The Senator now has the right to modify his amendment, and it will be so modified when we receive the modification.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the following members of the Committee on Environment and Public Works be added as cosponsors of the pending measure, S. 3073: Senators RANDOLPH, MUSKIE, GRAVEL, BURDICK, CULVER, HART, MOYNIHAN, HODGES, STAFFORD, BAKER, MCCLURE, DOMENICI, CHAFEE, and WALLOP.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1701, AS MODIFIED

Mr. GRAVEL. Mr. President, I send my modification to the desk.

The PRESIDING OFFICER. The modification will be stated.

The legislative clerk read the modification.

The amendment, as modified, is as follows:

At the end of the bill insert a new section as follows:

RAIL OPERATION PROJECTS IN NON-HIGHWAY AREAS

Sec. 146. (a) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following section:

"157. Rail operation projects in non-highway areas

"The Secretary may approve for Federal financial assistance from funds apportioned under section 104, projects to provide such assistance for the operation of those portions of the Alaska Railroad from Whittier to Portage, Alaska for the purpose of linking highways or other transportation modes receiving Federal financial assistance from funds apportioned under such section. Any such approval shall be subject to the conditions that—

"(1) fares or other charges made in such operations shall be under the control of a Federal or State agency or official; and

"(2) all revenues derived from operation of such portions shall be used to pay for the cost of construction or acquisition of the railroad (including equipment) involved in such operation, debt service thereon, and actual and necessary costs of operation, maintenance, repair, and replacement.

"(b) A project authorized by this section shall be subject to and carried out in accordance with all provisions of this title, except those provisions which the Secretary determines are inconsistent with this section.".

(b) The analysis of chapter 1 of title 23 is amended by inserting at the end thereof the following:

"157. Rail operation projects in non-highway areas.".

The PRESIDING OFFICER. Is all time yielded back?

Mr. GRAVEL. I yield back the remainder of my time.

Mr. BENTSEN. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

The PRESIDING OFFICER. Are there further amendments to title I?

If not, the Senator from Nevada is recognized to call up title II of the bill.

UP AMENDMENT NO. 1702

(Purpose: To add Highway Safety (S. 2541) as Title II of the Highway Aid bill)

Mr. CANNON. Mr. President, I send to the desk S. 2541, to be designated as title II of the bill S. 3073, pursuant to the unanimous-consent agreement entered into on August 15.

Mr. BENTSEN. Mr. President, would it be in order to ask unanimous consent that title I be agreed to?

The PRESIDING OFFICER. The Chair will inform the manager that title I does not have to be agreed to. The Senate has now moved on to title II of the bill.

Mr. BENTSEN. And there would be no further amendment to title I, as I understand it?

The PRESIDING OFFICER. Under the unanimous-consent agreement, no further amendments to title I are in order, the Senate now having moved on to title II.

The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON) proposes an unprinted amendment numbered 1702.

Mr. CANNON. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 58, immediately after line 7, insert the following:

TITLE II—HIGHWAY SAFETY

Sec. 201. Chapter 4 of title 23 of the United States Code is amended to read as follows:

"Chapter 4.—HIGHWAY SAFETY

"Sec.

"401. Authority of the Secretary.
"402. Highway safety programs.
"403. Apportionment.
"404. State highway safety agency.
"405. Local programs.
"406. Program submission and approval.
"407. Federal share payable.
"408. Federal agency assistance.
"409. Indian programs.
"410. Highway safety research and development.
"411. National Highway Safety Advisory Committee.
"412. Authorization of appropriations.

"§ 401. Authority of the Secretary

"The Secretary is authorized and directed to assist and cooperate with other Federal departments and agencies, State and local governments, private industry, and other interested parties, to increase highway safety. For the purposes of this chapter, the term 'State' means any one of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and American Samoa.

"§ 402. Highway safety programs

"Each State shall have a highway safety program designed to reduce traffic deaths and injuries by identifying the causes of motor vehicle accidents, by adopting measures to reduce the frequency and severity of accidents, and by evaluating the effectiveness of such measures. As part of its highway safety program, each State shall achieve uniformity in the collection of data related to highway safety through compliance with standards to be issued by the Secretary on such subjects as driver licensing, vehicle titling and registration, theft prevention, and traffic records. Each State shall also achieve uniformity in laws and practices that affect interstate motorists, through compliance with standards to be issued by the Secretary on such subjects as the rules of the road, traffic control devices, and highway design, construction, and maintenance. As part of its highway safety program, each State shall also consider guidelines which the Secretary is authorized to issue on all aspects of highway safety, including traffic safety education, motorcycle safety, pedestrian safety, emergency medical services, traffic adjudication systems, vehicle inspection and maintenance, pupil transportation, and identification of high accident rate locations. The Secretary shall develop the standards and guidelines specified in this section in cooperation with the States, their political subdivisions, appropriate Federal departments and agencies, and such other public and private organizations as the Secretary deems appropriate.

"§ 403. Apportionment

"(a) Funds authorized to be appropriated to carry out section 402 of this chapter shall be used to aid the States to conduct the highway safety programs approved in accordance with section 406 of this chapter. Funds authorized to be appropriated to carry out section 402 shall be subject to a deduction not to exceed 5 percent for the necessary costs of administering the provisions of the section, and the remainder shall be apportioned among the several States. Such funds shall be apportioned 75 percent in the ratio which the population of each State bears to the total population of all the States, as shown by the latest available Federal census, and 25 percent in the ratio which the public road mileage in each State bears to the total public road mileage in all States. For the purposes of this section, the term 'public road' means any road under the jurisdiction of and main-

tained by a public authority and open to

may require. The Secretary shall promptly

"§ 410. Highway safety research and develop-

tained by a public authority and open to public travel. Public road mileage as used in this subsection shall be determined as of the end of the calendar year preceding the year in which the funds are apportioned and shall be certified to by the Governor of the State and subject to approval by the Secretary. The annual apportionment to each State shall not be less than one-half of 1 percent of the total apportionment, except that the apportionments to the Virgin Islands, Guam, and American Samoa shall not be less than one-third of 1 percent of the total apportionment.

"(b) Notwithstanding the apportionment specified by subsection (a) of this section, up to 25 percent of the funds to be appropriated for any fiscal year may be separately apportioned by the Secretary to the States for carrying out high priority safety programs, including expanded enforcement of the 55 mile per hour speed limits and programs to increase safety belt use, in accordance with an apportionment formula to be determined by the Secretary.

"(c) On October 1 of each fiscal year, the Secretary shall apportion the highway safety funds in accordance with subsection (a) of this section, at which time the funds shall be available for obligation under the provisions of section 406.

"(d) Sums apportioned to a State for its highway safety program shall continue to be available for obligations in that State for a period of 3 years after the close of the fiscal year for which such sums are authorized and any amounts remaining unexpended at the end of such period shall lapse.

"(e) Nothing in this chapter authorizes the appropriation or expenditure of funds for highway construction, maintenance, or design (other than design of safety features of highways to be incorporated into standards).

"§ 404. State highway safety agency

"Each State shall provide that the Governor shall be responsible for the highway safety program and shall administer the program through a highway safety agency which shall have the authority, facilities, and organization to carry out the highway safety program to the satisfaction of the Secretary.

"§ 405. Local programs

"(a) Each State shall authorize its political subdivisions to develop and carry out local highway safety programs within their jurisdictions as a part of the State highway safety program if such local highway safety programs are approved by the Governor and are in accordance with this chapter, and shall assist political subdivisions in identifying highway safety problems and developing measures to reduce the frequency and severity of accidents.

"(b) Each State shall provide that from the Federal funds apportioned under section 403 to such State for any fiscal year, not less than 40 percent shall be expended by the political subdivisions of such State in carrying out local highway safety programs developed by the political subdivisions in accordance with subsection (a) of this section.

"(c) The Secretary is authorized to waive the requirement of subsection (b) of this section, in whole or in part, for a fiscal year for any State whenever he determines that there is an insufficient number of local highway safety programs to justify the expenditure in such State of such percentage of Federal funds during such fiscal year.

"§ 406. Program submission and approval

"(a) In each fiscal year, the State highway safety agency shall submit to the Secretary for his approval a proposed highway safety program for the ensuing fiscal year together with a projection of future highway safety efforts. The program shall describe the highway safety activities to be undertaken by the State with such specificity as the Secretary may require. The Secretary shall promptly review the State's compliance with the program development process specified by section 402 of this chapter and its compliance with the uniform requirements issued pursuant to such section. He may approve the program in whole or in part, on the basis of his review. His approval of the program, or portions of the program, shall be deemed a contractual obligation of the Federal Government for the payment of its proportional contribution thereto, subject to the availability of funds.

"(b) Concurrent with the obligation of Federal funds, the Secretary shall enter into a formal Federal-Aid agreement with the State. Such agreement shall designate the Federal, State, and local pro rata shares required for the execution of the program.

"(c) The Secretary shall not withhold approval of a State's program in its entirety except upon a finding that the State is failing to make reasonable progress toward implementation of the requirements specified in section 402, considered as a whole, or upon a finding that the State's performance has been substantially deficient in identifying highway safety problems, developing countermeasures, and evaluating results.

"§ 407. Federal share payable

"(a) Except as provided in section 409 of this chapter the Federal share payable on account of any program shall not exceed 70 percent of the total cost of such program.

"(b) The Secretary may, in his discretion, from time to time as work progresses, make payments to any State for the Federal share of costs incurred by the State or its subgrantee.

"(c) The Secretary may advance to any State, out of existing appropriations, the Federal share of costs incurred. Such advance financing shall be through letter of credit in conformity with United States Treasury Department regulations.

"(d) Such payments or advances of Federal funds shall be made to such official or officials or depository designated by the State and authorized under the laws of the State to receive public funds of the State.

"(e) The aggregate of all expenditures made during any fiscal year by a State and its political subdivisions for carrying out the State highway safety program shall be available for the purpose of crediting such State during such fiscal year for the non-Federal share of the cost of any program under this chapter without regard to whether such expenditures were actually made in connection with such program, except that if any funds apportioned under section 403 are to be expended by the State for the planning and administrative functions of the State highway safety agency, the State shall provide matching funds for such functions of at least 20 percent of the total funds so expended.

"§ 408. Federal agency assistance

"The Secretary may make arrangements with other Federal departments and agencies for assistance in the preparation of uniform requirements for the highway safety programs contemplated by section 402 and in the administration of such programs. Such departments and agencies are directed to cooperate in such preparation and administration, on a reimbursable basis.

"§ 409. Indian programs

"For the purpose of the application of this chapter on Indian reservations, the terms 'State' and 'Governor of a State' includes the Secretary of the Interior; and the term 'political subdivision of a State' includes an Indian tribe except that, notwithstanding the provisions of section 405(b) of this chapter, 95 percent of the funds apportioned to the Secretary of the Interior after the date of enactment of this chaper shall be expended by Indian tribes to carry out highway safety programs within their jurisdictions.

"§ 410. Highway safety research and development

"(a) The Secretary is authorized to use funds appropriated to carry out this subsection to carry out safety research which he is authorized to conduct by section 307(a) of this title. In addition, the Secretary may use the funds appropriated to carry out this section, either independently or in cooperation with other Federal departments or agencies, for making grants to or contracting with State or local agencies, institutions, and individuals for (1) training or education of highway safety personnel, (2) research fellowships in highway safety, (3) development of improved accident investigation procedures, (4) emergency service plans, (5) demonstration projects, and (6) related activities which the Secretary deems will promote the purposes of this section.

"(b) In addition to the research authorized by subsection (a) of this section, the Secretary, in consultation with such other Government and private agencies as may be necessary, is authorized to carry out safety research on the following:

"(1) The relationship between the consumption and use of drugs and their effect upon highway safety and drivers of motor vehicles.

"(2) Driver behavior research, including the characteristics of driver performance, the relationships of mental and physical abilities or disabilities to the driving task, and the relationship of frequency of driver accident involvement to highway safety.

"(c) The research authorized by subsection (b) of this section may be conducted by the Secretary through grants and contracts with public and private agencies, institutions, and individuals.

"(d) The Secretary may, where he deems it to be in furtherance of the purposes of section 402 of this chapter, vest in State or local agencies, on such terms and conditions as he deems appropriate, title to equipment purchased for demonstration projects with funds authorized by this section.

"(e)(1) In addition to the other demonstration programs authorized by subsection (a) of this section, the Secretary shall make grants each fiscal year to those States which develop the most innovative approaches to highway safety problems in accordance with criteria to be devised by the Secretary in consultation with the States, their political subdivisions, appropriate Federal departments and agencies, and private sector organizations.

"(2) There are authorized, to carry out the purposes of paragraph (1) of this subsection, not to exceed $5,000,000 for the fiscal year ending September 30, 1980, not to exceed $10,000,000 for the fiscal year ending September 30, 1981, and not to exceed $15,000,000 for the fiscal year ending September 30, 1982.

"§ 411. National Highway Safety Advisory Committee

"(a)(1) There is established in the Department of Transportation a National Highway Safety Advisory Committee, composed of the Secretary or an officer of the Department appointed by him, the Federal Highway Administrator, the National Highway Traffic Safety Administrator, and thirty-five members appointed by the President, no more than four of whom shall be Federal officers or employees. The Secretary shall select the Chairman of the Committee from among the Committee members. The appointed members, having due regard for the purposes of this chapter, shall be selected from among representatives of various State and local governments, including State legislatures, of public and private interests contributing to, affected by, or concerned with highway safety, including the national organizations of passenger cars, bus, and

truck owners, and of other public and private agencies, organizations, or groups demonstrating an active interest in highway safety, as well as research scientists and other individuals who are experts in this field.

"(2)(A) Each member appointed by the President shall hold office for a term of three years, except that (i) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (ii) the terms of office of members first taking office after the date of enactment of this section shall expire as follows: Twelve at the end of 1 year after the date such committee members are appointed by the President, 12 at the end of 2 years after the date such committee members are appointed by the President, and 11 at the end of 3 years after the date such committee members are appointed, as designated by the President at the time of appointment, and (iii) the term of any member shall be extended until the date on which the successor's appointment is effective. Any member appointed by the President who is not a Federal officer or employee and who has served on the Committee for 3 years shall not be eligible for reappointment as a member of the Committee during the 1 year immediately following the last year during which he served as such a member.

"(B) Members of the Committee who are not officers or employees of the United States shall, while attending meetings or conferences of such Committee or otherwise engaged in the business of such Committee, be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding $100 per diem, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized in section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently. Payments under this section shall not render members of the Committee employees or officials of the United States for any purpose.

"(b) The National Highway Safety Advisory Committee shall advise, consult with, and make recommendations to, the Secretary on matters relating to the activities and functions of the Department in the field of highway safety. The Committee is authorized (1) to review research projects or programs submitted to or recommended by it in the field of highway safety and to recommend to the Secretary, for prosecution under this title, any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause and prevention of highway accident; and (2) to review, prior to issuance, requirements proposed to be issued by order of the Secretary under the provisions of section 402 of this chapter and to make recommendations thereon. Such recommendations shall be published in connection with the Secretary's determination or order.

"(c) The National Highway Safety Advisory Committee shall meet from time to time as the Secretary shall direct, but at least once each year.

"(d) The Secretary shall provide to the National Highway Safety Committee from among the personnel and facilities of the Department of Transportation such staff and facilities as are necessary to carry out the functions of such Committee.

"§ 412. Authorization of appropriations

"(a) There is authorized to be appropriated, for carrying out the provisions of section 402 of this chapter (relating to highway safety programs), by the National Highway Traffic Safety Administration, out of the Highway Trust Fund, $175,000,000 for the fiscal year ending September 30, 1979, $175,000,000 for the fiscal year ending September 30, 1980, $200,000,000 for the fiscal year ending September 30, 1981, and $200,000,000 for the fiscal year ending September 30, 1982.

"(b) For carrying out the provision of section 402 of this chapter (relating to highway safety programs), by the Federal Highway Administration, funds shall be provided in accordance with provisions of section 151 of this title.

"(c) There is authorized to be appropriated, for carrying out the provisions of section 411 of this chapter (relating to highway safety research and development), by the National Highway Traffic Safety Administration, out of the Highway Trust Fund $50,000,000 for the fiscal year ending September 30, 1979, $50,000,000 for the fiscal year ending September 30, 1980, $50,000,000 for the fiscal year ending September 30, 1981, and $50,000,000 for the fiscal year ending September 30, 1982.".

Sec. 3. Section 154 of title 23 of the United States Code is amended by adding at the end thereof the following new subsections:

"(e) Each State shall certify to the Secretary before January 1 of each year that it is enforcing all speed limits on public highways in accordance with this section. The certification statement shall consist of such data as the Secretary determines by rule is necessary to support the statement for the 12-month period ending on September 30 before the date the statement is required, including data on the percentage of motor vehicles exceeding 55 miles per hour on public highways with speed limits posted at 55 miles per hour in accordance with criteria to be established by the Secretary.

"(f)(1) For the 12-month period ending September 30, 1979, if the data submitted by a State pursuant to subsection (e) of this section show that the percentage of motor vehicles exceeding 55 miles per hour is greater than 60 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 5 percent of the amount to be apportioned for the fiscal year ending September 30, 1981.

"(2) For the 12-month period ending September 30, 1980, if the data submitted by a State pursuant to subsection (e) of this section show that the percentage of motor vehicles exceeding 55 miles per hour is greater than 50 percent the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 5 percent of the amount to be apportioned for the fiscal year ending September 30, 1982.

"(3) For the 12-month period ending September 30, 1981, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding 55 miles per hour is greater than 40 percent, the Secretary shall reduce the State's apportionment of the Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 5 percent of the amount to be apportioned for the fiscal year ending September 30, 1983.

"(4) For the 12-month period ending September 30, 1982, and for each succeeding twelve-month period thereafter, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding 55 miles per hour is greater than 25 percent, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 10 percent of the amount to be apportioned for the fiscal year ending September 30, 1984, and for each succeeding fiscal year thereafter.

"(g) The Secretary shall promptly appor-

tion to a State any funds which have b
withheld pursuant to subsection (f) of
section if he determines that the percent
of motor vehicles in such State exceeding
miles per hour has dropped to the l
specified for the fiscal year for which
funds were withheld.".

Sec. 4. There are authorized to be app
priated, for carrying out sections 307(a)
410 of title 23, United States Code (relat
to highway safety research and devel
ment), by the Federal Highway Adminis
tion, out of the Highway Trust Fu
$10,000,000 for the fiscal year ending S
tember 30, 1979, $10,000,000 for the fi
year ending September 30, 1980, $10,000
for the fiscal year ending September 30, 1
and $10,000,000 for the fiscal year end
September 30, 1982.

The PRESIDING OFFICER. Un
the agreement, the amendment now
fore the Senate is agreed to as origi
text and will be called title II.

Will the Senator suspend until we h
order in the Chamber? Will Senat
clear the aisle and take their seats?

The PRESIDING OFFICER. On t
title, there is a 1-hour time limit. W
yields time?

Mr. CANNON. Mr. President, I yi
myself 5 minutes. I have no intent
of asking for the yeas and nays on t
amendment, but I cannot insure t
someone else may not ask for them.

The PRESIDING OFFICER. T
Senator from Nevada is recognized
5 minutes.

Mr. CANNON. Mr. President, I h
offered S. 2541, the Highway Safety A
of 1978 as title II of S. 3073. Title II p
vides the authorizations for funding
the various States' highway safety p
grams. Pursuant to Senate Resolut
No. 4, the Senate Committee on Co
merce, Science, and Transportation h
been designated the jurisdictional
sponsibility for highway safety matte

As my colleagues know, the Highw
Safety Act was passed as a response
the increasing carnage on our Natio
highways, which spiraled to more th
53,000 highway deaths per year in 19
Since the institution of this program,
though vehicle miles traveled and nu
ber of registered motorists have co
tinued to increase, the death toll h
decreased during the last decade.

In order to accelerate this trend,
2541 provides a number of importa
changes to the Highway Safety A
which the committee believes will signi
cantly strengthen this legislation. Th
changes are an outgrowth of a compr
hensive review of the Highway Safe
Act mandated in 1976 by the Congre
Howard Dugoff, Deputy Administrat
of the National Highway Traffic Safe
Administration, discussing this review
the Highway Safety Act stated:

The report's principal recommendatio
which is incorporate in S. 2541, is that t
time has come to shift the emphasis of t
program away from compliance with stan
ards and towards the development by t
states of methods to identify their own m
pressing safety problems and to develop th
own specific solutions. . . . In view of t
greater sophistication and experience of t
states in highway safety, insistence on n
tionwide uniformity and standards no long
serves the remedial purposes these stan
ards once served in the past.

The Senate Commerce, Science, a
Transportation Committee, respondi

to the need to allow the States to play a larger role in developing their own highway safety programs to meet their specialized needs, reduced the areas and number of mandatory highway safety standards required under the Highway Safety Act. The committee determined that highway safety standards should be continued as mandatory standards only in the following two circumstances:

First, in those areas of data collection and analysis in which uniformity is critical, such as traffic records, drivers licensing, and vehicle registration;

Second, in those areas where uniform rules of the road and uniform traffic control devices should be required in order to facilitate safe interstate driving.

However, in order to provide greater flexibility to the States in identifying their own needs and solutions and to assist the States in responding to their unique highway safety problems, the committee accepted the Department of Transportation's recommendations and changed a number of previously mandatory highway safety standards into guidelines for the States.

This action to change mandatory standards into guidelines received broad support in the committee's hearings. The American Association of Motor Vehicle Administrators, for example, stated:

> The AAMVA feels that one of the most significant provisions of S. 2541 is the one which would permit states substantially more flexibility in administering their highway safety programs by moving away from mandatory highway safety program standards. We are convinced that the states are able to draw from their own experience—experience gained in the decade that the Highway Safety Act has been in effect—and identify their own problems, devise their own remedies, and to evaluate the results.

The Highway Users Federation also supported this approach by stating:

> The bill wisely provides that each state be permitted to identify their priorities and develop accident countermeasures, in accordance with their specific needs. . . . We believe that the states and communities have developed sufficient administrative and technical skills to carry out a flexible program effectively.

The National Association of Governors' Highway Safety Representatives and Citizens for Highway Safety also supported the guidelines approach.

Mr. President, allowing certain mandatory safety standards to become guidelines does not mean that these programs where appropriate will not continue to be emphasized. Under the provisions of the Highway Safety Act, each State is required to develop a highway safety program designed to reduce traffic deaths and injuries by identifying the major causes of motor vehicle accidents in their particular State and by targeting measures to reduce the frequency and severity of accidents to meet their special needs.

The States, in developing these plans, are to take careful cognizance of the guidelines promulgated by the Secretary of Transportation. It was at the specific request of the National Association of Governors' Highway Safety Representatives that each of these guidelines was to be specifically made a part of the act.

The Secretary of Transportation is directed to evaluate each State's safety program and may "approve the program in whole or in part." The Secretary cannot disapprove a State program merely because it does not meet a specific guideline but only if the program clearly fails to provide adequate highway safety protection.

The guideline approach does not place a State in a straitjacket where it must emphasize a long set of standards whether these standards meet the primary safety needs of that particular State or not. The States, by being required to identify their own priority highway safety needs, will provide the context for an evaluation of their own safety programs.

The committee's actions in regard to the modification of certain mandatory safety standards into highway safety guidelines is, as Howard Dugoff, Deputy Administrator of NHTSA, pointed out in our hearings, merely the completion of a long-term trend by the Congress. Mr. Dugoff stated:

> In our view, S. 2541's treatment of the standards continues a process that has been underway for some time. The Highway Safety Act of 1976 began the move away from the requirement of the strict compliance with the uniform standards by reducing the sanctions which could be imposed for noncompliance with the standards and by making it clear that the Secretary did not have to insist on compliance with every element of every standard. S. 2541 carries the process a step further—an appropriate step further.

The committee believes that providing the States added flexibility in the highway safety area will lead to a more innovative and invigorated program. The States deserve the opportunity to develop their own programs to meet their own special needs, and the fiction that all expertise in the highway safety area resides in Washington, if it ever had currency, should be dispelled once and for all.

To carry out the purposes of the Highway Safety Act of 1978, the committee has provided for a slight increase in the level of authorizations for the various highway safety programs.

Furthermore, the authorizations have been designed to permit a concentration of effort on innovative and high-priority safety programs to be developed and carried out by the States. S. 2541 provides $175 million for fiscal year 1979, $175 million for fiscal year 1980, $200 million for fiscal year 1981, and $200 million for fiscal year 1982 to carry out the purposes of section 402 of the act relating to the authorization of funding of State highway safety programs.

The Secretary of Transportation is provided discretionary authority to provide up to 25 percent of the funding appropriated for the section 402 State highway safety programs to assist the States in carrying out the so-called high-priority highway safety projects.

Although there is no limitation placed on the States in developing other high-priority programs, the Highway Safety Act specifically lists State programs to encourage automobile safety belt use and to expand the enforcement of the national maximum speed limit as high-priority safety programs.

S. 2541 also authorizes the Secretary of Transportation to facilitate highway safety research and development through the National Highway Traffic Safety Administration and the Federal Highway Administration. Continuing research and development in the highway safety area is critical if we are to improve our ability to avoid unnecessary deaths and injuries on our highways.

Also, S. 2541 provides a new program to encourage innovative highway safety programs within the States. This program replaced the incentives grant program that had been previously instituted by the Highway Safety Act. The American Association of Motor Vehicle Administrators strongly supported this new approach stating:

> Incentive grants were one of the methods proposed in the Highway Safety Act in 1973 as a positive means of offsetting the negative concepts inherent in funding sanctions. However, states have found that decreases in traffic fatalities and mileage death rates are not necessarily appropriate measures of a States overall commitment to highway safety. The incentive program has been controversial from the outset and has evolved into a virtual lottery for the funding that has been appropriated. Therefore, our Association supports the concept of authorizing the Secretary of Transportation to award grants for innovative approaches to highway safety problems to supplant the incentive programs.

The legislation also provides a program for increased enforcement of the 55 mph national maximum speed limit. It has been shown that the maximum national speed limit not only saves energy, but lives as well. The legislation provides for graduated minimum standards to measure the effectivness of States speed limit programs. The Secretary of Transportation is directed to reduce the States apportionment of its noninterstate highway construction funds in the amount of up to 5 percent in fiscal year 1981 through 1983 and up to 10 percent in fiscal year 1984 and all succeeding fiscal years, in the event that a State does not meet the minimum compliance goals of the 55 mph speed limit.

To assist the States in meeting these minimum standards. The compliance standards have been delayed for a year and the final compliance level has been lowered from 85 percent, as originally provided to a 75 percent compliance level beginning in 1982. Furthermore, the Secretary of Transportation is directed to promptly apportion to a State any funds which have been withheld due to failure to meet the percentage requirements if subsequently the Secretary determines that the percentage of motor vehicles in such State exceeding 55 miles per hour has dropped to the level specified for the fiscal year for which the funds were withheld.

The 55 mph maximum national speed limit has imposed a new and significantly increased enforcement responsibility on the State agencies charged with assuring compliance. Therefore, the committee has provided a funding mechanism to assist the States in carrying out this important program. The Department of Transportation has reported that their studies demonstrate that to an ever increasing degree motorists are ignoring the 55 mph maximum speed

limit. If the Federal Government does not provide assistance to the States in order to enforce these provisions, it is likely that the life saving and energy saving protections of the speed limit will be seriously diminished.

The International Association of Chiefs of Police have strongly argued that the States will need assistance from the Federal Government if they are to be able to meet these requirements. Mr. Richard L. Burke, the general chairman of the International Association of Chiefs of Police, has stated:

> The national maximum speed limit program will fail if the required Federal assistance is not forthcoming." Thus, State police organizations strongly support authorizations of funding to assist the States in carrying out their 55 mph maximum speed limit enforcement programs as provided in our legislation. Joe Howell, Vice President for Government Relations of the All State Insurance Company, has also written in support of this need for funding stating, "Without adequate Federal assistance to the States, it is unlikely that this program can accomplish the needed results.

There is no question in regard to the safety impact of the 55 miles per hour maximum speed limit. Vincent L. Tofany, President of the National Safety Council testified at our hearings that:

> The National Safety Council was one of the most ardent proponents of the 55 mph speed limit when it was initially proposed. Council studies in 1974 and 1975 after the speed limit became national—demonstrate conclusively that speed reduction accounted for more than half of the fatality reductions.

But if the 55 miles per hour program is allowed to become a mockery, which is ignored by the vast majority of motorists, then its salutary effects will be completely destroyed. These provisions will assist in assuring its adequate enforcement.

Mr. President, I believe that S. 2541 provides the basis for a well balanced and strengthened highway safety program. I strongly urge my colleagues to lend it their support.

Mr. President, I now yield to the Senator from New Mexico, minority manager on this subject.

Mr. SCHMITT. Mr. President, I want to congratulate the Committee on Commerce and its distinguished chairman (Mr. CANNON) for their action on this measure. There is no question, as the distinguished Senator from Nevada has said, that the Federal Government and the States must work together and share the responsibility to the people of their States to seek ways to make our highways more safe. Thousands die on the highways each year, and many, many more are injured. It has always troubled this Senator to see the care with which we treat, for example, our activities in space in order to prevent the loss of even one life and yet continue to allow, as the Senator has indicated, in 1977, 49,200 persons killed and 1,900,000 injured on our highways.

Mr. President I feel, as I am sure all Americans feel, that this toll of death and injury on our highways is totally unacceptable.

I believe that if the people of this country, the States, and the Congress work together, there is no question that we can make great progress in reducing these far too great numbers.

In 1966, Congress enacted the Highway Safety Act. This act directed the Secretary of Transportation to issue standards for State highway safety programs. The amount of Federal funding a State received under this program depended upon its compliance with the standards issued by the Secretary. As a result, the States have developed a framework for their highway safety programs which has helped to reduce highway fatalities and injuries.

States are now seeking more flexibility for their highway safety programs. The National Highway Traffic Safety Administration has been most responsive to the recommendations that the Highway Safety Act be amended to allow for such flexibility. The Senate Committee on Commerce, Science, and Transportation has worked with the National Highway Traffic Safety Administration to develop a bill which has the support of the National Safety Council, the Highway Users Federation, Citizens for Highway Safety, the American Driver and Traffic Safety Education Association, and many State transportation departments.

S. 2541, the Highway Safety Act of 1978, will strengthen State highway programs by encouraging States to identify and pursue programs which are most suitable for their needs.

The bill requires each State to have a highway safety program to reduce traffic deaths and injuries. However, the areas in which uniformity through compliance with Federal standards is required is restricted to those areas for which State-by-State uniformity is essential.

Mr. President, I cannot emphasize that particular aspect of this bill too much.

Apportionment of Federal funds under S. 2541 is the same except for two important differences. One difference is that the Secretary is not allowed to withhold funds for a State highway program if he approves the program in whole or in part. The prior act allowed the Secretary to reduce a State's apportionment if the State did not have an approved program or was not implementing the approved program.

Another difference is that S. 2541 allows the Secretary to apportion up to 25 percent of the funds appropriated to the States for carrying out high priority safety programs.

S. 2541 requires that States apportion funds to its political subdivisions and that they assist their political subdivisions in the effective use of funds.

The bill provides authorization for appropriations for highway safety research and development. It also authorizes appropriations allowing the Secretary to make grants to those States which develop the most innovative approaches to highway safety problems.

S. 2541 is a progressive step in highway safety and reflects the Federal Government's responsiveness to the individuality of the States. I urge the Senate to approve this measure.

Mr. President, I want to thank Senator FORD, who is chairman of the Consumer Subcommittee which held hearings o this bill, and Senator RIEGLE, who, particular, was active in hearings on th bill, for their efforts.

I thank the Senator from Nevada fo yielding.

AMENDMENT 1703

(Purpose: To delete section 3 of the bill re lating to the 55 m.p.h. speed limit. T clarify that appropriations for grants re lating to innovative highway safety prob lem resolution are from the Highway Trus Fund)

Mr. CANNON. Mr. President, I send t the desk two technical amendments an ask that they be stated and treated e bloc.

The PRESIDING OFFICER. Th amendment will be read.

The legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON proposes an unprinted amendment numbere 1703

Strike all from page 17, line 17, throug page 20, line 11, and on page 20, line 1 strike "4" and insert "202".

On page 12, line 24, insert immediatel after "subsection," the following "out of th Highway Trust Fund".

Mr. CANNON. Mr. President, the firs technical amendment would effectuat the colloquy which Senator RANDOLP and I held earlier regarding the deletio of the provisions from the second titl (relating to highway safety) of the 55 mile-per-hour national maximum spee limit enforcement standards. This dele tion is requested by the committee due t the fact that an identical provision is al ready contained in title I. This deletio will, therefore, avoid duplication.

The second technical amendment t the Highway Safety Act is offered i order to clarify that authorizations fo appropriations from the Highway Safet Act for grants to States for innovativ safety programs in section 410(c)(2) o the act would be derived from the high way trust fund. This amendment woul conform these provisions to the rest o the act.

The PRESIDING OFFICER. Is al time yielded back?

Mr. CANNON. I yield all time back o the amendments.

Mr. SCHMITT. Mr. President, I yiel back the time of the Senator from Ne Mexico.

The PRESIDING OFFICER. The ques tion is on agreeing to the amendment.

The amendment was agreed to.

Mr. CANNON. Mr. President, I am pre pared to yield all time back on title II

Mr. SCHMITT. Mr. President, I yiel back my time, also.

The PRESIDING OFFICER. Are there further amendments to title II? There being no further amendments, the bill i automatically set aside.

● Mr. HATHAWAY. Mr. President, I very much appreciate the work of the Committee on Environment and Public Works with regard to the authorization measure for Federal-aid highway programs through fiscal year 1980, the Senate report of which is now pending.

I particularly appreciate the efforts of the committee with respect to section 139 which authorizes a discretionary bridge fund from which the Secretary may pro-

vide assistance for costly, high traffic volume bridges over major waterways.

As the committee acknowledged in its report language, a prime example of the need for this discretionary fund is the drawbridge across the Fore River between Portland and South Portland, Maine. The present bridge has four traffic lanes and provides the major transportation link between Portland, Maine's largest city, and the cities and towns to the south and southwest.

The Fore River under the bridge is an important commercial waterway. Tankers carrying the vast majority of petroleum products for the State pass through the navigation opening in the bridge for offloading at receiving docks upriver and subsequent distribution throughout the State. The navigation opening in the bridge consists of two bascule leaves which are raised to create a maximum horizontal opening of 98 feet. This clearance restricts the size of the vessels which can navigate the upper portion of the Fore River. The heavy traffic through the narrow passage in the bridge has resulted in many collisions with damages to the bridge structure and to ships. Each collision brings problems and causes prolonged delays for vehicular traffic across the bridge, including ambulances and emergency equipment.

The threat of oil spills and the potential for permanent closing of the bridge and blockage of the channel providing almost all of the petroleum products consumed in Maine are of great concern. Collision with the bridge or malfunctions in the drawbridge have already caused extensive traffic congestion. Each time the bridge is closed for repairs approximately 30,000 vehicles daily are detoured.

The Portland bridge was included on the inventory of structurally deficient and functionally obsolete bridges prepared by the U.S. Department of Transportation. Officials in the Maine Department of Transportation, and the communities of Portland and South Portland have recognised the need for a new high-level bridge which can accommodate the increased volume of both vehicular and ship traffic. The lack of funding for the project has been the major concern of those faced with replacing the bridge. Present estimates for replacement costs have been as high as $70 million.

I am hopeful that the discretionary fund established under section 139 will enable the communities of Portland and South Portland to address a problem which otherwise might be beyond their financial capability.●

BIKEWAY PROGRAM

● Mr. PACKWOOD. Mr. President, today the Senate will enact new legislation to correct two longstanding defects in U.S. transportation policy. Not only have we not encouraged bicycle use as an alternative to energy guzzling cars, we have not developed, to any significant extent, the means for bicycle safety.

Countless cycling deaths and injuries are caused each year, because of this country's past failure to plan ahead for safe bicycle use. Only today the Washington Post reported two additional fatalities caused by car/bicycle collisions.

The bicycle program, section 134 of S. 3073, of the Federal Aid Highway Act of 1978 is a significant advance in U.S. transportation alternatives. It creates for the first time in our history a commitment to expanded use of bicycles and bike safety.

In brief, the Secretary of Transportation would accept applications from State and local governments for deserving projects to advance bicycle use. Seventy percent of approved projects would be funded by the Federal Government and 30 percent would come from the applicant. The $20 million authorized under this plan would be available only for bikeway projects, not highways or other transportation.

Several people deserve our gratitude for this provision. First, the members of the Senate Environment and Public Works Committee who unanimously accepted the concepts of my original bill, S. 1495. Second, I would like to thank the 23 cosponsors of that bill who have continually helped me gain support for the plan. They are Senators ABOUREZK, BELLMON, CASE, CHAFEE, DOMENICI, DURKIN, GRAVEL, HART, MARK HATFIELD, HATHAWAY, JAVITS, JOHNSTON, LEAHY, MCGOVERN, MOYNIHAN, PELL, RIBICOFF, SARBANES, SPARKMAN, STAFFORD, STEVENS, STONE, and THURMOND.

More importantly, I should thank the many cycling enthusiasts of Oregon to whom I dedicate this new measure. The State has spent 1 percent of its highway budget on bikeways for several years now and with this Federal legislation the benefits of that expenditure could be tripled.

I ask that the bicycle program, section 134 of S. 3073, be printed at this point.

The material follows:

BICYCLE PROGRAM

SEC. 134. (a) Not more than one year after the date of enactment of this Act, the Secretary shall publish guidelines for the submission of applications for grants under subsection (b) of this section. Such guidelines shall include, but are not limited to, information on—

(1) improvements to elements of existing transportation systems such as roads and shoulders, traffic control devices, and transit vehicles, which improvements enhance the safety of bicycling and enourage the use of bicycles as a means of transportation; and

(2) design criteria for bikeways, including criteria for pavements, adequate widths, sight distances, lighting and maintenance, and appropriate design speeds and grades.

(b) The Secretary is authorized to make grants to States and to political subdivisions thereof for projects and programs which (1) are consistent with guidelines published pursuant to subsection (a), or (2) prior to publication of such guidelines, reflect current state of the art design or educational standards, and which can reasonably be expected to enhance the safety and use of bicycles.

(c) The Federal share of any project or program for which a grant is made under subsection (b) shall not exceed 70 per centum.

(d) Grants made under this section shall be in addition to any sums available for bicycle projects under section 217 of title 23, United States Code.

(e) There is authorized to be appropriated to the Secretary to carry out subsection (b), for each of the fiscal years ending September 30, 1979, and September 30, 1980, $20,000,000 out of the Highway Trust Fund, to remain available until expended.

(f) Section 109(f) of title 23 United States Code, is amended by adding after the words "median strips", the following: "accommodation of bicycle and pedestrian traffic,".

(g) Section 109 of title 23, United States Code, is amended by adding a new subsection as follows:

"(i) The Secretary shall not approve any project which reduces bicycle or pedestrian access to or use of routes for travel from one place to another to any greater extent than access to motorized vehicles is reduced unless the project includes or unless there already exists a safe, direct, and convenient alternative route for bicyclists and pedestrians.".

(h) Section 217 (a) of title 23, United States Code, is amended to read as follows:

"(a) To encourage energy conservation and the multiple use of highway rights-of-way, including the development, improvement, and use of bicycle transportation and the development and improvement of pedestrian walkways on or in conjunction with highway rights-of-way, the States may, as Federal-aid highway projects or in conjunction or connection with other Federal-aid highway projects, construct new or improved lanes, paths, or shoulders; traffic control devices; shelters; and parking facilities to serve bicycles and persons using bicycles, and pedestrian walkways. Sums apportioned in accordance with paragraphs (1), (2), and (6) of section 104 (b) of this title shall be available for bicycle projects and pedestrian walkways authorized under this section and such projects shall be located and designed pursuant to an overall plan which will provide due consideration for safety and contiguous routes.".

(i) Section 217(d) of title 23, United States Code, is amended to read as follows:

"(d) The Secretary shall establish by regulation, design and construction standards for bicycle projects authorized under this section including criteria for pavements, adequate widths, sight distances, lighting, appropriate design speeds and grades, and provisions for adequate maintenance to be set forth in the project agreement entered into pursuant to section 110 of this title. No motorized vehicles shall be permitted on trails and walkways authorized under this section except for maintenance purposes and, when snow conditions and State or local regulations permit, snowmobiles.".●

THE ESSENTIAL GAP PROGRAM OF THE FEDERAL HIGHWAY ADMINISTRATION (FHWA) AND S. 3073

● Mr. INOUYE. Mr. President, my distinguished colleagues, I would like to bring an issue of great importance to my State, the 50th State of the United States, Hawaii, to the attention of the chairman of the Transportation Subcommittee of the Environment and Public Works Committee, Mr. LLOYD BENTSEN of Texas.

The executive branch of Hawaii's State government recently completed a review of Federal laws and regulations, in response to my request and that of Governor Ariyoshi, which may be discriminatory toward Hawaii.

One of the programs targeted, as a result of this study, is the interstate gap program of the Federal Highway Administration (FHWA), under the Federal-aid Highways Act of 1976.

Although this matter is thoroughly discussed in a memorandum from the State director of transportation, Dr. Ryokichi Higashionna, to the State director of the department of budget and finance, Ms. Eileen Anderson, I would like to highlight a few pertinent items from this document and I ask that the document,

itself, be made a part of the RECORD at the appropriate place.

Section 102(b) of the Federal-aid Highway Act of 1976 requires that at least 30 percent of the interstate apportionments made to each State for each of the fiscal years ending September 30, 1978 and 1979, be expended for the construction of intercity portions. These portions are intended to close what are termed, "essential gaps." The objective of this provision is to expedite the construction of gaps on a basic system of interconnected interstate routes to accommodate long-distance interstate travel in order to provide a continuous system.

The report to the Congress, dated October 1976, on the interstate gap study prepared by the Federal Highway Administration (FHWA), indicated that Hawaii does not have essential segments on its interstate system. The report determined this on the basis that—

All interstate routes in Hawaii were excluded from consideration in this report, since they are not connected to the continental portion of the Interstate System.

I believe that this action on the part of the Federal Highway Administration is blatantly unfair. I do not agree with this criteria as I believe, along with Hawaii's officials, that insularity alone should not automatically preclude Hawaii from qualifying for essential segments.

Mr. BENTSEN. Mr. INOUYE, it is my understanding that this matter could then be resolved administratively by the Federal Highway Administration. That is, FHWA officials could simply make a determination in-house that Hawaii could qualify for funding under the essential gap program. Is that not correct?

Mr. INOUYE. Mr. BENTSEN, it is my understanding that responsible officials in the State of Hawaii have appealed to the FHWA to add the uncompleted portions of H–1 and H–3 to the subject gap program and that their appeals have been rejected by the FHWA.

Their principal reason for the rejection is that the gap program is to complete interstate rather than intrastate gaps.

FHWA has stated that it will hold its position on rejection based on their initial interpretation of section 102(b) of the Federal-aid Highway Act of 1976. They have suggested, in fact, that any further appeal would best be made through Hawaii's congressional delegation.

Mr. BENTSEN. Mr. INOUYE, for the record, if Hawaii were a contiguous State, do you believe that it would qualify for funding under the essential gap program?

Mr. INOUYE. Yes, I believe that it would for several reasons.

In regard to the unconstructed portions of Interstate Routes H–1 and H–3 the reasons are as follows:

A. H–1: Pearl Harbor Interchange to Kahauiki Interchange (Middle Street).

One. This is the last remaining link on H–1 to be implemented. Portions of it are under construction now, and others will be ready for construction soon.

As indicated in the "Report to Congress" of October 1976, page 1, last paragraph, titled "Route Selection and Criteria," some of the principal criteria are:

A. Connecting routes to major transportation terminals such as International seaports, airports . . .

B. In urban areas portions already open to traffic or portions with the highest probability of early completion or the least unconstructed mileages . . .

I believe that this section of H–1 more than meets these two criteria. In addition, there are other pertinent reasons:

Second. The completion of this final "link" will also relieve the heavily congested traffic that currently exists on Moanalua Road. Moanalua Road, is the only other major facility that parallels H–1, which interconnects Leeward and central Oahu with Metropolitan Honolulu.

Third. With the center of population being shifted toward central Oahu (which is consistent with the city's growth policy), closing of this essential gap will provide the needed service to the motorists between leeward and central Oahu, and urban Honolulu.

Fourth. This "link" has the potential of providing multimodal service. In the high occupancy vehicle (HOV) context and specifically in terms of the pending action to dedicate exclusive HOV lanes from Kunia Interchange all the way to the vicinity to Aiea, the essentiality of this link cannot be overstated. This would be particularly relevant should the fixed guideways system not materialize for whatever reasons.

B. H–3 TRANS-KOOLUA SECTION

First. This is the portion that was delayed for many years. The final environmental impact statement (EIS) is now being finalized, and the State will be ready for preparation of construction plans immediately after approval of the EIS.

With Hawaii (specifically Oahu) being the defense center of the Pacific, the completion of H–3 will be vital in that it will provide the most direct connection with the major military installations of Schofield Barracks, Hickham Air Force Base, Pearl Harbor Naval Shipyard, and the Kaneohe Marine Corps Air Station, as well as with the CINCPAC Headquarters in Camp Smith.

Second. Completion of H–3 will relieve the present congestion on Pali and Likelike Highways.

Third. H–3 will provide the mass transit capability. Pali and Likelike Highways lack the flexibility for such a transportation mode.

Fourth. Windward Oahu will continue to develop, because the Oahu general plan permits further development.

Fifth. H–3 will provide the needed intercity connectivity between the two major population centers—Metropolitan Honolulu and Kailua-Kaneohe.

Based on the above reasons, I feel that the exclusion of Hawaii from the essential gap program may not be fair from the standpoint of application of the FHWA's own criteria, as well as the potential of delaying needed transportation services to our citizens.

In addition, the situation, from the standpoint of the State government may be much more critical if the final 1978 highway-transit legislation continues to contain the stipulation that 50 percent of the interstate apportionment will be based on cost to complete essential gaps.

Mr. BENTSEN. Well, I can see your point about H–1 and I think that the Federal Highway Administration should make an about-face on its determination, because it appears that it does discriminate against Hawaii solely on the basis of its uniqueness as an island State and a noncontiguous State. In addition it is my understanding that FHWA officials have approved as essential gaps every other route connecting cities with major airports.

With regard to your points about H–3 and the justification for its consideration as an essential gaps based on, I believe, national security reasons, we will have to have the FHWA look into the matter further.

I thank the Senator for bringing these matters to my attention.●

● Mr. HOLLINGS. Mr. President, in matters of fundamental justice and human rights involving the citizens of our Nation, there should be no left or right, liberal or conservative. But today, under the Constitution and laws of the United States there exists an injustice, a denial of democracy so blatant that it can no longer be ignored. Over 700,000 Americans living in the District of Columbia have no voice in the decisions of the U.S. Senate and House of Representatives.

This should not be a Democratic issue or a Republican issue. It should be an American issue. At least 115 nations of the world have elected national legislatures. Virtually without exception, they do not discriminate against residents of their capital cities with respect to representation in the national legislature. Of 17 nations with Federal systems of government, only 3 have capital cities unrepresented in the legislature and one of these, Nigeria, is currently formulating plans to provide representation. That leaves only Brazil and the United States in the position of denying their citizens a basic tenet of liberty.

This very sad commentary on the political rights of Americans in the Nation's Capital needs to be corrected without delay.

The goal I favor is full voter representation in Congress for the District of Columbia—two Senators and two Representatives based on the area's current population. The proposal has been endorsed by both parties and national polls show strong support for this action across the country. A look at the alternative brings home the necessity of passage of this bill.

Enfranchisement of the District was not an issue our Founding Fathers had to face. They could hardly foresee that the sparsely settled marshy area along the Potomac River selected in 1800 for our National Capital would one day be home to over 700,000 people. In the late 1700's, there were only a few thousand residents, who came to Washington on short-term basis while keeping their voting rights in their native States.

But today, the District of Columbia pays more Federal taxes than 19 of our States and more per capita than the residents of 47 States. District citizens have fought and died in all the Nation's wars. They have endured both taxation and conscription without representation.

Yet, what do the opponents of this amendment offer the District residents in lieu of full voting representation? They want to carve up the area and "return" the non-Federal land to Maryland. But the District has not been a part of Maryland since 1800. Its people do not identify with Maryland. They want and deserve representation in their own right, not as an artificial combination in a State with which they have no historical attachment.

Thanks to the dedicated efforts of bipartisan supporters in the House of Representatives, the U.S. Senate has an opportunity to renew our commitment to the fundamentals upon which our Nation was founded. Two hundred years ago, Edmund Burke warned Parliament that:

> Taxation without representation is injustice and oppression. It brought on the American Revolution and gave birth to a free and mighty nation.

Perhaps we need to pause and reflect on these words of wisdom as we have a chance to once again end injustice and oppression in the capital of freedom.●

HIGHWAY BRIDGE REPLACEMENT

● Mr. CULVER. Mr. President, I would like to ask Mr. RANDOLPH, the distinguished chairman of the Committee on Environment and Public Works and author of the special bridge replacement program to clarify for the record the legislative intent concerning the use of funds under this program to replace structures that accommodate both vehicular and railroad traffic.

The No. 2 priority for replacement in the State of Iowa under the special bridge replacement program is the bridge at Keokuk. The Federal Highway Administration considers this bridge—which is only 17 feet, 10 inches wide—to be functionally obsolescent for vehicular traffic. The Iowa Department of Transportation (IDOT) is in the final stages of selecting a consultant for preliminary planning of a new bridge and will soon undertake the necessary environmental impact statement study. IDOT's timetable calls for construction of a new bridge to begin in 1981.

IDOT has entered into an agreement with the city of Keokuk to allow continued use of the present bridge as a railroad crossing. This is possible since the bridge, although obsolete for motor vehicle traffic, is capable of accommodating railroad traffic in an effective and orderly fashion.

There has been concern that special bridge replacement funds might not be used to construct a new replacement bridge if the existing one is to remain in use. The special bridge replacement program was instituted to enable States to replace their worst structurally deficient or obsolete bridges. the Federal Highway Administration program manual, Transmittal 50, August 7, 1974, states:

> Whenever a deficient bridge is replaced by a new bridge under the special bridge replacement program the deficient bridge will be closed to vehicular traffic at the earliest possible date following the opening of the replacement bridge.

These guidelines clearly indicate that only vehicular traffic must be phased out on the existing bridge. Nothing in these guidelines, or the legislative history of the special bridge replacement program, suggests that an existing bridge must be closed to nonvehicular traffic such as railroads.

The continued ability of the Keokuk bridge to safely and efficiently accommodate railroad traffic is unquestioned. The Senate's consideration of the Federal-aid highway legislation provides a good opportunity to reaffirm that a new bridge can be constructed with special bridge replacement program funds while the existing structure can remain open to railroad traffic.

I would appreciate the thoughts of the distinguished chairman of the Committee on Environment and Public Works on this subject.

Mr. RANDOLPH. Mr. President, I say to the distinguished Senator from Iowa (Mr. CULVER) that he raises an important question. Under the special bridge program, we have not addressed the issue of joint use bridges. It is not the intent under this program to force the closing of a bridge which could be used for a nonhighway transportation mode.

The Keokuk bridge certainly should not be closed when it can be used for rail transportation across the Mississippi River.●

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes today. There will be rollcall votes beginning early tomorrow on the District of Columbia representation amendment, however.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, and that Senators may speak during routine morning business for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

REPORT ON INTERNATIONAL TRANSFERS OF TECHNOLOGY—MESSAGE FROM THE PRESIDENT—PM 212

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

I transmit herewith the report on international transfers of technology required by section 24(c) of Public Law 95–92, the International Security Assistance Act of 1977.

JIMMY CARTER.

THE WHITE HOUSE, *August 21, 1978.*

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC–4211. A communication from the Acting Director, Defense Security Assistance Agency, reporting, pursuant to law, on the Navy's proposed Letter of Offer to Iran for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–4212. A communication from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting pursuant to law, on five construction projects to be undertaken by the Air National Guard; to the Committee on Armed Services.:

EC–4213. A communication from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, on a construction project to be undertaken by the Naval and Marine Corps Reserve; to the Committee on Armed Services.

EC–4214. A communication from the Acting Secretary of the Navy, transmitting a draft of proposed legislation permitting ten persons, citizens and subjects of the Kingdom of Saudi Arabia to receive instruction at the United States Naval Academy, and for other purposes; to the Committee on Armed Services.

EC–4215. A communication from the Acting Secretary of the Navy, transmitting a draft of proposed legislation to amend title 10, United States Code, to remove the statutory restriction on the strength and distribution in grade of officers designated for limited duty on the active lists of the Navy and the Marine Corps; to the Committee on Armed Services.

EC–4216. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled "Highway Needs to Solve Energy Problems"; to the Committee on Environment and Public Works.

EC–4217. A communication from the Secretary of Agriculture, reporting, pursuant to law, on review of primitive areas in the National Forest System and appropriate areas for redesignation to Class I where air quality related values are important attributes of the area; to the Committee on Environment and Public Works.

EC–4218. A communication from the chairman, Agricultural Technical Advisory Committee for Trade Negotiations on Dairy, transmitting, pursuant to law, the committee's report on the Agreement on Trade Matters Between the United States and the United Mexican States, signed in Washington, D.C., on December 2, 1977; to the Committee on Finance.

EC–4219. A communication from the Assistant Secretary (Legislative Affairs), Department of State, transmitting, pursuant to law, project performance audit reports prepared by the International Bank for Reconstruction and Development (IBRD), the Group of Controllers' evaluation reports by the Inter-American Development Bank (IDB), and post-evaluation reports by the Asian Development Bank (ADB); to the Committee on Foreign Relations.

EC–4220. A communication from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting, pursuant to law, notification of an increase in the funding level of the proposed 1978 Caribbean Regional program; to the Committee on Foreign Relations.

EC–4221. A communication from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting, pursuant to law, notification of an increase in the funding level of the proposed fiscal year 1978 program in Guyana; to the Committee on Foreign Relations.

EC–4222. A communication from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within 60 days after the execution thereof; to the Committee on Foreign Relations.

EC–4223. A communication from the Deputy Assistant Secretary, Policy, Budget, and Administration, Department of the Interior, reporting, pursuant to law, modification to a system of records for personnel research records, Interior OS–98, published April 14, 1978; to the Committee on Governmental Affairs.

EC–4224. A communication from the Assistant Secretary for Administration, Department of Housing and Urban Development, transmitting, pursuant to law, a report on a Privacy Act System of Records; to the Committee on Governmental Affairs.

EC–4225. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Import Duties and Taxes: Improved Collection, Accounting, and Cash Management Needed," August 21, 1978; to the Committee on Governmental Affairs.

EC–4226. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "U.S. Economic Assistance for Israel," August 18, 1978; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LONG, from the Committee on Finance, with an amendment and an amendment to the title:

H.R. 1337. An act to amend the Internal Revenue Code of 1954 with respect to excise tax on certain trucks, buses, tractors, et cetera (Rept. No. 95–1127).

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, without amendment:

H.R. 13235. An act for the relief of James Thomas Lantz, Jr., David D. Bulkley, and Arthur J. Abshire (Rept. No. 95–1128).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. ROBERT C. BYRD (for Mr. EASTLAND), from the Committee on the Judiciary:

William E. Pitt, of Utah, to be U.S. marshal for the district of Utah.

(The above nomination from the Committee on the Judiciary was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. RIEGLE:

S. 3438. A bill for the relief of Sonia Maria Alvarado Marin and Maria Virginia Alvarado Marin; to the Committee on the Judiciary.

By Mr. CHAFEE:

S. 3439. A bill to amend the Controlled Substances Import and Export Act to exercise more fully the jurisdiction of the United States; to the Committee on the Judiciary.

By Mr. LAXALT:

S. 3440. A bill to transfer the administration of Ruby Lake National Wildlife Refuge, Nevada, in the State of Nevada; to the Committee on Energy and Natural Resources.

By Mr. ZORINSKY (for himself, Mr. ANDERSON, Mr. ABOUREZK, and Mr. MELCHER):

S.J. Res. 155. A joint resolution to increase the price support for milk, wheat, corn, soybeans, and cotton to not less than 90 per centum of the respective parity prices therefor, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHAFEE:

S. 3439. A bill to amend the Controlled Substances Import and Export Act to exercise more fully the jurisdiction of the United States; to the Committee on the Judiciary.

CONTROLLED SUBSTANCES IMPORT-EXPORT ACT AMENDMENTS OF 1978

● Mr. CHAFEE. Mr. President, I was astounded to discover that loopholes in U.S. drug laws have prevented U.S. authorities from prosecuting nearly all drug smugglers apprehended beyond the territorial waters of the United States. This has opened the door to the safest and most lucrative smuggling techniques now used by international drug runners.

One of the primary reasons we find ourselves in this situation is that Congress left gaps in the law when it passed the Controlled Substances Import and Export Act in 1970 (Public Law 91–513).

Under that law, the United States has authority over any individual apprehended within the U.S. territorial waters which extend 3 miles off our coast. We also have criminal jurisdiction over American citizens or anyone aboard an American-owned vessel on the high seas if it can be proved that there was intent to smuggle contraband into the United States. But because intent is difficult to prove in a court of law, there are few successful prosecutions in such cases.

We do not, however, have jurisdiction over U.S. citizens or foreign nationals who simply possess drugs in international waters. While the law permits seizure of contraband and seizure of vessels transporting it, there are virtually no prosecutions of individuals apprehended for smuggling on the high seas.

Mr. President, today I am introducing S. 3439, the Controlled Substance Import and Export Act Amendments of 1978, a bill which will bring many of these international smugglers under jurisdiction of U.S. criminal law for the first time. No longer will drug runners be able to lurk outside the arbitrary line of a 3- or 12-mile territoral line and operate with inpunity.

I think most Americans would be amazed to know the magnitude of these smuggling operation involving full scale, commercial freighters known as "mothership." These vessels range from 100 to 300 feet in length. Their primary cargo, loaded on the coast of Colombia, is commonly 50 to 60 tons of marihuana and smaller, though valuable, quantities of cocaine. The vessels are usually registered in a foreign country, and some of them, while not officially registered, fly the flags of a number of nations. The crews are usually of South American nationality.

Typically, these "motherships" take one of several routes from Colombia, between or around the Carribean Islands, to the United States. They remain carefully outside the 12-mile Customs enforcement zone, and thereby, outside U.S. criminal jurisdiction. At various designated points along the coast, anywhere from Brownsville, Tex., to the tip of Maine, the "motherships" rendezvous with smaller, faster boats which pick up portions of the cargo and run them back to shore. The runner boats are usually owned and operated by U.S. citizens and easily blend in with the thousands of pleasure craft and fishing boats along our coastline.

Obviously, Mr. President, the slim risk of being caught and prosecuted does not deter many individuals from the enormous profits that are made from a successful operation. Despite the fact that U.S. drug enforcement officials have confiscated more than 3.1 million pounds of marihuana during the first three-quarters of fiscal year 1978—twice as much as was seized all last year—there has been no noticeable effect on its price at the retail level. And U.S. officials estimate that they intercept only about 10 percent of the flow.

In testimony presented before a House Subcommittee on July 27, 1978, Stuart Seidel, Assistant Chief Counsel for the U.S. Customs Service, commented on the new style of operation:

> There are several factors accounting for this new trend by the marijuana smuggler—the continuing Mexican eradication program has made the Colombian marijuana more attractive, the use of large vessels enable the smuggler to transport vast quantities of the bulky marijuana relatively cheaply, the extensive Southeastern coastline offers easy, undetected access to the United States, and gaps and inadequacies in our present law make successful prosecutions difficult. Thus, smuggling by vessel has become the new modus operandi of the drug smuggler.

It is interesting to note that as recently as 1976, marihuana seizures along our Mexican border accounted for 60 percent of the total seizures made by Customs in the United States. By 1978, however, that figure dropped to a mere 7 percent, while seizures in the Gulf and Southeastern Atlantic equaled 89 percent of the national total. It is also interesting that, while the actual number of seizures

of heroin, cocaine, and marihuana have

of heroin, cocaine, and marihuana have decreased in the first three-quarters of fiscal year 1978 from the same time a year ago, the quantities seized have increased dramatically.

No other single incident has illustrated this trend more vividly than the August 6, 1978 seizure of a stateless vessel called the "Heidi". The vessel, 165 feet in length, contained a record 225,469 pounds of marihuana. The crew members, all South Americans, will simply be deported and given a free plane ride back home.

In a coordinated enforcement action called Operation Stopgap earlier this year, the U.S. officials confiscated 900,000 pounds of Colombian marihuana, 33 vessels, 6 aircraft, 18 land vehicles, 3 hydraulic presses and $15,000 in cash in a 45-day period. The brilliant success of Operation Stopgap is only dimmed by the fact that of the 220 persons apprehended, only 4 have been or will be prosecuted—all Americans arrested in U.S. territory. The rest have been deported. Some of these individuals, Mr. President, have been apprehended five times before under similar circumstances. They are sent home and they are back up here on the next boat.

So, what does all this mean? What are we being called upon to do about it?

I do not have any visions about ridding the world of heroin, cocaine, marihuana, and other contraband. But I do think that we in Congress have the responsibility to bring the individuals who manufacture, possess or distribute illegal drugs for import to the United States, both our citizens and foreign nationals, as far within the grasp of U.S. criminal law as possible.

The legislation I have introduced will accomplish a large part of that objective. I am also happy to be a cosponsor of a bill by Senator CULVER which takes other important steps in that direction.

My bill has been carefully worked out over the past 6 weeks with officials of the U.S. Customs Service and with the Senate Legislative Counsel, and I would like to take a moment to outline its provisions.

DEFINITIONS

My bill first adds new definitions to the opening section of the Controlled Substances Import and Export Act. In its current form, the act fails to include the broadest possible definition of a "vessel under the jurisdiction of the United States," and herein lies one of its major weaknesses.

My language would bring under U.S. jurisdiction the following:

First. Any vessel documented under laws of the United States, or owned in whole or in part by a citizen or corporation of the United States;

Second. Any vessel on the high seas registered in a foreign country if that country authorizes the United States to assert jurisdiction;

Third. Any vessel without nationality;

Fourth. Any vessel within U.S. customs waters, which currently extend 12 miles off shore, or within a U.S. customs enforcement area which may be established pursuant to the Anti-Smuggling Act of 1935 (49 Stat. 517);

Fifth. Any vessel which is a hovering vessel, described in the Tariff Act of 1930 as a vessel which is kept off the U.S. coast, either inside or outside customs waters, if it is reasonable to believe that it is being or may be used for smuggling; and

Sixth. Any vessel which flies more than one flag and thereby loses the right to claim any nationality under article 6 of the Convention on the High Seas.

TRANSPORTATION

Section 3 of my bill tightens the Controlled Substances Import and Export Act by adding a prohibition against transporting illegal drugs into or within U.S. customs waters. This accompanies the current provision against importing contraband into U.S. territory.

POSSESSION

Section 4 of my bill is perhaps the key provision. For the first time, it makes possession of illicit drugs on board any vessel, aircraft or vehicle that is subject to jurisdiction of the United States a Federal offense, regardless of where it may be located.

UNLAWFUL TRANSFER

Section 5 makes it unlawful for any person to transfer a controlled substance to any vessel under jurisdiction of the United States or any vessel bound for the United States.

UNLAWFUL IMPORTATION

Section 6 makes it illegal to manufacture, possess or distribute any controlled substance intending or knowing that it will be unlawfully imported into the United States.

PENALTIES

Section 7 simply brings the new factors introduced by my bill—the transportation, the transfer from one vessel to another, and the possession of controlled substances—under the penalties of the existing law. In the case of narcotic substances, it calls for the person committing a violation to be imprisoned up to 15 years, or fined $25,000, or both.

Mr. President, I believe my bill presents the most complete set of amendments to the Controlled Substances Import and Export Act yet devised for the purpose of closing loopholes in the law which inhibit the prosecution of professional, large-scale drug smugglers. I strongly urge the Senate to adopt my proposal along with others which are being developed for a coordinated approach to the growing problem of international drug trafficking.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3439

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Controlled Substances Import and Export Act Amendments of 1978".

DEFINITIONS

SEC. 2. Section 1001(a) of the Controlled Substances Import and Export Act is amended by adding at the end thereof the following:

"(3) The term 'high seas' includes all parts of the sea included in such term by Article 1 of the Convention on the High Seas, done on April 29, 1958.

"(4) The term 'vessel of the United States' means—

"(A) any vessel documented under the laws of the United States, or numbered as provided by the Federal Boat Safety Act of 1971;

"(B) any vessel owned in whole or in part by the United States, by any citizen of the United States, or by any corporation created by or under the laws of the United States, or by or under the laws of any State, territory, district, commonwealth, or possession thereof; or

"(C) any vessel of United States nationality within the meaning of Article 5 of the Convention on the High Seas, done on April 29, 1958.

"(5) The term 'vessel subject to the jurisdiction of the United States' includes—

"(A) any vessel without nationality;

"(B) any vessel assimilated to a vessel without nationality in accordance with the provisions of paragraph (2) of Article 6 of the Convention on the High Seas, done on April 29, 1958;

"(C) any vessel within the customs waters, as defined in section 401 of the Tariff Act of 1930, of the United States and any vessel within a customs enforcement area established pursuant to section 1 of the Act entitled 'An Act to protect the revenue of the United States and provide measures for the more effective enforcement of the laws respecting the revenue, to prevent smuggling, to authorize customs-enforcement areas, and for other purposes', approved August 5, 1935 (49 Stat. 517);

"(D) any vessel on the high seas registered in a foreign country if such country authorizes the United States to assert jurisdiction on such vessel for the purposes of enforcing this title;

"(E) any vessel of the United States; or

"(F) any vessel which is a hovering vessel within the meaning of section 401 of the Tariff Act of 1930.".

UNLAWFUL IMPORTATION OR TRANSPORTATION

SEC. 3. Section 1002 of the Controlled Substances Import and Export Act is amended—

(1) by amending the heading to read as follows:

"IMPORTATION OR TRANSPORTATION OF CONTROLLED SUBSTANCES";

(2) in subsection (a), by striking out "It shall be unlawful to import into the customs territory of the United States from any place outside thereof (but within the United States), or to import into the United States from any place outside thereof," and inserting in lieu thereof "It shall be unlawful for any person within or without the United States to import or transport into the customs territory of the United States from any place outside thereof, or for any person within or without the United States to import or transport into the United States from any place outside thereof,";

(3) in subsection (b), by striking out "It shall be unlawful to import into the customs territory of the United States from any place outside thereof (but within the United States), or to import into the United States from any place outside thereof," and inserting in lieu thereof "It shall be unlawful for any person within or without the United States to import or transport into the customs territory of the United States from any place outside thereof, or for any person within or without the United States to import or transport into the United States from any place outside thereof,"; and

(4) by adding at the end thereof the following:

"(d) It shall be unlawful for any person within or without the United States to aid or facilitate the commission of any offense described in subsection (a) or (b) of this section.".

POSSESSION ON BOARD VESSELS, AIRCRAFT, OR VEHICLES

SEC. 4. Section 1005 of the Controlled Substances Import and Export Act is amended—

(1) by amending the heading to read as follows:

"POSSESSION ON BOARD VESSELS, AIRCRAFT, OR VEHICLES";

(2) by inserting immediately after "customs territory of the United States," the following: "or on board any vessel or aircraft, or on board any vehicle of a carrier, subject to the jurisdiction of the United States, wherever such vessel, aircraft, or vehicle is located,".

UNLAWFUL TRANSFER

SEC. 5. The Controlled Substances Import and Export Act is amended by inserting after section 1005 the following:

"UNLAWFUL TRANSFER

"SEC. 1005A. It shall be unlawful for any person outside the United States to transfer a controlled substance from any vessel to a vessel bound for the United States and for any person within or without the United States to transfer any such substance from any vessel to a vessel subject to the jurisdiction of the United States.".

MANUFACTURE, DISTRIBUTION, OR POSSESSION FOR PURPOSES OF UNLAWFUL IMPORTATION

SEC. 6. Section 1009 of the Controlled Substances Import and Export Act is amended—

(1) by striking out in the heading "MANUFACTURE OR DISTRIBUTION" and inserting in lieu thereof "MANUFACTURE, DISTRIBUTION, OR POSSESSION";

(2) by inserting in the first sentence immediately after "schedule I or II" a comma and the following: "or to possess a controlled substance in schedule I or II aboard a vessel subject to the jurisdiction of the United States"; and

(3) by striking out in the second sentence "manufacture or distribution" and inserting in lieu thereof "manufacture, distribution, or possession".

PROHIBITED ACTS—PENALITIES

SEC. 7. Section 1010 of the Controlled Substances Import and Export Act is amended—

(1) by striking out "imports or exports" and inserting in lieu thereof "imports, transports, or exports" in paragraph (1);

(2) by striking out "or" at the end of paragraph (2); and

(3) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) contrary to section 1005A, transfers from one vessel to another a controlled substance, or

"(4) contrary to section 1009, manufactures, distributes, or possesses a controlled substance.".

By Mr. LAXALT:

S. 3440. A bill to transfer the administration of Ruby Lake National Wildlife Refuge, Nevada, to the State of Nevada; to the Committee on Energy and Natural Resources.

● Mr. LAXALT. Mr. President, today, I am introducing legislation which will transfer management authority of the Ruby Lake National Wildlife Refuge, Nevada, from the U.S. Fish and Wildlife Service to the State of Nevada's Fish and Game Department. A recent permanent restraining order issued by the U.S. District Court, District of Columbia, prohibiting the use of powerboats unless they are 10 horsepower or less in the Ruby Lake Wildlife Refuge has compelled me to take this action.

Mr. President, this decision to severely restrict recreational boating activities at the refuge, resulted from the environmental impact assessment on boating at the Ruby Marshes completed by the U.S. Fish and Wildlife Service. The EIA maintained that boating is adversely affecting the nesting canvasback and redhead ducks with conflicts occurring during site selection, initial and renesting attempts, and the brooding period. Since that time, Mr. President, my eastern Nevada constituents as well as myself, have been wrangling constantly over the past several years with the U.S. Fish and Wildlife Service over regulations sharply restricting recreational powerboating on the Ruby Marshes.

At this point, I would like to point out that all Nevadans agree that the wildlife at the Ruby Marshes should be protected, and that the Fish and Wildlife Service, after listening to State and local concerns, had drawn up regulations that would have protected the wildlife and its habitat and still allowed some recreational opportunities for my eastern Nevada constituents. Additionally, my discussions with people who have long experience with the Ruby Marshes, and whose judgment I have always considered to be sound, has led me to the opinion that this proposed action is taken without justification or valid scientific supporting data. Information provided to me about waterfowl populations at the Ruby Marshes reveals that waterfowl production has not been adversely impacted by the recreational usage as claimed.

The Fish and Wildlife Service released figures which prove that there has been no significant interference with waterfowl production. Waterfowl production figures prepared by the then Ruby Marsh Wildlife Refuge manager during January 1976, show that the redhead and canvasback duck production has increased 209 percent over the 10-year period 1964 to 1974. Mr. President, I ask that the Ruby Lake National Wildlife Refuge waterfowl production figures be printed in the RECORD at the end of my statement.

Further, Mr. President, I directed my staff to research this matter. A book was brought to my attention entitled "Ducks, Geese, and Swans of North America". It is a textbook written by Frank C. Belrose, a research associate in the Illinois National History Survey and author of more than 60 articles and papers devoted to waterfowl, makes some pertinent points.

The book, sponsored by the Wildlife Management Institute, maintains there are only about 900 canvasbacks breeding in Nevada, of about 10,000 breeding in the intermountain region. Although the text is no more specific, a chart in the book, which breaks down breeding population areas to locations of 5,000 canvasbacks, areas less than 5,000 are "minor breeding areas". The book shows eastern Nevada with "less than 5,000", thus the Ruby Marshes barely qualifies as a "minor breeding areas."

Concerning redheads, the book says that only "minor breeding populations occur in the Ruby Mountains of eastern Nevada." This indicates fewer than 1, birds. Here again, the accompany charts in the text indicates the R Marshes as only a "minor breed area."

Further, it was brought to my att tion that the duck population figu used by the U.S. Fish and Wildlife Se ice and others are highly misleading are a result of airplane flights over marshes, which the birds were eyeba by "trained" observers. Consequently a result of this research I could not s port the conclusions of the U.S. F and Wildlife. I feel the Environmen Impact Assessment is biased. It is w out adequate factual data upon wh a sound decision for a policy change be based, and it is without solid evide of any need for such a change.

Mr. President, the restraining or prohibiting the use of powerboats un they are 10 horsepower or less will pr tically eliminate boating at the R Marshes. It will eliminate use of marshes by women, small children, abled people, and senior citizens who not want to risk the hazard of small b usage or the physical strain of row

As I previously mentioned, Mr. Pr dent, the Fish and Wildlife Service persisted in this campaign to rest recreational boating at the Ruby Mars for the past several years, and the cent maneuver in the district cour obviously, at least to me, a result o collusion between the U.S. Fish and W life Service and the defenders of w life. Quitely frankly, my eastern Nev constituents and I did not expect the and Wildlife Services to perform a admirable job of defending our in ests in the Washington court, which proved to be the case.

Almost every one of my eastern Nev constituents that I have talked to in gard to this matter is seriously concer about the recreational loss that wil suffered. They are not only disturb but angry about this action which deny them access to one of the two a within reasonable travel time provid them with water recreational activit It is obvious to me that eastern Nevad want the policies regarding the mana ment of the Ruby Marshes to be in te of a multiple-use concept. I, as th elected representative, am concer with their desires, and wish to go on r ord at this time supporting policies procedures that will develop a multi use concept at the Ruby Marshes.

At this point, I would like to point that on a national scale the R Marshes are not significant in size. the local level, however, the R Marshes is extremely significant in of the lack of sufficient water resou for recreational use in the area. It c tains only 37,631 acres, which is in nificant when compared to the t refuge system. And of these 37,631 ac boating is allowed in the 7,000-acre so sump. Powerboating is effectively p mitted on only about 3,500 acres, 30 acres used as a ski pond. Mr. Preside I cannot believe this could cause any rious disruption of the whole marsh disrupt waterfowl populations.

Let me assure my colleagues, Mr. Pr

ident, that my eastern Nevada constituents are interested in the wildlife and the waterfowl aspects of the Ruby Marshes and are not attempting to harm the wildlife or reduce the production of waterfowl. Rather, we mutually believe that the Ruby Marshes can accommodate wildlife habitats, waterfowl production, powerboat fishing, and recreational boating without an impact of serious consequences on the wildlife and waterfowl.

Mr. President, the EIA used for the district court's restraining order was inconclusive as far as determining the effects of boating recreational use on duck production and brood survival at the Ruby Marshes. The EIA gave no consideration to the fact that fluctuations in nesting and brood survival are also related to weather conditions, food availability, predator loss, and alternative routes. It is also my understanding that the majority of canvasback and redhead nesting is completed by the time powerboating is allowed and becomes popular at the Ruby Marshes. There is just a lack of solid evidence that can positively identify boat disturbances as the cause of canvasback and redhead nesting or brood failure. Thus, Mr. President, it is my view that the court's decision was prejudiced and not based on adequate information.

Mr. President, the legislation I am now introducing will insure that the problems of the Ruby Marshes will be dealt with by Nevadans who are familiar with these problems. In my view, the Nevada Department of Fish and Game is well qualified to deal with these problems rather than Washington bureaucrats. There is no doubt in my mind that both ducks and eastern Nevada sportsmen will benefit from this proposal to transfer authority for managing the Ruby Marshes to the State of Nevada.

Mr. President, I sincerely hope that the committee and the Senate will act expeditiously on this legislation. I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the table and bill were ordered to be printed in the RECORD, as follows:

RUBY LAKE NATIONAL WILDLIFE REFUGE WATERFOWL PRODUCTION

Year	Redheads	Canvasbacks	Total other ducks	Coots
1938	(1)	(1)	(1)	(1)
1939	(1)	(1)	(1)	(1)
1940	(1)	(1)	(1)	(1)
1941	(1)	(1)	(1)	(1)
1942	2,000	2,500	7,660	7,500
1943	1,000	3,000	5,514	9,000
1944	800	3,500	4,150	2,000
1945	800	5,000	4,150	2,000
1946	400	200	1,550	200
1947	(1)	(1)	(1)	(1)
1948	100	150	1,150	1,500
1949	200	100	600	500
1950	894	587	1,320	793
1951	600	700	1,245	500
1952	600	500	1,365	800
1953	1,000	800	1,830	3,000
1954	600	700	1,310	1,200
1955	450	500	1,190	1,000
1956	450	400	1,110	1,000
1957	379	340	983	3,290
1958	622	556	1,124	3,870
1959	500	800	4,145	3,000
1960	1,800	1,050	2,640	6,500
1961	500	150	3,225	2,000
1962	90	28	1,190	2,500
1963	500	1,000	2,030	5,170
1964	300	800	2,200	6,000
1965	1,100	600	1,980	4,000
1966	1,170	850	4,395	8,000
1967	1,000	750	3,860	6,500
1968	900	2,500	4,300	7,000
1969	1,860	1,220	2,780	3,000
1970	2,635	2,550	2,680	7,500
1971	1,687	1,778	3,274	1,739
1972	2,670	2,350	7,110	4,400
1973	2,000	2,255	4,410	1,790
1974	1,280	2,035	3,035	3,670
1975	800	1,200	1,430	2,500

[1] No data.

S. 3440

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That on or before the expiration of the twelve-month period following the date of submission to the Secretary of the Interior of an application by the State of Nevada requesting the Secretary of the Interior to take such action as may be necessary to transfer to the State of Nevada all control and jurisdiction over the area comprising Ruby Lake National Wildlife Refuge, Nevada, the Secretary of the Interior shall transfer such control and jurisdiction over such Wildlife Refuge to the State of Nevada and such refuge shall be administered by such State agency as may be designated by the Governor of the State of Nevada, and in accordance with the applicable laws of the State of Nevada.

SEC. 2. The following laws and conventions shall not be applicable to Ruby Lake National Wildlife Refuge, Nevada:

(1) Act of September 28, 1962, as amended (16 U.S.C. 460k);

(2) Endangered Species Act of 1973;

(3) Migratory Bird Conservation Act;

(4) Migratory Bird Treaty Act;

(5) Chapters 5 and 7 of title 5, United States Code;

(6) Fishery Conservation and Management Act of 1976;

(7) Marine Mammal Protection Act of 1972;

(8) Minnesota Valley National Wildlife Refuge Act;

(9) National Wildlife Refuge System Administration Act of 1966;

(10) Executive Order Numbered 7923, dated July 7, 1938;

(11) Convention for the Protection of Migratory Birds of August 16, 1916;

(12) Convention for the Protection of Migratory Birds and Game Mammals of February 7, 1936; and

(13) Convention for the Protection of Migratory Birds and Birds in Danger of Extinction, and Their Environment of March 4, 1972.

By Mr. ZORINSKY (for himself, Mr. ANDERSON, Mr. ABOUREZK, and Mr. MELCHER):

S.J. Res. 155. A joint resolution to increase the price support for milk, wheat, corn, soybeans, and cotton to not less than 90 per centum of the respective parity prices therefor, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

● Mr. ZORINSKY. Mr. President, today I am introducing a joint resolution to dictate price supports of at least 90 percent of parity for several major commodities.

Congress long ago gave the Secretary of Agriculture authority to raise price support loan levels to 90 percent of parity for wheat, corn, soybeans, cotton, and milk. Until the Agricultural Act of 1949, as amended, he has the necessary authority to adjust Commodity Credit Corporation loan levels to keep pace with inflation and increasing costs of production. However, the administration has chosen not to use this authority. Instead the President and Secretary Bergland have elected to maintain inadequate and outdated price supports for these vital commodities.

The American Agriculture Movement has worked tirelessly during this past year to convince Congress and the American consumer that the survival of the family farm depends upon higher prices for their produce. The movement's efforts were in many ways successful. They have publicized the plight of American agriculture. They have won public backing for higher farm prices. Surveys conducted this spring by a national pollster indicated that most American consumers would be willing to pay a few more cents for basic food stuffs so that the farmer could receive an adequate price for his goods. The AAM gained Senate approval of a scheme to provide farmers with 100 percent of parity.

Nevertheless, farm prices remain abysmally low. The administration has done nothing to raise price support levels. American farmers still wonder how they can scrape together enough cash to eke out a living one more year.

Today, Mr. President, I raise once again the need for more realistic price supports. America's farmers cannot afford to let this critical issue die. At the request of the American Agriculture Movement I am introducing this joint resolution, which parallels a resolution introduced in the House by Congressman RICHARD NOLAN of Minnesota.

There is little need to reiterate here the arguments in favor of parity prices. It suffices to say that the cogent reasons presented by our Nation's farmers only a few months ago are the same today. Despite the claims of the Carter administration, grain, cotton, and milk prices remain depressed. Production costs continue to climb well above current prices.

American farmers want and need parity prices. They deserve them. The economic health of the Nation and one of our largest and most productive industries depends on more realistic price supports. We have delayed long enough. We now should hasten to support the hand that feeds us.●

ADDITIONAL COSPONSORS

S. 2388

At the request of Mr. JAVITS, the Senator from Montana (Mr. MELCHER), the Senator from California (Mr. HAYAKAWA), and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 2388, a bill to amend the Internal Revenue Code of 1954 to provide for the exclusion from gross income of certain employer educational assistance programs.

S. 3285

At the request of Mr. TOWER, the Senator from Idaho (Mr. MCCLURE) was added as a cosponsor of S. 3285, a bill to amend the Internal Revenue Code by extending the investment tax credit to certain agricultural structures.

AMENDMENT NO. 3241

At the request of Mr. FORD, the Senator from South Carolina (Mr. HOLLINGS), the Senator from Texas (Mr. BENTSEN), the Senator from Montana (Mr. MELCHER), the Senator from Missouri (Mr. DANFORTH), and the Senator from New Hampshire (Mr. DURKIN) were added as cosponsors of amendment No. 3241, intended to be proposed to S. 3229, a bill to amend title 39 of the United States Code to improve the organizational structure of the U.S. Postal Service, and for other purposes.

AMENDMENT NO. 3409

At the request of Mr. PERCY, the Senator from Ohio (Mr. METZENBAUM), the Senator from Idaho (Mr. CHURCH), and the Senator from Colorado (Mr. HASKELL) were added as cosponsors of Amendment No. 3409 intended to be proposed to S. 991, to prevent the transfer of child nutrition programs from USDA to the Department of Education.

AMENDMENT NO. 3458

At the request of Mr. MUSKIE, the Senator from Indiana (Mr. BAYH), the Senator from New Mexico (Mr. DOMENICI), the Senator from Tennessee (Mr. SASSER), and the Senator from North Carolina (Mr. MORGAN) were added as cosponsors of Amendment No. 3458 intended to be proposed to S. 2441, a bill to amend the Urban Mass Transportation Act of 1964.

SENATE RESOLUTION 431

At the request of Mr. PERCY, the Senator from Oklahoma (Mr. BELLMON) was added as a cosponsor of Senate Resolution 431, the Lee Metcalf Fair Employment Relations Resolution.

AMENDMENTS SUBMITTED FOR PRINTING

CIVIL SERVICE REFORM ACT OF 1978—S. 2640

AMENDMENT NO. 3514

(Ordered to be printed and to lie on the table.)

Mr. PELL submitted an amendment intended to be proposed by him to S. 2640, a bill to reform the civil service laws.

● Mr. PELL. Mr. President, the Senate will soon be considering S. 2640, the Civil Service Reform Act of 1978. Legislation to modernize the civil service is long overdue, and I support this bill. I believe, however, that the Foreign Service should be exempted from its provisions just as the uniformed military services, the intelligence agencies, and the FBI are. I am, today, submitting an amendment to accomplish that objective; and I ask unanimous consent that the text of my amendment as well as an analysis of it be printed in the RECORD immediately following my remarks.

The Foreign Service is an "excepted service" established originally under the Rogers Act of 1924 and now governed by the Foreign Service Act of 1946, as amended. The centerpiece of S. 2640 is the creation of a new Senior Executive Service (SES), a governmentwide senior management pool consisting of civil servants above GS-15 or its equivalent, which in the Foreign Service is FSO-3. In the case of the Foreign Service, the SES would be superimposed on an existing personnel structure that is totally different from the Civil Service. Such an action, I submit, would do severe damage to the Foreign Service and undermine the conduct of American diplomacy.

The fundamental difference between the Foreign Service and the civil service is that the former is a vertically oriented career service organized along the lines of the military services with a comparable rank structure with grades equivalent to second lieutenants and ensigns on up to to four-star generals and admirals. The Foreign Service, along with the military services, operates on the basis of a rank-in-person system with mandatory rotation among jobs on a worldwide availability basis and with recruitment at the bottom and advancement up the career ladder as the individual officer's experience and performance merit it. The civil service, on the other hand, is organized laterally on the basis of categories such as "senior management"; and its personnel are recruited to fill a particular job in a particular location. Advancement is accomplished in the civil service's rank-in-job structure by applying for and obtaining a higher ranked position.

The SES would embody a rank-in-person system allowing—but not mandating as does the Foreign Service—periodic reassignments, and then only at the senior levels. This is a step forward as compared with the present civil service system, but there is no need to impose it on an already existing Foreign Service system which employs these concepts at all grade levels.

Not only is there no need to superimpose the SES on the Foreign Service, but to do so would destroy the unified nature of the Foreign Service and thus weaken it as a tool for the conduct of our country's diplomacy.

The pursuit of our national objectives in the area of foreign policy requires a Foreign Service system which trains people in diplomacy throughout their careers, which provides essential experience in service abroad, and which can count on the availability of professionally trained and experienced personnel to senior positions in Washington and abroad. This, of course, requires the availability of senior positions to be filled by personnel who spend their professional lives developing the necessary skills and experience to assume senior responsibilities. If, in addition to political appointees, another non-Foreign Service route to the top in the foreign affairs field is created, I fear that much of the incentive for able people to enter and then to put up with the many hardships of Foreign Service life would disappear.

A decrease in opportunities for Ambassadors would be particularly harmful. In recent years, about 70 percent of our Embassies have been headed by career Foreign Service officers, and the remaining 30 percent by political appointees. Application of the SES system to the Foreign Service could further reduce the percentage of Ambassadorships hel Foreign Service officers. Such a re tion would not only reduce the incen for people to enter and remain in Foreign Service, but it would also fur dilute the ranks of professionally tra and experienced diplomats holding bassadorships. That, in my view, w be harmful to the conduct of Amer diplomacy.

It could be argued that for every opportunity for ambassadorships senior posts in the Washington for affairs agencies a new opportunity w be opened elsewhere in the Governm for Foreign Service personnel ente the SES. Once, however, a Foreign S ice officer is appointed to a positio another agency under the SES sys there is no guarantee that he will return to his parent foreign af agency; thus his or her skills coul lost forever to the Department of S the International Communica Agency, or the Agency for Internati Development. I favor assignments Foreign Service personnel to other a cies, but it would be better, in my to continue with the present sys whereby a certain number of For Service officers are detailed to o agencies for a specific, limited perio time and then return to Foreign Ser positions.

In addition to the SES, other pr sions of S. 2640 should not apply to Foreign Service, because comparable visions already apply to the For Service under the Foreign Service A 1946. These other provisions of S. relate to merit system principles, hibited personnel practices, perso oversight, grievance handling, and verse actions. My amendment would empt the Foreign Service from these visions as well.

Mr. President, the need for a d plined and unified Foreign Service strong today as it was when the For Service Act of 1946 was passed. Un the Foreign Service is exempted fro 2640, it would face the same problem would confront the military servic their senior ranks above colonel Navy captain were put into a sepa organization. A disciplined service h be a unified service. The congressi founders of the Foreign Service rea that, and my amendment will serv keep intact the structure which they sidered so important to the conduc our foreign relations.

There being no objection, the am ment and analyses were ordered t printed in the RECORD, as follows:

ANALYSIS OF AMENDMENT TO S. 264

(1) On page 133, line 21, immediately fore the semicolon, insert ", the For Service of the United States".

ANALYSIS

This amendment excludes the For Service from the chapter on merit sy principles, prohibited personnel prac and General Accounting Office respons ties. The Foreign Service has its own system, personnel practices, and over under separate statute and regulation rected toward the special needs and resp bilities of the Service. The Foreign Se is a rank-in-person system requiring diff approaches to achievement of merit

other personnel objectives than those based Service promotion system, which is designed

other personnel objectives than those based upon a rank-in-job system such as the Civil Service.

(2) On page 167, after line 7, insert the following new section:

"S. 1208. Exception for the Foreign Service

"This chapter shall not apply to the Foreign Service of the United States.".

ANALYSIS

This section would except the Foreign Service from the authority of the Merit Systems Protection Board and Special Counsel since the Foreign Service has its own such body (the Board of the Foreign Service) and officer (Director General of the Foreign Service) to oversee personnel policies and practices. This includes disciplinary authority (section 637 of the Foreign Service Act) and a special grievance system for protection of employees (sections 691–694 of the Foreign Service Act).

(3) On page 175, line 15, strike out ", and" and insert in lieu thereof:

"; or"

"(D) an individual whose position is in the Foreign Service of the United States; and".

ANALYSIS

This amendment would exempt the Foreign Service from the adverse action provisions of the bill carrying a penalty of suspension for 30 days or less. The Foreign Service differs from the Civil Service both in what may constitute adverse actions and in procedures for initiating and appealing them. Under section 637 of the Foreign Service Act separation for cause procedures include a hearing and other special steps designed for the Service. In addition, the provisions of the bill would duplicate remedies available to the Service through the statutory grievance system designed for it.

(4) On page 178, line 14, strike out the period and insert in lieu thereof:

"; or

"(5) whose position is in the Foreign Service of the United States.".

ANALYSIS

The first amendment excludes members of the Foreign Service from the Senior Executive Service. The second is consequential to the first. The Foreign Service is by law an excepted, rank-in-person service already, but it is subject to special requirements and has its own oversight body, disciplinary provisions, and performance incentives which make inclusion of some of its members in the Senior Executive Service undesirable. The inclusion of top Foreign Service officers in the Senior Executive Service, for example, would disrupt the Foreign Service promotion system, which is designed to move people from entry level to the top through competition with their peers in the Foreign Service.

(5) On page 203,

(a) at line 2, immediately after "position", insert: "(other than a position in the Foreign Service of the United States)".

(b) at line 17, strike out "Except for a position in the Foreign Service" and capitalize "the" immediately after the deleted phrase.

ANALYSIS

The first amendment excludes members of the Foreign Service from the Senior Executive Service. This makes the exception at line 17 unnecessary, so the second amendment deletes it. The Foreign Service is by law an excepted, rank-in-person service already but it is subject to special requirements and has its own oversight body, disciplinary provisions, and performance incentives which make inclusion of some of its members in the Senior Executive Service undesirable. The inclusion of top Foreign Service officers in the Senior Executive Service, for example, would disrupt the Foreign Service promotion system, which is designed to move people from entry level to the top through competition with their peers in the Foreign Service.

(6) On page 258, line 13, immediately after "individual" insert "(other than an individual in the Foreign Service of the United States)".

ANALYSIS

This amendment excepts individual members of the Foreign Service from the categories subject to personnel research and demonstration projects under the direction of the Office of Personnel Management.

These provisions are directed toward improvement of the Civil Service System, and their application to members of the Foreign Service is inappropriate.●

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1978—S. 1753

AMENDMENT NO. 3515

(Ordered to be printed and to lie on the table.)

Mr. HEINZ submitted an amendment intended to be proposed by him to S. 1753, a bill to extend the Elementary and Secondary Education Act of 1965, and for other purposes.

● Mr. HEINZ. Mr. President, today I am submitting an amendment to S. 1753, the Elementary and Secondary Amendment of 1978. This amendment seeks to educate our children to employ energy conservation measures in their normal daily activities.

The energy problem facing our Nation today will only worsen as time passes. In the face of our growing dependence on foreign sources and our dwindling supplies, the uncontrollable American appetite for energy must be addressed. I believe it is essential that we instill in our children during their early, formative years the importance of conserving our precious resources whenever possible.

Youngsters can be taught to be less wasteful of energy at home, in the classroom, at play. They can be taught to close the door while the air conditioner is running; to turn out the light when leaving a room; to conserve water. There are hundreds of practical, useful energy saving measures that can be taught to our children. Energy conservation measures can also be woven into regular high school coursework in such classes as home economics and drivers' education. For example, I am aware of high school students in Delaware County, Pa., who have been taught to do energy audits of existing buildings. It has also been demonstrated that young people taught to drive using energy efficient techniques repeatedly exceed the EPA mileage estimates for miles per gallon of gasoline.

The amendment I introduce today would place specific emphasis on use of the discretionary fund of the Commissioner of Education for the purpose of making grants and contracts to develop curricula and disseminate information on energy conservation and to train personnel to teach energy conservation subject matter to elementary and secondary school children.

I believe the adoption of this amendment, which addresses one of the most critical concerns of our Nation today, will help to insure that our Nation's energy supplies will be used in the wisest, most efficient way.

Mr. President, I ask unanimous consent that the text of my amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 3515

On page 134, between lines 15 and 16 insert the following:

"(c) The Commissioner is also authorized, from the amount available for the purpose of this section, to make grants and enter into contracts for the development of curricula, and the dissemination of information relating to the improvement of teaching energy conservation to elementary and secondary school children and for the training of personnel to teach energy conservation to such children. In carrying out the provisions of this subsection, the Commissioner shall use to the maximum extent practicable materials developed by the Department of Energy, the Community Services Administration, and the Department of Housing and Urban Development.

On page 134, line 16, strike out "(c)" and insert in lieu thereof "(d)".●

AMENDMENT NO. 3516

(Ordered to be printed and to lie on the table.)

Mr. HEINZ submitted an amendment intended to be proposed by him to S. 1753, supra.

● Mr. HEINZ. Mr. President, the amendment which I submit today to the Elementary and Secondary Education Act amendments, S. 1743, is intended to insure that television programs developed under title VI, the Emergency School Aid Act, be of high quality.

I am aware that over the past several years the Office of Education has been successful in the production and development of children's television programs under this act. A recent report from the Office of Education indicated that more than 400 hours of children's television programing have already been produced. This is a sincere effort on the part of OE to employ the most effective medium of instruction in this country to eliminate or prevent segregation and discrimination. It is my intention by this amendment to see that this fine effort continues.

We are all aware that television is having a tremendous impact on our children today. TV competes with us for the attention of our children. TV entertains them; TV instructs them; and TV sometimes misinforms them.

Every week young children in this country spend an average of 23 hours watching TV, and according to a 1976 report, black children watch TV more than white. Much of that time is spent with "adult" rather than "children's" shows. And I am concerned about the unknown effects TV is having on our children.

Our school systems do a fine job of teaching children to comprehend and critically evaluate what they read in books. Book reports are a regular part of a fourth grader's learning activities. But our children are not taught to critically analyze or interpret what they see and hear on TV. I am concerned that TV is

teaching our children that most problems can be solved by violence, and those that are not can be solved by guessing the "Secret Square" and winning a lifetime of prizes.

Considering that TV plays such a crucial role in shaping the emotional and intellectual development of our children, we have a duty to seek and stimulate the highest quality in TV developed and supported by the Government on our children's behalf. TV can be sensitive to the special needs and vulnerabilities of those whom we seek to strengthen.

Mr. President, I hope that by adding the words "high quality" to this section of ESEA, the Office of Education will be encouraged to continue in its quest for excellence in the use of this incredibly effective learning tool.●

AMENDMENT NO. 3517

(Ordered to be printed and to lie on the table.)

Mr. HEINZ submitted an amendment intended to be proposed by him to S. 1753, supra.

AMENDMENT NO. 3518

(Ordered to be printed and to lie on the table.)

Mr. GLENN submitted an amendment intended to be proposed by him to S. 1753, supra.

● Mr. GLENN. Mr. President, the amendment which I now submit to S. 1753, the Elementary and Secondary Education Act Amendments, would insure that individual not be permitted to unfairly benefit from several duplicative educational assistance programs. In short, it would insure that the tuition tax credit, which the Senate has just recently passed, be reduced by the amount of direct Federal higher educational grant assistance.

My amendment would have the same effect as a provision included in the Senate-passed tuition tax credit bill. However, since the House-passed tuition tax credit bill specifically provided that there not be an offset, it cannot be assumed that the Senate conferees will be successful in retaining that provision. With the Senate passage of both the tuition tax credit and the expanded college grant program, there would be an opportunity to double-dip if both bills are subsequently enacted without an offset provision. I believe that we must insure that double-dipping cannot take place. Therefore, I am offering my amendment in order to provide the Senate with an additional opportunity to enact an offset provision.●

AMENDMENTS NOS. 3519 AND 3520

(Ordered to be printed and to lie on the table.)

Mr. ROBERT C. BYRD (for Mr. ABOUREZK) submitted two amendments intended to be proposed to S. 1753, supra.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Senator ABOUREZK, I submit two amendments intended to be proposed by him to S. 1753, the Elementary and Secondary Education Amendments of 1978.

I ask unanimous consent that a statement by Senator ABOUREZK be printed in the RECORD, together with the text of the amendments and a section-by-section analysis.

There being no objection, the statement, amendments, and analysis were ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR JAMES ABOUREZK

INDIAN EDUCATION AMENDMENT

Before long, we will have the opportunity to consider and vote on the bill, S. 1753, the bill extending the Elementary and Secondary Education Act of 1965. I, along with the Ranking Minority Member of the Select Committee on Indian Affairs which I chair, intend to offer a floor amendment to S. 1753 in the form of an additional Title V.

Our proposed amendment contains important provisions designed to constructively address the present deficiencies in Indian educational programs administered by the Departments of the Interior and Health, Education, and Welfare by implementing long-needed reforms, and by providing the direction and support necessary to realize the attainment of equal educational opportunity for all Indian children. A general description of the bill follows:

Part A amends P.L. 81–874, an HEW program commonly referred to as the Impact Aid Act, by directing that regulations be established to guarantee local parental and tribal involvement in the education of their children provided by local public schools, a responsibility they specifically desire. Regretfully, such guarantees are needed in those instances where Indians have heretofore been ignored or otherwise restricted from equal participation in the development of educational policies and programs in public schools. In conjunction with this are provisions increasing the resources with which public schools can improve the quality of education they offer to Indian children who reside on non-taxable trust land by increasing the entitlement formulas as applied to such children.

Part B would direct that Interior's Bureau of Indian Affairs establish and implement uniform educational standards and policies in all its schools. It requires the BIA to bring all its educational facilities into compliance with health and safety codes, streamlines the BIA's administrative functions with regard to education, and establishes a uniform and objective formula to equitably distribute funds directly to the schools for their local operations. It states the overall BIA educational policy to be that of facilitating Indian control of Indian education and establishes a special education personnel structure designed to increase local control, responsibility, and accountability for the daily operation and management of educational programs. Finally, Part B requires an annual report to Congress on the status of Indian education, sets up a management information system, and calls for a program to encourage the recruitment of Indian educators.

Part C contains several amendments to existing HEW programs, the purposes of which are to generally improve and perfect these programs administered by the Office of Indian Education.

Without doubt, Mr. President the quality of educational programs being offered to Indian children today is simply and unjustifiably bad. Despite the special relationships existing between the Federal government and Indian tribes, and the resulting Federal trust obligations to provide for Indian educational services, being Indian has meant accepting less than equal educational opportunity. The American Indian Policy Review Commission, established by Congress in 1975, found that—

a. Indians are substantially less educated than non-Indians;

b. education provided to Indians is often irrelevant to their needs and culture;

c. Indians in public schools often fall 2 to 3 years behind non-Indians in achievement levels; and

d. the majority of Indian people have no mechanism for input in the education of their children.

The Commission's special Task Force on Indian Education further found that estimates of Indian dropouts from both BIA and public schools ranged from 25 percent to 75 percent.

In a recently released Issue Brief on Indian Education, the Congressional Research Service of the Library of Congress (Issue Brief No. IB 77111, updated 07/21/78) states that an estimated 360,000 Indian children (including Alaska Natives) received elementary and secondary instruction while enrolled in one of four school systems during the 1975–76 school year. These four school systems include:

The BIA (Bureau of Indian Affairs) Federal Indian school system that enrolled approximately 43,000 Indian students;

The public school systems operated by the various States that enrolled over 300,000 Indian students;

A small, but growing number of previously private "contract schools" operated by Indian-controlled school boards, under agreement with the BIA, that enrolled about 3,000 Indian students; and

Various mission and other private schools that enrolled an estimated 12,000 Indian students.

Within the past 10 years, various studies and reports have expressed dissatisfaction with the direction and quality of the Indian education effort in the United States and have offered various suggestions for improvement. In general, such studies and reports have found that the education opportunities and attainments of Indian students have remained below national averages and that assimilation of the Indian student into the majority society has been overemphasized at the expense of cultural heritage. In 1969, the Senate Special Subcommittee on Indian Education in a summary report, Indian Education: A National Tragedy—A National Challenge, sharply criticized both Federal and public school efforts in Indian education and made 60 specific policy, administrative, and programmatic recommendations. The following year, the USOE-supported National Study of American Indian Education evaluated the various sources of problems in Indian education and the kind of education that Indians want. The National Study also included recommendations in areas such as the Federal responsibility in Indian education, strengthening the Indian curriculum, improving career development programs and teacher recruitment, selection, and training, and Indian school finance. In 1973 and again in 1977, the GAO (General Accounting Office) reported that the BIA needed to improve the quality of its Federal Indian schools to meet the needs of Indian students. Also in 1977, the American Indian Policy Review Commission, established by Congress in 1975 to conduct a 2-year, comprehensive study of the Indian relationship with the Federal Government, issued a final Report on Indian Education that detailed the background of the Federal and State involvement in Indian education and criticized the existing education delivery system as inadequate to meet the needs of Indian people. . . .

With respect to the quality and efficiency of the BIA education system, CRS states that:

In 1975–76, the BIA operated 188 schools that enrolled approximately 45,600 students. Of this total enrollment, about 43,000 were elementary and secondary Indian students attending 144 day schools and 71 boarding schools. In addition, 2,600 postsecondary Indian students were enrolled in three BIA postsecondary schools: Haskell Indian Junior College, the Institute of American Indian Arts, and Southwest Indian Polytechnic Institute.

Despite the efforts of a number of BIA teachers and administrators, the BIA educa-

tion record has been marked over the years

dian students in the public schools is de-

tion record has been marked over the years by the lower than average achievement and retention rates that characterize Indian education in general. For example, the National Study of American Indian Education reported on a 1968 study of Indian achievement in several BIA schools that found that Indian students scored below the national norm at all grades tested (2, 3, 4, and 5).

The BIA has defined "Indian education" in terms of a process designed to fill the gap between Indian and non-Indian cultures. However, a recent GAO report, Concerted Effort Needed to Improve Indian Education (Jan. 17, 1977), concluded that the BIA education system ". . . has not been designed to fill the gap." Specifically, the GAO report and other investigations found that the BIA education effort appears hampered by a number of administrative and organizational problems, including:

Lack of a comprehensive, up-to-date education policy and strategy designed to meet the various educational needs of Indian students in all BIA schools. (Current BIA educational goals and objectives were last revised in 1953.)

An inadequate management information system for pupil and staff accounting, curriculum assessment, and financial management.

Lack of a BIA-funded program for the handicapped and inadequate counseling resources.

A slow and cumbersome teacher recruitment and replacement process that can take from 2 months to over a year to replace a full-time classroom teacher.

Lack of policy direction and leadership from the BIA central office, due, in part, to constant turnover in the position of Director of Education with 15 different individuals holding this position between 1966 and 1976.

Division of responsibility within BIA that places school construction as well as maintenance and repair outside of the Office of Indian Education and beyond the direct control of a local BIA school principal.

Some also argue that the BIA education effort has been hindered by an overall lack of sufficient funds in recent years, whereas others stress that available funds have been used inefficiently . . . .

With regard to the degree of Indian attainment in the public schools, CRS states that: the largest number of school-aged Indian children, over 300,000 in 1975–76, were enrolled in the elementary and secondary public schools operated within the States. As in the case of the BIA schools, Indian students in the public schools are also characterized by lower achievement and high dropout statistics. The 1966 Coleman report (On Equality of Educational Opportunity), for example, found that Indian children achieved at a lower level than white children at all grade levels tested (grades 1, 3, 6, 9, and 12) and at an increasing rate of underachievement. While accurate dropout statistics for Indian students in the public schools are difficult to obtain, recent Indian dropout estimates from several States with concentrations of Indian students have ranged from 25 percent to over 50 percent.

Of the 300,000 Indian students in public schools in 1975–76, approximately 145,000 were from tribes federally recognized as eligible for special educational assistance from the BIA in addition to any other special educational services from the USOE. The remaining 155,000 Indian students in the public schools in 1975–76 were eligible for special educational services from the USOE, but not from the BIA because (1) they came from tribes not recognized by the Federal Government through treaty or other agreement; (2) they were of less than one-quarter degree Indian blood, or (3) they lived in areas, such as some large cities, not presently served by the BIA.

Financial support for the education of Indian students in the public schools is derived from local, State, and Federal sources. Because of the tax-exempt status of Indian land, many school districts with concentrations of Indian students living on Federal Indian reservations derive less school revenue from local property taxes than is the average for the State. In these cases, the State and Federal revenue sources combine to provide a significant majority of the funds for such Indian-land school districts. For many school districts, however, the number of Indian students is a small proportion of the total student body or the amount of the tax-exempt Indian land is insignificant. In these cases, the relative proportions of the local, State, and Federal contributions will more likely reflect the Statewide pattern. . . .

And finally, CRS addressed the question of the effectiveness of the Indian Education Act by stating that: in comparison with the BIA, the USOE contribution to programs that directly or indirectly benefited elementary and secondary Indian students in the public schools in FY76 was an estimated $150 million (out of the USOE total of $211 million for all Indian aid)—or about five times the BIA contribution level from the JOB program. Most of this total in USOE public school assistance resulted from three formula grant programs: P.L. 81–874 impact aid ($58.5 million), ESEA Title I ($43 million), and Part A of the Indian Education Act ($35 million).

The P.L. 874 impact aid program provides financial assistance to local educational agencies in areas affected by Federal activities. In FY76, P.L. 874 distributed approximately $739 million in general school maintenance and operations revenue to over 4,300 public school districts. In that year, about 85,000 students living on tax-exempt Indian lands in 630 school districts were claimed for the purposes of P.L. 874 with most of this total associated with federally recognized reservation lands.

The ESEA Title I program authorizes financial assistance to school districts to meet the special educational needs of educationally disadvantaged children. Indian children in the public schools participate in the ESEA Title I program to the extent to which they attend Title I target schools and need the special educational services provided.

The Indian Education Act (P.L. 93–318, Title IV, as amended) consists of three principal programs: Part A—Grants to local educational agencies, Part B—Special programs and projects, and Part C—Special programs relating to adult education. In FY 76, the Indian Education Act (IEA) received a total appropriation of $57.1 million, the largest portion of which went to Part A—$35 million. The Part A program authorizes formula grants for planning, developing, and operating supplementary programs designed to meet the special educational needs of Indian children in the public schools. In its supplementary purpose, the USOE-administered Part A program is similar to the BIA-administered JOM supplementary assistance program. Unlike JOM, however, the Part A program is governed by a statutory definition of the term "Indian" which includes students from nonfederally recognized tribes or living in areas, such as many large cities, not served by the BIA. Thus, in 1976, over 300,000 public school Indian students were counted as eligible for entitlements under the Part A program, but only 145,000 of such public school Indian students were recognized for assistance by the BIA under the JOM program.

A 1977 GAO report on the Indian Education Act, Indian Education in the Public School System Needs More Direction from the Congress (March 14, 1977), noted problems in identifying and selecting Indian children under the Part A program, in assessing their special educational needs, and in targeting Part A funds to meet such special needs. Among its recommendations to improve the Part A program, the GAO suggested that USOE strengthen the program regulations and guidelines governing Indian eligibility and that Congress provide a clearer definition of the Indian children to be served. GAO also recommended that USOE improve its monitoring of LEA's (Local Educational Agency) needs assessment under the program and that Congress more precisely determine what are the "special educational needs of Indian children." In addition, GAO suggested that USOE establish measurable program goals by which to judge the effectiveness of Part A projects . . .

Our amendment is designed to begin the process of constructively addressing this overwhelming litany of problems which has been documented repeatedly.

It does not, however, address the merits or demerits of the proposed transfer of BIA educational programs to a new Department of Education as contained in S. 991 presently awaiting floor action. The provisions contained in our amendment represent long-needed internal reforms in both HEW and Interior Indian education programs. In our best judgement, passage of our amendment would not bias in any way the overall question of where these various Indian education programs should be located.

The House recently passed H.R. 15, its companion measure to S. 1753, which contains a major section on Indian education, Title XI. Presently, S. 1753 contains no such provisions. Our proposed amendment is quite similar to Title XI of H.R. 15, but differs in what we feel are some significant and necessary respects. The House Education and Labor Committee built an extensive record on two comprehensive Indian education bills which were subsequently incorporated into the ESEA reauthorization bill as one separate title. In any future conference on S. 1753 and H.R. 15, it is clear that the Senate will have no basis upon which to respond to the House Indian education provisions unless our parallel amendment to S. 1753 is accepted by the Senate.

It is my conviction that, in its consideration of this amendment to S. 1753, the Senate has a rare opportunity to constructively address the many serious problems which have so plagued the government's administration of Indian education services. I, along with Senator Bartlett, urge our colleagues to support our proposed Amendment in the form of an additional Title V to S. 1753.

We are also submitting two amendments to the Adult Education Act which we feel would go a long way toward filling the tremendous educational needs of adult Indians. One would allow the USOE to survey and evaluate needs of all Indian adults, not just those residing on reservations. The other amendment would authorize USOE to make grants for the development and establishment of educational services and programs specifically designed for Indian adults. The present legislation provides for demonstration projects in this area. Our amendment would broaden this part of the legislation and allow for service-type programs.

AMENDMENT No. 3519

On page 355, strike out lines 1 through 23.

On page 356, line 1, strike out "Part C" and insert "Part B".

On page 377, after line 16, insert the following new title:

TITLE V—INDIAN EDUCATION

PART A—ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES

AMENDMENT TO PUBLIC LAW 874

SEC. 501. (a) Effective with respect to fiscal years beginning on or after the date of enactment of this Act, section 3(d)(2) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by adding at the end thereof the following new subparagraph:

"(D) The amount of the entitlements of any local educational agency under this section for any fiscal year with respect to children who, while in attendance at such agency, resided on Indian lands, as described in clause (A) of section 403(1), shall be the amount determined under paragraph (1) with respect to such children for such fiscal year multiplied by 125 per centum.".

(b) Effective with respect to fiscal years beginning on or after the date of enactment of this Act, section 5(a)(2) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is repealed and section 5(a)(1) of such Act is redesignated section 5(a).

(c) Effective with respect to fiscal years beginning on or after the date of enactment of this Act, section 5(b) of the Act of September 30, 1953 (Public Law 874, Eighty-first Congress), is amended by designating the existing provisions as paragraph (1) and adding the following paragraph:

"(2)(A) Payments of entitlements under section 3(d)(2)(D) of this Act shall be made only to local educational agencies which have, within one year of the date of enactment of this paragraph, or when local educational agencies are formed after such date of enactment, within one year of their formation, established such policies and procedures with respect to information received from the Indian parents and tribes as required by this paragraph and which have made assurances to the Commissioner, at such time and in such manner as shall be determined by regulation, that such policies and procedures have been established. The Commissioner shall have the authority to waive this one-year limit for good cause, and in writing to the Indian parents and tribes.

"(B) Each local educational agency shall establish such policies and procedures as are necessary to insure that—

"(i) Indian children claimed under section 3(a) participate on an equal basis in the school program with all other children educated by the local educational agency;

"(ii) applications, evaluations, and program plans are adequately disseminated to the tribes and parents of Indian children claimed under section 3(a); and

"(iii) tribes and parents of Indian Children claimed under section 3(a) are—

"(I) afforded an opportunity to present their views with respect to the application, including the opportunity to make recommendations concerning the needs of their children and the ways by which they can assist their children in realizing the benefits to be derived from the educational programs assisted under this paragraph;

"(II) actively consulted and involved in the planning and development of programs assisted under this paragraph; and

"(III) afforded a general opportunity to present their overall views on the educational program and the degree of parental participation allowed.

"(c) (i) Any tribe, or its designee, which has students in attendance at a local educational agency may file a written complaint with the Commissioner regarding any action of a local educational agency taken pursuant to, or relevant to, the requirements of subparagraph (B) of this paragraph.

"(ii) Within ten working days from receipt of the complaint, the Commissioner shall—

"(I) designate a time and place for a hearing into the matters relating to the complaint at a location in close proximity to the local educational agency involved, or, if the Commissioner determines there is good cause, at some other location convenient to both the tribe, or its designee, and the local educational agency;

"(II) designate a hearing examiner to conduct the hearing; and

"(III) notify the affected tribe or tribes and the local educational agency involved of the time, place, and nature of the hearing and send copies of the complaint to the local educational agency and the affected tribe or tribes.

"(iii) The hearing shall be held within thirty days of the designation of a hearing examiner and shall be open to the public.

"(iv) The complaining tribe, or its designee, and the local educational agency shall be entitled to present evidence on matters relevant to the complaint and to make recommendations concerning the appropriate remedial actions. Each party to the hearing shall bear only its own costs in the proceeding.

"(v) Within thirty days of the completion of the hearing, the hearing examiner shall, on the basis of the record, make written findings of fact and recommendations concerning appropriate remedial actions (if any) which should be taken. The hearing examiner's findings and recommendations, along with the hearing record, shall be forwarded to the Commissioner.

"(vi) Within thirty days of his receipt of the findings, recommendations, and record, the Commissioner shall, on the basis of the record, make a written determination of the appropriate remedial action, if any, to be taken by the local educational agency, the schedule for completion of the remedial action, and the reasons for his decision.

"(vii) Upon completion of his final determination, the Commissioner shall provide the complaining tribe, or its designee, and the local educational agency with copies of the hearing record, the hearing examiner's findings and recommendations, and the Commissioner's final determination. The final determination of the Commissioner shall be subject to judicial review.

"(viii) In all actions under this subparagraph, the Commissioner shall have discretion to consolidate complaints involving the same tribe or local educational agency.

"(D) If the local educational agency rejects the determination of the Commissioner, or if the remedy required is not undertaken within the time established and the Commissioner determines that an extension of the time established will not effectively encourage the remedy required, the Commissioner shall immediately withhold payment of all moneys to which such local agency is entitled under section 3(d)(2)(D) until such time as the remedy required is undertaken, except where the complaining tribe or its designee formally requests that such funds be released to the local educational agency.

"(E) This paragraph is based upon the special relationship between the Indian nations and the United States and nothing in it shall be deemed to relieve any State of any duty with respect to any citizens of that State.".

(d) Effective with respect to fiscal years beginning on or after the date of the enactment of this Act, section 5(c)(2) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by redesignating clauses (B) through (F) as clauses (C) through (G) and by adding after clause (A) the following new clause:

"(B) to each local educational agency which provides free public education for children who reside on Indian land, as described in clause (A) of section 403(1), which equals 75 per centum of the amount to which such agency is entitled under section 3(d)(2)(D);".

PART B—BUREAU OF INDIAN AFFAIRS PROGRAMS

STANDARDS FOR THE BASIC EDUCATION OF INDIAN CHILDREN IN BUREAU OF INDIAN AFFAIRS SCHOOLS

SEC. 511. (a) The Secretary, in consultation with the Assistant Secretary of Health, Education, and Welfare for Education, and in active consultation with Indian organizations and tribes, shall carry or cause to be carried out by contract with an Indian or ganization such studies and surveys, makin the fullest use possible of other existin studies, surveys, and plans, as are necessar to establish and revise standards for the ba sic education of Indian children attendin Bureau schools and Indian controlled con tract schools (hereinafter referred to a contract schools). Such studies and survey shall take into account factors such as aca demic needs, local cultural differences, typ and level of language skills, geographical lo lation and appropriate teacher-student ratio for such children, and shall be directed to ward the attainment of equal education opportunity for such children.

(b)(1) Within fifteen months of the dat of enactment of this Act, the Secretary sha propose minimum academic standards fo the basic education of Indian children, an shall distribute such proposed standards t the tribes and publish such proposed stand ards in the Federal Register for the purpos of receiving comments from the tribes an other interested parties. Within eightee months of the date of enactment of th Act, the Secretary shall establish final stand ards to all the tribes and publish such stand ards in the Federal Register. The Secretar shall revise such standards periodically a necessary. Prior to any revision of such pro posed revision to all the tribes, and publis such proposed revision in the Federal Reg ister, for the purpose of receiving comment from the tribes and other interested partie

(2) Such standards shall apply to Bureau schools, and, subject to subsection (e), t contract schools, and may also serve as a model for educational programs for Indian children in public schools. In establishin and revising such standards, the Secretar shall take into account the special needs o Indian students, and shall place a specia emphasis on the support and reinforcemen of the specific cultural heritage of eac tribe.

(c) The Secretary shall provide alternativ or modified standards in lieu of the stand ards established under subsection (b), wher necessary, so that the programs of eac school shall be in compliance with the mini mum standards required for accreditation o schools in the State where the school is lo cated.

(d) A tribal governing body, or the loca school board if so designated by the tribe governing body, shall have the local author ity to waive, in part or in whole, the stand ards established under subsections (b) an (c), where such standards are deemed b such body to be inappropriate or ill-con ceived, and shall also have the authority t revise such standards to take into accoun the specific needs of the tribe's children Such revised standards shall be establishe by the Secretary unless specifically rejecte by the Secretary for good cause and in writ ing to the affected tribes or local schoo board which rejection shall be final an unreviewable.

(e) The Secretary, through contractin procedures, shall assist school boards of con tract schools in the implementation of th standards established under subsections (b and (c), if the school boards request tha such standards, in part or in whole, be im plemented. The Secretary shall not refuse t enter into a contract with respect to an contract school on the basis of failure t meet such standards. At the request of a contract school board, the Secretary shal provide alternative or modified standards fo the standards established under subsection (b) and (c) to take into account the needs of the Indian children and the contract school.

(f) Subject to subsections (d) and (e) the Secretary shall begin to implement the standards established under this section im mediately upon the date of their establish ment. Within one year of such date, and a

each time thereafter that the annual budget request for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress a detailed plan to bring all Bureau and contract schools up to the level required by the applicable standards established under this section. Such plan shall include, but not be limited to, detailed information on the status of each school's educational program in relation to the applicable standards established under this section, specific cost estimates for meeting such standards at each school, and specific time lines for bringing each school up to the level required by such standards.

(g) There are hereby authorized to be appropriated such sums as may be necessary, for academic program costs, in order to bring all Bureau and contract schools up to the level required by the applicable standards established under this section.

NATIONAL CRITERIA FOR DORMITORY SITUATIONS

SEC. 512. (a) The Secretary, in consultation with the Assistant Secretary for Health, Education, and Welfare for Education, and in active consultation with Indian organizations and tribes, shall conduct or cause to be conducted by contract with an Indian organization, a study of the costs applicable to boarding arrangements for Indian students provided in Bureau and contract schools, for the purpose of establishing national criteria for such dormitory situations. Such criteria shall include requirements as to adult-child ratios, needs for counselors (including special needs related to off-reservation boarding arrangements), space, and privacy.

(b) Within fifteen months of the date of enactment of this Act, the Secretary shall propose such criteria, and shall distribute such proposed criteria to the tribes and publish such proposed criteria in the Federal Register for the purpose of receiving comments from the tribes and other interested parties. Within eighteen months of the date of enactment of this Act, the Secretary shall establish final criteria, distribute such criteria to all the tribes, and publish such criteria in the Federal Register. The Secretary shall revise such criteria periodically as necessary. Prior to any revision of such criteria, the Secretary shall distribute such proposed revision to all the tribes, and publish such proposed revision in the Federal Register, for the purpose of receiving comments from the tribes and other interested parties.

(c) The Secretary shall begin to implement the criteria established under this section immediately upon the date of their establishment. Within one year of such date, and at each time thereafter that the annual budget request for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress a detailed plan to bring all Bureau and contract boarding schools up to the criteria established under this section. Such plan shall include, but not be limited to, predictions for the relative need for each boarding school in the future, detailed information on the status of each school in relation to the criteria established under this section, specific cost estimates for meeting such criterial at each school, and specific time lines for bringing each school up to the leval required by such criteria.

(d) There are hereby authorized to be appropriated such sums as may be necessary in order to bring each school up to the level required by the criteria established under this section.

REGULATIONS

SEC. 513. The Secretary shall establish such regulations as are necessary to carry out sections 511 and 512 within eighteen months after the date of enactment of this Act.

STUDIES

SEC. 514. There are hereby authorized to be appropriated no more than $1,000,000 for any fiscal year beginning after the date of enactment of this Act to carry out the studies conducted under section 511 (a) and section 512 (a).

FACILITIES CONSTRUCTION

SEC. 515. (a) The Secretary shall immediately begin to bring all schools, dormitories, and other facilities operated by the Bureau or under contract with the Bureau in connection with the education of Indian children into compliance with all applicable Federal, tribal, or State health and safety standards, whichever provide greater protection, and with section 504 of the Vocational Rehabilitation Act (29 U.S.C. 31), except that nothing in this section shall require termination of the operations of any facility which does not comply with such provisions and which is in use on the date of enactment of this Act.

(b) Within one year of the date of enactment of this Act, and at each time thereafter that the annual budget request for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress a detailed plan to bring such facilities into compliance with such standards. Such plan shall include, but not be limited to, detailed information on the status of each facility's compliance with such standards, specific cost estimates for meeting such standards at each school, and specific time lines for bringing each school into compliance with such standards.

(c) Within six months of the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress, and publish in the Federal Register, the system used to establish priorities for school construction projects. At the time any budget request for school construction is presented, the Secretary shall publish in the Federal Register and submit with the budget request the current list of all school construction priorities.

(d) There are hereby authorized to be appropriated such sums as may be necessary to carry out subsection (a).

BUREAU OF INDIAN AFFAIRS EDUCATION FUNCTIONS

SEC. 516. (a) The Secretary shall vest in the Assistant Secretary for Indian Affairs all functions with respect to formulation and establishment of policy and procedure, supervision of programs, and expenditure of Federal funds for the purpose of Indian education. Such functions may not be further delegated to an official other than a Deputy Assistant Secretary for Indian Affairs, or the Director of the Office of Indian Education Programs of the Bureau (hereinafter referred to as the "Office") and shall be governed by the provisions of this Act, any other provision of law to the contrary notwithstanding. The Director of the Office may be authorized to redelegate such functions to personnel under his direction and supervision.

(b) The Director of the Office shall direct and supervise the operations of all personnel involved with the provision of educational services by the Bureau. Nothing in this Act shall be construed to require the provision of separate support services for Indian education.

(c) Education personnel located in Bureau agencies, who are under the direction and supervision of the Director of the Office in accordance with the first sentence of subsection (b), shall—

(1) monitor and evaluate Bureau education programs, and

(2) provide technical and coordinating assistance in areas such as procurement, contracting, budgeting, personnel, and curriculum.

However, in the case of boarding schools located off reservation operated by the Bureau, education personnel located in area offices of the Bureau shall provide such services, under the direction and supervision of the Director of the Office.

(d) For the purpose of this section the term "functions" includes powers and duties.

IMPLEMENTATION

SEC. 517. Within six months after the date of enactment of this Act, the Secretary shall establish and publish in the Federal Register the policies and procedures which are necessary to implement the transfer of functions made under section 516.

ALLOTMENT FORMULA

SEC. 518. (a) The Secretary shall establish, by regulation adopted in accordance with section 528, a formula for determining the minimum annual amount of funds necessary to sustain each Bureau or contract school. In establishing such formula, the Secretary shall consider—

(1) the number of Indian students served and size of the school;

(2) special cost factors, such as—

(A) isolation of the school;

(B) need for special staffing, transportation, or educational programs;

(C) food and housing costs;

(D) overhead costs associated with administering contracted education functions; and

(E) maintenance and repair costs associated with the physical condition of the educational facilities;

(3) the cost of providing academic services which are at least equivalent to those provided by public schools in the State in which the school is located;

(4) the cost of bringing the school up to the level of the standards established under sections 511 and 512; and

(5) such other relevant factors as the Secretary determines are appropriate.

(b) Notwithstanding any other provisions of law, Federal funds appropriated for the general local operation of Bureau and contract schools, shall be allotted pro rata in accordance with the formula established under subsection (a), except that, in the case of any such school which is located in a school district of a local educational agency which receives from Federal funds under other provisions of law an average payment per Indian child attending such school in that district which is higher than the amount which would be received by such Bureau or contract school under such formula for each Indian child attending such school, the payment to be received by that school under this section for each such child shall be equal to such average payment for an Indian child in public school in that district.

(c) Notwithstanding subsection (b), the Secretary may provide funds for the general local operation of Bureau and contract schools where necessitated by cases of emergencies or unforeseen contingencies not otherwise provided for under subsection (b). Whenever the Secretary makes funds available under this subsection, the Secretary shall report such action to the appropriate committees of Congress.

UNIFORM DIRECT FUNDING AND SUPPORT

SEC. 519. (a) Within six months after the date of enactment of this Act, the Secretary shall establish, by regulation adopted in accordance with section 528, a system for the direct funding and support of all Bureau and contract schools. Such system shall allot funds, in accordance with section 518, and shall provide each affected school with notification of its approximate allotment not later than the end of the school year preceding the year for which the allotment is to be made.

(b)(1) In the case of all Bureau schools, allotted funds shall be expended on the basis of local financial plans which shall be prepared by the local school supervisor in active consultation with the local school board for each school, and the local school board for each school shall have the authority to ratify, reject, or amend such financial plan, and expenditures thereunder, and, on its own determination or in response to the supervisor of the school, to revise such financial plan to meet needs not foreseen at the time of preparation of the financial plan. The supervisor of the school may appeal any such action by the local school board to the superintendent for education of the Bureau agency, and the superintendent may, for good cause and in writing to the local school board, overturn the action of the local school board.

(2) A local school board shall have financial plan authority under paragraph (1) unless the tribe affected (or in the case of a school serving several tribes, all the affected tribes), by formal action of the tribal governing body, determines that such board shall not have such authority. In the case of such a determination, the tribal governing body (or in the case of a school serving several tribes, all the affected tribal governing bodies) shall have such authority.

(c) In the exercise of its authority under this section, a local school board may request technical assistance and training from the Secretary, and he shall, to the greatest extent possible, provide such services, and make appropriate provisions in the budget of the Office for such services.

POLICY FOR INDIAN CONTROL OF INDIAN EDUCATION

SEC. 520. It shall be the policy of the Bureau, in carrying out the functions of the Bureau, to facilitate Indian control of Indian affairs in all matters relating to education.

EDUCATIONAL PERSONNEL

SEC. 521. (a)(1) Chapter 51, subchapter III of chapter 53, and chapter 63 of title 5, United States Code, relating to the appointment, promotion, removal, leave, and classification of civil service employees, shall not apply to educators or to education positions (as defined in subsection (m)).

(2) Paragraph (1) shall take effect one year after the date of enactment of this Act.

(b) Not later than the effective date of subsection (a)(2), the Secretary shall prescribe regulations to carry out this section. Such regulations shall govern—

(1) the establishment of education positions,

(2) the establishment of qualifications for educators,

(3) the fixing of basic compensation for educators and education positions,

(4) the appointment of educators,

(5) the discharge of educators,

(6) the entitlement of educators to compensation,

(7) the payment of compensation to educators,

(8) the conditions of employment of educators,

(9) the length of the school year applicable to education positions described in subsection (m)(1)(A),

(10) the leave system for educators, and

(11) such other matters as may be appropriate.

(c)(1) In prescribing regulations to govern the qualifications of educators, the Secretary shall require—

(A)(i) that lists of qualified and interviewed applicants for education positions be maintained in each agency and area office of the Bureau from among individuals who have applied at the agency or area level for an education position or who have applied at the national level and have indicated in such application an interest in working at the agency or area level; and

(ii) that a list of qualified and interviewed applicants for education positions be maintained in the Office from among individuals who have applied at the national level for an education position and who have expressed interest in working in an education position anywhere in the United States;;

(B) that a local school board shall have the authority to waive on a case-by-case basis, any formal education or degree qualifications established by regulation pursuant to subsection (b)(2), in order for a tribal member to be hired in an education position to teach courses on tribal culture and language and that subject to subsection (d)(2)(A), a determination by a school board that such a person be hired shall be followed by the supervisor; and

(C) that it shall not be a prerequisite to the employment of an individual in an education position at the local level that such individual's name appear on the national list maintained pursuant to subsection (c)(1)(A)(ii) or that such individual has applied at the national level for an education position.

(2) The Secretary may authorize the temporary employment in an education position of an individual who has not met the certification standards established pursuant to regulations, if the Secretary determines that failure to do so would result in that position remaining vacant.

(d)(1) In prescribing regulations to govern the appointment of educators, the Secretary shall require—

(A)(i) that educators employed in a school (other than the supervisor of the school) shall be hired by the supervisor of the school unless there are no qualified applicants available, in which case the vacant position shall be filled at the national level from the list maintained pursuant to subsection (c)(1)(A)(ii),

(ii) each school supervisor shall be hired by the superintendent for education of the agency office of the Bureau in which the school is located, and

(iii) educators employed in an agency office of the Bureau shall be hired by the superintendent for education of the agency office;

(B) that before an individual is employed in an education position in a school by the supervisor of a school (or, with respect to the position of supervisor, by the appropriate agency superintendent for education), the local school board for the school shall be consulted, and that subject to subsection (d)(2), a determination by the school board that such individual should not be so employed shall be followed by the supervisor (or with respect to the position of supervisor, by the agency superintendent for education); and

(C) that before an individual may be employed in an education position at the agency level, the appropriate agency school board shall be consulted, and that, subject to subsection (d)(3), a determination by such school board that such individual should or should not be employed shall be followed by the agency superintendent for education.

(2)(A) The supervisor of a school may appeal to the appropriate agency superintendent for educaton any determination by the local school board for the school that an individual be employed, or not be employed, in an education position in the school other than that of supervisor. Upon such an appeal, the agency superintendent for education may, for good cause and in writing to the local school board, oveturn the determination o fthe local school board with respect to the employment of such individual.

(B) The superintendent for education of an agency office of the Bureau may appeal to the Director of the Office any determination by the local school board for a school the an individual be employed, or not be employed, as the supervisor of the school. Upon such an appeal, the Director of the Office may, for good cause and in writing to the local school board, overturn the determination of the local school board with respect to the employment of such individual.

(3) The superintendent for education o and agency office of the Bureau may appe to the Director of the Office any determina tion by the agency school board that an in dividual be employed, or not be employed, i an education position in such agency offic Upon such an appeal, the Director of the Of fice may, for good cause and in writing t the agency school board, overturn the deter mination of the agency school board wit respect to the employment of such indi vidual.

(4) Any individual who applies at the loca level for an education position shall stat on such individual's application whether o not such individual has applied at the na tional level for an education position in th Bureau. If such individual is employed at th local level, such individual's name shall im mediately be forwarded to the Secretary, wh shall, as soon as possible but in no event i more than thirty days, ascertain the accu racy of the statement made by such individ ual pursuant to the first sentence of this sub paragraph. If the individual's statement i found to have been false, such individual, a the Secretary's discretion, may be discipline or discharged. If the individual had applie at the national level for an education posi tion in the Bureau, the appointment of such individual at the local level shall be condi tional for a period of ninety days, durin which period the Secretary may appoint more qualified individual (as determined b the Secretary) from the list maintained a the national level pursuant to subsection (c)(1)(A)(ii) to the position to which such individual was appointed.

(5) Except as expressly provided, nothing in this section shall be construed as conferring upon local school boards, authority over or control of, educators.

(e)(1) In prescribing regulations to govern the discharge and conditions of employment of educators, the Secretary shall require—

(A) that procedures be established for the rapid and equitable resolution of grievances of educators; and

(B) that no educator may be discharged without notice of the reasons therefor and opportunity for a hearing under procedures that comport with the requirements of due process.

(2) The supervisor of a Bureau school may discharge (subject to procedures established under subsection (e)(1)(B)) for cause (as determined under regulations prescribed by the Secretary) any educator employed in such school. Upon giving notice of proposed discharge to an educator, the supervisor involved shall immediately notify the local school board for the school of such action. A determination by the local school board that such educator not be discharged shall be followed by the supervisor. The supervisor shall have the right to appeal such action to the superintendent for education of the appropriate agency office of the Bureau. Upon such an appeal, the agency superintendent for education may, for good cause and in writing to the local school board, overturn the determination of the local school board with respect to the employment of such individual.

(3) each local school board for a Bureau school shall have the right (A) to recommend to the supervisor of such school that an educator employed in the school be discharged, and (B) to recommend to the superintendent of education of the appropriate agency office of the Bureau and to the Direc-

tor of the Office, that the supervisor of the

relating to dual compensation, shall not ap-

uniform

tor of the Office, that the supervisor of the school be discharged.

(f) Subject to the authority of the Civil Service Commission to determine finally the applicability of chapter 51 of title 5, United States Code, to specific positions and employees in the executive branch, the Secretary shall determine in accordance with subsection (a)(1) the applicability or inapplicability of such chapter to positions and employees in the Bureau.

(g)(1) The Secretary shall fix the basic compensation or annual salary rate for educators and education positions at rates comparable to the rates in effect under the General Schedule for individuals with comparable qualifications, and holding comparable positions, to whom chapter 51 is applicable.

(2) Each educator employed in an education position in Alaska shall be paid a cost-of-living allowance equal to 25 per centum of the rate of basic compensation to which such educator is entitled.

(3) The Secretary may pay a postdifferential not to exceed 25 per centum of the rate of basic compensation, on the basis of conditions of environment or work which warrant additional pay as a recruitment and retention incentive.

(h) Any individual—

(1) who on the date of enactment of this Act is holding a position which is determined under subsection (f) to be an education position and who elects under subsection (n)(2) to be covered under the provisions of this section, or

(2) who is an employee of the Federal Government or the municipal government of the District of Columbia and is transferred, promoted, or reappointed, without break in service, from a position under a different leave system to an education position,

shall be credited for the purposes of the leave system provided under regulations prescribed pursuant to subsection (b)(10), with the annual and sick leave to his credit immediately before the effective date of such election, transfer, promotion, or reappointment.

(i) Upon termination of employment with the Bureau, any annual leave remaining to the credit of an individual within the purview of this section shall be liquidated in accordance with sections 5551(a) and 6306 of title 5, United States Code, except that leave earned or included under regulations prescribed pursuant to subsection (b)(10) shall not be so liquidated.

(j) In the case of any educator who is transferred, promoted, or reappointed, without break in service, to a position in the Federal Government under a different leave system, any remaining leave to the credit of such person earned or credited under the regulations prescribed pursuant to subsection (b)(10) shall be transferred to his credit in the employing agency on an adjusted basis in accordance with regulations which shall be prescribed by the Civil Service Commission.

(k) An educator who voluntarily terminates employment with the Bureau before the expiration of the existing employment contract between such educator and the Bureau shall not be eligible to be employed in another education position in the Bureau during the remainder of the term of such contract.

(l) In the case of any educator employed in an education position described in subsection (m)(1)(A) who—

(1) is employed at the close of a school year,

(2) agrees in writing to serve in such a position for the next school year, and

(3) is employed in another position during the recess period immediately preceding such next school year, or during such recess period receives additional compensation referred to in subsection (g)(2) or (g)(3), section 5533 of title 5, United States Code, relating to dual compensation, shall not apply to such educator by reason of any such employment during a recess period for any such receipt of additional compensation.

(m) For the purpose of this section—

(1) The term "education position" means a position in the Bureau the duties and responsibilities of which—

(A) are performed on a school-year basis principally in a Bureau school and involve—

(i) classroom or other instruction or the supervision or direction of classroom or other instruction;

(ii) any activity (other than teaching) which requires academic credits in educational theory and practice equal to the academic credits in educational theory and practice required for a bachelor's degree in education from an accredited institution of higher education; or

(iii) any activity in or related to the field of education notwithstanding that academic credits in educational theory and practice are not a formal requirement for the conduct of such activity; or

(B) are performed at the agency level of the Bureau and involve the implementation of education-related programs other than the position of agency superintendent for education.

(2) The term "educator" means an individual whose services are required, or who is employed, in an education position.

(n)(1) This section shall apply with respect to any individual hired after the effective date of subsection (a)(2) for employment in an education position and to the position in which such individual is employed. Subject to paragraph (2), the enactment of this Act shall not affect the continued employment of any individual employed immediately before the effective date of subsection (a)(2) in an education position, or such individual's right to receive the compensation attached to such position.

(2) Any individual employed in an education position immediately before the effective date of subsection (a)(2) may, within five years of the date of enactment of this Act, make an irrevocable election to be covered under the provisions of this section.

MANAGEMENT INFORMATION SYSTEM

SEC. 522. The Secretary shall establish within the Bureau, within one year after the date of the enactment of this Act, a management information system, which shall provide information to all agency and area offices of the Bureau, and to the Office. Such information shall include but shall not be limited to—

(1) student enrollment;

(2) curriculum;

(3) staff;

(4) facilities;

(5) community demographics; and

(6) student assessment information.

BUREAU EDUCATION POLICIES

SEC. 523. Within one hundred and eighty days of the date of enactment of this Act, the Secretary shall develop, publish in the Federal Register, and submit to all agency and area offices of the Bureau, all tribal governments, and the appropriate committees of the Congress, a draft set of education policies, procedures, and practices for education-related action of the Bureau. The Secretary shall, within one year of the date of enactment of this Act, provide that such uniform policies, procedures, and practices shall be finalized and promulgated. Thereafter, such policies, procedures, and practices and their periodic revisions, shall serve as the foundation for future Bureau actions in education.

UNIFORM EDUCATION PROCEDURES AND PRACTICES

SEC. 524. The Secretary shall cause the various divisions of the Bureau to formulate uniform procedures and practices with respect to such concerns of those divisions and relate to education, and shall report such practices and procedures to the Congress.

RECRUITMENT OF INDIAN EDUCATORS

SEC. 525. The Secretary shall institute a policy for the recruitment of qualified Indian educators and a detailed plan to promote employees from within the Bureau. Such plan shall include opportunities for acquiring work experience prior to actual work assignment.

ANNUAL REPORT

SEC. 526. The Secretary shall submit to each appropriate committee of the Congress a detailed annual report on the state of education within the Bureau and any problems encountered in the field of education during the year. Such report shall contain suggestions for improving the Bureau educational system and increasing local Indian control of such system.

RIGHTS OF INDIAN STUDENTS

SEC. 527. Within six months of the date of enactment of this Act, the Secretary shall prescribe such rules and regulations as are necessary to ensure the constitutional and civil rights of Indian students attending Bureau schools, including their right to privacy under the laws of the United States, their right to freedom of religion and expression and their right to due process in connection with disciplinary actions, suspensions, and expulsions.

REGULATIONS

SEC. 528. Regulations required to be adopted under sections 516 through 527 of this Act shall be deemed rules of general applicability prescribed for the administration of an applicable program for the purposes of section 431 of the General Education Provisions Act and shall be promulgated, submitted for congressional review, and take effect in accordance with the provisions of such section.

DEFINITIONS

SEC. 529. For the purpose of this title—

(1) the term "local educational agency" means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, independent, or other school district located within a State, and includes any State agency which directly operates and maintains facilities for providing free public education;

(2) the term "Commissioner" means the Commissioner of Education;

(3) the term "Secretary" means the Secretary of the Interior;

(4) the term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior;

(5) the term "local school board", when used with respect to a Bureau school, means a body, the members of which are appointed by the governing bodies of any affected tribes, or if so designated by such tribes, elected by the parents of the Indian children attending the school; and the number of such members shall be determined by the Secretary in consultation with such tribes;

(6) the term "agency school board", means a body, the members of which are appointed by the governing bodies of any affected tribes, or if so designated by such tribes, elected by the parents of the Indian students in Bureau schools under such agency; and the number of such members shall be determined by the Secretary in consultation with such tribes;

(7) the term "supervisor" means the individual in the position of ultimate authority at a Bureau school;

(8) the term "financial plan" means a plan of services to be provided by each Bureau school;

(9) the term "Indian organization" means any group, association, partnership, corporation, or other legal entity owned or controlled by a federally recognized Indian tribe or tribes, or a majority of whose members are members of federally recognized Indian tribes; and

(10) the term "tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

PART C—AMENDMENTS TO VARIOUS EDUCATION ACTS

EXTENSION OF PROGRAMS FOR THE EDUCATION OF INDIAN CHILDREN

SEC. 531. (a) Section 810 (g) of the Elementary and Secondary Education Act of 1965 is amended by striking out "July 1, 1978" and inserting in lieu thereof "October 1, 1983".

(b) Section 303 (a) (1) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) as added by the Indian Education Act, is amended by striking out "October 1, 1978" and inserting in lieu thereof "October 1, 1983".

(c) (1) Section 422 of the Indian Education Act is amended by striking out "each of the three succeeding fiscal years" and inserting in lieu thereof "each of the succeeding fiscal years ending prior to October 1, 1983".

(2) Section 423 (a) of such Act is amended by striking out "each of the three succeeding fiscal years" and inserting in lieu thereof "each of the succeeding fiscal years ending prior to October 1, 1983".

(3) Section 442 (a) of such Act is amended by striking out "October 1, 1978" and inserting in lieu thereof "October 1, 1983".

CULTURALLY RELATED ACADEMIC NEEDS

SEC. 532. (a) Section 302(a) of the Indian Elementary and Secondary School Assistance Act is amended—

(1) by striking out "special educational needs of Indian students" and inserting in lieu thereof "special educational and culturally related academic needs of Indian students"; and

(2) by striking out "these special educational needs" and inserting in lieu thereof "these special educational or culturally related academic needs, or both".

(b) Section 304 of such Act is amended by striking out "special educational needs" each place it appears in paragraphs (1) and (2) and inserting in lieu thereof "special educational or culturally related academic needs, or both".

DEMONSTRATION PROJECTS

SEC. 533. Section 303 of the Indian Elementary and Secondary School Assistance Act is amended by adding at the end thereof the following new subsection:

"(c) In addition to the sums appropriated for any fiscal year for grants to local educational agencies under this title, there is hereby authorized to be appropriated for any fiscal year an amount not in excess of 10 percentum of the amount appropriated for payments on the basis of entitlements computed under subsection (a) for that fiscal year, for the purpose of enabling the Commissioner to make grants on a competitive basis to local educational agencies to support demonstration projects and programs which are designed to plan for and improve education opportunities for Indian children, except that the Commissioner shall reserve a portion not to exceed 25 per centum of such funds to make grants for demonstration projects examining the special educational and culturally related academic needs that arise in school districts with high concentrations of Indian children.".

PARENT COMMITTEES

SEC. 534. Section 305(b) of the Indian Elementary and Secondary School Assistance Act is amended—

(1) by inserting "(including persons acting in loco parentis other than school administrators or officials)" after "Indian children" in paragraph (2)(B)(i) and after "children participating in the program" in paragraph (2)(B)(ii);

(2) by inserting ", including the hiring of personnel," after "policies and procedures" in paragraph (2)(C); and

(3) by striking out the period at the end of paragraph (2)(C) and inserting in lieu thereof a semicolon and by adding at the end thereof the following new paragraph:

"(3) provides that the parent committee formed pursuant to paragraph (2)(B)(ii) will adopt and abide by reasonable by-laws for the conduct of the program for which assistance is sought.".

ALLOCATION ADJUSTMENTS

SEC. 535. Section 307(b) of the Indian Elementary and Secondary School Assistance Act is amended to read as follows:

"(b) In the case of any fiscal year in which the maximum amounts for which local educational agencies are eligible have been reduced under the first sentence of subsection (a), and in which additional funds have not been made available to pay in full the total of such maximum amounts under the second sentence of such subsection, the Commissioner may realiot, in such manner as he determines will best assist in advancing the purposes of this title, any amount awarded to a local education agency in excess of the amount to which it is entitled under section 303(a) and subsection (a) of this section, or any amount which the Commissioner determines, based upon estimates made by local education agencies, will not be needed by any such agency to carry out its approved project.".

TRIBAL SCHOOLS

SEC. 536. Notwithstanding any other provisions of law, any Indian tribe or organization which is controlled or sanctioned by an Indian tribal government and which operates any school for the children of that tribe shall be deemed to be a local educational agency for purposes of section 303(a) of the Indian Elementary and Secondary School Assistance Act (title III of Public Law 874, Eighty-first Congress) if each such school, as determined by the Commissioner, operated by that tribe or organization provides its students an educational program which meets the standards established under section 111 for the basic education of Indian children, or is a school operated under contract by that tribe or organization in accordance with the provisions of the Indian Self-Determination and Education Assistance Act.

AMENDMENTS TO TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 537. (a) Section 810(c)(1)(E) of the Elementary and Secondary Education Act of 1965 is amended by inserting "and gifted and talented Indian children" after "handicapped".

(b)(1) Section 810(c)(1)(F) of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

"(F) early childhood programs, including kindergarten;".

(2)(A) Section 810(d) of the Elementary and Secondary Education Act of 1965 is amended—

(i) by striking out "children" in paragraphs (1) and (2) of such section and by inserting in lieu thereof "students" each time it appears; and

(ii) by inserting after "teachers" a comma and the following "administrators".

(B) The section heading of section 810 of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

"IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN STUDENTS"

(c) Section 810 (e) of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

"(e)(1) The Commissioner is also authorized to make grants to and contracts with public agencies, State educational agencies in States in which more than five thousand Indian children are enrolled in public elementary and secondary schools, Indian tribes, Indian institutions, Indian organizations, or to make contracts with private institutions and organizations, to establish, on a regional basis, information centers to—

"(A) evaluate programs assisted under this part, under the Indian Elementary and Secondary School Assistance Act, under section 316 of the Adult Education Act, and other Indian education programs in order to determine their effectiveness in meeting the special educational and culturally related academic needs of Indian children and to conduct research to determine those needs;

"(B) provide technical assistance upon request to local educational agencies and Indian tribes, Indian organizations, Indian institutions, and parent committees created pursuant to section 305 (b) (2) (B) (ii) of the Indian Elementary and Secondary School Assistance Act in evaluating and carrying out programs assisted under this part, under section 316 of the Adult Education Act through the provision of materials and personnel resources; and

"(C) disseminate information upon request to the parties described in subparagraph (B) concerning all Federal education programs which affect the education of Indian children including information on successful models and programs designed to meet the special educational needs of Indian children.

"(2) Grants or contracts made pursuant to this subsection may be made for a term not to exceed three years (renewable at the end of that period subject to the approval of the Commissioner) provided that provision is made to ensure annual review of the projects.".

(d) Section 810 (f) of the Elementary and Secondary Education Act of 1965 is amended by inserting "(1)" after "(f)", by redesignating clauses (1), (2), (3) and (4) as clauses (A), (B), (C), and (D) respectively, and by adding at the end thereof the following:

"(2) The Commissioner shall not approve an application for a grant under subsection (e) of this section unless he is satisfied that the funds made available under that subsection will be so used as to supplement the level of funds from State, local, and other Federal sources that would, in the absence of Federal funds under this subsection, be made available by the State or local educational agency for the activities described in this subsection, and in no case will be used so as to supplant those funds.".

(e) Section 810(g) of the Elementary and Secondary Education Act of 1965 is amended by inserting "(1)" after "(g)" and by adding at the end thereof the following:

"(2) For the purpose of making grants under subsection (e) of this section there are hereby authorized to be appropriated $8,000,000 for each of the fiscal years ending prior to October 1, 1983. The sum of the grants made to State educational agencies under subsection (e) of this section shall not exceed 15 per centum in any fiscal year of the sums appropriated for that year.".

(f) Section 306(a) of the Indian Elementary and Secondary School Assistance Act is

amended by inserting "estimated to be" after

amended by inserting "estimated to be" after "equal to the amount".

TEACHER TRAINING AND FELLOWSHIPS

Sec. 538. (a) The first sentence of section 422(a) of the Indian Education Act is amended by striking out "children" and inserting in lieu thereof "people".

(b) Section 423(a) of the Indian Education Act is amended—

(1) by striking out "less than three, nor"; and

(2) by striking out "professional or graduate degree in engineering, medicine, law, business, forestry, and related field" and inserting in lieu thereof "postbaccalaureate degree in medicine, law, education, and related fields or leading to an undergraduate or graduate degree in engineering, business administration, natural resources, and related fields.".

On page 20, in the Table of Contents, strike out part B and item section 321.

On page 20, in the Table of Contents, redesignate part C as part B.

On page 21, in the Table of Contents, insert after item Sec. 409, the following:

TITLE V—INDIAN EDUCATION

PART A—ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES

Sec. 501. Amendment to Public Law 874.

PART B—BUREAU OF INDIAN AFFAIRS PROGRAMS

Sec. 511. Standards for the basic education of Indian children in Bureau of Indian Affairs schools.
Sec. 512. National criteria for dormitory situations.
Sec. 513. Regulations.
Sec. 514. Studies.
Sec. 515. Facilities construction.
Sec. 516. Bureau of Indian Affairs education functions.
Sec. 517. Implementation.
Sec. 518. Allotment formula.
Sec. 519. Uniform direct funding and support.
Sec. 520. Policy for Indian control of Indian education.
Sec. 521. Educational personnel.
Sec. 522. Management information system.
Sec. 523. Bureau education policies.
Sec. 524. Uniform education procedures and practices.
Sec. 525. Recruitment of Indian educators.
Sec. 526. Annual report.
Sec. 527. Rights of Indian students.
Sec. 528. Regulations.
Sec. 529. Definitions.

PART C—AMENDMENTS TO VARIOUS EDUCATION ACTS

Sec. 531. Extension of programs for the education of Indian children.
Sec. 532. Culturally related academic needs.
Sec. 533. Demonstration projects.
Sec. 534. Parent committees.
Sec. 535. Allocation adjustments.
Sec. 536. Tribal schools.
Sec. 537. Amendments to title VIII of the Elementary and Secondary Education Act of 1965.
Sec. 538. Teacher training and fellowships.

Amendment No. 3520

On page 352, between lines 15 and 16, insert the following:

"SEC. 311. (a)(1) Section 314(a)(4) of the Act (as redesignated by section 307) is amended by striking out "on Indian reservations" and inserting in lieu thereof "among Indians".

"(2) Section 314 of the Act (as redesignated by section 307) is amended by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively, and by inserting immediately after subsection (a) the following new subsection:

"(b) The Commissioner is also authorized to make grants to Indian tribes, Indian institutions and Indian organizations to develop and establish educational-services and programs specifically designed to improve educational opportunities for Indian adults."

On page 352, line 16, strike out "Sec. 311." and insert in lieu thereof "(b)".

On page 352, line 16, strike out "(d)" and insert in lieu thereof "(e)".

SECTION-BY-SECTION ANALYSIS

PART A—ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES

Amends P.L. 81-874 (Impact Aid) by establishing a new method of computing entitlements and making payments for children educated in public schools who live on Federal Indian trust property, and by conditioning the payment of such entitlements on the establishment by local school districts of policies and procedures which will ensure the equal participation of Indian children in educational programs and the increased participation of the parents of Indian students and of Indian tribes in the education process.

Section 501(a) amends section 3 of the Act by adding a new paragraph 3(d)(2)(D) under which the entitlement for an Indian "A" child would be an amount equal to the regular entitlement for an "A" child times 125 per centum.

Section 501(b) repeals section 5(a)(2) of the Act. This section, added in 1974, requires local educational agencies, as a part of their application for impact aid funds, to provide assurances that Indian children will participate on an equal basis with non-Indian children in educational programs. The need for this section is superseded by the addition of strengthened provisions under the amendment to section 5(d) below.

Section 501(c) amends sections 5(b) of the Act. Under the amendment, payment of entitlements under section 3(d)(2)(D) shall be made only to local educational agencies (LEA's) which have established policies and procedures to guarantee that (1) Indian children will participate on an equal basis in educational programs, (2) applications, evaluations, and program plans are adequately disseminated to tribes and parents of Indian children, and (3) tribes and parents are afforded an opportunity to make recommendations concerning the needs of Indians students, are actively consulted and involved in the planning and development of educational programs, and have the opportunity to present their overall views on the educational program and the degree of parental participation. The amendment also provides an administrative complaint process whereby the tribe, or its designee, may seek remediation of any action taken by an LEA pursuant to or relevant to the above requirements. If, after the complaint procedure, the Commissioner determines that remedial action by the LEA is required and if the LEA does not undertake the remedial action as required, the Commissioner is required to withhold payments of entitlements under section 3(d)(2)(D) until such time as the remedial action is undertaken, unless the complaining tribe, or its designee, formally requests release of the funds to the LEA.

Section 501(d) amends section 5(c)(2) of the Act to provide that in case appropriations are not sufficient to pay the total amount of entitlements under the Act, an LEA will receive 75% of the amount of its entitlement under section 3(d)(2)(D) in the second tier P.L. 874 payments, effectively guaranteeing 100% payments to schools for all Indian children.

PART B—BUREAU OF INDIAN AFFAIRS EDUCATIONAL PROGRAMS

Section 511 provides for the establishment of standards for the basic education of Indian children in Federal Indian schools.

Under section 511(a), the studies and surveys necessary to establish these standards are to be undertaken by the Secretary of the Interior (Secretary) within the Bureau or by contract with an Indian organization and in consultation with the Assistant Secretary of HEW and Indian tribes and organizations. The studies will take into account academic needs, local cultural differences, type and level of language skills, geographic isolation, and appropriate teacher-student ratios for Indian children, and will be directed toward the attainment of equal educational opportunity for Indian children.

Under section 511(b), the Secretary is required to establish proposed standards based on these studies within fifteen months and to distribute the proposed standards to tribes and other parties for comment. Within eighteen months, the Secretary is required to establish final standards, to distribute and publish the standards, and to revise the basic standards as necessary (after notice and comment from the tribes and interested parties). The basic standards will apply to BIA schools, as modified by subsections (c) and (d), and to Indian schools under contract with BIA, subject to subsection (e).

Subsection (c) provides for modified standards where necessary to meet minimum standards required for accreditation of schools by the State within which the school is located.

Subsection (d) gives Indian tribes, or local school boards if so designated by the tribe, the authority to modify the basic standards to take into account specific needs of the tribe's students, subject to the final authority of the Secretary to approve modified standards.

Subsection (e) provides for the implementation of the basic standards in contract schools to the extent requested by the contract school board.

Subsection (f) provides for the speedy implementation of the basic standards in conjunction with a detailed implementation plan which will be submitted annually to Congress indicating the progress made toward implementation of the standards in each Bureau and contract school, the cost estimate for implementing the standards, and a schedule for complete implementation.

Subsection (g) authorizes the appropriation of such sums as are necessary to implement the academic program required under the basic standards.

Section 512 requires the Secretary, through BIA or by contract with an Indian organization, and in consultation with the Assistant Secretary for HEW and with Indian tribes and organizations, to conduct a study for the purpose of developing national criteria to govern dormitory situations in Bureau and contract schools. The criteria are to be established after notice and comment by the tribes and other interested parties within eighteen months and in the same manner as the standards established under section 511. The criteria must include requirements as to adult-child ratios, needs for counselors, space, and privacy and will apply to dormitory situations in Bureau and contract schools. The Secretary will implement the criteria in conjunction with a detailed implementation plan submitted annually to Congress. Such sums as are necessary to implement the criteria are authorized to be appropriated.

Section 513 requires the Secretary to establish within eighteen months regulations to carry out the studies and implement the standards and criteria established under sections 111 and 112.

Section 514 provides an authorization of up to $1 million for any one fiscal year to conduct the studies under sections 111 and 112.

Section 515(a) mandates the Secretary to bring all schools, dormitories, and facilities operated by or under contract with the BIA which are related to the education of Indian children, into compliance with all applicable Federal, Tribal or State health and safety laws (whichever provides the greatest protection) and with section 504 of the Vocational

Rehabilitation Act, but facilities now in use which are not in compliance are not required to be closed.

Section 515(b) requires the Secretary to transmit to Congress an annual report of the present status and projected costs for compliance.

Section 515(c) requires the Secretary to submit to Congress the system used to establish construction priorities for Bureau schools, along with current lists of those priorities.

Section 515(d) authorizes the appropriations of such sums as are necessary to bring Bureau and contract school facilities into compliance with the health and safety laws under subsection (a).

Section 516 reorganizes the responsibility for education within the Bureau of Indian Affairs. Primary responsibility for the formulation of educational policy and expenditure of funds for education at the present time is under the Area Directors.

Under section 516(a) the functions, powers, and duties of the Secretary with respect to the operation and supervision of Indian education would be carried out by an Assistant Secretary for Indian Affairs or the Director of the Bureau's Office of Indian Education Programs, subject to the authority of the Assistant Secretary for Indian Affairs and the Secretary, and through Bureau employees under the supervision and control of the Director.

Under section 516(b), all Bureau personnel involved with the provisions of educational services are placed under the direction and supervision of the Director. However, separate support services for education are not intended.

The responsibilities of education personnel in the agency and area offices are set forth in section 516(c).

Under Section 517, the Secretary is required to implement the transfer of responsibility for education programs under 516 by regulation within six months.

Section 518 and 519 provide for the uniform funding and support of Bureau and contract schools in accordance with a formula based upon the minimum annual amount of funds necessary to sustain each Bureau or contract school. The allotment formula will take into consideration factors including, but not limited to, (1) the number of Indian students served and size of the school, (2) special cost factors involved in the operation of the school, (3) the cost of providing academic services which are at least equivalent to those provided by public schools in the State in which the school is located, and (4) the cost of bringing the school up to the level of the standards established under sections 511 and 512. Each school is to be allotted the same proportion of the funds appropriated for the general local operation of Bureau and contract schools as its minimum need (determined under the above formula) bears to the total minimum need for all schools. However, in the case of a school located in a school district containing a public school which receives from Federal funds under other provisions of law an average payment per Indian student which is higher than the Bureau or contract school's per student allotment, the school's allotment per student will be equal to the average payment per Indian student received by the public school.

In addition, the Secretary is authorized to provide for necessary funding for schools in case of emergencies or unforeseen contingencies not otherwise provided for by these sections. The allotted funds will be paid directly to Bureau and contract schools and expended in the case of Bureau schools, on the basis of a local financial plan. The financial plan is to be prepared by the local school supervisor in active consultation with the local school board (or the affected tribe(s)). The local board (or affected tribe(s)) has authority to ratify, revise, or reject the plan, unless the agency superintendent for education overturns, in writing and for good cause, the local school board's decision. In the exercise of their authority under section 519, local school boards may request and receive necessary technical assistance and training from the Bureau.

Section 520 re-emphasizes the intent of the Indian Self-Determination and Education Assistance Act and would direct that the Bureau support efforts taken by Indians toward self-determination or control over their education programs.

Section 521 provides that the competitive service provisions of the civil service laws (Title 5, United States Code) shall be inapplicable to persons employed in education positions within the Bureau after twelve months of enactment of this Act. Persons employed in education positions prior to the effective date would not be affected unless they elect inclusion under subsection (n) within five years of the date of enactment of this Act. Civil service retirement and employee benefits would not be affected in any way by the Act. Not later than the effective date of section 521(a), the Secretary is required to prescribe regulations governing the employment of persons in education positions within the Bureau including (1) the establishment of education positions, (2) the establishment of qualifications for educators, (3) the fixing of basic compensation for educators and education positions, (4) the appointment of educators, (5) the discharge of educators, (6) the entitlement of educators to compensation (7) the payment of compensation to educators, (8) the conditions of employment of educators, (9) the length of the school year applicable to education positions, (10) the leave system for educators, and (11) such other matters as may be appropriate.

Under section 521(c), a local school board may waive any formal degree qualifications established by the Secretary under section 521(b) in order for a tribal member to be hired to teach tribal culture and language. The Secretary may also authorize the temporary employment of educators not meeting the qualifications established under regulation where failure to do so would result in the position remaining vacant.

Under section (d), the local and agency school boards are given a voice in the hiring of educators at the local and agency levels. Local school supervisors are generally responsible for hiring educators in the Bureau schools, in consultation with the local school boards. However, the local school board's decision on the hiring of educators in the school is final, unless the agency superintendent for education overturns, in writing and for good cause, the local school board's determination. Similar procedures apply with respect to the hiring of local school supervisors and agency education personnel.

Under section 521(e), educators may be discharged only after notice and opportunity for a hearing. The local school supervisor may discharge educators employed in Bureau schools for cause (and in compliance with due process) only after giving notice to the local school board. The local school board has final authority to prevent the discharge, unless the agency superintendent for education overturns, in writing and for good cause, the local school board's decision.

Under section 521(f), subject to the Civil Service Commission's final authority to determine the applicability of the competitive service laws to specific positions and employees, the Secretary shall determine which positions within the Bureau are education positions covered by this Act.

Section 521(g) requires the Secretary to fix the basic compensation for education positions under this Act at rates comparable to the rates under the General Schedule comparable positions under the competi service classification, provides for an ad tional cost-of-living allowance for educat employed in Alaska, and authorizes a p differential not to exceed 25 per centum the basic compensation.

Section 521(h) through 521(j) are tran provisions protecting accrued employee le rights.

Section 521(k) prevents an educator voluntarily terminates employment with Bureau before the expiration of his or employment contract from being emplo in another education position in the Bur during the remainder of the term of contract.

Section 521(l) makes section 5533 of T 25, prohibiting Federal employees from ceiving dual compensation, inapplicable educators receiving additional compensat under subsection (g) or receiving comp sation from outside employment during su mer recess.

Section 521(m) defines the terms "edu tor" and "education position."

Section 522 requires the Secretary to tablish a management information syst including student enrollment, curricul staff, facilities, community demograph and student assessment information w respect to the Bureau's education progra

Section 523 requires the Secretary to p mulgate, after dissemination to Congress, tribes, and interested parties, policies, pr tices, and procedures to govern educati related action by the Bureau.

Section 524 requires the various divisi of the Bureau to establish uniform practi and procedures with respect to the conce of those divisions which relate to educati

Section 525 requires the Secretary to stitute a policy for the recruitment of Indi educators.

Section 526 requires the Secretary to su mit an annual report on Indian education the Congress.

Section 527 requires the Secretary to p scribe rules and regulations necessary to sure the civil and constitutional rights Indian students.

Section 528 provides that regulations quired to be adopted under sections through 117 shall be promulgated, submit for congressional review, and take effect accordance with the provisions of section of the General Education Provisions Act.

Section 529 contains definitions of ter used in the Act.

PART C—AMENDMENTS TO VARIOUS EDUCATION ACTS

Section 531 provides for a simple five y extension of various Indian education p grams administered by DHEW.

Section 532 adds "culturally related ac demic needs" to the needs to be addressed LEA's with funds received under this part.

Section 533 provides authorization for t development of demonstration projects.

Section 534 provides that those perso serving in the role of "parent" (in loco pare tis) will be eligible to serve on advis committees overseeing the functioning these programs. This section also grants a ditional input to the advisory committe into the hiring of personnel paid for wi Indian Education Act funds and requir advisory committees to adopt and abide by-laws.

Section 535 allows adjustments in the location of funds under this program whe the funding would otherwise revert back the U.S. Treasury unused.

Section 536 qualifies contract and altern tive schools for the entitlement progra funded under the Indian Education Act, well as the 10 percent set aside competiti program.

Section 537 amends Title VIII in order

improve the educational opportunities of Indian students.

Section 538 amends Title IV of the Indian Education Act for the purpose of clarification.

EXCISE TAX ON CERTAIN TRUCKS, BUSES, TRACTORS, ETC.—H.R. 1337

AMENDMENT NO. 3521

(Ordered to be printed and to lie on the table.)

Mr. LONG submitted an amendment intended to be proposed by him to H.R. 1337, an act to amend the Internal Revenue Code of 1954 with respect to excise tax on certain trucks, buses, tractors, et cetera.

STATE-TAX CREDIT AGAINST FEDERAL SLOT MACHINE TAX

● Mr. LONG. Mr. President, the Internal Revenue Code imposes an annual occupational excise tax on slot machines or other coin-operated gaming devices of $250 per machine. If a State imposes a similar tax, the State tax is credited dollar-for-dollar against the Federal tax, except that under present law, the credit for State tax paid cannot exceed 80 percent of the Federal tax.

The availability of the State-tax credit facilitates the raising of revenues through State taxes on slot machines. Under State law in Nevada, an amount equal to the State-tax credit is used for educational purposes. Under that law, the first $5 million is earmarked for capital improvements in the University of Nevada system, including the community colleges. Funds in excess of $5 million go to the State Distributive School Fund, which, under Nevada law, is the principal mechanism for distributing State assistance to local school districts. If the credit is increased to 95 percent, the additoinal amounts made available would be used for the payment of interest and amortization of principal for construction costs of educational facilities of the University of Nevada.

In light of these considerations, the Finance Committee has concluded that it is desirable to raise the limitation on the State-tax credit from 80 to 95 percent of the Federal tax. The increased limitation will apply for years ending June 30, 1979, and June 30, 1980.

In addition, the committee amendment I am submitting today repeals the Federal occupational tax on slot machines, et cetera (imposed by section 4461 of the Code) for years beginning after June 30, 1980. The Treasury Department does not oppose repeal of the tax in view of the increase in the maximum State-tax credit made by the amendment.●

REVENUE LAW TIMING REQUIREMENTS—H.R. 7320

AMENDMENT NO. 3522

(Ordered to be printed and to lie on the table.)

Mr. LONG submitted an amendment intended to be proposed by him to H.R. 7320, an act to revise miscellaneous timing requirements of the revenue laws, and for other purposes.

PUBLIC CHARITY STATUS OF CERTAIN LONG-TERM CARE ORGANIZATIONS

Mr. LONG. Mr. President, this committee amendment I am submitting today excludes from private foundation status, for purposes of the foundation excise tax rules and the charitable deduction income tax rules, certain tax-exempt charitable organizations which have continuously operated since May 26, 1969, facilities for the long-term care of elderly persons, needy widows, children, or permanently and totally disabled persons.

The Internal Revenue Code defines the term "private foundation" to mean any charitable, educational, religious, or other organization described in section 501(c)(3), other than certain specified categories of organizations. These categories (known as "public charities") include churches, schools, hospitals, or certain medical research organizations, certain other organizations which receive specified "public" support, and organizations which are "supporting" organizations to other public charities. For this purpose, under Treasury regulations, the term "hospital" does not include "convalescent homes or homes for children or the aged, nor does the term include institutions whose principal purpose or function is to train handicapped individuals to pursue some vocation." Thus under present law, a privately endowed long-term care organization (such as an orphanage) may not qualify as a public charity.

Public charities are not subject to the private foundation excise taxes. In general, the rules relating to income tax deductions by individuals for contributions to public charities or to private operating foundations are more favorable to the donor than the rules relating to the deductibility of contributions to private nonoperating foundations."

The Finance Committee has concluded that privately endowed charitable organizations which operate long-term care facilities as their principal functional purpose perform public functions and are subject to public attention to the same extent as privately endowed schools, hospitals, hospital-affiliated medical research organizations, and so forth, which are treated under present law as public charities on the basis of their charitable functions. Also, imposition of the annual foundation excise tax on the net investment income of these organizations reduces the amount of such income available for operation of long-term care facilities.

Accordingly the committee amendment excludes from private foundation status an organization, described in section 501(c)(3) of the Code, which, on or before May 26, 1969, and continuously thereafter to the close of the taxable year, operates and maintains as its principal functional purpose facilities for the long-term care, comfort, maintenance, or education of permanently and totally disabled persons, elderly persons, needy widows, or children. The amendment applies retroactively to January 1, 1970.

It is understood that the committee amendment would benefit the Sand Springs Home in Oklahoma and approximately 26 other identified homes around the country. Any other long-term care organization meeting the requirements of the amendment also would be treated under the amendment as a public charity, but only if the organization has operated qualifying long-term care facilities continuously since May 26, 1969.

REVOCATION OF ELECTION OF RETIRED PAY FOR TAX COURT JUDGES—H.R. 8811

AMENDMENT NO. 3523

(Ordered to be printed and to lie on the table.)

Mr. LONG submitted an amendment intended to be proposed by him to H.R. 8811 an act to amend sec. 7447 of the Internal Revenue Code of 1954 with respect to the revocation of an election to receive retired pay as a judge of the Tax Court.

INVOLUNTARY CONVERSION OF SPECIAL USE VALUATION PROPERTY

● Mr. LONG. Mr. President under present law, certain real property used as a farm for farming purposes or in a closely held trade or business may be valued for Federal estate tax purposes by reference to its actual use ("special use valuation"), rather than at its fair market value determined on the basis of highest and best use.

To assure that special use valuation property continues to be used for farming or for other closely held business uses, a recapture rule is provided. In general, this rule results in recapture of the estate tax benefit of the special valuation if the heir disposes of the property or changes its use within 15 years of the death of the decedent (or, if earlier, prior to the death of the heir). The purpose of this recapture rule is to prevent the heir from having the property valued for a special use for estate tax purposes, but then obtaining a higher value by sale or change of use.

Under present law, this recapture rule applies to special use valuation property which is involuntarily converted (such as by condemnation) even if the proceeds of the conversion are reinvested in property used for the same special use.

The Finance Committee has concluded that application of this recapture rule to an involuntary conversion produces an unfair and unnecessarily harsh result in cases where the heir reinvests proceeds in farm or other special use real property. In such a case, the heir's use of the conversion proceeds to acquire property for the same special use is consistent with the basic policy of the recapture rule, and the interruption in the 15-year holding period is not a voluntary act by the heir.

Accordingly the amendment I am submitting today provides that if an involuntary conversion of qualified real property takes place, no recapture of the estate tax benefit will occur if the property is replaced by other real property of at least equal value to be used for the same use. If qualified real property is replaced by property of lesser value, the recapture will apply only in the proportion that the excess of the amount realized in the conversion over the amount reinvested bears to the amount realized on the conversion.

These rules generally give the heir the same time to make a qualified replacement as is permitted under the present income tax involuntary conversion rules; that is, 2 years from the date of the conversion. The amendment also provides that the recapture period (generally, 15 years) will be extended for an additional period equal to the period of any discretionary extensions of time, beyond the normal 2-year period, granted by the IRS for reinvestment. However, any such extension of the recapture period will apply only to the replacement property.

Present law also provides that the basis of "carryover basis property" generally is adjusted by the amount of Federal and State estate and inheritance taxes attributable to appreciation. Although the purpose of the recapture tax is generally to place the estate (and the heir) in essentially the same position as if special use valuation had not been elected, no adjustment is provided under current law for any portion of the recapture tax imposed upon the disposition of special use valuation property.

The Finance Committee has concluded that this result is unduly harsh even in cases where the involuntarily converted property is not fully replaced. Consequently, the amendment provides that if qualified real property subject to an involuntary conversion is carryover basis property, its basis will be increased for Federal income tax purposes in an amount equal to the recapture tax imposed with respect to any appreciation element in the portion of the differential between fair market value and special use value which has been subjected to recapture. These adjustments to basis are to be made on a property-by-property basis.

The following example illustrates the operation of these basis adjustment rules in the case of carryover basis property. Assume that one parcel of special use valuation property is involuntarily converted within the recapture period and that none of the conversion proceeds are reinvested. As of the applicable estate tax valuation date, the fair market value of the property is $1 million and its special use valuation (at which it was included in the decedent's estate) is $700,000. The heir's basis in the property (prior to any adjustment by reason of the involuntary conversion) is $600,000 and the amount of the recapture tax imposed by reason of the involuntary conversion is $129,000. Under these assumptions, all of the recapture tax is attributable to the appreciation element in the differential between the fair market value and the special use value, and thus the basis of the property is increased by $129,000 (from $600,000 to $729,000).

However, if in the example described above, the heir's basis were $800,000 rather than $600,000, then only two-thirds of the recapture tax would be attributable to the appreciation element in this value differential, and the basis of the property would be increased by $86,000 (from $800,000 to $886,000).

The amendment provides that an adjustment resulting from an involuntary conversion is treated as having been made immediately before the property was involuntarily converted. Thus, the adjustment will result in a reduction in the amount of gain (or an increase in the amount of loss) realized on the involuntary conversion.

If the involuntarily converted property is replaced by property of at least equal value to be used for the same use, no recapture tax would be imposed and hence no basis adjustment would be made.

Since this committee amendment would correct technical oversights in the 1976 Tax Reform Act, it would apply to involuntary conversions after December 31, 1976 (the effective date of the estate tax changes for special use property made by the 1976 act).●

DISTRICT OF COLUMBIA REPRESENTATION—HOUSE JOINT RESOLUTION 554

AMENDMENTS NOS. 3524 AND 3525

(Ordered to be printed and to lie on the table.)

Mr. SCOTT (for himself and Mr. WALLOP) submitted two amendments intended to be proposed by him to House Joint Resolution 554, a joint resolution proposing an amendment to the Constitution to provide for representation of the District of Columbia in the Congress.

NOTICES OF HEARINGS

COMMITTEE ON THE JUDICIARY

● Mr. ROBERT C. BYRD. Mr. President, for Mr. EASTLAND and on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Friday, August 25, 1978, at 9:30 a.m., in room 2228, Dirksen Senate Office Building, on the following nominations:

Patricia J. E. Boyle, of Michigan, to be U.S. district judge for the eastern district of Michigan vice Damon J. Keith, elevated.

Julian A. Cook, Jr., of Michigan, to be U.S. district judge for the eastern district of Michigan vice Lawrence Gubow, deceased.

Any persons desiring to offer testimony in regard to these nominations shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Judiciary Committee.●

ADDITIONAL STATEMENTS

JACK ANDERSON RETRACTS

● Mr. CURTIS. Mr. President, there are no exceptions to the command "Thou shalt not bear false witness." It applies to all persons. There is no immunity either for members of the press or for politicians.

When falsehoods are spoken or written, they often do great damage. Such was the case with one of our very d[illegible] tinguished men of the Foreign Servi[illegible] the Honorable Turner B. Shelton.

Ambassador Shelton is an honest [illegible] dedicated patriot. He represented [illegible] U.S. Government with fairness and h[illegible] esty and in the best interest of our cou[illegible] try. He was our Ambassador to Nica[illegible] gua from 1970 to 1975. Ambassador Sh[illegible] ton has rendered distinguished serv[illegible] at several foreign posts including R[illegible] sia, where he negotiated the cultural [illegible] change, and in Hungary and in [illegible] Bahamas.

There are those in our country, [illegible] some of them are in government, w[illegible] have extreme, critical views of Nica[illegible] gua, and they seem to prefer that Ni[illegible] ragua have a "Castro-type Commun[illegible] government." They fail to speak or wr[illegible] objectively about Nicaragua and [illegible] facts relating to that country. This gro[illegible] disregards the questions as to whet[illegible] or not a country is a dependable frie[illegible] of the United States. All of this resul[illegible] in false and damaging statements be[illegible] made and written about Turner B. Sh[illegible] ton. After Mr. Shelton's return fr[illegible] Nicaragua, he was under considerat[illegible] for another post. The falsehoods t[illegible] were published about him did influe[illegible] some Members of the Senate and so[illegible] members of the Committee on Fore[illegible] Relations. The result was that this co[illegible] try was deprived of the services that A[illegible] bassador Shelton could render, and A[illegible] bassador Shelton was treated most [illegible] fairly by the publication of these fal[illegible] hoods and was damaged materially.

Among those who wrote things ab[illegible] Turner B. Shelton that were untrue [illegible] the well-known columnist Jack And[illegible] son. I am happy to report that Jack A[illegible] derson has retracted his statement. J[illegible] Anderson has admitted that he [illegible] wrong. Mr. President, I shall submit [illegible] the RECORD that portion of Jack And[illegible] son's column relating to Ambassa[illegible] Shelton which appeared in the Wa[illegible] ington Post on Saturday, August [illegible] 1978. I commend Jack Anderson [illegible] making this retraction. It is unfortun[illegible] that a good man was wrongfully da[illegible] aged by falsehoods, and it is too [illegible] that Turner B. Shelton had to brin[illegible] lawsuit against Jack Anderson bef[illegible] this retraction was made.

The article above of August 12, 19[illegible] follows:

ARTICLE BY JACK ANDERSON

Shelton Revisited—The U.S. ambassa[illegible] to Nicaragua from 1970 to 1975 was Tur[illegible] B. Shelton. Commencing in 1973, we di[illegible] series of articles critical of the ambassa[illegible] We have concluded that, to be totally [illegible] to Ambassador Shelton, the following sho[illegible] be added to the record.

Our criticism of Ambassador Shelton [illegible] based upon his close relationship with Pr[illegible] dent Somoza, but in light of additional fa[illegible] we are now convinced he was merely ca[illegible] ing out the Nixon administration's po[illegible] in Nicaragua.

On Dec. 22, 1972, a devastating earthqua[illegible] struck Nicaragua. We reported that [illegible] Sheltons were primarily concerned with th[illegible] own personal problems.

We are now persuaded that the amb[illegible] sador and his wife were deeply concer[illegible] about the devastation. The ambassa[illegible] worked tirelessly for six days and nights w[illegible] little more than a few hours sleep and [illegible] fused to let a broken arm slow him down.

For their efforts, the embassy received a

only the form in which it is sold. Cur-

For their efforts, the embassy received a special commendation from the State Department and White House. He also received from President Somoza the highest award of Nicaragua.

After leaving Nicaragua, Shelton became diplomat-in-residence at the Naval War College in Newport, R.I. He retired on March 31, 1977. He is now a successful international consultant representing the interest of U.S. firms abroad.

We did not agree with the Nixon administration's policy toward Nicaragua. Perhaps this influenced our attitude toward Shelton. His 30 years with the government included notable achievements and the Distinguished Service Award. He played a leading role in negotiating the first U.S.-Russian cultural exchange program.●

CZECHOSLOVAKIA

● Mr. STEVENSON. Mr. President, 10 years ago the Soviet Army marched into Czechoslovakia and brutually suppressed the beginnings of liberal and humane government in that unhappy country.

In the brief period of Czechoslovakia's true independence between the two world wars, Americans developed a profound respect for the people of Czechoslovakia. Their courageous and purposeful efforts to build a democracy in their ancient land earned the admiration of peoples everywhere. The Soviet takeover after World War II effectively stifled the growth of democracy in Czechoslovakia for a generation. So it was understandable that, in 1968, after years when liberty in Czechoslovakia was in eclipse, people in the West were encouraged by the signs of a loosening of the repressive controls characteristic of the Czech regime.

Those hopes were destroyed by the raw application of Soviet force, and we salute the courageous leaders of Czechoslovakia who reminded their fellow countrymen and all of us that the longing for freedom cannot be extinguished.

Even though repression has been the rule in Czechoslovakia since 1968, the Charter 77 group has managed to raise its voice to insist that the Czech Government honor its commitment to the principles of the Helsinki Accord. In doing so, the Charter 77 group has once again demonstrated the persistence of the human spirit in its demand for freedom and decency. As Americans, we should bear in mind the heroic efforts of those who put their own safety in jeopardy to achieve freedom for all and conduct our foreign policy in such a way as to enhance the opportunity for freedom and justice for the people of Czechoslovakia.●

GOLD MEDALLION—GOOD ECONOMICS

● Mr. TOWER. Mr. President, I recently joined Senator HELMS in sponsoring a bill which would require the Treasury to sell the first 1.5 million ounces of gold it sells after the date of enactment in the form of gold medallions. After this, the amount of gold minted into medallion form would be adjusted to meet demand.

This bill, the Gold Medallion Act of 1978, would not in anyway limit the amount of gold sold by the Treasury, only the form in which it is sold. Currently U.S. gold is auctioned off in bars which weigh 400 ounces apiece and are valued at about $70,000. Very few citizens can afford to make such a purchase. As a result, very little U.S. gold is sold to Americans. This should not be interpreted to mean that Americans do not want gold. More than 1.6 million ounces of the precious metal were imported last year—from Austria, Mexico, and South Africa—in the form of bullion coins. The American people have clearly demonstrated that they want to own gold, and their Government is clearly demonstrating a reluctance to let them buy it. For this reason, I have become a cosponsor to Senator HELM's Gold Medallion Act.

It is not my purpose here to make an empassioned speech on the American people's right to own American gold, although I believe very strongly in that right. It is not my purpose to bemoan the present situation whereby Americans must buy their gold abroad or not buy it at all. What I wish to do here is to examine, as thoroughly as possible, the economics of this bill; to ask the question, is this bill economically sound?

First of all, does the United States need, in the economic sense of the word, this bill? According to a statement issued by Grover C. Criswell, Jr., president of the American Numismatic Association, the answer is yes. All U.S. gold sales have been aimed at the bulk purchaser; gold bars are sold by weight at the current price of gold, usually to foreign banks. Meanwhile, Americans are importing bullion coins, and paying the current price of gold plus about 8 percent, which is the premium charged for bullion coins by the countries that issue them. Thus, we see gold leaving the country and we see gold coming into the country, in roughly the same quantities. Yet the gold coming into this country costs 8 percent more than the gold leaving it. Clearly this is not helping our balance-of-payments situation any.

The Gold Medallion Act would insure that, instead of leaving the country, this 8-percent premium would remain at home. Even if the Treasury receives less than an 8-percent premium for U.S. medallions, this would mean substantial additional Federal revenues, with the Government standing to gain an estimated $20 million from the sale of 1.8 million ounces at $170 an ounce. Of course, since the price of gold is most likely to be more than $170 an ounce by the time this bill could be enacted, the Government's profits would probably be even higher.

We must also consider the beneficial domestic results derived from utilizing these profits at home. The multiplier effect is, of course, lost when money is spent abroad.

Demand for small gold medallions in the United States is already assured, and may increase in the wake of the Gold Clause Freedom Act, a bill authored by Senator HELMS, cosponsored by myself, and signed into law in October of 1977. As more and more people begin to write contracts stipulating that they be paid in gold, the need for gold in small quantities will skyrocket. Gold medallions issued by the United States would provide the ideal medium of exchange for these contracts, and as a result the Government would profit.

Now, I am sure that many of you will agree that with the Federal debt the way it is now, the Government cannot afford to turn down a profit—be it ever so small in comparison with the debt itself.

So how much would these impressive little medallions cost to produce? Not much. Since the medallions would be made of the 0.900 fine gold which constitutes the bulk of the Treasury's stock, no time and money need be wasted in further refining. Also, it is much easier and cheaper to mint a gold medallion than to create the cupro-nickel sandwich of which our coins are made. The average medallion would probably cost only about 5 cents to manufacture, plus the costs of any added security which might be needed. For special medallions, of course, the cost of production would be much higher, and this cost would be passed along to the purchaser in the form of a large premium.

Gold medallions would cost little to manufacture, and promise an opportunity for considerable profit. Economically they are highly feasible.

I find that I must make one point on the ethics of our present method of selling gold. Foreign banks may be buying our gold, while our own citizens want to but are effectively prevented. This is a grave injustice. The Gold Medallion Act of 1978 is an opportunity for us to amend this injustice. Too rarely, we find, do ethics and good economics walk hand-in-hand, but this is the case with this unique bill. I hope that all in the Senate will join me in supporting it.●

A MODERATE'S VIEW ON TAX CUTS

● Mr. JAVITS. Mr. President, the United States can no longer afford to ignore the seriousness of the economic problems that face our Nation today. The No. 1 culprit is inflation, and this condition threatens the very social fabric of our Nation, breeding a divisiveness and an economics of selfishness among the American people.

A manifestation of this emerging trend over proposition 13, where the American taxpayers in their frustration and anger have struck out at public spending, only to encourage those we can least afford to harm—the poor and the disadvantaged.

A recent article in the Wall Street Journal by David P. Eastburn, president of the Federal Reserve Bank of Philadelphia, specifies in a highly perceptive way some of our Nation's major economic ailments and offers some equally timely changes. In his article, Mr. Eastburn urges us to transcend the traditional barriers presently dividing liberal and conservative doctrines in the field of economics and to work toward the creation of a cohesive social and economic policy that will restore the public's confidence and rally its support.

I share Mr. Eastburn's concern about the insidious nature of inflation, and I believe, with him, that we should avoid

a radical "meat-ax" approach to cutting taxes and choose the "scalpel" approach for specificity and responsibility—an approach that considers the full implications and the social as well as the economic costs. Also I concur in his recommendation that we reexamine the role of Government in fostering or hampering economic growth. Mr. Eastburn very astutely weighs the trade-offs involved in managing an economy of the magnitude of ours and reaffirms our urgent need for sound anti-inflationary fiscal and monetary policies.

Mr. President, I commend this article to my colleagues and ask that it be printed in the RECORD.

The article follows:

[From the Wall Street Journal, Aug. 16, 1978]

MEAT AX APPROACH TO CUTS CAN BE AVOIDED

(By David P. Eastburn)

As the wave of tax-slashing proposals sweeps the nation, economic liberals find themselves with their backs to the wall. Those of us who would use economic policy consciously to alleviate poverty and economic distress (as good a description of liberal economics as any) see the tide of sentiment moving strongly against us. What course should an economic liberal seek?

First, how to deal with the Proposition 13 syndrome? To the extent that the meat-ax approach to taxes is directed deliberately to cutting public services to the poor and disadvantaged, it is, of course, deplorable. But a case can be made for shrinking the size of government that is perfectly consistent with the liberal view. It is that beyond some point intervention by government can hamper the economy so severely as to slow economic growth.

Edward Dennison, a senior fellow at the Brookings Institution, has calculated, for example, that government regulations have cut deeply into productivity growth during the 1970's. He estimates that in 1975 pollution and safety regulations alone reduced the average growth rate in productivity by about one-fifth. Productivity growth is a key element in maintaining economic growth. And since economic growth has been responsible for most of the remarkable reductions of poverty achieved in the past quarter of a century, it is clear that excessive government intervention can be counterproductive to the objectives of liberal economics. What is "excessive," of course, is a matter of judgment. Mine is that we are operating in the danger zone.

But the solution is not to apply the meat ax. Surely the process of government has not become so bankrupt that we cannot still confront the many needs before us and sort out the priorities.

Congress has made good progress in recent years in improving the budgetary procedure. There is new awareness in the Executive Branch of the need to overhaul regulations. These are sensible, selective approaches to limiting the scope of government which still can encourage the private sector to grow and yet leave room for directing some of the taxpayer's dollars to meeting social needs.

Perhaps the proposal most deplorable to liberals is the Steiger plan to slash the capital gains tax. If the motive is simply to give a windfall to the already rich, the proposal is, of course, reprehensible. But there can be honest debate about the effect of the capital gains tax on economic growth. The science of economics is not far enough advanced to tell us exactly what the effect of a cut may be, but it certainly is in the direction of encouraging growth.

Similarly, the tendency recently to stress the importance of other kinds of tax relief for investment—liberalized depreciation allowances and the like—can be perfectly consistent with the liberal view. The "trickle-down" theory may be anathema to the social activist, but in the longer run it may further his cause better than a tax policy that always favors the consumer. What we need to do, obviously, is to make a careful tradeoff between the immediate benefit of such tax changes for the well-to-do and the ultimate welfare of the disadvantaged. Evidence of the past quarter of a century is that there is long-run paydirt in policies that encourage investment. They are not inimical to liberal economics.

The real culprit is inflation. I firmly believe the current taxpayer revolt would not exist were it not for the widespread frustration about inflation. It has been observed that the most insidious thing about inflation is that it tears at the fabric of society, and we are now seeing this happen.

The cry throughout the land is "Hey, what about me?" Group is pitted against group; everybody is out to get his; generous impulses are stifled. I have visions of angry hordes of middle-income consumers in California marching from the supermarket to balloting places to vote for Proposition 13.

What all this tells me is that the best way for those of a liberal persuasion to achieve their ends is to join the fight against inflation. Too often in the past liberals have been identified as being concerned with poverty and economic distress, conservatives with inflation. It is not that simple. Economists don't understand as much as they would like about the connections between the two phenomena and they need to keep working at the problem, but the lesson of the real world is that unless we get inflation under control we are not going to have sufficient public support to deal with economic distress.

This line of thought tells me, too, that we can't look for much success in efforts to talk down inflation. Once people come to feel they are on their own, that the only course is to look out for their own interests, appeals to self-sacrifice for the general good are not likely to be heeded. New approaches are needed and should be tried. One that holds promise is the TIP proposal to give tax benefits to businesses with a good record in holding down inflation. Extreme believers in the free market fear that the plan would interfere in its operation. On the contrary, I see the plan as harnessing market forces to fight inflation. Administrative problems are great but probably not insuperable. Liberals should give vigorous support to TIP.

However, this solution at best is sometime in the future and in any case cannot do the whole job. Given this fact, the most fruitful course is to pursue anti-inflationary fiscal and monetary policies—hold down government spending and keep the money supply from growing too fast.

This kind of action often is not identified with the traditional liberal economic view, but, I suggest, is the most promising route to the liberal goal. Liberals can join at least one hand with monetary and fiscal conservatives with a clear conscience that they are being true to their economic and social ideals.●

NADER ANTI-NUKE CONFERENCE, OCTOBER 6-8

● Mr. GRAVEL. Mr. President, I think it is fair to say that Ralph Nader and I disagree on many energy issues. But there is at least one issue we agree on, and that issue is nuclear power. We both recognize the environmental and economic burden of nuclear power on America and the world.

I am pleased that Ralph Nader is organizing another national gathering of citizens who are trying to prevent proliferation of radioactive wastes. I hope the gathering, to be held in Washington, D.C., October 6 through 8, 1978, will help give Congress the message that there is a rapidly growing constituency of people determined to hasten the demise of unsafe nuclear power and substitute the sensible alternatives like greater energy efficiency and solar energy.

Mr. President, I ask that Ralph Nader's invitation to "Critical Mass '78" be printed in the RECORD.

Mr. President, I also ask that two recent articles from the Washington Post be printed in the RECORD. These articles relate the efforts of Princeton University's plasma physics lab in trying to arrive at resolution of problems concerned with the commercial production of electricity from fusion. Fusion shows great promise for the future, in that it is nonpolluting, nonradioactive, and draws its source of fuel from seawater.

The material follows:

CRITICAL MASS '78

DEAR FRIENDS: Four years ago nearly [illegible] thousand citizens gathered to apply their talents, skills and resources on the menace of nuclear power. Since then the safe energy citizens' movement has steadily grown—but so too have the challenges.

When Critical Mass '74 was convened in November, 1974, thirty-six safe energy alliances had not yet formed. New York City and New London, Connecticut had not yet instituted an across-the-board ban on the transportation of radioactive materials. There had not been one hundred and fifty cancellations or postponements of nuclear reactor orders. Robert Pollard and Ronald Fluege had not yet resigned under protest from the U.S. Nuclear Regulatory Commission. Dale Bridenbaugh, Gregory Minor, and Richard Hubbard had not yet decided to quit their high level engineering positions at General Electric. Dr. Thomas Mancuso and Dr. Alice Stewart had not yet released their findings about the cancer-causing risks of low level radiation. State and local officials had not yet demanded "veto power" over the siting of radioactive waste repositories. The geologists at the U.S. Geological Survey had not yet released their reservations about burial of deadly nuclear wastes in geologic salt formations. And Congress had not yet abolished the secretive Joint Committee on Atomic Energy, which authored so much of the nation's pro-nuclear legislation. It is an awesome set of developments that has propelled public awareness about the risks of atomic energy.

Nevertheless there remain many important challenges today—challenges which will be examined and confronted at Critical Mass '78. The nuclear industry, chafing under the burden of mushrooming self-generated costs, the international uranium cartel, and operating difficulties is moving toward a massive federal/taxpayer bailout. There is also great resistance within the industry to tighter radiation standards. Energy Secretary James Schlesinger wants to accelerate the licensing of nuclear plants despite the attendant safety risks and curb public participation under the guise of a public participation provision. The Department of Energy is considering New Mexico as a site for an ill-conceived radioactive waste repository. And no federal agency is devising a solution for the tons of uranium mill tailings the

pollute the West. . . . Finally, the prospect for a devastating reactor accident still hangs menacingly over the nation.

This year Critical Mass '78 hopes to bring both the new and old issues and the new and old activists together. As the citizens' movement builds momentum and as the nuclear industry faces a crossroads, it is time for all concerned citizens to meet in an educational forum to exchange information, strategies, and skills, about atomic energy, and its alternatives. I hope you join us for Critical Mass '78—it's an opportunity to show that a Critical Mass of people can make the Critical Difference.

Yours,

RALPH NADER.

[From the Washington Post, Aug. 20, 1978]

TAMING FUSION'S FURY

(By Thomas O'Toole)

It all began with Project Matterhorn in 1951. The search for energy from thermonuclear fusion—clean, cheap and without limits, its supply of fuel nothing more than the deuterium found in the earth's seawater.

So optimistic were the scientists who started Matterhorn that they spoke of producing power in five years. Buzz words were: "Burnup by Christmas," meaning they hoped to demonstrate fusion's scientific feasibility by matching the temperature of the sun the first year.

So relaxed was the program in 1951 that its name was chosen because Princeton University's Dr. Lyman Spitzer, Jr., the project's first director, was a mountain climber. A picture of the Matterhorn hung in his laboratory.

Two years later, the dream had dimmed but not by much. The scientists realized that the world of plasma physics where gas behaves like solids and liquids was more complex than they suspected but by then they had built a machine at Princeton to test their understanding of the physics.

The machine was called the Stellerator and some of its builders fully expected to reach fusion temperatures of 100 million degrees centigrade the first time they turned it on. When the day came to test it, the lights were turned out in the Stellerator laboratory so everybody could get a good look at the superheated gas when it ignited and the Age of Fusion began.

Somebody pushed the button that started the machine. There was a sudden, blinding flash. Not from fusion, however. The magnetic coils built into the machine to insulate the hot gas and keep it away from the walls of the machine all burned up because of a massive short circuit.

It's taken them 27 years but the scientists who labor at fusion research are beginning to understand its physics and tame its special fury. It has not been easy. While there have been no more short circuit explosions like the one that struck Princeton 25 years ago, there have been countless small but embarrassing failures along the way. What began as a cakewalk up the Matterhorn has become what the Department of Energy's Dr. Edwin Kintner calls the "greatest technological challenge man has ever undertaken."

A TURNING POINT

On July 24, a piece of that challenge was met. On that day, a younger team of Princeton scientists than the group which started the charge up the Matterhorn reached a milestone which may mark a turning point in technological history.

What the Princeton team did was achieve a temperature of at least 60 million degrees in a machine that might be described as a test-tube grandson of the old Stellerator. The temperature measurements which can be made on the Princeton device have a limit of 60 million degrees. Some scientists believe the real temperatures reached on July 24 at Princeton were upwards of 80 million degrees.

Even 60 million degrees is four times as hot as the interior of the sun. It's true the 60-million mark wasn't sustained for any longer than a 20th of a second, but sustainment time is beside the point. The highest temperature reached in a fusion device like the Princeton machine before July 24 was a paltry 26 million degrees.

"We'd been hoping to get up to 35 million degrees this time," said Dr. Melvin B. Gottlieb, director of Princeton's plasma physics laboratory, "but we went sailing right by it. We saw the temperatures go to 45 million, 50 million, 55 and then 60. It was amazing."

What's the importance of the Princeton achievement? Well, it's a little like breaking the sound barrier for the first time. The scientists have proven they can do it. There's nothing magic about 60 million degrees except that once a fusion device gets through 44 million degrees the heat is so high that the fusion reaction where light elements combine to form a heavier element begins to sustain itself.

The deuterium inside the machine is now so hot it has become a plasma, a gas whose electrons have been stripped away. When that happens, the gas is left with positive and negative charged particles moving at random. So rapid does that motion become that it's almost impossible to slow it down and cool the gas off again. It's like a runaway truck, moving down the steepest of hills.

THE MAGIC NUMBERS

Princeton's Dr. Gottlieb insists that what took place in his laboratory July 24 is not a breakthrough and perhaps it isn't. Gottlieb says that fusion will not be demonstrated until a plasma reaches a confirmed temperature of 100 million degrees for at least one second. These are the magic numbers scientists have talked about for the last 27 years. At those temperatures and for that span of time, more energy is pumping out of the fusion device than must be pumped in. Eureka!

The Princeton Large Torus, as Gottlieb's infernal machine is called, is the forerunner of a much bigger machine now being built at Princeton which will surely demonstrate sustained fusion for the first time. As intricate as fusion physics are, one thing about it is simple. Build a bigger machine and you go to higher temperatures and longer fusion times. It is an axiom of plasma physics.

Why did it take 27 years to prove the power of fusion? To begin with, the physics proved to be a lot more difficult than anybody imagined. Princeton's Gottlieb explains it this way: "People always ask me why we can't solve the fusion question if we put a man on the moon. And I always say that getting to the moon didn't involve any new principles, it was just a question of engineering the machinery to get there. In the fusion business, we're running up against new concepts every day and trying to put together the engineering at the same time."

Engineering the equipment to reach higher temperatures than the sun has turned out to be a task of backbreaking magnitude. Just one part of that job was developing magnets that had enough force to contain plasma at temperatures of millions of degrees. After all, those temperatures melt anything they touch so that any machine built to withstand those temperatures had to have a mechanism that kept the hot gas from touching the walls of the machine.

Magnets can do that because the plasma is electrically charged. The field built up by the magnets along the walls of the machine wrap around the plasma like a great big cloak, keeping all but a tiny fraction of the gas from touching the walls. Put another way, the magnetic fields act like the insulating layer in a thermos bottle and help to keep the heat from escaping.

It took 27 years for the scientists involved to learn what Gottlieb calls the "kitchen tricks" of the business that make fusion work. Start with the "heaters" that raise the temperature of the gas to plasma-like heats. The heaters used in the Princeton experiment are what engineers call "neutral beam injectors," which are a brand new family of devices developed at the Oak Ridge National Laboratory for the purpose of lighting the fires of fusion.

The neutral beams are ingenious "guns" that fire high energy charged particles right into the fusion machine. Along the way, the charged particles pass through a gas cell that strips half of them of their charge so that they're neutral when they enter the machine's magnetic field.

Charged particles would be trapped by a magnetic field. Neutral particles with no charge on them fly through magnetic fields as if they're not there. The result of a steady stream of high speed neutral particles striking a gas like deuterium is that they collide with such force that they get charged again, heating the gas to enormous temperatures in fractions of a second.

The real "kitchen trick" that Gottlieb and his team used last month was to scrub the walls of the fusion machine and make them squeaky clean.

If that sounds oddly unscientific, consider this. It turns out that when an unheated gas first enters a fusion machine some of it escapes the magnetic field and clings to the walls of the machine. When the gas contained by the magnetic field is heated, the gas clinging to the walls tends to cool everything down and slow the fusion reaction. For years, scientists didn't understand this. And their response was to pump more gas into the machine to try to raise the temperature. This slowed down the reaction too, spoiling the experiment.

"It sounds so simple, except a lot of people have been struggling with it and after you've done it you say: 'Why didn't we do it a long time ago?'" Gottlieb said. "Now everybody will be doing it within the year or maybe less."

AN ERRANT MEMO

An enduring irony of the Princeton achievement of last month is that it does nothing to speed up the U.S. program to develop fusion as an energy source.

It proves that fusion is possible but it cuts not one month from the plan to generate electricity from fusion by 2005 and have a commercial network of fusion electric plants in place by 2025.

It doesn't save a penny of the money that's needed to develop fusion either. It's cost more than $2 billion already and it's going to take at least another $15 billion to make the first kilowatt of electricity from fusion.

"I keep on saying to people that if somebody invents a new energy system it will take at least 20 years before there's a 5 percent market effect," Gottlieb said. "You can't make changes in a hurry even if you know how to do it and we don't know how to do it yet."

The politics that followed the Princeton achievement are curious and deserve at least a mention. When the Department of Energy was notified of the 60-million-degree milestone, a mixed reaction ensured. The fusion people were ecstatic, drafting what the federal government calls an "early warning memorandum" for cabinet and agency heads to explain what had happened. Curiously, the memo never reached the White House, presumably the place such memos are aimed at.

There was discussion inside the Energy Department about whether to hold a press conference to announce the achievement. Top management did not want a press conference. They worried that Congress might demand an increase in the fusion budget request, anethema in this year of a forecast balanced budget.

There's another reason Energy Department sources say top management looked askance at the fusion achievement. Energy Secretary James R. Schlesinger believes in the "economics of scarcity," meaning he preaches energy economy because all our fuels are in scarce supply.

Fusion? All fusion does is tell the world that we have all the energy we'll ever need.

[From the Washington Post, Aug. 15, 1978]

LAB FEAT TERMED FIRST STEP TOWARD LIMITLESS ELECTRICITY

(By Thomas O'Toole)

The attainment of a temperature of 60 million degrees for a half second in a Princeton University laboratory was described yesterday as the first step toward a limitless supply of electricity for the entire world.

"We're going to make it, we're going to demonstrate the scientific feasibility of fusion," Dr. Melvin B. Bottlieb, director of Princeton's Plasma Physics Laboratory, said at a press conference held at the Department of Energy. "We're on schedule and we're very confident we will demonstrate fusion . . ."

Gottlieb said the demonstration of fusion could come as early as 1981 or 1982, when the Tokomak Fusion Test Reactor under construction at Princeton will begin to operate. This is a machine twice the size of the laboratory device used at Princeton to achieve fusion temperatures of 60 million degrees.

"We need to reach temperatures of 100 million degrees to demonstrate fusion," Gottlieb said. "There is no reason we cannot reach those temperatures in the next machine, which is a larger machine than we're now operating."

He said the attainment of a 60-million-degree temperature in the present Princeton machine came sooner than he or anybody else expected.

"It took us seven years to go from 5 million degrees to 25 million degrees," he said. "It has taken us six months to go the last 35 million degrees and reach the 60-million-degree mark. The results came in much better than we anticipated."

The most encouraging result of the Princeton achievement is that the 60-million-degree mark was reached without the hot hydrogen-deuterium gas mixture "clumping" together in swirls that would tend to cool the gas and spoil the fusion reaction.

"The fear was that the hot gas would clump up and leave cold spots that would slow down the fusion reaction," Gottlieb said. "To our great joy, we found out that this is not so."

He said this means that the larger machine now being built can be equipped with a much thicker magnetic field to insulate the hot gas and raise its temperature to the desired 100-million-degree mark.

"The invisible layers of magnetic field that confine the gas can be increased in scale in the bigger machine," he said. "The insulation that the magnetic field provides can be steadily improved upon in the next machine."

Calling the attainment of the 60-million-degree mark "extremely gratifying," Gottlieb declined to describe it as a scientific breakthrough.

"Breakthrough is not a scientific term," he said. "I have always avoided the word and I will continue to avoid it."

The way he described it, the Princeton Large Torus machine that achieved the 60 million degrees did so two weeks ago. He gave credit for the achievement to the use of a technique called "neutral beam injection" to help heat the gas confined inside the machine.

The 60-million-degree temperature is more than twice the temperature previously reached by the Princeton machine, a mark it make in December. The new record temperature is four times hotter than the interior of the sun.

The opposite of nuclear fission—the basis for today's nuclear power plants—where heavy atoms like uranium are broken apart to release energy, fusion is the combining of light atoms like hydrogen with an accompanying discharge of energy.

Fusion is clean, producing no radioactive wastes to be disposed of. It is limitless, drawing its fuel from seawater from which the light elements like hydrogen and deuterium (a heavy isotope of hydrogen) can be extracted.

John M. Deutch, director of energy research for the Department of Energy, cautioned yesterday that the Princeton achievement does not change the national timetable for the commercial production of electricity from fusion. He reiterated that the first fusion plant would not be built before 2005 and that fusion would not be commercial before 2025.

"The first fusion reactor won't be seen before the first decade of the next century and it could be another 20 years before fusion goes commercial," Deutch said. "We're talking about a developmental budget of $10 billion or more which we have no assurances that the engineering difficulties involved in generating electricity from fusion will be overcome."●

THE COSMETIC WAR ON INFLATION

● Mr. TOWER. Mr. President, inflation is the most serious economic problem facing this Nation today. It is literally robbing Americans of their income, frustrating efforts to provide jobs, and undermining confidence in the U.S. dollar.

The problem of inflation was addressed by Paul W. McCracken, former Chairman of the Council of Economic Advisers, in an article appearing in the August 18 issue of the Wall Street Journal. In the article, Professor McCracken states that:

The fact is that we are not gaining ground against inflation.

He goes on to say that:

After all the rhetoric about inflation's being the dominant economic problem . . . we are losing ground.

His observations regarding the role of fiscal and monetary policies in causing inflation were particularly insightful. He writes:

That we have not really been willing to bite this bullet is indicated by the demand management (fiscal and monetary) policies that have been deployed. The upward pressure the budget (fiscal policy) exerts on the economy is equal to the rise in expenditures plus the revenue value of any net reduction in tax rates (which indirectly has an expansive effect by increasing after tax incomes). In the period from 1959 to 1965, when the price level was quite stable, this measure of "fiscal pressure" averaged about 1% of GNP. Since 1965 it has been 2% to 3%, and would be close to 3% in 1978–79.

This same fear of facing fundamentals seems to be evident for monetary policy. With the emergence of rates of monetary expansion during the first quarter consistent, if sustained, with more discipline on the price-cost level, nervous protests were heard about the adverse effects on the economy. Those protesting presumably were calling for more rapid rates of monetary expansion (which is the only way the Federal Reserve could relieve pressures on interest rates), which would set the stage for a more rapid and inflationary expansion, which would in the end produce the even higher interest rates that are always the accompaniment of higher rates of inflation.

I wish to submit the complete article for the RECORD.

The article follows:

THE COSMETIC WAR ON INFLATION

(By Paul W. McCracken)

Barry Bosworth's basic trouble is that he has been right. And the rewards in our Babylon on the Potomac for those who insist on speaking the obvious about such unpleasant matters as inflation are not much different from those in ancient times who were disengaged from their heads for bringing to the King bad news from the wars. In Washington, success in Fighting Inflation apparently consists not in such quaint and straightforward things as reducing inflation but in producing pyrotechnics and cosmetics which will persuade the citizenry that there is progress where none in fact is really occurring. Indeed, the danger is not so much that citizenry will be confused, having themselves demonstrated a considerable capacity for clearheadedness, as that managers of policy will mislead themselves.

The fact is that we are not gaining ground against inflation. While the monthly figures will bounce one way or the other, and we might have a few good readings now, there are persuasive reasons for expecting the basic rate of inflation to continue rising. For one thing the underlying trend since the beginning of 1976 has been upward. It is, of course, true that speaking about a "trend" during a 2½ year period will make the careful statistician wince, and food prices have given the CPI a bad upward push. But a 2½-year period contains 30 monthly observations, and some subgroup of prices (about half of them, in fact) will always be rising more rapidly than the average.

UPWARD, EVER UPWARD

Moreover, the underlying "trend" in labor costs per unit of output during the last two years has also been upward. Apart from erratic quarter-to-quarter wobbles, the underlying rate of increase in unit labor costs has itself been rising about a half a percent per quarter—a track which would bring us to double digit rates by 1979.

And it is not easy to make a persuasive case that labor costs will be rising less rapidly. For one thing we are not getting anything like the gains in productivity, to offset the impact of wage increases on costs, that the economy historically delivered. Quarterly gains in output per man hour (annualized) have averaged a 1.6% annual rate in 1976, 1977, and thus far in 1978, and even with the strong, second-quarter gain in real output, productivity in the non-farm private sector rose at the rate of only 0.6% per year. In fact, these sluggish gains in productivity now extend back for a decade, strongly indicating that a fundamentally unfavorable structural problem has emerged in the economy.

If there were reason to expect a moderating trend in the rate of wage increases during the year ahead, that would provide some reason for optimism about the price level. This trend is more apt also to be perverse. Next year will give us a heavy schedule of collective bargaining, and this means a disproportionate share of wage increases will be the large first-year, front-loaded adjustments. And the probability that the average size of the overall packages negotiated will be enlarged further is also uncomfortably high.

All of this might, of course, be consistent with a declining rate of inflation. Some major items that consumers buy might experience a sharp decline in their prices—

though if this were food, while one part of

ANOTHER PART OF THE PROBLEM

though if this were food, while one part of government tried to take credit for progress against inflation another part would be busy viewing with alarm the low level of farm prices.

Rising labor costs also might not fully express themselves in the price level if profit margins were to be squeezed further. Reported profits are now double those of a decade ago, and they have increased almost 50 percent in the last five years. Here is, however, an illustration of the extent to which inflation itself can confuse facts. With a proper accounting for current costs, which conventional procedures fail to do, true profits after taxes are up only one-third from those of a decade ago, which means that in real terms they are down. While some businessmen prefer the comfort of the misleading conventional figures on profits, they could be expected to keep a short leash on their capital budgets if profit margins were to decline further.

After all of the rhetoric about inflation's being the dominant economic problem, a view which surveys show consumers share emphatically, we are losing ground.

What is the problem?

The problem is that our strategy for reducing the rate of inflation is, to borrow an apt phrase from D. H. Robertson, 'a grin without a cat."

While there is plenty for the profession to be humble about when it comes to the economics of inflation, there is one conclusion that is supported both by logic and the facts of historical experience. The rate of inflation will not come down so long as pressures of demand pushing on supplies are strong enough so that higher prices and higher wages have no adverse effect on sales volume and employment. Indeed, holding prices and wages below these market-clearing levels by some sort of brute force or ad hoc process would produce the queue-line economy.

The rate of inflation will embark on a downward trend when the result of posting inflationary price increases or extracting excessive wage increases is a painful loss of sales and employment. Ours is the only major industrial country that has not yet mustered the will to face this basic fact of economic life. And the OECD secretariat now projects the 1978 rise in U.S. labor costs per unit of output in manufacturing to be above the average for the "Big Seven" countries, and significantly lower than the increases projected only for the U.K. and Italy.

That we have not really been willing to bite this bullet is indicated by the demand management (fiscal and monetary) policies that have been deployed. The upward pressure the budget (fiscal policy) exerts on the economy is equal to the rise is expenditures plus the revenue value of any net reduction in tax rates (which indirectly has an expansive effect by increasing after tax incomes). In the period from 1958 to 1965, when the price level was quite stable, this measure of "fiscal pressure" averaged about 1% of GNP. Since 1965 it has ben 2% to 3%, and would be close to 3% in 1978–79.

This same fear of facing fundamentals seems to be evident for monetary policy. With the emergence of rates of monetary expansion during the first quarter consistent, if sustained, with more discipline on the price-cost level, nervous protests were heard about the adverse effects on the economy. Those protesting presumably were calling for more rapid rates of monetary expansion (which is the only way the Federal Reserve could relieve pressures on interest rates), which would set the stage for a more rapid and inflationary expansion, which would in the end produce the even higher interest rates that are always the accompaniment of higher rates of inflation.

ANOTHER PART OF THE PROBLEM

A part of our problem is that we have also been reluctant to be realistic about how high the economy's operating rate could be pushed before pressures would begin to build. With the unemployment rate at 6% and the operating rate in manufacturing at only 84% of capacity (according to the Fderal Reserve), plenty of slack seemingly remains available to assure that more demand would translate into employment and output rather than higher prices and costs.

This is far too simplistic. Aftr a decade in which the economy's operating rate has been low, the capacity situation and labor markets are uneven, and bottlenecks are bound to develop at lower average operating rates than after a sustained period adjusted to performing closer to overall capacity. This is particularly evident in the labor market, where lack of skilled and experienced labor may impede that expansion of output which would provide jobs to those who are unemployed.

There is empirical evidence that the economy is in the pressure zone now. The proportion of companies reporting slower deliveries is now in the range reached in late 1972, or 1969, or 1956–66. And the incidence of help-wanted advertising is now higher relative to the labor force than at all cyclical peaks during the last decade including, even 1969).

When we are unwilling to face the fundamental realities of the economy and prefer to deal with symptoms and cosmetics, we should not be surprised that we are losing ground against inflation. Washington should not be confused about this. The citizenry is not.●

SCIENTIFIC MERIT OF NASA'S LUNAR SAMPLE ANALYSIS PROGRAM

● Mr. STEVENSON. Mr. President, the HUD-Independent Agencies Appropriation Act for fiscal year 1979, as passed by the Senate, contained a cut of $5.7 million from the NASA appropriation for lunar sample analysis. Since $5.7 million was the total amount earmarked for this activity, the cut effectively terminates this research.

The lunar sample analysis program is extraordinarily productive and useful. Not only is it important to our understanding of the Sun and its effect on Earth's environment but it has had a significant impact on major engineering programs in the Department of Energy, as discussed in a letter I have received from Dr. Milton Blander of Argonne National Laboratory.

The scientific community agrees that the lunar sample analysis program is a research activity of major importance that has brought distinction to U.S. science. NASA has done an outstanding job in administering this activity.

The conference committee on H.R. 12936 will meet soon. I urge the conferees to agree to the restoration of a significant portion of the 35.7 million for NASA's fiscal year 1979 lunar sample analysis program.

Mr. President, I ask that a number of letters written to me by scientists expressing concern over this reduction be printed in the RECORD.

The material follows:

THE ENRICO FERMI INSTITUTE,
Chicago, Ill., Aug. 3, 1978.

Hon. ADLAI E. STEVENSON III,
Chairman, Science Technology and Space Committee, Committee on Commerce, Science and Transportation, U.S. Senate, Washington, D.C.

DEAR SENATOR STEVENSON: I am deeply concerned upon learning that the Senate Committee has voted to eliminate the entire budget for lunar sample analysis ($5.7 million) from the NASA budget. Few endeavors have brought as much distinction to U.S. science as the lunar program and the analysis of the samples returned from the moon. Several of the best scientists have in the past years and will continue in the future to uncover some of the most significant facts about our earth and the solar system. A sudden cut of this exciting program constitutes, in my view, a serious blow to the scientific community, to NASA and to the scientific enterprise of the country as a whole.

I am seriously concerned with the consequences for our institutions in Illinois. At the University of Chicago's Enrico Fermi Institute three excellent faculty members, Professors Edward Anders, Robert Clayton and Anthony Turkevich, all members of the National Academy of Sciences, have made outstanding contributions to the field of lunar research. Their efforts would be severely cut back if the lunar samples analysis program were removed from NASA's budget.

I would greatly appreciate your efforts to restore this budget cut and to insure the continuing success of this outstanding program.

Sincerely,

PETER MEYER,
Director.

PALOS PARK, ILL.,
August 2, 1978.

Senator ADLAI STEVENSON,
Senate Office Building,
Washington, D.C.

DEAR SENATOR STEVENSON: This letter concerns the Senate appropriation bill for NASA and in particular a 5.7 million dollar item for lunar sample analysis which is in danger of being eliminated. Teams working on lunar sample analysis generally also do research on meteorites (funded I believe, from a separate budget category) so that appropriations for lunar samples impacts on research on all extra-terrestrial materials and a cut in the lunar sample budget would ultimately put most meteorite research in jeopardy. I am employed in the Chemical Engineering Division of the Argonne National Laboratory and am partly supported for about 25 percent of my time as the principal investigator on a grant from NASA for research on meteorites. One of my coinvestigators at Argonne is L. Fuchs. Most of my other research is on energy related fundamental chemistry. The purpose of this letter is to describe two specific instances of where fallout from our research on meteorites has had a significant impact on major engineering programs within the DOE.

The first instance relates to the high temperature battery under development in a multimillion dollar program at the Argonne National Laboratory, General Motor Corporation, the Atomics International Division of Rockwell International Corporation, Gould Incorporated, and Eagle-Picher Corporation. This high temperature battery employs a lithium aluminum alloy as one electrode, an iron sulfide as the other and molten lithium chloride-potassium chloride as the electrolyte. The potential uses of this battery are for motor vehicle (largely automobile) propulsion and central electrical power storage. During the operation of this battery a peculiar phase was formed, later

labelled as "J" phase, which impeded the operation of the battery and decreased its ability to perform up to expectations in a major way. This phase was later identified as the mineral djerrfisherite which had been first discovered and characterized by my meteorite coinvestigator, L. Fuchs in an earlier investigation of meteorites. His earlier characterization and later help was an important cornerstone of the battery related research on this material which all led to measurements (some within my group under DOE funding) to define the chemistry of this material and to devise ways to eliminate it in the operation of the battery. Early tests indicate that performance of laboratory cells has improved 60 percent when our suggestions for eliminating this phase based on our research are used.

A second instance concerns my own work on condensation from a hot "solar gas" to form complex silicates, sulfides and metal phases. The computer program we used for this work was originally a NASA program for the calculation of rocket performance. We adapted and modified it for calculating the possible formation of meteoritic material from a solar nebula. Our modifications of this NASA program, made under our NASA contract for our meteorite research, has generalized the computer program so that it became useful in three DOE programs at the Argonne National Laboratory. It is now in use in our programs on power generation with a magnetohydrodynamic (MHD) generator, on the fluidized combustion of coal, and in a program on energy conservation in industrial electrolytic processes. In the MHD program, it is an important tool for minimizing a major economic factor in the loss of potassium seed and in the coal program it is used to calculate and prevent the formation of corrosive deposits. In the conservation program, it is used to deduce more energy efficient methods for metal (*e.g.* aluminum) production. I anticipate many other uses for this computer program (which parallel the uses of the program for meteorites). For example, the disposition of the pollutants lead and cadmium from coal combustion can be deduced and would be important in the elimination of these contaminants from flue gases.

Overall, these are only two examples of which I am aware. I am certain that there are other examples where research on extra-terrestrial materials has aided in applied programs.

I hope that the funding for lunar sample analysis will not be eliminated. It has been a major example of the extremely high quality of American science and, has far surpassed the quality of analogous research in the USSR. Lunar (and meteoritic) research is still very vital. It is getting us closer to understanding our beginnings over four billion years ago and in addition has provided fallout which is an aid in some of our more practical goals.

Sincerely,

(Dr.) MILTON BLANDER,
Senior Scientist and Group Leader, Chemical Engineering Division, Argonne National Laboratory.

CHICAGO, ILL., *August 3, 1978.*

Senator ADLAI STEVENSON,
Senate Office Building,
Washington, D.C.

DEAR SENATOR STEVENSON: This letter is to request your intervention in every way possible to reverse the action of the Senate Appropriations Committee which deleted a $5.7 million appropriation for continuation of lunar sample research in NASA.

This is an extraordinarily grave matter. The action proposed is tantamount to the destruction of one of the best managed, most active and productive research programs in the U.S. This program enjoys extensive and active international involvement and support.

To remove this research activity from NASA will emasculate some of the most creative and productive teams of scientists and create major financial difficulties for their laboratories. In addition, it will seriously affect other scientists and laboratories since the already short NSF funds for earth (and planetary) science will have to be even further subdivided.

The present exciting and enthusiastically supported research program on lunar samples is beginning to help us understand the system we live in and the planet we live on, their origins and evolution. The lunar samples are not only relics of the distant past; they have also monitored the behavior of the sun. Lunar sample research is vital to an organization such as NASA. These samples provide ground truth information for many of the measurements related to fly-bys and spectroscopic observations of objects in the solar system.

Man's utilization of space will be significantly dependent on exploitation of the moon as a base and a materials resource. We must take advantage of the lead time provided by the availability and study of lunar material to acquire the knowledge that will be necessary for this next step by man into space.

Sincerely yours,

GEORGE W. REED, JR.,
Senior Scientist,
Argonne National Laboratory.

UNIVERSITY OF CHICAGO,
Chicago, Ill., August 3, 1978.

Senator ADLAI STEVENSON III,
The Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR STEVENSON: I am writing to you about the Proxmire Subcommittee's recommendation that 5.7 million dollars for lunar sample analysis should be deleted from the NASA budget and that lunar sample research should be carried out from now on by the NSF but that no new funds should be provided the NSF for this purpose. At the very least, this will result in a drastic reduction in the amount of money available for lunar research, a productive program already operating on a bare-bones budget. Inasmuch as the understanding of the origin and evolution of the planets is the fundamental scientific rationale for NASA's exploration of the solar system and studies of samples returned from distant plants are the most direct means of attaining this understanding, these recommendations are yet another step toward the total emasculation of the United States space program.

My own research is funded by NASA, but from a different program, that which deals with the study of meteorites. As the 1974 recipient of the Geochemical Society's F. W. Clarke Medal in Cosmochemistry, the study of the composition of the universe, I can tell you that the techniques developed in and the scientific return from the lunar sample program have had a major, positive effect on upgrading the quality of scientific research in my field. In addition, deletion of the above funds would close down NASA's lunar sample curatorial facility to which the NSF has turned for the delicate sample preparation techniques required in the study of the Antarctic meteorites which were recovered in two recent, highly-publicized expeditions funded by the NSF.

Some scientists are actively studying possible missions to return samples from Mars around 1990. How will those laboratories best equipped to retrieve the maximum information from those samples exist from now until then? Recent events have taught us the hard way that it is very difficult to resurrect a high-technology program once it has been dismantled. It is my opinion that Sky would not be in danger of plummet prematurely to Earth if the manpower technology gathered together during Apollo era were still intact today.

Surely the United States, which spe billions annually on cigarettes, cosme and pet food, can afford 5.7 million dollar the same period to continue the systema scientific investigation of the lunar ro which were obtained at a cost of over billion dollars to the U.S. taxpayer. the past few years, I have sat on the si lines, watching in frustration budgets various areas of scientific research dwin or remain level in the face of a scientific flation rate which far exceeds that of consumer price index. The effect on Ame can science is now visible. There are fe laboratories. There is lower productivity many of the remaining ones. Most distu ing of all, there is a growing hesitation the part of U.S. scientists to commit sign fractions of their research budgets to en ing, pioneering ventures at the forefront science because these are the risky o where the chance of failure is much hig than in those activities which have alw worked in the past. I am sorry I have written you a letter such as this in the p to urge you to do what you can to incre funding of scientific research.

Each year, I read more and more artic by Russian, German, Japanese, English French scientists, the quality of whose search is relentlessly pursuing and overta ing our own. Did you know that Germa may very well send a spacecraft to rend vous with and study Halley's Comet wh it returns spectacularly in 1986, but th the U.S. will not because of budgetary co straints on NASA? The loss of U.S. scienti prestige in that event would be very gre but not as devastating as that which wo accompany cessation of research on lu samples.

For countless centuries, man has strugg to understand the universe and its origi I hope it will not be said in the future th the United States, by these and other tions of the Senate, was instrumental in cu tailing efforts to achieve this noble goal also hope I can count on your understandi of the importance of these issues and your courage and leadership ability to sta up in the Senate and fight for what you b lieve in.

Yours sincerely,

LAWRENCE GROSSMAN,
Associate Professor of Geochemistry.

ENRICO FERMI INSTITUTE,
Chicago, Ill.

Senator ADLAI STEVENSON,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR STEVENSON: I have recent learned of Sen. Proxmire's motion in the su committee of the senate appropriations com mittee to eliminate portion of the annu NASA budget dealing with the analysis lunar and extra-terrestrial samples. I w more than alarmed to hear of this for se eral reasons that I wish to mention.

The past decade of research in the lun and planetary sciences has rapidly increas our rather meager knowledge of the theori of solar system and planetary formation. particular, the past few years have provid us with some of the most fascinating da to date. The techniques that have been d veloped to enable us to formulate the theories have all been a result of wo brought about from the lunar program. would be tragic at this time to cut off th research at just the time when we are at th point of developing the techniques to unde stand these complex problems. I might poi out that we have not examined anywhe

near the total amount of samples that have

scientific community were dubious about the

experiences both of a

near the total amount of samples that have been returned from the Apollo missions, due primarily to the great amount of caution and extreme care that not only NASA but all the scientific researchers have applied to the work. Sen. Proxmire has argued that $39 billion dollars have already been spent on the lunar missions and further spending should be eliminated. I believe that this is irrational in that the amount of money spent yearly to study these lunar samples is quite small, not only with respect to the $39 billion but also other budgets. It would seem a great waste considering that large initial cost to not derive full benefit from the program and to get our money's worth so to speak by learning as much as we can from the samples that we went for in the first place.

The NASA lunar and meteorite program has been in the past and still remains an exciting program, not only from the research itself but from the standpoint of the International collaboration that the program has allowed for. The work that is now being carried out by these scientists is of the highest caliber and has evolved into this state from this cooperation among scientists of all parts of the world.

Shifting of funding to NSF would be damaging from two standpoints, first, NASA is a mission oriented agency and as such is best equipped to oversee the research. It would be quite wasteful to throw away all the years of planning and work that has been invested in the Lunar and planetary science institute and shift the funding agency to one which has no expertise in the field. Secondly, the removal of the current NASA funding would require all the presently funded institutions to apply to the NSF. Overburdening of these funds would have the effect of squeezing out many of the smaller institutes funded by both NASA and the NSF. Many of these schools rely on these funds to support both student and faculty research. Certainly the effect would be felt on students who might be considering studying in the life sciences but could not afford to do so without funding. With the growing concern of environmental and energy issues the need for people highly trained in these areas is crucial. Removal of funds that allows us to train these people will result in a direct drop in the number of scientists that may be trained.

I hope that the Senate will act favorably on this issue and the work will continue to be carried on in the Lunar and Planetary sciences at the highest level. I thank you for your time in reading this hastily written letter and hope that we might count on your support.

Sincerely,

DR. MARK H. THIEMENS,
Research Associate.

UNIVERSITY OF CHICAGO,
Chicago, Ill., August 3, 1978.

Senator ADLAI STEVENSON,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR STEVENSON: I wish to express dismay at the action of Senator Proxmire's subcommittee of the Senate Appropriations Committee in deleting the lunar sample analysis program from the NASA budget.

It should be emphasized that the program is first-rate on scientific grounds. The subject of study is important and timely. The international community of scientists involved is a dedicated, productive group of scholars of high calibre. The record of research over the last nine years is vast and impressive in its quality. The prospect of work yet to be done is stimulating and exciting.

When President Kennedy in 1961 set a national goal to put a man on the moon within the decade, his motivations were political, not scientific. Many members of the scientific community were dubious about the value of such a program, myself included. However the fantastic success of the Apollo program clearly served its purpose admirably: to demonstrate American technological superiority to the world at large. But once the engineering feat had been accomplished, the task of reaping the maximum scientific benefit from the returned lunar samples fell to researchers, both here and abroad, most of whom had their backgrounds in the terrestrial earth sciences. New laboratory techniques were developed, new high standards for excellence of experimental methods were established, new patterns for collaborative research and for rapid communication and publication evolved. The prestige of American science in the international community has been greatly enhanced by this program.

A useful measure of the health and vitality of the lunar program is given by the Lunar Science Conferences, held annually in Houston. The excitement of these meetings has not waned over their nine occurrences. They are an annual *must* for about a thousand scientists. The well edited Proceedings volumes from these meetings run to almost 4000 pages a year. The scope of the conferences has evolved so as to include all of solar system science, including the moon, the planets and meteorites.

What lies ahead for research with lunar samples? At the very least one should be aware that a substantial fraction of the lunar samples have not yet been studied at all. These include a number of important core samples collected on the early missions when the pressure of succeeding missions precluded the possibility of the careful opening and dissection of these very important specimens. Furthermore, our understanding of the moon has progressed very considerably since 1970, and powerful new techniques have been developed, so that detailed study of samples from the early missions is necessary to realize their full value. I must emphasize that lunar sample analysis is not a routine application of established techniques to a large number of similar samples. New techniques are continually developed which allow us to address new scientific questions.

Not all aspects of lunar sample studies refer to the moon. Many take advantage of the fact that the moon has been a collector of particles from its space environment for over four billion years. For example, in my laboratory we measure the atoms of nitrogen implanted into grains in the lunar soil from the solar wind. By measuring soils taken from deep cores, we can measure properties of the sun back to two or three billion years ago. The results show a surprising large variation in the relative abundances of the two isotopes of nitrogen, reflecting the nuclear processes which have gone on in the sun. The most important conclusion from this is that we do not yet know how the sun works. This is an obvious case in which lunar sample studies have impact in broader areas of science, and in areas of practical human concern.

Another example of cross-fertilization from lunar sample research to other fields is the development of a new method for the determination of the ages of rocks. This technique, requiring very precise measurements of the isotopes of the rare elements samarium and neodymium, was applied first to lunar rocks in 1975. It has subsequently become one of the most important methods of studying the geological evolution of the crust and mantle of the earth.

Should the study of lunar samples be under the jurisdiction of NSF rather than NASA? From the points of view of the quality and effectiveness of proposal review, and of accessibility to the broad scientific community, I see no major difference. From my experience both as a proposal writer and a proposal reviewer for both agencies, I believe that the NASA lunar science program has a higher average quality than the NSF geochemistry program. However, NASA must determine which scientists have access to lunar samples, and must make that judgment on the basis of scientific proposals. It seems unnecessarily cumbersome to require one agency to evaluate proposals for sample allocation and another to evaluate the sample proposals for funding.

In summary, the lunar sample research program is a thriving, important area of science which makes a major contribution to American scientific prestige in the world. The United States has brought the world into the age of space exploration. Termination of a significant part of this venture could only be read as a signal that we have lost interest in exploring the nature of man and his environment.

Sincerely yours,

ROBERT N. CLAYTON,
Enrico Fermi Institute, Department of Chemistry, Chairman, Department of the Geophysical Science.

ENRICO FERMI INSTITUTE,
Chicago, Ill., Aug. 3, 1978.

Hon. ADLAI E. STEVENSON III,
Chairman, Subcommittee on Science and Space, U.S. Senate, Russell Senate Office Bldg., Washington, D.C.

DEAR MR. CHAIRMAN: I respectfully request that you seek to restore funds for the lunar sample analysis program ($5.7 million) that were deleted from the NASA budget by the Senate Appropriations Committee. I am enclosing my July 27 letter to Senator Magnuson, giving some reasons why this program should be continued. I shall not repeat the arguments in that letter, but focus on two crucial points: why the lunar sample is worthwhile and why it should be continued under NASA rather than NSF auspices.

(1) The lunar sample program has revitalized several areas of the earth sciences. Faced with the challenge of these priceless samples, lunar scientists have improved their instruments and skills by orders of magnitude, with a corresponding gain in information. These advances are now spreading through the earth sciences, often through the medium of young people trained in the lunar program. Having reached the paradoxical state where we have better data on lunar than on terrestrial rocks, many lunar scientists now spend part of their time on terrestrial rocks, applying lessons learned from the Moon to the Earth and thus directly contributing to the earth sciences.

(2) The lunar sample program has brought much distinction to U.S. science. Our world leadership in planetary science, geochemistry, and cosmochemistry is confirmed by every yardstick: professional honors, citations in foreign books and journals, U.S. contributions at international meetings, recognition by the Russians (as mentioned in my letter to Senator Magnuson), etc. A sign of the vitality of the program is the continuing participation of foreign scientists, selected by NASA peer review but funded by their own governments.

(3) The program has brought many scientific and cultural benefits, and will bring more. I think we will be a better and wiser people if we know our past: not only the origins of our nation but also the origins of mankind, life, our planet, and the solar system. The Moon holds many clues to these questions. (a) It differs chemically from the Earth, for reasons that are not yet fully understood. (b) It provides "ground truth" for the understanding of other small planets, such as Mars, Mercury, asteroids, moons of Jupiter and Mars, etc. (c) It contains a record of radiations and objects that struck the Moon since its formation: cosmic rays, particles from the Sun, meteorites, late building blocks of the planets, etc.

Let me offer two examples from my own work that illustrate the nature of lunar research. My group, consisting of 3 Ph.D.'s analyzes lunar rocks for 20 rare elements, using an exceedingly sensitive and precise but slow and expensive method: neutron activation analysis. We have learned to recognize meteoritic debris in lunar samples by its chemical signature (traces of noble metals, which are rare in pristine lunar rocks but are abundant in meteorites). Of special interest to us are the 20–100 mile bodies that fell on the Moon in the last stages of its formation, and produced the dark scars on the Moon's face. Many more such bodies must have fallen on the primitive Earth, but their traces have been wiped out by geological activity. Some of these bodies presumably were planetesimals (building blocks of the planets) and hence of great importance to an understanding of the planets.

By studying some 200 lunar samples over 5 years, we gradually recognized that 8 different bodies were represented, that 7 of them were unlike any present-day meteorites, and that they apparently fell in the order of their composition: the most Moon-like first, and the least Moon-like last. Obviously, nature is trying to tell us something about the orbits of these bodies, and how they varied with chemical composition. This, in turn, relates to the question why the planets all differ in chemical composition—one of the most basic questions in planetary science. Lunar samples contain at least part of the answer, and if we want to find it, my group will have to be funded to continue this work, and a couple of other groups should also be funded to keep me honest.

Lunar samples can also lead us to the same question by a different route. Combining ideas derived from meteorites and lunar samples, we showed in 1974 how to calculate the complete bulk composition of the Earth and Moon from only 6 chemical clues. This was an improvement over the traditional, trial-and-error method, which gave less complete results from a much greater body of data. Colleagues at other institutions tested our model and found that it came close to the mark, though in need of further tinkering. Encouraged by the success, we now are on the second try of a similar model for Mars, based on a few scraps of data returned by Viking. This model soon will be tested by us and others. If it survives, it will guide future research by making predictions, putting unrelated facts into a framework, extracting more information from a given number of facts, and allowing us to skip pointless experiments. We'll learn more about Mars with less effort and expense than we could without such a model. But this model could not have been conceived without earlier work on meteorites and lunar samples.

(4) The lunar program has brought various practical benefits, as some of my colleagues will report to you. I shall mention two examples from my own work on meteorites, an equally abstruse kind of extraterrestrial material. In 1959, I concluded that the diamonds in certain rare meteorites were made from graphite by high-speed impact; within a few months, two colleagues had duplicated the process in the laboratory and taken out a patent. A chemical company now uses this process to make industrial diamonds.

Between 1963 and 1973, my coworker B. Hayatsu worked on the origin of organic compounds in meteorites. We concluded from simulation experiments that these compounds had formed from carbon monoxide and hydrogen, with clay as a catalyst. Hayatsu now works at the Argonne National Laboratory on coal liquefaction, and found that clay is an excellent catalyst for this process. Unlike the previously used metallic catalysts, clay is not poisoned by the abundant sulfur in Illinois coal, but works even better when sulfur is present.

Let me now turn to the second question, why NASA rather than the NSF should administer the lunar program.

(5) We are not afraid to let the NSF "evaluate (our proposals) competitively with other applications for funding for basic research in the geological sciences", as long as it is done under a strict merit system. The initial selection of lunar sample PI's in the 1960's was strict enough, and the group has been pruned annually since 1970, by a tougher and more thorough peer review than that of the NSF. A number of people rejected by the lunar program are in fact being funded by the NSF.

However, the dumping of the lunar program onto the NSF, without an increase in funds, means that two groups previously funded at $29.8 million suddenly have to scramble for $24.1 million, which is a 19% cut. At this point a difference in research techniques becomes crucial. Geology, using its traditional tools of pick, hammer and microscope, is a low-budget operation; whereas isotope geochemistry, using the tools of physics (mass spectrometers, radiation detectors, etc.) is as expensive as physics. The NSF usually avoids measuring two such fields by the same yardstick, and separates expensive research fields (high energy physics, oceanography) from low-cost fields. But if this principle is breached in the present case, by forcing both groups to compete for the same 81% of their former funding, the temptation will be strong to sacrifice 50 high-cost lunar scientists for the sake of 200 low-cost geologists, or to slash the larger budgets to the point where the research groups are crippled.

(6) NASA is here to stay, as even Senator Proxmire seems to concede. And NASA has a long, unfortunate history of putting its priorities where the money is: 99% for engineering and 1% for science. Scientists have fought this trend in the 60's and early 70's, and though the situation has greatly improved in recent years, it would be unwise to free NASA of this potential swarm of gadflies Hare-brained schemes, such as mining of asteroids and orbital power stations, still need to be opposed, and such opposition is likely to be better-informed and more vigorous if it comes from scientists with a stake in NASA's program and image. In a positive vein, advice on worthwhile missions will also be better-informed and more freely given by scientists supported by NASA.

Let me conclude by paraphrasing a remark by Carl Sagan. We will be remembered as the generation that explored the solar system. Do we also want to be remembered as the generation that decided after spending $30 billion on a brilliant engineering feat that it couldn't afford $5.7 million to extract the scientific message from the lunar rocks that the astronauts returned?

Yours sincerely,

EDWARD ANDERS,
Professor of Chemistry.

CHICAGO, ILL., *Aug. 3, 1978.*

Sen. ADLAI STEVENSON,
Russell Senate Office Building,
Washington, D.C.:

Request that you introduce a Senate floor amendment restoring 5.7 million dollars to the NASA 1978–79 appropriations when the HUD-independent agencies appropriation bill (H R 12936) reaches the floor these funds were in the presidents budget for lunar sample studies and were deleted by the Senate appropriation committee.

Funds are vital to the University of Chicago's major program of basic research in physics and geochemistry and to basic understanding of exterrestrial phenomena would be glad to have the opportunity to discuss this with you personally if you need further material or justification for supporting this proposal.

HANNA HOLBORN GRAY,
President, University of Chicago.

PASADENA, CALIF., *Aug. 5, 1978.*

Hon. ADLAI A. STEVENSON III
Russell Senate Office Building,
Washington, D.C.:

I was sorry to hear that the Senate Appropriations Committee deleted the 4.7 million dollar appropriation for the analysis of lunar samples from the NASA budget. Senator Proxmire's suggestion that the geologica branch of the NSF should now support this research would basically represent a 25% cu of the budget of this branch for those re searches they are now funding. This seems to me a highly unwise move in the light o the importance of maintaining a high leve of research on the problems pertaining t earth sciences whose researches include earthquake prediction, studies on origins o ore deposits, coal, petroleum, and other nat ural resources, I therefore urge you tha the 5.7 million dollars deleted from the NASA budget for the analysis of lunar samples b put back in the NASA budget and the proposed transfer of the financial responsibilit for the analysis of these lunar samples t the NSF be avoided.

SAMUEL EPSTEIN,
Vice-President and President-Elect of the Geochemical Society, California Institute of Technology.

STANFORD, CALIF., *Aug. 4, 1978.*

Mr. ADLAI E. STEVENSON III,
Chairman, Subcommittee Science and Space
Russell Senate Office Building, Washington, D.C.

The proposed transfer of the budget fo the lunar sample analysis program fro NASA to NSF may have an unintended im pact on important NSF programs in Earth science, especially if the combined fundin for the lunar research, geology, geochemis try, and geophysics is substantially reduced As president of the American Geophysica Union I am especially aware that the Earth science research funded by NSF provides th intellectual basis for many important appli cations including the prediction of earth quakes and other natural hazards and th global search for mineral resources. If th lunar analysis program is transferred to NSF I hope that it can be done in a way tha maintains the vigor of the lunar progra without curtailing other important NSF pro grams in Earth science.

ALLAN COX,
President, American Geophysical Union.

PASADENA, CALIF., *August 2, 1978.*

Senator ADLAI E. STEVENSON,
Russell Senate Office Building, Washington D.C.

DEAR SENATOR STEVENSON: The propose deletion of the funds for the research o luner and extra-terrestrial material fro the 1978–79 budget of NASA and NSF cause me great concern, the study of these sam ples is the ultimate scientific reward of th luner missions and a vital part of futur explorations of our space environment. I has contributed tremendously to the under standing of our own planet as well as th solar system as a whole. This knowledge i essential not only to the possible future us of the space but also to the continuing effor of assessing man's position in the universe This type of research is not a one time jo but progresses with improving technology. I cannot be substituted by any other work For a great nation like the U.S. it is definitely a lack of foresight to wipe out an entire fiel for the reason of saving an already pitifully

small amount of supporting funds, for these

This lopsided balance of power can also

small amount of supporting funds, for these reasons I urge you to vote against this deletion.

TYPHOON LEE,
Robert R. McCormick Postdoctoral Fellow University of Chicago.●

THE IMBALANCE IN LABOR RELATIONS

● Mr. LUGAR. Mr. President, the recent filibuster against the labor reform bill was part of an effort to halt the increasing imbalance in labor relations in favor of powerful unions. Fortunately for the welfare of the country, of small businesses, and ultimately, of labor as well, the filibuster was successful.

The labor movement has been an important and necessary political force in the struggle for fair, humane working conditions and benefits. Its accomplishments have been great. It still has much to do.

But this struggle—because of its great success—now imposes different obligations upon labor organizations. The rights of the uninvolved public, and the economic welfare of the Nation as a whole must figure in the calculations of today's labor leaders.

Mr. President, I wish to call to the Senate's attention an excellent article that appeared recently in the Evansville, Ind., Press, written by Elizabeth Brewster of that city.

Ms. Brewster, although she has just graduated from high school, writes with an understanding and perceptiveness beyond her years. I would hope that other citizens of all ages will give her essay thoughtful consideration.

I salute her for a significant contribution to the public debate on a most important issue, and I commend the Evansville Press for affording her the opportunity to express her views.

The article follows:

BRINGING BALANCE TO LABOR RELATIONS

(By Elizabeth Brewster)

The precarious balance of power between American labor groups and American management interests currently seems to be topped in favor of the labor unions, a situation that provides little chance for either side to achieve its goals.

Labor unions are obviously an integral, necessary part of the American labor scenario, as they have been since their first rise to power in the 19th-Century industrial revolution.

Early attempts at organization of workers were usually the laborers' only response to the notoriously unhealthy working conditions and insufficient wages. The need for some type of worker representation then was obvious and urgent; today, labor unions still serve a vital purpose in protecting the rights of many American workers.

The need for protection of these laborers' rights, however, does not rationalize the abuse of power sometimes attempted by various unions.

Strikes, walk-outs and work slowdowns are usually viable and reasonable means of protesting contract settlements or working conditions. When these methods of dissent seriously interfere with the welfare of uninvolved American citizens and violate federal laws, however, the unions may be considered guilty of techniques akin to the 19th-Century management's "shut-out" and "blacklisting" tactics.

This lopsided balance of power can also wreak havoc with economic conditions. The current Washington strategy of combating inflation depends a great deal on keeping wage increases comparatively low during the next several years.

Yet the ever-rising wage demands of many unions seems to bluntly defy this economic plan. The rank-and-file members of a number of these unions seem oblivious to the fact that most additional money they so fervently demand may eventually spur price increases of consumer goods.

Most of the unions also seem unwilling to be the first "victim" of economic policy that could ultimately increase the purchasing power of its members.

This occasional disregard for public economic welfare gives every union an uncomplimentary image to the public, and diverts attention and enthusiasm from their ultimate goal: Betterment of workers' conditions.

Just as the oppressive industrial giants of the 19th Century eventually found themselves labeled as the "bad guys," so, too, will today's labor unions which are single-mindedly employing every dramatic tactic in their arsenal. Most likely, they will be regarded quite unsympathetically by future onlookers.

The perpetual power play between labor unions and management, nevertheless, is not inevitably headed for disaster. A genuine spirit of cooperation and compromise in both labor negotiations and everyday working interactions would do a great deal to improve the relationship.

The realization, too, that in a fair compromise neither side can be completely satisfied is a needed replacement for the current negotiating attitudes of belligerent stubbornness.

Negotiations between labor and management too often seem weighted down in favor of one side or the other, but the addition of cooperation and realistic attitudes could be the necessary elements to keep the balance of power from toppling.●

THE DAY OF SHAME

● Mr. WILLIAMS. Mr. President, on this 10th anniversary of the Soviet invasion of Czechoslovakia, I would like to express my personal repugnance for government sanctioned oppression. In current times, when human rights are extremely vital to our Nation's foreign policy, it saddens me to be reminded on this occasion that there are countries which refuse to recognize the right of each individual to personal and political freedom.

The people of Czechoslovakia were awakened early in the morning of August 21, 1968 by Soviet and Warsaw Pact troops, tanks, and guns. These people, who had been striving for a more democratic state, were forced by thousands of alien soldiers to accept the repressive standards of Communist rule. The people of Czechoslovakia, before that time, had made great strides toward the implementation of many aspects of democracy in their country. In fact, according to a contemporary Western report, many of those who were considered to be the more radical of Czechoslovakian reformers: "dreamed of making that country a genuine democracy, with different political parties that would have the right to contest for power. In their view, Czechoslovakia should become a country in which Communists could be voted out of power if the people wished to do this."

Mr. President, these efforts of the so-called "radical" reformers were, in my mind, directed toward a truly noble goal. Nevertheless, the Soviet Union refused to accept the legitimate aspirations of these courageous people. Instead, they denied many of those so-called "radicals" the opportunity to express their aspirations for a more representative government.

The tragic events of 10 years ago should serve as a consistent reminder to all Americans that we have an obligation to support the freedom of people everywhere. There are millions of individuals whose daily lives still focus around a continuous struggle with Communist oppression. They live under governments which refuse to recognize their inherent rights to freedom and personal dignity.

As Americans, we are privileged to be able to promote the cause of freedom by protesting the plight of any people who are systematically denied justice by their own governments. Too many countries, like Czechoslovakia, have reluctantly fallen under totalitarian domination since World War II. This anniversary of the shameful day that the Soviet Union crushed the budding liberalization there should add to our resolve that we will remain free.

And, in the enjoyment of our freedom, we must let the world know that we feel implicated in the fate of those who are oppressed. Our expressions of hope and indignation can hasten the day when the torch of freedom will once again shine in Czechoslovakia and other enslaved nations.●

TENTH ANNIVERSARY OF SOVIET INVASION OF CZECHOSLOVAKIA

● Mr. ZORINSKY. Mr. President, today we recall with sorrow the Soviet invasion of Czechoslovakia. On August 21, 1968, the Soviet Union brutally occupied Czechoslovakia and brought to an end a brave experiment in independence. Threatened by a breath of freedom, the Soviet Union crushed the attempt of the Czechoslovakian people to fashion their own institutions of government free of external influence.

Ten years have neither softened the harshness of that first blow nor the continuing oppression with which the Soviets exercise their dominance over the Czechoslovak nation. August 21 rightly is called the "Soviet Day of Shame." The Soviet Union has violated the letter and the spirit of the United Nations Charter and the Helsinki Final Act. Such flagrant violations deserve the condemnation of free peoples everywhere.

Aspirations for freedom have survived in Czechoslovakia and are expressed in Charter 77, a manifesto by Czechoslovakian citizens appealing to their government to observe the principles of the final act and the Czechoslovak Constitution. I applaud this call for the sovereign right of self-determination. Our national commitment to basic human rights demands no less.

Earlier this month, I proudly joined a number of my colleagues in cosponsoring

Senate Resolution 526, observing the 10th anniversary of the Soviet invasion of Czechoslovakia. Senate Resolution 526 expresses the sense of the Senate that the President should use the influence and leverage of his office to end the continuing intervention in Czechoslovakia by the Soviet Union. Today, I join Americans of Czech and Slovak descent—and all Americans—in condemning again the Soviet occupation of Czechoslovakia and expressing support for the brave people of that nation.●

TENTH ANNIVERSARY OF THE INVASION OF CZECHOSLOVAKIA

● Mr. MOYNIHAN. Mr. President, today, August 21, 1978, marks the 10th anniversary of the Soviet invasion of Czechoslovakia.

This year must bring many memories to the peoples of Czechoslovakia—some that are inspiring, and some that are grim. But it is equally an occasion for Americans to reflect upon the influence our ideas have had throughout the world, and on the challenges those ideas encounter in the world today.

Sixty years ago the modern nation state of Czechoslovakia was created out of the ruins of the Austro-Hungarian empire and the chaos of World War I. Its creation was principally the work of Czech and Slovak patriots and statesmen, most notably a man of brilliance and great character, Thomas Masaryk. But we should remember that those who accomplished this remarkable work were greatly influenced by the precepts of democratic self-determination whose most eloquent international advocate was our own President, Woodrow Wilson. Moreover, like our own country, the Czechoslovak Republic was a nation composed of diverse ethnic groups—not only Czechs and Slovaks, but Germans, Hungarians, Ukrainians, Gypsies, and Jews. For 20 years, until outside powers destroyed it, the Republic enabled these peoples to live together in unprecedented harmony and liberty.

In 1938, 40 years ago, their accomplishment was cruelly destroyed. Hitler's armies occupied the Sudetenland, and the rest of Czechoslovakia was yielded to the Axis powers at the Munich conference. Czechoslovakia was abandoned with a remarkable combination of cowardice and hauteur best expressed in Neville Chamberlain's remark that Czechoslovakia was a "far away country about which we know little." It was a remark which sometimes finds echoes in our own time.

Hitler's defeat brought only the briefest respite for the peoples of this nation. Both Czechs and Slovaks rose against the German occupations in 1944 and 1945, but received little aid from the Allies, largely because the Soviet Union preferred to "liberate" these areas itself. A coalition government ruled the country for a short period after the war, but local Communists, directed by Soviet agents and aided by the massive presence of the Red Army, overthrew the constitutional government in 1948—30 years ago. Again, the democracies turned their backs on our Central European cousin. Russia, the Big Four conceded, had a right to her own buffer zone: a bizarre concession to the outrageous contention that the West harbored designs against the Soviet Union.

But Czechoslovakia's democratic traditions did not die. Ten years ago today they reappeared in the heresy of "Socialism with a human face," and the call for political pluralism, a prospect which panicked the Soviet leadership and precipitated the Soviet invasion. That invasion, justified by the remarkable pretext that the Soviets were protecting the country from "West German revanchism," brought about nothing less than a thoroughgoing reimposition of totalitarianism on Czechoslovakian society. The Dubcek coalition was completely purged. Five Soviet divisions were permanently stationed on Czechoslovak soil. And, most important, pro-Soviet Czechoslovak Communists reimposed ideological and political controls in all spheres of life.

Nevertheless, today, 10 years after the ruthless invasion of Czechoslovakia, the Czechoslovak people's commitment to freedom remains an unbroken force. This fact is a powerful rebuke to the enemies of freedom, and to the cynics who believe that those who would resist totalitarianism are quixotically seeking to impose their own democratic values upon an indifferent world. It is also a tribute to the enduring power of that tradition of democratic internationalism which shaped the best of our own Nation's foreign policy in the years since World War II. The spirit of freedom in Czechoslovakia endures among the workers, who have joined in protests against oppression and foreign domination. It is evident among the religious groups: Roman Catholic clergy have spoken out bravely against religious persecution, as have priests of the Protestant Church of the Czech Brethren, Lutherans, Jewish leaders, and Seventh-day Adventists. But perhaps the best-known evidence of Czechoslovak desire for liberty is the group which calls itself "Charter 77," a group which now has some 1,000 public supporters, and describes itself as:

. . . a free, informal and open community of persons of varying convictions, religions and professions, joined together by the will to work individually and collectively for respect for civil and human rights in our country and in the world—those rights which are granted to man by the two codified international covenants, by the Final Act of the Helsinki conference, by numerous other documents opposing war, the use of force and social and intellectual oppression, and which have been expressly and succinctly stated in the UN Universal Declaration of Human Rights.

The current Czechoslovak regime's utter contempt for basic human rights was displayed when, at the very moment its delegates were discussing compliance with the Helsinki accords in Belgrade, it was convicting three of the Charter 77 signers—the playwright, Vaclav Havel; the actor, Pavel Landovsky; and worker, Jaroslav Kukal—for "anti-Czech" activities. All this was done eve though the Chartists took great care t draft their statement so that it woul conform to the letter of their country' written laws. On June 6, 1978, almost 4 of those associated with the Charter 7 Movement were arrested in order tha no evidence of the Czechoslovak desir for liberty would be visible to Chairma Breshnev during his visit to the coun try.

Mr. President, these good people de pend on the interest and concern of th West to keep their movement alive We have not always been faithful t them in the past. Today, as negotiation go forward on mutual and balanced forc reductions in Europe, this anniversar should remind us that our interests i seeing fewer Soviet troops in Easter Europe arise not merely from militar and strategic considerations, but als from political and humanitarian con cerns. Soviet troops in Czechoslovaki pose a threat to Western European se curity, but their presence is also a bru tal imposition on the freedom of th Czechoslovakia peoples themselves. A long as the troops remain, so will op pression and domination.

Mr. President, I have recently receive from my friend and colleague, Dr. Jiř Horak, the statement of the Council o Free Czechoslovakia, adopted by the on August 1 of this year. I ask that th statement, the appeal of an extraordi nary group of Czechoslovak democrat in-exile, be printed in its entirety in th RECORD.

The statement follows:

AN APPEAL: END THE OCCUPATION OF CZECHOSLOVAKIA

On the tenth anniversary of the invasio and occupation of Czechoslovakia by th armed forces of the Soviet Union we appe to all the peoples of the world and th United Nations to support the demand o the Czechoslovak people for the immedia withdrawal of all Soviet forces from th territory of their Republic.

On August 21, 1968, the Soviet army in vaded and occupied Czechoslovakia. O August 28, 1968, the Soviet Communi Party leaders forced Czechoslovakia's kid napped leaders in Moscow under duress sign a communique sanctioning the tem porary occupation of the Czechoslova Republic.

This act of aggression was in violation the Czechosovak-Soviet Treaty of Friendsh and Alliance of 1943, of several agreemen among the Allied Powers on liberated Europ of Article 2 of the Charter of the United N tions, and of the Soviet government's ow declaration of October 30, 1956. The Sovi Union invaded Czechoslovakia on the pr text that the country was to be protect against a nonexistent "West German r vanchism."

The continuing occupation of Czech slovakia is in violation of the agreement b tween the governments of Czechoslovak and the Soviet Union of October 16, 196 according to which Soviet armed forces we to be stationed in Czechoslovakia only pr visionally. In this document to the Sovi Union acknowledged that its forces h entered Czechoslovak territory only te porarily and undertook to withdrew the as soon as the situation in Czechoslovak had been normalised. Since then Czech slovak as well as Soviet Communist lead have declared on numerous occasions th

conditions in Czechoslovakia have been

Soviets have perceived that their influ-

tification for invading Czechoslovakia to

conditions in Czechoslovakia have been normalized. But the country continues to be occupied.

The occupation also violated the provisions of the Final Act of Helsinki. But above all else it continues to violate the three principles which the Soviet Union itself has recognized as essential for the peace, stability, and prosperity of Europe:

The principle of the sovereignty of all European states and nonintervention in their internal affairs.

The principle of the independence of all states including the right of self-determination.

The principle of the renunciation of the use of force against any state.

The Soviet invasion and occupation of the Czechoslovak Republic have dangerously upset the military balance that had existed in Europe since the end of the Second World War. They violate wartime agreements about the deployment of Allied forces in Continental Europe. Czechoslovakia was to have neither Western nor Soviet troops on its territory. The occupation of Czechoslovakia keeps Soviet forces in the heart of Europe in such numbers that the military balance along the dividing line between East and West is heavily weighted in Soviet favor.

It is therefor imperative not only for Czechoslovakia's sovereignty, independence, and freedom but also for the peace, stability, and prosperity of Europe that the Soviet Union withdraw its armed forces from the territory of the Czechoslovak Republic.

This appeal is backed by documents in which the Soviet Union has committed itself to evacuate the territory of the Czechoslovak Republic, and by Czechoslovak citizen's to declarations of protest against the occupation of their country and resolutions demanding its end. The Charter 77 movement in Czechoslovakia and Czechoslovak exiles' endorsement of Petition 78 bears witness to the determination of all Czechs and Slovaks to see their Republic rid of Soviet occupation forces and once more sovereign, independent, and free.

In submitting this appeal, we speak for the Czechoslovak exiles who left their country after the coup d'état of 1948 as well as for those who had to leave when Czechoslovakia was invaded by the Soviet army in 1968. We are absolutely certain that, speaking in their names, we speak for all Czechs and Slovaks. We believe that a new European order based on the principles of true sovereign equality, independence, self-determination, nonintervention, and renunciation of the use of force would be a great step toward satisfying the hopes, aspirations, and interests of all the European peoples.

COUNCIL OF FREE CZECHOSLOVAKIA.
WASHINGTON, D.C., *August 1, 1978.*●

CZECHOSLOVAKIA: AUGUST 1978

● Mr. EAGLETON. Mr. President, yesterday marked the 10th anniversary of the Soviet invasion of Czechoslovakia. On August 20, 1968, Soviet tanks and troops moved into Prague in a massive effort to "rehabilitate" the Communist government of Alexander Dubcek. Dubcek's movement toward liberalization and reform so threatened the Soviet Union's ideological hold that they retaliated with their own particular brand of crisis management—force.

It is tragic and yet predictable that the Soviets move in this pattern. Their totalitarian system cannot tolerate much flexibility in the area of human rights or civil liberalties, for it shakes the very foundation upon which the Soviet oppressive regime is built. Whenever the Soviets have perceived that their influence is on the wane, whether domestically or internationally, they have tightened their control. We have seen it most recently with the Scharansky-Ginsburg trials, and as we look back into history we see the trend evolving.

And yet, Mr. President, in spite of the pressure tactics used by the Soviets, the 1968 invasion of Czechoslovakia has strengthened the push for human rights in Eastern Europe and the Soviet Union. In an excellent article in yesterday's Washington Post, Tad Szulc points out that the invasion of Czechoslovakia received almost unanimous condemnation from Communist leaders outside Eastern Europe.

Since 1968, the trend of Communist parties outside the Soviet Union has been toward self-reliance—less dependence on Moscow and more independent action. This is not to say that communism is no longer a force to be dealt with, but that the Soviet Union's tactics of force and brutality do not always produce the desired effect. As Tad Szulc states in his article:

Communism, of course, will not go away in our time as a major political force in the world. But Czechoslovakia has probably done more to change its system of international relationships than any other single contemporary event.

Mr. President, the reforms Alexander Dubcek initiated in the Prague Spring of 1968 were stilled by the sheer weight of Soviet force, but the spirit of Prague Spring still smolders in the consciousness of hundreds of thousands of Czechs, despite the presence of some 80,000 Soviet troops.

In 1977, a group of Czech citizens rekindled the human rights movement by issuing Charter 77, presenting the Husak government with a bold statement regarding the necessity to improve human rights in Czechoslovakia. Charter 77 outlines some 12 areas in which the Czech Government violates the most basic human rights—freedom of expression, freedom of religion, right of assembly, right to strike, the right to leave one's country, to name a few. The necessity for such a document is hard for us to fathom, because we take these basic rights for granted. It is a testimony to the spirit and strength of the Czechs that they have been able to keep their hopes alive during 10 years of Soviet occupation.

Mr. President, I ask that Tad Szulc's article, "The Legacy of Prague," be printed in the RECORD.

The article follows:

THE LEGACY OF PRAGUE—INVASION DEEPENED IN COMMUNIST WORLD

(By Tad Szulc)

At precisely 11 p.m. on August 20, 1968, Soviet and Warsaw Pact armies crossed the borders of Czechoslovakia in a land and aerial invasion designed to stamp out that country's experiment in "Marxism with a Human Face." It was a watershed event in terms of Soviet power politics, aimed at preventing any change in the ideological status quo in Moscow's zone of influence and blocking Marxist evolution wherever possible.

Now, a decade later, it is evident that while the Soviet Union remains faithful to the "Brezhnev Doctrine," invoked as a justification for invading Czechoslovakia to preserve ideological orthodoxy, it has paid a heavy price for this surgical stroke. The international Communist movement has been further splintered, dissent in Eastern Europe as well as in the Soviet Union has risen to new heights forcing last month's Moscow trials, and China has been propelled into a new relationship with the United States.

On the plus side for the Kremlin, the Prague invasion became a precedent for "invitations" for outside military intervention of the type the Russians and the Cubans are currently practicing in Africa. The "fraternal assistance" against the Prague government of Alexander Dubcek had been "requested" by pro-Soviet Communist conservatives whom the Kremlin called Czechoslovakia's "authentic" leaders.

In other words, the events of 1968 are having a continuing impact on the world scene today.

First, the invasion established the proposition that Moscow will never tolerate a peaceful evolution of the Communist system within its zone of influence at home or in Eastern Europe. The Russians had invaded Hungary in 1956, but the issue there was the ouster from power of the Communist Party—not its transformation—and the abandonment of the Warsaw Pact. In the sense that Marxism still aspires to being a living, changing philosophy suited to new generations, the fundamental ideological test was Czechoslovakia.

As far as the Kremlin is concerned, Marxism-Leninism in its present form is an immutable dogma not open to dissent or experimentation; as recent events prove, there has been no meaningful change in it in the last decade, despite internal and external pressures. This concept is obviously linked to the national interest of the Soviet state, which includes absolute control over domestic nationalisms. What if the example of reforms in Prague, which included certain autonomy for Czech minorities, had given ideas of change to the nascent Soviet dissidence or to the Ukrainian, Georgian, Lithuanian, Tatar or other minorities?

Although the intervention was meant to paralyze Marxist liberalization, ironically, it served to strengthen Soviet dissent, and, gradually, to reawaken it in part of Eastern Europe. The desire for change simply could not be killed.

To be sure, Andrei Sakharov, the nuclear scientists, had issued his manifesto calling for internal Soviet change the year before the invasion and writers Yuli Daniel and Alexander Ginsburg were already in jail. But the Prague invasion resulted in unprecedented public protests in Moscow and the consequent imprisonment of several activists. And the wave of dissent kept gathering power after August, 1968, climaxing in this summer's trials when, once more, the Politburo concluded that any ideological challenge was unacceptable. A direct line connects the events of the summer of 1968 and the summer of 1978.

RIFTS IN THE FAMILY

Within the international Communist movement, the invasion has had consequences that cannot yet be fully measured. Yugoslavia in 1948, Albania in the early 1950s, and China in the late '50s had broken away altogether from the Moscow center of communism. In the early 1960s, Romania had embarked on an independent foreign policy, including close ties with the runaway Chinese. Palmiro Togliatti, leader of the Italian Communist Party in the mid-'60s, had begun developing novel notions about Marxist evolution.

Then the Prague invasion forced another historic divide in Communist movements. Yugoslavia and Romania mobilized their forces and were ready to fight if Brezhnev

decided to use the momentum of Prague to put communism in order on their territories. The Italian Communist Party denounced the invasion openly and began moving toward what became known as Eurocommunism. So did the Spanish party, still exiled but quite important. The French party, rich in Stalinist traditions, split over Czechoslovakia and began its own shift away from Moscow's leadership. So did the smaller Western European parties.

Significantly for the future, of all the important world Communist figures outside Eastern Europe only Cuba's Fidel Castro applauded the invasion. China, of course, condemned it and even North Vietnam was strangely ambiguous about it.

When the Kremlin succeeded in organizing the 1969 conference of world Communist parties in Moscow, it was clear that the international movement was rent asunder over Czechoslovakia. The Kremlin has not even tried to convoke another such global conclave since 1969, fearing new and deeper rifts that would be certain to become public.

In the ensuing years, the divisions inevitably acquired greater depth. It took the Soviets two years to prepare the conference of European Communist parties that was finally held in East Berlin in June 1976. For the first time, Moscow had to negotiate a consensus document with foreign parties rather than impose it. In the end, the Berlin declaration was issued without the signatures of any of the Communist leaders. Unwilling to risk a public breakdown, Brezhnev had to go along with a text setting forth, in effect, the independence of individual parties from Moscow and their right to seek power and influence in their own way.

Traveling through Eastern Europe late in 1976, I was told that while the Soviet and most of the parties in the immediate zone of Moscow's control did not consider the Berlin text to be binding on them—and that they interpreted it in their own way—Western European Communists along with Yugoslavia and Romania would clearly insist on the new freedom of maneuver.

Western European parties have not broken altogether with Moscow—the Italian party, for example, still supports Soviet foreign policy in a broad context—and they may not do so in the foreseeable future. But they are no longer committed to such articles of faith as international proletarian solidarity and each is evolving in its own way in terms of modern Marxism. The strong Spanish party, for one, this year took the surprising step of eliminating the name and concept of Leninism from its official documents and pronouncements.

Communism, of course, will not go away in our time as a major political force in the world. But Czechoslovakia has probably done more to change its system of international relationships than any other single contemporary event.

FROM CHINA TO AFRICA

Prague 1968 has changed other situations, too, in myriad ways. In my conversations with Chinese diplomats after Henry Kissinger's first trip to Peking in 1971, I was told that the invasion of Czechoslovakia was one of the key elements in China's decision to open a relationship with the United States. The invasion, coincidentally or not, was followed by armed Soviet-Chinese border clashes in 1969, and Peking must have drawn its own conclusions from these sequential events.

Czechoslovakia also put an irrevocable end to the timidity of the non-Communist Left in the West in criticizing Soviet actions of this type as well as Moscow's internal repression. The 1956 Budapest bloodbath had led to protests by leftist intellectuals in Western Europe, but they died down. After Czechoslovakia, these voices became strong and clear and they keep gaining in resonance. The French protest generation of May 1968 has produced the "new philosophers" of the mid-'70s, many of them shedding their former Marxist convictions and becoming articulate anti-Communists. Gulag, immortalized by Solzhenitsyn, is now the symbol of oppression for much of the Western European intellectual Left.

The mechanics of the Brezhnev Doctrine, however, also work in other directions, again stressing the historical fallout of Prague. Fidel Castro, the man who praised the 1968 invasion, has borrowed from the Soviet example the concept of "invitation" to justify his military involvement in foreign countries.

This Communist legalism was invoked to provide an excuse for the Cuban intervention in Angola in 1975 and Ethiopia in 1977, where American policy created the conditions for such interventions. In the first instance, the Cubans moved to support one faction that "invited" them against two others in the developing civil war. As for Ethiopia, how and by whom the invitation was issued are mysteries, although the ruling junta doesn't deny, after the fact, that the Cubans and the Russians were asked to come. Today Havana remains open to an "invitation" from Rhodesia's Patriotic Front, if events warrant it, or to related invitations from Zambia, Tanzania or Mozambique.

A decade after Soviet tanks entered Prague, the Brezhnev Doctrine remains intact in all its aspects, a challenge to the West as it is to Marxist reformers.●

AMERICA'S DEFENSE POSTURE

● Mr. HARRY F. BYRD, JR. Mr. President, a great deal of attention has been given in recent months to the state of our Nation's defense.

Growing Soviet military capabilities combined with a perception of declining U.S. military strength have led many analysts to conclude that our future security is in danger unless prompt corrective actions are taken.

Adm. Thomas F. Connolly, a distinguished naval officer with long experience in matters of national security, has recently written a thoughtful article on this matter which raises serious concerns as to our Nation's future security.

This article appeared in the summer issue, 1978, of Wings of Gold.

I ask that this article be printed in the RECORD.

The article follows:

AMERICA: FIRST AND LEADING OR SECOND AND SUBORDINATE?

(By VADM Thomas F. Connolly, USN (Ret)

The future of naval aid depends obviously on the future of the United States. In the summer of 1978, as the American ship of state steams steadily toward a darkening horizon, the quality and adequacy of our American defenses, and the will of our people to either opt for first place and leadership or settle for second and a subordinate role to the USSR, become uppermost.

What is the bottom line in mid-1978? It is, plainly and bluntly, that since the Department of Defense came into being in 1948, the U.S. has won nothing, only lost. Large numbers of our young men have been killed, billions of dollars spent. Today, inferior in military forces and capabilities—particularly seapower—for an "island" nation short on energy and other resources, the U.S. stands in mounting risk to the power and intentions of an adversary. These words may be denounced. But there won't be many with honest tongues and knowledge of warfa[re] who will deny that Soviet military strengt[h] has become very formidable while U[S] strength is spread far too thin, with mang[er]nal quantities of modern weapons, back-[up] aircraft and other armaments. Any notio[n] that once conflict is at hand the nation ca[n] build to superior strength, as was done [in] WWII, is unrealistic. We face a situatio[n] we should never have let happen—whe[n] through our military weakness, temptatio[ns] are presented for Soviet aggression in form[s] and degrees of their choosing.

Solzhenitsyn has warned that WWIII ha[s] been taking place and the USSR is winning. It can be noted also that professional mil[i]tary officers have long advised the politic[al] leadership of the growing dangers. Tod[ay] top-level attention appears to be accorde[d] strategic nuclear missile ratios and the pre[-]ponderant Soviet/Pact forces in Western Eu[-]rope. More likely Soviet initiatives are [in] other areas: subversion of Middle East [...] governments; further penetration of Afric[a] and control, or threat of control, of the flo[w] of vital resources and of commerce. An[d] wherever and whenever those Soviet initi[a]tives become reality, the first line of conta[ct] will be the U.S. Navy, with naval air, as [in] countless times in the past, in front.

In sum, economic harassment and weak[-]ening of the West by raising the uncertainti[es] of resource availabilities, of investment, ne[w] business ventures and on-going commercia[l] arrangements. These are the very strengths of the West. The possibilities for mischie[f] and evil-doing provided by Soviet militar[y] power and their Cuban, African, and Asia[n] surrogates are many indeed. Until we sho[w] the Soviets again that they will not be suc[-]cessful in aggression because we have th[e] means and will to oppose their aggressio[n] we must expect a succession of reverse[s]. Many will rise to say that such things wi[ll] not be done by the Soviets. That view need[s] proving. The business of our government i[s] to ensure that they cannot happen. Our fa[te] and future must not be left to chance or th[e] Kremlin. This is not a call to armed con[-]flict but a call to be strong again—to dete[r] Soviet venturism with credible militar[y] power, not concession followed by concessio[n]. For it is undeniably true that the risk o[f] conflict rises as our differences shrink, tempting the USSR to actions which the[y] would never try in the face of strength an[d] will.

Since 1961 systems analysis as used b[y] Defense has been a principal factor in th[e] steady decline of United States military ca[-]pabilities. Ostensibly on the basis of "cost-effectiveness," costs were cut using th[e] McNamara formula which was to cut pro[-]curement, cut people, cut operations. U.S. forces have become even smaller; ships, air[-]craft, weapons fewer; combat and war-fight[-]ing experience less a part of selection and decision. The analysts working at a leve[l] just below the Secretary of Defense and above all the military departments, predict[-]ably had too much leverage as well as th[e] last word so that civilian management o[f] military matters has become total in every thing that counts.

Secretaries of defense, budget directors and presidents have found the work of thes[e] analysts very useful in producing yearly budgets that fitted not military requirements but politically constructed dollar quotas. Part of the takeover process was to portray and regard, military professionals as im[-]properly or incompletely educated and, so incompetent for the tasks of national de[-]fense. Once the trend of downward Defense and upward social welfare and other pro[-]grams was established the process becam[e] self-fulfilling. The analysts cannot be sai[d] died with all the blame. Top governmen[t] officials have known over the past severa

years that USSR military power was rising fast and, as well as any, they knew the U.S. was not putting enough dollars into national security or paying enough attention to it. Ours has become a government driven by pressure groups. During and after Vietnam pressures were away from defense expenditures. Government leaders found it hard—too hard—to press for required defense.

It is certain that moves to let the U.S.S.R. reach military superiority have been supported by some government planners on the premise that this would avoid war and convince the Soviets they had nothing to fear from the United States. Whatever, America's military decline and its international decline remain singular consequences of taking the military professional corps out of the arenas where requirements of national security are really formulated and decided. These are arenas into which different minded performers have made their way since the days when American military strength and standing were high. Only in the Congress do the cognisant military professionals testify as expert witnesses. But here also the process is a dissimulation: the military witnesses are required to adhere to the Administration budget, designed by civilians in the Pentagon and the White House. Congressional committees are thus denied hearing how the military leaders really view national security needs. If committee members ask the right questions in the right ways and call for a purely personal professional answer, they can hope for guarded responses that try to suggest but don't declare how deeply concerned the military corps of the U.S. have become. The procedure is justified on the basis of avoidance and substitution. Of course, the Secretary of Defense talks with the Joint Chiefs. But that has meant very little in budget matters for a long time. Changes, perhaps, but increases no.

Now the United States task is to rebuild military capabilities to cope with those of the U.S.S.R. Priority should be accorded naval and air power at sea where Soviet interdiction capabilities are so great. This means an increase in U.S. capabilities that can deal with the many Soviet missile systems. Navy-wise, it means CVNs, AEGIS cruisers, and SSNs for the battle groups, F-14s, E-2Cs, A-6Es and A-7Es for the carrier decks. It does not mean building V/STOL ships before we develop worthwhile V/STOL aircraft from existing decks. It particularly means the advanced AWG-9 and advanced PHOENIX missile, and it means CILOPing the best fighter-weapon system in the world—the F-14. Overall, it means more broad naval capabilities—not equipments tailored for "low threat" situations.

Planning and funding the steps will be very difficult: the opponents of a stronger defense are well intrenched. Prodigious effort—or shock—is needed just to reverse the downward course of U.S. arms. The Secretary of Defense believes, as he recently told the House Armed Services Committee, that his department, i.e. the defense establishment of the United States, is as well run as any governmental department, which is so if you drop out the bottom line: not capable of protecting and preserving the United States as we know it and as the great majority of Americans want it to remain.

The Congress has constitutional responsibility for providing military strength to meet all national security needs. The Congress also has investigative powers. At this urgent moment of our history, it seems that a joint committee of the Senate and House should determine the true state of preparedness of the U.S. to protect and preserve the nation. It is a time for honest realism, for a political, bipartisan determination of the nation's security. That having been done, established procedures of the Congress will undertake required actions.

It is certain that the Department of Defense must be reconstructed. There are too many well-meaning amateurs in high office for short periods with more responsibility than their knowledge and competence justify. Often they come with missions other than to build and maintain a national defense second to none. Senior military officers (not just the Chairman) should have key parts in national security planning and defense program formulation. Their views should not be set aside by the military sector of OMB. Too much accord and attention are paid to scholars regarding national security. Scholars almost never reckon with power or the kinds of men who acquire and use it. In general, scholars abhor power of all kinds and call for solutions that are "reasonable" which have been honored in the breach in every century including this one. The world today is alive with unrest and urges to action. Trouble—big trouble—lies in store. The workable formula for the U.S. to become militarily powerful again, and then reasonable. The Administration chooses to play a game of placating which is dangerous and almost certainly will be unsuccessful.

Unless our Defense efforts are reformed and revitalized on realistic national security lines the American dream can well end up being the West wing of an all Soviet condominium.●

WADE D. MOODY

● Mr. EAGLETON. Mr. President, it gives me great honor to pay special tribute to an outstanding Missourian, who recently received the Department of Commerce's Thomas Jefferson Award. Wade Moody of Pattonsburg, Mo., was honored for his unusual and outstanding achievements for volunteer weather observation. Mr. Moody was honored for making timely and accurate weather observations and for taking river stage readings under extreme and hazardous conditions. As Pattonsburg is subject to flash floods, unusual efforts were required to collect weather information on numerous occasions. In this day and age when everyone wants to be paid for their efforts, it gives me great pleasure to acknowledge the deeds of a man willing to give freely of his time.

The Thomas Jefferson Award was originated in 1959 for the National Weather Service to honor volunteer weather observers for their outstanding achievements. It is the highest award the National Weather Service presents to volunteers. The award is named for Jefferson because the statesman-scientist made an almost unbroken series of weather observations from 1776 to 1816.

Missouri citizens should be proud of Wade Moody, and his efforts to keep them informed.●

HUNTING AND FISHING IN ALASKAN CONSERVATION AREAS

● Mr. MARK O. HATFIELD. Mr. President, for several weeks now the Senate Committee on Energy and Natural Resources, on which I serve, has been grappling with the so-called d-2 issue, attempting to deal responsibly with legislation to designate lands of national interest as parks, wildlife refuges, national forests, wilderness, and other protective designations.

As with any legislation of broad national interest, a certain amount of misinformation is bound to be circulated. One of the arguments opponents of the d-2 legislation have used is its impact upon hunting and fishing. Some would have us believe that all areas designated for protection will be closed to hunting and fishing. This is clearly not the case. While national parks and monuments have been and will continue to be closed to hunting, they are not closed to fishing. In the case of wilderness outside of parks and monuments, and in the case of wildlife refuges, national forests and wild and scenic rivers, hunting and fishing would be allowed to continue.

A recent editorial in the Oregon Journal accurately points out that "Congress has no intent to forbid hunting in new wilderness areas or other preserves it sets aside" outside parks and monuments. I believe this editorial puts the hunting issue in proper perspective, and I ask that it be printed in the RECORD.

The editorial follows:

[From the Oregon Journal, July 22, 1978]

LIES ABOUT ALASKA

An editor at The Journal who is also an avid hunter, fisherman and outdoorsman returned to work after a two-week visit to Alaska in rapture and livid rage.

He talked happily about a memorable Inside Passage ship ride and his visits to the Kenai Peninsula and the Arctic west coast. His anger was reserved for stories he heard from fellow hunters about how the Alaska land bill now under study in Congress would ban hunting in most of the state.

Another effort by the do-gooders in Congress to lock up recreation lands only for the Sierra Club backpack types, he was told by irate residents up north, who like to take float planes, ski planes, snowmobiles and motor boats into the remote reaches of the great state.

The editor and the people he spoke with are victims of one of the larger lies associated with the emotional debate concerning federal "national interest lands" legislation which now is before the Senate Energy and Natural Resources Committee.

That panel is considering its own version of a similar bill which was unanimously passed by the House a few weeks ago. The legislation would set aside new wilderness areas in Alaska (where there currently are only 75,000 acres of official wilderness on the books), as well as create new national parklands, wildlife refuges and other conservation zones on federal lands in the state.

Aside from a ban on hunting in national parks, similar to one which exists in national parks in the "Lower 48" (and Hawaii), Congress has no intent to forbid hunting in the new wilderness areas or other preserves it sets aside, according to reliable analysts of the bill from both sides of the issue.

Congress has, in fact, taken special care so far to recognize the unique subsistence culture of natives and non-natives in Alaska, and gives them hunting rights even in national parklands in some cases.

Contrary to Lower 48 wilderness restrictions, where persons using motorized vehicles are severely punished, the "traditional" motorized conveyances Alaskans have long found necessary generally still will be allowed by recreationists, in all the new areas.

There have been few land issues which have inflamed Americans as much as those arising from Alaska, from the time Seward's folly in 1867 brought critics down on that wily Interior secretary for paying too much,

to the present fights over the oil pipeline, distribution of lands and federal preservation policies.

Hunting, certainly, is but one of the issues involved in the current legislative battle. If the lie about locking out hunters and fishermen is understood to be misleading propaganda, it also should be seen as the least controversial issue Congress must decide.●

ALI BHUTTO AND PAKISTAN'S FUTURE

● Mr. McGOVERN. Mr. President, I am among several Members of the Senate who have been involved in humanitarian efforts to prevent the execution of former President Zulfikar Ali Bhutto of Pakistan. Those efforts have included direct appeals to the present government of that country—appeals the government says it will not heed.

More recently, former U.S. Attorney General Ramsey Clark has traveled to Pakistan to witness the legal proceedings involving Mr. Bhutto. Beyond the humanitarian issues involved, Mr. Clark has made a careful evaluation of the destabilizing internal consequences that would flow from the execution of a most popular leader in Pakistan.

Mr. Clark's report appears in the August 19 issue of the Nation magazine. I think this thoughtful study will be of interest to everyone who has followed developments in South Asia, and I therefore ask that it be printed in the RECORD.

The study follows:

THE TRIAL OF ALI BHUTTO AND THE FUTURE OF PAKISTAN

(By Ramsey Clark)

Rarely has a criminal proceeding held such potential to alter history as does the trial of Zulfikar Ali Bhutto. Its impact can reach beyond the fate of a man and the unity of a nation to affect fundamentally economic, political and military power worldwide. The Supreme Court of Pakistan is now considering an appeal from his conviction for murder and the sentence of death. Its decision is expected in the very near future. Executions are carried out immediately following final judgment in Pakistan.

The idea of Pakistan, nurtured by a poet, Allama Iqbal, and consummated by a statesman, Mohammed Ali Jinnah, was fragile from conception. To bind a political union of widely differing, proud and often warring people by a single tie, the religion of Islam, was a unique experiment. The dream of Pan Islam fitted neatly with desires of the Islamic populations of British India to be independent of the majority Hindu population when "freedom came at midnight" to the subcontinent of Asia. The result was a new nation of East and West Pakistan divided by 1,000 miles of land mass.

The West contained four distinct regions with diverse and sometimes hostile populations: the dominant Punjab, the North West Frontier Province, the Sind and Baluchistan. The traumatic separation from India in 1947 split both Punjab in the west and Bengal in the east between India and Pakistan, resulting in waves of migrating millions and recurring massacres. Pakistan, containing the poorest areas of the former colony, was cut off from markets, industry and the continuity of government administration, all primarily located in India.

Movements for political separation were powerful forces throughout the new nation from its birth. A bloody civil war began in East Pakistan in March 1971. Four months after the India-USSR treaty of August 1971, India invaded East Pakistan and in two weeks crushed West Pakistan forces, ending the war. East Pakistan seceded and became Bangladesh. It contained the majority of the population of the former nation and an even greater majority of its poverty and problems. Henry Kissinger's "tilt" to Pakistan at that time probably deterred India from invading and partitioning the West.

Separatist movements were not limited to tensions between East and West. Within the West there were, among others, a Baluchistan Liberation Movement sometimes based in Iraq and a Pakhtoonistan movement involving both Baluchistan and the North West Frontier—giving rise to the possibility of a new nation in the event of the breakup of Pakistan, a nation that would include Afghanistan and most of Pakistan west of the Indus, excluding the Sind and Punjab forming a corridor hundreds of miles wide from the Soviet Union to the Arabian Sea. The movements have involved guerrilla warfare countered by martial law and military casualties that may exceed those of the war in the East.

Bhutto came from a wealthy land-owning family in the very poor Sind. Graduated from the University of California at Berkeley and with a law degree from Oxford, he was Minister of Commerce for Pakistan at 30 and Foreign Minister when 33. He resigned as Foreign Minister in protest against military government policies in 1966, having established good relations for his country with China. He was imprisoned briefly in 1968 by President Ayub Khan for criticizing the government.

Founding the grass-roots Pakistan Peoples Party, Bhutto became the dominant political figure in the West by 1970. After the war in which East Pakistan was lost, he became President in 1972 (the first civilian chief of state in more than twenty years) and then in 1973, the first elected Prime Minister. Presenting himself as a democrat, a Socialist, a Populist and reformer, he initiated programs for land reform, economic development, social services, family planning, a strong Pakistan Peoples Party, internal security, Moslem leadership and international prominence based on nonalignment.

It is conceded by friend and foe alike that Bhutto is keenly intelligent, popular and charismatic. On the international scene he was called on to mediate in Cyprus, Korea and elsewhere. He assisted in preliminary contacts that led to President Nixon's visit to China. He negotiated difficult prisoner exchanges with India and Bangladesh, restored relations with Bangladesh, and eased tensions with India.

The United States expressed its strong disapproval of his role in calling for a Third World Summit, fearing concerted action by poor countries. President Carter urged Bhutto to abandon plans for a nuclear reprocessing plant France agreed to build in Pakistan. (India has had the bomb since 1974.)

Within the nation, he helped bring about the adoption of a new written Constitution in 1973 which some saw as a foundation for democratic government protecting human rights and securing economic justice. Economic policies stimulated growth despite difficult international problems including rising energy costs. Agriculture, health, education and housing were major concerns for his government and some progress was made.

But his years in power were in most ways the worst of times. He assumed office in the aftermaths of a humiliating military defeat, the severing of the nation, loss of most of its population to Bangladesh and the psychological and physical impairment of the dominant power in the society—the Army. Floods (including those of 1973 which were called the worst natural disaster in the area's history), earthquakes and other calamities befell the people during those years.

And above all there was the random violence, gun-running, guerrilla skirmishing, constant tension and high risk of revolution or invasion caused by political, tribal, cultural and international ambitions for power and dominance in surviving Pakistan and its very different parts. The Shah of Iran strongly supported Bhutto's efforts to contain the separatist movements. The Shah has no interest in seeing another state arise capable of dominating the strategic Persian Gulf, particularly a Baluch state that could lay claim to the loyalty of Iran's own sizable Baluch population. (Within Iran live one-third of the Baluch people.) World powers, principally the United States, the USSR and China are also keenly interested in Pakistan.

Growing instability was addressed with tough military and police measures. While parliamentary government endured, there were political arrests and detentions numbering in the thousands, martial law for whole cities and provinces at times, and a growing Federal Security Force not greatly concerned for life and liberty. Amnesty International, among others, protested human rights violations in a well-documented 1976 report.

The first six months of 1977 were difficult. Bhutto's popular appeal seemed to slip badly with turbulence and the harsh government reaction to it. He called elections which were held in March and the surprisingly strong showing of his party brought immediate outcries of vote fraud by other parties. Hundreds of protests and demonstrations, including some by women and children, led to violence and deaths and brief periods of martial law in major cities. Conditions were reminiscent of Chile before the *golpe* in 1973. Though most observers concede Bhutto candidates actually received a clear majority, probably 60 percent of the votes, a settlement among the parties that might have restored relative calm had not been reached by July, and new elections were planned for October.

On July 5, 1977 there was a bloodless military coup. General Zia ul-Haq, who had attended advanced command courses in the United States and the United Kingdom between 1972 and 1975, assumed government power as Chief Martial Law Administrator. The stated purpose was to stop the "drift toward political chaos." But drastic police measures were taken which created doubt as to General Zia's purpose. Severe penalties were immediately promulgated by fiat. Martial Law Order 12 provided for preventive detention and it was used liberally. Martial Law Regulation 11 of July 5 declared simply: "No one shall, either directly or indirectly, participate in any political activity. Maximum punishment 5 years Rigorous Imprisonment, fine and/or whipping not to exceed 10 stripes." Martial Law Regulation 13 provided the same punishment for any form of communication critical of the Armed Forces or "calculated to create alarm or despondency amongst the public."

Public executions and floggings were authorized and carried out. The amputation of a hand was made legal punishment. General Zia says, "It is the humiliative rather than the punitive aspect of flogging which is important." He tells one that the death penalty and life imprisonment were not deterrents to criminal conduct but the threat of flogging was. His new Law Minister A. K. Brohi says floggings are necessary to control the people and asks what do you do with a "mad dog." He defends stoning women to death for adultery and is the principal government spokesman justifying these cruel, inhuman and degrading punishments as being ordained by the law of Islam.

Bhutto was arrested on the night of the

coup and held for several weeks. Most of the high officials in his administration have been confined. Leaders of the Pakistan Peoples Party were also arrested. Many are still in prison, joined this year by leaders of other parties. Bhutto, released to campaign for the October elections, was greeted by enormous crowds. In early September he was arrested and charged with ordering the murder of a minor political figure in November 1974. General Zia publicly spoke of documentary evidence establishing Bhutto's guilt. Released on *habeas corpus* by a court, he was promptly rearrested under both military and civil process and has been detained virtually incommunicado since September 17, 1977.

While he was originally to be tried by a military court, it was decided he should be tried before five members of the High Court in Lahore. The two justices who had granted his writ of *habeas corpus* were excluded. The presiding judge was acting Chief Justice by appointment of General Zia; he was also an old enemy who had heard Bhutto's case when he was arrested in 1968. He should have been disqualified.

The murder charge, if believed, takes the case out of politics. Officials in the Zia government assure you this is a routine murder case. (Ferdinand Marcos of the Philippines, a master at authoritarian deceit, has used an ordinary murder charge to convict and condemn Benigno Aquino, a major political opponent, to death.)

This murder charge, while the most serious that can be made, was not taken seriously at first. The allegations themselves are so inherently improbable. The murder rate in Pakistan is high enough to make Houston seem peaceful. This assault was said to have been an attempt to kill a man named Ahmad Raza Kasuri, a dissident in the Pakistan Peoples Party. On June 3, 1974 Bhutto had become irritated with Mr. Kasuri on the floor of Parliament and expressed his feelings sharply, but not threateningly. This incident is the prosecution's case for a motive. Others had spoken far more sharply, even threateningly, including Kasuri himself who said of another group, "Time had come for their being killed."

Kasuri's father was apparently killed by automatic gunfire which hit a moving car occupied, according to the evidence by Kasuri, his father, mother and an aunt, near Lahore shortly after midnight on November 11, 1974. Kasuri, who had no way to knowing who fired, or ordered the shooting, immediately blamed Bhutto and used the charge politically.

In 1972 he had claimed nine attempts had been made on his life for which he had blamed another politician. He claimed three attempts were made on his life in 1974. An investigation of the death of Kasuri's father was closed in 1975 without charges being brought. From 1975 through June 1977 Kasuri sought through intermediaries to establish friendly relations with Bhutto, obtained a meeting with the Prime Minister and returned to the party.

Shortly after the coup, two members of the Federal Security Force were arrested, questioned and confessed to the shooting. Masood Mahmud, Director General of the FSF, was taken into protective custody on July 5, 1977, and on August 14 wrote General Zia making "a clean breast of the misdeeds of the Federal Security Force under the orders of Bhutto." He later confessed to ordering the assault on instructions from Bhutto. His testimony is the only evidence directly linking the Prime Minister to the murder. It is more than suspect. He says Bhutto threatened him and made him personally responsible for "taking care" of Kasuri, commanding him to instruct a subordinate, Mian Muhammed Abbas, to "produce the dead body of Ahmad Raza Kasuri or his body bandaged all over." The body was never produced, of course. Abbas confessed, and then retracted, then on July 10, 1978 his lawyer again filed a confession before the Supreme Court.

The trial was not fair. The acting Chief Justice's conduct would make Judge Julius Hoffman in the Chicago 7 trial a model of decorum. He publicly commented on Bhutto's "guilt" outside the courtroom before conviction. His prejudice is spread through his 145-page decision. Even there he could not restrain himself from characterizing Bhutto, who did not present a defense, as a "compulsive liar," "unruly," "hurling threats as well as insults on us."

As one illustration, before the defense abandoned the case, Bhutto's lawyers had cross-examined Masood Mahmud, the prosecution's second witness. He was asked whether he had caused police to hold a Mrs. Ibrat while "rats were let loose in her shalwar and its ends tied." The purpose obviously was to examine the credibility and character of the witness. The acting Chief Justice, in referring to this cross-examination, wrote: "It appears that these questions were put to prove that P.W. 2 (Mahmud) was well-qualified from the point of view of the principal accused (Bhutto) to be appointed as Director General of the Federal Security Force."

The evidence presented against Bhutto, even if believed, would not support a verdict of guilt. The prosecution case was based entirely on several witnesses who were detained until they confessed, who changed and expanded their confessions and testimony with each reiteration, who contradicted themselves and each other, who, except for Masood Mahmud, were relating what others said, whose testimony let to four different theories of what happened, who were contradicted by ballistics and other physical evidence and who were absolutely uncorroborated by an eyewitness, direct evidence, or physical evidence.

There were records showing that one of the FSF officers who allegedly fired the shots was in Karachi at the time, but no defense evidence was presented on this. Each of these witnesses had an urgent motive to inculpate the Prime Minister, each alleged that he resisted and protested but was forced by threat and command to participate in the shooting. That Kasuri remained alive in spite of the alleged fury of the Prime Minister did not seem to affect belief that his murder was ordered. Kasuri himself was shown to be a highly erratic, untruthful and opportunistic politician of no standing who sought favor from Bhutto until his overthrow.

Critical stages of the trial were conducted in camera. Comments and rulings by the court and conflicts between counsel and the court caused Bhutto to discharge his attorneys and boycott the trial before the prosecution completed its case.. The remaining prosecution witnesses were not cross-examined, no defense case was presented and Mr. Bhutto was unrepresented during the concluding, critical phases of the trial.

All five defendants—Bhutto, the two FSF officers who allegedly fired the shots and their two superiors who were charged with participating in carrying out the order allegedly communicated by Masood Mahmud—were sentenced to hang, Mahmud, who alone testified that Bhutto ordered the acts, was pardoned. Efforts of the other four defendants to involve Bhutto and justify their conduct did not save them, at least not yet.

The decision of the High Court is full of errors of fact and law. Its characterizations of evidence show its bias. There was no objective effort to determine fact.

The case is now on appeal in the Supreme Court of Pakistan at Rawalpindi. There from Saturday through Wednesday each week, the nine justices engage in a meticulous review of the trial record. They are impressive men, learned in the law and skillful in their examination of the trial transcript, counsel and each other. The Chief Justice Anwar ul-Haq questions most frequently, but all participate in a lively manner.

The Court has maintained some judicial power. In an important decision in Bhutto's wife Nusrat's application for a writ of *habeas corpus*, the Court boldly declared that precedents suspending judicial power under similar circumstances through the law or necessity were in error. But no writ was issued and Mrs. Bhutto remains incommunicado in custody, though not charged with any crime.

The Supreme Court of Pakistan is not in an easy position. The Chief Justice was selected by General Zia who had removed his predecessor. Four of his associates were appointed by General Zia. Everyone is looking for political motivation. Each justice has the rule of law in Pakistan, his professional reputation, his personal future, perhaps his own freedom and life before him in this case. The decision will be historic. It is due within weeks now.

We shall see whether the world sits quietly by and watches if Ali Bhutto is executed. Just 51 years old, he moved impressively on the international stage for nearly two decades. Many viewed him as a "scholar statesman," a phrase used by Kasuri in 1976. Political vengeance can be dressed up as a pure criminal trial. Such a method defames former leaders and dissipates support for them. It is not a happy or humane precedent. Even a commutation of the death sentence by the Supreme Court or by General Zia will only diminish the personal tragedy and perhaps temper political significance of this method of destroying democratic institutions.

For Pakistan and Islam, the execution of Bhutto would have devastating effects. If an election were held today, most concede that Bhutto would win overwhelmingly. He is the one leader with broadly based popular support in Pakistan. His prosecution and his mistreatment in prison, where no foreign observer has been permitted to see him or examine conditions of his confinement, have created new and greater public sympathy for him. Even some soldiers have openly expressed their view that the charges were fabricated.

Martial law does not sit easy on the people. Public lashings of members of the press (more than eighty have been arrested) and of many poor people has caused a bad reaction, so that General Zia was quick to observe in mid-July that there had been no lashings for four months. Still, even government-controlled daily papers report sentences of imprisonment and lashing by military courts presided over by a major or a colonel. The Law Minister, who believes in the law of the lash and says both Islam and the people demand it, doesn't seem to hear even supporters of General Zia say that the floggings, executions and theatened amputations are causing greater unrest and alienation. Both at home and abroad the Draconian punishments have greatly damaged the nation and its religion.

The execution of Bhutto would be extremely destabilizing. Rioting, even civil war, is a possibility. The military is not of a single mind. Eighty percent of the soldiers are from Punjab, which creates hostility in Sind, Baluchistan and the North West Frontier. A foreign power with a suitacase full of money might easily establish another General.

Poor Pakistan with its staggering human problems, hunger, violence, illiteracy, illness, population growth, underdeveloped economy, fragile confederation of dissimilar and warring people needs help. A haunting part of the planet running from the Arabian Sea coast to Nanga Parbat in the Himalayas, most

of its more than 70 million people live in staggering want.

But foreign interest in Pakistan may prove its greatest problem and peril. It is the wrong country, in the wrong place, at the wrong time. And it will not be left alone.

To Afghanistan it is tempting because it contains many people of common tribe and culture in the Frontier and Baluchistan. It also offers access to the sea, the chance to realize a greater Afghanistan and a vast increase in power. To Iran it presents a threat on a long border with a large common population of Baluchs and the threat of encirclement by hostile forces from the Arabian Sea to the Turkish border, along with the possibility of strategic domination by the USSR of the Persian Gulf, the Arabian Sea, the Middle East.

To India the prospect of the disintegration of Pakistan offers the chance to consolidate Punjab, to return to British India's borders geographically, along with the elimination of an enemy, control over a wide buffer to the Soviet Union. These are historical and regional concerns.

To China, the Soviet Union and the United States, Pakistan is of the greatest strategic importance. From the days of the wars with the Ottoman Empire, Czarist Russia sought warm-water ports. Pakistan has hundreds of coastal miles on the Arabian Sea, dominating, with Oman, the entrance to the Persian Gulf. Control of Pakistan would directly increase Soviet power over Middle East oil, magnify its influence with India, give it access to the Indian Ocean and to East Africa and greatly contribute to the encirclement of China. With the new, stronger Soviet influence in Afghanistan, destabilization in Pakistan holds enormous meaning.

China, with a common border and open highway from Sinkiang to Karachi, may see Pakistan as a key to containing Soviet influence and holding a protected position throughout the subcontinent and Southeast Asia. With Pakistan controlled by the Soviets, China would be cut off on the west, and India, Burma and Thailand would be more vulnerable to influence by the USSR.

The United States may see in the balance the Middle East and its vast oil reserves, along with greatly altered influence in southern Asia and eastern Africa. People in Pakistan speak of CIA activity in establishing Zia. They name names. It is believable to many. After all, is not Iran—"we helped restore the Shah to his throne," William Colby says—the CIA's proudest achievement?

Whatever the cause, the United States is again in the position of supporting a military dictatorship, harsher in its public pronouncements than any, even claiming religious authority for its harsh rule.

General Zia may have greater difficulty maintaining himself in power than Marcos or Generals Pinochet or Park or the neighboring Shah. He is unknown. He is inexperienced. He has not been judged effective by international observers. He presides over historic dimension and contemporary turbulence. He rules by the threat of the lash with absolute authority. He postpones elections.

And he may execute Ali Bhutto.

The role of the United States should be clear by now. We cannot live other nations' lives for them. We can only live by our own principles and believe that right may make might.

We should stand for life and implore with all our moral suasion a commutation of the death sentence. We should stand for justice and urge freedom, or—if the facts warrant prosecution, which I have not seen—a new and fair trial for Ali Bhutto. We should stand for democracy and urge popular elections in Pakistan at the earliest date by which all parties and candidates can be fairly preserved and voting honestly monitored. We should urge an immediate end to martial law and cruel, inhuman and degrading punishments.

We should stand for humanity and send massive economic aid, assuring delivery to those in greatest need—offering food, independence in food production, health care, education, an expanding, independent economy, decent housing and human dignity for all the people of Pakistan. It is to these issues that our imagination, energy and foreign policy should be addressed.●

AND NOW A WORD ABOUT YOUR SHAMPOO

● Mr. LAXALT. Mr. President—

Today, consumers are greeted with an unending variety of shampoos and conditioners. Shampoo for dry hair or oily hair, for damaged hair or tinted hair. To help you decide what's best for you, the Food and Drug Administration has a reprint from its magazine, the *FDA Consumer*. It's called *And Now a Word About Your Shampoo*. For a free copy . . .

My office received a press release the other day from GSA, from which I took the above quote. At first I thought I was being subjected to some sort of joke, but as I read on, I realized that the Federal Government was indeed concerned about the welfare of my hair, and wanted to make sure that I used the right shampoo when I was moved to wash my hair.

I was relieved to learn that the bureaucracy has analyzed, and published the results of its analysis, not only the various sorts of shampoos available on the market, but after-shampoo conditioners, additives in shampoo, their respective functioning in hard and soft water, and a host of other little known facts about keeping my hair soft and shiny. I was told in the press release, for example, that I should not look toward protein or other additives to feed my hair, or make my hair alive, since my hair is dead and cannot be fed.

I was told, in addition, that I would need to use a special after-shampoo conditioner to mask the problems caused by the use of dyes, bleaches, waving, or straightening mixtures, or from the intense heat used to curl or straighten my hair strands. Mr. President, I am certainly glad to know these things about my shampoo problems, and am equally glad to know that the Federal Government has taken it upon itself to use its resources to come to grips with these acute problems of our society. I am sure, as well, that the voters in California who voted for proposition 13 would be equally happy to know how their tax dollars are being spent.

I wonder, Mr. President, if they will ever learn.

I ask that the GSA press release be printed, in full, in the RECORD:

AND NOW A WORD ABOUT YOUR SHAMPOO

"Rapunzel, Rapunzel, let down your long hair." Now we all know what her hair looked like, but what about her shampoo? Actually, choosing a shampoo in the days of yore was probably a lot easier.

Today, consumers are greeted with an unending variety of shampoos and conditioners. Shampoo for dry hair or oily hair, for damaged hair or tinted hair. To help you decide what's best for you, the Food and Drug Administration has a reprint from its magazine, the *FDA Consumer*. It's called *And Now a Word About Your Shampoo*. For a free copy, send a postcard to the Consumer Information Center, Dept. 566F, Pueblo, Colorado 81009.

Ever wondered if a shampoo can give your hair shine, smoothness and body, just as well as an after-shampoo conditioner? According to the FDA, probably not. It's difficult to produce a shampoo that is strong enough to clean well, but mild enough to leave natural oils on the hair.

The conditioners in shampoos are not normally adequate to cover damage that may result from the use of dyes, bleaches, waving or straightening mixtures, or from intense heat used to curl or straighten the hair strands. You'll usually need special after-shampoo conditioners to mask these problems.

Know what the labels "for use on normal, dry or oily hair" means? different formulas are controlled by altering the strength or amount of the synthetic detergent and conditioning additives in the shampoo. So, by picking the one that matches the condition of your hair, you can feel a difference.

On the other hand, don't look toward protein or other additives to "feed your hair" or "make the hair alive". This can't be done, since hair is dead tissue.

And, what's in a baby shampoo? Baby shampoos are usually made from relatively stingless and non-irritating synthetic detergents. They don't normally contain added ingredients, like perfumes, which can irritate the eyes.

Today, most shampoos are made with synthetic detergent, not soap. The main advantage of synthetic detergent is its functioning in hard water. Although soap works well to remove dirt and grease from surfaces, in hard water the soap forms a gummy material called "soap scum". The familiar ring in the bathtub is formed of these deposits. Synthetic detergents, on the other hand, do not react to the degree of hardness in the water, and scum deposits do not form on your hair.

When you order a copy of And Now a Word About Your Shampoo (free), you'll also receive a copy of the free Consumer Information Catalog. It lists more than 200 selected free or low-cost publications from the federal government. The Catalog is published quarterly by the Consumer Information Center of the General Services Administration.

Note to editors: Please check with us if you plan to use this material after November 15, 1978, so we can be sure we have adequate stock to meet your readers' requests.●

LET'S NOT TORPEDO OUR NAVY

● Mr. HARRY F. BYRD, Jr. Mr. President, the balance of naval power has been shifting. The Soviet Navy in recent years has become a true "blue ocean navy" and has increased substantially its capabilities to threaten U.S. control of the seas.

Former Secretary of the Navy, J. William Middendorf, has recently written an excellent article in the August edition of Reader's Digest concerning the current state of our Navy and its needs in the future.

His thoughtful analysis describes clearly the threats our Nation faces. He also prescribes the actions necessary to reverse the harmful trend of the naval balance.

So that my colleagues may have the benefit of his views, I ask unanimous

consent that the article be printed in

ment would be content with adequate

Our scientists have

consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LET'S NOT TORPEDO OUR NAVY

(By J. William Middendorf II)

Since retiring as Secretary of the Navy last year, I have been haunted by the feeling that my obligation to the American people won't be fully discharged until I deliver a final word, my own view of our ability to continue to safeguard our freedom. As a private citizen, I have no ax to grind, save the ax all Americans ought to be grinding—that we maintain the military posture it takes to deter war, to ensure our vital interests, to protect freedom and to prevail if war comes.

That is the posture we began keeping in the early 1950s and which for several years now has been in serious decline. Indeed, so severe is the decline that I fear we are fast approaching a time of testing such as the United States has never had to endure. Unless we move fast on a Naval rebuilding program, I'm convinced that the next ten years will see the end of U.S. ability to deter and prevail, with all the grave consequences that implies for free people everywhere.

We've had warnings:

During the 1973 Middle East War, the Soviet navy was quickly able to double its Mediterranean fleet to 96 ships on station. And this wasn't even an all-out effort by the Soviets. Against it, we went all out to reinforce our Sixth Fleet to a peak strength of 66 units. The Soviets were armed with deadly anti-ship cruise missiles, a weapon not then in our own inventory. Knowledgeable professionals differ as to who would have prevailed in a Soviet-American shoot-out. Fortunately, we didn't have to find out, but Moscow's boldness during that crisis brought us to the brink of World War III.

Huge Soviet navy war games were held in 1970 and 1975. Called Okean (Ocean) 70 and Okean 75, they are full of ominous meaning for the future. In Okean 75, hundreds of Soviet air, surface and undersea combatants were deployed over the world's seas with intelligence collectors, oilers, repair ships and merchant convoys and put through intensive, coordinated maneuvers. It was the the greatest show of naval strength in history.

Five major shipyards in the U.S.S.R. produce submarines—with six more building large surface ships. All these huge yards have been expanded and modernized in the last five years, to produce a steady stream of new ships.

STRATEGIC THREAT

In short, there has been an alarming shift in the balance of naval power and the abilities of the Soviet and American navies to perform their different missions. Though many of our ships are superior in quality and our sailors are more experienced, the Soviet navy now is more than triple the size of our fleet and its overall effectiveness is increasing.

Our way of life depends on the unimpeded flow to us of essential raw materials and energy—we now import *all* our rubber, chromite, cobalt and manganese ore and *half* our oil. Ninety-nine percent of our overseas trade is carried by ship. Our survival depends upon a Navy competent to keep open the sea lanes, pose a believable deterrent and enable us to support our allies in the event of war.

By contrast, the U.S.S.R. is relatively self-sufficient in raw materials and energy. The Soviet Union can support itself and provide most of its allies with economic and military aid without crossing a major body of water. A truly peaceful Soviet government would be content with adequate coastal-defense forces—the kind of naval force the Kremlin kept until 15 years ago. Since then, it has sought to create a navy of such speed and devastating fire power (at the expense of cruising range) that it can overwhelm any U.S. Naval force. It has created a "first strike" navy.

This explains the enormous Soviet naval buildup of the past decade and a half. The Kremlin became aware in the late 1950s that without a blue-water navy it could not influence world events. The Soviets were embarrassed at their impotence in 1956 when a British and French naval expedition invaded Suez; and in 1958, when the U.S. Navy moved strong forces into the eastern Mediterranean to discourage communist interference in Lebanon's disorders. The last straw was the 1962 Cuban missile crisis, when a U.S. Naval blockade and the threat of overwhelming American nuclear retaliation forced the U.S.S.R. to remove nuclear missiles it had been installing in Cuba.

But now the U.S.S.R. boasts the world's largest strategic (long-range, nuclear-ballistic-missile-carrying) submarine fleet. The Soviets have launched 60 such boats in the past ten years. Their Delta Class submarine—27 operational and more abuilding—is the world's largest. Each is poised to fire 4200-mile-range missiles.

That distance exceeds by some 1700 miles the range of our most advanced submarine-based missile, the Poseidon. It also approximates the range of our new Trident I missile, which won't reach the water until close to 1980. The Delta Class missile now makes it possible for the Soviet strategic submarine force to attack virtually every city in the United States from the U.S.S.R.'s home waters.

The Soviet force also includes 33 Yankee Class boats, each fitted with 16 1300-mile missiles, and 30-odd older nuclear- and diesel-powered boats, each carrying a number of 350- and 650-mile nuclear missiles. Against this, the United States has a ballistic-missile firing submarine fleet of 41 relatively old Polaris and Poseidon boats.

SHRINKING MARGIN

The Soviet navy's commander in chief, Adm. Sergei Gorshkov, has vowed publicly to achieve a navy that is second to none. Is he achieving this goal?

Recently retired Chief of Naval Operations Adm. James L. Holloway III has delivered a sobering assessment to Congress: we retain "a slim margin of superiority." The Chief of Naval Operations four or five years from now may not be so optimistic, since that "slim margin" is represented by our 13 aircraft carriers. In 1976, the Soviets deployed their first, the 45,000-ton *Kiev*. A second *Kiev*-class carrier is nearing completion and a third is under construction. We probably can expect to see more and perhaps larger carriers joining Soviet fleets through the 1980s.

Although Gorshkov's carriers do not yet give him the long-range striking power ours provide, he has 1250 land-based naval aircraft, of which 30 are the new supersonic Backfires. These have at least a 5000-mile range, and pose a terrible threat to our Mediterranean and Pacific fleets. They could also menace any Naval force that we might bring into the Indian Ocean to shore up a Red-threatened oil-rich state.

The Russians also have tried to offset our superiority in aircraft carriers by arming scores of surface ships and submarines with deadly anti-surface-ship cruise missiles. There is frightening evidence that they are developing a new guidance technology, which will enable a missile-firing ship or submarine to stand off at a distance, find a target ship with over-the-horizon radar, and fire a weapon that will streak at 2000 m.p.h. 50 to 60 feet above the sea, underneath our search radar.

Our scientists have been developing a weapons system to counter this threat. It's called Aegis, and we know it will find incoming Soviet missiles 30 to 40 miles out and blow them up. But at the earliest, it will be 1981 before the system can be deployed on the first ship.

SOVIET SQUEEZE

In addition to a strategic submarine force twice the size of ours, the Russians now have by far the world's largest attack submarine fleet, well over 200 boats, for anti-shipping and anti-submarine purposes. Imagine what the Soviet attack force could do in the event of war! Nazi Germany, which began World War II with 57 submarines, primitive by today's standards, very nearly succeeded in severing our Atlantic supply lines, sinking some 14 million tons of Allied shipping. Clearly, the lesson has not been lost on the Soviets.

Against the U.S.S.R.'s huge surface and undersea forces we can deploy a total of 82 attack submarines.

The Russians also have more of all kinds of surface combatants than we have: more cruisers, more destroyers and other escort types; they vastly outnumber us in small (less than 1000-ton) attack boats. Yet these are fast, maneuverable and hard to hit. Equipped with new nuclear-tipped missiles, they pack a lethal wallop. The Soviets now are also moving to gain an advantage with amphibious ships that carry marines and their arsenals, including tanks, into beaches. They have some 100 such ships. We have 63, and we would need 48 of these to embark a single Marine amphibious force.

The Soviet navy has the world's largest naval-mine-warfare force, the world's largest inventory of naval mines and a capable anti-mine-warfare force. It also has the world's largest fleet of intelligence collectors—so-called "spy ships." Approximately 50 are deployed all over the globe—many posing as merchant or fishing vessels.

With their modern, powerful navy, the Soviets are showing the flag in more and more places, doing their best to influence events. During the Angolan war, Soviet naval units were deployed offshore in a show of support for their Cuban proxies. They now cruise regularly in many of the world's major seas. (A Soviet task force has come within 25 miles of Hawaii, and another has entered the Gulf of Mexico.) Thep have obtained the use of port facilities in the Indian Ocean, the Mediterranean, on the west coast of Africa and in the Caribbean. It is obvious that the Kremlin employs its naval forces in support of an ambitious foreign policy targeted at controlling the world's raw-material sources.

I don't think most Americans, including many in Congress, really grasp what a tough fix we are in, or will be in soon. If present trends continue, for example, it wouldn't surprise me to awaken some morning to the news that the Soviets have annexed the warm-water ports of northern Norway, which they have long coveted. Or to be told by Moscow that "the situation must be stabilized" by the Soviets in some politically troubled oil-rich state which is important to our survival.

U.S. RESPONSE

We are in this fix for a lot of reasons, including old, discredited theories that the Russians are as interested as we are in arms control and disarmament. Powerful voices in this country continue to urge that we disarm unilaterally, insisting that the Russians will then disarm, too. In fact, we have long been unilaterally disarming. Among other things, we have halved the size of our Navy—we now have 458 ships, against nearly 1000 ten years ago.

But the main reason we are in this fix is that during the 1960s, while the Soviets were working hard to develop the mightiest

military posture in world history, we were pouring our resources into the Vietnam war. We neglected our defenses, none more than our Naval component. By the end of the 1960s we were confronted with block obsolescence, large numbers of ships built in the 1940s and 1950s that were not worth expensive restoration.

Currently, our Navy is smaller than at any time since two years before Pearl Harbor. Yet the Carter Administration has just cut in half the Navy's five-year shipbuilding plan! Congress will be gravely risking our survival if it allows this to happen.

We simply must rebuild the Navy. That doesn't mean refurbishing obsolete ships. We need a modern, self-sufficient Navy that can operate in distant areas without having to rely on overseas bases.

Admiral Holloway has estimated that the balanced Naval force we need comes to about 600 ships. In preparing this force, we must understand that, from the time initial plans are prepared for Congressional approval, it takes eight years to get a Trident submarine to sea, ten years to float an aircraft carrier. And weapons technologies improve so rapidly that when we build certain new systems, we have to hope that they won't be obsolescent in ten years.

But we have no choice. We must understand that our freedom is not preordained, and that without a strong defense we won't be able to keep it. So much time has been lost already that, even if we start now, we are in for some rough and scary sailing in the years directly ahead.●

THE HILL'S MANGLING OF AN ERA ISSUE

● Mr. GARN. Mr. President, Prof. Walter Berns is an eminent scholar, and we are fortunate to have his abilities directed toward an issue as important as extension of a ratification period for a proposed constitutional amendment. Yesterday, the Washington Star ran an article by Professor Berns entitled "The Hill's Mangling of an ERA Issue." I recommend Dr. Bern's article to our colleagues and every person concerned with the processes of Constitutional law and American government. It is a fine piece of thinking and writing and both Professor Berns and the Star should be commended for their contribution to this vital debate.

The article follows:

THE HILL'S MANGLING OF AN ERA ISSUE

(By Walter Berns)

Unable to secure the approval of the constitutionally required three-fourths of the states during the congressionally stipulated seven-year period, the advocates of the Equal Rights Amendment are now engaged in the attempt to persuade the Congress to extend that period to 14 years. This proposed extension raises constitutional issues, involving fundamental principles of American government, that have never been decided—and can scarcely be said even to have been considered—by the Supreme Court. There is in fact very little constitutional law on the mode of amendment of the Constitution, and if the full House and then the Senate follow the disgraceful example of the House Judiciary Committee in its recent consideration of the extension resolution, there will be very little constitutional principle.

The reasons for the lack of constitutional law are not hard to identify.

First, there have been few cases to reach the courts. Prior to the ERA, 32 amendments had been proposed, and of these 26 were adopted, most of them quickly and without great argument. The first 10 amendments, for example, were ratified in a body by nine states within nine months of their submission by Congress in September 1789, and, after Virginia got around to acting, by the required three-fourths of the states by the end of 1791; and the 26th and most recent amendment (respecting 18-year-old voting) was ratified within a year.

Second, in the few cases to reach the courts, the Supreme Court has tended to say that the issues raised in them are political (hence to be decided with finality by the Congress) rather than justiciable; this has the effect of further reducing the number of cases. (This relative lack of law and dispute is reflected in the fact that in the annotated Constitution a mere five and a half pages of text are required to set forth the law of Article V, the amending article, whereas 236 pages are required to set forth the law of the 14th Amendment alone.)

Thus, the Court has never ruled directly on the questions of whether Congress may extend the ratifying period, whether a state may rescind its ratification of an amendment and whether a state (*viz.*, Illinois) may require an extraordinary legislative majority to pass a ratification proposal.

Nor has it ever addressed the fundamental question underlying these questions: Who are the people of the United States who, in principle, possess the sovereign power of the United States?

We do know that no state may rescind its ratification of the Constitution as a whole. South Carolina was the first to try to do this. Its Ordinance of Secession of Dec. 20, 1860, took the form of a declaration by the people of the state rescinding the ordinance adopted by "them" on the "23rd day of May, in the year of our Lord 1788, whereby the Constitution of the United States was ratified"; but Lincoln demonstrated the absurdity of this when, in his First Inaugural, he pointed out that if one state may secede from the others, the others, with the same propriety, may secede from the one. This would follow, he said, unless the seceders make the point that the one, because it is a minority, may rightfully do what the others, because they are a majority, may not rightfully do.

"These politicians are subtle and profound on the rights of minorities," he said. "They are not partial to that power which made the Constitution, and speaks from the Preamble, calling itself 'We, the People.'" Lincoln's view of this constitutional issue was upheld not by the Supreme Court (which, as it was then constituted, would probably have upheld South Carolina) but by the armies of Grant, Sherman, Thomas and others less famous.

Congress' lack of respect for constitutional principle is not so readily explained or condoned. A few weeks ago the House Judiciary Committee voted 19–15 to recommend adoption of what it was pleased to call a joint resolution extending, by some three years, the period during which the states may ratify the Equal Rights Amendment. The full House approved the extension last Tuesday by a 233–189 vote. This so-called House Joint Resolution 638 is not a concurrent resolution (for it would then have no binding effect); nor is it an act of Congress in the sense of Article I, section 7 (for it would then require the president's signature); nor is it, in the usual sense, a resolution adopted under the authority of Article V, authorizing Congress to propose amendments to the Constitution (for then it would require passage in both houses by two-thirds majorities). It is, instead—if it is anything that can be described in constitutional terms—an Article V resolution in an unusual sense, in fact, in an extraordinary and wholly unprecedented sense.

The power to enact this resolution was discovered in the fact that the time requirement, prescribing the period within which states may ratify the ERA, was placed no in the text of the amendment itself but in a separate clause, from which the committe jumped to the convenient conclusion that whereas a two-thirds vote is needed to pro pose an amendment, only a simple majorit is needed to change the time period fo ratification of the amendment. Setting an changing the time period are "subsidiar matters of detail," the committee suggested

This solved one of its problems, left un solved the problem of the missing presi dential signature, and opened up the possi bility that the power could be used—or from the committee's point of view, misused—b others. For, if the power to set a time limi is one belonging exclusively to Congress, "t be disposed of by a simple majority of eac House," and if "Congress retains authorit to review the [time] limit should the cir cumstances so warrant," then it would seem to follow that Congress, by simple majoritie may extend the ratification period, o "should the circumstances so warrant," con tract or shorten it.

After all, some circumstances would war rant extensions and others contraction, an it is conceivable that, last year for example a majority of the House and Senate, bein disturbed by a possibility of street battle between the advocates and opponents of th ERA, could have concluded that domesti tranquility depended on a quick resolutio of the issue and, therefore, that the tim period should be shortened to six or even fiv years. This the committee could not allow it had to find a formula that would permi Congress to extend but not to contract th time period.

To this end, it said, quoting Justice De partment testimony, that the 92nd Congres had determined that "the States should hav at least seven years within which to conside the equal rights amendment," and, again that "the States should have at least seve years within which to consider ratificatio of this amendment." In saying this the com mittee was not telling the truth, but it wa serving its partisan purpose.

A joint resolution shortening the tim period would amount to a change of th original time clause, but a resolution extend ing the time period would not be a change after all, a ratification period of 10 years an three months (but not one of five years o six) is "at least" seven years. So that wa that, and we can conclude from it that, sinc every resolution resolves something, th new-order joint resolution was intended t be a handy device for resolving awkward con stitutional doubts.

At one point in its report, the committe quotes Article V of the Constitution an then, quite gratuitously, says this: "The lan guage of article V thus requires a two-third vote for action by Congress in proposing a amendment and in calling a convention i response to the applications of two-thirds o the State legislatures."

This is, of course, nonsense. Article V doe not say that (two-thirds of the states havin applied for a convention) a convention shal be called only if two-thirds of both houses o Congress agree; it says a convention shall b called. The Judiciary Committee apparentl has its eye on the attempts now being mad to have the states call for a convention t propose amendments putting limits on th taxing or spending powers or reversing th Supreme Court's decision in the abortio cases. Having broken the rules in its effor to promote the ERA, the committee seem to be serving notice that it stands ready t break them again when and if necessary.

The Judiciary Committee's performanc should also serve to confirm the judgmen that the Supreme Court has erred when i has suggested that the issues involved i amending the Constitution should be re solved mainly by the Congress. In fact, how-

ever, the Court has not abnegated in favor be ascertained only by eliciting the views any state to require extraordinary majorities

ever, the Court has not abnegated in favor of Congress to the extent suggested by some members of Congress.

Contrary to the Judiciary Committee, the Court did not say that the question of what constitutes a reasonable time for ratification may be settled by Congress "in such a manner as 'the public interests and changing conditions may require.'". It did say this: "Of the power of Congress, *keeping within reasonable limits* to fix a definite period for the ratification we entertain no doubt." (*Dillon* v. *Gloss*, 256 U.S. at 375–6. Emphasis supplied.) And it did not suggest that Congress is completely free to determine what is a reasonable period.

The issue in this 1921 case (one of only two or three in which the Court has addressed itself to questions involving the mode of amending the Constitution) was simply whether Congress was entitled to impose a seven-year limit on state ratification of the 18th Amendment, and, in the course of upholding the power and this use of it, Justice Van Devanter, speaking for a unanimous Court, said this:

"We do not find anything in the Article which suggests that an amendment, once proposed, is to be open to ratification for all time, or that ratification in some of the states may be separated from that in others by many years and yet be effective. We do find that which strongly suggests the contrary. First, proposal and ratification are not treated as unrelated acts, but as succeeding steps in a single endeavor, the natural inference being that they are not to be widely separated in time. Secondly, it is only when there is deemed to be a necessity therefor that amendments are to be proposed, the reasonable implication being that when proposed they are to be considered and disposed of presently. Thirdly, as ratification is but the expression of the approbation of the people and is to be effective when had in three fourths of the states, there is a fair implication that it must be sufficiently contemporaneous in that number of states to reflect the will of the people in all sections at relatively the same period, which, of course, ratification scattered through a long series of years would not do."

This seems reasonable. To argue that an amendment once proposed "is to be open for ratification for all time" is to indicate a willingness to accept consequences that ought to be unacceptable. It would mean, for example, that the amendment, proposed in 1861, that would have forbidden the abolition of slavery is still viable and only awaits the ratification of three-fourths of the states to become the fundamental law of the land.

To argue in this fashion is, moreover, to be blind to the fact that the Constitution is made by us, the people; and that "we, the people," each of us possessing one vote, can only speak in the voice of the majority, and that the majority, because it is subject to changes over time, must be ascertained at a particular time.

The Constitution is fundamental law precisely because it arises out of the will of the people. This will is expressed when the people act in their constituting capacity; it is in this capacity that the people perform, in Hamilton's words, the "solemn and authoritative act" of writing or amending the Constitution. In this capacity, and only in this capacity, the people have the right to "alter or abolish the established Constitution whenever they find it inconsistent with their happiness." This, Hamilton says, is the "fundamental principle of republican government."

In a profound sense, "we, the people of the United States" are always the same people, possessing the same power today that we possessed and exercised in 1787–8, the power, as Hamilton puts it, to declare our will in a constitution. But this will can change from time to time, and whether it has changed can be ascertained only by eliciting the views of—or by attempting to gain the constitutional consent of—the individual Americans comprising the American people at any particular time.

On a question of constitutional amendment, it will not do to elicit the votes of James Madison, Jimmy Carter, and of persons who, because they have not yet been born or naturalized, are not part of this people. Jimmy Carter is, but the others are not. The interests of our future generations should be weighed and the counsel of our forebears should be considered, but their votes may not be counted simultaneously. "We, the people" are a continuing body whose membership is constantly changing. Because this is so, we can act constitutionally only at particular points of time. To ignore this is to presume the right to govern the people without the consent of the people.

Justice Van Devanter was also correct when he said that "proposal and ratification are not to be treated as unrelated acts, but as succeeding steps in a single endeavor." This was the mode of the Constitution's adoption and this mode should, to the extent possible (and within the limits prescribed by the people in Article V), serve as the model for its amendment.

Submission of the proposed Constitution was followed immediately by a vigorous debate between its advocates and its opponents, surely the most enlightened and still enlightening debate ever to engage the attention of and to involve a people. They were being asked to give their consent to a form of government, and the purpose of the debate was to foster an enlightened consent; or, stated otherwise, it was to ensure that the will of the people, to be embodied in a constitution, be an enlightened will, expressed after due deliberation.

The importance of this is obvious because, enlightened or unenlightened, the will of the people is the source of our fundamental law. Hamilton began the debate in the first *Federalist* by pointing out that it had been "reserved to the people of this country, by their conduct and example, to decide the important question, whether societies of men are really capable or not of establishing good government from reflection and choice, or whether they are forever destined to depend for their political constitutions on accident and force." Whether choice is made after reflection depends in part on whether ratification follows closely on proposal; the longer the period, the greater the possibility that, in Madison's words, "the passions [and] not the reason, of the public [will] sit in judgment."

These considerations lead to the following conclusions:

(1) A 14-year ratification period is too long; even a seven-year period allows too great a distance between proposal and ratification, reflection and choice.

(2) This objection can be met if, rather than extending the period, Congress again considers whether to propose an Equal Rights Amendment and, after deliberate debate, if it decides to do so, again submits it to the people.

(3) This necessarily means that the people of each state must again consider whether to accept or reject it; there is here no question of whether a state may rescind a previous ratification; until the proposed amendment is again submitted to a state there is (after the expiration of the original seven-year period) no constitutional business before it. Nothing could be more improper or, indeed, more unconstitutional, than to allow votes for ratification to be accumulated from the past and the future as well as from the present generations of the people. There is no way of knowing whether such an accumulation is the contemporaneous will of the people and, therefore, it is not the will of the people.

Finally, it would seem to be improper for any state to require extraordinary majorities to ratify a constitutional amendment. Constitutions arise properly out of the will of the people, each person possessing one vote, which leads ineluctably to the right of the majority to decide.

That majority may decide to limit its power to amend the Constitution. This is what the American majority ("We, the people") did in 1787–8 when (in Article I, section 9, for example) it placed limits on the legislative power, and, in Article V, out of respect for the federal system, it modified the right of the majority to amend the Constitution by assuring, by means of the three-fourths requirement, that the majority will be geographically or regionally distributed.

When, however, the majority does not itself modify the majority principle, that principle that must be respected. Thus, neither Congress nor the states may require extraordinary majorities to ratify an amendment, which means a federal court clearly erred in upholding a state requirement that the ERA needs a three-fifths majority for ratification in the Illinois legislature.

I hope it is clear that the Supreme Court has erred whenever it has suggested that the mode of constitutional amendment is not a subject to be governed by constitutional law. The right of the people to alter or abolish the established Constitution is, as Hamilton correctly says, the "fundamental principle of republican government," but that right may be exercised only in a "solemn and authoritative" manner; the principle governs both the right and the manner of its exercise.

The definition of fundamental principle is not among the powers of any legislative body. Indeed, the right of the Supreme Court to expound the fundamental law governing the American people—a right no longer in question among us—is at least as evident in the case of the amending article as in the case of any other provision of the Constitution, and not simply because legislatures, and especially the House Judiciary Committee have demonstrated their inability to act in a "solemn and authoritative manner." ●

THE SLIDING DOLLAR

● Mr. HARRY F. BYRD, JR. Mr. President, Hobert Rowen, Washington Post staff writer, had an excellent piece in Sunday's Post analyzing the decline in the value of the U.S. dollar.

In the past few years the dollar has lost about half of its value against the West German mark, 55–60 percent against the Swiss franc and 35–40 percent against the Japanese yen.

This is a staggering drop.

In the last several weeks, I have consulted with economists and others involved in international finance and most agree that the sharp drop in the value of the dollar results from a lack of confidence in the way the United States is handling its own financal affairs—its inability or its unwillingness to get a grip on inflation.

As Mr. Rowen points out "inflation remains the key to the dollar crisis."

I ask to have printed in the RECORD Mr. Rowen's piece, headined "The Dollar's Slide: What it Means".

The article follows:

THE DOLLAR'S SLIDE: WHAT IT MEANS

(By Hobart Rowen)

For months, headlines have been blaring the saga of the dizzying decline of the U.S. dollar: "Dollar Drops Again Against the Japanese Yen." Or, "Dollar Hits New Low

Against West German Mark: Gold Hit New High." Or, "Tourists on Holiday Find Their Dollars Buy Less and Less."

What has happened to the once almighty dollar to account for a loss in the past few years of about half of its value against the West German mark, 55 to 60 percent against the Swiss franc, and 35 to 40 percent against the Japanese yen?

The answer is relatively simply, and it's the same one that often applies to a decline in the price of any commodity; and oversupply. There are too many dollars in the hands of foreigners—or at least more than they want to hang on to.

Experts estimate that individuals and central banks of governments abroad hold about $600 million, much of it pumped abroad to pay for accumulated U.S. balance of payments deficits. Over the years, when this country has bought more goods and spent more money abroad than it takes in from foreign sales and investments, and the gap has been covered by printing additional dollars.

The United States has the advantage of being able to do this because the dollar has been not only the chief reserve currency but also the world's chief transactions currency.

As Britain's chief economics official in Washington, William Ryrie, said recently, "The United States does not have to find foreign currency to pay for a deficit in its balance of payments if it has one. The U.S. pays in dollars. The rest of us pay in dollars, too, but we cannot print them."

When there is too much of a currency outside the country that issued it, the people who hold it start to lose confidence.

"They naturally start to dump them," Henry Kaufman, chief economist of Salomon Bros., New York, said in an interview.

"All you have to do is to create some question marks or fears about the dollar, and if you loosen a fraction of that sum—say just 10 to 20 percent—you have enormous amounts of money that want to get out of dollars into other currencies," Kaufman said.

The situation has become increasingly tense in the past few weeks, with inflation rates in the United States soaring far over those of its major trading partners, West Germany and Japan.

Compared with a 10.4 percent U.S. rates in the first six months, the Japanese inflation rate is 4 percent, and the West German rate is less than 3 percent.

The failure of the economic summit meeting in Bonn in July to come directly to grips with the dollar problem was a great disappointment in financial circles.

In little more than a month since then, the dollar has drifted down 3 to 4 percent against major European currencies and 8 percent against the yen. Such changes over a relatively short time are characterized by veteran market observers as near-chaotic.

Interviews of officials, bankers, businessmen and others here and abroad indicate that the slide of the dollar has reached crisis proportions and that this carries with it a threat to the international monetary system and to world economic stability.

President Carter implicitly recognized that last week by directing Secretary of the Treasury W. Michal Blumenthal, working with Federal Reserve Bank Chairman G. William Miller, to recommend new actions to set the dollar on a steadier course.

But no one—here, in Bonn, Tokyo or New York—thinks that there are any simple solutions.

"Gauging when the critical point will come is beyond any of us," said Robert V. Roosa, partner of Brown Brothers Harriman, in New York.

In a strictly technical sense, it is clear that the dollar already has dropped too far too quickly, and hence is now undervalued. It would tend to rise naturally, economists say, if the U.S. government made a believable effort to control inflation and reduce its massive $30 billion trade deficit.

But the accumulation of worries, the panic psychology of markets "and the natural reaction of holders of assets to seek diversification in the face of steady decline," nonetheless is pushing the dollar further down, Roosa said.

It remains unclear whether the Carter administration, with an unsteady record so far of managing the U.S. economy, can do anything that will restore confidence. A boost in the Federal Reserve Board's discount rate on Friday was welcomed by the markets, but they are looking for much more.

Roosa, under secretary of the treasury in the Kennedy administration, confesses that a year ago he would have thought that if the dollar reached the low rate it is currently at, "we would already be in the midst of a great crisis. The fact that it has happened in wave-like spasms has in part conditioned the rest of the world to it."

The dollar has been in a steady decline for more than a year, but the Carter administration has been reluctant to take decisive action to stop it.

A cheaper dollar has some advantages for the United States. It makes American exports less costly. This not only helps reduce the staggering American trade deficit, but also stimulates U.S. production, sales and jobs.

But it also adds to inflationary pressures at home by boosting the price of foreign goods and making foreign travel more expensive—as tourists paying $3 for a cup of coffee in Japan or West Germany have found out.

Beyond that, however, there are serious problems of economic policy management created for the United States, and this has helped push Carter into seeking new solutions. These problems can be summarized this way:

To protect the dollar and stem the decline, the Federal Reserve is pushing interest rates higher. This provides incentive for dollar-holders abroad to keep their dollars rather than dump them. But such a policy threatens economic recovery at home.

A continued slide of the dollar could induce the Organization of Petroleum Exporting Countries (OPEC) to raise the price of oil again. This would be a new deflationary force and could trigger a world-wide recession.

If the dollar dips far enough, this would lower American prestige and political influence abroad. The dollar's role as an international "reserve currency" has already been challenged by others, and a new slide could accelerate the trend.

A dollar decline transfers wealth from the United States to foreign holders. Dollars accumulated abroad are a claim against U.S. wealth. Foreigners today hold about $120 billion in Treasury securities. This transfers $9 billion a year in interest to them.

The reasons for the dollar's difficult situation are many and complex. But most experts agree that the weakness stems from a combination of the rising U.S. rate of inflation and the enormous trade deficit, which last year added some $30 billion to the $600 billion already in foreign hands.

A subtle overlay to these basic reasons is the almost unanimous belief in European, Japanese and other financial centers that the Carter Administration has shown some incompetence in handling its economic problems. Its failure to mount a successful anti-inflation program and to persuade Congress to pass an energy conservation program are viewed with amazement and consternation in Europe.

A cheaper dollar, of course, means the other currencies, like the mark and the ye become more expensive. This makes goo produced in the countries of the mark an the yen less competitive in world market

But if countries like West Germany an Japan choose to halt the decline of the do lar by intervening to prop it up, that actio leads to a boost in their own domestic mone supply—hence, a new inflationary threat them.

So their demands have been for great U.S. intervention, by which this count would assume the major burden of respo sibility for protecting the value of the dolla

Steadfastly, the Carter administration ha refused the kind of massive intervention th would "peg" the dollar at any fixed rate o range. It believes that such an action wou be useless in the face of $600 billion sloshin around in European hands.

Roosa flatly predicted that the dollar wi continue to be "battered" in world cu rency markets because of the huge supply dollars abroad. He said the dollar, which the end of the week was worth only 1.6 Swiss francs, could decline to a 1-to-1 rati with additional but less spectacular declin against other currencies.

"Until there is a sustained, clear turn the Japanese current account surplus, I do see anything stopping [the appreciation] the yen," Roosa said.

He suggested that the yen—which at th end of World War II and for many ye later was 360 to the dollar—could move 150 to the dollar. Less than three years ag the yen was over 300 to the dollar.

Kaufman, one of the leading observers financial markets, said in an interview th merely improving the trade position of t United States would not solve the doll problem.

"It would help," Kaufman said, "but won't solve it. The problem goes beyond t current account and relates to the capit account—the international financing role the dollar."

In effect, Kaufman says, the United Stat has played the role of international bank and suddenly the international banke currency doesn't appear to be very soun eroding at a double-digit rate.

In the past, Kaufman pointed out, wh a major reserve currency—like the poun sterling—appeared threatened, the centr bank of that currency's country interest rat considerably, which quickly aborted a dumping.

"But that is very difficult to do in a mode society," Kaufman observed. The tradeo for high interest rates is usually a depre sion of business activity and more unemplo ment at home.

He noted that Miller in the past fe months had given markets the impressio that the Fed would ease interest rates in th United States or at least not "overstay" tig money.

"The symbol of preserving the integrity the dollar internationally tends to be in th discount rate," Kaufman observed. But Mill actually voted against the majority of h board in a July boost in the discount rat from 7.0 to 7.25 percent, something that ja red the markets.

"It was an enormous disturbance in th foreign exchange markets," Kaufman sai Banker David Rockefeller confirmed this a sessment, noting that "Miller's vote suggest that he didn't have control" of Federal Re serve policy.

Since then Miller has said that he made mistake. He voted with the majority on Fri day to raise the discount rate to 7.75 percen citing international as well as domestic rea sons.

There have also been signs that the ad ministration was weak in controlling infla

tion. In an effort to mollify AFL-CIO President George Meany, President Carter took an action widely interpreted as muzzling his wage-price aide, Barry Bosworth.

"There is no anti-inflation program in place," Kaufman said, "and foreigners recognize that."

What are the answers to the problem?

In groping for a response, the administration tends to fall back on its complaint that Congress has ignored the energy legislation, which it considers critical, interest rates, as the Federal Reserve action last week demonstrated, are moving higher. A more positive intervention policy, perhaps with greater U.S. resources marshaled for the day-to-day operations, is also possible. Other nations, like West Germany and Japan, although reluctant to do so, may take on more of the reserve currency responsibility.

But inflation remains the key to the dollar crisis. It remains to be seen whether the Carter administration can mount a stronger anti-inflation effort through traditional means like tighter control of budgets, or supplemental measures involving direct or indirect limits on wage and price increases.●

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

● Mr. ROBERT C. BYRD. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Andrew L. Metcalf, Jr., of Michigan, to be U.S. marshal for the western district of Michigan for the term of 4 years vice Marvin G. Washington, term expired.

For Mr. EASTLAND, and on behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Monday, August 28, 1978, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.●

ROTH-KEMP TAX CUTS

● Mr. ROTH. Mr. President, with the tax debate shifting from the House to the Senate, Members of the Senate will soon be given the opportunity to vote on my proposal for substantial across-the-board tax rate reductions.

The $16 billion tax "cut" recently approved by the House is really not a tax cut at all. Because it fails to offset the new social security tax increases and the automatic tax increases caused by inflation, virtually every American taxpayer will face a tax increase next year if this bill is enacted.

I believe we need a real tax cut to offset these huge increases and reduce the total tax burden on the working men and women of this country. The Roth-Kemp tax rate reduction bill is just such a tax cut—one that can restore incentive to our stagnant economy, creating real economic growth and meaningful new jobs.

Mr. President, Mr. Jude Wanniski, a well-known political economic commentator, has produced a series of short papers discussing the Roth-Kemp bill and the Hansen-Steiger capital gains reduction bill. The first paper deals with the basic theory behind our tax cuts, while the second paper responds to some of the tax cuts critics, including Walter Heller.

These two papers are extremely relevant to the tax cut debate, and I urge my colleagues to study these two excellent papers. Mr. President, I ask that these two papers be printed in the RECORD following my remarks.

The material follows:

THE THEORY BEHIND TAX CUTS

INTRODUCTION: THE PROBLEM

In the last decade, the U.S. economy has experienced a combination of problems unique in our history: stagnation and inflation.

The productivity of the economy has fallen steadily since the late 1960s. The value of the U.S. capital stock, as measured by the stock market, is roughly one-third its value (in real, non-inflated terms) compared to February 1966. And the purchasing power of the U.S. dollar has fallen by roughly two-thirds in the 1970s.

Conventional economic wisdom has no solution to this malaise. It argues that inflation can only be decreased through austerity. Stagnation can only be overcome by inflation.

THE DIAGNOSIS AND WHY HANSEN-STEIGER, ROTH-KEMP

Consider the axiomatic phrase: "Inflation is too much money chasing too few goods." It is the key to understanding the twin problems of inflation and stagnation. Traditional political economists can end inflation by producing less money, but stagnation remains. Or they can end the stagnation problem by encouraging greater production of goods, but inflation remains as long as money is being created at a greater pace.

The challenge for the political economist is to find a way to both increase the supply of goods and restrain the creation of money. The Hansen-Steiger, Roth-Kemp tax cut amendments are part of that strategy.

TWO STEPS TO CONVENTIONAL ECONOMIC STRATEGY

I. Conventional economic strategy has been to attempt an increase in the supply of goods by:

(a) increasing government spending on goods, or by

(b) lowering "taxes" on the private sector, which leaves consumers more money to spend on goods.

These methods necessarily mean deficit financing by government and a consequent rise in interest rates.

II. The next conventional step is to increase the money supply in an attempt to drive down interest rates. But the increased supply of money leads to an increase in the general price level. Economic strategy, under both Democratic and Republican administrations, has been trapped by this paradox, unable to find a simultaneous solution to stagnation and inflation.

ENTER THE PROGRESSIVE TAX SYSTEM

I. To make this dilemma even more difficult, conventional economic strategy must also face up to the inherent problem of the progressive tax system.

II. Progressive income taxes came into being in the early part of this century. You can think of the progressive system simply as a sliding scale, with lower rates at one end progressing up to higher rates at the other. With tax progressions on both capital and labor, a rise then in the general price level induced by excessive money creation forces the price of both capital and labor to go, if you will, sliding up the progressive tax scale to higher rates of taxation.

III. Capital and labor then trade the same goods and services in the marketplace, but at the higher price level they must pay higher marginal tax rates, giving a greater share of their production to government.

IV. With capital and labor paying in more to government (keeping a smaller share of what they produce) they are discouraged from increasing, or sometimes even maintaining, their present levels of production. This is the linkage conventional economic theory is reluctant to face: an increase in the supply of money, intended to drive down interest rates, instead pushes capital and labor into higher tax progressions, eroding incentives to produce, and simultaneously giving us inflation and stagnation.

THE NIXON ECONOMICS AND THE NEED FOR HANSEN-STEIGER

This phenomenon of stagnation began to unfold in earnest in 1969, not because of excessive money creation, but through an explicit reduction of production incentives. In that year, President Nixon agreed to a sharp increase in the marginal tax rate on capital gains, to almost 50 percent from 25 percent. This sharp reduction in the rewards to capital for undertaking new, high-risk enterprise brought on the recession of 1969–70.

In 1971, the Nixon Administration attempted to pull out of the recession by encouraging sharp increases in the money supply. But this increased the pace at which both capital and labor have been driven into higher tax progressions.

Today, in 1978, the Hansen-Steiger bill would merely redress this primary error of economic policy by returning to the level of capital-gains tax rates of 1969.

A COMPLEMENT TO HANSEN-STEIGER

The Roth-Kemp bill merely complements this process; its tax cuts are meant largely to offset the adverse impact of inflation on the real rates of taxation paid by capital and labor. It does this by reducing marginal tax rates on personal incomes by one-third over a three year period.

The Roth-Kemp tax cuts are commonly described as a "drastic" measure. Yet to fully offset the adverse impact of the inflation of the 1970s would take an immediate and whopping increase of more than 60 percent in personal income thresholds, while leaving the tax rates themselves frozen. Compared to this, Roth-Kemp is merely a modest attempt to get back to a sense of reasonableness in Federal income taxation. And, of course, because the cuts are phased in over the next three years, the adjustment they make, all the while, would be offset by continuing inflation.

THE NATURE OF THE CRITICISM OF ROTH-KEMP

The critics of Roth-Kemp operate with at least one basic flaw: they fail to treat inflation as a special problem in an environment of progressive tax systems. As a result, they fail to distinguish between average taxes and marginal tax rates. For the conventional economic theorist, the world is made up of stable prices, and a given tax rate has no dynamic economic effect; therefore, the individual, in conventional thinking, cannot be inflated into higher tax brackets.

Let me illustrate this fallacy in thinking with the following:

An economy can thrive even with a marginal tax rate of 100 percent, if the income at which the rate is encountered is very high, say $1 million per day (in other words, government would confiscate 100 percent of any amount earned above $1 million per day). But if money loses so much of its value that $1 million can only purchase a loaf of bread, all production would stop after the baker had sold his first loaf each day; the government would confiscate all subsequent loaves as income tax. Average "taxes" collected by the government would collapse to near zero even as marginal tax rates climbed to near total confiscation.

THE LAFFER CURVE

The instrument we use to examine this dynamic effect is the Laffer Curve, which applies the law of diminishing returns to tax rate policy. The Laffer Curve merely enables us to think in dynamic, rather than static, terms when we consider the effects of inflation on marginal tax rates.

The Curve does not speak to "average" tax rates, which have no relevance in determining individual economic actions. The Curve applies to individual economic activity, in which each individual faces a different marginal tax rate.

In spite of this, critics of the Laffer Curve and of Roth-Kemp insist on speaking of average taxes, average savings rates, and average incomes in their economic analysis.

The foremost critic of Roth-Kemp, Prof. Walter Heller, makes what might seem to be a powerful case against the legislation by accepting, as all economists do, the validity of the Laffer Curve, and then arguing that the point of diminishing returns on the Curve has not been reached. He does so by focusing entirely on average taxes.

But remember, in the baker example, average taxes can drop toward zero as individuals are pushed toward the highest marginal rates. Clearly, it should not be an objective of economic policy to reduce average taxes, which can be done by impoverishing the economy via confiscatory marginal rates. Yet this is what Mr. Heller mistakenly believes to be the theory behind Roth-Kemp.

THE NATURE OF THE CRITICISM OF HANSEN-STEIGER

Criticisms of the Hansen-Steiger capital gains proposals are social, not economic. The Carter Administration opposes the measure on the grounds that it benefits the rich. Treasury follows this by asserting that the lower rates will cost $2 billion in revenue flow.

The response from the economics profession as a whole—liberal and conservative—has been to reject the Treasury prediction, which assumes lower rates will have zero impact on production incentives. Economists may disagree on how powerful an effect Hansen-Steiger would have in expanding the U.S. production and tax base, but literally all conservative economists—those associated with the Republican Party—agree the Hansen-Steiger tax rate reduction will finance itself in the first year by several times $2 billion by an increase in revenues from all sources.

And liberal economists, who may disagree with Hansen-Steiger on social grounds, by and large—publicly or privately—accept the potency of this measure on output and revenues.

ANALYSIS NUMBER TWO

My second paper for the Republican Conference (A Response to the Critics: Walter Heller, et al) will confront some of the specific criticisms Prof. Heller and others have raised about Roth-Kemp.

Again, the failure to distinguish between average and marginal tax rates distorts any economic analysis of Hansen-Steiger, Roth-Kemp. The criticisms are further flawed by being static rather than dynamic. That is, the critics assume the impact of a tax rate cut will come only on the demand side of the economy, by increasing consumption. A dynamic analysis would take into account the increase in the economy's incentives to expand capacity itself, either in quantity terms or quality terms—more goods or better goods.

A RESPONSE TO THE CRITICS

As mentioned in the conclusion of Analysis Number One (The Theory Behind Tax Cuts), the foremost critic of Roth-Kemp, Prof. Walter Heller, makes what might seem to be a powerful case against the legislation by accepting, as all economists do, the validity of the Laffer Curve, and then arguing that the point of diminishing returns on the Curve has not been reached. He does this by focusing entirely on average taxes.

In his July 12 essay in the Wall Street Journal, Mr. Heller asks:

"Have the tax pressures increased sharply since the mid-1960s and perhaps brought us closer to the breaking point? Comparative figures assembled regularly by the OECD show total U.S. taxes at 27.3 percent of GNP in 1966 and 29.6 percent in 1976, hardly enough of an increase for tax cuts to trigger much bigger responses today than in the mid-60s. Besides, with top income tax rates at 50 percent and 70 percent instead of 91 percent, there is less tax disincentives to remove."

The confusion here is between averages and margins. Individuals do not face average tax rates, they face marginal rates (that is, the percent government will tax on any additional $1 earned). In fact, if progressive marginal rates are unnecessarily high, their lowering could produce higher average taxes to the benefit of everyone.

WEST GERMANY AND INDIA

This brings to mind the critics who continually ask why West Germany is now doing so much better economically than the United States and yet allows a greater percentage of its national income to flow through its government (*i.e.*, average taxes in West Germany are higher than in the U.S.).

The answer is that West Germany's marginal tax rates are lower than in the United States (50 percent at the top, no capital gains tax rate at all).

India is in almost the exact opposite position. India taxes at such an extraordinarily high marginal tax rate (67 percent at $12,000), only a dribble of revenues are available for state spending. Only 9 percent of India's GNP is spent by the national government. Marginal rates are high, average taxes very low.

HAVE DISINCENTIVES BEEN REMOVED?

Prefessor Heller's point that "there is less tax disincentives to remove" because tax rates were brought down since 1964 is only partly true. The tax burden today would probably be intolerable had rates not been brought down in 1964.

What Mr. Heller fails to recognize is that individuals pay "taxes" by calculating rates multiplied by income thresholds. Although tax rates have come down some since 1964, income thresholds during this time have more than doubled through inflation alone. Moreover, Mr. Heller fails to note the huge bite on capital gains added since 1964, which pushed effective marginal tax rates on investment income back toward the 91 percent level.

FAULTY VIEW OF SAVINGS

The propensity to view the economy as a collective, in which an "average" has meaning, extends to Prof. Heller's view of "savings." The supply-oriented economists, led by Laffer, argue that lower federal income tax rates will so expand production that a temporary fall in revenues, should one occur, would easily be financed through an expansion of savings.

Yet, in his June 28 testimony before the Joint Economic Committee of Congress, Mr. Heller asks:

"Why, in the face of Laffer's assertions, has 'Denison's law' held true through thick and thin for the past 100 years or so? Edward F. Denison of Brookings has found that U.S. gross private domestic saving has been virtually invariant year-in and year-out in the face of high taxes, low taxes, or virtually no taxes."

Again, Professor Heller fails to recognize that "average" saving rates need not increase at all in order that savings as a whole increase. He would agree that everything produced is either consumed now or saved for future consumption. If high marginal tax rates are discouraging production, both consumption and savings are held back. If those unnecessarily high tax rates are eased, inviting greater production, both consumption and savings increase.

In other words, as the so-called economic pie increases, the slice saved for the future can remain the same proportionate size, in accordance with Denison's Law. But its absolute size increases.

Denison found that the savings rate has remained constant at 16 percent of the total pie. His "Law" is meaningless because it is a static tool, not a dynamic one. Observe that by increasing the radius of an 8-inch pie to 10 inches, a 25 percent increase, the slice that is 16 percent of the total expands to 50 square inches from 32, a 56 percent increase.

THE PROHIBITIVE RANGE

As a graphic depiction of the "law of diminishing returns," the Laffer Curve simply states an eternal verity. There is a point at which adding an extra straw will break the camel's back. Professor Heller appears to accept this notion, but then argues that the point has not been reached:

"And even if there was something to the Laffer thesis, who is to say that we are in a high enough tax zone to produce those dire effects of higher rates and delightful effects of lower rates that Laffer postulates?"

Having, in effect, accepted the Laffer Curve, Mr. Heller cannot logically argue that we are not in the prohibitive range (where tax cuts will yield additional revenues) unless he is also prepared to argue that we are in the productive range (where tax rates can be raised to produce dramatic revenue gains). Instead, Prof. Heller completes his remarks by recommending a "moderate cut of $15 or $20 billion (or even $25 billion if monetary policy tightens a lot) . . ."

In the demand-oriented world of Professor Heller, there is no need to specify where the $25 billion in tax cuts should be made, as long as there is an additional $25 billion that can go into consumer demand for goods and services. The quickest way to do this, which is the advice President Carter got last year, is through tax rebates, an idea the supply-oriented economists say is counter-productive, having no incentive effects at all.

LAFFER'S UNCERTAINTY

In his July 12 essay in the Wall Street Journal, Professor Heller quotes Professor Laffer as having told Newsweek: "There's more than a reasonable probability that I'm wrong." The statement does not accurately reflect Laffer's belief that there is a very high probability he is right, but that there is no way for a single mind to know precisely the optimum point on the Curve. Determining that point comes through competition in the political marketplace.

THE MELLON TAX CUTS

In the 1920s, Treasury Secretary Andrew Mellon found himself in a similar position of defending his proposals for sharp tax rate reductions. Mellon used an analogy which is as valid in today's environment as it was earlier this century.

Henry Ford, he said, could produce 1,000 automobiles and charge $1 million each, or he could product 1,000,000 automobiles and charge $1,000 each. Ford revenues would be the same in each instance. Ford, though, is pushed to finding the optimum point because he has competition. The result is the maximum number of units at the lowest possible price.

The public sector, Mellon continued, has the same range of alternatives in selecting the optimum tax rates, which is the "price" it charges for public goods and services. By its nature, though, the public sector has no competition, but is monopolistic. Political

leaders must find the optimum point on the Curve by internal competition. As in the economic marketplace, tension is between price and volume.

If the one political party stresses tax rate reduction when rates are in the prohibitive range of the curve, as was the case in Mellon's time, that party would be expected to win more elections. And vice versa. If another party goes in the opposite direction, ignoring the need for tax relief when tax rates are in the prohibitive range, that party would be expected to lose more elections.

The point is, it is inappropriate to ask Laffer or any other single economist where exactly we are on the Laffer Curve. That point is determined through political competition, based, of course, on the advice of political economists. And, today, virtually all supply-side economists have concluded there is a very high probability tax rates have been inflated into the prohibitive range, and can be reduced with no revenue loss or with self-financing.

IF LAFFER IS WRONG

Professor Heller concludes, in his July 12 essay in the Wall Street Journal, that if Laffer is wrong, he may be leading the Republican Party "over the cliff."

What will occur if Laffer is wrong?

Treasury estimates that Roth-Kemp has a first year cost of $20 billion in receipts. That combined total, notice, is lower than the $25 billion Professor Heller said he would accept if money were kept tight. Under absolutely static conditions, in which there is no supply response in the economy to the lower tax rates, the worst possible condition would be an increase in the federal deficit by $20 billion.

ROTH-KEMP AND INFLATION

With federal expenditures constant, this would mean the American people would finance $20 billion more in federal outlays with bonds and $20 billion less in taxes. Individuals, in aggregate, would produce and consume the same amount of goods and services in this static world, but interest rates would be marginally higher. This reflects the fact that the future economy would have to produce $20 billion more in goods and services that would have to be taxed out of the productive sector to pay off the additional bonds.

There is, even in this worst case, no direct "inflationary" effect. Inflation, which is a decline in the monetary standard (in this case the dollar), results from excessive money creation in the absence of restraint.

Professor Heller's further criticism of Roth-Kemp is as follows:

(1) Unlike the 1960s, we are now in an inflationary environment. Where the Kennedy tax rate reduction worked exactly as planned, a similar strategy today will not work.

(2) Roth-Kemp would quickly cause inflation by bringing about capacity bottlenecks. Utilization rates in today's economy are low, but only low enough to respond to a one-year tax cut, not the three-year reductions of Roth-Kemp.

Again, this is a static approach that assumes the impact of Roth-Kemp will come only on the demand side, increasing consumption, with no increase in the economy's incentives to expand capacity itself, either in quantity terms or quality terms.

THE SPENDING ISSUE

Roth-Kemp has attracted support from economists who are not supply-oriented. These theorists believe the proposal surely will lose revenues, but this will force government into greater prudence.

The difference here is a matter of intention and not final results. In the dynamic scenario envisioned by the supply-side economists, passage of Hansen-Steiger, Roth-Kemp will lead to sizeable reductions in public expenditures for social-support programs. But this would be a natural process that unfolds as a result of economic expansion.

In other words, individuals now being supported wholly or partly by the government "safety net" of welfare payments, food stamps, unemployment benefits, medicaid, etc., will be drawn into the expanding private sector from the attraction of lower marginal tax rates. They not only stop drawing resources from the productive economy through tax/spending transfer payments. They become contributors to the treasuries of federal, state and local governments.

THE ADMINISTRATION'S STATIC SPENDING PROJECTIONS

There is an implied forecast in the Carter Administration budget that nothing can be done to reverse the process by which American citizens are forced to turn to social-support transfers.

Indeed, the administration appears to make straight-line projections along an upward slope for social spending. The vision of the future is one or more people cramming into the safety net, fewer people in the productive sector. Thus, spending projections are as static as revenue projections.

Yet the Carter budget office plans on benefitting from inflation. The budget forecasters assume annual rates of inflation in excess of 6 percent in the next five years, and then calculate an increased revenue flow to the treasury as a result of an upward shift of the entire work force into higher tax brackets. Again, they give zero allowance for the continuing disincentive effects of this process.

If President Carter is wrong, as a result of the counsel he is getting, the 6 percent inflation he assumes over the next five years will accelerate the economic contraction of the last dozen years. Incentives to production will continue to collapse, the tax base will shrink, and revenues will decline in real terms even as they climb in inflated terms. The safety net will be crammed with even more numbers of Americans demanding transfer payments in order to survive.

THE DYNAMIC SCENARIO

On the other hand, supply-side economists expect the reverse situation to occur with passage of Hansen-Steiger and Roth-Kemp:

(1) an increase in real revenues through expansion of the tax/production base; and

(2) reduction in transfer payment expenditures at federal, state and local levels as individuals become ineligible for such payments by virtue of being elevated into more rewarding private sector employment.

CAN FEEDBACKS BE EXPECTED?

Excluding Social Security, social-support transfers at all levels of government are now roughly $220 billion. The number will, of course, continue to expand, if only nominally through inflation, with a high probability of expansion in real terms if tax bases are not adjusted downward to permit economic expansion. In three years, the phase-in of Roth-Kemp, the number would go to $260 billion merely by a 6 percent inflation and to $290 billion if there is also a 2 percent increase in real terms.

If Hansen-Steiger, Roth-Kemp bring about the expected economic expansion, government transfer payments would shrink.

If they shrink by one-third, government outlays are reduced by almost $100 billion per year.

If they are reduced by one-sixth, outlays fall by $50 billion.

If a tenth of transfers are eliminated, the number falls by $29 billion per year.

These are precisely the kinds of calculations made by liberal Keynesians in support of government spending programs, i.e., $100 billion "Marshall Plans" for urban renewal. The point, though, is that there are such feedback effects—in either spending programs or tax rate reductions—and it is reasonable to assume they will go a long way toward financing the Hansen-Steiger, Roth-Kemp measures.

TREASURY'S FALLACY

Treasury estimates Roth-Kemp would lose $98 billion in revenues over the three-year period. Treasury's argument is based on the fallacy that says the $20 billion cost of the first year's tax reduction can be set against current revenue projections, with the assumption that revenues will continue to expand in the second and third years, both nominally and in real terms, to reach $98 billion.

In other words, the government is inflating the work force into higher tax brackets in order to produce greater revenues, and then complaining that Roth-Kemp will cause a loss to Treasury from that inflated income stream.

IN CONCLUSION

The upshot is that the supply-side economists believe with absolute certainty that the Republican tax program will have a dynamic effect on both revenues and spending. That is, when Treasury so assertively concludes the measures would lose a hard $100 billion over three years, supply-side economists are certain this dire prediction will not be the case.

Almost no economist of any persuasion would disagree on this point. There would be some economic expansion that would both increase revenues above the projected Treasury path and there would also be a reduction in spending for social-support programs below the projected Treasury path.

Professor Laffer and the supply-side economists believe there is a high probability the combination of higher revenues and lower spending would finance the tax cuts entirely. And even if a short-term revenue shortfall should occur at the federal level, which remains a possibility, they believe the total increase in national savings will more than cover this amount. As a result, there would be no crowding-out of private capital by Treasury borrowings.

Insofar as this reduces pressure on the monetary authority to be excessive in its money creation, the effect of the Hansen-Steiger, Roth-Kemp amendments would be to retard inflationary forces. There would be less money chasing more goods, a simultaneous blow against the twin problems of stagnation and inflation.●

THE ROCKFORD AND DECATUR AND THE PEORIA TO QUINCY, ILL., CORRIDOR

Mr. PERCY. Mr. President, while the Senate is considering S. 3073, the Federal-Aid Highway Act of 1978, I want to bring to the attention of my colleagues a program which is of critical importance for the completion of two Illinois road projects—the priority primary program. Several years ago, Congress authorized the Secretary of Transportation to provide funds for the priority primary program which would include "projects of unusually high cost which require long periods of time for their construction."

H.R. 11733, the Surface Transportation Act of 1978, contains $125 million of the Federal-aid primary authorization for the priority primary program for fiscal year 1979–82. In addition, the House Public Works Committee's report on H.R. 11733 mentions several projects, including new four-lane highways between Rockford and Decatur and Peoria and Quincy, as being worthy of receiving these funds. However, S. 3073 as reported from the Committee on Environment

and Public Works eliminates this very important program. I believe this program should be continued.

The State of Illinois has been aggressive in dealing with its 11,000-mile primary road program by widening, repairing, and resurfacing whenever necessary and possible. Thus, the demands on the State's primary apportionment are of such magnitude that the State is unable to funnel significant sums into priority projects, such as the Rockford to Decatur and the Peoria to Quincy corridors, without curtailing work on other worthwhile and needed road projects. The priority primary program provides additional assistance to States to help finance their priority projects.

For ever 30 years, the Rockford to Decatur route, presently known as U.S. 51, has been the subject of discussion and study. For years, this route was considered part of the recommended Interstate System, only to be dropped from the system in the final analysis.

Cutting through the center of the State, this new four-lane highway would improve connections between several important communities: Bloomington to Decatur, South of LaSalle-Peru to Bloomington and Rockford to South LaSalle-Peru. In addition, Route 51, when completed, would also act as a connector for five existing interstate routes, I–90, I–80, I–44, I–74, and I–72. Over the next 15 years, traffic is expected to reach 20,000 vehicles per day on the Rockford to Decatur highway.

Although over $67 million has been spent on design, engineering, and construction work on this route, the remaining estimated cost to complete this 156-mile stretch of highway ranges from $360 to $415 million, depending on final design. And at the current pace of construction, the people living along this route have at least 10 more years in which to wait before this route will be completed. Clearly, this route meets the criteria for priority primary funding due to its high cost and lengthy construction time.

Frankly, the people living in the communities which this highway would affect, such as the city of Rockford, the second largest populace area in the State, are running out of patience, as I am. Mayor McGaw and residents of the area have expressed to me their frustration over the congestion caused by an inadequate highway system. The priority primary program would certainly help to accelerate work on this vital route.

One very important consideration is that a wide variety of commercial and industrial enterprises are located in and around these communities. Certainly, the early completion of this project will help to expand the market potential of the area, and would bolster the economies of the cities and surrounding rural areas.

Another project in Illinois in need of special priority primary funds is the Peoria to Quincy segment of the Chicago-Kansas City Highway. For over two decades, this freeway has been under discussion. Under the Federal-Aid Highway Act of 1973, the Department of Transportation was authorized to conduct a study of the feasibility of constructing this highway. Although the Department's report concluded that this route was feasible, special funding was not available. As recently as 1977, the Department of Defense called for upgrading of the Chicago-Kansas City corridor as a part of the Nation's strategic highway corridor network.

The critical Illinois segment of this highway is located between Quincy and Peoria. At the moment, these two cities are connected only by two-lane highways. The narrow pavement, the deficient bridges and the insufficient capacity of certain sections of these highways demands attention.

Although State and Federal funds for this project have amounted to $33 million, an additional $388 million will be needed to complete construction of this four-lane highway.

The proposed 172-mile highway will wind through areas which are rich in agricultural production and coal resources. Along or near the route are important communities, such as Peoria, Macomb, Canton, and Quincy, where numerous manufacturing companies are located.

As the economic resources of the area are further developed, employment is expected to increase 27 percent by the year 2000. The highways in the area are inadequate to meet the area's future growth potential. Without priority primary funding, it will be many years before this highway can be completed.

It is essential that sufficient funds be provided to expedite construction of these four-lane highways between Rockford and Decatur and between Peoria and Quincy. These projects are not only a priority to the State of Illinois, but also they are an important transaction link to all communities which the highways will connect.

The bottom line of the discussion is that Government must sometime induce economies to expand in ways that are tested safe and sure to provide help. Our investment in an interstate highway system bears out this philosophy. The highway improvements I have described, as well as others across this country, will provide a means for the economies of the cities and surrounding rural areas to expand and to be strengthened. Strong, expanding economies mean more jobs.

Because the priority primary program is contained in H.R. 11733 and not in S. 3073, I urge members of the House-Senate conference committee on the highway bills to include the priority primary program in the final bill reported from conference. This program would serve as an important additional source of funding for the two major Illinois highway projects. The conference can accomplish results satisfactory to Illinois and other States concerned with completing vital transportation routes. I will continue to work with members of the Illinois delegation, and will work with members of the House-Senate conference, to accomplish this end.

Today, I have talked with Senator RANDOLPH, the distinguished chairman of the Environment and Public Works Committee, regarding Illinois' primary highway needs. Most importantly, we discussed specifically the urgent need for new four-lane highways between Rockford and Decatur and Peoria and Quincy. Chairman RANDOLPH assured me that he will take our concerns to conference.

AERIAL BRIDGES TO ISRAEL OPENED

Mr. PERCY. Mr. President, on August 16, 1978, Israel and the United States signed a new aviation agreement that is of direct benefit to the citizens of both countries. It is a historic agreement because it will lead to lower fares, and facilitate travel between the United States and our most important ally in the Middle East by providing for direct service to Israel from four new U.S. cities, including Chicago in my own State of Illinois.

Signing the agreement was Warren Christopher, Deputy Secretary of State, and Simcha Dinitz, the Ambassador of Israel to the United States. Both were instrumental in reaching this agreement. I ask unanimous consent to include their remarks in the RECORD at the close of my statement.

As a result of this landmark agreement:

First. Air fares to Israel will drop 28 percent—to the lowest level ever in terms of consumer purchasing power. Citizens of the United States of every religious affiliation will now be able to comfortably afford a journey to the hallowed places of Judaism and Christianity. For Israeli citizens, trips to the United States will now be within their financial reach. Already El Al-Israel Airlines has received approval to offer a $545 roundtrip fare between New York and Tel Aviv, effective September 1, 1978. It is anticipated that the fare will be further reduced to between $449 and $499 beginning November 1, 1978.

Second. Tourism to Israel will increase: This agreement will help Israel achieve its goal to doubling by 1983 the current level of 1 million annual tourists. An anticipated 16,600 new hotel rooms will have to be constructed to meet the increased demand. These tourists will be contributing acutely needed hard currencies to the Israeli economy.

Third. Increased access to Israel: Wide-bodied direct service on El Al will now be available from Chicago, Los Angeles, Miami, and one additional U.S. city to be named later. Under the 1950 agreement which preceded this agreement, El Al could only serve New York. It is expected that service between Chicago's O'Hare International Airport and Tel Aviv and Los Angeles and Tel Aviv, will begin sometime in the spring of 1979, perhaps as early as April. The Chicago flights will probably operate twice a week and stop in Montreal en route to Tel Aviv, according to El Al officials.

Fourth. A new U.S. flag carrier to fly to Israel: On August 16, 1978, National Airlines filed an application with the Civil Aeronautics Board to begin flights three times a week from Miami to Tel Aviv beginning next April. TWA is currently the only U.S. flag carrier flying to

Israel. The National flights will operate

Israel. The National flights will operate through various intermediate points in Europe. The flights will operate between: Miami-Amsterdam-Tel Aviv, Miami-Paris-Tel Aviv, and Miami-Paris-Zurich-Tel Aviv. Service between Miami and the first European intermediate point will be via DC-10 jumbo jet. Passengers will deplane at the European point to make a convenient connection to a smaller National Boeing 727 for the final leg to Israel. National has proposed a $600 roundtrip advance purchase excursion fare during the off-peak season, which is $100 below the lowest fare offered before the signing of this agreement. The new service would also be less restrictive.

An aerial bridge has now been built from principal cities in the United States to Israel which will further cement the close people-to-people ties that bind our two nations.

Fifth. Unlimited charter flights: The agreement opens up Israel to unlimited charters from anywhere in the United States. Before the signing of the agreement, charters were only permitted by the Israeli Government to operate from California, Oregon, and Washington State. I am appending to my remarks a press release from the Civil Aeronautics Board announcing that, because of the agreement, it is dropping a requirement that El Al receive U.S. approval before conducting an on-route charter flight to the United States. The Board also added El Al to the list of 46 foreign airlines receiving blanket off-route charter authority. El Al will now be able to operate charters from any airport in the United States.

Sixth. Israel may purchase U.S.-built airplanes: Because of the increased service to the United States, El Al is now considering the purchase of additional U.S.-manufactured Boeing 747 jumbo jets and intermediate range aircraft for its European routes such as the Lockheed L-1011 or the McDonnell-Douglas DC-10.

By successfully negotiating this agreement, the executive branch and particularly President Carter should be commended for placing the interests of consumers as its top priority. The entire United States delegation merits the highest praise. I am grateful that our Government has forcefully indicated that it is just as interested in guaranteeing planes of peace flown by El Al, TWA, and National as in selling planes of war.

On the Israeli side, Ambassador Dinitz headed an extremely able Israeli negotiating team. Adding his personal support and good judgment to the making of this new procompetitive agreement was Mordechai Ben-Ari, executive chairman of El Al-Israel Airlines. Mr. Ben-Ari has been increasingly identified as an outspoken advocate of lower fares and lessened government regulation of international aviation. I am including in the RECORD an insightful article in the August 1978 issue of Airline Executive on Mr. Ben-Ari and Mr. Mordechai Hod, El Al president.

Even though Israel is a very small nation, it has taken a leadership role in international air pasenger and air freight operations. An example of this leadership was the creation in June 1976, of Cargo Air Lines, Ltd., by Mr. Hod. I am including for the RECORD an article on CAL that appeared in the July 17, 1978, issue of Aviation Week & Space Technology.

Also present at the signing was Secretary of Transportation Brock Adams who is the architect of new proconsumer guidelines for U.S. negotiators participating in bilateral air transportation negotiations. This policy is expected to be formally promulgated in the very near future. Secretary Adams was quoted as stating at the signing that—

What this (agreement) means to the traveler is more flights at lower costs from more cities. That is what the Carter Administration's international aviation policy is all about—and this agreement is an outstanding example of how it can benefit two great nations.

I would also like to underscore the role of my colleague, Senator DICK STONE, who was instrumental in bringing direct service to Miami and Israel by both El Al-Israel Airlines and Miami-based National Airlines. I am attaching his remarks on the occasion of the signing for the RECORD.

I would also particularly like to thank six outstanding and respected leaders of the Chicago Jewish community who, at my invitation, traveled at their own expense to Washington, D.C., to observe the signing. They include:

Mr. Ralph Bell, president, Zionist Organization of Chicago.

The Honorable Maurice Berlinsky, former mayor of Joliet, Ill.; with Ms. Stephanie Ann Krockey, his granddaughter;

Rabbi Seymour Cohen of the Anshe Emet Synagogue in Chicago;

Mr. Saul Silverstein, chairman of the Community Council of Jewish Organizations;

Ms. Lorel Pollack, chaiman, Chicago Action for Soviet Jewry; and

Mr. James P. Rice, executive vice president, Jewish United Fund and the Jewish Federation of Metropolitan Chicago.

Each of them is a credit to the State of Illinois because of their unremitting dedication to the State of Israel and because of their significant contributions to community and civic affairs.

Now that this historic agreement has been signed, I would like to relate an aspiration expressed by Mr. Ben-Ari for the time when peace comes between Israel and its Arab neighbors. At that time, Mr. Ben-Ari experessed the hope that El Al-Israel Airlines will join with the airlines of the neighboring Arab States to form the Middle East Airline System. Within the Middle East system, Tel Aviv might well serve as a connecting hub between intercontinental flights to the Middle East and short range flights within the region. It is my fondest hope that the day when Mr. Ben-Ari's dream might be realized is not too far off.

Mr. President, I ask unanimous consent that the material to which I referred be printed in the RECORD, together with other pertnent material.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CAB LIFTS RESTRICTIONS ON EL AL CHARTERS AS BILATERAL PROTOCOL IS SIGNED IN WASHINGTON

WASHINGTON, D.C. August 16.—The possibility of low-fare air transportation between the United States and Israel became a reality today as the Civil Aeronautics Board moved to implement a protocol signed between the two governments.

Between 1963 and 1976, the Israeli government refused to accept passenger charter flights from anywhere in the United States. In 1976, they relaxed their policy somewhat, allowing U.S.-originating charters from the west coast.

Under the protocol relating to the U.S.-Israel bilateral air services agreements signed today in Washington, the Israeli government accepts unlimited charter flights between any U.S. city and Israel. This opens to all American cities the possibility of low-cost charter flights to Israel.

The Board today therefore vacated a 1973 order (73-2-99) requiring El Al to apply to the Board for a statement of authorization to conduct any on-route passenger charters between Israel and the U.S. In addition, the CAB today added El Al to the list of 46 foreign airlines granted blanket off-route charter authority.

On-route charters are those which are conducted between cities named in a bilateral agreement. Off-route charters involve cities not specified in the agreement.

CAB Chairman Alfred E. Kahn hailed the protocol as another milestone in international aviation, "providing low-cost scheduled and charter service for travelers to Israel and the Middle East and new opportunities for our airlines."

The protocol adds four as-yet-unnamed American cities to El Al's foreign air carrier permit, expanding its scheduled service. Trans World Airlines currently is the only U.S. carrier offering scheduled air service between the United States and Israel. Under the terms of the protocol, the United States is free to designate other U.S. airlines to provide scheduled and charter service between the two countries.

After August 1, 1979, a fare filed by an airline for scheduled U.S.-Israel service can be disapproval only if both governments agree, thus allowing true price competition.

The original bilateral air services agreement between the United States and Israel was signed in 1950.

EL AL SEEKS CHANGES TO GROW AND COMPETE

(By Holly Saunders)

The former and current presidents of El Al are planning for extensive restructuring of Israel's flag carrier in order to face problems "coming from both sides of the ocean."

The current president, Mordechai Hod, was appointed in November 1977. Although new to the commercial airline business, the retired general is a veteran of aviation. Born in Israel in 1926, Hod became an Israel Air Force fighter pilot in 1950 and was a commanding officer during the Six-Day War and the War of Attrition. During the Yom Kippur War he was aviation advisor to Israeli commanding officers.

In 1973 Hod was appointed assistant to the Defense Minister and was in charge of security matters. He was instrumental in the formation of Cargo Airlines Ltd., (C.A.L.), a company designed to transport agricultural produce in co-operation with the Israel Growers Association. C.A.L. became operational in June 1976 and Hod was appointed general manager. He held that post until he became president of El Al.

The former president, Mordechai Ben-Ari, now has extended his leadership of El Al to become executive chairman of the board. At this position he is responsible for the policies and direction of the entire corporate structure of the carrier and its subsidiaries.

Both Hod and Ben-Ari agree that the current international air transport system, as well as El Al, have to be restructured in order to respond to the economic and political problems that lie ahead.

"Complete freedom of the skies", at least on routes to the U.S., is Ben-Ari's answer to some of El Al's problems. Hod agrees.

Hod believes theoretically that increased competition and lower fares should generate more traffic and result in increased profitability. But the El Al president doesn't believe that the theory can apply to El Al on the North Atlantic unless current constraints are relaxed.

The carrier's New York-Tel Aviv route comprises about 40% of its total revenue. El Al carries 80% of all traffic that moves on the route but the carrier's yield on the North Atlantic is the lowest in the industry, partly because of its high costs. In addition, 95% of that traffic is pleasure oriented moving on group and discount fares. El Al's North Atlantic yield during the 1976/77 fiscal year was only 4.3 cents, compared to Trans World's 4.58 cents.

That situation, coupled with the fact that New York is El Al's only U.S. gateway, places the carrier at a competitive disadvantage under the current system. In addition, Hod argues that El Al has the burden of being its country's only international carrier. El Al must, for national commercial and political reasons, maintain service to many areas—such as Scandinavia and Mexico—even if the economics are questionable. This does not allow El Al to emphasize service on the North Atlantic the way it would like and therefore diminishes that route's possibilities for profitability.

"This is the first time we have faced such a situation," said Hod, who attributes the low yields to the Carter Administration's consumer mindedness which has allowed prices to go down while expenses continue to increase.

Ben-Ari is even more critical of the U.S. position. He said the U.S. operates under the "disguise of freedom," but in fact dictates terms to other countries on the basis of "country-of-origin" rules. He adds that the U.S. policy eventually could provide "new vistas if brought to its logical conclusion"—deregulation.

"International civil aviation is one of the most regulated international businesses," Ben-Ari said recently. "The rules are based on sovereignty of the skies and on the fact that each country regards its air traffic as a national treasure, like oil, like minerals."

El Al's 5-year performance

Year	Pass. flown	Pass./km. flown (millions)	AS Km (millions)	Load factor	Total rev.'s $U.S. (millions)
1973–74	756,888	3609.3	5449.9	66.2	166.6
1974–75	743,109	3556.4	5253.8	67.7	193.3
1975–76	767,745	3443.2	5286.1	65.1	195.0
1976–77	960,256	4496.1	6678.2	65.9	262.0
1977–78	1,098,852	4890.4	7097.1	69.0	360.0

The El Al chairman has come to the conclusion that the only way international carriers can continue to grow both in revenues and in traffic is through an open skies approach to international air transportation.

"Today, we have reached a stage of maturity where the current system no longer works," he argues. "The only alternative to complete regulation is deregulation."

When asked how the U.S. would compete in an open skies environment, Ben-Ari admitted that it may result in fewer U.S. carriers in the marketplace, especially U.S. supplements. He believes they would have to obtain scheduled rights, merge with a scheduled carrier or be forced out of business.

In recent negotiations with the U.S., the Israelis won four additional gateways—probably Miami, Los Angeles, Boston and Chicago. Two points will be awarded immediately and two a year from now when a new fares articles will be instituted prohibiting either country from taking unilateral action, and allowing third countries to match low fares. Blind sector beyond rights were given to El Al from all U.S. points to Asia and South America and from one U.S. point—probably Miami—to Mexico. Charter rules also were liberalized.

On other horizons, President Hod said negotiations are expected "in the near future" for routes to Brazil and Argentina. He also wants to extend routes to the far east to Bangkok via Teheran. An estimated 25,000 Israelis fly from Tel Aviv to Bangkok on Air France and Alitalia. The president says this traffic should belong to El Al. Bangkok represents a good future market for Israel as a direct route, a crossroads and an around the world point, especially if the carrier is given fifth and sixth freedom rights from the U.S. and Bangkok.

In an attempt to foil low-fare concepts such as the Laker Skytrain, Ben-Ari is proposing a new fare structure for the industry. It would be a three-tiered concept offering services tailored to how much the passenger pays.

"We are selling for the price of a Volkswagen, the service of a Cadillac," said Ben-Ari. The passengers paying Cadillac prices are being discriminated against because they must travel under the same conditions as passengers paying 25–50 percent less, he added.

The three-tiers would be deluxe, business and holiday. The deluxe class would offer service superior to current first class service and the fare would be increased. Business class would be based on a 34-inch pitch seating configuration with service features "identical" to those presently being offered in first class.

Holiday class would be offered to passengers at approximately 50% discounts off current economy class fares. Seat pitch would be reduced to 32 inches and there would be no-frills service.

"Our seeking of complete freedom of the skies and a new milieu of international air transportation coupled with this new concept of service in the aircraft, . . . will bring El Al into a new era of growth and future development," predicts the chairman.

El Al is considering the purchase of a medium range, widebody aircraft which represents a luxury that, until now, the airline could not afford. Front runners for selections are the Airbus Industrie A300 and the Lockheed L-1011-400.

Previously, all aircraft in the El Al fleet had to operate on all routes with reasonable efficiency. Departing from this philosophy, the new aircraft is being selected specifically to serve European routes, which contribute 50% of El Al's revenue.

The airline eventually will have three types of aircraft. Medium to short range widebodies for the European sector, long range 747s, which the chairman says are the best aircraft ever produced, and something in between which will solve the need for long and medium range routes with relatively low traffic density.

El Al also plans to expand its cargo operations, concentrating on agricultural produce. From September to May of this year, El Al flew 50,000 tons of agricultural produce. In the next two to three years, El Al plans to fly 200,000 tons of produce on what will become their "skytrain" operation. A large portion of the increased tonnage is expected to be diverted sea freight. If El Al is successful at diverting this sea traffic, in three years it is estimated the figure will rise to 400,000 tons per year.

To accommodate this projected growth, the airline has added a Boeing 747C, El Al's sixth 747, and has a 747F scheduled for delivery in March 1979.

Beginning in 1984, the airline will replace its ten 707-420s—some of which are eighteen years old—in two stages. The aircraft to replace the 707s is likely to be the Boeing 777. The existing El Al fleet is exclusively Boeing. Although the chairman says it is desirable to have a one-manufacturer fleet, it is not mandatory. Ben-Ari also said that if the Boeing 767 existed today, El Al would have no hesitation about choosing it for their European routes. And if a Boeing equivalent of the supersonic transport ever develops, El Al would be at the top of the waiting list, according to Arnold Sherman, former public relations director and now director of operations in Athens.

In 1977, the country's thirtieth year, Israel reached the one million tourists mark for the first time. Overall tourism has been increasing at an annual rate of between 23 percent-28 percent. A rapid decline in U.S. tourism occurred in 1977, dropping from an annual growth rate of 50 percent in 1976 to 32 percent in 1977, because of budget fares to other parts of the world. Currently, even charters in Israel can't compete with some international discount fares. Until the holiday class fare is in effect, the entire Israeli tourist package is still too expensive because of comparatively high air fares, even though land arrangement prices are reasonable.

TOURISM DOLLARS NEEDED

Economically, Israel needs the dollars generated from tourism, and is making an organized effort to expand and improve this industry. The Ministry of Commerce, Industry and Tourism is encouraging conventions and conferences to promote business traffic to Israel which currently accounts for only 5 percent of El Al's traffic. Israel accommodates approximately 70 conventions yearly, but with lower air fares, officials believe this figure could double within a few years.

The government has developed a package of incentives to encourage foreign and domestic inventors to develop business and hotels in Israel. With a 50 percent inflation rate, it is difficult to attract investors, but the government is offering tax exemptions, long-term, low interest rate loans and grants of up to 12 percent of investment cost to desired investors. The government will pick up 50 percent of the total research and development expenses and offers academic incentives as well. The average Israeli salary is $375 monthly which means labor costs are relatively low.

Hotel construction was frozen in the aftermath of the 1973 Yom Kippur War but is now being encouraged. By 1983 Israel plans to accommodate an anticipated two million tourists who will require 40,000 hotel rooms, an increase of 16,000 over the current 23,400. Under the holiday fare package, an individual passenger will receive a 24 percent discount off 5-star hotel rates and plans are underway to make more economy class hotels available.

One cannot mention tourism with respect

to Israel without addressing the seriousness of the political situation, which directs the country's economy. El Al's main national task is to provide a link to the outside world in times of war and peace—not to make a profit. While the outbreak of war has not stopped El Al from flying, it has of course lowered the profitability of the airline and decreased tourism. But in Israel, and at El Al, profitability is not a condition of operation—El Al planes will fly.

The economics of peace could mean an extreme shift in the national budget. Currently one-third of Israel's budget goes toward defense, one-third for paying back loans from other countries, and the other third is in the national reserve—used for such services as education, future investment and other social services.

Whatever political changes the country faces, economic changes are inevitable, and Israel wants to be in control. Israel is gearing up for expanding its influence in the international marketplace by increasing exports, expanding tourism and developing industry and productivity while at the same time it is trying to hold in check in "diseases of the western society," says Meir Amit, Minister of Industry, Commerce and Tourism.

El Al "did not cost the Israeli taxpayer one penny" last year, and it provided Israel with one of the most important economic entities in the country, according to Chairman Ben-Ari.

El Al is the second biggest exporter in the state of Israel, accounting for 6 percent of all exports and 3 percent of the gross national product. It employs over 5,000 people, and although just one-seventh the size of Pan Am and only six-sevenths of an airline (operations cease on the Sabbath from sundown Friday to sundown Saturday—operating only six days out of seven), El Al still broke even for 1977–78 and turned over $360 million revenue. Says Ben-Ari, "we are going to be an airline with $1 billion turnover by the end of the next decade."

This is not a small achievement and did not happen without problems, which unfortunately, still trouble the airline in 1978. Serious labor difficulties have plagued El Al in the past few years, and although talks are underway, a resolution is not in clear sight.

TRADE UNION CONFLICTS

There are conflicts of interest between the trade unions, resulting in the threats of strikes and wildcat strikes. Each work group has its own trade union and until recently negotiated contracts separately. Splinter groups refused to accept the discipline of the national labor union, the Histradrut, so the "will of the national interest has not been imposed," an El Al official said.

El Al management has made some progress by setting up an airline counsel where each trade union is represented. The counsel negotiates for all member unions with the management. El Al officials stressed the fact that they are "going forward" with these group negotiations. They added that a "proper solution . . . (would be found) . . . if possible with the consent and the agreement with our labor representation, if impossible, by other means."

International terrorism continues to represent a serious threat to the security of El Al and all international airlines, believes Ben-Ari. "We are mistaken when we think that the present silence is an end to terrorism in civil aviation," he said.

Ben-Ari has submitted detailed proposals to IATA in an attempt to alert airlines and governments to the "clear and present danger of international terrorism" and to achieve greater organization to combat this potential threat to "the very existence of civil air transport."

Ben-Ari's policy of "active defense" is based on two firm rules: foil the attack before it can take place and do not rely on only one method of security—such as baggage screening. These rules, along with his assertion that what has been done thus far is far from sufficient, is Ben-Ari's prescription for combating this crucial situation.

Ben-Ari was president of El Al during the first terrorism attacks and is painfully aware of the nature of the beast. El Al security probably the most thorough of any carrier in the world and it is the application of these policies that have made it so.

CONGLOMERATE STRUCTURE

The appointment of Mordechai Ben-Ari as executive chairman of the board allows him to oversee the entire infrastructure of El Al which has grown into a conglomerate.

The parts are:

Teshet: A wholly owned subsidiary of El Al specializing in aviation and tourist services including international hotel management, marketing outlets, ground handling services for passengers and cargo, and kosher food plants in the U.S., U.K. and Israel. The objectives of Teshet are to own and manage non-flight activities of El Al.

El Al Charter Services, Ltd.: A new wholly owned subsidiary specializing in marketing charters between Israel and Europe.

Arkia Inland Airlines: Owned 50% by El Al, and 50% by the national labor union, the Histradrut, Arkia is the country's domestic carrier, founded in January 1950, offering scheduled and charter service to all parts of Israel.

El Al is currently negotiating for an agreement with the Israel Agricultural Boards of Production and Marketing, the owners of Cargo Airlines Ltd., for 50% ownership of C.A.L.

C.A.L. is a non-scheduled, non-IATA cargo airline which carried 36,259 tons of agricultural and industrial exports and 22,260 tons of miscellaneous imports in 1977. Anticipated growth in 1978 is 58,000 tons of exports and 36,000 tons of imports. C.A.L. currently leases one 747F from El Al, one 747–100F from Flying Tiger Line and operates one 747B, one 707B, and one DC–8–63 leased from various international companies on a short-term basis. The fleet planned for 1979 consists of four 747Bs and other narrow body aircraft including DC–8s and 707s.

An interministerial committee has been developed to oversee El Al's operations to make certain that these potentially conflicting activities remain "kosher." This committee will submit recommendations regarding the advisability of expanding El Al's power to own subsidiaries. The committee serves as an impartial third-party in evaluating such issues as whether El Al or Arkia should serve certain charter routes. The ministries involved are the Ministry of Finance, the Ministry of Transportation and the Ministry of Commerce, Industry and Tourism.

"I am confident in the basic principle of efficiency, of economy, by having all the means in one hand, and exploiting them in a co-ordinated way," states Ben-Ari, ". . . Using on the other hand the specialization required for the various fields of activities, under central planning and co-ordination, is the milieu which gives . . . the possibility to every one of the components of this conglomerate to compete one with the other, but all of them against foreign countries, and at the same time to assure the lowest possible cost per production unit."

With this guiding philosophy and the restructuring plans, the Hod/Ben-Ari team is confident of El Al's future, in 1978 and beyond.

[From the Aviation Week and Space Technology, July 17, 1978]

C.A.L. BUILDS MIDEAST-EUROPE ROUTES

(By David A. Brown)

TEL AVIV.—Israeli all-cargo airline, C.A.L., is establishing a network for cargo routes between Europe and the Middle East with the expectation that Israel will become the area's major distribution and transshipment center if a Middle East peace agreement is reached.

In the meantime, the carrier, formed less than two years ago, is aggressively pioneering airborne export of Israeli agricultural produce and the import of European industrial goods.

At the same time, it has worked to solve the traditional air cargo problem of backhaul cargo and has reduced the nonproductive mileage flown by careful route selection.

C.A.L.—for the Cargo Air Lines Ltd.—was formed in June, 1976, by Gen. Mordechai Hod, retired air force chief of staff and now president of El Al Israel Airlines (AW&ST Dec. 2, 1977 p. 31). It began operation in November 1976.

The airline was formed in response to needs of the Israel Agricultural Boards of Production and Marketing for a way to transport perishable agricultural products from Israel to European markets quickly in order to eliminate the need for expensive refrigerator shipping.

This provided substantial, although seasonal, westbound traffic and it was hoped that by providing the capacity and frequent service, sufficient eastbound cargo could be attracted to cut freight costs by making full use of the capacity available and keeping utilization of the aircraft at a high level.

Since the export cargo volume is seasonal and C.A.L. has to adjust its capacity over a wide range to compensate for this, the carrier leases all of its aircraft.

Peak season is from mid-October through mid-May, when Israeli agricultural exports are heavy and it is during this period that C.A.L. carries about 70% of its annual volume of cargo. During the months from mid-May to October, the carrier drops its capacity to about a third that of the peak period.

In planning its routes, C.A.L. decided that the most efficient course to follow was to have one point in Europe to which most cargo could be trucked and processed through a central warehouse. This saved on flight costs to additional cities and permitted the carrier to work all its customers' cargoes together to insure a full load on every eastbound flight.

Site selected for this terminal was Cologne/Bonn airport in West Germany, where traffic was relatively light and where the airport administration was anxious to get additional business.

Airport officials have invested more than $5 million in cargo facilities for air carrier use and as a result have seen the total cargo moving through the airport rise to 70,000 tons in 1977, the majority of which was carried by C.A.L.

C.A.L. also uses Munich for about a fifth of its total eastbound traffic and operates occasionally on demand to Rome, Paris, Marseille, Amsterdam and Brussels.

The carrier established agreements with European trucking firms to distribute cargo from Cologne and Munich to the rest of Europe, since it is almost as fast—and about four times cheaper—to truck goods from Munich or Cologne as it is to fly them to a second destination.

Produce destined for Britain, for example, is flown to Cologne and trucked to London, resulting in one-day service from Israel.

During 1977, C.A.L.'s first full year of operation, the airline flew 240 million revenue ton/kilometers, carrying 58,000 tons of cargo in and out of Israel. Forecast for 1978 is 380 million revenue ton/kilometers with 58,000 tons being exported from Israel and 36,000 tons being imported.

C.A.L.'s fleet for 1977 consisted of a 747 leased from Flying Tiger, one leased from El Al, the cargo half of a 747 leased from El Al, a DC–8–63 leased from Trans International, a Boeing 707 leased from TAP of Portugal and a 707 leased from El Al.

All were wet leases except the Flying Tiger

aircraft, which was dry-leased and operated by El Al crews.

For the coming heavy season, beginning next October, the airline plans to lease two 747C combis from El Al and a 747F freighter from El Al after it is delivered in the early spring, a 747 from Flying Tiger and three smaller aircraft. El Al also will provide backup service with a 747F when needed.

C.A.L. plans to operate the 747s on a cargo shuttle basis to Cologne and Munich and the smaller aircraft to other destinations as needed.

In addition to serving the route between Europe and Israel, C.A.L. is engaged in planning and developing routes to other countries with the dual purpose of expanding its service now and establishing a network that will permit it to play a role in transshipment by air of goods from Europe to all the Middle East if an overall peace settlement is reached.

Initially, these efforts have centered on carrying agricultural produce from nearby nations, such as Greece, Turkey and Cyprus, to Europe and providing a backhaul cargo by carrying industrial goods from Europe to Iran. This leaves only the relatively short leg from Teheran to Tel Aviv as an unproductive route segment.

Future expansion is planned along a line from Europe to Hong Kong, via Israel, Iran, India and Thailand. Planning studies indicate that there should be sufficient cargo in both directions along this basic route to permit a high-capacity, low-rate cargo operation to be profitable.

C.A.L.'s future, however, is being pinned heavily on a peace settlement opening up virtually all of the Middle East to it and economic studies already show that transshipment of goods to Saudi Arabia via Tel Aviv could cut shipment costs by as much 50%.

As an example, to ship 100 tons from Europe to Riyadh at present requires about 48 hr. of 707 time. If this shipment could be combined with others, shipped to Tel Aviv on a 747 and transshipped to Riyadh by 707, large reductions in cost could be made by cutting to a minimum the distance the aircraft have to fly empty.

By routing goods from Europe to Saudi Arabia via Tel Aviv, for example, nonproductive flight time could be cut from the present Riyadh-Europe segment for a 707 to only the Riyadh-Tel Aviv segment, while at the same time taking advantage of the lower cost of shipping from Europe to Tel-Aviv on the more efficient 747.

At present, C.A.L. estimates that it has a constant backlog of 400–500 tons in its warehouse at Cologne bound for Israel, which permits continual high loads on the eastbound route. This is accomplished by concentrating all or at least most of the cargo from Europe to Israel at one or two points for onward shipment by air, according to Gilon Zohar, C.A.L. vice president-commerce.

The reverse situation also is possible in the Middle East, C.A.L. officials believe, by concentrating the cargo at Tel Aviv for onward shipment to Europe.

Cost advantages of this can be significant. C.A.L. estimates that it can carry aluminum from Europe to Tel Aviv for 13 cents per kilo. The lower deck of the 747 is well-suited for heavy material shipment, C.A.L. believes.

Such concentration also has other advantages. C.A.L. has an agreement with the Cologne/Bonn airport officials that provides a reduction in the operating costs of all flights out of the airport if the carrier flies more than 400 flights per year. This will permit C.A.L. to operate out of Cologne for only about one-third of the cost of operating from Amsterdam.

By leasing its aircraft, C.A.L. also has been able to operate with a relatively small staff. It has only about 60 employes, including those which are based in Cologne.

C.A.L. also is seeking to profit from sideline activities it has entered as a result of its airfreight needs.

Car carrier designed by C.A.L. is manufactured for it by Trans Equip Inc. of Los Angeles, with the airline receiving a royalty on carriers sold to other users.

STATEMENT ON THE SIGNING OF THE US-ISRAEL CIVIL AVIATION AGREEMENT

(By Senator Richard Stone)

As Chairman of the Senate Foreign Relations Subcommittee on Near Eastern and South Asian Affairs, it was a great pleasure to witness the signing of the newly revised United States-Israel Civil Aviation Agreement. This event ushers in an exciting new era of air transportation between our two countries.

I am particularly pleased that Miami, Florida, will be one of four additional gateway points for direct flights to and from Israel. The people of Florida have long sought this service and I want to congratulate this Administration for bringing this agreement to a successful conclusion.

On Wednesday afternoon (August 16), National Airlines formally filed an application with the Civil Aeronautics Board requesting permission to provide three flights a week between Miami and Tel Aviv, beginning in April 1979. National plans to offer low, discount fares on these flights.

I made repeated attempts with the previous Administration to secure this type of agreement but all those efforts were unsuccessful. On January 28, 1977, only one week after President Carter took office, I wrote him asking for the granting of additional landing rights in the United States and for Miami in particular. As you can tell, this Administration wanted to get the job done.

Significant fare reductions have already been announced and approved by both governments. Because United States domestic carriers have applied for service to Israel, the spirit of this long-needed revised agreement is taking shape. I want to congratulate President Carter, the State Department and the White House officials who worked tirelessly along with Ambassador Dinitz and his staff at the Embassy of Israel. This is a great breakthrough benefitting the people of both our countries. It was a long time coming, and will be appreciated for a long time.

NATIONAL AIRLINES

MIAMI.—National Airlines requested authority today from the Civil Aeronautics Board to fly from Miami to Switzerland and Israel.

The airline proposed to serve Zurich and Tel Aviv as an extension of its nonstop flights to Paris and Amsterdam.

Present direct service from the U.S. to Israel is available only from New York, Chicago and Boston. The Miami flights would provide the first direct service from the South.

In a schedule proposed for the summer of 1979, National said it would operate one flight weekly each between Miami-Amsterdam-Tel Aviv, Miami-Paris-Tel Aviv, Miami-Paris-Zurich-Tel Aviv, and Miami-Paris-Zurich.

The airline said it will provide direct online connections at Miami for most of the Florida cities it serves, plus New Orleans, Houston, Los Angeles and San Francisco.

National pointed out that the U.S.-Israel and U.S.-Switzerland markets currently are served primarily by foreign flag airlines.

El Al, the Israeli airline, carries about 90 per cent of the U.S.-Israel traffic. Trans World Airlines, the only American carrier with authority to Zurich, currently does not schedule flights to that city, leaving Swissair with the only service from the U.S.

National believes there is tremendous potential for developing business and vacation travel from the Sun Belt states to Switzerland. Florida has emerged as a major banking center, for example, a factor which should contribute to strong business traffic on the route.

The airline also noted that it expects to participate in large group movements of passengers wishing to visit Israel as part of organized tours.

National reminded the CAB that it had initially proposed extension of European services to Tel Aviv and Zurich in the Transatlantic Route Proceeding nearly five years ago.

Another reason cited for the request was "radically improved air relations" with Israel. A more liberal aviation treaty between the U.S. and Israel is expected to be signed today.

The agreement will enable the U.S. to make multiple designations of U.S. airlines to Israel. Israel, in exchange, has been granted rights to four new U.S. cities. One of them—Miami—was prominently mentioned during the negotiations as a likely point for new services by El Al.

The filing noted that Miami/Fort Lauderdale contributed nearly 10,000 passengers to the Tel Aviv market in 1976, with other National points in Florida responsible for an additional 3,000. The airline's on-line Florida cities and across the southern tier of states accounted for 56,000 passengers between the U.S. and Tel Aviv-Zurich combined during the same period.

REMARKS AT SIGNING CEREMONY FOR U.S.-ISRAEL AVIATION AGREEMENT

(By Deputy Secretary of State Warren Christopher)

Mr. Ambassador, Members of Congress, Secretary Adams, and Distinguished Guests:

I am pleased to welcome you to the signing of the new aviation agreement between the U.S. and Israel.

This agreement is a major step forward in the U.S. Government's new pro-competitive aviation policy. The agreement includes three significant provisions designed to expand air service between our two countries and to make available to consumers the benefits of increased competition.

First, Israeli airlines will be able to serve four additional U.S. cities of their own choosing, and U.S. airlines are permitted to serve Israel from all cities in the U.S.

Second, unlimited charter service by airlines of both countries is permitted, subject only to the requirement that charter flights conform to the charter rules of the country in which they originate.

Third, airlines are permitted to compete freely in offering lower air fares, unless the governments of both countries disapprove the fare. This third provision requiring disapproval of both countries to block a lower fare is an innovation in international aviation agreements that we feel can be highly effective in stimulating new low fare offerings.

Taken together, these three provisions symbolize the new commitment to competition in U.S. Government aviation policy. I think it is fair to say that this agreement, and several others negotiated in the past year, are breaking new ground in international aviation.

We hope and believe airlines of both countries will take advantage of the opportunities offered by this agreement. We also hope that the principle of enhanced competition embodied in this agreement will be increasingly reflected in other international aviation agreements.

REMARKS BY HIS EXCELLENCY SIMCHA DINITZ

After long, difficult, but successful negotiations, the United States and Israel have finally reached an agreement which is the most liberal air agreement ever signed.

This agreement expresses the mutual desire of both countries to facilitate the expan-

sion of international air transportation by

ist attractions, to view its magnificent

build beautiful buildings—notably the parl

sion of international air transportation by making it possible for airlines to offer the travelling and shipping public a variety of service options at the lowest and most competitive fares.

This agreement provides for unlimited rights for charter flights from both countries and gives Israel the right to operate through four additional cities in the United States.

Since 1950 when the bilateral air agreement between the United States and Israel went into effect, Israel has tried to expand its services in the United States. After 28 years we are now entering a complete new era in the aviation relations between our two countries.

For Israel the new agreement opens the gates for expansion of the air traffic between our two countries, thus promoting tourism and facilitating more intimate relations between the people of the United States and Israel. It will also provide El Al Israel Airlines with the opportunity and the challenge to expand its activities in this country.

The list of the people who took part in the efforts to achieve this agreement is very long and we are grateful to all of them. We would like to thank Mr. Styles, the chairman of the U.S. delegation, and all the members of his delegation who worked very hard to get this agreement. We would also like to thank Undersecretary Cooper and Assistant Secretary Katz who directed this effort.

To our many friends in the executive and legislative branch of the government who have been helpful in bringing about this agreement, our thanks and gratitude.

We are confident that the new opportunities created by this agreement will work for the benefit of our two countries and for the benefit of the individual traveler. This individual, is after all, the cornerstone upon which the bridge of friendship and understanding between our two countries is built, stretching over ocean and seas to unite people of common purpose and common destiny.

TRIBUTE TO EDWARD DURELL STONE

Mr. PERCY. Mr. President, on Sunday, August 6, 1978, Edward Durell Stone, one of the great American architects of the 20th century, died in New York. Few modern architects have had the influence of Mr. Stone, whose diverse projects included the Museum of Modern Art and the General Motors Building in New York, the U.S. Embassy in New Delhi, the Standard Oil Building in Chicago, and the Kennedy Center for the Performing Arts in Washington.

Mr. Stone felt that the desire of every good architect was "to imbue a building he designs with beauty." This desire was incorporated in all his works as he often used marble, ornate grilles, rich woods, and windows in creating elegant and effective structures. He took much pride in his works, particularly as he felt they were greatly enjoyed by the general public. He took pleasure in telling friends, when speaking of the General Motors Building in New York, that "every taxi driver in New York will tell you it's his favorite building."

One of Mr. Stone's most well-known projects is the Kennedy Center for the Performing Arts in Washington, D.C. As the Nation's center for the arts, the Kennedy Center is visited by millions of people each year. Many come to enjoy a symphony, opera, or play performed in one of the Kennedy Center's three beautiful theaters. Countless others visit the Center, one of the Capital's largest tourist attractions, to view its magnificent Halls of States and of Nations or to revel in its spectacular overlook of the Potomac. Mr. Stone was pleased to see the Center become, in his words, the "cultural focus for the city of Washington," saying that it gives him "great joy to see the throngs of people truly enjoying the facilities provided."

On August 11, 1978, the Washington Post published an editorial about Mr. Stone and his contributions to our American architectural heritage. Mr. President, I ask unanimous consent that the Washington Post's editorial on Edward Durell Stone be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 11, 1978]

EDWARD DURELL STONE

If Edward Stone had designed no building in Washington other than the John F. Kennedy Center for the Performing Arts, he still would be regarded as one of the city's important architects. As it is, Mr. Stone also designed the Georgetown University Law School and the National Geographic Building—a work architecturally superior to the Kennedy Center in most ways. But the Kennedy Center was his major effort here, and his major legacy. And the fact of its success as a place for art, if not as a thing of beauty, testifies to how fully Mr. Stone understood this city, and the arts as well.

The Kennedy Center is so much a part of Washington now that it's odd to think back to the late '50s and early '60s, when its existence was up for grabs. First the "national cultural center" was to consist of "several 300- to 400-seat rooms" in addition to three enormous main theaters. It was to be 900 feet long, and to cost $50, no $61, no $75 million. There was congressional clamor. Then the price was slashed to $30 million, and the architectural plans reduced accordingly—just in time, of course, for the price to more than double. At one point in 1962, Mr. Stone changed his design to a cluster of separate buildings. To top everything, there was a barrage of 11th-hour attacks on the proposed site of the center: It would overwhelm the city's memorials; it would be inaccessible to those without cars; it would be better located downtown.

Mention those arguments to those who led the attacks in 1964 and 1965, and the hackles rise even now. The most deep-seated worry was not that the cultural center would dwarf the national monuments, but rather that it would become a national monument in itself, and thus not be a place where a fluid culture thrives. Observe the center coldly today, and you understand the concern—which was shared by The Post at the time. There it squats—all 630' x 300' x 100' of it—a short way from the Lincoln Memorial, which it imitates poorly.

Yet Mr. Stone understood what he was doing with the Kennedy Center, perhaps far better than anyone imagined. The building is colossal, but it is also clever. Its size is broken into manageable units for the eye. The grey and white marble on the terrace is patterned in squares and rectangles, so as not to shoot down in one infinite path. The doors are high as well as wide. The trees and fountains flourish in their own compartments. And there's the location itself. No cultural center in the country has a more beautiful view. Nor is there a more pleasant place to stand during intermission or after a performance than on that terrace below which the Potomac miraculously becomes the Thames.

The Kennedy Center is not a beautiful building, but as a place of performance it is a beautifully functional one. Mr. Stone did build beautiful buildings—notably the pavilion at the Brussels World's Fair, and New York's Museum of Modern Art—but the beautiful, the special buildings stopped after his famous American embassy in New Delhi (some say just before it), and, like Orson Welles, he became a celebrity at about the same time beset aside the original force of his talent. Yet he was always a serious artist. He spoke sincerely of the need to convey "courage" and "dignity" in buildings, and he condemned "the colossal mess we've made of this country" with true rage. As for the Kennedy Center, he undertook the task as a national trust and sought to create a place where one can enjoy the arts wholeheartedly. That he did.

LEAA AND THE COURTS

Mr. THURMOND. Mr. President, I bring to the attention of my colleagues certain observations by Mr. Ralph N. Kleps with regards to the U.S. Law Enforcement Assistance Administration (LEAA) grants in the area of federally financed court improvement projects.

Mr. Kleps is presently a judicial consultant since his retirement as court administrator of the California Supreme Court. Speaking before the Conference of State Chief Justices, he notes that LEAA grants have been the most important catalyst for improvement in the judicial system in the past decade. He points out that LEAA funds have been wisely used by the courts to institute organizational and management changes and also to promote education and research.

However, Mr. Kleps warns that Federal aid often leads to Federal dictation and bureaucracy and suggests that State courts be vigilant of this fact.

Later this week, the Senate Criminal Laws Subcommittee will resume its LEAA reauthorization hearings. One of the central issues will focus on whether LEAA aid to State courts can be effected without Federal domination or control of them. Mr. Kleps' survey will help build the record on this crucial point.

An account of Mr. Kleps' observation is included in the following article from the Barre, Vt., Times-Argus. Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Barre (Vt.) Times-Argus, Aug. 1, 1978]

COURTS "LAST BASTION" AGAINST BUREAUCRACY

(By Judy Polumbaum)

BURLINGTON.—Courts are "perhaps the last bastion" against the encroachment of federal power into state affairs, a former California court administrator declared Monday.

Judges nonetheless have reason to be wary of federal assistance to state court systems, Ralph N. Kleps told the Conference of Chief Justices at the Radison Hotel here.

Kleps, a freelance judicial consultant since retiring from the administrative job last year, has completed a survey of federally financed court improvement projects in all 50 states.

He said the study indicates U.S. Law Enforcement Assistance Act (LEAA) grants have been "the single most powerful impetus for improvement" in the past decade.

And while a few court projects were undertaken in response to pressure from Washington, "those isolated instances do not add up to federal domination," Kleps observed.

But programs like LEAA which are

"oriented toward accommodating change through the federal bureaucracy" contain the seeds of federal dictation, he suggested.

Kleps advised the justices, "Beware of the Trojan horse," and added: "Federal aid is acceptable, but federal financial coercion is not."

The Californian's remarks followed a two-hour discussion Monday afternoon concerning pending federal legislation to restructure the LEAA.

The chairman of the judicial gathering here, Ohio Chief Justice C. William O'Neill, said state judges fear the legislation would dilute their control over the use of federal funds for the courts.

In the past, said O'Neill after the session, justices criticized LEAA because courts had a hard time competing for funds over law enforcement agencies and other groups "with political muscle."

Their criticism of LEAA reforms advanced by the administration of President Carter and in Congress revolve around a provision to funnel federal money directly to large cities.

The measure is "in line with present trends" regarding financing for urban areas, O'Neill remarked. But it is worrisome to judges, who believe "the judicial system ought to be organized on a statewide basis, he said."

Details of proposed LEAA changes, contained in an administration-backed Senate bill called the Justice Systems Improvement Act of 1978, were presented to the chief justices Monday by Walter Fiederowicz, a deputy associate attorney general in the Justice Department.

The bill, introduced at a White House ceremony July 10, is expected to go through numerous amendments and changes as it travels through congressional committees. Another version is expected to surface in the House, and a third version has been introduced in both the House and Senate by the American Bar Association.

Fiederowicz said the Senate proposal would create a National Institute of Justice to consolidate research, and a Bureau of Justice Statistics to bring together data. A third agency would handle the allocation of LEAA funds.

For the first time, Fiederowicz said, cities of 100,000 or more and counties or jurisdictions of 250,000 or more would be able to apply for LEAA grants.

In the past, only states have been eligible to receive the money. The states in turn have allocated the funds to local law enforcement agencies and to the courts.

LEAA has provided states with $6 billion in the past 10 years. The new Senate's proposal would provide $3.3 billion over the next four years. During the past decade, Vermont has received almost $1 million.

Kreps noted police and sheriff's departments awarded LEAA money have "tended to go overboard on hardware," particularly on uncoordinated computer systems.

But in the courts, he said, LEAA funds "have gone into organizational and management changes, into education, and into research."

Suggesting that federal assistance will continue to be useful to state courts, Kreps urged the justices to help frame guidelines for federal participation in court reform.

He said he would favor pushing for demonstration grants, technical aid, establishment of an independent judicial research foundation and the assurance that all projects be negotiated through the leadership of the state court systems.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar orders Nos. 1043 and 1044.

Mr. BAKER. Mr. President, reserving the right to object.

The PRESIDING OFFICER. Reservation is heard.

The Senator from Tennessee.

Mr. BAKER. Mr. President, I will not object. Calendar orders Nos. 1043 and 1044 are clearly on our calendar. We have no objection to proceeding to their consideration and their adoption.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL DISTRICT COURT ORGANIZATION ACT OF 1978

The Senate proceeded to consider the bill (S. 3375) to amend title 28 of the United States Code to make certain changes in the places of holding Federal district courts, in the divisions within judicial districts, and in judicial district dividing lines, which had been reported from the Committee on the Judiciary with amendments as follows:

On page 2, line 11, strike "(b)" and insert "(c)";

On page 3, at the beginning of line 4, strike "and";

On page 3, line 4, after "'McHenry,'" insert "and "Pierce,";

On page 5, line 15, strike "Tomkins" and insert "Tompkins";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal District Court Organization Act of 1978".

PLACES OF HOLDING COURT

SEC. 2. (a) The last sentence of section 97 (a) of title 28, United States Code, is amended to read as follows:

"Court for the Eastern District shall be held at Ashland, Catlettsburg, Covington, Frankfort, Jackson, Lexington, London, Pikeville, and Richmond.".

(b) The last sentence of section 104(a)(1) of title 28, United States Code, is amended to read as follows:

"Court for the eastern division shall be held at Aberdeen, Ackerman, and Corinth.".

DIVISIONS WITHIN JUDICIAL DISTRICTS

SEC. 3. (a) Section 98(c) of title 28, United States Code, is amended to read as follows:

"Western District

"(c) The Western District comprises the parishes of Acadia, Allen, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Caldwell, Cameron, Catahoula, Clairborne, Concordia, Jefferson Davis, De Soto, East Carroll, Evangeline, Franklin, Grant, Iberia, Jackson, Lafayette, La Salle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabin, Saint Landry, Saint Martin, Saint Mary, Tensas, Union, Vermilion, Vernon, Webster, West Carroll, and Winn.

"Court for the Western District shall be held at Alexandria, Lafayette, Lake Charles, Monroe, Opelousas, and Shreveport.".

(b) Section 114 of title 28, United States Code, is amended—

(1) in paragraph (2), by striking out "Sheridan, Steele, Stutsman, and Wells" and inserting in lieu thereof "Steele, and Stutsman";

(2) in paragraph (3), by striking out "Bottineau," "McHenry," and "Pierce,"; and

(3) by amending paragraph (4) to read as follows:

"(4) The Northwestern Division comprises the counties of Bottineau, Burke, Divide, McHenry, McKenzie, Mountrail, Pierce, Renville, Sheridan, Ward, Wells, and Williams.".

JUDICIAL DISTRICT DIVIDING LINES

SEC. 4. (a) Section 89 of title 28, United States Code, is amended—

(1) in the first paragraph of subsection (a), by inserting "Madison," immediately after "Liberty,"; and

(2) in the first paragraph of subsection (b), by striking out "Madison."

(b)(1) Section 93 of title 28, United States Code, is amended to read as follows:

"§ 93. Illinois.

"Illinois is divided into three judicial districts to be known as the Northern, Central, and Southern Districts of Illinois.

"Northern District

"(a) The Northern District comprises two divisions.

"(1) The Eastern District comprises the counties of Cook, De Kalb, Du Page, Grundy, Kane, Kankakee, Kendall, Lake, La Salle, McHenry, and Will. "Court for the Eastern Division shall be held at Chicago.

"(2) The Western Division comprises the counties of Boone, Carroll, Jo Daviess, Lee, Ogle, Stephenson, Whiteside, and Winnebago.

"Court for the Western Division shall be held at Freeport and Rockford.

"Central District

"(b) The Central District comprises the counties of Adams, Brown, Bureau, Cass, Champaign, Christian, Coles, De Witt, Douglas, Edgar, Ford, Fulton, Greene, Hancock, Henderson, Henry, Iroquois, Knox, Livingston, Logan, McDonough, McLean, Macon, Macoupin, Marshall, Mason, Menard, Mercer, Montgomery Morgan, Moultrie, Peoria, Piatt, Pike, Putnam, Rock Island, Sangamon, Schuyler, Scott, Shelby, Stark, Tazewell, Vermilion, Warren, and Woodford.

"Court for the Central District shall be held at Danville, Peoria, Quincy, Rock Island, and Springfield.

"Southern District

"(c) The Southern District comprises the counties of Alexander, Bond, Calhoun, Clark, Clay, Clinton, Crawford, Cumberland, Edwards, Effingham, Fayette, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jasper, Jefferson, Jersey, Johnson, Lawrence, Madison, Marion, Massac, Monroe, Perry, Pope, Pulaski, Randolph, Richland, St. Clair, Saline, Union, Wabash, Washington, Wayne, White, and Williamson.

"Court for the Southern District shall be held at Alton, Benton, Cairo, and East Saint Louis.".

(2) Section 133 of title 28, United States Code, is amended by striking out the item relating to Illinois and inserting in lieu thereof the following:

"Illinois:

"Northern 12

"Central 2

"Southern ..... 2"

(c) Section 112 of title 28, United States Code, is amended—

(1) in the first paragraph of subsection (a), by inserting "Columbia," immediately after "Clinton,", by inserting "Greene," immediately after "Fulton,", and by inserting "Ulster," immediately after "Tompkins"; and

(2) in the first paragraph of subsection (b), by striking out "Columbia,", "Greene," and "Ulster,".

EFFECTIVE DATE

SEC. 5. (a) The amendments made by this Act shall take effect one hundred and eighty days after the date of this Act.

(b) Nothing in this Act shall affect the composition or preclude the service of any grand or petit juror summoned, empaneled, or actually serving in any judicial district on the effective date of this Act.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President,

I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1121), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE AMENDMENT

The purpose of the proposed legislation is to provide an additional place of holding court in the Eastern District of Kentucky and the Northern District of Mississippi; to change the divisions within the Western district of Louisiana and the District of North Dakota; and to change the judicial district dividing lines in Florida, Illinois, and New York. The changes made by this bill are intended to improve the effective administration of justice in the Federal courts in these States.

STATEMENT

The proposed legislation affecting the boundaries and places for holding court by Federal District courts is intended to promote the efficient and equitable administration of justice and to serve the needs of litigants, jurors, witnesses, lawyers, judges and other participants in the judicial process.

Kentucky

Section 2(a) of the bill adds Ashland as a designated place of holding court in the Eastern District of Kentucky. Ashland is approximately 10 miles away from Catlettsburg which is one of two places in the Eastern District of Kentucky where a U.S. judge and a full-time magistrate presently have their chambers. The courthouse at Catlettsburg dates from 1910–11. Its space and facilities are grossly inadequate to carry on the business of the court with efficiency, safety, and convenience to all litigants, witnesses, officials of the court and members of the public. Not only is there inadequate space for the judge's chambers, the magistrate's office, law clerks and secretaries, but there is no space where jurors can be sent to wait while proceedings are conducted in the courthouse out of their presence, there are no witness rooms and no space for counsel to consult with clients. In addition, the building presents serious fire safety hazards. It has no fire escapes and only a small elevator and narrow stairs at one end of the building for egress from the second, third, and fourth floors. The overcrowded conditions and the physical layout of the building also complicate security efforts. The U.S. marshal's holding cell is inadequate and there is no separate holdover space for women or juvenile prisoners.

Besides the courthouse, the town itself has insufficient support facilities. Catlettsburg is the county seat of Boyd County with a population of approximately 3,200. In contrast, Ashland has a population of approximately 30,500. Catlettsburg has no hotel or motel facilities available for witnesses, litigants, and jurors, nor does it have restaurant facilities which could be used for a sequestered jury. In fact, the prevailing practice today is for litigants, jurors and members of the bar who are attending sessions of court in Catlettsburg to spend the night in Ashland and travel each day to the court. For these reasons, the committee believes that the administration of justice and the convenience of parties and public would be better served by designating Ashland as a place for holding court.

Mississippi

Section 2(b) of the bill adds as an additional place for holding court in the Eastern Division of the Northern District of Mississippi. The State of Mississippi is divided into two judicial districts, denominated as the Northern and Southern Districts. The Eastern Division of the Northern District consists of 13 counties in the northeastern corner of the State of Mississippi and extends in a north-south direction of approximately 140 miles. The principal place of holding court for this division is Aberdeen, Miss., which is located approximately 60 miles from the southern boundary of the division. Ackerman, Miss., which is also designated as a statutory place of holding court in the eastern division, is approximately 91 miles southwest of Aberdeen. However, no trials are held at Ackerman, which was included in the statute primarily as a location where chambers are provided for a circuit court judge from the State of Mississippi. The designation of Ackerman was required since section 142 of title 28 of the United States Code specifies that the General Services Administration can provide court quarters only at places where regular terms of court are authorized by law to be held.

The city of Corinth is located in the extreme northern part of the Eastern District, approximately 85 miles north of Aberdeen. Corinth has a population of approximately 15,000 residents and is a principal commercial center in that part of the State. Litigants and counsel from 5 of the 13 counties can more conveniently attend court located at Corinth than at Aberdeen, which is the sole place of holding court. One of the judges of the court is a resident of Corinth. Since the closest Federal courthouse is at Aberdeen, 85 miles away, the judge must spend 4 hours of travel time for each trip from his residence to the court chambers at Aberdeen. If Corinth is designated as an official place for holding court, the Government Services Administration, pursuant to section 142 of title 28, United States Code, would be authorized to provide chambers for the judge at Corinth. It is not proposed to provide a courtroom at Corinth. The committee is advised that the Federal post office building at Corinth has vacant space on the second floor of the building which at relatively small expense can be remodeled to provide suitable chambers for the judge. These chambers will be used by the judge for study, research and preparation of orders and opinions. The judge will also hear motions and conduct certain pretrial and post-trial proceedings at Corinth in cases where the parties and their counsel are located closer to Corinth than they are to Aberdeen.

The change proposed by this bill was approved by the Judicial Conference of the United States on April 7, 1976.

Louisiana

The Western District of Louisiana is one of 36 judicial districts operating under a statutory division scheme. Section 98(c) of title 28 designates the parishes to be included within the six divisions of the Western District and the cities within the district where court is to be held. In contrast, in nonstatutory divisions, Congress designates the cities where court is to be held but leaves the geographical limits of each division to be determined by local rule, according to the workload generated by the several parishes and the problems peculiar to the area.

The committee believes the Western District of Louisiana is better suited to a nonstatutory division system. Caseloads in the existing statutory divisions vary significantly and in some cases the designated place of holding court is not convenient for the parishes which it serves. The problems cannot permanently be remedied by realining the parishes in the present statutory divisions since changes in population and caseload may require additional changes in the future.

The elimination of divisions provided for by section 3(a) is in conformity with the general policy of the Judicial Conference favoring consolidation of district court divisions, and has been approved by all interested parties.

North Dakota

The State of North Dakota constitutes a single Federal judicial district comprised of four divisions. The divisions approximate quadrants and are accordingly designated as the Northwestern, Northeastern, Southeastern, and Southwestern Divisions.

Bottineau, McHenry and Pierce Counties lie in the northcentral part of the State of North Dakota. They form the extreme western and northern part of the Northeastern Division of the judicial district in which court is held only in Grand Forks on the far eastern border. The distance from Bottineau, the county seat of Bottineau County, to Grand Forks is 192 miles. The corresponding distance from Towner, county seat of McHenry County, is 165 miles, and from Rugby, county seat of Pierce County 146 miles.

In the Northwestern Division court is held in Minot which lies near the eastern border of that division. All of the above mentioned counties are significantly closer to Minot than Grand Forks. Placing Bottineau, McHenry, and Pierce Counties in the Northwestern Division would reduce travel to the Federal courthouse from the county seat of each county by 113, 120 and 82 miles respectively.

Sheridan and Wells Counties lie in the central part of the State. They form the extreme northwestern part of the Southwestern Division. In the Southeastern Division court is held in Fargo on the far eastern border of the division. Consequently, it is necessary to travel 201 miles from McCluskey, county seat of Sheridan County, and 173 miles from Fessenden, county seat of Wells County, to the Federal courthouse in Fargo. Aligning Sheridan and Wells Counties with the Northwestern Division would reduce the mileage to the Federal courthouse by 117 miles when traveling from McCluskey and 83 miles when traveling from Fessenden.

The committee believes that the interest of the Government, litigants and members of the bar of the counties affected would be served by reduction in travel distance and time. There would also be a saving for the Government in the mileage fee paid to jurors who are called to jury service from these five counties.

The realinement set forth in section 3(b) of the bill has been approved by the lawyers in the counties affected, the Federal District judges for the District of North Dakota and the Judicial Conference of the United States.

Florida

Florida is divided into three judicial districts. Under present law, Madison County, Fla., is included in the Middle Judicial District of Florida, with Jacksonville as the place designated for holding court. On its eastern border, Madison County is 86 miles from Jacksonville and on its western border it is 133 miles from Jacksonville. Section 4(a) of the bill would amend title 28 of the United States Code by removing Madison County from the Middle Judicial District of Florida and including it in the Northern Judicial District. The effect of such an amendment would be to reduce the average distance which Madison County litigants, attorneys, jurors and witnesses must travel to the nearest federal district court. On its eastern border, Madison County is 66 miles from Tallahassee, the place designated for holding court in the Northern Judicial District. On its western border, it is only 29 miles from Tallahassee. Section 4(a) of this bill has met with no opposition, and would greatly benefit the citizenry of Madison by making the federal district court more accessible.

Illinois

The primary thrust of section 4(b) of the bill is directed at replacing the existing Eastern and Southern Districts of Illinois with new Central and Southern Districts which more accurately reflect the makeup of the State.

Under present law, Illinois has three judicial districts—one covering the northern quarter of the state and two covering the

eastern and western sections of the State. These latter two are deceptively called the Southern and Eastern Districts. Parts of the Eastern District are located south of the Southern District and the present Southern District encompasses the western part of Illinois and lies in the central, not the southern, portion of the state.

The present Southern and Eastern Districts run counter to the natural east-west flow of commerce in Illinois which imposes inconvenience and economic hardship upon those who use the courts. In addition, under the current district structure counties such as Madison and St. Clair which have nearly identical social, cultural, and economic ties and which are both essentially part of the East St. Louis metropolitan area, are placed in different judicial districts.

The proposed districts would divide the state of Illinois logically in an east-west manner, uniting areas of common economic activity and interest. These districts would take into account the flow of commerce in the state, the convenience of users of the courts, and the population of the included areas. The new districts would encompass all the counties now included in the existing Eastern and Southern Districts, except Kankakee County, which would be placed in the existing Northern District to more evenly distribute the population in each District.

The proposed changes would not involve the construction of any additional court facilities or other major expenditures. However, the changes will necessitate a conforming amendment to the omnibus judgeship bill. The judgeship bill which is currently pending in conference includes an additional judgeship approved by both the House and the Senate for the existing Eastern District. The Committee intends that the judgeship for the existing Eastern District be assigned to the new Central District created by this bill.

The reorganization of the three districts in Illinois has been endorsed by judges in all three districts as well as the Circuit Council for the Seventh Circuit.

New York

Under present law, the counties of Columbia, Greene, and Ulster are included within the Southern Judicial District of New York, with New York City the place designated for holding court. This creates a burden on those who must use the U.S. District Court. Geographically, Albany is situated much closer to these three counties. Accordingly, the people of Greene and Columbia counties have centered their lifestyles around Albany and not New York City. They work there, utilize services offered there, and are required to conduct state and other federal business in Albany.

Section 4(c) of this bill would place the counties of Columbia, Greene and Ulster in the Northern Judicial District of New York, having Albany as the place designated for holding court. The addition of these 3 counties has been approved by the judges of the Northern Judicial District of New York and lawyers in the counties affected have indicated their support of this legislation.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TRANSPORTATION OF COAST GUARD EMPLOYEES

The bill (H.R. 185) to amend section 2632 of title 10, United States Code, to provide the Secretary of the department in which the Coast Guard is operating with the authority to transport Coast Guard employees to and from certain places of employment, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–422), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE LEGISLATION

The purpose of the bill is to provide the Secretary of the department in which the Coast Guard is operating with the authority to transport Coast Guard employees to and from their places of employment whenever the Secretary determines that it is necessary for the effective conduct of the affairs of his department. The bill would extend the authority, which presently exists for the Secretary of a military department, to the Secretary of the department in which the Coast Guard is operating.

BACKGROUND

One of the many missions with which the Coast Guard is charged involves the maintenance of a comprehensive aids to navigation network. That network includes the long-range radio and navigation (loran) system which is maintained to serve the navigation needs of the Armed Forces, as well as the needs of maritime and air commerce.

The problem to which the bill is addressed has arisen because of the construction of the loran stations necessary to operate the system. Because site selections are based upon a site's freedom from electromagnetic interference and upon a site's location with respect to the loran-C network, therefore, some sites are, and others necessarily will be, located in remote areas of the United States where adequate community support for Coast Guard personnel is not, or will not be, readily available. For example, one loran station is being constructed near Searchlight, Nev. However, the nearest town offering adequate community support for Coast Guard personnel accompanied by their families is Boulder City, Nev., which is 55 miles from the station site. Adequate public transportation is not available between the station site and Boulder City. Under current law, personnel would be required to drive their own vehicles 110 miles each working day. A similar situation exists at a loran station near Kodiak, Alaska.

The alternatives to providing transportation are to require personnel to drive their vehicles or to make the sites unaccompanied duty stations, which would work a hardship on the personnel and adversely affect crew morale. Providing transportation to and from the station sites is the most reasonable and cost-effective resolution of the problem. Although the cost of the proposed legislation will vary at each station, it is modest. The cost of operating a vehicle at any station would be approximately $10,000 for the first 5 fiscal years following enactment.

There is, therefore, a need to relieve the restrictions found in 31 U.S.C. 638a, which impose limitations on the use of federally owned passenger vehicles for home-to-work transportation of employees.

EXPLANATION OF THE LEGISLATION

This legislation would, by amending section 2632 of title 10, United States Code, specifically authorize the type of transportation authority desired. This, in turn, would nullify the restrictions of 31 U.S.C. 638a, by providing specific authority for the action.

Section 2632 of title 10 currently authorizes the Secretary of a military department to provide assured and adequate transportation for persons employed in his department to and from their places of employment whenever the Secretary determines that it is necessary for the effective conduct of the affairs of his department. Although the Coast Guard is an armed force, it is not a military department under the definition of section 101 of title 10. The bill would amend section 2632 of title 10 by including language affecting the Coast Guard and extending section 2632 authority to include the Secretary of the department in which the Coast Guard is operating.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Constitution Subcommittee of the Committee on Judiciary be authorized to meet during the session of the Senate on Tuesday, August 22, 1978, to hold a hearing on the Citizens Privacy Protection Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Energy, Nuclear Proliferation and Federal Services Subcommittee of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, August 23, 1978, to hold a markup session on S. 1493, energy impact assistance and S. 3412, retirement benefits for GAO's Comptroller General.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Health and Scientific Research Subcommittee of the Committee on Human Resources be authorized to meet during the session of the Senate on Wednesday, August 23, 1978, from 4 p.m. until 6 p.m. and Thursday, August 24, 1978, from 3 p.m. until 5 p.m. to hold a markup session on S. 2755, the Drug Regulation Reform Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL ORDERS FOR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, Mr. LEAHY be recognized for not to exceed 15 minutes and that the Senate then resume consideration of the District of Columbia representation measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME LIMITATION AGREEMENT—S. 2570

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No. 821, S. 2570, the CETA bill, is called up and made the pending business, there be a time agreement on it as follows: 4 hours on the bill, equally divided, between Mr. NELSON and Mr. JAVITS, 1 hour on any amendment in the first degree, 30 minutes on any amendment in the second degree, 20 minutes on any debatable motion, appeal, or point of order, if such is made to

the Senate for its consideration, with one exception, that there be a time limitation on an amendment by Mr. BELLMON of 2 hours, and that otherwise the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That when the Senate proceeds to the consideration of S. 2570 (Order No. 821), a bill to amend the Comprehensive Employment and Training Act of 1973 to provide improved employment and training services, to extend the authorization, and for other purposes, debate on any amendment in the first degree (except an amendment to be offered by the Senator from Oklahoma (Mr. BELLMON), on which there shall be two hours; shall be limited to one hour, to be equally divided and controlled by the mover of such and the manager of the bill; debate on any amendment in the second degree shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill; and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 4 hours, to be equally divided and controlled, respectively, by the Senator from Wisconsin (Mr. NELSON) and the Senator from New York (Mr. JAVITS): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

ORDER OF PROCEDURE

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of Calendar Order No. 686, House Joint Resolution 554, the D.C. voting representation joint resolution, the Senate proceed to the consideration of Calendar Order No. 821, S. 2570, the CETA bill, on which there is already a time agreement, and that several amendments by Senator DOMENICI be disposed of.

Following the disposition of the several Domenici amendments, that Mr. DOMENICI may lay down an amendment dealing with fraud, which would be disposed of on Wednesday morning, August 23; that following the disposition of that amendment, the CETA bill be temporarily laid aside and the Senate proceed to the consideration of Calendar Order No. 787, S. 1753, the Elementary and Secondary Education Act; that after the opening statements, Mr. DOMENICI be recognized to call up some amendments; that after those amendments and other amendments have been disposed of, the Senate, no later than 2 o'clock p.m. on Wednesday, proceed to the consideration of any of the following bills from the Finance Committee: Calendar Order Nos. 721, 728, 849, 1024, 1025, 1032, 1033, and 1034; and that upon disposition of these measures the Senate return to the consideration of either Calendar Order No. 787, the Elementary and Secondary Education Act, or Calendar Order No. 821, the CETA bill, whichever in the opinion of the majority leader should be taken up and resumed at that time.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, as our colleagues might infer, this schedule of events is a matter that has been discussed by the distinguished majority leader and myself and others and, of course, much of the day today.

I believe it is a good schedule and I will not object to it. On the contrary, I express my gratitude to the majority leader for arranging it in this way, much of the content of this request was at the request of the minority leader on behalf of the Members on this side of the aisle.

I would ask the majority leader if there is any intention to try to spell out the consideration of other items for the balance of this week after this consent order is entered?

Mr. ROBERT C. BYRD. I would like, if it is at all possible, to proceed, depending upon the progress made, at least, to lay down the civil service reform bill before we go out for the holiday and, of course, it is understood there is not a time agreement on that measure.

It is understood also, when we return from the holiday, the natural gas conference report will be called up, but not until after the second concurrent budget resolution has been disposed of, which under the law must be enacted by September 15.

Mr. PERCY. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. I yield.

Mr. PERCY. Mr. President, I have discussed this matter with Senator RIBICOFF. We express deep appreciation to the joint leadership, with whom we have discussed this matter earlier today, for the decision to lay down the civil service reform measure before we recess on Friday.

Mr. ROBERT C. BYRD. We may not recess on Friday.

Mr. PERCY. Either one or both of us will be prepared to give opening statements whenever we do recess, Friday or Saturday, whenever it may be.

Mr. ROBERT C. BYRD. Or Monday or Tuesday.

Mr. PERCY. Or Monday or Tuesday.

Subject, of course, to privileged conference reports, and so forth. I have talked, I believe, with everyone on the minority side of the aisle.

Certain Senators will not enter into time limitations, on principle, on any legislation now. They have assured the Senator from Illinois that there will be no undue delay in this case, unless Hatch Act reform is attempted to be tied to this legislation—and there they would expect extended conversation and discussion—or, with respect to the labor-management section, title VII, if an attempt is made in the Senate to move us closer toward the House provision, which gives greater power to unions and would take away what some of our colleagues on the minority side feel would be an infringement of the Government's right and to carry as a principle into the collective bargaining process certain things reserved for management prerogatives today. In that event, they would expect to oppose strongly such provisions.

But if the bill can be kept pretty much along the lines as reported by the Governmental Affairs Committee, Senator RIBICOFF and I would expect expeditious movement of that measure.

I thank the leadership and express deep appreciation for their scheduling this matter so that we can anticipate moving ahead with it.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. BAKER. Mr. President, I have no further reservation.

The PRESIDING OFFICER. Is there objection? The Chair hears none and the unanimous-consent request is agreed to.

ORDER FOR CONVENING OF THE SENATE AT 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, the hour for convening the Senate on tomorrow, I believe, already has been set, has it not?

The PRESIDING OFFICER. The hour already has been set at 9 a.m.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the hour be changed to 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there to be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 9:30 a.m. tomorrow.

The motion was agreed to; and at 8:25 p.m. the Senate recessed until tomorrow, Tuesday, August 22, 1978, at 9:30 a.m.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of the Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committees scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, August 22, 1978, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 23

9:00 a.m.
Finance
To continue hearings on H.R. 13511, proposed legislation to reduce income taxes.
2221 Dirksen Building

Select on Indian Affairs
To hold a business meeting on pending calendar business.
5110 Dirksen Building

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To continue hearings on S. 3363, proposed International Air Transportation Competition Act
235 Russell Building

Energy and Natural Resources
To continue mark up of proposed legislation designating certain Alaska lands as national parkland.
3110 Dirksen Building

Environment and Public Works
To hold a business meeting on pending calendar business.
4200 Dirksen Building

Human Resources
To continue hearings on S. 2645, proposed National Art Bank Act.
4232 Dirksen Building

Judiciary
Administrative Practice and Procedure Subcommittee
To hold joint hearings with Select Small Business Committee on S. 1974 and S. 3330, to improve Federal rulemaking practices.
424 Russell Building

Select Small Business
See joint hearing with Committee on Judiciary Subcommittee on Administrative Practice and Procedure.

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold joint hearings with the Committee on Governmental Affairs on S. 2750, proposed Consolidated Banking Regulation Act.
3302 Dirksen Building

Governmental Affairs
To resume joint hearings with Judiciary Subcommittee on Citizens and Shareholders Rights and Remedies on S. 3005, to broaden the rights of citizens to sue in Federal courts for unlawful governmental action.
2228 Dirksen Building

Governmental Affairs
See joint hearings with Committee on Banking, Housing, and Urban Affairs.

Governmental Affairs
Permanent Subcommittee on Investigations
To hold hearings with regard to the widespread nature of arson-for-profit, including evidence of the role of organized crime.
1114 Dirksen Building

Judiciary
Citizens and Shareholders Rights and Remedies Subcommittee
See joint hearings with Committee on Governmental Affairs.

Judiciary
Criminal Laws and Procedures Subcommittee
To resume hearings on bills to provide Federal assistance to State and local criminal justice (S. 28, 1245, 3216, 3270, and 3280).
1318 Dirksen Building

2:30 p.m.
Government Affairs
Energy, Nuclear Proliferation, and Federal Services Subcommittee
To mark up S. 1493, to provide financial and technical assistance to States, local governments, and Indian tribes, to manage impacts caused by energy deretirement and survivor benefits for Comptrollers General.
3302 Dirksen Building

3:00 p.m.
Select Ethics
To hold an open and closed business meeting.
EF-100, Capitol

AUGUST 24

8:00 a.m.
Energy and Natural Resources
To hold hearings on S. 3418, proposed Pacific Northwest Electric Power Planning Act.
3110 Dirksen Building

9:00 a.m.
Finance
To continue hearings on H.R. 13511, proposed legislation to reduce income taxes.
2221 Dirksen Building

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To continue hearings on S. 3363, proposed International Air Transportation Competition Act.
235 Russell Building

Governmental Affairs
See joint hearings with Committee on Banking, Housing, and Urban Affairs.

Human Resources
To hold hearings on the following nominations to be Members of the Federal Mine Safety and Health Review Commission: Jerome R. Waldie, of Maryland, Richard V. Backley, of Virginia, Marian Pearlman Nease, of Maryland, Frank F. Jestrab, of North Dakota and A. E. Lawson, of Pennsylvania.
4232 Dirksen Building

Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on S. 1449, proposed Grand Jury Reform Act.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue joint hearings with the Committee on Governmental Affairs on S. 2750, proposed Consolidated Banking Regulation Act.
3302 Dirksen Building

Foreign Relations
To mark up S. 2053, proposed Deep Seabed Mineral Resources Act.
4221 Dirksen Building

Governmental Affairs
Permanent Subcommittee on Investigations
To continue hearings with regard to the widespread nature of arson-for-profit, including evidence of the role of organized crime.
5110 Dirksen Building

Judiciary
Antitrust and Monopoly Subcommittee
To resume hearings on restrictive entry policies in the interstate trucking industry.
6226 Dirksen Building

Judiciary
Constitution Subcommittee
To resume hearings on S. 3164, proposed Citizen's Privacy Protection Amendment.
5110 Dirksen Building

AUGUST 25

8:00 a.m.
Energy and Natural Resources
To continue hearings on H.R. 13511, proposed Pacific Northwest Electric Power Planning Act.
3110 Dirksen Building

9:00 a.m.
Finance
To continue hearings on H.R. 13511, proposed legislation to reduce income taxes.
2221 Dirksen Building

Human Resources
To consider S. 2910, to establish programs to assist in preventing unwanted initial and repeat pregnancies among adolescents; S. 3116, to provide Federal assistance to States through formula and project grants for preventive health programs; and S. 3205 and 3309, to extend certain existing refugee assistance programs and to provide assistance to new refugees.
4232 Dirksen Building

9:30 a.m.
Judiciary
To hold hearings on the nominations of Theodore McMillian, of Missouri, to be U.S. circuit judge for the eighth circuit; Harold A. Baker, to be U.S. district judge for the eastern district of Illinois; Mariana R. Pfaelzer, to be U.S. district judge for the central district of California; and Richard S. Arnold, to be U.S. district judge for the eastern and western districts of Arkansas.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on S. 2843, to provide for the striking of gold medallions, and on gold sales by the Department of the Treasury.
5302 Dirksen Building

AUGUST 28

9:30 a.m.
Finance
Taxation and Debt Management Subcommittee
To hold hearings on miscellaneous tax bills (H.R. 810, 4030, 5090, S. 2771, 1611, 3049, 3176, and 3345).
2221 Dirksen Building

10:00 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings with regard to the widespread nature of arson-for-profit, including evidence of the role of organized crime.
3302 Dirksen Building

Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on the FBI Charter as it concerns undercover operations.
2228 Dirksen Building

AUGUST 29

SEPTEMBER 8

SEPTEMBER 21

AUGUST 29

10:00 a.m.

Governmental Affairs

Permanent Subcommittee on Investigations

To continue hearings with regard to the widespread nature of arson-for-profit, including evidence of the role of organized crime.

3302 Dirksen Building

Judiciary

Administrative Practice and Procedure Subcommittee

To resume hearings on the FBI Charter as it concerns undercover operations.

2228 Dirksen Building

SEPTEMBER 7

9:00 a.m.

Commerce, Science, and Transportation

To hold hearings on the following nominations to be Members of the Board of Directors of the U.S. Railway Association: W. E. Smith, of Minnesota, to be Chairman; Stanton P. Sender, of the District of Columbia; Nathaniel Welch, of Georgia; James E. Burke, of New Jersey; and Robert G. Flannery, of California.

6226 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation

To hold oversight hearings on the lengths of motor tractor trailers.

235 Russell Building

SEPTEMBER 8

10:00 a.m.

Commerce, Science, and Transportation

To hold hearings on S. 2970, proposed Truck Safety Act.

235 Russell Building

SEPTEMBER 14

10:00 a.m.

Judiciary

Administrative Practice and Procedure Subcommittee

To resume hearings on the FBI Charter and its overall policy.

2228 Dirksen Building

SEPTEMBER 19

9:00 a.m.

Judiciary

Constitution Subcommittee

To resume hearings on S. 1845, to prevent unwarranted invasions of privacy by prohibiting the use of polygraph type equipment for certain purposes.

6226 Dirksen Building

9:30 a.m.

Human Resources

Labor Subcommittee

To hold hearings on S. 3060, proposed National Workers' Compensation Standards Act.

4332 Dirksen Building

SEPTEMBER 20

9:30 a.m.

Human Resources

Labor Subcommittee

To continue hearings on S. 3060, proposed National Workers' Compensation Standards Act.

4232 Dirksen Building

SEPTEMBER 21

9:00 a.m.

Judiciary

Constitution Subcommittee

To resume hearings on S. 1845, to prevent unwarranted invasions of privacy by prohibiting the use of polygraph type equipment for certain purposes.

5110 Dirksen Building

SEPTEMBER 22

9:30 a.m.

Human Resources

Labor Subcommittee

To resume hearings on S. 3060, proposed National Workers' Compensation Standards Act.

4232 Dirksen Building

CANCELLATIONS

AUGUST 23

10:00 a.m.

Energy and Natural Resources

Public Lands and Resources Subcommittee

To hold hearings on several pending land conveyance bills.

3110 Dirksen Building

AUGUST 25

10:00 a.m.

Judiciary

Criminal Laws and Procedure Subcommittee

To resume hearings on S. 3270, proposed Justice System Improvement Act, and related bills.

2228 Dirksen Building

SENATE—*Tuesday, August 22, 1978*

(Legislative day of Wednesday, August 16, 1978)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT MORGAN, a Senator from the State of North Carolina.

PRAYER

The Reverend Dr. Robert B. Harriman, director, the Presbyterian Council for Chaplains and Military Personnel, Washington, D.C., offered the following prayer:

Great Creator of the universe, we thank Thee for majestic mountains, fertile fields, and far-stretching forests. For the richness of the Earth and wealth of its waters, we are grateful. May we not be inept stewards of our wealth or inconsiderate of following generations. As the Members of this Senate are aware of our heritage, may they be led in all their deliberations to do those things which preserve our inheritance and insure, for all who shall follow, an even stronger and more fruitful nation. May Thy presence be felt whenever they are gathered in consultations and deliberations which affect this Nation, and other nations of the world. May theirs be a vision to see beyond these shores and beyond this day, for Thou dost will that all nations of the Earth should live together in peace and harmony.

May all who are engaged in the affairs of Government, from the President to the least conspicuous public servant, be blessed with Thy wisdom, warmed by Thy love, and led by Thy righteousness. So shall we know that "Blessed is that nation whose God is the Lord." In Thy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U. S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., August 21, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT MORGAN, a Senator from the State of North Carolina, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. MORGAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The majority leader, the Senator from West Virginia, is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I have no need for my time today, and I yield it back.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I have no requirement for my time under the standing order and I yield it back.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, that Senators may be allowed to speak up to 5 minutes therein, and that the period not extend beyond 10 a.m. today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Is there morning business?

WHERE IS THE OPPOSITION TO THE GENOCIDE CONVENTION?

Mr. PROXMIRE. Mr. President, for 11 years, I have addressed the Senate about the United Nations Genocide Convention. Every day that we are in session, I urge my colleagues to ratify this important treaty.

Why? Because I believe the treaty is a crucial human rights document. It

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

protects the most fundamental of human rights—the right to live. The treaty upholds the moral and ethical values of our country. It is in the best interests of the American people, and it is in the best interests of humanity.

The Senate is well aware of my ardent support for the Genocide Convention. But what have we heard from the opposition? Where are the opponents to the Genocide Convention? Whose voice is calling upon us to reject the treaty?

Is there Presidential opposition to the treaty? Certainly not. Every President since Truman has supported the treaty. Truman, Eisenhower, Kennedy, Johnson, Nixon, Ford, and Carter have all urged the Senate to ratify the U.N. convention.

Are interest groups lobbying against the treaty? Hardly. The American Bar Association, the American Civil Liberties Union, the National Conference of Christians and Jews, the AFL–CIO, and many more organizations have all passed resolutions in favor of the treaty.

What about our allies? Eighty-three nations have acceded to the treaty. All of our major NATO and SEATO allies are parties to the convention. We stand alone among the free Western nations.

Has the Senate Foreign Relations Committee failed to report the convention? Just the opposite. The committee has favorably reported the convention four times: in 1970, 1971, 1973, and again in 1976.

Mr. President, it seems that the only opposition to the Genocide Convention is within the Senate itself. For 30 years we have debated the treaty, while across the country and around the world more and more people have recognized the treaty's importance and voiced their support. The time has come for the Senate to join them.

Mr. President, the opposition to the treaty is small and silent. The support is overwhelming. I call upon my colleagues to ratify the Genocide Convention.

EXIMBANK LOANS $66 MILLION TO TRINIDAD CORPORATION

Mr. PROXMIRE. Mr. President, I call to the attention of my colleagues a communication I have received from the Export-Import Bank pursuant to section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, notifying the Senate of a proposed Eximbank loan to assist in financing the export from the United States of goods and services to be used in the construction of a plant to manufacture anhydrous ammonia in Trinidad and Tobago. Section 2(b)(3)(i) of the act requires the Bank to notify the Congress of proposed loans or financial guarantees in an amount of $60 million or more at least 25 days of continuous session of Congress prior to taking final action on such proposals. Upon expiration of this period, the Bank may give final approval to the transaction unless the Congress adopts legislation to preclude such approval.

In this case, the Bank proposes to extend a direct credit of $66,170,000 to Fertilizers of Trinidad and Tobago, Ltd. (FERTRIN), which is a joint venture owned by the Government of Trinidad and Tobago and Amoco International Oil Co., to assist in the export from the United States of goods and services to be used in the construction of a plant to manufacture anhydrous ammonia to be located at Point Lisas in Trinidad and Tobago. The Eximbank credit will cover 42.5 percent of the total cost of U.S. goods and services to be exported from the United States. The Eximbank loan would bear interest at the rate of 8⅝ percent per annum and be repayable in semiannual installments over an 8-year period commencing January 5, 1982.

Mr. President, I ask unanimous consent that the letter from Eximbank pertaining to this transaction be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C., August 15, 1978.

Hon. WALTER F. MONDALE,
President of the Senate,
U.S. Capitol,
Washington, D.C.

DEAR MR. PRESIDENT: Pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States Senate with respect to the following transaction involving U.S. exports to Trinidad and Tobago.

DESCRIPTION OF TRANSACTION

Purpose

Eximbank has received a request from Fertilizers of Trinidad and Tobago Limited (FERTRIN) to assist in financing the export from the United States of goods and services of U.S. manufacture or origin required by FERTRIN for the construction of a new plant to manufacture anhydrous ammonia (Plant). The Plant is to be constructed at Point Lisas in Trinidad and Tobago and is one of several projects being developed to take advantage of the extensive natural gas reserves in the area.

The Plant will consist of a two train, 2,066 metric ton per day ammonia plant, plus ancillary equipment and systems. Construction is expected to be completed by mid-1981. The total costs of the Plant are estimated to be $250,000,000 of which 75% will be provided in the form of borrowings and 25% will be provided by equity contributions to FERTRIN from its two owners, the Government of Trinidad and Tobago (GOTT) and Amoco International Oil Company (Amoco).

Of the total estimated costs of the plant, $155,700,000 represents the costs of U.S. goods and services. To meet the request of FERTRIN, Eximbank is prepared to extend a direct credit of $66,170,000 to FERTRIN to assist in financing the export from the United States of the U.S. goods and services required for the Plant. Additional financing will be provided by private lenders.

Identity of the parties

FERTRIN is a joint venture incorporated under the laws of Trinidad and Tobago for the purposes of the Plant and is owned 51% by GOTT and 49% by Amoco. Amoco is a subsidiary of Standard Oil Company of Indiana.

GOTT and Amoco will enter into a cash deficiency and completion agreement with FERTRIN and Eximbank and the other lenders to the Plant whereby GOTT and Amoco will undertake, in proportion to their respective ownership interests in FERTRIN, to make up all cash deficiencies of FERTRIN required to complete the Plant and to cover all cash deficiencies in the operating costs of the Plant, including debt service to the lenders, until such debt has been paid in full. The undertaking of Amoco will be supported by a back-up undertaking of its parent company, Standard Oil Company of Indiana.

Nature and use of goods and services

The principal U.S. goods and services to be exported from the United States for use in the construction and operation of the Plant will be piping and valves, tankage, piling, insulation, a boiler, heat exchangers, pumps and compressors, condensers, seawater pumps, refrigeration equipment, a demineralization plant, switchgear, transformers, instruments and engineering, design and construction services. It is anticipated that a wide range of suppliers located throughout the U.S. will provide the U.S. goods and services. The estimated value by category of the U.S. goods and services is set forth in Annex I to this letter.

The Pullman-Kellogg Division of Pullman Incorporated, Houston, Texas, has been designated as the prime contractor for design, engineering and construction. Technical leadership of the Plant will be provided by Amoco during the design, construction and start-up phases and for the first ten years of operation under a proposed technical assistance agreement.

EXPLANATION OF EXIMBANK FINANCING

Export financing support

The Eximbank credit of $66,170,000 will facilitate the export of $155,700,000 of United States goods and services. Although FERTRIN has indicated its preference to effect its procurement in the U.S., it has also made clear that, if Eximbank financing is not available, procurement can be accomplished from foreign sources. Any foreign procurement would be supported by the official export credit agencies of the exporting countries.

Impact of imports on the U.S. economy

The anhydrous ammonia to be manufactured by the Plant will be exported for agricultural and industrial use throughout the world. Approximately one-half of the anhydrous ammonia from the Plant is expected to be marketed in the United States. In evaluating the impact of these imports on the U.S. domestic economy, Eximbank has addressed itself to whether the net economic benefit to the United States resulting from Eximbank's financing of U.S. goods and services for the Plant is positive or negative. The net economic benefit measures the benefits gained by the U.S. from the jobs supported by the sale of U.S. goods and services to the Plant as well as any benefits gained from importing into the U.S. some of the output of the Plant, as compared to the potential costs to the U.S. of such imports. The economic analysis made in response to this issue strongly supports Eximbank assistance for the Plant.

U.S. suppliers estimate that the exports, excluding already manufactured components, would support the employment of some 2,200 American workers. Annual shipments of spare parts of approximately $5 to $7 million would support another 50 jobs a year (or a total of 400 jobs for the eight year repayment period of the Eximbank credit). The total favorable job impact should therefore, reach approximately 2,600 jobs. Given the potential competition for this order from Europe and Japan, these jobs would very probably be lost to the U.S. if Eximbank financing support were not available.

The potential for adverse economic impact depends on the state of the world food and fertilizer markets in the mid and late 1980's when the Plant's output is expected to come on to the market. There currently is a substantial amount of excess ammonia capacity worldwide. Absent unusual incidents such as a drought, both the U.S. and world surpluses are projected to last into the early 1980's.

In times of a surplus, high cost producers are forced either to lose money or to shut down production. In this environment, producers who receive gas at a cost-of-extraction price have a decisive advantage. Only those U.S. producers who have long-term gas-purchase contracts entered into before 1970 have access to such low-priced gas. Other U.S. producers generally must pay approximately $2.00 per 1,000 cubic feet of gas (MCF). The Plant, however, will be able to purchase natural gas at a cost of $.25 per MCF and therefore be able to produce and sell ammonia in the U.S. at a price substantially less than that feasible for the U.S. producers. If there is still a surplus of ammonia during the peak years for the Plant (1985 to 1990), the product from the Plant probably would displace U.S. production. The present consensus forecast by experts in the field, however, calls for balanced markets by the mid-1980's; hence, there should be little or no adverse impact from the Plant. In such a situation, the net economic benefit to the U.S. would be a favorable job impact of over 2,000 jobs.

In addition, even if one assumes the worst situation, that is, the world surplus will continue throughout the 1980's and each imported ton of ammonia from the Plant will displace a ton of U.S.-produced ammonia, Eximbank's support will provide a net economic benefit to the U.S. of approximately 500 jobs. In the worst situation, the Plant would displace some 350,000 tons of U.S. ammonia production, or approximately 1.0 to 1.5% of expected U.S. ammonia capacity in the mid-1980's. This volume approximates the annual production of one 1,000 ton/day ammonia plant, which generally employs some 115 workers. As very few plants can profitably operate below 50 to 60% capacity, 350,000 tons of imports would probably put the workforce of slightly more than two plants out of work. Hence, the worst-case annual adverse employment impact is about 250 jobs. Using the projected production figures for 1981–89 and assuming a worst-case situation for each year, the total potential jobs displaced could come to some 2,100. As indicated below, however, even assuming the worst case, Eximbank's support produces a net economic benefit to the U.S. of approximately 500 jobs:

Jobs Supported

Year:	
1979	1,100
1980	1,100
1981	0
1982	50
1983	50
1984	50
1985	50
1986	50
1987	50
1988	50
1989	50
Total	2,600

Jobs supported

Year:	
1979	0
1980	0
1981	125
1982	225
1983	250
1984	250
1985	250
1986	250
1987	250
1988	250
1989	250
Total	2,100

If one assumes more likely conditions prevailing in the 1980's, Eximbank financing assistance supports over 2,000 U.S. jobs and offers the following other potential benefits for the United States:

The 350,000 tons of product imports would free 13.5 billion cubic feet of natural gas in the United States for higher priority uses. This volume of gas would heat a Northern city of 100,000 people through an entire winter.

Lower cost fertilizer enhances the price competitiveness of U.S. agricultural exports without impairing the financial health of America's farmers.

Lower cost food inputs could help alleviate some domestic inflationary pressures.

In sum, even in the worst-case situation Eximbank financing for the Plant should produce a net employment benefit to the U.S. Assuming a more realistic case, the employment benefits to the U.S. improve markedly. In addition, irrespective of the employment situation, Eximbank financing for the Plant offers other significant economic benefits to the U.S.

With or without Eximbank support and with or without U.S. procurement, FERTRIN is determined to construct the Plant. If Eximbank refuses to provide support for the U.S. goods and services, the Plant will be supplied by foreign exporters who will be supported by the official export credit agencies of the exporting countries.

The financing plan

Commercial banks are prepared to extend financing for this transaction without an Eximbank guarantee for a term not to exceed 7 years. In this transaction, there is a total term of approximately 11 years consisting of a three-year construction period and an eight-year repayment period. Thus, private financing is inadequate to meet the total financial requirements of the transaction and the Eximbank credit is necessary in order to generate sufficient financing for the U.S. exports.

The financing plan for the total U.S. goods and services of $155,700,000 is as follows:

	Percent of U.S. costs	Totals
Cash payment	15.0	$23,360,000
Eximbank credit	42.5	66,170,000
Private credits not guaranteed by Eximbank	42.5	66,170,000
Total	100.0	155,700,000

The Eximbank credit will bear interest at the rate of 8¾%, payable semiannually. A commitment fee of ½ of 1% per annum will be charged on the undisbursed portion of the Eximbank credit. The financing will be repaid in 16 semiannual installments beginning January 5, 1982. The first eight installments will be applied to repayment of the private financing and the final eight installments to repayment of the Eximbank credit.

Sincerely,

JOHN L. MOORE, Jr.

ANNEX I

FERTRIN—ESTIMATED COSTS OF U.S. GOODS AND SERVICES

Estimated U.S. costs including contingency and escalation

Major items:	(*In millions*)
Piping and valves	$12.14
Tankage	3.43
Piling	2.65
Insulation	3.11
Boiler	2.18
Heat exchangers	9.65
Plate type (exchangers)	4.67
Pumps and compressors	3.89
Condensers	0.78
Seawater pumps	5.92
Refrigerator equipment	1.56
Demineralization plant	3.42
Switchgear and transformers	3.11
Instruments	3.58
Engineering and design	28.86
U.S. supervision and construction technicians	15.54
Other	51.21
Total	155.70

EXIMBANK FINANCIAL ASSISTANCE—SPAIN

Mr. PROXMIRE. Mr. President, I call to the attention of my colleagues a communication which I have received from the Export-Import Bank pursuant to section 2(b)(3)(iii) of the Export-Import Bank Act of 1945, as amended, notifying the Senate of a proposed direct loan in the amount of $8,000,000 and a financial guarantee of $9,000,000 to assist the export of nuclear fuel enrichment services required for reloads 1 and 2 of the Lemoniz I nuclear powerplant in Iberduero, Spain. Section 2(b)(3)(iii) of the act required the Bank to notify the Congress of proposed loans or financial guarantees involving nuclear exports, at least 25 days of continuous session of the Congress prior to taking final action on the proposal. Upon expiration of this period, the Bank may give final approval to the transaction unless the Congress adopts legislation to preclude such approval.

In this case, the Bank proposes to extend a direct loan in the amount of $8,000,000 and a financial guarantee in the amount of $9,000,000 for a total of $17,000,000, to assist in the purchase of U.S. services to be used for nuclear fuel enrichment in conjunction with the operation of the Lemoniz I nuclear powerplant in Spain. The proposed credit will cover 85 percent of the total cost of U.S. goods and services for the project. The loan will bear interest at 8 percent per annum, and be repaid in five semiannual installments.

Mr. President, I ask unanimous consent that the letter from Eximbank pertaining to this transaction be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EXPORT-IMPORT BANK OF THE UNITED STATES,
Washington, D.C., August 15, 1978.

Hon. WALTER F. MONDALE,
President of the Senate, U.S. Capitol, Washington, D.C.

DEAR MR. PRESIDENT: Pursuant to Section 2(b)(3)(iii) of the Export-Import Act of 1945, as amended, Eximbank hereby submits a statement to the United States Senate with respect to the following transaction involving the export of U.S. services to Spain:

A. DESCRIPTION OF TRANSACTION

1. Purpose

On January 20, 1972, Eximbank authorized a direct credit of $143,614,000 to Iberduero, S.A. to facilitate Iberduero's purchase of goods and services from the United States for export to Spain for the construction and initial operations of Lemoniz I and II Nuclear Power Plants and the initial core fuel load located near Bilbao. On June 9, 1977, Eximbank also authorized a direct credit of $3,200,000 to Iberduero to facilitate financing the U.S. costs of fabrication services of nuclear fuel reloads for Iberduero's Lemoniz I Nuclear Power Plant (reloads one and two) and Lemoniz II Nuclear Power Plant (reload one). Iberduero has now requested and Eximbank is prepared to provide financial assistance of $17 million in the form of a credit of $8 million and a guarantee of private loans of $9 million for the purchase of nuclear fuel enrichment services required for reloads one and two of Lemoniz I Nuclear Power Plant.

Exports of the enrichment services will be made within the framework of the bilateral "Agreement on Atomic Energy: Cooperation for Civil Uses" between the United States and Spain, and the trilateral agreement among the U.S., Spain and the International Atomic Energy Agency, relating to application of IAEA Safeguards. Both of these Agreements became effective on June 28, 1974, following consideration by the Congress under the provisions of Section 123 of the Atomic Energy Act of 1954. Prior to export, licenses must be obtained from the Nuclear Regulatory Commission with respect to individual sales of the enrichment services.

The nuclear fuel enrichment will be provided by the Energy Research and Development Agency of the Department of Energy at ERDA's Oak Ridge, Tennessee, facility pursuant to a fixed commitment, long-term contract with DOE. Under the contract DOE is to provide enrichment services over the operating lifetime of the Lemoniz I Nuclear Power Plant. Since this nuclear power facility has suffered delay in completion. Iberduero would take delivery of the fuel reloads sometime before they are needed. However it is to Iberduero's advantage to take the enrichment services in accordance with the schedule of annual enrichment services in its contract with DOE in order to avoid very substantial cancellation penalties. Furthermore Iberduero will avoid an interruption of power generation by taking delivery of the reload fuel when available.

2. Executive branch approval

In accordance with established procedures, Eximbank requested through the Department of State the views of the Executive Branch on the proposed transaction. State's Bureau of Oceans and International Environmental and Scientific Affairs advised that the Executive Branch has no objection to Eximbank's proceeding with this transaction.

3. Identity of the borrower

Iberduero, S.A. was created in 1944 as a result of a merger of two electric utility companies. Headquartered in Bilbao, it is the largest electric utility and one of the largest privately owned industrial enterprises in Spain. The utility accounts for more than 20 percent of Spain's electricity sales.

B. EXPLANATION OF EXIMBANK FINANCING

1. Reasons

The Eximbank credit of $8 million and guarantee of $9 million will facilitate the export of $20 million of U.S. goods and services. Eximbank perceives no adverse impact on the U.S. economy from the export of these goods and services. This transaction will have a favorable impact on employment for United States workers, as well as on the United States balance of trade. The material to be exported is not in short supply in the United States.

2. The financing plan

The total cost of the United States goods and services to be purchased by Iberduero is $20 million which will be financed as follows:

	Amount	Percent of U.S. costs
Cash	$3,000,000	15
Eximbank credit	8,000,000	40
Private loans guaranteed by Eximbank	9,000,000	45
Total	20,000,000	100

(a) Eximbank charges

Disbursements under the Eximbank credit will bear interest at the rate of 8.0 percent per annum, payable semiannually. A commitment fee of .5 percent on the undisbursed portion of the Eximbank credit, a guarantee fee of .75 percent on the disbursed portion of the private loans guaranteed by Eximbank and a .125 percent guarantee commitment fee on the undisbursed portion of the private loans guaranteed by Eximbank will be charged, all fees payable semiannually.

(b) Repayment terms

The Eximbank credit and the private loan, which total $17 million, will be repaid by Iberduero in five semiannual installments on a pari passu basis.

Sincerely,

JOHN L. MOORE, Jr.

Mr. PROXMIRE. Mr. President, I yield the floor.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Vermont (Mr. LEAHY) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me for a unanimous-consent request?

Mr. LEAHY. I yield.

SUSAN B. ANTHONY DOLLAR COIN ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1042.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3036) to amend the Coinage Act of 1965 to change the size, weight, and design of the one-dollar coin, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and Urban Affairs with amendments as follows:

On page 1, line 9, strike "8.5" and insert "8.1";

On page 1, line 10, strike "(a)";

On page 2, line 2, after "Anthony" insert a comma and "and shall bear on the other side a design which is emblematic of the symbolic eagle of Apollo 11 landing on the moon";

On page 2, beginning with line 5, strike through and including line 10;

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Susan B. Anthony Dollar Coin Act of 1978".

SEC. 2. Section 101(c)(1) of the Coinage Act of 1965, as amended (31 U.S.C. 391(c)(1)), is amended by striking out "1.500" and inserting in lieu thereof "1.043" and by striking out "22.68" and inserting in lieu thereof "8.1".

SEC. 3. The one-dollar coin authorized by section 101(c) of the Coinage Act of 1965, as amended by section 2, shall bear on the obverse side the likeness of Susan B. Anthony, and shall bear on the other side a design which is emblematic of the symbolic eagle of Apollo 11 landing on the moon.

SEC. 4. Section 203 of the Act of December 31, 1970 (31 U.S.C. 324b), is amended by striking out "initially" and by inserting "(d)" after "section 101".

SEC. 5. Until January 1, 1979, the Secretary of the Treasury may continue to mint and issue one-dollar coins authorized under section 101(c)(1) of the Coinage Act of 1965, as such section was in effect immediately prior to the date of enactment of this Act.

● Mr. PROXMIRE. Mr. President, last week the Committee on Banking, Housing and Urban Affairs unanimously reported out the Susan B. Anthony Dollar Coin Act of 1978. This legislation is the result of a comprehensive review of our coinage system conducted during the previous administration by Research Triangle Institute. During the last days of the 94th Congress, former Secretary of the Treasury William E. Simon made a similar recommendation for a smaller dollar coin, based on the Institute's findings; however nothing was done by either branch of Government until early spring of this year.

S. 3036 is identical to the administration's draft legislative proposal submitted to the Congress with the exception of the design change, which I shall touch on shortly. First, attention should be paid to the bill's primary focus—namely the authorization of a newer, smaller dollar coin, one much smaller and lighter than the present one. Just as Ford Motors went back to the drawing board because of Edsel and subsequently developed the successful Mustang, the bill before us would permit the Treasury to take its "Edsel" off the market and come out with a better product for wider usage by the American public.

The present dollar coin has never had a significant role in our coinage system because of its cumbersome size and the ready availability of smaller substitutes. Since 1971, when the Treasury reissued the dollar coin into our coinage system after a production hiatus of approximately 35 years, public demand has averaged less than 1 percent of total coinage outflow. The basic rationale for a smaller, lighter coin is to increase the flexibility of consumer transactions and offer substantial cost savings to the U.S. Government. The current Eisenhower dollar coin costs about 8 cents each to produce by the U.S. Mint compared to the cost for the proposed Anthony coin which would be 3 cents each. This is a

savings of greater than 60 percent per coin compared to the existing coin. Based on the mint's current production volume of 90 million dollar coins annually, the Anthony coin would save $4.5 million per year. With increased production generated by successful circulation, the savings would multiply.

Finally, Mr. President, S. 3036 corrects a historical omission that is long overdue. For the first time in our history, the likeness of an American woman would be depicted on a U.S. circulating coin. All of our present coins now bear the likenesses of American Presidents; Eisenhower, dollar coin; Kennedy, half dollar; Washington, quarter; Roosevelt, dime, Jefferson, nickel; and Lincoln, penny.

The committee's decision to approve the Susan B. Anthony Dollar Coin Act is consistent with all similar legislation passed by the Congress during this century. What has changed in this instance is the tradition of a modern democracy honoring only its males on its circulating coinage. The administration's recommended return to the more traditional liberty head symbol because it could not decide on a suitable American woman to grace the coin is not only anachronistic but—in the committee's view—would shortchange more than one-half of the American electorate.

The Anthony Coin Act is supported by a coalition of major womens' organizations which, for the first time in my memory, endorse the same legislative issue wholeheartedly. I speak of the National Organization of Women, the League of Women Voters of the United States, and the Daughters of the American Revolution. Given the fact that the right to vote is the centerpiece of any democracy, and it was the 19th amendment to the U.S. Constitution (known as the Anthony amendment) which gave women that right, the committee concurred that the new coin should commemorate the American woman who made that right possible: namely, Susan B. Anthony.

Mr. President, I urge my colleagues to support this legislation.●

● Mr. WILLIAMS. Mr. President, I support S. 3036, the Susan B. Anthony Dollar Coin Act.

There are, of course, several important practical reasons for my support of S. 3036. The smaller, lighter coin which the bill calls for would be more convenient for consumers to use than the present dollar coin. Furthermore, if the Treasury Department projections are correct, the new coin will result in considerable production cost savings over both the present dollar coin and the dollar bill.

But beyond the convenience and cost factors involved, Mr. President, I strongly support the bill's commemoration of a great American woman, Susan B. Anthony's work for women's suffrage laid the foundation for passage of the 19th amendment to the Constitution. This was a necessary step toward the achievement of a society in which all Americans can join in the rights, as well as the responsibilities, of citizenship. Anthony's courage and perseverance on behalf of a just cause represent the best in our national character. Her impact on women's rights—and, in a larger sense, human rights—is still very much in evidence today.

Mr. Pesident, I urge my colleagues to give this bill their enthusiastic support.●

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1120), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

HISTORY OF THE LEGISLATION

S. 3036 to authorize a new dollar coin was introduced in the Senate on May 3, 1978, by Senator William Proxmire, chairman of the Committee on Banking, Housing and Urban Affairs, and cosponsored by Senators Williams, Cranston, McIntyre, Morgan, Riegle, and Lugar of the committee. With the exception of section 3 requiring the likeness of Susan B. Anthony to appear on the face of the new coin, S. 3036 is identical to the administration's legislative recommendation submitted to the Congress on April 17, 1978. The design proposed in the administration's draft bill called for a stylized liberty head on the face of the coin and a soaring eagle design on its reverse side.

A hearing was held on July 17, 1978, to receive testimony from Hon. Mary Rose Oakar, Patricia Schroeder, and Jim Leach of the U.S. House of Representatives; Ms. Stella B. Hackel, Director, Bureau of the Mint; and representatives of the banking, retail, and vending machine industries.

The committee met in open markup session on August 1, 1978, and unanimously approved S. 3036, with two amendments which are herewith reported.

NATURE AND PURPOSE OF THE LEGISLATION

S. 3036 authorizes the minting and issuance of a new circulating dollar coin which would be slightly larger than a quarter and approximately one-third the weight of our present dollar coin. The legislation would also, for the first time in our history, provide for the likeness of an American woman to appear on the face of the coin.

The committee unanimously agreed to an amendment by Senator Garn to continue the Apollo Eleven design on the reverse side of the coin. This design presently appears on the current dollar coin and is emblematic of the symbolic eagle of the Apollo Eleven landing on the moon. The committee also unanimously agreed to a technical amendment, recommended by the administration, to change the size of the new coin from 8.5 grams to 8.1 grams. This change is to accommodate some of the leading coin equipment manufacturers who advised the Secretary of the Treasury that a slightly lower weight coin would facilitate high-speed coin handling.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Vermont, and I ask unanimous consent that the time that has been utilized not be charged against him.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEAHY. I thank the majority leaders.

THE FINAL CHAPTER ON ERNEST FITZGERALD'S WHISTLEBLOWING

Mr. LEAHY. Mr. President, later this morning the Senate will consider the nomination and promotion of over a hundred military officers. I will be supporting all of those nominations because I believe that all of the candidates in whom I had an interest are qualified for their promotions.

As many of my colleagues know, I had opposed earlier consideration of one of these nominees, Gen. Hans Driessnack, because I felt that serious allegations remained unresolved regarding his possible role in a reprisal campaign against our Nation's most famous whistleblower, A. Ernest Fitzgerald. I am now prepared to let the nomination go forward because of two developments. First, I know of no concrete evidence which proves that this individual participated in activity to discredit or smear Mr. Fitzgerald. The case is over 10 years old, people's memories have faded, important principals in the case have died and, of course, the Air Force never kept a record of who was coordinating which aspects of the improper, if not illegal, anti-Fitzgerald activity which followed his disclosure of the C5–A cost overruns.

Second, I now believe that 10 years and four administrations after Fitzgerald's original C5–A testimony, we now have an administration prepared to come to Fitzgerald's assistance. I have received assurances from the White House that beginning immediately, the White House Personnel Office will meet with Mr. Fitzgerald in a sincere and sustained effort to find an appropriate position in the Government where his extensive and unique abilities can be effectively used.

This means that the final chapter on Ernest Fitzgerald's whistleblowing case may have been reached. Even after the Civil Service Commission ruled that Mr. Fitzgerald had been removed improperly from his position and forced the Air Force to reinstate him, Fitzgerald never received assignments commenserate with his ability. I now believe, based on the commitment of the Carter administration to find an appropriate position for Fitzgerald, that he will secure a challenging job which will call for his special talents for protecting against the wasteful expenditure of tax dollars.

It is time for Mr. Fitzgerald to get on with his career I believe that the Carter administration is committed to see that happen. I would also like to point out that this is the fourth administration, two Democratic and two Republican, to be involved in the Fitzgerald case. This is, however, the first administration which has finally taken the action to restore justice and equity and to redress

the mistreatment Fitzgerald has received from the Federal Government.

President Carter should be commended for recognizing that the rights and needs of a single Federal employee deserve strong support and protection. There has been some criticism expressed that the President's comprehensive Civil Service Reform Act which is currently pending before the Congress is an "anti-employee" package. This is not true. The decision to search for a useful job for Mr. Fitzgerald is indicative of this administration's very sincere, very real commitment to all competent, hard-working, dedicated Federal employees.

I share in President Carter's goal of an effective and efficient Federal bureaucracy. Passage of the President's civil service reform proposal is a critical step toward achieving that goal. Finding Mr. Fitzgerald a position commensurate with his abilities is another.

Justice has been a long time coming for Ernest Fitzgerald. It has been nearly a decade since he last held an important job. His legal fees to defend against the Government's improper attempt—I emphasize that, Mr. President, the Government's improper attempt—to fire and discredit him are approaching $500,000. And although I believe that the attention he will now receive from the White House is something he deserved 10 years ago, I am pleased to see that it has finally come.

I would also like to speak for a moment about other whistleblowers in the Federal Government and about those who take reprisal actions against them. Just as I felt it was absolutely necessary to withhold consideration of one of the nominations we will vote on today because of "whistleblower" overtones, so shall I continue to act in the future. Federal employees should know that if they are subjected to reprisals or harassment for coming forward and disclosing acts of governmental waste, mismanagement, corruption or abuse, they can count on my support. And to any Federal employee—civilian, military, executive appointee, or whomever—who takes part in a reprisal or harassment campaign against a whistleblower, I have a message for you, too. I will use whatever means are at my disposal to insure that no one who acts against a whistleblower benefits from such action. I will still be interested long after the original publicity of a whistleblowing event has faded from the public's limelight.

For too long, one of the most serious problems confronting a whistleblower was the reprisal which waited many months or years down the road. When it finally came, there was no one there to help the Federal employee. The press, the Congress, and the public had all moved on to other issues and other stories. No one was interested in putting the time or trouble into protecting the employee who was finally hearing "the other shoe" fall. Well, I do intend to be here and I do intend to help.

Just as some Federal employees have made life difficult for whistleblowers, I will make life difficult for those who take illegal or improper action against an employee who has exposed improper governmental actions. The difference will be that my action will be public, it will be loud, it will be legal, and it will be proper and, I hope, it will be effective.

A. Ernest Fitzgerald will get a new job. Those who were responsible for coordinating the reprisal action against him will probably go unpunished. But I promise Mr. Fitzgerald and I promise all other Federal employees that those responsible for reprisals will not be forgotten and that they will have to contend with one angry, albeit junior, U.S. Senator if they or anyone else takes similar action in the future.

Mr. President, I yield back the remainder of my time. I yield to the majority leader.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator.

I believe the Executive Calendar is now clear. The hold on my side of the aisle on one of the nominees has been lifted. I ask unanimous consent that the Senate proceed to the consideration in executive session of nominations beginning with U.S. Air Force and going through page 12.

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—the items identified by the majority leader are cleared on our Executive Calendar, which include those nominations for the Air Force, the Army, the Navy, and one nomination for the Department of Justice, which are all of the nominations from page 2 through page 12 of the Executive Calendar, and we have no objection to proceeding to their considerations and their confirmation.

U.S. AIR FORCE

The assistant legislative clerk proceeded to read sundry nominations in the U.S. Air Force.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered and confirmed en bloc.

The PRESIDING OFFICER (Mr. LEAHY). Without objection, the nominations are considered and confirmed en bloc.

NOMINATION OF GEN. WINFIELD SCOTT, JR.

Mr. STEVENS. Mr. President, as in executive session, one of the nominations that the Senate has considered today is that of Maj. Gen. Winfield Scott, Jr., USAF to become Lieutenant General.

General Scott is the new commander of the Alaskan Air Command and I support the confirmation of his nomination. At this time I would like to have printed in the RECORD correspondence with the Department of Defense on this matter.

I am most pleased to thank the distinguished Secretary of Defense and his deputy for carrying out the commitment that was made to Alaska that the commander of the Alasks Air Command will, in fact, be a three-star general.

I ask unanimous consent that the two letters be printed in the RECORD at the conclusion of my remarks.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF DEFENSE,
Washington, D.C., January 5, 1978.

Hon. TED STEVENS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENS: Thank you for your letter of November 22, 1977, concerning the Alaskan Air Command reorganization.

The reorganization referred to in your letter consists of a realignment of certain functions and personnel from the Headquarters to the 21st Composite Wing. Concurrently, the 21st Composite Wing will assume management responsibilities for 13 Airborne Control and Warning Squadrons. Both the Alaskan Air Command and the 21st Composite Wing will continue to be headquartered at Elmendorf Air Force Base. This reorganization will not result in a reduction of the total number of United States Air Force military or civilian personnel authorizations in Alaska or at Elemendorf Air Force Base.

I wish to assure you that the reorganization will not in any way diminish the authority of the Alaskan Air Command. Lieutenant General Boswell will continue as Commander and current plans are for his eventual replacement to also be a Three Star General.

I trust this information will provide you with the reassurance you have requested. Should you desire more information, please let me know.

Sincerely,

C. W. DUNCAN, Jr.,
Deputy.

NOVEMBER 22, 1977.

Hon. HAROLD BROWN,
Secretary of Defense, U.S. Department of Defense, Washington, D.C.

DEAR MR. SECRETARY: As you may know, I requested a United States Air Force briefing on the reorganization of the Alaskan Air Command. Attending the meeting in my Washington, D.C. office were the head of the Alaskan Air Command, Lt. General Marion Boswell; the Deputy Director of Air Force Legislative Liaison, Brigadier General William Mullins; and the Chief of Air Force Senate Liaison, Colonel Eugene Poe.

As outlined to me during the briefing, the reorganization of the Alaskan Air Command consists of a restructuring of the Headquarters into a strictly managerial organization with its support personnel being reassigned to the 21st Composite Wing. Additionally, both of these units will continue to be headquartered at Elmendorf Air Force Base, Alaska, under the command of Lt. General Boswell. I was also told that General Boswell's eventual replacement would also be a Three Star General.

I have also been assured that these changes will not diminish the authority of the Alaskan Air Command. Nor will these actions result in reduction of the total number of United States Air Force military or civilian personnel in Alaska. It is my understanding that Alaskan Air Command officials believe that the reorganization of the 21st Composite Wing can be accomplished by the reassignment of the Headquarters' support personnel. I was also reassured that this reorganization will serve to enhance the management posture of the Alaskan Air Command.

I was reassured that those stars would stay there when the Alaska Command was disestablished. Without 3 stars, the contingency plans are meaningless.

Based on these assurances from the Air Force, I have not opposed the reorganization. However, during the briefing, I stressed the importance of the Alaskan Air Command to my State and my strong objection to any attempts to curtail its authority. Our strategic location demands an effective air defense force.

Please let me know if my understanding of this reorganization is accurate. I look forward to hearing from you on this important matter. Thank you for your assistance.

With best wishes.

Cordially,

TED STEVENS,
U.S. Senator.

U.S. ARMY

The assistant legislative clerk proceeded to read sundry nominations in the U.S. Army.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

U.S. NAVY

The assistant legislative clerk proceeded to read sundry nominations in the U.S. Navy.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

DEPARTMENT OF JUSTICE

The assistant legislative clerk read the nomination of William E. Pitt, of Utah, to be U.S. marshal for the district of Utah for the term of 4 years.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move en bloc to reconsider the vote by which all the nominations were confirmed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I make that motion.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be immediately notified of the confirmation of the nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, is the Senate still in the period for the transaction of routine morning business?

The PRESIDING OFFICER. Yes, the Senate is.

Mr. ROBERT C. BYRD. I thank the Chair, and I yield the floor.

S. 3441—INDEPENDENT LOCAL NEWSPAPER ACT OF 1978

Mr. MORGAN. Mr. President, I desire to introduce a bill.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

Mr. MORGAN. Mr. President, I am pleased today to be introducing the "Independent Local Newspaper Act of 1978," a proposal which I believe will go a long way toward assisting in the preservation of independent newspapers in this country. This will be accomplished by providing tax relief to certain newspapers and thereby an incentive for independent, local newspapers to remain community papers.

Congressman MORRIS UDALL has introduced and hearings have been held on a companion bill in the House of Representatives. Some 75 cosponsors have joined Congressman UDALL and they represent every area of the country and every political persuasion. It is a good bill and has attracted much support among Members of the House and from the newspaper community. It is a bill which has been subjected to review and adapted to meet criticisms. It is a bill which can assist independent papers.

Let me say a few words about the reasons this bill is needed and about the mechanics of the proposal.

A few years ago, newspapers were considered primarily as a community service. Now, as we all know, there is money to be made in newspapers and much emphasis is being placed on the business end of the enterprise. The "chain" approach to ownership, where one newspaper buys out another and eventually a string is owned and controlled by one person or one company has been around for some time. It is only in recent years that the impact of newspaper acquisitions come to our attention. Today, there are about 1,775 daily newspapers in this country.

Only 650—I repeat, 650—are independent locally owned. The rest of the papers are parts of chains.

With 72 percent of all daily circulation and 78 percent of all Sunday circulation controlled by chain-owned papers, the chances are very good that when you pick up a newspaper in my own State, in the city of Wilmington, N.C., or Hendersonville, N.C., or Lexington, N.C., there is a good chance that there will be quite a bit of news and editorial comment from New York City or the New York City area. The reason is simple. The New York Times owns all of these papers, plus others.

Now, I am not suggesting that there is anything sinister in the works and I am cognizant that the chain newspapers, by pooling resources, are able to provide some valuable services. Many small local papers are not up to snuff and are not a pride to the industry. There is something to be considered, however, in the concentration of the printed media that we are witnessing today.

In the last few years, newspaper acquisitions have averaged 40 or 50 a year. With this type of trend, in about 10 years, we could be facing a situation where 15 or 20 chains control most of the newspaper circulation in this country.

Mr. President, for myself, and I believe that others share my concern, I am afraid of what can happen. We must maintain a free and independent press in this country. Of all the industries and businesses in this country, only one is mentioned by name in the Constitution—the press. It is the right to a free press which I believe can quickly become threatened by corporate acquisition and concentration.

The ability of a local editor to express his anger or pride, free from any publisher, whether he be right or wrong from our perspective is a precious thing indeed. The political process which we enjoy in this country is very much founded on the freedom of the press to disagree, to debate and to take different sides on an issue. The public must be informed and to my mind the newspapers of the United States have done an admirable job in providing information and generating opinion. There must also be freedom of information, a freedom from concentrated editorial supervision and from a controlled press.

I do not want to go on too long with my reasons for desiring a preservation of a free and American press, which is not dominated by domestic chains or foreign investments. I do want to note that one reason that so many papers have been sold to chains and transferred from community control to editors from other cities or other States is our current estate tax laws.

At present, one of the major problems for independent papers which are run by one individual or by a small group of individuals is the payment of estate taxes. Simply put, when someone dies owning a share in a newspaper, that interest must be valued by the Internal Revenue Service. At present most newspapers calculate their worth at 15 times their yearly income. If a paper brings in $500,000 a year, then it should be worth $7.5 million.

The problem has been that with chains willing to pay 40 or 50 or even 60 times yearly earnings for a paper, the IRS has been valuing newspapers at a level which prohibits the payment of estate taxes. The result is that when an owner dies, or before his death, there is every incentive to sell the paper, make a profit and put his estate in order. The result has been a dramatic reduction in the number of independent newspapers.

What I am proposing today is a tax measure to assist—and I repeat, assist—independent newspapers in remaining independent. There is no cure-all in this proposal and since it is voluntary there is no guarantee that every independent paper will take advantage of this new tax mechanism.

The "Independent Local Newspaper Act of 1978" would allow independent newspapers to establish a trust for the payment of their estate taxes. A newspaper could establish a trust into which 50 percent of the paper's income could be placed annually, for the sole purpose of paying estate taxes which accrue on the

transfer on death of the newspaper owner. There is no reduction in the estate tax burden under this bill.

Independent newspapers are defined as publications which are not part of a chain and which have all of their publishing offices in a single city, community or metropolitan area, or as of October 31, 1977, had all its publishing offices within one State. The exception representing an in-State chain in operation before October 31, 1977, a classification which represents some 178 papers or 10 percent of all the dailies in the United States. No stock may be traded on the securities market for a paper to qualify.

The bill is divided into two parts. The first permits the creation of a trust by an independent paper for the purpose of paying the estate tax attributable to the owner's interest in the business. The trust must have an independent trustee and be invested only in U.S. obligations. The value of the trust cannot exceed 70 percent of the value of the owner's interest in the business. The newspaper income diverted to the trust is deductible from income of the paper and the owner—a form of relaxation on the double taxation on corporation dividends that we now have. On death the trust is excluded from the gross estate of the owner. Deductions for transfers from the business to the trust are limited to 50 percent of the business profits.

The second part of the bill provides for a deferral of the estate tax liability, if elected by the heir, to pay for tax liability not covered by the trust. Interest would be charged on the tax liability, while the coverage of section 6166 of the current code would be extended to cover estates which involve newspaper trusts.

I would like to briefly address some of the potential criticisms of this bill. I feel that this may assist in our consideration of this measure.

It is true that there are certain departures from existing laws and certain innovative provisions in this bill. This I do not deny. There is some deal of complexity represented by the independent newspaper bill and there is always resistance to newness, but I personally feel that this bill is needed and that it should be favorably considered by the Senate. While tax consequence may be difficult to calculate, I think it is a fairly simple matter to understand this bill—it sets forth the option for local newspaper to set up trust to prepay their estate taxes.

Next, I have heard it said that there are some benefits here that are extraordinary and create too great an inequality in the law. I think on reflection that this is not the case. There are certainly benefits to this proposal. Deducting 50 percent of income derived from a newspaper business is a definite attraction, just as I hope it will be. There must be some incentive to divert 50 percent of your income to a trust in order to pay estate taxes and I believe that the deduction is warranted.

There is also a penalty in the bill to deter abuse. The newspapers do deserve some special attention. I am afraid that those who may cry special interest legislation may be rudely awakened one day if they find that we have no independent press in which they may place their charges. Yes, there is some special attention for newspapers here and our Constitution approves just such attention for the press.

There may be concern that the heir is receiving a benefit that normally would be treated as income; that is, the discharge of an obligation to the Internal Revenue Service. Again, I plead guilty and I remain convinced that this is mandated by conditions that exist today.

If there is concern that a trust can be set up by any paper which meets the test of "independent local newspaper" and that some of the largest daily papers in this country will be allowed to establish a trust, then I believe that the focus is being drawn away from the key issue—maintaining some degree of independence among the press. In addition, while revenue loss is difficult to calculate, a rough estimate which I have received is that we are talking about some $10 million a year. This is just a preliminary figure and I am naturally concerned about any revenue loss, but in this case, I feel that it is in line with my basic views on fiscal conservatism to advocate this optional tax relief for local papers.

Finally, some have suggested that eventually every business interest would seek an option of prepaying taxes and because of this we should give careful review to comprehensive reform. My answer is simply this. The press stands alone in both the history and in the laws and in the fabric of this Nation. This tax relief is limited to this special institution and we should not be afraid to protect it. I would favor a comprehensive review but that should not prevent the enactment of this bill into law.

Let me say, Mr. President, that the need for this legislation is pressing. Newspaper acquisitions are continuing and I ask unanimous consent to have printed in the RECORD an article from last year which appeared in U.S. News & World Report, for the review of the Senators of the concentration in the newspaper business. I could go on detailing my concerns and explaining the technicalities of this bill, but I want to cut this short and allow the Senators to review the bill, to study its provisions, and consider the policy that it embraces. In the legislative session, I recognize that time is short; I am confident that many community-based, independent newspapers feel the very same way. I am confident that this bill can be taken up this session and enacted into law and I thank the Senate for considering it at this late date.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From U.S. News & World Report, Aug. 15, 1978]

AMERICA'S PRESS TOO MUCH POWER FOR TOO FEW?

Far-reaching changes are under way in America's once-unchallenged empires of the printed word—newspapers, magazines and books—as they seek their niche in the electronic age.

Great and venerable publishing houses are under pressures of many kinds to give up their independence and join chains or conglomerates for a safer existence alongside goods and services ranging from rental cars to rugs.

Inroads are becoming apparent in quality too.

Many publishers, in trying to keep up with changes in reader tastes and interests, are turning more to gossip, shock and scandal—often at the expense of solid information.

There is growing concern that the publishing business, long considered essential to an informed citizenry, is losing its diversity and that growth of corporate empires in publishing is making "the bottom line" of profit margins the supreme factor in the industry—to the detriment of excellence and responsibility to the public.

What will happen ultimately to the quality of opinion and factual information reaching American readers cannot yet be foretold. This, however, is becoming clear:

Chains, whose holdings are rooted in one field of publishing, and conglomerates, whose business interests run the industrial gamut, will continue to grow. A broker specializing in newspaper stocks says: "Further concentration of ownership is inevitable. The trend in the communications business is no different than in any other."

The wave of publishing acquisitions, which began in the early 1960s, continues with such instances as these:

CBS, Inc., recently added a second paperback-publishing house—Fawcett—to its TV magazine and book-publishing enterprises.

Time, Inc., publisher of magazines and books, and owner of a TV station, a TV production company, a film-distribution and production company and a cable-television system, has announced it is buying the Book-of-the-Month Club.

Capital Cities Communications, Inc., which owns newspapers, television stations and specialty newspapers such as Women's Wear Daily, added the Kansas City Star and Morning Times to its holdings.

The tens of millions paid for these and other publishing properties generate optimism about the economic future of the print media. That, however, is tempered by concern about the social consequences of such transactions.

Says James Hoge, editor-in-chief of the Chicago Sun-Times and the Chicago Daily News: "All the good will in the world by conglomerates who say they will establish op-ed pages (pages of diverse opinions opposite the editorial page), and run a lot of letters to the editor is just not the same as a number of different voices owned by different groups."

Some students of U.S. publishing fear that the day will come when a few giant corporations dominate the printed word—much as the three major networks reign over TV.

Already some newspaper chains have begun to absorb others, and papers like the New York Times and the Washington Post, both part of communications conglomerates, are exercising tremendous influence on the news judgment of editors everywhere. This, in turn, shapes public opinion around the nation. The influence of the Times and Post is multiplied by their supplementary news services, which many papers use.

These developments, say some critics, could degenerate eventually into Orwellian control by a handful of powerful magnates over what Americans read and think.

Against that frightening conjecture stand other factors.

Corporations in print communications don't want to risk Government intervention—and the merger trend has already attracted the attention of some in Congress. Representative Morris Udall (Dem.), of Arizona, wants to include book and newspaper publishing in a proposed study of industrial concentration by a blue-ribbon commission.

An even more significant factor is working

against the specter of media magnates exercising almost absolute control over information: Publishing corporations are less interested in political power than in profits.

As some students of America's media see things, however, it is precisely this emphasis on the bottom line that should be of greatest concern because it can lead to putting profits ahead of both quality and public service.

George Gerbner, dean of the Annenberg School of Communications at the University of Pennsylvania, notes: "There is a more rigorously market-oriented editorial climate today than in the past. The concern with sales used to be tempered by a personal commitment by an independent owner to what he wanted to say or do with the publication."

That commitment, he says, now is less and less in evidence.

Even among persons involved in conglomerates, a few are uneasy about the trend. One is Arthur Ochs Sulzberger, chairman and president of the New York Times Company.

Sulzberger feels that purchase by the Times can improve the quality of a newspaper, but he adds: "I like little, independent papers. I think it's a strength of America. . . . If somebody were to blow the whistle on newspaper acquisitions and say that it's going to be the rules of the game, I'm going to keep the New York Times in the newspaper-acquisition business."

Most people in the chain and conglomerate businesses express no such qualms. They feel that their growth is a good—and necessary—development. John R. Purcell, president of the CBS/Publishing Group and formerly a top executive in the Gannett newspaper chain, says: "Fragmentation of the media plays into the hands of big government. As long as there is a centralized big government, there is a need for a powerful and financially able free press."

But Washington Post media critic Charles Seib takes a different point of view. In a recent column, he asked this question: "Just how firmly can the executives of the communications empires exert control over the news and editorial product before the concept of a free press, as it was understood by the writers of the First Amendment, disappears?"

NEWSPAPERS: PROFITS—AND QUALITY, TOO?

Chains and conglomerates are the most powerful forces in the newspaper business.

Some chains are improving the quality of the papers they buy—adding staff and additional news services. Knight-Ridder, for example, has turned the Philadelphia Inquirer into one of the nation's well-rated newspapers. And some of the foremost newspapers in the country—the New York Times, the Washington Post, and the Los Angeles Times—are flagships of communications conglomerates.

But the high quality these newspapers achieve is rooted largely in family tradition—in some cases going back almost a century. And critics fret that chains and conglomerates lacking such a tradition can homogenize a product to the point of removing it from local concerns and controls.

These worries center mostly on the daily newspapers—the segment of the publishing industry most directly affected by the enormous growth of audience and revenues for television, the twentieth-century "wonder child."

Between 1973 and 1976, weekday circulation for dailies fell from 63.1 to 60.9 million, through a slight rise is now visible. A survey by the University of Chicago's national opinion research center shows a 7 per cent dip since 1972 in the number of people who say they read a paper daily.

Most editors see TV as the primary cause of the circulation dip. But Leo Bogart, executive vice president and general manager of the Newspaper Advertising Bureau, believes that the key reasons lie elsewhere—the changing composition of central cities, an upheaval in the mores of youth, and suburbanization. The fact that suburban dailies and weeklies are doing well while many urban dailies struggle for readership lends some credence to Bogart's argument.

New approaches. Against that broad background of U.S. social change, newspaper editors and publishers are looking for new formulas to counteract declining circulation. The readership problem is particularly acute among young adults who were raised on TV. They are reading magazines and books in larger numbers than their share of the population, but not newspapers.

To reach nonreaders, editors are consciously moving toward more entertainment—human-interest stories, gossip and even "soap opera" fiction. There's also a trend toward more service features, such as consumer tips and advice on taxes and investments. These changes are often made at the expense of national and international news that many newspapers now regulate—except for a few of the most important stories—to two or three-paragraph summaries.

In seeking readers who are absorbed in their inner selves rather than in the life of the external community, newspapers are also adding features dealing with such topics as psychology, self-improvement and dream analysis.

Many papers are segmenting their audiences with zoned editions aimed especially at covering suburban news once seldom found in a metropolitan daily.

More capital is going into making newspapers visually attractive to a generation used to television's imagery. Says Chicago Tribune Editor Clayton Kirkpatrick: "A newspaper to be successful must be dedicated to . . . not only print content, but graphics as well." Publisher Otis Chandler of the Los Angeles Times and Executive Editor Benjamin Bradlee of the Washington Post see their newspapers becoming more like newsmagazines, offering depth and variety in a visually attractive package.

The 10 biggest chains in the newspaper business

Of 1,762 daily newspapers in the U.S., 1,047 are part of group-ownership arrangements. Here are the 10 largest newspaper chains, ranked by circulation.

Group	Number of papers	Circulation [1]
Knight-Ridder Newspapers, Miami	32	3,598,562
Newhouse Newspapers, New York City	29	3,300,757
Tribune Co., Chicago	8	[2] 3,099,120
Gannett Newspapers, Rochester	73	2,850,000
Scripps-Howard Newspapers, Cincinnati	17	1,911,791
Dow Jones & Co., New York City	14	1,856,667
Times Mirror Co., Los Angeles	4	1,767,798
Hearst Newspapers, New York City	8	1,503,000
Cox Newspapers, Atlanta	14	1,201,370
New York Times Co., New York City	10	1,040,198
Total		22,129,263

[1] Daily except Sunday; latest available figures supplied by companies.

[2] Editor and Publisher, July 1977.

NOTE.—With a total circulation exceeding 22 million, these 10 chains comprise more than one-third of total daily newspaper circulation in the U.S.

The New York Times, whose daily circulation fell from 684,000 to 828,000 between 1970 and 1975, is publishing three magazine-style sections—Weekend, Living and Home—in a drive to increase weekday circulation and advertising. Circulation has risen to about 866,000.

Some critics contend these sections diminish the quality of Times news coverage, but Executive Editor A. M. Rosenthal says the space given to coverage of news events has increased by 7.5 per cent since the "new" New York Times was launched. He insists that "we have added tomatoes to the Times's soup" though, he says, many other papers are adding water to their soup, diluting its quality.

The current leader of the trend away from conventional coverage of the news is Rupert Murdoch, the Australian publisher who purchased the New York Post several months ago and is busily converting it into an American version of his successful papers in Australia and Britain, which offer a racy melange of some "hard news"—and lots of shock, gossip, human-interest features and sex.

Murdoch has gone further than most, but he is not alone. Many papers have instituted "people" columns containing gossipy tidbits about the famous and not-so-famous. Some journalists are writing more intimately about the private lives of public figures, in what some critics see as journalistic voyeurism. The Washington Star prominently features a gossip column that is the first thing many readers in the nation's capital turn to.

Wrong direction? Such moves are generating worry within the profession and on the outside. Erwin Knoll, a former reporter and now editor of the Progressive, a political magazine, warns: "If newspapers keep on the current track, they risk self-destructing as useful vehicles of information and analysis. What they're doing to hold on to readers is trivialize the news." Contrarily, George Reedy, Nieman professor of journalism at Marquette University and press secretary to President Lyndon Johnson, says: "The purpose of papers is to carry on a dialogue, not to perform an educational function. Too many in the press forget that."

Whatever judgment is passed on newspaper trends, they are paying off—circulation problems notwithstanding.

Chains and conglomerates whose stock is publicly traded averaged after-tax profits of 10 per cent last year, a figure many industries would envy. And increasingly these groups, along with a few privately owned publishing houses, are dominating the newspaper industry.

In 1960, chains and conglomerates controlled 30 per cent of the nation's newspapers and had 46 per cent of its newspaper readership. Today they own 59 per cent of the newspapers, accounting for 71 per cent of readership.

Furthermore, about 97 per cent of the 1,544 cities in which dailies are printed are one-owner towns—and critics make the point that a monopoly publisher can put out an inferior product if so inclined. Murdoch, who is branching out with his own U.S. print conglomerate built around the Post and New York magazine, describes a newspaper monopoly as "a license to steal money forever."

Many owners of newspaper monopolies also own local TV stations, but a recent court ruling—being appealed to the Supreme Court—could force them to divest themselves of their television stations.

The pressure on independent owners to sell to chains can be unrelenting. Barry Bingham, Jr., editor and publisher of the family-owned Louisville papers, says he is contacted so often by would-be buyers that his secretary made up a stamp that says "Nothing for sale" for response to such inquiries.

But independent owners like the Binghams are a vanishing breed. In many family-owned newspapers, the younger generation is uninterested in the paper, so the owner sells to a chain. Or he sells because he lacks

the capital for computerization and other new technology to slash production costs. Encouragement to sell also comes from tax laws that allow the new owner to depreciate the plant and equipment from scratch, while also allowing the seller to avoid the problem of estate taxes that might force his heirs to sell anyway.

Unwittingly, Congress may have made it even more difficult to maintain family-owned businesses in passing the Tax Reform Act of 1976. Or so says Bingham, who adds: It means that family businesses will have to go public because there is no way to turn them over. If the person who owns the controlling interest dies, you have to scrape together a fantastic amount of money to pay the taxes."

Going public. Some publishers are getting more capital by selling stock publicly. This, some fear, will make them more vulnerable to "bottom line" pressure in order to pay the dividends that stockholders look for.

New York Times President Sulzberger, however, insists that a family can control a newspaper if it wants to, even though the stock is publicly traded. The Times keeps a majority of voting stock in family hands; publicly traded nonvoting stock can be sold by heirs to pay estates taxes and still keep control of the Times in the family.

Publishers like Sulzberger and Bingham feel that maintaining family control is the best way to make sure that quality does not become secondary to profits. Bingham says that if a chain took over his papers, which have an after-tax profit of only 3 per cent, it would likely turn first to the newsroom as a place to cut costs—hurting the quality.

John Seigenthaler, publisher of the independently owned Nashville Tennessean, stated the problem of publicly owned stock recently: "Does anybody think that our industry won't ultimately suffer setbacks which will require cutbacks, and won't stockholders insist on cutbacks in non-income-producing areas, which means news and editorial expenditures?"

Opinions differ on the magnitude of a more subtle problem—maintaining local editorial control in a newspaper belonging to a chain or conglomerate.

While the best chains do not dictate editorial policy, some critics insist that local executives are under subtle pressure to conform to what top management expects. Against that view, heads of chains say that only weak editors operate that way. Yet they acknowledge that a desire to please the boss can make a newspaper unduly bland and cautious. And homogenization, some admit, can creep in simply because of the tendency in a large corporation to try in one operation what has worked in another.

Says Sidney Gruson, executive vice president in charge of affiliated companies of the New York Times Company: "I think there is a tendency to sameness of coverage by people in a newspaper chain." Disagreeing, Allen H. Neuharth, president and chief executive of the Gannett chain, states that "a paper must be tailored to fit its community." But he concedes that a chain-owned newspaper can lose touch with its community if publishers are shuttled in and out. He adds: "I happen to think publishers and editors who move are the ones who do a good job. I would rather have a good person in a community for three years than a hack for 30."

MAGAZINES: THE SPECIALIZATION GAME

Trivia, gossip, sex and leisure currently make up the "hot" subjects for today's magazines—and many are including material that would have shocked the sensibilities of average readers a few years ago.

Such publications as *People* and sex-oriented *Hustler* have grown at a spectacular rate. In just a few years the circulation of *People*, which is long on photos of celebrities and short on text, has exceeded the 2-million mark and continues to climb. That success story has prompted the New York Times company to launch an imitation, *US*. Explained Gruson: "The magazine was conceived by the head of our magazine division as appealing to the TV generation."

Looking at it more bluntly, Editor Robert Stein of *McCall's*, says that such magazines reflect what television has done to people's attention spans and reading habits.

The example of *People* is only one measure of the magazine industry's flourishing state, over all.

Between 1950 and 1976, circulation of major magazines jumped from 147.3 million to almost 256 million. Between 1975 and 1976, their advertising pages, increased 17 per cent. Last year alone, 336 new magazines were started, according to *Folio*, the industry's magazine.

Not all is rosy. Lewis H. Lapham, editor of *Harper's* magazine, says: "It is hard to get people to read a general magazine and to a lot of people, especially the affluent, that is threatening." *Harper's*, along with some other serious journals, has experienced a circulation decline in recent years.

Many magazines, however, think they have found the magic formula for success. While newspapers continue to strive to reach audiences with a wide range of interests, magazines are aiming increasingly at specialized audiences. Whether a person is a devotee of golf, tennis, UFO's, psychology or CB's, there is something for him—or her—on the magazine rack.

General-interest and mass-circulation magazines like *Collier's* and *Look*, to take just two examples, are defunct—items of nostalgia from a time when magazines had huge audiences across the nation almost to themselves. Now TV has assumed that role, and magazines are tending to narrow, not enlarge, their focus.

While magazines are going in diverse directions to find their own audiences, all are waging a vigorous fight against a common problem: soaring costs of production.

Postal rates have skyrocketed in recent years. Paper costs are way up, too. In that cost squeeze, magazine publishers increasingly are turning to their readers to foot a growing share of the burden. According to the Magazine Publishers Association, only 30 per cent of magazine revenue came from circulation in 1966. Ten years later that figure had jumped to 45 per cent. It soon will reach 50 per cent.

Magazine editors regard this as healthy. They feel that it makes them more stable financially and less subject to fluctuations in advertising. The readers who have remained with them through price increases are regarded as committed to their product—a selling point with advertisers.

Today, however, some magazines are shifting emphasis from subscription to newsstand sales—though gradually—thereby circumventing the troublesome postal system and bringing in more circulation revenue. This is putting a premium on magazine covers featuring celebrities or "hyped up" stories to promote sales in such outlets as supermarkets.

If postal rates keep increasing, magazines can be expected to put even more emphasis on newsstand sales, and perhaps move toward developing alternative means of delivery. Some magazines already are experimenting with new methods—such as delivery by newspaper carriers.

Of the three major print media, magazines appear to be moving toward conglomerates the least, perhaps because there are so many magazines. At last count over 10,000.

Nonetheless, the magazine industry has been affected by the chain and conglomerate trend. CBS owns more than 60 magazines catering to specialized interests. The New York Times Company produces seven, including three abroad. Time, Inc. publishes five, including one of the three major newsmagazines. Of the other major newsmagazines, *Newsweek* is owned by the Washington Post Company, which also owns TV stations and other newspapers. *U.S. News & World Report*, which also has newsletter and book divisions, is employe-owned.

The president of one independent magazine, the New Yorker's George J. Green, says he fears that the freedom his magazine gives writers and editors would suffer if it were absorbed into a large corporate structure. His view: "You can't maintain your character if you become part of a conglomerate."

BOOKS: BOOM AND TAKEOVER

The book business, once regarded as a cottage industry, is a big business, and getting bigger.

Hardback publishers are buying paperback firms. Companies with movie and TV interests are buying both hard and paperback houses. As a result, the number of major independent book companies is in decline, although there are still many small publishers around.

The acquisition trend is generating concern among some in publishing, who fear that quality is becoming less important than whatever the public will buy in volume.

Says literary agent Georges Borchardt: "Corporate publishing is very much run by people with balance sheets. They think of a book as something to balance out. . . . If you go to a young editor with a manuscript, he might feel like publishing it, but he won't because he's afraid of losing his job."

Borchardt and other critics acknowledge that good books do eventually get published but, says one observer of the industry: "The quality of editing goes down as pressure builds to get products into the market quickly."

Roger W. Straus, Jr., president and chief executive officer of Farrar, Straus & Giroux—an independent publisher of hardcover books—bemoans the publication of "phony books" to turn a quick profit.

Says he: "I cry for the trees that have been chopped down to make the paper for these books." He sees a "loss of quality" in book publishing because big corporate publishers are reluctant to take on a book that might sell only several thousand copies.

The heads of publishing firms owned by conglomerates deny this. Richard Snyder, president of Simon & Schuster, which is owned by Gulf & Western, says that the additional money from a large conglomerate enables him to take more risks. Gulf & Western's sales last year totaled 3.20 billion dollars. Its holdings include Paramount Pictures, Consolidated Cigar, Schrafft Candy and Madison Square Garden.

Writers' lament. The Authors Guild, an organization that represents 5,000 writers, is concerned about the acquisition of independent publishers by large firms like Gulf & Western, fearing it will reduce the market for writers. The Authors Guild has called for Government action.

The Antitrust Division of the Justice Department, however, sees no immediate threat to competition from the mergers, except in the case of mass-market paperbacks, where concentration of ownership is increasing markedly.

The Department is looking into the recent CBS, Inc. purchase of Fawcett, which has two paperback lines, Crest and Gold Medal. CBS already owned Popular Library. Justice was also interested in the desire of the Times Mirror Company, parent firm of the Los Angeles Times, to acquire the Random House publishing division of RCA. If the deal had gone through, Times Mirror, which already owns New American Library paperbacks, would have added Ballantine paperbacks. Franklin Murphy, chairman of the board of Times Mirror, says money differences killed

the deal, but that the antitrust issue was a potential cause of concern.

The interest of movie makers and TV corporations in book publishing is, quite simply, economic. In itself, publishing "trade" hardbacks for the general public is not very profitable. Pretax profits in the industry averaged only 1.7 per cent last year. But the sale of paperback rights and possible movie-book tie-ins or a TV series-book package could prove highly profitable. Also, movie scripts could easily be turned into books, reversing the traditional pattern of making books into movies. A novelized version of the movie "Star Wars" is now a successful paperback.

Hardback houses are also interested in acquiring paperback companies because of the economic advantages. While a hardback may lose money, that loss can be recouped through paperback sales.

Publisher Straus says that an independent hard-cover publisher is at a disadvantage in negotiating with an author if he has no paperback subsidiary. An integrated company can easily come up with the money to make an offer on both the hard and softcover rights to a book. An independent publisher has to find a paperback partner in such a venture.

TV has had a substantial effect on the book industry, and most of those in publishing feel that the results are positive. Television increases reader interest in books. Series like "Roots" and "Rich Man, Poor Man" boost sales of the books on which the series were based.

Television talk shows are major vehicles for promoting books, although some editors are not enthusiastic about the kinds of books that lend themselves to such promotion. They tend to be "how to" books and some nonfiction, rather than serious literary works.

Book clubs, mail-order sales and textbooks are less visible, but highly lucrative, parts of the book industry, which has had a steady increase in dollar volume in recent years. The number of books sold has remained relatively constant, but few publishers express concern about this development.

Just how big a business books have become is demonstrated by the large sums of money paid for rights to some best sellers. Bantam Books, for example, paid $1,850,000 for paperback rights to "Ragtime." This reflects the need for paperback houses to have a "big book" on the stands every month—thereby enabling them to get book distributors to carry other, less-attractive titles they publish.

As paperback publishers become bigger, they have begun to initiate book projects rather than simply buying the rights to hardcover books. The day may be coming, some in the business say, when paperbacks virtually replace hardbacks, with only libraries and a few bibliophiles buying the more expensive editions.

THE LARGEST BOOK PUBLISHERS

Ranked by annual revenues (latest available figures)—

*Hard-cover**

Random House (owned by RCA).
Doubleday.
Harper & Row.
Simon & Schuster (Gulf & Western).
Little, Brown (Time, Inc.).

Paperback

Bantam (owned by IFI International).
Dell (Doubleday).
Fawcett (CBS).
Pocket Books (Gulf & Western).
New American Library (Times Mirror).
Avon (Hearst).

Source Book Distributing and Marketing 1976–1980 published by Knowledge Industry Publications.

THE FUTURE: OPTIMISM, BUT . . .

Book publishers and others in publishing generally are optimistic in foreseeing the future of the print media.

*Excludes textbooks.

Lee Hills, board chairman of the Knight-Ridder chain, observes: "Print is referable, it is there to reread at your convenience. Print is preservable; you can clip, save and file it. Print is convenient, so you may read what you want, at the speed you want, and when you want it. Print is portable. . . . With print, the reader is in control. He can skip. He can go back. He can observe, he can turn the page or section. It is intimate communication."

As critics see it, print does, indeed, have a special role to play as a disseminator of serious information. But they ask many questions:

Will publishing play that role or will it—as some fear—focus more and more on entertainment at the expense of solid information in an attempt to rival television? Will the quest for profits by ever-larger and more-powerful chains and conglomerates lead publishers to try to appeal to the lowest common denominator? Or will a reasonable balance be struck between profits and quality?

Some analysts of the publishing industry argue that print must carve out a role different from that of TV to remain vigorous—but they ask whether conglomerates and chains concentrating on short-term profits see the industry's problems from that perspective.

Looking ahead, sociologist Richard Maisel has concluded that in a postindustrial society, those communications media that appeal to a mass audience will decline while "specialized communications directed to a smaller, more homogenous audience" will grow.

There are signs that this is happening in the print media, as some general-interest newspapers struggle while specialized magazines thrive. Yet many in publishing see a serious implication in this: If the U.S. becomes a society getting its information from fragmented and specialized sources, where is the information glue coming from to hold the broad society together? And they point out this:

Historically, the nation's writers, editors and publishers have been able to transmit information relatively free of Government pressure. Now, as costs keep going up in a technological age, they are increasingly under another kind of pressure: for bigger profit margins—at the expense, in some instances, of quality and their primary mandate to keep the public informed.

In that developing situation, the content of the nation's newspapers, magazines and books in the years ahead will say much about the condition of the publishing industry—and of American society as well.

(This special report was compiled and written by Associate Editor Alvin P. Sanoff.)

TV NETWORKS: CENTERS OF NEWS POWER

The concentration of power that so many fear lies ahead in publishing already is the norm in television. Three networks dominate the entertainment and information medium that has reshaped American society.

TV is the primary source of news for many Americans whose view of the world is shaped by the networks, ABC, CBS and NBC, all divisions of major conglomerates. The responsibility that falls on network shoulders is awesome, considering that 64 per cent of Americans say they get most of their news from TV and a majority find it the most believable news medium, according to a study for the Television Information Office conducted by The Roper Organization.

The networks as a whole spend about 10 per cent of their revenues on news and public affairs—218 million dollars last year out of net revenue of 2.1 billion, according to figures compiled by the Federal Communications Commission.

News is a smaller part still of the three conglomerates of which the networks are a part: RCA—owner of NBC; CBS, Inc., and the American Broadcasting Companies, Inc. Revenues of the three conglomerates came to almost 9 billion dollars last year. The firms rank 31, 102 and 170 respectively in the Fortune 500 list of the largest U.S. industrial firms.

The three conglomerates earned a total of 822.7 million dollars last year, before taxes, and network earnings accounted for about 36 per cent of that sum.

In addition to their network interests, all three conglomerates own TV stations and AM and FM radio stations, many of which are located in the largest and most influential markets in the country.

They are also in a variety of other businesses. RCA's holdings include Hertz car rentals, Banquet frozen foods, Coronet carpets, defense contracts, television manufacturing and Random House book publishers.

CBS is involved in everything from toys to tools. Its holdings include: Creative Playthings, X-acto tools, Steinway pianos, Holt, Rinehart & Winston book publishers, three paperback-book lines, Columbia Records and a number of magazines.

American Broadcasting Companies, Inc., owns amusement parks, more than 250 movie theaters, ABC records, leisure magazines such as High Fidelity and Modern Photography, and Word, Inc., a religious music and book-publishing firm.

The wide-ranging business interests of the networks' parent corporations has raised some concern about whether economic interests might come into conflict with network news coverage.

But John R. Purcell, president of the CBS/Publishing Group, says news coverage is unaffected by his employer's other interests.

PLAYING IT STRAIGHT

He points out that CBS ran "The Guns of Autumn," a documentary critical of hunting that proved financially damaging to the company because some angry advertisers pulled their ads out of Field & Stream magazine, which is owned by CBS.

Purcell also said that a recent CBS television-news segment took a critical look at the educational-publishing industry, mentioning CBS's Holt, Rinehart & Winston by name.

Says Purcell: "I thought the segment was poor investigate reporting. . . . It made me mad as the head of a major publishing group. But it made me proud to work for a company with two divergent opinions."

Mr. PERCY. Mr. President, I am pleased to join my colleague from North Carolina (Mr. MORGAN) in introducing the Independent Local Newspaper Act of 1978.

I have been concerned by the growing trend toward concentrated ownership in the news reporting field. Independent local newspapers are a strong American tradition. They provide independence of thought, recognition of local interests and healthy competition which must be allowed to continue.

Between 1954 and 1974 the number of daily newspapers remained at approximately 1,770, but during that period the percentage of dailys that were part of chains increased from 27 percent to 55 percent. Furthermore, during this period the number of U.S. cities with competitive daily newspapers fell from 117 to 55.

Regrettably, the impact of estate taxes on independently owned newspapers has been in large part responsible for this trend. Faced with substantial estate tax bills, which may be based on an inflated potential resale value, heirs to the owners of independent papers are

often forced to sell their interest to pay the taxes due.

The estate tax changes we enacted in the 1976 Tax Reform Act have been of some assistance, but not enough. At that time we extended the period for payment of estate taxes from a maximum of 10 years to a maximum of 15 years and reduced the interest rate of the taxes due from 7 to 4 percent. However, to qualify for this relief, the business must meet both the test of being closely held and account for a set percentage of the decedent's estate. Those that do not meet these strict tests remain subject to the pre-1976 rules. A forced sale is often the result.

The legislation we are introducing today expands the relief provided by the 1976 act. Many of us had hoped and worked to make the 1976 estate taxes broader—for family farms as well as family businesses—and this legislation is a first step in that direction.

Briefly, the bill allows a local newspaper business to establish an estate tax payment trust, the assets of which are invested in U.S. obligations, for the purpose of funding the estate tax attributable to the interest of the individual owners in the newspaper. The trust assets would be limited to the amount necessary to pay the estate tax. Contributions, disbursements, and the assets of the trust would be free from taxation as long as the trust conformed to the requirements set out. In addition, in those cases where the trust funds are not sufficient to pay the estate tax due, the existing 15-year period during which some estate taxes must be paid is broadened by repealing the percentage restrictions.

This legislation does not prevent the acquisition of an independent newspaper by a chain. It leaves the decision to sell in the hands of the owners of such papers and their heirs. It protects them from being forced into a decision to sell by Government tax policy. It is unquestionably in the national interest that the tradition of the independent press be preserved. Federal tax law should not be allowed to create a result contrary to this national interest.

COMMITTEE MEETINGS

(The following proceedings occurred later in the day.)

Mr. LEAHY. Madam President (Mrs. HUMPHREY). I ask unanimous consent that the Commerce, Science, and Transportation Committee be authorized to meet during the session of the Senate today to conduct hearings on the International Air Transportation Competition Act of 1978.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Madam President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Governmental Affairs Committee be authorized to meet during the sessions of the Senate on Wednesday, August 23, and Thursday, August 24, to conduct hearings on "arson for profit" legislation.

Mr. SCOTT. Madam President, reserving the right to object, has this been cleared on our side of the aisle? I am not familiar with these matters. I do not want to object to any unanimous-consent requests, but I think they should be cleared.

Mr. LEAHY. I assumed that they had. It was handed to me.

Mr. SCOTT. I withdraw my reservation.

Mr. LEAHY. Senator BAKER has initialed them.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE MEETING DURING SESSION OF THE SENATE ON THURSDAY, AUGUST 24, 1978

Mr. LEAHY. Mr. President, I ask unanimous consent that the Foreign Relations Committee be authorized to meet during the session of the Senate on Thursday, August 24, to mark up S. 2053, deep seabed bill, and to consider Senate Joint Resolution 154, concerning U.S. invitation for nations to participate in the international petroleum exposition to be held in Oklahoma.

Mr. SCOTT. Mr. President, reserving the right to object——

Mr. LEAHY. Mr. President, this has been cleared on both sides.

Mr. SCOTT. With the assurance of the distinguished Senator from Vermont that it has been cleared on our side, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE MEETING DURING SESSION OF THE SENATE ON WEDNESDAY, AUGUST 23, 1978

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, August 23, 1978, to hold a hearing on John Warren McGarry as a member on the Federal Election Commission.

I advise the Senator from Virginia that this has been initialed by the distinguished minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. I thank the Senator from Virginia.

(Routine morning business transacted and additional statements submitted are printed later in today's RECORD.)

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

REPRESENTATION OF THE DISTRICT OF COLUMBIA IN CONGRESS

The ACTING PRESIDENT pro tempore (Mr. MORGAN). Under the previous order, the Senate will now resume the consideration of House Joint Resolution 554, which the clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 554) proposing an amendment to the Constitution to provide for representation of the District of Columbia in Congress.

Mr. ROBERT C. BYRD. Mr. President, I believe that Senators were expecting to start on this measure at 10 o'clock a.m.

I yield the floor. I believe Mr. MCCLURE is going to proceed to call up an amendment.

The ACTING PRESIDENT pro tempore. The Senator from Idaho is recognized.

UP AMENDMENT NO. 1704

(Purpose: To permit the people of the District of Columbia to vote for Senators from Maryland)

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

If the clerk will withhold, I have sent the wrong amendment.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. MCCLURE) proposes an unprinted amendment numbered 1704.

On page 2, line 3, strike out "Congress" and insert "House of Representatives".

On page 2, line 6, after the period insert the following: "For purposes of representation in the Senate, the District constituting the seat of the government of the United States shall be treated as though it were part of the State of Maryland.".

Mr. LEAHY. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. McCLURE. I am happy to yield to the Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that Martin Franks of my staff be given the privileges of the floor during all debate and votes today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, yesterday the Senate considered several possible alternatives to the pending joint resolution with respect to representation of the people of the District of Columbia in the Congress of the United States. The Senator from Montana (Mr. MELCHER) earlier offered an amendment that was a combination of different adjustments which would have permitted representation for the District, and that amendment was turned down by the Senate on a motion to lay on the table.

Yesterday I offered an amendment which would have granted full retrocession, thus giving the people of the District full civil rights in all of their ramifications, entirely equal with those of every other citizen of the United States, by ceding the area which was first ceded to the United States by the State of Maryland for the seat of government back to the State of Maryland, so that the residents of this area could enjoy full representation and full civil rights; and that measure was also rejected by the Senate on a motion to lay on the table.

There are only two ways by which the people of the District of Columbia can have full voting representation and equal rights with every other citizen of the United States. One is by allowing

them to again be citizens of a State of the Union by receding the area to the State of Maryland. The Senate said no. The other of the two methods which might give the citizens of the District full and complete civil rights, as every other citizen of the United States enjoys them, would be to create a new State within the territory now encompassed by the District of Columbia. I offered that amendment yesterday after the retrocession amendment had failed. Again, the Senate turned that proposition down.

So the Senate has clearly, on those occasions, said it is not the intention of the Senate to grant full civil rights to the people of the District of Columbia. It was interesting to note that the Senator from Massachusetts (Mr. KENNEDY), in arguing against the first of the amendments, said that Congress must retain some authority, thereby denying to the people of the District of Columbia their full rights.

It was interesting to note that the other managers of the bill in regard to statehood said that the people of the District of Columbia were not entitled to exercise their full civil rights, but somehow, as the Senator from Indiana had indicated in his debate on these matters, the people of Indiana have such a right in the Nation's Capital that the people of the District must enjoy less than full civil rights, that there must be a limitation on their right to exercise the powers and duties of citizenship that other citizens of this country enjoy.

The Senate agreed with Senator KENNEDY and Senator BAYH in those instances, and repudiated the amendment which would have, in effect, negated that argument and granted to the people of the District of Columbia all of the rights that every other citizen of the United States enjoys.

This amendment which I now offer is a sincere attempt to find a way by which the people of the District can have the rights which they should enjoy, which the Senate has said is the limit of the rights that the Senate will grant to them, at the same time receiving the essential character of representation in the Congress of the United States that was established in the Constitution when the Constitution was formed.

I do not need to belabor the subject of the big State-small State compromise that was the foundation of this Republic—a union of sovereign States with each State having its rights protected by equal representation in one body of the Congress, and the protection of individual rights by granting equal representation in the other body of the Congress of the United States.

The pending joint resolution would trample that constitutional principle into the dust. It would, for the first time, break what has been heretofore an unbroken chain of support for the concept that we are in this body representatives of the States whose people have given us the honor of representing those States in this body of Congress, and it would, for the first time, say that a city is entitled to such representation—not a State, but a city.

I have another amendment which I shall offer later that will attempt to make equal for other cities what is being done for this city. Suffice it to say for the purpose of this amendment that the sponsors of the joint resolution are saying that this city alone, among all other cities of the United States, should be treated differently—should be treated differently by giving them more representation in the Congress of the United States than any other city in the United States.

Mr. President, the difficulty that many of us have with the proposal before us is simply that, the destruction of the constitutional principle of State representation within this body.

There are a lot of ramifications that flow from the destruction of that principle. I do not want to get back into the old arguments of States rights versus Federal rights, but certainly if there are such things as States rights to be protected, then we do not want to destroy the principle that States and States alone as entities are represented in this body, the States and their people are represented in this body, as State entities. It is not individuals who are represented but the individuals as a State, as a group of people comprising a political unity called a State.

Now we are asked to destroy that constitutional principle in one instance.

The sponsors of the resolution indicate that only in this one instance, and only because of special circumstances, do they intend to destroy that principle, or to bend that principle, to the expediency of this moment.

There have been those who tried to characterize the motives of those of us who oppose the pending joint resolution as saying that we do not want the people of the District to have representation. I think it should be abundantly clear by this time that at least the junior Senator from Idaho, who does oppose the pending joint resolution, does want full, equal representation for the people who live here in the District of Columbia. We have traced the evolution of the restriction on the exercise of full political rights by the people resident within this District upon several occasions in this body in this debate, but it might be instructive to just visit that for a moment again.

When the Nation was formed they decided that they ought to have some neutral ground for the Nation's Capital. The people who were sitting in Constitutional Convention were confronted with breaches of the peace and threats against their security as they deliberated what should be done with the formation of this union.

They decided because of that it was necessary to have neutral ground so that the Federal Government, the Federal Government alone, not hostage to the desire of the State in which they might be meeting, could maintain the security of the Nation's Government, not dependent upon the State or city government but dependent upon their own resources to guarantee the security of the deliberations of the national legislative body.

They therefore decided to try to create a district out of some area of the United States where the Nation's Capital could be founded.

Again in the kind of compromise that led to the large State-small State compromise in the representation in two Houses of the Congress, they sought to avoid the question of whether or not that Nation's Capital would be located in a Northern State or a Southern State and compromised that by putting it across the State boundaries of a Northern State and a Southern State, putting part of it in the State of Maryland and part in the State of Virginia, or perhaps I should properly say by taking some of the territory from each of those States to create the District of Columbia.

It was in that manner that the District of Columbia was formed and the States of Virginia and Maryland ceded that property to the Federal Government for the seat of the Federal Government.

Because it was to be neutral ground, not subservient to any State, not dependent upon any State to provide the security for the Nation's legislative body, and because they distrusted the influences upon the Federal Government by those who might work for the Federal Government thus rendering the climate less than completely objective, they decided at a later date to deny to the people of the District of Columbia the right to vote for President, Vice President, Senators, and Representatives in the Congress. That was done some time after the constitutional act which created the District of Columbia in the first place.

It should be noted that for several years after the District was created, the residents of the District voted in the States from which that territory had been ceded.

I have noted, as several others have, that over a 100 years ago the State of Virginia came to the Federal Government and said, in effect:

> You are not using the territory we ceded to you. There is no prospect that you are going to use the territory that was ceded to the Federal Government. We want it back.

The Congress of the United States agreed with that proposal and ceded the portion of the District of Columbia, which was in the State of Virginia originally back to that State.

I might more technically and properly say that from the high water mark on the Virginia side of the Potomac it was ceded back to Virginia, thus not completely ceding back that which had been ceded by the State of Virginia to the Federal Government for the seat of government.

Let me remind those who may be interested in what is happening here that the right of voting within the District of Columbia was not removed by the Constitution; it was removed by statutory enactment several years after the District had been created. I reiterate that the people who resided in the territories that had been ceded by Virginia and Maryland voted in their respective States for

some time after the District was created.

We are told now that Maryland does not want the District back; that it would upset their political balances in the State of Maryland if indeed this block of voters was inserted back into their voting territory.

Well, I understand their concern. But is that concern of the politicians in Maryland to control what is done with respect to a constitutional principle? Are we to destroy or bend or adapt a constitutional principle to the mere political expediency of a group of politicians in Maryland? I think the other 49 States have a right to resent that kind of a trampling of the Constitution to conform to the narrow political desires of one State.

I ordinarily try to cooperate in protecting what a State wants done within their territory. I believe very strongly in the concept of States rights. I believe very strongly in the concept of protecting the States against the encroachment of the Federal Government into what is their rightful domain. The Federal Government should be carefully limited to the exercise of those powers specifically delegated to the Federal Government under the Constitution, the Federal Government not rightfully exercising any other, because all the rest of the powers were, under the Constitution, reserved to the States and to the people.

But in this instance the correction that was sought in ceding the territory back to Maryland was no more than putting it back as it was at the time the Constitution was passed, and before it had been changed not by the constitutional amendment but by statutory enactment.

Mr. President, I think it is quite likely that if this Congress passes no constitutional amendment dealing with representation, that the people of the District might well go to court to assert their right to vote. If they go to court to assert their right to vote, there is precedent that would say the court would uphold that right to vote and they would be allowed the right to vote in the State of Maryland, as they did before the change was made in the early 1800's that denied them that right to vote in the State of Maryland.

I have already offered an amendment which would strike the existing proposal in House Joint Resolution 554 and substitute for it the retrocession, a full retrocession of the areas not occupied by the Federal Government back to the State of Maryland for all purposes. The people of the District then would be permitted to vote for a Governor, to vote for legislative members in the State legislature, to vote for Members of the House of Representatives, and Members of the Senate, as every other citizen of the United States can do within any of the 50 States.

They would vote for the President and presidential electors as every other citizen of the United States is allowed to do within the 50 States. But that was rejected by the Senate—again on narrow political grounds. Political expediency is controlling the action of the Senate, not principle; because if the principle is to give the people of the District the opportunity to vote and to give them the full exercise of civil rights, we would have adopted either full retrocession to Maryland or, in the alternative, confronted the problem squarely by granting statehood to the District, rather than doing what is being proposed in this resolution.

The pending amendment, Mr. President, would attempt to take us from where we are and do the best we can now do with a situation that the Senate has not already considered and rejected. I would have much preferred it had full retrocession passed. But the Senate, in its judgment, turned that proposal down.

The amendment which I have now offered is a partial retrocession in an effort to give to the people of the District as much right as we can under the situation which remains before us for consideration without destroying the constitutional principle of State representation in the Senate. This amendment, Mr. President, would simply retrocede—excuse me, I should not use that term. It does not retrocede the territory to Maryland; it would allow the people in the District of Columbia to vote for Senators as though they were voting citizens of the State of Maryland.

In all other respects, the situation would be as it exists now or as is otherwise provided under the pending resolution. They would vote for representatives within the District of Columbia to represent them in the House of Representatives. They would, under my amendment, vote for the Senators of their choice in the State of Maryland, and the State of Maryland would have jurisdiction over that voting process so far as the Senators were concerned. In all other respects, they would be granted the representation that the pending resolution gives them; they would retain all other rights as citizens of the District, as now provided under the Constitution and other statutes of the State of Maryland.

Mr. President, may I inquire of the Chair how much time I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 1 minute remaining.

Mr. McCLURE. Mr. President, I reserve the remainder of my time.

Mr. President, I suggest the absence of a quorum, to be taken from the time of the opposition to the amendment.

The ACTING PRESIDENT pro tempore. Is there objection? If not, the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I ask unanimous consent that Senator MORGAN may be added as a cosponsor of my amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. LEAHY. Mr. President, first, I appreciate the courtesy of the Senator from Idaho in calling a quorum and luring me back onto the floor.

Mr. President, the matter before us is really another variation of the amendment offered yesterday on retrocession. I think the distinguished Senator from Massachusetts (Mr. KENNEDY) made the argument very, very well and very properly on that. D.C. has not been a part of Maryland since 1790, when it was ceded to the District of Columbia. Virginia was retroceded in 1846, but had never been used for the Federal city.

If you look at precedents, look at the precedent of the 23d amendment, approved in 1961, which gave the District of Columbia the right to vote in Presidential elections, three electoral votes on its own right—not as part of Maryland, not as part of Virginia, not as part of any other area—but three electoral votes for the District of Columbia as one proud independent entity. The legislative history never even suggested that the District of Columbia should vote through Maryland and I think the two Senators from Maryland have made very, very clear their own feelings here.

This issue was never raised in the House. I really think it would make about as much sense to let the District of Columbia vote in the State of Vermont, and quite frankly, Mr. President, I am not overly eager to have that particular sword of Damocles hanging over not so much the Green Mountains but my own head. I think that that would not make sense. For that reason, I move to lay the amendment on the table.

I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Does the Senator yield back all of his time?

Mr. McCLURE. Mr. President, before that, I think I have a little less than a minute remaining.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. McCLURE. Mr. President, the amendment that I have offered would grant to the residents of the District the rights of citizenship and representation available to other Americans while avoiding the insurmountable constitutional hurdles associated with House Joint Resolution 554 and other proposed remedies.

In all other respects the District would retain its unique status as a Federal enclave subject to exclusive congressional control under article I, section 8, clause 17. The purpose of the framers in establishing the seat of National Government in an independent Federal entity would not be altered by this proposal.

Mr. President, I hope the amendment is adopted.

Mr. LEAHY. Mr. President, I stand here, in a way, feeling that I am in a unique position. I represent the most rural State in the United States, the State of Vermont. We do not have one single urban area, by Federal standards. Yet I am here arguing to give this identity to a virtually exclusively urban area. I can state a number of reasons. The

charts show the District of Columbia has

The result was announced—yeas 46,

Mr. [illegible]

charts show the District of Columbia has more people than 7 States, pays more taxes than 11 States, had more deaths in Vietnam than 10 States. It is a matter of simple justice, Mr. President.

I cannot imagine any Vermonter, denied this type of basic representation, who would not be prepared to lead a revolution against such a situation. Certainly, this Vermonter, at least, would help, in a surrogate fashion, that kind of revolution for the people of the District of Columbia. It is absolutely essential that they be given the same rights as Vermonters, or North or South Carolinians, or Virginians, Marylanders, or people from Rhode Island or people from California, or anywhere else.

Mr. President, I will be making a motion to table. I will be asking for the yeas and nays. But I would hope we could get a few Senators on the floor prior to doing that.

Mr. President, I suggest the absence of a quorum, but I ask unanimous consent it be on my time on this amendment.

The PRESIDING OFFICER (Mr. RIEGLE). Under the precedents of the Senate, the Chair advises that the Senator no longer has sufficient time.

Mr. LEAHY. How much time do I have?

The PRESIDING OFFICER. If the Senator will yield back his time and suggest the absence of a quorum——

Mr. LEAHY. Then, Mr. President, I make a motion to table the amendment of the Senator from Idaho and I ask for the yeas and nays.

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. LEAHY. I yield back my time.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table UP amendment No. 1704 of the Senator from Idaho. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Arkansas (Mr. BUMPERS), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HART), the Senator from Montana (Mr. HATFIELD), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Ohio (Mr. METZENBAUM), the Senator from Tennessee (Mr. SASSER), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Kansas (Mr. DOLE), and the Senator from California (Mr. HAYAKAWA) are necessarily absent.

The result was announced—yeas 46, nays 36, as follows:

[Rollcall Vote No. 341 Leg.]

YEAS—46

Bayh	Haskell	Muskie
Biden	Hatfield, Mark O.	Nelson
Brooke	Hathaway	Packwood
Byrd, Robert C.	Heinz	Pearson
Chafee	Hollings	Percy
Chiles	Humphrey	Randolph
Church	Jackson	Ribicoff
Clark	Javits	Riegle
Cranston	Kennedy	Sarbanes
Culver	Leahy	Sparkman
Danforth	Magnuson	Stafford
Durkin	Mathias	Stevenson
Eagleton	McGovern	Stone
Ford	McIntyre	Thurmond
Glenn	Moynihan	Williams
Griffin		

NAYS—36

Baker	Gravel	Proxmire
Bartlett	Hansen	Roth
Bellmon	Hatch	Schmitt
Bentsen	Helms	Schweiker
Burdick	Hodges	Scott
Byrd, Harry F., Jr.	Laxalt	Stevens
Cannon	Long	Tower
Curtis	Lugar	Wallop
DeConcini	McClure	Weicker
Domenici	Melcher	Young
Garn	Morgan	Zorinsky
Goldwater	Nunn	
	Pell	

NOT VOTING—18

Abourezk	Hart	Matsunaga
Allen	Hatfield, Paul G.	Metzenbaum
Anderson	Hayakawa	Sasser
Bumpers	Huddleston	Stennis
Case	Inouye	Talmadge
Dole	Johnston	
Eastland		

So the motion to lay on the table UP amendment No. 1704 of the Senator from Idaho was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the motion to lay on the table UP amendment No. 1704 was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1705

(Purpose: To grant the same rights and powers to cities having a population greater than the District of Columbia)

Mr. McCLURE. Mr. President, I have an amendment I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 1705.

On page 2, line 5, strike out "shall" and insert "and the cities of New York, New York, Chicago, Illinois, Los Angeles, California, Philadelphia, Pennsylvania, Houston, Texas, Detroit, Michigan, Baltimore, Maryland, Dallas, Texas, San Diego, California, San Antonio, Texas, and Indianapolis, Indiana, shall each".

On page 2, line 9, after "government" insert "and of the cities enumerated in section 1".

Amend the title so as to read: "Joint Resolution proposing an amendment to the Constitution to provide representation in the Congress for the District of Columbia and certain cities.".

Mr. McCLURE. Mr. President, I ask unanimous consent that it be in order to request the yeas and nays on the amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on a tabling motion.

The PRESIDING OFFICER. Is there objection to the requests of the Senator from Idaho and the Senator from Massachusetts?

Without objection, it is so ordered.

Mr. McCLURE. I ask for the yeas and nays.

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays are ordered on both the amendment and the motion to table should there be one.

Mr. LUGAR. Mr. President, will the Senator yield?

Mr. McCLURE. I yield to the Senator from Indiana for a unanimous-consent request.

Mr. LUGAR. I thank the Senator from Idaho.

Mr. President, I ask unanimous consent that the privilege of the floor be accorded to David Gogol, of my staff, during debate on this resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, this amendment may be regarded by some as simply frivolous, and I will confess that this is not the approach which I would have preferred to take.

But this amendment, Mr. President, would establish for other cities in this country the same degree of representation which the Senate seems bent upon voting for this city.

Mr. President, I offer an amendment which would grant the same rights and powers to cities having a population greater than Washington, D.C., as House Joint Resolution 554 would provide to the District of Columbia.

This amendment would grant to the residents of New York City, Chicago, Los Angeles, Philadelphia, Houston, Detroit, Baltimore, Dallas, San Diego, San Antonio, and Indianapolis full voting representation in the Congress and the right to participate in the amendment ratification process as if each of these cities were a State.

Mr. President, I wonder if we could have order.

The PRESIDING OFFICER. The Senator makes a good point. The Senate is not in order. The Chair asks to maintain order in the Chamber so that the Senator from Idaho can be heard.

The Senator from Idaho.

Mr. McCLURE. I thank the Chair.

The District of Columbia is no more than a city itself and thus, should not be granted representation in the House and Senate, in my opinion.

Although it could not have been foreseen by the Founding Fathers, Washington, D.C. has developed into a large commercial city and, except for a small Federal enclave, the District consists only of that urban center. The framers did not intend that cities should be given representation in the Congress; in fact, they specified in the Constitution that only

"States" should have a voice in the Senate and the House.

Even if one believes that the District should have representation in the Congress, it does not follow that the city of Washington should be able to elect its own Senators and Congressmen. To permit that would be to make a radical and qualitative change in our federal system.

If the Nation's Capital, with its roughly 700,000 inhabitants and 69.7 square miles, can elect its own Members of Congress, it is logical to give every other city in the United States of equivalent size and area the same rights of representation. The District has been steadily losing population in recent years (down from 802,178 in 1950), while many of the 11 cities which are larger than Washington, which are New York, Chicago, Los Angeles, Philadelphia, Houston, Detroit, Baltimore, Dallas, San Diego, San Antonio, and Indianapolis, continue to grow. Moreover, those cities are not heavily dependent on the Federal Government for their continued prosperity or even their existence. The seven least populous States, which are Alaska, Wyoming, Vermont, Delaware, Nevada, North Dakota, and South Dakota, each of which is smaller than the District, are increasing in population while the District is declining. In view of the fact that the District already receives special treatment from the Congress and has its own special committee in the House and subcommittee in the Senate to look after its problems and interests—the only city or State to be so favored—it would seem that entities of greater size are in greater need of representation than the District.

The fact that the residents of other U.S. cities can already elect representatives to Congress is irrelevant; they must share their Senators with the rest of the people in the State. If the District of Columbia were granted representation, its residents would have Senators who would share with no other people and would speak only for the interests of the District.

It would be unjust to permit residents of the District to be thus enfranchised to an extent greater than the people of, say, New York or Indianapolis. That would amount to overrepresentation of the District and its inhabitants in Congress, to the detriment of the States and other citizens of the United States.

Mr. President, I might just note that the 11 cities that I have enumerated in this amendment have populations greater than that of the District of Columbia. I do not need to go into all of the populations statistics of each of the 11, but I might just point out that they range from the 700,000 in the District of Columbia to New York City with nearly 10 million residents, and those 10 million residents do not have their own separate Senators. They share them with the rest of the residents of the State of New York. Or perhaps it might be characterized that the rest of New York is dominated by New York City and they are deprived of equal representation in the same manner that the people in Maryland want to avoid having to share their Senators with the District of Columbia.

I might also note just for the record the States which are smaller in population than is the District of Columbia:

Alaska, Wyoming, Vermont, Delaware, Nevada, North Dakota, and South Dakato, according to the U.S. Bureau of Census as of July 1, 1976.

Mr. President, it seems to me that if we are going to take this step to give the inhabitants of this city that kind of special representation, then we ought to grant to every other city of equal or greater size an equal representation or we will have gone from the wrong of lack of representation here in the District to the greater wrong of unequal representation of other larger cities.

Mr. President, I think it can also be argued that the District of Columbia is primarily a city of bureaucrats, a city which has its own special interests, a city of people who desire to have the Federal Government do things on their behalf much more uniquely than any other city. They should be less represented, not overrepresented, in the Congress of the United States.

Mr. President, I started out by saying some may think this is a frivolous amendment. I am deadly serious about the principle that is involved in granting to some people in the United States a greater degree of representation than anyone else.

I only regret that the Senate has not seen fit to treat the people here in exactly the same manner they are treated everywhere else in the United States. But the Senate has rejected my efforts to see that they get their fair, equal, and full civil rights treatment to which I think they are entitled.

Mr. President, I reserve the remainder of my time.

Mr. KENNEDY. Mr. President, I yield myself 7 minutes.

Do I understand correctly that the Senator would permit the named cities to be considered as States for purposes of this amendment?

Mr. McCLURE. In exactly the same manner as it is proposed to treat the District of Columbia.

Mr. KENNEDY. Well then, what would happen in terms of congressional representation, representation in the House of Representatives?

Mr. McCLURE. They would receive the same representation that is provided for in the resolution for the District of Columbia.

Mr. KENNEDY. On top of what they already have, or in place of it?

Mr. McCLURE. In place of what they already have.

Mr. KENNEDY. Since the District has 690,000 people, under the census they are entitled to one or two congressional districts. I do not know of any city that is listed here that would have less than that. So——

Mr. McCLURE. As a matter of fact, I would say to the Senator the cities listed here are all larger in population than is the District of Columbia.

Mr. KENNEDY. That is right. But in terms of congressional districting for all of these major cities, therefore, you may be varying the size of their current congressional districts. Would they have more or less representation?

Mr. McCLURE. I think that would be the effect.

Mr. KENNEDY. So the Senator is reducing the number of congressmen in every one of these cities.

Mr. McCLURE. Marginally, slightly, perhaps.

Mr. KENNEDY. So there could be under the Senator's amendment a significant reduction in the number of Congressmen.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. KENNEDY. Yes.

Mr. McCLURE. That, of course, depends on the formula and the allocation against the 435-Member seating provided by statute. I do not know what the mathematics would be, very frankly, but it would treat them exactly as the District of Columbia would be treated.

Mr. KENNEDY. Beyond that, Mr. President, the significant difference is that each of these major cities in the amendment is already represented in the U.S. Senate by Members of the U.S. Senate currently serving here, and there are many distinguished ones. That is the dramatic difference.

What we are trying to do is permit the residents of the District of Columbia to have the same type of representation that New York, Chicago, Los Angeles, Philadelphia, Houston, Detroit, Baltimore, Dallas, San Diego, San Antonio, and Indianapolis have. They are not permitted that right now.

It is imperative as a matter of fairness and justice to accord to the residents of the District of Columbia the same rights and privileges and guarantees that the rest of the citizens have in this Nation.

The other cities are already represented in the Senate and the House. By the comment of the Senator from Idaho, they might even wind up with less representation under the amendment. It seems to me to be an unwise amendment.

If the Senator wants to make any additional comment I would welcome it and, at the appropriate time, would make a motion to table.

Mr. McCLURE. Let me respond only to this part of the arguments of the Senator from Massachusetts. He has completely avoided facing the issue. The issue is whether or not the residents of this District are to be granted a status and a representation that no other city has.

My amendment would give the other cities of equal or greater size precisely the same treatment that would be accorded to the District of Columbia under the pending resolution.

I say to the Senator, in regard to the number of Representatives who might serve that city under my amendment, that would be governed under article I of the Constitution according to the decennial census, and while we might speculate as to its effect with respect to the current decennial census, it would have the same effect precisely in the District or any other cities following the decennial census of 1980. So there would be no reduction in their representation according to population following the 1980 census as compared to the people in the District of Columbia.

Mr. President, the cities have been listed in the amendment, but again I would mention that New York City, with a population numbering somewhat less than 10 million; the city of Chicago with over 3 million; the city of Los Angeles with nearly 3 million; Philadelphia with slightly less than 2 million; Detroit, Mich., with 1,335,000; Houston, Tex., 1,326,000; Baltimore, Md., with 851,000; San Diego with 773,000; San Antonio with 773,000; and Indianapolis with 725,000 residents, all being cities with greater populations than that of the District of Columbia, these cities just happen to fall in the following geographical distribution: New York 1, Illinois 1, California 2, Pennsylvania 1, Texas 3, Michigan 1, Maryland 1, and Indiana 1.

Maybe the people who are opposing this amendment do not want those people to have full representation, to have full equal rights, in those cities.

Mr. KENNEDY. Mr. President, each of those cities has representation. I speak for Boston, I speak for Springfield, I speak for Lowell and Lawrence, and New Bedford and Fall River, Mass. I speak for all of them. The greater Boston area, has 3 million people, 800,000 in the 22 wards in the city. And in the U.S. Senate, when the rollcall is called this afternoon, I will be here to speak for each of the cities, and so will my colleague, Senator BROOKE.

I challenge anyone who supports this amendment to say that either Senator JAVITS and Senator MOYNIHAN do not speak for New York; or that any other Senators do not speak for any of the other cities.

When we call the roll this afternoon, there will be two Members of the Senate who will use with pride and with privilege their opportunity to speak for the people and the people's interests when the roll is called. At that time there will be 700,000 voices that will be mute. But the citizens who live here in the District of Columbia will have no voice. That is the difference.

Mr. President, there is also the uniqueness of the District, which has developed over the past 200 years. We have debated this point at length in recent days. These people here are denied representation. In any of the States, all they needed to acquire a voice in Congress and in the Senate of the United States, was a vote of the majority of the Members of the Senate to obtain statehood. But here we are requiring the people of the District of Columbia to get a two-thirds vote of both Houses and three-quarters of the people of the States.

Mr. SCOTT. Madam President, will the Senator yield, on my time?

The PRESIDING OFFICER (Mrs. HUMPHREY). The Senator from Virginia has no time.

Mr. KENNEDY. How much time do I have remaining, Madam President?

The PRESIDING OFFICER. The Senator from Massachusetts has 5 minutes.

Mr. KENNEDY. I will be happy to yield, without losing my right to the floor.

Mr. SCOTT. That, of course, will be charged to my time also.

Mr. KENNEDY. I was going to make a motion to table, but I will be glad to yield for a brief question.

Mr. SCOTT. My comments are that there are more than 3 million people of the country of Puerto Rico that also are citizens of the United States, and who speaks for them here in the Senate? Is it not a fact that there is no one except those who represent the States, no one here who was elected to represent the cities? Senators represent their States and all the people of their States, whether they are rural, urban, or suburban.

Our Government was founded as a Union of States. If this proposal is adopted, we are departing from the Federal concept of the Union of States. If we are going to depart from it, would it not be reasonable to give the citizens of Puerto Rico also, with more than 3 million people, representation in the Senate, if we are going to be consistent? Then maybe Guam and the Virgin Islands.

Mr. KENNEDY. Is the Senator indicating that if he had been here in the Senate when Alaska and Hawaii were admitted, he would have voted against those States?

Mr. SCOTT. Of course I would not have.

Mr. KENNEDY. Can the Senator tell me the difference? I will tell the Senator what the difference is between those States and Puerto Rico.

Mr. SCOTT. Go ahead.

Mr. KENNEDY. The fact of the matter is that the people of Puerto Rico voted for commonwealth status, not statehood. That is the kind of representation they wanted. That is their arrangement with the Federal Government. They chose that status.

The people of Alaska and Hawaii wanted statehood and wanted to come here, and I am delighted that they are here.

If someone represents a rural State, I welcome the fact that they are part of the Union. The fact is that the people of Puerto Rico have indicated, when offered the opportunity to choose, that they prefer commonwealth status.

Mr. SCOTT. It is my understanding that the present Governor was elected Governor with full knowledge that he favored statehood. It is also my understanding that in the last Presidential election, only 31 percent of the adult population of the District of Columbia voted. So how keenly do they want it? How keenly are they interested in having representation in the Senate?

Mr. KENNEDY. I am surprised that the level reached 31 percent. They know that their voice is muted here in the Congress of the United States. They do not have full rights as Americans. They have no voice, in Congress. As gifted as Congressman FAUNTROY is, he is a nonvoting delegate.

I also question the accuracy of that figure. It may be an artificially low figure because the percentage is based on the total voting age population. Yet many District persons retain their voting residence in other States, because they cannot vote here.

We are talking about the uniqueness of the District of Columbia. If at any time the 3 million people of Puerto Rico indicate that they want to be part of the U.S. Congress and Senate, we will make the decision on statehood. But we will not require two-thirds of the House and the Senate to agree, and we will not require three-quarters of the States to ratify it. Does the Senator agree with me on that?

Mr. SCOTT. I agree completely with the Senator that the District of Columbia is unique. It is the Federal City. It was constituted as a Federal City, so that Congress could deliberate free from influences from the various States.

When we look at the papers that the distinguished Senator has laid on each Senator's desk, the Washington Post's "Human Rights in the Capital" the Washington Post's "Open Letter to the United States Senate," the Washington Star's "The Day of Decision," we have an awful lot of pressure right now on the Congress of the United States.

The PRESIDING OFFICER. The time yielded to the Senator has expired.

Mr. KENNEDY. Will the Senator, then, yield 2 minutes of his time?

Mr. SCOTT. I am willing to do it. I am not quite sure it is in order.

Mr. KENNEDY. Just a minute and a half.

The PRESIDING OFFICER. The Senator could ask unanimous consent.

Mr. KENNEDY. I ask unanimous consent that my other time be able to be used on this.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KENNEDY. We are talking about the uniqueness of the District of Columbia. It was not so unique when those 18-year-old boys got draft cards and were sent to Vietnam. It was not unique then. No one was saying, "Well, it is the Federal district; under the Constitution, you are somehow special, you get to go to Vietnam and fight over there and die."

It is not unique when it comes to paying taxes. They pay more taxes than many States. It is not unique in that way.

No, Mr. President, it is not unique in those ways; and yet they have no voice in the decisions which are made on those vital issues.

Madam President, I move to table the amendment.

The PRESIDING OFFICER. Does the Senator from Idaho yield back the remainder of his time?

Mr. McCLURE. Madam President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 8 minutes remaining.

Mr. KENNEDY. I had four, but I am glad to have the Senator use what he has.

Mr. McCLURE. I beg the Chair's pardon?

The PRESIDING OFFICER. The Senator from Idaho has 8 minutes remaining. Debate is not in order on a motion to table.

Mr. KENNEDY. I withhold it, Madam President.

Mr. McCLURE. Let me respond only that certainly the purpose of my amendment is to give equality of treatment to

the people of the District of Columbia and other people similarly situated within the United States. I have tried to do that under earlier amendments that would have granted them full civil rights within the District of Columbia. The Senate has refused to allow them to have full civil rights within the District of Columbia. I now seek to give to the citizens in other cities the same rights which this joint resolution would grant to residents of the District, no more and no less. It does not seem to me that if we are going to depart from the constitutional principle of State representation in the Congress, particularly in the Senate, if we are going to depart from that principle in one instance, that we can do justice to other citizens of our country without applying it equally to them.

I would hope, Madam President, that Senators would not just out of hand reject the amendment because it happens not to suit the political conditions, or the political desires of those who are supporting the joint resolution.

Madam President, if the Senator from Massachusetts is ready to make his motion to table, I would be prepared to yield back the remainder of my time.

Mr. KENNEDY. Yes.

Mr. McCLURE. Madam President, I yield back the remainder of my time.

Mr. KENNEDY. Madam President, I move that amendment No. UP 1705 be laid on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table UP amendment 1705. The yeas and nays have previously been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Arkansas (Mr. BUMPERS), the Senator from Iowa (Mr. CULVER), the Senator from Mississippi (Mr. EASTLAND), the Senator from Montana (Mr. HATFIELD), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Ohio (Mr. METZENBAUM), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE) and the Senator from Kansas (Mr. DOLE) are necessarily absent.

The result was announced—yeas 79, nays 6, as follows:

[Rollcall Vote No. 342 Leg.]

YEAS—79

Baker	Church	Hansen
Bartlett	Clark	Hart
Bayh	Cranston	Haskell
Bellmon	Curtis	Hatch
Bentsen	Danforth	Hatfield, Mark O.
Biden	DeConcini	Hathaway
Brooke	Domenici	Heinz
Burdick	Durkin	Helms
Byrd, Harry F., Jr.	Eagleton	Hodges
Byrd, Robert C.	Ford	Hollings
Cannon	Glenn	Humphrey
Chafee	Goldwater	Jackson
Chiles	Gravel	Javits
Kennedy	Nunn	Sparkman
Laxalt	Packwood	Stafford
Leahy	Pearson	Stennis
Long	Pell	Stevenson
Magnuson	Percy	Stone
Mathias	Proxmire	Talmadge
McGovern	Randolph	Thurmond
McIntyre	Ribicoff	Tower
Melcher	Riegle	Wallop
Morgan	Roth	Weicker
Moynihan	Sarbanes	Williams
Muskie	Schmitt	Young
Nelson	Schweiker	Zorinsky

NAYS—6

Garn	Lugar	Scott
Hayakawa	McClure	Stevens

NOT VOTING—15

Abourezk	Dole	Johnston
Allen	Eastland	Matsunaga
Anderson	Hatfield, Paul G.	Metzenbaum
Bumpers	Huddleston	Sasser
Case	Inouye	
Culver		

So the motion to lay on the table UP amendment No. 1705 was agreed to.

Mr. KENNEDY. I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. SCOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Madam President, may we have order so the Senator from Virginia may be heard?

The PRESIDING OFFICER. The Senate will be in order.

Mr. SCOTT. Madam President, I yield such time as he may consume, not exceeding 20 minutes, to the distinguished Senator from Mississippi (Mr. STENNIS).

Mr. STENNIS. Madam President, let me say in the beginning to my colleagues that, in my humble opinion, there has not been a more serious and more grave matter to come before this body. I think there has not been a more far-reaching matter come before this body in a long time.

I do not speak, Madam President, with any wisdom or anything of that kind. I do not speak with any great learning, I do not claim any learning in government or anything of that nature. But I do speak from experience, experience in this body and experience in the State governments, in the State legislature and other branches of State government. I believe I have somewhat of a feel for the Constitution of the United States and some knowledge of the history of almost 200 years that we have lived with and under, including right on down to the present time.

This is an innovation in this bill, the idea of giving power and privileges and strength to any unit of goverment without corresponding responsibilities. It is unsound, in my humble opinion, and will not work and will bring about trouble. I really cannot reconcile myself to that concept of giving to any group—any group—within the United States the power of representation on this floor, in this unique body, without the corresponding responsibilities and obligations of a State government that go with it.

I believe I feel that, after all, the Senate is the stabilizing branch of our truly great Government.

I personally feel that we are living in a time of increasing pressures, political pressures, mounting in size and volum and political strength.

Week after week, year after year, thos of us that have been here can feel it. W can feel it coming. Some government body in the lineup has got to be at lea partly removed from the immedia effects of that mounting politic pressure.

I speak with all deference to the group we now have, the State employees, th county employees, with mounting pla of action on their representatives. Th was unthinkable or unheard of until re cently. I understand it is growing faste than any other grou

I am not trying to discredit any grou It is just a fact of life.

This body can be well warned, as w know now, in part, that more and mor of those pressure groups are coming. Se what we will, it is a threat to our syste of government, the elected legislativ branch.

There must be some kind of insula tion protection—or whatever word w wish to use—from the immediat reaction of those that are holding th office. That is where the 6-year ter comes in.

But the very idea now of not creating State, if we are going to have this thin happen, I think it would be far better t create the District of Columbia into State with its responsibilities and bur dens. If we kept an enclave of just a littl area here, if any, but without the respon sibilities and burdens of State govern ment, the people, the voters and thos that they elect and select to come her will not have the background, they wi not have the same sense of obligatio and it will be harder for them to wor with the ones already here. I can fe that. I can see how these things wi come out.

If we are going into this for the Distric of Columbia, what about Puerto Rico I am not advocating anything for them I understand that perhaps they do no favor statehood now. But when and they do, how are we going to turn the down? It has been a territory all the years.

I remember a more conservative polit ical party in 1948 that early advocate statehood for Puerto Rico.

That was just an illustration. Wha about the others?

So I think, in addition to the chang in the form of groups that can sen representation here, we are furthe called upon to expand and extend thi body, by no means perfect, but it wor mightily well as a whole, extend its obl gations, extend its nature, stretch it ou further and further from the soun basis upon which it rests.

I could refer here, and I am not try ing to take up time, I think we hav gotten into a situation here where w are in a hole, so to speak.

I do not believe we can meet our obl gation by merely passing this on to th States to decide, although it is incon ceivable to me that three-fourths of ou States, as required by the Constitutio will approve the idea of sending repre sentation here to this body, equal t

their own—equal to their own—and thereby changing the whole system.

It does change it at its foundation level, and puts those States in competiton, so to speak, with the District of Columbia, which has no obligation, as such, of government to carry on.

I just do not believe, if it goes to the States, a person representing a rural area, we will say, a rural area of his State, can possibly see enough compatibility—enough compatibility—between his constitutents and those that are here in the District as to make him willing to let those people, so far removed from his problems, play a part in passing laws under which his people will have to live.

That is no reflection on the people here. But the persons who elect Senators to this body from the District are not going to know one iota, the voter will not know, 9 out of 10 will not know, one iota of the problems that go with farming, or agriculture in any of its phases, forestry, land care, and a host of other things.

They will not know and they have not had a chance to know very much about industry, small industry, medium-sized industry, heavy industry. They do not know and will not know, they have not had a chance to know, of all the problems that go with many of the ways of making a living.

After that is all said and done, that is what the average person has to think about every morning when he gets up. It does not make any difference whether he lives in the West, South, East, or where. He has the responsibility of making a living for his family. It is an economic problem.

We find there are no Senators here, unless it should be that greatly respected State of Rhode Island that we would have to call more or less urban because its area is small and has filled in with people that almost live in towns, but all the rest of them have knowledge of and a direct obligation to people living outside of the cities, to people living in the villages and little crossroads towns, the rural areas, and all the problems that go to make a living there.

Say what we will, unless we have the means of making a living now on the farm, on the land, it is a hard go.

Some of our very finest citizenship training comes through that kind of life.

I just back off from the idea of having people here who have not felt and do not have knowledge of those kinds of problems—not just rural areas but also small towns, small factories, small industry, and a host of other things that go along with that.

A person in here from the District could not have much knowledge of schools, the problems that go with schools, little schools, medium schools, schools scattered in various areas. All they possibly could know would be what the experiences were here, in this very fine city.

I have lived in this city virtually every day of the year for a good number of years, and I have no complaint about it, myself. I have a complaint about restructuring our system of government here merely for the fact of extending the franchise a little further to these District of Columbia people.

The citizens of New York have a small iota of representation in this body compared to the citizen from, say, Utah, a sparsely populated State. There is no such thing as equality in this representation. Now there is an attempt here to dig at the very foundation of this body—that is what this proposal does—simply in order to give these people, fine as they may be, a fraction more of representation here.

We have the local government. I think Mayor Washington has done a mighty good job, judging from contacts I have had with him, observation and otherwise, and I have been a resident taxpayer here for a number of years.

The representation here by the nonvoting delegate is worthwhile, and he renders a service. There is no necessity of just pushing in here and giving these people not just equal representation, but it works out far beyond equality. They get a premium, they get a prize, without any obligations to go with it.

I believe it is the beginning of the crumbling of the system we have. This body, with all its deficiencies—and I am not proud of every aspect of it—has a better chance to stand when the storms come than any other group in our Government.

I have other matters to which I could refer. It is not anything like prejudice or not wanting them to have some representation; but, after all, no one has to live here. No one is being punished, unless they are prisoners, by having to stay here.

We have to have a body that can take care of the massive, growing volume of legislation in this Federal City, and it has to have some kind of insulation—I do not say protection, but insulation—from the pressures of the times.

It is inconceivable to me that a State legislator could approach this picture here with knowledge of how the States fit into the economy and how his or her constituents fit into the Federal regulations of the economy, and I think that will continue. It has gone too far, in my opinion, but I do not think it would change. I just feel that he will be convinced that he is giving up almost everything in return for nothing, you might say, insofar as the handling of the affairs of the Government of the United States of America is concerned. It has its worldwide obligations, which are growing, not lessening; becoming more troublesome, not more peaceful; and the challenges of our economy are much more severe on other parts of this country than in this fine city.

I repeat that the serious problem that the average person has of making a living for his family is the thing that confronts him all the time, every day, and he has to look to this Federal Government for a great deal of guidance and control with respect to that economy. I think these smaller groups in the economy have nothing they can spare in influence. We know that they are rather near the bottom of the totem pole. And when I say making a living, I mean getting out and digging and earning your own way. They have the problem of getting out and making a living, making ends meet. That is what comes home and stays on the doorstep of our citizenry throughout the Nation.

I do not hear of any complaint from the people of California because they do not have anything like equal representation here, numerically, with respect to what a smaller State has, wherever that smaller State is. The matter is understood, and things move along.

Things work out in this body in a marvelous way, but it is becoming more difficult. The pressures are becoming more numerous and greater and more intensified.

The PRESIDING OFFICER. The Senator's 20 minutes have expired.

Mr. STENNIS. I thank the Senator for yielding time to me. I would like to have more time during the day.

Mr. SCOTT. Madam President, I would be glad to yield more time now, or later, to the distinguished Senator.

Mr. STENNIS. I thank the Senator. That is all right.

Mr. SCOTT. Madam President, I appreciate very much the remarks the Senator has made. I feel that we all know and love and respect the distinguished Senator from Mississippi. He has served in our body for 31 years. He was an attorney for a long period of time; he has been a prosecuting attorney; he has been a trial judge. He was elected to the U.S. Senate in 1947. I feel that he knows as much about this body as any other Member of the Senate. So I am especially pleased that he takes the time to address himself to the problem before us.

I understand, Madam President, that the distinguished Senator from Vermont (Mr. LEAHY) would like to propound some unanimous-consent requests.

Mr. LEAHY. If the Senator will yield to me for that purpose.

Mr. SCOTT. I yield.

(Mr. LEAHY's request for certain committees to meet is printed earlier in today's RECORD.)

UP AMENDMENT NO. 1706

(Purpose: To provide representation for the District of Columbia in the House of Representatives)

Mr. SCOTT. Madam President, I call up an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Virginia (Mr. SCOTT) proposes unprinted amendment numbered 1706.

Mr. SCOTT. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, beginning with line 3, strike out all through line 12 and insert in lieu thereof the following: "House of Representatives, the District constituting the seat of government of the United States shall be treated as though it were a State.".

On page 2, line 13, strike out "Sec. 4." and insert in lieu thereof "Sec. 2.".

Mr. SCOTT. Madam President, the real crux of this resolution is in the first section, and it reads as follows:

For purposes of representation in the House of Representatives, the District constituting the seat of government of the United States shall be treated as though it were a State.

The amendment would provide the citizens of the District of Columbia the number of Representatives in the House of Representatives to which they would be entitled if the District were a State. It also eliminates three provisions of the pending resolution.

First, it does not gives the Diartict two Senators. Second, it does not permit the District to participate in the process of ratifying constitutional amendments as if it were a State. Finally, it retains in force the 23d amendment to the Constitution dealing with the electoral college.

This amendment is not a weakening amendment, so proponents of House Joint Resolution 554 can vote for this. In fact, it strengthens the chances of the District of Columbia having voting representation in Congress for the first time.

As Senators know, at the present time we do have an elected delegate from the District of Columbia. We also have an elected delegate from Puerto Rico, the Virgin Islands, and Guam. The delegates can vote in committee but they cannot vote in the Hall of the House of Representatives.

The District of Columbia Congressmen would be Congressmen, not delegates, with all the rights that Congressmen from any State would have.

Representation in the House of Representatives only as proposed by my amendment would preserve the unique status of the District as a Federal enclave, holding the seat of Government of the Nation which was the clear intent of the framers of the Constitution.

I believe that it would eliminate the controversial and ambiguous language found in section 2 of the pending resolution. That is the question of what constitutes the legislature that would decide such questions as whether or not the chief executive of the District of Columbia could appoint Senators, whether that would be the legislature of the District of Columbia, or whether it would be the Congress of the United States because under article I, section 8 of the Constitution Congress has exclusive legislative jurisdiction over the District of Columbia subject to such exceptions as have been delegated.

We must remember that we are considering an amendment to the Constitution of the United States, the fundamental law of the land. We should be very cautious when we propose to add language to alter provisions of that great and historic document.

This amendment offers the people of the District their best chance for representation in Congress.

In my judgment House Joint Resolution 554 just simply goes too far. Three-fourths of the States are highly unlikely to ratify it. I believe we will have much more controversy than we had over the ERA amendment.

It proposes to make the District look like a State, to place it on an equal or superior position to other States—that is what the resolution presently before us does, not my amendment—to put it on a superior footing to other States, and to award it virtually all the attributes of the State without asking it to accept the full burdens and responsibilities of statehood. That strikes me as being unnecessary and unfair to the remaining members of the Union. It is virtually a certainty that the resolution before us will not be acceptable to the necessary three-fourths of the State legislatures even if it should be passed by the Senate and signed by the President.

Madam President, the House membership, as you know, is based on population. So there is no conflict in having this representation with the Constitution. But the State representation is entirely a different matter because the Senate is composed of representatives of the States and the city of Washington is not a State. The Senate membership is not based on population in any way. It is based on the fact that each State shall have two Members of the Senate.

Madam President, I have no further comments at this time.

Mr. LEAHY. Madam President, I ask unanimous consent that Terry Cronin, of Senator DURKIN's staff, be accorded the privilege of the floor during votes and deliberations throughout the day today.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. KENNEDY. Madam President, this reaches the heart of the issue that is before the Senate. Those of us who support this amendment do not do so just because we want to give something special to the District of Columbia or grant some favor. We are trying to end an injustice.

What we are trying to do is to put the people of the District of Columbia on the same footing for the House of Representatives and for the Senate of the United States as other areas in this country. The District of Columbia exceeds several States in population. The residents of the District pay taxes. They fought the war in Vietnam.

This amendment is basically flawed, Madam President, in that it provides some representation, but not full representation.

The people in the District of Columbia can vote for the President of the United States, but they cannot vote for Congress and the Senate. Now the Senator from Virginia is saying, they can vote for the President of the United States and the House of Representatives, but not for the U.S. Senate.

I can appreciate the sense of gradualism that has been part of this whole movement, but it certainly does not meet the objective of this constitutional amendment. Therefore, I intend to move to table the amendment unless the Senator wishes to make additional comments. If he does, I shall withhold that then.

The PRESIDING OFFICER (Mr. ZORINSKY). The Senator from Virginia.

Mr. SCOTT. Mr. President, this is the only thing I wish to mention. I hear the distinguished Senator speak of the people of the District of Columbia who fought and died in wars. That is true of people throughout our territories. I feel sure that there were people from Puerto Rico, with a population of more than 3 million people, who also fought in wars for this country, and certainly I have nothing but kind thoughts and commendations.

But I think that is something that is outside of the constitutional matters that we are considering.

I am sympathetic with the views and am agreeable with the views that the distinguished Senator has stated, but I just think this is sort of an emotional appeal that is being made rather than something that goes to the merits of this case.

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that it be in order now to ask for the yeas and nays on a motion to table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, the only point I make is that it was also an emotional argument when they talked about taxation without representation. That was an emotional argument. But it was not just an emotional argument. It was also true.

The same thing happens to be true here. The issue affects the fundamental issues upon which this Nation was founded. The people deserve to have a voice and a vote on matters of taxation and matters of life and death. The people of the District of Columbia do not have that right.

Mr. SCOTT. Mr. President, will the Senator yield just briefly?

Mr. KENNEDY. I yield without losing my right to the floor.

Mr. SCOTT. Mr. President, it is my understanding—and this has been verified by the Library of Congress—that the District of Columbia contributes 29 cents for every dollar it receives in Federal taxes. That is not taxation without representation.

Mr. KENNEDY. Mr. President, I move to table the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Massachusetts to lay on the table the amendment of the Senator from Virginia. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Min

nesota (Mr. ANDERSON), the Senator from Arkansas (Mr. BUMPERS), the Senator from Mississippi (Mr. EASTLAND), the Senator from Montana (Mr. HATFIELD), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from HAWAII (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Tennessee (Mr. SASSER), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

The result was announced—yeas 60, nays 28, as follows:

[Rollcall Vote No. 343 Leg.]

YEAS—60

Bayh	Griffin	Muskie
Bellmon	Hart	Nelson
Bentsen	Haskell	Packwood
Biden	Hatfield, Mark O.	Pearson
Brooke	Hathaway	Pell
Byrd, Robert C.	Heinz	Percy
Case	Hollings	Proxmire
Chafee	Humphrey	Randolph
Chiles	Jackson	Ribicoff
Church	Javits	Riegle
Clark	Kennedy	Sarbanes
Cranston	Leahy	Sparkman
Culver	Magnuson	Stafford
Danforth	Mathias	Stevenson
DeConcini	Matsunaga	Stone
Dole	McGovern	Thurmond
Durkin	McIntyre	Weicker
Eagleton	Metcher	Williams
Ford	Metzenbaum	Young
Glenn	Moynihan	
Gravel		

NAYS—28

Baker	Hatch	Roth
Bartlett	Hayakawa	Schmitt
Burdick	Helms	Schweiker
Byrd, Harry F., Jr.	Hodges	Scott
Cannon	Laxalt	Stennis
Curtis	Long	Stevens
Domenici	Lugar	Tower
Garn	McClure	Wallop
Hansen	Morgan	Zorinsky
	Nunn	

NOT VOTING—12

Abourezk	Goldwater	Johnston
Allen	Hatfield, Paul G.	Sasser
Anderson	Huddleston	Talmadge
Bumpers	Inouye	
Eastland		

So the motion to lay on the table UP amendment No. 1706 was agreed to.

Mr. SCOTT. Mr. President, I yield such time as he may consume, not exceeding 20 minutes, to the distinguished Senator from Mississippi (Mr. STENNIS), and then yield to him additional time for the purpose of allocating it to Senators WALLOP and SCHMITT during my absence from the floor.

Mr. ROBERT C. BYRD. Will the Senator yield to me for a question?

Mr. SCOTT. Yes.

Mr. ROBERT C. BYRD. Does the Senator know how many amendments remain on his side of the aisle?

Mr. SCOTT. Mr. President, I do not know. I have two amendments of my own. It may be that there will be no further amendments, but I am not in a position to say that at this time. I do not know what other amendments there are. I do know there are numerous amendments, but I do not know whether they will be offered or not. My inclination or my judgment is that very few of them will be offered. What I am attempting to do now is to go downstairs and eat some lunch.

Mr. ROBERT C. BYRD. I would like to have some lunch. I usually do without, or I get a bowl of soup in my office. But that is neither here nor there. I am just trying to find out how many amendments remain. If the Senator is in a position to determine this a little later, what I am saying is it might be that we could go off this measure for an hour or 2 and do some other work and come back to it, say, at 5 o'clock, and allow an hour for debate between that and 6, if it were agreeable with the distinguished Senator.

Mr. SCOTT. Let me say to the distinguished majority leader that I will attempt to find out. I am not sure whether I will be able to, but at least I will try.

Mr. ROBERT C. BYRD. I thank the Senator.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, I have already had the privilege of speaking briefly this morning. Let me assure the membership who are here I am not here to try to take up some time. I have not written a speech just to kill time. I have what I think are some fundamental points. I know they are fundamental to me. I want to accommodate the leadership and every individual Senator. But I think these things ought to be said with as much emphasis as we know how to say them. I have put down some points ad seriatum.

I feel that if this matter should pass and be submitted to the legislatures of the various States, there ought to be something in the RECORD for the membership there who may want to look and see how different Senators feel about this thing, what they think will be the effect of it, and how it will work for Nebraska, California, Alabama, and Maine, as well as for the District of Columbia.

I am surprised that this proposal has this much support, to meddle with one of the blood cells, the very foundation of our system of government, particularly this unique body, the U.S. Senate.

No unit of Government has taken any more body blows than has the U.S. Senate. No body has absorbed more crises and calamitous situations for the country; no body has stood up more times to be counted on the whole during tumultuous times as has this body.

I read a demonstration of that the other night, when one President of the United States lacked only one vote of being found guilty on impeachment charges before this body. That was well over 100 years ago. One vote made the difference, but that left the Presidency still standing. This writer thinks that that is the vote that turned history. Otherwise, the Presidency itself would have rapidly deteriorated with the ensuing years.

That was a critical time for our country, as I see it, not those years that led to the most unfortunate of all wars, not those 4 years of that conflict between brother and brother, but those so called reconstruction years when finally the people did pull things back together, under the leadership of the President. The office itself was saved and the President remained as the leader of the Nation for a while. Things finally pulled themselves around and we got together and moved on into the greatest era any nation has ever had. And we have withstood other tests since that time, though maybe not quite as grave.

As I said before, we are here from all different groups, representing all different kinds of people, different States, where the economy varies, but we have an understanding of the system and of each other. Then there are things that bind us together. I think more than anything else it is the economy. I thank God that it is still the concern of most every American, this matter of making a living. That is the thing that holds us together.

We pull for an economy where everyone will have a chance to make a living. I hope we go back and retrain some of our citizens whom I think we have neglected in not emphasizing that enough, that every able-bodied person is expected to eventually earn his own way. Therefore, he has to be trained to do something worthwhile and constructive. That catches on with the youth if it is emphasized enough.

We have not emphasized it enough lately, I think. It was emphasized when I was coming along, when many of you were. We did not fail to get the lesson, either.

What I am leading up to now is, here we propose to bring in an altogether different kind of Senator, elected, chosen by people that all live in a city—a very prosperous city. It did have the highest per capita income of any government unit or any State in the Nation. If it is not at the top now, it is very close to it, with all these fine people who work for the Government guaranteed an increase, automatically, in salary if the economy goes up and so forth, guaranteed almost certainly against inflation.

You send from that constituency, send in a person here. He is going to be a product of their thinking without the variety of ways of making a living and ways of living and somebody—Idaho, Utah, Mississippi—somewhere, many will be adversely affected in their way of making a living when we create these policies in the economy. There are many close votes here, many close votes in committees, many in full committee, many close votes on the floor of this body.

I think one of the most important votes we have ever had here—two that I remember—just one vote decided this matter. And they are coming in here without any knowledge of life or problems of those who live in small villages, those who live out on the land—poor land, rich land, middle-type land, anything else—without any knowledge of the problems of little towns, being city government, or small cities—just the large city. That is all they know, without a—well, there may be one or two; I do not know of them, but without any industry, you might say, relatively speaking, in this fine group of 700,000 people, without a small industry, without a large industry or anything in between that is appreciable.

What about out in the West? You know, the most important assignment I ever had in the Senate was the Appropriations Committee, rivers and harbors, water resources—harbors, dams, irrigation, flood control—creating mighty wealth. I mean by that the total production of those projects caused by wealth and was divided up among the landowners and the people, a better standard of living and the paying of more taxes.

All those kinds of things go to make up the economy. If these two men come in, how are they going to stand on many other matters?

How do they stand on soybeans? I just happened to think of soybeans. They will not know top, side, nor bottom, where to go or where to stop or where to stand on soybeans and other agricultural commodities. I mean this. I see these pivot votes in these committees and subcommittees and on this floor, year after year, many, many times over. That is no discredit, but we are going into a venture here with the District of Columbia—give them two Senators but no responsibilities of statehood to go with it, no responsibilities of any kind. Why not just give it to Pittsburgh, let them have more equality or more representation?

That is the first city I thought about there. There is no such thing as having absolute equality of citizenship, anyway, in selecting Senators. The Constitution deliberately made it so that there would be unequal representation, so there is nothing sacred here that is being violated. This is the system of government we have, ladies and gentlemen, and it has virtues and values and strength because of these fundamentals.

Now we open the door one time and we shall have to open it again. We shall have to open it again.

Let us not say, well, if it is that bad, the States will turn it down. We have no basis to perform our responsibilities by saying, well, let the States correct my error. I respectfuly submit, we are in grave error here—grave error—in making this change.

My goodness alive, let it be our firm, solid, best opinion, at least, and if that goes contrary to what I advocate, then, at least, the system has worked. But let us not say, well, here, we will not bother about that; the States can take care of the situation.

I believe this, that if the States get into the facts in passing on their responsibilities, they are going to say that we are not wanting to punish anyone in being short on the privileges that go with American citizenship; we are not wanting to take away anything that belongs to another; but, at the same time, we are interested in protecting ourselves; we have to know more about this thing and we are going to protect ourourselves.

Our economy is so bound up in what the Congress does. Presidents come and go, but the continuity of Government is through the legislative branch, the Congress. And you know we pass on grave matters of the economy here every day—too many, I think. Too many, but, at the same time, it is a part of our life and of all those segments of this great economy we have. The Government is in it and I think will continue to be in it and will be controlling.

So there is nothing in the way of economic advantages or anything like that the people in the District are missing. It is this political power without obligation of statehood that goes with it, and it is political power that rightly belongs to someone else under the Constitution, intended that way.

They had quite a debate about this matter as to what State, if any State, the Capital was going to be located in. I am not a stranger to that record, what record there is, of the Constitutional Convention. They argued back and forth as much on that as anything else, and they finally reached a decision that it would not be in any State.

In think, Mr. President, that justice can be done, good can be done on this matter of citizenship without our having to surrender one of the basic structures of our form of government.

I know this, in one form or another, has been up before. It shows a concern that is an honest concern. But ways have been found to partly meet these situations already, and I am sure other ways can be found and will be found. But I say to my colleagues, let us not set the precedent of going altogether out of bounds here and bestow statehood, in effect, upon the District of Columbia and then in the next Senate say, "No, we didn't mean what we said, we take it back."

That language in here says "shall be considered for these purposes as a State."

We know that is hocus-pocus of a kind that does not say in bad faith, but that is trying to have the cake and eat it, too.

So if we really are going to do this thing and entitle it to representation here, let us make it a State. I would not advocate making it an outright State, but that is the only way we can do it and make it consistent.

Another thing, why do they have to have two Senators? Who figured that one out?

If they have to have someone here that has the power to vote, one Senator representing 700,000 people is more representation than many of the States—some of which belong to the original 13—have here.

Take Massachusetts. Quality makes up for some things, but they have only two good Senators. But New York, long time the most populous State in the Nation, only two Senators for 21 million people, I believe it is about that many, or more now. Two Senators. High quality, but representation on a per capita basis.

California now being a little more populous, I think illustrates the same principle.

So, why two Senators for these 700,000 people? Who did that? Who said, "No, two." I do not know.

But if it is not a State and it does not have a population more than this, I cannot see any conceivable basis for saying they will have two Senators.

The PRESIDING OFFICER. The Senator's 20 minutes have expired.

Mr. STENNIS. I thank the Chair.

Mr. SCOTT. Mr. President, I am glad to yield further time to the Senator.

Mr. STENNIS. I have another point and I will go into that later.

Mr. SCOTT. Mr. President, again I thank the Senator for his comments, the remarks he made about the Senate representing the States and referring to the population of the States.

My own State of Virginia has between 5.1 million and 5.2 million with two Senators. Each of us represent approximately 2.6 million people.

AMENDMENT NO. 3525, AS MODIFIED

(Purpose: To provide a means for filling vacancies in the representation of the District of Columbia in the Congress)

Mr. SCOTT. Mr. President, I call up my amendment No. 3525, as modified, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Virginia (Mr. SCOTT), for himself and Mr. WALLOP, proposes an amendment numbered 3525, as modified.

The amendment is as follows:

On page 2, between lines 10 and 11, insert the following new section:

"SEC. 3. When vacancies happen in the representation of the District of Columbia in the Senate or the House of Representatives, the Mayor of the District of Columbia shall issue writs of election to fill such vacancies, except that the Council of the District of Columbia may empower the Mayor thereof to make temporary appointments to the Senate until the people of the District of Columbia fill the vacancies by election as the Council of the District of Columbia may direct.".

On page 2, line 11, strike out "SEC. 3." and insert "SEC. 4.".

On page 2, line 13, strike out "SEC. 4." and insert "SEC. 5.".

Mr. SCOTT. Mr. President, the modification in the printed amendment only adds the words on page 2 after "empower the mayor thereof to make temporary appointments," the words "to the Senate", because as drawn he would have had the authority to make interim appointments to both the Senate and House. That would be contrary to the Constitution and this is a clarifying amendment.

I hope that after a reasonable time to debate the matter, the distinguished Senator from Massachusetts will not move to table. In fact, I hope that he will accept this amendment because it is an amendment that will remove some of the ambiguities that are in the resolution that is now before us.

The first portion of the resolution before us grants representation in the Congress, full congressional representation, to the District of Columbia. The second would provide for participation in the election of the President and the Vice President. The same that is true today, I believe, under the 23d amendment.

But we have not discussed the third phase, to any extent I am aware.

According to article V of the Constitution, it is necessary for three-fourths of the State legislatures to ratify a proposed constitutional amendment.

Mr. KENNEDY. If the Senator will yield, does the Senator have a copy of the amendment?

Mr. SCOTT. Yes. The amendment, as we should get forward, [illegible]

Mr. SCOTT. Yes. The amendment should be on every Senator's desk. It is amendment No. 3525 and the only modification is adding the words "to the Senate" on page 2.

Mr. KENNEDY. I thank the Senator.

Mr. SCOTT. Mr. President, I do not believe we have discussed the third phase to any extent, but, according to article V of the Constitution, it is necessary for three-fourths of the State legislatures to ratify a proposed constitutional amendment that has been approved by two-thirds of the Members of both Houses of the Congress.

At the present time, we have 50 States, of course. That means that it is necessary to have 38 States to ratify it. But in the event the District of Columbia is treated as a State and in the event the District of Columbia would be counted, that would make 51 States, counting the District of Columbia as a State, and three-fourths of 51 would mean we would have 39 States that would be necessary for ratification.

This is not a crucial point, but it is a matter that I believe is worthy to at least be considered.

The second section of the joint resolution before us refers to the exercise of the rights and powers conferred under this article shall be by the people of the District constituting the seat of government as shall be provided by the Congress.

Now, that is subject to a second amendment that I would offer because by the people of the District constituting the seat of Government as shall be provided by the Congress, does the Congress under article I, section 8, having exclusive legislative jurisdiction, does it make the decision or do the people of the District of Columbia acting through their Council?

This raises a number of questions, but when we look at the 17th amendment to the Constitution, we find that when vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies.

Now, that is whether it is the House or the Senate. But the further words are provided:

Provided, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

Are we talking about the legislature of the District of Columbia, the City Council, which has been delegated some legislative authority? Are we speaking of the Congress of the United States, which has exclusive legislative jurisdiction, except as to the extent that it has been delegated?

I would modify that for the purpose of clarification, so that in each instance the people of the District of Columbia or the legislature of the District of Columbia would be the ones to make it rather than the Senate. If we are going to treat the District of Columbia, for the purpose of representation, as if it were a State, then it seems reasonable to me to add this. Otherwise, we have some very vague things in this joint resolution. If we should act favorably upon this, the State legislatures are going to raise these questions.

I know that we have two bodies of Congress, and I know that there is some concern about one body not accepting the bill in exactly the same way as the other body prepares the bill. I know that it is necessary to go to conference when that is not done. But it is much easier to go to conference now and work out an imperfection, to work out a clarification in a bill, than it is to send it to the legislatures of the 50 States for their consideration.

So my amendment would add a section 3:

When vacancies happen in the representation of the District of Columbia, in the Senate or the House of Representatives, the Mayor of the District of Columbia shall issue writs of election to fill such vacancies, except that the Council of the District of Columbia may empower the Mayor thereof to make temporary appointments to the Senate until the people of the District of Columbia fill the vancancies by election, as the Council of the District of Columbia may direct.

Then it just renumbers the other paragraphs.

Mr. President, it seems unreasonable to me for those who have expressed such concern about the people of the District of Columbia making decisions with regard to voting rights and human rights to retain something in a joint resolution that is as uncertain as this. This would specify that the legislature, insofar as this bill is concerned and the representation in Congress is concerned, would be the City Council; that they could empower the mayor to make interim appointments to the Senate.

Mr. President, I yield such time as he may consume to the distinguished Senator from Wyoming.

I might add that the distinguished Senator is a cosponsor of the amendment.

Mr. WALLOP. I thank my friend and colleague, Senator SCOTT.

I shall add my remarks to those of the Senator from Virginia. I hope that, by encouragement, the sponsors and the floor managers might think very carefully about accepting this amendment, partly from the standpoint of consistency and partly because I hate to see the Senate subside into a level where it refuses to think any longer about the subject matter before it and does not take seriously the arguments that are being made.

The Senator from Massachusetts knows that I am not enthusiastic about the form of the joint resolution presently before us. There are several other preferable variations with respect to enfranchising the people of the District of Columbia. Be that as it may, we now have House Joint Resolution 554 as the document upon which we will vote.

I hope that, in the interest of consistency and of the arguments that can be made in its behalf, the amendnment might be considered seriously by the floor mangers, as an amendment which those who support this measure in the House would not find difficult in accepting.

Mr. President, during the course of the debate on House Joint Resolution 554, many amendments have been offered which would have provided alternative means for insuring the residents of the District of Columbia with representation in Congress. Without exception, the proponents of the measure have voiced strong opposition to these amendments, fearing that any significant substantive change in House Joint Resolution 554 would undermine its chances for timely approval by this Congress.

The amendment offered by the Senator from Virginia (Mr. SCOTT), and me will effect an important change in House Joint Resolution 554, but one which proponents and opponents alike should support as an improvement to the proposed constitutional amendment. This amendment fills the void left by House Joint Resolution 554 with respect to procedures for filling vacancies in the House and the Senate caused by the untimely deaths of the Senators and Representative(s) of the District of Columbia or for other reasons.

Section 1 of House Joint Resolution 554 provides that the District of Columbia shall be treated as though it were a State for purposes of representation in Congress. It makes no provision for the filling of vacancies in either the House of Representatives or in the Senate in the event of the death or the resignation of the elected members from the District. Our amendment fills that gap. In short, the amendment vests the local government of the District of Columbia—the Mayor and the City Council—with the constitutional authority to fill vacancies in District seats in Congress without either the influence of, or interference from, Congress.

There is clear and unmistakable need for this amendment. Article I, section 2, clause 4 of the Constitution provides:

When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.

The 17th amendment to the Constitution provides:

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: *Provided*, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

House Joint Resolution 554, by its very terms, does not make the District of Columbia a State for purposes of filling vacancies in Congress. Thus, the provisions of the Constitution cited above would not apply, and there would be no explicit guidance for filling seats left vacant by the untimely passing of the representatives and senators from the District of Columbia.

The other concern is that if I were a citizen of the District of Columbia, already concerned that I am not represented, I would not want to have my Senators and Representatives chosen by the Congress of the United States.

It would be irresponsible for this body to talk around the problem without addressing and solving it. The amendment we offer will avert future legal and constitutional questions should this proposed amendment be ratified and a vacancy in a District seat occur between scheduled elections.

A case in point: At present, Congress can veto any actions taken by the City Council. If the City Council were to appoint a Representative or a Senator to fill a vacancy in the House or Senate, respectively, would not Congress have veto power over the appointment? I suggest that it would. And under section 2 of House Joint Resolution 554, would not Congress be able to provide by legislation for a special election contrary, perhaps, to the wishes of the citizens of the District? Would not Congress be in the extraordinary position of influencing the selection of the District's congressional representatives? We seek to avoid this objectionable result by providing that the District, alone, shall fill vacancies in congressional seats. The Mayor and City Council of the District of Columbia shall provide for the interim replacement and subsequent general elections to fill vacancies. They shall do so free from Congress influence and not subject to Congress veto power.

Mr. President, I compliment the distinguished floor manager on the means, manner, and method by which he has defended this proposition in the Chamber. With respect to this amendment, I would call attention to the fact that he introduced the Senate version of House Joint Resolution 554, Senate Joint Resolution 65, on May 15, 1977 for himself, Mr. BAYH, Mr. BROOKE, and Mr. HUMPHREY. In that proposed amendment, they provided a section 2 which specifically relates, as does this amendment, to the problem of the replacement of Senators and Representatives in the event of vacancies in congressional seats from the District of Columbia. Their language was not dissimilar from ours, which says simply that when vacancies happen in the representation of the District in either the Senate or the House of Representatives the people of the District shall fill such vacancies by election.

The floor manager, sponsors, and other proponents of House Joint Resolution 554 have recognized the need to make provisions for filling vacancies in congressional seats for the District of Columbia. They have offered language on this point in Senate Joint Resolution 65. I suggest that the language of our amendment is a slight improvement over theirs in that it deals with the two distinctions that are found in the existing Constitution of the United States for the replacement of Members of the House of Representatives and Members of the Senate and I suggest it would be consistent with their previously stated positions to support this amendment.

Mr. President, in addition, I compliment the Senator from Virginia for drafting this. I think it is not a frivolous amendment in any way.

I also was stated as a cosponsor on another amendment of his, of which I generally approved. For the reason that I want to focus on this particular problem—the filling of vacancies in District of Columbia seats—I wish to ask unanimous consent that I may be permitted to withdraw as a cosponsor of amendment No. 3524 at this time.

The PRESIDING OFFICER. Is there objection?

Without objection, the Senator's sponsorship is withdrawn.

Mr. SCOTT. I thank the Chair.

Mr. WALLOP. I thank the Chair.

The Senator is proud and pleased to associate himself on amendment No. 3525 of the distinguished Senator from Virginia.

I hope seriously that the proponents will view this argument seriously and not move the Senate to a posture of cutting off further thought on the proposition before us because the thought is too serious and whatever we do here will last 100, 150, or 200 years. It seems to me the only responsible way to approach it.

I thank the Senator from Virginia for yielding to me.

Mr. KENNEDY. Mr. President, may I ask a question of the Senator from Virginia?

In section 3, line 3, when the amendment says "when vacancies happen," just when does this apply?

Mr. SCOTT. An incumbent Senator could die. That would be it. He could resign. We have had that within the Senator's recollection.

But under the same circumstances as appointments can be made by the Governor of a State upon authorization by the legislature of a State, and I believe that that is specified in article I of the Constitution. Let me just find it here.

Mr. WALLOP. The Senator is correct. In answer to the question posed by the Senator from Massachusetts, may I refer you to article I, section 2, clause 4, and the 17th amendment of the Constitution. Both of these constitutional provisions use the language "when vacancies happen."

Mr. SCOTT. Yes. The 17th amendment would be the preferable place. Let me find the 17th amendment and respond to the Senator. The second paragraph of the 17th amendment says:

When vacancies happen in the representation of any state in the Senate,"

The word "happen" is used in the existing Constitution—

The executive authority of such state shall issue writs of election to fill such vacancies provided that the legislature of any state may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

My amendment would only change the joint resolution to make it in compliance with the position of all of the States insofar as the filling of vacancies are concerned. We do not know just who will fill the vacancies because as the distinguished Senator knows under article I, section 8 full legislative power is vested in Congress. Would Congress, unless this amendment is adopted, authorize the Mayor of the District of Columbia to make the appointment, or would the City Council of the city of Washington authorize the Mayor to make the appointment?

This amendment says that the City Council of the city of Washington may authorize the Mayor to make an appointment to fill the vacancy and it clarifies it, and we do not have the uncertainty. That is the purpose of the amendment.

Mr. KENNEDY. Let me ask a second question. Does this language apply immediately after this amendment is ratified by the States? Under the language, vacancies would exist, but there has not been an election. Can the Senator specify whether his language would apply under that circumstance? Should not the first action be an election, instead of an appointment to fill the vacancy?

Mr. SCOTT. I would assume and for the——

Mr. KENNEDY. There would be vacancies in the representation in the Senate and the House of Representatives.

Mr. SCOTT. For the purpose of legislative history——

Mr. KENNEDY. The Senator offers the amendment to end the confusion of language in our constitutional amendment, and here on the face of his amendment, there is a confusion of language in the form of it.

Mr. WALLOP. Mr. President, will the Senator yield to me for 1 second?

Mr. SCOTT. I am glad to yield.

Mr. WALLOP. I suggest there is no more complication than there was in the Senator's own resolution. The unique problem for the moment between ratification and the first election would probably be best dealt with by appointments made in accordance with this amendment. However, if that is particularly troublesome. I am sure that language could easily be inserted in the amendment such that it would take effect only after the first elections.

Mr. KENNEDY. I do not know whether the Senator wishes to offer that as a perfecting amendment. I was listening to my friend from Virginia and the Senator from Wyoming talking about how our language was subject to different interpretations and how they were going to resolve these different interpretations. And then they offer an amendment which is subject on its face to different interpretations.

Mr. SCOTT. Mr. President, if the Senator will——

Mr. KENNEDY. Do I not have the floor, Mr. President?

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. SCOTT. I was asking if the Senator will yield.

Mr. KENNEDY. Just let me make a brief comment.

Mr. SCOTT. All right.

Mr. KENNEDY. And then I will be glad to yield.

This amendment is offered to deal with what will happen when vacancies occur. But there has been no amendment offered to establish the elections in the first place. It seems to me we are putting the cart before the horse. How will the District of Columbia establish the various congressional districts? How will it hold the first elections? There

should be at least a sense of order in

Mr. KENNEDY. Well, Mr. President,

has construed the 17th amendment as

should be at least a sense of order in offering amendments to clarify such details. The amendment deals with what is going to happen if there is a vacancy after an election.

It was for these reasons, Mr. President, that the issues were left for future action by statute. These issues can be resolved by subsequent legislation implementing the amendment.

Some kind of statute similar to this amendment may very well be agreed to in the future. It is not necessary that it be attached to the constitutional amendment.

But the legislative history ought to be very clear that the type of question about how the elections are going to be held, how vacancies are going to be filled, can be easily answered by statutes in the the future.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. SCOTT. What this amendment is attempting to do is to make the some provisions that are presently in the Constitution with regard to the States apply to the District of Columbia. There is nothing in the Constitution that refers to the first election of the Senators that the distinguished Senator mentions. I would assume that it would not be necessary or even desirable to have the mayor appoint the first Senators from the District of Columbia.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. SCOTT. If the Senator will let me complete my statement—it seems reasonable to me that once you have your Senators who are elected by the people, and then death occurs or somebody resigns, as has happened in this body since I have been in the Senate, and you have an emergency situation and you do not want a vacancy in the Senate, until the District of Columbia actually has some Senators they are in no worse position by waiting a short period of time and letting the people elect the original Members of the Senate, in no worse position than they are today.

I am glad to yield to my friend from Wyoming.

Mr. WALLOP. I thank my colleague.

I would like to direct a couple of questions to the Senator from Massachusetts along these lines. First, if what the Senator says about filling vacancies is actually true, why did Congress bother to pass the 17th amendment, to use this very same constitutional amendment procedure for filling vacancies in Senate seats?; second, why is it now so poisonous to the Senator from Massachusetts to entertain an important amendment as this one is when it was the Senators' own language in his own proposal that was introduced in the Senate, Senate Joint Resolution 65?

You know, it does not strike me that this will in any way, affect the likely outcome of the vote that will take place this evening. It is not proposed by this Senator as threatening that vote. It really is in all honesty trying to deal with an apparent problem in H.J. Res. 554.

Mr. KENNEDY. Well, Mr. President, I certainly grant the sincerity of my colleagues from Wyoming and from Virginia.

But I still say the language included in the amendment before us is vague. I understand what the Senator is trying to do, but the language is vague because it reads "when the vacancies happen." Does a vacancy happen after ratification by the States, but before the first election?

Mr. WALLOP. Mr. President, will the Senator yield?

Mr. KENNEDY. If I can just finish in reply to the comment of the Senator. The 17th amendment is a different situation, because in the 17th amendment we were moving to the direct election of Senators, at a time when the State legislatures chose the Senators. So we had sitting Senators at that time. That is quite a different situation.

Under the 17th amendment, State legislatures chose the Members of the Senate. We did have Senators who were serving and meeting their responsibility for the Senate. So it made sense to speak of vacancies.

In issues raised by the amendment are important ones, but they can be worked out satisfactorily by statute. It is not necessary to write them into the constitutional amendment. This amendment would require a conference with the House of Representatives, and I do not think such a charge is justified.

Mr. WALLOP. I assure the Senator that is not the intent of this Senator. I would work with him to see that such result did not take place.

But I wonder how——

Mr. KENNEDY. I yield to the Senator on his time.

Mr. WALLOP. I will ask the Senator one more question, if I may.

Mr. KENNEDY. Yes, just if the Senator could use his time.

Mr. SCOTT. I am glad to yield to the distinguished Senator.

Mr. KENNEDY. The other Senator has twice as much time as I have.

Mr. WALLOP. The only thing I would ask is why, when the proposed amendment would close a gap in the resolution with respect to filling vacancies, would the proponents of House Joint Resolution 554 move to table and defeat it? Surely the proponents who advocate enfranchising the District of Columbia voters do not wish to retain the authority to exercise the congressional veto power over the City Council of the District.

It just seems to me that is the worst kind of duplicity this Senate and Congress can involve itself in.

Mr. KENNEDY. The movement toward providing the right to representation has been a gradual and evolving process. I think important progress has been made. We have not resolved all the issues or all of the problems. The questions that have been raised here by the Senators can be resolved by statute. They do not need the constitutional amendment process.

Mr. WALLOP. I just have to disagree with the Senator. No one, and nobody, has construed the 17th amendment as being vague——

Mr. KENNEDY. Regular order, Mr. President.

Mr. WALLOP. Regular order? The Senator has the floor.

Mr. KENNEDY. The Senator has the floor and asks for the regular order.

The issues and questions on future elections can be worked out with the local authorities and Congress. It can be done by statute.

The irony is that those who say we are not granting enough authority to the District of Columbia are the same persons who are voting time after time and day after day against even providing them with the right to vote in the Congress and in the Senate of the United States.

Therefore, I move to table the amendment and I ask for the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator withhold his motion?

Mr. KENNEDY. I withhold the motion.

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senator from Massachusetts be recognized at the hour of 2 p.m. to make his motion to table.

The PRESIDING OFFICER (Mr. MELCHER). The Chair would inquire to table what?

Mr. KENNEDY. The amendment which is before us.

Mr. WALLOP. Mr. President, I suggest the Senator does not have the floor for the purpose of moving to table the amendment but only to make a response to the question of the Senator from Wyoming, to answer his question.

Mr. SCOTT. Mr. President, could we resolve this question by permitting me to yield to the distinguished Senator from New Mexico who desires to speak on the matter and, I think that would give us some time and we would be right at the hour of 2 o'clock? Certainly the Senator has a right—I am sorry that he takes the position that he does—but he has the right to offer a tabling motion, and I will support his right to a rollcall vote at a later time.

Mr. KENNEDY. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on the motion to table at this time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. SCOTT. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. We have not resolved the question of whether there is a sufficient second. Let us see if there is.

There is a sufficient second.

The yeas and nays were ordered.

Mr. SCOTT. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. The Senator has that right.

Mr. SCOTT. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SCOTT. Mr. President, I yield the Senator from New Mexico such time as he may consume, not exceeding 20 minutes.

Mr. KENNEDY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. Do I understand that I will be recognized at 2 o'clock?

The PRESIDING OFFICER. There is a unanimous-consent request to that effect pending. Is there objection?

Mr. SCOTT. Mr. President, let me personally assure the Senator from Massachusetts that he will be recognized after the distinguished Senator from New Mexico finishes his remarks.

The PRESIDING OFFICER. Is the request withdrawn?

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. The request is withdrawn. The Senator from New Mexico is recognized.

AMENDMENT NO. 3505

(Purpose: To correct a typographical error in the twenty-fifth amendment)

Mr. SCHMITT. Mr. President, I call up my printed amendment No. 3505.

The PRESIDING OFFICER. There is an amendment pending at this time. It would require unanimous consent. Does the Senator ask unanimous consent to have his amendment considered now?

Mr. SCHMITT. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside, and the Senate proceed to the consideration of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHMITT. Mr. President, this amendment 3505 which I have sent to the desk is to correct a typographical error, and the humor of that will be apparent momentarily.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. SCHMITT) proposes an amendment numbered 3505:

On page 2, after line 12, insert the following:

"SEC. 4. The twenty-fifth article of amendment to the Constitution of the United States is amended by striking out 'department' in the second paragraph of section 4 and inserting in lieu thereof 'departments' ".

On page 2, line 13, strike out "SEC. 4" and insert "SEC. 5".

Mr. SCHMITT. Mr. President, on July 6, 1965, the Congress proposed to the States a constitutional amendment which, on February 10, 1967, was ratified as the 25th amendment. This amendment contains four sections. Section 1 states that the Vice President becomes President upon the death or removal of the President. Section 2 provides for the nomination and confirmation of a Vice President whenever there is a vacancy in that office. Section 3 provides for the Vice President to assume the duties of the President should the President declare that he is unable to discharge the powers and duties of his office. Section 4 is probably the most important and potentially the most controversial. This section provides for the removal of a President who is found to be unable to discharge his duties.

Since the ratification of the 25th amendment, section 2 has been invoked twice. Two Vice Presidents have been nominated by the President and confirmed by the Congress. Neither section 3 nor section 4 has yet been invoked. I hope, Mr. President, that it never becomes necessary to invoke these provisions. There is, however, a problem with section 4 in that it contains a typographical error which could, if uncorrected, pose some problems. Let me read the first paragraph of section 1.

Whenever the Vice President and a majority of either the principal officers of the executive officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Represenatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

It is clear that the framers of this amendment intended that the Vice President and the majority of the Cabinet must make this determination, unless Congress decides otherwise.

The second paragraph, however, reads:

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office.

The difference, Mr. President, is that paragraph 2 refers to the "principal officers of the executive department" rather than "departments" as in paragraph 1. The intent of the framers was clearly that the Cabinet be considered in both cases. The typographical error, not detected until after ratification, could change the meaning in the second paragraph. It may be argued in the future that it was not an error but the intent of the framer.

Mr. President, while this provision of the Constitution may never be invoked, and I hope it will never be necessary to do so, I for one would not want any problems with interpretation should it become necessary. The courts would probably rule that the framers of this provision intended that the Cabinet should be involved in the decision-making and not some other body such as the senior staff of the White House. The White House could be considered the executive department and the senior staff could be considered the principal officers. Should it become necessary to invoke this provision, it would be a crisis situation. I would not want to open the process to unnecessary court challenges as to the intent of the framers.

It is for this reason, Mr. President, that I propose this amendment to House Joint Resolution 554. While I do not intend to introduce a joint resolution proposing a separate amendment to the Constitution to correct this error, if the Congress is considering an amendment, this correction could be added. This amendment would strike the word "department" in the second paragraph of section four of the 25th amendment and insert in lieu thereof "departments."

Let me emphasize that this amendment will not change any of the provisions of House Joint Resolution 554. It would not add or detract from the issue which we are discussing. Whether the District of Columbia should have congressional representation will stand or fall on its own merits. What I am proposing, Mr. President, is more in the nature of a technical amendment to the 25th amendment.

Mr. President, I hope that the Senate will adopt this amendment to this joint resolution and to every joint resolution proposing a constitutional amendment until the error in the 25th amendment is corrected.

Mr. President, there has been some concern expressed by Senators that the adoption of the amendment of the Senator from New Mexico would potentially force the entire D.C. representation back to the House of Representatives for their approval. The precedents, coincidentally, in this matter were set in the consideration of the 25th amendment, which the Senator from New Mexico is attempting to correct.

The House agreed to the conference report on this amendment on June 30, 1965. The Senate agreed to the conference report on July 6, 1965. Therefore it would obviously be in order for this additional amendment provided here on the floor of the Senate to be treated and agreed to by the House in conference rather than requiring any vote by the full House.

Ratification, by the way, of the 25th amendment was completed on February 10, 1967, a delay of slightly under 2 years.

I might also add that if, in fact, it was desired to submit the amended joint resolution to the full House, there is, of course, precedent for that being done also, particularly, for example, in the consideration of the 22d amendment dealing with two terms for a President. In that case, that amendment passed the House on February 6, 1947. The Senate amended the proposed article. The amended article was passed by the House, as amended, on March 24, 1947 and subsequent ratification took place February 27, 1951.

Mr. President, I reserve the remainder of my time.

Mr. LEAHY. Mr. President, the Senator from New Mexico raises an interesting point on the issue of a typographical error. I for one, having seen that point raised, would want to go back and review the Constitution very carefully and see whether there might be other typographical errors, or what may appear at least to me as typographical errors. Having found any, assuming I did, I would much prefer to go to the Judiciary Committee and the Subcommittee on Constitutional Law and ask them to look into it in some detail.

I have just checked briefly with Senator BAYH on the matter that the distinguished Senator from New Mexico has raised. I can see much merit in the point he has raised here. I understand, however, that the hearing record perhaps runs into thousands of pages on that constitutional amendment; that the transcript of the proceedings and the records of the proceedings are voluminous and have been locked away for the last 10 years.

I understand from Senator BAYH that he is perfectly willing to have the subcommittee go back into the issue, dig out the material, and find out, indeed, if there was a typographical error, and then determine how best that typographical error can be corrected, if indeed there is one.

I would suggest to the Senator from New Mexico, that being the case, that the best way to handle it would be to let the Judiciary Committee go back through it. I do not think it would come down to any kind of ideological battle if there is a typographical error, but, rather, the sole question would be how best to correct it. I would hope that the Senator from New Mexico might withdraw his amendment and allow the Judiciary Committee, and Senator BAYH's subcommittee, to make some kind of determination. I would assume working with the Senator from New Mexico, first, is there a typographical error, and, second, should there be a typographical error, what is the best way to correct it?

Mr. SCHMITT. I appreciate the comments of the distinguished Senator from Vermont. It is my personal understanding, after having talked with the Senator from Massachusetts, that he had no problems with this amendment. Certainly to this Senator's knowledge, I think the Senator from Vermont will find, after conducting his own research, that this is the only known typographical error in the present official version of the Constitution. I do not think he will find any other errors if he looks. Any other errors, so-called, would be errors of substance rather than errors of a typographical nature.

I would submit to the Senator, based upon all the research that my staff and I have been able to do on this, there is, I believe, universal agreement that this is, in fact, a true typographical error. I think there is universal agreement among the legal profession that although there is no question as to the way the courts would rule in terms of legislative history surrounding the 25th amendment, that, nonetheless, there is an opening for a court test at a time when the Nation will be undergoing a very, very severe crisis. That potential I believe should be put to zero by a clear and unequivocal correction of the error which has existed. It is not something that this Senator discovered. It is something that many people have known about for some time. It is only my intention to assist the courts in having a clear and correct Constitution in front of them for any future consideration.

Mr. LEAHY. May I ask the Senator from New Mexico, based on his examination, if there are other ways of correcting a typographical error rather than adding it as an amendment to the matter before us now? My concern, of course, is that any amendment sends this matter back to conference at a time when we are facing the possibility of a recess of the Congress in mid-October, along with all the other matters presently before us. I wonder if it is a matter that can be settled somewhat more easily somewhere else. I agree with the Senator that it should be corrected. If it can be corrected somewhere else, this Senator from Vermont would much prefer that.

Mr. SCHMITT. This Senator would also prefer that, yet we are all dependent upon our own research, and I have found no indication in that research that there is any other constitutional means by which we can correct a typographical error. It appears it has to be corrected by another amendment to the Constitution. Unless some other accommodation can be worked out, I intend to offer this amendment to all other substantive amendments that are coming before this body. I think it is something we have to do.

Although it is highly unlikely that section 4 of the 25th amendment will ever be required, nevertheless at the time it is required it needs to be as clean as possible in terms of any court test of that amendment.

Mr. LEAHY. Again might I recommend to my friend from New Mexico that the amendment is now at hand and perhaps he should allow Senator BAYH and his subcommittee to look into the matter to try to determine another vehicle rather than this one as the way of correcting this, or to handle it as a matter solely by itself.

Mr. BAYH. Will the Senator yield?

Mr. LEAHY. I yield.

Mr. BAYH. I appreciate the astute observation of our distinguished friend from New Mexico. If he and my friend from Vermont insist, of course, we can hold hearings on this matter, but I believe, as the sponsor of that 25th amendment, I can remember rather vividly what happened. I can speak with some authority. We do not need to hold hearings to assess whether that is a mistake or not. It is a mistake. In fact, since the Senator is rightly concerned that there not be any misinterpretation of this, it is my humble judgment that that can be accomplished without cranking up the process of subsequently amending the Constitution to add an "s". We were talking about "departments." If one examines the document that passed the House and the Senate, it has an "s" on it.

If one looks at the legislative history and, of course, if it ever got to the Court and the matter were contested, the Court would look to the documents on their face as they passed the bodies, not look at the typographical error, in the judgment of the Senator from Indiana; and if, indeed, they were concerned about there being some ambiguity, then they would look to the legislative history. The legislative history is replete with a number of instances where the Senator from Indiana and others who were involved in that particular issue at the time discussed at length the reasoning for the Cabinet and who should be included in the Cabinet, and we enumerated it in some detail, to point out that we are talking about more than one department.

I should say to my friend from New Mexico, he has raised this in a manner which makes it impossible for us to reinforce our judgment on that. I do not know whether he has had a chance to look at the legislative history to see the debates that did take place, but I am certain that he will find that there are a number of instances where that matter is very clearly stated.

(Mr. HART assumed the chair.)

Mr. SCHMITT. Mr. President, I believe that we have certainly continued, by this colloquy, to assist the courts in their interpretation, should they be forced to interpret. But I must repeat that it is not this Senator's intention to force a court to interpret. I am trying to make sure that, in what is obviously going to be, if it ever occurs, a time of great trial, of great uncertainty, of crisis in this country, should we ever come to the point of needing to use section 4 of the 25th amendment, in fact, it does not have any potential for a court test, because that is the last thing the country will need under those circumstances.

I would also add, in a comment on the suggestion of the Senator from Vermont that maybe we ought to correct this by a separate amendment process: I think that not only would be unlikely that we would do so for a typographical error; it also, probably obviously, is completely unnecessary, because a noncontroversial correction of the Constitution should be able to be introduced on any amendment and certainly be a conference process.

I would see no possibility whatsoever that that would cause any significant delay in the consideration by Conference of House Joint Resolution 554 before the adjournment of the 95th Congress.

I do think that if the Senators—and I particularly wish the Senator from Massachusetts had not left the floor, because it was with him that I carried on my discussion—if the distinguished Senators on the committee would agree that when there is a Senate-initiated constitutional amendment under their jurisdiction and during their tenure in the Senate, they would agree to include this error on that amendment—I realize that part of the concern—and I understand that concern—is that we would force the present joint resolution back to the House or back to conference and there would be some delay. I am sympathetic with their concerns on this. If I could have some

kind of commitment from the committee that they would, on some other resolution initiated by the Senate, add this particular correction, then I would be happy to withdraw the amendment from further consideration.

Mr. BAYH. Let me just say, Mr. President, that I should be glad to consider that. We have other vehicles moving through here that might have less of a chance of being involved in a controversy at the end of the session. I think, realistically, that the Senator from New Mexico realizes that that is a problem right now. It is rather clear, at least to the Senator from Indiana, having been involved in that, that we are talking about a mistake. There is no question about that.

I think that, on reading the legislative history and the floor debates, where we go into some detail as to what "cabinet" means, what "executive departments" mean, there can be no question in any court's minds as to what this means. But I understand the concern of the Senator from New Mexico.

(Mr. MELCHER assumed the chair.)

Mr. SCHMITT. I am not quite sure I understand the remarks of the Senator from Indiana. I should be happy to consider it. This seems to be such a noncontroversial issue that some kind of amendment to include it on the next Senate-initiated joint resolution for a constitutional amendment would be appropriate. I was hoping that the Senator from Massachusetts—who, we anticipate, will be chairman of the Committee on the Judiciary next year, unless I am as successful as I hope to be in the 1978 campaign for my other colleague—that he would make that kind of commitment. This Senator would feel very secure about alleviating this potentially very serious situation at some time in the future.

Mr. BAYH. Will the Senator yield?

Mr. SCHMITT. I am happy to yield.

Mr. BAYH. Perhaps the Senator should get the permission of the Senator from Massachusetts, but I think I know him well enough, having been his colleague all this time and having been chairman of the subcommittee that has jurisdiction on this matter, that I think our minds would be of the same notion that certainly, as the Senator with primary responsibility for holding hearings in the initial stages, I would be glad to pledge efforts to add this to another constitutional amendment, if that sits well with the Senator from New Mexico.

Mr. SCOTT. Will the Senator yield?

Mr. SCHMITT. I shall yield. I want to thank the Senator from Indiana on that commitment.

I do yield.

Mr. SCOTT. Of course, I shall not be here during the next Congress, but I have served as ranking minority member on the subcommittee with the Senator from Indiana and I say to my friend from New Mexico that the distinguished Senator from Indiana runs the subcommittee. If one gets assurance from him, that is as good as an assurance from the prospective future chairman of the full committee, because the distinguished Senator from Indiana will hold hearings—I am satisfied he will. There is friendship and cooperation between the prospective chairman and the chairman of the subcommittee. I did not hear exactly what the Senator from Indiana said, whether he had made an unequivocal commitment or not, but if he did, I assume that the Senator can depend on it.

Mr. SCHMITT. I think the commitment was as unequivocal as any Senator is capable of making it, which always leaves a little bit of room for equivocation. I would do the same if I were in his shoes.

I do see the Senator from Massachusetts here. I think the committee obviously, on an amendment as noncontroversial as this one, would, under a Senate-initiated constitutional amendment, be almost certain to include it so that it would not cause any delay in the consideration of that amendment on the floor of the Senate or of the House.

I realize that that is the concern of the managers of the bill. I do not know whether the Senator from Massachusetts would like to add his second to that of the Senator from Indiana or not.

Mr. KENNEDY. Mr. President, I think the Senator from New Mexico has served a very important purpose. I understand that the Senator has the commitment of the chairman of the Subcommittee on the Constitution to address this issue. I shall certainly work very closely with the Senator from Indiana to see that this flow is remedied. I should be glad to work with the Senator from New Mexico.

Mr. SCHMITT. I am happy to hear that from the Senator from Massachusetts and I thank the Senator from Vermont for yielding. I withdraw the amendment.

The amendment was withdrawn.

Mr. SCHMITT. Mr. President, I yield the floor to the distinguished Senator from Virginia.

AMENDMENT NO. 3525, AS MODIFIED

Mr. SCOTT. Mr. President, we were discussing amendment 3525, as modified. I want to restate that what we are attempting to do is clarify the provisions of the joint resolution now before us, 554, so that we shall know that the legislature referred to is the Council of the city of Washington, rather than the Congress of the United States, and that we are following the language of the 17th amendment that applies to the States of the Union.

While I am opposed to the resolution, it just seems to me if we are going to have a resolution to be submitted to the 50 States for their consideration, we should have as little ambiguity as possible, and that is what I have attempted to do.

I am quite willing to have a vote at this time. I understand that the distinguished Senator from Massachusetts desires to move to table. I believe it is close enough to 2 o'clock for him to make his motion at this time.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I move to table the amendment.

The PRESIDING OFFICER (Mr. SPARKMAN). The question is on agreeing to the motion to lay on the table amendment No. 3525, as modified, by the Senator from Virginia (Mr. SCOTT). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Montana (Mr. HATFIELD), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

The result was announced—yeas [illegible], nays 22, as follows:

[Rollcall Vote No. 344 Leg.]

YEAS—69

Bayh	Glenn	Metzenbaum
Baumon	Gravel	Moynihan
Bentsen	Griffin	Muskie
Biden	Hart	Nelson
Brooke	Haskell	Nunn
Bumpers	Hatfield, Mark O.	Packwood
Burdick	Hathaway	Pearson
Byrd, Harry F., Jr.	Heinz	Pell
Byrd, Robert C.	Hodges	Percy
Cannon	Hollings	Proxmire
Case	Humphrey	Randolph
Chiles	Inouye	Ribicoff
Church	Jackson	Riegle
Clark	Javits	Sarbanes
Cranston	Kennedy	Sasser
Culver	Leahy	Schweiker
Danforth	Long	Sparkman
DeConcini	Magnuson	Stevenson
Dole	Mathias	Stone
Domenici	Matsunaga	Thurmond
Durkin	McGovern	Weicker
Eagleton	McIntyre	Williams
Ford	Melcher	Zorinsky

NAYS—22

Baker	Helms	Stafford
Bartlett	Laxalt	Stennis
Chafee	Lugar	Stevens
Curtis	McClure	Tower
Garn	Morgan	Wallop
Hansen	Roth	Young
Hatch	Schmitt	
Hayakawa	Scott	

NOT VOTING—9

Abourezk	Goldwater	Johnston
Allen	Hatfield, Paul G.	Talmadge
Anderson	Huddleston	
Eastland		

So the motion to lay on the table amendment No. 3525, as modified, was agreed to.

Mr. BUMPERS. Mr. President, I move to reconsider the vote by which the motion to lay on the table amendment No. 3525, as modified, was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I ask unanimous consent that David Julyan, of my staff, be accorded the privilege of the floor throughout the remainder of today during votes and deliberations.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, I ask unanimous consent that Wayne Mei[illegible] and Ben Strong, of my staff, be accorded the privilege of the floor during the further consideration and votes on the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. SCOTT. Mr. President, I ask the Chair's indulgence for one moment.

The PRESIDING OFFICER. The Chair recognizes the Senator from Virginia.

AMENDMENT NO. 3524

(Purpose: To assure the right of the people of the District of Columbia to implement provisions relating to representation in the Congress)

Mr. SCOTT. Mr. President, I call up my amendment No. 3524 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Virginia (Mr. SCOTT) proposes amendment numbered 3524.

On page 2, line 9, immediately after "and", insert a comma and the following: "to the extent not in conflict with the people of the District of Columbia,".

Mr. SCOTT. Mr. President, before Senators leave, I advise them that I only intend to take 5 or 6 minutes on this amendment, and I do ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on a motion to table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SCOTT. Mr. President, my amendment is a very minor one. It is somewhat akin to the amendment that was just tabled. I think the amendment that was tabled was a good amendment. I believe that it tended to remove some vagueness that is in the resolution before us, and I realize that the floor manager of the bill does not want to accept any amendment, good or bad, because he does not want to go to conference on this resolution.

But I say to Senators that, if we have vague proposals to submit to the 50 States, there will be a whole lot more disagreement among the 50 States than if we go to conference on a minor amendment and get an agreement in the conference.

The chances of actually having an amendment become law is going to be greater if that amendment is unclear or is vague.

All the proposed amendment does that is before us right now, this amendment No. 3524, is on page 2 add a few words to section 2.

Section 2 of the joint resolution now before us reads as follows:

The exercise of the rights and powers conferred under this article shall be made by the people of the District of Columbia constituting the seat of Government, and as shall be provided by the Congress.

That leaves a little doubt. Is the decision made by the people of the District of Columbia or is the decision made by Congress?

We all know that under article I, section 8, exclusive jurisdiction rests with Congress. Yet certain legislative authority has been delegated to the City Council of the city of Washington.

This amendment is very much like the other, but not as important an amendment and not as long an amendment. It merely adds the words: "to the extent not in conflict with the people of the District of Columbia,".

So section 2 would read:

The exercise of the rights and powers conferred under this article shall be by the people of the District constituting the seat of Government—

And here is the insert—

and, to the extent not in conflict with the people of the District of Columbia—

End of insert—

as shall be provided by the Congress.

In other words, if we are going to give the people of the District of Columbia the right to elect two Senators, it seems to me we should not have any vagueness as to whether decisions are made by Congress or by the City Council.

To me it is a relatively unimportant amendment. I thought the other one was much more important. I believe we are going to have a lot of conflict among the 50 States by not agreeing to the prior amendment. I think this is also a good amendment. It does relieve some uncertainties, some ambiguity, but I see no point in my discussing the matter further. I am willing to have an immediate vote on the amendment or on a motion to table in the event the distinguished Senator from Massachusetts desires to pursue his motion to table.

Mr. KENNEDY. Mr. President, the Senator is quite correct. We considered the substance of this amendment yesterday in a previous amendment by the Senator from Idaho.

In many of the amendments ratified by the States, the power to implement those amendments was retained by the Congress, and for very good reasons. It would be unwise to guarantee the right to vote, for example, by a constitutional amendment, and then fail to give Congress the power to implement it, as we did with the Voting Rights Act. In the shaping of this proposed amendment, we retain the power to implement it in the Congress of the United States.

The Senator from Virginia would transfer that power to the District.

I believe that the power to implement this amendment should be retained in Congress. The implementation will be by statute. It will take a majority of the House of Representatives and the Senate of the United States. That is the sound way to do it. That is the appropriate way to do it.

We are not interested in cluttering up the Constitution with possibilities that may or may not occur in the implementation of the amendment. It seems to me to be wise policy.

Again, those who are offering amendments say we are not going far enough in showing confidence in the people of the District of Columbia in the management of their own affairs. Yet they make arguments, as we have heard in recent days, that we are going too far in giving them Members of Congress and Members of the Senate, or not giving them the responsibilities of statehood.

The current language I think is appropriate to this amendment. It is sound, and it follows constitutional precedents. Therefore, I move to——

Mr. SCOTT. Will the Senator withhold that?

Mr. KENNEDY. I withhold that.

Mr. SCOTT. Mr. President, there has been some discussion that prior to final summation of the arguments for or against passage of the resolution we go to some other business.

I wonder if Senators on either side of the aisle who might want to speak to any extent against the resolution would see me during the rollcall and let me know. Otherwise, I am inclined to agree with whatever manner the distinguished majority leader wants to handle the time for the next couple of hours.

I just make that request and before the Senator from Massachusetts makes his motion to table.

Mr. KENNEDY. Mr. President, I move to table the amendment.

Mr. ROBERT C. BYRD. Mr. President, I want to thank the distinguished Senator from Virginia for his consideration.

The PRESIDING OFFICER (Mr. GRAVEL). The question is on agreeing to the motion of the Senator from Massachusetts to lay on the table the amendment of the Senator from Virginia. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator Minnesota (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Montana (Mr. HATFIELD), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

The result was announced—yeas 76, nays 16, as follows:

[Rollcall Vote No. 345 Leg.]

YEAS—76

Bayh	Eagleton	Lugar
Bentsen	Ford	Magnuson
Biden	Glenn	Mathias
Brooke	Gravel	Matsunaga
Bumpers	Griffin	McGovern
Burdick	Hart	McIntyre
Byrd, Harry F., Jr.	Hasbell	Melcher
Byrd, Robert C.	Hatfield, Mark O.	Metzenbaum
Cannon	Hathaway	Morgan
Case	Hayakawa	Moynihan
Chafee	Heinz	Muskie
Chiles	Hodges	Nelson
Church	Hollings	Nunn
Clark	Humphrey	Packwood
Cranston	Inouye	Pearson
Culver	Jackson	Pell
Curtis	Javits	Percy
Danforth	Kennedy	Proxmire
DeConcini	Laxalt	Randolph
Dole	Leahy	Ribicoff
Durkin	Long	Riegle
Sarbanes	Stafford	Roth
Sasser	Stevenson	Weicker
Schweiker	Stone	Williams
Sparkman	Thurmond	Young
		Zorinsky

NAYS—16

Allen	Hansen	Stennis
Baker	Hatch	Stevens
Bartlett	Helms	Tower
Bellmon	McClure	Wallop
Domenici	Schmitt	
Garn	Scott	

NOT VOTING—8

Abourezk	Goldwater	Huddleston
Anderson	Hatfield, Paul G.	Johnston
Eastland		Talmadge

So the motion to lay on the table amendment No. 3524 was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SCOTT. Mr. President, I yield such time as he may consume, not exceeding 15 minutes, to the distinguished Senator from California (Mr. HAYAKAWA).

The PRESIDING OFFICER. The Senator from California.

Mr. HAYAKAWA. Mr. President——

Mr. SCOTT. Mr. President, may we have order in the Chamber, so that the distinguished Senator can be heard?

The PRESIDING OFFICER. The Senate will be in order. Senators will please cease their conversations or take them to the cloakrooms, so that the Senator from California may be heard.

The Senator from California.

Mr. HAYAKAWA. Mr. President, apropos of the legislation before us on voting rights for the District of Columbia, I would like to review in capsule form some facts about the growth of the District of Columbia.

It was a relatively obscure small town except for legislative purposes, and its first great spurt of growth came during the Civil War.

From that time on it was a much larger small town, but still a small town.

Then came World War I and the town grew very much larger. Then came the stock market crash of 1929, throwing the whole country into a huge depression. Then came the Roosevelt administration to do something about the depression. From 1933 onward we have had this enormous proliferation of the District of Columbia as the center of government and, therefore, as the center of population.

Washington continued to grow during the New Deal, and then on top of that came World War II. That again meant an enormous increase in the size of Washington, D.C., the number of people needed here, the number of administrative agencies, the number of procurement agencies, the number of military agencies, and so on. After that came the Korean war and the Vietnam war. Each of these added enormously to the population and the tasks in Washington, D.C.

Each of these required, as I say, not only additional legislators and all their staffs, but additional lawyers, additional lobbyists, additional people to implement the outcome of legislation and, of course, thousands upon thousands of bureaucrats and their families.

Most recently we have had the energy crisis. As soon as we had the energy crisis then, of course, we had the Department of Energy, with its $10 billion annual budget and its enormous bureaucracy.

In other words, there is a kind of fundamental conflict of interest between the District of Columbia and the 50 States if the 50 States undergo war, depression, a disaster of any kind. If a disaster is large enough, Washington automatically prospers. It is a fundamental conflict of interest, and disasters in the 50 States are, of necessity, and historically it is a fact, bonanzas for the District of Columbia.

Try to look at all this, then, from the point of view of the owner of property in the District of Columbia, the owner of an apartment building, a department store, a chain of grocery stores, a restaurant, a hotel. What would you want your Congressmen and Senators to do?

Well, actually, if, let us say——

The PRESIDING OFFICER. Will the Senator suspend? I hope Senators will show respect for their colleague while he is addressing the Senate.

Mr. HAYAKAWA. I thank the Chair.

As I was saying, Mr. President, suppose you were the owner of property in the District of Columbia, the owner of an office building, a department store, an apartment building, a restaurant, a chain of grocery stores, a hotel. What would you want your Congressmen and Senators to do? You would want, ultimately, of course, to see to it that the population of District of Columbia would continue to increase. Suppose there was some threat that it might be decreased? Suppose there was a measure before the House to dismantle the enormous HEW, the Department of Health, Education, and Welfare, and perhaps reduce its bureaucracy by half and send that other half out into the States, or fire them altogether? Suppose someone else were to propose a reduction of HUD or the Department of Energy so that these were cut in half?

These would be disasters from the point of view of Washington, but they would be a tremendous blessing to the rest of the country.

In other words, as I say, there is a fundamental conflict of interest between the welfare of Washington and the welfare of the rest of the States. Putting it as briefly as possible, the more disasters there are in the 50 States, the more prosperity there is in Washington, D.C. As a Congressman or Senator from the District, one would have to vote against any shrinkage of the District's economy if they have the best interests of their constituency at heart.

If they have the best interests of their constituency at heart, they would want more bureaucrats in Washington, more economists, more environmentalists, more lawyers, and more lobbyists to fight all of them.

So, fundamentally, as I say, the better things are for Washington, the worse things are for the rest of the country.

Let me repeat what I said a day or two ago when I emphasized the fact that t
District of Columbia produces no weal
We have no shoe factories or automo
factories; we have no fields of corn
wheat; we have no chicken farms;
have no cattle ranges; we have no m
eral resources or stands of timber. T
District of Columbia produces no weal
It lives entirely on taxes imposed u
other States.

The distinguished Senator from M
sissippi, whom I am happy to see on
floor, made this point earlier today, li
there is no economic base for Washin
ton other than the tax collected fr
other people.

Economically, the relationship betw
the District and the rest of the coun
is parasitical. Although the District
Columbia produces no wealth, Washin
ton wallows in wealth. We have the hig
est salaries for comparable tasks in t
city than anywhere else in the count
Nowhere else except in Alaska is the c
of living so high. The entertainment
dustry, the restaurant business, all so
of subordinate or ancillary businesses
booming. Who pays for all this? T
working people of Pennsylvania, Ca
fornia, Mississippi, Arkansas, Mai
South Carolina, Idaho, New Mexico—
are all paying for this. We are all pa
ing tribute to this great Capital.

I shall not dwell upon the difficult co
stitutional problems presented by t
legislation before us, by the proposal th
the District of Columbia should ha
representation as a State in the Uni
These constitutional problems have be
adequately presented by others on th
floor.

I would like to add, however, that t
Founding Fathers foresaw these diffic
ties and, therefore, very carefully wro
into the Constitution that the Distr
of Columbia should not have the pow
of a State.

I believe, Mr. President, that th
whole matter of race that has be
dragged into this question is a red he
ring. The question is not whether t
people here are predominantly white
predominantly black. By gosh, if Was
ington, D.C., were 85 percent Japane
Americans I would still vote against t
voting rights with the kind of legislati
envisioned by the Senate at the prese
time.

It is entirely a question, in one respe
of economics, and, in another respect,
the Constitution and the intent of o
Founding Fathers to create an encla
that does not have, because it is a no
productive entity, the possibilities
pressure that any State has to have a
State. Since this is not a State, and w
never intended to be, we should not tre
it as such. I urge my colleagues to vo
against this highly unconstitutional a
highly pernicious piece of legislation
thank the Chair.

The PRESIDING OFFICER. W
yields time?

Mr. SCOTT. Mr. President, the di
tinguished Senator from New Mexico c
request 5 minutes' time, but I do not
him in the Chamber.

Mr. President, I am glad to yield
the distinguished majority leader.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the pending measure be set aside temporarily until no later than the hour of 4 p.m. so that the Senate can take up the CETA bill in the meantime and dispose of some amendments.

I yield to the distinguished Senator from Hawaii.

Mr. MATSUNAGA. I wonder if the good Senator from Massachusetts would yield me 10 minutes to speak on this measure.

Mr. KENNEDY. Yes, I am happy to yield.

Mr. ROBERT C. BYRD. Would the Senator be content with 8 minutes?

Mr. MATSUNAGA. Seven minutes will be fine.

Mr. SCOTT. Mr. President, reserving the right to object, and I do not intend to object, I wonder if the distinguished majority leader would indicate how the time would be allocated after we reconvene and make that part of his unanimous-consent request?

Mr. ROBERT C. BYRD. I frankly have not been keeping up with the time.

An hour on each side at 4 p.m. How will that be?

Mr. SCOTT. Would the time that the distinguished Senator from Montana has reserved be a portion of my time or would it be equally divided between the Senator from Massachusetts and myself?

Mr. ROBERT C. BYRD. The suggestion has been made that, when the Senate goes back in at 4, the time be equally divided, 1 hour to each side, on representation for the District.

Mr. SCOTT. Mr. President, if the time that is reserved at the present time by the Senator from Montana would be equally divided, and he does have 20 minutes at this time, so we would have 50 minutes left, I would have no objection.

Mr. ROBERT C. BYRD. Very well. That would give the Senator from Montana 20 minutes and each side would have 50 minutes remaining.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT ON DISTRIBUTION OF TIME

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, immediately following the remarks of the distinguished Senator from Hawaii, the Senate turn to the consideration of the Comprehensive Employment and Training Act and proceed with consideration of that measure until no later than 4 p.m. today, at which time, it will return to the D.C. representation amendment; that, at that time, Mr. MELCHER have 20 minutes, Mr. SCOTT have 50 minutes, and Mr. KENNEDY have 50 minutes, unless there is additional time and unless the Senate goes back on the representation amendment before 4 p.m.; in which case, such additional time will be equally divided between Mr. KENNEDY and Mr. SCOTT.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Hawaii is recognized.

REPRESENTATION OF THE DISTRICT OF COLUMBIA IN CONGRESS

The Senate continued with the consideration of the joint resolution.

Mr. MATSUNAGA. Mr. President, I rise in support of House Joint Resolution 554, a resolution proposing a constitutional amendment which would grant the District of Columbia full voting representation in the Congress, and, at long last, grant to the citizens of our Nation's Capital a full and equal voice on all issues of national concern.

Mr. President, some people may wonder why a Senator from Hawaii—a State nearly 5,000 miles away from Washington, D.C.— should feel so strongly that the District of Columbia should be granted full representation in the Congress as to speak in its behalf. For me, Mr. President, I stand in this historic Chamber in support of this resolution for the same basic reasons that I stood with the people of Hawaii two decades ago when they struggled to achieve statehood—for full voting representation in the Congress and equal rights as American citizens.

Mr. President, I believe that it is appropriate for me to speak on this matter at a time when Hawaii celebrates its 19th anniversary of its admission to the Union. As my colleagues know, we in Hawaii, prior to statehood, suffered the same injustices which the residents of the District of Columbia now suffer. We had virtually no voice in the Congress of the United States. We had a Delegate in the House of Representatives, who, like the Delegate from the District of Columbia, could not vote on the floor of the House. He had no effective voice, because he could not vote. We were not permitted in Hawaii to vote to elect the President and the Vice President of the United States. Even in the matter of running our local affairs, we were not entitled to elect our own Governor.

The residents of the District of Columbia, who are American citizens, subject to all the obligations of citizenship, do not have voting representation in the Congress. Only since 1964, with the ratification of the 23d amendment to the Constitution, have District residents—some three-quarters of a million citizens—been entitled to vote to elect the President and Vice President of the United States. Only since 1971, with the enactment of the District of Columbia Delegate Act, which I strongly supported as a Member of the other body, have the people of the District been represented in the House by a nonvoting Delegate. I might add that the distinguished Delegate from the District of Columbia, my good friend, WALTER E. FAUNTROY, has, since April 1971, vigorously represented his constituency as a nonvoting Delegate. However, his limited status in the Congress denies to the District what is at the very foundation of this Nation—full participation in the democratic process.

Mr. President, I have listened very carefully to the arguments being presented by the opponents of this resolution. Not once, to my knowledge, has any opponent of House Joint Resolution 554 denied the fact that some three-quarters of a million residents of the District of Columbia are being denied representation in their national legislature. This fact cannot be denied, it cannot be amended, nor will it just fade away. It is in my judgment, a glaring contradiction of the high principles of American democracy which we should no longer tolerate and no longer endure and ignore.

Mr. President, I do not have to remind my colleagues that a citizen's right to be represented in the Congress of the United States is no less precious than his right to free speech, free assembly, his right to privacy, and his right to due process under the law. The right of the people to be represented is the foundation of our constitutional form of government.

Accordingly, Mr. President, I do not believe that the Founding Fathers, the framers of our Constitution, intended to deny the citizens of the Nation's Capital equal representation in the Congress and equal participation in the democratic process. To believe that this was their intention would, in my judgment, be contrary to the simple concept of representative government which is the cornerstone of our Constitution. I am sure that the existence of a large, permanent population supporting all three branches of the Federal Government and living in the District of Columbia was not anticipated by the Founding Fathers. I might point out, however, that the framers, men of great wisdom without a doubt, built into the Constitution a process through which the Congress and the States could amend that document so that we could meet circumstances unforeseeable in their time.

I would like to add one final note, Mr. President. I have, in speaking on this issue today, indicated that my State of Hawaii, prior to becoming a State, suffered the same injustices now suffered by the District of Columbia. The people of Hawaii, who were eager to share in the benefits of statehood and participate equally in our democratic government, overcame all obstacles to admission to the Union. One of the primary reasons why we overcame them was the great record of service which the members of the 100th Infantry Battalion and the 442d Regimental Combat Team, of which both Senator INOUYE and I were members, many of whom were Japanese-Americans from Hawaii, established in World War II.

With respect to the people of the District of Columbia, they, too, have proudly and honorably fought in defense of our country. As the distinguished Senator from Massachusetts (Mr. KENNEDY) pointed out in the opening day of debate, 237 citizens of the District lost their lives in the Vietnam war. In effect, the District sacrificed more lives in that war than 10 other States. However, while every State during the Vietnam period had a voice in the decisions that affected the lives of thousands of their citizens who went to war, the District of Columbia had no such representation, no such voice in the Congress.

Mr. President, it behooves us as a nation and as a people dedicated to the protection of the rights and liberties of every individual, to remedy this injustice. We have before the Senate today a chance to set in motion the constitutional process that will allow us to do just that. We must no longer deny or ignore our responsibility to the three-quarters of a million citizens of the District of Columbia. We must no longer withhold from them the fundamental right of equal representation in the Congress, particularly at a time in the history of our Nation when that legislative body holds such a profound and growing influence on so many aspects of American life.

For this resolution to come this far and to fail in the Senate would be, in my judgment, unconscionable. Indeed, Mr. President, future Americans will little note, nor long remember what we say in this Chamber today; but if we do not find the courage to rise above political pressures, abandon partisan politics, and vote to send this important constitutional amendment to the States for ratification, they will never forget the injustice that we did here.

Mr. President, I reserve the remainder of my time.

● Mr. HASKELL. Mr. President, I would like to add my support to this very vital issue affecting both the human and civil rights of over three-quarters of a million citizens of these United States.

The enactment of House Joint Resolution 554 is essential to provide fair representation to the residents of the Nation's Capital. This is truly an amendment whose time has come.

During these past few days of floor debate on this issue some have argued that it was not the intent of our Founding Fathers to allow the citizens of the "Federal city" the right to vote. I must strongly question this reasoning; the framers of the Constitution established the ground rules for a new nation in 1776, they provided us with the principles, the basic ingredients needed to shape the future. They had no crystal ball, they could not foresee the Washington, D.C., that exists today; a city with a population larger than 10 States, whose residents have fought and died in every war since the War for Independence, and a city whose residents pay over a billion dollars annually in taxes to the Federal Treasury.

The basic principle of our Founding Fathers was representative democracy. What could be more consistent with that goal than the enfranchisement of the 760,000 citizens of Washington, D.C., into our Federal legislative process?

I will cast my vote today in favor of this amendment with two very important beliefs of our Founding Fathers in mind; "governments are instituted among men, deriving their just powers from the consent of the governed," and "no taxation without representation." I interpret this to mean that all citizens of these United States who pay taxes, who fight in our wars, and who carry the same burdens of citizenship, should have fair and equal representation in the Congress.

I believe it is time to put an end to the existing inequity within the democratic process. If we pass this amendment today our work will not be over, for we must encourage our State legislators back home to see the issue as clearly as we have and to speedily approve the measure within their legislative bodies.

This is an important day for not only the residents of the District of Columbia but for all of us, because the passage of this amendment today will provide an example of the adaptability of the democracy to the needs of the people. It is, in short, a tribute to the vitality of our governmental process.●

● Mr. BURDICK. Mr. President, I am in opposition to House Joint Resolution 554. I am in favor of representation for the District, but the resolution we are about to vote on providing for the election of two Senators from the District of Columbia would result in an unequal and unfair distribution of congressional power. Therefore, I am compelled to vote against House Joint Resolution 554.

The history of the Constitutional Convention shows that the Founding Fathers approved a two-Chamber legislature for a reason. The Members of the House of Representatives were to represent the people as individuals, and the Members of the House were to be elected proportionate to the population. The Senate, on the other hand, derives its powers from the States, as political and coequal societies, and these are represented on the principle of equality in the Senate. This was a compromise between the large populous States and the more sparsely settled agricultural States.

Applying these principles, we find that Washington is entitled to be represented in the House of Representatives proportionate to its population. This entitles Washington to two representatives on the basis of present population. The city of Washington does not qualify for representation in the Senate, because it is not a State, nor does it have the land mass or diversity that would qualify it for a State. It could well be argued, if the resolution is approved, that the New Yorks, the Chicagos, and the Detroits should likewise be represented by two Senators.

The citizens of Washington should have representation in the Senate, and this can be accomplished by annexing the District to the State of Maryland. When the District was formed, it was carved out of Virginia and Maryland. A portion of the District which composed about one-third of the area of the original District was reunited with Virginia in 1840. The citizens of that area now vote in Virginia. This is a precedent for the remaining two-thirds of the original District to rejoin the State of Maryland. Then the citizens of the District will have all the voting rights of the citizens of Maryland.

If this resolution should pass, the citizens of Washington would have a disproportionate voice in the Nation's affairs, which is greater than any other State. I cannot support a proposition that provides for this unequal representation.●

COMPREHENSIVE EMPLOYMENT AND TRAINING ACT AMENDMENTS OF 1978

The PRESIDING OFFICER (Mr. HOLLINGS). Under the previous order that the pending measure be set aside, the Senate will proceed to the considera tion of S. 2570, the CETA bill.

The bill will be stated by title.

The assistant legislative clerk read a follows:

A bill (S. 2570) to amend the Comprehen sive Employment and Training Act of 197 to provide improved employment and trai ing services, to extend the authorization, an for other purposes.

The PRESIDING OFFICER. Is ther objection to the present consideration o the bill?

There being no objection, the Senat proceeded to consider the bill, which ha been reported from the Committee o Human Resources with an amendmen in the nature of a substitute.

Mr. MELCHER. Mr. President, I as unanimous consent that Mary Gere of my staff be granted privilege of th floor throughout this bill and the Di trict bill and the votes thereon.

The PRESIDING OFFICER. Withou objection, it is so ordered.

Mr. JAVITS. Mr. President, I as unanimous consent that Jim O'Conne of my staff be granted privilege of th floor during debate and voting on thi bill.

The PRESIDING OFFICER. Withou objection, it is so ordered.

Mr. DOMENICI. Mr. President, I as unanimous consent that Letitia Cham bers and Eileen Winkelman of my sta be granted privilege of the floor.

The PRESIDING OFFICER. Withou objection, it is so ordered.

Mr. NELSON. Mr. President, I as unanimous consent that the followin staff members be granted privileges o the floor during consideration of S. 257 the Comprehensive Employment an Training Act Amendments of 1978: Sco K. Ginsburg, Joan Hunziker, Babet Polzer, Stephanie Smith, Craig Polhe mus, Marianne Anders Benson, A. Brad ley Mims, Tom Lindsley and Martin Jen sen.

The PRESIDING OFFICER. Withou objection, it is so ordered.

Mr. NELSON. Mr. President, I intro duced legislation (S. 2570) with Senato WILLIAMS, JAVITS, HATHAWAY, RIBICO KENNEDY, and CRANSTON on February 2 1978, on behalf of the administration t revise and extend the programs author ized by the Comprehensive Employmen and Training Act of 1973 (CETA). Th legislation was thoroughly considered b the Senate Human Resources Commit tee, and was unanimously reported favor ably to the Senate by the committee o May 15, 1978.

S. 2570 reauthorizes the CETA pro grams for a period of 4 years except fo certain youth programs which are reau thorized only through 1980. This legisla tion contains many of the initiatives se forth in the administration's bill as we as other necessary amendments to th CETA programs.

The CETA legislation authorizes number of separate programs. CET programs include: grants to prime spon sors—generally units of local and Stat governments—for comprehensive em ployment and training services includin public service jobs; the Job Corps; yout programs; and the National Manpow Commission. Each of these programs no

is authorized by the CETA legislation. The legislation pending before the Senate, S. 2570, includes two major initiatives requested by the administration: a 2-year $400 million initiative to increase the involvement of the private sector in endeavors relating to employment and training activities for economically disadvantaged persons, and a $200 million demonstration program to test the efficacy of various employment programs for welfare recipients. Both programs were requested by President Carter.

THE PRIME SPONSOR SYSTEM

Prime sponsors are units of State and local government responsible for administering CETA programs within their communities. States may act as balance-of-State prime sponsors for smaller areas within their boundaries that are ineligible to become prime sponsors. Cities or counties with populations of 100,000 or more are eligible to become sponsors. Any combination of units of general local government may be designated as a prime sponsor so long as it includes any unit of general local government which has a population of 100,000 or more. Any unit of general local government or any combination of such units without regard to population, which in exceptional circumstances is determined by the Secretary to have a special capacity for carrying out CETA programs within certain labor markets, or rural areas with high unemployment may serve as a prime sponsor. Finally, the act provides that a limited number of concentrated employment program grantees which serve rural areas with high unemployment and have demonstrated special capabilities for carrying out employment and training programs in these areas may be designated as prime sponsors.

The number and distribution of prime sponsors among the various categories for the current and preceding 3 fiscal years is indicated below:

	Total	Cities	Counties	Consortia	Rural CEP's	Balance of States	States consortia
Fiscal 1975	403	58	156	134	4	51	
Fiscal 1976	431	62	175	140	4	50	
Fiscal 1977	444	55	179	145	4	51	
Fiscal 1978	447	67	187	138	4	43	8

Since its inception in 1973, CETA has become a major Federal program that significantly impacts on the Nation's economy. In fiscal year 1978 it is estimated that $9.9 billion will be spent on CETA programs: $2.5 billion will be spent on comprehensive employment and training programs other than public service jobs; $1.2 billion will be spent on youth programs; $5.9 billion will be spent on public service jobs program; and $320 million will be spent on the Job Corps.

For fiscal year 1979, the President has requested approximately $10.8 billion for the CETA programs, and it is estimated that $11.4 billion will be expended. This money will be spent as follows: $3.1 billion for comprehensive employment and training programs; $1.9 billion for youth programs; $6.1 billion for public service jobs programs; and $326 million for the Job Corps. A more detailed analysis has been prepared of the previous and proposed authorization levels and the appropriations under the CETA legislation, and it will be included in the RECORD at the conclusion of my remarks.

CONSIDERATION OF LEGISLATION

The Senate Human Resources Subcommittee on Employment, Poverty, and Migratory Labor held 8 days of hearings on the reauthorization of CETA. The subcommittee held 5 days of hearings in Washington, D.C., and 3 days of field hearings.

The subcommittee received testimony from congressional and administration witnesses, from public and private interest groups including representatives of counties, Governors, labor unions, community-based organizations, client groups, vocational education organizations, as well as from the Chairmen of the U.S. Civil Rights Commission and the National Commission for Manpower Policy. Witnesses from the Chamber of Commerce, the Business Roundtable, the Committee for Economic Development, and the Chrysler Institute testified before the subcommittee concerning their views on the role of the private sector in CETA.

During the hearings several specific areas of concern were raised by a number of these witnesses. Testimony focused on the need for greater targeting of resources on structurally unemployed persons, abuses relating to the administration of CETA funds, the need to increase private sector involvement in CETA and facilitate the transition of CETA participants into regular public employment and private sector jobs, and the importance of maintaining a countercyclical public service jobs programs.

S. 2570, as reported by the Human Resources Committee, addresses each of these concerns as well as many issues which have been raised about the CETA programs.

PROGRAMS FOR THE STRUCTURALLY UNEMPLOYED

A major focus of the committee's reauthorization of CETA is the increased emphasis on employment and training programs for hard-core unemployed persons.

The decline in unemployment during the past 19 month has reduced the overall unemployment rate. The Bureau of Labor Statistics reported that the overall unemployment rate on January 1977, was 7.4 percent. The unemployment rate in July 1978, was set at 6.2 percent, representing a reduction of 1.2 percent unemployment over this time period. The unemployment rate among adults—aged 20 and older—was 7.4 percent in January 1977; it now stands at 5.7 percent. Among adult men, the unemployment rate in January 1977, was 5.8 percent; it now stands at 4.1 percent.

Despite these declines in unemployment, the problem of structural unemployment—especially among minorities and youth—remains. Individuals in this situation face special difficulties in obtaining meaningful employment even in the best of economic circumstances.

An examination of the July figures makes clear that the unemployment rate, which is a national average, conceals vast differences among subgroups of the population.

The unemployment rate for blacks and other minorities was 12.5 percent in July, more than double the 5.3 percent level for all whites. Adult black males experienced an 8.4 percent unemployment rate; 11.6 percent of adult black women were out of work.

Women had a more difficult time finding work than men did. The adult female unemployment rate was 6.5 percent, compared with 4.1 percent for men.

Teenagers faced the worst unemployment problems of all. The unemployment rate for those aged 16-19 was 16.3 percent, as against a 6.2 percent rate for everyone 16 and over. The 16.3 percent rate represents a good deal of deterioration from the situation in June, when 14.2 percent of youths were jobless.

The expansion of employment programs for the hard-core unemployed—those who are economically disadvantaged because they have difficulty in obtaining and retaining a job—was supported at the subcommittee hearings by the administration, public and private interest groups, economists, community-based organizations, client groups, and the business community. The reduction of structural unemployment was a primary focus of the legislation proposed by the administration to amend CETA and is consistent with the goal President Carter set forth in the 1978 annual employment and training report of the President to reduce "structural elements of general unemployment" over the next 3 years.

In its third annual report to the President and the Congress, The National Commission for Manpower Policy also recommended that:

> CETA should serve primarily as an employability development machanism to assist the structurally unemployed to improve their prospect for regular employment and to increase their earnings.

This strong public and private sentiment for expanding opportunities for the hard-core unemployed is reflected in title II of S. 2570—comprehensive employment and training services.

Title II, part B, provides comprehensive services economically disadvantaged persons, including job search, outreach, supported work programs, education and institutional skill training, on-the-job training, work experience, and a whole array of employment services. These

services are now provided under title I of current law.

The formula distribution of funds for these services also parallels current law. The formula provides: of the amount available for distribution by formula, 50 percent is allocated to each State on the basis of the State's manpower allotment for the preceding fiscal year compared to the sums received by all States for these activities in that year; 37½ percent is allocated to States on the basis of the relative number of unemployed persons residing within the State compared to the number in all States; and 12½ percent is allocated to each State on the basis of the relative number of adults in low-income families residing within the State compared to the total number in all States. Not less than $2 million is to be set aside for distribution to the U.S. Trust Territories, Guam, the Virgin Islands, American Samoa, and the Northern Marianas.

Under current law, 80 percent of funds available for these activities is distributed by formula. S. 2570 provides that 85 percent of the funds available for these title II activities is to be distributed by formula. Of the remaining amount, 5 percent is to be available for vocational education assistance; 1 percent is to be available for operation of the State employment and training councils; 1 percent is to be available for States to establish linkages between prime sponsors and educational agencies providing training programs; 4 percent is to be available for the Governors' coordination and special services responsibilities under section 105; and, the remainder of funds is to be available for discretionary distribution by the Secretary of Labor.

These title II activities require as a condition of eligibility that the participant be economically disadvantaged. Eligibility for these programs is limited to persons who are underemployed, unemployed or in school youth, and who are also economically disadvantaged. Economically disadvantaged persons are defined as individuals whose income or whose family income annualized over the preceding 6 months does not exceed 70 percent of the BLS lower living standard income level; persons whose families receive cash welfare payments under a Federal, State, or local welfare program; a foster child on behalf of whom State or local government payments are made; or, in cases permitted by regulations of the Secretary, an individual who is or was institutionalized in a prison, hospital, or similar institution and faces employment barriers as a result of that institutionalization, or is a client of a sheltered workshop.

Title II, part D, authorizes a public service employment and training program for economically disadvantaged persons who have been unemployed for 12 weeks or more.

Wages authorized for public service employment positions have been limited to minimize the possibility of attracting workers from low wage jobs to CETA positions. This wage limitation also will serve to maximize the number of persons who will be able to participate in the program. The maximum wage a person may receive for a public service employment position under title II is $10,000, adjusted upward to $12,000 in high wage areas. Contrary to present law, prime sponsors may not supplement wages under the title II public service jobs program.

Salary limitations will help to prevent the use of CETA funds to finance highly paid skilled or professional positions. It is the committee's intent that the title II public service jobs program primarily be used to finance entry level positions for persons who, due to a lack of education, training, work experience, or other employment barriers, are unable to obtain unsubsidized employment.

Under the title VI countercyclical public service jobs program, a participant may receive a maximum wage of $14,400 in a high wage area. This includes limited supplementation of $2,400 by the prime sponsor paid from local resources. The disparity in wages between public service employment performed under titles II and VI is necessitated by the fact that prime sponsors are expected to serve two discrete client groups. Under title II, structurally unemployed persons with few job skills will be served. Under title VI, countercyclically unemployed persons who have employment skills but who cannot find a job because of economic conditions are to be served. Countercyclically unemployed persons generally have work experience and job skills which make them capable of holding a more skilled job than a structurally unemployed person. Thus a higher total wage is available to persons holding a title VI public service employment job.

For public service employment for the structurally unemployed under part D, the committee adopted a different allocation formula than for public service employment under title VI.

The committee bill provides that 85 percent of the funds available for part D are to be distributed by formula. Not less than 2 percent is to be allocated to Native American entities. The remaining amount is available to the Secretary for his discretionary distribution to prime sponsors and Native American entities.

Of the amount distributed by formula, funds are allocated to prime sponsors in the following manner: one-third on the basis of the relative number of unemployed persons who reside in areas within the jurisdiction of each applicant as compared to the number of unemployed persons who reside in all such areas in all States; one-third on the basis of the relative excess number of unemployed persons—the number in excess of 4½ percent—who reside in areas within the jurisdiction of the applicant as compared to the excess number of unemployed persons who reside within the jurisdiction of all prime sponsors; and one-third to prime sponsors on the basis of the number of unemployed persons residing in areas of substantial unemployment—an area with an unemployment rate equal to or in excess of 6½ percent—within the jurisdiction of the prime sponsor compared to the number of unemployed persons residing in all areas of substantial unemployement.

In the past, CETA participants have shuffled through one CETA progra after another without the benefit knowing what employment prospe they can expect upon termination fro the CETA programs. To change t situation, S. 2570 requires that employability plan be developed for ea title II participant. This is expected help guide the prime sponsor and t participant to select the most appropr ate array of services for each partic pant. The individual's interests, ski career objectives, as well as the suppo ive services necessary for each partic pant should be considered in formulati the plan. Participants should be pr vided with a realistic assessment of t likelihood of obtaining regular pub employment or private sector emplo ment upon completion of CETA servic

The committee bill also requires th appropriate training and support services accompany all work experien and public service employment progra under title II. A training requirement important to assure that CETA positi are not simply "make work" proje but actually provide the individual w a marketable skill. The supportive se ices requirement will provide pri sponsors with an important tool helping structurally unemployed pers become better prepared for labor fo participation. Often a person is une ployed because he needs job-rela services which he cannot afford. For e ample, transportation, child care, career guidance services may be sign cant impediments to employment persons who are unable to find wo These are the kind of services which authorized to assist hard-core une ployed persons to become prepared work.

The preparation of the structur unemployed for regular public or priv employment is neither an easy nor inexpensive process. However, such investment benefits both society and individual. The attainment of self-s ficiency for economically disadvanta persons not only decreases the need public assistance, but also enhances human resources available to many fa ilies and communities.

COUNTERCYCLICAL JOBS PROGRAM

In many areas of the country, the c rent public service jobs programs h been very controversial. A variety of r sons account for this. Some prime sp sors have used CETA positions to ret political favors or to create extrem high salaried professional and admin trative positions. The substitution Federal manpower dollars for local r enues used to support regular munici employees is another problem that been brought to the attention of Co gress and the public. Indeed, a rec study by the Brookings Institute e mated that there is a substitution CETA funds for State and munici revenues at an average rate of about percent. In other instances, pu service jobholders have engaged "make work" jobs, and are not receiv the kind of job training or valuable experience that makes the Federal penditures worthwhile.

Despite these current problems,

Human Resources Committee voted to retain a countercyclical job program which is contained in title VI of S. 2570. The committee believes that a countercyclical employment program is necessary to deal with unpredictable economic conditions that may bring about the situation in which many workers lose their jobs and are in need of employment.

Some areas of the country have not fully recovered from the recent economic slump and need a residual public service jobs program to assist them in their efforts to reduce unemployment. Indeed, witnesses pointed out at hearings on the CETA program that the dual problems of structural and countercyclical unemployment are intricately related. It was noted by these witnesses that it is not possible to solve the problem of structural unemployment when more skilled and experienced workers also are seeking gainful employment.

Given this background, two points respecting the current and proposed countercyclical jobs programs should be made. First, the current public service jobs programs, as well as the other CETA jobs programs such as the youth employment programs, have assisted in reducing unemployment. Second, the committee bill—S. 2570—significantly modifies the current public employment programs to attempt to eliminate many of the problems confronting the CETA programs.

Mr. President, the CETA programs have been responsible for assisting thousands of workers to return to work. Some 750,000 persons were employed in the public service jobs programs as of March 1978. This represented a buildup from a level of 310,000 in January 1977. During the comparable period of time, the unemployment rate declined from 7.4 percent in January 1977, to 6.2 percent this past July. This reduction in unemployment occurred at the same time that an additional 5 million persons joined the labor force.

Though the exact impact CETA has had upon this declining unemployment rate is difficult to measure, Secretary Marshall and other prominent economists have credited the public service jobs programs as a "critical factor" in this reduction. Secretary Marshall also has stated that in order to keep unemployment under 6 percent during 1979, a full-scale public service jobs program is needed.

This legislation reported to the Senate by the Human Resources Committee provides the authority for a countercyclical—title VI—and a structural—title II—public service jobs program.

The title II and title VI programs each authorize appropriations of "such sums as may be necessary." This will allow the Budget and Appropriations Committees, in conjunction with the Human Resources Committee, to establish the appropriate levels for public service jobs depending upon future economic circumstances. However, S. 2570 provides that the first $3 billion to be spent on public service jobs is to be used for the title II public service jobs for the structurally unemployed. This will insure that Federal resources are applied first to structural employment problems, which have proven to be severe under all economic circumstances.

Eligibility for the title VI program is restricted to persons who have been unemployed 45 days or longer and whose family income over the preceding 3 months, which when annualized, does not exceed 85 percent of the lower living standard income level as compiled by the Bureau of Labor Statistics. Program participation is limited to 1 year within a 5-year period, though it may be extended for a period of no more than 6 months in areas of high unemployment. Under current law, a person may participate in CETA programs for an undefined period.

S. 2570 also changes current law by restricting the total wages which may be paid to a title VI participant. Current law does not impose any restrictions on the total wage that can be paid to a public service jobholder. A maximum Federal wage base of $10,000 is provided in S. 2570, which can be adjusted up to a level of $12,000 on the basis of a wage index. Thus, high wage areas will have a higher Federal wage base than low wage areas. Supplementation of the Federal wage base by local resources equivalent to 10 percent of a prime sponsor's title VI allocation is authorized. However, no individual may have his Federal base salary supplemented by more than 20 percent. Thus, in the highest wage areas, the maximum wage a title VI participant may receive is $14,400—a maximum Federal wage of $12,000 plus the maximum local supplement of $2,400.

In 1976, the Congress adopted a provision to the CETA statute that established a national average wage for public service jobholders of $7,800 per year. The purpose of this national standard is to maximize the number of persons served by the CETA programs.

S. 2570 continues to provide for a national average wage standard, while also providing that local area average wages may be adjusted on the basis of a local wage index.

S. 2570 provides that federally supported wage rates for public service jobholders under both titles II and VI may not exceed a national average of $7,800 per year. This national average is adjustable to an area-by-area basis in accordance with an area wage adjustment index. This wage adjustment index is to be determined by comparing average wages in regular public or private employment in a given area with the average of such wages in all such areas. This will assure that the average wage paid in any area of the country is not excessively high compared to wages paid for regular private or public sector employment in that same area.

The Committee bill retains the same formula for title VI as the one used for title VI in the current law, except that 85 percent rather than 90 percent of all funds available are to be distributed by formula.

S. 2570 provides that not less than 85 percent of the amount available for title VI is to be allocated to prime sponsors in accordance with the following formula: 50 percent is allocated on the basis of the relative number of unemployed persons who reside in areas within the jurisdiction of each prime sponsor compared to the number of unemployed persons who reside in all such areas in all States; 25 percent is allocated on basis of the number of unemployed persons residing in areas of substantial unemployment—areas with an unemployment rate equal to or in excess of 6½ percent—within the jurisdiction of the prime sponsor compared to the number of unemployed persons residing in all areas of substantial unemployment; and, 25 percent on the basis of the relative excess number of unemployed persons—the number of unemployed persons in excess of 4½ percent—who reside within the jurisdiction of the prime sponsor compared to the total excess number of unemployed persons who reside within the jurisdictions of all eligible prime sponsors.

The Secretary must reserve an amount of not less than 2 percent of the sums available for title VI for Native American entities. The Secretary may use the remaining amount in his discretion to assist prime sponsors and Native American entities.

S. 2570 contains a number of provisions intended to prevent substitution. It expressly prohibits the hiring of a CETA participant when any other person is on layoff from the same or a substantially equivalent position, and it provides that CETA jobs must be in addition to those that would be funded by a State or municipality. Time limitations on program participation, limitations on wages and supplementation, as well as restricted eligibility requirements for purposes of public service employment, also will help to prevent substitution. Further, current law provides that funds expended for title VI may be used for both activities of an unlimited duration and projects which are 12 months in length. Testimony received by the committee indicates that projects tend to reduce the rate of fiscal substitution. Thus, the committee bill provides that all public service employment under title VI is to be only in projects. The projects are to be of limited duration, but may be extended beyond 12 months upon review by the prime sponsor at least once a year, in accordance with regulations issued by the Secretary.

The practice of substituting Federal manpower dollars for local resources also will be curtailed significantly by the elimination of the "sustainment jobs" provisions which were enacted as part of the 1976 CETA amendments.

Under the provisions of the 1976 CETA amendments, all public service employment positions funded in addition to

those positions existing on June 30, 1976, approximately 260,000 positions—are to be filled by persons who meet strict eligibility criteria, and these jobholders also are to be employed in 12-month projects. Generally, persons are qualified for these positions if their previous annual family income is no more than 70 percent of the BLS lower living standard budget and if they have been unemployed for at least 15 weeks, or if they are receiving public assistance. One-half of the vacancies below the June 30, 1976, sustainment level created by attrition also are required to be filled by persons who meet the strict eligibility criteria set forth above.

The remaining 50 percent of the jobs below the June 30, 1976, sustainment level, as well as another 50,000 public service employment positions under title II of the current CETA law, however, can be filled by persons who are unemployed for a very short period of time—15 days in areas having at least 7 percent unemployment rate, or by persons who have been unemployed for at least 30 days in an area with an unemployment rate of less than 7 percent. Moreover, prime sponsors are not required to employ these persons in projects of limited duration. These positions are the "sustainment jobs."

S. 2570 would eliminate these "sustainment jobs" provisions from the CETA law. This means that all positions which become available either by attrition or by new program dollars would have to meet the targeted eligibility criteria of the new title VI program.

Current law provides that no more than 15 percent of public service employment funds may be used for administrative expenses, training and other supportive services. This has led to the situation in which not enough resources have been available for training and supportive services because administrative expenses have taken up a disproportionate amount of the total funds available for all of these services. S. 2570 therefore provides that no more than 10 percent of public service employment funds under title VI may be used for administrative expenses, and an additional amount of funds of no more than 10 percent may be used for training, supportive services and similar skill development services. The committee believes that these provisions will enhance the ability of public service employees to receive the various kinds of services they need to become employed in regular public or private employment.

Mr. President, the implementation of these various program reforms will improve the countercyclical jobs programs. It is important that such a program be available to deal with national economic downturns generally as well as to assist those areas of the country whose local or regional economies are in distress. The various program reforms set forth in S. 2570 will help assure that a countercyclical jobs program is available and that the program that is available is sensitive to the past experiences of the CETA program.

PROGRAM ABUSES

Mr. President, CETA has been the subject of some controversy because investigations by the Justice Department and the Labor Department have revealed such statutory violations as political favoritism, fraud, financial conflicts of interest, and nepotism. Though such abuses have not been pervasive, neither have they been limited to a few isolated instances.

The Secretary of Labor in response to this situation has taken strong affirmative steps to investigate and impede such practices. Last April, Secretary Marshall established the Office of Special Investigations, which, among other functions, is charged with special investigative and auditing responsibilities relating to CETA programs. Additionally, the administration proposed a series of amendments to increase the Department's ability to take appropriate and swift preventive action to curb program abuses. The committee bill includes most of these recommendations.

S. 2570 provides that CETA funds may be terminated in emergency situations without a hearing so long as one is held thereafter within 30 days; the Secretary of Labor may take direct action against a subgrantee or subcontractor of a prime sponsor while a recipient who receives financial assistance directly from the Secretary concurrently will be held responsible for the actions and omissions of its subgrantees and subcontractors; no person may be discriminated against or otherwise penalized for filing a complaint or cooperating in an investigation; the Secretary may make use of State and local agencies, especially law enforcement agencies, to monitor and enforce the provisions of the act; the Secretary is directed to publish regulations against such abuses as nepotism, conflicts of interest, and kickbacks; recipients are required to keep adequate records and make them promptly available to the Secretary as the Secretary directs, and the Secretary is given authority to subpena books and witnesses in cases of investigation; this legislation establishes that it is a Federal offense to embezzle CETA funds, to engage in kickbacks, and similar schemes, or to obstruct CETA investigations; and the legislation also provides bonding for officers, directors, agents, and employees of CETA recipients who handle funds or property in the administration of the CETA programs.

Taken together the provisions adopted by the committee will protect the integrity of CETA funds from fiscal mismanagement or unscrupulous individuals who would abuse the program at the expense of both the public and those persons for whom it is the purpose of the act to assist.

The committee has placed time limitations upon the duration for which a person is eligible for CETA assistance. The bill provides that the longest period of time during which an individual may participate in the various CETA programs is a total of 2½ years within a
year period.

Work experience is restricted to a to
of 1,000 hours per year, except for
school youth, and a total of no m
than 2,000 hours of work experience m
be performed by a person within a 5-y
period.

The committee continues the limi
tion in current law which restricts p
ticipation in institutional or classro
training programs to 2 years within
5-year period.

An individual may hold a public se
ice employment position under title
for no longer than 18 months. An in
vidual may hold a public service empl
ment position under title VI for
longer than 12 months. These time li
tations may be extended for 6 months
areas of high unemployment as det
mined by the Secretary.

The 2½-year program participat
restriction and the limitation on pu
service employment will eliminate lo
term employment by any individual
the CETA programs. These limitati
will enable program participants to
ceive appropriate Federal manpower
sistance while emphasizing the transit
from CETA programs into regular pu
or private employment.

PRIVATE SECTOR PARTICIPATION

CETA program linkages with pri
employers is viewed by employment
cialists as a useful opportunity for
creasing the transition of CETA part
pants to unsubsidized employment. N
withstanding this belief, and despite
fact that most employment opportuni
originate in the private as opposed to
public sector, the private sector
played a limited role under CETA
fiscal year 1977, less than 10 percen
federally assisted employment and tr
ing programs involved private busin

Under the Manpower Development
Training Act (MDTA), the predece
to CETA, the Department of Labor m
substantial investments in the pri
sector, primarily through the use of
the-job training programs. Prog
follow-up studies from MDTA indi
that a high percentage of trainees
retained by employers after training
completed. With this background,
committee agreed to make a major
commitment to the role of the pri
sector in CETA programs.

Under a new title VII, Private Se
Opportunities for the Economically
advantaged, opportunities for low
come persons to work for a private
ployer while receiving on-the-job tr
ing will be greatly expanded. This ini
tive is similar to that proposed by
Carter administration. It is intende
integrate the private sector in the
velopment and implementation of C
programs with the goal of increa
private employment opportunities
low income persons.

Under this initiative, a prime spo
is authorized to establish a Private
dustry Council composed primarily
labor and business leaders, inclu
representatives of small and minor

owned businesses. The primary function of these councils is to secure contract pledges from private employers to hire economically disadvantaged persons. On-the-job training is the kind of activity authorized by title VII, though a wide range of other employment services may be provided. Among its various functions, the Private Industry Council will be responsible for advising the prime sponsor on ways of increasing private sector linkages in other CETA programs.

An authorization of $400 million is provided for fiscal year 1979 and such sums as may be necessary for fiscal year 1980.

Private employers have frequently stated that they are the last group to be consulted on national employment policies, but the first group solicited as a source of jobs for the Nation's structurally unemployed. It is the purpose of title VII to interject the expertise and energy of the business community into the mainstream of federally assisted employment programs. The combined resources of the Federal Government and the American business community should create an effective partnership for developing solutions to the problem of structural unemployment.

The committee also authorized two smaller private sector demonstration projects to test the efficacy of employment vouchers and employer incentive bonuses. Both programs are targeted on the economically disadvantaged population. These programs should provide useful information about the impact of vouchers and incentive bonuses upon factors such as the rate of displacement created by employment subsidies, the population obtaining employment as a result of such subsidies, the retention rate of participating employees beyond the duration of the training subsidy, and the types of and degree to which various business and industries utilize such subsidies. A further explanation of these amendments is included in the more detailed explanation of the committee bill.

YOUTH PROGRAMS

In recognition of the epidemic employment problems facing the Nation's youth, the committee bill places a strong emphasis on youth programs. S. 2570 authorizes the Job Corps, summer youth program, youth incentive entitlement pilot projects, youth community conservation and improvement projects, youth employment and training programs, and the Young Adult Conservation Corps.

JOB CORPS

The Job Corps was originally enacted under the Economic Opportunity Act of 1964. This program provides intensive, primarily residential, courses of education and employment services to economically disadvantaged young men and women between the ages of 14 and 22 years.

The purpose of the Job Corps is to assist young adults in achieving their career objectives. All Job Corps members are persons who are not in school, unemployed, and need additional education, vocational training, counseling, and other services to help them obtain employment, return to school or enlist in the Armed Forces.

This year more than 24,000 persons will enroll in Job Corps programs across the country. The Department of Labor is in the process of expanding this program so that it can serve twice as many persons.

SUMMER YOUTH PROGRAM

The summer youth program is targeted on economically disadvantaged youth who are 14 to 21 years of age. Summer training and employment opportunities will be available this year to some 1,072,000 youth. The young people who participate in these programs perform a variety of useful tasks including city clean up projects, community gardening projects, and conservationist practices.

To alleviate the structural employment barriers confronted by youth, the Congress enacted the Youth Employment and Demonstrations Projects Act last year. The four programs authorized by this legislation serve different aged youth in a variety of employment and training situations.

YOUTH INCENTIVE ENTITLEMENT PROJECTS

The youth incentive entitlement pilot projects provides grants to selected prime sponsors to serve all economically disadvantaged youth ages 16–19 who reside within their jurisdiction.

The program is designed to aid youth to complete high school while pursuing part-time employment and training opportunities. Eligible youth are guaranteed a year-round, part-time job or training position conditioned upon their remaining in school. Participants also are offered counseling, academic tutoring, and other services.

As of June 30, 1978, 27,768 youth were enrolled in this program.

YOUTH COMMUNITY IMPROVEMENT PROGRAM

The youth community improvement program is designed to develop the vocational potential of jobless youth through well-supervised work of tangible benefit to the community.

Services are available to unemployed youth 16 through 19 years of age. A preference is given to out-of-school youth with the severest handicaps in finding employment.

Youth are employed on community-planned projects lasting up to 1 year. Supervision is by skilled tradesmen who are good instructors and sensitive to the needs of youth. To assure that the youth get individual attention, no more than 12 persons are assigned to each supervisor. Community-based organizations such as YMCA's, the Red Cross, and other private nonprofit agencies design the projects. Schools are asked to grant credit for employment experience, thus encouraging youth to return to school and complete their education. As of June 30, 1978, 17,402 persons were enrolled in this program, youth community improvement programs.

YOUTH EMPLOYMENT AND TRAINING PROGRAM

The youth employment and training program is designed to enhance the jobs prospects and career preparation of low-income youth who have the severest problems in entering the labor market.

As of June 30, 1978, 163,935 youth between ages 14 and 21 years of age were enrolled in this program. With the exception of 10 percent of the available positions, jobs and training opportunities are available only to youth from families with income at or below 85 percent of the lower living standard.

Youth employment and training programs provide for institutional and on-the-job training, work experience, vocational education, public employment opportunities, employment counseling, and other employment related services.

At least 22 percent of each prime sponsor's funds must be used for in-school-youth programs carried out with local educational agencies. Arrangements are flexible, and the educational agencies may contract with junior colleges, post-secondary schools, and other community agencies serving low-income or in-school youth. School-based counselors advise in-school program participants as to the relevance of their career and educational programs.

YOUNG ADULT CONSERVATION CORPS

The Young Adult Conservation Corps is a program designed to give young people experience in various occupational skills through productive work on conservation and other projects on Federal and non-Federal lands and waters.

Youth ages 16 to 23 years of age may participate in this program. The program is open to all youth regardless of their family income. As of June 30, 1978, 20,663 persons were enrolled in this program.

Young adult conservation corps programs are operated under a tripartite agreement between the Department of Labor (DOL), Agriculture (USDA), and Interior (USDI). Enrollees are involved in all types of conservation work: preservation, management, and improvement of vegetation and wildlife; development, rehabilitation, and maintenance of recreational facilities; prevention and control of insects and disease; and natural disaster damage control and cleanup.

This program provides for nonresidential projects to which enrollees commute and residential camps that provide food daily and are given work assignments, lodging, and supportive services 7 days a week, 24 hours a day, and from which work projects are assigned.

Mr. President, at this point I ask unanimous consent to present in the RECORD a more detailed statement which discusses the committee's bill, S. 2570, a section-by-section analysis of the bill, and several tables relating to the program activities and funding levels of the various CETA programs.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2570—FISCAL YEAR 1979

[In thousands of dollars]

CETA title	Authorization	Budget authority	Estimated outlays
Title I: Administrative provisions			
Title II:			
Comprehensive services	Open ended	[1] 2,026,700	2,042,003
PSE	$3,000,000,000	(4)	
Title III (pts. A and B): [2]			
Migrant farmworkers	Not less than 5 percent of the 85 percent allocated to prime sponsors for comprehensive services under title II.	[3] 81,068	84,068
Indians and native Americans	Not less than 4.5 percent of the 85 percent allocated to prime sponsors for comprehensive services under title II.	[3] 64,854	62,854
Other national programs	Open ended [2]	69,200	69,200
Migrant and Indian initiatives	do [2]		25,000
STIP/HIRE	do [2]		275,000
Program support	do [2]	43,910	43,910
Welfare demonstrations		200,000	125,000
Title IV:			
Youth employment programs (pt. A)	Open ended	713,996	879,6
Job Corps (pt. B)	do	296,000	325,5
Summer youth (pt. C)	do	740,200	763,3
Young Adult Conservation Corps (pt. D)	do	216,900	306,5
Title V: National Commission for Employment and Training Policy	$3,000	(4)	1,0
Title VI: PSE	Open ended	[1] 5,955,286	6,103,5
Title VII: Private sector opportunities for the economically disadvantaged		400,000	250,0
Total		10,808,114	11,356,0

[1] Reflects administration's request for the inclusion of all PSE in title VI.
[2] Not more than 20 percent of the amount appropriated, excluding any amount available for carrying out title II-D and VI, shall be available for carrying out title III.
[3] Additional funding would be required to fulfill the statutory set-asides.
[4] The Commission receives funding from a variety of sources, though most of its resources provided by the Department of Labor. The remaining amount is provided by various governm agencies and private foundations.

CETA FUNDS

[In thousands]

CETA title	Authorization	Fiscal year 1977 Appropriation	Fiscal year 1977 Actual outlays	Fiscal year 1978 Appropriation	Fiscal year 1978 Estima outl
Title I	Open ended	$1,880,000	$1,756,209	$1,880,000	$2,034,
Title II—PSE	do	1,540,000	495,957	(1)	1,069,
Title II (pts. A and B),[2] migrant farmworkers	Not less than 5 percent of the 80 percent allocated to prime sponsors under title I.	63,200	60,921	75,200	71,
Indians and Native Americans	Not less than 4 percent of the 80 percent allocated to prime sponsors under title I.	50,560	57,610	60,160	60,
Other national programs	Open ended [3]	74,600	89,048	70,700	70,
Migrant and Indian initiatives	do [3]	(2)	(2)	37,000	12,
STIP/HIRE/DVOP	do [3]	370,000		100,000	75,
Program support	do [3]	53,370	60,531	44,870	49,
Summer youth employment	do [3]	595,000	574,994	756,000	704,
Title III (pt. C), youth employment demonstration programs	do [3]	766,667	4	(1)	400,
Title IV, Job Corps	Open ended except for the reservation.[3]	274,100	201,584	417,000	320,
Title V, National Commission for Manpower Policy	Open ended	(2)	7,000	(2)	2,
Title VI—PSE	do	6,847,000	2,340,409	(1)	4,073,
Title VII, administrative provisions					
Title VIII, YACC	Open ended	233,333	40	(1)	143,
Total, CETA fiscal year 1978 appropriations		12,736,830	5,631,307	3,440,930	9,884,

[1] Fiscal year 1977 appropriation provides funding for these programs for fiscal year 1977 and fiscal year 1978.
[2] Not more than 20 percent of the amount appropriated, excluding any amount in excess of $250,000,000 for title II, is available for carrying out title III pts. A and B and title IV.
[3] Funded from title I Secretary's discretionary funds in fiscal year 1977.
[4] The Commission receives funding from a variety of sources, though most of its resources provided by the Department of Labor. The remaining amount is provided by various Governm agencies and private foundations.

ONBOARD ENROLLMENT IN EMPLOYMENT AND TRAINING PROGRAMS—END OF QUARTERS, 1974–78

	Total enrollment[1]	Comprehensive Employment and Training Act: Title I: Total[2]	Title I: Classroom training	Title I: OJT	Title I: PSE	Title I: Work experience	Title II: Indians	Title III[2]: Migrants	Title IV Job Corps	Title VI	Government grant	Work incentive program	Tit (wo
1974:													
Sept. 30	370,800	105,000	20,300	4,100	1,400	62,900	11,700	(4)	(4)	19,300	(4)	225,400	9
Dec. 31	617,500	286,700	66,600	13,400	4,100	163,200	56,000	5,600	(4)	19,300	16,500	224,200	9
1975:													
Mar. 31	1,000,500	462,200	124,300	28,100	11,500	225,800	143,900	10,600	10,300	20,800	101,800	14,400	227,300	9
June 30	1,102,700	513,800	111,400	37,900	19,500	265,000	136,800	20,000	42,000	20,700	110,800	13,700	236,200	8
Sept. 30	1,110,700	449,900	131,600	36,900	23,000	155,700	83,300	18,100	94,500	20,100	212,600	22,300	196,800	13
Dec. 31	1,202,000	495,000	141,500	36,800	20,500	207,300	62,300	15,600	74,300	19,500	267,000	27,800	227,600	12
1976:													
Mar. 31	1,323,700	574,500	173,600	41,500	22,900	232,400	57,500	15,200	54,500	21,000	287,000	41,300	259,500	13
June 30	1,244,700	505,300	159,500	43,500	22,700	186,400	94,500	13,800	70,200	21,000	205,900	42,500	278,200	13
Sept. 30	1,181,900	364,400	144,300	34,300	15,700	116,200	245,300	10,800	147,700	20,500	43,800	29,100	305,700	14
Dec. 31	1,228,100	411,800	147,800	32,700	12,800	181,900	242,600	10,100	191,300	19,300	28,800	25,000	283,600	15
1977:													
Mar. 31	1,219,400	474,100	182,700	43,800	11,400	214,000	62,300	10,200	77,400	20,900	220,500	31,400	305,700	16
June 30	1,314,300	461,800	183,200	53,600	12,700	163,700	71,100	7,600	89,700	21,100	291,900	33,600	320,200	17
Sept. 30	1,390,500	367,200	161,500	48,400	8,700	127,800	92,400	16,800	74,600	21,600	431,200	23,100	334,900	20
Dec. 31	1,479,000	434,400	173,000	48,100	7,600	183,900	107,500	17,800	(4)	21,500	504,000	20,300	337,900	39
1978: Mar. 31	1,634,200	470,900	253,500	53,100	6,600	184,800	127,200	(4)	(4)	23,600	605,600	23,500	346,000	37

[1] Total enrollment does not include apprentices. There were 245,900 registered apprentices as of June 30, 1977.
[2] Totals include participants enrolled in other activities.
[3] Estimated.
[4] Information not available.

YOUTH EMPLOYMENT AND DEMONSTRATION PROJECTS ACT PROGRAMS END-OF-MONTH ENROLLMENT

Month (1978)	January	February	March	April	May	June
Youth Employment and Training Programs (YETP)	18,917	50,014	88,771	122,928	154,635	163,935
Youth Community Conservation and Improvement Projects (YCCIP)	1,807	5,569	10,645	12,073	15,251	17,402
Youth Incentive Entitlement Pilot Projects (YIEPP)	(1)	(1)	8,712	15,566	22,000	27,768
Young Adult Conservation Corps (YACC)	8,159	9,598	11,409	12,851	16,540	20,653
Total	(1)	(1)	119,537	163,418	208,426	229,758

[1] Is not available.

SECTION-BY-SECTION SUMMARY ANALYSIS

Section 1—Short Title

This section provides that the act, with a table of contents, may be cited as the "Comprehensive Employment and Training Act."

Section 2—Statement of Purpose

This section provides that it is the purpose of the act to provide job training and employment opportunities for economically disadvantaged, unemployed or underemployed persons by establishing a flexible, coordinated and decentralized employment and training program.

TITLE I—ADMINISTRATIVE PROVISIONS

Part A—Organizational provisions

Section 101—Prime Sponsors

Subsection (a) defines eligible prime sponsors as: (1) a State, (2) any unit of general local government with population of 100,000 or more, (3) any combination of units of general local government which includes an otherwise eligible unit, (4) units or combination of units of general local government, in rural areas without regard to population, which have high unemployment, and there is a special need for services within the area, as determined by the Secretary (5) certain existing concentrated employment program grantees, designated by the Secretary, serving areas with high unemployment, and (6) units previously designated as prime sponsors, whose populations have decreased below 100,000, but have demonstrated their effectiveness to administer programs and still have that capability.

Subsection (b) provides that a State or a unit of general local government shall not qualify with respect to any area within the jurisdiction of a geographically smaller eligible prime sponsor unless the smaller unit has not submitted an approvable plan.

Subsection (c) provides that prime sponsors must submit a notice of intent to apply for prime sponsorship by a date prescribed by the Secretary, and the Secretary shall designate those that qualify as prime sponsors.

Subsection (d) provides that State prime sponsors shall make appropriate arrangements for appropriate area planning bodies to serve subareas within the State prime sponsor area.

Section 102—Authority of Secretary To Provide Services

This section provides that the Secretary may provide services to any area not served by a prime sponsor, to any area where the prime sponsorship has been revoked by the Secretary, or to any area where a plan has not been approved.

Section 103—Comprehensive Employment and Training Agreement and Annual Plans

Subsection (a) provides that the Secretary may not provide financial assistance unless the prime sponsor submits a comprehensive employment and training plan consisting of a comprehensive employment and training agreement and an annual employment and training plan. The agreement serves as the basic charter and includes descriptions of local labor markets, basic operational information, and the procedures used by the prime sponsor to insure that conditions of this act are met.

Subsection (b) provides that prime sponsors must submit an annual employment and training plan which describes programs and services to be provided to the eligible population. Such information includes changes in the local labor market, the performance and placement goals for the program year, changes in the administrative design of the program, and a description of the relationship between and the efforts to coordinate programs under this act to other employment and training programs operating in the area.

Section 104—Review of Comprehensive Employment and Training Plans

Subsection (a) provides that a prime sponsor's plans must be submitted for comment, at least 45 days before being submitted to the Secretary, to specific offices or organizations specified in the section. The plan must also be made available for review to specified other groups and to the general public.

Subsection (b) provides that the prime sponsor shall consider any comments or recommendations received, and transmit to the Secretary comments and recommendations of the Governor, the State employment and training council, and the prime sponsor planning council.

Subsection (c) provides for the Secretary to review each prime sponsor's comprehensive employment and training plan to assure that it meets the requirements of the act, the regulations, and other applicable law.

Subsection (d) provides that the Secretary shall disapprove any plan not satisfying the review under subsection (c), provided that the prime sponsor has at least 30 days to remedy any defect.

Section 105—Governor's Coordination and Special Services Plan

Subsection (a) provides that any State seeking financial assistance under this act shall submit a Governor's coordination and special services plan to the Secretary.

Subsection (b) details what shall be included in the Governor's plan.

Subsection (c) provides that the Secretary shall only approve the Governor's plan if it meets the requirements of this subsection.

Section 106—Complaints and Sanctions

Subsection (a) provides that each prime sponsor shall establish and maintain a grievance procedure for handling complaints from participants, subgrantees, contractors, and other interested persons. It also provides that the Secretary shall promulgate regulations to insure that recipients establish formal hearing processes so that determinations as to the merits of complaints are made within 60 days. It also provides for secretarial investigations of the complaint, with a determination within 120 days.

Subsection (b) provides that the Secretary shall revoke a prime sponsor's plan and terminate financial assistance provided that prior notice and opportunity for a hearing are given, if the Secretary determines that the prime sponsor maintained a pattern or practice of discrimination. The Secretary may revoke the plan or terminate financial assistance if the prime sponsor has incurred unreasonable administrative costs, failed to give due consideration to continued funding of programs of demonstrated effectiveness, failed to give due consideration to the eligible population in areas of chronic or concentrated unemployment, materially failed to expend funds in a reasonable period of time or violated several other conditions.

Subsection (c) authorizes the Secretary, after a finding that a recipient has failed to comply with the act or regulation, to terminate or suspend, in whole or in part, financial assistance to the recipient, and where appropriate, take such corrective actions as ordering the repayment of misspent funds, withholding future funding, and taking direct legal action against recipients, subgrantees, subcontractors and operators under nonfinancial agreements, or ordering the recipient to take legal action to recover misspent funds or protect the integrity of the program. Furthermore, it provides that the Secretary may, in emergency situations, immediately terminate or suspend assistance, in whole or in part, provided that an opportunity for a hearing is given to the recipient within 30 days.

Subsection (d) authorizes the Secretary to protect persons who either make complaints or testify against a recipient from actions by the recipient.

Subsection (e) provides that nothing in this act precludes a person who alleges a violation of the act or regulations from instituting a civil action.

Subsection (f) provides that the Secretary may withhold funds otherwise payable under the act in order to recover amounts expended in any fiscal year in violation of any provision of the act.

Subsection (g) provides the Secretary with the authority to make arrangements to use appropriate State and local government personnel with reimbursement, to carry out the provisions of this section and section 134.

Subsection (h) provides that prime sponsors and other recipients receiving funds directly from the Secretary remain responsible and liable despite the right of direct action by the Secretary against subcontractors and subgrantees.

Section 107—Judicial Review

This section provides that a recipient's right of review is in the courts of appeal if the recipient is dissatisfied with the Secretary's action in finally disapproving a plan, withholding funds, or taking an action with respect to a sanction.

Section 108—Reallocation

Subsection (a) authorizes the Secretary to reallocate funds from one recipient to another if the former is unable to use such allocated funds within a reasonable period of time.

Subsection (b) provides that the Secretary will give 30 days advance notice to the prime sponsor, the Governor and the general public, during which time comments may be submitted to the Secretary. After considering any comments, the Secretary shall notify the Governor and prime sponsor of any decision to reallocate funds, and publish such decision in the Federal Register. In allocating funds, the Secretary shall first give priority to prime sponsors within the same State, then to prime sponsors within other States.

Section 109—Prime Sponsor's Planning Council

This section provides that each prime sponsor shall establish a planning council and

sets forth the composition and requirements for such council.

Section 110—State employment and training council

This section provides that each State shall establish an employment and training council and sets forth the composition and requirements for such council.

Section 111—Consultation

This requires the Secretary of Labor to consult with the Secretaries of Health, Education, and Welfare, with respect to services of a health, education, and welfare character, and other Federal officials as appropriate.

Section 112—Authorization of appropriations

Subsection (a) provides for a such sums as may be necessary authorization of the act, for titles II, III, and IV, parts B and C, title VI, and title VII, through fiscal year 1982; title IV, part A and D and title VII are authorized through 1980.

Subsection (b) provides that appropriated funds shall remain available for obligation in the succeeding fiscal year and obligated funds may be expended during a period of two years after obligation.

Subsection (c) provides authority for forward funding for programs under this act.

Subsection (d) provides that the funds available for carrying out title III shall not exceed 20 percent of the amount appropriated for the act (excluding any amount made available for carrying out title II–D and title VI) and that of the funds available for title III, the Secretary shall transfer not less than $3 million nor more than $5 million to the National Occupational Information Coordinating Committee.

Part b—General provisions

Section 121—Conditions Applicable to All Programs

This section contains the provisions applicable to all programs, including nondiscrimination, protection of employed workers, employee benefits, occupational safety and health, and prohibitions on political and sectarian activities.

Section 122—Special Conditions Applicable to Public Service Employment

This section provides conditions applicable to the public service employment program, including wage rates, protection of employed workers, and duration of employment.

Section 123—Special provisions

This section contains special provisions applicable to programs under this act.

Section 124—Wages and allowances

This section provides that basic wages and allowances will be paid to enrollees.

Section 125—Labor Standards

This section governs the applicability of the Davis-Bacon Act.

Section 126—Definitions

This section defines terms used in the act.

Section 127—Secretary's Authority and Performance Standards

This section provides the Secretary with the authority to issue rules, regulations, and guidelines for the administration of the act. It also provides that the Secretary shall assess the adequacy of each prime sponsor's proposed performance and placement goals in accordance with performance standards which recognize that performance varies with the local situation. It further provides the Secretary with the authority to enter into contracts, grants, and agreements, as deemed necessary to carry out the act.

Section 128—Reports

This section provides for an annual report by the Secretary and periodic reports by each prime sponsor.

Section 129—Services and Property

This section authorizes the Secretary to accept gifts in the name of the Department.

Section 130—Utilization of Services and Facilities

This section authorizes the Secretary to utilize services and facilities of other Federal and State agencies.

Section 131—Interstate Agreements

This section gives the consent of Congress to interstate agreements required by this act subject to the approval of the Secretary.

Section 132—Prohibition Against Political Activities

This section provides that no program funded under this act may involve political activities and states that State and local government employees whose principal employment is in connection with programs financed under this act, and who are covered by the Hatch Act, must comply with the provisions of that act.

Section 133—Nondiscrimination

This section prohibits discrimination on the basis of race, color, religion, sex, national origin, age, handicap, political affiliation, or citizenship, and provides appropriate remedies in cases where discrimination has been found to have taken place.

Section 134—Records, Audits, and Investigations

This section requires each recipient of financial assistance to maintain records on participants and programs and keep such records for the Secretary's inspection. It further provides that the Secretary may investigate any matter deemed necessary to insure that no violations of the program have occurred.

Section 135—Bonding

This section provides that all employees of recipients of financial assistance who handle funds under this act be bonded, and that the Secretary establish the amount and other bonding requirements by regulation.

TITLE II—COMPREHENSIVE EMPLOYMENT AND TRAINING SERVICES

Part A—Financial assistance provisions

Section 201—Purpose of Program

This section provides that it is the purpose of this program to provide comprehensive employment and training opportunities throughout the Nation. The programs shall include the development and creation of training, upgrading, retraining, education, and other services needed to enable individuals to secure and retain employment at their maximum capacities so as to increase their earned income.

Section 202—Allocation of Funds

Subsection (a) provides that 85 percent of the funds available for parts A, B, and C will be allocated to prime sponsors according to the following formula: 50 percent—previous year's allocation (for fiscal year 1979 this would apply to the fiscal year 1978 title I allocation); 37.5 percent—total unemployment; 12.5 percent—low-income adults; and not less than $2 million shall be allocated among Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands and the Northern Marianas).

Subsection (b) provides that 5 percent of the funds available for parts A, B, and C shall be used only for supplemental vocational education assistance.

Subsection (c) provides that 1 percent of the funds allocated under parts A, B, and C shall be available to the Secretary for paying the costs of the State employment and training council, except that no State shall receive less than $50,000.

Subsection (d) provides that 1 percent of the funds available under title II shall be available to the Governor for linkages with educational institutions and agencies.

Subsection (e) provides that 4 percent of the funds available under parts A, B, and C shall be available for Governor's coordina and special services programs.

Subsection (f) provides that the remai of the funds shall be used at the Secret discretion for purposes that include pro ing 90 percent of the previous year's fu continuing support for rural concent employment programs, continuing fun of programs of demonstrated effective and for encouragement of consortia w they demonstrate advantages.

Section 203—Conditions for Receipt o Financial Assistance

This section provides that a prime spo may only receive financial assistance w submission of a satisfactory comprehe employment and training plan, that more than 5 percent of the prime spon funds may be used for upgrading and ret ing programs (part C), and that public ice employment and work experience sh combined with training and supportive ices.

Section 204—Supplemental Vocation Education Assistance

This section provides that the Secr shall make grants to Governors to pr financial assistance, through State vocat education boards, to provide needed tional education services, and that the f only be used for providing services to pa pants in programs under this title in ac ance with an agreement between the vocational education board and the sponsor

Section 205—Participant Assessmen

This section provides that each sponsor shall assist each individual rece assistance under the title in establish personalized employability plan in ord determine which program activities ar propriate for that individual. It also pro that an assessment of each person's nee training and supportive services sha made at the time of entrance to a pro and reviewed periodically.

Part B—Services for the economic disadvantaged

Section 211—Description of Program

This section lists the types of service activities which may be provided unde title, including job search assistance, e tion and institutional skill training, on job training, supported work program activities, the development of labor m information, necessary supportive ser and any programs authorized by part title III, title IV, and title VII of this

Section 212—Limitation on Use of Fu

This section provides that no prime sor receiving funds under this title sha funds allocated for parts A, B, and C for lic service employment.

Section 213—Eligibility for Participati

This section provides that a person be economically disadvantaged and u ployed, underemployed, or in school, in to participate in the programs autho by this part.

Section 214—Services for Youth

This section provides that service youth under this part shall be design assist eligible youth in overcoming the ticular barriers to employment experie by youth and provides that the Secr shall insure that each prime sponsor's include programs and services for el youth.

Section 215—Services for Older Work

This section provides that service older workers under this part shall be signed to assist eligible participants in coming the particular barriers to em ment experienced by older workers and vides that the Secretary shall insure each prime sponsors' plan include prog and services for older workers.

Part C—Upgrading and retraining

Section 221—Occupational Upgrading and Retraining

This section provides that prime sponsors may conduct occupational upgrading programs, including supportive services, through agreements with public and private employers, pursuant to regulations of the Secretary, for individuals operating at less than their full skill potential, primarily those in entry level positions or positions with little normal advancement opportunities. Further, prime sponsors may also conduct retraining programs, directly or through agreements with public and private employers, pursuant to regulations of the Secretary.

If either upgrading or retraining programs concern jobs covered by collected bargaining agreements, such programs shall have the concurrence of labor organizations representing the employees in those jobs.

Part D—Public service employment opportunities for the economically disadvantaged

Section 231—Statement of Purpose

This section provides that it is the purpose of this title to provide economically disadvantaged persons who are unemployed with transitional employment in jobs providing needed public services, and related training and services to enable such persons to move into unsubsidized employment or training.

Section 232—Authorization

This section provides that there are authorized to be appropriated such sums as may be necessary for fiscal year 1979 and the three succeeding fiscal years. Further, the section provides that from the sums appropriated under this act for any fiscal year for public service employment under this part and title VI, the Secretary shall first make available $3 billion for carrying out this part for such fiscal year.

Section 233—Financial Assistance

This section provides that the Secretary shall provide financial assistance to prime sponsors under this part for transitional public service employment and that not less than 90 percent of the allocated funds used by a prime sponsor shall be used for public service employment wages, benefits, training, and supportive services. The remainder of the funds are available for administrative and other allowable costs.

Section 234—Allocation of Funds

This section provides that of the funds made available for this part, 2 percent shall be made available to Native American entries described in 302(c)(1)(A) and 85 percent shall be made available to be allocated to prime sponsor. The prime sponsors shall be allocated in accordance with the following formula:

33⅓ percent on the relative number of sponsor's area;

33⅓ on the excess number of unemployed in the prime sponsor's area; and

33⅓ percent on the relative number of unemployed in areas of substantial unemployment.

The remainder of funds not so allocated is to be used by the Secretary for discretionary purposes.

Section 235—Expenditure of Funds

This section provides that funds available under this part shall only be available for public service employment activities or projects carried out by project applicants as defined in section 126 or activities set forth in section 211.

Section 236—Prime Sponsors and Program Agents

This section provides that the provisions of section 606 with respect to prime sponsors and program agents shall apply to this part.

Section 237—Eligibility

This section provides that to be eligible a person must be unemployed for at least 12 weeks and be economically disadvantaged. The section also restates that the provisions of section 122(i) with respect to duration apply to this part.

Section 238—Wages

This section provides that no person shall be paid wages at a rate in excess of $10,000 per year, adjusted upward for an area by the ratio that the local wage rates bear to the national average, but not by more than 20 percent; and shall be paid in accordance with the hourly wage of section 124. The section further provides that persons in public service employment under this part may not have their wages supplemented.

TITLE III—SPECIAL FEDERAL RESPONSIBILITIES

Part A—Special national programs and activities

Section 301—Special Programs and Activities

This section provides that the Secretary shall use funds available under this title to provide additional employment and training services to segments of the population who are in particular need of them because they have particular disadvantages in the labor market, including offenders, persons of limited English proficiency, handicapped individuals, single parents, displaced homemakers, youth and older workers.

Section 302—Native American Employment and Training Programs

This section provides for employment and training programs for native Americans, Alaskan Natives and Hawaiian natives. To carry out these programs, the Secretary shall reserve not less than 4.5 percent of the funds allocated under section 202(a)(1).

Section 303—Migrant and Seasonal Farmworkers Employment and Training Programs

This section provides employment and training programs for migrant and seasonal farmworkers. To carry out this program the Secretary shall reserve not less than 5 percent of the funds allocated under section 202(a)(1).

Section 304—Job Search and Relocation Assistance

This section provides that the Secretary may provide job search and special relocation assistance. Job search assistance is available for economically disadvantaged, unemployed, and underemployed persons. Relocation assistance is available only to involuntarily unemployed persons who cannot reasonably be expected to secure full-time employment in the community in which they reside and have a bona fide offer of employment.

Section 305—Veterans Information and Outreach

This section provides that the Secretary, in consultation with the Secretary of Health, Education, and Welfare and the Administrator of the Veterans' Administration, shall provide for an outreach and public information program for veterans.

Part B—Research, training, and evaluation

Section 311—Research

This section provides that the Secretary shall establish a comprehensive program of employment and training research and for experimental, demonstration, and pilot projects, including a variety of welfare demonstration programs.

Section 312—Labor Market Information and Job Bank Program

This section provides for the development of a comprehensive system of labor market information on a national, State, local or other appropriate basis and for the development of a computerized job bank.

Section 313—Evaluation

This section provides that the Secretary shall provide for the continuing evaluation of all programs conducted under this act and for studies of the comparative effectiveness of programs under this act and those under title IV-C of the Social Security Act (work incentive program).

Section 314—Training and Technical Assistance

This section provides for technical assistance to prime sponsors by the Secretary of Labor in consultation with the Secretary of Health, Education, and Welfare and other appropriate officials.

Section 315—National Occupational Information Coordinating Committee

This section authorizes the National Occupational Information Coordinating Committee to use the funds available under section 112(d) in giving special attention to the labor market information needs of youth.

Section 316—Evaluation and Incentive Grants

This section provides that a prime sponsor may volunteer for an evaluation of its title II program by the Secretary of Labor. The Secretary awards funds to these prime sponsors who do well.

Section 317—Voucher Demonstration Projects

This section provides for a demonstration program of employment and training vouchers for use with private employers by economically disadvantaged persons who are unemployed or underemployed.

TITLE IV—YOUTH PROGRAMS

Part A—Youth employment demonstration programs

Section 401—Statement of Purpose

This section establishes pilot, demonstration, and experimental programs to explore methods of dealing with youth employment and training, but it is explicitly not its purpose to provide make-work.

Subpart 1—Youth incentive entitlement pilot projects

Section 411—Entitlement Pilot Projects Authorized

This section authorizes the Secretary to enter into arrangements with selected prime sponsors to demonstrate the efficacy of guaranteeing employment to economically disadvantaged youth who are aged 16–19 and in school, or are willing to return to school for the purpose of obtaining a diploma or seek a high school equivalency certificate.

Section 412—Employment Guarantees

This section details the eligible employment opportunities and training or combination thereof which shall be part-time up to an average of 20 hours per week during the school year and may be full-time up to an average of 40 hours per week during the summer.

Section 413—Selecting Prime Sponsors

Subsection (a) provides that the Secretary shall take into consideration the extent to which the selected prime sponsors devote funds available under title II and part C of this title for the entitlement program. The Secretary shall not select any prime sponsor failing to submit specified information and assurances.

Subsection (b) provides that in approving incentive entitlement projects, the Secretary may test a variety of approaches such as subsidies to for-profit employers, arrangements with unions for apprenticeship training, alternative administrative mechanisms, the addition of economically disadvantaged youth between 19 and 25 who have not received their high school diploma, the inclusion of career counseling, outreach, on-the-

job training, and apprenticeship, and the inclusion of adjudicated youth.

Section 414—Special Provisions

This section lists examples of eligible employment and prohibits funds from being used to provide public service previously provided by a political subdivision or local educational agency in the area served.

Section 415—Reports

This section provides that the Secretary is required to submit an interim report on December 31, 1978 and a final report on March 15, 1979, to Congress on the projects funded under this section.

Subpart 2—Youth community conservation and improvement projects

Section 421—Statement of Purpose

This section provides the purpose of subpart 2 is to establish a program of community conservation and improvement projects to provide work and training opportunities for eligible youths for a period not to exceed 12 months.

Section 422—Definitions

This section defines terms for purposes of subpart 2.

Section 423—Allocation of Funds

Subsection (a) of this section provides that funds for subpart 2 shall be allocated so that not less than 75 percent shall be allocated among the States on the basis of the relative number of unemployed persons within each State as compared to all States. No State would be allocated less than one-half of 1 percent, and one-half of 1 percent would be allocated in the aggregate for Guam, the Virgin Islands, American Samoa, the Northern Marianas Islands, and the Trust Territory of the Pacific Islands.

Subsection (b) provides that of the funds for subpart 2, there would be made available 2 percent for projects for native American eligible youth, and 2 percent for projects for eligible youths in migrant and seasonal farmworker families.

Subsection (c) provides that the remaining subpart 2 funds are to be allocated as the Secretary deems appropriate.

Section 424—Community Conservation and Improvement Youth Employment Program

This section authorizes the Secretary of Labor to enter into agreements with eligible applicants to pay the costs of community improvement projects to be carried out by project applicants employing eligible youths and appropriate supervisory personnel.

Section 425—Project Applications

Subsection (a) of this section provides that project applicants shall submit applications for funding of projects under this subpart to the appropriate eligible applicant.

Subsection (b) requires that project applicants provide descriptions and assurances with respect to projects.

Section 426—Proposed Agreements

Subsection (a) of this section provides that any eligible applicant desiring funding under this subpart shall submit a proposed agreement to the Secretary and shall make available to the Secretary all project applications approved by the eligible applicant and by any program agent in the area served by the eligible applicant.

Subsection (b) provides that the proposed agreement shall describe the method of recruiting youths and a description of job training and skill development opportunities.

Subsection (c) provides for review of all project applications by the prime sponsor's planning council prior to being submitted to the Secretary.

Section 427—Approval of Agreements

Subsection (a) of this section provides that the Secretary may approve or deny on an individual basis any of the project applications submitted by an eligible applicant.

Subsection (b) provides that assurances must be satisfactory to the Secretary that programs will permit in-school youths to coordinate their jobs with classroom instruction and, to the extent feasible, permit youths to receive credit from the appropriate educational agency, postsecondary institution, or particular school involved.

Section 428—Work Limitation

This section provides that no eligible youth shall be employed for more than 12 months in work financed under this part, except as provided by the Secretary.

Subpart 3—Youth employment and training programs

Section 431—Statement of Purpose

This section sets forth the purpose of part C to establish comprehensive programs to enhance the job prospects and career opportunities of young persons.

Section 432—Programs Authorized

This section authorizes the Secretary to provide financial assistance to enable eligible applicants to provide employment opportunities and appropriate training and supporting services for eligible participants.

Section 433—Allocation of Funds

Subsection (a) provides: (1) 75 percent of the funds available for such subpart shall be allocated by formula to prime sponsors; (2) 5 percent of the total amount available for part A shall be allocated by formula to Government for special statewide services; (3) not less than 2 percent of the total amount available for part A shall be made available for native American programs (deducting funds available under subpart 2 for native American projects); (4) not less than 2 percent of the total amount available for part A shall be made available for migrant and seasonal farmworker programs (deducting funds made available under subpart 2 for migrant and seasonal farmworkers programs); and (5) the remainder of the funds available for subpart 3 shall be available for the Secretary's discretionary projects.

Subsection (b) provides that the allocated funds will be distributed as follows:

37.5 percent—total unemployment.

37.5 percent—total number residing in areas of substantial unemployment—(unemployment in excess of 6.5 percent).

25 percent—total low-income.

Subsection (c) provides that the amounts available for the Governors will be used for the activities listed in the section.

Subsection (d) provides that not less than 22 percent of the funds allocated to each prime sponsor are to be used for in-school youth programs operated under joint agreements between the prime sponsor and the local education agency or agencies in the prime sponsor area.

Section 434—Eligible Applicants

This section provides that eligible applicants are prime sponsors, sponsors of native American programs under section 302(c)(1), and sponsors of migrant and seasonal farmworkers programs under section 303.

Section 435—Eligible Participants

This section, provides that an eligible youth is (1) unemployed, underemployed, or in school and 16–21 years, inclusive (or if authorized by regulations, 14–15 years), and (2) from families with incomes at or below 85 percent of the BLS lower living standard budget. The section further provides that 10 percent of the funds for this subpart may be used to fund programs which include youth from all economic backgrounds.

Section 436—Conditions for Receipt of Financial Assistance

Subsection (a) of this section provides that the Secretary shall not provide financial assistance to an eligible applicant unless it has provided specific descriptions and assurances.

Subsection (b) provides for establish a youth council to make recommendati to the prime sponsor's planning council w respect to the planning and review of act ties under subparts 2 and 3.

Subsection (c) provides that no w experience for in-school youth prog shall be entered into unless an agreem has been made between the prime spon and a local education agency. Each ag ment shall be administered, under contr with the prime sponsor, by a local edu tional agency or agencies or a postsecon educational institution or institutions. C tain assurances are required to be set fo in the agreement.

Section 437—Review of Plans by Secre

This section provides that provisions section 102, 106, and 107 of the act appl programs and activities under section 48

Section 438—Secretary's Discretionary Projects

This section provides that the remain of the funds are available for the Secret to use to support innovative and experim tal programs to test new approaches dealing with the unemployment problem youth and to enable eligible participant prepare for, enhance their prospects for secure employment in occupations thro which they may reasonably be expected advance to productive working lives.

Section 439—Youth Employment Incen and Social Bonus Program

This section provides that the Secret shall carry out in no more than ten area high youth unemployment, a program provide bonuses of up to $2,500 per youth employers who employ at least 5 youths 1 year, who prior to employment are e nomically disadvantaged, unemployed, o have no significant previous employment

Subpart 4—General provisions

Section 441—Authorization of Appropriations

This section provides that of the fun available for carrying out part A:

15 percent are for subpart 1.

15 percent are for subpart 2.

15 percent are for subpart 3.

Section 443—Special Conditions

This section sets forth maintenance of fort, labor standards, participant prot tions, and similar requirements.

Section 444—Special Provisions for Subpa 2 and 3

This section provides that appropriate forts shall be made to insure that you participating under subparts 2 and 3 sh be youths experiencing handicaps in obta ing employment, and it further provides Secretary with authority to reallocate fu under subparts 2 and 3.

Section 445—Academic Credit, Educati Credit, Counseling and Placement Servi and Basic Skills Development

This section provides that the Secret make efforts to encourage academic cre for activities under the act, and provide propriate counseling and placement servi to facilitate transition.

Section 446—Disregarding Earnings

This section provides that earnings by youth under this part be disregarded family income determinations under oth Federal or federally assisted programs.

Part B—Job Corps

Section 450—Statement of Purpose

This section states that it is the purpo of Job Corps to assist young persons w need and can benefit from this unusually tensive program.

Section 451—Establishment of the Job Co

This section provides that there is esta lished with the Department of Labor a J Corps.

Section 452—Individuals Eligible for the Job Corps

This section provides that an eligible youth is one who: (1) requires additional training, education, or intensive counseling; (2) is currently living in a deprived environment; and (3) has the capabilities to be a Job Corps enrollee.

Section 453—Screening and Selection of Applicants—General Provisions

This section authorizes the Secretary to prescribe certain specific standards and procedures for the screening and selection of Job Corps enrollees.

Section 454—Screening and Selection—Special Limitation

This section provides that no individual can become a member of Job Corps unless there is reasonable expectation that the person can participate successfully in group situations. It further provides that a person on probation or parole may be selected only if such selection is satisfactory to those individuals supervising that person and does not violate applicable laws and regulations.

Section 456—Job Corps Centers

This section provides that no individual may be enrolled for longer than two years (except as authorized by the Secretary), that enrollment in Job Corps does not relieve a person from military obligations, and, except for good cause, an enrollee will be assigned to a center nearest the enrollee's home.

Section 456—Job Corps Centers

This section provides for the establishment of Job Corps centers.

Section 457—Program Activities

This section details the activities and training which may be offered at a Job Corps center.

Section 458—Allowances and Support

This section details the basic, readjustment, and dependent allowances that may be provided to a Job Corps enrollee.

Section 459—Standard of Conduct

This section provides that Job Corps standards of conduct shall be provided and enforced, and that dismissal can result from violations of the standards.

Section 460—Community Participation

This section provides that the Secretary shall encourage and cooperate in activities to establish a mutually beneficial relationship between Job Corps centers and nearby communities. This includes the establishment of community advisory councils to facilitate joint discussion of common problems and planning programs of mutual interest.

Section 461—Counseling and Job Placement

This section provides that the Secretary shall counsel and test each enrollee at regular intervals and make every effort to place the enrollees in jobs in the vocation for which the enrollee was trained.

Section 462—Evaluation and Developmental Projects

This section authorizes the Secretary to undertake experimental, research, or demonstration projects in order to promote better efficiency and effectiveness in the program.

Section 463—Advisory Boards and Committees

This section authorizes the Secretary to make use of advisory boards and committees in connection with the operation of Job Corps.

Section 464—Participation of the States

This section provides that the Secretary shall take action to facilitate the participation of States in the Job Corps program, including entering into agreements with States to assist in the operation or administration of Job Corps center.

Section 465—Application of Provisions of Federal Law

This section provides that Job Corps enrollees will not be deemed Federal employees for all purposes, including hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits, except they shall be deemed employees for the following purposes: title II of the Social Security Act, workers' compensation, tort claims, and income tax.

Section 466—Special Provisions

This section provides that the Secretary shall take immediate steps to achieve an enrollment of 50 percent women, consistent with economy, administrative practice, and the needs of the population to be served and that all studies, evaluations, proposals, and data produced or developed with Federal funds become the property of the Federal Government.

Section 467—General Provisions

This section contains general conditions applicable to the administration and operation of the program.

Section 468—Utilization of Funds

This section provides that funds from title II and part C of title IV which are used for the Job Corps program, may be used in accordance with the provisions of this part.

Section 469—Secretarial Reports

This section provides that the Secretary of Labor shall submit a report on Job Corps to Congress by March 1 of each year.

Part C—Summer youth program

Section 480—Establishment of Program

This section provides for the establishment of a summer youth employment program, which shall provide eligible youth with useful work and sufficient basic education and institutional or on-the-job training to assist these youths to develop their maximum employment potential and to obtain employment not subsidized under this act.

Section 481—Eligible Sponsors

This section provides that program sponsors will be those prime sponsors qualified under title I and Native American entities described under section 302(c)(1).

Section 482—Financial Assistance

Subsection (a) provides that 95 percent of the funds shall be allocated to prime sponsors and the remainder shall be used at the Secretary's discretion.

Subsection (b) provides that unused funds for the previous year will be added to the amount available for allocation.

Subsection (c) provides that 95 percent of the funds will be allocated in the following manner to prime sponsors:

50 percent on the basis of the previous year's allocation.

37.5 percent on total unemployment.

12.5 percent on the total number of low-income adults.

In no case shall a prime sponsor receive a lower allocation than in the previous year. Out of the discretionary funds, funds for Native American entities shall be allocated on the relative number of Native American youths 14–21 years, inclusive; and funds for Guam, the Virgin Islands, American Samoa, Northern Mariana Islands, and the Trust Territory of the Pacific Islands shall be equal to the same percentage of total funds as in the previous year.

Section 483—Secretarial Authority

This section provides authority for the Secretary to issue such regulations, rules, and guidelines as are necessary.

Part D—Young adult conservation corps

Section 490—Statement of Purpose

This section sets forth the purpose of part D, which is to establish a Young Adult Conservation Corps to provide youth employment in conservation and other work on Federal and non-Federal public lands and waters.

Section 491—Establishment of Young Adult Conservation Corps

This section provides for the establishment of a Young Adult Conservation Corps to carry out projects on Federal or non-Federal public lands and waters. The Secretary of Labor is to administer this part through interagency agreements with the Secretaries of the Interior and Agriculture, who are to have responsibility for the management and program of each Corps center.

Section 492—Selection of Enrollees

Subsection (a) of this section provides that enrollees of the Corps shall be selected by the Secretaries of the Interior and Agriculture only from candidates referred by the Secretary of Labor.

Subsection (b) provides that membership in the Corps shall be limited to unemployed individuals who are 16 to 23 years old, inclusive.

Subsection (c) provides that the Secretary of Labor shall make arrangements for obtaining referral of candidates for the Corps from the public employment service, prime sponsors, and sponsors of native American and migrant programs under the act, the Secretaries of the Interior and Agriculture, and such other agencies and organizations as the Secretary of Labor deems appropriate. The Secretary of Labor shall undertake to have an equitable proportion of candidates referred from each State.

Subsection (d) provides that in referring candidates from each State, preference shall be given to rural and urban areas within the State which have substantial youth unemployment, including areas having unemployment rates of 6.5 percent or greater.

Subsection (e) provides that no individual may be employed in the Corps for a total period of more than 12 months.

Section 493—Activities of the Corps

Subsection (a) of this section provides that, consistent with each inter-agency agreement, the Secretary of the Interior or Agriculture, as appropriate, shall determine the location of each residential or nonresidential campsite, in consultation with the Secretary of Labor. This subsection lists types of conservation and natural resource work which may be performed.

Subsection (b) provides that the Secretaries of the Interior and Agriculture shall undertake to assure that projects are consistent with the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976 as well as such other standards as each Secretary shall prescribe consistent with the provisions of Federal law.

Subsection (c) provides that, to the maximum extent practicable, appropriate projects shall be highly labor intensive, be projects for which work plans can be readily developed, be able to be initiated promptly, be projects likely to have a lasting impact both as to the work performed and the benefits to the youths participating, provide work experience to participants in skill areas needed in work on projects, be located where existing residential facilities are available, and be similar to activities of persons employed in seasonal or part-time work for specified Interior and Agriculture Department agencies.

Subsection (d) provides that the Secretaries of the Interior and Agriculture may provide for such transportation, lodging, subsistence, medical treatment, and other appropriate services, supplies, equipment, and facilities. Wherever economically feasible, existing but unoccupied or underutilized Federal, State, and local government facilities, and equipment of all types (including military facilities and equipment) shall, where appropriate, be utilized for purposes

of the Corps work camps with the approval of the Federal agency, State, or local government involved.

Subsection (e) provides that where appropriate, the Secretary, in conjunction with the Department of Health, Education, and Welfare, shall make suitable arrangements to have academic credit awarded by educational agencies for competencies derived from work experience obtained through programs under this part.

Section 494—Conditions Applicable to Corps Members

Subsection (a) of this section provides that members of the Corps shall not be deemed Federal employees except for purposes of the Federal Employees Compensation Act, the Federal Tort Claims Act, title II of the Social Security Act, the Internal Revenue Code, and 5 U.S.C. 5911 relating to allowances for quarters.

Subsection (b) provides that the Secretary of Labor shall, in consultation with the Secretaries of the Interior and Agriculture, establish standards for rates of pay (which shall be at least the minimum wage rate set forth in section 6(a)(1) of the Fair Labor Standards Act); for reasonable hours and conditions of employment; for safe and healthful working and living conditions.

Section 495—State and Local Programs and Special Projects

Subsection (a) of this section provides that, consistent with interagency agreements with the Secretary of Labor, the Secretaries of the Interior and Agriculture may make grants or enter into arrangements to carry out projects under this part with any State agency or institution, any unit of general local government, any public agency or organization, or any private nonprofit agency or organization which has been in existence for at least 2 years.

Subsection (b) provides labor protections including maintenance of effort provisions applicable to the State and local projects.

Subsection (c) provides for reserving 30 percent of the funds appropriated for the State and local projects.

Section 496—Secretarial Reports

This section requires that a report on the activities of the Corps be submitted to Congress no later than February 1 of each year.

Section 497—Antidiscrimination

This section provides that the Corps will be open to youth from all parts of the country of both sexes and youth of all social, economic, and racial classifications.

Section 498—Transfer of Funds

This section provides that the funds necessary to carry out this program will be transferred from the Secretary of Labor to the Secretaries of the Interior and Agriculture according to their interagency agreements.

Section 499—Authorization of Appropriations

This section authorizes such sums as may be necessary for fiscal year 1978 and 2 succeeding fiscal years.

TITLE V—NATIONAL COMMISSION FOR EMPLOYMENT AND TRAINING POLICY

Section 501—Statement of Purpose

This section provides that the National Commission for Employment and Training Policy will have the responsibility for advising the President and Congress on national employment and training issues.

Section 502—Commission Established

This section provides for the establishment of the National Commission for Employment and Training Policy and states what the composition of the Commission is to be, and how it is to operate.

Section 503—Functions of the Commission

This section describes the functions of the Commission.

Section 504—Reports

This section provides that the Commission shall report at least annually to the President and the Congress.

Section 505—Authorization of Appropriations

This section authorizes $3 million for fiscal year 1978 and such sums for the 3 succeeding fiscal years.

TITLE VI—PUBLIC SERVICE EMPLOYMENT PROGRAM

Section 601—Statement of Purpose

This section states that it is the purpose of this title to provide eligible persons who are unemployed with transitional employment in jobs providing needed public services in qualifying areas.

Section 602—Authorization

This section provides that such sums as may be necessary are authorized for fiscal year 1979 and 3 succeding fiscal years.

Section 603—Financial Assistance

Subsection (a) provides that not less than 80 percent of the funds allocated are to be used for public service employment wages and benefits; not less than 10 percent of the funds shall be expended for training and employability counseling and services for persons under this title. The remainder may be used for administrative and other allowable costs.

Subsection (b) provides that in filling teacher positions in elementary and secondary schools each prime sponsors will give special consideration to unemployed persons with previous teaching experience who are certified in the prime sponsor's State.

Section 604—Allocation of Funds

Subsection (a) provides that not less than 2 percent of the amounts authorized shall be available for programs to be carried out by native American entities.

Subsection (b) provides that not less than 85 percent of the funds shall be allocated to prime sponsors in the following manner:

50 percent—total unemployment in the prime sponsor area.

25 percent—number of unemployed persons residing in areas of substantial unemployment (unemployment of at least 6.5 percent).

25 percent—number of unemployed persons in excess of 4.5 percent in the prime sponsor area.

Subsection (c) provides that the remainder is available at the Secretary's discretion.

Section 605—Expenditure of Funds

Subsection (a) provides that funds under this title shall be used for projects which are no longer than 12 months in duration, except that a program may be extended where the project has demonstrated its effectiveness.

Subsection (b) provides that each project applicant shall submit an application to the appropriate program agent or prime sponsor and shall contain such information as is required by regulation.

Subsection (c) provides for expenditure of the 10 percent of funds for training and employability counseling available under section 603.

Section 606—Prime Sponsors and Program Agents

This section provides that financial assistance is available to prime sponsors, native American entities described under section 302(c)(1)(A), and program agents.

Section 607—Eligibility

This section provides that a person, in order to be eligible, must be unemployed for at least 45 consecutive days and have a family income not exceeding 85 percent of the BLS lower living standard budget; it limits individual participation to 12 months after September 30, 1978 (subject to a waiver provision of the Secretary).

Section 608—Wages

This section provides that no person employed in public service employment under this title may be paid at a rate in excess of $10,000, adjusted upward by the ratio which local wage rates bear to the national average.

Section 609—Wage Supplementation

This section provides that participants in programs under this title may have their wages supplemented, but (1) the total amount of funds used to supplement wages may not exceed the equivalent of 10 percent of the prime sponsor's allocation under the title, and (2) the total wages paid to any participant may not exceed an amount equal to 20 percent of the maximum federally supported wages for the prime sponsor area.

TITLE VII—PRIVATE SECTOR OPPORTUNITIES FOR THE ECONOMICALLY DISADVANTAGED

Section 701—Statement of Purpose

This section provides that it is the purpose of this title to demonstate the effectiveness of a variety of approaches to increase the involvement of the business community in employment and training activities under this act, and to increase the private sector employment opportunities for persons who are economically disadvantaged and unemployed or underemployed.

Section 702—Allocation of Funds

Subsection (a) provides that financial assistance will be available to each prime sponsor—95 percent of the funds are allocated according to the title II–A formula, and the remainder is available for prime sponsors who join together to establish a single private industry council and native American entities described under section 302(c)(1)(A).

Section 703—Conditions for Receipt of Financial Assistance

This section provides the requirements a prime sponsor must meet in order to receive assistance under this title.

Section 704—Private Industry Councils

This section provides for the establishment of private industry councils (a majority of whose members will be from the business sector), and provides that the council shall participate with the prime sponsor in the development and implementation of programs under this title.

Section 705—Program Activities

This section describes the types of activities that can be carried out in order to demonstrate the purposes of this title.

Section 706—Report

This section requires the Secretary to report to Congress by March 1, 1980, on an evaluation of the activities conducted under this title, and any accompanying legislative recommendations.

Section 707—Authorization of Appropriations

This section provides that there are authorized to be appropriated $400,000,000 for fiscal year 1979 and such sums for fiscal year 1980.

Section 3—Criminal Provision

This section provides for criminal penalties for theft or embezzlement of CETA funds, improper inducement, and obstruction of investigations.

Section 4—Transitional Provision

This section provides that, in order for an orderly transition from the current program to the requirements contained in these amendments, the Secretary may provide financial assistance in the same manner and on the same conditions as currently provided until April 1, 1979.

Section 5—Reports

This section provides that the Secretary shall submit by February 1, 1979, recommendations on improvements in the Wagner-Peyser Act. The Secretary shall also develop

methods to ascertain annual energy development and conservation employment impact data by type and scale of energy technologies used and present such data to the Congress, OMB, the Department of Energy, and the Department of HUD.

Section 6—Assistance to Plant, Area, and Industry-Wide Labor-Management Committees

This section provides for the establishment of joint labor-management committees on plant, area, and industry-wide bases to improve labor-management relationships, job security, and organizational effectiveness under the direction of the Federal Mediation and Conciliation Service.

Section 7—Repealer

This section repeals section 104 of the Emergency Jobs and Unemployment Assistance Act of 1974, Public Law 94-563.

Section 8—Assistant Secretary

This section provides that the Department of Labor shall have an additional Assistant Secretary, and that the current Deputy Undersecretary for Legislation and Intergovernmental Relations may fill the Assistant Secretary's position without confirmation.

COMMITTEE BILL (S. 2570)—ORGANIZATION OF TITLES

S. 2570 restructures the Comprehensive Employment and Training Act Amendments of 1973 as follows:

TITLE I

Title I of the current CETA law authorizes a nationwide program of comprehensive employment services including institutional training, on-the-job training, work experience, public service employment, job counseling, testing, and placement services.

Title I of S. 2570 authorizes most of the administrative and general provisions applicable to the CETA programs.

TITLE II

Title II of the current CETA law authorizes a program of transitional public service employment and other employment services in areas with an unemployment rate of at least 6.5 percent for 3 consecutive months.

Title II of S. 2570 provides for services authorized by Title I of the current CETA law. It further authorizes an upgrading and retraining program as well as a transitional public service employment program for the structurally unemployed.

TITLE III

Title III of the current CETA law authorizes national employment programs for special target groups such as youth offenders, older workers, persons of limited English-speaking ability, Native Americans, migrant and seasonal farmworkers, and others with particular labor market disadvantages. The Secretary of Labor is authorized to undertake research, demonstration, and evaluation programs. Title III authorizes the Summer Youth Program and the Youth Employment and Demonstration Projects Act of 1977, except for the Young Adult Conservation Corps which is authorized in title VIII.

Title III of S. 2570 also authorizes services for groups with particular employment problems as well as research, demonstration, and evaluation programs. The Committee bill further authorizes a voucher program, welfare demonstration project, and incentive programs for prime sponsors who administer exemplary programs. Youth programs authorized by the current title III are placed in Title IV under the Committee bill.

TITLE IV

Title IV of the current CETA law authorizes the Job Corps, a program of intensive education and employment services for disadvantaged youth, to be carried out primarily in a residential setting.

Title IV of S. 2570 authorizes youth programs including the Job Corps, Summer Youth Program, Youth Employment and Training Program, Youth Incentive Entitlement Pilot Projects, Youth Community Conservation and Improvement Projects, and Youth Adult Conservation Corps.

TITLE V

Title V of the current CETA law authorizes the National Commission for Manpower Policy, an advisory group that has been assigned responsibilities for examining the Nation's employment needs and goals and advising the Secretary of Labor on national employment issues.

Title V of S. 2570 authorizes and reconstitutes the Commission. The Commission is renamed the National Commission for Employent and Training Policy.

TITLE VI

Title VI of the current CETA law authorizes a countercyclical public service employment program.

Title VI of S. 2570 also authorizes a countercyclical public service employment program; however, various provisions of the program have been modified substantially.

TITLE VII

Title VII of the current CETA law authorizes most of the administrative and general provisions applicable to CETA.

Title VII of S. 2570 authorizes a new private sector program. The primary purpose of this initiative is to create private sector jobs for economically disadvantaged persons.

TITLE VIII

Title VIII of the current CETA law authorizes the Young Adult Conservation Corps, which provides employment to youth in conservation and other projects of a public nature on Federal and non-Federal public lands and waters.

S. 2570 does not authorize a Title VIII. The Young Adult Conservation Corps program is authorized by Title IV.

Mr. NELSON. Mr. President, I ask unanimous consent that a letter to me as chairman from Mr. Marshall, the Secretary of Labor, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF LABOR,
Washington, D.C., August 21, 1978.

Hon. GAYLORD NELSON,
Chairman, Subcommittee on Employment, Poverty, and Migratory Labor, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is to express the views of the Department of Labor with respect to S. 2570, the "Comprehensive Employment and Training Amendments of 1978." The Department strongly supports passage of this bill which would reauthorize the Comprehensive Employment and Training Act of 1973 (CETA) for another four years, while making important changes in the design and management requirements of the programs conducted under the umbrella of CETA.

S. 2570 makes significant improvements in CETA. The bill targets CETA towards those most in need by imposing strict income and unemployment eligibility tests. It limits the length of time any individual can stay in a CETA program so as to eliminate substitution of CETA workers for permanent workers, to increase the number of persons who can be served, and to increase the transition from CETA into regular jobs.

S. 2570 also places strict limitations on the Federal wages that can be paid PSE workers and the amount by which local jurisdictions can supplement the Federal base. This will assure that CETA jobs are not more attractive than career-type jobs in the private economy.

The bill also increases the authority of the Secretary to eliminate fraud and abuse in the CETA program by giving him increased regulatory authority and by allowing him to directly attack violations of CETA by subgrantees and subcontractors of prime sponsors if the prime sponsor takes no action.

S. 2570 simplifies the paperwork burden on prime sponsors. Prime sponsors will have to provide in their comprehensive employment and training plans each year only the information that had changed from the previous year. In addition the information required of prime sponsors has been limited to that information that is necessary for the Secretary to determine that the program is being conducted efficiently, effectively, and in conformance with the Act's requirements and purposes.

We strongly support the passage of S. 2570. CETA has met the needs of this Nation for a program that will train the structurally unemployed so that they can have marketable skills. At the same time it has served the Nation well in a time of economic crisis by providing employment to those persons who were countercyclically unemployed.

Under the proposed legislation, an increased emphasis would be placed on training as a component of any public service employment. Special programs would be conducted to help individuals facing special disadvantages in the labor market—such as the elderly and the young, the handicapped, displaced homemakers, and those of limited English-speaking proficiency. The Job Corps and the summer youth proggram would be extended, as would the youth programs that are experimenting with methods for improving the unsatisfactory unemployment situation of this Nation's young adults.

In addition, title VII of the bill would introduce into CETA a major new attempt to involve the private sector in the design and implementation of programs. Under the new Private Sector Opportunities for the Economically Disadvantaged program, the private sector of the economy would work with prime sponsors to create opportunities for the economically disadvantaged in private industry. This program represents a critical effort to create permanent, career-type jobs in the private sector for those who are not in the mainstream of the economy.

We understand that Senator Bellmon intends to offer a series of amendments to S. 2570 that would increase the integration of CETA with State public assistance offices, would increase services to those on public assistance, and would make clear the eligibility for public service employment of those families receiving aid under title IV (Aid to Families with Dependent Children) and title XVI (Supplemental Security Income) of the Social Security Act. We support the purpose of these amendments and hope they will be adopted.

The amendments also include a proposal to eliminate the requirement that before any funds can be made available for title VI countercyclical PSE, $3 billion must be available for title II structural PSE. We support this amendment. As we have seen in the past, the needs of the economy for structural or countercyclical PSE job opportunities change over time. We do not believe that the authorizing legislation should lock CETA into so rigid a formula. We believe it would be preferable to leave the amounts for title II and title VI to the flexibility of the budget and appropriation processes.

Finally, we are opposed to any amendment that may be offered to remove the Young Adult Conservation Corps (YACC) from the jurisdiction of the Labor Department. The current arrangement, whereby the Department makes referrals to the Departments of Agriculture and the Interior for the program and also promulgates certain regulations within our specific expertise and jurisdiction,

has created a strong and smoothly run program. We believe that this program stability and the benefits generated by the central coordination of all employment and training policies in the Department of Labor are essential to maintain.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

RAY MARSHALL,
Secretary of Labor.

Mr. NELSON. Mr. President, the distinguished Senator from New York (Mr. JAVITS), who is the ranking minority member, and I have worked on this legislation over a period of years and along with the rest of the committee and staff in great detail this year.

I yield the floor.

Mr. JAVITS. Mr. President, as the ranking minority member of both the Human Resources Committee and its Subcommittee on Employment, Poverty and Migratory Labor, I urge my colleagues, on both sides of the aisle, to give their support to S. 2570, the Comprehensive Employment and Training Act Amendments of 1978.

Thanks to the leadership of our chairman, the Senator from New Jersey (Mr. WILLIAMS) and our subcommittee chairman, the Senator from Wisconsin (Mr. NELSON), the bill reported by our committee reflects a continuation of the strong spirit of bipartisan collaboration that has long characterized congressional action on manpower legislation. We have been working with the White House, Secretary Marshall and Assistant Secretary Green in framing the CETA bill, and the result is that we bring to the Senate a bill that truly deserves the affirmative vote of a substantial majority of our colleagues.

The experience of the CETA program since its enactment in 1973 has not been without its share of problems. We have had the whole issue of the categorization of programs, and the philosophical debate over whether CETA should be administered like a manpower revenue-sharing program or whether the balance should be more in favor of somewhat more centralization of administration. There have been some serious problems, including "fiscal substitution," that is, the use of Federal funds to finance what local governments could have financed with their own resources; inadequate training of the structurally unemployed; inadequacy of private sector involvement; underrepresentation of the unemployed poor in the program; sometimes excessive wages; participant ineligibility; low rates of transition to unsubsidized employment; and the tendency of some CETA participants to remain in the program for too long. The Human Resources Committee has been very much aware of these and other expressed concerns and, in cooperation with the administration, has worked hard to remedy the defects of the program as much as possible. The provisions of S. 2570 will ameliorate the problems with which we have all been properly concerned.

But I do not wish to dwell unnecessarily upon the negative today; it is not a time for recrimination. CETA and the prime sponsor network it established have done a commendable job in dealing with the problem of unemployment and have facilitated our transition to a decentralized employment and training delivery system in our country. Our prime sponsors, on the whole, deserve much credit for taking on the administration of Federal manpower programs and for helping make CETA work, even though the near catastrophic recession of 1974–75 occurred almost immediately after CETA took effect on July 1, 1974. Their exemplary performance in the economic stimulus buildup last year, when the PSE program was expanded from 310,000 to 725,000 job slots in less than 1 year, went largely unheralded, except by those of us who appreciate the speed with which the employment-generating effects were felt.

Much of the credit for the sharp improvement in the unemployment situation in recent months should be given to CETA and our prime sponsor network. Our committee's decision to maintain our decentralized CETA system for an additional 4 years should properly be interpreted as a vote of confidence in our prime sponsors.

On balance, therefore, Mr. President, the pluses have far outweighed the minuses in CETA and, for the most part, the minuses do not reflect major inherent defects in the concept of a decentralized, decategorized approach.

In my judgment, the committee has left no stone unturned in meeting its responsibility to make the necessary statutory changes to improve the operation of the CETA programs, and presents to the Senate what I believe is a tight, 4-year bill. We have addressed every major issue in this multifaceted law and have recommended language which we believe will make a significant contribution in relieving the burden of unemployment in our country and in remedying the problems that have characterized the operation of these programs.

Mr. President, before describing the major provisions of the committee bill, I wish to discuss the organization of S. 2570.

STRUCTURE OF THE BILL

The Human Resources Committee recommends that several major changes be made in the organization of the Comprehensive Employment and Training Act.

Title I of the existing law, enacted in December 1973, establishes the principal administrative arrangements for our decentralized manpower delivery system and contains authority for the conduct by prime sponsors of comprehensive employment and training programs. Approximately $2 billion is appropriated for title I, to fund about 430,000 annual slots, in round figures.

The Human Resources Committee adopted the administration's proposal that, in the interests of streamlining the CETA grant mechanism and reducing the excessive burden of paperwork under which our prime sponsors have labored, title I be redesigned to contain only the administrative provisions. The committee bill, therefore, transfers all of the present administrative provisions of CETA to title I and proposes to establish a single grant application procedure for for prime sponsors. In addition, the general provisions applicable to all programs—for example, wage standards—are transferred from title VII of the existing law to the new title I. This new format should help simplify the local administration of CETA programs by reducing the redundancy that has often characterized separate application and reporting procedures under each title.

In this connection, Mr. President, I point out that the committee has modified the administration proposal in respect of the staff of local planning councils. The administration bill would have required prime sponsors to appoint an "independent" staff "solely accountable" to the planning council. The committee was concerned that this approach might fractionalize the planning process so S. 2570 requires prime sponsors only to provide a full-time staff which is "responsible for serving the council." The staff may be affiliated with the local prime sponsor, therefore, and may be accountable in its work to the prime sponsor and the council.

The committee also adopted the administration's proposal to transfer the program authority for comprehensive employment and training services from title I of existing law to title II of the new bill.

Title II of the present law, also enacted in 1973, authorizes establishment of a transitional public employment program in areas of substantial unemployment (ASU). About $1.125 billion is currently appropriated for title II, to provide some 125,000 positions per year. The administration proposed originally to consolidate all authority for public service employment into a revised title VI—the existing countercyclical job title. Under that plan, public employment programs now authorized under title II and title VI of existing law would have been combined into a single new title VI, and the new title II would have contained only authority for the comprehensive manpower services outlined above.

I had a number of serious reservations about this plan, including the fact that the proposed consolidated title VI would have reduced targeting on the long-term unemployed and would not have channeled any more funds into areas of high unemployment. In addition, I had made up my mind some time ago and, indeed, proposed in my own CETA bill (S. 2435) that Congress needs to delineate more clearly between Federal jobs programs for the structurally unemployed and those for the cyclically unemployed. To the extent that it is possible to distinguish between these two types of unemployed—and the experts, at places such as Brookings, seem to think it is—we ought to design our remedial programs accordingly. Thus, I proposed, as I had in S. 2435, that a new public service employment program, targeted specifically at the structurally unemployed—defined as the low-income, long-term unemployed—be written into title II of the committee bill. Title VI could then remain as our temporary, counter-

cyclical unemployment program. I felt this to be the only way we could take account adequately of the significant differences in the problems and the employment and training needs of the structurally and cyclically unemployed.

The Human Resources Committee shared these concerns and, consequently, S. 2570 proposes establishment of a special new public service employment program for the economically disadvantaged, in a new part D of title II. The key features of title II–D are: First, targeting on those individuals who are unemployed 12 or more weeks and who are in families with incomes at or below 70 percent of the BLS lower living standard budget; second, a heavy emphasis on training and employability development for the structurally unemployed; and third, a somewhat more targeted allocation formula, to provide increased Federal assistance to those areas which have high concentrations of the eligible unemployed.

The allocation formula in title VI of the committee bill is the same as that in title VI of the existing law, to wit: 50 percent is allocated on the basis of relative "total unemployment" in the prime sponsor area; 25 percent is allocated on the basis of the relative number of unemployed persons in "areas of substantial unemployment" (ASU) in the prime sponsor's jurisdiction; and 25 percent is allocated on the basis of relative "excess unemployment" (numbers of unemployed over 4½ percent of the prime sponsor labor force).

The allocation formula recommended by the committee for the new PSE program in title II-D is only slightly different from that of title VI, to wit: precisely the same formula factors: total unemployment, ASU unemployment, and excess unemployment but a change in their relative weights. Instead of 50–25–25, as in title VI, we have recommended 33⅓–33⅓–33⅓ for title II–D. In other words, compared with title VI, the formula in II–D gives equal weight to total unemployment, ASU unemployment and excess unemployment. In addition, the amendment offered in committee by the Senator from Massachusetts (Mr. KENNEDY) and I, would change the time frame used in computing ASU unemployment, after fiscal year 1979, from the highest consecutive 3 months unemployment in a particular year to the annual average number of unemployed persons in the areas of substantial unemployment.

For the new public service employment program for the economically disadvantaged in title II, therefore, the committee opted to recommend that the same weight be placed on the severity of unemployment in an area as is placed on total unemployment.

I might add, Mr. President, that there were a number of options before the committee that would have produced a drastic geographic redirection of CETA funds. Some would have had the committee make CETA a symbol of the "frostbelt-sunbelt" controversy. The committee concluded, however, that some form of unemployment characterizes almost all prime sponsor areas and that, since the existing formulas in titles I and VI do enable the unemployed to be assisted wherever they reside, even though CETA funds are spread very thinly over the country, they should not be altered at this time.

With respect to the new public service employment program for the structurally unemployed, however, the committee did feel that in allocating funds some distinction should be made among the types of unemployment in an area—frictional, seasonal, cyclical and structural—and that, among these, relatively greater weight should be placed upon severe structural unemployment.

In recognition of the high priority the committee places upon the public service employment program for the structurally unemployed, S. 2570 provides that no funds may be appropriated for title VI PSE until at least $3 billion (or about 350,000 slots) has been appropriated for title II–D.

Title VI of the committee bill, in contrast to title II–D, deals with the unique and serious unemployment problems of those persons thrown out of work during a period of economic recession.

Mr. President, there could not be a more propitious time for Senate consideration of title VI. I do not wish to sound like a harbinger of doom, but we must acknowledge the possibility that our country may slip into another recession in 1979. The sudden resurgence of inflation to an annual rate in excess of 7 percent has tempered what can be done through conventional stimulative policies to reduce further the national unemployment rate. Moreover, exceptionally slow or stagnant economic growth in the remainder of this year and next may cause the unemployment rate to move back up to 7 percent or higher. If this scenario transpires, and many economists anticipate just that, or worse, CETA must be ready to step into the breach to afford short-term employment opportunities, in my judgment, to at least 25 percent of the unemployed in excess of the number unemployed at a 5-percent unemployment rate. In round figures, if the rate moves up to 7 percent or 7 million unemployed, we will need at least 500,000 temporary jobs for the cyclically unemployed.

The committee has designed title VI specifically to deal with this problem. Those eligible would include persons unemployed for at least 45 consecutive days and whose incomes are at or below 85 percent of the BLS lower living standard budget. It is true that these requirements are somewhat looser than those of title II–D, which are heavily targeted at the hardest hit of the structurally unemployed, but the committee had in mind the recession situation, which calls for a different approach. The committee felt that in the recession situation, when the "working poor" sometimes taste unemployment for the first time in their lives, it would be unfair to stipulate that persons who had been earning $9,000 per year, as opposed to $7,500, would be ineligible unless they waited another month.

Mr. President, another organizational improvement the committee proposes is to consolidate all authority for youth employment programs in title IV. Presently, the Summer Program for the Economically Disadvantaged, and the new youth programs enacted last year in the Youth Employment and Demonstration Projects Act, are in title III. Job Corps, which is a comprehensive program for unemployed youth is authorized in title IV. And the Young Adult Conservation Corps, also enacted last year as part of YEDPA, is authorized in title VIII. Under the committee bill, all of these programs, which together account for some $2.2 billion per year in budget authority would be authorized under title IV.

Mr. President, I would like now to turn to some of the specific provisions of S. 2570.

ELIGIBILITY

Mr. President, the committee bill proposes to improve the targeting of all CETA programs at those individuals who are most in need of Federal employment and training assistance. Under current law, all of the unemployed, underemployed and disadvantaged are eligible to participate in CETA programs and, consequently, the poor have not always been given first priority. In fiscal year 1977, for example, while 78 percent of title I participants were economically disadvantaged, only 49 percent and 67 percent, respectively, of title II and VI participants were disadvantaged. Sections 213, 237, and 607 of S. 2570 would require that all CETA participants in titles II and VI be economically disadvantaged, that is, be members of families whose earnings are below the lower living standard budget of the Bureau of Labor Statistics—70 percent of this standard (or about $7,500) for titles II and III and 85 percent (or about $9,000) for title VI.

The effect of these provisions will be to recast CETA as a jobs and training program for those situated at the lower ranges of family income. The committee has heeded the counsel of the distinguished minority leader (Mr. BAKER) the Senator from Oklahoma (Mr. BELLMON) and others, including this Senator (my own bill, S. 2435 proposed similar targeting) who urged that we try to target CETA more sharply at the structurally unemployed. Beginning in October of this year, it will be possible to characterize CETA as an employment program for the poor and near poor—those on whom the burden of unemployment is most oppressive. It is my hope that prime sponsors will do everything possible to implement these new requirements as swiftly as is consistent with prudent program management.

I might note, in concluding this section of my statement, Mr. President, that I am deeply concerned about the mismatch that may occur between the funding formulas of CETA and the new eligibility criteria. S. 2570 would, as I have just explained, sharply target CETA programs at the hardest-to-employ (in terms of low income and length of unemployment) without making the corresponding changes in the funding formulas, because of data inadequacies, and so forth. I would hope the Department would monitor this potential problem very carefully—including insuring that prime sponsors are enrolling only those persons who satisfy the eligibility criteria. In addition, the Department will need to be prepared to reallocate funds from those areas which have difficulty locating enough eligibles to those areas that have large concentrations of eligible persons. I, for one, will watch this very closely and do all I can to see that Federal funds are directed to those areas most in need.

WAGES

Related to the subject of participant eligibility are the questions of CETA wage levels and the duration of individual participation in CETA programs. The committee is well aware that there have been instances of high-wage CETA jobs in some areas, even though the Federal maximum has been $10,000 under existing law. Prime sponsors have been free to supplement the Federal contribution with local funds without limit, and the result has been that wages in some CETA-supported slots exceed $20,000 per year. The principal effect of this phenomenon, in my judgment, is that some prime sponsors, in trying to maximize the potential service benefits to themselves, have created too many CETA positions in the higher wage-higher skilled jobs, for which the structurally unemployed can not always qualify.

The question of CETA wage levels, therefore, requires that a decision be made on whether CETA is to be principally a program to supplement municipal services or a program of jobs and training for the hard-to-employ. There is some trade-off between these objectives because if the former objective is to be emphasized, the law must permit prime sponsors to pay wages high enough to attract and maintain persons who are qualified to perform such local public services. If the latter consideration is to be given the highest priority, however, then the wage levels must themselves serve as the automatic allocative mechanism for discouraging the more highly skilled from competing for available CETA positions. Thus, the wage standards can be the principal device for insuring that those most in need of Federal employment and training assistance are given priority for assistance in CETA programs.

At the same time, however, those wage levels need to be high enough, one, to enable participants to have access to meaningful employment so they can obtain useful work experience from their participation in these programs and, two, to take account of the near 30 percent inflation that has occurred since 1973. Furthermore, we must be careful not to create a situation in which there is a chance that local "equal pay for equal work" standards might be vitiated by placing lower wage workers into higher wage classifications, thus encouraging displacement of existing personnel. All of this is further complicated by the fact that wage levels vary considerably from region to region in the United States, so what may be appropriate in one area may be insufficient in another.

The Human Resources Committee grappled with all these considerations in its deliberations on S. 2570 and I believe it has formulated what is a generally acceptable approach. First, the maximum federally assisted CETA wage provided for in the committee bill is $10,000, adjusted upward to reflect area wage levels by an appropriate area wage index. The extent of the adjustment is limited to no greater than 20 percent of the Federal maximum, or $2,000. Thus, the maximum Federal wage in a title II or title VI PSE position, in even the highest wage areas of our country, would be $12,000 per year.

This does not mean, however, that every PSE jobholder would earn $12,000, even in the highest wage areas of our country. The committee bill requires that prime sponsors maintain in their jurisdiction an average CETA Federal wage no greater than $7,800 per year, as adjusted upward by the index referred to above. In the high wage areas, therefore, while some jobholders could earn $12,000 per year in Federal funds, an average PSE wage of about $9,300 would have to be maintained. This would serve to self-limit the number of higher wage CETA jobs that would be available in a given locality.

SUPPLEMENTATION

In addition, the Human Resources Committee considered the question of permissible wage supplementation with non-Federal funds. The committee received testimony ranging from those who would allow prime sponsors to use their own funds to supplement Federal wages without restriction to those who would place a blanket prohibition on all local supplementation. Guided by our desire to limit wage levels in order to facilitate greater targeting of CETA jobs, the committee agreed to place strict limitations on wage supplementation. First of all, supplementation is prohibited in title II public service employment. The committee felt that since extra training and support services would be mandated in the jobs program for the structurally unemployed—title II–D—the total cost per job would be excessive if supplementation were also permitted. Also, since title II–D jobholders could be assigned to regular job classifications, that is, not restricted to separate 1-year projects, we wished to insure that, to the maximum extent possible, positions be reserved for the hardest-to-employ.

Supplementation is permitted in title VI, under strict limitations. The total amount of non-Federal funds which can be used by a prime sponsor to supplement wages of jobholders may not exceed an amount equivalent to 10 percent of the title VI CETA grant allocated to the prime sponsor. Moreover, the wage of a particular job may not be supplemented by more than 20 percent of the maximum federally supported wage. Thus, if a prime sponsor is in a high-wage area and can pay a maximum Federal wage of $12,000, it may supplement CETA wages with non-Federal funds, but by no more than 20 percent, or $2,400. Some title VI jobholders in high wage areas could earn up to $14,400, therefore, when Federal and non-Federal funds are combined. The number of such jobholders would, of course, be limited both by the 10 percent of allocation restriction and by the requirement that an average wage of $7,800 adjusted, be maintained by the prime sponsor, though the value of non-Federal supplements is not included in the calculation of the area's average Federal wage.

The restrictions on supplementation do not apply to those currently in PSE positions, since this would constitute a change in a term of their employment and could lead to drastic wage cuts.

LENGTH OF PARTICIPATION

A corollary of the wage issue is the matter of participation duration. There have been instances where CETA enrollees have remained on the program for long periods of time—some, we are told have been enrolled since the Emergency Employment Act of 1971. In many cases this has occurred because conditions of very high unemployment in an area have left few alternatives to CETA. In at least as many instances, however, the incentives to transition out of CETA and into other employment have not been great enough.

S. 2570 deals with this issue in sections 122(i) (2) and (3), respectively, where participation in PSE is limited to 78 weeks in any 5-year period for new employees and to 52 weeks for those on board as of October 1, 1978. Existing CETA workers will be given 1 more year of participation, therefore, while new enrollees will be allowed to remain in the program for a year and a half. Under title VI, participation is limited to 1 year for all enrollees.

Our committee was cognizant of the possibility, however, that in areas of severe unemployment it might be improvident to force enrollees off the CETA program and into an uncertain labor market. For this reason, section 122(i)(4) provides the Secretary of Labor with authority to waive the limitation on participation and grant an extension of up to 6 months for individuals. The authority to grant 6-month extensions to prime sponsors in exceptional circumstances would enable them to maintain either existing or new enrollees beyond the expiration dates. It is my expectation that in granting these waivers, the Secretary will take account of the unusual unemployment problem of our cities, and that he will be alert to the possibly severe disruption of essential services that could result if all existing CETA employees are summarily dismissed on October 1, 1979. We need a weaning process here and I believe the waiver authority gives us sufficient flexibility.

EDUCATION-WORK LINKAGES

As some of my colleagues know, the late Senator Humphrey and I collaborated last year to draft a new program in our Youth Employment bill, which was enacted ultimately in Public Law 95–93, to initiate a new partnership between prime sponsors and local education agencies in improving the transition of youth from school to work. I feel just as strongly today, indeed I am encouraged by the experience we have had with this program throughout our country so far.

The very brief experience chronicled in the March 1978 report of the D

partment, "Youth Initiatives," and in the first interim report of the National Council on Employment Policy indicates that a new spirit of collaboration has been initiated between prime sponsors and local education agencies; these separate human development systems are working together as never before at the local level, jointly to design and administer programs to strengthen the linkages between the classroom and the workplace. I am hopeful that these "collaborative processes", as former Labor Secretary Wirtz calls them, will enable us to build better bridges between the world of education and the world of work to improve the transition of the youth of our country from school to work.

I understand, Mr. President, that there has been some confusion over our intent with respect to the role of community colleges in the 22 percent set-aside program of section 433(d). Let me say first that it was never my intent to exclude the postsecondary institutions from participation in programs administered pursuant to agreements between local education agencies and prime sponsors. In fact, it was my expectation that community colleges would be included in some of the programs operated pursuant to these agreements. However, we did not intend that prime sponsors should negotiate agreements with postsecondary institutions, for the simple reason that it was our judgment that poor youths enrolled in secondary schools deserved greater priority for Federal assistance than youths enrolled in postsecondary institutions. After all, most community college students are high school graduates and have embarked already upon career tracks. Given the extremely limited funding available for this program and the fact that there are some 15,000 school districts in the United States, one can understand that we did not wish to have excessive dilution of the impact of this new program. Were prime sponsors given the opportunity to negotiate with community colleges as well as local education agencies, secondary school youth—many of whom may drop out of the school systems permanently—might not be assisted. So the emphasis clearly was, and continues to be, on the relationship between prime sponsors and local education agencies in the 22 percent setaside program of title IV.

In the bill before us today, however, we have tried to enhance the involvement of all educational institutions, including postsecondary institutions, in the development, review and implementation of CETA programs. I wish to pay tribute, in this regard, to Senators WILLIAMS, NELSON, CRANSTON, RIEGLE, and CHAFEE, all of whom supported my efforts to extend the opportunities for improved education—work linkages in the committee bill. There are a number of specific new provisions which should be highlighted at this point.

Most prominent among these is the 1 percent setaside of title II, found in section 202(d). This provision would make available to State Governors an amount equivalent to 1 percent of the total appropriation for title II for the purpose of encouraging cooperative arrangements between prime sponsors and educational institutions. There is so much that can be accomplished in alleviating the problems of unemployment and underemployment in our country if collaboration processes between these agencies can be encouraged.

Frequently we hear criticism from manpower officials that educational institutions do not adequately prepare people for work; that today's curricula are not relevant enough to labor market conditions. Educators reply that some CETA manpower programs' participants receive little training and employability development. They go on to complain that PSE is often a temporary stop-gap measure, lacking in much long-run value to the CETA participants. Is it not apparent that manpower agencies and educators need to be working partners and to learn from each other?

My own view of this is that State Governors—the chief elected officials of the State—are in the best position to nudge the manpower and educational systems together. In so many ways, such as incentive grants for joint programs, in-service programs and conferences and technical assistance the Governor can be the catalyst for initiating a new partnership between prime sponsors and educational institutions. Indeed, my own proposal for the 1-percent set-aside is complemented by the provisions of section 105(b)(1) of the committee bill, which provide that coordination of employment, training and education programs shall be a new function of Governors in CETA programs, and shall be described in the Governor's Coordination and Special Services Plan submitted to the Secretary.

Beyond these innovative provisions, title I of S. 2570 includes language in section 103, which requires prime sponsors to consult with and involve educational agencies in the development and implementation of CETA programs; and in section 104, which directs prime sponsors to make their proposed comprehensive employment and training plans available to educational agencies and institutions for their review and comment. In short, it is the intent of our committee that prime sponsors take affirmative action to involve educational institutions—local education agencies, postsecondary institutions, vocational education agencies, and so forth—in the planning, development and implementation of their CETA programs.

This does not mean, of course, that educational agenices will have any presumptive role in the delivery of services to eligible participants. But, prime sponsors will have to take a hard look at the ability of educational institutions to provide the kind of training and employability development so desperately needed in today's labor markets.

TRAINING IN CETA

In this connection, Mr. President, I wish to discuss very briefly what the committee has done in mandating that we have more training in our CETA programs. This has long been a major personal concern of mine—to wit, that participants in PSE and non-PSE activities do not receive enough training. I share the view that we should not raise unrealistic expectations by operating training programs in fields and areas where no jobs are likely to materialize. This practice is unfair to participants and indeed, is dishonest.

But we cannot ignore the fact that 4 million new jobs were created in 1977 and over 1.5 million new jobs in the first 4 months of this year. So the jobs are there, in many cases, but our workers need the skills that are required to get and keep these jobs. Even in our cities, where unemployment is so shocking, there is demand for skilled clerical and service employees, for example.

It appears that there have been some reasons for the neglect of training, especially in PSE programs. Under existing law, 85 percent of the funds allocated to prime sponsors had to be used for wages—so little was left over for administration, overhead, training and supportive services such as counseling. And in the big buildup of 1977, pirme sponsors were under some pressure to place people on projects as quickly as possible. This left little time for prudent labor market planning or for the design of appropriate supplemental training programs.

The Human Resources Committee, on the recommendations of Senator NELSON and I, has taken several steps to insure that training is afforded CETA participants. First, training will be a mandated part of the title II–D program, "Public Service Employment for the Economically Disadvantaged." Every participant placed in a PSE slot under title II–D must be given appropriate training. Second, title II–D PSE programs must be designed, according to the statement of purpose in section 231, "to provide * * * transitional employment * * * to enable persons to move into employment or training not supported under this act."

In other words, Mr. President, PSE programs shall be designed to transition persons into unsubsidized employment, so prime sponsors will be required to operate those kinds of programs which improve the chances that participants will transition into permanent employment opportunities.

We intend title II–D to be a springboard into unsubsidized employment, therefore, and we have reinforced that intent by limiting enrollee participation to 18 months.

Title II–D, will become, I hope, like a "work/training-study program" for the structurally unemployed. I would like to see prime sponsors fund those kinds of programs in which the structurally unemployed spend, for example, two-thirds of their time on the job and one-third learning the necessary skills in classrooms or other modes. This is why it is so essential that educational institutions and community based organizations be involved in the design and implementation of title II–D as well as the rest of title II. These organizations can help prime sponsors design employment programs that emphasize the training aspects; they can insure that the idea of job preparation through work/study becomes a reality for people of all ages. Why

should we not experiment with PSA programs that entail part-time work and part-time learning, particularly for single heads of households? In my judgment, if we can have a jobs programs that has training built into it, which we do not now have, CETA will work far more effectively and it can become a permanent part of our country's human resources development strategy. Just think of the impact a work/training program of this kind could have on our welfare population.

In short, Mr. President, I think we can lay to rest once and for all the allegation of "make-work," and so forth by establishing this new work/training-study program in which the principal thrust is employment, but the principal objective is employability development and labor market preparation. I might add in this connection, Mr. President, that prime sponsors will not be required to place enrollees into projects in title II–D PSE because we wish to maximize the transition potential of this program and because it is unlikely that the low income, long-term unemployed are substitutable for regular personnel.

The third thing we have done in the committee is to give our prime sponsors the wherewithal they need to implement the training aspects that would be mandated in the bill. Section 233(b) of S. 2570 provides that not less than 90 percent of the funds allocated to prime sponsors be used for wages, training and supportive services. In other words, we have transferred training funds from the 15-percent pot in which they have been included historically, to the same pot where wages are provided for. Thus, training funds are given equal weight with wage funds in title II–D, PSE, in order to make possible a significant expansion of training and education.

Indeed, this is precisely the recommendation made by the National Commission for Manpower Policy in its recent interim report to Congress on "Job Creation Through Public Service Employment":

> Since the Commission looks upon PSE as providing temporary employment opportunities for the structurally unemployed, their transition into regular jobs must be the goal. While the length of time enrollees should spend on a PSE position may have to be adjusted in light of conditions in the local labor market, the proposed assignment should be in the range of twelve to eighteen months. Limits on the duration of participation in a PSE job are needed to enable a larger number of people to participate, to encourage enrollees to search for unsubsidized positions, and to limit job displacement.
>
> While a PSE position for this stipulated period may provide the support essential to some workers to facilitate their transition into regular employment, the Commission believes that for other workers with inadequate competences or obsolete skills, it is essential that they be afforded the opportunity to acquire new skills to improve their prospects of obtaining regular jobs. In order to improve the prospects of successful transition, the Commission recommends (4) that local sponsors be required to provide remedial education and skill training to enrollees in need of such assistance, and that they be directed to involve local employers more actively in the planning of local PSE programs so that they can contribute to designs aimed at improving transition.

INVOLVING THE PRIVATE SECTOR

This discussion of job training and of preparation for unsubsidized employment brings me to the next important part of the committee bill—title VII, "Private Sector Opportunities for the Economically Disadvantaged." Mr. President, I wish to be absolutely clear about one thing in this respect: I believe this proposal—to engage the private business community more directly in the development and operation of our training programs for the hard-to-employ—could not be more timely or more creative. I have advised the President personally that this may be the most important thing we do in CETA this year, and he deserves credit for proposing the idea this year.

I have long been identified in the Senate as the principal advocate of business-government partnerships to deal most effectively with many of our domestic social problems. Just last November, in a speech in New Orleans before the U.S. Conference of Mayors, I said:

> I believe a private-public partnership needs to be re-established so that the long term unemployed can be given training and a real chance at lifelong careers. And in late 1976, the late Senator Humphrey and I teamed up on a proposal in our youth employment bill, S. 170 to establish a program called "Youth Opportunities in Private Enterprise."

This program, like that described in title VII of S. 2570, was designed to foster improved cooperation between the public and private sectors in the development of job opportunities and would have encouraged prime sponsor local governments to fund on-the-job training programs in which for-profit employers and community based organizations were involved.

The key concept of title VII and of the proposals I have authored in this connection is that our Federal employment and training programs must concentrate both upon the supply side of the labor market, that is, upon skills development, education and training, and upon the demand side of the labor market—that is, upon the hiring and training decisions of individual firms.

It is true that OJT and private sector placement are going on in our CETA programs; we do not suggest here today or in our bill that prime sponsors or nonprofit community based organizations bear the responsibility for the lack of greater business community involvement. As Labor Secretary Marshall has pointed out, there has been a "missing link" in our CETA programs and we have not had the funds or the authority to marshal adequately the resources of the business community in training and placing the unemployed.

Since Senator NELSON has already explained in detail the provisions of title VII of S. 2570, and since I discussed these myself at great length on May 25 in a Senate speech following the White House meeting called by the President, I will not describe title VII at this point. But I do wish to underscore the role of community based organizations and local education agencies in the private industry councils that prime sponsors will establish under title VII.

The PIC's, as they are called, will have the responsibility of encouraging businesses to become involved in CETA training programs; the PIC's will promote OJT, for example, and will be the prime sponsor's direct link to the private sector. Heretofore, prime sponsors have not had at their disposal a link with the private business sector. There were various organizations, of course, that had greater or lesser success in private sector job development, but these did not exist in every area. Now every prime sponsor will be required to designate a PIC—which may be either an existing organization or an organization newly formed for this purpose, or may be a group of persons selected individually by the prime sponsor—which will be an operational entity promoting, fostering, and facilitating private sector participation.

There are two things that remain to be clarified about title VII. The first is that activities conducted under title VII, particularly OJT, should in no way displace similar activities being conducted under title I by other organizations. We have to be careful, amid all the fanfare about title VII, that we do not undercut, implicitly or otherwise, the solid OJT programs now operated under title I. We would not like to see the PIC's, for example, competitively promoting OJT contracts among the same employers now engaged by prime sponsors or their grantees.

In this connection, I want to reassure my colleagues that the PIC's will not undercut the prime sponsors' role in CETA. Section 703(a)(b) and section 704(c) together provide that a condition of financial assistance under title VII will be that the prime sponsor and the PIC shall develop jointly the private sector initiatives program to be operated under title VII; that no activity will be funded which does not have the approval of both the prime sponsor and the PIC; and that the proposed plan for activities to be conducted under title VII shall be jointly agreed to before it is submitted to the Secretary by the prime sponsor. Some had expressed the concern, on the basis of the introduced bill, that, in effect, there was no prime sponsor for title VII. The committee has addressed this concern directly through the new language of section 703(a) which reaffirms the preeminent role of the prime sponsor in the overall CETA plan while providing the opportunity for a relationship of collegiality and comity in the mutual consideration and approval of title VII activities.

This brings me to my next point, Mr. President, the role of CBO's and LEA's on the private industry councils. While in committee I was unsuccessful in mandating that these organizations be represented on the PIC's, I did succeed in obtaining language in section 704 which permits their representatives to be appointed by prime sponsors. This is an important provision because many community-based organizations (CBO) and local education agencies (LEA) have demonstrated record of effectiveness in working with the private sector to obtai

employment and training opportunities for the disadvantaged.

I was very concerned that in the original title VII as sent up by the President CBO's and LEA's seemed to be overlooked and I feared they might interpret our actions as a vote of no confidence in what they have been doing. They are responsible for much of the OJT that takes place today and, in any event, do not deserve to be faulted because there is not more OJT. The Urban League, OIC, SER, VERA, and the other voluntary associations can teach us so much about placing and preparing the disadvantaged for employment in the private sector and, thus, should not be overlooked in title VII. I hope prime sponsors will take advantage of what CBO's and LEA's have to offer to help the PIC's succeed in what will be a difficult enterprise: getting the disadvantaged into regular employment. Indeed, there is no question in my mind but that the two institutions are indispensable to the success of title VII.

COMMUNITY BASED ORGANIZATIONS

Mr. President. this brings me to another subject of great importance. S. 2570 proposes significantly to enhance the role of community-based organizations in local CETA programs. I was a strong supporter of the amendment offered by Senators SCHWEIKER and RANDOLPH to direct that in selecting program operators prime sponsors give special consideration to community based organizations of demonstrated effectiveness. These organizations have a special relationship to the poverty community CETA is intended to serve and, thus, are well situated to reach the disadvantaged. This is a particularly valid consideration in the minority communities—black and Hispanic—where the Opportunities Industrialization Centers OIC's and Urban League affiliates, for example, have had such great success. Our committee intends that prime sponsors take a very hard look at the CBO's and consider carefully whether other competing program operators have the same capabilities and effectiveness that characterize the CBO's of our country.

I might add at this point that I do not believe prime sponsors have utilized adequately the services of community development corporations. The CDC's are authorized under title VII of the Economic Opportunity Act and are included in the definition community-based organizations in section 125(1) of this bill. CDC's like Bedford-Stuyvesant restoration in Brooklyn, N.Y., are private enterprise oriented, and can provide valuable private sector work experience for the unemployed, especially minority youth. Also, they are located in special impact urban and rural poverty areas and thus are situated where the endemic problems of minority unemployement are most debilitating. I hope the Department of Labor will encourage prime sponsors to use the CDC's capacity for providing private sector training opportunities as the vital bridge—intermediaries—to unsubsidized employment for disadvantaged minorities.

RETIREMENT

Another important subject that warrants attention today is the question of the appropriateness of using CETA funds for contributions to PSE workers' retirement systems. The Subcommittee on Employment, Poverty, and Migratory Labor heard a great deal of testimony on this subject, which was precipitated by recent regulations prohibiting the use of CETA funds for this purpose.

The problem, of course, is that few federally funded public service employees can be expected to remain in their positions long enough to vest and thus qualify for benefits, hence the use of CETA funds can become, in effect, revenue sharing for municipal pension funds. On the other hand, current law does provide that CETA jobholders are entitled to the same benefits received by regular personnel of the same employer. Prime sponsors find themselves between the rock and a hard place, therefore, because they are required to make contributions to retirement funds on behalf of PSE workers but cannot use CETA funds for that purpose. Section 121(o) of S. 2570 deals with the problem by authorizing the Secretary of Labor to issue regulations providing for the use of CETA funds for contributions to retirement systems, where those contributions bear a reasonable relationship to the costs of providing retirement benefits to CETA participants. In other words, the contributions permitted must be based upon some actuarially sound estimate of the benefits that will accrue to CETA participants.

This provision of the committee bill is central to the amendment the managers have worked out with a number of Senators and which the committee will accept. The amendment provides that local governments may classify CETA workers as temporary personnel for purposes of determining the appropriate retirement coverage, if any, and that allowable Federal costs shall be as provided for in section 121(o), to wit: based on the cost of providing retirement benefits to participants. In addition, existing CETA employees are "grandfathered in," and CETA funds may continue to be used for retirement contributions as long as they remain in the program. Thus, the test of "reasonable relationship of retirement costs to participant benefits" would apply only to participants enrolled after July 1, 1979.

PROGRAM FOR OFFENDERS

Mr. President, I also wish to touch upon the new provisions in title III, section 301(b)(2), which I sought, which directs the Secretary of Labor to conduct a special program to provide employment and training assistance for offenders.

In my judgment, we have really missed the boat in this vital area, and the statistics on the rate of recidivism in our country are evidence of that fact. We must make a major effort to provide special training programs to enable offenders to become productive members of society. A criminal record is such a great obstacle to regular employment that many offenders find it so difficult to believe that employers share the view that they have paid their debt to society. And this barrier is compounded by the fact that most ex-offenders lack marketable job skills. Small wonder it is that many ex-offenders resort to crime again when they are unable to find employment.

I hope Secretary Marshall will get squarely behind this program and encourage prime sponsors to submit innovative proposals in this area. My knowledge of present programs, like those operated by the Vocational Foundation in New York City and the supported work program, which receive really de minimis amounts of money, indicates that the benefits to society can be enormous relative to the economic, social, and human costs of crime. In my judgment, it would be appropriate for the Department to seek at least $5 million for the offenders program for fiscal year 1980 and to begin gearing up for that level by using as much of the fiscal year 1979 appropriation for title III as can be made available.

CETA-ES RELATIONSHIP

Mr. President, the relationship between CETA prime sponsors and State employment security (ES) offices has been a strained one since CETA was enacted in 1973. The employment service was left in somewhat of an anomalous position by CETA because its enactment brought about a major restructuring of our manpower delivery system. The then-existing networks of Federal-State-local relationships were severely disrupted as the decentralized-decategorized system was put in place. There have been many suggestions to deal with this situation, most notably the very gifted and provocative proposal of Representative BILL STEIGER. Others have suggested that it would be prudent to assign functional responsibility for delivery of specific services to CETA and to ES—employability development to the former and job development to the latter.

The Subcommittee on Employment, Poverty, and Migratory Labor studied many of the suggestions that have been put forward but decided in the end that it would be premature to mandate any consolidation of CETA and ES at this time. I have been persuaded that, to a greater or lesser extent, cooperation between prime sponsors and the Employment Service seems to be evolving quite naturally around the country and that the necessary accommodations are being made to achieve a working relationship. Furthermore, I suspect that some tension between these two agencies may be healthy, particularly in a decentralized system.

In any event, the committee decided not to take any action that would mandate a linkage between CETA and ES. The committee has directed the Secretary to report to Congress on the need, if any, for reform of the Wagner-Peyser Act, and plans to take up that legislation next year. While the Secretary of Labor will be making recommendations for legislation, the committee intends that the Department utilize available expertise in and out of Government in studying the Wagner-Peyser Act. I raised my concern in committee about the idea of the Department studying and reporting on itself, especially in respect of a matter as important as the CETA-ES relationship. I would hope the Department

would also contract for a study of the Wagner-Peyser Act to be done by some of the institutions which have an expertise in this area, such as Brookings, the Urban Institute, the National Academy of Sciences or one of the other expert groups. Alternatively, the Human Resources Committee might contract for such a study to be done. Then the committee will have the best possible expertise available to it in its deliberations on this matter next year.

LABOR-MANAGEMENT COMMITTEES

Mr. President, finally I wish to discuss today the provisions of section 6 of the committee bill, which would establish authority for the Federal Mediation and Conciliation Service to conduct a program in encouraging and assisting plant, industry, and area-wide labor-management cooperative committees.

I had been almost a lone voice in this "desert" for many years, Mr. President, in proclaiming the benefits that could redound to our country if we would begin to consider some innovative means to enlarge the commonality of interests which are outside of collective bargaining between labor and management. The collective bargaining process is, of course, our principal means for joint determination of the terms and conditions of employment. But there is a need for a new, supplemental dimension in labor-mangement relations in our country, to wit; a forum in which an ongoing dialog could be established, to discuss and involve workers in matters not addressed normally in the framework of collective bargaining. I refer to problems in the workplace—alcoholism, drug abuse, work hazards, continuing education, culture and the arts, recreation, group activity, participation in plant decisionmaking and working life values.

With the proper safeguards to protect the collective bargaining process, joint labor-management cooperative committees can do much to harmonize the relationship between labor and management in the workplace—and stabilize the labor relations climate—in a particular area and bring out new values. This in turn can help to improve employee morale, reduce tensions in the workplace and foster local and regional economic development.

I understand, Mr. President, that some have expressed concern about the fact that the proposed administering agency for this program is FMCS and not the Labor Department and its Labor-Management Services Administration or the Commerce Department. I wish to make clear that the decision of the committee to go instead with FMCS was a considered one and, I think, eminently justified. There are three criteria which are indispensable to the successful administration of this program, to wit: First, experience with labor-management committees; second, a reputation for absolute impartiality between business and labor; and third, a field staff of professionals who know and understand the local conditions under which these committees may operate. The Federal Mediation and Conciliation Service satisfies all three of these prerequisities. I hope the judgment of the Human Resources Committee will be sustained by the Senate and that we will be able to get this innovative program underway soon.

Mr. President, I hope my statement will bring about a better understanding of the concepts of the committee bill. Programs funded under the Comprehensive Employment and Training Act will be of even greater importance in the coming years, Mr. President, particularly if we are facing limits on what we are able to do in reducing unemployment through direct aid and budgetary policy. It may very well be that we have reached the phase where further reductions in unemployment will require much greater use of CETA's targeted structural and countercyclical employment and training programs.

The CETA bill reported by the committee meets this challenge and that of severe and prolonged structural unemployment—especially in our cities and among minorities. We may well encounter this situation—or worse—in the coming months and years. I commend S. 2570 to the Senate.

Mr. WILLIAMS. Mr. President, it is with great pleasure that I welcome the Senate's decision to proceed to the consideration at this time of S. 2570, the Comprehensive Employment and Training Amendments of 1978.

As chairman of the Committee on Human Resources, I can assure you that the road to this point has been long and hard and studded with controversy. There have been innumerable difficult decisions that had to be made, and there will be more in the days ahead as the Congress moves toward enactment of this important legislation.

But I am greatly encouraged by the signs of gathering consensus that the CETA program is valuable to the Nation, that it should be reauthorized, and that the committee's bill is a solid effort to strengthen the program and refocus it on the most pressing needs of today and of the months ahead.

The administration of President Carter has endorsed the bill with minor changes that we are prepared to accept. The State and local officials who comprise the system of CETA prime sponsors that operate the program have stated their support. Several of my colleagues have prepared amendments to further strengthen the bill and have offered their support for the legislation as so amended.

Mr. President, we owe a special debt of gratitude for their tireless and inspired work on this legislation to the distinguished chairman of the Subcommittee on Employment, Poverty, and Migratory Labor (Mr. NELSON) and the distinguished ranking minority member of the subcommittee and the full committee (Mr. JAVITS). Their expert and determined leadership has made it possible to bring before the Senate a very complex and meaningful bill which I believe has earned the overwhelming support of our colleagues.

Over its 5-year history, CETA has become one of the Federal Government's most important programs. It is one of the cornerstones of a new and thriving partnership that engages the cooperation of the Congress, the administration, and State and local governments in common effort to meet national priority needs. But more important, it has become a basic tool for helping unemployed and disheartened citizens find a meaningful and satisfying place for themselves in a working nation. Each year, more than 4 million Americans are provided the chance for job training or temporary employment under the CETA program.

From the standpoint of the Nation's economic health, CETA has been vital in the recovery from the worst recession in 40 years. The system of State and local prime sponsors was in its infancy when that recession began 4 years ago. We asked them to make it their first priority to provide jobs for workers who were thrown out of work by the economic contraction. The original priority of providing training and job development for the chronically unemployed had to be compromised in the economic emergency.

Under the extremely difficult circumstances, the prime sponsors performed well. They developed thousands of public service work projects, the overwhelming bulk of which contributed demonstrably to their communities. At the same time, they tended to the skill development needs of the chronically unemployed, provided hundreds of thousands of summer jobs for youth each year, and developed new and imaginative youth employment and training programs for dealing with the Nation's most severe unemployment problems.

Mr. President, with S. 2570 we are requesting that the prime sponsor system readjust its focus to meet the needs of the chronically unemployed in a recovering economy. Training and employability development, which are more pertinent to this challenge, would be greatly emphasized under this legislation. And the participation of private business would be specifically expanded in an effort to convert new skills into permanent employment in the private sector.

Critics of the program, becoming ever the more disenchanted with reports of abuses of CETA funds, have leveled their sights on this legislation. The criticism of abuses has been well deserved although it is important to bear in mind that misuse of funds constitutes a small percentage of the overall CETA effort.

But abuse must be rooted out, and the committee has taken strong steps to insure that it is. The bill mandates greater accountability over the management of funds by prime sponsors, their program agents, and subcontractors. New anti-abuse and fraud amendments were added by the committee to improve audit procedures, provide for ready access by the Secretary of Labor to prime sponsor records, and provide criminal penalties for obstructing investigations.

Another area of major concern has been the substitution of CETA workers for regular employees of public and non-profit bodies and for providing services that customarily had been provided with other financial resources. The committee has dealt with this concern, as well.

The bill would tighten eligibility requirements for public service employment, place restrictions on the maximum

level of Federal wages paid to participants, limit the amount by which wages may be supplemented by local funds, restrict participation to long-term unemployed persons, and require termination of employment of participants to insure that CETA jobs provide only temporary employment.

A new provision added in committee requires an assessment of each participant's employment and training needs upon entry into CETA, and the development of a personalized employability plan. The responsibility of the prime sponsors and program agents would be to develop the participant's employability through a mix of services designed especially for that individual.

In an effort to target program services on special groups most in need, the bill contains a number of demonstration programs with limited authorizations so that different approaches to the problems can be explored in model programs.

The achievement of long-term economic objectives and lower unemployment rates depends partly on the success of policies to reduce structural unemployment. How well the structural aspects of unemployment are reduced will determine how far we can go in reducing unemployment without risking a new round of inflation.

AN INFLATION HEDGE

S. 2570 is a tool not only for cutting unemployment but also for ameliorating the inflation rates that threaten to steer the economy into another recession.

The economic report of the President, released this year, reinforced the critical role of CETA in economic policy:

> Reaching a low rate of unemployment without initiating increases in the rate of inflation will require effective structural programs as well as overall monetary and fiscal policy. Programs that increase access to jobs for groups with high unemployment not only serve the interests of economic justice, but help us avoid the excessively tight labor markets and inflationary pressures that might otherwise arise in a period of high unemployment.

The Committee for Economic Development, an independent group of businessmen, released a report in which a clear consensus emerged that "unemployment and underemployment are costly both to society and to the economy." The CED study recommended that—

> Government programs to train and provide jobs for the hard-to-employ, including public service employment, must continue to play a major role in national manpower policy.

The business group welcomed "recent increased emphasis by both Congress and the administration on direct measures to deal with the unemployment problems of hard-hit groups, particularly disadvantaged youths and veterans."

Assistant Secretary of Labor for Policy, Evaluation, and Research, Arnold Packer, in testimony before the Joint Economic Committee, explained the importance of CETA to the Nation's economy:

> During a time of increasing risk of accelerating inflation, targeted employment and training programs can play an important role. First, since PSE jobs targeted to the structurally unemployed do not attract workers with skills likely to be in short supply, it is less inflationary to expand PSE employment by increasing aggregate demand through a tax cut or other form of macro stimulus. Second, successful training programs increase the pool of skilled workers from which firms may draw, and thus help to eliminate labor market bottlenecks and inflationary wage pressure in the private sector.

The activities proposed in this legislation would utilize this tremendous human resource through training, skill development, public service employment, location of jobs for special groups with very high unemployment rates, and improved coordination of information for career choices by new entrants in the labor force.

ABUSE PREVENTION

Abuses in CETA programs are manageable and would be reduced substantially under the committee's amendments. Secretary Marshall has noted that out of 450 local prime sponsors and 2,800 subgrantees, the Department received and investigated 203 allegations of improper activities inolving the CETA system last year. The Department's investigations concluded that, at a minimum, well over 95 percent of the agencies that administer the CETA program are operating effectively.

In the past, the major problem for the Department's investigative actions was in getting timely access to CETA records. These proposed amendments would make destruction of CETA records, as an effort to thwart an investigation or audit, a criminal offense.

In order to provide the most effective review and investigation of potential program abuses, the Department of Labor has consolidated the functions of audit and investigation into one permanent Office of Special Investigations. Their ability to effectively monitor and investigate the CETA programs has been greatly enhanced as a result, and new resources are being brought to bear in order to minimize the administrative problems involved in such a large, decentralized system.

SUBSTITUTION CONTROL

Two key provisions of the current law are designed to prevent substitution of Federal CETA funds for local revenues to maintain services and pay regular employees. One prohibits local governments from using CETA funds for regular services that would be provided customarily by local governments in the absence of CETA; the other prohibits the hiring of CETA employees to displace regular civil service employees or to fill job openings created by layoffs or termination of regular workers. CETA employees are to provide services that would not otherwise be provided, and their place on the public payroll is to supplement, not to supplant, regular public employee positions.

Most of the abuses of the program cited in previous studies occurred under the original version of PSE enacted in 1975. The level of substitution decreased measurably after the 1976 amendments which required that jobs be of 1-year duration in projects of demonstrable public benefit, and that participants be long-term, low-income unemployed or welfare recipients.

Assistant Secretary of Labor Ernest Green stated before the committee that the Department's experience with the project approach has substantially reduced the incidence of substitution. The new criteria were of greater consequence, tighter eligibility requirements reduced the number of public employees who might qualify, and the projects provided services outside the scope of regular public services.

The committee amendments in S. 2570 assure further control over the drain of substitution. Low-income persons at or below 70 percent of the lower-living-standard budget become the target group. New limitations on the length of participation and the level of wages received by participants will encourage a transition into unsubsidized employment.

WELFARE PREVENTION

In addition to the committee bill's general new focus on efforts to assist the poor and disadvantaged, title III authorizes the Secretary to conduct demonstration and experimental programs to test and analyze a variety of employment and training alternatives to public assistance and other forms of income assistance for employable persons.

The committee bill, in addition, would expand program eligibility to new groups receiving or eligible for public assistance. The bill includes specific new definitions of "economically disadvantaged," "under-employed persons," "unemployed persons," and the "low-income level" which expand services to welfare recipients, foster children, families with income below the poverty level, and institutionalized persons in sheltered workshops, prisons and hospitals.

The committee bill refocuses CETA resources on training and employability development for the hard-core unemployed. It would be the framework of public policy for introducing individuals into a structured work environment who would otherwise be passed over by the private sector and provides an opportunity—and for many the only opportunity—from which welfare-prone individuals could subsequently advance to steady unsubsidized jobs.

A new section was added to the committee bill—section 205—that requires an assessment of each participant's employment and training needs upon entry into CETA, and the development of a personalized employability plan. The primary responsibility of the prime sponsor would be to develop the participant's employability, rather than merely to employ.

Under title II, comprehensive employment and training services for the disadvantaged, the committee bill adds a new section—section 214—to explicate services for youth. Combined with the new programs authorized under the Youth Employment and Demonstration Projects Act of 1977 (YEDPA), CETA services to youth would provide a broad range of alternatives to a future cycle of welfare dependence.

PRIVATE SECTOR INITIATIVES

Another important addition in the committee bill is a new title VII to establish demonstration programs for increasing private sector involvement in employment and training programs for the economically disadvantaged. It would develop greater opportunities for a direct transition into private sector employment with a chance for advancement.

In its recent study, the Committee for Economic Development (CED), said that a clear consensus has emerged that the private sector must step up efforts to train and employ the disadvantaged because "unemployment and underemployment are costly both to society and to the economy." They welcomed recent increased emphasis by both Congress and the administration on direct measures to deal with the unemployment problems of hard-hit groups, particularly disadvantaged youths.

The CED report also stated to its members that the principal stress of public policy should be on developing productive jobs rather than on paying people for not working They noted that the chronically jobless usually receive transfer payments such as unemployment insurance, welfare payments, and food stamps and concluded that putting them into productive work in the private sector could lessen some inflationary Government expenditures.

The White House has already received the commitment of business and industry leaders to participate in title VII activities.

Mr. President, we cannot allow ourselves to lose sight of the purposes of this act. We cannot close our eyes to the human faces of unemployment and discouragement that daily stand in line at the unemployment office or wait to buy food stamps. We should not forget to count the ones whose unemployment benefits—meager amounts in State after State—are about to run out. Their worry and despair continues to grow as joblessness lingers on.

This is not an imaginary picture of the future. This is the way things are now for millions upon millions of American families who are lost in the monthly statistics, computer projections, and economic analyses.

For the 6.2 million American workers now unemployed, the situation is too critical to wait for future improvement in the economy. For them, what counts is a chance for a job or the chance to acquire skills that will land a job.

Today's economy, troubled as it is, cannot be compared fully to the rickety structure that fell apart in 1929 to create the Great Depression. We have unemployment insurance, social security, protection for savings accounts, and public assistance programs that were not there in the 1930's.

But the important point is that there are nearly as many individuals out of work today, and we are doing less to help them get a job.

Our commitment to the unemployed must be reaffirmed. The Federal Government has a duty to stimulate economic expansions, but it also has a responsibility to directly create new job and training opportunities for those who can find no other productive work. I see no alternative for taking up the slack while the Government experiments with new and unfamiliar economic remedies.

Any threat to cut our commitment to jobless Americans runs the risk of destroying the progress already made in putting America back to work. Secretary Marshall warned on July 25 that to base a change in CETA policy on the popular notion that unemployment has declined so much that we no longer need a large-scale public service jobs program "is a very dangerous misconception." He added that unemployment cannot be kept under 6 percent next year without a full-scale PSE program. Marshall declared that—

> To begin to dismantle the CETA program now is like disbanding your army in the middle of a war just because you have won an important battle.

I am confident that we are not prepared to backtrack on that commitment. We must hold to our conviction that our Nation must provide for those in need or be prepared to suffer not only future economic stagnation, but stagnation of the spirit as well.

Mr. NELSON. Mr. President, I realize we only have until 4 p.m. and then this legislation is to be set aside. Senator DOMENICI has some amendments which we have explored with him and which we are prepared to accept.

I understand, first, the distinguished Senator from Maine wishes 30 seconds.

Mr. HATHAWAY. I thank the Senator.

I am waiting for Senator WALLOP to come to the Chamber.

Mr. NELSON. All right.

I yield the floor to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, first, I thank not only Senator NELSON and Senator JAVITS, but also the majority and minority leaders for accommodating me this afternoon. I have had a genuine interest in this bill. If we had not proceeded in this manner, I might not have been able to participate. I am most appreciative.

UP AMENDMENT NO. 1707

Mr. DOMENICI. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from New Mexico (Mr. DOMENICI) proposes unprinted amendment numbered 1707.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 254, line 14, strike lines 14–17 and insert the following:
>
> "(1)(A) To coordinate programs under this Act with existing vocational education programs.
>
> "(B) To provide needed vocational education services.
>
> "(2) To coordinate the utilization of funds under this Act and the Vocational Education Act of 1963 to enhance economic growth and development in the State.
>
> "(3) To develop linkages between vocational education, education, and training programs under this Act and private sector employers.
>
> "(4) To provide technical assistance to vocational education institutions and local education agencies to aid them in making cooperative arrangements with appropriate prime sponsors.
>
> "(5) To provide information, curriculum materials, and technical assistance in curriculum development and staff development to prime sponsors.

Mr. DOMENICI. Mr. President, this amendment will more specifically define the role of the State boards of vocational education in using funds under section 204 of CETA.

As we all know, our present CETA and vocational education programs have served our Nation very well for the most part. However, expansion of employment opportunities under these two programs can be improved if we can achieve better coordination between CETA prime sponsors and vocational education program administrators. Better coordination will go a long way toward minimizing duplication of effort and insuring that these two valuable programs no longer work at cross purposes.

Better technical assistance must be provided to vocational and local educational agencies so that they can make more efficient use of CETA funds. Furthermore, adequate information on curriculum materials, technical assistance in curriculum development, and staffing—must be provided to prime sponsors. My amendment, if implemented, will achieve both goals.

This amendment addresses the need to coordinate the use of funds under the Comprehensive Employment and Training Act and the Vocational Education Act of 1963. Improved coordination will enhance economic growth and development throughout the Nation. Furthermore, my amendment envisions the establishment of definite links between CETA, vocational education, and private sector employers.

Duplication of effort by CETA and vocational education program sponsors is a waste of precious resources and simply must be eliminated. My amendment will not only provide coordination between these two programs but it will also harness the creative potential of the private sector in our efforts to provide meaningful training and employment opportunities for Americans who need them.

Mr. President, I hope the managers of the bill will see the wisdom of my amendment and accept it and work for its retention in conference.

It is my understanding that this amendment is acceptable to the managers of the bill.

Mr. NELSON. Yes. We have looked at the amendment and it clarifies the issue as to the role of vocational education. It properly states our intended objective in the bill.

I have no objection to it.

Mr. JAVITS. Mr. President, I have no objection to the amendment. We too have considered it and we think it is helpful with respect to the bill and its fundamental purpose.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. DOMENICI. I yield back my time.

Mr. JAVITS. I yield back my time.

The PRESIDING OFFICER. Does the Senator from Wisconsin yield back the remainder of his time?

Mr. NELSON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico.

The amendment was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I am not going to offer an amendment on the eligibility criteria. Most of those goals are covered by CETA. However, I wish to briefly discuss a concern.

Mr. President, my research and study of the present CETA eligibility criteria convinces me that the present standards mitigate against broad scale participation in the CETA program, by single individuals particularly, women and elderly persons. During the past few weeks, my staff and I have looked at eligibility criteria contained in various Federal employment programs, but were unable, due to time constraints and the complexity of the subject, to come up with a well-thought-out and equitable set of eligibility standards which could be applied to women and the elderly.

I am very pleased, therefore, that the Human Resources Committee has, at my suggestion, included language in S. 2570 authorizing the National Commission on Employment Policy to conduct a study of present CETA eligibility requirements and their impact upon women and older persons. Although our present eligibility criteria have proved adequate for most segments of our population, which are tied to 70 percent of the Bureau of Labor statistics lower living standard budget, they must be reviewed and revised with a view toward facilitating increased participation in the CETA program by women and the elderly. Arriving at an equitable formula will be a difficult task which will warrant all the time, expertise, and attention that the National Commission on Employment Policy can render. Again, I am most pleased that language authorizing this study is being incorporated into S. 2570 and I look forward to the positive recommendations I know the Commission will produce.

Mr. President, the distinguished Senator from Florida (Mr. CHILES), and I presented many ideas, including our own bill, as a format to the Human Resources Committee. I am most appreciative for the consideration they gave to many of our ideas.

Although the Human Resources Committee agreed to include extensive report language in this bill outlining the voucher demonstration project authorized under CETA, this language was inadvertently omitted from the committee report.

I am pleased that the committee agreed to include detailed descriptions of the voucher plan in the opening statements the managers have presented here to the Senate.

The provisions authorize the Secretary to demonstrate the efficacy of providing vouchers to unemployed or underemployed persons who are economically disadvantaged. These are important provisions, and I thank the floor managers for including language in their statements which will clarify this matter for the Secretary. I hope, we will be able to get some tax language passed in the new tax reform bill that will make these tax deductions work so that the package can be put together.

Mr. President, although the Senate Human Resources Committee agreed to include extensive report language on S. 2570 outlining the voucher demonstration project authorized under CETA, this language was inadvertently omitted from the committee report. I am pleased that the committee agreed to include a detailed description of the voucher plan in the opening statement of the floor managers on the CETA reauthorization bill now under consideration.

This provision authorizes the Secretary to demonstrate the efficiency of providing vouchers to unemployed or underemployed persons who are economically disadvantaged. The vouchers will serve to subsidize, temporarily, a CETA trainee's first experiences in the private job market. Two years after enactment of the 1978 CETA amendments, the Secretary shall report on the effectiveness of the voucher demonstration project and make appropriate legislative recommendations to Congress.

Mr. President, S. 2805, the Comprehensive Education and Training Act amendments which I introduced with Senator CHILES contained a voucher program similar to the one in S. 2570. I am pleased that the Human Resources Committee has decided to test the voucher system as one tool to increasing employment opportunities among economically disadvantaged persons. As a strong proponent of increased private sector involvement in the CETA program, I am anxious to see this demonstration project implemented. This approach appears to me to be an excellent way to encourage private sector employers to hire CETA-trained personnel whose previous employment record might not qualify them for entrance into the labor market at the prevailing minimum wage.

The voucher demonstration language which is now included in the floor managers' statement will serve to strengthen linkage, cooperation, and coordination between CETA and the private sector. I look forward to the role these provisions will play in strengthening Federal efforts to reduce hard core structural unemployment.

I understand the distinguished senior Senator from Florida (Mr. CHILES) is here. I very much appreciate the leadership he has taken with reference to this CETA bill. In particular, I appreciate Senator CHILES' work on the older workers provisions in the bill.

Mr. President, recent hearings on retirement, work, and lifelong learning, conducted by the Senate Special Committee on Aging, focused extensively on the employment needs of older Americans. In increasing numbers, today's healthier and more energetic senior citizens desire to remain productive for longer and longer periods of time. The Congress must begin to accommodate these seniors by making Federal employment programs more responsive to their needs to remain in or reenter the work force.

In his testimony during these hearings, Secretary Marshall indicated that Labor Department efforts to provide increased work opportunities to older Americans are already underway. However, Labor's CETA program has potential for older workers that has not yet been realized. According to the Civil Service Commission, there is conclusive evidence of age discrimination in CETA. This is a severe underutilization of potentially a productive segment of our society.

I am very pleased that the Human Resources Committee has incorporated into the Comprehensive Employment and Training Act amendments to the older workers program Senator CHILES and I have proposed. It is hoped that this section of the bill will accomplish the following goals:

First. Assist older workers to develop employment skills which will enable them to remain in or reenter the work force;

Second. Ease the transition of older workers from one occupation to another within the labor force, and from nonparticipation to participation in the labor force;

Third. Provide outreach, orientation, counseling, and placement assistance to potential older workers;

Fourth. Provide assistance to employers as they implement flextime, work sharing, and other innovative work arrangements;

Fifth. Help to overcome sex stereotyping in employment practices. This provision will especially benefit the displaced homemaker;

Sixth. Coordinate services for older workers with services provided by senior centers, area agencies on aging, and State agencies on aging; and

Seventh. Enable CETA prime sponsors to contract with State and area agencies on aging and other public and private nonprofit organizations for services to older workers.

One of the most persistent criticism of the CETA program has been its failure to provide additional job opportunities to older workers. By providing an older workers program which is geared to the needs of this large and growing segment of the population, we seek to address what is becoming a major economic problem in this country. It is critical that we provide suitable work modes for an aging work force.

In closing, Mr. President, let me say that over the past 5 years the CETA program has become a viable partnership among all levels of government—Federal, State, and local. We have learned a great deal from the experiences of the last 5 years. Senator CHILES and I have sought to build upon this foundation with our older workers program and

we believe our efforts will significantly expand the effectiveness of this vital program.

Mr. President, I would like to ask the floor managers of the bill a few questions with regard to the older workers provisions.

Do the managers believe that the age discrimination in employment amendments, which will become effective January 1, 1979, will eliminate the discrimination found in CETA by the Civil Rights Commission?

Mr. NELSON. Mr. Arthur Flemming of the Civil Rights Commission, testified on that point, and he testified that they had found discrimination in CETA and other Federal programs based on age and sex. We are satisfied that if the law is complied with as now drafted that that discrimination that was found by them will be eliminated.

Mr. DOMENICI. I thank the distinguished Senator.

The Senator from Florida had some questions on this same subject.

Mr. CHILES. Mr. President, if I might ask the distinguished chairman, frequently, older women, who have become displaced homemakers, have limited or no employment skills. How can we insure that the special employment needs of displaced older homemakers are met in the regular CETA program under titles II and VI, as well as in the new title III categorical section?

Mr. NELSON. Under section 122(c)(3)(A) we provide that special emphasis will be given to displaced homemakers for public service employment jobs in titles II and VI, as well as in the new title III categorical sections.

Mr. CHILES. I thank the distinguished Senator for that answer.

Many older workers are not desirous of full-time employment. Their needs are for part-time work, work sharing, and flexitime arrangements. How can the CETA program help fill the older workers' needs for innovative work modes?

Mr. NELSON. Titles II and VI provide for alternative work schedules to be provided to meet the need that the Senator raises.

Incidentally, we also, as you know, reported or will be reporting shortly from the Human Resources Committee the flexitime bill that would provide a number of alternative working arrangements to workers in the Federal Government. These alternative working arrangements are intended to assist a number of worker groups including older Americans.

Mr. CHILES. Would it be advisable to recruit qualified seniors into the actual administration of CETA programs throughout the country? Could recruitment of older personnel into the CETA program itself insure a heightened sensitivity to the employment needs of the older worker?

Mr. NELSON. Well, I have no doubt that there are a good many senior citizens who are well qualified to assist in the actual administration of CETA programs. But that is a managerial question for the prime sponsor, I think, to decide and not for us to try to mandate in the management or running of a local program by a prime sponsor.

Mr. CHILES. But the Senator's opinion would be that that could be beneficial to the program?

Mr. NELSON. I think it could be, and I think there are programs that are using qualified senior citizens now in the management side of these programs.

Mr. CHILES. I thank the distinguished chairman.

Mr. President, now that the age discrimination in employment amendments have been enacted, we must begin to focus on ways to make our Federal employment programs more responsive to the needs of senior citizens. The CETA program, which has a tremendous capability to fill the employment needs of older Americans, is an appropriate place to begin to remove the barriers seniors face as they attempt to enter or reenter the work force.

The older workers provisions which Senator DOMENICI and I have incorporated into the CETA reauthorization bill stress not only the importance of assistance in the development of employment skills, but also outreach, orientation, counseling, and placement services to potential older workers. Furthermore, by enabling CETA prime sponsors to contract with State area agencies on aging and other public and private nonprofit organizations, our provisions will dramatically increase older worker participation in the CETA program.

With regard to senior citizen employment, the need, for the most part, is not full-time jobs. Older Americans are more interested in innovative work modes, like work-sharing and flextime arrangements. Our older workers provisions provide assistance to employers as they implement the kinds of alternative work styles for which seniors are best suited.

The following are other important components of the CETA older workers program:

First. Career training to facilitate the transition of older workers from one occupation to another;

Second. Elimination of barriers to employment presently facing older women who have become displaced homemakers; and

Third. Job placement assistance to overcome age stereotyping and age discrimination.

I believe that our older workers program represents a comprehensive attempt to facilitate the entrance or reentrance of senior citizens into the labor force. These provisions, if vigorously enforced, will insure increased utilization of the as yet often untapped resources of our older Americans.

I yield to the distinguished Senator from New Mexico.

Mr. DOMENICI. I thank the Senator from Florida.

UP AMENDMENT NO. 1708

Mr. President, I have an unprinted amendment which I send to the desk in behalf of Senators CHILES, BELLMON, MCCLURE, BROOKE, and BARTLETT, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI), for himself and others, proposes an amendment numbered 1708.

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 190, line 5, insert the following: delete "and" and add the following new subsections:

Page 190 1.7, insert the following:

(11) Include a detailed description of record keeping procedures which will allow the Secretary to audit and monitor the prime sponsor's program, concerning eligibility of participants and propriety of participant selection procedures and practice;

(12) Include a detailed description of procedures for the monitoring and auditing of any subgrantees or subcontractors; and page 190, line 6, redesignate (11) as (13)

Page 244, after line 17, insert the following:

"(f) In the annual report required under subsection (a), the Secretary shall report on the monitoring and auditing activities of the Department, on administrative changes made or proposed to improve such activities, and on actions taken under section 106, and shall make any necessary proposals for legislative action."

Page 383, line 3, at the beginning of the line, insert:

"knowingly hires an ineligible individual or individuals,"

Page 197, line 11, insert the following new section:

"Section 106 (a) There is hereby established in the office of the Secretary a division for monitoring and compliance. This office shall monitor and audit program recipients with regard to eligibility of participants, abuses in participant selection, and any other violations or improprieties."

Page 197, line 11, redesignate section (a (1) as (b).

Mr. DOMENICI. Mr. President, this amendment addresses the issue of fraud in the CETA program. Instances of fraud and abuse within the CETA program have received widespread coverage in the press in recent months.

When this program was first enacted, I remember telling the senior Senator from New York (Mr. JAVITS) that we had experimented with a pooling of the old job-training programs in the city of Albuquerque when I was its mayor. I expressed the hope that we would pool all of the job-training programs. The focal point of CETA was to let it be run by State governments and local prime sponsors.

What has happened now is that there are those around the country who are beginning to say, "You see, we told you the States could not run these programs." That is simply not true. They run them as well as the Federal Government. But they must be more careful. They must vigorously follow the rules set down in this bill with reference to favoritism, nepotism, and political opportunism. The contractors and subcontractors that are used in the field by the prime sponsors are not adequately monitored. If these sponsors do not perform the work expected of them, if they create sham corporations, if they are guilty of abusing the tax dollars and the confidence of the American people then we

have failed to administer this vital program in a prudent and appropriate manner.

We need a national system to monitor prime sponsors, subcontractors, and contractors. In this manner, the fraud and abuse we have found can be eliminated. Although I do not think the abuse is as rampant as the initial stories indicate, I still feel we must put in the bill language with some real teeth for a system of national and local monitoring and auditing. Ultimately we must strengthen the sanctions against nepotism and favoritism in this bill.

Basically, my amendment sets up a monitoring system, and extends the criminal penalties that are already in the bill to the contractors and subcontractors. Mr. President, I remain committed to the concept that local governments and local prime sponsors can manage this program better than the Federal Government. I would hope that the State and local sponsors would get behind my amendment and help to fully implement as promptly as possible.

Mr. President, instances of fraud and abuse within the CETA program have received widespread coverage by the press in recent months. It is extremely unfortunate that a program like this, with its great potential for combating structural unemployment, has been subject to fraud and mismanagement. However, there are many fine and effective programs being administered under CETA. Not all of the taxpayers' dollars are being misused or spent for frivolous purposes.

However, the problem of abuse in some States is very real—and definite steps must be taken to eliminate fraud and management of CETA funds. I am proposing an amendment to the CETA reauthorization bill designed to eliminate misuse of CETA dollars. My proposal allows the Secretary of Labor to audit and monitor prime sponsor programs. Emphasis is placed upon the importance of thorough auditing and monitoring of subgrantees and subcontractors. My amendment further requires the Secretary to report on the monitoring and auditing procedures undertaken by his department, to note any noncompliance actions taken under section 106, and to propose legislative remedies to the Congress, if necessary. In addition, this amendment provides for the establishment of a monitoring and compliance division within the Office of the Secretary of Labor to report on any abuses in participant selection, and other violations or improprieties.

I believe my fraud and abuse amendment represents a comprehensive attempt to ferret out fraud and abuse within the CETA program. These provisions, if vigorously enforced, will eliminate many imperfections in the CETA program and eradicate the misuse of Federal dollars. At the same time we can insure that CETA's positive role in reducing hardcore unemployment is retained.

This amendment to control fraud focuses on strict monitoring of the participant selection process making it a criminal offense to knowingly hire an ineligible participant. In addition, this auditing of prime sponsors and subcontractors will focus on the provisions already included by the committee in section 123(h) to control and eliminate nepotism, conflict of interest, kickbacks, political patronage, and other fraudulent behavior.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. DOMENICI. I yield to the Senator from Florida.

Mr. CHILES. I just wish to associate myself with the Senator's remarks and say I am delighted to be a cosponsor of the amendment to monitor fraud and abuse in the CETA program. I think it adds a lot to the bill. Many of us know that CETA has done some good and important work and there is much to be done, especially with structural unemployment, with the problems of disadvantaged workers who need training and trying to deal with some of the problems like older Americans who cannot get work. I am particularly pleased that the thrust of this bill as reported by the committee is to redirect the program to the problems of the hardest persons to employ. One reason that the program has lost public credibility is that we have pushed local governments to hire more people than they can absorb. We have the feeling on the part of people that CETA is the biggest ripoff program that ever came down the pike. We have all seen the horror stories, and certainly there have been too many of them. There have been all the problems that the Senator from New Mexico has raised.

Unless we can assure the people that those things can be stopped, that it is not going to be used by someone as the favorite tool to put his relatives on the payroll or for political patronage or for out-and-out stealing, unless we can assure people of that, there will not be a CETA program. And there should not be, unless it can be run on a better basis and eliminate many of the problems that have come up in the past.

I think setting in motion this kind of effort to investigate fraud and abuse is exactly what we need to do. We have given the Secretary a very broad requirement, not just to investigate strict violations of the law, but to investigate any improprieties in the selections of participants, even if they technically fit the eligibility requirements. That will let us get at problems like the hiring of relatives. I have gone a step further and asked the chairman of the Appropriations Committee to send its new investigations unit into some of these areas and tell us just how the fraud and abuse is occurring, so that we can take corrective action from the Appropriations side. I think the amendment would be helpful to the bill, and I urge my colleagues to support it.

Mr. DOMENICI. I thank the Senator.

Mr. NELSON. Mr. President, I am agreeable, as manager of the bill, to this amendment. I understand that if we can agree to yield back the time and vote by a quarter to four, we can vote today. Is there anyone who needs time on the amendment?

Mr. BROOKE. I do. I have an amendment to the amendment, but I will be very brief.

Mr. NELSON. Mr. President, I yield to the Senator from Washington for a unanimous-consent request.

Mr. JACKSON. Mr. President, I ask unanimous consent that Mike Harvey of my staff be given the privilege of the floor for today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I thoroughly approve of this amendment. I shall vote for it, and believe the sooner we get to a vote, the better.

I shall enlarge my remarks similarly, on the assurances respecting the advantages, many of which are written into the bill. I approve the work, thoroughly endorse it, and will support it.

The PRESIDING OFFICER. The Senator from Massachusetts.

UP AMENDMENT NO. 1709

(Purpose: To provide for an Office of Management Assistance)

Mr. BROOKE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment is not in order until time on the principal amendment is either consumed or yielded back.

Mr. DOMENICI. I yield back the remainder of my time on my amendment.

Mr. NELSON. The amendment, since it is a perfecting amendment, is acceptable. I yield back the remainder of my time.

Mr. BROOKE. Mr. President, I rise in support of the amendment offered by my distinguished colleague, Senator DOMENICI. For I believe this amendment would contribute to the diminishment of inconsistencies which may be found in the CETA program.

However, I do wish to state at the outset that it is my opinion that CETA has served as a positive step toward meeting the needs of the unemployed, the underemployed, and the economically disadvantaged. And, I believe that on the whole, CETA has functioned well and must be considered as an integral part of any program to reach the goal of full employment.

Yet, there are some serious flaws within the existing CETA program. And, I believe that the amendment now being considered, in conjunction with the perfecting amendment which I intend to introduce, will help to insure the delivery of effective and efficient employment and training services.

Indeed, the need for this legislation and these amendments have arisen, in part, from the tremendous burden which has been placed on the CETA program by the creation of three-quarters of a million public service jobs. The rapid expansion of these jobs programs has resulted in inadequate resources being devoted to the supervising, auditing, and monitoring of prime sponsor CETA programs. And, this inadequacy has contributed to the widespread suspicion of fraud and abuse.

Therefore, the division for monitoring and compliance, as set forth in the

Domenici amendment, is designed to assist in the Federal oversight of instances where fraud and abuse may be found. This amendment, coupled with the existing provisions in the bill, will aid in promoting economy and efficiency in program operations.

My perfecting amendment would establish an Office of Management Assistance to enable the Department of Labor to offer complete management and technical advice to prime sponsors where needed, and particularly when recommended by the Division for monitoring and compliance. This office would also be responsible for providing technical assistance to prime sponsors, when requested. Certainly, this will have a salutory effect on the CETA program in general.

Mr. President, I submit that these amendments and this bill will serve to provide substantive and substantial improvement in the CETA programs, while helping to curb and eliminate instances of fraud and abuse. I am hopeful that a majority of my colleagues will join me in adopting these sorely needed amendments.

I have discussed this with the proponent of the amendment and the floor manager (Mr. NELSON) and I understand it is acceptable. Is that correct?

Mr. NELSON. Mr. President, does the Senator from New Mexico wish the yeas and nays?

The PRESIDING OFFICER. The amendment will be reported.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE)—

Mr. BROOKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment add the following:

On page 249, between lines 6 and 7, insert the following new section:

"OFFICE OF MANAGEMENT ASSISTANCE

"SEC. 135. The Secretary shall establish, in the office of the Secretary, an Office of Management Assistance and shall assign to such office such especially qualified accountants, management specialists, and other professionals as may be necessary and available to provide management assistance to any prime sponsor—

"(1) seeking the service of such office on its own initiative to assist it in overcoming problems in the management, operation, or supervision of any program or project under this Act; and

"(2) identified, pursuant to a complaint investigation, internal audit, or audit or investigation conducted by the Division of Monitoring and Compliance, as not being in compliance with any important requirement of this Act of regulations issued thereunder, or of the comprehensive employment and training plant. Service under this section may be provided on a reimbursable or nonreimbursable basis, as determined by the Secretary, and shall be allocated in a manner to assure equitable but effective distribution of such services. The Secretary shall periodically publish any proposals for corrective action made by the Office which may be useful to other prime sponsors.

On page 249, line 8, strike out "SEC. 135." and insert in lieu thereof "SEC. 136.".

On page 178, in the Table of Contents, redesignate "SEC. 135." as "SEC. 136." and insert after "SEC. 134." the following:

"SEC. 135. Office of Management Assistance.".

Mr. JAVITS. Mr. President, we have not seen the amendment until this moment, but I understand what it does is provide for an office to do what the basic amendment proposes.

Mr. BROOKE. That is absolutely correct.

Mr. JAVITS. I am thoroughly for it.

Mr. NELSON. We have looked at the amendment, and are satisfied with it.

Mr. BROOKE. Will the Senator from New Mexico accept the amendment?

Mr. DOMENICI. I accept the amendment. I have looked at it. I think it is a welcome addition.

The PRESIDING OFFICER. Do Senators yield back the remainder of their time?

Mr. DOMENICI. I ask for the yeas and nays on my amendment, as amended.

The PRESIDING OFFICER. First we have to act on the Brooke amendment.

Mr. DOMENICI. I thought we had.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The question is on agreeing to the amendment of the Senator from New Mexico, as amended. The yeas and nays have been requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment (UP No. 1708), as modified. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Montana (Mr. HATFIELD), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Louisiana (Mr. LONG), the Senator from Rhode Island (Mr. PELL), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

The result was announced—yeas 91, nays 0, as follows:

[Rollcall Vote No. 346 Leg.]

YEAS—91

Abourezk	Curtis	Hollings
Allen	Danforth	Humphrey
Anderson	DeConcini	Inouye
Baker	Dole	Jackson
Bartlett	Domenici	Javits
Bayh	Durkin	Kennedy
Bellmon	Eagleton	Laxalt
Bentsen	Ford	Leahy
Biden	Garn	Lugar
Brooke	Glenn	Magnuson
Bumpers	Gravel	Mathias
Burdick	Griffin	Matsunaga
Byrd, Harry F., Jr.	Hansen	McClure
Byrd, Robert C.	Hart	McGovern
Cannon	Haskell	McIntyre
Case	Hatch	Melcher
Chafee	Hatfield, Mark O.	Metzenbaum
Chiles	Hathaway	Morgan
Church	Hayakawa	Moynihan
Clark	Heinz	Muskie
Cranston	Helms	Nelson
Culver	Hodges	Nunn
Dantforth	Packwood	
Deconcini	Pearson	
Dole	Percy	
Domenici	Proxmire	
Durkin	Randolph	
Eagleton	Ribicoff	
Ford	Riegle	
Garn	Roth	
Glenn	Sarbanes	
Gravel	Sasser	
Griffin	Schmitt	
Hansen	Schweiker	
Hart	Sparkman	
Haskell	Stafford	
Hatch	Stennis	
Hatfield, Mark O.	Stevens	
Hathaway	Stevenson	
Hayakawa	Stone	
Heinz	Thurmond	
Helms	Tower	
Hodges	Wallop	
Hollings	Weicker	
Humphrey	Williams	
Inouye	Young	
Jackson	Zorinsky	
Javits		
Kennedy		
Laxalt		
Leahy		
Lugar		
Magnuson		
Mathias		
Matsunaga		
McClure		
McGovern		
McIntyre		
Melcher		
Metzenbaum		
Morgan		
Moynihan		
Muskie		
Nelson		
Nunn		
Packwood		
Pearson		
Percy		
Proxmire		
Randolph		
Ribicoff		
Riegle		
Roth		
Sarbanes		
Sasser		
Schmitt		
Schweiker		
Sparkman		
Stafford		
Stennis		
Stevens		
Stevenson		
Stone		
Thurmond		
Tower		
Wallop		
Weicker		
Williams		
Young		
Zorinsky		

NAYS—0

NOT VOTING—9

Eastland	Huddleston	Scott
Goldwater	Johnston	Talmadge
Hatfield, Paul G.	Long	
	Pell	

So the amendment (UP No. 1708), as amended, was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NELSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will be in order.

REPRESENTATION OF THE DISTRICT OF COLUMBIA IN CONGRESS

The PRESIDING OFFICER. The Senate will now resume consideration of House Joint Resolution 554.

The Senate continued with the consideration of the joint resolution.

The PRESIDING OFFICER. Who yields time?

Mr. HATHAWAY. Will the Senator from Massachusetts yield to me?

Mr. KENNEDY. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Massachusetts has 47 minutes; the Senator from Virginia has 47 minutes. The Senator from Montana has 16 minutes.

Mr. KENNEDY. I yield to the Senator from Maine.

INTELLIGENCE AND INTELLIGENCE-RELATED ACTIVITIES AUTHORIZATION ACT, 1979—CONFERENCE REPORT

Mr. HATHAWAY. Mr. President, I submit a report of the committee of conference on H.R. 12240 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12240) to authorize appropriations for fiscal year 1979 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of August 2, 1978.)

The PRESIDING OFFICER. The

question is on agreeing to the conference report.

Mr. BAYH. Mr. President, will the Senator from Massachusetts yield 1 minute to me?

Mr. KENNEDY. I yield 1 minute.

The PRESIDING OFFICER. The question is on agreeing to the conference report. Does the Senator wish to speak on the conference report?

Mr. BAYH. Yes.

Mr. President, I wish to alert the Senate to the fact that this is a critical measure involving the resolution of differences that exist between the House and the Senate on the intelligence and intelligence-related activities authorization bill. The Intelligence Committee is indebted to the Senator from Maine for the leadership he provided as chairman of the subcommittee that went through the entire hearing process on the authorization. If the oversight of the Senate is to mean anything, it is the oversight capacity we bring to the expenditure of moneys in this area. I wish it were possible, but because of security, it is not, to have seen the Senator from Maine ask the probing questions and help us guide our judgments as we arrived at our final decisions. I salute him for his effort and hope the Senate will support this measure.

Mr. HATHAWAY. Mr. President, I thank the distinguished chairman of the committee for his very kind remarks and wish to return the compliment and praise him for the leadership he has afforded me and the committee.

I would like also to take this opportunity to thank our distinguished vice chairman, Senator GOLDWATER, the other members of the committee, and the many staff members, all of whom devoted a great deal of time and dedication to this very important task.

Mr. BAKER. Mr. President, I am sorry, but I was not on the floor at the time the conference report was called up and made the pending business. I should like just a moment, if I may, so, for the moment, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. BAKER. Whose time do we have, Mr. President? Who is in charge on this measure?

The PRESIDING OFFICER. The Senator from Massachusetts, the Senator from Virginia, and the Senator from Montana.

Mr. BAKER. Mr. President, I am advised it has been cleared on this side. I withdraw my request for the quorum.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

REPRESENTATION OF THE DISTRICT OF COLUMBIA IN CONGRESS

The Senate continued with the consideration of House Joint Resolution 554.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, we are prepared to move to a vote, unless there is a——

Mr. SCOTT. Mr. President, we have a number of speakers and I am sure the distinguished Senator from Massachusetts has some speakers, also.

If the Senator from Mississippi is prepared, Mr. President, at this time I would be glad to yield 10 minutes to him.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, I say to the Members of the Senate that I have had a chance heretofore to speak to give my views and my analysis of this situation. But there are some who are here now and I will take just a few minutes of the Senator's time to go into this matter.

Mr. President, it is always a serious matter to amend the Constitution of the United States. It is very clear that the entire Congress has a positive, affirmative duty here to pass on these matters.

A two-thirds vote is required and three-fourths of the States. So it certainly brings it down to the people, involving virtually all of their representatives in legislative bodies.

But on this amendment, Mr. President, even though it is designed in good faith to meet a situation here, whereby the inhabitants of this District do have less than full privileges of voting, they are certainly not without considerable privilege of voting. They stay here in the District of their own choice, and there is a special reason.

Beginning way back, the wisdom of the Founding Fathers has proven sound for almost these 200 years now when they decided that the Central Government's primary operation would not be located in any State—not any State. They tried to see which State and agreed it not be in a State, but would be in a separate area, conclave, I do not think the District name came in until later.

But, anyway, it was agreed it be a separate piece of ground, so to speak, in which those who chose to live there would have a different status in relation to the Government.

As I understand, there is nothing written on it, but George Washington was delegated to select the site. He did. It was here and it is here.

What attribute in human nature has proven sounder and what principle of human nature has changed less in these 200 years than the one here with reference to an atmosphere and an independence for the central operation of the Federal Government?

The larger it has grown, the more that attribute and that privilege to the Government is needed.

Now, just to meet a situation here, the District already has a mayor, and so forth, and we will not repeat all that now, but just to meet a situation of these people that have a little different situation, but they do not have to stay, to meet that we are going to open the doors of the Senate and let men be sworn here as Members. No one has ever approached that rostrum—no one ever has, and I hope they never do—except as they are representatives of some State in this Union.

We are lowering the guard. We are taking down the gates. We are lessening the requirements. We are increasing the privileges, really, by lessening the requirements to get in here, in the first place, and become Members of this body that legislate for the entire Nation.

Two Senators, not one. Not one. These people help elect the President and the Vice President, have a mayor, and so forth, now. They are going to send in, under this, two Senators.

As I say, who thought up the idea of giving them two? One. One is a whole lot more than nearly all other 700,000 people in the Union have. But this particular group is going to have two Senators.

That is enough to dominate here over and over again in many close votes. Consumer against producer, agricultural, or raw material as against consumer. Many close votes.

I just think it is fundamentally unfair to the rest of the States, to the people in the other States, to the State governments. There are no State governments involved here in the District now under this amendment. No responsibilities. No obligations. Nothing to carry out or live up to. Not a thing in the world.

Here comes a gift on the morning breeze, because it is popular. Two Senators to be sworn in at the bar, and for the first time they ever have been except representing the State.

So we are turning this thing around. I believe that people will sense it. They will sense it at many levels of our State government.

I do not believe any man can go home and say, "I did something for you today"—talking to his own constituents—"I diluted your votes in the Senate. I made it less likely—less likely—that your vote would count for more, it will count for less."

I do not believe that the agricultural people, for instance, as an illustration, with all of their problems—and they have to come here for special programs—I just do not believe that they are going to think this is fair to them. It upsets the equilibrium. It takes away their chances to get Senators who understand their problem. There is no manufacturing here, as someone has said already; no appreciable industry. It is slight. Most of them make their living working for the Government or are in the services or are in an establishment such as a store. They are elsewhere, but they are not here.

I believe that we not only are tearing down the groundwork of our system which has worked so well with all these problems, but also, we open the door to a multitude of new problems and new demands and all kinds of possibilities, with all kinds of problems. We had better stay within the boundaries and stick here to the groundwork as laid out and has been proved sound over and over, and work at these problems some other way. There must not be a surrender.

We have no power, no right to give away, under these conditions, the power of our States, the prerogatives of our people. We should be as generous as we can to these people in the District, and we have the same duty to our own constituents.

I hope that in every State legislature this debate will be pursued with vigor by the State legislators, considering the ideas that have been advanced here, pro

and con, but particularly those that relate to their problems at home.

I thank the Senator from Virginia for yielding me time.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield 4 minutes to the Senator from Vermont.

Mr. LEAHY. Mr. President, I have been told that the first person who went to the guillotine said that if it were not for the honor, he would have been happy to have passed up the occasion. Following the distinguished Senator from Mississippi, especially when I am on the other side of the issue, I feel that way.

There is no Member of the U.S. Senate whom I hold in greater esteem or greater fondness than my distinguished friend from Mississippi. I think every Senator will agree that no other Member of the Senate holds a higher regard for the Senate as an institution than does the Senator from Mississippi.

Mr. President, I come from a rural State, and a great deal has been said here today about the feelings of rural States. No State is more rural than the State of Vermont. Vermont was the 14th State to join the Union. Perhaps, typical of Vermont nature, we stood there a while and made sure the other 13 were going to make it, and then we joined on.

My family has been in Vermont for well over a century. I was born there. It is my home. It is the place I live. It is a way of life. It is a way of life that I would never trade with anyone else, anywhere. I cherish that way of life. I cherish what we have done in Vermont.

Mr. President, when I came down here, I had the honor—some have described it other ways—of being apponted chairman of the Subcommittee on Appropriations for the District of Columbia. I became far more involved with the city than I ever might have otherwise; and perhaps I might have thought otherwise about the way I am going to vote tonight, had I been faced with it the day I arrived in the District of Columbia.

There is no question in my mind, having served in that capacity for 2 years now, that I will vote for this constitutional amendment; because I do not see it as a case of rural versus urban. We have had too much of that. We have seen too many Federal programs that come out with a bias, because we look at them as rural versus urban.

I am absolutely certain that is not a situation that will occur, because of what we will see here. The population of the District is half again as large as that of Vermont. In rural areas as well as urban areas, we recognize simple justice.

Quite frankly, when I look at this city—this beautiful city, the seat of our Government, the city that my eldest son was born in—I feel as a Vermonter. What we can do here is show simple justice, overdue justice. Because of that, this Senator, who comes from a rural State, will vote without any hesitancy for this constitutional amendment.

Mr. KENNEDY. Mr. President, I understand that the Senator from Oklahoma has an amendment, and I would be glad to yield 4 minutes to him.

Mr. BARTLETT. I thank the Senator.

UP AMENDMENT NO. 1710

(Purpose: To prohibit the establishment by Congress of any committee or subcommittee with jurisdiction over legislative matters applicable to the District of Columbia)

Mr. BARTLETT. Mr. President, I send and unprinted amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BARTLETT) proposes an unprinted amendment numbered 1710:

On page 2, after line 16, add the following section:

SEC. 2. Upon ratification by the requisite number of states of the Amendment to the Constitution as set forth in section 1, neither the Senate nor the House of Representatives shall permit, under its rules, the operation of any committee, subcommittee, or other committee which shall have as its continuing delineated purpose the primary or secondary jurisdiction for the consideration of legislative matters applicable solely to the District of Columbia.

Mr. BARTLETT. Mr. President, the proponents of the resolution argue that the residents of the District do not receive adequate representation and say that in order to have adequate representation, they need two Senators and the appropriate number of Representatives to represent them.

When the Founding Fathers established the Constitution and submitted it to the Colonies, they established the States as all being equal and the District as being separate and unique. What is proposed would create a hybrid State or a hybrid city, however one looks at it—sort of a super city or a super State—which would have the prerequisites of the District as it now has them and also would have the voting representation that a State has, without having the responsibilities of a State.

One of the perquisites that the District has is to have representation by the entire Senate and House of Representatives. In order for that representation to be able to zero in on the problems of the District, there are created in both bodies special committees and subcommittees on authorization and appropriation, and Senators and House Members who are particularly interested in the District generally serve on those committees. I had the pleasure of serving on the District Committee for 2 years, and I enjoyed it very much.

I feel that the present arrangement provides adequate representation for the District. But with this resolution possibly passing and being submitted to the States and possibly being ratified, I think it is important to decide whether or not the District should have the representation it now has with the present committees and subcommittees and two Senators and two Representatives.

So the purpose of this proposal is to add to the resolution, not to the constitutional amendment, to the resolution a section which would say:

Upon ratification by the requisite number of states of the Amendment to the Constitution as set forth in Section 1, neither the Senate nor the House of Representatives shall permit, under its rules, the operation of any committee, subcommittee, or other committee which shall have as its continuing delineated purpose the primary or secondary jurisdiction for the consideration of legislative matters applicable solely to the District of Columbia.

The PRESIDING OFFICER. The Senator's 4 minutes have expired.

Mr. KENNEDY. I yield a minute to the Senator from Indiana.

Mr. BAYH. Mr. President, the Senator from Oklahoma and the Senator from Indiana discussed this issue yesterday, and I understand his feeling on this. But I must say with all respect I think he overlooks what we are trying to accomplish with this resolution.

We are not trying to make the District of Columbia a State. We are trying to give the people who live here the right to be heard when national issues are decided in this body.

We had committees in the House of Representatives and the Senate to deal with District problems as those problems are part of our Capital City to suggest that the District is represented by a handful of Senators and Congressmen who do not live here is to ignore the fact that more often than not—perhaps that is an extreme case—but let me say on many instances the majority of the people of those District of Columbia committees do not vote the way the people of the District would vote if they were given the opportunity to.

So let me suggest, with all respect, the District committees are needed to provide that important framework to deal with the Federal City question. This amendment which we address ourselves to is to give the people of the District the right to be heard on issues of national importance that affect their everyday lives.

Mr. SCOTT. Mr. President, I am glad to yield not in excess of 5 minutes to the distinguished Senator from Alaska.

Mr. STEVENS. Mr. President, I had a prepared statement but in view of the statement just made by my good friend from Indiana, the State of my birth, I am constrained to make other remarks.

The Federal City has no land. It faces no resource problems. It does not have the diversity in population that exists in other States. On what basis should the people of the District of Columbia be given the voting rights of a State without actually becoming a State?

Mr. BAYH addressed the Chair.

Mr. STEVENS. If the Senator has his own time I will be glad to yield to him, otherwise I must use all of mine.

The residents of the District of Columbia are American citizens, and we have offered a way for them to vote just as we offered a way for those people who were in the original portion of the District when that portion was ceded to the State of Virginia, the State represented by the distinguished occupant of the chair (Mr. HARRY F. BYRD, JR.).

Why should those of us from the West be continually plagued, and I certainly am plagued now, by people who do not understand what it means to represent geography as well as people. After all, the Senate as an institution was designed to represent States. The House of Representatives was to represent population.

If it is a question of District residents voting, then they should vote in Maryland. If it is a question of the District becoming a State, then let us put that question before the Senate and before the people of the United States fairly. The Senator wants to call the District of Columbia something different than a State. He wants to give them voting representation here in the Senate as though they were a State.

I say that would be the first step, Mr. President, toward the decline of the American system.

Mr. MATHIAS. Mr. President, will the Senator yield for a question?

Mr. STEVENS. I do not know if the distinguished Senator has any time. I have 5 minutes and I intend to use it all.

Mr. KENNEDY. I yield 2 minutes to the Senator from Maryland to have whatever colloquy that he engages in.

Mr. MATHIAS. I shall pose a question to the distinguished Senator from Alaska. The Constitution of the United States says in article I that the Congress is:

> To exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may, by cession of particular states and the acceptance of Congress, become the seat of the Government.

How can we discharge that constitutional mandate in the light of the amendment that is proposed by the Senator from Oklahoma? That is my question to the Senator from Alaska.

Mr. STEVENS. Let me answer my good friend from Maryland in this way: I am preparing an amendment to once again raise the question of moving the capital out toward the center of the country where those people would welcome it and might be more willing to vote in the adjacent States, without seeking to become a State as the people of the District of Columbia are seeking. This is the seat of the Government. And Senators say that they represent States who have just as much interest in the public land in Alaska as we do. We from Alaska have just as much interest in the seat of Government, the District of Columbia, as do the residents of the District of Columbia.

They are not entitled to any greater consideration as citizens of the United States and are citizens of Alaska. And the citizens of Alaska fought for statehood; they fought for equal rights in this body. They did not come into the Union to see their rights diluted by giving two Senators to a city that is the seat of Government.

If this area is tired of being the seat of Government, if it does not wish to vote in Maryland and not have the seat of Government moved, I would be happy to suggest the Capitol be moved. We went through it once in the forties. I would be more than happy to go through it again. And I shall propose it next year. Let us move the Capitol. Let us build a Federal City in which nobody lives, in which there are just buildings and the seat of Government. Let us make Washington, D.C., a historical monument, another part of the Park Service, if you will. So many people are interested in making much of my State a national park. I will be delighted to assist in making this a national park so everybody in the world will come and see how we ran the Government of the United States for the first 200 years.

But this is nonsense. It is absolute nonsense to say that because they are residents of the Federal City they should have greater rights, greater rights, not equal rights, greater rights than the people of a State. I oppose this because I think it is a step toward the downfall of our Government as we saw the downfall of the Grecian Government for those who are familiar with history. I shall oppose this every time it comes up, Mr. President.

Mr. BAYH. Mr. President, will the Senator yield me 30 seconds?

Mr. KENNEDY. I yield 30 seconds.

Mr. BAYH. Mr. President, as a member of the Appropriations Committee that tried whenever possible to help the Senator from Alaska to get resources for his railroad and other things, I understand a little bit about the financial problems they have in Alaska. But I think we also need to understand that there are many financial problems imposed upon the District of Columbia because the National city is here, the fire, the police protection, all of the regalia that goes with the pomp and circumstance of a National city that is imposed on this Capital City and the District residents and why we need those two separate committees.

Mr. BARTLETT. Mr. President, it is my understanding that the Senator from Maryland has 1 minute. May I ask him to yield to me 30 seconds?

Mr. MATHIAS. I will yield 30 seconds to the Senator from Oklahoma.

Mr. BARTLETT. I will say this in response to his remarks earlier and his question that the matter can be handled very well by the standing committees, in other words, if it is a building project in the District, they can go to Public Works or if it is a matter of appropriations it will go to the general Appropriations Committee but there will not be a subcommittee specially for these particular issues, thoughts, and interests of the District.

Mr. MATHIAS. I have great respect for the view of the Senator from Oklahoma. But let me say that it is a tough job now to integrate all of the thinking, all of the planning, all of the action that deals with the city of Washington and with the elected officials of the city of Washington and to try to make the city move forward and to keep the budget under control and to appropriate the necessary amount of money, and I think to spread that through 16 committees would create utter chaos.

Mr. BARTLETT. You are going to have two full-time Senators for the District.

Mr. KENNEDY. Mr. President, I move to table the amendment of the Senator from Oklahoma and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Furthermore, I ask unanimous consent that the time for the vote be charged equally to the Senator from Virginia and the Senator from Massachusetts.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The question is on agreeing to the motion of the Senator from Massachusetts to lay on the table the amendment of the Senator from Oklahoma. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Montana (Mr. HATFIELD), and the Senator from Kentucky (Mr. HUDDLESTON) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 63, nays 31, as follows:

[Rollcall Vote No. 347 Leg.]

YEAS—63

Abourezk	Hart	Muskie
Anderson	Haskell	Nelson
Bayh	Hatfield, Mark O.	Pearson
Bentsen	Hathaway	Pell
Biden	Heinz	Percy
Brooke	Hollings	Proxmire
Bumpers	Humphrey	Randolph
Burdick	Inouye	Ribicoff
Byrd, Robert C.	Jackson	Riegle
Case	Javits	Roth
Chiles	Kennedy	Sarbanes
Church	Leahy	Sasser
Clark	Long	Sparkman
Cranston	Magnuson	Stafford
Culver	Mathias	Stevenson
Danforth	Matsunaga	Stone
Durkin	McGovern	Talmadge
Eagleton	McIntyre	Thurmond
Ford	Melcher	Williams
Glenn	Metzenbaum	Zorinsky
Gravel	Moynihan	
Griffin		

NAYS—31

Allen	Domenici	Nunn
Baker	Garn	Packwood
Bartlett	Hansen	Schmitt
Bellmon	Hatch	Schweiker
Byrd, Harry F., Jr.	Hayakawa	Scott
Cannon	Helms	Stennis
Chafee	Hodges	Stevens
Curtis	Laxalt	Tower
DeConcini	Lugar	Wallop
Dole	McClure	Weicker
	Morgan	

NOT VOTING—6

Eastland	Huddleston
Goldwater	Johnston
Hatfield, Paul G.	Young

So the motion to lay on the table UP amendment No. 1710 was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. EAGLETON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. SCOTT. Mr. President, I yield 5 minutes to the Senator from Utah (Mr. HATCH) to make a point of order.

Mr. KENNEDY. Before the Senator does that, I yield 10 seconds for a unanimous-consent request.

Mr. CHILES. Mr. President, I ask unanimous consent that Russell King of

Senator TALMADGE's staff be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. I make the same request in behalf of Frankie Sue Del Pappa.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. And for Janet Harrell of Senator HASKELL's staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Utah is recognized for 5 minutes.

Mr. HATCH. I yield for a unanimous-consent request to the Senator from Maryland.

Mr. MATHIAS. Mr. President, I ask unanimous consent that Riley Temple of my staff have the privilege of the floor during the remainder of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. The same request for Miss Nancy Barrow of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. I ask unanimous consent that Mike Copps of my staff be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I rise to make the point of order that House Joint Resolution 554, the pending joint resolution, is not in order in that it violates article V of the Constitution by specifying a method for adoption by the States without providing, in accordance with the last proviso of article V, that each of the 50 States must consent to the proposed amendment because the proposed amendment would affect the equal suffrage of each State in the U.S. Senate.

In other words, by bringing in a non-State and giving it two Senators, the express language of article V is violated.

We passed out a sheet to everybody expressing exactly what this point of order says. It is underlined in red at the bottom of article V. That proviso says:

> No State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

I have been making the point that the problem with this resolution is that it is constitutionally defective, because what it is trying to do is create a quasi-State out of a city, out of a District, or a political subdivision contrary to the Constitution. In order to do that under article V you have to have the consent of the States, not only 38 States ratifying but the consent to dilute their suffrage, their equal suffrage, State equal suffrage, if you will, from all 50.

(Mr. ANDERSON assumed the chair.)

Mr. HATCH. In other words, this joint resolution would allow a city or a political subdivision not a State to have a new class of suffrage which, by necessity, deprives the 50 States of the "equal suffrage" granted by the express language of article V above. Under the precedents, I might say that the constitutional points of order must be submitted to the Senate, and they are debatable.

The point I am making is that here we have a quasi-State being created, and before you can dilute Maryland or New York or California or Alaska or Utah or Georgia or any other State—before you dilute their equal rights of suffrage—you are going to have to have the consent of all 50 States. That is what the Founding Fathers set this up for, that States have Senators because of diversity of politics, diversity of geography, diversity of the cities, towns and counties, diversity of beliefs, and, of course, diversity of manufacturing, agriculture, mining, and so forth.

This is no small matter. It is one of the most important and momentous constitutional decisions any of us can make. If we deny the express language of the Constitution here today, I think we will find that the Supreme Court of the United States will call this unconstitutional anyway.

I do not see how any sitting U.S. Senator can ignore the express language in article V when it says, "no State, without its Consent, shall be deprived of its equal Suffrage in the Senate."

Mr. President, I reserve the remainder of my time.

Mr. President——

The PRESIDING OFFICER. The Senator's point of order will not lie until the time on the joint resolution has expired at 6 p.m.

The Senator from Massachusetts.

Mr. HATCH. If the Senator from Massachusetts will yield, I want to ask for the yeas and nays on my point of order.

The PRESIDING OFFICER. The point of order does not lie until the end of the time. It would take unanimous consent to order the yeas and nays.

Mr. KENNEDY. I reserve the right to object and also hope the Senator will include in his unanimous-consent request, unanimous consent to permit the yeas and nays for a tabling motion and that it be in order at the present time.

Mr. HATCH. I ask unanimous consent to ask for the yeas and nays and unanimous consent that the Senator from Massachusetts can move to table my point of order, which is a constitutional point of order under the rules.

Mr. SCOTT. Mr. President, reserving the right to object, if the vote could come after 6 o'clock, I have no objection, but I am constrained to object unless that is included in the unanimous-consent request.

Mr. HATCH. I do not care when the vote comes as long as it comes before the final vote on the joint resolution.

The PRESIDING OFFICER. The point of order will not lie until 6 p.m. and the vote will not occur until such time.

Several Senators addreseed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself 1 minute.

The point the Senator from Utah makes is basically a conflict in logic. What he is saying is that the amendment is unconstitutional, when actually what we are considering is a constitutional amendment. It fails in terms of the logic. How can a constitutional amendment be unconstitutional?

But in any event, the amendment does not violate article V. The Senator's point of order has been raised occasionally, bu it has been rejected by virtually all con stitutional lawyers. For example, Prof Charles Alan Wright, from the State o Texas, testified explicitly at the hearing that article V is not violated by thi amendment. If you follow the logic of th Senator's argument, going back to th Thirteen Original States with 26 Sen ators, every time we added an additions State to the Union, we diluted th suffrage of the older States and violate that particular provision. Clearly w have not.

We have expanded the Senate to 10 Members from the 50 States. If this ob jection did not lie for the expansion o the Senate since the time of the origina 13 States, it must fail at the presen time.

Article V means only that States are t be treated on equal terms in the Senat It was a result of the big State-sma State compromise at the Constitution Convention in 1787. The House of Rep resentatives was to be based on popu lation, and the Senate was to represen the States. Article V was included to pre vent the Senate from being shifted to population basis of representation.

Now, Mr. President, I move to tab the Senator's point of order and ask fo the yeas and nays.

The PRESIDING OFFICER. Th point of order is not in order until o'clock and, therefore, the motion t table is not in order until the point o order is made.

Mr. HATCH. A parliamentary inquir Mr. President.

The PRESIDING OFFICER. The Sen ator will state it.

Mr. HATCH. Has the Chair ruled tha the yeas and nays have been ordered o the point of order and the motion t table by the distinguished Senator fro Massachusetts?

The PRESIDING OFFICER. No.

Mr. HATCH. I ask unanimous conse that it be in order to order the yeas an nays on my point of order and on th motion to table.

The PRESIDING OFFICER. Is the objection?

SEVERAL SENATORS. Objection.

The PRESIDING OFFICER. Wh yields time?

Mr. HATCH. A parliamentary inquir

The PRESIDING OFFICER. Wh yields time?

Mr. KENNEDY. I yield 15 seconds.

Mr. HATCH. When can I request th yeas and nays? At 6 o'clock?

The PRESIDING OFFICER. When th point of order is submitted.

Mr. HATCH. How will the point o order be submitted?

The PRESIDING OFFICER. By th Presiding Officer.

Mr. HATCH. Have I not submitted th point of order at this time?

The PRESIDING OFFICER. The poi of order cannot be made until 6 o'cloc

Mr. HATCH. In other words, I ca order the yeas and nays at 6 o'clock?

The PRESIDING OFFICER. That correct.

SEVERAL SENATORS. A parliamentary in quiry, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. I yield time to myself.

Mr. METZENBAUM. I ask if the Senator from Massachusetts will yield to me.

Mr. KENNEDY. I yield 15 seconds.

Mr. METZENBAUM. I ask whether or not we can have a rollcall vote on a parliamentary inquiry until such time as the Chair has ruled.

The PRESIDING OFFICER. The rollcall vote will be on the point of order submitted to the Senate. Who yields time?

Mr. KENNEDY. I yield to the Senator from South Dakota.

The PRESIDING OFFICER. May we have order in the Chamber?

Mr. McGOVERN. Mr. President, I want to just take a couple of minutes to express my personal appreciation to Senator KENNEDY, Congressman FAUNTROY, and all the others who have led this fight for full representation for the people of the District of Columbia.

Second, as one who has been privileged to live in this city, the site of our National Capital, during most of the last 22 years, I want to express my appreciation to the people of the District of Columbia.

There have been some unflattering comments during the debate here on the Senate floor.

Mr. KENNEDY. Mr. President, may we have order?

The PRESIDING OFFICER. May we have order in the Chamber?

Mr. McGOVERN. One of the Senators has referred several times to a Washington columnist who described the District of Columbia as an enclave surrounded on four sides by reality. But I know that the columnist, who takes pride in his own, continues to live in Washington and to enjoy its cultural, political, and economic assets.

I think it is the most inspiring and one of the most diverse, if not the most beautiful, of all of our major cities.

I might just add on a personal note, Mr. President, its people exercised unusually good political judgment, even in the dark days of the 1972 Presidential contest when most of the rest of the Nation was confused. The District of Columbia and the Commonwealth of Massachusetts stood out as two shining pillars of wisdom and foresight, which has been fully vindicated by history. [Laughter.]

On that basis alone, the voters of the District of Columbia are entitled to full representation in this body. [Laughter.]

Mr. President, may I have one additional moment to make a more serious point?

Mr. KENNEDY. I yield 30 seconds.

The PRESIDING OFFICER. May we have order?

Mr. McGOVERN. The transcendent issue, to me, in this entire debate, Mr. President, is whether or not we are going to be faithful to the rallying cry with which this country began, "No taxation without representation." We know that the people of the District of Columbia pay taxes, they have offered their sons in time of war, they have supported the Nation. They are entitled to full representation in the Congress of the United States.

I thank the Senator from Massachusetts for yielding time.

The PRESIDING OFFICER. Who yields time?

Mr. SCOTT. Mr. President, I yield 3 minutes to the distinguished Senator from North Carolina (Mr. MORGAN).

Mr. MORGAN. Mr. President, I agree fully that the residents of the District of Columbia are entitled to representation, but I do no agree that the residents of a district that is composed entirely of one medium-sized city are entitled to two representatives in the U.S. Senate.

I cosponsored with Senator McCLURE this morning an amendment which would have given the District full representation in the House of Representatives and allowed its residents to vote in the Maryland election for the Senate, as they did during the first decade of the District's existence—as I think they really have the legal right to do today, because when a State cedes property to the Federal Government, it cedes police power but does not cede other political power. Residents have that right.

I am for that kind of representation, but I do not believe that two Senators who would represent no farmers, no rural citizens, no manufacturing, no heavy industry, no mining, should be in the Senate. I think it will destroy or do damage to our Federal system.

Mr. President, this is not a new question. Shortly after the right to vote was taken away from the District, in about 1800, a similar amendment to the one that may be adopted today came up in 1801. It was raised again in 1803. It was raised in the 1880's. It is not a new question.

The PRESIDING OFFICER. May we have order?

The Senator from North Carolina may proceed.

Mr. MORGAN. Mr. President, I say that I think the distinguished Senator from Massachusetts, when he said in his opening statement that some of us would oppose this amendment because the Senators would be either too liberal or too black, did an injustice to those of us who are opposing it. For 175 years, this amendment was not adopted and the District was not predominantly black until the 1960's and it will not be predominantly black in 10 years. I think this amendment does harm to our constitutional system.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Who yields time?

UP AMENDMENT NO. 1711

(Purpose: To Elect House Members from the District and for Senators, the District residents shall vote as if residents of Maryland)

Mr. MELCHER. Mr. President, I yield such time as I may consume. I have an amendment at the desk, Mr. President, I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) for himself and Mr. MORGAN, proposes unprinted amendment No. 1711.

Mr. MELCHER. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within nine years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. For purposes of representation in the House of Representatives, the District constituting the seat of government of the United States shall be treated as though it were a State. For purposes of representation in the Senate, the District constituting the seat of the government of the United States shall be treated as though it were part of the State of Maryland. For the purposes of ratification and initiation of constitutional amendments, the District constituting the seat of the government of the United States shall be treated as though it were a State.

"SEC. 2. The exercise of the rights and powers conferred under this article shall be by the people of the District constituting the seat of government, and as shall be provided by the Congress.

"SEC. 3. The twenty-third article of amendment to the Constitution of the United States is amended by striking out ', but in no event more than the least populous State'.

"SEC. 4. The Congress shall have power to enforce this article by appropriate legislation.

"SEC. 5. The Governor of the State of Maryland shall consult with the District government prior to either implementing changes in the law governing the election of Senators, or making a temporary appointment to fill a vacancy in Maryland's representation in the Senate.

"SEC. 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within nine years from the date of its submission.".

Mr. MELCHER. Mr. President, this is a very similar amendment to the amendment I offered on Thursday. It follows the same basic rules that I espoused then, which has long been my feeling toward the residents of the District of Columbia.

I have always supported voting rights for the District and I voted for a constitutional amendment, while a Member of the House in the last Congress, very similar to this one.

There is no question in my mind that it is very easy to allow the District to have two House Members. It fits in, fits in with everything we conceive in our bicameral government. It is right. It is absolutely right. I view the Constitution in this regard to have been flawed, to have been in error during all of these years. So I would preserve—not preserve, I would give back to the District what is theirs, what should always have been theirs—the right to vote.

But when we come to the question of the Senate——

Mr. STENNIS. Mr. President, may we have order so we may hear?

The PRESIDING OFFICER. Let us have order.

Mr. MELCHER. But when we come to the Senate, Mr. President and my colleagues, it is a different situation to say that the District of Columbia is the same as a State. It flies in the face of Jefferson's words when he said a State has both expansiveness and diversity. Those very words are the background of what we have heard so often in the past few days on how a State is interested in various industries—whether it is mining or agriculture or timber products or what-have-you. That is the diversity of a State. The Senate is different in representation because of that diversity, to give the opportunity to have a balance. No words here in the Senate, no words here in Washington, are going to change the fact that the District is not, in any sense of the word, comparable to a State in diversity.

I have sympathy with the argument that the District has been wronged. I have sympathy with the argument that the District has provided more than their share of lives lost in Vietnam. But our job here is to be fair to the District and to the States.

I note that the editorial in the Washington Post is highly in favor of the resolution and immediate adoption by two-thirds vote of the Senate of this constitutional amendment. It does not see the issue in the proper light, it only discusses the issue in terms of people having a right to vote. On that point, I agree and I have long agreed. My amendment, similar to the amendment that I had on Thursday, would give to the District that right, the right to elect their own House Members—two, just as many as in my State and the right to vote in Maryland as if they were residents of Maryland, for their Senators.

The Senators from Maryland, speaking for their constituents, say, "Hold on; we don't know about that. That is a different thing."

But it was not a different thing for the residents of the District on this side of the Potomac prior to the year 1800, when they did vote in Maryland. And if the constitutional error had not been made, if that wrong had not been done in the Constitution, it is exactly the way the residents of the District would be today. I cannot see anything wrong with that concept, but I do understand it is something less than having two Senators from the District. In my view, to correct a wrong does not mean you have to add two Senators for a small area, contrary to all of the rest of the 50 States, which are States.

I would preserve, Mr. President, that part that Jefferson spoke so well. I do not believe this is necessarily a political argument. I do not see this resolution, if two-thirds of the Senate approve it tonight, when it is faced by each State legislature, that they will view it as a Republican issue or Democratic issue; I do not see that.

I think they will look at it in respect to their State and what it does to them.

If the argument is made that those two Senators may cancel out the two Senate votes we have in the Senate from our State, it is a rather compelling argument to say "no."

I say to the Senate tonight, having long wanted to right this wrong in the Constitution, I encourage Senators, not only on the merits of my amendment, but for the sake of the District people themselves, to support it. Under the terms of the resolution, if it is not approved by the necessary 38 States within 7 years, it is done. It is over with. And if it is not approved, the District is still without representation, in the House or in the Senate.

On the other hand, if my amendment is accepted, it will easily pass the two-thirds vote and, in my judgment, would rapidly be ratified by almost every State. So the District then would have their proper representation.

Mr. President, I withdraw my amendment.

I do so because I do not want to take up any time for voting now. But I inform the Members of the Senate I will call for a vote at the proper time, at 6 o'clock.

Mr. McCLURE. Will the Senator yield?

The PRESIDING OFFICER. Who yields time?

Mr. MELCHER. I yield 30 seconds.

Mr. McCLURE. I thank the Senator for yielding.

Mr. President, I rise in strong support of the amendment which the Senator from Montana has offered. I think it would accomplish the objectives which I have at various times tried to reach on this matter on this floor. I hope other Members will give it serious consideration. I hope it will pass.

The PRESIDING OFFICER. Who yields time?

May we have order?

Mr. GRAVEL. Will the Senator yield?

Mr. KENNEDY. I yield 4 minutes to the Senator from Alaska.

Mr. GRAVEL. Mr. President, many years ago I came out very clearly in support of——

Mr. KENNEDY. Mr. President, the Senate is still not in order.

The PRESIDING OFFICER. May we have order?

The Senator from Alaska.

Mr. GRAVEL. Mr. President, I had come out very much in support of voting rights for the District of Columbia population.

In the last few weeks, starting last week, I had some serious second thoughts about that subject, and I still do. For that reason, I have asked for some time so that I might express those second thoughts and the reasons behind them.

I want to really put one thing aside. There is no question in my mind that the most important thing of all is representation for the Americans who live in the District. Representation equal to anybody else in the United States.

When I say that, I put aside the argument which affects my State, that it is likely the individuals that would be elected to the Senate would be voting against the Alaskan position on d-2 land, would be voting against strong views I hold with respect to oil and energy, with respect to minerals and land.

I also think of a secondary consideration which is the bias that these two people will have toward the implementation of more government rather than more implementation through the private sector.

I think both of those arguments are very strong ones and very persuasive arguments, and in some degree, may operate against my own State's interest.

But let me say very clearly that the most important thing under our system is the equal right of representation. That is what our system is all about. So, if that is not preeminent, then there exist some serious flaws.

So, where did my doubts come in? I question the method of arriving at this kind of representation. I think the way to do it is not the way we are doing it. I think the way to do it is through retrocession.

I think what is going to happen by passing this is that we are going to see very serious destabilization take place throughout the Nation, because in the next 7 years people are going to have to go from State to State and fight this issue, and, unfortunately, it may not be handled as sophisticatedly as it has been handled here by the leadership on both sides of this issue in the Senate.

So I think this will have somewhat of an unfortunate, negative effect in the Nation.

I have a fear this may sap the strength of the civil rights movement because I do not think this is the most important thing the civil rights movement can do in this country.

I think the most important thing they can do is raise the economic stakes for their minorities because the numbers are there, rather than the numbers here in the District.

The PRESIDING OFFICER. The time has expired.

Mr. GRAVEL. Would the Senator yield me an additional 2 minutes, please?

Mr. KENNEDY. Two minutes.

The PRESIDING OFFICER. The Senator from Alaska is recognized for 2 minutes.

Mr GRAVEL. The problem is, how do we get to retrocession?

If this amendment was defeated, we could turn around and put in a bill. Bills do not pass this body unless they have constituencies, and the tragedy with respect to retrocession is that there is no constituency for it today, but there is tactical convenience. But no constituency.

Maryland does not want it and the District does not want it. The leadership of the District is bent upon possible membership in this body.

Certainly, I would not fault them, they express the same emotion I have expressed time and time again.

So, without a constituency, if this amendment were to fail, there is no way we can get to retrocession in a reasonable fashion except to go through the period of 7 years, or how long it takes until the people of the District were

to succeed under this particular vehicle or fail and retreat back to what would be a more normal approach, because, quite obviously, being a part of Maryland where they could vote for State senators, vote for State representatives, vote for Governor, vote for Senators, vote for Congressmen, is a lot more normal than the abnormality that will be created in this regard.

But I think the case that these people are entitled to the same rights as any other human beings in the United States, and that is representation, which is the touchstone of our society, is overshadowing in all this.

For that reason, and the thoughts I have had, the difficulty I had wrestling with the issue, I come down with what I consider an imperfect decision, but a decision nevertheless, to vote for D.C. representation.

Mr. BIDEN. Will the Senator from Massachusetts yield me 60 seconds?

Mr. KENNEDY. How much time remains, Mr. President?

The PRESIDING OFFICER. May we have order?

The Senator from Massachusetts has 9 minutes. The Senator from Virginia has 14.

The Senator from Delaware.

Mr. BIDEN. Mr. President, I agree with the bottom line of the Senator from Alaska. I think his logic is very valid. I do not understand the logic of some who have spoken here today. I understand the political logic of the Senator from Montana, but I do not understand the constitutional logic.

We are all saying, "Taxation without representation is not warranted."

Well, it seems to me the way to say that is, "Taxation without full representation."

It seems to me there is only one of two ways we can go. We can either say the District has no representation in either House, because unless they have it in both Houses they do not have full representation. We either say they have it in neither House or they have it in both Houses.

I do not quite understand those who stand up and offer amendments and say they want them represented in the House but not in the Senate, so they can be represented in the Congress, because there is no logic in that.

Mr. President, I yield the rest of any time I have.

The PRESIDING OFFICER. Who yields time?

Mr. RANDOLPH. Will the Senator yield?

Mr. KENNEDY. I yield 30 seconds to the Senator from West Virginia.

Mr. RANDOLPH. I will need 1 minute.

Mr. KENNEDY. One minute for Fayette County and Logan County.

Mr. RANDOLPH. And Randolph County, too.

Mr. KENNEDY. And for Randolph County.

Mr. RANDOLPH. Mr. President, I will vote for the resolution to submit to the States the opportunity of approving or disapproving full congressional representation for the citizens of the District of Columbia.

This is a procedure which gives to the States, through their elected representatives, the responsibility to decide constitutional changes. It is a procedure in the best tradition of our democratic system.

I authored constitutional amendment No. 26 for 18-year-old voting. It was passed by Congress. It was ratified by the States more quickly than any other constitutional amendment—only 90 days.

District of Columbia representation, in my judgment, is a very similar issue. We are attempting to provide a body of citizens with the right of franchise.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield to my colleague from Massachusetts 1½ minutes.

Mr. BROOKE. Mr. President, my enthusiastic endorsement of House Joint Resolution 554 is based primarily on fundamental concepts of liberty and justice, but my support and interest are also intensely personal, for my roots are in Washington, D.C.

I was born and raised here. I attended and graduated from Shaw Junior High School, Dunbar High School, and Howard University. For as long as I can remember, I have fought, along with family and friends and colleagues, to attain the goal of providing for the citizens of the District of Columbia the same rights and privileges that older citizens throughout the Nation have enjoyed.

Mr. President, there is no self-government in the power to tax one, to imprison one, and to send one to war is not in one's self, but in those to whom one has voluntarily confided as one's representative.

Those statements were made back in 1916, and here we are in 1978 still trying to give this basic right of representation to the people of the District of Columbia.

I hope and pray that my colleagues will go along with this and pass this measure by an overwhelming vote and give the citizens of the District of Columbia a right they have so long been denied.

Mr. SCOTT. I yield myself 5 minutes.

Mr. President, I will sum up my opposition to the resolution.

Ours is a Federal Government, a union of States, one of dual sovereignty. The Senate is composed of two Senators from each of the 50 States. The District of Columbia was constituted the Federal city, neutral territory, a place where Congress could legislate in the national interest, free of pressure, free of local intrigue or local politics.

Washington is a city, not a State. Its principal business is government. It has no farming; it has no mining; it has little, if any, manufacturing. It has few of the diversified interests that the States have.

If the city of Washington is given two Senators, the local media will work in tandem with those two Senators to further the interests of government, the only major industry in the city.

The city of Washington is unique, being an area ceded by sovereign States as a Federal city.

We are not a national Government, although each year we appear to be reducing the rights of the States and becoming more centralized. This is merely another step in that direction.

The measure before us has not been considered by the Senate Judiciary Committee. We have a House resolution before us. Hearings were held by a subcommittee, but action by the committee was short-circuited by bringing up the House bill during the absence from the country of the chairman of the Senate Judiciary Committee.

All amendments we have offered to the proposal, those which would have provided voting rights for the people of the District through retrocession, even technical perfecting amendments, have been tabled.

Providing Senate representation to a city, to any political entity other than a State, sets a bad precedent. Puerto Rico has more than 3 million people; the District of Columbia has less than 700,000. Will Puerto Rico be the next area under consideration for two Members of the Senate? Will Guam be next? Will the Virgin Islands be next?

Mr. President, I feel very strongly that we should reflect upon the effect that this will have upon our own States, upon our representation of those States. We should consider whether or not it is in the national interest as well as in the interests of the people of the District of Columbia.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. GRIFFIN. Mr. President, will the Senator from Massachusetts yield?

Mr. KENNEDY. How much time remains, Mr. President?

The PRESIDING OFFICER. The Senator from Montana has 9 minutes, and the Senator from Virginia has 11 minutes. The Senator from Massachusetts has 5 minutes.

Mr. KENNEDY. I yield 30 seconds.

Mr. GRIFFIN. Mr. President, taxation with representation is bad enough. But taxation without representation is a disgrace—particularly in the Nation's Capital.

For nearly 180 years, the District of Columbia has been a Federal enclave. It never was meant to be—and should cease to be—a Federal fiefdom.

This once-tiny settlement in the Potomac swamps has grown as the Founding Fathers never could have imagined. By 1970, the population of the District of Columbia was three-quarters of a million people—greater than that of 10 States. Among them, those States are represented in Congress by a total of 34 Senators and Representatives; the District of Columbia has none, even though some 150 proposals to change that have been introduced in Congress during the last 90 years.

Numerous press accounts in recent months have recited that the issue of full D.C. representation in Congress was never put to a vote in either House until 1976. That is not quite true.

On March 10, 1971, during Senate consideration of the constitutional proposal to lower the voting age to 18, Senator KENNEDY offered an amendment that would have extended full voting representation to the District of Columbia.

That proposal was tabled on a vote of 68 to 23. I was one of those in the minority that day.

Only since 1961 have D.C. residents been able to vote for President; only since 1971 have they had a nonvoting delegate to the House of Representatives; only since 1975 (after a hiatus of more than a century) have they been able to elect their mayor and city council.

In only one other country in the world—Brazil—are residents of the capital city denied representation in their national legislature.

Even though residents of Washington are denied the privileges of citizenship, it is noteworthy that they are more than meeting the obligations of citizenship.

District of Columbia residents pay more than $1 billion a year in Federal taxes—which is more than paid by 11 States; last year, per capita taxation in Washington was $491 more than the national average—which is a heavier individual tax burden than all but one State, Alaska.

During the unpopular Vietnam war, 237 D.C. residents gave their lives in the service of their country—a grim total that was higher than casualty figures for 10 States and was fourth-highest per capita of any jurisdiction in the Nation.

I submit, Mr. President, that it is a dark shadow on the citadel of democracy for the United States to tax any of its citizens, or send any of its sons off to war, without giving them a voice in shaping the policies that affect them.

As I listened to the eloquent remarks of our esteemed colleague from Massachusetts (Mr. BROOKE), I was struck by the poignant irony of his presence among us.

Senator BROOKE was born and raised in Washington, D.C.; he attended Howard University, not far from this Capitol. Yet, had he continued to make his home in the District of Columbia, he could not have been a U.S. Senator—and this Nation would have been deprived of his distinguished, dedicated service during the past 12 years.

It was one of Senator BROOKE's predecessors from Massachusetts—the great Daniel Webster—who summed up the mission of America in a speech more than 150 years ago: "One country, one constitution, one destiny."

Mr. President, if we are to fulfill that mission as a united people, we can no longer keep the residents of the District of Columbia in subjugation as second-class citizens. It is time they joined the rest of us as full citizens of the United States and as full partners in the pursuit of our common destiny.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield 2 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I support the amendment. In the first place, I think it is a fair thing to do. We are advocating one-man, one-vote. We are advocating democratic processes in this country.

We have more than 700,000 people in the District of Columbia who do not have voting representation. I think it is nothing but right that we allow these people that representation.

We are advocating democratic processes all over the world. We are holding ourselves up as the exemplary Nation that others may emulate in ideas of democracy. How can we do that when three-quarters of a million people are not allowed to have voting representation in the capital city of this Nation?

If we propose this amendment, and that is what we are doing, it still has to be ratified by the States. If the people in the States do not like the amendment, they will not ratify it. If they do like the amendment, they will ratify it. If they do ratify it, then that is what the people want. So we will leave it to the States, after we act here. The States will have the power to make the final decision.

I hope the amendment is passed.

The PRESIDING OFFICER. Who yields time?

Mr. SCOTT. Mr. President, I yield 3 minutes to the distinguished Senator from Mississippi (Mr. STENNIS).

The PRESIDING OFFICER. The Senate will be in order.

Mr. STENNIS. Mr. President, I want to call the attention of the Senate to the matter raised here by Senator HATCH, which I think may come up in the way of a point of order, and refer to article V of our Constitution.

We have heard talk here about representation and equal representation and the right to representation. Those things are fundamental and very good, but the question is, how, under our present Constitution?

It is clear from the framework of the entire Constitution that representation in this body comes by being a State and comes by that method alone. Nothing else is contemplated. Nothing else, so far as I know, ever has been proposed. It takes a State to be the vehicle to bring two Senators in here.

That is the whole plan, and that matter is clearly nailed down here in article V of the original Constitution. When this whole matter held up the Constitutional Convention for days and weeks and the Constitutional Convention was almost a collapse this method was worked out that States would have representation in this body. States, nothing else. Nothing else is mentioned or contemplated, and that representation would be two to each State and it would never be changed without the consent of that State.

It is true we have admitted other States here in our decades, and they came in with representation. This time you are not admitting a State. You are not proposing a State. There is no State. All there is in this resolution is nonState, or a Not-State, n-o-t. There is no actual State in it.

How in the world, even by this proposal, could you create here an imaginary something and give it two Senators and bring them in here with a membership that dilutes and changes voting strength as well as the nature of this constitutional body, the U.S. Senate? And I hope that point of order will be sustained.

I thank the Senator from Virginia.

The PRESIDING OFFICER. Who yields time?

The Senator from Montana.

Mr. MELCHER. Mr. President, we have long established, I hope, that the overwhelming majority of this Senate believes in representative government and believes that it belongs to the District. I do not think that is the question that is being argued. As I understand the debate, and it is positively my side of the argument, the question is, does the District get two Senators? No other city in the United States has been granted that. But is the situation here so unique that this is the only resolution of the problem? I do not believe so.

If we remember that the residents who lived here on this side of the Potomac before 1800 voted in Maryland, and if Senators agree with me and I hope a vast majority of them will agree with me the Constitution was wrong in prohibiting voting rights for residents of the District. If Senators believe with me on that, then I ask them to pay attention to my amendment, because it will correct it. It will correct it just as other cities and other States get their representation through their Senators elected in that State. It will not turn back the property. Maybe retrocession should be accomplished sometime. I do not know. But it is not here now. I am talking about retrocession of the land. I am talking about having the privilege of voting for Senators in the State of Maryland just as the residents who were here prior to 1800 had that same opportunity of senatorial representation then.

Mr. President, this is a symbolic vote as I take it it is being interpreted. Let it be dealt with on the basis of the merits and on the basis of complete fairness for this institution, this Senate, and all the 50 States, including the people in the District of Columbia.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SCOTT. Mr. President, I yield 5 minutes to the Senator from Idaho (Mr. McCLURE).

The PRESIDING OFFICER. May we have order?

The Senator from Idaho.

Mr. McCLURE. Mr. President, I thank the Senator for yielding his time to me and I am grateful for the opportunity to present at least a portion of the case to more Members than have attended a most of the debate during the course of the debate on this issue.

Mr. President, the Senator from Montana is exactly right. There is no justice in creating in the District a status that is inferior to all of the other States. The citizens of the District under this proposal will not have their full civil rights. They will have a part of it. At the same time they will be given two Senators without being a State, which is a different right than the citizens of any other city in the United States enjoy.

Mr. President, it was not the Constitution of the United States that deprived the people of the District of Columbia the right to vote in the State of Maryland. That was done by statute. For sev-

eral years, after the District was formed and ceded by the State of Maryland to this Federal Government, the residents of the District both in Virginia and in Maryland continued to vote in their respective States.

That right to vote was taken away as a matter of a statutory enactment.

The only reason that it is not possible to give them that right by statutory enactment that they exercised until the early 1900's is because the people of Maryland do not want them to have the right to vote in Maryland. They do not want them to have the right to vote for Senators in Maryland. They do not want them to have the right to vote for a Governor in Maryland. We can right that historic injustice without creating another injustice by adopting the amendment of the Senator from Montana, which I hope we will do.

The PRESIDING OFFICER. Who yields time?

Mr. SCOTT. Mr. President, I yield 2 minutes to the distinguished Senator from Utah (Mr. HATCH).

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, as I said earlier in the debate, I intend to raise a point of order at the expiration of the time, and I expect to be recognized and ask for the yeas and nays thereon.

The point of order is that article V of the Constitution says that no State without its consent shall be deprived of its equal suffrage in the Senate. In other words, the Founding Fathers and those who formed this Government literally when they started did not want the States to be diluted by larger States.

As a matter of fact, what we are saying here is that although we can add States which themselves will have two Senators and do it properly and constitutionally, that does not dilute or diminish or deprive equal suffrage in the Senate.

But if, as here we have a quasi-State, a city, if you will, a political entity, that is not a State and clearly not a State, and we give them two Senators, that does dilute, that does diminish, that does deprive the States of equal suffrage in the Senate in violation of the Constitution.

There are no precedents on this. The only precedent there is the Constitution and the language is explicit. I do not see how we can ignore the language.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HATCH. I thank the Senator from Virginia.

The PRESIDING OFFICER. Who yields time?

Mr. SCOTT. Mr. President, if we look at article I of the Constitution we find that the Senate of the United States shall be composed of two Senators from each State chosen by the legislatures thereof.

Then we turn to the 17th amendment, and we find the same language except "elected by the people thereof for 6 years, and each Senator shall have one vote."

But if we look at article II, section 8, we find that—

> Congress shall have power to exercise exclusive legislation in all cases whatsoever over such district not exceeding ten miles square as may by cession of particular States and acceptance by Congress become the seat of government of the United States.

That is the purpose of the District of Columbia, the seat of Government of the United States. We are a Federal Union, with the seat of Government in Washington, D.C. That is the way, in my judgment, the Founding Fathers wanted it. That was what Madison said in No. 3 of the Federalist Papers. That is the way, in my judgment, which has proven wise over the years, and should not be changed today.

The PRESIDING OFFICER. Who yields time?

Mr. MELCHER. I yield 3 minutes to the Senator from Massachusetts.

Mr. KENNEDY. I yield a minute to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, in one minute I can tell you this issue was addressed in Kansas City, Mo., in 1976 in the Republican platform. It is right there. It says:

> We support giving the District of Columbia voting representation in the U.S. Senate and House of Representatives.

That is the Republican platform. We fought over it, we traveled across the country saying, "Look at our platform." Our leaders said, "Look at the platform," and pointed to it with pride as an excellent expression of Republican ideals and principles.

The time has come for action, and if this platform means anything it means the Republican Party supports this resolution.

Mr. President, on Saturday I announced my support for House Joint Resolution 554 at a meeting with D.C. Republican leaders who support voting representation for the District. There are convincing reasons to support this measure which compel me to vote "yes." The absence of voting representation for the District in Congress is an anomaly which the Senate can no longer sanction. It is an unjustifiable gap in our scheme of representative government—a gap which we can fill this afternoon by passing this resolution.

Many of my distinguished colleagues have raised important issues regarding the nature of our Federal Republic and the representation of States in the U.S. Senate. I appreciate having the benefit of their discussion. However, it is my view that we can recognize the District as a State for purposes of representation without damaging the fabric or structure of our democracy. In fact, granting effective representation to three-quarter million people will strengthen our system of democracy by extending the benefits of representation and by giving residents of the District a stake in our system of legislative participation.

It seems clear that the framers of the Constitution did not intend to disenfranchise a significant number of Americans by establishing a Federal District. I believe that the framers would have found the current situation offensive to their notions of fairness and participatory government.

REPUBLICAN PLATFORM—1976

Two years ago the Republican Party took a clear and unequivocal stand in favor of D.C. voting representation. The 1976 platform states:

> We support giving the District of Columbia voting representation in the U.S. Senate and House of Representatives. . . .

As delegate, platform committee member, and temporary chairman of the convention, I helped write that platform. As Vice Presidential nominee, I helped carry its message to the American people.

I consider its principles and policies to be representative of the thinking of Republicans on most issues. Its D.C. plank represented a clear commitment to voters in the District of Columbia—a commitment which I will not lightly cast aside.

Republicans rallied to that platform in great numbers. Our most distinguished leaders enthusiastically adopted it as an excellent expression of Republican principles and ideals. By all accounts, it was a platform that conservatives could be proud of.

I am particularly proud of my party for adopting this plank because the conventional wisdom is that, for the near future, Democrats would be favored to win these new seats.

The Republican Party supported D.C. voting representation because it was just, and in justice we could do nothing else. We supported full rights of citizenship because from the first—from Lincoln forward—we have supported the full rights of citizenship for all Americans.

THE HEALTH OF OUR DEMOCRACY

The health of any democracy depends on a general willingness to put aside narrow partisan concerns in favor of improving the system and extending its benefits to others. Whether we are amending the constitution, regulating elections, or judging Senate election contests, we must place fairness ahead of party. I would hope that Members from both sides of the aisle will do this in the future on other fundamental issues with partisan ramifications.

In addition to narrow partisan concerns, there are other considerations which we must put aside in the face of more important considerations.

Throughout our Nation's history more and more Americans have been enfranchised by the system. As we sought to eliminate economic discrimination, race discrimination, and sex discrimination, we extended the right to vote—to meaningfully participate in congressional elections—to an increasingly larger number of people. First, nonlandowners were given the right to vote during the first half of the last century. Later came former slaves, women, and 18-year-olds.

Today we are being asked to end our discrimination against people who happen to live in the District of Columbia. I realize that some are concerned about diluting the power of their States as a result. But in every instance where more Americans were brought into the electoral system in the past, the segment of our population that had 100 percent of

the voting power was asked to give up some of that power to someone else in the interest of improving our system of democracy. This is no time to reverse that trend—this is no reason to oppose this bill.

THE BURDENS AND BENEFITS OF CITIZENSHIP

The reasons for granting voting representation in Congress are compelling. District residents pay taxes, fight wars, and cope with Federal regulation just as other American. The burdens of citizenship are borne by them just as much as they are by our constituents.

Generally, they also participate in the advantages of citizenship, including the protections of the bill of rights. However, there is something missing, and we are being called upon to rectify that today. In a democracy, nothing is so fundamental as the right to vote and the right to representation, and I see no good reason why that basic principle should not apply to the District as well as to our respective States.

The District of Columbia is not just a plot of land full of big white buildings and people who have come here temporarily to work for the Federal Government. Rather, it is home to almost three-quarters of a million people, who should be granted congressional representation just as the citizens in all of our States are.

I thank the distinguished Senator from Massachusetts.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield a minute to the Senator from Indiana.

Mr. BAYH. Mr. President, it seems to me that the question here is not trees or cows or factories; the question is representation. The question is one of full representation. It gets right down to whether you should have representation in the U.S. Senate or not. And if we believe in full representation we have to understand the unique contribution that the Senate makes in the governmental process.

The PRESIDING OFFICER. May we have order?

Mr. BAYH. The citizens of the District are entitled to be represented when we decide on treaties to determine war and peace; they are entitled to be represented when we fight the great battles, like we did over qualifications of a Supreme Court justice; they are entitled to representation when you try a President for impeachment.

The only way you are going to get that full representation is by giving the District citizens two U.S. Senators. That is why I think we ought to support this measure, because that is the only way you are going to give them full representation. If we are going to do the job, let us go all the way. Let us not go halfway.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, many in this body are sensitive about the pride and traditions of the Senate and its long historical record as an institution in which only States are represented.

I understand that tradition. I have served here for 16 years now, and I yield to no one in my respect for this great body and my pride in its work.

Some of the greatest debates in this Chamber have involved the admission of new Members to this body. There was the Missouri Compromise of 1820, and the Compromise of 1850, which almost succeeded in saving the Union from civil war.

The growing pains of the Nation were clearly reflected in the growing pains of the Senate.

A few steps from here we can see the small restored Chamber in which the early Senate met.

We grew from a body of 26 Senators at the beginning to 100 Senators today.

In a sense, the wheel has come full circle. For decades in the 19th century, the admission of Mountain and Western States to the Union was delayed, because Eastern Senators feared the impact of new voices from the West with a different philosophy. But the Senate was enriched, and our Nation was enriched by the admission of those States.

And now, similar arguments of opposition are heard against the acceptance of the District in the Senate.

But the District has waited longer than any State ever had to wait—100 years since the first such amendment was introduced by Senator Henry Blair of New Hampshire.

We have been an institution with a tradition of representation of States. But that tradition is in obvious conflict with what I think is a higher tradition of our Nation, the right of self-government, the right of representation in our democracy.

Over the years, we have also established another tradition—the tradition of amending the Constitution to enlarge our democracy and broaden the participation of the people in their Government. Six of the last twelve amendments have broadened this right of participation.

The 15th amendment outlawed racial restrictions on the right to vote. The 17th amendment provided for direct popular election of Senators. The 19th amendment was the womens suffrage amendment. The 23d amendment gave the District the right to vote for President. The 24th amendment outlawed the poll tax.

In recent days, we have gone over the case in detail for representation in the House and Senate for the people of the District of Columbia:

They have more people than seven States. They pay more Federal taxes than 11 States. They lost more sons in Vietnam than 10 States. Almost every other foreign democracy gives representation to its capital city in the legislature.

In 1961, we went part way; we gave the District the right to vote for President. Now it is time to do the rest of the job, by giving the people of the District a voice in the Congress.

This issue has come a long way. And it has been a long wait—almost 100 years since the first constitutional amendment was proposed.

At a time when our Nation is speaking out eloquently on human rights around the world, we must also recognize that civil rights and human rights begin
home.

Victor Hugo wrote in 1852:

> Greater than the tread of mighty armies
> an idea whose time has come.

Mr. President, representation in Co
gress for the District of Columbia is
idea whose time has come, and the Se
ate should welcome the representativ
of the District into our Chamber.

Mr. SCOTT. Mr. President, how mu
time remains?

The PRESIDING OFFICER. O
minute.

Mr. SCOTT. I yield 1 minute to the di
tinguished Senator from Texas.

The PRESIDING OFFICER. The Se
ator from Texas.

Mr. TOWER. Mr. President, I have li
tened with great interest to the debe
on House Joint Resolution 554, and
have had a number of conversatio
with individauls, both here and in Tex
who have strong feelings on this issue.
fact, I have been the subject of a go
deal of lobbying on this bill, and wh
I share the genuine concern of tho
who seek to assure full voting particip
tion to citizens of the District of Colu
bia, I am not convinced that the pendi
resolution is a justifiable means of a
complishing that purpose.

In terms of voting representatio
House Joint Resolution 554 confers up
the District a unique sort of "qua
State" status. In my view, this prese
complex challenges to the Constitutio
and directly contravenes the intent
the Founding Fathers in this regard.

A reading of article I of the Constit
tion, under clause 17, section 8, clea
demonstrates the purpose of the frame
in seeking to preserve as a separate Fe
eral enclave that territory housing t
seat of our Nation's Government. In t
section, the Constitution provides for t
establishment of a Federal district o
which "Congress shall have power * *
to exercise exclusive legislation in
cases whatsoever."

By refusing to create a separate a
sovereign State in this instance, t
framers emphasized the need to provi
insulation for the Federal Governme
against the potential conflicts arising o
of local needs and interests. In Federal
No. 43, James Madison discusses "the
dispensable necessity of complete autho
ity at the seat of government" and poi
out that—

> This consideration has the more weight
> the gradual accumulation of public improv
> ments at the stationary residence of the g
> ernment would be both too great a pub
> pledge to be left in the hands of a sin
> state. . . .

The interests of the District of C
lumbia are well represented in the Co
gress by a full committee in the Hou
and a subcommittee here in the Sena
In addition, the citizens of the Distr
elect a nonvoting delegate to the Hou
and he has become a very effective p
ponent of District needs and interests
House committee proceedings and flo
debate.

No other city and, in fact, no oth
State in the Union, is entitled to su
special attention here in Congress, and
is difficult for me to accept proponen

arguments that the District is a stepchild when it comes to Federal legislation. In addition, I think it is well to bear in mind that the District is heavily supported by Federal tax dollars. In fiscal year 1977, for example, the District received a total of $749,740,000 in Federal funds—and this is exclusive of the payments for Metro. I understand that the fiscal year 1979 appropriations for the District of Columbia are well over a billion dollars.

I hardly think that these figures indicate a lack of Federal concern for the District. Only New York City, with its 8 million inhabitants, receives more financial assistance from the Federal Government. Considering the fact that three Texas cities—Houston, Dallas, and San Antonio—are larger than the District, maybe we are the ones getting shortchanged in this deal.

Another problem I have with the pending resolution concerns the position of District residents vis-a-vis citizens of other States in terms of the manner in which they exercise their voting rights. For example, section 1 of the resolution would treat three different voting procedures—that of electing Members of Congress, electing a President and Vice President, and ratifying constitutional amendments—as though they were identical processes. In fact, they are not.

Only Senators and Members of the House are elected by the people directly in the various States. In the case of constitutional amendments, it is the State legislatures who decide whether or not to ratify, but the District, of course, does not have a State legislature, since it is not a State. Therefore, we could have a situation where District citizens could vote directly on ratification—a privilege which no other voter in any of the States would have. On the other hand, you could have the decision made right here in Congress, which is the ultimate "government" for the District. In that case, Congress would have two votes on each proposed amendment; one vote to send the measure to the States, and one for the District.

Just yesterday, my colleague from Idaho, Senator McClure, attempted to amend this resolution to eliminate some of the confusion on this very point. Unfortunately, the amendment was tabled, which simply underscores, in my view, the proponents' unwillingness to accommodate logic and equity in dealing with this issue.

Finally, Mr. President, I must take issue with the idea of giving full representation to a constituency which reflects no other State in terms of diversity of interests, either geographical or economic. There is very little manufacturing here, certainly no great agricultural interests, no vast wilderness to protect and no production of energy resources. What we are talking about here is a one-industry town, and that industry is the Federal Government itself. Nearly 60 percent of the District's population is employed in some Government-related occupation, and I daresay there are a great many others whose livelihoods depend on the Federal community.

It seems to me that what we are doing here is giving the Federal bureaucracy itself voting representation in the Congress. At a time when most Americans decry the size and scope of the Federal Government and its activities, we are seeking to enfranchise those whose interests may be best served by the continued growth of Government.

Mr. President, we will soon be voting on House Joint Resolution 554, and I do not intend to consume a great deal of the Senate's time here. I hope that my colleagues will consider carefully the serious flaws in the pending resolution, and that it will be defeated.

Mr. President, I think the question here is a very fundamental question. It was the intent of the framers of the Constitution that the Senate should be represented by each State equally, because it was the concept that the Senate would represent each State as a corporate entity.

If we adopt this resolution and submit this amendment, and if it is subsequently ratified, it will mean that we have fundamentally altered the nature of the American federation, and we will open the door, in my view, to other types of amendments that will change not only the original intent of the founders but to change the entire character of the Federal Republic.

For that reason, and for that reason if no other, this proposed amendment should be rejected.

The PRESIDING OFFICER. Who yields time?

Mr. MELCHER. Mr. President, I yield myself such time as I may consume, and I will be very brief.

I only take this time now to remind the Members of the Senate that at the appropriate time, following 6 o'clock, I will ask that my amendment, which I have withdrawn, be called up, and that a vote occur immediately, and asking for the yeas and nays at that time.

The arguments of all of the proponents for the constitutional amendment as it is presented to us are compelling and they touch my heart.

But the responsibility of the Senate in a bicameral form of government, the form of government that we have, is to allow a difference in representation for the diversity that we find in a State.

The amendment I offer will provide the opportunity for the residents of the District to vote for their Senators. I would say that no one should interpret the remarks made here as indicating that the Senators from Maryland are incapable of wise, prudent, forceful, and good representation for all of the people in this area, just as they represent Prince Georges County, where I live, and the vast area that surrounds us on this side of the Potomac.

They do a fine job. The area of the District fits within those confines and I hope my amendment will prevail.

● Mr. SCHMITT. Mr. President, I cannot support the constitutional amendment to grant the District of Columbia full voting representation in Congress. Representation in the Congress of the United States is a unique privilege; however, it was clearly the intent of the Founding Fathers, an intent fully supported by history up to this time, that with the privilege of representation must come the responsibilities of statehood.

Article I, section 3 of the Constitution, under which all present States have labored together, reads in part as follows:

> The Senate of the United States shall be composed of two Senators from each *State* (emphasis added).

It does not provide for any exceptions. Specifically, there is no exception for the representation of groups of people except as they are organized into States. The special interests of groups of people are clearly provided by Representatives in the House of Representatives but, again, in a manner dependent on organization as a State. This is provided for in article I, section 2 which reads in part as follows:

> The House of Representatives shall be composed of Members chosen every second Year by the People of the several *States* (emphasis added).

The holding of elections for both Senators and Representatives is the duty and the right of the States. Article I, section 4, clause 1 states:

> The Times, Places and Manner of holding Elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof.

Amendment X states that—

> The powers delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

It is clear that the framers of the Constitution understood rights and duties in terms of States, not individuals.

What we have before us today is clearly contrary to both the intent and the word of the Constitution. It is in no American's long term interest to exaggerate the special privileges of our city any more than is absolutely necessary. Such an action will only create resentments and other pressures from other areas for special treatment.

The issue should be statehood for the District of Columbia or, better yet, the rejoining of the District with Maryland for political representation within the bounds provided by the Constitution. I have supported both such proposals for presentation to the 50 States for ratification. I am truly sorry these proposals have been defeated.

Finally, Mr. President, those of us from the West understand from our own struggles for statehood the yearnings of the residents of the District of Columbia. However, those yearnings must be directed toward obtaining the responsibilities as well as the privileges of being part of a State. I do not believe the 50 States will accept anything less.

By passing an amendment that has no chance of ratification by the necessary number of States, we will delay indefinitely the development of an acceptable method for the political representation of the people of the District. This is just as unfair to the District as the proposed amendment is unfair to the 50 States.●

● Mrs. HUMPHREY. Mr. President, today we are debating an historic issue which is at the very heart of our democratic system—representative government. The resolution before the Senate is designed to give the District of Columbia full voting representation in the Congress. Clearly, the issue merits the very thoughtful consideration it is receiving. But, the time has come for the Senate to work its will in a final vote on this resolution proposing a constitutional amendment.

One fundamental question is involved in this vote: Shall we continue to deny over 700,000 residents of the District of Columbia the basic privilege enjoyed by all other American citizens to elect the women and men who control their Government?

Taxation without representation was one of the principal reasons our forefathers revolted against England. Residents of the District of Columbia see this same issue at stake in the debate over this resolution today.

Residents of the District pay over $1 billion annually in Federal taxes. But who represents them in the Senate? Who looks out for their interests and votes on issues of importance to them? There are some who would answer that we all do. But we must honestly admit that on any issue where the interests of residents of the District of Columbia and of our respective States are in conflict, we generally will give priority consideration to the views of our own constituents.

The alternate proposal for retroceding non-Federal land within the District to the State of Maryland would not have solved the problem, and the Senate's action yesterday to table this amendment recognized, in part, that additional problems would have been created. I need only mention such matters as District representation in the Maryland Legislature, District representation in the electoral college as provided for in the 23d amendment, and Federal jurisdiction over District activities as deemed necessary by the special nature of our Federal city.

Beyond all this, however, is a more important issue—people. Not land, not legislative control, but people. The issue is what is required to guarantee to all American citizens the right to have a meaningful and effective voice in the workings of their Government?

Mr. President, 29 years ago, Hubert Humphrey was a freshman Member of the Senate. At that time, he advocated home rule for the District on this very floor. The issue of home rule, granted by the Congress to the District with reservations in 1974, is not so far removed from congressional representation that his statement in advocacy of that bill would not be appropriate now. At that time, he said:

> I believe the first thing which should be done by the Congress is to give as much power as possible to the people of the District of Columbia. I submit that when we are dealing with (700,000 people), they should not be dealt with lightly. . ."

When Hubert reiterated his position in 1973, he went on to say:

> That this greatest of all democracies withholds from the citizens of its Capital City the right to elect their government leaders is hypocrisy of the first order and a source of increasing embarrassment to our Nation.

I urge my colleagues to reaffirm their support for our system of government by voting in favor of House Joint Resolution 554.●

● Mr. HOLLINGS. Mr. President, I rise today in support of bringing government of the people, by the people, and for the people to the nearly 700,000 residents of the District of Columbia. Thomas Jefferson said,

> It is an axiom in my mind that our liberty can never be safe but in the hands of the people themselves.

The constitutional amendment we propound today is the logical, and necessary, culmination of those great principles of liberty and democracy for which Jefferson and his generation fought. And for which the sons and daughters of America, including many from this Nation's capital, have fought so many times since.

The principle of democracy is not secure when the vote of any citizens is denied. Yet today, more than 200 years since the founding of an independent America, there exists right outside the wall of this building a denial of democracy so great as to be a denial of ourselves. And because it exists just outside these walls, it exists inside, too—right here in the U.S. Senate where you will look in vain for any Senator representing the needs and convictions of 700,000 people.

The issue we confront today is not one of comparing the size of Washington with the size of other cities. Nor can the issue be avoided by irrelevant arguments that perhaps New York, Chicago, or Los Angeles will also deserve their own Senators and Congressmen if Washington is so treated. Those other cities have representation. Who is going to argue that our distinguished colleagues Mr. Javits and Mr. Moynihan do not directly represent the cities of their State? Who would argue that the voice of Chicago or Los Angeles or any other city cannot be heard within this Chamber? Surely any such contention merits nothing but ridicule.

Mr. President, all the facts and statistics have been cited in behalf of our approving sending this amendment to the States.

We know the District contributes more taxes to the Federal Government than do 19 of our States.

We know that the overwhelming majority of other nations which have elected legislatures do not discriminate against residents of their capital cities concerning representation in their respective national legislatures.

These points, and many more, have been made again and again, and they are points which cannot be gainsaid.

But far more than any of these, we confront foursquare an issue that goes to the heart and soul of America. The citizen who pays his taxes, supports his government, and marches off to die in his Nation's wars has a right—an inalienable right—to full representation. "Taxation without representation is tyranny," said the great patriot, James Otis. So also, would come the refrain from a thousand battlefields around the world, is death.

The right to representation is fundamental. It is basic. Without it, the promise of America is mocked. We must not discuss this in any careless or casual fashion. This is no perfecting amendment nor private relief bill. It is relief from a denial that has kept hundreds of thousands—and over the years millions—from enjoying their most basic rights as citizens of America. The sad fact is that these people, these residents of Wahington, D.C., are not citizens. They cannot be citizens until they possess democracy's greatest prize—representative government. This is an absolute right that must be absolutely granted, and until it is, we are blighted and blemished. We have fought around the globe to make the world safe for democracy. Now we must bring democracy home.●

● Mr. BAKER. Mr. President, as I have previously indicated, I will support the constitutional amendment before the Senate today providing for full voting representation in the Congress for the District of Columbia.

By now the arguments for and against this amendment are familiar to all of us, and as usual, there is merit in both sides of the debate.

But I have concluded that we simply cannot continue to deny 700,000 American citizens their right to equal representation in the national Government that this basic right is a bedrock of our Republic that cannot be overturned.

The District of Columbia is not a State. It was conceived as a special Federal enclave over which no State government would have control. But the District is more than a city: the fact that the District casts three electoral votes in Presidential elections, as no city in America does, is proof enough of this.

It does not matter that residents of the District pay more Federal taxes per capita than residents of 49 States in the Union—although they do. It does not matter that the District's residents have fought in every American war since its creation, or that the District's casualty level in the Vietnam war was greater than that of 10 States—although it was. It does not matter that the population of the District exceeds that of several States—although it does.

What matters is that the people of the District of Columbia are American citizens who have a right to be heard in the Congress of the United States, a right not only to a voice but a vote.

The 1976 platforms of both major political parties endorsed D.C. representation. The basic principles on which the Nation was founded insist on it, and I urge my colleagues to join me in voting for passage of this amendment.●

● Mr. WEICKER. Mr. President, I vote in favor of House Joint Resolution 554, a constitutional amendment that would provide voting representation for the District of Columbia. Indeed, I have long advocated that the citizens of the District should have full voting representation in the Congress.

However, I would like to make it very clear that I think that the Congress

avoiding the central issue in the debate over representation. The issue is whether the District of Columbia should be a State—with all the attendant privileges, as well as, I might add, all the headaches which statehood entails.

Article I, section 8, clause 17 of the U.S. Constitution empowers Congress "to exercise exclusive legislation in all cases whatsoever over such district (not exceeding 10 miles square) as may by cession of particular States, and the acceptance of the Congress become the seat of the Government of the United States." The question of the representation of District residents received little express attention during the course of the drafting of this clause, as the District's small size and the proximity of its residents to Congress made the problem of representation less than pressing for our forefathers. Indeed, James Madison, writing in The Federalist No. 43 in 1788, assumed that District residents would receive adequate informal representation by Senators and Congressmen residing in the District.

Times have changed since 1787. The District of Columbia is no longer a hamlet with a population under 14,000. The latest census places the District's population in excess of 700,000, which is larger than the population of seven States. Clearly, it is time to provide the citizens of the District with representation in the Congress. To do so, the Constitution must be amended. Indeed, that is the beauty of our Constitution—it is a flexible, growing document that has thrived for nearly 200 years.

But it would not continue to be a viable document if it is amended in knee-jerk fashion. And believe me, what we are doing here today is amending the Constitution in a knee-jerk fashion. We are responding to pressures which make our actions in providing for a constitutional amendment politically attractive. Sure, we can go home and say to our constituents that we believe in the tenets of the Constitution and make sure that all Americans are represented in Congress by voting for this amendment. We made sure that there was no taxation without representation.

However, we just are not telling the truth. What we have done is the politically expedient thing—not the right thing. We have changed the Constitution to embrace a few people. We have not amended the Constitution to further the rights of all Americans.

If my colleagues will look to the 26 present amendments to the Constitution and to the proposed 27th amendment, they will see that only one amendment does not deal with the rights of all Americans. That is the 23d amendment, which provides for Presidential electors for the District of Columbia. Each of the other amendments applies to all Americans—not just to those confined in a finite geographical region.

What we have done today is to take the first step to carving out another exception to the Constitution. I do not argue that as far as the District of Columbia is concerned we are going to have to deal with the Constitution—as the Constitution itself makes explicit provision for the District. What I object to is altering the Constitution each time something has to be done concerning the District. Who knows for what the next "politically expedient" carving out will be? But mark my words, there will be one unless we face up to the issue before us.

What we must do is amend the Constitution to provide for statehood for the District. Until we do that, the District of Columbia will not truly enjoy full rights.

Mr. President, I will shortly introduce an amendment to the Constitution which will provide for full statehood for the District of Columbia. This amendment would entitle the District to the representation it needs and deserves. It would also make it stand on its own two feet.

Mr. President, the States have 7 years to act on the amendment to provide voting representation for the District of Columbia. That gives Congress time to address the underlying issue head on. That issue is the one of statehood for the District. If we Senators fail to perform our duties and avoid the underlying issue by thrusting the decision of the status of the District upon the people of the country, then I reserve the right to campaign actively in Connecticut against the ratification of the amendment to provide voting representation for the District.●

● Mr. STONE. I support full representation for the District of Columbia in the U.S. Congress. I have considered this issue very carefully, taking into account constitutional arguments and fundamental fairness.

The nature of the District of Columbia as a political entity today is quite different from what it was when it first became our Nation's capital in the 19th century. Today it has more residents than seven States and an active, independent political life. No constitutional purpose is served by exclusion of the District of Columbia from full representation, and I do not believe that is the intent of the Constitution.

The District of Columbia is not a State, but it is treated like a State already for other purposes. For example, its residents share the burden of Federal taxes; enjoy the right to trial by jury; and Congress regulates commerce between the District and the States as it does for interstate commerce.

The concept of representation for members of a nation's capital district is not new. In fact, in most other countries, West Germany, the capital's residents have full representation in the national legislature.

Fundamental fairness demands that the District have full representation in Congress. Its residents paid more in 1975 in Federal income taxes than the residents of 14 other States. Its population exceeded that of 10 States in the last census. And, in 1976 its per capita Federal income tax payment was $77 higher than the national average. The residents of only seven States paid more per capita in Federal income taxes. What's more, District of Columbia residents have served faithfully and in disproportionately high numbers in our major wars, demonstrating a commitment and loyalty to the United States not reciprocated with a full voice in the Senate and House.

I believe that a denial of full representation in the national legislature to residents of the District of Columbia is a denial of their share of the birthright that belongs to all U.S. citizens—that of electing Members of Congress to express their views and to represent them in national debate on issues that have a major impact on their lives and welfare.●

Mr. MELCHER. I yield the additional minute I have remaining to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, the Constitutional framers in 1787 provided that States have Senators to represent them in this body. But the framers also foresaw that that Constitution would be a living document which could respond to change, and they provided for that change by the first few words of article V which says, in part:

> The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution . . .

Not to just portions of this Constitution, not just articles of this Constitution, not just article II of this Constitution, but "to this Constitution."

The objection is going to be made here by the distinguished Senator from Utah that House Joint Resolution 554 is proposing something that is unconstitutional because it would give to an entity that is not a State representation in this Senate and would thereby dilute the representation of the 50 States that are represented in this Senate.

To state the obvious, however, what House Joint Resolution 554 proposes is a constitutional amendment, and since by definition a constitutional amendment cannot be unconstitutional, the suggestion that House Joint Resolution 554 is unconstitutional is a contradiction in terms and a fatal flaw in the logic of those who make this very curious objection.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. In any event, it is too late in history to argue that granting representation in Congress to the District of Columbia would deprive any State of its equal suffrage in the Senate. Since the ratification of the Constitution by the original 13 States, 37 additional States have come into the Union. As a result, the suffrage of the original 13 States has been diluted nearly fourfold, and yet no one seriously argues that any of the older States has been deprived of its equal suffrage in the Senate by the admission of new States.

I hope that the point of order will not be sustained, and that the Senate, if the constitutional point of order is submitted to it, will vote down the point of order.

The VICE PRESIDENT. The Senator from Massachusetts has 2 minutes remaining. The Senator from Massachusetts.

Mr. ROBERT C. BYRD. The Senator from Massachusetts yielded me his time. That is why I kept going.

Mr. KENNEDY. I yielded the time for the Senator.

The VICE PRESIDENT. There are 2

minutes remaining for the Senator from Massachusetts.

Mr. HATCH. Mr. President, will the distinguished majority leader yield for a question?

Mr. ROBERT C. BYRD. Yes.

Mr. HATCH. Will the Senator yield for a question?

Mr. ROBERT C. BYRD. Yes.

Mr. HATCH. On the Senator's point that this is a constitutional amendment and, thereby, stand in and of itself, you have article V which says that "no State without its consent, shall be deprived of its equal suffrage in the Senate."

Mr. ROBERT C. BYRD. Yes, but I have the floor, and let me answer the Senator.

Mr. HATCH. Let me ask the question.

Mr. ROBERT C. BYRD. No, the Senator has asked his question.

Mr. HATCH. I would like to ask a question.

Mr. ROBERT C. BYRD. The Senator from West Virginia does not yield. The Senator from West Virginia has already answered that question. The constitutional authors provided by article V the very vehicle by which the people themselves would amend the Constitution. I say let us give it to the people to make their decisions.

I have already answered the question about dilution of equal suffrage in the Senate, and the Senator begs the question when he wants me to go over that again.

Mr. HATCH. Would the Senator yield for another question?

Mr. ROBERT C. BYRD. Yes.

Mr. HATCH. Is it not true that when it says "no State without its consent," includes all 50 States and not just 38?

Mr. ROBERT C. BYRD. Well, but the Senator seeks to evade the point here.

Mr. HATCH. No, I do not.

Mr. ROBERT C. BYRD. No State is being deprived of its equal suffrage in the Senate. Once this amendment is submitted to the people according to article V, and three-fourths of the States ratify that amendment, no State is denied its equal suffrage.

To argue that is to argue that the 13 original States were denied their equal suffrage when 37 additional States were admitted to the Union.

Mr. HATCH. Not at all. Will the Senator yield again for one more question? If the 12 States did not——

SEVERAL SENATORS. Regular order! Regular order!

The VICE PRESIDENT. The time has expired.

Mr. HATCH. Mr. President, if the time has expired, may I make my point of order?

The VICE PRESIDENT. The Senator will state his point of order.

Mr. HATCH. I make the point of order that House Joint Resolution 554, the pending joint resolution, is not in order in that it violates Article V of the Constitution by specifying a method for adoption by the States without providing, in accordance with the last proviso of Article V of the Constitution that each of the 50 States must consent to the proposed amendment, because the proposed amendment would affect the equal suffrage of each State in the U.S. Senate. In other words, by bringing in a non-State and giving it two Senators, the express language of Article V, which reads:

> No State, without its Consent—

The VICE PRESIDENT. The Senator will state his point of view.

Mr. HATCH. I am stating it:

> shall be deprived of its equal Suffrage in the Senate.

Therefore, I submit that a point of order should lie that this joint resolution is not in order, because of that reservation.

The VICE PRESIDENT. Under the uniform practices of the Senate, whenever a question of constitutionality is raised, it is submitted to the Senate.

Mr. ROBERT C. BYRD. Mr. President, I move to table the point of order, and I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second?

Mr. HATCH. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state his inquiry.

Mr. HATCH. On a point of order made on a constitutional amendment, is it proper, since there is absolutely no precedent, and since the rules state that that point or order must be submitted to the Senate, to move to table?

The VICE PRESIDENT. It is within the rules.

Mr. HATCH. Then I ask for the yeas and nays.

Mr. ROBERT C. BYRD. It has been ordered.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on agreeing to the motion to lay on the table the point of order raised by the Senator from Utah. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND) and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

The result was announced—yeas 65, nays 32, as follows:

[Rollcall Vote No. 348 Leg.]

YEAS—65

Abourezk	Glenn	Metzenbaum
Anderson	Gravel	Moynihan
Baker	Griffin	Muskie
Bayh	Hart	Nelson
Bentsen	Haskell	Nunn
Biden	Hatfield, Mark O.	Packwood
Brooke	Hathaway	Pearson
Bumpers	Heinz	Pell
Byrd, Robert C.	Hollings	Percy
Case	Huddleston	Proxmire
Chafee	Humphrey	Randolph
Chiles	Inouye	Ribicoff
Church	Jackson	Riegle
Clark	Javits	Sarbanes
Cranston	Kennedy	Sasser
Culver	Leahy	Sparkman
Danforth	Magnuson	Stafford
DeConcini	Mathias	Stevenson
Dole	Matsunaga	Stone
Durkin	McGovern	Thurmond
Eagleton	McIntyre	Weicker
Ford		Williams

NAYS—32

Allen	Hatfield, Paul G.	Roth
Bartlett	Hayakawa	Schmitt
Bellmon	Helms	Schweiker
Burdick	Hodges	Scott
Byrd, Harry F., Jr.	Johnston	Stennis
Cannon	Laxalt	Stevens
Curtis	Long	Tower
Domenici	Lugar	Wallop
Garn	McClure	Young
Hansen	Melcher	Zorinsky
Hatch	Morgan	

NOT VOTING—3

Eastland	Goldwater	Talmadge

So the motion to lay on the table point of order was agreed to.

Mr. ROBERT C. BYRD. Mr. Preside I move to reconsider the vote by wh the motion to lay on the table was agr to.

Mr. KENNEDY. Mr. President, I m to lay that motion on the table.

The motion to lay on the table agreed to.

UP AMENDMENT NO. 1711

(Purpose: To elect House Members from District and for Senators the District dents shall vote as if residents of M land)

Mr. MELCHER. Mr. President, I h an amendment at the desk and I ask its immediate consideration.

The PRESIDING OFFICER. amendment will be stated.

The legislative clerk read as follow

The Senator from Montana (Mr. MELC for himself and Mr. MORGAN, proposes an printed amendment numbered 1711.

Strike all after the resolving clause insert the following:

That the following article is proposed a amendment to the Constitution of United States, which shall be valid t intents and purposes as part of the Const tion when ratified by the legislatures three-fourths of the several States wi nine years from the date of its submis by the Congress:

"ARTICLE —

"SECTION 1. For purposes of representa in the House of Representatives, the trict constituting the seat of governm of the United States shall be treated though it were a State. For purpose representation in the Senate, the Dis constituting the seat of the governmen the United States shall be treated as tho it were part of the State of Maryland. the purposes of ratification and initiatio constitutional amendments, the District constituting the seat of the government of United States shall be treated as thoug were a State.

"SEC. 2. The exercise of the rights powers conferred under this article shal by the people of the District constitu the seat of government, and as shall be vided by the Congress.

"SEC. 3. The twenty-third article of ame ment to the Constitution of the Un States is amended by striking out ', *but in event more than the least populous St*

"SEC. 4. The Congress shall have powe enforce this article by appropriate legi tion.

SEC. 5. The Governor of the State of M land shall consult with the District gove ment prior to either implementing cha in the law governing the election of se tors, or making a temporary appointmen fill a vacancy in Maryland's representat in the Senate.

"SEC. 6. This article shall be inopera unless it shall have been ratified as amendment to the Constitution by the

islatures of three-fourths of the several States within nine years from the date of its submission.".

Mr. KENNEDY. Mr. President, the effect of adoption of this amendment would be to defeat it.

The VICE PRESIDENT. The Senator is advised that the amendment is not debatable.

Mr. KENNEDY. I move to lay the amendment on the table and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the amendment on the table. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND) and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

The result was announced—yeas 60, nays 37, as follows:

[Rollcall Vote No. 349 Leg.]

YEAS—60

Abourezk	Griffin	Metzenbaum
Anderson	Hart	Moynihan
Baker	Haskell	Muskie
Bayh	Hatfield, Mark O.	Nelson
Bentsen	Hathaway	Packwood
Biden	Heinz	Pearson
Brooke	Hollings	Percy
Bumpers	Huddleston	Randolph
Byrd, Robert C.	Humphrey	Ribicoff
Case	Inouye	Riegle
Chafee	Jackson	Sarbanes
Church	Javits	Sasser
Clark	Kennedy	Sparkman
Cranston	Leahy	Stafford
Culver	Lugar	Stevenson
Danforth	Magnuson	Stone
Dole	Mathias	Thurmond
Durkin	Matsunaga	Weicker
Eagleton	McGovern	Williams
Ford	McIntyre	
Glenn		

NAYS—37

Allen	Hansen	Nunn
Bartlett	Hatch	Pell
Bellmon	Hatfield, Paul G.	Proxmire
Burdick	Hayakawa	Roth
Byrd, Harry F., Jr.	Helms	Schmitt
Cannon	Hodges	Schweiker
Chiles	Johnston	Scott
Curtis	Laxalt	Stennis
DeConcini	Long	Stevens
Domenici	McClure	Tower
Garn	Melcher	Wallop
Gravel	Morgan	Young
		Zorinsky

NOT VOTING—3

Eastland	Goldwater	Talmadge

So the motion to lay UP amendment No. 1711 on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, after the disposition of House Joint Resolution 554, there will be a rollcall vote on the Outer Continental Shelf conference report. There is a time agreement on that matter of 40 minutes, which will not be taken.

Mr. President, I ask for the yeas and nays on the adoption of the joint resolution.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask that the clerk repeat each name as the Senator responds.

SEVERAL SENATORS. Regular order.

The VICE PRESIDENT. If there be no further amendment to be offered, the question is on the third reading of the joint resolution.

The joint resolution (H.J. Res. 554) was ordered to a third reading and was read the third time.

The VICE PRESIDENT. The joint resolution having been read the third time, the question is, shall the joint resolution pass?

The yeas and nays have been ordered and the clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask that there be order after the vote is announced.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND) is necessarily absent.

The yeas and nays resulted—yeas 67, nays 32, as follows:

[Rollcall Vote No. 350 Leg.]

YEAS—67

Abourezk	Gravel	Moynihan
Anderson	Griffin	Muskie
Baker	Hart	Nelson
Bayh	Haskell	Nunn
Bentsen	Hatfield, Mark O.	Packwood
Biden	Hathaway	Pearson
Brooke	Heinz	Pell
Bumpers	Hollings	Percy
Byrd, Robert C.	Huddleston	Proxmire
Case	Humphrey	Randolph
Chafee	Inouye	Ribicoff
Church	Jackson	Riegle
Clark	Javits	Sarbanes
Cranston	Kennedy	Sasser
Culver	Leahy	Sparkman
Danforth	Lugar	Stafford
DeConcini	Magnuson	Stevenson
Dole	Mathias	Stone
Durkin	Matsunaga	Talmadge
Eagleton	McGovern	Thurmond
Ford	McIntyre	Weicker
Glenn	Metzenbaum	Williams
Goldwater		

NAYS—32

Allen	Hatch	Roth
Bartlett	Hatfield, Paul G.	Schmitt
Bellmon	Hayakawa	Schweiker
Burdick	Helms	Scott
Byrd, Harry F., Jr.	Hodges	Stennis
Cannon	Johnston	Stevens
Chiles	Laxalt	Tower
Curtis	Long	Wallop
Domenici	McClure	Young
Garn	Melcher	Zorinsky
Hansen	Morgan	

NOT VOTING—1

Eastland

The VICE PRESIDENT. On this vote there are 67 yeas and 32 nays. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution is passed.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the resolution was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that there be order in the Senate. May we have order in the galleries and in the aisles of the Senate? May we have order in the Senate? There is still work to be done.

The PRESIDING OFFICER (Mr. MATSUNAGA). The Senate will be in order. Visitors in the galleries will keep silence. Senators will cease conversation. Authorized staff will please retire to the seats designated in the rear of the Chamber. Visitors in the gallery will please keep silence as they move out.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Washington so that he may call up a conference report.

Mr. JACKSON. Mr. President, I yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I want to praise the enormous contribution that Members of this body and outside groups have made in achieving this historic moment.

Mr. CULVER. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senator will cease until there is order in the Senate. Senators will retire to the cloakroom if they wish to carry on conversations.

Mr. KENNEDY. Mr. President, this success would not have been achieved but for the extraordinary efforts of the majority leader of the United States Senate and his great skill not only in parliamentary tactics but also in persuasion, in the eloquence of his voice, and in the very hard and dedicated work that he performed in explaining this issue to many of the Members.

Senator CRANSTON, who is also our whip, made a very important contribution and was of enormous help to all of us who supported this proposal.

Senator BAYH, who is the chairman of the Subcommittee on the Constitution which held the hearings, has been one of the clearest and most forceful advocates of this constitutional amendment. All of us in this body know the very great achievements that he has made in the area of constitutional rights.

Senator LEAHY, who is the chairman of the District of Columbia Appropriations Subcommittee, and Senator EAGLETON, the chairman of the District of Columbia Subcommittee in the Governmental Affairs Committee brought to this debate long experience in dealing with the District of Columbia affairs, and their help and support was invaluable.

Senator HOLLINGS, of South Carolina, was a very early supporter of this proposal and was of great value.

On the other side of the aisle, Mr. President, I express my appreciation to the leader of the Republican Party, Senator BAKER; my colleague in the U.S. Senate, Senator BROOKE, who has been a long-time supporter and spoke so eloquently this afternoon; Senator MATHIAS, a member of the Judiciary Committee and a strong supporter. Senator THURMOND, who is a member of the Judiciary Committee, took great interest in

the consideration of this measure. Senator DOLE spoke strongly in favor of it and his support was very much appreciated in recent days. Senator GOLDWATER spoke in favor of it at a very early time, and was most helpful in launching it on the right foot when it reached the Senate last March.

Mr. President, I also praise the strong statement that President Carter made in support of this proposal. All of us know that, as the Chief Executive of this country, his support for this issue, and for human rights everywhere, has raised the consciousness of the Nation and the world on these issues. Vice President MONDALE was also tireless in his support for this proposal; as a former Member of this body, he was thoroughly familiar with the issue and provided effective help in recent months. Their assistants, Dan Tate, Bob Thompson, Jim Dyke, and Bob Malson, were of enormous help.

I also praise WALTER FAUNTROY whose name leads all the rest, Mr. President, in working so effectively for this amendment. I also commend his able staff, Johnny Barnes and Eldridge Spearman, who were of such great help.

Another key group was the Self-Determination for District of Columbia Coalition, led by Sterling Tucker, Dick Clark, Elena Hess, and Melanie Woolfton. I also commend the Leadership Conference on Civil Rights, especially Clarence Mitchell and Joe Rauh, as well as Walter Washington, the Mayor of this city. Voters also did outstanding work, and I commend both Cathy Dealy and the National League, and Meg Aylward, and the D.C. League.

But most of all, I commend the 700,000 people of the District of Columbia, who have waited so long for this action.

Finally I express my respect for those who were in opposition, the leader of the opposition, the Senator from Virginia, Senator SCOTT, and also Senator HATCH, Senator MCCLURE, Senator BARTLETT, Senator MELCHER, and all who took great interest in this issue and offered their amendments. Their efforts were thoughtful and constructive, and helped to bring to the Members of the Senate the important questions raised by the amendment. The record made during these days will be of great value, hopefully, to the States that will make the ultimate decision as to whether this amendment becomes part of the Constitution.

The Senate now sends this measure to the several States. It will be the people's representatives in those States who will make the ultimate and final determination.

I am very hopeful that their decision will be made in behalf of human rights and on behalf of the civil rights of the people of this District. I am indeed grateful to all the Members who saw the merits of this measure and supported it with their votes.

I thank the Senator.

The PRESIDING OFFICER. The Senator from Washington has the floor.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield the floor?

The PRESIDING OFFICER. The Senator from Washington has the floor.

Mr. JACKSON. Mr. President, I ask unanimous consent that this time not come out of my time. We have 40 minutes on the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me?

Mr. KENNEDY. Yes.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator for his kind remarks. He has mentioned everyone but himself and he, in my judgment, is entitled to more credit than any other single individual for the success of the effort that has been made, and I pay him much plaudits and salute him for his diligence, untiring efforts, and able leadership in this historic event.

I also express my compliments to those who opposed the amendment. They conducted a very substantive debate. It was of a very high degree and it was an honorable, dedicated, and sincere effort on their part, and they are entitled to plaudits as well.

Mr. BAKER. Mr. President, will the Senator yield to me briefly?

Mr. KENNEDY. Yes, if I may just take 10 seconds, Mr. President, to mention the two members of my staff, Carey Parker and Peter Parham, and Fred Williams of Senator BAYH's staff, whose assistance was valuable to me and to those who supported this. I also praise the efforts of Natasha Pearl, a high school student who graduated from Woodrow Wilson High School in the District this year, who worked hard for this amendment with youth groups which bodes well for the concern of our leaders of tomorrow on these basic issues of democracy. I yield to the Senator from Tennessee.

Mr. BAKER. Mr. President, I will not take long. I rise to express my congratulations to those who prevailed and my compliments to those who fought valiantly——

Mr. STENNIS. Let us hear the leader.

Mr. BAKER (continuing). In opposing this.

The PRESIDING OFFICER. The point of order is well taken. The Senate will be in order.

The Senator from Tennessee.

Mr. BAKER. Mr. President, especially I express my appreciation to the distinguished senior Senator from Massachusetts for his leadership in this role; of course, to the majority leader; but especially also to those Members of the Senate on this side of the aisle who expressed their view in support of the resolution early and effectively; and I am thinking particularly of the distinguished Senator from South Carolina, who was probably more instrumental than anyone else in this Chamber excepting only the managers of the bill, in seeing that this measure reached this point of development; the distinguised Senator from Arizona, Senator GOLDWATER, who added impetus to the effort; the distinguished Senator from Kansas (Mr. DOLE) without whose assistance I very much doubt that this measure could have prevailed; and the many others on this side.

It is an issue that sharply divided this side of the aisle. I note that the votes on the Republican side were divided evenly 19 and 19, which is some measure of the conflict within the Senate surrounding this historic issue.

But most especially, Mr. President, I express my appreciation to the distinguished Senator from Virginia (Mr. SCOTT) for agreeing to manage this resolution on behalf of the opposition. As the second ranking member of the Judiciary Committee, he expressed the point of view of those in opposition effectively, cogently, and consistently over a long period of time. I offer him my congratulations for a job well done as I do all of those who participated in this debate.

I thank the Senator from Massachusetts.

Mr. SCOTT. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Chair will advise the Senator that the Senator from Washington has the floor. The Senator from Washington (Mr. JACKSON) has the floor.

Mr. JACKSON. Mr. President, I ask unanimous consent that all of the preceding comments not come out of my time. Our 40 minutes will soon be gone.

The PRESIDING OFFICER. Without objection, it is so ordered.

Does the Senator from Washington still yield to the Senator from Massachusetts?

Mr. JACKSON. Yes, I yield as long as it does not come out of my time now or previously.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I ask unanimous consent to be able to proceed for 30 more seconds.

The PRESIDING OFFICER. Without objection.

Mr. KENNEDY. Mr. President, finally, I give strong praise to the chairman of the Republican National Committee, Bill Brock, who was of great help and value, and also to John White, chairman of the Democratic National Committee, who worked effectively to achieve this victory.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. SCOTT. Mr. President, I congratulate the distinguished Senator from Massachusetts and all those who worked with him.

I would like to commend every Senator here whom he did not mention. I think he mentioned the vast majority of the Senate.

The Senate has worked its will as far as proposing a constitutional amendment is concerned. Now it is up to the States to make the decision as to whether or not they will ratify the proposal presented by the Senate.

Naturally, I am disappointed in the result. But this is the type of government that we have in which we conduct our business in an orderly way.

I thank all of those who worked on this side of the aisle in order to enable us to obtain 32 votes, two short of the necessary number by which the resolution would have been rejected.

The PRESIDING OFFICER (Mr. HODGES). The Senator from Washington.

OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1978—CONFERENCE REPORT

Mr. JACKSON. Mr. President, I submit a report of the committee of conference on S. 9 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 9) to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their repective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of August 10, 1978.)

Mr. JACKSON. Mr. President, Senate approval of the conference report before us today on S. 9, the Outer Continental Shelf Land Act Amendments of 1978 will culminate 5 years of effort by the Congress to establish a modern national policy for the development of OCS oil and gas resources.

During those 5 years, OCS reform legislation has passed the Senate three times by substantial margins, twice in the face of strong opposition by previous administrations. Fortunately, S. 9 enjoys strong support by the Carter administration. Last summer this bill passed the Senate by a vote of 60 to 18. The conference report was approved by seven of the eight Senate conferees and has already been adopted by the House of Representatives by a vote of 338 to 18.

S. 9 strikes a balance between oil and gas development and potentially adverse economic, social and environmental impacts that accompany it. It goes a long way toward alleviating the public's fears that were spawned by the disastrous Santa Barbara Channel blowout 9 years ago and by other environmentally destructive oil spills, primarily from tankers, which followed. Offshore oil and gas exploration and development can now proceed on schedule in an atmosphere of business certainty and environmental security toward the goal of providing increased domestic energy supplies under these new policies.

Mr. President, the major provisions of the conference report provide for:

The establishment of national policy guidelines for OCS development;

Separation of the decision process between exploration and development;

Revision of the leasing process with the addition of new bidding alternatives that must be utilized;

Increasing the role of coastal States in Federal OCS decisions;

Establishment of absolute liability of oil spill damage with payment for a liability fund;

Improvement of safety standards; and

Establishment of a fund to pay for damage to commercial fishing vessels and gear resulting from OCS development activities.

S. 9 represents good, sound policy for the management of the public's resources.

Mr. President, the Outer Continental Shelf is America's best hope for finding additional oil and gas resources and reducing our dependence on foreign oil. The Federal Government is charged with the responsibility of managing this resource for the best interests of all the public. There is no question but that this significant reform legislation, S. 9, will aid in the attainment of our vital national energy and environmental goals.

I urge my colleagues to adopt the conference report, and thus clear the legislation for Presidential approval.

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. I yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, as ranking minority member of the Committee on Energy and Natural Resources I rise in support of the conference report and the bill. I want to make it clear that even though I voted against the Senate bill, I have decided to support the conference report since it represents what I consider to be an acceptable compromise and an important policy decision by the Congress.

Mr. President, for some years now OCS leasing has been delayed because of concern that political pressure from States which are adjacent to new leasing areas would force the congress to dictate new directions in OCS leasing policy. The department has been asking the Congress for several years to address these issues. Thus the bill that is before us now represents the definitive congressional statement on what new directions, if any, the Congress has decided to take.

The conference report that is before the Senate today, Mr. President, can best be characterized as steady as you go. It sets only a slight change in course in a policy sense. I think that is good. Since our OCS development efforts in the Gulf of Mexico have been so successful, we should build on that record. We may have made some mistakes early in the program but they have been corrected. In my view we should build on that record. To a large degree this bill does just that.

I would hope as well, Mr. President, that the resolution of these issues by the Congress will remove the uncertainty which has plagued the OCS leasing program for years and lead the way to an aggressive and expedited OCS leasing and development program.

It seems to me, Mr. President, that the most important portions of this conference report are the decisions that have been made by the conferees on the major policy issues.

On Federal exploration, the conferees removed specific authority contained in the Senate bill for the Federal Government to undertake exploratory activities. The bill instead retains the neutral language of the 1953 act. Any exploratory work the Secretary of the Interior wishes to begin will have to be approved in advance by the Congress through the usual authorization and appropriation process.

The dual leasing authority in the Senate bill was similarly dropped from the conference report as was the mandate for on-structure drilling programs contained in the House bill.

The use of new or alternative bidding systems by the Secretary has been restricted to a level which will permit a reasonable test of these systems, hopefully without disrupting the necessary investment flow into the offshore area.

The conferees worked a long time on the clean air provisions of the House bill. They agreed that offshore operations should not prevent the attainment of onshore ambient air quality standards. The conferees instructed the Secretary of the Interior to promulgate regulations which will control those emissions to the degree specified in the conference report.

The conferees also made a wise choice on the very complicated issue of manning and crewing of offshore facilities by Americans. Under the conference report, manning and crewing requirements on foreign vessels and platforms will track exactly the manning and crewing requirements that U.S. operators have to live with in foreign waters.

The conferees also resolved a major dispute over pipeline competition by requiring that the development of pipeline systems in the newly developed areas be completed using sound competitive principles and assuring that all potential shippers are treated fairly.

Because of the very important role of existing lines in the Gulf of Mexico, the conferees were firm that this area be exempted from these requirements. There was no suggestion in the conference or in the conference report that the Federal Energy Regulatory Commission reexamine exemptions for gathering lines or apply these new conditions to existing pipelines in the Gulf of Mexico. Of course, for all new lines established in new producing areas, all of these new requirements would apply.

This conference took a long time, Mr. President, to work through these issues. They are important and far-reaching issues and these are very significant decisions this conference has reached. I am pleased that it is possible for me to concur in nearly all of them.

As in any bill, however, Mr. President, there is a down side. Let me elaborate briefly.

Over the past 3½ years, while this bill has been pending before the Senate and House, I have on numerous occasions indicated strong disagreement with the regulatory climate that has been developing regarding the production of oil and gas on the Outer Continental Shelf. It was my feeling then, and it is my feeling now, that the regulatory procedures which currently govern OCS operations are excessive. They slow down and inhibit efforts to develop oil and gas to meet our energy needs and ultimately cost the consumer far more than the benefits realized from those regulations.

It should be clear to all concerned, Mr. President, that the regulatory tangle we are currently facing is not a product of the bill we are considering today. It is a regulatory approach which has grown like a cancer within the bureaucracy in recent years. This growth in regulatory requirements has been fed by concerns expressed by people living near new leasing areas which might be oil and gas producing areas if discoveries are made. As bureaucrats usually do, they tried to address these concerns by making more paperwork.

Because of the high level of safety already practiced in OCS operation, I must point out to my colleagues that these new regulations have made only a very marginal, if any, improvement in the safety of offshore operations. The experience in the Gulf of Mexico is convincing evidence that the regulatory approach of the past is more than adequate to prevent despoliation of beaches, of near-shore habitat, of tidelands, or other coastal environmental areas. Twenty thousand wells or more have been drilled in the Gulf of Mexico and the coastline is still producing the traditional seafood of the area at record rates. More regulations will not mean safer operations, they only lead to delay, litigation, and higher costs.

To find out what the Secretary absolutely needed to carry out a safe and efficient leasing and development program on the OCS, I wrote to the Secretary of Interior just before the Conference started asking him what provisions in either the House amendment or the Senate bill represented new authority, other than that contained in the 1953 OCS Act, which he needed to handle offshore operations problems. The response I received from the Secretary indicated that only three provisions were necessary. One was the authority for the Secretary to cancel a lease and to provide compensation to the lessee subsequent to cancellation. Second, the Secretary felt he needed authority to apply sanctions against any State employee who released privileged information that was provided by a Federal agency. Third, the Secretary felt he needed statutory authority to establish funds to compensate fishermen who had fishing gear damaged as a result of offshore operations and to pay for cleaning up oil spills resulting from OCS operations. It should be pointed out that all three of these are provided for in the conference report. I think they are good ideas and I have supported each of them from the outset of this conference.

But I feel constrained, Mr. President, to point out to my colleagues that this bill also represents a ratification of the regulatory system that has developed over the years within the Department of the Interior. We have literally written into this statute all of the regulatory authority now being exercised by the Secretary of Interior. This aspect of the bill gives me great concern since, as I mentioned previously, the current regulatory approach is far too burdensome both on the producing industries and on the oil and gas consumer.

Therefore, I would hope that the President and Secretary would draw the line on further regulations. I would hope that they would take the current system and say that this is as far as we will go. From now on we will make these regulations work; we will make them work faster; we will make them work more efficiently; we will reduce the burden on the producing industries and on the public.

The fastest way to develop new oil and gas resources is to remove regulatory and market paraphernalia which stymie the abilities of the private sector to provide for the energy needs of Americans. The free market has worked in the past and there is no reason it cannot work now. But since the Congress does not seem to be in such a frame of mind of late, the second best way to discover oil and gas in this country is to streamline the regulatory approach and to expedite the process of identifying areas for leasing, issuing the leases and granting permits so that whatever oil and gas we find will be brought to shore as soon as possible. I would hope that the Secretary would see this as an absolute mandate from the Congress. I urge support for the conference report.

I yield to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BARTLETT. Mr. President, although there is no doubt in my mind that the conference report on the Outer Continental Shelf Lands Act Amendments of 1978 will shortly be adopted by this body and signed into law by the President, I would like to state for the record why I did not sign the conference report and why I do not intend to vote for it.

The House and Senate OCS conferees are to be congratulated for their successful efforts in greatly improving on a bad piece of legislation. The conference report represents a dramatic improvement over the Senate-passed OCS bill. However, that is not sufficient justification to sign the conference report or to vote for the bill.

The bill is not needed. Past and present Interior Department Secretaries under the broad grant of authority delegated to them under the original 1953 act have promulgated hundreds of pages of OCS regulations which are, for the most part, merely replicated in this bill.

But, more importantly, the most serious cause of delays in the OCS program to date has been the series of vexatious environmental suits which have delayed a number of OCS lease sales. I am referring to the NEPA lawsuit filed on November 1, 1971, attempting to block a Gulf of Mexico lease sale; the suit filed on December 14, 1973, to block the MAFLA OCS lease sale; the suit filed in August 1974 to prevent the southern California lease sale; the 1974 suit to halt the Gulf of Alaska lease sale; the March 9, 1976, suit against the already delayed Gulf of Alaska lease sale; the suit filed on February 11, 1976, that halted the Middle Atlantic OCS lease sale; the suit filed on February 1, 1977, to block the Lower Inlet OCS lease sale; and most recently the suit of January 17, 1978 which halted the proposed Georges Bank lease sale. This list does not include the countless number of suits that have been filed in various State courts.

The Secretary of the Interior and many of the major sponsors of the bill in both the Senate and House have argued that with the enactment of this legislation the environmentalists will be so appeased and pleased that there will be no more lawsuits the purpose of which is to slow down or stop OCS development. I believe such statements could not be farther from the truth.

All suits to date have challenged the adequacy of the environmental impact statements prepared in anticipation of OCS lease sales. This bill allows such suits to continue.

Additionally, it allows even more NEPA suits by mandating a second EIS statement at least once in each frontier area between the completion of the exploration phase and commencement of the development and production phase. I predict we will see a rash of new lawsuits challenging environmental impact statements filed before the development and production phase.

On top of that, Mr. President, section 23 of the bill opens the door to a plethora of other citizen suits challenging not only environmental impact statements but any other action the Secretary or lessee take to which the litigants are opposed. Thus, instead of cutting back on OCS lawsuits, this bill will foster a growth of delay-causing lawsuits that has never been experienced before in the history of the administration of the OCS Lands Act since 1953.

In title I of the bill mention is made, with some qualification, of the need to expedite OCS development. I, of course, agree that we as a Nation do need to expedite OCS development. However, I believe that in fact this will slow down OCS development by:

First, instigating a mass of delay-causing lawsuits;

Second, expanding the regulatory burden on the offshore industry;

Third, increasing the number of bureaucrats in numerous agencies which manage the OCS program;

Fourth, increasing to a point of no return the extent of local and State government agency involvement in what used to be a purely Federal program; and

Fifth, as a result of the compounding effect of these four major obstacles to progress, the cost of developing offshore oil and gas will skyrocket with attendant inflationary effects—all of which will have to be borne by American consumers at the same time they are forced to pay through the nose for increasing amounts of imported oil.

For these reasons, Mr. President, I intend to vote against the bill.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 8 minutes remaining.

Mr. BARTLETT. Mr. President, I yield back my 8 minutes.

● Mr. WEICKER. Mr. President, on

August 10, 1978, the Senate and House filed the conference report on S. 9 (H.R. 1614), the Outer Continental Shelf Lands Act Amendments of 1977.

I would like to commend my colleagues that served on the OCS conference for completing a most difficult task.

When the OCS amendments become law, this Nation will have taken an important step in the wise exploration and development of offshore oil and gas, and to assure that environmental safeguards are met.

This legislation provides a balance between economic and environmental concerns and will allow this country to pursue offshore energy production in a systematic way. I believe that we must get on with energy production, and the untapped offshore oil and gas reserves offer a great new promise for this country to meet increasing pressure to become energy self-sufficient. Increased production of offshore oil and gas is not going to achieve this self-sufficiency but will add significantly to our reserves.

Among my main concerns regarding this legislation is the conflict that will inevitably arise between offshore oil and gas development and the fishing industry.

Some of the most potential oil resources are in rich fishing grounds particularly George's Bank off New England.

George's Bank is one of the most productive fishing grounds in the world as well as spawning grounds for many commercially important species.

A survey of fishing vessels made in 1977 shows that 739 vessels fish George's Bank.

The New England fishing industry lands in excess of $150 million worth of fish annually.

A total of 15.6 million acres of George's Bank was made available for nomination to lease by the Bureau of Land Management in 1975. Estimates of undiscovered recoverable oil and natural gas for this area are conservatively 0.9 billion barrels and 4.4 trillion cubic feet respectively, and could be much more.

The great push for oil and gas development on George's Bank and other areas of the Continental Shelf, along with increasing activities of the fishing industry will cause problems particularly snagged and damaged fishing gear resulting from oil related debris.

The OCS amendments of 1977 include title IV, the fishermen's contingency fund which I introduced in committee and was subsequently introduced by Congressman STUDDS on the House side.

The fund is designed to help fishermen deal with damages to their gear and vessels caused by oil and gas development. Basically, title IV provides for payment to a fisherman to replace his damaged goods when he shows reasonable proof that it was caused by debris or some other reason as a result of OCS activities.

The conferees have made a fair compromise between the Senate and House versions of the fund, and I believe the fishing industry as well as the oil companies will benefit from their work.

The OCS amendments also include language that would mandate the Secretary of Commerce in cooperation with the Coast Guard and the National Institute of Occupational Safety to conduct studies related to diving safety.

These studies are intended to address those areas that are not considered by present studies.

Many of the largest U.S. diving companies have the most sophisticated experimental diving systems in the world and are capable of developing their own tables and physiological safeguards.

I believe these companies are presently doing an excellent job of researching and developing diving safety techniques on their own. The intention of the studies as set forth in the OCS amendments is not to duplicate their efforts but to fill gaps in existing research. It is the Government's job, I believe to study such things as the cause and effects of bone necrosis which is presently plaguing the industry with high insurance rates. There is very little known about the prevention of bone necrosis and over a long period of time it can be debilitating to its victims. Other studies involving shallow water air saturation diving and excursions are also necessary.

I believe that these studies will be useful to the commercial industry and to diving in general.

Mr. President, it is my firm belief that the oceans will provide us with numerous more resources in the future. The Outer Continental Shelf Lands Act Amendments of 1978 will set a precedent in how we handle the development, utilization, and environmental protection aspects of other resources from the sea. We should, therefore, watch the results of this legislation carefully.●

● Mr. JOHNSTON. Mr. President, may I ask my good friend and chairman of the Energy and Natural Resources Committee, Senator JACKSON from Washington, a question I have concerning the conference report on S. 9, the Outer Continental Shelf Lands Act Amendments of 1978?

It is my understanding that when the conferees acted on the issue of the grandfathering of certain exploration activities from the new requirements to be imposed by our amendments to section 11 of the OCS Lands Act, the intent was clear that delays in current, ongoing exploration activities were to be mitigated to the fullest extent possible.

That is, by specifically providing that those exploration activities conducted pursuant to existing leases on which drilling permits had been issued or for which exploration plans had been approved prior to 90 days after the date of enactment of these amendments shall be considered in compliance with the requirements of this act. The conference also intended that the Secretary of the Interior consider those plans submitted to him up to and through such 90-day period under existing regulations and not unduly delay such consideration while awaiting the development of new regulations. The reason for this is as much to encourage industry to submit exploration plans as they are prepared in the normal course of business without the need for delay while awaiting the promulgation of new regulations. We do not want the Secretary "dragging his feet" on plans which have undergone detailed analysis and costly preparation based upon existing valid regulations or arbitrarily to return to exploration plans he received prior to promulgation of any new regulations when the exploration plans conform to existing regulations. Is it not your understanding that the conferees intended to avoid such delays whenever possible?

Mr. JACKSON. I believe that my colleague from Louisiana has correctly stated the intent of the conferees on this point. The conferees were vitally interested in making sure that undue delays in all phases of OCS resource development be kept to an absolute minimum. At the same time, however, the conferees did recognize that the Secretary could require additional information from lessees or could require a revised exploration plan, although our intent to prevent undue delays was clear.●

● Mr. McCLURE. Mr. President, I am pleased that the conference committee in consideration of the Outer Continental Shelf Lands Act Amendments of 1978, agreed on language of documentation, registration, and manning requirements in section 30 of the new sections of this act.

This section protects the opportunity for Americans to obtain and keep jobs for the purpose of finding and producing energy resources on the Outer Continental Shelf. Minimum standards for vessels, rigs, platforms, other rigs and structures, should make a positive contribution toward safe and environmentally sound operations on OCS areas. There is enough flexibility in this provision, while protecting job opportunities, to serve notice on foreign nations that the United States intends to take a balanced approach toward manning requirements consistent with actions of other nations under similar circumstances where American workers are involved.●

● Mr. MUSKIE. Mr. President, great concern has been expressed about the potentially great impact that activities on the Outer Continental Shelf may have on the air quality of adjacent States. It is undisputed that OCS-related activities will increase onshore air pollution levels.

In response to anticipated exploration off of the southern California coast, EPA has issued a notice of determination that the Clean Air Act, and all regulations promulgated thereunder, apply to activities on the Outer Continental Shelf when such activities could affect the air quality of an adjacent State.

All requirements under the Clean Air Act are thus applicable to OCS activities. This includes attainment and maintenance of ambient air quality standards when the State affected has not yet achieved those standards. It includes prevention of significant deterioration requirements when the State affected has air quality better than the ambient

standards. It includes compliance with all new source performance standards promulgated by EPA which apply to an OCS facility. It includes compliance with all State air quality requirements authorized to be established by the Federal clean air law. It includes all permit requirements applicable prior to construction of a facility with a potential air quality impact on a State. It includes all enforcement authority required to be exercised by the Administrator of the Environmental Protection Agency.

In short, exploration, development, and production activities on the Outer Continental Shelf are no different than any other source of pollution; they are regulated to the extent they interfere with the efforts of a State to comply with the Federal mandate to clean up its air or to keep its air clean, and to the extent EPA has promulgated new source standards for OCS activities. As one of the principal authors of the Clean Air Act, I can say that without question the law is intended to regulate any OCS activity which may affect the onshore air quality of a State, and EPA's notice of determination implements this congressional intent.

Mr. President, the conference report on the Outer Continental Shelf Act contains language which in my opinion reinforces the Clean Air Act to activities on the Outer Continental Shelf.

The bill requires that the Secretary of the Interior promulgate regulations to insure that exploration, development and production activities comply with "national ambient air quality standards pursuant to the Clean Air Act, to the extent that activities authorized under this act significantly affect the air quality of any State."

The role of the Secretary is only to insure that exploration plans and development and production plans provide for compliance with all statutory requirements of the Clean Air Act, and regulations promulgated pursuant to it.

The regulations of the Secretary of the Interior are in addition to the requirements under the Clean Air Act. They supplement the Clean Air Act; they are not a substitute for the Clean Air Act.

Such provisions for compliance with the Clean Air Act are required in the plans whenever OCS activities may have a significant effect on an adjacent State's air quality, whether it is better or worse, than the ambient air quality standards. The determination of significant air quality effect will be made by the Environmental Protection Agency to fulfill its mandatory responsibility under the Clean Air Act. The Secretary will then carry out his duties under the Outer Continental Shelf Act based on EPA's air quality evaluation of proposed OCS activities.

The Secretary's role is primarily in the nature of a procedural safeguard, not one of promulgating substantive clean air regulations or one of enforcement of the Clean Air Act. The Administrator of EPA retains responsibility for implementing the clean air law. Even if the Secretary fails to exercise his responsibility under the Outer Continental Shelf Act, the applicability and enforceability of the Clean Air Act is not affected.

I would like to direct an inquiry to the distinguished chairman of the Energy Committee (Mr. JACKSON): Would the Senator describe the role of the Secretary as a supplemental one, to assure that provision is made for compliance with clean air requirements?

Mr. JACKSON. Yes, the language of the Outer Continental Shelf Act is not intended to affect the present applicability of the Clean Air Act to OCS activities, or the primary responsibility of the EPA Administrator to enforce such requirements. The Secretary is expected to consult closely with EPA and to rely on its technical expertise when incorporating clean air requirements into exploration plans and development and production plans and when analyzing the air pollution impact of OCS activities.●

● Mr. HOLLINGS. Mr. President, I would like to speak to the conference report on S. 9, the Outer Continental Shelf Lands Act Amendments.

Praise certainly is in order for the tremendous efforts of the Committee on Energy and Natural Resources, the House OCS Committee, and their respective chairmen, Senator JACKSON and Congressman MURPHY. The time and energy devoted to producing this compromise stretches over several years. The chairmen and their committees deserve recognition for coming out with this hard-fought compromise.

Today I would like to speak to one particular part of the conference report on S. 9, the amendments to the Coastal Zone Management Act of 1972, as amended; for here we have an unusual situation which bears complete explanation for the record.

This conference report contains amendments to the Coastal Zone Management Act of 1972. As such, it includes matters which are within the exclusive jurisdiction of the Senate Committee on Commerce, Science, and Transportation under rule XXV of the standing rules of the Senate. The Committee on Energy and Natural Resources has no claim whatsoever to that jurisdiction, and this is readily conceded by that committee.

The Energy Committee took up these amendments to the Coastal Zone Management Act within the context of the OCS amendments solely with the permission of, and on the basis of an agreement with, the Commerce Committee. The agreement, which is part of the record for July 14, 1977, is basically this. My colleague from Louisiana, Senator JOHNSTON, had an interest in amending the formula grant segment of the coastal energy impact fund. The amendments were ones in which the Commerce Committee could concur substantively. Therefore, in the interests of expediting the OCS amendments as well as the amendment of the Coastal Zone Management Act, the Commerce Committee agreed to permit the Energy and Natural Resources Committee to take up the amendments in this manner, rather than request referral. Furthermore, the agreement laid to rest any further disagreement between my colleague from Louisiana and myself over what the formula grants were or were not originally intended to do.

Everyone has proceeded with this understanding in good faith. The Senate version of the OCS Lands Act amendments passed the Senate with commensurate action on the House side; a conference was held and we now have before us the conference report.

Now that we are voting on the conference report, the agreement for handling the coastal zone amendments in this manner has reached its natural conclusion, and any consideration of the Coastal Zone Management Act of 1972, as amended, reverts exclusively to the Committee on Commerce, Science, and Transportation as laid out in the Senate Rules.

Relations between our two committees have been very fine for some years now, and I certainly want to see that continue. And while I may seem to be stressing this jurisdictional matter unnecessarily, I and my colleagues on the Commerce Committee would rather see this matter settled clearly so that there is no room for misunderstanding. Too many times we see in the Senate the confusion and bad feelings that can be caused over jurisdictional issues, and I for one do not want that to be the case between these two committees.

On the issue of the handling of the coastal zone amendments in the OCS bill, the chairman of the Energy and Natural Resources Committee, Senator JACKSON, worked in good faith with us and did what he could to try and keep the spending down in the amendments. I certainly have no complaints here. On the contrary, Senator JACKSON was in a difficult position and made a point of consulting with me frequently. I do not by this mean to say that I am in total agreement with all the changes that were ultimately made, but Senator JACKSON was a man of his word. He and his colleagues, balancing the need to complete this legislation after years of effort, made the compromises that they believed were necessary to get the job done. I want to recognize Senator JACKSON's efforts in this regard, as well as those of Senator JOHNSTON.

I have with me a copy of the agreement reached here on the floor last year and I ask that it be printed in the RECORD.

The agreement follows:

Mr. President, the amendment is the culmination of a lot of work in consultation with members of the Committee on Commerce, with members of the States that are affected by the offshore drilling and prospective offshore drilling.

I yield to my distinguished friend from Washington.

Mr. MAGNUSON. Of course, the Senator from Louisiana. I want the record to show I realizes that this is a matter which is in the clear jurisdiction of the Committee on Commerce.

Mr. JOHNSTON. Yes, Mr. President.

Mr. MAGNUSON. And I joined with him in the amendment because I do think that if it had been sent to the Commerce Commit

tee, they would have approved the modified amendment and passed it right back.

Senator HOLLINGS, myself, and others, have agreed to it to save time. But I want the record to show that this is establishing absolutely no precedent at all on the jurisdiction of the Commerce Committee on coastal zone management matters. Under the reorganization of the Senate, we have clear jurisdiction and I am sure the Senator from Louisiana realizes that.

Mr. JOHNSTON. Mr. President, the Senator from Washington is correct. It has clear jurisdiction over that act. The Energy Committee makes no claim on that jurisdiction.

What this amendment represents is the culmination of about 3 years of negotiations on this particular amendment, which will now be culminated and consummated and we will make no further claim on the coastal zone management bill.

Mr. MAGNUSON. I want the record also to show, if the Senator will yield, that there was some suggestion made by the Senator from Louisiana to me and others that 2 years ago we made some kind of agreement on this type of amendment, as to jurisdiction.

I do not quite recall what we did. I recall the Senator from Louisiana was quite provoked at one time that we could not get an agreement.

But since that time, we have had a reorganization, regardless of this, and, clearly, we have had an awful fight to keep coastal zone management in the proper committee. We held hearings on it, worked on it for years. Now it is clearly there.

I am glad to join with the Senator in this matter to expedite what I think will be a good amendment.

I wish the Senator would yield also to my colleague from South Carolina.

Mr. JOHNSTON. Yes.

Mr. HOLLINGS. I thank the distinguished chairman, the Senator from Washington, and my colleague, the Senator from Louisiana.

Actually, the Senator from Louisiana and I sat in conference together when we were marking up that impact fund. I chaired that conference and I understood the misgiving that the Senator from Louisiana had because, in a sense, we had temporary agreement at one time—generally speaking, this same kind of approach that the Senator now submits in the form of his amendment. At no time was there any question about the jurisdiction.

I am glad we can accommodate our distinguished friend from Louisiana who has led the way, along with the Senator from Alaska and myself and the Senator from Washington, on the institution of the coastal energy impact fund.

Mr. President, I join the chairman of the Committee on Commerce, Science, and Transportation, Senator MAGNUSON, in cosponsoring the amendment offered by the distinguished junior Senator from Louisiana.

Although this amendment, by directly affecting the Coastal Zone Management Act of 1972, clearly falls within the jurisdiction of the Commerce Committee alone, the committee has agreed to make an exception in this one case, in order to address some of the problems being encountered in coastal States experiencing impacts from Outer Continental Shelf oil and gas activity. I am pleased to join in this agreement to enable the coastal zone management program to be more responsive to needs growing from OCS activity in our fragile and invaluable coastal areas. As I understand it, this amendment will enable coastal States, through the coastal zone management program, to deal with impacts from both frontier areas that will be leased and coming into production, as well as some of the problems already existing from current OCS activity. I feel that this is a sound compromise, and I fully endorse it.

Mr. JOHNSTON. Mr. President, I thank the Senator from Washington and the Senator from South Carolina, along with the distinguished chairman of my committee, for the many hours of work in helping us get this worked out so amicably and so helpfully.

Mr. MAGNUSON. Mr. President, the bill now before the Senate, S. 9—the Outer Continental Shelf Lands Act Amendments of 1977—contains matters which are within the exclusive jurisdiction of the Senate Committee on Commerce under the new jurisdictional rules recently adopted by the Senate. Section 506 of that bill contains an amendment to the Coastal Zone Management Act of 1972, as amended. That legislation is solely within the jurisdiction of the Committee on Commerce under rule XXV of the standing rules of the Senate, as recently amended. The Committee on Energy and Natural Resources has no claim whatsoever to that jurisdiction.

While members of the Energy Committee concede this jurisdiction, they desire this amendment without action in the Committee on Commerce. I consider this process highly unusual, particularly since it does not provide our committee with an ability to examine thoroughly this amendment or the substitute which Senator JOHNSTON now desires to offer.

But in the spirit of compromise I am willing to lay aside the jurisdiction issue if Senator JOHNSTON changes his amendment such that no coastal State is harmed in his attempt to aid his State of Louisiana. As shown to me, his original substitute amendment would have deprived certain west coast States of impact aid which they would receive under the present terms of the coastal energy impact program. This is the very reason I raised the jurisdictional issue. I have asked him to change his substitute amendment to insure that other States are not harmed.

Under his original proposal, the funding authorization for formula grants under the Coastal Energy Impact Program (CEIP) would be changed from an 8-year, $50 million per year level to a 4-year, $100 million per year level. This creates great uncertainty for those States which are on the far end of the Outer Continental Shelf leasing program, namely the west coast States. Under this proposal, my own State of Washington would lose in excess of $2 million.

I propose to continue the 8-year authorization, but to raise it to $75 million per year. This seems to be far more equitable to all States.

Coastal States will have to show actual need for these funds before they can qualify and appropriations for the CEIP must be approved by Congress. So this is not an unreasonable proposal.

The other parts of Senator JOHNSTON'S amendment have, I understand, the blessing of the administration. Since the Commerce Committee has not had time to analyze the ramifications of the changes to section 308(b)(4), the committee reserves the right to reexamine these changes if we feel it is necessary.●

Mr. JACKSON. Mr. President, I am prepared to yield back the remainder of my time.

Mr. HANSEN. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. JACKSON. I yield such time as he may need to the Senator from Alaska.

Mr. STEVENS. I shall not delay the Senate, Mr. President, except to say that 70 percent of this land is off my State, and I find very interesting the distinctions that are made in terms of the treatment of this oil as compared to the oil that is produced on the North Slope of Alaska.

For instance, the fee to create a compensation fund that is established under this conference report is 3 cents a barrel. When the Alaska oil pipeline compensation fund was determined the fee per barrel for that compensation fund was 5 cents a barrel.

I also find the amendment that we placed in the bill at the time it passed the Senate which would have separated exploration and development so that we could have cited specific determinations of the effect of offshore development in the highly productive fishery zone off my State has been deleted.

For these reasons, therefore, I shall oppose the bill and join the Senator from Oklahoma in voting against it.

SEVERAL SENATORS. Vote! Vote!

Mr. JACKSON. Did the Senator want the yeas and nays?

Mr. BARTLETT. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is all time yielded back? All time having been yielded back, the question is on agreeing to the conference report. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. Mr. President, this is the last rollcall vote today.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Colorado (Mr. HART), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Kansas (Mr. PEARSON), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 82, nays 7, as follows:

[Rollcall Vote No. 351 Leg.]

YEAS—82

Allen	Griffin	Morgan
Baker	Hansen	Moynihan
Bayh	Haskell	Muskie
Bentsen	Hatfield,	Nelson
Biden	Mark O.	Nunn
Brooke	Hatfield,	Packwood
Bumpers	Paul G.	Pell
Burdick	Hathaway	Percy
Byrd,	Hayakawa	Proxmire
Harry F., Jr.	Heinz	Randolph
Byrd, Robert C.	Helms	Ribicoff
Cannon	Hodges	Riegle
Case	Hollings	Roth
Chafee	Huddleston	Sarbanes
Chiles	Humphrey	Sasser
Church	Inouye	Schweiker
Clark	Jackson	Scott
Cranston	Javits	Sparkman
Culver	Kennedy	Stafford
Danforth	Leahy	Stennis
DeConcini	Lugar	Stevenson
Dole	Magnuson	Stone
Domenici	Mathias	Thurmond
Durkin	Matsunaga	Wallop
Eagleton	McClure	Weicker
Ford	McGovern	Williams
Garn	McIntyre	Zorinsky
Glenn	Melcher	
Gravel	Metzenbaum	

NAYS—7

Bartlett	Long	Tower
Bellmon	Schmitt	
Hatch	Stevens	

NOT VOTING—11

Abourezk	Goldwater	Pearson
Anderson	Hart	Talmadge
Curtis	Johnston	Young
Eastland	Laxalt	

So the conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. Mr. President, I want to express my appreciation to our staff for their outstanding contribution in making this first legislation since 1953 affecting the Outer Continental Shelf.

Mike Harvey, general counsel of the committee, is the individual who is, indeed, knowledgeable in this field affecting the Outer Continental Shelf public land law. I must say, and I know that members of the staff and members of the committee will agree, that his knowledge in this field is encyclopedic.

I must point out that his wise counsel and help made possible, really, after all of the efforts that had been made to no avail in the past, the updating of the law affecting the Outer Continental Shelf.

He has been ably assisted on our side by associate counsel, R. D. Folsom, who worked long and hard.

I want to point out that Dave Swanson, on the minority side, worked as a part of the team. I want to say to my colleagues that this matter from a professional standpoint could not have been handled better. There has not been any partisanship in terms of doing the professional work of the committee. I commend Dave Swanson and my distinguished colleague and ranking member on the minority side, the able Senator from Wyoming (Mr. HANSEN).

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. HANSEN. Mr. President, let me express my appreciation and gratitude to the chairman of the Energy and Natural Resources Committee (Mr. JACKSON) and to the staff, as he has already done. I join with him in saying we have seen a very professional job performed by the staff. I certainly echo the laudatory things he said about all members. I want to particularly note the contribution made by the minority staff, Mr. Swanson, whose knowledge and expertise I believe has been invaluable as a complementing force to that provided by the majority side.

I would like to say that I had the feeling that this bill was unnecessary in the first place, but, nevertheless, it is the will of the Congress that we have a new bill. I think everything considered, we can be proud of the job that has been done in drafting the OCS bill, which has gone to conference and which the Senate has now approved.

The PRESIDING OFFICER. The Senator from West Virginia.

EDUCATION AMENDMENTS OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar Order No. 787, S. 1753.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1753) to extend the Elementary and Secondary Education Act of 1965, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Human Resources with an amendment in the nature of a substitute.

Mr. PERCY. Mr. President, I ask unanimous consent that Lucinda Oliver and Barbara Block of my staff be granted the privilege of the floor during debate and votes on S. 2570, the Comprehensive Employment and Training Act Amendments of 1978.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, not to extend beyond 30 minutes, with statements therein limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer laid before the Senate a message from the President of the United States submitting the nomination of William H. Luers, of Illinois, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Venezuela; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHILES, from the Committee on Governmental Affairs, without amendment:

S. 3250. A bill to authorize the permanent establishment of a system of Federal Information Centers (Rept. No. 95-1139).

By Mr. ABOUREZK, from the Select Committee on Indian Affairs, without amendment:

S. Res. 544. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to consideration of H.R. 11092, a bill to amend the act of December 22, 1974 (88 Stat. 1712) relating to the Navajo and Hopi Indian Relocation Commission. Referred to the Committee on the Budget.

S. 3184. A bill to designate the Indian Health Facility in Ada, Okla., the "Carl Albert Indian Health Facility" (Rept. No. 95-1130).

By Mr. ABOUREZK, from the Select Committee on Indian Affairs, with an amendment:

S. 2358. A bill to declare that the United States holds in trust for the Pueblo of Zia certain public domain lands (Rept. No. 95-1131).

By Mr. ABOUREZK, from the Select Committee on Indian Affairs, with amendments:

S. 2568. A bill to declare that the United States holds in trust for the Pueblo of Santa Ana certain public domain lands (Rept. No. 95-1132).

By Mr. ABOUREZK, from the Select Committee on Indian Affairs, without amendment:

H.R. 8397. An act to provide that a certain tract of land in Pinal County, Ariz., held in trust by the United States for the Papago Indian Tribe, be declared a part of the Papago Indian Reservation (Rept. No. 95-1133).

By Mr. NUNN, from the Committee on Armed Services, without amendment:

H.R. 3532. An act to amend chapter 639 of title 10, United States Code, to enable the Secretary of the Navy to change the name of a publication of the Naval Observatory providing data for navigators and astronomers (Rept. No. 95-1134).

H.R. 7161. An act to amend title 10, United States Code, to allow nationals, as well as citizens, of the United States to participate in the Junior Reserve Officers' Training Corps program (Rept. No. 95-1135).

H.R. 8471. An act to authorize the Governor of the State of Wyoming to exhibit the nameplate, ship's bell, and silver service of the U.S. ship *Wyoming* without restriction as to the place of such exhibition (Rept. No. 95-1136).

By Mr. NUNN, from the Committee on Armed Services, with amendments and an amendment to the title:

S. 3373. A bill to amend title 10, United States Code, to authorize the Secretary of Defense to provide transportation to the Girl Scouts of the United States of America in connection with international world friendship events or troops on foreign assignments, and for other purposes (Rept. No. 95-1137).

By Mr. NUNN, from the Committee on Armed Services, with an amendment:

H.R. 3702. An act to amend title 10, United States Code, to make certain changes in the Retired Serviceman's Family Protection Plan and the Survivor Benefit Plan as authorized by chapter 73 of that title, and for other purposes (Rept. No. 95-1138).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Mary S. Olmsted, of Tennessee, now Ambassador Extraordinary and Plenipotentiary of the United States to Papua New Guinea, to serve concurrently as Ambassador Extraordinary and Plenipotentiary of the United States to Solomon Islands.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: Mary S. Olmsted.
Post: Honiara, Solomon Islands.

Contribution, amount, date, and donee:
1. Self: None.
2. Spouse: (No spouse).
3. Children (No children).
4. Parents: Mr. and Mrs. George C. (Eadie S.) Olmsted (Deceased more than four year).
5. Grandparents: Mr. and Mrs. Henry T. (Mary S.) Olmsted (Deceased more than four years). Mr. and Mrs. John A. (Sarah R.) McDonald (Deceased more than four years).
6. Brothers and spouses: Mr. and Mrs. John M. (Loretta S.) Olmsted. None.
7. Sisters and spouses (no sisters).

By Mr. SPARKMAN, from the Committee on Foreign Relations:

The following-named persons to be representative and alternate representatives of the United States to the 22d Session of the General Conference of the International Atomic Energy Agency:

Dale D. Myers, of Virginia, Representative;
Gerard C. Smith, of the District of Columbia, Alternate Representative; and
Roger Kirk, of the District of Columbia, Alternate Representative.

(The above nominations from the Committee on Foreign Relations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. ROBERT C. BYRD, from the Committee on the Judiciary:

Tyree A. Richburg, of Alabama, to be U.S. marshal for the southern district of Alabama.

(The above nomination from the Committee on the Judiciary was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. NUNN. Mr. President, from the Committee on Armed Services, I report favorably the nominations of Maj. Gen. Howard Mac Lane, U.S. Air Force, to be lieutenant general; and Vice Adm. Harry D. Train II, U.S., Navy, to be admiral; and Adm. Isaac C. Kidd, Jr., U.S. Navy, age 58, for appointment to the grade of admiral on the retired list. I ask that these nominations be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. In addition, there are 1,325 for promotion in the Regular Army of the United States, to be lieutenant colonel and below, list beginning with Rudolph E. Abbott; and there are 78 for reappointment and appointment in the Regular Army of the United States, in the grade of colonel and below, list begining with Frederick T. Abt; and there are 12 in the Navy, to be permanent and temporary commanders and below, list beginning with Keith E. Burtner. Also, there are 28 chief warrant officers, W-2, in the Navy, for promotion to the grade of chief warrant officer, W-2, list beginning with Denis R. Boudreau; and there are 448 in the Navy and Naval Reserve, for temporary and permanent promotion to captain and below, list beginning with Leon E. Ackart. Also, there are 2,199 in the Navy for temporary promotion to the grade of lieutenant, junior grade, list beginning with William C. Absher; and there are 14 chief warrant officers, W-1, in the Navy, for temporary promotion to the grade of chief warrant officer, W-2, list beginning with Paul A. Anderson. Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD on July 24 and July 28, 1978, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. MORGAN (for himself, Mr. BAKER, Mr. SASSER, Mr. MAGNUSON, Mr. HODGES, Mr. INOUYE, Mr. PERCY, and Mr. MATHIAS):

S. 3441. A bill to amend the tax laws of the United States to encourage the preservation of independent local newspapers; to the Committee on Finance.

By Mr. BUMPERS (for himself and Mr. HODGES):

S. 3442. A bill to name a certain Federal building in Jonesboro, Arkansas, the "E. C. 'Took' Gathings Building"; to the Committee on Environment and Public Works.

By Mr. ANDERSON:

S. 3443. A bill for the relief of M. Javier Rivera; to the Committee on the Judiciary.

By Mr. MARK O. HATFIELD (for himself, Mr. EASTLAND, Mr. HANSEN, Mr. MCCLURE, Mr. YOUNG, Mr. CURTIS, and Mr. LAXALT):

S. 3444. A bill to repeal the Color of Title Act; to establish standards and procedures whereby certain persons in adverse possession of public lands may acquire legal title thereto; and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. JACKSON:

S. 3445. A bill for the relief of Marian Law Shale Holloway, Adeline Mary Gill Charles, and Eliza Shale Carstens; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MORGAN (for himself, Mr. BAKER, Mr. SASSER, Mr. MAGNUSON, Mr. HODGES, Mr. INOUYE, Mr. PERCY, and Mr. MATHIAS):

S. 3441. A bill to amend the tax laws of the United States to encourage the preservation of independent local newspapers; to the Committee on Finance.

(The remarks of Mr. MORGAN when he introduced the bill appear elsewhere in today's proceedings.)

By Mr. BUMPERS (for himself and Mr. HODGES):

S. 3442. A bill to name a certain Federal building in Jonesboro, Arkansas, the "E. C. 'Took' Gathings Building"; to the Committee on Environment and Public Works.

E. C. "TOOK" GATHINGS BUILDING

● Mr. BUMPERS. Mr. President, today I am introducing a bill to name the Federal Building in Jonesboro, Ark., the "E. C. 'Took' Gathings Building." Took Gathings is a member of what I hope is not a vanishing breed—Arkansas public servants who have played a vital role in our Nation's history. He served as First District Representative in the House of Representatives from January 1939 to January 1969. In so doing, he served through five Presidencies and three wars.

As ranking member of the House Agriculture Committee, he was in a position to look after the interests of Arkansas farmers, a task he performed well. At a time when cotton was Arkansas' most important crop, he chaired the Cotton Subcommittee. Not content to remain in Washington, Took traveled across the country and was an effective spokesman for cotton.

He was born on November 3, 1903, in Prairie, Miss., and attended public schools in Arkansas. After receiving his law degree from the University of Arkansas at Fayetteville, he was admitted to the Arkansas Bar and practiced law. In 1935 he was elected to the Arkansas State Senate. Only 4 years later the people of Arkansas sent him to Congress.

After his retirement from the House, he and Tolise, his wife, moved back to West Memphis, Ark., where he set up a law practice. Mr. President, Took is still going strong. It is only fitting that a facility providing Federal services should be named after him. I urge expeditious action by the Senate.●

By Mr. MARK O. HATFIELD (for himself, Mr. EASTLAND, Mr. HANSEN, Mr. MCCLURE, Mr. YOUNG, Mr. CURTIS, and Mr. LAXALT):

S. 3444. A bill to repeal the Color of Title Act; to establish standards and procedures whereby certain persons in adverse possession of public lands may acquire legal title thereto; and for other purposes; to the Committee on Energy and Natural Resources.

● Mr. MARK O. HATFIELD. Mr. President, today I am introducing legislation aimed at providing relief for unsuspecting landowners who find themselves in conflict with the Federal Government over property resurveys. Each year, when Government land is resurveyed, many people run the risk of unexpectedly being labeled as trespassers, with no means to refute the charge. My proposal is aimed at resolving the inequities which have fallen upon these landowners.

Although this is a problem felt by the Congress, the courts and Federal agencies, its most basic impact is the personal suffering of an unintentional trespasser. When a dispute with the Federal Government arises, these people face difficult and sometimes heartbreaking problems under current law.

As an example, I would like to share with my colleagues the problems faced by Mr. and Mrs. Noel McClure of Blue River, Oreg. About 26 years ago, the couple bought their house and a small parcel of land near the Willamette National Forest. Over the next quarter of a century, they made a home for themselves there. Adding a carport and machine shed, planting flowers and shrubs, they improved the site and were later joined by their son and his family. After years of working, they decided to retire at this location.

They paid little attention to resurveys of nearby land until a letter from the Forest Service arrived. They were not near the National Forest as they had believed, the Forest Service said, but in it. According to the new surveys, they did not actually own the land they had purchased, improved, and lived on for those 26 years. To make matters worse, the Forest Service now wanted this land back.

About this time, the McClures, as well as several of their neighbors who were faced with the same problems, contacted me. In turn, I asked for a review by the Forest Service and by special permit, renewed annually at a cost to the McClures, the couple will be allowed to remain in their home. But when they move or die, the property will revert to the Government.

For the McClures, this situation is very trying at the least. They cannot will the property to their son, nor can they sell it to him. If they decide to relocate somewhere nearer to medical facilities, they will not have the benefits of a house sale to help with the move. Under the law as it exists today, they are without a home and without a means to clarify their status as landowners.

Mr. President, the roots of the present problem are long and set deep into American history. In the first place, nearly all lands, public and private, in the original 13 States were surveyed by metes and bounds. Under this age-old system, each tract of land was set out by arbitrarily establishing some point in the boundary of the property as a starting point and then reciting the courses (or directions) and distances from point to point around the tract. Surveyors took notes as property was measured, creating land descriptions which are incomprehensible to the layman and useless even to the expert unless tied to the land by some identifiable monument such as a boundary stone, a distinctive tree, or a unique river bend. The surveying tools of the time were highly erratic magnetic compasses and chains and tapes—rarely standardized, stretchable, and subject to wear.

The inadequacies and complexities of the metes and bounds system were recognized even during the colonial period, and this soon led to changes in American survey techniques. In 1785, the Continental Congress designated the rectangular survey as the sole acceptable method of surveying any public lands which might thereafter be acquired. This system prevails even today as the official method of Government survey. Gradually but implacably, a uniform surveyor's grid of 1 mile by 1 mile square with sides running north and south and east and west has been laid out on most of the public lands.

Theoretically, under the rectangular system, any given tract of surveyed land "can readily, easily, and briefly be described and distinguished from all other tracts;" and boundary lines and corners, even if obliterated, can usually be retraced. In actuality, rectangular surveys, like metes and bounds surveys, are often the source of property disputes.

When the use of the rectangular system was instituted, surveying was not as much a science as an art—and it was a young art at that. Surveying tools and techniques were crude and often inaccurate. The same magnetic compass which introduced errors into metes and bounds surveys was used in all early rectangular surveys. The reliable solar compass used by modern surveyors did not even exist at the time much of the public domain was being surveyed.

Fraudulent and slipshod surveying and recording undoubtedly occurred. Field surveyors worked long hours for low wages with crude instruments. They often found themselves knee deep in mud or snow, tortured by flies and mosquitoes, and frightened by the very wilderness they had come to map.

As Vernon Carenstan points out in his book on the history of public lands, "(P)erhaps no one had a right to expect the task (of surveying) to be done well: the remarkable thing was that it was done at all, that the whole machinery did not collapse."

The job of surveying the public lands is yet to be completed. According to the BLM's own statistics, at the close of the 1975 fiscal year, 405,027,320 acres of federally owned property in the United States remained to be surveyed. Of the unsurveyed land, 77 percent, or nearly 314 million acres, lies in Alaska. The remaining acres are located exclusively in 11 Western States.

Arizona has about 11 million acres of public land still unsurveyed; California has 9.2 million acres; Colorado, 3.7 million; Idaho, 8.8 million acres; Montana, 9.0 million acres; Nevada, 19.5 million acres; North Dakota, 4.7 million acres; Oregon, 2.8 million acres; Utah, 8.9 million acres; Washington, 6.3 million acres; and Wyoming, 6.7 million acres. In States like Nevada, where the Government holds 86 percent of all real property, the fact that Federal surveys are unfinished means that much of the land area of the State is unsurveyed.

It is the law that before the United States has conveyed lands, it may make as many surveys of a tract of public lands as it desires and the last accepted survey will control. It is also the law, however, that once property rights are acquired on the faith of a Government survey, that survey, even if erroneous, becomes controlling.

By statute, property rights once vested in bona fide private owners and claimants cannot be affected by subsequent resurveys which change the boundaries of the public lands. The essential rule of a resurvey, is, therefore, to follow the steps of the first survey. The clear duty of the retracting surveyor is to determine what the first surveyor did, not what he should have done.

Because of the complex detective wo[rk] a surveyor must perform in order to re[-] establish lost boundary lines, the task [of] resurveying the public lands is not like[ly] to be accomplished quickly.

Because many original surveys we[re] not properly or uniformly conducted, re[-] creating them may not always be poss[i-] ble, regardless of the diligence of BL[M] surveyors. The Government and priva[te] landowners are certain to disagree [in] some instances on just where a bounda[ry] originally lay. Because of this, resurve[ys] can beexpected to create nearly as ma[ny] problems as they solve.

Due to the expanse of public la[nds] across the country, many honest disput[es] can develop between the Governme[nt] and private citizens. Although the ex[act] size of the unintentional trespass pro[b-] lem is difficult to judge, one observe[r] commenting on the findings of the Pu[b-] lic Land Law Review Commission, term[s] it not severe, but substantial nonethe[-] less.

For anyone who has paid full value f[or] land they thought was theirs, made val[u-] able improvements, mortgaged it, met t[ax] assessments against it and become em[o-] tionally attached to it, the problem c[an] only be termed harsh.

To remedy this situation, the bill I a[m] proposing would go beyond the sharp[ly] limited relief currently available to [a] narrowly defined group of people. [In] place of existing law, I am proposing [a] procedure which would allow innocen[t] trespassers enough aid to resolve th[eir] disputes with the Federal Government.

In general terms, this legislation wou[ld] provide that:

First. Claimants who meet the requir[e-] ments for color of title do not have [to] purchase the land from the Governme[nt] as currently required under law.

Second. Claimants must have held t[he] land in good faith and in peaceful a[d-] verse possession for at least 20 yea[rs] while making valuable improvements [on] the land. In the absence of work on val[u-] able improvements, the land would ha[ve] to be held for at least 30 years.

Third. The Secretary is not always r[e-] quired to transfer a specific portion [of] land if it is needed by the Governme[nt] for other purposes.

Fourth. All mineral rights are reserv[ed] to the United States.

Fifth. The actions of the Secretary a[re] expressly made subject to judicial revie[w].

Congressional interest in balanci[ng] public and private interests has been [a] recurrent theme in public land poli[cy] over the years, and I believe my propo[sal] closely follows this tradition. Land, aft[er] all, is one of our most important materi[al] resources, whether private or publ[ic]. Central to this legislation is the fund[a-] mental belief that both public and pr[i-] vate interests need to be protected.

Obviously, the bill is aimed at provi[d-] ing a large measure of help for priva[te] parties. At the same time, it was car[e-] fully drafted to incorporate importa[nt] safeguards for public domain. By reser[v-] ing all mineral rights, the possibility [of] using the provisions for land speculati[on] are greatly reduced. Yet another impo[r-]

tant protective measure is available to the Secretary in cases where public land must be retained. Under those circumstances, the Secretary has the authority to keep the land and offer the claimant a comparable piece of property or a cash payment equal to the value of the property plus improvements.

Mr. President, existing laws also carry the same safeguards for the public incorporated in my proposal, but there are district limits on the aid available to unintentional trespassers. The Quiet Title Act of 1972, while a very important statute for many, does not help those people who technically do not have good title because of surveying errors discovered in recent resurveys. Another useful statute, the Color of Title Act, does provide some relief of victims of surveying errors, but again its aid is limited.

Based on review of these laws and a recognition of the real problems encountered by innocent landowners who run afoul of Government resurveys, I believe the legislation I am proposing today represents an important tool in reestablishing equity to such situations. We should not underestimate the magnitude of the problem we are addressing here. Public land accounts for over one-third of our total land surface, encompassing large areas in both the Eastern and Western reaches of the Nation. In order to insure that we remedy the problems confronting many private landowners, I hope that this legislation will serve as a starting point for Senate action.

Mr. President, I would like to make one final point concerning my proposal. When survey problems for several families in the community of Blue River first became apparent, students and faculty at the University of Oregon law school were quick to respond to my request for help in researching the situation. One student in the Environmental Law Clinic, Mary Fiebing, played a crucial role in writing this legislation. Her thorough background studies and careful drafting of the bill were immense aids to me. It does no good to talk about the difficulties facing many landowners following resurveys when Federal law lacks the necessary tools to be of assistance. Ms. Fiebing helped focus attention on the problem and then helped immensely in working out possible solutions. And I want to again thank her for the time and effort.

So that my colleagues may review this proposal in detail I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3444

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That as used in this Act, the term—

(1) "Secretary" means the Secretary of the Interior;

(2) "qualified person" means—

(A) any individual who is authorized to hold title in the State in which the property is located.

(B) any partnership or association, each of the members of which is within the purview of clause (A) of this paragraph; or

(C) any corporation organized under the laws of the United States or of any State thereof, and authorized to hold title to real property in the State in which the property is located;

(A) land owned by the United States, including land permanently or temporarily withdrawn, withheld or reserved from private appropriation and disposal, as well as land available for private appropriation and disposal, but excluding land dedicated to Indian reservations;

(B) any interest of the United States in land, other than a security interest or water right;

(4) "color of title" means a written instrument which gives the semblance or appearance of title but is not title in fact;

(5) "good faith" means a good faith at the time of acquisition of color of title.

PETITIONS FOR GRANT OF PATENT

SEC. 2. (a)(1) Any qualified person who believes he has a valid claim under color of title to an interest in public land, and meets the standards as provided in Section 2(b) of this Act, may file a petition for a patent thereto with the Secretary.

(1) Application under this Act may be made for government-surveyed land. If unsurveyed, the petition shall include a description sufficiently complete to identify the location, boundary, and area of the land, and, if possible, the approximate description or location of the land by section township and range. If unsurveyed land is claimed, final action will be suspended until the plat of survey has been officially filed.

(3) Each petition shall include information relating to all record and nonrecord conveyances, and to all nonrecord claims of title affecting the land. The statements of record conveyances must be certified by the proper county official or supported by an abstract of title. The petitioner may be called upon to submit documentary or other evidence relating to conveyances or claims.

(b) A patent shall be granted to a tract, a portion of a tract, or an interest in a tract claimed if the petitioner, his ancestors, or grantors have held said tract in good faith and in peaceful adverse possession under color of title for at least twenty (20) years and have made valuable improvements thereon, or reduced a portion thereof to cultivation. Discovery of a defect in title after acquisition of title, but short of twenty years of adverse possession, shall not defeat a petition for grant of patent under this Act.

(c)(1) Within a reasonable time after receipt of a petition for grant of patent, the Secretary shall determine the sufficiency of the petition and any supporting documentary evidence. If the Secretary determines that the petition and any supporting evidence is insufficient, and adjudicatory hearing shall be held regarding the claim according to appropriate procedures set forth in Sections 554, 556, and 557 of Title 5, United States Code.

(2) If the Secretary determines the petition is sufficient, initially or upon completion of a hearing held pursuant to subsection (c)(1) above, he shall issue a patent for the interest claimed, up to and including a fee simple, in an area of public land not to exceed fifty (50) acres upon the payment of not more than $1.25 per acre.

(3) If the tract claimed is in excess of 50 acres, the Secretary may:

(A) determine which particular portion of the land, not exceeding 50 acres, shall be patented, based on existing improvements and public need for the land, or

(B) in his discretion, issue grants in excess of 50 acres upon a finding that such excess acreage is not needed for public purposes and will be put to active use by the petitioner. This grant shall be made available upon payment of $1.25 per acre.

(4) Where land claimed under this Act has been withdrawn, withheld, or reserved in aid of a function of a Federal department or agency other than the Department of the Interior, or of a State, county, municipality, water district, or other local governmental subdivision or agency, the Secretary may issue a patent thereto only with the consent of the head of the governmental unit concerned and under such terms and conditions as such unit head may deem necessary.

(5) If the Secretary determines that a petition is sufficient but (A) the consent required by subsection (c)(4) above is not given or terms and conditions imposed on such consent are unacceptable to the petitioner, or (B) the particular land claimed is needed for public purposes, the Secretary shall either issue the petitioner a patent for a comparable tract of Federal land upon payment by the petitioner of $1.25 per acre, or pay the petitioner the fair market value of the land or interest in land claimed, including any improvements placed upon such land by the petitioner, his ancestors or grantors. A petitioner who qualifies for a patent under this Act, but is denied title to the particular tract claimed under this subsection, shall have the option of electing monetary compensation over a patent to substitute land.

(6) If a petitioner is to be given monetary compensation for lands claimed, improvements thereon, or both, as allowed under this subsection, the Secretary shall cause the land or improvements, or both, to be appraised, said appraisal to be on the basis of the value of the and or improvements, or both, exclusive of mineral interests, at the time of such appraisal.

(7) No patent for substitute land and no monetary compensation shall be granted until arrangements satisfactory to the Secretary have been made for termination of the petitioner's occupancy of the land claimed.

(8) The mineral interests of the United States in any land to which patent is issued under this Act shall be reserved to the United States, and shall be subject to sale, lease, and disposal under applicable leasing and mineral land laws. No right of surface ingress or egress is reserved to the United States.

CONFLICTING CLAIMS

SEC. 3. No patent shall issue under this Act for any tract to which there is a conflicting claim adverse to that of the petitioner, unless and until such claim shall have been finally adjudicated in favor of such petitioner.

JUDICIAL REVIEW

SEC. 4. Any final action of the Secretary under this Act, including appraisals under Section 2(c)(7), shall be subject to judicial review by the United States court of appeals for the circuit in which the property claimed is located upon the filing in such court within 60 days from the date of such action of a petition by any aggrieved person. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose. Upon the filing of the petition, the court shall have jurisdiction to review the action in accordance with Chapter 7 of Title 5 of the United States Code and to grant appropriate relief as provided in such chapter.

RULES AND REGULATIONS

SEC. 5. The Secretary is hereby authorized to make such rules and regulations as are necessary to carry out the provisions of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. There are hereby authorized to be appropriated such sums as may be necessary to implement the provisions of this Act.

COLOR OF TITLE ACT

SEC. 7. The provisions of this Act are intended to be supplemental to, an not intended to supersede or replace, the provisions of the Color of Title Act (43 U.S.C. 1068 et seq.).

By Mr. JACKSON:

S. 3445. A bill for the relief of Marian Law Shale Holloway, Adeline Mary Gill Charles, and Eliza Shale Carstens; to the Committee on Energy and Natural Resources.

● Mr. JACKSON. Mr. President, the bill I am introducing today for the relief of Marian Law Shale Holloway, Adeline Mary Gill Charles and Eliza Shale Carstens, corrects a mistake made by the Bureau of Indian Affairs in erroneously approving a purported sale of property.

The individuals, or their estates, who are named in this relief bill, would be compensated by approximately $14,000 as a result of this erroneous conveyance. I ask unanimous consent that a letter from the Department of the Interior explaining this situation be printed in the RECORD.

I urge my colleagues to support this bill.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., August 10, 1976.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Your Committee has requested the views of this Department on S. 3537,, a bill "For the relief of Marian Law Shale Holloway, Adeline Mary Gill Charles and Eliza Shale Carstens."

We recommend that the bill be enacted.

S. 3537 would authorize and direct the Secretary of the Interior to pay, out of any money appropriated to the Department of the Interior, to Marian Law Shale Holloway, Adeline Mary Gill Charles, and Eliza Shale Carstens (or to their estates) such sums as he determines each is legally and equitably entitled to as compensation for losses (including reasonable attorney fees) resulting from his "erroneous approval of purported conveyances" of some 18.75 acres of trust land located on the Quinault Indian Reservation in Washington and more specifically described in the bill. Section 2 would provide a standard prohibition against the payment of more than ten percent of the funds appropriated for said payments for the services of any agent or attorney in connection with this claim.

The trust land in question was validly conveyed in 1931 by Harry Shale to his wife, Eliza Shale. In 1951, Bureau of Indian Affairs officials, acting on behalf of the United States and the Secretary of the Interior, inadvertently and erroneously approved a purported sale of the same trust land from Harry Shale to the United States in trust for Marian Law Shale Holloway. Ms. Holloway, who is a Quinault Indian, paid $5,000 for the land from funds held in trust for her by the Bureau of Indian Affairs on behalf of the United States and the Secretary of the Interior.

In 1953 and 1955, the Bureau of Indian Affairs inadvertently and erroneously approved purported sales by Ms. Holloway of two two-acre portions of the land involved in the purported 1951 sale for which she received a total of $2,400. The purchasers in these purported sales were also Quinault Indians who utilized trust funds in their purchases.

The mistake of the 1951 approval was not discovered until 1968, some twelve years after the death of Harry Shale. Mr. Shale's estate has been probated and proceeds distributed so that no recourse is available against him or his estate for his purported sale of the land in 1951 which he had previously sold in 1931 to his then wife, Eliza Shale.

As indicated below, we believe that the United States owed Ms. Holloway and the 1953 and 1955 Quinault purchasers the duty of assuring that they would obtain clear titles prior to approving the purchases and sales of the restricted land involved and prior to approving the related expenditures of trust funds. Under the provision set out in 25 U.S.C. 379, such purchases and sales require the approval of the Secretary of the Interior (or his delegate) who has set up a procedure by which such sales can be made (25 CFR 121.22 to 121.31).

Pursuant to the statutory provision set out in 25 U.S.C. 5, the Secretary has established a system to maintain land records and title documents (25 CFR 120.1). These land records are maintained by the Secretary on behalf of the United States and are the only title records of Indian land. As such, they are relied upon by Indian people and by all persons who have transactions with Indians related to trust lands.

We do not mean to imply that a duty to maintain these land records is owed by the United States to everyone who deals with Indian people. However, it is inescapable that the United States, acting through the Secretary of the Interior and his delegates, has an obligation to maintain these records as part of its trust responsibilities in approving sales of trust land and in approving the expenditure of trust funds for such land. We believe that this trust responsibility was breached by approval of the deeds and sales of restricted land in each of the three purported sales (1951, 1953, and 1955) and by the approval of the expenditures of trust funds in connection with each such sale.

Any right of action relating to those purported sales, Ms. Holloway or the 1953 and 1955 purchasers may have had to sue the United States is apparently now barred by the statute of limitations (25 U.S.C. sec. 2401 and sec. 2501). However, we understand that a suit (*Holloway* v. *United States*—USDC, W.D. Wash.—Civil No. 40-7167) is being held in abeyance to give the plaintiff the opportunity to appeal to the Congress for relief.

We believe that the erroneous approval by the Bureau of Indian Affairs (on behalf of the United States) of the purported 1951 sale to Ms. Holloway and the related expenditures of her trust funds justifies the United States providing compensation. Similarly, the erroneous approvals of the purported 1953 and 1955 sales and the related expenditures of the purchasers' of trust funds, justifies the United States providing compensation to those purchasers. Ms. Holloway's losses were lessened by the 1953 and 1955 sales and her compensation should be adjusted accordingly. Therefore, compensating the 1953 and 1955 purchasers would not increase the total compensation paid by the United States.

The amount of compensation due Ms. Holloway would be the sum of (1) the $5,000 she paid for the land in 1951 plus interest compounded at the interest rates and intervals which would have applied if the funds had stayed in trust until the purported 1953 sale, plus (2) the interest calculated on the balance of such trust fund at the time of the purported 1953 sales less the $2,000 received by Ms. Holloway at that time with such interest compounded at the rates and intervals which would have applied if the funds had stayed in trust until the purported 1955 sale, plus (3) the interest calculated on the balance of such trust fund at the time of the purported 1955 sale less the $400 received by Ms. Holloway at that time with such interest compounded at the rates and intervals which would have applied if the funds had stayed in trust until the date the compensation is paid by the United States to Ms. Holloway. In addition, S. 3537 would allow her to receive compensation for reasonable attorney fees which she has incurred as the result of the erroneous approval by the Secretary.

The purported 1953 sale was to Adeline Mary Gill Charles (Quinault Allottee No. 1094) and the purported 1955 sale was to Eliza Shale Carstens (Quinault Allottee No. 918). The amount of compensation to be paid to each of these persons would be calculated in the same manner as described above for Ms. Holloway.

If the payments are calculated as set out above and are paid this calendar year, we estimate the total to be about $14,000.

It should be noted that Eliza Shale Carstens, the purchaser of the two acres in the purported 1955 sale was also the purchaser (Eliza Shale) of the entire 18.75 acres in the valid 1931 sale. However, we do not feel that this fact alters the justification for compensation to her for her loss of funds due to the Bureau of Indian Affairs approval of both the 1955 sale and the related expenditure of her trust funds.

In line with section 1(b) of S. 3537, the payment to each of the three parties would be in full satisfaction of all claims they may have against the United States in connection with the approvals of the purchases and sales and the expenditures of trust funds and they would be required to execute releases to that effect and such other documents as may be necessary to clear any cloud on the title to the land in question. In addition, the 1953 and 1955 purchasers would be required to execute releases for any claims they may have against Ms. Holloway in connection with the purported 1953 and 1955 sales.

Information available in the Office of the Area Geologist, Menlo Park, California shows that the acreage in question is located within an area which has been classified valuable prospectively for oil and gas. Exploratory drilling has produced indications of oil and gas but, as yet, no producible quantities have resulted.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

RONALD G. COLEMAN,
Assistant Secretary of the Interior.●

ADDITIONAL COSPONSORS

S. 2502

At the request of Mr. ABOUREZK, the Senator from North Dakota (Mr. BURDICK) and the Senator from Colorado (Mr. HASKELL) were added as cosponsors of S. 2502, a bill to authorize the States and the Indian tribes to enter into mutual agreements and compacts respecting jurisdiction and governmental operations in Indian country.

SENATE RESOLUTION 519

At the request of Mr. ANDERSON, the Senator from Massachusetts (Mr. BROOKE) was added as a cosponsor of Senate Resolution 519, expressing the sense of the Senate that the 1980 Summer Olympic Games be held at a site outside the Soviet Union.

SENATE RESOLUTION 526

At the request of Mr. DOLE, the Senator from New York (Mr. MOYNIHAN) and the Senator from Florida (Mr. STONE) were added as cosponsors of Senate Resolution 526, commemorating the 10th anniversary of the invasion of Czechoslovakia.

SENATE RESOLUTION 544—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. ABOUREZK, from the Select Committee on Indian Affairs, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 544

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to consideration of H.R. 11092, a bill to amend the Act of December 22, 1974 (88 Stat. 1712) relating to the Navajo and Hopi Indians Relocating Commission. This waiver is necessary because the Commission estimates that during fiscal year 1979 it will relocate approximately 500 families of the estimated 1,100 Navajo and Hopi families to be relocated from areas of the joint use area partitioned to the respective Navajo and Hopi Tribes of which the relocatees are not members. H.R. 11092 increases the authorization of appropriations for the operation of the Commission from $500,000 a year to $1 million a year. In anticipation of enactment of H.R. 11092 the House and Senate Committees on Appropriations have reported out appropriations bills which increases the appropriations for the operation of the Commission (by $490,000 and $430,000 respectively) over and above the $500,000 presently authorized by the Act of December 22, 1974. The existing authorization for the Commission's operating expenses is insufficient for the Commission's enormous task in relocating the estimated 500 families and fulfilling their other duties under the law during fiscal year 1979. The increased authorization will enable the Commission to hire the additional personnel needed to adequately carry out their activities.

H.R. 11092 passed the House of Representatives April 11, 1978, however, the Senate Select Committee was not able to take action on the bill until well after May 15, 1978, because of ongoing research and investigation of other issues related to the implementation of the relocation efforts.

AMENDMENTS SUBMITTED FOR PRINTING

COMPREHENSIVE EMPLOYMENT AND TRAINING ACT AMENDMENTS—S. 2570

AMENDMENT NO. 3526

(Ordered to be printed and to lie on the table.)

Mr. SCHWEIKER submitted an amendment intended to be proposed by him to S. 2570, a bill to amend the Comprehensive Employment and Training Act of 1973 to provide improved employment and training services, to extend the authorization, and for other purposes.

AMENDMENT NO. 3527

(Ordered to be printed and to lie on the table.)

Mr. BELLMON (for himself, Mr. NELSON, Mr. JAVITS, Mr. MUSKIE, Mr. RIBICOFF, Mr. BAKER, Mr. CHILES, Mr. BARTLETT, Mr. DECONCINI, Mr. DOMENICI, Mr. HATCH, and Mr. DANFORTH) submitted an amendment intended to be proposed by them, jointly, to S. 2570, supra.

● Mr. BELLMON. Mr. President, I submit an amendment to S. 2570 and ask that it be printed. I ask unanimous consent the amendment and a section-by-section description of the amendment be printed in the RECORD.

There being no objection, the amendment and description were ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 3527

On page 182, line 14, after "rehabilitation" insert a comma and the following: "public assistance".

On page 185, line 9, insert after "shall" a comma and the following: "in coordination with units of general local government,"

On page 189, line 7, after "agencies" insert a comma and the following: "public assistance agencies".

On page 190, line 23, strike out the word "or".

On page 190, line 23, before the period insert a comma and the following: "or are public assistance recipients".

On page 195, lines 3 and 4, after "education" insert a comma and the following: "State and local public assistance agencies".

On page 204, line 5, after "agencies" insert a comma and the following: "public assistance agencies".

On page 206, between lines 14 and 15, insert the following:

"(iii) one representative of the State public assistance agency;

On page 206, line 15, strike out "(iii)" and insert in lieu thereof "(iv)".

On page 206, line 19, strike out "(iv)" and insert in lieu thereof "(v)".

On page 206, line 21, strike out "(v)" and insert in lieu thereof "(vi)".

On page 207, line 18, after "rehabilitation" insert a coma and the following: "public assistance".

On page 218, line 21, before the period insert a comma and the following: "and to eligible persons who are public assistance recipients or who are eligible for public assistance but not receiving such assistance".

On page 243, line 20, strike out "and" the first time it appears.

On page 243, line 21, insert before the semicolon a comma and the following: "and public assistance recipient status".

On page 244, between lines 11 and 12, insert the following: "(6) an estimate of the savings realized in public assistance, food stamps, housing assistance, medical assistance and other programs due to the increased employment of recipients of benefits under those programs as a result of the employment and training services provided under this Act."

On page 250, between lines 19 and 20, insert the following:

"SERVICES FOR PUBLIC ASSISTANCE RECIPIENTS

"SEC. 216. (a) Services for public assistance recipients under this part shall be designed to assist eligible participants in overcoming the particular barriers to employment experienced by such recipients, including lack of basic educational or vocational skills, insufficient preparation for the personal adaptations necessary for labor force participation, inability to find or successfully apply for employment, inability to obtain transportation to employment opportunities, medical problems, inability to obtain satisfactory child care, and lack of appropriate job opportunities.

"(b) The Secretary shall insure that each prime sponsor's plan for serving eligible public assistance recipients under this part includes provisions for—

"(1) coordinating services assisted under this part with other programs assisted under this Act;

"(2) coordinating services assisted under this Act with services provided by State and local public assistance agencies;

"(3) assisting public assistance recipients to develop skills necessary for taking advantage of opportunities to enter or re-enter the labor force, including, but not limited to—

"(A) outreach, assessment and orientation to the local labor market and to occupational and training opportunities available in the community;

"(B) counseling, placement assistance, and job placement;

"(C) technical assistance to employers for establishing flexi-time, child-care, job sharing, and other innovative arrangements suited to public assistance recipients;

"(D) activities to overcome sex and welfare status stereotyping in job placement and development; and

"(E) other activities designed to increase labor force participation rates among eligible participants who are able and willing to work but have been unable to secure employment.

On page 263, delete lines 19 through 23.

On page 263, line 15, strike out "(a)".

On page 388, between lines 12 and 13, insert the following:

"(c) The Secretary shall develop information relating to the number of individuals who have attained 16 years of age and who are members of a family with an income which is equal to or less than 70 percent, 85 percent, and 100 percent of the lower living standard income level for the jurisdiction of each prime sponsor. The Secretary shall prepare and submit, not later than one year after the date of enactment of the Comprehensive Employment and Training Act Amendments of 1978, to the President and to the Congress a report on the information required by this subsection.

On page 267, line 3, insert "(1)" after "person".

On page 267, line 4, strike out "twelve" and insert in lieu thereof "fifteen".

On page 267, line 5, before the period insert a comma and the following: "(2) or who is, or whose family is receiving aid to families with dependent children provided under a State plan approved under part A of title IV of the Social Security Act, or who is receiving supplemental security income benefits under title XVI of the Social Security Act".

On page 268, line 5, after "older workers" insert a comma and the following: "public assistance recipients,".

On page 292, line 7, after "agencies" insert a semicolon and the following: "State and local public assistance agencies".

On page 294, line 2, strike out "and".

On page 294, between lines 2 and 3, insert the following:

"(L) assurances that special efforts will be made to recruit youth from families receiving public assistance, including parents of dependent children who meet the age requirement of this subpart; and

On page 294, line 3, strike out "(L)" and insert in lieu thereof "(M)".

On page 301, line 20, before the comma insert a comma and the following: "a description of arrangements with public assistance agencies on the employment of youth from families receiving public assistance, including parents of dependent children".

On page 314, line 10, after "organizations" insert a comma and the following: "public assistance agencies",

On page 353, line 25, after "service" insert a comma and the following: "public assistance agencies".

On page 374, line 25, beginning with the word "a", strike out through line 5 on page 375 and insert in lieu thereof a hyphen and the following:

"(A) an individual—

"(i) who has been unemployed for at least 10 out of the 12 weeks immediately prior to a determination under this section,

"(ii) who is unemployed at the time the determination is made, and

"(iii) whose family income does not exceed 85 per centum of the lower living standard income level based on the three-month period prior to the individual's application for participation; or

"(B) an individual—

"(i) who is, or whose family is, receiving aid to families with dependent children provided under a State plan approved under part A of title IV of the Social Security Act, or who is receiving supplemental security income benefits under title XVI of the Social Security Act,

"(ii) who has been unemployed for at least 10 out of 12 weeks immediately prior to the determination under this section, and

"(iii) who is unemployed at the time the determination is made.".

On page 178, in the Table of Contents, after item "Sec. 215" insert the following new item:

"Sec. 216. Services for Public Assistance Recipients.".

SECTION-BY-SECTION DESCRIPTION OF AMENDMENT TO S. 2570

The following are brief descriptions of the content and purposes of the various changes the Amendment would make to S. 2570, the Comprehensive Employment and Training Amendments of 1978:

1. Sec. 2 This would add "public assistance" to the list of programs in the statement of purpose with which there is to be maximum feasible coordination of plans, programs, and activities.

The Statement of Purpose in the bill already provides for CETA activities to be coordinated with "economic development, community development and related activities such as vocational education, vocational rehabilitation and social service programs." Adding public assistance to the list of program with which CETA activities are to be coordinated will recognize that public assistance recipients are among the groups most in need of CETA services, and that coordination between CETA and public assistance agencies will help assure more effective responses to the employment-related needs of these recipients.

2. Sec. 101(d): This would require State prime sponsors, in making arrangements for area planning bodies to serve subareas within the State prime sponsor's area, to coordinate such arrangements with units of general local government.

This change will help assure that local governments will have some voice regarding groupings of local jurisdictions for purposes of sub-area planning. This provision would apply whenever balance-of-state prime sponsors organize new sub-area planning councils or change arrangements that now exist.

3. Sec. 103(a)(7): This would require a prime sponsor in its employment and training agreement to provide for utilizing (with or without reimbursement) services and facilities available from public assistance agencies.

The bill already specifies that employment and training agreements shall provide for utilization in CETA programs, to the extent appropriate, of the services and facilities of state employment services, vocational rehabilitation agencies, local education agencies, and a number of other types of agencies. Adding state and local public assistance agencies to the listing of agencies whose facilities and services are to be considered in developing the agreements will emphasize the high priority Congress intends the CETA planning and delivery system to give to the employment needs of public assistance recipients. This change will help assure that prime sponsors consider public assistance agencies as a potential resource for referral of candidates for training and public service employment, and as potential deliverers of various services needed by such recipients who participate in CETA programs.

4. Sec. 103(b)(3): This would add public assistance recipients to the list of groups which are experiencing severe handicaps in obtaining employment; prime sponsors would have to specify intended services for such persons in their annual plans.

Although many prime sponsors have treated the employment and training of public assistance recipients as a high priority, this has not been the case in all parts of the country. This provision will give a very clear signal to prime sponsors that they are to address specifically in their annual plan the steps they will take to help public assistance recipients overcome handicaps which prevent them from being employed. These handicaps include educational deficiencies, lack of skills, lack of work experience, race and sex discrimination, family responsibilities, and many other problems.

It is not expected that CETA prime sponsors can solve all these problems by themselves, but by working imaginatively with public assistance recipients and other agencies serving these recipients, prime sponsors can contribute much to helping many of the recipients to become self-sufficient.

5. Sec. 105(b)(1): This would add state and local public assistance agencies to the list of agencies whose services are to be addressed by the Governor's Coordination and Special Services Plan.

This change will help assure that state-level CETA planning takes into account the work registration, counseling, training and other activities provided to employable recipients of public assistance by the agencies which provide cash assistance, food stamps, medical services and related services to these recipients. The specific inclusion of these agencies in the Governor's CETA coordination responsibilities will help provide more effective linkages of the various services needed by these recipients.

6. Sec. 109(b): This would add public assistance agencies to the list of persons and organizations which are to be represented on the local planning council.

It will help assure that the provision of employment and training opportunities to public assistance recipients is given an appropriate priority in the CETA prime sponsor's planning and operational activities.

7. Sec. 110(a)(3)(D)(iii): This would add a "representative of the State public assistance agency" to the membership of the State Employment and Training Council.

Again, the purposes are to assure that state-level CETA planning places appropriate priority on responding to the employment and training needs of public assistance recipients, and to promote effective coordination of CETA services and other services and benefits delivered by public assistance agencies.

8. Sec. 110(b)(3)(A): This would add public assistance programs to the listing of programs which the State Employment and Training Council is to assess in determining the extent to which a consistent, integrated, and coordinated approach is being used in meeting the employment needs of the State.

This change recognizes the important relationships which exist between the objectives of public assistance programs and CETA and other programs. It will help assure that state employment and training councils take an active role in integrating public assistance and other programs, together with CETA, into an effective, comprehensive approach to employment problems, as opposed to fragmented, uncoordinated and inefficient approaches.

9. Sec. 122(c)(I): This would provide special consideration in filling public service employment jobs to public assistance recipients and persons eligible for public assistance.

This change will emphasize that public assistance recipients and persons eligible for public assistance are a high priority group for CETA public service jobs, and that persons in this group shall receive special consideration in filling such jobs. The Department of Labor's implementing procedures will specify the precise ways in which this provision is to be implemented. Implementing actions can include:

Establishing PSE positions which are especially well-suited for public assistance recipients and eligibles.

Developing working arrangements with state and local social service agencies to help public assistance recipients and eligibles solve transportation, child care and other problems.

Considering public assistance recipients and eligibles for PSE vacancies before such vacancies are advertised more widely.

It is expected that this and other changes included in this amendment will result in a substantial increase in the hiring in PSE positions of public assistance recipients and eligibles. The Department of Labor will be expected to monitor carefully the implementation of these provisions and to take appropriate actions to improve the performance of any prime sponsors which fail to respond to this priority.

10. Sec. 128(d)(2): This would require the Secretary in his annual report to Congress to include in the cross-tabulation of participant characteristics "public assistance recipient status".

This requirement will help enable the Congress to assess how well the CETA system carries out the directions being given in the legislation regarding increased services to public assistance recipients.

11. Sec. 128(d)(6): This would add a requirement that the Secretary include in his annual report to Congress an estimate of the savings in public assistance, Food stamps, medical assistance and other programs resulting from participation in CETA of recipients of such benefits.

This information will be especially useful in helping Congress assess the overall costs of CETA and the efficiency of possible future changes in eligibility standards.

It is expected that the Labor Department estimates will address savings related both to persons currently participating in CETA employment and training, and to those who were former participants who have now obtained continuing employment.

12. Sec. 216—Services for Public Assistance Recipients: This would add a provision describing services for public assistance recipients; it would parallel those sections in title II which describe services for youth and older workers.

Addition of this section will emphasize the priority attention public assistance recipients are to receive in the planning and delivery of services under Title II. This section cites the number of the particular barriers to employment experienced by public assistance recipients. It then directs the Secretary of Labor to insure that each prime sponsor's plan includes appropriate provisions for assisting public assistance recipients to enter or re-enter the labor force, and for coordinating CETA services with services provided by state and local public assistance agencies.

13. Sec. 232: This would delete a provision which directs the Secretary of Labor to first make available from those funds appropriated for public service employment under titles II and VI, $3,000,000 for title II-D.

Deletion of the provision in question would permit Congress to appropriate funds under Title VI, without having first to provide a minimum amount under Part D of Title II. The sponsors of this amendment strongly support the Human Resources Committee's efforts to reorient CETA public service employment from the objective of reducing counter-cyclical unemployment to the employment of persons unemployed for structural reasons. This change is not intended to impede that reorientation; rather it is

tended to reserve to the appropriations process the Congressional decisions on the levels and mix of funding for public service jobs.

14. Sec. 237: This would make recipients of public assistance under titles VI–A and XVI of the Social Security Act (AFDC & SSI) categorically eligible for services under title II–D, notwithstanding the required weeks of unemployment.

Additionally it would increase the number of weeks which a person must be unemployed, for purposes of determining eligibility, from 12 weeks to 15 weeks.

These changes will tighten the eligibility standards for the public service jobs provided under Title II, D, so that persons who qualify for these jobs will either be recipients of Federal welfare benefits or unemployed for more than 15 weeks, whose family incomes are below 70% of the BLS lower standard. These changes are appropriate given the focus of Title II D on persons who are unemployed for structural reasons.

15. Sec. 301(a)(1): This would add "public assistance recipients" to the list of target groups who the Secretary must serve in title III.

This will help assure that the employment and training needs of public assistance recipients are addressed by the Department of Labor in the special national programs and the research, training and evaluation activities conducted under Title III. It is particularly appropriate that Congress express to the Department of Labor its intent that employment and training needs of public assistance recipients be dealt with in all relevant activities under Title III, given the new authorization in Section 311(f) for demonstration projects related to employment of public assistance recipients and potential recipients.

These new special demonstration projects should be additions to, rather than replacements of, other activities under Title III addressing the employment needs of public assistance recipients.

16. Sec. 413(a)(1)(D): This would direct the Secretary, in selecting prime sponsors to administer Youth Incentive Entitlement projects, to assure that the prime sponsors have consulted with state or local public assistance agencies, among others, prior to submitting their proposals.

This change recognizes that unemployment of youth in public assistance families is one of the serious problems those families face. Increased contact between prime sponsors delivering youth incentive programs and public assistance agencies can help assure that youth from welfare families have maximum opportunity to compete for available work and training.

17. Sec. 413(a)(4)(L): This would direct the Secretary, for purposes of the Youth Incentive Entitlement Projects, to select only those prime sponsors who provide assurances that special efforts will be made to recruit youth from families receiving public assistance, including parents of dependent children who meet the age requirements of this subpart.

This change, along with the preceding one, will convey clearly the intent of Congress that special efforts be made to recruit youth from public assistance families for available Youth Incentive Program opportunities. The specific reference to parents who meet the age definition of the Youth Incentive Program appropriately recognizes that many teenage parents receive public assistance as heads of households, and that provision of employment opportunities to such parents can help them avoid long-term dependence on public assistance.

18. Sec. 426(b)(1): This would require eligible applicants, in submitting proposals for the Youth Community Conservation and Improvement Projects to describe the methods they intend to use to coordinate with public assistance agencies concerning the employment of youth from public assistance families.

As with the changes relating to the Youth Incentive Program, this change is intended to increase contacts between public assistance agencies and Youth Community Conservation and Improvement Projects, so that a greater number of the YCCIP slots are filled by youth from public assistance families than would otherwise be the case.

19. Sec. 436(a)(3): This requires prime sponsors as a condition of financial assistance to provide assurances that there is coordination with public assistance agencies in the implementation of Youth Employment and Training programs.

This change complements those already discussed and emphasizes the need for close coordination between prime sponsors and public assistance agencies on the employment-related needs of youth from public assistance families.

20. Sec. 492: This would direct the Secretary of Labor to make arrangements for obtaining the referral of candidates, for purposes of the Young Adult Conservation Corps, from public assistance agencies in addition to public service employment agencies, prime sponsors, and the sponsor of Native American entities.

This change recognizes that referrals by public assistance agencies of candidates for the Young Adult Conservation Corps can help assure that an appropriate portion of the Corps resources are focused on youth from families experiencing the most serious economic difficulties.

21. Sec. 607: This would make recipients of public assistance under titles IV–A and XVI of the Social Security Act (AFDC & SSI) categorically eligible for title VI jobs, not withstanding the required weeks of unemployment.

Additionally it would modify the number of required weeks of unemployment, for purposes of determining eligibility, from 45 days to 10 out of 12 weeks. No change would be made in the income eligibility standard included in the reported bill of 85 percent of the BLS lower living standard.

The lengthening of the required period of unemployment recognizes that the public service jobs made available under Title VI should be reserved for people who have tried and been unable to obtain unsubsidized jobs for an extended period. The ten out of twelve weeks standard proposed for Title VI, rather than the standard of 15 weeks unemployment proposed for Title II D, recognizes the counter-cyclical purposes of Title VI.

Retaining categorical eligibility for recipients of Federal public assistance benefits (as under current law) recognizes that families in this group have almost no resources to live on, and that they have generally been unemployed for much more than ten weeks before they began receiving public assistance.

22. S. 2570 Sec. (5)(c): This would direct the Secretary of Labor to develop within one year after enactment of this legislation, information as to the number of individuals 16 years of age and older whose families' incomes are at or below 70 percent, 85 percent, and 100 percent of the lower living standard, in each CETA prime sponsor's jurisdiction.

Availability of this information would enable the Congress to direct more precisely the distribution of CETA and other resources intended to alleviate unemployment and poverty.●

AMENDMENTS NOS. 3528 THROUGH 3531

(Ordered to be printed and to lie on the table.)

Mr. PERCY submitted four amendments intended to be proposed by him to S. 2570, supra.

● Mr. PERCY. Mr. President, I am today submitting four amendments to S. 2570, the bill to amend and extend the Comprehensive Employment and Training Act of 1973. I ask unanimous consent that the text of these amendments be printed in the RECORD.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 3528

On page 204, insert immediately before the period at the end of line 23 the following: ", including efforts to reduce and eliminate artificial barriers to employment.".

AMENDMENT No. 3529

On page 230 at line 15, insert the following new paragraph and redesignate the succeeding paragraphs and references thereto accordingly:

"(1) the term 'artificial barriers to employment' refers to limitations in the terms and conditions of employment which are not directly related to the individual's qualifications to perform the duties required by the employment position."

AMENDMENT No. 3530

On page 278, at line 17, after the word "processes," insert the following: ", including programs designed to eliminate artificial barriers to employment;".

AMENDMENT No. 3531

On page 313, at line 18, after the words, "public employment service" and before "other youth programs" insert the following: "the courts of jurisdiction for status and youthful offenders,".

On page 314, at line 14, after "public employment service system;" add the following: "and the courts of jurisdiction for status and youthful offenders.".

CIVIL SERVICE REFORM—S. 2640

AMENDMENT NO. 3532

(Ordered to be printed and to lie on the table.)

Mr. LEAHY submitted an amendment intended to be proposed by him to S. 2640, a bill to reform the civil service laws.

NOTICES OF HEARINGS

SPECIAL COMMITTEE ON AGING

● Mr. CHURCH. Mr. President, the Special Committee on Aging will continue its hearings on "Retirement, Work, and Lifelong Learning" on September 8 at 10 a.m. in room 5110, Dirksen Senate Office Building. Representatives of national organizations on aging will testify at that time.●

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

● Mr. HARRY F. BYRD, JR. Mr. President, the Subcommittee on Taxation and Debt Management of the Finance Committee, will hold a hearing on August 28, 1978, on miscellaneous tax bills.

The hearing will be held on Monday, August 28, 1978, at 9:30 a.m. in room 2221, Dirksen Senate Office Building.

The following legislation of general application will be considered in addition to legislation previously announced in the CONGRESSIONAL RECORD of August 18, 1978.

S. 3441, sponsored by Senators MORGAN, BAKER, SASSER, MAGNUSON, HODGES, INOUYE, PERCY, and MATHIAS, a bill to

assist independent, local newspapers (nonchain newspapers) and in-State newspaper chains in existence before October 31, 1977, to pay their estate taxes by providing the option of creating an estate tax trust. It is estimated that the bill will involve a revenue loss of $10 million annually.

Requests to testify.—Persons who desire to testify at the hearing should submit a written request to Michael Stern, staff director, Committee on Finance; room 2227, Dirksen Senate Office Building, Washington, D.C. 20510, by no later than the close of business on Thursday, August 24, 1978.

Written testimony.—Senator BYRD stated that the subcommittee would be pleased to receive written testimony from those persons or organizations who wish to submit statements for the RECORD. Statements submitted for inclusion in the RECORD should be typewritten, not more than 25 double-spaced pages in length and mailed with five copies by September 8, 1978, to Michael Stern, staff director, Committee on Finance, room 2227, Dirksen Senate Office Building, Washington, D.C. 20510.●

H.R. 11445 CONFERENCE

● Mr. NELSON. Mr. President, I wish to announce that the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives will hold a conference on H.R. 11445 (the SBA authorization legislation) on Thursday, September 7, at 1 p.m. in room EF–100 in the Capitol.

In case of unfinished business, Tuesday, September 12 (9:30 a.m. in the same room) has been held open for continuation purposes.●

ADDITIONAL STATEMENTS

"SING A SIGN": A MUSICAL IN SIGN LANGUAGE, CARRIED BY PUBLIC BROADCASTING

● Mr. RANDOLPH. Mr. President, many of my colleagues will recall the recent premiere of "Sing a Sign," a musical in sign language, sponsored by the American Speech and Hearing Association. It was cosponsored by Gallaudet College and by the Bureau of Education for the Handicapped in conjunction with the American Telephone and Telegraph Corp.

This musical entertainment, the first nationally televised musical in sign language, expresses the often overlooked capability of deaf people to communicate effectively in the hearing world. The production will help to promote the building of a bridge of understanding and respect between the world of the hearing and the world of the deaf.

I ask that an article in the current issue of the magazine of the American Speech and Hearing Association concerning this program be printed in the RECORD.

The article follows:

PUBLIC BROADCASTING'S "SING A SIGN"

The American Speech and Hearing Association served as host at a gala Congressional premiere of Sing a Sign, the first nationaly televised musical in sign language. The program, aired over most Public Broadcasting Stations (PBS) May 20, received accolades from reception attendees, including Senators Jennings Randolph of West Virginia and Robert Dole of Kansas.

THE PROGRAM

Sing a Sign was written and produced by Susan Smith, who, previous to developing Sing a Sign, had produced a series of Emmy-nominated public service announcements at a Washington, D.C. television station.

Upon the suggestion of a principal at a school for the deaf, Smith developed the program, which features young deaf and hearing singers, dancers, and actors. Her husband Rip agreed to direct the special program.

The Smiths, who both hear, prepared for Sing a Sign by attending classes for hard-of-hearing students at Gallaudet College in Washington. The couple learned sign language and taped 14 public service announcements featuring deaf children. The series of announcements won an Emmy nomination, resulting in I Hear Your Hand, a full-scale experimetal musical with deaf and hearing people. I Hear Your Hand served as the pilot for Sing a Sign, which PBS ordered as a result of the first program.

YOUNG CAST SPARKLES

Presented by PBS affiliate WETA-TV in Washington, the musical's talented group of performers includes Susan Davidoff, who holds the title of Miss Deaf America; Rita Corey, star of the National Theatre of the Deaf; and Bernard Bragg, renowned deaf mime.

Other performers are Vince DiZebba, Donna Gadling, Ogden Whitehead, Roney Johnson, Martie Stephens, Tracy Tuttle, and David MacFarlane. Musical numbers included "Fantasy," "All Kinds of People," "Just the Way You Are," "Little Arrows," "Candle on the Water," and "Welcome to My World."

Sing a Sign is "a dream come true for me," said Smith, who has long wanted to do a program as a showcase for the talents of deaf performers, to promote better understanding between deaf and hearing people, and to call attention to sign language, which she views as "an effective form of creative expression."

ASHA INVOLVEMENT

The premiere of *Sing a Sign*, held at the Dirksen Senate Office Building on May 16, was sponsored by ASHA and cosponsored by Gallaudet College and the Department of Health, Education, and Welfare's Bureau of Education for the Handicapped in conjunction with the American Telephone and Telegraph Corporation, the financial sponsor of *Sing a Sign*.

Guest of honor at the reception was West Virginia Senator Jennings Randolph, who was hailed by ASHA President Katharine G. Butler as "a good friend to handicapped Americans and to those of us who devote our professional energies to the rehabilitation and education of the handicapped."

Butler cited the 1973 Rehabilitation Act and the Education of All Handicapped Children Act of 1975 as "two of the landmarks of the Senator's distinguished legislative career." The former statute, she pointed out, assures equal treatment under federal law for all handicapped Americans, while the 1975 enactment guarantees a free and appropriate public education for all handicapped children.

"In each instance," Butler said, "Senator Randolph has helped to see to it that those of us who devote our professional energies to the rehabilitation and education of the handicapped have the research, training, and service-delivery support we need to do our job well."

In his speech, Randolph credited ASHA as being "extremely supportive of our efforts over the years to enact legislation that promotes full and productive involvement by handicapped citizens in the life of this nation."

Remarks were also presented by Senator Dole, ASHA Executive Secretary Kenneth O. Johnson, Susan Smith, and members of the *Sign a Sign* cast.●

DEATH OF JOMO KENYATTA

● Mr. ROTH. Mr. President, it was with great regret that I learned this morning of the death of Jomo Kenyatta, the President of Kenya.

Mr. Kenyatta will be long revered not only as the father of his country, but also as one of the greatest black African leaders of this century.

Rising from a humble background, he became the leader of anticolonialist forces in Kenya and ultimately that nation's first President in 1963.

Under his leadership, Kenya has been characterized by stable rule, racial harmony, and economic growth sparked by a healthy and prosperous private sector. The contrast between Kenya and such neighboring countries as Ethiopia and Uganda is stark.

Mr. Kenyatta has made Kenya one of the most influential nations in the Third World and an important site for international organizations.

A leader like Jomo Kenyatta will be hard to replace. I am hopeful, however, Kenya will find an heir who will maintain the successful economic and social policies of Mr. Kenyatta.●

REPORT OF STUDY MISSION TO VIETNAM

● Mr. KENNEDY. Mr. President, the Judiciary Committee met this morning to receive the report of its special study mission which recently returned from Vietnam. The study mission—composed of Archbishop Philip Hannan of New Orleans; Dr. Jean Mayer, president of Tufts University, Medford, Mass.; Dr. LaSalle Leffall, president-elect of the American Cancer Society, Washington, D.C.; Ms. Mildred Kaufman, chairman of the food-nutrition section of the American Public Health Association, and Mr. Jerry Tinker of my staff—visited Vietnam for 1 week beginning on July 31.

Their immediate objective was to facilitate the family reunion of several children and their mothers separated from their families in the United States. However, like the study mission that the committee sent to Southeast Asia last year, the team this year also reviewed for the committee the many urgent humanitarian problems that remain in the aftermath of the Indochina war.

For the record, I would like to take this opportunity to introduce their findings and recommendations offered at this morning's hearing. For their report tells us that "people problems" continue to fester in Southeast Asia. Refugees are still on the move from Indochina, even as millions displaced by years of war struggle to return to their war-scarred homes and lands. Relief and rehabilitation needs have grown among orphans, refugees and malnourished men, women and children.

There are the urgent problems of family reunion among thousands of families separated by the chaos of Vietnam in 1975—wives and husbands, and children and parents who remain apart after more than 3 years. There are the problems of tracing the missing, especially accounting for those members of our armed services still listed as missing-in-action in Indochina.

These humanitarian issues were the focus of the study mission that traveled to Southeast Asia at my request 2 weeks ago. Their mission serves to remind us that the international community, and especially the United States, faces many humanitarian problems in Southeast Asia—caused by the dislocations of war, the mounting pressure of refugee movement, and the ravages of drought and natural disaster which, together, have produced serious food shortages and critical health needs in many areas.

Mr. President, the United States cannot stand aloof from these humanitarian problems, not only because of our long involvement in the region, but also because these issues impinge deeply upon the concerns and lives of many in America, as well as involve our Nation's interest in peace and stability in Southeast Asia.

Over the past 2 years, the United States has joined with other countries in pledging help to the displaced persons in Southeast Asia—and we must continue to keep our door open to thousands of homeless refugees who need and who seek our help. But at the same time we cannot neglect the vast human needs that continue within Indochina, especially the growing food shortages that threaten the lives of so many.

One of the finest traditions of the American people is to respond to humanitarian needs wherever they exist, and wherever we can be of help. The following report of the study mission to Vietnam will help us better understand how we, as a nation, can today fulfill our humanitarian traditions in Indochina.

Having contributed so heavily to the years of war, we must not now fail to pursue policies and programs that will contribute to peace and relief in Southeast Asia, and respond to new opportunities for a reconciliation and normalization of relations between the American people and the people of Vietnam.

Mr. President, I ask that the prepared statements of the study mission submitted to the Judiciary Committee this morning, as well as the summary of their recommendations, be printed in the RECORD.

The statements follow:

SUMMARY OF RECOMMENDATIONS BY THE STUDY MISSION SENT TO VIETNAM BY SENATOR EDWARD M. KENNEDY, AUGUST 1978

The United States has both a profound humanitarian and foreign policy interest in developments in Southeast Asia, not only because of our long involvement and concern with the people of the area, but also because of our Nation's interests in the peace and stability of the region. Given this historic and long-term involvement, and the many immediate humanitarian issues that touch the lives of both the Vietnamese and American people, the Study Mission offers the following recommendations to the Committee:

1. United States Involvement in Southeast Asia: It would be a tragic lost opportunity if our Nation today failed to respond to the recent overtures of the government of Vietnam to normalize our relations and to renew our involvement, in a constructive and positive way, with the people and government of Vietnam. Indeed, we have arrived at an historic decision point in our foreign policy towards Southeast Asia—where we now have an opportunity to do through peaceful means what we sought to do for so long through war: to protect United States national interests in Southeast Asia by assuring Vietnam's independence from the domination of any outside power

Peace and stability in Southeast Asia has been the objective of our Nation's foreign policy for nearly three decades, and it is today the urgent desire of the Vietnamese—as stated directly to the Study Mission by Prime Minister Pham Van Dong. The normalization of our relations with Vietnam, and the involvement of our diplomacy in that country, will help assure that Vietnam remains independent of either Russia or China. And it will help assure that Vietnam will continue it policy of peaceful relations with the five countries of the Association of Southeast Asian Nations (ASEAN).

2. Reconciliation and Normalization of Relations with Vietnam: The President should be commended for his Administration's early efforts to pursue a policy of reconciliation and normalization of relations with Vietnam. These efforts deserve the full support of Congress and the American people, for such a policy is clearly in the interests of both the United States and Vietnam, and of all parties concerned with the future of Southeast Asia.

The Vietnamese have now given every indication that they are prepared to immediately establish diplomatic relations with the United States, and to resolve all outstanding issues between our two countries through that diplomatic process—with no preconditions mentioned. Vietnamese officials at the highest levels expressed the view that they understood that normalization was a process, and that steps towards reconciliation would assist the normalization process. In their turn, they have responded in good faith to a number of humanitarian issues of concern to the American people—new initiatives on the MIA issue, and the beginning of a policy to promote family reunification. In our turn, the United States should contribute to the process of reconciliation by being mindful of the humanitarian issues of immediate concern to the Vietnamese people—humanitarian food assistance, relief and rehabilitation needs, and medical problems.

3. Food and Related Humanitarian Assistance to Vietnam: Serious humanitarian problems persist in Vietnam. Families dislocated by the recent war are still returning to their villages or resettling in other areas of their country in an effort to normalize their lives. Some crippled and maimed, some orphans and widows, and many thousands of other war victims still need help and concern. Farm land and battered villages are still being renewed. And housing, schools, medical facilities, markets and whole villages are still being rebuilt in the war-ravaged countryside. In short, recovery is still underway.

Adding heavily to the humanitarian problems resulting from the recent war, are the current food shortages in Vietnam. These documented shortages—brought on by the dislocations of the war and by devastating drought and other natural disasters—threaten the health and nutrition of thousands of people in many areas.

The United States can no longer stand aside and ignore the humanitarian problems of the Indochina Peninsula and the international appeals in behalf of suffering and needy people in Vietnam. This is contrary to the humanitarian traditions of our country and to the active support the American people have always given to the provision of humanitarian assistance to people in need throughout the world.

At an early date, the United States should respond to the serious food and related humanitarian assistance needs of the Vietnamese people. This matter should be pursued apart from any ongoing bilateral discussions with either country over future diplomatic consular, and economic relations.

A number of steps should be taken:

(a) In response to international programs by several United Nations agencies, the International Red Cross, and others, the United States should immediately make available, to the Vietnamese people, food and related assistance under international auspices.

(b) The United States should also provide such assistance under the international disaster relief provisions of present law, as we previously have done in the case of many other disasters including those in the Sahel. Romania, Italy, and elsewhere.

(c) The United States should immediately provide ocean freight reimbursement to American voluntary agencies, which purchase food and other supplies or receive donations in kind from the American people for shipment to Vietnam.

4. Cambodian Refugees in Vietnam: The United States should immediately respond to the urgent relief needs among refugees have for Cambodia refugees in Thailand. The United Nations High Commissioner for Refugees has already made an emergency contribution of $500,000, and has under active consideration a special appeal for Cambodia refugees in Vietnam—who now number over 200,000 with an additional 100,000 ethnic Vietnamese displaced by the recent border conflict. There is also an outstanding appeal of the International Committee of the Red Cross, to which the United States has yet to respond.

Preliminary estimates indicate that the UNHCR program will run at least $20 million or more for one year. A comparable program in Thailand and Southeast Asia for refugees from Indochina—for care and maintenance of some 150,000 Indochinese refugees, plus transportation costs—has risen from an appeal of $18.3 million early this year, to a $25 million appeal this past June. The United States has contributed over half the funding for the Southeast Asian program of UNHCR, and we should be equally forthcoming in support of its program for Cambodians in Vietnam. The needs are just as real, and the refugees are similar. A pledge of $10 million now from the United States would greatly assist the UNHCR's efforts to respond to the problem of Cambodian refugees in Vietnam.

5. Trade Embargo against Vietnam: To facilitate the ability of the United States to respond to the many humanitarian needs in Vietnam, and to promote the process of reconciliation and normalization of relations between our two countries, the President should allow the trade embargo against Vietnam to lapse. Whatever the merits of the previous Department of State position that the trade embargo will be lifted as a consequence of normalized relations, the Vietnamese today view the embargo as a punitive act carried over from a previous Administration, and a stumbling block to the process of reconciliation. From both the standpoint of America's international trade, as well as our diplomatic posture, the imposition of a trade embargo against Vietnam today is harmful to our national interests, and costly to our balance of payments overseas.

6. Family Reunion Problems: Vietnamese authorities have clearly stated their intention to begin the process of facilitating on humanitarian grounds, outstanding family reunion cases to the United States—even prior to the establishment of formal diplo-

matic and consular relations. The resolution of these family reunion problems between the United States and Vietnam will inevitably be a long-term process, involving time-consuming details and the activities of individual case workers. However, the Study Mission was assured that in the context of the process of reconciliation with the United States, the government of Vietnam would act in good faith on all humanitarian family reunion cases brought to its attention.

Although this question is clearly a long-term, consular problem, which would be greatly facilitated by consular relations between the United States and Vietnam, the Vietnamese have nonetheless indicated a sincere willingness to start the process now.

7. Promoting People-to-People Contact with Vietnam: Since 1975 there have been no real contacts between the United States and Vietnam—culturally, educationally, or scientifically. As part of the reconciliation process, the United States should promote people-to-people contacts, and facilitate communications between our two countries. After three decades of intensive contact with the Vietnamese people, and contributing substantial sums to the development of southern Vietnam's social, medical, educational, and economic systems, we should not today ignore these strong ties. They are ties which will help both our peoples look to the future rather than to the tragedies of the past.

The Study Mission will submit to the Committee a series of specific recommendations which will serve to facilitate closer contacts between the people of the United States and Vietnam, and between private voluntary agencies, foundations, and public and private institutions in our country and similar groups in Vietnam. It is time to build bridges to the people of Vietnam, after too many years of conflict and war.

8. Responding to the Needs of Refugees in Southeast Asia: While visiting Thailand, the Study Mission received up-dated information for the Committee on the continuing problem of Indochinese refugees in Southeast Asia. Clearly, the United States has a continuing responsibility to offer resettlement opportunities to a reasonable number of Indochinese refugees. Given the demonstrated need over the past several years to maintain some flexibility in this regard, the Attorney General should exercise his parole authority on a continuing basis and without a specified number of entries into the United States.

As the Committee's Study Mission report noted last year, the number of entries for Indochinese refugees should respond to the ebb and flow of their movement and demonstrated resettlement needs, and not to some arbitrary quota which, inevitably and sometimes needlessly, is always immediately filled. Especially for refugees in Thailand, the principal, but not exclusive, criteria for parole eligibility should be the traditional American concern for family reunion. Given the special nature of the "boat people" problem, however, a more general humanitarian criteria should apply to these refugees. The current criteria, left-over from the evacuation in 1975, are no longer appropriate or useful.

A formula for this purpose should be worked out in consultation with this Committee and in the context of the number of refugee entries from other areas of the world, where people also have legitimate claims upon the attention and concern of the United States.

Since 1975, public debate in the United States and our ad hoc national response to the refugee problems in Thailand and Southeast Asia have stressed parole programs and the resettlement of refugees in the United States. As a nation, we do have continuing responsibilities in this regard. But we must not focus on resettlement in the United States to the exclusion of other important alternatives for the refugees. We must finally be more balanced in our policy and approach.

As the Committee's report noted last year: "The time is past due for the United States to encourage and promote more actively the local settlement of refugees in the host countries, especially Thailand. Thailand is prepared to move in this direction, in the context of general rural development which would also benefit its own citizens. The United States must be prepared, diplomatically and financially, to join others in the international community in lending strong support to such local resettlement efforts.

"American policy must also acknowledge the possibility of voluntary repatriation among certain refugees, especially among Lao nationals in Thailand. Voluntary repatriation will only become a viable and humane option for certain numbers of refugees if there is a general agreement among all parties concerned and if real assurances are given for their care and protection when they return. Should voluntary repatriation occur at some future time, it should be carried out under international auspices."

Finally, the Study Mission concurs in the view that the United States should more fully support the United Nations High Commissioner for Refugees in all of his efforts to find durable solutions for the mounting refugee problem in Southeast Asia. We should also lend our full diplomatic support to his stated objective of involving a "wide number of countries" in meeting the on-going problem of the refugees. In this connection, the United States should continue its support of the Intergovernmental Committee for European Migration, the private voluntary agencies, and others directly involved in meeting the humanitarian needs of the refugees.

OPENING STATEMENT OF ARCHBISHOP PHILIP M. HANNAN, ARCHDIOCESE OF NEW ORLEANS, LOUISIANA, AND MEMBER OF STUDY MISSION TO VIETNAM

Mr. Chairman, I wish to preface my brief opening remarks with an expression of my deep gratitude for the opportunity provided by you and the Committee to serve on a Mission that secured a notable humanitarian result and which gives promise of producing other significant results in the future. I personally applaud your efforts, and appreciate the opportunity to serve on your Study Mission.

As you know, we traveled to Vietnam for one full week, arriving in Hanoi on July 31st, departing Saigon, now called Ho Chi Minh City, on August 7th. We spent two and a half days in Hanoi, principally meeting with officials of the Government of the Socialist Republic of Vietnam, including Prime Minister Pham Van Dong, Vice Foreign Minister Phan Hien, who was our host, and other senior ministers in the Ministries of Agriculture, Health, and State Planning.

In addition, we traveled freely for four days in southern Vietnam, staying in Ho Chi Minh City. Without hindrance, and with complete freedom, we walked the streets of Saigon, and we traveled to Tay Ninh and Long An provinces, and to Vung Tau district. We visited a broad range of institutions, both public and private, involved in relief and rehabilitation problems which persist in the aftermath of the war, and which understandably occupy the concern of the Vietnamese government and several international and United Nations agencies. We traveled to within a mile of the Cambodian border—close enough to hear repeated artillery shelling—in order to view firsthand the plight of Cambodian refugees now in Vietnam—who are under the mandate of the United Nations High Commissioner for Refugees.

Altogether, we had a brief, but intensiv tour of the contemporary scene in Vietnam and we were received warmly and openly b all levels of society and government. We we treated with candor and honesty. For ex ample, on a trip to one of the "new eco nomic zones" on the outskirts of Ho Ch Minh City we were shown what was admit tedly a "model" new agricultural zone. Bu what was refreshing was their ready admis sion that it took them over three years o hard and difficult work to achieve their goo results—and that the first year was an a solute "disaster." They were candid in the assessment of the many problems involve in even the best of intentioned program sponsored by the new government—esp cially in implementing the functional sound, but obviously difficult, concept creating new economic zones.

Within this framework, Mr. Chairman, friendly discourse—where we reviewed th many issues that remain between our tw countries—we were given nearly all the in formation that we asked for and we as everything that time would allow.

As you know, Mr. Chairman, the immedia objective of our Mission was accomplished namely the agreement by Vietnamese a thorities to recognize and facilitate the r union of families between the United Stat and Vietnam, who have been separated sin 1975. Prime Minister Pham Van Dong ga solid evidence of his good faith and adhe ence to this statement by the release of persons with American family ties, who a companied us on our return to the Unit States, where they were reunited with t other members of their families. We were a sured that preparations for the reunion other families were being made by the sa authorities who were responsible for the a rangements for the release of this origin group. The United Nations High Commi sioner for Refugees, his representative Vietnam, Mr. Andres Johnson, and repr sentatives of the International Red Cro stand ready to help, and are continuing the efforts in behalf of family reunion cases.

The Prime Minister was very cordial in r ceiving the Study Mission and spent near an hour discussing with us the matters mutual concern. During the discussion frequently stated the desire of the gover ment of Vietnam for better relations wi private, humanitarian groups in the Unit States and for a normalization of relatio between our two countries. He also took t opportunity to speak of the humanitari needs of Vietnam and their appreciation f the interest and help offered by vario groups and nations. We assured the Prir Minister of our interest, and the interest the American people, in the welfare of t people of Vietnam. I expressed my person view that all mankind is a family of natio and that we must be of mutual benefit each other, respecting the rights and dign of individuals and nations. The Prime Mi ister said that he fully agreed with this stat ment.

The Study Mission was afforded an oppo tunity to see the needs of Vietnam which a evident and notable Humanitarian needs i clude food and many urgently needed su plies, for hospitals and other institutio There is no doubt of the severe need in Vi nam for food and other materials basic f the welfare of the people and the develo ment of the country.

With renewed gratitude for inviting me participate in this Study Mission and wi the hope that this report may be of so service, we appreciate the opportunity to a pear before the Committee this mornin

---

TESTIMONY BY DR. JEAN MAYER

Inasmuch as my colleagues will testi concerning the refugees and the medical a hospital situation in Vietnam, I will co

fine my remarks to two other areas: the state of Vietnamese agriculture and their food supply, and the situation of their academic institutions.

In the course of the mission and at the request of Ambassador Sol M. Linowitz, Chairman of the President's Commission on World Hunger, of which I have the honor to be Vice Chairman, I took the opportunity to examine with members of the government the food and agriculture situation in Vietnam. In addition to prolonged discussions with all relevant high officials, from the Prime Minister on down, I spent considerable time at the Ministry of Agriculture and at the State Planning Committee, as well as at the main agricultural academic institutions. I may say that all the officials with whom I talked exhibited a pragmatic and completely candid attitude in their desire for improved relations with the United States. This was true both in larger meetings conducted through interpreters in English and Vietnamese, and in one-to-one private conversations conducted in French.

It appears to me that their food and agriculture problems are severe, particularly in view of their exploding population, which increases 3 percent a year—one of the highest rates in the world. It is further complicated by the presence of some 300,000 refugees from Cambodia. It is noteworthy that this was freely brought up by every official as a matter of the gravest concern. They told me that instruction in birth control is lagging, and that the situation is further aggravated by an acute shortage of birth control devices. The Minister of Health and several other ministers expressed the hope that with outside assistance they could undertake the manufacture of inexpensive, reliable materials for condoms, which are the preferred form of contraception in Vietnam.

As to agriculture, the targets of the five-year plan are not being met. Government ministers and officials readily conceded that unless considerable foreign aid becomes available the gap between actual and planned production figures will increase. The Chinese have suspended all aid. Aid from the Soviet Union and Eastern Europe is seriously inadequate to meet Vietnamese needs. The World Bank has approved a 60-million dollar loan to Vietnam for an irrigation project to be administered through the International Development Association, and FAO is also giving some aid. The Vietnamese feel that much more is urgently needed—and that only the United States can give food and agriculture assistance on the scale required.

The 1977 rice crop fell far short of meeting their needs. This year's winter and spring crop, the first and smaller of the two yearly harvests, is already in. It represents an increase of between 400,000 and 500,000 tons over the 1977 crop. The main, summer and fall, crop was planted over 3.4 million hectares. The weather has been favorable, and this crop, too, is expected to be better than last year's. However, the Minister of Agriculture told me that extremely heavy insect infestation over the southern MeKong Delta has all but ruined crops over some 200,000 hectares because of an acute shortage of insecticides. At best, the 1978 rice crop will probably total about 16 million tons. While this does not mean starvation, it does mean the Vietnamese will be short by about 1.5 million tons of the basic requirements for their population.

Herbicides and fungicides, as well as insecticides, are urgently needed. In fact, Vietnam appears to be very short of every agricultural need—with the exception of good soils and a hard-working peasantry. In some areas, they told me, there is even a shortage of hand tools and buffaloes! They badly need tractors, for areas now under cultivation and to open areas in the New Economic Zones. They are, the Minister told me, acutely short of fertilizers. Nitrogen fertilizers (they are used to urea) are unavailable. The minimum need is placed at one million tons, but they could use even more. They need potash, a minimum of 200,000 tons. They need phosphate. While in some areas of the country raw material for the manufacture of some phosphate fertilizer is available (apatite), they need both the technology and the machinery to exploit it.

Ironically, the fertilizer problem is particularly urgent because of assistance programs the U.S. conducted during the war in South Vietnam. We introduced and vigorously pushed the replacement of native varieties of rice by IR8, a "miracle" crop which provides high yields if vigorously fertilized but otherwise produces mediocre crops. Over 600,000 hectares were planted with IR8. This particular turn of events is one of the contributing factors in the overall shortage.

The Vietnamese officials told me that they badly—and immediately—need food assistance. While at this point there is no famine, rations are skimpy. Any serious deterioration of the weather would bring about a tragic situation. The Vietnamese government would very much appreciate food assistance from the United States. They would prefer rice, because it is their staple food, but they would gladly also receive corn (maize), wheat, potatoes, and even manioc (which is low in protein and nutritionally far less desirable).

If we decided to send food to Vietnam, the method and timing of shipments would be crucial. Because of the destruction and shortages caused by the war, their transportation system is extremely limited. Trucks and railroad equipment are in very short supply, and there are fewer every day because spare parts are unavailable, both for American and Chinese equipment. It was emphasized to me that by dividing deliveries among the various harbors of South, Central and North Vietnam commodities would be easier to deliver. Spreading shipments over the course of the year would facilitate distribution. It would be important to the handling of wheat, if much of the assistance were in that form, as milling facilities in Vietnam are extremely limited. (Conversely, aid could be delivered in the form of flour, though, again, storage facilities would not be adequate for the amounts required if deliveries were made all at once.)

Beyond food assistance, the Vietnamese would welcome assistance in agricultural machinery, agricultural implements, and, above all, as I said, agricultural chemicals. All the officials I saw, including the Prime Minister, also emphasized that they would welcome the installation in Vietnam of U.S. machinery and chemical plants, "provided it is done with full respect for the sovereignty of Vietnam and with advantage for both parties." That formula was ritualistically recited by all those officials—the Prime Minister, Minister of Agriculture, Chairman of the State Planning Committee, members of the Foreign Trade Commission, and the Deputy Foreign Affairs Minister—who discussed this area with me. The same welcome and the same qualifications were expressed in repeated statements of interest in resuming collaboration with U.S. multinational oil companies for the exploration and exploitation of offshore oil resources. Indeed, they stated that they would welcome immediate discussion with representatives of American industry for the development of joint ventures (though examination of their actual present capabilities would suggest that third-party financing is necessary for any sizable matching of capital investment by Vietnam).

I also had the opportunity to talk with government officials, including the Prime Minister and the Minister of Education, Health and Agriculture about the situation of Vietnamese universities and technical schools, and to visit the Universities of Hanoi (including the Polytechnic Institute) and the University of Ho Chi Minh City (including its medical school).

From these conversations and my own observations I can report that the universities are isolated and destitute. In the libraries, the collections of scholarly and technical journals stop in 1975, except for some Russian journals, useless in a country where French, and, in the Southern area, English, are the only foreign languages widely known. Chemical reagents, which came from China and the United States, are unavailable. Russian help is negligible, not to say farcical. In the Polytechnic Institute it has consisted of a limited number of secondhand pieces of electrical equipment, most of them not in working order. The unavailability of foreign exchange precludes using UNESCO as an intermediary to buy books and equipment abroad. The professors, North and South, feel completely cut off from outside civilization and anxiously asked me what discoveries had been made in the past three years "in all fields." The beginning of the coming academic year is looked at with dread by the medical schools, which feel unable to properly prepare for the teaching of basic sciences in the face of a shortage of textbooks, journals, reagents, instruments and animal feeds.

Whatever decisions we make in other matters, I believe—as an academician and a scientist—that we should act to lift the isolation of Vietnamese universities, at the very least by sending them journals, reprints and books. The free flow of ideas and current information can only be in the interest of the free world.

After the bitter conflict between our two countries, the question can be asked—and is by many Americans—why should the United States provide direct food and agriculture assistance, particularly at a time of inflation and retrenchment here at home? The Vietnamese have their own answer. As a high official of the Foreign Ministry said to me, "Two of the countries we feel closest to, both of which have helped us, are France and Japan, both of which we have fought during my lifetime. We would hope that we could work even more closely with you. You have been so generous to Japan after World War II. We hope that you would assist us, too." And then he added, after a pause, "Of course, the Japanese had the good taste to lose the war."

This is a complex foreign policy issue to which I would not attempt to offer a definitive answer—even if I had one. But let me argue that there does seem to be merit, from the point of view of our own national interest, in giving such aid. One objective in the Vietnamese war was to keep South Vietnam from Communist domination. Our other major concern was to prevent the monolithic spread of communism throughout Asia. Communist Vietnam is now a fact of international life. The question is to what extent it acts as an independent power with whom we can initiate useful relationships? I think we have an opportunity at this point to bolster the independence of Vietnam by giving another source of help besides the Soviet Union. They very much desire it. The Vietnamese have a very strong sense of historical continuity. The Prime Minister said to us, "Whenever in our 4,000-year history Vietnam has been dependent on one large friend it has been a disaster for us." With help from European-community nations very small, with the disagreement with China severe and growing, with a war-like situation on the Cambodian border, the Vietnamese regard normalization of relations with the United States as a prime national need.

It is admittedly difficult for our government and for our citizens to approach this

matter so soon after the conclusion of the war. Yet the national interest may dictate that we do so in a pragmatic manner, as a matter of our own desire to maintain maximum influence over political developments in Asia. In the longer run, doing what is morally the right thing in feeding hungry people anywhere in the world has generally proven to be politically advantageous and a source of added influence and respect for our country.

If I may digress for a moment, I would like to mention something I learned, almost accidentally, in my conversations with Vietnamese scientists and health officials. There is some epidemiologic evidence—which at this point is reasonably good—that the chemicals used during the war in defoliation and crop destruction campaigns may have caused an increase in congenital malformations which is being seen in areas where these agents were used. On the other hand, the Vietnamese feel that the evidence is not conclusive. I have been struck by the fact that while they mentioned it as a strong possibility they certainly did not want to emphasize it until absolutely certain of their facts—an attitude which is both interesting and commendable. Reflection on the use of herbicides for both crop destruction and crop interdiction leads me to the following idea which I would like to place before this body. Whatever the final evidence shows, we do know that attempts to starve the Vietcong into surrender proved to be futile, as have similar attempts throughout history. As a weapon of war, starvation acts preferentially against noncombatants, and against the weakest of these. Young adult men are the most resistant to starvation. It is the elderly, pregnant and nursing women, and most especially the children, who suffer and die. Soldiers can, and do, requisition whatever supplies they need to fight on—and they can always justify their action by the nobility of their cause. Wars are won on the battlefield.

The French lost the Franco-Prussian War at Sedan and Metz, in the Loire Valley and on the Swiss border, while children died by the hundreds in the Siege of Paris. In our own Civil War, the South did not surrender because of Sherman's devastating March to the Sea, but because Lee was defeated at Gettysburg and Vicksburg. Malnutrition killed scores of noncombatants in Berlin and Vienna during the Allied blockade in the First World War, but the German armies never lacked for food. Russian children died by the thousands during the siege of Leningrad in World War II, but the Red Army kept enough food and strength to eventually break out and join the advancing Allied relief force. The Nigerians put down the Biafran rebellion by the weight of their arms and numbers, not through starvation. Hunger was used as an instrument of terror by one side, of propaganda by the other, while children, mothers, and old people died.

The use of hunger as a weapon of terror or coercion is not only morally indefensible—if this were not reason enough—it is militarily ineffective. I would like to propose that the United States take the lead in introducing and supporting before the nations of the world an international convention which would outlaw the use of starvation as a weapon of war and as a means of pressure or punishment against individuals in small or large population groups. It is a fundamental violation of the Rights of Man.

As for the immediate situation, I believe that it is very much in our interest, ethically as well as politically, to normalize our relations with Vietnam and to give them aid in the area of food and agriculture as well as in the areas of health and education. This will not only reestablish our moral authority in Asia, but also give us an opportunity to succeed in one of the objectives for which we fought the war, namely to insure the independence of Vietnam from China and from Russia, and give us some means of influencing events in Southeast Asia. It may also give us a chance to engage in mutually profitable ventures, particularly in the agriculture and chemical areas, but possibly in the oil area as well. Meditation on the war in Vietnam and its aftermath suggests that we ought to do it.

REPORT OF VISIT TO VIET NAM—AS A MEMBER OF A SPECIAL DELEGATION TO STUDY NEEDS FOR HUMANITARIAN ASSISTANCE

On behalf of the American Cancer Society and the medical profession, I would like to express my sincere thanks to Senator Edward M. Kennedy for the opportunity to be a member of the delegation to study humanitarian needs in Viet Nam. The visit was most stimulating and informative. Having had the opportunity to speak with several public health officials and physicians and to visit hospitals and clinics, I believe that my observations and recommendations are founded on reliable information. Further, I hope that this report will be helpful in proving that humanitarian assistance in the area of health care is urgently needed.

HEALTH CARE

These impressions were gained by visits to hospitals, clinics and social rehabilitation centers, and interviews with public health officials, professors, surgeons and physicians in Viet Nam, a country of 50 million people that is now 3 years into post war reconstruction. Health care delivery is organized on 4 levels: 1) the communal level; 2) the district level; 3) the provincial level and 4) the central level. There are about 8 physicians per 10,000 population. The Ministry of Health plans to increase the number of clinics, hospital beds and physicians in order to provide better health care for the people. At the communal health level, 4 types of care are given: 1) first aid; 2) family planning; 3) preventive services and 4) health education. These are staffed in 90% of cases by auxiliary doctors—persons who have received 2–3 years of training after secondary school in contrast to the M.D. who has received a minimum of 7 years education beyond secondary school. At the district level, health care is provided primarily in hospitals of 100–200 beds. The care delivered there is primarily medical with only minor surgery being performed. At the provincial level, practically all medical, surgical and obstetrical care is rendered in hospitals of 500–1000 beds. Central level hospitals, as those in Hanoi and Ho Chi Minh City, provide advanced level care for their areas in addition to managing difficult cases from the provinces and performing major cancer and heart surgery. All university hospitals, medical research departments and the faculty of medicine are under control of the Ministry of Health. There are 6 medical schools with about 10,000 students. Students are chosen for university study after rigorous examinations. Some dental care is provided at the district and provincial levels. There are 2 dental schools and 2 pharmacy schools. There is no formal school of nursing. Medical, surgical and obstetrical units train their own nurses to meet their particular needs. A better system of nursing education is urgently needed. Vietnamese officials responded favorably to the suggestion that facility exchange programs could be of definite value to them and wanted to pursue this idea further. Public health officials spoke fervently for the need of well organized programs in family planning. With a birth rate of approximately 3% per year, the population increase continues to exceed food production, thus making worse the current problem of inadequate food production. More detailed information concerning medical care is available in the Scrimshaw Commission Report of 1973.

The 2 major health problems are: 1) epidemic diseases as diarrhea, tuberculosis, skin infections, venereal diseases (cholera and plague have almost disappeared) and 2) Malaria—which is present in approximately [illegible] percent of the population. These medical problems are worse in the South. The average life expectancy is 58 years. Although epidemic diseases and malaria are the most common illnesses in Viet Nam, the public health authorities are noting an increase in cardiovascular diseases and cancer. The most common cancers in men are: 1) lymphoma, 2) hepatoma and 3) gastric cancer, and in women: 1) breast and 2) uterine cervix. These cancers are usually diagnosed late and the patients present with advanced disease. Screening for liver cancer has not been cost effective. In one study, only 2 cases were found in 1000 patients examined. Treatment for cancer consists of surgery, chemotherapy and immunotherapy. There is no radiotherapy available.

Professor Ton That Tung, the leading surgeon in Viet Nam, has had great experience with liver tumors. He has called to our attention the increased incidence of hepatomas in Viet Nam and believes that this may be related to the use of defoliants during the war. Dioxin, 2,3,7,8-TCDD, a chemical impurity in the 2,4,5 T herbicide which was repeatedly and massively used in Viet Nam during the war, is a very toxic agent that may be disseminated by avian or aquatic fauna. It has been shown experimentally to be teratogenic, mutagenic and carcinogenic. Its carcinogenicity appears to be much greater than known carcinogens as benzopyrene and methylcholanthrene. Professor James R. Allen, Chief of the Department of Pathology at the University of Wisconsin, stated in a letter to Professor Tung that the Wisconsin researchers had observed that there was a significant increase in hepatocellular carcinomas in rats who received a diet containing 5 parts per billion to 5 parts per trillion of Dioxin over a period of 18 months. The Vietnamese researchers ascribe an important, but as of yet undetermined, role to Dioxin for the increased incidence of hepatomas. Further studies are being conducted to clarify the role of this agent. The average life expectancy for patients with hepatomas who receive conventional treatment is 6 months. Professor Tung and his associates have studied the use of immunotherapy in patients with hepatomas. To be most efficacious, the immunotherapy (BCG or LH1), should be combined with hepatic artery ligation or partial hepatectomy to reduce the tumor burden. The immunotherapy must be prolonged (1 to 2 years) and improved survival rates have been noted with such combination therapy. Because of economic factors, diagnosis and treatment must be rendered as cheaply as possible. For example, the diagnosis of hepatoma is made primarily by physical examination and not by serum levels of alpha fetoprotein. During our visit with Professor Tung, we saw several patients who had been treated for hepatomas, two of whom were alive and well more than 6 years after therapy. Professor Tung has achieved some fairly impressive results in liver tumors with surgery and the immunostimulant LH1—a drug developed from traditional medicine. A tour of the Viet Duc Hospital (where Professor Tung works) revealed that patients are receiving good medical care though many of the refinements seen in American hospitals were missing.

There is a Department of Social Rehabilitation that is concerned with: 1) prostitutes; 2) drug addicts; 3) juvenile delinquents; 4) amputees; 5) beggars and 6) orphans. It was estimated that there were 300,000 prostitutes, ages 14–30, in South Viet Nam at the end of the war 3 years ago. Today there are thought to be about 25,000 prostitutes. The Department seeks to rehabilitate these young

women and return them to society capable of performing productive work. They are examined; treated for any venereal disease (64% have syphilis); reeducated (especially informing them that they should not feel ostracized from society by their previous bad experiences); taught a new profession and then returned to their families as better members of society. The physicians often lack antibiotics to treat the venereal diseases. An active program has been developed for the treatment of drug addicts by 3 modalities: 1) acupuncture; 2) traditional medicine and 3) exercises. Addicts remain at the drug treatment center for 10–14 days. They then undergo reeducation and training for a vocation. At the end of the war there were 1,100,000 people unemployed in Ho Chi Minh City. In the last 3 years, work has been found for 700,00 persons leaving almost 400,000 still unemployed. However, the rate of unemployment is still much too high. There are several orphanages with many children. They are given total care here including food, clothing, shelter, medical care and education. As they become older, they learn different trades as barbering and carpentry. Great attempts are made to place them in foster homes but much needs to be done in this area.

We visited a medical clinic in a new economic zone (NEZ) in the South which served 800 families (about 4,000 persons) and was staffed by a physician, an auxiliary physician and 12 nurses—2 of whom were midwives. The population is primarily young and the 2 most common health disorders were: 1) respiratory infections and 2) skin diseases—especially eczema. A dentist comes once a week to provide dental care. Because of the predominant young age of the population the physician sees little cardiovascular disease or cancer. Assignment of physicians for varying periods of time is made to the various clinics by the Ministry of Health. A hospital is being constructed to provide district level care for the people of this NEZ and some surrounding communities. However, construction has been delayed because of a shortage of building materials. The clinic physician usually has adequate medicines for the types of diseases he commonly treats but related to us the overall shortages of medicines and equipment in the clinics and hospitals of Viet Nam.

A visit to Saigon Hospital, a 250 bed hospital specializing in trauma care, revealed a dedicated staff but again a marked shortage of supplies and equipment. There was an acute shortage of X-ray film, and some medicines as metronidasole (Flagyl—used in the treatment of amebiasis) and antibiotics. Much of the equipment and surgical instruments is outmoded.

For example, the instruments esp. the lenses used in eye surgery are more than 25 years old. All members of the staff requested aid for the hospital especially X-ray film, operating room lights, medicines and equipment.

We visited 2 refugee camps—one in Tay Ninh province with 5,000 persons and the other with 9,000 persons. Most refugees were Cambodians (Kampucheans) but there were a few Chinese, Chums and Vietnamese. Each refugee—man, woman and child—received a 13 Kg ration per month—the same as the native Vietnamese people receive. In our interviews with various refuges, they recounted numerous tales of terror and barbarism committed by the present Cambodian government. Many people have been killed, tortured and maimed. There are no schools, no churches (many were burned) and no freedom. The work is very hard and arduous. They must get up at 3:00 a.m. and work until 8:00 p.m. with only a small break for lunch. Among the refugees are all levels of Cambodian society—peasants and intellectuals. The refugees applauded the efforts of the Vietnamese government in providing them food, clothing, shelter and medical care. We saw no obvious cases of malnutrition. All refugees appeared to be adequately fed and all had been in the camp for at least 7 months. Each camp has an auxiliary doctor and several nurses to deliver health care. A certified physician visits the camps once per week to examine seriously ill patients. Those patients requiring additional care are transferred to district or provincial hospitals. The refugees seemed overjoyed to see us and were happy when speaking about the American and Vietnamese people. They showed their anger and bitterness only when speaking about the atrocities in Kampuchea.

Having spoken with several persons—government officials, physicians, nurses, patients, I was convinced that much is needed to provide better health care for the people of Viet Nam. Among the more urgent needs are: 1) medicines—especially medicines for specific diseases, as venereal diseases, malaria, tuberculosis, amebiasis; 2) medical equipment and supplies of all types—especially X-ray film, operating room lights and modern diagnostic and surgical equipment; 3) teaching materials and scientific journals for hospitals and materials; 4) effective family planning programs and materials; 5) faculty exchange programs between medical schools of both countries; 6) a well organized nursing school program. It seems that some of these recommendations could be implemented fairly soon and easily. Such implementation would do much to show the people of Viet Nam in a most tangible way the concern and interest of the United States. In this category for early disposition are: 1) scientific journals and books to the 6 medical schools and the hospital of Professor Ton That Tung; 2) X-ray film and operating room lights to Saigon Hospital in Ho Chi Minh City; 3) medicines, as antibiotics, antimalarial drugs, antituberculous drugs, and amoebicidal drugs. The other recommendations would take longer to implement.

REPORT OF MS. MILDRED KAUFMAN

An adequate supply of nutritious foods available and accessible to all of the people at reasonable cost is essential for a healthy, productive and stable society, and for the physical and mental growth and development of their children. Recent reports from Vietnam have indicated serious food shortages with associated problems of hunger and malnutrition. This was a major focus for the study mission during our visit from July 31 to August 7, 1978. On this fast paced trip, using information from briefings and limited personal observations, I summarize impressions of the food and nutritional needs of the people of Vietnam. No anthropometric biochemical or dietary study data were available to validate these observations. You should also be aware that my frame of reference is my professional experiences with urban and rural public health nutrition programs in the United States.

FOOD RATIONS

Briefings by Vietnamese government officials cited natural disasters (floods and drought) during recent growing seasons which have reversed Vietnam's previously favorable food production to current food shortage estimated at from 1,000,000 to 2,000,000 tons per year. Basic staple foods are being rationed. The minimum ration for adults and children made up of rice, maize, manioc and wheat (used in noodles and bread) is currently 13 kilograms per month providing about 1500 calories per day largely as carbohydrate. Increases to 17 kilograms per month (2,000 calories per day) and 21 kilograms per month (2400 calories per day) were quoted for those doing physically active work. All these calorie allowances would generally be considered marginal for high labor intensive activity levels, even estimating that some additional foods are purchased on the open market.

Meat, fish and eggs are also rationed but repeated probing did not elicit the amounts of the ration for these animal protein rich foods. Public health authorities stated that supplemental foods were provided in the ration allowances for invalids and for pregnant and lactating women. These supplemental rations include meat, fish sauce (a dietary staple in Vietnam) and sugar. For babies who cannot be breastfed (orphans, etc.) condensed milk is provided for artificial formula. It was stated that some milk is produced in Vietnam but not nearly enough for the needs of their children. Despite requests made by Mr. Tinker and me for a visit to a government food ration store, especially in Ho Chi Minh City, this visit was not arranged. Questions persist regarding the quality, variety and prices of foods at the government food stores, their continuing availability as well as the equity of their distribution to the population. Also of concern is the rationale for food and nutrition policy decisions related to the ration system.

Additional foods are available for purchasing on the open market. No food markets were visited in Hanoi and little food vending was observed on the streets. In Ho Chi Minh City, and Vung Tau we briefly visited the central market and observed many small food vendors along the streets. They were selling a myriad of tropical fruits, green vegetables, dried beans, seafood and fish, pork and poultry. No milk or dairy products were seen in these markets. Prices of foods in the open market were difficult to determine but appeared exorbitant in relation to the income quoted for the average worker of 60 dong per month. In the Vung Tau Market 10 eggs were being sold for 7 dong.

At the model New Economic Zone visited at Ten Dong, where pineapple was being grown for export, families had their own garden plots planted with banana trees, tropical fruits, tomatoes and vegetables. At a home we visited, there we saw the small fish pond. Chickens and ducks were foraging in the area. We were told that families grew these food items for their own use and could sell them in the free market. Along the roads in rural areas, we saw some pigs.

Vietnam is a lush tropical country with tremendous potential for food production. Travelling through the countryside, the visitor is impressed with the intensive cultivation of all available land with rice, maize, manioc and sweet potatoes along with tropical fruits and many green vegetables. The long seacoast and fresh water ponds provide sources for fish and seafood. The fermented fish sauce is a basic component of the diet.

Food in the markets, being sold by street vendors and in cultivation, would appear to be excellent sources of all of the major nutrients except calcium from dairy products. However, the observer questions the availability and accessibility of these foods in the diet of the city people because of their cost in relation to income. Rural families able to grow some of their own food can be better fed than city people. Stated government policy is to decrease the population in Ho Chi Minh City, and officials are pressuring families to move from cities to new economic zones, particularly those people who fled from the country to cities during the war.

Food, farm equipment, seeds fertilizer and insecticides were cited by officials as urgent needs with the goal of self sufficiency in food supply by 1980. In the Departments of Agriculture and Public Health, persons who spoke with us indicated concern for the insufficient supplies of milk. A new program mentioned by Vice Minister of Foreign Affairs, Mr. Han Mien and confirmed in Mr. Tinker's conversation with the Indian Ambassador is the importation of milking water buffaloes from India to supply milk as well as animals for traction.

EVIDENCES OF MALNUTRITION

In the July 31, 1973 report based on March 10, 1973 visit to North Vietnam, Dr. Nevin Scrimshaw stated, "As a consequence of their very strong emphasis on preventive medicine, on immunization and on maternal and child health care at the level of the family, we found essentially no evidence of malnutrition and were impressed by the general health of the population." It would appear that the nutritional status of the population has deteriorated since 1973. The "Report of Public Health Work in the Socialist Republic of Vietnam in 1977" published by the Ministry of Public Health states on page 24, "Nutrition has for many years been the focus of our attention in child health care work. There are clear cases of undernourishment due to economic under-development and aggravated by the sequels of war in protein and calorie deficiencies, and even numerous cases of marasmus. We have studied the constituents of different kinds and of complete food powders made of cereal flour and fish as substitutes, as the raising of milch cows in our country is still limited." In the absence of any nutritional assessment or anthropometric data, I tried to carefully observe the men, women, and children in the streets, in the institutions and working in the fields. I was impressed that obesity, the major nutritional problem in the U.S. does not exist in Vietnam. Everyone appeared physically active.

In rural areas, people were observed working in the fields from early morning to dark, including during the midday when we were told that it was too hot for farm work. Almost no mechanical farm equipment was seen. Human labor was aided by water buffalo and oxen. In the cities there were few cars, with transportation chiefly on foot or bicycle. Bicycles dominate the streets of Hanoi and Ho Chi Minh City, sometimes with families of two parents plus two or three children on one bicycle. In response to questions regarding the price of a bicycle, we calculated the cost to be comparable in the same proportion to family income, as is a car for working people in the U.S.

The people appear extremely lean and wiry with not very well developed musculature, reaffirming the low calorie level of the available rations for a population performing hard physical work. At the hospitals and outpatient clinics, many we saw appeared emaciated. Most children and adults were short in statute, suggesting growth retardation. The best nourished group seen were the children of government workers in a day care center in Hanoi, which serves three meals daily.

At the briefing at the Department of Public Health in Hanoi, officials stated that malnutrition was more of a problem in the south than in the north. They attributed this to food shortage and the high birth rate. Several clues indicate that severe malnutrition exists particularly in high risk groups such as pregnant women and children. Dr. Ton That Tang, Professor of Surgery, Vietnam East German Friendship Hospital in Hanoi, discussed his concerns about the nutritional interrelationships with susceptibility to infection, citing infectious diseases as the major public health problem in Vietnam. In Ho Chi Minh City, we visited the Hospital for the Rehabilitation of Malnourished Children where 250 orphans from age one month to three years receive care. There we were shown a scrapbook of "before and after" pictures of children successfully treated for kwashiorkor and marasmus. We saw some of these rehabilitated children as well as several recently admitted infants with kwashiorkor. There were also children at this center who were profoundly mentally retarded. At the hospital visited in Ho Chi Minh City, a young woman ophthalmologist who had post graduate medical training in Australia and spoke excellent English, asked me as we walked through the hospital, "What are the nutritional treatments for eye diseases?" I replied that xeropthalmia was a severe vitamin A deficiency disease leading ultimately to blindness, but that I had never seen it. She shook her head vigorously saying, "yes, I see it." There was no opportunity to probe further, as we were hurried off to our next appointment. From friends in Chapel Hill who had worked in Vietnam previously, I understand that xeropthalmia had not previously been a problem in Saigon.

At the Cambodian refugee camps in Tay Ninh Province, we were informed that the refugees under the care of the Vietnamese government received the same 13 kilograms per month ration. As a group the refugees appeared to look better than many of the people observed on the streets and in the institutions. The stories of the refugees, about the hardships endured in walking long distances to reach Vietnam, would suggest that they had arrived eight to twelve months before we saw them in seriously depleted nutritional status. This speculation was confirmed in conversation with Mr. Anders Johnson, on the staff of the U.N. High Commission for Refugees who had visited these camps shortly after the refugees had arrived. Therefore, the nutritional rehabilitation observed with the limited ration appears remarkable. Refugees with whom we conversed in French said that they were "getting enough to eat." These refugees are sharing and straining the limited supplies of food available in Vietnam.

PUBLIC HEALTH PROGRAMS AND SERVICES

The public health program described by officials at the state planning commission and at the Ministry of Public Health in Hanoi, is essentially described in detail in the report of Dr. Nevin Scrimshaw's study mission to North Vietnam in 1973. The 1977 Annual Report of the Ministry of Health provided to us at the conclusion of our visit, clarified details. The well organized health system integrates free preventive and curative medical care in a plan to serve all workers; it now is said to cover 90% of population. Organization is at four levels: (1) communal village or "grassroots" with a health station for primary care, normal deliveries and preventive health education, staffed with auxiliary doctors, nurses, midwives and family health workers and serving 4,000 to 6,000 people; (2) district level serving 100,000 to 200,000 population provides a 100 to 200 bed hospital and medical doctors along with a public health office, pharmacy and other senior staff who provide in-service training for communal level health workers and leadership in sanitation and epidemiology; (3) provincial level provides 500 to 1,000 bed general and specialized hospital care and public health service for hygiene, epidemiology, maternal and child health and rehabilitation. At this level are the schools for training mid-level health workers including vocational level nurses and midwives who provide family planning services and prenatal care. Some mental health services are provided but mental health is said not to be a serious problem; (4) at the central or governmental level is the Ministry of Health, University Hospital with faculty of medicines, pharmacy and public health for training personnel and research. A system of triage is used to direct patients into the appropriate level of care according to their needs. There is limited dental care at the district level. Dentistry was stated to be not too well developed and there was an obvious need for more dental care.

Priority health programs discussed were eradication of the infectious diseases which are the major causes of death and include cholera, plague, malaria, dengue fever, tuberculosis, leprosy and venereal diseases; family planning to reduce population growth, the highest in the world, from 3% to 2% year: maternal and child health (in H maternal mortality rate was 0.9, infant m tality rate 34.2); environmental sanitati and health education. Rehabilitation cent for drug addicts and prostitutes and hom providing care for orphans are important lated programs conducted by the Departm of Social Welfare.

Health programs at all levels from the ru clinic visited in the New Economic Zone the hospitals in Hanoi and Ho Chi M City, are providing dedicated health care tempting to combine modern medical pr tice with traditional medicine, but are s ously handicapped by shortages of drugs, v cines, x-ray film and medical equipme Training is jeopardized because the medical textbooks and journals are not av able. Both Dr. Tong in Hanoi and the phy cians at the hospital in Ho Chi Minh C expressed the need for medical journals fr the USA. The physicians also stated ne for more advanced education for professio nurses for the hospitals and public hea Dr. Tong recommended a national school nurses. The woman ophthalmologist in Chi Minh City said that the best prepa nurses are now being trained in Japan.

In questioning of several of the health ficials regarding who taught mothers how feed their children, it was stated that nurses handled it. Persistent questioning not identify any specific efforts to educ and guide the people in nutrition or wise of scarce food supplies. As a Public He Nutritionist, I was unable to identify counterparts in public health work or di tians in the large hospitals. Dr. Scrimsh states in a report prepared for Nutrition day published in July/August, 1973 from 1973 visit to Hanoi, "There is no professio dietetics or nutrition, however the assist doctors often are given some training in field." Dr. Tong expressed the need fo nutritionist in Hanoi. I was told that in Chi Minh City, Dr. Duong Thi Guynh was a woman physician in the Public He Service who was concerned with nutri and maternal and child health. A confer was requested with her but she was una able. Later in Bangkok, I asked Ms. Marg Crowley, Regional Home Economics and F ily Development Officer, FAO of UN about knowledge of current professional trai in nutrition or of efforts in nutrition edu tion for the public in Vietnam. Ms. Cro knew of no organized national nutrition gram. Ms. Crowley stated her strong con tion that food aid without public educa on how to use foods provided is ineffec and wasteful, especially when foods provi are unfamiliar or unpopular.

RECOMMENDATIONS

1. Clearly there is an overall food short which requires short-term and long-t assistance in response to the obvious f needs and evidence of malnutrition am the population of Vietnam. The Uni States should live up to its humanitar tradition and immediately move to as in overcoming the one to two million food deficit this year. Food shorta threaten the health and productivity o people industriously struggling to overco the ravages of war on their society and ping with an influx of refugees coming Vietnam from Cambodia. Long term as ance aimed to help Vietnam move tow self sufficiency in food supply would provision of fertiliser, insecticides and f equipment. Agricultural assistance sho be appropriate to the needs, capabilities practices of the Vietnamese farmers.

2. Special attention in a food aid progr should be given to providing milk pow and other special protein-rich products s as CSM (corn-soya-milk) for the infa and young children, particularly for fe ing programs for the many orphaned c

dren. Milk powder was stated to be in very scarce supply by both the representative of UNICEF with whom we spoke and the staff of the Hospital for Rehabilitation of Malnourished Infants. Contributing to an adequate supply of milk could tremendously improve the nutritional quality of infant and child feeding programs to prevent and treat malnutrition and be an investment in the physical and mental development of the children.

3. In cooperation with the UN agencies—UNICEF, FAO and WHO and private relief agencies a tracking system to monitor food aid would seem desirable to assure that foods are transported and stored to maintain their quality and that foods are targeted to reach those with the greatest nutritional needs, particularly children in the urban areas. It would also be important to determine that foods provided are acceptable to those receiving them and that they use the foods advantageously.

4. Technical assistance in nutrition and food science is needed to train public health workers and teachers in basic nutrition and appropriate use of food provided in the aid programs. During briefings, government officials stated that "the people prefer rice but could eat wheat and maize." Nutrition education initiatives would be essential to introduce changes in the staple foods in the diet as well as milk powder and milk from the milk producing water buffalo. The public health network with its emphasis on health education offers an excellent channel for nutrition education to all of the population.

5. Support needs to be provided to the family planning initiatives with supplies and technical assistance in order to reduce population growth from 3 percent to 2 percent or less per year. Control of population growth is important in reducing the increasing demand on limited food supplies. It is also desirable to reduce the stress of repeated pregnancies on women who are nutritionally depleted and are at high risk of producing more malnourished infants.

6. With malnutrition as an acute problem and deployment of food supplies as a critical issue, consideration should be given with the Vietnamese government to leadership training in nutrition and food sciences as basis for rational food and nutrition policy development. Academic training in nutrition and dietetics needs should be considered in Vietnam on a long range basis. More immediately, offering opportunities for training applied nutritionists, dietitians and nutrition educators in universities in the United States might be useful.

GENERAL OBSERVATIONS AND IMPRESSIONS

The officials with whom we spoke largely addressed the basic human needs of their people for food, medical supplies and equipment to help them achieve their goals of independence of self-sufficiency. Visitors must be impressed with how diligently the people of Vietnam are working and their generally stark standard of living. Officials cited Japan to be their model for future development. During a brief stopover in Japan en route home, I was amazed at the achievements in Japan in terms of nutritional status and child growth and development; health, sanitation; industrial development and prosperity; a dramatic contrast with what we observed in Vietnam.

I hope that we have been able to adequately convey a picture of the real human needs for immediate help of food, medical supplies and educational resources to people who are valiantly trying to help themselves. Major disruptions in the society in Vietnam are being addressed by the government including the care for large numbers of racially mixed children observed in the orphanage in Ho Chi Minh City, rehabilitation of the many drug addicts and prostitutes, as well as providing a haven for refugees from neighboring Cambodia.

I wish to thank Senator Kennedy and the Senate Judiciary Committee for the opportunity to participate in this study mission and Mr. Jerry Tinker for facilitating our travel. For me it has been a tremendous learning experience and hopefully an opportunity to contribute to an important humanitarian effort. Great appreciation must also be expressed to the government of the Socialist Republic of Vietnam for their warm welcome and gracious hospitality.

Submitted by:

MILDRED KAUFMAN, R.D., M.S.,
Associate Professor, Department of Nutrition, School of Public Health, University of North Carolina.●

THE FINAL HOURS OF THE KOREAN WAR

● Mr. GOLDWATER. Mr. President, what were the battlefield conditions like during the final hours of the Korean war? We are indebted to Mr. Charles A. Wahlheim, publisher of the Mesa, Ariz., Tribune, for a grisly picture of those conditions in one sector of the combat zone. On July 27, 1953, he was serving as chief of a 155-millimeter howitzer section in our forces and remembers vividly the events that transpired. In a recent editorial, he recounted that experience and used it as the basis of some observations on this country's current problems with the military situation that confronts us around the world.

I ask that this editorial be printed in the RECORD.

The editorial follows:

JULY 27, 1953

Twenty-five years ago today is more than a little memorable to me. I had spent over a year in Korea first as a forward observer for an artillery battery, later as a chief-of-section on a 155mm Howitzer. The last few months of the war had been intense, with both sides realizing an armistice was pending and, as a consequence, trying to position themselves on the most strategic locations.

At 10 a.m. on the morning of July 27, 1953, our firing battery was at the bottom of a ridge, firing nearly point blank. The battery commander called six of us together and told us to inform our troops a cease fire has been signed and that all firing would stop in 12 hours.

The day was grisly beyond belief, both sides unleashing everything they had at one another. Many young Americans died that day on that hill in front of me.

At 10 p.m. all guns were silent. The next morning we pulled back and a few days later I was headed for Pusan—and home—left with the thought of all who died those last 12 hours after the cease fire had been signed.

Besides personal nostalgia, Korea has a significant meaning for all of us. It was the first limited war for limited objectives, and I guess if you put aside the loss of 40,000 American boys, one could say it was successful as South Korea is still free. This new concept in warfare led us into the morass of Vietnam, and 50,000 American lives later we learned it is really impossible for this nation to fight a limited war for limited objectives.

If that is true, it leaves us with a few alternatives. Certainly atomic warfare is something none of us wishes to contemplate. So what do we do as a nation to stay the constant communist encroachment going on all over the globe?

It seems to me there is no simple solution short of this nation really waking up to the need to turn back to God and ask for His divine assistance, which probably we won't do. Aside from that we need to carefully identify who our friends are and assist them in being militarily strong.

I would particularly cite our position vis-a-vis Turkey, which sits right on the Russian border and has been a long-time adversary of Russia. Germany, although it sits in a precarious position with its Berlin dilemma, has to be the backbone of NATO.

Israel, South Korea and Japan, to name just a few others, need to have the capability of protecting not only themselves but acting as a deterrent in their general global areas.

Strategically I think that the neutron bomb should be developed as a deterrent against the massive tank forces of Russia and the cruise missile should be developed and its range not restricted as a solution to the problem of our aging and somewhat obsolete ballistic missile system.

More importantly, I think great care should be taken that our president doesn't negotiate a SALT agreement just for the sake of a SALT agreement. That could put us at the mercy of the Russians who, I am sure, have no intention of honoring whatever agreement they sign.

I think programs such as Radio Free Europe should be beefed up and expanded. They not only get the truth behind the iron curtain but keep the Eastern bloc nations stirred up enough that they require a lot of attention from the Russians.

A similar type of radio network probably should be set up in Africa in hopes of informing them and, hopefully, educating African nations as to the seriousness of the Russian and Cuban threat.

We can't fight limited wars. We can't fight all-out atomic wars, but assuredly we can't bury our heads in the sand and hope the threat of communism goes away.

It is unbelievable to me how quickly that 25 years went by, and I am not sure we will have a free country 25 years from now if all of us don't get active and let the people who run this country know how we feel and express our concern.

Not everyone can have the privilege of writing an editorial in the newspaper. But everyone can write his congressman or senator.

CHARLES A. WAHLHEIM,
Publisher.●

BILL HATHAWAY'S LEADERSHIP HELPS RESTORE MONEY FOR KEY AGRICULTURE PROGRAMS

● Mr. MUSKIE. Mr. President, my friend and colleague, BILL HATHAWAY, took the lead in the Senate last week in restoring money cut from this year's agriculture budget for the agricultural conservation program, the only major farm program in our region. I was happy to support his effort. His success in restoring $105 million for the program was responsible in terms of the congressional budget and in terms of sound farm policy. The careful, low key way he built support for his amendment is only the most recent example of why his legislative ability is so valued in the Senate.

I congratulate him for his leadership, and ask that an article on the subject from the Bangor Daily News of August 21 be printed in the RECORD.

The article follows:

MAINE AGRICULTURE—HATHAWAY SUCCEEDS IN RESTORING FULL FUNDING FOR AGRICULTURE PROGRAM

(By David Bright)

On Friday, July 28, Missouri Senator Thomas Eagleton came to Portland to boost the campaign efforts of Bill Hathaway. Eagleton was one of many in a long line of political types who've been to Maine for

Hathaway. The list is topped by President Jimmy Carter. It includes, among others, Secretary of Agriculture Bob Bergland and Ohio Senator John Glenn.

But less than two weeks after Eagleton was in Maine he and Hathaway were locked in strong debate on the Senate floor. On Eagleton's side were Carter, Bergland and Glenn. Rooting for Hathaway were many of the nation's farmers and a number of farm and conservation groups.

The issue was $105 million for conservation cost-sharing funds which Hathaway wanted restored to the Senate agriculture budget.

In the end Hathaway prevailed. How he did it is a story conservation and farm groups are still wondering about.

The money is for the Agricultural Conservation Program (ACP) of the USDA's Agricultural Stabilization and Conservation Service (ASCS). ASCS handles many of the cost-sharing, subsidy, emergency loan and similar farm programs. In the Northeast the ACP program is the only major farm program. It provides cost sharing from 50 to 90 percent for a number of conservation practices on farms. The program will give a farmer a maximum of $2,500 a year for such things as waterways, manure storage facilities, establishment of cover crops, assistance in strip-cropping and contour plowing.

Despite its popularity with farmers, the program has never been very popular among bureaucrats, presumably, says Hathaway staffer Charles Peck, because it's run by locally-elected farmers and not by the government.

Last year Carter recommended funding at $190 million for ACP and he became the first president since Truman to place ACP money in his budget. Every year since then Congress has been adding funds on its own.

The budget passed at the $190 million figure last year but this year Carter cut ACP to $100 million.

The House of Representatives rejected the Carter plan, however, and restored the full $190 million. But when the bill got to the Senate Appropriations Committee the ACP funds were cut back further to $85 million. Eagleton is the chairman of the subcommittee on agriculture.

The bill was still bottled up in the subcommittee when Hathaway's office began to hear concerns about it while making routine monthly calls to Maine farmers.

Private attempts to move the subcommittee failed and the Hathaway staff then began working with the staff of South Dakota Senator George McGovern, the Democrats' 1972 presidential nominee who had picked Eagleton as his running mate.

McGovern's office was also hearing complaints from farmers but decided not to go out front with the issue because McGovern had some other business he wanted to bring before the Senate and didn't want to get into a fight over ACP.

On July 27, the day before Eagleton was to come to Maine, Hathaway wrote to Senate Appropriations Committee Chairman Warren Magnuson, urging that the committee restore the $190 million.

The next step was meetings with the staff of Vermont Senator Patrick Leahy, a dairy farmer who serves on both the Senate Appropriations and Agriculture committees. When the Eagleton cut got to the full appropriations committee, Leahy tried several times to restore the $190 million. But the only other vote he could muster was that of Massachusetts Sen. Edward Brooke.

At that point Hathaway decided a gamble was in order. The bill was obviously going to a conference committee. If he left the issue alone the Senate conferees would be able to give ground and perhaps the funding could be raised. A halfway split would have funded ACP at $137 million. If Hathaway brought up his amendment and it failed, there would be a record of Senate disfavor and it would be a hard point to negotiate in conference. On the other hand, if Hathaway won, the budget would be secure as it could not be changed in conference.

In the balance was an extra $1.1 million for Maine.

It was determined that the gamble was worthwhile. With the assistance of Senate Majority Leader Robert Byrd, another who has campaigned for Hathaway in Maine, the amendment was scheduled for first thing in the morning, a time, aides say, when senators are more prone to be agreeable.

By the time the voting day arrived, most of the senators had been made aware of the controversy. The National Association of Conservation Districts had been lobbying hard on behalf of the program, as were other farm groups.

During the debate, Eagleton threatened that passage of the Hathaway amendment would result in a sure veto of the entire agriculture appropriations bill by President Carter. But Hathaway, using information he had requested from USDA as well as backup from Maine Senator Edmund Muskie's budget committee, showed that the budget could handle the increase and managed to ward off the arguments.

As the debate progressed, more and more senators added their names to the Hathaway-sponsored bill. By the time of the vote, Hathaway had been joined by McGovern, the only original co-sponsor, as well as Mississippi conservative John Stennis, Republican leader Robert Dole, a former vice presidential candidate, and eight others.

The final vote was 55 to 26 in favor of Hathaway's amendment. His staff, as well as lobbyists for some conservation groups, doesn't expect any presidential veto, especially since other cuts in the agriculture budget have made up the difference.●

THE CHALLENGE OF PRODUCTIVITY

● Mr. LUGAR. Mr. President, as Congress struggles with the issue of how best to stimulate growth in productivity in our Nation's economy, Eli Lilly & Co. provides a refreshing example of an enterprise that is meeting the challenge of productivity. This pharmaceutical firm headquartered in Indianapolis posted annual productivity gains averaging 9.2 percent per year over the past 10 years, compared with 2.3 percent for all U.S. manufacturers.

Lilly's remarkable record was detailed in column by John Felter, which appeared in the Indianapolis News on August 15, 1978. I ask that the article be printed in the RECORD:

PRODUCTIVITY: MAGIC IS IN MANAGEMENT

(By John Felter)

Productivity, the quarterly report on a business's output, is issued by U.S. Bureau of Labor Statistics and has an enormous effect on American lives.

In the Eli Lilly and Co. six-month report, corporate staff economist, Dr. John R. Virts, tries to bring some understanding to the complex term—productivity.

A simple definition, according to his "Viewpoint" article, is what a company gets from what it puts into a product.

For instance, output per employe for 1967 and 1977 are calculated in the following manner with the term "Index (1967=100)" as an arbitrary base (starting point).

Using the following figures as an example: On sales of 100 in 1967 and 500 in 1977, divide a price index of 100 into the 100 for 1967.

Since prices have doubled from 1967, divi 200 into the 500 for 1977.

Dropping the zeros, this will leave 100 a 25.

If there are 10 employes in 1967 and employes in 1977, divide the 100 by 10 a the 25 by 20.

The results will be the output per emplo for 1967 (the base year) and the output p employe for 1977 (the given year).

Divide the output per employe for 1977 the output per employe for 1967.

Presto, the index of comparison.

During the decade 1967–1977. Lilly's lab productivity was four times as great as th for the average of other manufacturers, a cording to Dr. Virts. He said, "Our estimat show that this trend of increasing L productivity is continuing in 1978, and believe that it will continue in the futur

When asked why the big difference Lilly's and other manufacturing productivi Dr. Virts said management, people, tec nology and capital are all represented productivity.

Management must motivate employ have the awareness of cost, and be able use resources properly. He added, "It d not mean that anyone is working harder longer, it means that it is efficient use. Th must be a willingness to work and a sense accomplishment, but no resentment."

The attitude of people is very importa because a "rigid" environment might created. If there are rules that establish amount of output, like government regul tions, union contracts, or unreasonable ma agement, output can be hampered, accordi to Dr. Virts.

"The more educated the work force, more possibility there is to get the people work, but a company must have the tec nology along with the people," says Dr. Vi

Another spokesman for Lilly said 36 p cent of Lilly's 12,241 employes employed the U.S. are college graduates: 2,760 w bachelor's; 915 with master's; and 586 w doctorates. An interesting fact is that L has no union.

Dr. Virts said in "Viewpoint," "It (hi productivity) has enabled the company pay good wages to its employes."

The recent productivity report also agr with Dr. Virts' statements. Second quar output per employe costs jumped at an nual adjusted rate of 7.8 percent, slower th the first quarter's 17.4 percent increase. T first quarter's revised-productivity figure clined 4.6 percent and the second quar reported a gain of .1 percent.

This means productivity declined beca labor costs were high. Management, peo research or capital were not working a total combination, as explained by Dr. Vi

Research is important to productivity cause new technology makes better use time, according to Dr. Virts. As Dr. V watched his secretary, he said that the ty writer-recorder cartridge has increased ciency enormously. "I can't even tell if made any mistakes." He did say that L spent $124.6 million on research in 1977.

And finally where does a company capital?—Sales.

Lilly has supplied products to the pub the prices of which have increased at a modest rate compared with the Consu Price Index as the second graph shows o the 1967-1977 period. The index of Lilly pr increased about one-fifth as much as c sumer prices.

As an example, the stable Lilly prices high productivity secure the type of cap that any company needs.

In conclusion, Dr. Virts said, "There is single cause or simple explanation of prod tivity. Clearly, it is not just how hard peo work or how fast machinery runs. It is th things plus the combination of technolo people, and their motivations."

The blending of employes; the use of effective management skills; and research and development play a vital role in productivity. This is the important challenge of business, according to Dr. Virts.●

PROPOSED ARMS SALES

● Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD at the this point the two notifications I have just received.

The notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., August 18, 1978.

In reply refer to: I-6890/78ct

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78-91, concerning the Department of the Navy's proposed Letter of Offer to Iran for other than major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $350 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERICH F. VON MARBOD,
Acting Director.

TRANSMITTAL No. 78-91

[Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act]

(i) Prospective Purchaser: Iran.

(ii) Total Estimated Value:

[In millions]

Major defense equipment[1]	$0
Other	350
Total	350

[1] As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: U.S. Armament Suite to equip twelve (12) frigates to be built in the Netherlands and FRG shipyards. The US suite for each ship consists of the following: MK 13 Mod 4 Guided Missile Launching System, HARPOON Cannister Launching System, VULCAN-PHELANX Close-In Weapon System MK 15 Mod O, MK 32 Above Water Torpedo Tubes.[2]

(iv) Military Department: Navy.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: August 21, 1978.

[2] Continuous Wave Illuminators (CWIs), Link 11 Modulator/Demodulator, and Super Rapid Blooming Off-Board Chaff Launching Systems.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., Aug. 21, 1978.

In reply refer to: I-5803/78ct

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78-94, concerning the Department of the Navy's proposed Letter of Offer to Saudi Arabia for other than major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $800 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERICH F. VON MARBOD,
Acting Director.

TRANSMITTAL No. 78-94

[Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act]

(i) Prospective Purchaser: Saudi Arabia.

(ii) Total Estimated Value:

[In millions]

Major defense equipment*	$0
Other	800
Total	800

(iii) Description of Articles or Services offered: Services to plan and perform initial management and initial operation and maintenance of the Saudi Naval Forces shore establishment. The facilities include two ship repair facilities, three supply activities, two naval bases, one training center and three communication stations.

(iv) Military Department: Navy.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: August 21, 1978.

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR). ●

U.S. NAVY—A FLEET OF THE FUTURE OR OF THE PAST?

● Mr. GOLDWATER. Mr. President, is the U.S. Navy to be a fleet of the future or of the past? I believe this question is central to the debate going on concerning President Carter's veto of congressional plans to build a new nuclear-powered aircraft carrier. As the Members know, I plan to support the Executive veto because I feel the money that it would cost to build the new carrier could be better utilized for other phases of naval construction.

There are many facets to this problem and a recent article by Herschel Kanter, a senior fellow on a defense analysis staff of the Brookings Institution, illustrates many points that need clarification. I ask that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE U.S. NAVY: FLEET OF THE FUTURE OR THE PAST?

(By Herschel Kanter)

This year, President Carter, in the first defense budget prepared by his Administration, greatly reduced the Ford Administration's shipbuilding program. Carter proposed to build seventy ships in the years 1979–1983 at a cost of $32 billion. The President included a new medium size 60,000 ton "midi" aircraft carrier in his five-year program but did not request any new carrier funds for 1979. Moreover, the President failed to submit his shipbuilding plan until mid-March instead of in January as Congress requires. President Ford, in his last defense budget before leaving office, had proposed a much larger five-year shipbuilding program providing for the construction of 158 ships in the years of 1978–1982, at a cost of $48 billion. Included in this total were funds for two midi carriers.

Not surprisingly, the Carter budget has been greeted with dismay and anger from top Navy officials, and from the Armed Services Committees in Congress. The result has been a bitter budget fight which has received a great deal of media attention. While a number of issues are involved in this dispute, the central one is the place of the aircraft carrier in the Navy of the future.

The House and Senate Armed Services Committees each have their own views on what role the carrier should play. (In particular, both committees have approved a large 90,000 ton Nimitz-class aircraft carrier not included in the program of either Ford or Carter.) The Carter Administration seems to have several views. It has regularly given conflicting signals about its position on aircraft carriers and their expensive escorts. As long as confusion about the aircraft carrier's role prevails, billions of dollars for unnecessary carriers, escorts, and aircraft may be requested and approved in the next few years. At the same time, other ships and aircraft needed to modernize the Navy will not be procured. A chance to save money and take advantage of new technology, and of Soviet weakness, will be lost.

BACKGROUND—THE AIRCRAFT CARRIER IN THE NUCLEAR AGE

Since the end of World War II, the Navy has been committed to the aircraft carrier as the most important component of its strength. This commitment has remained firm despite changes in Naval missions and conditions of combat which seem to mandate a shift away from carriers.

The first large aircraft carriers—the six 80,000 ton Forrestal ships—were built in the early 1950's to attack the Soviet Union with nuclear weapons as part of the strategic war plan. For this purpose it was necessary for the carriers to sail into Soviet home fleet waters, though they needed only to survive long enough for their planes to take off. They could perform this mission because of the Soviets low anticarrier capability.

In the mid-1960's, during the Vietnam war, the carrier was withdrawn from the strategic retaliatory mission, because the carrier's contributions to that mission were small compared to the TRIAD of bombers, ICBMs, and Submarine Launched Ballistic Missiles. But the role of the carrier, instead of being deemphasized, was changed to the projection of power ashore in limited wars. The carrier would be used, as Secretary of Defense McNamara described it, for the 90% of the world outside the Soviet Union which lies within 500 miles of sea coasts.

As the Vietnam War decreased in popularity it became necessary, in order to justify not only the large nuclear carrier but its sophisticated protective systems, for the Navy to stress again operations in Soviet home fleet waters and strikes against the Soviet homeland, at least against naval (and naval air) facilities. In testimony supporting the 1979 budget, the Chief of Naval Operations discussed the "important war plans option of Navy battle groups." These would be groups, he said, "consisting of carriers, surface combatants, and submarines operating together in mutual support with the objective of destroying Soviet air, surface, and submarine forces, [which] could by a concentration of force gain local maritime superiority in the eastern Mediterranean, Norwegian Sea, or Northwest Pacific, to the degree necessary to conduct strike operations into the Kola Peninsula, Black Sea, Vladivostok, or Petropavlosk areas."

This role, launching attacks against Soviet territory from the home waters of the Soviet fleet on the flanks of NATO is an expensive one. There are now thirteen carriers, three of which are to be retired in the next few years. Delivery of two ships now under construction, and modernization of six more built in the 1950's, will give the Navy twelve carriers until the turn of the century, if the Carter shipbuilding plan is carried out. The two new ships are the Nimitz-class carriers that are nuclear powered, carry 90–95 aircraft, and displace 90,000 tons. Each costs more than $2 billion. They are expensive because of their nuclear propulsion, and because the large modern aircraft they carry require special take-off and landing equipment, as well as expensive maintenance and supply systems aboard the carrier. Moreover, the carrier requires costly built-in protection to survive hits by cruise missiles, and special construction which allows for partial flooding of the ship in case of torpedo damage.

To survive in areas where Soviet air and submarine power can be brought to bear, the twelve carriers will be protected by large fast escorts—a total of about 100 cruisers and destroyers. New ones cost between $250 million and $1 billion, the most expensive carrying the new Aegis air defense system. Aegis will have the capability of tracking and shooting down large numbers of incoming missiles simultaneously. In addition, one or two of the new $500 million Los Angeles-class attack submarines may be attached to each carrier force to provide protection against submarine attack. Further, each carrier is protected against air attack by twenty-four F-14 aircraft, the most sophisticated air defense fighter in the U.S. inventory. The F-14 carries the Phoenix missile system that can intercept up to six incoming aircraft or missiles simultaneously. Each carrier may also carry a squadron of ten advanced antisubmarine fixed-wing aircraft and about twenty other support aircraft.

The total investment cost of each such carrier "task force" or "battle group" can run from $5 to over $7 billion, with fifteen year operating costs running about the same level. (See chart for sample task force.)

THE BATTLE OF THE 1979 BUDGET

The Navy's view of the proper role of the aircraft carrier, however, is not shared by some top civilian officials in the Defense Department. This was indicated by a draft internal Defense Department document, the Consolidated Guidance, which was leaked to the press. The early draft of the Guidance, prepared by the staff of the Secretary of Defense, concluded that the aircraft carrier had no role on the flanks of NATO in support of a land war in Western Europe.

Interestingly enough, despite its larger shipbuilding program, the Ford Administration had reached a similar conclusion in a National Security Council study. It then deleted the large Nimitz class carriers from its program opting instead for midi-carriers.

The leaked Guidance and the cuts from the Ford shipbuilding program set the stage for a funding battle. The Armed Services Committees have traditionally shared the Navy's commitment to the aircraft carrier. In fact, they had previously objected to the Ford Administration's plan to buy the midi-carriers, advocating larger 90,000 ton Nimitz class carriers. Not surprisingly, this year the Committees rejected the Carter program and its rationale. The Committees instead came up with a series of conflicting, costly proposals.

The House Armed Services Committee approved, and the House authorized, a $2 billion, 90,000-ton Nimitz nuclear aircraft carrier and a $1 billion nuclear cruiser, neither of which were requested by the administration. Funds were added for almost $500 million worth of additional F-14, F-18, and A-7 carrier-based aircraft. At the same time, funds for development of the vertical or short-take-off and landing (V/STOL) aircraft were deleted to eliminate a competitor of the large carrier.

The Senate Armed Services Committee, on the other hand, while it approved the Nimitz-sized carrier (though not the nuclear cruiser) also approved $115 million to convert a large amphibious helicopter ship to a V/STOL aircraft carrier and to provide initial funds for construction of a large new amphibious ship (costing eventually $400 million) to replace the converted ship. At the same time, it cut the research funds for V/STOL aircraft from $72.4 million to $50 million, which would slow down the V/STOL development program.

The Administration response to these increases has been somewhat contradictory. After it was leaked, the draft Guidance was modified to take into account the view of the Navy on the carrier's role. Further, to head off the large nuclear carrier mandated by the Armed Services Committees, the Administration has now said it would accept FY 1979 funds for a small midi carrier costing about $1.4 billion.

THE AIRCRAFT CARRIER AND ITS MISSION

The central question remains whether the mission of the aircraft carrier is important enough to justify spending billions of dollars for new carriers and their support ships and planes. It has been claimed that the aircraft carrier would play an important role in a non-nuclear NATO–Warsaw Pact war by delivering strikes against Soviet facilities on NATO's flanks. However, in recent years, the Soviet Union has built a formidable force to sink or disable the carrier in an initial attack. The force includes a fleet of surface ships and aircraft that fire cruise missiles, and submarines that fire cruise missiles and torpedoes. Moreover, any time the carrier moves near the Soviet Union an anti-carrier task force of submarines and surface ships is dispatched to shadow and target the carrier. Where this is impractical the cruise missile attacks are supported by satellite reconnaissance that can locate the carrier. Even if the carrier survives, its limited numbers of attack aircraft are unlikely to do much damage in a non-nuclear conflict, given the extensive Soviet air defenses in the key areas.

Perhaps the carrier would be more effective delivering nuclear strikes in a NATO-Warsaw Pact conflict. But there are two problems with such a mission. First, it seems dubious strategy to respond to an attack in Western Europe with "tactical" nuclear strikes against the Soviet Union proper unless one intends to escalate the war to a general nuclear exchange. Second, even if the U.S intends such a mission, there are less expensive weapons available.

The mission described above, land attacks against the Soviet Union or other parts of the world, is called "power projection" or "projection of power ashore." Other power-projection missions cited by the Navy as requiring carriers are raids against airfields and other military targets in Eastern Europe in defense of NATO's central front, support of amphibious landings in Norway, Turkey or Greece to regain captured territory, peacetime and crisis deployments in the Mediterranean, Indian Ocean and Western Pacific, and air strikes against countries other than the Soviet Union.

Some of these other tasks should be considered in choosing naval forces, as the Navy has suggested. But defense against every possible contingency is not only unnecessary but impossible. Some territory, such as Northern Norway, is like Berlin in that it cannot be directly protected by U.S. military power, but is instead protected by the threat of U.S. retaliation elsewhere. In other cases, such as attacks on Greece or Turkey, it seem reasonable to plan on the use of land-base aircraft for defense. Finally, raids in suppo of the central front in Europe can be pe formed more efficiently by Air Force tactic aircraft.

The other major mission of the Navy general purpose forces is "sea control." Th entails controlling the use of the sea f various purposes: attacking land targets assure the flow of military or economic shi ping to U.S. allies, and the prevention others from using the sea to our detrime While most of the Navy's arguments in fav of aircraft carriers have been arguments favor of power projection, the Navy al claims a sea control mission for carriers. T Navy has argued that if the carrier does n challenge the Soviets in their home fle waters, then the Soviet Navy will be able come out and disrupt the military and co mercial sea lines of communication betwe the U.S. and its allies. Although not discuss by the Navy, one might also consider t possibility that the Soviet Navy would be al to search for U.S. ballistic missile submarin or to deliver nuclear-armed cruise missil against U.S. or allied land targets.

Yet three of the four Soviet Navy fleets the Northern, Baltic and Black Sea—mu pass through narrow seas and straights reach the open ocean. Even the fourth, t Pacific, has only part of its fleet in a base th has direct access to the open ocean, the r also being in constricted waters. The U.S. h powerful ASW forces including nuclear su marines, patrol planes and mines to blocka those forces. Large allied naval forces ha also been built up for the purpose of helpin with this mission. Worse for the Soviet Na the U.S. has developed—according to rece newspaper reports quoting defense officials listening devices and digital processi equipment which allow the Navy to identi and locate almost every Soviet submari from the time it leaves port.

Investment cost of sample carrier task for for operations in or near Soviet home fle waters

[In billions of dollars]

1 Nimitz-class nuclear aircraft carrier (CVN)	$2
1 Nuclear cruiser with Aegis air defense system (CGN)	1
1 Destroyer with Aegis air defense system (DDG-47)	0
4 Destroyers (DD-963)	1
1 Nuclear submarine (SSN-688)	0
90 Aircraft	1
Total	6

Note: Additions might include one nucle submarine, deletions might include eith one of the Aegis ships or two of the oth destroyers.

Moreover, it seems unlikely that the Sovi would place high priority on attacking U.S European sea lines of communication if th thought the U.S. could threaten the Sov strategic submarine force, since submari launched missiles are the strategic rese of Soviet intercontinental forces. Indeed, s control is not the primary mission of t Soviet Navy. Their Navy has been structur for an anticarrier role and to contend wi the American threat to the strategic reser whether or not exaggerated.

ALTERNATIVES TO NEW CARRIERS

For the tasks which the Navy should pe form there are lower cost, more effecti Naval alternatives to buying new large, even midi-sized carriers. Existing aircra carriers can be modernized and overhaul to extend the useful service life from thi to forty-five years. Ford and Carter ha both included such plans in their five-ye ship building programs at a cost of $500 m lion per carrier. The functions of aircra carriers with conventional aircraft co

also be taken over by new systems, less vulnerable to Soviet anticarrier defenses. These include vertical or short take-off and landing (V/STOL) aircraft on large number of platforms, cruise missiles on aircraft, surface ships and submarines, and greater use of land-based maritime aircraft.

One of the central problems faced by new carriers and their protecting task forces, for example, is that their huge cost has meant that only a limited number could be procured. The Soviets are able to devote large military resources to the destruction of each carrier. The risks of concentrating so much of the Navy's air power in such a small number of ships could be overcome by using V/STOL aircraft. This would allow the Navy to preserve its air superiority over the seas without risking one-sixth to one-third of its force in a single confrontation. It would also enable the Navy to continue peacetime and crisis deployments of aircraft capable of attacking land targets, should this still be necessary. The development of V/STOL aircraft would allow the Navy to fly fixed-wing aircraft from the twelve 20,000 to 40,000 ton amphibious assault helicopter ships. These plus the existing carriers would give the Navy twenty-four flat decked aircraft carriers. Moreover, V/STOL aircraft would give as many as 100 additional ships the capability to support high performance aircraft. In time of emergency V/STOL planes, supported by containerized support systems could even be flown off merchant ships. Unfortunately, the new administration has expressed doubt about the technology and value of V/STOL aircraft, slowing down both the second generation Marine Corps V/STOL aircraft—the AV-8B—which would be available in the early 1980's, and the first generation of the Navy's conversion to V/STOL, which would not in any case be available until the 1990's.

This slow down is another confusing signal. Many of those in Congress who favored the Administration's planned change in the aircraft carrier's role, supported V/STOL as a way to increase the number of aircraft platforms. Their position has been weakened. On the other hand, the advocates of more large carriers have found their position strengthened by the Administration's coolness to V/STOL development.

Another substitute for the carrier, in some missions, is the cruise missile which has only recently received wholehearted support by the Navy. The land attack Tomahawk, fired from surface ships and submarines, would be a cheaper and more effective vehicle for limited nuclear strikes against Soviet naval facilities, should this mission prove necessary. Moreover, two other cruise missiles, the Harpoon with a range of 60 miles and a second version of the Tomahawk, with a range of over 300 miles, will be available to be fired against surface ships—another mission the Navy claims for the aircraft carrier.

Finally, land-based aircraft could provide defense for land bases and military shipping against raids by Soviet naval aviation using Backfire bombers. Proposals have been advanced for (1) new high performance interceptors flying at speeds of 2000 miles per hour which would be combined with advanced early warning radar aircraft or (2) transport type aircraft, equipped with advanced radars and weapons to shoot down aircraft and cruise missiles, that could fly out and remain on-station with multiple crews for as much as 24 hours. Aircraft of this type may be particularly attractive since they could also have ASW and anti-surface ship capability, and could therefore participate in the blockading of Soviet submarines and surface ships. They could also provide the air defense capability. In any case both of these approaches appear to be much less costly than buying carriers.

CONCLUSION

The large, or even the "midi" aircraft carrier, and its protection are no longer worth the cost as a weapon against land targets in the Soviet Union. Updating and operating the existing carrier force may be worthwhile for other missions, but promising alternatives to the carrier are also available. Despite strong evidence that a new carrier is not needed, the Congress seems likely to agree to spending up to $2 billion for one in 1979 as well as additional funds for escorts and other protection.

The large carrier, built originally for the strategic nuclear mission to which it made only a minor contribution, has caused the Soviets to react by building up its Navy, particularly its submarine and air arms. These forces have, in turn, become a potential threat to U.S. sea lines of communication with its allies.

To break this arms race, the administration might consider a clearer public statement on the missions of the carrier and removal of the tactical nuclear weapons they now carry. Deemphasis of the carrier in its role against land targets in the Soviet Union will probably not, in the short run, break the momentum of Soviet building programs. In the longer run, however, such a move would influence the Soviet Union to slow the build-up of its Navy as it sees the threat of the carrier diminish.●

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

● Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million, or in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that three such notifications were received on August 21, 1978.

Interested Senators may inquire as to the details of these preliminary notifications at the offices of the Committee on Foreign Relations, room S-116 in the Capitol.

The notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY
Washington, D.C., August 21, 1978.
In reply refer to: I-6943/78ct.
DR. HANS BINNENDIJK,
Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Near Eastern Country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERICH F. VON MARBOD,
Acting Director.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., August 21, 1978.
In reply refer to: I-4564/78ct.
DR. HANS BINNENDIJK,
Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Near Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERICH F. VON MARBOD,
Acting Director.

DEFENSE SECURITY ASSISTANCE, AGENCY,
Washington, D.C., August 21, 1978.
In reply refer to: I-6124/78ct.
DR. HANS BINNENDIJK,
Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a NATO country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERICH F. VON MARBOD,
Acting Director.●

INTEGRATED PEST MANAGEMENT

● Mr. LUGAR. Mr. President, integrated pest management is a promising technique for controlling weeds and insects, a critical element in producing food and fiber for our Nation and the world, without excessive use of chemical pesticides. Despite the significant economic and environmental benefits of IPM, it is not yet in use on a wide scale, and information on IPM is not yet available to many farmers who might be interested in this idea.

Mr. Phil Norman, the farm editor of the Louisville Courier-Journal, has written an excellent column focusing on a successful IPM experiment in Kentucky. Mr. Norman notes that similar programs are in operation on 55,000 acres in 20 Indiana counties. He points out that the key to integrated pest management is the employment of trained "scouts" to monitor crops and make accurate counts of pests present.

I have sponsored legislation which would include IPM jobs in CETA employment programs, and my proposal has been approved in the Human Resources Committee. I am confident that this provision will not only provide productive jobs for rural youth, but will promote the implementation of IPM techniques.

Bob Abrams, a pest-management supervisor at Purdue University, sums

up the IPM story in a quote from the Courier-Journal article:

Economically and environmentally, it's the only way to go.

I ask that the entire article be printed in the RECORD:

The article follows:

[From the Louisville Courier-Journal]

THE SCOUTS ARE THE STARS IN NEW PEST-MANAGEMENT PROGRAM

(By Phil Norman)

ELKTON, KY.—Elton Glover, a Todd County farmer, can't seem to say enough good things about Kevin Perry, a sophomore at Murray State University.

If it hadn't been for Perry, the struggling grain farmer said last week, he would have spent hundreds of dollars to spray his corn fields with unneeded insecticides.

A lot of his neighbors were spraying for corn borer, "and I was itchy," Glover said. But he said he got detailed reports from young Perry. And he was pleased to learn that his own fields didn't have enough insects to force him into a costly spraying program.

Perry is working this summer as a "pest-management scout"—a new kind of seasonal job that some farm leaders think will become an increasingly important part of American farm life.

He works for Glover and about 10 other farmers, visiting each of their fields once a week to count weeds, bugs and diseased or damaged plants in selected rows of corn, soybeans and other crops.

Perry and seven other young farm scouts are working with University of Kentucky scientists in a pilot project involving 50 farms in Todd County. The project is part of what some experts see as a promising new drive in the battle against a multitude of pest that each year seem to be destroying more of the nation's food before it ever leaves the fields.

The costs amount to more than $75 million in Kentucky corn fields alone, according to UK estimates. Weed damage to corn is estimated at $60 million, with damage from major insects placed at $12 million and pest-control costs at $4 million. Kentucky soybean yields are reduced by about $63 million a year as a result of weeds, UK pest-control spokesmen said.

The new approach is aimed mainly at letting farmers know when and where they should apply chemicals to kill the most weeds and insects at the least cost. And, by encouraging some farmers to spray less, or at least more judiciously, the program could also reduce environmental damage from toxic insecticides, according to some agricultural leaders.

The idea is simple, the leaders say. In an era of mechanized food production, many farmers don't have time to climb down from their tractors to make detailed inspections of their fields. But relatively inexpensive summer workers—the Todd County scouts get $3 an hour—might be able to do it for them.

And, they add, it really isn't such a new system, having been originated years ago in the cotton fields of the South. It is new, however, to many grain farmers who have been rapidly expanding their acreage and running into a succession of new weed and insect problems in recent years.

The U.S. Department of Agriculture (USDA) this year offered some money—a total of about $2.9 million—and services for "integrated pest management" programs in 33 states, including Kentucky and Indiana. The ground rules were that public funds would be used to train and supervise scouts but that the farmers themselves would have to pay the summer workers.

UK got about $30,000, which has been devoted largely to the project in Todd County, where a non-profit pest-management group has been organized by farmers. To meet the scout payroll, the farmers pay a one-time fee of $1.50 for each of the nearly 15,000 acres they have put in the program.

The program was showed off last week in a "press tour" of some Todd County farms, where several farmers expressed enthusiasm over the new system of spotting weeds, insects and plant diseases.

None was more enthusiastic than Glover, who said he has been farming only about three years and needs advice on raising his 600 acres of corn and soybeans.

Joining the program "has been a bigger help to me than anything I've done," Glover said. He added that "I can't say enough" for Young Perry. "He's an awful quiet boy, but he got out there and dug around, and if there was something wrong, he wrote it on the sheet."

Some larger farmers, including Laurence Teetes, who raises about 2,600 acres of corn and soybeans, also had praise for the student helpers.

"My operation is so large and intensive that you get in trouble before you know it," Teeter said. With the scouting reports, he added, "we see our problems as they develop and don't find all of a sudden we're in a crisis. . . . I kind of rely on my scout to plan (chemical) applications. We use low rates, and get the weeds when they're small."

It was noted that some of the scouts are agriculture students. Most underwent three days of special training at UK. And all work under the supervision of Marvin Davidson, the Todd County farm agent, and others from UK. The supervisors use the scouts' information to help farmers deal with pest and plant-disease problems.

Such experiments have been under way, in more limited ways, for the past few years. UK, for instance, has been involved in some alfalfa programs in which all costs were covered by public funds.

But Harley Raney, pest management coordinator at UK, said the Todd County program could inspire a major expansion of pest-management efforts in Kentucky. The program already is operating in a small way in Washington County, he said, and he hopes to see more counties become involved next year.

Expansion could mean programs run by private consultants as well as nonprofit corporations, Raney said. He said farmers probably would have to start paying the wages of supervisors in addition to those of the scouts. But the costs still shouldn't be more than $3.00 an acre, he said, and farmers in most years would gain more than that in increased yields or lower insecticide costs.

In some circumstances, Raney noted, scouting reports actually could lead farmers to use more pesticides. But he said the system should bring a reduction in the use of chemicals merely as "insurance" against possible problems.

A USDA spokesman, B. D. Blair, said scouting programs should mean more profits for farmers and should also be helpful in pest and plant-disease research across the country. He added that "most of us are convinced there also will be environmental gains."

Bob Abrams, a pest-management supervisor at Purdue University, said experimental scouting programs are being conducted on 55,000 acres in 20 counties in Indiana. No Southern Indiana counties are involved in the current effort, he said, but some are expected to be included next year.

A lot of farmers have been spending $6 to $8 an acre every year for soil insecticides, Abrams said. With scouting reports and advance planning, most farmers might have to make such applications only once every three years, he said.

"Economically and environmentally, it's the only way to go," Abrams said of the pest-management approach.●

THE SITUATION IN CAMBODIA

● Mr. MCGOVERN. Mr. President, in the last day or so a great deal of attention has been focused on my efforts to call attention to the ugly events which have been taking place in Cambodia, and to explore steps which might be taken to end these atrocities. In a few cases, ideas raised in the form of questions to State Department witnesses have been interpreted not as possibilities but as my recommendations. Therefore, I thought it might be useful to address the matter more fully.

Article 42 of the United Nations Charter authorizes the United Nations Security Council, in which the United States sits as a permanent member, to "take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security." That is the authority which I believe the Council should consider using with respect to Cambodia.

I have not recommended, nor would I support, any unilateral American intervention in Cambodia. Indeed, if the Security Council were to decide that a peacekeeping force could be useful, it would probably exclude forces from any of the major powers as it has done, for example, in the Middle East. Considering our own long and painful involvement in Indochina, as well as the risk of great power confrontation, I think that would be a prudent decision.

We cannot, however, claim leadership on the human rights issue without making a persistent effort to curb the monstrous activities of the Cambodian regime. We have recently had a widespread outcry in this country over the unjust prison terms that two Soviet dissidents will have to suffer. I have agreed with that protest and have taken part in it. But how much greater is the crime when an estimated 2 million innocent Cambodians are systematically slaughtered or starved by their own rulers. Certainly this genocidal conduct requires the attention of the world community. And certainly the United States, as a leading proponent of human rights, has an obligation to place it on the international agenda.

My thoughts on these matters are amplified in several documents which I will submit for the RECORD at the conclusion of my remarks. The first is a newsletter released on May 29 of this year in which I suggested that—

We must, at a minimum, speak out against these tragic events to demonstrate that our commitment to human rights is genuine. Beyond that, we should prevail upon international organizations such as the United Nations to exert themselves against Cambodian conduct.

Subsequently, as an amendment to the State Department authorization bill, S. 3076, the Senate adopted language which I proposed—and which has been approved by the House-Senate conference, declaring in part that—

Congress urges the President to move aggressively to support multilateral action in the United Nations and other international

organizations, and to encourage bilateral action by countries having more extensive relations with Cambodia and Uganda, to bring about a lessening of such brutal and inhumane practices.

Finally, I have the transcript of an interview with Susan Spencer and Richard Threlkeld on the CBS Morning News program this morning, which amplifies my views on the concepts I raised in the Foreign Relations Committee meeting yesterday. In that interview I indicated:

What I am proposing is the same thing I proposed 15 years ago—that when there's a threat to the peace and security of an area, whether it's Southeast Asia or wherever, our obligation as a member of the United Nations is to bring that matter before the Security Council and call for appropriate action.

Mr. President, I ask that the materials I have described be printed in the RECORD.

The material follows:

THE NEW BARBARIANS: A CHALLENGE TO HUMAN RIGHTS

(By Senator GEORGE MCGOVERN)

Officials of the Carter Administration have frequently declared that human rights is the "centerpiece" of current American foreign policy. That is a commendable objective. It cannot be credible, however, unless special attention is paid to two regimes whose records on human rights are the most appalling in the world.

In human terms, it is clear that the costliest human rights violator is the present government of Cambodia under Pol Pot. Cambodia is a small country of only seven million people. Yet on the basis of refugee accounts it is reliably estimated that a minimum of 500,000 people—one in fourteen Cambodians—have died since Pol Pot came to power a little more than three years ago. The numbers lost to execution, starvation, and disease could range as high as two million.

Much of the slaughter of Cambodian innocents came during the forced evacuation of the capital city of Phnom Penh, which has shrunk from two million people down to about 20,000. People of every age, and regardless of health or capacity, were ordered to leave their belongings and migrate to the countryside in what has become known as a massive "death march." Those who refused, or who could not keep pace, were routinely killed—often beaten to death with hoes or shovels, presumably to avoid the "waste" of ammunition.

Pol Pot and his henchmen have attempted to hide these grisly events from the outside world. Only nine countries have been allowed to maintain embassies in Phnom Penh, and even those diplomats are literally kept prisoner in their missions. And while it declares itself "Marxist", the Cambodian government carries out a brutality which knows no ideology. While wiping out its own citizens, it has also launched a war against neighboring Vietnam.

The United States has no direct influence over Cambodia. There is no American aid or trade or diplomacy to cut off. But obviously we must, at a minimum, speak out against these tragic events to demonstrate that our commitment to human rights is genuine. Beyond that, we should prevail upon international organizations such as the United Nations to exert themselves against Cambodia's conduct. And we should also urge appropriate action by countries, such as the People's Republic of China, which could bring direct pressure to bear by virtue of their aid to Cambodia.

The other most blatant human rights offender—Uganda's Idi Amin—does not share the shyness about publicity practiced by Cambodia's rulers. Last year he actually boasted before the Organization of African Unity that "I have eaten my enemies before they could eat me." He was not speaking figuratively. While claiming to be a Moslem, Amin carries out animistic beliefs which include a practice of eating the organs or flesh of their victims in the conviction that they thereby acquire the power of those they kill. That is the basic, twisted religious philosophy of cannibalism.

Since Amin took over, an estimated 300,000 of Uganda's ten million people have been murdered. Many of those have suffered mutilation or ritual killings. Executions have been ordered on such grounds as that the victims wore glasses or had tin roofs on their houses—signs, in Amin's diseased mind, that they were agents of Western imperialism. It is beyond any doubt that Uganda is ruled by a genocidal madman.

In this case there is direct action which might well have an effect. American purchases of Ugandan coffee amount to over a third of Uganda's export earnings. Ordinarily we have to think twice about using economic boycotts as a weapon for enforcing human rights because it can have the effect of compounding the plight of the victims—adding an economic penalty to the physical danger they must already endure. But in this case a trade boycott is entirely appropriate. The poor Ugandan farmers do not see the returns from the coffee we buy; rather, Idi Amin uses the money to pay his hired killers. I have, therefore, joined with Senators Hatfield, Weicker and others in sponsoring a complete ban on American purchases of Ugandan coffee.

Beyond this, the Foreign Relations Committee has approved my amendment noting in both Uganda and Cambodia—

". . . governmental practices of such systematic and extensive brutality as to require special notice and continuing condemnation by outside observers."

The amendment also calls upon the President to "move aggressively" to support multilateral action against Cambodia and Uganda and to encourage bilateral action by countries that have more extensive relations with these gross violators of human rights. I am confident that the full Senate and the House will agree to these provisions.

Albert Einstein once observed that it is a dangerous world we live in, not so much because of those who would do evil, but because of those who would do nothing about them. In the 1930s and 1940s that was true about Hitler. I am convinced that it is also true of the monstrous governments in Cambodia and Uganda today.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 1979 (S. 3076)

ATROCITIES IN CAMBODIA AND UGANDA

SEC. 417. (a) Congress finds that reliable reports of events in Cambodia and Uganda attest to the existence of governmental practices in those countries of such systematic and extensive brutality as to require special notice and continuing condemnation by outside observers.

(b) Recognizing the limited direct influence of the United States in each such country, Congress urges the President to move aggressively to support multilateral action by the United Nations and other international organizations, and to encourage bilateral action by countries having more extensive relations with Cambodia and Uganda, to bring about a lessening of such brutal and inhumane practices.

(c) Not later than January 20, 1979, the Secretary of State shall transmit to the Speaker of the House of Representatives and the chairman of the Senate Committee on Foreign Relations a report describing fully and completely actions taken pursuant to subsection (b).

(d) It is the sense of the Senate that the President should—

(1) prohibit the export of military, paramilitary, and police equipment to Uganda;

(2) declare that the appropriate consular officer may not approve any visa application of any official or employee of the Government of Uganda for the purpose of military, paramilitary, and police training within the United States without the review of the appropriate official of the Department of State in Washington to determine that the Government of Uganda has demonstrated a proper respect for the ruel of law and for internationally recognized human rights; and

(3) instruct the permanent representative of the United States to the United Nations to submit to the United Nations General Assembly for its consideration a resolution imposing a mandatory arms embargo on Uganda by all members of the United Nations.

CBS MORNING NEWS (EXCERPT), AUGUST 22, 1978

SUSAN SPENCER. It's estimated that during the three years of Communist rule in Cambodia as many as two-and-a-half million people have starved to death or been executed. To the surprise of many, Senator George McGovern, a long-time dove, yesterday suggested that the only way to deal with the Cambodian sit—situation may be through military intervention. Senator McGovern is with us this morning, and I suppose the first thing that we need to find out is a little bit more of what you mean by that.

Senator GEORGE MCGOVERN [D-South Dakota]. Well, first of all, let me say I was opposed to sending in American troops to Southeast Asia in the 1960's. I'm still opposed to any kind of a repetition of that operation. It was a disastrous mistake in the '60's; it would be a disastrous mistake again. What I am proposing is the same thing I proposed 15 years ago—that when there's a threat to the peace and security of an area, whether it's Southeast Asia or wherever, our obligation as a member of the United Nations is to bring that matter before the Security Council and call for appropriate action. Here you have a situation where in a country of seven million people, possibly as many as a third of them have been systematically slaughtered by their own government. This wasn't done by the Vietnamese, by Ho Chi Minh or by anybody else; it was done by a band of murderers that's taken over that government. What I'm suggesting is that the United Nations has an obligation to respond in some way. We at least ought to raise the issue. Maybe nothing can be done, but even raising the query, forcing a debate before the Security Council, would indicate to the government in Cambodia, and others so inclined, that the international community has an interest in these matters.

SPENCER. You said, in the middle of your answer, maybe nothing can be done. What would make you think that any kind of international military operation would be successful?

Senator MCGOVERN. Well, there are various things that we ought to consider. I introduced a resolution earlier this year, which was passed into law, that calls on our government to explore, both through multilateral channels (that's shorthand for the United Nations) or through other nations that have influence in Cambodia, meaning China and other countries——

SPENCER. There aren't too many that have much influence——

Senator MCGOVERN. We don't know to what extent any nation can influence events in Cambodia, but we're not going to know until we try. We've seen, over the last few months, an enormous hue and cry about the mistrial given to two citizens in the Soviet Union. I think it was proper that we spoke out against that. But we did that in the name of human rights. Now, if we're going to be consistent about our concern over human rights, how does one explain the fact that there has been an enormous outcry against two men's being sentenced, we think wrongly, for criticizing their government in the Soviet Union, and then we stand by idly with very little comment when two million people are slaughtered by their government in Cambodia?

SPENCER. How do you explain it?

Senator MCGOVERN. I think we've tried to put that part of the world out of our minds. We had such a disastrous experience in Vietnam, I think it's very painful for Americans to think about this part of the world. I'm very encouraged that Congressman Montgomery's mission which is now in Vietnam is exploring with them the possibility of opening up trade and diplomatic and cultural exchange. I think that's all to the good. But meanwhile, in Cambodia, a few miles away, you have this horrible slaughter going on, and the tendency is just to close our eyes to it. It's that double standard that concerns me.

SPENCER. I know we have——[crosstalk]

THRELKELD. Senator, this is Dick Threlkeld in New York. The wires and the newspapers tended to pounce on your at least suggestion or inquiry yesterday about some kind of military intervention, I suppose because they—they saw some inconsistency with—with your being remembered as a peace candidate. Do you see an inconsistency there?

Senator MCGOVERN. No, I don't see any inconsistency at all. First of all, let me say I have never been a pacifist. When Hitler was on the rampage, thirty or forty years ago, I was one of the first ones to volunteer. But I'm not suggesting that we send in American troops to Cambodia, any more than I favored that action in Vietnam fifteen years ago. Under Article 42 of the United Nations Charter, however, that body does have an obligation to deal with threats to the security, the peace of the world.

And here's a case where it seems to me the United Nations, at a time when Third World countries are in the majority, has an obligation to deal with one of their own members, one of their own states. I'm talking about a small underdeveloped country that has gotten out of control and is systematically slaughtering its own citizens. That's quite a different situation than we faced in Vietnam in the 1960's.

SPENCER. You mentioned that we should apply pressure. It seems, though, that the Vietnamese, who periodically are at war with Cambodia, have found that the Cambodian citizens, at least the villagers, seem to support the government. What lever do we have to break in—to break that?

Senator MCGOVERN. I find it hard to believe that there's mass support for the Cambodian government.

SPENCER. I was—I was kind of going by Mr. Pike's testimony yesterday.

Senator MCGOVERN. We really don't know an awful lot about it. Our intelligence sources aren't very good there. We've been cut off from contact. We're pretty much dependent on reports of foreign journalists and other diplomats in the area. But the evidence is that about nine men are controlling that government in Cambodia; that they don't have the loyal infrastructure out across the country that was true of Ho Chi Minh in Vietnam, where the late President Eisenhower said eighty percent of the people would have voted for him. Even in a free election, I can't believe that a government that has systematically killed off a third of its citizens is a government with strong support out in the countryside. In any event, let me stress that what I'm calling for here is an evaluation of this matter by the United Nations. Let's look into it, collect the intelligence that's available and then make a judgment whether it's feasible to send in an international peacekeeping force.

SPENCER. I'm sorry, we're out of time. Thank you very much for coming in this morning.

Senator MCGOVERN. Thank you.●

LOW VISION NEED NOT MEAN DEPENDENCE

● Mr. CHURCH. Mr. President, the Senate Committee on Aging recently conducted a hearing on vision impairment among older Americans.

As I indicated in my opening statement, there is evidence of startling increases in vision loss among older Americans, who already account for more than the majority of such cases today. Witnesses testified that from four of the five leading causes of blindness—diabetic retinopathy, cataracts, senile mecular degenerations, and glaucoma—the chances of becoming blind increase dramatically with age.

This, coupled with the timing of the increase in our population of older citizens, means that in just about 20 years the population of severely vision-impaired older persons will be larger than the National Center for Health Statistics current count of severely vision-impaired persons of all age categories.

This means that we must start now to take a close look at existing and potential programs which serve our vision-impaired population. It also means that we must come to understand that low vision and even total loss of vision do not necessarily mean dependence.

In fact, one of the most heartening aspects of this hearing was the testimony given on just that point: Dr. Gerald Friedman, associate director of the Low Vision Rehabilitation Center in Boston, said:

One particular case is worth mentioning. It is an 87-year-old gentleman from rural Vermont. He has lived on his farm for 87 years. This man was referred to me for a low vision problem. He has about 20/200 vision.

When I was talking with this man he said, "Doctor, I want you to save my life." I was taken back slightly by this remark because in reviewing the medical history there was no life threatening disease present.

He said, I have lost my functional vision. I can't maintain my farm any more and I can't take care of my wife. His wife has severe arthritis and also has a visual problem.

By the way, the alternative they had for this man was to move them to a major city and place them in a nursing home.

With the low vision aid this man now can walk into town and do the shopping, pick up the mail, walk back to his little farm. He can do the cooking chores, he can read to his wife. He even drives around in a small tractor taking care of the farm. So the financial implications of this are also driven home. This aid was under $100. I don't think we have to think too much about what the cost would have been to maintain him and his wife in a nursing home for the rest of their lives.

Donald Wedewer, director of the Division of Blind Services in Florida, described a group from the retired senior volunteer program which works hand in hand with the State rehabilitation agency in providing group training in a community too small to have its own rehabilitation office.

It is clear that we must closely examine the priorities of present programs because it is a fact that less than 10 percent of the total resources for help to vision-impaired persons is directed to the elderly. It is also clear that we should not repeat the previous errors of the "blindness system"—so well outlined in the classic "The Making of Blind Men"—that is, the creation of a new bureaucracy, more responsive to its own needs than to its clients.

The examples I relate, to my way of thinking, tell us that what we do need to create are innovative ways of helping people maintain their independence, and that whatever new programs we undertake should be keynoted not just by the program budget but by the ways in which their clients can make the program responsive to their needs and accountable for its performance.

Traditional patterns of service delivery are not marked by these characteristics. Perhaps this is why we have a maze rather than a service delivery system. Our witnesses gave us many examples of what happens to an older vision-impaired person lost in this maze. The director of the Center for Independent Living in New York, told us, for example, that there is usualy a 5-year span between the onset of vision impairment and referral to a rehabilitation system.

The committee was also told that much must be accomplished in the professional education of rehabilitation specialists, ophthalmologists, and optometrists. Many doctors feel that their duty is done when the case is diagnosed and treated. Fortunately, many others in this field know that this is not the case and many low-vision clinics now have their own rehabilitation units.

It is also clear that we must, ourselves be better informed about low vision and blindness. Chances are that, after age 40 we wear glasses. If we approach anything near our expected lifespan, we can expect some deterioration and, as an ever-increasing number of us move into our seventies and eighties, we may encounter a loss sufficient enough to need some training and low-vision aids to permit us to continue our independence.

The Senate Committee on Aging will soon publish a special health care status report which will comprehensively treat the issues I have outlined. Mr. President, I ask that my opening statement be printed in the RECORD.

The statement follows:

OPENING STATEMENT BY FRANK CHURCH, CHAIRMAN, U.S. SENATE SPECIAL COMMITTEE ON AGING, AT A HEARING ON VISION IMPAIRMENT AMONG OLDER AMERICANS

Today, the Senate Committee on Aging will take testimony on many issues related to vision problems and care for older Americans.

Our immediate goal is to examine issues related in one way or another to legislation intended to help visually impaired persons

to cope better with everyday life or to receive desperately needed care or devices.

But our additional goal is to draw from today's hearing and from other sources the information needed to put this one need of older persons into proper perspective, now and in the future.

We will, in the next few months, issue a "Health Care Status Report" on the subjects before us today.

We believe that this document will have direct relevance to all forthcoming discussions of a national health care plan for all age groups.

We also believe that it will be valuable in preparations for the 1981 White House Conference on Aging authorized in the 1978 Older Americans Act Amendments which the House and Senate have approved.

One of the issues which will certainly receive our careful attention is the limited role that Medicare has in helping older persons with vision problems.

Medicare is often called a leaky umbrella, providing important protection in many respects, but leaving big holes where other protection may be desperately needed.

I have gone further. I have called Medicare a program better designed to meet the needs of the young than the old, since it does a good job in providing protection against costly institutional charges and medical bills for short-term illness.

But when it comes to the widespread and sustained need of older persons for dentures, eyeglasses, hearing aids, and in-home services, Medicare falls short.

And so, we will ask questions about Medicare and vision loss.

But our purposes is much broader.

We will hear, during this morning's session, predictions about the startling increases which will soon occur in blindness and vision loss among older persons in this Nation, particularly among the very old.

A soon-to-be-released study by the Division of Social and Demographic Research of the American Foundation for the Blind states that there will be about 1.5 million older Americans with severe vision impairment by the year 2000, 80 percent of whom will be 75 years of age and older.

This means that in just about 20 years the population of severely visually impaired older persons will be larger than the National Center for Health Statistics 1971 count of severely vision impaired persons of all age categories.

Within recent months, we have seen much written about the "graying" of our population.

We talk about its impact on retirement income systems, work force projections, and even our educational system.

This hearing may help us make the additional point, rather emphatically, that we must also gear up to meet—far better than we are now doing—the special needs of those whose sight becomes less dependable with passing years, even to the extent of total loss.

And it will also help us make or explore other points:

Whether the many special programs to help the visually impaired fall into categorical traps, often producing despair or frustration, rather than assistance.

If the goal is to prevent dependency, what use is being made of models already provided, including the stimulating and heartening work to be described by one of our witnesses today, the Director of the New York Infirmary's Center for Independent Living?

Why has there been, as reported to this Committee, a 5-year gap between the onset of disability and the linking with any rehabilitation services?

What linkages should there be between existing therapy and rehabilitation opportunities and area agencies on aging under the Older Americans Act?

Whether, as in so many other "age-ist" attitudes toward older persons, there may be a tendency to "write-off" the older victim of vision problems as beyond help or concern.

Whether institutionalized patients are receiving adequate vision care. There is good reason to believe that many are not, and we want to know why.

I will close this brief statement by thanking the American Foundation for the Blind, the National Federation of the Blind, and the American Optometric Association for agreeing to provide this Committee, not only with additional background material, but with specific recommendations for legislative action.

I would also like to thank Senator Harrison Williams, Chairman of the Senate Committee on Human Resources, for expressing his personal interest in these proceedings and for taking such effective action. Senator Williams has introduced a bill to provide Medicare coverage for low vision services. The same is true of Senator Jennings Randolph, Chairman of the Subcommittee on the Handicapped and—like Senator Williams—a former member of the Senate Committee on Aging. The Senate today is scheduled to act on Senator Randolph's amendments to the Rehabilitation Act, which would provide rehabilitation services for older persons.

Our witnesses today are: Mr. August Colenbrander, Professor of Ophthalmology and Medical Director of the Pacific Medical Center's Low Vision Clinic; Dr. Gerald Friedman, Optometrist and Director of Retina Associates Low Vision Clinic in Boston; Dr. Douglas Inkster, Director of the New York Infirmary's Center for Independent Living; and Donald Wedewer, Director of the State of Florida's Division of Blind Services.

Before we begin, I want to take note of the special arrangement of the room. As you can see, this is not the usual formal hearing setting. I have asked for this arrangement because the problems of vision impairment are so linked that I want to encourage as much informal exchange among our witnesses as possible.

We are going to begin with Dr. Colenbrander who will help us set the scene by describing the leading causes of vision impairment. Then I would like to ask Dr. Friedman to let us use his low vision simulators so that we can more fully understand what these vision impairments mean on a very personal level.●

COMPLETION OF ESSENTIAL INTERSTATE HIGHWAYS

● Mr. DOLE. Mr. President, the directive of S. 3073 is to expedite the completion of the Interstate Highway System by placing a time limitation on construction and providing funds for replacement and maintenance of existing highway. The Senator from Kansas agrees with the need to complete this remaining highway system due to spiraling inflation costs and public demand for safer transportation roadway. But there exists in this proposal, Mr. President, a section that deals unfairly with 16 States, including the District of Columbia. This section is aimed at the so-called essential gap.

DESIGNATION AS "ESSENTIAL GAP"

An "essential gap," according to the Department of Transportation, is that section of highway that must be completed to provide a connected intercity system and therefore under this proposal will receive priority funding and the highest priority in the bill for completion. However, this bill makes a change in the present apportionment formula as to provide that 50 percent of the apportionment to be distributed to States based upon the cost to complete the "essential gaps" in each State. With this formula, 34 States will gain moneys to complete these sections of roadway with 16 States, including the District of Columbia, suffering losses. Kansas is one of those States that will suffer a loss and also one of those States with an "essential gap," although not designated as such by the Department of Transportation, located in its largest metropolitan area—Kansas City.

I-435 was projected by the Kansas Department of Transportation many years ago to serve as a major artery for the Kansas City Metropolitan Area. Kansas City International Airport was built accordingly. However, because Kansas, like many other States, has exhausted its funds for the fiscal year of 1978, this needed roadway cannot be finished.

In addition to lack of funding, the Department of Transportation have refused to designate the roadway as an "essential gap" because they believe that it does not constitute a vital connection to an intercity system.

RESULT IS ECONOMIC LOSSES

Mr. President, Kansas City has experienced a high growth rate in the past decade. As a consequence in all developing metropolitan areas, not only does physical radius of the area increase, but economic and social aspects of the city expand. This growth naturally allows growth of its services, therein transportational means in delivering those services must also grow. At this time, however, the transportation system of I-435 is incapable of accommodating the thousands that have not only decided to make Kansas City their home, but also those who occasionally visit and serve the city.

Mr. President, with delay in completion of this roadway, undoubtedly, delay will occur in delivery of these services to the metropolitan area. And the longer we wait to complete these spans of highway the more inflationary their costs will become. Economic loss will occur not only to those providing services to the citizens of the area but economic loss will be inflicted upon the taxpayer due to higher and higher construction costs for each year the project is delayed.

DEFINITION IRRELEVANT

In actuality, Mr. President, the definition of such an area is irrelevant. What is of importance here, as in many other metropolitan areas across the Nation, is the completion of such roadway that has been planned for so long, as in the case of Kansas City. For many areas, future building, such as airports, has been based on transportation ability, and as in the case of Kansas City, there is no alternative. The present apportionment formula would expedite completion of these vital links rather than subject them to inflation's constant rise.

The Senator from Kansas realizes that this may be a particular case in point. Nevertheless, there still remains many areas across the United States like that of Kansas City. I urge the Senate and

House conferees to reconsider the apportionment formula in this section of the proposal and to retain the present formula.●

GENOCIDE IN PARAGUAY

● Mr. ABOUREZK. Mr. President, the genocide of the Ache Indians of Paraguay is continuing, although recently we have heard little in the press about this tragic situation. Now Prof. Richard Arens and Survival International, a London-based organization concerned with the survival of tribal peoples, have issued a report on the untimely death of a Paraguayan priest who worked closely with the Ache Indians, Rev. Nicholaus d'Acunha. The manner of his death has raised some questions in light of his concern for the Ache Indians and the perseverance and zeal with which the Paraguayan authorities have been carrying out their program against these Indians. The Senate has already demonstrated its displeasure at Paraguay's human rights situation by cutting military aid, but we should note with care these firsthand reports about the continuing genocide practices against the Ache Indians who live in the forests of Paraguay. I ask that the report be printed in the RECORD.

The report follows:

REPORT

Survival International, which is a registered charity and based at 36 Craven Street, London WC2, have many people "in the field" who report regularly on the ways in which tribal peoples, particularly in South America, are being treated by various Governments.

One of their associates in Prof. Richard Arens, who is the Professor of Law at Temple University, Philadelphia, Pennsylvania 19122.

Survival International has received the following communication from Richard Arens. We thought you may find it of interest.

Bruce George, Member of Parliament, is actively engaged in raising the problems of the Indians, and wishes to be associated with Professor Arens' comments. He has already approached Mrs. Judith Hart, MP, to stop all British Government Aid to Paraguay.

(Priest who provided sanctuary to escaped Indian slaves and who sought to communicate further information on atrocities in Paraguay dies mysteriously.)

In a terse note, devoid even of a cursory expression of regret, the US State Department replied recently to the inquiry of Congressman Donald Fraser concerning the Rev. Nicholas d'Acunha, Roman Catholic priest in charge of the Mission of St. Augustine near Laurel in Paraguay. There was nothing mysterious about the disappearance of the priest said the State Department. He had died in October of 1977 "of natural causes", specifically a heart attack. A replacement priest, the note continued, had assumed the duties of Father d'Acunda.

Whatever the cause, the death of Father d'Acunha was most convenient to the Paraguayan government. It would seem that it was convenient to the executive branch of the US Government as well. Father d'Acunda was on a list of six witnesses submitted to the Congressional Committee presided over by Congressman Donald Fraser in hearings contemplated this spring but never held—on conditions of human rights in Paraguay.

Father d'Acunda had been called in to conduct burial services for some 30 Indians, shot down in a premeditated ambush in a Paraguan forest in 1974. This he explicitly told Professor Richard Arens in late August, 1977.

This information was essentially confirmed by the State Department in its letter to Congressman Fraser of a week ago although at the time in question (1974) the State Department was vigorously denying the existence of any man-hunts whatever in Paraguay. Father d'Acunha had reported that mass murder to the Paraguayan authorities. But there were no prosecutions although promises were made that man-hunts would be curbed.

Since that time, Father d'Acunda, who ran the only Indian Reservation that Professor Arens saw both with respect for the Indianness of its residents and with unremitting and effective concern for their physical welfare, would traverse the nearby countryside to tell those who would listen that the Church condemned as murderers those who killed Indians and that in fact any wilful mistreatment of an Indian was a mortal sin.

He did more. His enclave was a sanctuary to Indians from far and near who had escaped slavery and it was on his reservation that Professor Arens interviewed a number of former slaves who displayed the scars of their mistreatment.

Little of all this had passed unnoticed. On several occasions Father d'Acunha was threatened if he talked and threatened with his life. He told Professor Arens in late August 1977 that he anticipated the imminent resumption of man-hunts and that there were numerous other matters of flagrant Indian mistreatment that he wished to present in sworn form in a setting in which he was less likely to be overheard. Arens and Father d'Acunha then discussed the ways and means of contacting the US Embassy.

Arens recalls him as he left, a tall, vigorous and dedicated man, apparently in his early forties at the height of both his intellectual and physical powers. Within weeks, Survival International was informed that Father d'Acunha was dying of a heart attack. It was also informed that Father d'Acunha told the members of the Peace Corps who were present that he wished to sign a sworn statement as to atrocities committed against Indians. The ostensible representatives of the Peace Corps strongly counseled him against such action. Nor did they seek removal of the ailing Father d'Acunha to a hospital by helicopter which could easily have been made available through the intercession of the Embassy.

Mere incompetence or foul play?

When asked this question in Philadelphia, Professor Arens replied that of course he could not tell, "but that given the circumstances, one possibility was at least as likely as the other. What is clear," he continued, "is that men and women of good will throughout the world have been diminished by this death. The effort to aid Indians in Paraguay has been discouraged. And those most directly and tragically affected by Father d'Acunha's death are of course the dwindling forest Indians near Laurel, Paraguay, for whom Father d'Acunha literally gave his life."●

EMPLOYEE EDUCATION ASSISTANCE BILL—S. 2388

● Mr. BAYH. Mr. President, I am happy to cosponsor the employee education assistance bill, S. 2388, introduced by the Senator from Oregon (Mr. PACKWOOD) and the Senator from New York (Mr. JAVITS). This bill would amend the IRS Code to permit employees to exclude certain educational assistance programs from their gross incomes.

Mr. President, I am concerned about reports by eminent national organiza tions, such as the Carnegie Commission that have pointed to a glaring blindspo in the financing of higher education i America; namely, that no support being given to students, mostly adult who participate in recurring or lifelon education. Even though college attend ance among people 35 and older increase 50 percent between 1973 and 1975, exist ing Federal grant and loan program have not been modified to assist the types of students. The Federal Govern ment has not even made it easier for th private sector to provide assistance. A present, IRS rulings require employee to pay income tax on any education support received from their employer which advances their careers or prepar them for a new position. Moreover, em ployers must withhold taxes from th salary of an employee when he or sh does provide such continuing educatio opportunities. As a result, thousands o people are being denied the opportunit to advance—not because they are le able or less motivated, but because the cannot afford to.

Well, Mr. President, we cannot affo to continue our policy of downgradin the efforts of employees who wish to up date their knowledge. America is becom ing increasingly challenged, intimidate and even frustrated by the ever-increa ing complexity and enormity of the pub lic policy problems that we, as a natio are called upon to address. We live at time, as well, where the speed of even and explosion of knowledge, sparked b enormous advances in technology, on additionally compound our domestic di ficulties and toughen the competition f technical superiority abroad. These ci cumstances have created a demand f people with advanced training, and w must help to meet this demand if we a to meet our critical challenges.

Mr. President, continual access higher education is not only a source benefit to our society as a whole. It also a form of personal opportunity a enrichment. The unfinished task drawing millions of people—many fro ethnic minorities—into the prevailin current of our society can only be fu filled by providing equal access to o institutions. This idea of equal acce underlay, in particular, the founding hundreds of private colleges, the lan grant movement, the establishment public urban institutions, the GI bi and the community college movement the United States.

If the American dream of advancemen through equality of opportunity is be nothing but a cruel hoax on hu manity, we must expand the traditio of educational opportunity. We shou continue to create steppingstones to he those people who have been brought in the mainstream of American life in the efforts to forge ahead.

Finally, Mr. President, I believe it counterproductive for the Federal Go ernment to provide companies with t incentives it does for the ongoing r search and development of technologi and systems while at the same time restricts incentives for the continuin

education of those who undertake such projects. Encouraging steady capital investment is meaningless if we do not also contribute to the correctly conducted development of human skills.

Though measures such as the tuition tax credit for higher education, which I was pleased to support, will be helpful to some of these "new" students, we have to develop other ways to aid in the finance of lifelong and recurring education. It is our responsibility to insure that the Nation has the best educated citizenry possible; it is essential for our material progress, national security, cultural and intellectual advancement, and for the maintenance of our democratic institutions.

S. 2388 would reverse recent interpretations of IRS regulations that restrict employers from providing education assistance to their employees. It would allow employees to use employer-provided education assistance without the burden of having to pay tax on the tuition aid they receive. Any tax revenue loss would be made up by the additional earnings of those members of our workforce who take advantage of this legislation to enrich themselves. I urge my colleagues to support this important legislation.●

NATIONAL WATER RESOURCES POLICY

● Mr. WALLOP. Mr. President, a sound, comprehensive, and workable national water resources policy is a priority. However, the formulation and implementation of such a policy cannot be unilateral. To do so is a recipe for confrontation. The States, the Executive, and the Congress must all interact if such a policy is to be successful.

Soon I will introduce a Senate joint resolution to provide for State notification and congressional review of regulations which would implement certain new national water resources policies. Through the procedures which we seek to establish here, certain water policies initiated by the Executive will be channeled through Congress and the States to insure the interaction that is absolutely necessary to the successful implementation of any such policy of national scope and importance.

A brief review of the recent history of development of a Federal water resources policy will highlight the need for this procedure. For well over a year now, the Executive has been engaged in a comprehensive review of Federal water resources policy. The first few months of that study, conducted without participation by the public, the States, or Congress, resulted in the publication of July 15 and 25, 1977, of option papers in the Federal Register. The scope of these water policy option papers was well beyond the proper scope of an exclusively Federal policy study. They dramatically pointed to the need for increased State and congressional participation in the development of a national water resources policy.

The controversy which ensued was productive in that it fostered an increased level of necessary participation. However, the forum for policy development was still exclusively Federal, while the possible ramifications of the study would likely be felt most heavily by States and the individual water users.

Concerned with this disparity, the Senate, on October 5, 1977, agreed to Senate Resolution 284, which expressed the sense of the Senate that no new national water policy be implemented without congressional concurrence and review by the States.

The water resources policy study culminated in the President's announcement of a National Water Resources Policy on June 6, 1978. That policy basically contained only broad policy statements. However, it was generally conceded that the policy reflected the increased degree of public, State, and congressional participation in the process. It represented significant improvement over what had appeared to be the policy's initial direction a year before.

The President's general policy statement of June 6, was followed on July 12, 1978, by a series of more specific Executive memoranda to the heads of Federal agencies and departments. In most cases, these Executive memoranda directed agencies and departments to improve internal procedures, prepare legislative proposals for submission to Congress, and to further study particular areas of water policy which had been identified as posing special problems. However, in a few cases, the memoranda directed the immediate implementation of policies which would directly impact upon the American people. In these cases, the directives are directly contrary to the sense of the Senate as expressed in Senate Resolution 284.

The resolution will speak only to this last type of directive. It will not seek to block their implementation en bloc, but only to provide State and congressional review so that their implementation will have the benefit of comprehensive review, or will be quickly identified as a policy for which there is no concensus.

The potential impact of these policies is unknown. On July 10, 1978, the Subcommittee on Water Resources of the Committee on Environment and Public Works held hearings on national water policy. At that hearing, those in the executive branch charged with the implementation of those policies could not explain the meaning of the directives which they were charged with immediately implementing. Yet the implementation process goes forward.

Under the terms of our resolution, two specific types of policies would be subject to rule and regulation review and State notification. First, those which would impose additional burdens on those who contract for municipal, agricultural, and industrial water supply from Federal projects. Second, those which would impose additional burdens on those who receive or seek Federal grant or loan assistance for water supply and treatment works. The resolution would also require congressional and State notification of Federal legal actions which might extinguish or diminish rights to the use of water under the reservation doctrine.

Specifically, Congress would be provided 60 days in which to disapprove any rule or regulation which would implement the policies described above. If either House passed a resolution stating in substance that the House did not approve of the rule or regulation, it would cease to be effective. The provisions of section 1017 of the Impoundment Control Act of 1974, 31 U.S.C. 1407, would apply to the procedural requirements of such a resolution in either House.

The States would be provided with not less than 60 days notification before regulations to implement this limited portion of the policy could be promulgated.

Finally, our resolution would require the heads of Federal agencies or departments to notify Congress before instituting legal action which might extinguish or diminish rights to the use of water which have been perfected under State laws through the use of the doctrines of Federal or Indian reserved water rights. This does not represent a congressional affirmation of either doctrine or reserved rights. It does not seek to limit the powers of the Federal Government to claim or protect any of its property rights. It only seeks at this time to insure that Congress and the affected States will be informed of how the process of "inventory and quantification," which has been ordered, is progressing, and of the conflicts which may be generated by its implementation.

Mr. President, I wish to reemphasize that this resolution is not intended to put us at loggerheads with the executive branch on water policy. On the contrary, it seeks to establish a procedure through which policy on a limited number of issues will be implemented with full review so as to identify conflicts early. In this way we can insure that those policies which are implemented have had the benefit of wide review and consideration, and hopefully of concensus as well.●

SOLAR POWER SATELLITE DEVELOPMENT PREMATURE

● Mr. ABOUREZK. Mr. President, I recently received a letter from the National Taxpayers Union urging all Senators to oppose S. 2860, a bill that would commit the United States to the development and demonstration of solar power satellites. Although the bill only calls for $25 million this year, it is clearly the first step toward a program which could end up costing the taxpayer trillions of dollars. This mind-boggling amount would be spent to develop an energy system controlled by a massive industry-government coalition, which would be prone to all the bureaucratic and monopolistic abuses inherent in such systems. The satellites themselves would be very vulnerable to attack, and would need to be defended at great cost. They would also use dangerous microwaves to beam their energy to the Earth. Finally, and most disturbingly, their development would inevitably freeze money that would otherwise be available to small scale solar applications already available on Earth, and just waiting for a Government push to make them commercially feasible.

I ask that the letter be printed in the RECORD, and urge my colleagues to consider its contents carefully.

The letter follows:

NATIONAL TAXPAYERS UNION,
Washington, D.C., June 30, 1978.

Hon. JAMES ABOUREZK,
Energy and Natural Resources Committee, Senate Office Building, Washington, D.C.

DEAR MR. ABOUREZK: The National Taxpayers Union in behalf of its 60,000 members and affiliated state and local groups with a combined membership in excess of taxpayers, would like to take this opportunity to express our views on the House passed bill H.R. 12505 and the bill pending in the Senate, S. 2860

Passage of this bill would commit the nation's taxpayers to a $25 million tab in fiscal year 1979. Conservative estimates indicate capital investment reaching a staggering price tag of $2.5 trillion! It is unclear exactly what this bill is authorizing. The proponents of this legislation indicate that passage would commit the nation to a program plan to study the feasibility of utilizing solar energy to generate electricity for domestic purposes. This is not the first phase of this study. We respectfully point out that such a program has already been underway for some time by the Department of Energy and NASA. This program has already cost the nation more than $15 million since 1973, while the House voted recently to appropriate another $7.6 million to DOE and NASA for fiscal year 1979.

On the basis of the above figures alone it is obvious that this bill amounts to yet another attempt at allowing the aerospace industry to feed its voracious appetite from the federal trough. It is also obvious that once such a program gets started with taxpayers dollars it is virtually impossible to stop regardless of the results drawn from research studies. This conclusion can easily be drawn since we have already undertaken and funded such a program and are now being asked for another massive transfusion of taxpayer dollars to underwrite yet another program without seeing the results of the first study.

From a purely fiscal point of veiw, perhaps the most alarming facet of H.R. 12505 and S. 2860 is the commitment to the demonstration solar power satellite. This despite the fact, that no results from the previous ongoing study would warrant this gigantic outlay of taxpayer dollars. The green light to proceed with the construction of the satellite has been given in the language of the House bill and this simply cannot be justified without first seeing the results of the R and D studies.

The proponents have also been too quick to reach the conclusion that a solar powered satellite can substantially contribute to our questionable need for electricity before seeing any results from those studies that are already in progress. So it is obvious that some of those House members who favor H.R. 12505 are already committed to the construction of this satellite. The premature decision to build such a satellite would ultimately prove to be a giant boondoogle for the aerospace industry. H.R. 12505 comes at a time of a slow down in space programs and that industry has been desperately seeking new wells to slake its thirst. We will be irretrievably committed to gargantuan federal expeditures in the future. For once we buy the hardware connected with this research and have people working on it we will find the valve to the federal treasury permanently stuck in the "open" position.

The costs connected with this bill are truly mindboggling. Boeing estimates that the cost of a single launch vehicle would be $10 billion alone while the cost per satellite is in the oppulenet $26.5 billion neighborhood. These are just a sampling of the costs in terms of dollars; they do not reflect the potential dangers to the environment that are inherent in this program. While the use of solar energy is always viewed as benign, this bill would spawn a monstrous malignancy on the nation's already fiscally ill taxpayers.

We urge you to take a long hard look at this bill when it comes before you in this Committee.

Sincerely,

JILL GREENBAUM,
Legislative Representative.●

SOVIET INVASION OF CZECHOSLOVAKIA IN 1968

Mr. THURMOND. Mr. President, 10 years ago this week Warsaw Pact forces led by the Red Army of the Soviet Union moved into Czechoslovakia to end the process of political independence which was taking place under the leadership of Alexander Dubcek.

Communism, which cannot stand the light of freedom and liberty, had to crush the program offered by Dubcek or see Czechoslovakia return to the days of pre-World War II. Thus, the Soviet Union moved its military forces in and also enginered the removal of Dubcek from power.

Mr. President, today the occupation continues because the Soviets know the Czech people still yearn for the rights they enjoyed many decades ago. The Soviets remain as colonial overlords to make sure Czechoslovakia does not break free from the Moscow style brand of communism.

It is important that we here in the Congress take public note of this situation although it may be ignored by the United Nations and ignored by the Communist states which signed the Helsinki accord. While the pressure of public opinion has never swayed the Communists such warnings may help prevent other states from falling prey to their message. The Czech people have not yielded, and I do not believe they will ever yield.

Mr. President, this is not merely a Czech tragedy, but one for the free world. We must continue to raise our voices until this tyranny ends.

THE COSMETIC WAR ON INFLATION

Mr. THURMOND. Mr. President, I commend to the attention of my colleagues an excellent article which appeared in the August 18, 1978, Wall Street Journal by Paul W. McCracken, titled, "The Cosmetic War on Inflation."

This article details the pressures underlying the critical problem of inflation in our complex society. It provides a perspective that can be tremendously helpful for us here in the Congress as we attempt to understand the act appropriately in dealing with this problem.

Particular concerns are expressed for the lack of needed gains in productivity to offset the impact of wage increases on costs, for profit margins that in real terms are down, and for the higher and higher prices that American consumers are paying each day for goods a services.

If we are to gain any ground agai inflation, we must face up to the n to look very hard at excessive wage creases, to exercise some rational con over Government spending, and to en that kind of legislation that will se to improve the private sector busin climate in order to achieve the requi gains in productivity.

Certainly, these and other rela economic matters should be in the fo front of our thinking and actions in days and months ahead.

Mr. President, I ask unanimous c sent that the attached article from Wall Street Journal be printed at t point in the RECORD.

There being no objection, the art was ordered to be printed in the REC as follows:

THE COSMETIC WAR ON INFLATION

(By Paul W. McCracken)

Barry Bosworth's basic trouble is tha has been right. And the rewards in our B lon on the Potomac for those who insis speaking the obvious about such unplea matters as inflation are not much diffe from those in ancient times who were engaged from their heads for bringing to King bad news from the wars. In Wash ton, success in Fighting Inflation appare consist not in such quaint and straight ward things as reducing inflation but in p ducing pyrotechnics and cosmetics w will persuade the citizenry that there is p ress where none in fact is really occurr Indeed, the danger is not so much that citizenry will be confused, having themse demonstrated a considerable capacity clear-headedness, as that managers of po will mislead themselves.

The fact is that we are not gaining gro against inflation. While the monthly fig will bounce one way or the other, and might have a few good readings now, t are persuasive reasons for expecting the b rate of inflation to continue rising. For thing the underlying trend since the be ning of 1976 has been upward. It is, of cou true that speaking about a "trend" du a 2½-year period will make the careful s istician wince, and food prices have g the CPI a bad upward push. But a 2½- period contains 30 monthly observations, some subgroup of prices (about half of th in fact) will always be rising more rap than the average.

UPWARD, EVER UPWARD

Moreover, the underlying "trend" in la costs per unit of output during the last years has also been upward. Apart from ratic quarter-to-quarter wobbles, the un lying rate of increase in unit labor costs itself been rising about a half a percent quarter—a track which would bring u double digit rates by 1979.

And it is not easy to make a persua case that labor costs will be rising rapidly. For one thing we are not get anything like the gains in productivity offset the impact of wage increases on c that the economy has historically delive Quarterly gains in output per man hour nualized) have averaged a 1.6 percent an rate in 1976, 1977, and thus far in 1978, even with the strong second-quarter gai real output, productivity in the nonf private sector rose at the rate of only percent per year. In fact, these sluggish g in productivity now extend back for a ade, strongly indicating that a fundam tally unfavorable structural problem emerged in the economy.

If there were reason to expect a modera

trend in the rate of wage increases during the year ahead, that would provide some reason for optimism about the price level. This trend is more apt also to be perverse. Next year will give us a heavy schedule of collective bargaining, and this means a disproportionate share of wage increases will be the large first-year, front-loaded adjustments. And the probability that the average size of the overall packages negotiated will be enlarged further is also uncomfortably high.

All of this might, of course, be consistent with a declining rate of inflation. Some major items that consumers buy might experience a sharp decline in their prices—though if this were food, while one part of government tried to take credit for progress against inflation another part would be busy viewing with alarm the low level of farm prices.

Rising labor costs also might not fully express themselves in the price level if profit margins were to be squeezed further. Reported profits are now double those of a decade ago, and they have increased almost 50% in the last five years. Here is, however, an illustration of the extent to which inflation itself can confuse facts. With a proper accounting for current costs, which conventional procedures fail to do, true profits after taxes are up only one-third from those of a decade ago, which means that in real terms they are down. While some businessmen prefer the comfort of the misleading conventional figures on profits, they could be expected to keep a short leash on their capital budgets if profit margins were to decline further.

After all of the rhetoric about inflation's being the dominant economic problem, a view which surveys show consumers share emphatically, we are losing ground.

What is the problem?

The problem is that our strategy for reducing the rate of inflation is, to borrow an apt phrase from D. H. Robertson, "a grin without a cat."

While there is plenty for the profession to be humble about when it comes to the economics of inflation, there is one conclusion that is supported both by logic and the facts of historical experience. The rate of inflation will not come down so long as pressures of demand pushing on supplies are strong enough so that higher prices and higher wages have no adverse effect on sales volume and employment. Indeed, holding prices and wages below these market-clearing levels by some sort of brute force or ad hoc process would produce the queue-line economy.

The rate of inflation will embark on a downward trend when the result of posting inflationary price increases or extracting excessive wage increases is a painful loss of sales and employment. Ours is the only major industrial country that has not yet mustered the will to face this basic fact of economic life. And the OECD secretariat now projects the 1978 rise in U.S. labor costs per unit of output in manufacturing to be above the average for the "Big Seven" countries, and significantly lower than the increases projected only for the U.K. and Italy.

That we have not really been willing to bite this bullet is indicated by the demand management (fiscal and monetary) policies that have been deployed. The upward pressure the budget (fiscal policy) exerts on the economy is equal to the rise in expenditures plus the revenue value of any net reduction in tax rates (which indirectly has an expansive effect by increasing after tax incomes). In the period from 1958 to 1965, when the price level was quite stable, this measure of "fiscal pressure" averaged about 1% of GNP. Since 1965 it has been 2% to 3%, and would be close to 3% in 1978–79.

This same fear of facing fundamentals seems to be evident for monetary policy. With the emergence of rates of monetary expansion during the first quarter consistent, if sustained, with more discipline on the price-cost level, nervous protests were heard about the adverse effects on the economy. Those protesting presumably were calling for more rapid rates of monetary expansion (which is the only way the Federal Reserve could relieve pressures on interest rates), which would set the stage for a more rapid and inflationary expansion, which would in the end produce the even higher interest rates that are always the accompaniment of higher rates of inflation.

ANOTHER PART OF THE PROBLEM

A part of our problem is that we have also been reluctant to be realistic about how high the economy's operating rate could be pushed before pressures would begin to build. With the unemployment rate at 6% and the operating rate in manufacturing at only 84% of capacity (according to the Federal Reserve), plenty of slack seemingly remains available to assure that more demand would translate into employment and output rather than higher prices and costs.

This is far too simplistic. After a decade in which the economy's operating rate has been low, the capacity situation and labor markets are uneven, and bottlenecks are bound to develop at lower average operating rates than after a sustained period adjusted to performing closer to overall capacity. This is particularly evident in the labor market, where lack of skilled and experienced labor may impede that expansion of output which provide jobs to those who are unemployed.

There is empirical evidence that the economy is in the pressure zone now. The proportion of companies reporting slower deliveries is now in the range reached in late 1972, or 1969, or 1965–66. And the incidence of help-wanted advertising is now higher relative to the labor force than at all cyclical peaks during the last decade (including, even, 1969).

When we are unwilling to face the fundamental realities of the economy and prefer to deal with symptoms and cosmetics, we should not be surprised that we are losing ground against inflation. Washington should not be confused about this. The citizenry is not.

THE TRAGEDY IN CAMBODIA

Mr. HELMS. Mr. President, I was pleased to read in this morning's Washington Post of the remarks of the distinguished Senator from South Dakota (Mr. MCGOVERN), on the tragedy of Cambodia.

According to the Post, our distinguished colleague at hearings yesterday called for an international military force "to knock this regime out of power."

Mr. President, I wish to associate myself with the remarks attributed to Senator MCGOVERN, as reported in this morning's paper. As long ago as March 1977, the Reader's Digest reported that 1.2 million men, women, and children in Cambodia were murdered by the new Communist regime in an effort to eliminate from Cambodian society any trace of freedom. Even today, millions of Cambodians are living in so-called new villages, after having been uprooted from cities and towns and even from their ancestral villages.

Perhaps at last a new consensus is developing in Congress that will recognize the outrages against human rights that have resulted from our failures in Vietnam. For even though Communist Vietnam may have avoided the stark horror of the mass genocide which has taken place in Cambodia, the construction of the new Communist society in South Vietnam has snuffed out the daily freedoms of the whole population, and thousands of innocent citizens have been likewise murdered or sent to "reeducation" camps from which they have never returned.

It is perhaps an irony that Cambodia and Vietnam are at war today, the one backed by the Chinese and the other backed by the Soviets. But there is little to choose from between the two societies. The mental anguish and suffering, the deliberate deprivation of basic human rights and family rights, the loss of freedom of religion, the confiscation of private property, the totalitarian control of thinking and ideology—all of these differ only in degree, not in kind.

If the United Nations is going to consider the problem of Cambodia, the U.N. should also consider the problem of Vietnam. I would hope, too, that the distinguished Senator from South Dakota would also turn his attention in that direction. Certainly everything that he said about Cambodia, would also apply to Vietnam. The Senator's deep concern for human rights in that part of the world has been evident for some time, and I know that his concern for freedom will compel him to express his concerns broadly.

Mr. President, once again I commend Senator MCGOVERN for his remarks, and I ask unanimous consent that the article from the Washington Post be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

STATE DEPARTMENT AGAINST INTERVENTION—MCGOVERN BACKS ANTI-CAMBODIA ACTION

(By Don Oberdorfer)

Sen. George McGovern (D-S.D.) tangled with the State Department once again yesterday over military intervention in Indochina. But in a startling reversal of their roles from the past, this time McGovern advocated intervention and the State Department argued against it.

The topic was Cambodia rather than Vietnam, and McGovern made clear that he wasn't proposing that the United States send in the Marines. Nonetheless, he said, the reported "genocide" of Cambodians at the hands of their government justifies consideration of an international military force to "knock this regime out of power."

Deputy Assistant Secretary of State Robert B. Oakley, testifying for the Carter administration, quickly told McGovern that the option of military intervention is not being considered anywhere, except possibly in Hanoi, whose armed forces have engaged in recent waves of warfare with Cambodia.

The United States ability to influence events in Indochina is very limited, Oakley said at another point. From the experience of the 1960s "we've learned a lot about the level of appropriate U.S. involvement" and now the government is being very cautious.

Douglas Pike, a Foreign Service officer who

was a prominent government analyst of Indochinese communism during the 1960s, cautioned McGovern that a "quick, surgical takeout" of the Cambodian regime is probably impossible. Pike said the Vietnamese tried a "quick judo chop" against the Cambodian regime with 60,000 troops a year ago, but this "failed abysmally."

The government of Cambodia, which now calls itself Democratic Kampuchea, consists of nine people at the top, no regional organization that is discernible, and a communal structure "in the style of the 14th century" in villages throughout the land, Pike said. An invading force would have to take control of every village, he added, and such an enterprise of uncertain prospects would be "stepping deeper into the swamp."

In the exchange of views before a Senate Foreign Relations subcommittee, McGovern said there is a "a vast difference" between the current situation in Cambodia, where extreme oppression is taking place, and the situation in which the United States intervened in Vietnam. He said military intervention is justified only in the most extreme circumstances but that Cambodia "is the most extreme I've ever heard of. . . . Based on the percentage of the population that appears to have died, this makes Hitler's operations look tame."

Oakley declined to give an official estimate of the death toll in Cambodia because of a lack of precise information and the likelihood that an "official" figure would become a source of controversy and debate. "The U.S. government is confident that scores, probably hundreds of thousands of people, have been killed" since the communist takeover in 1975, he said.

McGovern, according to aides, has been deeply concerned for many months about the Cambodian situation, believing that it is in part a legacy of the Vietnam war. Earlier this year he sponsored an amendment to the State Department authorization bill calling for unspecified "multilateral action" by the United Nations and bilateral action by those nations with influence to end "brutal and inhumane practices" in that Asian nation. Aides said yesterday's hearing was the first time he suggested military intervention.

Oakley said U.S. intelligence agencies report that "scores of thousands" of troops on each side are engaged in the current battles between Vietnam and Cambodia, with aircraft, artillery and other modern weapons being used, especially on the Vietnamese side. Calling it "a major conflict," he said that Cambodia continues to fight very fiercely.

THE NOMINATION OF GEN. HANS H. DRIESSNACK AND HIS ROLE IN THE FITZGERALD CASE

Mr. PROXMIRE. Mr. President, the nomination of Maj. Gen. Hans H. Driessnack to be lieutenant general and Comptroller of the Air Force has raised a number of questions about his role in the firing of A. Ernest Fitzgerald. Since Mr. Fitzgerald was fired after appearing before my Subcommittee on Priorities and Economy in Government of the Joint Economic Committee, I have followed these questions with great interest.

As summarized in a Federal Times article of July 10, 1978, there appears to have been a number of contradictory statements made by General Driessnack and other Fitzgerald case participants. Specifically, the Federal Times article suggests conflict of testimony between Driessnack and Eugene Kirschbaum; Driessnack and General Crow; Driessnack and Gen. Joseph Cappucci; Driessnack and Vincent Sullivan (the Office of Special Investigations Agent); and Driessnack and Mr. Badin. Mr. President, I ask unanimous consent that the Federal Times article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DID HE SMEAR FITZGERALD—GENERAL'S THIRD STAR HANGS ON WHISTLEBLOWER CASE

(By Sheila Hershow)

Before Maj. Gen. Hans H. Driessnack wins his third star and a promotion to Air Force comptroller, unresolved questions about his role in the 1970 firing of whistleblower A. Ernest Fitzgerald must be answered, two senators have said.

Sen. William Proxmire, D-Wis., has asked Sen. John C. Stennis, D.-Miss., chairman of the Senate Armed Services Committee, and Senate majority leader Robert C. Byrd, D-W. Va., to delay Driessnack's confirmation as lieutenant general until an "open" FBI investigation has been completed, a Proxmire aide said.

And Sen. Patrick J. Leahy, D-Vt., has said she will "request a roll-call vote on Driessnack's nomination and call for extended debate to precede such a vote." In a June 27 letter to Stennis, Leahy, sponsor of a bill to protect whistleblowers, wrote that it is important for federal employees to "know that anyone involved in a reprisal effort taken against a whistleblower will be punished and not promoted."

Proxmire, Leahy and the FBI have seen documents indicating that in 1969 Driessnack may have deliberately leveled false and defamatory charges against Fitzgerald in an attempt to discredit and ruin the GS–17 cost analyst who months earlier had told Congress about the $2 billion cost overrun on the Lockheed C5A.

According to a May 17, 1969 report of an interview with Driessnack by Air Force Office of Special Investigations agent Vincent Sullivan, Driessnack accused Fitzgerald of "untrustworthiness" because of his "many peculiar ways of operating." He suggested that Fitzgerald had helped his former company, Performance Technology Corporation, win an Air Force Systems Command contract. Driessnack's allegation that Fitzgerald might still hold stock in PTC and his remark that PTC may have "paid (Fitzgerald) off" sparked an extensive coast-to-coast OSI investigation.

Driessnack's conflict of interest charges were found to be groundless. But the OSI file on Fitzgerald was later shown to Proxmire's Joint Economic Committee—after that file had been stripped of information clearing Fitzgerald.

In a 1974 affidavit, Driessnack said that Sullivan's report on the interview quoted him "out of context" and distorted the "actual tone" of his comments. Driessnack also swore that OSI agent Sullivan initiated the interview, coming to Driessnack's home with "no notice of the visit."

"Beyond my role as an OSI interviewee, I played no part in any OSI or other investigation of Fitzgerald. I had no knowledge of any events in this connection beyond my own interview," Driessnack said in his affidavit.

This sworn statement, however, directly conflicts with the versions of events given—in some cases under oath—by at least five other Air Force officials.

These discrepancies are revealed in doc
ments that have come to light in connecti
with Fitzgerald's nine-year legal battle
regain his former Air Force duties. The leg
fees for Fitzgerald's marathon lawsuit ha
soared above $400,000.

While the Fitzgerald case dragged throu
the Civil Service Commission and the cour
Driessnack has advanced rapidly from t
rank of colonel to two-star general and
Force budget director. At no time during t
past nine years have the questions about
part in the Fitzgerald matter been laid
rest.

It took Fitzgerald's lawyers three years
discover that Driessnack was actually t
OSI informant, identified by the Air Fo
only as "T–1." Fitzgerald then attempted
include Driessnack in a lawsuit he broug
against Air Force and other Nixon admin
tration officials for conspiring to deprive h
of his job in retaliation for his congressio
testimony on the C5A.

But in 1974 U.S. District Court Ju
Gerhard A. Gesell ruled that it was no lon
"timely" for Fitzgerald to sue Driessnack.
would be anomalous and unjust to all
[Fitzgerald] to begin an action against les
fry merely because their identity and parti
pation were earlier unknown," Gesell wro

The Senate Armed Services Committee a
received a 1974 request to examine Dri
snack's role in the Fitzgerald firing. On F
ruary 6, 1974, then-Sen. Harold E. Hugh
D-Iowa, asked that Driessnack's nominat
to brigadier general be deferred until
matter had been probed.

In response to the panel's request, Dri
snack prepared an affidavit that is in conf
with the recollections of other Air Force o
cials. There is no other on-the-record e
dence that the committee looked further i
Driessnack's 1968 actions. John C. Robe
the committee's current general counsel,
fused a *Federal Times* request for a list
witnesses questioned by the committee a
in 1974.

Driessnack's affidavit was entered into
Congressional Record May 7, 1974 and Dri
snack was awarded his first star. But qu
tions about the veracity of that sworn sta
ment set off the current FBI investigation
Driessnack.

Using Air Force documents first m
available to them last fall, Fitzgerald's l
yers argued that Driessnack's affidavit
doctored to play down his role in the
investigation of Fitzgerald. A draft of t
sworn statement found in the files of
Air Force general counsel contains a sub
quently deleted paragraph in which Dri
snack acknowledged naming two other
Force officials—Eugene L. Kirschbaum
Lt. Col. John Badin—as possible informa

Driessnack further said that he drove Ba
to Badin's OSI interview, "briefly relating
story of my own interview as we went,
once there, I introduced Sullivan to Ba
thereby identifying Sullivan as the man
had interviewed me." This information
not appear in the signed affidavit.

Federal Times contacted Driessnack
discuss apparent contradictions between
signed and unsigned affidavits. "That's so
Why are you looking into that?" Driessn
said. He asked for time to refresh his mem
and then refused all further interviews.

Brig. Gen. Harry J. Dalton, director of
formation for the Air Force, told this ne
paper that the deleted paragraph conta
accurate information. He said it had
removed from the final affidavit "on the
vice of counsel" because it was irreleva

Walter A. Wilson, a lawyer in the
Force's general counsel's office who wo
on the Air Force's defense in the Fitzge
suit, described the missing paragraph
"sort of innocuous little bit of material"

"not inconsistent" with Driessnack's sworn statement that his role in the OSI investigation was limited to that of an "interviewee."

In an interview last week, Donald E. Campbell, assistant U.S. attorney in charge of the Justice Department's major crimes division, said that the FBI had conducted "cursory interviews with a number of people" on the Driessnack matter and had found "no basis for a full-fledged perjury investigation." "I have to admit I know silch about it," Campbell added.

But Campbell decided there may be grounds for further FBI investigation after Peter D. H. Stockton, a congressional investigtor, called his attention to discrepancies between Driessnack's 1974 affidavit and the statements of other Air Force officials who were involved in the Fitzgerald affair. In 1969 Stockton, who was then on the staff of the Joint Economic Committee, looked into the circumstances surrounding the controversial OSI investigation.

Among the inconsistencies are:

Contradictory statements by Driessnack and Kirschbaum. Kirschbaum, the OSI informant who became known as "T-2" Fitzgerald's former company PTC and the Air Force System Command. In a June 6, 1974 deposition, Kirschbaum swore that months before the OSI investigation Driessnack raised the possibility of a conflict of interest by Fitzgerald and Kirschbaum told Driessnack there "would be no conflict."

Driessnack's affidavit, however, contains a description of a meeting with Brig. Gen. Harold Teubner that occurred between Driessnack's session with Kirschbaum and his intreview with OSI. "I told General Teubner that I had never personally connected Mr. Fitzgerald's frequent contact with PTC to a conflict of interest." Driessnack swore, in apparent conflict with the Kirschbaum deposition.

Contradictory statements by Driessnack and Lt. Gen. Duward L. Crow. In a March 8, 1974 "litigation report" on the Fitzgerald case. Col. Jack C. Dixon in the office of the Judge Advocate General pointed to a discrepancy between draft affidavits by Driessnack and Crow:

"According to General Crow, Driessnack came [to a meeting with Crow that preceded the OSI interview] to report a conflict of interest [by Fitzgerald]."

"According to Driessnack, he was acting to correct a faulty news item concerning a matter under his direction."

In Driessnack's final affidavit, he swore the meeting with Crow was arranged by Teubner after Teubner raised the conflict of interest charge against Fitzgerald.

Contradictory statements by Driessnack and Brig. Gen. Joseph J. Cappucci. During the CSC hearings on the Fitzgerald case, Cappucci, who was director of OSI during the 1969 Fitzgerald investigation, said that Driessnack volunteered derogatory information on Fitzgerald.

In a 1969 affidavit, then-Joint Economic Committee investigator Stockton said that Cappucci told him that allegations by informant T-1 [Driessnack] had triggered the OSI probe.

But in his affidavit, Driessnack said that he played only a passive role in the OSI investigation of Fitzgerald.

Contradictory statements by Driessnack and OSI agent Sullivan. Sullivan's and Driessnack's versions of the OSI interviews are in stark contrast. Sullivan is dead.

In interviews with Federal Times, Cappucci, Sullivan's former boss, and Michael Ross, an OSI agent who worked with Sullivan on the Fitzgerald probe but who was not present at the Driessnack interview, described Sullivan as an experienced and careful investigator.

Interview reports prepared by Sullivan after his sessions with Kirschbaum (T-2) and Badin (T-3) do not contain personal attacks against Fitzgerald's character. But Sullivan quotes Driessnack who is "arrogant, untrustworthy and . . . does not respect the Air Force."

Contradictory statements by Driessnack and Badin. In a recent interview with Stockton, Badin said that Driessnack, at that time his boss, drove him to his OSI interview and briefed him about Driessnack's own interview with OSI, Stockton told Federal Times. This version of events exactly coincides with the paragraph deleted from Driessnack's 1974 affidavit.

Federal Times left telephone messages for Badin but he was unavailable for comment.

Air Force lawyer Walter A. Willson told this newspaper that the contradictions listed above and others revealed in the court documents are "minor." He pointed out that Sullivan "is dead and certainly there is no way to get any additional information about that conversation."

Asked to explain why so many officials claimed that Driessnack started the conflict of interest allegation against Fitzgerald—an allegation Kirschbaum has sworn Driessnack knew was untrue—Willson said that although Driessnack "knew about the PTC contract, knew about Fitzgerald's job and what it entailed, he did not know about Mr. Fitzgerald's private financial matters."

"What Driessnack was doing was raising that issue through the proper channels," Willson said.

According to a Proxmire aide, Proxmire will keep the hold on the Driessnack nomination until "all factual question are resolved" and the U.S. Attorney's office has determined there is no need for further FBI investigation.

Fitzgerald declined to comment on the Driessnack controversy. "Because of threats from the Justice Department to put me under a gag order, I don't want to say anything," he told Federal Times.

Mr. PROXMIRE. Mr. President, due to the seriousness of these allegations, I wrote the Attorney General asking that the Justice Department determine the factual basis of the allegaions, the status of any interest in General Driessnack as a participant in the Fitzgerald case and for such other information as would be relevant to this matter. Mr. President, I ask unanimous consent that my letter to the Justice Department be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
July 5, 1978.

Hon. GRIFFIN B. BELL,
Attorney General,
Department of Justice,
Washington, D.C.

DEAR MR. BELL: The Senate has pending before it the nomination of Major General Hans H. Driessnack to be Lt. General and Comptroller of the Air Force. This nomination comes at a time when there are press reports and conflicting statements about General Driessnack's role in the controversy surrounding the firing of A. Ernest Fitzgerald.

Therefore, I am writing to you to determine the factual basis of the current allegations, the status of any interest in General Driessnack's prior statements or role in the Fitzgerald case and such other information you may find to be relevant to this general discussion.

I would be interested in having your answers to the following questions:

1. What is the current status of interest by the Justice Department, FBI and U.S. Attorney's Office in any matters relating to General Driessnack? Would you please provide a precise response as to whether or not an investigation or review of any matters relating to General Driessnack is currently underway or otherwise contemplated as well as the timetable for any such official review?

2. According to information contained in the July 10 issue of Federal Times, there is an apparent conflict in testimony and/or statements by General Driessnack and various other individuals associated with the Fitzgerald case. Is this apparent conflict of such interest to cause the Justice Department to undertake a review or investigation of possible perjury or other possible violations of the law?

3. In view of the Justice Department's role in defending individual's involved in the Fitzgerald case, how would you plan to insulate your Department against any internal conflicts in determining the responses to question number 2?

It is my hope that you will review the circumstances of these allegations carefully and respond in as conclusive and timely a fashion as possible. While I do not believe it would be fair to hold up General Driessnack's nomination for any substantial period of time without reason, I also believe that the Congress should be presented with a clear factual analysis of the intentions of the Department of Justice with regard to this matter. Some of the documents relating to the alleged conflicting testimony and alleged perjury are listed on an attachment.

Sincerely,

WILLIAM PROXMIRE,
U.S. Senator.

Mr. PROXMIRE. The Justice Department responded on August 3, 1978, declaring that the discrepancies noted in the Federal Times article were "more apparent than real." Each discrepancy lacked "prosecutive merit," according to Assistant Attorney General of the Criminal Division, Philip B. Heymann.

Mr. President, I ask unanimous consent that the response from the Justice Department be made a part of the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
August 3, 1978.

Hon. WILLIAM PROXMIRE,
U.S. Senate, Committee on Appropriations,
Washington, D.C.

DEAR SENATOR PROXMIRE: The Attorney General has referred your letter of July 5, 1978 to this Division for review and response. Subsequent to our receipt of your correspondence, we have reviewed the documents listed in the attachment to your letter as well as other documents, including reports of interviews prepared by the Federal Bureau of Investigation in connection with its investigation of General Driessnack based upon the complaint of A. Ernest Fitzgerald. As you are probably aware, that investigation was concerned with whether General Driessnack may have committed perjury in the deletion of certain statements in affidavits filed in a civil case and before the Congress. In a letter of July 7, 1978, the United States Attorney for the District of the District of Columbia, Early J. Silbert, informed Senator Stennis that the investigation had disclosed no criminal conduct and was closed. A copy of that correspondence is attached. We find

Mr. Silbert's reasons to be convincing and dispositive of that aspect of this matter.

We have, however, examined the documentary evidence listed above in relation to the article from the Federal Times by Sheila Hershow which accompanied your letter. That article sets out five alleged inconsistencies between the affidavits of General Driessnack and statements of various other Air Force officials. These discrepancies have been examined, and it is our opinion that most are more apparent than real, and that each lacks such substance as to possess any prosecutive merit. The following discussion is offered to explain the lack of prosecutive potential in each of the inconsistencies alleged in the Federal Times:

I. CONTRADICTORY STATEMENTS BY GENERAL DRIESSNACK AND EUGENE KIRSCHBAUM

The article quotes a Kirschbaum deposition of June 6, 1974 as stating that months before the Air Force Office of Special Investigations inquiry, General Driessnack raised the possibility of a conflict of interest by Mr. Fitzgerald to which Mr. Kirschbaum responded that there would be no such conflict.

General Driessnack's affidavit states, however, that after this meeting Driessnack told General Harold Teubner that he had never personally connected Mr. Fitzgerald's frequent contacts with his former employer to a conflict of interest.

These statements are not at all contradictory since Driessnack neither denies the Kirschbaum meeting nor attests, under oath, the accuracy of his statements to General Teubner. Moreover, an examination of the Teubner affidavit leads reasonably to the conclusion that the first discussion between Kirschbaum and Driessnack concerned the initial letting of the Air Force's contract with PTC (Fitzgerald's former corporation) at which time Fitzgerald's former employment with that corporation was discussed with respect to the possibility of a conflict of interest. Driessnack's later conversation with Teubner, however, apparently concerned Fitzgerald's activities after the contractual relationship existed. Thus, a reasonable explanation for the discrepancy would be a separation in Driessnack's mind of the potential conflict of interest before the contract between PTC and the Air Force from the allegation that Fitzgerald acted in a manner consistent with the existence of a conflict of interest after the contract was formed.

II. CONTRADICTORY STATEMENTS BY GENERAL DRIESSNACK AND GENERAL CROW

This contradiction, as noted in the Federal Times, is contained in a March 8, 1974 litigation report prepared by Colonel Jack Dixon, JAGC citing the affidavit of General Crow as stating that General Driessnack came to a meeting with General Crow to report a conflict of interest by Mr. Fitzgerald. The report then says that Driessnack states that he was acting to correct a faulty news item concerning a matter under his direction. The article also points to Driessnack's final affidavit which states that the meeting was arranged by Teubner after Teubner raised the conflict of interest charge against Fitzgerald.

An examination of these three documents disclosed no discrepancy between the Driessnack affidavit and any other information. The confusion seems to lie in the cursory characterization of Driessnack's version of events contained in Colonel Dixon's litigation report.

That portion of the memo which discusses the meetings between Driesnack and Teubner and Driessnack and Crow appears to be an analysis of Driessnack's civil liability under alternative theories of Driessnack's purpose. That is, the discussion considers whether Driessnack would be acting within the scope of his duties whether he was reporting a conflict of interest or reporting an erroneous news item.

In fact, Driessnack's version is consistent with Crow's on this point. Both agree that Driessnack and Teubner did meet with Crow to report a possible conflict of interest. Driessnack's affidavit characterizes his initial meeting with Teubner as being for the purpose of correcting the news item. Perhaps the confusion may also be attributed to one version of Driessnack's draft affidavit, paragraph 4, which states: "I did not consider myself to be reporting a conflict of interest when I went to General Crow." This statement was changed to substitute "General Teubner" for "General Crow" in a subsequent draft and in the final signed affidavit. Moreover, the context of the entire affidavit makes it clear that the reference to General Crow in the first draft was simply a mistake, since Paragraph 9 of Dreissnack's affidavit clearly characterizes the purpose of the meeting with General Crow as being to report a possible conflict of interest.

III. CONTRADICTORY STATEMENTS BY GENERAL DRIESSNACK AND GENERAL JOSEPH CAPPUCCI

This alleged disagreement appears simply to consist of a difference in interpretation as to the meaning of "passive". General Cappucci is and was of the opinion, based entirely on the remarks of Agent Vincent Sullivan, who is now deceased, that the inquiry of Fitzgerald was begun based upon some information obtained from Driessnack. Nothing in Driessnack's affidavit contradicts this. In fact, his recitation of meetings with Generals Teubner and Crow appears to be consistent with General Cappucci's impressions. Nor does Driessnack deny volunteering derogatory information concerning Fitzgerald in his affidavit. It should also be noted that Cappucci's characterization of Driessnack's "volunteering" of derogatory information is solely his conclusion based upon agent Sullivan's report. Finally, the Federal Times conclusion that Driessnack "said that he played only a passive role in the OSI investigation of Fitzgerald," appears to be without basis. An examination of the affidavit revealed no such statement.

IV. CONTRADICTORY STATEMENTS BY DRIESSNACK AND OSI AGENT VINCENT SULLIVAN

Agent Sullivan's death, of course, would make it impossible to verify any alleged inconsistency and would necessarily preclude the possibility of proof of perjury. However, the Federal Times article points to no inconsistency. That item merely quotes Sullivan's report as containing certain derogatory statements by Driessnack about Fitzgerald. No denial of these remarks was made by Driessnack.

V. CONTRADICTORY STATEMENTS BY DRIESSNACK AND BADIN

Again, the article points to a non-existent contradiction. This allegation, concerning the deletion of the paragraph in Driessnack's affidavit, is the same as that considered and disposed of by the United States Attorney's office.

Additionally, the Federal Times article alleges that "Kirschbaum has sworn that Driessnack knew (the allegation of conflict of interest) was untrue." This appears to be a mischaracterization of the Kirschbaum deposition which states only that before the Air Force contracted with PTC, Kirschbaum advised Driessnack that in his opinion no conflict of interest would exist on the part of Fitzgerald.

Based upon the above, this Division has determined that there is insufficient basis upon which to investigate General Driessnack for possible violations of perjury or other federal statutes. We therefore consider this matter to be closed.

With respect to the specific inquiries contained in your letter of July 5, 1978, the following is submitted:

1. The investigation and subsequent revie of General Driessnack's activities is close

2. A review of the information contained the *Federal Times* which was attached your letter has led to the conclusion th there is insufficient reason to conduct a further investigation into General Dries nack's activities or statements in connecti with the Fitzgerald matter.

3. In light of the closed status of this ma ter no insulation against internal confli within this Department seems necessa Please be assured however, that the crimin aspects of this matter were handled by t Criminal Division without consultation wi the Civil Division.

Thank you for your interest in this matt I hope this response sufficiently answers yo inquiries.

Sincerely,

PHILIP B. HEYMANN,
Assistant Attorney General,
Criminal Division.

WASHINGTON, D.C., *July 7, 1978.*

Hon. JOHN C. STENNIS,
Chairman, Armed Services Committee, U
Senate, Russell Senate Office Buildin
Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in r sponse to your request for the results of investigation of an allegation of perju against Major General Hans H. Driessnac United States Air Force, conducted by t Federal Bureau of Investigation and th Office.

In April of this year, a complaint w made by a Mr. A. Ernest Fitzgerald to t FBI that General Driessnack had perjur himself in an affidavit of April 18, 1974, su mitted in the civil matter of *A. Ernest Fit gerald versus Robert C. Seamans, Jr., et a* Mr. Fitzgerald provided the FBI with a co of the April 18, 1974 affidavit signed by Ge eral Driessnack as well as an undated, u signed draft affidavit by General Driessna obtained by Mr. Fitzgerald probably September of 1977.** In particular, Mr. Fi gerald complained that a statement in t signed affidavit amounted to perjury becau it was contrary to facts set forth in t earlier unsigned affidavit. Specifically, Fitzgerald identified the false statement General Driessnack in the signed affidavit follows: "Beyond my role as an OSI inte viewee, I played no part in any OSI or oth investigation of Fitzgerald. *I had no know edge of any events in this connection beyo my own interviews.*" (Emphasis added).

Paragraphs 14, 15, and 16 of the unsign affidavit read as follows:

14. I did not discuss these matters ag with General Crow, nor did I ever disc them with the other defendants in this ca I was aware that two other sources, not defendants in this action, were also interview by the OSI. They were John Badin and E gene Kirschbaum, the men I had named du ing my OSI interview as the persons m knowledgeable about the PTC/AFSC co tract. In fact, about a month after my o interview, John Badin came to me and t me that an OSI agent named Sullivan

*Prior to April 1978, there had been referral of this matter to this Office or t FBI even though the allegation was kno by Fitzgerald's attorney and was brought the attention of a federal district court jud as part of a motion for reconsideration wh was denied.

**The affidavits dealt with matters occu ring in 1968 and 1969.

waiting to interview him in the OSI office at Andrews Air Force Base. He said that Sullivan had indicated to him that I had given his name as a possible source in an inquiry into the PTC/AFSC contract. He asked me what this was about and whether I knew Sullivan and could confirm that he was from OSI. I drove Badin over to the OSI office, briefly relating the story of my own interview as we went, and, once there, I introduced Sullivan to Badin, thereby identifying Sullivan as the man who had interviewed me, and left. I never did discuss these interviews with Badin or Kirschbaum again until very recently. When the stories about the OSI broke in the newspapers in late 1969, I realized that OSI might have interviewed other people as well. I must add, however, that I did not connect the reports on T-1's information with my own interview until recently, because the memorandum distorted much of what I said.

15. I did not at any time fabricate or concoct reports concerning Fitzgerald and possible security violations or conflicts of interest. I never communicated any of my information to members of the Congress or of the White House staff, nor am I aware that any such communication was ever made.

16. Beyond my role as an OSI interviewee, I played no part in any OSI or other investigation of Fitzgerald. I had no knowledge of any events in this connection beyond my own interview. I was not and am not aware of any inquiry into Fitzgerald's personal life, nor did I ever knowingly misrepresent his character or background at any time. I had absolutely no connection with any effort to terminate Fitzgerald's position.

Paragraphs 14, 15 and 16 of the signed affidavit read as follows:

14. I did not discuss these matters again with General Crow, nor did I ever discuss them with the other defendants in this case after the OSI interview.

15. I did not at any time fabricate or concoct reports concerning Fitzgerald and possible security violations or conflicts of interest. I never communicated any of my information to members of the Congress or of the White House staff, nor am I aware that any such communication was ever made.

16. Beyond my role as an OSI interviewee, I played no part in any OSI or other investigation of Fitzgerald. I had no knowledge of any events in this connection beyond my own interview. I was not and am not aware of any inquiry into Fitzgerald's personal life, nor did I ever knowingly misrepresent his character or background at any time.

As can be seen from comparing the two documents, the information in the unsigned affidavit that General Driessnack was aware that John Badin was interviewed by an OSI agent approximately a month after his own interview and in fact drove Badin to the OSI office and introduced him to the OSI agent, was deleted from the final signed affidavit.*** It should also be noted that the statement in the second sentence of paragraph 16 complained about by Mr. Fitzgerald was contained in both the unsigned and signed affidavits.

Our investigation was limited to this specific complaint by Mr. Fitzgerald and we focused our investigation on determining whether General Driessnack was responsible for the deletion of the Badin information from the signed affidavit, and whether the second sentence of paragraph 16 was a false statement, and if so, whether General Driessnack made it consciously and willfully.

Our investigation revealed that General Driessnack was interviewed and debriefed by an attorney in the Air Force JAG Office who, based on this information, prepared the draft unsigned affidavit. A copy of this draft affidavit along with a litigation report was forwarded to the Department of Justice, Civil Division, on March 8, 1974. Subsequently, the JAG attorney, after consulting with an attorney at the Department of Justice and the General Counsel's Office of the Air Force, shortened the affidavit by deleting, among other items, the information about General Driessnack driving Badin to the OSI office for Badin's interview. Since the affidavit was drafted over four years ago, it was difficult for the attorneys involved to recall with certainty why the Badin information was deleted, although it was clear that the deletion was not made at the request of General Driessnack.

It appears from our investigation that no one, the attorneys or General Driessnack, focused on the alleged inconsistency of the second sentence of paragraph 16. Moreover, one of the attorneys interpreted the second sentence of paragraph 16 to mean that General Driessnack had no knowledge of the substance of any subsequent events, rather than no knowledge of subsequent procedural events such as other persons being interviewed by OSI. This interpretation appears consistent with the fact that included in the unsigned affidavit were the statements by General Driessnack that (1) he was aware that Badin and Kirschbaum were subsequently interviewed and (2) "I had no knowledge of any events in this connection beyond my own interview." In order to read these two statements consistently in the unsigned affidavit, it would seem that the second sentence of paragraph 16 was referring to something other than knowledge of subsequent OSI interviews.

In any event, our investigation has revealed no evidence to suggest that paragraph 16 of the signed affidavit represented a conscious or willful attempt on the part of General Driessnack to mislead or make a false statement. This is corroborated by the fact that the unsigned affidavit containing the Badin information was forwarded to the Department of Justice in March of 1974, thus making it quite clear that General Driessnack was not trying to hide the information.

Based on the above investigation, this matter has been closed by this Office.

Sincerely,

EARL J. SILBERT,
U.S. Attorney.

*** The unsigned affidavit also stated that General Driessnack was aware that Eugene Kirschbaum was subsequently interviewed by OSI.

Mr. PROXMIRE. I might point out, Mr. President, that the Justice Department lawyers did not interview General Driessnack on any of these allegations. I find this procedure to be most unusual, particularly in light of some of the analysis from the Justice Department suggesting what General Driessnack's reasoning might be or what he might have argued under the circumstances. It would seem that the clearest and most direct way of obtaining such information would have been to interview General Driessnack. That the Justice Department did not, that they found it unnecessary, casts a good deal of doubt on the conclusions they reached.

When questioned by my staff on this matter, a Justice Department lawyer indicated that the Department does not seek testimony from principals in a case like this one and that it is not the purpose of the Justice Department to investigate to make a case—but only to review the record for evidence of perjury.

I find this attitude unresponsive to my letter request and not a valid technique to determine the truth.

Nonetheless, the Justice Department has closed this case, and I cannot in good conscience continue to oppose the nomination of General Driessnack in lieu of evidence of perjury or other wrongdoing.

Mr. President, President Carter twice has spoken of the Fitzgerald matter as a situation that "must never be repeated." But the Fitzgerald case remains to be settled. There have been four appeals court decisions, four district court decisions, and three Civil Service decisions involving the Fitzgerald matter. Mr. President, for those unfamiliar with the Fitzgerald controversy, I ask unanimous consent that a chronology be printed in the RECORD at this point.

There being no objection, the chronology was ordered to be printed in the RECORD, as follows:

PARTIAL CHRONOLOGY OF FITZGERALD LITIGATION

The following partial chronology highlights the key events in the eight years of litigation spawned by Mr. Fitzgerald's termination.

1. January 5, 1970.—Fitzgerald was terminated pursuant to an alleged "reduction in force."

2. January 20, 1970.—Fitzgerald submitted an appeal to the Civil Service Commission ("CSC").

3. May 4, 1971.—The CSC began closed hearings on the appeal and rejected Fitzgerald's request for open hearings. He sought and obtained an injunction against the closed hearings, which was affirmed on appeal. *Fitzgerald* v. *Hampton*, 467 F.2d 755 (D.C. Cir. 1972).

4. September 18, 1973.—The CSC Chief Appeals Examiner issued a decision reinstating Fitzgerald with back pay, but denying him interest, costs, attorneys' fees and other damages.

5. December 10, 1973.—Fitzgerald was reinstated to the Air Force and simultaneously reassigned, over his protest, to a newly created position as Deputy for Productivity Management, which does not involve his area of specialty in cost analysis of major weapons systems acquisitions.

6. December 26, 1973.—Fitzgerald appealed his reassignment on the grounds that it was not in compliance with the CSC recommendation. The CSC denied the appeal without a hearing, and Fitzgerald appealed to the District Court, which remanded for hearings. *See Fitzgerald* v. *Hampton*. 383 F. Supp. 823 (D.D.C. 1974). The hearings were held in June, 1975.

7. January 25, 1974.—Fitzgerald filed suit for compensatory and punitive damages from various Air Force and Department of Defense officials and Alexander Butterfield.

8. October 9, 1974.—Judge Gesell granted summary judgment to defendants in Fitzgerald's damages action on the grounds that the statute of limitations had run. *Fitzgerald* v. *Seamans*, 384 F. Supp 688 (D.D.C. 1974). Fitzgerald appealed this decision in November, 1974.

9. June 18, 1976.—The CSC Chief Appeals Examiner found that Fitzgerald's 1973 reassignment was in compliance with the CSC recommendation.

10. August 10, 1976.—The June 18, 1976, decision was again appealed to the District Court (J. Bryant) and the appeal is currently awaiting disposition on cross-motions for summary judgment.

11. October 23, 1976.—Candidate Jimmy Carter pledged in Alexandria, Virginia, that "[t]he Fitzgerald case, where a dedicated civil servant was fired from the Defense Department for reporting cost overruns,

must never be repeated." Quoted in Rushford, "The Perils of Bing A Whistle Blower," Washington Post at C 1 (November 27, 1977).

12. February 1, 1977.—Secretary of Defense Harold Brown advised Senator Proxmire during DOD appropriations hearings that he would consider Fitzgerald's case and then talk with Fitzgerald. Fitzgerald has received no communication from Secretary Brown to date.

13. February 23, 1977.—The Court of Appeals affirmed the summary judgment for Air Force and Department of Defense defendants, but remanded for further proceedings with respect to Butterfield and various unnamed White House ("John Doe") defendants on the grounds that Fitzgerald could not have known of White House involvement prior to the Watergate hearings in 1973. *Fitzgerald* v. *Seamans*, 553 F. 2d 220 (D.C. Cir. 1977). Mr. Fitzgerald promptly filed an amended complaint adding Haldeman as a defendant.

14. April 13, 1977.—Court of Appeals reversed District Court's award of attorneys' fees to Fitzgerald because of the absence of authorization. Court noted that District Court might be "correct" when it found that denial of fees "would make a mockery and a sham" of federal employee appeal rights, but nevertheless emphasized that "appellee's redress must come from the Congress, not the courts." *Fitzgerald* v. *U.S.C.S.C.*, 554 F. 2d 1186, 1190 (D.C. Cir. 1977).

15. September 14, 1977.—Department of Justice attorneys representing Butterfield and Haldeman in the damages action advised Judge Gesell of their intent to seek substantial costs and possibly attorneys' fees from Fitzgerald, if the action is eventually dismissed.

16. June 2, 1978.—Court of Appeals affirmed denial of Fitzgerald's request for $13,812.94 in interest on his back pay. Court noted its "sympathy" for Fitzgerald's position, but stated that, "[t]hough Fitzgerald undoubtedly deserves to be 'made whole' by his government, he may not recover interest in the absence of an explicit authorization. 'Additional remedies of this kind are for the Congress to provide and not for the courts to construct.'" *Fitzgerald* v. *Staats*, (D.C. Civil 76-2112, June 2, 1978), slip op. at 10 (citation omitted).

17. July 5, 1978.—After many months of discovery of White House documents, Fitzgerald filed a proposed second amended complaint adding Richard Nixon, Bryce Harlow and former Deputy Secretary of Defense David Packard as defendants to his damages action and noting that some injurious actions against him continue to the present date. Judge Gesell has not yet ruled on the motion for leave to amend the complaint.

Mr. PROXMIRE. Now, Mr. President, just what do we do about this unsolved problem? Are we going to let a fine civil servant continue to waste his talents by being shut up in a corner of the Pentagon with marginal responsibilities? If ever there was a situation that cried out for correction, this is it. And the current administration has no ax to grind. They should be able to look at the facts dispassionately and objectively.

I think it is time that Mr. Fitzgerald was offered another job more fitting to his talents. It appears clear that the Pentagon hierarchy is not going to restore him to his old level of responsibility. Therefore, I call on the President to find a post within the administration where Mr. Fitzgerald can once again serve the American taxpayer.

Mr. President, I ask unanimous consent that a recent newspaper article in the Washington Post pointing out the continuing difficulties of Mr. Fitzgerald be printed in the RECORD at this point.

(See exhibit 5.)

There being no objection, the article was ordered to be printed in the RECORD, as follows:

EXHIBIT No. 5

[From the Washington Post, November 27, 1977]

THE PERILS OF BEING A WHISTLEBLOWER

(By Greg Rushford)

Despite the lofty rhetoric, the syndrome of punishing those who expose waste and abuse is being repeated under the Carter administration—and against the same A. Ernest Fitzgerald who was fired in 1969 after revealing $2 billion in cost overruns associated with the Lockheed C5-A cargo plane.

Fitzgerald, who sued successfully to get back his job as civilian cost-cutting expert for the Air Force, certainly has not been encouraged to "save the government money." Working under many of the same people—including Defense Secretary Harold Brown—who were embarrassed by the C5-A affair, Fitzgerald has been shunted aside, given a $47,500 salary to do trivial work, kept away from big spending programs. The one new example of scandalous behavior he has helped bring to light—mismanagement of part of an $800 million logistics project that the Air Force pursued in defiance of Congress—has only resulted in making him more of a Pentagon pariah. He has been taken off even that project—which is still continuing, under a new name, not only in disregard of Congress order to end it, but also in the face of an Air Force recommendation that it be stopped.

So Fitzgerald now is suing the Civil Service Commission to make it enforce its 1973 directive that the Air Force restore him to his old job or one of equal responsibility; he currently is deputy for productivity, which he says "is my old deputy's job." And, faced with $400,000 in legal bills, he also is suing present and past government officials for $3.5 million for allegedly conspiring to ruin his career.

WORKING UNDER A CLOUD

If the Fitzgerald case proves anything, it is that Adm. Hyman Rickover was only too right when he said, "If you must sin, sin against God, not against the bureaucracy. God may forgive you, but the bureaucracy never will."

After the Civil Service Commission ruling, Fitzgerald reported back to work in October, 1973, to Assistant Air Force Secretary William Woodruff—and immediately learned that the old guard had not forgotten him, let alone forgiven him. Woodruff had worked on the Defense Appropriations subcommittee for Sen. Richard B. Russell of Georgia, the state where the C5-A was built. It was a phone call from Russell that originally prompted Brown—then Secretary of the Air Force—to chastise Fitzgerald for his November, 1968, testimony on the C5-A before Democratic Sen. William Proxmire's Joint Economic Committee.

According to Woodruff's notes on the 1973 meeting, subpoenaed in Fitzgerald's $3.5 million suit, Woodruff told Fitzgerald he could not "erase the clouds" hanging over the cost-cutter, adding: "You have to be aware that there are people who do not feel you were a good employee." Woodruff told Fitzgerald he would not be allowed near major weapons systems until he had demonstrated he intended to be a "good" employee. If Fitzgerald joined the team, Woodruff's notes continu they could have a "new relationship" an Fitzgerald would receive "fair treatment While he was proving himself, Fitzgera would report to Woodruff through his deput Thomas Moran.

Moran, Fitzgerald pointed out, had worke for Robert Moot, the Defense comptroll who had attempted to prevent Fitzgera from testifying before Sen. Proxmire ("Mo told me if I testified there would be 'blo on the floor,'" Fitzgerald states. "I didn realize it would be mine.") But this did n change Woodruff's mind.

In an interview, Woodruff said that would "stand by anything that is in notes," but added that the note don't me tion that when Fitzgerald returned anoth person "was doing his old work and doing perfectly well."

Instead of mending his ways, Fitzgera filed his Civil Service Commission suit a meanwhile went off to bureaucratic Siber Even from there, however, he managed discover strange doings.

PROJECT MAX

In early 1974, Fitzgerald began to analy a contract for a new computerized accoun ing system called "Project Max," which co $41 million, a modest sum by Pentagon stan ards. Project Max was part of the $800 milli Advanced Logistics System (ALS) the A Force wanted to install to keep track of aircraft repair program.

Fitzgerald found that Project Max d couraged high productivity. As he put it, was a program for "justifying costs rath than controlling them," similar to the o used in the Lockheed case.

Meanwhile, although $200 million alre had been spent on the overall logistics sy tem, it became apparent in 1975 that the sy tem would not work, and in December Co gress ordered it stopped.

The appropriations committees told t Air Force to prepare plans for a new syste and to keep them apprised of developmen No spending was authorized in the mea time unless "essential" to Air Force depo missions.

Just as Fitzgerald had fought against C5 overruns for several years inside the A Force, so he also kept his case against Pro ect Max within the system for more than t years, making recommendations to his s periors.

Then, last April, public revelations abo Project Max created a storm. A Washingt Post story, based on Air Force documents o tained by Reps. John Moss (D-Calif.) a Charles Rose (D-N.C.), disclosed that the A Force had continued to spend funds to d velop the $800 million logistics system whi Congress had "terminated." Development Project Max, the most visible part of the sy tem, had continued without approval nearly a year.

Among the documents that most anger Moss and Rose were notes written by M Gen. Robert I. Edge, who had told other Force officials, "I'm not overly concern about 'unapproved' work on Max." Ed who was responsible for Air Force compu policies, warned instead about misleading e planations being prepared for Congress suggest that what the service was worki on was really a new system.

His concern was not with the chairmen the Senate and House appropriations co mittees, John McClellan and George Mah "Unlikely that either chairman will re lengthy attachments or understand them they do," he wrote. But if the committ staffs took time to pour over the materi Edge warned, "stand by for further que tions." He pointed out that the new syste

sounded much like the old discredited one, and concluded with a question: "How much egg can we stand on our faces?"

History suggests the Pentagon has a remarkable capacity to attract egg to its face, and the Max affair splattered its share. Edge had to apologize publicly to the appropriations committees. He also said his quotation marks around the word "unapproved" meant that approval—albeit, questionable and belated—really had been given. It turned out that Project Max spending had continued without authorization until three days after the November, 1976, elections, when lame duck Air Force Secretary Thomas Reed finally had approved the outlays as "essential" to the Air Force depots mission.

But, using what a Pentagon study team called a "disturbing anomaly, the service considered "all system originally planned under the old ALS as now 'mission-essential.'" In other words, with Orwellian illogic the service merely defied Congress' decision to stop the old system.

The Air Force ultimately accepted Fitzgerald's criticisms of Max, but it did not send him any bouquets. He had not been a "good" employee. After struggling to persuade his superiors about Max, Fitzgerald acknowledges, he "cooperated" with congressional investigators by giving them the access to his files which they had requested. He also had been quoted publicly as saying the service's continued work on Max was "apparently illegal," that it was "pretty dark" to spend taxpayers'money in defiance of Congress.

Nor, astoundingly, has the service's own acceptance of Fitzgerald's criticisms—atop Congress' determination to stop the old system—prevented the Air Force from doing as it wishes. Although the Senate cut out funds for Max last summer, Gen. Charles Buckingham, Air Force comptroller, who was heading another group studying the Max issue, persuaded House conferees to insist on leaving in the money until his team completed its work. The Buckingham team did this last August—also recommending that Max be ended.

But, as Fitzgerald remarks, it has not been ended. Rather it has been given another name—the Actual Hour Accounting System—and spending is proceeding apace, Fitzgerald says. Fitzgerald refers to the Actual Hour Accounting System as "Son of Max," explaining that it "looks like Max, talks like Max, quacks like Max." It is based on the same idea of paying for whatever "actual" time is spent on a job, rather than setting reasonable standards for completing work. As Fitzgerald puts it, the Air Force is "sucking the bullet" rather than biting it.

WINNERS AND LOSERS

The lessons of all this, whether under the Nixon administration or a Carter administration that prides itself on management ability, seem evident. The cost-cutter ostracized rather than rewarded, while those embarrassed by his efforts prosper.

Harold Brown, put on the spot in 1968 by Fitzgerald's C5-A disclosures, has become head of a Pentagon that is still defying Congress on "Son of Max" spending. Former Air Force Secretary Reed, who, after a year of unauthorized spending on Max, approved the outlays right before leaving office, was called into the Carter White House by energy chief James Schlesinger to help fashion Carter's energy policies.

Gen. Hans Driessnack, who sent Congress the logistic system information which Gen. Edge warned was misleading—and who had started a secret 1969 investigation of Fitzgerald on conflict-of-interest grounds which both the Air Force and the Civil Service Commission deemed to be unfounded—has been promoted to Air Force budget director.

Arnold Bueter, who was deputy Air Force comptroller in 1968, sharing responsibility for, among other things, payment records to Lockheed on the C5-A, has been promoted to principal deputy assistant secretary of the Air Force for financial management. He is now Fitzgerald's immediate boss. That doesn't make for a comfortable relationship. In the book he wrote before his reinstatement, Fitzgerald accused Bueter of castigating him for trying to document suspicions about overpayments to Lockheed.

Today, according to Fitzgerald, Bueter not only has rejected Fitzgerald's recommendations to stop "unapproved" spending on Max, but has used a variety of ways, like "disinviting me to meetings, cutting me off from memo distributions, to isolate me from Max." Bueter, he says, still has refused to stop equipment purchases for "Son of Max" despite the Buckingham report recommendation that Max be terminated, regardless of what it is called.

In a telephone interview, Bueter said, "I have no disagreement with Fitzgerald, but, as Fitzgerald perfectly well knows, the office of the Secretary of Defense has published a handbook which has directed the purchase" of the computer equipment. "A team is being assembled to review this necessity," he added. Asked if he plans to reassign Fitzgerald to his old job of overseeing major weapons systems, Bueter said he knows of "no initiatives in that direction."

Fitzgerald says that he is not only blocked these days from projects like Max or from major weapons systems, but that he is the target of "an organized bad-mouthing campaign to keep me discredited and isolated."

As one modest example, he cites the experience of a CBS-TV crew that filmed Fitzgerald in his Pentagon attic office after the Max story broke. CBS producer Charles Thompson recalls with irritation "a lieutenant colonel from the Air Force information office who barged into Fitzgerald's office during the filming, although I had asked him not to when making arrangements the day before We even filmed this fellow taking notes of our interview."

What was in the notes became clearer later. In the course of his lawsuit for damages, Fitzgerald discovered a memorandum on his CBS interview written to Gen. Harry J. Dalton Jr., the Air Force information chief. The memo reported Fitzgerald had told CBS that "both administrations (Ford and Carter) hope that I am an example that you can't get away with telling the truth."

Not true, says producer Thompson. "Fitzgerald said he had great hopes for the Carter administration, despite the fact the last two administrations—and he clearly meant Ford's and Nixon's, not Carters and Ford's—had tried to make an example of him. Don't you think [CBS reporter] Bruce Morton and I are competent enough reporters to pick up on a Fitzgerald attack on Carter?"

When asked about this, the lieutenant colonel, Terry Hemeyer, said he had entered Fitzgerald's office with the CBS crew "to be helpful" and said the film crew "did not ask me to leave, and I would have left the room had I been asked. I couldn't have taken notes because I didn't even have a piece of paper and a pencil with me." When informed the CBS crew had filmed him taking notes, Hemeyer said, "Oh." Then he added, "I don't recall, but regret any inaccuracies" that may have appeared in the memorandum.

VIEW FROM THE WHITE HOUSE

Fitzgerald's hopes for the Carter administration so far appear to be unfounded. The Carter White House has either been unwilling or incapable of doing anything about what is happening in the Pentagon, regardless of rhetoric about rewarding cost-cutters and improving federal management.

A written request to the White House for documents relating to any consideration given to Fitzgerald has gone unanswered since Sept 1.

Last February, Sen. James Abourezk (D-S.D.) wrote to President Carter to complain about the Air Force handling of testimony he requested from Fitzgerald on productivity in the Military Airlift Command. When Abourezk asked the Air Force to make Fitzgerald available as a witness, Gen. Charles C. Blanton, Air Force congressional liaison director, responded that Fitzgerald could represent himself—but not the Air Force. When Abourezk complained to the White House, Frank Moore, Carter's liaison with Congress, replied with a non-response. "In addition to the President knowing of your views, I am taking the liberty of forwarding a copy of your letter to Harold Brown so he will know of the particular problem your subcommittee encountered."

White House speechwriter James Fallows would say only that, after learning of Fitzgerald's current predicament, "I sent a memo with some recommendations to some people on the personnel side here." He added that he has received no response.

White House press official James Purks, after checking on how the White House planned to handle the Fitzgerald situation, reported what he termed "moderate success" in his quest: "I can tell you we are awaiting anxiously for the Civil Service Commission to come back to us with a program to protect whistle blowers." Asked for the current White House attitude toward Carter's campaign statement on Fitzgerald, Purks replied, "But in that statement we didn't say we'd intervene."

FREE ENTERPRISE, TAXES AND INVESTMENT

Mr. PERCY. Mr. President, back in April the Senate approved Senate Joint Resolution 128, calling on the President to proclaim July 1, 1978, as "Free Enterprise Day." The House of Representatives subsequently approved the same resolution and the President signed it, but the special day was unfortunately largely ignored throughout the country.

California voters, however, unwittingly put real meaning into that day when they passed proposition 13, for the effective date of the tax-cutting measure was also July 1. And the message California taxpayers were sending to their government representatives was that they preferred economic growth to the government's reallocation of income in a stagnant economy.

It was accidental that these 2 days coincided as they did but it is fortunate that this point has been reemphasized in this way. The message of proposition 13 needs to be understood by public officials not only in California but throughout the country. Tax cuts that encourage growth—free enterprise if you will—are seen as essential to our own national economic health. Lying at the base of this sentiment is the commitment that individuals and businesses can better determine economic priorities than can the Government.

The California "tax revolt" is a departure from many of the actions of government over the past decade. On the Federal level, one of the most economically detrimental tax code changes occurred in 1969 when the Tax Reform Act increased the maximum tax on capital gains to nearly 50 percent. The effect of this tax increase has been to dry up capital needed for the creation of new firms. It has also meant that established firms have had to turn increasingly to the capital markets to finance expansions that, before 1969, could have been financed through sales of stock.

It is regrettable that the President has not acknowledged this shortage of capital and the direct relationship between the capital gains tax, economic growth, and job creation. On June 26 at his press conference, President Carter said:

> The American people want tax relief from the heavy burden of taxation on their shoulders. But neither they nor I will tolerate a plan that provides huge tax windfalls for millionaires and two bits for the average American.

Following this press conference, I wrote President Carter urging him to reconsider his implied veto threat. I view the capital gains tax cut as essential to our long term recovery. A partial cut will not do. We should reduce the tax to a maximum rate of 25 percent, beyond what the House of Representatives has already accepted, and as the original Steiger and Hansen bills proposed. I ask unanimous consent to print the text of my letter at the close of these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PERCY. Mr. President, since the President made his June 26 statement, there has been evidence that the White House is willing to accept a cut in the taxation of capital gains. For example, on July 20, President Carter stated:

> I will have to wait until the final tax package is placed on my desk after it has been considered and complete action from both Houses of Congress is concluded. At that time, I will decide whether or not that tax bill is in the best interests of our country. If it is not, I will veto it.

Mr. President, this last statement is a far cry from the rigid position President Carter took in June and I commend him for his apparent recognition that there is a great deal of merit in enacting a capital gains tax cut. Such a tax cut will benefit all Americans in the long run because it will give us a sounder economy and will lower the rate of inflation. If enacted in conjunction with other investment tax incentives—like a reduction in the maximum corporate tax rate, a permanent investment tax credit, a full investment credit for pollution control facilities and a tax reduction for middle income taxpayers—it will invigorate the economy and strengthen the hand of free enterprise. In short, Mr. President, these cuts will, like proposition 13 before it, give meaning to the oft-used phrase "free enterprise."

EXHIBIT 1

U.S. SENATE,
Washington, D.C., June 30, 1978.

The PRESIDENT,
The White House,
Washington, D.C. 20522

DEAR MR. PRESIDENT: I want to share my thoughts with you about the vital domestic issues of inflation, taxation and legislation to stimulate investment through lowering the taxation of capital gains and other measures. The proposals, introduced by Rep. William Steiger in the House and Senator Clifford Hansen in the Senate, would set the taxation of capital gains at the same level as in 1969.

I strongly support passage of this measure and urge you to reconsider your position and lend your offices to help move the bill through Congress.

I think that as former businessmen, we both appreciate the importance of capital formation in starting new companies and in employing workers in the private sector. When I joined Bell & Howell in 1938, it was a small company of less than a thousand workers and it would probably still be one today if we had not had access to venture capital markets. There was always a great deal of competition for that capital, but there was a plentiful supply of it then. Before I left the company, our U.S. employment increased to more than 10,000. Now, there is a serious scarcity of the type of money that helped us get off the ground.

Perhaps it would be helpful if I used just one specific case. A company in Chicago today has encountered a great deal of trouble in raising capital for new firms. Heizer Corp. is a business development company that helps get new businesses on their feet and then stays with them until they are stable. They have found that the 1969 tax change has virtually dried up investor interest in financing new companies. A small computer firm which they were helping actually had to go to Japanese and West German investors recently because no American investors would participate. The new firm, an IBM competitor, has highly capable executives but investors preferred other approaches to heavily-taxed capital investment.

This case does not appear to be unique. The Securities Industry Association certifies that in 1969, companies with net worth under $5 million made 548 stock offerings totaling $1.5 billion. Six years later, though, only four such offerings were made and they raised a total of only $16 million. Clearly something is seriously wrong.

The Small Business Administration is alarmed about this and, in a January, 1977 report, expressed that concern:

> "In the face of clearly emerging needs and the documented benefits to the United States economy, a set of impediments have developed that are preventing smaller businesses from attracting the capital without which they cannot perform their traditional function of infusing innovation and new competition into the economy . . . A public policy that discourages the public from investing $1 billion a year of its savings in economic innovation, growth and the creation of jobs while it encourages the public to risk $17 billion a year in Government-sponsored lotteries, requires close and serious reexamination."

Larger businesses have also felt this capital pinch and many—especially those with low profits to earnings ratios—have been forced to go into debt to finance their own expansions. The consequence has been additional pressure on interest rates, bidding them up out of the reach of some small businesses and making government financing far more expensive than ever before.

Most of our major trading partners—and especially our two greatest competitors, Germany and Japan—do not even tax capital gains on portfolio investment. The individual savings rate is also higher in these two countries. Japanese save at triple the rate of Americans and the West Germans save at more than twice our pace. Of all the major industrial countries, the U.S. put the smallest percentage of GNP back into manufacturing capacity between 1965 and 1976. The country next in line was England, hardly a model for investment strategy.

During the time that our venture and investment capital has been drying up, the Federal Government entered into a new phase of regulation of the economy. These effects have been most evident in the environmental and safety areas and, according to the Council on Environmental Quality, private capital outlays for pollution abatement were $3.8 billion higher in 1975 than th would have been in the absence of the Fe eral requirements. Similar estimates of a nual costs to business have been made safety and health regulations, non-produ tive capital investment requirements exce ing 28% in many industries.

Many of these regulations protect a safeguard the consumer and worker and have supported these when they were bef Congress. The Federal Government m recognize the economic costs of these investments, however, and act to make s that we do not lose our ability to gener a growing economy.

The effect of a capital shortage is seen in our productivity rate, which, cording to your 1978 Economic Report, dropped from annual increases of ab 2½% between 1950–1968 to about 1½ over the past decade. As you know so productivity and investment are closely lated and when our productivity begin sag, inflationary pressures are increased.

Government estimates of the costs of Steiger-Hansen proposal have failed to into account the economic changes would spin off from the tax change. A m prepared by Data Resources, Inc. and be on the passage of the proposal, forecast startling increase of $100 billion in GNP tween 1979 and 1983 (The firm's predict show increases over the Treasury's own timates). Investment itself would of co rise—by an estimated $46 billion—bec the proposal encourages the realization capital gains. The subsequent rise in stock market will lower the cost of obt ing funds through equity financing, leaving more for actual investment. found the employment effects of this vigorated economic activity to be pa ularly encouraging: in 1982, 520,000 jobs would be created over what the Trea predicts for that year. Finally, and f our standpoint an important considerat Federal revenues would actually incre By 1983, revenues would have jumped $12.3 billion.

This would undoubtedly be made up part by increased revenues from the ca gains tax. As you know, these revenues precipitously in 1970, after the present was enacted, and have only just reco their 1969 level, albeit in inflation dolla

The experience of the company previo mentioned proves that this model is on right track. Since 1969, they have helpe companies get started, with an initial vestment of $80 million. The results of investment are truly impressive. The sales of these 24 firms exceed $1 billion their pre-tax profits stand at $152 mil These businesses contribute annually million in taxes to the Federal Governm alone. As of March, they employed 20 workers. All of this has been costly, how as the investment required to create a permanent job is over $13,000. It was tunate that Heizer obtained its initial ca prior to 1969. It would be virtually im sible to accumulate that type of investi capital today, due in large part to the fiscatory nature of our tax laws.

Those tax laws have turned many A icans away from investing and have pena middle income families who sell their ho According to the Treasury Department two largest items accounting for ca gains are stocks and bonds and the sa residences. What is more, in 1976, 62 cent of total net capital gains were rea by taxpayers with less than $50,000 inc A revitalization of the stock market benefit all investors, regardless of incom

Since the 1969 change in the treatme capital gains, the number of stockho has dropped steadily so that today Americans do not hold the types of in ments that will ultimately yield ca

gains. In fact, the number of stockholders has dropped from 31 million in 1969 to 25 million today. Despite this decline, the overwhelming majority of stockholders are not what we would ordinarily consider wealthy.

In 1975, nearly three-quarters of individual stockholders earned less than $25,000 a year. In the past decade, the number of institutional investors has increased dramatically to the point that they now account for over one-third of all stock investors. Although these are big investors, they often represent moderate income Americans in the form of pension and profit-sharing plans and stock option programs. These are the people who ultimately benefit from increased investments and we should be aware than Federal tax policy discriminates against them in the long-run.

The Council on Wage and Price Stability reported, this spring that "inflation in the housing sector has been a persistent problem over the past few years and is unlikely to dissipate wholly in the near future." Rising housing prices and interest rates have put a strain on would-be homebuyers, but the present capital gains tax has put the bite on existing homeowners who may want to sell their home and move into a smaller house or apartment. The average price of an existing home has skyrocketed from just over $22,000 in 1968 to nearly $54,000 today. A family that bought ten years ago and sells their home today could realize tens of thousands in one-time capital gains, even if they were low or middle income. A simple change in tax policy will help these homeowners immensely.

You have properly focused the nation's attention in recent months on the problems of inflation. I support your efforts in this direction but feel that one of the strongest weapons we have against spiraling wages and prices is investment which leads to increases in our productivity. It lies at the heart of solving inflation and I feel the passage of this provision, together with other investment tax incentives like a reduction in the maximum corporate tax rate, a permanent investment tax credit, a full investment credit for pollution control facilities and a tax reduction for middle income taxpayers, is essential to the nation's economic health.

I would like to urge you again to give full consideration to supporting these important economic steps toward a sound economy. I look forward to working with you and your economic advisors in this program that can improve the economic well-being of every American in a relatively short time.

Sincerely,

CHARLES H. PERCY,
United States Senator.

CIVIL SERVICE REFORM

Mr. STEVENS. Mr. President, Senator MATHIAS and I have recommended changes to the President's civil service reform proposal during the last several months. Although some of these proposals were accepted by the Senate Governmental Affairs Committee, there are significant improvements which should be made on the Senate floor. Senator MATHIAS mentioned some ideas in a recent speech at the annual convention of the American Federation of Government Employees in Chicago. I believe his comments are important to all personnel in the civil service and I ask that his complete speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

THE DANGERS OF PROPOSITION 13 FEVER

(By Senator CHARLES McC. MATHIAS, Jr.)

I'm delighted to be here for the Annual Convention of the American Federation of Government Employees. As many of you know, I have a special place in my heart for federal workers. And for good reason. I think I have probably represented more federal employees for a longer time than any other member of the Congress.

Naturally then, I am concerned when the capabilities and the dedication of federal workers come under attack. And regrettably today there is a tendency to transform legitimate complaints about government regulation and waste into an indictment of the federal worker. This is as unfair as it is unsound.

But resounding through the corridors of the Capitol and across the land is the insistent chant of "Proposition 13." And a lot of people are swaying to its beat.

As you all know, Proposition 13 is a product of California's referendum system that gives voters a chance to express their views on various policy issues. Proposition 13 itself provides for a rollback of the real estate tax rate in California that will put pressure on government, at the state, county and local levels, to reduce costs. Its repercussions, however, go far beyond California.

When the voters of California opted for Proposition 13, they fired a modern day "shot heard round the world." Embattled taxpayers pricked up their ears and so did their representatives in the Congress.

Proposition 13 dramatizes a fact that has been apparent for some time now: taxpayers, faced by mounting inflation, are less and less willing to surrender their tax dollars. Last year Louis Harris and Assocites asked a group of taxpayers this question:

As far as you (and your family) are concerned do you feel you have reached the breaking point on the amount of taxes you pay?

The response was an overwhelming "Yes."

Seventy-two percent of those polled said they'd reached the end of their rope on taxes. Since then inflation has gotten worse and so has the situation. Proposition 13 may not actually herald a nationwide taxpayer revolt, but it's a clear danger signal. And members of Congress aren't going to ignore its implications.

As former Senator Norris Cotton used to say: "The boys are in such a mood that if someone introduced the Ten Commandments, they'd cut them down to eight."

I am as economy-minded as any of my colleagues, I think. Being careful with money is an inescapable state of mind for almost anyone who grew up during the Depression as I did. But I think we have to use some judgment about where and how we economize. If Proposition 13 fever leads to curtailing federal waste and upgrading federal efficiency, then I'm all for it. But if its brunt falls on the shoulders of government workers, if it means pay cuts and job cuts, if it translates into "last on, first off", then I think we'd better take another look at it.

It is simply unfair to use the argument of government inefficiency as an excuse to run roughshod over the basic rights of federal employees. But I'm afraid the trend is in that direction. Anti-government sentiment has been exploited to justify civil service reforms that jeopardize federal workers' rights and to put an unjust pay cap on federal workers' salaries. I am very concerned about both of these developments.

I don't quibble with the fact that the federal government is ripe for a major overhaul. But there's a right way and a wrong way to go about it. We had a great Marylander named H. L. Mencken who said that "for every problem there is a solution that is simple, easy and wrong." That is the kind of solution we want to avoid in responding to pressure for government economy.

Back in 1949, the first Hoover Commission found that:

. . . (t)he United States is paying heavily for a lack of order, a lack of clear lines of authority and responsibility, and a lack of effective organization in the executive branch. . . . We must reorganize the executive branch to give it the simplicity of structure, the unity of purpose and the clear line of executive authority that was originally intended under the Constitution.

To his credit, President Carter has recognized the need. But, in my opinion, many of the changes he proposes to make would endanger the impartiality of the civil service and hang a sword of Damocles over the head of every civil servant in the executive branch.

When the President announced his civil service reforms, he talked a lot about how difficult it is, under present law, to fire inadequate civil servants. In the name of reform, he went out of his way to create the most negative possible image of the civil servant.

In the process, President Carter's fancies outdistanced his facts. For example, he complained that in 1976 only 226 out of more than two million federal employees had been fired for incompetence and inefficiency. He said his plan would make it easier to prune the dead wood in the bureaucracy.

A couple of weeks later, thanks to some good investigative reporting by the *Washington Star*, Presidential Press Secretary Jody Powell had to recant for his boss. Powell acknowledged that the President's figure on firings had been way off the mark. In fact, there had been upwards of 17,000 dismissals for cause in 1976, said Powell, not just 226.

The President, it seems, "mis-spoke" a mouthful. And I can only wonder why, and worry about what motivated him to be so reckless with the image of the federal worker.

With all of this criticism of the Civil Service System, the pressure on the Congress to acquiesce in all the President's proposals has grown. To the extent that this campaign forces us to see and correct the flaws in our Civil Service System, it is healthy and I welcome it. But, to the extent that it stampedes us into hasty judgments that would prejudice basic job protections and legitimate employee rights, it is unhealthy and dangerous.

I've made no secret of my misgivings about the President's reform proposals and I'm not going to go into that in any detail. But I would like to say a few words about how this wave of anti-federal government feeling has made its way into the Senate.

When the Governmental Affairs Committee was considering the President's Civil Service Reform legislation, I asked the Committee to consider several changes in the bill—changes very like those recommended by AFGE. These included: the right of federal employees to have a hearing on the record before being taken off the payroll; placing the burden of proof on agencies in adverse action cases; applying basic elements of due process to the handling of career civil servants; awarding attorneys' fees to the prevailing party in adverse action cases; and the retention of grade and pay in reclassification and reduction in force cases.

Of all these proposed changes, only one—shifting the burden of proof on agencies—was incorporated into the legislation in Committee. None of my suggestions was radical or even new. But the temper of the Senate seems to be that anyone advocating even

these basic protections is simply soft on bureaucrats.

This attitude is dangerous. No one disputes that reform is necessary. But reform that smacks of a witch-hunt is worse than no reform at all. As a friend of mine remarked, "When Dr. Samuel Johnson said that 'patriotism was the last refuge of a scoundrel', he hadn't heard of reform."

Something that astounded me during the Committee's consideration of the "whistle-blower" provisions of the bill was the Administration's apparent disregard of the employee's First Amendment rights. You may recall that this section provides protections to employees who expose illegalities or gross waste or mismanagement. Well, the Administration actually proposed that no protection be provided if an employee goes public within six months of his initial disclosure to a Specal Counsel. This provision would effectively silence the employee for the six-month period. Fortunately, Senator Muriel Humphrey and I did succeed in persuading the Committee to delete this section that was designed to place a "chilling effect" upon the employee's right of free speech.

The Civil Service Reform bill will be considered by the full Senate within the next several weeks. I have introduced amendments to the bill designed to protect the basic rights of federal employees which are inadequately safeguarded as the legislation now stands. I hope that I will be able to persuade my colleagues in the Senate that the protections I seek for federal workers will not infringe management's prerogatives, but rather will enhance the civil service by insuring that it can attract and keep the best talent available. I hope I will have your support in this.

I am equally disturbed by the pay cap and I voted against its extension to blue-collar workers. It seems to me the President and the Congress are guilty of forcing federal employees to bear the burden of the country's inflation problem unassisted.

In April when President Carter announced his plan to take the lead in breaking the wage-price spiral by holding federal pay increases to 5.5 percent, he simply turned his back on the comparability process. Instead, he decided to make federal workers the shock troops in the battle against inflaton. That might be all right if there were any reinforcements in sight. But I've scanned the horizon and as far as I can see the President's voluntary program of restraint in private sector wage adjustments hasn't even got any recruits.

Most principal settlements in the private sector have exceeded the 5.5 percent cap. The second quarter inflation rate, according to the Consumer Price Index, now stands at 11.4 percent. The short-term federal interest rate just climbed from 6.8 to 7.3. Before the end of the year it is expected to rise an additional percentage point. Home mortgage rates are at a whopping 9.4 percent and going up. Most private concerns are reporting record profits this year, but so far they've only given a polite nod to the voluntary program. Mr. Carter's example is just not working out.

To add insult to injury, in June the Senate extended the 5.5 percent pay cap to the federal blue-collar work force as well—which brings us back to the unfortunate side effects of Proposition 13.

Only 21 Senators voted against the pay cap. As I said, I was one of them and I don't regret my vote a single bit. What I do regret is that people either can't understand, or don't want to understand, that by holding the federal pay increase to 5.5 percent the President and the Congress are actually forcing federal workers to take a cut in pay. With inflation topping 11 percent, there's just no other way to read the situation.

One thing is certain: if we continue to take advantage of Federal workers; if we continue to expect them to make sacrifices for the public good; if we continue to heap abuse on their heads and if we persist in shortchanging them in relationship to the private sector, then pretty soon we simply won't be able to attract firstrate talent into government service as we have in the past.

And, when that day comes, all the reforms in the world won't amount to a hill of beans because there won't be anyone left in government with enough sense to carry them out.

In 1955, in the final days of the second Hoover Commission on Civil Service Reform, the late Herbert Hoover gave an interview in which he summed up his feelings about government. This is what he said:

Government cannot be any better than the men and women who make it function. Our greatest problem is to get the kind of men and women the government needs and to keep them in government . . .

We must make civil service so attractive, so secure, so free from frustrations, so dignified, that the right kind of men and women will make it a career. Then we can have the kind of government that the United States needs and should have.

To that I say, Amen.

We need efficient effective government. But we aren't going to get it by shortchanging the men and women who have devoted their lives to federal service. I vow to do all I can to reverse the trend of making a scapegoat of the Federal employee. I look forward to working with you in this effort.

AUTHORIZATION FOR TECHNICAL AND CLERICAL CORRECTIONS—S. 3375

Mr. STEVENS. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 3375.

The PRESIDING OFFICER. Without objection, it is so ordered.

CIVIL SERVICE REFORM ACT

Mr. PERCY. Mr. President, while the majority leader is on the floor and so is the distinguished acting minority leader, because the Senator from Illinois wishes to protect every right of the distinguished Senator from Alaska, who has been extremely cooperative in moving us forward so that we could bring the Civil Service Reform Act to the floor, I should like to ask the majority leader what the proposed schedule might now be for civil service reform so a number of Senators involved in it can plan on being present. It is the understanding of the Senator from Illinois that the Senator from Alaska would prefer to have this legislation taken up around the 11th of September. Is that correct?

Mr. STEVENS. Yes. I have sent a letter to the distinguished majority leader and minority leader, pointing out that the days of the 7th, 8th, and 9th are involved in my State convention. I intend to be absent and I have a series of amendments, some of which have been agre to and some of which have not. Thou I am perfectly willing to enter into a ti agreement, I hope the matter will not completely disposed of on the days of absence. I shall return on the 11th.

Mr. PERCY. For the information of t majority leader, the Senator from Illin has a problem with the 11th in that he addressing the State convention of t AFL-CIO and will not be returning un late that afternoon, on the 11th. T Senator from Illinois will be prepared go ahead on the 12th, or will work it o with the chairman of the committee the floor manager of the bill (M RIBICOFF) to do it earlier if possible should like general advice from the m jority leader as to when the major leader feels we might aim for this. I kn that he is anxious to move this forw expeditiously, taking into account t there are a number of Senators who h indicated an interest in the legislat and that it is a high priority item.

Mr. ROBERT C. BYRD. I am glad have the information that both the S ator from Alaska and the Senator fr Illinois have entered into the RECORD to their own personal situations. I can give the Senators any statement at t time as to when the legislation will taken up before the Senate. The d which he has mentioned—to wit, 1 12th, 13th, and so on—are dates w I anticipate the Senate will have bef it the natural gas conference rep which is a highly privileged matter on which there will be some exten debate. I want that out so that the S ate will know it will not be an easy ma to schedule civil service reform at t particular point.

I am very eager to schedule the m ure and want to dispose of it, but I h to point to the problem involved in gas bill.

Mr. PERCY. I thank the distingu majority leader.

ORDER TO RECESS UNTIL 9:30 A TOMORROW

Mr. ROBERT C. BYRD. Mr. Presid I ask unanimous consent that when Senate completes its business today stand in recess until the hour of 9 a.m. tomorrow morning.

The PRESIDING OFFICER. Wit objection, it is so ordered.

SPECIAL ORDER FOR TOMORR

Mr. ROBERT C. BYRD. Mr. Presid I ask unanimous consent that on morrow morning, after the two lea have been recognized under the st ing order, Senator PROXMIRE be re nized for not to exceed 15 minutes, a which the Senate will resume its con eration of the Elementary and Sec ary Education Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD, Mr. President, under the order previously entered, Mr. DOMENICI is to be recognized in the morning after opening statements to call up his amendments. On disposition of his amendments and other amendments, the Senate, no later than 2 p.m., will proceed to the consideration of certain bills that have been reported from the Committee on Finance.

Mr. President, I ask unanimous consent that I may be authorized at any time on tomorrow to proceed to the consideration of either the Elementary and Secondary Education Act or the CETA bill, or, at any time prior to the final disposition of any of the bills that have been reported out of the Finance Committee.

Mr. STEVENS. Reserving the right to object, it is my understanding that S. 1753 is the pending business. Is that not correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Is the distinguished majority leader asking for consent to set that aside for any other finance bill on the Calendar?

Mr. ROBERT C. BYRD. It will be set aside at 2 p.m. tomorrow for any of those finance bills. I can perceive a possible situation in which action could be completed on that bill, say, at 2:30 p.m.; or I can conceive of the possibility that once the Senate gets on one of those finance bills, it could get stalled. In that event, if the matter would be impossible of resolution in a reasonably short time, I should like the authority to go back to the Elementary and Secondary Education Act and/or CETA before the week is out so the Senate can complete action on those two bills this week.

Mr. STEVENS. Reserving the right to object again, I certainly do not object to those two matters. I wonder if the majority leader can tell us which of the Finance Committee bills on the calendar he refers to in connection with this consent agreement?

Mr. ROBERT C. BYRD. Yes; the consent order has already been entered for the following Calendar Orders Nos. 721, 728, 849, 1024, 1025, 1032, and 1034, to be called up tomorrow.

Mr. STEVENS. Mr. President, the distinguished majority leader does not seek to expand that list with reference to the Finance Committee bills on the calendar?

Mr. ROBERT C. BYRD. Not at all.

Mr. STEVENS. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the distinguished acting Republican leader. I do not anticipate having to use this authority. It is just to be used in the event the Senate should get stalled on one of those Finance Committee bills. I hope that, in that event, the Senate could complete action on the Elementary and Secondary Education Act and the CETA bill this week.

RECESS UNTIL TOMORROW AT 9:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, I should like to have the Chair, which is presently being honored by the distinguished Senator from Arkansas, recess the Senate.

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 9:30 a.m. tomorrow morning.

Whereupon, at 7:39 p.m. the Senate recessed until tomorrow, August 23, 1978, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate August 22, 1978:

DEPARTMENT OF STATE

William H. Luers, of Illinois, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Venezuela.

CONFIRMATIONS

Executive nominations confirmed by the Senate August 22, 1978:

DEPARTMENT OF JUSTICE

William E. Pitt, of Utah, to be U.S. marshal for the district of Utah for the term of 4 years.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility, designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Hans Helmuth Driessnack, 064-22-2830, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Lloyd Richardson Leavitt, Jr., 375-26-8215, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Winfield Wayne Scott, Jr., 230-24-1597, U.S. Air Force.

Lt. Gen. John P. Flynn, U.S. Air Force (age 55), for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

Lt. Gen. Lee M. Paschall, U.S. Air Force (age 56), for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

Gen. William J. Evans, U.S. Air Force (age 54), for appointment to the grade of general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designed by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Eugene Priest Forrester, 410-64-1272, U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be general

Lt. Gen. Robert Morin Shoemaker, 364-28-5085, Army of the United States (major general, U.S. Army).

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. John Adams Wickham, Jr., 092-20-1086, Army of the United States (brigadier general, U.S. Army).

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designed by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Robert George Yerks, 081-32-6760, Army of the United States (brigadier general, U.S. Army).

Maj. Gen. La Vern E. Weber, 445-16-9508, Army National Guard of the United States, to be reappointed as Chief, National Guard Bureau, for a period of 4 years beginning August 16, 1978, under the provisions of section 3015, title 10 United States Code.

The following-named officers for appointment in the Regular Army of the United States to the grade indicated, under the provisions of title 10, United States Code, sections 3284 and 3306:

To be brigadier general

Brig. Gen. James M. Thompson, 519-16-9499, Army of the United States (colonel, U.S. Army).

Brig. Gen. Clyde W. Spence, Jr., 260-32-1269, Army of the United States (colonel, U.S. Army).

Brig. Gen. Grayson D. Tate, Jr., 525-44-0510, Army of the United States (colonel, U.S. Army).

Brig. Gen. Mary E. Clarke, 114-14-9578, Army of the United States (colonel, U.S. Army).

Brig. Gen. James C. Pennington, 260-20-2733, Army of the United States (colonel, U.S. Army).

Brig. Gen. Edward B. Atkeson, 224-52-6595, Army of the United States (colonel, U.S. Army).

Brig. Gen. Robert W. Sennewald, 492-22-4165, Army of the United States (colonel, U.S. Army).

Maj. Gen. Thomas P. Lynch, 469-16-5323, Army of the United States (colonel, U.S. Army).

Maj. Gen. Harold F. Hardin, Jr., 492-26-5666, Army of the United States (colonel, U.S. Army).

Maj. Gen. James F. Cochran III, 267-40-5716, Army of the United States (colonel, U.S. Army).

Brig. Gen. Thomas D. Ayers, 420-24-5190, Army of the United States (colonel, U.S Army).

Brig. Gen. Walter F. Ulmer, Jr., 007-20-4378, Army of the United States (colonel, U.S. Army).

Brig. Gen. Richard X. Larkin, 505-28-6229, Army of the United States (colonel, U.S. Army).

Brig. Gen. Robert L. Wetzel, 519-44-2999, Army of the United States (colonel, U.S. Army).

Maj. Gen. Joseph N. Jaggers, Jr., 448-24-0752, Army of the United States (colonel, U.S. Army).

Brig. Gen. Edmund R. Thompson, 579-40-7802, Army of the United States (colonel, U.S. Army).

Brig. Gen. Frank P. Ragano, 211-14-5427, Army of the United States (colonel, U.S. Army).

Maj. Gen. William J. Livsey, Jr., 256-44-8751, Army of the United States (colonel, U.S. Army).

Maj. Gen. Alan A. Nord, 503-24-3774, Army of the United States (colonel, U.S. Army).

Brig. Gen. Robert C. Gaskill, 224-2389, Army of the United States (colonel, U.S. Army).

Brig. Gen. Elton J. Delaune, Jr., 434-38-5898, Army of the United States (colonel, U.S. Army).

Brig. Gen. Robert L. Moore, 223-40-5576, Army of the United States (colonel, U.S. Army).

Brig. Gen. Robert B. Solomon, 216-28-7812, Army of the United States (colonel, U.S. Army).

Brig. Gen. David K. Doyle, 578-40-4691, Army of the United States (colonel, U.S. Army).

The following-named officers for temporary appointment in the Army of the United States to the grade indicated under the provisions of title 10, United States Code, sections 3442 and 3447:

To be major general

Brig. Gen. Thomas D. Ayers, 420-24-5190, Army of the United States (colonel, U.S. Army).

Brig. Gen. Walter F. Ulmer, Jr., 007-20-4378, Army of the United States (colonel, U.S. Army).

Brig. Gen. Robert L. Wetzel, 519-44-2999, Army of the United States (colonel, U.S. Army).

Brig. Gen. Jerry R. Curry, 165-22-9599, Army of the United States (colonel, U.S. Army).

Brig. Gen. Elton J. Delaune, Jr., 434-38-5899, Army of the United States (colonel, U.S. Army).

Brig. Gen. Fred K. Mahaffey, 525-70-4649, Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. Robert B. Solomon, 216-28-6712, Army of the United States (colonel, U.S. Army).

Brig. Gen. John D. Bruen, 359-22-6681, Army of the United States (colonel, U.S. Army).

Brig. Gen. Robert W. Sennewald, 492-22-4165, Army of the United States (colonel, U.S. Army).

Brig. Gen. Richard X Larkin, 505-28-6229, Army of the United States (colonel, U.S. Army).

Brig. Gen. Joseph T. Palastra, Jr., 576-28-7763, Army of the United States (colonel, U.S. Army).

Brig. Gen. Mary E. Clarke, 114-14-9578, Army of the United States (colonel, U.S. Army).

Brig. Gen. Edward B. Atkeson, 224-52-6595, Army of the United States (colonel, U.S. Army).

Brig. Gen. Elvin R. Heiberg III, 081-32-3110, Army of the United States (colonel, U.S. Army).

Brig. Gen. Richard D. Lawrence, 452-44-8487, Army of the United States (colonel, U.S. Army).

Brig. Gen. Grayson D. Tate, Jr., 525-44-0510, Army of the United States (colonel, U.S. Army).

Brig. Gen. Clyde W. Spence, Jr., 260-32-1269, Army of the United States (colonel, U.S. Army).

Brig. Gen. James C. Pennington, 260-20-2733, Army of the United States (colonel, U.S. Army).

Brig. Gen. Robert L. Moore, 223-40-5576, Army of the United States (colonel, U.S. Army).

Brig. Gen. Howard F. Stone, 447-32-5655, Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. James J. Lindsay, 391-26-8187, Army of the United States (colonel, U.S. Army).

Brig. Gen. John C. Bard, 369-26-5010, Army of the United States (colonel, U.S. Army).

Brig. Gen. Richard D. Boyle, 036-20-3100, Army of the United States (colonel, U.S. Army).

Brig. Gen. Robert C. Gaskill, 224-32-2389, Army of the United States (colonel, U.S. Army).

Brig. Gen. David K. Doyle, 578-40-4691, Army of the United States (colonel, U.S. Army).

Brig. Gen. James M. Thompson, 519-16-9499, Army of the United States (colonel, U.S. Army).

Brig. Gen. Frank P. Ragano, 211-14-5427, Army of the United States (colonel, U.S. Army).

The following-named Army National Guard of the United States officer for appointment to the grade of major general as a Reserve commissioned officer of the Army and to the grade of major general, Army of the United States, under the provision of title 10, United States Code, sections 593a, 3385, 3442, and 3447:

To be major general

Brig. Gen. Emmett Hudson Walker, Jr., 427-28-9186.

The U.S. Army Reserve officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a), 3371, and 3384:

To be major general

Brig. Gen. Forrest Anderson Abbott, 249-32-6152.

Brig. Gen. Wilbur James Bunting, 144-24-5512.

Brig. Gen. John Quill Taylor King, 415-10-1505.

Brig. Gen. Robert Lorenzo Lane, 008-14-2523.

Brig. Gen. Frederick Hebel Lawson, 35
14-8787.

Brig. Gen. Thomas Lee Merrill, 260-2
8135.

Brig. Gen. Harry Hart Treadaway, 245-2
9055.

To be brigadier general

Col. Louis Holmes Ginn III, 224-52-49
Col. James Paul Harley, 101-20-7646.
Col. Daniel Bruce Johnson, 722-12-155
Col. Angelo David Juarez, 348-22-1697.
Col. Donald Edward Lehman, 536-16-45
Col. William Barton Merryman, 295-1
4096.
Col. Harley Lester Pickens, 083-20-150
Col. Theodore R. Sadler, Jr., 517-30-73
Col. Manila Grant Shaver, 546-34-5276.
Col. Charles Morris Sirhal, 365-28-8124.

The Army National Guard of the Unit States officers named herein for appointme as Reserve commissioned officers of the Arm under the provisions of title 10, Unit States Code, sections 503(a) and 3385:

To be major general

Brig. Gen. Robert Darrell Wellver, 309-1
4714.

To be brigadier general

Col. Raymond Davis Atkins, 215-30-15
Col. Colin Charles Campbell, 498-34-03
Col. Richard Francis Corcoran, 028-1
2023.
Col. Robert Stuart Davis, 415-46-5421.
Col. Richard Daniel Dean, 497-24-7899.
Col. George Henry Gray, 231-14-4878.
Col. Theodore Ernest Herman, 049-14-22
Col. Curtis Arthur Jennings, 526-40-14
Col. Vincent William Lanna, 115-14-6203.
Col. James Bracken Lee, 529-50-1286.
Col. Charles Rodney Painter, 222-18-158
Col. Anthony Louis Palumbo, 291-22-592
Col. Donald Harry Remick, 009-16-2892.
Col. Patrick Martin Roach, 393-24-4207.
Col. Elmer Lewis Stephens, 462-46-2529.
Col. Ansel Martin Stroud, Jr., 437-12-478
Col. Herbert Thomas Taylor, Jr., 525-5
5155.
Col. Edward William Waldon, 469-20-415
Col. John Burl Webb, Jr., 432-50-9980.

The Army National Guard of the Unit States officers named herein for appointme as Reserve commissioned officers of the Arm under the provisions of title 10, United Stat Code, sections 593(a) and 3392:

To be brigadier general

Col. Joaquin Balaguer-Rivera, 581-60-01
Col. Joe Edmund Burke, 447-28-6601.
Col. Charles Edward Hupe, 533-26-0223.
Col. William John Jefferds, 572-36-6187.

IN THE NAVY

The following-named officer, having be designated for commands and other duti of great importance and responsibility in t grade of vice admiral within the contempl tion of title 10, United States Code, secti 5231, for appointment while so serving follows:

To be vice admiral

Rear Adm. Ronald J. Hays, U.S. Navy.

Rear Adm. Edward P. Travers, U.S. Na to be Director of Budget and Reports in t Department of the Navy for a term of 3 yea pursuant to title 10, United States Code, se tion 5064.

Rear Adm. Carlisle A. H. Trost, having be designated for commands and other duti of great importance and responsibility in t grade of vice admiral within the contempl tion of title 10, United States Code, secti 5231, for appointment as vice admiral wh so serving.

SENATE—*Wednesday, August 23, 1978*

(Legislative day of Wednesday, August 16, 1978)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by Hon. DENNIS DECONCINI, a Senator from the State of Arizona.

PRAYER

The Reverend Dr. Robert B. Harriman, director, the Presbyterian Council for Chaplains and Military Personnel, Washington, D.C., offered the following prayer:

Let us pray: Eternal God, Thou knowest how busy we become, the constant pressures of our concerns, and the burdens which must be borne. If, in the business of this day we forget Thee, please do not forget us. These who serve within this place are as busy as any and busier than most. Election to high and honorable position has brought an enormity of responsibility and countless pressures on body, mind, and spirit. They are asked to do the seemingly impossible, immediately. They are the target of opportunity for some who seek only personal gain, favored position, or unwarranted generosity.

The world gives ample evidence of injustice, poverty, weakness, repression, war, and hatred. And these have been asked to bring justice, wealth, strength, freedom, peace, and love. How great their task.

Our Father, we thank Thee for their dedication to achievement of high goals. May they neither delay in approaching difficult matters nor yield to the temptation of expediency.

So we also pray for our Armed Forces. In their readiness to protect, may they understand that peace is their profession.

These prayers for the welfare and harmony of this Nation are offered with expectation of Thy hearing, and our willingness to be a part of Thine answer. In Jesus' name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., August 23, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DENNIS DECONCINI, a Senator from the State of Arizona, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. DECONCINI thereupon assumed the chair as Acting President pro tempore.

THE REVEREND DR. ROBERT B. HARRIMAN

The ACTING PRESIDENT pro tempore. The Chair notes that Dr. Harriman is the director of the Presbyterian Council for Chaplains and Military Personnel, and would like the RECORD to so show.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE SENATE SCHEDULE

Mr. ROBERT C. BYRD. Mr. President, the Senate is progressing well with its schedule. I believe that it is entirely possible to achieve sine die adjournment by some time in mid-October, depending on the future progress that is made, and especially in connection with energy legislation, the tax cut legislation, the appropriation bills, and various expiring authorizations.

Today the Senate will be acting on CETA and the elementary and secondary education bill, and several small bills that have come out of the Finance Committee.

I would hope that upon the completion of these measures the Senate could go to the HEW appropriation bill, which is one of the three remaining appropriation bills to be disposed of. It is a big bill and usually takes a couple of days, and has taken more than 2 days in time, but the chairman of the committee (Mr. MAGNUSON) wants very much to bring it up. He feels that it can be disposed of in a couple of days.

So I would hope that following the bills that have been laid out for today the Senate can proceed to the consideration of the HEW appropriation bill, finish it, lay down the civil service reform bill before we go out and not be in next week and have that bill as the underlying measure upon the return of the Senate after the holiday.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, I thank the majority leader for his recitation.

I agree with him; the Senate has made good progress, and I share with him the hope we can adjourn as early in October as possible.

I am mindful of the fact that those of us running for reelection consider ourselves perishable commodities. We are anxious to provide against that uncertainty.

Mr. President, as I understand the suggestion made by the majority leader, it was that we finish with the matters now before us, or to be before us, that is to say, CETA and ESEA, then turn, I gather yet this week, to the HEW appropriation bill.

Mr. ROBERT C. BYRD. Yes, and we would also include the seven or eight small bills that would come out of the Finance Committee which have been scheduled already. Then we could turn to the HEW appropriation which has been on the Calendar for several days and, hopefully, complete action on them by the close of business Saturday, or before. Once we complete that action, lay down civil service reform, but with no action, we would then go out for the holiday.

Mr. BAKER. Mr. President, I thank the majority leader.

I will inquire on this side to see what sort of problems that would cause our Members. I would say, however, that based on earlier conversations with other Members, I had the impression that the HEW appropriation bill would not be up this week. So it may be difficult to do this.

I also gather the impression that there is a growing likelihood of a Saturday session. Would the majority leader give me further information in that regard?

Mr. ROBERT C. BYRD. Yes. There would be, and for this reason. I think it is necessary that we complete action on the HEW appropriation bill before we go out, because when we return, we are going to have the second concurrent budget resolution. We are then going to have the conference report on natural gas and that will require some several days, I assume. Then, when we complete that, we would want to take up the other two conference reports on energy, energy conservation, and the so-called utility rate reform, the conference report. We must complete action on those energy conference reports and if we do not do the HEW appropriation before we go out, it means that big bill on which there will probably have to be an extended conference, will be held up behind all this other energy legislation.

So I think it is very important that the Senate go to work on the HEW appropriation bill before we go out, which could very well necessitate a Saturday session this week.

Mr. BAKER. Mr. President, if the Senator will yield further, could the Senator give me any views on how long he thinks the eight so-called tax bills might take? There are no time limits on them, I understand.

Mr. ROBERT C. BYRD. No, there are not.

Mr. BAKER. There are amendments to at least some of them.

Mr. ROBERT C. BYRD. Yes.

In talking to Senator LONG and Senator CURTIS—I believe the distinguished minority leader and I were in discussion with those two Senators some time ago—it was indicated that it was not felt that it would take long to complete action on those eight bills. There would be an amendment or two anticipated to each, or some of the several, and so it would be hoped we could clean up those bills maybe today.

Mr. BAKER. Mr. President, I thank the majority leader.

This morning I will talk with those Senators on my side who I know will be interested in the HEW appropriation bill.

Of course, they are all interested, but I am referring to those who may be particularly interested in it, or may have amendments to offer, and I will try to communicate that information to the majority leader as soon as possible.

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I fully understand the exigencies of time and pressure on him to try to move this as soon as possible. I will be in touch with him.

Mr. ROBERT C. BYRD. I thank the minority leader.

I hope to get started on that bill tomorrow, and I believe we can do it. It might require a late session today, but if we can get started tomorrow—I see heads shaking in a negative fashion, but I am very, very optimistic and very, very determined, may I say, to proceed with the HEW appropriation bill this week and complete action on it; and if not, to complete it next week.

I yield the floor.

Mr. BAKER. Before the Senator yields the floor, I should like one more word, if the Senator will yield, and I will do it on my time if he wishes.

The suggested agenda would be to try to complete CETA and ESEA today, as well as the eight tax bills today.

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. And then either to lay down tonight or to proceed in the morning, as the first order of business, with two of the HEW appropriation bills.

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. And to work on that Thursday and Friday, and if necessary, on Saturday.

Mr. ROBERT C. BYRD. And if necessary, next Monday and Tuesday; because I am absolutely determined, despite negative nods of the head, to finish action on this HEW appropriation bill before we go out, even if we have to be in next Monday and Tuesday. We just cannot have that bill hanging around here after we come back from the holidays, with the energy conference reports, and hope to adjourn in mid-October.

Mr. BAKER. I am sure that the negative shakes of the head were in resignation, not in disagreement.

Mr. ROBERT C. BYRD. May I say that the minority leader was not shaking his head.

Mr. BAKER. At least, not visibly.

Mr. ROBERT C. BYRD. No. I thank the minority leader.

Mr. BAKER. I thank the Senator.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Wisconsin (Mr. PROXMIRE) is recognized for 15 minutes.

THE ELEMENTARY AND SECONDARY EDUCATION ACT: IT IS TIME TO CUT A SACRED COW DOWN TO SIZE

Mr. PROXMIRE. Mr. President, the Senate will today debate S. 1753, legislation to revise and extend the Elementary and Secondary Education Act.

As we all know, this legislation has long been considered a sacred cow. No single piece of legislation enjoys such immunity from criticism.

After all, who can vote against education for our youth?

Who can oppose legislation that brings Federal dollars to all our States, all 435 congressional districts, and nearly every city and town we represent?

Well, Mr. President, I rise today to tell the Senate that this bill, as presently written, is bad legislation.

It is bad national policy.

And it is fiscally irresponsible.

Here is why.

AUTHORIZATION LEVELS: A GRAND SLAM FOR BUDGET BUSTING

First, the authorization levels bear no resemblance to reality.

Mr. President, I am no babe in the woods. I fully expect the proponents of these programs to attempt to put as much pressure on the Appropriations Committee as they can muster to get their pet programs the highest appropriations possible. That is to be expected.

But these recommendations are not even in the ball park. In fact, when one gets to bat, it is a guaranteed grand slam for budget busting.

For this bill, the numbers tell the story.

For the next 5 fiscal years, 1979 through 1983, this legislation proposes a total authorization level of over $55 billion.

You heard it right—$55 billion!

And that figure does not include the numerous programs with indefinite authorizations, which could push that total even higher.

To get a clearer picture of how out of line these recommendations are, just look at the authorizations for fiscal 1979.

For the programs covered by this bill, President Carter requested approximately $5 billion in his budget.

The Senate and House Appropriations Committees, after careful review, approved—with some rearrangement—spending levels very near the Presidential request of $5 billion.

That figure represented all the expansion that we felt could prudently be undertaken.

If we had followed the recommendations in this legislation, we would have approved over $11 billion—an increase of well over 100 percent.

We have been faced with a consistent pattern of authorizing bills for education that bear no resemblance to reality. They merely make the tough decision faced by the Appropriations Committe members all the harder.

Enough is enough.

It is time to cut this sacred cow dow to size and reduce these authorizatio levels drastically during debate.

TRIGGER ON A LOADED GUN

Second, this authorization is a monu ment to the clever budgetary device of trigger mechanism. A what? A trigge mechanism. You pull the trigger and a hell breaks loose.

Never heard on one? Well, in this bi they come in all shapes and sizes—a reg ular department store full.

Here is the simplest form.

First, combine a number of small pro grams into one title.

Then, require that none of the pro grams can be funded until all of the are funded at some specified minimu level.

You have now forced the Appropria tions Committee to fund a whole host o programs that may be good, bad, n worthless, before we can even reach particularly meritorious one.

This is not merely an attempt to usur the powers of the Appropriations Com mittee to give these programs carefu year-by-year review.

It is a trigger mechanism connecte to a loaded gun. And where is that gu pointed? Right at the American taxpay ers.

It is a blatant attempt to force us t fund every pet project of the education establishment.

Whatever happened to the concept o judging each and every project or pro gram on its merit, letting the chips fa where they may?

Whatever happened to the concept o Government responsible to the taxpay ers?

And what of the Budget Act, and ou high words about making the budge more controllable?

Trigger mechanisms push us in exactl the opposite direction.

They are an abdication of our respon sibility to the taxpayers and to the budge process we have established.

They are wrong. Dead wrong.

Let us stop them now before we strait jacket ourselves for the next 5 years.

IMPACT AID

Mr. President, the third problem wit this bill is impact aid.

Here is a classic example of a goo program run amok.

Begun in 1950 as a modest relief pro gram of $30 million, this program ha literally exploded. And this bill recom mends a whopping $1.4 billion in 1979 an nearly $2 billion in 1983.

The premise upon which this prograi is based remains sound. Federal installa tions, employing hundreds or thou sands of men and women, flood loca school systems with their dependents. I the parents live and work on tax-exemp Federal property, the school district face a serious financial crunch in attemptin to meet the expense of educating the children.

But over the years, the program ha

been altered beyond recognition in two important ways.

First, the once narrow eligibility criteria have been broadened like an 8-lane expressway. We now have two classes of students: The (A) students we originally meant to help, whose parents live and work on Federal property; and now we have (B) students, whose parents work on Federal property or live on Federal property. And over the years, we even have subdivided these categories further, as more groups jumped on the Federal gravy train.

Second, the committee developed an elaborate trigger mechanism known as the tier system. If impact aid is not fully funded, the tier system forces the Appropriations Committee to split up funds for the different categories and subgroupings according to a mandatory percentage formula.

Not only does this tier system attempt to prevent the Appropriations Committee from exercising its review authority—which it does—but it also creates a Rube Goldberg bureaucratic device for determining each district's eligibility.

The committee report itself notes on page 91 that up to 32 different computations are necessary to determine a school district's entitlement and an additional 32 calculations may be necessary to determine the district's payment.

The implications of these changes are frightening.

Expanding eligibility has caused this program to grow like topsy.

Between 1951 and 1976, the number of (A) students has grown from 50,000 to over 360,000, while the number of (B) students has increased from 386,000 to over 2.1 million.

(B) students are the ones who, in most cases, work on Government property—work for the Senate, for example—and live where they pay taxes.

In addition, grave inequities have resulted. Because of the (B) student provisions, the suburbs of Washington, D.C., have been treated to a windfall bonanza. Fairfax County, Va.—the richest county in the country—had a 1970 median family income of $28,000, and very few tax-exempt Federal buildings but the county is the home of a large number of Federal employees. Despite the fact that these parents already pay property taxes, supporting the school systems their children attend, the county was eligible for $11 million in Federal support.

Eleven million dollars.

To put that in perspective, the entire State of Wisconsin receives only $3 million, and we have a median income of only $10,000—a far cry from the income of wealthy Fairfax.

So how does this bill deal with this morass?

In two ways—equally bad.

Not only did the committee reject the administration's proposal to eliminate eligibility for districts where Federal employees lived but did not work.

No, they were not satisfied to stop there, Mr. President.

The committee decided to continue the old politics of increasing eligibility. They now want to add the children of employees at federal owned postal facilities, property owned by foreign governments, and international organizations.

Where will it all end?

PROLIFERATING PROGRAMS

Finally, this bill significantly broadens the scope of existing programs and creates a whole new host of categorical programs so that everyone can get a piece of the action. In addition, the bill continues and even expands programs that simply are not working or do not belong in the Office of Education.

Let me cite just a few examples.

Bilingual education. Here is a program that has a fine purpose, to help assure equal educational opportunity to students with limited English-speaking ability.

But is it working? Not according to a $1.5 million evaluation conducted by the Office of Education itself.

The study of 1975 and 1976 bilingual education projects found that youngsters in the programs did not fare any better than students from similar backgrounds who were taught in traditional classes.

In fact, in some grades the students in traditional classes did slightly better in English than the students in the bilingual classes.

What is the committee's recommendation? Add $20 million for more evaluation and keep the authorizations increasing. From the current level of $160 million for 1978, the committee proposes $200 million for 1979 and increases reaching $400 million by fiscal 1983.

What is the logic here? Apparently, the worse the evaluation a program receives, the more money it receives.

A cut may well be in order here. But, at minimum, would it not make more sense to at least hold the line until we can be sure that this program can even be salvaged?

Special projects authority. The special projects authority of title III of the bill is fast becoming a grab bag for everyone's pet program. This bill reauthorizes three special programs: consumer education, metric education, and arts in education.

In addition, it creates six entirely new special programs: law-related education, correction education, youth employment, population education, health education, and biomedical sciences education.

These new authorities continue the proliferation of small Federal programs that burden local educators and the taxpayers.

And who do these programs benefit? Those school districts that can afford the art of "grantsmanship."

Ethnic heritage studies. Here is one of the smallest special interest programs in the Office of Education.

The administration has requested no funds for this program. It is being replaced by a new social history initiative under the Endowment for the Humanities. So why continue it here?

With the 20-percent increase in appropriations for the arts and humanities in this year's budget—continuing a long, long string of major increases—we can safely eliminate the authorization in this budget.

And the list goes on and on.

Mr. President, of all the great responsibilities facing this country there is none where the old adage that you cannot solve problems by throwing money at them has been more emphatically established than in education.

In the past few years we have vastly increased our Federal, State, and local spending for education. We now have more teachers, better paid teachers, more facilities and far better facilities, far more loans and grants and scholarships than ever before. We have had a whizbang Fourth of July explosion of billions of dollars for education and what has been the result?

Last night CBS in the first of three hour-long documentaries on the tragedy of American education told part of the story. The series is labeled: "Is Anyone Out There Learning?" The answer seems to be an emphatic no. One critic contended that HEW's motto should be changed to "Every day in every way we are getting dumber and dumber."

As the same critic points out at a time when precollege education costs a record $83 billion a year, 13 percent of all American 17-year-olds are functionally illiterate, and every year students are doing worse—not better, worse—on scholastic aptitude scores.

Mr. President, we have tried spending more money on education—oceans of money. The result is a nightmare of failure. The answer is not to pour even more down the rathole. It is time to stop and this bill is a good bill to stop on.

THE PROXMIRE PROPOSAL

Mr. President, there is still time for us to salvage this bill. Here are a few suggestions for starters:

First, we can cut the total authorization levels by 40 percent. This is not a Simon Legree suggestion. Just look at the disparity between authorization and appropriations levels.

This would also provide the committee with leeway for adjusting individual programs where further increases may actually be warranted.

Second, we must eliminate the complicated, budget-busting, trigger mechanisms.

Senator MAGNUSON, as chairman of the Appropriations Committee, and Senator MUSKIE, as chairman of the Budget Committee, have worked against incredible odds to make this budget process work. They have committed themselves to staying within the congressional budget and eliminating just these types of appropriations-forcing mechanisms. My hat is off to them.

But they cannot be expected to shoulder this burden alone. The Senate must give them its full support.

Third, while I have no illusions that we can eliminate coverage of the so-called (B) students under impact aid,

we can take several meaningful steps this year.

We must eliminate the proposal to extend impact aid to include Government-owned postal facilities.

We must accept the President's proposal to eliminate eligibility of school districts where Federal employees live but do not work. By accepting this provision, we would eliminate the most inequitable provisions of impact aid.

Finally, we need to hold the line on new categorical programs. Many of the new proposals under the title III special projects section are already covered by existing authorities.

The massive expansion of this section needs to be deleted.

CONCLUSION

Mr. President, my maiden speech before the Senate in 1957 was on the need for a strong policy of Federal support for education.

I am convinced today of that need, as I was 21 years ago.

The United States was the first country in the world to provide universal education for our children.

And that commitment to education has spearheaded our drive for equal opportunity.

But that concern—that commitment—cannot serve as a vehicle for special interest groups run rampant.

We can have a fiscally responsible bill. One that's good policy, too.

But only if we are willing to bite the bullet.

Mr. President, I ask unanimons consent that an article in yesterday's Wall Street Journal entitled "A Serious Look at the Education Slag Heap" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A SERIOUS LOOK AT THE EDUCATIONAL SLAG HEAP

(By Aram Bakshian, Jr.)

A great deal of ink and air time has been devoted to debunking the so-called myth of the melting pot. Ethnic Americans were never really assimilated, we are told—often by self-appointed ethnic spokesmen in search of new government and foundation grants.

Yet for all of the major immigrant groups that flooded into the United States in the second half of the 19th and the first half of the 20th centuries, there were two great melting pots—the American private sector, which provided an expanding job market for cheap labor, and our public elementary and secondary schools, which managed to impart a common language, a shared sense of citizenship, and the beginnings of an American ethos for immigrant groups as varied as Irish, Italians, Jews, Slavs, Greeks, Chinese, Germans, Japanese and even the occasional Armenian.

The achievement of America's public education system has been unique. No other society, in any era, has successfully turned millions of disparate, poor and often illiterate immigrants—few of whom had experienced the full rights and responsibilities of citizenship in their countries of origin—into full partners in a new society, sometimes in a single generation.

Yet there are increasingly disturbing signs that, for the two largest and least assimilated of America's ethnic minorities—blacks and Chicanos—the educational melting pot is turning into a slag heap. For these two minorities, who now compose a growing proportion of students in urban public schools, and for the shrinking percentage of white, middle class children whose parents have not yet fled to insulated suburbs or enrolled them in private schools, what H. G. Wells once called the "race between education and catastrophe" is being lost.

If CBS News is right—and the evidence marshalled in its impressive, three-part documentary on public education beginning tonight at 8 p.m. EDT is pretty overpowering—then HEW's motto should be changed to "Every day, in every way, we are getting dumber and dumber." At a time when precollege public education costs a record $83 billion a year, 13% of all American 17-year-olds are functionally illiterate, and the decade-long plunge in scholastic aptitude scores continues. Clearly, the taxpayers aren't getting their money's worth and many young Americans are being short-changed in a way that may stunt them intellectually, emotionally and economically for life.

To CBS's credit, it has treated this potentionally sensational subject in extended detail rather than as a single, slick "60 Minutes" segment. CBS gives us a genuinely thoughtful if occasionally slow-moving three-hour presentation that makes for frequently depressing but invariably informative viewing. "Is Anyone Out There Learning?" is one of those all too rare reminders of the useful service network news can perform when it commits top dollars, talent and time slots to responsible in-depth reportage on important public issues.

Anchored by Walter Cronkite and backed by six correspondents in the field and a production force of 50, the report begins by focusing on a fairly representative urban school system, that of Denver. Denver's schools are neither the best nor the worst in the country. In medical terms they would probably qualify for a serious rather than critical listing, but they suffer from most of the current forms of educational malaise that have already ruined some larger, older city school systems: racial resistance to "White Anglo-Saxon cultural values" (such as reading, writing and arithmetic), busing, drugs, increasing absenteeism, lowered test scores, permissiveness (before the current superintendent took over, not a single student had been expelled in Denver for two years), and the crowning folly of "school promotion" (automatic passing of students at the end of each year, whether they have learned anything or not).

At the same time, and perhaps partially in reaction to all this, the curriculum has ballooned. Denver schools now offer 700 different courses. The result of more basket-weaving and less basic learning has been growing numbers of high school students with elementary school brains.

Why have so many parents ignored these trends and their children's obvious deficiencies until it is too late? In its second hour, tomorrow evening, CBS examines the problem of parent, student and teacher apathy along with other underlying causes of educational decline. Particularly to CBS's credit is its straightforward recognition of television itself as a major negative factor, both as a "time thief" eroding home reading and study patterns, and as a passive communication form that offers its viewers, especially undereducated youngsters, little active intellectual stimulation.

Educational authorities and administrators of all stripes are heard from, ranging from HEW Secretary Joseph Califano, who lamely defends the status quo and advocates more of the same, to several local educators who have restored learning and civilized values to deteriorating schools. I its closing Thursday evening installment CBS examines some of the latter's propos als for improving public education, cau tiously and without any special pleading The key to solving the problem, as per ceived by both CBS and a national sam pling of parent opinion commissioned fo the program, is a return to fundamenta learning skills—a greater effort to insti the necessary but unglamorous abc's the give youngsters the basic means of absorb ing and communicating more comple learning. Specifics are examined.

What CBS fails to ask—much less to an swer—is an even more basic question abou the changed nature of both American edu cation and American life. In an increasing permissive welfare state, is it reasonable t expect backward groups to take much in terest in education when, literate or no they can look forward to a lifetime of sta support and when, through debased grad ing practices, the high school diplomas the will receive are virtually worthless in th job marketplace?

We are now a country in which mo middle class children routinely enjoy a lev of unearned affluence and a range of tem tations which only the children of th wealthy few were exposed to in the pa and in which disadvantaged children a born into ghettos where the state now gua antees a subsistence that only study an work used to provide. The result is both more democratic society in the narrow egalitarian sense, and one that carries wit in it the seeds of educational and mor decay. To the extent that our public schoo reflect this greater social dilemma eve three hours of excellent CBS News covera can do little more than scratch the surfa of the problem.

THE OPPOSITION TO THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, spite of an ever-broadening base of su port, in spite of frequent violations fundamental human rights, and in spi of its embodying a deeply and obvious just principle—in spite of all the things, Mr. President, the Genocide Co vention has not received the ratificatio of the U.S. Senate. For 30 years now th Senate has held back its approval.

Why has the ratification been deni for so long? What compelling objectio have persuaded the Senate not to a cede to the treaty on any of the fo occasions when it was reported?

To be fair, the opposition has offer several substantial objections over th years. Until recently, in fact, the Ame can Bar Association opposed the treat Fortunately, so many years of discussi have brought out very clearly the natu of every objection, the arguments p and con, and the facts. One by one, tho who oppose the treaty have been wo over. The American Bar Association one of the more recent converts, and the voice of the American legal profe sion they are a formidable and welcom ally.

But what about those objection What led the opposition to hold out long?

Some opponents objected to a clau defining genocide as "acts committ with intent to destroy, in whole or

part, a national, ethnic, racial, or religious group, as such." They questioned whether the destruction of some very small part of a group, say, two or three individuals, would be construed as genocide under the treaty. Mr. Dean Rusk laid that objection to rest almost three decades ago when, as Deputy Under Secretary of State, he recommended that the United States sign the treaty with the reservation that an act is not genocide unless it involves a substantial part of the group. The reason is clear: To allow the wholesale destruction of a people to occur before taking action would be the grossest sort of folly.

Others objected to the treaty's definition of an action, "causing serious bodily or mental harm to members of the group," as an act of genocide. They thought the inclusion of "mental harm" left open the door to absurd claims. When President Nixon submitted the treaty for ratification in 1970, he recommended it with the understanding that "mental harm" meant "permanent impairment of mental faculties." Even then, some went so far as to ask whether a segregated school system providing unequal services to two racial groups might then qualify as genocide. Legal experts have pointed out that such court decisions as Brown against Board of Education proscribed segregation because it denies equal protection under the laws, and not because segregation may cause impairment of mental faculties.

Some even asked why any act other than outright killing of persons should be considered genocide. Mr. President, we need look no further than the example of Nazi Germany to see that genocide is a thing that gathers momentum slowly. This is a convention for the prevention as well as the punishment of genocide.

The Genocide Convention makes both states and individuals liable for the crime of genocide, and one of the most complex objections for a long time swirled around the question of whether U.S. citizens could be extradited for genocidal offenses, regardless of the protections of the Constitution or of U.S. law. It is now clear that our extradition treaties would still be in force and would prevent this kind of invasion of a U.S. citizen's rights. While he was Assistant Attorney General, Supreme Court Justice William Rehnquist presented a very able, lucid defense of the treaty against this objection.

Mr. President, I ask unanimous consent that a copy of his letter to Senator CHURCH during the 1970 hearings on the Genocide Convention be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MAY 8, 1970.

Hon. FRANK CHURCH,
Chairman, Ad Hoc Subcommittee on the Genocide Convention, Committee on Foreign Relations, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to requests for information made by members of your subcommittee on the Genocide Convention during the hearings held on April 27, 1970.

POWER OF SECRETARY OF STATE TO REFUSE EXTRADITION

We were asked whether the Secretary of State could refuse to extradite a citizen of the United States if he thought the national interest was served by so refusing. It was assumed that genocide was an extraditable offense and that a legally adequate case had been demonstrated before a judicial officer.

The statutes of the United States are not directed to this issue but instead leave the answer to the text of the extradition treaty involved. 18 U.S.C. 3184. Some treaties do not distinguish between citizens and aliens and there is no provision for Executive discretion in such treaties concerning extradition of citizens.

On the other hand, under the laws of many countries the extradition of nationals of the requested state is prohibited or is non-obligatory. U.S. extradition treaties with such countries reciprocally provide either for discretion in the rendition of United States citizens or prohibit it. *E.g.*, Extradition Convention with Mexico. ("Neither of the contracting parties shall be bound to deliver up its own citizens under the stipulations of this convention, but the executive authority of each shall have the power to deliver them up. If, in its discretion, it be deemed proper to do so.") See 6 Whiteman, *Digest of International Law*, 865, 873–876.

SENATOR JAVITS' PROPOSAL ON ART. VI

Our view was solicited as to whether the following declaration would be considered as an understanding or as a reservation:

"That article VI shall not be understood to deprive the United States or any state thereof from, by law, declaring that acts similar to those described in this convention are crimes against the United States or of any State wherever committed."

From the discussion surrounding this proposal, we understand that its purpose is to ensure that nothing in Article VI shall affect the right of the United States to bring American citizens to trial for genocide before its own tribunals for acts committed outside this country.[1]

A reservation is a unilateral statement, however phrased or named, made by a state when signing or ratifying a treaty whereby it purports to exclude or modify the legal effect of certain provisions of the treaty. Vienna Convention on the Law of Treaties, Art. 2(1)(b). An understanding is designed to indicate the meaning that a party attaches to a treaty provision without changing its legal effect. Restatement (Second), *Foreign Relations Law of the U.S.* § 124 (1965). The question therefore is whether the proposed declaration would change the legal effect of Article VI.

Art. VI is the only provision in the Convention dealing with the place of trial. It provides that "Persons charged with genocide * * * shall be tried by a competent tribunal of the State in the territory of which the act was committed." This language could be read as permitting trials for genocide only in the state where the alleged genocide took place.

On the other hand, the negotiating history of the Convention indicates that Sen. Javits' proposal merely reflects the meaning of Article VI. The Report of the Legal Committee to the General Assembly is directly in point. It notes that Article VI was not meant to limit the right of a state to try its own nationals:

"The first part of article VI contemplates the obligation of the State in whose territory acts of genocide have been committed. Thus, in particular, it does not affect the right of any State to bring to trial before its own tribunals any of its nationals for acts committed outside the State."

This text was adopted by a vote of 20–8–6. (UN Doc. A/760 & Corr. 2 (Dec. 3, 1948)). On the basis of this negotiating record, the proposed declaration might be termed an understanding.

As in the case of a reservation, another state may object to an understanding. Each party has the option of deciding whether the statement, however designated, alters the legal effect of the Convention, whether it is compatible with the object and purpose of the Convention and whether it will be in treaty relations with the state making the declaration. *Reservations to the Genocide Convention* [1951] ICJ Rep. 15. Therefore, as a practical matter, the description that either the Senate or the Executive gives to a declaration is not conclusive.

EXTRADITION FOR INCITEMENT TO GENOCIDE

Question was raised by Senator Javits as to whether the United States would have to extradite a U.S. citizen to another country for trial on charges of incitement to genocide if the acts constituting the alleged incitement would be lawful under the First Amendment had they been committed in this country.

Generally speaking, the United States could refuse extradition in such a case. The acts charged, which form the basis for the extradition request, must constitute a crime under the laws of both the requesting and the requested state. We are informed by the Department of State that our extradition treaties specifically cover this. They provide typically that—

"surrender shall take place only upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his commitment for trial if the crime or offense had been there committed."

This means that even if both parties to an extradition treaty agreed that a listed crime, such as genocide, were an extraditable offense, it would be necessary to show that the specific acts charged were considered criminal in the requested state. See 6 Whiteman, *Digest of International Law* 733–779 (1968). If the evidence presented by another country only showed acts which would be legal in the United States, surrender would not be required.

DEVELOPMENTS SINCE 1950 CONCERNING THE TREATYMAKING POWER AND THE FIRST AMENDMENT

Senator Javits asked that we list developments since 1950, when hearings were first held on the Convention, as they affect the treatymaking power and the First Amendment.

a. The treatymaking power

(1) On a general level, a vast increase has taken place since 1950 in the number of treaties being negotiated and ratified. Approximately two-thirds of the total number of treaties and agreements entered into by the United States since 1776 have been concluded since 1949.[2] Treaties have become an accepted way of dealing with a wide variety of international problems.

(2) In the last few years the Senate has unanimously approved several treaties which, like the Genocide Convention, are considered human rights treaties. They are the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; and the Protocol Relating to the Status of Refugees. In 1968 the United States ratified amendments to the Charter of the Organization of American States which include extensive provisions concerning the economic, social, educational, scientific and cultural standards to be applied within each state. See Arts. 29–31, 43, 45, 47.

(3) The list of states ratifying the Genocide Convention has grown from 7 in 1950 to 75 today, thus emphasizing the view of the world community that genocide is both a matter of international concern and a proper subject for treaty negotiations.

The 1950 position of the Department of Justice—that under the treatymaking power the United States has complete authority to enter into the Genocide Convention—is therefore as valid today as it was then.

b. The First Amendment and "Direct and public incitement."

Art. III(c) of the Convention makes punishable "Direct and public incitment to commit genocide." In 1950 the Department of Justice expressed the view that such a provision would be consistent with the First Amendment. Developments since that time have not changed our position.

Drawing a line between speech which is permissible and that which is reprehensible is, in the Supreme Court's own words—a "thorny problem." *Carroll v. Princess Anne*, 393 U.S. 175, 180 (1968). Since 1950 Supreme Court decisions have increasingly emphasized the proposition that "advocacy of abstract doctrine" was constitutionally protected. *E.g., Yates v. United States*, 354 U.S. 298, 318, (1957). However, no court has questioned the proposition that incitement to crime can be punished. In *Brandenberg v. Ohio*, 395 U.S. 444 (1969), which has been cited by a number of witnesses at these hearings, the Supreme Court restated the principle underlying the decisions of the last twenty years—that the First Amendment protects advocacy of law violation except "where such advocacy is directed to *inciting or producing imminent lawless action and is likely to incite or produce such action.*" The carefully drawn words of the Convention requiring "direct and public incitement" are thus consistent with the views of the Supreme Court concerning free expression.

JURISDICTION OF U.S. COURTS RELATING TO THE CONVENTION

Senator Cooper posed several questions relating to whether the Federal courts might be able to pass on certain questions relating to the Convention if the United States became a party to it. (Our responses are concerned with possible jurisdiction and not with how the courts would dispose of these matters on the merits.)

(1) Whether the implementing statute was consonant with the Convention: It is possible that this question could be raised in a Federal court. If, for example, the definition of genocide in the implementing legislation were broader than that in the Convention, a court would have jurisdiction to hear a defendant's argument that there is no legal basis for the implementing statute.

(2) Whether reservations of understandings adopted by the Senate are constitutional: As noted during the hearings, the criminal provisions of the Convention are not self-executing. It is therefore improbable that the constitutionality of a reservation of understanding could be tested directly in Federal courts. It is more likely that tests would be made of the implementing legislation or of extradition treaties. (It is to be expected, of course, that any implementing legislation or any changes in extradition treaties will reflect understandings or reservations to this Convention which are adopted by the Senate.)

(3) Whether executive agreements on status of forces providing for jurisdiction over crimes committed by U.S. armed forces or civilians could be questioned if the Genocide Convention were ratified: The Federal courts have taken jurisdiction of the question of where jurisdiction lies to try offenders under status of forces agreements. *E.g., Wilson v. Girard*, 354 U.S. 524 (1957). If a person subject to a status of forces agreement alleged that the agreement had somehow been affected by the Genocide Convention the courts might pass on the question.

STATISTICS CONCERNING EXTRADITION

Statistics on the number of citizens and aliens extradited from the United States to other countries are not kept either by this Department, by the State Department or by the Administrative Office of the United States Courts. Moreover, this Department is unfortunately not in a position to compile such statistics for the subcommittee's use. Many extradition proceedings take place every year in this country in which this Department has no involvement at all. Our only role is to represent foreign governments in a limited number of instances where the United States has agreed to do so by treaty or where we undertake to do so on an ad hoc basis. In many cases foreign governments retain their own counsel and proceed under 18 U.S.C. 3184 in either local or Federal courts without going through this Department.

This Department's primary role in the extradition process is the securing of fugitives from abroad for trial for Federal offenses in the United States.

THE ATTORNEY GENERAL'S CONCURRENCE

A copy of the Attorney General's letter to the Secretary of State of January 26, 1970 concurring with the Secretary's judgement that there are no constitutional obstacles to United States ratification of the Genocide Convention is enclosed with this letter.

Sincerely,

WILLIAM H. REHNQUIST,
Assistant Attorney General,
Office of Legal Counsel.

Mr. PROXMIRE. Mr. President, I spoke earlier of formidable allies, and in legal matters there are no opinions more authoritative than those of members of our Supreme Court. But let me emphasize that the support for the Genocide Convention is as broad as it is deep. Over the years of discussion, the list of organizations favoring ratification has grown extremely long. Those who oppose the convention have dwindled in number.

Mr. President, every objection has been answered. There is no further reason to withhold our support. We must ratify the Genocide Convention.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. PROXMIRE. I am happy to yield to the Senator from Virginia.

PRIVILEGE OF THE FLOOR—S. 1753

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that Mis Joan O'Neill, of my staff, be granted th privilege of the floor during the consid eration of the education amendments o 1978.

The ACTING PRESIDENT pro tem pore. Without objection, it is so ordere

EDUCATION AMENDMENTS OF 197

The ACTING PRESIDENT pro tem pore. Under the previous order the Sen ate will now resume consideration o S. 1753, which wil be stated by title.

The legislative clerk read as follow

A bill (S. 1753) to extend the Elementar and Secondary Education Act of 1965, an for other purposes.

The Senate resumed the consideratio of the bill.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. Presiden I ask unanimous consent that there be brief period for the transaction of rou tine morning business of not to exceed minutes with statements therein limite to 2 minutes each.

The ACTING PRESIDENT pro tem pore. Without objection, it is so ordere

S. 3446—AUTHORIZING GOLD MEDALS FOR AMERICAN BALLOONISTS

Mr. DOMENICI. Mr. President, I sen to the desk a bill in behalf of myse Senator SCHMITT, and Senator GARN, an ask unanimous consent that the bill considered as having been read twice an the Senate proceed to the immedia consideration of the bill.

The ACTING PRESIDENT pro tem pore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 3446) to authorize the Presiden of the United States to present on beha of the Congress a specially struck gold med to Ben Abruzzo, Maxie Anderson, and Lar Newman.

The ACTING PRESIDENT pro tem pore. Is there objection?

Mr. ROBERT C. BYRD. Mr. Presiden the distinguished Senator from Ne Mexico has cleared this measure on th side of the aisle, and I have no objectio to proceeding with the second readin and move to third reading and immed ate consideration of the bill and fin passage.

Mr. DOMENICI. I thank the distin guished leader, and it has been clear on this side of the aisle.

There being no objection, the Sena proceeded to consider the bill.

Mr. DOMENICI. Mr. President, I as unanimous consent that Senator HAR be added as a cosponsor and Senator D CONCINI be added as a cosponsor.

The ACTING PRESIDENT pro tem pore. Without objection, it is so ordere

[1] If a statement on this subject is thought necessary, the following might be considered as an alternative:

"The United States understands and construes Article VI of the Convention in accordance with the agreed language of the Report of the Legal Committee of the United Nations General Assembly that nothing in Article VI shall affect the right of any State to bring to trial before its own tribunals any of its nationals for acts committed outside the State."

[2] 1 Bevans, *Treaties and Other International Agreements of the U.S.* iii (1968).

Mr. DOMENICI. Mr. President, a week after three Albuquerque, N. Mex., men made aviation history by transcending the Atlantic Ocean in a helium-filled balloon, the world still stands in awe of and applauds their feat.

Ben Abruzzo, Maxie Anderson, and Larry Newman will rightfully take their places in history alongside such American pioneers as Charles Lindberg, the Wright brothers, JOHN GLENN, Neil Armstrong and Buzz Aldrin.

A proud United States of America and its representative government can express that pride in a variety of ways.

A fitting way, in my opinion, is for the U.S. Senate to unanimously pass a bill we introduce today, authorizing the President of the United States to present on behalf of the Congress a specially struck gold medal to each of these transatlantic pioneers.

In an age when America's prestige is faltering throughout the world, when problems beset us from every corner of the globe, these three Americans have given our pride a tremendous boost.

Once again we can boast that Americans can do something better and quicker and with more initiative than any other peoples. Our spirit of adventure and quest for challenges—both of which forged a great nation out of a wilderness—are embodied once again in the persons of Abruzzo, Anderson, and Newman.

This gold medal will symbolize much more than just the feat of three adventurers. It will say to free people everywhere that America and Americans still "can do."

The ACTING PRESIDENT pro tempore. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3446

Be it enacted by the Senate and House Representatives of the United States of America in Congress assembled, That (a) The President of the United States is hereby authorized to present, on behalf of the Congress, to Ben Abruzzo, Maxie Anderson, and Larry Newman, transatlantic balloonists, one gold medal each of appropriate design in recognition of their distinguished feat as aviation pioneers. For such purpose, the Secretary of the Treasury is authorized and directed to cause to be struck 3 gold medals with suitable emblems, devices, and inscriptions to be determined by the Administrator of the National Aeronautic and Space Administration with the concurrence of the Commission on Fine Arts, subject to the approval of the Secretary of the Treasury. There are authorized to be appropriated not to exceed $15,000 to carry out the provisions of this subsection.

(b) The Secretary of the Treasury may cause duplicates in bronze of such medal to be struck and sold at not less than the estimated cost of manufacture, including labor, materials, dies, use of machinery, and overhead expenses, plus 25 per centum of such cost of manufacture. The appropriation then current and chargeable for the cost of manufacture of such duplicate medals shall be fully reimbursed from the payment required by this section and received by the Secretary: *Provided,* That any money received in excess of the actual cost of manufacture of such duplicate medals shall from time to time be covered into the Treasury. Security satisfactory to the Director of the Mint shall be furnished to fully indemnify the United States for the payment required by this section.

(c) The medals provided for in this section are national medals for the purpose of section 3551 of the Revised Statutes (31 U.S.C. 368).

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I am very appreciative of the leader and those who have been so helpful in permitting us to accomplish this today. Since they will be arriving in the State of New Mexico soon, it was our intention that we be able to tell them this occurred in the Senate and was sent to the House of Representatives for their consideration.

Mr. ROBERT C. BYRD. Was the Senator referring to the leader or the balloonists who will be arriving in New Mexico?

Mr. DOMENICI. The balloonists. I will, but the majority leader will not, but the balloonists will.

Mr. ROBERT C. BYRD. I thank the Senator.

The ACTING PRESIDENT pro tempore. Is there further morning business?

ORDER FOR RECESS UNTIL 9 A.M. AUGUST 24, 25, 26, 28, AND 29, RESPECTIVELY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, tomorrow, Friday, Saturday, and Monday of next week, it stand in recess until the hour of 9 a.m. on tomorrow, Friday, Saturday, Monday and Tuesday of next week, respectively.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. The order, of course can be changed by unanimous consent, and I hope it will be in due time.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there any further morning business? If not, morning business is closed.

SPECIAL ORDERS FOR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, Mr. GARN, Mr. MCCLURE, and Mr. DOLE be recognized for not to exceed 15 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EDUCATION AMENDMENTS OF 1978

The Senate continued with the consideration of S. 1753.

Mr. ROBERT C. BYRD. Mr. President, the Senator from New Mexico has some amendments to the elementary and secondary education bill. I am prepared to act on behalf of Mr. PELL. Mr. PELL is conducting a hearing and will be here shortly, but I am prepared to man the ramparts, ready the cannon fire amid dust and fog and smoke and shell until Mr. PELL arrives on the scene.

At the present, using my field glasses, I do not see any cavalry appearing on the horizon. The infantry must be obscured by the foliage of the trees. Birnam Wood may not reach Dunsinane after all.

I have seen some artillery preparing to open up.

Mr. DOMENICI. Mr. President, I have a couple of unanimous-consent requests, if the leader will accommodate me.

Mr. ROBERT C. BYRD. I yield the floor.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Chris Brewster of Senator DANFORTH's staff; Linda Richardson and Mary Ann Simpson of Senator STEVENS' staff; Letitia Chambers of my staff be granted floor privileges during the debate on this bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOMENICI. I thank the leader.

Mr. ROBERT C. BYRD. We are awaiting the arrival of Blücher and Grouchy, and as I look at my watch I see Blücher or Ney. [Laughter.]

Mr. President, I yield the floor.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Everett Wallace of Senator BAKER's staff be granted floor privileges during the debate on this bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOMENICI. My staff is on their way with the amendments, but we are also waiting for the managers of the bill.

Mr. ROBERT C. BYRD. The managers of the bill have indicated on this side that I can proceed.

Mr. HATCH. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. ROBERT C. BYRD. Yes.

Mr. HATCH. I ask unanimous consent that Ron Docksai, of my staff, be accorded floor privileges during the debate on this bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the following staff members of the Human Resources Committee be granted the privileges of the floor during the debate and votes on S. 1753, the Education Amendments of 1978: Jean Frohlicher, Richard Jerue, David Evans, Christine Fruggiero, Alexander Crary, Ann Price, Stephen Paradise, Franklin Zweig, Marcia McCord, John Doyle, Kathy Hoffman, Birdie Kyle, Thomas Altmeyer, Scott Ginsburg, Joan Hunziker, Brad Mims, Peter Parham, and Craig Polhemus.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, in behalf of Senator JAVITS, I ask unanimous consent that the following staff members be granted the privileges of the floor during the debate on this legislation: Gregory Fusco and Kristi Hanson, of Senator JAVITS' staff; Sven Groennings, of Senator STAFFORD's staff; Polly Gault, of Senator SCHWEIKER's staff; Nancy Barrow, of Senator CHAFEE's staff; and John Backer, of Senator HAYAKAWA's staff.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MCGOVERN). Without objection, it is so ordered.

Mr. DECONCINI. I ask unanimous consent that Romano Romani and John Mulkey of my staff be permitted privileges of the floor during the debate and votes on the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I am happy to bring before the Senate S. 1753, the Education Amendments of 1978. This bill extends through fiscal year 1983 programs of Federal aid to elementary and secondary education.

In considering this legislation the committee followed the recommendations of the administration and continued the categorical approach to elementary and secondary aid, targeting assistance on those children most in need. It was the committee's belief that, in a time of limited funds, programs should be tightly drawn, so that available aid can have the greatest educational impact.

At the same time, the Subcommittee on Education heard extensive testimony from educators and States that the paperwork which currently accompanies Federal programs is excessive and, in some instances, more costly than the aid applied for. This makes no sense.

Therefore, the committee bill cuts down dramatically on the paperwork and reporting involved in these programs. Where an annual application used to be required, the committee bill provides for one every 3 years. Where annual evaluations were required, again the paper was reduced by a third. Each reporting requirement was carefully scrutinized to make sure that it was not unnecessary.

In order to assure that paperwork will be reduced even further in the future, the education amendments establish a procedure for the publication of an annual plan for data and information collection from schools and institutions. For the first time, the local officials who must fill out endless Federal forms will have notice of all of the requirements of all Federal agencies with which they must comply within the year. They will be given an opportunity to comment, and to demonstrate that many of the requests are redundant or exceedingly burdensome. It is my hope that this procedure will have a significant impact on the reduction of paperwork in the area of education.

Another substantial concern in S. 1753 is the participation of nonpublic school children in their fair share of Federal programs. The administration proposed strengthening the existing rules concerning equitable participation in federally assisted programs, and a speeded-up appeals procedure when such services were not being provided.

While the committee adopted these provisions, there was concern that services to nonpublic school children were still inadequate. For that reason, I proposed a new title XII to the Elementary and Secondary Education Act which would make grants available to nonpublic schools for such things as books, equipment, guidance and counseling, health services, and transportation. The Comissioner of Education's discretion in this program would be minimal. If a nonpublic school submitted assurances that funds would be used according to the law, the Commissioner would make the grant without further regulations or involvement in the affairs of the private school. The bill authorizes $500 million for these services to private schoolchildren, and provides for an expedited test of the title's constitutionality.

I believe that the bill is, on balance, an excellent piece of legislation. In drafting it, the committee sought a middle ground between creating a myriad of new programs of Federal aid for narrow categorical interests and scrapping those programs now on the books which have been shown to work well. Much of S. 1753 is devoted to make them work even better for the next 5 years, and I hope it may be supported.

Mr. President, today the Senate takes up a bill which will be the most important piece of legislation dealing with elementary and secondary education considered by the 95th Congress—S. 1753, the Education Amendments of 1978. This bill is the product of 10 days of hearings by the Subcommittee on Education, Arts, and Humanities of the Committee on Human Resources. It was unanimously reported to the Senate on May 9, 1978.

In general, S. 1753 extends existing programs of Federal assistance to elementary and secondary education for 5 years, through fiscal year 1983. While the committee decided to retain the current categorical approach to education aid, an approach also recommended by the administration, it took numerous steps to simplify the requirements of current programs and to reduce the paperwork necessary for States and schools to participate. Indeed, simplification and paperwork reduction are two of the key features of the bill now before the Senate.

Since the bill is lengthy, I would like to summarize for my colleagues the major provisions of S. 1753.

Title I of the Elementary and Secondary Education Act.—This is the major Federal program of assistance to school districts enrolling children from low income families. It affects almost every school district in the country and this year has an appropriation of approximately $2.7 billion. Title I programs, designed at the local level to meet local needs, provide compensatory education to low-achieving children, to bring them up to the academic level of their peers. In the early days of title I, there was some concern that these programs were not successful in bridging that gap. However, recent studies have shown the successes of title I programs in improving children's reading and mathematics scores.

The committee bill rewrites title I to make it more comprehensible to the layman. Under S. 1753, all program requirements are apparent on the face of the law. They are not hidden in additional regulations or guidelines which local school officials may not be aware of. This change should do much to alleviate any confusion that currently exists over permissible uses of title I funds.

While the committee considered changes to the title I formula, which is based on the 1970 census count of children in poverty-level families, it decided to leave the formula basically unchanged. It decided that the survey of income and education was of sufficiently questionable statistical accuracy that it would be unwise to use it as the basis for distribution of Federal funds. The only formula change made by S. 1753 counts children receiving Aid to Families with Dependent Children above the current poverty level in full, rather than at the two-thirds level of existing law.

S. 1753 adopted two provisions for new title I programs which were proposed by the administration. The first authorizes a new program of incentive grants to States which have their own compensatory education programs. State dollars would be matched by Federal funds at the rate of 2 to 1, encouraging additional State focus on compensatory education.

The second new program proposed by

the administration provides for additional title I grants for counties enrolling a high level of low-income children—in excess of 5,000 or in excess of 20 percent of the children in the county. These funds are to be used for additional title I compensatory education programs, especially those focusing on the basic skills of reading, writing, and computation.

No State will receive less than 0.25 percent of the funds appropriated for the new concentration authority. Of the funds appropriated for title I programs, the first $400 million is to be applied to the concentration grants, the level of funding proposed in the President's budget.

Basic Skills—S. 1753 adopted the administration's proposals for a series of new authorities for the Secretary of Health, Education, and Welfare to provide assistance to States and local school districts for improvement of instruction in basic skills. Parents and private organizations may also participate in these programs, and the use of technology is encouraged.

In addition, the program of inexpensive book distribution, commonly known as Reading Is FUNdamental, is continued; the special mathematics program currently funded under the Emergency School Aid Act is also authorized to be continued under the new Basic Skills authority.

In response to widespread national concern that students are no longer performing adequately in the basic skill areas of reading, writing, and mathematics, the committee bill also authorizes grants to States which wish to implement educational proficiency standards. While the committee decided against proposing any Federal standards of educational competency, it believed that States and localities should be encouraged to develop their own proficiency standards and achievement tests against which to measure the competency of their own students.

Special projects.—S. 1753 provides for categorical assistance to State and local educational agencies for demonstration programs in metric education, arts in education, consumer education, environmental education—all currently authorized programs—plus new authorities for youth employment (proposed by the administration), law-related education, corrections education, health education, and population education. Each of these authorities has a separate authorization of appropriations, unlike existing law, where all the programs are linked together in a single authorization. In addition, there is a separate authorization of appropriations to the Commissioner for experimentation with new educational administrative methods, techniques, and practices, and for emphasis on national priority areas. He may also use up to 10 percent of the special project appropriations, not to exceed 10 percent of any individual program, for such experimentation.

Consolidation.—In 1974, the Congress consolidated categorical programs for books, equipment, guidance and counseling, and innovation. The consolidation has worked reasonably well, and S. 1753 continues the program, with modifications suggested in testimony to make it work more efficiently. Guidance and counseling programs are given a new part D of title IV, separating those activities from the instructional materials and school library resources, which continue to be authorized under part B. A new program of education of gifted and talented children is included as a new part E of the consolidated title, authorizing State-level programs and discretionary grants from the Commissioner.

S. 1753 also proposes the consolidation of State administrative funds for title I (compensatory education) and title IV (consolidation). Under existing law, funds for State administration must be separately accounted for, leading to extensive paperwork and, too often, managerial inefficiency.

If personnel, supplies, and equipment must be kept separate at the State department of education level, a chief State school official is essentially denied the ability to organize his own office in the manner he feels most efficient. S. 1753 seeks to give the States the flexibility to allocate administrative funds between the two programs in a manner that best meets each State's individual needs. The Federal interest is preserved in that States provide assurances that programs will be effectively administered.

Emergency School Aid.—S. 1753 extends the Emergency School Aid Act as part of the Elementary and Secondary Education Act. In general, the committee bill reflects suggestions made by the administration to add flexibility to the implementation of the program. It also adds a new category of school district eligible to participate in the program, a district which is planning for desegregation but which is not yet in the implementation phase of its plan.

Bilingual Education.—The committee heard widely varying testimony concerning the direction bilingual education should take in the future. S. 1753 does not propose substantial changes in the existing bilingual education authority; it adopts many of the recommendations made by the administration for program improvements.

Ethnic Heritage Studies.—S. 1753 continues this program through fiscal year 1982, and specifically extends the authority for the Advisory Council on Ethnic Heritage Studies.

Community Schools.—S. 1753 authorizes a new program for community schools, building upon the demonstration authority initially enacted in 1974. It would allow recipients of community school assistance to use those funds to match funds received under other community-based Federal programs.

Women's Educational Equity.—This title also builds upon the success of a demonstration authority originally enacted in 1974. Once sufficient appropriations levels are reached, funds under this program may be used to assist State and local educational agencies and institutions in meeting the requirements of title IX of the Education Amendments of 1972, relating to discrimination on the basis of sex.

Non-Public Educational Assistance.—The committee bill contains a new title XII of the Elementary and Secondary Education Act authorizing assistance to nonpublic elementary and secondary schools. Since 1965, most Federal programs of aid to elementary and secondary education have required that students in nonpublic schools participate on an equitable basis.

However, the National Institute of Education study on title I of the Elementary and Secondary Education Act shows that less than 4 percent of private school students living in title I districts receive title I services. Only 43 percent of the title I districts that contain nonpublic schools provide title I services to nonpublic school children. In addition, participating private school children receive an average of approximately 1 hour per week of compensatory education, compared with an average of 5½ hours per week for all title I children.

The administration proposed a number of amendments to existing programs to strengthen the requirements for equitable participation of nonpublic school children, including expedited appeals procedures when an inadequate level of services was being provided by a State or local school district. However, I did not believe that such measures were a sufficient response to the needs of students in nonpublic schools. For that reason, I proposed that title XII be added to the Elementary and Secondary Education Act. This suggestion was adopted by the Committee on Human Resources, and is now before the Senate.

Title XII will provide direct grants to nonpublic schools. These grants must be used solely for the benefit of nonpublic school students in the following ways: for the purchase of secular textbooks to be used by such students; for the purchase of standardized tests and scoring services for the use of such students; for the provision, within the nonpublic school, of speech and hearing diagnostic services to such students; for the provision of guidance and counseling services to such students; for the provision of necessary transportation of such students to and from the nonpublic school. In addition, grants may be used to provide secular, neutral, and nonideological instructional materials and instructional equipment for the use of nonpublic school students, so long as such materials and equipment cannot be diverted to religious use, cannot be affixed to the nonpublic school facility, and can be easily taken home by the nonpublic school student.

Applications would be made directly to the Commissioner of Education, who would have little discretion in deciding whether to fund the grant. If the nonpublic school made the proper statutory assurances, the Commissioner would be required to provide the assistance sought. S. 1753 contains an expedited procedure for determining the constitutionality of the title, which is based upon the services which courts, in the past, have upheld for nonpublic school children.

Impact Aid.—In general, S. 1753 continues existing law with respect to Public Law 81-874, commonly known as the impact aid law. The bill retains the current exclusion for eligibility for payments of children who live in one State and whose parents work in another. It also continues the reduced payment rate for children whose parents work in a county other than that in which they live. However, the bill amends this provision to cover school districts which are located in more than one county.

S. 1753 does increase payments for handicapped children of military personnel and Indians. In addition, it repeals the absorption provision contained in existing law, effective upon enactment. With respect to children living in federally assisted public housing, S. 1753 makes them eligible for assistance on the same basis as other federally connected children. It also adds to local entitlements property owned by foreign governments and international organizations and property owned by the U.S. Postal Service which is not subject to State or local taxation on behalf of public education.

S. 1753 also extends the construction program, Public Law 81-815, through fiscal year 1983, with amendments designed to reduce its paperwork.

Adult Education.—The education amendments extend adult education programs through 1983 and add a new program directed at the special educational needs of adult immigrants.

Indian Education.—S. 1753 extends the existing programs under the Indian Education Act unchanged through fiscal year 1983.

Teacher Centers.—The bill increases the authorization for teacher centers. It also provides that when appropriations for the program reach the level of $50 million, each State will receive at least $250,000 for teacher centers.

Paperwork.—S. 1753 provides for a new mechanism, through a Deputy Assistant Secretary for Education, for the reduction of the paperwork presently required in Federal education programs. Witnesses before the committee have repeatedly testified to the staggering amounts of paperwork that must be completed, much of it redundant or unnecessary. While Federal forms are currently cleared by the Office of Management and Budget, it appears that little attention is paid to the cumulative effect on a single State or school of the myriad pieces of paper associated with individual programs or research projects.

Under the committee bill, the Deputy Assistant Secretary of Education would be charged with assessing the necessity, or redundancy, of requests for data or information concerning educational institutions or programs. The Office of Management and Budget would be notified of the request for review of data collection proposals from agencies outside the Department of Health, Education, and Welfare, and would have the right to review the request directly if a significant data acquisition policy is involved. In addition, a Federal Education Data Acquisition Council, made up of public and agency representatives which deal with educational data or information, would advise the Deputy Assistant Secretary on the best means of reducing unnecessary paperwork.

So that States, school districts, and institutions may assess the total data burden which may be required of them in any given year, the bill requires the publication of a plan for data acquisition to be published by February 15 of each year. No other data may be required, unless an urgent need for the information exists. The Deputy Assistant Secretary is authorized to waive this provision in the case on nonburdensome individual studies.

Full implementation of this provision can make substantial inroads on the duplicative and unnecessary paperwork which currently accompanies many education programs.

National Assessment of Educational Progress.—S. 1753 establishes a statutory basis for the National Assessment of Educational Progress, which has been conducting studies of students' learning levels since the mid-1960's. This valuable effort has not only provided a national "snap-shot" of achievement levels in various subject areas, but has also assisted States and localities which are attempting to develop their own assessment measures. In authorizing the assessment program, the bill vests authority for the program in the National Institute of Education, which has mounted other efforts in the testing and assessment field under its basic authority.

I believe that the committee-reported bill is a good one. It represents a continuation of existing policy concerning categorical Federal aid to groups in special need, combining that approach with a constant attention to program simplification and streamlining. Given existing fiscal constraints, the bill does not propose large numbers of expensive new programs. Rather, in most cases, it seeks to assure that available funds for existing programs are used in the most efficient and effective manner, so that their effects are felt in the classroom. If program benefits do not reach students, our efforts are all in vain.

In developing this legislation, the committee worked closely with the educational community and with the administration. I believe I can fairly say that S. 1753 represents a pretty broad consensus of the direction that Federal aid to elementary and secondary education should take in the 5 years to come.

I urge my colleagues to support this most important legislation.

Mr. JAVITS. Mr. President, we inaugurate today action on a bill which I consider to be of very critical importance, and I am very pleased that our colleague from New Mexico (Mr. DOMENICI) has decided, notwithstanding his other engagements, to remain with us in the Senate long enough to express his particular concerns and to propose his particular amendment.

At a time of testing as to what we can and cannot do and what we should and should not do about education and the emphasis on the distinction betwee public and private schools, these ESE amendments, which are normally a re quired renewal of the Federal program become a matter of high national policy and it is my deep conviction, Mr. President, that these amendments continu the critical role of the Federal Govern ment in meeting established nations educational priorities, and that the bi will strengthen what I believe to be th fundamental purpose of Federal aid t education: To wit, to provide high qual ity educational opportunity to all chil dren in the United States.

We are targeting in this bill educa tional services to children who need the most, and we are stimulating State an local educational agencies to improve th quality of their educational programs.

Two overriding objectives guided th committee's review and revision of th elementary and secondary educatio programs: First, reduction of adminis trative burdens and paperwork; and sec ond, increased participation of childre in nonpublic schools within the frame work allowable under the Constitution.

I believe we have made very materi reductions in the administrative burde and in the paperwork. The committe bill deletes some application and report ing requirements and minimizes other It also gives the Education Division o HEW greater powers to coordinate dat collection among the various Federa agencies, in order to eliminate the dupli cative and nonessential requests for loca and State agencies to provide informa tion. These are vital steps that stream line categorical programs without sacri ficing categorical purposes.

Mr. President, we are very conscio of the fact that a very well-considere and what to me was a highly satisfac tory resolution by the Senate of th problem of whether aid to nonpubli schools should be given under the tuitio tax reduction program or whether should cont... ue to be given according t the Constitution of the United States un der this program was decided affirma tively by the Senate for the latter poi of view. This bill takes our responsibilit into very real account in that regard, an we have, in my judgment, materially in creased the participation of children i nonpublic schools in Federal aid withi the framework allowable under the Con stitution.

Testimony presented during ESE hearings last year made the committe fully aware that the level of participa tion of nonpublic school children in th Federal education programs falls far be low what is fair and desirable. Whil present law does call for equitable par ticipation of these children, education services funded by Federal dollars hav not been extended to them to anywhe near the full extent permissible.

To remedy this situation, the commit tee added 20 new provisions to expan the requirements for involvement of non public school children in the categoric programs. These provisions generally fa into three categories: First, required con sultation between nonpublic school o ficials and public school officials in th

design of local funding proposals, to insure that the needs of nonpublic children are taken into consideration; second, assurance of alternative arrangements for services to nonpublic school children when the local public school system is unwilling to include such children in their federally funded services, or is prohibited from doing so by State law; and third, established procedures for representatives of nonpublic schools to achieve satisfactory resolution of complaints regarding insufficient participation in the Federal programs.

I believe that these additional safeguards can dramatically improve the level and quality of services extended to children in nonpublic schools.

Mr. President, each of the various programs reauthorized or initiated in the education amendments responds to an identified need for Federal leadership and support. I would like to highlight for my colleagues those provisions in the bill which I believe to be of particular importance.

GIFTED AND TALENTED CHILDREN

First, a provision for gifted and talented children, which in my case has been one of the central themes of my efforts here. It has been very gratifying to me and I believe very helpful to the operations of the educational system of our country, that the gifted and talented programs are growing and taking hold.

Mr. President, one of the most critical, and yet, least costly elements of this legislation is the new program authorized for the education of gifted and talented children.

This new gifted and talented program is based on the Gifted and Talented Education Act of 1978, S. 2792, which I introduced on March 15, and which was cosponsored by 8 members of the Human Resources Committee, including the chairman of the Education, Arts and Humanities Subcommittee, Senator PELL, and the chairman of the full committee, Senator WILLIAMS. The provisions of S. 2792 were incorporated into the Education Amendments of 1978 during markup of this legislation by the Human Resources Committee, and I should like to commend Senator STAFFORD, the ranking member of the Education Subcommittee, for his particularly excellent contributions to the development of this most crucial portion of the legislation.

I would be remiss if I did not also express my appreciation to the Council for Exceptional Children, which has rendered exemplary service in advancing education of the gifted, for its assistance in the development of these provisions of the bill. The council worked closely with the committee in the development of the gifted and talented provision, and its recommendations have contributed significantly to the soundness of this bill.

The time has come to give new emphasis to the education of the gifted and talented, who rank among our Nation's most precious and yet most neglected resources. This legislation represents that new step, through a modest expansion and significant refinement of the existing State and Federal role in the education of gifted and talented children. By utilizing the simple and efficient structure of title IV of ESEA, which has proven to be an excellent mechanism for the distribution of Federal education assistance to States and localities, we can provide the proper scope and direction to the education of these children.

The Federal effort to identify and educate gifted and talented children historically has been rather sporadic and inconsistent. The National Defense Education Act of 1958 was the first major legislative initiative to provide special assistance to the gifted and talented, but this assistance was limited to a small, albeit important, segment of the total gifted and talented population—those with outstanding scientific, mathematical, or technical abilities. Subsequent to NDEA, however, the Federal role in the education of gifted and talented children has been characterized by a series of fits and starts. In 1969, I authored a provision of the Education Amendments of 1969, mandating the U.S. Commissioner of Education to escalate the status of education of the gifted and talented, examine the role of Federal, State, and local assistance to these children, and recommend new programs to meet current and future needs. Not until the landmark study and report by the Commissioner of Education Sidney Marland in 1972, "Education of the Gifted and Talented," however, did Congress again take real notice that only a small proportion of these children were receiving services commensurate with their needs.

The Marland report pointed up glaringly that there exists a general opinion which is an illusion: That these children constitute an elite group, and will automatically, by the very nature of their outstanding abilities, attain ultimate success in their chosen fields. This pervasive assumption, however, does not take account of the fact that the talents of the gifted are frequently potential talents, which may only be made actual through a major effort to identify these children and to provide them with the necessary special instructional programs. The Marland report also showed a woeful lack of resources for gifted and talented children at all levels of Government, and a concomitant need for an increased Federal role to promote action to improve the identification and education of these children. The report further showed that if such children remain unidentified, peer pressure and absence of self-discovery could make these children not only forgo their abilities, but even suppress them and perform at lower than normal levels.

To begin to meet the needs of the gifted and talented, I initiated legislation which resulted in the gifted and talented program under the Special Projects Act, part of the Education Amendments of 1974. The concept behind these special demonstration educational projects, of which the gifted and talented was one, was to allow new ideas a period of gestation in which they could develop, prove their programmatic usefulness, and hence, reach fruition.

The Federal gifted and talented program has been successful in doubling the capacity of State education agencies to identify and serve gifted and talented children. Yet its $2.56 million current appropriation and its demonstration project status are insufficient. If the Marland report's "conservative" estimate of 2 million gifted and talented children in this Nation is correct, then Federal expenditures represent little more than $1 per gifted child. The Senate Labor/HEW Appropriations Subcommittee, at the urging of Senator CHILES, has seen fit to increase funding for this program to $5 million, and I hope my colleagues will follow his lead and support this small, but important increase.

The current Federal expenditure in the existing gifted and talented program assists, through competitive grants, nascent programs in slightly more than half the States. In addition, these funds support projects of educator and leadership training and a small though diverse range of demonstration projects sponsored by LEA's. In fiscal year 1977, 422 LEA's applied for such demonstration project funding through the Office of Gifted and Talented. Only 14 projects were funded, and these at minimal levels, less than $20,000 each. This means that more than 30 applications were received for each such project funded. Although some States supplement Federal assistance with their own funds, there nevertheless exists a great unsatisfied demand at both State and local levels for new legislative directions to meet both the present and future requirements of the gifted and talented.

This legislation, Mr. President, will give the education of the gifted and talented necessary impetus nationwide and will provide direction and coherence to a more broadly based program of State and local support. In hearings conducted by the Education Subcommittee on ESEA this spring, I stressed the need to give the ball a new spin, to provide that impetus for a new effort on behalf of the gifted and talented. This bill does precisely that, and does so within an already existing and efficient delivery system—the title IV consolidation framework constructed in the Education Amendments of 1974. By creating a new part E for education of the gifted and talented within the title IV consolidation, S. 1753 establishes the necessary and proper focus for this effort, and does not expressly create another categorical education program. By using the concepts of the title IV State plan and title IV-C allocation formula for the gifted and talented program, this new effort will be relatively simple to administer at all levels of government.

Thus, Mr. President, the issue here is not merely one of increased funding. Rather, the Federal role must be to offer direction and give coherence to a more broadly based program of State and local support for gifted and talented education. This new gifted and talented program will bring us more closely in line with the ideal Federal-State-local partnership which education in this country must be. Through the new part E, gifted and talented education will be strengthened both administratively and programmatically by acting within broad framework of title IV, which contains mechanisms for a flexi-

ble and efficient distribution of funds, without losing the identity of the program within a "catch all" statutory structure.

The details of the program operation and the views of the Human Resources Committee are contained in the committee report on S. 1753, No. 95-856, on pages 55 and 56. I hope that interested Senators will consult this document for a full description of this provision.

Mr. President, the ultimate benefits to our Nation which can accrue from this effort to identify and develop the talents of gifted children are incalculable. Although these benefits may not be immediate, the legislation can form the crux of our future policy. The fruits of this policy will be seen when our gifted children reach positions of leadership in their chosen fields, and perform in these positions to their maximum capacity, with wisdom and sensitivity. This legislation will enable us finally to fulfill our obligation to these children, and through them, to ourselves.

TITLE I—COMPENSATORY EDUCATION

Next, the compensatory education programs, in which we are, in my judgment, making some very material changes. Especially important are the grants for concentration in urban—and I emphasize that—as well as rural—which I equally emphasize—school districts, where low-income children represent an especial concentration.

Title I of the Elementary and Secondary Education Act (ESEA) is the single largest program of Federal education aid. It provides nearly $3 billion for compensatory services to children in low-income areas who show a need for special educational support.

The committee retained the program purpose and the target population for title I—providing compensatory services to children in poverty areas—characterized this program since its inception. The committee did, however, adopt a number of amendments which reorganize and clarify the statute, simplify and reduce the administrative and paperwork requirements, and increase the involvement of parents and parent advisory councils in the local school programs.

The committee bill also includes two new elements in the title I program: Incentive grants to encourage the use of State funds for compensatory education programs, and concentration grants to those school districts with the highest numbers and proportions of low-income students.

The committee was greatly aided in its deliberations on title I by the studies conducted by the National Institute of Education (NIE) pursuant to the 1974 Education Amendments. The NIE took a comprehensive look at the various aspects of title I, and its resulting reports on the distribution, use and effects of the funds provided a valuable resource and the basis for many committee amendments.

The NIE reports, as well as the testimony of numerous witnesses before the Education Subcommittee, confirmed that title I funds have been reaching their intended destination, to wit, children in areas of poverty, and that these children are performing better as a result of their participation in title I services. I was encouraged, as were the other members of the committee, by these reports from evaluators and practitioners. This information provided a solid foundation for the committee's amendments to strengthen and expand this far-reaching and vital program.

Also of great value to the committee were the recommendations for clarifying and simplifying the statute prepared by the Lawyers Committee for Civil Rights Under Law, many of which are incorporated into S. 1753. These recommendations were developed in response to a request by NIE and provided the framework for the committee amendments.

Because of the size and significance of title I in improving the educational progress of children all across the country, there has been considerable debate in past reauthorizations over the means by which the funds are distributed. The funding formula continues to be a central concern, with diverse regional interests competing to achieve a formula which they believe to be equitable for them. The committee sought a formula which would fairly balance the various needs and circumstances, and I believe that the funding proposals contained in the bill do meet this objective.

The committee bill perpetuates those elements of the formula which are currently satisfactory to certain regions. However, in an attempt to redress to some degree the inequities which have accrued over the past several years to other regions, and to major urban areas in particular, the committee expanded one element of the formula—the number of AFDC children counted for entitlement purposes—and added a new authority for "concentration grants."

Present law counts only two-thirds of the students in families whose income is above the poverty line due to AFDC payments. To partially remedy this undercount of poverty children, the committee bill permits all children in AFDC families above the poverty level to be counted in the formula.

The concentration grant provides $400 million in new funds for title I programs to those urban and rural school districts whose low-income children number over 5,000 or exceed 20 percent of the total. As originally proposed by the administration, this provision would narrowly target additional funds by closely matching concentrations of children in poverty with concentrations of title I dollars. The committee bill contains two revisions to this proposal which somewhat dilute the funds to large cities in order to include smaller cities and rural areas.

The first revision is a shift from the local school district to the county as the eligible funding unit; the second is the addition of a small-State minimum, which guarantees that all States receive at least 0.25 percent (equal to $1 million of the $400 million authorized) of the funds available for this provision. The small-State minimum will substantially raise the funding levels for 15 States.

While the committee felt that some broadening of the recipient base was essential, it also concluded that any further dilution of the funds would contradict the very purpose of the concentration grant.

Another new element in title I is the State incentive grant, also proposed by the administration. A matching grant of one Federal dollar for every State dollar expended for compensatory services is established to encourage States to develop their own compensatory education programs. This should result in more extensive State commitments to focusing supportive educational services on children disadvantaged by poverty.

The committee indicated its commitment to the new concentration and incentive grant provisions by assuring adequate funding levels for each. In S. 1753 we require that no less than $400 million be reserved for the concentration grants out of the total annual appropriation for title I, and that the State incentive grants be funded after the first year at levels not lower than the first year's appropriation.

To sum up the funding provisions:

The existing formula is modified to count all AFDC children above the poverty line; new funds are added for high poverty areas; and new State incentive grants are provided. These three elements taken together—and let me emphasize the importance of all three of them fitting together—comprise a funding package designed to reach children in need of compensatory education services and to balance competing demands for formula equity. These provisions are a vast improvement to title I. I believe that full implementation of the funding amendments will produce a distribution of title I funds that is equitable for all regions of the country and for both urban and rural areas.

Aside from the funding provisions, the committee bill contains a number of amendments intended to facilitate the delivery of title I services. These provisions should simplify program administration at the local level and give added flexibility to program development. I would like to mention two of these amendments in particular.

The committee bill provides that title I money can be combined with State and local supplementary dollars to offer compensatory activities which benefit all children in a school when at least 80 percent of the children are from low-income families. This increases the flexibility of local school districts to provide services in schools with unusually high proportions of children in poverty.

The bill also revises a prohibition in current law which prevents title I teachers from performing certain noninstructional tasks which are carried out by other teachers in a school. The prohibition is relaxed to permit title I staff to participate in routine responsibilities such as lunchroom supervision, as long as such duties consume no more than 1 percent of an individual teacher's time.

The committee's amendments to title I are designed to enhance the quality of services to children, and thereby upgrade the quality of the children's learning. They are also the product of careful and thorough consideration of the funding effects throughout the Nation, and represent the committee's best efforts to devise a funding mechanism which fair

and equitably integrates the interests of all concerned.

SPECIAL PROJECTS ACT

Then we have the special projects act, which is an idea that we have developed—I have the great honor to have been responsible for it originally—where we have a basket of experimental programs. We give the programs 5 years to mature; if they mature satisfactorily they become, like the gifted and talented children's program, regular programs; if not, they are dropped.

This is proving to be an extremely important aspect of our work.

The Special Projects Act is extended by S. 1753 with some major revisions. It contains funds for demonstration projects in special education areas which are not addressed by other Federal programs. Specific funding areas are designated, and the Commissioner is also given authority to fund projects in areas of his own selection which he determines to be of national interest.

Among the programs remaining in the act is the arts in education section. This is of particular interest to me, as it provides the only categorical support for the arts throughout all the Federal education legislation.

The purpose for the Special Projects Act remains valid—to reach into new areas and explore ways of improving or initiating educational programs. The programs for gifted and talented children, discussed earlier in my remarks, and for community education, each originated in this context and are each separately developed in S. 1753. The Career Education Act, which I cosponsored and the Congress enacted in 1977, also began as a small demonstration program in the special projects basket. Each of these programs proved to reach a national need of sufficient scope to deserve expansion of the Federal efforts.

EDUCATIONAL IMPROVEMENT, RESOURCES, AND SUPPORT

S. 1753 extends and revises title IV, the "consolidation" title of ESEA. I have described previously the addition of a new part E, which I sponsored, for programs for gifted and talented children. The committee bill also adds a new part for guidance, counseling, and testing programs. This part extends both the program authority which has been combined with library and learning resource funds under current law, and the provisions for guidance and counseling established in the 1976 Education Amendments. By disentangling the guidance and counseling authority from the library and learning resource authority, the committee has highlighted the importance of each as a separate area meriting Federal support.

EMERGENCY SCHOOL AID ACT

The committee amendments to revise and extend the Emergency School Aid Act primarily increase the flexibility to fund newly desegregating districts with the greatest need for Federal assistance. In this vein, the committee bill permits a single grant, for no more than 2 years' duration, to local school districts for developing desegregation plans.

Also notable is the committee's decision to extend the set-aside for integrated educational television programs for children. This provision has been of special value to children in New York State and elsewhere who have been viewing "Vegetable Soup," a series of highly successful and widely broadcast programs produced with ESAA funds by the New York State Education Department. This and other outstanding television programs supported by ESAA have made a significant contribution to the ESAA objectives of aiding school desegregation.

IMPACT AID

Mr. President, much public attention has been given to the impact aid program, usually focusing on alleged abuses such as aiding wealthy school districts in the suburbs of Washington, D.C. The recent report in a national news magazine showed an aerial photograph of a campus-like high school in Virginia. Such reporting is a great distortion, and ignores the purpose and the reality of this program.

Impact aid pays local school systems a percentage of their education costs to compensate for the presence of federally owned facilities—military and civilian—which do not pay any taxes. The percentages, which vary as to classes of installation, pay an amount far less than the potential assessable property tax on these facilities. Property tax is the primary support for local school systems. Federal property pays no such taxes, but has the impact of locating thousands of children in school districts with no tax base to pay for their education. This is not full compensation by the Federal Government, nor should it be. Federal facilities do bring economic benefits to the localities. But the impact aid program is a partial payment, averaging well below half of the per capita cost of education each Federal impact child, because no taxes are paid. Is it so wrong for the Government to pay for its impact?

Who gets the money? Much of the total, as designed in S. 1753, goes to schools with high numbers of military children and low-rent public housing children. Although military pay has been increased, the vast majority of military personnel with school-age children receive very modest incomes. The families who live in Federal low-rent housing are surely not wealthy. Special provisions are included for handicapped children of military and Indian families. Are these abuses? Are these "fat cats" receiving unwarranted Federal largess? I must say they are not.

Mr. President. Opponents say they want to reform impact aid. I have served in the Congress under seven Presidents; and each one took the position: "We must reform impact aid." In 1974, the law was changed and more carefully targeted on true needs, particularly by guaranteeing that public housing children would receive at least 25 percent of their calculated full entitlement.

I would like to point out that S. 1753, unlike the provisions of the House version (H.R. 15) before House floor action in July, does not restore payments to out-of-State children and does not increase the present reduced rate for out-of-county children. The committee bill preserves these 1974 changes, and this is comparable to H.R. 15 as amended on the House floor.

Objections have been raised to the so-called "tier system" which distributes funds among various classes of impact children. This system was devised to balance spending and pay higher rates to districts which have heavier impact and greater needs. Impact aid is a reimbursement program which supports the general education of children of special Federal impact. Unlike specialized Federal grants for disadvantaged or bilingual or handicapped children, it is not a separately and specially designed program within the general education system. Districts with impact aid children must provide their general education. It is quite unfair to subject them to great uncertainty or annual fluctuations in the support of their general program. Because it balances among various levels of impact and needs, and because it creates some stability in this reimbursement for the general education of Federal interest children, I believe we must maintain the tier system as in current law, as passed by the House and as recommended by the Human Resources Committee.

OPTIONAL CONSOLIDATION

The committee also considered—and this is a tribute to Senator DOMENICI and Senator BELLMON—a proposed experiment in optional consolidation. The committee considered a variety of means for weeding out excessive paperwork and administrative requirements in the existing education programs. The most comprehensive and far-reaching single proposal of this sort offered before the committee was the pilot project for S. 1780, the Optional Education Simplification Act, principally authored by Senators DOMENICI and BELLMON. The sponsors have devoted a great deal of time and effort to creating a new structure for Federal education aid which aims at resolving many of the paperwork and administrative complexities accompanying the programs in their current form.

We were considering very seriously an amendment to permit six States to launch a 5-year experiment in this regard, but the committee as a whole did not think that we were ready for that. So in lieu of the pilot project we have agreed to conduct a study of the effects that such a pilot project would have. The Education Testing Service of Princeton one of the leading education research organizations in the world, has offered its services to conduct this study. We take this very seriously. We believe that it will produce the necessary results to enable us, if valid, and I hope very much that it will be proven valid, to go forward with a pilot project which our colleagues, with great initiative and enterprise, have proposed to us.

Then we have the adult education program, which is showing fantastic results, one of the most creditable which we have before us.

ADULT EDUCATION

Mr. President, S. 1753 also includes amendments, which I offered during Human Resources Committee markup, to

the Adult Education Act of 1966. The Federal adult education program, originally part of the war on poverty, and which I sponsored in 1966, has afforded literally millions of Americans the opportunity to achieve economic and social advancement through its dual emphasis on improving basic literacy and providing high school equivalency.

In developing this reauthorization of the Adult Education Act, I have been assisted greatly by the suggestions of the National Advisory Council on Adult Education, the Department of Health, Education, and Welfare, the New York State Department of Education, and Agudath Israel of New York. While the program basically has been proven to be highly effective, this revision will provide for greater program effectiveness and greater motivation on the part of adults to enter and remain in the program.

Specifically, S. 1753 will improve the adult education program by, first, revising the purpose of the program to include both grade level reference and an emphasis on competence in basic skills; second, expanding the adult education delivery system to include businesses, labor unions, libraries, colleges, and community organizations; third, providing for arrangements to assist and expand participation to flexible course schedules and locations; fourth, adding a research development, dissemination, and evaluation authority at the Federal level; and fifth, providing new authority to implement programs to meet special adult education needs of immigrants.

Mr. President, the expanded purpose will provide Federal Government recognition of a major problem—that many adults cannot read or write sufficiently well to function adequately in our society. Simultaneously, assistance to adults who desire to attain educational credentials such as their high school diploma will continue. Certainly these two aims are complementary, since functional illiteracy and lack of high school diploma are highly related.

Furthermore, expansion of the delivery system at the local level will provide greater flexibility for participants and will make entry into the program more convenient and attractive. Significant numbers of adults not currently being served can be brought into the program by this expansion.

Part of the rationale for this expansion of the delivery system is that basic school-based adult education programs have not attracted high participation from certain segments of our society. Through this legislation, we intend that participation by underserved segments of the population be increased, so that they, too, may be able to fully participate in the fruits of our society.

Included in this reauthorization of the Adult Education Act is a small yet significant provision to meet special education needs of adult immigrants. In its review of the adult education program, the Human Resources Committee was impressed with the unserved needs discovered in its review of programs currently serving adult immigrants. The needs of immigrants differ somewhat from those of other program participants, and these needs often include programs of English as a second language. Immigrants participation and retention rates in programs offered by the existing school based provider system are exceedingly low. These services are not available from ESEA VII bilingual education programs, which serve only children.

To meet these unique needs, S. 1753 provides that not less than 50 percent of appropriations under the adult immigrant section be reserved for private nonprofit organizations. This section also provides that programs for adult immigrants are consistent with the quality criteria established within the State adult education plan. I believe, Mr. President, that this new program for immigrants can be highly successful, and that it will greatly strengthen the overall adult education program.

Finally, we have bilingual education and the national assessment of educational progress.

BILINGUAL EDUCATION

Federal aid for programs of bilingual education continues to be a vital factor in the education of large numbers of students across the country whose native or home language is not English. The committee bill recognizes a clear Federal responsibility to support local school district programs for such students and expands the funding authority to more closely reflect the growing need for assistance. I have long believed that this is a most critical need and strongly support the expansion provided in S. 1753.

NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS

S. 1753 acknowledges the valuable role of the national assessment of educational progress (NAEP) by providing a new and separate authority for the assessment under the aegis of the National Institute of Education. In recent years NAEP has surveyed the knowledge and skills of young people to develop a national profile of student learning. The new statutory authority for NAEP is drawn to preserve those qualities of the assessment which have earned it the widespread respect and support of the education community, most notably: Sensitivity to the difficulties in developing testing methods and in reporting test data; respect for State and local control; commitment to working cooperatively with educators at all levels; and the capability and commitment to disseminate widely their testing methods and results.

Mr. President, I wish to pay my tribute to Senator PELL and to the staff, to the extraordinary and gifted leadership which Senator PELL is giving in this field. In the Human Resources Committee, he is chairman of the subcommittee dealing with this particular subject. I also pay tribute to Senator STAFFORD, of Vermont, the ranking minority member of this particular subcommittee.

Mr. President, I yield the floor.

Mr. STAFFORD. Mr. President, I wish also to express my support for S. 1753, the Educational Amendments of 1978, which will extend the Elementary and Secondary Education Act and related programs. This bill reauthorizes and in many ways improves the basic legislation which provides assistance to our country's schools.

Most of what is before us is necessarily familiar to all of us, as the programs we propose to renew provide funds to 90 percent of this country's school districts. Yet this also is legislation whose intricacies require a 377-page bill and a 500-page accompanying report. Therefore, and to the certain relief of my colleagues, my comments will be brief and limited to selected highlighting.

The title I compensatory education program is the largest program of aid to elementary and secondary education. Nearly 6 million educationally disadvantaged children from low-income families benefit from title I services, three-quarters of which are instructional. We have strongly favorable evidence of the effectiveness of title I. One can readily imagine how much worse off the children and the schools would be without title I.

In addition to continuing this fundamentally important program, S. 1753 makes two significant changes in title I. One is to provide the incentive of a matching grant program for States which develop or increase their own programs of compensatory education which are similar to title I. The other, dubbed the "concentration funds," would provide $400 million to counties with high concentrations of children from low-income families. I find both of these changes very commendable. The greatest improvements we can make in title I are to encourage greater effort by the States and to reinforce targeting upon the areas of very greatest need, both urban and rural. Another improvement in this bill is new language to assure nonpublic school participation in title I.

In all parts of the country there has been an outcry about declining test scores in our schools. Title II, which is entirely new, addresses this problem. It authorizes grants and contracts which can develop and demonstrate the most effective methods of improving achievement in reading, mathematics, and written and oral communication. Title II also establishes a program of grants to implement educational proficiency standards and of technical assistance to develop achievement tests. In keeping with our constitutional tradition, it should be perfectly clear that the Federal Government is neither to specify the standards nor require the use of a particular test. The purpose of title II is to assist the States and local educational agencies. It is also to help the country by responding constructively to a national problem. It is important that test scores start going up again. Title II offers the potential of generating improvement in basic skills and education proficiency across the country. It is a significant and constructive initiative.

I would like especially to mention two very promising new provisions for the education of gifted and talented children which have been inspired mainly by Senator JAVITS. For several years there has been a small pilot project for such children administered from Washington. As the program has matured and demonstrated its value under the Spec

Projects Act, our Human Resources Committee has approved an expanded program under title IV, with three-fourths of the funds to flow directly to the States. Some provisions which I considered essential are included in the bill; namely, the assurance of a $50,000 minimum fund for each State and discretionary power left to each State to select both the kind of administering agency and the internal funding allocation it finds most suitable in light of its own needs. These provisions should make this program administratively appealing to all States. Our country has been much too slow in developing programs to meet the special needs of gifted and talented children, and I am very pleased by these provisions in title IV.

S. 1753 undoes a mistake made in title IV a few years ago when programs for instructional materials and school library resources were consolidated with programs for guidance, counseling, and testing. A great deal of unfortunate competition resulted between the "things" oriented and "people" oriented elements, yet both elements are of high priority. At the recommendation of all parties concerned, these elements have been separated. We need strong support for instructional materials and school library resources. We also need strong support for guidance, counseling, and testing.

An overarching concern has been the steady proliferation of burdensome paperwork. There has been steady complaint from school administrators about duplication and about repetitive annual applications. The committee has been responsive. For titles I and IV, which are the ones administered through State departments of education, there is provision for a single application. This and other sensible changes will cut down on the paperwork and simplify administration. These are important improvements and will be well-received by administrators.

There are many other fine features of this bill. It is the product of major effort by many members of the Committee on Human Resources, and especially by the chairman of the Subcommittee on Education, Arts and Humanities, Senator PELL. The overall effect will be to increase access to opportunity and to help the States and local educational agencies to improve the quality of our schools. These are effects we need for our young people and for this country's future. I urge my colleagues to support S. 1753.

Mr. DOMENICI. Mr. President——

Mr. JAVITS. First, if the Senator will yield, I ask unanimous consent that Dr. James Dockemy, of Senator THURMOND's staff, be granted the privileges of the floor during the consideration of S. 1753.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I thank Senator PELL, Senator JAVITS, and their staffs for their kindness in working with us on this bill and letting us work with them. Later on we will engage in a little more of a dialoge regarding the consolidation approach that the Senator from New York mentioned in his opening remarks.

First, Mr. President, I want to address a few remarks to bilingual education and then introduce a series of amendments on that subject before I move to a few other matters.

Mr. President, American education should afford to each and every person the essential entrance into the mainstream of American society; our education should provide social mobility, and extended opportunities because of the democratic ideals on which our society is based. The public school system in the United State is and should be an equalizing force in American society. And, adhering to this definition, every child, regardless of his family's background and wealth, should have the opportunity to gain an education. However, our students with limited English-speaking proficiency, usually represented by minorities, are not able to fully benefit from the public school education, because they often cannot perform effectively in the English language.

Bilingual education, a program in which the student is taught in his native language and in English concurrently until he is able to master the English language, greatly enhances the educational opportunities for students with limited English-speaking proficiency. Thus, bilingual education can afford its students entrance into the mainstream of American society.

The U.S. Office of Education estimates that at least 5 million children are in need of some type of assistance. A number of these speak English, but about 1.8 to 2.5 million children actually need bilingual education.

A high percentage of these children will drop out of school, because of their lack of proficiency in the English language. The survey of languages, conducted by the Bureau of the Census for the National Center of Education Statistics in July 1975, indicates that for the total population 19 years of age or older, 9 percent have completed only the eighth grade or less. However, 58 percent of those whose usual language is not English report that they have completed only the eighth grade or less. Furthermore, 68 percent of the total population ages 19 or older have completed the equivalent of high school or better. A mere 30 percent of the population who usually speak other languages had completed high school.

Other studies have concluded that, in certain Hispanic populations, 20 percent of the children never even enrolled in school.

And, surveys have concluded that the average number of years of school attended by Mexican-Americans is merely 7.1 years, while nonminorities complete an average of 12.1 years of schooling.

For those students with limited English-speaking proficiency who do remain in school, a 1971 U.S. Commission on Civil Rights report, "The Unfinished Education," indicates that 50 to 70 percent of Mexican-American students in the 4th, 8th, and 12th grades in the Southwest are reading below expectations for their respective grade levels. In contrast, only 24 to 34 percent of all nonminority students in these grades are reading below grade level. Numerous studies have indicated a relationship between poor reading ability and rate of dropout.

Even worse, as outlined in a 1970 report of the Civil Rights Commission, many minority children are assigned to special education classes for the mentally retarded. In one particular school district, the U.S. Office of Education estimated that 86 percent of the Hispanic students have been assigned to classes for the mentally retarded.

Finally, the survey of languages, previously cited, also indicated that, in addition to having less education, those groups with limited English-speaking proficiency participate in the labor market in relatively lower numbers, and have higher unemployment rates than those from English-speaking backgrounds.

Mr. President, a high percentage of children needing bilingual education are not able to perform at their academic best, because of their lack of proficiency in the English language. Clearly, the schools must build on the strengths, particularly the language strengths, the children possess. With the effective implementation of a bilingual education, these children are able to increase their proficiency in the English language, and therefore fully benefit from the public education system. For these millions of disadvantaged children, the Bilingual Education Act promises a fuller participation in a free society.

The Education Amendments of 1978, which include reauthorization of the Bilingual Education Act, have been reported by the Committee on Human Resources. Mr. President, allow me to briefly review some of the recommended changes that are very important in the continuation of the current program through fiscal year 1983.

Since the Bilingual Education Act presently serves less than 10 percent of the eligible bilingual children, the committee approved the authorization increase from the current $160 million for 1978, to $200 million for 1979; $250 million for 1980; $300 million for 1981; $350 million for 1982; and $400 million for 1983. This increase will not provide service for all eligible children, but will more than double the number of children who can be served.

Since, as reported by the committee, evaluations for bilingual projects have been inadequate for measuring program effect on student achievement, and have also been inadequate for identifying projects worthy of replication, the committee bill authorizes $20 million to carry out a strengthened research and development effort for 1979, and "such sums" for each year thereafter. I believe such a strengthened research effort is necessary.

In order to reach children with limited English proficiency most effectively, the Secretary is directed to prepare and, not later than September 30, 1980, submit to the Congress and the President a report identifying the approximate number of children with limited English-language proficiency in the Nation, by language and by State. Identification of the children in need of bilingual programs is a must if we are to provide

equal educational opportunity for all children.

Mr. Chairman, I am gratified that a number of the provisions in the committee bill are taken from S. 2807, which I introduced along with Senator HART, my able colleague from Colorado. While we are pleased with many of the amendments contained in S. 1753, particularly those which require the collection of data on the target population, we are convinced that additional information should be required in order to prepare the Congress for policy decisions concerning this program at the next reauthorization.

Therefore, we are offering several amendments which I feel are necessary if bilingual education is to be an integral part of the Federal effort to provide equal educational opportunity for all children. The first of these amendments, which I now send to the desk, directs the Department of Health, Education, and Welfare to prepare and submit to Congress a report detailing methods of phasing in and establishing a formula grant program to serve those students with limited English proficiency.

As I stated, a number of us have some concerns about bilingual education. Even with the generous add-on that the committee has provided in this bill, many of us are offering amendments which we feel are very necessary if bilingual education is to be an integral part of the Federal effort to provide equal educational opportunities for all children.

I now send to the desk, Mr. President, five amendments, which I will call up in the number 1 through 5 as stated thereon. I merely send them to the desk at this time.

UP AMENDMENT NO. 1712

(Purpose: To require the submission of a report to the Congress setting forth the methods of establishing a bilingual formula grant program)

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI), for himself, Mr. HART, Mr. HATHAWAY, Mr. TOWER, and Mr. MCGOVERN, proposes an unprinted amendment numbered 1712.

On page 290, between lines 21 and 22, insert the following:

"(f) The Secretary shall prepare and submit to the President and to the Congress not later than December 31, 1981, a report setting forth the methods of converting, not later than July 1, 1984, the bilingual education program from a discretionary grant program to a formula grant program to serve students of limited English language proficiency. The study required by this subsection shall consider the findings of other studies required to be made under this section, and shall include cost estimates for the phasing in of the formula grant program.

On page 290, line 22, strike out "(f)" and insert in lieu thereof "(g)".

On page 291, line 5, strike out "(g)" and insert in lieu thereof "(h)".

Mr. DOMENICI. The first of these amendments directs the Department of Health, Education, and Welfare to prepare and submit to Congress a report detailing methods of phasing in and establishing a formula grant program to serve those students with limited English proficiency. This amendment does not ask HEW to recommend whether a formula grant program should be established; rather, it asks HEW to prepare a report detailing the methods of phasing in and establishing a program should Congress decide to consider that alternative at the next reauthorization. I stress the difference, Mr. President.

There are many who believe that this should become a formula grant program, and it is very difficult for any committee to come up with an approach to this. This amendment would not give HEW the option to weasel around as to whether or not this is a good approach. Rather, the amendment requires HEW to prepare the report detailing how this program might be phased in and established. Then, the policymakers for the people of this country, the Senate and the House, could decide whether or not they want to proceed with the formula grant approach for bilingual education.

I understand that the first of these amendments, which is cosponsored by a number of distinguished Senators, is acceptable to the managers of the bill.

Mr. PELL. The Senator from New Mexico is correct. I think the RECORD should show, as the Senator has already emphasized, that this is calling for a study and not moving into being a formula grant program, because if we moved today, even if we might like to do so, the cost would go into billions of dollars. We want to know where we are first. My own State of Rhode Island has particularly been a beneficiary of the bilingual program and we are strong supporters of it.

Personally, I hope the study shows the value of the program and the need to go into a greater enlargement of it on a formula grant program. Let the RECORD show that we have no objection.

Mr. DOMENICI. I thank the Senator.

Mr. JAVITS. There is one point I would like to have very clear with the Senator in connection with this amendment. That is that we do not presume what the Secretary will find. The language of the amendment would have some implication in that regard: It should not suggest that all the Secretary has to do is to deal with methods. The fact is he has to decide and give us a view. We may not go with him as we may not agree as to whether or not we should go for a discretionary grant or a formula grant.

With that understanding, that HEW has the right to make recommendations on that score as well, I have no objection to the amendment and to its acceptance. Is that agreeable to the Senator from New Mexico?

Mr. DOMENICI. I think we ought to discuss that a little more.

I might say to my good friend from New York, whose assistance I greatly appreciate, and whose expertise in this area I consider to be foremost, that I do not believe I want to leave that last colloquy in its present status. The purpose of this amendment is that the Secretary shall prepare and submit to the President and to the Congress a report setting forth the methods of converting the bilingual education program from a discretionary grant to a formula grant program. It does not let them at HEW decide whether the study is a good idea or not, but merely to make a recommendation as to how that might be carried out. What we do not want them to do is to send up a very flimsy report saying, "We have looked at it and it will not work." What we want them to do under this amendment is to send it to us no matter how difficult and complicated. They do not have the discretion to decide whether or not to do this study, which is to recommend a system for converting this discretionary program into a formula program. May be we have said the same things.

Mr. JAVITS. No, we did not say the same thing, because, while I understand that they are to set forth the method of conversion, they also have the right to say, "We do not believe conversion is desirable, and these are our reasons," however, because you have asked for it we herewith set forth the methods by which you could convert if you wish to.

The final decision would be ours. The word "decide" as the Senator used it is not appropriate. They do not have the power to decide; we do.

Mr. DOMENICI. That is correct.

Mr. JAVITS. So long as we understand that, and that is very clear, I believe that our mandate to them should include also whether or not they consider the conversion desirable and if so why; if not, why not, as well as the they have the duty, and we will impose it, to give us the methods by which there would be a conversion if we choose to go that route.

I just do not want to foreclose them from the right to tell us they do not think it is a good idea and why.

Mr. DOMENICI. If this amendment is adopted and becomes law, in no event can they escape giving us their expert advice and study on how to convert it.

Mr. JAVITS. If we choose to go the route.

Mr. DOMENICI. That is right. We understand each other.

Mr. JAVITS. On that basis, it is acceptable.

Mr. DOMENICI. Does the Senator from Rhode Island agree?

Mr. PELL. There is no time limit, so I suggest the question be put.

Mr. JAVITS. We are ready to vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. DOMENICI. I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1713

(Purpose: To strengthen the provision with respect to staffing in the Office of Bilingual Education)

Mr. DOMENICI. The second amendment that is already at the desk, but has not been called up is serially marked No. 2 for the clerk. It directs that the Commissioner shall insure that the Office of Bilingual Education be staffed wit

sufficient personnel who are trained in or have experience in bilingual education.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI), for himself, Mr. HART, and Mr. TOWER, proposes an unprinted amendment numbered 1713.

On page 201, line 6, beginning with the word "is" strike out through the word "title" on line 7 and insert in lieu thereof the following: "is staffed with sufficient personnel trained, or with experience in, bilingual education to discharge effectively the provisions of this title".

Mr. DOMENICI. Mr. President, the current bill mandates that the Commissioner shall insure that the Office of Bilingual Education is adequately staffed to discharge the provisions of this title. My amendment simply adds to this provision, stating that the Office be staffed with professionals in the bilingual field. While such professionals may not have been available a few years ago, there are now sufficient and sufficiently trained personnel available to enable the Commission to hire trained and/or experienced staff. I do this only by way of clarification. I truly believe this is the intention of the committee in its appropriate section under bilingual education.

Many of my bilingual experts have found that there is a deficiency in the Office in terms of parity of knowledge between those in the field who have been running the bilingual programs, and those up here who have been administering them. I am merely adding to the bill. Staff the programs as indicated by the committee, but do it with peaople who have experience in bilingual education.

Mr. PELL. Mr. President, I have had an opportunity to peruse the amendment of the Senator from New Mexico. I think it is an excellent amendment. We are particularly fortunate in my part of the country; we have nine Federal bilingual programs going on now, mostly centered around the Portuguese language.

We have these experts in Rhode Island; we are particularly blessed that way. I hope they also exist in the rest of the country. I think the legislative history should show that this has been passed on a best-efforts basis, because there are some areas of the country where they will not have the same expert knowledge that they do in the Senator's State or in mine.

Mr. DOMENICI. I believe the Senator makes a good point. I was assuming that, because there are so many experts in the bilingual field in my State, I was assuming many available experts in every State. I accept the Senator's explanation. We are saying experts—if they are available.

Mr. PELL. There is one other thought here in the whole bilingual program. That is that we must be very careful that it does not tend to segregate the groups that are in it longer than would otherwise be the case. I have had experience of seeing a program in which, after the year or two that the students are in it, they know less English than when they started out.

From my viewpoint, the amendment would be acceptable. I do not know how my colleague feels.

Mr. JAVITS. Would the Senator yield?

Mr. DOMENICI. I am delighted to yield to the Senator from New York.

Mr. JAVITS. The Senator has a number of bilingual amendments, and I think the concept is important. The committee generally, and Senator PELL will correct me if I am wrong, has taken the position that the purpose of bilingual education is to end bilingual education; in short, to win children to the proposition that their mother tongue is English and that they should learn and study in the English language.

Mind you, I am very devoted to bilingual education. In short, I wish that we had, in our whole educational system, from the kindergarten up, the requirement that children learn a second language, whatever that might be—probably, in our country, it is most likely that it would be Spanish. But I do believe that the way to come at it is not this way; that is, by perpetuating the language inadequacy which occurs from parentage and the language spoken at home, but by dealing with it, first, by bringing the children into the total English realm, and then, like other children to whom English is the mother tongue, enabling them to learn a second language.

That is my philosophy. If we are on the same wavelength, because I think that really has to be the purpose of the elementary and secondary education Federal aid, then I am entirely with the Senator on this and probably his other amendments. What I am interested in is the fundamental thrust of what we are trying to do.

Mr. DOMENICI. Let me say to my good friend from New York that this amendment would insure that where there are bilingual experts, that kind of expertise should find itself in the Commissioner's office in Washington.

I do not think it is necessary that we conclude that we philosophically agree on bilingual education's future. I think the Senator would agree that if you have experts in bilingual education, even if it is an interim, transitory thing as he describes it, we ought to mandate that they be in this office and not have merely educators who know nothing about bilingual education here.

I do not know at this point whether I would be prepared to say to the Senator, only if I agree with his philosophy will he accept the amendment, therefore I agree with the philosophy. I am not prepared to do that, because that may not be the case. As we see this study that the previous amendment talked about and because my particular State has a cultural relationship to bilingualism, that may be completely different from others. I do not know that the philosophy should be agreed upon by this Senator at this point.

Mr. JAVITS. I think that is a fair statement, but I wish to make it very clear that, by accepting this amendment or raising no objection to it, I am in no way compromising my point of view, but I will fight for it and insist on it. Because whether it is New Mexico, which is contiguous to Mexico and has a very broad Spanish-speaking population, or whether it is in my State, which has an equally broad Spanish-speaking population, though they are mainly from Puerto Rico, I believe this is the right way to go.

People in this country have to recognize that they have to learn and speak English; that is the basic tongue. Our Federal aid, in my judgment, must be directed toward that end and we cannot confuse bilingualism with the fact that children ought to learn and know another language. While asserting that point of view and my own intention in raising no objection to the amendment, I have no objection to it.

Mr. DOMENICI. I thank the Senator from New York.

Mr. President, this is the amendment that we have been discussing since the adoption of the last amendment. I have nothing further to say on it. I believe it is acceptable to the managers of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico.

So the amendment (UP No. 1713) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT 1714

(Purpose: To delete an exception relating to the prohibition on the use of funds under title VII and insert clarifying language)

Mr. DOMENICI. Now, the third amendment pending at the desk, Mr. President, is technical in nature. It clarifies the language in the bill which provides that the prohibition to supplant does not preclude a local education agency under court order from using funds under this title for activities directed by the court order or Lau plan. We have stricken, by this amendment, a clause under section 721(b)(2)(G) which we felt suggested that title VII funds could be used as a compliance tool in a Lau plan or in an order by the court. We have replaced it with language that allows districts under court order or implementing a Lau plan to compete for and use title VII funds.

I think this amendment is necessary to assure that title VII remains a competitive process and is not subject to use by the courts or the Office of Civil Rights as a compliance mechanism.

I believe that this has been discussed with the staff and with the managers of the bill. I think we probably start off with the same goal, but without this amendment a misunderstanding could result. These funds could lose some of their competitive nature, and could be used to meet compliance requirements under court order, and I do not believe that was ever the intention.

If that were the case, we could have a court order in one part of the Nation, and funds could conceivably be diverted from surrounding States to meet compliance obligations in one area.

I do hope this will be accepted by the managers.

It is not intended in any way to detract from the court orders, rather it is designed to let these sections of the bill remain competitive even with court orders passing judgment on qualifications, criteria, eligibility, and the like.

Mr. HOLLINGS. Will the Senator yield for a unanimous-consent request?

Mr. PELL. I yield to the Senator.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that during consideration of this bill Mike Copps, Ashley Thrift, Mike Joy, Ralph Everett, and Tom Polgar of Senator MORGAN's staff, be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I ask unanimous consent that Tom Dougherty of Senator GLENN's staff be granted privilege of the floor during the debate and votes on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, in response to the question on the amendment raised by the Senator from New Mexico, I would say that I think it is acceptable. It makes explicit what is already implicit. I believe we should move ahead with it.

Mr. HAYAKAWA addressed the Chair.

Mr. DOMENICI. Did the Senator from California want to speak?

Mr. HAYAKAWA. I would like to make a unanimous-consent request, and would the Senator from New Mexico yield me 12 minutes? I would like to make a few remarks, but not to introduce an amendment.

Mr. DOMENICI. Let me say to my good friend from California, I have a couple more amendments on bilingual education. I would like to finish them so that their sequence remains intact, and then I will be pleased to see how that works out.

Mr. HAYAKAWA. Fine.

Mr. DOMENICI. But I would rather complete them, if the Senator does not mind.

Mr. HAYAKAWA. I thank the Senator.

Mr. President, I ask unanimous consent that Dr. John Backer of my staff be granted privilege of the floor during the debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I wonder if I might call up this amendment now and have the clerk read it. It is very short and I want to make sure the Senator from New York and the Senator from Rhode Island have the exact language.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI), for himself, Mr. HART and Mr. MCGOVERN, proposes an unprinted amendment numbered 1714:

On page 279, line 7, beginning with (1), strike out through "with" on line 9 and insert in lieu thereof the following:

"(1) preclude a local education agency from using funds under this title for activities carried out under".

Mr. JAVITS. Mr. President, I will tell the Senator what interests me. What interests me is whether the funds would be used for the purpose of complying with a court order, or whether they would be used for bilingual programs in a program which relates to the responsibilities imposed by the court but would still remain a bilingual program.

Mr. DOMENICI. Indeed.

What I am saying is that they could be used to comply, but I think the committee never intended that this kind of a grant be anything but competitive. Therefore, we do not want to leave the impression that a court can order this money around because they have found that there is a need for bilingual education in a certain part of the country. We know that. But we have always had this money competitive. Some are able to get it, some are not.

We just want to clarify, certainly, a court order may be in some respects met when it says there is a bilingual need here and it ought to be used.

If they succeed in their competition, it may, indeed, fulfill that particular court order.

But we do not want courts substituting for the competitiveness of bilingual programs because this is not that kind of program.

Mr. JAVITS. In other words, the courts cannot run the program, even though the program may result in greater or definitive compliance with all or a part of a court order?

Mr. DOMENICI. Precisely.

Mr. JAVITS. That is acceptable to me.

Mr. DOMENICI. I thank the Senator.

I move the adoption of my amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico.

So the amendment (UP No. 1714) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. Will the Senator yield?

Mr. DOMENICI. I am delighted to.

Mr. JAVITS. Mr. President, I ask unanimous consent that Ed King of Senator BARTLETT's staff, Karen Steidl of Senator YOUNG's staff, Cindy Root of Senator TOWER's staff, be granted privilege of the floor during consideration of this bill.

Mr. ROTH. If the Senator will yield, will he add Chris Warner of my staff to that list?

Mr. JAVITS. I make that unanimous-consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1715

(Purpose: To strengthen the development of bilingual education materials and to assure that the relative needs of various language groups are taken into account in the development of such materials)

Mr. DOMENICI. Now, Mr. President, the fourth amendment I have pending at the desk is an effort to upgrade the bilingual materials and to insure the relative needs of the various language groups are taken into account.

In current law, the NIE and the Commissioner are mandated to develop and disseminate instructional material and equipment for use in bilingual education programs. However, the current committee bill does not continue the mandate and I believe it should be continued. I urge acceptance of the amendment.

The PRESIDING OFFICER. Does the Senator call up the amendment at this time?

Mr. DOMENICI. I call up the amendment.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI), for himself, Mr. TOWER, and Mr. HART, proposes an unprinted amendment numbered 1715:

The amendment is as follows:

On page 287, between lines 16 and 17, insert the following:

"(e) The Commissioner and the Director of the National Institute of Education shall through competitive contracts with appropriate public agencies and private institutions and organizations, develop and disseminate instructional materials and equipment suitable for bilingual education programs. The quality of materials developed pursuant to this subsection shall be comparable to the quality of materials provided in classrooms for English dominant children. In the development of instructional materials for the purpose of this subsection, the availability of materials already in existence in private and public sources shall be taken into account and special attention shall be given to language groups for whom private organizations are unlikely to develop such materials."

On page 287, line 17, strike out "(e)" and insert in lieu thereof "(f)".

Mr. PELL. Mr. President, I have had an opportunity to go over the amendment. I think it is an excellent amendment, and I suggest to my colleagues that it be accepted.

Mr. JAVITS. Mr. President, I have one question.

The Senator from New Mexico uses in the second line of this amendment the word "competitive"—"through competitive contracts." I just want to be sure that that word does not have any statutory significance. Does the Senator mean an ultimate effect?

Mr. DOMENICI. Indeed.

Mr. JAVITS. I do not know what other procedures they otherwise would have to go through.

Mr. DOMENICI. There is no statutory meaning other than the word itself.

Mr. JAVITS. I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico.

The amendment was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1716

(Purpose: To provide more specific criteria for the approval of initial applications under title VII)

Mr. DOMENICI. Mr. President, I send to the desk five amendments, and I be

lieve we are now on the fifth amendment. I do not want to call it up yet. I want to discuss it for a moment. This amendment clarifies the term "historically underserved," which appears in section 721(b) of the committee bill. The phrase "historically underserved" in this section has been used to set a priority for new applicants, and it lacks definition.

We ask the question, who have been historically underserved? What does historically underserved mean?

The purpose of this amendment is to provide specific criteria to be considered in exercising this priority. That language is consistent with the provisions of the bill which direct that consideration be given to relative numbers of children eligible and to the relative need for such program.

I truly believe that the amendment is consistent with the bill, and merely will be more specific to make certain that the intention of the farmers of the bill is not departed from by those who administer it.

I call up the amendment.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes an unprinted amendment numbered 1716.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 280, line 5, before the period insert a comma and the following: "taking into consideration the relative numbers of such children in the schools of such local educational agencies and the relative need for such programs".

Mr. PELL. Mr. President, I have had a chance to go over this amendment. I believe that the term "historically underserved" is one that requires definition, and I believe we are correct in moving ahead with the acceptance of this amendment.

Mr. JAVITS. Mr. President, the term "historically underserved" applies not only in the area of which the Senator is speaking but also could apply—and I gather it is the purpose of the amendment—in many other areas.

For example, I believe that New York City, which has a population of almost 8 million, has about a million people who, generally speaking, are in this category of historically underserved.

So, with the understanding that this is a term of quality, nationally applicable wherever it is applicable, I find no objection.

Mr. DOMENICI. I am most appreciative. That is my intention, also.

Mr. President, in connection with this amendment I recognize the assistance of Senator HATHAWAY. He has statements in support of the clarifying amendment with reference to "historically underserved," and he has asked that they be made part of the record. I ask unanimous consent that his statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENTS BY MR. HATHAWAY

I am pleased to be a cosponsor of the pending amendment of the Senator from New Mexico. It is a worthy amendment to the bilingual education provisions and I urge its adoption.

It would require that the Secretary submit to Congress by the end of 1981 a report on procedures necessary to convert this program from a discretionary grant program to a formula grant program.

In this way, Congress would be in a position to carefully consider such a proposal. At this point in time it is clear that there is a great unmet need for bilingual education. Currently 255,000 children are served by Federally funded Bilingual programs. But the estimated need ranges from 800,000 to 3.3 million for a shortfall of up to 10 to 1.

These factors were motivations behind my amendment to give priority in considering initial grants to areas and groups which have been underserved, and to move toward an equitable geographical distribution. As the Committee report notes, there is an unmet need for such programs in New England among Franco-Americans, and this is particularly true in the state of Maine.

I look forward to this amendment providing momentum to meet all of these unmet needs.

As the author of the language which the Senator from New Mexico proposes to amend, I would like to offer a couple of comments.

I believe his amendment is consistent with the language in the bill and in the accompanying report.

The statutory language is as follows:

"(3) In the consideration of initial applications from local educational agencies to carry out programs of bilingual education under paragraph (1) of this subsection, the Commissioner shall give priority to applications from local educational agencies which are located in various geographical regions of the Nation and which propose to assist children of limited English proficiency that have historically been underserved by programs of bilingual education. In approving such applications, the Commissioner shall, to the extent feasible, allocate funds appropriated in proportion to the geographical distribution of children of limited English proficiency throughout the Nation, with due regard for the relative ability of particular local educational agencies to carry out such programs and the relative numbers of persons from low-income families sought to be benefited by such programs.".

The accompanying report states:

"The committee further agreed to amend the Bilingual Education Act with respect to procedures to be utilized in the evaluation of initial grant applications for assistance under that Act.

"The amendment would require the Commissioner, in the consideration of initial applications from local educational agencies for bilingual education grant funds, to give priority to applications from such agencies located in geographical areas and proposing to assist children in need that have historically been underserved by programs of bilingual education. The amendment further requires that in approving such initial applications, the Commissioner shall to the extent feasible allocate funds in proportion to the geographical distribution of such children of limited English proficiency throughout the Nation with due regard for the ability of the local educational agency to carry out such a program, and the relative numbers of low income children sought to be benefitted.

"The committee strongly believes that effective bilingual education programs ought to be implemented to benefit all children in need of such services throughout the Nation. At the same time, it is recognized that budget realities preclude this goal from being immediately realized through Federal programs. Currently 255,000 children are served by federally funded bilingual demonstration grants. This is far short of the need, however, since the Committee has received estimates of children who could benefit which range from 800,000 to 3.6 million. Thus, the shortfall in program resources to program need could be between 1 to 3 and 1 to 10.

"Since it is not presently possible to establish federally assisted programs reaching all children in need of such assistance, the Committee believes that it is important to utilize scarce funds for demonstration programs and projects with a view toward stimulating interest and initiative among State and local educational agencies throughout the Nation which ultimately would lead to successful non-Federal programs.

"The Office of Bilingual Education is urged to continue its efforts to provide technical assistance to local educational agencies interested in applying for such assistance, and is encouraged to engage in active outreach programs to stimulate such interest. The Committee also takes notice of the potential need for bilingual education programs among Franco-Americans and Portuguese-Americans in New England, for Spanish speaking persons of Caribbean origin through the Northeast, and urges the Office of Bilingual Education to give appropriate attention to applications designed to meet this need.

"The committee stresses that this amendment is not intended to be used as a basis for redistributing funds to favor one language group over another exclusive of need. Projects grants should continue to be awarded according to the degree of need for assistance and the quality of the existing projects or future project proposals. It is anticipated that increased funding for title VII in future years will enable the Commissioner to reach regions and groups which have historically been underserved."

This language stresses that the relative numbers of children must be examined, relative need must be considered, and the overall quality of the application must be considered, with attention to the ability of the local educational agency to carry out the program.

The Senator's amendment further underlines these factors and I am pleased to support it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico.

The amendment was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, does the Senator from California wish to speak on bilingual education?

Mr. HAYAKAWA. I do, and I would be grateful if the Senator from New Mexico would yield to me.

Mr. PELL. There is no time limitation.

Mr. JAVITS. The Senator simply can take the floor.

Mr. DOMENICI. I say to the Senator from California that I am delighted to yield at this point.

I have a number of additional amendments, but they are not on bilingual education, and I yield the floor at this moment.

Mr. JAVITS. Mr. President, I ask unanimous consent that Jerry Rosen, of Senator GRIFFIN's staff, may have the

privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from California is recognized.

Mr. HAYAKAWA. Mr. President, I rise today to offer some comments on so-called bilingual education. I have a life-long habit of not accepting words simply on the basis of their colloquial usage. I like to make certain that the meaning of any particular language can be clearly identified.

In this connection, the term "bilingual education" has been giving me some problems. Chances are that when one asks five educators for a definition, five very different answers will be given. According to one interpretation, it simply means the teaching of English to new immigrants. On the opposite side of the scale—and there is really a full scale of interpretations—bilingual education is a more or less permanent two-track educational system—involving the maintenance of a second culture and an emphasis on ethnic heritage. I ask myself, "How did we get into this confused state of affairs?"

The United States has always had minority groups with different languages and cultures, so there has always been the need for special educational assistance. Prior to the 1900's, in Pennsylvania, the Germans had public instruction in German for a brief period in the 1830's. In Cincinnati, Ohio, Indianapolis, Ind., Baltimore, Md., and New Ulm, Minn., there were German-English schools between 1880-87. Cities such as New York, Chicago, and Detroit set up special English classes for language minority immigrants as part of night school programs. Many immigrant organizations provided assistance to members of their groups. The Educational Alliance of New York City had a program in the 1890's to help Jewish immigrants by teaching them English, and later the Society for Italian immigrants and the Polish National Alliance set up similar classes. Although immigrant groups continued to establish native language schools for their children, the great majority of language minority children who were in school received no special consideration.

These schools, set up by immigrant groups, were set up to facilitate teaching them English; but sometimes they were schools set up specifically for the purpose of teaching the language of the immigrant group, the language of the country they came from. One thinks in this connection of the Chinese language schools and Japanese language schools, especially on the west coast, and there were the Hebrew schools in which Jewish children were taught.

Nevertheless, all these children made their way. They succeeded in their respective fields of endeavor, and many of them were later found among America's most prominent citizens.

I believe by about 1960, some important changes began to take place. A great number of Cuban refugees arrived, and this influx was subsequently enlarged by increasing numbers of Mexicans. As a result, prior to 1969, some 56 locally initiated bilingual programs were started, primarily in the Southwest. Congress got into the act in 1968, when it passed the first major Federal legislation concerning bilingual education, the Bilingual Education Act. There have been numerous amendments since that date. The latest one will be found in title VII of the bill which is presently before the Senate. Looking over the record, we find that we started in 1968 with an authorization of $15 million, that it was doubled in 1969, and that we are now considering authorizations in a magnitude of $400 million annually. For a generation which has gotten used to the generosities of the welfare state, this is, of course, a normal and desirable development. An oldtimer like myself, on the other hand, cannot help wondering why it was necessary for the Federal Government to become involved in a problem area which—left alone—had contributed so effectively to the American success story.

As a member of the Budget Committee, I have learned to deal with billions of dollars. So the amounts under discussion for this program will not cause me any sleepless nights. What I am concerned about, however, are the ambivalent aims of bilingual education. Let me quote from a statement of the Office of Education:

Bilingual education means the use of two languages, one of which is English, as media of instruction. Both languages must be used as media of instructions for the same student population in a well organized program which encompasses part or all of the curriculum. Included in the concept of bilingual education is the study of the history and culture associated with the mother tongues. A complete program develops and maintains the children's self-esteem and a legitimate pride of both cultures.

I quote some more:

Bilingual education does more than simply teach a child English so that he can then be assimilated into the Anglo school. Rather, it attempts to present and preserve certain aspects of the student's native culture as well as to introduce him to the English language and its culture.

Let me depart from my prepared text to comment on bilingual education as impinged upon my own family.

I have a niece who got much of her education in Japan. She was born there. Then at about high school age she came to this country, learned English without a bilingual school, and got her degree in San Francisco State, so she speaks English very well as well as Japanese.

She and her husband, who is a Nisei American-born Japanese, together were hired to teach in the bilingual program in San Francisco public schools. They are both trying to get out of it—I think one of them succeeded in doing so—because they both felt it was a waste of time after 3 or 4 years of experience in the bilingual program.

The children in the bilingual program are a curious mixture. Some are third-generation Japanese Americans. Many of them come from families in which the second-generation Japanese Americans no longer speak Japanese and therefore some of them are trying to discover cultural roots, and if they do learn some Japanese, they are able to speak to the grandmothers if the grandmothers a still alive. But they are a small portio of the classes.

Another group of the people in bi lingual education are the children of off cials of Japanese companies with head quarters or branches in San Francisc To them, the instructor is not necessar What they are requiring most of all instruction in English and they do bet ter when thrown into all-English lan guage classes.

The third group are black and whit children who have nothing to do wit the Japanese culture or the Japanes language. They are just thrown in the because of affirmative action and rac balance requirements require that the be a certain number of blacks and certain number of whites in the clas room. Why a large number of black chi dren should have to learn Japanese b cause they go to San Francisco publ schools I have never been able to figu out.

But this is what is happening and th results of this are, as I say, to my ow niece and to her husband sufficient unsatisfactory that my niece at lea has gone on to get a master's degree remedial reading in order to be able get out of the bilingual progra altogether.

In other words, to some of the pa ticipants in this program there are man many ambiguities that were mentione at the very beginning of my remari when I said that there are no five edu cators who can agree upon what b lingual education means.

Mr. President, I cited the official pos tion of the Office of Education, and I ca not help wondering how many of m colleagues concur with this approac The fundamental issue was discussed the Education Subcommittee, whic eventually agreed to a change of lan guage that seems to me symptomati The text in the present law stipulate that bilingual instructions are needed fo children who "have difficulty speakin and understanding instruction in th English language." The new text elim nates this language, indicating that th instructions are needed for children wh "have sufficient difficulty speaking, read ing, writing, or understanding the Eng lish language to deny such individua the opportunity to attain levels of pro ficiency comparable to others at their ap propriate age and grade level."

I cannot help wondering what th means. This means, then, that, let u say, if you have fifth-grade arithmet you have to have fifth-grade arithmet taught to a part of the school populatio in English and to another part of th school population in Chinese or Spanis Is the purpose of bilingual education t have a duplicate school system? Ther are many ambiguities here.

Mr. President, if there ever was a open-ended definition, in my judgmen here is one. Since the attainment of pro ficiency comparable to that of nativ Americans entails debatable value judg ments, we are opening the door to a fed erally sponsored maintenance of a secon culture.

That is what we are deliberately doing. And how many second cultures are we going to maintain? Chinese, Japanese, Korean, Spanish-American, Mexican? If the demands are great enough. There are, no doubt, many, many other linguist groups including American Indians and Vietnamese who are going to insist upon second language programs for themselves.

I believe we all grew up with the concept of the American melting pot, that is the merging of a multitude of foreign cultures into one. In this world of national strife, it is a unique concept. I believe everybody in this Chamber will agree that it had a fundamental impact on the Nation's greatness. We in this very Chamber represent simply dozens of ethnic heritages, and the Chamber is richer for this fact.

In the light of these new educational developments, I ask myself what are we trying to do with this bilingual education? Where do we want to go? Demographic research tells us that 10 or 20 years from now in some of our States, there will be a majority of individuals with Spanish background. If Spanish-speaking people become a majority, for example, in the State of California or in the State of Texas, what are we heading into? It seems to me that we are preparing the ground for permanently and officially bilingual States. From here to separatist movements on the order of the Province of Quebec would be the final step.

I ask these questions, Mr. President. I ask us to ask ourselves if this is the kind of development which we want to promote?

I thank the Chair.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. Who seeks recognition? The Senator from New Mexico.

UP AMENDMENT NO. 1717

(Purpose: To delete an exception relating to the prohibition on the use of funds under title VII and to delete a reference to a prohibition on the priority of funding under that title)

Mr. DOMENICI. Mr. President, I send to the desk an unprinted amendment on behalf of myself, Senator BELLMON, and Senator TOWER, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI), for himself, Mr. BELLMON, and Mr. TOWER, proposes an unprinted amendment numbered 1717.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 279, line 6, beginning with the comma, strike out through "title" on line 16.

Mr. DOMENICI. Mr. President, this unprinted amendment clarifies district eligibility under the Emergency School Aid Act.

Fourteen poor school districts have gone through much turmoil as the result of mid-stream changes in ESAA eligibility requirements by the Department of Education.

Since 1972, it was Office of Education policy to provide funds under the Emergency School Aid Act to all eligible school districts including those which are unable, due to geographic location, to carry out a desegregation plan as mandated by the act.

In January 1977 the Office of Education issued a new interpretation of the Emergency School Aid Act which removed all Comprehensive Education Planned districts from consideration for funding.

Several States, including my own, parts of Oklahoma, parts of Texas, and part of California, were adversely affected by this reinterpretation of the ESAA law.

In March of this year a number of my colleagues joined with me in petitioning the Office of Education to protest this interpretation and request that these 14 very poor and isolated school districts be "held harmless."

The new interpretation amounted to a reversal in midstream of the longstanding Office of Education policy. Therefore, our "hold harmless" was granted.

However, the problem has not yet been resolved. The "hold harmless" is nothing more than a 1-year extension.

I am proposing clarifying language so that these 14 isolated and poor school districts will continue to receive the same ESAA assistance to which they were entitled in previous years.

I am reminded that the distinguished Senator from Oklahoma (Mr. BELLMON) is a cosponsor and he wanted to be on the floor.

I ask unanimous consent that a statement which he has be printed immediately following my remarks on this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. BELLMON. Mr. President, Senator DOMENICI's idea of an optional grant program for education represents a sound and positive approach to a very difficult problem. I am pleased to have been one of the original cosponsors of this legislation, which has received so much favorable comment.

The logic of consolidation is compelling. It provides a vehicle for the simplification and decentralization of administration of Federal programs. The bureaucratic burden under which educational programs usually suffer is thereby lessened. State and local educational agencies, rather than remote regional or Washington bureaucracies, are responsible for the basic decisions and program actions with which they must live. Instead of having a multitude of categorical programs, each with its own funding and administrative peculiarities, programs may be grouped logically for administrative ease.

Currently, the mass media are examining the bases for the failure of public education in many situations. It seems worthwhile to point out that we have increasingly given to school administrators, school boards, and teachers specific responsibilities for correcting social ills which cumulatively may exceed the capacity of the institution to deal with. One consequence is that compliance with the many, often overlapping and duplicative, requirements imposed by the Federal Government have crowded out some of the most essential functions of education. It is no wonder that school officials complain they can do little else but satisfy Federal requirements. A step in the direction of redressing this imbalance can be made through the amendment Senator DOMENICI is offering today.

Consolidation represents a potential turning point in the funding of Federal programs in education. For more than two decades, Federal Government initiatives created many programs of educational aid to the States and local education agencies until we now have more than 100 separately authorized program activities in the Office of Education.

Today, there is Federal Government support for about 7 percent of the total cost of elementary and secondary education. Most of that support flows through many narrow categorical programs. It is distributed through the States to local education agencies using formulas that contain such factors as school age population and income level of students' families. As responses to national problems, these remedies have grown into a web of administrative regulations and paperwork, causing school systems to devote more time and manpower to meeting Federal requirements and completing necessary paperwork. School administration has become more a matter of satisfying rigid requirements and shouldering administrative burdens than a creative process for insuring quality education to meet local needs and objectives.

Those who may be concerned that the consolidation approach will serve to reduce the Federal commitment to education need not worry. No State which exercises this option will lose money. Nor should there be any concern that consolidation will be used as an excuse to avoid responsibility for the special educational needs of particular groups, such as the disadvantaged and the handicapped. Special "hold harmless" and maintenance of effort requirements will insure that these obligations will continue to be met. Local educational agencies will be protected by provisions for flow-through of money. It will not be necessary for States to enact special legislation in order to exercise this option.

This approach seeks to group programs into clusters which are logically related in order to create several blocks. Flexibility within each category will allow States and localities to fashion educational programs more nearly in accord with needs than is now possible under categorical programing.

Consolidation will undoubtedly create anxieties among supporters of specific categorical grant programs. If a program is a legitimate priority within a State, it will undoubtedly continue to receive funding commitment under the consolidated approach. The proliferation of small categorical programs has caused local education agencies to expend, in

some cases, more time and effort applying for funds than the funds were worth. Consolidating the programs into a single competitive process at the State level will significantly reduce the cost in manhours.

An important feature of this new legislation will be the requirement of a participatory planning process within each State which chooses to receive its Federal funds in the consolidation grant. The views of interested citizens, constituent groups, local education agencies, units of local government and appropriate State agencies and organizations will be solicited in the process of developing a comprehensive State plan for the expenditure of this Federal money. The resulting proposed comprehensive State plan will have to be made available to all interested parties, and public comment on the plan accepted. The same publishing and comment requirements will apply to regulations issued by the States. These are powerful remedies for the often unthinking and unresponsive actions of distant bureaucracies.

Mr. President, I strongly support the Domenici amendment which would open up, on a limited basis, the educational system to new experimentation which can only have the refreshing effect of revitalizing the educational process. I hope this amendment will be accepted as a part of the elementary and secondary education bill.●

Mr. DOMENICI. It is my understanding that the managers of the bill have had an opportunity to review this and have some questions, but that they are leaning in the direction of accepting it. I do not know exactly where we are. Could we hear from them?

Mr. PELL. We have had a chance to look at it. We are not leaning in any direction; we are not leaning toward it or away from it—maybe a little more away from it because what it really does is to change the purpose of the basic bill, which is for integration in the community. These youngsters are in a totally geographically isolated area. They are isolated because of the geography, where they are, not because of the mores or customs of the community.

It is a unique situation I realize, I say to the Senator from New Mexico. I am not sure that this is the exact vehicle on which to put what is really a special purpose, special interest. There is nothing wrong with it at all, but it is of special interest to New Mexico, almost unique among the other States.

I am wondering if this is the right bill on which to append this legislation.

Mr. DOMENICI. I might say to my good friend that this is a very small fraction of the school districts. My understanding is we are talking about somewhere in the neighborhood of $1 million out of several hundred millions. There is no other way to solve the problem. The definition for all those years coming out of the regional office caused the entitlement, and the reliance. The districts are large in size, but small in number. The isolation makes it impossible for them to meet the new definition.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. DOMENICI. I would be delighted to yield.

Mr. JAVITS. The department is definitely opposed to this amendment, and I am inclined to agree with them. For one, although the Senator says there are few districts compared with all the districts in the United States, which run into the thousands, HEW estimates that 500 additional school districts would qualify under this particular amendment, and they feel that the cost for these additional districts could exceed the whole ESAA budget for 1979, to wit, $290 million.

Hence, if we accept the amendment we are wiping out the program in terms of what we allowed for it under this bill.

I am sympathetic to the problems but, after all, if those districts have disadvantaged children then they would qualify under ESEA title I. I certainly would be perfectly willing to be sure they qualified under that. If they have bilingual problems, they come under the bilingual education. But to throw them in under emergency school aid, which is intended to deal with unconstitutional segregation, I must say I cannot see how we can stretch that, especially in view of the estimates of the Department that it would take up everything you have got under the ESEA program. I have got to go by the estimate of the Department, so I cannot accept the amendment.

Mr. DOMENICI. I do not understand the Department's figure, and I would like to discuss that with the floor managers. It is our understanding that this interpretation has been costing slightly over $1 million in one part of the country.

Mr. JAVITS. Well, Mr. President, I am going to suggest the absence of a quorum. The Department is available. We can discuss it with them and get to the bottom of that or any other question.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I ask unanimous consent that we proceed to the amendment of Senator MCGOVERN, and that we temporarily lay aside the amendment of the Senator from New Mexico, and when action is completed on Mr. MCGOVERN's amendment that we revert to the amendment of the Senator from New Mexico.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object, we will revert back to the pending amendment of the Senator from New Mexico?

The PRESIDING OFFICER. That was part of the unanimous-consent request.

Without objection, it is so ordered.

UP AMENDMENT NO. 1718

(Purpose: To establish a National Commission on the International Year of the Child)

Mr. MCGOVERN. Mr. President, I send an amendment to the desk on beha of myself, Senator CRANSTON, Senat CULVER, and Senator MATHIAS, and a that it be reported.

The PRESIDING OFFICER. Th amendment will be stated.

The assistant legislative clerk read a follows:

The Senator from South Dakota (M MCGOVERN), for himself and others, pr poses an unprinted amendment number 1718. On page 21—

Mr. MCGOVERN. Mr. President, I a unanimous consent that further readin of the amendment be dispensed with.

The PRESIDING OFFICER. Witho objection, it is so ordered.

The amendment is as follows:

On page 21, the table of contents amended by adding at the end thereof t following new material:

"TITLE V—INTERNATIONAL YEAR OF TH CHILD

"Sec. 501. Declaration of purpose of th International Year of the Chil

"Sec. 502. Establishment of a National Com mission.

"Sec. 503. Functions of Commission.

"Sec. 504. Coordination and administr tion.

"Sec. 505. Waivers of certain other prov sions of law.

"Sec. 506. Termination date.

"Sec. 507. Authorization of appropriations

At the end of the bill add the following ne title:

"TITLE V—INTERNATIONAL YEAR OF TH CHILD

"DECLARATION OF PURPOSE OF THE INTE NATIONAL YEAR OF THE CHILD

"SEC. 501. The United Nations General A sembly, by a resolution approved at its thirt first session, has designated the year 1979 the International Year of the Child. Th action was designed to focus national a international attention on various aspects the needs of children and to encourage nations, individually and in cooperation, take appropriate and relevant actions meet them. The General Assembly call upon member states and international o ganizations to participate fully in the Inte national Year of the Child and to devote th year 1979 to efforts at the international, n tional and community levels to provide las ing improvements in the well being of chi dren.

"ESTABLISHMENT OF A NATIONAL COMMISSION

"SEC. 502. (a) The President shall establi a National Commission on the Internation Year of the Child (hereinafter in this A referred to as the "Commission"), and to a point to the Commission not more than members chosen from among citizens private life.

"(b) The President shall designate Chairperson and two Vice Chairpersons fro among the members.

"(c) The President of the Senate and th Speaker of the House of Representatives m each designate two members of the Sena and the House of Representatives, respe tively, to serve on the Commission, in add tion to the members to be appointed by th President.

"FUNCTIONS OF THE COMMISSION

"SEC. 503. (a) The commission shall pr mote: (i) effective and significant observan in the United States of 1979 as the Inte national Year of the Child (hereinafter this Act referred to as the "Year"), with pa ticular reference to the goals stated in Se tion 2; (ii) cooperation by the United Stat with UNICEF and other international org nizations and with other nations to achie

the objectives of the Year. To these ends, the Commission shall seek to stimulate within the United States a better understanding of, and actions to meet, the needs of children both in this and in other countries. Such needs would include, but not be limited to the social, health, educational, and developmental needs of children, as well as concern for the general condition and rights of children.

"(b) The commission shall keep informed of activities undertaken or planned by various organizations and groups in the United States and abroad in observance of the Year and shall consult with such groups and stimulate such activitips and programs through community, civic, local, State, regional, national, Federal, international, private and professional organizations.

"(c) The Commission may conduct studies, inquiries, and hearings and hold meetings as it deems necessary. It may assemble and disseminate information, and issue reports and other publications. It may also coordinate, sponsor, perform, or oversee projects, studies, events, and other activities that it deems necessary or desirable for the observance of the Year.

"(d) The Commission shall make recommendations to the President on national policies in furtherance of the goals of the Year; and shall make a final report to the President on its work and recommendations, not later than March 31, 1980.

"COORDINATION AND ADMINISTRATION

"SEC. 504. (a) The commission is authorized to establish such subcommittees, the membership of which may include persons not members of the Commission, as it deems necessary to carry out the purpose of this Act.

"(b) Each agency of the executive branch of the Government is authorized: (1) to furnish to the Commission, upon request of the Chairperson of the Commission, such information, advice, and services, and funds as may be useful to the Commission for the fulfillment of its functions under this Act, and (2) to detail personnel to the Commission.

"(c) Each member of the Commission or any of its subcommittees, who is not a member of Congress may, while serving on business of the Commission, be compensated at a rate not to exceed the daily equivalent of GS-15 for each day they are engaged in the actual performance of duties.

"(d) The Commission may appoint such staff personnel as it considers necessary to carry out its duties under this Act without regard to the provisions of Title 5, United States Code, governing appointment in the competitive civil service, and without regard to Chapter 51 of and Subchapter III of Chapter 53 of such Title relating to classification and General Schedule pay rates, except that not more than two individuals so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS-15 of the General Schedule. Appointments shall be made without regard to political affiliation.

"(e) The Commission is authorized to accept and use services of voluntary and uncompensated personnel. Such personnel shall not be considered Federal employees for any purpose other than for purposes of Chapter 81 of Title 4, United States Code (relating to compensation for injury), and Sections 2671 through 2680 of Title 28, United States Code (relating to tort claims), and shall not perform the work of Federal employees.

"(f) Members or staff of the Commission or of a subcommittee thereof, shall be allowed travel expenses while attending meetings of the Commission or its subcommittees or otherwise engaged in the business of the Commission away from their homes or regular places of business, including per diem in lieu of subsistence, as authorized under Section 5703 of Title 5, United States Code, for persons in Government service employed intermittently.

"(g) The Commission is authorized to procure such temporary and intermittent services of experts and consultants as are necessary to the extent authorized by Section 3109 of Title 5, United States Code.

"(h) The Commission is authorized to accept, use, and dispose of contributions of money or property.

"(i) The Commission is authorized to enter into contracts with Federal and State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

"(j) The Commission may use the United States mails under the same conditions as other departments and agencies of the United States.

"(k) The powers granted the Commission by this Act shall be in addition to those granted by Executive Order 12053. The powers granted the Commission by Executive Order 12053 may be employed to fulfill the responsibilities of the Commission under this Act.

"(1) The Powers granted the Commission under this Act may be delegated to any member or employee of the Commission by the Commission chairperson.

"(m) Financial and administrative support services (including those related to budget and accounting, financial reporting, personnel, and procurement) shall be provided to the Commission by the General Services Administration, for which payment shall be made in advance, or by reimbursement, from funds of the Commission, in such amounts as may be agreed upon by the Chairperson of the Commission and the Administrator of the General Services Administration.

"WAIVERS OF CERTAIN OTHER PROVISIONS OF LAW

"SEC. 505. In order to expedite matters pertaining to the planning for, and work of, the Commission, the Commission is authorized to make purchases and contracts without regard to Section 252 of Title 41 of the United States Code, pertaining to advertising and competitive bidding, and may arrange for the printing of any material pertaining to the work of the Commission without regard to the Government Printing and Binding Regulations and any related laws or regulations.

"TERMINATION DATE

"SEC. 506. The Commission shall continue in existence until thirty days after submission of its final report to the President pursuant to Section 4(d), at which time it shall terminate, but the life of the Commission shall in no case extend beyond April 30, 1980.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 507. There are authorized to be appropriated, without fiscal year limitation such sums as may be necessary to carry out the provisions of this Act. Such sums shall remain available for obligation until expended.

No funds authorized hereunder may be used for lobbying activities."

Mr. McGOVERN. Mr. President, I have discussed this amendment with the distinguished manager of the bill and with Senator JAVITS, the ranking Member on the minority side. It is simply an authorization to permit the United States to participate as a full partner, along with more than 140 other countries, in the International Year of the Child.

UNICEF, which is charged with focusing the issues of health, education, hunger, drug abuse, child abuse, on children in particular, has wisely, in my opinion decided not to spend a great deal of money and time on a huge international conference for children's issues.

Instead, they have decided to focus on national and local efforts, encouraging each country to organize itself in the way most likely to contribute to one final effort.

The United States should continue its role as a pioneer in concern for children. If we can authorize this Commission today, very important measures will be taken that have never been taken before.

For example, we can, with the help of the over 200 national organizations which have joined in the effort, compile the first inventory of Federal and State programs on child neglect and abuse. We can coordinate our many separate efforts to educate children and parents on the evils of drug abuse. We can work with schools in all our communities to acquaint them with the programs available to help children.

Mr. President, a great deal of good can come from this effort. Our children deserve our best attentions, and this Commission will help focus that attention.

Under date of August 8, Mr. President, I received a letter from Miss Margaret Mead, the distinguished social scientist, strongly urging Congress to authorize the participation of the United States in the International Year of the Child, and to authorize the creation of a commission to make our part meaningful. I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NEW YORK, N.Y.,
August 8, 1978.

Hon. GEORGE MCGOVERN,
Chairman, Subcommittee on International Operations, Senate Foreign Relations Committee, Dirksen Senate Office Building, Washington, D.C.

DEAR GEORGE: This is to reinforce the importance of passing an authorization bill immediately so that the United States can begin to participate appropriately in the International Year of the Child. The Year of the Child is a culmination of the series of United Nations Conferences on substantive matters, which began with the Stockholm Conference on the Environment and was continued with the Bucharest Conference on Population, the Rome Conference on Food and Hunger, the Vancouver Conference on Habitat and Human Settlements, the recent Conference in Argentina on pure water, and the series of Conferences of the Law of the Seas.

Each of these conferences have suffered from restrictions on their scope. The Conference on the Year of the Child is designed to focus all of these issues on our children and those unconceived who will be born in the future. The United States has stood before the world as a pioneer in concern for children. The long series of White House Conferences on Children have pioneered in national, state and local concern for children. It is appropriate that the United States should play a major role in focusing the first International Year of the Child.

The UN agency that has been charged with particular responsibility is UNICEF, and it has appropriately refused to spend a large amount of money on a large international conference, so the focus will be more on national and local organizations. It is important to realize that many Americans do not distinguish between UNICEF and UNESCO. The hostilities engendered by UNESCO's treatment of Israel have slopped over into opposition to UNICEF's sponsorship of the International Year of the Child.

We are very late in getting started, but Mrs. Young has assembled a distinguished National Commission which held its inaugural meeting in the Rose Garden on June 28, and a second meeting on August 3-5. It can do nothing further until the Authorization bill is passed. Please exercise your well known concern for the well-being of the world's

children by expediting the passage of S. 3161 at once so that the United States can start to play a role in this world wide endeavor.

Sincerely yours,

MARGARET MEAD.

● Mr. CULVER. Mr. President, I join with the Senator from South Dakota (Mr. MCGOVERN) in support of this amendment to S. 1753, the Elementary and Secondary Education Act Amendments of 1978, authorizing funds for the National Commission for the U.S. observance of the International Year of the Child, 1979. As chairman of the Judiciary Subcommittee on Juvenile Delinquency, I firmly believe this is an important amendment which should be adopted by the Senate.

I am privileged to have been named, along with my distinguished colleague from Maryland (Mr. MATHIAS), by the President to represent the U.S. Senate on the National Commission, which was created by Executive order on April 14, 1978. The purpose of the Commission is to promote, support, and evaluate Federal, State, local, and civic programs designed to enhance the education, health, nutrition, and welfare opportunities for children during the 1979 International Year of the Child. The National Commission will complete its work and go out of existence by April 1980.

Mr. President, we have all heard of the deplorable conditions under which a great many of our children are born. There are presently 1.5 billion young people under the age of 15 in the world. An estimated 300 million do not have enough to eat, and two-thirds of them suffer from a severe form of nutritional deficiency. Fully 15 million children under the age of 5 die each year. Those who survive face lives with little educational or employment opportunities and little prospect of existence above the subsistence level.

Conditions for some children are only marginally better in many industrialized nations. In the United States, for instance, it is estimated that 20 million children do not receive adequate health care, including primary care, complete immunization, and early treatment of mental illness. There are 8 million handicapped children, 45 percent of whom receive no services. Over 200,000 suffer from physical abuse. Between 250,000 and 300,000 children are in public and private residential institutions for special care as predelinquent, physically handicapped, dependent, neglected, or mentally ill individuals. These startling statistics demonstrate that in the area of child health, welfare, and justice we in this country have a long way to go.

I believe it is critical that the United States participate in the 1979 International Year of the Child. This vital program does not involve an expensive national or international conference. Rather, the year is to be one of action in each of the 144 participating nations. Already in the United States 180 private and public organizations have pledged to work with the National Commission in the development of effective programs for children. Nine Federal agencies have submitted 99 International Year of the Child projects, and more are planned.

The continuation of this work depends, however, on the congressional endorsement of full U.S. participation in the International Year of the Child through the enactment of this amendment. The Commission has been able to begin its work by using staff support and grants from several Federal agencies. However, under the provisions of current law a Federal commission cannot exist without congressional authorization for more than 1 year, nor, of course, can its work have a meaningful impact on policy without the support of the U.S. Congress.

Mr. President, the 1979 International Year of the Child marks the 30th anniversary of the United Nations Declaration on the Rights of the Child. We should recognize the fundamental importance in both developing and industrialized countries of programs benefiting children, not only for the well-being of the child but also as a part of broader efforts to accelerate economic and social progress.

The most valuable resource of the United States, as well as of other countries, is its youth. It is our obligation, therefore, to assure that children live in environments which will enable them to grow to their fullest potential. The U.S. participation in the Year of the Child would demonstrate our own commitment to effectively meeting the needs of our children.

Mr. President, I commend the dedicated efforts of the Senators from South Dakota (Mr. MCGOVERN) and Maryland (Mr. MATHIAS) to authorize the National Commission, and I strongly urge the Senate to adopt this important amendment.●

Mr. PELL. Mr. President, I have had an opportunity to go over this amendment. I think it is an excellent one. It may not be a "motherhood" amendment, but it is a "childhood" amendment, and I recommend that the Senate accept it.

Mr. JAVITS. Mr. President, the ESEA bill has already passed the House, and this amendment is not in the House language. I am sympathetic to the amendment entirely, and have no objection to its adoption, but I wish to make it crystal clear that it will be in conference, and that the authors of the amendment must realize that while we will certainly contend for it—I believe in it myself—we will be taking our chances with the House when we seek to attach it to this bill. I have no objection to it, with that understanding.

Mr. MCGOVERN. Mr. President, I appreciate the Senator's caution, but I know how persuasive he is with House conferees. so I am very hopeful he and Senator PELL will prevail. This is a matter that has strong support in the other body as well as here in the Senate.

Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment UP amendment No. 1718.

The amendment was agreed to.

Mr. MCGOVERN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1717

The PRESIDING OFFICER. Under the previous order, the Senate now reverts to the consideration of the amendment (UP No. 1717) offered by the Senator from New Mexico.

Mr. DOMENICI. Mr. President, does the Senator from Maine wish me yield to him? I have an amendment pending.

Mr. MUSKIE. Well, I would say to my good friend from New Mexico that since many of the issues in this bill have a budgetary impact, I do want to make an opening statement from the point of view of the Budget Committee early on, and I would like to do that as early as I can. May I inquire of the Senator as to how much longer he will take?

Mr. DOMENICI. I will say to my good friend from Maine that it will not take me over 5 minutes on this amendment. I have others, but on those I will defer to Senator MUSKIE and Senator HART who has been waiting to offer an amendment.

Mr. HART. Mr. President, will the Senator yield?

Mr. DOMENICI. Yes.

Mr. HART. The amendment I am going to propose does not have budgetary impact. We have discussed it with the committee, and I believe that it will be acceptable. It will take only 2 or 3 minutes.

Mr. MUSKIE. If we can have the understanding that I can be recognized after the present amendment and Senator HART's amendment, I am under no compulsion as to time, and I am certainly willing to yield at this point for the disposition of those amendments.

Mr. BIDEN. Mr. President, may I make an inquiry of the Senator from New Mexico?

Mr. DOMENICI. I yield.

Mr. BIDEN. Assuming we move along the route just suggested, that the Senator from Colorado and the Senator from Maine speak to their issues, and we then go back to the amendments of the Senator from New Mexico, about how long does the Senator from New Mexico anticipate the remainder of his amendments would take? Does he have any idea?

Mr. DOMENICI. No more than 15 minutes, and probably less.

Mr. BIDEN. Fine. I would hope that at the end of that time, Senator ROTH and I would be able to be recognized to offer our amendment.

Mr. JAVITS. Mr. President, will the Senator yield to me on his amendment with Mr. ROTH.

Mr. BIDEN. Yes.

Mr. JAVITS. That will take considerable debate. I would not wish the Senator to assume that that would be dealt with quickly; I will have considerable to say about it, and I hope others do also.

Mr. BIDEN. I would hope so.

Mr. DOMENICI. Then, Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. Do I, then, correctly understand that we will proceed with mine, then I will yield 5 minutes to Senator HART for his amendment, and then

Senator MUSKIE will have the floor, after which the floor will revert to me?

Mr. BIDEN. And at that point, so we may have no misunderstanding, I would be recognized to offer my amendments?

The PRESIDING OFFICER. The Chair will state that it is the Chair's perception that a formal unanimous-consent request has not been propounded to the Chair, and at this point there is no agreement on the sequence. The Chair is prepared to entertain such a request if submitted. At the moment, the Senator from New Mexico, under the previous unanimous-consent agreement, has been recognized to deal with his amendment which is pending at the desk.

Mr. BIDEN. Mr. President, I propound that unanimous consent request: That the Senator from Colorado, then the Senator from Maine, then the Senator from New Mexico, and then the Senator from Delaware be recognized in that order.

Mr. HOLLINGS. Then, Mr. President, after the two Senators from Delaware, the Senator from South Carolina on his amendment to strike out title XII.

Mr. JAVITS. Mr. President, reserving the right to object, and I hope I shall not have to object, this bill will only be before us until 2:00, it is my understanding from the leadership.

Mr. HOLLINGS. We will just have to take our chances under the time agreement.

Mr. JAVITS. I wanted to notify my colleagues to that effect. Other Senators may have other time exigencies. Therefore, I believe I would have to object unless the unanimous consent request were modified so that it applies only to the consideration of this bill today—in other words, that it will not carry over tomorrow.

Mr. HOLLINGS. That would be satisfactory.

Mr. BIDEN. That would suit me, also. I have no objection.

Mr. JAVITS. If it is limited to the consideration of the bill today, I have no objection.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Delaware? The Chair hears none, and it is so ordered.

Mr. DOMENICI. Mr. President, I send to the desk an unprinted amendment and ask——

The PRESIDING OFFICER. The Senator has an amendment pending at the desk.

Mr. DOMENICI. This is a modification.

The PRESIDING OFFICER. If the Senator wishes to modify the pending amendment, the Senator has the right to do so. The amendment will be so modified.

The amendment, as modified, is as follows:

At the appropriate place in the bill insert the following:

There is hereby authorized to be appropriated $1,200,000 for assistance to local educational agencies which are racially isolated as a result of geographic location of the school district of such agency, and which have adopted and are implementing, or will adopt and implement, a plan to aid schoolchildren in overcoming the educational disadvantage of minority group isolation.".

Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment (UP amendment No. 1718).

The amendment was agreed to.

Mr. DOMENICI. Mr. President, I will say quickly that I am appreciative of the suggestions of the floor managers. What we have done is create a free-standing amendment authorizing funding of up to $1.2 million for these isolated school districts using their isolation characteristics as the qualifier for them.

I understand that these changes will make my amendment acceptable to the managers. I am most appreciative of their assistance.

Mr. JAVITS. Mr. President, on the theory that this is another disadvantaged group of children——

Mr. DOMENICI. That is correct.

Mr. JAVITS (continuing). And as a free-standing amendment with a limited authorization, with its being attached to the emergency school idea, I have no objection to the amendment.

Mr. PELL. I agree with my colleague from New York. As I mentioned earlier in my remarks, I did not think that the point where it was originally proposed was the right section of the bill. I think it is attached to the right section now. It pertains to children who will remain isolated, no matter what we do, because of geography. For that reason, I have no objection to this amendment.

Mr. DOMENICI. I thank the Senators. I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from New Mexico.

The amendment, as modified, was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from Colorado for the purpose of calling up an amendment.

UP AMENDMENT NO. 1719

(Purpose: To strengthen the provisions relating to applications for bilingual education programs)

Mr. HART. I send two amendments to the desk and ask for their immediate consideration, and ask that it be in order to consider them en bloc.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request that the amendments be considered en bloc?

Mr. JAVITS. I object temporarily.

The PRESIDING OFFICER. The clerk will state the amendments.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. HART) proposes an unprinted amendment numbered 1719.

On page 276, strike out lines 17 and 18, and insert in lieu thereof the following:

"(2) be accompanied by documentation of such consultation and by the comments which the Council makes on the application; and

On page 282, line 8, before the period the first time it appears insert a comma and the following: "including objectives of section 703(a)(4)(E)(iii) and section 703(a)(4)(F)".

The PRESIDING OFFICER. Does the Senator renew his unanimous-consent request?

Mr. HART. Yes, Mr. President, I do.

The PRESIDING OFFICER. Is there objection?

Hearing no objection, the request is granted and the amendments will be considered en bloc. The Chair recognizes the Senator from Colorado.

Mr. HART. Mr. President, this amendment deals with the issue of bilingual education in connection with the series of amendments being offered by the Senator from New Mexico, most of which I cosponsor. Specifically, the amendment at the desk and under consideration now relates to the issue of parental involvement in the bilingual education process.

Mr. President, because of my own personal, longstanding interest in title VII of the Elementary and Secondary Education Act, I have followed the committee's activities and the evolution of this act and its implementation fairly closely. I am personally pleased to see that the proposed changes in title VII offered by the committee take a definite step forward in providing quality and equality of education for all children.

The amendment at the desk is designed to strengthen the language already proposed by the committee, and thereby insure that the intent of the legislative changes in the act are properly observed. Specifically, this amendment would strength the committee language relating to consultation with parental groups by requiring that a project application and annual refunding request be accompanied by some documentation that that kind of consultation with the parental organizations and groups has in fact taken place.

The amendment also contains a provision which will improve student performance by giving parents the opportunity to learn of their child's or children's progress or their lack thereof under this title. The amendment does not require any substantial increase in reporting, which would place an added burden on already-cramped staff, time, and resources.

This is a very important item, Mr. President, because I know of the committee's concern and the distinguished floor manager's concern about additional paperwork.

If there is anything about which we are all aware these days, it is that we do not want to add to the burden of people administering Federal programs forms and reports that already are mounting up almost to an unacceptable degree.

The changes I am proposing are designed to open avenues for parental involvement in areas such as program planning, priority setting, proposal development and submission, program implementation, personnel decisions, curriculum development and overall program design, implementation and

evaluation, and school and community relations.

Title VII of the Elementary and Secondary Education Act has required parent participation from the outset. However, experience in the area indicates that so-called parent involvement, in reality, is often an empty exercise. Parents are often informed of decisions after they have been made, or are not given sufficient information to permit their effective particpation. S. 1753 deals with this shortcoming by requiring local education agencies to consult with parent advisory committees during the preparation of grant applications and during actual project implementation.

It has been over a decade now since Congress recognized the importance of meeting the needs of linguistically different children through title VII. And, during this decade, personnel responsible for the schooling of linguistic minority children have been faced with increasingly complex demands and specifications for quality program design, and at times have heard strong criticism about the program's success. We must recognize the achievements that have already been made in title VII, and continue to work toward an even better program.

For years, educators and social scientists alike have stated that one of the greatest obstacles in the education of linguistic minority children is the lack of parental involvement in the educational process. The local school is the most significant place for the participatory process. Participation should devolve increased responsibility to the citizenry and should increase the quality of services. To have these results, the process must begin—but not end—with parents of children being served.

It is in that spirit, Mr. President, that I offer this amendment. I think it is in keeping with the purpose of the proposals of the committee. It merely makes more explicit the degree to which the parents are to be involved. It would not, as I have already indicated, increase paperwork burdens on those conducting these programs.

Mr. PELL. Mr. President, the objective is obviously good, to increase parental involvement. My question is, what is meant by documentation?

Mr. HART. What I mean is something greater than a mere listing of dates on which parents or parent groups were consulted. However, I do not mean that additional reports, or additional forms be filled out. I think a reasonable standard of documentation in the program application is one that shows that parent advisory groups have actually participated at every step of the preparation of those programs.

Mr. PELL. As the Senator knows, one of the objectives of this bill is to reduce the amount of paperwork which the school administrators and teachers have to fill out each year. The estimate of the President's Commission on Paperwork is $100 million a year that we are now spending on paperwork, et cetera. In this connection, would a new government form need to be printed?

Mr. HART. It is certainly not the intention of the proponent of this amendment to add any forms or additional reports but merely to incorporate in the reports and the proposals already being filed a strong indication, that parental groups have been involved in the process of filling out and developing those proposals.

Mr. PELL. There could be one further box for a checkoff in a form that already exists?

Mr. HART. That would certainly be one way to approach it. I have no specific solution, but I want it clear in the record that what is contemplated here is not additional forms or reports.

Mr. PELL. I thank the Senator.

Mr. JAVITS. Mr. President, I have no objection to taking this amendment, provided that the argument made, that it will involve no material additional paperwork, stands up in conference. We do not know what the Department or the other body may produce on that score. I think the idea of Senator HART is a very good one and I am glad to go with it, but I must take it with that understanding, subject to that reservation.

Mr. HART. I appreciate the position of the minority floor manager. I hope the record made today through the repeated assurances of the sponsors of this amendment will make it clear that we are in no way suggesting increased paperwork. It is my hope that the Department of Health, Education, and Welfare and those writing regulations and implementing this language will be clear on intent of Congress. Ways can be devised in the manner that have been suggested by the Senator from Rhode Island to incorporate this requirement without expanding the paperwork burden.

Mr. JAVITS. I can assure the Senator that, that being part of the Senate bill, I shall make every effort in that regard.

Mr. HART. I thank the Senator from New York.

Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendments, considered en bloc, offered by the Senator from Colorado.

The amendments were agreed to en bloc.

Mr. HART. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from Maine.

Mr. HATCH. Will the Senator from Maine yield for a unanimous-consent request?

Mr. MUSKIE. I am happy to yield.

Mr. HATCH. Mr. President, I ask unanimous consent that the amendments I shall call up be put on the list immediately following Mr. HOLLINGS, who is the last in the order.

Mr. JAVITS. Mr. President, I did not hear the request.

Mr. HATCH. I am asking unanimous consent that my amendment be called up immediately after the last one on the list, so people will be put on notice.

Mr. JAVITS. Mr. President, again, I am compelled to object, unless that is confined to today. In other words, no unanimous consent on the order of recognition goes over after the consideration of this bill today.

Mr. HATCH. That is fine with me. I do not care. That can be part of the unanimous-consent request, that I follow immediately after Senator HOLLINGS.

Mr. JAVITS. If the Hollings amendment is not disposed of, the Senator will not be recognized and there will be no unanimous consent.

Mr. HATCH. No, wait, I expect my amendment to be called up, whether it is today or later. I just want to get on the list and be in order so I know about when my amendment is going to be called up.

Mr. JAVITS. But the order which the unanimous-consent agreement covers will cover only the consideration of the bill today.

Mr. HATCH. That is right.

Mr. JAVITS. The Senator, as I understand it, has several amendments. Could we have an idea as to what he intends to call up?

Mr. HATCH. I intend to call up three amendments at this time. I may not call up all three, but the most I shall probably call up are three amendments and one substitute. And if it is possible to have it on the order today, I shall try to call it up immediately today. If not, then I shall want to follow Senator HOLLINGS tomorrow or whenever——

Mr. JAVITS. No, that I will not agree to. I will not agree to follow anybody tomorrow. It is only effective today.

Mr. HATCH. All right, but I want to be able to call up my amendments whenever, today or after Senator HOLLINGS.

Mr. HOLLINGS. After my amendments?

Mr. HATCH. After the Senator's amendments.

Mr. HOLLINGS. After my amendment is disposed of?

Mr. HATCH. Correct.

The PRESIDING OFFICER. The unanimous-consent request, as the Chair now understands it, extends only to the sequence of recognition for the purpose either of debate, which is the case with the Senator from Maine, or of offering an amendment today.

Mr. JAVITS. That is during the consideration of the bill.

The PRESIDING OFFICER. During the consideration of the bill today, and it does not apply beyond the consideration of the bill on today.

Mr. HATCH. And my unanimous-consent request agrees with that.

The PRESIDING OFFICER. Is the request for an amendment of the Senator from Utah?

Mr. HATCH. I would like to be in sequence following Senator HOLLINGS as of today on any and all amendments and substitute that I have. If it does not come up today, then we shall work on it tomorrow.

Mr. PELL. Mr. President, reserving the right to object, I make the observation

that I think this is a good idea and I hope we can work through these this evening, if necessary, as late as might be required.

The PRESIDING OFFICER. Is there objection? Without objection, the unanimous-consent request is agreed to.

The Chair, under the previous order, has recognized the Senator from Maine for purposes of debate.

Mr. HATCH. I thank the distinguished Senator from Maine for yielding.

THE EDUCATION AMENDMENTS OF 1978

Mr. MUSKIE. Mr. President, the bill before us would modify and extend programs which represent the cornerstone of Federal aid to our Nation's elementary and secondary schools. It presumes, as did the first U.S. Commissioner of Education, that "education prevents being poor."

True to that principle, the Elementary and Secondary Education Act was originally enacted as flagship legislation at the inception of the Nation's war on poverty. Since the administration of Lyndon Johnson, the primary role of these Federal programs has been to improve the educational opportunities and achievements of the disadvantaged, the handicapped, those with limited English-language skills, Native Americans and other minorities.

Federal education resources are not only well matched to those in greatest need but they appear to have a positive impact as well. The Budget Committee has consistently supported the compensatory purposes characteristic of this Federal education policy.

S. 1753 would authorize $11 billion in fiscal year 1979 and would have a cumulative 5-year cost of $55.1 billion. If the authorized levels were fully appropriated, the cost of this bill would exceed the targets adopted by Congress in the first budget resolution and the ceilings as reported in the second resolution for the elementary and secondary education mission for function 500—education, training, employment and social services.

I know that the Labor-HEW Subcommittee of the Appropriations Committee fully intends to stay within its allocation under the first budget resolution. Certainly, the work of that subcommittee to date, under the able leadership of its chairman (Mr. MAGNUSON) is consistent with that allocation.

However, provisions in the bill before us would make it very difficult for the subcommittee to stay within its allocation. I am referring specifically to provisions which would provide unjustified expansion in the impact aid program.

These provisions, when coupled with the so-called tier system of funding for impact aid, would severely limit the discretion of the Congress to determine appropriate funding levels for this program.

The impact aid program was originally designed to provide Federal payments in lieu of taxes in jurisdictions which were highly impacted by the Federal presence. However, this bill would provide an expansion of this program which has no relation to the Federal burdens on local tax bases.

There have been consistent attempts to amend this legislation in the prior two administrations. The current administration proposed reforms that would result in savings of $76 million in fiscal 1979 and a cumulative savings of $1.1 billion through fiscal year 1983.

During full committee consideration of this bill, Senator BELLMON and I sent a letter to members of the Human Resources Committee urging that they adopt as many of the administration's reforms as possible.

Mr. President, I ask unanimous consent that a copy of that letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON APPROPRIATIONS,
Washington, D.C., August 7, 1978.

Hon. HARRISON A. WILLIAMS, Jr.,
Hon. JACOB K. JAVITS,
U.S. Senate, Washington, D.C.

DEAR SENATOR WILLIAMS AND SENATOR JAVITS: We are writing to express our concern over several of the provisions contained in legislation reported by the Human Resources Committee for consideration this summer. Our concern centers around the proliferation of new and continued funding requirements which impinge upon the responsibilities of both the Appropriations and Budget Committees.

While we do not disagree with the policies implicit in each and every proposed funding requirement, there are many which directly impact upon the appropriations process by mandating certain levels or percentages of funds to be provided for various programs. These provisions will inevitably result in excessive appropriations. We believe that each program should be allowed to stand on its own merit and not have its funding directly or indirectly tied to funding levels for other programs. Congress, through its appropriations and budget processes, needs the flexibility to set funding levels which are consistent with the general economic conditions.

Some of the most troublesome provisions are included in the Education Amendments of 1978 (S. 1753). The House and Senate versions of the Education Amendments of 1978 contain 44 different appropriations-forcing mechanisms—19 of these are new. The bill includes automatic set-asides with mandatory appropriations levels for the new concentration grants and state incentive grants under ESEA Title I.

Of particular concern is the continuation of the tier system for Impact Aid. While we are sympathetic to payments in lieu of taxes in federally-impacted districts, continuation of the tier funding structure usurps the prerogative of the Appropriations Committee in funding proposed program expansion.

There are other provisions in S. 1753 that are also troublesome. Among these are the percentage set-asides for the Special Projects and the program for gifted and talented children, as well as the funding requirements for guidance and counseling.

The College Opportunity Act (S. 2539), the President's and the Human Resources Committee's alternative to the Higher Education tax credit, includes provisions that force the Appropriations Committee to choose between fully funding the $1.4 billion envisioned in the bill or reducing grants to current low-income recipients in order to supply grants for 1.5 million new middle-income recipients. The bill also includes increased mandatory funding provisions for two other programs: College Work Study and Supplemental Grants.

The Comprehensive Employment and Training Amendments of 1978 (S. 2570) as reported by the Human Resources Committee requires that at least $3 billion must be appropriated for public jobs under Title II (the new structural title), before any funds can be made available for public service employment under Title VI (the new countercyclical title). Although we may agree with the spirit of this requirement, there is no question that it would constrain the Appropriations Committee.

In order to insure that the Appropriations Committee retains its funding prerogatives, we are considering a series of amendments to eliminate many of these appropriations-forcing provisions to be offered when the bills reach the Senate floor.

We have been informed that the Administration is also opposed to these appropriations-forcing provisions and supports any efforts to modify or eliminate them.

We hope that you will give careful consideration to this matter and hope that we can reach an accommodation prior to the Senate consideration of these bills.

Sincerely,

MILTON YOUNG,
HENRY BELLMON,
WARREN G. MAGNUSON,
EDMUND S. MUSKIE.

Mr. MUSKIE. However, Mr. President, this bill not only does not include any of the administration's proposed reforms, it reverses reforms made in 1974 and expands the eligibility of school districts for payments under this program. I will support amendments to limit eligibility in this program.

It is important to note, Mr. President, that the Human Resources Committee recommended none of these budget-busting changes in impact aid in its March 15 report to the Budget Committee. I know of no change since then in the nature of the Federal burden on local property tax bases which can explain the sudden need for this expansion.

Therefore, Mr. President, I intend to support amendments to delete any or all of these costly impact aid expansions. I intend to support the amendment offered by Senator EAGLETON and others, to reduce this expansion by approximately $222 million. Senator EAGLETON is to be congratulated for working out this compromise package of amendments. This is a step in the right direction, although it does not go far enough.

In addition, I am greatly concerned with the entitlement-like structure of the impact aid program.

The Education Amendments of 1974 greatly increased the complexity of the impact aid program by establishing an intricate payment procedure, the tier system. As a result of the tier system, 64 computations are required before a local school district knows how much money it will receive.

The formula for the distribution of funds to local education agencies contains a payment structure composed of three "tiers" and a requirement that the first and second tiers must be funded on an "all-or-nothing" basis. The Congress has little choice but to fully fund both tiers 1 and 2 and has done so since fiscal year 1976.

Coupled with the impact aid expansions which I have just discussed, this funding mechanism would result in at

least $235 million in additional appropriations being required. The 5-year cumulative cost of these amendments will almost certainly increase funding in the impact aid program by $2.1 billion over current law assumptions.

The President's reform proposal recommended elimination of the tier system for the allocation of funds. The committee rejected this recommendation, as it did all of the administration's recommendations on impact aid.

Senator MAGNUSON will offer amendments, which I have cosponsored, which would enhance congressional discretion over funding increases for the impact aid program.

This amendment would make funding for the most costly expansion—increased entitlements for public housing children at a cost of $117 million—subject to the discretion of the Appropriations Committee.

Senator EAGLETON'S and Senator MAGNUSON'S amendments in combination will halt the runaway growth in this program.

Mr. President, I am a cosponsor of amendments to be offered by Senator MAGNUSON to eliminate other provisions in this bill which have the practical effect of limiting congressional budgetary control.

For example, S. 1753 would authorize $400 million for the so-called concentration grants proposed by the President as part of his urban initiative. Unlike the House bill, which contains a separate authorization for this program, the Senate bill would reserve the first $400 million appropriated for title I for these concentration grants. Thus, unless the Congress wishes to reduce funding for the regular title I program, we will be virtually required to fully fund this new program.

The bill also authorizes a new program beginning in fiscal year 1980 of matching grants that would give States $1 in extra title I funds for every $2 they spend on their own compensatory programs. CBO estimates the cost of the provision to be $200 million annually. Funding for this program, as with the concentration grant provisions, must be provided first before the regular title I program can be funded. Once funded, it must continue to be funded at the preceding year's level.

Provisions such as these make the exercise of congressional discretion in its funding decisions virtually impossible. If we are ever to get control of the Federal budget, we must stop trying to lock in funding for each pet program.

Finally, Mr. President, this bill provides for a major expansion of Federal elementary-secondary education support to nonpublic schools. Funds for this major new program were not recommended in the Human Resources Committee's March 15 report and were therefore not assumed in the first budget resolution for fiscal year 1979.

This program seems unnecessary, given other provisions in the bill that would strengthen the participation of nonpublic schools in the existing elementary and secondary education programs.

For these reasons, Mr. President, I will support Senator HOLLINGS' amendment to delete this new program.

With that, Mr. President, I yield the floor.

Mr. JAVITS. Mr. President, before the Senator yields the floor, will the Senator yield to me?

Mr. MUSKIE. Yes, of course, I yield.

Mr. JAVITS. I have listened to the Senator with great interest. I also have read with great interest the views of the Senator and Senator BELLMON and the Appropriations Committee. They are entitled to the greatest respect.

We have had our staffs working with the staffs of Budget and Appropriations in an effort to resolve these problems. The reason I asked the Senator to let me say a word is that I would not wish for a moment to have it appear that Senator PELL, Senator STAFFORD, Senator WILLIAMS and I, in some cavalier way, disregarded it.

Of course, we did not. We took it seriously, this critical element of this measure.

I pledge myself to Senator MUSKIE, before we are through with the bill, to work it out satisfactorily, because we have the utmost regard for our colleagues and there is no desire whatever to steal a march on appropriations or on budget.

But we do realize the complexity of the problems which the Senator knows as well as I do: Impact aid is of critical importance to many Members of the House and the Senate.

The administrations have generally been against it, not only this one, but previous administrations. They do not like the idea.

We all, including me, think it essential to our communities, so we have to stand our ground.

I cannot expect the administration will cheer it, but I am certainly not going to get into any hostilities with the Appropriations or Budget Committees. We perfectly understand, the Appropriations Committee will decide to appropriate or not to appropriate. We perfectly understand the appropriations must be within the budget parameters.

All we say is that, if appropriated, it is our belief that these preferences are desirable, not unlike the hold harmless provision we have in many bills.

In other words, if the money is available, then the law would say it goes in the following priorities. We have, of course, the perfect power to change those priorities.

So I am glad for what the Senator said. But I did not wish to leave any impression we have just overlooked or disregarded his concern. On the contrary, we have taken it with deep seriousness. It is our purpose to try to achieve a practical solution with the Senator's committee, and with Senator YOUNG'S and Senator MAGNUSON'S committee, in order to deal with the problems which the Senator very properly raised.

Mr. MUSKIE. I appreciate the Senator's comments. They are consistent with his demonstrated respect for the budget process and the procedures which that reform act established.

The reason I spoke today was to make sure that all Members of the Senate were aware of these issues.

I should have indicated and, I am glad the Senator has stated that we are in consultation with the staffs, and eventually, personally, over these matters. I am very hopeful we can resolve our differences. I do appreciate the cooperative attitude that is being displayed.

I repeat that the reason I made these points now is so that the Senators would know what the problems are, and now they will also know that the managers of the bill and other interested Senators are applying themselves to the problem.

Mr. JAVITS. I thank my colleague.

The PRESIDING OFFICER. Does the Senator from Maine yield the floor?

Mr. MUSKIE. I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from New Mexico is now recognized to call up his amendments.

Mr. DOMENICI. Mr. President, might I first say to the distinguished Senator from Maine (Mr. MUSKIE) that I greatly appreciate the fact that the kind of discussion he has had with the Senate should come very early on.

Because my time schedule was not going to permit otherwise, the committee accommodated me in bringing up the bill this morning, so that I could offer my amendments and contribute what I have to contribute. That is why I was reluctant to yield prior to the time I did. But I do understand the responsibility and commend the Senator from Maine (Mr. MUSKIE) for his early-on analysis of this kind of bill, which I think the Senate needs. I could not yield sooner, and for that I apologize.

Mr. MUSKIE. No apology is necessary. I understood fully the Senator's problem. I found it perfectly consistent with what I wanted to do.

UP AMENDMENT NO. 1720

(Purpose: To amend the Elementary and Secondary Education Act of 1965 in order to add a new Title XIII to demonstrate the feasibility of reorganizing, simplifying, and consolidating certain elementary and secondary education programs in order to provide improved State and local administration of the programs, and for other purposes)

Mr. DOMENICI. Mr. President, I send to the desk an unprinted amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposed an unprinted amendment numbered 1720.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

TITLE XIII—REORGANIZATION

SHORT TITLE

SEC. 2. This title may be cited as the "Reorganization and Consolidation Demonstration Project."

STATEMENT OF FINDINGS AND POLICY

SEC. 1201. (a) The need for simplification and consolidation of Federal education programs has been detailed by the education community in general, particularly State and local officials and school teachers and administrators. The number and complexity of Federal education laws has seriously undermined State and local ability to implement

Federal purposes. The complexity of Federal law has led therefore to an inefficient and sometimes ineffective Federal role. Educators have called for a public policy which eliminates the unnecessary burden of program fragmentation and excessive administrative requirements which cause program inefficiency and wasted time, effort, and funds that could be used to enhance program effectiveness.

(b) Congress finds that Federal education policy would be served by a five-year demonstration project to test the feasibility and assess the utility of program reorganization and consolidation to—

(1) promote program efficiency;

(2) reduce paperwork;

(3) reduce the amount of time expended by teachers and other educational personnel in administering Federal education programs;

(4) increase State and local flexibility while maintaining certain Federal purposes;

(5) coordinate Federal programs with each other and with State and local programs in order to increase the effectiveness of the education program in meeting the needs of the nation's school children.

STATEMENT OF PURPOSE

SEC. 1202. (a) It is the purpose of this Title to demonstrate the feasibility of consolidating and reorganizing certain programs of assistance to State and local educational agencies for elementary, secondary, vocational, and adult education into three broad categories:

(1) Special educational needs programs including programs authorized on the date of enactment of this Act—

(A) under subpart 1 of part A of title I and part B of title I of the Elementary and Secondary Education Act of 1965, those portions of subpart 2 of part A of the Elementary and Secondary Education Act of 1965 as relates to neglected and delinquent children and migratory children.

(B) under part B of the Education of the Handicapped Act as amended by Public Law 94-142, section 121 of the Elementary and Secondary Education Act of 1965, and under section 403 (a)(3)(B) of the Elementary and Secondary Education Act of 1965;

(C) under title VII of the Elementary and Secondary Education Act of 1965, section 708(c) of the Emergency School Aid Act, and subpart 3 of part B of the Vocational Education Act of 1963.

(2) Vocational education programs including programs authorized on the date of enactment of this Act—

(A) under the Vocational Education Act of 1963 and section 811 of the Elementary and Secondary Education Act of 1965 relating to consumer education;

(B) the Adult Education Act;

(C) a bonus grant for projects jointly sponsored by prime sponsors under the Comprehensive Employment and Training Act of 1973 and agencies conducting elementary and secondary, adult or vocational education.

(3) Special emphasis projects including programs authorized on the date of enactment of this Act under—

(A) parts B and C of title IV of the Elementary and Secondary Education Act of 1965;

(b) section 403 of the Education Amendments of 1974 relating to metric education, section 404 of the Education Amendments of 1974 relating to gifted and talented children, section 406 of the Education Amendments of 1974 relating to arts and education; the Environmental Education Act, the Alcohol and Drug Abuse Education Act, title IX of the Elementary and Secondary Education Act of 1965 relating to ethnic heritage, title V of the Higher Education Act of 1965 relating to the Teacher Corps, title VII of the Education Amendments of 1974 relating to the national reading improvement program (except sections 721 and 722).

(c) It is the further purpose of this Act to demonstrate the desirability of greater flexibility in the use of Federal educational assistance and to bring about a simplification of the categorical requirements contained in the provisions of law authorizing each such program.

STATE SELECTION

SEC. 1203. (a) The Commissioner shall select states for participation in the demonstration authorized by this title according to criteria and procedures set forth in subsection (b) of this section.

(b) For purposes of demonstrating the feasibility of the reorganization and consolidation authorized by this title, the Commissioner shall:

(1) develop procedures under which States may apply for consolidated funding;

(2) assure that States selected will represent various demographic characteristics such as size and educational governance;

(3) develop selection procedures, regulations, and select demonstration States no later than June 30, 1979;

(4) approve the application of not more than six States to provide a waiver of current requirements in order to implement the described demonstration;

(5) States and the associated local education agencies selected for the demonstration shall conduct planning for operation under consolidated funding for a period ending June 30, 1980.

(6) It is the intent of Congress that the demonstration of consolidation and simplification authorized by this title be completed by June 30, 1983.

(7) It is the further intent of Congress that if the consolidation effort initiated by this title is not adopted in whole or in part when Congress reauthorizes this Act beyond the termination date set by this title, that the Commissioner will establish orderly procedures for the termination of the program for States participating in the demonstration and the phase-in of regular administrative procedures.

APPLICABILITY TO EXISTING LAW

SEC. 1204. Except as provided in this title, no other provision of law authorizing a program consolidated under this title shall apply to the provision of financial assistance to a State selected for this demonstration which has a comprehensive State plan in compliance with the provisions of this title, with respect to the programs covered by that plan. All administrative regulations shall be consistent with the provisions of this Act for States participating in the demonstration.

PART A—SPECIAL NEEDS PROGRAMS

Subpart 1—Educationally Deprived Children

CHILDREN FROM LOW-INCOME FAMILIES

SEC. 1211. Each State selected to participate in the consolidation program authorized by this Act shall within the limits of available Federal funds, in the comprehensive State plan required under section 1246, provide for a program designed to—

(1) address the special educational needs of educationally deprived children in local educational agencies having high concentrations of children from low-income families, and through such local education agencies arrange to meet the needs of such children in private non-profit schools on an equitable basis unless prohibited by law;

(2) address the special educational needs of neglected and delinquent children in State operated programs.

EDUCATION PROGRAMS FOR MIGRATORY CHILDREN

SEC. 1212. Each State desiring to participate in the consolidation program authorized by this Act shall, in the comprehensive State plan required under section 1246, set forth within the limits of available Federal funds a program designed to address the special educational needs of migratory children of migratory agricultural workers and of migratory fishermen, including the preschool educational needs of such migratory children.

Subpart 2—Handicapped Children

EDUCATION PROGRAMS FOR HANDICAPPED CHILDREN

SEC. 1213. Each State selected to participate in the consolidation program authorized by this title and eligible for this subpart shall, in the comprehensive State plan required under section 1246, set forth a program designed to—

(1) provide special education and related services for handicapped children;

(2) meet the special educational needs of handicapped children for which the State agency is responsible;

(3) provide for curriculum improvements through special or innovative programs and projects for the education of handicapped children as authorized under part C of title IV of the Elementary and Secondary Education Act of 1965, and

(4) establish standards for educational programs for handicapped students.

APPLICABILITY: STATE ASSURANCES

SEC. 1214. (a) Each State selected to participate in the consolidation program authorized by this title may, in the comprehensive State plan required under section 1246, set forth a program providing for special education and related services for handicapped children aged three to five.

(b) Each State selected to participate in the consolidation programs authorized by this title and eligible for this subpart shall assure that—

(1) the State has in effect a policy that assures all handicapped children the right to a free appropriate education. The State plan shall—

(A) assure that services are provided to all such children;

(B) contain a description of the kind and number of facilities, personnel, and services necessary throughout the State to provide services;

(C) provide for continued efforts to identify, locate, and evaluate all handicapped children who are in need of services in order to maintain full service; and

(D) the State will comply with the provisions of section 615 of the Education of the Handicapped Act, relating to procedural safeguards or shall develop a similar procedure designed to protect the rights of children and their parents and guardians.

Subpart 3—Children with Limited English-Speaking Ability

BILINGUAL EDUCATION PROGRAMS

SEC. 1215. Each State selected to participate in the consolidation program authorized by this Title shall, in the comprehensive State plan required under section 1246, set forth—

(1) a program of instruction designed for children of limited-English language proficiency in elementary and secondary schools;

(2) a program designed to meet the needs of children who are from an environment in which the dominant language is other than English, and who because of language barriers and cultural difference, do not have equality of educational opportunity; and

(3) a program of instruction designed for adults of limited English language proficiency carried out in coordination with Adult Education Programs and Vocational Education programs;

(4) bilingual vocational training programs for persons of limited English language proficiency who—

(A) have completed or left elementary or secondary school and who are available for education by a postsecondary educational institution;

(B) have already entered the labor market and who desire or need training or retraining to achieve year-round employment, adjust to changing employment opportunities, expand their range of skills, or advance in employment; and

(5) a program of training to prepare instructors, aides, or other ancillary personnel for programs designed for persons of limited English proficiency.

Subpart 4—Distribution of Funds to Local Educational Agencies

DISTRIBUTION TO LOCAL EDUCATIONAL AGENCIES

SEC. 1217. (a) From the funds provided to a State attributable to section 1211 of this title for any fiscal year, the State shall allocate to each local educational agency in that State based on the number of students from low-income families at least the amount which each local educational agency would have received had the distribution of such funds been made under the provisions of law authorizing part A of title I of the Elementary and Secondary Education Act of 1965.

(b) From the funds provided to a State under section 1212 of this title for any fiscal year, the State shall allocate to local educational agencies having migrant education programs funds on an equitable basis taking into account the number of students eligible for such programs. A State may serve such students directly.

(c) From funds provided to a State attributable to section 1213 of this title (relating to education programs for handicapped children) for any fiscal year, the State shall allocate to each local educational agency and intermediate educational unit in that State an amount not less than the amount which each such local educational agency and intermediate educational unit would have received had the distribution of such funds been made under the provisions of law authorizing the program consolidated in that section.

(d) From the funds provided to a State attributable to section 1215 of this title (relating to bilingual education programs) for any fiscal year, the State shall distribute such amount on either a formula or a project grant basis taking into consideration the number and needs of students in that State who have limited English language proficiency.

TARGETING OF FUNDS

SEC. 1218 (a). All funds allocated to local education agencies under section 1217(a) shall be used to provide services to educationally deprived children.

(b) All funds allocated to local education agencies under Section 1217(b) shall be used to provide services to migrant children.

(c) All funds allocated to local education agencies under Section 1217(c) shall be used to provide services to handicapped children (and)

(d) All funds allocated to local education agencies under section 1217(d) shall be used to provide services to children with limited English language proficiency.

PART B—VOCATIONAL, ADULT AND CONTINUING EDUCATION AND EMPLOYMENT TRAINING

Subpart 1—Vocational Education

STATEMENT OF PURPOSE

SEC. 1221. It is the purpose of this part to assist States in improving planning in the use of all resources available to them for vocational education and employment training by involving a wide range of agencies and individuals concerned with education and training within the State in the development of the vocational education plans. It is also the purpose of this part to authorize Federal grants to States to assist them—

(1) to extend, improve, and, where necessary, maintain existing programs of vocational, homemaking and consumer education,

(2) to develop new programs of vocational education,

(3) to develop and carry out such programs of vocational education within each State so as to overcome sex discrimination and sex stereotyping in vocational education programs (including programs of homemaking), and thereby furnish equal educational opportunities in vocational education to persons of both sexes, and

(4) to provide part-time employment for youths who need the earnings from such employment to continue their vocational training on a full-time basis.

so that persons of all ages in all communities of the State, those in high school, those who have completed or discontinued their formal education and are preparing to enter the labor market, those who have already entered the labor market, but need to upgrade their skills or learn new ones, those with special educational handicaps, and those in postsecondary schools, will have ready access to vocational training or retraining which is of high quality, which is realistic in the light of actual or anticipated opportunities for gainful employment, and which is suited to their needs, interests, and ability to benefit from such training.

VOCATIONAL EDUCATION

SEC. 1222. (a) Each State selected to participate in the consolidation program authorized under this part shall set forth provisions for programs to carry out the purposes described in section 1221 in the comprehensive State plan required under section 1246, and provisions for consumer education.

(b)(1) Funds attributable to the program consolidated by this section may be used for—

(A) vocational education programs;

(B) work study programs;

(C) cooperative vocational education programs operated by local education agencies with the participation of public and private employers;

(D) energy education programs for training of personnel in the areas of coal mining and solar energy;

(E) construction of vocational education school facilities if such facilities are not for individuals assigned as the result of delinquent conduct or in which students are segregated by race.

(F) support of full time personnel to perform duties described in section 104(b) of the Vocational Education Act of 1963;

(G) the provision of stipends, which shall not exceed reasonable amounts, as prescribed by the Commissioner pursuant to regulations, for students entering or already enrolled in vocational education programs, if such students have acute economic needs which cannot be met under work-study programs;

(H) placement services for students who have successfully completed vocational education programs;

(I) industrial arts programs where such programs will assist in meeting the purposes of this title;

(J) support services for women who enter programs designed to prepare individuals for employment in jobs which have been traditionally limited to men, including counseling as to the nature of such programs and the special problems which may be encountered by women in such programs, and job development and job follow-up services;

(K) day care services for children of students in secondary and postsecondary vocational education programs;

(L) vocational education for—

(i) persons who had solely been homemakers but who now, because of dissolution of marriage or other reasons, must seek employment;

(ii) persons who are single heads of households and who lack adequate job skills;

(iii) persons who are currently homemakers and part-time workers but who wish to secure a full-time job; and

(iv) women who are now in jobs which have been traditionally considered jobs for females and who wish to seek employment in job areas which have not been traditionally considered job areas for females, and men who are now in jobs which have been traditionally considered jobs for males and who wish to seek employment in job areas which have not been traditionally considered job areas for males;

(M) special programs for disadvantaged students in areas of the State having high concentrations of youth unemployment and school dropouts;

(N) research programs;

(O) exemplary and innovative programs;

(P) curriculum development programs;

(Q) provision of guidance and counseling services;

(R) provision of pre-service and in-service training;

(S) grants to overcome sex bias;

(T) consumer and homemaking education as described in section 180 of the Vocational Education Act of 1963; and

(U) research, demonstration, or pilot projects in consumer education as described in section 811(a)(1)(B) of the Elementary and Secondary Education Act of 1965.

(2) Not more than 20 per centum of the funds attributable to this section in any fiscal year may be used for purposes described in clauses (O) through (T) of paragraph (1) of this subsection.

(3) At least 35 per centum of the funds attributable to this section in any fiscal year shall be used to serve—

(A) persons who have academic or economic handicaps and who require special services and assistance in order to enable them to succeed in vocational education programs;

(B) handicapped persons; or

(C) persons of limited English language proficiency.

(c) State and local advisory councils for vocational education shall be appointed and shall operate according to the provisions of Section 105 of the Vocational Education Act of 1963.

Subpart 2—Adult and Continuing Education

SEC. 1223. (a) Each State selected to participate in the demonstration authorized by this title shall, as part of the comprehensive State plan described under section 1246, provide for a program designed to meet the needs for adult basic education, and for neglected or delinquent children in adult correctional institutions.

(b) Programs in adult correctional institutions shall be coordinated with other educational programs provided for such persons.

Subpart 3—Education Projects Authorized Under Employment Training Programs

EDUCATION TRAINING PROGRAMS

SEC. 1224. (a) Each State selected to participate in the demonstration shall describe in the comprehensive State plan required under section 1246, how the activities in the plan relate to employment and training programs conducted by the prime sponsors established under the Comprehensive Employment and Training Act of 1973, to assure a coordinated approach to meeting the vocation education and training needs of the area or community.

(b)(1) Any local education agency which engaged in the previous fiscal year in a cooperative training project with the prime sponsor serving the area in which the local education agency is located shall be eligible to receive a bonus grant equal to one-half the amount of funds the local education agency contributed to the project. Each grant received under this subsection shall be used for the same or other cooperative projects with the prime sponsor.

(2) The State shall accept applications for funds from local education agencies and shall certify to the Commissioner the amount of funds for which local education agencies in the State are eligible, which certification

shall accompany the plan required in section 1244(a)(4).

(3) There are authorized to be appropriated for each fiscal year ending prior to October 1, 1978, such sums as may be necessary to carry out the provisions of this section.

(4) If the sums appropriated for any fiscal year for making payments to States under this section are not sufficient to pay in full the amount to which each State is entitled under this section for such fiscal year, the amounts which all States may receive under this section for such fiscal year shall be ratably reduced. In case additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

SUBPART 4—DISTRIBUTION OF FUNDS TO LOCAL EDUCATIONAL AGENCIES

DISTRIBUTION TO LOCAL EDUCATIONAL AGENCIES

SEC. 1235. (a) From the funds provided to a State attributable to subparts 1 and 2 of this part for any fiscal year, the State shall allocate at least 80 per centum of such funds to local educational agencies and other eligible institutions in that State, based on enrollment and other criteria set forth in the comprehensive State plan required under section 1246.

(b) From the funds provided to a State attributable to subpart C of this part for any year, the State shall allocate all funds to local education agencies based on the certification furnished under section 1224.

PART C—SPECIAL EMPHASIS PROJECTS

Subpart 1—Libraries and Learning Resources

LIBRARIES AND SUPPORT SERVICES

SEC. 1231. (a) Each State selected to participate in the consolidation program authorized by the title shall carry out a program for making grants to local educational agencies, which program shall be described in the comprehensive State plan submitted under section 1246, provide for—

(1) the acquisition of school library resources, textbooks, and other printed and published instructional materials for the use of children and teachers in public and private nonprofit elementary and secondary schools; and

(2) the acquisition of instructional equipment (including laboratory and other special equipment, and audiovisual materials and equipment suitable for use in providing education in academic subjects) for use by children and teachers in elementary and secondary schools, and for minor remodeling of laboratory or other space used by such schools for such equipment.

(b) No personnel may be employed by a local educational agency with funds provided by this part.

Subpart 2—Special Curriculum Emphasis, Guidance and Counseling, Innovation, and Support Projects

SPECIAL PROJECT PROGRAMS

SEC. 1232. (a) Each State selected to participate in the consolidation program authorized by this title shall, in accordance with subsection (b), carry out a program for providing services and making grants to local educational agencies for—

(1) innovation and exemplary programs to stimulate and assist in the provision of vitally needed educational services not available in sufficient quantity or quality and to stimulate and assist in the development and establishment of exemplary elementary and secondary school programs (including the remodeling or lease of necessary facilities) to serve as models for regular school programs;

(2)(A) programs of counseling and guidance services for students in elementary and secondary schools, including—

(i) occupational, vocational guidance, personal social counseling, and information services,

(ii) pupil appraisal,

(iii) pupil motivation for academic success,

(iv) postsecondary placement assistance,

(v) research, evaluation, and followup activities, and

(vi) staff development;

(B) programs of testing students in elementary and secondary schools; and

(C) programs, projects, and leadership activities designed to expand and strengthen counseling and guidance services in elementary and secondary schools;

(3) demonstration projects by local educational agencies or private educational organizations designed to improve nutrition and health services in public and private nonprofit elementary and secondary schools serving areas with high concentrations of children from low-income families.

(4) the carrying out by such agencies in schools located in urban or rural areas, which have a high percentage of children from low-income families, and have a high percentage of such children who do not complete their secondary school education, of demonstration projects involving the use of innovative methods, systems, materials, or programs which show promise of reducing the number of such children who do not complete their secondary school education;

(5) strengthening the leadership resources of State educational agencies and assisting those agencies in the establishment and improvement of programs to identify and meet educational needs of the State;

(6) assisting and encouraging the use of the arts in elementary and secondary school programs;

(7) encouraging educational agencies and institutions to prepare students to use the metric system of measurement;

(8) advancing the education of gifted and talented children;

(9) programs, projects, and leadership for career education at elementary and secondary schools designed to—

(A) develop information on the needs for career education for all children,

(B) reassess the status of career education programs and practices including assessment of stereotyping career opportunities by race or by sex.

(C) provide for the demonstration of exemplary career education programs and practices by the development and testing of exemplary programs and practices using various theories, concepts, and approaches, and

(D) provide for the training and retraining of persons for conducting career education programs;

(10) activities to provide educational equity for women;

(11) establishing and supporting drug abuse and alcohol prevention and control projects, including projects for primary prevention and early intervention conducted in elementary and secondary schools;

(12) development of curriculum materials and dissemination of such materials in the elementary and secondary schools relating to the history, geography, society, economy, literature, art, music, drama, language, and general culture of any ethnic groups and the contributions of those ethnic groups to American heritage;

(13) strengthening the educational opportunities available to children in areas having high concentrations of low-income families, through improved programs of training and retraining for personnel eligible for the Teacher Corps including teachers, teacher aides, other educational personnel, teacher-interns, and volunteers who give instructional assistance in such areas through cooperative arrangements among State and local educational agencies and institutions of higher education for such training;

(14)(A) carrying out projects for schools having large numbers or high percentages of children with reading deficiencies, involving the use of diagnostic testing, individualized learning, innovative methods, systems, materials, bilingual materials when appropriate, vacation reading programs, or projects which show promise of overcoming such reading deficiencies, including projects for pre-elementary school children, and

(B) carrying out projects—

(i) to develop comprehensive programs and State leadership to improve reading proficiency and instruction in reading in the elementary schools of the State,

(ii) to arrange for and assist in the training of special reading personnel and specialists,

(iii) to furnish reading assistance and instruction to youths and adults who do not otherwise receive such assistance and instruction or to make grants for such reading academies to eligible institutions;

(15) environmental education activities at elementary and secondary education levels, including the development of curriculums (including interdisciplinary curriculums) in the preservation and enhancement of environmental and ecological balance, the dissemination of information relating to such curriculums and to environmental education generally, appropriate education training programs, and the planning of outdoor ecological study centers; and

(16) assistance to local educational agencies in strengthening the leadership resources of such agencies and to assist such agencies in the establishment and improvement of projects to identify and meet the educational needs of the schools of such agencies.

(17) special programs or projects for the education of handicapped and learning disabled children, if any such State selected for the demonstration is not eligible for assistance described in subpart 2 of Part A of this title.

(b) Each State program developed and carried out under subsection (a) of this section shall reflect the needs and priorities established by the local educational agencies in the comprehensive needs assessment conducted pursuant to section 1245(a).

Subpart 3—Distribution of Funds to Local Educational Agencies

DISTRIBUTION TO LOCAL EDUCATIONAL AGENCIES

SEC. 1233. (a) From the funds provided to a State attributable to clauses (1) and (2) of section 1231(a) of this title for any fiscal year, the State shall allocate to each local educational agency in that State an amount based upon enrollment any other relevant factor to be determined by the State such as tax effort, numbers or percentages, or both, of students whose education imposes a higher than average cost per child upon the State or local education agency, and the ability of the local education agency to finance public education. The formula for such distribution shall be included in the comprehensive State plan required by section 1246. The local educational agencies, based on needs of public and non-public school children, will be given sole discretion in determining how such funds will be divided among the various purposes described in section 1241.

(b) From the funds provided to a State attributable to section 1232 for any fiscal year, the State agency designated pursuant to section 1244(a)(1) shall allocate funds to local educational agencies in the State in accordance with criteria developed in the comprehensive State plan, after a consideration of the needs assessments required by section 1232(b) for the purposes described in such clauses. Amounts attributable to clauses (5) and (14)(B) of section 1232 be retained by the State for programs conducted by the State education agency. Funds attributable to clause (17) shall be used only for the purpose stated in clause (17).

PART D—GENERAL PROVISIONS

RESERVATION OF FUNDS FOR CONSOLIDATED PROGRAMS

SEC. 1241. (a)(1) From the amounts appropriated for the fiscal year 1979 and for each fiscal year thereafter ending prior to October 1, 1983, to carry out programs consolidated by this Act, the Commissioner shall reserve an amount equal to the aggregate amount necessary to make allotments under section 1242 to States selected for the demonstration under this title with respect to programs covered by the comprehensive State plan for each such State.

(2) In reserving funds under this section, the Commissioner shall use formulas for the distribution of funds among the States in provisions of law authorizing programs consolidated by this title. Wherever State formulas do not exist for programs consolidated by this title, the Commissioner shall reserve the amount of funds for all such programs which bear the same ratio to such amount as the number of children aged five through seventeen in the States which choose the option to consolidate bears to the number of children in all States except that funds for bilingual education programs will be reserved in accordance with the criteria under section 1242(a)(4) of this title and funds for consumer education will be reserved in accordance with the criteria under section 1242(b)(2)(B) of this title.

(b) From the amount allotted to each State under section 1242, the Commissioner shall pay to each State selected for the demonstration authorized by this title an amount equal to the amount expended in that State in carrying out a comprehensive State plan adopted pursuant to this title.

ALLOTMENTS

SEC. 1242. (a)(1) From the amounts reserved under section 1241 to carry out part A of this title for any fiscal year, the Commissioner shall determine the amount attributable to subparts 1, 2, and 3 of such part for all States selected to participate in the demonstration.

(2) From the amount reserved under section 1241 to carry out part A of this title and determined attributable to subpart 1 for any fiscal year, the Commissioner shall allot to each State the sum of—

(A) an amount equal to the amount which each such State would be entitled under—

(i) subpart 1 of part A of title I of the Elementary and Secondary Education Act of 1965, for all local educational agencies within that State,

(ii) part B of title I of the Elementary and Secondary Education Act of 1965,

(iii) that portion of subpart 2 of part A of the Elementary and Secondary Education Act of 1965 as relates to neglected and delinquent children, and migratory children, subject to section 144 of the Elementary and Secondary Education Act of 1965, in each case;

(3) From the amount reserved pursuant to section 1241(a) for part A of this title and determined attributable to subpart 2, for any fiscal year, the Commissioner shall allot to each State the sum of an amount equal to the amount to which each such State would be entitled under—

(A) part B of the Education of the Handicapped Act, including funds under section 619 for States that provide direct services;

(B) section 121 of the Elementary and Secondary Education Act of 1965; and

(C) section 403(a)(8)(B) of the Elementary and Secondary Education Act of 1965.

(4) From the amount reserved pursuant to section 1241 for carrying out Part A of this title and determined attributable to subpart 3 of such part for any fiscal year, the Commissioner shall allot to each State the sum of any amount which bears the same ratio to such amounts as the number of limited and non-English-speaking children aged five to seventeen in the State, as identified by the Bureau of the Census, bears to the number of such children in all States, for funds available under—

(A) title VII of the Elementary and Secondary Education Act of 1965;

(B) section 708(c) of the Emergency School Aid Act; and

(C) subpart 3 of part B of the Vocational Educational Act of 1963.

(b)(1) From the amounts reserved under section 1241 to carry out part B of this Act for any fiscal year, the Commissioner shall determine the amount attributable to subparts 1, 2, and 3 of such part for all States selected to participate in the demonstration.

(2) From the amounts reserved under section 1241 to carry out part B of this title and determined attributable to subpart 1 for any fiscal year, the Commissioner shall allot to each State an amount equal to the amount to which each such State would be entitled under—

(A) part A of the Vocational Education Act of 1963; and

(B) an amount equal to the amount which bears the same ratio to the amount attributable to consumer education as the number of children age fifteen to seventeen, inclusive, in each State bears to the number of such children in all States.

(3) From the amount reserved under section 1241 to carry out part B of this title and determined attributable to subpart 2 for any fiscal year, the Commissioner shall allot to each State an amount equal to the amount to which the State would be entitled under—

(A) the Adult Education Act;

(4) from the amount reserved under section 1241 to carry out Part B of this Act and determined attributable to subpart 3 for any fiscal year, the Commissioner shall allot to each State an amount equal to the amount to which each such State is entitled in accordance with the criteria under section 1224 of this title.

(c)(1) From the amounts reserved under section 1241 to carry out part C of this title and for any fiscal year, the Commissioner shall determine the amount attributable to subparts 1 and 2 of such part for all States selected to participate in the demonstration.

(2) From the amount reserved under section 1241 to carry out part C of this title and determined attributable to subpart 1 for any fiscal year, the Commissioner shall allot to each State an amount equal to the amount to which each such State would be entitled under part B of title IV of the Elementary and Secondary Education Act of 1965 (other than the amount attributable to guidance and counseling).

(3) From the amount reserved under section 1241 to carry out part C of this title and determined attributable to subpart 2 for any fiscal year, the Commissioner shall allot to each State an amount equal to the sum of the amount to which each State would be entitled under—

(A) part C of title IV of the Elementary and Secondary Education Act of 1965 less the 15 per centum set aside for handicapped education in section 403(a)(8)(B) of such title, if the State is eligible for part A, subpart 2, of this title. The 15 per centum set aside in section 403(a)(8)(B) shall be included in the allotment under this subsection for States not eligible under subpart 2 of part A.

(B) that portion of part B of title IV of such Act attributable to guidance and counseling; and

(C) an amount equal to the amount which bears the same ratio to the amount attributable to clauses (6) through (16) of section 1232(a), as the number of children age five to seventeen, inclusive, in such Sta bears to the number of such children in a States selecting to participate in the pr grams consolidated under title III of th Act.

(4) For the purpose of paragraph (3) this subsection, the Commissioner sha determine the number of children age fi to seventeen, inclusive, on the basis of th most satisfactory data available to him.

(d)(1) For the purpose of this sectio "all States" means for any fiscal year a States selected to participate in the demo stration.

(2) For the purpose of subsection (b) this section, the term "State" does not in clude Guam, the Virgin Islands, America Samoa, and the Trust Territory of the Paci Islands.

(e) Any funds granted to a State und any program consolidated under this ti prior to the consolidation which rema available for expenditure during the su ceeding fiscal year pursuant to section 412(of the General Education Provisions A shall be available for use by that State du ing that year for the purpose for which th were originally granted or for carrying o the State's consolidated plan for that ye under this title.

(f) Any expenditures made to close out a programs consolidated by this title may included as administrative expenses und section 1244(c)(1) of this title.

PLANNING GRANTS

SEC. 1243. (a) Any State selected to pa ticipate in the consolidation program a thorized by this title, shall, in order prepare a consolidated plan in accordan with the provisions of this title, receive one-year planning grant.

(b) The maximum amount of a gra which a State may receive under this se tion is equal to 1 per centum of the to allotment of that State under progra consolidated by this title, for the fiscal ye for which the determination is made, exce that no State shall receive less than $200,0 nor more than $1,000,000.

(c) There are authorized to be appropr ated for fiscal year 1979 such sums as may necessary to carry out the provisions of th section.

STATE ADMINISTRATION

SEC. 1244. (a) Each State selected to r ceive a grant for the consolidation progra authorized by this Act for any fiscal ye shall—

(1) designate the State educational agen and the State board for vocational educ tion (if applicable) within the State to a minister the financial assistance made ava able under this Act;

(2) develop and publish prior to impl mentation of the demonstration authori by this title a four-year comprehensi State plan which—

(A) is developed in accordance with t procedures described in section 1245, and

(B) contains the provisions designed meet the requirements of 1246.

(3) develop and publish an annual upda of the comprehensive State plan, and

(4) submit to the Commissioner for h approval the comprehensive State plan annual update in accordance with the pr visions of this title.

(b) A State which receives a grant for t demonstration program authorized by th title for any fiscal year shall, in addition the requirements of subsection (a)—

(1) provide for an audit of expenditu for each program year in accordance wi generally accepted accounting principl conducted, as determined by the State by

(A) an auditor of the State, using certifi public accountants, or

(B) a private certified public accounta

or auditing firm utilizing certified public accountants;

(2) provide for an annual evaluation of the implementation of the State's final comprehensive plan, and any amendment thereto, adopted under section 1245,

(3) submit to the Commissioner for his approval the procedures established by the State to carry out the provisions of clauses (1) and (2) of this subsection, with such supporting material as the Commissioner may require; and

(4) prepare and submit an annual report of that audit and evaluation which report shall include—

(A) such information as the Commissioner may reasonably prescribe consistent with the consolidation and provisions of this Act, and

(B) assurance that funds were expended in accordance with this Act and the comprehensive State plan.

(c) The Commissioner shall pay to each State for the proper and efficient administration of the consolidation program authorized by this title an amount, in one grant award, equal to 1 per centum of the aggregate of that State's allotment for the fiscal year for which the determination is made except that no State shall receive less than it received for the administration of programs consolidated by this Title in the previous fiscal year.

PROCEDURE FOR DEVELOPING THE COMPREHENSIVE STATE PLAN

SEC. 1245. Each State shall in the development of the comprehensive State plan establish procedures designed to assure that—

(1) a comprehensive assessment is conducted of the educational needs of the children of that State aged five to seventeen, inclusive, for educational services, the needs of children below aged five eligible for services under this Act, the needs of adults in that State for basic educational and continuing educational services, and for vocational education programs, the local labor market requirements, the current status of employment and the economy, the location of training facilities, and the needs of the individuals to be served. Particular attention shall be given to the identification of children with special educational needs, the services which the students are receiving, and the need for continued, additional, and related services for each of the programs specified in parts A, B, and C of this title,

(2) local education agencies will determine priorities for subpart 2 of part C of this title and for Part B as part of the needs assessment process,

(3) there is participation of interested citizens, local educational agencies, units of general local government, appropriate State agencies and organizations, and, if appropriate, prime sponsors under the Comprehensive Employment and Training Act of 1973, prior to and during the development of the comprehensive plan,

(4) the legislature of the State will be informed of the development of the procedures required by this subsection,

(5) as a part of the comprehensive planning process priorities will be established for the use of funds under section 1247,

(6) the use of funds for purposes described in parts A, B, and C of this title will be coordinated with the use of State and local funds extended for similar purposes,

(7) the use of funds for purposes described in parts A, B, and C of this title will be coordinated with each other and other Federal programs to avoid duplication of effort,

(8) the proposed comprehensive State plan or the annual update thereof will be submitted to the Commissioner and will be published at least ninety days prior to its effective date and such plan or update thereof will be available to interested parties and to local educational agencies within the State. Comment relating to such plan must be accepted for a minimum of forty-five days after such publication,

(9) a final comprehensive State plan, or annual update thereof, will be published and made available prior to its effective date together with a summary of the comments received,

(10) any amendment to the final comprehensive State plan prepared by the State educational agency or other agency designated pursuant to section 1244(a)(1) will be published as a proposed amendment on which the public may comment for a period of at least twenty days, and thereafter the final amendment, together with a summary of the comments received and the action taken on such comments will be published,

(11) regulations and rules established, amended, or repealed by that State will be established, amended, or repealed with the counsel of local education agencies and consistent with State administrative procedures and due process,

(12)(A) local education agencies may agree to join together and form consortium for the purpose of carrying out any of the programs authorized by this title, and

(B) such consortium will be considered as a local educational agency for the purpose of distribution of such funds.

PROVISION OF THE COMPREHENSIVE STATE PLAN

SEC. 1246. A comprehensive State plan meets the requirements of this section if that plan—

(1) sets forth the procedure used and the results of the needs assessments conducted pursuant to section 1245(a)(1);

(2)(A) sets forth the goals to be achieved under the plan, the basic program objectives and a description of the programs to be assisted in accordance with the provisions of parts A, B, and C;

(B) sets forth the type of individuals to be served in each such program together with the services or activities to be supported and the estimated enrollment for each such program;

(3) sets forth the policies and procedures to be followed by the State to assure that the distribution of funds under parts A, B, and C of this title to local educational agencies and other appropriate agencies and organizations within the State is in accordance with the provisions of each such part;

(4) contains a description of the organizational structure through which the program consolidated by this title will be administered;

(5) sets forth the procedures for monitoring activities of the local educational agencies within the State including a provision for technical assistance by the State to each such local educational agency;

(6) contains a description of the process that the State will use to insure that any local educational agency in the State which receives funds under this Act will annually develop or update a comprehensive plan for the use of such funds; that a program site advisory council will be established for programs pursuant to sections 1211 and 1216 to advise in the development of the plan for such programs; and that the plan will be made available to the public for comment in a manner consistent with the manner and provisions required for the comprehensive State plan under this title;

(7) provides, consistent with State law and practice, for audit of local educational agency expenditures under this title;

(8) sets forth procedures to assure that—

(A) the aggregate amount, or

(B) the amount of the average per-pupil expenditure, whichever is less, to be expended by the State and its local educational agencies from funds derived from non-Federal sources for the consolidation program under each Part of this title for any fiscal year will not be less than the amount so expended for the preceding fiscal year;

(9) sets forth procedures to assure that funds made available under this Act will be used so as to supplement the level of State and local funds expended for the purposes described in the plan and in no case to supplant such State and local funds;

(10) provides that funds pursuant to section 1311, 1313, and 1315 are used only for the excess costs of programs under those sections.

(11) provides that the only applications for funds for programs under this title in addition to the local comprehensive program plan which a local educational agency shall make to the State are for programs under the State plan which are competitive;

(12) sets forth procedures to be used by the State to eliminate unnecessary paperwork and duplication of informational requests in regard to local educational agency applications, evaluations, and reporting;

(13) provides due process procedures to be taken by the State in regard to a local educational agency which has failed to develop or implement a comprehensive program plan, including due process procedures for withholding of funds;

(14) provides a local educational agency appeal process within the State for any local educational agency which is dissatisfied with the State's action with respect to the State's compliance with substantive and procedural provisions of the Act.

SUPPLEMENTAL GRANTS

SEC. 1247. (a) The Commissioner shall make a grant, in accordance with the provisions of this section, to any State selected to participate in the demonstration program authorized by this title. The amount of the grant that each State shall receive for each fiscal year under this section shall be 10 per centum of the aggregate amount allotted to the State under section 1242 for the fiscal year preceding the fiscal year for which the determination is made, except that for fiscal year 1980 such maximum amount shall be equal to 10 per centum of the aggregate amount received by such State in fiscal year 1979 for the programs described in parts A, B, and C of this title. However, no State shall receive less than $300,000.

(b) The Commissioner shall pay to each State having an approved comprehensive State plan the amount to which the State is entitled under this section. The funds paid under this section may be used for any programs described in parts A, B, or C of this title.

(c) Funds received by a State under this section shall be distributed to local educational agencies in the following manner:

(1) Fifty per centum of such funds shall be distributed to the local education agencies within the State according to enrollment.

(2) Fifty per centum of such funds will be distributed to local education agencies according to criteria set forth in the comprehensive State plan required in section 1246.

(d) If the sums appropriated for any fiscal year for making payments to States under this section are not sufficient to pay in full the amount to which a State is entitled under this section for such fiscal year, the amounts which all States may receive under this section for such fiscal year shall be ratably reduced. In case additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased in the same basis as they were reduced.

(e) There are authorized to be appropriated for fiscal year 1980 and for succeeding fiscal year ending prior to October 1, 1983, in addition to any amount reserved pursuant to section 1241, such sums as may be necessary to carry out the provisions of this section.

FEDERAL ADMINISTRATION

SEC. 1248. (a) The consolidated program authorized by this Act shall be administered

by a separate identifiable administrative unit to be designated within thirty days after the date of enactment of this Act by the Commissioner.

(b) The Commissioner shall establish procedures to eliminate all unnecessary paperwork in regard to information required of State and local educational agencies.

(c) The Commissioner shall establish procedures for approval of State plans submitted in accordance with section 1246 of this Act. In exercising his authority under this section, the Commissioner shall apply only the provisions of this Act.

(d) The Commissioner shall establish procedures to permit a local education agency to appeal to the Commissioner a State's final ruling on an appeal to the State by that local education agency under clause 14 of section 1246.

(e) Requests from State educational agencies for information concerning legality of State actions under this Act shall be answered by the Commissioner of Education within 45 days.

MONITORING AND TECHNICAL ASSISTANCE

SEC. 1249. (a) The Commissioner shall define the criteria which State monitoring activities required under Section 1246(5) shall meet. These shall include criteria to determine—

(1) the extent to which the programs described pursuant to section 1246(2)(A) have been implemented;

(2) the appropriateness and effectiveness of services provided to the individuals identified pursuant to the requirements of section 1246(2)(B); and the effectiveness of the procedures established pursuant to the requirements of all other subsections of section 1246.

(b) The Commissioner shall conduct annually such monitoring programs in each State selected to participate in the demonstration program authorized by this title as he deems appropriate. The monitoring program authorized by this section shall include—

(1) review of the development of the comprehensive State plan for compliance with the provisions of this title.

(2) review of implementation of programs for conformity with this title and with the comprehensive program plan.

(3) review of the monitoring activities of the State for compliance with subsection (a) of this section. Each State shall be notified in advance of monitoring visits. (c) Whenever as a result of monitoring activities conducted pursuant to this section, the Commissioner identifies areas of noncompliance, the Commissioner shall establish procedures with the appropriate State agency designated under section 1244(a)(1) for the necessary modifications.

(d) The Commissioner shall provide advice, counsel, and technical assistance upon request of State and local educational agencies.

(e) Monitoring activities carried out by the Commissioner or the State education agencies shall not require additional paperwork of the agencies under review.

EVALUATIONS

SEC. 1250. (a) The Commissioner after consulting and with the assistance of State agencies designated pursuant to section 1244(a)(1) shall prepare and design a model for evaluation of program effectiveness which will be consistent with the purposes of each program described in parts A, B, and C of this title. Evaluation of local educational agency programs should focus on the services provided for students, the number of students served by each program, and the effect or results of such services.

(b)(1) Each State participating in the demonstration authorized by this title shall be responsible for the use of that model in program evaluation of the demonstration authorized by this title. Such evaluation shall involve participation by local educational agencies of that State.

(2) An evaluation report consistent with the procedures established pursuant to this section and the State comprehensive plan shall be prepared annually by each local educational agency and submitted to the State agency designated pursuant to section 1244(a)(1).

(3) The annual State agency evaluation report prepared pursuant to this subsection shall be submitted to the Commissioner on such date as the Commissioner shall establish. The Commissioner shall analyze the State evaluations received under this paragraph and shall, not later than March 1 in the year succeeding the year in which the evaluations are submitted, prepare and submit to the Congress a report on such evaluations.

EVALUATION OF THE DEMONSTRATION

SEC. 1252. (a) The National Institute of Education shall undertake a thorough evaluation and study of the effectiveness of the reorganization and consolidation authorized by this title. Such evaluation shall include a comparision of the administration of Federal education funds according to the requirements of this title with the administration of those funds under applicable statutes prior to the consolidation.

(b) For purposes of this comparison, the Institute shall collect data from both those State agencies operating under the demonstration, and from a representative sample of LEAs within those States.

(c) The study required by this section shall include—

(1) an examination of the administrative burden at the State and local levels, to include an assessment of the extent to which operation under consolidation reduces duplication of effort and unnecessary paperwork;

(2) an examination of changes in the decision-making process for local program implementation, including the effect of the demonstration on the degree of coordination between and among Federal programs and local education services;

(3) an analysis of changes in the services provided to target populations, including the extent to which services shift among target groups or changes in the quantity and quality of services for particular target populations;

(4) the effects of the demonstration on the composition of target populations;

(5) the effects of the demonstration on the ability to monitor and evaluate the effectiveness of programs for separate target groups;

(6) the effects of the demonstration on state and local jurisdictions in relation to distribution of educational funds based on fiscal capacity, tax effort and educational need; and

(7) findings and recommendations with respect of (1)-(6) above.

(d) The Institute shall make an interim report to the President and the Congress not later than December 31, 1981 and shall make a final report thereto no later than 12 months after the date of submission of such interim report on the result of its study conducted under this section. Any other provision of law, rule, or regulation to the contrary notwithstanding, such reports shall not be submitted to any review outside the Institute before their transmittal to the Congress, but the President and the Commissioner of Education may make to the Congress such recommendations with respect to the comments of the reports as each may deem appropriate.

(e) The Institute shall submit to the Congress, within 120 days after enactment of this title, a plan for its study to be conducted under this section and shall not initiate research proposed to be conducted under that plan until 30 legislative days after such submission.

(f) There are authorized to be appropriated $500,000 for FY 1979, $2,000,000 for FY 1980, 1981, and 1982, and $600,000 for FY 1983 to carry out the provisions of this section.

ENFORCEMENT

SEC. 1253(a) (1) No payment may be made under section 1241(b) to any State that has failed to submit a comprehensive State plan as required by section 1244(a)(4).

(2) In the case of any State that has submitted a plan, if the Commissioner, after reasonable notice and opportunity for hearing to the State, finds that the comprehensive fails to comply with the requirements of section 1245 and 1246, or the State has failed substantially to comply with any provision of that plan or parts A, B, or C or has failed to inform the Commissioner of any substantial failure to comply with any provision of that plan or those sections the Commissioner shall—

(A) reduce the amount otherwise payable to the State under section 1241(b) until he is satisfied that there is no such failure but not in excess of 5 per centum of the amount payable to the State, or

(B) make no further payments to the State under section 1241(b) for all or a part of such funds until he is satisfied that there will no longer be any failure of the plan to comply with the requirements of sections 1245 and 1246.

(3) In the case of any State that has submitted the plan required by section 1244(a)(4), if the Commissioner after reasonable notice and an opportunity for a hearing to the State—

(A) disapproves, or withdraws his approval, of the procedures submitted under section 1244(b)(3), or

(b) finds that the State has substantially failed to comply with the procedures approved under section 1244(b)(3),

the Commissioner shall notify the State that further payments will not be made to the State under section 1244(b) until he is satisfied that there will no longer be any such failure to comply, and until he is so satisfied he shall make no further payments to the State.

(b)(1) If any State is dissatisfied with the Commissioner's final action with respect to any action taken under this section, the State may within sixty days after notice of that action, file with the United States court of appeals for the circuit in which the State is located a petition for review of that action. A copy of the petition shall be forwarded with transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action as provided in section 2112 of title 28, United States Code.

(2) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28, United States Code.

(c) The Secretary and the Comptroller General of the United States, in the exercising of their authority under section 438(b)(2) of the General Education Provisions Act may only audit activities undertaken with

in the State with funds provided under this Act, and such other activities as are necessary to verify compliance with this Act.

CONSTRUCTION

Sec. 1254. Funds paid to a State under this Title shall be available for construction of any facilities for which funds would have been available for any program consolidated in this Title. For the purposes of this Title, the term "construction" means the erection, acquisition, alteration, remodeling or improvement of facilities, including the acquisition of land necessary therefor, and the cost of construction includes the cost of achitect's fees.

CIVIL RIGHTS REQUIREMENTS

Sec. 1255. (a) Funds made available under this Title shall be subject to title IV of the Civil Rights Act of 1964 (42 U.S.C. 1691–1696), title IX of the Education Amendments of 1972, and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(b) Whenever the Secretary of Health, Education, and Welfare determines, pursuant to the procedures applicable to any of the provisions in subsection (a) of this section, that one or more local educational agencies in a State are not in compliance with any of those statutory provisions, and none of the funds provided to that State under this title shall be made available to such local educational agencies during the period of non-compliance; and the allotment to that State under section 1241 for that period shall be reduced by the amount of such funds received by those districts in the fiscal year prior to the year in which determination of noncompliance was made.

PARTICIPATION OF NONPUBLIC SCHOOL CHILDREN

Sec. 1256(a) The State educational agency or agencies designated under section 1244 (a)(1) of any State and local educational agencies receiving a grant under this title shall provide that—

(1) to the extent consistent with the number of—

(A) children enrolled in private nonprofit elementary and secondary schools who reside in area of the State eligible to be served by programs assisted under this title, and

(B) children in Indian Tribal elementary and secondary schools in the State, who have need for the services provided by those programs.

Such children shall be given, after consultation with the appropriate private school officials, an opportunity to participate, on an equitable basis, in activities assisted under this Act; and

(2) title to and control of funds received under this Act and other property derived therefrom will remain in one or more public (including Indian Tribal government) agencies.

(b) The means by which the requirements in subsection (a) will be met within a State shall be set forth in the plan of the State adopted under section 1246.

(c) If a State is prohibited by law from providing for the participation of children enrolled in private nonprofit or Indian Tribal elementary and secondary schools or if the Commissioner determines, after affording notice and opportunity for a hearing, that a State has substantially failed to provide for such participation, he shall waive the requirements of subsection (a)(1) and he shall arrange, by contract or otherwise, for such children to receive, on an equitable basis, services similar to those provided under this title to public school children in the State. The cost of providing those services for any fiscal year shall be paid from the allotment of the State under section 1242.

DEFINITIONS

Sec. 1257. For the purpose of this title—

(1) The term "adult basic education" means education for adults above the age of sixteen whose inability to speak, read, or write the English language constitutes a substantial impairment of their ability to get or retain employment commensurate with their real ability.

(2) The term "area vocational education school" means any such school as defined in section 195(2) of the Vocational Education Act of 1963.

(3) The term "educationally deprived children" refers to those children deemed to be eligible under Section 103 of the Elementary and Secondary Education Act of 1965.

(4) The term "free appropriate education" means special education and related services which have been provided at public expense without charge and under public supervision and which meets the standards of the State education agency.

(5) The term "gifted and talented children" is used as defined in section 801(1) of the Elementary and Secondary Education Act of 1965.

(6) The term "handicapped children" means the children defined in section 602(1) of the Education of the Handicapped Act.

(7) The term "local education agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction or a public elementary or secondary school.

(8) The term "migratory children" refers to children who are eligible under section 122 of the Elementary and Secondary Education Act of 1965.

(9) The term "special education and related services means the programs defined in section 602(16) and (17) of the Education of the Handicapped Act.

(10) The term "State" includes, in addition to the several States of the Union and the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(11) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision for public elementary and Secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(12) The term "vocational education" means the programs defined in section 195 (1) of the Vocational Education Act of 1963.

(13) "Program of Bilingual Education" means the programs defined under section 703(a)(4) of the Elementary and Secondary Education Act.

(14) "Children and limited English language proficiency" refers to children who are eligible under section 703(a)(1) of the Elementary and Secondary Education Act.".

(15) The term "excess costs" means costs directly attributable to programs which exceed the average per pupil expenditure for the local education agency for pupils in the grade or grades included in such programs.

Mr. DOMENICI. Mr. President, I am certain that the managers of the bill recognize the amendment I sent to the desk, because it looks far more like a new education bill than an amendment. As a matter of fact, it is. I sent it to the desk because so many of my colleagues have helped in the development of this optional consolidation method which is envisioned by the bill. I feel constrained today to spend a little time talking about it, since we have all worked so hard on it. A number of my colleagues have given their views to me in writing today, to submit for the RECORD. Therefore, I may take considerable time. The committee members and the staff members will understand that I have spent a great deal of time trying to find some solutions to the problems I found in the field when I spoke to the administrators of our Federal aid to public education programs.

Basically, they are genuinely concerned with the increasing redtape, the growing relationship of detail between the U.S. Government, HEW and the independent school districts around the country, and with the States and their demands of education.

As the committee knows, the support for this measure is manifold. A great number of educators support it. The State legislatures and their associations around the country support it. I want to talk about it a little, so that we might have a dialog and see where we are.

Mr. President, on June 29, 1977, I introduced legislation on behalf of myself and my esteemed colleague Senator HENRY BELLMON from Oklahoma. Other cosponsors included Senator JENNINGS RANDOLPH from West Virginia, Senator WARREN MAGNUSON and Senator HENRY JACKSON from the State of Washington, Senator SAM NUNN from Georgia, Senator BOB PACKWOOD and Senator MARK HATFIELD from Oregon, Senator S. I. HAYAKAWA from California, Senator JOHN HEINZ from Pennsylvania, Senator HARRISON SCHMITT of New Mexico, Senator EDWARD ZORINSKY of Nebraska, Senator RICHARD LUGAR of Indiana, Senator STROM THURMOND of South Carolina, Senator CHARLES PERCY of Illinois, and the late Senators James Allen from Alabama and Lee Metcalf of Montana.

This legislation, S. 1780, is designed to reorganize, simplify, deregulate, and consolidate certain elementary and secondary education programs in order to provide improved State and local administration of the programs. Its purpose is to reorganize and consolidate a number of Federal education programs. Our goal in developing the bill was to improve State and local administration of Federal education programs as a means of improving the services to children reached by those programs.

The act permits greater flexibility in the use of funds, simplifies the categorical requirements, and places greater decisionmaking responsibility at the point of service delivery; that is, the local and State education agencies. Programs are reorganized and consolidated by educational functions and are specificallly targeted to the special needs of populations to be served. Participation in the consolidation is optional with States choosing either to administer programs according to this act or according to the current categorical legislation. It should be clear, therefore, that we do not offer a block grant in the customary usage of that term, but rather a carefully shaped consolidation of Federal programs which will insure more flexibility at the State and local levels while protecting the purposes and populations originally identified by the Congress.

Our approach simplifies administrative requirements and limits the data and documents which the Federal Government can require of States, and that States can require of local education agencies.

A multiyear program cycle for needs assessment and planning, with a single consolidated comprehensive program plan will lead to improved services for children and will allow for the coordination of Federal programs with each other, and with similar programs provided by State and local resources.

At this time I ask unanimous consent to insert in the RECORD a detailed outline of the bill's provisions and what we expected to accomplish in each section.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF S. 1780

Title I encompasses the special needs of high cost population. This title identifies three such populations and targets funds to each of the three. Part A of title V consolidates five for educationally disadvantaged children into one grant award. Funds derived from title I, parts A and B of the Elementary and Secondary Education Act of 1965 will flow through to local education agencies according to the low income formula established in part A of title I of the 1965 Act. Once the funds are in the local school district, they must be used for educationally deprived children. The local agency will determine how and where such services will be provided in the comprehensive planning process. Requirements for use of the funds include comparability, a prohibition against supplanting which applies to the entire act, and maintenance of effort which is applied by title to the entire act. Programs for migrant children, neglected and delinquent children and Follow Through programs are also included in this part.

Part B consolidates four programs which serve handicapped children. The provisions of this part guarantee the right of a handicapped student to a free appropriate education and maintain procedural safeguards which protect those rights. All funds in this part must be spent on excess costs for handicapped programs.

Part C consolidates three programs which provide services to persons of limited English-speaking proficiency. States can distribute the funds to locals on either a formula or a project grant basis depending on the nature and needs of the State's population of such children.

Title II, part A consolidates all vocational education programs. All funds pursuant to this part must be spent for vocational education, and a minimum of 75 percent of the funds must be distributed to local school districts or area vocational schools. Title II, part B provides for adult education.

Title II, part C provides a bonus for local education agencies which jointly fund training programs with a prime sponsor under the Comprehensive Employment and Training Act. The purpose of this provision is to provide an incentive to coordinate services available to the same clientele.

Title III consolidates programs that deal with specific curricular areas. Part A libraries and learning resources flows to the local education agencies and must be used to purchase equipment and materials. Part B funds will be distributed to local education agencies based on criteria developed in the comprehensive State plan. This part, which consolidates 12 different curriculum programs, will allow States and local school districts to determine priorities within the curricular areas which have been identified for special emphasis.

Title IV contains administrative and program requirements including prvision for a single needs assessment, a comprehensive four year state plan, and provision for program monitoring and fiscal auditing.

Mr. DOMENICI. Mr. President, it may be worthwhile to review the influences which prompted this proposal. Over the years, the Federal Government has focused its educational assistance to the States on the provision of educational opportunities for those with special needs. The Federal role has come to be one of identifying problems and possibilities which ordinarily do not receive sufficient attention by the Nation's educational establishment, and then providing the means and direction to address these needs. At the time of their initiation, many of these legislative efforts were unquestionably useful and served to insure that efforts were undertaken which were much needed. However, with the passage of time, and the proliferation of numerous and sometimes implicative categorical grant programs, other consequences have emerged which counter the appropriateness of such a specifically directed Federal effort. The Federal role has produced piecemeal legislation which now adds up to a crazy patchwork quilt of programs, each with varying requirements, guidelines, program cycles, reporting obligation, eligibility standards, and regulations which enormously confuse and confound the daily job of educating the Nation's children.

The reorganization which we propose will preserve the original Federal role while simplifying the Federal education effort through consolidation of 32 programs into 8 programs, and by streamlining administrative requirements.

S. 1780 was written with the help of educators and those interested in education from around the country. In initiating the legislation, Senator BELLMON and I sought out the opinions and help of hundreds of persons with knowledge and expertise in education, particularly those with local or State experience in Federal education programs. A draft of the bill was introduced in 1976 for the sake of discussion, in order to expand the already large number of persons involved in the open process of developing this bill.

Many educators from around the country have endorsed the measure, and several national organizations have expressed enthusiastic support for the concept, including: The National Conference of State Legislatures, the National Elementary School Principals Association, the National School Boards Association, the Council of Chief State School Officers, the Association for Supervision and Curriculum Development, the National Association of Secondary School Principals, and the American Association of School Administrators.

In May of this year an amendment was offered in the Human Resources Committee on behalf of myself, Senator BELLMON, and the bill's cosponsors Senators RANDOLPH and HAYAKAWA, to incorporate the principles contained in S. 1780 into a six-State demonstration project. That amendment narrowly failed in committee.

The amendment I have introduced today provides for such a six-State demonstration. The support for this proposal is quite strong around the country. I feel certain the votes exist in the Senate to pass this amendment today. I am concerned, however, since no similar provision exists in the House bill, that such a vote will produce a hollow victory, as the amendment would certainly be dropped in conference.

Mr. President, it has never been my intention to fight the committee on this issue. I have spent many, many hours on this bill, and I believe my proposal to be eminently sound from an educational point of view and in keeping with the congressional intent that created the Federal role in education. I have been deeply disappointed that the leadership of the committee did not give this bill, over the past year, the attention its cosponsors and I believe it deserves.

However, I am most pleased and delighted with recent committee action. At the suggestion of my esteemed colleague from New York, Senator JAVITS, and the respected committee chairman, Senator WILLIAMS, the committee determined it would undertake a major study of the proposal to demonstrate the reorganization and simplification contained in S. 1780.

I have seen a preliminary outline of the proposed study which Chairman WILLIAMS' staff has prepared. I am most pleased with the recommendations for this objective study which will be carried out by educational testing services and the Congressional Research Service. I would like to thank Senators WILLIAMS and JAVITS, and the committee for their efforts to insure that this innovative approach to Federal education programs receives the attention and consideration it deserves.

At this time, I would like to pose several questions to the managers of the bill and to the chairman of the Senate Human Resources Committee.

Mr. President, it is with a great deal of remorse that I find myself in a position in which the committee did not see fit to adopt this optional method. However, there are some provisions in this bill that I would like to discuss with Senator PELL and Senator JAVITS today.

I hope our discussion will insure an indepth evaluation of the approach contained in S. 1780. I want to generate discussion with a view toward a reconsideration of the idea next year, even though we are authorizing a 5-year bill today.

My reluctance in voting up and down on this amendment is as follows:

First, it is indeed a completely different approach from that which we have been following for years. I have great respect for the committee. They saw fit, after great deliberation, not to implement it, even as an optional system, this year. That is first.

Second, for some reason, the administration opposes this measure, even as an experiment or an optional approach involving five or six States. I do not understand that objection on the part of the administration. In many respects this demonstration would have moved our aid to education in the direction that the President of the United States would

like—that is, simplified, easier to administer, leaving as much decision as possible at the local level.

I think this would have been an excellent tool to measure this approach against the ever-growing categorical grant program that is before us today.

Mr. President, I ask unanimous consent to have printed in the RECORD statements by the Senator from Georgia (Mr. NUNN) and the Senator from Oklahoma (Mr. BELLMON), since they diligently helped with this new approach.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. NUNN. It is a pleasure for me to join with Senators BELLMON and DOMENICI in offering an amendment to the Elementary and Secondary Education Act that would authorize a six-State demonstration project for the consolidation of Federal educational programs. I am a primary sponsor of the legislation authorizing this optional program which these two distinguished Senators introduced last year. I have long felt that this optional consolidation approach would provide much needed flexibility in our Federal assistance programs to public education. I believe that the establishment of a six-State project on a pilot basis would give educational officials at the State and local levels, teachers, parents, the administration, and Congress the data needed to truly assess the benefits of this Congress. I have confidence that, given the opportunity, State and local educational agencies could more effectively utilize Federal funds without undue paperwork, technicalities, conflicting goals, and the general frustration that is associated with the Federal bureaucracy.

I feel that the primary purpose of Federal involvement in public education is welcomed by most people who are interested in equal educational opportunities for all our citizens. Certainly, Federal educational programs have had a tremendous impact on the efforts to bring quality education to our citizens with special needs. Unfortunately, this Federal participation in public education all too often results in Federal dominance.

Such dominance makes public education remote, with much of the decision-making powers removed from the hands of those who know the community and could more accurately address its needs. Instead of predominantly providing educational services to the individual region or community, the state and local educational officials must constantly address the never ending task of completing forms, meeting eligibility requirements and complying with exacting and often conflicting guidelines.

The amendment which we are offering today is based upon the careful deliberations of citizens from every segment of the educational community. This measure incorporates the suggestions and reflects the concerns of those who work with education on a daily basis. In formulating this bill, the problems of the past have been analyzed, and hopefully, the pattern for future Federal educational participation will be established.

My distinguished colleagues from New Mexico and Oklahoma have discussed the provisions of this amendment, and I do not feel that further explanation is needed. Mr. President, I would like to reiterate, however, the need for reform in our existing educational programs. It is my strong hope that Congress will act favorably this year on the proposed Department of Education Act which I feel will streamline the administration and end the fragmentation of our Federal education programs. I also believe that a cabinet-level Secretary of Education will provide Congress and the American people with a highly visible, responsible, Federal official who can be held accountable for the successes or failures of educational programs and policies at the Federal level.

However, this Department, in and of itself, will not solve all our problems. We must take further steps to insure that the primary responsibility for the education of our children will remain in the appropriate hands at the State and local levels, and not be dominated by Federal influence.

I believe that this amendment offers an opportunity to assess this proposal that could massively reform the structure of our Federal educational programs. Our State and local education agencies deserve the chance to develop their capabilities, to have flexibility in making decisions which affect their school and to respond to the concerns of the citizenry who foot the bill for public education. Our Nation's children also deserve to have educators who can devote more time to the learning process, who can focus on long-range educational goals without being blinded by a maze of paperwork and conflicting requirements, and who can make sensible adaptations to the specific needs of the area's citizens. This amendment would give six States the opportunity to pursue a new relationship with the Federal educational bureaucracy. I believe that this new relationship will be rewarding to us all.

I urge my colleagues on the Senate Education Subcommittee to give this proposal their most careful attention in the coming months. I fully believe that, after careful analysis of the goals and opportunities which this legislation presents, my colleagues will agree that this proposal offers sound and workable alternatives for Federal involvement in the education of our Nation's youth.●

● Mr. BELLMON. Mr. President, Senator DOMENICI's idea of an optional grant program for education represents a sound and positive approach to a very difficult problem. I am pleased to have been one of the original cosponsors of this legislation, which has received so much favorable comment.

The logic of consolidation is compelling. It provides a vehicle for the simplification and decentralization of administration of Federal programs. The bureaucratic burden under which educational programs usually suffer is thereby lessened. State and local educational agencies, rather than remote regional or Washington bureaucracies, are responsible for the basic decisions and program actions with which they must live. Instead of having a multitude of categorical programs, each with its own funding and administrative peculiarities, programs may be grouped logically for administrative ease.

Currently, the mass media are examining the bases for the failure of public education in many situations. It seems worthwhile to point out that we have increasingly given to school administrators, school boards and teachers specific responsibilities for correcting social ills which cumulatively may exceed the capacity of the institution to deal with. One consequence is that compliance with the many, often overlapping and duplicative, requirements imposed by the Federal Government have crowded out some of the most essential functions of education. It is no wonder that school officials complain they can do little else but satisfy Federal requirements. A step in the direction of redressing this imbalance can be made through the amendment Senator DOMENICI is offering today.

Consolidation represents a potential turning point in the funding of Federal programs in education. For more than two decades, Federal Government initiatives created many programs of educational aid to the States and local education agencies until we now have more than 100 separately authorized program activities in the Office of Education. Today, there is Federal Government support for about 7 percent of the total cost of elementary and secondary education. Most of that support flows through many narrow categorical programs. It is distributed through the States to local education agencies using formulas that contain such factors as school age population and income levels of students' families. As responses to national problems, these remedies have grown into a web of administrative regulations and paperwork, causing school systems to devote more time and manpower to meeting Federal requirements and completing necessary paperwork. School administration has become more a matter of satisfying rigid requirements and shouldering administrative burdens than a creative process for insuring quality education to meet local needs and objectives.

Those who may be concerned that the consolidation approach will serve to reduce the Federal commitment to education need not worry. No State which exercises this option will lose money. Nor should there be any concern that consolidation will be uesd as an excuse to avoid responsibility for the special educational needs of particular groups, such as the disadvantaged and the handicapped. Special "hold harmless" and maintenance of effort requirements will ensure that these obligations will continue to be met. Local educational agencies will be protected by provisions for flow-through of money. It will not be necessary for States to enact special legislation in order to exercise this option.

This approach seeks to group programs into clusters which are logically related in order to create several blocks. Flexibility within each category will allow States and localities to fashion educational programs more nearly in accord with needs than is now possible under categorical programming.

Consolidation will undoubtedly create anxieties among supporters of specific categorical grant programs. If a program is a legitimate priority within a State, it will undoubtedly continue to receive funding commitment under the consolidated approach. The proliferation of small categorical programs has caused local education agencies to expend, in some cases, more time and effort applying for funds than the funds were worth. Consolidating the programs into a single competitive process at the State level will significantly reduce the cost in man-hours.

An important feature of this new legislation will be the requirement of a participatory planning process within each State which chooses to receive its Federal funds in the consolidation grant. The views of interested citizens, constituent groups, local education agencies, units of local government and appropriate State agencies and organizations will be solicited in the process of developing a comprehensive State plan for the expenditure of this Federal money. The resulting proposed comprehensive State plan will have to be made available to all interested parties, and public comment on the plan accepted. The same publishing and comment requirements will apply to regulations issued by the States. These are powerful remedies for the often unthinking and unresponsive actions of distant bureaucracies.

I strongly support the Domenici amendment, which would open up, on a limited basis, the educational system to new experimentation which can only have the refreshing effect of revitalizing the educational process. I hope this amendment will be accepted as a part of the Elementary and Secondary Education bill.●

Mr. DOMENICI. Mr. President, I should like to ask the floor managers of the bill a couple of questions about this approach.

Am I correct that there is a study provided in this bill, and that it requires completion by the first day of January 1979?

Mr. PELL. That is correct.

I also compliment the Senator from New Mexico on his very real interest in this subject and the eloquent statement he made before the Subcommittee on Education, Arts, and Humanities during its hearings last year.

As the Senator knows, we did not adopt this proposal in the committee in large part because of uncertainties as to its potential impact both on States and the intended beneficiaries of Federal aid programs. However, we did agree to undertake the feasibility study of such a program and issue the report, as the Senator says, by January 1, 1979.

Mr. DOMENICI. I understand, that the study will not be conducted exclusively by HEW but rather by the Educational Testing Service at Princeton and by the Congressional Research Service. Is that correct?

Mr. PELL. That is my understanding.

Mr. DOMENICI. Let me ask either the chairman or the ranking minority member a question. As they know, this effort to simplify programs is of utmost importance to me and obviously to a number of other Senators who sponsored the effort. I wish to be certain that, when this study is completed, it will be considered by the committee. I know that the Elementary and Secondary Education Act is a 5-year bill. However, I am looking for assurances that consideration of this elementary and secondary proposal will not be put off next year on the basis that S. 1753 is a 5-year bill.

Mr. PELL. The Senator has my assurance that that will not be the reason that we would not consider it or act on it. There may be other reasons why we would not act on it.

Mr. DOMENICI. Indeed.

Mr. PELL. But we will not use that as a reason.

Mr. JAVITS. I join in that assurance.

Mr. DOMENICI. I thank the Senator from Rhode Island and the Senator from New York.

I personally feel very, very strongly about the bill. Ultimately, it was going to be an optional system and only six States would be chosen for the experiment. Senators all know that I feel very strongly that this will be one of the most exciting ways to measure the efficacy and capacity of the grant system as to its effectiveness, and to find something to measure it against. It is my hope that the committee will give every consideration to the approach. Obviously, the committee, with its educational expertise, will make improvements and changes. It is my hope that the bill will work its way through the committee process and that it might be reported next year.

Will either the ranking minority member or the chairman once again explain for me and for my many cosponsors how they treated this approach in the bill that is before the Senate?

Mr. PELL. It was considered by us and discussed. As I said earlier we did not incorporate it in the committee bill because we were uncertain of the potential impact both on the States and the intended beneficiaries of the Federal aid program. While program simplification is a laudatory goal we must not allow our concern with sheer simplicity to jeopardize benefits to those individuals, the handicapped, or others, which Congress singled out for special treatment.

Mr. President, I ask unanimous consent to print in the RECORD a letter addressed from the chairman and from the ranking minority member to Dr. Joan Baratz at the Educational Policy Research Institute, and also a document from the Library of Congress on the subject of consolidation of Federal programs.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMITTEE ON HUMAN RESOURCES,
Washington, D.C., August 7, 1978.

Dr. JOAN BARATZ,
Director, Educational Policy Research Institute, Washington, D.C.

DEAR DR. BARATZ: On May 5, 1978, the Committee on Human Resources voted to undertake a Committee study of a modified version of S. 1780, the Optional Educational Simplification Act, offered as an amendment to S. 1753, the Education Amendments of 1978, by Senators Jennings Randolph and S. I. Hayakawa. The Committe committed itself to undertaking this study within six month period.

Accordingly, we are writing to official request that the Education Policy Research Institute consider an analysis of the potential impacts of the Randolph-Hayakawa amendment on education programs. We believe that an objective study by an experienced and respected policy research organization would be of great help to the Committee. Our decision in this regard is also supported by Senator Claiborne Pell, Chairman of our Subcommittee on Education, Arts and Humanities, and Senator Robert T. Stafford, Ranking Minority Member of the Subcommittee.

We would appreciate your assistance in undertaking this study and hope that you will forward to us an outline of your approach to the study. We understand that our staff has discussed this matter with you and that agreement has been reached regarding many of the important aspects of the study design.

Your interest in our work is greatly appreciated and it is with great expectations that we look forward to your assistance.

With best wishes,

Sincerely,

HARRISON A. WILLIAMS, Jr.,
Chairman.

JACOB K. JAVITS,
Ranking Minority Member.

EDUCATIONAL TESTING SERVICE,
Princeton, N.J., August 11, 1978.

Senator HARRISON A. WILLIAMS,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: Joan Baratz, Director of ETS' Education Policy Research Institute has forwarded your request concerning a study of the potential impacts of the Randolph-Hayakawa amendment on education programs. We are pleased to be of assistance to the Committee on this matter.

I am enclosing a suggested work plan prepared by Dr. Baratz and Terry Hartle in cooperation with Committee staff. This study design indicates the scope of activities to be undertaken, the work schedule and the product to be delivered.

We look forward to working with the Committee on this important project.

Sincerely yours,

WILLIAM W. TURNBULL,
President.

Enclosure.

ANALYSIS OF POLICY IMPLICATION OF S. 1753 OPTIONAL EDUCATIONAL AND SIMPLIFICATION BILL OF 1977

(Prepared by Education Policy Research Institute of Educational Testing Service)

During deliberations on S. 1753, the Education Amendments of 1978, the Senate Committee on Human Resources considered a modified version of S. 1780, the Optional Educational and Simplification Bill of 1977, as an amendment to ESEA. The proposed amendment was voted down 8–5. It would have authorized the Commissioner to certify a demonstration consolidation of many federal education programs in no more than six states.

The Committee subsequently authorized "a study to determine the feasibility, assets and liabilities of S. 1780 as a demonstration effort in public education policy" (S. Report No. 95–856, 95th Congress, 2nd Session, 116). A report of the study is to be issued to the Committee "not later than 6 months following the filing of the report of S. 1753 in the Senate. (S. Report No. 95–1026 at 116). Since Senate Report No. 95–1026 was filed on May 15, 1978, the Committee is expected to issue a report of the study no later than November 15, 1978.

S. 1780, as introduced and as modified, proposes to consolidate several major and min

federal education programs into three broad categories: special needs programs, vocational programs, and special emphasis programs. Set forth below is a list of existing programs which would fall under each of these categories. This list is not taken from S. 1780, but from the modified version of S. 1780 which was proposed as a new Title XII of ESEA (Reorganization and Consolidation Demonstration Project).

SPECIAL EDUCATIONAL NEEDS PROGRAMS

1. Subpart 1 of Part A of Title I ESEA (LEA grants).
2. Subpart 2 of Part A of Title I ESEA as it relates to state operated programs for: (a) neglected and delinquent children and (b) migratory children.
3. Part B of Title I ESEA (Special Incentive Grants).
4. Part B of the Education of the Handicapped Act (as amended by PL 94–142) (assistance for education of handicapped children).
5. Section 121 of Title I ESEA (programs for handicapped children).
6. Section 403(a)(8)(B) of Title IV ESEA (State plans for libraries, learning resources, educational innovation and support).
7. Title VII of ESEA (Bilingual education).
8. Section 708(c) of ESAA (Special programs and projects—minority children/language barriers/cultural differences).
9. Subpart 3 of Part B of VEA (Program improvement and supportive services).

NOTE: Headstart and Follow-Through were not included in the modified version.

VOCATIONAL EDUCATION PROGRAMS

1. The Vocational Education Act.
2. Section 811 of ESEA (Consumer education).
3. The Adult Education Act.
4. Grants for joint CETA/Vocational Education projects (Section 112 of CETA and VEA).

NOTE: Section 405 of the Education Amendments of 1974 (Community schools) was in S. 1780, but not in the modified version.

SPECIAL EMPHASIS PROGRAMS

1. Part B of Title IV ESEA (Libraries and learning resources).
2. Part C of Title IV ESEA (Educational innovation and support).
3. Section 403 of Education Amendments of 1974 (Metric education).
4. Section 404 of Education Amendments of 1974 (Gifted and talented).
5. Section 406 of Education Amendments of 1974 (Career education).
6. Section 409 of Education Amendments of 1974 (Arts and education).
7. Title V of HEA (Teacher Corps).
8. Title VII of Education Amendments of 1974 (except Sections 721 and 722) (National Reading Improvement Program).

NOTE: Section 408 of the Education Amendments of 1974 (Women's education equity was in S. 1780, but is lined out of our copy of the modified version). Other provisions in S. 1780, but not in modified version, include: Environmental Education Act, the Alcohol and Drug Abuse Education Act and Title IX of ESEA (Ethnic heritage).

In short, programs to be consolidated are from several major pieces of legislation: ESEA, VEA, ESAA, HEA and possibly CETA.

You have requested an analysis of the proposed consolidation that would examine both the broad issue of education program consolidation and specific issues related to the feasibility of a demonstration consolidation. The study would identify the implications of S. 1780 for federal education policy.

In our view such an analysis requires four separate activities:

1. Review of existing consolidations
2. Identification of policy issues.
3. Legal research on affected programs, and
4. Analysis of the feasibility impact, and policy implications of a demonstration consolidation.

The following paragraphs briefly review the analysis to be undertaken in each of these tasks.

Previous consolidation efforts. In recent years Congress has enacted several block grant programs that consolidated a number of categorical programs. These grants were designed to improve economy and efficiency, allow more administrative and policy decentralization, and strike a balance between the achievement of national purposes and the enhancement of recipient discretion. These objectives are reflected in the consolidated grants established by the: Comprehensive Employment and Training Act, Housing and Community Development Act, 1974 Amendments to the Social Security Act, the Vocational Education Act, and Title IV (Parts B and C) of the Elementary and Secondary Act.

Because each of these programs has been in place for several years, valuable lessons can be learned from a comparative analysis of the history, implementation and current operation of these grants. We propose to review these programs to determine how effective they have been in meeting their objectives. In addition, this review will identify policy issues that need to be considered in the consolidation of additional educational categorical programs.

In performing this review we will rely on a comprehensive literature search and interview congressional policymakers, federal and state program officers and interest group representatives.

Policy issues. Consolidating categorical programs portends significant administrative and financial changes for the federal role in education. Among the primary issues congressional leaders must address in considering grant consolidation are:

How will federal education goals be affected by a shift from categorical to a consolidated block grant?

How will the states allocate the consolidated money to local districts?

What choices can school administrators be expected to make given additional flexibility?

How will a consolidated grant affect state and local program administration?

Should expenditure constraints (e.g., maintenance of effort supplanting, comparability) provisions be included in consolidated grants?

What administrative provisions should be included to assure progress toward Federal goals that yet allow state and local level administrative flexibility?

What Federal and other monitoring and accountability provisions should be included?

Who will have responsibility for evaluating the impact of consolidated grant money on target populations?

In this study we will identify the policy issues that are raised by grant consolidation proposals such as S. 1780. The emphasis will be on raising all major issues that need consideration and presenting a range of potential solutions.

Legal analysis. To properly analyze the impact of S. 1780, it is necessary to review the legal requirements for each affected program. Among the issues that need to be considered are: (1) target populations/intended beneficiaries; (2) eligible applicants; (3) funds allocations provisions; (4) eligibility provisions; (5) planning/program design provisions; (6) evaluation requirements; (7) coordination requirements; (8) parent involvement/advisory council provision; (9) requirements for federal and state administration (e.g., application approval, monitoring, technical assistance, auditing and audit resolution, withholding and suspension, data and reporting requirements, and other accountability provisions; (10) requirements for local administration, e.g., recordkeeping and reporting, evaluation, etc. This analysis should also extend to the General Education Provision Act (GEPA).

The time and cost of investigating each program in such detail would be prohibitive. As a way of identifying the numerous legal issues that need to be addressed we will analyze the impact of S. 1780 on a single program, Title I of ESEA. This will, of course, require an analysis of GEPA as well as Title I and S. 1780.

Given that the Education Amendments of 1978 may result in significant changes in Title I, it will be inappropriate to begin this analysis until the Congress has completed its revisions of ESEA. If the Conference Committee does not complete its work in a timely fashion it may be difficult to meet the November 15 deadline for this activity.

Feasibility and impact study. A final component of this study will be to assess the feasibility and impact of a demonstration project to implement a consolidated block grant. This activity will require an analysis of the financial, administrative and political issues that would emerge in an experimental block grant program. Among the issues that need to be addressed are:

What incentives should be available to states who are willing to participate?

How long should the experimental program run to provide meaningful results?

What planning, monitoring and evaluation requirements will exist in experimental states?

What data will be necessary to evaluate the demonstration program at the federal and state levels?

What criteria should be used to select participating states?

What will be the relationship of OE program monitors to state and local officials participating in the experimental programs?

What are likely impacts or individual beneficiaries in demonstration states?

These and other issues that must be resolved before an experimental social program can be attempted will be identified and addressed.

Work Plan. This study will be undertaken by the Education Policy Research Institute (EPRI) of the Educational Testing Service (ETS). The study will be directed by Joan C. Baratz, Director of EPRI, and Terry W. Hartle, Associate Research Scientist. The EPRI staff members will work closely with the staff members of the Senate Human Resources Committee in undertaking this research.

A draft final report will be submitted to the Committee by November 15, 1978 for review and comment. The final report will be submitted by January 1, 1979.

[From the Library of Congress Congressional Research Service]

AUGUST 3, 1978.

To: Senate Committee on Human Resources
Attention: Franklin Zweig.

From: Education and Public Welfare Division.

Subject: Assistance to the Committee Concerning Pilot Consolidation of Federal Programs.

In response to our conversation and your request for a discussion of the ways in which CRS could work with the Committee in the conduct of the study concerning pilot consolidation of funding for Federal elementary and secondary education programs, the following activities seem to be most appropriate for CRS:[1]

[1] Even though CRS has identified the resources required to conduct the following activities, the discussion must be considered as tentative because final clearance for certain budgetary items and operational procedures has not been received as of the date of this memorandum.

Activity 1. Issues Paper. The term consolidation means joining or bringing together, and the act of doing so results in the loss of the separate identification that characterized the previous units. Several issues related to changes in Federal, State, and local roles and functions will in all likelihood be involved in consolidation of education program. CRS suggests that an issues paper will be an important component in any serious discussion of the relative merits of program consolidation in education. The purpose of this paper will be to identify and discuss the issues that relate to the general concept of program consolidation of education programs with special emphasis on the unique delivery system for elementary and secondary education in America and the traditional role of the Federal Government in education programs.

Detailed issues have not been identified; however, the major issue areas will include the following—programmatic thrust, fiscal accountability, target populations, and administrative structure. Criteria for inclusion of an item as an issue will include Federal legislative requirements, program delivery system, and the interests of reference groups.

Activity 2. Background Paper on Previous Consolidation Efforts. CRS has completed previous projects on grant consolidation programs enacted by the Congress. These materials could be revised and presented in a format of value of this effort. This historical discussion of previous consolidation legislation would provide the Committee with a review of the evolution of previous consolidation efforts. For the past several years, the Advisory Commission on Intergovernmental Relations has been doing research in this area, and these efforts will provide much of the basic material for the paper.

Activity 3. Cross Matrix Analysis of Programs to be Consolidated. Since the proposed legislation provides for consolidation of several programs and since a consistency or universality in structure and program operation does not exist among programs, CRS suggests that each program be analyzed utilizing a pre-established set of common criteria. (Examples of such criteria include fiscal prerequisites such as maintenance of effort, comparability, and supplemental use of Federal funds; funding formulas, target population; program planning and evaluation procedures; parental and community participation; pupil and LEA eligibility requirements; and compliance submission.) This structured analysis would permit a visual comparison of the manner in which all involved programs would be affected on a selected set of criteria.

Activity 4. Symposium. The concept of program consolidation is not new and there is a reservoir of experience from previous legislation that has resulted in the consolidation of various programs. A few of these consolidations have been in effect sufficiently long for various amendments to have been enacted. CRS suggests that a symposium be convened consisting of the scholars who have studied the programs and are familiar with the concept, the congressional staff persons from the authorizing committees, and representatives of those field groups that might be affected by the program. (Further detail concerning this activity is contained in the attached prospectus.)

CRS would provide coordination and direction for the symposium; responsibility for logistics would be assigned to a private contractor. Invited scholars would provide the position papers for the symposium, and a transcript of the discussion would be made. These should provide additional insights into the problem beyond those contemplated in the first three activities proposed for CRS and the work to be done by the Education Policy Research Institute (EPRI). It is anticipated that CRS would reproduce the commissioned papers in the event that the Committee did not choose to include them in the study report.

Activity 5. Field Interviews. In addition to EPRI's plans to conduct interviews with various policy and bureaucratic persons in Washington, CRS staff members are of the opinion that interviews should also be conducted with staff members of State and local educational agencies, State legislators, and educational reference groups in several States. Even though the national spokespersons may favor the idea and the concept may appear to have support at the State and local level, in-depth State and local interviews might provide additional insights into potential implementation problems and school-level concerns. It is possible that the Committee could arrange for a cooperative effort in which CRS would design and field test the interview guide and the General Accounting Office (GAO) would conduct the field interviews. Depending upon capacity to meet the schedule, either CRS or GAO would analyze the data and prepare the report. The findings from this process should provide additional information that would be of value as consideration is given to program consolidation.

Activities for Educational Policy Research Institute (EPRI). If the Committee should desire for CRS to conduct the five activities outlined above, EPRI could conduct the four major activities outlined in its proposal. Some coordination would be desirable relative to the review of existing consolidations since CRS would be preparing a paper on this item. The issues paper to be prepared by CRS might provide background for the work of EPRI in its efforts to identify policy issues or the CRS paper might be deemed to provide sufficient coverage of that area. The in-depth examination of ESEA Title I would appear to be an activity independent of any of the work that might be done by CRS. This latter point also could be made for the feasibility study outlined in the EPRI proposal.

Potential Materials for the Committee Print. If the Committee should choose to have all of the previously discussed activities conducted, the Committee print[2] conceivably would include the following items:

1. Issues Paper (CRS)
2. Previous Consolidaton Efforts (CRS)
3. Background Papers for the Symposium (Coordinated by CRS)
   a. Historical Discussion of Block Grants
   b. History of Federal Block Grants in Other Programs
   c. S. 1780 in Historical and Theoretical Context
   d. Impact of Block Grants on Organization of State Educational Agencies
   e. Impact on Local Educational Agencies
   f. Impact on Local School Operations
4. Summary of the Discussion at the Symposium (CRS)
5. Cross Matrix Analysis of Program (CRS)
6. Policy Issues Discussion (EPRI)
7. Results of Interviews with Policy Makers and Interest Groups (EPRI)
8. Legal Analysis of ESEA Title I (EPRI)
9. Discussion of Findings from Field Interviews (CRS and GAO)

CRS Personnel. CRS anticipates that the team assigned to this major project would include Paul Irwin, K. Forbis Jordan, and Bill Sanda. Mr. Jordan would serve as team leader and would be in a position to draw from the expertise of persons in the Education Section as well as the total resources of CRS. If the CRS activities outlined in this discussion should be considered desirable by the Committee, the three persons on the t would be spending a major portion of t time on this project from September thro December.

Following discussion with staff pers from the Committee, CRS understands a project completion date of its activitie or before December 31, 1978 will be s factory.

CRS appreciates the opportunity to par pate in a discussion of the manner in w the study might be conducted and looks ward to working with the Committee mutually acceptable manner.

K. FORBIS JORD

[2] In the preparation of the Committee print, it is assumed that the various components would be identified with the organizations or persons who were responsible for the research and preparation of the documents.

PROPOSAL FOR A SYMPOSIUM

During the deliberations on S. 1753 Elementary and Secondary Educati Amendments of 1978), consideration given to an amendment that would have vided for demonstration of consolid Federal education programs in no more t six States. The amendment was defeate the Committee, but the Committee w that a feasibility, assets, and liabilities s be conducted by the Committee with a port being submitted within six month Report No. 95–1066 at 116).

In view of the diversity of opinions on subject, the range of knowledge of de of the proposal under consideration, the importance of an understanding of history of consolidation efforts in other grams, it would appear advisable to con a symposium during which the various sues could be examined in depth. This posium would involve State and local cials; scholars familiar with the concep the proposed legislation; and key staff m bers from the Senate and the House. B ground and briefing papers will be com sioned and distributed in advance. The sues Paper" in Activity 1 would also be warded to participants. Major compon of the symposium tentatively would inc papers on items such as the following:

1. Background of Concept of Block Gra
2. History of Federal Block Grants in O Programs
3. S. 1780 in Context
4. Impact of the Policy Choice on Org zation of State Educational Agencies
5. Impact on Local Educational Agencie
6. Impact on School Operations

Logistics for the symposium, negotiat with the presenters, and actual conduc the sessions will require a consider amount of person time, and the topic gests it may be advantageous to have contract with a private agency to con the symposium. It is anticipated that symposium would last for two days would be in a captive setting to facil interaction among the participants. contractor would provide meals and hou for the participants, travel for the ou town participants, support from the I tute, honoraria for the commissioned pa and transcriptions of the proceedings.

Mr. JAVITS. Mr. President, if the S ator will yield to me, I think it sh also be noted in this connection th number of elements in the Domen Bellmon demonstration amendment now in the committee bill, and they as follows:

First. Consolidation of program plications and reports;

Second. Shifting from annual to mu year program plans;

Third. Reducing and simplifying o reporting requirements; and

Fourth. Increased flexibility of S and local administration of title I.

In short, I simply amplify that

statement of what the Senator and his cosponsors desire has not gone unheeded.

Mr. PELL. Mr. President, if the Senator will yield there, we point out also that I was too conservative in referring to the nonaction of the committee. We actually did take action, and had a rollcall vote on the amendment, which was turned down by 8 nays and 5 yeas.

Mr. DOMENICI. I am going to withdraw the amendment, obviously I am asking this institution to vote on a whole new approach to the educational system and I am a member of the committee. But let me just say this: I truly appreciate the commitment of the committee, the chairman, and the ranking minority member, and the many dedicated staffers who staff that committee.

I am firmly convinced that people are going to demand some very basic drastic changes in the present grant program.

I am not prepared to say that we have not improved it with some of the consolidations referred to. But I am prepared to say this: If the average citizens from the average school district in the United States knew how difficult it was for the superintendents and administrators of the public school system to participate in this Federal aid program, I believe they would be clamoring for change. The teachers, the administrators, the auditors, the budgetmakers, the State legislators, get more confounded every year with the complexity of the Federal Government's attempt to aid students with special needs. I know there is no miraculous cure, but I truly believe we should not be afraid to demonstrate another approach. The approach which we have been using is growing more complex in spite of legislative effort to make the programs easier, less complex and more responsive, it seems that by the time we are through in the guidelines and directives, we move farther away from our goal of simplification.

I greatly appreciate the consideration given to the new approach. I can say unequivocally that I have great confidence that the study will show positive results, especially if looked at from the standpoint. First, will it do as well as we are doing, and, second, is it apt to permit us to measure the efficiency and effectiveness of the present categorical grant program in our aid to education on the national level versus the States and school districts?

Having said that, Mr. President, I withdraw my amendment and I yield the floor.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER (Mr. NELSON). The Senator from Delaware.

UP AMENDMENTS NO. 1721

(Purpose: To insure equal protection of the laws with respect to the transportation of students)

Mr. ROTH. Mr. President, I call up my unprinted amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware (Mr. ROTH), for himself, Mr. BIDEN, Mr. BARTLETT, Mr. HAYAKAWA, Mr. SCHWEIKER and Mr. DECONCINI proposes an unprinted amendment numbered 1721.

Mr. ROTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new title:

TITLE V—EQUAL PROTECTION AND THE TRANSPORTATION OF STUDENTS
COURT ORDERS: DISCRIMINATORY PURPOSE

SEC. 501. No court of the United States shall order directly or indirectly the transportation of any student on the basis of race, color, or national origin unless the court determines that a discriminatory purpose in education was a principal motivating factor in the constitutional violation for which such transportation is proposed as a remedy.

TYPE OF RELIEF ORDERED

SEC. 502 (a) In ordering the transportation of students, the court shall order no more extensive relief than reasonably necessary to adjust the student composition by race, color, or national origin of the particular schools affected by the constitutional violation to reflect what the student composition would otherwise have been had no such constitutional violation occurred.

(b) Before entering such an order, the court shall conduct a hearing and, on the basis of such hearing, shall make specific written findings of (1) the discriminatory purpose for each constitutional violation for which transportation is ordered, and (2) the degree to which the concentration by race, color, or national origin in the student composition of particular schools affected by such constitutional violation presently varies from what it would have been had no such constitutional violation occurred.

INTERDISTRICT TRANSPORTATION ORDERS

SEC. 503. (a) Any order by a district court requiring directly or indirectly the interdistrict transportation of any student on the basis of race, color, or national origin, shall be stayed until all appeals in connection with such order have been exhausted, except that any such stay may be vacated by a majority of a court of appeals panel composed of not less than three members, or a majority of the Supreme Court.

(b) In any case in which such order is stayed pursuant to subsection (a) of this section, any appeals that are to be taken from such order must be commenced by filing a notice of appeal with the clerk of the district court within ten days of the date of the entry of such order. The record on appeal shall be transmitted to the court of appeals within forty days after the filing of the notice of appeal and filed by the clerk of the court immediately upon receipt of the record. The appellant shall serve and file his brief within forty days after the date on which the record is filed. The appellee shall serve and file his brief within thirty days after service of the brief of the appellant. The appellant may serve and file a reply brief within fourteen days after service of the brief of the appellee, except for good cause shown, a reply brief must be filed at least three days before argument. The appeal shall be heard within fifteen days thereafter and a decision shall be rendered within forty-five days after argument. No extension of the time periods shall be allowed, except for extraordinary circumstances.

EFFECTIVE DATE

SEC. 504. (a) This title shall take effect with respect to any judgment or order of a court of the United States which is made after June 27, 1977 or which is made prior to such date but is not final or has not been effected by such date.

(b) No judgment or order of a court of the United States which is not yet final or which has not yet been effected on the day before June 27, 1977 shall remain in force or effect, unless the court has complied with the requirements of this title.

On page 21, in the table of contents, at the end thereof add the following:

TITLE V— EQUAL PROTECTION AND THE TRANSPORTATION OF STUDENTS

Sec. 501. Court orders; discriminatory purpose.
Sec. 502. Type of relief ordered.
Sec. 503. Interdistrict transportation orders.
Sec. 504. Effective date.

Mr. ROTH. Mr. President, the amendment my distinguished colleague from Delaware (Mr. BIDEN) and I are offering to this bill is S. 1651, legislation we offered last year to limit the use of busing as a remedy in school desegregation cases. The primary purpose of our amendment is to establish guidelines that are consistent with the U.S. Constitution regarding the circumstances under which courts may order the transportation of students on the basis of race, color, or national origin.

S. 1651 was the subject of extensive hearings by the Judiciary Committee in June and July of 1977 at which time we heard from legal scholars, sociologists, and other experts in support of the legislation. I am happy to say the full Judiciary Committee reported S. 1651 favorably last September by a vote of 11 to 6.

Our amendment codifies the recent Supreme Court decisions of Dayton Board of Education versus Brinkman, Village of Arlington Heights against Metropolitan Housing Development Corporation, Washington versus Davis and Milliken versus Bradley concerning equal educational opportunity under the 14th amendment to the Constitution. Our amendment is completely consistent with the recent actions of the High Court in the Austin, Indianapolis, Pasadena, and Omaha desegregation cases. We believe these cases signal the Court's readiness to accept a clear mandate of Congress establishing reasonable guidelines for court-ordered busing.

In summary, our amendment provides as follows:

First, it requires a court to find that "a discriminatory purpose in education" was a principal motivating factor in the constitutional violation for which busing is proposed as a remedy.

Second, courts would be required to determine the extent to which acts of unlawful segregation have caused a greater degree of racial segregation in a school or schools than would have otherwise existed, and student busing would be limited to eliminating the degree of racial segregation attributable to those proven unlawful acts.

Third, all Federal interdistrict busing orders would be stayed pending appeal. However, such stays could be vacated by a majority of the Supreme Court or a court of appeals panel of not less than three members.

Finally, our amendment would take effect with respect to any judgment or order not final or effected by June 27, 1977, the effective date of the amendment. Thus, in addition to prospective cases, the amendment would apply to cases in litigation on its effective date

In short, our amendment would establish clear guidelines for the Federal courts concerning the use of busing. In practice, it would require the court to determine the extent to which specified acts of unlawful discrimination by governmental officials have caused a greater degree of racial concentration in a school or school system than would have existed absent those acts. It would further require the court to limit remedial busing to that necessary to eliminate racial imbalance caused by those deliberate acts. In other words, courts would no longer be able, where only limited or isolated acts are proven, to order busing throughout the entire school district or between districts simply for the purpose of achieving racial balance.

Mr. President, in the name of educational quality, in the name of our color blind society, above all, in the name of our melting pot of neighborhood schools and our American families and schoolchildren of all races, creeds, and colors, I say to my colleagues: The time has come to put this issue of busing to rest.

At the heart of this issue lies a simple but incontrovertible fact: Both opponents and proponents believe busing directly affects the American ideal of human rights for all, the human rights of American families and communities to nurture and convey their culture to their children.

Why are we back on the Senate floor with another antibusing bill many of our colleagues ask us?

Because, Mr. President, the vast majority of Americans, black and white, in opinion poll after opinion poll, ask and deserve no less than simple human rights. These rights include not only the right to equal educational opportunity, but also the right to send their children to the neighborhood schools of their choice, the right to set the standards of educational quality for their schools, and the right to self-determination in their own lives and families and in their own neighborhoods and communities.

Local control over education is the history of this Nation and is guaranteed by the constitutional requirements of the 10th amendment, recently underscored by the Supreme Court in the National League of Cities versus Usery case. No tradition in this country is stronger than local control over schools, and no local governmental function in America is more traditional than education.

But in the past decade, the delicate line between the judiciary in the form of Federal district courts and the legislative branch in the form of local control over community schools has been dangerously blurred. In the guise of achieving a supposedly "ideal" racial mix in our schools even where no discriminatory intent has been found, the courts have reached deep into the once private confines of family life to engineer social change that separates families from their communities and children from their families.

The real tragedy is that, while the debate over busing continues, national attention and energy are diverted from the urgent problem of educating the Nation's youth. The quality of public education, as we are only too aware, has declined precipitously. School tests demonstrate that children no longer learn the basic skills that have sustained America's growth and development for two centuries. And the results of the Scholastic Aptitude Test taken by college-bound seniors have been steadily declining since 1963.

Mr. President, the results are now coming in on forced busing, and a threefold consensus is developing among local leaders, legal scholars, educators, sociologists, and, above all, the American people:

First, a broad majority of Americans, black and white, still oppose busing as a means of achieving equal educational opportunity for all. Opinion polls continue to show that public opposition to forced busing is deeply-felt and cuts across all races, colors and income levels.

Second, busing does not work. That is, busing provides neither higher educational quality for blacks and whites nor better relations between the races. In fact, busing has brought confusion, havoc and disruption to many of our Nation's best public school systems.

Finally, an emerging consensus of educators, sociologists, and legal scholars ranging from Dr. Nathan Glazer, professor of sociology at Harvard University, to Dr. David Armor of the Rand Corp., and including Dr. James S. Coleman of the University of Chicago, author of the landmark 1966 "Coleman Report" on equality of education in America, and Prof. Raoul Berger, of Harvard University, author of a recent masterwork of constitutional scholarship on the 14th amendment—this consensus concludes that forced busing, far from reducing the inequality of educational opportunity in the United States, has, in fact, had the exact opposite effect: Busing causes a white exodus from the public schools, sharpens the conflict among groups, and lowers the quality of education for all students, black and white.

I shall summarize the evidence on each of these conclusions.

AMERICANS OF ALL RACES, CREEDS, AND COLORS SUPPORT SCHOOL DESEGREGATION BUT OPPOSE FORCED BUSING

The vast majority of American people support a policy of desegregation. For example, the 1975 Harris survey showed that nationwide, 56 percent of Americans favored desegregation of public schools, and only 35 percent—still much too large—opposed it, with 9 percent unsure. Similarly, the 1977 National Opinion Center poll, showed 85 percent in favor of school desegregation and only 15 percent opposed.

But the important thing about both these polls was the consensus of opposition by both blacks and whites to forced busing to achieve school desegregation. The 1975 Harris poll showed only 20 percent of the Nation supported forced busing while 74 percent opposed it. The 1978 National Opinion Research Center poll showed a full 79 percent of the American people still opposed busing to achieve racial balance, while only 21 percent supported it. The polls also show that heavy public opposition to forced busing cuts across all races, creeds, colors and income levels.

BUSING DOES NOT WORK

Dr. James S. Coleman, professor sociology at the University of Chic was the principal author of the "Colem Report," a landmark study on equality education and the effects of racial se tion in schools. On April 21, 1978, Coleman presented a paper on "Sch Desegregation and City-Suburban Re tions" to a community college in Dea born, Mich. In that paper, Dr. Colem made the following observations c cerning three major beliefs about seg gation and integration:

We have now come to a point at wh it is possible to be sober, straightforw and realistic about school desegregation major metropolitan areas. There are th major beliefs about segregation and inte tion that have finally been shown to incorrect.

First, it was once assumed that elimina of school segregation due to official acti whether dual school systems in the So or gerrymandering and other school dis actions in the North, would eliminate or nearly all, racial segregation in sch . . . But any knowledge of urban areas, of the residential segregation that deve in urban areas along ethnic, income, racial lines leads immediately to the reco tion that most segregation, whether eth or class, or race, in urban areas is du residential patterns. . . . (W)hite exodu the suburbs has produced a situation which most of the largest central-city sc systems are majority black, while the rounding ring remains predominantly wh Such segregation did not arise by of action, unless one wants to argue that tions of the courts in instituting racial ance orders which resulted in whites lea the city are "official segregating acts."

Second, it was once assumed that inte tion would automatically improve achievement of lower class black chil I hasten to say that it was research of own doing that laid the basis for this sumption. . . . However, it has not wo out this way in many of the school segregation cases since that research. A view of a large number of analyses of fects of desegregation on achievement recently been carried out, showing no c all gains . . . thus, what once appe to be fact is now known to be fiction

Third, it was once assumed that pol of radical school desegregation could be stituted, such as a busing order to cr instant racial balance, and the resul school population would correspond to assignment of children to the school. now evident, despite the unwillingnes some researchers and others to accept fact, that there are extensive losses of w students from large central cities when segregation occurs in those cities. . . .

There are many school policy makers many courts still operating under the fa that constitutionality requires racial ance that have not recognized this, so there are still harmful school desegreg policies being implemented in Ame cities.

Dr. Coleman's observations are r forced by Dr. David Armor, Rand C social scientists, who in testimony be the Judiciary Committee on S. stated:

There is no solid rigorous evidence minority students will achieve more o more educational benefits from going majority white school or a school that a balanced racial and ethnic compositio

Black and white residents of man our metropolitan areas do not nee read the conclusions of this presumi

educator and this nationally recognized sociologist to know how badly our great urban school systems have suffered under forced busing. The names of affected cities are a litany of shame for our courts, the social engineers they listen to, and, above all, for the U.S. Congress that has so far turned its back on what the courts are doing to the neighborhood school in this country.

Americans in these cities do not need to be told busing does not work; they know it.

FORCED BUSING INCREASES INEQUALITY OF EDUCATIONAL OPPORTUNITY

Dr. Nathan Glaser and Dr. David Armor in testimony before the Judiciary Committee concluded that, contrary to hopes and expectations, mandatory busing neither improves minority educational achievement nor increases harmony between the races. In fact, they pointed out, the evidence increasingly shows busing can be socially counterproductive and educationally irrelevant. Dr. Glaser stated that a significant proportion of the racial concentration in our society is not attributable to unlawful Government action. Rather, he stated:

> The general reality is racial residential segregation reflects the economic circumstances of blacks and whites, and on the average, blacks are still less economically affluent than whites. It reflects secondly, the general tendency of ethnic groups to concentrate for convenience; for access to family and friends; and for reasons of access to specific cultural, religious and commercial facilities which serve specific groups.

Dr. Armor has completed extensive research on the increased racial residential concentration that frequently results as a consequence of court-ordered busing. In a paper to be presented at the American Sociological Association meeting in San Francisco in September 1978, Dr. Armor concludes, quote:

> In most cases the size of the effect (of desegregation on the flight of white affluent families out of the urban areas) is both large and long term, accounting for 30 to 60 percent of all white losses over extended periods following desegregation. *The white losses are such that, in many cases, the amount of desegregation—defined as minority exposure to whites—is declining, and for some districts has fallen below the pre-desegregation level.* (Emphasis added.)

> Court ordered desegregation, coupled with normal demographic trends, is producing increasing ethnic and racial isolation in many larger districts. If this trend is to be stopped or reversed other remedies need to be considered. Given the strong public opposition to mandatory busing as well as to the current legal situation, the prospects for metropolitan desegregation appear limited. On the other hand, voluntary methods have worked well in some cases and may offer a more viable alternative in larger cities.

In sum, forced busing, far from achieving the goal of a desegregated society, in fact exacerbates urban residential segregation and increases inequality of educational opportunity.

A COLOR BLIND SOCIETY FOR ALL

Mr. President, I want to make it clear that I strongly support the goal of a society free from racial prejudice. I also strongly support the concept of quality education and the neighborhood school.

Mr. President, it is time that this Nation moves in new directions to obtain what we all want and that is a colorblind society. It makes no sense to continue along a path that neither provides quality education for our children, black or white, nor achieves desegregated schools. It is time we quit experimenting with the lives of tens of thousands of children that is achieving no meaningful good.

Mr. President, the American people look upon education as the means, the door to a better life, to success for the children. As the committee report points out, in reporting out favorably, our legislation—each generation has sought the best possible education for its children. In neighborhoods everywhere, the school has been the tie that binds an area into a community.

Public schools exist in a world in which confidence in Government is seriously eroded. Schools are a nerve, close to the surface of an anxious public, and the erosion of confidence rubs that nerve raw. The committee report on S. 1651 continues to point out that the parents of minority families are concerned about the quality of education provided their children. There is a crushing burden of evidence that the segregated schools of years ago were inferior schools and that this was a wrong that must be remedied.

Brown against Board of Education recognized equality of educational opportunity as a principle to which our Government must adhere, and it offered proof that courts were an avenue that could restore confidence in public institutions in general and public schools in particular. The Brown case opened a whole new field of law, and it is only now that we can see what equal opportunity means in a legal sense.

This is a diverse nation and the facts which underlie each court case are different. This makes the process of clarifying the law a time-consuming one. The status of public education in our Nation today dictates that Congress take note of the constitutional meaning which has emerged from these decisions.

Mr. President, that is exactly what this amendment intends to do. The principles adopted in our proposed amendment are simple ones with a long history in law.

First, our amendment will require that the court must find that officials intended to cause racial segregation of students before there has been a violation of the Constitution; and second, courts must order a remedy for the segregation that is limited to the extent of that violation.

Mr. President, I believe adherence to these principles, as the committee report points out, will help restore public confidence in schools and Government. I think it important that Congress does that. It is our responsibility, not that of the courts, to establish this type of school policy for the Nation and its children.

I yield back the floor.

Mr. BIDEN. Mr. President, I ask unanimous consent that the following staff members have the privilege of the floor during the consideration of this measure: Irene Emsellem, of Senator ABOUREZK's staff; Mark Gitenstein, Katrina Lantos, and Paul Laudicina, of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I rise in support of the amendment offered by my colleague from Delaware.

Mr. President, the times they are a-changing and this time I believe it is for the better. After years of confusion and chaos in the field of school desegregation, it appears that the rule of reason will prevail and the job of educating our children can proceed in an atmosphere of freedom and harmony. The reason for my optimism in this regard is that the Supreme Court has finally begun to speak out in a clear and reasonable voice on the constitutional demands of the 14th amendment.

By introducing this legislation today, Senator ROTH and I hope to expedite the process of providing local judicial authorities with the guidelines that will enable them to comply with the requirements of the Constitution, as interpreted by the Supreme Court, in implementing school desegregation plans. As recent history has shown, such statutory guidelines are necessary.

In the years following the landmark decision in Brown against Board of Education some legislators and jurists interpreted the 1954 prohibition against racial discrimination as a universal command to compulsorily integrate society. To a large extent, the history of court-ordered busing is a prime example of understandable but misguided zeal.

But, as we all know, the road to hell is often paved with good intentions. What was meant to be utopia by fiat turned into disaster by decree.

Mr. President, it would be redundant for me to catalog here the dissension, strife, and alienation that excessive, and unwarranted court-ordered busing has created in our society. Unfortunately, we are all too familiar with its numerous manifestations. Constitutional and social reasons previously offered as justifications are no longer justified.

However, the prospect for the future is hopeful. For we seem to be entering a new age of reason in the arena of 14th amendment protections. My basis for saying this is some recent decisions by the Supreme Court.

In the areas of employment and housing discrimination, the Supreme Court has formulated a "discriminatory purpose" rule which in essence provides that a court cannot impose a remedy for alleged discrimination based upon evidence of discriminatory effect alone. The Court now requires that there be a finding that "a discriminatory purpose was a motivating factor in the constitutional violation for which the remedy is proposed." [*Washington* v. *Davis* 426 U.S. 229 (1976), *Arlington Heights* v. *Metropolitan Housing Corp.* 429 U.S. 252 (1977)]. In Arlington Heights the Court stated simply that:

> Proof of racially discriminatory intent or purpose is required to show a violation of the equal protection clause, *Arlington Heights* v. *Metropolitan Housing Corp.* 429 U.S. 252 (1977).

This discriminatory purpose rule applies to school desegregation cases as well. The rule was stated as early as 1973 in the case of *Keyes* v. *School District No. 1* 413 U.S. 189 (1973).

The Court there wrote that plaintiffs:

> Must prove not only that segregated schooling exists but also that it was brought about by intention State action at 198.

More recently the Court has restated and clarified this important principle in the 1977 school desegregation case, Dayton Board of Education against Brinkman:

> The duty of both the District Court and of the Court of Appeals in a case such as this, where mandatory segregation by law of the races in schools has long ceased, is to first determine whether there was any action in the conduct of the business of the school board which was intended to, and did in fact, discriminate against minority pupils, teachers or staff.

In short, the Supreme Court has made it clear that unconstitutional racial discriminatiion cannot be found without a finding that the action was purposefully discriminatory. The thrust of our proposed legislation is to insure that lower courts do in fact, follow the mandate of the Supreme Court as outlined in the Dayton case.

The effect of our proposed amendment would be to codify this rule for busing cases.

Our measure provides a resolution of the dilemma facing our society, of reconciling the noble, yet superficially conflicting goals of eliminating deliberate segregation while preserving neighborhood schools.

Under our amendment the remedy of busing could still be used to right the wrong of deliberate segregation. However, neighborhood school communities could no longer be destroyed.

This would be accomplished by permitting busing as a remedy in school desegregation cases only when the Court has determined that a discriminatory purpose in education was a principle motivating factor in the constitutional violation for which busing is proposed as a remedy.

It is high time that we acknowledge that there is a fundamental difference between deliberate segregation and the natural growth of communities.

Our amendment limits the remedy of busing to deal with this difference.

Our amendment also incorporates the principle that the remedy must fit the wrong. All too often in the past certain Federal judges sought the drastic restructuring of school districts based on findings of isolated instances of discrimination. But that is not the law. Time and time again, the Supreme Court has said:

> The nature of the violation determines the scope of the remedy. *Swann* v. *Board of Education* 402 U.S. 1 (1971) at 16.

In *Milliken* v. *Bradley* 418 U.S. 717 (1974), speaking of desegregation remedies, the court wrote that such remedies are

> Necessarily designed, as all remedies are, to restore the victims of discriminatory conduct to the position they would have occupied in the absence of such conduct (at 746).

Our legislation mandates the use of this important rule in desegregation cases.

Mr. President, it has been said that there are only two precious gifts we can give our children: wings and roots. I believe that these two gifts are exemplified by education, our wings—and our home communities, our roots.

It is my deep hope that this bill will make both of these gifts more accessible to our children.

The legislation which Senator ROTH and I propose today is a reasonable and balanced effort to deal with the problem of involuntary busing.

Unlike some other congressional efforts in the busing area, we believe it is constitutional and will be followed by the courts.

As I indicated earlier, it is predicated on a series of Supreme Court decisions in which the Court has clarified the rules in racial discrimination cases.

The basic rule which the Court has applied is that a court may not impose a remedy for alleged discrimination based on evidence of discriminatory effect alone.

The Court now requires that there be a finding that:

> A discriminatory purpose was a motivating factor in the constitutional violation for which the remedy is proposed.

In essence, the Roth-Biden amendment would provide legislation to incorporate that principle for busing cases, along with other important provisions.

First, it would require a court to find a "discriminatory purpose in education" behind any violation for which student transportation is proposed as a remedy.

Second, courts would be required to determine the extent to which acts of unlawful segregation have caused a greater degree of racial segregation in a school or schools than would have otherwise existed, and student busing would be limited to eliminating the degree of racial segregation attributable to those proven unlawful acts.

All Federal interdistrict busing orders would be stayed pending appeal. However, the stay could be vacated by a majority of the Supreme Court or a court of appeals panel of not less than three members. Finally, there requirements would apply both to orders issued after the date of enactment and to those which have not been put in effect by that date.

The bill would establish for the Federal courts clear guidelines concerning the use of busing.

In practice, it would require the Court to determine the extent to which specific acts of unlawful discrimination by governmental officials have caused a greater degree of racial concentration in a school or school system that would have existed absent those acts.

It would further require the court to limit remedial busing to that necessary to eliminate racial imbalance caused by those deliberate acts.

In other words, courts would no longer be able, where only limited or isolated acts are proven, to order busing throughout the entire district or between districts simply for the purpose of achieving racial balance.

Our amendment strikes at the heart the injustice of court-ordered busing in Wilmington, Del., and throughout t country.

It prohibits the Federal courts fro disrupting our educational system u der the guise of the Constitution whe there is no evidence that Governme officials intended to discriminate.

However, we believe that the amen ment is both limited and reasonable.

It does not prohibit all busing order On the contrary, it goes only as far the Supreme Court has gone in circum scribing busing orders. The legislati only goes that far because we want stay completely within constitution guidelines and because we want the b to be adopted by the Senate, I sincere hope that a majority of the Senate w support this measure as a reasonab solution to the problem of unnecessa busing.

It is the classic dilemma of a dem cratic legislative body such as the U. Senate to try and reconcile noble b apparently conflicting ideals.

Based on the firm belief that the fir step in this process of reconciliation an airing of different views, the Judicia Committee held extensive hearings on 1651 last year.

The amendment introduced by Se ator ROTH and me today is essentia the same as S. 1651 which was report out of the Judiciary Committee i September.

There were two main issues whi these hearings on this bill sought address.

The first was the question of the bil constitutionality. The committee h heard testimony on that issue from co stitutional law experts across the cou try and across the political spectrum.

Although not all the witnesses su ported the purposes of the bill, there h been remarkable agreement that its pr visions are arguably constitutional.

These expert witnesses generally firmed that the bill closely tracks a clarifies recent Supreme Court decisio in the area of the 14th amendment gua antees insofar as it requires a finding discriminatory purpose before busi may be ordered to remedy an alleg constitutional violation.

And while they diverged on the des ability of enacting this bill, there w some agreement that it is—on t whole—a sound and moderate piece legislation.

Needless to say, when men with su differing perspectives as Prof. Li Graglia, a long-time opponent of busi and Prof. Charles Abernathy, an equal long-time civil rights activist, can agr on the fundamental issue of constit tionality that must be seen as a stro endorsement of the bill's legal merit.

Perhaps most significant is Attorn General Bell's memorandum on the b in which he agrees that the legislati can be interpreted so as to be constit tional.

The second issue focused on in t hearings was the social impact of busi on our communities.

We have learned from distinguished sociologists such as Nathan Glazer and David Armor that some Federal judges have ordered busing remedies which far exceed any proven or, indeed, any possible wrong.

This is so because they have either ignored or been unaware of data showing that some residential racial concentrations are not attributable to official action but to patterns of urban and ethnic development.

In other words, what was formerly thought of as the American "melting pot" may be more analogous to a "salad bowl" where all the component parts retain some individual identity.

This preservation of identity often is manifested by concentrations of racial or ethnic groups in certain residential areas.

While not all housing and school concentrations can be thus explained and factors such as income certainly play a part, many judges have discounted this factor entirely, to the detriment of individuals, groups, and society as a whole.

We have also learned that busing orders which are intended to promote integration may sometimes have the opposite effect.

Many parents who do not wish to relinquish control over their children's education leave the city and move to areas where their children can attend neighborhood schools.

The separation which results from this exodus is often far more extensive than what existed before the busing order and it cannot be cured by the judicial fiat.

Thus, what begins as an attempt to increase integration frequently ends up achieving the opposite result.

In the view of these sociologists, to the extent that S. 1651 will clarify what is and is not a proper circumstance for busing, it will help alleviate the problems that result when unwarranted and counterproductive orders are imposed.

Although I cannot fully catalog the valuable testimony presented to the committee, I can say that based on the evidence I am more convinced than ever that S. 1651 does represent a moderate and acceptable means of reconciling the worthy goals of eliminating unconstitutional segregation from our society while preserving the invaluable asset or our neighborhood communities and schools.

This bill, and the Roth-Biden amendment before the Senate now, limits busing to situations where an unconstitutional violation has been proven and where busing is appropriate.

It tailors the remedy to fit the wrong.

To most of us, these provisions seem to make good commonsense.

What these hearings have shown is that they also make good constitutional and social sense.

With the strong record established by these hearings Senator ROTH and I now hope to be able to persuade our colleagues that our amendment is a reasonable mechanism for coping with the inescapable problem arising out of court-ordered busing.

Mr. President, I would like to make some additional remarks on specific aspects of this legislation. I think the points made by Senator ROTH in his opening statement are very significant in two respects: One, they speak to the constitutionality of the legislation which we are proposing here today.

Second, they also address the social question on the merit of whether or not busing to achieve a racial balance is a socially worthwhile goal; whether or not it has more detrimental effect than a positive effect.

For the purposes of my remarks at this point, and I expect there will be a number of remarks on this legislation today, I am going to confine myself in this first round to speaking to the constitutionality of the Roth-Biden amendment to S. 1753.

Mr. President, I have been in the Senate for a little over 5 years now, and during that time we have had a number of amendments that have been characterized as antibusing. Some I do not think legitimately could be considered antibusing amendments, and others are very legitimate amendments. I think many of our colleagues have been somewhat disillusioned, and, if not disillusioned, confused, about the amendments which have been offered.

It seems every time there is a bill that comes forward which deals with education somebody on the floor of the Senate has an antibusing amendment. To steal a phrase from one of our counterparts in California, it's sort of become a buzz word when we say antibusing amendment. About 80 percent of our colleagues duck. They put their hands over their head and say, "Oh, Lord, no, not again."

I think that is in large part because over the past 6 years there have been some very frivolous amendments which have been offered with regard to busing. I think what has happened is that the eyes of our colleagues have been taken off this subject.

None of us tend to focus on issues in a very deep way unless one of two things occurs: either, in the first instance, it is a subject matter which comes before a committee of which we are a member, or, second, unless it is a matter which directly affects our State.

I guess maybe there is a third time we tend to focus very keenly, and that is when national sympathies and national concerns have risen to such a degree that it is the front page story of the newspapers of America from east to west.

Fortunately, we are not in the last situation I described, that is, where the front pages of the newspapers of America are reporting the issue of busing.

I do not have a single solitary doubt in my mind that if there were a busing order in every State in America affecting a significant portion of every State in America that this body would rise up almost instantaneously and deal with the issue in a constructive way. But, unfortunately for purposes of stopping the misguided policy on busing that we have been following in this country for the past decade, that situation does not exist.

With regard to the second point that I raised, whether people focus when it affects their particular State, it has not been directly focused in the majority of the States in America. Consequently, it is understandable that my colleagues, say, from the States of Idaho, Alaska, or Montana, are focusing more on mining problems than they are on this, just as I must honestly state that I do not pay nearly as much attention to issues of Federal lands and control of Federal lands as my colleagues from the Western States do. It is something I tend to have a staff memorandum written about. As I get off the elevator when a vote is to be cast after having read the memorandum, I ask whether or not the debate on the floor has altered the substance of the memorandum which has been written. If they say, "Yes," I ask how, or I have already made up my mind and I walk on the floor and vote.

The first instance is whether or not it is a subject matter of committees of which we are members. The fact of the matter is committees in the Senate have been judicious in their avoidance of dealing with this issue, which brings me to our bill. The bill that Senator ROTH and I wrote, to the best of my knowledge is the first substantive antibusing bill which has had the full consideration of the Senate Judiciary Committee, and which has been passed upon favorably.

That may seem like an insignificant point to the people listening to this debate, but the reason I mention it is that I think that that alone warrants our colleagues taking this amendment out of the overall category of frivolous antibusing amendments that deal with energy bills, the national debt, or all the other things we have heard argued about busing in the past.

I would like now, Mr. President, to speak specifically to what I believe to be the most critical issue that we must face on any antibusing amendment which comes before this Congress. That is the question of its constitutionality.

Mr. President, criticism of the Roth-Biden busing legislation does, and I believe should, focus on the constitutionality of our bill.

In essence critics of the bill contend that it is either unconstitutional, or if constitutional, unnecessary in that it would complicate school desegregation cases by causing additional litigation. The former position is characterized by Senator BROOKE and the NAACP in their testimony before the Judiciary Committee while the latter more cautious position is adopted by Attorney General Bell in his letter of July 26, 1977, to Chairman EASTLAND.

For the purpose of the argument at this point, we will rely upon the Attorney General's analysis of S. 1651 since the basic arguments and case law set out in that letter are similar or identical to that offered by Senator BROOKE, the NAACP, and other critics who take a less ambivalent position on the bill. To the extent that we rely upon arguments made by other opponents and proponents of the legislation, our source is the hearings of the Judiciary Committee conducted in July of last year. Incidentally, the Judiciary Committee rejected the opponents' arguments on these matters and reported the bill to the Senate on September 21, 1977.

I should note parenthetically that Senator ROTH and I could have brought up this bill and attached it to other amendments or to other pieces of legis-

lation that were not as appropriate as this piece of legislation. We would have much preferred to have this legislation voted on and disposed of last year. We would have liked very much to have it voted on and disposed of at the beginning of this year.

The fact of the matter is that the situation in the Senate precluded that and we were informed by the leadership on both sides that our amendment would not be permitted to be taken up on all fours at any time that they could see in the near future. Consequently, here we are, at the end of August, and I am sure the opponents will say, "Why is it that BIDEN and ROTH waited until now to bring up this legislation? Don't they know they are being disruptive? Don't they know that school is about to start? Do calendars run differently in Delaware than they do in other parts of the country?"

The answer is that the opponents of this legislation were the reason we could not bring it up before, because there was an indication that if we brought up our bill on its merits, flat out, not attached to anything else, there would have been an extended debate on the issue, which meant it flew in the face of other matters coming before the Senate, not the least of which were the Panama Canal treaties, labor law reform, energy legislation, and on and on.

Mr. ROTH. Will the Senator yield for a question?

Mr. BIDEN. Surely, I yield.

Mr. ROTH. Is it correct that when the two Senators from Delaware attempted to schedule the legislation for floor consideration, we were told that we could not expect that unless we could guarantee that cloture would be voted?

Mr. BIDEN. That is precisely correct. The leadership in this body on both sides of the aisle told us that directly. We also found that we obviously could not guarantee cloture. Quite frankly, I am not prepared to guarantee 50 votes today, let alone being able to guarantee enough votes for cloture.

The reason I raise it now, again, is to try to lay the argument to rest before we get into this debate today so we can deal with the issue at hand. This amendment deserves to be treated as a significant, straight-up piece of legislation that is not frivolous, that has been considered by a committee, that has been considered by the full committee, that has had extensive hearings, and that has constitutional experts on both sides of the issue testifying as to its merit.

I'd like to return to the question of our amendment's constitutionality. Our first contention is that the Roth-Biden amendment is constitutional. The Attorney General does not, in his testimony or his letter, take the position that S. 1651 is unconstitutional. He simply raises concerns about the meaning and possible application of certain provisions of the bill which could—I emphasize "could"—lead to an unconstitutional result. In essence, Senator BROOKE and others assumed that the legislation will have that application and that the bill is unconstitutional on its face.

Mr. President, it is not my practice to speak about a Senator's comments with regard to legislation without his or her being on the floor of the Senate. The reason I mention Senator BROOKE, however, is in a complimentary sense. The distinguished Senator from Massachusetts has, in the main, made the strongest, most forceful argument against our position in the Judiciary Committee. Since I must speak to the arguments that were raised about the constitutionality of the bill, I must speak to the most articulate and the most forceful of those arguments which were made by the distinguished Senator from Massachusetts.

All the opponents of our bill point to a maximum eight possible areas of concern, where the bill could or would, depending upon their perspective, lead to an unconstitutional result.

Senator ROTH and I take the position that in all eight areas, the bill is constitutional and will be constitutionally construed. Our position is based not only upon our own analysis of the bill and the relevant Supreme Court cases, but also upon the testimony in favor of the constitutionality of the bill by constitutional law experts from the University of Texas, Georgetown, and Yale Law Schools.

I might add that the constitutional expert from Georgetown, Professor Abernathy, although testifying to the constitutionality of our bill, saying it was constitutional, did not support the bill. The reasons he did not support the bill were unrelated to the bill's constitutionality.

Now, let me take some of these points and I shall try not to delay my colleagues very long, because I imagine I shall have an opportunity to raise some, if not all, of these points throughout the remainder of the debate.

The first argument made concerns the "discriminatory purpose as a principal motivating factor" language in our legislation.

The heart of S. 1651 is the rule stated in the very first section of the bill, in essence requiring that busing cannot be ordered as a remedy unless:

> The court determines that a discriminatory purpose in education was a principal motivating factor in the constitutional violation for which such transportation is proposed as a remedy.

As the Attorney General's letter points out, most critics do not take issue with the requirement that a discriminatory purpose is a prerequisite to a constitutional violation. Indeed they all cite Brown against Board of Education as etablishing that principle and accept it as basic 14th amendment law.

However, opponents are concerned with the language that requires that discriminatory purpose be a "principal motivating factor" in the constitutional violation. For example, Senator BROOKE points out that "principal motivating factor" is nowhere explicitly mentioned in the two recent decisions in which the Supreme Court reminded the lower courts of the "discriminatory purpose" rule: *Washington* v. *Davis*, 426 U.S. 229 (1976) and *Arlington Hts.* v. *MHDC* 429 U.S. 252 (1977).

Senator BROOKE is correct. But, Professor Abernathy from Georgeto pointed out in his testimony, the "pr cipal motivating factor" rule is impli in these and subsequent decisions. I deed, the compelling argument in fa of the necessity of this legislation is t fact that the Supreme Court has ne clarified the weight which must be giv "discriminatory purpose" in determi ing whether a constitutional violati has occurred.

We agreed with Professor Abernat and the Attorney General that, in ord to be constitutional, this section m be interpreted consistent with Supre Court decisions from which the rule i plicitly arises.

Professor Abernathy states the po tion in a much more articulate way th I can, so I am going to take the lib of quoting him from his testimony bef our committee.

The other requirement of section 1, t the discriminatory intent has been the "pr cipal motivating factor" in an official's de sion, is not explicitly sanctioned by *D* and *Arlington Heights*, although it dr some implicit support from the latter de sion. In *Arlington Heights* the court no that rarely could a plaintiff prove that a had been an official's "sole" or "predominan motive, and therefore it required only t he show that race had been just one of ma motivating factors.

In a final footnote, however, and in a s ceeding case, the court has left a defe ant official free to prove that he would h reached the same decision even apart fr his discriminatory motive. In effect, principal motivating factor test as it is u in S. 1651 is also employed in *Arling Heights*, although the burden of proof is the defendant officials.

Assuming that section 1 of S. 1651 rei the same allocation of burden of proof as to conform to the demands of *Arling Heights*, and I am told that that is C gress' intent, section 1 is constitutio [Hearings, pp. 42–43]

On page 4 of his letter the Attorn General makes essentially the same po as Professor Abernathy:

> The provision could possibly be interpre so as to secure its constitutionality, leav on the State or local officials the burden proving that racial factors were not the b for their action.

Unfortunately the Attorney Gene goes on to debunk that position and bill by contending that the litigati process would be "time consuming" a "unnecessary." Ironically, since our po tion, Professor Abernathy's, and the A torney General's all spring from the s case law you could direct that same cr icism at the present ambiguous state Supreme Court case law. Since the bu den of proof motivating factor rules ambiguous there is going to be "time co suming" litigation whether this bill passed or not. Indeed, we contend th the enactment of this bill might red the amount of litigation by clarifying rule once and for all.

The second argument concerns t language discriminatory purpose "in e ucation."

Opponents of the legislation conte that the requirement that the discrim natory purpose be "in education" is u

constitutional because it excludes consideration of other unconstitutional official action, such as housing discrimination, outside the control of the school officials. The opponents contend that the Supreme Court in the Swann and other cases have held that school officials are not responsible for nor can the lower courts remedy through busing, the unconstitutional acts of nonschool officials.

However, opponents are rightfully concerned that the language could mean that nonschool officials and school officials could act in concert to frustrate school desegregation. Obviously that is not our intent. We agree with the Attorney General that the language should be interpreted in such a way as to permit the court to consider the interrelationship of other official action and school action. Perhaps Professor Winter of Yale Law School said it best in his testimony before the committee when he interpreted the language to cover the following hypothetical situations:

If a sheriff in the suburbs outside Wilmington were to come along and not let blacks cross the border and the local authorities were to take action to stop blacks from moving into a town, you could show that one of the reasons they were doing that was to stop blacks from going to a school they wanted to go to, then clearly there is a remedy for that. [Hearings, p. 98]

We adopt the same interpretation of this language as does Professor Winter and the Attorney General.

We do not contend that our legislation would stop courts from enjoining that kind of activity, nor would we want it to. We do contend that our legislation of requiring "discriminatory purpose in education" is, in fact, constitutional.

(Mr. FORD assumed the chair.)

Mr. BIDEN. Mr. President, the third criticism pertains to the three-judge court provision. Senator ROTH has already spoken to that, so I will not belabor that point.

The fourth concern pertains to provisions requiring that the remedy must equal the wrong.

Section 3 of S. 1651, section 2 of the bill as reported by the committee and as proposed on the floor as an amendment to the education bill, requires that the busing order shall be:

No more extensive . . . than reasonably necessary to adjust student composition . . . of the particular schools affected by the constitutional violation to reflect what the student composition would have been had no such constitutional violation occurred.

In general terms this language simply enacts the familiar rule of equity that a court is only empowered to put the plaintiff in the position he would have been had the wrong not occurred, no better no worse.

Although Senator BROOKE finds this provision defective because it is fraught with unspecified "legal and operational" problems, the Attorney General concedes that it simply recodifies existing law.

The fifth area concerns the school-by-school determination that the remedy is equal to the wrong.

Attorney General Bell is concerned about one aspect of the "remedy equal to the wrong" language contained in section 2. He interprets the reference to "particular schools" as meaning that the court must determine for each school subject to its jurisdiction the actual racial composition of each school had the violation not occurred. In Attorney General Bell's opinion this could, if misinterpreted, violate the Supreme Court's decision in Dayton because it might require a court to make a school-by-school determination despite the fact that the court had already found a constitutional violation which is by definition systemwide and despite practical difficulties (for example schools which have been closed or consolidated into new schools since the violation occurred).

The Attorney General concedes, however, that this language could simply be viewed as a codification of what the Supreme Court was saying in the Dayton case, that district courts must determine the:

Incremental segregative effect these (constitutional) violations had on the racial distribution of the . . . school population as presently constituted, when that distribution is compared to what it would have been in the absence of such constitutional violations. The remedy must be designed to redress that difference . . . 45 U.S.L.W. at 4914.

We agree with the Attorney General and interpret the language of our bill as consistent with this Supreme Court rule. Obviously, we could not be asking judges to do the impossible but we are requiring that they, to the extent feasible, attempt to apply the Dayton rule down to each school rather than label a constitutional violation as "systemwide" without any serious attempt to determine whether it actually affected each school district.

The sixth area concerns written findings requirement.

The second half of section 3 of S. 1651 and section 2 of the proposed amendment to the education bill simply requires the judge to make written findings that the first section (requiring a constitutional violation) and the rule that the remedy meet the wrong (set out in the first half of this section) have been met.

We want to know that the court has viewed these interdistrict busing cases and all the other cases in a very particular manner. We want them to put it in writing. I do not think asking judges to put their rationale in writing is either unconstitutional or unwarranted.

Therefore it requires that before ordering busing he must make a factual finding of the constitutional violation consistent with section 1 and that the remedy meets that violation and goes no further, as set out in section 2.

The Attorney General, in analyzing this written finding section restates his concern that the "remedy equal the wrong" for particular schools be interpreted consistent with Dayton. We agree. We want it interpreted consistent with Dayton.

He goes on, however, to express an additional concern about this provision. In essence, the Attorney General contends that this provision could be inconsistent with the Supreme Court decision in *Green* v. *County School Board*, 391 U.S. 430 (1968), which in essence requires that even if a school board action on its face appears neutral but perpetuates segregation which was once officially sanctioned then the action is a violation. The Attorney General reasons that if the requirement of specific findings undercuts that doctrine it is unconstitutional.

The problem here is more fundamental. In our view that doctrine of continuous affirmative obligation to redress past discrimination is not what it once was. Our view is best summarized by Professor Abernathy, who has, incidentally, a background that is not one which would lend itself to readily take a position consistent with ours. He is a former civil rights lawyer. He says:

Whether this provision comports with the Constitution depends upon which of two currently contending views wins over the minds of five Supreme Court Justices. One view holds that once a constitutional infection is discovered, the court, as physician, has a duty to cleanse the entire body, removing all vestiges of infection. The contending view takes a narrower perspective, arguing that a court-as-physician has the power and duty only to heal the one hurt discovered, not range over the patient's body and heal all of him.

Historically the wider perspective has prevailed. Dissatisfied with the slow progress of school desegregation after *Brown* v. *Board*, the court exploded with anger in 1968 in *Green* v. *County School Board*, holding that freedom of choice desegregation plans—which removed all officially imposed discriminatory pupil assignments—were constitutionally inadequate. Rather, the court required not simply that officially intended school segregation be eliminated, but all school segregation.

Professor Abernathy goes on to explain how this Green position enjoyed its most unanimous and far-reaching impact in the famous Charlotte busing in 1971 where a systemwide busing order was approved regardless of the requirement of specific findings of violations for specific schools. However, by 1974 in the Detroit case and the Pasadena case in 1976 the Supreme Court was talking of "remedy equaling wrong" as the basic rule to be followed. Professor Abernathy goes on to conclude that the latter rule, the rule reflected in this bill, will prevail. We agree and, therefore, contend that this section of the bill, although not specifically sanctioned by any present case, would be upheld if it were presented to this Supreme Court.

The seventh issue I will address relates to the arguments against the stay provision in our bill.

Section 4 of our bill requires that any busing order could be automatically stayed until all appeals had been exhausted. The opponents were rightfully concerned that this provision could permit a stay even where the district court found a heinous constitutional violation that would never be reversed by a higher court. Therefore, the Judiciary Committee amended that section to permit a majority of a three man appeals panel or a majority of the Supreme Court to vacate such a stay. Section 3 of our proposed amendment to the education bill is consistent with the Judiciary Commitee version.

Finally, the Attorney General expresses concern about the last section of

the bill which would apply it to any busing order "not yet effected" or "not yet final." He reads this section with the prior section which authorizes stays and concludes that it might permit delays in cases where the district court finds a heinous constitutional violation which would never be reversed by higher courts. We feel that the special "escape clause" built into the stay provision by the Judiciary Committee (permitting a higher court to vacate the stay) cures this constitutional concern on the part of Attorney General.

I will conclude now by responding to the last argument. The argument was, "All right, ROTH, your bill may be constitutional; BIDEN, your bill may be constitutional; but even if it is, we don't think it is necessary, because it is going to confuse things."

In our view, the opponents of the Biden-Roth busing legislation make the case for its necessity, and make it very forcefully. At every turn, the opponents claim that when we provide for a rule or codification of the law consistent with the Supreme Court decisions, the litigation under the new statute will be time consuming and therefore unnecessary, because the result will simply be for the Supreme Court to uphold the statute.

In our view, the opponents have described exactly what the defect is with present Supreme Court decisions on busing. They are ambiguous; over time they appear inconsistent and they stimulate time-consuming litigation. The Biden-Roth bill, on the other hand, attempts to take all of the decisions of the last decade from Green County to Dayton, consolidate and codify them into a coherent Federal rule on busing.

We do not deny we have made choices between competing theories or approaches to the problem of busing, always choosing the more cautious approach. For example, we choose the Pasadena-Detroit line of cases over the Green County case. We apply the Washington-Arlington Heights "discriminatory purpose"/"principal motivating factor" rule to busing. In every case, however, where we make such a choice we do so in a manner that would clearly be upheld by this Supreme Court, as I hope we have demonstrated this morning.

In short, what we do in this legislation is exactly what Congress should have been doing all along in school desegregation—leading the Court and creating simple, coherent, enforceable Federal law in the area.

I might note that in the past when I have risen on this floor to offer amendments that relate to antibusing, I have been told that the reason we are in the mess we are in is that Congress has not spoken forcefully, that Congress has not spoken effectively, or Congress has not spoken at all, leaving it to the Federal courts to make the decision for us.

Now the same argument is being used—at least, it was in the testimony—against this legislation. I submit that you cannot have it both ways. If it is proper for the U.S. Senate to set down constitutional guidelines in any case, it is proper in this case. This proposed legislation is constitutional, and is necessary.

This is by its nature the legislative responsibility of this body. Under article III of the Constitution, the Supreme Court can only hear the cases presented to it. It cannot make a Federal code for busing. That is exactly the position in which we put the Court. If Congress acted 15 years ago, we would not be where we are now—if it had said clearly, "This is what we mean; this is how we think this issue should be handled."

If I had time—which I will not take—I could go back to the arguments made against the Biden One amendment in 1975, the first so-called antibusing amendment that passed the Senate and was written into law. They said, "Biden, you are confusing it." I want to clarify it, and Senator ROTH wants to clarify it. The clarification happens to be consistent with the Constitution and consistent with the feeling of an overwhelming majority of the people in this country.

We can and should do so. The Biden-Roth amendment accomplishes that goal without doing violence to the 14th amendment. To that extent our amendment tells school officials when they must face the disruption of busing and when they must not, in a way that the Supreme Court cannot. That is why Roth-Biden is not only necessary; it is essential for orderly public education consistent with the 14th amendment.

Mr. ROTH. Mr. President, will the Senator yield?

Mr. BIDEN. I yield to my colleague from Delaware.

Mr. ROTH. Not only does Congress have the right, but also, would the Senator agree that it has the responsibility to act in these circumstances?

Under section 5 of the 14th amendment, it is specifically provided:

The Congress shall have the power to enforce by appropriate legislation the provisions of this article.

A careful reading of the recent book by Professor Berger of Harvard University, "Government by Judiciary," makes very clear that in many of these circumstances, Congress has not been living up to its full responsibility. Certainly here, with a matter of such tremendous importance nationwide, it seems to me only fair to say that we have not only the right but also the serious responsibility to establish national standards in this area for this country.

Mr. BIDEN. I agree with the Senator and further point out to our colleagues that I have not heard but two or three Senators in the Chamber stand up and say, "Do you know what? I think busing is a good idea. I think it works, and I think we should have more of it." I hear everyone stand up in this Chamber and say, "Although I do not like busing, although I do not think it is a good idea, I do not think we can alter the Constitution. We must let the court remedy constitutional wrongs."

We agree. We agree fully. But what we are saying here today is, we now have a clear-cut constitutional way of limiting the court. While we acknowledge that this amendment would not stop busing in all instances, we must restrict the Court's ability to order busing. In fact, I think the Court is looking for some gu ance on this.

Look at what recently happened Columbus. There is an order for a s The order is made to one judge w happens to have that jurisdiction. denies the stay and an appeal is m to a second judge on the Supreme Co He grants the stay. In a case in W mington there was an appeal for a s that was made to Justice Brennan. J tice Brennan may or may not grant stay. There will be a move to get the s from another justice.

It seems to me the court is crying and saying: "Look, we cannot writ code book. We cannot write a handb But what we can do is we can tell what the basic principles are. You in the spaces."

This bill, I believe, fills in some of U spaces in a manner totally consis with the Constitution of the Un States of America.

Depending on what my colleague f Delaware wants, I am prepared now answer questions, yield the floor, or p ceed in any other manner with del on our amendment.

Mr. PELL and Mr. BROOKE addre the Chair.

The PRESIDING OFFICER. The S ator from Rhode Island.

Mr. PELL. Mr. President, I liste with great interest to the eloquent st ments of the Senators from Delaw who are truly a good partnership as as being Senators from the same St

However, as I have said to them vately, I do feel compelled to oppose amendment and do intend to offe tabling motion in 20 minutes or so.

My objections to this bill are, firs limits busing to school districts wi the court finds that a discriminat purpose in education is the primary tivating factor for the pattern of se gation. But a court could not order b ing to correct intentional discrimina in housing, for example, which also sulted in educational segregation.

Also, second, it is opposed by the torney General because, as he s "Much confusion and time-consum litigation will unnecessarily have b generated" by its provisions. Third, already have exactly the same bill fore us on the calendar as Calendar der No. 404, which was reported ou the Judiciary Committee, which really the committee to which it sho have been referred and out of whic should have been reported.

For all of these reasons I find my in opposition to the amendment.

Mr. JAVITS. Mr. President, will Senator yield?

Mr. PELL. I yield to the Senator f New York.

Mr. JAVITS. Mr. President, I, too, s be brief. I am strongly opposed to amendment, and I shall support the tion to table for the following reas

I take my text from what was said: "We would not be where we now." We would not be where we are because of what? The fact is that th is a greater measure of peace in res of school desegregation than there was before. The fact is that the ad tion of an amendment like this woul

exactly the contrary, and let me prove that to Senators.

The Attorney General of the United States opposes this particular amendment. One of his major reasons for opposing it is found on page 40 of the report on the bill, which was reported out of the Judiciary Committee. As Senator PELL has properly said, the Judiciary Committee is the appropriate forum for debating and settling this matter. That report shows that in a long list of cases—Alabama, California, Arkansas, Texas, Mississippi, Nebraska, Missouri, Ohio, Kansas, and so on—this particular amendment, because of its effect upon the decrees in school desegregation cases which for one reason or another may not have become completely final, will simply upset an existing situation.

The fact is that with all of our wrestling around we have come to some degree of accommodation between the proponents and opponents of this kind of legislation. And the thing to do now is to give it an opportunity to season and work, not to throw in new procedural safeguards as the proponents call it and new changes in the substantive law which will again completely upset the situation.

Let us remember with respect to these goals that are constantly talked about, that these civil rights are intended to protect minorities, and they are minorities, real minorities. So we cannot expect these goals to generate great popular waves of enthusiasm such as we see for tax cuts. As Justice Frankfurter said:

> These people are often not the most washed and the best dressed and the best educated and the most intellectual. That is why they most need our protection.

Mr. President, the Attorney General of the United States is no wild-eyed radical. He is opposed to this particular measure and he so stated in unequivocal terms, and this is cited in the report upon the bill to which I have referred.

I shall not take the time of the Senate with a long dissertation on the bill although I will do so if the motion to table fails. But I think these points which I have just made are critically important to us as Senators. The state of our national tranquillity will be contributed to by tabling this amendment rather than by agreeing to it.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. BROOKE. Mr. President, let me first say that I have the greatest respect and admiration for both of my distinguished colleagues from the great State of Delaware who have introduced this amendment. But I think this is the most pernicious amendment that has been introduced in the whole area of guaranteeing equal educational opportunities for all Americans.

I do not even believe that my colleagues understand just how pernicious this amendment is. It does not direct itself to HEW, or to any other executive department agency. It directs itself to the Judiciary. The legislative branch of the Government would be telling the judicial system that it would be restricted in i's authority to fashion relief for constitutional violations.

As both Senators from Delaware are lawyers, they should understand that this goes far beyond anything that we have ever had before the Senate regarding desegregation remedies.

I must state at the outset that I have drafted 95 amendments to this amendment. But it is my understanding that the distinguished Senator from Rhode Island, who is the floor manager of this bill, intends to offer a motion to table the amendment offered by the two Senators from Delaware, Mr. ROTH and Mr. BIDEN.

I must state at the outset that I profoundly disagree with this amendment. My disagreement is based not upon emotional feelings about busing or the fact that many of our Nation's public schools remain illegally segregated nearly a quarter of a century after the Brown decision. Rather, I object to this amendment, because I believe it to be unconstitutional in purpose, substance and effect. I further believe that the bill is unnecessary and unworkable, and would, if enacted, generate public confusion, and further delay the already protracted process of school desegregation which, fortunately, is working in many parts of our Nation, primarily in the South.

The authors of this amendment contend that it is constitutional, because it conforms to the standards enunciated by the Supreme Court. Even if the specific provisions of the bill conformed to current constitutional standards regarding the use of student transportation to remedy illegal school segregation, which as I will demonstrate they do not, the bill would, nevertheless, violate the constitutional doctrine of separation of powers, and I think this is an issue which both the junior and senior Senators from Delaware should be very much concerned about. The legislation repersents a blatant congressional attempt to restrict the judiciary's power to remedy illegal segregation and vindicate constitutional rights.

Article III vests the judicial power of the United States—which extends to all cases in law and equity arising under the Constitution—in one Supreme Court, and such inferior courts as the Congress may establish. Because the right to attend nonsegregated public schools is guaranteed by the Constitution, a determination of what constitutes adequate and appropriate relief to remedy unconstitutional school segregation is the sole province of the judiciary. Judicial power resides in the judiciary, not the Congress. Because of its commitment, as a matter of policy and constitutional doctrine, to the separation of powers, Congress should not seek to restrict the Supreme Court's authority to fashion relief for constitutional violations.

Moreover, the legislation cannot be reconciled with the authority granted Congress by section 5 of the 14th amendment "to enforce by appropriate legislation the provisions of this article." The purpose and effect of this amendment—to limit the power of the Federal courts to remedy violations of the 14th amendment—is fundamentally negative and restrictive. As the Supreme Court noted in Katzenbach against Morgan which considered the constitutionality of a provision of the Voting Rights Act:

> Contrary to the suggestion of the dissent, post, p. 668, section 5 (of the 14th amendment) does not grant Congress power to exercise discretion in the other direction and to enact "statutes so as in effect to dilute equal protection and due process decisions of this court." We emphasize that Congress' power under section 5 is limited to adopting measures to enforce the guarantees of the Amendment; section 5 grants Congress no power to restrict, abrogate, or dilute these guarantees.

While Congress, in the exercise of its section 5 authority, could expand relief, it cannot withhold or deprive relief to the victims of discrimination prohibited by the 14th amendment.

Even if this amendment did not violate the doctrine of separation of powers, it would, nevertheless, represent a congressional encroachment on the power and integrity of the judiciary. This amendment attempts to fix standards to regulate the award of equitable relief in school desegregation cases. In so doing, it distorts the legal concept of equity. As the Supreme Court noted in Brown II, the 1955 decision on implementation of the constitutional prohibition against school segregation, an essential characteristic of equity is "a practical flexibility in shaping * * * remedies * * *." In the 23 years since Brown the Federal courts have refused to adopt a rigid set of remedial standards in school desegregation cases; rather, they have attempted to fashion remedies that were practically effective and sensitive in the light of the widely differing circumstances of local school districts. Legislative prescription of school desegregation remedies, no matter how well drafted, would circumscribe the power of the courts to provide equitable justice and would thereby rob the Constitution of its living strength.

Before turning to the specific provisions of this amendment, I want to say a few words about the character and import of the bill as a whole. The authors of the legislation aver that it is not designed to restrict constitutional rights, but rather to limit the use of court-ordered busing. Indeed, the bill does not attempt to define "constitutional violation" but only the circumstances under which student transportation may be used by Federal courts to cure unconstitutional school segregation. I believe, however, that the authors' distinction between rights and remedies is deceptive and illusory. Student transportation is just one of many remedies which the Supreme Court has found necessary to eliminate de jure school segregation. Although this amendment pretends to focus exclusively on remedies, it ultimately affects constitutional rights. Let us not deceive ourselves, "a right without a remedy is like a bell without a clapper"—hollow and empty.

Turning now to the substantive provisions of the amendment, section 1 provides:

> Notwithstanding any other provision of law, no court of the United States shall order directly or indirectly the transportation of any student on the basis of race, color, or national origin unless the court determines that a discriminatory purpose in education was a principal motivating factor in the constitutional violation for which such transportation is proposed as a remedy.

According to its authors, section 1 of

this amendment conforms to and clarifies current constitutional standards. They view the Supreme Court's recent employment decision in Washington against Davis and its housing decision in Arlington Heights against Metropolitan Housing Corp. as giving rise to what they appropriately describe as a "discriminatory purpose rule." While the authors of this amendment correctly recognize the existence of a "discriminatory purpose rule," they misperceive its origins. The rule is not new; it did not originate in the Court's recent decision in Washington and Arlington Heights; and it has long been applied in school desegregation cases. As the Supreme Court stated in Keyes against School District No. 1, a 1973 decision:

> We emphasize that the differentiating factor between *de jure* segregation and so-called *de facto* segregation . . . is *purpose* or *intent* to segregate. (Emphasis in original) 413 US 189 at 208.

A great deal more serious than their misapprehension of the origins and applicability of the discriminatory purpose rule to school desegregation cases is the authors' incorrect formulation of the rule. The authors contend that the Washington and Arlington Heights decisions support their "principal motivating factor" formulation of the discriminatory purpose rule. Neither of the decisions, however, employs such a narrow and restrictive standard. Quite the contrary, the Court stated in Arlington Heights:

> Davis does not require a plaintiff to prove that the challenged action rested solely on racially discriminatory purposes. Rarely can it be said that a legislature or administrative body operating under a broad mandate made a decision motivated solely by a single concern, or even that a particular purpose was the "dominant" or "primary" one. In fact, it is because legislators and administrators are properly concerned with balancing numerous competing considerations that courts refrain from reviewing the merits of their decisions, absent a showing of arbitrariness or irrationality. But racial discrimination is not just another competing consideration. When there is proof that a discriminatory purpose has been a motivating factor in the decision, this judicial deference is no longer justified. (Slip Opinion 75-06, p. 12, Jun. 11, 1977.)

Davis simply has no language supporting the "principal motivating factor" theory advanced by the authors of the legislation, and Arlington Heights is unequivocal in its rejection of that standard. Quite simply, the narrow and restrictive standard set out in this bill does not conform to, but rather conflicts with, current constitutional standards.

Finally, the standard set out in section 1 which effectively bans the use of student transportation to remedy constitutional violations unless the violation was motivated by "a discriminatory purpose in education" is constitutionally suspect.

In fact, the Supreme Court has never acknowledged any such limitation. Indeed, in 1975, the High Court summarily affirmed the decision of the three-judge court in the Wilmington case, Evans against Buchanan, which found an "interdistrct violation" on the basis of five separate factors unrelated to education. The Buchanan district court found that governmental housing policies had resulted "to a significant degree (in) the increasing disparity in residential and school populations between Wilmington and its suburbs in the past two decades." 393 F. Supp. at 438. Specifically, the court pointed to discriminatory practices, unrelated to education, in the following areas to support its finding of a constitutional violation: FHA mortgage policies; enforcement of racially restrictive covenants; publication of a discriminatory manual by the State Real Estate Commission; concentration of public housing in the city even though the Wilmington Housing Authority had jurisdiction to site units in part of the surrounding county; and the failure of the county housing authority to build any units since its creation in 1972.

Similarly, Justice Stewart concurring in the Detroit case, Milliken against Bradley, observed that "purposeful, discriminatory use of housing and zoning laws" may serve as a basis for ordering crossdistrict relief in school desegregation cases.

Thus it is misleading and inaccurate to assert, as the bill's proponents do, that section 1 of the bill is a simple restatement of the Supreme Court's jurisprudence as developed in recent cases.

The subsection 2(b)(1) requirement that the courts make specific written findings "of the discriminatory purpose for each constitutional violation for which transportation is ordered" is impossibly ambiguous. The bill gives no guidance as to the scope of the phrase "each constitutional violation." Given the fact that the Supreme Court has held that plaintiffs in school desegregation cases need not "bear the burden of proving the elements of de jure segregation as to each and every school * * * within the school system" (*Keyes*), the phrase cannot refer to segregation of individual schools.

Subsection 2(b)(2) requires the courts to make specific written findings of the "degree to which the concentration by race, color, or national origin in the student composition of particular schools affected by such constitutional violation presently varies from what it would have been in normal course had no such constitutional violation occurred." This requirement belies the dynamic complexity of segregation in our society. The Supreme Court has devoted considerable attention to the symbiotic relationship between residential and educational segregation and the fact that they interact, amplify, reinforce, and cause one another. Even when school and noneducational governmental officials are not consciously acting in concert, the effects of their actions are cumulative and reciprocal. To require the courts to disentangle the intricate web of residential and educational segregation, a web that has grown in complexity and scope over the years, is to mandate a futile exercise in pseudo precision.

Moreover, the futile, speculative procedure specified in this subsection—a veritable "chicken versus egg" inquiry into causation and blame—distorts the fundamental responsibility of Federal courts in school desegregation cases. Once a court has determined that c cational officials have unlawfully se gated schoolchildren, its param concern must be the vindication of c stitutional rights. The proper focu judicial inquiry in hearings on rem relief, therefore, is the practical e tiveness of the various school desegr tion alternatives.

Finally, I would like to address tions 3 and 4 of the bill. These p sions, independently and taken toge violate the spirit of the Supreme Co 10-year-old proclamation that the for "all deliberate speed" has ended the time for desegregation is now. I querading in the guise of due pro these provisions can only impede delay the process of school desegr tion. Sections 4 and 5 would pr recalcitrant school districts and sc school officials with still another op tunity to spend hundreds of thous of dollars on legal appeals designe frustrate the constitutional righ our children.

H. L. Mencken once said that—

> For every difficult and complex pro there is an obvious solution that is s easy, and wrong.

Assuring equal educational oppo nity for every child in America is deed, difficult and complex. Mr. P dent, the proposed legislation befor Senate is simple, easy, and wrong I ask the Senate to reject it.

Mr. President, I want to briefly cuss with my friend, the junior Se from Delaware, his earlier remarks no one standing up for school busi do not believe that is true. School b has been used to a great extent in Nation for more than 50 years.

The vast majority of children i schools, indeed, more than 65 per go to school by some form of transp tion, rather than walking to scho many of us did in the old days. And than 4 percent of these students bused for the purposes of desegrega

I believe it is also important to that there has been more busing in this country for purposes of seg tion than has ever been used fo purposes of desegregation.

And, in many instances, as I said lier, particularly in the southern pa this Nation, school desegregatio working because the people have all it to work—not school integration school desegregation—and the Se from Delaware knows that there very clear legal distinction betwee two.

Mr. President, I fervently hope the motion of the distinguished Se from Rhode Island to table this am ment will carry. For this amendme unconstitutional and would set a da ous precedent for the Congress o United States. Indeed I do not see any lawyer or any student of the stitution could ever vote for it. F represents a congressional attemp deny the Supreme Court remedie relief that have long been establishe constitutional authority.

Mr. President, having said that an cause of the time constraints, I the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I would like first to yield to the Senator from Delaware (Mr. BIDEN). I understand he has a remark or two, and then to the Senator from North Carolina (Mr. MORGAN).

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I would like to take, at some point, 2 minutes to answer three or four of the arguments, but I would like to yield to Senator ROTH first, if I may.

The PRESIDING OFFICER. The Senator is retaining 2 minutes, and yielding to the senior Senator from Delaware?

Mr. BIDEN. Yes.

The PRESIDING OFFICER. The senior Senator from Delaware is recognized.

Mr. ROTH. Mr. President, I too, will be brief, but I want to make two or three points in answer to what the distinguished Senator from Massachusetts has said.

This Congress has been criticised, in years gone by, for not living up to its responsibilities, particularly in its relationship to the White House. I think one of the most serious charges that can be made against Congress is that we are likewise not living up to our responsibilities in relationship to the Supreme Court.

The courts are coequal, not supreme, to Congress and it is Congress, the elected body, that has the responsibility of establishing national policy. It is curious to me that the minute we talk about limiting remedies, we are infringing on the rights of the Supreme Court, but when many of us supported the legislation for civil rights, that was no encroachment on the Supreme Court.

It is time that Congress takes upon itself the responsibility that has been given to us under our Constitution. I speak, for example, of the 14th amendmend itself, which specifically provides that Congress has the responsibility "to enforce, by appropriate legislation, the provisions of this article."

So I cannot buy the argument that Congress should not act. As President Andrew Jackson said in 1832:

> It is as much the duty of the House of Representatives, of the Senate, and of the President to decide upon the constitutionality of any bill or resolution which may be presented to them for passage or approval as it is of the supreme judges when it may be brought before them for juricial decision. The opinion of the judges has no more authority over Congress than the opinion of Congress has over the judges, and on that point the President is independent of both. The authority of the Supreme Court must not, therefore, be permitted to control the Congress or the Executive when acting in their legislative capacities, but to have only such influence as the force of their reasoning may deserve.

In closing, however, Mr. President, I want to make one basic point. What is at stake here, what is important, is quality education for all children. We can no longer tolerate this experimentation with tens of thousands of children of every color, every race, every creed. The facts are showing that this experimentation of recent years is not working. It is not providing quality education for our children, and it is not providing a colorblind society, which we all desire.

All we are suggesting is that this route of busing is not the correct one, that we should seek other avenues of assuring quality education for all black and white children.

I thank the chair.

The PRESIDING OFFICER. The junior Senator from Delaware has 2 minutes, and then the Senator from North Carolina will be recognized.

Mr. BIDEN. Mr. President, I hope this motion will not be agreed to, so that we will be able to debate the constitutionality at some length later, but for now I wish merely to respond to one or two questions.

The Senator from New York said we should not disturb the situation, that we have peace now. I would like to recommend to him that he look into the situation in Ohio, with several cities about to be under order, and other cities in California. He said we are upsetting the situation, that it is harmonious. He can ask people out in Ohio in charge of the school systems if they think things are going smoothly in Dayton, Cleveland, or Columbus with all of this uncertainty and disruption.

The Senator from Massachusetts said we should not direct this at the judiciary. Mr. President, all the titles in the United States Code direct themselves at the judiciary. I think we must direct legislation at the judiciary.

Earlier the Senator from Rhode Island made the point that this bill is on the calendar. I say to the Senator, if there had been any hope that the bill would be brought up, we would not be here now. This is the point I made at the beginning. I hope we get an opportunity to argue it further, and I hope my friends in the Senate will not vote for the motion to table our amendment.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. MORGAN. Mr. President, I rise in opposition to the amendment offered by the distinguished Senators from Delaware, and in support of the proposed motion to lay on the table of the Senator from Rhode Island.

I think all of us would agree that busing of children across from one side of the city to another side is not desirable, and I think we all would agree that it is perhaps not the best way to provide a quality education for all of our children. But I think what the amendment would do would be, in fact, or certainly in effect, to perpetuate the dual standard that has existed in this country for a long time, partly because of laws and partly because of housing patterns—a standard that we are trying to rid ourselves of.

Busing in the South is working. As I mentioned, it is not desirable, but we are doing it in North Carolina. The original Charlotte versus Swan case was a North Carolina case. I was counsel for the State of North Carolina when that case was argued in the Supreme Court, and I opposed the busing order.

But it is now a fact, Mr. President, and we are doing it all over the South. What this amendment would do is say, in effect, that what we have done about ordering busing in areas of the country where it is now in existence under court order is all right, "but we are just not going to do it any more."

I think what we need to do is try to rid ourselves of these vestiges of segregation, regardless of whether they existed from State laws, as they did in my State, or whether they existed from housing patterns and real estate practices, as in States in the North and in the Midwest.

Once we have done that, Mr. President, I think we will all be willing to work together to try to find better ways of providing quality education for all of our children, regardless of what section of the country they live in, or what section of the State or what section of the city.

But I fear if we adopt this amendment and perpetuate this double system, we will never be willing to work together to find a way of providing good neighborhood schools for all of our children. The quickest way we can return to neighborhood schools, is to find a better way of providing quality education. I do not believe this is the way, Mr. President.

So I shall vote to table the amendment, and I hope my colleagues will do likewise.

● Mr. BAKER. Mr. President, I rise in support of an amendment offered by the distinguished Senators from Delaware to S. 1753, a bill to extend the Elementary and Secondary Education Act. The intent of this amendment is to limit the use of forced busing as the remedy in school desegregation cases.

I have long opposed forced busing as a means of desegregating school districts and have stated that our national goals of obtaining a good education for every child and assuring equal educational opportunities for all are not furthered by the judicial mischief of busing. The people of our Nation have overwhelmingly registered their opposition in public opinion polls and, even more convincingly, at the polls in State and national elections. This demonstration of the will of our citizens cannot be ignored or frustrated any longer, and I am hopeful that decisive legislative action can be taken now.

The effect of the pending amendment would be to prohibit the implementation of busing orders unless there was a finding of intentional discrimination. Moreover, the extent of the busing order could not exceed the scope of the problem as defined by the Court. And finally, pending busing orders would be stayed until the Court determined that the order was consistent with the language of this amendment.

I believe that this amendment represents a constructive first step toward a legislative solution to this troublesome and difficult issue. I urge my colleagues to support the amendment offered by the two distinguished Senators from the State of Delaware.●

● Mr. DECONCINI. Mr. President, I rise in support of the amendment offered by the distinguished Senators from Dela-

ware. I should also like to commend them for bringing into this forum what is one of the most controversial social policies of our day. Too many Americans would rather not deal with this issue; they would rather allow the Federal courts to make our vital political decisions. The two Senators from Delaware would restrict and limit the power of those same Federal courts to order busing in only those circumstances when discrimination was the purpose behind the establishment of school boundaries.

I believe, Mr. President, that the issue of busing is clearly and unequivocally a political question; and one that should be settled through traditional political structures like the Congress and State legislatures. That is one of the reasons why the Senate should give serious consideration to the present proposal.

The Senate should be aware that the Judiciary Committee did consider this legislation, and conducted a lengthy mark-up session where substantial compromises were made. The Judiciary Committee has ordered this bill reported and a majority of its members have endorsed its provisions. It is no argument that S. 1753 is not the proper vehicle for this measure. Each of us is well aware that the Biden-Roth bill will not be considered. We are in a situation where a small minority of the Senate can virtually prevent any piece of legislation from consideration by the majority.

It seems to me, Mr. President, that too many Federal judges have taken upon themselves the task of restructuring and reordering our society. Over a period of many generations certain housing and other patterns have evolved in our cities which clearly run counter to our present desire to see the integration of all peoples. Our Federal courts are engaging in some social engineering which is neither directly relevant to the question of discrimination, but which is—more importantly—terribly disruptive to the fabric of our society.

We simply cannot change the patterns in our cities and our societies overnight. We can and we have outlawed racial discrimination. We should continue to be ever vigilant to enforce these laws. But the busing decisions addressed by this legislation clearly fall outside the scope of the purposeful discrimination. Rather, they are part of lengthy evolution.

The correct approach to the matter of America's development into a harmonious, multiracial society in which all vestiges of inequality are obliterated is not through an artificial device such as busing. What we must correct are the patterns of overt discrimination and the patterns of clear deprivation which have led to the emergence of ghettos and blighted inner cities. The pattern in American society has always been to seek to raise all citizens to the highest level possible, not pull all citizens down to the lowest common denominator.

No one, Mr. President, has any quarrel with busing that is clearly designed to remedy intentional discrimination. Where discrimination is the motivating factor behind the establishment of school districts, busing is a proper remedy. But where the lack of balanced schools is simply the result of natural patterns of residential settlement, the Federal courts should be prevented from disrupting the harmony of neighborhoods and from disrupting the lives of our children. Who are we punishing for what crime? Are we punishing our children and their parents because of the failure of American society and American law over the last 200 years? Is this just? I cannot believe that a majority of Americans—black or white—would agree. In fact, all the evidence that is available suggests just the opposite. Most Americans—black and white—oppose forced busing.

Finally, Mr. President, there is the very immediate and real concept of the neighborhood and the neighborhood school that is at stake. Certainly, a pleasant neighborhood in which to live and raise one's children is part of the American dream. It is one of the things to which we aspire. Yet, through forced busing, we would deny this part of what our citizens desire because it has not yet been attained by all. That seems to be vindictive, at worst, and retrogressive, at best. No child should be forced to spend hours on a school bus to attend a strange school unless there is a compelling reason. And this legislation leaves the option of busing open if overt discrimination is, indeed, responsible.

I urge my colleagues to support the measure.●

Mr. THURMOND. Mr. President, I rise in support of the pending amendment to the Elementary and Secondary School Act Amendments, S. 1753.

This amendment is identical to a bill, S. 1651, that is now on the Senate Calendar and was reported by the Senate Judiciary Committee on August 1, 1977.

The primary purpose of the amendment is to establish guidelines that are consistent with the Constitution and the rulings of the Supreme Court which courts may order in the transportation of students on the basis of race, color or national origin.

Mr. President, the amendment provides for several prinicples to be followed by Federal courts. First, it would require a U.S. district court to find "a discriminatory purpose in education" behind any violation for which student transportation is proposed as a remedy.

Second, courts would be required to determine the extent to which acts of unlawful segregation have caused a greater degree of racial segregation in a school or schools than would have otherwise existed.

Third, student busing would be limited to eliminating the degree of racial segregation attributable to those proven unlawful acts.

Fourth, cases in which student busing is proposed as a remedy would have to be heard by a three-judge court.

Finally, the amendment requires Federal court busing orders to be stayed until all appeals are exhausted.

Since the decision of Brown against Board of Education in 1954, the courts have spoken a number of times and in some cases, with different voices on the issue of segregation. This amendment seeks to bring reason and order to an area of constitutional law that affects the lives of so many Americans.

The courts have, in recent years, departed somewhat from the Court's d sion in Brown by saying that the C stitution only requires desegregatio does not require school racial inte tion for its own sake. In *Washingto Davis* (1976), the Supreme Court cl rejected the view that even the loca of a new school building could ha racial impact. An act is not uncons tional solely because it has a racially proportionate impact. The court find that the action was purposel discriminatory.

Mr. President, the requirement th court find a principal motivating fa which means that a discriminatory pose must be an indispensable co nent of the decisionmaking proces the action of a defendant, has been held as a valid test in the case of *Ar ton Heights* v. *Metropolitan Housing velopment Corporation* (1977). In o words, a decision by a local school b to close a school, move certain grad another school, or locate a new sc in a certain area of town, is not o face racial discrimination.

Mr. President, I believe that in ce cases the courts have misinterpreted mandate of Brown against Board of E cation. Likewise, sociologists in country have advocated positions are not truly representative of the th ing of a majority of the American pe Both black and white Americans wa good education for their children. I s that desire. But, in many cases, the of gaining a racial mix becomes prim and the education of our children comes secondary. This should not be case.

The amendment being offered by Senators from Delaware seeks to vide a rational set of criteria for courts to follow in judging circumsta under which the transportation of dents can be achieved. It is an am ment that says in effect, the educa of our children should come first, b suspected constitutional violations cur in achieving that goal, then courts need guidelines to follow in ju ing whether such actions in fact vi the Constitution.

This is not necessarily an antibu measure. It does not prohibit the tr portation of students in order to a racial segregation. It still permits actions.

This amendment does not allow sc officials or local governments to en in conduct that would violate the It simply provides Federal courts the principles set out by the Supr Court for judging the constitution of actions by local school officials.

Mr. President, the people of So Carolina are all mindful of the requ ments of the Federal laws with regar racial discrimination in the pu schools. But they are also vitally in ested in seeing that their children a good education. South Carolina ha percent of its children enrolled in pu schools, which is about the same as national average. Thus, the difficul the inconveniences, and somethi the frustrations of transporting stud to schools outside of their neighborho is experienced by South Carolinians well as most Americans. This ema

ment would hopefully result in a more careful application of court ordered busing plans, thereby easing the frustrations and problems now experienced by many American families.

The hearings on S. 1651 in the Judiciary Committee support the argument that when busing orders go beyond what is required to correct any unlawful actions there is a counter-productive result. One consequence of court ordered busing is the so-called "white flight." Economically affluent white families flee the cities to escape the impact of busing orders. This result is not, according to recent research, due to latent racism but rather a strong belief in neighborhood schools as a concept worth supporting.

In addition, there is evidence that ethnic groups concentrate for convenience; for access to family and friends; access to religious, cultural and commercial facilities that serve specific groups. Court orders that unnecessarily disrupt these positive social conditions do not improve the educational opportunities of our children. This amendment seeks to limit the scope of these orders so that the negative social aspects will be reduced.

Finally, Mr. President, I want to commend the Senators from Delaware for bringing this amendment to the attention of the Senate. The bill, S. 1651, reported by the Judiciary Committee has been on the Senate Calendar since September of last year. This is an important issue to all Americans and even though the Senate may not see fit to adopt this amendment today, it does provide the opportunity for debate on a matter of interest to not only the people of South Carolina, but the Nation.

Mr. President, I urge my colleagues to adopt the amendment.

Mr. PELL. Mr. President, I move to lay on the table the pending amendment of the Senators from Delaware.

Mr. JAVITS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I favor the amendment, its content, and its substance. I also gave Senator BIDEN my proxy in reporting it to not foreclose any measure facing the Senate. But because of the workload and scheduling problems, in this instance I will support the motion to lay on the table.

Mr. BIDEN. Mr. President, will the Senator yield to add a cosponsor?

Mr. PELL. I yield.

Mr. BIDEN. I ask unanimous consent that the name of the Senator from Florida (Mr. CHILES) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the motion to lay on the table the amendment of the Senators from Delaware. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Louisiana (Mr. LONG), are necessarily absent.

The result was announced—yeas 49, nays 47, as follows:

[Rollcall Vote No. 352 Leg.]

YEAS—49

Abourezk	Hart	McGovern
Bayh	Haskell	McIntyre
Bellmon	Hatfield, Mark O.	Melcher
Brooke	Hatfield, Paul G.	Metzenbaum
Bumpers	Hathaway	Morgan
Burdick	Heinz	Moynihan
Byrd, Robert C.	Hodges	Muskie
Case	Humphrey	Nelson
Chafee	Inouye	Pearson
Church	Jackson	Pell
Clark	Javits	Percy
Cranston	Kennedy	Ribicoff
Culver	Magnuson	Riegle
Durkin	Mathias	Stafford
Eagleton	Matsunaga	Stevenson
Glenn	McGovern	Weicker
Gravel	McIntyre	Williams

NAYS—47

Allen	Goldwater	Roth
Baker	Griffin	Sarbanes
Bartlett	Hansen	Sasser
Bentsen	Hatch	Schmitt
Biden	Hayakawa	Schweiker
Byrd, Harry F., Jr.	Helms	Scott
Cannon	Hollings	Sparkman
Chiles	Huddleston	Stennis
Curtis	Laxalt	Stevens
Danforth	Leahy	Stone
DeConcini	Lugar	Talmadge
Dole	McClure	Thurmond
Domenici	Nunn	Tower
Ford	Packwood	Wallop
Garn	Proxmire	Young
	Randolph	Zorinsky

NOT VOTING—4

Anderson	Johnston
Eastland	Long

So the motion to lay on the table UP amendment No. 1721 was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

Mr. ROTH. I ask for the yeas and nays, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, let us not have the yeas and nays on a motion to table. If we do, I hope it will be overwhelmingly agreed to. I am for the amendment, for the substance of it.

The PRESIDING OFFICER (Mr. CHILES). The motion is not debatable.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 30 seconds.

The PRESIDING OFFICER. Is there objection?

Mr. ROTH. Regular order.

The PRESIDING OFFICER. The objection is heard.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

The result was announced—yeas 51, nays 45, as follows:

[Rollcall Vote No. 353 Leg.]

YEAS—51

Abourezk	Haskell	Melcher
Bayh	Hatfield, Mark O.	Metzenbaum
Bellmon	Hatfield, Paul G.	Morgan
Brooke	Hathaway	Moynihan
Bumpers	Heinz	Muskie
Burdick	Hodges	Nelson
Byrd, Robert C.	Humphrey	Pearson
Case	Jackson	Pell
Chafee	Javits	Percy
Church	Kennedy	Ribicoff
Clark	Leahy	Riegle
Cranston	Magnuson	Sarbanes
Culver	Mathias	Sparkman
Durkin	Matsunaga	Stafford
Eagleton	McGovern	Stevenson
Glenn	McIntyre	Weicker
Gravel	Metzenbaum	Williams
Hart	Morgan	

NAYS—45

Allen	Goldwater	Roth
Baker	Griffin	Sasser
Bartlett	Hansen	Schmitt
Bentsen	Hatch	Schweiker
Biden	Hayakawa	Scott
Byrd, Harry F., Jr.	Helms	Stennis
Cannon	Hollings	Stevens
Chiles	Huddleston	Stone
Curtis	Laxalt	Talmadge
Danforth	Long	Thurmond
DeConcini	Lugar	Tower
Dole	McClure	Wallop
Domenici	Nunn	Young
Ford	Packwood	Zorinsky
Garn	Proxmire	
	Randolph	

NOT VOTING—4

Anderson	Inouye
Eastland	Johnston

So the motion to lay on the table the motion to reconsider was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I yield briefly to the Senator from South Carolina.

Mr. HOLLINGS. I thank the distinguished leader.

UP AMENDMENT NO. 1722

(Purpose: To delete title XII relating to nonpublic educational assistance)

Mr. HOLLINGS. Mr. President, I call up my amendment.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS), on behalf of himself, Mr. BELLMON, and Mr. HODGES, offers an unprinted amendment No. 1722.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 318, beginning with line 12, strike out through line 9 on page 324.

On page 324, line 12, strike out "SEC. 113." and insert in lieu thereof "SEC. 112.";

On page 326, line 18, strike out "SEC. 114." and insert in lieu thereof "SEC. 113.".

On page 19 in the Table of Contents insert end quotation marks after item Sec. 1108.

On page 19 in the Table of Contents strike out item Sec. 112, title XII and items 1201 through 1207.

On page 19 in the Table of Contents redesignate items Sec. 113 and Sec. 114 as items Sec. 112 and Sec. 113, respectively.

Mr. HOLLINGS. Mr. President, I ask unanimous consent to have four opinions

printed in the RECORD. They find it is clearly unconstitutional, and that is why I move to strike item 12.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Library of Congress Congressional Research Service]

JUNE 22, 1978.

From: American Law Division.

Subject: Constitutionality of Title XII of the Elementary and Secondary Education Act, As Proposed To Be Added by S. 1753, and Suggestions on Changes Needed To Render It Constitutional.

This is in response to your request for a brief memo analyzing the constitutionality of Title XII of the Elementary and Secondary Education Act, as proposed in S. 1753, and if it appears unconstitutional, for suggestions as to how it might be made constitutional. This memo will respond to these inquiries in order.

CONSTITUTIONALITY OF THE PROPOSED TITLE XII

Title XII, as proposed in S. 1753, would authorize $500 million each year from fiscal 1979 through fiscal 1983 for grants to nonpublic elementary and secondary schools. The grants could be used by the recipient schools only for the following purposes:

(1) secular textbooks (limited to those approved for use in public schools);

(2) standardized tests and scoring services (limited to those used in the public schools);

(3) diagnostic speech and hearing services on the premises of the nonpublic school;

(4) diagnostic psychological services on the premises of the nonpublic school;

(5) guidance and counseling services on the premises of the nonpublic school;

(6) secular instructional materials and instructional equipment; and

(7) transportation to and from nonpublic elementary and secondary schools. Sec. 1202(b).

The constitutional question that arises from this proposed grant program stems from the fact that a substantial majority of nonpublic elementary and secondary schools are church-related[1] and from the language of the First Amendment which provides that "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof. . . ." Application of this language, as interpreted by the Supreme Court in numerous decisions, to the proposed grant program suggests that it may be constitutionally infirm, in two respects, first, several of the purposes for which the grant funds could be used by the recipient schools would not appear to accord with the pertinent Supreme Court decisions. Secondly, the nature of the program as a direct grant program to predominantly religious institutions would appear to violate the excessive entanglement and, perhaps, the primary effect tests as these have been elaborated by the Supreme Court.

The compatibility of each of the possible uses for the grant funds with pertinent Supreme Court decisions would appear to be as follows:

(1) *Secular textbooks*—In several cases the Supreme Court has upheld programs in which the state purchases and loans to nonpublic schoolchildren such secular textbooks as are approved for use in the public schools. *Wolman v. Walter*, 433 U.S. 229 (1977); *Meek v. Pittenger*, 421 U.S. 349 (1975); *Board of Education v. Allen*, 392 U.S. 236 (1968). In every such program, however, ownership of the books has remained with the state and the direct beneficiaries have been the nonpublic schoolchildren and their parents rather than the schools. The textbook program in Title XII would be different: the schools would own the books, and thus the schools would be the immediate beneficiaries. Because a majority of the Court in *Wolman v. Walter*, supra, made clear their intention not to extend the rationale supporting the textbook loan program beyond the program itself, this purpose would not appear to be sufficiently limited to be constitutional.

(2) *Standardized tests and scoring services*—In *Levitt v. Committee for Public Education*, 413 U.S. 472 (1973), the Court held unconstitutional a program reimbursing nonpublic schools for, among other things, the costs of giving, compiling, and reporting the results of tests and examinations required by the state. In *Wolman v. Walter*, supra, the Court upheld a program providing standardized tests and scoring services to nonpublic schoolchildren. The provision in Title XII would appear to be more like the latter than the former, and thus likely would be constitutional.

(3) *Diagnostic speech and hearing services on the nonpublic school premises*—The Court has made clear that government cannot subsidize the functions of personnel likely to engage in religious proselytizing. Even when the subsidized function has been secular in nature—secular teaching, guidance counseling, psychological services, etc., the Court has perceived a danger that the personnel involved would become religious advocates because of the pervasively religious atmosphere of sectarian schools. *Lemon v. Kurtzman*, 403 U.S. 602 (1971); *Meek v. Pittenger*, supra. This has been true both when the personnel have been employed by the school itself and when they have been public employees. In *Wolman v. Walter*, supra, however, the Court found it constitutionally permissible for public personnel to provide diagnostic speech and hearing services on the nonpubic school premises, on the grounds that such functions are not closely related to the educational mission of the school and that the relationship between the diagnostician and the child is limited in nature. The employees providing the services sanctioned in *Wolman v. Walter*, supra, however, were public employees. Under Title XII the personnel would necessarily be hired by the sectarian school itself. Consequently, the danger that such employees would be religious advocates would seem to arise, and this use of the grants would not seem sufficiently limited to be constitutional.

(4) *Diagnostic psychological services on the nonpublic school premises*—In *Wolman v. Walter*, supra, the Court upheld diagnostic psychological services on the same rationale as diagnostic speech and hearing services. Again, however, the personnel involved were public. Under Title XII the personnel would be hired by the sectarian school itself, and consequently, the danger that such employees would be religious advocates would again seem to arise. Thus, this use of the grants would not seem sufficiently limited to be constitutional.

(5) *Guidance and counseling services on the nonpublic school premises*—The Court has upheld the provision at public expense of guidance and counseling services of the nonpublic school premises by public employees but has struck down the provision of such services on the sectarian school premises. Compare *Wolman v. Walter*, with *Meek v. Pittenger*, *supra*. Even where it has found the services constitutional, the Court has cautioned that such counselors cannot become too intimately involved in helping a student select particu courses in the school. Under Title XII use of the grants would appear to have infirmities both that the personnel wo be employees of the sectarian school not public employees and that the serv would be provided on the nonpublic sch premises.

(6) *Secular instructional materials equipment—In Meek v. Pittenger*, su the Court struck down a program loan secular instructional materials and eq ment directly to sectarian schools, on grounds that such loans would, given interrelationship between secular and ligious education in such schools, adve the school's religious mission. In *Wolman Walter*, supra, the Court struck down, the same reason, a program loaning equipment and materials to the stude rather than to the schools. This use of public funds provided under Title would not appear to be constitutional.

(7) *Transportation to and from scho* in *Everson v. Board of Education*, 330 1 (1947) the Court upheld the provision public expense of bus transportation tween home and school for sectarian sch children. In *Wolman v. Walter*, supra, Court held unconstitutional the public sidy of transportation for field trips by tarian schoolchildren, both because schools controlled such field trips and cause they were an integral part of the cational experience. The language used subsection 1202(b)(7) would appear to broad enough to include field trips, thus would seem to be unconstitutional.

In addition to these infirmities in the dividual uses proposed for the grants, T XII would seem to be constitutionally in in that it would provide direct grants sectarian elementary and secondary scho Every program considered by the Court w has provided funds or in-kind goods dire to sectarian elementary and second schools has been held unconstitutional. *Lemon v. Kurtzman*, supra; *Levitt v. Co mittee for Public Education*, supra; *Conn tee for Public Education v. Nyquist*, 413 756 (1973); *Meek v. Pittenger*, supra. W the program has by its nature not been li ited to secular uses only, as in the main nance and repair grants in *Nyquist*, the Co has held the program to have the inevita effect of advancing religion. Where the gram has been nominally limited to sec uses, as in the subsidies for secular teac in *Lemon*, the subsidies for tests in *Le* and the loan of secular equipment in *M* the Court has either held that the state veillance necessary to be sure the rest tions to secular use are honored would rise to excessive entanglement or that, cause of the subordination of secular fu tions to the schools' religious mission, programs would have a primary effect of vancing religion. Given the list of permiss uses for the grants in Title XII, both eff would appear likely: Excessive entanglem would likely result from monitoring schools' use of the grants to be sure that use restrictions were honored, and advan ment of religion would likely be the resul at least the secular instructional mater and equipment and the transportation and perhaps also of the secular textbook

Possible Modifications of Title XII To M It Constitutional

If the above analysis is correct, modifi tions are necessary both in the direct gr nature of the program and in several of permitted uses. In the first instance, it wo appear necessary that the grants be made directly to the sectarian school but to pu educational authorities. This would red the danger both that the grant as a wh would be found to advance religion and t excessive entanglement would be found result from the necessary continuing a

[1] The 1972 report of the President's Commission on School Finance estimated that about 93 percent of the children enrolled in nonpublic elementary and secondary schools are enrolled in church-affiliated institutions, most of which are Catholic. *Schools, People, Money: The Need For Educational Reform* (April 5, 1972), p. 53.

of the schools' use of the grants. Because of state constitutional limitations, a bypass provision comparable to that found in Section 130(b) of S. 1753 might also be included. The permitted uses would also need to be modified, as follows:

(1) *Secular textbooks*—This could be changed so that the public educational authority purchases and loans to nonpublic school students such secular textbooks as are approved for use in the public schools. The definition now in subsection 1202(c)(1) is permissible.

(2) *Standardized tests and scoring services*—To comport with *Wolman v. Walter*, supra, the public educational authority could provide the tests and scoring services in kind rather than by way of reimbursement or subsidy.

(3) *Diagnostic speech and hearing services*—Such services could be provided by public employees or persons under contract with the public educational authority, although it is permissible for such services to be provided on the nonpublic school premises.

(4) *Diagnostic psychological services*—This permitted use could be limited to services provided by public employees or persons under contract to the public educational authority, and can be provided on the nonpublic school premises.

(5) *Guidance and counseling services*—This use must, again, be limited to services provided by public personnel, and can be provided only off the nonpublic school premises, at religiously neutral sites not identified with the sectarian school. A qualification might also be added to make clear that counselors may not become engaged in planning and selecting particular courses in the sectarian school.

(6) *Secular instructional materials and equipment*—This use should be stricken altogether.

(7) *Transportation*—This use could be modified to assure that the subsidy flows to the parents or the students and is limited to transportation between home and school.

Several additional permitted uses for the grants might also constitutionally be added, as follows:

(1) Remedial and accelerated educational services and programming for handicapped children, provided by public personnel at religiously neutral sites off the premises of the sectarian school.

(2) Physical health services for nonpublic schoolchildren, such as physician, nursing, dental, and optometric services, provided by public personnel or persons under contract to the public educational authority, on or off the nonpublic school premises.

(3) Therapeutic speech, hearing, and psychological services, provided by public personnel or persons under contract to the public educational authority, at religiously neutral sites off the sectarian school premises.

Finally, a general proviso could be added that in no use of the grants should the benefits available to nonpublic schoolchildren exceed those available to public schoolchildren. That is, in every instance the disbursements made on behalf of nonpublic schoolchildren should have their equivalents in disbursements for public schoolchildren, and in no instance should the amount expended per pupil in nonpublic schools exceed the amount expended per pupil in public schools.

We hope the above is responsive to your request. If we may be of additional assistance, please call on us.

DAVID M. ACKERMAN,
Legislative Attorney.

DEPARTMENT OF JUSTICE,
Washington, D.C., August 22, 1978.

Hon. ERNEST F. HOLLINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HOLLINGS: You have asked for our views concerning the constitutionality of proposed Title XII of the Elementary and Secondary Education Act. Although our authority to give legal advice and opinions is limited by statute, see 28 U.S.C. §§ 511, 512, we are happy to give you our general comments on the proposed legislation.

Section 1202 of Title XII—Non-public Educational Assistance, would authorize the Commissioner of Education to grant funds to nonpublic elementary and secondary schools for the following purposes:

(1) secular textbooks, to non-public elementary and secondary school students which are approved by the State educational agency for use in public elementary and secondary schools in the State;

(2) standardized tests and scoring services for the use of non-public elementary and secondary school students which are in use in the public schools of the State;

(3) providing speech and hearing diagnostic services to pupils attending non-public schools, if such services are provided in the non-public school attended by the pupil receiving the services;

(4) providing diagnostic psychological service to pupils attending non-public schools if such services are provided in the non-public school receiving the services;

(5) providing guidance and counseling (A) to advise students of courses of study best suited to their ability, aptitude, and skills, (B) to advise students in their decisions as to the type of educational program they should pursue, the vocation they should train for and enter, and the job opportunities in the various fields, and (C) to encourage students with outstanding aptitudes and ability to complete a course of study necessary for admission to institutions of higher education;

(6) providing secular, neutral, and non-ideological instructional materials and instructional equipment, which are incapable of being affixed to the non-public school facility and which are capable of portability from the school to the home by the students of the non-public school.

(7) providing necessary transportation to and from non-public elementary and secondary schools to non-public elementary and secondary school children.

As you may know, our Office has had several occasions in recent months to study the constitutional limits on aid to sectarian schools. These limits are defined by the Establishment Clause of the First Amendment, which sharply curtails the extent to which government may provide such aid. Since we understand that the great majority of nonpublic elementary and secondary schools nationally are sectarian, proposed Title XII raises obvious questions under the Establishment Clause.

To withstand constitutional challenge, a legislative program providing assistance to sectarian schools must meet the three-part test developed in recent Supreme Court decisions:

First, the statute must have a secular legislative purpose; second, its principal or primary effect must be one that neither advances nor inhibits religion . . .; finally, the statute must not foster "an excessive entanglement with religion."

Lemon v. *Kurtzman*, 403 U.S. 602, 612–13 (1971). The Court has applied that test, in *Wolman* v. *Walter*, 433 U.S. 229 (1977), and *Meek* v. *Pittenger*, 421 U.S. 349 (1975), to two state-nonpublic school assistance programs similar to the program outlined in Title XII.

In *Meek*, the Court considered the validity under the Establishment Clause of a Pennsylvania statute authorizing various types of aid to nonpublic schools and students: loans of textbooks to nonpublic school students; loans of instructional material directly to nonpublic schools; and, provision of auxiliary services—remedial and accelerated instruction, guidance counseling and testing, speech and hearing services—to nonpublic schools on nonpublic school premises. The Court sustained only the textbook loan portions of the statute.

In *Wolman*, the Court reviewed an Ohio statute enacted shortly after and in light of the *Meek* decision. The Ohio statute authorized provision of the following services: a textbook loan program similar to that approved in *Meek;* standardized tests and scoring services; speech, hearing and psychological diagnostic services on nonpublic school premises; therapeutic and guidance services outside nonpublic school premises; purchase and loan to pupils or their parents of instructional materials and equipment; and, field trip transportation and related services. The Court held that only the latter two forms of aid violated Establishment Clause standards. In reaching those conclusions with respect to the services and equipment authorized under the Pennsylvania and Ohio statutes, the Court provided detailed guidance as to the extent of government aid to sectarian schools permissible under the Establishment Clause.

Based upon those decisions, it is our view that proposed Title XII fails to meet Establishment Clause standards in several respects. The principal constitutional flaw in the Title XII program is that it would provide grants directly to nonpublic schools. Although the Court has approved particular programs authorizing grants and loans to nonpublic school students and their parents, the Court has consistently indicated that direct grants to sectarian schools are constitutionally impermissible. See, *e.g., Wolman* v. *Walter*, 433 U.S. at 253; *Lemon* v. *Kurtzman*, 403 U.S. at 621.

Moreover, any program which authorizes direct government grants to sectarian schools raises serious problems of Church-State entanglement. Efforts by the Government to ensure secular use of the funds provided may result in the "comprehensive, discriminating, and continuing state surveillance" that the Establishment Clause prohibits. *Wolman* v. *Walter*, 433 U.S. at 254; *Lemon* v. *Kurtzman*, 403 U.S. at 619. Such a program also creates the potential for continuing political strife along religious lines. See, *e.g., Meek* v. *Pittenger*, 421 U.S. at 372.

In addition, in those instances where the Court has sustained the grant or loan of materials and services, the statutory program has provided equal benefits to both public and private school students. See, *e.g., Meek* v. *Pittenger*, 421 U.S. at 360 and n. 8, 362 n. 12. Although the report of the Senate Committee on Human Resources refers to "equitable participation" of nonpublic school students, see S. Rep. No. 95–856, 95th Cong., 2d Sess. 87 (1978), portions of Title XII focus solely on aid to private schools without regard to whether public school students are entitled to receive equivalent materials and services.

Finally, the guidance and counseling section of Title XII fails to observe the careful lines drawn by the Court with respect to those forms of aid, as it does not foreclose the possibility that these services may be provided on nonpublic school premises or by personnel employed by the nonpublic school or subject to its influence or control. *Wolman* v. *Walter*, 433 U.S. at 248; *Meek* v. *Pittenger*, 421 U.S. at 371–72.

In short, our review of recent Supreme Court interpretations of the Establishment Clause indicates that the proposed Title XII program of direct grants to nonpublic schools, if challenged in the courts after enactment, would be held to be unconstitutional. I hope that our comments are helpful to you.

Sincerely,

JOHN M. HARMON,
Assistant Attorney General,
Office of Legal Counsel.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., June 23, 1978.

Hon. HARRISON A. WILLIAMS, Jr.,
Chairman, Committee on Human Resources,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In a colloquy between Senators Pell and Javits during the Human

Resources Committee mark-up of S. 1753, the Department was asked to state its views on the cost, administrability, and constitutionality of the Non-public Educational Assistance Act of 1978, which the Committee bill would include as a new title XII of the Elementary and Secondary Education Act of 1965.

Under this new program, the Commissioner of Education would be authorized to make grants directly to non-public elementary and secondary schools to be used to purchase the following materials or services:

(1) secular textbooks approved for use in public schools,

(2) standardized tests and scoring services,

(3) speech and hearing diagnostic services,

(4) diagnostic psychological services,

(5) guidance and counseling relating to educational and vocational decisions,

(6) secular, neutral, and non-ideological instructional materials and equipment,

(7) transportation to and from non-public schools.

Grants would be made upon an application containing assurances that funds received would be used only for the purposes of the new program. The new title contains no criteria for distributing available funds among eligible schools. There is no needs test or other device in the title to focus the programs on particular types of non-public schools. The only eligibility criteria are that a recipient school must be accredited or approved under State law and exempt from taxation as a nonprofit organization described in section 501(c)(3) of the Internal Revenue Code of 1954.

Because of the broad nature of the assistance authorized under the proposed new program, a definitive estimate of its cost is not possible. The authorization of appropriations in section 1207 is for $500,000,000 annually through fiscal year 1983. However, we cannot judge at this time whether that amount exceeds or falls short of the amount necessary to meet the reasonable needs of non-public schools for services that would be authorized under title XII.

We may be able to make some rough approximations of likely demand for appropriations under this program based on State experience with similar programs. In the Pennsylvania program which was the subject of the Supreme Court's *Meek* v. *Pittenger* decision, $17,560,000 was appropriated for school year 1973–74 for textbooks and instructional materials for that State's approximately 400,000 non-public school children (approximately $44 per child). For a similar Federal program, even without adjusting for inflation, we can assume that the cost for this portion of the activities authorized under the new program would be approximately $250,000,000 for the 5,000,000 non-public school children in the country. This figure, of course, represents the cost of only a portion of the uses of funds authorized by title XII.

In the Ohio program that was partly upheld and partly invalidated by the Supreme Court in *Wolman* v. *Walter*, $88,000,000 was appropriated for two years (1975 and 1976) for a range of services very similar to those that would be authorized under title XII. This represents approximately $175 per year for each of the 250,000 children enrolled in the non-public schools in Ohio. At that level of support, again without adjusting for inflation, the Federal program would cost roughly $875,000,000 annually.

We foresee serious problems in administering this new program. One of those would be the need to coordinate this program with similar State programs. Many States already provide some or all of the services that would be authorized under title XII. Transportation and texbooks are the items most frequently provided by the States for children in private schools. We would need to devise some means for determining what the legitimate needs are of private schools under the program to ensure that this assistance would not duplicate or supplant the efforts of the States. Moreover, the existence of such a Federal program would be a disincentive for States to create or broaden their own programs for assistance to non-public school children.

Another administrative problem is the sheer number of schools that would be eligible under the program. There are about 18,000 nonpublic schools that could receive grants under the program. If all eligible schools were to apply for assistance under this program, the processing of that number of grants would be an expensive and time-consuming task. Assuming that one-half a person-day would be needed to review each application, a staff of at least 80 persons would be required. That size staff would be sufficient to perform only minimal review and monitoring functions for the new program.

With regard to the constitutionality of the proposed new program, the Department of Justice has advised us, on the basis of its prior opinions concerning the Establishment Clause of the First Amendment and the Supreme Court's decisions in *Wolman* v. *Walter* and *Committee for Public Education* v. *Nyquist*, that it believes title XII would be held to be unconstitutional.

In view of the foregoing, the Department is opposed to the enactment of this legislation.

OMB advises that there is no objection to the presentation of these views, and that enactment of the non-public Educational Assistance Act would not be in accord with the President's program.

Sincerely,

DICK WARDEN,
Assistant Secretary for Legislation.

HARVARD LAW SCHOOL,
Cambridge, Mass., August 18, 1978.

Hon. ERNEST F. HOLLINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HOLLINGS: I am glad to respond to your invitation to express my opinion on the question whether the program of grants authorized by Title XII, as added by Section 112 of S. 1753, appears to be constitutional under recent Supreme Court decisions. The problem relates, of course, to various categories of grants to church-related elementary and high schools, including schools which impose sectarian qualifications for admission of students or appointment to the faculty, and schools whose purpose is to integrate religious and secular instruction.

As you know, problems of public aid in this area have come under intensive judicial review in recent years, beginning with *Lemon v. Kurtzman* and *Early v. DiCenso*, 403 U.S. 602 (1971), through *Committee for Public Education v. Nyquist*, 413 U.S. 756 (1973), *Sloan v. Lemon*, 413 U.S. 875 (1973), and *Levitt v. Committee for Public Education*, 413 U.S. 825 (1973), to *Meek v. Pittinger*, 422 U.S. 1049 (1975) and *Wolman v. Walter*, 97 S.Ct. 2593 (June 24, 1977). The *Wolman* case involved an Ohio program of state aid which appears to have served in some respects as a pattern for the new Title XII, with certain differences the significance of which becomes important to consider.

In general, the Court since its comprehensive consideration of the issues in the 1971 decisions has applied a three-part standard for judging the validity of public aid to church-related schools: the primary purpose must be secular; the aid must not in its effect directly and materially impede or advance the cause of religion; and there must be no undue entanglement of church and state in the administration or political aspects of the program. Applying these standards, the Supreme Court has held invalid a series of programs of public aid, includ unrestricted grants, partial payment of aries of teachers in secular subjects, and grants of instructional materials in ular subjects, partial tuition rebates tax credits to parents. The Court has tained certain forms of aid, namely, the of publicly adopted secular textbooks students and the provision of various pedagogical services to students.

With this general background, let me to the specific categories of grants in proposed Title XII.

TEXTBOOKS

Subsection (1) authorizes federal gr to religious and other nonpublic schools secular textbooks "to . . . students." This thority goes beyond the decisions that upheld the provision of textbooks in lim circumstances. Those precedents derive f the *Allen* case, 392 U.S. 236, decided in which sustained the loan of secular t books to students in nonpublic as wel public schools. *Allen* was based on an ana to the bus-fares precedent, which had phasized the distinction between benef the pupil and that to the religious sch The whole line of decisions thereafter, ploying the three-pronged standard, has the *Allen* case as an anomaly. The Court been reluctant to overrule it but has lim it to its precise facts. It was followed in *Meek* and *Wolman* cases, *supra*, where textbook provisions were identical with t in *Allen*. Where there has been a differe the Court has distinguished *Allen*. In *Pa Funds for Public Schools v. Marburger*, U.S. 961, the Court in a per curiam opi affirmed a district court decision stri down a textbook program that called reimbursement of parents of nonpu school children for the purchase pric secular books while public school pupils only loaned such books. Moreover, as wil seen, the Court has refused to apply *Alle* principle to the loan of instructional m rials that are not textbooks. The resul as the Court has frankly acknowledge "tension" between *Allen* and the line of decisions on public aid. *Wolman*, p. 260 18. *Allen* has been followed as "a matte *stare decisis*." *Ibid.*

Subsection (1) appears to be outside shelter of *Allen* in three respects. Firs does not prescribe a loan of books to stud but would authorize a use of funds for chase by students. Second, it does not quire that the books be owned by the pu authorities. Third, it contemplates a gra funds to religious schools, not a grant or in kind, and thus necessitates a degre supervision over the use of the funds raises problems of administrative entan ment not involved in *Allen* and its seq For these reasons, in my opinion, the book provision does not satisfy the strict special criteria of validity that the Court insisted on in the textbook cases.

INSTRUCTIONAL MATERIALS AND EQUIPM

The anomalous character of the text cases is shown by comparison with the ings concerning other secular teaching m rials, like maps, globes, charts, tape recor and science kits, the kind of portable eq ment covered in subsection (6). These m seem more acceptable public provisions textbooks, from the standpoint of pos use in religious instruction. And yet in *man* in 1977 the Court refused to sanc these, even when merely loaned to the dent. As in all the cases, the Court stre the inseparability of the religious and lar components in the mission of relig schools: "Thus, even though the loan os sibly was limited to neutral and secular strumental material and equipment, it escapably had the primary effect of pro ing a direct and substantial advancemen the sectarian enterprise." 97 S. Ct. at 26

I therefore conclude that subsection (6) is incompatible with governing Supreme Court law.

STANDARDIZED TESTS AND SCORING SERVICES

The authority to subsidize these appears to be supported by the *Wolman* case. In formulation, execution and evaluation the *public school system is in control*, and use for sectarian purposes is hardly possible.

SPEECH AND HEARING DIAGNOSTIC SERVICES

Subsection (3) differs from a corresponding provision upheld in *Wolman* in that here there is no requirement, as there was in *Wolman*, that the technician performing the services be employed by the State. The issue in *Wolman* was whether the performance of the services on the premises of the religious school would place "pressure on the public diagnostician to allow the intrusion of sectarian views." The Court held the risk to be minimal, distinguishing the case of a therapeutic relationship, where, it was held, following the *Meek* case, the subsidized services must be performed off the premises of the religious school. The validity of subsection (3) is thus not free from doubt, as it would be if it were limited to paying for the services of a publicly employed diagnostician.

DIAGNOSTIC PSYCHOLOGICAL SERVICE

Subsection (4) is possibly vulnerable for the same reasons as (3), and in somewhat greater degree, since the process is less mechanical and more open to the risk of sectarian indoctrination than speech and hearing diagnosis. Again, a requirement of public employment would probably avoid the problem.

GUIDANCE AND COUNSELING

Subsection (5) includes advice regarding both courses of study and career plans. These are so intimately related to the religious aspect of the school that public subsidy seems clearly impermissible. Indeed, in *Wolman* the Court indicated that even off-premise counselling of this kind would not be a legitimate object of public aid for religious-school pupils. As to "planning and selection of particular courses" the Court said: "We agree that such involvement with the day-to-day curriculum of the parochial school would be impermissible." 97 S.Ct. at 3604, n. 13. Subsection (5) is not compatible with the governing constitutional limitations on public aid.

The foregoing analysis has been based on decisions of the Supreme Court in the last decade. Account has not been taken, thus far, of dissenting views in the Court. In that regard, it should be noted that in *Wolman*, the most recent and most closely applicable case, there were Justices who would have taken a more permissive position regarding public aid, and others who would have taken a more restrictive position. In the first group, for example, the Chief Justice and Justices White and Rehnquist would have upheld the provision of instructional materials, and Justice Powell would have done so to the extent they were loaned to students by the State. On the other hand, Justices Brennan, Marshall and Stevens would have struck down the loan of textbooks and all the other forms of public aid (except perhaps diagnostic services by employees).

It should be remarked that the precedents have involved State, not Federal, aid. Since the mandate of the First Amendment is applicable expressly to the Federal government, and only by absorption into the Fourteenth against the States, it is not to be expected that the Court will approve more relaxed standards for the Federal government under the Establishment Clause.

I trust that this analysis will be of some service to you and your colleagues.

Sincerely,

PAUL A. FREUND.

COMMUNITY SCHOOLS

● Mr. CHURCH. Mr. President, many public programs are putting a greater emphasis on the role the community can play in the development and delivery of services. More and more focus is being placed on community health care. Neighborhoods are the center of new housing, health care, and social services proposals. Volunteer programs are being urged to involve the community as much as possible.

I have long thought that community support is essential for the success of such programs. This is why I became interested in community education, which had emerged in Flint, Mich., where the schools were "given to the community" after official school hours. Community residents, young and old, were encouraged to use the school facilities for an array of educational, recreational, and social services. Flint responded so positively that community schools soon flourished elsewhere in the Nation.

In 1971, I introduced legislation to create a federally assisted community schools program. This legislation was incorporated into the Elementary and Secondary Education Act and is now administered by the Office of Education.

Therefore, I was very pleased to join Senator WILLIAMS in sponsoring S. 2711 which creates an expanded community education program, a new title X for community schools under the Elementary and Secondary Education Act. The support that the chairman of the Human Resources Committee, Mr. WILLIAMS, and the chairman of the Subcommittee on Education, Mr. PELL, have given to community education is to be commended. I congratulate them for their leadership in seeing that the new title for community schools has become a significant part of the Elementary and Secondary Education Act.

The new title X reflects the interest and growth in community education that have occurred in recent years. Greater support is given to both State and local educational agencies to develop and expand their community education programs. This support is intended to assist the State and local agencies to coordinate with other educational, recreational, health, and social services to work together to serve the particular needs of the communities.

I was particularly pleased that the bill contains a section that encourages the coordination of community education with other programs. As chairman of the Senate Committee on Aging, I am well aware the importance that a comprehensive community education program can have for the elderly. New friends, new learning, recreational activities, nutrition, and health services encourage them to take an active reentry into community life and concerns.

Mr. President, community education gives people themselves a voice in deciding what services can meet their needs. This legislation encourages that concept and I urge the Senate to act favorably.●

REDUCTION IN RATE OF EXCISE TAX ON INVESTMENT INCOME OF PRIVATE FOUNDATIONS

Mr. ROBERT C. BYRD. Mr. President, under the order that already has been ordered, I ask the Chair to lay before the Senate H.R. 112, Calendar No. 721.

The PRESIDING OFFICER. The bill will be stated by title.

The second assistant legislative clerk read as follows:

A bill (H.R. 112) to amend the Internal Revenue Code of 1954 to reduce the excise tax on the investment income of private foundations from 4 percent to 2 percent.

The Senate proceeded to consider the bill.

Mr. LONG. Mr. President, I ask unanimous consent that during floor consideration of various Finance Committee bills this afternoon, the following Finance Committee staff members be permitted on the floor: Mike Stern, Joe Humphreys, Bob Cassidy, Bill Finan, Jack Curtis, Charles Bruce, Bill Galvin, George Pritts, Jim Heinhold, and Rick Johnston.

And the following Joint Committee on Taxation staff members: Bob Shapiro, Mark McConaghy, Don Ricketts, Carl Bates, Michelle Scott, Harold Hirsch, Alvin Geske, and Errol Halperin.

The PRESIDING OFFICER. Without objection, it is so ordered.

The following Senators requested the privilege of the floor for certain staff members; and, by unanimous consent, the requests were granted: Mr. PROXMIRE, Mr. MCINTYRE, Mr. GRAVEL, Mr. MOYNIHAN, Mr. HART, Mr. CHAFEE, Mr. THURMOND, Mr. HATHAWAY, Mr. BAYH, Mr. BARTLETT, MRS. ALLEN, and Mr. KENNEDY.

The staff members are as follows: Howard Shuman, David Allen, Chester Finn, Peter Gold, Terry Johnson, Bill Donovan, Carey Parker, Tom Connaughton, Jim Magner, Jim Lochemy, Pam Melton, Sally Rogers, Deming Cowles, Jerry Gauche, Ed King, and Mike Rousch.

Mr. LONG. Mr. President, H.R. 112 reduces from 4 to 2 percent the rate of excise tax imposed annually on the net investment income of domestic private foundations, under section 4940 of the Internal Revenue Code.

The Tax Reform Act of 1969 enacted a 4-percent excise tax to be imposed on the net investment income of all private foundations. In each of the last 6 years, this tax had produced more than twice the revenue needed to finance the operations of the Internal Revenue Service with respect to all types of tax-exempt organizaions, including private foundations. Thus even after the tax is reduced from 4 to 2 percent, it will produce more revenue than the estimated cost of Internal Revenue Service operations with respect to all exempt organizations.

Under the charitable payout rules made applicable to private foundations by the 1969 act, the amount of this tax is subtracted from the minimum amount that such foundations must spend or grant for charitable purposes. Thus in many cases, the tax actually has reduced charitable expenditures. In these cases,

the reduction in the tax made by this bill will result in a corresponding increase in charitable expenditures or grants.

This experience with the tax since 1969 and its adverse impact on charitable expenditures has led the Finance Committee to conclude that it is appropriate to cut the tax rate in half for taxable years beginning after September 30, 1977.

Mr. President, the Senate approved a provision reducing the rate of this tax during its consideration of the 1976 Tax Reform Act. However, the House conferees did not at that time accept the provision. The House has now approved reducing the rate of this tax, and I urge the Senate likewise to adopt H.R. 112.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. PROXMIRE. Was there a hearing on this bill?

Mr. LONG. Yes; there was.

Mr. PROXMIRE. Who is the primary beneficiary?

Mr. LONG. I do not think there is any primary beneficiary, because this involves all foundations.

Incidentally, I say to the Senator that I have no enthusiasm at all for the bill, but everyone else on the committee favors it.

Mr. PROXMIRE. I am asking some routine questions. I am sure I understand what the bill does. Was there a revenue loss estimated on this or not by the Treasury?

Mr. LONG. Yes. The revenue loss is estimated to be $2 million for fiscal year 1978 and over a 4-year period a decrease in budget receipts of $27 million a year.

Mr. PROXMIRE. $27 million?

Mr. LONG. This involves all foundations.

Mr. PROXMIRE. What is the Treasury's position on this?

Mr. LONG. They favor it.

Mr. PROXMIRE. I thank the Senator.

Mr. CURTIS. Mr. President, as the ranking minority member of the Committee on Finance, I support H.R. 112. This will would reduce the rate of tax on private foundation investment income from 4 percent to 2 percent. This bill is not opposed by the administration and similar legislation has previously been passed by the Senate.

Passage of this bill is particularly important, Mr. President, since it will reinstate a long-standing Federal policy of not subjecting charitable, educational, and similar organizations to a general revenue tax. As many of my colleagues will recall, the Tax Reform Act of 1969 subjected private foundations to substantial restrictions both with respect to their financial practices and their grant-making activities. The House version of the 1969 legislation also subjected foundations to limited income tax both for general revenue purposes and to fund audits of tax-exempt organizations by the Internal Revenue Service.

In 1969, the Finance Committee and the full Senate concluded that foundations should pay only an audit fee tax. However, the House-Senate conference rejected this approach and adopted the 4 percent tax that is now part of the Internal Revenue Code. Thus, for nearly 8 years, private foundations have been subject to a general revenue tax. As the Finance Committee's report on H.R. 112 points out, this tax has produced more than twice the revenue needed by the IRS for its activities with respect to tax-exempt organizations.

The Senate has addressed this issue in the interim period since 1969. Hearings were held by one of the Finance Committee's subcommittees and, as part of the Tax Reform Act of 1976, the Senate adopted a tax reduction provision which was virtually identical to that contained in H.R. 112, the bill which is now before us. The Senate version of the 1976 act also contained an amendment reducing the so-called "minimum investment return" percentage applicable to private foundations to 5 percent. Neither amendment was opposed by the then current administration, but the House conferees on the 1976 act would only accept one of the two foundation amendments. After considerable discussion, the tax reduction amendment was deleted from the 1976 act. However, the House conferees agreed that the tax reduction issue would be reexamined by the Ways and Means Committee at a later date. H.R. 112 is the product of that reexamination and I urge the Senate to once again indicate its support for the proposition that private foundations should not be subject to a general revenue tax. Audit fees are one thing, but a general revenue tax is an inappropriate and unwarranted departure from well-established Federal tax policies. Passage of H.R. 112 will return us to a more appropriate tax policy.

In closing, Mr. President, let me emphasize that this tax reduction bill will not permit foundations to retain funds that would otherwise be paid in taxes. As the Finance Committee's report points out, the tax on investment income reduces the amount which foundations are required to expend or distribute for exempt purposes. Consequently, a reduction in tax will produce a corresponding increase in the flow of foundation grants to our schools, hospitals, and other recipients of foundation support.

For all of these reasons, Mr. President, I support H.R. 112 and urge the Senate to pass it promptly.

● Mr. GRAVEL. Mr. President, as Chairman of the Finance Committee Subcommittee on Energy and Foundations, I was pleased to introduce S. 2204, the Senate companion bill to H.R. 112. Along with more than 50 of my colleagues here in the Senate I sought to reduce the tax on foundations from 4 percent to 2 percent. Reduction of the 4-percent tax on foundations to 2 percent will restore $30 million to charitable purposes. The tax on foundations reduces directly, dollar for dollar, the charitable distributions of foundations. Foundations are required to distribute for charitable purposes the greater of their net income or 5 percent of the value of their assets. Under this minimum payout requirement the law allows foundations to credit as a payout for charitable purposes the amount pa as tax. Thus, the tax directly redu the amount which foundations are r quired to distribute for charitable pu poses. A reduction in the tax will direc increase, by the exact amount of t tax reduction, the flow of funds fro foundations for charitable purposes.

The 4-percent tax was requested Treasury in 1969 to cover the costs auditing foundations and enforcing co pliance with the law. Prior to 19 foundations were free from tax. T 1969 Tax Reform Act instituted restr tions on foundations and requi Treasury to enforce these restrictio Since then the Internal Revenue Serv has audited nearly all U.S. foundatio and found high compliance with the 19 reforms. The Service has determin that the tax could be reduced to 2 p cent while still covering the costs volved in auditing and enforcing t law with respect to foundations. Tre ury has estimated the costs of sup vising foundations at $10 million a nually. But reducing the tax to 2 p cent Treasury will still raise $30 mill annually from foundations, more th enough to finance IRS supervision a enforcement.

Private philanthropy has traditiona served an important function in our N tion. The foundations have taken lead ship roles in education, health servi housing, and community developme Foundations have the flexibility and dependence to act where governm cannot, to develop innovative and p haps politically infeasible new ideas programs. Once proven, these progra are often adopted by government ag cies while the foundations go on to br new ground elsewhere.

The passage of H.R. 112 marks culmination of a long process and I pleased to see that the Senate has act as it has acted in the past, to encour private philanthropy in America.●

AMENDMENT NO. 2251

(Purpose: To extend for 4 years the exclu from gross income of amounts which resent a discharge of indebtedness un certain student loan programs)

Mr. LONG. Mr. President, I send to desk an amendment and ask for its mediate consideration.

The PRESIDING OFFICER. T amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LO proposes for himself and Mr. HASKELL amendment numbered 2251.

SEC. . Subsection (c) of section 211 the Tax Reform Act of 1976 (relating cancellation of certain student loans) amended by striking out "January 1, 19 and inserting in lieu thereof "January 1983".

Mr. LEAHY. Mr. President, will Senator yield for a unanimous-con request?

Mr. LONG. I yield to the Senator f Vermont.

Mr. LEAHY. Mr. President, I ask un imous consent that Michael Choal of my staff, be accorded the privileg the floor during debates and v throughout the remainder of the da

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. PERCY. Mr. President, will the Senator yield for the same purpose?

Mr. LONG. I yield.

Mr. PERCY. Mr. President, I ask unanimous consent that Lawrence Gersham, of my staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. MOYNIHAN. Mr. President, before we pass on this matter, I wish to cosponsor the measure, and I express my appreciation and very deep gratitude on behalf of the foundation officials, boards of directors, and recipients, I should think, around the country for the courtesy that the distinguished chairman and distinguished ranking minority member of the committee have shown in this matter.

As a cosponsor of this measure, I rise to speak in support of its passage. Private foundations have played a distinctive and invaluable role in our history—and in world history, for many of them are international in their scope—for the past half century. In one field after another, they have provided sustenance to important endeavors ranging from biomedical and agricultural research to art museums and symphony orchestras. They have supported advanced scholarship in many subjects and major research centers.

Their contributions to education, health care, and social welfare have been superb. Although less celebrated, the majority of foundations are small, community-centered organizations that have concentrated their good work on local needs and concerns.

Perhaps especially noteworthy is the record of private foundations as the vanguard of social progress, supporting major undertakings that were—particularly in their early days—inappropriate or politically impractical areas for Government to become directly involved with. Of these, surely the most significant is the civil rights movement, broadly described.

These endeavors have not been without controversy, and in some instances have not succeeded as well as their optimistic sponsors had hoped. But one of the distinctive features of private foundations—one so conspicuously lacking in Government agencies—is their capacity for learning from experience and for redirecting their efforts into promising pursuits.

Foundations have also provided sustained funding to other programs whose character was not conducive to funding by commercial institutions. Millions of children view Sesame Street which is in part funded by a grant from the Ford Foundation.

The taxation of investment income of foundations was not meant to be a revenue-raising measure, but was rather meant to provide the IRS with enough money to administer the tax laws applying to private foundations.

The experience of the IRS is that at the present 4 percent tax rate, it was collecting twice the money that it needed to administer this program. Besides raising revenue from a source that was never intended to provide it, this tax also reduced the amount of money that these foundations contributed to the various programs they funded, thus undermining their purpose.

I urge my colleagues to correct this inequity.

Mr. BENTSEN. Mr. President, will the Senator yield me a couple minutes?

Mr. LONG. I yield.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I fully support this measure which I have cosponsored in the past. I thank the chairman of the committee and the manager of the minority for their assistance on this.

The 4-percent excise tax was originally enacted to cover some of the auditing costs of foundations, and it was found to be excessive. The 2-percent proposal is much more in line with what is needed.

The 4-percent excise tax on investment income of private foundations was enacted 8 years ago. This tax has produced more than twice the revenue needed to finance the operations of the Internal Revenue Service with respect to tax-exempt organizations.

Because of the operation of the private foundations charitable distribution provisions, this tax reduces the minimum amount that private foundations are required to spend or grant for charitable purposes. In many cases, the tax actually has reduced charitable expenditures.

Because of the adverse impact of this tax on charitable expenditures, it is now appropriate to cut the tax rate in half.

Mr. President, this bill will help private foundations fulfill such important objectives as promotion of better health care and greater educational opportunities for all Americans. The 4-percent excise tax reduces the amount of funds available for such worthy public objectives.

I urge the Senate to reduce this excise tax from 4 to 2 percent.

Mr. GRAVEL. Mr. President, will the Senator yield?

Mr. LONG. I yield to the Senator from Alaska.

Mr. GRAVEL. Mr. President, as a prime sponsor of this legislation I obviously think it has great merit. I am very happy that we finally got it cleared to go to the other body.

I understand that there will be an unusual amendment proposed on it. I understand also that the chairman of the full committee will be opposing that effort pending action by Congress or a decision collectively going into next September.

I say to my colleagues who intend to put an amendment on this that here is something that is very meritorious. It is a technical correction to an injustice that has existed. It involves a considerable sum of money, $29 to $34 billion for the foundations which will permit them to get more money into research and other activities that the foundation money is used for.

There are several other type measures available of a tax nature.

The chairman of the full committee has been very provident in this, and we have a little cache in the Finance Committee where we hide these little measures and every so often when one is needed, the chairman reaches down in this little cache and pulls one out and we load a saddle on this little bill and sometimes it is an old dilapidated saddle, sometimes it is the most glorious silver saddle you have ever seen in New Mexico. It depends on the situation.

So I just caution my colleagues that I am for what they are trying to do, but I think there is going to be a point in time here where we should cut out what can be saved in an intelligent energy bill that is noncontroversial that will enhance the energy-solving problems in this country and put it on a piece of legislation, and I would be voting for that and speaking for it.

But I tactically, too, do not want to see this vehicle sacrificed for that cause, and that is what would happen in this point in time because what my colleague has done is he has a good thought but I do not think that all the bases have been covered and everyone brought in because we all want to be party to this effort, and I think that not only in this Chamber but on the Ways and Means Committee, so it would do us little value to send over to the House of Representatives something that is going to go to the Ways and Means Committee but they are not going to take up because they do not think it is time to move in this area.

Mr. HART. Mr. President, will the Senator yield?

Mr. GRAVEL. I am happy to yield.

Mr. HART. Obviously, we are discussing an amendment which has not been offered yet, so I think we should wait until the amendment is offered.

I only make two observations. One, there is never going to be a perfect vehicle, and someone who is going to be particularly a principal sponsor of the vehicle is going to object because it may jeopardize that vehicle. So someone is going to have the same complaint on any bill that comes up.

Mr. GRAVEL. If I could just speak to that one point briefly, we have bills in this little cache in the Finance Committee that no one objects to. I can assure the Senator the silkworm bill would be a great vehicle for this to ride on. That little silkworm will just crawl right across this Senate floor over to the House Ways and Means Committee and no one on the floor is going to fight his heart out for the silkworm bill. We have other bills just like that, I can assure the Senator. When we get something that affects all the foundations in the country we have ourselves a little bit of a bearcat on our hands.

I do not think the Senator does his cause any justice in that regard.

Now as to the Senator's second point——

Mr. BUMPERS. Mr. President, will the Senator yield?

Mr. GRAVEL. I yield to Senator Hart who had a second point he wished to make.

Mr. HART. Only it is important in these considerations not merely to have a vehicle that no one objects to but also to have a vehicle that some people want. Vehicles have a way of disappearing here. And then what is imperative on an issue of this sort is to save a vehicle that someone wants.

Mr. GRAVEL. Let me say to my colleague that he has a saddle bigger than the burro here because what he wants is more important than the foundation bill because once there is a consensus reached there is going to be a lot of support for this. In fact, individually, as I understand what would be proposed is not objectionable, but I think it would work better based upon a broader consensus of Congress, and I do not mean just this body or individual Members, but I think the bases have to be touched on the House side with the Ways and Means Committee, and the like.

So I did not want to debate the merits of what the Senator is proposing. I was merely making an appeal to keep this bill virgin because we were careful in the Finance Committee not to touch a line of this bill so that it would go back to the House of Representatives and be accepted immediately.

There will be nothing that we have to go to conference. So what my colleague is going to do is going to bring us to conference and we are back again with the brouhaha with energy. So he will not have advanced his situation by any time element.

So I hope that my colleague will reconsider the tactical advantage of adding energy matters to this foundation corrective legislation.

Mr. BUMPERS and Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, I shall explain briefly the amendment that I have offered here.

Incidentally, Mr. President, while the amendment bears my name, because I brought it to the desk, this is really the amendment of Mr. HASKELL, the Senator from Colorado.

I ask that his name appear on the amendment because it is his amendment that I offer on behalf of the committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, under certain student loan programs established by the United States and various State and local governments, all or a portion of the loan indebtedness may be discharged if the student performs certain services for a period of time in a certain geographical area pursuant to conditions in the loan agreement. In 1973, the Internal Revenue Service ruled on a situation in which a State medical education loan scholarship program provided that portions of the loan indebtedness are discharged on the condition that the recipient practices medicine in a rural area of the State. The Service determined that amounts received from such a loan program were included in the gross income of the recipient to the extent that repayment of a portion of the loan is no longer required. In 1974, the Service determined that this ruling would be applied only to loans made after June 11, 1973, the date of the 1973 ruling.

The Tax Reform Act of 1976 provided that in the case of loans forgiven prior to January 1, 1979, no amount shall be included in gross income by reason of the discharge of all or part of the indebtedness of the individual under certain student loan programs if the discharge was pursuant to a provision of the loan agreement under which all or part of the indebtedness of the individual would be discharged if the individual works for a certain period of time in certain professions in certain geographical areas or for certain classes of employers.

The committee amendment would provide a 4-year extension, through January 1, 1983. Under the amendment, loans forgiven prior to January 1, 1983, would not be included in the taxpayer's income.

The PRESIDING OFFICER. Is there further discussion of the amendment? The question is on agreeing to the amendment of the Senator from Colorado.

The amendment was agreed to.

AMENDMENT NO. 3521

(Purpose: To increase the credit for State-imposed taxes on coin-operated devices and to repeal the Federal tax on such devices)

Mr. LONG. Mr. President, on behalf of Senator LAXALT and Senator CANNON I send to the desk an amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG), on behalf of Senators LAXALT and CANNON, proposes a printed amendment numbered 3521.

Mr. LONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . (a) Paragraph (2) of section 4464 (b) of the Internal Revenue Code of 1954 (relating to limitations on the credit for State-imposed taxes) is amended by striking out "80 percent" in the heading and text thereof and inserting in lieu thereof "95 percent".

(b) Subchapter B of chapter 36 of such Code is repealed.

(c)(1) Section 4402(2) of such Code (relating to exemptions from taxes on wagering) is amended to read as follows:

"(2) COIN-OPERATED DEVICES.—On any wager placed in a coin-operated device (as defined in section 4462 as in effect for years beginning before July 1, 1980), or on any amount paid, in lieu of inserting a coin, token, or similar object, to operate a device described in section 4462(a)(2) (as so in effect), or".

(2) Subsection (a) of section 4901 of such Code (relating to payment of occupational tax) is amended by striking out "or 4461 (a)(1) (coin-operated gaming devices)".

(d)(1) The amendment made by subsection (a) shall apply with respect to years ending June 30, 1979 and June 30, 1980.

(2) The amendments made by subsections (b) and (c) shall apply with respect to years beginning after June 30, 1980.

Mr. LONG. Mr. President, the committee approved the amendment and, as I say, this amendment was the amen[illegible] ment of Senator LAXALT on behalf [illegible] himself and his colleague from Neva[illegible]

This committee amendment deals w[illegible] the Federal excise tax on slot machin[illegible] and other coin-operated gaming devic[illegible]

Under present law an annual tax [illegible] $250 is imposed upon each slot machi[illegible] and gaming device. If a State impo[illegible] a similar tax, the State tax is a cre[illegible] against up to 80 percent of the Fede[illegible] tax. This State tax credit facilitates [illegible] raising of State revenue which, [illegible] Nevada, for example, is used to prov[illegible] assistance to the schools.

This Federal tax contributes o[illegible] about $6 million to the Treasury. [illegible] cause of these considerations, the co[illegible] mittee amendment raises the limitati[illegible] on the State tax credit from 80 perc[illegible] to 95 percent for years ending June [illegible] 1979, and June 30, 1980, and repeals t[illegible] tax for years beginning after June [illegible] 1980.

The Treasury Department does [illegible] oppose the repeal of this tax.

Mr. CANNON. Mr. President, will [illegible] Senator yield?

Mr. LONG. I yield.

Mr. CANNON. During the 91st C[illegible] gress I offered, together with my c[illegible] league, Alan Bible, legislation to prov[illegible] that 80 percent of the Federal occu[illegible] tional taxes collected on coin-opera[illegible] gaming devices be credited for simi[illegible] taxes imposed by a State where the op[illegible] ation of such devices is legal.

This has been very important to u[illegible] Nevada. These taxes have been e[illegible] marked for education purposes.

The prevailing sentiment at that ti[illegible] was that Federal jurisdiction in the a[illegible] of coin-operated gaming devices was p[illegible] marily for oversight purposes and [illegible] for raising revenue. Therefore, I [illegible] extremely pleased when my propo[illegible] was agreed upon and signed into pu[illegible] law. My feeling at that time was t[illegible] the credit figure should have b[illegible] higher than 80 percent. Thus, I stron[illegible] urge support of this measure wh[illegible] would amend the Internal Revenue C[illegible] of 1954 to increase the limitation on [illegible] credit to 95 percent in 1979 and 19[illegible] and to 100 percent after that.

I would like to point out that [illegible] Nevada Legislature enacted legislation [illegible] insure that proceeds resulting from [illegible] Federal credit be earmarked for the s[illegible] port of the State's public school syst[illegible] I fully expect that this arrangement [illegible] continue if the proposed change [illegible] agreed upon by Congress.

The fact is the revenues from [illegible] taxes are extremely minor. In any eve[illegible] I believe this proposed change is m[illegible] reasonable. This provision was sim[illegible] never intended as a revenue-rais[illegible] measure.

Additionally, this change is enti[illegible] consistent with the findings and reco[illegible] mendations of the Commission on Rev[illegible] of the National Policy Toward Gambli[illegible] which recommended that State gove[illegible] ments have sole jurisdiction for legali[illegible] gaming activity.

● Mr. LAXALT. Mr. President, I [illegible] pleased to support my distinguished s[illegible] ior colleague in his advocacy of t[illegible] amendment. We have both worked lo[illegible]

and hard in this effort, and I wish to commend him for his labors.

Section 4461 of the code imposes a $250 annual tax on coin-operated gaming devices. In 1971, an amendment was added to allow an 80-percent credit for State taxes paid on these devices. I would, today, like the Senate to consider raising the credit level to 95 percent.

Moneys obtained from this credit have been very helpful to Nevada education and it is for this reason that I urge the Senate to expand it. Under State law, an amount equal to the credit is made available for education. The first $5 million is allocated to a fund earmarked for capital improvements in the University of Nevada system, including the community colleges. Funds in excess of $5 million go to the State distributive school fund, which, under Nevada law, is the principal mechanism for distributing State assistance to local school districts.

By Federal standards, the revenue losses associated with expanding the credit are rather small. But they are extremely important for education in my State. In 1977, the slot tax grossed $14 million, 80 percent, or $11.8 million, of which was offset by the State credit. Our estimates indicate that, at the 95-percent figure, $13.7 million would be available to the State, thus yielding an additional $2 million for Nevada education. In 1977, the State Legislature established a special Higher Education Capital Construction Fund in anticipation of an increase in the amount of the credit. Under this new Nevada law, the incremental gain from the increase in the credit would be specifically earmarked for the payment of interest and amortization of principal to defray construction costs for sorely needed continuing education and athletic facilities at the University of Nevada's Reno and Las Vegas campuses.

Mr. President, it is my understanding that some 15,000 students enrolled in about 475 continuing education programs at the university's fast-growing Las Vegas campus are now making do in borrowed classrooms or rented facilities off-campus with no permanent housing. It is my hope that the Senate will, today, help rectify this situation.

Mr. President, I urge favorable consideration of this matter.●

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. LONG. Yes.

Mr. PROXMIRE. What is the revenue loss on this?

Mr. LONG. $6 million.

Mr. PROXMIRE. $6 million?

Mr. LONG. That is a loss to the State of Nevada. The point is that the Treasury's attitude about this matter is that it raises so little tax when you let the State have a credit for most of it that they would just prefer not to fool around with it.

Mr. PROXMIRE. But the loss is to the State of Nevada not to the U.S. Treasury?

Mr. CANNON. Mr. President, if the Senator will yield, the Treasury would not collect that $6 million. It would go to the State of Nevada, yes.

Mr. PROXMIRE. I see. But there is no opposition on the part of the Treasury?

Mr. LONG. The Treasury advocates the repeal of the tax because there would be so little revenue flowing to the Treasury that they would rather not fool with it. They do not oppose the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nevada.

The amendment was agreed to.

UP AMENDMENT NO. 1723

(Purpose: To extend for one year tax treatment of certain small farming corporations)

Mr. BUMPERS. Mr. President, I send an amendment to the desk on behalf of myself, Mrs. ALLEN, Mr. SPARKMAN, Mr. MUSKIE, Mr. HATHAWAY, Mr. HODGES, and Mr. LUGAR, and ask for its immediate consideration.

The PRESIDING OFFICER. The will report.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes an unprinted amendment numbered 1723.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following new section:

"SEC. . Section 207(c)(2) of the Tax Reform Act of 1976, as amended by Section 404 of the Tax Reduction and Simplification Act of 1977, Public Law 95-30, is further amended by striking the date "December 31, 1977" in Section 207(c)(2)(B) and inserting in lieu thereof the date "December 31, 1978."

Mr. BUMPERS. Mr. President, the Tax Reduction and Simplification Act of 1977, Public Law 95-30, permits certain kinds of family farming corporations to continue to use the cash basis of accounting for tax purposes. Under this act, corporations in which two families own at least 65 percent of the stock, or in which three families own at least 50 percent of the stock and substantially all of the remaining stock is owned by employees, their families, or trusts for the benefit of employees may elect to use the cash basis. The general rule, as Members will recall, enacted into law by the Tax Reform Act of 1976, is that farming corporations must use the accrual basis. There are a number of exceptions to this rule, however, one of which is embodied in the act we passed last year.

This exception, however, was effective for 1 year only. It was made temporary in the expectation that President Carter's tax reform program, then in the process of being prepared, would address the issue of cash versus accrual accounting and resolve it on a permanent basis. The issue is now being resolved. As a matter of fact, the House has now passed H.R. 13511, which would solve this problem permanently by allowing certain categories of family farms, including those covered by Public Law 95-30, to continue to use the cash basis at their option.

In the meantime, however, the 1-year exception has expired. It applied only to taxable years beginning before December 31, 1977. In order to preserve the status quo and allow those corporations presently covered by the exception to continue to avail themselves of its provisions, an additional extension of 1 year is necessary. This period of time will undoubtedly be sufficient for the problems to be addressed and solved on a permanent basis, since the Senate plans to take up H.R. 13511 in the near future.

The amendment I propose would simply extend the family exception in Public Law 95-30 for 1 additional year. The exception would be available for any taxable years beginning before December 31, 1978. The Treasury Department does not oppose the amendment. I ask unanimous consent that a letter dated May 3, 1978, from Donald C. Lubick, then Acting Assistant Secretary of the Treasury for Tax Policy, be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE TREASURY,
Washington, D.C., May 3, 1978.

Hon. DALE BUMPERS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BUMPERS: This is in response to your request for the Treasury's position regarding an additional two year postponement of the mandatory accrual accounting rules for certain large farming corporations.

For taxable years beginning after December 31, 1976 large corporations engaged in the business of farming are generally required to use an accrual method of accounting to compute taxable income. An exception is provided for farm corporations owned by members of the same family. Under the Tax Reform Act of 1976 this exception for the family farm corporations was restricted to corporations where 50 percent or more of the voting stock and 50 percent or more of all other classes of stock are owned by members of the same family. Under the Tax Reduction and Simplification Act of 1977, the family farm corporation exception was broadened to cover corporations where two families own at least 65 percent of the corporation's stock or where three families own at least 50 percent of the stock and substantially all of the remaining stock is owned by employees of the corporation, their families, or exempt retirement trusts established for the benefit of the employees.

The two-family and the three-family ownership exceptions were effective for one year, but legislation has been proposed to extend these exceptions for an additional two years. We do not oppose this legislation but recognize it only as an interim solution to alleviate certain competitive inequities suggested to exist by members of the poultry industry. These inequities would be permanently eliminated under the Administration's proposal discussed below.

The Administration has proposed the repeal of the exceptions for family farm corporations. Our proposal is based on the desire to require a more clear reflection of taxable income by all large farming corporations. We, of course, support the continuation of an exception from the accrual accounting rules for farm corporations with $1 million or less of gross receipts as a means of relieving small farmers from the administrative complexity of an accrual method of accounting. However, large farm corporations whether or not family owned, cannot fairly claim they lack access to the sophisticated accounting and recordkeeping procedures involved in the accrual method of accounting. In fact, many of these large corporations regularly use the accrual method of accounting for financial statement purposes.

We further believe that large farming corporations affected by the change from the cash method of accounting to the accrual method of accounting will have the hardship of making the transition alleviated by the statutory provision currently included in section 447 which generally allows them to take the net adjustment which must be made into account over a ten year period.

Sincerely,

DONALD C. LUBICK,
Acting Assistant Secretary.

Mr. BUMPERS. Mr. President, hesitant as I am to offer this amendment on this particular bill, of which I am a cosponsor, it is a matter of great import to the poultry industry in which, as you know, my State is the leader across the country.

The matter is taken care of in the tax bill, H.R. 13511. This amendment would simply extend present law for 1 year, and it will eliminate a terrible discrimination against certain family farms in the country if the amendment is adopted.

I would urge its adoption. I have discussed this with the managers of the bill, and I will be happy to yield to my colleague from Maine.

Mr. HATHAWAY. Mr. President, I think it is a very good, worthwhile amendment. It does correct an inequity that was not considered at the time this bill was passed. The Committee on Finance is studying whether or not cash accounting or accrual accounting should apply to all farms. I think this 1-year extension is certainly equitable in this case. So that gives the committee a chance to study the whole problem of accounting on farms.

The PRESIDING OFFICER. Is there further discussion?

Mr. PROXMIRE. Mr. President, would the Senator from Arkansas yield?

Mr. BUMPERS. I would be happy to yield.

Mr. PROXMIRE. What is the revenue loss on this proposal?

Mr. BUMPERS. There is no revenue loss.

Mr. PROXMIRE. We would forego a revenue gain, is that not true?

Mr. BUMPERS. Not entirely. This bill was passed a year ago. This is an extension of the provision that was passed a year ago, and a similar provision is included in the House bill, the tax bill in the House, which is coming over here, hopefully, to be considered and passed by this body before the end of the session.

I am offering it today as a simple hedge against the possibility that that bill will not make it because of time constraints.

Mr. PROXMIRE. Is this the so-called chicken amendment? [Laughter.]

Mr. BUMPERS. It has been called by various names.

Mr. PROXMIRE. Well, the reason I asked it is does it single out industrial structures related to poultry production or treatment that do not apply to other industrial structures?

Mr. BUMPERS. No; that is not correct, Senator. In addition, the Treasury Department has given its endorsement, as the letter I put in the RECORD earlier indicates.

Mr. PROXMIRE. The Treasury Department supports the bill?

Mr. BUMPERS. Yes.

Mr. PROXMIRE. I thank the Senator.

● Mrs. ALLEN. Mr. President, I have joined with the distinguished Senator from Arkansas in offering an amendment to H.R. 112, inasmuch as I too believe that the serious inequity suffered by certain poultry producers as a result of the adoption of section 207 of the Tax Reform Act of 1976 (Public Law 94-455) ought to be corrected.

As Senators will recall, section 207 dealt with corporations engaged in farming and was designed to reduce the use of corporate farming operations for tax shelter purposes. To accomplish that purpose, section 207 forces agricultural corporations to use the accrual method of accounting. Appropriate exceptions were made to the section to permit relatively small-sized, family-controlled corporate farming operations to continue without coming under the new requirements set forth in the section. These exceptions recognize that many family-controlled small corporations are engaged in agriculture strictly for profit and are not utilized for sheltering of income earned from other nonfarm sources.

While there is probably general agreement in the Senate that the tax loopholes in corporate farming should have been closed, I doubt, Mr. President, that any Senator intended the result section 207 will have in actual fact when applied to certain owner-operated family corporations producing broilers and other poultry products.

It is my information that of the top 36 firms in the broiler industry, only two that were not publicly held were adversely affected by this provision. Thus, the impact of the provision penalized two firms in the entire industry. Surely, a provision which extracts such a discriminatory toll cannot pass for tax reform.

Mr. President, I am advised that the broiler industry is expanding at a rate of 5 to 7 percent annually. That fact alone makes the accrual method of accounting required by Public Law 94-455 undesirable. Stated simply, the accrual method would require a company to pay taxes on accounts receivable, cash on hand, and inventory so that taxes will fall due on accounts receivable which are increasing at a rate commensurate with the general increase in broiler production and income. On the other hand, the cash method of accounting, which was permitted to all broiler producers prior to the enactment of Public Law 94-455, required the payment of taxes only on in-hand cash earnings so that the projected growth aspect of the accrual method did not penalize the taxpayer.

The result, Mr. President, of forcing some broiler companies to go to the accrual method while allowing others to remain on the cash method will be simply to put at a tremendous competitive disadvantage certain family-owned operations which in actual character differ not one whit from other corporations which fit the formal exceptions set forth in section 207 of Public Law 94-455. Since the disadvantaged corporations are uniformly not corporations utilized for tax shelter purposes, do not see any reason that the inequity created should be allowed to go uncorrected.

I believe the seriousness of the sit
tion merits adoption of the amendm
proposed today by Senator BUMPERS
that it would delay the application
section 447 of the Internal Revenue C
for 1 year to permit time for perman
tax relief to prevent serious damage
ing done to companies involved as a
sult of the failure of Congress to fore
the full consequences of our earlier
tion.●

The PRESIDING OFFICER. The qu
tion is on agreeing to the amendm
of the Senator from Arkansas.

The amendment was agreed to.

UP AMENDMENT NO. 1724

(Purpose: To allow a tax credit for cer
residential energy conservation and alte
tive energy source expenditures)

Mr. HART. Mr. President, on bel
of myself and Senators MCINTYRE, PE
JAVITS, DECONCINI, MCGOVERN, MA
NAGA, RIEGLE, BROOKE, GLENN, CL
PELL, HEINZ, THURMOND, WILLIAMS, D
KIN, INOUYE, and SPARKMAN, I send to
desk an unprinted amendment and
for its immediate consideration.

The PRESIDING OFFICER. The cl
will report.

The legislative clerk read as follow

The Senator from Colorado (Mr. HART)
poses an unprinted amendment numb
1724.

Mr. HART. Mr. President, I ask una
mous consent that further reading of
amendment be dispensed with.

The PRESIDING OFFICER. With
objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the follo
new section:

SEC. . RESIDENTIAL ENERGY CREDIT.

(a) GENERAL RULE.—Subpart A of part
of subchapter A of chapter 1 of the Inte
Revenue Code of 1954 (relating to credits
lowable) is amended by inserting after
tion 44B the following new section:

"SEC. 44C. RESIDENTIAL ENERGY CREDIT.

"(a) GENERAL RULE.—In the case of an
dividual, there shall be allowed as a cr
against the tax imposed by this chapter
the taxable year an amount equal to the
of—

"(1) the qualified energy conservation
penditures, plus

"(2) the qualified renewable energy sou
expenditures, plus

"(3) the qualified hydrogen energy
penditures.

"(b) QUALIFIED EXPENDITURES.—For p
poses of subsection (a)—

"(1) ENERGY CONSERVATION. In the cas
any dwelling unit, the qualified energy c
servation expenditures are 20 percent of
much of the energy conservation expen
tures made by the taxpayer during the ta
ble year with respect to such unit as d
not exceed $2,000.

"(2) RENEWABLE ENERGY SOURCES.—In
case of any dwelling unit, the qualified
newable energy source expenditures are
following percentages of the renewable
ergy source expenditures made by the t
payer during the taxable year with resp
to such unit:

"(A) 30 percent of so much of such
penditures as does not exceed $2,000, plus

"(B) 20 percent of so much of such
penditures as exceeds $2,000 but does
exceed $10,000.

"(3) HYDROGEN ENERGY.—In the case of
dwelling unit, the qualified hydrogen ene
expenditures are 20 percent of so much of
hydrogen energy expenditures made by

taxpayer during the taxable year with respect to such unit as does not exceed $2,000.

"(4) PRIOR EXPENDITURES BY TAXPAYER ON SAME RESIDENCE TAKEN INTO ACCOUNT.—If for any prior taxable year a credit was allowed to the taxpayer under this section with respect to any dwelling unit by reason of energy conservation expenditures or renewable energy source expenditures, paragraph (1), (2), or (3) (whichever is appropriate) shall be applied for the taxable year with respect to such dwelling unit by reducing each dollar amount contained in such paragraph by the prior year expenditures taken into account under such paragraph.

"(5) MINIMUM DOLLAR AMOUNT.—No credit shall be allowed under this section with respect to any return for any taxable year if the amount which would (but for this paragraph) be allowable with respect to such return is less than $10.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ENERGY CONSERVATION EXPENDITURE.—The term 'energy conservation expenditure' means an expenditure made on or after April 20, 1977, by the taxpayer for insulation or any other energy-conserving component (or for the original installation of such insulation or other component) installed in or on a dwelling unit—

"(A) which is located in the United States, the Virgin Islands, or Guam,

"(B) which is used by the taxpayer as his principal residence, and

"(C) the construction of which was substantially completed before April 20, 1977.

"(2) RENEWABLE ENERGY SOURCE EXPENDITURE.—

"(A) IN GENERAL.—The term 'renewable energy source expenditure' means an expenditure made on or after April 20, 1977, by the taxpayer for renewable energy source property installed in connection with a dwelling unit—

"(i) which is located in the United States, the Virgin Islands, or Guam, and

"(ii) which is used by the taxpayer as his principal residence.

"(B) ITEMS INCLUDED.—The term 'renewable energy source expenditure' includes only expenditures for—

"(i) renewable energy source property, or

"(ii) labor costs properly allocable to the onsite preparation, assembly, or installation of renewable energy source property.

"(C) SWIMMING POOL, ETC., USED AS STORAGE MEDIUM.—The term 'renewable energy source expenditure' does not include any expenditure properly allocable to a swimming pool used as an energy storage medium or to any other energy storage medium which has a function other than the function of such storage.

"(3) HYDROGEN ENERGY EXPENDITURES.—

"(A) IN GENERAL.—The term 'hydrogen expenditures' means an expenditure made on or after April 20, 1977, by the taxpayer for hydrogen energy property and installation installed in connection with a dwelling unit—

"(i) which is located in the United States, the Virgin Islands, or Guam, and

"(ii) which is used by the taxpayer as his principal residence.

"(B) ITEMS INCLUDED.—The term 'hydrogen energy expenditures' includes only expenditures for—

"(i) hydrogen energy property, and

"(ii) labor costs properly allocable to the onsite preparation, assembly, or installation of hydrogen energy property, or to the modification of conventional property for the use of hydrogen as a fuel.

"(4) INSULATION.—The term 'insulation' means any item—

"(A) which is specifically and primarily designed to reduce when installed in or on a dwelling (or water heater) the heat loss or gain of such dwelling (or water heater),

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 3 years, and

"(D) which meets the performance and quality standards, if any, which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the item.

"(5) OTHER ENERGY-CONSERVING COMPONENT.—The term 'other energy-conserving component' means any item (other than insulation)—

"(A) which is—

"(i) a replacement furnace or boiler designed to provide more efficient energy utilization by improving heat generation or lowering heat losses,

"(ii) a furnace replacement burner designed to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

"(iii) a device for modifying flue openings designed to increase the efficiency of operation of the heating system,

"(iv) an electrical or mechanical furnace ignition system which replaces a gas pilot light,

"(v) a storm or thermal window or door for the exterior of the dwelling,

"(vi) an automatic energy-saving setback thermostat,

"(vii) caulking or weather stripping of an exterior door or window,

"(viii) a heat pump which replaces an electric resistance heating system,

"(ix) meters which display the cost of energy usage,

"(x) a replacement fluorescent lighting system,

"(xi) an evaporative cooling device,

"(xii) an item (other than a fireplace) which is designed to use wood and peat as a fuel for space heating, the heating of water or cooking of food, or any combination thereof, including any controls, ducts, stovepipes, footing or other item (other than a chimney) necessary for the safe and efficient operation of any such item, or

"(xiii) an item of the kind which the Secretary specifies by regulations as increasing (by conversion or otherwise) the energy efficiency of the dwelling,

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remains in operation for at least 3 years, and

"(D) which meets the performance and quality standards, if any, which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the item.

In establishing regulations under this paragraph, the Secretary shall prescribe (i) guidelines setting forth the criteria which are used in the determination of whether an item is an energy-conserving component, and (ii) a procedure under which a manufacturer of an item may request the Secretary to specify or certify that item as an energy-conserving component.

"(6) RENEWABLE ENERGY SOURCE PROPERTY.—The term 'renewable energy source property' means property—

"(A) which, when installed in connection with a dwelling—

"(i) uses solar energy to heat or cool such dwelling or to provide hot water for use within such dwelling, or to produce electricity,

"(ii) uses wind energy for nonbusiness residential purposes,

"(iii) is necessary to distribute or use geothermal deposits (as defined in section 613 (e)) which provide geothermal energy to heat or cool such building or provide hot water for use within such building, or

"(iv) uses any other form of renewable energy which the Secretary specifies by regulations,

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 5 years, and

"(D) which meets the performance and quality standards, if any, which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the property.

"(7) HYDROGEN ENERGY PROPERTY.—The term 'hydrogen energy property' means property—

"(A) which, when installed in connection with a dwelling—

"(i) uses hydrogen as a fuel for the purpose of heating or cooling such dwelling or providing hot water for use within such dwelling, or

"(ii) is used in the electrolysis of water for the production of hydrogen,

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 5 years, and

"(D) which meets the performance and quality standards, if any, which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the property.

"(8) CONSULTATION IN PRESCRIBING STANDARDS.—Performance and quality standards shall be prescribed by the Secretary under paragraphs (4), (5), (6), and (7) only after consultation with the Secretary of Energy, the Secretary of Housing and Urban Development, and other appropriate Federal agencies.

"(9) WHEN EXPENDITURES MADE; AMOUNT OF EXPENDITURES.—

"(A) Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when original installation of the item is completed.

"(B) In the case of renewable energy source expenditures in connection with the construction or reconstruction of a dwelling, such expenditures shall be treated as made when the original use of the constructed or reconstructed dwelling by the taxpayer begins.

"(C) The amount of any expenditure shall be the cost thereof.

"(D) If less than 80 percent of the use of an item is for nonbusiness residential purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness residential purposes shall be taken into account. For purposes of the preceding sentence, use for a swiming pool shall be treated as use which is not for residential purposes.

"(10) PRINCIPAL RESIDENCE.—The determination of whether or not a dwelling unit is a taxpayer's principal residence shall be made under principles similar to those applicable to section 1034, except that—

"(A) no ownership requirement shall be imposed, and

"(B) the period for which a dwelling is treated as the principal residence of the taxpayer shall include the 30-day period ending on the first day on which it would (but for this subparagraph) be treated as his principal residence.

"(11) ENVIRONMENTAL RESTRICTIONS ON CERTAIN WOOD AND PEAT BURNING ITEMS.—No credit shall be allowed under subsection (a) for expenditures with respect to any item described in paragraph (5)(A)(xii) which are to be installed in any metropolitan or other area after the date on which—

"(A) the Administrator of the Environmental Protection Agency certifies to the Secretary that the emissions from such items would cause air quality in such area to be in violation of any Federal law, or

"(B) the Secretary of Agriculture certifies to the Secretary that additional consumption of wood in connection with such items would endanger forests in that area.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a principal residence by 2 or more individuals—

"(A) the amount of the credit allowable under subsection (a) by reason of energy conservation expenditures or by reason of renewable energy source expenditures (as the case may be) made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as one taxpayer whose taxable year is such calendar year; and

"(B) each of such individuals shall be allowed a credit under subsection (a) for the taxable year in which such calendar year ends (subject to the limitation of paragraph (5) of subsection (b)) in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

"(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who holds stock as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

"(3) CONDOMINIUMS.—

"(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which he owns, such individual shall be treated as having made his proportionate share of any expenditures of such association.

"(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

"(e) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(f) CARRYOVER OF UNUSED CREDIT.—If the amount of the credit determined under this section for the taxable year exceeds the liability for the taxpayer for the tax under this chapter for the taxable year, the excess shall be carried over to each of the 2 taxable years succeeding that taxable year. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 2 taxable years to which it may be carried, and then to the succeeding taxable year to the extent that it may not be added for a prior taxable year to which it might be carried.

"(g) TERMINATION.—This section shall not apply to expenditures made after December 31, 1985.".

(b) INSPECTION.—To the extent not presently authorized and utilized by an agency of the United States in the assessment and collection of income taxes, no procedure or practice which utilizes onsite inspection of the residence of an individual shall be employed to determine if that individual is entitled to a credit under section 44C of the Internal Revenue Code of 1954, as added by subsection (a), unless such procedure or practice provides that such inspection shall take place only with the written consent of such individual.

(c) TECHNICAL AND CLERICAL AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 44B the following new item:

"Sec. 44C. Residential energy credit.".

(2) Subsection (c) of section 56 of such Code (defining regular tax deduction) is amended by striking out "credits allowable under—" and all that follows and inserting in lieu thereof "credits allowable under subpart A of part IV other than under sections 31, 39, 43, and 44C.".

(3) Subsection (a) of section 1016 of such Code (relating to adjustments to basis) is amended by inserting after paragraph (20) the following new paragraph:

"(21) to the extent provided in section 44C(e), in the case of property with respect to which a credit has been allowed under section 44C;".

(4) Subsection (b) of section 6096 of such Code (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44B" and inserting in lieu thereof "44B, and 44C".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after April 20, 1977.

Mr. HART. I ask unanimous consent that Peter Gold and Terry Johnson of my staff and Robin Carpenter of Senator McGOVERN's staff be afforded privileges of the floor during debate and rollcalls on the pending tax measures.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. LONG. Might I ask the Senator not to insist on the yeas and nays on the amendment? We might be able to accept the amendment and, if that is the case, we can save some time.

Mr. HART. I wonder if we could get the yeas and nays, and if we can get them and then they are not necessary we can vitiate the order for the yeas and nays.

Mr. LONG. It takes unanimous consent to vitiate. If the Senator is not satisfied, we will order the yeas and nays.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Richard Arnold of my staff be accorded the privileges of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. Mr. President, I make the same request for Ed Tanzman, Harris Miller, and Bob Millen of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, when President Carter introduced the National Energy Plan on April 20, 1977, the most popular and least controversial proposals were those providing tax credits for homeowners who invested in energy-conserving improvements and renewable energy resources.

The current impasse over the energy tax provisions of the national energy legislation has created hardships and disillusionment for homeowners w made energy-conserving improveme or invested in solar equipment in the lief that they would be eligible for substantial Federal tax incentives p posed by the President. Continued in tion on these provisions has served o to undermine public confidence in ability of the Congress to deal with critical energy problems.

Of equal importance is the damag effects that Congressional inaction had on the growth and development new industries engaged in the manuf ture, installation and maintenance renewable energy technologies.

A case in point is the solar energy dustry. Many potential users of so equipment have deferred purchases u it is clear that Congress will in fact ad a National Energy Act with tax cred and other financial incentives for th systems. Consumers are also unsure to whether these credits will be retro tive to April 20 of last year, or if the so credit will be refundable to purchas with low tax liabilities.

This ambiguous situation has devastating effects on the solar indust A recent survey of the solar energy dustry in America conducted for Department of Energy revealed t 14,000 solar units were manufactu and sold in the United States during first 6 months of 1977, before and sho after the President's energy message. the 14 months since the President's ergy announcement, only an estima 22,000 solar units have been install The growth rate of this industry dur the first 6 months of 1978 has slowed an estimated 13.6 percent—a 40-perc decline from the same period just 1 y ago.

At the same time, the market share "major" solar businesses—with ann sales of more than $1 million—has creased from 30 to 45 percent. The r son for this trend is all too clear. Si solar businesses are dependent upon c tinued growth for their survival. T must plow back earnings into new pl and equipment, which will permit th to realize the economies-of-scale. O in this way will they be able to reduce unit costs of these systems for consum and remain competitive with the re tively few solar businesses with la capital resources.

Let me quote from a Washington P article written by Mr. John McCom president of a small solar energy fi Mr. McCombs wrote almost a year a

A lot of solar energy businesses across country are sorry that they ever heard ab the solar tax incentive proposed by Presid Carter on April 20. Ever since the announ ment, their business has dropped radically.

Solar firms were rushed by customers a the severe winter (of 1977), but after April those customers said they would wait legislation.

Everyone assumes that the national m for solar energy is great enough to be incentive for people to become involv However, as long as financing for solar co panies is as difficult to obtain as it is, th will be far too few around to serve the mand for products and services when C gress finally acts.

Mr. President, it is a bitter irony that the solar flat plate industry in America fared better before the Federal Government attempted to implement a national solar commercialization strategy. Clearly, the indecisiveness of Congress on the tax provisions of the national energy legislation runs counter to our past efforts to promote a healthy and diversified solar energy industry.

Perhaps this situation could be understood if there were a legitimate reason for delaying the implementation of these programs. The fact of the matter is that the energy tax conference committee resolved virtually all of the differences between the Senate and House provisions before Christmas of last year, when the last substantive meeting of the energy tax conference took place. The sole reason for delay has been the decision to hold the solar and residential tax credits hostage in order to insure passage of a crude oil equalization tax (COET). Reaction to COET has been so negative, however, that its prospects must be regarded by everyone as extremely unpromising. Yet, there has been no attempt to reconvene the tax conference in order to report out these already agreed-to provisions, nor is such an attempt anticipated in the near future.

President Carter established a national goal of 2.5 million solar heated homes and businesses by 1985—a modest objective when compared to California's plan to construct or retrofit 1.5 million homes with solar equipment during the same period. To achieve the national goal, the solar collector industry—building on a base of 50,000 solar homes and businesses at the present time—will have to grow at an annual rate of approximately 65 percent. This is consistent with industry growth rates prior to the President's NEP announcement.

If, however, industry growth continues at its present pace—without the incentives provided by the national energy legislation—we can expect to have only 300,000 solar heated homes and businesses by 1985.

It has been said by critics that tax credits for homeowners who purchase solar equipment or make energy-conserving improvements are unnecessary, since they would only provide incentives to those who would make investments in any case. Experience has moved otherwise. For instance, in California and Arizona, States which provide significant tax incentives for residential use of solar energy, the number of installations have multiplied. California, which had only 25 solar-heated homes in 1976, expects to have 176,000 residential solar units within the next 3 years. Many solar businesses believe that sales in the four States which provide substantial incentives for the use of solar are the industry's only lifeline at the present time.

The Office of Technology Assessment (OTA) has stated:

> Without government help, solar energy is unlikely to make a significant contribution to U.S. energy supplies before the year 2000.

The energy offices of all 50 States have expressed the pressing need for implementation of these measures. In a recent telegram to the distinguished majority leader (Mr. BYRD) and House Speaker O'NEILL, they wrote:

> These credits are essential to the rapid development of solar energy and conservation. The delay in passing these credits has eroded the market for solar and conservation equipment, and strained the patience of homeowners across the country committed to installing energy-saving systems. If these credits are not passed, the vast energy savings economic development potential of solar and conservation will be delayed.

The difficulties experienced by the solar energy industry are by no means unique. Many companies attempting to develop wind, geothermal, alcohol fuels from renewable resources and other alternative energy technologies are in similar straits as a consequence of the Congressional impasse on the national energy legislation.

This amendment is based on the residential conservation and renewable resource credits of the original Senate energy tax bill. Modifications have been made only in instances where the House conferees have voiced objections to the Senate bill, for example, on the refundability of these credits.

Clearly, the cost of continued inaction is unbearable. While we all recognize the complexity and vital importance of many of the energy tax provisions which have not been agreed to in conference, the logical connection between these and other aspects of the energy tax bill has been strained in the 16 months during which Congress has debated this legislation. The predicament of the solar energy industry illustrates in a very poignant way that the arguments for considering the various tax incentives and disincentives as a package are, in some instances, proving counterproductive to the goals of the National Energy Act.

I yield to the Senator from New Hampshire.

Mr. McINTYRE. Mr. President, I rise to support the amendment of the distinguished Senator from Colorado, and to add some explanations of my own as to why we are offering this amendment at this time.

Some of our colleagues may be asking why we are forcing this issue now. Why you might ask, do we not wait a little longer and allow the Finance Committee and the Ways and Means Committee of the House to complete their work and work out the details on this issue?

The main reason is that the energy tax conferees have already had nearly a year to work out their differences on this issue. But they decided to wait—to hold us all in suspense until the natural gas issue was settled. We have no guarantee yet—with just a few weeks remaining in the 95th Congress—that the natural gas issue will ever come to settlement.

However, we are willing to wait just that long. I am willing to wait only until the natural gas issues are settled, and the nautral gas section of the President's program is passed or defeated.

But the chairman of the Finance Committee is asking us for more than that. He is asking us to wait until after natural gas before we even see what kind of energy tax bill or energy tax amendments we will be voting on. Then we will be in the waning days of the session. Some will be necessarily absent because of campaigns being conducted. We will have to take it or leave it. The President will have to take it or leave it.

Some people are saying the crude oil equalization tax is dead. The Secretary of Energy told me, and several other Senators, that he believes it is dead. But no one seems to want to bite that particular bullet. In fact, Congressman ULLMAN, the chairman of the Ways and Means Committee in the House, has said that he will oppose passage of solar energy and energy conservation tax credits unless they are coupled to a crude oil equalization tax.

So the status of these tax credits in the energy tax conference is still highly uncertain, Mr. President. And we are proposing today to remove some of that uncertainty.

The reason that we want to remove some of that uncertainty is that we were in a very similar situation at the end of the last session. The House had passed solar and conservation credits, and the Senate had passed them as part of the tax cut bill H.R 10412. We had every assurance at that time, that the credits were safe, and that they would be passed as part of the tax cut. But they disappeared from the tax bill like change from a spendthrift's pocket, and we never saw the credits again.

We have similar assurances this time but little more than that. We have not seen any final action by the energy tax conferees. In fact, I have not yet seen a response to the letter that the Senator from Colorado (Mr. HART), the Senator from Illinois (Mr. PERCY), and I circulated, which was signed by 28 Senators in all, asking the energy tax conference to act upon the solar and conservation credits.

Passage of these credits is painfully urgent to the public and to the solar and conservation industries. We have left our public hanging, and we have left the solar and conservation industries out on a financial limb. They have made commitments of their time and resources based upon the promise of these credits a year and a half ago. And we have only to look again at the survey quoted by the Senator from Colorado (Mr. HART) to see just how disastrous this year-and-a-half delay has been for the solar industry. This disastrous market effect has been the direct result of our indecision—not just that of the energy tax conference, because the conferees are only acting in all our behalf—but of the Congress as a whole. The public knows that these credits are pending, and the public prudently is waiting to see if we come through with the promises made by President Carter and by both Houses of Congress in passing these credits in the first place.

So that my colleagues can better understand what it is that we are voting on today, I want to explain the importance of some provisions of this amendment.

First, one of the measures eligible for the credit is stoves which burn wood or

peat to heat homes. This provision was accepted by the Finance Committee on the Senate floor. As of this time, it has not yet been agreed to—nor has it been rejected—by the energy tax conference. I have several points to make regarding this amendment.

This credit would be the same amount as the residential conservation credit, a maximum of $400.

It has been stated that a tax credit for wood stoves favors only a few people, and it has been said also that this credit will be used primarily in New England. Neither of these assertions is true. I ask unanimous consent to have printed at this point in the RECORD some facts provided to me by John Lynn, president of Fisher Stoves International, the Nation's largest wood stove manufacturing firm. Fisher's headquarters, by the way, is in Oregon. That is a long way from New England.

There being no objection, the information was ordered to be printed in the RECORD, as follows:

1. Industry data indicates that total radiant fuel burning appliance sales could, with the assistance of a tax credit, reach between 1978 and 1985, a total of approximately 5.5 million units. During this eight-year period, total equivalent barrels of oil saved would be 432 million, at a total value of $6.8 billion using a 1978 base cost per barrel of $11.90 plus a 6 percent annual cost increase (compounded).

2. Surveys by manufacturers indicate sales are highest to those income groups most affected by inflation and rising taxes.

16 percent making less than $10M per annum.

44 percent making less than $15M per annum.

24 percent making less than $20M per annum.

10 percent making less than $25M per annum.

3. Manufacturer surveys indicate sales are to:

40 percent blue-collar.

25 percent white-collar.

15 percent retired.

5 percent unemployed.

4. Manufacturer surveys indicate sales go 28 percent to new construction and 72 percent existing facilities, with 76 percent of total sales to permanent residences.

5. 1977 sales data by four major manufacturers with approximately 50 percent of the national market show a diversity of sales as follows:

29 percent of unit sales were in 12 Western and Rocky Mt. states.

17 percent of unit sales were in 14 Central and Midwest states.

37 percent of unit sales were in 14 Southeastern states.

17 percent of unit sales were in 9 Northeastern states.

The same manufacturers show a diversity of manufacturing locations, i.e., 52 factories in 28 states.

6. Radiant solid fuel appliances are labor-intensive from a manufacturing aspect and are produced in many locations due to weight considerations and consequently open up many small business opportunities for component supply and fabrication.

7. A 1976 leaflet (No. 559) from the U.S. Department of Agriculture Forest Service advises that wood is much lower in irritating pollutants than most fuels, has low ash content and what ash remains can be used as fertilizer. They stress the renewable aspect of wood and if used as fuel would reduce the burdensome piles of wood waste riddling our environment in woodlands, rural dumps and wood processing plants.

8. Modern forestry practices in the U.S. have increased the timber supply nationwide. Sustained-yield management which utilizes the process of commercial thinning of "waste wood," has significantly increased the growth potential of forests. Department of Agriculture statistics show us that enough new wood growth occurs every year in the U.S. to heat 33 million homes (based on 5 cords of wood per home over a 150 day heating season). Many homes are heated entirely on 2½ to 3 cords per year.

9. A February 1978 report by Brookhaven National Laboratory under contract with DOE assessed implications of employment on conversion of approximately 8 percent of New England homes to wood burning and found that additional jobs created in the cutting and transportation of wood would create from 13,200 to 19,500 jobs reducing current unemployment by 3.4 to 6.5 percent. This only covered the direct employment impacts so secondary and tertiary effects have been ignored.

10. The State of Idaho already has tax incentives to encourage the use of solid fuel stoves and we understand Alaska has recently passed a similar bill.

11. A federally funded study by T. B. Reed of the Solar Energy Research Institute, Golden Colorado indicates biomass sources cost $1 to $5 per million BTU's versus solar energy costs in excess of $20 per million BTU's.

Numerous solar housing designs incorporate radiant solid fuel stoves as the backup and supplementary system.

12. The preliminary results of a study by L. D. Garrett of the Northeastern Forest Experimental Station in Burlington, Vermont, show airtight wood-burning stoves used as a secondary system, make significant contributions to reducing the primary system's electrical power consumption.

13. If the Federal Government encourages the use of solid fuel wood-burning stoves as a viable alternative to petroleum products, nuclear and electrical energy sources many consumers not covered by the tax credit will also seriously consider purchasing radiant solid fuel appliances resulting in even larger energy savings than projected.

Mr. McINTYRE. In addition, my staff has put together a thorough study of the wood stove tax credit and the potential for wood stoves to provide heat.

This study found that every region of the Nation, and nearly every State, has substantial surpluses of wood available for use as home fuel.

In addition, Alaska, and several States in the Southeast and Midwest, have supplies of peat that could be used to heat homes. Many people are already using these fuels.

So this is not, I emphasize, a regionally based credit. And its potential is substantial. My home State is not the biggest wood heating State in the Nation, but in New Hampshire alone, we used the equivalent of 30 to 60 million gallons of oil in wood to heat homes in 1976.

Nationwide, according to the U.S. Forest Service, enough wood grows every year to provide the equivalent of 226 million barrels of oil. That amount could be substantially increased through improved forest management.

Another important area covered by this amendment is energy conservation in homes. I know that many of my colleagues have been concerned about the potential for a shortage of insulation, and were worried that this credit mig increase demand and send prices soarin

I have received assurances from t of the biggest manufacturers of miner wool insulation that they are substa tially increasing their capacity. Tho companies are U.S. Gypsum and Owen Corning.

In addition, there are other kinds insulation that can be used in a hom The U.S. Consumer Product Safety Co mission has just issued a new Feder standard for cellulose insulation to pr tect homes from fire and corrosion.

And many other measures are eligib for the energy conservation tax cred with the potential for saving the Nati hundreds of thousands of barrels of per day.

One of the most cost-effective of the measures is the replacement of an o oil burner with a new burner nos which is more efficient. New burner no zles now on the market can improve t efficiency of existing oil heating syste 15 to 25 percent, according to studies the U.S. Department of Energy. I e phasize that these high-efficiency bur ers are already on the market, and c be installed at a cost of $200 to $3 per home. At that price, they pay themselves in less than 2 years w savings on oil consumption.

If half of the old oil systems in t Nation were fitted with new, more e cient burners, the Nation could real a saving of 200,000 barrels of oil per d This is a readily achievable goal if provide these tax credits to consum now, without waiting.

Mr. President, the figures I cited abo are very compelling arguments adopting solar and energy conservati tax credits for homeowners. I urge t adoption of this Hart-McIntyre amen ment.

I thank the Senator for yielding.

(Mr. BENTSEN assumed the chai

Mr. PROXMIRE. Will the Sena yield?

Mr. HART. I yield to the Senator fr Illinois.

Mr. PERCY. I thank my distinguis colleague for yielding. I join with distinguished colleague from Colora (Mr. HART), a leader in this field, a my distinguished colleague from N Hampshire (Mr. MCINTYRE).

I would like to say, however, to distinguished chairman of the Fina Committee (Mr. LONG) and to the ra ing minority member (Mr. CURTIS) t I was somewhat concerned at amend this particular bill. I think this bil such a good idea that I would not w to jeopardize its chances to sail ri through. I see no reason it cannot, cause it fulfills a commitment that made by the Finance Committee to foundations of this country in 1969.

I think the chairman and rank minority member will remember t the Senator from Illinois testified that time. I recall a very heated collo the Senator from Illinois had with then Senator from Tennessee, Sena Gore, who felt that foundations w the dead hand of the past and we sho pronounce a death sentence on th What the committee in its infinite w

dom worked out was a way to encourage foundations to expend their income and not accumulate it indefinitely. That device was the 4-percent tax.

The Senator from Illinois objected very strenuously to that tax. I thought first of all it would never cost 4 percent for the Internal Revenue Service to carry on its operations with respect to tax exempt organizations. My estimate was right. The cost is about half.

Second, the Senator from Illinois saw no reason why, as long as we do not charge other taxpayers specifically for the cost of operation of the Internal Revenue Service, that foundations should be charged.

I think at that time the commitment was made by the committee, the chairman and ranking minority member, that if, in fact, the cost was substantially less, the tax would be adjusted. All this bill does is in good faith make the adjustment to what is more accurately the cost involved. I commend the committee for honoring its word in that time and I wish to take this opportunity to express my support for the reduction of the excise tax placed on the net investment income of tax exempt private foundations from the present 4 percent to a more reasonable 2 percent. This bill before the Senate, H.R. 112, passed the House of Representatives February 28, 1978, and was reported out of the Senate Finance Committee May 9. I should note that this bill is essentially the same as S. 2204 which was introduced by my distinguished colleague, Mr. GRAVEL, and cosponsored by 41 Members of the Senate, including myself.

The 4-percent excise tax imposed on the net investment income of tax exempt private foundations by section 4940 of the Internal Revenue Code was included in the Tax Reform Act of 1969 as a compromise along with other measures to supervise these foundations. The thrust of these measures was to correct perceived abuses occurring in the 1950's and 1960's. The purpose of the excise tax is to defray the costs of the Treasury Department in supervising the compliance of these foundations with the Federal tax laws. However, the tax has produced revenues well in excess of the cost of supervision. The excess funds represent lost charitable activities which the foundations could have supported.

If we still believe in the noble purposes of foundations, we should not diminish their ability to act by imposing taxation of an amount greater than needed to supervise their activity. It is true that Government funding at all levels, particularly the Federal Government, is the dominant force in traditional areas of charity such as medicine, education, and income assistance. However, just because Government has become the main actor in these arenas does not mean that these private foundations do not have a continuing vital role. Often these private foundations can react more quickly to a pressing need than a political body can. Similarly, private foundations frequently provide the cutting edge in entering new fields of support for the public good when Government action would suffer from inertia and a timelag between the need and the support. The excessive 4-percent tax damages the very public interest for which tax-exempt status was granted these organizations.

The 4-percent excise tax limits the potential of private foundations to act in the public interest and should be reduced until the revenues collected come more closely to the costs of supervision. As can be seen from the table, revenues from this tax have been more than three times the costs of supervising foundations since the tax was first imposed:

[In thousands]

Fiscal year	Revenue from 4 percent tax	Internal Revenue Service costs: Foundations	Internal Revenue Service costs: All exempt organizations	Fiscal year	Revenue from 4 percent tax	Internal Revenue Service costs: Foundations	Internal Revenue Service costs: All exempt organizations
1968	--------	$1,600	$7,100	1973	$76,617	$12,300	$18,600
1969	--------	2,100	7,500	1974	69,802	12,200	21,100
1970	--------	3,500	11,000	1975	63,828	5,476	23,603
1971	[1] $24,589	8,600	15,400	1976	59,538	2,980	25,915
1972	56,045	12,900	19,300	1977	78,592	2,258	25,656

[1] Because of the interrelationship of the effective date of the tax and return filing dates for private foundations, this figure includes only a part of the revenue yield of the tax for its first full year of operation. It does not include taxes paid by foundations reporting their income on the basis of fiscal years ending February 28, 1971, through December 31, 1971. A number of the largest foundations were in this group.

Since the tax has brought in more than double the amount of funds needed to supervise the compliance of all tax exempt organizations, a reduction in the tax by half to 2 percent will provide more than ample funding for the supervisory activities of the Internal Revenue Service.

Amounts collected under the excise tax directly reduce the amount of funds private foundations must disburse under section 4942 of the Internal Revenue Code. Therefore for each dollar the excise tax is reduced, the charitable giving of these private foundations is increased by $1. Thus the tax is being paid out of the very dollars which would go toward charitable purposes. In essence the recipients of foundation support are paying the excise tax and bearing the incidence of the tax rather than the foundations themselves.

I believe the reduction of the excise tax to 2 percent is a needed step to help continue the charitable purposes of these foundations while still protecting the supervisory activities of the Internal Revenue Service. I urge that H.R. 112 be given the full support of the Senate.

With respect to the amendment now being offered to the bill, again I feel there should be no substantive controversy at all. We are in no way attempting to convince the chairman and ranking minority member of the Finance Committee of the wisdom of it. Indeed, it is a provision that they themselves have been leaders in initiating.

This amendment provides an incentive for us to create the cheapest and cleanest new source of energy this country can create: conservation of energy. It encourages every home dweller in this country to seal up his home and stop the terrible waste of energy. And its mechanism is one that has always seemed to work in the past: A tax incentive.

The committee saw fit to honor the fact that the President addressed the American people in April of 1977 and said we should move in this direction, we should conserve energy, and we should have a tax incentive. The committee saw fit in its legislation to make that tax incentive retroactive to April of 1977.

So we are not trying to convince the committee or the Senate of the wisdom of it. No one has doubted that a tax credit for solar energy equipment or residential conservation improvements is a good idea. The Senate and the House have passed them overwhelmingly twice. Those of us sponsoring this amendment simply feel that it is time that they be enacted into law.

It is time, because our hesitation in passing a solar tax credit is killing the solar industry. A year and a half ago, we were committed to getting that industry going. But now, because of the uncertainty in tax policy, the industry is in a very bad way. It is struggling to stay alive.

Mr. President, solar manufacturers from the State of Illinois have written to alert me to their critical situation. I received one letter from the president of a small solar firm in Illinois that started off, "The solar energy industry is dying."

I have received letters with the same message from other Illinois solar firms.

The Senator from Illinois, together with the Alliance To Save Energy, was at a conference on solar energy keynoted by Secretary Henry Kissinger, in Chicago a year and a half ago. We had scores of companies come and exhibit. Everyone was excited. We were moving ahead. A tax credit was going to be enacted and there would be incentive to move ahead.

Now, some of these companies are simply dying on the vine. They were encouraged by Congress, encouraged by the President of the United States, and encouraged by what they felt was a solid

public attitude. Yet, with uncertainty about this tax credit, the growth rate in sales of solar collectors is down over 40 percent from last year. That rate must increase, not decrease, if the solar energy industry is to survive.

There is good cause to pass the insulation tax credits now, too. Homeowners who, in good faith, insulated their homes have waited too long for their promised tax credits. I have received many, many irate letters, as others of my colleagues have, from constituents who have lost faith in us for that reason.

I need only point out that the Alliance To Save Energy has 240 Members of Congress as sponsors. For almost 2 years now, they have encouraged conservation of energy and encouraged investment in insulating materials—storm doors, storm windows—on the part of industry, homeowners, and everyone else. Yet there is still, in August 1978, no solar or conservation tax credit.

In conclusion, therefore, Mr. President, I respectfully hope that this amendment will be supported by the floor managers of this present bill. It would give us the opportunity to enact into law very soon something that was reported out long ago by the Senate of the United States.

Mr. President, I would like to establish some legislative history on an aspect of solar energy that gets much too little attention: passive solar. Studies have shown that passive techniques for capturing solar energy may be the most economical and may have the most widespread applications of any solar technique.

The amendment before us leaves the definition of qualifying passive solar equipment unsettled.

I trust that the Internal Revenue Service will consult with experts at the Department of Energy and will define passive solar equipment in such a way that all known passive techniques are given a fair tax credit.

Mr. President, I ask unanimous consent that remarks on solar energy by Gus Speth, a member of the Council on Environmental Quality, be printed in the RECORD. Mr. Speth made this excellent speech on Sun Day. I was honored to sponsor a Senate resolution, cosponsored by better than half my colleagues, endorsing Sun Day. I think it is appropriate to insert Mr. Speth's Sun Day remarks here, now that we are finally acting to put into law the tax credits we promised the millions of solar supporters on Sun Day.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OUR MOST IMPORTANT LEGACY: A SOLAR GIFT TO THE NEXT GENERATION

(By Gus Speth)

I'm honored to be here today to participate in this celebration. Sun Day is, more than anything, an expression of our hope for the future. With some luck and a lot of application, we can make it mark a turning point in our National life.

While the present is surely no guide to the future, it is as good a place as any to begin thinking about the future. In preparing these remarks, I chose at random a publication devoted to describing the present: the April 26 copy of The Washington Post. On page 1, I find that the Virginia Electric and Power Company, the Nation's eighth largest private electric utility, has asked for a $246 million rate increase . . . an increase that would raise residential customer bills by about 20 percent. The company is, says a VEPCO official, in no financial condition to compete for new investment capital. Among the reasons for its financial plight are these: an investment in a Wyoming uranium mine that did not pan out; a $15 million dollar loss stemming from the cancellation of two nuclear power units, whose costs had escalated, in seven years, from $600 million to $2.8 billion; another $82 million needed for start-up financing of a completed nuclear plant whose operation has been opposed because it is located on a geologic fault; and another $8 million to store radioactive wastes from the company's present nuclear units. Unless the company can boost dividends, says VEPCO, it cannot attract the additional $2.1 billion it needs in the next three years for current construction of new energy facilities.

Also on page 1, I read that "unit labor costs"—a critical index of inflation—rose during the first quarter of this year at an annual rate of 18 percent, the fastest rate in 27 years. Among the reasons cited is "the impact of the coal strike" early this year.

On page 4 is a report that "key Democrats" are opposing a part of President Carter's energy package—a provision that would bring the price of natural gas up to its true market value. On page 7, I read that Canadian Eskimos have won a temporary injunction against mining around their aboriginal lands. Such development would, they claim, drive off the caribou herds on which they rely for food. On page 9 is a brief item about the Constitutionality of a California law that is holding up construction of a $3 billion nuclear plant. And on the same page, in nine lines of type, is a report that three pipeline workers in Oklahoma City have been killed, and another critically injured, by a natural gas leak occasioned by construction of a shopping center. And on page 22, finally, is a small tale about the leak of 120 gallons of heating oil from an Italian nuclear studies center into a stream used for irrigation and cattle drinking; firemen were called to pump the stream, and "authorities" issued orders not to use the polluted water.

To repeat, I chose that issue of the Post at random. Had I wished to, I could have found much more sensational stories: the break-up of the *Amoco Cadiz* off the coast of Normandy a few weeks ago, for example.

Yet I think it is not so much the sensational stories, those that capture the attention of the world, but the humble stories we forget as soon as we read them which suggest the hidden as well as obvious costs we pay for our energy-consumptive, hard path way of life. The modest accounts I have quoted—a huge capital demand here, an interruption in supply there, a conflict between energy and food in another place—seem small change when read individually . . . but their recurrence day after day, in place after place, add up to a cumulative bill that we cannot total entirely in dollars. Year after year in our quest for conventional energy, we have been spending our earth, pushing risk on the future.

And, by one view of the future, the wise and prudent course for us is to continue as we have—only faster. Those who urge this course assure us that, yes, yes, energy conservation and solar energy are nice ideas, and some day solar energy will be worthwhile. However, they say, solar is not "practical" today, and shows no signs of becoming so within any period of time that will be help-

ful to us. "Why not an Oil, Gas, Coal, Nuclear Power Day?" the Mobil ad yesterday.

Well . . . it's my distinct impression t we have had oil, gas, coal, and nuclear po days. Indeed, we have had oil, gas, coal, nuclear power decades. We have spent tw those resources foolishly, and face ser problems in boosting our use of the o two.

We now use oil and gas for 75% of energy. Yet domestic production of both been declining for most of this decade, excessive imports of these fuels—$45 bil a year—are already hurting our economy

Coal has many problems, but perhaps central one that limits our long-term ance on it—or on any other fossil fuel, that matter—is the buildup of ca dioxide in the earth's atmosphere. All o bustion of coal and other fossil fuels duces CO_2. Natural processes that rem CO_2, such as photosynthesis and absorp by the oceans, cannot handle the increa amounts released as our use of fossil f rises. Thus carbon dioxide accumulates the atmosphere, where it can retard radiation of heat from earth back into sp and raises the earth's temperature.

According to a recent Oak Ridge st even a modest increase of 2 percent per in the consumption of fossil fuel world- could raise the earth's temperature by of a degree to 2½ degrees centigrade wi the next 50 years. It is impossible to pre the exact consequences to climate ecological systems of a few degrees' ris temperature, but they could be extre serious—quite possibly increasing the of desert and arid land and producing shifts of agricultural land patterns. A National Academy of Sciences study "It is not implausible that the atmosph (CO_2) concentration occurring in AD 21 AD 2200 might be 4 to 8 times the pre dustrial level." Carbon dioxide levels high could produce a six-degree centig increase in the world's mean air temperat During the last Ice Age, average mid-lati temperatures were no more than 5 to 10 grees below current levels.

Clearly, ignoring the CO_2 issue and ing it for the next generation to con would be imprudent. The energy deve ment strategies we promote in the years mediately ahead will affect energy su patterns for several decades, and peri longer. Even though our understandin the carbon dioxide issue is imperfect an cannot yet be certain of its dimensions must include it as best we can in our calc tions.

For its part, nuclear power is also sub to stubborn problems that limit its ex sion. One of the most serious concerns is actual and potential increase in the nu of countries that have access to technol materials, and facilities leading to a ca ity for making nuclear weapons. The c tinued growth and diffusion of nuclear hances the potential for the proliferatio nuclear weapons, not only among nati but among subnational groups such as rorist and separatist organizations. Th particularly the case if the nuclear indu here and abroad launches nuclear p development into a new phase involving reprocessing of spent fuel and the us plutonium in a fission economy.

Because of these unresolved questi President Carter, more than a year ago, c for deferral of plans to commercialize plutonium breeder reactor and asked cancellation of the Clinch River Breeder actor project. He also announced his in tion to defer reprocessing indefinitely an accelerate research on alternate nuclear cycles that do not involve direct acces weapons-grade materials. Of great sig cance, he committed the U.S. to a ref loning of its nuclear export policy, to ma

that atoms for peace would not become bombs for sale.

The President's non-proliferation program, I am convinced, will come to be viewed as one of the most historically significant contributions to world peace and stability in this half-century. Having promoted nuclear power around the globe for two decades, the United States could not ask other countries to refrain from further commitment to plutonium unless we ourselves submitted to the same restraints.

As many of you know, the struggle over cancellation of Clinch River goes on. Elements of Congress—courted by an intense industry lobby acting in its narrowest economic self-interest—continue to support both Clinch River and the Barnwell reprocessing plant. The President deserves the support of all of us in seeing to it that these dangerous and unnecessary projects are halted. The case for their cancellation has been strengthened further by the work of a group of energy experts at Princeton. They recently testified before the Joint Economic Committee of Congress that efficient use of uranium would mean nuclear fuel reprocessing would not be economical until the middle of the next century, and that breeder reactors would not be economical until 100 years from now.

Today, there may seem to be considerable momentum abroad behind the plutonium economy. But there is also the swifter motion of public opinion, increasingly aware of the hazards of a nuclearized world. The nuclear industry will be making a dreadful mistake if it continues to promote a vision of technology triumphant over public prudence. If that is the future, the current nuclear recession will give way to nuclear extinction—an extinction of an industry which will, if it comes to a choice, be preferred to the extinction of the common peace.

Given these problems—and others—of coal and nuclear, and our dwindling supplies of oil and gas, it's not surprising that all of us are turning again to examine the prospects for solar energy. The key questions are: does solar have to potential to become a major energy source? And, if so, how soon?

The first test should be environmental and social acceptability, and solar certainly passes this test. While not completely free of adverse environmental effects, solar technologies will have a much smaller impact than conventional hard technologies. Solar poses little risk to climate, and creates little direct air pollution, no radiation hazards, and no risk of nuclear weapons proliferation.

It offers important economic advantages: as the acknowledged leader in many forms of solar technology, the United States could develop an important export market here—at a time when our continuing trade deficit has led to the decline of the dollar abroad. Further, solar could make a substantial dent in our nagging unemployment problem: preliminary data to be published this summer indicate that capital investment in solar heating systems will generate between 2 to 5 times as many jobs as the same expenditure for central station electric power plants.

Solar differs from other energy sources in its utter democracy: it fall on all of us. Hence it is not subject to embargoes. Its potential is immense: in principle, with an average collection efficiency of only 15 percent—an efficiency we could achieve with present technologies—we could meet all of our current energy needs by using roughly one percent of our land area. One way of putting this figure into perspective is to realize that approximately 17 percent of our land area is now devoted to crops. On a less theoretical level, a recent study for the Department of Energy concludes that from the standpoint of resource availability and technology, it should be possible for California to operate in the year 2025 almost entirely on solar energy, even with major increases in population and per capita income.

Thus, the potential is there: solar can be a leading source of U.S. energy supply, not just a supplement. Indeed, from the standpoint of technology and resources, there appears to be no reason why solar energy cannot meet most of our needs.

The only remaining questions are those of time and money; how soon will solar energy in its various forms be economically feasible? Last fall, puzzled by the consistently grim predictions of some people and the seemingly excessive optimism of others, the Council on Environmental Quality undertook its own analysis of solar energy. We conducted an extensive literature review and held discussions with numerous solar experts inside and outside of government. Three weeks ago, we published our report.

We reach three basic conclusions in our report:

First, solar energy is already a serious option with some applications at or near commercial feasibility. Moreover, because rapid progress in solar economics is expected to continue, and the price of competing fuels is expected to rise, we can make competitive during the coming decade a variety of solar technologies for the production of heat, electricity and liquid fuels.

Second, if we today make a strong national commitment both to accelerated solar energy use and to energy conservation, it should be possible to meet a significant portion—we estimate a quarter—of U.S. energy needs through solar by the year 2000.

And third, for the period 2020 and beyond, we believe it is now possible to speak unblushingly of our country's becoming a solar society—a society, that is, in which solar is not a supplementary source of energy, but the primary source of energy. A national goal of providing significantly more than half of our energy from solar sources by the year 2020 is, in our view, realistic—provided that our commitment to that goal and to energy conservation is strong.

Our conclusions, then, are optimistic. While there are significant economic and institutional barriers still to be crossed, the prospects for solar energy are brighter than most imagine. Consider the following:

Solar collectors can now produce hot water at costs competitive with electric water heaters, and the use of solar for heating homes and buildings is expected to be widely competitive by 1985.

Photovoltaics (or "solar") cells, which produce electricity directly from sunlight and have powered satellites, were 50 times more expensive a few years ago than they are today. If photovoltaics continue to drop in price as the Department of Energy expects, they could become a major source of new electrical generating capacity in the 1990's.

Biomass—which includes forest, crop and animal residues as well as crops grown for their energy content—can be burned directly or converted to a full range of storable liquid or gaseous fuels, such as methane and alcohol. With appropriate government support, fuels from biomass can be economical on a large scale by the century's end.

Small-scale hydroelectric and wind systems are already a practical reality. Recent government studies indicate that with rapid development these two sources could provide more than ten percent of the Nation's electrical energy demand by the year 2000.

With all this possibility, where then do we go from here? There is obviously much to be done, but let me suggest two fronts on which we must move ahead rapidly.

First, it is very important to solar's future that Congress speed enactment of the National Energy Act. President Carter's National Energy Plan, submitted to Congress a year ago, was the first major national commitment to conservation and to renewable energy. It contains several provisions that will accelerate solar development, including:

An income tax credit for those who want to install solar in their homes;

Authority for the federal government to spend $100 million in purchasing solar equipment for its own use; and

Measures to make the competing fuels such as oil and natural gas more nearly reflect the costs of replacing them—their true cost to society.

Enactment of the solar tax credit would substantially expand the federal government's financial commitment to solar energy: it is estimated that in 1979, $100 million that the federal government would otherwise receive in taxes, would go to help finance solar facilities.

Enactment of the Administration's energy proposals would also help reduce an important barrier to the use of solar energy: the artificially low pricing of competing fuels.

In his National Energy Plan President Carter stressed as one of 10 basic principles this statement:

"Prices should generally reflect the true replacement cost of energy. We are only cheating ourselves if we make energy artificially cheap and use more than we can really afford."

Oil and gas, coal and nuclear are subsidized in varying degrees through price controls, through large tax breaks for utilities, and through unpaid environmental, health and national security costs. These factors have not only led to excessive energy use—they also discriminate directly against solar energy.

We must also move on a different front—one made possible by President Carter's action May 3 establishing a comprehensive cabinet-level review of the federal government's solar program. In his Golden, Colorado speech the President endorsed a solar future and called for a cooperative national effort to hasten its arrival. He directed that an additional $100 million in the Department of Energy budget be allocated to solar R&D. This action and the solar tax credits bring the President's 1979 solar budget up to $600 million, an increase of 50 percent over 1978. And to accelerate the federal solar effort, the President issued this directive:

"Today I am ordering a Domestic Policy Review by Cabinet departments and agencies, to begin work on development of a national solar strategy. Secretary Schlesinger will head this Cabinet-level Solar Policy Review. The job of this Committee will be to develop an over-all solar strategy for speeding the use of solar technologies—both by new programs and by improving existing federal programs.

"I am asking for the Committee's recommendations by September 1, to help me make my budget and legislative recommendations next fall."

This review—in which the public will be included—should be a major step in implementing the goals to which we are here today to lend our strong support.

In conclusion, let us note that the shift to large-scale reliance on solar energy will be demanding, and will not be easy. Nevertheless, if we commit our wills as well as our resources to the effort, the United States can probably become a solar society within the lifetimes of today's children. A solar world—with its promise of safe, infinitely sustainable energy—may be the most important gift this generation can leave behind us for the future.

Mr. HART. Mr. President, I yield to the Senator from Colorado to take up an amendment.

Mr. HASKELL. Mr. President, I thank my colleague very much.

The PRESIDING OFFICER. Does the Chair understand correctly that the Senator has yielded for the purpose of a colloquy?

Mr. HASKELL. Mr. President, the Senator has yielded to me, I assume, for the purpose of putting forth my amendment to the Senator's amendment. Is that correct?

Mr. HART. The Senator is correct.

Mr. HANSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. There is no control of the time. There is no time on the amendment, so the Senator can only yield for a question.

Mr. HART. I yield the floor.

● Mr. HATHAWAY. Mr. President, I am pleased to cosponsor this amendment because I have great sympathy for the financial burden of installing many of these new energy saving devices. There is an economic gamble in many of these investments. We should provide tax incentives for these investments.

I believe that the credits for solar property, for wood and peat burning stoves and for replacement oil burners and furnaces are essential items to assist in a shift from imported heating oil to alternative energy property and to more efficient utilization of the oil products which cannot presently be substituted.

I am delighted that the Senate has moved forward with some of these important and worthwhile residential credits for alternative energy property. We are beginning to fulfill the commitment which President Carter made to the American people when he submitted to the Congress his national energy plan.●

The PRESIDING OFFICER. The senior Senator from Colorado is recognized.

Mr. GRAVEL. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRAVEL. I understand that he will have an amendment to the amendment of the junior Senator from Colorado. Would other amendments to the amendment of the junior Senator from Colorado be in order?

The PRESIDING OFFICER. They would be in order after the disposition of the Haskell amendment to portions of the Hart amendment not touched by the Haskell amendment.

Mr. HANSEN. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. HANSEN. Mr. President, I am a little confused as to what the situation is. It is my understanding of the rules of the Senate that a speaker could hold the floor and would be permitted to yield for questions. Though I agree with the statement made by my good friend from Illinois, it hardly seemed to me that it conformed to what I understood would be the procedure that would be followed here. I raise the question because, not many days ago, I was on the floor and I think in a somewhat similar position to that of the Senator from Colorado, and the question was raised—it may have been raised by the majority leader, I do not recall. Anyway, it was raised and there were calls for regular order. The point was made that you cannot yield your time on this; that you can yield for a question.

The PRESIDING OFFICER. The Senator makes his point well and the Chair has reiterated that point just a moment ago, to state that the floor can only be yielded for a question.

Mr. HANSEN. I understood the Senator was going to offer an amendment.

The PRESIDING OFFICER. The junior Senator from Colorado (Mr. HART) has given up the floor and the senior Senator from Colorado (Mr. HASKELL) has been recognized.

Mr. HEINZ. Mr. President, I seek recognition from the Chair.

Mr. HASKELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado has the floor.

Mr. HASKELL. I yield to my colleague for a comment.

Mr. HART. Mr. President, there is no intention on the part of the sponsor of this measure to allocate time. I had a list here of Senators who asked me to yield to them. That is all I was doing to accommodate their wishes. I do not choose to hold the floor. There is nothing devious at all here. The Senator from Colorado is on the list.

Mr. HANSEN. I did not mean to imply any deviousness on the part of my friend from Colorado. It was a questioning of the procedure under which we seem to be operating.

The PRESIDING OFFICER. Let the Chair reiterate once again that the Chair has stated the very point the Senator from Wyoming is making. The Senator from Colorado now has the floor and it is understood is preparing to propose an amendment.

Mr. HASKELL. The Chair is correct.

Mr. President, if I can, I yield to the Senator from New Hampshire.

Mr. McINTYRE. Mr. President, I ask unanimous consent that Robin Carpenter of Senator McGOVERN's staff be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HASKELL. Mr. President, I make the same request for Martin Zeller of my staff and Rob Liberatore.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BROOKE. Mr. President, is there a time agreement on the Hart amendment?

The PRESIDING OFFICER. There is no time agreement on the Hart amendment.

Mr. BROOKE. If there is no time agreement, is not the amendment then open to debate?

The PRESIDING OFFICER. The Senator is correct.

Mr. BROOKE. Well, can a Senator make a statement or talk in support or even in opposition to the Hart amendment without even having to respond to a question from the Senator from Colorado?

The PRESIDING OFFICER. A S ator gaining recognition can speak or against the amendment at lengt

Mr. BROOKE. Well, the Senator f Colorado can yield to the Senator f Massachusetts or a Senator from other State?

The PRESIDING OFFICER. Fo question only, and if the point is rai when he has yielded otherwise, then point will be well taken and the Ch would rule that he could not yield that purpose.

Mr. BROOKE. The purpose I rise is to find out if I could make a st ment in support of the Hart amendm at any time during debate.

The PRESIDING OFFICER. If Senator obtains recognition, he wil privileged to do so.

Mr. BROOKE. And it will not haw be granted by the Senator from Co rado?

The PRESIDING OFFICER. Tha absolutely correct.

Mr. BROOKE. I thank the Chair.

The PRESIDING OFFICER. The S ator from Colorado.

UP AMENDMENT NO. 1725

(Purpose: To amend an amendment by S ator HART providing for tax credits for s energy systems to include coverage of credits to passive solar systems)

Mr. HASKELL. Mr. President, I s to the desk an amendment to the pe ing amendment and ask that it be stat

The PRESIDING OFFICER. T amendment will be stated.

The assistant legislative clerk read follows:

The Senator from Colorado (Mr. HASK proposes an unprinted amendment n bered 1725 to the Hart unprinted ame ment numbered 1724.

Mr. HASKELL. Mr. President, I unanimous consent that further re ing of the amendment be dispen with.

The PRESIDING OFFICER. With objection, it is so ordered.

The amendment is as follows:

On page 5, lines 11, 12, and 13, strike after "medium".

On page 9, lines 11, 12, and 13, strike tion (1) and insert in lieu thereof the lowing:

"(1) uses solar energy, by means of active solar system or a passive solar tem, or a combination thereof, to heat cool such dwelling or to provide hot w for use within such dwelling, or to pro electricity."

Mr. HASKELL. Mr. President, I co pliment my distinguished colleague his cosponsors for bringing this amen ment to the floor of the U.S. Senate this time.

I will just briefly explain the amen ment which I propose to my d tinguished colleague's amendment.

Basically, it would permit the cred for solar energy property to be ava able for passive as well as active so systems. In the Senate Finance Co mittee, the original solar credit was p posed only for active systems. The F nance Committee, at my urging, e panded the definition of solar ene property to specifically include pass as well as active solar systems.

Mr. President, the so-called passive system has actually proved in many instances to be more cost effective than active systems and comprises a very large segment of the solar industry.

I hope that my distinguished colleague and the floor manager of the bill will see fit to accept this amendment.

I will briefly read from a letter which I wrote to the House and Senate energy tax conferees in July of this year.

> The Senate conference report specifically states that the credit is eligible for both "'passive solar systems' as well as 'active solar systems'." Not to include passive systems which are often more cost-effective than active systems would be extremely detrimental to the commercialization of solar energy. The Solar Heating and Cooling Demonstration Act of 1974, administered by HUD, has already funded a number of passive and mixed passive and active systems.

Mr. President, I believe that this amendment would expand the credit to include most forms of residential solar energy. Indeed, I would endorse the statement of the distinguished Senator from Illinois, and also, although I was not on the floor, the statement of my distinguished colleague (Mr. HART), that leaving this business of credits up in the air has had a very adverse effect on the solar industry. As has been stated by others, we should do everything in this country that we possibly can to transfer as much of our energy resources as possible to solar systems. Indeed, the President of the United States, as the Senator from Illinois said, in April of last year, said the same thing.

So without further ado, I would be available for questioning.

Mr. PROXMIRE. Will the Senator yield for a question?

Mr. HASKELL. Yes.

Mr. PROXMIRE. Mr. President, as I understand it, the basic amendment offered by Senator HART——

The PRESIDING OFFICER. Does the Senator from Wisconsin seek recognition?

Mr. PROXMIRE. I am asking a question of the senior Senator from Colorado.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. As I understand the amendment by the junior Senator from Colorado, it is an amendment which would put into effect a provision that already passed the Senate and the House, is that right?

Mr. HASKELL. Not exactly.

Mr. PROXMIRE. Well, pretty much?

Mr. HASKELL. The amendment of my colleague, as amended by my proposed amendment, would put through a provision that previously has been passed.

Mr. PROXMIRE. That was my question. Has the amendment offered by the senior Senator from Colorado to the junior Senator from Colorado's proposal, has that passed the House and the Senate?

Mr. HASKELL. It has passed—

Mr. PROXMIRE. The passive solar systems included in this?

Mr. HASKELL. It has passed the Senate, not the House.

Mr. PROXMIRE. I see.

Mr. HART. Will the Senator yield?

Mr. PROXMIRE. On that point, let me in revenue lost by expanding this to inask the distinguished Senator if he can tell us if there is a substantial difference clude passive solar systems and, if so, what it is?

Mr. HASKELL. I will have to ask the joint committee staff in a moment.

Let me say this to the distinguished Senator from Wisconsin——

Mr. LONG. I can answer the question.

Mr. HASKELL. If I could yield——

Mr. LONG. It does not involve any significant revenue loss.

Mr. PROXMIRE. I thank the Senator.

Mr. HART. Will the Senator yield for a question?

Mr. HASKELL. I certainly will.

Mr. HART. To clarify the language.

It is the Senator from Colorado's understanding that the occasion for the amending language being offered now was a Treasury Department interpretation of the bill which passed the Senate, which said that as written the credits would not apply to passive systems and, therefore, the language being offered by my colleague is to accommodate that interpretation by the Treasury Department and clarify the language that it was, in fact, our intent to expand the credits to passive systems.

Mr. HASKELL. My colleague is correct.

Let me say that the Treasury opposed, in the Finance Committee, including both passive and active systems, and after we got the bill through the Finance Committee and the Senate, the Treasury Department continued to take the same view that the bill did not include passive systems. But the report of the Senate Finance Committee, as I quoted before, specifically states that the credit, which I said to the Senator from Wisconsin, which passed the Finance Committee and passed on the floor of the Senate, is eligible for both passive as well as active systems. That is a quote from the Senate Finance Committee report.

So, although my colleague is correct as to the Treasury stated position, I think they are dead wrong.

Mr. PROXMIRE. If the Senator will yield for a question, is the Senator saying that the Treasury would oppose his amendment?

Mr. HASKELL. I am sure the Treasury would oppose my amendment.

Mr. PROXMIRE. The distinguished chairman of the committee argues that there is not much revenue loss. On what basis would the Treasury oppose this amendment?

Mr. HASKELL. That I do not know.

Mr. PROXMIRE. I thank the Senator.

Mr. HASKELL. I hope my colleague and the distinguished manager of the bill could accept this amendment.

Mr. HART. Mr. President, for the reason stated, my colleague from Colorado has offered a very helpful and constructive amendment. It was as a result of the language the Senate passed and which we incorporated in our amendment that the question was left open as to whether past assistance would qualify. I think the language being offered to my amendment clarifies that question and is beneficial and helpful.

It is my understanding that the floor manager is correct, that there is no substantial increase in lost revenues. Like my colleague, I cannot account for the Department's position on the matter. As the Senator from Wisconsin knows, there is confusion in the administration on some of these issues.

I hope the amendment will be adopted.

Mr. THURMOND. Mr. President, I rise today to announce my strong support for this amendment to H.R. 112, by Senator HART, other Senators and myself, providing for solar energy and conservation tax credits. These very important tax credits have been locked up in conference on H.R. 5263, the energy tax bill, for the past year. I feel it is important that we act on these tax credits, which have been agreed to by the conferees, as soon as possible.

Mr. President, congressional inaction on this matter is having a very detrimental effect on our Nation's fledgling solar industry. Consumers who were considering installation of solar heaters in their homes have not done so in large part because these tax credits have not been enacted into law. Consumers must know that these tax credits are a fact that they can depend on when they file their next tax returns before they will take any action.

Solar energy is simple, efficient, abundant, and environmentally safe. As we look to the future energy needs of our Nation, and as we seek solutions to our immediate long-range energy problems, we would be foolish not to act as expeditiously as possible to encourage the American consumer to utilize solar energy and to support the development of a thriving solar industry.

Mr. President, I strongly urge my distinguished colleagues to support this amendment, of which I am a cosponsor.

I am confident it is in the best interests of this country that we proceed expeditiously.

Mr. DECONCINI. Mr. President in considering the Energy Tax Act of 1977, the Senate included provisions for residential energy credits. These tax credits will help bring the costs of insulation, solar equipment, and other important energy savings components within reach for most homeowners.

Almost 25 percent of our domestic energy resources is consumed in heating and cooling residences. Yet, under present law, no special tax credit or deduction is allowed for installing insulation or other energy-conserving components in, or on, a taxpayer's residence.

Ironically, those who need insulation, or an energy-saving device the most, are those least able to pay for it. It has been estimated that 43 percent of those below the poverty line live in houses with little or no insulation.

There can be no doubt that a long delay in making these tax credits available will not only negate the potential energy savings, but contribute to the decline of a developing solar energy industry. It would severely limit technological advancement and destroy much of the potential for short range renewable resource utilization.

Mr. President, the amendment I am

cosponsoring offers the basic provisions of the energy tax bill dealing with residential energy credits as it was passed by the Senate. It is my understanding that the changes incorporated in this amendment are consistent with the compromises tentatively agreed to by the House and Senate conferees. It is also my understanding that an identical amendment will be offered in the House. And while I prefer the provisions originally passed by the Senate, I find the compromise represented by this amendment to be acceptable. Failure to act now could, quite simply, be self-defeating.

I urge my colleagues to consider this need to expedite the implementation of the energy tax credit and to support the adoption of this amendment.

Mr. President, I ask unanimous consent that Jim Magner, of my staff, have the privilege of the floor during the debate and vote on this issue.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Mr. President, I support the amendment. I sponsored a similar amendment a year and a half ago, but my amendment was tabled.

I might note that the Senator from Colorado and the Senator from New Hampshire voted to table my amendment a year and a half ago.

I thought it might have been a good idea to try to insulate homes in the summertime, when you can have the windows open and the doors open and put insulation on. I compliment them for getting on with it while it is still August. We could have waited longer.

Senators might enjoy knowing the rationale for voting to table my amendment, which was voted upon on April 28, 1977.

This is what the record vote analysis contains:

> Those favoring the motion to table contended:
>
> It would be better to wait for the President's energy package (being sent up next week) which will contain its own insulation credit, a credit which will probably be stronger than the one offered in this amendment.
>
> Those opposing the motion to table contended:
>
> By adding insulation, we could save at least 30 percent of the energy which goes to heat our homes.
>
> The President has urged prompt action in insulating homes, and the time to start is now, during the warm months.
>
> There are significant financial incentives in insulation. American industry will be required to expand and create more jobs to carry out this program.

I might note, parenthetically, that one of the problems that we knew about last year, and which I suspect is still very real, is the inability of industry to supply a sufficient quantity of insulation material. I think we may be in a little better shape now than we were last year. The point was made that if we were to make this tax credit available, there would be such a demand for insulation as to result in the price going sky high.

I could infer—though perhaps I would be taking liberties—that the action we see here today must suggest that the President's energy package, the tax part of that package, to which sometims he has referred as being the centerpiece of his whole energy program, is not going to pass. I will not ask my friends from Colorado and New Hampshire if that is their conclusion. I simply join them in taking the action that I regret very much we did not take a year and a half ago.

Mr. MCINTYRE. Mr. President, many of us, as we sort of regretfully expect the distinguished Senator from Wyoming to be leaving these halls, are only now becoming more and more aware of his great foresightedness and his great talent. I only wish I had been as wise as he back in those days when he offered that very good amendment that I voted to table.

Mr. BROOKE. Mr. President, first, I congratulate the distinguished Senator from Colorado (Mr. (HART), the distinguished Senator from New Hampshire (Mr. MCINTYRE), and the distinguished Senator from Illinois (Mr. PERCY) for sponsoring this amendment, the solar insulation tax credit.

By enacting the solar and conservation tax credit, in my opinion, the Senate would be acknowledging what the rest of the world knows to be a reality.

The realities are, one, that the crude oil equalization tax proposed by the President is not the same tax as the one in the House- or the Senate-passed energy tax bill; two, that these distorted and ill-conceived bills, fortunately, are dead; and, three, that the newborn solar industry is in desperate, perhaps mortal, trouble. This is because the solar and insulation tax credits, which have universal support, were dragged down by the other tax proposals.

Since December of 1975, I have been trying to get conservation tax credits passed as separate legislation. Each year, my efforts were defeated, because we were told that the taxes had to be part of a package and that there were political considerations, or that the time was not just right.

Mr. President, if the time is not right now, there may never be a right time for the vast majority of producers of solar power equipment. Only a few giant firms will survive further political paralysis and delay. The momentum of movement to commercialize solar power is already faltering. The small business character of the industry is in jeopardy.

These important tax incentives have been held hostage to other legislation for too long. Solar power can and must become a commonplace feature of our energy system. No one knows exactly what proportion of our future energy needs can be met by solar power, but most optimistic projections say that maximum effort can make solar meet 85 percent of energy needs within 50 years.

Thus, we need to commit significant Federal expenditures to invest in promoting commercialization of the industry. The tax credit proposed today would be the first and most visible contribution by the Government toward developing the new sector of our economy. Affirmative action is essential. We cannot depend on business-as-usual to change our energy economy. Shortages, severe dislocation, and shortrun solutions would be our only payoff. We need to guide our energy developments that we actively choose the econo and the lifestyles of the future.

And it is both exciting and import to realize that an energy supply w a significant solar base is going to volve a very different social system fr one entirely dependent on coal or clear technologies. Such a system is ing to be diverse. It will require dividuals and communities to set up manage part of their energy resour And it will mean that technology wil used flexibl to meet rapidly chang individual needs and circumstances.

This dream of a heterogeneous, renewing resource base owned by m individual users is not, as some wo claim, antitechnology or antibusin On the contrary, it will require a h level technological genius to inv equipment both sophisticated enough make power and simple enough to managed by the individual user. We far from this breakthrough. And th is no question that central power eration and the building of cen facilities will go forward as one par the entire energy picture. Simila countless new industries will stronger. But the richness of a div economy and the satisfaction of sm scale enterprises will be allowed flourish. And they are of value in of themselves. I firmly believe tha good reason for subsidizing solar is only its potential share of needed source production, but also the kind lifestyles its adoption will reinfo They are values worth planning paying for.

Mr. President, just now the power the Sun seems to be infinite. The Am can people clearly want to follow up that promise. Congress must not them.

It is for that reason that I rise support this addition, and I ask un mous consent that I be added as a sponsor to this amendment if the dis guished Senator from Colorado will y for that purpose.

Mr. HART. The Senator from M sachusetts is already a cosponsor.

Mr. BROOKE. I wished to be sure

Several Senators addressed the Ch

The PRESIDING OFFICER. The S ator from Pennsylvania is recognis

Mr. HASKELL. Mr. President, a p liamentary inquiry.

The PRESIDING OFFICER. The S ator will state it.

Mr. HASKELL. What is the pend business, Mr. President?

The PRESIDING OFFICER. amendment of the senior Senator f Colorado to the amendment of the ju Senator from Colorado is the pend business.

Mr. HASKELL. To clear things u move the adoption of my amendmen my colleague's amendment.

The PRESIDING OFFICER. The S ator made a parliamentary inquiry. Senator from Pennsylvania has the fl

Mr. HASKELL. Mr. President, will Senator from Pennsylvania yield me for the purpose of getting my ame ment to my colleague's amendm adopted? Then we are back on my

league's amendment and then the Senator will proceed. I simply wish to clear up one step of a parliamentary procedure.

Mr. HEINZ. Mr. President, I do not know that I have seen the Senator's amendment yet.

Mr. HASKELL. It is satisfactory to my colleague and satisfactory to the floor manager.

Mr. HEINZ. Is it satisfactory to Senator HART?

Mr. HASKELL. It is satisfactory to Senator HART and satisfactory to Senator LONG.

So, will the Senator yield for that purpose and get one step out of the way?

Mr. HEINZ. I will yield and ask unanimous consent that I do not lose my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HASKELL. I thank the distinguished Senator from Pennsylvania.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the senior Senator from Colorado.

The amendment was agreed to.

Mr. HEINZ. Mr. President, I speak today both as a cosponsor of H.R. 112, the bill to reduce the excise tax on foundations before us, and as a cosponsor of Senator HART's amendment on residential energy credits.

Let me say very briefly that I think we all seek as a national goal and as a national priority an energy bill and a balanced energy bill, but the fact is that the President's plan and even the legislation that we passed or that we might get is not going to be very balanced.

The only thing that we can promise the consumers of the country, based on what I have seen brought back to this Chamber or what might come back, are either tax increases or higher prices.

I think the amendment of the Senator from Colorado does something—perhaps it is the exception to the rule—but does something for the consumer. Indeed, this is, I think, the best part of our energy bill, and I hope that my colleagues will join in adopting this amendment which for once, as a piece of our energy package, helps, not hurts, the consumer.

Mr. President, almost 1 year has passed since the Senate completed action on the energy tax portion of the National Energy Act. Unfortunately, in spite of diligent activity by the conferees, opposition to a few controversial segments of the bill will probably prevent the majority of the vital issues from being acted upon. The residential and solar energy credit programs are outstanding examples of widely accepted ideas that are in danger of being ignored because of their association and inclusion with other less popular proposals.

The Hart amendment would insure that tax incentives will be available to persons who employ new technology to take advantage of renewable energy sources or improve the insulation value of their residence to eliminate energy waste. Initial consumer response to the announcement of this proposal last year was very encouraging, and the proposal passed both House and Senate easily. However, as the energy tax provisions became bogged down in the legislative process and the prospects of receiving the proposed tax credits dimmed, interest in tapping this vast energy resource has stalled.

The potential savings of conservation practices by consumers have been demonstrated. The potential use of solar power has been demonstrated. By adopting this amendment we will enable consumers to realize the benefits of the potential that federally funded research has already demonstrated, while the Nation as a whole benefits from less dependence on foreign supplies of traditional energy sources.

The amendment we offer today seeks to incorporate the informal agreements reached by the Conference Committee staff. Individuals would be entitled to a 20-percent tax credit for the cost of qualified energy conservation expenditures up to a total of $2,000 per taxable year. In addition, investments in renewable energy resources would be entitled to a 30-percent tax credit for the first $2,000 of expenditures, plus 20 percent of costs that exceed $2,000 but do not exceed $10,000. These credits would be applicable to any expenditures made on or after April 20, 1977, for equipment installed in or on his principle residence the construction of which was substantially completed before April 20, 1977.

If the Senate fails to take advantage of this opportunity to pass legislation that includes tax incentives for residential energy conservation and renewable energy sources the progress made so far in the field of solar energy technology will be wasted. In the past year, the number of manufacturers of solar thermal collectors has fallen from 186 to 162, a decline of 13 percent, according to a survey taken by Anthony Adler for the Solar Energy Research and Education Foundation. In addition, the total number of medium-temperature and special collectors has declined by 13 percent over the past year. Clearly the initial enthusiasm for these alternative sources of energys has been suspended due to Congress inaction on the issue of tax credits.

In a time in which energy prices are becoming a greater proportion of the average citizen's budget, to ignore the chance to develop alternatives to this expensive energy is irresponsible. An analysis of the potential savings from this proposed program indicates that as much as 1.6 million barrels of oil per day could be saved or replaced by equipment purchased and installed through the incentive program that this amendment would institute.

Mr. President, I urge my colleagues to support our amendment.

The PRESIDING OFFICER. Who seeks recognition?

Mr. GRAVEL addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

UP AMENDMENT NO. 1726

(Purpose: To provide incentives for the use of alternative energy sources, and other purposes)

Mr. GRAVEL. Mr. President, I send to the desk an amendment to the amendment of the Senator from Colorado and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. GRAVEL) proposes an unprinted amendment numbered 1726.

Mr. GRAVEL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page —, line —, insert the following: at the end of the amendment add the following new sections:

ADDITIONAL PERCENTAGE FOR INVESTMENT CREDIT WITH RESPECT TO CERTAIN ENERGY PROPERTY

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting immediately after section 46 the following new section:

"SEC. 46A. SPECIAL RULES RELATING TO CERTAIN ENERGY PROPERTY.

"(a) IN GENERAL.—In addition to the amount which is determined under section 46(a)(2), the amount of the credit allowed by section 38 for the taxable year determined under section 46(a)(1)(B) with respect to energy property shall include an amount equal to 10 percent of the qualified investment (as determined under section 46 (c) and (d)) in section 38 property which is, (or, for the purpose of applying section 46(d), will be) energy property.

"(b) DEFINITIONS.—For purposes of this section—

"(1) ENERGY PROPERTY.—The term 'energy property' means property—

"(A) which is—

"(i) cogeneration equipment installed in connection with an existing facility, but only to the extent that the cogeneration energy capacity of such facility is expanded,

"(ii) recycling equipment,

"(iii) shale oil equipment,

"(iv) geopressurized methane gas equipment, or

"(v) equipment for the application of heat by electricity generated by the use of an alternate substance (including other on-site property necessary to effect process changes for the use of such equipment) which will use neither oil nor natural gas, and which will replace equipment used in an existing industrial facility which uses oil or natural gas as a fuel,

"(B) which is an integral part of, or used in connection with, a building or other structure located in the United States,

"(C)(i) the construction, reconstruction, or erection of which is completed by the taxpayer after April 19, 1977, or

"(ii) which is acquired after April 19, 1977, if the original use of such property commences with the taxpayer and commences after such date, and

"(D) which has a useful life of 3 years or more.

"(2) CERTAIN TRANSPORTATION EQUIPMENT TREATED AS ENERGY PROPERTY.—A commuter van (as defined in section 46(c)(6)(B)), and equipment designed to reduce energy consumption added to existing motor vehicles primarily engaged in the commercial transportation of property, shall be treated as energy property. An electric motor vehicle used in the taxpayer's trade or business shall be treated as energy property.

"(3) COGENERATION EQUIPMENT.—The term 'cogeneration equipment' means equipment which—

"(A) produces steam, heat, or other forms of useful energy (other than electric energy) to be used for industrial (including water purification or desalinization), agricultural, commercial, or space heating purposes, and

"(B) also produces electric energy.

"(4) RECYCLING EQUIPMENT.—The term 'recycling equipment' means any equipment which is used exclusively in the recycling of solid waste (including not more than a nominal amount of virgin materials) or to sort and prepare such solid waste for recycling, and any equipment used in the conversion of solid waste into a fuel or into useful energy such as steam, electricity, or hot water.

"(5) SHALE OIL EQUIPMENT.—The term 'shale oil equipment' means equipment which is used to extract oil from oil-bearing shale rock.

"(6) GEOPRESSURIZED METHANE GAS EQUIPMENT.—The term 'geopressurized methane gas equipment' means equipment which is used to extract geopressurized methane gas (as defined in section 44G(d)(1)).

"(7) EXISTING.—The term 'existing' has the same meaning as in paragraph (4) of section 44F(b).

"(8) ALTERNATE SUBSTANCE.—The term 'alternate substance' means any substance other than—

"(i) oil and natural gas, and

"(ii) any product of oil and natural gas.

"(9) EQUIPMENT MUST MEET CERTAIN STANDARDS OF QUALITY.—Equipment qualifies under paragraph (1)(A) (i) or (ii) or paragraph (2) only if it meets the performance and quality standards (if any) which—

"(A) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy), and

"(B) are in effect at the time of acquisition of the property.

"(10) SPECIAL RULE FOR PROPERTY FINANCED BY INDUSTRIAL DEVELOPMENT BONDS.—In the case of property which is financed in whole or in part by the proceeds of an industrial development bond (within the meaning of section 103(b)(2)) the interest on which is exempt from tax under section 103, '5 percent' shall be substituted for '10 percent' in subsection (a).

"(c) SPECIAL RULES.—

"(1) CERTAIN SECTION 48 RULES WAIVED.—For purposes of this section, the rules contained in section 48(a)(3) (relating to property used for lodging) shall be disregarded and the words 'its structural components' contained in section 48(a)(1)(B) shall be disregarded.

"(2) APPLICATION WITH SECTION 44F.—Property described in section 44F shall not be treated as property described in this section.

"(3) QUALIFIED INVESTMENT.—For the purpose of determining the taxpayer's qualified investment, the applicable percentage (for purposes of section 46(c)(1)) shall be 100 percent (without regard to the actual useful life of the item).

"(4) RECAPTURE RULES.—For the purpose of applying section 47 to energy property, a disposition of such property, or the conversion of such property into property which is not energy property, which occurs before the property has been in service for half its useful life shall be treated as having occurred before the close of the third year after the property was placed in service.

"(b) ALLOWANCE OF REGULAR PERCENTAGE FOR BUSINESS INSULATION PROPERTY.—Subsection (a) section 48 (defining section 38 property) is amended by adding at the end thereof the following new paragraph:

"(10) BUSINESS INSULATION PROPERTY.—For the period beginning on April 20, 1977, and ending on December 31, 1985, insulation shall be treated as meeting the requirements of paragraph (1) and paragraph (3) shall not apply to insulation. For purposes of the preceding sentence, the term 'insulation' means any item—

"(A) which is specifically and primarily designed to reduce when installed in or on an existing industrial or commercial building or existing industrial or commercial facility the heat loss or gain of such building or facility,

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 3 years,

"(D) which meets the performance and quality standards (if any) which—

"(i) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy), and

"(ii) are in effect at the time of the acquisition of the item, and

"(E) would not, but for this paragraph, be section 38 property.

For purposes of this paragraph, a building or facility will be treated as existing if it was placed in service before April 20, 1977.".

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting immediately after the item relating to section 46 the following new item:

"Sec. 46A. Special rules relating to certain energy property.".

(d) EFFECTIVE DATES.—The amendments made by this section shall apply to—

(1) property to which section 46(d) of the Internal Revenue Code of 1954 does not apply, the construction, reconstruction, or erection of which is completed by the taxpayer after April 19, 1977, but only to the extent of the basis thereof attributable to the construction, reconstruction, or erection after such date and before January 1, 1986.

(2) property to which section 46(d) of such Code does not apply, acquired by the taxpayer after April 19, 1977, and before January 1, 1986, and placed in service by the taxpayer before January 1, 1986, and

(3) property to which section 46(d) of such Code applies, but only to the extent of the qualified investment (as determined under subsection (c) and (d) of section 46 of such Code) with respect to qualified progress expenditures made after April 19, 1977, and before January 1, 1986.

SEC. 1033. PAYMENT IN LIEU OF CREDIT TO TAX EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—In the case of a State or any political subdivision thereof, and in the case of any organization described in section 501(c)(3) of the Internal Revenue Code of 1954, or any electric utility cooperative described in section 501(c)(12), which is exempt from tax under section 501(a) of such Code for the taxable year, the Secretary of the Treasury shall pay to each such government, subdivision, or organization which files a claim during the calendar year in the form, manner, and at the time prescribed by the Secretary by regulations, an amount determined under subsection (b). Such payment shall be made as soon as possible after the receipt of such claim.

(b) AMOUNT OF PAYMENT.—The amount payable to a State, subdivision, or organization (hereinafter referred to as a "tax exempt entity") under subsection (a) for the calendar year shall be equal to the amount of credit which such tax exempt entity would, if it were liable for tax under chapter 1 of such Code, be allowed under section 44F of such Code with respect to its investment in alternative energy property and specially defined energy property and if such property were used in a trade or business.

(c) REPAYMENT.—If an entity which receives a payment under subsection (a) takes any action which would result in an increase of its tax under subpart B of part IV of subchapter A of chapter 1 of such Code if such entity were liable for tax under this chapter, then such entity shall be liable to the Secretary for an amount equal to the increased amount of tax which would be imposed under such subpart and such amount shall be collected as if it were the underpayment of a tax imposed under such chapter 1.

(d) TREATMENT AS OVERPAYMENT OF TAX.—For purposes of any law of the United States, including section 101 of the Treasury Department Appropriation Act of 1950 and title I of the Supplemental Treasury and Post Office Departments Appropriation Act, 1949, any payment made under this section shall be considered to be a refund of any overpayment of the tax imposed under chapter 1 of the Internal Revenue Code of 1954.

"(2) facilities for the on-site transportation, handling, storage, or treatment of coal, other raw materials, supplies, or any other materials in any preparatory process for the coal gasification or liquefaction process,

"(3) facilities for the on-site economic recovery, recycling, handling, storage, treatment, or utilization of byproduct materials or energy generated by the coal gasification or liquefaction process,

"(4) facilities for the on-site handling or transportation, or the increasing of the British thermal unit content per unit of volume of synthetic gaseous or liquid fuels produced by the coal gasification or liquefaction process, and

"(5) other on-site facilities to the extent that such facilities are functionally related and subordinate to, any facilities described in paragraphs (1) through (4).

For purposes of this section, the term 'synthetic gaseous or liquid fuels' means any gaseous or liquid product of a coal gasification or liquefaction process which can be used as a substitute for natural gas or oil regardless of its chemical composition or British thermal unit content.".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to obligations issued after December 31, 1977.

SEC. 1042. PERCENTAGE DEPLETION FOR PEAT, GEOTHERMAL DEPOSITS, AND GEOPRESSURIZED METHANE GAS.

(a) PEAT.—Section 613(b) (relating to percentage depletion rates) is amended—

(1) by inserting "peat (from deposits in the United States but only if used as a fuel or otherwise used to produce energy)," after "sodium chloride," in paragraph (4) thereof and

(2) by inserting "(if paragraph (4) does not apply)" after "peat" in paragraph (6) thereof.

(b) GEOTHERMAL DEPOSITS AND GEOPRESSURIZED METHANE GAS.—

(1) APPLICABLE PERCENTAGE.—Section 613 (b) (relating to percentage depletion rates) is amended by inserting after paragraph (7) the following new paragraph.

"(8) In the case of geothermal deposits located in the United States or in a possession of the United States, the percentages set forth in section 613a(c)(5) for calendar years shall apply to taxable years beginning in such calendar years, except that 10 percent shall be the applicable percentage for geopressurized methane gas (as defined in section 44G(d)(1)) extracted from brine withdrawn from such deposits."

(2) DEFINITION.—Section 613 (relating to percentage depletion) is amended by adding at the end thereof the following new subsection:

"(e) GEOTHERMAL DEPOSITS.—For purposes of this section, the term 'geothermal deposit' means a geothermal reservoir consisting of natural heat which is stored in rocks or in an aqueous liquid or vapor (whether or not under pressure). Such a deposit shall in no case be treated as a gas well for purposes of

this section or section 613A, and this section shall not apply to a geothermal deposit which is located outside the United States and its possessions."

(3) TECHNICAL AMENDMENTS.—

(A) Paragraph (1) of section 613(c) (defining gross income from the property) is amended by inserting "and other than a geopressurized methane gas well or a geothermal deposit" after "oil or gas well."

(B) Paragraph (1) of section 613(b) is amended—

(i) by inserting "and" at the end of subparagraph (A),

(ii) by striking out "and" at the end of subparagraph (B), and

(iii) by striking out subparagraph (C).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1977.

SEC. 1043. OPTION TO DEDUCT INTANGIBLE DRILLING COSTS IN THE CASE OF GEOTHERMAL DEPOSITS AND GEOPRESSURIZED METHANE GAS.

(a) IN GENERAL.—Subsection (c) of section 263 (relating to intangible drilling and development costs in the case of oil and gas wells) is amended—

(1) by adding at the end thereof the following new sentence: "Such regulations shall also grant the option to deduct as expenses intangible drilling and development costs in the case of wells drilled in the United States (within the meaning of paragraph (1) of section 638), or any possession thereof, for any geothermal deposit (as defined in section 613(e)) or for any geopressurized methane gas (as defined in section 44G(d)(1)) to the same extent and in the manner as such expenses are deductible in the case of oil and gas wells.", and

(2) by amending the subsection heading to read as follows:

"(c) INTANGIBLE DRILLING AND DEVELOPMENT COSTS IN THE CASE OF OIL AND GAS WELLS AND GEOTHERMAL AND GEOPRESSURIZED METHANE GAS WELLS.—".

(b) MINIMUM TAX ON INTANGIBLE DRILLING COSTS IN THE CASE OF GEOTHERMAL AND GEOPRESSURIZED METHANE GAS WELLS.—

(1) Paragraph (11) of section 57(a) (relating to intangible drilling costs) is amended by striking out "oil and gas properties" each place it appears (including in the heading of subparagraph (C)) and inserting in lieu thereof "oil, gas, geopressurized methane gas, and geothermal properties".

(2) Clause (i) of section 57(a)(11)(B) is amended by striking out "oil and gas wells" and inserting in lieu thereof "oil, gas, geopressurized methane gas, and geothermal wells".

(3) Paragraph (11) of section 57(a) is amended by adding at the end thereof the following new subparagraph:

"(D) PARAGRAPH APPLIED SEPARATELY WITH RESPECT TO GEOTHERMAL PROPERTIES, GEOPRESSURIZED METHANE GAS PROPERTIES, AND OIL AND GAS PROPERTIES.—This paragraph shall be applied separately with respect to—

"(i) all oil and gas properties which are not described in clause (ii) or (iii),

"(ii) all properties which are geothermal deposits (as defined in section 613(e)), and

"(iii) all geopressurized methane gas properties.".

(4) Section 614 (relating to the definition of property) is amended by inserting "or geothermal and geopressurized methane gas wells" after "oil and gas wells" each place it appears.

(c) GAIN FROM DISPOSITION OF INTERESTS IN GEOTHERMAL OR GEOPRESSURIZED METHANE GAS WELLS.—

(1) Paragraphs (1) and (2) of section 1254(a) (relating to gain from disposition of interest in oil or gas property) are each amended by striking out "oil or gas property" each place it appears and inserting in lieu thereof "oil, gas, geopressurized methane gas, or geothermal property".

(2) Paragraph (3) of section 1254(a) (defining oil or gas property) is amended to read as follows:

"(3) OIL, GAS, GEOPRESSURIZED METHANE GAS, OR GEOTHERMAL PROPERTY.—The term 'oil, gas, geopressurized methane gas, or geothermal property' means any property (within the meaning of section 614) with respect to which any expenditures described in paragraph (1)(A) are properly chargeable."

(3) The section heading of section 1254 is amended by striking out "OIL OR GAS" and inserting in lieu thereof "OIL, GAS, GEOPRESSURIZED METHANE GAS, OR GEOTHERMAL".

(4) The table of sections for part IV of subchapter P of chapter 1 is amended by striking out "oil or gas" in the item relating to section 1254 and inserting in lieu thereof "oil, gas, geopressurized methane gas, or geothermal".

(5) Subsection (c) of section 751 (relating to unrealized receivables) is amended by striking out "oil and gas property" and inserting in lieu thereof "oil, gas, geopressurized methane gas, or geothermal property".

(d) APPLICATION OF AT RISK RULES TO GEOTHERMAL DEPOSITS AND GEOPRESSURIZED METHANE GAS.—

(1) Paragraph (1) of section 465(c) (defining activities to which at risk rules apply) is amended by striking out "or" at the end of subparagraph (C) and by inserting after subparagraph (D) the following new subparagraphs:

"(E) exploring for, or exploiting, geothermal deposits (as defined in section 613(e)), or

"(F) exploring for, or exploiting, geopressurized methane gas (as defined in section 44G(d)(1))".

(2) Paragraph (2) of section 465(c) is amended by striking out "or" at the end of subparagraph (C) and by inserting after subparagraph (D) the following new subparagraphs:

"(E) geothermal property (as determined under section 614), or

"(F) geopressurized methnane gas property (as determined under section 614),".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to wells commenced on or after April 20, 1977, in taxable years ending on or after such date.

(2) ELECTION.—The taxpayer may elect to capitalize or deduct any costs to which section 263(c) of the Internal Revenue Code of 1954 applies by reason of the amendments made by this section. Any such election shall be made before the expiration of the time for filing claim for credit or refund of any overpayment of tax imposed by chapter 1 of such Code with respect to the taxpayer's first taxable year to which the amendments made by this section apply and for which he pays or incurs costs to which such section 263(c) applies by reason of the amendments made by this section. Any election under this paragraph may be changed or revoked at any time before the expiration of the time referred to in the preceding sentence, but after the expiration of such time such election may not be changed or revoked.

SEC. 1058. DUTY ON BUILDING INSULATION MATERIALS AND RELATED MATERIALS.

(a) IN GENERAL.—Subpart B of part 1 of the Appendix to the Tariff Schedule of the U.S. (19 U.S.C. 1202) is amended by inserting immediately after item 911.16 the following new items:

" 911.17	Glass fibers in bulk: glass fibers in the form of mats, batts, blankets, felts, pads casings and boards, all the foregoing, of a density not over 25 lbs. per-cubic-foot, whether or no coded, impregnated or bonded with glue, plastics, or other substances or lines, backed or supported with paper, paper board, fabrics, or similar materials, or with metal mesh or foil; glass-fiber filter with or without their frameworks or supports; and article not specifically provided for, of glass fibers (provided for in item 540.71, part 3, schedule 5).....	Free.	No change	On or before 6/30/79.
911.18	Mineral wool, in bulk or in batts, blankets, or similar forms, whether or not lined, backed, or supported with paper, paper board, or similar materials (provided for in item 522.81, part 1, schedule 5).	Free.	No change	On or before 6/30/79.
911.19	Boric Acid (provided for in item 416.10, Subpart B, part II, schedule IV).....	Free.	No change	On or before 6/30/79. ".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date of enactment of this Act.

SEC. 1060. INJECTION OF WATER TO ENHANCE CRUDE OIL RECOVERY.

Section 8(1)(2) of the Emergency Petroleum Allocation Act of 1973, as amended, is amended by adding the following new sentence at the end thereof: "Included in the count of the total number of wells on a property shall be all wells producing crude oil and all wells utilized for the purpose of injecting water and/or other materials into a producing reservoir for the purpose of enhancing crude oil recovery.".

Mr. GRAVEL. Mr. President, I retract my earlier requests to the Senator from Colorado that we try not to load this bill up. While I was speaking on that, I did not realize that the chairman of the committee had amendments that he was putting on. So far we have added on something for schools, we have added on something for slot machines, and we are doing a good job on energy. I think that is fine.

I only hope that this bill sees it all the way through Congress. We have seen a lot of bills that begin as a Christmas tree and just die.

Some of us feel very deeply about the foundations tax. It is a corrective measure. I hate to see the foundations tax reduction destroyed after the work that has been done. It has passed the House of Representatives. It has passed the committee. Now, obviously, it would pass

the Senate, but by using it as a workhorse it may die of heat prostration in the House.

But, since it is going to be a Christmas tree, I certainly will not stand back and see only a part of the energy package adopted.

The amendment that I have at the desk does exactly what Senator HART's package does, but on another side of the economy. The Finance Committee and the full Senate considered a whole host of matters with respect to energy and we passed them. So what I have done is that I have now taken from the Senate-passed bill the items that Senator HART has not taken up, and am now adding them to his amendment. So what we truly have is exactly the tax bill that passed the Senate with respect to the items I have added, and I will enumerate those items.

One is an additional 10 percent investment tax credit for alternate energy property and payment in lieu of credits for tax-exempt organizations. This goes with respect to recycling equipment, oil shale, nonoil or gas and electric equipment, with a useful life of at least 3 years. This is to give incentives for those items. Additionally there are payments in lieu of tax credits for tax-exempt organizations, such as electric co-ops.

The next item is a depletion allowance for geothermal that would start at 22 percent in 1978 and go down to 15 percent in 1983.

Then we have geopressurized methane, a depletion allowance of 10 percent for that and for peat. In addition to the credit we are going to have for the residential buyer to get a peat stove we are going to have a 10-percent depletion allowance for peat.

Mr. CURTIS. Mr. President, will the distinguished Senator yield for a question?

Mr. GRAVEL. I am happy to yield for a question.

Mr. CURTIS. Is it true that the Senator's amendment will add onto the amendment of the distinguished Senator from Colorado the entire energy tax bill that passed the Senate?

Mr. GRAVEL. I apologize. I did not hear the Senator.

Mr. CURTIS. Do I understand correctly that the Senator's amendment to the amendment of the distinguished Senator from Colorado embodies the entire energy tax bill that passed the Senate at an earlier date?

Mr. GRAVEL. That is exactly correct.

Mr. CURTIS. All of it?

Mr. GRAVEL. And to my knowledge all of this is not in controversy in the conference.

Mr. CURTIS. But it includes all of it.

Mr. GRAVEL. All of it.

Mr. CURTIS. I thank the Senator.

Mr. GRAVEL. All of it.

We sort of spotted areas he picked out and are putting in the remainder.

So if my colleague will yield——

Mr. HART. I would like to clarify that question. My understanding was to the contrary. The sum of the whole of the proposal being offered by the Senator, if it were still in controversy is in the conference and has not been approved; is that correct?

Mr. GRAVEL. No. I have other amendments, and I am having my staff scurry back to my office to get some more. But the amendments I have right here are exactly the pages that we took out of the bill and put onto a covering sheet, and you can go inspect it at the desk.

Mr. HART. The Senate bill in conference?

Mr. GRAVEL. To my knowledge these items are not in controversy in the conference. Let me finish reading them. For example, investment tax credits of 10 percent; depletion allowances for pressurized methane and peat.

The next item is to allow deduction for intangible drilling costs for wells drilled for geothermal and geopressurized methane. This is the same way we deal with oil wells. Why should we give oil an advantage over geothermal?

A further item is to suspend import duties on insulation materials until June 30, 1979. We received adequate testimony that there is a shortage. The impact of this I say to my colleague is $1 million in the Treasury. The committee passed it and it also passed the Senate.

The other item is a water injection enhancement of crude oil recovery. This includes in the number of wells on a property the wells used for water reinjection to enhance crude oil recovery. These are all items that have passed the Senate. These are items that are in conference and, to my knowledge—and I can only say to my knowledge, because I am not on the conference—well, I am on the tax part of the conference, and in the discussions we had in conference this was not the area of controversy.

Mr. HART. Mr. President, will the Senator yield for a question?

Mr. GRAVEL. I would be happy to.

Mr. HART. Were these items in the House-passed version of the bill?

Mr. GRAVEL. I think most of them were of one kind or another. I could not say with any preciseness, but I think the intent—in some cases, we may have been a little more creative in this regard, but I would say a lot of those elements were——

Mr. HART. I think it would be helpful to Senators to clarify that because I think there is also some disagreement and confusion on that. My understanding was that a number of these items were not in the House bill; there is controversy over in the House on them or at least not agreement.

Mr. GRAVEL. I would be happy to let it go overnight and give everybody a chance to reexamine what we are doing.

All I was doing was taking material out of the primary bill that passed the Senate. I do not know whether it passed the House, and if it did not I do not much care—the Senate passed on it, and our committee passed on it, and since we are sending them over one hell of a horse, let them worry about whether or not they like it when it gets there. I think these items are valid.

You have taken some things out of our work in the committee and I am just giving you the rest of what we did.

Mr. HART. Mr. President, will the Se
ator yield?

Mr. GRAVEL. I would be happy
yield.

Mr. HART. I think there is some log
to the amendment offered by the Senat
from Colorado, the Senator from Ne
Hampshire, and so on. This is a discre
package of two basic proposals whi
are defined primarily because of the el
ment of homeownership and residenti
consumers.

The alternative energy supplies, pa
ticularly solar and the home insulatio
obviously what the sponsors of th
amendment did not try to do was to tal
every tax incentive or every provision
the Senate-passed bill or the Hous
passed bill or in the conference, and lo
it onto this amendment.

There was a conscious decision on th
part of a number of Senators on bo
sides of the aisle and, particularly, tho
who were concerned about solar energ
to provide an opportunity for the Sena
and the House to break those particul
small portions of that bill out and gi
us a chance, to which the majority
both the Houses agree, to indicate to th
American people and our constituen
that we were now prepared to move
these noncontroversial items.

The Senator from Alaska, of course,
vastly expanding that step. To includ
in my judgment at least, a number
controversial items, which may be obje
tionable to the House, and substantial
change the character of the amendme
before the Senate today. I think this i
very important distinction to make b
cause it is not just a question of wheth
we have started down the path to brea
ing up the entire energy tax bill. I belie
we have a chance here to pass an amen
ment to take a major energy step, and
am afraid if we adopt the procedu
being suggested by the Senator fro
Alaska, that chance will evaporate almo
instantaneously.

Mr. GRAVEL. Let me say to my co
league if we have a serious chance f
passage of these amendments then let
do something for geothermal just as
are doing something in other areas. Y
are doing something for peat, and I wa
to do a little more for peat.

Mr. HART. No, the distinction is n
the energy source.

Mr. GRAVEL. Let me finish with m
colleague. If we have a serious chance
prevail on these amendments, let us do

The chairman of the full committee
prepared to accept your amendment a
will accept mine. But, I sort of hear y
telling me that you will not accept m
amendment on your amendment wh
the chairman is prepared to accept it a
I get a little uptight about the argume
the Senator is using in this regard whi
is, "Well, this is a nice little package th
is going to be more acceptable."

I would suggest to my colleague th
he is already in company with al
machines. I do not think it will hurt hi
too much more to be in company with
depletion allowance for geothermal, ge
pressurized methane, and peat.

So, if the present company does n

bother you, I would hope these fine things would not bother you either.

Mr. HART. Mr. President, will the Senator yield?

Mr. GRAVEL. I would be happy to yield.

Mr. HART. Obviously, the sponsors of the pending amendment had no choice one way or the other about slot machines or anything else. That was an action taken by the chairman on behalf of other Senators.

What I am talking about here are energy tax incentives, and we made a conscious decision in formulating this amendment not to include every possible energy source. It is not a question of doing something for peat and nothing for geothermal. It is a question of what can be done, as I think all of the Senators who sponsor this amendment believe, for the homeowners and the consumers regardless of what energy supply we are talking about, in order to provide those incentives without which the industry is being destroyed.

We do not in this amendment attempt to solve every energy problem. That is going to prove to be an impossibility, and one always has to make a decision about what you think is acceptable and what has a chance of passing. Now, there is a point beyond which, if everything gets put into this amendment, the whole purpose is defeated. That is all I am trying to say.

Mr. GRAVEL. Let me just answer my colleague by saying that I do not have much control either. I am the prime sponsor of this horse, and I was hoping to keep it clean so we can correct the deficiency in the foundation tax.

I am chairman of that subcommittee and I have lost control. I am only, therefore, trying to do exactly what the Senator is trying to do. Thus, I am not very sympathetic to the case he is making that maybe his stuff deserves a little more attention than mine which I think also, deserves a little bit of attention.

So I am very unsympathetic to that. I do not think these items are going to load down the Senator's proposal any more than it deserves to be loaded down. I think the Senator's proposal has merit. I stood on this floor back in 1971 fighting for solar energy and I could not get a cosponsor for it. So I feel very strongly about solar energy and I want to see it happen. But I want to see these other things happen, too.

I come from an oil State and I am here offering an amendment that will give an edge or at least give an equal edge, to other forms of energy. So I think this is a serious endeavor.

I just plead with my colleague, if he thinks his proposal has merit I would hope he would accord me the same courtesies that apparently the distinguished Senator from Louisiana is going to accord him.

And I, too, will accord the Senator courtesy because obviously I would be in a position to insist on a vote, since I am the prime sponsor of this bill. The chairman of the full committee merely exercised his privilege to jump up from there and carry this bill for me. I am not sure yet whether he is helping me or hurting me; I will only know in a month or so. I will leave the verdict out until I know.

But by the same token, I am prepared to say that I have seen the Senator from Louisiana do some interesting things where I have been opposed, and I am prepared to go ahead on his horse and ride it all the way.

I will cosponsor the Senator's amendment. But take the rest of the package, too, because it has equal merit. Not any more, but not any less.

Mr. HART. I think that is a decision for the Senate to make. I would hope we would be able to vote on it.

Mr. GRAVEL. Mr. President, I ask for the yeas and nays.

Mr. HART. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER (Mr. NUNN). Is there a sufficient second for the yeas and nays on the amendment of the Senator from Alaska? There is a sufficient second.

The yeas and nays were ordered.

Mr. HART. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. At this point, it would require unanimous consent to get the yeas and nays on the Hart amendment.

Mr. LONG. I object to that, Mr. President. Let us vote on this one first.

Mr. HART. I did not make the unanimous-consent request, so there is nothing to object to.

Mr. GRAVEL. Mr. President, could I ask the Senator from Louisiana a question?

My question is, if my amendment fails, would you, as manager for the majority, be prepared to accept the amendment without a vote?

Mr. LONG. My reaction is, I have heard a lot of speeches here, and I know why the energy bill has not passed. I have been on that conference a long time. I stayed around here 6 weeks last year after everyone else went home trying to resolve that issue.

That was the last energy bill to pass. Everybody agreed it had more controversy in it than any other bill. It had the crude oil equalization tax in the House part, and that is what is holding up that measure, the crude oil equalization tax. The House does not want to yield on that.

We tried the crude oil tax with every different combination of things we could wrap up with it, to try to come up with something the Senate could agree to, and the House will not yield on it. It is a new experience for me to be on a conference on a bill for a solid year, and I have been here 30 years, but that is something that has to happen sometimes, I guess.

The House is not going to accept this, whether it be the Gravel amendment on the Hart amendment or we take the Hart amendment up separately. The House is not going to yield on it. When they get ready to yield on the crude oil equalization tax, the House will accord with us on all the other things that are in the energy package. But the House is going to want to have their handiwork along with our handiwork. If it would make the Senator feel better to put this on the bill, and feel that thus there might be some additional assurance that if the tax bill fails, perhaps we could put it on as a rider and perhaps the House would feel better about it. I am willing to go along with it, but then I am willing to accept the bill whether it has the Gravel amendment on it or the Hart amendment on it. I will vote for both, as far as I am concerned.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. PROXMIRE. May I ask the Senator if what he is saying is that if the Gravel amendment and the Hart amendment pass, the House, in its judgment, will not accept it, and therefore the foundation bill, which I support and I presume the other Senators do, too, will be the victim?

Mr. LONG. No, I do not think so. I presume when we resolve the energy tax conference, that will settle this issue.

Mr. PROXMIRE. Well, that might be several years.

Mr. LONG. It has got to be resolved this year, for the simple reason that this Congress is going to expire.

Mr. PROXMIRE. So will the bill.

Mr. LONG. Well, it sounds to me like the classic case of Jarndyce against Jarndyce. It dragged on for generations. Finally the matter came to an end, and it was not decided; they simply ran out of court costs. The estate was finally consumed by the litigation over the generations that the case was in court, and finally the thing expired and came to an end. It was not decided or settled; it came to an end.

The Congress will come to an end, and the energy bill will be decided one way or the other. Every bit of it will be decided, either for or against. I have no doubt that before this Congress is over, we will have reached a conclusion on that energy tax bill we have been in conference on for a year. But that ought to come along behind the gas bill. That was the fifth of the five big bills, and everyone agrees it was the one that was most controversial. Finally we voted on one of them; the coal conservation bill has been voted on. We have four other bills to vote on, three out of the Energy Committee and one that we will bring to the Senate from the tax writing committees.

About at the time that the House concludes that they cannot resolve satisfactorily the crude oil equalization tax, then I will go ahead and settle the rest of it, because there are a lot of good things in that bill, like what the Senator is talking about here. We will resolve it; but being that the House will not agree to this until they are satisfied nothing can be done about the crude oil tax or anything like it, we will be in conference.

Mr. HART. Would the Senator's interpretation of what the House will do or not do be changed materially if the administration supported the efforts of the Senator from Colorado here today? The Department of Energy previously stated only that they have no objection to leaving the rest of the elements out. I do not want to overstate the administration's position, but it may indicate a significant change of policy or strategy on the part of the administration, and if the administration is willing to say to

Speaker O'NEILL and Chairman ULLMAN and others that they favor this position, I think perhaps the position of the chairman will not be the same.

Mr. LONG. What I hear, Senator, is this: The administration does not want to separate anything out of the conference, but if we are going to have to pass all of it piecemeal, they would have less objection to separating the solar part of it than anything else. That is my understanding.

Mr. HART. I think the Senator is correct, but the contact we have had with the Department of Energy today is that they are willing to go farther than that, and they have already authorized me to say they support this amendment.

What we are trying to do here—as opposed to the efforts of the Senator from Alaska—has already received the approval of the conference. I still have a misunderstanding with the Senator from Alaska as to whether the elements he is offering have been approved by the tax conference committee. Although the record is unclear on that, I think the record is clear that all the proposals put forward by the Senator from Alaska have not received conference approval.

Mr. GRAVEL. Mr. President, I do not know whether we are here with affidavits. I am asking my staff to determine whether his stuff has been approved by the conference. We do not know. We have the conference record; let us put it in the RECORD right now, and see what the conference did.

Mr. HART. Mr. President, I ask unanimous consent that it be in order to put the tax elements of the energy conference report in the RECORD at this point.

Mr. CURTIS. Mr. President, reserving the right to object, it is my understanding that the conference is not complete. We did not know about the report that was sent, and I am sure a number of conferees really intend to resist some of these tentative positions, should an adverse position be taken on some of those items not yet reached in conference.

There is nothing, to my knowledge, that indicates any finality or a decision on the part of the conference.

Does my chairman agree?

Mr. LONG. That is right. There is no conference report signed. We just agreed on certain things, but all that is subject to being reconsidered.

Mr. CURTIS. I dislike to object, but I hope my colleague will withdraw his request, because there is not any document signed by conferees.

Mr. LONG. I would have no objection to anyone making available whatever information there is, be it to the press, the minutes of the conference. That presents no problem. But I think the Senator from Nebraska is correct in saying that one cannot regard something that has been tentatively agreed to in a conference as final when the conference has not concluded its deliberations.

Mr. CURTIS. It is also true, Mr. President, that these notations are labeled tenative decisions. I think if it is admitted, it should not be admitted as evidence of an approval on the part of the conference.

Mr. HART. Mr. President, I withdraw the unanimous-consent request.

Mr. CURTIS. Mr. President, I seek recognition.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. CURTIS. I ask unanimous consent that Mr. Gerald Rosen, of Senator GRIFFIN's staff, be granted the privileges of the floor for these several tax bills.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CURTIS. Mr. President, there are many things in the energy tax bill in which I am very much interested. I hope we can soon enact the gasohol bill. It will add 10 percent to our motor fuel every place it is used.

I am also very much interested in the reduction of the tax on foundations, which is now 4 percent and action had been taken to make it 2 percent. It would be my hope that we would not have controversial amendments on this foundation bill.

So far as the Senator from Nebraska is concerned, I realize that in all legislative strategy or programming there is always a risk. So far as I am concerned, I am willing to trust the distinguished chairman of the Committee on Finance to contend for the Senate viewpoint in conference, and we have to trust to somebody the authority to work out the scheduling of these things.

I merely say that hoping that there can be restraint in what we add to these bills this afternoon.

Mr. MUSKIE. Mr. President——

Mr. DOMENICI. Mr. President——

The PRESIDING OFFICER. The Senator from Maine.

Mr. MUSKIE. Mr. President, I have listened with great interest to the discussion this afternoon concerning the amendment of Senator HART, and also the discussion proposing additions to the bill by Senator GRAVEL. I have been trying to sort out in my own mind the implications on the budget process in the approval by the Senate of these two proposals. These two proposals were part of the energy tax bill that the Senate approved a little less than a year ago.

I was not on the floor at the time because I was hospitalized, but that bill as it went to conference had a first-year cost in fiscal 1978 of $2 billion. The budget had allowed only $1 billion. So it was in violation of the budget resolution when it went to conference.

Now we are having pieces of that offered to the Senate this afternoon. I am sure I do not have figures in which I have final confidence as to the cost of these pieces. My best information is that the Hart amendment, by itself, would have a first full year cost of approximately $1 billion, and the cumulative projection through 1985 would be approximately $10 billion.

The Gravel amendment, which includes part but not all of another portion of that bill, represents a cumulative cost through 1985 of $19 billion.

Mr. GRAVEL. If the Senator will yield, I think there is a mistake in my amendment. My staff is clearing it up now. The $16 billion item is not in my amendment. My total cost is $2 billion to $3 billion. We will get the figures to the Senator.

Mr. MUSKIE. I am not trying to confirm or not confirm any figures. The point I am trying to make is that these proposals were part of the extended debate on the energy tax bill a little less than a year ago. They went to conference. The budget implications at that time were difficult to understand fully. There was disagreement about it, although we reached conclusions about those implications from the point of view of the Budget Committee. I suspect Senator LONG had a different view of those implications at the time.

I am simply pointing out the difficulty this afternoon of trying to put on a price tag and to evaluate the budget implications of these proposed amendments to an unrelated piece of tax legislation without the opportunity to make the kind of analysis that we did with the bill last fall.

Mr. HART. Will the Senator yield?

Mr. MUSKIE. I will just take a few minutes to finish my thought.

Second, I do not know what else is in Senator GRAVEL's amendment, but I believe it may include payments to nontaxpayers, and, if so, may be subject to a point of order for reasons which were discussed on the floor of the Senate last week. Again, that is a point I have not had the opportunity to analyze, evaluate or make a final, firm judgment about. I just find myself frustrated as chairman of the Budget Committee sitting here looking at the legislation which I did not expect to include these items, with the responsibility of advising the Senate on how it ought to proceed or what the Budget Committee's recommendations might be with respect to them.

This is not a new phenomenon with respect to tax bills. We have all experienced it. Those who have been here for 20 years have experienced it more than those who have been here 5 years. I suspect that 10 years from now we will still be experiencing it. I must say for myself, I am willing to sit here and continue to listen to debate, listen to attempts—and I am sure there will be such attempts—to reconcile these amendments with responsibilities of the budget process. Frankly, though I am fully sympathetic to Senator HART's amendment, I am going to vote against any amendments to the pending legislation because I just find it impossible, with this state of affairs, to give the Senate any kind of thoughtful, responsible, and comprehensive judgment on what the impact on the budget process will be.

For example, here is a question: The energy tax bill which passed last year was considered within the budget limitations applicable to fiscal year 1978. Fiscal year 1978 is drawing to a close as of October 1. The budget resolution for 1979 makes no provision for these tax proposals because an allowance was made in the 1978 fiscal budget. What, if anything, we need to do, I do not know when Senator LONG comes back with a package that he and the House have been able to work out. It is something I have not worked out yet because I did not think I had to by this afternoon.

All I am saying is that when we approach a complicated piece of tax legislation in this fashion, we are just step

ping so far outside the regular procedures or processes we have established that no one can have a clear judgment as to what the implications are from the point of view of the budget process.

I am happy to yield to my friend from Colorado.

Mr. HART. I believe I can answer the Senator's question. I do not think there is as much confusion on this issue as the Senator has indicated.

The calculations prepared by the Joint Committee on Taxation are as follows: In the Senate bill for the items named in this amendment, the figure involved there is $1,266,000,000. Again, as the Senator pointed out, the budget function there may have been for a previous year. I shall get back to that question.

The House bill for these items contained $748 million. The compromise in the conference, which is what is being offered to the amendment before us today, the Hart amendment, would cost $978 million, which is, of course, above the House provision by $230 million, but below the Senate version passed by some $300 to $400 million. That was largely as a result of a compromise on the question of refundability where the Senate receded in part from its position taken on the floor.

The principal point here, at least according to the calculations done by the Joint Committee on Taxation, is that the passage of the Hart amendment will amount to less authorization than the Senate originally passed as a result of that conference compromise, which is incorporated in the amendment.

As to the separate issue of what happens in the budget resolution, the Senator from Maine, as chairman of that committee, would be much more able to respond to this. What happens when a bill is carried over from year to year, as the energy package has been, I cannot say.

Mr. MUSKIE. I suspect, and this is off the top of my head, since I have had no opportunity to consider it, it may well be that since the Budget Act provides for the additional budget resolutions at any time that the national interest requires it, I suppose that an additional resolution is a conceivable option when Senator LONG is ready to come back to the floor; if we need additional action, that may be the vehicle for doing it.

The second point I make, referring to the figures, the figures of the Senator from Colorado are consistent with those that I have, roughly a billion dollars. The problem is that we are sending this over as a separate piece of legislation. I do not know whether the same conference committee will consider this bill or whether it will be another one, or how this bill will be handled in conjunction with the other one. We will have approved these provisions twice if the Senator's amendment is adopted and the bill as amended is passed. I suppose we can straighten it out when it all comes back to the Senate in some form. I am sure we are not going to pass the same program twice eventually.

But simply as a matter of orderly procedure, I simply cannot see this way of implementing this program. I do not believe that this program is going to become law on this bill.

Mr. PROXMIRE. Will the Senator yield?

Mr. MUSKIE. I suspect it is going to become law at some point and I shall support it when it becomes law, because I think it makes sense. But I think to do it this way is something that, as Budget Committee chairman, I ought to protest.

Yes, I yield.

Mr. PROXMIRE. As Budget Committee chairman, would the Senator feel that it might be a better proposition by the Senator from Colorado if he confined his amendment to what he has made a case for? There is an emergency need now for credit legislation for solar energy, not for insulation. The big cost of this amendment is in insulation. In insulation, they are operating at 100 percent of capacity, or close to it, in the production of insulation materials. This tax credit is simply going to be a bonanza for the people engaging in insulation production.

It will help them, but it will not increase the insulation.

Solar energy is different. The Senator from Colorado has made a case for it and made it well. However, that will have a much smaller budgetary impact, as I understand it, a fraction of the $978 million that the Senator says his amendment would cost now.

Perhaps the Senator from Maine would consider that as something that might be doable within budget constraints, perhaps not, I am suggesting that as a moderate compromise.

Mr. MUSKIE. My concern is not so much substantive as it is procedural, because the budget process was created to provide all the information that the Senate ought to have to evaluate proposals that have an impact on the budget, that have tax implications and spending implications. I just think that approaching proposals in this fashion, outside of the regular proceedings, deprives us of the kind of thoughtful, deliberative, comprehensive information we ought to have.

Mr. PROXMIRE. I understand.

Mr. MUSKIE. I do not challenge any Senator's right to use this approach. I understand what Senator Hart is doing. But I have watched these Christmas tree tax bills for so many years, I cannot imagine that anyone who has watched them can be blind to the birth of another one when it happens, or can be insensitive to the fact that they are really not productive in the long run and that they do generate some harm. I think some tax provisions have been written into the law that ought not to be in the law in the confusion generated by this kind of tax writing.

Maybe I am beginning the process of trying to resist Christmas-tree tax legislation. I was just sitting here, I was a bystander, and did not expect to get involved in this discussion. Then when we began to get involved in amendments that involved billions of dollars, I found I could not just sit on the sidelines; I had to speak.

Mr. MCINTYRE. Will the Senator yield?

Mr. MUSKIE. Yes, I yield.

Mr. MCINTYRE. The good Senator from Maine must realize that the Senator from New Hampshire and the Senator from Colorado are here this afternoon because we feel that these conservation provisions, the insulation and solar credits, have been held hostage too long. We think it is time that they be broken out. With all due respect to the budgetary process, and the Senator from Maine knows I have supported him time and time again, the fact remains that we are trying to highlight a part of the legislation that deserves to move. There is a consensus in both Houses that substantial parts of what we are talking about here today should already be law. The only way we have to make them law is to come down here and force the situation.

We recognize that it is not the most orderly way to do it, but I think the Senator from Colorado and other sponsors feel as I do, that it is high time this matter moved in the interests of the people of this country.

With all due respect to the people of Alaska, I do not feel that the Senator from Alaska has a situation with the urgency like that which faces the solar industry, with all due respect.

Mr. MUSKIE. May I say to my good friend from New Hampshire, there is no Member of this body for whom I have higher regard and affection. My good friend from New Hampshire has been here almost as long as I have, and I have campaigned in New Hampshire with him for the last 25 years, so I share his sense of urgency.

I certainly understand that the floor of the Senate is the place above all legislative bodies on the face of this planet for a Senator to protest when he does not like something that is going on. I certainly would not want to chill that right at all. But I would add that I have felt like kicking vending machines that did not produce after swallowing my quarter dozens of times in my life and it has not done one bit of good. I have always had to put another quarter in and often have lost that one, too.

If you want to kick this vending machine, I do not object, but I do not really think that it is going to produce this program that we so urgently need—and I agree with the Senator—in this fashion. We are just going to begin building another Christmas tree.

Senator LONG has devised, over the years, his own unique and innovative ways of dealing with Christmas trees, with Senator LONG ending up writing the final tax bill. The public interest, by and large, has been served by that system. But it seems to me that, although I can appreciate the motivation and I share completely the Senator's evaluation of the need of the program, as Budget Committee chairman, it is my business to point out whatever I think needs to be pointed out. It is the Senate's business to override the Budget Committee chairman if that is the Senate's wish.

Mr. HANSEN. Mr. President, I thank my distinguished friend from Maine.

I ask unanimous consent that Barbara

Washburn of Senator JAVITS' office and Sally Crossman of Senator STEVENS' staff be granted privilege of the floor during all of the debate and votes on these tax bills.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Will the Senator yield for the same purpose?

Mr. MUSKIE. Yes, to my good friend from Virginia.

Mr. HARRY F. BYRD, JR. I ask unanimous consent that Edward Beck of my staff be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. I yield to the Senator from Colorado.

Mr. HART. I, like my colleague from New Hampshire, think the fact this amendment has close to or over one and a half dozen sponsors——

Mr. MUSKIE. Beware of that.

Mr. HART (continuing). People on both sides of the aisle who have made their own decisions, that we have gone on long enough.

I share his frustration. I think a lot of us are frustrated by the inability of this vending machine to turn out an adequate program.

For some of us, I hope a majority, we will reach a decision today to move in a different direction.

Now, the Senator in his budget capacity objects on the grounds of orderly procedure, and I understand that.

But I think the orderly procedure was applied when first introduced and worked its way through the Congress. We have a significant piece of it here today, that both Houses agreed to. It has received informal conference approval. It was taken into consideration in the original budget process. It must become law, in the judgment of some of us, if we are to move in these important areas. Like many other pieces of legislation, it has worked its way through committee, worked its way through the Houses, worked is way through the conference committee, and it is just sitting there, a hostage to some very controversial petroleum pricing problems that some of us think will never be resolved, at least in this Congress.

So, for the Senator from Maine to say "Christmas tree," I think is to avoid a very important issue.

These provisions are not incentives for chili pepper growers, they are not incentives for slot machine owners, they are not incentives for some special interest here.

They are incentives to help solve the energy problems of this country.

Mr. MUSKIE. Will the Senator yield on that point?

Mr. HART. If the Senator will allow me, that is not, in my judgment, the Christmas tree approach.

I do not like to legislate by adding amendments of this consequence onto relatively insignificant tax bills, but something has to be done. I do not like to do it procedurally.

Mr. MUSKIE. If the Senator will yield—I guess I still have the floor.

No, I was not characterizing the substance of the Senator's amendment when I referred to the Christmas tree approach. I was characterizing the procedure which so often starts on the Senate floor.

Christmas trees often include a lot of meritorious proposals. So I am not denigrating the proposal. As a matter of fact, I support this form of incentive for conservation.

I just think, in the long run, we do ourselves a disservice using this type of procedure. Granted that the Senate is the one place in the parliamentary world where, when the Senate wishes to, it can abandon procedure in order to accomplish what it thinks ought to be accomplished. So I have lived with that, too.

Having made my point, I will not belabor it. The Senator understands it.

Unless the Senator from Alaska wanted to ask any questions, I will take my seat. I have made my point. I think I had a duty to make it.

Mr. GRAVEL. Could I ask this question?

I was just checking quickly the first year figures, which would have been this year had the bill passed last year, are less than second year figures.

I presume last year's budget resolution was for a period of time. Since we did not act on the bill, would it not be a proper inference that regardless of the size of this amendment that the costs are less what was projected for this year, because we never got to the second year?

Mr. MUSKIE. We would still be in the first year, I think.

Mr. GRAVEL. Would we?

Mr. MUSKIE. Until October 1.

Mr. GRAVEL. Well, obviously, this cannot take place——

Mr. MUSKIE. It could be last year, the best we can call is that last year's bill would have cost $2 billion in 1978, and $5 billion in 1979.

I do not know how much of that bill is encompassed in the combination of Senator HART's proposal and the Senator from Alaska's. So I am not going to make "guestimates" beyond those Senator HART provided, and any the Senator can provide, because I have no basis for independent evaluation, not having had an opportunity to make one or ask CBO to make one.

So whatever the Senator gives us as estimates, I assume they are the best he can get. I do not challenge that. It is simply that I do not yet have them, and I cannot provide the Senate with any, and I think that is an unfortunate situation.

Senator HART's figures, I think, are firmer because they are based on evaluation made by the Joint Committee on Taxation which certainly is a creditable source, although it is not CBO, and that is roughly a billion dollars for the first full year cost.

Mr. ROBERT C. BYRD. Vote!

Mr. GRAVEL. Mr. President, I would just like to speak to a point raised by the Senator from Wisconsin, which was an interesting point.

The plea is made for solar, and with respect to the West, or anywhere which is logical, I agree with that.

The plea is made, from me to my colleague from New Hampshire, that th cost that we have for the Hart amend ment, is about, over a 5-year period $10,500,000,000.

So the lion's share of that cost is i the credit.

Now, we do not have——

Mr. PROXMIRE. Credit for what? No solar.

Mr. GRAVEL. No; not solar. Let m finish and I will explain.

The credit goes for furnace replace ment, flue openings, caulking, wood pea stoves, insulation, heat pumps, fluores cent lighting, energy saving meters, an in some of this it was absolutely fantas tic. I can recall the meter demonstra tion. It will save energy. It was not high-cost item. As I recall, the high-cos item was insulation.

Now, this amendment which, of course appeals to the consumer, and it is for th residence owner, has a lot of appeal. Bu when we go deeper, we find out, and I for one, in committee was not terribl happy with the insulation credit becaus the prices are driven up. All the insula tion that can be used is being used an this will not alter the dynamics of it. I looks like it might, but it will not.

In my amendment I am suspendin import duties on insulation so that w can let more insulation material com into this country, because we do not hav enough to go around.

So, we are giving credit here under th amendment, which has great virtue, t something that really does not need credit, because there is not enough to g around. What the committee decided wa to turn around and suspend tariff to ge more into the country. That will hel insulate more homes, to get more insula tion in the hands of the workmen t fill in the studs. That will do something of value.

So I submit that prior to the budge discussion, the Senator from Colorad and I seemed to be parted on one partic ular issue, and that was that his ha somewhat more virtue because it wa agreed to by the conference. As wa pointed out by the distinguished Sen ator from Nebraska, it obviously was tentative agreement that we had and subject to what other things wer adopted. This was what we got down t on the list before everything fell apart.

So I submit that there is no extra merit to what the Senator is offering It may have more sex appeal to talk i terms of what the Senator is going t give the homeowner, but in fact it i going to benefit some industrialist.

I submit that it is not very sexy t talk in terms of an investment tax credi for a producer who is going to dig hole for geothermal. But that may have a lo more impact on what is going to happen to energy in this country than caulking

I suspect—and I cannot prove it, be cause I do not have the time—that the Senator's insulation credit, with all its sex appeal, costs more than what I am offering, which is $4.1 billion over the 5-year period, as opposed to the Senator's amendment, which is $10.5 billion.

So I submit that the Senate has acted on what the Senator is proposing and has passed it. The Senate has acted on

what I am proposing and has passed it. The chairman of the committee has indicated to both of us that he is prepared to accept both amendments.

So I find the Senator's opposition odd, in view of what I have just laid out here as to some of the elements contained in the Senator's amendment.

If I could do it, I would add gasahol to this amendment. It was left out inadvertently. We left out purposely the burner furnaces for large enterprises because the cost is horrendous and the marginal benefit is not as strong as some of these other items.

We are talking about an investment tax credit and the additional credit of 10 percent for cogeneration property. That means that if you have an enterprise that is already generating something and it has excess heat, you can take a credit for the extra costs of using that heat to generate electricity. You can get an investment tax credit of 10 percent to do that. That is an incentive to do it. That may be every bit as beneficial as caulking or heat pumps.

The next item we have in this 10 percent investment tax credit is a recycling amendment, which obviously will save energy and is provident.

Then, of course, there is oil shale equipment and nonoil or gas electric-generation equipment which has a useful life of at least 3 years. That is as reasonable as solar energy. That is as reasonable as anything the Senator has on his side of the bill.

What we are talking about is an investment tax credit similar to these other items that have tax credits.

So I do not know how one can play Solomon and think one proposal is not as meritorious as the other.

The other item in the part I am offering is a depletion allowance for geothermal, a depletion allowance for geopressurised methane, and an allowance for peat.

Pray tell me what the difference is, other than the sex appeal, to offer an investment tax credit for peat, when the Senator is offering an investment tax credit for a stove that can burn only peat or wood. Pray tell what the difference is in that regard.

I also am offering a deduction for intangible drilling costs for geothermal wells. Oil has that. Pray tell me what the difference is between offering an amendment providing a tax credit for furnace replacement or flue openings as opposed to allowing a similar type of tax advantage for drilling some geothermal wells. These wells which offer a great deal of potential, but are not being drilled because the incentives are not there.

So I submit that, if we are talking about an energy package that is going to have some suction and become law, I would like to see it become law with these items, which are every bit as virtuous as any items the Senator has in his proposal.

I say to the Senator that the only reason I think we are all up in arms over this is that it goes to the homeowner initially. Ultimately, it does not go to the homeowner. It goes to the person who will manufacture these new furnaces. It goes to the person who will manufacture the new flue openings. It will go to the industry that manufactures caulking. It will go to the insulation industry, which has more than it can say grace over right now. We should not be giving them a credit, it should be going to increase the credits.

So if my colleague insists that we go to a vote, I am prepared to vote. I hope it is agreed to, because I think it will be a fine turn of events to turn down one facet of a bill because it does not have quite the sex appeal and the vote-gathering appeal that the other process has.

In terms of equity, the Senate and the committee have done their work, and I think there is no reason to pull out selectively what we think is an advantageous provision.

So I am prepared to vote on this amendment at this point.

Mr. HART. Mr. President, the Senator from Alaska has referred to the amendment as my proposals. These are not my proposals or those of the Senator from New Hampshire or any of the other 18 or so cosponsors. These are the proposals accepted by the Senate and the House of Representatives and which have received solid acceptance in the conference committee.

The second fact of the agreement of the conference committee, I think, does distinguish the incentives of our amendment from those offered by the Senator from Alaska. The Senator from Alaska, unlike the information we have from the Joint Committee on Taxation, does not have the cost figures for the incentives he seeks to add.

Therefore, primarily by way of distinguishing his amendment from ours, and with all due respect to the Senator from Alaska, I move to table his amendment, and I ask for the yeas and nays.

Mr. GRAVEL. Will the Senator withhold?

Mr. HART. I withhold.

Mr. GRAVEL. I will be moving to table the Senator's amendment. Everything he does to me, I am going to do to him. Let us get that straight.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion to table the amendment of the Senator from Alaska. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), and the Senator from Louisiana (Mr. JOHNSTON) are necessarily absent.

The result was announced—yeas 53, nays 43, as follows:

[Rollcall Vote No. 354 Leg.]

YEAS—53

Bayh	Chafee	Domenici
Biden	Chiles	Eagleton
Brooke	Clark	Ford
Bumpers	Cranston	Glenn
Burdick	Culver	Goldwater
Cannon	DeConcini	Griffin
Hart	Laxalt	Percy
Haskell	Leahy	Proxmire
Hatfield, Paul G.	Lugar	Ribicoff
Heinz	Magnuson	Riegle
Hodges	McGovern	Sarbanes
Huddleston	McIntyre	Sasser
Humphrey	Melcher	Schmitt
Inouye	Metzenbaum	Schweiker
Jackson	Muskie	Stafford
Javits	Nelson	Stennis
Kennedy	Pearson	Stevenson
	Pell	Stone

NAYS—43

Allen	Gravel	Nunn
Baker	Hansen	Packwood
Bartlett	Hatch	Randolph
Bellmon	Hatfield, Mark O.	Roth
Bentsen	Hathaway	Scott
Byrd, Harry F., Jr.	Hayakawa	Sparkman
Byrd, Robert C.	Helms	Stevens
Case	Hollings	Talmadge
Church	Long	Thurmond
Curtis	Mathias	Tower
Danforth	Matsunaga	Wallop
Dole	McClure	Weicker
Durkin	Morgan	Williams
Garn	Moynihan	Young
		Zorinsky

NOT VOTING—4

Abourezk	Eastland
Anderson	Johnston

So the motion to lay on the table UP amendment No. 1726 was agreed to.

Mr. HART. I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. The apparent demise of the energy tax bill has created severe hardships for homeowners and industry who made energy-conserving improvements, or invested in solar technology under the impression that they would qualify for major Federal tax incentives included in the national energy plan, proposed on April 20, 1977.

Now, because of the inaction on the energy tax bill, consumers have held back their purchases of solar equipment. This has devastated the new solar industry. For example, the Solar Energy Industry Association reports that during the first 6 months of 1977, the solar flat-plate industry sold 14,000 units. In contrast, in the 14 months since the President's energy plan was introduced, only 22,000 units have been sold. Thus, the solar industry fared better before the administration set up its solar commercialization strategy which placed the industry in an untenable situation.

Over 80 percent of the businesses that manufacture, sell, install, or maintain solar energy and other renewable energy systems are categorized as small businesses. If these businesses cannot be assured of continued growth, they will be unable to bring down the unit costs of these new technologies and maintain their competitiveness with the larger and more diversified businesses.

The passage of these tax credits for the purchase of solar and other alternative energy equipment, and for insulation and other energy conservation materials, is of major importance to our Nation. This amendment provides the necessary incentive in the marketplace to spur on conservation and help develop alternative energy sources. There is no better way to accomplish this goal than to provide incentives to the American homeowner, so that we may achieve

broad-scale implementation of renewable resource technologies.

I support this amendment and hope the Senate will adopt it. Time is running out for action, and further delay injures consumer industry, and our Nation's energy supply.

Mr. President, I support the Hart-McIntyre-Percy amendment, and I hope the Senate will approve it.

UP AMENDMENT NO. 1727

Mr. GRAVEL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. STONE). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. GRAVEL) proposes an unprinted amendment numbered 1727 to amendment numbered 1724.

Mr. GRAVEL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment, add the following:

ADDITIONAL PERCENTAGE FOR INVESTMENT CREDIT WITH RESPECT TO CERTAIN ENERGY PROPERTY

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting immediately after section 46 the following new section:

"SEC. 46A. SPECIAL RULES RELATING TO CERTAIN ENERGY PROPERTY.

"(a) IN GENERAL.—In addition to the amount which is determined under section 46(a)(2), the amount of the credit allowed by section 38 for the taxable year determined under section 46(a)(1)(B) with respect to energy property shall include an amount equal to 10 percent of the qualified investment (as determined under section 46 (c) and (d)) in section 38 property which is (or, for the purpose of applying section 46(d), will be) energy property.

"(b) DEFINITIONS.—For purposes of this section—

"(1) ENERGY PROPERTY.—The term 'energy property' means property—

"(A) which is—

"(i) cogeneration equipment installed in connection with an existing facility, but only to the extent that the cogeneration energy capacity of such facility is expanded,

"(ii) recycling equipment,

"(iii) shale oil equipment,

"(iv) geopressurized methane gas equipment, or

"(v) equipment for the application of heat by electricity generated by the use of an alternate substance (including other on-site property necessary to effect process changes for the use of such equipment) which will use neither oil nor natural gas, and which will replace equipment used in an existing industrial facility which uses oil or natural gas as a fuel,

"(B) which is an integral part of, or used in connection with, a building or other structure located in the United States,

"(C)(i) the construction, reconstruction, or erection of which is completed by the taxpayer after April 19, 1977, or

"(ii) which is acquired after April 19, 1977, if the original use of such property commences with the taxpayer and commences after such date, and

"(D) which has a useful life of 3 years or more.

"(2) CERTAIN TRANSPORTATION EQUIPMENT TREATED AS ENERGY PROPERTY.—A commuter van (as defined in section 46(c)(8)(B)), and equipment designed to reduce energy consumption added to existing motor vehicles primarily engaged in the commercial transportation of property, shall be treated as energy property. An electric motor vehicle used in the taxpayer's trade or business shall be treated as energy property.

"(3) COGENERATION EQUIPMENT.—The term 'cogeneration equipment' means equipment which—

"(A) produces steam, heat, or other forms of useful energy (other than electric energy) to be used for industrial (including water purification or desalinization), agricultural, commercial, or space heating purposes, and

"(B) also produces electric energy.

"(4) RECYCLING EQUIPMENT.—The term 'recycling equipment' means any equipment which is used exclusively in the recycling of solid waste (including not more than a nominal amount of virgin materials) or to sort and prepare such solid waste for recycling, and any equipment used in the conversion of solid waste into a fuel or into useful energy such as steam, electricity, or hot water.

"(5) SHALE OIL EQUIPMENT.—The term 'shale oil equipment' means equipment which is used to extract oil from oil-bearing shale rock.

"(6) GEOPRESSURIZED METHANE GAS EQUIPMENT.—The term 'geopressurized methane gas equipment' means equipment which is used to extract geopressurized methane gas (as defined in section 44G(d)(1)).

"(7) EXISTING.—The term 'existing' has the same meaning as in paragraph (4) of section 44F(b).

"(8) ALTERNATE SUBSTANCE.—The term 'alternate substance' means any substance other than—

"(i) oil and natural gas, and

"(ii) any product of oil and natural gas.

"(9) EQUIPMENT MUST MEET CERTAIN STANDARDS OF QUALITY.—Equipment qualifies under paragraph (1)(A) (i) or (ii) or paragraph (2) only if it meets the performance and quality standards (if any) which—

"(A) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy), and

"(B) are in effect at the time of acquisition of the property.

"(10) SPECIAL RULE FOR PROPERTY FINANCED BY INDUSTRIAL DEVELOPMENT BONDS.—In the case of property which is financed in whole or in part by the proceeds of an industrial development bond (within the meaning of section 103(b)(2)) the interest on which is exempt from tax under section 103, '5 percent' shall be substituted for '10 percent' in subsection (a).

"(c) SPECIAL RULES.—

"(1) CERTAIN SECTION 48 RULES WAIVED.—For purposes of this section, the rules contained in section 48(a)(3) (relating to property used for lodging) shall be disregarded, and the words 'its structural components' contained in section 48(a)(1)(B) shall be disregarded.

"(2) APPLICATION WITH SECTION 44F.—Property described in section 44F shall not be treated as property described in this section.

"(3) QUALIFIED INVESTMENT.—For the purpose of determining the taxpayer's qualified investment, the applicable percentage (for purposes of section 46(c)(1)) shall be 100 percent (without regard to the actual useful life of the item).

"(4) RECAPTURE RULES—For the purpose of applying section 47 to energy property, a disposition of such property, or the conversion of such property into property which is not energy property, which occurs before the property has been in service for half its useful life shall be treated as having occurred before the close of the third year after the property was placed in service.

(b) ALLOWANCE OF REGULAR PERCENTAGE FOR BUSINESS INSULATION PROPERTY.—Subsection (a) of section 48 (defining section 38 property) is amended by adding at the end thereof the following new paragraph:

"(10) BUSINESS INSULATION PROPERTY.—For the period beginning on April 20, 1977, and ending on December 31, 1985, insulation shall be treated as meeting the requirements of paragraph (1) and paragraph (3) shall not apply to insulation. For purposes of the preceding sentence, the term 'insulation' means any item—

"(A) which is specifically and primarily designed to reduce when installed in or on an existing industrial or commercial building or existing industrial or commercial facility the heat loss or gain of such building or facility,

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 3 years,

"(D) which meets the performance and quality standards (if any) which—

"(i) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy), and

"(ii) are in effect at the time of the acquisition of the item, and

"(E) would not, but for this paragraph, be section 38 property.

For purposes of this paragraph, a building or facility will be treated as existing if it was placed in service before April 20, 1977.".

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting immediately after the item relating to section 46 the following new item:

"Sec. 46A. Special rules relating to certain energy property.".

(d) EFFECTIVE DATES.—The amendments made by this section shall apply to—

(1) property to which section 48(d) of the Internal Revenue Code of 1954 does not apply, the construction, reconstruction, or erection of which is completed by the taxpayer after April 19, 1977, but only to the extent of the basis thereof attributable to the construction, reconstruction, or erection after such date and before January 1, 1986,

(2) property to which section 48(d) of such Code does not apply, acquired by the taxpayer after April 19, 1977, and before January 1, 1986, and placed in service by the taxpayer before January 1, 1986, and

(3) property to which section 48(d) of such Code applies, but only to the extent of the qualified investment (as determined under subsections (c) and (d) of section 46 of such Code) with respect to qualified progress expenditures made after April 19, 1977, and before January 1, 1986.

SEC. 1033. PAYMENT IN LIEU OF CREDIT TO TAX EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—In the case of a State or any political subdivision thereof, and in the case of any organization described in section 501(c)(3) of the Internal Revenue Code of 1954, or any electric utility cooperative described in section 501(c)(12), which is exempt from tax under section 501(a) of such Code for the taxable year, the Secretary of the Treasury shall pay to each such government, subdivision, or organization which files a claim during the calendar year in the form, manner, and at the time prescribed by the Secretary by regulations, an amount determined under subsection (b). Such payment shall be made as soon as possible after the receipt of such claim.

(b) AMOUNT OF PAYMENT.—The amount payable to a State, subdivision, or organization (hereinafter referred to as a "tax exempt entity") under subsection (a) for the calendar year shall be equal to the amount of credit which such tax exempt entity would, if it were liable for tax under chapter

1 of such Code, be allowed under section 44F of such Code with respect to its investment in alternative energy property and specially defined energy property and if such property were used in a trade or business.

(c) REPAYMENT.—If an entity which receives a payment under subsection (a) takes any action which would result in an increase of its tax under subpart B of part IV of subchapter A of chapter 1 of such Code if such entity were liable for tax under this chapter, then such entity shall be liable to the Secretary for an amount equal to the increased amount of tax which would be imposed under such subpart and such amount shall be collected as if it were the underpayment of a tax imposed under such chapter 1.

(d) TREATMENT AS OVERPAYMENT OF TAX.—For purposes of any law of the United States, including section 101 of the Treasury Department Appropriation Act of 1950 and title I of the Supplemental Treasury and Post Office Departments Appropriation Act, 1949, any payment made under this section shall be considered to be a refund of any overpayment of the tax imposed under chapter 1 of the Internal Revenue Code of 1954.

"(2) facilities for the on-site transportation, handling, storage, or treatment of coal, other raw materials, supplies, or any other materials in any preparatory process for the coal gasification or liquefaction process,

"(3) facilities for the on-site economic recovery, recycling, handling, storage, treatment, or utilization of byproduct materials or energy generated by the coal gasification or liquefaction process,

"(4) facilities for the on-site handling or transportation, or the increasing of the British thermal unit content per unit of volume, of synthetic gaseous or liquid fuels produced by the coal gasification or liquefaction process, and

"(5) other on-site facilities to the extent that such facilities are functionally related, and subordinate to, any facilities described in paragraphs (1) through (4).

For purposes of this section, the term 'synthetic gaseous or liquid fuels' means any gaseous or liquid product of a coal gasification or liquefaction process which can be used as a substitute for natural gas or oil regardless of its chemical composition or British thermal unit content.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to obligations issued after December 31, 1977.

SEC. 1042. PERCENTAGE DEPLETION FOR PEAT, GEOTHERMAL DEPOSITS, AND GEOPRESSURIZED METHANE GAS.

(a) PEAT.—Section 613(b) (relating to percentage depletion rates) is amended—

(1) by inserting "peat (from deposits in the United States but only if used as a fuel or otherwise used to produce energy)," after "sodium chloride," in paragraph (4) thereof, and

(2) by inserting "(if paragraph (4) does not apply)" after "peat" in paragraph (6) thereof.

(b) GEOTHERMAL DEPOSITS AND GEOPRESSURIZED METHANE GAS.—

(1) APPLICABLE PERCENTAGE.—Section 613 (b) (relating to percentage depletion rates) is amended by inserting after paragraph (7) the following new paragraph:

"(8) In the case of geothermal deposits located in the United States or in a possession of the United States, the percentages set forth in section 613A(c)(5) for calendar years shall apply to taxable years beginning in such calendar years, except that 10 percent shall be the applicable percentage for geopressurized methane gas (as defined in section 44G(d)(1)) extracted from brines withdrawn from such deposits."

(2) DEFINITION.—Section 613 (relating to percentage depletion) is amended by adding at the end thereof the following new subsection:

"(e) GEOTHERMAL DEPOSITS.—For purposes of this section, the term 'geothermal deposit' means a geothermal reservoir consisting of natural heat which is stored in rocks or in an aqueous liquid or vapor (whether or not under pressure). Such a deposit shall in no case be treated as a gas well for purposes of this section or section 613A, and this section shall not apply to a geothermal deposit which is located outside the United States and its possessions."

(3) TECHNICAL AMENDMENTS.—

(A) Paragraph (1) of section 613(c) (defining gross income from the property) is amended by inserting "and other than a geopressurized methane gas well or a geothermal deposit" after "oil or gas well".

(B) Paragraph (1) of section 613(b) is amended—

(i) by inserting "and" at the end of subparagraph (A),

(ii) by striking out "and" at the end of subparagraph (B), and

(iii) by striking out subparagraph (C).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1977.

SEC. 1043. OPTION TO DEDUCT INTANGIBLE DRILLING COSTS IN THE CASE OF GEOTHERMAL DEPOSITS AND GEOPRESSURIZED METHANE GAS.

(a) IN GENERAL.—Subsection (c) of section 263 (relating to intangible drilling and development costs in the case of oil and gas wells) is amended—

(1) by adding at the end thereof the following new sentence: "Such regulations shall also grant the option to deduct as expenses intangible drilling and development costs in the case of wells drilled in the United States (within the meaning of pararaph (1) of section 638), or any possession thereof, for any geothermal deposit (as defined in section 613(e)) or for any geopressurized methane gas (as defined in section 44G(d)(1)) to the same extent and in the manner as such expenses are deductible in the case of oil and gas wells.", and

(2) by amending the subsection heading to read as follows:

"(c) INTANGIBLE DRILLING AND DEVELOPMENT COSTS IN THE CASE OF OIL AND GAS WELLS AND GEOTHERMAL AND GEOPRESSURIZED METHANE GAS WELLS.—".

(b) MINIMUM TAX ON INTANGIBLE DRILLING COSTS IN THE CASE OF GEOTHERMAL AND GEOPRESSURIZED METHANE GAS WELLS.—

(1) Paragraph (11) of section 57(a) (relating to intangible drilling costs) is amended by striking out "oil and gas properties" each place it appears (including in the heading of subparagraph (C)) and inserting in lieu thereof "oil, gas, geopressurized methane gas, and geothermal properties".

(2) Clause (i) of section 57(a)(11)(B) is amended by striking out "oil and gas wells" and inserting in lieu thereof "oil, gas, geopressurized methane gas, and geothermal wells".

(3) Paragraph (11) of section 57(a) is amended by adding at the end thereof the following new subparagraph:

"(D) PARAGRAPH APPLIED SEPARATELY WITH RESPECT TO GEOTHERMAL PROPERTIES, GEOPRESSURIZED METHANE GAS PROPERTIES, AND OIL AND GAS PROPERTIES.—This paragraph shall be applied separately with respect to—

"(i) all oil and gas properties which are not described in clause (ii) or (iii),

"(ii) all properties which are geothermal deposits (as defined in section 613(e)), and

"(iii) all geopressurized methane gas properties.".

(4) Section 614 (relating to the definition of property) is amended by inserting "or geothermal and geopressurized methane gas wells" after "oil and gas wells" each place it appears.

(c) GAIN FROM DISPOSITION OF INTERESTS IN GEOTHERMAL OR GEOPRESSURIZED METHANE GAS WELLS.—

(1) Paragraphs (1) and (2) of section 1254 (a) (relating to gain from disposition of interest in oil or gas property) are each amended by striking out "oil or gas property" each place it appears and inserting in lieu thereof "oil, gas, geopressurized methane gas, or geothermal property".

(2) Paragraph (3) of section 1254(a) (defining oil or gas property) is amended to read as follows:

"(3) OIL, GAS, GEOPRESSURIZED METHANE GAS, OR GEOTHERMAL PROPERTY.—The term 'oil, gas, geopressurized methane gas, or geothermal property' means any property (within the meaning of section 614) with respect to which any expenditures described in paragraph (1)(A) are properly chargeable.".

(3) The section heading of section 1254 is amended by striking out "OIL OR GAS" and inserting in lieu thereof "OIL, GAS, GEOPRESSURIZED METHANE GAS, OR GEOTHERMAL".

(4) The table of sections for part IV of subchapter P of chapter 1 is amended by striking out "oil or gas" in the item relating to section 1254 and inserting in lieu thereof "oil, gas, geopressurized methane gas, or geothermal".

(5) Subsection (c) of section 751 (relating to unrealized receivables) is amended by striking out "oil and gas property" and inserting in lieu thereof "oil, gas, geopressurized methane gas, or geothermal property".

(d) APPLICATION OF AT RISK RULES TO GEOTHERMAL DEPOSITS AND GEOPRESSURIZED METHANE GAS.—

(1) Paragraph (1) of section 465(c) (defining activities to which at risk rules apply) is amended by striking out "or" at the end of subparagraph (C) and by inserting after subparagraph (D) the following new subparagraphs:

"(E) exploring for, or exploiting, geothermal deposits (as defined in section 613(e)), or

"(F) exploring for, or exploiting, geopressurized methane gas (as defined in section 44G(d)(1))".

(2) Paragraph (2) of section 465(c) is amended by striking out "or" at the end of subparagraph (C) and by inserting after subparagraph (D) the following new subparagraphs:

"(E) geothermal property (as determined under section 614), or

"(F) geopressurized methane gas property (as determined under section 614),".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to wells commenced on or after April 20, 1977, in taxable years ending on or after such date.

(2) ELECTION.—The taxpayer may elect to capitalize or deduct any costs to which section 263(c) of the Internal Revenue Code of 1954 applies by reason of the amendments made by this section. Any such election shall be made before the expiration of the time for filing claim for credit or refund of any overpayment of tax imposed by chapter 1 of such Code with respect to the taxpayer's first taxable year to which the amendments made by this section apply and for which he pays or incurs costs to which such section 263(c) applies by reason of the amendments made by this section. Any election under this paragraph may be changed or revoked at any time before the expiration of the time referred to in the preceding sentence, but after the expiration of such time such election may not be changed or revoked.

SEC. 1053. DUTY ON BUILDING INSULATION MATERIALS AND RELATED MATERIALS

(a) IN GENERAL.—Subpart B of part 1 of the Appendix to the Tariff Schedule of the U.S. (10 U.S.C. 1202) is amended by inserting immediately after item 911.16 the following new items:

" 911.17	Glass fibers in bulk: glass fibers in the form of mats, batts, blankets, felts, pads casings and boards, all the foregoing, of a density not over 25 lbs. per-cubic-foot, whether or not coded, impregnated or bonded with glue, plastics, or other substances or lined, backed or supported with paper, paper board, fabrics, or similar materials, or with metal mesh or foil; glass-fiber filter with or without their frameworks or supports; and article not specifically provided for, of glass fibers (provided for in item 540.71, part 3, schedule 5).....	Free.	No change	On or before 6/30/79.
911.18	Mineral wool, in bulk or in batts, blankets, or similar forms, whether or not lined, backed, or supported with paper, paper board, or similar materials (provided for in item 522.81, part 1, schedule 5).	Free.	No change	On or before 6/30/79.
911.19	Boric Acid (provided for in item 416.10, Subpart B, part II, schedule IV).....	Free.	No change	On or before 6/30/79".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date of enactment of this Act.

SEC. 1060. INJECTION OF WATER TO ENHANCE CRUDE OIL RECOVERY.

Section 8(i)(2) of the Emergency Petroleum Allocation Act of 1973, as amended, is amended by adding the following new sentence at the end thereof: "Included in the count of the total number of wells on a property shall be all wells producing crude oil and all wells utilized for the purpose of injecting water and/or other materials into a producing reservior for the purpose of enhancing crude oil recovery.".

Part VII—Alcohol, Fuels Research and Demonstration Project of 1977

SEC. 1071. SHORT TITLE.

This part may be cited as the "Alcohol Fuels Research and Demonstration Project of 1977".

SEC. 1072. FINDINGS AND PURPOSE.

(a) The Congress hereby finds and declares that—

(1) domestic reserves of petroleum are finite and insufficient to meet current and foreseeable energy needs;

(2) it is desirable to achieve as rapidly as possible the capability of becoming independent of foreign sources of energy; and

(3) it is in the best interest of the Nation to rapidly investigate, develop, and employ technologies to economically produce and utilize domestic, nonpetroleum and nonnatural gas derived alcohol fuels as a substitute for, and as a supplement to, petroleum and petroleum products.

(b) The purpose of this part is, through a limited scientifically controlled, research and demonstration project which utilizes alcohol fuels (in lieu of or in combination with conventional petroleum-based fuels) in the operation of passenger vehicles, to provide Congress with information as to the economic, scientific, technological, and environmental feasibility of utilizing alcohol as a motor fuel on a large scale.

SEC. 1073. DEFINITIONS

For the purposes of this part—

(1) the term "alcohol fuel" means domestic ethanol and methanol of greater than 99 per centum purity derived from sources other than petroleum or natural gas;

(2) the term "United States" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States;

(3) the term "motor vehicle" means any gasoline-powered passenger sedan or station wagon designed for use on the Nation's highways;

(4) the term "blend" means a fuel mixture consisting of at least 10 per centum alcohol by volume;

(5) the term "Project Administrator" means the chief executive official of the project agency selected under section 1074; and

(6) the term "executive agency" means an executive agency as defined in section 105 of title 5, United States Code, and shall also include the United States Postal Service.

SEC. 1074. SELECTION OF A PROJECT AGENCY

(a) No later than six months after the date of the enactment of this part, the Secretary of Energy shall, applying the criteria specified in subsection (b), select an executive agency to conduct the research and demonstration project authorized by this part.

(b) The Secretary in his selection of the project agency, shall apply the following criteria:

(1) the agency annually purchases or leases (for a period of a year or more) more than one thousand five hundred passenger sedans or station wagons which are expected to be fueled and maintained at a common facility or facilities;

(2) the agency's vehicles operate in several different locations under different climatic conditions; and

(3) the agency is capable of collecting research and other data which the Secretary expects to collect under section 1075.

SEC. 1075. ESTABLISHMENT OF A RESEARCH AND DEMONSTRATION PLAN.

(a) No later than six months after the selection of a project agency, the Secretary of Energy, after consultation with the Project Administrator, shall establish a research and demonstration plan (hereinafter in this title referred to as the "plan") which shall include—

(1) the variety of motor vehicle models, types, and sizes to participate in the demonstration, which, to the extent feasible, shall represent a cross-section of motor vehicles;

(2) the modifications required in conventional automotive design to utilize the alcohol fuel;

(3) the appropriate method of mixing, storage, and delivery of fuel blend;

(4) the changes in motor vehicle maintenance or operation anticipated in utilizing the alcohol fuel;

(5) the research and other data, both base and comparative, particularly with regard to vehicle emissions and performance, to be collected by the Project Administrator un
the plan and to be transmitted to the Sec
tary pursuant to section 1076(d).

(b) The plan shall require that all alco
used shall be produced and refined in
United States.

(c) Except as provided in subsection (
the Secretary of Energy, after his adopt
of the plan, and after consultation with
Project Administrator, may alter the p
from time to time to further the purpose
this part.

SEC. 1076. OPERATION OF MOTOR VEHICLES U
ING ALCOHOL FUEL.

(a) In accordance with the plan but
no case later than one year after the est
lishment of the plan, the Project Admi
trator shall require for a period not to
ceed three years that at least one thous
of the motor vehicles purchased or le
(for a period of a year or more) during
period and expected to be fueled at pu
under his control shall be equipped to
lize alcohol-blended fuel. One hundred
these motor vehicles shall be equipped
utilize a fuel which is at least 90 per cent
alcohol.

(b) The Project Administrator shall
vide such storage and pumping facilities,
require that they be operated in such a m
ner, as to conform to the plan. The Pro
Administrator shall operate and maint
motor vehicles involved in the plan in
manner specified in such plan.

(c) Pursuant to section 1075(b), the P
ect Administrator shall not use alc
which was produced or refined outside
United States or which is of petroleum
natural gas origin.

(d) The Project Administrator shall
lect and transmit to the Secretary of En
such research and other data as may
specified in the plan.

SEC. 1077. REPORT TO CONGRESS.

(a) The Secretary of Energy, no later t
sixty days after the end of each fiscal y
concluding with the fiscal year ending
tember 30, 1981, shall submit to Cong
interim reports on the progress during
such fiscal year of the demonstration pro
provided for in this Act.

(b) The Secretary, no later than five y
after the date of the enactment of this p
shall submit a final report to Congress
the results of the research and demons
tion project provided for in this part
shall include in such report an analysis
(1) of the research and other data
lected under the project, particularly
respect to the environmental impact of
stituting alcohol fuel for conventional
(2) of the projected impact on for
energy consumption of increased use of
cohol fuel in motor vehicles;
(3) of the technological and econo
feasibility of increased use of alcohol
in motor vehicles;
(4) of the desirability and feasibility
further research, development, and dem
stration projects and implementation
grams in this area, particularly with res
to expanding the use of alcohol fuel
motor vehicles; and
(5) of technological, economic, cult
and political problems hindering comm
cialization of alcohol fuels ready for fur
use.

(c) The term "Inland States" means t
States other than a Northern Tier State
other than California in the contine
United States.

(d) The term "crude oil transporta
system" means a crude oil pipeline wi
and subject to the jurisdiction of the Un
States, and including, but not limited
the port, terminal, tank farm, pumping
tions, off-take points, and other related

cilities, associated with moving volumes of Alaskan crude oil by pipeline to Northern Tier or inland States.

INVESTMENT CREDITS TO ENCOURAGE CONSERVATION OF, OR CONVERSION FROM, OIL AND GAS OR TO ENCOURAGE NEW ENERGY TECHNOLOGY

SEC. 1031. ADDITIONAL CREDIT FOR INVESTMENT IN CERTAIN ENERGY-RELATED DEPRECIABLE PROPERTY.

(a) ALLOWANCE OF CREDIT.—Part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by inserting after section 44E the following new section:

"SEC. 44F. CERTAIN ENERGY-RELATED DEPRECIABLE PROPERTY.

"(a) GENERAL RULE.—There is allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) 15 percent of the qualified investment (as determined under sections 46(c) and (d)) in section 38 property which is (or, for the purpose of applying section 46(d), will be) alternative energy property, and

"(2) by hydroelectric power, including turbine and equipment up to (but not including) the electrical transmission stage, and including the dam structure.

Mr. GRAVEL. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate is not in order.

The Senator from Alaska.

Mr. GRAVEL. I want to go over the ground once again since I think there was a lot of misunderstanding judging from statements made about how controversial these items are. They are not controversial. I do not know of any of them which are controversial.

I would like every Member to know that everything they just voted to table has already passed the Senate and is not in controversy. It primarily affects one part of the country, the West.

So what we are locked into, unfortunately, is the old producer-consumer dialog. We are not talking about increasing the price of oil or deregulation of oil or gas, so there is no reason for regionalism in this area.

The argument is made that this is too much weight for the Senator's original amendment, Senator HART's original amendment, to carry. What I have done is I have changed this. I have added gasahol which I inadvertently left out. I also added a good amendment which passed in committee and which I cosponsored, an investment tax credit for small hydro plants of 5 megawatts and less.

We received testimony that we can double the amount of hydrogeneration in this country. All we have to do is use the water that is around. A 10- to 20-foot head will provide for a 1- to 2-megawatt plant without violating any environmental standards. That is what the committee did.

So I, for one, resent somebody coming into the Committee on Finance work and pulling out a few sexy items and saying, "Boy, this we have to have or we are going to die."

The original argument was made that we need this for solar. Then we find out we have a couple of dogs in here, such as investment tax credit for insulation that we do not need. We were not happy about that in committee.

Let us be candid, it is in here, and it looks good for the homeowner to get an investment tax credit to insulate his house when the cost of insulation has just doubled. But, it has doubled, because there is not enough around. That is what is in the Senator's amendment.

The amendment you just tabled took off the tariff letting some material imports come in to lower the costs to the consumer. Who is really being fair to Mr. John Q. Public, somebody who is increasing the price or somebody who is lowering the price?

You know, I just do not understand how you can stand up here and vote for regionalism on a situation that, to my mind, is a little unfair. I am a member of the committee that worked hard on this part of the package and what this package contains. I thought gasahol had a lot of merit, and means jobs would be created in the farm area. We are probably not going to have a lot of gasahol in an oil State like Alaska, but the credit for the small hydroelectric plants, an investment tax credit for geothermal, an investment tax credit for recycling and cogeneration would help us. Now, cogeneration can affect any part of the country. Probably geothermal has an advantage for the Western part of the country. But I frankly got really upset over the fact that we always think in terms of only what is good from the homeowners' point of view, when in fact it is not the homeowners but the manufacturers who benefit, who get these credits.

I make an appeal to the body to vote for these issues; they are meritorious. You have voted for all of them before.

Do not make an issue that this stuff has not passed the House. It has simply not passed the House in this kind of form. The Senator has stated that his issue has passed the House, but it has not passed the House in that form. It has passed the House in another form, and it has not passed the conference committee, so those representations are inaccurate.

Mr. President, I would hope that I would be afforded the courtesy of an up-or-down vote on this issue on its merits. I would be prepared to afford any other Senator the opportunity to have an up-or-down vote on his issue on its merits. If there is some tactical reason why it has to be tabled, I would like to hear it.

Mr. HART. Mr. President, the issue that has tied up the Senate most of the afternoon, and I think rightly so, is very important to solving the energy problems of this country in the late 1970's.

The amendment fashioned by myself, the Senator from New Hampshire, and a dozen-and-a-half other sponsors was based on our collective judgment that the principal items in this amendment have the best chance of acceptance if broken away from the so-called energy package.

That judgment was based on the actions of the conference committee, as well as what seemed to us to be the overwhelming sentiment of both Houses. It is premised on our strong belief that the package approach has reached a stalemate which the country can not live with, where these measures were concerned, and I believe we have documented that case.

Mr. President, we are not attempting here to discuss the merits of the arguments being made by the Senator from Alaska. I voted for many of the things that he has mentioned. I had one of the first cogeneration bills introduced in Congress. I, along with many others, have advocated these kinds of incentives.

The issue is not whether you are for or against these things. The issue is whether you think there are a few areas we can agree on in both Houses and get a Presidential signature for, and do so expeditiously, not only to help the solar industry but also the homeowners and energy conservation.

I do not know, to use the language of the Senator from Alaska, what is sexy and what is not. All I know is that some things have broad support and others do not.

Mr. President, this amendment does not attempt to solve all of the energy problems in this country. That is what has tied Congress up for a year and a half. If we are to go back and examine everybody's idea about what the country ought to be doing in energy, we can start all over again. That is the problem we have with the proposal of the Senator from Alaska—that we would start all over again.

The Senate did pass many of these things. Some of them are having difficulty getting support in both Houses and in the conference. What we are trying to do is isolate the areas where we have agreement and can get them passed, as a very practical, pragmatic step.

Mr. President, my amendment has nothing to do with regionalism. It has nothing to do with one part of the country versus another. It has nothing to do, frankly, with an investment tax credit for insulation. There is no investment tax credit for insulation in the amendment of the Senator from Colorado.

So I would hope that Senators, in trying to resolve this matter and do so fairly and expeditiously, will not ask themselves whether they are good or bad proposals, and how you voted on them before. Ask yourself what has the best chance of being passed, so we can act on this measure, get it past the House, and get the President to sign it.

If everybody sticks to what he thought was a good idea a year or a year and a half ago, we are right back where we started from. Mr. President, I had no interest, in moving to table the Senator's amendment, in doing anything he seemed to think was a personal affront. It was an attempt to clarify where the principal proponents of the basic amendment stood and where the Senator from Alaska stood. That issue being clarified, hopefully, in the minds of most Senators, I am prepared to table again, but I would hope Senators would ask

themselves, "Will the vote I cast have incentives that Congress can move on?" And that the Senate would then proceed to vote on that basis.

Mr. GRAVEL. Mr. President, this amendment, which is an addition to the Senator's original amendment, does not have every possible incentive. We left off a number of incentives because they were too expensive.

Mr. President, could we have order, please?

The PRESIDING OFFICER. The Senate will be in order.

Mr. GRAVEL. Mr. President, the Senator is quite right; I used the expression "investment tax credit." It is not an investment tax credit, it is a credit for insulation, if a person goes out and insulates his home he gets a credit for 30 percent of the first $2,500. That amounts to $750 per home and then you get 20 percent of the next $7,500, up to $10,000, which amounts to $1,500.

The impact of that is that a person can insulate his home and receive that credit. But the point is that that fosters an abnormal demand upon insulation.

The price of insulation has skyrocketed. It has gone out of sight, because there is already an increased demand, with the increased cost of gas and heating oil, for people to insulate their homes. That demand is such that we cannot do anything more. This appears to be an outright gift to the homeowner, but the people who can get insulation will probably insulate anyway. Where it does become a gift is by creating an even greater demand which increases the price, since this is not a regulated product. So, obviously, we bring about windfall profits, and that is what this insulation credit does.

So we must understand the damage we are doing to the economy and the equities involved in this unusual amendment that Senator HART says must be acted on in all haste. The total cost of his package is in excess of $10.5 billion. The cost of this item alone is $4 billion. That is what the House reported out as their cost estimate for this item; so insulation credits are almost half of the whole cost. And as I stated before, the cost of my amendment, prior to gasohol and prior to the tax credit for small hydro, was $4.1 billion.

So here is an amendment that is supposed to have unusual virtue and merit. It has a $4 billion cost, and it is truly a ripoff in the area of insulation. It is not the best that our subcommittee did in that area, and it is most unfortunate that it is received as high priority.

Obviously solar is, but the solar credits are not a very costly item. Let me just say, as the prime sponsor of the bill that was originally violated and now continues to be violated, that I am asking for no more than the Senator from Colorado. I would submit that my proposal is considerably cheaper and will have a considerably larger benefit on the energy problems facing this country, albeit I will not be doing it through a credit to every single homeowner. He might think he has something extra, but in point of fact he does not. In point of fact, we have hoodwinked him because we have driven the cost of insulation up to a ruinous and preposterous level.

I want to correct the record, Mr. President. I was quoting the solar figures in the haste of dealing with this amendment. I share the concern of the Senator from Maine. I found out about this assault on my amendment late last night and did not give it credibility until lunchtime. So I have come here fast and furious.

The correct numbers in the amendment of the Senator from Colorado are 20 percent on the first $2,000 for conservation for a maximum of $400. So the figure that I gave of $750 is not correct. But the impact is still the same.

We received testimony that all of the insulation that can be used is being used so why go out and add a credit to it. It is just preposterous, particularly when that credit is going to cost $4 billion to the Treasury. All of the credits I am talking about, amount to somewhere between $4 billion and $4.5 billion.

That is what is preposterous. That is what the Senate has the opportunity of tabling. Since we want to have an opportunity to vote up or down on it, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays are ordered.

Mr. GRAVEL. I also ask unanimous consent that Mr. Hoffman of my staff be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CURTIS. Will the Senator yield for a question?

Mr. GRAVEL. I yield.

Mr. CURTIS. Will the Senator, by title, tell us what is included in this last amendment?

Mr. GRAVEL. I will repeat it again. The last item we put in is the item the Senator from Maine offered and I cosponsored, which is for small hydroelectric generation plants. for a small off-the-shelf plant of 1 to 5 megawatts.

Mr. CURTIS. What else?

Mr. GRAVEL. The Senator's gasohol proposal, which has been explained briefly. The other items: An investment tax credit which the committee passed and the Senate voted on. There appears to be no controversy on this. It is for a 10 percent investment tax credit for cogeneration. That means if you are already generating something and you can generate electricity as a by-product of that, then you get an investment tax credit for the cost of the additional facilities.

Next is a recycling, oil shale, and an additional tax credit for nonoil or gas generating equipment which has a useful life of more than 3 years. Obviously, that can apply anywhere. Then, the payment in lieu of a tax credit for tax exempt organizations, such as electrical co-ops.

The next is a depletion allowance for geothermal, for geopressurized methane, and for peat when it is used as a fuel.

The amendment allows a deduction Mr. President, could we have ord please?

The PRESIDING OFFICER. The Se ate will be in order.

Mr. GRAVEL. In response to the Se ator's question, it allows the deducti of intangible drilling costs for we drilled for geothermal or geopressuri methane.

This is an area which has lagged, a the reason why it has lagged is becau we do not have the technology perfect We have received testimony there is possibility of heating half of the Unit States through these resources. What more important, the paltry sum this w cost or the $4 billion which will go the manufacturers as windfall profits home insulation?

The last item is that this will suspe rather than give a windfall to the man facturers of home insulation, the ta on home insulation and let foreign i sulation come in so that it will depr the obscene levels now being charg for home insulation. So, I say to Senat who are up for election that you are su ject to a charge by your opponent voting for $4 billion to raise the cost living when what you may have j voted to table would lower the cost living to the homeowner who has to out and insulate his home. That is wh is involved.

It is to suspend the tariffs until Ju 30, 1979. It is not to suspend it p manently as we do not want to ruin industry but we think they are mak too much money and causing too mu harm in the marketplace. So we are s pending the tariff.

That is what is in here for the hom owner.

Unfortunately, I think the primr path has been heavily trodden today a I think there are some things that p ple may have voted against which th will be embarrassed about in the futu

I hope that answers the question my colleagues as to what is in t amendment. I submit it is considera more meritorious than Senator Ha amendment although there are eleme of his amendment which are extrem meritorious other than the insulat credits. I would be prepared to say th half of the cost of his amendment meritorious and the other half is not

Mr. LONG. Will the Senator yield?

Mr. GRAVEL. I yield.

Mr. LONG. Is the Senator willing agree to end debate and vote on amendment?

Mr. GRAVEL. Yes.

Mr. LONG. Mr. President, I ask th we proceed to vote on this amendme I ask unanimous consent that we n proceed to vote.

Mr. GRAVEL. There are others w want to speak.

Mr. LONG. I ask unanimous cons that there be 5 minutes' limitation each side.

The PRESIDING OFFICER. With objection, it is so ordered.

Who yields time?

Mr. McGOVERN. Will the Senator from Colorado yield me a couple of minutes?

Mr. HART. I yield such time out of the 5 minutes as the Senator wishes.

Mr. McGOVERN. Mr. President, I rise in support of the amendment of Senator HART. I think it has great force and effect. It is a very simple, commonsense proposal that is needed to break the impasse holding back the development of solar energy, solar devices, and solar equipment in this country.

For some 16 months it has been hung up on the tax equalization proposal, which does not seem to be going anywhere at this point. Meanwhile, all across the country homeowners and businesses, who have been expecting since a year ago last April that the Congress was going to make available tax credits which would make possible the equipping of our homes and small businesses with solar equipment, energy conserving equipment, have been left in the lurch. And not only the homeowners and the businessmen have had to go without the tax credit that they expected, but also the companies, many of which are small companies, which are manufacturing this equipment, are faced with bankruptcy because the customers are not there due to the lack of tax credits.

In my own State, I know of several small companies that are considering closing their doors after waiting all these many months for tax credits that were indicated a year ago last April, that are tied up in the tax equalization impasse. What Senator HART and others, including myself, who have joined with him in this effort are trying to do is break out of this impasse and free the proposal that the President made in April of 1977, that tax credits be made available to homeowners and to businesses that want to install energy-saving equipment solar devices, so that we can move ahead on it.

I hope very much that the Senate will not jeopardize the passage of Senator HART's amendment here this afternoon. I think it is clearly in the national interest. It will save energy. it will encourage the development of a renewable source of energy; it will create new jobs; it will save some businesses that otherwise will have to close their doors. It is an excellent investment in the public interest.

I hope the amendment, when we vote on it a little later this afternoon, will be adopted.

Mr. HART. Mr. President. I am prepared to yield back the remainder of my time on this.

Mr. GRAVEL. Mr. President, I only add that the Senator from South Dakota may have thought he cosponsored something of great merit and he is right on solar. I am the first person in this body that suggested money for additional solar energy in this country and could not get any support in 1971 and 1972. I do not take a back seat on that. I think it is a great amendment.

The problem the Senator should know, though, is that of the $10.5 billion in the amendment he just cosponsored, there is $1.5 billion for solar, which is meritorious. But, there is $4 billion in there for insulation, where the market is totally saturated right now. All it is going to do is drive the price up. So the poor people in his area that have to insulate their homes, and his is a cold weather area like mine, are going to pay more for the insulation. That will be the result of this amendment.

My amendment is going to do the opposite; it is going to open up our markets to foreign insulation coming in. I think the Members should be put on notice, maybe to somebody's embarrassment later on: You are voting $4 billion to increase the market price of insulation. I tell you, if this passes tonight, you are going to see the price of insulation going up tomorrow. Businessmen are not fools. They will think this is coming. I hope it is not coming.

I want to address myself to another point the Senator from South Dakota made, that this is going to move this part of the energy tax bill. This is not going to advance the bill one iota. This is a Christmas tree, it is not going to be accepted by the House, and the Senator from Louisiana explained that very well. I think it may have a little pressure, but not much more than that.

This area is going to be settled through other devices, not by the device of jeopardizing this particular bill.

I might say it looks good right now. But, I think the debate on this issue may some day serve as a great embarrassment to a lot of Members of this body when it is really understood by the media and by the American public that they are going to pay more to insulate their homes in New Hampshire, South Dakota, Wisconsin, and Illinois as a result of this action. There is $1.25 billion in here for solar and $4 billion for insulation, which is going to do nothing more than drive the price up.

Mr. HART and Mr. McINTYRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. GRAVEL. I reserve the remainder of my time.

Mr. HART. Mr. President, I only want to reiterate one fact that there is nothing contained in the Hart amendment, which is not the amendment we will be voting on, which departs significantly from the Senate-passed bill.

The Senator from Alaska speaks about that in his own amendment, but we may vote on insulation credits and the Senate already made that decision. So this is not any novel approach.

I ask unanimous consent that my colleague from Colorado (Mr. HASKELL) be added as cosponsor to my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. I yield to the Senator from New Hampshire.

Mr. McINTYRE. Mr. President, I want to put one bogeyman to sleep here. That is the matter of insulation. A very large manufacturer has indicated plentiful supplies of insulation to my office—a new plant coming on line in Texas and other places. On the next tax bill coming up, we can pass the Senator's good idea of suspending out import tariffs on insulation.

Mr. GRAVEL. That may be the Senator's opinion, that there is a new plant going in in his backyard. Does he know why? Because they are making so much money. The best way to expand supply of a product is to let the price rise. The price has risen inordinately. Now what we are going to do is jam it up higher. That is what this vote will do.

I did not say this is a novel approach. There is no question that we voted favorably on this thing. There are a lot of things we vote on in this body that are not all that delightful.

I am persuaded that when someone stands here and tells me there is a bill that has to be rushed onto this foundation tax bill because it is an emergency, and it is really a dog like this, that it is not very good.

I do not recall whether I voted for or against insulation credits in committee, but I do recall I did not like them very much. Sometimes I vote for something I do not like. If I had a chance to vote on it again, I would vote against it on those merits.

There is something in there for solar, however, let me repeat, there is only $1.2 billion in there for solar, but $4 billion for insulation. As my colleague from New Hampshire said, there is no problem, we are building new plants. If there is no problem, we do not have to give a credit for insulation.

I yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HART. I yielded back my time.

The PRESIDING OFFICER. If all time is yielded back, the question is on agreeing to the amendment of the Senator from Alaska. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), and the Senator from Louisiana (Mr. JOHNSTON) are necessarily absent.

The result was announced—yeas 42, nays 54, as follows:

[Rollcall Vote No. 355 Leg.]

YEAS—42

Bartlett	Mark O.	Ribicoff
Bentsen	Hathaway	Roth
Byrd, Robert C.	Hayakawa	Schweiker
Case	Helms	Scott
Church	Laxalt	Sparkman
Cranston	Long	Stevens
Curtis	Lugar	Talmadge
Danforth	Mathias	Thurmond
Dole	McClure	Tower
Durkin	Metcher	Wallop
Ford	Moynihan	Weicker
Goldwater	Nunn	Williams
Gravel	Packwood	Zorinsky
Hansen	Percy	
Hatfield,	Randolph	

NAYS—54

Allen	Byrd,	Domenici
Baker	Harry F., Jr.	Eagleton
Bayh	Cannon	Garn
Bellmon	Chafee	Glenn
Biden	Chiles	Griffin
Brooke	Clark	Hart
Bumpers	Culver	Haskell
Burdick	DeConcini	Hatch

Hatfield, Paul G.	Leahy	Proxmire
Heinz	Magnuson	Riegle
Hodges	Matsunaga	Sarbanes
Hollings	McGovern	Sasser
Huddleston	McIntyre	Schmitt
Humphrey	Metzenbaum	Stafford
Inouye	Morgan	Stennis
Jackson	Muskie	Stevenson
Javits	Nelson	Stone
Kennedy	Pearson	Young
	Pell	

NOT VOTING—4

Abourezk	Eastland
Anderson	Johnston

So the amendment (UP No. 1757) was rejected.

Mr. HART. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG. Mr. President, it seems clear to me that the Senate wishes to accept the Hart amendment, so I ask unanimous consent that we dispense with the yeas and nays on the amendment.

The PRESIDING OFFICER (Mr. PAUL G. HATFIELD). The yeas and the nays have not been ordered on the amendment.

Mr. LONG. Then, I urge the Senator to let us accept the amendment on a voice vote and go on to the next one. I will vote for the amendment.

Mr. HART. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. HART. As Senator GRAVEL very carefully pointed out, a lot depends on the degree of intensity of the chairman's commitment and conviction on these matters.

Mr. CASE. You cannot change that. [Laughter.]

Mr. HART. I think a majority of the Senate, those of us who favor this position, would feel a lot better if we felt that, as the principal negotiator for us, the distinguished committee chairman and floor manager was prepared to make a strong argument on our behalf with our House colleagues.

I know there is no way to get an oath in blood. But all of us have had the experiences at one time or another of amendments being accepted and then somehow disappearing mysteriously in conference.

One of the arguments in favor of a record vote is clearly to put the Senate on record——

Mr. LONG. I will be glad to stipulate that the record vote would be unanimous. [Laughter.]

Mr. GRAVEL. I would second that motion.

Mr. HART. Will the distinguished committee chairman agree that he will not bring back a bill for Senate approval without the provisions in the Hart amendment in that report?

Mr. LONG. Mr. President, if the House wants to take the amendment, the House is going to take the amendment.

I have fought for everything that is in this amendment. In fact, I fought for more than this. I fought for a refundable tax credit in this area. As a matter of fact, that is why we are having difficulty getting as much in this area as I would like to see done about the subject and the Senate conferees generally would like to see done. We are for it.

Some things we cannot do. We are not the House of Representatives. We do not control those pretty independent people over there. Any time you think they are not independent, they always make it a point to prove to you that they are. I cannot assure the Senator that the House will accept the amendment.

Mr. HART. The issue is, how strongly will the Senator from Louisiana urge the House to accept this amendment?

Mr. LONG. For the life of me, I cannot see what difference a yea and nay vote makes. If so, let us order the yeas and nays.

Mr. HART. All the Senator has to say is that he will do his best to bring back a conference report that contains these provisions. That is all we are asking.

Mr. LONG. Mr. President, I know what my duty is as a conferee. The Senate has not named conferees yet. The Senate might not name me. If the Senator does not think I should be a conferee, he can ask that somebody else serve. I am just trying to expedite the adoption of the Senator's amendment.

Mr. HART. All the Senator has to do is to say the magic word.

Mr. GRAVEL. Since I am the prime author of this measure, the chances are that I will be on the conference, and I will do my best.

Mr. BUMPERS. Mr. President, we could have voted long since, during the time this colloquy has been going on.

Mr. LONG. I will ask the House to agree to the amendment. I am asking them on another bill—and more than the Senator has in the amendment.

I will put it this way: If we cannot bring this back on the energy bill, I would like to see it on this bill. If they take it, that is great. So far as I am concerned, they will take it. The Senator can address himself to the House of Representatives on the amendment. I favored this long before this amendment was offered. I favored it 2 years ago.

Mr. HART. The Senator from Colorado does not have the same persuasive powers and leverage that the Senator from Louisiana has. That is why I hope the Senator from Louisiana would exercise both on our behalf.

Mr. LONG. If the Senator's amendment is agreed to, it will be the best thing in the bill. [Laughter.]

So I am not worried about asking the House to take it.

Mr. HART. Mr. President, with that statement on the record, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HART. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table w agreed to.

● Mr. BARTLETT. Mr. President, day the Senate is taking an import step to assist charitable operati through the passage of H.R. 112. Dur both the 94th Congress and this Cong I have introduced legislation contain the same language, and I am v pleased to see the action of the Sen today.

In my own State of Oklahoma th are approximately 200 private charit foundations with a wide array of be ficial purposes. They range from s cific grants for student education to tual treatment of medical disabilit Recently, I received information fr some 34 of these foundations indicat that their annual taxes amounted to proximately $600,000. This may seem insignificant figure when compared the Federal budget, but when applied direct assistance to individuals or lo beneficiaries even a few thousand doll can mean the difference between c tinued operation and failure.

The excise tax on private chari was designed to cover administrat costs of Government audits on foun tion books. However, the present 4-p cent tax can represent several hund thousand dollars annually on la charities. Obviously, this is far in ex of the amount necessary to maint annual audits.

The 2-percent tax provided in this will more than cover all administrat costs of supervising private foundati They are fulfilling on a voluntary b functions which Government wo otherwise have to finance and perfo

A large number of my colleagues h been interested in this legislation some time, and I would like to congr ulate the members of the Finance Co mittee for reporting this legislation the floor so that action can be taken it before the end of the 95th Congre

The PRESIDING OFFICER. The is open to further amendment. If th be no further amendment to be propo the question is on the engrossment of amendments and the third reading of bill.

The amendments were ordered to engrossed and the bill to be read a th time.

The bill was read the third time.

The PRESIDING OFFICER. The having been read the third time, question is, Shall it pass?

The bill (H.R. 112) was passed.

Mr. LONG. Mr. President, I move reconsider the vote by which the was passed.

Mr. CURTIS. I move to lay that m tion on the table.

The motion to lay on the table w agreed to.

REVISION OF MISCELLANEOUS TI ING REQUIREMENTS OF THE RE ENUE LAWS

Mr. LONG. Mr. President, I ask una mous consent that the Senate proceed the consideration of Calendar No. 7 H.R. 7320.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 7320) to revise miscellaneous timing requirements of the revenue laws, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Finance with amendments.

Mr. LONG. Mr. President, H.R. 7320 contains amendments relating to certain timing requirements of the Federal tax laws. These amendments have been developed from a list of legislative recommendations submitted by the American Bar Association, the American Institute of Certified Public Accountants, and various other groups including State and local bar and accounting associations.

The bill contains provisions relating to the time payment of expenses owed to related parties when the time for payment falls on a Saturday, Sunday, or legal holiday; election of special corporate liquidation treatment for involuntary conversions; election of subchapter S status by a corporation; filing of unrelated business income tax returns for exempt organizations; determining the status of a taxpayer as a farmer or fisherman for estimated income tax purposes; claiming credits or refunds arising from carrybacks; and collection of the penalty for failure to pay over withholding taxes where a bond is furnished. In addition to these seven timing provisions, the bill provides a basis adjustment for property distributions received by a corporation where gain is recognized by the distributing corporation.

All witnesses, including representatives of the Treasury Department, who testified at the hearings on this bill recommended its adoption. As a result of the testimony received, the committee adopted several perfecting modifications to the provision relating to election of subchapter S status by a corporation.

It is estimated that these provisions of the bill will not have any significant revenue effect.

The committee also adopted an amendment to permit duty-free importation of boric acid, mineral wool, or glass fibers from any most-favored-nation beginning on the date of enactment of the bill and before June 30, 1979.

It is estimated that this provision—that is the provision to relieve this boric acid and mineral wool from customs—will result in a customs revenue loss of about $1.7 million.

Mr. President, I urge that H.R. 7320 be adopted.

Mr. CURTIS. Mr. President, this is a meritorious bill. I know of no objection to it, and I urge its adoption.

The PRESIDING OFFICER. The Clerk will state the first committee amendment.

The assistant legislative clerk read as follows:

On page 5, beginning with line 11, strike through and including line 21, and insert in lieu thereof the following:

"(c) WHEN AND HOW MADE.—

"(1) IN GENERAL.—An election under subsection (a) may be made by a small business corporation for any taxable year—

"(A) at any time during the preceding taxable year, or

"(B) at any time during the first 75 days of the taxable year.

"(2) TREATMENT OF CERTAIN LATE ELECTIONS.—If—

"(A) a small business corporation makes an election under subsection (a) for any taxable year, and

"(B) such election is made after the first 75 days of the taxable year and on or before the last day of such taxable year,

then such election shall be treated as having been made for the following taxable year.

"(3) MANNER OF MAKING ELECTIONS.—An election under subsection (a) shall be made in such manner as the Secretary shall prescribe by regulations.".

(b) TECHNICAL AMENDMENTS.—

(1) Section 1372(e)(1)(A) (relating to termination in the case of new shareholders) is amended to read as follows:

"(A) an election under subsection (a) made by a small business corporation shall terminate if any person who is not a shareholder in such corporation on the day on which the election was made becomes a shareholder in such corporation and affirmatively refuses (in such manner as the Secretary may by regulations prescribe) to consent to such election on or before the 60th day after the day on which he acquired the stock.".

(2) The last sentence of section 1372(a) (relating to eligibility for election by a small business corporation) is amended to read as follows: "Such election shall be valid only if all persons who are shareholders in such corporation on the day on which such election is made consent to such election.".

(3) Subparagraph (C) of section 1372(e)(1) is amended by inserting "(or, if later, the first taxable year for which such election would have taken effect)" after "in the corporation".

The PRESIDING OFFICER. Without objection, the amendment is considered and agreed to.

The clerk will state the second committee amendment.

The assistant legislative clerk read as follows:

On page 7, line 18, strike "(b)" and insert "(c)";

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. PROXMIRE. Mr. President, will the manager of the bill yield?

Mr. LONG. I yield.

Mr. PROXMIRE. Will the manager explain? The first committee amendment sounded like a substantive amendment. Perhaps it is not.

Mr. LONG. The House bill provides a newly formed corporation may make the subchapter S election during the first 75 days of its first fiscal year rather than the 1-month period provided under present law. The committee modified this provision so that existing corporations may also make a subchapter S election during the first 75 days of its taxable year.

Mr. PROXMIRE. Is there a Treasury position on this amendment?

Mr. LONG. It is my understanding the Treasury supports this amendment.

Mr. PROXMIRE. Is there any revenue loss?

Mr. LONG. There is no revenue loss.

Mr. PROXMIRE. I thank the Senator.

Mr. LONG. This is more of an administrative type thing.

The PRESIDING OFFICER. Does the Senator ask unanimous consent that the remainder of the committee amendments be considered en bloc?

Mr. LONG. As I understand it, Mr. President, those are mainly renumbering of sections, and I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, the remaining committee amendments are considered and agreed to en bloc.

The amendments are as follows:

On page 7, line 18, strike "amendment made by subsection (a)" and insert "amendments made by subsections (a) and (b)";

On page 7, line 23, strike "(c)" and insert "(d)";

On page 20, beginning with line 16, insert the following:

SEC. 10. TEMPORARY SUSPENSION OF DUTY ON IMPORTS OF INSULATION.

(a) IN GENERAL.—Subpart B of part 1 of the appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting after item 907.20 the following new item:

" 907.40	Boric acid (provided for in item 416.10, part 2B, schedule 4)	Free	No change	On or before 6/30/79 ".

(b) Such subpart B is amended by inserting before item 911.00 the following new items:

" 909.10	Mineral wool, in bulk, or in batts, blankets, or similar forms, whether or not lined, backed, or supported with paper, paperboard, or similar materials (provided for in item 522.81, part 1J schedule 5)	Free	No change	On or before 6/30/79
909.30	Glass fibers in bulk; glass fibers in the form of mats, batts, blankets, felts, pads, casings, and boards, all the foregoing, of a density not over 4 pounds per cubic foot, whether or not coated, impregnated, or bonded with glue, plastics, or other substances, or lined, backed, or supported with paper, paperboard, fabrics or similar materials, or with metal mesh or foil (provided for in item 540.71, part 3A, of schedule 5)	Free	No change	On or before 6/30/79 "

(c)(1) The rate of duty prescribed in rate column numbered 1 of the Tariff Schedules of the United States, as amended by this section, shall be considered to have been proclaimed by the President as necessary or appropriate to trade agreements to which the United States is a party, not as a statutory provisions enacted by the Congress.

(2) The amendments made by this section apply with respect to articles entered,

or withdrawn from warehouse, for consumption on or after the date of enactment of this Act.

The PRESIDING OFFICER. The Senator from Kansas.

UP AMENDMENT NO. 1728

(Purpose: Disregarding, for purpose of certain taxes imposed by the Internal Revenue Code of 1954 with respect to employees, certain changes since 1975 in the treatment of individuals as employees)

Mr. DOLE. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) for himself, Mr. LUGAR, and Mr. DECONCINI proposes an unprinted amendment numbered 1728.

Mr. DOLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . (a) In determining whether an individual is an employee for purposes of chapters 21, 23, and 24 of the Internal Revenue Code of 1954, the Internal Revenue Service shall not apply any changed position or any newly stated position which is inconsistent with a general audit position in effect prior to January 1, 1976, or which is inconsistent with a regulation or ruling in effect on December 31, 1975.

(b) Notwithstanding subsection (a), an individual shall not be treated as an employee of any person for purposes of chapters 21, 23, and 24 of the Internal Revenue Code of 1954 if such person, in good faith, consistently treated such individual or the class of individuals of which such individual is a member as independent contractors for such purposes. Such person shall be deemed to have acted in good faith only if—

(1) all Federal tax returns (including information returns) required to be filed by such person were filed on a basis consistent with such person's treatment of such individual or such class of individuals as independent contractors; and

(2) such individual or such class of individuals were treated by such person as independent contractors in reasonable reliance on any of the following:

(A) past Internal Revenue Service audit practice with respect to such person;

(B) published rulings or judicial precedent;

(C) recognized practice in the industry of which such person is a member; or

(D) long-standing treatment by such person of such individual or such class of individuals as independent contractors for employment tax purposes.

In no event shall such person be deemed to have acted in good faith if the treatment of such individual or such class of individuals as independent contractors would, on the basis of the pertinent facts and circumstances, constitute negligence, intentional disregard of rules and regulations, or fraud within the meaning of section 6653 of the Internal Revenue Code of 1954.

(c) The provisions of this Act shall apply in determining the employment status of individuals for—

(1) all calendar quarters for which, on the date of enactment of this Act, assessment of an underpayment of tax, or refund of an overpayment of tax, under chapters 21, 23, and 24 of the Internal Revenue Code of 1954 is not barred by the operation of any law or rule of law, and

(2) for the calendar quarter in which this Act is enacted and for all future calendar quarters until the end of the calendar year in which the Congress enacts a law terminating the future applicability of this Act.

Mr. DOLE. Mr. President, I hope we might dispose of this amendment very quickly.

Mr. President, this amendment adopted by the Senate Finance Committee by a vote of 14 to 1 is designed to protect the independent contractor status of taxpayers who have been treated consistently and in good faith as independent contractors. This amendment incorporates my original bill, S. 3007, and the subsequent modifications I introduced in committee.

This proposal is supported by a number of groups including the American Pulpwood Association, American Retail Federation, Direct Selling Association, National Association of Independent Insurers, National Association of Realtors, National Club Association, National Hairdressers and Cosmetologists Association, National Home Furnishings Association, National Home Improvement Council, National Oil Jobbers Council, National Small Business Association, Retail Floor Covering Institute, and Specialty Advertisers Association.

Mr. President, for many years, the common law has been relied upon to distinguish independent contractors from employees for tax purposes. As a result, the law in this area was widely considered to be both reasonable and clear, and taxpayers such as direct selling representatives, insurance agents, real estate salespersons, and service station operators were treated as independent contractors. Many other taxpayers also structured their economic affairs under what they believe was clearly the law.

Beginning in the early 1970's, however, the Internal Revenue Service began to rescind the longstanding rules in this area and to adopt new and harsh interpretations of the common law in audit procedures. This produced great confusion in what had been a reasonably well-defined area.

Assessments involving millions of dollars have been made or proposed, and several businesses have ceased operations as a result. Millions of income-earning opportunities are threatened. These adverse consequences were confirmed in recent testimony before the Subcommittee on Taxation and Debt Management where several witnesses testified to the devastating economic consequences to small business resulting from these retroactive assessments.

Mr. President, the widespread alarm resulting from the actions of the Internal Revenue Service was recognized by Congress, and the Internal Revenue Service was urged in the conference report accompanying the Tax Reform Act of 1976 to "not apply any changed position or any newly stated position which is inconsistent with a prior general audit position in this general subject area to past, as opposed to future, taxable years" until the completion of a study of the problem by the staff of the Joint Committee on Taxation. Despite this un testimony before the Subcommitte Taxation and Debt Management r clear that the IRS has continue rescind longstanding rules and to a new and harsh interpretations of common law.

Mr. President, this issue is enorm important. The Commissioner of Int Revenue recently has indicated that

At the present time in two districts o region alone, there are three potential a ments against taxpayers ranging fro million to $60 million, involving an i ance company, an oil jobber, and a sales company.

He has also stated that—

There are situations where assess exceed a taxpayer's net worth by a con able amount. Furthermore, testimony b the Committee on Finance Subcommitt Taxation and Debt Management has cated that taxpayers have already been d out of business by IRS employment assessments based on reclassifying ind uals as employees even though they had been considered by all to be indepen contractors. Given these dire circumst it would be wholly inequitable to con for another year to subject taxpayers t confusion and uncertainty which now in this area of the tax law.

Mr. President, I urge the Senat adopt this amendment which has ceived large bipartisan support.

Mr. President, in addition to those ators mentioned as original cospon the Senator from Indiana (Mr. LU and the Senator from Arizona (Mr. CONCINI), the following Senators also cosponsored S. 3007: Sen CURTIS, MCCLURE, HATCH, CH TOWER, DOMENICI, HAYAKAWA, GA EAGLETON, SCHMITT, THURMOND, NE and HASKELL.

I only suggest that perhaps this m be an amendment that could be acce by the committee.

Mr. PROXMIRE. Mr. President, the Senator yield?

Mr. DOLE. I yield.

Mr. PROXMIRE. My understandin that the Treasury does not oppose amendment; is that right?

Mr. DOLE. It is my understanding the Treasury does oppose the am ment.

Mr. PROXMIRE. The Treasury oppose the amendment?

Mr. DOLE. Does oppose it, yes.

Mr. PROXMIRE. Why does the Tr ury oppose it?

Mr. DOLE. They have another posal which as I understand it migh fer any further action for a period year. They have a freeze on assessm They made their case before the Fin Committee. I might say to the di guished Senator from Wisconsin, hearing their presentation the comm voted 14 to 1 to adopt the amendm

Mr. PROXMIRE. Can the Senato me if they oppose the amendment, cause of a revenue loss in part?

Mr. DOLE. I do not think it is so m a revenue loss. As far as I know there no figures on revenue loss.

Mr. LONG. The reason is that Treasury would like to have a pe nent solution for the independent tractor problem. They do not have a

commendation to make at this point, but we would think that the Treasury will be down next year with recommendations on how we should tax independent contractors.

Mr. PROXMIRE. The author of the bill indicated there is no estimate as to the Treasury loss.

Mr. DOLE. I might say I do not think there will be any loss as far as this Senator knows. I do not think they gave us any estimate. They were not certain there would be any loss.

Mr. PROXMIRE. Will the Senator tell us in his judgment or the judgment of the staff of the joint committee there would be a significant loss?

Mr. LONG. The Treasury, as I understand it, would have no objection to freezing the present situation, but they do not want a forgiveness of any past liability that the Treasury might assert until we have a permanent solution to this problem and obviously the taxpayers would like to know where they stand. Therefore, I think the attitude of the committee is that of the taxpayer that they would like to know where they stand.

The Treasury would like to hold out for a permanent solution to the problem.

Mr. PROXMIRE. I am sympathetic with that, and I think I would support the amendment, but I want to be sure the manager of the bill and the committee indicate they do not think there is a sufficient loss or if there is a loss.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. LONG. There is a long list of big cases in litigation right now, and I do not think anyone can predict how those cases will come out if we continue to litigate. In other words, you have situations all over the country where people have real estate agents and others who have been doing business as independent contractors. One can understand why the Treasury, for purposes of effective administration, would like to make employers do the withholding and do the bookkeeping so they can more effectively collect their money.

But, on the other hand, it is a great big burden on behalf of taxpayers to have to do all that, so you and I if we were in the real estate business and we had people working for us would much prefer not to fool around with all that and let them do their own accounting with Uncle Sam. But Treasury would like to make us regard those people, whom we choose to regard as independent contractors, as our employees so they can make us withhold and account for it and do the bookkeeping for the Treasury.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. PROXMIRE. Yes.

Mr. CURTIS. I believe this would not change the tax liability, the income tax, very much, if any. It is very burdensome from the standpoint of bookkeeping and withholding. Whether or not someone is an employee or an independent contractor would make a difference on the liability for social security taxes. An independent contractor pays social security taxes at 1½ times the employee rate. If he was an employee, both employer and employee would pay.

Keep in mind these are individuals who have been treated as independent contractors for years and years.

The raising of this question by the Treasury has to be shown in their financial statements, puts a cloud over their assets, and they have a difficult time to operate.

The Treasury suggests a partial stopgap, but it would still keep it open and be burdensome for the businessman.

What this would do would be to leave it open so that Congress could later consider the final solution of the Treasury but, in the meantime, it would relieve their business of the uncertainty during this interim period.

Mr. PROXMIRE. I thank the Senator. Let me just persist in one more question. As I understand it, the manager says there is no way you can tell what the loss will be. It depends on the outcome of litigation. Could the manager indicate what the outside figure might be so we would have some notion of how this could affect the Treasury? Will it be in tens of millions, hundreds of millions of dollars?

Mr. LONG. I say to the Senator we just do not have a figure. If I had it I would be glad to give it to the Senator, but we just do not have it.

This is an area that could involve a lot of people. If the Treasury were successful in what they would like to contend, I am frank to say that if they were successful, as they would like to be, the Congress would intervene on behalf of the taxpayers so that while they hope they raise a great deal of money, Congress would not let them do that it they were as successful as they hope to be. We cannot blame them for zealously trying to obtain every dollar they can from the public's fist. But when the taxpayer screams, beyond a certain point Congress gets into the act as in the case here.

● Mr. DECONCINI. Mr. President, Senator HASKELL and I introduced a bill, S. 3037, on May 4, which has a direct bearing on the problem addressed by the amendment now before us. The measure we introduced, however, is more narrowly drawn and focuses specifically upon certain recent IRS rulings affecting the real estate industry.

These rulings, 76–136 and 76–137, were designed to effect far-reaching changes in established policy regarding the occupational classification and tax treatment of real estate agents. The result was a sudden, unanticipated, and dramatic shift in the definition of "independent contractor" within the real estate industry. The changes envisioned by these rulings would have been severely disruptive even had they been limited to future tax years. But, IRS had the arrogance to make them retroactive as well. As a consequence, innumerable realty firms were abruptly faced with retroactive assessments for payroll taxes on individuals whom they had, in perfectly good faith, treated as independent contractors, not employees. Many of these businesses, had the IRS been able to carry out its intentions, would doubtless have been bankrupted, creating untold personal hardship, and promoting the structural concentration of what has traditionally been one of the most highly competitive sectors of the American free enterprise system.

That would have been genuinely tragic had it been allowed to occur. Fortunately, thanks to congressional opposition and initiatives like S. 3007 and S. 3037, the Treasury has apparently had second thoughts about the advisability of such an unprecedented reversal of longstanding policy and has announced its intention to rescind the two rulings in question. It has yet to do so, however, and there is presently no statutory barrier to another IRS attempt to fatten the Federal coffers by simply changing its regulations, regardless of the cost and unfairness to those affected.

I am sure that the Senator from Kansas would agree as, indeed, would every Member of this body, that the proper forum for the alteration of basic policy guidelines of this sort is the legislative process. For this reason, I believe it is imperative that the Congress enact a moratorium on IRS rulemaking in this area until a comprehensive legislative solution has been framed. That was, and is, the objective of S. 3037, insofar as the real estate industry is concerned. As I understand it, that is essentially the goal of S. 3007.

We must not stand idly by and permit IRS to make capricious and unwarranted changes in revenue policy. To do so, would be to acquiesce in yet another usurpation of the prerogatives of the legislative branch. I, therefore, urge my colleagues to add their suoport to ours and insure the adoption of this amendment.●

Mr. DOLE. Mr. President, I might just emphasize that we tried to determine whether there would be any loss, and we were told it would be insignificant. There are, of course, attempts by the IRS to recover. We know three cases that range from $3 million to $60 million, and I assume if they were successful in every case it would amount to some revenue gain.

But from what we were able to determine, the revenue impact would not be very significant.

It would seem to me that the amendment we propose would at least retain the status quo until Congress takes some action. That is all we are suggesting. It would alleviate the situation in two ways: First, it is going to stop the IRS from changing the audit procedures; and, second, we recognize the independent contractor status by definition. If he has been treated as an independent contractor in good faith based on his past record, we think that should continue.

It seemed to us in the committee, again by a margin of 14 to 1, after hearing the Treasury's opposition, that we ought to take this action. I suggest there would be no great revenue loss.

SEVERAL SENATORS. Vote. Vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 3471

(Purpose: For the relief of Josée and René de Chambrun)

Mr. LONG. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an amendment numbered 3471 for Mr. MATHIAS.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . For the purpose of determining the liability for tax of Josée or René de Chambrun, citizens of France, under chapter 12 of the Internal Revenue Code of 1954, and for the purpose of determining the liability for tax of the estate of the said Josée or René de Chambrun under chapter 11 of such Code, the Fondation Josée et René de Chambrun, Paris, France, shall be treated as if it were an organization described in sections 2522(b)(2) and 2106(a)(2)(A)(ii) of such Code, respectively.

Mr. LONG. Mr. President, this amendment is at the desk printed with my name on it. Actually this is a matter brought to our attention by the Senator from Maryland (Mr. MATHIAS). It deals with the foundation of Josee et Rene de Chambrun.

Under present law, Federal gift and estate taxes are imposed upon lifetime and death transfers by nonresident aliens with respect to property which is situated in the United States—sections 2501, 2511, and 2101–2108 of the Internal Revenue Code. For this purpose, nonresident aliens are allowed charitable deductions for transfers to domestic corporations which are organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, but not for transfers to foreign charities—sections 2106(a)(2) and 2522(b)(2) of the Code.

The rule which allows gift and estate tax deductions to nonresident aliens only for transfers to a domestic charity would disallow a deduction for transfers by a nonresident alien to the Foundation Josee et Rene de Chambrun. This foundation was created to preserve the home of General Lafayette, near Paris, along with his personal papers, belongings, and correspondence. Because the home of General Lafayette is located in France, it is not convenient for the foundation to be organized as a domestic corporation. However, the foundation, similar to many domestic charities, maintains property which is important to the history of this country. The foundation has qualified for income tax exemption in the United States.

The committee amendment would allow deductions for Federal gift and estate tax purposes to Josee and Rene de Chambrun and their estates for transfers to the Foundation Josee et Rene de Chambrun to the same extent as if the foundation were a domestic corporation.

The committee amendment would be effective for gifts made in calendar quarters, and for decedents dying, after the date of enactment.

Mr. CURTIS addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. CURTIS. Under our gift and estate tax law if a citizen gives part or all of his property to a charitable organization, he will be entitled to a charitable deduction. It makes no difference whether the organization is a U.S. organization or a foreign organization, just so long as it is a legitimate charity under our standards. However, we have a slightly different rule in our law for nonresident aliens who give their U.S. assets to charity. These people can get a charitable deduction only if the property is given to a U.S. corporation. No one seems quite sure as to why there is this difference in the law, but it was probably an oversight.

Every Senator should be particularly interested in this legislation because of a French foundation which has been created to preserve the home of General LaFayette, near Paris, along with his personal papers, belongings, and correspondence. The foundation has been operating for nearly 30 years and is almost exclusively supported by gifts of a Mr. and Mrs. Chambrun who are nonresident aliens. It is their intention to leave their entire estate to the foundation. However, it is feared that the curious twist in our law will impose a tax and not leave enough for the estate to sufficiently endow the foundation.

I need not tell you about the contributions of General LaFayette to this country. This foundation will not only be a museum but will also provide a treasure trove for American historians and researchers.

This foundation is obviously well regarded and has already been recognized by the IRS as tax exempt for U.S. income tax purposes.

This legislation would make the Code consistent and apply the same rule for aliens and nonaliens alike.

Mr. President, I rise in support of the proposition. As I understand it, the home of General Lafayette outside of Paris contains his letters, his files, his memoranda, all of which constitute a great portion of the history of the United States because these letters were exchanged with the men of his time, men like George Washington, Hamilton, and all the others.

This change in the gift tax law is one to which the Treasury has no objection. They prefer to do it by treaty, but otherwise they favor the objective. They favor the tax consequences that this would bring about.

It is important to the history of the United States and it is also important that we do this by statute because treaties take a long time and they get involved in other things.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment was agreed to.

AMENDMENT NO. 3522

(Purpose: To amend the Internal Revenue Code of 1954 with respect to certain charitable contributions)

Mr. LONG. Mr. President, I send to the desk an amendment and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG), proposes Amendment No. 3522.

The amendment is as follows:

At the approp.iate place, insert the fo
ing new section:

SEC. . (a) Section 170(b)(1)(A)(i
the Internal Revenue Code of 1954 (re
to percentage limitations on charitable
tributions) is amended by adding at th
thereof the following: "or an organi
which on or before May 26, 1969 and
tinuously thereafter to the close of the
able year, operated and maintained
principal functional purpose facilities fo
long-term care, comfort, maintenanc
education of permanently and totally
abled persons, elderly persons, needy wi
or children,".

(b) The amendment made by subse
(a) shall take effect on January 1, 1970.

Mr. LONG. Mr. President, this am
ment was approved by the committe
relates to the public charity statu
certain long-term care organization

Under present tax law, a privately
dowed long-term care organizati
such as a convalescent home or orp
age—may not qualify as a public cha

Public charities are not subject to
private foundation excise taxes. In
eral, the rules relating to income ta
ductions by individuals for contribu
to public charities or to private oper
foundations are more favorable to
donor than the rules relating to the
ductibility of contributions to pr
nonoperating foundations.

The committee amendment exc
from private foundation status an
empt organization which, on or b
May 26, 1969, and continuously t
after to the close of the taxable
operates and maintains as its prin
functional purpose facilities for the
term care, comfort, maintenance, or
cation of permanently and totally
abled persons, elderly persons, n
widows, or children. The amendmen
plies retroactively to January 1, 197

Mr. CURTIS. Mr. President, I su
the amendment. I believe it is me
rious. It is just and fair, and I ur
adoption.

The PRESIDING OFFICER. The q
tion is on agreeing to the amendm

Mr. PROXMIRE. Mr. President,
the Senator indicate whether or not
amendment would include the
Springs Home and the Myron Str
Home, those two foundations?

Mr. LONG. Yes.

Mr. CURTIS. The Sand Springs
is an organization exempt from
under section 501(c)(3), which is cl
fied as a private foundation becau
a large endowment. It is in no way
trolled by the family which found
in 1908, but rather by the Grand L
of the Oklahoma Masons.

The home operates a facility fo
long-term care of needy widows
orphans assigned to it by the cour
the State of Oklahoma. Classificatio
a private foundation results in the d
sion of substantial income to the
ment of a 4-percent excise tax on in
ment income. More importantly, i
quires the distribution of substa
amounts of income and principal
year, in excess of the operating nee
the fund, preventing the fund from
ting aside money which may we

needed for future capital needs of the home.

The amendment before us would solve the problem of the home—and of similarly situated orphanages, widows colonies, and homes for the aged—by including such facilities in the list of organizations exempt from the private foundation rules contained in code section 170(b)(1)(A)(iii). This amendment would accomplish its purpose in a simple, uncomplicated way by creating a separate functional classification exempt from private foundation rules. It would be administratively simple to determine whether an organization falls within the described functional classification or does not, and therefore it would be easy to determine which organizations qualify under the new provision. The functional classification approach is a consistent one because long-term care facilities have long-term obligations which require long-term planning and accumulation of capital. Since grantmaking charities have no such needs, it is unwise for the taxing statute to treat grantmaking charities and long-term care facilities in the same way. This principle was recognized in 1969 with respect to universities and hospitals, but probably through inadvertance, not to long-term care facilities.

Mr. PROXMIRE. Mr. President, I am very much concerned about this amendment. I have been told that these two foundations have been trying for 6 years to get out from under private foundation status.

The law makes a distinction between public charities—receiving financial support from a broad spectrum of the public—and private foundations—receiving financial support from endowments or private investments. The main distinctions are that private foundations have strict self-dealing rules to prevent principals from dealing between themselves as directors of the foundation and as individuals, prohibitions against excess business holdings, certain payout requirements to insure that income is paid out into the charitable stream each year, rules preventing jeopardy investments, etc. Also, the law imposes a 4-percent excise tax on private foundations to help pay for monitoring their activities.

Sand Springs Home and the Myron Stratton Home are two foundations with substantial investments in oil and gas and in real estate. They have been trying for 6 years, as I said, to get out from under private foundation status. They first argued that it is not the anti-self dealing rules they are concerned about but the payment of the excise tax and the—then—6-percent minimum payout rule applicable to private foundations.

The Ways and Means Committee originally had drafted a bill for these foundations that would reduce the 4-percent excise tax to 2 percent and cut the payout rate to two-thirds of what it had been. It did not pass.

Since then, a cut in the payout rate was approved for all private foundations—1976 act. A bill to reduce the excise tax to 2 percent was before the Senate today. It has, as I understand, passed earlier.

Obviously, the real purpose for the change is to get out from under the other requirements applicable to foundations.

As I understand it, these two homes, while they do do legitimate work for the elderly and the infirm, also have four to five times as much of their assets in real estate, oil, and gas, in dolomite, and in other activities, and while I would not charge that their work for the elderly and infirm is a cover, nevertheless this amendment permits them to escape, as I say, from the private foundation provisions of the law. No more than one quarter of their fund are invested in assets that are directly related to their exempt function.

As I understand, the lobbyists have lined up 26 other long-term care facilities who will benefit—presumably because of the elimination of the excise tax—obviously bootstrapping their support for the whole bill.

There is nothing wrong, now, with being a private foundation except you will pay a 2-percent excise tax to help IRS administer oversight since there is little other Federal accountability as to the management of these facilities. They do not have to go to the public for financial support. As a result of a lesser degree of public accountability, the Congress imposed certain restrictions in 1969 on private foundations.

Sand Springs had about $18 million in assets a few years ago. About three-fourths of the assets are invested in stock, oil, and gas, dolomite—about $5 million—and unimproved real estate.

Their investments were so extensive, they realized about $5 million in depreciation, depletion, and other writeoffs in 1971 according to their auditors report.

They will claim they are spending most of their income on operating the care faculty. But that is taxable income and does not include the cash generated from the huge tax writeoffs.

In addition, under the 1969 act, private foundations must divest themselves of certain wholely owned businesses or pay an excess business holdings tax. Sand Springs wants to avoid this requirement and retain control of these private enterprises.

The annual report which I have in my hand for 1976 for Sand Springs shows they had assets that year of more than $20 million.

Mr. LONG. Mr. President, some of the sponsors of the amendment are here, and I would like them to address themselves to the point that concerns the Senator.

We tried to work this matter out in the committee to satisfy the previous Treasury objection, and as I understand the Treasury has no objection to the bill as it has been modified. I would think some of those who are more familiar with this situation than the Senator from Louisiana, who were sponsors of the measure, might like to explain in more detail the merits of their position.

Mr. BARTLETT. Mr. President, I would say to my friend from Wisconsin that this amendment to the bill adds to the list of organizations exempt from private foundation rules; two institutions which operate and maintain facilities for the principal function of providing long-term care, comfort, maintenance, or education to indigent widows, elderly persons, children, and the permanently and totally disabled.

Now, if this home was operated by a civic club or a chamber of commerce or a labor union, it would have an exempt status, and I think it is just a matter of equity and justice that the Sand Springs Home, in providing this kind of care, should likewise enjoy a similar status.

Mr. PROXMIRE. Mr. President, if the Senator will yield, I do not understand why we should give an organization whose assets are obviously 80 percent invested in business a complete exemption from the private foundation provisions. Certain rules, such as self-dealing, excess, and business holdings should apply to them. It would seem to me is not right, not fair, and not equitable compared to other organizations which are subject to these rules.

Mr. BARTLETT. I think when you are talking about commercial enterprise, you are talking about their income, are you not?

Mr. PROXMIRE. Yes, indeed.

Mr. BARTLETT. Well, they operate from their income, and obviously if they did not have the income they would not be able to fund and operate this facility. It is providing very important care for widows and indigent children in our community.

Mr. PROXMIRE. Well, widows and cihldren are fine, but it would seem to me we ought to have some kind of private foundation restrictions apply to them.

But I pointed out a random year where three-fourths of the assets are invested in businesses and are not directly related to the care of the widows and others for whom this exemption is being pressed in the amendment.

Mr. BARTLETT. Well, I do not think that because they are not spending it right now, they might not spend it in the future. But it is very important to me to have them have the same tax status as someone else operating the same kind of program. I think the important thing here is that they provide this kind of care. They have been doing it for a long time, and I think that they plan to continue it forever. It is a long-range program, and I think that it is important that they do have proper financing, that would permit them to expand in the future.

Mr. PROXMIRE. May I ask the Senator why he cannot be satisfied with the bill that passed earlier, changing the tax from 4 to 2 percent? That seems to take care of the principal problem in most of these operations. It is true that they will not take care of the self-dealing and excess business holdings, but I think it would take care of the others.

Mr. LONG. First let me say that in regard to the tax on foundations from 4 to 2 percent, I voted against it in the committee. I am not interested in that part of it. But the committee reported it, and I was the only one in the committee who voted against it. I accommodated myself to the views of the majority of the committee and of the Senate.

But in this case, as I understand it, it

is true that a large portion of their assets are invested, but the income derived from those investments does go to support this home.

Mr. PROXMIRE. May I say to the Senator, we were informed earlier the Treasury either supported this or had no position. I am now informed that Treasury is definitely opposed to this. The office of the Assistant Secretary for Tax Policy has just informed us of that fact. We called them and they indicated that the Treasury is opposed to this, and I can see why they are.

Mr. LONG. In prior years they have been opposed to this. When this matter came up in the committee, the man who spoke for the Treasury sat there and nodded his head as though he agreed with it, and suggested the type of provision to cover this situation, and thus, I have to assume that they do not object to it.

Mr. PROXMIRE. This is not an assumption. We have the specific word. I will give the name of the man from Treasury, Dennis Drapkin. He says their position now is opposition to this amendment. They think it is wrong, that it is a mistake.

Mr. LONG. That man is far lower down in the hierarchy than Don Lubick, who is the Assistant Secretary for Tax Policy. Don Lubick sat there and worked with us in dealing with this situation. He is the man who should be speaking for the Treasury. He sat there and, as I took from his comments, was not opposed.

Mr. PROXMIRE. In view of the fact that there seems to be a conflict that we cannot reconcile at the moment, would the Senator agree to set aside this amendment and take it up on one of the later tax bills? He has four or five others coming up. It will be another hour or so before we finish. Perhaps we can get word from the Treasury on what their position is and be better informed when we decide what to do with the amendment. Would that be satisfactory?

Mr. LONG. Mr. President, I will withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 7320), as amended, was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REVOCATION OF ELECTION TO RECEIVE RETIRED PAY AS JUDGE OF TAX COURT

Mr. ROBERT C. BYRD. Mr. President, I ask that the Senate proceed to the consideration of Calendar No. 1033, H.R. 8811.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 8811) to amend section 7447 of the Internal Revenue Code of 1954 with respect to the revocation of and election to receive retired pay as a judge of the tax court.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Finance.

Mr. LONG. Mr. President, H.R. 8811 amends the Internal Revenue Code to allow any Tax Court judge or former judge to revoke his or her election to come under the Tax Court retirement system. Such an individual then could attempt to qualify for civil service benefits.

Under present law, a Tax Court judge may be covered either by the civil service retirement system or the Tax Court retirement system. In order to be covered by the Tax Court system, the Tax Court judge must make an irrevocable election to be covered by it. Once the election has been made, the judge is forbidden to receive benefits under the civil service retirement system, regardless of whether he or she ever qualifies for Tax Court benefits, or otherwise would qualify for civil service retirement. As a result, if a judge elects to be covered by the Tax Court system but fails to serve long enough to qualify for Tax Court retirement benefits, that judge finds himself or herself excluded from both retirement systems.

The bill corrects this inequitable result. It allows a judge or former judge to revoke an election to be covered by the Tax Court retirement system at any time before becoming entitled to benefits. That individual then could attempt to qualify for civil service retirement benefits.

If the judge or former judge makes contributions to the civil service retirement fund that would have been required if the judge had been covered by Civil Service, then his or her service time as a Tax Court judge will be counted as creditable time for civil service retirement benefit purposes. Similar conforming amendments are made as to survivors' benefits. The bill, however, does not allow a person to receive both Tax Court and civil service retirement or survivors' benefits.

Mr. President, the bill corrects an inequity in present law. Both the Treasury Department and the Civil Service Commission have stated that they have no objection to the enactment of the bill. I urge the Senate to approve H.R. 8811.

The PRESIDING OFFICER. Are there amendments to the bill?

AMENDMENT NO. 2470

(Purpose: Treatment of prepaid legal servi contributions for Federal insurance co tributions act and Federal unemployme tax act taxes)

Mr. LONG. Mr. President, I send amendment to the desk and ask for immediate consideration.

The PRESIDING OFFICER. T amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. Lon proposes an amendment numbered 2470.

Mr. LONG. Mr. President, I ask unan mous consent that further reading of t amendment be dispensed with.

The PRESIDING OFFICER. Witho objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the follo ing new section:

Sec. . (a) Section 3306(b) of the Inter Revenue Code of 1954 (relating to the defi tion of wages for purposes of the Fede Unemployment Tax Act) is amended—

(1) by striking out "or" at the end of par graph (10);

(2) by striking out the period at the end paragraph (11) and inserting in lieu there "; or"; and

(3) by adding at the end thereof the f lowing new paragraph:

"(12) any contribution, payment, service, provided by an employer which m be excluded from the gr. : income of employee, his spouse, or his dependen under the provisions of section 120 (rel ing to amounts received under qualif group legal services plans).".

(b) Section 3121(a) of such Code (rel ing to the definition of wages for purpo of the Federal Insurance Contributions A is amended—

(1) by striking out the period at the of subparagraph (15) and inserting in thereof "; or"; and

(2) by adding at the end thereof the f lowing new paragraph:

"(16) any contribution, payment, or se ice, provided by an employer which may excluded from the gross income of an e ployee, his spouse, or his dependents, u der the provisions of section 120 (relating amounts received under qualified gro legal services plans).".

(c) Section 209 of the Social Security is amended—

(1) by striking out "or" at the end subsection (n);

(2) by striking out the period at end of subsection (o) and inserting in thereof "; or"; and

(3) by inserting after subsection (o) before the sentence beginning with " purposes of this title, in the case of dom tic service" the following new subsecti

"(p) Any contribution, payment, or se ice, provided by an employer which may excluded from the gross income of an e ployee, his spouse, or his dependents, un the provisions of section 120 of the ternal Revenue Code of 1954 (relating amounts received under qualified gro legal services plans).".

(d) The amendments made by this tion shall apply with respect to tax years beginning after December 31, 1976.

Mr. LONG. Mr. President, I wo like the record to show this amendm is offered on behalf of Senator Mos and Senator PACKWOOD.

The PRESIDING OFFICER. Witho objection, it is so ordered.

Mr. LONG. The committee amendment provides that any contributions, payments, or services which are excluded from an employee's gross income under the qualified group legal services plan also are excluded from wages for payroll tax purposes.

Under the Tax Reform Act of 1976 amounts contributed by an employer to a qualified group legal services plan for employees, as well as the value of any services received by an employee or any amount paid to an employee under the plan as reimbursement for legal services for the employee, his spouse, or his dependents, was excluded from an employee's gross income.

However, since the 1976 act did not expressly exclude these amounts from the definition of "wages" which are subject to payroll taxes under the Federal Insurance Contributions Act (FICA) and the Federal Unemployment Tax Act (FUTA), a question has arisen whether the excludable amounts are subject to FICA and FUTA payroll taxes.

The committee amendment provides that any contribution, payment, or service which is excludable from an employee's gross income under the qualified group legal services plan provisions also is to be excluded from wages for FICA and FUTA payroll tax purposes.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Without objection, the amendment is agreed to.

AMENDMENT NO. 3523

(Purpose: Relating to the treatment of an involuntary conversion of real property to which the special farm valuation provisions of the Federal estate tax apply)

Mr. LONG. Mr. President, on behalf of Senator DOLE, I send another amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG), on behalf of Mr. DOLE, proposes an amendment numbered 3523.

Mr. LONG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . INVOLUNTARY CONVERSION OF SPECIALLY VALUED FARM, ETC., REAL PROPERTY.

(a) IN GENERAL.—Section 2032A of the Internal Revenue Code of 1954 (relating to valuation of certain farm, etc., real property) is amended by adding at the end the following new subsection:

"(h) SPECIAL RULES FOR INVOLUNTARY CONVERSION OF QUALIFIED REAL PROPERTY.—

"(1) TREATMENT OF CONVERTED PROPERTY.—

"(A) IN GENERAL.—If there is an involuntary conversion of an interest in qualified real property and the qualified heir makes an election under this subsection—

"(i) no tax shall be imposed by subsection (c) on such conversion if the cost of the qualified replacement property equals or exceeds the amount realized on such conversion, or

"(ii) if clause (i) does not apply, the amount of the tax imposed by subsection (c) on such conversion shall be the amount determined under subparagraph (B).

"(B) AMOUNT OF TAX WHERE THERE IS NOT COMPLETE REINVESTMENT.—The amount determined under this subparagraph with respect to any involuntary conversion is the amount of the tax which (but for this subsection) would have been imposed on such conversion reduced by an amount which—

"(i) bears the same ratio to such tax, as

"(ii) the cost of the qualified replacement property bears to the amount realized on the conversion.

"(2) TREATMENT OF REPLACEMENT PROPERTY.—For purposes of subsection (c)—

"(A) any qualified replacement property shall be treated in the same manner as if it were a portion of the interest in qualified real property which was involuntarily converted, except that with respect to such qualified replacement property the 15-year period under paragraph (1) of subsection (c) shall be extended by any period, beyond the 2-year period referred to in section 1033(a)(2)(B)(i), during which the qualified heir was allowed to replace the qualified real property,

"(B) any tax imposed by subsection (c) on the involuntary conversion shall be treated as a tax imposed on a partial disposition, and

"(C) paragraph (7) of subsection (c) shall be applied—

"(i) by not taking into account periods after the involuntary conversion and before the acquisition of the qualified replacement property, and

"(ii) by treating material participation with respect of the converted property as material participation with respect to the qualified replacement property.

"(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) INVOLUNTARY CONVERSION.—The term 'involuntary conversion' means a compulsory or involuntary conversion within the meaning of section 1033.

"(B) QUALIFIED REPLACEMENT PROPERTY.—The term 'qualified replacement property' means—

"(i) in the case of an involuntary conversion described in section 1033(a)(1), any real property into which the qualified real property is converted, or

"(ii) in the case of an involuntary conversion described in section 1033(a)(2), any real property purchased by the qualified heir during the period specified in section 1033(a)(2)(B) for purposes of replacing the qualified real property.

Such term only includes property which is to be used for the qualified use set forth in subparagraph (A) or (B) of subsection (b)(2) under which the qualified real property qualified under subsection (a).

"(4) CERTAIN RULES MADE APPLICABLE.—The rules of the last sentence of section 1033(a)(2)(A) shall apply for purposes of paragraph (2)(B).

"(5) ELECTION.—Any election under this subsection shall be made at such time and in such manner as the Secretary may by regulations prescribe.".

(b) ADJUSTMENT OF BASIS.—Section 1016 of such Code (relating to adjustments to basis) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) INCREASE IN BASIS IN THE CASE OF CERTAIN INVOLUNTARY CONVERSIONS.—

"(1) IN GENERAL.—If there is a compulsory or involuntary conversion (within the meaning of section 1033) of any property the basis of which is determined under section 1023 and an additional estate tax is imposed on such conversion under section 2032A(c), then the adjusted basis of such property shall be increased by an amount which bears the same ratio to such tax with respect to the conversion of that property as—

"(A) the net appreciation in value of such property, bears to

"(B) the excess of—

"(i) the value of such property for purposes of chapter 11 as determined with respect to the estate of the decedent without regard to section 2032A; over

"(ii) the value of such property for purposes of chapter 11 as determined with respect to the estate of the decedent with regard to section 2032A.

"(2) NET APPRECIATION IN VALUE.—For purposes of this subsection, the net appreciation in value of any property shall be determined in accordance with section 1023(f)(2) except that—

"(A) the adjusted basis taken into account shall be increased by any adjustment under section 1023,

"(B) the fair market value of such property shall be determined without regard to section 2032A, and

"(C) any net appreciation in value in excess of the amount determined under paragraph (1)(B) shall be disregarded.

"(3) TIME ADJUSTMENT MADE.—Any adjustment under paragraph (1) shall be deemed to have occurred immediately before the compulsory or involuntary conversion.".

(c) CONFORMING AMENDMENT.—Paragraph (1) of section 2032A(f) of such Code (relating to period of limitations) is amended by inserting "(or if later in the case of an involuntary conversion to which an election under subsection (h) applies, 3 years from the date the Secretary is notified of the replacement of the converted property or of an intention not to replace)" immediately before ", and".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to involuntary conversions after December 31, 1976.

Mr. LONG. Mr. President, under present law, certain real property used as a farm for farming purposes or in a closely held trade or business may be valued for Federal estate tax purposes by reference to its actual use—"special use valuation"—rather than at its fair market value determined on the basis of highest and best use.

To assure that special use valuation property continues to be used for farming or for other closely held business uses, a recapture rule is provided. In general, this rule results in recapture of the estate tax benefit of the special valuation if the heir disposes of the property or changes its use within 15 years of the death of the decedent—or, if earlier, prior to the death of the heir.

Under present law, this recapture rule applies to special use valuation property which is involuntarily converted—such as by condemnation—even if the proceeds of the conversion are reinvested in property used for the same special use.

The amendment provides that if an involuntary conversion of qualified real property takes place, no recapture of the estate tax benefit will occur if the property is replaced by other real property of at least equal value to be used for the same use. To the extent involuntarily converted property is not replaced, the recapture tax would be taken into account as a basis adjustment in determining gain or loss for income tax purposes in a manner similar to the adjustment made on account of estate taxes.

SPECIAL USE VALUATION PROPERTY

Mr. DOLE. Mr. President, the amendment submitted by the chairman relating to the involuntary conversion of special use valuation property is designed to correct an oversight in the Tax Reform Act of 1976. The amendment adopted by the committee incorporates the essential features of a bill I introduced, S. 3125, earlier this year.

INVOLUNTARY CONVERSION

Mr. President, the Tax Reform Act of 1976 provided that certain property used in farming or a closely held business could be held for estate tax purposes according to its current use rather than its best use. Special use valuation provides significant reduction in estate taxes for those estates which have a larger portion of the value tied up in nonliquid assets.

SPECIAL USE VALUATION

The legislation which I introduced on May 22 revises the income and estate tax treatment of property which, after an election has been made under the special use valuation rules, is involuntarily converted. In the past several years, farmers and small businesses have been inflicted with a harsh tax under the valuation rules because of involuntary conversions.

Under the current law, there is a tax recapture rule which insures that the special use valuation property will continue to be used in a manner consistent with the special use valuation, however, an involuntary conversion during the recapture period can produce an unwarranted tax result.

My proposal, incorporated in this committee amendment, provides that there shall be no recapture of the estate tax if like property of equal value and use replaces the involuntary converted property. If property of lesser value replaces the involuntary converted property, there is a proportionate recapture.

Mr. President, S. 3125, as is the amendment reported by the committee, is an immediate technical correction in the law. This provision has benefited from the cooperation of the Treasury Department and will eliminate an unfair and harsh tax result. I urge its immediate consideration by the House.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. Are there further amendments?

If there be no further amendments to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. ROBERT C. BYRD. I move to reconsider the vote by which the bill was passed.

Mr. LONG. I move to lay that motion on the table.

NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

Mr. ROBERT C. BYRD. Mr. President, I call up Calendar Order No. 1024.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 12232) to amend the Unemployment Compensation Amendments of 1976 with respect to the National Commission on Unemployment Compensation, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Finance with an amendment to strike all after the enacting clause and insert the following:

SECTION 1. PAY OF MEMBERS OF THE NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

(a) GENERAL RULE.—Paragraph (1) of section 411(e) of the Unemployment Compensation Amendments of 1976 (relating to pay and travel expenses) is amended to read as follows:

"(1) PAY.—

"(A) IN GENERAL.—Members of the Commission who are not full-time officers or employees of the United States shall be paid compensation at a rate not to exceed the per diem equivalent of the rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including traveltime) during which they are engaged in the performance of services for the Commission.

"(B) OFFICERS OR EMPLOYEES OF THE UNITED STATES.—Except as provided in paragraph (2), members of the Commission who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the Commission.".

(b) TECHNICAL AMENDMENT.—Paragraph (2) of such section 411(e) is amended by striking out "section 5703(b)" and inserting in lieu thereof "section 5703".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services performed on or after October 1, 1978.

SEC. 2. DATES FOR THE SUBMISSION OF REPORTS BY THE NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

(a) INTERIM REPORTS.—Subsection (f) of section 411 of the Unemployment Compensation Amendments of 1976 (relating to interim report) is amended to read as follows:

"(f) INTERIM REPORTS.—The Commission shall transmit to the President and the Congress—

"(1) an initial interim report not later than November 15, 1978, and

"(2) a subsequent interim report not later than November 15, 1979.".

(b) FINAL REPORT.—Subsection (g) of such section 411 (relating to final report) is amended by striking out "July 1, 1979" and inserting in lieu thereof "March 15, 1980".

SEC. 3. EXEMPTION OF NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION FROM REQUIREMENTS FOR OFFICE OF MANAGEMENT AND BUDGET CLEARANCE.

(a) EXEMPTION FROM CLEARANCE REQUIREMENTS.—Section 411 of the Unemployment Compensation Amendments of 1976 is amended by adding at the end thereof the following new subsection:

"(j) EXEMPTION FROM REQUIREMENTS FOR OFFICE OF MANAGEMENT AND BUDGET CLEARANCE.—

"(1) FEDERAL REPORTS ACT.—The requi[illegible] ments of chapter 35 of title 44, United Sta[illegible] Code, shall not apply to the Commission.

"(2) REPORTS TO CONGRESS.—Any repo[illegible] submitted to the Congress by the Comm[illegible] sion shall be submitted directly to the C[illegible] gress and shall not be subject to any [illegible] quirements for clearance of reports by [illegible] Office of Management and Budget.".

(b) EFFECTIVE DATE.—The amendm[illegible] made by this section shall become effect[illegible] on the date of the enactment of this Act.

Mr. LONG. Mr. President, in enacti[illegible] the 1976 amendments to the unempl[illegible] ment compensation laws, the Congr[illegible] identified a number of issues related [illegible] that program which may have to be ac[illegible] on in the next several years but abo[illegible] which further information is needed. [illegible] study these issues, a national commiss[illegible] was created by the 1976 amendme[illegible] with instruction to report back by [illegible] end of 1978. Several delays have been [illegible] countered in establishing this comm[illegible] sion, however, with the result that [illegible] needs additional time to complete [illegible] studies. H.R. 12232 would extend the fi[illegible] reporting date for the commission [illegible] March 15, 1980, with interim repo[illegible] being required as of November 15, 19[illegible] and November 15, 1979. The bill wo[illegible] also provide for compensating the me[illegible] bers of the commission at a rate not [illegible] exceed the GS-18 level for the time t[illegible] actually spend on commission work, [illegible] it would exempt the commission fr[illegible] any requirements that it clear its [illegible] tions with the Office of Management [illegible] Budget.

Solely because of a potential Bud[illegible] Act problem, the Finance Commit[illegible] amendment deletes two provisions of [illegible] House-passed bill which are not eff[illegible] tive until 1980 and can, therefore, [illegible] acted on next year when the Budget [illegible] problems would no longer exist. The p[illegible] visions concern the relationship betw[illegible] unemployment benefits and pensions [illegible] the taxation of certain foreign fa[illegible] workers.

Mr. JAVITS and Mr. EAGLETON [illegible] dressed the Chair.

The PRESIDING OFFICER. The S[illegible] ator from New York is recognized.

Mr. JAVITS. Mr. President, may I [illegible] quire of the manager of the bill whet[illegible] any amendment is contemplated to t[illegible] bill at this time?

Mr. EAGLETON. Yes; I have [illegible] amendment.

Mr. JAVITS. I should like to addr[illegible] myself to a question, and the Senator [illegible] interrupt me if I am dealing with a s[illegible] ject which he has in mind.

I should like to address myself to t[illegible] question of the compensation for [illegible] tirees' income as a deduction from [illegible] employment compensation. Does [illegible] Senator's amendment affect that?

Mr. EAGLETON. No; it does not.

Mr. LONG. No: it does not.

Mr. JAVITS. Mr. President, the [illegible] which Senator LONG has described [illegible] tends the reporting deadline for the N[illegible] tional Commission on Unemploym[illegible] Compensation until March 15, 1980. [illegible] he has properly stated, the work of [illegible]

Commission is critically important and the extension of time is necessary to permit the Commission to develop a thorough and well-documented report.

The problem which arises is the fact that when the Commission was created, it was authorized to study a provision of the Federal unemployment insurance law which reduces unemployment benefits to persons who receive pensions or other retirement benefits by the amount of such benefits they receive, dollar for dollar. Because we were unsure of the impact that new provision might have on older workers, the 1976 amendments which created the National Commission, delayed the effective date of the retirement setoff until September 30, 1979 to allow the National Commission to study the impact of the provision before it went into effect. Earlier this year, Congress delayed the reporting date for the Commission from January 1, to July 1, 1979. At that time the effective date of the retiree's setoff was similarly postponed until March 30, 1980.

I am concerned that the Finance Committee's failure to include a further delay in the effective date of the retiree setoff provision—this new extension and the failure to provide for a delay of the retiree setoff provision will result in the Congress having only 15 days after the Commission makes its final report and the time when the setoff provision will become effective, because it is not further delayed here, as it was in the previous delay of the Commission's report.

The other body did not do that. The other body did include a comparable delay of the retiree setoff in order to accord with what was done before when this report was similarly delayed.

The House of Representaties, in considering this bill, H.R. 12232, included a provision further delaying implementation of the retiree setoff. Many workers of retirement age are compelled to find jobs because of the inadequacy of their pension benefits. For these workers, the wages they receive are necessary to provide themselves and their families with food, clothing, and shelter. Further, we know that older workers often have a far more difficult time finding new employment than younger workers.

The Commission is charged with making a careful study of the impact of this amendment on older workers. Congress should permit itself adequate time to act on the Commission's recommendations.

I had intended to offer an amendment restoring the House provision delaying implementation of the retiree's setoff. I refrain from doing so because I am aware that such an amendment could raise parliamentary questions under the Budget Act in the Senate.

Accordingly, I hope very much that the Senate conferees will consider sympathetically the House provision retaining the linkage between the Commission's reporting date and the effective date of the retiree setoff in view of the humanitarian and social as well as economic considerations which make this, it seems to me, a very just point, exactly as it was the last time that we extended the time for the Commission's report.

As I know Senator LONG's own attitude toward this matter, I hope, if he has any comment, that he could favor us with it.

Mr. LONG. Mr. President, we deleted this from the bill solely because it was subject to a point of order under the Budget Act—at least, some thought it might be. We felt that next year we would be able to take care of this matter and it would not be subject to a point of order at that time. So we intend to take care of it and I hope the Senator will direct our attention to it at that point. If we were able to do it now, we would do it. We were concerned that we might be subject to a point of order.

Mr. JAVITS. I thank the Senator very much.

AMENDMENT NO. 3473

(Purpose: Relating to certain social security taxes paid by the Jefferson County Mental Health Center)

Mr. LONG. Mr. President, on behalf of Senator HASKELL, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG), proposes amendment numbered 3473.

At the end of the Act, add the following new section:

TREATMENT OF CERTAIN SOCIAL SECURITY TAXES AND RELATED MATTERS IN THE CASE OF THE JEFFERSON COUNTY MENTAL HEALTH CENTER

SEC. . (a) The waiver certificate filed by the Jefferson County Mental Health Center (hereinafter in this section referred to as the "health center"), Incorporated (taxpayer identification number 84-047417), under section 3121(k)(1)(A) of the Internal Revenue Code of 1954 (relating to waiver of exemption by certain organizations) shall (except as provided in subsection (e)) be deemed not to be effective in the case of any individual with respect to whom a repayment has been made which is considered, under subsection (b), as an overpayment of tax under section 6413(b) of such Code, for the period for which such individual received the wages (as defined in section 3121(a)) with respect to which such repayment was made.

(b) The Secretary of the Treasury or his delegate, upon proof reasonably satisfactory to him that repayment has been made prior to May 14, 1975, to any individual by the health center, of a sum representing the amount of taxes imposed on such individual under section 3101 of such Code (relating to rate of tax) and deducted and paid by the health center under section 3102 of such Code (relating to deduction of tax from wages) for any period beginning after December 31, 1971, and prior to May 14, 1975, shall consider such sum so repaid to such individual as an overpayment of tax under section 6413(b) of such Code (relating to overpayment of certain employment taxes) and shall approve a claim for a refund, credit, or adjustment filed by the health center prior to or within ninety days after the date of enactment of this Act, under section 6402 of such Code (relating to authority to make credits or refunds) or 6611(a) or (b)(2) of such Code (relating to interest on overpayments).

(c) Any period of limitations for filing a claim for credit or refund under section 6511 of such Code (relating to limitations on credit or refund) shall be waived with respect to any claim for refund, credit, or adjustment made by the health center under subsection (b). Section 6514 of such Code (relating to credits or refunds after a period of limitation) shall not apply to any such claim.

(d)(1) A certificate of waiver filed by the health center under section 3121(k)(1)(A) of such Code shall apply to any individual described in subsection (a) with respect to any period following the period (described in such subsection) which is applicable to such individual under such subsection.

(2) Notwithstanding the provisions of section 3121(k)(1)(B)(iii) of such Code, the health center may not elect to have such certificate of waiver apply to any individual described in subsection (a) with respect to the period (described in such subsection) which is applicable to such individual under such subsection.

(e)(1) In the adminstration of titles II and XVIII of the Social Security Act, the wages (as referred to in subsection (a)) received by an individual described in such section for the period (described in such subsection) which is applicable to such individual shall (except as is otherwise provided in paragraphs (2) and (3)) be deemed not to constitute wages (as defined in section 209 of such Act) for purposes of determining—

(A) entitlement to or amount of any insurance benefit payable to such individual or any person on the basis of the wages and self-employment income of such individual, or

(B) entitlement of such individual to benefits under title XVIII of such Act or entitlement of any other person to such benefits on the basis of wages and self-employment income of such individual.

(2) The provisions of paragraph (1) shall not be applicable in the case of any individual (described in subsection (a)) or any other person claiming any benefit referred to in paragraph (1) on the basis of the wages and self-employment income of such individual, if on or before the date of enactment of this Act, such individual has died or attained age 62, or if on such date such individual is under a disability (as defined in section 216(i) of the Social Security Act) which began prior to such date.

(3)(A) The provisions of paragraph (1) shall not be applicable to any individual who enters into an arrangement with the Secretary of the Treasury or his delegate for paying into the Treasury an amount equal to the sum repaid to him (as described in subsection (b)) by the health center.

(B) The Secretary of the Treasury shall by regulations prescribe the manner in which such an arrangement for payment by an individual shall be made. Any such arrangement shall afford the individual a reasonable time in which such payment shall be made and the amount and time of the installments which will be made toward such repayment, and shall contain appropriate conditions to protect the interests of the United States and to assure equitable treatment to the individual in the event that the individual fails fully to comply with the arrangement.

(C) The Secretary of the Treasury and the Secretary of Health, Education, and Welfare shall cooperate in assuring that, insofar as is practicable, each individual who is eligible to enter into an arrangement under this paragraph will be notified of that fact and given an adequate opportunity to enter into such an arrangement.

(f) Nothing in this section shall be construed to relieve the center of any liability for the payment of the taxes imposed by section 3111 of the Internal Revenue Code of 1954 with respect to any wages paid by it to any individual for any period.

Mr. LONG. Mr. President, at the direction of the Committee on Finance, I am offering an amendment which is designed to provide relief to the Jefferson

County (Colorado) Mental Health Center in connection with certain social security tax liabilities.

In 1975, the Jefferson County Mental Health Center in response to a survey initiated by the Internal Revenue Service was unable to find any indication that it had waived its immunity from social security taxes. As a result, the IRS directed the center to refund those taxes for the prior 3 years to any employees who did not elect to have their social security coverage continued. The center made the refund and applied to IRS to have the amount of those taxes repaid to it. At that point, the IRS discovered that a valid waiver of immunity had, in fact, been filed and that it was therefore unable to refund the taxes to the center. The center is seeking relief only for the employee share of the social security taxes involved and only for the period prior to the time when IRS notified the center that its previous instructions were in error. (This notification occurred on May 14, 1975, and the amount of employee taxes which had been refunded at that point was $74,128.)

The Finance Committee's Subcommittee on Taxation and Debt Management held a hearing on this proposal in October 1977. The administration witnesses indicated agreement that relief to the Jefferson County Mental Health Center is appropriate. However, the administration expressed concern over the possible loss of social security coverage for the affected employees and the possibility that they may not have made an informed choice in opting for the refund.

Under the committee amendment, the Secretary of the Treasury would be directed to refund to the Jefferson County Mental Health Center approximately $74,000 representing the employee social security taxes which it had refunded to its employees on the basis of the IRS misinformation. The wages on which those taxes were paid would not be used for determining social security eligibility or benefit amount. However, the affected employees would be given an opportunity to elect to restore the deleted coverage upon repayment of the refunded taxes. Such repayment could be made in installments over a reasonable period of time as determined by the Secretary of the Treasury. The Department of Health, Education, and Welfare would be required to make a reasonable good faith effort to contact the affected employees and to inform them of the consequences of their decision as to whether or not to repay the taxes. (The exact amount to be refunded to the center will be subject to verification by the Secretary of Treasury of the amount that the center repaid to its employees.)

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. EAGLETON. Mr. President, I have an unprinted amendment at the desk.

Mr. LONG. Let us dispose of this one first.

The amendment was agreed to.

Mr. EAGLETON. Does the distinguished chairman want to complete his series of amendments and then take mine?

Mr. LONG. If the Senator would be so kind.

UP AMENDMENT NO. 1729

(Purpose: Child Support Collection and Paternity Determination Services)

Mr. LONG. I would like to offer this amendment in behalf of the Senator from Georgia (Mr. TALMADGE).

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an unprinted amendment numbered 1729:

At the end of the bill insert the following new section:

CHILD SUPPORT COLLECTION AND PATERNITY DETERMINATION SERVICES

SEC. . Section 455(a) of the Social Security Act is amended—

(1) by striking out the semicolon at the end of paragraph (2), and inserting in lieu of such semicolon a period, and

(2) by striking out all that follows paragraph (2).

Mr. LONG. Mr. President, this amendment has been approved by the committee.

CONTINUED FEDERAL MATCHING FOR NONWELFARE FAMILIES

Mr. President, the child support enforcement program, enacted at the end of the 94th Congress as title IV-D of the Social Security Act required each State to have a program of child support collection and paternity establishment services for both AFDC and non-AFDC families administered by a single and separate organizational unit within the State. The statute provided Federal matching of 75 percent for services to AFDC families on a permanent basis. However, matching for services to non-AFDC families was provided for 1 year, but has been extended through fiscal year 1978.

Mr. President, this matter was discussed in the Finance Committee and we believe the requirement that every State have a program of child support collection and paternity establishment services for families that are not receiving welfare is an essential component of the child support program. The obvious purpose of the requirement is to assure that abandoned families with children have access to child support services before they are forced to apply for welfare. It is the opinion of the committee, supported by the statements of many State child support administrators, that access to these services often means the difference between a family's reliance on welfare support and being supported by a legally responsible parent. Most of the families being served are marginally eligible for AFDC, and without services are likely to end up on the welfare rolls. The fact that these services are in demand and are benefiting families is evident from program statistics.

The new child support enforcement program has reported collections of over $2 billion for all families for the first 32 months of its operation. Of this amount, $987 million was for AFDC families and $1,015 million for families not on welfare. These collections were made at a cost of about 25 cents for each dollar collected.

Mr. President, the child support collections are also affecting the AFDC rolls. In June 1978, the number of AFDC recipients dropped to less than 10.6 mi lion, the lowest number of recipients c the rolls since October 1971.

This reduction can certainly be a tributable principally to the two pr grams which reduce or eliminate f nancial dependency on welfare. The are the child support enforcement pr gram through collection of child suppo for all families and the work incenti program through placing AFDC r cipients in private employment.

Mr. President, the existing progran of required services for non-AFD families may flounder if Federal finan ing for the services is allowed to term nate. Also, Mr. President, States will more willing to develop and expand t programs if they are convinced that Fe eral financing will be continued. In a dition, it seems reasonable and fair assist in the financing of a State pr gram which is mandated by Federal la For these reasons, my amendment wou provide for Federal matching for servic to non-AFDC families on a permane basis.

The PRESIDING OFFICER. T question is on agreeing to the amen ment of the Senator from Louisiana.

The amendment (UP No. 1729) w agreed to.

UP AMENDMENT NO. 1730

(Purpose: Relating to the date child suppo requirements become effective in the ca of certain States)

Mr. EAGLETON. Mr. President, have an unprinted amendment at t desk.

The PRESIDING OFFICER. T amendment will be stated.

The legislative clerk read as follows

The Senator from Missouri (Mr. EAGL TON) proposes an unprinted amendme numbered 1730.

Mr. EAGLETON. Mr. President, I a unanimous consent that further rea ing of the amendment be dispens with.

The PRESIDING OFFICER. Witho objection, it is so ordered.

The amendment is as follows:

At the proper place insert the followi new section:

DATE CERTAIN CHILD SUPPORT REQUIREMENTS BECOME EFFECTIVE IN THE CASE OF CERTA STATES

SEC. . In the case of any State whi established a child support program und part D of title IV of the Social Securi Act which became effective on July 1, 19 the provisions of sections 402(a)(26) a 402(a)(27) of such Act shall not be effecti with respect to such State prior to su date, and, in applying the provisions section 403(h) of such Act to such State t phrase thereof which reads "September 1976 (but, in the case of the fiscal ye beginning October 1, 1976, only considerin the second, third, and fourth quarters the of)" shall be deemed to read "September 1977 (but, in the case of fiscal year begi ning October 1, 1977, only considering t fourth quarter thereof)".

Mr. EAGLETON. Mr. President, m colleagues will recall that in 1975 Co gress enacted the child support e forcement program (Public Law 93-647 which was primarily supported by Se ators LONG, TALMADGE, NUNN, CURT and HANSEN. The purpose of this pr

gram is to establish a cooperative mechanism for the State and Federal Government to enforce support obligations owed by absent parents to their children by locating absent parents, establishing paternity when necessary and obtaining child support. This, the sponsors told us, would result in savings to the taxpayers, because the Federal and State governments would ultimately be required to pay out less in aid to dependent children benefits.

At the time of the debate on this legislation, many so-called experts predicted that the program would be a failure. These experts suggested that one of the main reasons absentee fathers do not make their payments is because they are penniless, and that to try to collect from them would be like trying to squeeze blood from a rock.

The program now is 3 years old. In those 3 years, the record has shown us that the experts were wrong, and that Senators LONG, TALMADGE, NUNN, CURTIS, and HANSEN were right. Health, Education, and Welfare Secretary Califano has termed the program "a success", and projects that we will collect more than $1 billion from absentee fathers in fiscal year 1978. In fiscal year 1977 child support collections by State and local governments increased to $818 million at a cost to government of about $259 million—in other words, more than $3 recovered by every dollar spent. This is truly an outstanding program.

In my own State of Missouri, the child support enforcement program got off to a slow start, but now is functioning with typical success. I will return to our initial problems in a moment, but first I would like to tell my colleagues a little about the record of this program in Missouri thus far.

The program went into full operation in my State on July 1, 1977. There now are seven child support field offices in Missouri, and the statewide staff numbers 145 persons. The early success of this program has been so overwhelming that the Missouri General Assembly has just authorized an additional 91 staff positions. Missouri has approximately 70,000 ADC families; we already have received more than 110,000 child support program assignments and referrals from ADC staff, and after just three quarters of operation in Missouri the program has more than 40,000 open cases. Since the beginning of the program we have collected approximately $1.6 million in delinquent payments, and we expect the next quarters' financial reports to show that the program now is financially self-sufficient. Furthermore, after only two quarters of operation, for every $1 the State of Missouri spent on this program, we received $2 in return. This remarkable record is bound to improve even more as the State gains in experience.

Missouri has a problem with this program, however. It is a historical problem which could end up costing my State about $5 million because we did not initiate the child support program until July 1977.

In 1976, passage of the necessary State enabling child support legislation looked like a sure thing. In his message to the State legislature in January of 1976, former Gov. Christopher Bond termed enactment of a child support enforcement program one of his top priorities. Leaders of both the State house of representatives and the State senate echoed the Governor's sentiment on this, and it looked like the bill would win quick approval in Jefferson City. However, the bill ran afoul of parliamentary maneuvering. Two senators—realizing that passage of the bill was crucial—decided to turn the child support legislation into a "Christmas tree bill," to use one of Senator LONG's favorite expressions. These two State legislators encumbered the bill with a number of nongermane amendments, amendments which made the bill unacceptable to a house-senate conference. When the State house deleted the nongermane amendments and sent the bill back to the senate on the last day of the legislative session, the two State senators filibustered the bill to death.

Needless to say, our State division of family services officials were shocked by this unexpected turn of events. The division already had prepared the policy manual and the statewide staffing and organizational plan for the program, and all was ready for implementation in April of 1976. However, with the authorizing legislation dead, and with the legislature out of session until 1977, there was nothing officially the division could do to bring Missouri into compliance and actually get the program underway. Nonetheless, in 1976 division officials were busy laying groundwork with prosecutors all across the State so that the child support program could be fully implemented as soon as the necessary State legislation was enacted in the 1977 legislative session.

In January of 1977 the legislature returned to Jefferson City, and Governor Teasdale repeated Governor Bond's call for speedy enactment of the child support enforcement program. Again, the leadership of each house of the general assembly included this legislation on its "must" list. This time, however, agreement was reached with the two filibustering senators of 1976, and the bill was enacted into law with an effective date of July 1, 1977.

The administrative machinery for the program had been ready to go for a year, and it thus took very little time for the division of family services to get our child support enforcement program operating at full speed. In fact, startup was so rapid and trouble-free that by the end of the first quarter of operation, cooperative agreements had been signed with all 114 counties and the city of St. Louis. Missouri may have been late in getting its program off of the ground, but once the wheels began to turn progress was very rapid. In fact, Missouri accomplished more during its first quarter of operation than some other States have accomplished to this day.

The problem Missouri faces does not arise out of our operation of the program, but rather out of our delay in getting the program started. As my colleagues are aware, the Department of HEW must conduct an audit of all State child support enforcement programs for the period January 1977, through September 1977. If a State's program is found to have been deficient during this period, HEW will be required to assess a 5-percent penalty against ADC Federal payments to the State. In Missouri's case, such a penalty would amount to about $5 million. Since Missouri's enabling legislation did not allow our program to go into effect until July 1977, it is possible that Missouri cannot successfully complete the audit and could suffer the penalty.

My unprinted amendment would exempt Missouri from the requirement of the January 1977, through September 1977, audit. That is what this amendment treats. As I have outlined to my colleagues, Missouri now has in operation one of the best child support enforcement programs in the country, and I think this is the result Congress wanted when we passed the title IV-D legislation. It would be unfair t penalize the people of my State for the obstructionist actions of the State senators in 1976—which prevented Missouri from getting into this program at the original target date—and I think such an action would be inconsistent with the spirit of Federal-State cooperation which motivates this program. I am hopeful that the Senator from Louisiana, the distinguished chairman of the Senate Finance Committee will agree with this reasoning, and will accept my unprinted amendment to H.R. 12232.

Therefore, I am hopeful the distinguished chairman of the Finance Committee will agree to this amendment and be able to accept same.

Mr. LONG. Mr. President, the amendment is meritorious. I hope the Senate will agree to it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri.

So the amendment (UP No. 1730) was agreed to.

Mr. EAGLETON. I thank my distinguished colleague.

Mr. ROBERT C. BYRD. Vote! Third reading!

The PRESIDING OFFICER. Are there further amendments?

If there be no further amendment to be proposed, the question is on agreeing to the commitee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment, as amended and the third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time, and passed.

The title was amended so as to read:

An Act to amend the Unemployment Compensation Amendments of 1976 with respect to the National Commission on Unemployment Compensation.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNEMPLOYMENT COMPENSATION ELIGIBILITY PERIOD

Mr. ROBERT C. BYRD. Mr. President, I call up Calendar Order No. 1025.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 12380) to amend the Federal-State Extended Unemployment Compensation Act of 1970, with respect to an individual's eligibility period for benefits under such act.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Finance.

Mr. LONG. Mr. President, in times of high unemployment, a Federal-State program of extended unemployment benefits goes into effect to provide additional payments to persons who have exhausted their regular State unemployment benefits. This extended program is now in force in five States. When the extended program was first enacted, it would not have been possible for the program to stay in effect in any State for more than a year or two. Consequently, there was no need to place a limit on how long an individual could retain his eligibility to draw the 13 weeks of benefits he might qualify for under this program. Because of changes in the law, however, the program now can stay in force in some States for many years. If an individual does not use up his entire 13 weeks of benefits, the State is forced to keep his case file open indefinitely even though there is very little chance that he will ever come back to claim the additional benefits.

H.R. 12380, as passed by the House and as reported without amendment by the Finance Committee, would place a reasonable limit on the time within which those 13 weeks of benefits must be used. This limit would be, in general, 3 years after the individual's period of unemployment began. The main result of the bill would be to allow States to discard records which they are now being forced to maintain without any good reason.

AMENDMENT NO. 3472

(Purpose: Relating to the retirement test under social security)

Mr. LONG. Mr. President, I send to the desk the committee amendment and I ask that this amendment be offered on behalf of Senator CURTIS of Nebraska.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG), for Mr. CURTIS, proposes amendment No. 3472.

Mr. LONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 7, after line 3, insert the following new section:

MODIFICATION OF CRITERIA RESPECTING SELF-EMPLOYMENT INCOME FOR PURPOSES OF SOCIAL SECURITY RETIREMENT TEST

SEC. 4. (a) Section 203(f)(5) of the Social Security Act is amended—

(1) in subparagraph (B)(i), by striking out "subparagraph (D)" and inserting in lieu thereof "subparagraphs (D) and (E)", and

(2) by adding after subparagraph (D) the following new subparagraph:

"(E) For purposes of this subsection, there shall be excluded from the gross income of any individual any amount received by him during any taxable year which ends after December 31, 1977, if—

"(i)(I) such amount constitutes net earnings from self-employment of such individual derived from his engagement in a trade or business which, if such trade or business were carried on exclusively by employees, the major portion of the services involved in the carrying out of such trade or business would constitute agricultural labor as defined in section 210(f), (II) such amount as is derived from the sale of agricultural or horticultural commodities (including livestock, bees, poultry, and fur-bearing animals and wildlife) produced prior to such taxable year in such trade or business, (III) during such taxable year such individual did not render any substantial services (as determined pursuant to methods and criteria which the Secretary shall by regulations prescribe) with respect to any trade or business described in clause (I), and (IV) no amount has been excluded from such individual's gross income pursuant to this clause (i) for any preceding taxable year; or

"(ii)(I) such amount is received, during or after the taxable year in which such individual attains age 65, as a renewal commission from a life insurance policy which was sold, in whole or in part, through such individual's own personal efforts prior to such taxable year, and (II) during such taxable year there was not sold, in whole or in part, through such individual's own personal efforts any new insurance policy on account of the sale of which such individual was or will in the future be paid any commission or other remuneration.".

TREATMENT OF CERTAIN INCOME FROM FARMING AND INSURANCE SALES UNDER THE SOCIAL SECURITY RETIREMENT TEST

Mr. LONG. Mr. President, I am offering an amendment to the bill to correct an anomalous situation which occurs in applying the social security retirement test to certain types of income from farming or from renewal commissions based on prior sales of insurance contracts. This amendment has been considered by the Committee on Finance, and the committee voted to direct that it be offered as an amendment to an appropriate House-passed bill. The amendment is necessary to correct an unintended result of the 1977 Social Security Amendments, which eliminated the monthly exception to the social security retirement test.

Under the former monthly exception, full social security benefits were payable for any month in which an individual had no significant employment or self-employment activity even if they would otherwise have been reduced because of his annual earnings. Without this monthly exception, some farmers and self-employed insurance agents will lose social security benefits even though they may be completely retired. This happens because they technically are considered to have self-employment income on th basis of proceeds from crops produced a year before retirement or from renew commissions on insurance policies so before retirement.

Under the social security progra benefits are payable not on the basis individual need as measured by an i come test but as a matter of social i surance payable in relation to prior ear ings upon the occurrence of specifi events (disability, death, retirement old age). The purpose of this provisi of the social security law under whi benefits are reduced for earnings above certain amount is to serve as a test whether one of those events—retireme in old age—has, in fact, occurred.

Since that provision is intended as retirement test and not as a needs te it is inappropriate to apply it in a ma ner which results in the reduction benefits to persons who have actual completely retired but who continue receive some of the fruits of their earli labors. For this reason, the amendme modifies the treatment of two types income. Under the amendment, the would be no reduction in benefits b cause of farm income from the sale of crop produced in a prior year provid that, in the year in which the incom is actually received, the retired farm does not engage in any substantial far ing activities. An individual could cla this exemption in only 1 year. T amendment also provides that social s curity benefits will not be reduced b cause of renewal premiums from pri year sales of insurance if they are r ceived after age 65 and in a year which the individual is not engaged selling insurance. This provision wou apply to the self-employed insuran agents who actually made the sale a also to other individuals who qualify f such renewal premiums because of th contribution to the sales effort.

The costs of this amendment are es mated to be approximately $1 million $2 million in each of the next 5 fis years. The amendment will have negli ble impact on the long-range costs the social security program.

Mr. CURTIS. Mr. President, I ur adoption by the Senate of amendme No. 3472, introduced by Senator LONG behalf of the Finance Committee, whi will redress a serious inequity which h arisen concerning the treatment of ce tain income of farmers and self-e ployed life insurance agents under soc security.

Last December, as the Members w recall, as a part of the 1977 amendme to the Social Security Act, we changed as a result of a floor amendment offe by the distinguished Senator from Fl ida (Mr. CHILES)—from a monthly t of retirement to an annual test. Th is, previously we set certain mont limits on income, and now we set annual limit. Under the earlier test, was possible for an individual regula to group newly earned income into month and still be eligible for social s curity in the other 11 months.

That amendment was very desira in my opinion, because we needed improved test to determine when an i dividual truly was retired. We did n

mean, however, to have an adverse effect upon two groups which have come to our attention who share a common problem—certain farmers and self-employed life insurance agents. Though fully retired, they may receive income based upon activities in a prior year—in the case of a farmer, through the sale of a crop, and in the case of a self-employed life insurance agent, through the receipt of renewal commissions on policies written previously, before his retirement. The inequity in this situation is particularly acute, because a self-employed life insurance agent would have his renewal commissions treated as income subject to the annual retirement test, and a life insurance agent employed by a firm would not.

The real test as to whether someone is retired should depend upon a person's activity—whether he has quit working, and whether they no longer perform self-employment. The test should be when the work is performed, not when the money comes in.

Therefore, the amendment which I proposed in the Committee on Finance, and which the committee subsequently endorsed without opposition for inclusion in appropriate House-passed legislation, is very narrowly drawn and would exempt from the annual retirement test, on a one-time basis only for farmers and only if no other continuing sales of life insurance occur for self-employed life insurance agents, income from the sale of agricultural or horticultural commodities (in the case of farmers) or income from renewal commissions on life insurance policies (in the case of self-employed life insurance agents).

I emphasize that in both situations, the individuals indeed are retired and the income at issue was derived from earlier activity.

Mr. President, the practical situation is this: certain farmers retire. They quit working, quit the farm. But after they retired they sold some grain they raised the year before. Under this new test, that eliminated their chance to draw social security. Congress never intended that, and this amendment takes care of it.

The PRESIDING OFFICER (Mr. BUMPERS). The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1731

(Purpose: To treat employment of United States citizens by the Roosevelt Campobello International Park Commission as employment under the Federal Unemployment Tax Act)

Mr. MUSKIE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maine (Mr. MUSKIE) proposes an unprinted amendment numbered 1731.

Mr. MUSKIE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, after line 3, insert the following:

SEC. 2. (a) For purposes of Chapter 23 of the Internal Revenue Code of 1954 (the Federal Unemployment Tax Act), service performed by a citizen of the United States as an employee of the Roosevelt Campobello International Park Commission shall be considered to be employment within the meaning of section 3306(c) of such Code.

(b) This section shall apply with respect to remuneration paid after December 31, 1978, for service performed after such date.

Mr. MUSKIE. Mr. President, this amendment would provide unemployment insurance coverage for U.S. citizen employees of the Roosevelt Campobello International Park Commission. The Roosevelt Campobello International Park was created in 1964 by a Canadian-American Treaty to commemorate and preserve the summer home of Franklin Delano Roosevelt on Campobello Island in New Brunswick, Canada. In accordance with the spirit of that agreement and the statutes which established the park, the Commission has a policy of equal opportunity in employment, compensation, and fringe benefits for both Canadian and American employees.

The Commission currently employs 13 U.S. residents. These employees are subject to U.S. social security taxes and are eligible for old age, survivors, and disability insurance benefits, as well as workmen's compensation. In nearly all ways they are treated as though they were employed on U.S. soil.

However, these U.S. citizens have been unable to secure unemployment insurance coverage in the United States.

This amendment would treat employment of U.S. citizens by the Roosevelt Campobello International Park Commission as employment under the Federal Unemployment Tax Act. The amendment would in turn permit the State of Maine to provide unemployment insurance coverage for these employees pursuant to title 26, section 1043(11)(G) of the Maine revised statutes.

This amendment would insure that United States and Canadian employees of the Commission are employed on an equal basis. It is supported by the Commission and is in accord with the agreement reached between the United States and Canadian Governments on this issue.

I might add, Mr. President, that this matter has been the subject of lengthy discussions between the U.S. Treasury Department and the Canadian Government.

It was the Treasury Department that suggested this amendment as a solution.

Mr. President, in this regard, I ask unanimous consent to have printed at the conclusion of my remarks a letter from Secretary Blumenthal.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MUSKIE. Mr. President, I would like to express my appreciation to the Canadian Government and the U.S. Treasury Department for their assistance in resolving this matter. I would hope the distinguished floor manager would accept this amendment in order that the problem may be finally resolved.

EXHIBIT 1

THE SECRETARY OF THE TREASURY,
Washington, April 6, 1978.

Hon. EDMUND S. MUSKIE,
Chairman Roosevelt Campobello International Park Commission, U.S. Senate, Washington, D.C.

DEAR ED: On October 12, 1977, you wrote me concerning the unemployment insurance situation of the employees of the Roosevelt Campobello International Park Commission. On November 28, I wrote you concerning the results of our preliminary study of the problem, and stated that we would keep you informed of the progress of our further study. We have developed further ideas on ways to resolve this matter, and I thought it would be useful to communicate these to you before the Commission's upcoming meeting April 7–8.

As I indicated in my letter of November 28, it is our understanding that the Canadian Department of National Revenue has taken the position that the employees will be subject to Canadian unemployment insurance premiums until and unless the employees can be brought under unemployment insurance coverage in the United States. The question in light of this position is whether the employees can be brought within the coverage of either the Maine Employment Security Law or the Federal Unemployment Tax Act (FUTA).

We understand from the staff of the Commission that the Maine Emoloyment Security Commission has taken the position that the employees of the Commission cannot be covered under Maine law.

FUTA presently covers services performed by an employee within the United States, services upon an American vessel or aircraft under a contract executed in the United States, and any service "performed after 1971 outside the United States (except in a contiguous country with which the United States has an agreement relating to unemployment compensation) by a citizen of the United States as an employee of an American employer . . ." An "American employer" is defined to include individual residents of the United States; corporations organized under the laws of a state or of the United States; trusts all of the trustees of which are United States residents; and partnerships two-thirds of the partners of which are United States residents.

The Commission emoloyees' situation arguably fails to meet the definition of "employment" because the services are not performed for an "American employer." And in any event, this situation clearly fails to meet the definition because the services are performed "in a contiguous country with which the United States has an agreement relating to unemployment compensation."

It appears therefore that it would be necessary to amend FUTA to cover the Commission specifically. Extension to those employees could be accomplished by adding a provision at the end of section 3306(c) stating that "Notwithstanding any other provision of this subsection, service performed by a citizen of the United States as an employee of an international park commission established under Chapter 22 of Title 16 shall be deemed to be employment for purposes of this chapter." A copy of a draft bill that would accomplish this is enclosed.

I hope this answers the questions you raised in your October 12 letter. Please let us know if we may be of further assistance in this matter.

Sincerely,

W. MICHAEL BLUMENTHAL.

Enclosure.

Mr. LONG. Mr. President, I have not had the opportunity to discuss this amendment with the committee. How-

ever, I have discussed it with our committee staff, and I am of the opinion that the amendment is meritorious, and I have no objection to it. I will be happy to accept it, if the Senate will let me accept it.

Mr. MUSKIE. I thank my good friend, the distinguished floor manager, for his consideration.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 12380) was read a third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EASTERN TELEPHONE SUPPLY & MANUFACTURING, INC.

Mr. ROBERT C. BYRD. Mr. President, I call up Calendar No. 1034.

The PRESIDING OFFICER (Mr. MORGAN). The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 10161) for the relief of Eastern Telephone Supply & Manufacturing, Inc.

The Senate proceeded to consider the bill, which had been reported from the Committee on Finance with an amendment:

On page 2, beginning with line 7, insert the following:

SEC. 2. SUSPENSION OF DUTY ON NATURAL GRAPHITE.

(a) Item 909.01 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out "6/30/78" and inserting in lieu thereof "6/30/81".

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after June 30, 1978.

(c) Upon request therefor filed with the customs officer concerned on or before the ninetieth day after the date of enactment of this Act, the entry of any article—

(1) which was made on or after June 30, 1978, and before the date of enactment of this Act, and

(2) with respect to which there would have been no duty if the amendment made by subsection (a) of this section applied to such entry

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930, or any other provisions of law, be liquidated or reliquidated as though such entry has been made on the date of enactment of this Act.

SEC. 3. SUSPENSION OF DUTY ON FREIGHT CARS.

(a) Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by adding, immediately after item 912.05, the following new item:

" 912.06	Assembled freight cars (provided for in item 680.15, subpart A, part 5, schedule 6)	Free	No change On or before 6/30/80".

(b) The amendment made by subsection (a) shall apply with respect to articles entered on or after the date of enactment of this Act if the contract for sale of the article is concluded before March 1, 1978, or after the date of enactment of this Act.

(c) Upon request therefor filed with the customs officer concerned on or before the ninetieth day after the date of enactment of this Act, the entry of any article—

(1) which was made on or after March 1, 1978, and before the date of enactment of this Act, and

(2) for which the contract for sale was concluded prior to March 1, 1978, and

(3) with respect to which there would have been no duty if the amendment made by subsection (a) applied to such entry

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930, or any other provisions of law, be liquidated or reliquidated as though such entry has been made on the date of enactment of this Act.

Mr. LONG. The first section of H.R. 10161 will provide Eastern Telephone Supply & Manufacturing, Inc., of Newport, R.I., the possibility of administrative and judicial review of alleged errors by the Customs Service. Although the Service agrees they made the errors, they refuse to review the case because Eastern did not file a timely protest in the correct form. In the peculiar circumstances of this case, the committee believes Eastern should be allowed to file a protest and get review.

Mr. President, the Senator from Rhode Island (Mr. PELL) came before the committee and made a very logical argument that these people should have their day in court.

Section 2 would continue duty-free entry of crude and natural graphite until June 30, 1981. Duties of graphite were suspended from October 21, 1975, to June 30, 1978. The annual revenue loss from section 2 will be about $57,000.

Section 3 would permit duty-free entry of assembled freight cars until June 30, 1980. The committee believes temporary elimination of the current 18-percent duty on assembled freight cars may help alleviate the current shortage of freight cars in the United States. The principle beneficiary of the section will be Mexico. The committee estimates the annual revenue loss of section 3 to be $6 million.

Mr. President, this is a good bill. It is not controversial. I recommend to the Senate that it approve H.R. 10161 as reported.

UNFAIR COMPETITION FROM SOVIET WATCHES

Mr. BUMPERS. Mr. President, I feel the tariff schedules of the United States have a loophole which now threatens the few remaining companies and workers still producing watches in the United United, and particularly the employees still producing watches in Arkansas.

We have long had a provision in our tariff schedules permitting the importation of watches from the Virgin Islands and our other insular possessions free duty if they meet certain requireme for local content and do not exceed o ninth of total U.S. watch consumpti This duty-free treatment was adopted assist the economic development of insular possessions.

Today, however, this exception to normal tariff treatment of impor watches is being abused, particularly watch assemblers in the Virgin Islan They are purchasing virtually comp watches from State-controlled eco mies, performing a minor amount work in the islands, and importing th duty free into the United States. T thus totally avoid the higher colum rates of our tariff schedules which it long been the policy of the Congres apply to countries to whom we do extend most favored nation (MF treatment. They also avoid paying e the duty which watches from M countries must normally pay, and t obtain a preference over normal tr with MFN countries.

But, far more important, they threaten a struggling U.S. industry— few domestic producers of watc These products of controlled econom coming here through a loophole, are tailing as low as $9.95, and possibly e lower. Thus, they drastically unde even the least expensive U.S. watch assembled in Little Rock which ret between $14.95 and $21.95. Moreo these imported products are the hig appeal, 17-jewel watches, whereas Timex watches produced in Arka and Connecticut are basic, nonjewe mechanical products.

Today these imports are appare assembled primarily from compon originating in the U.S.S.R. Watches the U.S.S.R. are now increasingly p trating markets of other countries, as the United Kingdom and Can which apply MFN duties to imp from controlled economies. Tomor watches from other state-contro economies may also benefit from loophole.

Failure to close this loophole cle threatens the future production of millions of Timex watches now ass bled in the Continental United St and Puerto Rico. It also threatens future of thousands of remaining w ers in my State and in the State of C necticut. They are the principal vivors of a once much larger indus U.S. watch companies have disappe one by one under the pressure of wage competition from abroad. Ju weeks ago, one of the other remai famous names in American watchm ing, Bulova, announced it was closin last U.S. plant. We must not perm loophole to add still further competi pressure on those jobs and plants w still survive.

We can prevent this unfair com tion by requiring that watches and c ponents originating in State-contro economies pay the column 2 duty C gress intended they should pay. I am suggesting we prohibit imports f them, providing they pay the pr

duty. But we should prevent them from taking advantage of a loophole to funnel artificially priced watches into our country duty free.

Mr. President, I originally intended to propose an amendment to this bill to back up the statement I just made and in support of it. But I have the agreement of the chairman of the subcommittee, Mr. RIBICOFF, that his staff and mine, and they are already working, will work out language to try to redress this problem and hopefully it will be done by the time we come back after the Labor Day recess. There are other tariff bills that I understand have been ordered reported, and perhaps that will be the proper time and it may be possible that the Finance Committee itself could adopt some language to close this loophole.

Obviously thousands of workers in my State have jobs that depend on this because the problem is not going to go away. As a matter of fact, it is going to become exacerbated unless something is done.

I thank the distinguished floor manager for allowing me to make this statement.

Mr. LONG. Mr. President, as the Senator so well stated, we know there is a problem here, and the chairman of the Subcommittee on International Trade, Mr. RIBICOFF, has asked for comments in writing on this subject, and when we know more about it we do expect to recommend action of the Senate.

I thank the Senator.

● Mr. JAVITS. Mr. President, I thank my distinguished colleague, the senior Senator from Louisiana, for his efforts in bringing to the floor this measure to permit temporary duty-free treatment for imports of assembled freight cars.

This measure will help relieve the severe shortage of railroad freight cars that has adversely affected the economies of many sections of the United States, including my own State of New York. It will assist in the revitalization of our rail transportation system, so important to a healthy economy.

By passage of this measure, the Congress is preventing the imposition of an 18-percent tariff. Such a tariff would increase the inflationary pressures that underlie our economy and would add an unnecessary trade barrier. Neither the administration nor the domestic industry objects to this bill because the demand for new cars is greater than the U.S. manufacturers can supply. Therefore, imposing a tariff makes no sense.

I have long been active in promoting economic development in Mexico through the United States-Mexico Quadripartite Commission. I am pleased that the Senate today is fostering economic development in Mexico while relieving a burden from the U.S. economy.●

The PRESIDING OFFICER (Mr. BUMPERS). The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 10161) was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

An Act for the relief of Eastern Telephone Supply and Manufacturing, Inc., and other matters.

EDUCATION AMENDMENTS OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair again proceed to the consideration of the elementary and secondary education bill.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1753) to extend the Elementary and Secondary Education Act of 1965, and for other purposes.

The Senate resumed the consideration of S. 1753.

UP AMENDMENT NO. 1722

The PRESIDING OFFICER. The pending amendment on that bill is UP amendment No. 1722.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, will the Senator yield briefly for a unanimous-consent request?

Mr. MORGAN. I yield to the Senator.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that Mr. Larry Patton, of my staff, be accorded the privilege of the floor during debate on the education bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, will the Senator yield for a unanimous-consent request? I ask unanimous consent that Elliott Abrams of my staff be given the privileges of the floor during the debate and votes on the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, we hope to have a vote on the pending amendment relative to title XII this evening. Gauging the feeling of my colleagues and the manager of the bill, I think we will not be lengthy about this. Incidentally, if it can be worked out, we have agreed with the Senator from Arizona to set this aside momentarily for an agreed-upon amendment if we got into this for a lengthy time.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. HOLLINGS. Yes.

Mr. ROBERT C. BYRD. It might be well if we can get the yeas and nays on the amendment so that Senators will be alerted that there is going to be a rollcall vote.

Mr. HOLLINGS. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HOLLINGS. Mr. President, with respect to title XII, it is very direct. It is a frontal assignment of Federal grants to the private or in this case, since they are limited to elementary and secondary education, to the parochial schools of America. It goes right to the heart of the constitutional problem. Instead of trying to provide aid in a circuitous manner by saying, "Look, the intent is secular," if you will refer to the bill itself, you will see certain congressional findings on pages 318 and 319, and they find that a Federal program of grants is needed to assist the nonpublic schools.

Then there follows a direct authorization to make grants to the elementary and secondary schools.

So, rather than to state its purpose as being secular in purpose, they, in contrast, make it sectarian; and rather than saying it is not going to aid religion, for all intents and purposes they come now and say "That is our intent."

In fact, if you read the committee report, the only witness quoted is our friend Father Farrell of the Catholic Conference. It was not a hearing in depth with respect to the elementary and secondary schools or the private schools, or with respect to parochial aid. It was rather the Conference itself saying that they needed assistance, and the Senator from Rhode Island agreed with that need.

Instead of saying, as with the tuition tax credit on last week, that it did not involve the entanglement of church and State, in contrast this particular measure comes in and says, "We want to make sure it is entangled. We want to make sure it is bureaucratized, that we institute a bureaucracy for it." To make certain of that particular entanglement, they provide, under section 1203(a), that there shall be in the Office of Education an Office of Nonpublic Education to carry out the various provisions of the title, which office shall be headed by a deputy commissioner for nonpublic education, who shall be appointed by the Commissioner.

And if you refer to the Department of Health, Education, and Welfare's opinion as of June 23, which was earlier filed in this RECORD at the time we called up the amendment, you will see therefrom that the Department of HEW says that for the 18,000 nonpublic schools, it would take at least a staff of 80 persons to carry out the provisions involved.

So you can well understand the feeling of any Senator, after the strong debate and the many rollcalls extending over several days last week. Senators wonder why now we need consider this. The Elementary and Secondary Education Act,

which we support, contains the bypass provisions and the strengthening of the funds in title I for the disadvantaged, and there are some other beefed up portions of this bill, which we also support, and which are generally in the context of the Domenici amendment offered last week when we were winding up action on the tuition tax credits.

Why, after that, do they even come and propose this? The best I can tell at the present time, looking at the opinions, and from my check with the staff, is that this was an add-on at the end of the markup of the Human Resources Committee. Opinions were asked for by HEW, the Congressional Research Service, and the Attorney General's office of the Justice Department, and various Senators did reserve their right at that particular time to act separately on the floor.

Now let us look, for example, at the opinion, if you please, and follow immediately thereon and get into the general merits of the bill.

Earlier the Department of HEW, when it wrote, on June 23, stated that the Department would have to find it unconstitutional and unwise, and that it could not support this particular measure. In a memorandum prepared by the Congressional Research Service, David Ackerman, Legislative Attorney, there is a thorough discussion of the constitutionality of title XII. This memorandum finds the proposal unconstitutional and states changes that would enhance its constitutionality.

The Department of Justice, in a letter signed by John Harmon, Assistant Attorney General, Office of Legal Counsel, also, if you please, Mr. President, goes down the particular provisions, and then they go right into the unconstitutionality, where, in essence, they say "This is clearly more unconstitutional."

You and I know a thing is either constitutional or unconstitutional, but we have to use the comparative sense: more clearly unconstitutional.

It says, among other findings:

Based upon those decisions, it is our view that proposed Title XII fails to meet Establishment Clause standards in several respects. The principal constitutional flaw in the Title XII program is that it would provide grants directly to nonpublic schools. Although the Court has approved particular programs authorizing grants and loans to nonpublic school students and their parents, the Court has consistently indicated that direct grants to sectarian schools are constitutionally impermissible. See *e.g. Wolman* v. *Walter*, 433 U.S. at 253; *Lemon* v. *Kurtzman*, 403 U.S. at 621.

That is ground No. 1 of the Justice Department findings. Then the Department of Justice goes further:

Moreover, any program which authorizes direct government grants to sectarian schools raises serious problems of Church-State entanglement. Efforts by the Government to ensure secular use of the funds provided may result in the "comprehensive, discriminating, and continuing state surveillance" that the Establishment Clause prohibits. *Wolman* v. *Walter*, 433 U.S. at 254; *Lemon* v. *Kurtzman*, 403 U.S. at 619. Such a program also creates the potential for continuing political strife along religious lines. See, *e.g.*, *Meek* v. *Pittenger*, 421 U.S. at 372.

So that is the second ground of entanglement, or, if you please, political strife along religious lines, which is the intent of all kinds of assistance in school fields that Congress tries to avoid. Then, going further, a third ground:

In addition, in those instances where the Court has sustained the grant or loan of materials and services, the statutory program has provided equal benefits to both public and private school students. See, *e.g.*, *Meek* v. *Pittenger*, 421 U.S. at 360 and n. 8, 362 n. 12. Although the report of the Senate Committee on Human Resources refers to "equitable participation" of nonpublic school students, see S. Rep. No. 95-856, 95th Cong., 2d Sess. 87 (1978), portions of Title XII focus solely on aid to private schools without regard to whether public school students are entitled to receive equivalent materials and services.

Remember, on last week, when the tuition tax credit was first submitted to the tax committees, the attempt was to handle that concern in a balanced fashion by making no distinction, if you please, between public and nonpublic school students. But this measure makes a definite distinction.

Finally, and this is the fourth ground:

Finally, the guidance and counseling section of Title XII fails to observe the careful lines drawn by the Court with respect to those forms of aid, as it does not foreclose the possibility that these services may be provided on nonpublic school premises or by personnel employed by the nonpublic school or subject to its influence or control. *Wolman* v. *Walter*, 433 U.S. at 248; *Meek* v. *Pittenger*, 421 U.S. at 371–72.

Mr. PELL. Mr. President, will the Senator yield?

Mr. HOLLINGS. I will yield in just a minute. Let me complete these thoughts, if you please. It will take another 10 minutes or so.

Quoting still:

In short, our review of recent Supreme Court interpretations of the Establishment Clause indicates that the proposed Title XII program of direct grants to nonpublic schools, if challenged in the courts after enactment, would be held to be unconstitutional. I hope that our comments are helpful to you.

That is dated the 22d of August, or yesterday.

Now, Mr. President, I have sent to each of the Senators in my "Dear Colleague" letter a copy of Prof. Paul A. Freund's letter dated August 18, 1978, wherein he goes down the line in several respects, and in only one instance—that having to do with respect to the standardized tests and scoring services—does he find that it could pass the constitutional test. On each of the other six, he found it to be unconstitutional.

So, Mr. President, what are we doing here? What, with resoect to the undesirability? What the Senator from Rhode Island as done, in essence, is say, apparently, "Look, if Senators MOYNIHAN and PACKWOOD are going to come along and get by some kind of aid on the tuition tax credit, we might as well go frontally and give it directly to the nonpublic schools."

In doing that, they fly right fully into the face of established and desired principles of Federal aid to education. From the very beginning, really, in 1965, a for the past 13 years, what we have do is try to protect the elementary and se ondary school jurisdiction, with pri cipal assistance from the locales in t States, and only give aid at the Fede level to public school or private sch students on what? On, No. 1, a stat need.

In title I, the need was disadvantag students. In title VII, it was under t bilingual provision. In the Vocatio and Rehabilitation Act, it was secti 504 for the handicapped children.

So in each particular case, the stude was the one being granted that partic lar assistance on the basis of need, a the moneys were going to the very s tems by way of a public entity. I thi I should emphasize that. Today, the goes to the State of South Carolina, Missouri, to New York, to Rhode Isla to the local educational agency. Th has been the procedure in Human R sources Committee, in the Educati Subcommittee that our distinguish colleague from Rhode Island has head so well—the aid always going into the cal educational agency to be distribu to the various entities by way of stude and student need.

Now comes the Senator from Rho Island, and he says:

We and the Congress have found the n for a particular school, for a particular of schools.

And he characterizes them as no public.

In trying to find that there is need the nonpublic school area he elimina general aid to the public school, giv aid only to the nonpublic. Of cou from the debate of last week we det mined that the nonpublic schools w 90 percent parochial in this country.

It think it should be fixed in each Se ator's mind that this is a radical dep ture from the congressional findings th we have had in all our hearings and proaches in trying to give assistance school students, be they public or priva in the United States. The new approa says, "Here, let us give general aid. are going to list all these particular ca gories."

That is how he proposes to do it: picks them up one at a time. Eviden one of the staff lawyers tried to find various decisions to approve various ar cles of aid, picking out textbooks, star ardized tests, psychological testi speech and hearing diagnostic servic transportation of a limited kind, a what have you.

But then you have to see how they not do it in a constitutionally care fashion because they did not change original thrust. They stuck with th thrust by saying, "Yes, we are going give it directly to the schools."

So it is as we go down each of the p ticular provisions in here. All we have do is to allude to the various findings decisions as determined by either HE the Library of Congress, the Departme of Justice, or Professor Freund, and refer to the first one, secular textboo In several cases the Supreme Court uoheld programs in which the State p chases and loans to nonpublic sch

children such secular textbooks. They do cite Wolman against Walter and Meek against Pittenger, but they go on to state that in every such program ownership of the books has remained with the State.

The textbook program in title XII is different with schools owning the books under title XII now proposed by the Senator from Rhode Island.

Therefore, Professor Freund, Justice, HEW, and the Legislative Research Service have, of course, come down on the side of the principal opinion in Wolman against Walter that states this aid would be patently unconstitutional.

Again going to the next category listed under title XII, standardized tests and scoring cases, there are two cases concerning that particular item of aid, the Lemon case and the Wolman case. But if the public school system is in control—that is the particular finding in those cases, in the formulation, the execution, the evaluation of those standardized tests and the scoring services—if the public institution remains in control, in that case it would be held constitutional. Professor Freund finds that in that particular case he thinks it can pass that test and would be found constitutional. So does the Congressional Research Service legislative counsel. But even on that score the Justice Department finds differently.

Speech and hearing diagnostic services is next. In the Wolman case the particular persons doing the testing and administration were all employed by the State. The Court has made clear that the Government cannot subsidize the function of personnel likely to engage in religious proselytizing even when the subsidized function has been secular in nature, like secular teaching, guidance counseling, psychological services. The Court has perceived the danger that the personnel involved would become religious advocates because of the pervasively religious atmosphere of sectarian schools.

To go on even further, in Meek against Pittenger this has been true when personnel have been employed by the school itself, and when they have been public employees.

In Wolman against Walter, however, the court found it constitutionally permissible for public personnel to provide diagnostic speech and hearing services on the nonpublic school premises on the grounds that such functions are not closely related to the educational mission of the school, and that the relationship between the diagnostician and the child is limited in nature. However, in Wolman against Walter there were public employees, and under title XII the personnel necessarily would be hired by the sectarian school itself, and the testing presumably would be on the school premises, so it cannot pass constitutional muster there.

We go on to the fourth category of diagnostic psychological services on the nonpublic school premises.

Again, they are employed by the sectarian school, on their own sectarian school premises, and therefore this aid cannot pass constitutional muster.

Point 5, the guidance and counseling service. The objection there again is that it is on the premises and that off the premises it would be indicated the counseling would not be permissible for religious school students because hired by the sectarian body counseling off premises would then be jeopardized by being involved in the sectarian purposes of the school involved and cannot pass the constitutional muster.

On point 6, secular instructional materials and equipment in the Meek decision it was struck down. The loans were struck down because they were made directly to the sectarian school. So here is the same situation, directly to the sectarian schools. No if's, and's, or but's about it and under Wolman and also under Meek it would be set aside.

Finally, transportation cannot pass constitutional muster. The language in 1202(b) permits, of course, the side trips and the field trips, as said in the original decision which started in 1947 when Justice Black came out with his eloquent analysis of the intent of Jefferson in talking about a wall of separation between church and State. The limited transportation to and from the school was fine, but with field trips for sectarian purposes or otherwise it was held unconstitutional there, and again in the Meek decision and again in the Wolman decision.

So what we have is, generally speaking, is a measure to provide aids to the private schools, and all the while, the medium for giving the aid, the administration of the aid, the person employed to conduct the aid, and everything else, are all sectarian or private in purpose and therefore cannot pass constitutional muster. Additionally, it would be undesirable.

Why is it undesirable? We have a $500 million appropriation for this year under title XII and, for 5 years, of $2.5 billion. However, Mr. President, let us look at this very closely, because when the Senator from Maine (Mr. MUSKIE) was giving his budgetary comments, we did not want to interrupt at that particular time. We only have to look at the analysis given the Human Resources Committee back in June. It said that in the Pennsylvania program considered in Meek against Pittenger with $17,560,000 worth of materials—textbook and instruction materials—that was $44 per child. That programed out, for the 5 million nonpublic school students provided for under title XII or the Pell provision here, that would program out to $250 million just for that one item.

Looking again, according to the letter from HEW, they said, you look at the Ohio program under the Wolman case and you program that out for the 5 million schoolchildren for those items and you are looking at $875 million in expenditures.

I think it is reasonably accurate and conservative to say that the $500 million has been diminished by a factor of at least 3, or it would take three times the amount of aid to carry out the intentional aids given under the seven categories by the Senator from Rhode Island to the private schools. So, instead of $2.5 billion, we really have about $7.5 billion.

We are all public Senators, we are going home, and we get back to Maryland, for instance, and the voters are going to say, "We didn't send you up there to start running the private schools, but if you are going to start for the first time, giving general aid, if you can give it to them and they can spend it for all these particular categories, administered, and conducted, and audited by the private schools, and in fact, going to 90 percent parochial schools—if you are going to do that, then, heavens, give us general aid for the public schools.

"If Washington is not running a deficit, as we had heard, but, on the contrary, if they are finding extra moneys, then include us." And we have an additional $7.5 billion there.

So when you vote to balance that budget, as we just did on July 31, by an over two-thirds vote, and then you come back and wonder how did the budget get out of balance, look at this very innocent, well-intentioned, amendment that is just added on as a delightful little title at the end of a bill, by a man of experience and authority in the education field. What does he do? He gives 40 percent more to the private school than is going to be received by the public school student. Using the agreed-upon figure that Senator PELL and I both used in the debates last week of $128 for the public school student and the present amount of $60 for the private school student, we are going to give at least $100 more. I think it would be nearer $300. As I just pointed out, there is no question about it when you carry this provision out.

But let us keep it to the $100 estimate, that is $160 or 20 percent more, and he is going to be doubling what is now received by the private school student, but giving nothing more to the public school student.

Mr. President, the $2.5 billion is obviously a budget buster. We can go in again to the elements—I want to yield now before I complete my comments, because the distinguished Senator is waiting to ask questions or the Senator from Arizona to get in his amendment—whatever the manager of the bill desires. I can only say it is not just financially unsound and clearly unconstitutional itself. But, more than anything else, it is undesirable.

Looking at the hearing record, I find my colleague from Rhode Island mentioning that he could not find any character in the public schools. I am going to have to take exception to the distinguished Senator's comment. On page 260, as he examined the witness, Father Farrell, Senator PELL stated, and I quote:

> As you may have heard before, I am strongly of the view that the strength of our Nation is determined by the education and character of its people. The public schools pay scant attention to character; in fact, virtually zero.

Now, that is my distinguished colleague from Rhode Island.

To emphasize that, again, on page 261, he asked if there were any kind of statistics on jail population of the percentage of those who attended private schools

and parochial schools. So potentially, in the distinguished Senator's mind, you are a jailbird if you get into the public schools.

Going down further, he says:

> That is one of the reasons why, as chairman of the subcommittee, I have always sought to do what I can to keep the private school system as healthy and as vigorous as possible, both because of the reliance being placed upon it in my State, and also, from a national viewpoint, there is an emphasis on character, character which you do not find in public schools.

Again, my distinguished friend finds, from a national viewpoint, there is an emphasis on character which you do not find in public schools.

Again, on page 262:

> The important thing is that the maximum number of parochial schools exist in kindergarten and prekindergarten and at the grade school level. The character is invited on children when they are very young.

Again, finally, Senator PELL:

> Does Catholic education go in for prekindergarten and kindergarten today? That also is where character is formed.

I take exception to that. I find, and I am sure that the Senator would agree with me, that there are honest students in both the private schools and in the public schools, so basically, honesty is adhered to in both levels. But we think in terms of the general educational attainment and understanding of us as American people, the experience that we have. Again, back to James Madison who said popular government without popular education would be a sham and a farce.

Herbert Spencer said:

> Education has for its foundation the object and the formation of character.

Then, no better than James Russell Lowell:

> It was in the making education not only common to all but, in some sense, compulsory in all, that the destiny of the free republic of America was practically set.

The very character I find in America is premised on public education, popular education, in the public school system. This is not in derogation or disparagement of private education or secular education. They do an outstanding job. I have, as I have stated before, had my children in both types of schools. I have supported both types of schools. I have been a member of a board of trustees of a public institution. I have been also a member of the board of trustees of a Lutheran institution—a parochial institution. There is no prejudice in this, no bigotry, as was charged. I can name particular Senators of the Catholic faith who voted against the tuition tax credit, who would not have stood for one second or voted as they did last week if they had found bigotry in our comments on that debate.

It is the desire, it is the function, it is the responsibility of Government, where we have limited funds and delegated responsibilities under the Constitution, that we do not go unconstitutional and start providing for the private schools, because if we provide for part of the private schools, then let us provide for all of them. If they desire the aid on the premise of the Senator from Rhode Island, in the small amount as he would see it, they deserve it in the total amount, as we would have to see it if we go that route.

If we go that route, we would have to go the entire route for public education. What we would have done is really destroy our school system, our basic public school system in this country, because we do not have the moneys and we do not have the leadership.

We have, further, a divisiveness within education in the struggle during the past 20 years. There have been many private schools, little academies, that have sprung up in the small towns in other parts of America. Now, in those small communities there is naturally only limited civic leadership, not just in education, but on all scores. When that leadership, that interest, and that tax funding support is fragmented and divided between the academy and public education, they are both suffering.

Now, we are getting the proper support it deserves and, heavens, if we come out with private school financing, then everyone, both the public school superintendent and board, the private school board and body, will say, "We have got manna from heaven, it's all coming from Washington."

They will lay down their arms, as it were. They will lay aside their interests and support. They will step down their particular leadership.

What we are going to have is a loss of what was originally intended by our distinguished friend from New York, and that was a diversity and a pluralism. That is found in public education, amongst 107,000 different schools, in over 16,000 different school boards, publicly elected.

Now, that element of bringing everybody together in our society, an open door policy, not selective, not saying, "Take an exam to come in," not saying "No, never, I must say you're bilingual and we don't have a bilingual student," not saying, "Handicapped? We would like to, but we're a ritzy private educational system, we just have not been able to get teachers to divide their attention and we can't provide for the handicapped," and "No, we are not going to take the discipline problem. We are just going to take the public moneys."

Take the poor down in the District of Columbia the Senator is referring to. We would be taxing him to do what? To slam a door in his face?

Now, you can tax, that is right. Those sending children to the private and parochial schools, those parents are paying public taxes. But they have the privilege, as we all in America have the privilege, to get into that public school system. The public school system's doors are open to all and they have the greatness of the American character and public education.

Now, I yield to the distinguished Senator from Arizona.

Mr. DECONCINI. Mr. President, I ask unanimous consent that Alan Parker, Michael Cox, Phil Shenk, and John Saxon, of the Select Committee on Indian Affairs; Pat Coleman of Senato[r] HUMPHREYS staff; and Jim Moers of Sen[ator] MOYNIHAN's staff be granted privi[lege of the floor during the debate an[d] voting on this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I as[k] unanimous consent at this time that th[e] pending amendment of the Senator fro[m] South Carolina be set aside for not t[o] exceed 10 minutes to bring up th[e] printed amendments offered by Senato[r] ABOUREZK, Nos. 3519 and 3520.

The PRESIDING OFFICER. Is ther[e] objection?

Mr. DECONCINI. I ask the clerk [to] call up printed amendments Nos. 351[9] and 3520.

The PRESIDING OFFICER. Does th[e] Senator ask the amendments be con[-] sidered en bloc?

Mr. DECONCINI. Yes; I do.

Mr. JAVITS. Mr. President, reservin[g] the right to object, we generally like t[o] hear the amendments before we conside[r] them en bloc.

The PRESIDING OFFICER. Does th[e] Senator from Arizona object to the Sen[-] ator from New York hearing the amend[-] ments?

Mr. DECONCINI. I have no objection.

AMENDMENTS NOS. 3519 AND 3520

(Purpose of amendment 3519: To promo[te] the attainment of equal education oppo[r-] tunities for Indians)

(Purpose of amendment 3520: To strengthe[n] educational opportunities for India[ns] adults)

The PRESIDING OFFICER. The cler[k] will state the amendments.

The second assistant legislative cler[k] read as follows:

The Senator from Arizona (Mr. DECONCINI), on behalf of Senator ABOUREZK, pro[-] poses amendments numbered 3519 and 352[0] en bloc.

Mr. JAVITS. I ask unanimous conse[nt] that further reading of the amendment[s] be dispensed with.

The PRESIDING OFFICER. Withou[t] objection, it is so ordered.

The amendments are as follows:

AMENDMENT No. 3519

On page 355, strike out lines 1 through 2[...]

On page 356, line 1, strike out "PART C[...]" and insert "PART B".

On page 377, after line 16, insert the fo[l-] lowing new title:

TITLE V—INDIAN EDUCATION

"PART A—ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES

"AMENDMENT TO PUBLIC LAW 874

"SEC. 501. (a) Effective with respect t[o] fiscal years beginning on or after the da[te] of enactment of this Act, section 3(d)(2) [...] the Act of September 30, 1950 (Public La[w] 874, Eighty-first Congress), is amended b[y] adding at the end thereof the following ne[w] subparagraph:

"'(D) The amount of the entitlements [...] any local educational agency under this su[b-] tion for any fiscal year with respect to chi[l-] dren who, while in attendance at suc[h] agency, resided on Indian lands, as describe[d] in clause (A) of section 403(1), shall be li[...] amount determined under paragraph (1[...] with respect to such children for such fisc[al] year multiplied by 125 per centum.'.

"(b) Effective with respect to fiscal yea[rs] beginning on or after the date of enactme[nt]

of this Act, section 5(a)(2) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is repealed and section 5(a)(1) of such Act is redesignated section 5(a).

"(c) Effective with respect to fiscal years beginning on or after the date of enactment of this Act, section 5(b) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by designating the existing provisions as paragraph (1) and adding the following paragraph:

"'(2)(A) Payments of entitlements under section 3(d)(2)(D) of this Act shall be made only to local educational agencies which have, within one year of the date of enactment of this paragraph, or when local educational agencies are formed after such date of enactment, within one year of their formation, established such policies and procedures with respect to information received from the Indian parents and tribes as required by this paragraph and which have made assurances to the Commissioner, at such time and in such manner as shall be determined by regulation, that such policies and procedures have established. The Commissioner shall have the authority to waive this one-year limit for good cause, and in writing to the Indian parents and tribes.

"'(B) Each local educational agency shall establish such policies and procedures as are necessary to insure that—

"'(i) Indian children claimed under section 3(a) participate on an equal basis in the school program with all other children educated by the local educational agency;

"'(ii) applications, evaluations, and program plans are adequately disseminated to the tribes and parents of Indian children claimed under section 3(a); and

"'(iii) tribes and parents of Indian children claimed under section 3(a) are—

"'(I) afforded an opportunity to present their views with respect to the application, including the opportunity to make recommendations concerning the needs of their children and the ways by which they can assist their children in realizing the benefits to be derived from the educational programs assisted under this paragraph;

"'(II) actively consulted and involved in the planning and development of programs assisted under this paragraph; and

"'(III) afforded a general opportunity to present their overall views on the educational program and the degree of parental participation allowed.

"'(C)(i) Any tribe, or its designee, which has students in attendance at a local educational agency may file a written complaint with the Commissioner regarding any action of a local education agency taken pursuant to, or relevant to, the requirements of subparagraph (B) of this paragraph.

"(ii) Within ten working days from receipt of the complaint, the Commissioner shall—

"'(I) designate a time and place for a hearing into the matters relating to the complaint at a location in close proximity to the local educational agency involved, or, if the Commissioner determines there is good cause, at some other location convenient to both the tribe, or its designee, and the local educational agency;

"'(II) designate a hearing examiner to conduct the hearing; and

"'(III) notify the affected tribe or tribes and the local educational agency involved of the time, place, and nature of the hearing and send copies of the complaint to the local educational agency and the affected tribe or tribes.

"'(iii) The hearing shall be held within thirty days of the designation of a hearing examiner and shall be open to the public.

"'(iv) The complaining tribe, or its designee, and the local educational agency shall be entitled to present evidence on matters relevant to the complaint and to make recommendations concerning the appropriate remedial actions. Each party to the hearing shall bear only its own costs in the proceeding.

"'(v) Within thirty days of the completion of the hearing, the hearing examiner shall, on the basis of the record, make written findings of fact and recommendations concerning appropriate remedial actions (if any) which should be taken. The hearing examiner's findings and recommendations, along with the hearing record, shall be forwarded to the Commissioner.

"'(vi) Within thirty days of his receipt of the findings, recommendations, and record, the Commissioner shall, on the basis of the record, make a written determination of the appropriate remedial action, if any, to be taken by the local educational agency, the schedule for completion of the remedial action, and the reasons for his decision.

"'(vii) Upon completion of his final determination, the Commissioner shall provide the complaining tribe, or its designee, and the local education agency with copies of the hearing record, the hearing examiner's findings and recommendations, and the Commissioner's final determination. The final determination of the Commissioner shall be subject to judicial review.

"'(viii) In all actions under this subparagraph, the Commissioner shall have discretion to consolidate complaints involving the same tribe or local educational agency.

"'(D) If the local educational agency rejects the determination of the Commissioner, or if the remedy required is not undertaken within the time established and the Commissioner determines that an extension of the time established will not effectively encourage the remedy required, the Commissioner shall immediately withhold payment of all moneys to which such local agency is entitled under section 3(d)(2)(D) until such time as the remedy required is undertaken, except where the complaining tribe or its designee formally requests that such funds be released to the local educational agency.

"'(E) This paragraph is based upon the special relationship between the Indian nations and the United States and nothing in it shall be deemed to relieve any State of any duty with respect to any citizens of that State.'.

"(d) Effective with respect to fiscal years beginning on or after the date of the enactment of this Act, section 5(c)(2) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by redesignating clauses (B) through (F) as clauses (C) through (G) and by adding after clause (A) the following new clause:

"'(B) to each local educational agency which provides free public education for children who reside on Indian land, as described in clause (A) of section 403(1), which equals 75 per centum of the amount to which such agency is entitled under section 3(d)(2)(D);'.

"PART B—BUREAU OF INDIAN AFFAIRS PROGRAMS

"STANDARDS FOR THE BASIC EDUCATION OF INDIAN CHILDREN IN BUREAU OF INDIAN AFFAIRS SCHOOLS

"SEC. 511. (a) The Secretary, in consultation with the Assistant Secretary of Health, Education, and Welfare for Education, and in active consultation with Indian organizations and tribes, shall carry out or cause to be carried out by contract with an Indian organization such studies and surveys, making the fullest use possible of other existing studies, surveys, and plans, as are necessary to establish and revise standards for the basic education of Indian children attending Bureau schools and Indian controlled contract schools (hereinafter referred to as 'contract schools'). Such studies and surveys shall take into account factors such as academic needs, local cultural differences, type and level of language skills, geographical isolation and appropriate teacher-student ratios for such children, and shall be directed toward the attainment of equal educational opportunity for such children.

"(b)(1) Within fifteen months of the date of enactment of this Act, the Secretary shall propose minimum academic standards for the basic education of Indian children, and shall distribute such proposed standards to the tribes and publish such proposed standards in the Federal Register for the purpose of receiving comments from the tribes and other interested parties. Within eighteen months of the date of enactment of this Act, the Secretary shall establish final standards, distribute such standards to all the tribes and publish such standards in the Federal Register. The Secretary shall revise such standards periodically as necessary. Prior to any revision of such standards, the Secretary shall distribute such proposed revision to all the tribes, and publish such proposed revision in the Federal Register, for the purpose of receiving comments from the tribes and other interested parties.

"(2) Such standards shall apply to Bureau schools, and, subject to subsection (e), to contract schools, and may also serve as a model for educational programs for Indian children in public schools. In establishing and revising such standards, the Secretary shall take into account the special needs of Indian students, and shall place a special emphasis on the support and reinforcement of the specific cultural heritage of each tribe.

"(c) The Secretary shall provide alternative or modified standards in lieu of the standards established under subsection (b), where necessary, so that the programs of each school shall be in compliance with the minimum standards required for accreditation of schools in the State where the school is located.

"(d) A tribal governing body, or the local school board if so designated by the tribal governing body, shall have the local authority to waive, in part or in whole, the standards established under subsections (b) and (c), where such standards are deemed by such body to be inappropriate or ill-conceived, and shall also have the authority to revise such standards to take into account the specific needs of the tribe's children. Such revised standards shall be established by the Secretary unless specifically rejected by the Secretary for good cause and in writing to the affected tribes or local school board, which rejection shall be final and unreviewable.

"(e) The Secretary, through contracting procedures, shall assist school boards of contract schools in the implementation of the standards established under subsections (b) and (c), if the school boards request that such standards, in part or in whole, be implemented. The Secretary shall not refuse to enter into a contract with respect to any contract school on the basis of a failure to meet such standards. At the request of a contract school board, the Secretary shall provide alternative or modified standards for the standards established under subsections (b) and (c) to take into account the needs of the Indian children and the contract school.

"(f) Subject to subsections (d) and (e), the Secretary shall begin to implement the standards established under this section immediately upon the date of their establishment. Within one year of such date, and at each time thereafter that the annual budget request for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress a detailed plan to bring all Bureau and contract schools up to the level required by the applicable standards established under this section. Such plan shall include, but not be

limited to, detailed information on the status of each school's educational program in relation to the applicable standards established under this section, specific cost estimates for meeting such standards at each school, and specific time lines for bringing each school up to the level required by such standards.

"(g) There are hereby authorized to be appropriated such sums as may be necessary, for academic program costs, in order to bring all Bureau and contract schools up to the level required by the applicable standards established under this section.

"NATIONAL CRITERIA FOR DORMITORY SITUATIONS

"SEC. 512. (a) The Secretary, in consultation with the Assistant Secretary for Health, Education, and Welfare for Education, and in active consultation with Indian organizations and tribes, shall conduct or cause to be conducted by contract with an Indian organization, a study of the costs applicable to boarding arrangements for Indian students provided in Bureau and contract schools, for the purpose of establishing national criteria for such dormitory situations. Such criteria shall include requirements as to adult-child ratios, needs for counselors (including special needs related to off-reservation boarding arrangements), space, and privacy.

"(b) Within fifteen months of the date of enactment of this Act, the Secretary shall propose such criteria, and shall distribute such proposed criteria to the tribes and publish such proposed criteria in the Federal Register for the purpose of receiving comments from the tribes and other interested parties. Within eighteen months of the date of enactment of this Act, the Secretary shall establish final criteria, distribute such criteria to all the tribes, and publish such criteria in the Federal Register. The Secretary shall revise such criteria periodically as necessary. Prior to any revision of such criteria, the Secretary shall distribute such proposed revision to all the tribes, and publish such proposed revision in the Federal Register, for the purpose of receiving comments from the tribes and other interested parties.

"(c) The Secretary shall begin to implement the criteria established under this section immediately upon the date of their establishment. Within one year of such date, and at each time thereafter that the annual budget request for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress a detailed plan to bring all Bureau and contract boarding schools up to the criteria established under this section. Such plan shall include, but not be limited to, predictions for the relative need for each boarding school in the future, detailed information on the status of each school in relation to the criteria established under this section, specific cost estimates for meeting such criteria at each school, and specific time lines for bringing each school up to the level required by such criteria.

"(d) There are hereby authorized to be appropriated such sums as may be necessary in order to bring each school up to the level required by the criteria established under this section.

"REGULATIONS

"SEC. 513. The Secretary shall establish such regulations as are necessary to carry out sections 511 and 512 within eighteen months after the date of enactment of this Act.

"STUDIES

"SEC. 514. There are hereby authorized to be appropriated no more than $1,000,000 to carry out the studies conducted under section 511(a) and section 512(a).

"FACILITIES CONSTRUCTION

"SEC. 515. (a) The Secretary shall immediately begin to bring all schools, dormitories, and other facilities operated by the Bureau or under contract with the Bureau in connection with the education of Indian children into compliance with all applicable Federal, tribal, or State health and safety standards, whichever provide greater protection, and with section 504 of the Vocational Rehabilitation Act (29 U.S.C. 31), except that nothing in this section shall require termination of the operations of any facility which does not comply with such provisions and which is in use on the date of enactment of this Act.

"(b) Within one year of the date of enactment of this Act, and at each time thereafter that the annual budget request for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress a detailed plan to bring such facilities into compliance with such standards. Such plan shall include, but not be limited to, detailed information on the status of each facility's compliance with such standards, specific cost estimates for meeting such standards at each school, and specific time lines for bringing each school into compliance with such standards.

"(c) Within six months of the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress, and publish in the Federal Register, the system used to establish priorities for school construction projects. At the time any budget request for school construction is presented, the Secretary shall publish in the Federal Register and submit with the budget request the current list of all school construction priorities.

"(d) There are hereby authorized to be appropriated such sums as may be necessary to carry out subsection (a).

"BUREAU OF INDIAN AFFAIRS EDUCATION FUNCTIONS

"SEC. 516. (a) The Secretary shall vest in the Assistant Secretary for Indian Affairs all functions with respect to formulation and establishment of policy and procedure, supervision of programs, and expenditure of Federal funds for the purpose of Indian education. Such functions may not be further delegated to an official other than a Deputy Assistant Secretary for Indian Affairs, or the Director of the Office of Indian Education Programs of the Bureau (hereinafter referred to as the 'Office') and shall be governed by the provisions of this Act, any other provision of law to the contrary notwithstanding. The Director of the Office may be authorized to redelegate such functions to personnel under his direction and supervision.

"(b) The Director of the Office shall direct and supervise the operations of all personnel involved with the provision of educational services by the Bureau. Nothing in this Act shall be construed to require the provision of separate support services for Indian education.

"(c) Education personnel located in Bureau agencies, who are under the direction and supervision of the Director of the Office in accordance with the first sentence of subsection (b), shall—

"(1) monitor and evaluate Bureau education programs, and

"(2) provide technical and coordinating assistance in areas such as procurement, contracting, budgeting, personnel, and curriculum.

However, in the case of boarding schools located off reservation operated by the Bureau, education personnel located in area offices of the Bureau shall provide such services, under the direction and supervision of the Director of the Office.

"(d) For the purpose of this section the term 'functions' includes powers and duties.

"IMPLEMENTATION

"SEC. 517. Within six months after the date of enactment of this Act, the Secretary shall establish and publish in the Federal Register the policies and procedures which are necessary to implement the transfer of functions made under section 516.

"ALLOTMENT FORMULA

"SEC. 518. (a) The Secretary shall establish, by regulation adopted in accordance with section 538, a formula for determining the minimum annual amount of funds necessary to sustain each Bureau or contract school. In establishing such formula, the Secretary shall consider—

"(1) the number of Indian students served and size of the school;

"(2) special cost factors, such as—

"(A) isolation of the school;

"(B) need for special staffing, transportation, or educational programs;

"(C) food and housing costs;

"(D) overhead costs associated with administering contracted education functions; and

"(E) maintenance and repair costs associated with the physical condition of the educational facilities;

"(3) the cost of providing academic services which are at least equivalent to those provided by public schools in the State in which the school is located;

"(4) the cost of bringing the school up to the level of the standards established under sections 511 and 512; and

"(5) such other relevant factors as the Secretary determines are appropriate.

"(b) Notwithstanding any other provision of law, Federal funds appropriated for the general local operation of Bureau and contract schools, shall be allotted pro rata in accordance with the formula established under subsection (a), except that, in the case of any such school which is located in a school district of a local educational agency which receives from Federal funds under other provisions of law an average payment per Indian child attending such school in that district which is higher than the amount which would be received by such Bureau or contract school under such formula for each Indian child attending such school, the payment to be received by the school under this section for each such child shall be equal to such average payment for an Indian child in public school in the district.

"(c) Notwithstanding subsection (b), the Secretary may provide funds for the general local operation of Bureau and contract schools where necessitated by cases of emergencies or unforeseen contingencies not otherwise provided for under subsection (b). Whenever the Secretary makes funds available under this subsection, the Secretary shall report such action to the appropriate committees of Congress.

"UNIFORM DIRECT FUNDING AND SUPPORT

"SEC. 519. (a) Within six months after the date of enactment of this Act, the Secretary shall establish, by regulation adopted in accordance with section 538, a system for the direct funding and support of all Bureau and contract schools. Such system shall allot funds, in accordance with section 518, and shall provide each affected school with notification of its approximate allotment no later than the end of the school year preceding the year for which the allotment is to be made.

"(b)(1) In the case of all Bureau schools allotted funds shall be expended on the basis of local financial plans which shall be prepared by the local school supervisor in active consultation with the local school board for each school, and the local school board for each school shall have the authority to ratify, reject, or amend such financial plan, and expenditures thereunder, and, on its own determination or in response to the supervisor of the school, to revise such financial plan to meet needs not foreseen at the time of preparation of the financial plan. The supervisor of the school may appeal any such action of the local school board to the superintendent for education of the Bureau agency, and t

superintendent may, for good cause and in writing to the local school board, overturn the action of the local school board.

"(2) A local school board shall have financial plan authority under paragraph (1) unless the tribe affected (or in the case of a school serving several tribes, all the affected tribes), by formal action of the tribal governing body, determines that such board shall not have such authority. In the case of such a determination, the tribal governing body (or in the case of a school serving several tribes, all the affected tribal governing bodies) shall have such authority.

"(c) In the exercise of its authority under this section, a local school board may request technical assistance and training from the Secretary, and he shall, to the greatest extent possible, provide such services, and make appropriate provisions in the budget of the Office for such services.

"POLICY FOR INDIAN CONTROL OF INDIAN EDUCATION

"SEC. 520. It shall be the policy of the Bureau, in carrying out the functions of the Bureau, to facilitate Indian control of Indian affairs in all matters relating to education.

"EDUCATIONAL PERSONNEL

"SEC. 521. (a)(1) Chapter 51, subchapter III of chapter 53, and chapter 63 of title 5, United States Code, relating to the appointment, promotion, removal, leave, and classification of civil service employees, shall not apply to educators or to education positions (as defined in subsection (m)).

"(2) Paragraph (1) shall take effect one year after the date of enactment of this Act.

"(b) Not later than the effective date of subsection (a)(2), the Secretary shall prescribe regulations to carry out this section. Such regulations shall govern—

"(1) the establishment of education positions,

"(2) the establishment of qualifications for educators,

"(3) the fixing of basic compensation for educators and education positions,

"(4) the appointment of educators,

"(5) the discharge of educators,

"(6) the entitlement of educators to compensation,

"(7) the payment of compensation to educators,

"(8) the conditions of employment of educators,

"(9) the length of the school year applicable to education positions described in subsection (m)(1)(A),

"(10) the leave system for educators, and

"(11) such other matters as may be appropriate.

"(c)(1) In prescribing regulations to govern the qualifications of educators, the Secretary shall require—

"(A)(i) that lists of qualified and interviewed applicants for education positions be maintained in each agency and area office of the Bureau from among individuals who have applied at the agency or area level for an education position or who have applied at the national level and have indicated in such application an interest in working at the agency or area level; and

"(ii) that a list of qualified and interviewed applicants for education positions be maintained in the Office from among individuals who have applied at the national level for an education position and who have expressed interest in working in an education position anywhere in the United States;

"(B) that a local school board shall have the authority to waive on a case-by-case basis, any formal education or degree qualifications established by regulation pursuant to subsection (b)(2), in order for a tribal member to be hired in an education position to teach courses on tribal culture and language and that subject to subsection (d)(2)(A), a determination by a school board that such a person be hired shall be followed by the supervisor; and

"(C) that it shall not be a prerequisite to the employment of an individual in an education position at the local level that such individual's name appear on the national list maintained pursuant to subsection (c)(1)(A)(ii) or that such individual has applied at the national level for an education position.

"(2) The Secretary may authorize the temporary employment in an education position of an individual who has not met the certification standards established pursuant to regulations, if the Secretary determines that failure to do so would result in that position remaining vacant.

"(d)(1) In prescribing regulations to govern the appointment of educators, the Secretary shall require—

"(A)(i) that educators employed in a school (other than the supervisor of the school) shall be hired by the supervisor of the school unless there are no qualified applicants available, in which case the vacant position shall be filled at the national level from the list maintained pursuant to subsection (c)(1)(A)(ii),

"(ii) each school supervisor shall be hired by the superintendent for education of the agency office of the Bureau in which the school is located, and

"(iii) educators employed in an agency office of the Bureau shall be hired by the superintendent for education of the agency office;

"(B) that before an individual is employed in an education position in a school by the supervisor of a school (or, with respect to the position of supervisor, by the appropriate agency superintendent for education), the local school board for the school shall be consulted, and that subject to subsection (d)(2), a determination by the school board that such individual should not be so employed shall be followed by the supervisor (or with respect to the position of supervisor, by the agency superintendent for education); and

"(C) that before an individual may be employed in an education position at the agency level, the appropriate agency school board shall be consulted, and that, subject to subsection (d)(3), a determination by such school board that such individual should or should not be employed shall be followed by the agency superintendent for education.

"(2)(A) The supervisor of a school may appeal to the appropriate agency superintendent for education any determination by the local school board for the school that an individual be employed, or not be employed, in an education position in the school other than that of supervisor. Upon such an appeal, the agency superintendent for education may, for good cause and in writing to the local board, overturn the determination of the local school board with respect to the employment of such individual.

"(B) The superintendent for education of an agency office of the Bureau may appeal to the Director of the Office any determination by the local school board for a school that an individual be employed, or not be employed, as the supervisor of the school. Upon such an appeal, the Director of the Office may, for good cause and in writing to the local school board, overturn the determination of the local school board with respect to the employment of such individual.

"(3) The superintendent for education of an agency office of the Bureau may appeal to the Director of the Office any determination by the agency school board that an individual be employed, or not be employed, in an education position in such agency office. Upon such an appeal, the Director of the Office may, for good cause and in writing to the agency school board, overturn the determination of the agency school board with respect to the employment of such individual.

"(4) Any individual who applies at the local level for an education position shall state on such individual's application whether or not such individual has applied at the national level for an education position in the Bureau. If such individual is employed at the local level, such individual's name shall immediately be forwarded to the Secretary, who shall, as soon as possibe but in no event in more than thirty days, ascertain the accuracy of the statement made by such individual pursuant to the first sentence of this subparagraph. If the individual's statement is found to have been false, such individual, at the Secretary's discretion, may be disciplined or discharged. If the individual had applied at the national level for an education position in the Bureau, the appointment of such individual at the local level shall be conditional for a period of ninety days, during which period the Secretary may appoint a more qualified individual (as determined by the Secretary) from the list maintained at the national level pursuant to subsection (c)(1)(A)(ii) to the position to which such individual was appointed.

"(5) Except as expressly provided, nothing in this section shall be construed as conferring upon local school boards, authority over, or control of, educators.

"(e)(1) In prescribing regulations to govern the discharge and conditions of employment of educators, the Secretary shall require—

"(A) that procedures be established for the rapid and equitable resolution of grievances of educators; and

"(B) that no educator may be discharged without notice of the reasons therefor and opportunity for a hearing under procedures that comport with the requirements of due process.

"(2) The supervisor of a Bureau school may discharge (subject to procedures established under subsection (e)(1)(B)) for cause (as determined under regulations prescribed by the Secretary) any educator employed in such school. Upon giving notice of proposed discharge to an educator, the supervisor involved shall immediately notify the local school board for the school of such action. A determination by the local school board that such educator not be discharged shall be followed by the supervisor. The supervisor shall have the right to appeal such action to the superintendent for education of the appropriate agency office of the Bureau. Upon such an appeal, the agency superintendent for education may, for good cause and in writing to the local school board, overturn the determination of the local school board with respect to the employment of such individual.

"(3) Each local school board for a Bureau school shall have the right (A) to recommend to the supervisor of such school that an educator employed in the school be discharged, and (B) to recommend to the superintendent of education of the appropriate agency office of the Bureau and to the Director of the Office, that the supervisor of the school be discharged.

"(f) Subject to the authority of the Civil Service Commission to determine finally the applicability of chapter 51 of title 5, United States Code, to specific positions and employees in the executive branch, the Secretary shall determine in accordance with subsection (a)(1) the applicability or inapplicability of such chapter to positions in the Bureau.

"(g)(1) The Secretary shall fix the basic compensation or annual salary rate for educators and education positions at rates comparable to the rates in effect under the General Schedule for individuals with comparable qualifications, and holding comparable positions, to whom chapter 51 is applicable.

"(2) Each educator employed in an education position in Alaska shall be paid a cost-of-living allowance equal to 25 per centum of the rate of basic compensation to which such educator is entitled.

"(3) The Secretary may pay a postdifferential not to exceed 25 per centum of the rate of basic compensation, on the basis of conditions of environment or work which warrant additional pay as a recruitment and retention incentive.

"(h) Any individual—

"(1) who on the date of enactment of this Act is holding a position which is determined under subsection (f) to be an education position and who elects under subsection (n)(2) to be covered under the provisions of this section, or

"(2) who is an employee of the Federal Government or the municipal government of the District of Columbia and is transferred, promoted, or reappointed, without break in service, from a position under a different leave system to an education position,

shall be credited for the purposes of the leave system provided under regulations prescribed pursuant to subsection (b)(10), with the annual and sick leave to his credit immediately before the effective date of such election, transfer, promotion, or reappointment.

"(i) Upon termination of employment with the Bureau, any annual leave remaining to the credit of an individual within the purview of this section shall be liquidated in accordance with sections 5551(a) and 6306 of title 5, United States Code, except that leave earned or included under regulations prescribed pursuant to subsection (b)(10) shall not be so liquidated.

"(j) In the case of any educator who is transferred, promoted, or reappointed, without break in service, to a position in the Federal Government under a different leave system, any remaining leave to the credit of such person earned or credited under the regulations prescribed pursuant to subsection (b)(10) shall be transferred to his credit in the employing agency on an adjusted basis in accordance with regulations which shall be prescribed by the Civil Service Commission.

"(k) An educator who voluntarily terminates employment with the Bureau before the expiration of the existing employment contract between such educator and the Bureau shall not be eligible to be employed in another education position in the Bureau during the remainder of the term of such contract.

"(l) In the case of any educator employed in an education position described in subsection (m)(1)(A) who—

"(1) is employed at the close of a school year,

"(2) agrees in writing to serve in such a position for the next school year, and

"(3) is employed in another position during the recess period immediately preceding such next school year, or during such recess period receives additional compensation referred to in subsection (g)(2) or (g)(3), section 5533 of title 5, United States Code, relating to dual compensation, shall not apply to such educator by reason of any such employment during a recess period for any such receipt of additional compensation.

"(m) For the purpose of this section—

"(1) The term 'education position' means a position in the Bureau the duties and responsibilities of which—

"(A) are performed on a school-year basis principally in a Bureau school and involve—

"(i) classroom or other instruction or the supervision or direction of classroom or other instruction;

"(ii) any activity (other than teaching) which requires academic credits in educational theory and practice equal to the academic credits in educational theory and practice required for a bachelor's degree in education from an accredited institution of higher education; or

"(iii) any activity in or related to the field of education notwithstanding that academic credits in educational theory and practice are not a formal requirement for the conduct of such activity; or

"(B) are performed at the agency level of the Bureau and involve the implementation of education-related programs other than the position of agency superintendent for education.

"(2) The term 'educator' means an individual whose services are required, or who is employed, in an education position.

"(n)(1) This section shall apply with respect to any individual hired after the effective date of subsection (a)(2) for employment in an education position and to the position in which such individual is employed. Subject to paragraph (2), the enactment of this Act shall not affect the continued employment of any individual employed immediately before the effective date of subsection (a)(2) in an education position, or such individual's right to receive the compensation attached to such position.

"(2) Any individual employed in an education position immediately before the effective date of subsection (a)(2) may, within five years of the date of enactment of this Act, make an irrevocable election to be covered under the provisions of this section.

"MANAGEMENT INFORMATION SYSTEM

"SEC. 522. The Secretary shall establish within the Bureau, within one year after the date of the enactment of this Act, a management information system, which shall provide information to all agency and area offices of the Bureau, and to the Office. Such information shall include but shall not be limited to—

"(1) student enrollment;

"(2) curriculum;

"(3) staff;

"(4) facilities;

"(5) community demographics; and

"(6) student assessment information.

"BUREAU EDUCATION POLICIES

"SEC. 523. Within one hundred and eighty days of the date of enactment of this Act, the Secretary shall develop, publish in the Federal Register, and submit to all agency and area offices of the Bureau, all tribal governments, and the appropriate committees of the Congress, a draft set of education policies, procedures, and practices for education-related action of the Bureau. The Secretary shall, within one year of the date of enactment of this Act, provide that such uniform policies, procedures, and practices shall be finalized and promulgated. Thereafter, such policies, procedures, and practices and their periodic revisions, shall serve as the foundation for future Bureau actions in education.

"UNIFORM EDUCATION PROCEDURES AND PRACTICES

"SEC. 524. The Secretary shall cause the various divisions of the Bureau to formulate uniform procedures and practices with respect to such concerns of those divisions as relate to education, and shall report such practices and procedures to the Congress.

"RECRUITMENT OF INDIAN EDUCATORS

"SEC. 525. The Secretary shall institute a policy for the recruitment of qualified Indian educators and a detailed plan to promote employees from within the Bureau. Such plan shall include opportunities for acquiring work experience prior to actual work assignment.

"ANNUAL REPORT

"SEC. 526. The Secretary shall submit to each appropriate committee of the Congress a detailed annual report on the state of education within the Bureau and any problems encountered in the field of education during the year. Such report shall contain suggestions for improving the Bureau educational system and increasing local Indian control of such system.

"RIGHTS OF INDIAN STUDENTS

"SEC. 527. Within six months of the dat of enactment of this Act, the Secretary shal prescribe such rules and regulations as ar necessary to insure the constitutional an civil rights of Indian students attendin Bureau schools, including their right t privacy under the laws of the United State their right to freedom of religion and ex pression and their right to due process i connection with disciplinary actions, su pensions, and expulsions.

"REGULATIONS

"SEC. 528. Regulations required to b adopted under sections 516 through 527 o this Act shall be deemed rules of general ap plicability prescribed for the administratio of an applicable program for the purposes o section 431 of the General Education Prov sions Act and shall be promulgated, sub mitted for congressional review, and tak effect in accordance with the provisions o such section.

"DEFINITIONS

"SEC. 529. For the purpose of this title—

"(1) the term 'local educational agenc means a board of education or other legal constituted local school authority havi administrative control and direction of fr public education in a county, township, ind pendent, or other school district locat within a State, and includes any State agen which directly operates and maintains facil ties for providing free public education;

"(2) the term 'Commissioner' means t Commissioner of Education;

"(3) the term 'Secretary' means the Secr tary of the Interior;

"(4) the term 'Bureau' means the Bure of Indian Affairs of the Department of t Interior;

"(5) the term 'local school board', wh used with respect to a Bureau school, mea a body, the members of which are appoint by the governing bodies of any affected trib or if so designated by such tribes, elected by the parents of the Indian children atten ing the school; and the number of su members shall be determined by the Sec tary in consultation with such tribes;

"(6) the term 'agency school board', mea a body, the members of which are appoint by the governing bodies of any affected trib or if so designated by such tribes, elected the parents of the Indian students in Bure schools under such agency; and the numb of such members shall be determined by t Secretary in consultation with such trib

"(7) the term 'supervisor' means the in vidual in the position of ultimate author at a Bureau school;

"(8) the term 'financial plan' means a pl of services to be provided by each Bure school;

"(9) the term 'Indian organization' mea any group, association, partnership, corpo tion, or other legal entity owned or control by a federally recognized Indian trib tribes, or a majority of whose members members of federally recognized Indi tribes; and

"(10) The term 'tribe' means any Indi tribe, band, nation, or other organized gro or community, including any Alaska Nat village or regional or village corporation defined in or established pursuant to Alaska Native Claims Settlement Act Stat. 688) which is recognized as eligible the special programs and services provid by the United States to Indians because their status as Indians.

"PART C—AMENDMENTS TO VARIOUS EDUCATI ACTS

"EXTENSION OF PROGRAMS FOR THE EDUCATI OF INDIAN CHILDREN

"SEC. 531. (a) Section 810(g) of the E mentary and Secondary Education Act 1965 is amended by striking out 'July 1, 19 and inserting in lieu thereof 'October 1, 19

"(b) Section 303(a)(1) of the Act of S

tember 30, 1950 (Public Law 874, Eighty-first Congress) as added by the Indian Education Act, is amended by striking out 'October 1, 1978' and inserting in lieu thereof 'October 1, 1983'.

"(c)(1) Section 422 of the Indian Education Act is amended by striking out 'each of the three succeeding fiscal years' and inserting in lieu thereof 'each of the succeeding fiscal years ending prior to October 1, 1983'.

"(2) Section 423(a) of such Act is amended by striking out 'each of the three succeeding fiscal years' and inserting in lieu thereof 'each of the succeeding fiscal years ending prior to October 1, 1983'.

"(3) Section 442(a) of such Act is amended by striking out 'October 1, 1978' and inserting in lieu thereof 'October 1, 1983'.

"CULTURALLY RELATED ACADEMIC NEEDS

"SEC. 532. (a) Section 302(a) of the Indian Elementary and Secondary School Assistance Act is amended—

"(1) by striking out 'special educational needs of Indian students' and inserting in lieu thereof 'special educational and culturally related academic needs of Indian students'; and

"(2) by striking out 'those special educational needs' and inserting in lieu thereof 'these special educational or culturally related academic needs, or both'.

"(b) Section 304 of such Act is amended by striking out 'special educational needs' each place it appears in paragraphs (1) and (2) and inserting in lieu thereof 'special educational or culturally related academic needs, or both'.

"DEMONSTRATION PROJECTS

"SEC. 533. Section 303 of the Indian Elementary and Secondary School Assistance Act is amended by adding at the end thereof the following new subsection:

"'(c) In addition to the sums appropriated for any fiscal year for grants to local educational agencies under this title, there is hereby authorized to be appropriated for any fiscal year an amount not in excess of 10 per centum of the amount appropriated for payments on the basis of entitlements computed under subsection (a) for that fiscal year, for the purpose of enabling the Commissioner to make grants on a competitive basis to local educational agencies to support demonstration projects and programs which are designed to plan for and improve education opportunities for Indian children, except that the Commissioner shall reserve a portion not to exceed 25 per centum of such funds to make grants for demonstration projects examining the special educational and culturally related academic needs that arise in school districts with high concentrations of Indian children.'.

"PARENT COMMITTEES

"SEC. 534. Section 305(b) of the Indian Elementary and Secondary School Assistance Act is amended—

"(1) by inserting '(including persons acting in loco parentis other than school administrators or officials)' after 'Indian children' in paragraph (2)(B)(i) and after 'children participating in the program' in paragraph (2)(B)(ii);

"(2) by inserting ', including the hiring of personnel,' after 'policies and procedures' in paragraph (2)(C); and

"(3) by striking out the period at the end of paragraph (2)(C) and inserting in lieu thereof a semicolon and by adding at the end thereof the following new paragraph:

"'(3) provides that the parent committee formed pursuant to paragraph (2)(B)(ii) will adopt and abide by reasonable bylaws for the conduct of the program for which assistance is sought.'.

"ALLOCATION ADJUSTMENTS

"SEC. 535. Section 307(b) of the Indian Elementary and Secondary School Assistance Act is amended to read as follows:

"'(b) In the case of any fiscal year in which the maximum amounts for which local educational agencies are eligible have been reduced under the first sentence of subsection (a), and in which additional funds have not been made available to pay in full the total of such maximum amounts under the second sentence of such subsection, the Commissioner may reallot, in such manner as he determines will best assist in advancing the purposes of this title, any amount awarded to a local education agency in excess of the amount to which it is entitled under section 303(a) and subsection (a) of this section, or any amount which the Commissioner determines, based upon estimates made by local education agencies, will not be needed by any such agency to carry out its approved project.'.

"TRIBAL SCHOOLS

"SEC. 536. Notwithstanding any other provisions of law, any Indian tribe or organization which is controlled or sanctioned by an Indian tribal government and which operates any school for the children of that tribe shall be deemed to be a local educational agency for purposes of section 303(a) of the Indian Elementary and Secondary School Assistance Act (title III of Public Law 874, Eighty-first Congress) if each such school, as determined by the Commissioner, operated by that tribe or organization provides its students an educational program which meets the standards established under section 111 for the basic education of Indian children, or is a school operated under contract by that tribe or organization in accordance with the provisions of the Indian Self-Determination and Education Assistance Act.

"AMENDMENTS TO TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

"SEC. 537. (a) Section 810(c)(1)(E) of the Elementary and Secondary Education Act of 1965 is amended by inserting 'and gifted and talented Indian children' after 'handicapped'.

"(b)(1) Section 810(c)(1)(F) of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

"'(F) early childhood programs, including kindergarten;'.

"(2)(A) Section 810(d) of the Elementary and Secondary Education Act of 1965 is amended—

"(i) by striking out 'children' in paragraphs (1) and (2) of such section and by inserting in lieu thereof 'students' each time it appears; and

"(ii) by inserting after 'teachers' a comma and the following: 'administrators'.

"(B) The section heading of section 810 of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

"'IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN STUDENTS'

"(c) Section 810(e) of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

"(e)(1) The Commissioner is also authorized to make grants to and contracts with public agencies, State educational agencies in States in which more than five thousand Indian children are enrolled in public elementary and secondary schools, Indian tribes, Indian institutions, Indian organizations, or to make contracts with private institutions and organizations, to establish, on a regional basis, information centers to—

"'(A) evaluate programs assisted under this part, under the Indian Elementary and Secondary School Assistance Act, under section 316 of the Adult Education Act, and other Indian education programs in order to determine their effectiveness in meeting the special educational and culturally related academic needs of Indian children and to conduct research to determine those needs;

"'(B) provide technical assistance upon request to local educational agencies and Indian tribes, Indian organizations, Indian institutions, and parent committees created pursuant to section 305(b)(2)(B)(ii) of the Indian Elementary and Secondary School Assistance Act in evaluating and carrying out programs assisted under this part, under such Act, and under section 316 of the Adult Education Act through the provision of materials and personnel resources; and

"'(C) disseminate information upon request to the parties described in subparagraph (B) concerning all Federal education programs which affect the education of Indian children including information on successful models and programs designed to meet the special educational needs of Indian children.

"'(2) Grants or contracts made pursuant to this subsection may be made for a term not to exceed three years (renewable at the end of that period subject to the approval of the Commissioner) provided that provision is made to insure annual review of the projects.'.

"(d) Section 810(f) of the Elementary and Secondary Education Act of 1965 is amended by inserting '(1)' after '(f)', by redesignating clauses (1), (2), (3), and (4) as clauses (A), (B), (C), and (D) respectively, and by adding at the end thereof the following:

"'(2) The Commissioner shall not approve an application for a grant under subsection (e) of this section unless he is satisfied that the funds made available under that subsection will be so used as to supplement the level of funds from State, local, and other Federal sources that would, in the absence of Federal funds under this subsection, be made available by the State or local educational agency for the activities described in this subsection, and in no case will be used so as to supplant those funds.'.

"(e) Section 810(g) of the Elementary and Secondary Education Act of 1965 is amended by inserting '(1)' after '(g)' and by adding at the end thereof the following:

"'(2) For the purpose of making grants under subsection (e) of this section there are hereby authorized to be appropriated $8,000,000 for each of the fiscal years ending prior to October 1, 1983. The sum of the grants made to State educational agencies under subsection (e) of this section shall not exceed 15 per centum in any fiscal year of the sums appropriated for that year.'.

"(f) Section 306(a) of the Indian Elementary and Secondary School Assistance Act is amended by inserting 'estimated to be' after 'equal to the amount'.

"TEACHER TRAINING AND FELLOWSHIPS

"SEC. 538. (a) The first sentence of section 422(a) of the Indian Education Act is amended by striking out 'children' and inserting in lieu thereof 'people'.

"(b) Section 423(a) of the Indian Education Act is amended—

"(1) by striking out 'less than three, nor'; and

"(2) by striking out 'professional or graduate degree in engineering, medicine, law, business, forestry, and related field' and inserting in lieu thereof 'post-baccalaureate degree in medicine, law, education, and related fields or leading to an undergraduate or graduate degree in engineering, business administration, natural resources, and related fields.'".

On page 20, in the table of contents, strike out part B and items section 321.

On page 20, in the table of contents, redesignate part C as part B.

On page 21, in the table of contents, insert after item section 409 the following:

"TITLE V—INDIAN EDUCATION

"PART A—ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES

"SEC. 501. Amendment to Public Law 874.

"PART B—BUREAU OF INDIAN AFFAIRS PROGRAMS

"SEC. 511. Standards for the basic education of Indian children in Bureau of Indian Affairs schools.

"SEC. 512. National criteria for dormitory situations.
"SEC. 513. Regulations.
"SEC. 514. Studies.
"SEC. 515. Facilities construction.
"SEC. 516. Bureau of Indian Affairs education functions.
"SEC. 517. Implementation.
"SEC. 518. Allotment formula.
"SEC. 519. Uniform direct funding and support.
"SEC. 520. Policy for Indian control of Indian education.
"SEC. 521. Educational personnel.
"SEC. 522. Management information system.
"SEC. 523. Bureau education policies.
"SEC. 524. Uniform education procedures and practices.
"SEC. 525. Recruitment of Indian educators.
"SEC. 526. Annual report.
"SEC. 527. Rights of Indian students.
"SEC. 528. Regulations.
"SEC. 529. Definitions.

"PART C—AMENDMENTS TO VARIOUS EDUCATION ACTS

"SEC. 531. Extension of programs for the education of Indian children.
"SEC. 532. Culturally related academic needs.
"SEC. 533. Demonstration projects.
"SEC. 534. Parent committees.
"SEC. 535. Allocation adjustments.
"SEC. 536. Tribal schools.
"SEC. 537. Amendments to title VIII of the Elementary and Secondary Education Act of 1965.
"SEC. 538. Teacher training and fellowships."

AMENDMENT NO. 3520

On page 352, between lines 15 and 16, insert the following:

"SEC. 311. (a)(1) Section 314(a)(4) of the Act (as redesignated by section 307) is amended by striking out 'on Indian reservations' and inserting in lieu thereof 'among Indians'.

"(2) Section 314 of the Act (as redesignated by section 307) is amended by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively, and by inserting immediately after subsection (a) the following new subsection:

"(b) The Commissioner is also authorized to make grants to Indian tribes, Indian institutions, and Indian organizations to develop and establish educational services and programs specifically designed to improve educational opportunities for Indian adults.".

On page 352, line 16, strike out "SEC. 311." and insert in lieu thereof "(b)".

On page 352, line 16, strike out "(d)" and insert in lieu thereof "(e)".

Mr. JAVITS. Mr. President, may I ask if these are the amendments as printed?

Mr. DECONCINI. Yes; they are.

Mr. JAVITS. Fine. I thank the Senator. I have no objection to the consideration en bloc, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I ask unanimous consent that Senators BARTLETT, KENNEDY, CRANSTON, GOLDWATER, MARK O. HATFIELD, HART, and myself be added as cosponsors to these amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, these amendments have been drafted and consolidated as an additional title 5 to the bill. They are similar to what is now title XI of H.R. 15, the House companion bill to ESEA which passed last month.

Mr. President, these amendments address serious deficiences in the educational programs administered by the Departments of HEW and Interior for Indian people which have been repeatedly documented in study after study. By implementing these long-needed reforms and by providing direction and additional resources for these educational programs, we can take the steps necessary to realize the attainment of equal educational opportunity for all Indian children.

These amendments were submitted Monday, August 21, 1978, and were printed in full in the CONGRESSIONAL RECORD along with a section-by-section analysis. In addition, Senator BARTLETT and Senator ABOUREZK sent a Dear Colleague to all the Members of the Senate which contained the text of these amendments with additional background material.

UP AMENDMENT 1732

(Purpose: To minimize the negative effect on on-going instructional programs by withholding of impact aid payments, and to require a sixty day written notice prior to the dismissal of educational personnel)

Mr. DECONCINI. Mr. President, I send to the desk at this time two modifying amendments and ask that the amendment be modified. These have been cleared both with the managers and the ranking minority member. I urge my colleagues to support these amendments.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Reserving the right to object, Mr. President, we are trying to figure out now what is being done because, if I may be heard, it is a fact that the Abourezk amendments are printed, but my staff says it has had no notice of these two modifications. We need a minute to look them over. Therefore, may I ask Senator HOLLINGS, if he is here, if not, that we may have a quorum, if the Senator would just proceed, or withhold this unanimous consent until we can look at these.

The PRESIDING OFFICER. Does the Senator suggest the absence of a quorum?

Mr. JAVITS. I would think the Senator could go ahead. We do not want to take undue time, unless he wants to——

Mr. DECONCINI. I need no further time.

Mr. JAVITS. Mr. President, if it is agreeable to Senator DECONCINI, we will just take a minute. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I ask that the amendment be considered at this time as modified.

The PRESIDING OFFICER. Is there objection to the modification? Without objection, it is so ordered.

The question is on agreeing to the amendment, as modified.

Mr. PELL. Mr. President, I have had a chance to go over this, and there is no objection on the majority side.

Mr. JAVITS. Mr. President, we are prepared to accept the Abourezk-Bartlett amendment. We have examined the modifications and find them not objectionable, as well.

The PRESIDING OFFICER. The question is on agreeing to the amendments as modified.

The amendments, as modified, were agreed to.

The modifications are as follows:

MODIFICATIONS TO AMENDMENT NO. 3519

On page 6, line 25, strike "immediately" and on page 7, line 4, strike the period, and insert a colon and the following: "provided that the Commissioner may not withhold such moneys during the course of the school year if he determines that it would substantially disrupt the educational programs of the local educational agency.".

On page 25, after line 25, insert the following new subsection:

"(C) educators employed in Bureau schools shall be notified sixty days prior to the end of the school year whether their employment contract will be renewed for the coming year.".

Mr. DECONCINI. Mr. President, I thank the manager of the bill and the ranking minority member.

Mr. PELL. Mr. President, I ask unanimous consent that Sarah Turner and Carlton Betenbaugh, of the staff of Senator ALLEN, have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I make the same request for David Morse.

The PRESIDING OFFICER (Mr. LEAHY). Without objection, it is so ordered.

UP AMENDMENT NO. 1722

The question recurs on the unprinted amendment by the Senator from South Carolina (Mr. HOLLINGS).

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the names of the Senator from Texas (Mr. BENTSEN) and the Senator from North Carolina (Mr. HELMS) be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I listened with great interest to the words of my friend from South Carolina.

I point out that this amendment was not the invention of one member of that committee. It actually was a committee amendment, approved by the whole committee.

It happens that title 12 could equally have been title I in lieu of title XII. We sought to do something to help youngsters in the private schools. In the country as a whole, 9 percent of our youngsters are being educated in nonpublic schools. In my own State, 15 percent are being educated in nonpublic schools.

Our political parties, at their conventions, made many pious statements of which we were reminded in the debate by the junior Senator from New York, to the effect that something should be done to help youngsters in nonpublic schools.

The pattern we followed in the com-

mittee was to seek only to do those things that were constitutional. Obviously, there are two sides to every question.

We believe that the tests were, one, that a proposal must have a secular purpose; two, its principal or primary effect must be one that neither advances nor inhibits religion; and, three, it must not foster an excessive government entanglement with religion.

We were very concerned that the aid we provided through title XII follow closely the decision in Wolman against Walter.

In Wolman, as all those who followed this case know, the Court said that purchasing textbooks for nonpublic schools was constitutional; that supplying standardized tests and scoring services to nonpublic schools was constitutional; that providing speech and hearing services and diagnostic psychological services to nonpublic schools was constitutional. So we had arguments that would indicate that these provisions were constitutional. On the other hand, other lawyers said they were not. For that reason, we added to title XII a provision for an expedited review of that title's constitutionality and a severability provision. Because, in the final analysis, the judgment of whether or not something is constitutional is not in one Senator's hands or in the Senate's hands. It is in the Court's hands.

This expedited review provision would mean that any questioning of the constitutionality of the provisions of title XII could be judged in the courts.

Touching for a moment on the point the Senator raised concerning character, I do stick to my guns. I would agree that you will find crooks emerging from nonpublic schools and you will find men of the finest character emerging from public schools. But on the average, I would say, particularly in the earlier grades, there is more emphasis on character in nonpublic schools than in public schools. I wish that were not the case.

With respect to building character, every one of our Founding Fathers, every signer of the Declaration, was educated in a nonpublic school.

I think the evidence would show that in the average nonpublic school there is a bit more emphasis on character than in the public schools. Maybe we can change that, and I would like to do it. But we are dealing with things as they are.

Mr. President, I think title XII is distinguishable from all of the most recent Supreme Court cases which hold that different types of aid programs to nonpublic schools are unconstitutional. And, I think the differences between title XII and these programs make title XII presumably constitutional.

The first of these most recent cases was decided in 1971. This was the case of *Lemon* v. *Kurtzman*, 403 U.S. 602. The Lemon case was a salary supplement case which considered State laws in Rhode Island and Pennsylvania. Rhode Island supplemented the salary of private school teachers who taught courses that were offered in the public schools. These teachers could not teach religion. The Pennsylvania statute allowed the purchase by the State of certain "secular educational services" from private schools, directly reimbursing those schools for salaries, textbooks, and instructional materials.

The Court found both of these statutes to be unconstitutional. They said the Rhode Island statute would bring about an excessive government entanglement with religion. They said a teacher who was under the control and discipline of a church-related school posed a serious problem to the separation of religious from purely secular aspects of the school; to assure that such a separation did occur would require continuing State surveillance and inspection of school and its activity, and this would result in entanglement.

The Court decided the Pennsylvania case on the entanglement theory also. Pennsylvania had a postaudit financial record inspection authority in the statute. Such an inspection procedure created an intimate and continuing relationship between the church and State, and thus entanglement. The Pennsylvania statute explicitly defined what the schools had to do with respect to the inspection. This fact raised the specter of entanglement.

Title XII can be definitely distinguished from both of these decisions. Unlike the Rhode Island statutes, title XII does not subsidize the salaries of nonpublic school teachers. Title XII does not pose an entanglement problem such as the Rhode Island statute posed.

And, title XII is distinguishable from the Pennsylvania law. The Pennsylvania statute caused the Court to fear that comprehensive measures of State surveillance into the affairs of the church-related school would follow the law. This was a fear of the Court, not only in the Lemon case, but in the case of *Walz* v. *Tax Commissioner*, 397 U.S. 664 (1970). The Court seemed to indicate in Lemon that a direct grant program to nonpublic schools would inevitably lead to entanglement. And, the postaudit record inspection powers of the Pennsylvania statute seemed to support the Court's fears. However, title XII has no such entanglement implication. In fact, every effort was made to remove any suggestion of entanglement.

It is also important to realize that the Court did not say in Lemon that direct aid to nonpublic schools was wrong per se. All the Court said was that the Pennsylvania statute in question had the potential of entanglement, and that the statute had the added defect of the postaudit procedure, which was strong evidence of potential entanglement. Title XII has no such defect.

The next set of cases were decided in 1973. Among these was the famous case of the *Committee for Public Education* v. *Nyquist*, 413 U.S. 756 (1973). The Nyquist case concerned a New York statute that provided three types of financial aid to nonpublic schools. First, the New York statute provided direct money grants to nonpublic schools for maintenance and repair of facilities and equipment to insure the health, welfare, and safety of the students. Second, it provided a tuition reimbursement plan for parents of nonpublic school children if the parents' income were less than $5,000. And, third, it provided tuition tax relief to parents not eligible for reimbursement.

The Court found all three provisions to be unconstitutional based on an advancement of religion theory. It said the inevitable effect of the maintenance and repair grants was to subsidize and advance the religious mission of sectarian schools. The facilities and equipment had no limit in their use, and could be used for religious as well as secular purposes. The Court also said that the tuition credit and reimbursement plans had the effect of providing financial support to nonpublic, sectarian institutions, and that the provisions had no restrictions to assure that their use would not advance religion.

Title XII does not have these problems. None of the assistance that would be provided under the act could be used to advance religion. The materials and equipment section of title XII has a requirement that such materials and equipment could not become affixed to the school facility, and had to be capable of being taken to and from school by the students. Thus, such materials and equipment could not be converted to a religious purpose. And, title XII does not have a tuition credit or reimbursement provision.

It is important to consider what the Court did not say in the Nyquist case, as well as what it did say. The Court did not say that public aid to nonpublic schools was unconstitutional per se. Although the Court did not decide Nyquist on the entanglement theory, it did discuss this theory. The Court said that any type of aid program to nonpublic schools carries with it a grave potential for entanglement in the broad sense of political strife over aid to religion. But, the Court went on to say that the prospect of such divisiveness may not alone warrant the invalidation of State laws that otherwise survive the careful scrutiny required in decisions concerning public aid to nonpublic schools. This admission by the Court implies that some aid programs to nonpublic schools are valid.

The most recent case of *Wolman* v. *Walter*, 97 S. Ct. 2593 (1977), seems to outline the kinds of aid that would be considered valid. And, title XII patterns its assistance on the Wolman case. Under Wolman, textbooks, testing services, speech, and hearing services, and diagnostic psychological services were all held to be constitutional. Title XII would provide transportation services to nonpublic school students to and from the school facility. This type of assistance has been upheld in a long series of cases from *Everson* v. *Board of Education*, 330 U.S. 1 (1947) through *Board of Education* v. *Allen*, 392 U.S. 236 (1968). In this series of cases, the Court has ruled that transportation, school lunches, public health services, and textbooks could all be constitutionally provided to nonpublic schools.

Title XII distinguishes itself from Wolman in its provision of guidance and counseling services and instructional materials and equipment. However, title XII is drafted in such a way that it should answer the Court's concern in these two areas. With respect to guidance and counseling, this provision is taken from title V, part A of the National Defense Education Act of 1958. The Supreme Court has never ruled that a Federal program providing guidance and counseling services to nonpublic schools is invalid. Also, title XII is tightly drafted to insure that the guidance and counseling services provided would be strictly secular, and could not be used for a religious purpose.

With respect to materials and equipment, the Court's concern in Wolman was that such materials and equipment would become a permanent part of the school facility, and as such, would be capable of being used to advance a religious purpose. Title XII should answer this concern. The only materials and equipment which could be purchased under title XII would be those that were incapable of being converted to a religious use and which could not be affixed to the nonpublic school facility. Also, these materials and equipment would have to be capable of being taken home from the school by the students. By drafting title XII in this manner, it will hopefully answer the concerns of the Court.

Thus, title XII is distinguishable from those cases which hold public aid to nonpublic schools invalid, while it is at the same time consistent with the Court's decision in the most recent case concerning this issue. Title XII patterns the aid it provides after the decision of Wolman versus Walter. This is the Supreme Court's last pronouncement in this area. And, since the Court has never ruled on the question of Federal aid to nonpublic schools, it is virtually impossible to predict what the Court will say with respect to any type of Federal program in this area. However, since title XII follows the Wolman guidelines, it has a presumption of constitutionality.

Also, it is important to point out that the issue of entanglement can be raised with any question of aid to nonpublic schools, whether that aid be in the form of tax credits, indirect aid through the student, or direct aid. We think we have taken all the steps necessary to avoid the entanglement issue with respect to title XII.

Mr. President, I yield the floor to the Senator from New York.

Mr. MOYNIHAN. I thank the distinguished chairman of the committee.

Mr. President, I support this important innovation in national educational policy, and I will speak—I hope it will not be at excessive length—to some of the earlier comments of our friend, the Senator from South Carolina.

Mr. President, we deal here with what is perhaps the last frontier of civil rights in this Nation. We do so at the beginning of a debate that very well will take up a generation.

It is characteristic of this beginning, as I suspect it has been of other such beginnings, that there are few Senators on the floor, with hardly anyone in the galleries, and what we say here will not be reported in the press nor much noted even among ourselves.

But I do think we should know that we have made a beginning in this Congress, for the first time in the history of this Republic, in debating these issues.

We stand at an intersection between a legacy of religious bigotry in this Nation and a new but increasingly formed tendency to what is perhaps best described as statism—the conviction that that which is not public is somehow suspect.

I am not surprised that there are few Senators present in the Chamber. I think that from the debates of the previous week we could describe the Senate as divided into roughly three parts.

About a third of the Senate cannot imagine that anything we say might be so. It is an impermeable prejudice on the point that does not even attain to the condition of doubt, and they do not come to listen to what they can imagine need not be heard.

There is another third which begins to fear that what we say might in fact be soundly based and does not wish to hear.

Then, lastly, I should think there is about a third of the Senate that commenced to see the nature of the arguments and the validity of some of them at least, and that is perhaps about the number of votes we will receive this evening.

But even though, I wish to restate some of the points I made earlier in the tuition tax credit debate in which the Senator from Rhode Island was generously supportive even though he could not actually associate himself with that particular form of support which he now promises he will do.

Mr. PELL. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I am happy to yield.

Mr. PELL. I add that one of the reasons why I did not vote with the Senator from New York was because I had this as a position to which to fall back. But I believe that something must be done to help the private schools, and I must say that if this is rejected my sympathy for the plight of the private nonpublic school will still remain great and I will be very sympathetic to the tax credit approach, although as a whole I do not prefer the tax credit approach.

Mr. MOYNIHAN. I say the Senator has proven his sympathy and demonstrated his mastery of the subject in the legislation before us which comes not from him in an idiosyncratic manner but from that great committee over which he reports at this time, and it is an honor to this Chamber that he brought this legislation.

I wish to turn now to the comments which the Senator from South Carolina has offered and to say what he knows. I accept fully the good faith in which they are offered and the ability with which they are argued.

But to repeat our earlier assertion, his opposition is based upon the weakest possible argument in this area which is that recent Supreme Court decisions indicate that he would not be accepted by the Court.

I say that as with tuition tax credits. If this is sound educational policy, in our judgment we should endorse it and p
sent it to the Court for decision becau
Mr. President, the Supreme Court's d
cisions in this area now make no sen
They are erratic. They constitute f
more than law.

It was a great understatement whi
Mr. Justice Powell said at the outset
his dissent in Wolman:

Our decisions in this troubling area d
lines that often must seem arbitrary.

Well, arbitrary indeed they are.

The key decision in Wolman, and I s
such as may hear me just to listen
these words:

In summary, we hold constitutional th
portions of the Ohio statute authorizing
State to provide nonpublic school pup
with books.

Then I leave out a few other items.

We hold unconstitutional those portio
relating to instructional materials.

We are stolidly required by the Cou
to suppose that there is a constitutio
distinction between textbooks and i
structional materials. If Senators w
believe that that is to be found in t
first amendment, I suggest they will h
lieve anything, and the Court made
effort to defend its distinction. It is p
haps as embarrassed by it as it show
be.

Are we to assume in the face of th
embarrassment, which the Justic
themselves increasingly acknowled
that we should not exercise a clear co
stitutional right to state in legislati
what we believe to be constitutional a
await the judgment of the Court in t
matter?

During the last debate Senators m
recall, some of them, the stateme
which Phillip Kurland offered in th
matter when he said:

These cases have not been decided
principle but rather on the personal pre
lections of the judges.

And he earlier stated:

Anyone suggesting that the answer a
matter of constitutional law is clear one w
or the other is either deluding or delud

Let me offer, in the hopes that the
might be four Senators in this Chamb
to hear me, two items.

In Wolman against Walter, the m
jority spoke of the necessity that any
to nonpublic schools may not have, a
I quote: The impermissible effect of a
vancing religion.

The impermissible effect of advan
ing religion? It sounds like somethi
one can read on the wall in the st
museum of atheism in Leningrad. It
an archaic notion.

I am not here suggesting that the
is something horrible about atheists, n
in the least. I am suggesting that th
kind of notion, that the advancement
religion was the retardation of progre
is a 19th century idea already quaint
itself in no way reflecting the sensibilit
of this anguished and uncertain age a
culture in which we live.

It belongs in the glossary of the Scop
trial and not in the rhetoric and deb
of the last quarter of the 20th centu

I give Senators another example, ju
an example.

In this decision in the Lemon case, M

Justice Douglas, as brilliant and wonderful a man as we have had on the court in our time, cited as an argument against aid to nonpublic schools, to Catholic schools, a text from a passage from a book on Roman Catholicism by Mr. Boettner, Mr. Boettner who argues inter alia, as the judges say, that no Roman Catholic should be allowed to teach in the public schools. Such is the subversive nature of their doctrine.

But what is it subversive of? Mr. Boettner goes on at great length and says:

> History, literature, geography, civics, and science are all given a Roman Catholic slant.

And then he says:

> Their purpose is not so much to educate, but to indoctrinate and train, not to teach scripture truths and Americanism, but to make loyal Roman Catholics.

Mr. Justice Douglas asked us to believe that the failing of the Catholic schools is that they do not teach Scripture truths, meaning a particular mode of Scripture truths.

This belongs in the era of the debates over Darwin.

Mr. President, in the face of the intellectual demise of the Court's standards surely we should have the sense of authority in ourselves to do what we think is constitutional and await the Court.

I say to Senators that it is argued that this provision violates the Court's decisions in the area involved.

I suggest that these decisions are illogical, unpersuasive, arbitrary, and mutually inconsistent.

We are not bound to spare the Court yet another confrontation with its own embarrassing work in this area of constitutional law. Indeed, I would argue the contrary, that we are bound to make them face it again and again until they bring to those principles of logic and consistency which must underlie constitutional law if it is to earn our respect as well as it should our obedience.

I would remind this Chamber that we are today the only English-speaking nation in the world that does not freely provide public educational assistance to the public and the nonpublic schools alike. We are the only one. Nations which fully share our inheritance of the Reformation and the difficulties of subsequent centuries have put that all behind them. In Canada, Australia, New Zealand, Great Britain, and Ireland, the nonpublic schools receive, as a matter of right, pretty much the same or sometimes precisely the same public support as the government schools. We are dealing with an archaism in our thoughts, somehow intersecting with a growing feeling that that which government does not control may not be permitted.

That is precisely the animating principle of the HEW bureaucracy.

It will be a generation, I suspect—and the question may be moot by that time—before what we say is understood, what we have said here tonight is understood.

I hope the Senator from Rhode Island will be looked back upon as the first man to bring to the floor of the Senate an amendment to our basic Education Act calling for equity in these matters, as he has done.

I would remind him that in the previous couple of days we have had in the back of our Chamber large blowups of the Republican and Democratic platform commitments in another matter on civil rights or very near to civil rights. That is absent here because we are embarrassed by it, because we will not keep faith with the commitments we made.

But, Mr. President, this is an old Republic and, with the grace of God—if I may invoke that term without offending—we will be older yet and, perhaps, in time the equity and justice and the law of the case we made will come to be seen better than it is today.

I conclude by once again thanking the Senator from Rhode Island for his courage in this matter and his prophecy in this matter, that this day will one day be remembered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I have three amendments——

The PRESIDING OFFICER. There is an amendment pending.

Mr. HEINZ. I thank the Chair. I was not aware of it. I yield the floor.

Mr. HOLLINGS. What did the Senator say? We have an amendment pending and we have the yeas and nays. I think the Senator from Rhode Island and I——

Mr. PELL. I am prepared to vote. I thought the Senator wanted to speak on it.

The PRESIDING OFFICER. The question is on agreeing to the amendment on the amendment——

Mr. JAVITS addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. I shall be very brief, but I do want to say a word.

Mr. President, I shall vote with Senator PELL on title XII, and for this reason: It is a fact—I am too much of a lawyer to gild that lily—that there are constitutional questions as to the provisions, the detailed provisions, of title XII.

But let us remember we are going to conference in this matter and that title XII does not exist in the House bill and that, therefore, we will be able to work out the individual detailed applications of the use of $500 million, if that is the amount that the Senate finally authorizes here under this title.

I also point out that a section of title XII deals with an expedited consideration by the courts, recognizing the fact that this matter, some parts of it, may have to be submitted to the courts.

One of the reasons why I sought the floor and, as I say, I shall be very brief, is it has not been sufficiently noted that what title XII does is to back up other provisions of the bill. The fact is that throughout the bill there are provisions which materially firm up the proposition that nonpublic schools shall be entitled to participate in funds under ESEAA to the extent that the Constitution will allow.

That is spelled out in great detail under three categories: One, consultation is required between nonpublic and public school officials to insure that needs of nonpublic students are reflected in the design of the funding proposals; second, that there is assurance of alternative arrangements, passthroughs, and otherwise, for services to nonpublic students when the local educational agency is unwilling or unable through State law to comply with the requirements we put in the bill; and, third, that we establish procedures for nonpublic school representatives to achieve satisfactory resolution of their complaints by the process of complaint and hearing to the Commissioner of Education.

These are critically important changes. The fact is that nonpublic school students have not received their due, not that it is anybody's fault but just in the way matters have been set up under the ESEAA, and we propose that they should, and, therefore, title XII represents, as I say, notwithstanding its constitutional problems, a backup for the general actions taken in the rest of the bill.

Mr. President, in substantiation of that position, I ask unanimous consent that a table may be included as part of my remarks which show as to the various titles of the bill, other than title XII, the present law and the new requirements which are proposed by S. 1753, designed along the line which I have described.

There being no objection, the comparison was ordered to be printed in the RECORD, as follows:

PARTICIPATION OF NONPUBLIC SCHOOL STUDENTS IN MAJOR ESPA PROGRAMS

COMPARISON OF CURRENT LAW WITH S. 1753, EDUCATION AMENDMENTS OF 1978—Continued

Title I

Current Law	S. 1753
Requires LEA to extend Title I services to nonpublic students on equitable basis.	Requires equal expenditures (based on numbers and need) for nonpublic students.
Only 43 percent of Title I school districts serve nonpublic students.	All Title I districts should serve eligible nonpublic students.
2 percent of students served are nonpublic students.	Effect should be that closer to 10 percent of students served are nonpublic.
Nonpublic students served an average of 1 hour per week, compared with 5 hours per week for public school students.	Nonpublic students should receive 4 more hours of instruction per week.

COMPARISON OF CURRENT LAW WITH S. 1753, EDUCATION AMENDMENTS OF 1978—Continued

Title I

Current Law	S. 1753
State files assurances with U.S.O.E. re nonpublic school participation.	SEA files detailed plan for actively monitoring and enforcing no public participation.
No comparable provision.	SEA must establish procedures for resolving complaints re ins ficient nonpublic school participation.
When LEA fails to comply with law, U.S.O.E. must arrange by-pass of LEA to serve nonpublic students.	By-pass remains effective until U.S. Commissioner of Educati determines LEA will provide required services.
Title I teachers travel to public schools; or nonpublic students transported with Title I funds to public school projects; or nonpublic students served in neutral site, such as mobile unit.	Continued.
LEA loans equipment and materials to nonpublic schools.	Continued.

Title IV

Current Law	S. 1753
IV–B: School libraries and learning resources	
Nonpublic students participate only when LEA receives funds.	If LEA not funded, nonpublic schools can receive services throu alternative arrangements.
Nonpublic students often participate only to extent LEA program is suitable to their needs.	LEA must consult with nonpublic school officials to provide nonpublic students in initial program design.
7% of funds go to nonpublic students.	Effect should be that closer to 10% of funds go to nonpul students.
LEA loans books, instructional supplies, and equipment to nonpublic schools.	Continued.
IV–C: Innovation	
No comparable provision.	Funds can be used to diagnose learning problems and assess ed cational problems of nonpublic students.
Nonpublic students participate directly in innovative projects operated by LEA.	Continued.
Nonpublic teachers participate in staff training projects.	Continued.
IV–D: Guidance, counseling, testing	
Nonpublic students receive guidance and counseling from LEA staff and participate in testing programs.	Increased level of participation.
No comparable provision.	Incorporates provisions enacted in 1976 for in-service train for nonpublic school teachers and counselors.
IV–E: Gifted and talented	
Nonpublic students participate in small grants under Special Projects Act and to limited extent under Innovative Projects (IV–C).	Substantially expanded program requires equitable participat of nonpublic students.
No comparable provision.	LEA must consult with nonpublic school officials to provide nonpublic students in program design.
Bilingual Education Act	
Estimated 6% of project students are nonpublic students.	Effect should be increased percentage to reflect number of eligi nonpublic students.
LEA required to serve nonpublic students whose educational needs are those addressed by LEA project.	If LEA fails to comply, U.S. Commissioner of Education m reduce LEA grant by amount needed to assess needs of nonpul students and carry out program for them.
Nonpublic students attend classes in public school, or on neutral site; LEA may loan equipment and materials for life of project.	Continued.
LEA provides resource staff to aid nonpublic teachers; nonpublic teachers participate in training programs.	Continued.
Emergency School Aid Act	
Requires equitable participation of children, teachers, and other educational staff in nonpublic schools when such schools meet certain non-discrimination criteria and when their participation would help achieve ESAA purposes.	Continued.
Requires by-pass of LEA to provide services to nonpublic students and staff when LEA fails to provide for their appropriate participation or is prohibited by state law from doing so.	Continued.
Special Projects Act	
Provides only under special authority for programs for gifted and talented children that nonpublic students shall participate to extent consistent with their number.	Blanket provision applying to all programs under act requi LEA to consult with nonpublic school officials to provide for no public students in program design.
Funding	
Current expenditures from above programs for nonpublic students estimated to be $175 million.	Nonpublic students comprise about 10% of total student popu tion: should receive 10% of funds for above programs, or $350 mill in FY '79.

DEFINITIONS

ESEA: Elementary and Secondary Education Act.

ESEA Title I: Aid for compensatory services to disadvantaged children.

ESEA Title IV-B: Aid for school library and learning resources.

ESEA Title IV-C: Aid for innovative programs and improvement of educational services.

ESEA Title IV-D: Aid for guidance, counseling, and testing.

ESEA Title IV-E: Aid for special programs for gifted and talented children.

Special Projects Act: Discretionary funds for a variety of programs, including metrics and arts education, career education, consumer education.

ESAA: Emergency School Aid Act: Aid for desegregating school districts to overcome the effects of discrimination on minority children.

U.S.O.E.: United States Office of Education.

S. 1753: Education Amendments of 1978: extends ESEA and other expiring education laws.

SEA: State Education Agency.

LEA: Local Education Agency.

Mr. JAVITS. I hope, Mr. President, for these reasons the Senate will sustain title XII.

Mr. HATCH. Mr. President, will the Senator yield for a unanimous-consent request? I ask unanimous consent that Mr. Mike Hammond, of Senator MCCLURE's staff, be accorded the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I ask unanimous consent that Miss Jane Yanulis, of Senator DURKIN's staff, be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I make the same request for Miss Jill Porter, of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, one word and then I will be prepared to yield.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. I think the senior Senator from New York, Mr. JAVITS, made two dangerous arguments. One, and I consider it a danger to my position if we put it in, he said title XII is not in the House bill, and if we go to conference we can knock it out. That is not a persuasive argument, but it disarms you and it denudes you and it says, "Well, this is not too bad, fellows. Let us give it a try."

The second thing is it is misleading in the context of title XII. Title XII, as the Senator does say, follows title I, IV and others, but there is nothing in title XII with respect to what we were talking about under the Domenici bypass or providing for the parochial and private schools the money due the parochial or private schools students.

Title I requires spending for education of nonpublic school children comparable sums consistent with their numbers and educational needs, and with that I concur.

Title IV requires the State to develop a plan for insuring equitable participation of nonpublic school students in all Federal programs. In that thrust, Senator from New York and Senator from Rhode Island, you and I, all three of us, are in agreement. We are not trying to deny parochial or private school students on the basis of need in the present program, and we commend you for its inclusion there in title I and title IV.

But let us not confuse that with title XII. Title XII is a direct grant to private schools with 90 percent of them parochial. It is undesirable, unconstitutional and fiscally unsound.

SEVERAL SENATORS. Vote! Vote!

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. (Mr. LEAHY). May we have order? It is becoming increasingly difficult for the clerk to hear Senators respond. I understand we are going to be here quite a bit longer; the distinguished majority leader seems to agree with that assessment. I think we could speed up proceedings if we could hear what is going on. The Chair respectfully requests Senators to refrain from conversations while the clerk reads the names of the Senators.

The clerk may proceed.

The call of the roll was resumed and concluded.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Louisiana (Mr. LONG), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON) would vote "nay."

Mr. STEVENS. I announce that the Senator from Nevada (Mr. LAXALT), the Senator from Kansas (Mr. PEARSON), the Senator from Virginia (Mr. SCOTT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The result was announced—yeas 60 nays 30, as follows:

[Rollcall Vote No. 356 Leg.]

YEAS—60

Allen	Bagleton	Magnuson
Baker	Garn	McGovern
Bartlett	Glenn	Metzenbaum
Bellmon	Goldwater	Morgan
Bentsen	Gravel	Muskie
Biden	Hansen	Nelson
Brooke	Hart	Nunn
Bumpers	Haskell	Proxmire
Burdick	Hatch	Randolph
Byrd, Harry F., Jr.	Hatfield, Mark O.	Riegle
Byrd, Robert C.	Hathaway	Sasser
Cannon	Helms	Schmitt
Chiles	Hodges	Stafford
Clark	Hollings	Stennis
Cranston	Huddleston	Stevens
Culver	Humphrey	Stevenson
Curtis	Inouye	Talmadge
DeConcini	Jackson	Thurmond
Dole	Kennedy	Tower
Domenici	Leahy	Young

NAYS—30

Bayh	Heinz	Percy
Case	Javits	Ribicoff
Chafee	Luger	Roth
Church	Mathias	Sarbanes
Danforth	Matsunaga	Schweiker
Durkin	McClure	Stone
Ford	McIntyre	Wallop
Griffin	Melcher	Williams
Hatfield, Paul G.	Moynihan	Zorinsky
Hayakawa	Packwood	
	Pell	

NOT VOTING—10

Abourezk	Laxalt	Sparkman
Anderson	Long	Weicker
Eastland	Pearson	
Johnston	Scott	

So the amendment (UP No. 1722) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HODGES. Mr. President, I move to lay that on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that any subsequent rollcall votes be limited to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Senator from Utah (Mr. HATCH) is recognized to call up a series of amendments if he so wishes.

If the Senator will pause a moment, the Chair will try to achieve order in the Chamber.

Will the Senate be in order so the Senator from Utah can be heard?

The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent that Alison Wiley, of Senator STONE's staff, be granted the privileges of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3511

Mr. HATCH. Mr. President, I call up my amendment No. 3511 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Utah (Mr. HATCH), for himself, Mr. BARTLETT, Mr. GARN, Mr. MCCLURE, Mr. WALLOP, and Mr. ZORINSKY, proposes an amendment No. 3511.

Mr. HATCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Page 377, after line 16, insert a new section as follows:

SEC. 410. Section 439 of the General Education Provisions Act (relating to "protection of pupil rights") is amended by inserting "(a)" after "439" and by adding at the end thereof a new subsection as follows:

"(b) No student shall be required, as a part of any applicable program—

"(1) to submit to psychiatric examination, testing, or treatment, or psychological examination, testing, or treatment, the primary purpose of which is other than achievement or aptitude testing as defined in this Act,

"(2) to reveal information about his personal or family life (other than personal or

family income information required by law to determine eligibility for participation in a program or for receiving financial assistance under such program), or

"(3) to participate in any project which involves surveying, analyzing, or evaluating the personal values, attitudes, or beliefs of the student, without the prior consent of the student (if the student is an adult or an emancipated minor), or in the case of an unemancipated minor, without the prior, written consent of a parent or guardian who has first been informed of the purpose of such examination, test, treatment, or information sought to be obtained.".

UP AMENDMENT NO. 1733

Mr. HATCH. Mr. President, I submit a modification to my amendment and ask that it be so modified.

The PRESIDING OFFICER. The Senator has such a right. The amendment is so modified.

The modification (UP amendment No. 1733) is as follows:

Page 377, after line 16, insert a new section as follows:

"SEC. 410. Section 439 of the General Education Provisions Act (relating to 'Protection of Pupil Rights') is amended by inserting '(a)' after '439' and by adding at the end thereof a new subsection as follows:

"(b) No student shall be required, as part of any applicable program, to submit to psychiatric examination, testing, or treatment, or psychological examination, testing, or treatment, in which the primary purpose is to reveal information concerning:

"(1) political affiliations;

"(2) mental and psychological problems potentially embarrassing to the student or his family;

"(3) sex behavior and attitudes;

"(4) illegal, anti-social, self-incriminating and demeaning behavior;

"(5) critical appraisals of other individuals with whom respondents have close family relationships;

"(6) legally recognized privileged and analogous relationships, such as those of lawyers, physicians, and ministers; or

"(7) income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program),

without the prior consent of the student (if the student is an adult or emancipated minor), or in the case of unemancipated minor, without the prior written consent of the parent."

Mr. HATCH. Mr. President, on July 18, I distributed a letter to my colleagues explaining the reasons for and introducing the text of my amendment to the ESEA bill, an amendment requiring parental consent for nonscholastic and nonachievement oriented testing. I formally introduced the amendment last week, and I have requested this time in order to very briefly explain the urgency and, in my opinion, the wisdom of this proposal.

Before doing so, I want to sincerely thank my distinguished friends, those colleagues who have joined as original cosponsors of the parental consent amendment. Specificaly, I thank Senators BARTLETT, GARN, MCCLURE, THURMOND, TOWER, WALLOP and ZORINSKY. To Senator ZORINSKY, especially, we owe a special expression of gratitude for the earlier research work he has done in the education field, pioneer work which first brought cited problems in evaluation and testing before the public eye; certainly, pioneer work which calls for the kind of solution has have proposed in the parental consent proposal.

Our parental consent amendment takes into account the following. Much of the money authorized in particular titles of the ESEA go for very worthwhile and necessary forms of tests, medical surveys or other scholastic or aptitude examinations which are above reproach. In my own State of Utah, as I know is the case in Iowa and many other States, we have one of the most well developed and effective scholastic achievement testing programs ever developed for the elementary and secondary school grades.

But, while all the money authorized for programs for tests and examinations are well intended, there has been raised a tremendous outcry by parents, PTA officials and others who have written to my office in recent days and months, parents who have serious reservations about some of the nonscholastic or aptitude tests; the psychiatric probing and other nongermane, often "mind bending," surveys being conducted in elementary and secondary schools without the knowledge, much less the consent of the parents or guardians involved.

In Wisconsin, there is a program publicly funded in part by ESEA money, entitled "Future Directors of Family Planning in Wisconsin." It is a program providing so-called "preevaluation training" in sex education from kindergarten through 12th grade. The program provides all forms of contraception information, pregnancy, and abortion-referral education information and even services to persons as young as 10 years old without parental consent. Though originally set up as a condition for title X funding of State family planning programs under the auspices of the Department of HEW, with the endorsement of Planned Parenthood; the program certainly has not won the endorsement of the many parents and other citizens who protested the program last May 19 at a special meeting of the ad hoc committee which administers this so-called "education." And it certainly does not win my endorsement, and I would risk saying, does not win the endorsement—or so I hope—of a majority of us in this Chamber. Yet, this is one dramatic example of many, all too many which I will be prepared to present before my colleagues during the impending debate on ESEA. It is an abuse. It is a travesty. It is a betrayal of education's basic purpose. It is the kind of thing which our "parental consent" amendment would correct.

Simply stated, our amendment requires that before any elementary or secondary age child is subjected to psychiatric, behavior probing or other nonscholastic and nonaptitude testing; that there must first be obtained the written consent of the respective child's parent or guardian. Our amendment does not add to or subtract from any moneys. It does not presume to redirect any of the programs involved. It does not even say "beans" about the way HEW should be run.

Our amendment simply holds that before young children who, in many cases, have not learned to cross a street properly become subjected to sensitivity training or some other variant of Walden Three, that we should first have the written OK of their parents or guardian.

This whole problem came about when schools started becoming more concerned with children's attitudes, beliefs, and emotions rather than providing them with basic education. And what we have today is a situation where dramatically fewer young children can read, write, or count; but who have become wordly wise to stories about sex, and drugs, and violence.

This does not speak well for the long-term emotional stability of the child; and such implicit value changes which attend teaching very young children about drugs or sex, or which challenge their faith in their parents constitute the most vile threat to the American family unit. The techniques used to change young children's attitudes and values are an invasion of privacy in the first degree, especially in some of the innovative testing questions soliciting young children to pinpoint their father's or mother's faults, or in another ESEA-sponsored program which actually had the students of an elementary school class collectively put their parents on trial—following which the mother and father were always found guilty.

Certainly, this is a distortion of the purpose and legislative intent of ESEA. It is not what Congress intended when this legislation was first enacted, and I am sure that it is not on the minds of my colleagues now. Certainly, there are cases to be made for the contrary; and not all is bleak. I am thinking about the high quality of several scholastic achievement and aptitude programs which are now being administered in several States, including my home State of Utah. For these reasons and more, my amendment would exempt these scholastic achievement and aptitude tests. Again, what I am concerned with, as are my colleagues who have cosponsored the parental consent amendment, is not the monitoring of basic education, but of the behavior probing, the psychiatric games that are being played with many of our children. Certainly if a case is to be made for the psychiatric or behavior-probing tests, games, and surveys currently being conducted in many elementary and secondary schools; then those who favor such so-called innovative tests should not be shy in welcoming the explicit input of parents.

In summation, I believe that the parental consent amendment many of us have proposed can only work to improve the bill currently on the floor for consideration. Our amendment is the essence of reasonableness. We are not proposing to add to or subtract from any funding in the bill. We are not proposing to subtract from or, if you will, add another layer of fat to the bureaucracy. No one's ox stands to be gored. If some enterprising young educator or substitute teacher somewhere in one of the great elementary or secondary schools of our great Nation wants to set up shop in a school as a psychiatric clinic, all our

amendment presents in the way of a hurdle is a parents' consent. We simply want parents to know about it, and then say that it is OK.

The parental consent amendment has been endorsed by many groups or associations directly involved in school curriculum reform, including the National Council for Better Education, headquartered in Lawrence, Mass. It has also won the endorsement of the many parents and teachers who have written to my office, and I understand to several colleagues' offices; letters I did not solicit, but communications which testify to the popular urgency of this measure. I hope that the Senate will rise to the occasion, and again, I solicit the support of those remaining colleagues who have not yet expressed their preference to vote for our parental consent amendment.

Mr. President, at this time I ask unanimous consent that a copy of the letter sent to me on August 15, from the National Council for Better Education endorsing the parental consent amendment, be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL COUNCIL FOR BETTER EDUCATION,
Lawrence, Mass., August 15, 1978.

Dr. RONALD DOCKSAI,
U.S. Senate,
Washington, D.C.

DEAR DR. DOCKSAI: Please be advised of our support for your amendment to S 1753 which requires parental consent for any "innovative" testing or treatment in our classrooms. We see new evidence each day marking the sorry decline in scholastic achievement of our nations young people. These drops can be largely traced to the innovative programs that have permeated our public schools in recent years.

Yours truly,

RALPH WILBUR,
Director.

Mr. HATCH. Mr. President, it is my understanding that the distinguished managers of the bill are prepared to accept my amendment, for which I am very grateful. I understand that Senator HAYAKAWA has some remarks to present. Perhaps he could make them before the amendment is agreed to.

Mr. HAYAKAWA. If I may, Mr. President, I would like to say a few words in support of this amendment demanding parental consent before students are subjected to nonacademic tests, such as tests of attitude, tests of attitudes toward sex, and so on.

I would like to give a few words of explanation, if I may.

In recent years in colleges of education and schools of sociology and psychology, an educational heresy has flourished, a heresy that rejects the idea of education as the acquisition of knowledge and skills, as indoctrination of socially accepted values such as patriotism, courtesy or self-discipline.

The heresy of which I speak regards the fundamental task in education is therapy. Everyone, it is believed, is, to some extent, neurotic because of repression, inhibition, reaction formations, symbolic displacement, or whatever.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). Will the Senator suspend until we have order in the Chamber?

Mr. HAYAKAWA. Everyone, therefore, needs diagnosis, to examine the extent and seriousness of his or her illness. Everyone, it hardly needs to be said, needs to be straightened out.

It shocks me, hearing Senator HATCH's description of the things he wants to guard us against in current educational practices, to learn how far things have come since I was a student and observer at the Menninger Psychiatric Clinic in Topeka, Kans., in the 1940's. At that time the clinic was a hotbed of Freudian orthodoxy. According to prevailing dogma, we were all sick. We all needed psychoanalytic treatment. It did one no good to look well-adjusted and mentally healthy. One's appearance of excellent mental health only proved to my psychoanalytic residents and friends that one's neuroses were especially deep, especially well-concealed, and especially difficult to heal.

Later I was a student under Count Alfred Korzybski, the founder of that mental and psychological discipline known as general semantics. I learned a lot from Korzybski. Indeed, it would not be going too far to say that he was one of the biggest influences in my intellectual development. But he and his followers also suffered from the same obsession; namely, that we are all sick and therefore we all needed diagnosis and treatment.

In the more than 40 years since my contacts with the Freudians and the general semanticists, there has been a huge spread of psychology. There are mass circulation magazines peddling one kind or other of pop psychology. Teachers' institutes buzz with talk of neurosis, resistance, adjustment, maladjustment, attitudinal change. On top of all this came the counterculture, spreading the doctrine that we live in a rotten, materialistic, repressive, sick society—and that it is the duty of the teacher or therapist to make the child or patient realize how enslaved the individual is by the norms of that sick society—and thus free him or her from those sick compulsions.

In this pop psychology the psychological problems described as complexes, inhibitions, reaction formation, transference, countertransference have all been simplified. The differences among them have been obliterated. They all fall under the convenient simple classification of "hangups." And the cure for hangups, as every teenager knows in this psychologically sophisticated age, is to "let it all hang out."

The vulgar psychologism of which my distinguished colleague from Utah complains manifests itself in the nonacademic testing and experiment to which all too many children are indeed subjected. To inquire into the sexual attitudes and beliefs of 8-year-olds, to probe into their psychic and emotional problems, real or imagined, rather than into the level of their intellectual achievements—these are serious invasions of privacy. And messing around with the psyches of young people does not stop with testing and inquiries. There are exercises in psychodrama, roleplaying, touch therapy, encounter groups, involving necessarily the searching and exploration of innumerable matters that are nobody's business except that of the child, the child's parent, or the family's physician or psychiatrist.

Senator HATCH's amendment mandating parental consent before students are subjected this kind of psychological and emotional probing and experiment is an extremely wise one. I strongly urge its acceptance.

Mr. PELL. Mr. President, the Senator has already convinced us of the worth of his amendment. We are very desirous of accepting the amendment.

Mr. HAYAKAWA. In that case, Mr. President, I just want to say that the popular psychology of today is the root of so much of this attitudinal testing, role playing, psychological games that go on in the classroom that have no academic significance whatsoever; therefore, to limit those instances of their use to places where parents have given their consent seems to me to be a very, very wise measure.

Mr. PELL. Mr. President, we have had an opportunity to look over the amendment. We think it is an excellent one. It was worked out between the minority staff and the majority and Senator HATCH. I recommend that we accept it.

Mr. JAVITS. Mr. President, the amendment is acceptable to us.

Mr. HATCH. I move that the amendment be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 3511), as modified.

The amendment as modified, was agreed to.

Mr. HATCH. I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that portion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1734

(Purpose: To extend the Indochina Refugee Children Assistance Act of 1976, and the emergency adult education program for Indochina refugees)

Mr. HAYAKAWA. Mr. President, I call up an amendment which perfects my original amendment 3436. It is being cosponsored by Senators CRANSTON, HODGES, TOWER, MOYNIHAN, BARTLETT, JAVITS, and BUMPERS, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. HAYAKAWA), for himself, Mr. CRANSTON, Mr. HODGES, Mr. TOWER, Mr. MOYNIHAN, Mr. BARTLETT, Mr. JAVITS, and Mr. BUMPERS, proposes unprinted amendment numbered 1734.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 20, the table of contents is amended by inserting after item "Sec. 331" the following:

PART D—INDOCHINESE REFUGEE CHILDREN

Sec. 341. Extension of Program.

On page 20, in the table of contents, redesignate Sec. 312 as Sec. 313 and insert after item "Sec. 311." the following:

"SEC. 312. Indochina refugees."

On page 352, between lines 18 and 19, insert the following:

INDOCHINA REFUGEES

SEC. 312. Section 317(a) of the Act (as redesignated by section 307) is amended by striking out "1977" and inserting in lieu thereof "1983".

On page 352, line 20, strike out "Sec. 312." and insert in lieu thereof "Sec. 313.".

On page 357, between lines 4 and 5, insert the following new part:

PART D—INDOCHINESE REFUGEE CHILDREN EXTENSION OF PROGRAM

SEC. 341. (a) Section 201(a) of the Indochina Refugee Children Assistance Act of 1976 is amended by inserting after "1977" a comma and the following: ", and for the period beginning October 1, 1978, and ending September 30, 1983.".

(b)(1) Section 202(a) of such Act is amended by inserting after "1977" a comma and the following: "and for the period October 1, 1978, through September 30, 1983".

(2)(A) Section 202(b)(1) of such Act is amended by inserting after "1977" a comma and the following: "and for the fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983".

(B) Section 202(b)(A) of such Act is amended by inserting after "period" the following: "and during each such fiscal year".

(c) Section 204(a) of such Act is amended by inserting after "1977" a comma and the following: "and for the period October 1, 1978 through September 30, 1983".

(d) Section 208 of such Act is amended by inserting after "1977" a comma and the following: "and for the fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983".

(e) The heading of title II of such Act is amended to read as follows:

"TITLE II—PROGRAM FOR SUBSEQUENT FISCAL YEARS"

Mr. HAYAKAWA. Mr. President, since the fall of Saigon in April 1975, about 169,000 Southeast Asian refugees from Vietnam, Cambodia, and Laos have entered the United States seeking a new life. They left Indochina to escape political difficulties of the past three decades which have agonized and splintered their homeland. Now most of the refugees face a new and different set of problems in adjusting to a foreign land. In their efforts to settle down to life in the United States, they have been aided by the U.S. Government which has taken over this humanitarian responsibility as a result of the United States heavy involvement in the past war.

Mr. President, I should like to briefly trace the history of the various federally sponsored Indochinese refugee resettlement activities in the United States and to point out the need for continued Federal assistance to them for the next few years, especially to refugee children's education.

Most of the refugees in the first evacuation wave from Saigon came into this country through the U.S. processing system at four camps or reception centers Eglin Air Force Base, Fla.; Fort Chaffee, Ark.; Indian Town Gap, Pa.; and Camp Pendleton, Calif. At the camps they received health care, emergency survival courses on the English language and American society, and some vocational education. From the camps, the refugees were dispersed throughout the country through the untiring efforts of 10 voluntary resettlement agencies to settle down in local communities with volunteer sponsors.

Since these camps were closed at the end of 1975, many refugees came into the country directly from refugee camps in Thailand, Malaysia, and Hong Kong. These include "boat cases," those who escaped out of Vietnamese fishing boats, imperiling their lives on the high seas. In July 1977, President Carter asked Attorney General Griffin Bell to admit an additional 15,000 refugees into the country. This was followed by an entry allowance of an additional 7,000 in January 1978. And in June of the current year President Carter again authorized the admittance of an additional 25,000 refugees into the United States by May 1979. Therefore, since August 1977, approximately 17,500 more Indochinese refugees have come in, raising the number of Indochinese residing in the United States to nearly 170,000. Of the 170,000, it is estimated that approximately 40 percent, or 68,000 are children between the ages of 5 through 7. Moreover, Vice President MONDALE recently expressed the U.S. Government's intention to admit 15,000 to 20,000 yearly for several years from camps in Thailand. As more refugees reach U.S. shores, they continue to need initial social and financial assistance to become self-sufficient, fully functioning new residents and citizens.

Mr. President, the question of funding for the education of Indochinese refugee children is an important one, as they make up a significant 40 percent of the Indochinese refugee population in the United States. The elementary and secondary education programs provided for them under the Indochinese Refugee Children Assistance Act of 1976 (Public Law 94-405), the most recent round of funding for Indochinese children's education, will be closing on September 30 of this year. Public Law 95-145, the latest legislative action governing Indochinese refugees, made no provisions for assistance to refugee children's education. Supplementary educational services to the children are essential to enabling them to become fully participating members of American society and to catch up academically with their peers. The refugee children face cultural and linguistic barriers that do not or seldom confront native-born children. As more refugee children are expected in the country, funding is needed to maintain the educational services in each State to incoming students and also to those already settled.

Mr. PELL. Mr. President, I observe that we have had a chance to go over this amendment, too. Speaking for the majority side, at least, I recommend that we accept it.

Mr. JAVITS. Mr. President, I have supported comparable amendments before and this amendment is acceptable to me.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

The amendment was agreed to.

Mr. HATCH. I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3510

Mr. HATCH. Mr. President, I call up my Amendment 3510 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes amendment No. 3510.

Mr. HATCH. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Page 377, after line 16, insert a new section as follows:

SEC. 410. Part C of the General Education Provisions Act is amended by inserting after section 439 a new section 440 as follows:

"STATEMENT OF EFFECT ON BASIC COGNITIVE SKILLS

"SEC. 440. (a) Each recipient of Federal funds (through grant, subgrant, contract, or subcontract) under any applicable program which is to be operated in or have an affect on elementary or secondary education shall include as a part of the application for such assistance a statement—

"(1) describing the intended effect (if any) on the improvement of basic cognitive skills of students, and

"(2) which sets forth a method of determining over a period of five years or the length of the program or project for which assistance is requested, whichever is longer, the affect of the program or project on the improvement of basic cognitive skills, and provides for making such determinations.

"(b) The Assistant Secretary shall maintain a file containing each such statement required under subsection (a), taken from the application, together with the results of any determinations of the affect of the program or project on the improvement of basic cognitive skills of students, which file shall be available for public inspection and the contents made available to committees of the Congress or to individual Members of Congress upon their request.

"(c) For the purpose of this section—

"(1) the term 'application' includes—

"(A) an application for a grant,

"(B) an offer to make a contract,

"(C) a State plan for the administration of such a program, and

"(D) any other methods for seeking Federal funds under any applicable program, and

"(2) the term 'basic cognitive skills' must include reading, written composition, and mathematical computation.".

Mr. HATCH. Mr. President, my amendment on cognitive skills is relatively sim

ple, adding a new section to the General Education Provisions Act as included in S. 1753. As connoisseurs of this bill know, the General Education Provisions Act is designed to focus attention on Federal education programs and projects which are claimed to improve basic academic skills of elementary and secondary school students. My amendment would require that the application for each such program or project state whether or not the improvement of such skills is of the purpose of the activity for which the funds are requested, and that this application describe the intended effect of the program on such skills. It also requires, for all those programs or projects authorized in the act which are intended to improve basic skills, a study over 5 years to determine the actual effect of such activity. Finally, the statement in the application, and the results of the follow-up studies, would be made available to both the Congress and to the public once such information is compiled.

Mr. President, it is an open secret that the No. 1 problem our Nation faces in our elementary and secondary schools today is academic failure on a massive scale. This directly translates into unemployment, rising welfare costs, crime and all that which accompanies a continuous cycle of poverty.

Perhaps there are those who upon reflection on the dismal conditional and plummeting test scores of our Nation's elementary and secondary school children, conclude that we are suddenly confronted with a generation of dull, of unteachable and abnormal children. But most of us know that this is not the case. We know that fewer changes have occurred in family surroundings, in environment or in children's diet than in the kinds and level of programing of education by the Federal Government over the last two decades.

In light of this, it is particularly important that we "zero in" on these programs; that we identify what they are, and what they precisely do to improve students' performance in the basic skills of reading, writing, and mathematics; that we find out more revealing information about these projects and programs that are so often camouflaged in the ambiguous, brief annotated descriptions attached to each respective program section. I want to be very clear that it is not my intent to challenge the integrity or the competence of any of the educators or, as is too often the case, any noneducators responsible for putting together a whole or part of any of the programs I am here describing. I am simply trying to make a cogent case for the obvious, namely, that the designers of these programs are human. They are just people, and they can be wrong. And it is because they are fallible, that like all of us they can never be too removed from further comment or suggestion intended to improve the quality of a program. For this reason, especially, my amendment is offered in order to give a complete description and impact report of these various educational projects and programs coming under the ESEA titles so that this information can be made available to educators, to legislators, and to the taxpayers whom destiny has chosen to pay for all of this.

I have called this my "cognitive skills" amendment, doing so because it would provide the Congress and the public with the kind of information we need to redirect that area of our educational system dealing with the actual learning skills of students as defined in this act. My amendment poses no danger, clear, present, or otherwise, to the Department of HEW—saying this as if for 1 minute to assume that the Department of HEW would ever lose an hour of agency's sleep over anything done by mere mortals like Senators or Congressmen. In short, this amendment would redirect Federal educational legislation to get the most for the taxpayers' money, or if you will, more "bang for the buck" in improving performance in basic educational skills. Naturally, I feel it is a reasonable amendment, as are all my amendments.

In light of the hour, Mr. President, and while I believe in the principle of my amendment, I am going to withdraw it, and to speak very briefly on my final amendment, proposed as a substitute for ESEA Amendment No. 3509.

Mr. President, at this point, having made a record and because this other amendment has been accepted, I now withdraw this amendment.

The amendment was withdrawn.

AMENDMENT NO. 3509

Mr. HATCH. Mr. President, I call up my amendment No. 3509.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes amendment numbered 3509.

Mr. HATCH. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Amendment No. 3509 was printed in the RECORD of August 17, 1978, at page S13645.)

Mr. HATCH. Mr. President, this proposal, which would be a substitute, would not affect either impact aid or title I moneys, both of which would remain "as is" in my bill. To be very clear on this, the moneys authorized for disadvantaged students in title I of ESEA as well as the impact aid formula provided in S. 1753 pursuant to Public Laws 94–815 and 874 would remain untouched.

What my amendment does achieve, however, if I did not withdraw it, is a saving of 4.5 million man-hours and an estimated millions of dollars spent annually in paperwork and reporting forms required of local and State school districts under the current ESEA bill. Much of my information is collected from the Department of HEW's own findings on the matter; specifically, the paperwork surveys they have most recently completed.

Last July, when the House version of the Elementary and Secondary School Act was considered on the floor of Congress as H.R. 15, my friend and one of the most distinguished and able members of the House Education and Labor Committee, JOHN ASHBROOK of Ohio, offered a bill substitute very similar to the one I offer here today. Though the form and some of the features of my bill are very different from Congressman ASHBROOK's, and largely because of the difference in the composition of the House and Senate versions; the legislative intent is the same. This intent is predicated on the belief that the States rather than the Federal Government can more effectively, more economically and ought to properly direct elementary and secondary education programing.

It is constitutionally more proper that they do so, and by the money we will save by eliminating the needless and burdensome bureaucratic paperwork involved, we will be able to be true to the genuine purposes of the act without having to violate the spirit of proposition 13. As one who subscribed to proposition 13 before it became popular to do so, I am not foreign to the belief that people in Government can save otherwise unnecessary expenses if a genuine effort is made to do so. I hereby present before my colleagues such an effort, and I invite all of us to rise to the occasion.

Mr. President, because of the lateness of the hour and because I know all of my colleagues are interested in having final resolution of this matter this evening, I do withdraw my amendment.

The amendment was withdrawn.

UP AMENDMENT NO. 1735

(Purpose: To delete certain hold harmless provisions and to clarify provisions relating to handicapped children, and to exclude postal service real property under Public Law 874)

Mr. EAGLETON. Mr. President, I call up an unprinted amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) for himself and Mr. CHAFEE, Mr. MAGNUSON, Mr. MUSKIE, and Mr. BELLMON, proposes UP amendment No. 1735.

Mr. EAGLETON. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 331, strike out lines 16 through 19.

On page 331, line 20, strike out "(2)" and insert in lieu thereof "(d)".

On page 331, line 24, before the period insert the following: ", and by striking out "90" and inserting in lieu thereof "75".

On page 332, strike out lines 1 through 3.

On page 332, strike out lines 13 through 22.

On page 332, line 25, strike out "SEC. 204." and insert "SEC. 203.".

On page 334, line 2, strike out "Sec. 205." and insert "Sec. 204.".

On page 334, line 6, strike out "Sec. 206." and insert "Sec. 205.".

On page 334, line 19, strike out "Sec. 207." and insert "Sec. 206.".

On page 334, line 23, strike out "Sec. 208." and insert "Sec. 207.".

On page 335, line 9, strike out "Sec. 209." and insert "Sec. 208.".

On page 337, line 6, strike out "Sec. 210." and insert "Sec. 209.".

On page 338, line 4, strike out "Sec. 211. (a)" and insert "Sec. 210.".

On page 338, strike lines 13 through 18.

On page 338, line 21, strike out "Sec. 212." and insert "Sec. 211.".

On page 339, line 2, strike out "Sec. 213." and insert "Sec. 212.".

On page 339, line 16, strike out "Sec. 214." and insert "Sec. 213.".

On page 20, in the Table of Contents, strike out item Sec. 203. and redesignate items Sec. 204. through 214 as items Sec. 203 through 214, respectively.

Mr. EAGLETON. Mr. President, I offer an amendment on behalf of myself and Senators CHAFEE, MAGNUSON, MUSKIE, and BELLMON, which would make three changes in the impact aid provisions of the bill before us, S. 1753, the Elementary and Secondary Education amendments. It would: First, eliminate two hold-harmless provisions adopted in 1974 and modify a third; second, reinstate current law with respect to payments for handicapped children of military personnel; and third, delete the expansion of eligibility to children whose parents work on federally owned postal properties.

Let me briefly review the history of the impact aid program. Enacted in 1950, its original purpose was to offset loss of the school district's tax base resulting from the presence of military installations. The original appropriation to meet what is, in my view, still a totally justifiable policy was less than $30 million. With every subsequent revision of the impact aid law, amendments to expand its coverage have been adopted, and the constituency for the program has grown proportionately. We now have a situation where all but three of the 435 congressional districts receive some form of impact aid—and the current appropriation level is $770 million.

Although every President since President Eisenhower has attempted to reform, and thus reduce the impact aid program, Congress turned a deaf ear for 14 years. Then, in 1974, Congress did adopt some major reforms. It eliminated eligibility for payments to children whose parents worked at a Federal installation in one State and lived in another State, children who in no way impacted on the school districts which actually provided the education in that the parents paid property tax, and the Federal property on which they worked would not have been a source of revenue to the district. Thus, the totally indefensible payments to Montgomery County, Md., and Fairfax, Va., for parents working in the District were eliminated.

Further, the 1974 Education Amendments reduced payments for children of civilian parents who worked outside of the county in which they lived and in which they paid property tax. Again, there is little justification for such payments since these children are not a burden on their school districts. Their parents pay property tax, and the Federal property would not be a source of revenue for the district even if it were taxable property, since it is located outside the district's taxing jurisdiction.

In enacting these reforms, Congress included a "hold harmless" provision to reduce the impact of reduction in payments resulting from this 1974 reform. This is commonly known as hold harmless "C." Under current law districts whose "b" payments in fiscal year 1973 constituted 10 percent of its expenditures in that year receive 90 percent of the amount they would have received the previous year had not the reforms been enacted. In the case of other districts, the hold harmless payment was set at 80 percent of the amount for the preceding fiscal year. I believe these rates of hold harmless payments were justifiable in 1974, but they have been in effect for 4 years now. I would propose that we further reduce the hold harmless provision to 75 percent. This phase down of impact aid payments will continue in orderly transition without unduly jeopardizing a school district's budgetary planning.

The 1974 amendments also contained a general hold harmless provision, commonly known as hold harmless "A," to phase in any reductions in payments to districts resulting from the reform provisions. The payments under the hold harmless provision are very modest—approximately $2 million nationwide. The Committee bill proposes to extend this hold harmless for another 5 years. I see no justification for continuing it. Therefore, my amendment would eliminate this hold harmless provision.

The final revision I propose in the hold harmless provisions relates to the inclusion of public housing payments in the 1974 amendments. Although authorized in 1970, as a new category "C," payments were not made for public housing children until they were merged into category "B" in the 1974 amendments, and funded at 25 percent of entitlement. To offset losses to districts resulting from the public housing payments, a hold harmless D was included to give districts the amount they would have received if the funds for public housing payments had been available for other categories of eligible children. These payments do not offset real losses, and therefore, I propose that it be deleted.

The total savings of deletion of these three hold harmless provisions is $139 million in the next fiscal year.

The second item included in this amendment relates to the entitlement for handicapped children of military personnel. Current law sets the entitlement for these children at 150 percent of the regular entitlement for children of military personnel. S. 1753 proposes to increase the entitlement rate to their full educational costs, less funds provided under the Education for All Handicapped Children Act. In making the entire cost of educating these children a Federal responsibility, the bill establishes a policy inconsistent with the basic purpose of impact aid, to compensate for the loss of revenue to the district as a result of Federal activities, and the purpose of the Education for All Handicapped Children Act—to provide a share of the excess costs for handicapped children.

My amendment would reinstate current law to pay 150 percent of the entitlement for handicapped children of military personnel. This would continue to recognize the extra costs associated wi these children, and would retain th policy of compensating districts for on the portion of such costs which are lo as a result of the Federal presence.

The final portion of my amendme deletes eligibility for children of emplo ees of federally-owned postal facilitie

Initially, children of postal employe in regional postal facilities were cover under the act. From 1958 to 1966, post employees were reinstated in a very lim ited way. Although firm figures are n available, the number of children postal employees counted today is ver very small. Now the committee bill pr poses that we significantly expand elig bility for all children of parents wi work in federally-owned post offices an estimated cost of $36 million. M President, parents of these children not live on postal property. They live privately-owned property, and they p real property tax. The Federal presen in the form of the postal facility does n impact on the school district, and I c find no justification for expansion of t program to a new class of eligible st dents.

Mr. President, deletion of the ho harmless provisions would reduce Fe eral payments by $139 million, but t amendment would not in any way effe the payments for children who actual impact on the district. The other t portions of the amendment would n reduce payments to any district. Th simply delete further expansion of already overloaded program.

Mr. President, my amendment is modest reform to the impact aid pr gram. In fact, even the impact aid lob has agreed to these changes. The thr parts of the amendment would produ a savings of $207 million in fiscal ye 1979, and the remaining fiscal years a thorized in the bill. At a time when all recognize inflation as the prima concern of the taxpayer, I do not see ho anyone could fail to support holding t line in these three areas of the impa aid program.

Mr. PELL. Mr. President, this is a ve carefully constructed amendment.

Many Senators have been consult about it. It works a fair balance and believe it should be accepted. I wou recommend to my colleagues that we accept it.

Mr. JAVITS. Mr. President, I regr very deeply that this amendment elim nates postal service children. I ma quite a fight for that in the committ I believe it is eminently justified. It is fact, it was eliminated in the House. It a fact, Senator EAGLETON has consult us.

I realize the situation in terms of vo ing. So I, too, most regretfully as to th provision, not as to the rest of it, prepared to accept the amendment.

The PRESIDING OFFICER. The que tion is on agreeing to the amendme of the Senator from Missouri.

So the amendment (UP No. 1735) w agreed to.

Mr. EAGLETON. Mr. President, move to reconsider the vote by which t amendment was agreed to.

Mr. ROBERT C. BYRD. I move to l that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1736

(Purpose: To prohibit restitution of payments already received by States in the administration of section 5 of Public Law 874, relating to State equalization programs)

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

I say, while the amendment is on the way to the desk, I think there are four amendments that can be resolved very quickly.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 1736.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 340, between lines 2 and 3, insert the following new section:

STATE EQUALIZATION

SEC. 215. No State or local educational agency located therein shall, on the basis of non-compliance with standards established by regulations prescribed pursuant to section 5(d)(2) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), be required to make restitution of funds distributed to local educational agencies under such Act for the 1977–1978 school year if such State has an equalization program which, for the 1978–1979 school year, complies with such standards.

On page 20, in the table of contents, after item 214 insert the following new item: "Sec. 215. State equalization.".

Mr. DOLE. Mr. President, this amendment is identical to one which was unanimously adopted by the House during consideration of H.R. 15. The amendment addresses a serious problem which has developed in the State of Kansas.

The impact aid system was established by Congress to compensate those school systems which must absorb large amounts of federally related students without being able to impose property taxes on Federal property. The purpose of the system is to promote equity in school financial arrangements between affected and nonaffected areas.

Following amendments in the law made in the Education Amendments of 1974, the Office of Education in the Department of Health, Education, and Welfare took almost 3 years to promulgate new regulations concerning State equalization plans. The law, as enacted by Congress, allows States to partially consider Federal impact aid in determining the amount of State assistance for local school districts. The new regulations have finally established firm guidelines on the amount of impact aid which can be utilized in State equalization formulas.

BUREAUCRATIC DELAY CAUSED PROBLEMS

Mr. President, HEW took nearly 3 years to promulgate these regulations. The regulations became effective only on February 6 of this year. The Kansas legislature has acted with remarkable speed to change their State equalization law to meet the new Federal standards. A new Kansas law was passed in April of this year. The Department of HEW has by formal letter agreed that the new Kansas State law will meet all Federal requirements.

The problem is only with the current 1977–1978 school year. Because the regulations had not even been formally published when Kansas enacted its 1977–1978 School Budget Act, Kansas was unable to comply with the new Federal requirements. HEW now is demanding that Kansas return excess funds which were granted to the State under the impact aid program. Ignoring the fact that their delay is completely responsible for the situation in Kansas, HEW has turned down the requests by Kansas for a special exemption. It appears to the Senator from Kansas that officials in the office of education are unwilling to even give Kansas a fair hearing on this issue.

CONGRESSIONAL ACTION NEEDED

Mr. President, normally the Senator from Kansas does not believe that Congress should interfere with the administration of this type of Federal program. Normally, bureaucrats are not this insensitive to the problems that arise due to their own administrative incompetence. In a glaring example of bureaucratic highhandedness, the office of education is insisting that Kansas pay the price for HEW's own internal delays. This is unacceptable to the Senator from Kansas just as it was unacceptable to the House of Representatives.

This amendment does not address the intricacies of the impact aid formula or State equalization plans. The only issue before us is fairness. In fairness who should bear the cost for administrative delay, the Government or our constituents? The issue is whether the schoolchildren of Kansas should be denied educational opportunities during the next school year because of the internal delays in HEW. The issue is whether Congress should act when a Federal agency has procteded in an irresponsible manner.

The Senator from Kansas feels very strongly that this amendment should be adopted by the Senate to avoid any conflict in the conference committee on this legislation. I urge all Members of the Senate to help me in this attempt to control a bureaucratic excess and vote in favor of the pending amendment.

Mr. PELL. Mr. President, I am familiar with this amendment. It is deliberately drawn, narrowly and it would exempt Kansas from the requirements of restitution for expenses suffered through no fault of her own.

I recommend we accept the amendment.

Mr. JAVITS. Mr. President, we accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

So the amendment (UP No. 1736) was agreed to.

UP AMENDMENT NO. 1737

(Purpose: To clarify provision relating to advances for State guarantee agencies for the State student loan program)

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk on behalf of myself and the distinguished Senator from Minnesota (Mr. ANDERSON).

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), for himself and Mr. ANDERSON, proposes an unprinted amendment numbered 1737.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 342, line 3, strike out "EXTENSION OF RELATED" and insert "REVISION OF OTHER".

On page 357, between lines 4 and 5, insert the following:

PART D—ADVANCES FOR STATE STUDENT LOAN GUARANTY PROGRAM

AMENDMENT FOR ADVANCES FOR RESERVED FUNDS OF STATE LOAN INSURANCE PROGRAMS

SEC. 341. (a) Section 422(c)(5) of the Higher Education Act of 1965 is amended by striking out "the effective date of this subsection" each place it appears in subparagraphs (A) and (B) and inserting in lieu thereof "the date of enactment of this subsection".

(b) The amendments made by the subsection (a) of this section shal take effect on October 1, 1977.

On page 20, in the table of contents, strike out title III and insert in lieu thereof the following:

"TITLE III—REVISION OF OTHER EDUCATION PROGRAMS"

On page 20, in the table of contents, after item Sec. 231 insert the following:

"PART D—ADVANCES FOR STATE STUDENT LOAN GUARANTY PROGRAM

"Sec. 341. Amendment for advances for reserved funds of state loan insurance programs.".

Mr. DOLE. Mr. President, my amendment is a very technical one, relating to Public Law 94–482, the Higher Education Act of 1976. I am pleased to have as a cosponsor the Senator from Minnesota (Mr. ANDERSON).

DESCRIPTION OF AMENDMENT

My amendment corrects a minor problem which occurred in the drafting of Public Law 94–482. It clarifies a provision relating to advances for State guarantee agencies for the student loan program. It sets the effective date of new agencies as the date of enactment of the law.

Public Law 94–482 designed to encourage States to establish new State agencies to deal with the student loan guarantee progam. Up until then, the Federal Office of Education had handled many States loan programs, as was the case with Kansas and Minnesota.

The 1976 law clearly intended to shift that responsibility from the Office of Education to the State and its designated agency. It was my understanding that Congress intended for the State to set up the guarantee agency after the law was enacted.

Some States did just that—most notably, Kansas and Minnesota. Within a few months after enactment, these two

States entered into negotiations with the U.S. Commissioner of Education to name their new State guarantee agencies.

PROBLEM

It was not until almost 1 year after these arrangements had been agreed to that the Office of Education noticed a technicality in the law. This technicality established the effective date of October 1, 1977, rather than the date of enactment, as had been previously supposed. Because the Kansas and Minnesota agencies came into existence after enactment—October 12, 1976—but before the effective date—October 1, 1977—the designated agencies could not qualify as new agencies.

This means that Kansas and Minnesota would not be eligible for Federal advances for reserve funds nor for certain administrative allowances which the 1976 law made available to new agencies.

SUPPORTED BY HOUSE AND ADMINISTRATION

The Senator from Kansas feels that there was no intention to deny new agency status to those agencies which came into existence after enactment of Public Law 94–482. The House Education and Labor Committee has twice accepted this provision—once as a separate bill, H.R. 10550, and once as an amendment to H.R. 11274, the Middle Income Student Assistance Act. Furthermore, in a recent letter to Senator WILLIAMS, Secretary Califano wrote that the administration is in support of S. 2479, a bill I had introduced previously to make this same change.

CONCLUSION

Mr. President, I believe it is apparent that this is a practical and needed amendment. It does not have widespread application, but it will have serious consequences to the States of Kansas and Minnesota. I urge my colleagues to consider favorably this amendment.

Mr. President, I think this has been cleared.

Mr. PELL. That is correct. The Senator from Kansas has cleared it with our staffs.

What it does is establish a joint agency with Kansas and Minnesota.

I recommend we accept it.

Mr. JAVITS. It is acceptable to us.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

So the amendment (UP No. 1737) was agreed to.

UP AMENDMENT NO. 1738

(Purpose: To clarify the requirements with respect to participation of students from nonpublic schools in the bilingual program)

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of myself, the distinguished Senator from South Dakota (Mr. MCGOVERN), the distinguished Senator from New Mexico (Mr. DOMENICI), and the distinguished Senator from Texas (Mr. TOWER).

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from KANSAS (Mr. DOLE), for himself, Mr. MCGOVERN, Mr. DOMENICI, and Mr. TOWER, proposes an unprinted amendment numbered 1738.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 277, between lines 22 and 23, insert the following:

(2)(A) Section 721(b)(2)(C)(ii) of the Act is amended by striking out "whose educational needs are of the type" and inserting in lieu thereof "whose language and grade level are of a similar type".

On page 277, line 23, strike out "(2)" and insert in lieu thereof "(B)".

Mr. DOLE. Mr. President, my amendment is intended to clarify ambiguous language in current law regarding participation in bilingual education programs. I am pleased to have as cosponsors for this amendment the Senator from New Mexico (Mr. DOMENICI), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Texas (Mr. TOWER).

CURRENT LAW

S. 1753 now reads that children in nonprofit, nonpublic schools "whose educational needs are of the type" served by the bilingual demonstration programs may also participate in title VII projects. I believe this wording is excessively broad, and could seriously hamper the success of bilingual programs.

With this wording, any student in a nonprofit, nonpublic school in the service area may participate in the bilingual program, if such student is determined to be in need of bilingual education. The language is so encompassing that any student with bilingual needs is made eligible for services. As an example, this loose wording would allow with 11th grade students in a private school to demand participation in a demonstration project designed to instruct second graders in a public school.

DOLE AMENDMENT

In place of this broad language, my amendment would insert the qualifier, "whose language or languages and grade levels are of a similar type." This would be used to help determine which students in nonprofit, nonpublic schools should be served.

To understand the situation, one must realize that these bilingual education programs are demonstration projects. They are not formula grant programs designed to serve all children in a school system. Funding is awarded to proposals drawn up to serve students of a specified age, with specified language skills. It is unrealistic to expect any one program to serve any nonpublic school sudent in an area, simply because that student also has some type of educational need which a bilingual program is designed to address.

I would point out to my colleagues that my amendment still allows students in nonprofit, nonpublic schools to participate in a bilingual demonstration project, providing that their language skills and grade levels are similar to those being addressed by the bilingual project. I believe that my amendment is in keeping with the purpose of this section. It creates a more cohesive, manageab mandate with which to serve the b lingual needs of all children.

CONCLUSION

It is simply unrealistic to demand th one demonstration project be all thin to all students. The result would be th no student is adequately served. Ea individual project is targeted towa children of certain grade levels who ha various language skills. Students in no profit, nonpublic schools who fit the d scription of the targeted populati should be served. But to include tho students who may have bilingual nee not addressed by the project is unreaso able and unacceptable to the Senat from Kansas.

I believe my amendment clarifies t ambiguity of the bill's language, and urge my colleagues to accept this su stitute provision.

The purpose of the amendment is narrow that definition. I hope t amendment might be accepted.

Mr. PELL. Mr. President, I had chance to study the amendment whi would require that nonpublic schools n hire teachers of languages different fro the public schools in the same area.

It is a limited purpose. I think it mak sense. I think it is the only way the b lingual program can be run. I am ve sympathetic to it.

I am interested in the reactions of m colleague from New York.

Mr. JAVITS addressed the Chair.

Mr. DOLE. If the Senator will yield f a moment, my amendment narrows t education. It does not deal with teache It just suggests, the wording I have, th any student in a nonprofit, nonpub school, in the service area, under t present amendment, may participate the bilingual program if such student determined to be in need of bilingu education.

The language is so broad that any st dent with the bilingual needs is made e gible for services.

An example is where the 11th gra student in a private school demands pa ticipation in the demonstration proje in a public school.

It is only an effort to tighten it u that is the only purpose of the amen ment.

Mr. JAVITS. Mr. President, I ha grave concern about the amendmen running counter to the general purpo of the bill, which is to do as well as c can for nonpublic schools, because t effect of this amendment on our staff to bring the nonpublic school to the po tion of a public school, even though th may wish to do better with whatever available to them.

But in view of the fact that it is n a major proposition, and reserving r right to do whatever I can to work it o intelligently in conference, I am n going to impose any objection.

The PRESIDING OFFICER. The que tion is on agreeing to the amendment the Senator from Kansas.

So the amendment (UP No. 1738) w agreed to.

UP AMENDMENT NO. 1739

(Purpose: To add cardiopulmonary resus tation training to special health projects)

Mr. DOLE. Mr. President, I send the last amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 1739.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 157, between lines 5 and 6, insert the following:

"(7) cardiopulmonary resuscitation training:".

On page 157, line 6, strike out "(7)" and insert in lieu thereof "(8)".

On page 157, line 7, strike out "(8)" and insert in lieu thereof "(9)".

Mr. DOLE. Mr. President, in the past several years our citizens have learned that they can help themselves and others by applying skills traditionally reserved for the professionals of our society.

The concept of "self-help" is as old as America itself; our country grew as persons taught one another techniques for survival. Today self-help programs in health and illness are growing, in large part because of our need to supplement services of the health care providers. Ideally they will reduce the longitudinal cost of health care by reducing morbidity and mortality in populations at risk.

A good example of the consumer's interest in self-help programs is the growing support for developing cardiopulmonary resuscitation training programs, or CPR, as it is commonly known, to reduce mortality from the Nation's No. 1 killer—the heart attack.

The amendment I am offering will allow CPR training to be funded in secondary schools under the health amendments to S. 1753.

The Department of Health, Education, and Welfare has estimated that there are more than 1 million heart attacks in the United States each year, with approximately 650,000 proving fatal. More than one-half of these deaths—60 percent or almost 450,000—occur before the victim gets to a hospital, often while he or she is with family, friends, or near other bystanders. The American Heart Association estimates that as many as 200,000 of these lives could be saved each year if 1 out of every 5 people knew what to do before professional help arrived.

WHAT IS CPR? WHY CPR TRAINING?

CPR, or cardiopulmonary resuscitation, is a basic life support technique which trains people to recognize a cardiac emergency and initiate an approach to resuscitation which preserves circulation and ventilation. If started within 1 minute of an attack, CPR gives the victim a much better chance of recovery. It is also a useful technique for other emergencies affecting the heart, such as drowning, suffocation, choking, electric shock, and poisoning.

The American Heart Association and the American Red Cross, the two agencies most involved in the training and certifying of persons in the technique of CPR, estimate that 12 million Americans, or 5 percent of the total population of 218 million now know this technique. Ideally, however, they project that four times as many, or 50 million should master the technique to establish a national network capable of significantly reducing mortality from cardiac emergencies.

HOW CAN WE ESTABLISH A CPR NETWORK IN A MINIMAL AMOUNT OF TIME?

While in 1977 the American Heart Association instructed some 3 million people in the techniques of CPR, data clearly shows that to move toward a meaningful network of trained CPR personnel, we would reach the largest number of people in a minimum amount of time by turning concentrated attention to the secondary school systems. At present there are approximately 14 million students in grades 9 to 12, more than 6 percent of the total population. If all high school students were trained in CPR, this would almost double the percentage of Americans trained in this technique.

Both the American Heart Association and the American Red Cross agree that the education system would be a logical place for such a program. It provides three elements essential for teaching large numbers of people: Classrooms, storage for supplies and equipment, and access to visual aids. In addition, with such equipment available in the school systems, communities as a whole should benefit from greater accessibility to learning CPR technique, through adult education classes and similar programs.

PUBLIC SUPPORT OF SELF-HELP MOVEMENT

A June 1977 Gallup poll reported that a projected 51,000,000 people in the United States may prove interested in learning the technique of CPR. Of those who had heard or read about CPR, 80 percent felt that this training should be required before graduation from high school. Some States have already started. In Seattle, Wash., 1 of every 5 persons has been trained in CPR. What is the result? In the past 5 years, some 600 lives saved in Seattle have been attributed to persons trained in this program.

In Pennsylvania, a comprehensive training program has been introduced in the State's school system, providing for both teacher and student training. With minimum support, we could see such programs grow throughout the United States.

TIME AND COST ESTIMATES

In order to provide an incentive for more programs such as the two that I have mentioned, I introduce this amendment to encourage the country's high schools to begin to provide CPR training for their students. The cost estimate for training persons in CPR is approximately $30 per student, which includes the cost of purchase of equipment, instructor training, and basic CPR training for each student.

However, we anticipate the cost of the program would be considerably reduced by utilization of some of the 500,000 instructors in the United States already trained in CPR and by the sharing of equipment between numerous schools and agencies in a community.

PROFESSIONAL SUPPORT

The American Nurses Association, the American Red Cross, the American Heart Association, and the National Student Nurses Association support my amendment and stand ready to assist us in our effort. In a recent letter concerning my amendment, George M. Elsey, the president of the American National Red Cross, said:

The American Red Cross is deeply concerned that each year nearly 700,000 people die of heart attack . . . CPR training should be encouraged and made available to as large a segment of the American public as possible. This training would provide a vast number of potential "on the street" rescuers to aid in alleviating such tragedy."

Dr. George Austin, president of the American Heart Association, in indicating the support of his organization, said:

Although we have found great interest among school personnel, many of these programs have not been implemented for lack of funding.

MAJOR IMPLICATIONS OF THE PROGRAM

With the introduction of such a training program in the high schools of the Nation, the benefits we will see should prove substantial. We will have a cadre of our population with the knowledge necessary to make intelligent decisions in the face of a life and death situation. We should see a reduction in loss of lives from heart-related emergencies. Most of all, we will be providing a mechanism for our people to help each other. We in Congress have been touched by the fact that our own Members do not go unscathed by life crises and the need for help in the face of such crises. This is a program from which we can all benefit.

Mr. President, the amendment I am offering will not earmark money, but it will authorize participation in the health and education for the purpose of providing cardiopulmonary resuscitation training to high school students.

The floor managers indicate they would object to earmarking that money, but not to including it in one of the purposes.

That is all the amendment does. It is not the earmarking amendment. It simply says that is a program that has great merit.

It is a concept of self-help. It is a good example of interest in self-help programs.

We all know that we are dealing with the Nation's No. 1 killer, a heart attack.

It seems to me and others in the Health Subcommittee, of which I am a member, as well as the distinguished Senator from West Virginia (Mr. RANDOLPH), that the time to teach people how to cope with heart attacks is when they are in high school, when they can be trained as to what to do in the case of an emergency.

The amendment does not earmark any funds. I understand the objection to that.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. RANDOLPH. Mr. President, I commend the able Senator from Kansas for pointing up, in the closing minutes of this debate, a need which I think is

clearly understood by those of us who have worked in this particular area.

I hope it will be possible for the managers of the bill to accept the amendment under the clarification made by the Senator who has presented it.

I ask the Senator to include me as a cosponsor.

Mr. DOLE. Mr. President, I ask unanimous consent that the name of the Senator from West Virginia (Mr. RANDOLPH) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, this is an excellent amendment. I often have wondered what happens to one who might have a heart attack in the street. Most people do not know this kind of resuscitation. With this amendment, it may mean that more people will know it, and we will have a better chance of survival in that case.

I recommend acceptance of the amendment.

Mr. JAVITS. Mr. President, the amendment which this amended is Senator CHAFEE's. We regard it as very creative. I have consulted with him, and so long as there is no earmarking, he sees no objection. So we accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The Senator from Washington (Mr. MAGNUSON).

Mr. CHAFEE. Mr. President, I have a brief amendment. I wonder if we could dispose of it first.

The PRESIDING OFFICER. The Chair just recognized the Senator from Washington.

Mr. MAGNUSON. I yield to the Senator from Rhode Island.

UP AMENDMENT NO. 1740

(Purpose: To assure coordination, planning health special projects)

Mr. CHAFEE. Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Rhode Island (Mr. CHAFEE) proposes an unprinted amendment numbered 1740.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 156, line 22, insert "(a)" after "Sec. 362.".

On page 157, between lines 8 and 9, insert the following: "(b) Prior to establishing final regulations for making grants under this part, the Commissioner shall consult with the Assistant Secretary of Health, Education, and Welfare for Health and the Surgeon General to assure coordination and nonduplication of effort.".

Mr. CHAFEE. Mr. President, this amendment deals with the very subject that the Senator from Kansas dealt with previously. It is a technical amendment to the health education provision of this act. It simply assures that there will be coordination between the Office of Education and the Public Health Service in planning these special health projects so that there will be no duplication of effort.

I have consulted with the floor managers, and they are in agreement with the amendment.

Mr. PELL. Mr. President, this is an excellent amendment, and I recommend that it be accepted.

Mr. JAVITS. Mr. President, the amendment is acceptable.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1741

Purpose: To strike out provisions relating to reservation of funds for section 116 relating to special incentive grants in States having compensatory education programs and section 117 relating to grants for local educational agencies in counties with especially high concentrations of children from low-income families

Mr. MAGNUSON. Mr. President, I send to the desk an amendment cosponsored by 32 Senators.

The PRESIDING OFFICER (Mr. MOYNIHAN). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. MAGNUSON) proposes an unprinted amendment numbered 1741, for himself and Mr. MUSKIE, Mr. PROXMIRE, Mr. HOLLINGS, Mr. CHILES, Mr. BURDICK, Mr. BELLMON, Mr. DOMENICI, Mr. YOUNG, Mr. STEVENS, Mr. SASSER, Mr. ABOUREZK, Mr. SCHMITT, Mr. JACKSON, Mr. MORGAN, Mr. DECONCINI, Mr. HANSEN, Mr. BARTLETT, Mr. HUDDLESTON, Mr. ZORINSKY, Mr. STENNIS, Mr. PAUL G. HATFIELD, Mr. MELCHER, Mr. BUMPERS, Mr. HODGES, Mr. BAYH, and Mrs. ALLEN.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 107, strike out lines 5 through 13.

On page 15, in the Table of Contents, strike out item "Sec. 194.".

Mr. MAGNUSON. Mr. President, I have a series of amendments I would like to call up at this time.

The first amendment would delete section 194 of the bill. Section 194 reserves the first $400 million appropriated for title I, education of the disadvantaged, for concentration grants, and requires that State compensatory education programs, once funded, must continue to be funded at least at the preceding year's level. It makes it mandatory, regardless of whether these programs are good or bad. I have no objection to these new program components. In fact, I support them. I have supported them in the Appropriations Committee over the past few years.

I do believe that the mandatory funding requirements would create problems for the Appropriations Committee. If this section stays in the bill, it would mandate an additional appropriation of at least $400 million for title I in fiscal 1979.

I hope the amendment will be accepte by the managers of the bill.

Mr. JAVITS. Mr. President, I am goin to accept the amendment offered by th Senator from Washington (Mr. MAGNU SON), but I do wish to make one thin clear.

First, Senator MAGNUSON has state that he approves of the concept whic went into the committee's amendment and his action represents the desire o the Appropriations Committee's freedo of action, with which we cannot disagree

I believe it is important that the Sen ate be fully apprised of the committee' thinking when inserting section 194. Th new concentration grants were designe to repair a very difficult problem in th title I program. Oversight and testimon in the Human Resources Committe demonstrated that the greatest sing difficulty with title I was the fact tha high concentrations of children in rura areas and children in urban areas wer not receiving sufficient funds to mak the title I program work effectively. Th concentration factor is an attempt t compensate for the severe difficulties o title I children in areas where they ar literally "concentrated" in large number It is a proposal of relatively modest co to compensate for the fact that title remains several billion dollars below it full authorization.

The Human Resources Committee ha experienced a mixture of success and dis appointment in the results of spendin decisions by the Congress. Some pro grams have done quite well while othe meritorious programs are significantl underfunded. We recognize the difficul ties facing any committee in dealin with spending decisions, and I appreciat greatly the tremendous workload an difficulties which the Appropriation Committee faces each year. They do remarkable job.

I point out that the administration ha requested the concentration grants an the State incentive program and has re quested in fiscal 1979 the very $400 mil lion appropriation to fully fund the con centration grants which the bill contain So we endeavored to insure that the moneys would be given high priority.

I understand that Senator MAGNUSON the chairman of the Appropriation Committee, as well as several senio members of the Budget Committee, ar strongly inclined to favor the full $40 million spending in fiscal year 1979, an make appropriate allowances in the nex supplemental appropriation and in th second concurrent budget resolution This achieves the desire of the Huma Resources Committee expressed in sec tion 194 of S. 1753, that the new concen tration grants would receive favorabl treatment. We believe that section 19 does not force any appropriation Rather, it simply puts a priority on th concentration grants. This is not an ap propriation forcing device, rather it simply a statement of Human Resource Committee views as to the principal im portance of beginning the concentratio grants program in 1979.

Based on the assurances of suppor from Senator MAGNUSON and others,

am comfortable in accepting his amendment to strike 194 from this bill.

Mr. MAGNUSON. I appreciate that. They do have high priority in the Appropriations Committee.

I yield to the distinguished ranking minority member, the Senator from South Dakota (Mr. YOUNG), who will say the same.

Mr. YOUNG. Mr. President, I am very pleased to be a cosponsor of the amendments offered by my friend Mr. MAGNUSON, chairman of the Appropriations Committee.

These amendments would retain control by the Senate Appropriations Committee over certain appropriations for the Department of Health, Education, and Welfare.

It would place in excess of half-a-billion dollars back under congressional appropriations control.

Mr. President, I have long opposed back-door spending or the spending of any Federal funds which escape the review and control of the Appropriations Committee.

The Appropriations Committee can and does perform a necessary function by cutting back on funds for programs where there is waste or cutting appropriations for many functions of Government which are no longer necessary.

Agencies of the Federal Government which bypass the Appropriations Committee process in obtaining their funds can easily engage in wasteful, unnecessary, and even corrupt practices.

They can get far out of bounds on their spending before the Congress can act to curtail this type of spending.

At the present time at least two-thirds of the Labor/HEW appropriations bill is uncontrollable. By that I mean we on the Appropriations Committee have no alternative but to approve the funds mandated for various programs.

This means that any across-the-board percentage cut in appropriations must come out of that remaining percentage over which the Appropriations Committee can exercise control.

This amendment also directs that a study be done of the impact aid program. This is a program I have long supported. It has been of immense benefit to North Dakota schools.

The problem, however, is with the direction or lack of direction in the program. To mandate that only one of the several categories of impact assistance be funded at a particular level only acts to the detriment of the entire program. A thorough study is long overdue.

Mr. President, it is not just the Labor/HEW bill in which the funds of many programs are mandated. Of the approximately $500 billion in Federal spending, only about half is controllable by the Appropriations Committee.

If we are to achieve any degree of control over Federal spending, we cannot continue to endorse back-door spending.

Therefore, I very strongly support this amendment and urge its adoption.

Mr. MAGNUSON. Mr. President, I move the adoption of the amendment.

Mr. PELL. I recommend acceptance of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Without objection, the amendment is agreed to.

Mr. MAGNUSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. MAGNUSON. The Senator from Florida wishes to present a second amendment, and he is on his way here, but I wanted to ask one question of the Senator from Rhode Island and the Senator from New York: What is the price tag on this bill? How much have you authorized?

Mr. PELL. For 5 years the total amount is, I am informed—I have not added it up myself—$54 billion.

Mr. MAGNUSON. I think we should add it up if we know what we are going to do.

Mr. PELL. I will get an adding machine.

Mr. MAGNUSON. All right.

Mr. PELL. It is $52 billion.

Mr. MAGNUSON. Fifty-two billion dollars?

Mr. PELL. For 5 years.

Mr. MAGNUSON. I understand. And that is for 5 years?

Mr. PELL. It is about the best cost-benefit investment we can make in the education of our most important product, our young people.

Mr. MAGNUSON. Now, the Senator from Rhode Island need not discuss that with me. I understand how vitally important an investment education is, and I do not think anyone in the Senate does not understand that. But we do have to know what the price tag is.

Mr. PELL. Fifty-two billion dollars—$11 billion a year.

Mr. MAGNUSON. Fifty-two billion dollars.

Mr. MUSKIE. Mr. President, if the Senator will yield, the CBO has $55.1 billion on this bill.

Mr. MAGNUSON. Fifty-five billion?

Mr. MUSKIE. Fifty-five point 1 billion for 5 years.

Mr. PELL. I am informed that my figures are incorrect. I have not added them up myself, and $55 billion is apparently the correct figure.

Mr. MAGNUSON. I say to the Senator from Rhode Island, this is an authorization?

Mr. PELL. That is correct, a ceiling.

Mr. MAGNUSON. A ceiling. And if there were full funding it would cost us $55 billion?

Mr. PELL. But we hope for full funding as the Senator's generous heart will allow.

Mr. MAGNUSON. The Appropriations Committee will have a little bit to say about that. We have already begun the fiscal 1979 appropriations process. In the Labor-HEW bill, we have a very generous recommendation for education. We are recommending the highest level of funding for appropriations that we have ever had. Now we are asking to authorize, to commit ourselves to some extent, to $55 billion more. And I just wanted to warn the Senate, not for someone up here to write for the educators in the country, but for the ones who are here all the time in my office and in the Senator's office, that the Senate now says that you can have $55 billion.

They are not going to get all that, I do not think.

And I appreciate the Senator accepting these amendments and giving us some control over this matter. Some programs we are going to have to take a good long look at because they have outlived their usefulness. We may as well admit that. And as to some new innovative programs, there are a lot of them that are in this bill, and many are good ones. Maybe we should take out some and put some money into these new innovative programs that may accomplish a little more in the field of education.

We all know about education. We have been for it. I have been voting for education around here for a long, long time, and I have been putting money in appropriations bills, so much so that I have been vetoed five times over it. But I think the time has come when we have to reevaluate some of these programs. There are so many in there. Some of them have to be looked at. I suppose some of them are going to end up being sort of pilot operations to find out whether they are going to work or whether they are contributing to the goals of improving the Nation's education. And I just wanted to make that statement because the $55 billion is the authorization for Federal educational assistance, is that correct?

Mr. PELL. That is correct.

Mr. MAGNUSON. Does the Senator not think some of these local people could pick up these tabs once in a while?

Mr. PELL. I think they feel pretty burdened already, but I get the message. I say this is maybe the ceiling so let us make that floor as high as we can, also.

Mr. MAGNUSON. I hope the Senator is not like a lawyer who sues for $10,000 and hopes he settles the case for $5,000 because that puts us in a little bad shape.

Mr. PELL. No; we hope for 9½.

Mr. MAGNUSON. Yes.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from Rhode Island for a question?

Mr. MAGNUSON. I have the floor.

The PRESIDING OFFICER. The Senator from Washington has the floor.

Mr. HARRY F. BYRD, JR. Will the Senator from Washington yield to me to ask the Senator from Rhode Island a question?

Mr. MAGNUSON. I yield.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from Rhode Island indicate the amount that will be authorized for fiscal 1979 under this proposal?

Mr. PELL. We are looking it up in the Congressional Budget Office. It is $11 billion.

Mr. HARRY F. BYRD, JR. Eleven billion dollars for fiscal 1979?

Mr. PELL. 1979, that is correct.

Mr. HARRY F. BYRD, JR. How does that compare with fiscal 1978? What was appropriated for fiscal 1978?

Mr. MAGNUSON. For all of education?

Mr. HARRY F. BYRD, JR. No.

Mr. PELL. I do not have those figures.

Mr. HARRY F. BYRD, JR. What is the current proposal?

Mr. MAGNUSON. I think in round figures it is a little over $11.4 billion already in the bill on the desk.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield. The Senator may have those figures. We gave them to him.

Mr. MUSKIE. I have the amount that was provided in the second concurrent budget resolution. That amount was $5.2 billion as compared to the $11.2 billion included in this bill. So if this bill were fully funded it would exceed the budget resolution by twice.

Mr. HARRY F. BYRD, JR. Is the Senator from Maine saying the proposal before the Senate now is double the amount approved by the first budget resolution?

Mr. MUSKIE. That is right. It is not unusual for these authorization bills especially in education to substantially exceed appropriations. That is why Senator MAGNUSON and Senator EAGLETON's amendment are important. Their amendment will restore the discretion of the Appropriations Committee in determining the extent to which these amounts are appropriated.

Mr. HARRY F. BYRD, JR. But it does not change the total figure that is being authorized of $11 billion, as I understand.

Mr. MAGNUSON. It does not change the figure, no.

Mr. MUSKIE. No. But it does give the Appropriations Committee the discretion to decide how much to appropriate.

Mr. HARRY F. BYRD, JR. I think it is an important point being developed here that the bill before the Senate as recommended by the Human Resources Committee provides for double the amount approved in the first budget resolution.

Mr. MUSKIE. If it were fully funded.

Mr. MAGNUSON. That is correct.

Mr. HARRY F. BYRD, JR. The second question is, How does this $11 billion compare with the amount that was appropriated for similar functions of education for this fiscal 1978?

Mr. PELL. Mr. President, we do not have the appropriations figure here.

Mr. MAGNUSON. It is approximately $11 billion for all the education programs in HEW.

Mr. HARRY F. BYRD, JR. So it is a $2 billion increase.

Mr. PELL. This is an authorization.

Mr. HARRY F. BYRD, JR. This is an authorization.

Mr. PELL. This is what they think should be spent to do the job we are trying to do. We are not saying it will be spent. It is what we believe should be spent.

Mr. HARRY F. BYRD, JR. But it is a $2 billion increase.

Mr. MAGNUSON. Of course, I must say this is for all purposes in education. It is not just for title I that we are talking about now. It is for all federally assisted education programs.

Mr. HARRY F. BYRD, JR. It is not a comparable figure that the Senator from Washington is giving. It is not a comparable figure then.

Mr. MAGNUSON. We will get the exact figures, but I think for all purposes in the HEW bill that is on the desk we are around $11.4 billion.

Mr. HARRY F. BYRD, JR. And that compares with what?

Mr. MAGNUSON. That is for fiscal year 1979.

Mr. HARRY F. BYRD, JR. Is that comparable?

Mr. MAGNUSON. Yes.

Mr. PELL. Except for the year.

Mr. MAGNUSON. Yes.

Mr. HARRY F. BYRD, JR. Is that $9 billion comparable to the $11 billion that the Senator from Rhode Island is discussing?

Mr. PROXMIRE. Mr. President, will the Senator from Virginia yield?

It is not comparable, because, of course, the $11.4 billion includes the money for higher education.

Mr. MAGNUSON. That is right.

Mr. PROXMIRE. That is about half the amount.

Mr. MAGNUSON. That is right. It is for all educational purposes in HEW.

Mr. PROXMIRE. So if you compare it with $11 billion that is about twice as much, as the Senator from Maine has pointed out, 100 percent more.

Mr. MAGNUSON. That is right. I will put into the RECORD the exact figures, the division between higher education and elementary and secondary. For elementary and secondary education. We have $4.3 billion recommended for fiscal 1979.

Mr. HARRY F. BYRD, JR. We are not discussing higher education now. We are discussing elementary and secondary education, are we not?

Mr. PELL. The Senator is correct. This amount is about twice what has been appropriated and what we think should be spent to do the job.

Mr. HARRY F. BYRD, JR. So what your committee is asking the Senate to do then is to authorize twice as much money as is being spent in fiscal year 1978; is that correct?

Mr. PELL. That is correct.

Mr. HARRY F. BYRD, JR. I thank the Senator.

Mr. MAGNUSON. Mr. President, if the Senator will yield for just a moment, just for elementary and secondary education in the bill, the HEW bill, that has now been appropriated, is $4.3 billion.

Mr. HARRY F. BYRD, JR. Does that compare with the $11 billion in the bill now?

Mr. MAGNUSON. Yes, it compares in that $11 billion is much more than $4.3 billion.

Mr. HARRY F. BYRD, JR. What I am saying is instead of it being double this proposal is triple the amount that has been appropriated for fiscal 1978; is that right?

Mr. MAGNUSON. Pretty close to it.

Mr. HARRY F. BYRD, JR. I had hoped to vote for this bill, but I do not know whether I can vote for a bill tripling the amount of money authorized for 1 year, and the next year this will be tripled insofar as the authorization is concerned.

Mr. PELL. You are correct. I thought it was nearer double of what we should have spent, and the authorization for a year ago was, a year ago it was, between $9 billion and $10 billion. It is an increase.

Mr. MAGNUSON. This is an increase for all, all of the education programs [illegible] HEW.

Mr. HARRY F. BYRD, JR. Insofar [illegible] education is concerned, this provides f[illegible] three times the amount of money th[illegible] has been appropriated for the curre[illegible] year, is that correct? That is what [illegible] understood the Senator to say.

Mr. MAGNUSON. It authorizes.

Mr. PELL. It authorizes $11 billion.

Mr. MAGNUSON. The Senator is co[illegible] rect.

Mr. HARRY F. BYRD, JR. That [illegible] right. It authorizes three times as mu[illegible] money as was appropriated for the cu[illegible] rent year, is that correct?

Mr. PELL. Five times $3 billion is $[illegible] billion. My understanding is it is abo[illegible] twice. Two times $5 billion is $10 billi[illegible] or $11 billion.

Mr. HARRY F. BYRD, JR. The Sen[illegible] tor from Washington stated it was a li[illegible] tle over $4 billion appropriated for the [illegible] items for fiscal 1978; is that correct?

Mr. MAGNUSON. That is correct, $[illegible] billion.

Mr. HARRY F BYRD, JR. And t[illegible] proposal is to authorize $11 billion?

Mr. MAGNUSON. That is what I u[illegible] derstand. That is why I asked the Sen[illegible] tor the question.

Mr. HARRY F. BYRD, JR. That is [illegible] most four times.

Mr. PELL. The figure of $3 billio[illegible] plus the Senator from Washington ci[illegible] does not include impact aid, does n[illegible] include the handicapped, and some oth[illegible] figures.

Mr. HARRY F. BYRD, JR. Then, [illegible] get it comparable, what would it be?

Mr. PELL. It would be about $5 billi[illegible]

Mr. MAGNUSON. It is not all for e[illegible] mentary and secondary. It includes oth[illegible] things; many equally important high[illegible] education programs are included in t[illegible] figure.

Mr. HARRY F. BYRD, JR. So to [illegible] the comparable figure—

Mr. PELL. It is about double.

Mr. HARRY F. BYRD, JR. What t[illegible] Senator from Rhode Island proposes—

Mr. MAGNUSON. No matter how y[illegible] slice it, it is double anyway.

Mr. HARRY F. BYRD, JR. I think t[illegible] Senator from Washington has rendere[illegible] an important service to the Senate t[illegible] night. Certainly the Senator from Vi[illegible] ginia did not realize that this propo[illegible] authorizes twice as much money as h[illegible] been appropriated in this 1 year [illegible] fiscal 1978. It seems to me that is v[illegible] unreasonable.

Mr. SARBANES. Mr. President, w[illegible] the Senator from Virginia yield for [illegible] moment? Would the Senator from Wa[illegible] ington yield?

Mr. MAGNUSON. Yes.

Mr. SARBANES. What is the auth[illegible] ization for this fiscal year for wh[illegible] these appropriation figures are be[illegible] cited?

Mr. PELL. It is a little under [illegible] billion.

Mr. SARBANES. And the Senator [illegible] authorizing $11 billion. That is the co[illegible] parison on the authorization, the [illegible] between the authorization and the a[illegible] propriation, which is a reasonable poi[illegible] But I think it ought to be placed in t[illegible] context of what the existing authori[illegible] tion is.

Mr. HARRY F. BYRD, JR. I think it should be placed in the context of what the appropriation is. That is what is costing the taxpayers the money, what the appropriation is.

Mr. SARBANES. That is within the control of the committee that is chaired by the Senator from Washington.

Mr. HARRY F. BYRD, JR. That is right. The higher the appropriation is——

Mr. SARBANES. I find it interesting that the authorization for this year is twice the appropriation, so the situation has not really changed very much for next year.

Mr. MAGNUSON. I am not going to argue with what the Appropriations Committee is going to do, but I merely want to say that if we appropriated all of the money that has been authorized by the Congress of the United States in all fields, including HEW, I still say that the U.S. marshal would go downtown and put a sign up on the Treasury saying, "This bank is broke. Come back after we go through bankruptcy."

What I was trying to point out when I asked for the price tag of how much it cost, was that authorizations have a great deal to do with appropriations.

They are not only ceilings but are directives, and we understand, and we take a good look at the wishes of the legislative committees that do this. I have been chairman of a legislative committee for many, many years.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield for a question?

Mr. MAGNUSON. I suppose I am just as guilty as everybody else. "This," I have said, "is only an authorization."

Mr. HARRY F. BYRD, JR. Will the Senator yield for a question?

Mr. MAGNUSON. Yes.

Mr. HARRY F. BYRD, JR. Does the Senator from Washington think it is reasonable to ask the Senate to authorize an appropriation double the amount that has been appropriated for the current fiscal year?

Mr. MAGNUSON. It is reasonable from their viewpoint, but it makes it a little difficult for the Appropriations Committee because then all of these programs have their own constituencies.

Mr. HARRY F. BYRD, JR. It makes it more difficult for the taxpayers, I might say.

Mr. MAGNUSON. Each of the programs have their own constituencies, so you do not appropriate as much as they think they are going to get. So we go home and catch the devil about that and the authorization committees can go scot-free. "We think we ought to have this amount." I have done it, and I am just as guilty. But I do now have the responsibility, the Senator from Maine and I, and what we are trying to do is to find out where we are going in this field.

Mr. HARRY F. BYRD, JR. We are going deep in the hole if we are going to authorize twice as much money for next year as you spend for this year.

Mr. MAGNUSON. That happens all the time.

Mr. PELL. Mr. President, if the Senator will yield——

Mr. HARRY F. BYRD, JR. It unfortunately does.

Mr. PELL. We have knocked out $500 million by the removal of title XII.

Mr. MAGNUSON. Yes, we knocked it out.

Mr. PELL. To the nonpublic schools. In addition to that, we knocked out $200 million as a result of the amendment of the Senator from Missouri and the Senator from Washington and others, and I believe the Senator——

Mr. MAGNUSON. I have an amendment to reduce it another $120 million.

Mr. PELL. Let us hear it.

Mr. MAGNUSON. I think that is what we ought to do.

Mr. PROXMIRE. Mr. President, will the Senator yield for just one more question? Is it not true this is still about 100 percent over the President's budget request? The President requested to be authorized, not appropriated, but authorized this year about $5 billion, and we are authorizing instead of that close to $11 billion?

Mr. MAGNUSON. I have a letter from the OMB which I ask unanimous consent be printed in the RECORD. The Senator is correct.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, D.C., August 23, 1978.

Hon. HARRISON A. WILLIAMS, Jr.,
Chairman, Committee on Human Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In a separate letter to you the Administration expresses great concern about the Impact Aid provisions in S. 1753, the Education Amendments of 1978. The President regards a reduction of the program expansions above current law and the introduction of modest reforms in Impact Aid essential to a responsible level of Federal spending for education in S. 1753.

Unfortunately, S. 1753 authorizes unwarranted expansions of Impact Aid payments beyond the legitimate burden to districts resulting from the federal presence. S. 1753 adds $350 million of payments above the current services level for Impact Aid. The bill eliminates all the major reforms in Impact Aid which were instituted in 1974, and doubles the size of the mandatory Tier 2 payments from what they were only four years ago.

We support the efforts of the Senate Appropriations Committee to curtail Impact Aid payments for Fiscal Year 1979. Their action reflects this Administration's and the public's deep conviction that unwarranted federal spending cannot be tolerated.

We strongly support the Impact Aid and Title I amendments which we understand Senator Magnuson will offer on the floor of the Senate, with the support of Senator Muskie. These amendments will (a) return Impact Aid public housing payments to current law, (b) add discretionary authority for additional public housing payments independent of the Tier system, (c) mandate a study of Impact Aid, and (d) remove the inflexible funding provisions in Title I.

For the following reasons, we strongly support the Impact Aid and Title I amendments which Senator Magnuson intends to sponsor:

The Impact Aid Public Housing provisions in S. 1753 skew the federal education priorities away from large concentrations of poor children and toward school districts which qualify for other reasons.

Public housing payments are not proportionate to concentrations of poor children. Because the Impact Aid public housing formula reflects local housing policies, but not necessarily the large concentrations of poor children, the Impact Aid provisions of S. 1753 will benefit only 14 states compared to 35 states that would benefit from a similar amount of increased Title I funds.

In future years the inflexible funding provisions in Impact Aid, Title I State Incentive grants and Concentration grants virtually eliminate the choice of adding limited federal dollars to the basic Part A Title I program first, even though the basic program provides the greatest benefits to thirty five states and is targeted to low income children. (See the attached state by state analysis.)

The Impact Aid amendments return public housing payments to current law which allocates $79 million primarily to urban areas.

The Administration also supports the Impact Aid amendments which we understand will be introduced by Human Resources Committee members and others.

We hope you will join the Administration in working for passage of all the above amendments to Impact Aid and Title I.

S. 1753, as reported by the Committee, is not in accord with the program of the President.

Sincerely,

JAMES T. MCINTYRE, Jr.,
Director.

IMPACT AID ANALYSIS

1. Increased funding through Title I—Part A (Basic Program) provides greater gains to more states than increased funding through Impact Aid—Public Housing increases. The 35 gainers are states with large numbers of Title I-eligible children, but not necessarily large concentrations of public housing. Title I (Part A) is a better way than Impact Aid-Public Housing to distribute additional funds to low income children. (See Table 1.)

GAINERS (35)

Arizona, Arkansas, California, Colorado, Florida, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Carolina, North Dakota, South Dakota, Oklahoma, Oregon, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Washington, West Virginia, Wisconsin, Wyoming.

LOSERS (13)

Alabama, Georgia, Hawaii, Illinois, Maryland, Nevada, New Hampshire, New Jersey, New York, Ohio, Puerto Rico, Pennsylvania, Virginia.

NO CHANGE (2)

Alaska, Delaware.

Impact Aid current law plus increases in Title I—Part A benefits 35 states. Increases in public housing *only*, however, benefit 14 states.

S. 1753—EDUCATION AMENDMENTS OF 1978

TABLE 1.—FISCAL YEAR COMPARISON OF DISTRIBUTION OF $117,000,000 IN TIER II PUBLIC HOUSING (IMPACT AID) WITH $117,000,000 UNDER ESEA TITLE I BASIC LOCAL PROGRAM (PART A)

[In millions of dollars]

State	$117,000,000 basic title I program (1)	S. 1753 increase public housing (2)	Col. (1) minus col. (2) (3)
Total	117.24	117.24	0
Alabama	3.19	3.41	−.22
Alaska	.23	.20	+.03
Arizona	1.17	.27	+.90
Arkansas	1.81	.82	+.99
California	9.80	6.12	+3.68
Colorado	1.08	.83	+.25
Connecticut	1.03	1.65	−.62
Delaware	.30	.39	−.09
District of Columbia	.71	1.87	−1.16

S. 1753—EDUCATION AMENDMENTS OF 1978—Con.

TABLE 1.—FISCAL YEAR COMPARISON OF DISTRIBUTION OF $117,000,000 IN TIER II PUBLIC HOUSING (IMPACT AID) WITH $117,000,000 UNDER ESEA TITLE I BASIC LOCAL PROGRAM (PART A)—Continued

[In millions of dollars]

State	$117,000,000 basic title I program (1)	S. 1753 increase public housing (2)	Col. (1) minus col. (2) (3)
Florida	4.03	2.73	+1.30
Georgia	3.44	3.89	−.45
Hawaii	.42	.54	−.12
Idaho	.29	.08	+.21
Illinois	5.10	6.51	−1.41
Indiana	1.55	1.00	+.55
Iowa	1.12	.01	+1.11
Kansas	.92	.25	+.67
Kentucky	2.46	1.14	+1.32
Louisiana	3.62	2.45	+1.17
Maine	.45	.22	+.23
Maryland	2.04	2.32	−.28
Massachusetts	2.34	2.10	+.24
Michigan	4.75	1.31	+3.44
Minnesota	1.72	.78	+.94
Mississippi	3.04	.93	+2.11
Missouri	2.14	.87	+1.27
Montana	.40	0.00	+.40
Nebraska	.66	.22	+.44
Nevada	.15	.38	−.23
New Hampshire	.19	.40	−.21
New Jersey	3.09	5.02	−1.93
New Mexico	.99	.33	+.66
New York	11.64	31.90	−20.66
North Carolina	3.68	3.58	+.10
North Dakota	.33	.09	+.24
Ohio	3.61	4.23	−.62
Oklahoma	1.45	.53	+.92
Oregon	1.09	.25	+.84
Pennsylvania	5.53	7.15	−1.62
Rhode Island	.41	.46	−.05
South Carolina	2.42	.84	+1.58
South Dakota	.44	0	+.44
Tennessee	2.88	2.69	+.19
Texas	7.70	4.22	+3.48
Utah	.39	.07	+.32
Vermont	.19	.07	+.12
Virginia	2.89	3.09	−.20
Washington	1.36	.80	+.56
West Virginia	1.27	.35	+.92
Wisconsin	1.92	.53	+1.39
Wyoming	.17	.03	+.14

Note: 35 States gain under ESEA title I.

Source: HEW estimates.

2. Title I—Concentration is not a separate program; it is a supplemental payment to give needed additional support to areas with 20 percent or 5,000 Title I-eligible children. Concentration monies and Title I—Part A (Basic Program) monies are comingled and used for the same purpose at the school district level. A minimum payment of one quarter of one percent is allocated to each state through the Concentration provisions.

Increased funding for Title I Concentration benefits more states than increased funding for Impact Aid Public Housing. A total of 30 states gain if additional funds are added to Concentration compared to additional money for Impact Aid Public Housing. These same 30 states lose if you reduce Title I Concentration by $120 million it would take to fund Impact Aid Public Housing Tier II. (See table 2.)

Gainers (Trade-off of Concentration for Public Housing)

Alaska, Arizona, Arkansas, California, Florida, Idaho, Iowa, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, Oregon, South Carolina, Texas, Utah, Vermont, Washington, West Virginia, Wisconsin, Wyoming, South Dakota.

NOTE.—For the same amount of money, the above states gain under Title I concentration but lose under Impact Aid public housing.

TABLE 2.—FISCAL YEAR 1979 ESEA TITLE I CONCENTRATION GRANTS AT $400,000,000 COMPARED WITH CONCENTRATION GRANTS REDUCED TO $280,000,000 AND TIER II PUBLIC HOUSING AT $117,000,000

[In millions of dollars]

State	Concentration at $400,000,000 (1)	Concentration at $280,000,000 (2)	Tier II public housing at $117,000,000 (3)	Cols. (2)+(3) (4)	Difference of (1)−(4) (5)
Total	400.0	280.0	117.0	397.0	+3.0
Alabama	10.1	7.0	3.4	10.4	−.3
Alaska	1.0	.7	.2	.9	+.1
Arizona	4.2	2.9	.3	3.2	+1.0
Arkansas	4.9	3.4	.8	4.2	+.7
California	47.9	33.5	6.1	39.6	+8.3
Colorado	1.8	1.2	.8	2.0	−.2
Connecticut	4.0	2.8	1.6	4.4	−.4
Delaware	1.0	.7	.4	1.1	−.1
District of Columbia	3.9	2.7	1.9	4.6	−.7
Florida	13.5	9.5	2.7	12.2	+1.3
Georgia	9.1	6.4	3.9	10.3	−1.2
Hawaii	1.5	1.0	.5	1.5	0
Idaho	1.0	.7	.1	.8	+.2
Illinois	20.2	14.1	6.5	20.6	−.4
Indiana	2.2	1.5	1.0	2.5	−.3
Iowa	1.0	.7	0	.7	+.3
Kansas	1.0	.7	.2	.9	+.1
Kentucky	6.5	4.5	1.1	5.6	+.9
Louisiana	12.3	8.6	2.5	11.1	+1.2
Maine	1.0	.7	.2	.9	+.1
Maryland	6.5	4.5	2.3	6.8	−.3
Massachusetts	9.6	6.7	2.1	8.8	+.8
Michigan	17.7	12.4	1.3	13.7	+4.0
Minnesota	2.0	1.4	.8	2.2	−.2
Mississippi	10.4	7.3	.9	8.2	+2.2
Missouri	5.6	4.0	.9	4.9	+.
Montana	1.0	.7	0	.7	+.
Nebraska	1.0	.7	.2	.9	+.
Nevada	1.0	.7	.4	1.1	−.
New Hampshire	1.0	.7	.4	1.1	−.
New Jersey	10.8	7.6	5.0	12.6	−1.
New Mexico	2.6	1.8	.3	2.1	+.
New York	58.0	40.6	31.9	72.5	−14.
North Carolina	8.4	5.9	3.6	9.5	−1.
North Dakota	1.0	.7	.1	.8	+.
Ohio	9.5	6.7	4.2	10.9	−1.
Oklahoma	3.2	2.2	.5	2.7	+.
Oregon	1.5	1.1	.3	1.4	+.
Pennsylvania	17.0	11.9	7.1	19.0	−2.
Rhode Island	1.2	1.0	.5	1.5	−.
South Carolina	6.7	4.7	.8	5.5	+1.
South Dakota	1.0	.7	0	.7	+.
Tennessee	5.5	6.0	2.7	8.7	−.
Texas	26.9	18.8	4.2	23.0	+3.
Utah	1.0	.7	.1	.8	+.
Vermont	1.0	.7	.1	.8	+.
Virginia	5.3	3.7	3.0	6.7	−1.
Washington	3.1	2.2	.8	3.0	+.
West Virginia	2.5	1.8	.3	2.1	+.
Wisconsin	3.3	2.3	.5	2.8	+.
Wyoming	1.0	.7	0	.7	+.
Puerto Rico	21.5	15.1	6.7	21.8	−.

Note: 30 States gain under concentration at $400,000,000 compared with concentration at $280,000,000 and tier II public housing at $117,000,000.

Source: CRS and HEW estimates.

Mr. PELL. Basically this is not the administration bill. They do not send it up.

Mr. PROXMIRE. But the amount is 100 percent over what the President asked for.

Mr. PELL. No.

Mr. HARRY F. BYRD, JR. I think it is an important point to establish.

The PRESIDING OFFICER. The Chair wishes to say that the Senate is not in order. Will the Senate please be in order and pay attention to the Senator from Washington.

UP AMENDMENT NO. 1742

(Purpose: To modify the provisions relating to minimum payments for State operated programs)

Mr. MAGNUSON. Mr. President, I submit an amendment with another 27 cosponsors, and I ask that it be considered.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. MAGNUSON), for himself, Mr. MUSKIE, Mr. PROXMIRE, Mr. HOLLINGS, Mr. CHILES, Mr. BURDICK, Mr. BELLMON, Mr. DOMENICI, Mr. YOUNG, Mr. STEVENS, Mr. SASSER, Mr. ABOUREZK, Mr. SCHMITT, Mr. JACKSON, Mr. MORGAN, Mr. DECONCINI, Mr. HANSEN, Mr. BARTLETT, Mr. HUDDLESTON, Mr. ZORINSKY, Mr. STENNIS, Mr. HATFIELD of Montana, Mr. MELCHER, Mr. BUMPERS, Mr. HODGES, Mr. BAYH, Mrs. ALLEN, and Mrs. HUMPHREY proposes an unprinted amendment numbered 1742.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 85, strike out lines 2 through 15 and insert in lieu thereof the following:

"SEC. 157. For any fiscal year ending prior to October 1, 1983, no State shall receive an amount under subparts 1, 2, or 3 of this part which is less than 85 per centum of the amount paid to that State in the preceding fiscal year under that subpart, or under sections 121, 122, or 123 of this Act as in effect immediately preceding the enactment of this section, whichever the case may be.

Mr. MAGNUSON. Mr. President, this second amendment would allow for the adjustment of appropriations for educating institutionalized handicapped children. The amendment would allow the appropriations for this program to be reduced if the number of handicapped students in State institutions decreases. The handicapped children who leave State institutions would then be eligible for support under the education for the handicapped program.

This amendment will allow for the provision of services to all institutionalized handicapped children covered under title I. It will keep us from appropriating more funds than the program needs in any single year.

Mr. President, I move adoption of the amendment.

Mr. President, the Senator from Florida held a lot of the hearings on this matter. I yield to him.

Mr. CHILES. Mr. President, I just want to join in supporting the chairman of the Appropriations Committee in what he is talking about in this amendment. This amendment, which affects the payments to States for State-operated institutions for the handicapped, leaves in 100 percent entitlement funding based on the number of children served. It does reduce the hold-harmless provision from 100 percent to 85 percent. This provision keeps the funding from being adjusted from the 1974 level, even as the number of pupils served changes. No reduction in funding is required—but it is subject to the Appropriations Committee's action, and I think that is exactly what we should have. I support the distinguished chairman in that regard.

Mr. JAVITS. Mr. President, I am prepared to accept this amendment, because no handicapped child would have his funding reduced. It would only reduce funding in States whose actual count of handicapped children being served by State title I programs was reduced by more than 15 percent from the preceding year. I believe this solution is fair to those few States which have a significant drop in the number of handicapped children served through State title I programs.

Mr. MAGNUSON. We are all hopeful that we will work them out of this status as soon as possible.

Mr. JAVITS. I am ready to vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment (UP No. 1742).

The amendment was agreed to.

UP AMENDMENT NO. 1743

(Purpose: To delete a requirement conditioning authorization of appropriations for title IV on a percent for part E)

Mr. MAGNUSON. Mr. President, I send another amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. MAGNUSON) proposes an unprinted amendment numbered 1743.

Mr. MAGNUSON. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 179, strike out lines 22 through 26.

Mr. MAGNUSON. Mr. President, my third amendment would delete section 402(f), which requires that gifted and talented education must receive at least 5 percent of the total amount appropriated for title IV.

In other words, they are directing us to put in the 5 percent whether we believe it is necessary or not. If this requirement is not met, no funds are authorized to be appropriated for this title IV. This title includes good programs, many of them we have worked on and helped out over the years, such as school libraries, guidance and counseling, improvement of State and local education, the so-called consolidated programs. Other important education programs should not be jeopardized by this required entitlement for education of gifted and talented, or some other specific purpose. We will handle that and do very well; I have no apologies to make for the Appropriations Committee on the amount of money we give to these people on this program.

However, this trigger will be troublesome, because here it is mandatory. I might note that we double the funding for gifted and talented in the fiscal 1979 Labor-HEW bill. If we look at this program and think we should not double it, you make it mandatory on us to do it. Again, we support the gifted and talented program; we just want to make sure that this, like all other education programs is subject to appropriations. That is why some 35 Senators are cosponsoring the amendment to take that trigger out. That becomes a little part of the dialog we have just been talking about.

Mr. JAVITS. Mr. President, as for the dialog, I do not want to get into it, because it is late and everyone wants to get home, but it is a fact that not over 7 percent of the total support of the public school system of the United States comes from the Federal Government; so, although the figures sometimes sound big, it is not all that big a deal. The public school system, out of the backs of their taxpayers, are paying 93 percent.

Remember, that is 7 percent, in contrast with 7 percent—more than 13 times the number of billions of dollars we appropriate that Americans are paying through local governments for the education of their children.

Mr. MAGNUSON. I thought that the concept was that the public schools were a local matter.

Mr. JAVITS. They are local.

Mr. MAGNUSON. I have been around here when Federal aid to education was a bad word, because people around the country would say, "You are interfering with how we educate our kids, and that is a local matter."

I think they should pick up some of these tabs. The Federal Government is really in the red, and all the States are in the black. They ought to continue to pick up part of the tab for the education of the children. We should help as much as we can with these specialized Federal programs. And, we have been doing that.

Mr. JAVITS. You certainly have, Senator MAGNUSON.

Mr. MAGNUSON. Do not let anybody say we have not been doing it.

Mr. JAVITS. Oh, no, I would not say that.

Mr. MAGNUSON. As much as we can afford. We are in the red, and they are all in the black.

Mr. JAVITS. To come back to this gifted and talented matter, Mr. President, really, the amendment is a matter of principle that Senator MAGNUSON is putting up to us. Not that he objects to the program or the amount, but the 5-percent figure is what he objects to.

I am ready to accept the amendment, with this brief statement: First, I would like to thank Senator CHILES because of his efforts. This highly desirable program was doubled in the appropriation, and that was really essential, from 2½ percent to 5 percent. There are 2 million children out of 44 million in this country who are gifted and talented. It is an inestimable resource, and one of the nicest things I could ever do here was develop this particular program and see its success.

I might say, Mr. President, that I have every confidence that the Appropriations Committee fully recognizes the enormous leverage which exists in this program. I think it is very sad that the Office of Education was able to make only 14 grants in fiscal 1978 out of 16,000 local agencies of education. Senator CHILES and Senator MAGNUSON are going to help us do better, and I certainly would not stand in the way of what they feel that they on the Appropriations Committee should do to facilitate the action.

Mr. YOUNG. Mr. President, will the Senator from Washington yield?

Mr. MAGNUSON. I yield to the Senator from North Dakota.

Mr. YOUNG. Would the Senator agree that one of our principal concerns is that we are spending over $500 billion a year, and the Appropriations Committee has jurisdiction over only a little less than half of that amount? There are too many committees authorizing and spending money at the same time, so that there is little or no control over many of these funds. That is something we are concerned about. And this is what we are really arguing about tonight.

Mr. MAGNUSON. I certainly agree, Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment (UP No. 1743).

The amendment was agreed to.

UP AMENDMENT NO. 1744

(Purpose: To improve the funding structure of impact aid under Public Law 874)

Mr. MAGNUSON. Mr. President, I send to the desk a final amendment.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. MAGNUSON. I send to the desk a final amendment, again sponsored by some 27 Senators, and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington (Mr. MAGNUSON), for himself, Mr. MUSKIE, Mr. PROXMIRE, Mr. HOLLINGS, Mr. CHILES, Mr. BURDICK, Mr. BELLMON, Mr. DOMENICI, Mr. YOUNG, Mr. STEVENS, Mr. SASSER, Mr. ABOUREZK, Mr. SCHMITT, Mr. JACKSON, Mr. MORGAN, Mr. DECONCINI, Mr. HANSEN, Mr. BARTLETT, Mr. HUDDLESTON, Mr. ZORINSKY, Mr. STENNIS, Mr. PAUL G. HATFIELD, Mr. MELCHER, Mr. BUMPERS, Mr. BAYH, Mrs. ALLEN, Mr. HODGES, and Mr. BENTSEN, proposes an unprinted amendment numbered 1744.

Mr. MAGNUSON. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 331, between lines 15 and 16, insert the following:

(d) Section 5(e) of such Act is amended by striking out "1978" and inserting in lieu thereof "1983".

On page 331, line 16, strike out "(d)" and insert in lieu thereof "(e)".

On page 334, strike out lines 18 through 21, and insert in lieu thereof the following:

AUTHORIZATIONS FOR PUBLIC HOUSING CHILDREN

SEC. 207. Section 5(c) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by adding at the end thereof the following new paragraph:

"There are authorized to be appropriated $120,000,000 for each fiscal year ending prior to October 1, 1982, to meet unsatisfied entitlements for children who reside on, or who reside with a parent employed on, property which is described in section 403(1)(C).".

On page 340, between lines 2 and 3, insert the following:

IMPACT AID STUDY

SEC. 215. (a) The President shall appoint a Commission on the Review of the Federal Impact Aid Program consisting of 10 members appointed by the Secretary.

(b) The Commission shall review and evaluate the administration and operation of the impact aid program under the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) including—

(1) the equity of the present funding structure under Public Law 874,

(2) the relative benefit of the assistance for impact aid under Public Law 874 in view of increasing costs of the program and the limitation on the availability of funds, and

(3) the ways in which districts of local educational agencies which are Federally impacted can best be assisted in meeting their educational needs.

(c)(1) The Secretary of Health, Education, and Welfare shall assure that the Department of Health, Education, and Welfare provide full support and cooperation to the Commission appointed under this section.

(2) The provisions of part D of the General Education Provisions Act, not inconsistent with the provisions of this section, shall apply to the commission appointed under this section.

(3) This Commission shall closely coordinate its activities with activities of the Advisory Panel on Elementary and Secondary Education authorized under section 114 of this Act.

(d) The Commission shall prepare and submit to the President and to the Congress not later than December 1, 1979, a report on the review and evaluation required by this section, together with such recommendations, including recommendations for legislation relating to the authorization of the program and funding for the program, as the Commission deems appropriate.

On page 20, in the Table of Contents, strike out item Sec. 207 and insert the following:

"Sec. 207. Authorizations for public housing children.".

On page 20, in the Table of Contents, after the item Sec. 214 insert the following:

"Sec. 215. Impact aid study."

Mr. MAGNUSON. I will briefly explain what it does. This is an amendment I know that the committee has some doubts about, and we may have to have a rollcall on it. Does the Senator from New York wish a rollcall on this amendment?

Mr. JAVITS. I would like to hear the Senator.

Mr. MAGNUSON. I hope I am convincing enough that we will not need to have one.

The amendment has to do with impact aid. I have always been a strong supporter of impacted aid, but the program has just grown too fast. As a matter of fact, I say to my colleagues in the Senate that I am a little bit embarrassed about this, because I started the first impact aid. We were building a dam called the Grand Coulee Dam out in my State, and it was being built in a county that had nothing but sagebrush and jackrabbits. There was not a single taxable item in the county, and no schools.

Because it was a Federal project, we got started with impact aid to build a couple of schools for the kids of the workers that came there, the influx of workers.

But, as I say, it has grown too fast. We should make sure that the school districts which are affected by Federal programs, directly affected, are assisted. But this bill proposes to go far beyond that. The bill would add an additional $120 million in mandatory—again, mandatory—appropriations for public housing students.

Public housing is usually in an urban area. Usually public housing is surrounded by millions of dollars worth of real estate and buildings and has a tax base which is good.

I do not object to part of it, perhaps, but the amendment would leave the public housing provision as it currently stands, which is about $79 million, a reduction of $120 million. We are not taking money away from anyone. This money has not been appropriated.

The amendment would make it easier to add funds for public housing if Congress so decides, and if the Appropriations Committee so decides.

Under the amendment we can pull out some items and fund them separately, including public housing, or stop what is going on in some of the counties. I need not mention again the counties around Washington, D.C., where we have seen a tremendous amount of impact aid because there are Government workers here.

It was not intended that way. It does not affect class A students and it does not affect any students coming from people who work in military establishments.

Mr. McINTYRE. Will the Senator yield?

Mr. MAGNUSON. In just a moment.

The third type of impact aid would mandate a study of this program.

I do not know how to do it. It should be a legislative matter. Again, it has not been addressed by the legislative committees to change the rules. I need not cite what goes on in Fairfax County or Montgomery County. My own State is the recipient of a lot of impact aid. Some of it may not be for totally high priority items.

Mr. McINTYRE. Will the Senator yield?

Mr. MAGNUSON. In a moment.

We could go on.

The Senator's former colleague, Norris Cotton, and I have always been opposed to this.

I really want to assist the education of public housing students, and we should add money to the title I program where the money is specifically targeted to the education of the disadvantaged.

All this amendment does is move back to the present level the $79 million and the bill mandates that we go up another $120 million. This knocks a mandatory $120 million out of the bill.

I yield the floor.

Mr. McINTYRE. Does the Senator's amendment in any way affect the 3(a) student, the student who lives on the post with their parents and goes to public schools?

Mr. MAGNUSON. Not at all.

Mr. McINTYRE. I have an amendment on that subject.

Mr. MAGNUSON. They should be taken care of. It is that the abuses in this program have gone up to about $600 million in the bill for this program. There are 435 legislative districts in this country, or congressional districts, and 432 are in impact areas. I do not know what happened. There are 432 which receive impact aid based upon there being a Federal employee around somewhere.

I understand that they are starting to suggest that postal employees' schoolchildren can be used for the school district to get impact aid because they work for the Federal Government I think it is a time to put a stop to it, or at least hold it down and not have it mandatory. Let us take a look at it anyway.

(Mr. METZENBAUM assumed the chair.)

SEVERAL SENATORS. Vote!

Mr. JAVITS. Mr. President, I oppose this amendment. I know Senator MAGNUSON has been wonderful in many things, but I believe this is very unfair, taking it out of the hides of the children who come from public housing projects which are federally financed. We had a tremendous battle getting them in because the fact is that a big block of money goes to impact aid. Impact aid will be run in a different manner, we will soon see, when Senator MAGNUSON presents his amendment.

Mr. MAGNUSON. If the Senator will yield, we are not kicking out anybody. All we are doing is removing a mandate that we increase it by 150 percent. That is all.

Mr. JAVITS. The Senator is eliminating from tier 2 the public housing children, which means that the public housing children will only get 25 percent of what they would otherwise get if they were included in tier 2. They would get 57 percent. So the Senator's amendment is cutting out the U.S. public housing children in a way which is very discriminatory to them.

Mr. MAGNUSON. We are not going to make it discriminatory. We are going to take a look at it.

Mr. JAVITS. In the meantime, the amendment is cutting it out.

Mr. MAGNUSON. The Senator's public housing is surrounded by hundreds of millions of dollars of expensive real estate.

Mr. JAVITS. And the public housing is still there and those people are still there and still need help.

Mr. MAGNUSON. And 29 percent of this goes to the State of New York.

Mr. JAVITS. Not that I am conscious of.

Mr. MAGNUSON. That is the figure.

Mr. JAVITS. Concerning the whole impact aid program, Mr. President, if we are going to knock it out, knock it out.

Mr. MAGNUSON. I am not talking about that.

Mr. JAVITS. I understand. But the whole impact aid program was originally invented here for the purpose of looking after something which is no longer true. It is really aid to public schools now. As far as public housing was concerned it was the only way in which many communities in this country—and I am being brutally frank with the Senate—could get a look in on all this dough. It was the only way it could be done. Now if we are knocked out we are being discriminated against and the Senator is making it necessary for us to go after the whole impact aid program. I promise, we will. The big cities of the country may not do it tonight, but they will wake up and they will join me. They will knock it all out. That is what you are doing.

The minute you start monkeying around with this tier system, and the minute you knock a particular block of children out of it, you are inviting disaster for impact aid. Every administration has been against it, the Republicans and the Democrats, but they have had to live with it and tolerate it. I have, too, and every other big city Senator has had to live with it and tolerate it, and do his utmost to get a piece of the action.

I said I would be very frank with the Senate and I am being frank.

If you want to cut us out, OK, you may have the votes to do it, but I promise you that you will lose the whole program the minute you start to monkey with it. Sure, so many school districts are in it precisely for that reason. Everybody else wants a piece of the action, as long as there is going to be Federal aid to public schools with a big block of public money, just as I did and other Senators representing big cities. But if you tamper with it this way and knock these kids out, that is the end of the program. It may not be this year but it will be the next year or the year after that.

Mr. MAGNUSON. If I may——

Mr. JAVITS. I have not yielded, I say to the Senator. Let me finish.

Mr. MAGNUSON. But the Senator is getting emotional.

Mr. JAVITS. I am not a bit emotional but I am indignant. The quality of indignancy should not be mixed up with emotion. I can understand what the Senator is doing. I cannot understand why, but I can understand what he is doing. He is putting a ceiling on this. Every impact recipient better understand this.

This cuts the amount available for impact aid by about one-third. The Appropriations Committee does not have to appropriate all the money which is provided for impact aid, even without this amendment. But now, in addition to the discretion and the volition of the Appropriations Committee, a ceiling is put on it. So even if the Appropriations Committee wanted to give you the full amount which is provided, they could not do it because the ceiling, as I say, is one-third less than the allowable amount which the Appropriations Committee, with complete volition, could do if it wanted to.

Senator MAGNUSON is a very important and influential person. I am really very fond of him; I am devoted to him. But this is what is happening right here, tonight. I think the votes are here to accomplish it if the Senator presses his amendment, as I know he will. But I am just telling you what you are doing to a program which, by simple acceptance, has been accepted as a part of Federal aid to schools and everybody has some part of it. So we accept it and tolerate it. But when you begin to dismantle it, and this is the first move to do it, I promise you that you are going to have to answer to why these children and not those children, why these children and not the other children, and that tier system. The whole neat plan is going to begin to be very materially broken up.

Mr. MAGNUSON. This money does not knock out any children anyplace.

Mr. JAVITS. It knocks out these children in Federal public housing projects.

Mr. MAGNUSON. It does not knock them out.

Mr. JAVITS. It most assuredly does.

Mr. MAGNUSON. The school district of New York can take care of it; can they not?

Mr. JAVITS. No; they cannot.

Mr. MAGNUSON. Why not?

Mr. JAVITS. Because they do not have the money, any more than any other places in the country have the money.

Mr. MAGNUSON. That is not the point.

Mr. JAVITS. Well, it is. This is knocking out Federal aid.

Mr. MAGNUSON. It is not kids at all.

Mr. CHILES. Will the Senator yield?

Mr. MAGNUSON. Yes.

Mr. CHILES. My understanding is that what this amendment does is simply say that the amount of money, $180 million, this bill sets an authorization for an increase of $180 million, that increase to be in public housing. It says that $180 million, and only that portion, which is new, will be subject to an appropriation for the first time. Before that, we had formulas. They are locked in.

You have to appropriate on the basis of those formulas and everything we are talking about in this series of amendments tonight is to try to allow the Appropriations Committee, which is supposed to have that role—that is what it is supposed to be about—the ability to look at this as we look at the defense authorization, as we look at the authorization bills that come out of other authorizing committees, and say we can only fund so much of those this year.

This provides for an increase. It is an authorizing committee proposal. Most of the authorizing committees will come up as they reauthorize for increases. It simply says that this increase in the public housing field will have to be subject to the Appropriations Committee and subject to appropriation.

We realize that this is a complex subject. Most of us know that we have to do something about impact aid. We know that it has gotten out of control and we now have all but about three of the legislative districts in the entire country drawing impact aid. We do not know just how to get a handle on that now, so we are not even attempting to do that. We are saying that should be studied.

What we are saying is we authorize new and additional funds. For goodness sake, we say that is subject to an appropriation, as we should be doing with all authorizing measures. That is all, in effect, that this does.

Mr. JAVITS. Mr. President, if I may complete my argument.

Mr. MUSKIE. Will the Senator yield?

Mr. CHILES. I yield.

Mr. MUSKIE. I want to be sure I undestand accurately what the present situation is. This public housing money was not in tier 2 under current law. So if my understanding is correct, we are not cutting anything out of what anybody has now. We are amending a bill that proposes to put public housing in tier 2 where it is not presently found.

Am I not right?

Mr. JAVITS. That is correct.

Mr. MUSKIE. So, we are not cutting them out.

Mr. JAVITS. We are cutting them out in practical effect.

Mr. MUSKIE. We are cutting them out of this new authorization scheme.

Mr. JAVITS. While you are looking after everybody else. That is my argument.

Mr. MUSKIE. These other groups have been funded in tier 2 prior to this reauthorization bill.

Mr. JAVITS. Nonetheless, they are being looked after and the fact is that the fact that the public housing children—

Mr. MUSKIE. My point is this:

This represents an expansion with respect to the public housing students because they were never in tier 2 before. They were prepared for inclusion in this bill. You cannot appropriate in tier 2 until you have appropriated fully in tier 1. You cannot appropriate in tier 3 until you have appropriated fully in tier 2. This tier system has been devised to force that full funding for tier 1 and then for tier 2 before you can get to tier 3. By putting public housing students into tier 2, we are giving them a status they do not now have.

The second point I would like to make is that these payments to school districts for public housing students will not go to pay for the education of public housing students. The payments would go to the jurisdictions in which the public housing students are found and they will be used in those jurisdictions for the general education program.

Mr. JAVITS. I shall answer that in a minute. I yield to Senator EAGLETON.

Mr. EAGLETON. Mr. President, I know the hour is late, but like my colleague from New York (Mr. JAVITS), I think this is an important matter that merits at least a little attention. It was my amendment in 1970 that brought public housing students first into the impact formula; 1974 was the first time

funds were appropriated for the impact aid provision. As does the Senator from New York, I have an enormous respect for the chairman of the Senate Appropriations Committee. I have worked with him and I admire him and respect him greatly.

But, Mr. President, what he rails against tonight, a Federal judge in his home State or Federal officials living in Montgomery County, Md., and Montgomery County, Md., whose children are eligible for impact aid by reason thereof, those are the real evils of impact aid. Those are the evils that this body will not eliminate.

I will bet if I offered an amendment to do away with all of impact aid except "A" students—that is, students whose families live and work on base, and that is the true impaction, and that is the original intent of the bill—if I offered an amendment to restore it to what it was originally designed to be and what each of us in our own minds knows today it should be, I doubt if I would get four votes. I do not think I would get four. Maybe I ought to offer it to see how few I would get. I have a record on some of my amendments of getting less than double-digit support. Maybe this would be yet another one.

Some of us were looking at the impact aid formula and saw that Montgomery County was getting a ton of money for no good reason, and Fairfax County was getting a ton of money for no good reason. So all of this largesse was being spread around for, really, no good educational reason other than the fact that the formula grew. Some of us said, well, so what. What is the worst kind of an impaction insofar as a tax point of view that a city can have? The impaction of a public housing project, where there are no taxes paid and where, from giant highrise complexes, thousands of kids are thrust upon a school system.

My friend from Washington tells me that right outside of public housing are all these properties that can be taxed. Maybe Seattle is an affluent city. I dare-say it is. But I will tell you, the St. Louis school system is dead broke and has a lot of housing projects in it. I will tell you the Kansas City, Mo., school system is dead broke and has a lot of housing projects in it.

Sure, Senator JAVITS speaks up for New York City. Does anybody have to take notice that New York City and its school system is financially bankrupt? It is. And part of that impaction and part of the reason for that bankruptcy is the fact that we have put public housing in mass concentrations in small numbers of urban centers, and then said, go ahead, see what you can do with these kids.

If we want really to purify impact aid, yes, strike it all except the "A" kids, those who live and work on base. That is what the bill was originally about. But if you are going to throw Montgomery County into it, and we have, and we do not have the guts to retrieve it, and if we are going to throw Fairfax into it and throw Beverly Hills into it, I say the Senator from New York is absolutely right.

The true impaction is the public housing impaction and that is where there is need for additional Federal money.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. MAGNUSON. May I say to the Senator from Missouri that he is a distinguished Member——

Mr. PELL. I yield to the Senator from Washington.

Mr. MAGNUSON. I had the floor. I have the amendment.

Mr. PELL. I was just recognized. But I yield to the distinguished Senator from Washington.

Mr. MAGNUSON. In this process, you can submit an amendment for your problem and you may get my support. We just say the Appropriations Committee should take a look at it and not be mandated by this group. That is all.

Mr. PELL. Mr. President, I think the Senator from New York and the Senator from Missouri have articulated far more eloquently than I could the reasons why this amendment should be defeated.

I suggest we all know our own mind and we move to a vote. I will vote to accept it.

Mr. JAVITS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Vote! Vote!

The PRESIDING OFFICER. The question is on agreeing to UP amendment No. 1744 of the Senator from Washington (Mr. MAGNUSON). The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mr. JOHNSTON), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Nevada (Mr. CANNON), the Senator from Iowa (Mr. CLARK), the Senator from California (Mr. CRANSTON), the Senator from Alaska (Mr. GRAVEL), the Senator from Louisiana (Mr. LONG), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Iowa (Mr. CLARK) would vote "yea."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Kansas (Mr. PEARSON), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

The result was announced—yeas 62, nays 22, as follows:

[Rollcall Vote No. 357 Leg.]

YEAS—62

Allen	Byrd, Harry F., Jr.	Ford
Baker	Byrd, Robert C.	Garn
Bartlett	Chafee	Glenn
Bayh	Chiles	Griffin
Bellmon	Church	Hansen
Bentsen	Culver	Hart
Biden	DeConcini	Haskell
Brooke	Dole	Hatch
Bumpers	Domenici	Hatfield, Mark O.
Burdick	Eagleton	Hatfield, Paul G.
Byrd, Robert C.	Eastland	Magnuson
Chafee	Ford	McClure
Chiles	Garn	McGovern
Church	Glenn	Melcher
Culver	Hart	Morgan
DeConcini	Hatfield, Mark O.	Muskie
Dole	Hatfield, Paul G.	Nelson
Domenici	Hathaway	Nunn
Eagleton	Helms	Packwood
Eastland	Hodges	Proxmire
Ford	Hollings	Randolph
Garn	Huddleston	Roth
Glenn	Humphrey	Sasser
Griffin	Inouye	Schmitt
Hansen	Jackson	Stennis
Hart	Leahy	Stevens
Haskell	Lugar	Stone
Hatch	Magnuson	Talmadge
Hatfield, Mark O.	McClure	Thurmond
Hatfield, Paul G.	McGovern	Tower
Hathaway	Melcher	Wallop
Helms	Morgan	Young
Hodges	Muskie	Zorinsky
Hollings	Nelson	
Huddleston	Nunn	
Humphrey	Packwood	
Inouye	Proxmire	
Jackson	Randolph	
Leahy	Roth	
Lugar		

NAYS—22

Danforth	Matsunaga	Sarbanes
Durkin	McIntyre	Schweiker
Eagleton	Metzenbaum	Stafford
Hayakawa	Moynihan	Stevenson
Heinz	Pell	Weicker
Javits	Percy	Williams
Kennedy	Ribicoff	
Mathias	Riegle	

NOT VOTING—16

Abourezk	Curtis	Long
Anderson	Eastland	Pearson
Cannon	Goldwater	Scott
Case	Gravel	Sparkman
Clark	Johnston	
Cranston	Laxalt	

So the amendment (UP No. 1744) w agreed to.

Mr. MAGNUSON. Mr. President, move to reconsider the vote by which t amendment was agreed to.

Mr. YOUNG. I move to lay that moti on the table.

The motion to lay on the table w agreed to.

UP AMENDMENT NO. 1745

(Purpose: To establish a Commission Proposals for the National Academy Peace and Conflict Resolution)

Mr. MARK O. HATFIELD. Mr. Pre dent, I send an amendment to the de

The PRESIDING OFFICER (Mr. HASKELL). The amendment will be stat

Mr. RANDOLPH. Mr. President, Senate is not in order.

I am intensely interested, as a cospo sor of this amendment. I think we handle it quickly, if the Members listen to the able Senator who prese it.

The PRESIDING OFFICER. The Se ate will be in order.

Mr. MARK O. HATFIELD. Mr. Pre dent, I ask unanimous consent that rea ing of the amendment be dispensed wi

Mr. ROBERT C. BYRD. Mr. Preside will the Senator yield, without losing right to the floor.

Mr. MARK O. HATFIELD. I yield

PROCEDURE DISCUSSION

Mr. ROBERT C. BYRD. Could I asc tain how many more amendments th are?

Mr. MCINTYRE has one; Mr. HELMS two; Mr. GLENN has one; Mr. MORGAN three, Mr. EAGLETON has one; Mr. Tow has one; Mr. DOMENICI has one; HEINZ has one; Mr. MELCHER has one.

How many of these will require roll votes? Mr. TOWER and Mr. HELMS. we sure they are going to require roll votes?

Let us get those out of the way first Members are willing, and have a vo vote on final passage, and let everyb else go home while we take up amendments that will be accepted.

Is Senator HATFIELD going to ask fo yea and nay vote on his amendment?

Mr. MARK O. HATFIELD. No.

Mr. ROBERT C. BYRD. We will hav voice vote on final passage.

How many rollcalls really are going to be required?

JESSE, do you mean to say you are going to ask for a rollcall vote?

Mr. HELMS. Absolutely.

Mr. ROBERT C. BYRD. John, do you mean to say you are going to ask for a rollcall vote?

Mr. TOWER. Unless the committee is prepared to accept my amendment.

Mr. ROBERT C. BYRD. They might accept the amendment.

Mr. TOWER. I am trying to preserve the bilingual programs in my State.

Mr. ROBERT C. BYRD. Let us get the amendments that are going to require rollcall votes.

Mr. EAGLETON. Mine will.

Mr. ROBERT C. BYRD. And Mr. MORGAN will require a rollcall vote. Mr. HELMS will require a rollcall vote.

Mr. President, I ask that those Senators be recognized in that order: Mr. EAGLETON, Mr. MORGAN, Mr. HELMS, and Mr. TOWER.

Are all Senators, then, willing to have a voice vote on final passage?

Mr. WEICKER. Mr. President, I object. Reserving the right to object, I ask the distinguished majority leader why, when we are on a matter of this importance, we sit here, at this hour of the evening, dispensing with final passage votes, asking whether or not people are going to have rollcall votes?

Maybe there is a schedule to be met, but I think the substance of what we do is far more important than the form; and I would object to that request or any request that is made in the late hours of the evening with legislation that is as important as this is.

Mr. ROBERT C. BYRD. Every Senator is just as conscientious about his votes on this bill as is the Senator from Connecticut. If the Senator wants to take that attitude, that is alright with me.

Mr. President, I ask unanimous consent that after Mr. HATFIELD is recognized, Mr. EAGLETON be recognized, then Mr. MORGAN, then Mr. HELMS.

Mr. WEICKER. I object.

Mr. ROBERT C. BYRD. And then Mr. TOWER.

Mr. WEICKER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. I hope those Senators will seek recognition in that order.

Mr. McINTYRE. Mr. President, I ask unanimous consent that Marc Sheer and Jack Herney, of my staff, have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment of the Senator from Oregon will be stated.

Mr. MARK O. HATFIELD. I ask unanimous consent that reading be dispensed with.

The PRESIDING OFFICER. The clerk must report the amendment.

UP AMENDMENT NO. 1745

The second assistant legislative clerk read as follows:

The Senator from Oregon (Mr. MARK O. HATFIELD), on behalf of himself, Mr. RANDOLPH, and Mr. MATSUNAGA, proposes an unprinted amendment numbered 1745.

Mr. MARK O. HATFIELD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

TITLE VI—NATIONAL ACADEMY OF PEACE AND CONFLICT RESOLUTION

ESTABLISHMENT

SEC. 501. There is established a commission to be known as the Commission on Proposals for the National Academy of Peace and Conflict Resolution.

DUTIES OF COMMISSION

SEC. 502. (a) The Commission shall undertake a study to consider—

(1) whether to establish a National Academy of Peace and Conflict Resolution;

(2) the size, cost, and location of an Academy;

(3) the effects which the establishment of an Academy would have on existing institutions of higher education;

(4) the relationship which would exist between an Academy and the Federal Government;

(5) the feasibility of making grants and providing other forms of assistance to existing institutions of higher education in lieu of, or in addition to, establishing an Academy; and

(6) alternative proposals, which may or may not include the establishment of an Academy, which would assist the Federal Government in accomplishing the goal of promoting peace.

(b) In conducting the study required by subsection (a), the Commission shall—

(1) review the theory and techniques of peaceful resolution of conflict between nations; and

(2) study existing institutions which assist in resolving conflict in the areas of international relations.

MEMBERSHIP

SEC. 503.(a) The Commission shall be composed of nine members as follows—

(1) three appointed by the President pro tempore of the Senate;

(2) three appointed by the Speaker of the House of Representatives; and

(3) three appointed by the President.

(b) Members shall be appointed for the life of the Commission.

(c) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d)(1) Except as provided in paragraph (2), members of the Commission each shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule (5 U.S.C. 5332) for each day during which they are engaged in the actual performance of the duties of the Commission.

(2) Members of the Commission who are full-time officers or employees of the United States or Members of the Congress shall receive no additional pay on account of their service on the Commission.

(3) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including a per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

(e) The Commission shall elect a Chairman and a Vice Chairman from among its members.

(f) Five members of the Commission shall constitute a quorum.

(g) The Commission shall meet at the call of the Chairman or a majority of its members.

DIRECTOR AND STAFF OF COMMISSION; EXPERTS AND CONSULTANTS

SEC. 504. (a) Subject to such rules as may be adopted by the Commission, the Chairman, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classifications and General Schedule pay rates, shall have the power to—

(1) appoint a Director who shall be paid at a rate not to exceed the rate of basic pay in effect for level V of the Executive Schedule (5 U.S.C. 5316);

(2) appoint and fix the compensation of such staff personnel as he considers necessary; and

(3) procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code.

(b) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist it in carrying out its duties under this title.

POWERS OF COMMISSION

SEC. 505. (a) The Commission may, for the purpose of carrying out this title, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable. The Commission may administer oaths and affirmations to witnesses appearing before the Commission.

(b) When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(c) The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title. Upon request of the Chairman, the head of any such Federal agency shall furnish such information to the Commission.

REPORTS

SEC. 506. The Commission shall transmit to the President and to each House of the Congress such interim reports as it considers appropriate and shall transmit a final report to the President and to each House of the Congress not later than one year after the date on which appropriations first become available to carry out this title. The final report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation as it considers appropriate.

TERMINATION

SEC. 507. The Commission shall cease to exist sixty days after transmitting its final report under section 606.

AUTHORIZATION OF APPROPRIATIONS

SEC. 508. There is authorized to be appropriated not to exceed $500,000 to carry out this title.

DEFINITIONS

SEC. 509. For purposes of this title—

(1) the term "Academy" means the National Academy of Peace and Conflict Resolution;

(2) the term "Chairman" means the Chairman of the Commission elected under section 603(e);

(3) the term "Commission" means the Commission on Proposals for the National Academy of Peace and Conflict Resolution; and

(4) the term "Federal agency" means any agency, department, or independent establishment in the executive branch of the Federal Government, including any Government corporation.

Mr. MARK O. HATFIELD. Mr. President, this amendment is probably very

timely, in that it proposes to establish a commission——

Mr. RANDOLPH. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senator is correct.

The Senate will be in order.

Mr. MARK O. HATFIELD. Mr. President, this amendment is probably very timely, in that it proposes the creation of a commission to study proposals for an academy of peace and conflict resolution.

This measure was passed by the Senate as S. 469, on June 17, 1977, after being reported favorably by both the Committee on Human Resources and the Committee on Foreign Relations.

In 1976, I attached an amendment of this type to the Higher Education Act of 1976. While the Senate adopted it, the House conferees prevailed in deleting it, on the grounds that House hearings had not been held. Those hearings have now been held, and Congress has had ample time to consider this first step in developing some type of peace academy.

Mr. President, to underscore the point about the relevance of this amendment to elementary and secondary education, I ask unanimous consent that a statement on this subject be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONFLICT RESOLUTION AND ELEMENTARY AND SECONDARY EDUCATION

Community disputes and social violence directly affect the quality of elementary and secondary education wherever they occur, and when conflict arises within local communities students, teachers and parents are adversely affected. Some education experts link the community conflict of the late 1960's with the alarming decline in college entrance examination scores.

As the levels of conflict and violence across America rose throughout the 60's, that rise was inevitably mirrored in our schools. When the sine wave of societal violence turned down in the middle 70's, there is evidence that levels of destructive behavior in elementary and secondary schools leveled out on a high plateau, rather than declining with the general trend.

The overall national problem can be summed up in the statistics that there are, at a minimum, 157,000 cases of crime, violence and disruption in American public schools in a typical month, less than one third of them reported to the police, and that one school out of twelve can be classified as seriously affected by its levels of conflict. In terms of the cost to our schools in property damage alone of this continuing chaos, the best estimates place the annual costs at around $200 million, but some estimates run as high as $600 million, if costs of security and preventive measures are included.

Personal theft is the most widespread crime in our schools, and while it may not appear to be directly related to the levels of conflict, it is the clearest indicator of the deterioration of the social contract, which breaks down in direct proportion to the rise in societal violence levels. In a typical month under current conditions, approximately one secondary school student out of nine will be subjected to personal loss by theft, a total of 2.4 million students, and that same month one out of eight secondary school teachers will be similarly victimized (128,000).

Direct physical violence is perhaps the most dramatic form of conflict which affects our schools, and in a normal month it impacts on one out of 75 secondary school students (280,000 students a month) and one out of 200 secondary school teachers (5,200 teachers per month). Only one attack out of 25 directed at students results in a need for medical attention, but the level for teachers is five times as high. While incidents of personal theft are equally distributed across school levels and locations, the incidence of violent attacks is higher in junior high schools and in urban areas. In city schools in New York alone 6,817 violent incidents were reported in the 1974–75 school year, and in 1975–76 this figure rose to 10,876, with 1976–77 estimates over the 12,000 mark. (N.Y. Times, July 13, 1977) Similarly, in New York City the high level of violence has resulted in a shift in jurisdiction in the handling of cases involving minors accused of assaulting public school teachers. These cases, formerly handled by the City's Law Department have been shifted to the City Corporation Counsel to "relieve the board's small legal services staff of the increasingly heavy volume of such cases." (N.Y. Times, December 31, 1977).

Robberies affect one out of every 200 secondary school students (112,000 students) each month, and one out of each 170 secondary school teachers (approximately 6,000 per month). Although the monetary amounts of these robberies are not normally high, often involving petty extortion on the student level, the destructive impact of such occurrences on the educational effectiveness of our school system is hard to exaggerate.

One of the major effects of this type of violence and anarchy in the public school system is the immediate effect it has on the attitude of the students subjected to it. Recent surveys indicate that some three million secondary school students avoid at least three locations in their schools because they are afraid of being subjected to violence in some areas, and at least half a million secondary students indicate they are afraid in school most of the time.

Nor are teachers immune to this type of psychological pressure. In a typical month, approximately 125,000 secondary teachers (12%) are threatened with physical harm, and about the same number admit to hesitating to confront misbehaving students for fear of physical harm. Half of our teachers report being subjected to verbal abuse in a normal month.

Obviously there is no way to quantify in monetary terms the long-term effects of such disruptions of our educational system, but even the most conservative standards of comparison indicate that any institution which could beneficially affect school violence would have immense claims to monetary benefits to society. How, indeed, can we evaluate in monetary terms the effects of marginal educational injury to millions of school children when those millions will comprise the decisionmaking mass of voters in our democratic system for decades into the future? In the words of Thomas Jefferson, "The basis of our government being the opinion of the people, the very first object should be to keep that right."

The Peace Academy, by dispersing across our society experts in conflict resolution would not only lower the level of conflict throughout that society but would proportionately diminish the levels of violence and crime in our schools, and in that aspect alone might prove the most cost-effective legislative achievement of our time. At its most expensive level of likely costs, the Peace Academy would cost no more than one fourth of the $200 million direct damage to our schools from student destruction, and it could have similarly beneficient effects in innumerable other areas—by lowering the expenditures of welfare agencies at all levels, rendering unnecessary further expansion of law enforcement agencies, a minimizing the burgeoning costs of tryi to expand our court systems to meet t needs of the archaic adversary legal stru tures across the nation.

And eventually, as graduates of the Pea Academy trained in the new techniques a theory of conflict resolution became avai able across the country and around t world, we can even hope that there cou result a gradually increasing stability the international structure of the wor community, which could make possible n only progress toward the age-old hope world peace but a concomitant lowering our defense needs and military expend tures. The cost-benefit ratio here is impo sible to estimate, but the possibilities a obviously enormous, for the total annu budget of the Peace Academy would be le than one fifth of one day's expenditures our military budget at next year's level.

*All statistics from the Safe School Stud Volume 1, published by The National Inst tute of Education of the Department Health, Education and Welfare (Februa 1978), except where otherwise noted.

Mr. MARK O. HATFIELD. Mr. Pre dent, I have discussed the amendme with the managers of the bill, Mr. PE and Mr. JAVITS, and understand th have no objection to this measure prev ously passed by the Senate.

Mr. MATSUNAGA. Mr. President, w the Senator yield?

Mr. MARK O. HATFIELD. I am hap to yield to the Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, one of its cosponsors, I rise in support the amendment offered by the disti guished Senator from Oregon (Mr. HA FIELD). As a cosponsor of the original b S. 469, to establish a commission to stu the feasibility of establishing an academ of peace and conflict resolution, alo with the Senator from Oregon and t Senator from West Virginia (Mr. RA DOLPH), I strongly believe that this is idea whose time has indeed come. Th august body evidenced its wisdom wh it passed that measure by unanimo agreement on June 17 of last year.

Mr. President, the academy of pea which I do hope will come about as a r sult of the study by the proposed co mission, will train the best and t brightest of our young people in the of peace, just as many of our sele youngsters are trained in the art of wa fare in our military academies. T academy of peace would greatly contri ute to national and international sec rity needs through systematic study the processes and methods of achievi peace, the training of specialists in t skills of mediation and conflict reso tion, and by providing information Government leaders in nonmilita resolution of domestic and internatio conflict.

In another sense, the primary missi of the academy of peace would be to pr mote peace and social harmony at ho and abroad. The students of the aca emy would be trained in the art of pea and it will be their responsibility to co vince the American people, as well as t people of other nations, to learn to dea peace and work to maintain it.

Perhaps the Dutch philosopher Sp noza, three centuries ago, captured t subtleties of the word "peace" in o short sentence. He said:

Peace is not an absence of war, it is a virtue, a state of mind, a disposition for benevolence, confidence and justice.

It was Albert Einstein, whose genius was the catalyst for a revolution in scientific thought which later resulted in the atomic bomb, and who later became a renowned pacifist, who said:

Peace cannot be kept by force, it can only be achieved through understanding.

These men of great wisdom recognized the need for a citizenry educated in the art of peace. It will be the duty of the graduates of the peace academy to move throughout the United States and the world, training people in the art of peace and enhancing what Franklin Delano Roosevelt called "the ability of peoples of all kinds to live and work together in the same world, at peace."

Mr. President, the idea of establishing an academy of peace is not a new one. Since 1935, Congress has considered many legislative proposals designed to establish a peace office, institute, or academy. The idea can be tracked back in American history to the early days of the Republic, when George Washington spoke of the need for a "proper peace establishment" and Benjamin Rush urged the creation of a "peace office" within the Federal Government.

Mr. President, I am sure my colleagues will agree, that today, more than ever before, we as a Nation must make every effort to attain global peace and security. We live in a world which every day grows more and more interdependent. The proliferation of nuclear weapons, the increasing unrest in the underdeveloped Third World countries, and mounting international terrorism contributing toward a general increase in violence at local, national and international levels, makes the establishment of a national institution devoted to promoting peace and training people in nonviolent conflict resolution a matter of great importance to the United States.

Mr. President, as I have repeatedly declared since being elected to the Congress nearly 16 years ago, it is my fondest dream that my own beloved country, the United States of America, will become the first Nation on the face of this Earth to establish a national academy of peace, and hopefully, in the not-too-distant future, a Cabinet-level Department of Peace, dedicated solely to bringing about peace and brotherhood in this world which today is much too strewn with strife and violence. The appointment of a commission to study the various proposals for establishing a national academy of peace is a small but necessary first step in the attainment of this dream.

The beloved and inimitable Hubert H. Humphrey said it this way:

Conflict is inevitable . . . We must deal with it in a sensible and just way. The National Academy of Peace and Conflict Resolution is a vehicle to begin this movement in the right way. I commend to my colleagues the thoughtful consideration of this proposal, not just as a piece of legislation, but as a serious obligation.

Mr. President, I urge the adoption of the amendment offered by the Senator from Oregon.

Mr. MARK O. HATFIELD. I thank the Senator from Hawaii.

Mr. President, I yield to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, this is a very important matter. I realize that Members may forget that in the 94th Congress we had legislation of this type. It was not considered in the House because of a lack of time, but we have assurances from the other body that they will look with favor upon the proposed legislation as we will pass it in the next 2 or 3 minutes.

Some Senators may recall that I had the responsibility of offering this measure in the 94th Congress, and a cosponsor was Senator MARK O. HATFIELD, and another cosponsor was Senator MATSUNAGA.

We have revised it somewhat, but it is essentially what, in a sense, George Washington advocated more than two centuries ago. A reading of history will demonstrate that fact.

Over the past 5 years, America has enjoyed a state of relative peace with other nations. This pause in international conflicts has enabled us to turn our attention to crucial problems at home.

I am an earnest cosponsor and strongly support this modified legislation to create a commission to study the creation of a National Academy of Peace and Conflict resolution. It provides a methodology to resolve both domestic and international conflicts before they grow into large-scale confrontations.

Many Senators know that I introduced similar legislation as member of the U.S. House of Representatives 33 years ago.

Last year, I testified before the Senate Foreign Relations Committee on behalf of my bill S. 469, which would authorize a 1-year study by a blue-ribbon committee of citizens. The committee would examine various proposals to create a National Peace Academy or alternatives such as a core curriculum of peace studies.

In my testimony before the Senate Foreign Relations Committee, I stated:

If America does not provide positive leadership in keeping the peoples of the Earth together in peace, world chaos can certainly result.

These are identical to the words I had spoken in testimony on behalf of legislation I introduced on June 29, 1945. I have authored or cosponsored similar legislation in 11 sessions of Congress since that time.

I believed then—as I believe today—that solutions to major issues and problems exist through communications and mediative skills. These skills can be taught in an academic setting and applied at all levels of Government.

The objectives of a peace academy are ennobling. A nation schooled in the ways of peace is an ideal that, once attained, could be civilization's greatest achievement.

The idea of some affiliated agency of Government devoted to teaching and disseminating techniques toward peaceful resolution is as old as our country.

Legislative proposals to create an agency with primarily educational functions appeared before World War II. Between 1935 and 1939, the then Senator Matthew Neely of West Virginia proposed three separate pieces of legislation to create a Federal Department of Peace "which would be authorized to conduct a broad educational program designed to create and encourage a desire for peace."

The concept of teaching peace, mutual respect, and universal understanding is one which eludes many practical minds. We can conceive of the agonies of mass death and misery, but we have difficulty defining love in the human heart.

In the 94th Congress, the Senate approved a peace academy study proposal which I coauthored with the diligent Senator from Oregon (Mr. MARK O. HATFIELD) and the then Senator from Indiana, Vance Hartke. The House failed to act on it in the closing days of the session, but we have received assurances that action could be taken in the 95th Congress.

Mr. President, I am gratified to join with my friend and forceful advocate of using peaceful means to achieve the goals of civilization, MARK O. HATFIELD, and urge my colleagues to approve this legislation.

Mr. GLENN. Mr. President, will the Senator yield for a question

Mr. MARK O. HATFIELD. I yield.

Mr. GLENN. Can the Senator tell us how much money is involved in this?

Mr. MARK O. HATFIELD. It authorizes $500,000.

Mr. GLENN. For what period of time, and what would be the follow-on requirements to keep this institution under way?

Mr. MARK O. HATFIELD. It will depend upon the Commission. The first proposal was to establish an academy, and it had definitive programs and definitive curricula.

The Foreign Relations Committee and the Human Resources Committee suggested that, instead of moving ahead at this time to establish such an academy, we set up a Commission, let the Commission have a period of time for study, 2 years, and report back to Congress as to its findings.

At the time Congress would then have a definitive project before it to make a judgment on its merits. But because of the fact that there was a question raised as to what format and what kind of curriculum was decided, the Commission study was the best approach to achieve this objective.

Mr. GLENN. This $500,000 would be for the study?

Mr. MARK O. HATFIELD. Yes, only the study.

Mr. GLENN. I thank the Senator.

Mr. MARK O. HATFIELD. I yield to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, this proposal has already passed the Senate not once but twice. It has been approved before. I think it has merit, and I recommend it be accepted.

Mr. JAVITS. Mr. President, one question: Is it the way in which we worked out the details in the Foreign Relations Committee?

Mr. PELL. Yes; the Senator is correct.

Mr. JAVITS. If so it is acceptable.

Mr. PELL. It is a replica of the Foreign Relations Committee approach in setting forth the Commission rather than the Academy.

Mr. JAVITS. It is acceptable to me.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. JAVITS. I am happy to yield.

Mr. RANDOLPH. I commend Senator JAVITS of the Foreign Relations Committee who helped us last year to realize certain problems with an overlapping jurisdiction and with an interest on behalf of both of these committees. I want the RECORD to show that the Senator was very helpful.

Mr. JAVITS. The Senator is very kind. I thank him very much.

Mr. ROBERT C. BYRD. Vote.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. MARK O. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RANDOLPH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1746

Mr. EAGLETON. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON), for himself and Mr. BELLMON, proposes an unprinted amendment numbered 1746.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 332, strike out lines 11 and 12 and insert in lieu thereof the following:

(b) Section 3(b)(2) of such Act is repealed.

Mr. EAGLETON. Mr. President, I ask for the yeas and the nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. EAGLETON. Mr. President, this amendment is offered on behalf of myself and Senator BELLMON. It is a follow-on to the amendment offered by the Senator from Washington (Mr. MAGNUSON).

As I look around the Chamber and see many members of the Appropriations Committee, I know they can share with me the recollection of time and again during our Appropriations Committee markup on the HEW bill one or more of us will say, "My God, something has gone wrong with impact aid. Can't we get a handle on it?"

Then we will turn to each other and say, "Well, it isn't our fault. We are just humble servants on the Appropriations Committee. It is the fault of that authorizing committee, that Human Resources Committee. They ought to get their act together and reform this monster."

That is the kind of conversation and discussion that goes on in our committee.

This impact aid program, Mr. President, cries out for reform. I did not think it cried out for the kind of reform that was implicit in the Magnuson amendment, that is, to strip from impact aid not totally, but substantially, the only human face on the subject matter. They say it is the 10th anniversary of the Prague spring, and Prague was communism with a human face. One of the few human faces on impact aid was the public housing section; the only other human face is the section authorizing payments to A students. It is the A students, those whose parents live and work on a military base, which impact on a school district. Yes, they truly impact. And I submit public housing students truly impact.

Let me tell Senators which students do not truly impact on a school district and who are the recipients of impact aid today, and I see my good friend from Maryland here, Senator MATHIAS.

Mr. MATHIAS. I am here.

Mr. EAGLETON. Those are all of the doctors working at the NIH and living in Montgomery County, most of them, I daresay, in rather posh homes, somewhat similar to the kind of homes Senators live in, in Montgomery County. Montgomery County gets impact aid because of all of those doctors employed by the Federal Government out there.

I also refer to that Federal judge in Seattle. That school district apparently gets impact aid because of him.

I also refer to President Carter. The D.C. school system receives impact aid because President Carter lives in the District of Columbia and sends his daughter to an elementary school in the District.

So what the Eagleton-Bellmon amendment does is truly create the reform that the members of the Appropriations Committee year in and year out have been crying for but have not been able to get, they say, from the Human Resources Committee.

I happen to be a member of the Human Resources Committee. So every once in a while I carry the message from the Appropriations Committee to the Human Resources and say: "Yes, those guys on the spending committee want us to reform impact aid over here."

So here is our chance.

Now for those who like to keep budget scorecards so they can write home to their constituents about how many times they voted to cut the budget, here is the precise amount on this one. Here is what Senators will save—$374 million. So if Senators have been running a little light on budget-cutting amendments and wish to tip their average up a little bit here is a good one—$374 million.

Mr. ROBERT C. BYRD. Vote.

Mr. EAGLETON. That is my case, Mr. President.

Mr. ROBERT C. BYRD. Vote.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. ROBERT C. BYRD. Vote.

The PRESIDING OFFICER. Is there further comment?

Mr. MATHIAS. Mr. President, will the Senator tell us how we are going to work if we take all of the money away from the State of Maryland?

Mr. EAGLETON. If the Eagleton-Bellmon amendment is adopted all will remain will be the "A" students. We will strip it away of all of these embellishments that have been encrusted upon it in the last 20 years and will take away all of public housing—we took away most of that already—so let us take away all of that and take away the Montgomery County ripoff and all of these other ripoffs that all of us are sometimes even too ashamed to mention.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I wish to say that I admire the Senator from Missouri for his courage in offering an amendment of this kind, obviously designed to bring some reform to the impact aid program.

But the most popular expression we heard after proposition 13 passed was that we were using a broad ax instead of a scalpel. I must say I will have to oppose the amendment of the Senator from Missouri because I think he is falling into the same trap.

I live in Montgomery County and the taxes out there are almost prohibitive. I saw in Parade magazine a couple Sundays ago that Montgomery County is the wealthiest county in the United States.

I think it is really ridiculous for the U.S. Government to be subsidizing the school districts in localities such as Fairfax County, Montgomery County, and Beverly Hills. This offends the conscience of every Senator present.

But I can tell my fellow Senators that in my State, which is a very poor State, ranking 48th or 47th in the amount of money spent per capita on our elementary and secondary schools, the Eagleton amendment would be devastating. The amendment would for example, penalize the school district of Gosnell which is almost 70 percent dependent on this kind of impact aid, both A and B. It would absolutely be devastating to a school district like that to eliminate categorically all part B impact aid.

Mr. EAGLETON. Mr. President, will the Senator yield 1 minute?

Mr. BUMPERS. I yield.

Mr. EAGLETON. Impact A remains. It says A and B. This eliminates B.

Mr. BUMPERS. I understand, but a good portion of their aid is B.

Mr. EAGLETON. Their A remains.

Mr. BUMPERS. I agree. We talked about this in the Appropriations Committee. Impact aid has just been running rampant. It has gotten completely out of hand and that which started out to be a very fine and noble idea has now gotten out of control and is terribly expensive. I will assist the Senator from Missouri in trying to design a formula that accomplishes the kind of reform he wants. I will not, however, support proposals which would decimate some

school districts that have, through no fault of their own become almost totally dependent on this kind of aid.

Mr. MATHIAS and Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I admire the purity and the intention of the Senator from Missouri, but I think this is an example of throwing out the baby with the bath water. I think we all may not be so pure. We all have the interests of our own communities.

I urge my colleagues not to support the amendment of the Senator from Missouri and urge we vote as soon as possible. I think we all know what we are going to do anyway.

Mr. MATHIAS. Mr. President, since the distinguished Senator from Missouri mentioned my name I feel obliged to take the Senate's time for just a minute to discuss this amendment. Obviously, I will oppose it because I think we ought to look at one of the examples that he gave us, and that is the example of President Carter.

Of course, he is a nice target to talk about as someone who is generating impact aid. Here is a man who is living in the White House, making a salary in six figures, so why should he be generating impact aid? It is a nice kind of example to use.

But I think we ought to say just a word about that because that example illustrates a policy in the interpretation of what impact aid is all about. It is a very good example from the point of view of a community that needs impact aid.

Sure, President Carter is living in a big house, a big white house, and it is on tax-free real estate. It is not generating a nickel of tax to the community in which it is located, as is the case with many other Federal facilities. They occupy real estate which would otherwise be paying taxes to the community and helping to support the schools.

President Carter makes a very big income, an income in six figures. But by the action of the Congress of the United States many of the people who get these big incomes, whether they live in the District of Columbia or in the great and historic Commonwealth of Virginia or in the Free State of Maryland, are exempt from paying many of the local taxes.

President Carter is in that situation, and I am not objecting to that, but it creates problems for the community where this kind of situation exists.

Mr. EAGLETON. Mr. President, will the Senator yield?

Mr. MATHIAS. So I would say where you have people who may be as conspicuous as the President by the size of their incomes and the luxury of their surroundings, it does not necessarily relieve the community of the kind of problems which impacted area aid was intended to solve.

Mr. EAGLETON. Mr. President, will the Senator yield for just one question, then we will vote on it? Would the Senator share with our colleagues, as he did in the Appropriations Committee markup session when we were discussing impact aid, the tearful story about the horrible devastation that NIH inflicts upon the improverished county of Montgomery County and how it really works a cruel hardship on the Montgomery County school system in having wealthy doctors living out there and sending their children to PS101?

The Senator shared that with us at the Appropriations Committee level. He talked about President Carter and focused on that one example I gave. How about those improverished rich doctors and the devastation they impose on the Senator's county?

[Laughter.]

Mr. MATHIAS. Well, I am very proud of the fact that the people of Montgomery County do have a high income level, but it is because there is a higher prevailing, average of more than one income worker in the family there than, I think, in any other community in the world. So there is some correlation between the industry and the work that is put into making the incomes which are reported as high.

But I think it would be very unfair to all of the people of Montgomery County to judge everyone by the standards of the highest income, just as I think it is very unfair to many poor counties in this country that funds will be lost as a result of this amendment and that are apparently being judged by the Senator from Missouri by the standard of President Carter at that day, high-income level.

Mr. McCLURE. Mr. President, I think it is unfair of us in this session tonight at this late hour to be picking on the President while he is off on a vacation floating down the river in Idaho.

[Laughter.]

Mr. EAGLETON. Another poor little State.

Mr. McCLURE. I understand the President is not impoverished, and I understand he is probably not paying his own way on this vacation trip, and I understand we are probably helping him on that vacation trip, and I do not want to get into all that.

But I want to tell you at the moment that it does not strike impact aid that Amy Carter may generate in her school district in spite of the fact that he is off playing right now because he is presumably living and working on Federal property and, therefore, she is a class A student and, therefore, generates the impact aid.

I would say to my friend from Maryland that this is hardly the time to remind us that Maryland is known as the Free State, because it certainly is not very free. We are paying a great deal to support Maryland, and I am not up here defending Montgomery County and the amount of money that they may generate, but let me tell you there are poorer school districts in every State of the Union that depend at least in part on the aid that is funneled into their districts as a result of the impact aid program.

This matter is of some concern to me and has been for a long while because I know the impact aid program has been subject to this criticism for years in that it puts an inordinate amount of money into some very wealthy school districts, and it does, and I share with my friend from Missouri the concern that it ought to be redirected, and I really believe it should be.

Stanford Research Institute a number of years ago made an indepth study of this program and that was their conclusion, as every other study has concluded. But they have said in every instance do not just repeal the program, replace it with one that targets the aid to the areas of need more precisely than does the present program.

I have testified before committees of Congress in both the House and the Senate in support of the reformation of the impact aid program because I think it does need to be changed. But I would agree with my friend from Arkansas that this is not the way to do it.

I understand the frustration that leads to the offering of this amendment, but I have talked to any number of school superintendents in my State who say that although it may be only about 5 percent of their budget it is the most important Federal assistance they get because it comes upon easy qualification forms. They simply fill out the form and submit it. It is a simple mathematical calculation. The money comes in to them without having had to hire the Federal office assistant to try to get the grant. It goes into their budget and they do not have a lot of criteria and guidelines as to how it must be spent.

There is no postaudit difficulty so far as they are concerned and it, therefore, is worth more money to them than the equal number of dollars generated through categorical aid programs.

I share with my friend from Missouri the determination that it ought to be changed, but this is not, in my judgment, the way to accomplish that change, and I will not support the amendment for that reason.

Mr. YOUNG. Mr. President, I will only take about a minute. No one has complained more than I about this bad situation with respect to class B students. I want to correct it, but I would not want my vote tonight, which will be "no," interpreted as not being aware of this situation and that it ought to be corrected.

Here we have been in session for about 13½ hours continuously, and I do not think this is the time of night and the way to correct a bad situation. So I am going to have to vote "no." But it is something that I believe represents a bad situation and must be corrected. However, this is not the way to do it.

The PRESIDING OFFICER. If there are no further Senators seeking recognition, the question is on agreeing to the amendment of the Senator from Missouri. The yeas and nays have been ordered, and the clerk will can the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), the Senators from Louisiana (Mr. JOHNSTON and Mr. LONG), the Senator from Alabama (Mr. SPARKMAN),

the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Kansas (Mr. PEARSON), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

The result was announced—yeas 20, nays 66, as follows:

[Rollcall Vote No. 358 Leg.]

YEAS—20

Bartlett	Eagleton	Metzenbaum
Bellmon	Glenn	Nelson
Byrd, Robert C.	Griffin	Packwood
Chafee	Hansen	Proxmire
Clark	Hollings	Stafford
Culver	Leahy	Wallop
Danforth	Lugar	

NAYS—66

Allen	Hatch	Morgan
Baker	Hatfield, Mark O.	Moynihan
Bayh	Hatfield, Paul G.	Muskie
Bentsen	Hathaway	Nunn
Biden	Hayakawa	Pell
Brooke	Heinz	Percy
Bumpers	Helms	Randolph
Burdick	Hodges	Ribicoff
Byrd, Harry F., Jr.	Huddleston	Riegle
Cannon	Humphrey	Roth
Chiles	Inouye	Sarbanes
Church	Jackson	Sasser
Cranston	Javits	Schmitt
DeConcini	Kennedy	Schweiker
Dole	Magnuson	Stevens
Domenici	Mathias	Stevenson
Durkin	Matsunaga	Stone
Ford	McClure	Thurmond
Garn	McGovern	Tower
Gravel	McIntyre	Weicker
Hart	Melcher	Williams
Haskell		Young
		Zorinsky

NOT VOTING—14

Abourezk	Goldwater	Scott
Anderson	Johnston	Sparkman
Case	Laxalt	Stennis
Curtis	Long	Talmadge
Eastland	Pearson	

So the amendment (UP No. 1746) was rejected.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SCHEDULE DICUSSION

Mr. ROBERT C. BYRD. Mr. President, I believe there are three other amendments on which it was indicated rollcall votes would occur. I ask unanimous consent that there be a 30-minute time limitation on each of those amendments—40 minutes? A 40-minute time limitation, to be equally divided; that at 9 o'clock in the morning the Senate resume consideration of this bill; and that at that time the Senator from North Carolina (Mr. HELMS) be recognized to call up his amendment; that he be followed by Mr. MCINTYRE; that he be followed by Mr. TOWER; and that he be followed by Mr. MORGAN. Now we are talking about rollcall votes, after which the Senate will proceed to third reading and passage.

The PRESIDING OFFICER (Mr. BAYH). Is there objection?

Mr. HELMS. Reserving the right to object,

Mr. ROBERT C. BYRD. If Senators will pay attention, that is only putting over until tomorrow those amendments on which rollcall votes will be required. Amendments that are going to be accepted can be called up tonight. But amendments on which there will be rollcall votes, and I have named them, would go over until tomorrow with passage.

Mr. MORGAN. Mr. President, I object.

Mr. ROBERT C. BYRD. The Senator would like to have his amendment considered tonight?

Mr. MORGAN. To be perfectly honest, I have canceled several other engagements and I would like to do this tonight.

Mr. ROBERT C. BYRD. I ask unanimous consent that after the Senator from North Carolina calls up his amendment and gets a vote on it tonight, that the Senate go over until in the morning, at 9 o'clock, and that Mr. HELMS be recognized then to call up his amendment; that Mr. TOWER be recognized to call up his amendment, and Mr. MCINTYRE to call up his amendment, after which the Senate will go to third reading and passage.

Mr. HELMS. Reserving the right to object, I would be willing to debate my amendment tonight and vote on it in the morning.

Mr. ROBERT C. BYRD. That would be fine. If we can get Senator MORGAN's amendment out of the way with a rollcall tonight, any Senators who have amendments that can be accepted can stay and have their amendments accepted. Those Senators who have amendments on which they want rollcall votes, Mr. HELMS, Mr. MCINTYRE, and Mr. TOWER, would have in the morning and that would be followed by passage.

SEVERAL SENATORS. Reserving the right to object.

Mr. LEAHY. Would the leader be interested in a unanimous-consent request which would set a time certain before which there would be no rollcall votes in the morning?

Mr. ROBERT C. BYRD. We can have a final vote at 12 o'clock.

Mr. LEAHY. I mean so we would know when the first actual rollcall vote would occur.

Mr. ROBERT C. BYRD. If it is agreeable to those Senators involved in the amendments on which there will be no rollcall votes, we can start having the rollcall votes at 11 o'clock or 12 o'clock.

Mr. BAKER. Reserving the right to object, what times does the majority leader plan to come in in the morning?

Mr. ROBERT C. BYRD. Nine o'clock. There are three special orders.

Mr. BAKER. Mr. President, I think we have authority to vitiate those three special orders, so I wonder if the majority leader would consider advancing that to 9:30, in view of the late hour tonight.

Mr. ROBERT C. BYRD. Nine thirty will be fine.

Mr. BROOKE. Will the Senator yield? Can we have those three rollcall votes back-to-back after the time has expired on all three debates?

Mr. ROBERT C. BYRD. That would be agreeable with me if it would be agreeable with the sponsors of the amendments.

The PRESIDING OFFICER. Is there objection?

Mr. HOLLINGS. Reserving the right to object, if there is a noncontroversial amendment, can we agree on it before passage tomorrow?

Mr. ROBERT C. BYRD. We can do it tonight.

Mr. HOLLINGS. I am tired. I will call for a rollcall to get rid of it.

Mr. ROBERT C. BYRD. The Senator is tired——

Mr. HOLLINGS. Then I will object.

Mr. GLENN. Will this preclude bringing up amendments tomorrow on which we do not expect rollcall votes?

Mr. ROBERT C. BYRD. No.

Mr. GLENN. We could still bring up amendments tomorrow that would not require rollcall votes?

Mr. ROBERT C. BYRD. I hope Senators would not require any more rollcall votes tomorrow.

Mr. HARRY F. BYRD, JR. Reserving the right to object, does the unanimous-consent request preclude a Senator from bringing up an amendment tomorrow, other than those who have been named?

Mr. ROBERT C. BYRD. We hope any rollcall votes would be limited to those three tomorrow. The Senator can call up an amendment if he would not ask for a rollcall vote. Of course, if it requires a rollcall vote, nobody could deny it.

Mr. HARRY F. BYRD, JR. Suppose it was left at just the three?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent than the vote occur on passage at 1 o'clock p.m. tomorrow with paragraph 3 of rule XII waived and, hopefully, only those three amendments would require a rollcall vote. But if other Senators require them on their amendments, nobody can deny them.

The PRESIDING OFFICER. Is there objection?

Mr. HARRY F. BYRD, JR. Reserving the right to object, I want it understood that I can get a rollcall vote if I offer an amendment.

Mr. ROBERT C. BYRD. I thought I said that. I said no Senator could be denied a rollcall vote if he could get a sufficient show of hands.

Mr. HARRY F. BYRD, JR. Will the Senator from West Virginia include the amendment of the Senator from Virginia along with the other amendments?

Mr. ROBERT C. BYRD. The Senator from Virginia is included, Mr. President.

Mr. CHILES. Reserving the right to object, can we get an idea how long we are going to be here tonight on the rollcall?

Mr. ROBERT C. BYRD. Would the Senator be willing to limit his time?

Mr. MORGAN. Mr. President, reserving the right to object, this is a very complicated bill. Title II adds a completely new section that carries with it a $754 million authorization for the next 5 years. I had a hold on this bill, because my staff has been trying to work on some of these complicated sections, and it was vitiated without my knowledge. I am will-

ing to carry my amendment over until tomorrow but I am not willing to agree to any unanimous-consent agreement.

Mr. ROBERT C. BYRD. What was vitiated without the Senator's knowledge?

Mr. MORGAN. Because I had no knowledge until I was told the bill would be called up.

Mr. ROBERT C. BYRD. The Senator wrote to me on July 27 and I notified the Senator when the time had come when I felt we had to call the bill up.

Mr. MORGAN. I was not notified until after it was vitiated.

Mr. ROBERT C. BYRD. A hold does not hold forever.

Mr. MORGAN. It is a two-way street.

Mr. ROBERT C. BYRD. Of course it is. The Senator can object if he wants to.

Mr. MORGAN. Well, I am objecting.

Mr. ROBERT C. BYRD. Go ahead.

Mr. BAKER. Has the order been granted?

The PRESIDING OFFICER. Objection was heard.

The Chair recognizes the Senator from North Carolina.

Mr. MORGAN. Mr. President, I apologize to the Senate for inconvenience but I have tried to work on this matter, an important matter to me. It may not be to some of the others. I feel like it is something that we ought to consider.

Title II of this bill creates—Mr. President, may I have order?

Mr. McINTYRE. Can we have order, Mr. President?

The PRESIDING OFFICER. May we have order in the Senate, please?

UP AMENDMENT NO. 1747

(Purpose: To reduce the possibility of federal control over local school systems by striking the new "Basic Skills and Educational Proficiency Act")

Mr. MORGAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. MORGAN) proposes an unprinted amendment numbered 1747.

Beginning with page 116, line 9, strike all through page 132, line 11.

Mr. MORGAN. Mr. President, the amendment I have offered—Mr. President, may we have order?

The PRESIDING OFFICER. May we have order in the Chamber?

Mr. ROBERT C. BYRD. Did I understand the Senator was willing to go over until tomorrow on his amendment?

Mr. MORGAN. I am willing to go over until tomorrow but I am not willing to make any consent agreement as to the sequence in which it will be called up or a time limit.

Mr. BAKER. Will the Senator yield to me? I have been advised that the Senator from Texas (Mr. TOWER)—he will speak for himself.

Mr. TOWER. I am not prepared to agree to a time certain, Mr. President. To set a vote for 11 o'clock and have four amendments, coming in at 9 o'clock, necessarily precludes much in the way of debate on these amendments. I do not want to be proscribed.

Mr. ROBERT C. BYRD. How about the Senator from North Carolina? Is he willing to have a time limit on his amendment?

Mr. HELMS. Forty minutes.

Mr. ROBERT C. BYRD. Equally divided on the amendment?

Mr. HELMS. Yes.

Mr. ROBERT C. BYRD. Mr. President, I make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Is there any other Senator?

Mr. McINTYRE. Thirty minutes.

Mr. ROBERT C. BYRD. I ask unanimous consent that there be a time limitation on the amendment by Mr. McINTYRE of 30 minutes, equally divided in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Is there any other Senator willing to have a time limitation on his amendment?

Mr. BAKER. Mr. President, could I ask the Senator to yield?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. Is the Senator asking for time limitations to be applicable tomorrow or just time limitations?

Mr. ROBERT C. BYRD. We are talking about tomorrow. Does the Senator from North Carolina want to go forward tonight or tomorrow?

Mr. MORGAN. It does not matter to me. I am willing to go over until tomorrow, but I am not willing to agree to a time for passage because that limits the time on this amendment and would limit the time on the other amendments. If the other Members want to agree to time limitations on their amendments, I have no objection. I do object to any time certain to vote on passage.

Mr. BROOKE. Does the Senator from North Carolina agree that the three Senators who agree to a time limitation can take their time after the special orders on tomorrow, then have rollcall votes on their amendments prior to the amendment that possibly will be offered by the Senator from Virginia (Mr. HARRY F. BYRD, JR.); then time will be given to the Senator from North Carolina without a time limitation; then the vote on his amendment before final passage?

Mr. MORGAN. I do not see any advantage to that.

Mr. GLENN. Will the Senator yield?

Mr. BROOKE. Yes.

Mr. GLENN. Will this still permit time tomorrow for those amendments not requiring rollcall votes?

Mr. BROOKE. Any other amendment coming in.

Will the majority leader consider that as a unanimous-consent request?

Mr. ROBERT C. BYRD. Yes.

Mr. BROOKE. I so offer it.

The PRESIDING OFFICER. Will someone please state what that unanimous-consent request is?

Mr. ROBERT C. BYRD. Mr. President, I have sought to complete the bill tonight and I did so at the request of Mr. PELL.

May we have order in the Senate?

The PRESIDING OFFICER. Let us have order, please.

Mr. ROBERT C. BYRD. I sought to finish action on the bill tonight, because Mr. PELL, who is manager of the bill, wanted to complete action, if at all possible, tonight. No one anticipated that the Senate would be going this late in order to complete action. I feel always that I should try to accommodate the managers of the bill. Senator PELL was here this morning early when called upon and, when the managers of a bill have stood here all day and they want to complete action, I feel it my duty, as the majority leader, to try to help them get through the bill.

There are other Senators here who, from time to time, have managed bills on this floor and who have asked me to go on and finish because they knew that if they waited until the next day, they would likely be on the bill the entire day. I think most Senators on this side of the aisle are in the very same position tonight that Senator PELL is in: They have asked me to go until they have finished. As majority leader, I have sought to support them.

It is obvious that we cannot finish this bill tonight unless we stay here another 2 or 3 hours. I had hoped we could complete action on this bill and on the CETA bill and on the other bills that are out of the Finance Committee, and possibly on Civil Service reform, without being in Saturday. But, as it appears now, the longer we go, the more the chances are that we shall have to be in on Saturday.

We may still be in on Monday of next week and on Tuesday, because the legislative holiday that was announced earlier this year was to begin at the close of business next Tuesday night. I have been striving to save the Senate from having to be in next Monday and Tuesday, even from having to be in this Saturday. That was the reason, plus the fact that the manager of the bill wanted to stay in until we could finish.

He is here. He is nodding his head in the affirmative that I have sought to wind up the action today. That, obviously, is not going to be done. That being the case, I have sought to try to work out the best agreement that I could in order to finish the bill as early as possible tomorrow.

It is all right with me, if you do not want to finish the bill tomorrow; that is all right with me; we shall just be in on Saturday. If we cannot complete our work, we shall be in on Monday and we shall be in on Tuesday. But I hope we can complete the action on this bill tomorrow at a reasonably early hour.

Therefore, Mr. President, I move that the Senate stand in recess until the hour of 9 o'clock——

Mr. EAGLETON. Will the leader withhold that?

Mr. ROBERT C. BYRD. Yes.

Mr. EAGLETON. Some of us have tidy-up amendments.

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes tonight. Those Senators who have amendments that they want to have adopted on voice vote may stay and have that done.

Mr. MELCHER. Mr. President, I have

an amendment at the desk and I ask for its immediate consideration.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Senate will be in order, please.

If the Senator from Montana will permit the Chair to make a contrary observation, he had previously recognized the Senator from North Carolina pending a series of unanimous-consent agreements. Does the Senator from North Carolina yield the floor?

Mr. MORGAN. Yes.

Mr. MELCHER. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

Mr. BAKER. Will the Senator from North Carolina yield to me for a moment?

The PRESIDING OFFICER. Does the Senator from North Carolina care to withdraw his amendment so another amendment may be made the pending order of business?

Mr. MORGAN. Mr. President, before I do, let me yield to the minority leader.

Mr. BAKER. I thank the Senator from North Carolina.

Mr. President, while there are still some Members here on the floor, if I could have the attention of the majority leader for just a moment, it appears now that there will be no more rollcall votes tonight, as I understand the announcement of the majority leader, and we will convene in the morning at 9 or 9:30?

Mr. ROBERT C. BYRD. Nine-thirty.

Mr. MORGAN. Mr. President, I withdraw my amendment and yield the floor.

The amendment was withdrawn.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. MELCHER. I yield to the Senator from California.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senator be permitted to yield to me without losing the floor for a very brief colloquy with the managers of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

EMERGENCY SCHOOL AID ACT EDUCATIONAL TELEVISION AND RADIO

Mr. CRANSTON. I should like to ask the managers of this bill a couple of questions.

Is it not true that the emergency school aid act educational television and radio program is continued under S. 1753?

Mr. PELL. That is correct.

Mr. CRANSTON. Will that not allow meritorious programs like Villa Alegre to continue?

Mr. PELL. Yes; it will.

Mr. CRANSTON. I should like to compliment the distinguished floor managers of this bill for retaining this valuable program. As they know, programs like Villa Allegre, which focus on the specific learning needs of children of linguistically different backgrounds, are extremely important due to the large and increasing numbers of these children in California and throughout the country.

I believe the Senator from New York concurs.

Mr. JAVITS. Yes; I concur. We need the program. It has won two competitions already. It is an excellent program. We have them and others have them, too, but this is certainly a very good program.

Mr. CRANSTON. I thank the Senators very, very much and I thank the Senator from Montana.

UP AMENDMENT NO. 1748

(Purpose: To assure that States do not require qualifying elections for heavily impacted school districts under Public Law 874.)

Mr. MELCHER. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes an unprinted amendment numbered 1748.

Mr. MELCHER. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 334, after line 25, insert the following:

(c) Section 3 of such Act is amended by adding at the end thereof the following new subsection:

"(g) Notwithstanding any other provisions of this Act no State may require that a vote of the qualified electors of a heavily impacted school district of a local educational agency be held to determine if such school district will spend the amounts to which the local educational agency is entitled under this Act.".

Mr. MELCHER. Mr. President, we have an unusual circumstance in our State where an old attorney general's opinion would require a school district to vote on impact funds in order to spend them. It is a totally unique situation, in my judgment, and I think it is unique in the experience of the managers of the bill and everybody else. I hope the amendment can be accepted, because this will correct that situation.

Mr. PELL. Mr. President, I have examined this amendment and believe it does apply to a very unique situation in Montana,

I recommend we do accept it.

Mr. JAVITS. Mr. President, the amendment is acceptable on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

So the amendment (UP No. 1748) was agreed to.

Mr. MELCHER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

UP AMENDMENT NO. 1749

(Purpose: To provide for an office of Non-Public Education)

Mr. PELL. Mr. President, on behalf of myself and Senator EAGLETON, I offer an amendment to create an Office of Nonpublic Education in the Office of Education.

This Office is necessary to coordinate the already existing program that assists students of nonpublic schools. This Office will also provide much needed visibilit to these Federal efforts, and will provid a necessary focus for our current pro grams and for any new directions tha we might pursue. This Office will als provide a voice in our Federal Govern ment for the needs of nonpublic educa tion.

Mr. President, I ask that the amend ment be stated.

The PRESIDING OFFICER. Th amendment will be stated.

The legislative clerk read as follow

The Senator from Rhode Island (Mr. PELL for himself and Mr. EAGLETON, proposes un printed amendment numbered 1749.

The amendment is as follows:

On page 366, between lines 12 and 1 insert the following new section:

OFFICE OF NON-PUBLIC EDUCATION

Sec. 402. (a) Section 403 of the Gener Education Provision Act is amended b adding at the end thereof the following ne subsection:

"(d)(1) There shall be, in the Office o Education, an Office of Non-Public Educa tion to insure the maximum potential pa ticipation of nonpublic school students i all Federal educational programs for whic such children are eligible.

"(2) The Office shall be headed by th Deputy Commissioner for Non-Public Edu cation, who shall be appointed by th Commissioner.".

On page 366, line 14, strike out "Sec. 402 and insert "Sec. 403.".

On page 370, line 10, strike out "Sec. 403 and insert "Sec. 404.".

On page 371, line 10, strike out "Sec. 404 and insert "Sec. 405.".

On page 371, line 21, strike out "Sec. 405 and insert "Sec. 406.".

On page 372, line 15, strike out "Sec. 406 and insert "Sec. 407.".

On page 373, line 2, strike out "Sec. 407 and insert "Sec. 408.".

On page 374, line 17, strike out "Sec. 408 and insert "Sec. 409.".

On page 375, line 18, strike out "Sec. 409 and insert "Sec. 410.".

On page 20 and 21 in the Table of Con tents insert after item Sec. 401 the followin new item:

"Sec. 402. Office of Non-Public Educa tion.".

Redesignate item Sec. 402 through ite Sec. 409 as item Sec. 403 through item Se 410, respectively.

Mr. PELL. Mr. President, I yield the Senator.

Mr. HOLLINGS. Mr. President, I wa to join in this amendment and make least this record for myself one mo time and for the Department of HEW

The fact of the matter is that we d support the Domenici amendment to U tuition tax credit bill last week th had the bypass provision in it. In th particular case, anything to help facil tate and accelerate the assistance du and owing private school students wh participate in the varied title program under the Elementary and Secondar Education Act, we want to join in.

I ask unanimous consent to hav printed in the RECORD first, an upda on bypasses; second, Secretary Cali fano's testimony relative to the priva education programs in March of th year where he stated we must take constitutionally appropriate steps to in sure that private schoolchildren recei the funds they are due; third, a stat ment of the bypass provisions of S. 17

and the Administration's efforts in this regard—which we support; fourth, the Commissioner of Education, Mr. Ernest Boyer's statement on administrative actions intended to make the bypass more effective; and, fifth, the guidelines for handling complaints from nonpublic schools.

I had intended originally to put that in as an amendment with the Senator from New Mexico. It is very similar to the one we had placed on the tuition tax credit bill. However upon the advice of the U.S. Catholic Conference, and others, we decided to forgo this effort since S. 1753 contains provisions to correct the problems.

So I am joining in Senator Pell's amendment and I ask unanimous consent this material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BY-PASS: AN UPDATE

TITLE IV-B

In FY 78 the following states had by-passes invoked—Missouri, Nebraska, Oklahoma.

In FY 79 there will be an investigation of Wisconsin plus the three states by-passed in FY 78 will continue to be by-passed.

TITLE IV-C

In FY 78 Missouri had a by-pass for one LEA which was Haselwood.

TITLE I

Virginia had all LEAs (15 total) with complaints included in the state by-pass. These were LEAs which were eligible under the rule of 10 or more eligible private school children to be served in the school.

In Missouri a by-pass was implemented in 5 LEAs and letters of determination are going out (either in late FY 78 or early FY 79) to 9 more districts which have been found to have substantial failure in providing services. They will have an opportunity for a hearing which would probably be held in early FY 79.

In Wisconsin the decision has been announced to by-pass 8 districts. A hearing will be (if requested) in late FY 78 or early FY 79. If there is no hearing the by-passes will be implemented.

SEC. CALIFANO'S TESTIMONY OF MARCH 8, 1978 STATING THE ADMINISTRATION'S PROGRAMS FOR PRIVATE EDUCATION.

Private Schools.—President Carter is very concerned that, consistent with the Constitution, nonpublic school children receive their equitable share of funds provided under Federal elementary and secondary education programs. Although estimates in this area are quite rough due to poor record-keeping in the past, we estimate in Fiscal 1978 that private school students will receive between $100 and $250 million out of the $6 billion appropriated for Federal elementary and secondary programs. We also estimate that with appropriate legislative and administrative changes, nonpublic school students could receive from $100 to $250 million in additional funds in Fiscal 1979 and 1980—funds to which they are legally entitled.

We must take all constitutionally appropriate steps to ensure that private school children receive the funds that are their due—Providing money to private school students through existing programs—many of them based on well-defined educational needs—is a far superior way of ensuring the diversity of education in America than the shotgun approach of a tuition tax credit. A $500 tuition tax credit under consideration by the Congress would, if enacted into law, deliver a devastating blow the public school education in this country. It is indiscriminate, affecting rich and poor alike. And it is inequitable—the Congress would, if private school families received the full benefit of the credit and if they received their full share of existing Federal programs, by providing about four times as much money per private school student as it presently provides per public school student.

For each private elementary and secondary school student, the Congress would provide the $500 from the tax credit, plus the approximately $60 per student that private school students could receive under existing Federal programs—all this for private school students—compared with only $128 per pupil for public school students under existing Federal programs. The proposal, in short, stands the American tradition of public education on its head.

By contrast, to ensure equitable treatment of private school students consistent with sound constitutional interpretation we propose the following legislative changes:

In Title I, require that spending for educationally deprived nonpublic school children is comparable, consistent with their numbers and education need, to spending for public school children; require that new Title I funds distributed through the Targeting and State Incentive provisions are subject to the same equitable standard; require that State plans contain monitoring and enforcement provisions concerning participation of nonpublic school children.

In Title IV, require States to develop a plan for ensuring equitable participation of nonpublic school students in all Federal programs.

Strengthen and clarify the "by-pass" authority which the Federal government may use to provide constitutionally permissible services directly to nonpublic school students if the States and localities fail to discharge their statutory obligations.

In addition, we have also taken, or will take, administrative steps to fulfill the President's commitment to private education:

We will establish a new Office for Nonpublic Schools within the Office of Education. This Office will coordinate all Federal education programs which call for the participation of private school students, obtain information about the level of nonpublic student participation in federally funded education programs, and process complaints.

We have already established a much more precise and systematic complaint process.

We will make sure that qualified representatives of private schools are placed on educational advisory committees.

OFFICE OF PRIVATE SCHOOL SERVICES

Office for Non-Public Schools within the Office of Education. This office has been established. Presently recruiting for someone to head the office. Title of head will be Assistant Commissioner, Office of Private School Services. The office will have a staff of 4; the Assistant Commissioner will be a GS 15 or 16 and will report to the Executive Deputy Commissioner for Educational Programs.

The Proposal

Establish within the Office of Education a new Office for Nonpublic Schools. This Office will monitor and coordinate the provision of services to nonpublic school children under all Federal elementary and secondary education programs that call for the participation of such children. A major function of this Office will be to collect data on a systematic basis about the extent of actual participation of nonpublic school children in Federal programs, and to determine the degree to which those children are not being provided services to which they are entitled. The Office will also be responsible for processing complaints filed with the Office of Education about the expeditious resolution of thsee complaints. This Office will be established by administrative action.

Present Law

The participation of nonpublic school children in Federal elementary and secondary education programs is currently overseen primarily by the program office for each separate program.

Reasons for Recommendation

There is a need for sustained improvement in the administration of programs designed to benefit children in nonpublic schools. Efforts to evaluate and increase the degree of participation of nonpublic school children in Federal programs are currently handicapped by a serious lack of data about such participation. This Office can play a major new role in obtaining necessary data.

In addition, a spetical Office, separate from each of the program offices, should be especially sensitive to the needs of children in nonpublic schools and effective in seeing that they receive the services they need. Because its central mission will be to ensure that statutory requirments providing for the equitable participation of such children are fulfilled, it should give greater force to administrative efforts designed to ensure that nonpublic school children receive their fair share of services under Federal programs.

BY-PASS: PROVISIONS OF S. 1753 AND ADMINISTRATIVE EFFORTS

AUGUST 7, 1978.

NOTE TO DR. LETITIA CHAMBERS

The Administration proposed several changes in the Elementary and Secondary Education legislation to ensure that children attending nonpublic schools receive their equitable share of the benefits of Federal programs consistent with the Constitution. The Administration intends to make a concerted effort to improve the performance of Federal education programs in delivering to nonpublic school children the services to which they are legally entitled.

Several recommended changes focused on strengthening or clarifying existing legal requirements—others were new requirements to ensure the private school children a fair share of the benefits. In his testimony, Secretary Califano stated the general legislative and administrative changes the Administration was proposing and undertaking. They are:

In Title I, require that spending for educationally deprived nonpublic school children is comparable, consistent with their numbers and educational need, to spending for public school children; require that new Title I funds distributed through the Targeting and State Incentive provisions are subject to the same equitable standard; require that State plans contain monitoring and enforcement provisions concerning participation of nonpublic school children.

In Title IV, require States to develop plans for ensuring equitable participation of nonpublic school students in all Federal programs.

Strengthen and clarify the "by-pass" authority which the Federal government may use to provide constitutionally permissible services directly to nonpublic school students if the States and localities fail to discharge their statutory obligations. This authority exists in Titles I and IV, and the Administration proposed its extension to ESAA and Title VII (Bilingual Education).

Establish a new Office for Private Education Services within the Office of Education. This Office will coordinate arrangements for private school students' participation in all Federal education programs which call for such participation, will obtain information on federally funded education programs, and will process complaints.

Make sure that qualified representatives of private schools are placed on educational advisory committees.

A systematic complaint process within OE has been established.

More specifically several sections of the

Elementary and Secondary Education legislation now pending in Congress (H.R. 15 and *S. 1753*) have incorporated the Administration's suggestions. They are cited below as they appear in S. 1753.

(a) State Monitoring and Enforcement Plan in Title I, Part C.—Language in Section 161(b)(4)(5) specifically directs the State to include in its plan for enforcement and monitoring of LEAs receiving Title I funds procedures for resolving complaints, including those by representatives of children enrolled in private schools. The SEA must describe its means of assuring local compliance with the plan, including requirements for equitable provision of services to children enrolled in private schools. (This appears in Section 121(a) in H.R. 15.) The Section also requires a State plan to include a regular schedule of visits to school districts. This type of monitoring schedule has never been required in Title I, nor have such specific enforcement activities been required in the State plan.

(b) Participation of Children Enrolled in Private Schools.—Language appears in both Title I and Title IV to ensure participation. Section 130(a) spells out the general requirements for the LEA to serve equitably those children attending nonpublic schools who are entitled to Title I services. (Section 40(a) in H.R. 15 is not the same in language but is similar in principle.) This section requires spending to be equal, consistent with the children's numbers and educational need, to the spending for public school children.

The language in Section 406 of Title IV also ensures equitable participation. In this provision SEAs are required to make arrangements in order that nonpublic school children are provided services and materials even if the local school district does not receive funds. If services and materials are not provided, the Commissioner has the option to implement the by-pass procedures.

(c) By-Pass Provisions.—Four by-pass provisions have been included in the pending legislation for Title I, Title IV, ESAA, and Bilingual Education. These ensure that services will be provided to nonpublic school children through contracts if the SEA and/or LEA does not provide the services for the eligible children. The Commissioner has the authority to enter into special agreements in order that the services are provided.

(d) Title IV State Plans.—Nonpublic school participation is ensured in Section 404(a)(3) through the set of assurances required in State plans. If a state certifies that it cannot legally serve the nonpublic school children, a by-pass would be implemented.

(e) Basic Skills and Educational Proficiency—Title II.—In this discretionary grants program Section 202(a)(1) "Applications" states that an award can only be made if in "designing the proposal for which application is made, the needs of children in nonprofit private elementary and secondary schools have been taken into account through consultation with private school officials. . . ." This guarantees children's opportunity for participation if local private school officials have any interest in the program.

Three administrative actions taken during the past year also indicate the Department's concern for services to non-public school children. It is the intent of the Office of Education to ensure that services are provided.

(a) Specific procedures have been implemented to speed up the review of complaints made by nonpublic school officials. A series of checks has been established to ensure that complaints do not get lost in the system.

(b) Both the Secretary and the Commissioner have announced plans to establish a new Office of Private Education Services within the Office of Education. A search for the staff has already begun, and position descriptions for staff include a description of the office's duties.

(c) During the past year the Office of Education has taken vigorous steps to implement by-passes in both Title I and Title IV. In Title I several states have received letters initiating actions, and other states have had by-passes implemented. Four have been implemented in Virginia and eleven are in process. Eight letters have been sent to districts in Wisconsin, and it is anticipated that the by-pass will be implemented during the next school year. Five have already been implemented in Missouri, and nine more are anticipated.

In Title IV the states of Nebraska, Oklahoma, and Missouri have had by-passes implemented for Part B.

The previous discussion concerning the enforcement of nonpublic school services through administrative actions and the language in pending legislation indicates the increased level of action on this issue in the Departemnt of Health, Education, and Welfare and the Office of Education. It has been the administration's position from its initial proposals to insure services to eligible children in nonpublic schools. The language in the pending legislation takes us much farther than ever before in guaranteeing these services, and the administrative actions now underway in the Office of Education will also help insure service in the future.

FRITZ EDELSTEIN,
Special Assistant to the Commissioner.

POLICY STATEMENT ON ADMINISTRATIVE ACTIONS INTENDED TO MAKE THE BYPASS MORE EFFECTIVE

(Statement By Ernest L. Boyer)

The policy of the U.S. Office of Education is to administer vigorously and effectively the Federal elementary and secondary education laws so that maximum program benefits reach children in both public and nonpublic schools on an equitable basis. The right of nonpublic school children to participate in a number of federally funded programs has been clearly established, and yet the record of delivery has been spotty. The United States Office of Education will not accept careless administration in this essential matter. Service to children in nonpublic schools can and must increase.

Some legislation carefully spells out the manner in which children in nonpublic schools are to be served while other legislation is less specific. While the laws refer to "equitable" treatment, even that word "equitable" has been differently interpreted. Because local public schools must arrange for delivery of Federal education services to nonpublic children, there sometimes exists difficulties, including legal barriers, to assure equitability. Accordingly, the Congress provided the Commissioner with an administrative remedy, called bypass, to serve nonpublic school children where local public schools are unable or unwilling to do so.

Since January of 1976, we have received an increasing number of nonpublic school complaints, more particularly, requests to invoke bypass. We have received charges from the nonpublic school community that OE has been dilatory in its responses. It is my intention to implement guidelines which will assure speedy and efficient resolution of those complaints.

Each manager in the U.S. Office of Education, who is responsible for programs which provide educational benefits for children, must know these procedures, practices them, and attempt to improve upon them. Each complainant must be answered immediately. The appropriate State education agency must be notified in a short period of time of the complaint. Clearances of draft letters for the Commissioner's signature must be handled on a priority basis. I believe that expeditious handling of correspondence on nonpublic school complaints will enhance our efforts to effect a timely and reasonable resolution to each complaint. Your cooperation in this effort is needed and I count upon you to help improve our performance in serving the nonpublic school children, as well as public school children.

TIGHTENED GUIDELINES FOR HANDLING COMPLAINTS FROM NON-PUBLIC SCHOOLS

NARRATIVE DESCRIPTION OF GUIDELINES

These guidelines apply to written complaints addressed to the U.S. Commissioner of Education concerning nonpublic school participation in Federal education programs. The objectives are:

(1) That the complainant receive an immediate response.

(2) That the appropriate SEA be notified of the complaint within a short period of time.

(3) That a reasonable resolution of the complaint be achieved in a timely manner.

The Deputy Commissioner has a more responsible role in these procedures in that he or she is to make the initial contacts following receipt of the complaint. A key is that the Deputy Commissioner appoint a person to follow the complaint until its resolution. This person should always know the status of the complaint and should insure prompt action.

Nonpublic Education Services, in the Educational Community Liaison Office, will have a responsible role in assisting where needed, to expedite drafts or to help in negotiations.

The Office of General Counsel is to be kept advised but it will be asked to clear only those drafts which require the Commissioner's signature.

These guidelines apply within USOE in handling written complaints which are addressed to the US Commissioner of Education from responsible nonpublic school representatives regarding the equitability of services to nonpublic school students in programs funded under the Federal education laws administered by the Office of Education. They have more specific application where the complaint requests a bypass.

The procedures to handle complaints are listed below. Following the procedures are standard requirements for all steps which involve the Office of General Counsel (OGC) and Nonpublic Educational Services (NPES), clearance.

1. Incoming letter controlled to appropriate Deputy Commissioner (usually BESE). Working days for task: 1.

2. Deputy Commissioner:

(a) Responds in writing to complainant acknowledging receipt of complaint and indicating that additional information and facts may be requested to assist in a staff study of the problem. Working days for task: 1–5.

(b) Designates OE person from the appropriate program office to follow up on the complaint until its resolution. This person is to arrange for the necessary technical assistance and to keep in touch with appropriate Bureau staff, OGC, and NPES, on developments regarding the complaint. Working days for task: 5–10.

(c) Notifies the appropriate Chief State School Officer in writing of the complaint—asks for information and facts. Working days for task: 5–10.

(d) The OE person designated for follow up is mentioned in the letter. A copy of the letter should be furnished to OGC and NPES. Allows 30 days for SEA to respond.* Working days for task: 30.

---

*Under ESEA Title IV, the nonpublic school complaint must first go directly to the SEA—Title IV regulations 134.102. SEA has 60 days to respond to complainant.

3. If SEA notifies OE that complaint is resolved, and the Deputy Commissioner agrees, the Deputy will notify the complainant of the resolution. Working days for task: 3.

4. If SEA response does not provide sufficient data or information to resolve complaint, the Deputy Commissioner notifies the CSSO in writing of OE plans for on-site reviews. The Deputy Commissioner should advise OGC of the action planned. Appropriate LEA's and the complainant will also receive copies of the letter regarding on-site visits. Deputy Commissioner determines composition of on-site investigative team. Working days for task: 10.

5. OE conducts on-site investigation at designated LEA(s) and in consultation with SEA and LEA officials, and with nonpublic school representatives. OE looks into actual numbers of children eligible, the number served, the time, amount, and cost of services, the arrangements for the delivery of services, to help determine equitability or other pertinent facts. The OE visiting team prepares a report of its fact finding for submission to Deputy Commissioner. The team consults with OGC in the preparation of its report. (Note: the length of the investigation and the preparation of the report are affected by such things as the number of LEA(s) and the size of the program.) Working days for task: 10–30.

6. If OE report finds nonpublic school children are being served equitably, the Deputy Commissioner notifies the complainant and the SEA. Working days for task: 5.

7. If the OE report finds significant failure to serve nonpublic school children equitably, and the Deputy Commissioner and OGC concur, the Deputy Commissioner takes the following actions:

(a) Prepares draft letter for the Commissioner's signature to the CSSO reporting the findings of fact and giving notice of invoking bypass (copies to affected LEA(s) and complainant). Working days for task: 5–10.

(b) SEA and LEA(s) given 60 days to request hearing (applicable only where designated in the statute). Working days for task: 60:

(c) If on-site investigation uncovers significant failure to serve nonpublic school children equitably at the time the SEA plan is to be approved, the Deputy Commissioner should notify the Commissioner and recommend appropriate action which may * * *. Working days for task: 5.

(d) If the Commissioner agrees to such fund withholding, the Deputy Commissioner prepares a draft letter for the Commissioner's signature to the CSSO relative to fund withholding. Working days for task: 10–15.

All letters for the Commissioner's signature on either bypass or withholding of funds must be cleared by OGC.

8. If SEA or LEA asks for hearing, OGC takes the lead and works in conjunction with Deputy Commissioner and Director, Nonpublic Educational Services. (Hearing process not covered in these procedures.)

9. If SEA and/or LEA(s) do not ask for hearing, Deputy Commissioner prepares letter for Commissioner's signature of final notice of bypass and proceeding with request for proposal (RFP). Working days for task: 5–10.

Contracting procedures commence. (Applies only when bypass is authorized.)

Standard Requirements.—

A. Copies of the Deputy Commissioner's letters should be sent to OGC, NPES, SEA, LEA and if appropriate, to the complainant (include copy of incoming letters)

B. Designated program staff person should always be identified in initial letters to indicate availability for technical assistance to SEA and LEA, and arranging consultation with nonpublic school representatives. An account of the progress in handling the complainant will be kept by the designated OE person to insure that procedural time requirements are met. (Note: Both OGC and the Commissioner's Correspondence Unit maintain logs or controls of all draft letters on nonpublic school student participation).

C. OE Director of Nonpublic Educational Services will assist, if necessary, in drafting or reviewing letters, arranging consultations with nonpublics, and working with OE designated persons on complaints which may require a bypass or withholding of funds.

Mr. EAGLETON. Mr. President, I rise in support of the Pell-Eagleton amendment which would retain a provision of title XII which I believe has considerable merit, to wit, the establishment of an Office of Non-Public Education to be headed by a Deputy Commissioner. This office would have the responsibility to insure that nonpublic schoolchildren participate equitably in the various Federal educational programs for which they are eligible. Mr. President, I ask unanimous consent that a topical listing prepared by the Library of Congress of various Federal educational programs in which private elementary and secondary school students are eligible to participate be printed in the RECORD at the conclusion of my remarks.

I view the establishment of this office, with appropriate status of being headed by a Deputy Commissioner, to be central to carrying out the intent of Congress in 1965. Adoption of the Elementary and Secondary Education Act expressed clear congressional intent of providing nonpublic schoolchildren "equitable participation" in the new Federal program.

Although my State of Missouri has somewhat more stringent State constitutional restrictions on aid to nonpublic schoolchildren than other States, I believe the difficulties which have arisen in Missouri speak eloquently for the need for a special Office for Non-Public Education to insure that the law is upheld.

The first problem encountered in Missouri related to the title III program, supplementary educational activities and services. The Federal statute specifically provided that children attending nonpublic schools as well as children attending public schools should participate in the program. In addition, the Federal statute provided for an administrative mechanism, commonly known as a "by-pass," by which the Federal Government could contract to make services available to nonpublic schoolchildren in those cases where there is a substantial failure on the part of the State to provide such equitable services or where a State is prohibited by law from so doing.

In Missouri, nonpublic schoolchildren were restricted in their participation in a title III reading deficiency clinic to before or after regular school hours or on Saturday. Thus, where a public schoolchild could receive reading deficiency diagnosis and a remedial prescription in a day and a half of intensive testing, a nonpublic schoolchild might have to come to the clinic as many as 8 separate days to receive the same service.

In March 1972, the U.S. Commissioner of Education was requested to invoke the "by-pass" in Missouri with regard to the title III program. In November of that year, the "by-pass" was invoked, the first time this authority had been used in the country.

Similarly, the title I program for aid to educationally disadvantaged children requires that nonpublic schoolchildren participate in remedial programs in an equitable manner. A similar "by-pass" provision is authorized. Again, a problem arose in Missouri. The State's plan for title I nonpublic school participation required remedial mathematics and reading courses at private schools to be held after school hours or on weekends.

A suit was brought by parents of nonpublic schoolchildren in the Kansas City area, asking the court to permit Federal funds for special remedial programs to be used to provide public schoolteachers for private schools during regular school hours.

This case wound its way up to the U.S. Supreme Court in 1974, at which time the Court ruled that the State must provide services to children in nonpublic schools that are comparable—but not necessarily identical—to those received by public schoolchildren. However, the Court left it up to Missouri courts to determine what types of comparable Federal remedial services can be provided to nonpublic schoolchildren.

In 1976, the U.S. Commissioner of Education again invoked the "by-pass" in Missouri, this time with respect to the title I funds in four school districts in the State.

I would point out that it has taken years of litigation to obtain some degree of equitable services to nonpublic schoolchildren in Missouri. It has taken 10 years since enactment of ESEA to resolve, and only partially resolve at that, the question of participation of nonpublic schoolchildren in Federal education programs. In my view, a highly visible Office for Non-Public Education in the U.S. Office of Education would facilitate enforcement of the provisions of the Elementary and Secondary Education Act of 1965 as they relate to nonpublic schoolchildren eligible for benefits and services. Had such an office been in place in prior years, I believe these Missouri matters could have been resolved more efficiently and more effectively.

Mr. JAVITS. Mr. President, I support the amendment and I ask unanimous consent that I may be named as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Rhode Island.

So the amendment (UP No. 1749) was agreed to.

UP AMENDMENT NO. 1750

(Purpose: To include educational institutions in the program to stimulate achievement in basic skills)

Mr. EAGLETON. Mr. President, I have an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON), for himself and Mr. JAVITS, proposed an unprinted amendment numbered 1750.

Mr. EAGLETON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 123, strike line 18 and insert the following:

"INVOLVEMENT OF EDUCATIONAL AGENCIES AND PRIVATE ORGANIZATIONS".

On page 123, line 20, after the word "to" insert the following: "State and local educational agencies, institutions of higher education and,".

On page 124, line 7, after the "(2)" insert the following: "instructional programs and".

Mr. EAGLETON. Mr. President, I offer this amendment on behalf of myself and Senator JAVITS, which would amend title II, the basic skills authorization contained in the bill.

Section 209 of the bill is designed to provide authority to continue the reading academy programs currently authorized under title VII of the Education Amendments of 1974. As reported out of committee, the bill restricts eligibility for the program to private organizations. Although the private sector has contributed greatly to the reading program, many educational institutions have also undertaken reading academy programs.

This amendment simply broadens eligibility under section 209 to include educational agencies as well as private organizations, and clarifies the nature of programs eligible under the section.

Mr. JAVITS. I support the amendment. I think it is an excellent provision. I hope the Senate will adopt it.

Mr. MORGAN. Mr. President, this is a section I am interested in. I am not sure what the amendment does. Could I have a further explanation?

Mr. EAGLETON. I will elaborate, Mr. President, a little more. Section 209 of the bill is designed to provide authority to continue the reading academy programs currently authorized under title VII of the Education Amendments of 1974. As reported out of committee, the bill restricts eligibility for the program to private organizations. Although the private sector has contributed greatly to the reading program, many educational institutions have also undertaken reading academy programs.

As I say, this simply has eligibility under 209 to include educational agencies as well as private organizations and clarifies the nature of programs eligible under this section.

Mr. MORGAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MORGAN. Would this amendment prevent my offering an amendment tomorrow to strike the entire section, including the portion amended by this amendment?

The PRESIDING OFFICER. The Chair informs the Senator from North Carolina he would not be precluded from offering the amendment to strike the entire provision since his amendment would be much broader than the amendment being offered by the Senator from Missouri.

Mr. MORGAN. I thank the Chair.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the Senator from Michigan (Mr. RIEGLE) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. We are ready to vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri.

So the amendment (UP No. 1750) was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. EAGLETON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

AMENDMENT NO. 2518

Mr. GLENN. Mr. President, I call up my amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN) proposes an amendment numbered 2518.

Mr. GLENN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 342, line 3, strike out "EXTENSION OF RELATED" and insert "REVISION OF OTHER".

On page 357, between lines 4 and 5, insert the following:

"PART D—TUITION TAX CREDIT; REDUCTION OF CREDIT

"REDUCTION OF CREDIT

"SEC. 341. The amount of the credit otherwise allowable under section 44C of the Internal Revenue Code of 1954 (relating to credit for tuition) shall be reduced by any amounts received with respect to any individual for any taxable year under subpart 1 or 2 of part A of title IV of the Higher Education Act of 1965 or any successor statute.".

On page 20, in the table of contents, strike out title III and insert in lieu thereof the following:

"TITLE III—REVISION OF OTHER EDUCATION PROGRAMS".

On page 20, in the table of contents, after item "Sec. 231." insert the following:

"PART D—TUITION TAX CREDIT; REDUCTION OF CREDIT

"Sec. 341. Reduction of credit.".

Mr. GLENN. Mr. President, the amendment which I now call up to S. 1753, the Elementary and Secondary Education Act amendments, would insure that individuals would not be permitted to unfairly benefit from several duplicative educational assistance programs. In short, it would insure that the tuition tax credit, which the Senate has just recently passed, be reduced by the amount of direct Federal higher educational grant assistance.

My amendment would have the same effect as a provision included in the Senate-passed tuition tax credit bill. However, since the House-passed tuition tax credit bill specifically provided that there not be an offset, it cannot be assumed that the Senate conferees will be successful in retaining that provision. With the Senate passage of both the tuition tax credit and the expanded college grant program, there would be an opportunity to double-dip if both bills are subsequently enacted without an offset provision. I believe that we must insure that double-dipping cannot take place. Therefore, I am offering my amendment in order to provide the Senate with an additional opportunity to enact an offset provision.

Mr. President, I have already discussed this with both floor managers. I believe it is acceptable.

Mr. PELL. The Senator is correct. We have discussed it. It is acceptable. I think it serves a very good purpose to avoid duplication and double dipping.

Mr. JAVITS. The amendment is acceptable.

Mr. THURMOND addressed the Chair.

Mr. GLENN. We are prepared to vote.

The PRESIDING OFFICER. The Senator from South Carolina.

Does the Senator from South Carolina wish to be heard on the pending amendment?

Mr. THURMOND. Not on the pending amendment.

The PRESIDING OFFICER. If the Senator will desist, we will proceed to vote.

Does any Senator wish to be heard on the pending amendment?

Mr. THURMOND. Mr. President, a parliamentary inquiry: If I get the floor, do I have the right to speak on anything I want to?

The PRESIDING OFFICER. Yes; the Senator can speak.

Mr. GLENN. Will the Senator from South Carolina permit us to vote on this amendment?

Mr. THURMOND. I believe I have the floor, do I not?

Mr. GLENN. Mr. President, I have the floor.

Mr. THURMOND. All right, you get through and then I will get it.

Mr. GLENN. Mr. President, a parliamentary inquiry. Do I have the floor? I wish to vote on this amendment.

Mr. THURMOND. Mr. President, do I have the floor?

Mr. GLENN. Mr. President, a parliamentary inquiry. Do I have the floor or not?

The PRESIDING OFFICER. After the Senator from Ohio had offered his amendment and spoken on it, the Senator from New York spoke and the Senator from Rhode Island spoke. The Senator from Ohio no longer had the floor. The Senator from South Carolina sought recognition and obtained recognition. The Chair recognizes the Senator from South Carolina.

Mr. GLENN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from South Carolina has the floor.

Mr. THURMOND. I will be glad to yield to the Senator from Ohio for an inquiry or something.

Mr. GLENN. Mr. President, all we are trying to do is to get a vote on this amendment before we proceed to another matter. My understanding is that the Chair asked the Senator from South Carolina whether he was going to speak

on this amendment, with a view to going ahead with the amendment.

The PRESIDING OFFICER. That was the intention of the Chair, in order to move ahead with the business of the Senate, but the Senator from South Carolina has been recognized and is entitled to speak if he chooses to do so.

Mr. THURMOND. And on any subject I wish, as I understand the rule.

The PRESIDING OFFICER. The Senator is correct.

Mr. THURMOND. I will not take more than 10 seconds. I could have been through by now if the Senator had not interrupted.

Mr. GLENN. We could have had a vote by now if the Senator from South Carolina had not interrupted.

Mr. THURMOND. I did not interrupt. I got the floor in my right. The Chair just said so.

(Mr. THURMOND's statement relating to Increases in FHA Rates is printed later in today's RECORD.)

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Ohio.

The amendment was agreed to.

Mr. GLENN. I move to reconsider the vote by which the amendment was agreed to.

Mr. DURKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DURKIN and Mr. HEINZ addressed the Chair.

UP AMENDMENT NO. 1751

(Purpose: To provide for school district and private school advisory council where there are fewer children of low-income families)

Mr. DURKIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Hampshire (Mr. DURKIN), for himself and Mr. MCINTYRE, proposes an unprinted amendment numbered 1751.

Mr. HEINZ. Mr. President, a parliamentary inquiry.

Mr. DURKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. HEINZ. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Does the Senator from New Hampshire yield for the purpose of a parliamentary inquiry?

Mr. DURKIN. I yield without losing my right to the floor, for the purpose of a parliamentary inquiry.

Mr. HEINZ. I thank the Senator from New Hampshire for yielding.

Mr. President, my parliamentary inquiry is this: There have been a number of people seeking recognition, not just on that side of the floor but on this, for some time, and the Chair seems to have a stiff neck or something and keeps looking to the right.

The PRESIDING OFFICER. The Chair points out to the Senator from Pennsylvania that the last Senator who obtained recognition prior to the vote was from this side of the Chamber.

Mr. HEINZ. While an amendment was pending, Mr. President.

The PRESIDING OFFICER. That is correct, which I think was even a greater reflection on the consideration which the Chair is seeking to show to the Members of the Senate. The Chair is seeking to expedite the business of the Senate. The Chair understands the Senator's point. We are trying to move the business of the Senate. The Senator from New Hampshire has the floor, and an amendment is pending.

Unanimous consent has been obtained to dispense with the reading of the amendment.

The amendment is as follows:

On page 49, line 17, after the dash insert "(1)".

On page 49, line 18, strike out "(1)" and insert in lieu thereof "(A)".

On page 49, line 20, strike out "(2)" and insert in lieu thereof "(B)".

On page 49, line 23, strike out "(A)" and insert in lieu thereof "(i)".

On page 50, line 3, strike out "(B)" and insert in lieu thereof "(ii)".

On page 50, line 5, strike out "(C)" and insert in lieu thereof "(iii)".

On page 50, line 10, strike out "(D)" and insert in lieu thereof "(iv)".

On page 50, between lines 14 and 15, insert the following:

"(2) In the case of any school district of a local educational agency in which 100 or less students are served by programs assisted under this title, the local educational agency shall establish an advisory council for the school district which—

"(A) has a majority of members who are parents of the eligible children to be served; and

"(B) is composed of members elected by the parents in each district.

"(3) In the case of any project school in which 50 or less students who are served by programs assisted under this title, the local educational agency shall establish an advisory council for the project school which—

"(A) has a majority of members who are parents of the eligible children to be served; and

"(B) is composed of members elected by the parents in the attendance area of the project school.

Mr. DURKIN. Mr. President, I offer this amendment on behalf of my senior colleague (Mr. MCINTYRE) and myself.

Our amendment would revise the section of the bill which requires the establishment of parental advisory councils in each school district and each project school which receives title I funds.

The committee's bill requires each school district and project school, as a prerequisite to receiving title I funds, to establish a parental advisory council which consists of 10 members. three-quarters of whom are parents served by title I children. Although we applaud parental involvement in the educational process, we are concerned about the effect of the requirement that seven title I parents from each project school and district serve on a council.

In our State, as in many other States, the vast majority of the school districts are small and subsequently serve relatively few title I children. Many schools and districts serve fewer than 10 children under title I programs. It is obvious that it would be difficult if not impossible for those schools and districts to meet the parental advisory council requirements in the bill. And if these districts cannot meet the parental advisory council requirements, they will, of course, lose title I funding.

We propose to modify this provision to allow school districts which serve fewer than 100 title I students and project schools which serve fewer than 50 title I children to establish parental advisory councils without any requirement as to the number of parents who must serve.

Thus, although smaller school districts would therefore still be required to establish parental advisory councils, as under current law, those councils would only have to consist of a majority of parents of children served and would only have to be composed of members elected by parents in the school attendance area.

We believe that this amendment will insure that title I parents are involved in the education of their children without placing undue burdens on small school districts.

Mr. President, I would like to congratulate the Senator from Massachusetts (Mr. KENNEDY) for his efforts with respect to parental involvement in title I programs. I know that in committee he was heavily involved in improving the function of advisory councils and I also understand that he is willing to accept the modifications we propose.

I would urge the acceptance of the amendment by the floor managers.

Mr. President, I yield to my senior colleague.

Mr. MCINTYRE. Mr. President, I am happy to join my junior colleague in offering this amendment today. The title I program has been successful in our State of New Hampshire largely because of the active participation of parents. The Human Resources Committee, and Senator KENNEDY in particular, have recognized the importance of parental participation, and have included in S. 1753 minimum requirements for title I parent advisory committees.

However, these minimum requirements most likely could not be met by smaller communities. Our amendment alleviates this situation by allowing these communities to essentially continue their current practices. It is my understanding that this amendment is acceptable to Senator KENNEDY.

I want to thank Senator KENNEDY for his cooperation in this matter, and to congratulate him for his efforts to strengthen parental involvement. I believe our amendment is consistent with this intent, and I hope the distinguished floor managers will accept this amendment.

Mr. PELL. Mr. President, this amendment is acceptable to this side of the aisle.

Mr. STAFFORD. It is also acceptable to this side of the aisle.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. DURKIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McINTYRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ. Mr. President, I have three amendments to this bill—Nos. 3515, 3516, and 3517—which we have discussed with the committee. My understanding is that the committee has no objection to them. Since they are modest amendments, I ask that they be considered en bloc, unless there is objection.

Mr. JAVITS. Mr. President, could we hear the amendments? My staff tells me that they do not know, off the tops of their heads, what they are.

Mr. HEINZ. Let us have the clerk read the amendments one at a time.

Mr. JAVITS. Then the Senator can move to have them considered en bloc.

AMENDMENT NO. 3515

(Purpose: To provide authorization for energy conservation discretionary special projects)

Mr. HEINZ. Mr. President, I call up amendment No. 3515.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an amendment numbered 3515.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 134, between lines 15 and 16 insert the following:

"(c) The Commissioner is also authorized from the amount available for the purpose of this section, to make grants and enter into contracts for the development of curricula, and the dissemination of information relating to the improvement of teaching energy conservation to elementary and secondary school children and for the training of personnel to teach energy conservation to such children. In carrying out the provisions of this subsection, the Commissioner shall use to the maximum extent practicable materials developed by the Department of Energy, the Community Services Administration, and the Department of Housing and Urban Development.

On page 134, line 16, strike out "(c)" and insert in lieu thereof "(d)".

Mr. HEINZ. Mr. President, my first amendment, No. 3515 would permit the Commissioner of Education to make grants and let contracts for the development of energy conservation curricula and information for elementary and secondary schoolchildren. I believe this amendment will serve to ultimately instill in our children from a very early age, the importance of conserving our precious energy resources. As this amendment merely allows a new initiative to be funded with the Commissioner's discretionary moneys, no new sums are required to be authorized for implementation of this amendment.

Mr. PELL. Mr. President, these amendments have been discussed with our staff, and we are familiar with them.

I move acceptance of the amendment. I am a little puzzled. Are we considering them one by one or en bloc?

The PRESIDING OFFICER. Only one amendment is pending at the moment, No. 3515.

Mr. JAVITS. We accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3516

(Purpose: To assure quality radio and television programing in the emergency school aid program)

Mr. HEINZ. Mr. President, I call up amendment No. 3516.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an amendment numbered 3516.

Mr. HEINZ. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 262, line 16 insert "high quality" after the word "of".

On page 263, between lines 3 and 4, insert the following:

"(B) will assure the development of productions having a substantial artistic or educational significance;

On page 263, line 4, strike out "(B)" and insert in lieu thereof "(C)".

On page 263, line 6, strike out "(C)" and insert in lieu thereof "(D)".

Mr. HEINZ. Mr. President, my second amendment, No. 3516, is intended to insure that television programs developed under title VI, the Emergency School Aid Act, be of high quality. Considering that TV plays such a crucial role in shaping the emotional and intellectual development of our children in their every day lives, we have a duty to seek and stimulate the highest quality in TV developed and supported by the government on our children's behalf. I want to emphasize that this amendment is in no way intended to be a criticism of the programing already developed by the Office of Education. I believe the more than 400 hours of children's television programs already produced by OE have been a sincere effort to employ the most effective medium of instruction in this country in a positive and constructive fashion. I believe the addition of the words "high quality" to this section of the law will only serve to insure that this fine effort continues.

Mr. JAVITS. Mr. President, we have no objection on this side.

Mr. PELL. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3517

(Purpose: To assure nonpartisan independent judgment by members of advisory councils)

Mr. HEINZ. Mr. President, I call up amendment No. 3517.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an amendment numbered 3517.

Mr. HEINZ. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 228, line 14, after the period, insert the following: "Members shall be appointed without regard to political affiliation..."

On page 230, between lines 19 and 20, insert the following:

"(3) No member of the council shall evaluate any program or project if such member is associated with the program or project as a consultant, technical advisor, or in any other similar capacity.

On page 230, line 20, strike out "(3)" and insert in lieu thereof "(4)".

On page 231, line 1, strike out "(4)" and insert in lieu thereof "(5)".

On page 309, line 9, before the period insert a comma and the following: "without regard to political affiliation".

On page 310, between lines 9 and 10, insert the following new paragraph:

"(7) No member of the council shall evaluate any community education program such member is associated with that program as a consultant, technical advisor, or in any other similar capacity.

Mr. HEINZ. Finally, Mr. President, amendment No. 3517 would apply to the National Advisory Council and the Community Education Advisory Council and would require:

First. That members shall be appointed without regard to political affiliation; and

Second. That no member of either council shall evaluate any program or project with which that member is associated as a consultant, technical advisor or in any other similar capacity.

I would hope by this amendment to strengthen both these important advisory councils by assuring nonpartisan independent judgment by members and by limiting the possibility of any conflict-of-interest situation.

I understand that the committee has no objections to these three amendments.

Mr. JAVITS. Mr. President, I have one question: When the Senator says the members shall be appointed without regard to political affiliation, does this mean that they may not have some political affiliation?

Mr. HEINZ. Absolutely not. They may be Republicans, Democrats, Independents, Whigs.

Mr. JAVITS. Not appointed for this reason.

Mr. HEINZ. No.

Mr. JAVITS. I have no objection.

Mr. PELL. Mr. President, the National Council on College Education has never

had anybody appointed to it, to my great regret. I hope very much that some appointments will be made. I think the amendment is a good one.

Mr. HEINZ. I say to the Senator that this amendment does not guarantee anybody's appointment.

Mr. PELL. Anyone is better than no one. This council was left unfilled all these years by both Republican and Democratic administrations.

Mr. HEINZ. Perhaps there is some kind of a consensus.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ. I thank the manager of the bill.

UP AMENDMENT NO. 1752

(Purpose: To improve the administration of the Education of the Handicapped Act)

Mr. WILLIAMS. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS) proposes unprinted amendment numbered 1752.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 342, line 3, strike out "EXTENSION OF RELATED" and insert "REVISION OF OTHER".

On page 357, between lines 4 and 5, insert the following:

PART D—EDUCATION OF THE HANDICAPPED

TECHNICAL AMENDMENT

SEC. 341. Section 611(a)(3) of the Education of the Handicapped Act is amended by striking out "the average of the", and by striking out "October 1 and February 1" and inserting in lieu thereof "December 1".

(b) The amendments made by subsection (a) of this section shall take effect with respect to determinations made in fiscal year 1979 and thereafter.

On page 20, in the Table of Contents, strike out title III and insert in lieu thereof the following:

"TITLE III—REVISION OF OTHER EDUCATION PROGRAMS".

On page 20, in the Table of Contents, after item Sec. 231 insert the following:

"PART D—EDUCATION OF THE HANDICAPPED

"Sec. 341. Technical amendment.".

Mr. WILLIAMS. Mr. President, this technical amendment is designed to eliminate problems which have risen in counting children under the Education for All Handicapped Children Act. Currently, the act calls for two counts, on October 1 and February 1, which are averaged to provide a count which is used as the base for a State's annual allotment. The provision was included in the law to encourage localities to complete the identification, evaluation and placement of handicapped children at an early point in the school year. The first count on October 1 is so early in the school year that enrollments in programs are not adequately reported. This occurs, because a school cannot complete evaluations and write individual programs on all children who have just entered the school system. For example, in this school year the count of children in October was 170,000 less nationally than had been counted the previous spring. By spring, the count had increased by about 200,000 over last year's average and by 75,000 over the previous spring.

The net effect of the current provision is that the average of two counts does not adequately reflect the enrollment of handicapped children and deprives local schools of the support they might receive. Further, the second count of children is time-consuming, costly, and duplicative.

I might point out that while this amendment allows for handicapped children to be counted on December 1, it does not relieve State and local educational agencies of their responsibilities for providing an appropriate education to children between the ages of 3 to 18 by September 1, 1978, and ages 3 to 21 by September 1, 1980. Rather, it is the intent of this amendment to merely allow educational agencies to count these children later in the year.

By counting the children in December, rather than October 1, time will be provided to include children newly enrolled in the fall, individual education programs can be developed, and an accurate single count can be transmitted to Washington in time for Congress and the executive branch to make accurate budget and appropriations decisions.

Mr. PELL. This amendment has been discussed with the Senator from New Jersey and is most acceptable to me.

Mr. STAFFORD. Mr. President, the amendment is also acceptable to the minority.

Mr. WILLIAMS. I thank my colleagues.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment was agreed to.

Mr. WILLIAMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. What is the pleasure of the Senate?

UP AMENDMENT NO. 1753

(Purpose: To require an education impact statement accompany new regulations)

Mr. HELMS. Mr. President, I have an unprinted amendment at the desk and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1753.

Mr. HELMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 372, after line 26, insert the following new section:

REGULATIONS

SEC. 407. Section 431 of such Act is amended by adding at the end thereof the following new subsection:

"(h) Notwithstanding any other provision of law, no regulation affecting any educational agency or institution may become effective unless the Federal agency promulgating the regulation causes to be published in the Federal Register a copy of such proposed regulation together with an educational impact assessment statement which shall—

"(1) determine whether any information required to be transmitted under such regulation is already being gathered by or is available from any other agency or authority of the United States; and

"(2) assess the cost and time involved in complying with such regulation by the educational agencies or institutions which would be affected thereby.".

On page 373, line 2, strike out "Sec. 407." and insert in lieu thereof "Sec. 408.".

On page 374, line 17, strike out "Sec. 408." and insert in lieu thereof "Sec. 409.".

On page 375, line 18, strike out "Sec. 409." and insert in lieu thereof "Sec. 410.".

On page 21, in the table of contents, redesignate items 407 through 409 as items 408 through 410, respectively, and insert immediately after item "Sec. 406" the following:

"Sec. 407. Regulations.".

The PRESIDING OFFICER. The Chair inquires is this the amendment on which the Senator has agreed to a 40-minute time limit?

Mr. HELMS. I say to the Chair that it is not.

The PRESIDING OFFICER. It is not.

Mr. HELMS. It is amendment No. 1 that I submitted to the desk earlier this evening.

Mr. HELMS. Mr. President, the growth of Federal aid to education has been accompanied by a quantum growth in the burdens imposed upon the recipient institutions. Too often, HEW bureaucrats hand down regulations with no concept whatsoever of the amount of time, labor, and money the implementation of those regulations will take. Even when Federal grants are made for programs, a great deal of the supposed benefit is eaten up by the cost of preparing reports, or otherwise conforming to Federal regulations so as to be eligible for Federal money.

My amendment would require any Federal agency promulgating a regulation to publish in the Federal Register an educational impact assessment statement which would, first of all, force the bureaucrat issuing the order to find out ahead of time whether the information he is demanding is already available from another U.S. agency. This in itself would cut out a lot of unnecessary duplication.

Second, the bureaucrat would have to assess the time and cost involved to the institution in complying with the regulation.

Now I admit that after doing this, the bureaucrat could still go ahead and issue the regulations. But human beings can

be reasonable. I am sure that it just never occurs to many bureaucrats what the impact of their regulations will be. And if they see in black and white that their regulation is duplicative and unnecessary, or that it is extremely costly to the institution, using up scarce education dollars for nothing—then perhaps the regulation will not be issued, or it will be modified so that it is not so onerous.

Mr. President, I am aware that title IV, section 401 has a section entitled "Reduction of Paperwork." But if this is examined closely, all that it does is to institute another layer of bureaucracy, supposedly to reduce bureaucracy. It establishes a new bureaucrat with the imposing title of Deputy Assistant Secretary for Paperwork Coordination and Reduction. He is supposed to review all the requests for paperwork, and coordinate them. But nowhere is there any requirement for a precise estimate of the cost burden of specific regulations upon an institution or group of institutions affected. Without such a precise determination, and without a requirement for publication of that determination, there will never be any understanding of the burdens involved.

However, the burden of Government regulation falls heavily upon elementary and secondary schools. The red tape and paperwork that inevitably follows Federal regulations consumes thousands of hours of teachers' and administrators' time. The U.S. Office of Education estimated several years ago that it required the participants in its programs to complete 43.4 million data items and to spend about 2.2 million staff hours doing so. The Office of Education also estimated that State and local education agencies had to supply about 11.2 million data items, using about 700,000 staff hours.

It is no surprise then to learn that even after adjusting dollars for inflation, the actual cost of educating public school students since 1950 has gone up from $504 per pupil to $1,400 in 1976. In real dollars that is an increase of 180 percent. Without adjusting these dollar amounts for inflation the increase is approximately 1,000 percent.

Accordingly, the number of educational personnel has also increased dramatically to keep pace with increasing Federal demands. In 1950, there was 1 full-time school employee for every 19 students. Today, the ratio is 1 in 9. The greatest increase has been in nonteaching personnel—especially administrative personnel. Yet, the ratio of teachers to students has not increased nearly as fast. In 1950 there was 1 teacher for every 28 students. In 1976, the ratio was 1 teacher for 21 students. Although not all of the increase in the cost of education can be attributed to increasing Federal intervention in local schools, there is a striking parallel between Federal involvement and increased costs.

Last year, the National School Boards Association estimated that school districts spent an average of 1.1 minutes and 17 cents for each student simply to complete two forms requested by the Department of Health, Education, and Welfare. The NSBA estimated that completion of these forms alone required a total of 810,000 hours and more than $7 million.

In North Carolina all 145 local education agencies and each individual school in 117 of the 145 local education agencies were required to complete HEW form OS/CR 101 or 102. Mr. William Peek, assistant to the State superintendent of public instruction, has calculated that furnishing HEW with the information requested on these forms for a single year cost the taxpayers of North Carolina over a quarter of a million dollars. He also estimated that if one person was required to complete the reports for the State of North Carolina, it would take him over 14 years to do so.

Mr. Peek went on to explain in testimony before the House Committee on Education and Labor that a very considerable amount of the material requested in these reports was already included in other reports available to officials at HEW, especially in reports related to the Emergency School Aid Act and the Equal Employment Opportunity Act. He suggested that in the future, HEW Administrators be required to demonstrate the necessity for the information they request and that requests for information already in the possession of HEW be prohibited.

Mr. President, the Federal paperwork problem with which North Carolina educators struggle day after day is not an isolated incident. It is a national problem and a problem with requests for information regarding other aspects of education, including adult, vocational, technical education, and education for the handicapped.

Mr. President, often the cost of the paperwork involved in applying for a Federal grant exceeds the amount of the grant itself. For example, one school superintendent related how his district would have to spend at least $6,000 to apply for a $4,500 grant under the Indian Elementary and Secondary School Assistance Act. Often the receipt of Federal assistance subjects the school district to ever-increasing demands for information and other regulatory compliance procedures by HEW.

America's college and universities are also laboring under a staggering amount of federally required paperwork. Government demands upon collegiate institutions to gather, analyse, and transmit information in confusing and sometimes contradictory form is increasing each year. Federal bureaucrats are producing a constant flood of new and revised laws, regulations, and guidelines that often leave college administrators confused, frustrated, and exhausted. Today, Federal paperwork is measured by the pound, not the page. For example, one report from the University of North Carolina in Greensboro to the Office of Civil Rights weighed more than 12 pounds.

Recently, the Southern Association of Colleges and Schools studied the impact of Federal regulations on its members colleges. The report found that the cost of compliance with Federal regulations required some institutions to spend as much as 50 cents to administer every Federal dollar received. Others stated that they must spend more to comply with Federal regulations than they do to operate many academic departments. One college reported spending over $2 million in a single year merely to comply with various Federal requirements. The response of one administrator was typical:

All of us agree that for the most part the ideas behind the regulations are good and worthy; the difficulty is that when bureaucrats begin to write regulations, they become extremely complicated and, in many instances, difficult to administer as well as expensive in time and effort. They are becoming so numerous that they involve a genuine encroachment on the freedom of action of the private colleges.

This destructive governmental interference with academic freedom is not peculiar to universities located in Southern States. Bureaucratic regulatory overkill is nationwide. Derek Bok, president of Harvard University, asserted recently that 60,000 hours of faculty time at Harvard were spent complying with Federal regulations during 1975. Administrators at North Carolina State University estimate that, during the same year their faculty and staff spent at least 61,000 hours in complying with Federal regulations.

Change magazine recently estimated that the cost to institutions of higher education of federally mandated programs reached $2 billion in 1976. This $2 billion figure is shocking in itself, but the real cost to colleges is revealed when it is remembered that the total amount of voluntary private contributions to institutions of higher education that year was approximately $2 billion. Change also estimates that for every new bureaucrat added to oversee university compliance another 150 university administrators must be hired to keep up with the increased workload.

Terry Sanford, president of Duke University, observes that—

The avalanche of recent Government regulations threatens to dominate campus management. At the present rate, it is not difficult to imagine a day when facilities and administrators spend all their time filling out Government forms. It is just preposterous. The regulators must be regulated.

Over 25 years ago, President Eisenhower warned that "the prospect of domination of the Nation's scholars by Federal Government, project allocation, and the power of money is ever present, and is gravely to be regarded." Today, American educators too often echo President Eisenhower's warning. Charles Saunders of the American Council on Education recently asked—

Is regulation strangulation? The question aptly conveys our uneasy awareness that government legislation and court decisions are increasingly influencing the shape of higher education in America. . . . In practice, federal regulations too often impede and subvert the educational process by stifling diversity and imposing costly, burdensome and unnecessary requirements.

During 1976, four private universities located in Washington, D.C.—American, Georgetown, Catholic, and George Washington—issued an unprecedented public

declaration of independence from Federal control resolving to—

. . . Affirm our intention to maintain institutional independence from any external intervention which threatens the integrity of our institutions, including refusal of Federal funds which carry such threats.

The cost of implementing Federal regulations adversely affects minority students as well. For example, at Duke University the cost per student of implementing federally mandated social programs has increased from $58 in 1968 to $451 in 1975. The cost of compliance has affected other private universities even more drastically. To take another example, the cost at Georgetown University has risen from only $16 per student in 1965 to $356 in 1975. This increase in the cost of attending college most affects minority and low-income students. These students can least afford any increase in the cost of attending school. Minority and low-income students are most dependent upon financial aid. The millions of dollars which are today spent implementing Federal regulations could be spent providing thousands of minority and low-income students with a college education.

A recent study by the American Council on Education of the cost of complying with Federal regulations at six institutions of higher learning in the United States found that the combined cost for only six colleges is approximately $10 million. And this $10 million figure does not include the cost of implementing those regulations which apply particularly to educational institutions under title IX of the Education Amendments of 1972 and the so-called Buckley amendment regarding student privacy. If the cost of these programs are also added, the cost per student would be much greater.

The cost of developing and implementing affirmative action and equal employment opportunity programs constitute a substantial share of the total cost of Federal regulation. The impact is substantial on both large State universities and small junior colleges. For example, at the University of Illinois, equal employment and affirmative action requirements consume 64 percent of all funds spent to comply with Federal mandates and at Miami-Dade Junior College, 40 percent of all compliance funds are used for that purpose. Simply developing an affirmative action plan can cost hundreds of thousands of dollars. For example, a single affirmative action plan cost $400,000 to develop at the University of California at Berkeley, while the one developed at the University of Michigan cost $350,000.

The total amount of money actually spent by such institutions to comply with all regulations usually runs into the million dollars. In 1975, the University of Illinois spent $1,302,545; Georgetown University spent $3,603,243; and Duke University spent $3,618,070. And according to the report of the American Council on Education, the cost impact of affirmative action programs "has only just begun to be felt."

Not only do compliance requirements cost millions of dollars, but they also divert existing resources from their intended purposes. At the University of North Carolina at Greensboro, compiling 10 reports required by HEW "swamped" the university's computer facilities. The director of institutional research recalled: All other uses of the computer stopped. For a 6-month period we did nothing but HEW reports.

Mr. President, my amendment would go a long way toward relieving this burden.

Mr. President, I understand from the distinguished manager of the bill that he feels that considerable headway has been made in the pending bill to take care of the paperwork burden. I wish to have his comment on what he perceives to be the extent of that headway.

Mr. PELL. Mr. President, we have taken some trouble in this bill to reduce the load of paperwork, to decrease the number of forms that have to be filled out, and generally speaking make for a less of a burden on the school officials, parents, teachers, and others.

So I think that a great deal of the purpose of the Senator from North Carolina has already been achieved in this bill.

Mr. HELMS. Mr. President, I thank the Senator.

I think the main difference is the thrust of the provision of the bill as compared with and contrasted to the pending amendment.

My amendment would require, and I read from the amendment:

Notwithstanding any other provision of law, no regulation affecting any educational agency or institution may become effective unless the Federal agency promulgating the regulation causes to be published in the Federal Register a copy of such proposed regulation together with an educational impact assessment statement which shall—

"(1) determine whether any information required to be transmitted under such regulation is already being gathered by or is available from any other agency or authority of the United States; and

"(2) assess the cost and time involved in complying with such regulation by the educational agencies or institutions which would be affected thereby.".

Mr. President, one of the differences is that there is no requirement in the bill that this information be published in the Federal Register.

I am perfectly willing to wait for 1 year and see how effective the Department is in cutting down the burden of paperwork on our institution.

But I say to the distinguished manager of the bill that if effective perceptible progress is not made by the Department of Health, Education, and Welfare then this Senator will be back next year to press for publication of this information as is required in the pending amendment.

So, with that understanding, Mr. President, I will not press the amendment and I withdraw it.

The PRESIDING OFFICER. The amendment is withdrawn.

UP AMENDMENT NO. 1754

(Subsequently numbered amendment No. 3538)

(Purpose: To revise the authority relating to special projetcs)

Mr. HELMS. Mr. President, I have another amendment at the desk and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes unprinted amendment numbered 1754.

Mr. HELMS. Mr. President, I ask that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 132, beginning with line 12, strike out through line 2 on page 174, and insert in lieu thereof the following:

REPEAL

SEC. 103. Title III of this Act is repealed.

On page 311, beginning with line 15, strike out through line 11 on page 318.

On page 318, line 13, strike out "Sec. 112." and insert in lieu thereof "Sec. 111.".

On page 324, line 12, strike out "Sec. 113." and insert in lieu thereof "Sec. 112.".

On page 326, line 18, strike out "Sec. 114." and insert in lieu thereof "Sec. 113.".

On page 357, between lines 4 and 5, insert the following:

PART D—SPECIAL PROJECTS

EXTENSION AND REVISION OF THE EDUCATION AMENDMENTS OF 1974

SEC. 341. (a)(1) The Education Amendments of 1974 are amended by striking "404" and "405" wherever they appear.

(2) The Education Amendments of 1974 are amended by striking "406", "407", "408", and "409" wherever they appear and inserting in lieu thereof "404", "405", "406", and "407", respectively.

(b) Effective September 30, 1979—

(1) Sections 402(b)(3) (B) and (C) of the Education Amendments of 1974,

(2) Section 404 of the Education Amendments of 1974, and

(3) Section 405 of the Education Amendments of 1974 are repealed.

(c)(1) Section 3(a) of the Special Projects Act is amended by striking out "June 30, 1978" and inserting in lieu thereof "September 30, 1983".

(2) Section 4(a)(1) of the Special Projects Act is amended to read as follows:

"SEC. 4. (a)(1) In order to enable the Commissioner to make contracts under section 3, there is authorized, subject to subsection (b), to be appropriated to the Office of Education $160,000,000 for the fiscal year 1979, $150,000,000 for fiscal year 1980, $140,000,000 for fiscal year 1981, $150,000,000 for fiscal year 1982, and $160,000,000 for fiscal year 1983.".

EXTENSION OF CONSUMERS' EDUCATION PROGRAMS

SEC. 342. Section 311(d) of the Elementary and Secondary Education Act of 1965 is amended by striking "July 1, 1978" and inserting in lieu thereof "October 1, 1983".

On page 18, in the table of contents, amend item sec. 103. to read as follows:

Sec. 103. Repeal.

On page 19, in the table of contents, strike out item Sec. 111. and items Sec. 1101. through Sec. 1108. and redesignate items Sec. 112. through Sec. 114. as items Sec. 111. through Sec. 113., respectively.

On page 20, in the table of contents, immediately after item Sec. 331., insert the following:

PART D—SPECIAL PROJECTS

Sec. 341. Revision of the Education Amendments of 1974.

Sec. 342. Extension of Consumer's Education Programs.

Mr. HELMS. Mr. President, this amendment would remove from the bill the new curricular programs of titles III

and XI and replace them with a simple extension of the current law.

The bottom line of this amendment, Mr. President, is that it will save taxpayers of this country approximately $240 million per year.

Presently, these Federal efforts in curriculum development are, with one exception, funded through a single program at 20 U.S.C. 1853. Contained in a chapter entitled "Consolidation of Education Programs," these projects have understandably never received priority attention from an Appropriations Subcommittee more concerned with functional illiteracy among high school graduates, school systems staggering over massive demographic trends, and pervasive segregation in our school systems.

As a result, only $45 million of the $200 million authorized for curricular redevelopment in 1978 was ever appropriated. Titles III and XI represent an effort by their drafters to remedy this Appropriations Committee inattention, if that is a proper description of it, by creating a proliferation of individual curriculum programs which could more effectively battle for scarce educational resources than a fewer number of constituencies.

Hence, in an era in which the Secretary of Health, Education, and Welfare estimates that 15 percent of high school graduates are functionally illiterate, we are told that we should spend $100 million over 5 years on a totally new program in health education, $40 million in a single year on a new program in biomedical education, and such sums as may be required for a new program in "population education" (which at best is redundant of current programs in environmental and ecological education and at worst would open the door to federally subsidized sex education in elementary schools).

It is little wonder that the administration has come out in opposition to all three of these new programs.

I want to emphasize that point that the administration, in effect, supports the amendment proposed by the Senator from North Carolina.

In addition to the creation of these new programs, however, the committee bill would also involve substantial increases in controversial programs already in existence. Authorizations for the "women's equity education" project, for instance, would rise from $30,000,000 to $80,000,000. The statutory mandate for this program provides for, among other things, "evaluation of textbooks," curricula, and other educational material.

Granting for a moment the fact that such a program is already in existence, it is even more interesting to note how the proponents of this funding increase intend to use the proposed 16-percent increase. A spokeswoman for HEW's Office of Civil Rights has told a member of my staff today, or since it is 1 minute past midnight so it was yesterday, that the money will be used to step up title IX compliance and consultative activities, and has threatened—let me repeat that word—threatened to demand a supplemental appropriation for title IX enforcement if money is not received under this bill.

Suffice it to say that this is not what most of us envision as the purpose of this legislation. Enforcement of title IX, however valid some may consider it to be, is not the purpose of an education act.

Mr. President, I urge the adoption of the amendment.

If the Senator will yield, if I may proceed for one moment further, I ask unanimous consent that an article published in the Washington Post on August 6 of this year entitled "Uncle Sam's Growing Clout in the Classroom" be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. I thank the Chair.

If I may focus on one paragraph in particular from that article:

Getting Federally sponsored research or curricula into the schools has long been among the more sensitive issues for Washington. Agencies already sponsor curricula in areas ranging from ethnicity to energy, vocational instruction to consumer education, bilingual studies to consumer education. While they cannot press the products on schools because of restraints on Federal influence, if few of the materials are used the Congress or the Office of Management and Budget tend to question the sense of the activity.

I thank the Chair.

EXHIBIT 1

UNCLE SAM'S GROWING CLOUT IN THE CLASSROOM—CREATING A NEW DEPARTMENT IS A BACKDOOR WAY TO ESTABLISH A U.S. RESPONSIBILITY FOR EDUCATION ITSELF

(By David W. Breneman and Noel Epstein)

With virtually no public debate over the central issue at stake, the Carter administration and the Congress are moving toward creating a federal department of education with the potential to transform the way education is governed in the United States.

Contrary to widespread belief, the proposed department is not chiefly an issue of reorganizing or consolidating federal education efforts, of increasing the time or money spent on education, or of deciding which existing agency should or should not be absorbed by a new department. Establishing a Cabinet-level department is a backdoor way of creating a national education policy, of breaking with the long tradition of a limited federal involvement in education and of virtually no federal responsibility for schools and colleges themselves.

As John Ryor, president of the National Education Association, which has been the driving force behind the department proposal, acknowledges, "Creating a department of education is, indeed, a profound step in which the federal government will be recognizing, for the first time, that it has a responsibility for education in and of itself."

Many people apparently are under the misapprehension that Washington already has something that might be called a national "education" policy. The Congress, after all, appropriated nearly $33 billion for this fiscal year to finance programs linked to education at the elementary, secondary and postsecondary levels. But the critical distinction that often gets lost is that these programs serve purposes only indirectly related to education.

The GI Bill, for example, was enacted after World War II to ease the transition of millions of servicemen returning to civilian life, to prevent the large-scale unemployment that might have occurred if no alternative to work had existed—not to aid education. The post-Sputnik programs supporting science education, teacher preparation and graduate education, enacted in the 1950s under the National Defense Education Act were created as essential parts of the nation's defense effort—not to aid education.

The massive Elementary and Secondary Education Act of 1965, with its emphasis on compensatory education for the disadvantaged, was basically a civil rights and income-redistribution measure, a centerpiece of the War on Poverty, and certainly not a measure to aid schools. It was enacted only after a historic constitutional debate resolved by aiming funds at poor children. Similarly, federal education programs for the handicapped, for children with English-language difficulties or for Indian education are essentially civil rights measures, of a piece with school desegregation and the money Washington provides to help students overcome the educational deprivation that results from segregated schooling.

The same holds at the higher education level, where student aid programs were created to increase educational opportunity for low-income students and not to provide general support for colleges and universities. Just as Congress has rejected the idea that it is responsible for the financial well-being of elementary and secondary schools or for general student achievement, so it has refused to provide direct institutional aid to colleges and universities, except in the limited case of helping mainly minority campuses under a "developing institutions" program.

In these and other instances—in Washington's role, for another major example, in supporting the nation's research efforts, whether for military, health or other ends—education is an instrument used to achieve a more fundamental federal purpose, and consequently there has never been a need for an education policy. Instead, there have been national security policies, antipoverty policies, civil rights policies, labor policies, child welfare policies, veterans' benefit and other policies, all drawing when necessary on educational institutions.

"A FUNDAMENTAL POLITICAL ACT"

It is thoroughly understandable, then, why these "education" programs are scattered across numerous federal agencies. They are scattered because they are, first and foremost, serving other established federal aims.

A reshuffling that attempts to draw some of these programs together under the organizing principle of education is a profound restatement of federal purposes and priorities and cannot be regarded merely as a move to correct organizational mistakes of the past.

Speaking last year at a conference on government reorganization, Rep. John Brademas (D-Ind.) made this point forcefully: ". . . to often reorganizers omit—some of them perhaps deliberately—an explicit recognition that reorganization of the executive branch . . . is not simply an exercise in improving the efficiency of government. . . .

"Reorganization is a fundamentally political act, not political in the partisan sense (although it may be) but political in that every organization—and every reorganization—means a distribution—or redistribution—of power and influence over the substance of policy . . ."

"Organization is not just management. It is policy, and in the American democratic system, policy is politics."

To create a department of education is, at heart, an exercise in policymaking, not in efficiency. Making education the defining element of a Cabinet-level department is essentially to authorize the creation of a federal policy for education itself.

This, it must be emphasized, does not mean that a Cabinet-level department would be designed to lead to federal "control" of education, as the NEA's Ryor and many others stress. "Control" is not, and never has been, the question, and it is of scarcely any value to add language to a department bill to prevent federal control. Indeed, it is redundant: existing law bars federal officials from exercising "any direction, supervision, or contro

over the curriculum, program of instruction, administration, or personnel of any educational institution, school or school system . . ."

The question is how much federal influence there should be over education, how much say in education priorities, in standards and in other education decisions. This can be determined in many ways—where Washington puts its money and where it withholds funds, what requirements come with the money, what approaches to teaching it would like to see schools adopt for different students, to name some. Washington already exercises a large influence over the policies, conduct and organization of elementary, secondary and higher education without having federal officials burst into classrooms to impose a prescribed curriculum on unwitting students and teachers.

Indeed, that influence has burgeoned in the past decade as Washington has used the schools to achieve additional federal purposes. Whether this is viewed as good or bad obviously depends on one's view of each of the government's underlying political, social, economic or other aims. But the overall effect has been troubling some educators. Joseph Cronin, Illinois' superintendent of education, for example, has remarked that "slowly, inexorably and incrementally, the federal government is taking over education. Especially since 1965, the country has moved—almost every year—toward a national system of education."

EXCESSIVE EXPECTATIONS

It is this trend which a department of education is likely to accelerate. To understand this one need only listen to the sweeping remarks of Sen. Abraham Ribicoff (D-Conn.), chief sponsor of the Senate bill to create the department, in a recent interview with the NEA: "The whole system of education is dependent upon the leadership and commitment that the federal government takes. Only an increased federal priority to education can increase the American people's confidence in our educational system."

What can Ribicoff, himself a former secretary of health, education and welfare, mean in suggesting such a dramatic departure from existing federal policy? How does he propose that the federal government might make the "whole system of education" suddenly dependent on Washington's "leadership and commitment"?

The Senate bill hints at some potential ways. It states, for example, that one purpose is "to promote the quality and relevance of education to individual needs, including the assurance of an adequate skill level . . ." That could justify any manner of federal action. Who decides what is an "an adequate skill level"? Is Washington to establish minimum skill requirements? Are we talking about paving the way for a national test, a move proposed by Adm. Hyman Rickover but successfully thwarted thus far?

Those who set test questions, of course, in effect decide what is taught in the schools, or at least what a school's priorities should be. Parents, teachers, principals, school boards and the states may not agree with each other very often on these questions, but they presumably still think that they are their decisions to make, not Washington's.

Or consider another of the Senate bill's purposes. Washington is "to provide leadership in the support of research relating to human development and learning systems that complement education, with a greater emphasis on the practical application of such research," and to work with numerous others to "implement the findings of such research at the local level."

Getting federally sponsored research or curricula into the schools has long been among the more sensitive issues for Washington. Agencies already sponsor curricula in areas ranging from ethnicity to energy, vocational instruction to consumer education, bilingual studies to consumer education. While they cannot press the products on schools because of restraints on federal influence, if few of the materials are used the Congress or the Office of Management and Budget tend to question the sense of the activity.

This is one frustration, for example, of the Health, Education and Welfare Department's National Institute of Education, which sponsors research in a number of areas, including basic skills. Once the results are disseminated schools are free to ignore them, which is not infrequently the case. That has not helped NIE get funding from Congress.

Similarly, the National Science Foundation, which sponsors not only science and math but politically sensitive social science curricula, has become embroiled in controversies stemming from the same dilemma.

"In the early 1970s," writes the University of Maryland's Marjorie Gardner, "it became evident that the diffusion of the new curricula was not occuring spontaneously; that, in fact, the new programs were not being adopted by enough schools to satisfy the original goals . . ." Under pressure from both OMB and the White House, the foundation decided to pay for implementation only of courses it had sponsored. Following protests from several universities seeking money for non-NSF projects, the agency backed down.

Two years ago the foundation got into a much-publicized controversy over an elementary school social science curriculum it had promoted called "Man: A Course of Study." The course included material about one Arctic Eskimo culture's belief that, for others to survive, families sometimes must choose to let old people or female infants die. That disturbed some parents and conservative members of Congress and led to temporary suspension of all NSF curriculum development. The foundation now places less emphasis on getting specific courses into the schools.

It is not heavy-handed power-seeking by bureaucrats that leads to increased federal involvement in education, but these kinds of political pressures. The pressures have stemmed from public perceptions that there was yet another crisis in the schools and that Washington, which is not responsible for most of what happens in the classroom, should nonetheless do something about it. They have resulted from a desire to justify federal education spending.

The pressures also have come from groups that want their views or goals pressed in the schools. Many of the most intense education controversies have centered on civil rights issues such as affirmative action for faculty members at colleges and universities, battles against sex discrimination in classrooms, desegregation and bilingual education.

Indeed, fearing that the civil rights-labor coalition behind these and related drives might be fragmented if an education department is created, Rep. Shirley Chisholm (D-N.Y.) criticized the department plan before a House subcommittee last week. "Now, to thoughtlessly destroy these coalitions . . . in order to achieve the dubious goal of formation of a separate department of education appears foolhardy," she said.

Any broadening of the government's involvement in education, of course, potentially dilutes its concentration on poverty and minority concerns. This issue has been at the heart of past attempts to aim the major elementary and secondary aid program at students in general who are doing badly in school rather than just at children of poverty who need help, as at present, just as it is central to the fight over substituting wider college tuition-tax credits for student aid currently determined by economic need.

It is difficult to imagine how creation of a department, and the extravagant rhetoric of some department proponents, can fail to generate additional pressures for Washington involvement. If there is to be no increased federal role, what can be meant by an "increased federal priority to education" which alone can "increase Americans' confidence in our educational system"?

Some may suspect that higher "priority" really means higher budgets. The NEA, whose 1.8 million members make it the nation's second largest union, has long sought to expand the federal share of education outlays from the current 8 percent to 33 percent. But there is little reason to believe that creating a Cabinet-level department would unleash more federal funds.

As Pat Gwaltney, the OMB official most immediately in charge of the education department proposal, remarks, "We looked at the departments of Housing and Urban Development and Transportation and found that their budget increases did not exceed those of other domestic programs, that creation of a new department per se does not appear to result in increased federal funding."

Others may think that a separate education department would result in greater federal coordination. The reality, however, is that if programs now lodged for good reason in Defense, Agriculture, Interior and the NSF are brought together, as now proposed, it would only create the reverse problem of coordinating with the original agencies.

AN INVISIBLE ISSUE

Nobody questions the need to improve administration of existing programs involving education, but it is not evident why a new Cabinet-level department is required to do this. Virtually anything that might be done to advance Washington's highest-priority aim of assuring equal opportunity for the disadvantaged probably could be achieved with the existing HEW structure.

In higher education, two of the largest programs providing student aid—education benefits for veterans and for dependents of social security recipients—are not included in the proposed department, so there would be no change. Similarly, Washington's second broadest goal of supporting the nation's research effort, achieved through a multitude of grants and contracts to universities and research institutions, would not be affected at all.

Others believe what's needed is a Cabinet secretary who can devote more time to programs aimed at education. But it is hard to understand what this would accomplish if a secretary had little prospect of getting more money or significantly improving coordination and administration of existing programs with their built-in limitations.

So much attention has been given to these areas where so little seems likely to be accomplished, in fact, that there has been little recognition and hardly any public debate on the central issue of creating, for the first time, a national responsibility for education and putting in motion increased forces and expectations for central influence.

It is conceivable that specific and blunt language might be added to the department bills stating that their intent is not to alter the limited federal role in any way, but it is doubtful that would curb the pressures for increased federal influence that are bound to accompany a cabinet department.

It is easy to understand the Carter administration's desire for a legislative victory, and the education department looks like an easy one. But that political need does not justify an action that may be seen later as a serious mistake, launching the country in another unintended direction. A department is either a prescription for increased central influence over education or for excessive expectations that will only lead to more, not less, frustration.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, this proposal strikes the new title which expands spe-

cial projects, such as metric education and arts education. It returns to the existing funding structure, which gives each program a statutory percentage of a single authorization.

What the committee bill does is authorize separate appropriations for each program, giving the Appropriations Committee the flexibility Senator MAGNUSON sought earlier this evening.

In addition to that, I can find no record of the administration's support of the amendment as it is being offered.

I send to the Senator a letter we received today from the administration in which there is no mention of this, and I would be interested to know from whence comes his statement that the administration supports this amendment.

Mr. HELMS. The information came from OMB, and it related to the elimination of the three programs, as I thought I made clear in my comment.

Mr. PELL. Right. Did they do it in letter form?

Mr. HELMS. No, in a telephone conversation.

Mr. PELL. They did the Senator a greater honor than they did me because they did not inform me as the manager of the bill that they objected to it.

Mr. HELMS. We made inquiry of them and, perhaps, that is the reason.

Mr. PELL. Mr. President, I ask unanimous consent that a letter to Senator WILLIAMS, the letter being dated August 23, 1978, from the Acting Secretary of Health, Education, and Welfare, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
August 23, 1978.

Hon. HARRISON A. WILLIAMS, Jr.,
Chairman, Committee on Human Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: As the Senate takes up S. 1753, the proposed Education Amendments of 1978, I would like to share with you the Administration's concerns about certain provisions in the bill.

We support the Committee bill on the major provisions of the Title I formula in the Elementary and Secondary Education Act. We have reservations about aspects of the funding mechanisms for the concentration and state incentive grant programs, insofar as those provisions mandate priorities in budgeting and appropriations.

We understand that members of the Human Resources Committee and others will offer a package amendment to bring the S. 1753 Impact Aid provisions closer to the Administration's position. We strongly support that package amendment.

As you know, the Impact Aid provisions in S. 1753 fail to reflect the modest reforms the Administration requested. They also liberalize both coverage and payments and repeal reforms approved in 1974 by your Committee.

The President's Education Budget for fiscal year 1979 demonstrated a firm commitment to support education. In fact, the 1979 budget request for elementary and secondary programs is up nearly $900 million over the fiscal 1978. This represents a 15 percent increase—the largest requested by a President is more than a decade.

But S. 1753 contains an unwarranted expansion of $350 million in the authorization for the Impact Aid program of assistance to school districts in areas affected by federal activities. For FY 1979, $1.183 billion in mandatory (Tier 2) funding would be required, which is a doubling in the size of this program in the four years since the last reauthorization.

In many school districts, federal activity is a legitimate burden warranting compensation. In far too many districts, however, payments are out of proportion to any genuine Federal burden and the Committee bill would make this situation even worse. Modest reforms enacted by the Congress in 1974 have been eliminated in S. 1753. For example, the Committee eliminated a provision of law, which first became effective in fiscal year 1978, requiring impacted districts to absorb the costs of the first few federal children counted for eligibility. Hold-harmless provisions which were designed only to phase in the 1974 reforms have been extended for another five years.

The Chairman and the Ranking Minority Member of the Senate Budget Committee, as well as the leadership of the House Education and Labor and Appropriations Committees in July, 1977, requested that HEW provide a study and review of the program. That report, in early 1978, presented Congress with comprehensive alternatives, reflected in the Administration's legislative proposals, which would have reduced authorization costs $76 million in 1979; these reforms were not adopted by the Committee.

Rather, the Committee expanded eligibility to school districts not previously eligible where no additional federal burden exists. For example, the Committee added eligibility for property owned by the U.S. Postal Service. In no sense can the continuing presence of a postal facility be considered a federal burden to a community or its schools. This provision, affecting half of all postal facilities, will cost $35 to $40 million outright. But beyond this cost, the bill adds tens of millions of additional dollars above currently available estimates because it will immediately make eligible several hundred school districts which now fall just below the minimum numbers of program-eligible children.

The President regards a rollback of the authorization increases above current law and the introduction of modest reforms in Impact Aid as essential to a responsible level of federal spending for education in S. 1753.

We are advised by the Office of Management and Budget that, as reported by the Committee, the enactment of S. 1753 would not be in accord with the program of the President.

Sincerely,

HALE CHAMPION,
Acting Secretary.

Mr. HELMS. Mr. President, I want a rollcall vote on this one tomorrow.

Mr. ROBERT C. BYRD. Is this the one you wanted to have a rollcall on tomorrow?

Mr. HELMS. Yes.

Mr. PELL. I appreciate the depth of the Senator's views in this, but I am compelled to recommend to my colleagues we should oppose this amendment as I believe it would harm the bill.

Mr. JAVITS. Mr. President, I am opposed to this amendent for two reasons: One, it is completely indiscriminate. It just simply strikes out a whole group of special projects. There are a number of Members of the Senate who are authors of the special projects and they certainly should be heard in respect of the validity of those projects.

The committee was convinced of their validity and accepted them. But beyond that—and this is something I realize that we are about to go out and there is no one here to listen really except those who are directly debating it—I woul like to note, Mr. President, that this spe cial projects provision was one of th most gifted things we have ever done i respect of education, because we set up basket of experimental projects—we a always striving to do new and intelligen things in respect of this particular Fed eral aid, so we set up a concept of basket of new initiatives in respect o elementary and secondary education with the understanding that individua projects should be permitted to remai in that experimental basket for 5 years and that at the end of that time or befo they should either be discarded or the should become regular programs, be cause they have proved themselves.

The gifted and talented education pro gram which we have been discussin today on occasion is one of those pro grams which has richly proved itsel Comparably I think it is to our credi not to our debit, that we have added ne experimental programs and rejecte some of the old.

But the amendment would just strik out everything, and I consider this, as say, one of the most gifted things w have ever done in education, and th general educational field feels the sam way about it.

For all of those reasons, Mr. Presiden and I will go into the details more tomo row, I very strongly oppose this amend ment and I hope the Senate will no approve it.

The PRESIDING OFFICER. Th Chair would inquire of the Senator fro North Carolina whether the 40-minut time limit was applicable to this amend ment.

Mr. HELMS. Yes, it is, Mr. Presiden and I am willing to yield back the re mainder of my time.

Mr. PELL. I yield back the remainde of my time.

(Proceedings relative to the procedur for Thursday are printed later in today RECORD.)

UP AMENDMENT NO. 1755

(Purpose: To assure that increases in elig bility for basic educational opportunit grants do not reduce the entitlements individuals already eligible for suc grants)

Mr. MORGAN. Mr. President, I hav an unprinted amendment at the des which I ask that the clerk report.

The PRESIDING OFFICER. Withou objection, the amendment will be i order. There was an amendment pend ing at the desk. Without objection, th clerk will state the amendment of th Senator from North Carolina.

The legislative clerk read as follow

The Senator from North Carolina (M MORGAN) for himself and Mr. BELLMON, pro poses an unprinted amendment number 1755.

Mr. MORGAN. Mr. President, I as unanimous consent that further readin of the amendment be dispensed with.

The PRESIDING OFFICER. Withou objection, it is so ordered.

The amendment is as follows:

On page 342, line 3, strike out "EXTENSIO OF RELATED" and insert "REVISION OF OTHER"

On page 357, between lines 3 and 4, inser the following:

PART D—BASIC EDUCATIONAL OPPORTUNITY GRANTS

ASSESSMENT RATE DETERMINATION

SEC. 341. (a) If the College Opportunity Act of 1978 or a similar statute relating to the assessment rate to be applied to parental discretionary income is enacted, the Commissioner shall, for any academic year after academic year 1978–1979 for which appropriations exceed the amount appropriated for such academic year and funds available for payments under subpart 1 of part A of the Higher Education Act of 1965 are not sufficient to satisfy fully all entitlements under such subpart determined in accordance with the provisions of section 411(a)(3)(B)(iv) of the Higher Education Act of 1965, set the assessment rate to be applied to parental discretionary income at a level designed to assure that the aggregate of such payments are equal to the amount appropriated for such academic year in accordance with the provisions of the following sentence. Subject to the availability of appropriations the payments for students with a given effective family income minus the expected family contribution shall not be reduced below payments for students with the same effective family income minus the expected family contribution in the preceding academic year and subject to the availability of appropriations, students with an effective family income minus the expected family contribution at or below a level for which payments were made under such subpart in the preceding academic year will receive the full amount of their entitlements before payments are made to students with a higher effective family income.

(b) Except as provided in subsection (a) of this section for any academic year after 1978–1979 for which appropriations do not exceed the amount appropriated for academic year 1978–1979, the Commissioner shall set the assessment rate to be applied to parental discretionary income under such subpart 1 of part A of the Higher Education Act of 1965 as amended by the College Opportunity Act of 1978 at the same levels as were applied in academic year 1978–1979.

On page 20, in the Table of Contents, strike out "TITLE III" and insert in lieu thereof the following:

"TITLE III—REVISION OF OTHER EDUCATION PROGRAMS".

On page 20, in the Table of Contents, after item "Sec. 231." insert the following:

"PART D—BASIC EDUCATIONAL OPPORTUNITY GRANTS

"Sec. 241. Assessment rate determination.".

Mr. MORGAN. Mr. President, on behalf of Senator BELLMON and myself, I offer an amendment which I think will correct an inequity in the basic educational opportunity grants of the College Opportunity Act that we passed some few days ago.

Senators will recall that under that law, we increased the amount of money, or the earnings, that a family would be able to make and still have their children qualify for grants. But in the event that the Appropriations Committee does not appropriate sufficient money to fund all of those that would be eligible, then, under the law that we passed, those eligible would be reduced in the amount that they receive proportionately. That might very well mean that some of the poorer students who are now receiving funds might have their funds reduced.

I raised the question during the debate, and in a colloquy with the distinguished Senator from New York (Mr. JAVITS) we discussed the possibility of delaying an amendment to that bill and offering it on this bill.

What my amendment would do, Mr. President, is provide a save harmless clause for the students who are now receiving aid, by providing that in the event the program is not sufficiently funded to meet all of the requirements of the authorization of that act, that those who are now receiving it would receive at the present level, that is, they would not have their grants reduced in order to save money to make it available to students of higher income families.

Under present law, if the basic grants program is not fully funded, each eligible student's grant, regardless of his or her family's income, is proportionately reduced.

Last week, the Senate passed S. 2539, which, by lowering the expected family contribution rate, adds 1.5 million newly eligible students to the basic grants program.

In order to fully fund basic grants after S. 2539 is enacted, as I believe it will be, would require a 65-percent increase over fiscal 1978 appropriations. Now, I do not for a second believe that the Appropriations Committee will agree to such a huge increase.

So, what will happen if we get a smaller increase? As an example, let us examine the impact of a 30-percent increase in appropriations, which is still significant, and also three times the rate of increase in college costs in the last year.

Students from families with incomes below $5,000 annually will suffer a $141 loss; nearly 15 percent.

This money will be taken away from the very poorest of students so that we may provide an extra $294, on the average, to students with family incomes over $25,000, and an extra $379, again on the average, to students with family incomes between $20,000 and $25,000.

Students from families with incomes between $5,000 and $20,000 will receive an average grant increase between $90 and $170, compared with an increase, to repeat myself, of $300 to $380 for upper-middle-income students.

I have a chart here which, in more detail, explains the impact of present law, and ask unanimous consent that it be included in the RECORD at this point.

My amendment would introduce what can be described as a "hold harmless" into the basic grants program. Accordingly if the basic grants program is not fully funded, as expected, this amendment would require the Commissioner of Education to adjust the assessment rate applied to parental discretionary income in such a way that: first, students' awards at a given family level will not be reduced below what they were eligible to receive in the previous year; and second, (b) that students at lower income levels will receive their full entitlements and be served before higher income students.

This is a necessary amendment which will protect the neediest students, and give them more of a chance to obtain equal educational opportunities, with all the benefits that follow later in life.

I understand that this amendment has been accepted by the distinguished floor managers, Senators PELL and JAVITS, and would like to express my appreciation to them.

Fiscal year 1979 distribution of recipients and benefits under the College Opportunity Act (S. 2539) under different funding assumptions, academic year 1979–80

Income group	Current policy 1979	S. 2539: Under full funding ($3.3 billion) ($1,800 maximum award)	S. 2539: With only $1.9 billion appropriation ($1,000 maximum award)	S. 2539: With $2.6 billion appropriation ($1,400 maximum award)
0–5				
Number (thousands)	447	432	432	432
Dollars (millions)	448	469	296	396
Average award	1,002	1,086	647	861
5–10				
Number (thousands)	1,000	766	766	766
Dollars (millions)	805	881	550	746
Average award	805	1,150	718	974
10–15				
Number (thousands)	668	727	727	727
Dollars (millions)	479	736	416	582
Average award	717	1,012	572	801
15–20				
Number (thousands)	245	755	755	755
Dollars (millions)	117	633	337	477
Average award	478	838	446	632
20–25				
Number (thousands)	28	515	515	515
Dollars (millions)	7	296	143	208
Average award	25	575	278	404
25–				
Number (thousands)	0	452	452	452
Dollars (millions)	0	199	90	133
Average award	0	440	199	294
Totals				
Number (thousands)	2,170	3,647	3,647	3,647
Dollars (millions)	1,856	3,215	1,835	2,544
Average award	857	876	503	697

Mr. JAVITS. Mr. President, this is an amendment which Senator MORGAN offered after third reading on the College Opportunity Act, sponsored by Senator PELL and myself, and we have helped in its revision so that it conforms with the way in which the basic educational opportunity grant program functions.

I believe that it really carries out the true purpose and intent of a goal which I certainly share, that the most needy students shall not be cut out by inadequacy of appropriations or to bring about reductions to those who, we had the feeling, should have the first call in respect of this type of aid.

Mr. President, I am pleased that the Senator from North Carolina has been able to perfect his amendment so that it achieves the goal which we shared regarding the new operation of the basic grants program under provisions contained in S. 2539, which recently passed the Senate.

Mr. President, I believe it is very important that the administrative agency fully understand the purpose of this amendment. We do not intend to give blanket authority to the Commissioner of Education or anyone else to pick and choose among various students irrespective of their income and financial need as to who should receive basic grants. Rather, it is our intention in this amendment to assure that those students who would have received basic grants without the enactment of S. 2539 will not have their grant amounts reduced. It is my intention, and I understand that it is the intention of the Senator from North Carolina in offering the amendment, to maintain that principle. I understand this to be consistent with the desires of the present incumbent, Dr. Ernest Boyer, who came to the responsibilities of U.S. Commissioner of Education from my own State of New York. Dr. Boyer now serves with distinction at HEW, just as he previously distinguished himself as chancellor of the State University of New York. I know that the Commissioner of Education wishes to carry out this new authority in the way in which the Congress intends.

Mr. President, I am informed that the Senate Appropriations Committee, in their report on the fiscal year 1979 Labor/HEW appropriations bill, has expressed their strong interest in funding the basic educational opportunity grants program, so that currently eligible and newly eligible students under the provisions of S. 2539 would receive full basic grants. I am pleased at the strength of support of this important program. The administration has requested full funding for the basic grants program under the provisions of the College Opportunity Act. I hope that the actions of the Appropriations Committee on appropriation bills and the Budget Committee on the second budget resolution will be favorable to this appropriate expansion of the basic grants program.

Mr. President, in conclusion, I am prepared to accept the amendment from the Senator from North Carolina and I commend him for his initiative in assuring that an unintended effect of reducing the award level of some basic grants recipients will be avoided. Now that we have established the understanding that the Commissioner of Education will carry out the discretion given him under this amendment for the purposes intended, and that the Presidents' budget supplemental request of $1.4 billion additional for basic grants has strong support in the spending committees, I am pleased to accept this amendment.

I was prepared to accept the amendment then on the College Opportunity Act. I am prepared to accept it now. I think it is a sound amendment.

Mr. STEVENS. Mr. President, I shall not delay the proceedings, but having conducted some of the hearings in the Appropriations Committee on this matter, I hope the next time we address this issue, we get to the problem of the individual students who declare that they are a family in and of themselves, and thereby become eligible for the basic opportunity grants because they, as a family, have less than the amount stated.

I am not sure what the amendment of the Senator from North Carolina does to those people, but it seems to me that HEW has encouraged children—and I say that advisedly, having five of them—to disassociate themselves from their families in order to be considered a family unit individually, and therefore be eligible for basic opportunity grants. I hope the Senator's amendment does not blanket in those people in terms of eligibility, whereas others who have remained attached to their families would become ineligible because of this amendment.

Mr. MORGAN. Mr. President, I would say to the Senator, subject to the correction of Senator JAVITS, that I certainly do not think my amendment aggravates the situation any.

Mr. JAVITS. It does not change that at all. All this amendment does is change the eligibilities depending on the nature of their eligibility. As Senator STEVENS points out, this is an evil that will have to be addressed at a later time.

The PRESIDING OFFICER. The question is on agreeing to the amendment (UP No. 1755) of the Senator from North Carolina.

The amendment was agreed to.

UP AMENDMENT NO. 1756

(Purpose: To insure that the Bilingual Education program provides students with English proficiency)

Mr. MORGAN. Mr. President, I have another amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. MORGAN) proposes an unprinted amendment numbered 1756.

On page 278, line 25, Strike ":" and insert in lieu thereof following: ": *Provided*, That if any child is enrolled in a bilingual program funded under this Act, for two years, that child shall have an individual evaluation establishing the need for continued services;".

Mr. MORGAN. Mr. President, this amendment restores language to the bill which is identical to the House bill with regard to bilingual education. As I have heard the distinguished Senator from New York say on the floor of this Senate many, many times, I think it is important that all children, all people—especially children in this country learn to speak English.

I think it is important for the unity of the country and it is also important for the children. If they do not learn to speak English, they will be effectively precluded from job opportunities, from college, et cetera.

What this amendment would do would say that if a child is in a bilingual program for 2 years, then that child would have an individual evaluation establishing his need for continued bilingual services.

In effect, what it says is that the child should be looked at after 2 years to see if he is making progress toward learning English. It would not in any way preclude from the program, as I understand it, any child. It would just say "Take a look at him."

This amendment adds language identical to that in the House bill and is designed to insure that the Bilingual Education Act properly fulfills its most important function, a function which most Americans consider to be the only valid function. I do not believe this is a controversial amendment, and would hope that the distinguished floor managers can accept it.

All my amendment does is add a new criteria to the four major existing criteria for bilingual education programs. This new criteria requires that any child enrolled in such a program would be considered to have gained English proficiency, as defind in S. 1753, after 2 years in such a program.

These students would be considered competent to be taught in a regular English class, and transferred to such a class. Realizing, however, that all students with limited English abilities will not become proficient in 2 years, an escape clause is included in this amendment. If through individual evaluation, it is established that the bilingual student does not have English proficiency, then the student would be allowed to continue in the bilingual education program.

My amendment would accomplish one very important objective. It would insure that bilingual education programs pay sufficient attention to the need to develop English proficiency in these disadvantaged students. At the present time much too often existing bilingual education programs fail in this objective. They place too much emphasis on maintaining the child's native language and native culture. These are important enough objectives, but this works to the disadvantage of the program's main purpose, teaching English.

This works to the very serious disadvantage of these students, who are therefore unable to take as active and productive a part in society as possible. It works to the economic and social disadvantage

of these students, something I am sure none of the original sponsors of the Bilingual Education Act intended.

If, for example, these children fail to learn adequate English, they will find it very difficult to get into a decent college or university. They will certainly never get into a professional graduate school, nor will they ever be hired by a major corporation, nor hired by the Federal Government. They will never rise to any supervisory position in anything, for these all require fluent English. They will not be able to fully appreciate American culture or literature, and they will find it difficult to take part in social activities with Americans.

Furthermore, a bilingual education program that does not teach children adequate English: It is a waste of money.

Let me quote from testimony which Albert Shanker, president of the American Federation of Teachers, gave before the House Subcommittee on Elementary, Secondary, and Vocational Education on September 27, 1977: "The AFT has long taken the position that Federal and State bilingual efforts should be transitory in nature and designed to help non-English speaking children achieve enough skills in the English language so that they can participate in the regular school program." To do otherwise, "is a serious mistake and a waste of scarce dollars. Some groups see this program as an opportunity to fund a non-English school system, others as a method of establishing a bicultural school system. We would suggest the following approach. A time limit—possibly 2 years—should be established for the termination of services to any child in the program unless an individual evaluation is undertaken and the child is found to have need for" bilingual instruction.

This is exactly what my amendment does.

I accept that there is value in helping children to maintain their original language and culture. But that goal must be subjected to the more important goal of insuring that these children learn English.

I hope that all Senators will support this amendment.

Mr. PELL. Mr. President, this is an amendment that meets the problem some of us have seen where the youngster will be in the bilingual program and will stay in it for a long period of time without absorbing as much English as he might.

I think this will provide an incentive for the youngsters to learn the English language as well as preserving the knowledge of their own language and the pride in their own ethnic heritage. I would recommend that we accept it.

Mr. JAVITS. Mr. President, this amendment would not have been acceptable to me with a flat limitation of 2 years without regard to the capability of the child. But with the provision which Senator MORGAN has very properly added respecting an individual evaluation, it is acceptable.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MORGAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1757

(Purpose: To make technical corrections)

Mr. PELL. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Rhode Island (Mr. PELL) proposes an unprinted amendment numbered 1757.

Mr. PELL. I ask unanimous consent to dispense with further reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 22, line 13, strike out "July 1, 1979" and insert in lieu thereof "October 1, 1978".

On page 36, line 1, strike out "section 192" and insert in lieu thereof "section 191".

On page 37, line 19, strike out "that" and insert in lieu thereof "this".

On page 41, strike out line 25, and insert in lieu thereof the following: "only if it also carries on such program or project in other".

On page 42, strike out line 25, and insert in lieu thereof the following: "tion (a) permitting children in lower ranked eligible school".

On page 61, strike out lines 8 through 14.

On page 62, line 2, strike out "Commission" and insert in lieu thereof "Commissioner".

On page 70, line 18, strike out "Commission" and insert in lieu thereof "Commissioner".

On page 73, line 25, after the period insert the following: "the provisions of this section shall take effect upon the date of enactment of the Education Amendments of 1978.

On page 74, line 12, strike out "155 and 156" and insert in lieu thereof "156 and 157".

On page 83, line 2, strike out "155 and 156" and insert in lieu thereof "156 and 157".

On page 85, line 8, insert "or 123" after "122".

On page 95, lines 3 and 4, strike out "and opportunity for a hearing to any State educational agency" and insert in lieu thereof "to any State educational agency and an opportunity for a hearing on the record".

On page 95, line 23, strike out "Pending the outcome of any proceedings under this subsection" and insert in lieu thereof "In the case of a substantial and continuing violation".

On page 116, strike out lines 6 through 8.

On page 121, line 25, strike out "their".

On page 123, line 3, strike out "above" and insert in lieu thereof "in clause (1) of this section".

On page 129, line 4, after "sums" insert "as may be necessary".

On page 131, line 16, strike out "nonprofit".

On page 132, line 13, strike out "this" and insert in lieu thereof "the".

On page 133, line 12, strike out "(2)".

On page 142, line 13, strike out "an" and insert in lieu thereof "and".

On page 142, line 19, strike out "(a)(1)".

On page 148, line 23, strike out "(A)" and insert in lieu thereof "(1)".

On page 148, line 25, strike out "(B)" and insert in lieu thereof "(2)".

On page 154, line 4, strike out "program" and insert in lieu thereof "programs".

On page 170, line 16, strike out the end quotation mark and the period the second time it appears.

On page 172, beginning with "such" on line 24, strike out through "necessary" on line 25, and insert in lieu thereof "$3,000,000".

On page 173, line 9, after the period insert end quotations marks and a period.

On page 174, lines 5 and 6, strike out "Elementary and Secondary Education Act of 1965" and insert in lieu thereof "Act".

On page 180, line 22, strike out "children" and insert in lieu thereof "children".

On page 184, line 14, strike out "and".

On page 185, line 7, after the semicolon, insert "and".

On page 185, line 13, strike out "and".

On page 187, line 21, strike out "(e)" and insert in lieu thereof "(g)".

On page 188, line 4, insert "the" after the words "for".

On page 192, line 11, strike out "Commission" and insert in lieu thereof "Commissioner".

On page 204, lines 14 and 15, strike out "Education Division" and insert in lieu thereof "Office of Education".

On page 209, line 6, insert "title I and title IV of" after "under".

On page 222, beginning with the comma in line 14 the first time it appears strike out through "activity" on line 16.

On page 223, line 23, insert "under" after "misapplied".

On page 242, line 7, after the comma, insert the following: "and".

On page 244, line 12, strike out "or" the first time it appears and insert in lieu thereof "of".

On page 248, line 5, strike out "an" and insert in lieu thereof "and".

On page 255, line 23, strike out "application" and insert in lieu thereof "applicant".

On page 264, line 3, strike out "(12)" and insert in lieu thereof "(8)".

On page 265, line 5, strike out "(12)" and insert in lieu thereof "(8)".

On page 268, line 19, strike out "part" and insert in lieu thereof "party".

On page 281, line 15, strike out "the" and insert in lieu thereof "this".

On page 282, strike out lines 6 and 7, and insert in lieu thereof the following: "is being made toward achieving the objectives of the program for which assistance has been made available".

On page 285, line 7, strike out "nonsecular" and insert in lieu thereof "nonsectarian".

On page 291, line 20, insert "of the Act" after "801".

On page 291, line 20, strike out "or" and insert in lieu thereof "and".

On page 291, line 22, insert "of the Act" after "801(j)".

On page 291, line 26, insert "of the Act" after "801(l)".

On page 292, line 1, insert "of the Act" after "808".

On page 301, line 12, strike out "cooperartive" and insert in lieu thereof "cooperative".

On page 309, line 2, strike out "public and private agencies organizations" and insert in lieu thereof "public agencies or private organizations".

On page 315, line 16, strike out "those purposes" and insert in lieu thereof "programs".

On page 318, line 13, strike out "(a)".

On page 319, line 25, after "schools" insert a comma.

On page 326, line 23, strike out "Commission" and insert in lieu thereof "Advisory Panel".

On page 332, line 11, after "(B)" insert "of such Act".

On page 339, beginning with the word "membership" on line 25, strike out through "daily" on line 2, page 340.

On page 340, line 13, strike out "3" and insert in lieu thereof "23".

On page 342, line 8, strike out "hereinafter" and insert in lieu thereof "hereafter in this title".

On page 350, line 23, strike out "(1)".

On page 351, line 5, insert "of the Act" after "311".

On page 355, line 13, strike out "422" and insert in lieu thereof "422 (c).

On page 360, line 3, strike out "pains" and insert in lieu thereof "plans".

On page 363, line 18, strike out the period and insert in lieu thereof a semicolon.

On page 364, line 4, strike out "man-hours" and insert in lieu thereof "hours".

On page 364, lines 20 and 21, strike out "no later than" and insert in lieu thereof "at least".

On page 375, line 4, strike out "and".

On page 375, line 6, strike out "and" the first time it appears.

On page 13, in the Table of Contents, item 117 is amended to read as follows:

"Sec. 117. Grants for local educational agencies in counties with especially high concentrations of children from low-income families.

On page 14, item 133 is amended to read as follows:

"Sec. 133. Schoolwide projects.

On page 15, at the end of item 198, insert end quotation marks and a period.

On page 15, at the end of item 222, insert end quotation marks and a period.

On page 17, at the end of item 393, insert end quotation marks and a period.

On page 17, at the end of item 453, insert end quotation marks and a period.

On page 18, at the end of item 531, insert end quotation marks and a period.

On page 18, item 611 is amended to read as follows:

"Sec. 611. Educational television and radio.

On page 18, at the end of item 618, insert end quotation marks and a period.

On page 19, at the end of item 1015, insert end quotation marks and a period.

On page 19, at the end of item 1108, insert end quotation marks and a period.

On page 19, strike out the quotation marks before "Sec. 112.".

On page 19, at the end of item 1207, insert end quotation marks and a period.

Mr. PELL. Mr. President, on behalf of the Committee on Human Resources, I offer an amendment making technical and conforming amendments to the printed version of S. 1753. In the main, they correct erroneous cross-references and typographical errors.

I ask their adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1758

(Purpose: To provide for an accurate determination for counting children from low-income families for cancellation for direct loans)

Mr. PELL. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Rhode Island (Mr. PELL) proposes an unprinted amendment No. 1758.

On page 342, line 3, strike out "EXTENSION OF RELATED" and insert "REVISION OF OTHER".

On page 357, between lines 3 and 4, insert the following:

PART D—DIRECT LOANS TO STUDENTS

CONFORMING AMENDMENT

SEC. 341. (a) Section 465(a)(2)(A) is amended by striking out "described in clause (A), (B), or (C) of section 103(a)(2) of title I of the Elementary and Secondary Education Act of 1965 (using a low-income factor of $3,000)" and inserting in lieu "counted under section 111(c) of the Elementary and Secondary Education Act of 1965".

(b) The amendment made by subsection (a) of this section shall be effective with respect to loans made after the date of enactment of this Act.

On page 20, in the table of contents, strike out title III and insert in lieu thereof the following:

"TITLE III—REVISION OF OTHER EDUCATION PROGRAMS"

On page 20,, in the table of contents, after item Sec. 231 insert the following:

"PART D—DIRECT LOANS TO STUDENTS

"Sec. 341. Conforming amendment.

Mr. PELL. Mr. President, it has been brought to my attention that the provisions of the national direct student loan program, relating to cancellation of indebtedness for teaching in title I schools, has never been conformed to the changes in the title I formula made in 1974. As a result, school districts are being required to rank their poverty schools on the basis of a $3,000 income factor. Schools do not have this data.

The amendment I propose will merely conform the loan cancellation provisions to existing law.

I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1759

(Purpose: To reduce paperwork by eliminating unnecessary reports and studies and consolidating reports and studies and reducing the frequency of certain reporting dates)

Mr. PELL. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Rhode Island (Mr. PELL) proposes an unprinted amendment numbered 1759.

The PRESIDING OFFICER. Without objection, further reading of the amendment is dispensed with.

The amendment is as follows:

On page 91, line 17, strike out "February 1 of each calendar year and insert in lieu thereof "February 1, 1980, 1982, and 1984".

On page 100, line 21, beginning with the word "not" strike out through "years" on line 26 and insert in lieu thereof the following: "in conjunction with the report required by section 183 (g), submit to the Congress a report concerning the enforcement of this title. The report submitted in 1982 and 1984".

On page 289, strike out lines 5 through 15 and insert in lieu thereof the following:

(5) Section 731(c) of the Act is amended—

(A) by striking "November 1, 1976, and February 1, 1978" and inserting instead "February 1, 1980, 1982, and 1984,";

(B) by striking out "and" at the end of clause (4), by striking out the period at the end of clause (5) and inserting instead "; and" and by adding after clause (5) the following new clause:

"(6) an estimate of the number of fellowships in the field of training teachers for bilingual education which will be necessary for the two succeeding fiscal years."; and

(C) by adding at the end of subsection (c) the following "The Commissioner shall conduct a study on the extent of the need for these programs in the Commonwealth of Puerto Rico, and shall report the results thereof, together with recommendations, to the President and Congress not later than 18 months after the enactment of the Education Amendments of 1978.".

On page 311, lines 22 and 23, strike out "at the end of the fiscal year" and insert in lieu thereof "not later than September 30, 1980, 1982, and 1984".

Mr. PELL. Mr. President, as I noted in my opening statement, one of the major thrusts of the committee bill is the reduction of unnecessary paperwork.

The amendment I propose would continue this approach by making a number of reports required of HEW to be submitted annually to be submitted every 2 years. This should cut down on the flow of paper, yet continue to provide the Congress with sufficient information to exercise its oversight function.

The amendment is supported by HEW.

I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1760

(Purpose: To provide for one teacher center in each State in any fiscal year in which funds for Teacher Center Programs exceed $50,000)

Mr. PELL. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follow:

The Senator from Rhode Island (Mr. PELL) proposes an unprinted amendment numbered 1760.

The PRESIDING OFFICER. Without objection, further reading of the amendment will be dispensed with.

The amendment is as follows:

On page 356, beginning with "programs" on the line 12, strike out through "year" on line 13, and insert in lieu thereof the following: "each State shall receive grants sufficient to assure the establishment of one such teacher center in that State in such fiscal year.".

Mr. PELL. Mr. President, I have an amendment to the teacher center section of the bill providing that each State shall receive a grant sufficient to assure the establishment of at least one teacher center.

This is a very popular program, yet this year only 37 States received funding. My amendment would assure that in the future each State would receive at least one grant.

I hope my colleagues will accept this amendment.

Mr. JAVITS. Mr. President, this is an effort to give the 50 States what 37 States have today.

I wish to explain this, should any Member have any questions about it.

There are 37 States which now have teacher centers.

The effort of this amendment, and it is not a technical amendment, is to provide comparable teacher centers for the other 13 States. This amendment would cost, if it were fully appropriated, $10 million a year, and would assure that in the future every State would receive at least one grant.

If you operated strictly on the basis of pure efficiency, you would try to cover

States which did not have a teacher center by attendance at some other teacher center which was relatively close by.

I believe the nature of our educational systems, which are essentially State and local systems, is such that I could appreciate the desire of the Senator from a small State, to wit, Rhode Island, which has, as I remember it, 800,000 or 900,000 in population, as a matter of pride in the State and an effort to obtain some special excellence for the educational system of that State, wanting to have a teacher center of their own.

Mr. President, I believe the amounts involved, considering the total aggregate of what we are doing in respect of education matters at the Federal level, are not so great as to cause me to object to the amendment on that ground.

I can understand it.

It might be possible to save some of it by more efficient use of existing centers, but I think in the spirit of the Federal system, this amendment is understandable and, therefore, I have no objection to it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. PELL. Mr. President, I thank my colleague from New York. His points are well taken.

I would add that of these four amendments I have offered, two are technical and two are substantive.

Mr. JAVITS. Would the Senator explain that other substantive amendment so Members may read about it tomorrow?

Mr. STEVENS. Mr. President, while the Senator from Rhode Island is preparing to do that, I wonder if we could get an agreement that there be no motion to reconsider these amendments. I think that the time is late and those people who might be interested in them ought to have a chance to consider them. They have been presented. I believe that the understanding that we had was that the amendments would be offered by the two Senators from North Carolina and then we would not proceed until tomorrow. I understand that the managers of the bill have a desire to get these amendments taken care of, but I do think those Members who went home thinking only those amendments would be called up should have a chance to examine the record and ask to reconsider if they desire to do so.

Mr. JAVITS. Will the Senator yield?

Mr. STEVENS. I am happy to yield.

Mr. JAVITS. My understanding was that the amendments which would not require rollcalls could be called up by any Member, but I do not think Senator PELL and I have any intention to seek to lock the door as far as any thoughts on these matters are concerned.

Mr. STEVENS. All I am asking is that there be no motion to reconsider tonight so those Members may read the record. May I ask the Chair, would a motion to reconsider be in order tomorrow after the recess, when we reconvene?

Mr. JAVITS. Mr. President, I ask unanimous consent that the motions to reconsider and to lay on the table may be in order when we reconvene on these particular four amendments.

The PRESIDING OFFICER. The Chair informs the Senator that such motions will be in order if an amendment were not pending without unanimous-consent request.

Mr. JAVITS. Of course. I thank the Chair.

I withdraw the request.

Mr. PELL. My memory is refreshed now. The other substantive amendment was the amendment that reduced the amount of paperwork that was required and stated that records that were required once a year would now be once every 2 years.

Mr. JAVITS. I thank my colleague.

STATEMENT IN OPPOSITION TO HOLLINGS AMENDMENT TO STRIKE TITLE 12

● Mr. PERCY. Mr. President, I oppose the amendment offered by Senator HOLLINGS to strike title 12 from S. 1753. Title 12 would provide direct grants to nonpublic schools for secular educational activities.

Title 12 would, I believe, provide constitutionally acceptable assistance to nonpublic schools. In Wolman against Walter, the Supreme Court ruled favorably on many of the provisions contained in title 12. Although I am sure that the constitutionality of this title will be challenged, I am persuaded that it would be upheld by the Court.

In addition, title 12 would not provide more assistance to private school students than would be provided to public school students. Moreover, the cost of title 12 is within the limits set by the Budget Committee.

Nonpublic schools are a vital component of our Nation's educational system. They provide a quality education to many of our children. As such, they deserve our support. Therefore, I will oppose the Hollings amendment.●

PROJECT SEED

● Mr. RIEGLE. Mr. President, I would like to draw my colleagues' attention to one particular program carried out under section 215 of this act. I refer to Project SEED—special elementary education for disadvantaged children, a program utilizing advanced mathematical concepts to teach disadvantaged children college-level mathematics.

The results of this program have been absolutely astonishing. Professional mathematicians and scientists participating in the project have had tremendous success in teaching these youngsters such topics as abstract reasoning, conceptually oriented mathematics, and arithmetical computational skills. Achievements in these areas have carried over to reading, language arts, and the students' overall attitude toward school and the educational process.

Project SEED is one of the success stories of our educational process. I strongly urge those of my colleagues who serve on the Appropriations Committee to continue their support for funding of Project SEED under this title, support which was reflected in January of last year when the committee praised Project SEED for "narrowing the achievement gap between minority and nonminority students." ●

● Mr. WILLIAMS. Mr. President, Senator MAGNUSON has indicated his strong interest in assuring the effective implementation of demonstratedly effective programs which move from a pilot testing stage into a phase where funds are distributed to the States on a formula basis to assist their school districts more broadly. He has indicated that these programs should stand on their merits in both the authorizing and the appropriations process. As chairman of an authorizing committee, of course, I stand in wholehearted agreement. Just how we are to develop the most effective tools for assuring such implementation remains to be seen, but I would like to mention one program to Senator MAGNUSON which illustrates some of the prospects and problems we face—community schools, a program in which he, as a cosponsor of the Community Schools and Community Education Act, title X of the bill before us, has great interest.

This measure is a device to build the capacity of local school districts to devote their facilities after school hours to community use. It also seeks to encourage collaboration between the schools and other human services agencies so that the quality of education can be improved.

The Community Schools Act, part of the Education Amendments of 1974, has been run at a flat level of approximately $3.5 million authorization for the past 4 years. From formal evaluations of the program and from virtually unlimited endorsements in the education field, the community schools program has been an unqualified success.

In the bill before us, S. 1753, the Committee on Human Resources recommends expansion of the program for 5 years, after which the program would be "sunset." Our objective is to build the capacity of school systems. At full funding of the $77 million authorized, we would still reach only about 20 percent of the Nation's school districts, but with the required budgeting, Federal and State planning for coordination and evaluation built into the provision, the Federal role should meet its objective. In order to assure that the Federal role phases out, the authorization for this measure, which is mainly grants in aid to the States, increases for 2 of the next 5 years and then reverts to its 1979 level.

The plan hinges heavily on an adequate level of funding to assist the States and localities to initiate and operate the program. Our authorization is not dependent upon set-asides—It is solely an authorization item. My question is what appropriation level can we expect to implement this program.

Mr. MAGNUSON. Mr. President, Senator WILLIAMS has posed an important issue about an important program.

Let me say at the outset that I am pleased to be a cosponsor of the community school and community education program. The State of Washington has greeted this measure with great enthusiasm, and I believe it promotes the coordination of our human resources programs.

I shall do everything in my power to assure the chairman of the authorizing committee that this measure will receive uppermost consideration as we an-

ticipate a supplemental appropriation bill to the 1979 budget. I wish I could assure the chairman of full funding for this important program. I cannot do so, but I can assure him that we will take every step possible to assure implementation of all the important provisions of title X. And I may support appropriations necessary to convert to a State grant program and for the funding of the planning, coordination, and evaluation provisions of this bill.

I think the idea of time-limited programs is a good one. Community schools is an idea with great appeal for many school districts. The evaluations to date show that even with their initial Federal funding removed due to budgetary constraints, a significant proportion of school districts maintained their local programs from State and local funds.

Mr. WILLIAMS. Mr. President, I thank the chairman of the Appropriations Committee for his remarks. And I look forward to working with him and with the members of the Appropriations Committee, in overseeing the effective implementation of this program.●

● Mr. BUMPERS. Mr. President, I would like to commend Senator PELL, the distinguished chairman of the Subcommittee on Education, for bringing to the Senate floor such a fine piece of legislation as S. 1753, the Education Amendments of 1978.

The centerpiece of this legislation is the title I program which is the major Federal program of aid to elementary and secondary education.

In this program the most controversial issue which the Senate faces each authorization year is the manner in which title I funds are distributed among the States and among local school districts. In my opinion, Senator PELL has shown tremendous leadership in the committee by artfully crafting a bill which brings about the fairest distribution of title I funds possible at this time. During mark-up on the bill I know that he had to contend with innumerable pressures from various regions of the country, education groups and local school districts. He has exhibited extremely able leadership by reporting a title I formula which equitably balances all of these interests and treats all regions of the country fairly.

I am concerned, however, about what might happen during the conference with the House on their companion bill, H.R. 15. In that bill there is a "tilting" of the distribution formula toward certain regions of the country to the disadvantage of the rest of the country.

It is my understanding that one part of the House formula would shift funds away from 29 States to benefit only 21 other States. This would be accomplished through the use of the survey of income and education (SIE) data.

That data was compiled during 1975 and was supposed to be an update of the 1970 census. However, it suffers from such inaccuracies, due to the small sample used in compiling the data, that the administration has recommended against its use.

In testimony presented to the Congress, as I understand, the administration stated that 15 States would show errors between 10 and 20 percent in the use of this data and that two States would have errors larger than 20 percent. The administration also stated that they could not say in advance nor can they say today which particular States have which errors. Therefore, it was recommended that this data not be used.

Unfortunately though, the House has decided to use that data in distributing a portion of the title I funds. I would hope that during the conference committee the House conferees will reconsider their decision and listen to the administration more carefully on the use of this inaccurate data.

At this time I would like to ask Senator PELL, who will be chairing the Senate conferees, his opinion of this data. I am especially concerned because 29 States could lose money if the Senate conferees were to agree to the House position.

Mr. PELL. I would like to assure the gentleman that I share the administration's opinion about the validity of the SIE data. I wish that the survey which produced this data could have been more comprehensive and better funded so that the data which resulted would have been more reliable. Unfortunately, this was not the case.

The Senator has my assurance that when we go to conference I will do the best that I can to explain to the House conferees the problems with this survey and urge them to reconsider their position. I, myself, do not believe that we should rely on such inaccurate data in distributing large sums of money which are involved in the title I program and will urge my colleagues on the conference committee to insist on the adoption of the Senate title I language.●

● Mr. CRANSTON. Mr. President, I wish to ask the distinguished floor manager and chairman of the Human Resources' Subcommittee on Education, a question related to the programs known as the "trio programs" conducted under the authority of section 417B of the Higher Education Act of 1965, as amended.

The "trio programs" consist of three separate programs: "talent search," "upward bound", and "special services for disadvantaged students." These programs are designed to provide services, through grants and contracts, in order to assist youths from low-income families who have academic potential, but who may lack adequate secondary school preparation, to enter, continue, or resume programs of postsecondary education.

As my colleagues may recall, in the second supplemental appropriations bill for fiscal year 1972, the Congress approved a specific set-aside for these programs for the purposes of providing services to Vietnam-era veterans. Although this set-aside was not continued in subsequent years, the Office of Education has continued to fund programs that provide these valuable services to veterans.

However, in 1976, the Office of Education established by regulation an age criterion for the programs. That is youths are defined by regulation, those between ages 14 and 27.

This regulation severely curtails the participation of veterans of the Vietnam-era in the trio programs—30 percent of whom were discharged from the service with less than a high-school diploma—since many are now older than 27 years of age.

In fact, the average age of Vietnam-era veterans, based on VA statistics, is now nearly 32 years of age.

As the Senator from Rhode Island knows, he and I have both discussed this subject with the Senator from Minnesota (Mrs. HUMPHREY) who is most concerned about the problem.

On behalf of our colleague from Minnesota and myself, I would like to ask my distinguished colleague if he believes that there is any provision in the law that precludes the Office of Education from promulgating regulations that would permit educationally disadvantaged Vietnam-era veterans to participate in the "trio programs."

Mr. PELL. No, there is not.

Mr. CRANSTON. Does my colleague agree that it is congressional intent that educationally disadvantaged veterans of the Vietnam-era be served under the authority regardless of age?

Mr. PELL. That is my understanding.

Mr. CRANSTON. Would the chairman also agree that the Commissioner of Education should revise the "trio" regulations accordingly?

Mr. PELL. I think that would certainly be called for; I would urge it.

Mr. CRANSTON. I thank my friend from Rhode Island very much for taking the time to clarify this important issue at this time.●

ROUTINE MORNING BUSINESS

(Routine morning business transacted and additional statements submitted are as follows:)

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC-4227. A communication from the Acting Secretary of Health, Education, and Welfare, transmitting a draft of proposed leg-

lation to amend title II of the Social Security Act to make the monthly retirement test available in limited circumstances in the case of certain beneficiaries, to amend the technical requirements for entitlement to medicare, and for other purposes; to the Committee on Finance.

EC-4228. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of reports of the General Accounting Office for the month of July 1978; to the Committee on Governmental Affairs.

EC-4229. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Replacing Missing Supplemental Security Income Checks—Recipients Waiting Longer Than Necessary," August 22, 1978; to the Committee on Governmental Affairs.

EC-4230. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Bank Robbery—The Federal Law Enforcement Role Should Be Reduced," August 18, 1978; to the Committee on Governmental Affairs.

EC-4231. A communication from the Secretary of the Interior, transmitting, pursuant to law, the annual report of the administration of the Federal Metal and Nonmetallic Mine Safety Act, Public Law 89-577, during calendar year 1977; to the Committee on Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MUSKIE, from the Committee on the Budget, without amendment:

S. Res. 532. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 991 (Rept. No. 95-1139).

By Mr. CHILES, from the Committee on Governmental Affairs, with amendments:

H.R. 11318. An act to amend the Small Business Act and the Small Business Investment Act of 1958 (Rept. No. 95-1140).

By Mr. MUSKIE, from the Committee on Governmental Affairs, without amendment, unfavorably:

S. Res. 480. A resolution concerning disapproval of Reorganization Plan No. 3 (together with additional views) (Rept. No. 95-1141).

By Mr. STONE, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. 3447. An original bill to strengthen the economy of the United States through increased sales abroad of American agricultural products (Rept. No. 95-1142).

By Mr. WILLIAMS, from the Committee on Governmental Affairs and the Committee on Human Resources, jointly, with an amendment and an amendment to the title:

S. 517. A bill to authorize employees and agencies of the Government of the United States to experiment with flexible and compressed work schedules (Rept. No. 95-1143).

By Mr. NUNN, from the Committee on Armed Services, without amendment:

S. 3454. An original bill to amend the act of August 29, 1974 (88 Stat. 795; 10 U.S.C. 8202 note), relating to the authorized numbers for the grades of lieutenant colonel and colonel in the Air Force and to authorize the President to suspend certain provisions of law when he determines that the needs of the Armed Forces so require, and for other purposes (Rept. No. 95-1144).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. JACKSON, from the Committee on Energy and Natural Resources:

Ruth C. Clusen, of Wisconsin, to be an Assistant Secretary of Energy (Environment).

Roger A. Markle, of Utah, to be Director of the Bureau of Mines.

(The above nominations from the Committee on Energy and Natural Resources were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

● Mr. JACKSON. Mr. President, today the Committee on Energy and Natural Resources approved the nominations of Ruth C. Clusen to be Assistant Secretary of Energy for Environment and Roger A. Markle to be Director of the Bureau of Mines. I ask unanimous consent that each nominee's biography, statement to the committee and sworn financial statement be printed in the RECORD.

I also ask unanimous consent that a letter dated August 17, 1978, from Lynn R. Coleman, General Counsel of the Department of Energy, and a letter dated August 11, 1978, from Joan M. Davenport, Assistant Secretary of the Interior, regarding the nominees' compliance with the Department's conflict of interest provisions be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BIOGRAPHICAL SUMMARY—RUTH C. CLUSEN

Ruth C. Clusen has had a distinguished career in public service and in dealing with national environmental concerns. A long time advocate of a global approach to environmental problems, she was a member of the U.S. delegation to the US-USSR Joint Committee on Environmental Protection in Moscow in 1974. Earlier, she participated in the UN Conference on Human Environment in Stockholm and was an international environmental consultant for the State Department. In June 1976, she was a member of the U.S. delegation to the UN Habitat Conference in Vancouver, Canada, an international effort to identify interrelated problems of community living.

Ruth Clusen has served as an environmental consultant to the Interior Department, the Conservation Foundation, the U.S. Chamber of Commerce and Wisconsin Department of Natural Resources. She is also a Director on the Board of the Joint Center for Urban Environmental Studies and has served four terms on EPA's Management Advisory Committee for the Municipal Construction Division. In 1976, she served on the Advisory Board of the National Science Foundation Science for Citizens program.

In her four year effort as national president of the League of Women Voters of the United States, Ruth Clusen has helped assure the League's leading role in environmental issues. Between 1966 and 1974, she chaired the League's Environmental Quality Committee. During this period, the League of Women Voters Education Fund conducted a successful series of land and water seminars built around river basin problems and financed by training grants from the U.S. Public Health Service, the Department of the Interior and the U.S. EPA. Later projects focused on air quality standards and solid waste management.

Under her leadership, League members have worked at the local, state and national level on such environmental problems as air and water pollution control, flood plain management, lake eutrophication, wetland preservation, land use and solid waste management. Between 1976 and 1977, the League's Education Fund worked with leagues in ten states to educate citizens and elected officials about the quality of their drinking water and the local impacts of Safe Drinking Water Act of 1974. During the same period, the Education Fund promoted public involvement in water quality planning and in source separation of solid waste.

In 1977, Ruth Clusen received the Natural Resources Council in America Award of Honor for outstanding accomplishments in the conservation of natural resources. She also received the National Wildlife Federation Award as International Conservationist of the Year for 1977.

In March 1977, she was appointed by President Carter to the National Commission on the Observance of International Women's Year (IWY), which was charged with leading 56 state and territorial women's meetings and the National Women's Conference held in Houston in November 1977. Ruth Clusen has been awarded honorary Doctor of Laws degrees by Colgate University in New York and Wayne State University in Michigan, and has received an honorary Doctor of Humanities degrees from St. Mary's College, Notre Dame, Indiana.

STATEMENT OF RUTH C. CLUSEN ASSISTANT SECRETARY DESIGNATE

Mr. Chairman, Members of the Senate Committee on Energy and Natural Resources:

I appreciate the opportunity to appear before you as the nominee of the President for the post of Assistant Secretary for Environment in the Department of Energy. I know that the Committee has a busy schedule, and I am pleased that you arranged my hearing at this time.

In my remarks today, I would like to comment first on my concept of the role of the Assistant Secretary for Environment in the Department of Energy, and then on my qualifications for this important position.

The mission of the Department of Energy is to develop and implement a strong national energy policy and related program in order to meet the present and future energy needs of the Nation. This policy and program must be consistent with overall national economic, environmental and social goals. The Assistant Secretary for Environment plays a major role in fulfilling the Department's mission. The Assistant Secretary serves as an independent voice within the Department, to assure incorporation of national environmental protection goals in formulating and implementing energy programs. At the same time, the Assistant Secretary must advance the goals of restoring, protecting and enhancing environmental quality, and assuring public health and safety. If the Department is to accomplish its mission, the environmental contributions to major policy and program decisions must be current, readily available for public scrutiny, and well integrated with other information. They must fully support major decisions. The balancing of environmental concerns with other technical and policy concerns is essential if the programs of the Department are to be responsive to national needs on a timely basis. The Assistant Secretary for Environment has the responsibility to monitor and keep close tabs on Departmental programs through the early identification of environmental, health and safety problems, recommendations of actions to correct deficiencies, and continuous analysis of potential environmental impacts and mitigating options.

In the development and commercialization of new technologies and implementation of energy policies, it is important that environmental considerations be taken into account very early in the planning and design phases and be reviewed continually during every step of the process. In this way, environmental and safety considerations become not a barrier, but a positive and credible force within the system. In this process, the Assistant Secretary for Environment provides independent perspective and discriminating support for Departmental activities. Without this kind of systematic approach, complicated problems, delays and unnecessary Environment should be viewed as an asset—assisting the Department in performing its mission in a responsible and timely way. The position cannot be carried out in either a passive or obstructionist manner. It must be organized to allow a judicious, open, and responsive approach to the difficult decisions which must be made by the Department if its goals are to be achieved.

What qualifications and experience do I bring to this challenging and important position? My nearly 25 years of public service have provided me with a set of skills and sensitivities of the type which I believe are essential for the position of Assistant Secretary for Environment. As President of a large national organization, The League of Women Voters of the United States, during the past 4 years, I have demonstrated my administrative and managerial abilities. Prior to this, I led the environmental activities of the League of Women Voters for 8 years. In both of these positions, I dealt with scientific and technical matters in depth and managed technical staff in both the energy, environmental and social disciplines. These responsibilities have provided me with a background in technological issues and energy-related projects as well as full knowledge and understanding of the legislative process, and interworkings of other Federal agencies, the private sector, and various trade associations, professional societies and scientific bodies required by the Assistant Secretary for Environment.

My national activities during the last 12 years, and in the State of Wisconsin for 4 years previous to that, have taught me how to effectively work with people who have conflicting opinions and still get the job done. At the national level, I have worked closely with members of Congress and their staff as well as with many key officials within the Executive Branch, to develop legislation in the public interest. I have travelled extensively throughout this entire country, as well as abroad in representing the League of Women Voters and as a U.S. delegate to international conferences on a broad range of issues. As an involved participant, these conferences and meetings created the opportunity for me to communicate complex issues to public audiences of diverse interests.

Mr. Chairman, in summary, I believe that my background in environmental and energy issues, and my strong commitment to energy-environmental problem-solving, plus my demonstrated ability to carry out administrative and managerial responsibilities, and my long-term participation in public forums, provides an adequate and positive base from which to perform successfully the functions of the Assistant Secretary for Environment in the Department of Energy.

I would like to assure the Committee of my willingness to be available to it or any other Congressional committee or member at any time or on any subject related to the responsibilities of the Assistant Secretary for Environment. I would be happy to now respond to any questions that you may have today.

DEPARTMENT OF ENERGY,
Washington, D.C., August 17, 1978.

Hon. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for an opinion as to the effect of the conflict of interest provisions contained in Title VI of the Department of Energy Organization Act (Pub. L. 95-91) on the financial holdings of Ruth C. Clusen, who has been nominated to be Assistant Secretary for Environment of the Department of Energy.

Section 602(a) of the Department of Energy Organization Act ("Act") prohibits supervisory employees of the Department of of Energy from knowingly receiving compensation from, holding any official relation with, owning the stocks or bonds of, or having any pecuniary interest in, any energy concern. "Energy concern," defined in Section 601(b) of the Act, is described in terms of entities "significantly engaged in the business" of a variety of activities related to energy production, distribution, sale, research and development, as well as entities engaged in such research and development functions pursuant to DOE-funded programs irrespective of whether they otherwise are engaged in such "business." The precise boundaries of that term are currently being explored. Nonetheless, it is possible to make some initial determinations with respect to identifying energy concerns within the meaning of the statute. A list of energy concerns required by Section 601(c)(1) of the Act was published on March 2, 1978.

As you know, a list of Mrs. Clusen's financial holdings has been provided to the Committee. None of her financial holdings appears on the published list and, hence, none is subject to divestiture in connection with her assuming the position of Assistant Secretary for Environment. As the energy concern list is revised, however, it may be determined in the future that some of Mrs. Clusen's holdings may have to be divested.

Mrs. Clusen's husband has several financial holdings which are energy concerns and appear on the published list. We have advised Mrs. Clusen that she should not participate as a government employee, personally and substantially, in any particular matter the outcome of which could have a direct and predictable effect on her husband's financial interest in these holdings.

If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

LYNN R. COLEMAN,
General Counsel.

FINANCIAL STATEMENT

Provide a complete, current financial net worth statement which itemizes all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) and all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

ASSETS

Cash on hand and in banks, $53,600.

U.S. Government securities—add schedule, $7,000.

Listed securities—and schedule, attached.

Unlisted securities—add schedule, none.

Accounts and notes receivable:

Due from relatives and friends, none.

Due from others, none.

Real estate interest—add schedule, $18,100.

Personal property, 2 cars, $9,000.

Life insurance—cash value, $1,606.

Other assets—itemize:

See listing of stocks held by Donald Clausen (in his name) $187,148.

Total assets $276,454.

LIABILITIES

Notes payable to banks—secured, none.

Notes payable to banks—unsecured, none.

Notes payable to relatives, none.

Notes payable to others, none.

Accounts payable, none.

Unpaid income tax, none.

Other unpaid tax and interest, none.

Real estate mortgages payable—add schedule, none.

Chattel mortgages and other liens payable, none.

Other debts—itemize, none.

CONTINGENT LIABILITIES

As endorser, comaker or guarantor, on leases or contracts, legal claims, other, none.

Total liabilities, none.

Net worth, $276,454.

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers, none.

2. Are any assets pledged? (Add schedule.) No.

3. Are you currently a party to any legal action? No.

4. Have you ever declared bankruptcy? No.

5. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit? Yes, 1973; paid $285.18.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Clusen, Ruth Chickering.

Position to which nominated: Assistant Secretary for Environment, Dept. of Energy.

Date of nomination: July 10, 1978.

Date of birth: June 11, 1922.

Place of birth: Bruce, Wis.

Marital status: Married.

Full name of spouse: Donald Ernest Clusen.

Name and ages of children: Elizabeth Ann Hettiger, age 23; and Kathryn Ruth Le Clair, age 29.

Education: Senior High School, 1934-38, graduated 1938.

University of Wisconsin, Eau Claire, 1938-41; 1944-45, B.S., 1945.

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates.

1974-78, President League of Women Voters of the U.S., 1730 M St. N.W.

1973-77, Consultant, Management Advisory Group, EPA. Washington.

1957-58, Teacher, Green Bay Public Schools.

1947-51, Teacher, Denmark, Wis., Public Schools.

1946-47, H. C. Prange Co., Green Bay, Personnel Administration.

1945-46, Teacher, Browning High School, Browning, Montana.

1943-44, Dept. of Commerce, Washington, Editing.

1942-43, Teacher, Public Schools, New Richmond, Wis.

1941-42, Teacher, Public Schools, Elsworth, Wis.

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Honorary L.L.D. Colgate University.

Honorary L.L.D. Wayne State University.

Honorary Dr. of Humanities, St. Mary's College, Notre Dame.

Woman of the Year in Politics and Government—Ladies Home Journal.

Grand Marnier Civic Achievement Award.

International Conservationist of the Year—National Wildlife Federation.

Civic Achievement Award—National Municipal League.

Environmental Award—Natural Resources Council.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

League of Women Voters of the United States, President, from 1974–76.

League of Women Voters of the United States; Vice President and Environmental Chairman from 1966–74.

League of Women Voter of Wisconsin; President, from 1962–66.

First United Methodist Church, from 1961 to present.

Order of the Eastern Star; Worthy Matron, from 1955.

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written.

During the time I served as Environmental chairman for the League of Women Voters and subsequently as president, I was responsible for the research, writing and publication of numerous pamphlets on all phases of environmental work. All such materials are copyrighted by the League without attribution to individual authors.

Qualifications: State fully your qualifications to serve in the position to which you have been named. See attached biography.

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

I expect to remain a member of the League of Women Voters.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization. None.

3. Has anybody made you a commitment to a job after you leave government? No.

4. Do you expect to serve the full term for which you have been appointed? Yes.

Potential conflicts of interest:

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

I do not know of any.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

My husband holds stock which will be divested as necessary.

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.

I know of none.

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government for the purpose of affecting the administration and execution of national law or public policy.

As a member of the national board of the League, and subsequently as president I had frequent contact with the national government as a lobbyist for the positions held by the organization.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items.

I know of none.

STOCKS HELD IN THE NAME OF DONALD ERNEST CLUSEN (SPOUSE)

[Shares and value]

American Telephone and Telegraph, 226, $14,238.

Convertible Preferred 34, 11, $715.

Broad St. Investment Corp., 921.972, $10,243.

Commonwealth Edison, 239, $6,453.

Consolidated Edison of New York, 50, $1,100.

Eaton & Howard Stock Fund, 828.923, $7,469.

Fidelity Fund, Inc., 961.450, $15,600.

General Foods, 200, $6,000.

General Motors, 315, $18,900.

Burlington Northern, 50 common—12 preferred, $984.

Putnam Investors Fund, Inc., 2562.429, $18,395.

Massachusetts Investors Trust, 491.539, $4,944.

Mirro Aluminum, 250, $3,240.

Nicor, 41 common—7 preferred, $1,537.

Raybestos Manhattan Inc., 130, $4,160.

Mobil Oil, 140, $8,320.

Union Pacific, 250, $12,500.

American Hospital Supply Corp., 1,500, $42,000.

Massachusetts Mutual Income Investors, 900, $10,350.

Total value: $187,148.

BIOGRAPHY—ROGER A. MARKLE, SALT LAKE CITY, UTAH

Education: MBA, University of Chicago, 1971; MS, Mine Management, Stanford University, 1965; and BS, Mining Engineering, University of Alaska, 1959.

Energy policy: 1977—Appointed by Utah's Governor Matheson to the Energy Conservation and Development Council and elected Vice Chairman.

Chairman, Interagency Task Force on Power Plant Siting.

1976—Appointed by Utah's Governor Rampton to the Blue Ribbon Joint Legislative Committee on Energy Policy and elected Chairman of the Drafting Subcommittee.

Professional:

1974 to Present: The Valley Camp Coal Company—President, Western Division.

1965–1974: Standard Oil Company (Indiana) and Subsidiaries—Manager, Mine Development; Exploration Manager; Manager, Mining Development; Assistant Coordinator, Mining; Senior Mining Engineer; and Project Manager.

1962–1964: University of Alaska—Instructor of Adult Education.

1958–1961: Alaska Mines & Minerals, Inc.—General Superintendent; Chief Mine Engineer; and Mill Superintendent.

1955–1958: Summer and weekend employment as underground miner for Anaconda Company, Unoont Mining Company and Alaska Mines & Minerals, Inc.

Other: Registered Professional Engineer (Alaska) and President and Director, Utah Coal Operators Association.

Personal: Born 12/12/33; Height 6'2"; Weight 200 pounds; U.S. Navy Honorable Discharge, 1954; Married (wife Mary), no children.

STATEMENT OF ROGER A. MARKLE, PROPOSED NOMINEE TO BE DIRECTOR, BUREAU OF MINES, AUGUST 18, 1978

Mr. Chairman and distinguished members of the Senate Energy and Natural Resources Committee:

I am honored by the confidence which President Carter, Secretary Andrus, and Assistant Secretary Davenport have shown in me by nominating me for the position of Director, Bureau of Mines, and it is indeed a privilege to appear before your Committee this morning. My entire working career has been related to the many facets of the mineral industry and subject to your concurrence, I am looking forward to working with this Administration to enhance the Bureau's viability, productivity, and contribution toward national goals.

The Bureau has had a long and distinguished history since its establishment under the Organic Act in 1910, and throughout the years prior to the 1970s, Congress gave the Bureau significant new tasks and responsibilities. During the 1970s, however, the Bureau has been subjected to a series of reorganizations which have transferred substantial parts of its historic programs to other agencies. In 1973, for example, the regulatory and enforcement programs in the mine health and safety area were transferred to the new Mining Enforcement and Safety Administration within the Department of the Interior with the Bureau retaining the responsibility for mine health and safety research and development programs. Recently the Mining Enforcement and Safety Administration was transferred to the Department of Labor, however, the Bureau retains responsibility for mine health and safety research.

In 1974, the Bureau's responsibility for fossil fuel research and development was transferred to the Energy and Research Development Administration in the Department of the Interior with the Bureau retaining programs for fossil fuel production research and information collection and dissemination functions. The fossil fuel programs were subsequently transferred to the Department of Energy although the Bureau continues to retain the responsibility for fossil fuel mine health and safety research. Transfer of the mine safety regulation and fossil fuel production research programs from the Bureau to the Department of Labor and the Department of Energy has resulted in a number of organizational voids in the Bureau and at the same time increased the need and demand for interdepartmental management coordination since the basic responsibility for mining health and safety research remains with the Bureau. I have the highest regard for the technical capabilities of the Bureau's staff and am confident the Bureau can work closely with both the Department of Labor and the Department of Energy in research and development of safer mining technology. I am personally committed to the development of safer mining technology and believe that we can attain our national goals of increased fossil fuels production without compromising our goals for better mine safety.

A major challenge facing the nation today is the conservation and more efficient utilization of our scarce natural resources. The Bureau has for many years been actively conducting research to maximize recovery of our mineral resources, as well as in the development of waste recycling. World consumption of minerals is rising and will undoubtedly continue to do so as the world's populations strive to increase their standard of living. Our nation's continued economic health requires, indeed demands, that the supply of mineral resources remain adequate in the face of ever increasing competing demands for these limited resources. The long-term implications of alternative domestic and/or foreign policy options on minerals availability are not clearly understood and there is a need to develop, implement and refine a minerals policy analysis framework which can be used by policymakers now and in the future. The Bureau has the data base and inherent capability to undertake this task.

Secretary Andrus in his confirmation hearing stated to this Committee that we can and must make certain that our natural resources are developed or not developed for the benefit of everyone and through such use keep our Nation strong and our quality of life high. This is the challenge which faces us in developing the natural resources of the United States and I believe the Bureau of Mines is capable of helping the Nation meet the challenge.

Thank you Mr. Chairman.

WASHINGTON, D.C.,
August 11, 1978.

Hon. HENRY M. JACKSON,
Chairman, Energy and Natural Resources Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Section 201(f) of P.L. 95–87, "Surface Mining Control and Reclamation Act of 1977," requires that no Federal employee performing any function or duty under P.L. 95–87 shall have a direct or indirect financial interest in underground or surface mining operations. As indicated in the financial disclosure document previously provided to you, Roger A. Markle, the President's nominee for the Director of the Bureau of Mines position, own a number of shares of Quaker State Oil Refining Company, a New York Stock Exchange listed corporation whose primary business is oil refining and marketing but also includes a relatively small coal producing subsidiary.

The Bureau of Mines Director has two limited functions, both of which are advisory and not regulatory in nature under P.L. 95–87:

(1) Title III—State Mining and Mineral Resources and Research Institutes, of P.L. 95–87, establishes an Advisory Committee on Mining and Mineral Research which is composed of nine people, including the Director of the Bureau of Mines. This advisory committee's sole function is to consult with and make recommendations to the Secretary of the Interior on all matters involving or related to mining and minerals resources research as provided in Title III.

(2) Title VIII—University Coal Research Laboratories, establishes an Advisory Council on Coal Research which is composed of 11 persons, including the Director of the Bureau of Mines. This advisory council's sole function is to advise the Administrator of ERDA on the general administration of the establishment of 10 coal research laboratories under Title VIII.

Neither of these advisory councils have control over any funds nor do they have any regulatory functions. However, to comply with the intent of the conflict of interest provisions of P.L. 95–87, I have directed that Mr. Markle sell his stockholdings in Quaker State Oil Refining Company within 12 months and that during this 12-month period the functions of the Director of the Bureau of Mines under P.L. 95–87 shall be performed by a Bureau of Mines employee designated by my office. This course of action has been reviewed and approved by the Department's Solicitor and White House Counsel, and I trust it will be acceptable to your Committee and the Senate.

Sincerely,

JOAN M. DAVENPORT,
Assistant Secretary of the Interior.

FINANCIAL STATEMENT

Provide a complete, current financial net worth statement which itemizes all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) and all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

ASSETS

Cash on hand and in banks, $58,700.
Listed securities—add schedule, $187,159.
Unlisted securities—add schedule, none.
Accounts and notes receivable:
Due from relatives and friends: None.
Due from others, none.
Real estate interests—add schedule, $255,500.
Personal property, $17,000.
Other assets—itemize:
Thrift Savings Plan, $19,850.
Individual Retirement Acct., $37,980.
Total assets, $576,189.

LIABILITIES

Notes payable to banks—secured, $17,750.
Notes payable to banks—unsecured, none.
Notes payable to relatives, none.
Notes payable to others, none.
Accounts payable, $300.
Unpaid income tax, none.
Other unpaid tax and interest, none.
Real estate mortgages payable—add schedule, $91,300.
Chattel mortgages and other liens payable, none.
Other debts—itemize: one.

CONTINGENT LIABILITIES

As endorser, comaker or guarantor, none.
On leases or contracts, none.
Legal Claims, none.
Other, none.
Total liabilities, $109,350.
Net worth, $466,839.

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers:

I have a vested interest in a Standard Oil (Indiana) retirement plan payable at age 65 which amounts to approximately $326/month, and a vested interest in a Valley Camp Coal Company retirement plan payable at age 65 which amounts to approximately $125/month.

2. Are any assets pledged? (Add schedule):

1500 shares of Common Stock of Quaker State Oil Refining Corporation are pledged as security for a $17,750 loan from the 1st National Bank of Wheeling, West Virginia.

3. Are you currently a party to any legal action? No.

4. Have you ever declared bankruptcy? No.

5. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit? Yes—no additional taxes or penalties.

AFFIDAVIT

District of Columbia, ss: Roger A. Markle, being duly sworn, hereby states that he has read and signed the foregoing Financial Statement and that the information provided therein is, to the best of his knowledge and belief, current, accurate, and complete.

ROGER A. MARKLE.

Subscribe and sworn before me this 26th day of July, 1978.

RICHARD R. LEE,
Notary Public.

My Commission expires April 14, 1982.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Markle, Roger A.

Position to which nominated: Director, Bureau of Mines. Date of nomination: July 13, 1978.

Date of birth: 12 Dec. 1933. Place of birth: Sidney, Montana.

Marital status: Married. Full name of spouse: Mary F. Markle.

Name and ages of children: None.

Education:

Institution, dates attended, degrees received, and dates of degrees:

University of Chicago, 1969–71, MBA, and June 1971.

Stanford University, 1964–65, M.S., and June 1965.

University of Alaska, 1957–59, B.S., and May 1959.

Montana School of Mines, 1955–57.

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates:

1974 to Present: The Valley Camp Coal Company: President, Western Division—Salt Lake City, Utah.

1965–1974: Standard Oil Company (Indiana) and Subsidiaries:

Manager, Mine Development—Chicago, Illinois.

Assistant Coordinator, Mining—Chicago, Illinois.

Senior Mining Engineer—Denver, Colorado.

Project Manager—Anchorage, Alaska.

1962–1964: University of Alaska: Instructor of Adult Education—College, Alaska.

1958–1961: Alaska Mines & Minerals, Inc.:

General Superintendent—Red Devil, Alaska.

Chief Mine Engineer—Red Devil, Alaska.

Mill Superintendent—Red Devil, Alaska.

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement: Scholarship—Stanford University and Scholarship—University of Alaska.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations:

Organization, office held, and dates:

Utah Mental Health Association, Director 1977–78.

Utah Coal Operators Association, President and Director, 1974–78.

American Institute of Mining Engineers, Member, 1957–78.

State of Utah Energy Conservation & Development Council, Vice Chairman, 1977–78.

State of Utah Interagency Task Force on Power Plant Siting, Chairman, 1977–78.

Alta Club, none, 1975–78.

University Club, none, 1975–78.

Fort Douglas/Hidden Valley Country Club, none, 1976–78.

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written: None.

Qualifications: State fully your qualifications to serve in the position to which you have been named (attach sheet) (See Attachment B).

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate: Yes.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization: No.

3. Has anybody made you a commitment to a job after you leave government? No.

4. Do you expect to serve the full term for which you have been appointed? Yes.

Potential conflicts of interest:

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated: None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated: Stockholding in Quaker State Oil Refining Company.

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated: None.

4. List and describe any lobbying activity during the past 10 years in which you have

engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy: None.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items: Blind trust or, if necessary, sale.

[Attachment A]

FINANCIAL STATEMENT—ATTACHED SCHEDULE

Listed securities: July 24, 1978.

Market Value:	
500 shares—Addressograph common stock	$11,190
1,000 shares—Technicolor common stock	12,625
10,624 shares—Quaker State oil refining common stock	163,344
Total	187,159
Real estate interests:	
Home—1433 Chandler Drive, Salt Lake City, Utah	154,000
Rental Property—	
6700–20 West 38th, Denver, Colo. (store building)	60,000
440–50 South Owens, Denver, Colo. (double)	41,500
Total	255,500
Real estate mortgages payable:	
Walker Bank and Trust, Salt Lake City, Utah	79,200
Midland Savings, Denver, Colo	12,100
Total	91,300

[Attachment B]

BIOGRAPHY: ROGER A. MARKLE, 1433 CHANDLER DRIVE, SALT LAKE CITY, UTAH 84103—801–355–8516

Education: MBA, University of Chicago, 1971; MS, Mine Management, Stanford University, 1965; and BS, Mining Engineering, University of Alaska, 1959.

Energy policy: 1977—Appointed by Utah's Governor Matheson to the Energy Conservation and Development Council and elected Vice Chairman.

Chairman, Interagency Task Force on Power Plant Siting.

1976—Appointed by Utah's Governor Rampton to the Blue Ribbon Joint Legislative Committee on Energy Policy and elected Chairman of the Drafting Subcommittee.

Professional:

1974 to Present: The Valley Camp Coal Company: President, Western Division.

1965–74: Standard Oil Company (Indiana) and Subsidiaries: Manager, Mine Development; Exploration Manager; Manager, Mining Development; Assistant Coordinator, Mining; Senior Mining Engineer; and Project Manager.

1962–64: University of Alaska: Instructor of Adult Education.

1958–61: Alaska Mines & Minerals, Inc.: General Superintendent; Chief Mine Engineer; and Mill Superintendent.

1955–58: Summer and weekend employment as underground miner for Anaconda Company, Umont Mining Company and Alaska Mines & Minerals, Inc.

Other: Registered Professional Engineer (Alaska) and President and Director, Utah Coal Operators Association.

Personal: Born 12/12/33; Height 6'2"; Weight 200 pounds; U.S. Navy Honorable Discharge, 1954; Married (wife Mary), no children.●

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. DOMENICI (for himself, Mr. SCHMITT, Mr. GARN, Mr. DECONCINI, and Mr. HATCH):

S. 3446. A bill to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Ben Abruzzo, Maxie Anderson, and Larry Newman. Considered and passed.

By Mr. STONE (from the Committee on Agriculture, Nutrition, and Forestry):

S. 3447. A bill to strengthen the economy of the United States through increased sales abroad of American agricultural products. Original bill reported and placed on the calendar.

By Mr. WILLIAMS:

S. 3448. A bill for the relief of Patsy J. Perry; to the Committee on the Judiciary.

By Mr. INOUYE:

S. 3449. A bill for relief of Mrs. Bernice Gouveia White and Mrs. Mildred Gouveia Castagno; to the Committee on the Judiciary.

By Mr. JAVITS (for himself, Mr. MUSKIE, and Mr. RIBICOFF):

S. 3450. A bill to amend the Privacy Act of 1974 to provide for the confidentiality of medical records, and for other purposes; to the Committee on Governmental Affairs.

By Mr. BAKER (for himself and Mr. SASSER):

S. 3451. A bill for the relief of Lance Industries, Incorporated; to the Committee on the Judiciary.

By Mr. BENTSEN:

S. 3452. A bill to designate the Federal Building located at 341 Pine Street, Abilene, Tex., the "Omar Burleson Federal Building"; to the Committee on Environment and Public Works.

By Mr. WALLOP (for himself, Mr. DOLE, Mr. PAUL G. HATFIELD, Mr. YOUNG, Mr. MELCHER, Mr. MCGOVERN, Mr. TOWER, Mr. LAXALT, Mr. BELLMON, Mr. HANSEN, and Mr. HART):

S. 3453. A bill to limit imports of feeder and slaughter cattle and to authorize a trade agreement for that purpose in lieu of statutory quotas; to the Committee on Finance.

By Mr. NUNN (for the Committee on Armed Services):

S. 3454. A bill to amend the act of August 29, 1974 (88 Stat. 795; 10 U.S.C. 8202 note), relating to the authorized numbers for the grades of lieutenant colonel and colonel in the Air Force and to authorize the President to suspend certain provisions of law when he determines that the needs of the Armed Forces so require, and for other purposes. Original bill reported and placed on the calendar.

By Mr. MATSUNAGA (for himself, Mr. ANDERSON, Mr. BENTSEN, Mr. CRANSTON, Mr. HATCH, Mr. PAUL G. HATFIELD, Mr. HODGES, Mr. MCGOVERN, Mr. MELCHER, Mr. METZENBAUM, Mr. WILLIAMS, and Mr. ZORINSKY):

S. 3455. A bill to amend the Internal Revenue Code of 1954 to allow a credit for contributions to the United States Olympic Committee; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI (for himself, Mr. SCHMITT, Mr. GARN, Mr. DECONCINI, and Mr. HATCH):

S. 3446. A bill to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Ben Abruzzo, Maxie Anderson, and Larry Newman. Considered and passed.

(The remarks of Mr. DOMENICI when he introduced the bill appear elsewhere in today's proceedings.)

By Mr. JAVITS (for himself, Mr. MUSKIE, and Mr. RIBICOFF):

S. 3450. A bill to amend the Privacy Act of 1974 to provide for the confidentiality of medical records, and for other purposes; to the Committee on Governmental Affairs.

THE PRIVACY ACT AMENDMENTS OF 1978

● Mr. JAVITS. Mr. President, one of our most precious rights in a free society is our right to privacy—the right to be free from the inquisitive prying into our most personal affairs by those who are, for one reason or another, curious about us, but who do not have a right to know. This fundamental right, grounded in the Constitution, has been seriously eroded in recent years, until now, nearly every aspect of our lives is open to public viewing by those who have the persistence and desire to learn about us.

Last summer, the Privacy Protection Study Commission issued its report, "Personal Privacy in an Information Society." It identified a number of areas in which it thought legislation was necessary to halt the erosion of personal privacy, and strike the proper balance between the individual's expectation of confidentiality, and society's need to know certain information about each of us.

The bill I am introducing today seeks to address these concerns in one of the most sensitive areas of recordkeeping examined by the Commission—personal medical records. The Commission pointed out the unique nature of medical records, noting:

The physician-patient relationship is an inherently intrusive one in that the patient who wants and needs medical care must grant the doctor virtually unconstrained discretion to delve into the details of his life and his person. As a practical matter, because so much information may be necessary for proper diagnosis and treatment, no area of inquiry is excluded. In addition to describing the details of his symptoms, the patient may be asked to reveal what he eats, how much he drinks or smokes, whether he uses drugs, how often he has sexual relations and with whom, whether he is depressed or anxious, where and how long he has worked, and perhaps what he does for recreation.

Traditionally, the family doctor learned much of this information about his patient by treating him or her over the years, and retained a good part of it in his memory. The family doctor's discretion was almost always sufficient to protect the patient's medical history from disclosure. Over the last three decades, however, the traditional doctor-patient relationship has been breaking down, and is gradually being replaced by a system whereby medical care is provided often by an impersonal institution, and payment for medical services is made by third parties. Such service-providing institutions, because they lack the extended personal relationship of the family doctor, require far more extensive written records about a patient's condition, in order properly to treat the individual. Simultaneously, the great advances in computer technology that we have seen over recent years have made the collection, maintenance, and dissemination of highly detailed personal medical information far easier than it has ever been before.

Not surprisingly, the existence of a large pool of confidential information about individuals has proved attractive to those who are outside the medical care relationship. Insurance companies, employers, the Government, researchers, and credit bureaus all have varying degrees of interest in obtaining access to the data. As the Privacy Protection Study Commission noted, it is "staggering—how many people besides the medical care providers who create a medical record have access to it." At the same time the subject of the records is almost always the one person denied access to them. Thus, he is often unaware of what is in his records, and to whom they are being disclosed.

This system has inevitably led to abuses, a number of which have been brought to my attention by the National Commission on the Confidentiality of Health Records, a privately funded group interested in health confidentiality problems, and other sources. The following are representative of the types of problems that have been encountered:

A railroad company employee was fired after his company learned he was an epileptic. Another person was mistakenly diagnosed as an epileptic. The mistaken diagnosis was placed in her records, and discovered by an insurance company, which then refused her application.

A couple was denied disability insurance when the insurance company learned they had previously had marital counseling provided by a local minister. With one denial, and the fear that "this information is forever available to any insurance company" the couple wants to "add a statement of our side" or to remove the information from any computerized information bank.

Nurses in a New York abortion clinic allegedly sold the names of patients to "pro-life" groups, which then would call the patients at home to "discuss" abortion.

An ex-psychiatric patient wants a divorce, but her husband threatens to use the newly learned information about her psychiatric condition against her in a child custody fight. The husband's father, a lawyer, had obtained the psychiatric information "through his own sources."

An individual who was briefly a patient in an Ohio mental institution 10 years ago was denied access to her records. She fears future discrimination in hiring, and feels she has a right to know what is in her files.

Security police in another Ohio mental health center follow the policy of citing or quoting directly from patient's records upon request of any law enforcement or related agency, such as the fire department.

A physician reports harassment by several representatives of an investigative reporting agency. The representatives wanted confidential medical information to be given over the telephone, refusing to first identify who they were working for or why they wanted the information.

Mr. President, there are many other examples of abuses of confidentiality that I could cite. The bill I am introducing here today is intended to help eliminate those abuses. But it is also intended to do more than that—it is intended to clarify the rights and obligations of the patient, the medical care provider and third parties with respect to such confidential information. As the medical care relationship continues to change and become less personalized, all parties should know how confidential medical information is to be treated.

The bill prohibits the disclosure of confidential information by medical care service providers, except as expressly authorized in the bill. Confidential information is defined broadly to include the fact that an individual is receiving or has sought medical care, and any information relating to that individual's treatment or attempt to secure treatment.

The "service providers" covered by the bill are defined to include non-Federal hospitals, nursing facilities, or intermediate care facilities that receive medicare or medicaid funds, or any other non-Federal facilities that receive such funds to which the Secretary of HEW may make the act or portions thereof, applicable by regulation. Also included are health maintenance organizations that receive loans, grants or contracts under the Public Health Service Act. Once an entity is covered by the bill, all of its patient records are covered, regardless of whether the individual patient involved had his or her expenses reimbursed by medicare or medicaid.

The bill does not apply to Federal entities. These are already covered under the Privacy Act of 1974. More time is necessary to evaluate the effect of that act on Federal medical care facilities before a decision is made on whether it is appropriate to subject them to special legislation.

Also I wish to make clear that the bill does not apply to recordkeeping by the single practitioner. To my knowledge, most of the abuses that have occurred have not been at this level, and I am very reluctant to impose Federal regulation on the family doctor unless and until a need to do so has been demonstrated.

The bill recognizes that there are certain instances when a patient may wish to authorize the disclosure of confidential information about himself. This is usually the case where the individual expects to obtain a benefit, such as reimbursement by an insurance company, in return for disclosure of certain information. Thus, the bill provides a procedure by which the patient may provide such consent. The consent must be in writing, and as specific as possible as to the nature of the data to be disclosed, the use to which it is to be put, and the persons who are to have access to it. Consent may be withdrawn at any time, and may not extend beyond 2 years.

The bill also recognizes that there are a limited number of situations where obtaining an individual's consent is impossible or impractical. The bill spells out those situations in detail, and provides safeguards against the redisclosure of confidential information by persons who receive such information.

The bill provides individuals who are aggrieved by an actual or attempted violation of the act with a cause of action in Federal district court for injunctive relief or monetary damages. Further, in the 1974 Privacy Act, any person who knowingly and willfully violates this act or requests or obtains information under false pretenses, is subject to criminal prosecution. Finally, the service providers must satisfy the Secretary of HEW that it is in substantial compliance with the act in order to continue to receive medicare or medicaid funds or funding under the Public Health Service Act.

One of the major problems with our current system of recordkeeping is that the patient is denied access to his own records, does not know what is in them when he consents to their disclosure, and has no way of correcting any inaccurate information they may contain. The bill rectifies this situation by providing the patient with the right to see any medical records the service provider maintains on him. If the patient disagrees with any aspect of the record, the bill would permit him to add, pursuant to regulations issued by the Secretary, a brief statement presenting his view of the disputed portion of the record. Whenever the disputed record is disclosed, it would have to be accompanied by the patient's version.

The bill follows the recommendations of the Privacy Protection Study Commission by recognizing that there may be some instances in which disclosure to the patient may, in the judgment of the health professional, harm the patient's condition. In such cases, the health professional may withhold the record from the patient. In such cases, however, the patient has the right to appoint a representative of his own choosing, who must be granted access to the records by the service provider.

Finally, the bill would preclude state and local governments from enacting or continuing in effect any laws or regulations that would provide the patient a lesser degree of protection than the legislation.

Mr. President, I believe legislation on this subject is both timely and necessary, and hope that this bill will, after due consideration, lead to such legislation. I recognize that many of the issues covered in this bill, particularly patient access to their own records, and circumstances under which disclosure without consent is appropriate, are the subject of widely divergent views. As the bill moves through the hearing process, I will carefully consider any suggestions or comments that might help improve it.

Mr. President, I ask unanimous consent that a section-by-section analysis of the bill be permitted in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 3450

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Privacy Act Amendments of 1978".

AMENDMENT TO THE PRIVACY ACT

SEC. 2. The Privacy Act of 1974 is amended by inserting at the end thereof the following

"TITLE II—CONFIDENTIALITY OF MEDICAL RECORDS

FINDINGS AND PURPOSES

SEC. 201. (a) The Congress finds that—

(1) The right to privacy is a personal and fundamental right.

(2) Rapidly changing technology permits record keepers to compile and disseminate more detailed and highly personal information about individuals than ever before.

(3) The collection, maintenance, use, and dissemination of confidential information about individuals by private sector organizations can threaten the individual's right to privacy.

(4) The Report of the Privacy Protection Study Commission ("Report") established a need for the extension of statutory privacy protection to the relationship between patients and health care providers.

(5) The Report finds that the number of people other than the medical care provider who have access to individually identifiable medical records is very large, while the patient himself is often denied access to them.

(6) Testimony by the Privacy Protection Study Commission before the Senate Governmental Affairs Committee established that existing statutory protection of the right of privacy in the medical care relationship is inadequate.

(7) It is essential that individuals be able to exercise more direct control over confidential information, particularly since the availability of such information to third parties often affects the individual's ability to obtain employment, insurance, medical care and other important societal benefits.

(b) The purposes of this Act are to—

(1) clearly define the circumstance under which confidential medical information in individually identifiable form will be available, and to whom it will be available.

(2) provide procedures by which the subject of medical records may have access to those records, and may take steps to assure the fairness and objectivity of those records.

(3) carefully balance the legitimate need of certain governmental and private sector organizations for access to confidential information, with the individual's expectation of, and right to, the privacy of such information.

SCOPE

SEC. 202. All confidential information is subject to the provisions of this Act. Except as hereafter provided, or otherwise specifically required by law, no person subject to this Act shall, without the authorization of the patient:

(a) disclose or transmit any confidential information together with a patient identifier to any person, or

(b) disclose or transmit a patient identifier to any person, or

(c) disclose or transmit confidential information if the person disclosing or transmitting it has reason to believe that the recipient may have a patient identifier for such information.

DEFINITIONS

SEC. 203. (a) "Confidential information" means medical (including dental and mental health) data or information that reveals or contains:

(1) The fact that a person is or has been a patient;

(2) Information transmitted between the patient and service provider in the course of service provision, or the attempt to secure such service provision;

(3) Information relating to diagnosis, facts revealed in connection with the provision of services, or treatement, transmitted between members of the patient's family and the service provider;

(4) Information relating to diagnosis, facts revealed in connection with the provision of service, or treatment, transmitted between any of the persons specified in (a)(2) and (3) above, and persons who participate in the accomplishment of the objectives of diagnosis, fact-finding, or service under the supervision of, or in cooperation with, the service provider;

(5) Any diagnosis or opinions formed by the service provider regarding the patient's physical, mental or emotional condition;

(6) Any advice, instructions or prescriptions issued by the service provider in the course of diagnosis, treatment, or provision of other service;

(7) Any summary, resume or characterization of the substance, or any part of the information described in subsections (1) through (6) above.

(b) "Patient" means an individual who consults, is examined, interviewed, treated, or is otherwise served to some extent by a service provider, as hereinafter defined, with regard to medical, mental or emotional condition or social deprivation or dysfunction.

(c) "Patient identifier" means:

(1) the patient's name or other descriptive data from which a person might be reasonably anticipated to be able to identify such patient or be led to other data from which such patient might be recognized as the person described; or

(2) a code, number, or other means to be used to match the patient with any confidential information regarding him.

(d) "Person" means any natural person, corporation, association, partnership, and any state, local or federal government, or any agency or other party thereof, including a court.

(e) "Secretary" means the Secretary of Health, Education and Welfare.

(f) "Service provider" means:

(1) an entity, other than a federal entity, that (A) is a hospital, skilled nursing facility, or intermediate care facility, as defined for purposes of title XVIII or XIX of the Social Security Act, and (B) has been approved by the Secretary for participation in the program under title XVIII, or certified by a state agency for participation in a program under title XIX; and

(2) with respect to those provisions that the Secretary makes applicable to an entity by regulation, an entity, other than a federal entity, that (A) is an entity (other than an entity subject to subparagraph (1)) for which approval by the Secretary is required for participation in or coverage under the program under title XVIII, or for which certification by a state agency is required for participation in a program under title XIX, and (B) has been approved by the Secretary for participation in or coverage under the program under title XVIII, or certified by a state agency for participation in a program under title XIX; and

(3) with respect to those provisions the Secretary makes applicable by regulation, a Health Maintenance Organization, medical group, or individual practice association (as those terms are defined in Subchapter XI of the Public Health Service Act) that receives federal grants, loan guarantees or contracts pursuant to the provisions of that subchapter.

NOTIFICATION OF DISCLOSURES

SEC. 204. A service provider shall notify a patient in such form and manner as the Secretary may require, of the disclosures that may be made of confidential information concerning a patient without authorization of the patient and of the procedure by which the individual can learn of each kind of disclosure. The service provider shall make such notification (unless it cannot do so under the circumstances)—

(a) when it first records any confidential information concerning that patient;

(b) when it first provides services to a patient at least one year after it last provided services to that patient; and

(c) when it first provides services after the effective date of this Act.

AUTHORIZED DISCLOSURES

SEC. 205. (a) Consent may be given by a patient who is twelve years of age, or over, for the transmission or disclosure of confidential information. Such consent shall be: (1) in writing and signed by patient; (2) specific as to the nature and content of the information to be disclosed, who may disclose such information, and to whom such information may be transmitted or disclosed; (3) specific as to the use to which the transmitted or disclosed information may be put; and (4) specific as to the expiration date, which shall not exceed two years from the date the authorization was signed.

Such specifications shall constitute the limits of the authorization.

(b)(1) The patient may withdraw such consent at any time by written notice to the person authorized to receive such confidential information. (2) Upon receipt of such written notice, the person authorized to disclose shall promptly notify all persons in possession of said confidential information that consent to disclosure has been withdrawn.

(c) If the patient is under twelve (12) years of age or incompetent, consent may be given for the transmission or disclosure of confidential information by the patient's parents, guardian or legal representative.

(d) The service provider shall retain a copy of each consent form, and shall keep a permanent record of each disclosure made pursuant to such consent, including the nature of the data disclosed and to whom they were disclosed. The consent form and disclosure records shall be treated as part of the confidential record to which consent to disclosure applies.

DISCLOSURE WITHOUT AUTHORIZATION

SEC. 206. No disclosure or transmission of confidential information shall be made without consent, except in the following situations:

(a) to other individuals employed by or affiliated with the service provider, when and to the extent to which the performance of their duties requires that they have access to such information, provided that individuals receiving confidential information under this subsection shall not redisclose such information, except as authorized by this Act. For purposes of this subsection, (1) persons engaged in good faith in training programs with a service provider and their clinical supervisors shall be deemed to be employed by the service provider and may have access to such records and information to the extent reasonably required in their training and duties; however,

(2) individuals employed by the service provider who are involved in financial audit, preparation of bills or who are otherwise engaged in the collection of charges for services to a patient shall not, by virtue thereof alone, have access to confidential records and information, except with respect to names, addresses, and other information essential to the preparation and submission of bills and claims for payment of charges for services to a patient.

(b)(1) for purposes of audit and evaluation whether or not such audit or evaluation is required by statute, *Provided*, That the service provider notifies the individual who is the subject of the disclosed information that disclosure has been made, and to whom it has been made, *And provided further*, That the service provider retains a record of such disclosure.

(2) Any organization or agency designated under Federal law to perform such reviews or audits shall maintain the confidentiality of confidential information, shall not disclose such information except to the extent required by Federal law, and shall destroy the means by which patients can be identified in

such information, and records containing such information, at the earliest opportunity consistent with the requirements of Federal law.

(3) In the case of an audit or evaluation not specifically required by statute, the Secretary shall, by regulation, establish procedures to assure that adequate safeguards, including a program for removal or destruction of identifiers, are established by the user or recipient of confidential information to protect it from unauthorized disclosure.

(c) where a statute requires a service provider to report specific diagnoses to a Federal, State or local public health authority.

(d) where a statute requires a service provider to report specified items of information about an individual to Federal, State or local law enforcement officials.

(e) to the parent, guardian or legal custodian of a minor twelve (12) years of age or under, where the service provider determines that such disclosure is appropriate under the circumstances.

(f)(1) to medical or law enforcement personnel, when and to the extent necessary to meet a bona fide medical emergency, or

(2) if the patient is incapable of giving consent due to a bona fide medical emergency, to the immediate family or any other individual with whom the patient is known to have a responsible relationship, *Provided*, That the service provider notifies the individual who is the subject of the disclosed information that the disclosure has been made, and to whom it has been made, *And provided further*, That the service provider retains a record of such disclosures.

(3) For purposes of this section, "bona fide medical emergency" means any situation in which the health or safety of the patient or any other individual is in immediate danger.

(g)(1) to qualified personnel for use in a biomedical, epidemiologic, or health services research project, or a health statistics project, provided that the research plan shall first be submitted to, and approved by, an appropriate institutional review board, and by the director of the service provider or his designee. Qualified personnel granted access to confidential information may not identify, directly or indirectly, any individual patient in any report of such research project, or otherwise disclose patient identities in any manner, except to the extent authorized by subsection (f).

(2) For purposes of this subsection, the term "qualified personnel" means persons whose training and experience are appropriate to the nature and level of the work in which they are engaged and who, when working as part of an organization, are performing such work with adequate administrative safeguards against unauthorized disclosures.

(h) pursuant to an administrative or judicial summons or subpoena.

PRESCRIPTIONS

SEC. 207. Prescriptions for drugs shall be considered confidential information and subject to the provisions of this Act: *Provided, however*, That nothing in this Act shall be construed or limiting or interfering with State and Federal monitoring of the handling and dispensing of prescription drugs: *And provided further*, That the Secretary shall by regulation provide for access to prescriptions for purposes of research, under conditions that adequately safeguard from disclosure the identities of the patient and the service provider.

MANDATORY CAUTIONS

SEC. 208. (a) All non-oral disclosures of confidential information shall bear the following statement: "The protection of the confidentiality of information contained herein is required by Federal law, which provides for damages and penalties for violations. This material shall not be disclosed to anyone without consent or other authorization as provided for by law." A copy of the pertinent consent form specifying to whom and for what specific use such communication or record is disclosed or transmitted, or a statement setting forth any other statutory authorization for disclosure or transmittal and limitations imposed thereon, shall accompany all such non-oral disclosures. In cases of oral disclosure, the person disclosing confidential information shall inform the recipient that such information is confidential under Federal law.

(b) Service providers shall insure that all persons in their employ or under their supervision are aware of their responsibilities to maintain the confidentiality of information protected by this Act and of the existence of penalties and civil liabilities for violation of this Act.

CIVIL REMEDIES AND CRIMINAL PENALTIES

SEC. 209. (a) Any individual aggrieved by an actual or attempted violation of this Act may, without regard to the amount in controversy, bring a civil action in the district court for the district in which he or the alleged violator resides or in which such violation occurred, for appropriate relief, including temporary and permanent injunctions. Such aggrieved individual may also prove a cause of action for general or special damages, or both, reasonable attorney's fees, reimbursement for seasonable litigation costs and, in cases of willful or grossly negligent violations, punitive damages.

(b) Any person who (1) acting under false pretenses, knowingly and willfully requests or obtains confidential information concerning an individual from a service provider, or (2) knowingly and willfully violates any provision of this Act, shall be guilty of a misdemeanor, and upon conviction shall be fined not more than $10,000 or imprisoned for not more than one year or both.

(c) A service provider may not continue to receive federal funds, grants, loans or contracts in a program under title XVIII of XIX of the Social Security Act or Subchapter XI of the Public Health Service Act, unless such service provider provides adequate assurances and evidence, in such form as the Secretary may from time to time require, of its substantial compliance with this Act.

PATIENT ACCESS TO INFORMATION

SEC. 210. (a) Except as provided in subsection (c), upon request of a patient, a service provider shall, within thirty days following the request, allow the patient access to his full service record, for purposes of inspection and/or copying. The service provider may not impose a charge for permitting such an inspection, and may not impose more than a reasonable charge (in any event no greater than the charge imposed on third persons) for providing such a copy.

(b) The service provider shall in accordance with regulations promulgated by the Secretary, establish procedures which: (1) allow an individual to contest the accuracy, or completeness of confidential information pertaining to that individual; (2) allow confidential information to be corrected upon request of the individual when the service provider concurs in the proposed correction; (3) allow an individual who believes that the service provider maintains inaccurate or incomplete confidential information concerning him to add a statement to the record setting forth what he believes to be an accurate or complete version of that information. Such a statement shall become a permanent part of the service provider's medical record system, and shall be disclosed to any individual, agency or organization to which the disputed information has been or will be disclosed.

(c) If a service provider determines that disclosure to an individual of records pertaining to that individual's treatment or consultation for any medical condition would be detrimental to that individual, the service provider may refuse to disclose such information. Upon such refusal, the service provider shall advise the patient that the patient may appoint another individual of the patient's own choice as authorized representative to have access to the record. The service provider must provide the authorized representative access to the records, provided that the procedures specified in section 206 have been complied with.

(d) If the individual is under twelve (12) years of age, or as a consequence of physical or mental incapacity, shall have been placed under guardianship, his parent or duly appointed legal representative may exercise all the rights set forth in these subsections (a) through (c) on behalf of that individual.

PREEMPTION

SEC. 211. No state or political subdivision of a state may establish or continue in effect any law or regulation that is less stringent than the provisions of this Act.

EFFECTIVE DATE

SEC. 212. This Act shall take effect 180 days after enactment, and shall apply to all records maintained by service providers regardless of whether they were first maintained prior to the effective date of this Act.

SECTION-BY-SECTION ANALYSIS

Section 1 provides that the Act may be cited as the Privacy Act Amendments of 1978.

Section 2 adds a new Title II to the Privacy Act, entitled "Confidentiality of Medical Records."

Section 201 lists the Act's findings and purposes.

Section 202 provides that no person subject to the Act may release confidential information, as that term is defined in the Act, except as expressly authorized.

Section 203 contains the Act's definitions. Confidential information, which the Act is designed to protect, is defined as any medical information in individually identifiable form, that is transmitted to a service provider by a patient or the patient's family or that is placed in the patient's record by the service provider.

This section also contains the definition of "service provider," which establishes the medical entities to which the Act will apply. Included in this definition are non-federal hospitals, nursing homes or intermediate care facilities that receive medicare or medicaid funds. Further, to the extent the Secretary of Health, Education and Welfare determines the Act should be applicable to other non-federal entities receiving medicare or medicaid funds, such as clinical laboratories, to Health Maintenance Organizations receiving grants, loan guarantees or contracts under the Public Health Service Act, he may make it applicable by regulation.

Section 204 requires a service provider to notify each patient of the disclosures that section 206 of the bill authorizes a service provider to make without patient consent. This notification is to be provided, in such form as the Secretary may require, the first time it maintains information on a patient and on certain other specified occasions.

Section 205 provides the mechanism by which an individual over 12 years of age (or the parents or legal guardian of a minor under 12) may consent to the release of confidential information. Consent must be in writing and signed by the patient, specifically state the information that may be disclosed, and the identity of the individual(s) who may disclose it and to whom it may be disclosed. Consent may be withdrawn in writing at any time. Further, consent forms must be made part of the patient's permanent record.

Section 206 recognizes that there are

limited number of situations in which consent to disclosure cannot be obtained, or is impractical, but where disclosure is nonetheless essential. Pursuant to this section, disclosure without consent may be made in any of the following situations:

1. Where disclosure to an individual employed by or affiliated with the service provider is necessary to carry out the individual's duties or for billing purposes; redisclosure by the recipient would be prohibited.

2. For purposes of audit and evaluation of the service provider, under safeguards against redisclosure specified in the bill.

3. Where a statute requires a service provider to report specific items of information, such a diagnoses of communicable diseases, or instances of child abuse, to public health or law enforcement personnel.

4. To the parent or guardian of a minor under 12 years of age where the service provider believes such disclosure appropriate.

5. Where a medical emergency exists presenting an immediate danger to the health and safety of the patient or any other individual exists, disclosure without consent is permissible, provided subsequent notification is provided to the individual whose records are released.

6. To qualified personnel for use in biomedical, epidemiologic, or health services research or statistics projects, provided that the persons to whom such information is released not redisclose it.

7. Pursuant to an administrative or judicial summons or subpoena.

Section 207 provides that prescriptions for drugs shall be treated as confidential information. However, nothing in the bill is intended to interfere with federal or state monitoring of prescription drugs, or access to prescriptions without identifying data, pursuant to regulations issued by the Secretary.

Section 208 provides that all written disclosures of confidential information be accompanied by a statement setting forth the statutory authorization for disclosure, and warning that unauthorized disclosure is punishable by law.

Section 209 contains the civil remedies and criminal penalties for violation of the Act. Persons aggrieved by an actual or attempted violation of the Act may bring a civil action for injunctive relief, or for monetary damages, in federal courts without regard to the minimum damages usually required to bring an action in federal court. The bill also provides for criminal penalties of up to $10,000 fine or one year in prison or both for persons who obtain confidential information under false pretenses, or who knowingly or willfully violate any provision of this Act. Finally, this section makes compliance with the Act a precondition for further federal assistance under the medicare and medicaid programs, and the Public Health Service Act.

Section 210 governs patient access to his or her own records. The service provider must permit the patient access to his or her own records for purposes of inspection and/or copying within 30 days of a request. The bill directs the Secretary to establish procedures permitting an individual to contest the accuracy of, and correct his or her own records. Where the service provider determines that disclosue of particular records to the patient would be harmful, it may withhold such records. However, in such cases, the patient may appoint an authorized representative who must be given access by the service provider, provided that the patient has executed the appropriate consent form.

In the case of minors under 12 years of age, all rights set forth in this section may be exercised by the minor's parent, guardian or legal representative.

Section 211 preempts less stringent state and local regulations.

Section 212 provides that the Act shall take effect 180 days after enactment, and apply to all records held by the service provider, regardless of whether the records were first maintained prior to the time of enactment of the law.●

● Mr. RIBICOFF. Mr. President, I am pleased to join my colleague Senator JAVITS in this legislation. We in the Governmental Affairs Committee have heard a great deal of testimony about individual privacy and about the need for greater protection of the right to privacy. The question of how best to protect the confidentiality of medical records is a complex one. None of us wants his medical record open to the public. Each of us wants the right to some privacy regarding his health and discussions with his family physician. The doctor-patient relationship depends on confidentiality. At the same time, we must be careful that confidentiality requirements are not written in such a way as to deny other legitimate needs. The Center for Disease Control must have access to records in its work in tracking and controlling epidemics. The National Institutes of Health requires some access for research purposes. Access may be necessary to find and contact individuals who have received radiation treatments which have since been found to be unsafe. The Occupational Safety and Health Administration must have access to worker health records. In all of these examples there is a defined goal. In none of these is the individual's health record made public.

Any legislation dealing with access to and privacy of medical records must balance these needs. The legislation introduced today can serve as a vehicle for congressional consideration of this question. We welcome comments on the particular provisions of the bill. It may be that changes are needed to strike the proper balance. However, it is important that we in the Congress consider the issue.●

By Mr. BENTSEN:

S. 3452. A bill to designate the Federal Building located at 341 Pine Street, Abilene, Texas, the "Omar Burleson Federal Building"; to the Committee on Environment and Public Works.

OMAR BURLESON FEDERAL BUILDING

● Mr. BENTSEN. Mr. President, with the retirement of OMAR BURLESON, the U.S. Congress will lose one of its most distinguished and effective Members.

OMAR BURLESON has served Texas and the Nation with distinction for over three decades. Throughout the postwar period he has stood as a force of reason, moderation, and achievement in the House of Representatives. People with the talent, dedication, and integrity of OMAR BURLESON are perhaps our scarcest national resource; they are difficult or impossible to replace.

Clearly, Mr. President, the United States Congress and the Texas delegation will miss the presence of OMAR BURLESON.

I well remember when OMAR BURLESON, a Navy veteran, former county judge, and former FBI agent, was elected to the 80th Congress. Two years later I followed him to the House of Representatives. OMAR became my friend and mentor. He was quick to share his knowledge and experience with a junior colleague.

Throughout the years it has been my privilege to work with OMAR BURLESON; first as a fellow Congressman, then as a Texas businessman, and now as a Senator. I have seen firsthand his outstanding work on the Budget and the Ways and Means Committees. I have been able to appreciate the services Congressman BURLESON has rendered to the people of his district and his State.

For more than 30 years, Mr. President, OMAR BURLESON has been a champion of the American farmer in the halls of Congress. He has fought long and hard on their behalf; he took on the tough battles, the ones that had to be waged, and more often than not he was successful.

OMAR BURLESON's record of achievement, his integrity, and sense of service constitute an enduring monument to what is finest and most noble in our representative form of Government.

Mr. President, OMAR BURLESON will be retiring to Abilene, Tex., where he will live among the people he has represented so effectively for so long. I am introducing legislation today to rename the Abilene Federal Building in honor of Congressman BURLESON. I believe this would be a fitting and most appropriate tribute to a truly distinguished career in public service, and I am hopeful that the legislation will be promptly enacted by the Congress.●

By Mr. WALLOP (for himself, Mr. DOLE, Mr. PAUL G. HATFIELD, Mr. YOUNG, Mr. MELCHER, Mr. MCGOVERN, Mr. TOWER, Mr. LAXALT, Mr. BELLMON, Mr. HANSEN, and Mr. HART):

S. 3453. A bill to limit imports of feeder and slaughter cattle and to authorize a trade agreement for that purpose in lieu of statutory quotas; to the Committee on Finance.

LIVE CATTLE IMPORT BILL

● Mr. WALLOP. Mr. President, today I am introducing a bill to help develop a workable solution to the problems created by live feeder and slaughter cattle imports from Canada and Mexico. There is a need to bring cattlemen from Canada, Mexico, and the United States together to achieve an agreement on live cattle imports acceptable to cattlemen in each country, better coordination of cattle movements and cooperation between the cattle producers of North America can be achieved through negotiation. A negotiated agreement could help bring stability to the cattle industry for American cattlemen as well as the producers of Mexico and Canada.

It is clear that in the absence of an agreement, American cattlemen bear the brunt of market disruptions caused by erratic live cattle imports. The number of live cattle imported each year has grown steadily from 379,000 in 1975 to over 1.1 million in 1977. These imports have significant impact on the cattle industry, particularly for those

producers near the Canadian and Mexican border. Perhaps more destructive than the increase in live cattle imports are the wide variations in imports from month to month. I ask unanimous consent that this chart indicating live cattle imports from Mexico be printed in the RECORD.

These figures illustrate how cow-calf operators can find themselves whiplashed by excessive fluctuations in imports. In the first calendar year 1976, imports from Mexico were 96,868 head, and in the second quarter they rose to over 120,000 head. In the third quarter cattle imports fell to only 6,117 head and then jumped to 269,000 head in the last quarter. Similar erratic fluctations occurred in 1977.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Feeder cattle imports from Mexico

Month	1976	1977	1978
January	52,079	77,694	73,562
February	18,601	37,604	70,854
March	26,188	44,618	48,355
April	25,404	29,411	67,895
May	53,638	27,925	78,440
June	41,297	56,069	38,432
July	4,413	13,896	
August	818	4,531	
September	936	3,817	
October	—	12,607	
November	65,851	123,046	
December	203,266	162,772	
Total	492,491	593,990	

Mr. WALLOP. Mr. President, segments of the cattle industry are hurt by live cattle imports, and these numbers demonstrate an intolerable degree of chaos in the cattle trade. The unregulated flow of cattle allows Mexico and Canada to use the United States as a dumping ground for excess production. The consequences of such destabilizing flows can only be harmful and reduce our producers' ability to supply the consumer with adequate supplies of high quality beef.

By encouraging a steady flow of cattle throughout the year, rather than allowing seasonal fluctuations in imports, the consumer will benefit. The same amount of live cattle can be imported each year, but a commitment to spread cattle imports evenly through each season will prevent the market disruptions that take our domestic producers out of business. The American consumer can benefit from steady supplies from abroad and a strong industry at home.

Mr. President, talking with cattlemen across the country has convinced me that the solution to this trade problem rests in a negotiated agreement between North American cattlemen. Cattlemen and their governments should negotiate an agreement on live cattle imports that assures stability for all producers and consumers. A negotiated agreement would permit continued cattle imports, but reduce radical fluctuations.

This bill will help achieve that goal by authorizing the President to enter into trade agreements with Mexico and Canada on live cattle imports. In order to encourage the President to take swift action, the legislation gives the President 1 year to negotiate a trade agreement before import quotas would go into effect. In lieu of a negotiated agreement, the bill places limits on feeder cattle imports based on historical averages and regulates the number of cattle imported within each calendar year. The entry of feeder cattle in any 1 calendar year would not exceed 110 percent of a sliding 5-year average. The bill would also limit cattle imports within each quarter of the calendar year to 30 percent of the annual entitlement. These two provisions would permit growth in live cattle imports, yet prevent wide fluctuations from month to month or from year to year. This formula could well be used as a guideline in negotiating a trade agreement between the United States and its North American neighbors.

Mr. President, I emphasize that this legislation does not mandate quota restraint on cattle imports from Canada and Mexico. The intent of this bill is to negotiate a workable agreement on live cattle imports that does no harm to the cattle industry of the United States, Canada, or Mexico. A negotiated agreement on live cattle would eliminate a source of irritation between North American cattlemen and end a chaotic trade situation. I urge the Senate to act quickly to pass this legislation.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3453

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRADE AGREEMENT AUTHORITY.

(a) The President is authorized to enter into one or more trade agreements with those foreign countries which export feeder and slaughter cattle to the United States under which each such country agrees to limit the quantity of such cattle exported by it to the United States during each calendar year and during each calendar quarter of a calendar year, based upon a representative period or periods of exports of such cattle to the United States by each such country, so as to stabilize imports of such cattle into the United States during each calendar year and each quarter thereof.

(b) Section 2(a) shall not apply during the one-year period beginning on the day after the date of the enactment of this Act. If, at the end of such one-year period, one or more trade agreements have been entered into under subsection (a) with all foreign countries which export feeder and slaughter cattle to the United States, and such trade agreement or agreements are in effect, section 2(a) shall not apply during any period during which such trade agreement or all such trade agreements remain in effect.

SEC. 2. LIMITATION ON IMPORTS.

(a)(1) Except as provided in section 1(b), the aggregate quantity of feeder and slaughter cattle (expressed in pounds) which may be imported into the United States during each calendar year, beginning with the calendar year 1979, shall not exceed 110 percent of the average quantity of such cattle imported during each of the five preceding calendar years.

(2) The aggregate quantity of feeder and slaughter cattle which may be imported into the United States during each calendar quarter of a calendar year shall not exceed 30 percent of the aggregate quantity of such cattle which may be imported during such calendar year under paragraph (1).

(b) As soon as possible after the beginning of each calendar year, the Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall determine the aggregate quantity of feeder and slaughter cattle that may be imported into the United States during such calendar year and during each quarter of such calendar year under this section. The Secretary shall have the aggregate quantities determined by him under this subsection for each calendar year and quarter thereof published in the Federal Register as soon as possible after such determinations are made.

(c) The Secretary shall allocate the aggregate quantity of feeder and slaughter cattle that may be imported into the United States during a calendar year under this section (as determined under subsection (b)) among supplying countries on the basis of the shares such countries supplied to the United States market during a representative period, except that due account may be given to special factors which have affected or may affect the trade in such cattle. The Secretary shall have such allocations printed in the Federal Register.

(d) The Secretary shall establish a system to provide an equitable distribution among importers of feeder and slaughter cattle of the aggregate quantity of such cattle which may be imported into the United States during a calendar year under this section.

(e)(1) The Secretary is authorized to prescribe such regulations as may be necessary to carry out this section.

(2) In carrying out his duties under this section, the Secretary shall consult with the Secretary of Agriculture.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS

There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out this Act.

By Mr. MATSUNAGA (for himself, Mr. ANDERSON, Mr. BENTSEN, Mr. CRANSTON, Mr. HATCH, Mr. PAUL G. HATFIELD, Mr. HODGES, Mr. MCGOVERN, Mr. MELCHER, Mr. METZENBAUM, Mr. WILLIAMS, and Mr. ZORINSKY):

S. 3455. A bill to amend the Internal Revenue Code of 1954 to allow a credit for contributions to the U.S. Olympic Committee; to the Committee on Finance.

TAX CREDIT FOR CONTRIBUTIONS TO THE U.S. OLYMPIC COMMITTEE

● Mr. MATSUNAGA. Mr. President, I am today introducing a measure to provide a tax credit for contributions to the U.S. Olympic Committee. With the 1980 Olympic games rapidly approaching, there is considerable apprehension in this country over the adequate funding of our Nation's amateur sports program. The final report of the President's Commission on Olympic Sports, which was issued in January, 1977, stated in no uncertain terms that unless the United States adequately funded amateur sports, it will be unable to broaden its base of participation in international sports competition or continue to compete successfully in the Olympics.

In a larger sense, the President's Commission indicated that in order to strengthen and promote the entire amateur sports community in America, we must find ways to provide adequate and ongoing financial support. To achieve

these important goals, I am introducing with 12 cosponsors a measure which would encourage private contributions to the U.S. Olympic Committee.

Mr. President, one of the major findings of the President's Commission on Olympic Sports was that the U.S. amateur athletic community is fragmented, not bound by a common purpose or an effective coordinated system. According to the Commission's final report, no clear policy or direction in amateur sports, physical education, or physical fitness, has been maintained in this country. Moreover, the Commission emphasized that unless the amateur sports community becomes better organized, better coordinated, and better managed, there is little hope for additional financial support for amateur athletics, which is, of course, so very important if we are to reverse the trend of declining performances by U.S. amateur athletes.

In response to this stern warning, the Senate approved earlier this year what is without question the most important piece of sports legislation to come before the Congress in recent history—the Amateur Athletics Act of 1978. This legislation provides a structure for the amateur sports community to insure cooperation and interaction among sports organizations in order to increase amateur athletic opportunities for all Americans and maximize the performance of our athletes. Specifically, the bill restructures the U.S. Olympic Committee so that it can serve as the national coordinating body for the development of amateur athletics in this country and fulfill its responsibility for developing and selecting U.S. amateur representation in the Pan-American and Olympic games.

It must be emphasized, however, that the Senate-passed bill does not attempt to address the important question of long-term financing for the U.S. amateur sports community. As the President's Commission clearly stated, financing a coordinated amateur sports community is critical to the further development of amateur sports in this country, and, particularly, for our continued success in international sports competition.

According to the Commission, financial resources available at all levels of sports administration—local, State, regional, and national—are inadequate for the training and development of athletes, coaches, and officials; foster adequate competition; build and maintain facilities; and to insure professional administration and coordination of the amateur sports community. The Commission pointed to the fact that many colleges and high schools around the country are dropping particular sports or eliminating their entire sports programs as first steps in budget belt tightening, amateur athletes who participate in sports outside of the high school and college sports systems find it particularly difficult to find the financial assistance they need to train and compete.

Mr. President, the President's Commission recommended several ways to deal with the difficult problem of financing amateur athletics which are, in my judgment, consistent with our Nation's longstanding belief that the Federal Government should have only a limited role in funding amateur sports. One recommendation was the use of the Federal income tax form to provide an incentive for private individuals and institutions to contribute to amateur sports.

In response to that recommendation, I am introducing a bill which would provide U.S. taxpayers with a special incentive to contribute to amateur sports. My bill would establish a tax credit of 50 percent of the contributions made by taxpayers to the U.S. Olympic Committee. The maximum amount of a contribution to the Olympic Committee that would be eligible for the tax credit would be $50 for individual taxpayers and $100 in the case of a joint return.

In my judgment, a specific tax credit for Olympic contributions would be more visible to taxpayers than the present charitable deduction that can now be taken for contributions to the U.S. Olympic Committee and other amateur sports organizations. In addition, a tax credit would be more attractive to lower and middle income taxpayers, particularly for those who do not itemize, but rather take the standard deduction on their income tax returns.

I agree fully, Mr. President, with the report of the President's Commission on Olympic Sports which indicated that there is a well-spring of public support for our Olympic athletes and Olympic teams. Given the opportunity and the incentive, I am convinced that the American people would respond financially in order to broaden the opportunities of all Americans to participate in sports and to insure the continued excellence of U.S. athletes in world competition.

Mr. President, I am sure that my colleagues will agree that athletics have become an integral and vital factor in the social, physical, and moral fabric of American society. For many millions of Americans of all ages and backgrounds, participation in sports provides an inspirational stimulus that can have a positive impact on their everyday lives.

In a larger sense, sports can be considered a unifying force among peoples around the world. Indeed, athletic competition crosses language, political, and cultural barriers in a way very few other human endeavors can. Spectators, too, in every corner of the world find inspiration and enjoyment in sports. It is my hope that the continued advancement and growth of amateur sports everywhere will contribute significantly to peace and understanding among all peoples.

Mr. President, I urge my colleagues to give thoughtful consideration to my tax credit proposal for contributions to the U.S. Olympic Committee, which would not only support our U.S. Olympic program, but also insure the continued growth and development of all amateur sports in America.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3455

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable against tax) is amended by inserting after section 44B the following new section:

"SEC. 44C. CONTRIBUTIONS TO THE UNITED STATES OLYMPIC COMMITTEE.

"(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to one-half of the total amount of contributions to the United States Olympic Committee payment of which is made by the taxpayer within the taxable year.

"(b) LIMITATIONS.—

"(1) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the amount of tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under a section of this part having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43.

"(2) VERIFICATION.—The credit allowed by subsection (a) shall be allowed, with respect to any contribution to the United States Olympic Committee, only if such contribuion is verified in such manner as the Secretary shall prescribe by regulations.

"(c) DEFINITIONS.—

"(1) United States Olympic Committee.—For purposes of this section, the term 'United States Olympic Committee' means the corporation incorporated by the Act entitled 'An Act to incorporate the United States Olympic Association', approved September 21, 1950 (36 U.S.C. 371 et seq.).

"(2) CONTRIBUTION.—For purposes of this section, the term 'contribution' means a contribution or gift of money.".

(b) Section 170(f) of such Code (relating to disallowance of deductions for charitable, etc., contributions and gifts in certain cases and special rules) is amended by inserting after paragraph (6) the following new paragraph:

"(7) CONTRIBUTIONS TO THE UNITED STATES OLYMPIC COMMITTEE.—For purposes of subsection (a), any contribution (as defined in section 44C(c)(2)) to the United States Olympic Committee (as defined in section 44C(c)(1)) shall not be considered a charitable contribution to the extent that such contribution has been taken into account in computing the credit allowed by section 44C (relating to credit for contributions to the United States Olympic Committee.".

(c) Section 6096(b) of such code (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44B" and inserting in lieu thereof "44B, and 44C".

(d)(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 is amended by inserting after the item relating to section 44B the following new item:

"Sec. 44C. Contributions to the United States Olympic Committee.".

(2) The table of sections for part VI of subchapter B of chapter 1 of such Code is amended by inserting after the item relating to section 191 the following new item:

"Sec. 192. Contributions to the United States Olympic Committee.".

Sec. 2. The amendments made by this Act shall apply with respect to contributions the payment of which is made after December 31, 1978, in taxable years beginning after such date.

ADDITIONAL COSPONSORS

S. 3330

At the request of Mr. CULVER, the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 3330, a bill to require regulatory agencies to consider alternative regulatory proposals in the promulgation of agency rules, regulations, and reporting requirements.

S. 3373

At the request of Mr. MCINTYRE, the Senator from Illinois (Mr. PERCY) and the Senator from Massachusetts (Mr. BROOKE) were added as cosponsors of S. 3373, a bill to authorize the Secretary of Defense to provide transportation to the Girl Scouts of the United States of America in connection with international world friendship events or troops on foreign soil meetings, and for other purposes.

S. 3408

At the request of Mr. INOUYE, the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of S. 3408, a bill to provide for the development of aquaculture in the United States, and for other purposes.

S. 3419

At the request of Mr. CULVER, the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 3419, a bill to amend the Internal Revenue Code of 1954 to exclude from gross income a portion of payments made under certain Federal and State cost-sharing programs the primary purpose of which is conservation of soil and water resources, environmental protection or restoration, forest enhancement or the provision of wildlife habitat.

AMENDMENT NO. 1667

At the request of Mr. CULVER, the Senator from Iowa (Mr. CLARK), the Senator from Missouri (Mr. EAGLETON), and the Senator from Indiana (Mr. BAYH) were added as cosponsors of Amendment No. 1667 proposed to S. 3073, the Federal-Aid Highway Act of 1978, which increased the authorization for the special bridge replacement program to $525 million annually.

SENATE RESOLUTION 545—SUBMISSION OF A RESOLUTION TO REFER S. 3451 TO THE COMMISSIONER OF THE COURT OF CLAIMS

Mr. BAKER (for himself and Mr. SASSER) submitted the following resolution, which was referred to the Committee on the Judiciary:

S. RES. 545

Resolved, That S. 3451 entitled "A bill for the relief of Lance Industries, Incorporated", together with all accompanying papers, is hereby referred to the Chief Commissioner of the Court of Claims pursuant to sections 1492 and 2509 of title 28, United States Code, for further proceedings in accordance with applicable law.

AMENDMENTS SUBMITTED FOR PRINTING

CIVIL SERVICE REFORM ACT—S. 2640

AMENDMENT NO. 3533

(Ordered to be printed and to lie on the table.)

Mr. MATHIAS (for himself, Mr. STEVENS, Mr. RIBICOFF, and Mr. PERCY) submitted an amendment intended to be proposed by them, jointly, to S. 2640, a bill to reform the civil service laws.

EXCISE TAX ON CERTAIN TRUCKS, BUSES, TRACTORS, ETC.—H.R. 1337

AMENDMENT NO. 3534

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON (for himself, Mr. SCHMITT, Mr. BUMPERS, and Mr. GRAVEL) submitted an amendment intended to be proposed by them, jointly, to H.R. 1337, an act to amend the Internal Revenue Code of 1954 with respect to excise tax on certain trucks, buses, tractors, and so forth.

● Mr. CRANSTON. Mr. President, I am submitting today an amendment to H.R. 1337, the truck excise tax bill, to provide equality for home brew beer with homemade wine in the eyes of the regulators at the Bureau of Alcohol, Tobacco, and Firearms.

I am pleased to have joining me as cosponsors the Senator from New Mexico (Mr. SCHMITT), the Senator from Arkansas (Mr. BUMPERS), and the Senator from Alaska (Mr. GRAVEL).

Under current law, only heads of households, after registering with Treasury, can produce up to 200 gallons of wine per year for family use without payment of tax. This means that a single individual who is not the head of a family cannot produce wine without being subject to tax and penalties.

Section 2 of H.R. 1337 eliminates this absurdity and allows any individual of legal age to buy alcoholic beverages to produce up to 100 gallons of wine or beer for personal and family use. The maximum amount is 200 gallons per year in a household.

The House bill also eliminates the registration requirement for home winemakers who produce less than the maximum amount. But it imposes a registration requirement for homebrewers. In other words, under the House bill, home winemakers need not register but homebrewers must register with the Bureau of Alcohol, Tobacco and Firearms or be subject to a $1,000 fine and 1 year in jail.

The House bill also limits the amount of beer a household may have on hand at any one time to 30 gallons.

My amendment would eliminate these discrepancies and provide equal treatment for homebrewers.

The amendment, like H.R. 2028, will permit the production of up to 200 gallons of homebrew beer annually, but it will also drop the registration requirement for homebrewers and lift the 30-gallon restriction on beer permitted to be on hand at any one time.

Treasury has indicated that the registration requirement for winemakers has been of little use to the Federal Government, and indeed, has proven burdensome to the public.

But Treasury expresses concern that removing the registration requirement for homebrewers might afford camouflage to illegal moonshine distilling operations.

According to BATF, this is the problem: after the homebrewer finishes brewing his homebrew beer there is a residue called mash left over. Furthermore, the mash is technically a "mash fit for distillation" and it is illegal to have it. But prosecutions for such an offense are quite rare and virtually impossible to sustain without strong corroborating evidence of a distilling capability on the part of the possessor and some showing of an intent to do so.

BATF does not arrest citizens merely for having a mash fit for distillation on the premises without any other evidence of illegal whiskeymaking. Prof. M. J. Lewis of the University of California at Davis, whose expertise is in malting and brewing science and who operates a pilot brewery and mash on the campus explained very clearly to me in a letter why this is so. I ask unanimous consent that his letter be printed at the end of my remarks.

According to Professor Lewis, virtually any combination of yeast and a sugary material is a mash fit for distillation. Baker's dough qualifies. Mixing of sugar and yeast is not evidence of an intent to distill. Obviously, BATF agents are not barging into bakeries and kitchens arresting persons as potential illegal distillers. BATF has not even arrested any of the thousands of technically illegal homebrewers because they know that neither the arrest nor the prosecution would be sustainable in any court.

As far as I have been able to learn, the present widespread practice of making beer at home has not led to increased illegal moonshine distilling operations.

I do not think BATF can make the case that removing a registration requirement for homebrewers of beer—a requirement which has never existed until proposed in H.R. 1337—will afford a safe haven for illegal whisky distillers.

I have examined elsewhere for the benefit of my colleagues the administrative make-work involved in BATF's current winemakers' registration program which the agency now proposes to shift over to homebrewers of beer.

I repeat again, with respect to legitimate law enforcement concerns, BATF has stated that the Agency has not the slightest interest in small-scale homebrewers and has not made any arrests of small-scale homebrewers since prohibition was repealed 44 years ago.

To go ahead with legislation requiring homebrewers to register is a foolish waste of everybody's time, energy, and money. BATF took a commonsense position with respect to home winemakers. The Bureau ought to accord equal treatment to homebrewers. My amendment assures that the Bureau will.

The amendment also eliminates the 30-gallon restriction. Beer must be aged to acquire an acceptable taste. Homebrew should be aged at least 2 months—meaning it should not even be tasted until 2 months from the day the yeast was pitched. And 3 months is better. Many homebrewers have multiple batches going and with the standard 3-month aging period, the 30-gallon limit would penalize them by reducing the amount of beer they would be allowed to make in a calendar year. The effect of such a limit would be to discourage

homebrewing and encourage the purchase of store beer.

Homebrewers brew home beer because domestic beer lacks the rich, malty taste they like. Homebrewers share a creative desire to concoct beer to their own personal taste. They also share a consumer's need to cook a tasty brew for the equivalent of 15 to 25 cents a quart.

My bill would permit them to enjoy these privileges, just as home winemakers do.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DAVIS, CALIF.,
August 9, 1978.

Re bills S. 3191 and S. 2028; to authorize the home production of beer and wine.

Senator ALAN CRANSTON,
Senate Office Building,
Washington, D.C.

DEAR SENATOR CRANSTON: I am a Professor of Food Science at the University of California at Davis. My special expertise is in malting and brewing science, and for my research and teaching in this field I operate the only pilot brewery and malt house on a University Campus in the Western Hemisphere. As a private citizen, with this expertise, I wish to endorse your bill S. 3191 and/or your efforts to amend Senator Conable's bill S. 2028. Your approach is simple and fair and takes a little government out of peoples' lives.

A primary issue, raised by the ATF, is that a home brewer's mash could be used to produce moonshine whiskey and I shall address that issue only. I would be happy to discuss this matter in more detail and other issues with your staff if necessary.

(1) In my position I have met many hundreds of home brewers. Never has a home brewer enquired about distilling. The intent is not there.

(2) There is no evidence to support the theory that home brewers intend to engage in distilling.

(3) Though a brewer's mash is usually identifiably different in composition from a distiller's mash, it could be adapted to distilling. But also, a baker's dough could be adapted to distilling (by adding more water). The principle is the same in each case and the ingredients are similar. The intent is different.

(4) Potable distilled beverages can be produced from any sugar or starch-containing material such as grapes (brandy), sugar or molasses (rum) and potatoes (vodka). Possession of suitable raw materials for distilling is no evidence of intent to distill.

(5) The mixing of yeast and a sugary solution is not evidence of intent to distill. Home winemakers and home bakers mix yeast and sugar as do home brewers, yet only the intent of brewers is suspected by ATF.

(6) The intent to distill is clearly demonstrated only in possession of distilling equipment; the confrontation of such equipment is unmistakable and its intent unequivocal.

(7) The presence of hops in homebrewed beer could make a distilled produce unpalatable because certain aromatic hops constituents would concentrate detrimentally in the distilled alcohol.

SUMMARY

Because there are many sugary raw materials from which distillable material could be produced by fermentation, it is unfair and foolish to attempt to regulate one such raw material, the home brewer's mash. Such action is only logical if there is substantial evidence that homebrewers as a group do engage (not merely may engage) in illegal distilling.

Sincerely,

M. J. LEWIS,
Professor.●

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS—S. 1753

AMENDMENT NO. 3535

(Ordered to be printed and to lie on the table.)

Mr. TOWER submitted an amendment intended to be proposed by him to S. 1753, a bill to extend the Elementary and Secondary Education Act of 1965, and for other purposes.

AMENDMENT NO. 3536

Ordered to be printed and to lie on the table.)

Mr. McINTYRE (for himself and Mr. DURKIN) submitted an amendment intended to be proposed by them, jointly, to S. 1753, supra.

AMENDMENT NO. 3537

(Ordered to be printed and to lie on the table.)

Mr. MORGAN submitted an amendment intended to be proposed by him to S. 1753, supra.

AMENDMENT NO. 3538

(Ordered to be printed.)

Mr. HELMS proposed an amendment to S. 1753, supra.

COMPREHENSIVE EMPLOYMENT AND TRAINING ACT—S. 2570

AMENDMENT NO. 3539

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to S. 2570, a bill to amend the Comprehensive Employment and Training Act of 1973 to provide improved employment and training services, to extend the authorization, and for other purposes.

NOTICE OF HEARINGS

SUBCOMMITTEE ON AGRICULTURAL PRODUCTION, MARKETING, AND STABILIZATION OF PRICES

● Mr. STONE. Mr. President, I wish to announce that the chairman of the Agriculture Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices, Senator HUDDLESTON, at my request, has scheduled 1 day of hearings in the State of Florida on pending legislation to amend the Federal Crop Insurance Act.

The hearings will be held on August 30, 1978. The morning hearing will be held in Gainesville, Fla., beginning at 9 a.m., at the Gainesville City Hall, in the Clarence O'Neal Auditorium, which is on the fourth floor. The address of the City Hall is 200 East University Avenue, Gainesville, Fla.

The afternoon session will be held in Lakeland, Fla., at 3 p.m., in the Florida Citrus Mutual Auditorium. The Citrus Mutual Building is located on the corner of Massachusetts and Orange Streets, Lakeland, Fla.

Testimony will be given by bankers, insurance representatives, and local farmers. Mr. Otto Johnson, Deputy Manager of the Federal Crop Insurance Corporation will explain the administration's proposal at each hearing.

Anyone who would like to testify should contact Mrs. Denise Alexander, at the Senate Agriculture, Nutrition, and Forestry Committee, at (202) 224-2035, or 322 Russell Senate Office Building, Washington, D.C. 20510.●

SUBCOMMITTEE ON PARKS AND RECREATION

● Mr. JACKSON. Mr. President, I wish to announce for the information of the Senate and the public, the scheduling of a public field hearing before the Parks and Recreation Subcommittee of the Energy and Natural Resources Committee.

The hearing is scheduled for Monday, August 28, 1978, beginning at 10 a.m. at the Court House in Wallace, Idaho. Testimony is invited on S. 3052, a bill to amend the Wild and Scenic Rivers Act by designating the St. Joe River in Idaho as a component of the National Wild and Scenic Rivers System.

For further information regarding the hearing, you may wish to contact Ms. Laura Beaty at 224-7144.

Those wishing to testify or who wish to submit a written statement for the record should write to the Subcommittee on Parks and Recreation, room 3106, Dirksen Senate Office Building, Washington, D.C. 20510.●

SUBCOMMITTEE ON INTERNATIONAL FINANCE

● Mr. STEVENSON. Mr. President, the Subcommittee on International Finance of the Committee on Banking, Housing, and Urban Affairs will hold hearings on Thursday, September 21 and Friday, September 22 on the use of export controls and export credits for foreign policy purposes. The hearings will begin at 10 a.m. each day in room 5302 of the Dirksen Senate Office Building. A description of the hearings was printed in the CONGRESSIONAL RECORD on August 17 at pages S13690-S13691. Persons interested in testifying or desiring additional information concerning the hearings should contact Robert W. Russell, counsel to the Subcommittee on International Finance, at (202) 224-0819.●

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURES

Mr. ROBERT C. BYRD. Mr. President, this has been cleared with the minority. I ask unanimous consent that the Subcommittee on Criminal Laws and Procedures of the Committee on the Judiciary be authorized to meet during the session of the Senate today to conduct a hearing on LEAA—not spelled like the sister of Rachel.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. PELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the sessions of the Senate on Thursday, August 24, and Friday, August 25, to conduct hearings on Navy shipbuilding claims.

The PRESIDING OFFICER. Without objections, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. PELL. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate today to hold a markup session on the following legislation: H.R. 2329, Omnibus Fish and Wildlife Act; H.R. 8394, Refuge Revenue Sharing Act; S. 691, Central Valley Wildlife Habitat Act; S. 3337, deauthorization of the Cross-Florida Barge Canal; and Senate Joint Resolution 131 and H.R. 12112, name changes on lakes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. PELL. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet during the session of the Senate today to mark up H.R. 10581, relating to moneys awarded to the Yakima Indians; S. 2587, relating to moneys awarded to the Mescalero Apaches; and bills S. 1081 through S. 1089, amending laws relating to the Osage Tribe in Oklahoma.

The PRESIDING OFFICER. Without objection, it is so ordered.

AVIATION SUBCOMMITTEE

Mr. PELL. Mr. President, I ask unanimous consent that the Aviation Subcommittee of the Committee on Commerce, Science and Transportation be authorized to meet during the session of the Senate today and Thursday, August 24, 1978, to hold a hearing on the International Air Transportation Competition Act of 1978.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

ERA

● Mr. GARN. Mr. President, questions have been raised about my efforts to filibuster House Joint Resolution 638, the joint resolution recently passed by the House of Representatives which purports to extend the time for ratification of the equal rights amendment.

I will filibuster House Joint Resolution 638 until, and only until, two amendments are adopted. I have no desire to prevent the Senate from voting on the resolution itself. My only interests are in maintaining both the substance and the appearance of constitutional integrity and fair play.

The two amendments I am interested in would:

First. Allow States to rescind a prior ratification. Of course, no rescission would be effective after three-fourths of the States had ratified. But until that time, this amendment would allow the debate to continue fully and fairly in all States. Without this amendment, legislative debate during any extension period would be limited to those States that have not yet ratified. Therefore, a vote for rescission is a vote for fairness, full debate, and the independence of the people and their State legislatures.

Second. Require a two-thirds vote of the Senate to extend the ratification deadline. The equal rights amendment was proposed in 1972 by a two-thirds vote, yet in 1978 some think that it can be reproposed by a simple majority. That position has serious constitutional and procedural problems. For example, a resolution passed by a simple majority would not meet either the requirements for a constitutional amendment (which must be proposed by two-thirds of each House) nor a public law (which must be presented to the President). What would such a simple majority resolution be and what would be its effect? No one knows.

The filibuster on House Joint Resolution 638 has only one purpose: to guarantee constitutional integrity and fair play.

I expect to receive the support of Senators who favor the equal rights amendment and of those who oppose it. My efforts are not concerned with the merits of the proposed amendment—but with maintaining the stability and integrity of the amending process.

I also expect to receive the support of Senators favoring and opposing extension itself. In short, Senators with widely varying views will be supporting the amendments for rescission and a two-thirds vote because they recognize that the underlying issues are constitutional integrity and fair play.

The filibuster is designed to guarantee the success of the two amendments. After we have protected the integrity of the process and guaranteed fair play for both sides, I will be glad to see the Senate vote on extension. ●

ORGANIZATIONAL PROBLEMS OF FEDERAL RADIATION HEALTH AND SAFETY PROGRAMS

● Mr. RIBICOFF. Mr. President, the effectiveness of Federal programs to protect the public from radiation hazards is clearly a matter of widespread concern. At present, radiation health and safety is a particularly complex and varied field, involving a large number of Federal departments, commissions and agencies. The public rightfully expects an orchestrated Federal approach to these hazards.

I share that concern. Due to the many complexities that mark this field, our approach to these problems has been especially deliberate. Last December, pursuant to Senate Resolution 71, the committee published volume V of our Study on Federal Regulations, which discussed the need for more effective coordination of radiation programs.

As a principal finding, the study concluded that Federal radiation activities are at present scattered, sometimes inadequate, and certainly uncoordinated:

> Responsibility is scattered and uneven, resulting in jurisdictional disputes and regulatory confusion. Too many agencies are charged with administering too many laws. And nobody has the clear ability to overview the total situation, or the power to guide and coordinate that dispersed authority. As a result coordination is not always systematic, the extent of the risk is not fully understood, and some potentially significant hazards are not subject to any Federal controls at all. The field of radiation safety shows many of the deficiencies which typically mark a piecemeal approach to Federal regulation.

Our study recommended that legislative action was required to establish a central focus in the Federal Government to insure that radiation hazards were subject to coordinated controls at the national level. The study proposed the Environmental Protection Agency as the Federal agency for radiation safety.

Thereafter, we decided to solicit reac tions on the study's findings and recom mendations from informed and knowl edgeable persons in the private secto In a letter dated April 19, 1978, the view of a number of groups and individual were solicited. The respondents repre sented wide and divergent interests an included professional associations, indus try groups, labor unions, academician research institutes, public interest group and State regulators.

The letter requested comments an suggestions on the extent to which orga nizational problems exist in these regula tory activities, and possible remedies t assure more effective regulatory actio Although respondents were encourage to present any ideas they might have, th letter mentioned two specific, possibl reforms: establishment of a "lea agency" approach, and reactivation o the former Federal Radiation Council.

In all, we received 44 comments i response to our letter.

Mr. President, I believe the comment do make a significant contribution to better understanding of what might b done to insure more effective coordina tion of Federal radiation health an safety programs. They provide a usef focus of the various organizational prob lems as well as the range of potenti remedies, which will, I think, prove help ful to the development of legislatio Separately Senator GLENN, Senato PERCY, and myself are transmitting t you the full findings of the report, whic is now available for public distributio

At this point, I think it will be usef to just briefly summarize the major com ments and ideas presented by respond ents.

GENERAL AGREEMENT ON THE EXISTENCE O SERIOUS ORGANIZATIONAL PROBLEMS

Respondents generally agreed tha present Federal radiation safety pro grams are scattered, fragmented, an uncoordinated. Nearly all respondent indicated that there was a need for bet ter coordination of those activities.

The responses are summarized in de tail in our full report. Thus, only se eral examples need be cited here. F instance, on three occasions in the pa 5 years, the Conference of Radiatio Control Program Directors—the primar association of State regulators in th field—adopted resolutions calling for r form of the "significantly fragmente Federal radiation programs, which r sult in "duplication inefficiency, contr dictions, and complexities in commun cation. . . ." In its letter, the confe ence indicated that it "fully concur that there "definitely is a lack of centr focus" and "thoroughly agrees that the is a lack of coordination" in Federal rad ation protection programs. That "la of focus and coordination," according the conference, is "seriously affectin the performance of State programs radiation. Many of the responses r flected those same concerns.

On the other hand, a few responden stated that the organizational problem were not serious. For example, the Ame ican Medical Association evinced son caution in that regard:

> We believe that the mere fact that heal and safety programs regarding radiation a

contained in various agencies does not signify that such dispersion of authority is inappropriate. . . . We believe that the interplay between various agencies concerned with the different aspects of radiation regulation can have a synergistic effect upon the overall performance of the Federal radiation safety efforts.

However, apparently AMA is not altogether satisfied with the present situation. As its response continued:

The American public is not well served . . . when federal agencies and departments engage in long-standing disputes over jurisdiction and authority. . . . We agree . . . that Congress should address areas of radiation safety involving inadequate coverage and duplication and improper overlap of authority. Duplication and overlap should be eliminated. We also believe that a mechanism should be established to work out a unified program. . . .

Respondents who commented on the serious nature of Federal organizational problems in this field included the following: American Academy of Dermatology; American Association of Physicists in Medicine; American Board of Health Physics; American College of Radiology; American Dental Association; American Industrial Hygiene Association; American Nuclear Society; American Osteopathic College of Radiology; American Public Health Association; American Radium Society; Battelle Pacific Northwest Laboratories; Melvin W. Carter, Director, Environmental Resources Center, Georgia Institute of Technology; John W. Gofman of the Committee for Nuclear Responsibility; Conference of Radiation Control Program Directors; Edison Electric Institute; Environmental Policy Center; Health Physics Society, State and Federal Legislation Committee; Health Physics Society; Irwin D. J. Bross of Roswell Park Memorial Institute; Karl Z. Morgan of Georgia Institute of Technology; National Council of Radiation Protection and Measurements; James V. Neal of the University of Michigan Medical School; Natural Resources Defense Council; The Radiological Society; Arch W. Templeton of the University of Kansas Medical Center; and the United Steelworkers of America.

SUPPORT FOR REACTIVATION OF A FEDERAL RADIATION COUNCIL

Twenty-six individuals and organizations endorsed the idea of a reactivated Federal radiation council as a coordinating body for radiation protection activities at the national level. Although several respondents provided the committee with detailed proposals in that regard, most of the comments were general in nature. Many of those commenting did suggest that the new council need not be a duplicate of its predecessor.

The comments provided by the Radiological Society, which is composed of some 10,000 scientists in the radiation field, are fairly representative of the statements made by council advocates. The Society viewed the new council as a body of coequals, who would thus be able to:

Address the problems . . . in a cooperative atmosphere with the public welfare, rather than internecine considerations, being of utmost importance. Deliberations would entail consideration of whether a hazard exists, which agency or agencies have jurisdiction in the field, what regulatory proposals would best answer the problem, uniformity of standards in all regulation, methods of enforcement, and the monitoring of enforcement performance.

For some respondents, the creation of a radiation council was suggested by the achievement and prestige of its predecessor. For example, the American Dental Association thought a council modeled after the FRC "could command the necessary respect and cooperation of the scientific community." In the same vein, the American Board of Health Physics stated:

The impeccable record of this council through the history of the nuclear industry has earned the respect and acceptance of the majority of the public and certainly knowledgeable members of the nuclear community.

But other respondents took sharp exception to that claim. Professor Morgan at Georgia Institute of Technology characterized the former FRC as "a very weak organization that was unable to take a stand." Still others, such as Prof. Thomas F. Mancuso of the University of Pittsburgh, opposed the FRC approach altogether:

I am strongly opposed to the creation of the equivalent of a Federal Radiation Council. I believe it is an illusion that either the problems will be resolved, or that there will be greater efficiency by creating a super agency.

And, Dr. Irwin D. J. Bross of the Roswell Park Memorial Institute opposed creation of something similar to the FRC and offered this advice:

What your committee must understand if it is to write worthwhile legislation is this "fact-of-life": What is called the "radiation protection community" has been the moving force in the twenty year cover-up of low-level radiation hazards and in blocking effective measures to protect the public health and safety. The only thing that the "radiation protection community" has protected is radiation technology—not human beings.

Respondents who favored reactivation of some form of Federal radiation council included the following: Alliance of America Insurers; American Academy of Dermatology; American Association of Physicists in Medicine; American Board of Health Physics; American College of Radiology; American Dental Association; American Industrial Hygiene Association; American Insurance Association; American Medical Association; American Nuclear Society; American Public Health Association; American Radium Society; Atomic Industrial Forum; Battelle Pacific Northwest Laboratories; Melvin W. Carter, Director, Environmental Resources Center, Georgia Institute of Technology; College of American Pathologists; Conference of Radiation Control Program Directors; Edison Electric Institute; Health Physics Society, State and Federal Legislation Committee; Health Physics Society; National Council on Radiation Protection and Measurements; National Electric Manufacturers Association; Radiation Research Society; the Radiological Society; Eugene L. Saenger of the University of Cincinnati; Society for Nuclear Medicine; and Lauriston S. Taylor.

OPPOSITION TO A SINGLE LEAD AGENCY APPROACH

The notion of a single lead agency in the field of radiation protection was not supported by respondents. Most of those who favored a council-approach also indicated opposition to designating any single agency as overall coordinator for radiation safety. In particular many respondents commented that the Environmental Protection Agency, which the study had proposed as the lead agency in this field, was not suitable for such added responsibility.

Only about six respondents favored strengthened powers for EPA over Federal radiation health and safety activities.

Reduced to essentials, respondents argued that the Federal programs in radiation health and safety were too broad and varied to be mastered effectively by any single existing agency. As the National Council on Radiation Protection and Measurements argued:

The NCRP is of the view that no single agency of the federal government can be reasonably expected to accept responsibility for all aspects of radiation safety legislation. The uses and associated problems are too diverse and the expertise needed to deal with them too varied . . . there are at least the EPA, DoE, NRC, HEW (NCI, BRH, and NIOSH), DoT, and OSHA, involved in some aspect of radiation legislation and use, usually in some unique way, each distinct from the function of the others . . . it is not inherently apparent to us that a lead agency concept could be expected to work given the complexity of most radiation problems.

It is also clear that some respondents' quite unfavorable viewpoint of the Environmental Protection Agency was part of their judgment on this approach. For example, a vice president of the American Insurance Association stated that his opinion in that regard was "based primarily on the lack of competence in this field displayed by EPA, as of this date"; and the American Dental Association put it this way—

There is no question that since 1970 the EPA has failed to effectively coordinate federal standards and regulatory efforts. . . . In addition, the EPA has been unable to attract and retain individuals with adequate expertise in the radiation measurement and protection area.

Arthur Tamplin of the Natural Resources Defense Council (who generally favored lead agency powers for EPA) was not impressed with the agency's achievements:

The present radiation protection program at EPA is submerged at a low administrative level. This, in addition to preventing it from having sufficient "clout", has caused it to be understaffed . . . (and) ineffectual.

Tamplin suggests that the status of radiation programs needs to be raised within EPA by creating a separate entity under its own assistant administrator.

However, there was some support for designation of the Environmental Protection Agency as the single lead authority. While noting that EPA's program had "narrowed and diminished significantly" over the past 6 years, the

Environmental Policy Center made that recommendation, on the condition that the Agency's programs be strengthened. Prof. Karl Z. Morgan at Georgia Institute of Technology agreed on this role for EPA, provided that steps be taken to "strengthen and enlarge its scientific stature in the field of ionizing radiation so that it is capable of doing the job properly." Prof. E. B. Lewis of the California Institute of Technology, in support of the lead agency authority, cited EPA's recently successful effort on guidelines in the field of medical and dental X-ray exposures of government personnel as demonstration of the agency's "competence" and "expertise."

OTHER SUGGESTED APPROACHES

In addition to a single lead agency approach and the notion of establishing a Federal radiation council, other proposals were made by respondents. Most of those suggestions involved variations of the previously named approaches, and included: designation of multiple lead agencies for certain major sectors of radiation on safety; and lead agency authority as part of the mandate of a new Federal radiation council. In addition, some respondents urged clarification of existing agency authority, and better use of interagency panels and agreements.

The drawbacks of selecting a single agency for all radiation coordination might be avoided, and the essential advantages of a "lead agency" approach realized, if several agencies were designated lead authorities for certain purposes. For example, some respondents argued that, in the field of medical uses of radiation, FDA's Bureau of Radiological Health was the most suitable candidate for lead agency status. So too, the United Steelworkers of America argued that for all workplace hazards, including those involving radiation exposure, the Occupational Safety and Health Administration should be the lead agency. Arthur Tamplin of the Natural Resources Defense Council in effect argued for a multiple lead agency approach. He divided radiation hazards into six categories—occupational, environmental, exposure from manufactured products, problems of radioactive waste, and transportation—and suggested "lead agencies" for each of those areas.

A second major variation was the notion of combining a council approach with lead agency powers. At least two variants of that hybrid approach are possible: a reactivated council could itself be designated the lead agency in this field; or alternately, the council could be granted the power to designate lead agencies in specific situations or for particular types of hazard. Thus—in the event of serious duplication, overlap, inconsistency or some other conflict—some respondents indicated that the council might have overview authority to either prompt action by the most appropriate agency, or to act as arbiter in determining which agency among several is best equipped to proceed. The American Public Health Association, American Association of Physicists in Medicine, and the American Radium Society each provided comments which generally appeared to favor this combined approach.

Finally, some respondents argued that existing problems would be remedied if Congress clarified existing agency jurisdictions, and there was more effective use of interagency panels and agreements. Those alternatives were mentioned by respondents, often in connection with endorsement of either the "lead agency" or "council" approach. For example, while supporting the notion of a revived FRC, the American Academy of Dermatology stated that a council was not enough and that "more clearly defined and . . . effective interagency liaison (should) be established by mandate from the Congress, where overlapping poses a serious problem." The American Medical Association, which was inclined toward an FRC approach, pointed out the benefits to be gained from mutual cooperation, "We believe that interagency coordination and cooperation can lead to prompt responses to important issues in a cogent unified fashion." In support, the AMA cited the recent joint agency efforts on ozone depletion. On the other hand, the American Industrial Hygiene Association and others noted the limitations of present efforts along that line.●

RADIATION SAFETY

● Mr. PERCY. Mr. President, I would like to take this opportunity to commend my colleague, Senator RIBICOFF, for inserting into the RECORD a summary of the responses received from members of the private sector regarding the effectiveness of Federal programs to protect the public from radiation hazards.

The risks of radiation exposure are a pervasive problem which has increased dramatically in recent years. While many of the technologies which utilize radiation are beneficial tools in areas such as medicine, safety, energy and the home, the potential dangers are serious and clearly demand responsible and effective Federal regulation.

While the diversity of radiation uses, health and safety standards have come under the regulatory jurisdiction of numerous Federal, State, and local agencies. The result has been serious overlap and fragmentation.

This compilation of comments will be extremely useful in our study of these organizational defects. With the detailed views of those who are involved in the different aspects of radiation usage, we will be better able to devise a means of effectively protecting the public from radiation hazards while providing clear guidance to those who must comply with radiation health and safety standards.●

TRIBUTE TO SENATE OFFICE OF CLASSIFIED NATIONAL SECURITY INFORMATION

● Mr. BAKER. Mr. President, last September the Senate established the Office of Classified National Security Information—the Senate's National Security Office. It is a facility where sensitive and highly classified documents can be stored and where Senate committees can hold classified meetings in absolute security. This office, operating under the able direction of George Murphy and his staff, has proven to be a valuable asset since its inception.

The transcript of the closed session of the Senate on the Panama Canal Treaties was sanitized in this office, as was a portion of the Senate debate on the sale of armaments to Egypt, Israel, and Saudi Arabia. The Senate Armed Services Committee, the Senate Appropriations Committee, and the Select Committees on Intelligence and Ethics are among those who have made effective use of this facility—as has the leadership.

In this connection, I was pleased to receive today a letter from the chairman and vice chairman of the Select Committee on Ethics expressing their appreciation for the services of the Office of Classified National Security Information. This letter underscores the utility of this office and its contribution to the U.S. Senate. I thank Senators STEVENSON and SCHMITT for their remarks and ask that their letter be printed in the RECORD in its entirety.

The letter follows:

U.S. SENATE,
SELECT COMMITTEE ON ETHICS,
Washington, D.C. August 22, 1978.

Hon. HOWARD H. BAKER, JR.,
Minority Leader, U.S. Senate,
Washington, D.C.

DEAR MR. MINORITY LEADER: We want you to know of our appreciation for the services and facilities of the Office of Classified National Security Information which were made available to the Ethics Committee during its recent investigation of leaks of classified information.

The unique features of the facilities enabled our staff to begin its work much more quickly and economically than would have been possible without the OCNSI. The Director, Mr. George Murphy, and his staff were most helpful in arranging for the use of their space for interviews, hearings and meetings, and in providing for the storage and disposition of documentary material. The OCNSI proved to be quite valuable in this project, as well as in additional projects still not completed.

Thank you for your cooperation and courtesies.

ADLAI E. STEVENSON III,
Chairman.
HARRISON H. SCHMITT,
Vice Chairman.●

MILITARY READINESS OF THE WESTERN ALLIANCE

● Mr. HARRY F. BYRD, JR. Mr. President, the weekly publication the Review of the News in its issue of August 2, 1978, published an exclusive interview with Congressman DAN DANIEL, Democrat of Virginia.

Congressman DANIEL is a former national commander of the American Legion, and currently chairman of the NATO Subcommittee of the House Armed Services Committee. He has just returned from a factfinding mission to France, the United Kingdom, Germany, the Netherlands, and Belgium, where he evaluated the military readiness of the Western Alliance.

I know Congressman DANIEL well, and served with him in the Virginia Legislature. He is an outstanding Congressman with courage, conviction, and character. He has a firm grasp of our Nation's defense needs and problems.

I ask to print the interview with Congressman DANIEL in the RECORD.

The interview follows:

EXCLUSIVE INTERVIEW WITH DAN DANIEL, DEMOCRAT OF VIRGINIA

(By John Rees)

Representative Dan Daniel, a leading Conservative Democrat, is now completing his fifth term in the Congress. A former National Commander of the American Legion, he entered the House in 1969 and is one of the foremost congressional authorities on national defense and N.A.T.O. European affairs have long been a specialty of Dan Daniel. Italy honored him with the Star of Italian Solidarity (First Class), and in 1960 France awarded him the Croix de Merite.

Congressman Daniel, who is Chairman of the N.A.T.O. Subcommittee of the House Armed Services Committee, has just returned from a fact-finding mission in France, the United Kingdom, Germany, the Netherlands, and Belgium, where he evaluated the military readiness of the Western Alliance. While in Europe the Virginia Congressman met with top defense policy-makers, with the heads of the Armed Forces, and with chief executives of key aerospace and electronics industries. And, of course, Mr. Daniel took every opportunity to visit with our own troops and their commanders in the field.

Q. Congressman Daniel, as Chairman of the N.A.T.O. Subcommittee you recently returned from an inspection tour in Western Europe. What major improvements need to be made in the N.A.T.O. Alliance to meet the current Warsaw Pact capability?

A. There are a number of them. Our Subcommittee has found virtually all parties anxious to sustain and improve the Alliance. But not unexpectedly, where more than a dozen nations are involved, there are vast differences in the interpretation as to how this should be done. Naturally there must be an ongoing update of capability, as new generations of weapons systems are brought into being and countermeasures are developed by our enemies.

Specifically, in the weapons and equipment area, we need improvements in secure voice and tactical communications systems, in target acquisition means so that N.A.T.O. weapons can be more effective, and in anti-armor munitions. Air defense must be strengthened, and at the same time command posts should be hardened. Finally, we should begin to produce and put in place binary chemical weapons. Our present posture invites enemy use of such weapons.

Each nation in the Alliance has its own political and economic considerations which must be recognized by all the others. This is healthy and natural. But there are areas where improvements can be made, primarily in developing a common defense doctrine and by working out existing "bugs" in command, control, and communications.

Q. Under what circumstances do you think the Soviet Union and the Warsaw Pact might invade Western Europe?

A. The Warsaw Pact nations will invade Western Europe when they have reasonable expectation that they enjoy a weapons superiority and that our political alliance is disintegrating or conditions elsewhere in the world have distracted members of the Alliance.

Q. Are there any new developments in the capabilities of the Warsaw Pact forces, particularly in such key areas as tanks and chemical and biological warfare?

A. There are a number of fairly recent developments that are significant. Russia has deployed the SA-8 air-defense missile, which upgrades its already formidable system; has deployed significant numbers of HIND-D helicopters, providing impressive ground support and posing a potential threat to Allied helicopter operations; and, has enhanced defensive chemical warfare capabilities, through improved decontamination equipment.

Thus, there is good and sufficient evidence that the Warsaw Pact nations intend, when the time is deemed appropriate, to use chemical and biological agents against the West. Their defense against such weapons is more than adequate to any threat we might offer; and, in fact, the only weapons against which they have no defense are those with Enhanced Radiation warheads—weapons we have not deployed. The greatest fear of some field commanders is a chemical and biological warfare attack. The most effective deterrent to this prospect is the production and deployment of the neutron warhead.

As for the present ratio of Warsaw Pact tanks and other armored equipment, forces in the East have vastly accelerated production and deployment. I personally know of no peaceful use for a tank, and can only conclude a serious intention by Soviet Russia and her allies to use them when they perceive that conditions warrant attack.

Q. Over the past year or so, our European allies have apprehended several highy placed Soviet spy rings working against N.A.T.O. What does this indicate about how the Soviets regard our military Alliance in Europe?

A. You do not waste time spying on a friend, or on an adversary who poses no threat. Obviously, the Soviets recognize the potential power that N.A.T.O. forces represent. For our part, there is an apprehension within the Alliance with respect not only to security leaks but also to terrorist attacks.

Q. In your visit to Western Europe, were you told from what area or under what circumstances terrorist attacks are expected?

A. There was considerable discussion on this issue and speculation by responsible sources indicates that Soviet and Warsaw Pact intelligence services have the responsibility for selection of sabotage targets and for preparing and facilitating the infiltration of sabotage teams into Western Europe. The activation of these sabotage teams is under the direct supervision of the Central Committee of the Soviet Communist Party.

The sabotage units are to be activated in times of crisis. It has been reported, again reliably, that they have been given special training in the political and geographical characteristics of their targets; and, when the time comes for them to be put in service the saboteurs would travel directly to "safe houses" or bases in their target areas where they will find their equipment waiting for them.

It can certainly be assumed that in the case of a popular uprising in a Warsaw Pact country bordering the West, or in the case of an invasion, these sabotage teams would be called into action.

Q. What do you see as the result of the recent signing of a friendship treaty between the U.S.S.R. and Turkey, once N.A.T.O.'s eastern anchor? Will you comment on U.S. handling of the dispute between Greece and Turkey?

A. It is obvious that Turkey is seeking to insure its own geographic interests, a not unreasonable approach given the sorry handling that ally has received at our hands. The significance of the recent visit by Prime Minister Ecevit of Turkey to the Soviet Union will depend in some measure on the attitude and actions of the United States Congress. I believe that the Administration is quite right in attempting to lift the Arms Embargo, and sincerely hope that the Congress will respond affirmatively. After four years, it is obvious that there are limits to what we can accomplish in the dispute between Greece and Turkey. It is time to get on with shoring up the vital southern flank of N.A.T.O. To do so will serve our national interest and enhance the prospects of an equitable solution of the Cyprus and Aegean problem. Clearly, N.A.T.O. needs both Greece and Turkey if it is to fulfill its mission of assuring peace.

Q. Congressman, if the danger of Warsaw Pact invasion of Western Europe is increasing, what are the roadblocks to standardization of N.A.T.O. equipment, and how far toward standardization should we go?

A. If there were a Warsaw Pact Invasion of Western Europe, I can assure you N.A.T.O.'s most serious problems would not be its variety of equipment but its lack of equipment, ammunition, and war reserve stocks to meet the threat. The present balance is such that neither standardization nor a three percent annual increase in Alliance defense budgets is going to solve the problem.

Besides, standardized equipment is not really necessary if Allied forces can fire the same ammunition, use the same fuel, and communicate with each other. Interoperability, rather than standardization, offers the quickest, cheapest, and surest means significantly to improve N.A.T.O.'s military posture vis-a-vis the Warsaw Pact. This was borne out time and again during the Subcommittee's survey trip to Europe, where we heard repeated observations that interoperability was a military objective while standardization was a political one. Of course, we should continue our efforts to strengthen the Alliance through cooperative efforts to standardize on systems where it makes sense both from a military and an economic point of view.

Q. Congressman Daniel, some Americans still regard Africa as an area of useless deserts and jungles and see no reason why America or N.A.T.O. should care about a Soviet takeover there. What is the strategic importance of Africa to the Free World?

A. It is impossible to overstate the strategic importance of Africa. Everyone knows that it supplies many raw materials needed for our national defense and for commercial purposes; but, more important, Soviet control of the Horn of Africa coupled with control of the southern portion of the Arabian Peninsula, permits Russia to stand like a Colossus astride our oil routes. This is a situation which leaves the whole of the Free World vulnerable. In short, Africa is the most strategic area of the world today. Our African policy, if we have one, is aggravating the problem.

Q. Reports in the foreign press indicate that East Germany is playing an increasing role in the Soviet plan to take control of central and southern Africa. Should this Warsaw Pact involvement in Africa be regarded as a mandate for N.A.T.O. concern in that area?

A. I do not see any cause for direct N.A.T.O. involvement in Africa. N.A.T.O. has its own mission, which is to protect the nations of the North Atlantic Alliance. To divert N.A.T.O. would be a serious mistake.

In all candor, our policy is difficult, if not impossible, to define. It is my belief that the purpose of our foreign policy should be to identify and advance the American interest in world affairs. The purpose of our defense policy should be to insure that interest in the event diplomacy fails. The cancellation of B-1 production, the deferred deployment

of our Enhanced Radiation warheads, limiting the range of our developing cruise missiles, and the suggestion that our fleet be assigned a secondary role while our adversary, the Soviet Union, enhances its capabilities in all these areas, has left the United States vulnerable to attack. Neither our foreign nor defense policy is clear. The confusion in the minds of the people and that of our allies is certainly understandable given the multitude of voices espousing our goals and intentions.

Q. Permit us to go briefly to domestic affairs, Congressman Daniel. You have been one of the leaders in Congress in opposing increasing governmental regulation. The bureaucrats always claim their pet regulations are needed to protect health and safety and so on, but these regulations are extremely expensive and add markedly to the price spiral. Will you comment?

A. According to a report from the Joint Economic Committee of Congress, government regulation alone will cost $102.7 billion nonproductive dollars in 1979. That's $471 for every man, woman, and child in our country. It is more than twice what the average family spent on medical care in 1976, more than half what was spent on food, according to the Department of Labor's annual "Family Budget." Much of the cost of all this regulation is reflected in the ever higher taxes that we pay, but a far greater amount is added to the higher prices we pay in the marketplace. While we all want a clean and safe living environment, there is a real question that we are buying more than we need at a price we can ill afford.

A balance must be struck between the legitimate functions of government and the requirements of our economy or we will rapidly follow other great countries into the quagmire of socialism where fear of risk is the controlling emotion, mediocrity is the ultimate goal, and the individual of free and independent spirit is considered the consummate enemy of the state.

Q. Congressman, you are regarded by many as one of our country's most responsible and able Conservative Democrats. Do you have any suggestions as to how Conservatives can more effectively assert themselves in the Democratic Party?

A. Conservatives can assert themselves in any political party by putting forth the effort required to participate actively in the political process. Most of the work which really counts originates at the grass-roots level. It is hard work and not very glamorous, but it is the only place to start. To change the character of a political party requires that such work be done. No one can do it for you.

Q. Do you see a Conservative trend in the country?

A. In the opinion poll, yes; at the voting poll, no. The American public continues to elect, in a majority of cases, those representatives who promise the most.

Q. Do you believe that voter concern about massive government spending and taxation, and about the weakened defense capability, could provoke a real change in the next elections?

A. Yes, indeed it could. Whether it will do so depends, to repeat, upon the amount of effort that conscientious voters are willing to exert. For more than a generation we have seen the erosion of individual liberties in the name of collective welfare. Insidiously, the tentacles of central government have insinuated themselves into American life, contaminating all they touch. But it must be remembered that no government program which carries the promise of payoffs from the pockets of federal taxpayers is imposed on recipients against their will. The business executive who accepts federal regulation rather than disturb his company's image, the state or local authority who decries government control with his hand stuck out to Washington for more, the labor leader who demands and secures benefits he well knows his employer is unable to sustain, the individual who accepts or applies for government funds, not because they are needed but because they are there—each of these has contributed in bringing our country to its present state. And each, if we are to turn things around, must sacrifice.

Unless and until that happens, our country has no future save that of becoming second-rate. I believe, however, that the American people recognize the imperative need to reverse the trend. I am a short-term pessimist and a long-term optimist. But I repeat: Those concerned about massive federal taxing and spending, those worried about our weakened defense capability, can do something now by going to work in the congressional elections. Grave issues are involved, and responsible candidates need your help.●

MARY RISTEAU, THE WOMAN OF FIRSTS

● Mr. MATHIAS. Mr. President, Maryland lost a very extraordinary citizen when Mary E. E. Risteau died recently. Known as the "woman of firsts," Miss Risteau was a pioneer in many political and social areas.

During the 1920's, Miss Risteau became Maryland's first woman legislator. As a Democrat, she served two terms in the Maryland House of Delegates and in 1934 chalked up another first by becoming the first woman to serve as a State senator.

Among the other trails she blazed was as the first woman appointed to be clerk of the Harford County Circuit Court in 1937 and as the first female State commissioner of loans in 1939. Mary Risteau was also one of the pioneers for women's rights and surprised many people by opposing prohibition.

It is said that "she was small in stature, but she sure could make her voice heard." We in Maryland will certainly miss that "voice."

So that my colleagues may know more about this remarkable woman, I ask that the obituary of Mary E. E. Risteau from the Baltimore News American be printed in the RECORD.

The article follows:

MARY RISTEAU, FIRST WOMAN IN STATE ASSEMBLY, AT 88

Services for Mary E. E. Risteau, Maryland's first woman legislator, were to be held today at the Kurtz Funeral Home in Jarrettsville.

Burial was to be in William Watters Memorial Methodist Cemetery in Cooperstown, near Jarrettsville.

Miss Risteau, who had been bedridden since May with a heart condition, died at her Harford County farm. She was 88.

After serving two terms in the House in the 1920s, Miss Risteau, a Democrat, in 1934 became the first woman to serve in the state Senate.

"She was small in stature, but she sure could make her voice heard," said a former state house reporter. "As far as she was concerned, she was one of the boys."

Miss Risteau was one of the pioneers for women's rights.

"Woman has ceased to be a rib and has become man's right hand," she said aft[er] election to the House of Delegates in 19[illegible]

Still, she was far from being an activi[illegible]

"I put the soft pedal on the fact that [illegible] was a woman," she said during her first ye[illegible] in office. "That isn't the point at all. I ma[illegible] the (electoral) fight because I believed [illegible] could help the men get some of the thin[illegible] we need for schools."

She did, however, throw in an occasion[illegible] jab at the men.

At a Democratic party convention in Ph[illegible]adelphia in 1936, she said, "the women [illegible] Maryland are so interested in the Dem[illegible]cratic party that many of them travel [illegible] the way from western Maryland to the Ea[illegible]ern Shore to attend a one-day rally.

"Why, if the men of the state were [illegible] well organized as the women, we wouldn[illegible] have to apologize for a Republican governo[illegible] she said.

Republican Harry W. Nice was governor [illegible] the time.

Miss Risteau also surprised many of h[illegible] colleagues when she came out against Pr[illegible]hibition. She fought to have alcoholic bev[illegible]ages legalized.

The woman who became known as "[illegible] woman of firsts" was appointed the fi[illegible] woman clerk of the Harford County Circ[illegible] Court in 1937. Two years later, she becam[illegible] state commissioner of loans, another first f[illegible] a woman.●

INFLATION

● Mr. INOUYE. Mr. President, a di[illegible]tinguished former member of the Hou[illegible] and one-time Ambassador to Italy, th[illegible] Honorable Clare Boothe Luce, recent[illegible] prepared an article which appeared [illegible] the Honolulu Advertiser.

She writes about inflation, one of th[illegible] most urgent domestic problems facin[illegible] this country today. I found the artic[illegible] interesting and thought-provoking an[illegible] want to take this opportunity to sha[illegible] it with my colleagues and the America[illegible] public. I ask to have it printed in th[illegible] RECORD.

The article follows:

WILL IT TAKE THE WRINGER OF DEPRESSION TO HALT RAIDS ON TREASURY?

(By Clare Boothe Luce)

Stan Ahn's short letter (7/10) serving [illegible] on "the real cause of inflation" is worth mi[illegible]lions of the words our politicos have be[illegible] spouting on the subject.

As he points out, inflation has not be[illegible] caused by the legitimate demands on gover[illegible]ment of the relatively few "have-nots." [illegible] has been caused by the insatiable deman[illegible] of millions of individual middle-class "wan[illegible] more" voters, and want-more pressure grou[illegible] for benefits and services that they have bee[illegible] and still are, unwilling to pay for in tax[illegible]

All the evidence of history is that dem[illegible]ocracies begin to collapse the day the vote[illegible] make the discovery (with the help and su[illegible]port of stupid or irresponsible politician[illegible] that they can successfully raid the nation[illegible] Treasury.

In every democracy where this "happy [illegible] discovery is made, the following thing[illegible] happen:

As more and more agencies are created [illegible] administer more and more "social welfare[illegible] programs, bureaucracy begins to grow an[illegible] spread like the blob, and in the end, b[illegible] comes more powerful than the electo[illegible] branches of government. Today, as an[illegible] honest congressman will tell you, our va[illegible] unelected federal (and state) bureaucracy [illegible] the government.

One out of six Americans now works in some nonproductive government job.

As the politicians need the votes of these millions of entrenched bureaucrats and civil servants to get elected, they naturally voted to perpetuate their control. and to increase their pay and pensions.

Faced with huge deficits caused by soaring bureaucratic costs, and the steady public demand for increases in public services, benefits and cash transfer payments, the government is forced to choose between levying higher taxes on the middle-classes or printing funny money, i.e., inflating the currency.

It chooses inflation, because, as Ahn points out, raising taxes on the middle-classes, or cutting the programs and services which are essentially unearned supplements to their incomes is "unthinkable in today's social climate." This process of bankrupting the country is euphemistically known as "compassionate politics" and "social justice."

"Progressive taxation" becomes increasingly "progressive," falling heaviest (by popular consent), on business and corporate incomes. Business is unable to set aside enough monies, after taxation, for business expansion, capital investment, research and development, or even to borrow money for these purposes at reasonable and steady interest rates. So the growth rate of business slows down.

This taxing away of capital for expansion and investment produces the phenomenon of "stagflation"—or simultaneous depression and inflation. The result is fewer jobs for the young people who are entering the labor market. And so more costly government programs are required to handle the youth unemployment situation—and this requires more inflation.

As the voters slowly come to perceive that there is a relation between government deficits and depression-inflation, there is a great outcry for "economy in government," coupled, of course, with an even greater outcry against higher taxes on middle-class incomes. But when the political chips go down, it turns out that the only budgetary cuts that the politicians can make without losing middle-class, bureaucratic and pressure-group votes are in foreign and defense programs.

These are the least popular programs in all "peace-loving" democracies. The people are easily persuaded that foreign aid is a "bottomless pit"; that armaments are the cause of war; and that their militarists (unlike themselves) are selfish, greedy, and wasteful. The U.S. is spending only 6 per cent of its national income on defense. The Soviet Union with half our GNP, is spending 15 per cent on a massive military buildup, which makes the forces of Hitler look relatively feeble.

As the nation's steady loss of economic strength and military power is perceived by other countries, it begins to experience severe "foreign policy" problems. Its trade declines, together with the value of its currency (worsening its domestic situation). Allies begin to waiver. And in proportion as these allies themselves are following a similar democratic route to economic and military collapse, they become increasingly less reliable military partners.

Once-friendly small nations gravitate to stronger powers. Today the U.S. can no longer rely on more than a handful of votes among the 150 U.N. nations to support its foreign policies. The nation loses its diplomatic clout, and is forced to seek "accommodations" with its enemies. In President Carter's words, "We are being shoved around by the Soviet Union."

As inflation begins to devour the people's savings and the purchasing power of their wages and incomes, a mighty cry is raised for "wage and price controls." This is tried, and proves as effective as trying to put a lid on an active volcano.

The end is approaching: the country must, one way or another, go through the wringer of a bitter depression, and is lucky if, while it is doing so, it is not, in its weakened economic and military condition, attacked and beaten by its enemies.

All of which comes of believing that Washington is the "Tooth Fairy." ●

MEAT IMPORTS

● Mr. DOLE. Mr. President, on June 13, 21 Senators joined me in a colloquy protesting the President's decision to increase beef imports. We opposed the President's action at that time for a number of reasons.

Prior to the President's action cattlemen were making a profit for the first time in 3 years. It seemed fundamentally unfair to this Senator for the Government to interfere when cattlemen began to make a profit. Furthermore, my colleagues and I felt that action was very poorly timed. It came at a time when cattlemen were making crucial decisions about expanding the size of their herds. We predicted that this action could result in continued herd liquidation and prolonged higher beef prices in the next few years.

Mr. President, all too often the Federal Government takes action and never looks back at the consequences of that action. The August 29 issue of Esquire magazine contains an article by Geoffry Norman which takes such a look back at the impact of the increase in meat imports. Mr. President, this is an exceptionally well done article and it indicates that the objections my fellow Senators raised were well founded. I would, therefore, ask that it be printed in the RECORD, in the hope that we might learn from past mistakes.

The article follows:

AMERICAN BEEF! STEAKS ARE HIGH, BUT RANCHERS ARE DOWN

(By Geoffrey Norman)

At a meeting of the Colorado Cattlemen, in Lamar, a lanky man with leathery brown skin and thin unsmiling lips calls President Carter a son of a bitch in tones that let you know unmistakably that he still thinks these are fighting words. "We don't ask for a damn thing from the government except to be left alone. But just when we start to make some money for the first time in four years, Carter steps in and says no. He's nothing but a goddamned peanut farmer." From the way the man says this, you have to think that there is something suspect about peanut farming. That it is like hairdressing or something. That it isn't manly. "Peanuts are the most heavily subsidized crop in the country. Carter got rich off the government."

The man fairly represents the feelings of the cattlemen who are gathered in Lamar for meetings and speeches, a barbecue, and a show that features authentic Indian dancing. But just about everybody else in the country is made about beef, too—shoppers who watched the price jump 6.5 percent a month during the spring, restaurant owners, local butchers and grocers. At a small grocery back East, a friend proved to me with invoices and meat scales that he is losing a penny a pound on hamburger even before he takes out for his overhead—and he was getting complaints from agitated customers at that price.

But Americans love to eat beef. From the best steak houses in Manhattan—places with names like Frankie and Johnnie's, the Palm, and Christ Cella—to the steak houses with names like the Beef Barn or the Sirloin Saloon that you see in every self-respecting town or aspiring city to the budget places for families that only get out once a month for a meal and a movie—places where you get a rib eye, a baked potato, and a lettuce salad served cafeteria style for $5—Americans eat beef with a passion that is truly carnivorous. There are the billions of McDonald's and lesser hamburgers, all those chuck roasts, pot roasts, and rib roasts wrapped in cellophane in the supermarket meat counters; hamburgers charcoaled in backyards across the land. Americans eat 154.6 pounds of red meat a year for every man, woman, and child. Lately the figure has gone up sharply.

So when President Carter and his advisers decided to move against inflation, beef probably looked like the most natural target available. The price of beef, after all, was rising faster than most other prices. By lowering the price of beef, or at least slowing the rate of increase, Carter would be helping the consumer directly. Also, according to the press, this price decrease came at a time when President Carter was getting poor grades in the polls and was being urged to act more forcefully. So in June he took a simultaneously drastic and expedient step and allowed an increase in the quota of imported beef. It amounted to about 200 million pounds of New Zealand and Australian beef. But the impact on the beef market was profound. Consumers were alerted and began substituting other foods for beef. Producers, consequently, cut back. The price of live cattle dropped ten cents a pound—almost sixteen percent—in three weeks. It was a short-term victory for Carter and the consumer. But for cattlemen, it was a disaster.

Around the farms, feedlots, and ranches of eastern Colorado, there was a feeling of bilious resentment. Men who had gone humbly to the county banker for three straight years, taking out loans to keep small farms and ranches going until the price of beef went up again, felt betrayed. They knew they might have to get out of ranching altogether so that Carter might gain a temporary point or two at the polls and the spoiled shoppers in the city could have a free ride.

It is this knowledge—the certainty that ranchers will be forced off the land for the sake of votes—as much as anything, that feeds the resentment. The land is important to these men in a way, they feel, that nothing in this world is to a politician or to most city-dwelling consumers. They have made the land produce, and it has kept them and their families alive for generations. To be forced off, to see their kind of operation give way to huge corporate farms owned by mining and oil interests and operated at a cheerful loss for tax purposes and with no regard for the real values of ranching—this is almost too much to bear.

Keith Propst's house sits among some of the rare shade trees along the Platte River, in northeast Colorado. The trees were planted by his ancestors, who came to Colorado a few years after the Civil War had soured things for them back East. There were no trees at all when they arrived.

"Buffaloes," Propst says. "There were thousands of them back then. What they didn't eat, they trampled. There wasn't a tree, anywhere in the Great Plains."

Propst is president of the Colorado Farm Bureau, an organization that tries to get the best deal it can for farmers by keeping the government out of agriculture. Propst is fifty-three and has the weather-beaten face and the squint of a lifelong rancher. He also has a broad and engaging smile: Whereas most ranchers are tight-lipped and smile by

raising a corner of the mouth, Propst breaks out in teeth—one of them gold—when something strikes him funny or he recognizes a friend.

"I can show you the figures on paper," Propst says when I arrive. We sit in his living room, pleasantly furnished and cool in the heat of late June. Propst has scribbled columns of numbers and marginal notes on a sheet of paper that he holds in big hands and spreads out on the coffee table. It is a breakdown of his costs done just the way a grocery would do it, or a boutique, or a private university. "Here is what it costs me to feed a calf. This is for my overhead. Interest. Labor. Depreciation. Veterinary. Figure all of that in, and here is what I have to sell a steer for, live weight, just to break even." The figure is fifty-four cents a pound. About five cents more than he can get this morning on the market. Every time he sells a steer, he can lose $40.

"But maybe," Propst says, "you can get a better idea of what those numbers mean after we've taken a look around." So we climb into his Scout and drive out to the range.

There are eight windmills on Keith Propst's 10,000 acres of range. They turn monotonously in the steady Great Plains breeze that blows down from Wyoming, providing all the water for Propst's cow-calf operation, which is running at about 400 animals this year. He had planned to increase the herd, but after Carter's decision he is not sure he will.

"Twenty acres of this land will support one cow and her calf. Or maybe two and a half yearlings," he says. "So I could get it up to five hundred animals if the price was right. But it's hard. Politicians go with the votes. And all the votes are in town."

The land in question stretches out bleakly in every direction, relieved by a few folds and depressions and one long sand ridge that parallels the course of the river. The thin soil is held by sagebrush and yucca grass, which the cattle cannot eat, and by grama and bluestem grass, which they can. Besides Propst's cattle, the land supports rattlesnakes, jackrabbits, coyotes, and some mule deer. One hundred fifty miles to the west are the Rockies: Aspen and Vail and great forested peaks lush with conifers. When Propst's ancestors first arrived in Colorado, the Rockies were something just to get across. Now, the real money is up in those mountains.

"Get the gate, Koger."

Propst's son—eighteen years old, thin and straight as a pencil—climbs out of the Scout. He is dressed in cowboy boots, Levi's, and a T-shirt. It is the same outfit the kids in Denver are wearing.

Propst drives the Scout down a rutted trail to the first of the eight windmills. He is out here to check them and to get on with the breeding of his herd.

"We've got an AI program going out here, and we have to check the heifers just about every day."

AI is artificial insemination.

"We're breeding Simmentals. It's a European breed that has gotten popular over here in the last ten years. But you can't import animals directly from Europe. That's to keep out the hoof-and-mouth disease. So you import the semen. Then you artificially inseminate the heifer. Her calf will be a half-breed. You artificially inseminate that calf, and you get a three-quarter-breed. And so on until, theoretically, you've got a full-blooded Simmental."

There are seventy or eighty animals around the first windmill, which is paddling along faithfully, pumping water into a large holding tank. Three or four animals are drinking lazily from it; the others are idly grazing or simply standing in that cone of bovine indifference that is the expression of cows everywhere.

Propst points out half- and three-quarter-breed Simmentals. "See that bull over there?" he says pointing to a bulky animal that looks muzzled. "That's what we call a Gomer. His penis has been fixed so he can't actually breed a heifer. But he still has the urge, and he'll mount one when she is in heat. That muzzle has a paint roller in it so when a Gomer mounts a heifer, he leaves paint marks on her back. When we come out and find one with paint on her back, we know right away that she's ready to breed."

Propst drives the Scout around the herd, checking the heifers for paint marks. "I don't see any that are marked up. Do you, Koger?"

"Nope."

"Well let's go take care of that one we've got over in the corral."

The Scout lurches along the ruts, springs, and shocks, creaking with each bounce. A mile from the first windmill, Propst arrives at a small corral with a squeeze chute—a nervous heifer is pacing in one of the pens. Inside an equipment trailer, there is a large tank filled with liquid nitrogen to keep the Simmental bull semen a couple of hundred degrees below zero. Propst pulls a single vial from the tank and slowly thaws it in ice water. "I don't know how they figured this system out, but it works," he says. "You've got to keep it real cold until right before you use it. Then you warm it up just so much. Too much and you kill it."

When everything is ready, Propst and his son go back outside. Propst uses a leather surrey whip to force the skittish heifer down the narrow squeeze chute. The animal bolts.

"Damn. She acts like she's crazy."

Finally the heifer moves into the chute and down to the end where Propst's son springs a head gate and she is caught. She bellows and stomps, then quiets down.

Koger does the work. He raises the heifer's tail and forces his right arm, which is covered to the elbow in a sheet of clear plastic, far up the animal's dung-encrusted anal canal. With his hand, he massages her to make her receptive. Then with his left hand he runs a long, thin plastic tube up the vaginal opening, past the cervix. The valuable semen—it costs $15 to $25 a vial—will pass through this hollow plastic tube. The animal is still skittish. While Propst is paying attention to something else and before his son can force the semen through the tube, the animal bellows and sits down.

Propst's son tears the fouled plastic sheet from his arm in disgust and tries to prod the animal to her feet. The heifer only bellows.

"Here, let me help you," Propst says. "I didn't know you were having trouble." Propst stands by with a battery-powered prod in case the heifer should try to sit again, while his son repeats the procedure with his plastic-encased right arm and the plastic tube. This time, it takes. While his son returns the equipment to the trailer and makes some notes in a record book, Propst releases the panicked heifer. She will go back to the range to find the calf she bore in March; it will be weaned in the fall; and she will bear again in the spring. This is the first day in a cycle that keeps Keith Propst and his family on the land.

Farming is perhaps the least understood and appreciated of all the ways an American can go about making his living. Nobody understands things like parity and yields and acreage quotas—except the people who must understand them or go broke and the people who make the rules. American agriculture is so successful that for most consumers, food simply comes from the grocery store. It is always there, and when the price goes up, there doesn't seem to be any good reason for it. And since food is *the* essential, price increases lead to outrage. The fact that one farmer can produce enough to feed himself and fifty-six others and that the average American spends only eighteen percent of every dollar to eat doesn't make much differ-

ence, even though those figures are remar
able in this world. Unique.

But agriculture remains about as low
the interest and esteem of most Americ
as . . . as what? Blue-collar workers
having their day in movies and books; co
miners were big not long ago; truck drive
and their radios have become a folk ethi
But it will probably never happen for farm
ers—not because what they do is too sim
(what could be more simple than driving
truck?) but because it is too hard. And
cause, for the most part, it gets done so we

Talking to Keith Propst and men like hi
you learn about cow-calf operations; fee
lots; backgrounders; speculators; champ
breeders; breeds that started in Engla
India, France, and Switzerland. You le
the reasons why one farmer goes with Cha
lais and another with Angus and the tho
sands of variables that enter each equati

Keith Propst's operation is a good pl
to start looking at cattle ranching becau
he does several things. The whole point
his operation and of the entire industry
to raise cattle to slaughter weight as e
ciently as possible.

With Propst, it begins out on the ran
with a breeding herd more or less statio
ary in number. He can add heifers—a
their calves—when he thinks the price w
justify it.

The calves feed from the udder for abo
six months. "One of the reasons ranchers
high on Simmentals is that they are bet
milk producers than the English breeds. T
Swiss use them as a combination beef p
ducer and dairy cow. So the calf will be
little heavier when she's weaned. All cal
lose a little at first when you wean the
They're bawling and looking for mother
three or four weeks. It's a real stressful th
for them. So that little extra counts."

After the calf is weaned, it "goes to gra
This takes the animal from about 400
about 600 pounds. It can be done on a ran
or pasture or field of cutover crops, whi
is the method Propst uses. His short yea
lings (animals that have been weaned b
aren't a year old yet) feed in his corn a
sugar beet fields, then go back to the ran
until the steers weigh about 700 pounds a
the heifers about 600. These yearlings
ready for the feedlot.

Virtually all beef cattle are "finished"
feedlots. Fed properly, a yearling can ga
almost three pounds a day in a feedlot a
reach slaughter weight in 120 to 150 da
The steers are ready at 1,100 to 1,200 poun
the heifers, at 900 to 1,000.

There are several advantages to the feedl
which is no more than a pen where a nu
ber of animals are crowded and fed a ca
fully balanced and very rich grain diet alo
with some mineral supplements. The anima
eat and drink, sleep and defecate—nothi
more, until they are ready to be shipped
slaughter. Because they are confined a
inactive, they cannot burn many calories
manufacture any tough muscle. They ga
good tender weight very fast.

Propst's feedlot is small: 1,500 anima
Some have come from his own breeding he
and some he has bought from cow-calf o
erations as far away as Georgia.

There are lots that feed several thousa
animals bought from cow-calf operations
from backgrounders who put weaned cal
on grass for the few months it takes to
them up to sufficient weight for the feedl
It is an age of specialization in all thin
But Propst breeds his own cattle, fatte
them in his own lot, and raises the foo
mostly corn—for the lot on his 900 acres
irrigated land along the river valley. He b
additional cattle when he thinks the pr
will be right and the grain to feed th
when its price is low.

Then comes the hard part, the aspect
ranching that makes it so tough. Wh

Propst's cycle is complete and when the animal that he has bred, weaned, grazed, and fattened reaches a slaughter weight almost three years after its conception—perhaps at the end of a plastic tube—Propst must sell. He cannot keep feeding the cow and waiting for a better price in a month or so. If the animal goes on eating and gaining weight, "it'll get all wastey. Too fat. The price will go down and it'll cost money to feed, besides."

Propst knows how much it has cost to bring the animal to slaughter weight, so he knows how much he is losing—or making—on each animal he sells. When every animal sells at a loss, there is only one thing to do: You cut losses by selling fewer animals—which means, ultimately, breeding fewer animals.

"This thing works in cycles, and it always has," Propst says, irritated that people can't see how simple it all is. "When the price is way up, everybody wants to be grazing a few steers. The big feedlots can't buy enough yearlings. So the cow-calf operations go to work and breed more animals because everybody wants them. Then pretty soon you've got a surplus. So the price falls, and everybody who was making money starts losing and wants out. The wheat farmer who was feeding sixty head when the price was up says, 'To hell with that beef stuff, I'm sticking with wheat.' So he doesn't buy any calves. The demand goes down and the cow-calf operators don't breed as much. Pretty soon the supply gets back down, and the price goes up again. That's the way it works. We're ready to take the three or four bad years if we can just count on that one good year to make up our losses. We'd like to make up a little for inflation, too. Just like everybody else."

It takes two hours to check the remaining windmills once the skittish heifer is bred. Propst drives the Scout across the hard scrabble terrain and explains the intricacies of his trade: when to breed; when to wean; when to castrate; salts and supplements; inoculations; machinery; weather.

"One of the things about this part of the country is that we have about as good a weather as you could want for cattle. It gets cold in the winter, but we don't see the snow they get up in some of those mountain pastures, where they have to fly in hay with a helicopter. That'll run your costs up for sure."

The Scout comes over a small ridge and below, in the shade of a bent and crippled old cottonwood tree, are eight mule deer. They are up quickly, moving across the range in single file.

"I used to hunt a little," Propst says. "But the season comes right at the busiest time for us, and I don't fool with deer hunting anymore. We do some duck hunting, though."

Propst checks the last windmill, then leaves the scrub range and drives back to the lush valley of the Platte River and home for lunch.

"There's another thing," he says as we drive along the riverbank. "The EPA [Environmental Protection Agency] has set a deadline for cleaning up the river. It's never been a fishing river. There's some fish in it, but it has always been used for farming. For irrigation. But the EPA says that if you take water out to irrigate, then it has got to go back in clean as it was when you took it out. And you can't do it.

"But that's what the EPA wants, and it'll just mean the end of farming in this valley. They keep extending the deadline. And we'll probably get an exemption through Congress. But you have to wonder if those people know anything about farming.

Lunch is a big hot meal, the kind that sends you away from the table, especially on a hot day, desperate for a nap: roast beef, squash, potatoes, a salad, ice cream. Neil Propst, a small woman—petite is the appropriate word, in her case—and a very gracious hostess, presides at the table and says grace. Koger and his twenty-year-old brother Joel and his sister Holly, seventeen, are there.

During lunch, I learn more about how much there is to farming. In addition to EPA and its water standards, farmers and ranchers these days must cope with the most ubiquitous and despised of all the regulatory agencies: Occupational Safety and Health Administration.

"You know what they say about farm animals?" Neil Propst asks. Her tone is a blend of indignation and wonder. "They say you can't have livestock within five hundred feet of a house. We've always had horses in the pasture right out behind the house. We like to have them there, so we can look at them and go out and ride them when we want to. Now it's illegal."

Keith Propst laughts, and laughs heartily. "I suppose the idea was to keep people from putting workers' shacks out in the middle of the same field where they were slopping pigs. But they don't say that. It's 'no animals within five hundred feet of any house,' and that's it."

"Well, what was that other one, Dad, the one about toilets out on the range?" Propst's son asks.

"Oh, they made some ruling about how nobody could work more than three or four hundred yards from a toilet. So I'd have to put those portable Johnnies all over ten thousand acres of land to be in compliance."

Propst laughs again. It is his most engaging characteristic. When he talks about things that usually turn a man's face into a mask of nearly unmanageable anger, Propst laughs. He probably figures that it is all he can do.

"The thing is," Propst says, "there are farmers around here who would go broke if they tried to do everything right. So they just figure on doing nothing right and hope they don't get caught. Either way, they go broke. It breeds disrespect all the way down when you have these rules that don't make any sense."

At a cattle auction and a slaughterhouse, there is more to learn. A weary man who buys live animals and sells cold slabs of beef over the phone says, "I don't know why Carter is picking on us. The price of everything else is allowed to go up two or three times. Beef isn't even essential. It's a discretionary item. If you don't want to pay the price of beef, you can eat chicken or fish or pork. You know what is essential for most people: a goddamned car. You don't have any choice about buying a car in this society. I need to have a car even if it means I've got to leave eight thousand dollars sitting out in the parking lot every day. Cars go up every year, and nobody says anything."

At the auction, Propst quietly guesses the final price of each lot before the bidding starts. He is usually right and never off by more than twenty-five or fifty cents.

"Those heifers have got a little pinkeye. They won't gain so well for a week or more. Won't get much for them." He guesses forty-three cents a pound, and they sell for forty-three and a quarter.

"Those steers will go for about fifty-nine. They're good yearlings, and some backgrounder can use them for cheap gain."

"That heifer is a little too wastey for its age—probably belonged to some kid who bucket-fed it."

Two hundred miles south, in Lamar, there is more to learn at the meeting of the Colorado Cattlemen: about the way the banks have carried ranchers for the last three years.

A banker who specializes in agricultural loans says that the small banks have already reached the limit. "They just couldn't use any more of their depositors' funds. So you are starting to see some bankruptcies. Some people, who are diversified, like Keith Propst, are going ahead, but very cautiously.

"There are smaller, less diversified operators who are selling," the banker continues. "Big corporate operations come in, and they seem to be able to smell a situation that is right for a sale. They are very tough: They know when a man is desperate, and they drive a hard bargain. But they pay cash.

"But they aren't really interested in the farming end of it. I was talking to one of their people the other day, and he said they were satisfied if the land appreciated and they could increase the capital value. They weren't in it for income.

"This spring there was some optimism in the air for the first time in three years. Both the bankers and the farmers were seeing a little daylight. Then Carter made that decision. It was the most demoralizing thing he could have done." The banker speaks with genuine regret. He knows these people and has seen them through hard times before. Like them, he hates to see the land taken over by big outside money.

Finally, there was the marker. It said more than anything else would about a way of life that men like Propst value and that is threatened by inflation and the expedient measures politicians have used to fight it.

At lunch, I asked if the house was on the same site as the original Propst settlement.

"Oh, you've got to show him the marker," Neil Propst said.

After lunch, full and sleepy, I went with Keith Propst to a small plot next to his front yard. There were two blue spruce growing there. "They got those in the mountains," he said. Then he showed me the centennial monument. It is almost five feet tall, cut from marble, and it sits on the site of the original Propst cabin, in Colorado. The inscription reads: "Michael V. Propst, Family Memorial."

This marker commemorates the centennial of the settlement of the Propst family on the South Platt River near Buffalo, Colorado, which is now Merino . . . Michael V. Propst and the other family members left Pickens County, Alabama, and arrived in this area on April 7, 1876. They came . . . to find land and to build homes. They developed cattle ranches, farms, and businesses. They helped establish schools, churches, irrigation systems, and communities. They served their nation in peace and war and left a legacy of love of country and faith in the future.

"We had a centennial celebration to dedicate it." Propst says, "My brothers came in from Florida and Michigan, and my sister came from Arizona. Neil has a degree in drama, and she wrote a play that we put on. The whole thing sort of moved you." ●

ELDERLY VICTIMS OF CRIME

● Mr. CULVER. Mr. President, the victimization of our Nation's elderly by serious crime is becoming more prevalent, visible, and a source of increasing concern. Congressmen PEPPER, ROYBAL, and HAMMERSCHMIDT—all members of the House Select Committee on Aging—are the authors of an informative article in today's Washington Post about the susceptibility of senior citizens to crime. The article, entitled "Older Americans: Vulnerable Targets for Crime," summarizes hearings the House Select Committee on Aging has held across the United States on the topic.

Not only are senior citizens particularly vulnerable to the threat of crime, but the loss of money and cost of medical treatment is also especially devastating to them. Because of their physical frailty, the elderly are often less able to defend themselves or escape from an

assault and are perhaps more likely to suffer serious injuries. Also, they are generally less mobile than younger individuals and frequently have to resort to public transportation for shopping or cashing their pension check. Because of their limited incomes, many elderly citizens live in older, possibly deteriorating, and crime-prone neighborhoods. Another major factor that makes retirees especially susceptible to crime victimization is the predictable arrival of their regular monthly social security or other pension checks. As the column illustrates, these factors and others combine to make senior citizens one of the most exposed and vulnerable groups for crime victimization.

The elderly often suffer more from crimes in terms of financial devastation and emotional trauma. For people living on limited incomes, who must continually struggle to cover basic necessities, the loss of even one monthly social security or other pension check can inflict untold hardships. Many have little or no savings and literally depend on each check for their very survival.

As chairman of the Senate Subcommittee on Juvenile Delinquency, I held a hearing last April on violent youth crime. One of the witnesses was an 83-year-old woman who had recently been the victim of a robbery and assault. Her account of the trauma and fear she suffered after the attack was tragic, but not, I am afraid, uncommon. The subcommittee also heard from a spokesperson for the National Council of Senior Citizens, who described the strong feelings of insecurity and isolation elderly victims of crime typically endure.

In addition to the many crime prevention and relief measures mentioned by the Congressmen in the following article, I might add one measure that many elderly can take immediately to help protect their monthly benefits. Arrangements can easily be made with one's bank and local federal office to have their monthly social security, supplemental security income (SSI), or veteran pension check deposited directly into an individual's checking account. Over 7 million social security, SSI, and veteran pension recipients currently use this system of direct deposits into their bank accounts, thereby reducing the chances of loss or theft of the check or cash and diminishing their vulnerability to crime.

Mr. President, I believed my colleagues will find this column useful, and I ask that it be printed in the RECORD.

The column follows:

OLDER AMERICANS: VULNERABLE TARGETS FOR CRIME

(By CLAUDE PEPPER, EDWARD R. ROYBAL, AND JOHN PAUL HAMMERSCHMIDT)

In Washington, a 61-year-old woman went with her 79-year-old husband to cash her Social Security check for $102; they returned home. According to police, three youths rushed into the couple's apartment, beat the woman—knocking her down and breaking her leg—and fled with the money.

In Miami, an 81-year-old blind poet was brutally murdered in a public-housing project for the elderly. The victim's hands were tied behind his back, and he was beaten to death. According to police, a teenager had climbed a tree next to the building where the man lived, jumped onto a ledge and pushed his way through a window into the apartment.

Such violent crimes, outrages against human decency, have been cited in numerous hearings held by the House Select Committee on Aging. Testimony received in Los Angeles, Indianapolis, New York City, Miami and Washington revealed that victimization of the elderly has become an alarmingly habitual pattern of behavior among many juvenile offenders.

Older Americans are an easy target for youthful vandals, muggers, thugs and punks. They are particularly vulnerable—frailer, on the average, than their younger counterparts. Decreased strength and stamina render older persons less able to defend themselves or to escape from threatening situations. They are also predictable: As a result of diminished income, many live in areas with high crime rates, where their victimizers are well aware of the date on which they will cash their Social Security or pension check and the forms of transportation they will use to do so.

Not only are the elderly frequently the targets of criminal activity; those who live in high-crime inner-city areas are often multiple victims of the same crime as well. Unfortunately, most older persons cannot pack up and move from the neighborhood as easily as younger people. As a result, many crimes go unreported and unpunished out of fear of reprisals and more trouble.

Clarence M. Kelley, then-director of the Federal Bureau of Investigation, told our subcommittee on housing and consumer interests that "psychologically, physically and financially, no group of citizens suffers more painful losses than our nation's elderly do at the hands of America's criminal predators." Others have testified to the fact that older bones break more easily and take longer to heal; the fear of a recurring attack is traumatic to many; and the loss of even a few dollars can be devastating for a person on a small pension. A report issued by the subcommittee concluded, on the basis of expert testimony and numerous victimization studies, that the elderly are "among all age groups, the most vulnerable to the effects of crime" and that "of all persons victimized, they suffer the most."

Awareness of the increased vulnerability to criminal behavior has a profound impact on the freedom of movement of older Americans. Some older persons fear crime so much they avoid leaving their homes at all, except for emergencies. This fear of crime was rated by senior citizens themselves in a major survey as the single most serious problem they faced—more serious than health or income or housing or loneliness.

The hearings indicated that a great deal more needs to be done to help the elderly, who lack resources, to avoid victimization or to deal with its aftermath. Programs should be devised that seek to increase the actual security of the elderly, both in their homes and in their communities, and reduce their chances of being victimized.

As a start, our amendment to the 1978 housing bill designates $12 million in housing assistance funds for anti-crime measures, such as security guards, television monitors and safer locks, doors and windows. Earmarking $12 million for crime prevention in public-housing projects for the elderly will demonstrate our commitment to the basic safety and security of the elderly and will result in positive action to protect them. We hope that this concern demonstrated in public housing will be translated into privately owned housing occupied by older people.

In exploring methods for reducing crime against the elderly, it is not enough, however, to simply provide security for the older persons in their homes. We must also provide the elderly with a sense of safety and securit on the streets. The following programs shou be developed to reduce street crime and th older person's fear of street crimes.

The elderly should be advised not to estal lish a predictable pattern of check cashin not to carry large sums of money and not travel alone on poorly lighted streets. Th should learn to recognize confidence game bunco schemes and medical quackery.

Community crime-prevention program such as escort services to assist the elderly get to the store, to the doctor and the lib and telephone reassurance programs to pr tect those who are isolated, ill or hand capped.

Innovative education and employment pr grams whereby truants and unemploye youths are reached before their frustrati may manifest itself in crime.

Police training programs dealing with th needs of older persons, and sensitizing law enforcement officers to the unique problem faced by older victims.

Finally, while those and other program should help reduce crimes, methods for r ducing the economic hardships of victimiz tion should also be devised. Medicare cove only 38 percent of the medical expenses i curred by the elderly; many who are victim ized are forced to stretch their alrea limited resources to pay for treatment their injuries. Recognizing the econom plight of many victims, Congress passed victim-compensation bill last year th would partially reimburse states with pla to assist victims of crime resulting in pe sonal injury. That legislation is awaiti Senate approval. James Gregg, administrat of the Law Enforcement Assistance Admini tration, said that the cost of compensati for medical costs and pay losses would "surprisingly low"—an estimated $261 m lion a year.

Congress should also enact legislation th would provide assistance to older victims property loss. Dr. Wesley Skogan, associ professor of political science and urban a fairs at Northwestern University, in tes mony before our committee, concluded th "given their low incomes, even relativ small losses can impose great and perha permanent hardships on older persons."

We hope that many elderly people w have experienced a nightmare as victims senseless crime will achieve their dream growing old in peace and dignity. ●

ADVERSE EFFECTS OF RISE IN MINIMUM WAGE

● Mr. HAYAKAWA. Mr. President, would like to submit for the RECORD a article which appeared in the August Wall Street Journal. This article, whic deals with the adverse effects of a ri in the minimum wage level on youn workers, was written by Paul Ingrassi a staff reporter with the paper.

This article clarifies many of th thoughts I expressed during the Senate consideration of legislation last year raise the minimum wage. Many of th negative effects of raising the minimu wage that I discussed then have no become obvious. In fact, two major ad visers to the President, Federal Reser Board Chairman G. William Miller an Treasury Secretary W. Michael Blumen thal, have suggested that the nex scheduled increase in the minimu wage, to $2.90 an hour in January 1979, be postponed.

An increase in the minimum wage not like an increase in welfare pay ments. Wages are paid on the basis o

the value of a worker's additions to a product or service that an individual wishes to purchase. Therefore, Government-directed increases in wages make it difficult, if not impossible, for business to hire inexperienced or less skilled workers. As a result, these workers become discouraged and cannot obtain jobs at all. This is one major reason why participation in the labor force and unemployment rates stay unsatisfactory even during good times, and why expensive public service jobs are proposed by the same legislators who caused the problems by increasing the minimum wage.

I have believed for a long time that young people need a chance to work. I have actually initiated legislation to allow for a youth differential in the minimum wage. Unfortunately, my efforts have been unsuccessful. I believe that part of the solution for the tremendous mass of unemployed young people would be to lower the minimum wage so as to help develop the creation of more entry level jobs. I do not have to explain to you how important it is for people to have a sense of personal worth and financial independence. Pocket money, as is provided with jobs for young people, is often necessary to allow them to behave normally in relation to their peers. This money allows him or her to go out with a friend, or to buy lunch in the cafeteria. Raising the minimum wage every year does little to help the young person looking for work. How many employers want to hire a young person with little or no work experience, who usually must learn on the job for $2.65 an hour? Some employers may, of course, but the small businessman cannot afford such high-priced, part-time, inexperienced help.

Now, I do not expect any great changes in our minimum wage laws. However, I wish to place this article in the RECORD for my colleagues to see and contemplate. I think it is important for them to realize how our actions affect the economy and the lives of all those young people who want, and deserve, to work.

Mr. President, I ask that this article be printed in the RECORD.

The article follows:

RISE IN MINIMUM WAGE SPURS SOME FIRMS TO CUT WORK HOURS AND HIRING OF YOUTHS

(By Paul Ingrassia)

LOMBARD, ILL.—Last summer Janet Straka started work at the Steak n Shake restaurant here in this Chicago suburb at 9 a.m. to get ready for the 10 o'clock opening.

But in January the federal minimum wage rose to $2.65 an hour from $2.30. Steak n Shake, seeking to blunt the impact, decided to open an hour later, since there were few early customers anyway. Steak n Shake also cut the opening waitress's preparation time to 30 minutes. So Miss Straka, a schoolteacher who works summers part-time at the hamburger chain, now starts work at 10:30 a.m., and her weekly earnings are down to about $36 from $40 last summer.

Her shortened workday shows one way in which the higher minimum wage is affecting employment in the U.S. There haven't been wholesale layoffs of low-wage workers, but some workers are putting in fewer hours on the job.

Another effect is that teen-agers, especially blacks, are having more trouble finding work as companies like Steak n Shake look for older, more-qualified workers likely to stay at a job longer. Hiring this type of worker is becoming easier because the combination of higher wages and more inflation is drawing more housewives and people like Miss Straka to work. The consumer also is affected; since last year, Steak n Shake's prices have risen 7%, partly because of higher costs of food, especially beef.

HOT DEBATE

Whether the minimum wage fuels unemployment and inflation has been hotly debated for years because its effects are so hard to isolate from other factors affecting the economy. Now the debate is heating up again. Federal Reserve Board Chairman G. William Miller and Treasury Secretary W. Michael Blumenthal both recently suggested that the next scheduled increase in the minimum wage, to $2.90 an hour in January, be postponed. Both cited the inflationary stimulus.

Their suggestion has drawn sharp retorts from both the AFL–CIO and Labor Secretary Ray Marshall. "No one cries inflation when interest rates on a car or house go up by half a point, but listen to them when the minimum wage is raised to the princely sum of $2.65 an hour," Mr. Marshall said recently. He also noted Labor Department figures showing that the economy added some 1.6 million jobs since December (including 150,000 jobs for teen-agers). "These new jobs are a telling answer to those who claim that the minimum-wage laws put people on the unemployment lines," Mr. Marshall concluded.

Most economists, though, do contend that higher wages lead to higher prices, unless workers' productivity rises proportionately. And they feel sure that minimum wage increases add to unemployment. "The question is how much they add," says Walter E. Williams, a Temple University economist who has studied the minimum wage for Congress's Joint Economic Committee. He says the increase in employment since December—and the drop in the nation's unemployment rate to the current 6.2% from 6.4%—would have been larger if the minimum wage hadn't risen. "The economy always adds some jobs during a period of growth," Mr. Williams observes.

The debate is more than academic. An estimated 4.6 million U.S. workers, more than 5% of the nation's work force, got a pay raise when the minimum wage was increased last January. In all, those workers are pocketing an extra $2 billion this year, and the Labor Department says 5.2 million workers will get another $2 billion next year when the $2.90 minimum takes effect. Beyond that, under a law passed last year, the hourly minimum is to rise to $3.10 in 1980 and to $3.35 in 1981. The increases also tend to raise wages of workers paid only slightly above the minimum and of low-wage workers not covered by the law (such as some farm workers and some household help).

The $79-billion-a-year fast-food and restaurant industry has plenty of minimum-wage workers, and it's clear that as the minimum increases, so do companies' efforts to cut the number of workers at a restaurant. Employes aren't flying out of restaurants like hamburgers off a grill, but productivity efforts are beginning to show results.

At the Lombard Steak n Shake, for instance, total employe hours worker each week actually trail a year ago, even though business is up. The amount of the decline varies from week to week, but total hours are generally down 10%. As well as opening an hour later, the restaurant is closing an hour earlier—at 11 p.m. during the week and at midnight on Fridays and Saturdays.

SOME SHORTCUTS

To reduce work hours further, the restaurant has taken some shortcuts. The waitresses used to mix powdered coffee creamer with water for cream pots on each table. Now the pots have been replaced by individual packets of liquid coffee creamer, which don't require preparation. Likewise, sugar pourers on the tables are being replaced by paper packets. The chain still hand-slices pickles lengthwise, but now it uses fewer pickles for garnish to reduce slicing time.

All these maneuvers have helped the Steak n Shake at Lombard. In the 24 weeks ended last week, the restaurant's labor costs rose only 5% from a year earlier, against an increase of more than 15% in the minimum wage.

Steak n Shake also is trying to hire older workers; because they generally are more productive and tend to stay on the job longer, they reduce hiring and training costs. The Lombard store's 37 employes now average 21 years of age; a year ago there were 39 employes, and the average age was 18. The Indianapolis-based company as a whole employs about one-third fewer teenagers than a year ago, Thomas R. Delph, vice president, says.

The higher minimum wage is helping Steak n Shake attract older workers. Ironically, so is the higher inflation rate, itself partly a product of minimum-wage increases. Housewife Jane Andrews, for example, hadn't worked for 10 years until she started as a Steak n Shake waitress last year. "You always say you're going back to work to get out of the house, but that extra money really helps," Mrs. Andrews says. "I know other women who are going back to work to help keep up with inflation."

YOUNG WORKERS HURT

As a result, job opportunities are reduced for teen-agers, who usually are less qualified than adults, and especially for black youths, who tend to be the least qualified. The unemployment rate in the 16-to-19 age bracket now stands at 16.3%, and for blacks of that age it is 37%. The minimum-wage law, Prof. Williams says, makes companies "less willing to hire and train the least-productive employee, which includes teen-agers and particularly black teen-agers."

That's exactly what's happening in five Dairy Queen stores in Decatur, Ill. The owner, Stacy Smith, believes that students with higher grades tend to be better workers; so when the minimum wage went up, he raised his hiring requirements. He now looks for at least a "B" grade average. As a result, Mr. Smith says, fewer blacks qualify. This year only six of his 75 student workers are black, down from 10 of 75 a year ago.

Mr. Smith also has begun using another cost-cutting tool. By law, employers can get Labor Department permission to hire students to work up to 20 hours a week (more in the summer) at 85% of the minimum wage, provided that their work hours don't exceed 10% of a company's total. "I didn't see the need to take advantage of this before the minimum wage went up," Mr. Smith says.

RED LOBSTER'S CHANGES

Like Steak n Shake, General Mills Inc. has cut morning preparation time at its Red Lobster Inns. The restaurants still open at 11 a.m., but preparation now begins at 9 a.m. instead of 8 a.m. Red Lobster also cut restaurant crew meetings to twice a month from once a week; waitresses and waiters are paid to attend the meetings, where they can air gripes, learn new procedures and the like. In addition, Red Lobster thinned its supervisory staff to one supervisor for every four restaurants; each supervisor used to oversee only three inns.

Another company, International Multifoods Corp., has pared the work force 7% in its nine restaurants by combining jobs. Regular full-time employes now do some work such as preparing salads, that used to be handled by part-timers. So even though the minimum wage has risen—as have sales at the company's Boston Sea Party and T. Butcherblock restaurants—the restaurants' payroll costs are "about even" with last year, Multifoods says.

Some fast-food and restaurant companies are trying to change their hiring patterns. McDonald's Corp. is seeking to attract older workers to reduce crew turnover, but "it's too early for us to see any trends," a spokesman says. A similar move by Pillsbury Co.'s Burger King also hasn't been going on long enough to pass judgment.

SELF-SERVICE TREND

A trend to self-service restaurants is clear, however. Eliminating waiters and waitresses is especially important to employers because restaurants are faced with stiffer "tip-credit" requirements as well as the minimum-wage increase. Currently, restaurants must pay table help only half the minimum wage, and tips are credited with providing the other half. But next year, employers must pay table help 55% of the minimum wage, and in 1980 the requirement will rise to 60%.

General Mills says it is accelerating new openings of its self-service York Steak House resturants and slowing down Red Lobster openings (the company won't provide figures). Also, General Mills is testing a new beef and seafood restaurant called Hanahan's and designed around the self-service concept.

"Self-service is part of our strategic planning," says Eugene E. Woolley, executive vice president for restaurants. "It's a long-term effect of these minimum-wage increases." ●

NEW U.S. ANTITANK JET READY FOR DEPLOYMENT

● Mr. MATHIAS. Mr. President, Charles Corddry writing in yesterday's Baltimore Sun praises the A–10 close air support airplane in an article entitled "New U.S. Antitank Jet Ready for Deployment." The A–10 is assembled by Fairchild Industries in Maryland.

We can forgive Mr. Corddry for referring to the A–10 as "an ungainly looking crate," because he quite accurately points out that "it will have more capacity for destroying enemy tanks than anything now flying." It will be an important addition to the NATO response to the Warsaw Pact tank buildup.

Last summer when I visited General Haig at SHAPE Headquarters in Mons, Belgium, he indicated his strong support for the A–10. On August 15 of this year Gen. John Pauly, Commander in Chief, U.S. Air Force in Europe, issued a statement in which he reaffirmed:

> The critical need for the early acquisition and deployment of the A–10 in sufficient numbers to provide immediate evidence of an improved conventional capability in Europe.

I commend Mr. Corddry's article to the attention of my colleagues and request that it be printed in the RECORD.

The article follows:

CAN EUROPE BE DEFENDED?—NEW ANTI-TANK JET READY FOR DEPLOYMENT

(By Charles W. Corddry)

Ramstein Air Base, West Germany—The United States Air Force in Europe, usually identified with sleek supersonic jets, is about to deploy an ungainly looking crate that it says quite simply will have more capacity for destroying Soviet tanks than anything now flying.

This new plane is the A–10, an armor-plated low-and-slow flyer that carries a packet of Maverick missiles with television and infra-red guidance to steer them into tank formations—the most worrisome Soviet threat to the forces of the Western alliance. The planes are assembled in Hagerstown by Fairchild Industries, Inc.

The A–10 is being cited just now as further evidence that the Air Force, which customarily operates at the leading edge of technology, is upholding its qualitative superiority over the Soviet air arm.

Besides the "tank-killer" airplane, which will enter European service in January, the Air Force has the clearly superior 1,650 mile-an-hour F–15 air combat fighter in squadrons in West Germany now and will receive the new F–16 in about two years.

The F–16, designed for both air combat and support of ground troops, also will serve with Belgian, Danish, Dutch and Norwegian air forces.

"We definitely have the edge in quality," says Gen. William J. Evans, though the Soviet air arm has made "remarkable increases" in bomb-carrying capacity, range and electronics.

General Evans has just retired as the commander of U.S. Air Forces in Europe and also of the allied North Atlantic Treaty Organization air forces in central Europe. He was succeeded by his former deputy, Gen. John Pauly.

What worries such commanders is the vision of lopsided numbers favoring the Warsaw Pact in a battle involving hundreds, perhaps thousands, of aircraft in the confined airspace over Europe, while massive Soviet tank formations press their attack on the ground.

General Evans calculates that Moscow and its Warsaw Pact allies have a 2½- or 3-to-1 advantage over the NATO forces in tactical aircraft. These include, for both sides, aircraft that would be engaged in both defensive and offensive roles.

The allied air headquarters here says the Warsaw Pact has more than 2,000 aircraft—more than half its total—assigned to attack roles against Western alliance targets.

The Soviet Flogger aircraft is rated first class for air combat and ground support, and the Fencer is said to be able to strike targets in Britain from bases in the western military districts of the Soviet Union.

Of course, the allies would get reinforcements quickly, mainly from the U.S., and General Evans estimates that in a week or less the ratio would be reduced to 3-to-2 in the Warsaw Pact's favor.

In present circumstances, given NATO's new determination to upgrade its military forces, General Evans shares the view widely heard in a NATO reporting tour, namely, that "we can keep on deterring" the Soviet Union from attacking Western Europe.

Besides the conventional force buildup to offset Soviet expansion, he notes, there must always be uncertainty in Kremlin minds over whether, or how fast, a conflict would turn nuclear.

If deterrence should fail and a conventional war should break out, leaders of allied air forces believe the alliance could deal with a Soviet air onslaught. This assumes fast reinforcement with high-quality aircraft like the F–15 and F–16 and, for supporting ground forces, the A–10.

The Warsaw Pact would have the advantages of numbers, the initiative, well-developed electronic measures for spoofing defense radars and a diversified assortment of surface-to-air missiles to protect their land forces and release aircraft for attack missions.

The West could count on qualitative superiority, newer aircraft across-the-board, what is generally regarded as much superior training to that of Warsaw Pact pilots following "canned scenarios," and highly advanced measures for warning and control of air battles.

And, as General Evans emphasizes, the numerical disparities could be adequately redressed fairly fast. "Quite a few" squadrons would arrive from the U.S. in 48 hours. Plans are in hand for dispersal over many Weste European airfields.

The course of the air battle—how fast could be taken to the foe—would depend i portantly on the amount of warning of atta the West got and how swiftly political lead ordered mobilization.

Plans are based on being able to move wi as little as 48 hours' warning. If this wa done successfully and ground forces mov forward to their fighting positions near t East-West border with all their combat equipment, air power could be concentrat on defense against the Warsaw Pact aircra and on launching counterattacks in Easte areas.

If the ground force movement were slowe or ordered later than it should have been higher percentage of fighter planes wou have to join the A–10 fleet (expected number 100 by early next year), Army m sile-armed helicopters and other arms meeting tank thrusts.

Air counterattacks on other enemy are would be delayed, as was the case with t Israeli forces in the 1973 Mideast war.

NATO's military commanders rate toda belts of antiaircraft missiles, through whi attackers would have to fly, as "pretty b for Soviet health," as an officer at headqua ters near Brussels put it.

But with Soviet advances, this situati will change, and NATO's heads of gover ment have ordered development of a n system that is likely to revolutionize air d fenses in another decade. It probably w cost $25 billion.

The system will include jam-proof co munications, radar sites hardened agai bombing attack, positive means of disti guishing between friendly and enemy a craft in confusing battle situations, airbor early-warning planes and better distributi of jet interceptors and antiaircraft missi from northern Norway through cent Europe to eastern Turkey.

This system is still being "invented," ho ever, and the alliance must do with what has and with piecemeal improvements w into the 1980's. ●

WORLD DEVELOPMENT REPORT 1978

● Mr. MATHIAS. Mr. President, t World Bank has just issued an impo tant statement entitled "World Develo ment Report, 1978." This is intended the first of a series of annual repor analyzing global economic developme issues. It is a first-rate analysis of t problems and prospects facing the d veloping world today.

"World Development Report, 197 begins on a note of optimism:

> The past quarter century has seen gre progress in the developing countries.

The balance of the report, however, less hopeful:

> About 800 million people still live in a solute poverty. These are people living at t very margin of existence—with inadequa food, shelter, education, and health care.

Each year we in Congress authori and appropriate considerable sums f bilateral and multilateral assistance. W do so, because as responsible citizens the world we cannot ignore the mi fortunes of others. But all too often o debates on foreign aid ignore the hum element. We talk of money, first-cla airfare, and inflated salaries. These a proper issues of concern, but in t process of discussing them we forg what it means to be hungry, sick, or poo We forget what it means to survive

less than $250 per year. The average citizens in 34 countries of the world must do exactly that.

The World Bank report illuminates the problems facing developing countries and examines the avenues available for alleviating these problems. Development has two aims—economic growth and the alleviation of poverty.

Economic growth is to a substantial degree a function of trade and the availability of capital. To earn foreign exchange developing countries must export. When the developed world cuts back on imports, for whatever reason, the negative impact on developing countries can be serious.

But the harm is not just felt one way. The World Bank report points out that—

Developing countries purchase fully one-quarter of the total exports of industrialized countries.

In our own case, developing countries purchased approximately 35 percent of our total exports in 1977. Clearly, if their sources of foreign exchange are curtailed developing countries must cut back on their purchases of our exports.

External capital provides another vital source of foreign exchange necessary to the progress of the developing world. Private banks have been a major factor in the development efforts of a number of countries. Unfortunately, this source of funding has problems associated with it such as the relatively short maturities of commercial bank loans. For low-income countries in particular, official development assistance from government and multilateral sources is vital. Unfortunately, the World Bank points out that—

Resource transfers on concessional terms have fallen considerably short of expectations . . .

"Given the obstacles they face, elimination of absolute poverty in low-income countries by the end of this century seems impossible." This is a grim fact, but what the World Bank report points out is that we are not helpless. Progress can be made.

I ask request that the summary of the "World Development Report, 1978" be printed in the RECORD. I commend to all of my colleagues the full text of this important document.

The summary follows:

A WORLD BANK PUBLICATION SUMMARY—WORLD DEVELOPMENT REPORT, 1978

BACKGROUND OF THE STUDY

The past twenty-five years have seen substantial progress in developing countries. The rapid growth of incomes has been accompanied by a rapid expansion of educational systems, growing literacy, improvements in nutrition and health conditions, and increasing technological sophistication and structural changes, including an expanding industrial base and greater urbanization. Obviously, experience has varied. But the fact that some 800 million people are still in absolute poverty—with incomes too low to ensure adequate food or shelter, and without access to essential public services such as education or health care—is a stark measure of how much remains to be done. Development progress so far has been neither sufficiently fast nor sufficiently broadly based to reduce the numbers of people in absolute poverty. Even maintaining present rates of progress will require large increases in the flows of capital to developing countries, determined resistance to protectionist pressures against their exports, and vigorous efforts to raise the growth of agricultural productivity. On current projections, it is clear that absolute poverty will continue to be a massive problem for many decades.

This report is the first in a series of analytical reviews of development issues by the staff of the World Bank. Its coverage is therefore not intended to be exhaustive. It focuses on the acceleration of economic growth and the alleviation of poverty, giving particular attention to how the development of trade, the expansion of commercial lending, and aid are likely to affect the prospects of different groups of developing countries. The report does not seek to deal in detail with issues currently under active negotiation. The statistical annex to the report, World Development Indicators, is a compilation of selective economic and social data for 125 countries, designed for easy reference.

THE OBJECTIVES OF DEVELOPMENT

The obstacles developing countries face in accelerating progress differ in degree and in kind, as do the appropriate policy instruments. There is, however, a growing recognition that development strategies need to give equal prominence to two goals: accelerating economic growth and reducing poverty.

Rapid economic growth is fundamental to any development strategy, not only to keep pace with growth in population and to create employment for the growing labor force, but also to generate increased saving for investment. Particularly in the Low Income countries—countries with income per person lower than US$250 in 1976—substantial progress in reducing poverty will be impossible without faster growth. But growth alone is not enough. Because the poor tend to share less than proportionately in growth—since they have only limited access to productive assets, education, and employment—deliberate action is necessary in areas that affect the distribution of increases in income. These include the structure of economic incentives, the allocation of investments, and the creation of special institutions and programs to increase the productivity of the poor and their opportunities for employment.

The poor suffer not only from low incomes but also from inadequate access to public services essential to their health and productivity. Because many of these services, such as sanitation and safe water supply, cannot be privately purchased, extending the distribution of services must be an important element of strategies to alleviate poverty.

Though the main responsibility for successful development rests with the developing countries themselves, the measures that they can implement effectively and the rates of growth that they can achieve are influenced by external factors: the markets for their exports, the costs of imports, and the availability of international capital to help finance investments.

INTERNATIONAL POLICY ISSUES

Interdependence in the world economy is not new. But the nature of interaction between countries changes continually, and the emerging patterns of interdependence are perhaps not yet fully understood. In recent years, the prospect of growing instability in international grain markets and the rise in oil prices have indicated some of the more dramatic aspects of interdependence and have made more people aware of the importance of maintaining stable trading relationships in these vital commodities. But interdependence permeates many more aspects of international relations.

With their expanding industrial capacity, increasing numbers of developing countries are now involved in the rearrangement of international comparative advantage that has been a major source of economic growth for the industrialized countries over the past twenty-five years. The developing countries have become a substantial market for exports from the industrialized countries. By borrowing in international capital markets they have managed to sustain the growth of this market through the recent upheavals in the international economy. Their capacity to service debt depends on the foreign exchange earned by their exports, most of which are still sent to the industrialized countries. International migration of labor on a large scale and the growth of tourism have helped to reinforce the economic links between industrialized and developing countries.

The faltering pace of economic recovery in the industrialized countries and the growing uncertainty affecting international trade and capital movements make the international environment less favorable for progress in the developing countries than it has been for much of the past twenty-five years. Most observers agree that the industrialized economies will grow more slowly in the next decade than the rate of 5 percent a year that they maintained in the early 1970s. They continue to face inflationary pressures and imbalances in external payments, which have given their policies a deflationary bias. For this study, an average growth rate of 4.2 percent a year between 1975 and 1985 is projected for the group. The slowdown in their economic activity will be reflected in slower growth of international trade, and is one of the causes of a rise in protectionist pressures against imports from developing countries.

THE GROWTH OF PROTECTIONISM

Severe new restraints have been introduced on imports of textiles and clothing, the fastest growing categories of manufactured exports from developing countries. Other products of interest to developing countries are increasingly being affected.

How strongly the new barriers will affect the growth of developing countries' manufactured exports will depend in part on how strictly the quantitative restrictions are administered. It is possible that, in aggregate, these exports could continue to grow at the safe trend rate as in 1960–75, provided that the more advanced developing countries can speed their diversification out of textiles and clothing and into engineering products and other manufactures. The more restrictive the international trading conditions, however, the fewer the developing countries that will have enough flexibility to exploit the remaining opportunities for expanding manufactured exports. In a climate in which demands for protection in industrialized countries are more likely to be accepted, even protests by producers against the growth of imports can discourage developing countries from orienting investments toward export production.

For the industrialized countries, protectionism can be self-defeating in the long run. The liberalization of international trade, which has characterized the last twenty-five years, makes important contributions to the pace of growth in industrialized countries: it fosters an international division of labor that accelerates the upgrading of skills and labor productivity in industry, encouraging technological progress; it provides an inflow of manufactured articles at lower prices, thus increasing real purchasing power and reducing the inflationary pressures that inhibit the pursuit of growth through expansionary monetary and fiscal policies; and it stimulates growth in the developing countries, causing a further expansion in the markets for the industrialized countries' exports.

It is not worth paying the costs of reduced

growth and higher inflation to avoid the unemployment that may be caused by the growth of imports from developing countries. In the aggregate, the level of employment is affected far more by the growth of the economy as a whole than by imports from developing countries. Studies have also demonstrated that the employment preserved by protection against imports from developing countries is offset by the loss of employment in industries that export to these countries.

Furthermore, if the export earnings of the developing countries are reduced, the effects on their economic growth and on their demand for imports will be transmitted back to the industrialized countries, with adverse effects on employment in export industries. It is not widely recognized that the developing countries purchase fully one-quarter of the total exports of industrialized countries. The developing countries' import market has been one of the most buoyant elements of demand during the current recession and has helped to sustain production and employment in important export industries in industrialized countries. Limitations on imports from developing countries can be self-defeating because they put at risk much larger volumes of export production: exports from developing to industrialized countries were about US$26 billion (thousand million) in 1975, but the reverse flow of US$123 billion.

Such considerations cannot allay concern about particular firms or regions that have difficulty in withstanding competition from imports. These cases, however, call for special measures to smooth the process of adjustment, rather than broad protective measures that prevent adjustment.

The structural adjustments to shifts in international comparative advantage can be difficult and painful, but with adequate forward planning, measures can be devised to ease the transition and reduce its social costs. Most industrialized countries' efforts to facilitate adjustment are too limited at present. As the necessary basis for appropriate adjustment policies, a few have undertaken studies of the probable changes in their industrial structures. It would impart a desirable sense of urgency if governments were to commit themselves to formulating such policies and to agree to consult on their implementation in international forums.

Import barriers are common in the developing countries as well. Through these may be justified at an early stage of industrialization, their negative effects on industrial efficiency and growth become increasingly evident as countries advance in the development process.

As international specialization increases, active participation by developing countries in international trade discussions will become more and more important. In the past the main objective of the developing countries in international trade negotiations has been to acquire special tariff preferences. Analysis suggests that it is much more important to concentrate on resisting pressures for nontariff barriers to their imports. Their negotiating position would undoubtedly be strengthened and the protectionist pressures in industrialized countries more effectively addressed if nontariff barriers could be negotiated on the basis of reciprocal concessions from developing countries.

Trade among developing countries in manufactured goods has significant potential for growth: developing countries still obtain only about 15 percent of their manufactured imports from other developing countries. So far, most of the expansion of this trade has been based on preferential treatment in regional arrangements. Faster expansion will require a more general liberalization of imports, as well as changes in the structure of industrial incentives and measures to strengthen the institutions handling transport, communications, and export credit.

INTERNATIONAL CAPITAL FLOWS

Even if the earnings from trade expand steadily, the resources available to the developing countries must be supplemented by an adequate inflow of external capital. The poorer developing countries, whose capacity to service debt remains limited, must rely on Official Development Assistance (ODA) on highly concessional terms. Resources transfers on concessional terms have fallen considerably short of expectations, of need, and of the capacity to use them effectively. While ODA from members of the Organization of Petroleum Exporting Countries has increased significantly in recent years, that from the Development Assistance Committee of the OECD grew at an average rate of only 1.4 percent a year in 1960–75. The large South Asian countries were among the ones most adversely affected by the slow growth of these flows.

Net annual flows of ODA from the Development Assistance Committee are projected to grow from US$14 billion in 1975 to US$44 billion in 1985, with a gradually rising share of the total going to Low Income countries. This implies an increase of 5 percent a year in real terms, but one which would still fall far short of the internationally accepted target of 0.7 percent of donor countries GNP: the volume of ODA would rise only from 0.36 percent of donors' GNP in 1975 to 0.39 by 1985. Even this is unlikely to be achieved unless three large contributors—the United States, the Federal Republic of Germany and Japan—increase their commitments substantially. Statements in support of a larger aid effort have been made in all three countries, but they have yet to be translated into action.

International lending at market terms, from public and private sources, is of particular importance to the Middle Income countries—those developing countries with income per person of more than US$250 a year. This lending has grown rapidly in recent years, but there are problems in ensuring that it will continue to expand adequately in the next decade. Much of the private lending to developing countries comes from relatively few large commercial banks, most of them in the United States. Other banks' participation is growing, and it is important that this trend continue if the present constraints on the expansion of private lending are to be overcome.

Present prospects suggest there will be no general problem of debt-servicing capacity, even though individual developing countries might encounter short-term liquidity problems. The outlook for private lending depends on a mixture of fact and psychology. Some actions designed to ensure the stability of the banking system in the capital-exporting countries might, by causing abrupt changes in the availability of finance to the developing countries, trigger the very debt crises that they are intended to prevent.

Another source of instability is the fact that private loans to developing countries generally have short maturities, particularly compared with the gestation periods of the investments they finance. The projected increase in gross disbursements from private banks for 1975–85 is three times the increase in net disbursements. To extend the average maturity of private lending, measures would be desirable to improve developing countries' access to the long-term bond markets, as well as to increase the proportion of loans from official sources, which lend at market rates but with longer maturities. The latter will depend upon timely action to increase the capital base of the international lending institutions.

ELEMENTS OF DEVELOPMENT STRATEGY: MIDDLE INCOME COUNTRIES

The Middle Income countries are a heterogeneous group in their economic structure, development experience, and level of income per person, but in general their economic growth depends more closely than that of the Low Income countries on international economic conditions. The uncertain outlook for trade and capital flows will probably make it difficult for them to maintain their historical rates of growth. Most Middle Income countries are projected to grow more slowly in the next decade: at 5.9 percent a year between 1975 and 1985, compared with 6.4 percent annually in 1970–75 and their trend rate of 6.0 percent a year from 1960–75.

Maintaining rapid rates of growth will require efforts to sustain the growth of their export earnings, supplemented by measures to achieve a more broadly based expansion of domestic demand. This will require a more balanced growth strategy, including the acceleration of agricultural development. Greater priority will need to be given to investments in the physical infrastructure supporting agriculture, the creation of a more satisfactory set of incentives and relative prices, and much improved support services. Measures to preserve the growth of foreign exchange earnings include raising export incentives, increasing the domestic value added in manufactured exports, and, particularly for the more advanced countries, diversifying those exports. Measures to further the growth of trade among developing countries will also be important.

Some of the major Middle Income countries have large external debt service obligations. For them, it is vital to preserve a stable climate for commercial capital flows to avoid severe balance-of-payments problems and a sharp decline in their economic growth.

ELEMENTS OF STRATEGY: LOW INCOME COUNTRIES

In the Low Income countries of Asia and Sub-Saharan Africa, where the majority of the world's absolute poor live, more than three-fourths of the population depends on agriculture. The key to reducing the numbers in poverty is to accelerate the growth of agriculture, increasing productivity to raise the incomes and purchasing power of small and marginal farmers and creating employment for the landless. The growth of agriculture is also an important factor in industrial growth: a large part of consumer demand for industrial products depends on agricultural prosperity, and much of the manufacturing activity in these economies is based on agricultural raw materials.

The Low Income countries' agricultural potential is such that, with strenuous efforts to redirect their policies, they could almost double their rate of growth in this sector. If they can achieve this, their economy could grow at 5 percent a year in the period 1975–85, compared with the 3.1 percent annual rate of the previous fifteen years. The prospects of achieving such an acceleration vary among countries, because of differences in the availability of suitable technology and the potential for irrigation.

In parts of Asia where a large potential for irrigation can be tapped, agricultural output can be increased rapidly by stepping up investment in irrigation. Changes will be necessary in the administration and organization of agricultural support services to assure that information is disseminated broadly and quickly and that the services are responsive to the special needs of small farmers. In rainfed areas, too, there is considerable scope for progress with present knowledge. But in the drought-prone areas of Sub-Saharan Africa and Asia, major technological problems remain to be resolved

sustained agricultural growth is to be achieved.

Measures to make crop cultivation more productive would need to be supplemented by dairying, poultry, and fisheries programs, which are particularly important in raising the incomes of the small and marginal farmers and the landless. But even if agriculture grows much faster than hitherto, underemployment will be a growing problem in Low Income Asia, calling for greater emphasis on creating nonfarm jobs in rural areas and systematic expansion of large-scale public works programs.

Strengthening rural and urban infrastructure to support these development efforts will be highly demanding of investment funds in industry as well as in agriculture. This will require efforts on a large scale to mobilize domestic resources, including the reform of taxation systems, introduction of realistic prices for public sector products and services, restraint in government consumption expenditures, and increased incentives for private saving. It is, however, extremely difficult to raise domestic saving at these countries' very low levels of income. With their limited capacity to service external debt, these countries urgently require increased flows of concessional assistance if necessary investments are to be made.

REDUCING ABSOLUTE POVERTY

A necessary condition for progress in reducing poverty is maintaining rapid economic growth, especially in the rural areas of Low Income countries where the majority of the poor live. But the elimination of absolute poverty by the end of this century seems impossible. Illustrative projections show that even if the trends projected above continue to the end of the century, about 17 percent of their populations would still be left in absolute poverty by the year 2000. With the rapid increases in population that now appear inevitable, this means 600 million people. Assumptions about future pro-

an, of course, be varied in innumerable
Nonetheless, it is disturbingly clear
absolute poverty will remain a prob-
f enormous dimensions at the end of
entury.

tions against poverty are urgent. In ad-
n to accelerating the growth of their
es, it is necessary that essential public
es such as water and sanitation be made
accessible to the poor. In both the
e Income and Low Income countries
is a good deal of scope for widening
istribution of essential public services

of incomes of the poorest groups and for the extension of basic public services, and then monitor progress regularly.

No actions in the international sphere can substitute for vigorously implemented domestic policies that reach the poor. But unless the developing countries can be assured of continuing markets for their exports and expanded access to international capital on terms they can afford, the numbers of people in absolute poverty cannot be expected to decrease. It should be obvious that the industrialized countries too have a large stake in an international economy that supports the efforts of developing countries to sustain rapid growth and alleviate poverty as rapidly as possible.●

U.S. POLICY IN RHODESIA

● Mr. HEINZ. Mr. President, much of the debate on our Rhodesian policy has revolved around points which I believe to be extraneous to the central issue. That central issue is, simply, what is the best path to a peaceful transition to majority rule.

It is unfortunate, in my view, that so much of the public debate on Rhodesia has been taken up with implicit moral commentaries on the various parties there. We often hear statements about which group represents our real friends there, which group promises a system of government closest to our own, or which group is most popular with the other African nations, particularly the Front Line states.

These are important questions, Mr. President, but by focusing on them, we miss the most important issue—how to avoid violence as Rhodesia moves to majority rule, as move it must.

To its credit, the administration makes its case clear in this respect. The crux of its argument is that: First, our current policy is neutral between the Patriotic Front and the signers of the Salisbury Agreement; second, lifting sanctions would tilt our policy toward the latter, thereby causing, third, a decline in our hard-won credibility and influence in the Front Line states, and fourth, a hardening of the Patriotic Front's position, including an increase in violence and the

proposes no real hope of breaking the logjam.

Action to lift sanctions, however, offers such a tactic. Recognizing the same stalemate, promises to add to the legitimacy and strength of the transition government, thereby increasing its support and pressuring the Patriotic Front to come to the table in a more conciliatory fashion.

This suggests that our current policy is in effect a self-fulfilling prophecy, that

ably take place. When placed in the context of Rhodesian politics over the past 10 years, this is progress indeed. In some respects, the most significant strength of this agreement is the simple fact that it exists at all. To anyone familiar with the reluctance of the Smith regime to make any significant concessions for so long, the mere fact of agreement cannot help but have some significance.

It is not my intention, however, to discuss the merits of the Salisbury Agreement, and neither should it be the administration's. Rather we should be talking about what course of action will lead to a peaceful transition of power to black rule. There seems no longer to be basic disagreement on the final goal, only on how to get there, and how soon. One area of disagreement, however, is on how long to continue the economic sanctions against Rhodesia.

Opponents of the immediate lifting of economic sanctions contend that the best way to get there lies in the pursuit of further negotiations pursuant to the Anglo-American Plan, possibly an All Parties Conference, so that the Patriotic Front can be brought into the process.

This, of course, has been our policy objective since the Carter administration came into office. Presently negotiations seem to have reached the fundamental obstacle of both sides supporting free elections but each side demanding control of the process by which those elections will occur. This is hardly an ennobling debate, but it is one which thus has eluded resolution. The administration asserts that it can be resolved, but it presents no evidence to that effect and

popular support.

Such an approach, of course, may well be criticized for the same flaw in the administration's policy—an implicit approval of one side or the other, in this case of the internal settlement. That interpretation would not be accurate, in my case at least. I have already outlined my concerns about the Salisbury Agreement. I have also pointed out, however, that the settlement represents an agreement between widely differing parties,

only to make the Patriotic Front look respective while it can continue to fight a guerrilla war which will escalate anyway, and our policy hinders the transition government in attracting whatever internal popular support it might be entitled to on the merits.

Thus, though our policy may be more attractive rhetorically to the Front Line states and other outsiders, it may well be having the effect of selling out the people of an independent Zimbabwe—the very people we are ostensibly trying to help—by making it impossible for them to freely choose a new government.

It would appear that the crux of the current disagreement between the Patriotic Front and the transition government revolves around different assessments of who is going to win the battle for popular support. Unsure of their ability to win a fair election, and/or divided personally behind various leaders who would like to win, all parties want to create an election structure that insures them victory, a victory which at present is uncertain for anyone. It should be clear from this that the real enemy of peace in Rhodesia is uncertainty. The longer the situation stalemates, the less the likelihood of successful agreement and the greater the possibility of increasing violence.

It ought to be in our interest to reduce this uncertainty and help end the paralysis in a way which assists the transition to black rule. Removal of sanctions would help this process, if only symbolically, by adding to the legitimacy of the transition government and helping provide it with an opportunity to seek

ing as rapidly down that path as the rest of us, and in doing so would react to this action with restraint and the realization that our objectives have not changed any more than theirs have.

Mr. President, when the Senate considered the question of economic sanctions last month it approved the Case-Javits amendment which provided for the lifting of sanctions after free elections were held and after the transition government has agreed to attend an all-

tion will deteriorate further. Obviously this policy poses uncertainties, just as our current policy does, but it offers the hope of some progress where we seem to have made very little to date.

Finally, we should put such issues as the lifting of a sanctions in their proper context. If the economic sanctions, for example, were lifted we would not be recognizing the transition government. Neither would we be providing it with any significant material support, military or economic. I have yet to hear anyone pretend the lifting of sanctions for a period prior to the holding of elections will have any significant economic impact. Commercial relationships simply cannot be established that quickly, particularly when there remains the real possibility they will be shortly shut off again. What this action would do is take a small half step in the direction of giving the transition government some moral support, which to this Senator implies not so much moral approval of that government as the recognition that it has the most reasonable chance of successfully turning to majority rule without war.

The administration, to its discredit, portrays the lifting of sanctions in starker terms and thereby gives it a significance it does not deserve. It will not cause civil war in Rhodesia—as if there was not one there already—nor will it mean an irrevocable end to any good relations with progressive African States. Part of the process of maturing as a nation is perceiving one's interests in objective, nonrhetorical terms. I am confident that the African nations are mov-

fundamental principles of human existence as the freedom of thought, speech, religion, and press are the irrevocable underlying tenets of our Nation, we often overlook the reality that people in other nations are routinely denied these basic and cherished rights. Nothing provides a starker contrast between the United States and the Soviet Union than the sham trials we have witnessed. We all are saddened for Anatoly Shcharansky, for the further pain and

ment a fair chance to make good on
commitments, and that we do not e
dorse a policy of violence and destru
tion in Rhodesia. To the extent that t
Case-Javits amendment will send th
signal, it deserves endorsement. But t
President should be aware that there a
many of us in Congress who would ha
preferred a more immediate lifting
sanctions and are prepared to contin
advocating that position if the situatio
in Rhodesia continues to deteriorate.●

CONTINUING OPPRESSION OF SOVIET DISSIDENTS

● Mr. HEINZ. Mr. President, the trag
events of the past month in the Sovi
Union have given us all cause for gre
sadness and outrage—sadness at the a
bitrary sentences handed down to tho
on trial and outrage at a system that
determinedly violates basic hum
rights.

In the light of these recent examples
Soviet "justice," it is appropriate for
all to register our growing sense of alar
at these blatant and continued violatio
of basic human rights and freedoms.

One of my saddest experiences recen
ly was greeting Avital Shcharansky so
after the sentencing of her husband.
was overcome with a profound feeling
sorrow for this heroic couple and for t
many other people in the Soviet Unio
whether Jews, Ukrainians, or membe
of other groups, who are being den
their legitimate personal rights and fre
doms and are persecuted for seekin
them.

Living in the United States where

tematic campaign of jailing, banishment, and expulsion of the members of the Helsinki Watch Committee, culminating in the latest contrived trials and prearranged verdicts of Shcharansky, Ginsburg, Petkus, and others. It is tragic to realize that these people are being punished by their country solely for exercising their rights—rights formally acknowledged by their Government.

In response to this deteriorating situation, the United States and other nations have regularly brought their concerns to the attention of Soviet officials. These appeals have been ignored, and the situation in the Soviet Union has, if anything, gotten worse.

Under those circumstances, it is important for the administration to adopt a clear and decisive policy of response to these actions. To that end, I recommend that the President:

First, immediately suspend, for an indefinite period, export licensing and sale of all high technology items to the Soviet Union, including oil drilling equipment;

Second, require the licensing of all manufactured items, except those broadly available (90 percent of our exports to the Soviet Union are not now subject to licensing);

Third, permit only a congressionally accountable official (rather than a member of his own staff or the National Security Council) make any decision in export cases to the Soviet Union; and

Fourth, urge Japan and our NATO allies to adopt the same strictures on trade with the Soviet Union, thereby insuring that our efforts to use the export lever are not undermined.

Taken together, these measures represent a restrained effort to use the policy tools available to us to encourage the Soviet Government to live up to its international commitments. Control of export policy is a lever to be used only with the greatest care, as its use has adverse effects on American manufacturers as well as on the Soviet Union. That can be a price worth paying to further our human rights objectives, but we need to be very sure in advance that such a tactic will in fact achieve its intended goal. With respect to the Soviet Union, I believe that the careful use of such policy tools will indeed have the desired impact, and that the human rights violations or the Soviet Government are so serious and so important that a firm approach on our part is fully justified.

Thus far, the Soviet Union has proven itself an intransigent, hostile, Government unwilling to provide the most basic human rights to its citizens. People of good will in the United States have been speaking out in protest for a long time. It is time now to begin a more active, aggressive policy in support of these world wide principles.●

PROPOSED TAX CONVENTION WITH KOREA

● Mr. INOUYE. Mr. President, on June 29, along with all other Members of the Senate, I received a telegram from Mr. Paul Hall, president of the Seafarers International Union of North America (SIU) urging that the full Senate review article 10 of the proposed tax convention with Korea.

The SIU was concerned that article 10 of the proposed treaty provided another tax incentive for the construction and operation of foreign-flag vessels at the expense of the American maritime industry and the U.S. Treasury.

This issue had not been explored during committee consideration of the treaty, and as chairman of the Merchant Marine Subcommittee, I was concerned that the treaty might raise substantial issues as to whether it was consistent with our national shipping policy to establish and maintain a strong merchant fleet, built in America, owned by Americans, manned by American crews, and fully capable of serving our international economic, military, and political commitments under all foreseeable circumstances.

Accordingly, I wrote to the chairman and members of the Committee on Foreign Relations and the Secretary of the Treasury on July 12, expressing my concern.

On July 26, along with Senators ALLEN, MAGNUSON, and HOLLINGS, I wrote a second letter to Secretary Blumenthal again expressing concern over article 10, and requesting specific information on the policy implications of that article.

I shared a copy of Secretary Blumenthal's reply to our letter of July 26, with the SIU, and requested the union's comments on it.

By letter dated August 21, Mr. Hall replied that the SIU is willing to withdraw its objections to article 10 of the treaty in view of the Secretary's support for a strong U.S. merchant fleet, his bias against any tax measures favoring foreign over U.S.-flags, and his expressed view that the treaty change will benefit U.S.-flag carriers and will not create an incentive to U.S. residents to register their ships under a foreign flag.

Mr. President, I am not only pleased by the Secretary's assurance that article 10 will benefit U.S.-flag carriers, but I believe it is especially noteworthy that he is pledged to a strong U.S. merchant fleet and a tax policy that reflects that support.

Mr. President, at this point I would like to place in the RECORD copies of the letters to which I have referred.

The material follows:

JUNE 29, 1978.

Hon. DANIEL K. INOUYE,
U.S. Senate,
Washington, D.C.:

The Seafarers International Union of North America supports a strong United States merchant fleet. We are deeply concerned about the proposed tax convention with Korea.

Article 10 of the proposed treaty provides another tax incentive for the construction and operation of foreign-flag vessels, at the expense of the American maritime industry and the United States Treasury. Article 10 reverses United States tax treaty policy, which has traditionally provided that income from ships operated in international trade by American citizens benefits from the treaties only if the ships are registered in the United States. The proposed Korean tax treaty provides that foreign-flag ships owned by Americans qualify for Korean tax exemption. Thus, an additional tax incentive is created for American-owned, foreign-flag ships, a fleet whose primary reason for existence is tax avoidance.

This is the second time within a very few days the Senate has seen such language. A comparable provision appeared in the tax convention with the United Kingdom. The report of the Committee on Foreign Relations stated, at page 19, that the U.S.-U.K. treaty provisions were "not intended as a precedent for future U.S. treaty policy in this area." Yet a duplicate proposal appears in the U.S.-Korea treaty. No record exists justifying this policy change. In fact, in the words of a report prepared by the staff of the joint committee on taxation, this change in traditional tax treaty policy, "in effect, validates" the practice of American companies seeking foreign tax shelters for their shipping operations. It is exactly this practice, particularly the operation of Liberian-flag vessels, that has contributed to the decline of the American fleet, which is subject to the tax laws of the United States and contributes to the security and economic well-being of our Nation.

We strongly urge that the full Senate review article 10 of the proposed treaty and take the steps necessary to amend it so as not to create another tax incentive for the use of foreign vessels by United States citizens.

PAUL HALL, *President.*

U.S. SENATE,
Washington, D.C., July 12, 1978.

Hon. JOHN SPARKMAN,
Chairman, Senate Committee on Foreign Relations, Washington, D.C.

DEAR MR. CHAIRMAN: Within the past few days my Merchant Marine Subcommittee has received complaints regarding Article 10 of the proposed Tax Treaty with the Republic of Korea, which your Committee reported with a recommendation that the Senate give its advice and consent to ratification of the treaty.

Essentially the criticism is that Article 10 of the proposed treaty provides another tax incentive for the construction and operation of foreign-flag vessels, at the expense of the American maritime industry and the United States Treasury. Article 10, according to the critics, reverses United States tax treaty policy, which has traditionally provided that income from ships operated in international trade by American citizens benefits from the treaties only if the ships are registered in the United States. The proposed Korean Tax Treaty provides that foreign-flag ships owned by Americans qualify for Korean tax exemption. Thus, an additional tax incentive is created for American-owned, foreign-flag ships, a fleet whose primary reason for existence is tax avoidance.

As Chairman of the Merchant Marine Subcommittee, I believe Article 10 raises substantial issues as to whether it is consistent with our national shipping policy to establish and maintain a strong merchant fleet, built in America, owned by Americans, manned by American crews, and fully capable of serving our international economic, military and political commitments under all foreseeable circumstances.

This policy recognizes that even in times of peace, economic and political tensions and other unforeseen contingencies may seriously disrupt or distort traditional patterns of commercial intercourse in international trade routes. As such, it reflects the realization that an international power such as the United States cannot be dependent upon ocean transportation media owing allegiance to alien flags without threatening its national security.

Recently, the Chairman of the Board of Governors of the National Maritime Council stated that the Council believes "flags of convenience pose a potential threat to national security. While the U.S. has agreements with Honduras, Liberia and Panama stating that such ships will be returned to the U.S. in times of national emergency or war, there is doubt in some government places as to whether such an agreement is worth the paper it is written on."

To help assure these policy objectives are achieved the law provides for parity with foreign-flag crews and shipyard works, in the form of direct subsidies to private ship operators of U.S.-flag vessels operating on essential foreign trade routes, and for the construction of merchant ships to cover differentials in costs between American and foreign shipbuilders for private shipping companies' use on essential foreign trade routes. For fiscal year 1979, Congress has appropriated $157 million for ship construction subsidy program; and $262.8 million for operating differential subsidy program.

It would appear therefore that Article 10 may not only operate to frustrate the objectives of our national shipping policy, but in the process undermine the efficient use of nearly one-half billion dollars of Federal monies.

Standing alone I believe these issues are sufficiently serious to call into question the desirability of Article 10 in the national interest. The consequences are further exacerbated, however, because the viability of the American merchant marine is severely threatened by other factors such as Russian shipping interests which are luring business away from American liners by anticompetitive practices such as rate cutting.

Whereas, at the end of World War II the U.S.-flag merchant fleet ranked first in size among the national fleets of the world, today it ranks 10th.

Our nation's foreign trade—almost all of it—is carried on foreign-flag vessels. Less than 5 percent of our export-import commerce is transported on ships that fly the American flag, and only 2 percent of our dry bulk trade and less than 4 percent of our vital oil import trade are carried on American vessels.

For the foregoing reasons, I believe serious consideration should be given to amending Article 10 insofar as it reverses United States tax treaty policy which has traditionally provided that income from ships operated in international trade by American citizens benefits from the treaties only if the ships are registered in the United States.

In my judgment such consideration should more appropriately originate in your Committee, rather than through a reservation offered on the floor of the Senate when the Tax Treaty is being debated. Accordingly, I respectfully request that you ask unanimous consent that the Tax Convention with the Republic of Korea be recommitted to your Committee for expedited re-consideration of Article 10.

Aloha,

DANIEL K. INOUYE,
Chairman, Subcommittee on Merchant Marine and Tourism.

U.S. SENATE,
Washington, D.C., July 12, 1978.

Hon. W. MICHAEL BLUMENTHAL,
Secretary,
Department of the Treasury,
Washington, D.C.

DEAR SECRETARY BLUMENTHAL: I have requested the Chairman of the Senate Committee on Foreign Relations to have his Committee reconsider Article 10 of the proposed Tax Convention with the Republic of Korea, because of its potential adverse consequences for our national shipping policy.

Attached is a copy of my letter to Chairman Sparkman, and I would appreciate your views on the issues it raises.

Aloha,

DANIEL K. INOUYE,
Chairman, Subcommittee on Merchant Marine and Tourism.

U.S. SENATE,
Washington, D.C. July 26, 1978.

Hon. W. MICHAEL BLUMENTHAL,
Secretary,
Department of Treasury,
Washington, D.C.

DEAR MR. SECRETARY: It has come to our attention that the U.S.-Korea Tax Treaty now on the Senate calendar may represent a significant departure from past practice with respect to the taxation of American-owned, foreign-flag ships.

Article 10 of the proposed Treaty provides that foreign-flag ships owned by Americans will qualify for Korean tax exemption. This is contrary to the usual requirement in U.S. bi-lateral tax conventions that U.S.-owned ships be registered in the U.S. to qualify for tax exemption in the other country.

Our nation has witnessed the flight of U.S.-owned ships to foreign registry over the last several years. This loss to the U.S. Merchant Marine is caused in large part by tax shelters which encourage foreign-flag operations. Article 10 of the Korean tax treaty appears to create another tax incentive discouraging U.S.-flag registration.

We believe the Senate needs further information on the policy implications of Article 10 before it considers ratifying the U.S.-Korean Tax Convention. Therefore, we would appreciate your prompt response to the following questions:

(1) Does Article 10 represent a change in the traditional U.S. tax treaty policy favoring U.S. registration of U.S.-owned ships? Will it or similar language appear in later bi-lateral treaties?

(2) Has the Department of Treasury studied the maritime effect of deleting the U.S. registration requirement in bi-lateral tax treaties?

(3) How would Article 10 change the tax liability of U.S.-owned, foreign-flag vessels? Does this language lessen the incentive to register ships under the U.S. Flag?

Sincerely,

MARYON P. ALLEN,
ERNEST F. HOLLINGS,
WARREN G. MAGNUSON,
DANIEL K. INOUYE,
TED STEVENS,
U.S. Senators.

SECRETARY OF THE TREASURY,
Washington, D.C., August 16, 1978.

Hon. DANIEL K. INOUYE,
Washington, D.C.

DEAR DAN: This is in reply to your letter of July 26, 1978, concerning Article 10 of the proposed U.S.-Korea income tax treaty and in further reply to your letter of July 12, 1978, on the same subject. Your letter of July 26 raises three specific questions, and I will respond to each in turn.

(1) Does Article 10 represent a change in the traditional U.S. tax treaty policy favoring U.S. registration of U.S.-owned ships? Will it or similar language appear in later bi-lateral treaties?

Only a few of our earlier income tax treaties, such as those with Germany and New Zealand, do not contain a registry test, but a review of the shipping provision in the last few years led us to believe that the flag test in a tax treaty is generally unwise. The Administration supports a strong U.S. merchant fleet and does not want to take any tax measures favoring foreign over U.S. flags. But in our judgment, conditioning a treaty exemption on the use of a U.S.-flag does not reduce the attractiveness of foreign flags to U.S. shippers and can hurt some U.S. shippers unintentionally. The U.S. model income tax treaty published in May, 1976, was revised to delete the registry test, and the shipping provision in the U.S.-U.K. income tax treaty recently approved by the Senate does not contain such a test. Our revised approach is generally the one followed by other industrial countries, as reflected in the model income tax treaty published by the Organization for Economic Cooperation and Development (OECD).

(2) Has the Department of Treasury studied the maritime effect of deleting the U.S. registration requirement in bi-lateral tax treaties?

Yes. We do not believe that the elimination of the U.S. flag requirement will encourage the use of foreign flags by U.S. shippers for the reasons explained in answer to your third question.

(3) How would Article 10 change the tax liability of U.S.-owned, foreign flag vessels? Does this language lessen the incentive to register ships under the U.S. Flag?

Article 10 of the U.S.-Korea treaty will not affect the tax liability of U.S.-owned foreign flag vessels because, insofar as foreign flags of convenience are concerned, it simply confirms an exemption available under Korean law. A similar exemption exists in the statutory law of many other countries. But even if this were not the case, the treaty exemption would not lessen the incentive to register ships under the U.S. flag.

A treaty only applies to U.S. citizens and U.S. corporations. It does not benefit a Liberian, Panamanian, or any other foreign company even if the company is wholly owned by U.S. residents. U.S. residents who want to use foreign flags may have an incentive to incorporate in the foreign country to escape U.S. tax on the profits retained abroad. But by so incorporating, they give up benefits made available by our tax treaties to U.S. residents.

If a U.S. company is used instead, it will be subject to U.S. tax on its worldwide income, so the tax advantage of foreign incorporation is lost; and at the same time, it would not qualify for benefits to U.S. flag shipping, such as the capital construction fund, which require a U.S. flag. The United States will tax a U.S. citizen or company deriving income from shipping operations. The U.S. tax would be higher on profits from the use of foreign flag ships because the statutory tax benefits available are intended to benefit the U.S. flag merchant fleet.

Although inserting a U.S. flag test would not provide an incentive to U.S. registry, it could penalize U.S. shippers who occasionally use foreign flag vessels for legitimate reasons (and pay U.S. tax thereon). For example, some U.S. flag container ships are too large for many harbors and goods are transshipped from a regional center to various ports on smaller feeder vessels. Those vessels are used as available and may be of any flag. At least one country with which we have a treaty containing the flag test has threatened to deny the exemption entirely if the feeder ship flies a foreign flag, even if most of the voyage is on a U.S. flag ship. And of course, even if the exemption were available for the U.S. flag portion of a voyage, the foreign flag feeder operation would be outside the exemption's scope.

I hope this explanation helps clarify why, although we share your concern about the use of foreign registry by U.S. ship owners, we believe that omitting a flag requirement in tax treaties is desirable.

Sincerely,

W. MICHAEL BLUMENTHAL.

SEAFARERS INTERNATIONAL UNION
OF NORTH AMERICA,
Washington, D.C., Aug. 21, 1978.

Hon. DANIEL K. INOUYE,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR INOUYE: Thank you for sharing with me Secretary Blumenthal's response to your letter of July 26, 1978, concerning Article X of the proposed U.S.-Korea Income Tax Treaty.

I appreciate your leadership in clearing the air surrounding a substantial change in U.S. policy toward foreign flag registration.

We are pleased to note that Mr. Blumenthal, who will have responsibility for interpreting borderline cases under the treaty, "supports a strong U.S. merchant fleet and does not want ot take any tax measures favoring foreign over U.S. flags" (emphasis added). In view of that commitment and the Secretary's expressed view that the treaty change will benefit U.S. flag carriers and will not create an incentive to U.S. residents to register their ships under a foreign flag, the Seafarers International Union is willing to withdraw its objection to Article X of the Korean tax treaty.

Thank you once again for your continued interest in the well being of the U.S. flag merchant marine.

Sincerely yours,

PAUL HALL,
President.●

GOLD MEDALLION ACT—NUMISMATISTS ENDORSE BILL

● Mr. SCHMITT. Mr. President, on May 17 of this year, Grover C. Criswell, Jr., president of the American Numismatic Association (ANA), addressed the Subcommittee on Historic Preservation and Coinage of the House Committee on Banking, Finance, and Urban Affairs. Mr. Criswell was testifying on behalf of the ANA in favor of the Gold Medallion Act of 1978, a bill which I have cosponsored which would provide for the production and sale of nonmonetary 1 ounce and one-half ounce gold medallions.

Mr. Criswell's well-researched and carefully detailed statement points out that there are many reasons to support this legislation, and concludes that—

To not produce a gold medal or coin shortchanges the American taxpayer, assists apartheid in South Africa, and denies to the citizens who deposited the gold in Fort Knox in the first instance the right to redeem their heritage.

Of particular note, this testimony includes a detailed history of gold in the United States, dating from the gold recall of 1933–34 to the present. This history, ably researched and authored by the ANA's legislative counsel, Mr. David Ganz, outlines the process whereby Americans were deprived of their gold and now are excluded from buying any of it back. With gold now being sold in 400-ounce bricks which cost about $80,000 apiece, "the very individuals who contributed most of the gold—the American people—are cut out by the high stakes."

Mr. President, hearings will soon be held by the Senate Banking Committee on this good measure. So that all Senators may have the ANA analysis, I ask that this statement be printed in the RECORD.

The statement follows:

ADDITIONAL STATEMENT SUBMITTED FOR THE RECORD BY GROVER C. CRISWELL, JR., PRESIDENT OF THE AMERICAN NUMISMATIC ASSOCIATION, AT A HEARING HELD IN WASHINGTON, D.C., BY THE SUBCOMMITTEE ON HISTORIC PRESERVATION AND COINAGE OF THE HOUSE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS, MAY 17, 1978

Mr. Chairman, Mr. Leach, and distinguished members of the Subcommittee on Historic Preservation and Coinage, at the hearings on the small-size dollar held on May 17, 1978, the question was asked of the American Numismatic Association what we thought of the possible issuance of gold medals or gold commemorative coins.

At that time, we gave a general response to the inquiry, endorsing it on the grounds that it would be of positive assistance to the balance of payments situation, would in effect deny a sales outlet for krugerrands to South Africa, and would give the government vast profit possibilities. Our legislative counsel, Mr. Ganz, requested leave to submit a more formal answer with accurate statistics and more elaborate facts, and by your kind permission, Mr. Chairman, we herewith present the same.

At present, there is approximately $11 billion in gold located in official American reserves. That figure is deceiving, however, since the government carries its gold reserves on the books at a rate of $42.22 an ounce, rather than the present market price of around $170 an ounce. So, in actuality, the United States has a commanding $40 billion bullion supply at its disposal.

The source of the present stockpile is surprising, for rather than coming from other central banks or from international transactions, a good portion of the reserves came from American citizens who patriotically turned in the gold coin that they had on hand during the gold recall of 1933–1934.

According to official records of the Treasury Department, most of the gold turned in by citizens following the Presidential mandate was initially set aside, and then melted into 400 ounce bars. In 1935, for example, Treasury records show that $784 million (face value) in double eagles (or $20 gold pieces) were melted by the Mint. The following year, $472 million of the same denomination were placed into the melting cauldrons. During the same two year time span, more than $150 million in eagles (or $10 gold pieces) were similarly melted by the Mint from gold turned in by obedient citizens obeying presidential directive.

And told, in fact, between 1934 and 1950, the Bureau of the Mint melted down in excess of $1.6 billion worth of gold coin, the large portion of which had been previously circulating. Had President Roosevelt not advocated passage of the Gold Reserve Act of 1934, much of this coin undoubtedly would have remained in private hands.

What the Gold Reserve Act of January 30, 1934 did was to mandate that "all right, title and interest . . . in any and to any and all gold coin and gold bullion shall pass to and are vested in the United States," and to thereafter mandate that "All gold coin of the United States shall be withdrawn from circulation." Rare and unusual collector coins were exempted from the proviso.

The gold coin withdrawn from circulation was compensated with paper currency; a $20 gold piece received a federal reserve note of comparable worth, though not real value. And, while the Government paid at the rate of $20.67 per ounce of gold bullion, which later moved upward to $34.45, the official price of gold was raised to $35 an ounce (causing a defacto devaluation of the dollar).

Gold coins, of course, have a bullion value separate and apart from their nominal face value or worth. So, for example, a double eagle which contains .9675 troy ounces of gold is worth considerably more than $20 if the price of gold rises to anything above $20.67 an ounce.

In essence, millions of Americans were being denied the profit which had accrued to the government as a result of the coinage recall. And today, the government is selling off the gold at a profit, in the process depriving the same individuals from repurchasing the gold that they put into the kitty.

Gold coin collected by the government was cast through melting into bars, and then, in 1937, shipped westward to Fort Knox for storage. Beginning several years ago, portions of the metallic reserve were sold off by the Treasury Department, "Dutch auction" style, to both keep the price of the metal stable on the international market, and also to try and help remove the status that gold enjoys as a lynchpin, or sorts, to the international monetary order.

Sale of the bullion was in 400 ounce increments, which corresponds to the average size of the bricks stored in Fort Knox. The cost of one such piece varied of course with the market price of gold, but, clearly, it was without the reach of most Americans. At $170 an ounce, near the current price, a $68,000 purchase is required to acquire the bullion.

Purchasers at the U.S. government sale, as well as at those conducted by the International Monetary Fund, have tended to be institutional investors and dealers in precious metal who thereafter presumably re-sell the metal in smaller incremental units for a profit, or simply store it against a future rise in value.

For the most part, however, the very individuals who contributed most of the gold—the American people—are cut out by the high stakes.

Between 1934 and January 1, 1975, Americans were formally prohibited by law from owning gold bullion and even coins that were without numismatic value. The arguments made by the Treasury Department and Federal Reserve officials who supported such a ban were that gold ownership by Americans would prove disruptive to the international monetary system and would tend to show that the nation was not committed to demonetization of the precious metal.

While still chairman of the Federal Reserve, Dr. Arthur Burns added in a letter to Rep. Wright Patman, then chairman of the Banking Committee, that he thought that substantial disruption of the balance of payments would result from any private gold ownership.

This notwithstanding, private gold ownership was passed as part of a legislative compromise and, in the time since then, Americans have proved to be just as interested in gold as their European counterparts—though none of the international monetary distress which has subsequently resulted can be traced to the American thirst for gold.

Despite this, all American gold sales have been aimed at the large bulk purchaser—and at the then-current market price for gold bullion. The result has been a loss to the taxpayer of substantial revenue and, perhaps more importantly, there has been a substantive adverse impact on the American balance of payments.

In the absence of a small-size coin or medal which the average citizen can acquire from domestic supply, most, rather than do without, have begun to purchase foreign gold coins. Last year, more than 1.6 million ounces of gold in coin form were imported into the United States. Of these, 1.1 million pieces were krugerrands, manufactured and marketed by the South African government.

These are the coins that we know, of record, to have been imported—and surely, there are many, many more. But using just these statistics, the amount of American dollars flowing abroad as a result must constitute the market price of gold plus eight

percent—the premium charged by the governments for purchase of "bullion" coins.

If the trend continues this year, those 1.1 million krugerrands sold in the United States would constitute over $200 million in American funds that is going abroad—and those funds would be utilized to help fund the apartheid government of South Africa.

Assuming that the krugerrand quotient remains a constant, and that other so-called bullion pieces increase, it is possible that $400 million in American funds would go abroad—all because the U.S. government does not want to strike gold medals, or coins, in small incremental units of one half, or one ounce.

Legislation designed to accomplish this purpose has already been introduced in both the House and the Senate, where Representatives Symms and Hansen of Idaho, and Senator Helms of North Carolina, have sponsored bills which would authorize and direct the Treasury Secretary to utilize small-size gold units if and when official sales take place. The ranking minority member of this subcommittee, Mr. Leach, has indicated that he basically supports this approach.

The rationale for the legislation in whatever form it ultimately takes is multifold. First, it addresses the balance of payments argument. Second, it has positive domestic economic effect, for the multiplier effect of spending dollars in this country, as opposed to abroad, is doubly beneficial. Third, it in effect denies $200 million or more per year in assistance to the South African government. Fourth, it returns the gold to the people who originally gave it to the government, namely, the American people. Finally, it raises substantially more revenue for the government than its own sales plan.

According to the Treasury plan, 1.8 million troy ounces of gold will be sold from American reserves. Assuming that the price of gold remains constant, this would mean a gain to the Treasury of $306 million.

If the same gold were refined and made into medals of one ounce and one-half ounce in weight, and a small premium charged over and above the free-market price of gold (perhaps five percent for the larger one ounce medal, and eight percent for the smaller, one-half ounce medal) the government would gain an additional $20 million in revenue over the course of the sale (provided that the price of gold remained at $170 an ounce. If the price rose, the profit would, of course, be even higher).

Some years ago, when there was talk of striking a bicentennial gold commemorative coin, Representative Philip Crane of Illinois calculated that the government could issue a gold coin of .13 troy ounces in golden weight for enormous profit. If just eight million ounces were allocated for such a coin which had a $50 face value (and which was sold at that rate), some 60 million pieces could be produced at a profit to the government of $1.5 billion.

Regardless of the decision arrived at, the government will in likelihood continue its gold sales. To not produce a gold medal or coin shortchanges the American taxpayer, assists apartheid in South Africa, and denies to the citizens who deposited the gold in Fort Knox in the first instance the right to redeem their heritage.

For these reasons, the American Numismatics Association gives its enthusiastic backing to the issuance of gold medals or gold commemorative coins, and urges the Subcommittee to do likewise.●

ILLEGAL ALIENS

● Mr. SCHMITT. Mr. President, recent hearings in the Congress and much public comment concerning the administration's illegal aliens policy proposals.

With few exceptions, experts agree that these proposals will not work.

Employer sanctions will increase pressures toward discrimination against American minority citizens and will reduce employment opportunities through automation.

Amnesty, in whatever form, will only increase the incentives for aliens to enter this country in hopes of future amnesty.

Increased border enforcement will not significantly affect the flow of aliens, but will significantly increase the profit in the deplorable business—smuggling of aliens.

Recent research is beginning to show the specific nature of the short- and long-term features of this issue. One of the leaders in this research is Wayne A. Cornelius of MIT. I request that his recent paper from Migration Today for October 1977, entitled "Undocumented Immigration: A Critique of the Carter Administration's Policy Proposals," be printed in the RECORD.

The material follows:

UNDOCUMENTED IMMIGRATION: A CRITIQUE OF THE CARTER ADMINISTRATION'S POLICY PROPOSALS

(By Wayne A. Cornelius)

At one particularly difficult point in the protracted debate within the Carter Administration over immigration policy initiatives, President Carter reportedly complained to one of his senior aids: "It's more complicated than the SALT talks" (Newsweek, July 4, 1977, p. 16). To many who had been following the policy debate with increasing concern, this statement signaled the beginning of wisdom in the Administration's consideration of the issue of undocumented immigration. It provided a refreshing contrast to the public statements on this issue by numerous Administration officials in previous months: statements which indicated little awareness of the complexity of the undocumented immigration phenomenon, and an alarming degree of confidence in excessively simple "solutions". Typical of these pronouncements was Secretary of Labor Ray Marshall's remarks to a symposium on immigration and public policy held in Houston on April 16, 1977:

"We will not learn very much more about the broad contours—the nature of the problem. We know what the key questions are . . . only the dimensions of the problem may become more fully known . . . No issue other than energy has been studied as long and intensively in the Carter Administration [as undocumental immigration]."

Unfortunately, the policy package which eventually emerged from the Administration's "long and intensive" study is a disappointment. The Administration's proposals seem to disregard a large and growing body of independent research findings which contradict some of the central assumptions of these proposals. And the proposed remedies, if enacted into law by the Congress, will undoubtedly raise unrealistic expectations among the American people—expectations that cannot be met by the Administration's policies. The long-term implications of this eventual policy failure should be of great concern to all those who continue to hope for a rational and humane U.S. immigration policy. To the extent that the Administration's policies do not produce a significant, and swift, reduction in "the number of aliens attempting to enter the United States in violation of law"—as promised by the President, public "tolerance" for all forms of immigration may be seriously diminished.

The comments which follow are addressed primarily to the appropriateness and probable effectiveness of the Administration's proposed policies in dealing with the Mexican component of the flow of undocumented immigrants, which constitutes an estimated 60–65 percent of the total flow. It is, of course, the sharp increase in undocumented immigration from Mexico since 1970 which is cited most frequently as justification for a much more restrictive U.S. immigration policy. While there is some awareness among the Washington policy-making community of the importance of undocumented immigration from Caribbean nations and other principal source countries, the policy debate has been conducted largely within a Mexico-centered frame of reference.

The basic elements of the Administration's policy package include: 1) a law (the "Alien Employment Act of 1977") imposing civil penalties, and in some cases, federal district court injunctions upon U.S. employers who hire undocumented immigrants; 2) a doubling of the border enforcement effort by the U.S. Immigration and Naturalization Service (INS); and 3) two forms of amnesty (or "adjustment of status", the Administration's euphemism) for certain categories of undocumented immigrants (the "Alien Adjustment Act of 1977"). Those immigrants who entered the U.S. illegally prior to January 1, 1970, and who have maintained continuous residence in this country since then would be entitled to claim "permanent resident alien" status. Those who entered the U.S. between January 1, 1970, and January 1, 1977, and who have resided continuously in the U.S. since entry, could claim "temporary resident alien" status for a five-year period, during which they could not be deported, and could be legally employed, but would not be entitled to receive Medicaid benefits, Aid to Families with Dependent Children, Supplemental Security Income for the Aged, Blind, and Disabled, or Food Stamp benefits. All of these measures, with the exception of the expansion of the border patrol, are incorporated in two pieces of legislation (the "Alien Employment Act of 1977" and the "Alien Adjustment Act of 1977") submitted to Congress in late September. (The expansion of the border patrol can be accomplished with no new legislation.) The President has announced that this legislation will be sponsored in the House of Representatives by Congressmen Peter Rodino and Joshua Eilberg, and in the Senate by Senators James Eastland and Edward Kennedy.

A "NEEDED" POLICY?

Does undocumented immigration constitute a problem of such dimensions, so injurious to the American people, that it requires the kind of treatment prescribed by the Administration?

In his August 4 message to Congress, the President argues that undocumented immigrants "have displaced many American citizens from jobs, and placed an increased financial burden on many states and local governments". During the press briefing which followed the President's announcement of the policy proposals, Secretary of Labor Marshall added another element to the indictment of undocumented immigrants: because most of them are, allegedly, willing to work for less than the minimum wage, they depress wage scales for American workers.

In the same press briefing, however, Attorney General Griffin Bell admitted, "we don't know how many people we are dealing with, don't know the costs, don't know the impact on funds of the country, or anything else. It is just something that has never been assessed." Both he and Secretary Marshall went on to justify the Administration's scheme for compelling undocumented immigrants to identify themselves and register with the INS, within a one year period following enactment of the

"Alien Adjustment Act", to obtain temporary resident alien status as a means of collecting the data necessary to estimate the impact of undocumented aliens on the U.S. labor market and to approximate the social service costs of these migrants. The resulting "estimates" would then be used to decide what would be done with the immigrants who have registered, after their five-year nondeportable status expires; to deport them *en mass*, or to allow them to become permanent residents.

While the Attorney General's candor is worthy of applause, the policy-making approach which it implies is appalling. No other major policy affecting the livelihoods of millions of people, in this country and abroad, has been formulated on the basis of such inadequate supporting evidence. In fact, there is still no direct evidence that large numbers of American workers have been displaced by undocumented immigrants. The research which has been done thus far fails to support the notion of large-scale job displacement. There is not a single prominent economist in the country, outside of the government, who seems to believe that reducing the flow of undocumented aliens "will have a tremendous effect on unemployment among American workers", as Secretary Marshall claimed at the August 4 press briefing.

The Labor Secretary's argument about the depressing effect of undocumented immigrant labor on wage scales is also unproven; and his statement that most undocumented aliens receive less than the minimum wage is flatly contradicted by the results of at least four major studies, including one done for the Labor Department itself. That and the other studies found that fewer than one-fourth of all undocumented immigrants actually receive less than the official minimum wage.

Yet, what if the availability of undocumented migrant labor does tend to depress wage scales in certain sectors of the economy, in certain parts of the country? What benefits are likely to result from reducing or eliminating the immigrants' presence in these labor markets? Will depressed wage levels automatically rise, as the Administration suggests? It is necessary here to bear in mind the well-established fact that the majority of undocumented immigrants do not work for less than the minuimum wage. Apart from enforcing the minimum wage laws, which the federal government has already proven itself incapable of doing, what can government do to force wages upward to the level necessary to make the jobs now held by undocumented immigrants attractive to American workers? What is to prevent the firms involved from mechanizing, or from relocating themselves in another country where they will have access to a large supply of relatively low-cost labor? The migration of U.S. enterprises to Taiwan, Korean, the Mexican border states, and other areas has been occurring for more than a decade, and it is likely to be accelerated under the Administration's program, taking with them substantial numbers of jobs now held by American citizens. What is the net gain to the American work force?

There is also abundant evidence that the cost of social services consumed by undocumented immigrants, at least those from Mexico, is vastly exceeded by what they contribute to Social Security and federal income tax revenues. In most cases, they are paying for social services that they rarely, if ever, use. Some state and local governments in areas with high concentrations of undocumented immigrants may be bearing an unfair share of costs for such services as health care; this should be remedied through adjustments in federal revenue-sharing formulas, as the President has proposed. The notion, however, that undocumented aliens are taking out of the system far more than they contribute simply cannot be supported with existing data.

The White House itself has admitted that undocumented aliens "are not now a drain on public assistance programs paid for by taxpayers" ("Undocumented Aliens: Fact Sheet", Office of the White House Press Secretary, August 4, 1977, p. 8). Such statements are typical of the Administration's curiously ambivalent position on undocumented immigration: "Yes, it's a problem, and we have to do something about it," vs. "No, it's not a problem," or, "We really don't know enough about it to decide whether it is a problem."

There is, however, a case to be made for reducing undocumented immigration from Mexico although not for the reasons cited by the Administration as justifications for its policy.

The dependence of a very large segment of the Mexican population upon cash income earned in the United States is undesirable and too risky to those involved in this dependency relationship. Twice during the past 48 years, the U.S. has attempted to cut off employment opportunities for Mexicans in this country, during the "repatriation" campaign of 1929–30, and during "Operation Wetback" in 1953–54. We are now witnessing another concerted effort to restrict employment opportunities. This time, however, it is not the mass round-ups and deportations, used on previous occasions but a doubling of the border patrol and legislation prohibiting U.S. employers from hiring undocumented immigrants. As the Carter Administration admits (see below) there is still the possibility of mass deportations, five years after enactment of its proposals, depending on what the Administration and the Congress decide to do with those immigrants who register for the new, five-year temporary resident alien status.

AMNESTY, CARTER-STYLE

The President's proposals for "adjusting the status" of certain categories of undocumented immigrants have dominated media reports of the recently announced policy package, almost totally obscuring the punitive elements of the package (employer sanctions, stepped-up border enforcement). "Carter Seeks Amnesty for Millions of Illegal Aliens", or so the headlines would have the American public believe. In fact, the terms for adjustment of status set by the Administration will have the effect of limiting the number of undocumented immigrants who will actually benefit from this legislation to a relatively small minority of the total population of such immigrants.

The Administration, citing INS estimates, contends that about 765,000 undocumented aliens will be eligible for "permanent resident alien" status, since they have resided continuously in the U.S. for seven or more years (i.e., since January 1, 1970). The term "continuous residence" will be construed by the Attorney General so that "Temporary absences, without abandonment of residence in the United States, will not preclude establishment of the required [seven-year period of] continuous residence" ("Section-by-Section Analysis of the 'Alien Adjustment Act of 1977' ", The White House, September, 1977, p. 2). However, all available evidence indicates that the vast majority of undocumented immigrants from Mexico who have worked in the U.S. in recent decades are individuals who have not maintained continuous residence in this country for long periods of time. They are, rather, persons who have worked here for relatively short periods (normally 6 months or less per year), who returned after each period of U.S. employment to their homes in Mexico. Only the most affluent of these immigrants have been able to maintain rented housing in the U.S. during their periods of residence and employment in Mexico. This applies generally to the population of undocumented immigrants from Mexico, but particularly to those who "entered the U.S. on or before January 1, 1977", but after the January 1, 1970 cut-off date which will be used to determine eligibility for permanent resident alien status.

The Administration estimates that "as many as five million" of these more recent (post-1970) arrivals may be eligible to apply for five-year temporary resident alien status under its program. How many of these immigrants, however, are likely to claim "TRA" status, under the terms set by the Administration? It is naive to think that large numbers of undocumented immigrants will come out of hiding unless they have some powerful incentives for doing so. At the August 4, 1977, press briefing. Attorney General Bell was asked: "What happens to these temporary legal aliens after five years? Can they be deported?"

Bell: That is right. They could be. We hope to work out some plan to let them convert to permanent resident alien status. We cannot promise that because we don't know what we are talking about."

Question: What you are actually doing is freeing them from the fear of being deported for the next five years, and no more."

Bell: "[Yes.] And exploitation."

Question: "Will these people who are on nondeportable status begin to have to report their addresses annually, and if they do for a five-year period, aren't they running the risk that you will be able, at the end of five years, if you should decide to [deport] them, to target them very easily and go get them?"

Castillo: "Yes."

The White House "Section-by-Section Analysis of the [proposed] Alien Adjustment Act of 1977" states that "the granting of temporary status is necessary to preserve a decision on the final status of a large group of undocumented alien who have resided here for shorter periods of time, until more precise information about their number, location, family size and economic situation can be collected and reviewed." The "more precise information" referred to here will be provided by those undocumented immigrants who register with the INS in order to claim temporary resident alien status, during the one-year registration period following enactment of the proposed legislation. No one knows which way the decision to be made on the basis of these data will go. While the Administration ponders the matter, the police apparatus along the border will be doubled, making it more difficult and costly to reenter the U.S. if the "temporary resident aliens" are eventually deported. As unidentified, nonregistered aliens having escaped the border patrol and now holding jobs in the interior of the country, they would run relatively little risk of being apprehended and deported during the next five years. Few of them have any sense of being exploited by their U.S. employers. Why should they choose to increase their future risk of deportation—when deportation five years from now might mean a permanent, one-way trip back to Mexico—by coming out of hiding and surrendering themselves to the INS? The Administration simply tells the undocumented immigrant: trust us". At the August 4 press briefing, Attorney Bell was asked: Given the situation that many of these people have been in, living illegally and in fear of the authorities, how do you expect to get any sizable number of people to register?"

Bell: "We hope they will have trust in our country. That is the only thing I know. They came here thinking we had a good country and maybe they will trust us."

Employer Sanctions and Border Enforcement: "The Big Sticks."

Behind the liberal facade of the Administration's policy package, represented by the "adjustment of status" proposals, lie the punitive measures intended to stop the flow of undocumented immigrants into the U.S. The major policy instruments for this are: (1) a doubling of the number of border patrol agents, from about 2,000 at present to 4,000;

and (2) an employer sanctions law. The first question to be asked about these measures is will they work? Will they "markedly reduce the number of aliens attempting to enter the United States in violation of law", as the Administration claims? My answer and, I believe, that of most experts outside the government who have studied the phenomenon is negative.

Doubling or even tripling the number of border patrolmen, giving them sophisticated electronic detection equipment, helicopters and other kinds of hardware, will not affect the 35–40 percent of the immigrants who enter the U.S. legally on temporary, tourist or student visas, and then overstay their visas to work in the U.S. The vast majority of these "visa abusers" come from countries other than Mexico.

What about the Mexicans, however, who customarily "enter without inspection" along the southern border? Will stepped-up border enforcement deter them from attempting to enter? All the available evidence indicates that it will not. We may succeed in making it more difficult to enter the U.S. illegally, but the most likely effect of this will simply be to increase the profits of the commercial smugglers who assist undocumented aliens in crossing the border. In recent years, the smugglers' fees have ranged from about $150 to $250 per alien. There are reports that since the Administration's policy was announced in August, their price in some areas has jumped to $300–$400. Those who feel compelled to immigrate illegally will become more dependent on the professional smuggling operations, and they will be paying a higher price for their services. They will still try to raise the necessary funds by selling off more heads of livestock, going deeper into debt to their relatives and neighbors, or by any other means at their disposal. Going to the U.S. will simply represent a greater financial sacrifice for them.

The Administration proposes to establish an "anti-smuggling task force" to eliminate the smuggling rings. This task force, however, is unlikely to be much more effective in eliminating the smugglers of aliens than the federal government was in eliminating bootleggers during Prohibition. There are simply too many of them, too widely dispersed, too deeply entrenched, and too protected by local officials and private interests on both sides of the border. Most of the rings are based in Mexico, and the Mexican Government is unlikely to make the kind of massive police effort that would be necessary to eliminate them. They have their hands quite full just trying to curtail illicit drug traffic and other forms of contraband. It would be politically suicidal for any Mexican government to allow large numbers of U.S. law enforcement officials to operate on its territory, to restrict the emigration of its own citizens.

The other principal approach to reduce the flow of undocumented immigrants proposed by the Administration is through employer sanctions: a law prohibiting U.S. employers from hiring undocumented aliens. A civil penalty "not to exceed $1,000" would be imposed on each employer, for each undocumented alien who was in his employ on the effective date of the bill, or who was hired thereafter. The Administration's bill also provides for criminal sanctions to be imposed upon the worst offenders—employers who have "engaged in a pattern or practice of employing [undocumented] aliens". Injunctions against such employers would be sought from federal district courts, and "an employer who continues to hire undocumented aliens in violation of an injunction could be cited for contempt".

An employer sanctions law most probably cannot sharply reduce the number of employment opportunities for undocumented immigrants without a huge and costly enforcement apparatus. The Administration apparently expects substantial voluntary compliance with the law on the part of U.S. businessmen, to compensate for the absence of such an enforcement apparatus. As Secretary of Labor Marshall told the Houston symposium on immigration policy last April, "You can never have adequate police enforcement to enforce social legislation". Attorney General Bell expressed it in the August 4 press briefing: 'We are traveling on the assumption that Americans are law-abiding people . . . Once they realize it is now the law that you should not employ an undocumented alien, they will follow the law."

In fact, many of the employers who customarily hire undocumented immigrants will continue to do so. Legislation prohibiting it will simply drive the hiring underground. Small businesses (e.g., those having 25 or fewer employees, which hire half or more of the undocumented immigrants from Mexico) would be little affected by the proposed law, since the Administration proposes to concentrate its enforcement efforts on larger enterprises with a "pattern or practice" of hiring undocumented aliens. For many of these larger employers, thousand-dollar fines will become just another cost of doing business: a cost that will be borne primarily by the undocumented immigrant, who is likely to be paid less and receive fewer fringe benefits than before passage of the law. If you want to increase the exploitation of immigrant workers in this country, employer sanctions is probably the most effective way of doing it.

The costs of this legislation will also be borne by Hispanic citizens of this country, who will undoubtedly suffer greater job discrimination because of an employer sanctions law. The President calls such an outcome "intolerable", but it is unavoidable under legislation of this type. Those businessmen who are law-abiding and do not want to run the risk of hiring an undocumented alien are likely to follow the easiest course and simply discriminate against all Hispanic applicants for employment.

The Administration claims that its proposed enforcement strategy of going after the larger employers having a "pattern or practice" of hiring undocumented aliens will minimize job discrimination against Hispanic American citizens, since "those employers who may inadvertently hire an undocumented worker will not have to fear the imposition of sanctions under this bill" ("Section-by-Section Analysis of the Alien Employment Act of 1977", The White House, September, 1977, p. 1). Such assurances are unlikely, however, to offset the chilling effect of the legislation itself upon the hiring of Hispanic citizens. The Administration proposes to spend $4 million to publicize a law which will make it "unlawful for any employer to employ [undocumented] aliens", and specifies that "Any employer who violates this [law] shall be subject to a civil penalty of not more than $1,000 for each such alien in [his] employ . . ." The probable consequences of this legislation represent a giant step backward in civil rights for what is expected to be the nation's largest ethnic minority group by 1980.

It is unlikely that an employer sanctions law will have any significant deterrent effect on those who would seek employment illegally in the United States? This is very unlikely, and the reason is simple economic rationality on the part of the would-be undocumented immigrant. Employer compliance with the law, and government enforcement efforts, are likely to be uneven; as long as that situation prevails, the impoverished Mexican peasant will assume that the risk of his not finding a U.S. employer willing to hire him will still be considerably less than his risk of being unemployed or of having an inadequate income if he stayed in his home community. He will continue to migrate—legally, if opportunities exist and illegally, if they do not.

The crux of the matter is this: The flow of undocumented immigrants is likely to continue, as long as reasonably attractive alternatives to migrating to the U.S. do not exist in source countries, and as long as the number of opportunities for legal immigration by nationals of these countries remains as small as it is today. Any viable, long-term solution must be addressed primarily to these aspects of the problem. That is where the policy emphasis should be and not on police actions, or on efforts to restrict the demand for immigrant labor within the United States. Given the tremendous pressures for migration to the U.S. which currently exist, and will continue to exist in the foreseeable future, such measures are doomed to failure (certainly in the medium-to-long run, if not in the short-term). They do nothing to reduce the "push" factors within Mexico and other source countries which drive their people into the U.S. labor market.

The Mexican population continues to increase at a rate of nearly 3.5% per year, economic growth was virtually flat during the past year, and this year the Mexican Government hopes to achieve only a 2% increase in GNP. Open unemployment is running in the 9–15% range, and an additional 30–40% of the population is underemployed. Inflation in 1976 was over 30%; this year it is running at about 24–25%. The Mexican Government has borrowed to the limit of a ceiling imposed last year by the International Monetary Fund (IMF). To further complicate this situation, the drought that has affected large parts of the U.S. has now moved south into Mexico, affecting the most productive agricultural region in the country; and according to recent estimates, Mexico will have to spend more than one half billion dollars in food purchases abroad this year to make up for the resulting shortages.

The economic mess in Mexico is largely responsible for the sharp increase in illegal immigration since 1971. Whether induced by acts of God or by governmental mismanagement, it is a fact that must be recognized in any attempt to come to grips with the immigration problem. Full recovery from the current economic crisis, the most severe since the 1930s, will probably take at least 5–7 years, even with increased revenues from gas and oil exports; and at the end of that period there will still be an acute shortage of stable, reasonably well-paid employment opportunities within Mexico.

The recovery will be delayed, to the extent that the U.S. succeeds in restricting employment opportunities for Mexican workers. The Administration's amnesty or "adjustment of status" proposals would have the effect of limiting U.S. employment to those who were here before January 1, 1977, in addition to the insignificant numbers of Mexican who are legally admitted each year under the regular immigration quota and the H-2 temporary labor visa system. The Administration is attempting to freeze an ongoing social process, one which has been operating since the 1880s, often involving two or three generations of Mexican workers within the same families. The U.S. Government institutionalized that process through the "bracero" program of contract labor (which operated intermittently between 1942 and 1964), and our private sector has encouraged it to continue up to the present day.

SOME ALTERNATIVES

In the short-run, regardless of the restrictive measures that might be implemented, it is not reasonable to expect a significant reduction in the number of Mexicans who will attempt to enter the U.S. and seek employment. Indeed, large numbers of them will succeed in doing so. Under these circumstances, the best short-run approach would be to increase the number of opportunities to emigrate legally to the United States, on

a temporary basis. This could be accomplished most expeditiously through a program of temporary work visas, similar in concept to the "guest worker" programs adopted by several West European countries in the 1960s. Such a program could permit immigrant workers to be legally employed in the U.S. for a period of up to six months each year. This would not have to be a new "bracero" program, nor an expansion of the existing H-2 visa system, both of which require a prearranged contract between the immigrant worker and a particular U.S. employer, a feature which increases the danger of exploitation. Nor would this kind of temporary worker program have the effect of rewarding those who entered the U.S. illegally and have remained here for substantial periods of time, as the Administration's "adjustment of status" proposal would do. By issuing the visas through U.S. consulates in Mexico, on a first-come, first-served basis, it would provide legal immigration opportunities for those Mexicans whose economic and family base is still in Mexico, not in the U.S., and encourage them to maintain their base in Mexico. This kind of program would encourage the existing, temporary character of most Mexican migration to the U.S.—annual periods of employment of six months or less, after which the migrant customarily returns to his home community.

A program of this type, however, is only a stop-gap measure, designed to eliminate or reduce some of the worst consequences of the existing situation, in which the vast majority of Mexicans seeking work in the U.S. must do so illegally. It would do nothing to reduce the "push" factors within Mexico which fuel undocumented immigration. Perhaps the most effective and, ultimately, the least costly way of reducing these push factors would be to expand the existing program of integrated rural development which is being carried out cooperatively in Mexico by the World Bank, the Inter-American Development Bank, and the Mexican Government. Begun in 1975, this program concentrates on increasing employment opportunities through small-scale irrigation projects, labor-intensive rural public works projects, and small scale, labor-intensive rural industries. The program is staffed by more than 5,000 young technicians who work closely with peasants in their own communities; and they are getting results.

There is evidence from World Bank studies as well as my own research that the kinds of projects being carried out under this program can dramatically reduce rural out-migration; in fact, some communities have actually begun to attract migrants from surrounding areas. It is not necessary to completely wipe out the wage differential between the U.S. and Mexico. That would be impossible. Among a large sector of the rural population, emigration is seen as a necessary rather than a desirable alternative; they recognize that attempting to enter the U.S. illegally is a risk, and that all the cash they invest in it may be lost. They would prefer not to have to take that risk. Yet, it is necessary to get them out of traditional subsistence agriculture, dependent upon erratic rainfall and many other variables, and into either irrigated farming, or nonagricultural employment in small-scale industries, which provide more adequate and more stable sources of income. The World Bank/IDB/Mexican Government program is explicitly designed to do just this, at the relatively low cost of $2,000-$5,000 per job. The level of funding for this program, however, is currently far too low to have any significant, nationwide impact on emigration.

World Bank officials report that the Mexicans now have the administrative capacity to invest three times the amount of resources that is currently available for this program—in rough figures, a $600 million-per-year program rather than a $200 million-per-year program. It is now a question of capital, not of personnel or technology. The development banks provide half of the funding for the program; the other half comes from the Mexican federal government budget. There are strong indications that the Mexicans are anxious to expand the program to additional parts of the country, but they cannot do so without additional capital from the development banks, and without a relaxation of the ceiling imposed on Mexican government expenditures by the International Monetary Fund. The U.S. could take steps to relieve both of these constraints. It would require a substantial increase in our capital commitments to the World Bank and the Inter-American Development Bank, as well as an effort to have the additional Mexican government expenditures for this program exempted from the current IMF ceiling.

All available evidence indicates that a major expansion of this program, with investments targeted to those parts of Mexico which are the principal source areas for illegal migrants to the U.S., would have an important impact on the flow—probably within five years, and certainly over a 5-10-year period. This is probably the single most cost effective step we could take to reduce illegal immigration, especially when we consider the costs of the restrictive measures which the Administration has proposed, none of which are likely to have any appreciable, long-term impact on the flow.

The Administration's "preliminary estimates" of the cost of implementing its proposed employer sanctions law indicate an expenditure of $113 million during the first five years following enactment, including a one-time cost of $4 million for publicizing the new law, and annual costs for additional INS, judicial, and Social Security Administration employees. The Social Security Administration employees would be utilized to tighten up the issuance of Social Security Cards, to make "certain" that such cards are issued only to citizens and those aliens who are authorized to work in the U.S. The Social Security card will be designated as one of the "authorized identification documents" which an employer can require of job applicants, to defend himself against a charge of hiring undocumented aliens.

Issuing counterfeit-proof Social Security cards to the entire "legal" U.S. labor force—which the Administration does not propose to do at present, but which would be necessary for effective implementation of an employer sanction law—would probably cost at least $500 million. Many additional millions would be needed to computerize the issuance of birth certificates—the type of document which is most frequently offered as proof of U.S. citizenship in applying for a Social Security card—and otherwise to reduce the incidence of fraud in obtaining such certificates.

The addition of 2,000 new positions to the border patrol, as the Administration has proposed to Congress, would cost well over $200 million over a five-year period. Equipping the INS to process the anticipated number of applications for permanent and temporary alien resident status, under the Administration's "adjustment-of-status" program, will require an expenditure of more than $25.2 million (the Administration's own estimate), during the registration period for eligible immigrants. When all of this and other kinds of expenses likely to be incurred in implementing the policy package proposed by the Administration are added up, the cost during the first five years is likely to be over a billion dollars—for a program which fails to get at the root causes of the problem.

The Administration seems to have its priorities inverted. It seems preoccupied with dealing with the undocumented immigrants who are already here, as more-or-less permanent residents, rather than those who are likely to come in the future, in the absence of an adequate preventive strategy.

The development assistance component of the President's message to Congress is the weakest of all his proposals. Its three short paragraphs contain no specifics, no concrete commitments; and the President seems to dismiss the possibility that this approach to the problem can have any significant payoffs except in the very long run. The President's vague promise to "explore with source countries the means of providing [development] assistance" at some point in the future is unlikely to create a sense of urgency about this approach to the problem in the Congress or among the U.S. public. In fact, it was not even mentioned in most media reports on the policy announcement—a direct reflection of the low priority which the Administration seems to attach to this approach.

It is apparent that the Administration and the Congress have a political problem on their hands with regard to undocumented immigration. There is considerable public hysteria about the phenomenon, hysteria to which high-level members of the Carter Administration and preceding administrations have themselves contributed. The best approach to the political problem is not to propose remedies which raise unrealistic expectations among the American people. It is, rather, to make the public aware that there are no easy, quick, cheap solutions to the problems, real or imagined, posed by undocumented immigration. This migratory movement is too large, too complex, and has existed far too long to permit simple, painless solutions. Whether we like it or not, the flow of undocumented immigrants is likely to continue in the foreseeable future. Whether it increases or decreases will depend largely on whether adequate steps are taken to create attractive alternatives to migrating to the U.S., within Mexico and other source countries.●

INCREASES IN FHA RATES

Mr. THURMOND. Mr. President, a traditional part of the American dream has been the ownership of a home in which to live. Unfortunately, this dream is becoming increasingly difficult to achieve. HUD statistics tell us that between the years 1972 and 1976 the medium family income increased a little over 7 percent annually, while the cost of a new, one-family home increased about 10 percent. Even if, through saving and doing without, a family does manage to buy a home, the cost of home ownership—which includes utility bills, insurance, and normal repairs, et cetera—has increased an average of 8 percent annually.

With these rising costs in the private sector, the need for the Federal Government to hold down interest rates is almost imperative. For this reason, the

news that the Federal Housing Administration has increased its maximum interest rate to 9½ is distressing. This is the highest ever in the history of FHA and is the third such increase in a year.

Mr. President, on August 2 and 3, WSPA radio and television in Spartanburg, S.C., issued an editorial strongly in opposition to this increase by FHA. As is stated in the editorial, overspending is a major factor in rising interest rates. This cannot continue if this country is to ever have a balanced budget. Our financial future is getting bleaker every day and we must cut back or suffer the consequences.

Mr. President, I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

HIGH INTEREST

The increase of the interest rates for those seeking to buy a home is quite disturbing to a lot of people.

When a prospective home owner realizes he must pay out the cost of the home in interest within about ten years, the new 9½ percent rate can only have a depressive effect on new home construction.

Editor's Copy, of Orangeburg, has this to say on the subject:

The rate for Federal Housing Administration home loans was hiked again recently to a maximum of 9½ percent, the highest ever in the history of FHA.

This is a tragedy for young Americans seeking to own their own homes and a tragedy for America generally. The latest increase, the third in a year, is a direct result of overspending by the federal government, the Carter Administration and the Democratic-controlled Congress.

This excessive overspending is producing a budget deficit this fiscal year of sixty billion dollars, and as the government dips so heavily into the money market to borrow, the supply of money is reduced and interest rates rise.

Ironically, Democrats have traditionally claimed they are the party of low interest rates. But overspending is now catching up with them. President Carter, who was unhappy when the Federal Reserve Board recently hiked its prime lending rate, is directly responsible for the hikes.

His increased spending, breaking of a campaign pledge that he would balance the budget in four years, the hiring of 20,000 new federal employees, and additions to so many federal programs, have put the budget heavily in the red. This has produced today's tight money market, inflation and lack of confidence in the U.S. dollar and future, home and abroad.

CRS STUDY VERIFIES DR. ROBERTS' CONCLUSIONS

Mr. HATCH. Mr. President, last March an article appeared in Harper's magazine by Paul Craig Roberts titled "Disguising the Tax Burden." Dr. Roberts pointed out the dangers posed by "tax reform" to the after-tax incomes of all income groups and especially to the deductions and fringe benefits of middle- and lower-income groups. Dr. Roberts' article pointed out that the characterization of tax reform as a "soak the rich" scheme was inaccurate. He said:

> The purpose of tax reform is to enlarge the tax base by redefining personal income to include fringe benefits and by reducing deductions. Enlarging the tax base will raise everyone's taxes, but it will have the most severe effect on middle income earners. The government is refashioning its tax net to catch those it pretends to protect.

Dr. Roberts pointed out that most of the benefits of deductions from income, such as social security and unemployment benefits, and from untaxed fringe benefits, such as pension contributions and medical benefits provided by employers, go to people who are not rich. He also pointed out that "it is not just the upper income taxpayers who are harmed by inflation" and that cutting taxes at the lower end does not protect people from being pushed by inflation into higher tax brackets that were not cut.

Dr. Roberts' article had considerable impact on the Congress and might have been one reason why "tax reform" did not go anywhere in this session of Congress. This did not please big spenders who might have viewed "tax reform" as a potential source of revenue or who might have hoped to translate demands for tax reduction into proposals for "tax reform," and in this way at least prevent an across the board tax cut. Neither did it please those Members of Congress who desire to reduce the powers of the tax committees. Regardless, as a recent report by the Library of Congress stated:

> The article has received considerable attention in Congress, having been the subject of much Congressional discussion and interest and the object of several inquiries to the Congressional Research Service.

In response to the inquiries CRS prepared a study, much longer than the article, of the issues raised by Dr. Roberts. The CRS study provides substantial support and verification of the main points made by Dr. Roberts. This apparently was not understood by Mr. WRIGHT of the House of Representatives, who misread the CRS study to be a refutation of Dr. Roberts' article, perhaps because he also misread Dr. Roberts' article to be a special plea for "massive across the board tax reductions to save the rich from descent into poverty." Regardless, we are indebted to Mr. WRIGHT for putting the CRS study in the RECORD on August 4.

The CRS study begin by stating:

> Professor Roberts has contributed a provocative stimulus to public examination of the Federal income tax. His observations provide, at least, a balancing corrective to much sensational reportage in recent years which may have created the erroneous impression that the upper income classes generally avoid taxation.

Much of this sensational reportage has originated in the House of Representatives itself.

The CRS study verifies the following main points made by Dr. Roberts. I quote from the CRS:

> One, the characterization of tax reform as a soak the rich endeavor is inaccurate. . . . the loophole closing variety of tax reform usually represents an attempt to achieve a more comprehensive tax base by eliminating certain exclusions, exemptions, deductions, or credits.
>
> Two, the richest one-fourth of American households—those with incomes of $17,000 a year or higher—took home 55.5 percent of the income in this country in 1977. After Federal income taxes, they still had 53.2 percent. This is so despite the fact that they paid 74.3 percent of all personal income taxes.

So one-fourth of the taxpayers with half of the income paid three-fourths of the incomes taxes in 1977. This not only verifies the facts presented by Dr. Roberts, it also shows that the trend he pointed out is continuing. The income tax burden is continuing to shift more and more to the middle and upper income groups. In 1975, the last year of Dr. Roberts' figures, the top one-fourth paid 72 percent of the personal income taxes.

> Three, the percentage differences between adjusted gross income and taxable income is largest in the lowest income brackets.
>
> Four, taxing the income value of pension and insurance employee benefits with no other tax adjustment would have the largest proportionate impact on the lower income brackets.
>
> Five, when the tax returns of those taxpayers who itemize deductions are isolated, itemized deductions as a portion of adjusted gross income are higher in the lower income brackets.
>
> Six, as a result of tax-flation, the income classes between $30,000 and $300,000 have experienced the largest real tax increases during this period.

Seldom has anything been put in the RECORD that turned out to be as accurate as the points made by Dr. Roberts. The Congress is certainly indebted to him for his efforts to overturn what the CRS calls the erroneous impressions about our tax system created by sensational reportage. It required courage to state the truth of the matter, because "tax reform" has become a highly emotional ideological issue for the left-wing, and the left-wing does not take kindly to having its myths exposed.

Neither do politicians whose efforts to build political spending constituencies have benefited by these myths. Even the CRS study, by the kinds of arguments and techniques that it goes on to employ, shows that its outcome was favorable to Dr. Roberts only because the facts are. Indeed, only a careful reader will notice that the CRS study does indeed support the facts as stated by Dr. Roberts.

With the existing distribution of power in the Congress and in the intellectual sector and with a request from the majority leader in the House for an analysis of Dr. Robert's article, CRS would indeed be unusual if it did not feel some obligation to attack Dr. Roberts. Unable to attack the facts as stated by Dr. Roberts, CRS resorted to drawing its own implications from selected facts and then attributing the implied position to Dr. Roberts as a means of attacking him. For example, CRS says that one fact, which Dr. Roberts states and which the CRS study does not challenge, "seems to

imply" that Dr. Roberts is advocating a "highly regressive" tax system. This is not the only instance in which "straw-man positions" are invented by the use of such terminology as "would appear to imply" and then attributed to Dr. Roberts.

It is by the use of such tactics as this that the CRS study mounts a feeble attack on Dr. Roberts' article. But perhaps because the analyst's heart was not really in the obligatory attack, the CRS study manages to let out startling information that greatly supports Dr. Roberts contention about how high taxes really are. The CRS study reveals that "given the present level of tax revenue," if the lower half of the taxpayers had to pay half of the personal income taxes, their tax obligations would exceed their entire incomes.

The CRS study also refutes those who claim that the personal income tax system in the United States is only progressive on paper, but not in result. The study states, and I quote:

> Upper-income taxpayers pay more of the total tax bill than their portion of total income.

It is instructive to examine another instance where the CRS analyst assigns Dr. Roberts a position that he can then attack. Dr. Roberts points out the growth in the public sector relative to national income from 12 percent in 1929 to 42 percent in 1976. The CRS study, however, focuses on the Federal tax burden and uses the statistical trick known as "adverse selection" to organize data in 5-year averages from 1946–77 in order to cast doubt on Dr. Roberts' facts about the rising tax burden without actually challenging the information that he presents. Even so, however, the CRS data show that Federal individual income tax revenue as a percent of personal income increased 25 percent between 1946 and 1977—column 1, table 11 of the CRS study.

The CRS study also uses the "small base" statistical trick in column 7 of table 12.

The CRS study criticizes Dr. Roberts for using a hypothetical example, which CRS admits "is statistically correct," on the grounds that the example "offers little of relevance to understanding the actual system." The CRS, however, does not apply this criticism to itself. The CRS study proceeds to use hypothetical examples in which the actual distribution of the tax burden is compared to hypothetical distributions, which fall even more disproportionately on those who earn $30,000 and up, in order to "prove" that the upper income groups are gaining under the actual tax system compared to hypothetical examples.

The CRS study makes assertions about the intentions behind tax reform, which may reflect the CRS analyst's own views but not those of the actual policymakers. Analysts often confuse their idealistic constructions with the actual policy process.

The CRS study claims that—

> Tax reform measures are usually combined with tax reductions in a single legislative package so that the net revenue impact of the bill is a reduction in tax receipts, not an increase.

This, of course, depends on how you measure it. For example, some believe that the Ways and Means bill, which passed the House in August 1978, is a tax cut. However, the "tax reduction" does not offset the rise in tax revenues from inflation and social security. It is a tax reduction only in the sense that taxes would otherwise rise by even more.

Also, whereas tax cuts might offset the aggregate impact of inflation or tax revenues, it does not mean that the effects are offset for each income class. The aggregate cut can be skewed toward the lower brackets and actually mean higher taxes for middle and upper income brackets. According to Mr. CONABLE, ranking member of the Committee on Ways and Means, this is what usually happens. Mr. CONABLE said that the August 1978 Ways and Means—

> Tax bill is revolutionary. It does not take from one group of people through higher taxes to give to other people in lower taxes. It spreads its relief across various sectors in society in the same proportion in which they each bear the tax burden (August 10, 1978, 25425).

Yet, the CRS study asserts, erroneously, that Dr. Roberts' analysis, which points out those distributional implications, is "misleading." Curiously, in its concluding sentences the CRS study then switches to Dr. Roberts' side of the issue. I quote the final lines of the CRS study:

> Thus, while the tax cuts have more than offset the aggregate impact of inflation on the tax system, they have not prevented an increase in the real tax burden on a wide range of upper-middle income classes. If one of the purposes of tax cuts is to offset proportionately the impact of inflation on taxpayers, a somewhat altered distributional pattern for future tax cuts will be necessary.

These conclusions of the CRS study are, of course, identical to the conclusions reached by Dr. Roberts.

In its analysis of Dr. Roberts' article, the CRS study does make several mistakes. For example, CRS confuses Dr. Roberts' discussion of deductions with his discussion of itemized deductions. Social security, for instance, is a deduction from taxable income, but it is not an itemized deduction. Whereas these CRS confusions may muddy the water a bit for an uncareful reader, the CRS study does support Dr. Roberts' conclusions in all the main particulars. Therefore, there is really no point in emphasizing this kind of mistake in the CRS study. CRS obviously could not endorse Dr. Roberts' article outright. The politics of the situation required some muddying of the water here and there to make it look like a critical report.

However, the CRS study does contain two fundamental errors of a more general nature that do not relate to Dr. Roberts' article. The CRS study fails to realize that nominal or purely inflated "capital gains" are not income and may even be capital losses. The CRS study constructs hypothetical tables which really only show that people would be even worse off if they had to pay taxes on capital losses and nominal gains. The CRS study, however, does not realize that this is the only conclusion that can be drawn from their hypothetical tables.

Dr. Martin Feldstein, professor of economics at Harvard and president of the National Bureau of Economic Research has found, for example, that—

> In 1973 individuals paid capital gains taxes on more than $4.5 billion of nominal capital gains on corporate stock. If the costs of these shares are adjusted for the increases in the consumer price level since they were purchased, the $4.5 billion nominal gain becomes a real capital loss of nearly $1 billion.

I am sure that Dr. Roberts would not disagree with the CRS conclusion that people are even worse off when they have to pay taxes on capital losses.

The second fundamental and even more serious error made by the CRS study is the failure to differentiate between average and marginal tax rates. The CRS study emphasizes average tax rates, which it calls "effective tax rates." But average tax rates are not the effective rates in terms of the impact on incentives. The CRS study fails to realize, or to disclose, that the average tax rate can be kept constant by increasing the personal exemption and standard deduction and having higher marginal tax rates on additions to earnings.

The fundamental problem with our tax policy is that we have been keeping the average tax rate relatively constant by dropping people off the tax rolls at the lower end and pushing remaining taxpayers into higher marginal tax rates, which reduce their incentive to save, invest, and earn additional income. This fundamental problem is disguised by studies, such as the CRS study, which emphasize the aggregate offset to tax increases resulting from reforms and inflation without pointing out that the effect is to raise the tax rates on additions to earnings and, thereby, to increase disincentives throughout the economy.

In conclusion, although the CRS study contains errors, contradictions, and statistical tricks, and is far from perfect, it does provide substantial support and verification of the main points made by Dr. Roberts. As anyone can see, I am proud to have Dr. Roberts as a member of my staff even though he is in great demand by the private sector.

ORDER OF PROCEDURE

LEGISLATIVE SCHEDULE

Mr. BAKER. Could I ask the majority leader what he sees in prospect now, for tomorrow, say, and Friday, specifically whether or not he plans to try to finish this bill and return to the CETA bill and finish it, and what else, if anything, he anticipates we might do?

Mr. ROBERT C. BYRD. After finishing this bill tomorrow, we shall go back to the tax bills. Then we shall go to civil service reform. CETA can wait until last.

Mr. BAKER. Is it the majority leader's hope that we shall finish CETA and the civil service reform bill before we adjourn for the recess?

Mr. ROBERT C. BYRD. That will be my hope, before we go out for the holiday. There is a time agreement on the CETA bill.

Mr. BAKER. I thank the Senator.

Mr. McCLURE. Mr. President, will the Senator yield so I may ask a question of the majority leader?

Mr. BAKER. I yield.

Mr. McCLURE. Mr. President, I wonder if the majority leader could advise whether there will be a period for routine morning business on tomorrow?

Mr. ROBERT C. BYRD. There may be or may not be. I assume there will be, because we have been trying to arrange that every day.

Mr. McCLURE. I wonder if the Senator might accommodate the Senator from Idaho. I have a very brief statement that I should like to make tomorrow at the opening of the session.

Mr. ROBERT C. BYRD. The Senator will have that opportunity.

Mr. BAKER. I thank the Senator from North Carolina for yielding and I thank the majority leader.

ORDER FOR RECOGNITION OF SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. HELMS be recognized tomorrow morning, after the order for recognition of Mr. TALMADGE which is now being entered. I ask unanimous consent that Mr. TALMADGE be recognized for not to exceed 15 minutes after the two leaders under the standing order tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. HELMS then be recognized to call up his amendment or amendments.

Mr. HELMS. Two amendments.

Mr. ROBERT C. BYRD. Two amendments, one of which would not require a rollcall vote, I think.

Mr. HELMS. That is correct.

Mr. ROBERT C. BYRD. And that after Mr. HELMS is recognized to call up his amendments Mr. MORGAN be recognized to call up his one amendment.

Mr. MORGAN. I will have one amendment tomorrow.

Mr. ROBERT C. BYRD. That Mr. MORGAN be recognized to call up an amendment, on which there will be a rollcall vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9:30 a.m. tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF MR. MORGAN TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on the amendment by Mr. HELMS go over until tomorrow. I ask unanimous consent that tomorrow, when the Senate resumes consideration of this bill, Mr. MORGAN be recognized to call up his amendment, and that upon the expiration of that time—does the Senator want a vote then?

Mr. MORGAN. I would be willing to postpone it until such time as we can get agreement.

Mr. ROBERT C. BYRD. Very well. Then, Mr. President, I ask unanimous consent that Mr. MORGAN be recognized to call up his amendment in the morning when the Senate resumes its consideration of this measure, and at that time let us decide when the voting will start. It will be understood that the vote will occur—shall we go on with Mr. HELMS' amendment first? We can begin voting around 11 o'clock.

Mr. JAVITS. Mr. President, reserving the right to object, Members will come in cold. I think we ought to have 10 minutes to Senator HELMS and 5 minutes to us, or whatever.

Mr. ROBERT C. BYRD. All right.

Mr. STEVENS. Reserving the right to object, also, Mr. President, we have the problem that I have been requested to object to any specific time for votes tomorrow morning without conferring. We can work it out as soon as Mr. MORGAN starts talking about his amendment, but the problem is that the timing was left up in the air. It was 8, and then 9:30, and I do not think Senators know when rollcall votes will start. I am sure we can reach a time; as soon as the Senator from North Carolina has discussed his amendment we could reach a time certain to vote on it.

Mr. HELMS. How about no earlier than 11 o'clock?

Mr. STEVENS. I think we could agree to no votes before 11. I have no problem with that. It is the problem of when after that, that they might take place.

NO ROLLCALL VOTES BEFORE 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. All right. Mr. President, I ask unanimous consent that no rollcall votes occur before the hour of 11 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that Mr. MORGAN be recognized upon the resumption of consideration of this bill tomorrow morning, to talk on his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. We will decide tomorrow morning precisely at what time the first vote will occur, and in what order they will occur; or we could agree to that now, if Mr. HELMS and Mr. MORGAN are agreeable we could determine what vote would occur first.

Mr. HELMS. I defer to my distinguished colleague.

Mr. MORGAN. I would hope Mr. Helms' amendment would be voted on first. That would give us a little more time.

Mr. ROBERT C. BYRD. All right. I ask unanimous consent that there be 10 minutes on Mr. HELMS' amendment, to be equally divided in accordance with the usual form, before the vote occurs on the amendment by Mr. HELMS; and that upon the disposition of the amendment by Mr. HELMS tomorrow, perhaps the Senator from North Carolina would like to have another 10 minutes at that time, to be equally divided, or 5 minutes, before a vote occurs thereon.

Mr. STEVENS. Mr. President, reserving the right to object, I understand Mr. MORGAN's amendment will be the first order of business after the session opens tomorrow?

Mr. ROBERT C. BYRD. That is right, except he wants a little audience here to hear him, and they are not likely to be here when he begins.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. HELMS. Mr. President, I will be glad to accept that. I apologize to my colleague for neglecting to state that the distinguished Senator from North Carolina (Mr. MORGAN) is a cosponsor of the amendment we will be voting on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, the Senator from North Carolina (Mr. HELMS) is going to want the yeas and nays on his amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. I thank Senator MORGAN for his patience. He has a couple of amendments at the desk.

Mr. STEVENS. Does he want the yeas and nays on his amendment, too?

Mr. ROBERT C. BYRD. We can get them once we get a few Senators here in the morning.

RECESS UNTIL 9:30 A.M. TODAY

Mr. PELL. Mr. President, under the previous order, I move that the Senate recess until the hour of 9:30 this morning.

The motion was agreed to and at 12:33 a.m., the Senate recessed until 9:30 a.m. today, August 24, 1978.

NOMINATIONS

Executive nominations received by the Senate August 23, 1978:

NATIONAL LABOR RELATIONS BOARD

Howard Jenkins, Jr., of Maryland, to be a member of the National Labor Relations Board for the term expiring August 27, 1983. (Reappointment.)

IN THE NAVY

The following-named officer having been designated for commands and other duties of great importance and responsibility in the grade of vice admiral within the contemplation of title 10, United States Code, section 5231, for appointment while so serving as follows:

To be vice admiral

Rear Adm. David F. Emerson, U.S. Navy.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of the Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committees scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, August 24, 1978, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 25

8:00 a.m.
Energy and Natural Resources
To continue hearings on H.R. 13511, proposed Pacific Northwest Electric Power Planning Act.
3110 Dirksen Building

9:00 a.m.
Finance
To continue hearings on H.R. 13511, proposed leigalation to reduce income taxes.
2221 Dirken Building

Human Resources
To consider S. 2910, to establish programs to assist in preventing unwanted initial and repeat pregnancies among adolescents; S. 3116, to provide Federal assistance to States through formula and project grants for preventive health programs; and S. 3205 and 3309, to extend certain existing refugee assistance programs and to provide assistance to new refugees.
4232 Dirksen Building

9:30 a.m.
Judiciary
To hold hearings on the nominations of Theodore McMillian, of Missouri, to be U.S. circuit judge for the eighth circuit; Harold A. Baker, to be U.S. district judge for the eastern district of Illinois; Mariana R. Pfaelzer, to be U.S. district judge for the central district of California; Richard S. Arnold, to be U.S. district judge for the eastern and western districts of Arkansas; and Patricia J. E. Boyle and Julian A. Cook, Jr., each to be a U.S. district judge for the eastern district of Michigan.
2228 Dirksen Building

Rules and Administration
To consider further the nomination of John W. McGarry, of Massachusetts, to be a Member of the Federal Election Commission.
301 Russell Building

10:00 a.m.
Armed Services
To receive testimony on proposed action under P.L. 85-804, relating to settlement of Navy shipbuilding claims.
212 Russell Building

Banking, Housing, and Urban Affairs
To hold hearings on S. 2843, to provide for the striking of gold medallions, and on gold sales by the Department of the Treasury.
5302 Dirksen Building

AUGUST 28

9:30 a.m.
Finance
Taxation and Debt Management Subcommittee
To hold hearings on miscellaneous tax bills (H.R. 810, 4030, 5099, S. 2771, 1611, 3049, 3176, and 3345).
2221 Dirksen Building

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on the FBI Charter as it concerns undercover operations.
2228 Dirksen Building

AUGUST 29

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on the FBI Charter as it concerns undercover operations.
2228 Dirksen Building

2:00 p.m.
Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To hold hearings on H.R. 6503, to provide for a just and reasonable rate of return or profit for common carriers by water in intercoastal commerce.
235 Russell Building

SEPTEMBER 6

2:00 p.m.
Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To resume hearings on S. 2873, proposed Ocean Shipping Act.
235 Russell Building

SEPTEMBER 7

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the following nominations to be Members of the Board of Directors of the U.S. Railway Association; W. K. Smith, of Minnesota, to be Chairman; Stanton P. Sender, of the District of Columbia; Nathaniel Welch, of Georgia; James E. Burke, of New Jersey; and Robert G. Flannery, of California.
6226 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
To hold oversight hearings on the lengths of motor tractor trailers.
235 Russell Building

1:00 p.m.
Conferees
On H.R. 11445, authorizing funds for programs administered by the Small Business Administration.
EF-100, Capitol

SEPTEMBER 8

9:30 a.m.
*Commerce, Science, and Transportation
To hold hearings on S. 2970, proposed Truck Safety Act.
235 Russell Building

10:00 a.m.
Special on Aging
To resume oversight hearings on the implementation of P.L. 95-256, to increase from 65 to 70 years of age limit for retirement under the Age Discrimination in Employment Act.
5110 Dirksen Building

SEPTEMBER 14

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on the FBI Charter and its overall policy.
2228 Dirksen Building

SEPTEMBER 19

9:00 a.m.
Judiciary
Constitution Subcommittee
To resume hearings on S. 1845, to prevent unwarranted invasions of privacy by prohibiting the use of polygraph type equipment for certain purposes.
6226 Dirksen Building

9:30 a.m.
Human Resources
Labor Subcommittee
To hold hearings on S. 3060, proposed National Workers' Compensation Standards Act.
4332 Dirksen Building

SEPTEMBER 20

9:30 a.m.
Human Resources
Labor Subcommittee
To continue hearings on S. 3060, proposed National Workers' Compensation Standards Act.
4232 Dirksen Building

SEPTEMBER 21

9:00 a.m.
Judiciary
Constitution Subcommittee
To resume hearings on S. 1845, to prevent unwarranted invasions of privacy by prohibiting the use of polygraph type equipment for certain purposes.
5110 Dirksen Building

SEPTEMBER 22

9:30 a.m.
Human Resources
Labor Subcommittee
To resume hearings on S. 3060, proposed National Workers' Compensation Standards Act.
4232 Dirksen Building

CANCELLATIONS

AUGUST 28

10:00 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings with regard to the widespread nature of arson-for-profit, including evidence of the role of organized crime.
3302 Dirksen Building

AUGUST 29

10:00 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To continue hearings with regard to the widespread nature of arson-for-profit, including evidence of the role of organized crime.
3302 Dirksen Building

SENATE—*Thursday, August 24, 1978*

(Legislative day of Wednesday, August 16, 1978)

LOBBYISTS

The compilation by the Clerk of the House and the Secretary of the Senate of all new registrations and reports for the second calendar quarter of 1978, and reports for the first calendar quarter of 1978 received too late to be previously published, that were filed by persons engaged in lobbying activities, appears in this issue of the Congressional Record.

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by Hon. DONALD W. RIEGLE, JR., a Senator from the State of Michigan.

PRAYER

The Reverend Dr. Robert B. Harriman, director, the Presbyterian Council for Chaplains and Military Personnel, Washington, D.C., offered the following prayer:

Let us pray.

Almighty and everlasting God, we pause to praise Thee for all those whose inheritance we now enjoy, passed to us enriched and enobled by the contributions of a great host of dedicated people in all walks of life. Persons both great and small are to be praised for efforts equal to their talents. And now we hold, in human hands, our precious heritage.

For these, whose decisions in this place shall affect the coming generations, we pray for a wisdom beyond their own. May they, with undiminished zeal, approach each challenge with courage and hope.

In their private lives, so limited by the demands of public service, may they pause to acknowledge Thy presence. Confessing before Thee the frailties which touch us all, may they be renewed by Thy forgiving love and directed by Thy Word into paths of righteousness and peace. To Thy protecting care we commend them and their families. And so would be our prayer for all these in Government who sacrifice so much of themselves for this Nation's future. Wilt Thou bless them and keep them faithful to Thy purpose. In Jesus' name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., August 24, 1978.

To the Senate:

Under the provisions of rule I, section 3 of the Standing Rules of the Senate, I hereby appoint the Honorable DONALD W. RIEGLE, JR., a Senator from the State of Michigan, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. RIEGLE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

Mr. PELL addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island.

THE JOURNAL

Mr. PELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER TO DISCHARGE COMMITTEE AND PLACE HOUSE JOINT RESOLUTION 1014 ON CALENDAR

Mr. PELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of House Joint Resolution 1014, Days of Remembrance of Victims of Holocaust, and that the joint resolution be placed on the Calendar.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER TO REFER S. 3437 TO COMMITTEE ON FINANCE

Mr. PELL. Mr. President, I ask unanimous consent that at such time as S. 3437, drug smuggling, is reported by the Committee on the Judiciary, it be referred to the Committee on Finance for 30 days.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DISTRICT OF COLUMBIA RETIREMENT REFORM ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order 799.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2316) to establish an actuarially sound basis for financing retirement benefits for policemen, firemen, teachers, and judges of the District of Columbia and to make certain changes in such benefits.

The Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs with an amendment in the nature of a substitute.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

● Mr. EAGLETON. Mr. President, pension reform will give the District a system that will be fair to taxpayers and recipients alike. It will assure reasonable pensions at reasonable cost. Fundamentally, it provides for a system for police officers, firefighters and teachers that will be financially sound and can be sustained in the years to come. Additionally, it will eliminate abuses of disability retirements that have been so flagrant in the District and have skyrocketed costs. The present system is some $2 billion in the hole, and without reform would bankrupt the District. The pension system was set up years ago by the Federal Government, and it will share the cost of reform with the District. The Senate version calls for a Federal contribution of $80 million a year, the House version for $42 million. I am confident differences can be worked out in a Senate-House conference, and the bill will be signed into law in the next month or so.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-869), explaining the purposes of the measures.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purposes of the bill S. 2316 are (1) to establish, with Federal financial assistance, separate retirement funds for police officers and firefighters, teachers, and judges of the District of Columbia in order to liquidate the Federal share of the unfunded liability accrued by pensions granted prior to transfer to the District's Home Rule government on January 2, 1975; (2) to establish a Retirement Board to manage the funds; (3) to provide actuarially sound management to protect the benefits of participants and beneficiaries under the plans; (4) to require the Retirement Board to comply with reporting and disclosure requirements similar to those found in the Employee Retirement Income Security Act of 1974 (ERISA) (Public Law 93-406, 88 Stat. 829); and (5) to provide disability retirement benefits which com-

pare with other cities and provide the annuitant a sufficient retirement allowance while keeping pension costs at a level the District can afford.

The bill does not affect active or retired members of the U.S. Park Police, Executive Protection Service, or Secret Service.

BACKGROUND OF PENSION SYSTEMS IN THE DISTRICT OF COLUMBIA

The policemen and firemen's relief fund was established by Congress in 1916 to pay for medical and hospital expenses of police and firefighters for service-connected injury or disease and retirement for permanent disability. The fund was financed from disciplinary fines on members, gifts or rewards to the Department, employee contributions of 1½ percent of salary, proceeds from sales of unclaimed property, and donations. And deficiencies in the fund were to be made up by the District Government.

In 1924, Congress approved an amendment to the 1916 act to increase employee contributions to 2½ percent and establish a formula for sharing expenses of 60 percent from District of Columbia revenues and 40 percent from Federal revenues. This formula was in effect until 1957 when the law was amended to reimburse the District for benefit payments that exceeded the amount deducted from employee salaries. Periodic increases in the employee contribution level has brought it to the current level of 7 percent of salary.

The fund established in 1916 was never invested, and in 1935, all moneys credited to the fund were put into the general revenues of the District. That practice remains in effect today, leaving the retirement system on a pay-as-you-go basis.

By way of contrast, Congress enacted the teachers retirement legislation in 1920 (act of Jan. 15, 1920) on a funded basis. Employee contributions varied yearly to correspond to salary changes but were not to exceed 8 percent of $1,500. The fund was administered and invested by the U.S. Treasury, which, in addition, made actuarial valuations every 3d year to show the financial condition of the fund.

In 1946, Congress placed the teachers retirement system on a basis similar to the Civil Service Retirement System (Public Law 79–624). The Treasury Department estimated the District of Columbia contributions to the fund, on an actuarial level percentage basis, to cover the normal cost accrued each year and to liquidate the accrued liability over a 20-year period.

The city's appropriation was calculated on this basis until 1968 when the District's Presidentially appointed Commissioners requested and were granted permission from the House Appropriations Committee to provide funds for only the normal cost accrued each year.

In 1970, Congress passed legislation (Public Law 91–268) to substitute this modified pay-as-you-go plan for the normal cost-plus interest formula specified in the 1946 Law (Public Law 79–624). The fund was frozen at the June 30, 1969, amount of $61.8 million and mandated to be maintained at that level or an amount equal to the employees equity in the fund, whichever is greater. If the funds were not sufficient to meet all obligations, the District was to make up the difference.

Concern for the adequacy of pay-as-you-go financing for police and fire pensions was not voiced until Senate hearings in 1957. Senator Alan Bible, the chairman of the Senate Committee on the District of Columbia, when told by the Director of General Administration on the District of Columbia that the Commissioners did not consider it a serious problem that the police and firemen had no fund, requested that a more thorough study of funding be conducted.

An attempted comparative study of 18 cities indicated a prevalence of pay-as-you-go funding, and an absence of actuarial studies of cost in most cities. Even when funding did exist, the trust funds were not maintained at a level to be considered funded on an actuarial basis.

The 1972 report of the organization of the Government of the District of Columbia (Nelson Commission) (established by Public Law 91–405) was very critical of the methods of financing the police and fire, and teachers retirement systems. It criticized the Congress for allowing the teachers system to move from a funded to an unfunded one and pointed out the difficulty in recognizing and providing for costs of a pay-as-you-go retirement system that fails to consider and provide for future expenditures. (H. Doc. 92–317).

NEED FOR LEGISLATION

FUNDING

The committee finds that Congress established the District of Columbia police and firefighters, teachers, and judges pension plans and granted benefits, but failed to provide for adequate funding of these plans prior to granting home rule to the District in 1975. In addition, Congress mandated that the city hire an additional 2,000 police officers during the 1960's and early 1970's for a total authorization of 5,100—a force substantially larger than that for cities of comparable size.

As a result, for 1978, the unfunded liability of the police and firefighters retirement system is estimated at $1.464 billion, for teachers at $846 million, and for judges at $9.5 million—giving a total accrued unfunded liability of over $2.3 billion (assuming continuation of current benefit levels). During 1977, the unfunded liability increased by more than $140 million.

The police and firefighters pensions are paid out of general revenues of the District of Columbia on a pay-as-you-go basis. The teachers fund (congressionally mandated to be maintained at $61.5 million in face value) is so inadequate as to be considered unfunded. The same can be said of the judges $1.3 million fund. (See appendix A.)

Since the Federal Government created and had total responsibility for these pension systems until 1975, the committee believes it is the Federal responsibility to make annual payments to the retirement funds to amortize over a 25-year period that portion of the unfunded liability which results from costs for those who retired before the grant of home rule (Jan. 2, 1975). Based on the most recent actuarial valuations available, the committee determined the unfunded accrued liability for retirees as of the effective date of home rule, incorporating the cost savings anticipated under S. 2316. These amounts, given in column (1) of table 1, were then adjusted for interest payments to October 1, 1978 (column (2)). The annual payments required to amortize these liabilities were calculated on the basis of quarterly payments over 25 years, using the same interest rate assumption as in the actuarial valuations. The committee determined that these amortization payments, shown in column (3) of table 1, would properly discharge the Federal responsibility with respect to funding.

TABLE 1.—DETERMINATION OF FEDERAL AND DISTRICT FUNDING SHARES

[Dollar amounts in millions]

	Accrued liability (retirees)		Amortization payments for Federal share annual payment	District share accrued liability on Oct. 1, 1978 for all active and retired after Jan. 2, 1975
	On Jan. 2, 1975 (1)	Jan. 2, 1975, adjusted to Oct. 1, 1978 (2)	(3)	
Police and fire	$594.8	$740.0	$56.49	$521.3
Teachers	244.5	304.2	23.22	509.0
Judges	3.62	4.50	.34	7.3
Total	842.9	1,048.7	80.05	1,037.6

Note: See text for definitions. Interest rate assumption: 6 percent. Amortization payments in col. (3) assume 100 quarterly payments with the 1st payment on Oct. 1, 1978, and the last payment on July 1, 2003.

Source: Staff calculations based on Wyatt Co. and Treasury Department estimates.

Because the District is truly a national city, the Federal Government also has a responsibility to place the District on a viable financial basis so that it can assume the costs of future pension payments.

Pension costs for police and firefighters will be 55 percent of payroll in 1978, and under current law would exceed payroll by 1999. To pay more in retirement benefits than in active-duty salaries would be untenable for any city and impossible for the District because of its limited tax base. Nonetheless, as the Nation's Capital, the District must maintain large uniformed services and assure high professional standards through quality recruitment and stable and prudent compensation and retirement benefits. Essential to these objectives is the need for a reform of present systems to eliminate costly abuses and establish sound funding that will permit the District to sustain trained and skilled public services. The city must protect the 1.5 million persons who commute to the District daily, the numerous heads of state and visiting dignitaries, the millions of tourists who visit the Capital annually, and the delegations who come to Washington to petition their Government officials.

Also, the city's population has declined from 802,000 in 1950 to less than 700,000 today, resulting in a steadily decreasing tax base. Thirty percent of District revenues are budgeted for debt service, welfare payments, and federally mandated programs, and these budget items are rising at the rate of 4 percent a year.

To insure that adequate funds are available to pay the costs of those retiring after

1975, the District will pay net normal cost plus interest on its share of the unfunded liability; a transition period is mandated to prevent massive budget dislocations in the early years of the funding program. (Estimates of the District and Federal payments to the funds are given in table 2.)

This will put the District on an actuarially sound financing schedule from the first year and assure adequate reserves by advance funding to meet future costs. A full discussion of funding issues will be found in appendix A.

The Federal payments authorized in S. 2316, the reforms in benefits and administration, and the funding program for the District leave the city on a sound financial basis—capable of meeting the personnel costs of the Nation's Capital well into the 21st century.

TABLE 2.—ESTIMATED FEDERAL AND DISTRICT OF COLUMBIA PAYMENTS INTO THE RETIREMENT FUNDS, 1979–2004

[Dollar amounts in millions]

Fiscal year	District of Columbia payments				Federal payments				District of Columbia plus Federal total
	Police and fire	Teachers' fund	Judges' fund	District of Columbia total	Police and fire	Teachers' fund	Judges' fund	Federal total	
1979	$50.9	$29.2	$0.9	$81.0	$56.5	$23.2	$0.3	$80	$161.0
1980	53.3	31.0	1.0	85.3	56.5	23.2	.3	80	165.3
1981	55.8	32.7	1.2	89.7	56.5	23.2	.3	80	169.7
1982	58.5	34.4	1.3	94.2	56.4	23.2	.3	80	174.2
1983	61.3	36.3	1.4	99.0	56.5	23.2	.3	80	179.0
1984	64.3	38.2	1.5	104.0	56.5	23.2	.3	80	184.0
1985	67.6	40.2	1.7	109.5	56.5	23.2	.3	80	189.5
1986	71.0	42.4	1.8	115.2	56.5	23.2	.3	80	195.2
1987	74.7	44.7	1.9	121.3	56.5	23.2	.3	80	201.3
1988	78.7	47.1	2.0	127.8	56.5	23.2	.3	80	207.8
1989	83.0	49.5	2.1	134.6	56.5	23.2	.3	80	214.6
1990	87.7	52.2	2.3	142.2	56.5	23.2	.3	80	222.2
1991	92.6	55.1	2.4	150.1	56.5	23.2	.3	80	230.1
1992	97.8	58.1	2.5	158.4	56.5	23.2	.3	80	238.4
1993	103.1	61.5	2.7	167.3	56.5	23.2	.3	80	247.3
1994	107.4	65.2	3.0	175.6	56.5	23.2	.3	80	255.6
1995	108.7	69.3	3.4	181.4	56.5	23.2	.3	80	261.4
1996	110.2	73.8	3.6	187.6	56.5	23.2	.3	80	267.6
1997	111.9	78.8	4.0	194.7	56.5	23.2	.3	80	274.7
1998	113.7	84.4	4.5	202.6	56.5	23.2	.3	80	282.6
1999	115.7	90.7	5.0	211.4	56.5	23.2	.3	80	291.4
2000	117.9	97.5	5.4	220.8	56.5	23.2	.3	80	300.8
2001	120.2	104.5	6.0	230.7	56.5	23.2	.3	80	310.7
2002	122.7	111.8	6.7	241.2	56.5	23.2	.3	80	321.2
2003	125.3	119.2	5.9	250.4	56.5	23.2	.3	80	330.4
2004	128.1	121.0	5.2	254.3	0	0	0	0	254.3

Note: Estimates based on S. 2316 as introduced. Committee amendment reduces District contribution to police and fire fund in later years. All District contributions are net of employee contributions. Committee staff estimates based on Wyatt Co. calculations.

DISABILITY RETIREMENTS

The legislation establishes strict standards for disability retirements, eliminating costly abuses that have added substantially to the rising cost of the pension system. Of the total number of retirees in 1969, 99 percent of firefighters and 98 percent of police were retired on disability. Between 1971 and 1975, disability retirements in other cities ranged between 15 and 46 percent. Disability retirements in the District for 1977 were 52 percent for police and 63 percent for firefighters.

Current law provides a line-of-duty disability retirement at 66⅔ to 70 percent of pay, regardless of the degree of injury or disease. The bill bases all disability retirements on a percentage of impairment, determined by medical experts, but guarantees a minimum annuity regardless of the extent of the injury. This reduces the incentive to apply for a 70 percent tax-free retirement for any injury or disease.

AGGRAVATION

Particularly vulnerable to abuse in current law is the aggravation clause, which allows a person who incurs an injury on duty or off duty, that is aggrevated by continued duty, to retire on full disability pay.

An analysis of disability requirements shows that in 1969, 85 percent of firefighters and 69 percent of police retired on "aggravation" of previous injuries. In calendar year 1977, 20 percent of the disability retirements were for aggravation during duty of a preexisting injury which alone was not sufficient for disability retirement.

The bill eliminates the aggravation clause except for aggravation of a previous on-duty injury if the member has submitted a report and documentation to the Board of Police and Fire Surgeons within 7 days of the injury.

Current law allows an annuitant to earn up to 80 percent of the current salary of his last-held position in each of two consecutive years before putting his disability pension into jeopardy. No pensioner has ever lost a penny of his annuity under this law, despite evidence of annuitants engaging in occupations requiring substantially similar physical conditioning. The bill changes this to 80 percent in any 1 year for those currently retired on disability. It also provides for administrative monitoring of disability annuitants and a reduction in annuity based on outside earnings beyond a certain level for those who retire on disability in the future. This creates a substantial cost savings by reducing the incentive to seek disability retirement if optional retirement is available.

COST-OF-LIVING INCREASES

Adjustments for police and firefighters annuities are currently tied to pay increases for the active forces. Retirees receive the same percentage increase as active members. City administrators are resistant to modernizing the grade steps and pay levels because the windfalls this would give to retirees would increase pension costs. To move from entry level to the highest advance requires an average of 16 years in the District of Columbia police system, considerably higher than comparable cities. Previous increases have generally reflected the actual rise in the Consumer Price Index (CPI) but in recent years, increases have begun to lag behind the cost-of-living. The bill removes this "equalization" clause and allows cost-of-living increases based on the Consumer Price Index.

Police and firefighter survivors annuities, and teachers and judges pensions are currently adjusted by a method formerly used by the Civil Service Commission, that this, based on a 3-percent increase in CPI for 3 consecutive months, plus a 1 percent add-on to compensate for the time lag. Since this "kicker" was compounded with each increase, the Library of Congress (issue brief no. IB76038) estimated that annuities adjusted by this method rose approximately one-third more than the actual cost-of-living.

The bill allows cost-of-living increases based on the Consumer Price Index for police and fire survivors annuities, and teachers and judges pensions.

SERVICE RETIREMENTS

Current law allows police officers and firefighters to retire after serving 20 years. Comparative data for other cities show that the District's age/service requirement for retirement is among the most generous in the country. According to the Wyatt Co. this costs the city 14 percent of payroll more than a requirement of 25 years of service at age 55. The bill increases the requirement to 25 years and age 55, with corresponding changes in the benefit formula, for new hires. A retiree would receive 2.5 percent for each year served up to 25 years of service, and then 3 percent for each additional year as an incentive so the District can retain experienced officers. The current maximum annuity of 80 percent of base salary is retained.

At present a retired police officer's or firefighter's annuity is based on an average of his highest 12 consecutive months pay. Comparisons with other cities show that most jurisdictions use the average highest 36 consecutive months salary as a base for pensions. The bill provides for using this "high 3 years" as a base period.

At present, a police officer or firefighter must serve a full 20 years in order to be eligible for any service retirement benefits. Those with less than 20 years who change jobs lose all rights to a pension based on employer contributions for those working years with little hope of accumulating additional creditable years in the new job which would provide a sufficient retirement income. The bill allows a deferred annuity (vesting) based on years of service at age 55, or actuarially reduced at age 50, for those with at least 5 years of service.

MAJOR PROVISIONS OF THE BILL

I. FUNDING

1. Establishes separate retirement funds for police officers and firefighters, teachers, and judges, but allows moneys to be commingled for investment purposes.

2. Establishes an 11-member Retirement Board to manage the funds, five appointed

by the city and six elected by active and retired employees.

3. Requires that these funds be maintained on an actuarially sound basis to provide proper financing of benefits as they come due.

4. Gives the Retirement Board fiduciary responsibility over the funds.

5. Requires the Retirement Board to comply with reporting and disclosure requirements similar to those imposed by the Employee Retirement Income Security Act of 1974 (ERISA).

6. Provides for Federal payments into each fund to help finance liabilities for retirement benefits accrued prior to home rule, the period during which Congress enacted and administered the retirement programs.

II. BENEFIT CHANGES FOR DISTRICT OF COLUMBIA METROPOLITAN POLICE OFFICERS AND FIREFIGHTERS

1. For current retirees, current employees, and new hires:

(a) Provides cost-of-living adjustments on March 1 and September 1, based on the Consumer Price Index, as in the civil service retirement system. (Currently, increases occur at the same times as and at the same percentage as active members.)

(b) Conforms the timing of cost-of-living adjustments to those of Federal retirees, and prorates prior adjustments for members retiring between the biannual increases.

(c) Requires annual medical and earnings statements of disability annuitants.

2. For current employees and new hires:

(a) Provides vesting in 5 years with the right to a deferred annuity at age 55.

(b) Increases survivor annuities to conform with civil service and social security practices.

(c) Disability retirements:

(i) Eliminates the aggravation clause for off-duty injuries and requires more strict accounting for aggravation claims for on-duty injuries.

(ii) Board of Surgeons will determine the percentage of impairment.

(iii) Retirement Board will determine the percentage of disability, taking into account the percentage of impairment, position held prior to injury, nature of injury, age of member, and other factors which may affect the member's capacity to earn in the disabled condition.

(iv) An annuitant will have his annuity reduced for certain outside income exceeding limits specified in the legislation, limits based on the member's salary at the time of retirement and the overall level of salaries of active members.

(v) A yearly medical statement by the Board of Surgeons or a doctor designated by them is mandatory. If a retiree fails to provide this information, his annuity will be suspended until he fulfills this requirement.

(vi) No annuitant injured on duty will receive less than 40 percent of final pay, and no annuitant injured off-duty will receive less than 20 percent of final pay.

3. For new hires:

(a) Bases pensions on 3 years average pay rather than last year's average pay.

(b) Changes eligibility for normal retirement to age 50 with 25 years service, rather than 20 years service with no age limit.

III. BENEFIT CHANGES FOR TEACHERS AND JUDGES

1. Repeals the 1-percent "kicker" on annuity adjustments and provides cost-of-living adjustments on March 1 and September 1 as in the civil service retirement system.

2. Restores a retired teacher's full annuity (if teacher has elected to receive a reduced amount in order to increase survivor's annuity) if the beneficiary dies before the teacher. (Conforms to recent civil service retirement changes.)

The ACTING PRESIDENT pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 954, H.R. 6536.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6536) to establish an actuarially sound basis for financing retirement benefits for policemen, firemen, teachers, and judges of the District of Columbia and to make certain changes in such benefits.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed immediately to the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all after the enacting clause be stricken and that the language of Senate bill S. 2316, as amended, be inserted in lieu thereof, that the bill be advanced to third reading, passed, and the motion to reconsider laid on the table.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. STEVENS. There is no objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I yield such portion of my time as the Senator from Wisconsin (Mr. PROXMIRE) may desire.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin is recognized.

Mr. PROXMIRE. I thank the majority leader.

THE HOLOCAUST: A "LIVING HISTORY" PROJECT

Mr. PROXMIRE. Mr. President, earlier this year the television program "Holocaust" caused a great stir in this country. For millions of Americans, "Holocaust" made the Nazi destruction of 6 million Jews a tangible, horrible reality, not just a sterile fact from some textbook.

But what purpose did "Holocaust" serve? Why should Americans be so forcibly reminded of this grim period in human history?

The answer, Mr. President, is a simple one—education. And by that I mean education in the most basic sense—gaining knowledge accumulated from the past to inform present actions and to weigh future decisions. Programs such as "Holocaust" are valuable because they educate us, help us to act intelligently and to make wise decisions.

Today I want to call the attention of the Senate to another commendable effort to educate Americans about the holocaust. Ms. Janice Steiber Rous, director of education at the Jewish Museum in New York, has created an education program for public high school students. The program accompanies an exhibition now at the museum called "Spiritual Resistance: Art from Concentration Camps, 1940–45." Ms. Rous and two others, all of them children of concentration camp survivors, spend 2 hours with groups of 30 to 50 students, most of them minority students from inner city schools. They show a film, accompany the students as they tour the exhibition, and, most importantly, give them a chance to talk with someone personally affected by the Nazi holocaust.

Well over a thousand students have participated, and close to 4 thousand more will see the exhibition before it leaves in November. Up to now their reactions have been very encouraging, even surprising. Students come to understand that all prejudice is wrong. They feel deep empathy for the Jews because of the wrongs inflicted on them out of prejudice.

Mr. President, Nazism has all but disappeared from the world, but prejudice and hatred remain. A generation has grown up only dimly aware of the potential of these two to explode into horrendous atrocity. Efforts such as those of the Jewish museum educate us to this potential atrocity. We learn that we must take whatever action we can to prevent abominations like the Nazi holocaust from occurring again.

But, some might say, what can we do? How can we prevent prejudice from leading to injustice, even to barbarism?

Mr. President, there is at least one step we can take. Right now. We can ratify the Genocide Convention. We can add our signature to those of 83 other countries that have declared genocide a punishable crime.

We owe great thanks to Janice Steiber Rous and to the many other Americans who have labored to make us aware of the dangerous potential of prejudice and hatred. We owe it to them, and to the world, to guard against this ominous threat by ratifying the Genocide Convention.

Mr. President, I ask that a copy of Ms. Rous' article in the September, 1978 issue of the Anti-Defamation League bulletin appear in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HOLOCAUST EDUCATION THROUGH CONCENTRATION CAMP ART

(By Janice Stieber Rous)

I am 28 years old, and the director of education at the Jewish Museum in New York. My father is a survivor of Dachau and Buchenwald. As I was growing up, I heard stories of his escape, his rebirth in America and his tremendous motivation and appreciation of being alive to enjoy his friends. With this background, one might think I would have no problem designing a Holocaust program for public school groups. Such was not the case.

In January, 1977, Joy Ungerleider-Mayerson, the Museum's director, asked me to design an education program for public high school students for the upcoming exhibition "Spiritual Resistance: Art from Concentration Camps, 1940–45." In truth, I was terrified by her request and backed away from it under the guise of being too busy.

"What if the kids don't care, what if they're apathetic? What if they're not sensitive to me and the pain my father went through? What if they don't understand or care that Hitler was determined to wipe the Jews off the face of the Earth? What if they tell us how angry they are at the Jews, that they hate Jewish landlords, and that all Jews are stingy?" And somewhere inside I was haunted by the question "How could it happen, and could it happen again?"

I forced myself to think about the educational issues of the Holocaust. Are there special questions to be asked or lessons to be learned?

On May 3, I met Miriam Novitch, the curator of the museum at Lohamei Hageta'ot (The Freedom Fighters Kibbutz) and the woman responsible for collecting the work in the exhibit. Her intensity and strong personal mission spoke to me in a way that touched my deepest feelings. She tells a story of her relationship with Yitzak Katzelnelson, a poet who buried his poems in milk bottles and who charged her with the mission to recount the heroism of the people in the camps. She tells of her desperation and desire to throw herself on the railroad tracks to end her misery, but how she remembered the message of Yitzak Katzelnelson, and determined to endure. At least I understood the meaning of Spiritual Resistance: to stay alive was to resist. I wondered, could I have endured such pain? During that one hour I knew why I had to teach the Holocaust and what I had to say.

On May 10, the program began. We greeted our first class, predominantly minority students from a public high school. We opened the program with a discussion of the television program "Holocaust," the first exposure to the Holocaust for some of the students. Many had been moved by the presentation. One student said: "After I saw 'Roots' I hated white people, but then I saw 'Holocaust' and I saw that the Jews had it even worse than us. They wouldn't even let you live." "They tried to eat your minds," said another. One student said "Didn't Hitler have a soft spot anywhere in his heart?"

Following the comments, everyone was asked to draw something. Although the students were at first hesitant and reserved, they drew some very poignant self-portraits. We were then able to make overt the relationship between inner feelings and how they are translated onto paper.

We went into the gallery together to view the drawings and paintings of the concentration camp victims.

Some of the students' remarks reflected their deep personal appreciation: "This was better than the TV program because it was real. The paintings and drawings were done by *real* people. You told us true stories." One black student said: "I never thought I could come to the Jewish Museum. I thought I'd feel left out, but now I could take anyone here and give them the same personal experience I had." One ninth-grader said: "I didn't want to come to the Museum today. I thought it would be a drag, but it was one of the best days of my life." Her friend responded with "You know, I feel sorry for those people (the Germans)—they had to hate. I hope the Jews don't hate. I hope they learned from them."

Mr. PROXMIRE. I thank the majority leader again, and I yield the floor, Mr. President.

ORDER TO INDEFINITELY POSTPONE, CALENDAR ORDER NO. 799—S. 2316

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar Order 799 be indefinitely postponed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader is recognized.

Mr. STEVENS. Mr. President, I yielded my time to the Senator from Idaho (Mr. MCCLURE), but I understand that the Senator from Georgia is ready to proceed, and I would prefer that he do so.

Mr. TALMADGE. I thank the distinguished minority leader.

THE NUMBERS GAME

Mr. TALMADGE. Mr. President, HEW has been circulating a widely quoted summary of alleged "savings" in hospital costs under the Kennedy and Nelson amendments to H.R. 5285, the committee-approved medicare and medicaid reimbursement reform provisions of the bill.

The thrust of the HEW effort is to show that savings under the committee bill, H.R. 5285, are miniscule compared with the two administration-backed amendments.

The committee provision is based upon a section in S. 1470 which I introduced, joined by 19 other Members of the Senate.

This numbers game appears to be a deliberate effort to compare apples with oranges.

This effort distorts, deceives, misleads, and appears to attack the credibility and integrity of the Committee on Finance.

Apparently—and this is hard to believe—HEW does not understand the difference between attempting to get a handle on how the Federal and State governments pay hospitals under medicare and medicaid and approaches designed to place price controls on all hospital revenues.

That is precisely the difference between the committee bill and the Kennedy and Nelson amendments.

The Finance Committee was not trying to save the world with this bill—only the taxpayers who pay for medicare and medicaid.

Under the committee bill, medicare and medicaid expenditures for hospital care would be significantly moderated.

Just for routine hospital costs alone, the bill would reduce projected Federal and State expenditures by more than $1 billion of accrued reductions during the first 5 years.

And the savings increase over the years.

Of the $1 billion, some $450 million of accrued savings occur during the fifth year of the program.

But these are savings on routine costs only.

We anticipate that by the second or third year we will be in a position to apply the new system of payment to ancillary costs as well.

Ancillary costs are those such as X-ray, laboratory, pharmacy, operating room, et cetera.

When those costs are incorporated, the Congressional Budget Office estimates annual medicare and medicaid savings should, after the first few years, reach billions of dollars annually.

And, none of these estimates of savings under the committee approach assume any change in hospital behavior.

We can reasonably expect such changes.

The reason is that high-cost hospitals will act to bring down their costs to levels which are fully reimbursed.

Other hospitals will act to moderate their costs so as to gain incentive payments or to avoid moving into the range where a portion of their costs are not reimbursable.

The effect of all of this will be to moderate the average costs of hospitals as they are recalculated each year.

This would occur as the high-cost institutions—those hospitals close to or above the penalty levels—moderated their costs thereby favorably affecting the average cost which is, after all, determined by calculating in both the higher and lower cost hospitals.

The proponents of the Kennedy and Nelson amendments seek to control all hospital revenues from whatever source.

Those proposals are not limited to medicare and medicaid reimbursement methods.

The difference between the committee and the other proposals can be readily made by illustration.

The committee provision is similar to the Federal Government as a purchaser of automobiles.

In that role, as a prudent buyer, the Government seeks to get the best price it can.

The other proposals, in contrast, do not talk about the Government getting the best deal possible in purchasing cars—but, instead, would apply price controls to the entire automobile industry.

That is the basic difference between the two approaches.

Thus, under the committee bill we seek to pay for hospital care, under medicare and medicaid, as a prudent buyer.

At the same time, we seek to use the purchasing power of medicare and medicaid to move the industry away from a reimbursement system that en-

courages spending to a system that encourages and rewards efficiency.

But, make no mistake about it, both the Kennedy and Nelson amendments impose price controls on hospitals.

Hospitals will be told how much revenue they can receive per admission.

If a hospital receives more than this amount, it would have to pay the Federal Government not only the excess, but half again as a penalty.

Proponents of the Kennedy and Nelson amendments speak of "savings" of $30 to $60 billion in a 5-year period.

Those are not savings—those are reductions in hospital income without regard to hospital efficiency or inefficiency or cuts in vitally-needed services.

In fact, the so-called savings could be lots more.

They might want to simply not allow any increases—or even just drop medicare and medicaid.

That might save them $200 billion.

The point is, Mr. President, what is the price of the "savings"?

PRIVILEGE OF THE FLOOR

Mr. STEVENS. Mr. President, I ask unanimous consent that Dave Martinez, of Senator TOWER's staff, have the privilege of the floor during the consideration of S. 1753.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, not to last more than 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I yield back the time of the minority leader.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

EDUCATION AMENDEMENTS OF 1978

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the pending business, S. 1753, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1753) to extend the Elementary and Secondary Education Act of 1965, and for other purposes.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from North Carolina (Mr. MORGAN) is recognized to call up an amendment.

AMENDMENT NO. 3537

(Purpose: To reduce the possibility of Federal control over local school systems by striking the new Basic Skills and Educational Proficiency Act)

Mr. MORGAN. Mr. President, I call up my amendment which is at the desk.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. MORGAN) on behalf of himself and Mr. HELMS proposes an amendment numbered 3537:

Beginning with page 116, line 9, strike all through page 132, line 11.

Mr. STEVENS. Mr. President, will the Senator yield for an inquiry?

Mr. MORGAN. I am happy to yield.

Mr. STEVENS. Is there a time agreement on this amendment?

The ACTING PRESIDENT pro tempore. There is not a time agreement on this amendment.

Mr. STEVENS. I thank the Senator.

Mr. PELL. I wonder whether the Senator might be agreeable to a time agreement.

Mr. MORGAN. The Senator would not.

Mr. STEVENS. Mr. President, will the Senator yield for a unanimous-consent agreement?

Mr. MORGAN. I yield.

TIME LIMITATION AGREEMENT ON TOWER AMENDMENT

Mr. STEVENS. Mr. President, I ask unanimous consent that when the amendment to this bill is called up by Senator TOWER, there be a time limit of 1 hour, equally divided.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. I thank the Senator from North Carolina.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina is recognized.

Mr. MORGAN. Mr. President, the amendment I have called up this morning strikes out all of section 102 of this bill.

As the distinguished Senator from Maine (Mr. MUSKIE), chairman of the Budget Committee, pointed out yesterday, most of the educational programs that are now in existence were commenced in the 1960's as a part of the so-called war on poverty under the belief that education would prevent one from being poor. Of course, these programs have grown from very modest programs in the 1960's to such an extent today that they take a substantial amount of our budget, and involve every educational agency throughout our Nation. Every local or educational board has been inundated with regulations, more regulations, and more regulations, and with lawsuits determining whether or not the programs were being administered in accordance with regulations of HEW.

I feel that the people in my State, and think I have traveled around the Nation enough to get the feeling of a lot of people around this country, that participation on the national level in education has grown enough, that it has taken away too much initiative from the local school boards, and that too much of the Federal dollars appropriated are wasted in administrative costs, in high salaries, and that not enough is actually helping the child.

Mr. President, I am concerned about the tremendous deficit that this Nation has been operating under since I have been in Congress and before I came to Congress.

I know that there are those who are not concerned about the deficit, who follow the economic philosophies and theories of those who say spend, spend, and spend; that that will fuel the economy and increase commerce and that everything will work out in the end.

I am no economist, but I have been around long enough to know that as long as our Government continues to spend far in excess of what it receives in taxes and is required to go out on the open market to borrow money in competition with local people, we are going to continue to have inflation.

If one will look at our record of inflation and record of deficit spending in this country in recent years, one will find that they run a parallel course, and nothing disturbs the people of this country more at the present time than the double-digit inflation that we now have. We are not going to do anything about it until we learn to live within our income.

Some of the programs that we enact we enact on the basis that this is only going to cost so many millions of dollars this year. It has become necessary that we look down the road beyond this year, as I have tried to do so in the amendment I am offering. According to the Congressional Budget Office, the program I am trying to strike will lead to, during the next 5 years, nearly $1 billion in new budget authority; $754 million is estimated to be the anticipated budget authority required to carry out the provisions of this program. They estimate that actual outlays will be $683 million, and this does not take into consideration what will happen over and beyond the 5-year period.

Mr. President, one of the difficulties that Congress has had in trying to bring spending under control is that we find that we have so little to work with, that so much of our national budget today is what we call uncontrollable. We know, of course, that part of that consists of social security benefits that have been provided in years past and which we have to pay; military and civilian retirement; and programs similar to this one that have been enacted in the past that commit Congresses in the future to the expenditure of large sums of money.

So I feel very strongly about this program for this reason, but also for others.

One other word on inflation and this program: Another cause I think of inflation is that we have caused it to be a self-fulfilling prophecy. Time and time again in this Congress we will enact legislation calling for expenditures of certain sums of money and then provide in that legislation for escalation of costs because of anticipated inflation, and as we do this, it becomes a self-fulfilling prophecy. While that specific provision is not in this bill I read the clear implications in it.

Mr. President, I shall talk about my amendment. As the Members of the Senate are aware, section 102 would create a completely new title in the Elementary and Secondary Education Act which is to be cited as the Basic Skills and Educational Proficiency Act.

As I pointed out, this is a completely new section, new title, and a new program. I am afraid that so many of my colleagues feel that this bill is simply a reauthorization of existing programs, but it is not. It is important to know that.

Before I proceed further, I wonder if the distinguished floor manager of the bill will respond to a question.

The question is: What is the total authorization carried in the bill, as submitted by the educational committee?

Mr. PELL. Is the Senator talking about authorizations for this title?

Mr. MORGAN. No. For the whole bill.

Mr. PELL. My recollection is $55 billion for 5 years and $11 billion for the coming year.

Mr. MORGAN. The Senator is talking about $55 billion.

Mr. PELL. Billion not million.

Mr. MORGAN. Fifty-five billion dollars for this title?

Mr. PELL. No. The Senator asked me for the whole bill.

Mr. MORGAN. For the whole bill. What is the authorization?

Mr. PELL. The total authorization is $55 billion for 5 years, which as Senator JAVITS pointed out last night is about 7 percent of the cost of education of our school children.

Mr. MORGAN. About $55 billion for 5 years. Let me ask the distinguished Senator one question: Are there provisions in this bill that are mandatory, that would tend to usurp the responsibility of the Appropriations Committee?

Mr. PELL. No. But there are entitlements, if my recollection is correct, so that when people meet certain standards, they are entitled to the funds, provided those funds are available.

Mr. MORGAN. Would an entitlement take priority in the appropriations schedule?

Mr. PELL. To my regret, I am informed that there is nothing in this bill that cannot be reduced by the Appropriations Committee.

Mr. MORGAN. Then I am clear on my thinking now that there are no provisions in this bill which would mandate appropriations from Congress?

Mr. PELL. That is correct.

Mr. MORGAN. I thank my distinguished colleague.

So then, Mr. President, the bill itself carries an appropriation of about $11 billion next year, and over $55 billion over the next 5 years.

I think this amendment, the amendment that I offer, which strikes this new program, ought to be approved for three basic reasons: The Basic Skills and Educational Proficiency Act is expensive. It is not justified and, most importantly, it would inevitably increase Federal control over all aspects of our local public school system.

Let me elaborate. The new title II has been justified the Human Resources Committee in the following way, and I am quoting now from the committee report:

> The committee has adopted this new title because of its concern over the widespread belief that American students are no longer proficient in educational basics.

Supporting this contention, the committee reports on S. 1753 quotes Secretary Califano, and again I am quoting:

> Given the public concern about basic skills achievement, it is essential that the Federal Government have a broadly based authority to help States and localities develop improved ways of raising achievement not only in reading, but also in mathematics, and written and oral communication.

The objective of the committee and the Secretary of Health, Education, and Welfare in all of this is quite clear. Let me quote Mr. Califano again. As he told the Subcommittee on Elementary, Secondary and Vocational Education of the House Education and Labor Committee in the House on February 28, 1978:

> We seek to forge a new Federal-State partnership that encourages States and localities to carry out Federal priorities.

In effect, what he is saying is that—

> We seek to entice with the almighty dollar the local and State educational authorities to carry out what we conceive to be Federal priorities.

During the debates on the District of Columbia representation, it was noted time and time again that this is a federal government not a national government, although someone pointed out that we tend more and more every year toward a national government, that is, a national takeover of the prerogatives of the States.

I think that is exactly what the Secretary meant when he said:

> We want to encourage the States and the local authorities to carry out the priorities that we here in the Federal Government establish.

Not State and local priorities, not even the people's priorities, but the priorities of the Federal Government.

If we approve this title II, we would be establishing, in my opinion, a very dangerous precedent, one which I feel is totally intolerable and alien to the system of government that we have.

The committee, in defending this new title, also cites the fact that average scholastic aptitude test scores, both verbal and math, have been dropping over the last 15 years. Significantly, there is no attempt by the committee to prove that SAT scores have been declining because student achievement is lower nor do they attempt to demonstrate that the presumed lower student achievement is a result of the failure of local school districts to use adequate teaching methods.

So, based on an unproven assertion and some public concern, we are going to provide the Federal Government with a new broadly based authority to interfere in all aspects of what are still primarily locally controlled school systems.

I might add that nobody has asserted that the public is concerned with the failure of the Federal Government to act, as opposed to the failure of State and local school districts to take the necessary steps.

Title II as proposed by the committee comes in several parts. It would, according to estimates—estimates provided by the Congressional Budget Office—provide for $754 million in new budget authority over the next 5 years, and $683 million in new outlays.

Admittedly the present bill does not use these figures. It uses figures something like $47 million for this year.

Well, I had to look and turn to some place to try to find out how much we could anticipate involving the Federal Government in terms of dollars and cents over a period of time because I think we need to know that to vote intelligently on this piece of legislation. All too often we will vote on a new program carrying a reasonably small appropriation for the first year, without thinking of what it is going to do down the road. So I knew of no better place to turn to than the Congressional Budget Office. These are the figures they supplied to me. It might be a lot more, for four of the five authorizations in this title authorized "such sums as may be necessary." What does this amendment do? It establishes a series of discretionary grant programs whereby the Commissioner of Education will be able to hand out Federal money for programs relating to basic skills to whatever school districts he chooses or decides meet his criteria or standards.

Section 201 of this new title is just a statement of purpose, much of which sounds innocuous, except clause (2) and clause (3). They state that the purpose of this bill is "to encourage States to develop comprehensive and systematic plans for improving achievement in the basic skills," and "to provide financial assistance to State and local educational agencies for the development of programs in the basic skills."

Taken on its face it not only sounds innocuous, but also desirable. But we

all know the Federal Government never provides money for schools or programs such as this without strings attached. So it is a stated purpose of this bill to get Federal control over whatever Mr. Califano himself has called "the foundation of our public school systems."

Section 203 starts out with:

The Secretary may make a grant or award a contract under this title only upon the submission of an application by an eligible entity at the time and in the form prescribed by the Secretary. Each such application shall provide assurances that—

And now I skip down to clauses (2) and (3)—

procedures have been developed to evaluate the effectiveness of the proposed activity in achieving the purposes of this title, and that procedures have been developed for incorporating successful practices developed with assistance under this title into the regular instructional program.

We are supposed to be assured that Federal control will not be extended into local school systems.

(At this point Mr. HATHAWAY obtained the floor and called up an unprinted amendment (No. 1761). By unanimous consent the proceedings in connection therewith are printed at the conclusion of Mr. MORGAN's remarks.)

Mr. MORGAN. Mr. President, I was speaking concerning the effect this amendment would have on the control of local school units, and I was saying that under the provisions of the bill we are supposed to be assured that Federal control will not be extended into local school systems unless the local school system so desires, since a local or State educational agency would have to initiate the application.

Well, this sounds pretty good, but the assumption is wrong, I think, for two reasons.

First, as we all know from experience, Federal money is addictive to local and State governments, and they inevitably apply for all grants as fast as they can prepare the applications. Time and time again local officials in my State will ask for assistance for certain programs of the Federal Government, saying at the time:

We really don't think these funds are being spent in the best interests of the people of this country, but if we don't spend them in our district some other district will.

So, as I say, Federal funds, we know, have become addictive to local and State governments.

Another reason why I think the assumption is wrong is that whether or not the local educational authority desires to let the Federal Government obtain some control over teaching of basic skills is irrelevant. It is the parents of the children who should be deciding whether or not the Federal Government becomes involved in this area, because, while the parents have considerable control over what their schools do, they have virtually no control over the actions of the Federal bureaucrats in Washington who administer the programs.

Then we come to section 205, entitled "Instruction in Basic Skills." Under this section, assistance shall be provided to public or nonprofit agencies or institutions for the purposes of "establishing learning goals and objectives for each school," for "the development of comprehensive programs to address the needs," and so forth.

So, the Federal Government will be providing money to schools to establish federally approved learning goals and objectives.

Section 206 orders HEW to "provide financial and technical assistance to State educational agencies that desire to develop and implement comprehensive statewide plans for improving the skills" of students in the basic skills. The same objections apply here that I have mentioned with regard to the earlier provisions. Apparently, however, the Federal Government will not be content with exerting control directly over only local educational authorities, but also over State agencies.

I will pass over section 207, which tells the schools to encourage parental involvement, but I do feel it will be ineffective in the face of the vastly increased Federal authority.

Section 208 intends to encourage schools to use technology in basic skills instruction. Here, we have an example of the Federal Government encouraging the use of a specific instructional technique which may be both expensive and unproven. It is exactly this type of provision which concerns me, and that is why I am offering this amendment. The use of technology will not reduce the number of teachers; it will simply add new educational costs at a time when we are trying to control our school budgets. And if, in some cases, it can lead to a reduction in costs by reducing the number of teachers, this may not altogether be desirable, for I find it difficult to believe that machines are the best substitute for personal attention required in elementary teaching.

Sections 209 through 212 deal with the collection and dissemination of information, order the National Institute of Education to conduct a survey of teachers, and require better program coordination. I do not object to these, Mr. President. Section 213 authorizes "such sums as may be necessary" to carry out the first 12 sections.

Section 214 is another problem. It authorizes the Secretary to enter into a contract with private nonprofit or public organizations or agencies to produce, acquire, and/or distribute books that meet standards set by the Federal Government. In other words, we will have federally approved textbooks. Total authorization for this section is $54 million for the 5 years.

Section 215 simply does not make any sense to me. It says that "the Commission is authorized to make grants to, and to enter into contracts with," various groups "for the conduct, in cooperation with one or more local educational agencies, of special programs for the teaching of standard mathematics to children eligible for services under this act through instruction in advanced mathematics by qualified instructors * * *."

What does "teaching standard mathematics through instruction in advanced mathematics" mean?

Mr. President, as to all of these provisions, I can just see the consultant firms waiting to be formed to carry out all these provisions, to get the Federal money to be appropriated under this section. It authorizes various nonprofit groups to carry out these programs. I can see retired educators now who are forming consultant groups, becoming specialists in the basic techniques, and so much of our money, rather than going to actually help the basic foundation portion of our present school system, being eaten up again in consultant fees and high salaries.

Then we come to part B of this new title. Section 221 authorizes the Commissioner to make grants to State or local educational agencies to implement educational proficiency standards as approved by the Commissioner. To quote:

The educational proficiency plan shall contain a description of the educational proficiency standards established by the applicant for reading, writing, mathematics, and any other subject for which the Commissioner may require such standards.

Here we come to the heart of the matter. The Commissioner may require standards for any subject he chooses in which the school system is involved before providing a grant under this program. This is simply an intolerable intervention in local affairs.

Section 222 authorizes assistance to design and to administer achievement tests. This is a waste of money. Many school systems and States are now implementing achievement tests on their own; in fact I know of few that are not. And since they are already doing so, why should the Federal Government take control, at tremendous expense to the Federal taxpayer? In any case, the propriety of statewide achievement tests is a highly controversial subject, and each State, and local school agencies within States, should be free to decide whether or not to proceed with this, without the carrot of Federal money hanging over their heads.

I am also concerned with the implicit assumption underlying this title II that more Federal money and new programs will cure any problem, if it exists.

For far too long, we in Congress have felt we could solve any problem in this Nation by throwing money at it. I do not think we can solve this problem by throwing more and more money at it, any more than we have solved many of the others that we attempted to solve by throwing money at them.

Title II seems to assume that basic skills achievement is declining because we are not using new and different teaching methods, and because teachers cannot teach without Federal assistance.

I might respectfully suggest that maybe if we return to some of the tried and true teaching methods, the basic skills of some of the students in this country might improve.

It has gone down in recent years notwithstanding the tremendous amount of Federal dollars which have been poured into it.

If classroom achievement is declining, I would suggest that it is not for these reasons, but rather because of a serious and noticeable decline in classroom discipline. It used to be that when a student disrupted classroom procedures, he or she was thrown out of class, usually temporarily, but if he persisted he was not allowed to destroy the educational opportunities of all the other students. Admittedly, this step should be a last resort, but it does occasionally have to be taken. It did when I was in the public schools. It needs to be now, in my opinion, when my children are in public school. All too often a few are allowed to destroy the learning opportunity of the many. After all, students who are interested in learning have a right to be taught without disruption by other students.

Another reason relates to the policy of social promotions, which is one of the reasons, I believe, we are finding a decline in some of our achievement scores. It used to be that when a student did not perform adequately, say in fifth grade, he was not sent to the sixth grade. In the last decade, however, many educators, and even parents, have assumed that it was better for their children if they did not fail and, increasingly, students have been passed on to higher grades without adequate preparation.

One of the driving or motivating forces when I was a student was to make sure that I was promoted at the end of the year. We worked hard to achieve grades which would enable us to do that. It was demeaning to be held back. That was one of the things that motivated us to work harder, to do our work.

Therefore, we have increasingly found students in classes where they could not understand the material being taught. This does the student no good, for further learning will be inhibited, and it does the other students no good, for it tends to increase classroom disruption, and slow down the general learning process.

I am no expert on educational policy or child psychology, though I am a father, and was associated with my home school board for 25 years, which must give me some qualifications. I am perfectly willing to concede that other reasons have led to such delines in achievements as have occurred. If there are other reasons, they should be established before embarking on a $700 million program which will lead to increased Federal control over our school systems. We should not embark on such a program when we have no basis for believing that the proposal will help matters.

I can only reiterate my concerns. This program should be deleted from this bill for a number of reasons.

I am not sure just how many hearings were held on this matter, but those that we have been able to find certainly fail to offer the kind of justification that I think should be required before we embark on a two-thirds of a billion dollar program which shows no indication of ending in 5 years.

It lacks adequate justification, including no evidence that the program will deal with the presumed problem. It is expensive, estimated to cost at least $683 million over the next 5 years.

As Senator Dirksen used to say, a billion dollars here and a billion dollars there, and the first thing you know we have a $500 billion budget with a $60 billion deficit.

But, worst of all, it will lead, by design, to comprehensive Federal control over what is the foundation of our local school sytems. Public schools throughout this country provide a great diversity in education, and I think this diversity is good. Diversity encourages innovation and imagination in trying to meet the needs of the young people as those needs appear on the local scene. What might be necesary or desirable for the youngsters in the city of New York may not be desirable at all in a rural area of North Carolina or some other State.

Education in this country has been predominantly a local responsibility; parents were involved and generally served on local school boards or advisory committees. I think that is what has made our educational system as great as it is today. With all its faults, it is still a great system and one that stands out in the eyes of the world. But remove this system from local control, as we have already partially done, and as we seem to intend to do more and more in every Congress, where the local parents have no input, or feel they have no input and that it is futile or fruitless to involve themselves, and I think we will see a deterioration of the school system which we have not seen before.

I do not believe a single Senator wants to end this diversity, and that belief demands a vote in favor of this amendment.

Mr. President, I cannot speak for the Appropriations Committee because I am not on that committee. I cannot speak for the Budget Committee because I am not on that committee. I cannot speak for the Budget Committee which has been doing such a fine job to try to bring our spending in line with our revenue so that we may some day in the future end deficit spending and bring runaway inflation under control. But I rather suspect that these two committees would take a dim view of legislation creating an entirely new program at a time when we are trying to bring spending under control.

I would urge my colleagues to vote for this amendment to delete this section. If there is strong feeling on the committee that it is desirable, then let us set up hearings for next year and bring educators and parents from all across the Nation, after due notice has been given, as well as local and State officials, to testify about it, before we start this new program by simply stating that there has been a lot of concern about the decline in basic skills over the country, and that it seems desirable to do something about it.

I believe the exact words were that, "The committee has adopted this new title because of its concern over the widespread belief that achievement in basic skills are declining."

I say finally that the educational basics is the area in which I think our State and local officials have had, and do have, expertise, far more expertise than we can find in the halls of the HEW buildings here in Washington.

Again, Mr. President, I urge my colleagues to vote to delete this section. If, by chance, the amendment should be rejected, I hope that the Appropriations Committee and the Budget Committee will take note of what we had to say here this morning, and what others may have to say, and look further into it before embarking on this costly and expensive approach.

I yield the floor, Mr. President.

Mr. PELL. Mr. President, I have listened with interest to the arguments of the Senator from North Carolina. I recognize his sense of frustration at the growing Federal budget and the expansion of programs, but I think we ought to examine exactly what the amendment would do. It strikes out title II—Basic Skills. Part A of this amendment was proposed by the administration to meet one of the major problems facing American education today—the inability of our Nation's students to read, write, and compute.

When we think back to a few months ago, this was the No. 1 topic in our Nation. There was publicity in newspapers and magazines. The polls showed that our youngsters could finish high school and still not be able to handle the basic three "R's." I resolved about a year ago that this should be a priority item in our subcommittee and we treated it as a priority item, because no nation can be any stronger than the sum total of the education and the character of its people.

When one finds what those scores showed, a gradual slippage, we know we are going the wrong way and something has to be done to reverse that trend. I recognize the fact that one reason for the slippage is that more and more students who, in past decades, normally would not have been in school at all were counted in. Those students, coming from disadvantaged backgrounds, did not have the benefits at home that their peers had. By continuing in the school system, they may have brought the level down. Nevertheless, the average is, without question, declining; and something had to be done about it. This is our approach.

Part A of the title authorizes the Secretary of HEW to make grants and contracts with States and schools for pro-

grams to improve students' basic skills. While this is a new program, it replaces another program, the Reading Improvement Act, which was enacted in 1974. GAO analysis has shown that this program has not been effective in improving reading performance. For this reason, the committee bill does not extend this program. Rather, since the adminstration proposed a new approach to improving basic skills, the committee agreed to try this new approach.

Part B of the title authorizes aid to States seeking to establish educational proficiency standards in their schools. While I personally favor an approach where a nongovernmental commission established by the Federal Government establishes standards against which States could measure their students' progress, there was little sympathy in committee for this approach. Therefore, the committee bill authorizes grants to States and school districts to assist them in developing their own tests. I stress that participation in this program would be totally voluntary on the part of States and local educational agencies. The Secretary would have no authority to impose any tests or standards on States or schools.

While the Congressional Budget Office estimated that $69 million would be required for this title for 1979, unfortunately their estimate appears too high. The Department of Health, Education, and Welfare this morning provided me with a plan to spend $47 million in the first year of the program. I ask unanimous consent that this document be entered in the RECORD at this point.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

[Attachment A]

EDUCATIONAL QUALITY AND DEMONSTRATION ACT BASIC SKILLS ACHIEVEMENT

PROPOSAL

This title would amend Title II of the Elementary and Secondary Education Act to establish a new discretionary grant program aimed at improving the achievement of individuals in reading, mathematics and written and oral communication. Under this program, the Secretary would be authorized to make grants to, and enter into contracts with, State and local educational agencies and other public and private agencies, organizations and institutions to carry out planning, research, development, demonstrations (including training of leadership personnel), evaluation, and dissemination. The Secretary would also provide, either directly or by means of grants or contracts, technical assistance related to the purposes of this title. Activities under this program would include:

Assistance for efforts designed to demonstrate improved instructional services in basic skills including diagnostic testing, comprehensive basic skills programs, projects for out-of-school youths, and short-term training programs;

Assistance in improving local efforts to test basic skills achievement, including disseminating information, training personnel to admnister tests, and developing improved tests;

Assistance to State educational agencies to develop and implement comprehensive Statewide plans for improving achievement in basic skills;

Support of demonstration activities designed to—

Help parents work with schools to improve the achievement of their youngsters;

Explore ways of involving the private sector in the delivery of instructional services and materials to school-age children, as in Reading is Fundamental;

Expand the variety and improve the quality of efforts by television, radio and other media to supply instructional programs for the school and the home.

BUDGET

The new Basic Skills authority will provide funding for planning, development, demonstration (including training), evaluation and dissemination activities. With a budget of $47 million, these activities would be funded in the following way:

Instruction in Basic Skills, $21 million.—This will include funding a limited number of demonstration programs at the school site level that attempted to combine resources from several Federal and non-Federal sources into coordinated efforts; technical assistance and information at all levels regarding promising and exemplary practices for instructing and managing basic skills programs, for diagnosing and testing students, for developing and implemenating demonstrating comprehensive basic skills programs. This will also include funding of RIF which provides books at minimal costs to youngsters around the country.

Statewide Literacy Plans, $1 million.—Funds and technical assistance to States desiring to develop and implement Statewide plans for improving reading or basic skills in general.

Testing, $5 million.—Developing improved tests, providing information on useful tests, publicizing successful testing programs, organizing local and regional workshops.

Grants for Parental Participation, $6 million.—For material development, drop-in centers, development of programs for parental training.

Grants for Technology Development, $8 million.—To develop better programming, more supplementary material and for demonstration programs related to technology utilization.

Funds to the private sector to stimulate practices to improve reading or basic skills within and outside of the schools, $6 million.

COMPARISON WITH EXISTING PROGRAMS

The new Basic Skills authority will be an expanded Right to Read program which will include an authority for programs related to mathematics and will merge existing programs under Right to Read into a single part dealing with local demonstrations aimed at coordinating literacy efforts, and will establish a new part to provide information and technical assistance to States and to other programs dealing with basic skills.

The testing component of the new authority will constitute a new effort concentrating on providing information to the public on the use and value of certain tests, publicizing successful testing programs, organizing local and regional workshops and conferences and providing technical assistance to States and localities in solving particular problems they encounter in implementing testing efforts.

The parent involvement component of the authority is a new program that would provide grants to selected LEAS for parent involvement efforts to help their children learn basic skills and would support the development of educational materials, including workbooks, for the home.

The program linking education and technology is a new authority that would allow the Commissioner to make contracts and award grants, through a competitive process to private non-profit organizations and to LEAS.

RATIONALE

This title will extend the mandate of the National Reading Improvement Act to encompass mathematical and writing skills, though the primary emphasis would remain on reading. The purpose of this title will be to ensure that all individuals are able to comprehend written text, apply mathematical reasoning to the solution of problems, and to communicate ideas in writing clearly and effectively. Activities in this title will thus be geared at development of the most basic skills in the elementary grades, and on sustaining and building upon those skills in junior and senior high schools.

Specifically, the Title will be based on four parts:

1. Modified Right to Read Program.—Right to Read is a national effort for developing and improving the reading skills of all citizens. The Reading Improvement Act (under which Right to Read is authorized) will be modified to make it a more comprehensive program, a catalyst for coordinated literacy efforts, and a source of much needed technical assistance.

2. A New Effort in Testing and Basic Skills.—There is a general perception that recent declines in student test scores reflect an insufficient mastery of basic skills. Some of this perception is based on consumers' lack of information or misunderstanding of tests themselves—their appropriate purposes and uses, their limitations and shortcomings, their relationship to what is learned, cultural bias. Two basic purposes could be served by a targeted effort on testing: providing information to the public on the accountability of the school system, and disseminating information gained through research on widely-used tests.

3. Involving Parents in their Children's Learning.—Research findings increasingly reveal that parental tutoring of their own children contributes toward short- and long-term gains in students' scholastic achievement. In order to improve students' basic skills, legislation could be initiated that would promote voluntary parental involvement in their children's learning. The following types of activities would receive funding under such an authority:

Development and dissemination of materials that parents and children could use at home.

Meetings between teachers and individual parents in which the child's program is discussed.

Drop-in centers where parents and children can meet with educators to talk about learning activities for the home.

More formal programs of parent training focused around ways in which parents can complement the work of the school.

4. Linking Education and Technology.—Present trends show that, both in the home and in school, communications technologies are becoming an ever greater component of people's lives. The typical American television set is on eight hours a day and it is estimated that by the time the average child graduates from high school, 15,000 hours will have been spent watching television compared to 11,000 hours spent in school. Data from a recent study of television utilization in elementary and secondary schools throughout the nation show that over two-

thirds of the teachers have instructional television available in the classroom and that in these schools 85 percent of the teachers have indeed used instructional television. A recent study by the Corporation of Public Broadcasting and the National Center for Educational Statistics associates achievement in basic skills with amount of exposure to, and type of programing available over, educational television.

Since the most omnipotent educator increasingly becomes the media, it is necessary to produce valuable programming and to establish effective utilization. In order to stimulate high quality content of programs received by students in school, home and other locations, and in order to stimulate effective utilization of the media, contracts would be made, and grants awarded, through a competitive process:

To public and private non-profit organizations with expertise in education to:

Develop programs that will respond to national and local needs or that will present educational material in an innovative way or in a manner that will help students to learn the subject matter presented;

Develop, test and distribute print materials to supplement broadcast and non-broadcast electronic programs, in order to improve their educational utility in school and non-school environments;

Develop material for national distribution which previews television programs and provides teachers with materials ahead of TV showings to enable teachers to assign potentially valuable shows as homework or to plan pre- and post-viewing activities

To LEAs to make contracts:

For training teachers in how to relate broadcast material to classroom curricula and teachers, public and school librarians and parents to use non-broadcast technologies (particularly video discs) effectively;

For assisting teacher experimentation with new technological approaches to instruction.

IMPACT

The Basic Skills title would essentially constitute an expansion of the current Reading Improvement Act to allow for:

An authority for programs related to mathematics,

Support of local demonstration projects,

Support and technical assistance to States desiring to develop and implement Statewide programs for improving reading or basic skills in general,

Research and dissemination regarding tests and test use,

Outreach to the private sector to stimulate practices to improve reading or basic skills within and outside schools.

Because the Right to Read program currently funds a number of isolated activities and funding is quite limited, these widely scattered projects are unlikely to have much impact on skills around the country. Instead, it makes more sense to use Right to Read as a leverage for coordinating basic skills efforts by sponsoring the development of State plans and the creation of local programs that demonstrate the integration of funding from different sources. Furthermore, the new title will provide an opportunity to explore parental participation and technology development: support should be available for over 100 districts to undertake local demonstration projects. And, with an increased appropriation for Right to Read, technical assistance necessary to enhance instruction in basic skills and funds for literacy plans would be provided to every state.

Mr. PELL. Mr. President, when one considers that this replaces an existing program with an existing appropriations level of $27 million, what we are talking about here is, at least in the first year, an increase of $20 million to substitute a program which we hope will work for one that is an acknowledged failure.

As I said earlier, I think this is a rather meager approach to the problem of going back to basics, upon which our whole education is based. If we cannot do something to make sure that youngsters can read, write, and compute, we shall be not too effective in building a structure above that. I believe that the original estimates in the Congressional Budget Office report to the Human Resources Committee should be fulfilled. Apparently, the administration does not plan to do that; it plans to have a more meager approach. In any case, whatever we do in this direction, in my mind, is very important and very much to the good. I urge my colleagues to support the committee bill.

Mr. STAFFORD. Mr. President, I also, with reluctance, find myself in opposition to the amendment proposed by the distinguished Senator from North Carolina, and I do so with trepidation, because I know that taking on any former attorney general is a difficult and dangerous task. But I join the chairman of the subcommittee and the manager of the bill in opposition to the amendment and I shall try to be very brief in stating my reasons for doing so.

The point has not been made in complete detail, Mr. President, that the reason this title is in the bill this year is that, to some degree, it contains one or two elements of other parts of earlier legislation; but, basically, it is because the basic skills of learning in the country have been declining over the last 14 years. In New England, we think of them as reading, writing, and arithmetic. Aptitude tests across the country have indicated a substantial decline in oral communication, a substantial decline, I think, in reading skills, a substantial decline in mathematical proficiency. It has been to assist the States, not to try to direct them or to dictate curricular from Washington, but to assist the States in developing tests to ascertain how we can better develop the skills in reading, writing, and arithmetic in this country that the committee, in my opinion, has placed title II in the bill we are considering this morning.

I suggest, Mr. President, if the young American public are losing the ability to read, they will not have the ability to read our newspapers and national news magazines and even understand the rumors or what the news media say is going on in the country, let alone understand what actually may be occurring.

All of us understand the necessity in the household of knowing how much groceries cost. Our wives try to plan budgets for families from week to week. The checkbook should be balanced at least once a month. If we let the basic mathematical skills of the country decline too much, we shall simply find that the American public is unable to perform these very rudimentary requirements in daily family living. So it is important, Mr. President, that we see that the basic skills—reading, writing, arithmetic, and oral communication—in this country are maintained and improved.

I do not believe in government by polls, but I do note for the RECORD that a Gallup poll recently indicated that 83 percent of the public felt there should be more education in the basics in the U.S. educational systems, and 65 percent of the parents of America have been apprehensive that their children are not getting an adequate education in the basics in this country. It is to meet this feeling across the Nation, as well as the fact that aptitude tests have shown statistically a decline in the basics, that we have included this legislation in the bill which is before us this morning.

I am going to conclude, Mr. President, by pointing out that the committee wants to make it very plain that we are in no way attempting to dictate to State or local elements of government any aspect of precisely what should be in these tests or any attempt at control of curriculum across the country. In the committee report, it says specifically:

> In this vein, the Committee has proposed a new program of aid to the States to assist them in developing minimum competency standards. But the intention is clear: the Federal Government is not to specify certain minimum standards which the States must use, nor is the Federal government to require that certain tests must be used, nor is the receipt of Federal aid (except for this assistance)—

Under this specific title, and that is my interpretation, for it says in the committee report, "Except for this assistance"—

> to be conditioned on adopting minimum standards of competency. The Federal role is merely one of providing financial assistance to the States to encourage their own efforts in this area.

Mr. President, that appears in the committee report; that is the intent of the committee.

If the intent were otherwise, if this Senator believed some attempt were underway to control curricula at the State and local level, this Senator would not be able to support title II in the bill. But, as it is, I do, and I urge, with regret, the defeat of the amendment by the distinguished Senator from North Carolina.

I yield the floor.

Mr. MORGAN. Mr. President, my distinguished colleagues, both of whom I hold in high regard, have made my case for me. The distinguished Senator from Vermont, of course, as attorney general of his State, dealt with the State educational authorities and he is familiar with the local school authorities, and, I am sure he would concede that those in the State of Vermont are very competent and do a tremendous job.

The distinguished Senator from Rhode Island says that this is a new program except for the replacing of a reading improvement program, which the General Accounting Office held to be ineffective.

So they have taken a program that has already been determined to be ineffective and embellished it.

For the life of me, I cannot see any

substantial differences in it. They now say to us, "Let us expand this program."

The committee has not attempted, in my opinion, or as best I can learn, to demonstrate that this new program will deal with the problem any more effectively than did the reading improvement program.

The distinguished Senator from Rhode Island speaks of mandating Federal standards, but he says we did not do it in this case. We talked about it, I believe I understood him to say, but we decided against it.

Well, the mere talking of providing Federal standards scares me, as we are talking about matters that have historically and constitutionally been matters of local concern. But then, they almost did exactly the same thing. They said, "We are not going to mandate Federal standards but we will assist the States in prescribing and promulgating standards we approve of, and, if they do not do it, they are not going to get any money under this grant."

In words that said it again. It is the same thing, the Federal carrot dangling the money before them and then trying to create a national system with Federal Government standards.

Mr. President, the State board of education and the State superintendent of education in North Carolina, and the 100 school boards in that State, are surpassed by none in the Nation. I have complete confidence that they can develop programs, and are developing programs, to meet the need for new reading and writing and basic skills in the public schools of my State, and without Federal involvement.

Our young, dynamic Governor, recognized as a leader all over the Nation, made that a part of his campaign. That was his first program in the State legislature. I think that is where it ought to be, especially in these days when we in this Congress are not meeting our obligations to operate this country on a sound fiscal basis.

The distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) is fond of illustrating just how much $1 billion really is. He usually does it by saying, "If you had started on the day Christ was born and had spent $1,000 every day for 1,978 years, you still would not have spent $1 billion."

If I can take his illustration in the terms of this year's deficit, Mr. President, if one had started on the day that Christ was born and had spent $75,000. and had spent $75,000 every day since then, he still would not have spent as much money as this Nation went in the hole last year.

Mr. President, it is not a case of the Federal Government printing money. It is a question of the Federal Government borrowing money.

One month last year, the Federal Government had to borrow $17.5 billion. I think I recall that the interest rate on bonds, short-term bonds, was 7.2 percent, or in that range.

As soon as the Federal Government began to do that, in the little town I live in, savers who had their money deposited in the local savings and loan, savings which were being used to build homes for local residents, began to make a run on that savings and loan, drawing their money from an account where we were paying them about 5¾-percent interest and putting it in Government bonds at about 7-percent interest.

That dried up the money that was available in that community for home building. That is what we are doing when we continue to spend and spend and spend.

This program would be bad enough because of the Federal control aspects, if that were all of it. But the cost is just unacceptable.

Mr. President, I do hope my colleagues will vote to delete this section and let us go back to the drawing board again, if the committee really feels that the States are not competent to handle this job.

Mr. President, unless someone else seeks recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, if the Senator will yield, maybe we ought to get the yeas and nays.

Mr. PELL. Certainly.

Mr. MORGAN. I do not know if we can get them now, or not.

Mr. PELL. Mr. President, I ask for the yeas and nays on this.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

PLANTING RICE, TREES AND EDUCATING PEOPLE

● Mrs. HUMPHREY. Mr. President, I wish to thank the Human Resources Committee for their support of my amendment to the Elementary and Secondary Education Act. I feel it is an important addition to that legislation. The purpose of the amendment is to establish college sponsored programs to educate and motivate economically disadvantaged students in their high school years. This legislation enables students to pursue further training and then careers in the biomedical professions.

We are all aware, and especially those of us who represent rural areas, of the critical shortage of doctors and other health professionals serving in rural communities and in poverty-stricken areas of our country's large urban centers. For instance, one report noted that in several districts in New York City, each containing approximately 20,000 residents, there were no private physicians who maintained practices in those communities. Except for the medicaid centers in those communities, the residents there have no health services directly available to them. Further, studies indicate that without health care there are higher incidents of infant mortality, malnutrition, alcohol addiction, and countless other diseases.

It is a fact that physicians cluster in the more affluent communities. However, we who are to consider the welfare of all people must address this critical problem and develop a solution which will bring health care to those individuals, who through no fault of their own, have highly inadequate health care now.

It may seem a dichotomy to quote a Chinese warlord at this time, but this was a wise man, and he obviously understood human nature. He is quoted as saying, "If your plan be for 1 year, plant rice; if your plan be for 100 years, plant trees; but if your plan be for 1,000 years, educate the people."

Therefore, we too must think in terms of many, many years; it is my hope that this legislation is a significant beginning for those individuals who are without opportunity and motivation to enter biomedical professions. They could find the encouragement through the benefits of this bill. Their education will be expanded to pursue a dream of becoming a paramedic, a doctor, nurse, dentist, a pharmacologist or any other medical profession they choose. It is also my hope that with succeeding in their chosen health field they will return to that area and serve in the communities where their families and friends live.

Graduate schools in the biomedical sciences would be encouraged to establish special after-school and summer study programs in the basic sciences, mathematics, and written comprehension for disadvantaged high school students. Ninth graders from economically disadvantaged backgrounds can begin participating in a project which would have at least 100 hours of classroom, laboratory, and field work experience in one or more of the biomedical sciences during the academic year. The program would continue throughout their high school years. They will receive counseling on the range of opportunities available upon completion of high school, college, and professional training.

Motivation does not compensate, however, for being poorly prepared for medical school. Having entered medical school, the chances of minority students completing medical courses are significantly less than for white students. In 1971, 9.7 percent of all black medical students in their first year had to repeat their course work, and 6.8 percent withdrew for academic or personal reasons, while only 2.6 percent of white students dropped out.

This amendment creating the biomedical studies program could substantially improve the opportunities of disadvantaged students in their preparation for a medical school experience. It guides these students toward premed studies in college and at the graduate school level.

Thus, let us not just plant only rice or trees; but rather let us plant the fertile seeds of education for all our citizens and especially those who need a helping hand.●

Mr. MORGAN. Mr. President, I believe, under the previous order, the vote will come later.

The PRESIDING OFFICER. The Senator is correct.

Does any other Senator wish to speak now on the amendment offered by the Senator from North Carolina?

Mr. ROBERT C. BYRD. Mr. President, I believe it is now understood that the debate on the amendment by Senator MORGAN has ended, with the exception of 10 minutes, which will be equally divided. and which will transpire a little later today, just before the vote occurs on Mr. MORGAN's amendment.

UP AMENDMENT NO. 1761

(Purpose: To clarify the purpose of the Advisory Panel on Financing Elementary and Secondary Education)

Mr. HATHAWAY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine (Mr. HATHAWAY) for himself and Mr. MOYNIHAN proposes an unprinted amendment numbered 1761.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 328, line 4, between "of" and "elementary" insert "public and nonpublic."

On page 328, line 7, between "of" and "elementary" insert "public and nonpublic."

On page 328, line 9, between "financing" and "elementary" insert "public and nonpublic."

On page 328, line 15, between "of" and "elementary" insert "public and nonpublic."

On page 329, line 2, delete the semicolon and insert ", and between public and nonpublic schools;"

On page 328, line 5, strike out the period and insert in lieu the following: "including nonpublic education to the extent permissible under the Constitution.".

On page 329, line 7, strike out "and".

On page 329, after line 7, insert the following:

"(3) nonpublic schools to the extent permissible under the Constitution; and".

On page 329, line 8, strike out "(3)", and insert "(4)".

Mr. HATHAWAY. Mr. President, the purpose of this amendment is simply to include nonpublic schools within section 114 of the bill which establishes a presidentially appointed advisory panel on the financing of elementary and secondary education, with the caveat that nothing will be done that will be unconstitutional. I am pleased to be supported in this effort by the Senator from New York (Mr. MOYNIHAN).

I understand the floor manager, as well as the minority manager, are in agreement with the amendment. So I will not say anything more.

Mr. PELL. Mr. President, the Senator is absolutely correct. We have discussed this amendment. It is an excellent amendment, and it tries to bring a little more equity to the nonpublic schools, for whom I have been fighting so hard and who, I think, have received a very raw deal indeed. I am delighted to accept the amendment.

● Mr. MOYNIHAN. Mr. President, section 114 of the committee bill establishes an Advisory Panel on Financing Elementary and Secondary Education. This is a familiar and worthwhile undertaking reminiscent of the President's Commission on School Finance which I helped establish in the early 1970's and which produced generally excellent research and useful recommendations.

I am confident that the committee intended that the work of the Advisory Panel would include every branch of elementary and secondary educational finance. This presumably includes the financing of schools run directly by governmental units and also schools operated under nongovernmental auspices. Our amendment simply seeks to make explicit that which the Department of Health, Education, and Welfare, left to its own devices, might choose to overlook, by indicating in the appropriate places in the committee bill that the work of the Panel is to include both public and nonpublic education.

Of particular importance, it seems to me, is the charge to the Panel to develop a procedure for collecting uniform data on the financing of elementary and secondary education. If anything was clear in our debates of last week, it was that the Department of Health, Education, and Welfare does an unexcusably poor job of gathering information on the condition of nongovernment schools.●

Mr. STAFFORD. Speaking for the minority, the Senator from New England has again brought sense this morning, and we are prepared to accept the amendment.

Mr. HATHAWAY. I want to thank both the Senator from Rhode Island and the Senator from Vermont.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

The amendment was agreed to.

Mr. HATHAWAY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MORGAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. I would hope that Mr. TOWER could come to the floor now and take up his amendment, on which there is a time agreement of not to exceed 1 hour. I also express the hope that any other Senators who have amendments will come to the floor and offer their amendments. The only amendments I know about——

The PRESIDING OFFICER. The Senator is advised that there is an order. The Senator from North Carolina (Mr. HELMS) is to be recognized.

Mr. ROBERT C. BYRD. I know about that order. Right now I am asking unanimous consent that that be kept in limbo for a moment. I am trying to get other Senators to the floor, so that we can get other votes lined up. Otherwise, we would have 10 minutes on that amendment and a vote. Mr. HELMS is not on the floor right now.

Mr. President, I ask unanimous consent that that may be waived temporarily, until we can get our bearings.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I understand that Mr. TOWER is on his way to the Chamber. Therefore, I ask unanimous consent that he be recognized following the quorum call, which I now suggest.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. CHILES may be recognized to call up an amendment at this time, without prejudice to the amendments of Messrs. HELMS and MORGAN.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from Florida.

UP AMENDMENT NO. 1762

Mr. CHILES. Mr. President, I commend the committee for the emphasis it has given the paperwork burden on local education agencies in drafting the reauthorization of elementary and secondary programs. The committee has demonstrated its support for the spirit and intent of the general education provisions, section 401, and the Federal Reports Act. This bill represents real progress in the effort to reverse the redtape and paperwork trend.

The amendment I am submitting in the nature of a substitute to title IV, section 401, seeks to insure the paperwork oversight process conforms with the provisions of the Federal Reports Act.

Mr. President, I send to the desk an amendment in the nature of a substitute and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Florida (Mr. CHILES) on behalf of himself and Mr. HUDDLESTON, proposes an unprinted amendment numbered 1762.

Mr. CHILES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Delete section 401 of title IV of S. 1753 and replace with the following language.

SEC. 401. (a) Section 402 of the General Education Provisions Act is amended by adding at the end thereof the following new subsection:

"(c)(1)(A)(i) In order to eliminate excessive detail and unnecessary and redundant information requests and to achieve the collection of information in the most efficient and effective possible manner, the Secretary shall coordinate the collection of information and data acquisition activities of all Federal agencies, (I) whenever the respond-

ents are primarily educational agencies or institutions, and (II) whenever the purpose of such activities is to request information needed for the management of or the formulation of policy related to Federal education programs or research or evaluation studies related to the implementation of Federal education programs.

"(ii) The Secretary shall appoint a Federal Education Data Acquisition Council consisting of three members representing the public and representatives of the major agencies which collect and use educational data, as designated by each such agency, including one representative each of the Office of Management and Budget and of the Office of Federal Statistical Policy and Standards. The members representing the public shall be appointed for nonrenewable terms. The Council shall advise and assist the Secretary with respect to the improvement, development, and coordination of Federal educational information and data acquisition activities.

"(B) For the purposes of this subsection, the term—

"(i) 'information' has the meaning given it by section 3502 of title 44, United States Code;

"(ii) 'Federal agency' has the meaning given it by section 3502 of title 44; and

"(iii) 'educational agency or institution' means any public or private agency or institution offering educational programs.

"(C)(i) The Secretary shall review and coordinate all collection of information and data acquisition activities described in paragraph (1)(A)(i) of this subsection, in accordance with procedures approved by the Federal Education Data Acquisition Council. Such procedures shall be designed in order to enable the Secretary to determine whether proposed collection of information and data acquisition activities are excessive in detail, unnecessary, redundant, ineffective, or excessively costly, and, if so, to advise the heads of the relevant Federal agencies.

"(ii) No collection of information or data acquisition activity subject to such procedures shall be subject to any other review, coordination, or approval procedure outside of the relevant Federal agency except as required by this subsection and by the rules and regulations established pursuant to section 3509 of title 44, United States Code.

"(iii) The procedures established by the Secretary shall include a review of plans for evaluations and for research when such plans are in their preliminary stages, in order to give advice to the heads of Federal agencies regarding the data acquisition aspects of such plans.

"(2)(A) The Secretary shall assist each Federal agency in performing the review and coordination required by this subsection and shall require of each agency a plan for each collection of information and data acquisition activity, which shall include—

"(i) a detailed justification of how information once collected will be used;

"(ii) the methods of analysis which will be applied to such data;

"(iii) the timetable for the dissemination of the collected data; and

"(iv) an estimate of the costs and man hours required by each educational agency or institution to complete the request and an estimate of costs to Federal agencies to collect, process and, analyze the information, based upon previous experience with similar data or upon a sample of respondents.

"(B) In performing the review and coordination required by this subsection, the Secretary shall assure that—

"(i) no information will be required of any educational agency or institution unless the plans for the acquisition of that information have been publicly announced by the February 15 preceding the beginning of the school year for which the information will be requested, unless there is an urgent need for this information or a very unusual circumstance exists regarding it;

"(ii) sampling techniques, instead of universal responses, will be used wherever possible with a special consideration being given to the burden being placed upon small school districts, colleges, and other educational agencies and institutions; and

"(iii) no request for information or data will be approved if such information or data exists in the same or a similar form in the automated indexing system required to be developed pursuant to paragraph (4).

"(C) Each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during a thirty-day period, to comment to the Secretary on the collection of information and data acquisition activity. The exact data instruments for each proposed activity shall be available to the public upon request during this comment period.

"(D) No changes may be made in the plans for the acquisition of that information or data, except changes required as a result of the review described in this subsection, after such plans have been finally approved under this subsection, unless the changed plans go through the same approval process.

"(E) The Secretary may waive the requirements of this subsection for individual research and evaluation studies which are not designed for individual project monitoring or review, provided that—

"(i) the study shall be of a non-recurring nature;

"(ii) any educational agency or institution may choose whether or not to participate, and that any such decision shall not be used by any Federal agency for purposes of individual project monitoring or funding decisions;

"(iii) the man-hours necessary for educational agencies and institutions to respond to requests for information or data shall not be excessive, and the requests shall not be excessive in detail, unnecessary, redundant, ineffective, or excessively costly; and

"(iv) the Federal agency requesting information or data has announced the plans for the study in the Federal Register. The Secretary shall inform the relevant agency concerning the waiver decision within thirty days following such an announcement, or the study shall be deemed waived and may proceed. Any study waived under the provisions of this paragraph shall be subject to no other review than that of the agency requesting information or data from educational agencies or institutions.

"(F) Nothing in this subsection shall be construed to interfere with the enforcement of the provisions of the Civil Rights Act of 1964 or any other nondiscrimination provision of Federal law.

"(3) The Secretary shall, insofar as practicable, and in accordance with the provisions of this Act, provide educational agencies and institutions and other Federal agencies, pursuant to the requirement of subsection (f)(2)(A), with summaries of information collected and the data acquired by Federal agencies, unless such data were acquired on a confidential basis.

"(4) The Secretary shall, insofar as practicable—

"(A) develop standard definitions and terms consistent with those established by the Office of Federal Statistical Policy and Standards, Department of Commerce, to be used by all Federal agencies in dealing with education-related information and data acquisition requests;

"(B) develop an automated indexing system cataloging all available data;

"(C) establish uniform reporting dates among Federal agencies for the information and data acquisitions required after review under this section;

"(D) publish annually a listing of education data requests, by Federal agency and for the programs administered in the Education Division, publish a listing annually of each such program with its appropriation and with the data burden resulting from such programs; and

"(E) require the Federal agency proposing the collection of information or data acquisition activity to identify in its data instrument the legislative authority specifically requiring such collection, if any, and require the responding educational agency or institution to make the same identification if it in turn collects such information or data from other agencies or individuals.

"(5) The Secretary shall submit a report to the Congress whenever he determines it necessary, but no later than once every three years, describing the implementation of this subsection. Such report shall contain recommendations for amendments to Federal laws which in the opinion of the Secretary are imposing undue burdens on educational agencies and institutions, and such recommendations shall not be subject to any review by any Federal agency outside the Education Division.

"(6)(A) The Secretary is authorized to make grants from sums appropriated pursuant to this subsection to State educational agencies, including State agencies responsible for postsecondary education, for the development or improvement of educational management information systems.

"(B) Any such agency is eligible for a grant of funds under this subsection if—

"(i) the agency agrees to use such funds for the development or improvement of its educational management information system and agrees to coordinate to the extent practicable all data collection for Federal programs administered by the agency through such a system; and

"(ii) the agency agrees to provide funds to local educational agencies and institutions of higher education for the development of management information systems when such grants are deemed necessary by the agency.

"(7) For the purpose of carrying out this subsection—

"(A) there are authorized to be appropriated for salaries and expenses the sums of $600,000 for fiscal year 1979, $1,000,000 for fiscal year 1980, and $1,200,000 for each of the fiscal years 1981, 1982, and 1983.

"(B) there are authorized to be appropriated for grants under paragraph (6) the sums of $5,000,000 for fiscal year 1979, $25,000,000 for fiscal year 1980, and $50,000,000 for each of the fiscal years 1981, 1982, and 1983; and

"(C) the sums appropriated according to subparagraphs (A) and (B) shall be appropriated as separate line items.". (b) Section 406 of such Act is amended—

(1) by striking out subsection (g), and

(2) by redesignating subsection (h), and all references thereto, as subsection (g).

Mr. CHILES. Mr. President, I have discussed this amendment with the distinguished chairman, Mr. PELL. As I say, the amendment simply tries to clarify further the process of making sure that we are not creating excess paperwork and attempts to reduce some of the paperwork we find has gotten into the education process.

Mr. PELL. Mr. President, I commend the Senator from Florida (Mr. CHILES) for his efforts in behalf of reducing unnecessary Federal paperwork in education programs. He was the primary author of the existing paperwork reduction section which became part of the education amendments of 1976. While much progress in paperwork reduction has been made under this amendment, through the National Center for Education Statistics, the problem is much bigger than just the Education Division of HEW. Many other Federal agencies also collect information and data from schools and colleges. To date, there has been no coordination of these requests.

The amendment, as modified by the Senator, would authorize the Secretary of Health, Education, and Welfare to serve as a coordinator of education data collection across the Federal Government. For the first time, schools and colleges would have the opportunity to know of all potential data requests with which they would have to comply within the year, and would have an orderly method of making their comments—and complaints—known. In discussing this amendment in committee, I expressed the hope that its provisions would substantially reduce the paper that now seems inevitably to accompany Federal education programs. Concern with such excessive paperwork was a major theme of the hearings of the Education Subcommittee on this legislation.

The Senator's modification of the committee amendment is intended to preserve its antipaperwork thrust, while assuring that the role of the Office of Management and Budget under the Federal Reports Act is not undercut.

I believe it to be a good amendment. and will to accept it.

Mr. STAFFORD. Mr. President, the minority also has had an opportunity for the committee to examine the Senator's amendment, and we join in commending him for efforts to reduce the paperwork that we know is of a tremendous burden to the educational systems of the country. On behalf of the minority we are prepared to recommend acceptance of the amendment.

Mr. ROBERT C. BYRD. Votc!

Mr. PELL. Vote!

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that Mr. MCINTYRE now be recognized without prejudice to the amendments of Mr. HELMS and Mr. MORGAN.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

AMENDMENT NO. 3536

(Purpose: To reduce the definition of a heavily impacted local educational agency from 25 to 20 percentum under section 3(d)(1)(A))

Mr. McINTYRE. Mr. President, I call up my amendment No. 3536 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. MCINTYRE), for himself and Mr. DURKIN, proposed an amendment numbered 3536.

Mr. McINTYRE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 332, between lines 24 and 25, insert the following:

"SEC. 204. (a) Section 3(d)(1)(A) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by striking out '25 per centum' and inserting in lieu thereof '20 per centum' ".

On page 332, beginning with line 25, strike out through line 1 on page 333, and insert in lieu thereof the following: "(b) Section 3(d) of such Act is".

On page 333, line 8 strike out "(b)" and insert in lieu thereof "(c)".

The PRESIDING OFFICER. The Chair asks the Senator if this is the amendment on which there is to be a 30-minute time limitation.

Mr. McINTYRE. That is correct.

The PRESIDING OFFICER. The Chair thanks the Senator.

Mr. McINTYRE. Mr. President, the amendment I propose today along with my junior colleagues, seeks to address a serious financial problem faced by many communities throughout the Nation. This is typified by the case of Portsmouth, N.H., which is charged with the responsibility of educating the children of individuals attracted to the area because of intense Federal presence in the vicinity. This is particularly acute in the case of children of individuals who both live and work on Federal property. These so-called 3A students place a unique burden on the community because their parents live on Federal property and do not pay property taxes, and second, because the Federal Government property is exempt from local taxation. This leaves many communities with a significant additional burden on property taxpayers as they must make up the difference needed to educate the 3A students.

Thus, my junior colleague and I seek a reasonable change in the definition of a heavily impacted—or super 3A—district which would allow 100 percent funding through tier 2 where the impact of 3A students is 20 percent or more of enrollments. The Congressional Research Service estimates the nationwide cost to be $3.7 million, a modest price justified by the fact that the presence of these students is generated by a major local Federal activity. And, I might add, this will provide an extra measure of protection for hard-pressed property taxpayers in 21 States.

(Mrs. HUMPHREY assumed the chair.)

Mr. McINTYRE. Madam President, I ask unanimous consent that a survey of benefits distribution under the McIntyre-Durkin amendment be printed in the RECORD.

There being no objection, the survey was ordered to be printed in the RECORD, as follows:

TABLE I.—PUBLIC LAW 874 IMPACT AID AS AMENDED BY S. 1753 WITH "SUPER 3(a)" ELIGIBILITY REDUCED TO 20 PERCENT (FISCAL YEAR 1979)[1]

	S. 1753 with current law super 3(a) eligibility		S. 1753 with super 3(a) eligibility reduced to 20 percent	
	Payment through tier 2 (in thousands)	Number of super 3(a) districts	Payment through tier 2 (in thousands)	Number of super 3(a) districts
Alabama	$14,775	0	$14,775	0
Alaska	57,880	31	57,884	32
Arizona	32,456	32	32,518	34
Arkansas	5,195	1	5,195	1
California	110,308	23	110,874	30
Colorado	17,734	3	17,734	3
Connecticut	7,769	1	7,769	1
Delaware	1,015	0	1,015	0
District of Columbia	6,794	0	6,794	0
Florida	29,151	0	29,151	0
Georgia	18,169	0	18,169	0
Guam	3,809	0	3,809	0
Hawaii	16,241	0	16,241	0
Idaho	5,756	2	5,760	3
Illinois	23,922	5	23,976	6
Indiana	4,456	1	4,456	1
Iowa	847	0	847	0
Kansas	8,785	3	8,785	3
Kentucky	4,832	0	4,832	0
Louisiana	8,303	0	8,303	0
Maine	3,798	5	3,798	5
Maryland	30,382	0	30,382	0
Massachusetts	11,531	1	11,531	1
Michigan	9,903	3	9,921	5
Minnesota	5,528	2	5,528	2
Mississippi	$5,913	0	$6,150	1
Missouri	11,024	2	11,195	3
Montana	10,468	35	10,514	38
Nebraska	9,221	5	9,221	5
Nevada	6,101	1	6,101	1
New Hampshire	2,883	0	3,121	1
New Jersey	19,898	5	20,283	6
New Mexico	24,800	8	24,890	9
New York	74,894	1	74,894	1
North Carolina	16,663	0	16,663	0
North Dakota	7,763	15	7,958	18
Ohio	16,922	0	17,224	2
Oklahoma	20,164	36	20,519	55
Oregon	4,729	3	4,735	4
Pennsylvania	18,730	0	18,730	0
Puerto Rico	12,309	0	12,309	0
Rhode Island	2,722	0	2,817	1
South Carolina	12,164	0	12,164	0
South Dakota	8,276	9	8,349	17
Tennessee	12,523	0	12,523	0
Texas	49,323	5	49,710	9
Utah	10,493	2	10,493	2
Vermont	282	0	282	0
Virgin Islands	1,218	0	1,218	0
Virginia	50,591	2	50,591	2

Footnotes at end of table.

TABLE I.—PUBLIC LAW 874 IMPACT AID AS AMENDED BY S. 1753 WITH "SUPER 3(a)" ELIGIBILITY REDUCED TO 20 PERCENT (FISCAL YEAR 1979)[1 2]—Continued

	S. 1753 with current law super 3(a) eligibility		S. 1753 with super 3(a) eligibility reduced to 20 percent	
	Payment through tier 2 (in thousands)	Number of super 3(a) districts	Payment through tier 2 (in thousands)	Number of super 3(a) districts
Washington	$24,745	11	$25,126	15
West Virginia	971	0	971	0
Wisconsin	3,823	3	3,831	4
Wyoming	$4,737	3	$4,737	3
Total	883,690	259	887,366	324

[1] Allocation estimates do not include additional payments for districts with 50 percent or more section 3 children, handicapped children who are placed in private institutions or section 3 children whose parents work on property owned by foreign governments or international organizations or the U.S. Postal Service.

[2] Public Law 874 impact aid, as amended by S. 1753, provides that a school district must receive full program funding for its eligible 3(a)(1), 3(a)(2), and 3(b)(3) children if the district's total average daily attendance (TADA) is comprised of at least 25 percent of section 3(a) children. Also, the 3(a)(1) entitlement is increased from 90 to 100 percent for these districts.

Mr. McINTYRE. Madam President, we refer here to the impact of children of parents who both live and work on Federal property. This is an instance of Federal impact which weighs most heavily on the local community. To cite from the committee report on this legislation—referring to the impact aid program—

Along with the companion school construction program under Public Law 81–815, this legislation is based on the assumption that Federal activities place a financial burden on school districts by reducing local tax revenues and by causing increases in the number of children to be educated.

The focus on our concern today is those districts which are heavily impacted by local Federal presence. Again, quoting from the committee report,

In general, such districts have substantially lower assessed valuations per pupil and higher student/teacher ratios. Most of these districts encompass military bases, which take up high percentages of property and bring large numbers of families into the districts.

In 1974, Congress sought to address this unfair situation by stipulating districts whose A students constituted 25 percent or more of their total enrollments would be paid 100 percent of their A entitlements through the second tier. I agreed with this approach as a fair means of compensating local school districts for additional students they must educate solely because of a major Federal presence.

However, recent cut-backs in the impact aid program dictate action today to restore a fair Federal contribution to local education costs of Federal children. With the elimination of eligibility of out-of-State B's, many communities face added burdens. This is particularly true in the case of Portsmouth, N.H., sandwiched between Pease Air Force Base and the Portsmouth Naval Shipyard. However, the shipyard is located in Kittery, Maine, and with the elimination of out-of-State B's, Portsmouth is faced with a double whammy of Federal impact, but is not entitled to Federal payment for the out-of-State B's—even though the shipyard is a few short yards across the Piscataqua River.

Add to this the fact that this community is impacted 21.7 percent by 3A's—largely through the Federal presence at Pease. To alleviate this situation in Portsmouth and other communities located throughout the Nation, Senator DURKIN and I propose to reduce the super 3A ratio from 25 percent to 20 percent. This is a modest step, costing only $3.7 million, and providing extra Federal help to 21 States.

Further, I believe this amendment is consistent with the general thrust of the committee report since the committee did recognize the "unusual reliance of heavily impacted districts on impact aid to support their education program. What is needed is a less stringent definition of heavily impacted A's to allow a more reasonable Federal contribution to the costs of education of children present because of a high concentration of Federal activity in an area. The amendment we offer today is a fair move in that direction. This is a nationwide problem that deserves our consideration.

Madam President, I ask unanimous consent that two letters written by me, including one cosigned by my junior colleague, to the distinguished chairmen of the Senate Human Resources and Appropriations Committees, be printed in the RECORD. These will offer further description of the problems detailed in my statement.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

MAY 3, 1978.

Hon. WARREN G. MAGNUSON,
Chairman, Senate Appropriations Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In the very near future the Appropriations Committee will begin markup of the Labor-HEW Appropriations bill for this year. I would like to bring to your attention two matters which are of critical importance to my state.

Over the years the Congress has seldom given full funding for School Assistance in Federally Affected areas and instead funded only a portion of the entitlement for each category. I can well appreciate the desire for economy and strict accountability of funding which this action by the Committee represents. We all want to see that Federal dollars are wisely and carefully spent.

An equally commendable goal is the adequate funding of our educational institutions so that they are capable of offering the kind of programs necessary for a basic education. In New Hampshire, a portion of that minimal level of funding has been the impact aid funds which over the years may have represented a small portion of a school's total budget, but at the same time a very important part. Further inroads in that funding would seriously jeopardize the ability of many of our schools to offer quality education. The yearly fractional funding of impact aid means that schools must trim budgets, in some communities to a point where it is only inevitable that services to our students will suffer. It is for this reason that I strongly urge the Committee to fully fund the impact aid program this year.

It has also come to my attention that the Office of Education intends to withhold Hold Harmless A and D funding, under the pretext that the Appropriations Committee did not directly instruct Office of Education officials to make such payments. Such action would have a detrimental impact on several school districts in my state. Often those funds represent the margin between quality educational programs and mediocre ones. I do not believe any action by the Congress last year or this intended that those categories of impact aid should be withheld. I earnestly solicit your assistance, therefore, in instructing the Office of Education to fund the Hold Harmless A and D categories.

Thank you for your attention to these matters. I believe strongly that the modest amount of funding which these requests represent would not compromise fiscal responsibility and at the same time would certainly strengthen in a substantial way the education that we in New Hampshire are able to offer our children.

Sincerely,

THOMAS J. MCINTYRE, *U.S. Senator.*

MAY 5, 1978.

Hon. HARRISON A. WILLIAMS, JR.,
Chairman, Committee on Human Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Today, you will be taking up several issues in the Human Resources Committee which are of particular interest to citizens of our State, many of whom have contacted us to express their vigorous opposition to proposed cuts in impact aid funding.

We are not myopic to the necessity of efficient utilization of Federal funding and we are also aware of much of the criticism that has been directed at this program. To be sure, some communities with substantial local support for educational programs receive additional funding from this program, the result being, in effect, that the Federal government and the American taxpayer subsidize the educational costs of communities which are fully able to support themselves. Yet we would argue that such inequities should not be used to justify wholesale curtailment of funds which are needed in other communities which are not so able to financially support educational programs.

In New Hampshire more than thirty communities receive impact aid funds. In some cases the percent of total budget represented by these funds is not great. In others they represent a sizeable fraction of total revenues. If the Committee were to adopt cuts such as those proposed by the Administration, many communities in New Hampshire would be severely affected and, regardless of how large or small their portion of such impact aid funding, every community would feel a fiancial strain. In the end, the individuals who would really suffer would not be New Hampshire taxpayers, but the children themselves.

We strongly urge the Committee to reject further erosion of the impact aid program. Further, we urge the Committee to consider increasing Category B funding to include students whose parents work at a Federal installation in another state from that in which the child's school district is located. Such actions by the Committee would be in the best interests of the school children of our State.

Again, we have full sympathy for the laudable goal of cost effectiveness and restructuring programs to insure justice and fairness. We also believe that these goals can be accomplished without unnecessarily burdening those communities which demonstrate a real and justified need for the impact aid program.

Sincerely,

THOMAS J. MCINTYRE,
U.S. Senator.

JOHN A. DURKIN,
U.S. Senator.

Mr. McINTYRE. Madam President, this is a matter of critical importance to thousands of property taxpayers throughout the land and I urge the Senate to adopt this amendment as a gesture of recognition of Federal responsibility in this area.

Madam President, I understand that due to some fine work by members of my staff, Senator DURKIN's staff and the staffs of the Human Resources and Appropriations Committees, there is generally no strong objection to this amendment.

Is that correct?

Mr. PELL. Madam President, the Senator from New Hampshire is correct. We have had a chance to examine this amendment. It seems to remedy an inequity. These heavily impacted 2A and 3A students are the ones for whom impacted aid originally was designed. It will cost $3.9 million, and I recommend we accept the excellent amendment of the Senator from New Hampshire.

Mr. McINTYRE. Madam President, I wish to ask the distinguished Senator from Rhode Island a question concerning what he just referred to. Last night we had a great deal of discussion upward, downward, and crosswise. We are talking here this morning, as the Senator just said, about the young students for whom impacted aid first came into being. So as far as this amendment is concerned, we do not have to worry about whether they are living off the post or not paying their fair share. This amendment is a prime example of where the need is necessary.

Mr. PELL. Exactly.

Mr. JAVITS. Madam President, the amendment proposes to reduce from 25 to 20 percent this requirement respecting the so-called "Super A" class of students to whom Senator MCINTYRE refers. What has bothered me about the proposed amendment is the fact that, though the amount involved is not all that great—as the Senator says it is somewhat under $4 million—it does come out of a pot and any such amount affects other tiers and other students, including students in the 50 States, or all the States that are concerned.

I understand that the figure in Portsmouth, N.H., is 23 percent and therefore the two Senators are under a need to bring the allowable level down to 20 percent, instead of a present 25 percent.

I am concerned about the fact that as we whittle down these percentages in order to suit a particular problem, such as the Senator identified, that process can go on and that it can extend to other jurisdictions which may want 19, 18, 17, or whatever percent suits them.

But as the matter stands it is de minimis; it is not a major problem which is presented in respect to impact aid, and so bearing in mind the realities of the situation, but being committed to stand for the Senate bill and the amendment which Senator MCINTYRE and his colleague will have in it, I am willing to take the amendment to conference. But I did want to state for the record our understanding of the situation, and I hope very much that it will not be taken as any precedent, and I am sure Senator MCINTYRE will agree with me, for some other areas or someone else who will want it down to 19 or 19¼ percent just to suit their situation.

So I join with Senator PELL in the acceptance of the amendment.

Mr. McINTYRE. I appreciate the remarks and the tremendous interest the Senator from New York has in this whole question of impacted aid, but I say that since this amendment deals with those young people—and property taxpayers—that were originally the cause for having impacted aid at all, that the answer to the Senator's question is not to look with some criticism on the amendment but to enlarge that pot that we are talking about.

So with my appreciation to the distinguished chairman of the Education Subcommittee and also appreciation to Senator MAGNUSON and members of the Appropriations Committee, I move the adoption of the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. Madam President, I would like to ask a couple of questions on somebody's time, if I might.

Mr. McINTYRE. I yield 5 minutes.

Mr. PELL. I am glad to yield 5 minutes to the Senator, my colleague.

Mr. CHAFEE. Madam President, I would just like to say—and this is a prelude to the question—we all know that this impact aid has developed into a real scandal in this country, and it has gone on and on and has grown and grown. I am on the Human Resources Committee where every effort to cut the impact aid was rejected, and, as a matter of fact, it was increased over what it presently is. Yesterday that was cut back somewhat, and I understand we are about back to where the current law is.

But now comes another one, and I find it hard to understand why, although these are, as I understand we are dealing with, A students, why, after everybody has had his hand deep in the impact aid situation, we are at this late date enlarging it even more.

It has been told to us that it is de minimis, it is only $4.9 million.

Well, I do not know whether it is or is not, because these things seem to grow; they are $4.9 million this year, and somebody else will find out about it, and it will grow a little more.

Can the Senator explain exactly what is the problem with his students and the basis for it?

Mr. McINTYRE. The purpose of this amendment is to make certain that impacted aid goes in 100 percent to that situation that is most deserving of it. As the distinguished chairman of the Subcommittee on Education has said, it is the reason and rationale of why we have impacted aid at all. That is when you have a situation of a family on a base, say, in Portsmouth, N.H., with three youngsters who go to school in the Portsmouth School District where the base is tax exempt by virtue of being U.S. property, and where the mother and father of these youngsters pay no taxes, and the burden is cast upon the taxpayers of the city of Portsmouth. Here is the very wellspring from which impacted aid came into being.

I am not discussing the problem of the B students, the Montgomery County situation. I am talking about the real essence of need.

Mr. CHAFEE. Yes. But that is the A situation, and that is why we have impact aid. What is the matter with what they are getting now?

Mr. McINTYRE. Ninety percent, and I think they should get 100 percent. If the Senator does not believe it, come to Portsmouth, N.H., and talk to the mayor of that city; talk to him about his problems.

Mr. CHAFEE. He would rather have the base moved?

Mr. McINTYRE. I beg pardon?

Mr. CHAFEE. He would rather have the base moved?

Mr. McINTYRE. Well, at some times they may be not so sure.

Mr. CHAFEE. Do I understand as to A students that now the maximum they receive is 90 percent?

Mr. McINTYRE. That is correct.

Mr. CHAFEE. And this would boost it to 100 percent?

Mr. McINTYRE. Yes; beyond the 90 percent of the 3A entitlement the taxpayers of Portsmouth now receive.

Mr. CHAFEE. This would move it to 100 percent?

Mr. McINTYRE. Yes.

Mr. CHAFEE. The Senator is saying it is only $4.9 million?

Mr. McINTYRE. $3.7 million nationwide.

Mr. CHAFEE. It is astonishing, I just cannot believe that. All the A students in this country are going from 90 to 100 percent, and it is only, less than, $4 million? In other words, the whole program is only 10 times that; only $40 million for the whole country for the A students?

Mr. PELL. No. This is reducing the number where they would be counted. Where the portion of the students have heretofore been 25 percent, we are now saying that it should apply where it is only 20 percent. So it does not apply across the country. In most areas there would be substantially more or less than 25 percent. This amendment makes the cutoff in lieu of 25 percent, 20 percent. The cost is $3.7 million, and the main impact would be in New Hampshire.

It is of benefit to our own State of Rhode Island but in a very small amount.

Mr. McINTYRE. Rhode Island receives only about $95,000 in addition.

Mr. CHAFEE. I do not know what the administration says about this. They were very upset in committee when we increased it and eliminated some of the so-called reforms that took place in 1974.

If the cutoff now is going to be 20 percent, why not make it 15? That will be next year.

Mr. DURKIN. Madam President, will the Senator yield?

Mr. McINTYRE. I am happy to yield to my junior colleague.

Mr. DURKIN. I thank my colleague.

Madam President, I would like to join with my colleague in offering this amendment to cure an inequity in the impact aid program. Our amendment would simply lower the percentage of "A" students which a school district must have before it receives 100 percent of its "A" impact aid entitlement with appropriations at the tier 2 level.

School districts are entitled to payments under the impact aid program if there are students in the district whose parents live and/or work on Federal property. Being entitled to funds, however, does not mean that a school district automatically receives payments. Rather, under current law, only those school districts which have 25 percent category "A" students are funded at 100 percent of their "A" entitlement. This is the so-called super "A" category.

Category "A" students are those whose parents live and work on Federal property. These are the students whose parents pay no taxes to the locality which must educate them. Lower percentages of category "A" students in a school system result in less than 100 percent reimbursement.

The presence of category "A" students in a school district places a significant financial burden on the local school district's budget. These towns must truly provide "free" public education to "A" students. The town loses tax revenues twice; once because of the presence of Federal property, but once again because no taxes are paid by the persons living there.

The Federal Government does not fully meet the burden placed on school districts with 20 percent category "A" students. An example of the hardship this can cause on a community is demonstrated by the situation in a city in my State, Portsmouth, N.H., which is planning to close three schools because it cannot afford to support those schools and the schools for students who live on Federal military installations. The Federal Government has not met its obligation to the Portsmouth School District by fully supporting the costs of educating the district's "A" children.

Our amendment will help solve this problem which is faced by many school districts throughout the country. It will require the Federal Government to meet its full obligation to school districts which have 20 percent category "A" students. In other words, if the impact aid program is funded through the tier 2 level, as it has been for many years, school districts with 20 percent "A" students will receive 100 percent of that "A" entitlement rather than the 90 percent they would receive under the current law.

The amendment would increase the cost of the program by a comparatively modest amount, $3.7 million, and those funds would be distributed to 65 additional districts in 21 States.

I urge its acceptance by the Senate.

Madam President, this has been a very real and substantial problem in the community of Portsmouth. Senator McINTYRE has been intimately involved in this program, and I commend him for coming up with a solution that not only solves the problem for Portsmouth, N.H., but solves the problem for a number of other States similarly situated as follows: Alaska, Arizona, California, Idaho, Illinois, Michigan, Missouri, Montana, New Jersey, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, and Rhode Island will get an additional $95,000, South Dakota, Texas, Washington, and Wisconsin.

I yield back the remainder of my time and I thank the Senator.

Mr. CHAFEE. That is a bargain basement situation, I might say, all of those States for $4 million.

Mr. McINTYRE. I say to my friend from Rhode Island that not for every "A" student will the city be allowed to get additional funds. It is only where the impact of the "A" students exceeds 20 percent. So there is a real impact of this "A" type of student that I described, which is the fountainhead from which we started impact aid.

So if you have a community where you only have 5 percent of "A" students it does not apply to them. That is why the figure of $3.7 million seems unrealistic to the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. McINTYRE. Unless something further is to be said, I move the adoption of the amendment. I yield back my time.

Mr. PELL. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Hampshire.

The amendment was agreed to.

Mr. McINTYRE. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DURKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PELL. Madam President, I ask unanimous consent that Mr. Larry Patton of Senator PROXMIRE's staff be given the privileges of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that Mr. TOWER be recognized without prejudice to the agreement with respect to the amendments of Mr. HELMS and Mr. MORGAN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Madam President, I ask unanimous consent that Mr. Dave Martinez and Mrs. Cindy Root of my staff be permitted access to the floor during the consideration and debate respecting this measure and the votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER RECOGNIZING MR. HARRY F. BYRD, JR., FOR 10 MINUTES BEFORE PASSAGE

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that following third reading and before passage of the bill Mr. HARRY F. BYRD, JR., may be recognized for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1763

(Purpose.—To require notification of noncompliance with title VI of the Civil Service Rights Act of 1964 for eligibility under the Emergency School Aid Act)

Mr. TOWER. Madam President, I have an amendment at the desk that I call up and ask the clerk to state.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. TOWER), for himself and Mr. DOMENICI, proposes an unprinted amendment numbered 1763:

On page 377, after line 16, insert the following new section:

NOTIFICATION OF NONCOMPLIANCE FOR ELIGIBILITY OF CERTAIN GRANTS

SEC. 410. The General Education Provisions Act is amended by inserting after section 440 the following new section:

"NOTIFICATION OF NONCOMPLIANCE FOR ELIGIBILITY OF CERTAIN GRANTS

"SEC. 440A. (a) Notwithstanding any other provision of Sec. 440 the Secretary shall notify each local educational agency which has notified the Secretary of its intention to apply for funds under the Emergency School Aid Act, whether or not it is found to be in noncompliance with title VI of the Civil Rights Act of 1964, or any other nondiscrimination provision of Federal law.

Mr. TOWER. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. I did want the clerk to read through that portion since I had made there a change that was suggested by Senator JAVITS and his staff.

The amendment is as follows:

On page 377, after line 16, insert the following new section:

NOTIFICATION OF NONCOMPLIANCE FOR ELIGIBILITY OF CERTAIN GRANTS

SEC. 410. The General Education Provisions Act is amended by inserting after section 440 the following new section:

"NOTIFICATION OF NONCOMPLIANCE FOR ELIGIBILITY OF CERTAIN GRANTS

"SEC. 440A. (a) Notwithstanding any other provision of Sec. 440 the Secretary shall notify each local educational agency which has notified the Secretary of its intention to apply for funds under the Emergency School Aid Act, whether or not it is found to be in noncompliance with title VI of the Civil Rights Act of 1964, or any other nondiscrimination provision of Federal law, with respect to eligibility for the Emergency School Aid Act, not later than June 1 in the year before the fiscal year for which the Assistant Secretary is determining eligibility under the Emergency School Aid Act.

"(b) The notification required by subsection (a) of this section shall include in detail the relevant information on which the determination of noncompliance is based.".

On page 21, in the Table of Contents, insert after item Sec. 409 the following new item:

"Sec. 410. Notification of noncompliance for eligibility of certain grants.".

Mr. TOWER. Madam President, I yield myself such time as I may require.

Madam President, the delays caused by late notifications to school districts of ineligibility due to noncompliance

constitute an unfair and improper management of the resources that Congress has appropriated to HEW to serve the critical educational needs of deserving students.

My amendment will require HEW and the Office for Civil Rights to reexamine its central office and regional office coordination and communication processes and make whatever modifications are necessary to obtain maximum efficiency from their operations. In the process, I expect it to eliminate the confusion in the contradictory policy directions that often are taken by the Central and Regional Office for Civil Rights as well as the undue administrative and processing delays.

Madam President, the American people expect the school districts of our country to serve the quality educational needs of all children. At the same time, I am confident all Americans will find it fair and reasonable to expect that the Office for Civil Rights will operate in an efficient manner and thereby permit it to notify local educational agencies found in noncompliance with title VI of the Civil Rights Act of 1964, or any other nondiscriminatory provision of Federal law, of that fact with the full particulars 60 days prior to the new funding cycle.

In June of this year, the HEW Office for Civil Rights notified approximately 50 school districts in my State that all ESAA funding in the new funding period beginning July 1, 1978, was being cut off. The reason given in each case was that the applicant school district had been found in noncompliance with the Office for Civil Rights requirements established under the Civil Rights Act of 1964 and applicable decisions of the Supreme Court.

In my view, there is no justification for HEW or the Office of Education waiting until the very last moment to notify school districts in my State or anywhere in this country that no ESAA funds will be received.

Without exception, recipients of ESAA moneys are local educational agencies with enrollments of students who are in critical need of the services and opportunities for quality education which the ESAA program offers.

Madam President, these are socially and economically disadvantaged students. For the most part, they are ethnic minority students. In the majority they are Mexican-Americans.

My objective here, Madam President, is simply to provide adequate notice and to provide for informing these school districts of the reasons why they were found to be in noncompliance and allow them to correct the deficiencies.

I might add that in some of these school districts, the administrators are Mexican-Americans themselves, and they are the ones being held in noncompliance for discrimination against Mexican-Americans. If that is the case, I can assure you it is very, very unintentional.

I just want to allow for reasonable notice to these school districts, so they can proceed in an orderly way with the funding of their school programs. I believe this amendment is consistent with the thrust of the language in the committee report on Labor-HEW appropriations, which says, on page 131:

Since local school administrators have indicated strong interest in making positive efforts to insure compliance and avoid situations which generate complaints, the Committee directs that the OCR undertake efforts to inform local education agencies of what constitutes compliance with nondiscrimination statutes in areas such as classroom composition by race and sex, adequate counseling for elective courses, athletic programs, barrier removal for the handicapped, et cetera.

I want to emphasize that I have no desire to throw any obstacles in the way of compliance with the civil rights proscriptions. Quite to the contrary, I think my record will show that I have worked for years to insure Mexican-Americans equal opportunity with others. Indeed, I think we have far to go yet to correct past discriminations and past neglect, and I would see nothing stand in the way of that process. I simply want the disadvantaged children who are supposed to benefit from these programs to have those benefits without being the victims of what sometimes is simply a bureaucratic snarl.

I have discussed this amendment with our distinguished colleague from New York (Mr. JAVITS). I have not had an opportunity to discuss it with my friend from Rhode Island (Mr. PELL), but it does seem, as I have revised it since the amendment was filed last night, to have met the objections then voiced, and I think it will be acceptable.

Mr. JAVITS. Madam President, from the time in opposition I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Madam President, this is a good amendment. We have worked it out with Senator TOWER; he has been very cooperative. The period of notice has been extended, the broad sweep of exemptions from existing law has been made detailed and specific, and I hope very much that this amendment may be found agreeable to the majority, as it is on this side.

Mr. PELL. Madam President, this amendment is acceptable to the majority. It seems to be a good example of comity in working things out between the Senators involved.

Mr. TOWER. I thank my colleagues from Rhode Island and New York, and I especially want to thank Senator JAVITS' staff for the courtesies afforded my staff and me in working the matter out.

I yield back the remainder of my time.

Mr. JAVITS. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Texas.

The amendment was agreed to.

Mr. TOWER. I move to reconsider the vote by which the amendment was adopted.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Madam President, I now ask that the Senator from North Carolina (Mr. HELMS) be recognized to resume the consideration of his amendment.

AMENDMENT NO. 3538

(Purpose: To revise the authority relating to special projects)

The PRESIDING OFFICER. Under the previous order, the Senate will now resume the consideration of the amendment (No. 3538) of the Senator from North Carolina (Mr. HELMS), on which there will be a time limitation of 10 minutes of debate, with the time to be equally divided.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS), for himself and Mr. MORGAN, proposes an amendment numbered 3538.

The PRESIDING OFFICER. Who yields time?

Mr. HELM. Madam President, I ask unanimous consent that Dr. James P. Lucier of my staff be accorded the privileges of the floor during consideration of this measure and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair. Madam President, I ask that I be advised when I have 1 minute remaining.

The PRESIDING OFFICER. The Chair will so advise the Senator.

Mr. HELMS. I thank the Chair.

Madam President, this amendment is very simple. And, incidentally, I want to thank my distinguished colleague from North Carolina (Mr. MORGAN) for his assistance with it and cosponsorship of it.

The Helms-Morgan amendment would simply restore current law with respect to special curricular projects, and would accomplish three objectives.

First, it would eliminate administration-opposed programs in health, education, biomedical education, and "population education." The Office of Management and Budget opposes the creation of these programs on the grounds that they are redundant of existent programs and overly expensive.

Second, our amendment would cut back the women's equity project to its current level of funding. S. 1753, unless this amendment is adopted, will increase that amount by 167 percent to a total cost of $80,000,000 a year.

Madam President, that is what will happen if this amendment is not adopted. This is almost twice the 1978 appropriation for all curricular programs combined.

We have been informed by a spokeswoman for the Office of Civil Rights that it intends to use the increased funding to help enforce and obtain compliance with title IX of the Civil Rights Act. With 15 percent of all high school graduates functionally illiterate, we simply cannot afford to secretly shift $330,000,000 of educational funding to efforts already authorized under other acts.

Third, our amendment would simplify the structure of titles III and XI of the bill. It would reconsolidate programs

and consequently remove some of the strain for higher appropriations.

Madam President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. PELL. Mr. President, the amendment of the Senator from North Carolina would strike out the special projects title of the committee bill and replace it with basically the existing law concerning special projects. This would have two effects:

First. It would cut out valuable new programs proposed by the committee, such as corrections education and programs of biomedical education for minority group students.

Second. It would reinstate the funding pattern of existing law, which mandates a specified percentage for each special project out of a lump-sum appropriation. This is exactly the type of mandatory spending that Senator MAGNUSON opposed yesterday. The committee bill authorizes each program separately, allowing the flexibility the Budget and Appropriations Committee sought. This funding pattern should be sustained.

I urge my colleagues to support the committee bill.

Mr. JAVITS. Madam President, I yield myself 1 minute of the opposition time.

Madam President, this is one of the most gifted ideas we ever had, a basket of experimental educational projects. These are limited and circumscribed in terms of appropriations, with full freedom of action to the Appropriations Committee. If seasoned and proved right, which is something we rarely do in Government, then they could become permanent programs or, if not, be dropped. It is exactly what those who preach economy want in a governmental program.

Madam President, it has been creatively participated in by Senator KENNEDY, who is responsible for the law-related education section; by myself and Senator KENNEDY in respect of preparing low-income students for medical school; by Senator PELL on corrections education; and by those of my colleagues on the minority, Senator STAFFORD for population education and Senator CHAFEE for health education. I now yield 1 minute to Senator STAFFORD.

Mr. STAFFORD. I thank the distinguished Senator for yielding, Madam President.

I rise in opposition to the amendment of the Senator from North Carolina. I do think in particular that the popular education section, section K, is very important. It is designed to teach American youth, who are currently behind much of the world in understanding the problem, the implications of demographic developments in this country and around the world so that they can learn for themselves the consequences to themselves, their communities, their Nation, and the world of population changes in this period in which we have problems with respect to food, minerals, energy, and housing, just to name four. Understanding the future consequences of major changes in population is extremely important in trying to plan for a better world.

This provision, part K, is a counterpart of the provision which is in the House bill, and it is supported by the Presidential Commission on Population, the Federal Interagency Commission on Education, and, particularly, by the House Select Committee on Population.

I repeat, this provision is in the House bill. I urge defeat of the amendment of the Senator from North Carolina.

Mr. PELL. Madam President, I yield 1 minute to the Senator from Rhode Island and 1 minute to the Senator from Michigan.

Mr. CHAFEE. Madam President, this deals with health education. One of the real tragedies of our society is we spend literally millions and billions on taking care of people when they get sick, but we do not seem to have any programs designed anywhere in the U.S. Government to try and keep people healthy. This is the thrust, to educate the youngsters on keeping their health, eating decent foods, maintaining their physical fitness, staying away from drugs and abusive materials which are injurious to their health.

I just feel so strongly that this is the type of program which can yield tremendous savings to the Nation in the future. Let us keep the people out of the hospitals, teach them the way to stay healthy, and the whole Nation will be better off in the long run. For that reason I support the section as it emerged from the committee.

Mr. RIEGLE. I thank the Senator for yielding.

I think it is important to correct one misstatement made. The women's educational equity project does not authorize any interference with curriculums. It is not administered by the Office of Civil Rights, so any suggestions that OCR would be used to enforce compliance with title IX are false.

The Office of Education can only use it for voluntary programs.

It is significant that in that sense it is not coercive; it does not interfere with local school districts. They have to decide if they want to participate. I think that is a key point.

These programs are essential. At this point, a judgment to knock these out would seem to me to take us in exactly the wrong direction. I hope the Senate will choose to reject this amendment overwhelmingly.

Mr. BROOKE. Will the Senator yield 30 seconds?

Mr. PELL. I yield.

Mr. BROOKE. I have to speak against this amendment because I feel it would be very detrimental. I do not know if I can add to what the Senator from Michigan has said, the Senator from Vermont, or my friend from Rhode Island, but I hope this amendment is defeated.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HELMS. Am I correct in my understanding, Madam President, that I have about 3 minutes remaining?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. I thank the Chair.

Madam President, I want to thank the Senator from Michigan for the legislative intent he has just made so clearly. If nothing else has been accomplished, his declarations are very valuable to this debate. I hope that in the coming months those who operate these programs will be attentive to what the Senator from Michigan has stated is the legislative intent. I thank him very much.

Madam President, my distinguished friend from New York said this is one of the most gifted ideas which has come along. It may be. The Senate is becoming more and more gifted in spending billions of dollars in excess of even what the administration says it can spend wisely. That is the "gifted" nature of this bill, and that is why Senator MORGAN and I have submitted this amendment—to cut down on the size of the "gift."

I ask unanimous consent that three explanations of the Carter administration's opposition to this excessive spending be printed in the RECORD at this point.

There being no objection, the information was ordered to be printed in the RECORD, as follows:

BIOMEDICAL SCIENCES

Explanation of amendment: The amendment would eliminate from the Special Projects Act a new program focused on preparing disadvantaged secondary students for training in the biomedical sciences. Reasons for opposing the new program are:

(1) It is narrowly focused on one field of professional development to the exclusion of other professions.

(2) There is no evidence that a Federal program is needed, or would be effective, in this area.

(3) The program is vastly overprescriptive by requiring local entities to adopt a particular training model, with requirements being imposed as to minimum numbers of hours on particular subjects, minimum numbers of participants and administrative arrangements. The program is a prime example of excessive Federal control of educational programs at the local level.

(4) Given expected budget constraints, there is unlikely to be sufficient funds available to implement the program.

(5) If a program of this type has merit, it should be implemented first as a demonstration under the Commissioner's discretionary authority in Special Projects.

HEALTH EDUCATION

Explanation of amendment: The amendment would delete from the Special Projects Act a new program focused on encouraging State and local education agencies to establish health education programs. Such a new Federal program is not needed because—

(1) health education is already a required part of the curriculum in most States;

(2) some Federal support for this activity is available through the Public Health Service Act;

(3) additional support, if warranted, could be provided as a discretionary activity under Special projects; and

(4) given expected budget constraints, funds are not likely to be available for a new program.

POPULATION EDUCATION

Explanation of amendment: The amendment would eliminate from the Special Projects Act a new program narrowly focused on implementing population education in elementary and secondary schools. Reasons for opposing the new program are:

(1) The concept of "population education" is extremely vague, and is not defined in the legislation.

(2) There is no demonstrated need for a Federal program to encourage developments in this field.

(3) Given expected budget constraints, sufficient funds are unlikely to be available to fund this program.

(4) This activity, if meritorious, could be undertaken within the Commissioner's discretionary authority in Special Projects.

Mr. HELMS. Let us summarize the Helms-Morgan amendment. It would do this: It would restore current law with respect to special federally funded curricular initiatives; it would cut by one-third the sixfold increase over last year's appropriations level—six times, Madam President, the appropriation level of last year is what is proposed in this bill—and, finally, this amendment simplifies multiple authorization for curricular programs by reconsolidating into a single section. I might add that last year's appropriation was $45 million. The level contemplated by this amendment is $200 million, and the bill level is $285 million. I contend that such sums so far in excess of last year are absolutely unnecessary and undesirable in view of the fact that the Federal deficit this year will be something in the neighborhood of $60 billion.

(Mr. ROBERT C. BYRD assumed the chair.)

Mr. HELMS. Mr. President, I yield back such time as I may have remaining. I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the distinguished Senator from North Carolina (Mr. HELMS). The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from New Mexico (Mr. DOMENICI), and the Senator from Nevada (Mr. LAXALT) are necessary absent.

The result was announced—yeas 25, nays 65, as follows:

[Rollcall Vote No. 359 Leg.]

YEAS—25

Bartlett	Griffin	Pearson
Bellmon	Hansen	Proxmire
Byrd, Harry F., Jr.	Hatch	Roth
Byrd, Robert C.	Hayakawa	Schmitt
Curtis	Helms	Scott
Dole	Lugar	Thurmond
Garn	McClure	Tower
Goldwater	Morgan	Wallop
	Nunn	

NAYS—65

Allen	Case	DeConcini
Bayh	Chafee	Durkin
Bentsen	Chiles	Eagleton
Biden	Church	Ford
Brooke	Clark	Glenn
Bumpers	Cranston	Gravel
Burdick	Culver	Hart
Cannon	Danforth	Haskell
Hatfield, Mark O.	Magnuson	Sarbanes
Hatfield, Paul G.	Mathias	Sasser
Hathaway	McGovern	Schweiker
Heinz	McIntyre	Sparkman
Hodges	Meicher	Stafford
Hollings	Metzenbaum	Stevens
Huddleston	Moynihan	Stevenson
Humphrey	Muskie	Stone
Jackson	Nelson	Talmadge
Javits	Packwood	Weicker
Kennedy	Pell	Williams
Leahy	Percy	Young
Long	Randolph	Zorinsky
	Ribicoff	
	Riegle	

NOT VOTING—10

Abourezk	Eastland	Matsunaga
Anderson	Inouye	Stennis
Baker	Johnston	
Domenici	Laxalt	

So the amendment (No. 3538) was rejected.

(Mrs. HUMPHREY assumed the chair.)

Mr. JAVITS. Madam President, I move to reconsider the vote by which the amendment was rejected.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from North Carolina is recognized to resume consideration of his amendment, on which there shall be 10 minutes of debate, with a vote thereon to follow.

The Senator from North Carolina.

Mr. MORGAN. Madam President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Senators will please take their conversations to the cloakroom.

AMENDMENT NO. 3537

Mr. MORGAN. Madam President, the amendment I offered last night and called up and debated this morning strikes section 102 of this act. Section 102 creates a completely new grants program designed to assist in the basic skills in the educational system.

The committee justified this new program by saying it was concerned about the widespread concern with regard to the inability of young people to read and write. We all are concerned about that, but just throwing money at it does not solve it. What this does is to create a system of grants.

Mr. President, the Senate is not in order.

The PRESIDING OFFICER (Mr. HUDDLESTON). The Senate is not in order. The Senate will be in order.

Mr. MORGAN. Mr. President, my amendment strikes a whole new grant program for basic skills. The grants program, according to the Congressional Budget Office, would lead to an outlay of $683 million during the first 5 years. It would require that a State set up federally approved standards if it is to get any of the funds under this program.

In other words, Mr. President, here is another case of the Federal Government dangling the carrot before State and local school authorities in order to take over the control of what the committee accurately described as the foundations of our public schools.

The only program that resembles this one that we have had before was the reading improvement program, which was established in 1974, was evaluated by the General Accounting Office, and was held to be ineffective. We say, in effect, that one program has been eliminated, but what we are really doing is just embellishing that program and paying more money.

I would be opposed to this program even if we had plenty of money, because I think basic skills can best be handled by local education authorities. What may be needed, or decided is needed, by HEW here in Washington may not be what the authorities in North Carolina think would be best. But even if they were desirable, we do not have the money. We cannot afford to continue to appropriate three-quarters of a billion dollars for everything and ever expect to balance the budget and bring inflation under control. I am concerned about this, and I feel sure that the Appropriations Committee will be concerned about it, as well as the Budget Committee. I do not think it is a time to start new programs.

Mr. President, I reserve the remainder of my time.

Mr. PELL. Mr. President, title II deals with improvement of basic skills on a totally voluntary basis. HEW would have absolutely no authority to impose tests or standards. The title would simply support States and school districts which wanted to undertake comprehensive programs to improve reading, writing, and math skills or to test their students' competency in basic skills.

It is a $47 million provision replacing an existing $27 million provision.

The estimate cited by the Senator from North Carolina of $69 million was the estimate that was given by the Congressional Budget Office. But the statement of the administration was that they wished to spend $47 million. It would replace the present program, which has not worked out, of $27 million. What it really does is to go after the problem that has plagued us all about which we know, and that is that we have youngsters going through school who wind up unable to read, write, or compute.

This matter received a great deal of publicity and attention about a year and half ago, and the committee sought to attack this problem. Title II represents the way we felt it could best be handled.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. PELL. I yield the remainder of my time to the Senator from New York.

Mr. JAVITS. Mr. President, Members should read pages 36 and 37 of the committee's report. The facts are horrendous about the actual illiteracy of many who graduate from high school.

A Gallup poll showed last year that 83 percent of the American people favor "a back to basics movement," and other surveys indicated that more than 65 percent of U.S. parents do not believe their children are receiving adequate instruction in basic skills.

It is true that you cannot throw money at a program; nor can you neglect a situation where the complaint is so wide-

spread about the basic skill effectiveness of American education with respect to the American child.

So we are trying to do something about it. Considering the size of the national educational effort, spending about $120 billion a year, this is throwing very little money at the problem. To make this money useful will take a lot of brains and a lot of efficiency; but without some money—like oil for a major machine—you are not going to be able to accomplish anything.

So far as leaving it exclusively to the local communities and States is concerned, we have done that. and look at where we are.

So we have to try to improve the situation, at least with some sense of initiative and drive and stimulation from here.

It seems to me that this sum of money, under $50 million, is a very modest amount for this very basic problem in the whole American educational system.

For those reasons, I think we would be pennywise and pound foolish to strike title II from the bill. We all know it is not going to make any difference in the appropriation figure, considering the order of magnitude which is involved. This program is perhaps as useful as any in this bill. I strongly urge it upon the Senate.

Mr. MORGAN. Mr. President, the bill calls for a $54 billion authorization and such other funds as may be authorized. I went to the Congressional Budget Office and asked them to tell me what this title would cost, and they said it would cost $754 million in budget authority over the next 5 years and a $683 million estimated outlay.

Where we get into trouble in these bills is that we make a very small appropriation in the year we enact them, and then Congress has to cope with it as part of an uncontrollable budget down the road. If we ever are going to balance the budget, we have to look beyond that.

Mr. President, I do not know of any better authority to go to than the Congressional Budget Office, and that is their figure. So, as the Senator from Missouri said last night, if we want to build our record of budget cutting, this is a good time to start, because we would be eliminating a program that I think will not be effective.

As the Senator from New York said, 83 percent of the people do want to go back to the basics. They want to go back to teaching the basics of reading and writing that we were taught. They want to get away from some of these programs that have been encouraged by Federal grants and Federal funds. At the same time, it will eliminate the need for the Senate to continue to appropriate a total of $683 million in the next 5 years—and the Lord only knows how much beyond that.

I hope we will vote to strike this. Then, if there is a real need for it, let us have some public hearings next year. It is no more than 5 months away. We should do this rather than create another program that will run forever. Once you create them, you just do not ever stop them.

I hope Senators will vote to strike this and send the committee back to the drafting board.

Mr. PELL. Mr. President, the $54 million cited by the Senator from North Carolina was the amount for the reading fundamentals program over a 5-year period.

The estimate of the Congressional Budget Office is exactly as the Senator said, $69 million, with the administration proposing to spend $47 million in the following calendar year. The $54 million figure cited by the Senator was for a 5-year period.

I hope the amendment will be defeated.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. PELL. I yield.

Mr. MAGNUSON. What is the percentage of the local contribution?

Mr. PELL. There are no provisions for matching funds in title II. It is a seed program which we would like to see taken on.

In general, as the Senator knows, the local contribution to the total cost of education is about 93 percent.

Mr. MAGNUSON. It is 93 percent of the total cost of education, about 92 percent really. But who is going to administer this program? Are we going to give it to the local people without a handle, or are they going to make a contribution? Obviously, it will not help all the schools all over the country unless this is a special Federal program.

Mr. PELL. The programs under title II will be administered by local people.

The PRESIDING OFFICER. The time of the Senator has expired.

The question is on agreeing to the amendment of the Senator from North Carolina. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Louisiana (Mr. LONG) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from New Mexico (Mr. DOMENICI), and the Senator from Nevada (Mr. LAXALT) are necessarily absent.

The result was announced—yeas 30, nays 62, as follows:

[Rollcall Vote No. 360 Leg.]

YEAS—30

Bartlett	DeConcini	Nunn
Bellmon	Durkin	Proxmire
Bentsen	Glenn	Sasser
Bumpers	Goldwater	Schmitt
Byrd, Harry F., Jr.	Helms	Scott
Byrd, Robert C.	Hodges	Stennis
Chiles	Hollings	Talmadge
Church	Lugar	Wallop
Curtis	Magnuson	Young
Danforth	Morgan	
	Muskie	

NAYS—62

Abourezk	Eagleton	Hathaway
Allen	Ford	Hayakawa
Bayh	Garn	Heinz
Biden	Gravel	Huddleston
Brooke	Griffin	Humphrey
Burdick	Hansen	Jackson
Cannon	Hart	Javits
Case	Haskell	Kennedy
Chafee	Hatch	Leahy
Clark	Hatfield, Mark O.	Mathias
Cranston	Hatfield, Paul G.	Matsunaga
Culver		McClure
Dole		McGovern
McIntyre	Randolph	Stevenson
Melcher	Ribicoff	Stone
Metzenbaum	Riegle	Thurmond
Moynihan	Roth	Tower
Nelson	Sarbanes	Weicker
Packwood	Schweiker	Williams
Pearson	Sparkman	Zorinsky
Pell	Stafford	
Percy	Stevens	

NOT VOTING—8

Anderson	Eastland	Laxalt
Baker	Inouye	Long
Domenici	Johnston	

So the amendment (No. 3537) was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is now open for further amendment. The Senator from Oklahoma.

UP AMENDMENT NO. 1764

Mr. BELLMON. I send an amendment to the desk and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment numbered 1764.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike section 5(c)(2) of Public Law 94-874.

Mr. BELLMON. Mr. President, I can explain very quickly what this amendment does.

Last night there was an effort made to strike out the funding for the so-called "B" students. That amendment by Senator EAGLETON and myself lost.

As the bill now stands, there is a provision for the continuation of the so-called tiered funding approach which says that before we can provide money for the "A" students in any "tier," we have to provide money for all other classes of students in the "tier."

This device is designed to force appropriations for all of the different kinds of payments that are authorized in the bill. It precludes an appropriations committee decision to reduce payments for out-of-county students, for instance, unless we are also willing to reduce payments for the "A" students whose parents live and work on Federal property.

Another example is that the first and second tiers must each be fully funded. Neither tier can be partially funded under the act as it is now written.

I supported an amendment last night, to require a study of funding in impact aid, to examine the distributional effects compared to the stated objects of this program. I see no reason to await the results of a study to eliminate this appropriations-forcing provision.

Mr. President, what this would do is simply strike out the tiered funding and

make it possible for Congress each year to determine the proper level of funding for the "A" and "B" students and for and others in the program. So it is a simple amendment; but it does have a profound effect on the bill.

I ask unanimous consent that the committee be authorized to make necessary technical and conforming corrections to comply with my amendment, if it is adopted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. BELLMON. I would be very happy to yield.

Mr. JAVITS. Mr. President, it seems to me this is quite consistent with what the Appropriations Committee was talking about. They very carefully cut out the tiers because impact aid is the sacred cow around here, and that is what I protested against last night.

We wanted a piece of the sacred cow, and if we were not going to get one, my inclination is personally—and I do not speak now for the minority, because that would be quite improper—but as one Senator I intend to support the Senator's amendment.

I think if the Appropriations Committee is going to be free to pick and choose, it ought to be free to pick and choose on impact aid, too. I believe that the indications we give about tier 1, tier 2, tier 3 are good indications, good guidelines, and I am sure they will pay a lot of attention to them.

But to be absolutely latched onto them in the sense that, as they say, they are forced to appropriate for tier 1 if they want to reach tier 2, that is exactly what Senator MAGNUSON was moving against. So I agree with him. If that is the way we are going to do it, let us do it right across the board, and I shall support the amendment.

Mr. PELL. Mr. President, I understand the vexation and aggravation of the Senator from New York with what happened yesterday on public housing. As he knows, I joined with him in opposing that amendment, but I believe that this amendment would be harmful. It would be very harmful to those communities which have many category B students, and it would give the Appropriations Committee carte blanche to pick and choose among the various tiers. The existing structure of the law provides school districts with a measure of certainty as to their impact aid payments for any school year. Eliminating the tier system would destroy this certainty. School districts would not be able to plan their budgets from one year to the next. I think that decisions regarding categories of eligible impact aid children, and priorities for funding among such categories, should really be the job of the authorizing committee.

For that reason, I will be compelled to vote against the amendment of the Senator from Oklahoma.

Mr. BELLMON. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BELLMON. Before yielding back the remainder of my time, let me say that the statement just made by the distinguished Senator from Rhode Island, I feel, supports the position I have taken here, that is, that the Congress, not just the Appropriations Committee, but the whole Congress, should have the right every year to look at not only the spending levels for this program, but for other programs as well. One of the reasons why we find ourselves in such a financial bind is that we have locked in so many entitlement programs—or in this case tiered programs—that we do not have the flexibility we need to adjust the funding levels to the needs of the various programs as the years go by.

The PRESIDING OFFICER. The question is on agreeing to the amendment (UP No. 1764) of the Senator from Oklahoma (Mr. BELLMON). The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mr. JOHNSTON), the Senator from South Dakota (Mr. ABOUREZK), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from New Mexico (Mr. DOMENICI), and the Senator from Nevada (Mr. LAXALT) are necessarily absent.

The result was announced—yeas 57, nays 35, as follows:

[Rollcall Vote No. 361 Leg.]

YEAS—57

Allen	Glenn	Moynihan
Bartlett	Goldwater	Muskie
Bayh	Griffin	Nelson
Bellmon	Hansen	Packwood
Bentsen	Hart	Pearson
Bumpers	Hatch	Proxmire
Burdick	Hatfield, Mark O.	Riegle
Byrd, Harry F., Jr.	Hayakawa	Sasser
Byrd, Robert C.	Helms	Schmitt
Chafee	Hollings	Scott
Chiles	Huddleston	Sparkman
Clark	Humphrey	Stafford
Cranston	Inouye	Stevens
Culver	Javits	Stone
Danforth	Leahy	Talmadge
DeConcini	Lugar	Thurmond
Eagleton	Magnuson	Wallop
Ford	McGovern	Weicker
Garn	Morgan	Young

NAYS—35

Biden	Hathaway	Nunn
Brooke	Heinz	Pell
Cannon	Hodges	Percy
Case	Jackson	Randolph
Church	Kennedy	Ribicoff
Curtis	Long	Roth
Dole	Mathias	Sarbanes
Durkin	Matsunaga	Schweiker
Gravel	McClure	Stevenson
Haskell	McIntyre	Tower
Hatfield, Paul G.	Melcher	Williams
	Metzenbaum	Zorinsky

NOT VOTING—8

Abourezk	Domenici	Laxalt
Anderson	Eastland	Stennis
Baker	Johnston	

So the amendment (UP No. 1764) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. The Senator from Rhode Island.

Mr. PELL. Mr. President, I yield to the Senator from Alaska.

UP AMENDMENT NO. 1765

Mr. GRAVEL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. GRAVEL), for himself and Mr. ABOUREZK, Mr. MCGOVERN, Mr. STEVENS, and Mr. DOMENICI, proposes an unprinted amendment numbered 1765.

Mr. GRAVEL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following:

Section 703(a)(1) is amended by striking out "and" at the end of clause (A), by inserting "and" at the end of clause (B) and by inserting after Clause B the following new clause:

"(C) individuals who are American Indian and Alaskan Native, students and who come from environments where a language other than English has had a significant impact on their level of English language proficiency subject to such regulations as the Commissioner determined to be necessary;"

UP AMENDMENT NO. 1764—MOTIONS TO RECONSIDER AND TABLE

Mr. BELLMON. Mr. President, I move to reconsider the vote by which the last amendment was agreed to.

Mr. SCOTT. Mr. President, I move to lay that motion on the table.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move to reconsider the vote by which the last amendment was agreed to.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BELLMON. Mr. President, I move to reconsider the vote by which the last amendment was agreed to.

Mr. SCOTT. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRAVEL. Mr. President, the cosponsors of this amendment are Mr. ABOUREZK, Mr. MCGOVERN, Mr. STEVENS, and Mr. DOMENICI.

This amendment would very simply add a subsection that would extend the definition of limited English proficiency to include individuals who are American Indian and Alaskan Native students and who come from environments where a language other than English has had a significant impact on their level of English language proficiency.

Mr. PELL. Mr. President, we have had a chance to look over this amendment and have discussed it with the proponents. We think it is a good amendment and we are willing to accept it.

Mr. JAVITS. Is this in the bilingual program?

Mr. GRAVEL. Yes.

Mr. JAVITS. Are there adequate instructors in those native languages?

Mr. GRAVEL. Yes.

Mr. JAVITS. What does our staff say, I inquire of Senator PELL? In other

words, are we doing a vain thing here in writing this into the law?

Mr. PELL. I do not know and I do not think our staff knows if there are enough Alaskan natives to do the job, but this authorizes it. Obviously, if there are no instructors, there is no program.

Mr. JAVITS. Be it understood that if we take this into conference, we shall have to examine the pragmatic aspects of it. I have no objection to taking it into conference and it sounds like the right thing to do, but we shall have to discuss it with the Department.

I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

● Mr. KENNEDY. Mr. President, I rise in support of S. 1753 as reported by the Committee on Human Resources, and urge my colleagues to pass it without major amendment. S. 1753 is indeed a landmark piece of legislation which I firmly believe will provide for a tremendous improvement in the delivery of educational services provided by Federal dollars.

I am particularly pleased with the provisions the committee has adopted for title I, the centerpiece of the Elementary and Secondary Education Act. Throughout the 12-year history of the title I program, Congress has demonstrated its concern about the educational barriers encountered by poor and disadvantaged children, and has demonstrated its continuing commitment to helping these children surmount these barriers. Moreover, we have consistently strengthened the title I mechanisms originally instituted to insure that the program will continue to focus on students with the greatest need for special assistance.

In developing the legislative provisions for title I, the committee was guided by the wealth of research and evaluative information which is now available concerning the program. In addition, the committee has been responsive to the broad range of concerns about title I raised by representatives of diverse interests. Our thorough consideration of these inputs has culminated in a bill which provides greater clarity and direction to assist administrators at the Federal, State, and local levels in implementing the title I program; and provides for greater program and fiscal accountability.

One aspect of the title I program that is of special interest to me is parental involvement. Parental involvement is one of the most viable and educationally sound components of title I. The role of parents in the title I program has been strengthened during the 12-year history of the program. In 1974, Congress amended title I to require the establishment of parent advisory councils to advise school districts in the planning, implementation, and evaluation of the program. In 1976, we added a requirement that parent advisory councils also be established at each school served by the title I program. While many school districts have been very supportive of parental involvement in all phases of title I, parent advisory councils in many other school districts have not been afforded the opportunity to function as the law intended.

Accordingly, the committee has adopted several amendments I introduced which will provide for greater unifomity in the procedures for establishing parent advisory councils, and will enhance the effectiveness of these councils. These amendments: First, establish a minimum size for school level advisory councils to insure adequate membership; second, provide for greater representation on councils for parents of program participants; third, provide for the election of members and officers to terms of sufficient duration to promote greater continuity of the councils; and fourth, stipulate that adequate training and information must be provided for council members so that they can acquire the knowledge and skills necessary to make them effective representatives of parents in the community and advisors to local school officials.

I have also offered two amendments which delegate to the U.S. Office of Education and the National Institute of Education further responsibility for promoting and facilitating parental involvement in title I. Pursuant to these amendments, the Commissioner of Education will sponsor regional workshops on parental involvement which will assist local title I officials in working more effectively with title I parents and parent advisory councils. In addition, the National Institute of Education will identify and develop model training programs for parents who serve on advisory councils. Through these two mechanisms, parents and administrators will be better able to work together cooperatively for the benefit of title I children.

Another concern I have about title I is the need for improved Federal administration and enforcement of the program.

To insure greater accountability for the Federal administration of the title I program, I have also offered an amendment which will require the Commissioner of Education to submit to Congress a biennial enforcement report concerning the compliance and enforcement activities of the Office of Education. The enforcement report will provide the information that is basic to the oversight of OE administration of title I.

An important issue related to title I which is addressed by S. 1753 is the need for continued compensatory services for pupils who formerly attended title I eligible schools but who no longer attend eligible schools because of reassignments or attendance area changes pursuant to desegregation plans. As many of my colleagues will recall, the Education Amendments of 1976 provided a special set-aside under the Emergency School Aid Act (ESAA) to provide compensatory services to students under such circumstances.

These funds will be available to school districts for the 1978–79 school year. To insure the continuation of special funds designated specifically for the purpose of providing compensatory services for students who are no longer receiving title I services as a result of a school district's implementation of a desegregation plan, I have offered an amendment to title VI of S. 1753, which authorizes an annual appropriation of $7.25 million for this purpose for the next 4 fiscal years. Moreover, additional appropriations are also authorized should the number of eligible students increase significantly in the future.

Mr. President, I am also pleased that S. 1753 adopted my amendment to include biomedical education which authorizes up to $40 million in grants to institutions of higher education to conduct partnership programs with area high schools.

Projects would provide after-school and summertime motivational encouragement and academic enrichment in the basic sciences, mathematics, and written comprehension and express for disadvantaged students from the 9th through 12th grades. As you know, there is a severe underrepresentation of minority and disadvantaged students in our Nation's medical schools. As a result, many disadvantaged communities have little access to quality health care.

Four years ago I was privileged to sponsor a demonstration of Project SEED for the Senate. At that time, a fifth grade class from a public school in Anacostia showed us that they were capable of doing mathematics that troubles many college graduates. The children had been taught for less than a week by Project SEED instructors, professional mathematicians and scientists, who teach high school and college level algebra on a daily basis to children from poverty and minority backgrounds. Because all students start at the same level in advanced mathematics and because the SEED instructors use a group discovery approach that encourages all students to participate, the children are successful no matter what their prior experience in mathematics has been. The program provides an ideal vehicle for assisting school districts in their desegregation efforts by providing an instructional setting in which students from different backgrounds interact and achieve together and in an academic subject. SEED also helps to overcome the effects of racial isolation by raising the achievement levels and self-confidence of minority students.

Following the demonstration, Senators MONDALE, TAFT, CRANSTON, BEALL, and I introduced an amendment which became section 708(a)(3) of the Emergency School Aid Act authorizing funding for mathematics programs such as SEED to assist school districts in carrying out the purposes of the act.

Gerald Klein, manager, Community and Urban Affairs for General Electric, wrote that—

> He regards SEED as the finest program of its kind ever developed, and dollar-for-dollar the best possible buy in supplemental educational programs.

The results which Project SEED has achieved in cities across the country during the past 3 years under ESAA

funding continue to demonstrate its effectiveness. Students from Browning, Mont., to Atlanta, Ga., and from Compton, Calif., to Boston in my own home State, gained 2 months in arithmetic achievement for each month in the program, regardless of their initial achievement levels—typically these students achieve at one-half to three-fourths the normal rate. This is an essential first step toward entry into scientific and technical jobs and careers, fields such as physics, engineering, and the biomedical sciences, that have been traditionally closed to students from minority and poverty backgrounds because of poor preparation in mathematics.

The program also has been successful in promoting the human relations goals of ESAA. I have received numerous letters from parents, teachers, administrators, and the students themselves, documenting the impact of the program in Boston. The comments of Mrs. Judy Fields, a teacher at the J. P. Timilty Middle School, are typical:

> What Project SEED has been most successful in doing is uniting students in each class from different areas together as a class. Students from different parts of the city are becoming as a group more concerned with the lessons. And most important students are conversing with each other, aiding each other and questioning what they are learning as a group.

The SEED program also provides in-service for the regular classroom teachers who incorporate mathematics and methodology from the program into their own teaching.

Project SEED's success has implications for educational needs beyond those arising from the desegregation process. There is a growing concern about declining proficiency in the most fundamental skills—reading, writing, and mathematics. Programs, such as Project SEED, which demonstrate success in raising the achievement levels of the most profoundly educationally disadvantaged segments of our society, can serve as models for educational change, and as yardsticks by which other innovative programs must be measured.

It is with this in mind that the committee incorporated the language of our 1974 ESAA amendment into the administration's basic skills recommendations as section 215, special mathematics programs.

Mr. President, in reviewing title VII of ESEA, the Bilingual Education Act, the committee approved several amendments that I feel strengthen the title and address the concerns expressed during the committee hearings.

Significant changes that were made include redefining of eligible participants. The term "children of limited English-speaking ability" has been changed to "children of limited English proficiency." I feel the new definition is less pejorative, proficiency is a more flexibile word and dropping the word "speaking" lessens the emphasis on verbal proficiency apart from reading and writing. An eligible participant is further defined as children who "have difficulty speaking, reading, writing, or understanding the English language at their appropriate age and grade levels. Children shall be considered to be proficient in English when they can speak, read, write and understand English at a level comparable to other children at their appropriate age and grade levels."

In response to a concern of parental lack of awareness of bilingual programs and goals, the committee added a new requirement that stipulates "parents of children particularly in a program of bilingual education, shall be informed of the institutional goals of the program and the progress of their children in such programs." This new requirement will enhance the parental involvement and provide the opportunity for heightened awareness of the bilingual program and its goals.

Under current law, 15 percent is earmarked for teacher training. The committee bill deletes this provision. A new provision mandates that the Commissioner determine that the applicant make "adequate provision for auxiliary and supplementary training programs in accordance with the relative training requirements of the statute."

In S. 1753, $20 million is authorized to carry out a strengthened research and development effort for 1979, and "such sums" for each year thereafter.

The committee bill also provides increased authcrizations for title VII from the current $160,000,000 for 1978 to $200 million for 1979, $250 million for 1980, and $50 million increments each year thereafter up to 1983's authorization of $400 million.

Mr. President, the committee's effort to strengthen title VII in my opinion will bolster the Federal effort in bilingual education and clearly indicate support for the students in need of bilingual services.

In closing, I wish to commend my colleagues on the Human Resources Committee for their excellent work. I strongly urge my other colleagues to unanimously endorse efforts of the committee.●

● Mr. HATHAWAY. Mr. President, I am pleased to support and cosponsor the pending bill which extends for 5 years a number of our most important Federal laws affecting elementary and secondary education—including the Elementary and Secondary Education Act, the Bilingual Education Act, the Emergency School Assistance Act, and impact aid, among others.

I am particularly gratified that the bill greatly simplifies and reduces paperwork burdens under title I of the ESEA, which since 1965 has formed the cornerstone of our Federal efforts to assist States and local educational agencies in meeting the needs of our disadvantaged children. Particularly helpful in this regard will be the policy manual to be made available to these officials.

Further, the bill contains a study to consider the possibility of allowing consolidated administration at the State level of a variety of Federal categorical grant programs, pursuant to the efforts of Senator DOMENICI and others. I shall look forward to reviewing the results of that study next year, and further considering proposals to reduce administrative burdens while preserving congressional intent.

The bill also establishes the gifted and talented program on a permanent basis. I was pleased to cosponsor the bill introduced by the Senator from New York (Mr. JAVITS) and to work for its inclusion in the pending omnibus measure.

The bill contains a number of improvements to the bilingual education program, which I have supported since its initiation in 1967.

In this regard, the bill includes the provisions of the Bilingual Education Equitable Distribution Act of 1978, which I introduced in April. This provides that in the consideration of inital grant application priority shall be given to underserved groups and regions, with a view toward equitable distribution throughout the Nation. Cited in the committee report as potentially eligible for this priority are Franco-Americans in New England. To further explain this amendment and its purposes, I would like to refer to the report language which states as follows:

> The committee further agreed to amend the Bilingual Education Act with respect to procedures to be utilized in the evaluation of initial grant applications for assistance under that Act.
>
> The amendment would require the Commissioner, in the consideration of initial applications from local educational agencies for bilingual education grant funds, to give priority to applications from such agencies located in geographical areas and proposing to assist children in need that have historically been underserved by programs of bilingual education. The amendment further requires that in approving such initial applications, the Commissioner shall to the extent feasible allocate funds in proportion to the geographical distribution of such children of limited English proficiency throughout the Nation with due regard for the ability of the local educational agency to carry out such a program, and the relative numbers of low income children sought to be benefitted.
>
> The committee strongly believes that effective bilingual education programs ought to be implemented to benefit all children in need of such services throughout the Nation. At the same time, it is recognized that budget realities preculude this goal from being immediately realized through Federal programs. Currently 255,000 children are served by federally funded bilingual demonstration grants. This is far short of the need, however, since the Committee has received estimates of children who could benefit which range from 800,000 to 3.6 million. Thus, the shortfall in program resources to program need could be between 1 to 3 and 1 to 10.
>
> Since it is not presently possible to establish federally assisted programs reaching all children in need of such assistance, the Committee believes that it is important to utilize scarce funds for demonstration programs and projects with a view toward stimulating interest and initiative among State and local educational agencies throughout the Nation which ultimately would lead to successful non-Federal programs.
>
> The Office of Bilingual Education is urged to continue its efforts to provide technical assistance to local educational agencies interested in applying for such assistance, and is encouraged to engage in active outreach programs to stimulate such interest. The Committee also takes notice of the potential need for bilingual education programs among Franco-Americans and Portuguese-Americans in New England, for Spanish speaking persons of Caribbean origin through the

Northeast, and urges the Office of Bilingual Education to give appropriate attention to applications designed to meet this need.

The committee stresses that this amendment is not intended to be used as a basis for redistributing funds to favor one language group over another exclusive of need. Projects grants should continue to be awarded according to the degree of need for assistance and the quality of the existing projects or future project proposals. It is anticipated that increased funding for title VII in future years will enable the Commissioner to reach regions and groups which have historically been underserved.

Amendments requiring that the Federal bilingual program be staffed by individuals with experience in the field, and that instructional materials be upgraded should further strengthen this program.

Finally, an amendment to require that the Secretary submit to Congress by the end of 1981 a report on the procedures necessary to convert this program from a discretionary grant program to a formula grant program will be most helpful.

In this way Congress would be in a position to carefully consider such a proposal. At this point in time it is clear that there is a great unmet need for bilingual education. Currently 255,000 children are served by federally funded bilingual programs. But the estimated need ranges from 800,000 to 3.3 million for a shortfall of up to 10 to 1.

These factors were motivations behind my amendment to give priority in considering initial grants to areas and groups which have been underserved, and to move toward an equitable geographical distribution. As the committee report notes, there is an unmet need for such programs in New England among Franco-Americans, and this is particularly true in the State of Maine.

I look forward to this amendment providing momentum to meet all of these unmet needs.

The bill also contains the provisions of S. 2885, a bill I introduced in April to increase the authorization of funds for teacher centers and training programs to $100 million for the upcoming fiscal year, and to encourage statewide applications. These centers are vitally important to allow teachers to formulate curricula to meet the needs of their locality and to discuss alternative proposals with each other. The interest in this program is quite strong. The committee report points out that over 1,500 applications are pending but even if the program were fully funded at the current level of authorizations, only 400 could be funded. Under current appropriations, only 60 have been funded.

The bill also contains provisions establishing a 15-member advisory panel on the financing of elementary and secondary education. This panel would be charged with conducting a study of the financing prospects of public and private education over the next decade and the appropriate Federal role. It would be a high-ranking entity within the Department of Health, Education, and Welfare and its members would be appointed by the President.

I was pleased to propose this along with the Senator from Michigan (Mr. RIEGLE), and to have perfected it to include private education, along with the Senator from New York (Mr. MOYNIHAN).

Such an effort is vital to the future of our education policy. It has long been my view that education financing ought not to rely primarily on property taxes or sales taxes or other regressive mechanisms which hit those in the low- to middle-income range hardest, but rather should rely on progressively structured income taxes. I urge this panel to consider these and other issues.

The bill contains some very important provisions in the proposed new title II emphasizing basic skills. These provisions provide funds for States to formulate comprehensive plans to upgrade basic skills with greatest emphasis on oral and written communication skills and mathematics. It is strongly supported by the administration and I look forward to its successful implementation.

I do have a couple of concerns regarding this title. It allows for grants to States or local educational agencies, with a view toward fostering demonstration and experimentation. I would urge that where there has been a demonstrated success in a particular State and where the State has formulated a comprehensive plan, that funds be made available to the State to carry out that plan and channel funds to the local educational agencies within its borders.

It is for all the reasons which I have detailed here that I am pleased to give my support to this bill, and would also urge my colleagues to lend their support.●

EARLY CHILDHOOD PROGRAMS AND TRIO: ESEA AMENDMENTS

● Mrs. HUMPHREY. Mr. President, it had been my intention to call up amendments which focus on the critical needs of children in the early stages of their development. Since there are similar provisions in the House-passed version of this legislation, I believe the best course would be to accept these provisions in the House-Senate conference on the final bill.

These provisions establish specific authority for expanding vitally important early childhood and family education programs. These programs are based on the concept that learning begins at birth; and, that, while classroom instruction is important, early learning is crucial. They provide not only service, but also support to parents in educating their children.

My amendments would provide authority for special service components which provide educational and counseling services to parents of preschool children. They would also establish a means to identify potential barriers to learning and establish a referral service whereby eligible programs could tap into other sources of funding at the State, Federal, local, and private levels. In essence, these amendments establish a coordinated system for improving services to preschool children and their parents involved in developmental programs. It must be pointed out that these efforts are nonduplicative of those that other agencies such as Head Start or daycare perform.

I would also like to take this opportunity to thank Senator CLAIBORNE PELL, chairman of the Subcommittee on Education, Arts, and Humanities, and Senator ALAN CRANSTON, chairman of the Veterans' Affairs Committee, for raising the issue of extending the eligibility age of Vietnam veterans for participation in the veterans upward bound project. This revision, which I initially had recommended, is intended to reach those individuals who had dropped out of school, or those who had graduated but were not able to compete in postsecondary training.

Since this was a 9-month program, veterans upward bound was put under the Office of Education's TRIO program. The focus of the TRIO program is on disadvantaged youths. The TRIO program covers those who are aged 14 to 27.

We now find that there might be as many as 2 million Vietnam veterans who could participate in this program. What it means for them is a chance to finish their education, to have an opportunity for a better job, or a chance for their first job.

It has been determined by Senator PELL and Senator CRANSTON that the responsibility for advancing the age limitation for this program lies within the jurisdiction of HEW. They have urged that regulations be set forth which will change the age limit of TRIO. This seems an entirely reasonable approach, and I urge that HEW make this extension of age as soon as possible so that Vietnam veterans have the opportunity to participate in the veterans upward bound program.●

Mr. PELL. Mr. President, I ask for third reading.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order, the Senator from Virginia has 10 minutes.

Mr. HARRY F. BYRD, JR. I yield to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I am grateful to the distinguished Senator from Virginia.

As ranking majority member of the Subcommittee on Education, Arts, and Humanities of the Committee on Human Resources, it is a personal privilege to support our committee's reported bill, S 1753, the Elementary and Secondary Education Act Amendments of 1978.

I commend our colleague from Rhode Island (Mr. PELL) chairman of the subcommittee, and the Senator from New Jersey (Mr. WILLIAMS), the able chairman of the Committee on Human Resources, and the Senator from New York (Mr. JAVITS), our ranking minority member, for their efforts in this reauthorization legislation to the Senate.

A positive vote for passage will insure that our children are given access to more effective, more responsive and more equitable educational opportunities. Our subcommittee, and its parent Committee on Human Resources, have long exercised strong leadership in fashioning necessary reforms to upgrade educational programs throughout our Nation.

We have reaffirmed our commitment to education for children from low-income families as provided in our simplified version of title I. In addition to the regular basic entitlements under title I for compensatory education, we have adopted incentives to encourage States to fund their own compensatory education programs, with $1 in Federal funds to match every $2 appropriated by the States. We have also adopted a new program of grants for counties with high concentrations of children from low-income families, with an authorization of $400 million.

A new title II provides assistance to States and local educational agencies for programs to assist in the improvement of the basic skills—reading, mathematics, and communications—both oral and written—the Basic Skills and Educational Proficiency Act. Our reforms of other titles, including bilingual education, the Emergency School Aid Act, Native American and minority students programs, education for the handicapped. State leadership, Ethnic Heritages Act, and women's educational equity programs, recognize the special role they contribute in providing extra resources to educational opportunity so vital to students from all segments of society.

I am especially gratified with new guidance and counseling authorities and the community schools title which allow schools to become an increasingly important part of the general community through matching those funds with moneys received under other community-based Federal programs.

In this measure we have strengthened programs already proven effective and improved programs which have experienced difficulties in the past. I commend those who gave us their counsel during public hearings on this legislation. These amendments are based on oral and written testimony submitted by witnesses from all walks of life—from the Secretary of HEW, Members of Congress, and national, State, and local leaders in the education community, all of whom regard education as a top domestic priority. Education has long been a major concern to me, and I have worked to provide not only access to, but quality in, education for all those who seek to learn. In this we underscore our commitment to stop future litanies concerning educational declines, of which we have heard and seen so much in the recent past.

Mr. President, I embrace this legislation and its implicit promise that new ways must be found, and will be implemented nationally, to teach children in such a manner as to prepare them for life and life's challenges.

During committee consideration of this bill, Mr. President, I cosponsored an amendment with Senator HAYAKAWA that was a modified version of S. 1780, introduced by Senators DOMENICI and BELLMON, which had 17 cosponsors in the Senate. S. 1780 proposed a 6-State demonstration project, to authorize the Commissioner of Education to certify a consolidated funding and accountability approach to education programs. It permitted States to operate their own programs free of the paperwork and redtape burdens currently imposed by Federal regulation. This measure was defeated in committee with a compromise to authorize and fund a study to determine the feasibility of S. 1780 as a demonstration effort in public education policy.

Since reporting this legislation, the committee staff has enlisted the services of the Educational Policy Research Institute of Washington, and the Congressional Research Service, both of which have presented acceptable outlines of their approach to analyze the potential impact of the consolidation proposal on education programs.

I have not taken part except very briefly in the debate on this legislation and the amendments that have been offered. I did have the privilege of working with the able chairman of our committee and also Mr. WILLIAMS and the helpful Senator from Rhode Island (Mr. PELL), the chairman of the subcommittee. I want to thank Senator JAVITS and others on this legislation, who fashioned it in the subcommittee and then in the full committee. It is an important legislative advance. It is creative, it is innovative; yet it is balanced and it strengthens the primary and secondary education program through amendments that were necessary to be passed this year.

Mr. HARRY F. BYRD, JR. I yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, Senator CRANSTON and I think it would be helpful to make a clarification regarding the deletion of the words "to progress effectively through the educational system" on page 275, section 704(i).

There are two points we would like to clarify on that change: first, that this deletion does not suggest that English language instruction is all that is needed; rather special instruction in basic subjects such as math and science are also critical as is continued emphasis on bilingual modes of instruction in title VII projects.

Second, the deletion does not in any way suggest that English language competence is an end in itself; rather, that competency is a means of the child's achieving his or her right to equal educational opportunity in the school system.

I think both of these points are clear from the full context of the provision in question. Does the distinguished floor manager agree?

Mr. PELL. I do agree. We have worked this colloquy out together. I believe the minority floor manager has a comment.

The PRESIDING OFFICER. The Chair advises that it will require unanimous consent to amend the bill after third reading.

Mr. KENNEDY. No; this is just legislative history, Mr. President.

Mr. JAVITS. Mr. President, respecting this particular question, I agree with the construction which is contained in the question. I should like to add this comment: We all realize that there is a certain tug of war as to when bilingual education is completed. Is it when the English language is reasonably learned, or is it when the capability of equal achievement in the whole education system has been attained? I believe that Senator MORGAN's amendment has determined that issue, at least for the Senate version of the bill. That is a fair resolution; to wit, 2 years with an individual evaluation at the end of that time for the individual child.

I believe that the construction put upon this language, which was stated and requested by Senator KENNEDY, is entirely consistent with the total policy of the bill.

Mr. KENNEDY. I thank the Senator.

Mr. CRANSTON. May I briefly say that I fully share the concern of the Senator from Massachusetts. I appreciate the clarification by the manager of the bill.

Mr. KENNEDY. I thank the Senator from Virginia.

Mr. HARRY F. BYRD, JR. I yield to the distinguished Senator from Washington, Mr. President.

Mr. BELLMON. Will the Senator yield?

Mr. HARRY F. BYRD, JR. I yield to the Senator from Oklahoma.

THE EDUCATION AMENDMENTS OF 1978 (ESEA)

Mr. BELLMON. Mr. President, the effectiveness of programs under this legislation is the standard by which many will measure the Federal commitment to the future of our young people. Education is a bright flame that helps fuel the national social melting pot and the expectation of a better tomorrow which characterizes America. The Elementary and Secondary Education Act is the cornerstone of the Federal Government's commitment to improved education.

For the most part, the bill before us today promises to fulfill our commitment and offers a standard against which we should be proud to be measured. For example, S. 1753 is designed to provide assistance to students from economically disadvantaged families; and the new concentration grants program included in the bill will provide additional assistance to districts with particularly high proportions of students from economically disadvantaged families. Most of the districts which will receive assistance under the new compensatory program are either in large cities already facing financial crises or in depressed rural areas. These areas do not have the tax base to finance the extraordinary costs of educating their large disadvantaged student populations, particularly in this time of rapidly growing costs.

Further, I support other compensatory programs which will be funded under the proposed legislation. We must focus our resources on critical problem areas—those where the States and localities have proved unable or unwilling to deal adequately with educational challenges such as compensatory education and desegregation assistance.

Having praised certain aspects of the bill, I nevertheless have had several concerns and specific objections with the reported bill. One concern involves the

general spending levels for education. Mr. President, Federal expenditures for education increased 16 percent from fiscal year 1977 to 1978. If we stay within the targets established in the first concurrent resolution on the budget this year—which seems by no means certain—they will increase another 18 percent, from fiscal year 1978 to 1979. Mr. President, we are now raising Federal spending on education by more than $1.5 billion each year. And because we start each year from a larger base, unless we arrest the trend, we will be raising Federal spending over $3 billion annually within 5 years. Even with the improvements made in this bill over the last 24 hours, I am still concerned about education spending levels.

Mr. President, I had other specific objections to this bill which I am pleased to say have been addressed by the actions taken on this bill last night.

My specific objections with this bill fell into three categories: First, a major expansion of the impact aid program; second, a number of entitlement-like provisions designed to limit the discretion of the Appropriations Committee, and the Senate as a whole, in our annual reviews of competing priorities; and third, a major expansion of Federal assistance to private schools.

First, I was concerned that the committee's recommendations regarding impact aid simply did not recognize the discomfort with which many of us have watched this program grow like topsy. Secretary Califano has said that it has "become an annual rite of spring" for the administration to march up on Capitol Hill with proposed reforms in the impact aid program, and to come down again emptyhanded.

Indeed, the Carter administration proposed a series of reasonable "reforms" in the impact aid program this year. The Human Resources Committee, however, not only rejected out of hand the administration's proposed reforms, it recommended in the bill before us that we broaden eligibility to include children of postal workers, for instance, and that we expand the funding for this program.

I cosponsored the Eagleton amendment to delete expansion of impact aid to postal workers and otherwise limit expenditures in this program. I am pleased that my colleagues supported this amendment. Another feature of the impact aid proposal before us about which I am seriously concerned, Mr. President, is the continuation of the "tiered funding" approach. This device is designed to force appropriations for all of the different kinds of payments authorized in the bill. It precludes an Appropriations Committee decision to reduce payments for out of county "B" students, for instance, unless we are also willing to reduce payments for "A" students whose parents live and work on Federal property. Another example is that second "tiers" must be each fully funded, neither "tier" can be partially funded under the act. I supported an amendment to require a study of "tier funding" in impact aid to examine the distributional effects compared to the stated objectives of this program. Mr. EAGLETON and I failed in our attempt to eliminate payments for all but "A" students; but amendments adopted last night are a start toward bringing this program under control. My amendment would allow Congress to determine annually the proper level of appropriation.

My second basic objection, Mr. President, involved other provisions in the bill which constrain appropriations and budgetary control over funding levels and force minimum appropriations for specific programs. One such provision involved the concentration grants program. I support that program. I supported funding for the new concentration grants program during markup on the first concurrent resolution on the budget. But my concern for the integrity of the budget and appropriations processes is not limited to programs I do not like; it also extends to those programs I support. This bill reserved the first $400 million appropriated for title I for the new concentration grants. Unless the Appropriations Committee wanted to cut the regular program below current levels, they would have been required to fully fund this new program. I am gratified that we eliminated the mandatory minimum appropriations for this program.

Further, I applaud the Human Resources Committee's action in attempting to create inducements to States to set up their own compensatory education programs, Mr. President. I think the new program, proposed in this bill, to provide a Federal match for States which undertake to establish such programs is well conceived and certainly preferable to full Federal funding. But as the bill was presented to us, Mr. President, it required that once this program was funded, it would always have continued at the previous year's level. Again, I am pleased that the Senate eliminated this provision.

Another similar provision of the bill mandated minimum appropriations for the guidance, counseling and testing service to be funded under the act. We can properly ask, in view of these provisions, why the committee did not just recommend we mandate minimum appropriations for everything under the act? For that matter, why do not all committees do the same thing for all programs under their jurisdictions? Or why not go even farther, and simply mandate appropriations levels, period, for all programs, in all authorizing legislation? Then we could just disband the Appropriations Committee; and the Budget Committee's job would be reduced to an annual review of requirements under all existing legislation—and possible later requirements under proposed new legislation, much as we do in the entitlement programs now. I will tell you why not. If we continued in this fashion, there would be no hope, ever, for controlling Federal expenditures; and if you and I go home and tell our constituents that we have given up all hope of controlling Government expenditures, I can assure you, our constituents will eventually replace us here with a new group of Senators who are, at least, willing to try. I cosponsored an amendment to eliminate the new minimum funding provisions and spending triggers; and I am pleased that this amendment carried.

Finally, Mr. President my third objection involved the proposal for a major expansion of Federal assistance to private elementary and secondary schools. As much as I favor high quality education I simply cannot support this provision. Competition is a great thing. It is the very heart of our economic system. But competition with yourself is foolish. If our public schools are inadequate, let us improve them. No matter how fine our public schools are, there will always be people who choose to send their children to private institutions. Let them. But I cannot be a party to deliberately constructing parallel, duplicate systems, with the taxpayers' money, in the name of freedom of choice. The message from the taxpayers all over the country should be clear to all of us by now. They want less—not more; smaller—not larger; more efficient—not less efficient, government. In the face of all this sentiment, and in the face of commonsense, I cannot agree to systematically spending tax money to fund another system to compete with our public schools.

Mr. President, I wish to thank and congratulate the managers of the bill for their diligent efforts to improve existing programs and their cooperation with others concerned about education. While we did not always agree, their staff worked long and hard with other Senators and staff members to try to work out our differences. As my colleagues know, the managers were able to agree to many of the amendments, which I believe have made this a better bill—and because of the extremely complex nature of this legislation, their assistance was invaluable.

With the changes that have been made, I am pleased to support S. 1753, Mr. President, and I urge my colleagues to do likewise.

Mr. HARRY F. BYRD, JR. Mr. President, it is not pleasant elementary and secondary education authorization bill. Indeed, it is most unpleasant.

But the legislation before the Senate today would authorize to be appropriated for fiscal year 1979 an amount of public funds twice as great as the amount appropriated for the current fiscal year.

To me this is unreasonable.

In addition, the legislation provides for a substantial increase over 1979 for fiscal year 1980, and another substantial increase for fiscal year 1981, and another substantial increase for fiscal year 1982.

In addition, the bill before the Senate today further injects the Federal Government into the operation of the local public schools.

As the chairman of the Budget Committee noted last night, in reply to a question that I asked, the $11 billion the pending legislation authorizes to be appropriated for 1979, if fully funded, is double the amount approved by the first budget resolution a few months ago. That amount, as Senator MUSKIE noted was $5.2 billion.

I end by quoting a query I put last evening to the Senator from Rhode Island (Mr. PELL), floor manager of the pending legislation, as reported in the CONGRESSIONAL RECORD of August 23:

> Mr. HARRY F. BYRD, JR.: So what your committee is asking the Senate to do is to authorize twice as much money as is being spent in fiscal 1978; is that correct?
>
> Mr. PELL: That is correct.

I am not willing to vote to authorize for next year twice as much money as is being spent in the current year.

I shall vote against the pending legislation.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SCOTT. Mr. President, I wish to associate myself with the remarks made by my distinguished friend and colleague from Virginia. There had been some indication a few minutes ago that this bill that might ultimately authorize as much as $50 billion——

Mr. HARRY F. BYRD, JR. $55 billion.

Mr. SCOTT. Fifty-five billion dollars—might be carried on a voice vote. I should say that any time any bill is before the Senate that involves $1 billion, we ought to have our name recorded for or against that bill.

I thank the distinguished Senator for yielding.

Mr. HARRY F. BYRD, JR. I thank my colleague.

Mr. JAVITS. Mr. President, just before we vote, while Members are here, I wish to note that this has been an absolutely monumental bill. It represents an unbelievable amount of labor and expertise by the Senate staff. I think while Members are here, we should give due credit to our staffs: on my own part, Gregory Fusco, Kristi Hanson, and David Morse; on the part of Senator PELL, Jean Frohlicher, Richard Jerue; for Senator WILLIAMS, Frank Zweig; for Senator STAFFORD, Sven Groennings; for Senator SCHWEIKER, Polly Gault; for Senator HATCH, Ron Docksai; for Senator CHAFEE, Nancy Barrow, and for Senator HAYAKAWA, John Backer.

I wish to again express my great appreciation and deep feeling of gratification for being able to work so constructively with Senator PELL and with the majority and minority leaders, and to thank Senator STAFFORD for the unusual cooperation he showed in respect to the management of this.

Mr. PELL. Mr. President, I thank the Senator from New York for his kind words.

I wish to add what a pleasure it has been to work with him and with Senator STAFFORD in bringing this bill to fruition.

I also thank, very much, indeed, the Senator from West Virginia (Mr. RANDOLPH) for all he has contributed, to this legislation. He is a devoted member of the Education Subcommittee, and his work in behalf of education is admired by all. He has greatly aided me in developing this legislation, and the subcommittee would have been at a loss without his knowledge, experience, and assistance.

I also want to acknowledge the help that the Senator from Maine, Mr. HATHAWAY, has been in the development of this legislation. He has offered many helpful suggestions during the Education Subcommittee's deliberations, and I am grateful for the support he has provided.

I also thank, tremendously, Jean Frohlicher and Richard Jerue of my staff, without whom I could not possibly have handled this bill.

I thank our colleagues, both majority and minority, for all their cooperation. I hope we will continue to enjoy that cooperation in what looks like a fairly feisty conference.

Mr. YOUNG. Mr. President, I ask the floor managers of this bill, how much of these funds being authorized are subject to appropriation; all of them or any part of them?

Mr. PELL. It is my understanding that every dollar is subject to appropriation.

Mr. ROBERT C. BYRD. Mr. President, S. 1753, the Education Amendments of 1978, extends for 5 years existing programs contained in the landmark legislation—the Elementary and Secondary Education Act of 1965 (ESEA). I say "landmark," Mr. President, because this act mandated for the very first time the Federal Government's commitment to providing educational opportunities to our Nation's disadvantaged and poor children—children who might otherwise have been denied the promise of learning to read and write simply because their families had not the financial means to send them to school, or the district they lived in was ill-equipped to provide adequate public education.

S. 1753 continues that commitment to providing educational opportunities—through the various programs contained in the bill—to children who come from low-income families. Moreover, that commitment has been improved and strengthened in this bill. Obsolete programs were eliminated. Duplicative programs were consolidated; others were simplified.

For this, we have to thank the distinguished Senator from Rhode Island and chairman of the Subcommittee on Education, Arts and Humanities of the Human Resources Committee (Mr. PELL). I commend him for his outstanding contribution to this all-important legislation. I also wish to commend the ranking member of the subcommittee (Mr. RANDOLPH), who has continued his untiring efforts on behalf of a better quality of education for our children. Chairman of the Subcommittee on Education, Arts and Humanities for 9 years, Senator PELL's expertise in the field of education is widely known; his dedication to the cause of providing disadvantaged youths the opportunity of an education is deeply respected.

I also want to thank Senator STAFFORD, the ranking minority member of the committee, as well as the other members of the subcommittee and the full Human Resources Committee for their contributions to the bill.

It was no easy task. The Elementary and Secondary Education Act of 1965 contains many programs which required close and careful examination. In his opening statement, Senator PELL expressed the hope that the bill eventually reported by the subcommittee would "articulate a sensible, rational, and simplified Federal educational policy." After 2 weeks of hearings during which the subcommittee received testimony from educators, school administrators, public officials, concerned citizens and parents—the whole spectrum of those in education—the subcommittee reported a bill which reflected the goals outlined by Mr. PELL in his opening remarks.

Title I of ESEA is the largest Federal program for elementary and secondary education. It now provides almost $2 billion for compensatory education programs in nearly 90 percent of the Nation's school districts—that is, 14,000 local educational agencies (LEA's). About 5 million children are participating in local title I projects.

Needless to say, a program of this magnitude can become complicated and difficult to administer over the years. The committee moved to correct these problems by simplifying and codifying the provisions contained in title I. Regulations and guidelines were simplified for easier understanding, and several substantive changes were made to facilitate smoother operation of the program.

We are all aware of the serious problem of declining test scores. We are continually confronted with situations where students graduate from elementary or high school and it is discovered that they cannot read, write, or count. S. 1753 strengthens Federal involvement in improving the quality of American education in a number of important ways. One example is title II, basic skills and educational proficiency, a new title which would provide assistance to States and local educational agencies for programs to assist in the improvement of the basic skills of reading, mathematics, and oral and written communication.

S. 1753 makes several changes in title VII, the bilingual education program to improve and strengthen the Federal bilingual effort.

Title X (community schools) authorizes a new program of assistance to community school programs.

These are just a few examples representative of the committee's commitment to thoroughly examine every program in the bill—clarify its intentions, simplify its requirements, and strengthen its objectives. That is why, Mr. President, we are considering today a bill which makes the Elementary and Secondary Education Act of 1965 more responsive to the educational needs of low-income children, making sure that they make sufficient progress in the basic skills of reading, writing, and arithmetic. It makes its easier for States and local education agencies to implement ESEA programs by reducing paperwork requirements and giving them greater flexibility to administer the programs.

Again, I applaud Senators PELL and JAVITS and the other members of the committee for the yeoman's task they performed on this bill. It will serve as the basis for Federal education policy for the next 5 years.

Year after year, they demonstrated their dedication, their skills, and great

knowledge of this subject matter. In my opinion, the Senate and the country are in their debt.

Again, I congratulate them.

Mr. PELL. I thank the majority leader for his very kind words. I appreciate them tremendously.

I also want to add a word of appreciation to the chairman of the full committee (Mr. WILLIAMS) who has been of such inestimable help in developing this bill. Mr. WILLIAMS is an able and distinguished supporter of education, and I thank him for the guidance and support he has given this legislation.

H.R. 15

Mr. President, I move that the Senate proceed to the consideration of H.R. 15, an act to extend and amend expiring elementary and secondary education programs.

The PRESIDING OFFICER (Mr. HODGES). The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 15) to extend and amend expiring elementary and secondary education programs, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed immediately to the consideration of the bill.

Mr. PELL. Mr. President, I move to strike all after the enacting clause and insert in lieu thereof the text of S. 1753, as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Rhode Island.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. PELL. Mr. President, I move passage of H.R. 15, as amended.

Mr. SCOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. SCOTT. Mr. President, I do feel we should have the yeas and nays. They have been ordered to the other bill.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent the yeas and nays that were ordered on the Senate bill be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill having been read the third time, the question is, Shall it pass?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from South Dakota (Mr. ABOUREZK) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from New Mexico (Mr. DOMENICI), and the Senator from Nevada (Mr. LAXALT) are necessarily absent.

The result was announced—yeas 86, nays 7, as follows:

[Rollcall Vote No. 362 Leg.]

YEAS—86

Allen	Hart	Muskie
Bartlett	Haskell	Nelson
Bayh	Hatch	Nunn
Bellmon	Hatfield, Mark O.	Packwood
Bentsen	Hatfield, Paul G.	Pearson
Biden	Hathaway	Pell
Brooke	Hayakawa	Percy
Bumpers	Heinz	Randolph
Burdick	Hodges	Ribicoff
Byrd, Robert C.	Hollings	Riegle
Cannon	Huddleston	Sarbanes
Case	Humphrey	Sasser
Chafee	Inouye	Schmitt
Chiles	Jackson	Schweiker
Church	Javits	Sparkman
Clark	Kennedy	Stafford
Cranston	Leahy	Stennis
Culver	Long	Stevens
Curtis	Lugar	Stevenson
Danforth	Magnuson	Stone
DeConcini	Mathias	Talmadge
Dole	Matsunaga	Thurmond
Durkin	McGovern	Tower
Eagleton	McIntyre	Wallop
Ford	Melcher	Weicker
Garn	Metzenbaum	Williams
Glenn	Morgan	Young
Gravel	Moynihan	Zorinsky
Griffin		
Hansen		

NAYS—7

Byrd, Harry F., Jr.	Helms	Roth
Goldwater	McClure	Scott
	Proxmire	

NOT VOTING—7

Abourezk	Domenici	Laxalt
Anderson	Eastland	
Baker	Johnston	

So the bill (H.R. 15), as amended, was passed.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PELL. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make any necessary technical and clerical corrections in the engrossment of the Senate amendments to H.R. 15.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives on the disagreeing votes thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. HODGES) appointed Mr. PELL, Mr. RANDOLPH, Mr. KENNEDY, Mr. EAGLETON, Mr. WILLIAMS, Mr. STAFFORD, Mr. SCHWEIKER, Mr. HAYAKAWA, and Mr. JAVITS conferees on the part of the Senate.

Mr. PELL. Mr. President, I ask unanimous consent that S. 1753 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR—S. 2640

Mr. JAVITS. Mr. President, I ask unanimous consent on behalf of Senator STEVENS of Alaska that in connection with the consideration of the civil service reform bill Carl Flair and Jamie Cowan, of the Government Affairs Committee staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

CIVIL SERVICE REFORM ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Chair lay before the Senate calendar order No. 900.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2640) to reform the civil service laws.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. GRIFFIN. Mr. President, I object and call for the regular order.

Mr. ROBERT C. BYRD. Mr. President, what is the regular order?

The PRESIDING OFFICER. There is nothing before the Senate.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the Civil Service Reform bill so that debate can be started. There is no time agreement on the bill whatsoever.

Mr. GRIFFIN. Mr. President, will the distinguished majority leader yield for a comment?

Mr. ROBERT C. BYRD. I yield.

Mr. GRIFFIN. I understand there is no agreement on this, and I had been under the impression that the CETA legislation was before the Senate and had been laid aside. Am I incorrect?

Mr. ROBERT C. BYRD. Just temporarily. It will be my intention——

Mr. GRIFFIN. If it was temporarily laid aside, is it not now the pending business?

Mr. ROBERT C. BYRD. No. There is an order.

The PRESIDING OFFICER. It is not.

Mr. ROBERT C. BYRD. I have an order authorizing me to go back to that and to several tax bills which I intend to go back to, but I wanted to get the civil service bill before the Senate and let the principals present their opening statements and probably during the afternoon go back to the tax bills.

Mr. GRIFFIN. When does the majority leader intend to finish the CETA legislation?

Mr. ROBERT C. BYRD. Before we go out. It could be today; it could be tomorrow.

Mr. GRIFFIN. Of course, he has a time agreement on the CETA legislation.

Mr. ROBERT C. BYRD. Yes.

Mr. GRIFFIN. And it could be handled and disposed of; whereas, as to the civil service legislation, where there is no time agreement, obviously it is going to be very difficult to dispose of that.

Mr. ROBERT C. BYRD. The Senator

has my assurance that the CETA bill will be called up either today or tomorrow and disposed of whether or not action is finished on civil service.

Mr. GRIFFIN. The Senator from Michigan is very concerned that the CETA legislation may not be handled and disposed of before Saturday.

Mr. ROBERT C. BYRD. The Senator has my assurance it will be because we have an agreement on that, and we have disposed of most of the amendments, I think, on it already.

Mr. GRIFFIN. I want to let the majority leader know that there is a good deal of feeling, at least from this Senator, that it would be well to get the CETA legislation and handle that as soon as possible, and I will cooperate if the majority leader has that intention, and I appreciate his expression.

Mr. ROBERT C. BYRD. The Senator has that assurance.

Mr. JAVITS. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. I yield.

Mr. JAVITS. I, too, am questioning. I will be in charge of that bill, and I am the ranking minority member of the subcommittee and the full committee, and we are fully ready. The majority leader has given me the same assurance and I shall rely on them, that this will be dealt with before we go out and that he will use every power and influence to see that it is before tomorrow night.

I appreciate the Senator's problems of Saturday, and I will be just as cooperative.

We were here until 1 a.m. this morning, and I am willing to be here until 1 a.m. Saturday morning so the Senator will be able to keep his engagement.

Mr. ROBERT C. BYRD. I will assure the Senator from Michigan with all of the power that I have that the measure will be disposed of before the close of business tomorrow.

Mr. GRIFFIN. It is very difficult to understand why the matter the Senator is about to go to could not be handled after the CETA legislation.

Mr. ROBERT C. BYRD. The reason is that I assured Mr. RIBICOFF and Mr. PERCY that we would at least get started on their bill today, and the Senator from Michigan has my assurance the Senate will go back to CETA because under the order I can go to that at any time. We will go back to that if not today, certainly tomorrow.

Mr. GRIFFIN. All right.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Michigan (Mr. GRIFFIN).

The PRESIDING OFFICER. The question is on agreeing to the request to proceed to the consideration of S. 2640.

There being no objection, the Senate proceeded to consider the bill, which had reported from the Committee on Governmental Affairs with an amendment in the nature of a substitute.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the following staff members be granted the privilege of the floor during consideration and votes on S. 2640.

Richard Wegman, Paul Hoff, Paul Rosenthal, Claude Barfield and Claudia Ingram of the Governmental Affairs Committee staff; John Childers, Connie Evans, Kenneth Ackerman, Brian Conboy and Jackie Abelman of the minority staff; Brian Walsh of Senator CHILES' staff; Emily Eselman of Senator EAGLETON'S staff; Knox Walkup, Cindy Anderson, Howard Orenstein, and Edwin Jayne of Senator SASSER'S staff; and Bill Motes of Senator CLARK'S staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that Senator CLARK be added as a cosponsor of S. 2640.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CIVIL SERVICE REFORM ACT OF 1978

Mr. RIBICOFF. Mr. President, today the Senate begins consideration of S. 2640, the Civil Service Reform Act of 1978. The changes in law which are proposed in S. 2640 will constitute the most comprehensive reform of the Federal civilian work force since passage of the Pendleton Act in 1883. Since that time, total civilian employment has increased from approximately 131,000 to almost 2.9 million employees. In 1977, the Federal civilian payroll amounted to over $46 billion, more than 11 percent of Federal outlays for that year. Despite the enormous growth in Federal employment and the accompanying increase in the laws and regulations governing the civil service, no systematic congressional review or revision of the system has been attempted in almost a century. S. 2640 is that long overdue, comprehensive reform.

The existing civil service system is the product of an earlier reform movement which arose in protest against the 19th century spoils system. The civil service system promised a work force in which employees were selected and advanced on the basis of competence rather than political or personal favoritism. Although that goal has largely been realized, there have still been assaults on the merit system. These assaults have taken place despite, and in some instances because of, the complicated rules and procedures that have developed over the last century.

Unfortunately, the complex rules that have emerged threaten to kill the merit principle itself. Since the Second Hoover Commission in the 1950's, complaints have been heard that existing procedures have become the refuge of the incompetent employee. The existing system impairs the ability of managers to effectively perform their program responsibilities. When incompetent and inefficient employees are allowed to stay on the rolls, it is the dedicated and competent employee who must increase his workload so that the public may be benefited. The morale of the best motivated employee is bound to suffer under such a system. Moreover, the system's rigid procedures—providing almost automatic pay increases for all employees—makes it as difficult to reward the outstanding public servant as it is to remove an incompetent employee.

It is the public which suffers from a system which neither permits managers to manage nor provides assurance against political abuse. It is the public which suffers when insufficient attention is given to the hiring, training, and advancement of people who manage the 20 or 30 percent of the income which people pay the Federal Government in taxes. It is the public which suffers when excellence is no more rewarded than mediocrity.

Federal employees, too, deserve a better civil service system. Federal employees are dedicated and hardworking but the civil service system serves now to unjustifiably tarnish the public image of these employees. Civil servants do not deserve a system in which both the excellent and poor employee march in lockstep through their careers.

Mr. President, we have an opportunity to create a civil service system that is worthy of the public and its confidence: One in which hiring, promotion, and pay is truly based on merit and one in which those who cannot or will not perform their jobs well will not perform at all for the Federal Government. This bill makes important changes so that our civil service will be more efficient and accountable.

At the same time, it adds in many ways to the protections against political abuse that now exist in the civil service system. Enactment of this bill will actually reduce the danger that the merit system will be undermined for political purposes.

I ask unanimous consent that there be included at the conclusion of my remarks a summary of some 18 different areas where this bill adds new protections against political abuse not now existing in law.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. RIBICOFF. Let me briefly list some of the most significant provisions of the bill. The bill—

Codifies, for the first time, merit system principles and prohibited personnel practices. Employees who commit prohibited personnel practices would be subject to disciplinary action;

Provides for an independent Merit Systems Protection Board and special counsel to adjudicate employee appeals and serve as the "watchdog" of the merit system;

Provides new protections for employees who disclose illegal or improper Government conduct;

Empowers a new Office of Personnel Management to supervise personnel management in the executive branch and delegate certain personnel authority to the agencies;

Establishes new performance appraisal systems and requires that decisions to advance, pay, or discipline employees be based on performance;

Creates new standards for dismissal based on unacceptable performance and streamlines the processes for dismissing and disciplining employees;

Creates a new Senior Executive Service where tenure, development, and rewards will be based on managerial accomplishment;

Authorizes the Office of Personnel Management to conduct research in public management and carry out demonstration projects that test new approaches to Federal personnel administration; and

Creates a statutory base for the improvement of labor-management relations, including the establishment in statute of the Federal Labor Relations Authority.

These proposals have been reviewed and debated extensively. The President's personnel management project conducted a 5-month study of the civil service system. The great majority of the 110 staff members of that project were career employees. The project staff held 17 public hearings throughout the United States in which approximately 7,000 individuals participated as part of the consultation process. Also, 800 organizations were contacted for comments on options papers. Many of the recommendations from the study were incorporated in S. 2640.

The Governmental Affairs Committee held 12 days of hearings, during which 86 individuals, representing 55 organizations, testified. The committee held seven markup sessions before ordering the bill reported to the full Senate.

During the course of these extensive deliberations, the committee was vitally concerned with providing adequate management flexibility while at the same time assuring that the civil service system and employees are protected against partisan political abuse and arbitrary actions. The bill accomplishes these objectives.

In sum, Mr. President, S. 2640 is a bill which the Congress and the American people can be proud of. It will help to restore merit to the merit system. The Government will be made more efficient and accountable. It is a reform that is long overdue. I urge the Senate to adopt S. 2640 without delay.

EXHIBIT 1

SUMMARY OF HOW S. 2640 INCREASES OVER PRESENT LAW THE PROTECTIONS AGAINST POLITICAL ABUSES

The following is a summary of 18 major areas in titles I, II, and IV of S. 2640 where the bill adds new protections—not now in current law—to prevent the merit system from being undermined by political abuses. In 14 of these areas, the protections were added or significantly strengthened by Committee amendments.

TITLE I—MERIT SYSTEM PRINCIPLES

Specifically, title I—

Establishes as a merit system principle that personnel action may not be taken on basis of political affiliation. The bill prohibits all Federal employees—including all political employees—from violating this principle. There is no statutory prohibition now against an agency taking a personnel action against an employee because of his political affiliation.

*Bars, as a prohibited personnel action, reprisal against any employee who discloses information about the employee's agency. The protections apply to information that may be embarrassing to political officials in the agency because it suggests violations of law, mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health or safety. Current law provides no similar protection for whistleblowers.

Charges the head of each agency with personal responsibility for seeing to it that no employee is the subject of a prohibited personnel practice motivated by political favoritism. Current law does not specifically hold the head of the agency responsible for actions by subordinates that undermine the merit system.

Directs GAO to conduct audits and review to assure agency compliance with the laws. The current civil service laws do not charge GAO with this responsibility.

TITLE II

Specifically, title II—

Creates a new 3-member Board, bipartisan in make-up, whose sole responsibility will be to enforce the merit system principle and the civil service laws generally. It will be free of any inconsistent responsibility to develop or manage personnel policies favored by the President and other political officials in the government. The responsibilities of the current Civil Service Commission for both the management of the civil service system, and adjudication of complaints against the way the system is implemented, create an irreconcilable conflict.

*Establishes set terms for both the Board members and the Director of OPM, and prohibits the President from removing Board members or the Director of OPM for political reasons, or for any other reason except for cause, that is, inefficiency, neglect of duty, or malfeasance in office. The present Civil Service Commission members are appointed by the President, for a set term, but they may be removed by the President at any time for any reason. Consequently the Commission is not a safe check against the broad discretionary powers the President has under the civil service laws to issue rules, and direct the management of the civil service system.

*Protects the independence of the Board from political pressures from the White House by allowing the Board to represent itself in any court, except the Supreme Court, free of Justice Department supervision; requires separate Senate confirmation of any effort by the President to replace the Chairman of the Board; prohibits OPM or the White House from affecting for political purposes the selection of the top staff hired by the Board; and assures direct access by Congress to the views and budget requests of the Board without OMB clearance. None of these provisions currently protect the independence and integrity of the Civil Service Commission.

*Directs the Board to hear and adjudicate complaints that the merit principles have been violated, including complaints that an employee has been discriminated against because of his political affiliation. The Board has the authority to issue and enforce any orders against agencies necessary to correct these practices. The current statutes do not give the Civil Service Commission comparable authority.

*Authorizes the Board to issue both preliminary and permanent stays where the political heads of agencies seek to coerce employees into engaging in political activities or to take reprisal against an employee because of his political activities, or because of the statements the employee makes about the activities of the agency. No comparable injunctive authority exists in current law to stay Hatch Act violations, or prevent reprisals against whistleblowers.

*Requires the Board to report to Congress annually on whether OPM policies and decisions are in accord with the merit system principles, including the prohibitions against political abuses, and authorizes the Board to conduct any additional, special studies it wants on such matters. The management policies of the Civil Service Commission are not subject now to any similar kind of independent evaluation.

*Creates a separate, independent Special Counsel who shall serve a four-year term, and who may not be removed by the President during the term except for inefficiency, neglect of duty, or malfeasance in office. No watchdog office like the Special Counsel exists under the present system.

*Authorizes the Special Counsel to initiate on his own, or in response to complaints, investigations of any violations of the laws protecting the merit system for political abuses. No comparable procedure exists in current law.

*Authorizes the Special Counsel to initiate, on his own initiative, actions before the Board to correct political practices or other violations of the merit system principles, or to discipline officials who violate the merit principles. No comparable procedure exists under current law.

*Provides that the Board may dismiss, suspend, fine, cut an employee's salary off, or otherwise discipline employees who are guilty of political abuses or otherwise violate the law. Except in the case of specific Hatch Act violations, the Civil Service Commission has no clear authority under current statute to impose such sanctions on government officials.

*Directs the Director of OPM to observe the provisions in the Administrative Procedure Act requiring public notice and comment before issuing any regulations. Current law does not require the Civil Service Commission to comply with the Administrative Procedure Act when issuing rules.

TITLE IV—SENIOR EXECUTIVE SERVICE

Any career appointee serving in the SES will be protected by the safeguards established in titles I and II. In addition, the IV specifically

Limits the number of top executive positions governmentwide, and in each agency, which may be filled on a political basis. Henceforth, no more than 10% of the top jobs in the government may be filled by noncareer, political appointees. Under current law the President directly, or through the Civil Service Commission, could make all these supergrade positions non-career jobs that could be filled on a political basis.

*Prohibits the agencies from hiring any career executives unless an independent qualification review board—staffed by a majority of career executives—certifies the executive's managerial qualifications. In the case of several thousand supergrade positions that will be largely filled by career appointees to the SES, the Civil Service Commission now has no way of assuring the merit qualifications of the career employees hired. Even in the case of career appointments to the remaining supergrade jobs, there now is no independent review process by independent experts comparable to the independent qualifications review boards established by the bill.

*Prohibits removal or reassignment of a career member of the SES within 120 days after the appointment of either a new agency head, or the political appointee who is the executive's immediate boss. Under present law a career executive may be reassigned at any time by political appointees in the agency.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that Mr. Tom Polgar, of Senator MORGAN's staff, be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

---

*Provisions added or significantly strengthened in Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I would hope Senators who have amendments to this bill would come to the floor and offer those amendments so that they may be disposed of.

Mr. RIBICOFF. Mr. President, we are calling up those Senators who we know have amendments and asking them to come and present their amendments. Many of these amendments are acceptable to the manager of the bill, and my feeling is that if the Senators come to the floor the noncontroversial ones can be disposed of rather rapidly.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that Karen Minton of Senator BUMPERS' staff have the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. I ask unanimous consent that Jeff Bingham of my staff be allowed the privileges of the floor during the debate and votes on this issue.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I make a similar request with regard to Marc Steinberg of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Indiana.

Mr. BAYH. I make a similar request for Fred Williams and Barbara Dixon of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, on behalf of two other Senators, I ask unanimous consent that similar privileges be granted for David Gogle of Senator LUGAR's staff, and Joseph di Genova of Senator MATHIAS' staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois.

Mr. PERCY. Mr. President, the original Civil Service Act of 1883 embodies two basic principles of good government which still hold true today: first, that persons be chosen for positions of responsibility in the Federal Government on the basis of individual qualifications to do the job well; and, second, that the Federal executive bureaucracy be politically neutral, insulated from the destructive effects of partisan patronage manifested in the "spoils system" prevalent at that time.

In recent years, we have seen an erosion of both of these principles which lie at the heart of our system of government organization. Political assaults on the civil service, particularly during the last decade, have shown just how vulnerable the current system is to concerted attack by partisan forces. On the other hand, because of the maze of rules, regulations, legalese, and bureaucratese that has grown up around this system over past decades, the principle of "merit" has become largely replaced with incentives for mediocrity. A system where 95 percent of employees receive an annual performance rating of satisfactory and where 98 percent of employees receive periodic pay increases regardless of merit is certainly in need of reform. This is simply not credible to a single Member of this body that spends an important part of his or her office allowance on doing "case work" and trying to get decisions or action out of, too frequently, an unresponsive, insensitive, and lackadaisical bureaucracy.

If we really had, as indicated by the rating system, 95 percent of the 2 million employees under civil service who deserved a satisfactory rating and 98 percent who deserved periodic pay increases, if they really were competent, and really were doing those jobs, we would not need to spend the millions of dollars we do to redress the grievances of citizens, whether it be of veterans or of social security retirees whose payments are late, or whatever group it may be. The bureaucracy loads this city with lobbyists, loads this city with businessmen, loads this city with labor leaders, loads it with other people who simply cannot get decisions out of the bureaucracy and cannot get action. It is those kinds of costs that Congress is being blamed for. Congress is having mounting payrolls, and yet the unresponsiveness and unwillingness of that bureaucracy to face and solve their own problems is what creates the huge amount of mail, the huge number of phone calls, and the great number of visitors we have.

So no one can tell this body that 95 percent of all civil service workers should be rated as satisfactory in their jobs, when we see the poor job being done by the present bureaucracy.

The legislation before the Senate today, S. 2640, the Civil Service Reform Act of 1978, is aimed at correcting both of the aforementioned problems. It represents the first comprehensive overhaul of this system in 95 years.

I wish, certainly, to pay tribute to my distinguished colleague with whom I have been privileged to work for so many years, the Senator from Connecticut (Mr. RIBICOFF), and a truly outstanding staff, for bringing this monumental piece of legislation to the floor at this time. Both of us pay tribute to the joint leadership for scheduling it this early, which will give us adequate time to debate the issue, but also time to complete the work. Also, we both wish to indicate the fine degree of cooperation we have had from President Carter, from the members of the White House Staff, and from Mr. Campbell, the chairman of the Civil Service Commission, who has worked very closely with us to bring forward a monumental piece of legislation which will be a giant forward step to improve the effectiveness of the Government. And I wish to commend not only our chairman but, as I know he would, I wish to commend every member of the Governmental Affairs Committee and every member of the minority and majority staffs that have worked so closely with us.

Mr. RIBICOFF. Mr. President, if the Senator will yield, I pay tribute to the distinguished Senator from Illinois, the ranking minority member. It is really a privilege to work with him on this important legislation.

Our efforts on the committee can truly be said to be bipartisan. I do not recall any major piece of legislation in which the committee has divided along partisan lines. We try to do a truly constructive piece of workmanship on every item of legislation we have before us.

We are truly fortunate in the members of the committee and in our committee staff, led by Mr. Wegman and Mr. Hoff on the majority side and, at the moment, Mr. Ken Ackerman on the minority side.

We have had truly magnificent cooperation from Mr. Campbell of the Commission, and from the President of the United States. I will have some comments to make when our distinguished colleague from Maryland (Mr. MATHIAS) introduces his amendment, because without the constructive effort and cooperation of the Senator from Maryland (Mr. MATHIAS) and the Senator from Alaska (Mr. STEVENS) we could not have achieved a well-rounded bill.

Senator MATHIAS and Senator STEVENS are truly the experts in this body on the entire civil service establishment. Both of those Senators have large numbers of civil servants in their jurisdictions. They are most sensitive and knowledgeable concerning all the problems of the civil service. We found that time and time again we called upon their knowledge and experience in helping us fashion a good bill.

There were some differences between the objectives that we thought were necessary and those of the Senator from Maryland and the Senator from Alaska; and yet, through careful work between ourselves and our respective staffs, I think we did fashion some constructive alternatives which are included in the amendments to be offered by the Senator from Maryland and the Senator from Alaska.

The ranking minority member, the Senator from Illinois (Mr. PERCY) and I consider it a privilege to cosponsor those amendments, because we do feel they add to the value of the legislation.

Mr. PERCY. I thank my distinguished colleague for his comments, and join with him in paying tribute to the assistant minority leader, the distinguished Senator from Alaska (Mr. STEVENS), who has worked valiantly with us over a period of many months to protect the interests of the Federal workers, but to do so consistent with what most of those workers want—a competent, highly respected civil service that will be a credit to this country.

I commend Senator MATHIAS' deep background, his compassion, his understanding, his concern for the rights of all individuals, not strictly those employed by the Federal Government—which we term the bureaucracy, but we do it many

times in the best sense of that term. Many civil servants are criticized because of the incompetence of some, the lackadaisical attitude of others, and the indecisiveness of others—those, we would hope, are in the minority. We must recognize that we need to protect the rights of those who are employed by the Federal Government, but that we also need to recognize outstanding service as well as that which is less than competent. We have balanced out a bill which, with the amendments, which I will be proud to support, offered by Senators MATHIAS and STEVENS, will be a bill than can serve and accomplish our major overall objective.

The Federal Government currently maintains a work force of some 2.8 million civilian employees at an annual payroll cost in excess of $46 billion. More than 2 million of these employees fall within the civil service merit system. Only if these individuals work to their fullest potential, only if our system of personnel management is structured to bring out the best in each of them, will government programs succeed. Government consists of people and quality government requires quality people performing quality work. A system in which rewards for exceptional performance are rare and subpar performance is rarely disciplined can only result in mediocre performance, and mediocre government. This is basic commonsense.

The problem with the present system is pointedly seen in one story related to the Governmental Affairs Committee by a high agency official. That official, in an attempt to improve agency productivity and identify problem areas, asked her personnel managers for an assessment of employee performance. The result—97 percent of the employees in that agency (EPA) were rated "satisfactory." Obviously, the current system is of no help to management in achieving one of the central purposes of evaluation—to improve agency performance.

The basic thrust of S. 2640 is threefold: First, to assure that an employee's career prospects are more directly tied to his or her performance; second, to provide management with greater flexibility to implement programs and policies mandated by the people; and third, to assure that merit principles and employee rights are tightly protected.

This is, of course, the obvious area in which Senators MATHIAS and STEVENS have been extraordinarily helpful.

The benefits of this legislation will flow, not only to the taxpayers who are sick to death of paying for waste and inefficiency; not only to the consumers of Government services who are equally frustrated from dealing with indifferent agency officials more concerned with their own institutional self-interests than the interests of the people that they serve; but also to the Government employees themselves who will now receive the benefits of excellence, and who will have a new pride in their careers as Government servants.

The protections built into this legislation against political abuse and derogation of employee rights are strong and significant. A new Merit Systems Protection Board and special counsel with authority to uncover and correct merit abuses, discipline violators, enforce employee protections, and objectively oversee new management flexibilities, encompass significant improvements over the present system under which the Civil Service Commission plays the roles of both administrator and watchdog. The inherent institutional conflicts of interests have detracted from both roles.

The Committee on Government Affairs has studied this legislation thoroughly, having conducted 12 days of public hearings at which 86 individual witnesses representing 56 organizations were heard from, in addition to the administration. In addition, I have conducted field hearings on this legislation in Rock Island, Springfield, East St. Louis, and Chicago, Ill. I commend S. 2640 to my colleagues.

Mr. President, I point out that the text of the bill before us extends from page 129 to page 322. The pending amendment before the Senate is the text of some 13 pages and inasmuch as Mr. Ken Ackerman of the Senate minority staff has prepared a brief summary of the Civil Service Reform Act of 1978, S. 2640, I ask unanimous consent that a brief summary of the bill be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

BRIEF SUMMARY, CIVIL SERVICE REFORM ACT OF 1978—S. 2640

Title I establishes (1) Merit System Principles to govern all Federal personnel actions and (2) Prohibited Personnel Practices. Violation of Merit System Principles is a prohibited Personnel Practice.

MERIT PRINCIPLES

The Merit System Principles are:

1. Recruitment of qualified candidates for positions aimed at achieving a workforce from all segments of society, selection and advancement determined solely on merit after fair and open competition, equal opportunity;
2. No discrimination;
3. Equal pay for equal work, incentives for excellent performance;
4. High standard of integrity, conduct, concern for the public interest;
5. Efficiency and effectiveness in use of the Federal workforce;
6. Retention of employees based on adequacy of performance, inadequate performance should be corrected, unfit employees should be separated;
7. Training for employees;
8. Protection against arbitrary action, personal favoritism, partisan political coercion, prohibition against use of official authority to influence elections.

PROHIBITED PERSONNEL PRACTICES

The Prohibited Personnel Practices are:

1. No illegal discrimination;
2. No solicitation on consideration of recommendations unless based on personal knowledge or review of records and consisting of evaluation of competence, character, loyalty, or suitability;
3. No political coercion;
4. No willful deception or obstruction of the right of an individual to compete for a Federal job;
5. No influencing of persons to withdraw from competition for Federal positions so as to improve or injure employment prospects of any applicant;
6. No granting of any preference not authorized by law, rule, or regulation;
7. No nepotism;
8. No reprisals against whistleblowers;
9. No reprisals for use of appeal rights;
10. No violation of law, rule, regulation, or merit system principles.

An employee who commits a Prohibited Personnel Practice is subject to disciplinary action by the Merit Systems Protection Board, leading to penalties including reprimand, civil fine, removal, or disbarment from Federal employment for up to five years.

Title II reorganizes the Civil Service Commission and establishes rules for adverse actions against employees.

REORGANIZATION

The 95-year-old Civil Service Commission is abolished, and two new agencies are created in its place:

1. An Office of Personnel Management (OPM) headed by a single Director, appointed by the President, subject to Senate confirmation, for a 4 year term co-terminous with the President, removable by the President only for cause.

OPM would be the administrative arm of Federal personnel management, serve as Presidential policy advisor, would promulgate regulations, set policy, run research and development programs, implement rules and regulations, and would manage a centralized, innovative Federal personnel program.

All regulatory functions of OPM would be subject to the provisions of the Administrative Procedures Act, including public notice, comment on proposed regulations and open hearings. OPM would not be permitted to become involved in recommending political appointments to the President.

OPM would be authorized to *delegate* personnel functions, including competitive examining of applicants, to agency heads subject to various controls. The purpose of decentralization is to increase efficiency and reduce delay and "red tape" in personnel actions, such as promotions, hiring, and such.

2. A Merit Systems Protection Board (MSPB) composed of 3 members, appointed by the President, confirmed by the Senate, removable for cause only, serving 7 year, nonrenewable terms, no more than 2 members from the same political party. The MSPB will (a) hear appeals from agency personnel actions, including adverse actions; (b) hear and decide disciplinary cases against alleged violators of Prohibited Personnel Practices, and dispense penalties where changes are sustained; (c) grant stays to prevent reprisals against whistleblowers or political reprisals against employees; (d) order agencies to comply with its decisions, and enforce such compliance; (e) conduct studies of the merit system to ensure that merit principles are being respected, and (f) oversee the OPM.

To assure the independence of the MSPB, (a) its budget and legislative recommendations would be submitted directly to Congress; (b) it would be allowed to represent itself in court; (c) it would have access to records of OPM and agencies, and be authorized to issue subpoenas to individuals; (d) its personnel would not be subject to White House or OPM clearance; (e) plus the structural protections noted above.

The MSPB would have a Special Counsel appointed by the President, confirmed by the Senate, removable for cause, serving a 4-year term co-terminous with the President. The Special Counsel would (1) investigate alleged abuses of the merit system; (2) bring disciplinary actions against violators; (3) petition the MSPB to grant stays against reprisals against whistleblowers and victims of political reprisals; (4) refer information concerning abuses to relevant agencies, be authorized to require the agency to report on what action it has taken to solve the problem, and issue public reports on abuses; (5) refer whistleblower allegation to relevant agencies for investigation; and (6) investigate Hatch Act violations, withholding of information under the Freedom of Information Act, and discrimination.

Disciplinary sanctions against employees who commit Prohibited Personnel Practices may include removal, demotion, suspension, reprimand, civil fine up to $1,000, or debarment from Federal employment for up to five years. If the employee is a Presidential appointee confirmed by the Senate, however, the Special Counsel would refer his charges to the President.

Performance Appraisals.—Each agency would be required to establish systems for appraising the work of employees, and using the results of appraisals as the basis for promoting, demoting, training, reassigning, retaining, or separating employees. Performance standards would be communicated to employees at the beginning of each appraisal period. Employees would participate in establishing standards, would be assisted in getting their performance up to par, and those whose performance continues to be unacceptable would be subject to adverse actions.

RULES FOR ADVERSE ACTIONS

Two adverse action procedures are established by S. 2640, one for actions based on unacceptable performance (incompetence), the other for actions based on other cause (such as misconduct). In either case, the employee would be removable on 30 days notice stating reasons, have the right to respond, be represented by an attorney or other representative, and receive a written decision. Once removed, the employee could appeal the action to the MSPB where an evidentiary hearing would be guaranteed wherever a material issue of fact is in dispute. The difference between the two types of cases is in the burden of proof needed to sustain the agency action.

For actions based on unacceptable performance, the agency would have the initial burden to establish a reasonable basis on the record, subject to rebuttal by the employee, that the employee's performance was unacceptable, subject to affirmative defenses of discrimination, substantial procedual error, or other violation of law (including prohibited personnel practices). For actions based on other cause, the agency would have the burden of establishing substantial evidence on the record that the energy action promoted the efficiency of the service.

Adverse action decisions by MSP would be subject to judicial review in a United States Court of Appeals or Court Claims.

Title III allows agencies to use student volunteers where such use would not take jobs away from Civil Service employees; establish probation periods for employees; allow training programs; and make other changes.

Title V creates a Senior Executive Service (SES) consisting of Federal managers GS-16 throughout Executive Level IV, some 8,500–9,200 individuals. The SES would be a highly mobile corps of government executives who can easily be moved where needed, rewarded through bonuses, removed for less than satisfactory performance, and otherwise placed in a system where excellence can be rewarded while unsatisfactory performance can be eliminated.

To prevent politicization of the SES, no more than 10 percent of the SES governmentwide can consist of political appointees, nor can there be any more than 25 percent within any one agency or more than the pre-existing proportion of political appointees. Further, the SES would be subject to the full policing and disciplinary powers of the MSPB and its Special Counsel to assure against abuse.

Career appointees to SES would have their qualifications certified by Qualifications Review Boards, a majority of which must consist of career employees.

Removal for less than satisfactory performance would be tightly tied to performance Review Boards, would not be appealable to the MSPB, and employees so removed would be returned to the GS-15 level. Removals for other cause (such as misconduct) would be appealable to the MSPB, and require 30 days notice to the employee.

Pay for SES Executives would be set by the particular appointing authority within the agency, would be at one of five levels of pay within the GS-16 through Executive Level IV range set by the President, could be adjusted not less frequently than annually. A lowering in pay would not constitute an adverse action, as would a demotion for a non-SES employee.

Bonuses for SES executives would be limited to those who received at least a satisfactory rating on their performance appraisals, and would be subject to recommendations by Performance Review Boards. No more than 50 per cent of SES could receive bonuses of no more than 20 per cent of base salary during any one year. Other incentive awards would be authorized, including those for Meritorious Executives (no more than 5 per cent of SES—$2,500/year for five years) and Distinguished Executives (no more than 1 per cent of SES—$5,000/year for five years).

To protect against abuse of the bonus system and easy removal procedures, a written record would be kept by Performance Review Boards in arriving at their recommendations, a record which could later be used by the MSPB Special Counsel in investigating allegations of abuse.

For special needs, there would be authorized Limited Emergency Appointments (noncareer-18 month limit) and Limited Term Appointments (non-career-3 year limit) for particular emergency, isolated situations.

Title V establishes a system of Merit Pay for Federal managers GS-13 through GS-15, (some 72,000 individuals). Decisions as to who would receive merit pay would be made by the agency. Merit pay would replace current quality step increases. No employee would have current salary decreased by this provision.

Title VI authorizes OPM to conduct research and demonstration projects to improve Federal personnel management policies and practices. Demonstration projects could involve up to 5,000 employees for up to 5 years, and, in creating experimental conditions, OPM would be authorized to waive certain provisions of Title 5, United States Code. To protect against abuse of this authority, S. 2640 specifies that the rules governing Merit Systems Principles and Prohibited Personnel Practices must be adhered to, Congress must be given 3 months prior notification, employees 6 months notification, the project Plan must be published in the Federal Register and subjected to public hearings, and employees or employee organizations must be given an opportunity to consult. Projects could not violate agency-union agreements.

Title VI also amends the Intergovernmental Personnel Act to provide that adherence to merit system principles by State and local governments may be a condition of receiving Federal grants.

Title VII concerns Federal labor-management relations, the manner in which the government deals with employee unions. Currently, some 58 per cent of all Federal Civil Service employees are represented by unions. A Federal Labor Relations Authority (FLRA) is created, consisting of 3 members, appointed by the President, subject to Senate confirmation, serving rotating 5 year terms. The FLRA would administer the Federal labor relations program, decide questions concerning appropriate units for representation, supervise elections, decide unfair labor practices, hear exceptions to arbitration awards, and decide other matters. The FLRA would be authorized to issue cease and desist orders, issue subpoenas, and require remedial actions.

The FRLA would have a General Counsel who would investigate and prosecute complaints of "unfair labor practices" before the FLRA.

Title VII codifies into statute Executive Order 11491 in that it authorizes employees to form and bargain collectively through unions over matters regarding working conditions in the Federal government. Specifically excluded from the scope of bargaining are agency budgets; mission; organization; security; hire, promotion, transfer, and removal of employees; maintenance of agency efficiency; method, means, and personnel of agency operations; and emergency operations. All parties are required to bargain in good faith, and unfair labor practices are specified for both agency management and labor.

Negotiated grievance procedures leading to binding arbitration are authorized, including arbitration of adverse actions against employees where the employee, at his or her option, chooses arbitration as an alternative to statutory appeals rights. Arbitration of adverse actions would be subject to the same burdens of proof as applicable to the MSPB for similar cases, and subject to similar court review. Arbitration of adverse actions is the single substantive departure of Title VII from E.O. 11491.

A Federal Service Impasses Panel is established to intervene where union-agency contract negotiations have broken down.

Mr. STEVENS. Mr. President, the civil service reform bill will produce extensive changes to the existing Federal personnel system. The three-member, bipartisan Civil Service Commission will be replaced by a single Director. This new Director, as head of the Office of Personnel Management, will have enormous authority to promulgate new rules, regulations, and policy with the power to implement. A second radical management change results in the creation of a Senior Executive Service. The reform bill will organize most of the top civil service managers into an executive group having separate procedures for pay, promotion, and separation. This Executive Service will consist of both career service employees and political appointees. The Office of Personnel Management which I mentioned will establish procedures and regulations for personnel administration of the Senior Executive Service.

My major concerns with Senate bill 2640 relate to the politicization of jobs which could result from these two major changes. Even with a bipartisan Civil Service Commission, several administrations have manipulated Federal personnel regulations for partisan reasons. The Office of Personnel Management could increase any administration's leverage in the pursuit of political goals. The Senior Executive Service expands that influence by grouping most agency supergrades under one system. These managers will be exposed to higher degrees of political influence in the name of efficiency and responsiveness.

For the purpose of confirming my reservations about the proposed civil service reform, I would like to review some significant events in the history of the civil service.

Mr. President, I shall present a study prepared by my staff entitled "Politics and the Federal Service."

I urge individuals interested in this legislation to reflect upon the review. It is important to put reform measures in perspective with what has happened in the past and with what might occur in the future. What is finally accomplished by this bill should generate lasting benefit without the need to make corrections every few years.

The Hoover Commission developed the substance of what has proved to be a lasting reform of civil service. I would like to discuss some of the considerations and conclusions of that Commission's findings.

THE HOOVER COMMISSION

On July 7, 1947, the 80th Congress approved Public Law 162, thereby establishing the Commission on Organization of the executive branch of the Government. The Commission became known as the First Hoover Commission. It was directed to investigate the structure of the executive branch and recommend ways of improving its efficiency, effectiveness, and accountability.

Between July of 1947 and May of 1949, 300 men and women worked for the Hoover Commission. Twenty-four task forces scrutinized each of the major functional areas of the Government and reported their findings and recommendations. The Commission then studied and evaluated the task force reports and issued a series of 19 reports to the Congress.

In a statement of purpose and principle, the Hoover Commission declared:

> There is perhaps no time in history when it has been more important to evaluate the effectiveness of the executive branch of the Government in carrying out the will of the Congress and the people. While we recognize that efficiency in itself is no guarantee of democratic government, the sobering fact remains that the highest ideals and aims of democracy can be thwarted through excessive administrative costs and through waste, disunity, apathy, irresponsibility, and other byproducts of inefficient government.
>
> The Commission's recommendations in total, therefore, are directed to the achievement of reforms which it hopes will bring about a more responsible and a more responsive government, a government that will act with dispatch, with greater internal coordination and harmony, with consistency of administrative policy, and economy of operation.

Thus, the fundamental objective of the First Hoover Commission was to determine methods of making the Federal Government more efficient. Ever since the establishment of the Civil Service Commission under the Pendleton Act of 1883, a conflict has existed between the desire for governmental efficiency and the need for political independence in the Federal service. Because the Senate now deliberates a bill which could unnecessarily sacrifice the political neutrality of the civil service to its improved efficiency, it is important to consider the personnel recommendations of the First Hoover Commission. For, despite the preoccupation of the Commission with improving the performance of the executive branch, it maintained a conscientious concern for preserving the integrity of the civil service.

The Commission argued that the Government had exceeded a limit in its size and complexity beyond which services could not be furnished without serious bottlenecks, delays, and confusion. It therefore urged that the form and functions of executive agencies be modified to implement the principle of decentralized administration under centralized control. However, in the consideration of personnel organizations, the Commission was particularly cautious.

It recommended that "recruitment, selection, and other processes of personnel administration be decentralized to the agencies under standards to be approved and enforced by the Civil Service Commission." In addition, the Civil Service Commission would have to develop unmistakably clear policies, establish standards of performance, and improve its systems of reporting and inspection to insure that its policies were carried out.

The Hoover Commission declared:

> The Civil Service Commission, as the central personnel agency of the government, should direct its efforts towards developing standards designed to secure economy and the uniform observance of government-wide policies governing civil rights, employee loyalty, veterans' preference, and the protection of the merit system. It must likewise give positive assistance to the agencies in introducing these standards, as well as conduct inspections to review the compliance of the agencies with established standards.

The Commission contended that decentralization would require "a realinement in the internal organization of the Civil Service Commission to secure more unified administration and to place greater emphasis upon standards, inspection, and information activities."

On considering restructuring the Civil Service Commission, the Hoover Commission warned that "the Government must impose upon itself many regulations and controls to fend off myriad pressures and influences which seek special privilege or gain, particularly for political reasons." It therefore rejected all single-administrator forms of organization and concentrated on organizational structures which would protect the merit system and at the same time provide the desirable benefits of single administration. It refused to propose any reorganization which would weaken the protective functions of or sacrifice the public confidence in a full-time, bipartisan commission of three members.

Accordingly, the Hoover Commission recommended that the bipartisan, three-member Commission form be retained but that the President designate one of the Commissioners as Chairman and vest in him full responsibility for administring the operating organization and program of the Commission. The Chairman's role, apart from that of the other Commissioners, was to be the principal point of contact between the President and the heads of operating agencies in all matters of civilian personnel management, both domestic and foreign, acting within the rules and regulations established by the full Commission.

The full Commission would be required, by majority action, to: prepare rules and regulations for consideration by the President; review and recommend new or revised legislation affecting Federal personnel management; promulgate rules and regulations to preserve and strengthen any phase of the merit system; investigate any phase of the merit system; and, establish appellate bodies, supervise their work, and act as court of final appeal.

Thus, while the Chairman would exercise authority to implement the rules and regulations of the civil service, the full Commission would retain its power and responsibility for establishing those rules and regulations. In addition, the Hoover Commission assigned to the Commissioners not designated as Chairman the duty of continuing the study of the nature, frequency, and source of abuses of the merit system in order to initiate steps to prevent their recurrence.

The first Hoover Commission acknowledged the threat to the merit system posed by its proposed concentration of authority in the Chairman of the Civil Service Commission. Consequently, it sustained a scrupulous concern for precluding political abuse.

The Commission reported shortcomings in the application of the merit system and urged its extension. It criticized improper exceptions from the competitive service and unwarranted political clearance of appointments and promotions. It exposed methods of undermining the purpose of the "rule of three" and suggested ways of preventing the subversion of the merit system.

With respect to the expansion of the competitive service, the Commission remarked:

> While much progress has been made over the years in bringing positions under the competitive service, further progress can still be made * * * The existence of a large block of "non-status" employees restricts career and promotion opportunities for the employees concerned and deprives the agencies in many cases of desirable flexibility in promoting and assigning employees.

The Hoover Commission believed that in a true career service, the employee could go as far as his ability and initiative and qualifications indicated, excepting only decisionmaking or confidential posts. It held:

> Top policy-making officials must and should be appointed by the President. But all employment activities below these levels, including some positions now in the exempt category, should be carried on within the framework of (the civil service system).

The Hoover Commission was anxious to ensure that its reorganization of the Civil Service Commission would not erode the integrity of the civil service. Accordingly, it decided that "in order to strengthen the application of the merit system under the proposed plan of decentralization, it is recommended that there be enacted into law * * * the prohibition against political favoritism in appointments which appears in the Tennessee Valley Authority Act of 1933." The TVA Act makes mandatory the removal of appointing officers exercising political favoritism in making appointments. The Hoover Commission assigned such importance to this requirement which it raised seven times, in seven separate places. Outlawing political favoritism appeared first on the list of steps to authorize the Commission's proposals in personnel management. It immediately followed the requirement that the recruiting, examining, and selection of personnel be handled in conformance with "reasonable economy and protection of the merit system."

The First Hoover Commission spent nearly 2 years considering many methods of improving the efficiency of the executive branch and evaluating each method with regard to its effects on the justice and integrity of the Government's performance. In the area of personnel management, where the streamlining of the Civil Service Commission threatened to undermine its political neutrality, the Hoover Commission was especially wary. The Commission warned in the conclusion of its report on personnel management:

> We desire to emphasize that the recommendations in this report, and the actions which may be taken as a result of the recommendations, are to be subject to just one test: namely, their ability to provide the United States Government * * * with men and women of unquestionable ability, integrity, and devotion to the common good.

The U.S. civil service faces the same difficult task in 1978 as it has in every year since 1883: to operate with dispatch while thwarting political manipulation. It is ill-advised to attempt a restructuring of the civil service without comprehensive consideration of both aspects of the mandate of the civil service system.

Our consideration of S. 2640 must focus on the basic need for apolitical management of the personnel system. We must not sacrifice an independent, public conscience in rulemaking to flexibility in management style. We must achieve a harmony between efficiency and effectiveness in the executive branch and merit and political neutrality in the Federal service.

We shall submit amendments to check the concentrated authority vested in the Office of Personnel Management. The Senate must act to insure that new Federal personnel rules and regulations are founded in the spirit of merit principles and protected from unwarranted political interference.

With the same concern, we must consider the unfavorable repercussions of a Senior Executive Service. There is reason to question the effect of this executive service on long-standing career managers of the Federal Government. Previous administrations have not hesitated to bend the personnel rules for promotion of political goals.

RECENT ADMINISTRATION HISTORIES

In our governmental system, Federal employees are intended to be protected from political influences which may mar the performance of their official duties. We need only to examine the history of our Government to find numerous examples of job politicization within the Federal service. A view of recent administrations and their interactions with the Civil Service Commission will show that with tightening legislative controls over governmental employment and managing policies, those who still wish to influence the Government's actions, beyond the point permitted by law, have resorted to ever more complex and secretive designs. Among others, Presidents Kennedy, Johnson, and Nixon made elaborate attempts to control politically useful sectors of our Government. The Civil Service Commission has had increasing difficulty withstanding the varied tactics employed by the administration in power to infiltrate the Commission's ranks and to guide its actions.

The determination and ingenuity, with which some of our administrations have tried to intervene in the lawful functioning of the Civil Service Commission, should give us insight into the considerations which must be addressed in reform legislation.

President Kennedy entered the White House after Republicans had occupied it for 8 years. He found himself surrounded by an administration which he felt was unsympathetic to his views. In order to get the best results possible out of his New Frontier program, he wanted to find ideological sympathizers to fill policymaking positions. Kennedy appointed his Special Assistant for Congressional Relations to "clear out the executive branch" of all persons whom he felt could not be trusted politically. With the help of the Departments and Agencies, the assignment was reportedly completed in 180 days.

During both the Kennedy and Johnson administrations, the patronage pressures of FDR's New Deal and Eisenhower's administration returned. In certain ways, President Johnson went further than Kennedy in an effort to restaff the executive branch. Johnson's Special Assistant in direct charge of the recruitment of ranking administration officials, the political clearance system at the White House, and the White House political control over personnel in the executive branch, simultaneously became the Chairman of the Civil Service Commission. A former staff member in charge of Democratic patronage matters for the House of Representatives' Democratic Caucus became the Vice Chairman of the Civil Service Commission. Together the two held a majority on the three-member Commission.

Furthermore, all nominees for executive level and supergrade positions in the Government were interviewed and cleared by the White House—before or at the same time that paperwork was submitted to the Civil Service Commission. In addition, "insurance" was obtained with respect to the loyal performance of the appointee by first positioning him or her under Limited Executive Assignment and then converting that person to career status a year later.

A final objective of the Johnson administration was to insure the continued loyalty of the bureaucracy to democratic programs and Johnson policies after takeover by the Nixon administration. This was accomplished through last minute appointments and reorganizations that placed political appointees within the career service.

The Nixon administration has been attributed with the "rape of the merit system." It was during these years that the "Federal Political Personnel Manual" was prepared. It is not clear how much of the program's design to subvert the merit system actually went into effect and what precise role the Civil Service Commission played. The various schemes developed, however, emphasize the vulnerability of the civil service at the hands of the President. The purpose of the manual was to politicize the executive branch; the document exposes the immense power available to an incumbent President to undercut civil service reform and to increase his own power.

"Grantsmanship" was practiced with such recognized patronage "resources" as jobs, contracts, grants, subsidies, the execution of Federal law, public relations offices, and the provision of domestic and international transportation. This process was made more effective by feeding money to "target areas" considered crucial to the election. For example, the General Services Administration was supposed to emphasize minority procurement "in those States and areas where there is a real opportunity to win some of the black vote."

According to one of Nixon's assistants, each governmental department was expected to draw up a plan to make governmental resources responsive to political needs. The White House would review each plan and insure compliance through the use of progress reports, evaluations, and followups. Nearly all the agencies drew up plans. Once a grant had been designated a "must," a White House coordinating group would determine the kind of grant appropriate. A local official would be informed as to what kind of grant application to submit and the White House would insure its acceptance.

The executive branch needed to control civil servants if it was to manipulate programs and, in some cases, violate the law. The manual outlined the establishment of a "political personnel office to insure political control of each department." It was to find an Assistant Secretary loyal to the President and a key budget official to create extra positions. In a reference form of this office, the applicant's name and his political desirability would be specified.

Besides recruitment, this office was also to reward loyal political employees by raising their grade. It was claimed that a "loyal classification specialist" could get any grade he asked for, on the other hand, the manual stated that the civil service system creates many hardships in the removal of politically undesirable employees from their posts. Instead of lowering the status or grades of these employees, the process of which required formal procedures, other methods were employed. One was to ask the employee to resign with a farewell luncheon and a positive recommendation. An uncooperative employee could later be forced out and "his employment references from the department and his permanent personnel record (would) not look the same as if he had accepted (the) offer."

A second method, the "Transfer Technique," suggested finding some geographical location such that the employee would rather resign than be transferred there. There was also the "Special Assignment" for the family man who did not enjoy traveling; he would be assigned a special evaluation project supposedly because of "special competence," but in fact to drive him into submission by keeping him on the road. Other un-

desirable employees could also be transferred to apparently meaningful, but essentially meaningless positions.

The Senate Watergate report summarized the effects of the incumbency-responsiveness program of the Nixon administration. These included flagrant abuses of Federal funding of minority and constituent groups stemming from the "improper involvement of campaign officials in Government decisionmaking." One example involved a Spanish-American official, of the Committee to Re-Elect the President, having the power to approve or disapprove grants to Spanish-speaking communities. Another showed campaign officials taking part in the selection process of money awards of GSA architectural and engineering design contracts. A special report procedure was established at GSA to facilitate the patronage effort.

Under Nixon was assembled a group of men who were determined to do everything possible to insure the President's reelection. Programs were evaluated in terms of contribution to the President's positive image and vote count. Most communications between the White House and the departments were verbal. No documents were to indicate White House involvement in any way. This would keep the President disassociated from any questionable program in case of a leak. A sort of filter system was created at the White House. Stanton Anderson became the initial White House contact point for any grant proposals. If action should be taken, Anderson would talk to Nixon's OMB aide on the issue. A plan for "Executive Branch reponsiveness" was drawn up in which all policy matters would be handled by the Domestic Council staff, and all operational matters by two of the President's Special Assistants. When questioned by James Hamilton late in 1973 as to whether the President was informed about the responsiveness program and whether he had approved it, Stanton Anderson said it "would not be the kind of thing they would tell him about."

What seemed to have been built up during the Nixon administration was the blueprint for an executive tyranny surrounded and protected by an army of ambitious men. Their web of influence, as indicated by the manual and other documents, had the potential to spread and control more and more of the civil service system. The full extent of the Nixon administration's actions is uncertain; it is likely we are all still feeling its effects in more ways than the widely publicized Watergate revelations have made apparent.

These experiences in past administrations establish the need to analyze carefully provisions of the bill which expose the career service to political interference. The Senior Executive Service was vulnerable to political manipulation as drafted by the administration. In my opinion, the bill under Senate consideration still lacks adequate safeguards for the career manager dedicated to public service. We have submitted amendments to allay these concerns.

My statement began with the identification of problems contained in the civil service reform bill. The balance of my comments should convince the Senate of a need to consider these problems seriously. My concerns with this legislation are founded in the reality of historical experience. That experience demands the Senate's consideration of the following established facts:

Previous studies of the civil service have established a fundamental need to maintain political independence in reform programs intending to improve the efficiency of the Federal personnel system.

The First Hoover Commission warned against weakening the protective function embodied in an independent rulemaking Civil Service Commission. Public confidence in the promulgation of Federal personnel rules must be preserved.

The Hoover Commission recommended decentralization but strongly advocated increasing controls and auditing when such changes were made.

The Hoover Commission recommended strengthening the merit system by minimizing noncareer appointments and prohibiting political favoritism in appointments.

My review of recent administrations has established the reality of ever present political threats to the Federal personnel system.

I recognize the need and commend the effort to make the civil service more efficient, responsive, and effective. But we must acknowledge the previous abuses and manipulations, for partisan purposes, of the civil service system. Even with its existing protections, the Civil Service Commission has constantly had to contend against improper political assaults on merit principles. Before we restructure these protections, we should reflect on the persistence and insatiability of partisan pressures and consider reform measures which preserve the principles of the civil service.

I want to emphasize that the patronage influences imposed in the past upon the Civil Service take no political form. They have appeared in Democratic and Republican administrations alike. The desire of a new President to use a broom and sweep the office clean has always emerged—always.

I think that those who say that we need civil service reform in order to protect the public merit commendation. Those who would allow civil service reform to bring about additional political pressures upon the 2.1 million people in this country who have entered the career Federal service should be restrained.

POLITICS AND THE FEDERAL SERVICE

Mr. President, the relationship between the Civil Service and politics has been a controversial issue and persistent problem throughout the history of the United States. The President has always needed a small group of executives politically sympathetic with him. Yet political partisanship has always infiltrated and influenced the large group of what should be independent civil servants. Though civil service reform efforts have restored merit to offices once distributed as spoils, they have never successfully rid the system of improper political interference. As we consider a bill which purposes to make the administration of the Civil Service more efficient and effective, we must reflect on the inefficiency and ineffectiveness inflicted on the Federal service by excessive executive authority. We must realize that unless we take adequate precautions against politicization, we will allow the Civil Service again to be used as a political treasure trove.

Article II, section 2, of the Constitution provides that the President "shall nominate, and by and with the advice and consent of the Senate, shall appoint Ambassadors, other public ministers and consuls, Judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law: But the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments."

The first Presidents desired to adhere to the principle of appointing on the basis of merit. George Washington wrote:

> I must be permitted, with the best lights I can obtain, and upon a general view of characters and circumstances to nominate such persons alone to offices, as in my judgment shall be the best qualified to discharge the functions of the departments to which they have been appointed.

Thomas Jefferson claimed that the only questions concerning a candidate should be: Is he honest? Is he capable? Is he faithful to the Constitution?

Nevertheless, Chief Executives yielded to the political and administrative expedience of making tenure of office contingent upon party loyalty. During the years while Washington was President, removals for political reasons were unknown. However, after Adams became President, he was urged at times to replace officials for party reasons and a few changes were made in which political differences played a role. With the inauguration of Jefferson in 1801, the Presidency passed from the Federalists to the Democratic-Republicans. Jefferson observed:

> Out of about six hundred officers named by the President there were six Republicans only when I came into office, and these were chiefly half-breeds.

He claimed:

> I had foreseen, years ago, that the first republican President who should come into office after all the places in the government had become exclusively occupied by federalists, would have a dreadful operation to perform. That the republicans would consent to a continuation of everything in federal hands, was not to be expected, because neither just nor politic. On him, then, was to devolve the office of an executioner.

The Civil Service Commission's history, "Biography of an Ideal," notes that the series of appointments made by Adams as a lame duck and the reaction of Jefferson to confronting a politically incompatible Federal service set in motion partisan patterns which culminated in the spoils system. Once the pendulum started swinging, it became increasingly difficult to stop.

The Tenure of Office Act, passed in 1820, facilitated the replacement of civil

servants. It specified a 4-year limit to many offices of indeterminate length. Jefferson, in a letter to Madison prompted by Monroe's signing the Tenure of Office Act, reviled the bill and eloquently outlined its implications:

> (The Act) will keep in constant excitement all the hungry cormorants for office, render them, as well as those in place, sycophants to their Senators, engaging these in eternal intrigue to turn out one and put in another, in cabals to stop work; and make of them what all executive directories become, mere sinks of corruption and faction. This must have been one of the midnight signatures of the President, when he had not time to consider, or even read the law.

An attempt at civil service reform was made in 1629. The Senate Select Committee on Executive Patronage, known as the Benton Committee, was created to "inquire into the expediency of reducing the Patronage of the Executive Government of the United States."

The committee observed that neither the jealous foresight of the authors of the Constitution nor any human sagacity could have foreseen, and placed a competent guard upon, every possible avenue to the abuse of power. It argued that because the appointing power, the President, was not an emanation of the popular will, he could not be trusted with the sole direction of the Federal service. The committee suggested six bills to govern appointments, but all six were tabled.

With Andrew Jackson's inauguration in 1829, the spoils system became a tradition openly practiced. Though Jackson did not introduce the theory of rotation in office or the use of patronage for political advantage, he did introduce the spoils system on a wider scale than his predecessors had and did carry it out openly rather than apologetically and quietly.

Rotation-in-office under Jackson helped to destroy the concept of property in office and to solve the problems of disability and superannuation in the civil service. Jackson stated:

> I can not believe that more is lost by the long continuance of men in office than is generally gained by their experience.

However, the fundamental motivation for the implementation of widespread removal was its political desirability.

During Jackson's second term, Clay, Calhoun, and Webster led a series of debates attacking the patronage system. Clay warned:

> Incumbents, feeling the instability of their situations, and knowing their liability to periodic removals, at short terms, without any regard to the manner in which they have executed their trust will be disposed to make the most of their uncertain officers while they have them, and hence we may expect immediate cases of fraud, predation, and corruption.

Nevertheless, the patronage system was to become ingrained, not excised.

It was a fundamental weakness of the civil service as established in the United States that when one party had begun to turn out its opponents, its successors were almost forced to do the same. The alternation in party control of the Presidency between 1840 and 1860 reinforced the pattern. The Whigs carried the 1840 election; the Democrats returned in 1844 only to be thrown out again in the election of 1848. The Whigs lost in 1852 and it was not until then that the Democrats were able to remain in office for two consecutive terms. They were defeated in 1860 by a new national party that had never held the Presidency. No sequence of events could have been more conducive to coerce party leaders to apply the doctrine of rotation. Thus, in the period between the administration of Andrew Jackson and Abraham Lincoln, the apogee of the spoils system was reached. Old traditions of respectability had passed away and the later spirit of reform had not arisen. The victors distributed the spoils and were unashamed. The Presidential election became a quadrennial contest, with the civil service as the prize.

Political abuses were flagrant and egregious. Julius Bing, an advocate of civil service reform, declared in 1868:

> At present there is no organization save that of corruption; no system save that of chaos; no test of integrity save that of partisanship; no test of qualification save that of intrigue.

Seward, later to be Lincoln's Secretary of State, remarked in 1849:

> The world seems almost divided into two classes: those who are going to California in search of gold, and those going to Washington in quest of office.

President Polk had conducted a series of removals more extensive than any before this, despite having succeeded a President who had filled many positions with their common adherents. And even Polk was repulsed by the depth of the desire for Federal jobs. He wrote in his diary:

> The passion for office among members of Congress is very great, if not absolutely disruptable, and greatly embarrasses the operations of the Government. They create offices by their own votes and then seek to fill them themselves. I shall refuse to appoint them . . . because their appointment would be most corrupting in its tendency.

The effort to establish and insure the political neutrality of the civil service began in 1864 when Senator Sumner offered a bill which he described as providing for "the greater efficiency of the civil service." The Sumner bill was tabled; a similar bill introduced in 1865 by Representative Jenckes received no immediate action. However, in 1866 the House approved Jenckes' resolution to establish a select committee to investigate the civil service and suggest methods of improving it. Between 1867 and 1869, Jenckes offered four bills requiring open competitive examinations administered by a commission. The problems generated by politicization had become intolerable. Charles Eliot Norton declared in 1869:

> The question seems to be now whether the policians,—"the men inside politics,"—will ruin the country, or the country take summary vengeance, by means of Jenckes' bill, upon them.

The civil service reform movement achieved its first major victory in 1871 during the closing moments of a lame-duck session. Congress passed a civil appropriations bill with a rider authorizing the President to prescribe rules for the election of qualified candidates and to employ people to conduct the investigation of the candidates.

President Grant exercised the authority provided him and appointed a seven-member commission. The Grant Commission prohibited political evaluation of candidates and promulgated four requirements: Competitive examinations for appointments, the "rule of three," a 6-month probationary period, and competitive examinations for promotion.

However, in 1875 Congress refused to appropriate funds for the Civil Service Commission. President Grant, having insisted that he would not maintain the civil service regulations without congressional support, terminated the civil service rules and regulations and abolished the examining boards. In spite of this suffocation the Grant Civil Service Commission left a legacy in both law and practice.

Public support for civil service reform swelled. Leagues formed to promote "reforms to remove the evils of patronage, favoritism, and partisan coercion from the civil service, and cause appointments, promotions, and removals to be made with due reference to character, merit, and economy."

As President, Hayes made repeated requests for reform legislation and revival of the Grant Commission. In his third annual message he made a particularly strong plea for reform:

> The authority of appointment and removal is not a prerequisite, which may be used to aid a friend or reward a partisan, but is a trust, to be exercised in the public interest under all the sanctions which attend the obligation to apply the public funds only for public purposes.

In February 1881, Senator Pendleton reported, from the select committee to examine the several branches of the civil service, a bill providing for competitive examinations administered by a commission. The comittee report cited the repeated requests from Presidents Grant and Hayes for continued appropriations to the Civil Service Commission and pointed out that the pleas never met with congressional action. The report concluded:

> It was therefore Congress, and not the Executive, which arrested the new system based on character, capacity, and common justice.

Ironically, the lame-duck session adjourned without considering the bill.

It took a tragedy to stimulate legislative action. James Garfield had declared:

> The present (spoils) system . . . impairs the efficiency of the legislators; . . . it degrades the civil service; . . . it repels from the service those high and manly qualities which are so necessary to a pure and efficient administration; and finally, it debauches the public mind by holding up public office as the reward of mere party zeal.

On July 2, 1881, Garfield was assassinated by a disappointed office-seeker.

The public instinctively associated the President's murder with the spoils system. One reformer exclaimed:

> On the myriad pages of our journals, of every section and class, the truth has been daily uttered in words of mingled anxiety, shame and detestation.

Late in 1881, Pendleton reintroduced

his civil service reform bill. The full Senate again took no action; but the Committee on Civil Service and Retrenchment issued a report suporting civil service reform and declaring:

> In the discharge of (the appointing power), the highest of all executive functions, political influences and compensations have come to dominate and to subordinate all other considerations; and the distribution of official spoils has come to be the logical prerogative of political ascendancy.

Finally, in January of 1883, the Pendleton Act was passed by Congress and signed by President Arthur. The Pendleton Act established the three-member, bipartisan Civil Service Commission to enforce the merit system. It provided for competitive examinations and political neutrality and made tenure contingent upon satisfactory performance. It required a probationary period for the evaluation of appointees, the continuation of veterans' preference, and promotion on the basis of merit and competition.

One would expect that at the triumph of the reform movement, the motives of the supporters of the Civil Service Act would be pure and altruistic. In fact, much of the support for the bill was impelled by political considerations. The outlook for the Republican Party in 1884 was not promising; Republicans were filled with apprehension and Democrats with anticipation. Those who very shortly would be out of Congress were in a majority and controlled the Presidency. It would be advantageous for Republicans to make permanent the tenure of office-holding friends while supporting the reform their constituents so obviously desired. Republicans supported the Pendleton Act for two reasons: They could pose as reformers in 1884 and win back lost support and they could freeze Republicans in office behind civil service rules in case the Democrats won the election.

Though political pragmatism constituted the motives of some Members of Congress, it in no way compromised the longrun design of civil service reform. Indeed, during the two decades following the passage of the Pendleton Act, patronage itself effected the expansion of the merit system.

The principles of civil service reform advanced not because of further action by Congress, but because of Executive action. After 1883, Presidents had a general responsibility for personnel administration: Approval of the rules of the Civil Service Commission and extension of the merit system. The Executive Orders from 1883 to 1901 were almost wholly devoted to civil service matters. Ironically, Executive action stemmed more from a desire to place fellow members permanently in the civil service than from a wish to reform. The process involved placing political friends in a branch of the unclassified, or unreformed, service and extending the rules to cover it. Incumbents, when the civil service rules were extended to a new class of officers, were included within the protection of the civil service rules without the trial of an examination. Therefore, Presidents extended the classification to protect their party friends.

This process was hastened by the alternation of party control in the 1880's and 1890's, which led Presidents to make additions to the classified list every 4 years. During this period, Presidents entered office taking full advantage of their patronage prerogatives within the unclassified service, but left office with extensions of the merit system to their credit.

During the last two decades of the 19th century, the classified service expanded for political reasons. Meanwhile, Congress faced attempts to dissolve the Civil Service Commission. Seven bills to repeal the Pendleton Act were offered during Cleveland's first administration. Eight were introduced in Harrison's. Four were offered during Cleveland's second. In addition to outright rescission, attempts were made to starve the Civil Service Commission by curtailing its boards, and to specify fixed terms for all Government employees. Thus in its inception, the Civil Service Commission had to contend against legislative assaults and to expand primarily through the blanketing in of patronage appointees.

In 1903, Roosevelt revised and consolidated the civil service rules. Until 1903, the competitive service was identified by specifically enumerating the parts of the executive branch to which it applied. President Roosevelt defined the competitive service as all positions in the executive branch except those specifically exempted by Congress or the President. He thereby shifted the burden of specification from including positions to excluding them.

Excepting positions from the civil service rules became a customary practice. The most common antimerit system legislation following 1903 specifically exempted new or old positions from the requirements of the Pendleton Act. Such exemptions were made repeatedly.

Circumvention of the merit principles was accomplished even without legislation. Temporary employees could be hired without going through the civil service procedures. Thus temporary posts were ideally suited for the continuation of spoils practices.

The practice of exempting positions from civil service rules culminated in the early 1930's. The Great Depression and the change of administration in 1933 combined to encourage sweeping exceptions from civil service jurisdiction. Eighty percent of the civilian-occupied Federal positions were within the competitive service in 1932. Only 60 percent were within the service in 1936. During this period the excepted service grew by 200,000 positions or 160 percent.

Relief agencies were created outside of the requirements of the merit system. The expressed justification was that the agencies were temporary, but a fundamental motive was the desire to control a pool of patronage jobs. One Congressman declared:

> We have had twelve long, lean and hungry years in this country . . . I may say I do hope and pray, adopting somewhat the spirit of old Andrew Jackson on these propositions of rewarding the faithful, inasmuch as we have so many faithful and so many deserving . . . that the rights and interests of really deserving Democrats will not be forgotten.

The reported circumvention of merit principles and practices generated protests within and outside the Government. While the number of positions excepted from civil service laws was increasing from 111,000 in 1932 to 309,000 in 1937, public interest in the extension and improvement of the merit system was increasing to a level unequaled since the Pendleton Act. The executive council of the National Federation of Federal Employees wrote President Roosevelt:

> Democratic government cannot thrive when political considerations are the dominant factors in appointments to the federal service. Waste, maladministration, inefficiency, and corruption inevitably follow when a spoils policy is substituted for a sound civil service system under which men and women attain their positions through competitive examination and retain them through proved capacity.

The extension of the merit system was a major campaign issue in 1936. The platforms of both parties pledged support for expanding the coverage of the competitive service.

Between 1936 and 1940, Executive orders and laws reinforced the merit principles. President Roosevelt in 1936 revised the civil service rules to require that incumbents meet noncompetitive standards in order to acquire permanent status. In 1938, he extended the competitive service to include most of the exempted positions which he had the power to convert. The Hatch Act prohibiting active participation in politics by employees and officials of the executive branch was passed in 1939. In the next year, Congress passed the Ramspeck Act, which authorized the President to extend the classified service to cover almost all positions previously exempted by statute.

With respect to the development of the merit system, the outstanding characteristic of the emergency war years of the forties and early fifties was that the expansions and contractions of the civil service were contained within the classified service. Despite extensive delegation of examining authority to the employing agencies, merit system standards and practices were respected.

Nevertheless, patronage influences continued to impose themselves as they had in the past. The Second Hoover Commission in 1955 declared:

> There has never been a clean break with the mid-nineteenth century patronage system . . . The merit system and the spoils system have continued to exist side by side . . . Until a clear-cut decision is made to get rid of patronage in the civil service and to concentrate political appointments in the area of political executives . . . , patronage will continue to affect both the efficiency and the prestige of the public service adversely.

Manipulation of the civil service for political ends has continued during recent administrations. President Johnson appointed his special assistant responsible for the White House recruitment and political clearance system to hold simultaneously the post of Civil Service Commission Chairman. He acquired a politically sympathetic majority on the Commission by appointing, as its Vice Chairman, a staff member in charge of patronage for the House Democratic Caucus. Though President Johnson had insured political sensitivity in the administration of the civil service, he further required that all nominees for executive level and supergrade positions be interviewed and cleared by the White House before the Civil Service Commission screening was initiated.

We have seen, and I reiterate to demonstrate that there is no politics in the statement I am making, that the Nixon administration attempted a vast subversion of the merit system. Agencies were instructed by the Federal Political Personnel Manual to appoint politically loyal candidates. Promotions and removals were to be made on the basis of partisan support. Transfers to force the employees were utilized in an especially ruthless manner.

Clearly, the civil service has had to struggle to serve the needs of the public while serving the interests of the Executive. It has been employed as a reservoir for political patronage while being a repository for public trust.

Senate bill 2640 still, in my opinion, threatens to efface the accomplishments made during 100 years of struggle against political manipulation of the civil service. I support making the civil service more efficient; I uphold making it more effective. But I am convinced that neither efficiency nor effectiveness will be attained unless politicization is precluded.

Mr. President, there is a series of amendments within this amendment. One deals with rule-posting requirements; another with the policy of career placement in the SES; another with OPM certification of appraisal systems; another with an advisory committee for the Director of the Office of Personnel Management; and another with the payment of attorneys' fees in arbitration.

I will make statements on these matters after the remarks of my distinguished colleague from Maryland.

I commend the managers of the bill, the Senator from Connecticut and the Senator from Illinois, for being patient with those of us who feel that we must persist in making certain that if we have reform it will not make the avenue into the career civil service the avenue of politics.

Mr. PERCY. Mr. President, I ask unanimous consent that Chris Brewster, of the staff of Senator DANFORTH, be granted the privileges of the floor during the discussion and votes on the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I ask unanimous consent that Jon Steinberg, Bill Brew, Babette Polzer, Janice Orr, Jack Wickes, and John Pressly be granted the privileges of the floor throughout consideration of S. 2640 and S. 2570.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. May I make the same request, Mr. President, for Peter Connolly, of Senator NELSON's staff?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I see that the Senator from Tennessee (Mr. SASSER) is on his feet and seeks recognition. He and I have worked together on these matters in a spirit of bipartisanship. I am most delighted to have the opportunity to participate with him on Senate bill 2640.

It is a necessity, I feel, for the Senate to have Members on both sides of the aisle who are willing to give their time to what often seems to be small, minor, or technical amendments, but which have far-reaching impact upon those people who serve the Federal Government in all times, through good times and times of crisis, with devotion to our system.

I want to say, with the two ranking members present, that I am delighted that we have had the assistance of my good friend from Tennessee, and to recognize him here as a participant on this bill.

Mr. RIBICOFF. Mr. President, if the Senator will yield, the distinguished Senator from Tennessee (Mr. SASSER), the chairman of the subcommittee which has the responsibility for Civil Service, has been invaluable to the entire committee. This is hard work. It is work that takes a great deal of time. The Senator from Tennessee has devoted himself to all these problems, and his contributions have been invaluable in the formulation of this legislation.

Mr. SASSER. Mr. President, let me first say that I am greatly indebted to the distinguished Senator from Alaska for the splendid spirit of cooperation he has displayed as the ranking minority member of the Civil Service Committee. He makes a tremendous contribution, and it is always a great pleasure to work with him; and I thank him for his kind and generous remarks.

Also to the distinguished manager of the bill, Mr. President, I wish to express my appreciation for his generous remarks and for his splendid assistance and guidance in getting this bill through the shoals of the committee and to the Senate floor today.

Mr. President, the Civil Service Reform Act of 1978, S. 2640, is one of the most important and historic pieces of legislation this Chamber will consider for many years.

Our civil service system is composed of over 2 million workers. It has grown tremendously in size and responsibility since 1883, when the Pendleton Act first established the civil service. Yet it has undergone no major revision for 95 years. We have had piecemeal change lumped on top of piecemeal change, sometimes without regard for how the overall system woull be affected.

Now, in 1978, we find the civil service to be the target of a great deal of criticism. It's time to make comprehensive changes in the way our Government's personnel system is operated. Not to make such changes is to encourage continued criticism of the system and to undermine further the morale of the Federal employees themselves.

THE SPOILS SYSTEM

The nature of the Federal personnel system has been constantly evolving through history. For our Nation's first century, entry into the Federal service was most often accomplished strictly on the basis of patronage. Patronage politics was a principal plank in the platform of a fellow Tennessean, Andrew Jackson, who believed that "to the victor goes the spoils." Jackson thought that all Federal employees should be politically loyal to the President, and that it was best to rotate citizens in and out of Federal jobs in order that an elite bureaucratic class not develop. Many Americans shared Jackson's views, which he succinctly defined in his first annual address in 1829:

> I cannot but believe that more is lost by the long continuance of men in office than is generally gained by their experience.

Although President Jackson was one of the few Presidents who loudly proclaimed the virtues of spoils, his successors continued the Jacksonian policy of rewarding the party faithful with Federal appointments.

PASSAGE OF THE PENDLETON ACT

History, however, and changing circumstances, demonstrated that the worst aspects of the spoils system outweighed the benefits. The spoils system had a debilitating effect in the long run on the efficiency of the Federal service.

In 1871, Congress, under pressure from a "good government" movement led by progressives in the electorate, sensed that the Nation was swinging to the idea that good government meant neutral and impartial government. Civil service reform became a rallying cry. This was a switch from the idea that government should at all levels reflect the character of those who won the last election—that in order to be responsive to the people, public officials had to be appointees of those whom the people elected.

The rejection of the spoils system and calls for civil service reform led to the popular acceptance of the "merit" concept for public employment. Politics was removed from the running of Government, both in the appointments process, where competitive examination replaced political connections, and in the day-to-day operation of the Federal service.

The "good government" movement culminated in 1883, after nearly a century of the spoils system and patronage politics, in the passage of the Pendleton Act, which established the merit system and created the Civil Service Commission. At that time, however, only 10.5 percent of the Federal workforce, or 13,780 employees, was included in the merit system.

Successive acts of Congress authorized Presidents to classify more and more positions in the Federal service under the merit system. And as Government continued to grow, the new positions, more often than not, were classified in the competitive service rather than as patronage. By 1904, when President Theodore Roosevelt took office, the percentage of the Federal workforce under the merit system had increased to 53, and the number of Federal employees in the competitive service had increased to 154,093. These numbers continued to increase to 83.1 percent and 2,430,144 employees in the competitive service in 1971, when the

Postal Reorganization Act was passed and a different merit personnel system was established for the postal service.

CHANGING NATURE OF COMMISSION

With the rapid expansion of Government services in the 1930's to cope with the effects of the Depression, the Government's personnel system became stretched and strained. On the one hand, the Civil Service Commission was evolving into the central personnel agency for the Federal Government. The transition from serving primarily as policeman to administrative leader of the Government personnel network was accompanied by a growing list of expanded functions for the Commission. By the mid-fifties, according to one report:

In addition to its historical responsibilities in examining, the Commission now had responsibilities under the Hatch Acts (1939 and 1940), and the Veterans' Preference Act (1944); as well as for position classification in both the departmental and field service (the Classification Act of 1949). It had responsibilities for Performance Rating (1950), for Incentive Awards (1954) and for the Group Life Insurance Act (1954), not to mention a number of other statutes, or a host of important responsibilities under Executive Order (such as in the area of employee suitability and loyalty).

And the period from 1958 to the present continued the trend. Just to name a few of the major bills among the 25 or so civil service measures passed by each Congress, there has been the Employees Training Act of 1958, the Federal Employees Health Benefits Act of 1959, the Federal Salary Reform Act of 1962, the Federal Pay Comparability Act of 1970 and the Intergovernmental Personnel Act of 1970.

CHANGING WORKFORCE—COLLECTIVE BARGAINING

Further, the Commission has had to deal with the ramifications at the Federal level of the rapid rise of unionization in public sector employment. With the decline of the notion of the sovereignty of the State in labor relations with public workers, labor organizations in government increased their efforts to improve relations with their employers. From 1949 to 1961, labor organizations of Federal workers pressed for legislation in Congress to authorize statutorily the concept of union recognition and bargaining among Federal employees. The Federal employee labor groups, which had been excluded from the National Labor Relations Act, pursuaded various Congressmen to introduce legislation on their behalf, and hearings were held in the 82d, 84th, and 86th Congresses.

The interest and pressures generated by these bills caused President Kennedy to appoint a task force to study employment management in the Federal service. The recommendations of the task force resulted in the eventual promulgation of Executive Order 10988, "Employee-Management Cooperation in the Federal Service," in 1962. Executive Order 10988 established the first formal labor-management relations system for Federal employees of the several agencies of the executive branch, although certain employees, such as those in the Tennessee Valley Authority, had for years operated under their own statutory collective bargaining law.

Today, combined with the rapid growth of the public employment and the changing nature of personnel administration, 58 percent of the Federal workforce is represented by exclusive bargaining agents in work-related areas, excluding pay and fringe benefits. The Civil Service Commission has had to adjust its functions accordingly, but without the benefit of any new laws or the guidance of congressional intent.

NEED FOR COMPREHENSIVE STRUCTURAL REFORM

It is not difficult, then, to see how massively the Federal personnel system has changed since the passage of the Pendleton Act in 1883. But the civil service laws have not adequately changed with the growth of the system. Modernization of public administration techniques, the greatly expanded role of the Civil Service Commission, and the increasing reality of a highly organized Federal work force have not been reflected in the civil service laws.

Attempts have been made to address these issues, yet no comprehensive reform bill has been seriously considered by Congress.

The first and second Hoover Commissions, which made detailed inquiries into the state of the civil service, submitted recommendations which were considered but never adopted. Among those recommendations was the suggestion that the functions of the Civil Service Commission be decentralized. It was felt that the Commission was taking on too many conflicting roles and that its functions should be narrowed.

One legislative initiative was made to respond to the issues raised by the Hoover Commissions and other recommendations of civil service experts. In 1958 and 1959, Senator Joseph Clark introduced legislation which, according to a report of the Post Office and Civil Service Committee:

Would establish an Office of Personnel Management in the Executive Office of the President and transfer to it those functions of the Civil Service Commission which comprise the positive leadership functions in the field of personnel administration now assigned to the Commission but more properly the function of the Chief Executive. The Civil Service Commission would retain those functions associated with its "watchdog" role as the protector of the merit system.

Hearings were held on the Clark bill, but no Senate action was ever taken. The Clark bill represented the last major congressional consideration of the Civil Service Commission until the 1970's, when merit abuses by the Nixon administration heightened congressional concern over the civil service laws and regulations.

The bill we have before us today, Mr. President, is finally a comprehensive effort to address the concerns that have been raised about the Federal personnel system over the past 95 years. We have found that there is not enough merit in the merit system, and yet at the same time there is not sufficient administrative flexibility to operate the Federal Government in an efficient and productive manner, consistent with the latest techniques in public administration. S. 2640 would address both of these problems by strengthening the protection against merit abuse and by giving greater flexibility to Government managers to run their programs for the benefit of the people without delay and redtape.

SUBCOMMITTEE AND COMMITTEE ACTION

Mr. President, as chairman of the Senate Subcommittee on Civil Service and General Services, and as a member of the Senate Committee on Governmental Affairs, I have had an ongoing concern that the civil service laws reflect the current state of the Federal work force; that they be fair to those who have chosen Government service as a career; and that they promote efficiency in administration.

In 1977, when the new Civil Service Commissioners, Dr. Campbell, Mr. Sugarman, and Ms. Poston, came before the committee to be confirmed, I raised many of the issues that are now addressed by this bill, S. 2640, today. I raised the subject of protection for civil servants from merit abuse. This subject particularly concerned me and concerned those who work for the Government, after repeated attempts by past administrations to use the civil service for partisan purposes.

I raised the question of the lack of opportunities in our Federal Government for women and minorities.

The Commissioners were asked at those hearings about the dual function of the Civil Service Commission, and whether those functions should be split.

I raised the question of lengthy and often-wasteful appeals procedures, which often did not help those who were in the right but allowed those who were in the wrong to tie up their superiors in mounds of paperwork and months of proceedings.

One of the most important questions in those confirmation hearings dealt with protections for whistleblowers.

I raise the issue that many Federal employees consider the current Executive order governing labor-management relations to be inadequate.

THE INK REPORT

The administration's response to these and other issues raised was, first of all, a comprehensive study of the entire Federal personnel system. The Federal personnel management project, conducted mainly by career civil servants, was a top-to-bottom review of every personnel law and regulation and their effect on the efficiency of the public service. This project was headed by Mr. Dwight Ink, a public administration expert.

The Ink project was an outgrowth not only of congressional concern, but also of President Carter's clear commitment to reorganization and reform of the civil service.

As a candidate, Jimmy Carter had repeatedly expressed his belief that the Federal Government was too big, too disorganized, and too unresponsive. In early 1976, candidate Carter said:

There is a pervasive tendency in government toward unrestrained growth in salaries, number of personnel, and expenditure of funds. This growth often bears little relationship to the actual need for government services. . . . The first piece of legislation I will send to Congress will initiate a complete

overhaul of our federal bureaucracy and budgeting systems. The second part, as a follow-up to the first, will initiate the reorganization of our federal bureaucratic structure. . . . The greatest need facing the United States today is for a well-managed structure of government—one that is simple, efficient and economical.

The Federal personnel management project issued study finding and option papers in installments throughout much of last year, and concluded its operations in November 1977.

The findings of the Ink report touched upon virtually every aspect of the Federal civil service system.

Among the hundreds of recommendations made were proposals to abolish the Civil Service Commission to create a new office of personnel management, to create an independent merit protection board, to create a senior executive service, to simplify Federal staffing procedures, to reform and streamline various Federal pay systems, to give agency managers more authority to recruit and examine, to provide for a system of financial incentives and bonuses, to reform the "rule of three" and other certification processes, and to provide greater promotion flexibility.

On December 19, 1977, President Carter gave his approval to the proposal to abolish the existing Civil Service Commission and create two new agencies in its place.

On March 2, 1978, the President sent his civil service reform message to Congress, stating:

The simple concept of a "merit system" has grown into a tangled web of complicated rules and regulations. Managers are weakened in their ability to reward the best and most talented people—and to fire those few who are unwilling to work.

The sad fact is that it is easier to promote and transfer incompetent employees than to get rid of them. It may take as long as three years merely to fire someone for just cause, and at the same time the protection of legitimate rights is a costly and time-consuming process for the employee.

You cannot run a farm that way, you cannot run a factory that way, and you certainly cannot run a government that way.

S. 2640

The bill we have before us here today, Mr. President, addresses these issues in a straightforward and comprehensive manner. When S. 2640 was submitted by the administration in March, it contained the following provisions:

Codification, for the first time, of basic merit principles governing the Federal personnel system, and specific identification of prohibited personnel practices which undermine the merit system;

Improved and streamlined procedures for deciding employee appeals;

New procedures for appraising employee performance, with less cumbersome procedures for taking corrective action on the basis of poor performance records;

Additional participation by agencies in the staffing process, with increased flexibility in hiring decisions;

Increased opportunities in Federal employment for disabled and Vietnam-era veterans and for minorities and women;

A Senior Executive Service to utilize the skills of the Nation's best public administrators and to give managers more flexibility and better rewards for outstanding performance;

An incentive pay plan for lower-level managers and supervisors at the GS-13 through GS-15 grade range which relates pay increases to the quality of their performance;

An authorization for research and demonstration projects aimed at experimenting with new personnel management techniques and improving the efficiency of the Federal service;

Statutory creation of an Office of Personnel Management, to be the administration's chief personnel bureau and to make policy decisions for the President on personnel matters; and

Statutory creation of a Merit Systems Protection Board, to hear appeals from employees against whom an adverse action has been taken, to give protection to Federal employees who disclose examples of Government wrongdoing, and to be the watchdog over merit abuses within the system.

These provisions were included in the bill in the following titles:

Title I, merit system principles.

Title II, civil service functions; performance appraisal; adverse actions.

Title III, staffing.

Title IV, senior executive service.

Title V, merit pay.

Title VI, research and demonstration authority.

On April 25, 1978, the President submitted as an amendment title VII, which would create an independent Federal Labor Relations Authority to administer the Federal labor relations program, and which would codify the existing Executive Order 11491, which now governs labor relations in the Federal sector.

The Civil Service Reform Act of 1978, S. 2640, was a companion to Reorganization Plan No. 2 of 1978, which seeks to abolish the Civil Service Commission and replace it with a single-headed Office of Personnel Management, a Merit Systems Protection Board, and a Federal Labor Relations Authority. The reorganization plan makes the major structural changes in the civil service system, while the legislation implements the policy changes President Carter feels are essential to reforming the Federal personnel system.

Mr. President, I would like at this time to highlight the major areas of reform addressed by this bill and to underscore why they are so essential to getting a handle on the bureaucracy, affording greater management flexibility, and insuring fair treatment and adequate rewards for Federal employees who do their jobs.

I. ABOLISHING THE CIVIL SERVICE COMMISSION AND REPLACING IT WITH AN OFFICE OF PERSONNEL MANAGEMENT AND A MERIT SYSTEMS PROTECTION BOARD

Nearly every witness who testified before the Committee on Governmental Affairs supported the concept of splitting the Civil Service Commission into an Office of Personnel Management and a Merit Systems Protection Board.

The Office of Personnel Management would be the primary agent advising the President and helping him carry out his duty to manage the Federal workforce. As noted earlier, it has been the feeling of public administrators going back to President Roosevelt's Committee on Administrative Management in 1937 that there should be a single-headed entity to direct the Federal personnel system. The concept has been discussed for decades and has been adopted extensively with success at the State and local government levels.

The Merit Systems Protection Board would have three members appointed by the President. It would, along with its Special Counsel, be responsible for safeguarding the effective operation of the merit principles in practice. The Board would decide cases brought to it by employees who feel they have been disciplined in a manner inconsistent with the merit principles or who bring to the attention of the Special Counsel other instances of Federal employees acting in violation of the merit principles.

A strong, independent Merit Protection Board was also endorsed by witnesses before the committee. It is obvious, in studying the merit abuses which were found to be prevalent in past administrations, that the current Civil Service Commission was not adequately carrying out its role as protector of the merit system.

The need to establish the adjudicatory and the personnel management functions of the Commission in two separate bodies was pointed out by the public administration experts who testified before the committee. Thus, it was felt not only that the functions of the Commission needed to be better defined, but that it should be done by removing the oftentimes conflicting nature of the Commission's duties. A simple reorganization of functions was felt to be insufficient. Instead, it is time in this bill for major structural reform of the civil service.

The General Accounting Office examined the dual nature of the Commission last year and recommended that Congress eleminate the conflicting roles of the Civil Service Commission as policymaker, prosecutor, judge, and employee protector.

I ask unanimous consent, Mr. President, that the testimony of other expert witnesses and interested groups before the committee on this issue be inserted in the RECORD at this point.

The material follows:

The American Society for Personnel Administration:

Dividing the Civil Service Commission into the Office of Personnel Management and the Merit System Protection Board would alleviate the conflicting roles the current Civil Service Commission is required to perform. . .

As a nation, we rely on our system of checks and balances. However, this system does not appear to exist in the current operation of the Civil Service system, but would be established under this proposal.

The National Academy of Public Administration:

We agree that a serious conflict does exist in the Civil Service Commission's responsibilities, that its personnel management and policing roles are fundamentally incompatible and should be performed by two different organizations.

National Civil Service League:

We strongly favor the replacement of the Civil Service Commission by (1) an Office

of Personnel Management and (2) a Merit Systems Protection Board.

The National Federation of Professional Organizations:

Our group is in accord with the stated purposes of S. 2640, which is to split the present Civil Service Commission into two organizations, the Office of Personnel Management, and the Merit Systems Protection Board. The Civil Service Commission has long been entrapped in conflict of interest, in attempting to be the adviser to agencies on personnel matters, and also the independent, impartial adjudicator of disputes between employees and their agencies.

American Civil Liberties Union:

We wholeheartedly support the division of the present Civil Service Commission into two independent agencies. One of our major objections to the present system is that the Commission serves as co-plaintiff, investigator, prosecutor and judge in personnel actions, insuring a management-oriented result in the majority of cases.

Committee for Economic Development:

The CED plan and the President's plan on termination of the Civil Service Commission, creation of the Office of Personnel Management and the creation of a Board ("Federal Public Service Board" or Merit System Protection Board") are nearly identical.

Common Cause:

The existing Civil Service Commission, serving as the primary personnel agency of the federal government, has a number of responsibilities which are so disparate and inconsistent that it is presently unable to fulfill any of them adequately . . .

Common Cause strongly supports the Administration's proposal to divide the existing Civil Service Commission into an Office of Personnel Management (OPM) and a Merit Systems Protection Board (MSPB).

International Personnel Management Association:

IPMA endorses the establishment of the Office of Personnel Management and the Merit Systems Protection Board. The inherently conflicting roles of the current Civil Service Commission have impaired its effectiveness and credibility.

Ralph Nader:

Structurally, the Civil Service Commission has two inherently contradictory roles, to be the top personnel manager of the federal government and to protect the non-political, competitive nature of civil service. The Commission has tilted toward the management role at the expense of the merit protector role. President Carter has recognized this role conflict and, in Reorganization Plan Number 2, has recommended splitting the Civil Service Commission. This proposal should have a positive impact and we endorse it.

Mr. SASSER. Mr. President, the proposed reorganization and restructuring of the Civil Service Commission is absolutely essential to assuring each President that he will be able to run the bureaucracy effectively and to assuring Federal employees that their job security will not be threatened by arbitrary actions based on political motivations.

II. PROTECTION FOR WHISTLEBLOWERS

I am pleased that this legislation addressed a long-standing deficiency in the civil service laws: that patriotic employees who bring examples of official wrongdoing to the public's attention have, in the past, enjoyed no meaningful protection against reprisals by their supervisors.

Mr. President, it should be public policy to encourage responsible whistleblowing rather than chill it. It is in the true nature of public service for an employee to blow the whistle on superiors who are misspending the taxpayers' dollars or who are breaking the law.

Nevertheless, we have seen too many examples in the past of Federal employees who found themselves fired, transferred, or deprived of meaningful work simply because they were brave enough to place the public interest ahead of their own personal career interest.

There is no reason, Mr. President, why an employee should have to risk his career and his family's financial stability for performing a public service.

Because of past examples of whistleblowers who suffered reprisals, legislation has been introduced to offer meaningful protection for employees who find themselves in such a situation. In particular, my distinguished colleagues, Senators ABOUREZK and LEAHY, have done outstanding work in this area. Also, Senator METZENBAUM has introduced legislation which is currently pending in the Judiciary Committee.

The Governmental Affairs Committee, after hearing considerable testimony highlighting the urgent need for whistleblower protection, considered each of these bills, together with the administration's proposal in S. 2640, as introduced. The committee's version of whistleblower protection is commendable for balancing the need for legitimate protections for whistleblowers and potential whistleblowers with the concern that Government not be endlessly tied up by unfounded complaints from employees with less-exalted motives.

The committee bill gives the Special Counsel of the Merit Systems Protection Board the power to step in and request a stay of any personnel action if he determines that such action is a reprisal against an employee who disclosed illegal or improper Government action. This is an important new statutory provision that goes much farther than ever before to protect whistleblowers.

The committee felt, however, that this bill should address only the personnel aspect of a whistleblower complaint. The resolution of the substance of the revelation of Government wrongdoing should be handled by the agency involved and by the President—not by the Special Counsel or the Merit Systems Protection Board.

I agree with the committee's decision to limit the whistleblower language in this bill to personnel actions. The committee has also recommended to the Senate legislation to establish office of inspector general in each of the agencies. These offices are the appropriate mechanism for investigating and correcting instances of official wrongdoing.

The whistleblower protections offered in S. 2640, as reported, are strong and meaningful, and I urge their adoption by the Senate.

III. CREATION OF A SENIOR EXECUTIVE SERVICE

One of the bill's most innovative reforms is the proposed creation of a new senior executive service.

While many people have expressed legitimate concerns that the senior executive service could be politicized, I believe that the bill adequately protects senior executives from improper political manipulation or coercion.

Except for the concerns about politicization, the concept of a senior executive service received broad bipartisan support from witnesses who testified before the committee. I, too, support the creation of a senior executive service.

The SES would accomplish the following important reforms:

Encourage mobility of senior executives among agencies;

Reward outstanding performance of career executives with additional compensation in the form of bonuses and status;

Provide flexibility to agency heads in the assignment of executives;

Provide opportunities for career executives to serve in higher level positions, including Presidential appointments, without losing their identification with the career service;

Provide for performance appraisals that meaningfully reflect both the executive's individual performance and his unit's success in carrying out its functions; and

Eliminate redtape and delay in the removal of executives whose performance is unsatisfactory or marginal.

Mr. President, the U.S. Government is the largest employer in the Nation. Its programs are far reaching, complex, and widely varied. They must be conducted with sensitivity to conflicting interests and under constant public and media attention, for they affect every citizen. To meet this responsibility requires an executive work force that is carefully chosen, well trained, well motivated, farsighted, able to respond to events, and able to achieve Presidential and congressional goals.

Nevertheless, no fully effective Government-wide system exists today for selecting, assigning, developing, advancing, rewarding, and managing the men and women who administer the hundreds of Federal programs that are vital to the Nation.

The Senior Executive Service is designed to provide such a system.

IV. STAFFING

One of the foremost problems identified in the Ink report of the Federal personnel management project was that there was insufficient flexibility in the staffing process. Since all staffing has been done through the Civil Service Commission, there too often are months of needless delay, mounds of redtape, and other administrative burdens associated simply with hiring one employee in one agency.

The reform proposal provides for delegation of selected personnel authority to departments and agencies. Any potential abuse stemming from increased agency personnel authority would be minimized by performance agreements between agencies and the Office of Personnel Management, reporting requirements, and followup evaluations. The OPM would have the authority to direct corrective action whenever the delegated agency authority is abused.

I am certain that millions of our citizens have encountered the months of unnecessary redtape and delay now associated with applying for a career position in the Federal Government. We doubtless lose thousands of highly qualified and competent individuals who forsake application for public service rather than undergo months of uncertainty and confusion. The reforms spelled out in S. 2640 should help to alleviate this problem.

V. MERIT PRINCIPLES AND PROHIBITED PERSONNEL PRACTICES

The civil service, thanks only to the honesty and patriotism of career Federal employees, has survived every attempt to undermine the merit system by those who have sought to use the civil service for partisan purposes.

This legislation, S. 2640, proposes to write into the statute the merit principles upon which our civil service is based. In addition, the bill would establish statutorily a set of prohibited personnel practices and would charge the Merit Systems Protection Board and the special counsel with enforcing the merit principles and the prohibited personnel practices. There would be a clear mandate from Congress that such violations are not to be tolerated in the future, and employees who are the victims of political manipulation will have statutory protection.

The codification of the merit principles is a long-needed step which I wholeheartedly endorse.

VI. PERFORMANCE APPRAISALS

Current law is inadequate to allow meaningful appraisals of the work of each employee. Under the current "outstanding," "satisfactory," and "unsatisfactory" scale of performance ratings, the reality is that over 90 percent of the ratings are grouped into the "satisfactory" category.

The current system renders performance appraisals almost meaningless, and certainly useless, in determining who should be dismissed for poor performance and who should be given raises for excellent performance. When nearly everyone is grouped together, there is no way to distinguish the marginal performers from the competent and motivated workers.

Further, under the current system, managers have incentives to rate all of their employees "satisfactory," the employee may appeal the rating, oftentimes tying up the supervisor in months of paperwork and proceedings. It is, quite honestly, simply much easier to rate everybody the same and get on with your work.

The performance appraisal problem is even further complicated by the effect which the "satisfactory" ratings have on a manager who attempts to discipline or fire an employee for incompetence. Most employees need only to point to their years of "satisfactory" ratings to contend that it is the manager, not the employee, who is the incompetent.

The bill gives authority to the agencies to develop better performance appraisal systems, with ratings being tied directly to job performance. In addition, the bill requires that performance evaluation be used as a basis for all decisions about rewarding, promoting, and retaining Federal employees.

VII. MERIT PAY

The Federal Government needs to move away from the concept that employees' pay should be raised each year simply because the employee is still on the payroll. Too often in the past, a large number of Federal employees have almost automatically received such "longevity" pay increases that were not tied to better performance or to an increase in responsibilities.

This legislation recognizes that Federal employees should be given pay increases on the basis of merit. Merit pay would be phased in an experiment with GS-13 to 15 and senior executive service employees. Limits would be placed on the number of employees each year who could be given merit increases; so that agency heads would be forced to make the tough decisions about which employees' performances should be rewarded and which should not be.

Under the bill, meaningful performance appraisals would be required, with an employee's pay tied to the result of the appraisal.

VIII. PROCEDURES FOR DISMISSALS AND APPEALS

One of the most widely-held impressions is that when a citizen enters the Civil Service, he receives, in effect, lifetime tenure and cannot be dismissed except under the most extraordinary circumstances. This impression feeds the public's perception of Federal employees as marginal workers who do enough each day to get by but who have no incentive to work hard.

Anyone who has observed the Civil Service knows that the overwhelming majority of Federal employees are hard-working and dedicated and do not fit the popular stereotype. However, it is true that the lengthy process for dismissing a Federal employee has meant in the past that many marginal workers were simply kept on the public payroll because it was not worth the trouble to the supervisor to fire such employees.

In this legislation, the procedure for dismissing an employee, and for the employee's appeals, are streamlined; protection is afforded employees from being arbitrarily dismissed, but employees who are incompetent cannot tie up the Federal personnel system in months of delay, paperwork, and unfounded appeals.

S. 2640 eliminates unnecessary layers of appeal and for the first time specifies the standards to be used by the adjudicatory agency in determining whether an adverse action should be upheld. Employees in collective bargaining units are also given the opportunity to choose, as an alternative to the statutory appeals route, mandatory arbitration of adverse action appeals.

I strongly support the new procedures for dismissals and appeals and believe that they will be helpful in countering the public's misconception that lazy Federal employees can never be fired for incompetence.

IX. RESEARCH AND DEMONSTRATION PROJECTS

One of the main reasons we are dealing with comprehensive civil service reform legislation today is that the Federal Government has been too slow to recognize, test, and implement new techniques in public administration. There should not, however, be another 95-year period before the Government alters its civil service system again.

This legislation recognizes that the Office of Personnel Management should be encouraged to experiment, wherever feasible, with new and better ways of managing the Government's human resources. Improved administration benefits the public and improves employee morale.

Title VI of the bill embodies the intent of Congress that continuing review with proper safeguards, of personnel techniques and systems is a vital aspect of civil service reform.

X. LABOR-MANAGEMENT RELATIONS

Since Federal employees were not included in the coverage of the National Labor Relations Act, it has been the goal of many employees and some in Congress to recognize the positive results of collective bargaining and extend such benefits to the Federal sector. Although some employees in certain agencies have statutory collective bargaining rights, no such right exists for the vast majority of Federal employees.

Currently, Federal labor relations are governed by Executive Order 11491, as amended. The Executive order establishes the right of Federal employees to belong to unions and establishes procedures for the recognition of bargaining units. But the Federal labor relations program continues to differ in substantive ways from that of the private sector.

For one, Federal employees are not allowed to strike. Also, exclusive representatives of Federal employees may not bargain over pay or fringe benefits. Further, there is no agency shop in the Federal Government; no employee must join or pay dues to a union in order to be a member of a bargaining unit.

This legislation does not in any way alter the unique role of public employees as it is applied to labor-management relations. The legislation continues to recognize that there must be certain differences between unions in the private sector and unions in the Federal sector.

However, S. 2640 does take the important step of establishing congressional control over the Federal labor relations program by essentially codifying the current Executive Order 11491. The bill addresses the fundamental reality that today's Federal work force is a highly unionized work force, and that there should be adequate mechanisms in the law to allow the Goverment to work cooperatively with employee representatives toward better productivity and improved employee morale.

To that end, the legislation, combined with Reorganization Plan No. 2 of 1978, establishes an independent Federal Labor Relations Authority, in which are consolidated the functions of the current Federal Labor Relations Council and the Assistant Secretary of Labor for Labor-Management Relations.

The FLRA will administer the Federal labor relations program, make policy decisions, supervise elections for exclusive representatives, hear and decide complaints of unfair labor practices, and oversee the machinery for the resolution of adverse action appeals through the arbitration process. There will be a gen-

eral counsel in the FLRA to investigate and bring before the FLRA complaints of unfair labor practices.

The FLRA is far preferable to the current labor relations structure in the Government, which is comprised totally of management officials. The independent nature of the FLRA will promote effective labor-management relations in the Federal sector.

CONCLUSION

Mr. President, to conclude my opening remarks on this legislation, I wish to praise the distinguished chairman of the Committee on Governmental Affairs, Senator RIBICOFF, for his outstanding work in moving this bill through committee. This legislation is representative of his fair and judicious approach to legislation in general, and, specifically, to matters affecting Federal personnel policies and procedures.

I know that Senator RIBICOFF is troubled, as I am, by the fact that many outstanding civil servants are frustrated in their attempts to serve the public in a professional and responsive manner. Over the years, the accumulation of laws and regulations, coupled with added layers of controls and procedures that were designed to remedy problems as they developed within the civil service system, have unfortunately become major obstacles to Government productivity and a shield for nonperformance.

If Congress fails in its duty to reform these outdated laws and procedures, we shall continue to see ineffective management, violations of merit principles and squandering of taxpayers' dollars.

This legislation is an historic step in returning merit to the merit system and restoring faith in the millions of men and women who serve the public at the Federal level.

Mr. JAVITS. Mr. President, last year when President Carter spoke with members of the Governmental Affairs Committee about his proposal to reform the Federal Civil Service, I was particularly impressed with the breadth and reach of his ideas. I was equally impressed with the serious substantive and political difficulties inherent in any such proposal precisely because they represented a fundamental reappraisal of a nearly 100-year old civil service system.

The bill before the Senate today is the product of a truly extraordinary effort to reach compromise and balance important interests. Those balances and compromises have been achieved, however, without detracting from the ambitious goals of the initial legislation. It is a strong bill which will strengthen and further promote a competent, nonpartisan civil service based upon the principle of merit.

S. 2640, in bringing about needed reforms, will improve the responsiveness and effectiveness of the Federal Government while assuring that public servants will be rewarded for merit and protected from bias, bureaucratic insensitivity, and political favoritism.

The bill will do that while giving greater authority to managers and supervisors and greater incentives to civil servants to achieve better performance. I wish to emphasize, however, that the necessary reforms which we present to the Senate today in S. 2640, should in no way call into question the essential fact that the overwhelming majority of Federal civil servants are dedicated, competent and well-motivated men and women.

Mr. President, Chairman RIBICOFF and Senator PERCY have managed this bill through many months of controversy and hard work as the committee sought to develop and resolve so many important and complex issues. They were joined by the extraordinarily talented Chairman of the Civil Service Commission, Alan Campbell, a constituent of mine and a distinguished former dean of the Maxwell School of Public Affairs at Syracuse University. I wish to commend the fine efforts of them and others on the committee and in the executive branch who contributed significantly to S. 2640.

In my judgment, the bill presents a comprehensive approach to reform of the civil service system. There are several provisions which I believe are particularly important:

First, I support separating the Civil Service Commission into a Merit Systems Protection Board and an Office of Personnel Management. There is no question that a serious conflict has existed in the Civil Service Commission's responsibilities, that its personnel management and policing roles are fundamentally incompatible and should be performed by two different offices. The independent Merit Systems Protection Board will be a strong merit "watchdog" and an employee protector, which is long overdue.

Second, the establishment of an Office of OPM should go a long way toward increasing flexibility in all levels of Government management. Currently, all personnel operations and actions are centralized in the CSC. This centralization is often the cause of delays in hiring, creates complex administrative procedures and excessive costs. The bill would authorize the President to delegate to the Director of OPM, who in turn would be permitted to delegate to agency heads, all personnel functions presently conducted solely within the CSC.

The bill also provides for new systems of appraising employee performance that will make it possible for agencies to do a better job of recognizing and rewarding good employees and of identifying and aiding those who are not performing at the level required. The bill further requires that these performance evaluations be used as a basis for all decisions about rewarding, promoting, and retaining Federal employees. At the same time, the bill improves employees rights in the area of adverse actions and appeals.

Most importantly, the bill provides a mechanism by which whistleblowers, those employees who disclose illegality in the Government, are fully protected from reprisals. The Special Counsel may petition the MSPB to suspend retaliatory actions against whistleblowers, and disciplinary action against violators of whistleblowers' rights also may be initiated by the Special Counsel.

I am particularly pleased that the bill creates a Senior Executive Service which is designed to create increased advancement opportunities to career executives. Career appointments will be made strictly on the basis of merit with most senior positions in grades GS16–Executive Level IV assigned to the SES. All too often I have seen talented people leave the Government when they have reached the top of the pay scale. I believe that the potential for bonuses and awards contained in the bill will not only help to keep civil servants but also to attract creative and experienced people from the private sector.

Third, I am pleased that the bill would create a new Federal Labor Relations Authority. Consolidating responsibility in FLRA should eliminate what is perceived by Federal employee unions and others as a conflict of interest in the existing Council. Its members consist of the Chairman of the Civil Service Commission, the Director of the Office of Management and Budget, and the Secretary of Labor—policymakers who are responsible primarily as top managers in the incumbent administration. S. 2640 will assure impartial adjudication of labor-management cases by providing for a new Board whose members are selected independently—nominated by the President and confirmed by the Senate—rather than by virtue of their service as Federal managers.

Establishment of the FLRA also will eliminate the existing fragmentation of authority between the Assistant Secretary of Labor for Labor-Management Relations and the Federal Labor Relations Council. The FLRA will have comprehensive jurisdiction in Federal labor-management relations. Merging the responsibility into a single agency will eliminate the need for continuous coordination between two separate agencies with differing and at least potentially conflicting mandates. This change should result in more effective policy-making and administration in this area of vital importance to both Federal employees and Federal managers, as well as the public at large.

S. 2640 also provides explicit statutory responsibilities for FLRA. The part-time Federal Labor Relations Council was established by Executive order. With approval of S. 2640, the intent of Congress regarding the functions and operations of Federal labor-management relations will be clearly established.

Mr. President, S. 2640 is indeed designed to promote the restoration of public faith in the effectiveness and productivity of our Government. It is designed to enhance public service and to make it a more challenging and attractive career choice for those currently in Federal employment and the thousands of others who will follow in the years ahead.

It is designed to give to the President and the heads of departments an opportunity to exercise greater leadership in the carrying out of Executive policy without endangering or compromising the rights of employees.

This legislation will achieve these basic objectives. It is my deep conviction that these reforms will serve to reinvigorate Federal service and bring about significant improvements in the delivery of

Federal services to the people of this country. I hope that the Senate will act expeditiously and favorably.

UP AMENDMENT NO. 1766

(Purpose: To strengthen procedural protections relating to preference eligibility for disabled veterans and for other purposes)

Mr. CRANSTON. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 1766.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 196, after line 25, insert the following new sections:

DEFINITIONS RELATING TO PREFERENCE ELIGIBLES

SEC. 305. (a) Section 2108 of title 5, United States Code, is amended by—

(1) amending paragraph (1) by—

(A) inserting "who is a veteran as defined in section 101(2) of title 38, United States Code, and" after "individual"; and

(B) striking out all below clause (B);

(2) amending paragraph (2) by—

(A) striking out all between "individual" and "and has" and inserting in lieu thereof "who is a veteran as defined in section 101(2) of title 38, United States Code, or who has performed active military, naval, or air service as defined in section 101(24) of such title 38";

(B) striking out the comma and inserting in lieu thereof "or" after "compensation";

(C) striking out "benefits, or pension" and inserting in lieu thereof "benefits"; and

(D) striking out "and" at the end thereof;

(3) amending paragraph (3) by—

(A) inserting a comma and "except as provided in paragraph (4) of this section," after "means";

(B) striking out "(A)" the second place it appears in clause (A);

(C) amending clause (B) to read as follows:

"(B) the unmarried widow or widower of a veteran as defined by paragraph (1) of this section, other than a widow or widower described in paragraph (3)(D) of this section;";

(D) amending clause (3)(D) to read as follows:

"(D) the unmarried widow or widower of a veteran as defined by paragraph (1) of this section who lost his or her life under honorable conditions while serving in the armed forces or who died as the result of a service-connected disability or disabilities or who, at the time of his or her death, when such death was not as a result of the willful misconduct of such veteran or such veteran's spouse, had a service-connected disability or disabilities rated as total;";

(E) striking out "(A)" in clause (F); and

(F) striking out the period at the end thereof and inserting in lieu thereof a semicolon; and

(4) adding at the end thereof the following new paragraphs:

"(4) except for purposes of chapter 75 of this title, 'preference eligible' does not include a retired member of the armed forces unless—

"(A) the individual is a disabled veteran; or

"(B) the individual retired below the rank of major or its equivalent; and

"(5) 'retired member of the armed forces' means a member or former member of the armed forces who is entitled, under statute, to retired, retirement, or retainer pay on account of service as such a member.".

(b) The amendments made to title 5, United States Code, by clauses (3)(A) and (4) of subsection (a) of this section shall take effect on October 1, 1980.

NONCOMPETITIVE APPOINTMENTS OF CERTAIN DISABLED VETERANS

SEC. 306. (a)(1) Chapter 31 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 3112. Disabled veterans; noncompetitive appointment

"Under such regulations as the Office of Personnel Management shall prescribe, an agency may make a noncompetitive appointment leading to conversion to career or career-conditional employment of a disabled veteran who has a service-connected disability rated at 30 percent or more on the basis of which such veteran is receiving compensation or disability retirement benefits because of a public statute administered by the Veterans' Administration or a military department.".

(2) The Director of the Office of Personnel Management shall include in the reports required by section 2014(d) of title 38, United States Code, the same type of information regarding the use of the authority provided in section 3112 of title 5, United States Code (as added by paragraph (1) of this subsection), as is required by such section 2014 with respect to the use of the authority to make veterans readjustment appointments.

(b) The analysis of chapter 31 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"3112. Disabled veterans; noncompetitive appointment.".

EXAMINATION, CERTIFICATION, AND APPOINTMENT OF PREFERENCE ELIGIBLES

SEC. 307. (a)(1) Section 3305 of title 5, United States Code, is amended to read as follows:

"§ 3305. Competitive service; preference eligibles; applications

"On the application of a preference eligible, a competitive examination shall be held for any position for which there is an appropriate list of eligibles.".

(2) The item relating to section 3305 in the analysis of chapter 33 of title 5, United States Code, is amended to read as follows:

"3305. Competitive service; preference eligibles; applications.".

(b)(1) Section 3309 of title 5, United States Code, is amended to read as follows:

"§ 3309. Preference eligibles; examinations; additional credit for

"(a) A preference eligible who qualifies in an examination for entrance into the competitive service is entitled to additional points above the individual's earned rating, as follows:

"(1) a preference eligible under section 2108(3)(A) or (B) of this title—5 points; and

"(2) a preference eligible under section 2108(3)(C)–(G) of this title—10 points.

"(b) A preference eligible under section 2108(3)(C) of this title who has a service-connected disability rated at 10 percent or more and who has qualified in an examination for entrance into the competitive service shall be placed at the head of the list of eligibles, except that, in the case of scientific and professional positions in GS–9 or higher, such eligible shall be placed on the list of eligibles in the order of the eligible's rating, including points added under paragraph (2) of subsection (a) of this section. As to all competitive positions, the names of preference eligibles shall be entered ahead of the names of those who are not preference eligibles and who have the same rating.

"(c) If other rating systems are used, preference eligibles are entitled to comparable preference.".

(2) The item relating to section 3309 in the analysis of chapter 33 of title 5, United States Code, is amended to read as follows:

"3309. Preference eligibles; examinations; additional credit for.".

(c) Section 3312 of title 5, United States Code, is amended by—

(1) inserting "(a)" before "In", and striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management";

(2) striking out "Commission" in clause (2) and inserting in lieu thereof "Office of Personnel Management"; and

(3) adding after subsection (a) (as designated by clause (1) of this subsection) the following new subsection:

"(b) If an examining agency determines that, on the basis of evidence before it, a preference eligible under section 2108(3)(C) is not able to fulfill the physical requirements of the position, the examining agency shall notify the Office of Personnel Management of such determination and, at the same time, such agency shall notify the preference eligible of the reasons for such determination and of the right to respond, within 15 days of the date of such notification, to the Office of Personnel Management. The Office of Personnel Management shall require a demonstration by the appointing authority that such notification was timely sent to the preference eligible's last known address and shall, prior to the selection of any other person for the position in question, make a final determination on the physical ability of the preference eligible to perform the duties of the position, taking into account any additional information provided in any such response. When the Office of Personnel Management has completed its review of the proposed disqualification on the basis of physical disability, it shall send its findings to the appointing authority and the preference eligible in question. The appointing authority shall comply with the findings of the Office of Personnel Management. The functions of the Office of Personnel Management under this subsection shall not be delegated to any other department, agency, or instrumentality.".

(d) Section 3314 of title 5, United States Code, is amended by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management", and by striking out "named by section 3313" and inserting in lieu thereof "established by section 3309".

(e) Section 3315 of title 5, United States Code, is amended by—

(1) striking out in the first sentence of subsection (a) "named by section 3313" and inserting in lieu thereof "established by section 3309";

(2) striking out in the second sentence of subsection (a) "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management"; and

(3) striking out in subsection (b) "Commission" and inserting in lieu thereof "Office of Personnel Management".

(f) Section 3318(b) of title 5, United States Code, is amended to read as follows:

"(b) If an appointing authority proposes to pass over a preference eligible on a certificate in order to select an individual who is not a preference eligible, such authority shall file written reasons with the Office of Personnel Management for passing over the preference eligible and, at the same time, such authority shall notify a preference eligible under section 2108(3)(C) (hereinafter in this section called "a disabled preference eligible") of the proposed passover and the reasons therefor and of the right to respond to such reasons, within 15 days of the date of such notification, to the Office of Personnel Management. The Office of Personnel

Management shall make the reasons presented by the appointing authority part of the record of the preference eligible and may require the submission of more detailed information from the appointing authority in support of the passover of the preference eligible. The Office of Personnel Management shall require a demonstration by the appointing authority that the passover notification was timely sent to the preference eligible's last known address and shall, prior to the selection of any other person for the position in question, determine the sufficiency or insufficiency of the reasons submitted by the appointing authority, taking into account any response received from the preference eligible. When the Office of Personnel Management has completed its review of the proposed passover, it shall send its findings to the appointing authority and the disabled preference eligible in question, if any. The appointing authority shall comply with the findings of the Office of Personnel Management. A preference eligible under section 2108(3)(A), (B), or (D)–(G), or such preference eligible's representative, shall be entitled, on request, to a copy of (1) the reasons submitted by the appointing authority in support of the proposed passover, and (2) the findings of the Office of Personnel Management. The functions of the Office of Personnel Management under this subsection shall not be delegated to any other department, agency, or instrumentality.".

(g) Chapter 33 of title 5, United States Code, is amended by—

(1) repealing section 3313; and

(2) amending the analysis therefor by striking out the item relating to such section 3313.

RETENTION PREFERENCE

SEC. 308. (a) Section 3502 of title 5, United States Code, is amended by striking out subsection (b) and inserting in lieu thereof the following new subsections:

"(b) A preference eligible under section 2108(3)(C) of this title who has a service-connected disability rated at 10 percent or more and whose performance meets a standard of adequacy under a performance appraisal system implemented under chapter 43 of this title is entitled to be retained in preference to other preference eligibles.

"(c) An employee who is entitled to retention preference and whose performance meets a standard of adequacy under a performance appraisal system implemented under chapter 43 of this title is entitled to be retained in preference to other competing employees.".

(b) Section 3503 of title 5, United States Code, is amended by striking out in subsections (a) and (b) "each preference eligible employed" and inserting in lieu thereof "each competing employee" both places it appears.

(c) Section 3504 of title 5, United States Code, is amended by—

(1) inserting "(a)" before "In" and striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management";

(2) striking out "Commission" in clause (2) and inserting in lieu thereof "Office of Personnel Management"; and

(3) adding after subsection (a) (as designated by clause (1) of this subsection) the following new subsection:

"(b) If an examining agency determines that, on the basis of evidence before it, a preference eligible under section 2108(3)(C) is not able to fulfill the physical requirements of the position, the examining agency shall notify the Office of Personnel Management of such determination and, at the same time, such agency shall notify the preference eligible of the reasons for such determination and of the right to respond, within 15 days of the date of such notification, to the Office of Personnel Management. The Office of Personnel Management shall require a demonstration by the appointing authority that such notification was timely sent to the preference eligible's last known address and shall, prior to the selection of any other person for the position in question, make a final determination on the physical ability of the preference eligible to perform the duties of the position, taking into account any additional information provided in any such response. When the Office of Personnel Management has completed its review of the proposed disqualification on the basis of physical disability, it shall send its findings to the appointing authority and the preference eligible in question. The appointing authority shall comply with the findings of the Office of Personnel Management. The functions of the Office of Personnel Management under this subsection shall not be delegated to any other department, agency, or instrumentality.".

On page 261, line 4, strike out "or (B)" and insert in lieu thereof "(C)", and insert "(B) diminish in any way rights, procedures, and remedies available to preference eligibles under chapters 13, 21, 31, 33, 35, and 75 of this title, or" after "title,".

Mr. CRANSTON. Mr. President, the basic purpose of these amendments before us is to strengthen certain provisions in title 5, United States Code, relating to disabled preference eligibles.

As chairman of the Committee on Veterans' Affairs, I am very pleased that the Committee on Governmental Affairs, in connection with its consideration of the "Civil Service Reform Act," took action to maintain existing law with respect to veterans' preference. However, Mr. President, I have found certain aspects of the present law to be inadequate in protecting the rights of disabled preference eligibles—generally, veterans with service-connected disabilities. The main purpose of my amendments is to remedy that inadequacy.

The two areas of primary concern for disabled veterans which are addressed in these amendments are the waivers of physical requirements for both initial hiring and for reduction in force—RIF—procedures, and the passing over of a preference eligible to appoint a nonpreference eligible. In each of these instances, the amendment would require the appointing authority to notify the disabled preference eligible of the reasons why such preference eligible was found unqualified for the position for which he or she applied. The disabled preference eligible would then have 15 days to respond to these findings. The Office of Personnel Management would make a decision on the appointing authority's findings, taking into account the response made by the disabled preference eligible, if any. Until a final decision is reached by OPM, the position in question would have to be held open. These authorities could not be delegated by OPM to any appointing authority.

Mr. President, the amendments would also give the Office of Personnel Management the authority to make noncompetitive appointments within the Federal civil service for any veteran who has a service-connected disability rated at 30 percent or more. This provision is derived from an administration proposal.

Further, the amendments provide that 10-point preference eligibles would have retention rights over 5-point preference eligibles. Veterans who were disabled during active duty for training would also be entitled to 10-point preference.

Other changes made in current law by my amendments, Mr. President, would provide—as proposed by the administration—for the elimination of veterans' preference for military personnel who retire after 20 years or more of service at field grade rank or above. Also, under the amendments, regardless of whether or not a competitive exam is closed, all preference eligibles would be entitled to take such an exam as long as a list of eligibles exists. Moreover, Mr. President, all preference rights, procedures, and remedies would be made applicable in demonstration projects conducted by the Office of Personnel Management as authorized by the amendments made in title VI of the reported bill.

Mr. President, these are the primary issues addressed in my amendments. I ask unanimous consent that a full explanation of the amendments and an analysis of changes that would be made in existing law be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. RIBICOFF. Mr. President, the amendment being offered by the distinguished Senator from California is a constructive one. It addresses a number of concerns raised by veterans organizations.

The amendment is acceptable to the manager of the bill.

Mr. PERCY. As far as the Senator from Illinois knows, there is no objection to the amendment on this side. Certainly, on behalf of the minority, we accept the amendment.

Mr. STEVENS. Mr. President, I hope my colleague will not do that too quickly.

Mr. PERCY. Mr. President, I am not aware of any objection, but we would certainly be happy to hear from the Senator from Alaska.

Mr. STEVENS. I do have a couple of questions of the Senator from California.

Does this mean that if a person was a pilot in World War II, a major, entered civil service, has never used civil service in any way so far, and faces a reduction in force, after passage of this bill he, for the first time, cannot call on his veteran's preference rights? It seems to me to be very sweeping, I will say to my friend from California.

Mr. CRANSTON. If a person such as you described was retired regularly after 20 years or more of service he would have until October 1, 1980, to take advantage of the present opportunities he has under the preference provisions of existing law.

Mr. STEVENS. That does not answer my question about those who were in service and who had 20 years. If a person entered the service in 1950, put in 20 years of service by 1970, went into the civil service in 1971 by competitive examination, and became a career civil servant, he has a preference now in terms of a RIF. He has never yet exercised any of the preference that was given to him from his service in World War II. Is this going to eliminate this?

Mr. CRANSTON. If the Senator will

yield, there is no RIF protection for those people under present law. The person such as you describe would be able to use the entry preference opportunities he now has—as many times as he is able—until October 1, 1980. But he presently has no RIF protection at all under title 5.

Mr. STEVENS. Then this is not taking away any of the existing or contractual rights of those veterans who entered in the past? All are prospective considerations as far as veterans preference is concerned? That is my understanding. Maybe the Senator from Maryland can correct me, but I understood our understanding was that the application would be prospective and not retroactive. If the Senator is saying that anyone who enters the service——

Mr. CRANSTON. That is not exactly the effect of this amendment. He would have the preference entry opportunities until October 1, 1980.

Mr. STEVENS. What about his other veterans preference rights? Does this deal only with entrance preference?

Mr. CRANSTON. This deals only with entry. It does not affect any other rights he may have now.

Mr. STEVENS. And it is only those who enter after 20 years of service?

Mr. CRANSTON. That is correct, those who then retire and are at the field grade or above.

Mr. STEVENS. But you obtain field grade rather rapidly in wartime. Those people who had field grade during the Korean war or the Vietnam conflict and did not serve 20 years have the same rights as anyone else; is that correct?

Mr. CRANSTON. That is correct.

Mr. STEVENS. This means those who stayed in and made a career out of the military——

Mr. CRANSTON. Only those who retired would be affected.

Mr. STEVENS. Only those retired after 20 years?

Mr. CRANSTON. Right. Or more.

Mr. STEVENS. I thank the Senator. I do not object.

Mr. CRANSTON. Mr. President, I have worked very closely with the distinguished chairman of the Committee on Governmental Affairs (Mr. RIBICOFF) and its able ranking minority member (Mr. PERCY), as well as the Civil Service Commission, on these amendments. The administration has indicated that it supports all of the changes made in existing law by these amendments, will support them through conference and does not oppose any of the other provisions in the amendment.

Mr. President, there is one other veterans item I would like to comment on. I note that the Senior Executive Service, to be established under title IV of the reported bill, would include certain top-level physicians in the VA's Department of Medicine and Surgery. This could result in a substantial threat to the quality of health care service to the Nation's veterans by impairing the attractiveness of VA service to such physicians and the effective management of such physicians by the VA. In light of these considerations, I have been assured by the Civil Service Commission both that they fully understand the unique nature of the special title 38 Department of Medicine and Surgery pay and personnel system and that, in view of this, if the Administrator of Veterans' Affairs were to request the President to grant a waiver—as permitted by the provision in the bill—of the inclusion of such DM & S physicians in the Executive Service Corps, that request will be given sympathetic consideration by the Civil Service Commission or its successor—the Office of Personnel Management—in making its recommendation to the President.

Mr. President, I ask unanimous consent that these amendments be considered en bloc and urge the Senate to adopt them.

The PRESIDING OFFICER (Mr. MOYNIHAN). The question is on agreeing to the amendments.

The amendments were agreed to.

EXHIBIT 1

EXPLANATION OF CRANSTON VETERANS AMENDMENT NO. 1766 TO S. 2640

The proposed amendment No. 1766 (actually two amendments) would add four additional sections to title III of the Civil Service reform bill, S. 2640, as reported by the Senate Governmental Affairs Committee, and amend new section 4703 of title VI of the bill.

New section 305 would amend current section 2108 of title 5, the definitional section dealing with veterans and eligibility for veterans preference. The clauses of this new section provide as follows:

Clause (1) would amend the definition of "veteran" in current section 2108(1) to incorporate the basic definition used in title 38 for purposes of eligibility to all VA benefits. The effect of the change would be to provide veterans preference to any veteran who received a discharge under other than honorable conditions but who subsequently received a favorable "character of discharge" determination from the VA holding that such discharge was under "conditions other than dishonorable." In this regard, it should be noted that all veterans who received upgraded discharges under the Carter or Ford special discharge review programs but the circumstances of whose discharges were, pursuant to P.L. 95–126, later determined by a naval or military discharge review board not to merit VA benefits, are entitled to preference under title 5. The incorporation of the title 38 definition would, with respect to all future preference eligibility determinations, render the VA the definitive interpreter of the meaning of "veteran" for this title 5 purpose and arbiter of whether any individual with a discharge under other than honorable conditions was discharged under "conditions other than dishonorable."

Clause (2) would amend the definition of "disabled veteran" in current section 2108(2) to (a) incorporate, as would clause (1) of this section, the basic definition of "veteran" used in title 38 for purposes of eligibility to all VA benefits, so as to provide veterans preference to any disabled veteran who received a discharge under other than honorable conditions, but who subsequently received a favorable "character of discharge" determination from the VA holding that such discharge was under "conditions other than dishonorable"; (b) include in that definition those individuals who suffered a service-connected disability while serving on active duty for training (such individuals are eligible for VA benefits); and (c) remove those who merely receive a non-service-connected VA pension from the category of "disabled veteran." The definitions in clauses (22) and (23) of section 101 of title 38 are incorporated by reference to clause (24).

Clause (3) would amend the definition of "preference eligible" in current section 2108 (3)(D) to subdivide the class in current law of "unmarried widow or widower of a veteran" so as to create a five-point preference group of such unmarried surviving spouses of veterans who died of non-service-connected causes and a second ten-point preference group that includes unmarried surviving spouses of those veterans who died either on active duty or of service-connected causes, or who were rated as 100-percent service-connected disabled at the time of their death.

Clause (4) would amend the definition of "preference eligible" in current section 2108 (3) by adding two new paragraphs designed to remove, as proposed by the Administration, individuals who retired from military service at the rank of major (or its equivalent) or above from eligibility for veterans preference unless such a person is a disabled veteran.

New section 306 would amend chapter 31 of title 5, to add a new section 3112 which authorizes noncompetitive appointments of disabled veterans with a service-connected disability rated by the VA or a military department at 30 percent or greater and for which the veteran is receiving compensation or disability retirement benefits from the VA or a military department. This provision is modeled on the Administration's initial proposal, but it is different in the degree of the service-connected disability required (30 percent versus 50 percent) and in its not including as eligible those who are enrolled in or who have successfully completed a job-related training program under chapter 31 of title 38. The Administration supports this modification.

New section 307 would amend various sections of chapter 33 of title 5, Examination, Selection and Appointment, relating to veterans preference.

Subsection (a) would amend current section 3305 to require that a competitive examination be given to a preference eligible, upon application by such eligible, for any position for which there is a list of eligibles. Current law provides this right only to 10-point preference eligibles and permits the reopening of an examination for any position to which an appointment has been made in the previous three years—a benefit of questionable value since, in most cases, the job would already be filled.

Subsection (b) would amend current section 3309 to bring together in one section provisions relating to the awarding of preference points and to the treatment of preference eligibles, including the placement of service-connected disabled veterans with a 10-percent or greater rating at the head of a list of eligibles. The new section 3309 would also include in subsection (b) a requirement that a comparable preference system be applied for preference eligibles if other rating systems are used.

Subsection (c) would amend current section 3312 to provide new protections for disabled veterans when they are denied a job on the basis of inability to fulfill the physical requirements of the position. These protections include a notice requirement, a requirement that the position not be filled until the disabled veteran has had the opportunity, within 15 days, to appeal the denial and have the appeal decided by the Office of Personnel Management, and a prohibition on the delegation of this responsibility by the Office of Personnel Management.

Subsection (d) would amend current section 3314 to make conforming changes to reflect the amendments which would be made to current section 3309 by subsections (b) and (c) of the new bill section.

Subsection (e) would make conforming amendments to current section 3315 which would be necessitated by the amendments which would be made by subsections (b) and (c) of the new bill section.

Subsection (f) would amend current section 3318 to provide new protections for disabled veterans (as redefined by new section 305(2) of the bill) when an agency proposes passovers of such veterans. The protections include a notice requirement, a requirement that the job not be filled until the disabled veteran has had the opportunity, within 15 days, to appeal the proposed passover and have the appeal decided by the Office of Personnel Management, and a prohibition on the delegation of this responsibility by the Office of Personnel Management.

Subsection (g) would repeal current section 3318, the content of which was placed in the new section 3309 by subsection (b) of the new bill section.

Subsection (h) would make conforming changes to the analysis for chapter 33 necessitated by the amendments which would be made by subsections (a) and (b) of the new bill section.

New section 306 would make amendments to chapter 35, Retention Preference, Restoration and Reemployment, to strengthen retention rights, especially for disabled veterans.

Subsection (a) would amend current section 3502 by adding two new subsections as follows:

New subsection (b) would provide that a service-connected disabled veteran whose performance meets a standard of adequacy under an appraisal system under chapter 43 shall be retained in preference to other preference eligibles. This is an entirely new protection.

New subsection (c) would generally codify existing practice under current subsection (b) by providing that a preference eligible whose performance meets a standard of adequacy under an appraisal system under chapter 43 shall be retained in preference to other competing employees.

Subsection (b) would substitute the phrase "each competing employee" for "each preference eligible employed" in each of the two subsections of current section 3503, "Transfer of functions". This is an Administration requested change designed to reflect actual practice when a function is transferred from one agency to another or one agency replaces another.

Subsection (c) woud amend current section 3504 to provide other new protections for disabled veterans during reduction-in-force situations. The new protections—identical to those that would obtain under new section 3312 (as it would be added by subsection (c) of new bill section 307) with respect to appointments would apply if an agency determines that a disabled veteran is unsuitable for retention on the basis of his or her ability to fulfill the physical requirements of a position. The protections include a notice requirement, a requirement that the position in question not be filled until the disabled veteran has had the opportunity, within 15 days, to appeal the decision and have the appeal decided by the Office of Personnel Management, and a prohibition on the delegation of this responsibility by the Office of Personnel Management.

The amendment to title VI of the bill would amend the proposed new section 4703 of title 5.

New section 4703 would provide that no demonstration project conducted by the Office of Personnel Management could diminish the rights, procedures or remedies available to preference eligibles under other specified chapters in title 5.

CHANGES IN EXISTING LAW MADE BY AMENDMENT No. 1766 TO S. 2640 AS REPORTED

Changes in existing law made by the amendment are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 5, UNITED STATES CODE—GOVERNMENT ORGANIZATION AND EMPLOYEES

* * * * *

PART III—EMPLOYEES

Subpart A—General Provisions

Chapter 21—DEFINITIONS

* * * * *

§ 2108. Veteran; disabled veteran; preference eligible

For the purpose of this title—

(1) "veteran" means an individual *who is a veteran as defined in section 101(2) of title 38, United States Code, and* who—

(A) served on active duty in the armed forces during a war, in a campaign or expedition for which a campaign badge has been authorized, or during the period beginning April 28, 1952, and ending July 1, 1955; or

(B) served on active duty as defined by section 101(21) of title 38 at any time in the armed forces for a period of more than 180 consecutive days any part of which occurred after January 31, 1955, and before the date of the enactment of the Veterans' Education and Employment Assistance Act of 1976, not including service under section 511(d) of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve;

[and who has been separated from the armed forces under honorable conditions;]

(2) "disabled veteran" means an individual [who has served on active duty in the armed forces, has been separated therefrom under honorable conditions,] *who is a veteran as defined in section 101(2) of title 38, United States Code, or who has performed active military, naval, or air service as defined in section 101(24) of such title 38* and has established the present existence of a service-connected disability or is receiving compensation[,] *or* disability retirement benefits [, or pension] because of a public statute administered by the Veterans' Administration or a military department; [and]

(3) "preference eligible" means, *except as provided in paragraph (4) of this section,* [—]

(A) a veteran as defined by paragraph (1) [(A)] of this section;

[(B) a veteran as defined by paragraph (1)(B) of this section;]

(B) the unmarried widow or widower of a veteran as defined by paragraph (1) of this section, other than a widow or widower described in paragraph (3)(D) of this section;

(C) a disabled veteran;

(D) the unmarried widow or widower of a veteran as defined by paragraph (1) [(A)] of this [section] *section who lost his or her life under honorable conditions while serving in the armed forces or who died as the result of a service-connected disability or disabilities or who, at the time of his or her death, when such death was not as a result of the willful misconduct of such veteran or such veteran's spouse, had a service-connected disability or disabilities rated as total;*

(E) the wife or husband of a service-connected disabled veteran if the veteran has been unable to qualify for any appointment in the civil service or in the government of the District of Columbia;

(F) the mother of an individual who lost his life under honorable conditions while serving in the armed forces during a period named by paragraph (1) [(A)] of this section, if—

(i) her husband is totally and permanently disabled;

(ii) she is widowed, divorced, or separated from the father and has not remarried; or

(iii) she has remarried but is widowed, divorced, or legally separated from her husband when preference is claimed; and

(G) the mother of a service-connected permanently and totally disabled veteran, if—

(i) her husband is totally and permanently disabled;

(ii) she is widowed, divorced, or separated from the father and has not remarried; or

(iii) she has remarried but is widowed, divorced, or legally separated from her husband when preference is claimed[.]*;*

(4) except for purposes of chapter 75 of this title, "preference eligible" does not include a retired member of the armed forces unless—

(A) the individual is a disabled veteran; or

(B) the individual retired below the rank of major or its equivalent; and

(5) "retired member of the armed forces" means a member or former member of the armed forces who is entitled, under statute, to retired, retirement, or retainer pay on account of service as such a member.

* * * * *

Subpart B—Employment and Retention

Chapter 31—AUTHORITY FOR EMPLOYMENT

Sec.
3101. General authority to employ.
3102. Employment of readers for blind employees.
3103. Employment at seat of Government only for services rendered.
3104. Employment of specially qualified scientific and professional personnel.
3105. Appointment of hearing examiners.
3106. Employment of attorneys; restrictions.
3107. Employment of publicity experts; restrictions.
3108. Employment of detective agencies; restrictions.
3109. Employment of experts and consultants; temporary or intermittent.
3110. Employment of relatives; restrictions.

* * * * *

3112. Disabled veterans; noncompetitive appointment.

* * * * *

§ 3112. Disabled veterans; noncompetitive appointment

Under such regulations as the Office of Personnel Management shall prescribe, an agency may make a noncompetitive appointment leading to conversion to career or career-conditional employment of a disabled veteran who has a service-connected disability rated at 30 percent or more on the basis of which such veteran is receiving compensation or disability retirement benefits because of a public statute administered by the Veterans' Administration or a military department.

Chapter 33—EXAMINATION, SELECTION, AND PLACEMENT

Subchapter I—Examination, Certification, and Appointment

SEC.
3301. Civil service; generally.
3302. Competitive service; rules.
3303. Competitive service; recommendations of Senators or Representatives.
3304. Competitive service; examinations.
3304a. Competitive service; career appointment after 3 years' temporary service.
3305. Competitive service; [examinations; when held.] *preference eligibles; applications.*
3306. Competitive service; departmental service; apportionment.
3307. Competitive service; maximum-age entrance requirements; exceptions.
3308. Competitive service; examinations; educational requirements prohibited; exceptions.
3309. Preference eligibles; examinations; additional [points] *credit* for.

3310. Preference eligibles; examinations; guards, elevator operators, messengers, and custodians.
3311. Preference eligibles; examinations; crediting experience.
3312. Preference eligibles; physical qualifications; waiver.
[3313. Competitive service; registers of eligibles.]
3314. Registers; preference eligibles who resigned.
3315. Registers; preference eligibles furloughed or separated.
3315a. Registers; individuals receiving compensation for work injuries.
3316. Preference eligibles; reinstatement.
3317. Competitive service; certification from registers.
3318. Competitive service; selection from certificates.
3319. Competitive service; selection; members of family restriction.
3320. Excepted service; government of the District of Columbia; selection.
3321. Competitive service; probation; period of.
3322. Competitive service; temporary appointments after age 70.
3323. Automatic separations; reappointment; reemployment of annuitants.
3324. Appointments at GS-16, 17, and 18.
3325. Appointments to scientific and professional positions.
3326. Appointments of retired members of the armed forces to positions in the Department of Defense.
3327. [Repealed.]

* * * * *

§ 3305. Competitive service; [examinations; when held] *preference eligibles; applications*

[(a) The Civil Service Commission shall hold examinations for the competitive service at least twice a year in each State and territory or possession of the United States where there are individuals to be examined.

[(b) The Commission shall hold an examination for a position to which an appointment has been made within the preceding 3 years, on the application of an individual who qualifies as a preference eligible under section 2108(3)(C)–(G) of this title. The examination shall be held during the quarter following the application.

On the application of a preference eligible, a competitive examination shall be held for any position for which there is an appropriate list of eligibles.

* * * * *

§ 3309. Preference eligibles; examinations; additional [points] *credit* for

[A preference eligible who receives a passing grade in an examination for entrance into the competitive service is entitled to additional points above his earned rating, as follows—

[(1) a preference eligible under section 2108(3)(C)–(G) of this title—10 points; and

[(2) a preference eligible under section 2108(3)(A) of this title—5 points.]

(a) A preference eligible who qualifies in an examination for entrance into the competitive service is entitled to additional points above the individual's earned rating, as follows:

(1) a preference eligible under section 2108(3)(A) or (B) of this title—5 points; and

(2) a preference eligible under section 2108(3)(C)–(G) of this title—10 points.

(b) A preference eligible under section 2108(3)(C) of this title who has a service-connected disability rated at 10 percent or more and who has qualified in an examination for entrance into the competitive service shall be placed at the head of the list of eligibles, except that, in the case of scientific and professional positions in GS-9 or higher, such eligible shall be placed on the list of eligibles in the order of the eligible's rating, including points added under paragraph (2) of subsection (a) of this section. As to all competitive positions, the names of preference eligibles shall be entered ahead of the names of those who are not preference eligibles and who have the same rating.

(c) If other rating systems are used, preference eligibles are entitled to comparable preference.

* * * * *

§ 3312. Preference eligibles; physical qualifications; waiver

(a) In determining qualifications of a preference eligible for examination for, appointment in, or reinstatement in the competitive service, the [Civil Service Commission] *Office of Personnel Management* or other examining agency shall waive—

(1) requirements as to age, height, and weight, unless the requirement is essential to the performance of the duties of the position; and

(2) physical requirements if, in the opinion of the [Commission] *Office of Personnel Management* or other examining agency after considering the recommendation of an accredited physician, the preference eligible is physically able to perform efficiently the duties of the position.

(b) *If an examining agency determines that, on the basis of evidence before it, a preference eligible under section 2108(3)(C) is not able to fulfill the physical requirements of the position, the examining agency shall notify the Office of Personnel Management of such determination and, at the same time, such agency shall notify the preference eligible of the reasons for such determination and of the right to respond, within 15 days of the date of such notification, to the Office of Personnel Management. The Office of Personnel Management shall require a demonstration by the appointing authority that such notification was timely sent to the preference eligible's last known address and shall, prior to the selection of any other person for the position in question, make a final determination on the physical ability of the preference eligible to perform the duties of the position, taking into account any additional information provided in any such response. When the Office of Personnel Management has completed its review of the proposed disqualification on the basis of physical disability, it shall send its findings to the appointing authority and the preference eligible in question. The appointing authority shall comply with the findings of the Office of Personnel Management. The functions of the Office of Personnel Management under this subsection shall not be delegated to any other department, agency, or instrumentality.*

[§ 3313. Competitive service; registers of eligibles

[The names of applicants who have qualified in examinations for the competitive service shall be entered on appropriate registers or lists of eligibles in the following order—

[(1) for scientific and professional positions in GS-9 or higher, in the order of their ratings, including points added under section 3309 of this title; and

[(2) for all other positions—

[(A) disabled veterans who have a compensable service-connected disability of 10 percent or more, in order of their ratings, including points added under section 3309 of this title; and

[(B) remaining applicants, in the order of their ratings, including points added under section 3309 of this title.

[The names of preference eligibles shall be entered ahead of others having the same rating.]

§ 3314. Registers; preference eligibles who resigned

A preference eligible who resigns, on request to the [Civil Service Commission,] *Office of Personnel Management,* is entitled to have his name placed again on all registers for which he may have been qualified, in the order [named by section 3313] *established by section 3309* of this title.

§ 3315. Registers; preference eligibles furloughed or separated

(a) A preference eligible who has been separated or furloughed without delinquency or misconduct, on request, is entitled to have his name placed on appropriate registers and employment lists for every position for which his qualifications have been established, in the order [named by section 3313] *established by section 3309* of this title. This subsection applies to registers and employment lists maintained by the [Civil Service Commission,] *Office of Personnel Management,* an Executive agency, or the government of the District of Columbia.

(b) The [Commission] *Office of Personnel Management* may declare a preference eligible who has been separated or furloughed without pay under section 7512 of this title to be entitled to the benefits of subsection (a) of this section.

* * * * *

§ 3318. Competitive service; selection from certificates

(a) The nominating or appointing authority shall select for appointment to each vacancy from the highest three eligibles available for appointment on the certificate furnished under section 3317(a) of this title, unless objection to one or more of the individuals certified is made to, and sustained by, the Civil Service Commission for proper and adequate reason under regulations prescribed by the Commission.

[(b) An appointing authority who passes over a preference eligible on a certificate and selects an individual who is not a preference eligible shall file written reasons with the Commission for passing over the preference eligible. The Commission shall make these reasons a part of the record of the preference eligible. The Commission may require the submission of more detailed information in support of the passing over of the preference eligible. The Commission shall determine the sufficiency or insufficiency of the reasons submitted and shall send its findings to the appointing authority. The appointing authority shall comply with the findings of the Commission. The preference eligible or his representative, on request, is entitled to a copy of—

[(1) the reasons submitted by the appointing authority; and

[(2) the findings of the Commission.]

(b) If an appointing authority proposes to pass over a preference eligible on a certificate in order to select an individual who is not a preference eligible, such authority shall file written reasons with the Office of Personnel Management for passing over the preference eligible and, at the same time, such authority shall notify a preference eligible under section 2108(3)(C) (hereinafter in this section called "a disabled preference eligible") of the proposed passover and the reasons therefor and of the right to respond to such reasons, within 15 days of the date of such notification, to the Office of Personnel Management. The Office of Personnel Management shall make the reasons presented by the appointing authority part of the record of the preference eligible and may require the submission of more detailed information from the appointing authority in support of the passover of the preference eligible. The Office of Personnel Management shall require a demonstration by the appointing authority that the passover notification was timely sent to the preference eligible's last known address and shall, prior to the selection of any other person for the position in question, determine the sufficiency or insufficiency of the reasons submitted by the appointing authority, taking into account any response

received from the preference eligible. When the Office of Personnel Management has completed its review of the proposed passover, it shall send its findings to the appointing authority and the disabled preference eligible in question, if any. The appointing authority shall comply with the findings of the Office of Personnel Management. A preference eligible under section 2108(3) (A), (B), or (D)–(G), or such preference eligible's representative, shall be entitled, on request, to a copy of (1) the reasons submitted by the appointing authority in support of the proposed passover, and (2) the findings of the Office of Personnel Management. The functions of the Office of Personnel Management under this subsection shall not be delegated to any other department, agency, or instrumentality.

(c) When three or more names of preference eligibles are on a reemployment list appropriate for the position to be filled, a nominating or appointing authority may appoint from a register of eligibles established after examination only an individual who qualifies as a preference eligible under section 2108(3) (C)–(G) of this title.

* * * * *

Chapter 35—RETENTION PREFERENCE, RESTORATION, AND REEMPLOYMENT

Subchapter I—Retention Preference

* * * * *

§ 3502. Order of retention

(a) The Civil Service Commission shall prescribe regulations for the release of competing employees in a reduction in force which give due effect to—

(1) tenure of employment;

(2) military preference, subject to section 3501(a) (3) of this title;

(3) length of service; and

(4) efficiency or performance ratings.

In computing length of service, a competing employee—

(A) who is not a retired member of a uniformed service is entitled to credit for the total length of time in service in the armed forces;

(B) who is a retired member of a uniformed service is entitled to credit for—

(i) the length of time in active service in the armed forces during a war, or in a campaign or expedition for which a campaign badge has been authorized; or

(ii) the total length of time in the active service in the armed forces if he is included under section 3501(a) (3) (A), (B), or (C) of this title; and

(C) who is an employee in or under the Department of Agriculture is entitled to credit for service rendered as an employee of a county committee established pursuant to section 590h(b) of title 16, or of a committee or an association of producers described in section 610(b) of title 7.

[(b) A preference eligible employee whose efficiency or performance rating is "good" or "satisfactory" or better than "good" or "satisfactory" is entitled to be retained in preference to other competing employees. A preference eligible employee whose efficiency or performance rating is below "good" or "satisfactory" is entitled to be retained in preference to competing nonpreference employees who have equal or lower efficiency or performance ratings.]

(b) *A preference eligible under section 2108(3) (C) of this title who has a service-connected disability rate at 10 percent or more and whose performance meets a standard of adequacy under a performance appraisal system implemented under chapter 43 of this title is entitled to be retained in preference to other preference eligibles.*

(c) *An employee who is entitled to retention preference and whose performance meets a standard of adequacy under a performance appraisal system implemented under chapter 43 of this title is entitled to be retained in preference to other competing employees.*

§ 3503. Transfer of functions

(a) When a function is transferred from one agency to another, each [preference eligible employed] *competing employee* in the function shall be transferred to the receiving agency for employment in a position for which he is qualified before the receiving agency may make an appointment from another source to that position.

(b) When one agency is replaced by another, each [preference eligible employed] *competing employee* in the agency to be replaced shall be transferred to the replacing agency for employment in a position for which he is qualified before the replacing agency may make an appointment from another source to that position.

§ 3504. Preference eligibles; retention; physical qualifications; waiver

(a) In determining qualifications of a preference eligible for retention in a position in the competitive service, an Executive agency, or the government of the District of Columbia, the [Civil Service Commission] *Office of Personnel Management* or other examining agency shall waive—

(1) requirements as to age, height, and weight, unless the requirement is essential to the performance of the duties of the position; and

(2) physical requirements if, in the opinion of the [Commission] *Office of Personnel Management* or other examining agency, after considering the recommendation of an accredited physician, the preference eligible is physically able to perform efficiently the duties of the position.

(b) *If an examining agency determines that, on the basis of evidence before it, a preference eligible under section 2108(3) (C) is not able to fulfill the physical requirements of the position, the examining agency shall notify the Office of Personnel Management of such determination and, at the same time, such agency shall notify the preference eligible of the reasons for such determination and of the right to respond, within 15 days of the date of such notification, to the Office of Personnel Management. The Office of Personnel Management shall require a demonstration by the appointing authority that such notification was timely sent to the preference eligible's last known address and shall, prior to the selection of any other person for the position in question, make a final determination on the physical ability of the preference eligible to perform the duties of the position, taking into account any additional information provided in any such response. When the Office of Personnel Management has completed its review of the proposed disqualification on the basis of physical disability, it shall send its findings to the appointing authority and the preference eligible in question. The appointing authority shall comply with the findings of the Office of Personnel Management. The functions of the Office of Personnel Management under this subsection shall not be delegated to any other department, agency, or instrumentality.*

* * * * *

UP AMENDMENT NO. 1767

(Purpose: To authorize the employment of reading assistants for blind employees and interpreters for deaf employees and for other purposes)

Mr. CRANSTON. Mr. President, I now send to the desk the second amendment and ask for its immediate consideration. This will take just a moment, I assure the Senator from Maryland.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON), for himself, Mr. WILLIAMS, Mr. JAVITS, Mr. RANDOLPH, and Mr. STAFFORD, proposes an unprinted amendment numbered 1767.

On page 196, between lines 7 and 8, insert the following new subsections:

(c) Chapter 31 of title 5, United States Code, is further amended by—

(1) amending section 3102 by—

(A) redesignating clause (4) of subsection (a) as clause (5) and striking out "and" at the end of clause (3) and inserting below such clause the following new clause (4):

"(4) 'deaf employee' means an individual employed by an agency who establishes, to the satisfaction of the appropriate authority of the agency concerned under regulations of the head of that agency, that he or she has a hearing impairment, either permanent or temporary, so severe or disabling that the employment of an interpreting assistant or assistants for the employee is necessary or desirable to enable such employee to perform their work.";

(B) amending subsection (b) by (i) inserting "and interpreting assistant or assistants for a deaf employee" after "or assistants for a blind employee", and (ii) amending the last sentence to read as follows:

"A reading assistant or an interpreting assistant, other than the one employed or assigned under subsection (d) of this section, may receive pay for their services by and from the blind or deaf employee or a nonprofit organization, without regard to section 209 of title 18."

(C) amending subsection (c) by inserting "or deaf" after "blind"; and

(D) inserting at the end thereof the following new subsection:

"(d) The head of each agency may also employ or assign, subject to section 209 of title 18 and to the provisions of this title governing appointment and chapter 51 and subchapter VIII of chapter 53 of this title governing classification and pay, such reading assistants for blind employees and such interpreting assistants for deaf employees as may be necessary to enable such employees to perform their work.";

(2) amending the analysis of chapter 31 by striking out the item relating to section 3102 and inserting in lieu thereof the following:

"3102. Employment of reading assistants for blind employees and interpreting assistants for deaf employees."; and

(3) amending the caption of section 3102 to read as follows:

"§ 3102. Employment of reading assistants for blind employees and interpreting assistants for deaf employees".

(d) Section 410(b)(1) of title 39, United States Code, is amended by inserting after "conduct of employees)" a comma and "3102 (employment of reading assistants for blind employees and interpreting assistants for deaf employees),".

On page 196, line 8, strike out (c) and insert in lieu thereof (e).

On page 197, line 9, strike out (d) and insert in lieu thereof (f).

On page 197, line 11, strike out (e) and insert in lieu thereof (g).

Mr. CRANSTON. Mr. President, joining me in offering this amendment are Senators WILLIAMS, JAVITS, RANDOLPH, and, I believe, STAFFORD. It is a simple amendment which has been worked out with the Civil Service Commission and the Committee on Governmental Affairs. The amendment, in part, clarifies a matter concerning the assignment of employees to be readers for blind employees. A recent decision by the General Accounting Office with respect to providing readers and interpreters for blind and deaf employees in training courses under the Government Employees' Training Act raised doubts as to the Federal Government's authority to hire or assign readers other than in connection with such training. The amendment we propose would clarify this by providing specific authority for the employment and assignment of readers for the blind. The proposed amendment would also expand current law to provide specific authority for the employment or assignment of interpreters for the deaf and, in addition, would specifically apply such authorizations to the Postal Service.

Mr. President, the administration agrees with the need for this amendment and favors its enactment. In this regard, I understand that Jule Sugarman, Vice Chairman of the Civil Service Commission, has, today, written to Senator RIBICOFF to this effect.

Mr. President, section 501 of the Rehabilitation Act of 1973 requires each department, agency, and instrumentality of the Federal Government—including the Postal Service and Postal Rate Commission—to submit to the Civil Service Commission an affirmative action program plan for the hiring, placement, and advancement of handicapped individuals in such department, agency, or instrumentality. Each year, the submitted plan is required to be updated by the submitting department, agency, or instrumentality and reviewed by the Civil Service Commission. The Commission, after such review, may approve the plan if it contains sufficient assurances, procedures, and commitments to assure adequate hiring, placement, and advancement opportunities for handicapped individuals within the submitting department, agency, or instrumentality.

In addition, Mr. President, section 7153 of title 5, United States Code, authorizes the President to prescribe rules which "shall prohibit, as nearly as conditions of good administration warrant, discrimination because of physical handicap in an Executive agency or in the competitive service with respect to a position the duties of which, in the opinion of the Civil Service Commission, can be performed efficiently by an individual with a physical handicap, except that the employment may not endanger the health or safety of the individual or others."

Mr. President, Congress has enunciated clearly our general goal that the Federal Government be a leader and an example with respect to the employment of handicapped individuals. At the time of passage of section 501 as part of the Rehabilitation Act of 1973, I stressed that the Federal Government should be "an equal opportunity employer." The amendment we are submitting today would assist us in reaching that goal with respect to handicapped individuals.

Currently, section 3102 of title 5, United States Code—initially enacted in Public Law 87–614—provides authority for the head of each agency to employ nonpaid readers for blind employees of the Federal Government without regard to provisions governing appointments in the competitive service. Contrary to the general prohibition against receiving salary from sources other than the Federal Government, subsection (b) of the section provides specifically that the reading assistant may be paid for his or her reading assistance services by the blind employee or a nonprofit organization. At the time of passage of Public Law 87–614, it was envisioned that readers would also serve on a voluntary basis. No comparable provision was included regarding the use of nonpaid employees as interpreters for deaf employees.

Mr. President, the limitation of section 3102 to "nonpaid employees" has restricted the ability of some Federal agencies to meet their section 501 obligations. As a result, during the past few months, a number of departments and agencies have written to the Commission with respect to readers. In this regard, I would like to insert in the RECORD a recent letter from the Honorable Elsa A. Porter, Assistant Secretary for Administration at the Department of Commerce, to the Honorable Alan Campbell, Chairman of the U.S. Civil Service Commission.

Mr. President, I ask unanimous consent that the text of that letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF COMMERCE,
THE ASSISTANT SECRETARY FOR ADMINISTRATION,
Washington, D.C., May 13, 1978.

Hon. ALAN K. CAMPBELL,
Chairman,
U.S. Civil Service Commission,
Washington, D.C.

DEAR CHAIRMAN CAMPBELL: As we implement the new appeals system for handicapped employees and applicants, my attention has been brought to the growing problem of providing readers for blind employees. At present agencies are authorized to assign regular employees the duty of reading on a part-time or as-needed basis or to appoint readers without compensation. Under the latter authorization, reading services are obtained either through unpaid volunteers or by individuals paid directly by the blind employees. None of these approaches is completely satisfactory, and I therefore propose that the Civil Service Commission initiate appropriate action to provide agencies the option of employing paid readers on a full-time, part-time, or when actually employed basis when justified by the employee's need and job functions. I see no real difference between providing paid reading assistance for the blind and providing secretarial or clerical assistance for any other employee.

The option I ask the Commission to consider could appropriately be accomplished through the establishment of a new Schedule A appointing authority. The existing mechanism for providing reading assistance would remain in effect and would be the preferred means of providing the assistance needed. The new authority would merely provide agencies with greater flexibility to meet the needs of their employees.

While I appreciate the traditional means of providing reading services, I feel they are inadequate to meet the needs of today and will greatly restrict our ability to respond to the challenges of tomorrow. The inadequacy of these means began to grow apparent with the advent of the Rehabilitation Act of 1973 (P.L. 93–112). Section 501 of the Act, as you know, requires Federal agencies to develop affirmative action plans for the hiring, placement, and advancement of handicapped persons. One result has been the expansion of employment opportunities for professionally trained blind persons. As one small example, this Department hired two blind attorneys. For them, immediate access to the written word is critical to the accomplishment of their duties.

Both employees, however, have faced constant problems obtaining the reading assistance they require. Their plight is shared by other blind employees in the Department and, I am certain, by visually impaired employees throughout the Federal government.

Do we not place an unfair burden on the blind by our inability to guarantee competent reading service when needed? Dependence on volunteers creates an aura of uncertainty both as to their availability when required and their familiarity with the kind of material they are reading. Readers of technical materials, for example, should ideally be somewhat knowledgeable about the subject matter in which they are reading in order to make it comprehensible to the blind. We cannot always be certain volunteers will have the proper backgrounds for this.

The competence of the reader is a minor problem compared to the difficulty of scheduling reading periods. Volunteers are not automatically available when needed, and agency employees likewise do not always find it easy to juggle their other work assignments in order to read to the blind at the time the service is necessary. It has been reported that on many occasions volunteers and/or agency employees have been available only when no reading was required and unavailable when it was. Conceivably, the unavailability of competent, timely reading assistance could adversely affect a blind employee's work performance to the extent that career advancement could not be justified. At the least this would appear to violate the requirements of Section 501 of the Rehabilitation Act. At most it might be grounds for a complaint under the new regulations.

The general policy of the Federal government is to become a model employer of handicapped individuals. This is specifically stated in Section 713.703 of the new Subpart G ("Prohibition Against Discrimination Because of a Physical or Mental Handicap") of the Commission's equal opportunity regulations. If agencies are to carry out this policy with respect to the blind, there must be greater flexibility than now possessed to meet and deal with the reading needs of the employees.

Section 713.704 of Subpart G discusses the topic of reasonable accommodations. The Section states in part:

(a) An agency shall make reasonable accommodation to the known physical or mental limitations of a qualified handicapped applicant or employee unless the agency can demonstrate that the accommodation would impose an undue hardship on the operation of its program.

(b) Reasonable accommodation may include . . . the provision of readers and interpreters, and other similar actions.

Item (c) provides guidance on determining whether a proposed accommodation would impose an undue hardship on the operation of the agency's programs. I feel that under whatever criteria are used, the authority I am proposing for giving agencies greater flexibility to meet the reading needs of the blind can only be seen as a means of carrying out the Commission's expressed policy with respect to the Federal government's role as a model employer and to the principle of reasonable accommodation.

On a peripheral note, I see evidence of increasing court-ordered accommodations for the handicapped. One precedent-setting decision was handed down last July when a Federal judge ordered Converse College in

South Carolina to pay for an interpreter for a deaf student. The judge ruled that the college's refusal to pay for interpreter services violated the regulations under Section 504 of the Rehabilitation Act. That Section states that no otherwise qualified handicapped individual shall, because of his handicap, be subjected to discrimination under any program receiving Federal financial assistance.

Section 504 does not address itself to the employment practice of Federal agencies, but Section 501, with its requirement for affirmative action to broaden employment and advancement opportunities for the handicapped, does. That section, together with the Commission's new regulations on prohibition of discrimination because of handicaps, the requirement to provide reasonable accommodation, and new court rulings, certainly justify the establishment of an appointing authority for reading assistants to the blind.

I fully recognize the great strides which are already being made to help the sightless. Use of special equipment like the Optacon and talking calculators is increasing, and new devices are under development. Braille materials, tapes and cassettes are appearing on a growing variety of topics. At the same time the blind are broading their own horizons and preparing themselves to enter new occupational fields.

The authority I propose is not seen as a panacea. Problems in fully accommodating all the needs of the blind will remain. The authority will at least assure agencies another means to be more directly involved in providing a needed service.

I hope the Commission will give prompt and thorough consideration to my proposal and look forward to your response.

Sincerely,

ELSA A. PORTER,
Assistant Secretary for Administration.

Mr. CRANSTON. Mr. President, Assistant Secretary Porter's letter graphically illustrates the limitations of section 3102. It is these limitations which the amendment we are submitting is designed to overcome, both with respect to the employment of blind individuals as well as deaf individuals.

Mr. President, in March of this year, the Civil Service Commission issued final regulations setting up procedures for processing complaints of discrimination based on physical or mental handicap (5 C.F.R. 713(G)). Included as part of those regulations are provisions that require agencies to make reasonable accommodations to the known physical or mental limitations of a qualified handicapped applicant or employee, unless the agency can demonstrate that the accommodation would impose an undue hardship on the operation of its program. Reasonable accommodation may include, but is not limited to, making facilities readily accessible to and usable by handicapped persons, job restructuring, part-time or modified work schedules, acquisition or modification of examinations, the provision of readers and interpreters, and other similar actions. The Commission's regulations on reasonable accommodations were based on the regulations issued by the Department of Labor for Federal contractors under section 503 of the Rehabilitation Act of 1973 and by the Department of HEW for Federal grant recipients under section 504 of the act.

Mr. President, the Federal Government must do no less than what it expects from the private sector with respect to affirmative action efforts in the employment of handicapped individuals.

Mr. President, our amendment would provide much-needed flexibility—a flexibility that should assist the Federal Government in the hiring and advancement of individuals handicapped by reason of sight or sound impairment. The amendment would not supplant existing authority; rather it would augment existing authority. It is a necessary step to assist us in meeting our responsibilities of promoting exemplary equal employment opportunity. I urge my colleagues to support it.

Mr. President, I ask unanimous consent that a short summary of the amendment, an analysis of changes which would be made by it in title 5, and the August 24 letter from the Civil Service Commission be printed in the RECORD at this point.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY AND ANALYSIS OF UNPRINTED AMENDMENT NO. 1767 REGARDING READERS FOR BLIND AND INTERPRETERS FOR DEAF EMPLOYEES

SUMMARY

The amendments would add to S. 2640 as reported new subsections (c) and (d) to section 301 to amend section 3102 of title 5, United States Code, and section 410 of title 39, United States Code, to:

(1) authorize the head of each agency to employ interpreting assistants to serve without Federal pay to assist any deaf employee (as defined in section 3102, as amended) of such agency in carrying out his or her job, and to permit such an interpreter to receive pay from the deaf individual or a nonprofit organization for such services;

(2) make specific that the assignment or employment of a paid employee as a reader for a blind or interpreter for a deaf employee does not constitute the provision of appropriate clerical or secretarial support for such employee;

(3) authorize agency heads to employ or assign as paid Federal employees readers for blind and interpreters for deaf employees; and

(4) make specific the application of the section 3102 authorities to the U.S. Postal Service.

ANALYSIS OF CHANGES MADE IN CURRENT LAW

Section 3102 would be amended by redesignating the caption to read as follows: "Employment of reading assistants for blind employees and interpreting assistants for deaf employees".

Subsection (a) would be amended by adding a new definition of deaf employee: An individual employed by an agency who satisfactorily establishes that he or she has a hearing impairment, either permanent or temporary or so severe or disabling that the employment of an interpreting assistant or assistants for such employee is necessary or desirable to enable such employee to perform his or her work.

Subsection (b) would be amended to include an interpreting assistant (or assistants) for a deaf employee as among those nonpaid employees whom the head of each agency is currently authorized to employ without regard to the competitive service and chapters 51 (relating to pay and allowances) and 53 (relating to pay rates and systems) provisions of title 5. In addition, subsection (b) would be amended to make specific that a reading or interpreting assistant (or assistants)—except for those employed or assigned under subsection (d) of section 3102 as amended—may be paid for their services by the blind or deaf employee or by a nonprofit organization without regard to section 209 of title 18 (relating to limitation on salaries of Federal Government employees being payable only by the United States).

Subsection (c) would be amended by making specific that the assignment or employment of a reading or interpreting assistant or assistants under section 3102 may not be held or considered to prevent or limit the assignment to the blind or deaf employee of appropriate clerical or secretarial assistance.

Section 3102 would be further amended by the insertion of a new subsection (d) authorizing the head of each agency to employ or assign, subject to section 209 of title 18 and chapter 51 and subchapter VIII of chapter 53 of this title relating to classification and pay, such reading assistants for blind employees and such interpreting assistants for deaf employees as may be necessary to enable such employees to perform their work.

The analysis of chapter 31 would be amended by redesignating the item relating to section 3102 to conform with the redesignated section heading.

Section 410(b)(1) of title 39 (relating to the specific applicability of certain statutory provisions to the Postal Service) would be amended to include section 3102 among the section so made applicable.

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., August 24, 1978.

Hon. ABRAHAM A. RIBICOFF,
Chairman, Committee on Governmental Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: It is my understanding that Senator Cranston and others are proposing to introduce an amendment to section 3102 of title 5, United States Code, which essentially authorizes the employment of reading assistants for blind employees and interpreters for deaf employees.

In our view, the authorization to provide for these services is needed very much. Federal employers are required by law to exercise affirmative action in the hiring, placement, and advancement of handicapped persons. For the successful employment of blind and deaf persons, two of the most important accommodations are readers and interpreters. We have stated for some time that such services are allowable on an "as required basis" by other Federal employees, but experience shows that these services are often inadequate.

The real need is to convince managers that these are legitimate services and refusal to employ or promote deaf or blind individuals cannot be based upon a need for "extra" services. Senator Cranston's proposed amendment will be very helpful in overcoming these barriers and in assuring that the payment of these services is indeed legal. For these reasons, the Administration favors the amendment.

Sincerely yours,

JULE M. SUGARMAN,
Vice Chairman.

Mr. CRANSTON. Mr. President, the amendment is noncontroversial and I hope that it is acceptable to the floor managers of the pending measure.

● Mr. RANDOLPH. Mr. President, I am pleased to be a cosponsor of the amendment introduced by my good friend from California, Mr. CRANSTON. This amendment will aid blind Government employees and deaf Government employees by authorizing the employment of reading assistants and interpreting assistants, by authorizing the assignment of paid employees as reading or interpreting assistants, by authorizing the head of an agency to employ interpreting assistants to serve without pay, and by applying the provisions of section 3102 of the Civil Service Act to the Postal Department.

This amendment is similar to a bill I introduced in the 94th Congress, S. 1607. It was and is my strong conviction that it is time for the Government to realistically assist blind and deaf Federal employees so that they may have the same employment opportunities as other Americans. It is my feeling that this amendment will facilitate the employment of and advancement in employment of blind and deaf individuals in Federal service.

This amendment provides a flexible approach to meeting the reading and interpreting needs of blind individuals and deaf individuals. It must be remembered, however, that blind and deaf Americans have demonstrated that they have much to contribute, and there is no justification for requiring them to pay for their own reading assistants and interpreters. When S. 1607 was introduced, I emphasized that blind individuals and deaf individuals should not have to use their own funds, as is sometimes the case in Federal employment, to pay for reading assistants and interpreting assistants. Under this amendment, an agency will have available a variety of options for providing reading assistants and interpreting assistants to the blind employee and deaf employee, which will in no way require the blind or deaf individual to use his or her funds.

It is my feeling that it is important for the blind or deaf individual to be able to select an assistant with whom he or she can work most effectively. A blind or deaf individual's opportunity to select his or her reader or interpreter can contribute to a compatible working relationship and efficiency. While this amendment does not speak specifically on this point, the flexibility allows for the establishment of a policy regarding selection of reading assistants or interpreting assistants by the blind or deaf employee.

Mr. President, blind individuals and deaf individuals have much to contribute and will contribute even more if they are provided with the appropriate opportunities. This amendment will assist in the provision of those opportunities.●

Mr. RIBICOFF. Mr. President, the amendment of the distinguished Senator from California is acceptable to the manager of the bill.

Mr. PERCY. Mr. President, the amendment just offered by my distinguished colleague from California is, once again, a sound idea. It is acceptable. I know of no objection on this side.

Mr. CRANSTON. I thank the Senator very much.

I have now heard from Senator STAFFORD, and I ask unanimous consent that Senator STAFFORD may be added as a cosponsor and shown as such.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CRANSTON. Mr. President, I wish to express my thanks and appreciation to all the Senators and all those who helped us work this out. I also express by deep appreciation for the tremendous work Senator RIBICOFF and Senator PERCY have done in developing this bill. I think it will lead us to a more manageable, more responsible and responsive Federal Government, and I truly thank both of them for the work they and the other Senators have done.

I thank the Senator from Maryland for yielding to me.

Mr. MATHIAS. Mr. President, now that the Senate has undertaken consideration of S. 2640, the civil service reform bill, I wish to take this opportunity to commend my distinguished colleagues, the Senator from Connecticut (Mr. RIBICOFF), the chairman of the Governmental Affairs Committee and the Senator from Illinois (Mr. PERCY), the committee's ranking minority member for the serious and responsible work they have done on this important and essential legislation. The members of this committee labored long and for many hours to debate the issues and hear 12 days of testimony from 86 individuals representing 55 organizations.

That is just to give the Members of the Senate some concept of the scope of this work.

Mr. President, I have expressed some very strong views about this bill and its accompanying reorganization plan. While the committee has made major and substantial improvements in the bill, I think there is general agreement that there are several modifications that can and must be made on the floor.

The word "reform" always has a pleasing appeal. When it is associated with a project, there is a natural assumption that the project must be desirable and ought to be supported.

But good words like "reform" can be associated with programs which, though well motivated, are not carefully thought out.

This can have unfortunate results. Any real reform can be defeated. So even programs that are called reforms ought to be carefully examined. This is what we must do with this so-called civil service reform.

We have to be sure that the rough edges are smoothed off. We do not want to go back to the spoils system that existed in the days before civil service was instituted. We do not want to go back to raw political control of the Government, with Government employee upheavals at every election. We must keep these factors in mind while we are deciding how to reform the civil service.

When the committee first met to hear witnesses on the bill I expressed grave concerns that if the provisions of the bill were enacted there would be unbridled and unchecked discretion to politicize the civil service. The President had simply fallen short of his goal to provide Federal managers more discretion and flexibility in personnel management while at the same time assuring a civil service based on merit principles. I spoke specifically about the sweeping authority granted to the Director of the Office of Personnel Management. This Director would have the authority to make personnel policy for the Federal Government. There existed possibilities for manipulating the civil service for "personal or political favoritism" for personnel policy would be made by a single administrator serving at the pleasure of the President. I also pointed out that the bill neglected to give the public any opportunity to scrutinize the policymaking sessions of the OPM. Additionally, the proposed bill completely changed the examination system for Federal employees. It delegated authority to individual agencies rather than keeping that function with the Civil Service Commission. This meant a return to the pre-1965 era of civil service which was shot through with abuse, favoritism, delay, agency pressures and varying quality standards. Finally, the bill created a Senior Executive Service. This was first proposed by the second Hoover Commission back in 1955. The executives who will be included in this group have proven historically that they are the glue that holds the Government together during times of political transition or turmoil when the confidence of the American people in their Government must remain unshaken. Yet this bill granted authority to Presidential appointees to reassign, transfer, promote, and demote almost all top career executives and replace them with political or career appointees more to their liking.

Mr. President, the original proposal failed to recognize that Federal employees are, for the most part, dedicated, loyal men and women who work hard at their jobs. They want to be successful in their careers of public service. Very often they joined the civil service because of patriotic motives and deserve respect and dignity and security in their jobs.

The President's bill called for drastic firing capabilities. But we cannot be overzealous with our attempts to get rid of the deadwood. The President has said that in 1976, only 226 employees had been fired for incompetence and inefficiency. The President's figures were slightly in error. In fact, some 17,000 employees had been fired for cause in 1976. This indicates that the situation was not quite as bad as the President perceived it to be. Therefore, I do not think that the remedy should be quite as drastic as the President proposes. And this is one example—only one—of why we have to look carefully at the administration's civil service reform bill.

I concluded that the President's legislation could be salvaged, but only through amendments. So when the committee met to consider amendments to the bill, I sought to have several changes adopted. Senator STEVENS and I proposed modifications in the structure of the Office of Personnel Management that would provide bipartisan leadership. The changes would also limit the authority of this central personnel agency to conduct demonstration projects. The administration's bill granted authority to the OPM to conduct these projects for almost 5 years for upward of a quarter to a half million people, while setting

aside all civil service laws and important merit principles. Alterations in the examining process were suggested. Insuring the independence of the Merit Systems Protection Board and the Special Counsel was another goal. Lastly, these amendments called for important modifications regarding the burden of proof in adverse action cases against employees, providing basic protections to members of the Senior Executive Service and drastically curtailing opportunities for politicising the Service.

These proposals met with mixed success, and as a result Senator STEVENS and I submitted Minority Views to the committee's report on this bill. Those views reiterated each of our concerns expressed during committee deliberations.

The distinguished chairman of the committee, Senator RIBICOFF offered several weeks ago to have his staff negotiate with Senator STEVENS' staff and my own to attempt to reach agreement on many of these issues. Senator PERCY's staff also participated in these talks. These sessions proved to be quite fruitful, for today I am pleased to report that Senators RIBICOFF, PERCY, STEVENS, and I have reached agreement to offer a joint amendment coordinated with the administration, that we believe adequately addresses most of the issues raised in the minority report. I assume that we will undertake consideration of this amendment later during the debate on this measure. There are other concerns that have not been addressed, however. The Senate must endeavor to make this a true "reform" package, smoothing its rough edges, while striking the proper balance between protection of merit principles and management flexibility.

AMENDMENT NO. 3533

(Purpose: Improving the protections afforded Federal employees)

Mr. MATHIAS. Mr. President, I call up amendment No. 3533.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS), for himself, Mr. STEVENS, Mr. RIBICOFF, and Mr. PERCY, proposes an amendment numbered 3533.

Mr. MATHIAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 153, line 6, strike out the end period and insert in lieu thereof a semicolon and "and".

On page 153, between lines 6 and 7, insert the following:

"(D) review, as provided in paragraph (6), rules and regulations of the Office of Personnel Management.".

On page 154, between lines 19 and 20, insert the following:

"(6)(A) At any time after the effective date of any rule or regulation issued by the Office of Personnel Management pursuant to section 1103(b) of this title, the Board shall review such rule or regulation upon—

"(i) its own motion;

"(ii) the petition of any interested person if the Board, in its sole discretion, grants such petition after consideration of it; or

"(iii) the filing of a written complaint by the Special Counsel.

"(B) In reviewing any rule or regulation pursuant to this paragraph the Board shall declare such rule or regulation invalid, in whole or in part, if it determines that—

"(i) such rule or regulation would, on its face, violate section 2302 of this title, including the prohibition against violating the merit system principles, if implemented by an agency, or

"(ii) such rule or regulation, as it has been implemented by agencies through personnel actions taken, or policies adopted in conformity therewith, violates section 2302 of this title, including such principles.

"(C) The Director of the Office of Personnel Management, and any agency implementing the rule or regulation under review in any proceeding conducted pursuant to this paragraph, shall have the right to participate in such proceeding. Any proceeding conducted by the Board pursuant to this paragraph shall be limited to determining the validity of the rule or regulation under review. The Board shall prohibit future agency compliance with any rule it determines to be invalid.".

On page 145, line 21, strike out "(b)" and insert in lieu thereof "(b)(1)".

On page 145, after line 25, insert the following:

"(2) If notice of a rule or regulation proposed by the Director is required by section 553 of this title, the Director shall insure that—

"(A) the proposed rule or regulation is posted in offices of Federal agencies maintaining copies of the Federal personnel regulations; and

"(B) to the extent the Director determines appropriate and practical, exclusive representatives of employees affected by such proposed rule or regulation and interested members of the public are notified of such proposed rule or regulation.".

On page 206, line 12, after "positions", insert ": number of career reserved positions".

On page 208, between lines 20 and 21, insert the following:

"(h)(1) Not later than one hundred and twenty days after the date of the enactment of the Civil Service Reform Act of 1978, and from time to time thereafter as the Director of the Office of Personnel Management finds appropriate, the Director of the Office of Personnel Management shall establish, by rule issued in accordance with section 1103(b) of this title, the number of positions out of the total number of positions in the Senior Executive Service, as authorized by this section or section 412 of such Act, that are to be career reserved positions. Except as provided in paragraph (2), the number of positions required by this subsection to be career reserved positions shall not be less than the number of positions which, prior to such date of enactment, were authorized to be filled only through competitive civil service appointment.

"(2) The Director of the Office of Personnel Management may, by rule, designate a number of career reserved positions which is less than the number required by paragraph (1) only if he determines it necessary to designate as a general position a position (other than a position described in the last sentence of section 3132(b) of this title) which—

"(A) involves policymaking responsibilities which require the advocacy or management of programs of the President and support of controversial aspects of such programs;

"(B) involves significant participation in the major political policies of the President; or

"(C) requires the executive to serve as a personal assistant of, or adviser to, a Presidential appointee or other key political figure.

The Director shall provide a full explanation for his determination in each case.

On page 212, between lines 1 and 2, in the item relating to section 3133, after "positions", insert ": number of career reserved positions".

On page 226, between lines 14 and 15, insert the following:

"(1) permit the accurate evaluation of job performance on the basis of criteria which are related to the position in question and specify the critical elements of the position;".

On page 226, line 15, strike out "(1)" and insert in lieu thereof "(2)".

On page 226, line 17, strike out "(2)" and insert in lieu thereof "(3)".

On page 226, line 19, strike out "(3)" and insert in lieu thereof "(4)".

On page 227, line 18, insert before "Upon" the following new sentence: "The Office of Personnel Management shall review each performance appraisal system developed by any agency under this section, and determine whether the performance appraisal system meets the requirements of this subchapter.".

On page 227, between lines 22 and 23, insert the following new subsection:

"(d) The Comptroller General shall from time to time review on a selected basis performance appraisal systems established under this section to determine the extent to which such system meets the requirements of this subchapter and shall periodically report its findings to the Office of Personnel Management and to Congress.

On page 201, strike out line 23, and insert in lieu thereof "prohibited personnel practices;".

On page 202, line 3, strike out "and".

On page 202, between lines 6 and 7, insert the following new paragraphs:

"(14) utilize career executives to fill positions in the Senior Executive Service to the greatest extent practicable consistent with the effective and efficient implementation of agency policies and responsibilities; and

"(15) provide for a professional management system that is guided by the public interest and free from improper political interference.".

On page 205, line 7, after the end period, insert the following new sentence: "Notwithstanding the provisions of any other law, any position to be designated as a Senior Executive Service position, except a position in the Executive Office of the President, which—

"(1) is under the Executive Schedule, or for which the rate of basic pay is determined by reference to the Executive Schedule, and

"(2) on the day before the date of the enactment of the Civil Service Reform Act of 1978 was specifically required by law, or was required under the provisions of section 2102 of this title, to be in the competitive service, shall be designated as a career reserved position, if the position entails direct responsibility to the public for the management or operation of particular government programs or functions.".

On page 146, line 21, after "service", insert ", except that the Director may not delegate open competitive examination authority with respect to positions whose requirements are common to agencies in the Federal Government other than in exceptional cases where the interests of economy and efficiency require it, and where such delegation will not weaken the application of the merit system principles.".

On page 307, beginning with line 18, strike out all through page 308, line 2, and insert the following:

"(i) Allocation of the costs of the arbitrator shall be governed by the collective-bargaining agreement. The collective-bargaining agreement may require payment by the agency which is a losing party to a proceeding before the arbitrator of reasonable attorney fees incurred by an employee who is the prevailing party if the arbitrator determines that payment is warranted on the grounds that the agency's action was taken in bad faith. If an employee is the prevailing party and the arbitrator's decision is based on a finding of discrimination prohibited by any law referred to in section 7701(h) of this title, attorney fees also may be awarded and shall be governed by the standards applicable under the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e-5(k)).".

On page 308, line 13, after "section." insert the following: "The Authority may award attorney fees to an employee who is the prevailing party to an exception filed under this subsection, but only if it determines that payment by the agency is warranted on the grounds that the agency's action was taken in bad faith.".

On page 266, between lines 3 and 4, insert the following:

"§ 7205. Personnel Policy Advisory Committee

"(a) There is established, subject to the provisions of the Federal Advisory Committee Act, the Personnel Policy Advisory Committee (hereinafter in this section referred to as the 'Committee') which shall be composed of—

"(1) the Director of the Office of Personnel Management who shall serve as Chairman of the Committee;

"(2) the Secretary of Labor or his delegate;

"(3) five members appointed by the President from among individuals serving in Executive agencies and military departments in positions not less than the positions of Assistant Secretary or their equivalents;

"(4) one member appointed by the President from the Deputy and Associate Directors of the Office of Personnel Management; and

"(5) seven members appointed by the President who shall be officers of labor organizations representing employees in the Federal Government.

Appointments made under paragraph (5) shall reflect the relative numbers of the total Federal employees which are represented by such labor organizations, or affiliates thereof, except that no more than four members shall be from one such organization or its affiliates.

"(b) It shall be the function of the Committee to provide a forum for discussion by agency management and employee representatives of Federal personnel policy and regulations which affect more than one agency, and to make recommendations with respect to such policies and regulations.

"(c)(1) The Committee shall meet at the call of the Chairman but at least once quarterly. The Chairman shall notify each member of a proposed meeting at least fourteen days before it is to be held.

"(2) The Chairman shall prepare an agenda of topics for consideration by the Committee in any meeting and shall include such agenda in the notice sent under paragraph (1).

"(3) If one-third of the members present at a meeting vote to discuss an unscheduled topic, it shall be discussed.

"(d)(1) Recommendations of the Committee may be considered by the Office of Personnel Management in the formulation of Federal personnel policies and regulations.

"(2) Copies of the transcripts of the meetings of the Committee shall be sent to the Merit Systems Protection Board and the Federal Labor Relations Authority.

"(e)(1) Except as provided in paragraph (2), members of the Committee shall receive as compensation the daily equivalent of the annual rate of basic pay in effect for grade GS-18 for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Committee.

"(2) Members of the Committee who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the Committee.

"(3) While away from their homes or regular places of business in the performance of service for the Committee, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of this title.".

On page 271, between lines 2 and 3, after the item relating to section 7304, insert the following new item:

"7205. Personnel Policy Advisory Committee.".

Mr. HATCH. Will the Senator yield for a unanimous-consent request?

Mr. MATHIAS. I am glad to yield.

Mr. HATCH. Mr. President, I ask unanimous consent that Kristine Iverson of my staff and Robert Hunter of the staff of the Human Resources Committee be accorded the privilege of the floor throughout the debate on this measure and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, after this legislation had been reported by the Governmental Affairs Committee, Senator STEVENS and I made our objections known by submitting minority views to the report on the bill. Thereafter, we submitted several amendments to the legislation that reflected the serious nature of our concerns with this bill. Mr. RIBICOFF, the distinguished senior Senator from the State of Connecticut, and chairman of the Governmental Affairs Committee and Senator PERCY, the ranking minority member of the committee, agreed to begin sessions with Senator STEVENS and myself in an effort to satisfy or at least meet some of our concerns. I am pleased that these discussions have produced highly satisfactory results. After each of us had reached substantial agreement on these issues, our staffs met with representatives of the administration and reviewed with them the package that is now represented by this amendment.

Mr. President, the bill as reported by the committee does not provide sufficient checks on the policymaking powers of the Director of the Office of Personnel Management. Without some restrictions, the Director of the Office of Personnel Management, as a political appointee of the President, could issue rules which would politicize the civil service in violation of merit system principles.

This amendment provides that at any time after the effective date of any rule or regulation issued by the OPM the Board is directed to review the rule or regulation upon the filing of a written complaint by the special council. The Board in its discretion may review the regulation upon its own motion. The Board is further directed to consider the petition of any interested person, and may grant the petition in its sole discretion. The Board must declare the rule or regulation invalid if it finds that the rule or regulation, on its face, if implemented would constitute a prohibited personnel practice or violate merit system principles. The rule or regulation shall be declared invalid if, as implemented, through personnel actions taken or policies adopted in conformity therewith, violates merit system principles or constitutes a prohibited personnel practice.

Mr. President, this amendment draws a distinction between a regulation or rule prior to or after implementation. The authority given to the Board to invalidate rules or regulations prior to implementation reflects our concern that hundreds of civil servants and many agencies should not be placed in the unseemly position of acting upon a regulation or being affected thereby when it is obvious that implementation would amount to illegality. We—let me say, Mr. President, I think we must caution that this provision should never be interpreted to give a stamp of approval to any rule or regulation that the Board may not have considered.

The Board may act only after the effective date of the rule or regulation, for we feared that if the Board were required to act prior to the effective date, its silence or failure to act may be interpreted as a sign of approval or its signoff of the rule's validity under the law. Thus the Board is not limited as to when it may consider or review any rule or regulation, as long as it is after the rule's effective date.

I might further say, as a matter of legislative history, that the term "interested person" is not meant to be overly restrictive. Rather, it is designed to have the same meaning as that term is given in the context of the Administrative Procedure Act, and all the case law construing its meaning.

SENIOR EXECUTIVE SERVICE

Mr. President, there is a major danger in the provisions of the bill that create the senior executive service. Currently there are about 9,000 executive positions in the Federal service (aside from those filled by Presidential appointees). About 10 percent, or 900 of these, are designated as specific positions to be filled politically. The administration proposes to change this so that most of the 9,000 positions could be filled by political appointment, although at one time no more than 10 percent of all executive positions could be occupied by political appointees.

Once the impartiality and nonpartisanship of a career executive is no longer a requirement for filling these positions, the baser elements of human nature will flourish. Significant numbers of career people in positions in and just below the senior executive service will surely be encouraged to use their official discretion in subtle ways to serve partisan and special interests. Some unfortunately will probably succumb to the temptation in hopes of being looked on favorably as they seek entry into the senior executive service. Of course, with a career appointment, these individuals would not be part of the 10-percent limitation on the number of political appointees. They would remain career appointees—who have demonstrated their political reliability. In other words, it would be relatively easy to politicize far more than 10 percent of these positions in this service, particularly so because career execu-

tives could be reassigned and demoted without cause.

To satisfy ourselves that this scenario is not farfetched, we need only read the House Post Office and Civil Service Committee's "Final Report on Violations and Abuses of Merit Principles in Federal Employment." It reads:

Testifying in closed session before the Senate Select Committee, John Ehrlichman, Counsel to President Nixon for Domestic Policy, was asked if there was an interest to influence the career service in a partisan manner. Mr. Ehrlichman responded to Senate committee staff by saying, "It was an itch on our part to get friends in the departments rather than the people that we found there, but that was just a general ongoing desire on our part." The Committee Counsel asked if career positions as well as others were considered. "Sure . . .", was Mr. Ehrlichman's reply. The Committee Counsel asked how something such as this would be carried out, and Mr. Ehrlichman's response was, "By attrition essentially . . ."

It takes very little imagination to predict what would happen if Presidential appointees had the power to create attrition at will.

This amendment, which I am joined in by the distinguished Senator from Alaska, as well as by Senator RIBICOFF and Senator PERCY, will provide adequate safeguards against the possibilities for politically abusing the Senior Executive Service. We have proposed that within 120 days of the effective date of the Civil Service Reform Act, the Director of the Office of Personnel Management, by rule and in accordance with the rule and in accordance with the rulemaking provisions of the Administrative Procedure Act, must specify the number of positions in the Senior Executive Service that are to be career reserved positions. That number can be no less than the number of positions that can today be filled only through competitive civil service appointment. This means that the Director of the OPM will designate approximately 5,100 of the almost 9,000 positions in the Senior Executive Service that will be career reserved. The Director of the OPM is given the authority by our amendment to reduce the number of career reserved positions by designating them general positions. In order to do so, however, he must make a finding with respect to each such position he proposes to redesignate. He must find that the position: Involves policy making responsibilities which require the advocacy or management of programs of the President and support of controversial aspects of such programs; involves significant participation in the major political policies of the President; or requires the Executive to serve as a personal assistant of, or adviser to, a Presidential appointee or other key political figure. These criteria for designating positions as general reflect the view that any such redesignation should be considered to be motivated primarily by political considerations. These criteria that were established by Executive Order during the Eisenhower administration, and modified by the Johnson administration, provide a reasonable balance for management flexibility, protection against political and personal favoritism, and most important, the effective continuity of Government.

Mr. RIBICOFF. Mr. President, I commend the Senator from Alaska and the Senator from Maryland. They were very, very watchful watchdogs, and both the ranking minority member and myself feel that they have made a substantial contribution and have improved the bill.

We are very pleased to accept the Senator's amendment.

Mr. MATHIAS. Mr. President, the Senator from Connecticut is extremely kind and generous as he always is.

I know that the Senator from Alaska and I both share a sense of appreciation to him for his sentiments here as for his cooperation throughout the whole process.

Mr. President, I might just comment briefly on one aspect of the bill that we have not yet covered, and that is the question of competitive examinations.

The bill as it left the committee would authorize shifting from the central personnel agency to each individual agency the authority to examine applicants for jobs in that agency, and this, of course, was the practice in Civil Service prior to 1965, and those of us who were in Congress prior to 1965 will remember that there were many complaints that there was an uneven system, that there was a difference in the way applicants were being treated agency to agency, and in one part of the country to the other, and it was considered a great reform in 1965 that we centralized the system.

I personally think it would be a mistake to go back to the previous system and just one example of why it would be a mistake is included in a recent report of the Civil Service Commission which states that—

136,000 white collar jobs are overgraded.

And I think this overgrading can be traced in a great many of these cases to the fact that the agency managers pressure for the overgrading. They are pushing for this overgrading, and it is an example of what can happen when more of the recruiting activity is delegated to the agencies.

There are, of course, problems in the centralized system. The biggest one is that it takes too long to fill the jobs.

But the record seems to indicate that most of the delay is in the agencies, not in the area offices of the Commission, and steps can be taken to speed up that process and to make other improvements.

So, this amendment very briefly also prohibits the delegation of competitive examination authority for the positions common to agencies.

There may be delegation when the positions are unique to agencies or in extraordinary circumstances in the interests of economy and efficiency because, as the Senator from Alaska said, we are all interested in the most economic, the most efficient, and the most effective Government service that we can get. But I do not think we can reach that kind of a civil service if we are not very careful and very searching in the ways that we recruit people into the service.

Therefore, we suggest the prohibition of the delegation of competitive examinations be accepted under these extraordinary circumstances.

RULE POSTING REQUIREMENTS

Mr. STEVENS. Mr. President, this addition to the civil service reform bill will assure Federal workers an early notice of new rules and regulations enacted by the Office of Personnel Management. The provision requires a posting of these regulations in Federal offices maintaining copies of the Federal personnel regulations. The requirement will have the effect of advising concerned government employees at their general office location regardless of its remoteness to Washington, D.C.

This amendment is an improvement of the Administrative Procedure Act. The Procedure Act depends heavily on notification through the Federal Register. Such notification becomes less effective for the lower grades of government employees who are not accustomed to reviewing the Register regularly. This point is also valid in the smaller government installations found in many States.

This posting requirement is a straightforward attempt to notify all employees of new rules and regulations that will affect their jobs. The requirement includes notification of employee representatives. The process should promote a clear understanding of Federal regulations early in the implementation stage. Combined with new authorities of the Merit System Protection Board, adequate notification will promote merit principles and minimize questionable regulations which might result in prohibited personnel practices if implemented by the agency.

POLICY OF CAREER PLACEMENT IN THE SES

Mr. President, this amendment establishes two important principles in the administration of the Senior Executive Service.

One revision represents a policy statement advocating maximum utilization of career service employees. The reform bill authorizes a ceiling of 10 percent for the placement of political appointees. Ten percent should not become a goal of each administration. We hope the goal of placement in the Senior Executive Service will center on individual qualifications for Government service. Therefore, maximum placement of career employees will be in the best public interest.

The second change states a goal for the Senior Executive Service. I believe that statement is self-explanatory and self-supporting. The change establishes as Senior Executive Service policies: "goals for a professional management system and the necessity to assure career members protection from prohibited personnel practices."

CERTIFICATION OF APPRAISAL SYSTEMS

Mr. President, this revision to the reform bill will improve the quality of performance appraisal systems to be used in the Senior Executive Service. There can be few things of more importance to these executives than the technique of their evaluation.

The amendment will require the Office of Personnel Management to review all performance appraisal systems prior to implementation. This review will promote objective systems that will uniformly evaluate performance within the executive group regardless of the agency. One approving authority, the Office of Personnel Management, will assure adherence to merit principles in the development of all performance appraisal systems.

A second benefit of this amendment involves a statutory auditing role for the General Accounting Office. The GAO will perform representative audits of performance appraisal systems in the Senior Executive Service. The Comptroller General will issue reports periodically on the effectiveness of these appraisal systems.

ADVISORY COMMITTEE FOR THE DIRECTOR OF THE OFFICE OF PERSONNEL MANAGEMENT

This amendment establishing an advisory committee will fulfill one of the recommendations of the Personnel Management Project of the President's reorganization plan. Senate bill 2640 confines the scope of collective bargaining to those matters which properly belong within the purview of labor-management consultation. Specifically, it excludes matters governed by the policies and regulations of the Office of Personnel Management and the Merit Systems Protection Board. And it bars consideration of issues reserved as management rights: the determination of the agency's mission, budget, organization, and work force size and structure. These restraints are fully consistent with the objectives of providing administrative efficiency and protecting the public interest.

However, it is important that neither labor nor management be excluded from the process of developing rules and policies. Unions must work under central personnel management requirements. Agencies must administer them. Most importantly, both unions and agencies possess extensive knowledge of the general and the particular aspects of the substance of central management decisions. It is important that unions and agencies be provided a formal consultative role in the policymaking process.

While the central personnel agencies have frequently consulted with unions and agencies in the past, these were ad hoc processes initiated by the personnel agencies. There is no process which insures that consultation is systematic.

This amendment will establish a regular and structured conference procedure. It provides for Presidential appointment of a fifteen-member Personnel Policy Committee. The Director of the Office of Personnel Management will chair the committee, which will also include seven members from among the heads of executive agencies and military departments and seven members selected from unions, primarily on the basis of their relative size in representing Federal employees.

The Personnel Policy Committee will meet at least once a quarter. It will be able to consider all Federal personnel policies and regulations which affect more than one agency.

Ideally, the Personnel Policy Committee will provide a forum at which management and organized labor will offer, defend, and consider recommendations on Federal personnel policies and regulations. The amendment is designed to establish harmony between, first, the desire of unions and agencies to have a meaningful and systematic role in determining central personnel agency rules; and, second, the need of the central personnel agencies to achieve the effective execution of laws and Presidential directives.

In drawing on the insight and expertise of labor and management, the proposal will improve the efficiency and preserve the authority of Federal personnel management.

PAYMENT OF ATTORNEY FEES IN ARBITRATION

Mr. President, this revision provides for attorney fees incurred by an employee who is the prevailing party in an arbitration case. This amendment will be superseded by negotiated agreements where the agency and the representative of employees have agreed to alternative terms in a contract. The intent of this amendment is to provide a standard rule on such awards that is consistent with the provisions available to the Merit Systems Protection Board.

The arbitrator shall decide the award of such payments if the Agency's action is considered to have been taken in bad faith. The award should cover reasonable attorney fees and accepted court expense items such as filing fees and the cost of transcripts. It is our intention that these awards should reflect the actual costs incurred, realizing that costs in some States would be higher than others for the same case.

The provisions of this amendment are consistent with the accepted awards authorized in the statutory process of appeals. Title VII of the civil service reform bill provides the employees working within negotiated agreements to have a choice between the statutory appeals process or the terms of the contract. This amendment corrects an inequity that exists if the employee chooses arbitration.

The amendment authorizes the Federal Labor Relations Authority to grant attorney fees in the same manner described for the arbitrator. Obviously, some arbitration decisions will be appealed to this new Authority. The intention of this revision is to provide relief equivalent to the statutory process when the employee decided on arbitration. Such fees will include those appropriate costs which had been incurred in the arbitration process.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that both the committee amendment in the nature of a substitute as amended and the amendments proposed by the Senator from Maryland, and others, be agreed to and as agreed to be considered original text for purposes of further amendment.

The PRESIDING OFFICER. Without objection, the committee amendment as amended, is agreed to.

Mr. PERCY. Mr. President, I concur that the amendment before us should be accepted as original text. This amendment which is the result of long and arduous negotiations of staffs representing Senator RIBICOFF, myself, Senators MATHIAS and STEVENS, was accepted by the administration in a meeting of four Senators with President Carter and Chairman Campbell, Chairman of the Civil Service Commission.

The purpose of the amendment is to address concerns that S. 2640 as reported from committee contain the potential for political abuse in the Federal bureaucracy.

The amendment addresses these fears while retaining the essential structure and thrust of the overall legislation. For instance, the Merit System Protection Board review procedure is drafted so as not to allow MSPB a role in policymaking, this area being reserved for OPM. It is simply a way to assure that OPM in implementing policy through regulations does not step over the line and commit prohibitive personnel actions which is the sole standard of review for striking regulations down.

The amendment is structured to allow MSPB to act any time after the effective date of the regulation, either before harm has been done, or in response to harm that has been done.

The purpose of the amendment is to assure against political manipulation of the senior executive service as well as to establish a presumption in favor of career reserve positions.

I find that the amendment which has been worked out is extraordinarily helpful and certainly incorporated as original text is acceptable to the Senator from Illinois.

Mr. LEAHY. I ask unanimous consent that David Julian of my staff have all privileges to the floor for today, during votes and debates.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, I make the same request in behalf of Jim Davidson, Terry Jolly, and Andy Conlin of Senator MUSKIE's staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that Eric Hultman of the Judiciary Committee staff be allowed on the floor during the debate and votes on S. 2640.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I ask unanimous consent that Mr. Fred Williams, of the staff of the distinguished Senator from Indiana (Mr. BAYH) be accorded the privilege of the floor during this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, I also ask unanimous consent that George Kerr, of Senator MOYNIHAN's staff, be granted the privilege of the floor during the consideration and votes on S. 2640.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I would like to submit three amendments which have been discussed with the staff of the Committee on Governmental Affairs. The amendments are not complicated, and I feel they will improve some important aspects of the civil service reform bill. It is my desire to try to reach a quick decision on these revisions. Would that be acceptable to the manager of the bill at this time?

Mr. RIBICOFF. Yes, it would. I will say to the distinguished Senator from Alaska or ask are they the four amendments which have been submitted?

Mr. STEVENS. These are three amendments that we would like to treat individually, if we may.

Mr. RIBICOFF. I have no objection.

UP AMENDMENT NO. 1768

(Purpose: Providing for review of certain performance appraisal system)

Mr. STEVENS. I send the first amendment to the desk, Mr. President.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an unprinted amendment numbered 1768.

Mr. STEVENS. Mr. President, I ask unanimous consent to dispense with further reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 173, line 25, before "If" insert the following: "The Office of Personnel Management shall review each performance appraisal system developed by any agency under this section and determine whether the performance appraisal system meets the requirements of this subchapter.".

On page 174, between lines 6 and 7, insert the following:

"(c) The Comptroller General shall from time to time review on a selected basis performance appraisal systems established under this subchapter to determine the extent to which such system meets the requirements of this subchapter and shall periodically report its findings to the Office of Personnel Management and to Congress.

Mr. STEVENS. This amendment deals, Mr. President, with OPM review of performance appraisal systems.

S. 2640 permits agencies to develop new performance appraisal systems for the evaluation of employees. My amendment would require the Office of Personnel Management to review all the new appraisal systems.

The provision will insure compliance with merit principles and appropriate personnel standards.

Existing performance ratings in the civil service fail to measure the relative merits of employees. The rating system is a burden that withdraws more in effort than it returns in efficiency or morale. Performance appraisals must be conducted uniformly, efficiently, and objectively. They should tell the employee what management thinks of his present contribution and his future prospects.

They should help mangement to utilize its employees more fully.

My amendment will insure central approval of all new appraisal systems. In addition, my proposal will require an audit of Federal personnel appraisal systems by the General Accounting Office. Congress would then receive periodic reports from the Comptroller General concerning the results of such an audit.

I am hopeful that the managers will accept this amendment as it is offered.

Mr. RIBICOFF. Mr. President, the amendment is acceptable to the manager and the administration as well.

Mr. PERCY. Mr. President, I would like to ask the distinguished Senator from Alaska to yield for a question. In the opening statement of the Senator from Illinois he made reference to the fact that the appraisal system in the Federal Government today just seems to be a terrible waste of time. I would throw the whole thing out kit and kaboodle. If you take 2 million people and ask for a performance evaluation of them, and year after year you get 95 percent of them just rated satisfactory, there just are not that many good people in the private sector or wherever they may be.

Does the Senator's suggested amendment in any way improve that situation or have any effect upon it so that we really have an appraisal system that will, a performance that will, really be meaningful? In a grade system inside schools you grade people against one another for performance from top to bottom many times. Is there anything in the Senator's amendment that would have any effect on that whatsoever, in view of the present system which the Senator from Illinois has criticized?

Mr. STEVENS. Mr. President, I would like to respond to the Senator from Illinois by saying that the first amendment deals with the centralization of the performance appraisal systems through a review by OPM.

My second amendment will require the establishment of objective criteria in the development of the systems.

The bill already permits the development of new performance appraisal systems. We would like to have those systems approved by OPM so that one agency is not developing a step backward while another one is developing a step forward.

The second amendment will give OPM the right to establish what are objective criteria for these performance appraisal systems.

I commented in my statement that I believe, having served in the civil service system, that the present review is a tremendous amount of paperwork which achieves very little for the management or for the employees.

We are trying to develop, and the bill instructs the agency to develop, new performance appraisal systems. But we think they ought to be coordinated. That is what this amendment will do.

The next one will set up important guidelines for the development of such systems.

Mr. PERCY. As I understand the amendment, there is an audit procedure for this policy control that is being introduced, where the Comptroller General will report periodically to Congress on the performance of the civil service and how OPM is responding to this amendment.

Mr. STEVENS. That is right. We feel the GAO ought to be able to look from outside the OPM and the civil service system, determine whether these new performance appraisal systems are working, and periodically give the committees of Congress a report on what the OPM has done to carry out the authorization to develop new performance appraisal systems. GAO will, in effect, evaluate the effectiveness of those new systems.

Mr. PERCY. The Senator from Illinois finds the amendment—in fact, all three amendments when we get to each, acceptable, and very much in the spirit of what the Senator from Illinois hoped to accomplish.

The Senator from Illinois has not worked in the civil service, but has had civil servants, while serving in the U.S. Navy, working for him, and has seen the rigidity of that system years and years ago.

The Senator from Illinois has had testimony directly given to him throughout the State of Illinois and in hearings here in Washington as to the rigidity of the system and the lack of effectiveness of performance ratings, so that the Senator commends his distinguished colleague for these amendments.

As part of the legislative history, the Senator from Illinois would request that the Comptroller General make careful audits of the so-called quality control that is now being introduced, in order to evaluate the system's fairness and general administrative suitability, so that when we look at performance appraisals of individuals, we can have them in such a way that we can take into account promotions that should be received, awards that should be received, and removals that should be made.

That is the essence of the system. But when you get a report that 95 percent of all the employees of the Federal civil service are satisfactory, where do you begin then? There simply is no real basis for that, and I commend our distinguished colleague for giving us the opportunity to point out the necessity of having a performance appraisal system for employees that is far more effective than we have under our present civil service system.

Mr. STEVENS. I thank my colleague.

Mr. President, I ask unanimous consent that my amendment be printed in the RECORD at this point. I ask unanimous consent that I may offer the second amendment so that the two amendments may be considered en bloc, inasmuch as they deal with the same subject.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (UP No. 1768) is as follows:

On page 173, line 25, before "If" insert the following: "The Office of Personnel Management shall review each performance appraisal system developed by any agency under this section and determine whether the performance appraisal system meets the requirements of this subchapter.".

On page 174, between lines 6 and 7, insert the following:

"(c) The Comptroller General shall from time to time review on a selected basis performance appraisal systems established under this subchapter to determine the extent to which such system meets the requirements of this subchapter and shall periodically report its findings to the Office of Personnel Management and to Congress.

UP AMENDMENT NO. 1769

(Purpose: Requires identification of critical elements in the evaluation of job performance)

Mr. STEVENS. Mr. President, I send the second amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an unprinted amendment numbered 1769.

Mr. STEVENS. I ask unanimous consent that further reading of the amendment be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I ask that the amendment be printed in the RECORD at the conclusion of these remarks outlining its effect.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENS. Mr. President, I wish to submit an amendment to establish objective criteria in the development of performance appraisal systems. Senate bill 2640 requires agencies to develop new appraisal systems to evaluate the performance of all employees affected by the legislation. These systems for employee evaluation will be even more significant than current applications. Personnel actions including removal have been strengthened by a streamlining of the appeals process. The basis for adverse action will be even more clearly centered on the employees' performance appraisal.

The appraisal systems currently used in civil service have been widely criticized. The fact that practically all evaluations result in a satisfactory rating is a symptom of the problem. The current system lacks some specific standards to meet the goals of personnel evaluation required in the civil service reform bill.

The reform bill requires agencies to develop new performance appraisal systems consistent with criteria to be established by the Office of Personnel Management. Yet the bill is silent on establishing one criterion of the greatest importance. Critical elements of the position must be clearly stated as basis for performance evaluation. Critical elements should be defined as those specific skill levels, responsibilities, or individual actions which will be evaluated in performance appraisal.

My amendment requires performance appraisal systems to identify the critical elements of a position. The employee must know the specific criteria which will be used in his evaluation. This amendment clearly states that intention.

Mr. President, I am hopeful that since we have considered these two amendments together, the managers of the bill will accept them en bloc.

EXHIBIT 1

Mr. STEVENS' amendment (UP No. 1769) is as follows:

On page 169, line 24, after "system", insert the following: "which permit the accurate evaluation of job performance on the basis of criteria which are related to the position in question and specify the critical elements of the position".

Mr. RIBICOFF. Mr. President, as manager of the bill, I am willing to accept the amendments of the Senator from Alaska. I understand that the amendments are satisfactory to Senator PERCY as well.

Mr. STEVENS. I move, then, that the amendments be agreed to en bloc.

The PRESIDING OFFICER. The question is on agreeing, en bloc, to the amendments (UP No. 1768 and UP No. 1769) of the Senator from Alaska (Mr. STEVENS).

The amendments, en bloc, were agreed to.

UP AMENDMENT NO. 1770

(Purpose: To minimize Federal involvement in State and local government personnel matters)

Mr. STEVENS. Mr. President, I have a third amendment, which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Alaska (Mr. STEVENS) offers an unprinted amendment numbered 1770.

Mr. STEVENS. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 265, line 22, after the word "and" insert the following: "such standards shall be prescribed in such a manner as to minimize Federal intervention in State and local personnel administration and".

Mr. STEVENS. Mr. President, I am offering this amendment to reduce Federal involvement in State and local personnel administration. Senate bill 2640 currently permits Federal agencies to require, as a condition of participation in assistance programs, systems of personnel administration consistent with personnel standards prescribed by the Office of Personnel Management. These standards will apply specifically to the positions involved in carrying out the assistance programs.

Adherence to merit principles is desirable in all personnel systems, whether Federal, State, or local. But the imposition of other Federal personnel standards on State and local governments is often inappropriate.

Federal intervention in State and local personnel administration interferes with State sovereignty. The power to govern State and local employees is a right which properly belongs to State and local governments. Such power is indispensable to the separate and independent existence of these jurisdictions.

This amendment will require that the personnel standards, prescribed by the Office of Personnel Management and governing individuals administering assistance programs, be designed to minimize Federal intervention in State and local personnel administration. Its purpose is to limit the authority of the Office of Personnel Management in establishing rules governing employees outside of the Federal system. The amendment will improve the administration and execution of Federal assistance programs and protect the right of State and local authorities to govern their own employees.

I hope, again, that the managers of the bill will find this injunction, which requires that particular OPM standards shall be prescribed in such a manner as to minimize Federal intervention in State and local personnel administration, acceptable to them.

Mr. RIBICOFF. Mr. President, the amendment of the Senator from Alaska is acceptable to the manager of the bill, and also to the ranking minority member (Mr. PERCY).

Mr. STEVENS. Mr. President, I ask unanimous consent that the amendment be printed in the RECORD following my remarks, and I move its adoption.

The PRESIDING OFFICER. Without objection, it is so ordered. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. STEVENS' amendment (UP No. 1770) is as follows:

On page 265, line 22, after the word "and" insert the following: "such standards shall be prescribed in such a manner as to minimize Federal intervention in State and local personnel administration and".

The PRESIDING OFFICER (Mrs. HUMPHREY). The Senator from Illinois.

UP AMENDMENT NO. 1771

(Purpose: Allowing the Board to make a finding in cases of prohibited personnel practices involving Presidential appointees)

Mr. PERCY. Madam President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes an unprinted amendment numbered 1771.

Mr. PERCY. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 163, strike out lines 18 through 20, and insert in lieu thereof the following:

"(1) If the Special Counsel determines, after any investigation under this section of any prohibited personnel".

On page 163, strike out lines 5 through 11.

On page 163, strike out lines 16 through 20, and insert in lieu thereof "Systems Protection Board.".

On page 165, line 14, strike out "Any" and insert in lieu thereof "(a) Except as provided in subsection (b), any".

On page 166, line 9, strike out the end quotation marks and the end period.

On page 166, between lines 9 and 10, insert the following:

"(b) In the case of an employee in a confidential, policy-making, policy-determining, or policy-advocating position who was appointed by the President, by and with the advice and consent of the Senate, such employee shall be entitled to the hearing provided in subsection (a) but the Board shall issue no final order in such case. The Board shall transmit to the President, and make available to the public, its findings and recommendations for disciplinary action in such case.".

Mr. PERCY. Madam President, the Governmental Affairs Committee put much effort into developing this civil service reform bill to absolutely insure against any form of destructive political manipulation of the Federal bureaucracy. We have provided for a strong Merit Systems Protection Board and Special Counsel, firm protections for "whistleblowers," controls on political use of the Senior Executive Service, firm merit principles and prohibited personnel actions, all aimed in this direction.

One weakness in this area, however, remains. This concerns an exemption in the legislation under which Presidential appointees, those individuals appointed by the President and confirmed by the Senate to fill the highest positions in Government, about 900 individuals in all, are provided a special immunity from responsibility for wrongful actions.

My amendment is intended to plug this final loophole.

Title II of S. 2640 provides that any Government official who commits a "prohibited personnel practice" can be brought before the Merit Systems Protection Board on charges of abuse. If the Board finds the charges substantiated, it may impose disciplinary penalties ranging from reprimand to suspension to removal to civil fines to disbarment from Federal service for a period of up to 5 years.

The provision, however, specifically excludes Presidential appointees from this enforcement authority. If the special counsel comes across evidence that a Presidential appointee has abused the merit system, all he can do is to report his finding to the President. Not only is the MSPB denied the ability to impose sanctions—it is not even given an opportunity to judge whether the charges have a basis. The President is thus presented with unproven allegations, the official has no chance to attempt to clear his name, and the lines of responsibility for wrongful actions are left thoroughly blurred.

While it is true that, constitutionally, only a President can remove one of his appointees, and that good policy might dictate allowing the President to be the final judge of what discipline short of removal is best suited, a system under which a finding of guilt or innocence is never made would leave even the most well-intentioned President in a difficult situation, having no independent finding upon which to base his decision.

My amendment would remedy the problem by allowing the MSPB to hear charges of merit abuse brought against Presidential appointees and make a public finding on those charges, both as to whether the allegations are true and a recommendation as to what discipline is proper. It would then be up to the President to decide, at his own discretion, whether action is to be taken.

S. 2640 provides broad grants of management flexibility and administrative powers to agency heads, Presidential appointees, particularly under the Senior Executive Service. Without this type of authority, the MSPB would be in no position to effectively police against abuses under the new system.

We have worked long and hard over past years to eliminate what is often a double standard of justice in this country under which the powerless bear the full brunt of law, while the powerful go free. Surely, we do not want to institutionalize such a double standard of justice into the civil service system.

I urge adoption of my amendment.

Mr. RIBICOFF. Madam President, Senator CHILES, who had opposed this amendment and prevailed in the committee seven to six, should be given the opportunity of presenting the opposite point of view. I supported in committee the position of the distinguished Senator from Illinois.

Mr. PERCY. Madam President, if the Senator will yield, the staff of the Senator from Illinois has notified Senator CHILES that the amendment is pending now and we have not had word back yet. Certainly, I want to give every opportunity to the distinguished Senator from Florida to comment on the amendment.

Mr. RIBICOFF. I suggest the absence of a quorum while we try to get Senator CHILES.

Mr. PERCY. Also, I think Senator MATHIAS wishes to speak on the amendment. He has been advised also that the amendment is pending.

The PRESIDING OFFICER. Does the Senator from Connecticut suggest the absence of a quorum?

Mr. RIBICOFF. I suggest the absence of a quorum, yes.

The assistant legislative clerk proceeded to call the roll.

Mr. MATHIAS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. I ask unanimous consent that Cynthia Gulley of the staff of the distinguished Senator from Wyoming (Mr. WALLOP) may have the privilege of the floor during this debate. I make a similar request on behalf of Betty McKay of the staff of the Senator from California (Mr. HAYAKAWA).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MATHIAS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Madam President, I ask unanimous consent that Mr. Michael Jones of the staff of the Senator from Massachusetts (Mr. BROOKE) may be permitted the privilege of the floor during this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RIBICOFF. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Madam President, the distinguished Senator from Maryland (Mr. MATHIAS) and the Senator from Illinois have discussed the pending amendment and the point has been made, and I think aptly so, that what we should do is attempt in every way possible to have an evenhanded approach toward the presidential and nonpresidential appointments, taking into account that by the amendment the ultimate decision is to be made by the President in a case of presidential appointees.

In the wording of the amendment, as it now stands, it provides that "The Board shall transmit to the President and make available to the public its findings and recommendations."

The Senator from Illinois asks unanimous consent to modify the wording of the amendment to strike out the words "and make available to the public," and substitute the words "to the appropriate committees of the Senate." In some cases there may be more than one committee that has jurisdiction.

I so make such unanimous-consent request.

The PRESIDING OFFICER (Mr. SPARKMAN). The Senator has a right to modify his amendment. The unanimous consent is not required.

The amendment is so modified.

The amendment, as modified, is as follows:

On page 162, strike out lines 18 through 20, and insert in lieu thereof the following:

"(1) If the Special Counsel determines, after any investigation under this section of any prohibited personnel".

On page 163, strike out lines 5 through 11.

On page 163, strike out lines 16 through 20, and insert in lieu thereof "Systems Protection Board.".

On page 165, line 14, strike out "Any" and insert in lieu thereof "(a) Except as provided in subsection (b), any".

On page 166, line 9, strike out the end quotation marks and the end period.

On page 166, between lines 9 and 10, insert the following:

"(b) In the case of an employee in a confidential, policy-making, policy-determining, or policy-advocating position who was appointed by the President, by and with the advice and consent of the Senate, such employee shall be entitled to the hearing provided in subsection (a) but the Board shall issue no final order in such case. The Board shall transmit to the President, and to the appropriate Committees of the Senate, its findings and recommendations for disciplinary action in such case.".

Mr. PERCY. The purpose of this modification in the amendment is simply, first, to treat non-Presidential appointees and Presidential appointees the same with respect to making public the findings and recommendations. They should be handled exactly on the same basis.

But the Senate should have the ability to act and in the advice and consent authority that it has from the Constitution should know whether an appointee by the President, confirmed by the Senate based, generally speaking, upon the recommendation of the appropriate Senate committee with oversight authority, should know when charges have been made against a presidential appointee.

The wording of the amendment simply provides that the MSPB hear charges of merit abuse brought against presidential appointees.

The Senator from Illinois wishes to point out that this is not a charge that is made by an individual. This would be a charge made by the special counsel and only by the special counsel, and it would only be for a personnel abuse, and prohibited personnel practices are clearly defined in this legislation.

It could not be just an indiscriminate charge. It would have to be a charge that there has been either illegal discrimination; or solicitation in consideration of recommendations unless based on personal knowledge or a review of the record consisting of an evaluation of competence, character, loyalty, or suitability; or a charge of political coercion; or a charge of willfull deception or obstruction of the right of an individual to compete for a Federal job; or a charge of influencing a person to withdraw from competition for Federal positions so as to improve or injure employment prospects of any applicant; or a charge by the special counsel of granting of any preference not authorized by law, rule or regulation; a charge of nepotism; reprisals against whistle blowers; reprisals for use of appellate rights; or a charge of violation of law, rule, regulation, or merit system principles.

These charges cannot be lightly made. They would have been thoroughly investigated by the special counsel. He would have made such charges only after having adequate evidence that there is a reasonable basis for those allegations.

And then the amendment simply provides that when a Presidential appointee is involved that the MSPB shall have an opportunity to have a hearing exactly as with any other charge against any other civil servant in a supervisory capacity and to make a determination and a recommendation that those determinations and recommendations shall be sent to the President. In accordance with the terms of the Percy amendment it is at the President's discretion and the President's sole discretion as to whether action of any kind shall be taken.

But when the President is dealing with some, at the present time, 900 Presidential appointees, he would have available to him a proven procedure that is applicable to all civil servants. That would give him the benefit of that proven system so that he would then have available to him all of the facts taken in the same procedure which is applicable to other Federal supervisory employees, and would enable the President to make a determination as to what should be done.

Also, of course, the appropriate committee of the Senate would be given such information and could advise and counsel with the President in this particular case.

The Senator from Illinois brings to the attention of his colleagues a situation we have faced, and I mention it only because it has been in the headlines of the newspapers all across the country, involving GSA. Certainly this is a matter that should and must be dealt with as effectively as possible, and should there be such instances involving possibly a Presidential appointee, then it would seem to the Senator from Illinois that a system of fairness should prevail, and there should be a procedure that would be followed.

Surely I think that we, as the Senator said in his opening comments, have worked long and hard over past years to eliminate what is often a double standard of justice in this country under which the powerless bear the full brunt of law while the powerful go free. Surely we do not want to institutionalize such a double standard of justice into the civil service system.

It is for this reason that the Senator from Illinois offers the pending amendment which, I believe, would be an improvement in the bill before the Senate, S. 2640.

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, this matter in a slightly different form was presented to the Committee on Governmental Affairs and discussed in the Committee on Governmental Affairs. The committee, after deliberation on it, decided to delete this and to change this provision and provided, as in the bill now, that in the case of an employee in a confidential, policymaking policy-determining or policy-advocating position, who was appointed by the President, by and with the advice and consent of the Senate, that such complaint and statement and any response by the employee to such complaint shall be presented to the President in lieu of the board or administrative law judge referred to in paragraph (1) of this subsection.

I think to understand this we really need to try to determine what we are seeking to do in this civil service reform. What we need to determine is what the role of the special counsel is going to be, what the role of the merit board is, what the duties and responsibilities of the President are.

First, we are talking about civil service employees. That is what this bill is all about. When we talk about a special counsel who is going to provide protection for whistleblowers, we are talking about a special counsel who is going to prosecute people in the civil service system, the civil service employees against whom charges are brought before the Merit Board so we will know we can have faith and confidence in the civil service system.

But what we really are talking about and what we are dealing with here are civil service employees.

When we start talking about presidential appointees, we are talking about people now who are in that category who are appointed not out of the ranks of the registry, not after taking competitive examinations, people who do not have tenure, people who serve at the pleasure of the President of the United States, and when the President changes they change, and if the President wants to change them, they change, and these employees do not have the normal protections of the civil service employees nor are they normally brought before the Merit Board for disciplinary response because they are the charges of the President of the United States.

One reason, and a very strong reason, why I resist this is because I do not think you take away or you should take away from the President the responsibility for knowing that he is the one who must discipline his appointees; he is the one who is responsible for their misconduct, and I do not think we should put a buffer between the President and that responsibility.

Under provisions now, any charges referred to the special counsel, he can investigate those charges, he can report his findings, together with his investigations, together with those charges, to the President, and they become the responsibility of the President. That is where the responsibility should rest. It should not go to a merit board which is going to determine whether it thinks the President should do this or that, and the board sends its recommendations to the President and the President, according to this amendment, does not have to follow the recommendations. So you are not adding anything really to it because he does not have to follow the recommendations. He could say, "Well, the merit board looked at this and they took care of it, so I am free of the responsibility."

I do not think he should be free, if he has a Haldeman, an Ehrlichman, if he has someone else, who is doing something wrong, I think he should have the responsibility, and it is a political responsibility, it is his political appointment, and that responsibility should rest clearly with him.

On the other side, I think we want to be careful that we do not stop the Government from operating. If we go into a situation in which we are going to require a trial now before the merit board, the merit board ought to be protecting those civil service employees; the merit board ought to be weeding out those civil service employees who are not doing their job. It is civil service reform we are talking about, and it is the civil service system that needs looking after. That is what the public wants us to do. But we are going to give them an additional charge. We are going to give them a charge where, if the speical counsel decides one of the Presidential appointees is doing something bad, they are going to sit as the judge over that case and they are going to listen to that case, and then they are to report their findings to the President.

I just see no real reason for it. If we are accomplishing anything, we are making it public, and if an employee is charged, that charge goes to the President, it goes to the press at the same time. People know, and it is up to the President to determine what he is going to do about that charge, and that polit-

ical responsibility should rest solely with him.

On that basis, it seems to me we would be much better off to keep it that way and to keep that focus clearly on the President and not dilute it by putting some merit system in the middle and giving them something else to do which takes them away from their duties, their primary duties, of being the overseers of the civil service system itself.

Mr. SASSER. Mr. President, will the Senator from Florida yield?

Mr. CHILES. I yield.

Mr. SASSER. I ask unanimous consent that Mr. Alvi From of the Subcommittee on Intergovernmental Relations be allowed the privileges of the floor.

The PRESIDING OFFICER (Mr. HART). Without objection, it is so ordered.

Mr. SASSER. Mr. President, will the Senator from Florida yield further?

Mr. CHILES. I yield.

Mr. SASSER. Mr. President, I rise to agree with the distinguished Senator from Florida. This issue, which has been raised, was fully debated in the committee consideration of this bill, and I share the concerns of the Senator from Florida that the President of the United States should be solely responsible for the discipline of his own appointees.

Another consideration which I think is raised by this amendment of the distinguished Senator from Illinois is simply a question of whether or not such a statutory provision would be constitutional.

A Justice Department opinion given the Committee on Governmental Affairs recognises that there is some uncertainty, as a matter of fact considerable uncertainty, on this issue. This body ought to be careful, Mr. President, about inviting disputes on constitutional grounds.

Second, a statutory discipline procedure could delay or thwart a President's desire for summary discipline of an appointee whose conduct was inconsistent—I emphasize that, was inconsistent—with the merit system, and that prospect to the Senator from Tennessee is, frankly, very disturbing.

However, I believe the strongest argument is the one which has been so ably made by the distinguished Senator from Florida, and that is in favor of the provisions that are now present in the committee bill rather than those in favor of the amendment; that is, we must hold the President responsible for the actions of his personal advisers and his personal appointees, and to pass that responsibility off, even in this limited way, to a merit board or any other authority, merely gives the President an excuse or could give a President the excuse for not disciplining his closest advisers.

I find, Mr. President, that in this legislative body there still appears to the Senator from Tennessee to be a Watergate hangover. This hangover appears to manifest itself in efforts of the legislative branch, on occasion, to take from the executive branch that which should be the executive branch's natural prerogative, and in some cases those prerogatives which are given the executive branch by the Constitution of the United States.

I believe fully that the executive branch and the President should be responsible to the American people and responsible to the legislative branch of the Government. But in making them responsible, I do not think we are acting in the best interests of this country, or that it is good public policy, to dilute the authority of the President of the United States to discipline and manage those whom he—or she—would appoint to high office in the Government of this country.

I yield back the remainder of my time.

Mr. CHILES. I yield the floor.

The PRESIDING OFFICER (Mrs. ALLEN). The question is on agreeing to the amendment.

Mr. PERCY. Madam President, I wish to comment very briefly, and then I am prepared for a vote. Since we apparently do have a difference on this issue, I would ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr PERCY. First, the Senator from Illinois would like to make it eminently clear that the Special Counsel is an appointee of the President, and it is only the charges made by the Special Counsel of the Merit System Protection Board that we are involved with. If that special counsel, a Presidential appointee, after investigation, makes charges against a Presidential appointee, then there may be a hearing before the Merit System Protection Board.

In the case of a non-Presidential appointee, the finding of the Merit System Protection Board is binding; the case ends there. In the case of a Presidential appointee, the Merit System Protection Board merely transmits to the President and to the appropriate committees of the Senate its findings and a recomendation, but the decision is entirely in the hands of the President of the United States.

Perhaps a comparable case—the parallel is not exact, of course, but when the President appoints an Attorney General, and that Presidential appointee makes charges against an individual in the Government who happens to be a Presidential appointee, he is not restricted at all. That individual is not above the law, and he must obey the law; and if the Attorney General and the Justice Department wish to take action, they certainly can.

In this case, the categories of charges are extremely limited. They must constitute a merit abuse, and they must be certain specific abuses as outlined by the Senator from Illinois.

So it would seem to me that by working with the distinguished Senator from Maryland, who fully supports this amendment, we have found a mechanism to help the President, because the tendency is, as we all know, in the real world in which we live, that when a new administration is being put together, the President, his advisers, and the campaign staff have to draw upon people who have worked with them, whom they have gotten to know in the campaign in one context. They take people up out of one activity of life and put them, many times, into an entirely new activity, and we are all well aware of the fact that we have today serving in Government people who have been in the private sector, who, for the first time, have assumed a government role.

Certainly the President cannot be expected, or the White House staff cannot be expected, to be a watchdog over everything that 900 people do.

All the Senator from Illinois is trying to do is provide a procedure because of that, because of the known abuses and the great problems we have, and the fact that we do find an erosion of confidence in government. It used to be that we looked upon the Federal Government as an area where there was little abuse of the kind that we had experienced in local politics. You would expect to see hanky-panky in the sheriff's office, but you would not expect to see problems with the FBI. You would to see problems in the State legislature of one State or another, but you very seldom ever did in the Congress of the United States. You might expect to see, in some local financial agency or in a State government, problems of conflicts of interest or payoffs or kickbacks, but you would not expect to see it in the General Services Administration of the United States of America.

But all of us, within the last 12 months, have seen that Congress is not immune, the FBI is not held guiltless in some of its activities because of the charges that have been made, and certainly the present Civil Service administration has not been immune from the kind of problems that we have encountered at other levels of government.

This is merely to say that the public's erosion of confidence in the Federal Government must be arrested, and we have to take steps to see that we do not have a double standard, with one standard applying to most officials in positions of responsibility, but making immune 900 of the most powerful positions in the executive branch of the Government.

I should think the President would welcome and look forward to having the feeling that, a general counsel, appointed by him, confirmed by the Senate, through the Merit System Protection Board, once he had a basis for feeling that there had been violations of these particular areas, nepotism, illegal discrimination, et cetera, that he would have the protection that could be offered to his office, if charges were made by the special counsel, the Merit Systems Protection Board would have a hearing and have its findings sent to the President for his final and ultimate determination.

The Senator from Illinois is quite prepared to vote on the amendment, unless there are further comments.

Mr. CHILES. Mr. President, I would like to comment briefly. There was an allusion that this might be similar to the Attorney General being able to prosecute charges against any Presidential appointee.

There is a distinct difference there. The Attorney General is charged with being sort of the chief prosecutor of all crimes. He is not over civil service employees; he is not over a class of people.

His job, of course, is to be the chief law enforcement officer of the United States, for and against all of its citizens.

We are now dealing with the Merit Protection Board, which is to oversee and to look over charges for and against employees under civil service. That is a class of people; it is not all citizens, so there is a distinct difference in that regard.

As I pointed out earlier, it is my feeling that we are reaching a point here where we should allow the merit protection system to work its judgment for and against employees that are covered by the civil service. We should allow the special counsel to protect the whistleblower bringing charges against a wrongdoer under the civil service.

We are dealing with a class of people who are given special protections, protection against firing, protection against layoff. They also have to pass a merit exam to get that employment. We are taking them out of the old political system.

But we decided in the wisdom of many, many Congresses, and many past actions, that we will allow a President to appoint a certain number of appointees who are political appointees. At the same time, we make him directly responsible for those appointees. I think we need to continue that responsibility. I think it is very important that we continue that responsibility, that we do not set up a buffer that says, "You are going to allow the merit system to look in between."

We do not give the special counsel these additional responsibilities.

If charges are made, and it is covered in this bill, if charges are made against one of these Presidential appointees, the special counsel who can look into those charges would report his findings to the President, and those findings are made public. We allow the public spotlight to determine whether the President handles those charges correctly or not. I think it is that political responsibility that is the strongest kind of force we could have to have the President act properly. At the same time, I would not relieve him of that responsibility at all.

Under the circumstances, Madam President, I move to table the amendment of the Senator from Illinois, and and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Illinois. The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. MORGAN), and the Senator from Louisiana (Mr. JOHNSTON) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from New Mexico (Mr. DOMENICI), the Senator from Nevada (Mr. LAXALT), and the Senator from New Mexico (Mr. SCHMITT) are necessarily absent.

The result was announced—yeas 60, nays 31, as follows:

[Rollcall Vote No. 363 Leg.]

YEAS—60

Allen	Glenn	Metzenbaum
Bayh	Gravel	Moynihan
Bentsen	Hart	Muskie
Biden	Hatfield, Mark O.	Nelson
Bumpers	Hatfield, Paul G.	Nunn
Burdick	Hathaway	Packwood
Byrd, Harry F., Jr.	Hodges	Pearson
Byrd, Robert C.	Hollings	Pell
Cannon	Huddleston	Proxmire
Chiles	Humphrey	Randolph
Church	Inouye	Ribicoff
Clark	Jackson	Riegle
Cranston	Kennedy	Sarbanes
Culver	Leahy	Sasser
Danforth	Long	Sparkman
DeConcini	Magnuson	Stennis
Durkin	Matsunaga	Stevenson
Eagleton	McGovern	Stone
Ford	Melcher	Thurmond
Garn		Williams
		Zorinsky

NAYS—31

Bartlett	Hatch	Schweiker
Bellmon	Hayakawa	Scott
Brooke	Heinz	Stafford
Case	Helms	Stevens
Chafee	Javits	Talmadge
Curtis	Lugar	Tower
Dole	Mathias	Wallop
Goldwater	McClure	Weicker
Griffin	McIntyre	Young
Hansen	Percy	
Haskell	Roth	

NOT VOTING—9

Abourezk	Domenici	Laxalt
Anderson	Eastland	Morgan
Baker	Johnston	Schmitt

So the motion to lay on the table UP amendment No. 1771 was agreed to.

Mr. CHILES. Madam President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. EAGLETON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. I will yield for unanimous-consent requests.

Mr. HEINZ. Madam President, I ask unanimous consent that Pam Haynes of my staff be granted privilege of the floor during consideration of this.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Madam President, I ask unanimous consent that Emily Eiselman and Sally Brian be granted privilege of the floor during the pendency of this measure, as well as the tariff and tax bills.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Madam President, I ask unanimous consent that William Young and John Rich of the Foreign Relations Committee staff be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Madam President, the same request for Walker Nolan of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STONE. Madam President, the same request for Craig Wolfson of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Madam President, the same request for Karen Minton of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Madam President, the same request for Cynthia Gulley of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DeCONCINI. Madam President, the same request for Shirley Wilson.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Madam President, the same request for Joan O'Neal.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Madam President, the same request for Robert Carragher.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Madam President, the same request for Jeff Petrich of Senator DURKIN's staff and, for the duration of the day, Michael Choukas of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1772

(Purpose: To protect whistleblowers within the Federal Government)

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Vermont (Mr. LEAHY) proposes an unprinted amendment numbered 1772.

Mr. LEAHY. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Page 158, line 22, strike "(j)" and insert in lieu thereof "(i)".

Page 158, line 25, strike "(J) (2)" and insert in lieu thereof "(i) (2)".

Strike page 159, line 13 through page 161, line 14, and insert in lieu thereof the following new subsection:

"(e) (1) The Special Counsel may receive information, the disclosure of which is not specifically prohibited by statute or Executive Order 11652, or any related amendments thereto, concerning the existence of any activity which appears to constitute a violation of law, rule, or regulation, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health or safety. In such cases, the Special Counsel shall not disclose the identity of the person who disclosed the information without the consent of such person, unless the Special Counsel determines that such disclosure is unavoidable.

"(2) (A) Whenever the Special Counsel receives information of the type described in paragraph (1) of this subsection, the Special Counsel shall promptly transmit such information to the appropriate agency head.

(B) If, within fifteen days after the receipt of such information, the Special Counsel determines that there is a substantial likelihood that the information discloses a violation of law, rule, or regulation, or mismanagement, gross waste of funds, abuse of

authority, or a substantial and specific danger to the public health or safety, the Special counsel may require the agency head to conduct an investigation and submit a written report within sixty days after the day on which the information is transmitted to the agency head or within such longer period of time as agreed to in writing by the Special Counsel: *Provided, however*, That the Special Counsel may require an agency head to conduct an investigation and submit a written report only where the information was transmitted to the Special Counsel by a present or past employee or applicant for employment in the agency which the allegation concerns.

"(3) Any report required under subparagraph (2)(B) of this subsection shall be reviewed and personally signed by the agency head and shall include—

"(A) a summary of the information with respect to which the investigation was initiated;

"(B) a description of the conduct of the investigation;

"(C) a summary of the findings of the investigation;

"(D) a listing of any violation or apparent violation of any law, rule, or regulation found during the course of the investigation; and

"(E) a description of any corrective action taken or planned as a result of the investigation, such as—

"(i) changes in agency rules, regulations or practices;

"(ii) restoration of any aggrieved employee;

"(iii) disciplinary action against any employee; and

"(iv) referral to the Attorney General of any evidence of criminal violation.

Any such report shall be sent to the Congress, to the President, and to the Special Counsel for transmittal to the complainant. Whenever the Special Counsel does not receive the report of the agency head within the time prescribed in subparagraph (2)(B) of this subsection, the Special Counsel may transmit a copy of the information which was transmitted to the agency head to the President and to the Congress together with a statement noting the failure of the agency head to file the required report.

"(4) Whenever the Special Counsel transmits any information to the agency head under subparagraph (2)(A) of this subsection, but does not require an investigation under subparagraph (2)(B) of this subsection, the agency head shall, within a reasonable time after the information was transmitted, inform the Special Counsel, in writing, of what action has been, or is to be taken and when such action will be completed. The Special Counsel shall inform the complainant of the report of the agency head.

The Special Counsel shall maintain and make available to the public a list of noncriminal matters referred to agency heads under paragraph (2) of this subsection together with the reports submitted by the heads of agencies; Provided, however, that nothing in this paragraph shall permit the public disclosure of any information the disclosure of which is specifically prohibited by statute or Executive Order 11652 or any related amendments thereto.

"(5) If, during the course of any investigation, the Special Counsel or the agency head determines that there is reasonable cause to believe that a criminal violation by an employee has occurred, such official shall promptly report such determination to the Attorney General and shall submit a copy of such report to the Director of the Office of Personnel Management and to the Director of the Office of Management and Budget."

Page 161, line 15, strike "(g)(1)" and insert in lieu thereof "(f)(1)".

Page 162, line 13, strike "(h)" and insert in lieu thereof "(g)".

Page 162, line 18, strike "(i)(1)" and insert in lieu thereof "(h)(1)".

Page 163, line 12, strike "(j)(1)" and insert in lieu thereof "(i)(1)".

Page 163, line 17, strike "(i)(2)" and insert in lieu thereof "(h)(2)".

Page 163, line 20, strike "(i)(2)" and insert in lieu thereof "(h)(2)".

Page 164, line 4, strike "(k)" and insert in lieu thereof "(j)".

Page 164, line 10, strike "(1)" and insert in lieu thereof "(k)".

Page 164, line 16, strike "(m)" and insert in lieu thereof "(l)".

Page 164, line 20, strike "(n)" and insert in lieu thereof "(m)".

Page 164, line 24, strike "(o)" and insert in lieu thereof "(n)".

Page 165, line 6, strike "(d), (e), (i) or (j)" and insert in lieu thereof "(d), (e), (h) or (i)".

Mr. LEAHY. Madam President, the amendment I have sent up is very similar to the amendment that was there before with some changes. It is a whistle-blowing amendment.

The amendment collapses two subsections of section 1206—subsection (e), concerning special counsel discovery of illegality, and subsection (f), dealing with special counsel referral of the substance of whistle-blower complaints—into a single new subsection (e).

Under the provisions of this amendment, the special counsel is authorized to receive allegations of violations of law, rule, or regulation, mismanagement, gross waste of funds, abuse of authority, or substantial and specific dangers to the public health or safety. All such allegations must be promptly transmitted to the head of the agency which the allegations concern. The identity of the complainant should not be disclosed by the special counsel except where it is unavoidable. In those cases, however, where the special counsel finds, within 15 days, that there is a substantial likelihood that the allegation is true, the special counsel can order an agency investigation. However, the special counsel can insist on an agency investigation only when the complainant is a present or recent past employee or applicant for employment in the department which the allegation concerns.

In "substantial likelihood" cases, the agency can conduct whatever type of investigation which, in its discretion, it determines to be appropriate. The agency must, however, report back to the Special Counsel, to the President, and to the Congress within a fixed time—60 days unless the Special Counsel extends—on the conduct and findings of the investigation. The Special Counsel transmits his copy of the report of the agency head to the individual who made the allegation, so that his identity need never be revealed. Where the agency head fails to report back within the fixed time, the Special Counsel may send the original allegation to the President and the Congress with a statement noting the failure of the agency head to respond.

In cases other than "substantial likelihood" cases, the agency head is under an obligation to inform the Special Counsel, within a reasonable time, of what action has been taken or is planned. Where the allegation is frivilous on its face, it would be appropriate for the agency head to inform the Special Counsel that no investigation has been conducted nor is planned. The Special Counsel informs the individual who made the allegation of what the agency head reports.

The Special Counsel is required to keep a public log of all noncriminal referrals and the reports of the agency heads about these referrals. This public log will not contain any classified or statutorily protected information.

Whenever the Special Counsel or the agency head finds evidence of criminal wrongdoing by an employee, they are under an obligation to report that information to the Attorney General and to the Directors of OPM and OMB.

The Leahy whistleblowing amendment will not change who can report allegations to the Special Counsel. It will not affect in any way the number of complaints which the Special Counsel is likely to receive. All of the provisions are identical to the language which was reported from the Senate Government Affairs Committee.

The Leahy amendment will also not change the protection from reprisals which are provided for in the committee bill.

When an agency conducts an investigation in response to a substantial likelihood request from the Special Counsel, a report of that investigation will be forwarded to the President, the Congress, and the Special Counsel. The Special Counsel will not review or comment on the report. He or she will provide the original whistleblower with a copy of the agency report. This will complete the circle since the whistleblower went to the Special Counsel to be assured, whenever possible, of anonymity. The President and the Congress can decide what, if any, action they consider appropriate having received the report.

Madam President, this matter has come up somewhat earlier than we expected. I should note that a Dear Colleague letter in support of this amendment was to have been circulated this afternoon. I would like to share that Dear Colleague letter and list our cosponsors:

COMMITTEE ON APPROPRIATIONS,
Washington, D.C., August 24, 1978.

DEAR COLLEAGUE: When the Senate considers S. 2640, the Civil Service Reform Act, we intend to offer an amendment to strengthen the whistleblower protections. This proposal will assure that the charges raised by whistleblowers—those federal employees who disclose illegality, waste, abuse, or dangers to public health or safety—are fully investigated. We ask you to join with us in establishing a mechanism for the handling of whistleblower complaints which will result in the systematic weeding out of wronged from the federal service.

The Governmental Affairs Committee strengthened the protections accorded federal employees who go public with evidence of illegality, mismanagement, waste of funds, or dangers to public health or safety. The Committee should be praised for its efforts to safeguard the free speech rights of federal employees. We do not believe, however, that the committee went far enough.

Although employees are free, under the committee's bill, to publicly disclose impropriety, no dissent channel is established so that employees can seek internal resolution of allegations. Our amendment seeks to assure that employees have a safe place to go outside their agency where their allegations will be taken seriously. We hope to encourage employees to give the government the first crack at cleaning its own house before igniting the glare of publicity to force correction. We do not want to limit the employees' rights to speak out when they see wrongdoing; we do want to assure them that the government has a commitment to eliminating the wrongdoing.

The amendment would empower the Special Counsel of the Merit System Protection Board to receive complaints of violations of law, rule, or regulation, mismanagement, gross waste of funds, abuse of authority, or substantial and specific dangers to the public health or safety. The Special Counsel would protect the employee by preserving his or her anonymity. All complaints would be forwarded to the head of the agency involved, but for those complaints with a substantial likelihood of validity the Special Counsel could order a sixty day agency investigation. The agency would report on its findings to the President, so he could exercise his executive responsibilities; to the Congress, so it could fulfill oversight obligations; and to the Special Counsel, so he could transmit the report to the employee who filed the complaint.

Hence, the Special Counsel serves first and foremost as the protector of employees' rights and as a conduit to prevent reprisals and to help agencies purge wrongdoing. The Special Counsel is not set up as an all-powerful overseer: He lacks any power to investigate or to review the investigation of an agency. Rather, we assume that authorizing the President and the Congress to review agency reports will force agencies to take corrective action.

Adoption of this amendment will vindicate the Code of Ethics for Government Service, established by Congress twenty years ago, which demands that all federal employees "Uphold the Constitution, laws, and legal regulation of the United States and all governments therein and never be a party to their evasion" and "Expose corruption wherever discovered." Under our amendment, an employee can fulfill these obligations without putting his or her job and career on the line. In fact, an employee could force agency self-correction without ever going public, under this amendment.

Our amendment creates a systematic method of eliminating various forms of wrongdoing from the federal government. Historically, changes are made only after a scandal is disclosed. This method of rooting out corruption is hit or miss, scatter-shot. The amendment allows for selfcleaning to take place on a regular, continual basis. If vigilant government workers are around, illegalities need no longer swell and fester for years before discovery. Mismanagement, abuse, and waste of funds can be promptly discovered and corrected with the help of dedicated federal employees. In the long run, we are certain that this early discovery and rectification will result in more efficient, less bloated government. Isn't the message we have been getting from the country in the last few months precisely this—that people want an honest and efficient government that works?

Finally, this amendment can assure that the type of over politicization which some fear will result from S. 2640 is nipped in the bud. Disclosure can call a halt to a President misusing agency personnel to perform campaign work or to advance certain favored special interests. This amendment provides the counterweight to the increased management flexibility provided for in the Civil Service Reform Bill.

We seek your cosponsorship and support on our amendment. If you need additional information or have any questions please contact David Julyan (x42398).

Sincerely,

Bob Dole, William Proxmire, Edward M. Kennedy, Charles H. Percy, Robert T. Stafford, Claiborne Pell, James Abourezk, Howard Metzenbaum, Patrick J. Leahy, Muriel Humphrey, Dennis DeConcini, Richard Lugar, Dick Clark, Donald Riegle, Henry Bellmon, John Melcher, and Orrin Hatch.

Mr. RIBICOFF. Will the Senator yield?

Mr. LEAHY. Certainly.

Mr. RIBICOFF. Madam President, I want to take this opportunity to extend praise to the distinguished Senator from Vermont for his early and hard work to protect whistleblowers.

The committee's action in strengthening the protection of whistleblowers came primarily because of the work that the Senator from Vermont and the Senator from Minnesota (Mrs. HUMPHREY) contributed.

I do believe that this amendment improves the protection for whistleblowers.

I want to commend the Senator from Vermont and, as manager of the bill, I am more than pleased to accept the amendment of the Senator from Vermont.

Mr. LEAHY. I thank the Senator.

Mr. METZENBAUM. Madam President, I rise to support the amendment of my distinguished colleague from Vermont (Mr. LEAHY). He has worked diligently in the development of his own legislation to provide greater protections for whistleblowers. I commend him for his efforts in this area. I, too, submitted a bill to this Congress which would have provided judicial remedies for Federal employees who suffer reprisals after exposing illegal or wasteful governmental activities. My work in this area convinces me that the amendment now offered by my colleague from Vermont would establish the best possible mechanism for protecting whistleblowers. It would allow the special counsel of the Merit Protection Board to order an investigation of allegations of illegal conduct or gross waste in the Federal Government without revealing the name of the complaining employee. This approach would protect whistleblowers from reprisals while exposing deficiencies in the way the Government and its employees operate.

I am sure there are a number of Federal employees today who would speak out about abuses of authority if it were not for the real danger that they would be subjected to harassment, financial loss, or damage to their careers. The country needs conscientious civil servants who care enough to criticise deficiencies and want to improve the Federal Government's ability to meet its obligations to the citizenry. Providing remedies to employees only after some overzealous superior has acted to discipline outspokenness is not the answer. The costs are too great even when the whistleblower eventually prevails. Ernest Fitzgerald, and those who have helped him, spent over half a million dollars to gain job reinstatement after Fitzgerald disclosed a $2 billion cost overrun in the C-5A program. And, I am certain that such financial hardship does not compare to the enormous psychological costs to employees who are the objects of reprisals.

Federal agencies and departments will benefit from this amendment, because they will be able to cure waste, mismanagement, violations of law, and dangers to health and safety without the glare of publicity that can accompany whistleblowing. If appropriate governmental bodies fail to act to solve such problems, the Congress and the President will be alerted so they can initiate the necessary reforms.

I commend my good friend from Vermont for this innovative approach to protecting whistleblowers when they reveal governmental dificiencies and to encouraging the most effective and efficient Federal bureaucracy possible.

Mr. LEAHY. Madam President, I appreciate the comments of the Senator from Ohio. I appreciate very much the comments of the distinguished Senator, the chairman (Mr. RIBICOFF).

I might say that Senator RIBICOFF has been in the forefront of this effort long before I came to the U.S. Senate. It would have been impossible for me to have put together this amendment without his help and diligence, the help of the ranking minority member (Mr. PERCY), and the others I have named here today. We all have worked very closely together.

I might say, also, that Senator CHILES, who has shown a great deal of interest in this matter, has worked closely with us today. The final bill is a result of the cooperation among Senator RIBICOFF, Senator PERCY, Senator CHILES, Senator HUMPHREY, myself, and others. We have a bill on which we all agree.

I yield to the Senator from Illinois.

Mr. PERCY. Madam President, as a cosponsor of the Leahy amendment, the Senator from Illinois knows of no objection on this side of the aisle, and the amendment is acceptable.

I commend my distinguished colleague for his leadership in this area.

Mr. LEAHY. I understand the committee is going to accept this amendment, and I am perfectly willing to yield back the remainder of my time.

The PRESIDING OFFICER. There is no time limitation.

● Mr. KENNEDY. Madam President, I rise to express my strong support for the amendment offered by the distinguished Senator from Vermont. In doing so I would also like to commend Senators RIBICOFF and PERCY, as well as the Governmental Affairs Committee as a whole, for their work on this important and timely legislation.

The whistle-blower provisions of this bill, if coupled with the Leahy amendment, will be just what the public and the Congress want—and what the bureaucracy needs—for this proposal is clearly in line with the message that we have been receiving from an angry public: We have had too much waste in Government; we have had too much ineptitude in Government; we have had too much inefficiency in Government; and we have even had too much corruption in Government. And we do not need new

ranks of bureaucrats to clean up what others have messed up. We merely need to provide protection and incentives, for those presently in public service, to bring to light—and to rectify—lawlessness and waste in Government.

For whistle-blowing will be amply staffed by our existing army of the conscientious and dedicated Government employees—those who are committed enough, professional enough, and patriotic enough to "blow the whistle" on corruption, waste or illegality that they see around them. That is why I express strong support for S. 2640 and its protection for Government employee whistleblowers.

But insuring that the alarm is sounded. and insuring that the employee is indeed protected, is only the first step in the process. For the true purpose of whistleblowing is not the public recognition of the dedicated employee, but the correction of Government wrongdoing, the saving of taxpayer's money, and the prosecution of the corrupt.

Some provision must therefore be made to follow up on substantial allegations of waste or wrongdoing, while screening out frivolous or unfounded accusations. This is exactly what our amendment accomplishes.

If after a period of 15 days, under this proposal, the Special Counsel finds a substantial likelihood that an allegation is true, he can require that the head of the relevant agency conduct an investigation and submit a report on that investigation within 60 days. To insure that an agency does not attempt to whitewash an in-house scandal, the amendment explicitly spells out what that report must include, including substantiation of the charges, corrective measures, disciplinary actions, et cetera.

Any report not deemed adequate will be transmitted to the Congress and the President, thereby opening further incentives for correction of any wrongdoing.

In turn, the Special Counsel would act as a filtering process that would screen out frivolous or self-serving accusations by eliminating cases during the initial 15-day investigatory period. The amendment goes further to provide an opportunity for the agency to exonerate itself of baseless charges and to correct and eliminate any internal waste or corruption within its own house. The amendment thus allows the agency the opportunity of an internal investigation. Only if the agency refuses to undertake an investigation, or their investigation proves inadequate, does the glare of publicity come into play. Of course, throughout this process the identity of the whistleblower is kept confidential, unless the Special Counsel determines that he has acted in bad faith.

I have been a firm believer in the benefits of "whistleblowers" since I introduced the first whistle-blower legislation in 1971. I chaired hearings before the Subcommittee on Administrative Practice and Procedure where we heard dozens of witnesses recount stories of transfer, demotion, harassment, and retaliation in return for telling the public the truth. I am more than happy to see the fruits of these efforts today.

All but the most simplistic of sloganeers know that our Federal agencies are not "faceless bureaucracies," but that they are instead made up of individuals who are professional, honest, and hard working. We must maximize the contributions that conscientious public servants can have to good government and increased economy. We must provide our civil servants with an impartial "dissent channel" to which they can direct reports of corruption or waste. We must provide them with the protection that they deserve for speaking out. And we must make the most of their courage and honesty by providing a follow-through mechanism that will correct the wrongs that are disclosed. Let us achieve all of these worthy purposes, by supporting S. 2640, the civil service reform bill, and Senator LEAHY's amendment.●

Mr. RIBICOFF. As I said, Madam President, the amendment is acceptable to the manager of the bill and the ranking minority member.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. LEAHY. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RIBICOFF. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

● Mr. DOLE. Mr. President, as an original cosponsor of this amendment, I am pleased to rise in support of this long-needed protection.

Mr. President, this amendment will provide Federal employees an opportunity to speak out when they witness governmental waste, inefficiency, and illegality, without fear of reprisal.

WHISTLEBLOWER PROTECTION

Mr. President, one of the most important aspects of this amendment is the encouragement of Federal employees to disclose illegality, waste, abuse, or dangers to public health or safety, without the fear of reprisal. As we all know, Federal employees who have been aware of wrongdoings have not felt comfortable or safe in complaining within their own agencies. Unfortunately, those who have and have been punished for their whistleblowing, clearly points to the need for a separate, independent agency to receive and process these allegations in a safe, confidential, and in a expeditious manner.

WHISTLE BLOWING: LET US PROTECT ITS USEFULNESS

Mr. President, while I wholeheartedly endorse the concept behind this amendment, that is, to encourage Federal employees to disclose acts of governmental wrongdoings, and to protect the employees—the whistle blower—from retaliation, I want to make it very clear that this is not an open invitation to any disgruntled Federal employee or misinformed citizen to make false allegations of wrongdoings by a Federal agency.

Mr. President, in this regard, our amendment would empower the special council of the Merit System Protection Board to receive complaints of governmental wrongdoings. The special council would protect the employee by preserving his or her anonymity. It is my understanding that all the complaints would be forwarded to the head of the agency involved, and that for those complaints with a substantial likelihood of validity, the special council could order a 60-day agency investigation. The agency would then report on its findings to the President, enabling him to exercise Executive responsibility to the Congress so it could fulfill oversight obligations; and to the special counsel so he could transmit the report to the employee who filed the complaint.

Mr. President, I believe that the American people will be the prime beneficiaries if this amendment is adopted. The American people are entitled to the best Government and the best officials their tax dollars pay for.●

AMENDMENT NO. 3514, AS MODIFIED

Mr. PELL. Madam President, I call up my printed amendment and ask that it be stated and modified as indicated.

The PRESIDING OFFICER. The amendment, as modified, will be stated.

The legislative clerk read as follows:

The Senator from Rhode Island (Mr. PELL) proposes an amendment numbered 3514.

The amendment, as modified, is as follows:

On page 133, line 21, immediately before the semicolon, insert ", Foreign Service officers of the United States".

On page 167, after line 7, insert the following new section:

"§ 1208 Exception for Foreign Service officers

"This chapter shall not apply to Foreign Service officers of the United States.".

On page 175, line 15, strike out ", and" and insert in lieu thereof: "; or",

"(D) an individual who is a Foreign Service officer of the United States; and".

On page 178, line 14, strike out the period and insert in lieu thereof: "; or",

"(5) who is a Foreign Service officer of the United States.".

On page 203, line 2, immediately after "position", insert: "(other than a Foreign Service officer of the United States)".

On page 203, line 17, strike out "Except for a position in the Foreign Service" and capitalize "the" immediately after the deleted phrase.

On page 258, line 13, immediately after "individual" insert "(other than a Foreign Service officer of the United States)".

Mr. PELL. Mr. President, this amendment is cosponsored by Senators GLENN and JAVITS. I ask unanimous consent that their names be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Madam President, what this amendment does as modified—am I correct in saying that it is modified?

The PRESIDING OFFICER. It is modified.

Mr. PELL. Madam President, this amendment, as modified, exempts from the civil service reform bill the Foreign Service officers, who are a small group with their own personnel system, their own grievance procedures, their own

selection-out system, a system that does not apply to the CIA or the FBI.

The PRESIDING OFFICER. Will the Senator suspend?

The Senate will be in order. The galleries will please be quiet.

Mr. PELL. Madam President, this bill would make a fundamental change in the Foreign Service career personnel system and would reduce the authority of the Secretary of State to administer the system. These are not changes that should be made lightly, without full consideration, and I do not believe they have received such consideration. Certainly the Foreign Relations Committee has not had an opportunity to hold hearings on this bill.

Accordingly I propose this amendment to exempt Foreign Service personnel from several provisions of this bill to avoid possible inadvertent long-term damage to the Foreign Service.

This is the civil service reform bill. The fundamental problems addressed by this bill are related primarily to the Government-wide civil service system administered by the Civil Service Commission. The employees involved are in the general schedule—GS—pay system.

There is no need to cover the Foreign Service under this bill, because it has its own set of statutory merit principles, very similar to those in this bill. It is administered by the Secretary of State independently from the Government-wide civil service, general schedule system. It has its own legislated grievance system—the only such system in the Government of which I am aware. Foreign Service employees with a grievance can appeal to the independent Foreign Service Grievance Board and get a fair hearing. That Board is set up to deal with the problems that may arise in the context of the Foreign Service requirement to live and work abroad for a substantial part of one's career.

It is not necessary for Foreign Service personnel to have a separate avenue of appeal to the proposed Merit Systems Protection Board. Neither is it necessary to give the Board and its special counsel authority to investigate merit violations in the Foreign Service system, nor authority to stay an adverse Foreign Service personnel action. To do so would be to duplicate existing appeal rights and related investigatory authority—the exact opposite of the much advertised streamlining purpose of this civil service reform bill.

Madam President, the fundamental change in the Foreign Service personnel system about which I spoke at the outset could result from the inclusion of Foreign Service personnel under the proposed Senior Executive Service that would be established by title IV of this bill.

Title IV adapts principles applicable to the Foreign Service and military systems from their founding—and, of course, the military is not covered in any way by this bill. These principles are the rank-in-person rather than rank-in-position pay system and transferability at the convenience of the Government rather than the individual.

The Senior Executive Service would provide a rank-in-person system which allows flexible assignments, but only at the senior level and covering all agencies. This program is fundamentally incompatible with the existing personnel structure of the Foreign Service, which operates on a rank-in-person system with mobility among jobs throughout an entire career.

The pursuit of our national objectives in the areas of foreign policy requires a Foreign Service system which trains people in diplomacy throughout their careers, and which can retain those individuals in the Foreign Service in senior positions. The career concept of the Foreign Service also depends upon the availability of senior positions for those personnel who spend their professional lives developing the necessary skills and attributes to fill them. Those senior level jobs are an integral part of the total Foreign Service personnel system and should not be treated differently.

Foreign Service officers are hired not to fill a particular post, but for their long-term career potential. They are promoted by merit from rank to rank as they grow in experience. The system is disciplined, and characterized by frequent transfers from job to job and country to country; it is designed not just to insure that necessary tasks are performed, but to develop leaders through increasing challenges. The system prepares and screens the best officers for service at ambassadorial and other high levels.

I note that the intelligence services which also have their own career personnel systems in the Excepted Service are exempted from the Senior Executive Service, and I support that position. My amendment would add the Foreign Service of the United States to the list of personnel systems and agencies to be exempted from title IV of the civil service reform bill and from other titles and sections of this bill that would lead to duplication or that would be potentially harmful to the Nation's ability to effectively carry out its foreign policies and programs.

The effect of these amendments will be to maintain the present, separate legislative base for the modern Foreign Service of the United States which the Congress has taken great care to preserve over the years since the passage of the Rogers Act of 1924 and more recently the Foreign Service Act of 1946.

In the Foreign Service Act of 1946, Congress introduced a new personnel structure to replenish the war-depleted ranks of the Foreign Service "through entry at the bottom on the basis of competitive examination and advancement by merit to positions of command." * The almost military tone of that passage from the report indicates that the congressional authors had in mind a highly disciplined, tightly unified service running clear to the top positions in our foreign affairs activities.

The necessity for such a disciplined and unified service is no less strong today. Unless the civil service reform bill is amended, the Foreign Service would face the same problem that would confront the military services if their senior ranks above colonel and captain were put into a separate organization. A disciplined service has to be a unified service. The congressional founders of the Foreign Service saw that, and my amendments will serve to keep intact the structure which they considered so important to conduct of our foreign relations.

For those reasons, it seems sensible that this amendment should be accepted.

I have been in conversation with the manager of the bill and the ranking minority comanager of the bill, and they have indicated some support.

Mr. RIBICOFF. Madam President, the amendment of the distinguished Senator from Rhode Island is acceptable to the manager of the bill.

Mr. PERCY. Madam President, the distinguished Senator from Rhode Island, I think, is the only member of the U.S Senate who has served in the Foreign Service and we look to him for guidance and counsel many times. I find the amendment acceptable, and I know of no objection.

Mr. GOLDWATER. Madam President, if the Senator will yield, I really do not understand what this amendment does. Will the Senator explain it?

Mr. PELL. It gives the Foreign Service officer corps, who have their own personnel system, their own grievance procedure system, their own promotion system, based on promotion up or selection out—very like the military—the same exemption that the CIA, the FBI, and the military services enjoy under the bill as drafted.

Mr. GOLDWATER. In other words, to put them under Civil Service?

Mr. PELL. No, just the opposite.

Mr. GOLDWATER. They are taken out?

Mr. PELL. It keeps them as they are, as a separate service. This does not apply to the secretaries and staff people who would be under the system. It applies only to people who have commissions signed by the President or the Secretary of State as Foreign Service officers.

Mr. GOLDWATER. I see no objection. They are far better protected than any people under civil service.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

Mr. PELL. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Is there further amendment?

Mr. RIBICOFF. I think the Senator from Pennsylvania has an amendment.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. METZENBAUM. Madam President, will the Senator yield for a unanimous-consent request?

Mr. HEINZ. I yield.

Mr. METZENBAUM. Madam Presi-

*HR Rep. No. 2508, 79th Cong., 2nd Session (1946)

dent, I ask unanimous consent that Marc Asch and Ellen Bloom have the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GOLDWATER. Madam President, will the Senator yield for a comment?

Mr. HEINZ. I yield.

Mr. GOLDWATER. Madam President, I have listened to these requests for staff members to be on the floor. I have made the interesting observation that there are more staff members on the floor than elected Senators of the United States. Maybe we had better include the Senators under Civil Service and let the staff take the floor.

[Laughter.]

The PRESIDING OFFICER. Is the Chair supposed to comment?

[Laughter.]

The Senator from Pennsylvania.

UP AMENDMENT NO. 1773

(Purpose: Placing restrictions on dual pay for retired military members serving as civilian employees of the Government)

Mr. HEINZ. Madam President, I send to the desk an amendment on behalf of myself, Senator EAGLETON, and Senator PERCY.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an unprinted amendment numbered 1773.

Mr. HEINZ. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 198, after line 25, insert the following:

DUAL PAY FOR RETIRED MEMBERS OF THE UNIFORMED SERVICES

SEC. 305. (a) Section 5532 of title 5, United States Code, is amended—

(1) in subsection (b)—

(A) by inserting after "entitled" the following: ", except as provided in subsection (c),"; and

(B) by striking out "or retirement" each place it appears;

(2) by inserting after subsection (b) the following new subsection:

"(c)(1) If any member or former member is receiving retired pay and is employed in a position the annual rate of basic pay for which, when combined with the member's annual rate of retired pay (reduced, in the case of a retired officer of a regular component of a uniformed service, by an amount equal to the annual rate of the reduction under subsection (b) of this section), exceeds the rate of basic pay then currently paid for level V of the Executive Schedule, such member's pay for such employment shall be reduced by an amount computed under paragraph (2). The amounts of the reduction shall be deposited to the general fund of the Treasury of the United States.

"(2) The amount of each reduction under paragraph (1) for any pay period in connection with employment in a position shall be equal to the retired pay allocable to the pay period (reduced, in the case of such an officer, by an amount equal to the amount of the reduction under subsection (b) of this section for such period), except that the amount of the reduction may not result in the amount payable for the pay period, when combined with the retired pay allocable to the pay period (as so reduced in any such case), being at a rate less than the rate of basic pay then currently paid for level V of the Executive Schedule.";

(3) by redesignating subsection (c) as subsection (d);

(4) in subsection (d), as so redesignated—

(A) by striking out "subsection (b) of";

(B) by striking out "or retirement";

(C) by striking out "a retired officer of a regular component of a uniformed service" and inserting in lieu thereof "a member or former member receiving retired pay"; and

(D) in paragraph (1), by striking out "whose retirement was" and inserting in lieu thereof "whose retired pay is computed, in whole or in part,"; and

(5) by striking out subsection (d), as in effect before the effective date on this subsection.

(b)(1) The heading for section 5532 of title 5, United States Code, is amended to read as follows:

"§ 5532. Employment of retired members of the uniformed services; reduction in pay".

(2) The item relating to section 5532 in the analysis for chapter 55 of title 5, United States Code, is amended to read as follows:

"5532. Employment of retired members of the uniformed services; reduction in pay.".

(c) Section 5531 of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(3) 'member' has the meaning given such term by section 101(23) of title 37; and

"(4) 'retired pay' means—

"(A) retired pay, as defined in section 8311 (3) of this title, determined without regard to subparagraphs (A) through (D) of such section 8311 (3); or

"(B) a pension or compensation paid under laws administered by the Veterans' Administration after a waiver of retired pay pursuant to section 3105 of title 38.".

(d) The amendments made by this section shall apply only with respect to pay periods beginning after the effective date of this Act and only with respect to members who first become eligible for retired pay (as defined in section 5531 (3) of title 5, United States Code (as amended by this section), after the effective date of this Act except that the provisions of section 5532 (b), as amended by this Act, shall apply to any officer of a regular component of a uniformed service irrespective of the date he became eligible for retired pay.

Mr. HEINZ. Madam President, the purpose of this amendment is to place certain restrictions on dual pay for retired military members serving as civilian employees of the Government at the highest levels.

What our amendment does is to address the problem of double dippers—namely, those military retirees collecting pensions who are employed by and are earning salaries from the Federal Government.

Currently, only retired regular military officers have their total earnings limited. Any such retiree who is employed by a Federal agency will have his military pension reduced by approximately $4,000 plus one-half of the remainder. This is current law. But because this applies only to retired regular officers—and exceptions are permitted among even these—we currently have thousands of military retirees who are simultaneously getting paid twice by the Federal Government.

This spring, the House of Representatives held extensive hearings on the problem of dual compensation, and we were shocked to learn that, as a result of our dual compensation law, there are nonetheless more than 200 retirees earning a combined income of between $60,000 and $80,000 annually, paid for by the Federal Government, and that means taxpayers. There are another estimated 2,500 retirees earning an average of $48,000.

The amendment that Senator EAGLETON, Senator PERCY, and I are proposing will limit the total combined income for all military retirees, except those disabled in combat, to the pay limit of Executive Level 5, which currently is $47,500. It will extend to Reserve officers and enlisted personnel and those who could be excepted under current law.

My amendment would be prospective—I emphasize that—and would not penalize any of those retirees currently employed by the Federal Government in civilian capacities.

The House version of the Civil Service Reform Act, H.R. 1128, contains a similar provision, which provision is estimated by the Congressional Budget Office to save approximately $56 million over the next 5 years.

Madam President, this amendment is an extremely modest but nonetheless necessary and reasonable first step in addressing the complex issues of dual compensation.

I feel that the issue as a whole needs a great deal more further study and deep consideration, so that more extensive resolutions to this problem can be examined and considered by Congress; but there should be no doubt in our minds that it is not in the national interest to have at Executive Level V, at the Deputy Assistant Secretary level, at a policy level or position, somebody who would be identified as a double dipper, paid for at taxpayer expense.

Madam President, it is my understanding that the administration has no objection to this amendment.

Indeed we have attempted to work closely with them. I am tempted to say that they support it, but I cannot say that simply because I have not had the opportunity this afternoon to discuss with them personally their support. But my understanding is that they did support the House amendment and that this amendment actually does a somewhat better job from the administration's point of view than does the House amendment.

Mr. GOLDWATER. Madam President, will the Senator yield to me?

Mr. GLENN. Madam President, will the Senator yield for a question?

Mr. HEINZ. Let me first yield to the Senator from Arizona and then I will be happy to yield to my good friend from Ohio.

Mr. GOLDWATER. Madam President, I understand what my friend from Pennsylvania is getting at, and I really think it is time we take a proper long look at this so-called double dipping.

If the Senator wants to include me I can be included and so can many Members of this body and the other body.

But all of the attention is focused on the former man in uniform. One-tenth of 1 percent of the people employed by the Federal Government were formerly officers of the military. Most of these people were enlisted men making very low salaries who now have an opportunity, because of their experience, to make a little more money than their retired pay.

I am not complaining about the Senator's efforts to look into the double dipping, so called, of the military man, but I wish to raise the question about the former Members of Congress who have been important members of committees who go to work in big law firms in Washington and draw down fees that are very exorbitant mostly because of their former association with, say, the Interior Committee or the Judiciary Committee, or who have many friends left on committees on the Hill to whom they can go and get favors.

While that does not come under the same classification, I am getting a little sick and tired of hearing the man in uniform kicked around because he has the expertise, he has the know-how, that certain agencies of Government have to have and they cannot find it anyplace else. Yet at the same time we allow, without any comment, former colleagues of ours on retired pay to take jobs with foreign countries, to take jobs representing giant concerns, where they can use their influence with former friends in Congress to accomplish things.

So I suggest to my friend from Pennsylvania that when he resumes the study of so-called double dipping that we get into this whole field. I say I think we are wrong in attacking the man in uniform or former man in uniform who just because he happens to have gathered knowledge while he was on duty and knowledge that has to be used by the Government is going to be penalized because people look rather shabbily at the man who was in the service of his country.

I hope that when the Senator resumes his studies next year, we cover the whole field including the man in civilian clothes along with the man in uniform.

Mr. HEINZ. Let me say to my good friend from Arizona that I think he makes an excellent point.

First, as a former man in uniform, a former enlisted man, a former member of the Air Force Reserve, and I think the Senator from Arizona still can claim that he is an active member of the Air Force Reserve—maybe he is now retired—but let me say that I share the sentiments about our military myself. I am the stepson of a retired career military officer. My stepfather went to Pensacola and Annapolis, and served in the Navy for 20 years and worked very hard for the Federal Government in that capacity. I have nothing but the highest respect for our men in uniform, and I know the Senator from Arizona is well aware of that.

I happen also to be the only Vietnam veteran in this Chamber. I did not actually fight in Vietnam. I did not go there. But I served in our Armed Forces during that period.

I think the Senator is correct that this is a broad issue. Indeed, this is the reason that we have a commission that has been asked to study this in some detail; namely, the President's Commission on Military Compensation, and it is our hope that that commission will finish its work shortly.

This amendment, I point out once again, is prospective in its application. It will not hurt a single Federal employee, even those who might be earning $80,000 from their combined pay and pension. We do not touch those people, and we do not intend to because that would be breaking a contract implied, I believe, that we have, and we will in no way touch, even prospectively, any of our disabled military, and I hope that the Senator from Arizona feels that the amendment is wise and just in that regard.

I thank my friend.

Mr. GLENN. Madam President, will the Senator yield for a question?

Mr. GOLDWATER. The Senator is not making it retroactive.

Mr. HEINZ. The Senator is entirely correct. We are not making it retroactive.

Mr. GOLDWATER. That is good.

Mr. GLENN. Madam President, will the Senator yield for a question?

Mr. HEINZ. I am very pleased to yield to the Senator from Ohio.

Mr. GLENN. I thank the Senator from Pennsylvania.

On page 5 of the amendment I note that that whole section says, "* * * after effective date of this Act, except that the provisions of section 5532(b), as amended, by this Act, shall apply to any officer of a regular component of a uniformed service irrespective of the date he became eligible for retired pay."

Can the Senator illuminate a little for me what section 5532(b) is?

Mr. HEINZ. Section 5532(b) is the existing civil service law, and it is not the intention of this amendment to change the existing civil service law at all, and it does not.

The section that the Senator from Ohio refers to is to ensure that we do not repeal section 5532(b) through any action that we take here. It is the existing law.

Mr. GLENN. Is it the one where a retired regular officer comes to the Senate, he loses under existing law about a fourth or a third of his retirement pay? Is that the part that is affected here that would continue the same way?

Mr. HEINZ. I regret that I do not have the civil service code in front of me. I could tell the Senator, though, how it reads. Essentially, it says that if you have a pension and are a Federal employee, you will be entitled to your retirement benefit and retirement pay—what is it—approximately $4,000—it is $2,000 adjusted by the cost of living since that law was enacted, which is quite a while ago, plus one-half of the remainder of your retired pay. I do not know, I have to say to the Senator, whether that is the section that the Senator is referring to, but that is what the section does.

Mr. GLENN. This will not change existing law, then?

Mr. HEINZ. This will not change existing law in any way.

Mr. GLENN. I wish to add that I favor the prospective aspects of this, but I also associate my remarks or my views very much with those of the Senator from Arizona, Senator GOLDWATER, in this regard. I think this double-dipping thing is looked at wrongly by a lot of people compared to the views that were held by regular officers of the vintage in which I was in in the military for 23 years.

We looked at it as deferred pay. We gave up some of our pay at that time. At that time we were receiving what was looked at then, and I am sure would be considered now, as substandard pay compared to our compatriots who were in the civilian business world and holding comparable jobs in industry.

I was offered about 2½ times once what my military pay was to go on the outside. If I had done that it would not have taken in the same kind of retirement benefits, and I was quite happy to stay where I was at the reduced pay level with the idea that when I retired it was a good retirement. It was deferred pay, and that is the way I looked at it.

I was earning that, I was earning every nickel of it at the time, and willing to take the reduced salary at the time in order to have this guaranteed income later on when I might retire.

That is the way all people looked at it at that time. We were happy to accept that.

Pay scales in the interim period drastically changed in the military, and I have no objection at all to going forward here henceforth with a different arrangement that people know about when they get in, it is part of their contract with their Government, their Government lives up to it, and that is it.

But if we would do anything that was retroactive, I think we would be breaking faith with people who put up with lesser pay at that time. My kids did with lesser things than I might have been able to buy for them at that time, and my family, because I was willing to accept this deferred pay concept.

I want to explain this because I think a lot of people believe that somehow there is a big ripoff occurring here. I ask the Senator from Pennsylvania if this study should be of all different aspects of double-dipping, whether it comes from retired Members of Congress who may

come back into a different Government position and still have retirement benefits here, whether it occurs by some of the examples mentioned by the Senator from Arizona a few moments ago, why are we pushing this particular area right now to get it through in this bill when we have a big study coming up that should address the whole thing?

A second question would be: To my knowledge there has never been any extensive hearing conducted on this as to what the different groups of people should be who would be considered in this, and I am very happy to see this go forward, let me make that very, very clear. I am happy to see a study of this go forward that would encompass the whole problem of double-dipping and not just addressing it in this one specific area which has been beaten to death over the past couple of years, until the military are supposed to look as though they were big crooks, conning the Government out of something they never earned, when they in fact devoted their lives to the service of their country. All they are asking is that the original contract be lived up to. That is a minimum.

I would be happy to support a very thorough investigation of the whole double-dipping situation if we would go forward with it affecting Congressmen and other people who have been in Government service, other people who have come into Government, if we study the whole thing of double compensation and take it up as a unit.

I would be happy to support it and would be happy to appear as a witness and be happy to participate in such debate and in such hearing.

But to take it up on one little narrow issue that just hits at the military, when we do have a big study coming up, is a bit premature.

Mr. HEINZ. Let me respond to the Senator. First, I agree wholly with the sentiment expressed by the Senator, and I think the question he asked, namely, why do we want to address this very narrow range, this very narrow category, at this time is a perfectly good question.

What is the reason we are addressing this narrow range? First, let us ask the question why are we looking only at military people. Well, there are only two groups of people who can be affected by this legislation: civil servants, because this is the Civil Service Act we are dealing with, and the military people.

As a practical matter, I know of no retired civil servants who have gone into the military. It is pretty hard to get in at age 45, just like it is any place else.

Mr. GLENN. I would agree that probably not too many of them can.

Mr. HEINZ. So we cannot look at it, I say to my friend from Ohio, as civil servants going into the military. That leaves only one thing, the military going into civil service. We cannot help it, it is just the way life works.

Why the particular range of salaries? Well, this happens to be executive level 5. These are policymaking jobs in the U.S. Government, executive level 5, and up—which includes people who make policy for the military, for the civil service, for the Defense Department, for veterans, for health care.

The President himself, both in his campaign and since, has taken a very hard line against double dipping, and this simply conforms to making sure that in the future nobody comes aboard into those policymaking level positions who is going to be considered, no matter how you slice it, a double-dipper.

If there are any double dippers in those policy-level jobs we are not going to hurt them, as this is something that is prospective and will only affect those people who would have, as I say, a combined compensation of $47,500, that is, equivalent to executive level 5 compensation.

Mr. GLENN. Mr. President, if the Senator will yield, if we are addressing this double dipping problem, should we not say and/or Congressmen, Members of Congress, who are eligible for retirement and leave the Congress and go into a Government position with their retirement pay intact? They are probably worse double-dippers than most military because the retirement pay of Congress is very liberal.

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. HEINZ. If I may just respond, as the Senator well knows, the point he is making is extremely well taken. Congress is not subject, as he knows, to the civil service laws. Congress is not subject to EEOC, Congress is not subject to the child labor law; Congress is not subject to a lot of things. I think the Senator understands—and I wish it were otherwise—that he and I believe together that what is good for the goose is good for the gander, and I know the Senator joins me in that.

But I think the Senator also knows, without my having to say so, that this is a civil service law, and that is why, as the Senator I am sure knows, it will not apply to Congressmen.

Mr. GLENN. That is true, but the problem——

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. HEINZ. I will be happy to yield.

Mr. RIBICOFF. The committee held 12 days of hearings with 86 individuals representing 55 organizations. In addition, Senator PERCY and I wrote to about 90 experts in public administration and personnel administration. What bothers me, as the manager of this bill, is the fact that we had no discussion or comment directed in any way to the problem we are now discussing under this amendment.

It is important. I think the Senator from Arizona (Mr. GOLDWATER) and the Senator from Ohio (Mr. GLENN) have raised very important points. The question comes with the study commission: Are we obligated to go into all phases of double dipping and not just the question of those in the military?

I have discussed this with the Senator from Tennessee (Mr. SASSER), who is chairman of the Subcommittee on Civil Service, and I have asked him whether he would be willing, at the beginning of next year to conduct full hearings on this, and all these problems, so that we can address it intelligently and have an answer to the Senator from Arizona (Mr. GOLDWATER) and the Senator from Ohio (Mr. GLENN), which I do not think we have here. With all the work we have done on civil service reform, we in no way touched upon this most important field.

I feel that we do not have the necessary information to make an intelligent judgment on this matter. So I personally am reluctant to approve this amendment without having hearings. There were no direct discussions in committee and in the markup. We held 7 days of markup. There was a tangential discussion, if my memory serves me right, in which the Senator from Ohio made some comment, but there was no direct discussion, if my memory serves me right, on anything approaching the Heinz-Eagleton amendment.

I think there is a vacuum here. This is a very important point, raised by the distinguished Senator from Pennsylvania.

Mr. HEINZ. Mr. President, if the Senator will yield——

Mr. RIBICOFF. You have the floor.

Mr. HEINZ. I do not dispute in any way the Senator's characterization of our discussion, but that is not to say that this issue has not been discussed year in and year out, on many occasions, both on the floor of this body and the floor of the House of Representatives, over in the committees of Congress, and downtown.

Indeed, this amendment has been discussed with the administration and with the civil service people. It conforms to their suggestions and to what they feel they can accept, and it conforms, most importantly, I think, to a standard that was adopted in the House of Representatives. I am referring to the Schroeder amendment which was adopted in committee after discussion over there.

Just because this idea was not invented in our committee—and I would be the first to give full credit to Representative SCHROEDER for having taken the initiative on this—I do not think we should reject it. I would hope that the committee would see fit to accept the amendment.

Mr. GLENN. Mr. President, will the Senator yield?

Mr. HEINZ. I yield.

Mr. GLENN. I would agree with the floor manager. I think it is great that we are considering this. But just as an example, do we have any figures on the number of people affected?

Mr. HEINZ. Yes, we do.

Mr. GLENN. Do we have figures on the dollar savings?

Mr. HEINZ. Yes, we do.

Mr. GLENN. Do we have figures on how the public has been misled?

Mr. HEINZ. Yes, we do.

Mr. GLENN. I have not seen any figures or heard any testimony on that.

Mr. HEINZ. We have exact figures on the number of retired people employed

by the Federal Government, the number of retired military employed by the Federal Government, with exact statistics on their income.

We do not have any consensus, but we have statements of policy from the administration on what they want.

Mr. GLENN. We have never, as the Senate, held hearings on this, as we do on every other subject, is that not correct?

Mr. HEINZ. I cannot speak for the Senator from Ohio, but this is not the first time I have been involved in the subject.

Mr. GLENN. I know of no hearings we have had on this double dipping since I have been in the Senate. Perhaps there have been some I was not aware of.

Mr. HEINZ. I am not in a position to dispute what the Senator says.

The PRESIDING OFFICER. (Mr. BAYH). Does the Senator yield the floor?

Mr. HEINZ. I yield the floor.

Mr. EAGLETON. Mr. President, let me address a few remarks, if I may, to the exchange between the Senator from Ohio and the Senator from Pennsylvania.

First of all, as to the context in which Senator HEINZ and I raise this amendment, it was raised in the first place by Mrs. SCHROEDER on the House side. It is part of the House bill. The best estimate is that it will be in the House bill that goes to conference. So the issue will be joined, one way or the other.

Mrs. SCHROEDER, in the draft of her amendment, proposes to repeal the one section of existing law with reference to "double dipping."

Let me tell you what the law says. It is called the Dual Compensation Act. Here is approximately what it says: Assume you retire from the military, and your military retirement pay is, let us say, $20,000. Assume then you go to work, often the very next day, often at the very same desk, often using the same parking lot. The only difference is that one day you are called "colonel" and the next day you are called "mister."

Now let us assume your civilian salary the next day is $30,000. You get $20,000 in retired pay, and $30,000 in new civilian salary.

Existing law says that is not right. So what does existing law do about it? Existing law says that the first $4,300 of your retirement pay, you keep that and next, you keep half the difference between the $4,300 and what your retirement pay would have been had you not gone to work in a civilian capacity for the Federal Government.

Thus, under my hypothesis, a fellow who would have been entitled to $20,000 retirement pay would get $4,300 off the top, and half of $15,700, plus his $30,000 new salary.

Senator HEINZ and I did not invent that law. This is no stab in the back, no insult, no violation of contract. This is what is on the law books today.

Mrs. SCHROEDER, with her amendment, repealed the one existing law on the books.

Now, why is there concern about this question of double dipping and retired pay? I think the reason there is great concern about it, Mr. President, is that if we permit this military pension business to linger and malinger, as it has for decades, then one of these days it will bankrupt even the incredibly wealthy Pentagon.

Ten years ago, retired pay, out of the defense budget, was $1 billion. Ten years ago, $1 billion; that was the total annual payment for pensions out of the Pentagon to retirees.

Do you know what it is today—$10 billion? In a decade it has gone from $1 billion to $10 billion. And do you know what actuarial experts say it will be by 1995—$34 billion? That is what it will be.

Now, we hear people say, "You know, we ought to start thinking about doing something about it, but this is not the right time."

"Now is not the right time," it is said. Thirty years from now it might be the right time, but not now. Do you know how many Presidential and departmental study commissions there have been in recent years to "study" this question of dual compensation, double dipping, retired pay, and the like? Five. Five commissions, either commissioned by the President of the United States or by the Secretary of Defense, the most recent one being called the Zwick Commission. What are we told after each of these commissions makes its report? "Study it further," we are told "Study, study, study, but never act." That is what we are constantly advised to do. "Double dipping," as an amendment, was raised on a Defense Appropriation bill some years ago, and it was said to those who offered the amendment at that time, "Now is not the right time." It was offered a year later and it was said to those who offered that amendment, "Now is not the right time." Never is it the right time.

This is not a question, Mr. President, of trying to be punitive or petulant or peevish, or to punish anyone. This is a question that, if it constantly remains unsolved, I repeat, one of these days it will bankrupt the Pentagon.

This is the first, halting, "tip of the iceberg" attempt to focus some attention on this issue. What brought it to a head—I do not have the newspaper clip with me, but what brought it to a head was a front page news article in one of the newspapers which showed a fellow holding up his two paychecks, one his retired pay and the other his newest civilian paycheck and the total annual aggregate was, I think, was some $80,000. Mrs. SCHROEDER and others thought that was not a very good system of compensation, to pay somebody $40,000 in retirement, and the next day move him one desk over to keep doing the same thing, and pay him an additional $40,000. That was an imperfect way to do the public's business, some of us believed.

Now, what about Congress? I would be delighted to see an amendment that said any former Member of Congress, if he takes another Government job, postpones his pension or retirement until such time as he gives up that second Government job. If he wants to take a second Government job as a member of the Cabinet, or, as a janitor in some building, or whatever he wants to do, that is fine; let him take the job.

But do not let him draw his Government pension at the same time he is drawing a new Government salary.

That is quite proper, as far as I am concerned.

All we are talking about in the Heinz-Eagleton amendment is retired Regular military officers who get the next Government job usually with the Pentagon. There are 5,000 currently in such a capacity; that is, 5,000 retired Regular military officers receiving a second Government paycheck for a subsequent Government job.

The Heinz-Eagleton amendment simply says:

> If the sum aggregate of the retired Government paycheck you receive and the new Government paycheck you are about to receive exceeds $47,500, that is too much. You cap it out at $47,500.

As I have said, it is a tip of the iceberg situation we have before us. But it would demonstrate, if adopted, that this Congress is about at its outer limit of tolerance insofar as this retired military pay, "double dipping" business is concerned.

Mr. GOLDWATER. Will the Senator yield?

Mr. EAGLETON. I yield.

Mr. GOLDWATER. Mr. President, it is not easy for me to oppose this amendment. I agree with the Senator from Missouri that we will never get anything done in this field until we start.

To bring this into a sharper focus and probably a little more shaky focus, if we were not to take in another man in uniform starting this very second, before the last man had died we would have paid out $400 billion. Is the man in uniform to blame? No.

I have to separate today from yesterday. When I first went into the military, the bright rung on the ladder that faced us was that silver one at the top that said, "You can retire with compensation that you did not pay for." And during those days when a second lieutenant was paid $115 a month, that was very attractive. I think this is what we have been running into, the terrific impact of retirees to whom the American people promised retirement pay.

I am happy to say that under Senator NUNN sometime next year we are going to hear some greatly improved approaches to this whole retirement problem, approaches that I am sure the military will want to see, which will be more in line with the civil service concept under which we operate.

I repeat, my objection is that we constantly harass the poor guy in uniform who had nothing to do with this. This was somebody's idea probably 100 years ago to entice men into uniform.

I want to take a look at my own situation because as a so-called double

dipper who is a former reserve officer, we have I do not know how many in this Congress, though there are quite a few. This was long ago in the last days of President Truman when they put the reserve officer on the same footing as the regular as far as time went.

When I first went on duty in 1930 as a reservist, every 2 days I served as a reservist counted as a full day, or 1 day for pay purposes. This was changed in the late 1940's to give equal time for reservists. Had I been in a capacity where I could have assisted by a vote, I would have voted against it, because I have never believed that a man in the reserve who only spends time on duty when he is called to active duty or his weekends or summers, which in my case amounted to 37 years of which probably 7 years was served on active duty—I do not think I should be treated as an equal to a man on regular status.

I looked into this because I have had people raise all kinds of hell with me for double dipping. So I asked the Air Force what would happen if I asked them to stop sending me my monthly check for retirement. They said, "It would cause a lot of trouble. First of all, have you ever told a computer to stop doing anything?"

I said, "Well, let us say that you do it."

They said, "Fine, here you retire from politics and you will have to pay income on the whole ball of wax."

If I have no other income than the income when retiring from the Senate, without that retired pay as major general I will be back for food stamps or something.

I am not arguing with what the Senator wants to do. Something has to be done. I do not want to join the argument that maybe we better wait. Maybe we have waited too long.

But I want to be sure that when we take a step that we look at the man who served in this body or the other body, or served in some capacity in the Federal Government, who now is employed at great benefit to our country. Where would we have been without George Marshall, without Jim Gavin, without Maxwell Taylor? I could go on down the list of great men we have gotten out of the military who went to work for our Government. Under the concepts now advocated by some members of the press in the East we would never have had the services of those men unless they said, "Well, I just felt so strong in my heart that I want to serve my country that I will do it for nothing." We do not have many of those come along.

I am not going to stand in opposition to this amendment. I just wanted to speak my little piece on it in defense of the man in uniform who catches a lot of hell on this when he should not.

Mr. EAGLETON. I want to say, Mr. President, the Senator from Arizona has spoken well as he always does, with candor and sincerity. I think he has stated his viewpoint in a very able and forthright way.

Mr. President, as far as I am concerned, I have said about all I intend to say on our amendment. Perhaps Senator HEINZ would like to close on the amendment.

Mr. HEINZ. I thank my colleague from Missouri. I think he has made an excellent case for the amendment we jointly offer.

Just so there is no misunderstanding among any of our colleagues here in the Chamber, I want to reemphasize once again the very modest effect of this amendment. It is prospective; it is not retroactive. It only applies to those at the $47,500 level. If you took all the retired regular officers—all of them—who are now employed in the Federal Government at whatever level of pay, they would total all of 5,164 people.

That is fewer than 4 percent of the total retired personnel.

I just want to emphasize, as I say, that this is a very modest step. I say to my good friend from Arizona that I stand foursquare with him. It is not my intention to pick, in any way, shape, or form, on the military or my retired navy stepfather, or anybody like that.

This is a civil service bill. This matter is germane to the bill. Indeed, it is unlikely that we are going to have another civil service reform bill in Lord knows how many years. Indeed, this bill has been much too long coming to Congress.

I do not say that with any disrespect to the Senator from Connecticut or the Senator from Illinois. They have worked wonders in bringing this bill to us. It is not their fault that we have not been able to produce a civil service reform bill years before this.

Mr. GLENN. Will the Senator yield for a question?

Mr. HEINZ. I am happy to yield.

Mr. GLENN. I wonder if the Senator would accept changing this, since we are concerned with Government expenditures. I agree completely with the Senator from Missouri on the magnitude with which this has grown. I certainly grant that military considerations are not the biggest part of this thing, but I wonder if the Senator from Pennsylvania would consider modifying this to include a limitation on anyone accepting a Government job who has previously held any Government job, from whatever source. This would not limit it just to retired regular officers, which is a very narrow categorization.

In other words, if we really want to get at this double dipping problem, would he accept an amendment, which I am sure we could draw up in a few moments here, which would really take on this double dipping problem? We would take it on and set this limitation the Senator imposes, that it be from whatever source previous service was, whether military, whether previous civil service, coming back into the Cabinet—whatever the limitation is. It would not narrowly restrict this to the group the Senator proposes in this amendment.

Mr. EAGLETON. That would be an excellent amendment, because that is basically what is present law. If you retire from the civil service and you decide to go back to work within the civil service, there is more or less, a dollar-for-dollar offset between the retirement pay and the new earned pay. The existing Dual Compensation Act as well as the proposed Heinz-Eagleton amendment permits $4,300 of retired military pay plus half the difference between $4,300 and the full amount.

The Senator does not want, I take it, to do what is done with respect to civilians and knock them out entirely with a dollar-for-dollar offset?

Mr. GLENN. No, because I think the military, in general, has had a lower pay scale than civil service employees with comparable responsibilities.

Would the Senator accept congressional limitations, for example, if there are congressional retirees who come back into the civil service from whatever area? Why should they be paid twice if regular officer military retirees are not?

Mr. HEINZ. It seems to me the Senator's problems, as I understand it, are already addressed by current law.

Mr. EAGLETON. If the Senator will yield, I should like to read three sentences into the RECORD from the report, "Dual Compensation Paid to Retired Uniformed Services' Personnel in Federal Civilian Positions." It is from the Subcommittee on Investigations of the Committee on Post Office and Civil Service of the House of Representatives, dated April 3, 1978:

REEMPLOYED ANNUITANTS

Civil service annuitants who retire from civilian positions are not barred from reemployment in the Federal service because of their retired status. If an annuitant becomes reemployed in an appointive or elective position in the Federal Government subject to the Civil Service retirement system, the salary in that position is usually reduced by the amount of annuity paid. The reduction in civilian salary is * * *

So there is the dollar-for-dollar offset. Under the Heinz-Eagleton amendment, there is not a dollar-for-dollar offset. It keeps the so-called Dual Compensation Act on the books as it is which is more generous to retired military officers.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further discussion?

Mr. GLENN. Mr. President, I move to lay the amendment on the table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the amendment on the table. The yeas and nays have been requested. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. GOLDWATER (when his name was called). Present.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), and the Senator from Louisiana (Mr. JOHNSTON) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from New Mexico (Mr. DOMENICI), the Senator from Nevada (Mr. LAXALT), and the Senator from New Mexico (Mr. SCHMITT) are necessarily absent.

The result was announced—yeas 32, nays 58, as follows:

[Rollcall Vote No. 364 Leg.]

YEAS—32

Allen	Hathaway	Sarbanes
Bumpers	Hollings	Sparkman
Byrd, Harry F., Jr.	Huddleston	Stennis
Byrd, Robert C.	Humphrey	Stevens
Cannon	Inouye	Stevenson
Chiles	Jackson	Stone
Clark	Long	Talmadge
Culver	Mathias	Young
Durkin	Matsunaga	
Glenn	McIntyre	
Hatfield, Mark O.	Moynihan	
	Nunn	
	Ribicoff	

NAYS—58

Bartlett	Hart	Nelson
Bayh	Haskell	Packwood
Bellmon	Hatch	Pearson
Bentsen	Hatfield, Paul G.	Pell
Biden	Hayakawa	Percy
Brooke	Heinz	Proxmire
Burdick	Helms	Randolph
Case	Hodges	Riegle
Chafee	Javits	Roth
Church	Kennedy	Sasser
Cranston	Leahy	Schweiker
Curtis	Lugar	Scott
Danforth	Magnuson	Stafford
DeConcini	McClure	Thurmond
Dole	McGovern	Tower
Eagleton	Metcher	Wallop
Ford	Metzenbaum	Weicker
Garn	Morgan	Williams
Griffin	Muskie	Zorinsky
Hansen		

ANSWERED "PRESENT"—1

Goldwater

NOT VOTING—9

Abourezk	Domenici	Johnston
Anderson	Eastland	Laxalt
Baker	Gravel	Schmitt

So the motion to lay on the table UP amendment No. 1773 was rejected.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the motion to lay on the table was rejected.

Mr. EAGLETON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania. On this question the yeas and nays have been ordered.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the yeas and nays on my amendment be vitiated.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RANDOLPH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO 1774

Mr. HATCH. Mr. President, I send to the desk an unprinted amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes an unprinted amendment numbered 1774.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, strike lines 17–25.
On page 9, strike lines 1–25.
On page 10, strike lines 1–25.
On page 11, strike lines 1–4.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield briefly?

Mr. HATCH. I yield.

Mr. ROBERT C. BYRD. Mr. President, it is my understanding that the managers of the bill may be prepared to accept this amendment.

Mr. HATCH. The managers have indicated that they would accept it. Senator MATHIAS and Senator STEVENS have indicated that they would accept it. It is not controversial, so far as I know, and there is no reason to debate it.

Mr. RIBICOFF. There are a few amendments being offered by the Senator from Utah which we have discussed, and I am ready to accept the series of amendments being offered by the Senator from Utah. I am uncertain about any other amendments.

Mr. STEVENS. I shall offer the one we have discussed with the Senator's staff, and I shall not offer the other.

Mr. RIBICOFF. During the discussion, we will go into the other amendment. I am not sure which one that is.

Mr. ROBERT C. BYRD. Mr. STEVENS has one amendment. Are there other amendments? Only the amendment by Mr. STEVENS after the amendments by Mr. HATCH.

Mr. STEVENS. Senator DOLE has an amendment.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senate will be in order.

Mr. HATCH. Mr. President, are the floor managers willing to accept the amendment I have just sent to the desk? As I understand it, they have accepted the amendment.

Mr. RIBICOFF. It is accepted by the manager of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RIBICOFF. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1775

(Purposes: (1) To insure secret ballot elections under all circumstances prior to imposing a bargaining obligation on any agency. (2) To decertify any exclusive representative who fails to take action to prevent or stop a strike, work stoppage, slowdown, or picketing of any agency. (3) To protect the employee's right to hear both sides of union representation arguments so long as no threats, force or promise of benefit are involved)

Mr. HATCH. Mr. President, I send three unprinted amendments to the desk.

The PRESIDING OFFICER. Does the Senator request that they be considered en bloc?

Mr. HATCH. Yes. I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments will be stated.

The legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes three unprinted amendments numbered 1775.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

On page 296, line 8, after the word "chapter" delete the period and substitute a semicolon and then add the following new proviso,

"*Provided*, That nothing in this chapter shall be construed as requiring an agency to negotiate in good faith with any labor organization certified after the enactment of this Act until a representative of its employees has been determined by means of a secret ballot election conducted in accordance with the provisions of this chapter. This proviso shall not be construed to bar a consolidation of units without an election.

On page 301, line 3, add the following new subparagraph,

"(e) Any labor organization which has violated section 7216(b)(4)(B) shall, upon an appropriate finding by the authority of such violation, have its exclusive recognition status revoked and it shall cease immediately to be legally entitled and obligated to represent employees in the unit."

On page 298, line 16, add the following new subparagraph,

"(f) The expression of any personal views, argument, opinion or the making of any statement shall not (i) constitute or be evidence of an unfair labor practice under any of the provisions of this chapter, or (ii) constitute grounds for, or evidence justifying, setting aside the results of any election conducted under any provisions of this chapter, if such expression contains no threat of reprisal or force or promise of benefit.".

Mr. HATCH. Mr. President, these amendments also are acceptable to the managers of the bill, and I move their adoption.

Mr. BELLMON. Mr. President, may we have a brief explanation of what these amendments do?

Mr. HATCH. Mr. President, the first amendment deals with title VII and provides that no new labor organization which comes into being after the enactment of this act can achieve collective bargaining rights unless a majority of the employees in an appropriate unit vote for the union via a secret ballot election. This amendment preserves the sanctity of the employee making a free choice through a secret ballot election and only through that process which is the proven method of guaranteeing a fair and unfettered employee choice. That is amendment No. 1.

That is amendment No. 1.

No. 2; The second amendment also deals with title VII and provides for the decertification of any labor organization which is found by the authority to have condoned, by failing to take appropriate action to prevent any strike, work stoppage, or slowdown by employees. I believe the public interest demands that we take the legal authority away from any union which abrogates its responsibility to remedy unlawful employee actions. This act creates rights and duties on the part of both collective bargaining participants, and I feel this is a minimum obligation the union should assume or risk losing its legal bargaining status.

The third amendment: The last amendment protects the employee's right to hear both sides of union representation arguments so long as no threat, force, or promise of benefit are involved. Employees should be able to hear, and digest, any personal views, arguments, opinions, or other statements about the union situation whether by the union agents or the agency's managers and supervisors without an unfair labor practice being found or an election set aside based upon the expression of views. We have the added protection here that the views must be fair and not contain threats, force, or any promises of benefit for the employee involved.

I commend the three amendments offered en bloc to the attention of the floor managers and I believe they are willing to agree to them, and they have been run by the administration, they agree to them, and I believe that they are very good amendments which will enhance this bill, especially title VII.

Mr. JAVITS. Mr. President, I ask the managers of the bill, because they have been handling the bill, and I am a member of the same committee—these are labor amendments—what is their rationale for accepting each amendment, and have they consulted with the administration and is the administration willing?

Mr. RIBICOFF. May I say that there was consultation between the Senator from Utah and Mr. Campbell, as I understand it, and the staffs.

Mr. HATCH. That is correct.

Mr. RIBICOFF. Mr. Campbell, the chairman of the Civil Service Commission, worked out the language with the Senator from Utah.

Mr. HATCH. Mr. President, will the Senator yield for a slight additional explanation.

Mr. RIBICOFF. I yield.

Mr. HATCH. We have revamped a number of amendments which I brought to the attention of Mr. Campbell and the civil service people and their aides and staffs, and we revamped them in accordance with their recommendations and desires, and I believe the amendments are in good order.

Mr. JAVITS. So the managers are not prepared to explain the rationale; they are simply relying upon the fact that these amendments have been accepted by the Civil Service Commission; is that correct? The Civil Service Commission is the employer, for practical purposes, is it not? Has any effort been made to get labor's view on these amendments?

Mr. RIBICOFF. Personally, I did not discuss this with labor. I do not feel it is incumbent upon me personally, as a U.S. Senator, to discuss something with labor or with management. It was worked out with the Civil Service Commission after a series of conferences. I was busy in the Chamber with the entire bill, and I was willing to accept this. I will be candid with my distinguished colleague from New York.

Mr. JAVITS. All right. I just wanted to get the ground rules. I am not trying to find any fault with the managers at all. I will get to the merits in just a minute. But I did first want to find out how the managers felt and their reasons.

Mr. PERCY. Mr. President, will the Senator yield for a question on this?

Mr. JAVITS. I yield to the Senator.

Mr. PERCY. Obviously you cannot touch base with everyone, I am sure this could have been run by some additional people. But in looking at the amendments and considering that the distinguished Senator from Utah brought in a rather bulky package of amendments today, I think that what has been sifted out gets right down to the heart of some of his concerns.

The first, as I understand it, would be to decertify any union found to be involved in a strike—that is an illegal action against the Government and that appeared on the surface at least to be reasonable; to insure a secret ballot in all union elections, and that should be, I would think, something the unions would want to preserve; and to see that there is a full opportunity to insure the expression of personal or dissenting views in union campaigns.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. PERCY. I am happy to yield.

Mr. HATCH. This also protects both the unions and the civil service people because it allows the consolidation to take place. As I understand it, there are some 3,500 different unions, and it protects their right to consolidate and protects them prospectively and retrospectively in this matter.

Mr. PERCY. As the Senator from Illinois mentioned many times during the debate on the labor reform bill, it is our duty in Congress to protect the rights of the individual.

As I interpret these amendments, they do go to the heart of protecting individuals. I should think that responsible labor leadership would support them. But the Senator from Illinois will admit that time pressure has been so great this afternoon with the intention of the leadership to finish this bill and have final passage voted by 5 o'clock—we are now 1 hour and 5 minutes behind that—but if there are serious reservations about them, we will certainly do the best we can to check it out to be certain we looked at every aspect of it.

Mr. JAVITS. Mr. President, the purpose of my taking the floor is because I am the ranking minority member of the Labor Committee, a committee of which Senator HATCH is a member, and his views on union organization are as well known as mine.

Mr. HATCH. That is correct.

Mr. JAVITS. Therefore, it is my duty to examine them carefully and find out what is the rationale, to decide whether I wish to agree or to oppose. But before I do that, because the Senators are my friends, and I have great faith in them, and they are handling this bill, I wanted to find out the basis on which they were taking them, and now they have told me.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STEVENSON). Without objection——

Mr. METZENBAUM. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. I just want to make an announcement.

Mr. METZENBAUM. I withdraw my objection.

ORDER OF PROCEDURE TONIGHT

Mr. ROBERT C. BYRD. Mr. President, it is hoped that the Senate can complete action on this bill this evening without having to stay late and, if that is possible and achievable, then the Senate will go out until 9 o'clock tomorrow morning. On tomorrow the Senate will take up the CETA bill and the remaining tax bills. So I hope that all Senators will cooperate and work together to complete action on this bill this evening and, if possible, hopefully it will not be too late and, as I say, the Senate will go out.

Mr. METZENBAUM. Mr. President, the three amendments that have been offered are matters of major concern, as I see it, and I am just taking the time in order to see if I can find out exactly what they do provide. It is for that reason that I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BELLMON. Mr. President, I ask

unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, reserving the right to object, and I will not object, as I understand it, the Sentaor wishes to raise a point having nothing to do with the Hatch amendments?

Mr. BELLMON. That is correct.

Mr. President, I would like to call the attention of the distinguished floor manager of the bill to section 3591 on page 222 of the bill. This is the section that deals with removal from the senior executive service, and I would like to ask a question or two in order to be better informed about how the removal procedure would operate.

As I understand the language of the bill, if a person has been serving in the senior executive service, and there is a desire on the part of the executive branch to remove the person from the position, if the removal occurs within 1 year of the appointment it can be done without any difficulty whatsoever. All that is necessary is for the notice to be given to the senior executive service member, and that member then goes back to his original position without any problem.

Mr. RIBICOFF. May I respond to the distinguished Senator from Oklahoma by saying that a senior executive service employee with career status may be reinstated to any senior executive service position if he has completed the probationary period, which is 1 year.

However, if he left the senior executive service for either misconduct, neglect of duty, malfeasance or for less than fully successful performance, then he could not. But in the absence of those provisions he could go back to his career position.

Mr. BELLMON. Mr. President, if the Senator will let me raise another question, as I understand, one of the main objectives of this bill is to provide the executive branch with greater flexibility in filling the key decisionmaking positions in Government. It is an objective that I strongly endorse. But, it seems to me, if a member of the civil service agrees to an appointment in the senior executive service that it is not necessarily desirable to require the executive branch to have to make a case that this person is then guilty of misconduct, neglect of duty, or malfeasance in order to replace that person or send that person back to his permanent civil service rating, and that we think this unnecessarily damaging to the civil servants who may only be—when the executive branch may desire to make a change. Perhaps the person has been doing good work but the executive branch feels other persons can do better. How flexible is this procedure?

Mr. RIBICOFF. I think he gets more protection than at the present time. Now he may be removed from the civil service and he is out entirely.

But here, if he is removed from the senior executive service and there was no misconduct or malfeasance, he can go back to the career service, to the job that he had before, on the same level.

Mr. BELLMON. Let us assume the person does not necessarily want to leave the senior executive service.

Mr. RIBICOFF. Well, he could come back provided there was not misconduct or less than fully successful performance. If there was misconduct or malfeasance, he may be removed, after he has a hearing and goes through all the disciplinary proceedings.

Mr. BELLMON. Let me take a possible case. Let us assume that President Carter appoints a person from the civil service to the senior executive service, and when President Carter leaves office in 1980 or 1984, the new President decides that he wants a different person put in that position. Is it necessary, then, for the new President or the new administration to charge this member of the senior executive service with less than fully successful performance or misconduct, neglect of duty, or malfeasance, and if such charges are made, does this then force the member of the senior executive service to go into court to defend his reputation?

Mr. RIBICOFF. He does not have to charge misconduct. He can remove that person from the position he has within the senior executive service to another position within the senior executive service. The employee would have a career in the senior executive service, but there would be flexibility to move him within the agency. He could not be moved involuntarily from one department or agency to another or out of the senior executive service. He would be protected to be in that higher echelon of employees.

Mr. BELLMON. Then this really only gives the executive branch flexibility one time; there will be a chance to appoint a good many people to these senior executive services one time, but from then on they will be more or less locked in?

Mr. RIBICOFF. They are not locked in the particular position, but they can remain in the senior executive service, provided they do the job and are not guilty of misconduct or perform unsatisfactorily. There is the senior executive service, and they can be shifted within their agency, but you cannot force them out of that senior executive service.

Mr. BELLMON. Except for malfeasance, misconduct, and these other things?

Mr. RIBICOFF. And if it were done for partisan political purposes, it would be a prohibited personnel practice.

Mr. BELLMON. I think the distinguished Senator from Connecticut will agree with me that sometimes it is a good thing to give the executive branch some flexibility to bring people into these decisionmaking slots, and then, if they do not perform necessarily as well as they might, even though they are not guilty of misconduct, neglect of duty, or malfeasance, be able to move them out or put them back where they came from.

Mr. RIBICOFF. Well, they can do it today, of course. If they do not successfully perform their jobs, they could be removed. But again, there would have to be proof of unsatisfactory performance. If they are removed, they go back into a GS-15 position in the civil service. They retain their standing in the career service.

Mr. BELLMON. I believe the distinguished Senator from Connecticut will agree that at the present time it is practically impossible to remove someone from civil service without a lengthy court proceeding, and very often those proceedings fail and people have to be reinstated with backpay.

Mr. RIBICOFF. That is one of the reasons for this bill, because for all practical purposes today, you cannot remove anybody from Government employment, no matter how bad he is. Here we are trying to make it easier to keep the good ones and get rid of the bad ones.

Mr. BELLMON. But it seems to me section 3591 sets up a procedure that will lead to the same result as is the current experience.

Mr. RIBICOFF. Well, he can be removed. Under section 3591 he can be removed, first, during the 1-year probationary period, or for less than fully successful executive performance, or for neglect of duty, misconduct, or malfeasance. So there is an opportunity to remove someone if he does not do his job, if he does not perform successfully, or if he is guilty of neglect of duty or misconduct.

During the 5-year period, if he has two unsatisfactory annual ratings he is out of the Senior Executive Service; or if he gets three less than fully successful annual ratings in the 5-year period he is out. So it is easier to get rid of somebody than it is at the present time. At the present time it is almost impossible to remove employees for unsatisfactory performance. But under this bill there are these ratings that must show satisfactory performance in order to stay.

Mr. BELLMON. If a new administration came into office, theoretically, at least, they could give every one of the members of the Senior Executive Service an unfavorable rating for 2 years in a row, and those people would all be——

Mr. RIBICOFF. No; they could not just give it. There are standards as to what constitutes an unsatisfactory or less than satisfactory rating. If a person is discharged and he feels that is less than just, he has a right to appeal.

Mr. BELLMON. So that may set in action the same kind of appeal process that we have under the present law.

Mr. RIBICOFF. The appeals process is somewhat different under the bill. If it is a career employee whose performance is being reviewed, he has to have a majority of fellow career employees on the rating board. So it is not just Presidential appointees; it is career employees who are rating their fellow employees.

Mr. BELLMON. Would the Senator object if we worked out some language to make the removal less complicated, and so that it does not require the

destruction of a career service employee's character in order to get him out of the senior executive service and back into the position from which he came?

Mr. RIBICOFF. We tried to work this out with the distinguished Senator from Alaska. I think we were able to achieve it in the Mathias-Stevens amendment. During the continuation of the quorum call, we will be able to call your attention to the Stevens-Mathias amendment, which may have taken care of the situation that concerns the Senator from Oklahoma. If the quorum call continues, we will go over that with you, to see if we have not achieved what you desire.

Mr. YOUNG. Mr. President, could I ask one question?

Mr. RIBICOFF. Yes.

Mr. YOUNG. If a career civil service employee refuses to be transferred, what recourse does he have? He can be fired for refusing a transfer, can he?

Mr. RIBICOFF. If he is transferred and refuses to do it, he cannot stay in the senior executive service.

Mr. YOUNG. He cannot be fired for that?

Mr. RIBICOFF. He can be voluntarily transferred from HEW to Commerce or Labor, or from HEW to Agriculture or Interior.

Mr. YOUNG. But if he refuses any of these transfers, is that grounds for being fired?

Mr. RIBICOFF. I would say yes. He is out.

Mr. YOUNG. He can be fired?

Mr. RIBICOFF. That is what is the situation at the present time. That is the case at the present time, yes.

Mr. YOUNG. I have one further question. What recourse would he have if he is fired? What recourse would he have to the Civil Service Board of Appeals?

Mr. RIBICOFF. He has full appeal rights.

Mr. YOUNG. Full appeal rights?

Mr. RIBICOFF. To the Merit System Protection Board.

Mr. YOUNG. Thank you.

Mr. MATSUNAGA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, do I understand that the amendments of Senator HATCH are now pending?

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. Has there been a consolidation of them?

Mr. HATCH. I have moved that they be considered en bloc.

Mr. JAVITS. Mr. President, are they divisible?

The PRESIDING OFFICER. The amendments are not divisible because they are to be considered en bloc, by unanimous consent.

Mr. JAVITS. I thank the Chair.

Mr. President, my first question would be addressed to the Senator from Utah as follows: The amendment which relates to the choice for the representative of the employees by means of a secret ballot election, that, as I understand it, would make it necessary to have a secret ballot election before there could be certification. That is a change in existing law or practice. Otherwise, there could be a certification on some other evidence of representation or on the volition of the United States. In short, is the effect of the amendment to require a secret ballot election where it otherwise might not be necessary as a matter of law to have one?

Mr. HATCH. As I understand it, the bill provides——

Mr. JAVITS. I cannot hear the Senator. Will he use his microphone?

Mr. HATCH. As I understand it, the bill itself provides for certification by a secret ballot election. What this amendment does is reinforce that, plus it does so prospectively, so that no organization which presently represents any of the civil service employees would be decertified by this amendment.

Mr. JAVITS. Decertified? In other words, this would only apply to future certification?

Mr. HATCH. That is what I understand.

Mr. JAVITS. How does it change existing law?

Mr. HATCH. As I understand it, the same way that the bill does. That is by requiring a secret ballot election. Under existing law the two sides can get together and alleviate the secret ballot election. This mandates the secret ballot election in all civil service certification.

Mr. JAVITS. That is right. The two sides could get together and dispense with the election, but this would require such an election.

Mr. HATCH. That is right, and this is for the protection of the employees who work in civil service.

Mr. JAVITS. And is prospective in its operation?

Mr. HATCH. That is correct.

Mr. JAVITS. Mr. President, speaking for myself alone, I personally see no objection. It is a change in the law and it does make a difference, but I do not think it makes so much of a difference that I would care to disturb the existing understanding between the managers of the bill and my colleague.

Mr. MATSUNAGA. Will the Senator from New York yield?

Mr. JAVITS. I yield.

Mr. MATSUNAGA. Mr. President, as I read the amendment being discussed by the Senator from New York and the Senator from Utah, it requires an additional election, after a union has been certified, to choose a representative of the employees, such as a business agent, by a secret ballot election before the agency may deal with that representative of the employees. Is my interpretation correct?

Mr. HATCH. On a prospective basis, that is true. In other words, in the future the employees will be protected by the mandated secret ballot election with regard to Federal civil service employees. This is an employee's right that we want to protect. That really does not hurt the union, so far as I am concerned.

Mr. MATSUNAGA. So that in the event a union has been certified by secret ballot, if that union is to send a business agent to deal with the agency, that union must hold a second election to elect the business agent who is sent to deal with the agency?

Mr. HATCH. No, upon the effective date of this act, all duly certified unions representing civil service employees which have been certified up to that time, whether or not by secret ballot, will be preserved. But after the duly effective date of this act, from that time forward, all elections certifying the union will have to be secret-ballot elections. So the Senator is incorrect.

Mr. MATSUNAGA. That is already in the law, is it not?

Mr. HATCH. No.

Mr. MATSUNAGA. My question, I suppose, is directed to the meaning of the term "representative of its employees" as shown in the Senator's amendment.

Mr. HATCH. That is right.

Mr. MATSUNAGA. What does that refer to? Does that refer to the union or to the business agent of the union?

Mr. HATCH. That refers to the union.

Mr. MATSUNAGA. It refers to the union?

Mr. HATCH. Right.

Mr. MATSUNAGA. That clarifies it.

Mr. HATCH. It preserves the union's representative status.

Mr. MATSUNAGA. So as I understand it, there is no requirement for election by a secret ballot of a business agent sent by the union?

Mr. HATCH. That is right. In other words, it is not a requirement for a secret ballot to choose the union agent, only the union, as the representative of the employees.

Mr. MATSUNAGA. I thank the Senator.

Mr. WILLIAMS. Will the Senator yield?

Mr. JAVITS. May I ask one other thing? Then I shall yield to the Senator.

I think quite inadvertently, the Senator's amendment said "Nothing in this chapter shall be construed as requiring an agency to negotiate in good faith." I am sure the Senator did not mean that entitles him to negotiate in bad faith?

Mr. HATCH. No, certainly.

Mr. JAVITS. I wonder if he would strike the words "in good faith". I do not think the Senator had any such intention, but it could be so read.

Mr. HATCH. I ask unanimous consent that the amendment be modified in that manner.

The PRESIDING OFFICER. The Senator has that right.

The amendment was modified.

Mr. WILLIAMS. Mr. President, I should like to make an observation. The Senator from New York said he was speaking only for himself in agreeing that this amendment was acceptable to him. I speak for the Labor Committee, and for myself, quite frankly, I did not know of this amendment until almost

literally minutes ago. Recognizing the substantial distinctions between private sector collective bargaining, it seems to me that in the context of public sector unionism, the proposal that before a union must be bargained with it must be certified in a secret ballot election is not an unreasonable one and I am prepared to vote for it.

Mr. HATCH. I thank my distinguished friend.

I assumed when I brought these amendments up that they were acceptable and I was asked to expedite it to the extent that I could, so I tried. I am happy to have had this colloquy at this time. I shall be happy to answer any other questions.

Mr. JAVITS. Moving now to the next amendment, the so-called free speech amendment, that troubles me for this reason, and I shall communicate my concern to the Senator and he will give me his views and his explanation. It is a fact that we consider the Federal Government in this bill as an employer, but it is also the Federal Government.

Mr. HATCH. That is true.

Mr. JAVITS. And you cannot strike against the Federal Government, so, if you work for the Federal Government, you give up something. You may strike illegally, as the postal workers are threatening to do, but that is true of any law. It can be broken and punishment and reaction must follow.

The United States has laws favoring union organization or, at least making it possible under the propriety of law.

Is it not a fact that, under this free speech amendment, an individual manager, speaking personally, could say that he does not like unions and he does not think they are a very good idea and he does not think that they will do anybody who joins them any good. That would still be within the purview of this amendment, would it not?

Mr. HATCH. That is correct.

Mr. JAVITS. Because it does not include a threat of reprisal or force or promise of benefit.

Mr. HATCH. That is right. In other words, he may express his personal good-faith opinion, but he cannot express a threat of reprisal or force or promise of benefit, which is the present law. But he may tell what he personally feels without fear of an unfair labor practice charge.

Mr. JAVITS. Would that privilege, as the Senator describes it, also apply to an employee of the Federal Government, who could say to the other employees, "I think he is all wet?"

Mr. HATCH. No question about it.

Mr. JAVITS. "Notwithstanding that he is the manager, he is a hired hand just like the rest of us and does not know what he is talking about," et cetera. He can be just as vehement and just as strong.

Mr. HATCH. Just like the rest of them.

Mr. JAVITS. Just so long as it contains no fear of reprisal or threat.

Mr. HATCH. Under the present law, as the Senator knows, the employee can do that, even if it threatens reprisal, but the employer cannot. I think in the enlightened Federal Government of today, this is not an undue exercise of free speech by the manager or the employee.

Mr. JAVITS. Of course, the manager is also a Government employee; he is not the owner of his own business. I think it is quite different.

I am not saying that I find this so offensive and I do not think at this stage that it interferes with what I know.

May I explain that, and say I am really sorry that I felt duty bound to pick this up. Everything seemed to be going so well and smoothly between the managers. But I am sure the Senator, like myself, when he has a duty and he sees it, simply cannot suppress it.

Mr. HATCH. Will the Senator yield on that?

Mr. JAVITS. Of course.

Mr. HATCH. I appreciate the Senator's bringing up his concerns on these amendments. I assumed, when talking to both floor managers, who are, as the Senator knows, both very distinguished Senators on this floor and have reviewed this matter, but more particularly, in talking to the representatives of the civil service, including the top man of the civil service, and, I felt, a labor representative as well, that this matter had been covered. I am glad that we are able to have this colloquy. Certainly, I was not trying to put these forth without the Senator's having the opportunity of seeing them, and would not try that, as the distinguished Sentaor from New York knows.

I do appreciate this colloquy at this point because, if there are any misunderstandings or difficulties, I want to clear them up.

Mr. JAVITS. I just managed a very complicated bill on the floor and I know that there are at least a dozen Senators who would have a right to complain because I did not consult them about this or that or the other. I realize the problems and I understand them fully.

Mr. RIBICOFF. Mr. President, I deeply regret that the distinguished Senator had other duties, because we had our hands full on the floor. We did rely on the Civil Service Commission and the staff to work it out.

I think it should be pointed out that it is my understanding, on the freedom of speech and expression amendment, the employees and union officials clearly can comment as well as somebody representing the agency.

Mr. HATCH. No question about it.

Mr. RIBICOFF. Employes and union officials have the same freedom of speech.

Mr. HATCH. Will the Senator yield to me to make one more comment about that?

Mr. RIBICOFF. Yes.

Mr. HATCH. The difference between this and present law is that this provision for free speech allows anybody to speak freely about the collective bargaining process as long as it does not involve threats of reprisal or force or promise of benefit. Under pesent law, the only ones who basically can do that with impunity happen to be the union oganiser, not even the employees. So what this does is correct, and I think allow, anybody in good faith, as long as they are not threatening a reprisal or force or promising a benefit, to speak freely what is in their minds.

Mr. JAVITS. There is one thing that is different, I say to the Senator. It probably can be worked out in conference, but I should like to call it to his attention.

He has used at the end of this amendment a different catechism than has been used elsewhere in the bill. Just so long as we are clear on his intention, I do not think it will cause us any headaches, but I should like to point this out.

If we look back at 7216(a) (1) and (2), we see that it is an unfair labor practice for an agency—and here is where the catechism comes in—to interfere with, restrain, or coerce an employee in connection with the exercise of rights assured by this chapter or to encourage or discourage membership in any labor organization by discrimination in regard to hiring, tenure, promotion, or other conditions of employment.

Therefore, it might have been better if the end of the amendment said, "if such expression is not in violation of section 7216(a) (1) and (2)."

The Senator might just study that.

Mr. HATCH. I certainly will.

Mr. JAVITS. Then he would have a consistency of expression as to exactly what he had in mind.

Mr. HATCH. I do not have any problem because we are talking about the right of individual expression and not of the right of the agency.

Now, if the agency comes down and threatens or, in this case, encourages or discourages any labor organization, I think it would apply, I would agree.

Mr. JAVITS. It just said, "encourage or discourage," and says "by discrimination."

The Senator does not expect——

Mr. HATCH. I do not expect that.

Mr. JAVITS. That is why I say what I do. Look it over, study it, not this minute.

Mr. HATCH. As long as the rights of individual managers—I think I do not mean by this the individual manager who expresses his own belief or opinion, then since he works for the agency his actions are imputed under agency law to the agency.

I do not intend my amendment to forbid his personal right of expression.

Mr. JAVITS. It may be giving him in that regard, because the language is different, although its purpose and meaning are the same——

Mr. HATCH. Yes, but I would not want to have this construed, anyway, because it would make it meaningless, the free speech amendment, when he speaks from his own standpoint, he binds the agency, so it violates this rule.

Mr. JAVITS. Does the Senator feel the words "no threat or reprisal, or force or promise of benefit" are any different than——

Mr. HATCH. No. Those words apply even to the individual. Even my amendment. But I do not want, as it says in 7216(a)(2), that it should be an unfair labor practice for an agency to encourage or discourage membership in any

labor organization by discrimination in regard to hiring, tenure, promotion——

Mr. JAVITS. The Senator does not want the individual manager to do that, either, does he?

Mr. HATCH. Not representing the agency, but I want him to have the right of free speech, otherwise.

Mr. JAVITS. Well, a fellow is a manager, he is the boss in the particular agency. If he is going to discriminate in regard to hiring, tenure, or promotion, or others, I think the Senator goes a lot further than there is any reason for going in order to give him freedom of expression.

Mr. HATCH. I do not believe my amendment permits him to discriminate in any way.

On the other hand, I also do not intend this amendment to mean because he expresses his own viewpoint with regard to whether or not a union is good or bad that it is imputed under agency rules to involve the agency itself.

Mr. JAVITS. Let us break it down——

Mr. HATCH. The agency may have a standard that their managers have to comply with, and that standard may very well say they cannot speak ill of the unions, regardless.

Mr. JAVITS. What concerns me is the Senator may have a conflict between his amendment and section 7216, depending on who is the manager.

The normal rules of agency may apply to him.

Mr. HATCH. I say I do not want them to apply to him with regard to the expressions made in good faith.

Mr. JAVITS. But they may apply and, if so, it would be the agency guilty of the unfair labor practice if the rules of agency designated him as the agent.

That is why I suggested that language, because I do not think the Senator's language means anything different than what is already contained.

But for the purpose of this discussion, if the Senator feels he cannot do that, what I would like to ask the Senator is the following.

Mr. HATCH. Yes.

Mr. JAVITS. Does he intend that in this amendment, that is, the personal views, argument, opinion, or the making of any statement by the individual, that those views, argument, opinion, or the making of any statement shall be equivalent to interfering with restraining or coercing an employee in connection with the exercise of rights assured by this chapter, or encouraging or discouraging membership in any labor organization by discrimination in regard to hiring, tenure, promotion, or other conditions of employment?

Mr. HATCH. The language in my amendment does not permit that.

Mr. JAVITS. All right. We agree on that.

Mr. HATCH. We agree on that.

Mr. JAVITS. We will worry about the language.

Mr. HATCH. Right. I believe the conferees could change that.

Mr. JAVITS. So much for the free speech amendment.

Mr. HATCH. But let me add this, that I want the free speech provisions to enable any member of the civil service management to speak his own mind freely, without it being imputed to the agency, thus involving these technical rules and causing the agency to be guilty of an unfair labor practice.

Mr. JAVITS. Would the Senator consider that? In view of his intent, adding to the end of the amendment the following:

> Such expression contains no threat of reprisal or force or promise of benefit and is not made under coercive conditions.

Mr. HATCH. Yes, that is fine.

Mr. JAVITS. All right.

Mr. HATCH. I would accept that language.

Mr. President, I move that my amendment be modified to accept that particular language.

Mr. JAVITS. I will send the modification to the desk.

Mr. HATCH. I do move the modification.

The PRESIDING OFFICER. The Senator has the right.

The amendment is so modified.

Mr. JAVITS. Mr. President, the last amendment—I apologize to the Senate for the time, but I think we are making very good progress in this matter.

I would like to point out to the Senator that in respect to decertification of a labor organization, which is a very lethal remedy——

Mr. HATCH. It certainly is.

Mr. JAVITS. The Senator knows that.

At the same time, the Senator is absolutely right that the matter which he is seeking to redress is a very strong and important Federal right, and I think it is important enough so that I ought to read to the Senate what section 7216 (b) (4) (B) says.

Mr. HATCH. Right.

Mr. JAVITS. It says:

> Condone any activity described in subparagraph (A) by failing to take action to prevent or stop it.

Let me read (A) because that is what is referred to:

> (A) Call or participate in, a strike, work stoppage, slowdown, or picketing of an agency in a labor-management dispute if such picketing interferes or reasonably threatens to interfere with an agency's operations.

May I ask as a first question, why did the Senator not include (A), why just (B), just as a question of curiosity?

Mr. HATCH. Because (B) does by implication include (A).

Mr. JAVITS. In other words, the Senator intends to include (A)?

Mr. HATCH. Yes; there is no question about it.

Mr. JAVITS. And the condoning of course, is the more inclusive.

Mr. HATCH. Yes; to make it even more clear, the authority is the labor authority provided for pursuant to this act. If that authority says they have condoned this type activity, then when the union itself has an affirmative duty in the public interest not to have such activity, then this remedy does and should come into play.

Mr. JAVITS. As a practical matter, Mr. President, the Senator goes on in his amendment to say, "upon an appropriate finding by the authorities"——

Mr. HATCH. By the authority.

Mr. JAVITS. Authority.

Mr. HATCH. Meaning the authority in this bill.

Mr. JAVITS. The authority in this bill of such a violation.

The Senator will agree, will he not?

Mr. HATCH. That is the Federal labor relations authority provided in this bill.

Mr. JAVITS. The Senator will agree that this being a drastic remedy, there could be a lot of argument about the facts and the merits.

Mr. HATCH. I certainly do agree.

Mr. JAVITS. Is there any procedure—and I have not examined this closely, and I am sure the Senator has, and that is why I ask this—is there any procedure with relation to a finding? Is there a notice, a hearing, an opportnuity to contest the facts?

The Senator says in his amendment that upon an appropriate finding by the authorty, its exclusive recognition status is revoked and it shall cease immediately to be legally entitled and obligated to represent employees. That is a pretty drastic remedy. Has the Senator any procedure of notice or hearing or appeal or some procedure which is involved in such a drastic remedy?

Mr. HATCH. Yes; pursuant to this particular bill, there would be notice of an unfair labor practice that would be litigated. If it is found to be unfair and the condoning has taken place, the offending union would be decertified.

Mr. JAVITS. Can the Senator key us to these procedure sections, notice and hearing, which relate to the issue, the words "appropriate finding"? I beg the Senator to help me in that, because, as I say, he undoubtedly has checked this out closely.

Mr. HATCH. Does the manager of the bill know exactly where that provision is? He may be able to assist us in that regard. I think it begins on page 271. I think it is paragraph 7216.

Mr. JAVITS. What page is that?

Mr. HATCH. 7216 starts on page 295.

So it would be pursuant to the unfair labor practices section, as I understand it, in the committee bill which we are considering at the present time.

Mr. JAVITS. So when the Senator speaks——

Mr. HATCH. Probably also 7233, although I am not positive of that.

Mr. JAVITS. When the Senator speaks of "appropriate finding," the Senator incorporates by reference the procedure of 7216?

Mr. HATCH. The whole chapter 72 on the Federal service management relations chapter, which starts on 7201, up through 7205.

Mr. JAVITS. In other words, the whole procedure chapter.

Mr. HATCH. That is right—as defined in the bill.

Mr. JAVITS. Is it not the fact, also, that whether or not the word "immediately" belongs will depend upon the outcome of that proceeding?

Mr. HATCH. That is correct.

Mr. JAVITS. So that we really need it or do not need it.

Mr. HATCH. There would have to be a justicable decision, with all the rights accorded to both sides.

Mr. JAVITS. And that decision would determine the time of its effectiveness and the procedure?

Mr. HATCH. That is right. If that procedure is appealed, there has to be an ultimate decision that determines the immediate effect.

Mr. JAVITS. By using the word "immediately"—which I hope the Senator ultimately will decide against—the Senator is not trying either to abbreviate or increase that time?

Mr. HATCH. No. We do not want to be unfair to any labor organization with this amendment, so "immediately" refers to the finding of an unfair labor practice, meaning condoning the illegal activities provided for under this bill.

I think it is going to be up to the labor authority to determine whether that immediate effect takes effect upon the finding, even though there may be an appeal.

Mr. JAVITS. Yes.

Mr. HATCH. Or whether it will not take effect until there be a final resolution of the matter, which may be in the Supreme Court of the United States.

Mr. JAVITS. Would not the Senator agree with me that under the expression he gives the words "appropriate finding" and the word "immediately," it really is not necessary, because it may be immediate and it may not? It depends upon the determination, the rules, the procedures, of the authority? All I am trying to avoid is to add or subtract anything that the Senator has incorporated by reference.

Mr. HATCH. Why do we not change the language this way, to satisfy the Senator:

> and it shall cease, upon such finding, to be legally entitled and obligated to represent employees in the union.

Mr. JAVITS. That is all right. Do not do it yet, though.

Mr. President, for the moment, I should like to yield the floor, because I see that Senator METZENBAUM is anxious to be heard on this matter.

The PRESIDING OFFICER (Mr. STONE). The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, will the Senator from Utah yield for a question?

Mr. JAVITS. I have yielded the floor.

Mr. HATCH. I will be happy to answer any questions.

Mr. METZENBAUM. Will the Senator from Utah tell me whether in private practice, with respect to employers, there is any situation which is comparable to that just provided for under his section (b), which provides that where a labor union condones any activity described in paragraph (a), that labor union may be decertified?

All the Senator provides here is that under paragraph (b), if the labor union fails to take action to prevent or stop certain procedures as provided for under paragraph (a), then, whether immediate or otherwise, you have decertification. Is it not a fact that a private labor organization—when I say private, I mean a private employer——

Mr. HATCH. The Senator is talking about the private sector?

Mr. METZENBAUM. Yes.

All that would occur under those circumstances is that the union would be found guilty of an unfair labor practice; but there is no procedure and the courts have not ruled, even in some cases which were very flagrant with respect even to discriminatory practices, where the union has been decertified. Is that not a fact?

Mr. HATCH. Let me answer the question this way:

Even in the private sector, which is distinguishable here, there is no law which says a union cannot strike. They have the right to strike in the private sector. In the public sector, they do not have the right to strike. Yet, we are finding all kinds of threats to strike all over the country, which could cause chaos.

My amendment may resolve that. But there are some situations. I can think of one cursorily in which a union, even under the private sector, can be decertified for certain activity, and that is where it practices racial discrimination. It can be decertified even in the private sector, under that circumstance, and there may be others.

Mr. METZENBAUM. The courts have not held in accordance with the statement just made by the Senator from Utah, as I understand it. I think the case is Handy Andy, or something like that.

The fact is that merely for condoning a strike, even if the union has agreed by contract not to strike, or condoning picketing, or a slowdown, or a work stoppage, unions do not become decertified in the private sector.

My question is, Why does the Senator go to the extreme that he goes in this case in order to decertify the union and cause it to lose its parking rights?

Mr. HATCH. Because the union, by becoming a decertified union in the public sector, has as its basic tenet the obligation and affirmative duty to act in the public interest, too. Since the law says that a union cannot strike—which is the present law, irrespective of what is being done here in civil service reform—the union has an obligation not to promote or encourage a strike.

The reason why I believe this provision is not extreme but a provision which is needed is that presently we are being faced with all kinds of threats of strikes on the part of public-sector employees, and even some of their union leaders, in violation of the law, in violation of their affirmative duty not to do so.

As Senator JAVITS pointed out, I am trying to prevent that, thus putting some teeth in the law, so that they will have to think twice before they advocate in any way abridgement of their affirmative duty not to strike in the public sector.

To be honest with Senators, they will have all of their rights protected, as Senator JAVITS in his characteristic fashion has so amply pointed out, by formal litigation proceedings which may under certain circumstances go to the Supreme Court of the United States, but this puts some teeth into that particular provision. And that is the purpose of it.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I wonder whether the Senator from Utah would mind if momentarily his amendments are set aside so that Senator HEINZ may offer an amendment which I gather will be accepted and then immediately resume on the amendments of the Senator.

I make that unanimous-consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, of course, I say to the managers of the bill, Senator RIBICOFF and Senator PERCY, how much I admire the excellent job they have done on this legislation, not only here in the Chamber but in our Governmental Affairs Committee.

Mr. President, before discussing this amendment, I reiterate my support for S. 2640 and commend my colleagues on the Governmental Affairs Committee for their long and careful consideration of the civil service reform legislation and the civil service reorganization proposal. More than a year has been spent by the administration and Congress in closely analyzing the many problems of the civil service system and weighing various solutions to them. After this amount of effort, we have a responsibility to insure that the bill we pass will truly address these problems. It is clear that our civil service system is in dire need of reform; the Federal bureaucracy has become a labyrinth of redtape duplicated and unnecessary work, and lack of responsiveness to the needs of the American people. The public today is frustrated at the size and cost of Government; it is frustrated at its inefficiency, and frustrated at its inability to provide the services they are paying for with their taxes. Not only is the public dissatisfied, but civil servants are frustrated with the amount of redtape and bureaucratic barriers which prevent them from effectively performing their jobs as public servants.

Reforming this system on the basis of sound management principles, enabling "managers to manage", and streamlining the existing maze of rules and regulations which control Federal personnel management is certainly a meritorious goal. I am, however, deeply concerned that S. 2640, as reported from the Governmental Affairs Committee, falls short of ensuring that these goals will be met. The problem of size and cost of this bureaucracy is not adequately addressed. "Streamlining" the existing bureaucracy should make it smaller and more cost effective; it should not increase its size and cost. The amendment I am proposing will partially address this inconsistency and ensure that this legislation will more truly be a reform measure.

Inherent in S. 2640 and in the reorganization plan, which will soon go into effect, is an increase in the number of top level appointed positions in the civil service system and an increase in the cost of these top level positions. Currently,

the civil service is controlled by the Civil Service Commission. This presidentially appointed, three-member commission is headed by a chairman, and includes the vice chairman and third Commission member.

CIVIL SERVICE COMMISSION

Chairman—Executive Level III, $52,500.

Vice Chairman—Executive Level IV, $50,000.

Member—Executive Level IV, $50,000.

The reorganization and reform proposals will abolish the Civil Service Commission and replace it with an Office of Personnel Management and a Merit System Protections Board to assume the personnel management and judicial responsibilities currently held by the Civil Service Commission, repectively. The creation of these two new agencies will not only increase the number of top level management positions from 3 to 11, it will also increase the executive levels of those positions. This increases bureaucracy; it will also increase its cost by the additional positions and the upgrading of these positions.

OFFICE OF PERSONNEL MANAGEMENT

Director—executive level II, $57,500.

Deputy Director—executive level III, $52,500.

Associate directors (five)—executive level IV, $50,000.

MERIT SYSTEMS PROTECTION BOARD

Chairman—executive level III, $52,500.

Vice Chairman—executive level VI, $50,000.

Member—executive level IV, $50,000.

Special Counsel to the MSPB—executive level IV, $50,000.

These positions alone will add an additional $417,500 in salaries for top level appointees. This figure does not include the cost of assistants and secretaries which will almost certainly accompany them.

In addition, Mr. President, the creation of the Federal Labor Relations Authority will also create new top level slots in the bureaucracy. The responsibilities of the Chairman, two Members and General Counsel have until now been held by personnel in the Civil Service Commission, the Department of Labor and the Office of Management and Budget. These were not previously full-time responsibilities for any single members of those agencies. The new Federal Labor Relations Authority positions will be:

FEDERAL LABOR RELATIONS AUTHORITY

Chairman—executive level II, $52,500.

Members (two)—executive level IV, $50,000.

To more effectively implement Federal personnel policy it may in fact be necessary to separate responsibilities currently held by the Civil Service Commission, creating two new agencies, and to create permanent full-time positions to direct Federal labor relations; however, I feel it is an unnecessary expenditure of taxpayers dollars to elevate these positions to the proposed levels. The remainder of my amendment would, therefore, reduce each of the proposed new positions by one executive level. This would result in an annual savings of an estimated $132,500, or 18.5 percent, of the current salary levels in the bill.

In sum, Mr. President, we are seeing a so-called reform proposal transpose what are 3 full-time positions and 3 very much part-time jobs into a total of 13 top level full-time positions, all at a higher pay level than currently. While it is tempting to try to restructure and prune back this proliferation of top level political appointees, my amendment only seeks to cut the pay of these positions by one level, thus preventing the pay inflation in the bill.

UP AMENDMENT NO. 1776

(Purpose: Reducing the level of compensation of officers and members of OPM, MSPB and FLRA)

Mr. HEINZ. Mr. President, I send to the desk my unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an unprinted amendment numbered 1776.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 147, strike out lines 10 through 22, and insert in lieu thereof the following:

(b)(1) Section 5314 of title 5, United States Code, is amended by inserting at the end thereof the following new paragraph:

"(67) Director of the Office of Personnel Management.".

(2) Section 5315 of such title is amended by inserting at the end thereof the following new paragraph:

"(122) Deputy Director of the Office of Personnel Management.".

(3) Section 5316 of such title is amended by inserting at the end thereof the following new paragraph:

"(144) Associate Directors of the Office of Personnel Management (5).".

On page 166, strike out lines 10 through 23 and insert in lieu thereof the following:

(b)(1) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(123) Chairman of the Merit Systems Protection Board.".

(2) Section 5316 of such title is amended by adding at the end thereof the following new paragraphs:

"(145) Members, Merit Systems Protection Board.

"(146) Special Counsel of the Merit Systems Protection Board.".

(3)(A) Paragraph (17) of section 5314 of such title is hereby repealed.

(B) Paragraph (66) of section 5315 of such title is hereby repealed.

(C) Paragraph (99) of section 5316 of such title is hereby repealed.

On page 316, strike out lines 4 through 15, and insert in lieu thereof the following:

(f) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(124) Chairperson, Federal Labor Relations Authority.".

(g) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(147) Members, Federal Labor Relations Authority (3).".

On page 381, line 6, strike out "Senate." and insert in lieu thereof the following: "Senate, and shall be paid at an annual rate of basic pay equal to the maximum annual rate of basic pay currently paid, from time to time, under the General Schedule.".

Mr. HEINZ. I would be pleased to respond to questions.

Mr. RIBICOFF. Mr. President, we have had an explanation of the amendment by the distinguished Senator from Pennsylvania. He makes his point and he makes it well. His amendment is acceptable to the manager of the bill.

Mr. PERCY. Mr. President, I find the amendment acceptable and I know of no opposition on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment was agreed to.

Mr. HEINZ. I would just like to thank the managers of the bill.

I very much appreciate their acceptance of the amendment.

Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RIBICOFF. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIBICOFF. Mr. President, if I may have the attention of the distinguished Senator from Ohio (Mr. METZENBAUM), the Senator from New York (Senator JAVITS), and the Senator from Utah (Senator GARN). I do appreciate the concern of the distinguished Senator from New York and the Senator from Ohio. Unfortunately, they were not on the floor in the early part of the afternoon. During the day the distinguished Senator from Utah presented this amendment to us in advance of a series of amendments.

The distinguished Senator from Illinois (Senator PERCY) and I were busily engaged in explaining this bill and handling amendments. It was my suggestion that the Senator from Utah and our staffs meet with Mr. Campbell, the Chairman of the Civil Service Commission, and the staff of the executive branch to try to work out a series of amendments that would be consistent with the thrust of S. 2640.

The amendments of the Senator from Utah were voluminous. Although the philosophy of the Senator from Utah certainly differs basically from that of the Senator from New York and the Senator from Ohio and myself—and I will let the Senator from Illinois speak for himself—the Senator from Utah was completely cooperative in trying to work out a series of accommodations, and the Senator from Utah came back after meeting with the administration and our staffs with these amendments.

I can understand the concern of the Senator from New York and the Senator from Ohio. At no time was the Senator from Utah trying to pull a fast one on anyone. This was carefully crafted and worked out with Mr. Campbell and his staff in the Vice President's office. We felt that in the sense of accommodation they worked it out.

I do feel, with the colloquy that took place between the Senator from New

York and the Senator from Utah, that some of the fuzziness or misunderstanding was clarified, and I do believe both the Senator from New York and the Senator from Ohio have rendered a public service to all of us on this legislation.

I want to make it perfectly clear that the Senator from Utah was most cooperative in trying to work out a very knotty problem.

Mr. HATCH. I thank the distinguished Senator.

Mr. PERCY. Mr. President, I will just be a moment. I should like to reiterate also what my distinguished colleague, Senator RIBICOFF, has indicated. From the outset of the day until now we have worked with the Senator from Utah. I did participate in some of the meetings with Chairman Campbell and members of the White House staff in the Vice President's office, and considering what we started with and what we now have there has been a remarkable change and a spirit of cooperation.

Once again we are deeply indebted to the distinguished Senator from New York for raising the question, for taking every word in these amendments to clarify what they mean, what the impact might be and what the implications might be for changing and modifying some of that wording accepted by the Senator from Utah, and also by establishing legislative history we can certainly get the intent and purpose of these amendments.

Under no condition or under no circumstances are we trying, basically trying, to change the thrust and direction here, but certainly in looking after the interests of workers throughout the country, as the distinguished Senator from New York always has, we must take into account that there are mixed feelings on all these issues with Government workers as well.

But the managers of the bill have tried the best they could to work out the most practical solution. The Senator from Illinois wants to express appreciation again to the Senator from Utah for his cooperation and to the distinguished Senator from New York for the extraordinary service he has rendered now in helping to clarify these matters that have been of concern to him and to our distinguished colleague from Ohio (Mr. METZENBAUM).

Mr. MATSUNAGA. Mr. President, pursuant to the response of the Senator from Utah to questions put to him earlier, in order to clarify the first amendment of the three, which he has offered, I propose an amendment to change in the second line of the proviso, the words "a representative of its employees" to "such labor organization." I have discussed this matter with the Senator from Utah, and he has indicated a willingness to accept my amendment as a modification to his first amendment.

I now yield to the Senator from Utah for that purpose.

Mr. HATCH. Mr. President, if the Senator will yield to me, I will yield to the distinguished Senator from New York so that he can have the floor and then he will yield and I will make the modifications.

Mr. JAVITS. Mr. President, I stirred this up and I hope to be able to be here when it is finished. I wish immediately to thank my colleague, Senator MATSUNAGA, and my colleague, Senator METZENBAUM, for giving this matter their close attention, and it has been very helpful, but my purpose was only to clarify, not to, if possible, interfere with the actions taken by my completely trusted colleagues, to wit, the managers of the bill, and Senator HATCH. He had not the remotest idea but that this matter was thoroughly cleared in every way that it should be, and I repeat I mentioned before and I say again, simply being on the floor and having some experience in labor matters and feeling it my duty to read things and to ask questions if I am in doubt. I carried out my responsibility.

I am pleased that things have ended up in concord, and I beg the Senator from Utah to believe that there is not the remotest question I think in anybody's mind on the floor that his conduct as a Senator was absolutely impeccable.

Mr. HATCH. I thank the distinguished Senator from New York. I always appreciate his good cooperation and his conduct, and I can truthfully say I thought everything had been cleared. I would certainly not present any amendment without having it cleared, and especially when we had had it cleared with the administration and the leaders of the bill, as is the usual case. I tried to be accommodating in having this language meet the needs of the Senators here, and I believe the distinguished Senator from New York, the distinguished Senator from Hawaii, the distinguished Senator from Ohio and, of course, my very revered chairman of the Governmental Affairs Committee have all added to the colloquy which, I think, has made this quite clear.

So let me make some modifications which I think will resolve the conflicts but still not denigrate the purpose of my amendments, which are acceptable to me.

Let us start with the first amendment, which was with regard to the secret ballot election. To accommodate the distinguished Senator from New York, we have already moved that the words "in good faith" be stricken, and that has been accepted, to the best of my knowledge. If not, then I so move.

The PRESIDING OFFICER (Mr. HART). The amendment has been so modified.

Mr. HATCH. To accommodate the distinguished Senator from Hawaii, although "a representative of its employees" is a series of legal terms of art in labor law, and since "labor organization" is utilized throughout this particular bill, we will strike "a representative of its employees," and substitute in lieu thereof "such labor organization," and I so move.

The PRESIDING OFFICER. The Senator has that right, and the amendment is so modified.

Mr. HATCH. I offer this amendment.

Mr. MATSUNAGA. If the Senator from Utah will yield, I thank him for his willingness to make the modifications I have suggested. Since he has accepted my proposed amendments and the modifications suggested by the Senator from New York, I can now lend him my support.

Mr. RIBICOFF. The modifications are acceptable to the manager of the bill.

Mr. HATCH. Since the modifications are acceptable to the manager of the bill, I move the amendment be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment as modified.

Mr. METZENBAUM. Has the amendment not been accepted?

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Is it not a fact that only one vote is required on all three amendments, but that they may be separately modified? That is the privilege of the Senator, is it not?

The PRESIDING OFFICER. The Senator is correct.

Mr. HATCH. Then I will present all the amendments and move they be adopted en bloc, the second amendment with the changes we have agreed to. It has to do with explicit recognition standards. He have stricken the word "immediate" and inserted in lieu thereof "upon such findings." Is there anything else we added?

Mr. JAVITS. We added something we sent to the desk on a yellow sheet, did we not? No; that is on free speech.

Mr. HATCH. I move that particular change. It may have been moved, but I move it again.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

Mr. HATCH. As to the third amendment, with regard to free speech and the rights of free speech, at the conclusion of the amendment we have stricken the period and have added "or unduly coercive conditions," and I move that modification.

The PRESIDING OFFICER. The modification has been made.

Mr. HATCH. As I understand it, the managers of the bill have accepted all three of these amendments en bloc.

Mr. METZENBAUM. Mr. President, will the Senator yield?

Mr. HATCH. Excuse me; Senator METZENBAUM also had another modification. I am sorry, Senator, I forgot yours.

With regard to the exclusive recognition amendment, we should add the words "after any labor organization which" and then add the words "willfully and intentionally by omission or commission has violated" and I move those additional changes.

Mr. METZENBAUM. Mr. President——

The PRESIDING OFFICER. The Senator has the right to modify his amendments.

Mr. METZENBAUM. Will the Senator from Utah yield for a minute?

Mr. HATCH. I am happy to yield for 1 minute.

Mr. METZENBAUM. I appreciate very much the cooperation of the Senator from Utah. It makes the amendment less objectionable than it was. I do not wish to indicate support for the amendment, but rather than delay the debate this

evening, I am pleased with his spirit of cooperation and am willing to accept this amendment as the basis from which to go forward at this point.

Mr. HATCH. I thank the Senator from Ohio for his cooperation, and I now move the adoption of the amendments, en bloc.

The PRESIDING OFFICER. Will the Senator from Utah send his amendments to the desk, so that there is no question about them?

Mr. HATCH. Could I ask that my aide and Senator METZENBAUM work these out? I do not have them written out. We will work them out at the desk. Is that acceptable to everyone?

Mr. MATSUNAGA. I have them written out.

Mr. METZENBAUM. I think it is pretty much agreed that we are really only inserting the language "wilfully or intentionally, by omission or commission."

The PRESIDING OFFICER. The question is on the adoption of the amendments, as modified, en bloc.

The amendments, as modified, were agreed to en bloc.

Mr. HATCH. I move to reconsider the vote by which the amendments were agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

Mr. HATCH. Mr. President, I wish to finish with my amendments.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. I yield to the Senator from Utah.

UP AMENDMENT NO. 1777

(Purposes: (1) To separate the reporting requirement from the MSPB and vest it with an independent agency. (2) To reduce the expense of an SES executive on a paid sabbatical. (3) Clarifies the manner in which the Director of the Office of Personnel Management may intervene in a proceeding of the MSPB)

Mr. HATCH. Mr. President, I send three unprinted amendments to the desk and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes unprinted amendments, en bloc, numbered 1777. On page 141, add, following after line 21—

Mr. HATCH. I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The Chair wishes to inform the Senator from Utah that for the amendments to be considered en bloc would require unanimous consent.

Mr. JAVITS. Could we hear them all first?

Mr. HATCH. Yes.

Mr. JAVITS. Let us hear them all read, and then ask unanimous consent.

Mr. HATCH. That will be fine.

The assistant legislative clerk read as follows:

On page 141, add the following after line 21:

"(b) The General Accounting Office shall prepare and submit an annual report to the President and the Congress on the activities of the MSPB which shall include a description of significant actions taken by the Board to carry out its functions under this title. The report shall also review the activities of the Office of Personnel Management, including an analysis of whether or not the actions of the Office of Personnel Management are in accord with merit system principles and free from prohibited personnel practices."

On page 220, strike lines 11 through 23 and insert in lieu thereof the following:

"(d) An agency head may grant leave with half pay and full benefits to a career executive for a sabbatical period not exceeding twelve months or full pay and full benefits for six months to permit such person to engage in study or uncompensated work experience which will contribute to the individual's development and effectiveness. A sabbatical leave may not be granted more than once in a ten-year period. An individual, to be eligible for a sabbatical leave, must have completed at least seven years of Federal service in a position with a level of duties and responsibilities equivalent to the Senior Executive Service and at least two of which were as a member of the Senior Executive Service."

On page 153, line 24, strike the words "intervene in any such proceeding" and insert in lieu thereof "appear as a party or send a representative to any hearing called under paragraph (2)(C), present written briefs and other relevant material".

On page 153, line 25, strike the words "intervene" and insert in lieu thereof "participate".

On page 154, line 2, insert the following immediately after the period "Nothing in this title shall be construed to mean the OPM shall be permitted to interfere with the independence decison-making of the MSPB."

The PRESIDING OFFICER. Does the Senator from Utah wish to——

Mr. HATCH. I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Utah.

Mr. HATCH. Mr. President, the original language of the bill mandated a report to Congress prepared by the Merit System Protection Board, the MSPB mentioned in the amendment, on the "state of civil service," including analysis of whether the actions of the Office of Personnel Management have been in accord with merit principles.

I felt at the outset that this assessment should be performed by an independent agency, one apart from the executive branch or the civil service structure.

The managers of the legislation, however, have presented a better idea, which is two reports, one by the MSPB and one by GAO. In this way, all viewpoints and data will be stated. We in Congress, as well as the President, will be able to effectively evaluate our new reforms.

So that is the purpose for amendment No. 1.

Amendment No. 2 is an amendment which will change the policy with regard to sabbatical periods to a period not exceeding 12 months—well, half-pay for 12 months, with full benefits for the 12 months, or with full pay and full benefits for 6 months, and the employee has the right to make the choice in those matters.

I believe it is a very good compromise and an effective change in the bill. I also believe that the managers have agreed to accept this particular amendment.

The third one is an amendment which clarifies the manner in which the Director of the Office of Personnel Management may intervene in a proceeding before the MSPB. I believe the managers of the bill are prepared to take these amendments.

Mr. RIBICOFF. I will also point out that these amendments have been carefully gone over with the administration and have their approval. The amendment is acceptable to the manager of the bill.

Mr. HATCH. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RIBICOFF. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. I compliment the distinguished managers of this bill for their cooperative efforts and the aid and counsel they have given me throughout what I did not expect to be a lengthy time with these amendments but which has been, I believe, an effective time. I hope we have been able to assist them in the preparation of their bill.

UP AMENDMENT NO. 1778

(Purpose: Eliminating an inequity in computing annuities of Federal law enforcement officers or firefighters)

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 1778.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 198, after line 25, insert the following new section:

COMPUTATION OF CERTAIN ANNUITIES

SEC. 305. (a) Section 8339(d) of title 5, United States Code, is amended by inserting "(1)" immediately after "(d)" and by adding at the end thereof the following new paragraph:

"(2) The annuity of an employee retiring under this subchapter with at least 5 years but less than 20 years of service as a law enforcement officer or firefighter, or any combination thereof, is computed under subsection (a) of this section, except that the annuity of such employee is computed with respect to the service of such employee as a law enforcement officer or firefighter, or any combination thereof, by multiplying 2½ percent of his average pay by the years of that service.".

(b) Section 8339(h) of such title is amended by striking out "section 8336(d)" and inserting in lieu thereof: "section 8336(d)(1)".

(c) The amendments made by this section shall apply with respect to individuals who become entitled to receive an annuity on or after the effective date of this Act.

Mr. DOLE. Mr. President, the amendment I am offering at this time was originally introduced as Senate bill S. 565 during February of 1977. At that time, I pointed out that the legislation is intended to correct an oversight in Public Law 93-350, which was enacted by the 93d Congress. That measure was the result of efforts by Senators PERCY and JAVITS, as well as others. The bill, S. 565, was referred to the Government Affairs Committee. However, in the intervening year and a half, no hearings have been held, and no action has been taken to report the measure to the Senate. For that reason, I have chosen to bring the proposal to the attention of my colleagues in this manner.

ANNUITY COMPUTATION FORMULA

Mr. President, during the 93d Congress, we gave our approval to a bill, H.R. 9281—later enacted as Public Law 93-530—to provide Federal law enforcement and firefighting personnel a special 2½-percent retirement computation formula in recognition of the special, hazardous duty service which they perform. In doing so, however, we failed to recognize the substantial inequity that would result from premising the incentive credit on a full 20 years of service in such capacity.

In order to correct that oversight, I have proposed this amendment, to extend appropriate annuity credit to retiring Federal employees who have at least 5 years' service as law enforcement or firefighter personnel, but who have not completed 20 years. This would be consistent with the full credit given congressional employees under the higher 2½-percent formula after they have served 5 years (5 U.S.C.A. 8339(b)). As the law now stands, Government employees who have performed "hazardous duties" for fewer than 20 years are penalized merely because they fail to reach the magic benefit line. Even though they were exposed to the same dangers, subjected to the same perils, and employed in the same high risk endeavors for our Nation, they receive no recognition if, for one reason or another, they choose or are compelled to leave such service 1 day before their 20 years are up.

SUPPORT FOR AMENDMENT

This legislation has been endorsed by the International Association of Chiefs of Police, Inc., and has been praised by the Federal Criminal Investigators Association, the National Treasury Employees Union, and the Society of Former Special Agents of the FBI.

AN EQUITABLE ARRANGEMENT

Although the Civil Service Commission is on record as opposing preferential computation formulas as a reward for particular kinds of service, it seems to me that as long as the current law provides for such treatment, all those entitled should receive it. If they do not, we are going to find ourselves in the business of suppressing lateral movement of these types of Government employees, as well as discouraging the initial recruitment of qualified personnel who may not wish to commit themselves for a full 20 years in such a demanding profession.

In addition to the recruitment argument, it is my belief that the change I am proposing could also operate to help retain qualified and experienced personnel within the Government by encouraging them to stay in, or return to, civil service rather than the private sector. Too often, now, for example, a firefighter or law enforcement officer who has put in perhaps 10 years of service and decides that it is not in his own or his family's best interest to continue for another 10 years, would have just as much motivation to go to private industry as to another Government agency.

It seems to me that 5 years is a reasonable minimum to expect of a career-oriented professional and that, in many instances, we are promoting morale problems and indifference among 15- to 20-year agents who are "putting in their time" simply because of the leverage being held over them by the 20-year requirement. Again, I think we could have a much more dedicated, effective, and inspired contingent of Federal officers if they knew they could transfer at any time from a hazardous position and still receive full credit for the period spent in that position when they eventually qualify for Government retirement.

Since the amendment I am proposing would become effective upon enactment, any problem of recomputation for those already retired would be avoided. Moreover, Federal service retirement computations are done on an individual basis anyway, and no additional administrative burden would be imposed.

Any measure designed to eliminate an existing inequity should, Mr. President, receive the sympathetic consideration of this body. I hope my colleagues will support this adjustment in the annuity computation formula for Federal hazardous-duty employees.

Mr. President, I ask unanimous consent that a letter from Glen R. Murphy, director, Bureau of Governmental Relations and Legal Counsel, International Association of Chiefs of Police, Inc., dated July 28, 1977; a letter from James L. McGovern, president, Society of Former Special Agents of the Federal Bureau of Investigation, dated May 23, 1977; and a letter from Frank J. Scodari, national secretary, Federal Criminal Investigators Association, dated March 16, 1977, be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

JULY 28, 1977.

Senator ROBERT J. DOLE,
Dirksen Senate Office Building,
Washington, D.C.

DEAR MR. DOLE: I would like to express to you, on behalf of the International Association of Chiefs of Police, our Association's support of S. 565, a bill introduced by you dealing with the computation of annuities for federal law enforcement officers and firefighters.

I might note that the International Association of Chiefs of Police, a nonprofit organization, has been serving the law enforcement profession and the public interest by advancing the art of police science since 1893. Its staff of 110 police consultants, attorneys and educators develops and disseminates improved administrative, technical, and operational practices and promotes their use in police work. Its aims are to foster police cooperation and the exchange of information and experience among police administrators throughout the world; to bring about recruitment and training of qualified persons; and to encourage adherence of all police officers to high professional standards of performance and conduct. IACP is the world's leading association of police executives with approximately 11,500 members representing 64 nations of the world.

The IACP is appreciative of the efforts being made to eliminate the existing inequities in the computation of annuities under title 5 of the U.S. Code. Please be advised of our continued support for this pending legislation, and do not hesitate to call on me if I can be of any assistance in assuring passage of the bill.

Sincerely,

GLEN R. MURPHY,
Director, Bureau of Governmental Relations and Legal Counsel.

ATLANTA, GA.,
May 23, 1977.

Senator BOB DOLE,
Senate Office Building,
Washington, D.C.

DEAR SENATOR DOLE: The membership of the Society of Former Special Agents of the F.B.I. join me in expressing our appreciation to you for your interest in retirement benefit legislation affecting Federal law enforcement officers.

We are aware that your pending bill does not alter the provisions of Public Law 93-350 and appreciate your statement that you would have no objection to expanding those hearings which may be held on S. 565 during the 95th Congress so as to include provision for retroactive consideration of P.L. 93-350.

Sincerely,

JAMES L. MCGOVERN,
President.

WEST HEMPSTEAD, N.Y.,
March 16, 1977.

Hon. ROBERT DOLE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DOLE: Thank you for your letter regarding bill S. 565 which you recently introduced in the United States Senate.

Please be assured that this Association is keenly interested in having the bill passed and we will lend every assistance possible towards this goal. . . .

We appreciate your interest in seeking legislation that is beneficial and equitable for all Federal Criminal Investigators.

Very truly yours,

FRANK J. SCODARI,
National Secretary.

Mr. RIBICOFF. Mr. President, this amendment is acceptable to the managers of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. GARN. Mr. President, my objection to the House civil service reform bill is simply because they have the Hatch Act provisions attached to it. On numerous occasions I have talked to both the distinguished majority manager of the bill and the minority manager of the bill and they have agreed with my concern. So the Senate bill does not have any Hatch Act provisions in it. The House bill does. That bill has not passed the House.

My concern is what the actions of the

managers of this bill would be in conference if there were attached in conference the Hatch Act provisions.

Mr. RIBICOFF. Mr. President, may I respond as manager of this bill and chairman of the Governmental Affairs Committee?

Personally, I am opposed to changing the Hatch Act as it now exists. I have been consistent in opposition to any changes.

Also, there is no room for amending S. 2640 for the Hatch Act.

It is my personal view that to do so would negate all we are trying to achieve in S. 2640.

The Senator from Utah has my personal assurance that, the Senate not having put into S. 2640 an amendment in which the Hatch Act is changed, under no circumstances would I sign a conference report and bring back a conference report to this body which contained a change in the present Hatch Act.

Mr. GARN. I thank the distinguished Senator from Connecticut.

Mr. PERCY. I would like to advise that I have now put on the record a number of times the position of the Senator from Illinois on this matter. I took the position with the majority manager that if there was an attempt to put the Hatch Act amendment on his bill, it would kill the civil service reform bill. I have clearly indicated that I oppose such measure.

As minority floor manager of the civil service reform bill, I would refuse to sign a conference report which incorporated such a provision.

There will not be any such amendment, obviously, in this bill in the Senate. We have tried to send as unmistakable and as clear a message as possible to our colleagues in the House that it would be an exercise in futility to attempt to add it in the House.

This bill should be a civil service reform bill, period. Everything that we have attempted to do to depoliticize the civil service might be undone by Hatch Act changes, and certainly there would be absolutely no possibility of getting any such bill through the Congress this year.

I give my colleague as strong an assurance as any Senator can that this Senator would resist every attempt to have the Hatch Act reform provision added to this bill. It simply will not be done.

Mr. GARN. I thank my distinguished colleagues for their very definite and precise reassurances. On the basis of those reassurances, I intend to vote for the bill.

Mr. PERCY. I would like to say that my distinguished Illinois colleague, Congressman DERWINSKI, feels just as strong about this matter and has been working to reason with his colleagues in the House not to in any way impede or encumber, holdup or make impossible, the passage of civil service reform, which is a matter of high priority on both sides of the aisle, with both the Congress and the President of the United States.

Mr. SCOTT. Mr. President, I wonder when we are going to have a final vote. I told my wife I would leave here at 7:30. If we are going to have a vote right now, I want to vote. But if not, I am going to have to leave.

Mr. RIBICOFF. The Senator from Alaska has a final amendment and then we will go to third reading and vote on passage, if we can have the cooperation of the other Members of the Senate.

AMENDMENT NO. 3416

(Purpose: To provide for judicial review of Federal Labor Relations Authority unfair labor practice decisions)

Mr. STEVENS. Mr. President, I call up my amendment No. 3416 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an amendment numbered 3416.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I send a modification of the amendment to the desk.

The PRESIDING OFFICER. The modification will be stated.

Mr. STEVENS. Mr. President, I ask unanimous consent that the reading of the modification be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment as modified, is as follows:

On page 285, line 20, after "title," insert "and except as provided in section 7216(f) of this title".

On page 298, between lines 16 and 17, insert the following:

"(f)(1) Any employee or agency adversely affected or aggrieved by a final order or decision of the Authority with respect to a matter raised as an unfair labor practice under this section, or with respect to an exception filed to any arbitrator's award under section 7221(j) of this title which involves an unfair labor practice complaint, may obtain judicial review of such an order or decision.

"(2) In review of a final decision or order under paragraph (1), the agency or the labor organization involved in the unfair labor practice complaint shall be the named respondent, except that the Authority shall have the right to appear in the court proceeding if it determines, in its sole discretion, that the appeal may raise questions of substantial interest to it. Except as provided in section 518 of title 28, relating to litigation before the Supreme Court, attorneys designated by the Authority may appear for the Authority, and represent the Authority in any civil action brought in connection with any function carried out by the Authority pursuant to this title or as otherwise authorized by law."

"(3) A petition to review a final order or decision of the Authority shall be filed in the Court of Claims or a United States Court of Appeals as provided in chapters 91 and 158, respectively, of title 28 and shall be filed within 30 days after the date the petitioner received notice of the final decision or order of the Board.

"(4) The court shall review the administrative record for the purpose of determining whether the findings were arbitrary or capricious, and not in accordance with law, and whether the procedures required by statutes and regulations were followed. The findings of the Authority are conclusive if supported by substantial evidence in the administrative record. If the court determines that further evidence is necessary, it shall remand the case to the Authority which, after such further proceedings as may be required, may modify its findings, and shall file with the court the record of such proceedings. The findings of the Authority are conclusive if supported by substantial evidence in the administrative record as supplemented.".

On page 306, line 13, after "section" insert "and under section 7216(f) of this title".

On page 316 between lines 15 and 16, insert the following:

"(1) Section 2342 of title 28, United States Code, as amended by section 206 of this Act, is amended—

"(1) by striking out 'and' at the end of paragraph (5),

"(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof '; and'; and

"(3) by adding at the end thereof the following new paragraph:

"'(7) all final orders of the Federal Labor Relations Authority made reviewable by section 7216(f) of title 5.'".

Mr. STEVENS. Mr. President, an employee aggrieved by a decision of the Merit System Protection Board is entitled to judicial review. Also, one who receives an adverse decision from the National Labor Relations Board has access to judicial review. However, presently S. 2640 fails to provide comparable review for decisions by the Federal Labor Relations Authority. This gives a body under the control of the President untenable authority.

Adverse actions, unacceptable performance appraisals, and discrimination complaints, among others, are appealable to the Merit Systems Protection Board, whether they proceed through negotiated grievance procedures under the labor section of the bill or through the normal appellate route. Such decisions by the Merit System Protection Board are appealable. Unfair labor practice decisions by the Federal Labor Relations Authority are not appealable, however, because the Federal Labor Relations Authority decisions are not subject to judicial review. Unfair labor practice complaints can be serious as complaints labeled adverse actions. So why should one board be subjected to judicial scrutiny while the other is not?

What is even more compelling is that decisions by the National Labor Relations Board are subject to judicial review. An unfair labor practice is basically the same, whether it is brought before the Federal Labor Relations Authority or the National Labor Relations Board. The only difference is in one case the employer is the Government, in the other it is private industry.

Mr. President, my amendment will provide for judicial review of Federal Labor Relations Authority decisions as they concern unfair labor practices. The review will be similar to that of the Merit System Protection Board's and the National Labor Relation Board's. The Federal Labor Relations Authority decisions will be subjected to the same substantial evidence standard of review.

Mr. President, judicial review is at the core of our Nation's beginnings and future.

Mr. RIBICOFF. Mr. President, the amendment of the Senator from Alaska is acceptable to the managers of the bill.

I commend and thank the Senator from Alaska for his cooperation throughout the entire consideration of this legislation in the committee, in markup, and on the floor.

Mr. PERCY. I would like to add my voice of appreciation to that, Mr. President. I know of no objection to the amendment. The amendment is acceptable on this side.

Mr. STEVENS. Mr. President, I move adoption of the amendment, as modified.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

Mr. BAYH. Mr. President, I support this legislation enthusiastically because I think it is important for us to find every humanly possible way to make our governmental service more efficient. I think it is possible for us to build on the strength and the dedication of the tens of thousands of dedicated public servants, to award merits, and yet see that those who are not meritorious are removed from the public service.

Mr. President, I am concerned about only one feature of this bill and feel compelled to call it to the Senate's attention.

The language in the Senate bill differs from the House version regarding the EEOC jurisdiction in the adjudication of discrimination cases. In the Senate version EEOC must share jurisdiction with the Merit System Protection Board.

It it necessary that the difference be closely examined in conference and that the House language be viewed as the better approach to this problem, in my judgment.

I point out that under the plan supported and originally submitted by the Carter administration the President felt that the administration was joined by the civil rights organizations in feeling that the discrimination complaints should be handled by the Equal Employment Opportunities Commission. I do not think any Member of this body wants civil service reform to be viewed as an effort to shortcut and lessen our efforts to wipe out the last vestiges of discrimination in public service.

With that in mind, I hope that the Senate conferees will consider again their position on this bill, and if at all possible, yield to the House of Representatives because I feel that is the position which gives us the best chance to fight against discrimination with all that it means.

Mr. THURMOND. Mr. President, I rise in support of S. 2640, the Civil Service Reform Act of 1978.

Efforts to reform the civil service system have been under consideration since the days of the Hoover administration. Administrations of both parties have sought to achieve a civil service system that is both accountable to the public through its elected leaders, but protected from the pressures and potential abuses of the political spoils system.

Unfortunately, over the years the civil service system has become weighted down with complicated and inflexible rules and procedures that have prevented merit principles to be maintained. It is the taxpayers of this country that suffer from this situation. When managers are unable to get dedicated and competent employees to perform the Government's work, the public is adversely affected. The need for an efficient and competent civil service is long overdue.

Mr. President, the overall thurst of S. 2640 is sound. It recognizes that an efficient and accountable civil service will improve services to the public, while insulating Federal employees from the political spoils system that plagued the Federal service in its early days.

There are major features of the bill that I believe will lead to definite improvements in the civil service. First, the bill separates the relationship of Federal employees. There is created an office of personnel management to supervise personnel management in the executive branch.

Second, it creates an independent merit systems protection board and special counsel to adjudicate employee appeals and protect the merit system.

Third, a Federal labor relations authority is established that would seek to improve labor-management relations by providing procedures for resolving grievances and defining unfair labor practices, exclusive recognition and employee rights.

Fourth, the bill creates a senior executive service which embodies a new structure for selecting, developing, and managing top-level Federal executives. This is an important feature since it would provide incentives to top-level employees and give them an opportunity to be rewarded for work well done. It is a voluntary service for no more than 9,200 persons, but an excellent tool for attracting and keeping top-flight people in the service of the Federal Government.

Finally, Mr. President, this bill streamlines the processes for dismissing and disciplining Federal employees, which in my opinion is necessary in order to have a civil service capable of adequately serving the American people.

Mr. President, there are two aspects of this bill which are of special importance to me. The first is the exclusion of certain employees from the coverage of civil service laws and regulations.

Several section of S. 2640 specifically exclude employees of the Federal Bureau of Investigation, the Central Intelligence Committee, and other intelligence-gathering and investigatory agencies of the Government. These employees are now excluded from civil service coverage, and they should remain so.

These people are excluded for proper reasons. The security of our country is at stake and to allow employees to act without fear of disciplinary action or dismissal would seriously impair the ability of our Government to carry out its intelligence gathering and investigative responsibilities. In addition, with the so-called whistleblower protections in this bill, the threat of other and numerous "Pentagon Papers" situations would increase if CIA, FBI and other national security-related employees were covered by civil service laws and regulations. Exclusion of these employees from the bill would insure that these situations could not arise in the future in great numbers.

Mr. President, the other area of concern to me is the elimination of the veterans' preference in the hiring and promotion of Federal civil service employees. I support the provisions of the bill as currently drafted and would be opposed to any effort to eliminate the current preference given our Nations' veterans in civil service employment.

This legislation is badly needed and deserves the support of my colleagues.

THE CRANSTON AMENDMENTS

Mr. SASSER. Mr. President, the distinguished Senator from California, the chairman of the Veterans' Affairs Committee (Mr. CRANSTON) earlier today offered a number of amendments to this bill, among them a provision to strengthen the procedural protections relating to preference eligibility for disabled veterans. I wish to voice my strong support for that provision as well as for the others submitted by Senator CRANSTON.

The veterans of our wars, especially those who become disabled during the course of their service to the Nation, are owed a sincere debt of gratitude by all our citizens. In the contest of civil service reform and Federal employment, we can express that thanks in at least one way by extending the benefits and protections already provided to veterans who apply for Government positions. For instance, one amendment would insure that disabled veterans who are denied jobs on the basis of inability to fulfill the physical requirements of the positions, will be notified and have an opportunity to appeal that denial. Another would authorize noncompetitive appointments for disabled veterans with service-connected disability of 30 percent or greater.

I wish to express my own thanks to the distinguished chairman of the Government Affairs Committee and to Senator CRANSTON for recognizing the opportunity to correct these inequities and to further provide for those citizens who have served in the Armed Forces.

CIVIL SERVICE REFORM IS OVERDUE

● Mr. BIDEN. Mr. President, I am pleased that the President's proposal for civil service reform has come to the floor for action by the full Senate.

Although to the average person on the street, much of the bill is seemingly concerned with technical and procedural changes in personnel and management policies, in fact this legislation will impact on the very quality of Government itself.

Public services are only as good as the people who are responsible for delivering them.

And that is what I think this bill will do, improve the responsiveness and quality of Federal Government employees.

The provision of high-quality public services rests on three things: The quality of people we recruit into the Government; the effectiveness of sound management and incentives for motivating good employee performance.

On the whole, I believe that the merit system has provided the Federal Government with reasonable, well-qualified candidates for public service.

The Government attracts many intelligent, dedicated men and women into its service each year.

We have made and must continue to make progress in recruiting qualified women and minority group members into all levels of Government policymaking.

There are still attitudinal and procedural barriers to the advancement of women, blacks, and other minority groups into middle and upper level management positions.

We must renew our commitment to overcoming these barriers.

At the same time, we must also recognize our special debt to those who fought in our Nation's service, particularly disabled veterans and Vietnam war veterans.

The Vietnam war was the longest and most divisive war fought by this country in over 100 years.

The scars and memories of that war still linger on.

We must insure that there is an adequate period for Vietnam war vets to readjust.

For those who were disabled during our Nation's recent conflicts, there can never be complete readjustment.

The loss of a limb or of an eye can never be completely overcome.

Too many young men have been forced by these disabilities to abandon earlier plans for the future and turn to other pursuits within their physical capabilities.

We must insure that opportunities remain available to disabled veterans in the Federal Government.

I believe that the separation of the Civil Service Commission into an Office of Personnel Management and a Merit Systems Protection Board, envisioned in this bill, is a sound move.

Increasingly the flexibility of recruitment decisionmaking to separate agencies, I believe, will enhance the ability of agencies to hire persons capable of carrying out the tasks entrusted to the agency.

The Merit System Protection Board will be responsible "or insuring that agencies do not discriminate against women, blacks, minorities, or any other groups.

The Board would also be charged with protecting the rights of agency employees.

We must see to it that the system promotes effective management.

The Federal Government has been woefully slow in adopting management tools which could increase protection.

Title VI of the Civil Service Reform Act allows Federal agencies to experiment on a limited basis with various management and organizational changes which could enhance the delivery of services.

While managers should not experiment for the sake of experimentation, Government agencies should not retain outmoded and inadequate procedures simply because it is inconvenient to change.

Finally, the most important part of civil service reform must be to motivate good employee performance.

And it is in this area that the civil service system is most in need of improvement.

One of the most irritating and detrimental aspects of the present civil service system is the inability of managers to remove or transfer personnel who are obviously incompetent or who allow personal problems, like alcoholism, to interfere with their job performance.

Under existing procedures it is very difficult, if not impossible to fire these employees, because of the length and complexity of the appeals process.

So what happens?

The employee is either given nothing to do or is shoved off to some other division of the agency.

The employee becomes so embittered that he or she detracts from the performance of the agency and lowers the morale of other staff members.

The result is more "deadwood" on the Government payroll.

However, that does not mean that the agency can and should ride roughshod over employee rights.

The burden of proof should be upon the agency to prove that an employee is not performing his or her tasks.

The agency should also consider alternatives to outright dismissal of the employee.

Such alternatives might include job or personal counseling where alcoholism or personal problems interfere with the employee's productivity.

Another disincentive to good employee performance is the regularity which pay raises and promotions are given in the Federal Government.

Once you get on the payroll, promotions come as a matter of course, not necessarily because you deserve it.

It almost has gotten to the point where you have to actively try to not get the increase.

So I think there is a need to establish an incentive system where outstanding performances are rewarded.

That does not mean that I favor withholding cost-of-living increases because some GS-5 only processes 298 claims in 1 year as opposed to an average of 300.

But we do need a better way to reward the GS-5 employee who processed 400 claims a year.

After reviewing this legislation, I find the concept of a senior executive service reward based on performance evaluations interesting.

I certainly believe that employees at the GS-16 level and above do have a primary responsibility to insure that executive policy is carried out in their agency.

If they strongly believe that a particular directive is incorrect policy then I think they should be willing to resign rather than attempt to subvert the directive by covert means.

My major concern with this performance evaluation concept is who is going to be doing the evaluating and upon what criteria are senior executives going to be evaluated?

This is one area which is inadequately spelled out in the bill.

I do not believe that a purely political criteria is adequate.

There must be some substantive criteria available upon which to judge performance.

I do not think it is proper to create a mentality in the upper echelons of our civil service where "to get along, is to go along."

This would tend to reduce the quality of higher level employees and create a cadre of political hacks.

For this reason, I would like to see a little more guidance for performance review of the senior executive concept in this bill.

In conclusion, Mr. President, the time is long overdue that the Federal Government adopt widely accepted management techniques which any large organization interested in efficient operation would find logical.

The recruitment of high quality personnel and the establishment of effective management practices and employee performance incentives are closely related.

Strengthening each component will strengthen the overall effectiveness of the Civil Service.

And most important, it will allow the Federal Government to provide services to Americans on a fairer, more efficient, and compassionate basis.

This is what I believe civil service reform is all about and I intend to vote in favor of this bill. I urge my colleagues to support this legislation.●

● Mr. GLENN. I support and have cosponsored the civil service reform bill as it is reported by the committee and believe it to be, on the whole, an excellent proposal. I disagree, however, with a major feature of the bill: its apportionment of administrative authority relating to employment discrimination involving Federal workers.

The committee bill would create a procedure under which differences between the Equal Employment Opportunity Commission and the Merit System Protection Board on Employment discrimination questions would be resolved by the Court of Appeals. As the committee report states, "neither agency should have the authority to overrule the view of the other," and, when the matter is certified to the Court of Appeals, neither "agency should be considered as appealing the action of the other."

An alternative procedure, which I urged the committee to adopt but which it rejected, would allow both the MSPB and the EEOC to rule on such discrimination questions in a manner similar to that provided by the committee but would designate the EEOC as the final authority at the administrative level on such questions. Under this procedure, which was originally proposed by the administration, the EEOC would review the MSPB's actions insofar as they related to discrimination and render a decision which could be implemented immediately and, if reviewed, treated by the court with the deference normally accorded to final agency actions.

The basic difference between the two approaches lies in the respective answers they give to the question: Which agency

should be the final administrative authority on issues of alleged employment discrimination in the Federal work force? The committee's answer is that such final authority should be shared—although the extent of the sharing is ambiguous—between the MSPB and the EEOC. My approach would place that authority clearly in the EEOC.

The case for the latter approach rests on the proposition that the EEC is the Federal Government's central repository of sensitivity and expertise on employment discrimination matters. It is the administrative agency that has the responsibility at the Federal level for considering employment discrimination disputes arising in the private sector. I see no reason why, where discrimination disputes involve the employment practices of a Federal agency, the final administrative authority relating to those disputes ought not also to be centralized in the EEOC.

From the beginning three basic arguments have been made against this approach: that it would damage the independence of the MSPB by subjecting its decisions on certain questions to review by an executive branch agency; that the combination of adjudicatory and advocacy functions within the EEOC would be undesirable; and that such an approach would be administratively unworkable. I am not persuaded by these arguments.

With respect to the first, this committee and the Congress on several occasions have permitted an excutive agency to override an independent regulatory commission on questions which were considered best left to the executive branch. Precedents can be found in the existing Presidential override authority of the Civil Aeronautics Board and the International Trade Commission; and in the Department of Energy Organization Act and the Nuclear Nonproliferation Act of 1978, both of which were considered earlier in this Congress by this committee.

It is not the case, as it sometimes has been argued, that the executive branch may exercise these override authorities only in the foreign policy area. Under the DOE Organization Act, the DOE may veto FERC decisions on "energy actions" and other domestic matters specified in the act.

On the second and third of the arguments put forward, I can see no difference between the committee's approach and the one I support in the extent to which they are subject to the concerns raised. Apart from that, I believe those concerns to be minor at worst.

It is my hope therefore that the committee's action on this matter will be reversed in conference and that the House version will prevail.●

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. RIBICOFF. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. The yeas and nays have already been ordered.

The bill having been read the third time, the question is, Shall the bill pass?

The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, there will be no further rollcall votes tonight.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Delaware (Mr. BIDEN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from South Dakota (Mr. MCGOVERN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), and the Senator from New Mexico (Mr. SCHMITT) are necessarily absent.

The result was announced—yeas 87, nays 1, as follows:

[Rollcall Vote No. 365 Leg.]

YEAS—87

Allen	Hart	Moynihan
Bartlett	Haskell	Muskie
Bayh	Hatch	Nelson
Bellmon	Hatfield, Mark O.	Nunn
Bentsen	Hatfield, Paul G.	Packwood
Brooke	Hathaway	Pearson
Bumpers	Hayakawa	Pell
Burdick	Heinz	Percy
Byrd, Harry F., Jr.	Helms	Proxmire
Byrd, Robert C.	Hodges	Randolph
Cannon	Hollings	Ribicoff
Case	Huddleston	Riegle
Chafee	Humphrey	Roth
Chiles	Inouye	Sarbanes
Church	Jackson	Sasser
Clark	Javits	Schweiker
Cranston	Kennedy	Sparkman
Culver	Leahy	Stafford
Curtis	Long	Stennis
Danforth	Lugar	Stevens
DeConcini	Magnuson	Stevenson
Dole	Mathias	Stone
Durkin	Matsunaga	Talmadge
Eagleton	McClure	Thurmond
Ford	McIntyre	Tower
Garn	Melcher	Wallop
Glenn	Metzenbaum	Weicker
Griffin	Morgan	Williams
Hansen		Young
		Zorinsky

NAYS—1

Scott

NOT VOTING—12

Abourezk	Domenici	Johnston
Anderson	Eastland	Laxalt
Baker	Goldwater	McGovern
Biden	Gravel	Schmitt

So the bill (S. 2640), as amended, was passed.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PERCY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 2640.

The PRESIDING OFFICER (Mr. CLARK). Without objection, it is so ordered.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, the Civil Service Reform Act of 1978, which the Senate has passed today is, without doubt, one of the most important pieces of legislation to have confronted us in the 95th Congress. It is truly landmark legislation. For this bill represents the first comprehensive overhaul of the civil service system in 95 years.

One of the great complaints of the citizens of this country over the past several years has been the feeling that their Government has become so vast and unwieldy as to no longer be responsive to their needs. They have come to regard their Government as impersonal and inefficient—composed of faceless individuals who loaf more than work.

This impression of the Federal worker is simply untrue and does him a great injustice. Of course, some of these workers do fail to give a full day's work for a day's pay—just as in any institution. But your average Federal worker is certainly fully as dedicated as his counterpart in private industry.

To the extent that this false impression of the Federal worker has been created and to the extent that the Federal Government has, indeed, become unresponsive to the needs of the people of this country, these things are due in large measure to a civil service system that no longer functions in the manner in which originally anticipated. Although laudably intended to provide a work force in which employees were selected and advanced on the basis of competence rather than political or personal favoritism, the inflexible structures that have developed over the years as a result of a patchwork of statutes and rules built up over almost a century threaten to asphyxiate the merit principle itself.

There are four major areas of concern about the civil service system that were originally voiced by the Second Hoover Commission in the late 1940's and that still remain valid today. First, there is insufficient incentive and reward for encouraging high productivity and competence in the Federal work force. Second, bureaucratic procedures delay even the most elementary personnel actions, including decisions to hire and promote employees. Third, it is difficult and time consuming to fire employees whose work is unsatisfactory. Finally, the Civil Service Commission provides inadequate protection against partisan political abuse of the merit system.

The bill that the Senate has passed today will be a giant step toward resolving these concerns.

Through the creation of the Senior Executive Service, the mandating of performance appraisal systems, and the establishment of a bonus pay system, ample incentives and rewards are provided for exemplary employee performance.

The decentralization of major personnel management procedures and the increased ability provided to agency heads to reassign senior managers to positions where they may be more effective will serve to streamline personnel procedures.

The elimination of unnecessary review, the establishment of time limits for processing cases and the establishment of new standards for disciplining employees guilty of unacceptable performance will render more effective the procedures for dismissing employees who do not perform as they should.

The creation of a Merit Systems Protection Board, the establishment of a special counsel of the Merit Board and the codification of merit principles and prohibited personnel practices will protect the integrity of the merit system.

In sum, the bill that we have passed today will make major strides toward the goal of insuring the people of this country an efficient and effective Government where reward and promotion are based upon merit rather than partisan politics. It will go a long way toward strengthening the faith of the citizens of this country in their Government.

Mr. President, this legislation would never have come before the Senate but for the diligence and long hours of hard work and skillful labors of the distinguished Senator from Connecticut and chairman of the Governmental Affairs Committee, Mr. RIBICOFF. This great effort on behalf of what was a very controversial piece of legislation has resulted in its passage so easily today. His dedication and willingness to work for what he believes in are well known and have been amply evidenced again.

Great credit must also be given to the distinguished Senator from Illinois (Mr. PERCY), the ranking member of the Governmental Affairs Committee, for his efforts on behalf of this bill as well. He, too, has worked hard for and can take pride in its passage.

The people of this Nation owe both of these men a great debt of gratitude.

I have once again witnessed the exemplary skill and dedication, and the ability to work together, that have been so often manifested by these two Senators, Mr. RIBICOFF and Mr. PERCY.

The Senate is in their debt.

I am personally grateful to both, and the country will be well served by their labors today.

Mr. RIBICOFF. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. I yield.

Mr. RIBICOFF. Mr. President, I take this opportunity to thank the majority leader for his gracious comments. My thanks, too, for his understanding and consideration of the requests of the distinguished Senator from Illinois and myself to try to schedule this measure before the recess.

This, indeed, is one of the most important measures that this body has passed during this session. It became very important in the closing days, when the Calendar is so crowded and so many measures seek the attention of the majority leader. He was courteous and thoughtful in scheduling this bill today.

Again, not only do I appreciate his comments about my colleague, the Senator from Illinois. I do not know how a chairman could expect or hope for a ranking minority member to be the equal of Senator PERCY. We have worked together, our staffs have worked together, we tried to take these measures on a nonpartisan basis and work them out for the benefit of the Senate and the entire country.

I think this vote today, of 87 to 1, is a tribute to the President of the United States. It is a tribute to Mr. Campbell, and Mr. Sugarman, Chairman and Vice Chairman of the Civil Service Commission, and the other members of the administration who worked on this legislation. It is a tribute to Senator PERCY and the entire membership of the Governmental Affairs Committee.

Every member, both Democrat and Republican, of that committee worked completely cooperatively. They gave it their attention. Their staffs are outstanding.

Again, my thanks to the majority leader and Senator PERCY and, of course, Senator JAVITS, who always is in there pitching.

Also, I call attention to the Senator from Tennessee (Mr. SASSER). While he sits in the rear of this Chamber, he is the chairman of the subcommittee that has the responsibility for civil service legislation. This legislation could not have been achieved and accomplished without his expression of support. He chaired hearing after hearing. In markup, he was a tower of strength. We are fortunate to have the Senator from Tennessee (Mr. SASSER) as a member of our committee in chairing this most important subcommittee.

I also wish to thank the following staff members of our committee for the outstanding efforts on behalf of this legislation:

Richard Wegman, Paul Hoff, Paul Rosenthal, Claude Barfield, and Claudia Ingram of the Governmental Affairs Committee staff; John Childers, Ken Ackerman, and Connie Evans of the minority staff; Knox Walkup, Cindy Anderson, Ed Jayne, and Howard Orenstein of the Civil Service Subcommittee; Carl Fait and Jamie Cowan of Senator STEVENS' staff; Riley Temple of Senator MATHIAS' staff; Brian Conboy and Jackie Abelman of Senator JAVITS' staff; Brian Walsh of Senator CHILES' staff; Emily Eiselman of Senator EAGLETON's staff; Tom Cator of Senator HUMPHREY's staff, and Pamela Haynes of Senator HEINZ' staff.

Mr. PERCY. Mr. President, I have said many times that people in the business community with whom I have worked for many years have said, "Will you ever get any satisfaction in the Senate? Isn't it just frustrating in Washington?" Every time we have brought to a successful conclusion a major piece of legislation throughout the course of the years, I feel that that piece of legislation probably will do more good for more people than another 25 years in business might.

Never in my career have I ever had the privilege and pleasure of working with a colleague such as Senator RIBICOFF. With his sense of decency, his sense of dedication, his tremendous accomplishment, and his immense capacity for work, he could run General Motors, he could run Ford, he could run Chrysler, and he could run them on time and on schedule. That is the way he runs the Governmental Affairs Committee.

The ranking minority member, the Senator from Illinois, attempts always to be in his seat, ready to go, precisely on time. We probably are one of the few committees that tries to stay on time.

Both of us are deeply indebted to our distinguished majority leader, who, together with Senator BAKER, has on occasion probably gotten somewhat weary of talking to Senator RIBICOFF and Senator PERCY about civil service reform; because, as the distinguished Senator from Connecticut indicated, they do have many items of priority, and every committee chairman and every ranking minority member feels that his legislation is the most important and must be done now.

Every commitment made to us has been fulfilled. In scheduling this matter, the distinguished majority leader and the distinguished minority leader, Senator BAKER, have known that it not only is terribly important to those of us in Congress to see that we have a responsive civil service but also very important to the President of the United States.

The President, without hesitation, with tremendous courage and great foresight, has pioneered in this area. He has worked closely with the Chairman of the Civil Service Commission, Chairman Alan Campbell. Together, they have been sufficiently responsive to the individual needs and feelings of Members of the Senate so that their flexibility has made possible this achievement tonight.

I express my deep gratitude to the distinguished majority leader for his words. They mean a great deal to the Senator from Illinois. Speaking as one member of the minority, it is an honor and privilege and a pleasure to work with my distinguished colleague as leader of the U.S. Senate on the majority side. He provides a great deal of inspiration to all of us who want to see a sense of accomplishment and he is backed up ably by our beloved and distinguished colleague from California Senator CRANSTON.

The members of our committee, who have worked so tirelessly on this legislation, all of whom we have mentioned previously today, deserve great credit.

I yield to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, both the distinguished chairman and the distinguished ranking minority member have been very gracious in their comments. It is characteristic of them.

I also take this occasion to express appreciation to Mr. MATHIAS and Mr. STEVENS for the dedication they gave to this work. They worked with the chairman and the ranking minority member in dealing with a great many problems. It is because they were able to work together and resolve many of these problems before the bill was even called up that it was made possible for the bill to pass the Senate.

I am glad the distinguished chairman has called attention to the services of the very able Senator from Tennessee (Mr. SASSER). I have noted how this new Senator has gone about his work. He is self-effacing. He works quietly but effectively and with great dedication. I see in Senator SASSER one of the developing strong Senators in this institution.

He gives any job that is handed to him his best, and he makes a little job big. He distinguished himself by this kind of dedication and by the excellence of the product he brings to the floor. Also, he cooperates well with the leadership.

I take this opportunity to express my thanks to him, as the chairman has done, for the quiet but very dedicated and effective work he has done in making this accomplishment today possible.

Mr. PERCY. Mr. President, I yield to my distinguished colleague from Tennessee. I know the Senator from Indiana wishes to obtain the floor, but I believe the Senator from Tennessee would like to make a comment in this colloquy. Then, after I ask for a unanimous-consent request, I will be happy to yield the floor to Senator BAYH, who has been waiting patiently.

Mr. SASSER. I thank the distinguished Senator from Illinois for yielding.

Mr. President, I thank the able and distinguished majority leader for the kind and generous remarks he has directed toward this Senator this evening. With the help of the majority leader and with the capable and farsighted leadership of the chairman of the Governmental Affairs Committee, the distinguished Senator from Connecticut, and with the able cooperation and able leadership of the ranking minority member of the Governmental Affairs Committee, the distinguished Senator from Illinois, we have produced this evening a significant piece of legislation. We have grappled with a very difficult problem and have done it very well.

I am very hopeful that what we have done in this legislation and what we have produced this evening will be the opening salvo in making the civil service and the Government service of this country more responsive to the constituency it serves.

I thank the distinguished Senator for yielding.

Mr. PERCY. Mr. President, the Senator from Illinois will yield for a final concluding comment by the distinguished Senator from Maryland.

Mr. MATHIAS. I will forego that pleasure for the moment.

Mr. PERCY. Mr. President, the Senator from Illinois wishes to say that this bill would not have been possible without the devotion and dedication of our distinguished colleague from Maryland, who has truly done a momentous job in balancing out the interests of the people of this country with the interests of the Federal employees.

The PRESIDING OFFICER. The Chair recognizes the Senator from Indiana.

Mr. BAYH. Mr. President, I add my commendations to the distinguished Senator from Connecticut and the distinguished Senator from Illinois and my friends from Maryland and Tennessee, and all of those who were responsible for the passage of this very important piece of legislation.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business with Senators allowed to speak up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer laid before the Senate a message from the President of the United States submitting the nomination of Stanford G. Rose, of the District of Columbia, to be Commissioner of Social Security of the Department of Health, Education, and Welfare, which was referred to the Committee on Finance.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC-4232. A communication from the Commander, Naval Sea Systems Command, Department of the Navy, reporting, pursuant to law, on the claim of Boland Marine & Manufacturing Co., Inc., New Orleans, La., against the United States; to the Committee on Appropriations.

EC-4233. A communication from the Assistant Secretary of Defense (Comptroller), reporting, pursuant to law, on the value of property, supplies, and commodities provided by the Berlin Magistrate, and under German Offset Agreement for the quarter April 1, 1978, through June 30, 1978; to the Committee on Appropriations.

EC-4234. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "U.S. Foreign Relations and Multinational Corporations: What's the Connection?" August 23, 1978; to the Committee on Governmental Affairs.

EC-4235. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Progress and Problems in Improving the Availability of Primary Care Providers in Underserved Areas," August 22, 1978; to the Committee on Governmental Affairs.

EC-4236. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a report on a new system of records identified as A1014.08cDAAG, entitled "College Transcript Registry System"; to the Committee on Governmental Affairs.

EC-4237. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a report on a new system of records identified as A0714.06cDASG, entitled "AMEDD Personnel Management System"; to the Committee on Governmental Affairs.

EC-4238. A secret communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report on the numerous uncertainties that exist in the Air Force GBU-15 program on short and long range air-to-ground glide weapons; to the Committee on Governmental Affairs.

EC-4239. A communication from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within sixty days after the execution thereof; to the Committee on Foreign Relations.

EC-4240. A communication from the Chief Commissioner, U.S. Court of Claims, transmitting, pursuant to law, a report and findings of the Trial Commissioner, dated November 21, 1977, in Sperling & Schwartz, Inc. v. the United States, Cong. Ref. 1-74, and a report of the Review Panel dated July 20, 1978; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. EAGLETON, from the Committee on Governmental Affairs, without amendment:

H.R. 7814. An act to authorize Federal agencies to experiment with flexible and compressed employee work schedules.

H.R. 10126. An act to amend title 5, United States Code to establish a program to increase part-time career employment within the Civil Service.

By Mr. SPARKMAN, from the Committee on Foreign Relations, without amendment:

S.J. Res. 154. A joint resolution authorizing the President to invite the States of the Union and foreign nations to participate in the International Petroleum Exposition to be held at Tulsa, Okla., from September 10, 1979, through September 13, 1979 (Rept. No. 95-1145).

S. Res. 546. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 3161. Referred to the Committee on the Budget.

By Mr. SPARKMAN, from the Committee on Foreign Relations, with an amendment:

S. 3161. A bill to provide for a National Commission on the International Year of the Child, and for other purposes (Rept. No. 95-1146).

By Mr. SPARKMAN, from the Committee on Foreign Relations, with amendments:

S.J. Res. 111. A joint resolution to authorize participation by the United States in parliamentary conferences with Japan (Rept. No. 95-1147).

By Mr. ROBERT C. BYRD, from the Committee on the Judiciary, without amendment:

H.R. 2952. An act for the relief of M/Sgt. William E. Boone, U.S. Army, retired (Rept. No. 95-1148).

H.R. 7162. An act for the relief of Stephanie Johnson (Rept. No. 95-1149).

H.J. Res. 773. A joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the 7 calendar days beginning September 17, 1978, as "National Port Week" (Rept. No. 95-1150).

By Mr. DOLE, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. 3460. An original bill to authorize the Secretary of Agriculture to purchase and distribute food as needed to assist other nations meet urgent humanitarian and other food needs, and to authorize owners of 1977 crop sugar to advance the maturity date on price support loans, and for other purposes (Rept. No. 95-1151).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WILLIAMS, from the Committee on Human Resources:

The following-named persons to be Members of the Federal Mine Safety and Health Review Commission:

Jerome R. Waldie, of Maryland;
Richard V. Backley, of Virginia;
Marian Pearlman Nease, of Maryland;
Frank P. Jestrab, of North Dakota; and
A. E. Lawson, of Pennsylvania.

(The above nominations from the Committee on Human Resources were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. TALMADGE (by request):

S. 3456. A bill to amend the Federal Seed Act; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HART:

S. 3457. A bill to amend the Communications Act of 1934 in order to require that licensees keep a public record of requests for broadcast time with respect to propositions and questions in State and local elections; to the Committee on Commerce, Science, and Transportation.

By Mr. SASSER:

S. 3458. A bill for the relief of the Memphis-Plough Community Foundation of Memphis, Tenn.; to the Committee on Finance.

By Mr. TOWER:

S. 3459. A bill to establish a Citizens Commission on Economic Regulatory Oversight to study Federal economic regulation and recommend the elimination of unnecessary regulatory agencies and laws, and for other purposes; to the Committee on Governmental Affairs.

By Mr. DOLE (from the Committee on Agriculture, Nutrition and Forestry):

S. 3460. A bill to authorize the Secretary of Agriculture to purchase and distribute food as needed to assist other nations meet urgent humanitarian and other food needs, and to authorize owners of 1977 crop sugar to advance the maturity date on price support loans, and for other purposes. Original bill reported and placed on the calendar.

By Mr. BROOKE:

S. 3461. A bill to extend the authority for the flexible regulation of interest rates on deposits and accounts in depository institutions and to provide that there shall be no differential with respect to transaction accounts; to the Committee on Banking, Housing, and Urban Affairs.

S. 3462. A bill to provide for the maintenance of reserves by member banks through certificates of deposits issued by the Federal Reserve Banks and to reduce and restructure reserve requirements; to the Committee on Banking, Housing, and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TALMADGE (by request):

S. 3456. A bill to amend the Federal Seed Act; to the Committee on Agriculture, Nutrition, and Forestry.

FEDERAL SEED ACT

● Mr. TALMADGE. Mr. President, I am introducing this bill at the request of the administration. The bill would amend the Federal Seed Act to clarify existing requirements, strengthen existing practices, and repeal obsolete requirements of the act.

One particular provision of significance in this bill would redefine the term "variety" in line with modern concepts of plant breeding so that it would be more clearly understood by plant breeders, seedsmen, regulatory officials and others. No additional appropriations would be required by enactment of this bill.

Mr. President, I ask unanimous consent that the bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the bill and analysis was ordered to be printed in the RECORD, as follows:

S. 3456

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Seed Act is amended as follows:

(a) Section 101(a)(9)(B) of the Act is amended to read as follows:

"(B) For the purpose of title III, the term 'noxious-weed seeds' means the seeds or bulblets of any kind which after investigation the Secretary of Agriculture prescribes by regulation to be prohibited because the species (i) is perennial and difficult to eradicate once established, (ii) is parasitic, (iii) harbors diseases or insects which constitute a menace to crops, or (iv) is not common in the United States but would constitute a potential menace if introduced.".

(b) Section 101(a)(12) of the Act is amended to read as follows:

"(12) The term 'variety' means a subdivision of a kind which is distinct, uniform, and stable; 'distinct' in the sense that the variety clearly differs by one or more identifiable morphological, physiological, or other characteristics (which may include those evidenced by processing or product characteristics, such as milling and baking characteristics of wheat) as to which a difference in genealogy may contribute evidence, from all prior varieties of public knowledge; 'uniform' in the sense that any variations are describable and predictable; and 'stable' in the sense that the variety when reproduced or reconstituted will remain unchanged with regard to its essential and distinctive characteristics within a reasonable degree of reliability commensurate with that of varieties of the same category in which the same method of plant breeding is employed.".

(c) Section 101(a)(13) of the Act is hereby repealed.

(d) Section 101(a)(17) of the Act is amended to read as follows:

"(17) The term 'pure-live seed' means the product of the percentage of germination (plus the hard seeds or dormant seeds, if present) and the percentage of pure seed, divided by 100.".

(e) Section 201(a)(4) of the Act is amended to read as follows:

"(4) Percentage by weight of weed seeds, including noxious-weed seeds. The percentage of weed seeds shall not exceed the percentage allowed for shipment, movement, or sale by the law of the State into which the seed is offered for transportation or transported;".

(f) Section 201(b) of the Act is amended to read as follows:

"(b) Any vegetable seeds, for seeding purposes, in containers, unless each container bears a label giving the following information in accordance with rules and regulations prescribed under section 402 of this Act:

"(1) The name of each kind and variety of seed, and if two or more kinds or varieties are present, the percentage of each. In the case any such component is a hybrid seed, it shall be designated as hybrid on the label. Any portion of nonhybrid seed resulting from uncontrolled pollination in hybrid production need not be labeled as a variety name but shall be labeled as to kind and, if not labeled as to variety, the statement 'Variety Not Stated';

"(2) The name and address of—

"(A) The person who transports, or delivers for transportation, said seed in interstate commerce, or

"(B) The person to whom the seed is sold or shipped for resale, together with a code designation approved by the Secretary of Agriculture, under rules and regulations prescribed under section 402 of this Act, indicating the person who transports or delivers for transportation said seed in interstate commerce;

"(3) For containers of less than 1 pound of seed that germinates less than the standard last established by the Secretary of Agriculture as provided under section 403 of this Act—

"(A) For each named kind and variety of seed—

"(i) The percentage of germination, exclusive of hard seeds;

"(ii) The percentage of hard seeds, if present;

"(iii) The calendar month and year the test was completed to determine such percentages;

"(B) The words 'Below Standard'; and

"(4) For containers of 1 pound or more of seed—

"(A) The lot number of other identification;

"(B) For each named kind and variety of seed—

"(i) The percentage of germination, exclusive of hard seeds;

"(ii) The percentage of hard seeds, if present;

"(iii) The calendar months and year the test was completed to determine such percentages; and

"(C) Kind of noxious-weed seeds and the rate of occurrence of each, which rate shall be expressed in accordance with and shall not exceed the rate allowed for shipment, movement, or sale of such noxious-weed seeds by the law and regulations of the State into which the seed is offered for transportation or transported or in accordance with the rules and regulations of the Secretary of Agriculture, when under the provisions of section 101(a)(9)(iii), he shall determine that weeds other than those designated by State requirements are noxious.".

(g) Section 201(i) of the Act is amended to read as follows:

"(i) Any agricultural seeds or mixture thereof, or any vegetable seeds or mixture thereof, for seeding purposes, that have been treated and bear or contain a toxic substance in an amount considered unsafe within the meaning of the Federal Food, Drug, and Cosmetic Act to humans or other vertebrate animals unless the seeds are colored in a distinctive manner as the Secretary of Health, Education, and Welfare prescribes by regulations, and unless each container bears a label giving the following information and statements in accordance with rules and regulations prescribed under section 402 of this Act:

"(1) A word or statement indicating that the seeds have been treated;

"(2) The commonly accepted coined, chemical (generic), or abbreviated chemical name of any substance used in such treatment; and

"(3) An appropriate cautionary statement approved by the Secretary of Agriculture as adequate for the protection of the public, such as, 'Do not use for food or feed or oil purposes': *Provided,* That the cautionary statement for highly toxic substances, as defined in the rules and regulations, shall be a representation of a skull and crossbones and a statement, such as 'This seed has been treated with POISON', in red letters on a background of distinctly contrasting color.".

(h) Section 201(j)(2)(A) of the Act is amended to read as follows:

"(A) Percentage by weight of weed seeds, including noxious-weed seeds. The percentage of weed seeds shall not exceed the percentage allowed for shipment, movement, or sale under the law of the State into which the seed is offered for transportation or transported;".

(i) Section 202 of the Act is amended to read as follows:

"SEC. 202. All persons transporting or delivering for transportation in interstate commerce agricultural or vegetable seeds subject to this Act shall keep for a period of 3 years a complete record, including samples of each lot of seed handled, of (a) purchases, sales, cleaning, conditioning, treatment, bulking, blending, storage, and labeling; (b) analyses, tests, or examinations for purity, including varietal purity, germination, and weed seeds; and (c) declarations or other records of origin, kind, and variety, so that seed may be correctly labeled and so that the seed may be traced from the grower to the consumer. The Secretary of Agriculture, or his duly authorized agents, shall have the right to inspect such records for the purpose of the effective administration of this Act.".

(j) Section 203 of the Act is amended by adding a new subsection as follows:

"(f) The labeling requirements of sections 201(a), (b), and (j) shall not apply to seed in containers when shipped between wholly-owned branches or subsidiaries of the same wholesale seed company if the invoice or other records accompanying and pertaining to such seed bear the various statements required under sections 201(a), (b), and (j), and if the containers bear the lot number or other identification.".

(k) Section 301(a)(2) of the Act is amended to read as follows:

"(2) screenings of any seed subject to this Act except that this shall not apply to screenings of seeds determined by the Secretary of Agriculture to be useful for other than seeding purposes and which are not imported for seed purposes and are declared not for seeding purposes;".

(l) Section 301(a)(5) of the Act is amended to read as follows:

"(5) any agricultural seeds or mixture thereof, or any vegetable seeds or mixture thereof, for seeding purposes, that have been treated and bear or contain a substance in an amount considered unsafe within the meaning of the Federal Food, Drug, and Cosmetic Act to humans or other vertebrate animals unless such seeds are colored in a distinctive manner as the Secretary of Health, Education, and Welfare prescribes by regulations, and unless each container bears a label giving the following information and statements in accordance with rules and regulations prescribed under section 402 of this Act.

"(A) A word or statement indicating that the seeds have been treated;

"(B) The commonly accepted coined, chemical (generic), or abbreviated chemical name of any substance used in such treatment; and

"(C) An appropriate cautionary statement approved by the Secretary of Agriculture as adequate for the protection of the public such as, 'Do not use for food or feed or oil purposes': *Provided,* That the cautionary statement are highly toxic substances, as defined in the rules and regulations, shall be a representation of a skull and crossbones and a statement, such as 'This seed has been treated with POISON', in red letters on a background of distinctly contrasting color.".

(m) Section 302(d)(3) of the Act is amended to read as follows:

"(3) when seed not meeting the pure-live seed requirements of section 304 of this title will not be sold within the United States and will be used for seeding purposes only by or for the importer or consignee: *Provided,* That the importer or consignee files a statement in accordance with the rules and regulations prescribed under section 402 of this Act certifying that such seed will be used only for seeding purposes by or for the importer or consignee.".

(n) Section 302(e) of the Act is amended to read as follows:

"(e) The provisions of this title requiring certain seeds to be stained shall not apply when such seed will not be sold within the United States and will be used for seeding purposes only by or for the importer or consignee: *Provided,* That the importer or consignee files a statement in accordance with the rules and regulations prescribed under section 402 of this Act certifying that such seed will be used for seeding purposes only by or for the importer or consignee.".

(o) Section 303 of the Act is hereby repealed.

(p) Section 402(c) of the Act is amended to read as follows:

"(c) Prior to the promulgation of any rule or regulation under this Act, due notice shall be given by publication in the Federal Register of intention to promulgate, and interested persons shall be given not less than 30 calendar days to submit data, views, and arguments thereon, in writing, or to request a public hearing. Upon request and a showing of good cause by an interested party, a public hearing shall be held, and announcement thereof shall be published in the Federal Register not less than 30 days prior to the hearing. If a public hearing is held, no rule or regulation may be promulgated until after such hearing. Any rule or regulation shall become effective on the date fixed in the promulgation, which date shall be not less than 30 days after publication in the Federal Register, and may be amended or revoked in the manner provided for its promulgation.".

(q) Section 406(b) of the Act is amended to read as follows:

"(b) Any person who violates any provision of this Act or the rules and regulations made and promulgated thereunder shall forfeit to the United States a sum of not more than $1,000 for each violation, which forfeiture shall be recoverable in a civil suit brought in the name of the United States."

(r) Section 501(a) of the Act is amended to read as follows:

"(a) It shall be unlawful in the United States or in interstate or foreign commerce to sell or offer for sale or advertise by variety name seed not certified by an official seed certifying agency when it is a variety for which a certificate of protection issued under the Plant Variety Protection Act specifies sale only as a class of certified seed: *Provided,* That seed from a certified lot may be labeled as to variety name when used in a mixture by, or with the approval of, the owner of the variety.".

SEC. 2. This Act shall become effective 90 days after enactment.

SECTION-BY-SECTION ANALYSIS

SECTION 1

Section 1 of the bill would clarify existing requirements, strengthen existing practices, and repeal obsolete requirements of the Federal Seed Act.

Subsection (a) would delete the list of noxious-weed seeds from the Act and authorize the Secretary to establish by regulation the kinds of weed seeds that would be considered noxious when occurring in imported seed. The Secretary now has authority to add kinds to the list included in the Act but not to remove kinds from the list. The present list of noxious-weed seeds would be adopted in the regulations, together with an additional 15 to 20 kinds which are known to be noxious in other countries, do not occur in this country, and will be named in the regulations under the Federal Noxious Weed Act.

Subsection (b) would make the definition of "variety" correspond with the definition in the Plant Variety Protection Act. This provision would not materially change the meaning of the term. A more specific and more uniform definition is needed for use in determining whether new products of plant breeding constitute new varieties.

Subsection (c) would delete the existing definition of "type" and permit the use of any "type" designations that are not false and misleading. Examples of type designations that may be useful are "hard red winter type wheat", "double-cut type red clover", and "winter hardy type alfalfa". Since the Federal Seed Act was enacted in 1939, labeling as to type has become less common and labeling as to variety has become common in the marketing of agricultural seed.

Subsection (d) would broaden the definition of "pure-live seed" so it would be applicable to interstate shipments. Labeling of interstate shipments as to pure-live seed is not required, but the term is used in the marketing of native rangegrasses to indicate quality.

Subsection (e) would prohibit the shipment of agricultural seed into a State if the seed contains weed seeds in excess of the percentage permitted by the seed law of that State.

Subsection (f) would reorganize the current labeling requirements for vegetable seeds into a simple, more orderly arrangement. It would also exempt the labeling as to variety name the nonhybrid seed in hybrid seed. Such nonhybrid seed may not be a "variety" as that term is defined, or it may not be feasible to determine the name or names of the nonhybrid seed. Showing the presence of the nonhybrid seed is necessary to inform the buyer of the components. This provision would also require labeling the rate of occurrence of noxious-weed seeds in vegetable seeds, or would prohibit certain noxious-weed seeds, in packages of one pound or more, the same as it required of agricultural seeds.

Subsection (g) would remove, with respect to interstate commerce, the requirement for labeling treated seed when the seed bears only nontoxic amounts of substances (or no substance at all) and is within the tolerances recognized by the Food and Drug Administration for food or feed, and would add a requirement for coloring the seed a distinctive color if the seed does bear a harmful substance to prevent use as food or feed.

Subsection (h) would prohibit the shipment of lawn and turf seed mixtures into a State if the mixtures contain weed seeds in excess of the percentage permitted by the laws of that State.

Subsection (i) would reword the section to make clear that all handlers of seeds sub-

ject to the Act are required to keep a complete record of each lot of agricultural or vegetable seed handled.

Subsection (j) would add a new subsection to exempt from the detailed labeling requirements seed shipped between branches of the same wholesale seed company.

Subsection (k) would delete the kinds of screenings that are exempt from the Act and authorize the Secretary of Agriculture to establish by regulation the kinds of screenings which are exempt; that is, the kinds that can be imported for other than seeding purposes. One of the purposes of prohibiting screenings is to preclude their use in adulterating seed for planting purposes. Screenings of most of the "food" seeds now are exempt. This provision would also permit the Secretary to exempt all screenings of seeds declared for food, feed, or industrial purposes.

Subsection (l) would remove, with respect to foreign commerce, the requirement for labeling treated seed when the seed bears only nontoxic amounts of substances (or no substance at all) and is within the tolerances recognized by the Food and Drug Administration for food or feed, and would add a requirement for coloring the seed a distinctive color if the seed does bear a harmful substance to prevent use as food or feed.

Subsection (m) would permit importers to foreign commerce, the requirement for regard to the pure-live seed requirements.

Subsection (n) would permit importers to import seed for their own use without regard to the staining requirements.

Subsection (o) would delete a section of the Act which is obsolete. Mixtures can now be imported if declared as mixtures; and when not so declared, an amended declaration is all that is needed for admission.

Subsection (p) would require that before a rule or regulation is promulgated, interested persons shall be given an opportunity to present views in writing or orally or to request a public hearing. The Act now requires a public hearing even for minor promulgations to which there is no objection.

Subsection (q) would change the amount of forfeitures from "not less than $25 or more than $500," to "not more than $1,000" so that forfeitures could be more consistent with the extent of the violation.

Subsection (r) would extend the present prohibition that applies only to the "sale" of seed when the certificate of Plant Variety Protection specifies sale by variety name only as a class of certified seed, to include seeds "offered for sale or advertised".

SECTION 2

Section 2 of the bill provides that the provisions are to become effective 90 days after enactment.●

By Mr. HART:

S. 3457. A bill to amend the Communications Act of 1934 in order to require that licensees keep a public record of requests for broadcast time with respect to propositions and questions in State and local elections; to the Committee on Commerce, Science, and Transportation.

POLITICAL COMMUNICATIONS DISCLOSURE

● Mr. HART. Mr. President, on April 26, 1978, the Supreme Court upheld the right of corporations to make expenditures to express their views on political issues. In First National Bank of Boston against Bellotti, the Court, divided 5 to 4, ruled unconstitutional a Massachusetts statute prohibiting expenditures by corporations for the purpose of influencing a vote on referendum proposals. The Court found that:

There was no showing that the relative voice of corporations has been overwhelming or even significant in influencing referenda in Massachusetts.

The Supreme Court's decision raises the possibility that not only corporations, but also comparable entities—labor unions, associations, partnerships—will become even more deeply involved financially than they are now in elective politics. The decision is troubling because corporations are, after all, quite different from human beings. As the Washington Post noted in an editorial following the Supreme Court's decision, corporations are not minds that formulate ideas, or even voices that freely express them. Rather, in a political debate, corporations serve as megaphones for the views of those who own or control them.

Mr. President, in more and more States it is becoming common practice for controversial issues to be put directly to voters in the form of initiatives or referendums. Such referendums may relate to nuclear power plant construction, nonreturnable bottles, utility ratemaking rules, and so forth. In the great majority of cases, citizen groups which have petitioned for the ballot measures have been overwhelmingly defeated. In many cases it seems clear that expensive corporate and industry advertising campaigns directly affected the outcome of the balloting.

It might seem apparent that massive corporate spending will influence public opinion and voting behavior during referenda elections, but the Supreme Court's decision underscores the need for most data and public information on this subject. Since corporations may now spend freely to influence voter behavior on noncandidate ballot issues, it is more important than ever that there be meaningful disclosure requirements regarding those expenditures. Disclosure becomes one of the few effective means of guaranteeing full public awareness of such corporate political activity.

Legislation which I am introducing today will require every licensee of the Federal Communications Commission to keep, and permit public inspection of, requests for broadcast time made in behalf of or in relation to any proposition, referendum, or ballot question in any State or local election. The legislation specifies that the public record must include information showing the origin of the request, the disposition made by the licensee of the request, and, if the request is granted, the amount charged for the broadcast or broadcasts, and the number and time of day of such broadcasts. Federal Communications Commission regulations already require every licensee to keep and permit public inspection of advertising contracts relating to electoral candidates. My bill, extending this rule to noncandidate ballot questions, is merely the sound and logical next step in efforts to insure a fair and open political process.

Since the great bulk of advertising during State and local ballot questions is conducted through television and radio, the disclosure requirements mandated by this legislation will play an important role in guaranteeing all interested parties the information necessary to examine and respond to the serious imbalance that exists in access to the media between citizen groups and well-financed industry interests. The information which these disclosure requirements will yield will enable both the legislative and judicial branch more carefully to consider the impact of disproportionate spending on State and local referenda.

The electoral process is, of course, at the heart of our democratic system. When political advertising by corporations for the purpose of influencing State and local referendum elections almost totally dominates the media, such expenditures seriously threaten the first amendment's objective of insuring a free and vigorous exchange of ideas. The courts and the Congress have long recognized the need to guard against corporate domination of the political process. The legislation I introduce today is important if our ideal of a democratic society is to become a reality for all Americans.●

By Mr. TOWER:

S. 3459. A bill to establish a Citizens Commission on Economic Regulatory Oversight to study Federal economic regulation and recommend the elimination of unnecessary regulatory agencies and laws, and for other purposes; to the Committee on Governmental Affairs.

CITIZENS COMMISSION ON ECONOMIC REGULATORY OVERSIGHT ACT OF 1978

Mr. TOWER. Mr. President, I am today introducing a bill to provide a way for the citizens of our country to have a direct voice in the elimination of unnecessary regulatory agencies and oppressive laws. As Edmund Burke told the citizens at Bristol:

BAD LAWS ARE THE WORST SORT OF TYRANNY

The bill would establish a Commission of distinguished citizens from outside Government to review Federal economic regulatory agencies and laws and to recommend to Congress the elimination of those agencies, laws, and regulations which are no longer needed because either their goals have been achieved or circumstances have changed. The emphasis of the Commission would be to go to the people to find the answers. It would be required that the Commission hold town hall meetings in different sections of the country to receive testimony from citizens on the need to eliminate specific regulatory areas. The Commission would also be required to establish a hotline for citizens to register complaints with the Commission. The Commission would be required to make a tentative report on agencies, laws, and regulations to be eliminated in 1 year and a final report in 18 months. Members of the Commission would be appointed by the President and the majority and minority leaders of the House and Senate.

THE COST OF GOVERNMENT REGULATION

Americans' daily lives and work are subject to a huge and growing web of government edicts.

The magnitude of the burden may be seen from a recent study which revealed that the burden imposed on the American economy by Federal regulatory activities in 1976 totaled $66.1 billion. This estimate comprises $3.2 billion in administrative expenditures and $62.9 billion in compliance costs. A comparison breakdown shows this to be the equivalent to: 4 percent of the gross national product; $307 per person living in the United States; 18 percent of the Federal budget; twice the amount that the Federal Government spends on health; 74 percent of the amount devoted to national defense; over one-third of all private investment in new plants and equipment; nor does there appear any surcease in this activity.

Funds allocated in the 1978 Federal budget for regulation total $3.8 billion, an 85-percent increase over the fiscal 1974 figure of $2 billion, which does not take into account compliance costs. A confidential report submitted by the Council on Wage and Price stability to the administration's economic policy group warns that additional costs to U.S. business and the consumer of regulations coming up before the Federal agencies next year could be as high as $35 billion.

Ultimately the cost of Government regulation comes out of the pocket of the consumer and the taxpayer.

Figures contained in a study compiled for the Joint Economic Committee of Congress reveal that the U.S. motorist paid an increase on average of $666 in 1978 for a new car due to federally mandated safety and environmental features. The same report cited Federal, State, and local government regulatory requirements as adding between $1,500 and $2,500 to the cost of a typical new house.

Small business is disproportionately hard hit by paperwork as well as other types of Government regulation. The Commission on Federal Paperwork reports that 5 million small businesses spend $15–$20 billion, or an average of over $3,000 each on Federal paperwork. This is compounded by the fact that most small businesses simply do not have the high-paid legal and accounting staffs to assist in compliance and the completion of these forms.

Too often it costs small business more to comply with regulations than it does larger firms. A good example may be seen in the National Labor Relations Board elections. Figures contained in the Joint Economic Committee study reveal that the cost per employee of an NLRB election for a small firm averages $134.60 whereas large firms with over 1,000 employees have a unit cost of $101.60.

In too many cases, regulation is either counterproductive or has unexpected side effects.

Take for example the Davis-Bacon Act which was established in 1931 to shield local labor on Federal construction projects from the competition of the lower wage rate of nonlocal labor. The major and most obvious disadvantage of this legislation has been to prevent the Government from minimizing costs. It prevents the Government from accepting the lowest bid if the "prevailing wages" are not paid by the contractor. It has been estimated that these additional costs exceed half a billion dollars a year.

Another case of outmoded and counterproductive legislation may be seen in the 24-year-old system of Federal regulation of interstate natural gas. The artificially low Federal price ceilings, together with the excessive delays and regulatory redtape, have succeeded only in discouraging production of gas supplies and crating shortages. This should be contrasted with the unregulated intrastate natural gas markets. Particularly in Texas, which have enjoyed the benefits and security of adequate supplies of this critically important fuel.

Look for a moment at the minimum wage law. This well-intentioned but misdirected legislation has as its purpose the protection of workers. Yet it has priced hundreds of thousands of people out of the labor markets. One increase alone has been shown to have reduced teenage employment by 225,000 with a disproportionately large impact on nonwhite youths. Other victims have been numerous small firms unable to meet the increased costs imposed by the law.

THE GROWTH OF ECONOMIC REGULATION

It would be instructive to look for a moment at the growth of economic regulation in the United States and attempts at reform.

Economic regulation probably began in the United States in 1789, when a Government agency was established to regulate the duties collected on imported goods. Acronyms began to be used in 1887, with the establishment of the Interstate Commerce Commission (ICC). In 1906, the Food and Drug Act produced a regulatory agency to protect public health. The Great Depression produced the Civil Aeronautics Board, the Federal Communications Commission, the Federal Maritime Commission, the Federal Power Commission, the Securities and Exchange Commission, and so forth. This traditional pattern was for Congress to establish a specialized administrative agency to address specific economic problems.

In the 1960's, regulation took a new turn, seeking primarily to meet social objectives rather than economic needs. Thus, the Equal Employment Opportunity Commission, the Occupational Safety and Health Administration, the Environmental Protection Agency, the Consumer Product Safety Commission, and other such agencies were created.

After almost 200 years of effort, we have created a labyrinth of regulatory agencies that affect every aspect of American life. Paradoxically, major criticisms of the complexity and authority of the regulatory maze were first voiced during the New Deal. At that time, President Franklin Roosevelt established the President's Committee on Administrative Management (the Brownlow Committee), the report of which concludes that the independent regulatory commissions constitute a serious and increasing problem.

The report stated that they obstruct effective overall management in the executive branch of the Government and hinder coordination of policy. Two Hoover Commissions studied the organization of the executive branch under Presidents Truman and Eisenhower. President Kennedy, prior to his inauguration, commissioned James M. Landis to report on the regulatory agencies.

In 1964, President Johnson established the Administrative Conference of the United States to reform the regulatory process, and President Nixon established the President's Advisory Council on Executive Organization (the Ash Council) in 1969.

President Ford took steps toward reform in several areas, and president Carter made regulatory reform a major issue in his Presidential campaign.

The area has not been neglected by Congress. An excellent study on Federal regulatory reforms was completed in 1977 by the Senate Committee on Government Operations and the House Subcommittee on Oversight and Investigations made its comprehensive report a year earlier. One of the best efforts in the area may be seen in the recently issued exposure draft of the American Bar Association's commission on law and the economy.

WHY PAST EFFORTS TO ELIMINATE REGULATION HAVE FAILED

Although there have been numerous commissions and task forces studying and making recommendations for regulatory reform, none of these have had the mandate of coming in with a shopping list of agencies and laws to be eliminated. Many of their recommendations are for a reshuffling of existing agencies. What is really needed is the elimination of unnecessary regulation.

Although there is a broad conscensus that regulation is imperfect and that there is a need for substantive reform, little has been done in the area of elimination of regulation. The truth of the matter is that both this Congress and the Carter administration on balance have increased rather than decreased regulation over the past year. Observers in the area attribute several factors to the failure for national action in this area.

First, the major benefactors—the consumers and taxpayers—are largely unaware of their stake in the outcome of the elimination of outmoded regulation and obsolete agencies and bureaus. On the other hand, those who stand to lose are small but well organized. They are the congressional committees having the oversight responsibility for the agencies, the bureaucrats who administer the laws and regulations, and the groups who benefit from the regulation. Consequently, it is not surprising that the congressional committees and the executive branch have done little in the way of eliminating regulations or agencies. What is really needed is an outside group of impartial citizens who can weigh the costs and benefits of regulations and make recommendations for strengthening or eliminating the laws and the agencies. The Citizens Committee to be established by my bill would go to the people on this issue to fulfill that need.

FUNCTIONS OF THE COMMISSION

The primary role of the Commission is to study and evaluate the functioning of the independent economic regulatory agencies and economic regulation generally. The focus of this study is to be on:

Whether, and to what extent, Federal laws and regulations which provide economic regulation and which have been in effect for 5 years or more accomplish their intended goals in light of the economic and judicial costs which they generate, including estimates of the increase in the cost to the consumer of housing, food, transportatino, and consumer products;

Which regulatory agencies, due to changed conditions or achievement of intended goals, are no longer needed;

Which regulatory agencies need to be strengthened or altered due to changed conditions; and

Whether economic and tax incentives or penalties may be substituted as alternatives to Federal rules, regulations, and standards.

In order that the Commission can complete its work in a timely fashion, it is anticipated that the research efforts will commence where the many excellent reports of Congress and Commissions have left off. Prior work need not be duplicated. The primary effort of the Commission should be on its public hearings in an attempt to develop a national consensus on the appropriate role of the Government in the market.

ALTERNATIVES TO REGULATION

An important role of the Commission is to look at alternatives to classical regulation.

First, it is intended that the Commission analyze the desirability of relying on the competitive marketplace to provide the greatest economic benefit to the American consumer. The early initiatives now being taken in the airline industry give a strong indication that both the consumer and the industry benefit from deregulation. Looking at natural gas regulation, one finds that the nonregulated intrastate markets fare better than the regulated intrastate markets.

Where the market factors are demonstrated to be unable to perform the needed regulatory function and Government intervention in some form appears necessary, the Commission is to look at alternatives to classical regulation. For example, economists have urged that taxes be used to aid in controlling certain kinds of pollution in lieu of regulatory standard setting.

In some instances, the Commission may find that there are areas where classical regulation is needed but outmoded. Most observers feel that safety standards are needed for food and drugs but that these must be updated to keep pace with modern technology.

Mr. President, the piecemeal remedies and incremental intrusion of the heavy hand of Government into our daily lives and work are destroying individual incentives which are the wellspring of economic growth. Immediate steps need to be taken to unravel the hodgepodge of Government bureaus which daily churn out edicts costly to the American consumer and oppressive to the small business firms.

I urge the support of this body for the Citizens Commission on Economic Regulatory Oversight to provide the citizens of this country a clearer voice in the control of their destinies.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3459

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Citizens Commission on Economic Regulatory Oversight Act of 1978".

ESTABLISHMENT OF COMMISSION

SEC. 2. There is established a Commission to be known as the Citizens Commission on Economic Regulatory Oversight (hereinafter referred to in this Act as the "Commission").

MEMBERSHIP

SEC. 3. (a) The Commission shall be composed of 12 members appointed, from among distinguished citizens not employed in a full-time capacity by the United States, as follows:

(1) 2 members shall be appointed by the President of the Senate and 2 by the Minority Leader of the Senate,

(2) 2 members shall be appointed by the Speaker of the House of Representatives and 2 by the Minority Leader of the House of Representatives, and

(3) 4 members shall be appointed by the President.

(b) Any vacancy occuring in the membership of the Commission shall not affect its powers, and shall be filled in the same manner as in the case of the original appointment.

(c) Five members of the Commission shall constitute a quorum for the transaction of its business, but the Commission may provide for the taking of testimony and the receiving of evidence at hearings at which there are present not less than three members of the Commission.

(d) The members of the Commission shall elect a Chairman and a Vice Chairman from among its members. It is the duty of the Vice Chairman to serve in the absence of the Chairman and carry out his duties and responsibilities.

(e) The members of the Commission shall be appointed not later than 3 months after the date of the enactment of this Act. If the members of the Commission have not been appointed within the above period, the Commission shall begin to transact business as soon as five members have been appointed and shall have all the powers and authority to act as if the full membership had been appointed.

FUNCTIONS

SEC. 4 (a) It shall be the duty of the Commission to study and evaluate the functioning of the independent economic regulatory agencies in the United States, as well as economic regulation generally, and to present administrative and legislative recommendations to Congress.

(b) In carrying out its duties under subsection (a), the Commission shall conduct a study and analysis—

(1) of whether, and to what extent, Federal laws and regulations which provide economic regulation and which have been in effect for five years or more accomplish their intended goals in light of the economic and judicial costs which they generate, including estimates of the increase in the cost to the consumer of housing, food, transportation and consumer products;

(2) to determine which regulatory agencies, due to changed conditions or achievement of intended goals, are no longer needed;

(3) to determine which regulatory agencies need to be strengthened or altered due to changed conditions; and

(4) of economic and tax incentives or penalties as alternatives to federal rules, regulations and standards.

(c) In carrying out its duties under this section, the Commission shall present to Congress an interim report one year after the time allotted for appointment of members as provided in section 3(e), and shall submit to the President and to the Congress a final report of its findings and recommendations not later than 15 months after the appointment of members pursuant to section 3(e). The Commission shall cease to exist 60 days after its final report is submitted. The Commission shall not be required to obtain the clearance of any Federal agency prior to the submission of any interim or final report.

(d) In carrying out its functions, the Commission shall conduct town hall meetings in different sections of the country to learn the views of citizens of local communities on the topics of inquiry. These meetings may be conducted simultaneously in different sections of the country.

(e) In carrying out its functions, the Commission shall establish a toll free telephone number which may be used by citizens to express their views on the topics of inquiry.

POWERS OF THE COMMISSION

SEC. 5. (a) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this Act, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as the Commission or such subcommittee or member may deem advisable.

(b)(1) Subpenas shall be issued under the signature of the Chairman or any member of the Commission designated by him and shall be served by any person designated by the Chairman or any Members. Any member of the Commission may administer oaths or affirmation to witnesses appearing before the Commission.

(2) The provisions of section 1821 of title 28, United States Code, shall apply to witnesses summoned to appear at any such hearing. The per diem and mileage allowances to witnesses summoned under authority conferred by this section shall be paid from funds appropriated to the Commission.

(3) Any person who willfully neglects or refuses to qualify as a witness, or to testify, or to produce any evidence in obedience to any subpena duly issued under the authority of this section shall be fined not more than $500, or imprisoned for not more than 6 months, or both. Upon the certification by the Chairman of the Commission of the facts concerning any such willful disobedience by any person to the United States Attorney for any judicial district in which such person resides or is found, such attorney may proceed by information for the prosecution of such person for such offense.

(c) The Commission may acquire directly from the head of any department, agency, independent instrumentality, or other authority of the executive branch of the Government, available information which the Commission considers useful in the discharge of its duties. Each department, agency, and independent instrumentality, and any other authority of the executive branch of the Government, shall cooperate with the Commission and furnish all information requested by the Commission to the extent permitted by law.

ADMINISTRATIVE PROVISIONS

SEC. 6. (a) Subject to such rules and regulations as may be adopted by the Commission, the Commission is authorized—

(1) to appoint and fix the compensation of an Executive Director, and such additional personnel as it deems necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification in General Schedule pay rates, but—

(A) in the case of the Executive Director, at a rate equal to that for level V of the Executive Schedule under section 5316 of title 5, United States Code; and

(B) in the case of all other personnel, at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title; and

(2) to procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code.

(b)(1) The Commission is authorized to enter into agreements with the General Services Administration for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman and the Administrator of General Services.

(2) The Commission is authorized to make grants and enter into contracts for the conduct of research and studies which will assist it in performing its duties under this Act and all such grants and contracts shall be subject to the time limitations imposed upon the Commission by this Act.

(c)(1) Any Federal employee subject to the civil service laws, rules, and regulations may be detailed to the Commission, and such detail shall be without interruption or loss of civil service status or privilege.

(2) Any staff member of any committee of the Senate or of any committee of the House of Representatives may be detailed to serve on the staff of the Commission by the chairman of the respective committee. Any staff member so detailed shall serve on the staff of the Commission without additional compensation except that such staff member may receive such reimbursement of expenses incurred as the Commission may authorize.

COMPENSATION OF MEMBERS

SEC. 7. (a) The Chairman of the Commission shall receive compensation at a rate equal to the daily rate prescribed for level III of the Executive Schedule under section 5314 of title 5, United States Code, and the Vice Chairman shall receive compensation at a rate equal to the daily rate prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day the Chairman or Vice Chairman is engaged in the performance of the duties vested in the Commission.

(b) All other members of the Commission who are not officers or employees of the Federal Government shall receive compensation at the rate of $200 for each day such member is engaged in the performance of the duties vested in the Commission.

(c) All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred in connection with their activities as members of the Commission.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. BROOKE:

S. 3461. A bill to extend the authority for the flexible regulation of interest rates on deposits and accounts in depository institutions and to provide that there shall be no differential with respect to transaction accounts; to the Committee on Banking, Housing, and Urban Affairs.

S. 3462. A bill to provide for the maintenance of reserves by member banks through certificates of deposits issued by the Federal Reserve Banks and to reduce and restructure reserve requirements; to the Committee on Banking, Housing, and Urban Affairs.

FINANCIAL INSTITUTIONS LEGISLATION

● Mr. BROOKE. Mr. President, on December 15, 1978, authority for the flexible regulation of interest rates on deposits and accounts in depository institutions will expire, and legislation to extend such authority will have to be considered before the Congress adjourns sine die. On other occasions I have expressed my reservations regarding the long range utility of interest rate controls, and I am pleased that the administration has undertaken a review of what are commonly called the Regulation Q ceilings.

I understand that proposals have been made in the House of Representatives to extend Regulation Q authority for 3 years. For my part, I feel that an extention beyond the end of the next Congress is not desirable inasmuch as a longer extension would reduce the likelihood that the recommendations of the administration task force on interest rate ceilings, which should be available within a year, will receive timely consideration.

I am today introducing legislation to extend interest rate setting authority for 2 years, until December 15, 1980. And I am including in this bill a provision which would remove the interest rate differential on time and savings accounts which can be automatically accessed by a third party payment account. This latter provision will promote greater competitive balance among institutions, and it is consistent with the treatment of NOW accounts in New England. I ask unanimous consent that the bill be printed immediately following my remarks.

I hope that the Senate Banking Committee will hold a markup session on this bill in the near future so that we can be prepared to go to conference with the House of Representatives before the end of next month.

A second issue which should be formally considered by the Banking Committee before adjournment is the accelerating decline in membership of the Federal Reserve System.

Since 1970, 430 member banks have withdrawn from the system, resulting in a significant decrease in the amount of commercial bank deposits against which reserves are held at the Federal Reserve. The decline in Federal Reserve membership is of primary concern because it adversely affects the Federal Reserve's ability to achieve monetary policy objectives.

Member banks now are seriously disadvantaged by maintaining substantial noninterest earning reserves. Nonmember financial institutions generally are allowed to hold reserves in the form of low risk, but nonetheless, interest earning assets. The competitive disadvantage to member banks is apparent in the consistently lower average profits of member banks compared to nonmember banks.

This unequal treatment has become particularly important in recent years. First, persistent inflation and generally high interest rates have increased the cost, in lost interest earnings, from keeping reserves with the Federal Reserve System. Second, competition in banking has increased dramatically, especially through the growth of the savings industry and credit unions. I would add that this heightened competition is, to some degree, a direct result of congressional action encouraging formation of these competing financial institutions. I am not suggesting that competition should be curtailed. We must recognize, however, that our actions have increased the attention which financial institutions must give to earnings on all assets, including reserves.

A number of proposals to deal with the Fed membership problem are being considered. These include:

The July 10 proposal of the Federal Reserve Board under which it would reduce reserve requirements for member banks, impose charges for Federal Reserve System services, and either directly pay limited interest on reserves or impose "universal reserve requirements" on all financial institutions with more than $5 million of deposits in transaction accounts. This proposal has been introduced by Senator PROXMIRE as S. 3304 with two changes: First, to explicitly authorize interest payments on reserves and, second, to require charges for Fed services by July 1980.

The proposal of Congressman RUSS in H.R. 13847 which would modify the definition of bank liabilities subject to reserve requirements and would impose a flat uniform reserve requirement set by the Federal Reserve Board between 5½ and 6½ percent on all reservable liabilities in excess of $100 million whether of member or nonmember banks. This $100 million exemption would be indexed to allow for future inflation and growth in the economy.

Finally, the Federal Reserve has proposed modifications to H.R. 13847 which would establish separate reserve requirements on two categories of deposits. Demand and savings deposits in excess of $25 million held by any commercial bank would be subject to a reserve requirement which would range between 7 and 9 percent. Time deposits in excess of $25 million would be subject to reserve requirements set by the Fed at 1 to 6 percent for those with maturities of less than 6 months and at 1 to 3 percent for those with maturities greater than 6 months. No inflation indexing would apply to the $25 million exemptions under the Fed proposal.

Each of these proposals has advantages and disadvantages, but in my opinion each of them may also encounter such significant opposition as to make resolution of the Federal Reserve membership problem unlikely in the near future. But the erosion of Fed membership is a serious and growing problem in New England

and elsewhere in the country, and I think that Congress should consider this issue on a prompt basis. I would hope that when the Senate Banking Committee meets to consider the extension of regulation Q authority next month, it would also consider pending proposals to deal with the Federal Reserve membership problem.

In this regard, I am introducing for discussion purposes a bill which would attempt to resolve the Fed membership problem by providing member banks with an opportunity to cover their reserve obligations by the purchase of certificates of deposit issued by the Federal Reserve Bank in each Federal Reserve district. These certificates would bear interest at a rate ½ percent below the average return on the Federal Reserve System portfolio and it is expected that interest would be payable quarterly. To insure that the funds represented by the certificates remain subject to the Federal Reserve's direct control, they could not be sold or otherwise transferred by a member bank to other than the Federal Reserve Bank which issued the certificate. Since the certificates would be issued by a Reserve Bank, they would of course not be subject to statutory or regulatory provisions applicable to deposits held by member banks, such as interest rate controls or prepayment penalties.

Providing certificates of deposit to members banks will lessen the burden of Fed membership while permitting the Federal Reserve to maintain control over reserve balances.

The present structure of Federal Reserve reserve ratios generally provides lower reserve requirements for smaller member banks. The principal rationale for this is that the larger member banks utilize the presently free Federal Reserve services to a much greater degree than smaller institutions. Although required reserve ratios are currently structured to provide compensation to the Federal Reserve for the services it provides, I believe that with the Federal Reserve's adoption of explicit pricing for services there will be no need to maintain reserve ratios which differentiate among different sized banks. Thus, the bill I am introducing today would require the Federal Reserve to set reserve ratios which are uniform for all member banks.

The principal objection which is likely to be raised to this bill is that it will result in a loss of revenues to the Treasury, since the current earnings on noninterest bearing reserves accrue to the Treasury. From this perspective, noninterest bearing reserves amount to little more than a hidden tax on some of the Nations' banks. We must remember, though, that the Treasury has no claim granted by Congress to take these funds from the banking system. Furthermore, continued erosion of membership is reducing the Reserve System's payments to the Treasury.

However, I do not discount the significance of the potential revenue loss to the Treasury under this bill. It could net out to nearly $500 million after new tax receipts and revenue from explicit Federal Reserve pricing of services are taken into account. But I would note that the administration has testified that losses to the Treasury of up to $350 million are acceptable to solve the membership problem. The approach embodied in the bill which I introduce today would involve only $150 million in greater losses and avoids the complications in the Federal Reserve Board's interest on reserve proposal of choosing the appropriate rate of interest for reserves and of justifying different rates for different sized institutions.

Mr. President, I would ask unanimous consent that the text of this bill be printed in the RECORD immediately following my remarks.

Finally, Mr. President, I would note that the House of Representatives is currently considering H.R. 13471, the Financial Institutions Regulatory Act of 1978, which is a counterpart to S. 71, the Financial Institutions Supervisory Act Amendments of 1977, which passed the Senate a year ago. I hope that the House will act on this bill before Congress adjourns.

However, I must note that the House bill contains a number of titles on which neither the Senate nor the Senate Banking Committee has yet taken final action. These include:

1. Titles VI and VII—Changes in Bank Control: provide for review of changes in control of a Federally supervised bank, bank holding company, or savings and loan by the appropriate financial institutions regulatory agency.

Senate: No bill, hearings, or mark-up.

2. Title VIII—Correspondent Accounts: prohibits preferential treatment in the granting of loans to insiders where correspondent relationships exist.

Senate: No bill, no mark-up. Committee hearings in September 1977 on overdrafts and correspondent banking practices (outgrowth of Bert Lance's bank dealings).

3. Title IX—Disclosure of Material Facts: requires every Federally supervised bank to file with the appropriate bank regulatory agency annual reports containing a list of major stockholders and executive officers and the aggregate amount of loans to such persons, their affiliated companies, and political or campaign committees which are controlled by or will benefit such persons.

Senate: No bill, hearings, or mark-up.

4. Title X—Federal Financial Institutions Examination Council: establishes an examination council composed of top officials of the FDIC, Federal Reserve Board, the Comptroller of the Currency, and the National Credit Union Administration. The Council would develop uniform standards for examination of financial institutions and improve coordination among the agencies on a variety of supervisory matters.

Senate: S. 711, Federal Bank Examination Council bill, Committee hearings on September 16, and 19, 1977; no mark-up session.

5. Title XI—Right to Financial Privacy: gives individuals notice of and an opportunity to challenge Federal government agency requests for their bank records. Access to individual bank records would be governed by the procedures provided in this title and would help ensure that the customer knows who is looking at his records.

Senate: S. 2096, Financial Privacy bill, Committee hearings held on April 18, 20 and May 17, 1978, no mark-up session.

6. Title XIII—Holding Companies: prohibits bank holding companies from selling other than credit-related life and disability insurance. Bank holding companies in communities of less than 5,000 people and holding companies with less than $50 million in assets would be exempt.

Senate: S. 79, Competition in Banking bill (restrictions on a holding company's growth and on its insurance and other nonbanking activities); Committee hearings on March 7, 8 and June 16, 1978; no mark-up session.

S. 3067 and S. 3215, bank holding company insurance activities; no hearings or mark-up sessions.

7. Title XIV—Amendments to the National Banking Laws: repeals the 6 percent dividend limitation on preferred stock offered by national banks and provides the Comptroller with various new powers, including the authority to revoke a national bank's trust powers, to delegate his statutory powers, and to declare national bank holidays when a Governor of a State declares a State bank holiday.

Senate: No bill, hearings, or mark-up sessions.

8. Title XV—Termination of Closed Receivership Fund: provides a procedure under which the Comptroller may terminate the National Bank Closed Receivership Fund which operated prior to the establishment of the FDIC in the 1930's.

Senate: No bill, hearings or mark-up sessions.

9. Title XVII—Regulation Simplification: requires the Federal financial institutions supervisory agencies to review and streamline their regulations.

Senate: No bill, hearings, or mark-up sessions.

10. Title XVIII—Alternative Mortgage Instruments: allows federally chartered thrift institutions to offer alternative mortgage instruments in those States which allow them for State-chartered institutions.

Senate: Committee oversight hearings regarding alternative mortgage instruments held on October 6 and 7, 1977 and on August 21 and 22, 1978.

S. 70, a bill to authorize alternative mortgage instruments; no mark-up sessions.

S. Con. Res. 9, Concurrent Resolution that the Federal Home Loan Bank Board should authorize the use of a wide variety of mortgage instruments; no mark-up sessions.

S. 2455, a bill to authorize reverse annuity mortgages; no mark-up sessions.

11. Title XIX—Prohibition on Credit Card Surcharges: makes permanent the prohibition against charging an extra fee for a consumer who chooses to use a credit card to pay for goods or services. A temporary prohibition enacted 2 years ago on a test basis expires on February 1, 1979.

Senate: No bill, hearings, or markup sessions.

Many of these titles are, I believe, meritorious, and perhaps they should be accepted in conference with the House. However, I feel that members of the Senate Banking Committee should be given an opportunity to consider them. I would hope that when the committee meets to consider an extension of regulation Q authority and the Federal Reserve membership proposals, Members would take the opportunity to express their views on those titles which have not yet been considered by the Senate.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 3461

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 7 of the Act of September 21, 1966 (Public Law 89-597), is amended by striking out "December 15, 1978" and inserting in lieu thereof "December 15, 1980".

SEC. 2. Section 102 of Public Law 94-200 (12 U.S.C. 461 note) is amended by inserting at the end thereof the following new subsection:

"(c) In any State where any provision of State or Federal law authorizes any savings and loan, building and loan, or homestead association (including any cooperative bank) the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation or any mutual savings bank, as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813 (f)), to offer any third party-payment account, there shall be no interest rate differential between (1) banks (other than savings banks) the deposits of which are insured by the Federal Deposit Insurance Corporation and (2) savings and loan, building and loan, or homestead associations (including cooperative banks) the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation or mutual savings banks, as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f)), on savings accounts from which automatic transfers to third-party payment accounts may be made pursuant to the prearranged agreement of depositors or accountholders. Notwithstanding any of the provisions of subsection (b) of this section, the maximum rate of interest payable on such accounts shall be the rate which banks (other than mutual savings banks) insured by the Federal Deposit Insurance Corporation may pay on such accounts."

S. 3462

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. The last sentence of subsection (b) of section 19 of the Federal Reserve Act (12 U.S.C. 461) is designated as paragraph (5) and that part of subsection (b) that precedes that sentence is amended to read as follows:

"(b)(1) Every member bank shall maintain reserves against its demand deposits in such average ratio, not less than 3 per centum nor more than 10 per centum, as shall be determined by the Board.

(2) Every member bank shall maintain reserves against its savings deposits from which transfers to third parties may be made in such average ratio, not less than 2 per centum nor more than 7 per centum, as shall be determined by the Board.

(3) Every member bank shall maintain reserves against its time and savings deposits other than those referred to in paragraph (2), in such average ratio, not less than 1 per centum nor more than 7 per centum, as shall be determined by the Board.

(4) In setting the reserve ratios under paragraphs (1) through (3) of this subsection, the Board shall establish uniform ratios applicable to all member banks."

Sec. 2. Section 19(c) of the Federal Reserve Act (12 U.S.C. 461) is amended to read as follows:

"(c) Reserves held by any depository institution to meet the requirements imposed pursuant to subsection (b) of this section shall be in the form of

(1) balances maintained for such purpose by such institution at a Federal Reserve Bank, and

(2) the currency and coin held by such institution.

Reserve balances maintained at a Federal Reserve Bank may be used, in their entirety, to purchase certificates of deposits which shall be issued for such purpose by the appropriate Federal Reserve Bank. Such certificates, with interest payable at a rate ½ percent below the average return on the Federal Reserve System portfolio, shall be nontransferable and non-assignable.

ADDITIONAL COSPONSORS

S. 2640

At the request of Mr. RIEGLE, the Senator from Iowa (Mr. CLARK) was added as a cosponsor of S. 2640, a bill to reform the civil service laws.

S. 2665

At the request of Mr. NELSON, the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 2665, a bill to amend the Internal Revenue Code of 1954 to provide a more equitable estate tax treatment of joint interests in farm and closely held business property.

S. 3345

At the request of Mr. NELSON, the Senator from Nebraska (Mr. CURTIS) was added as a cosponsor of S. 3345, a bill to amend the Internal Revenue Code of 1954 with respect to the tax treatment of small business investment companies electing to be taxed as regulated investment companies.

S. 3419

At the request of Mr. CULVER, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 3419, a bill to amend the Internal Revenue Code of 1954 to exclude from gross income a portion of payments made under certain Federal and State cost-sharing programs the primary purpose of which is conservation of soil and water resources, environmental protection or restoration, forest enhancement, or the provision of wildlife habitat.

AMENDMENT NO. 3441

At the request of Mr. RANDOLPH, the Senator from Maryland (Mr. MATHIAS) and the Senator from Minnesota (Mrs. HUMPHREY) were added as cosponsors of Amendment No. 3441 intended to be proposed to S. 2600, the Rehabilitation, Comprehensive Services and Developmental Disabilities Act of 1978.

SENATE RESOLUTION 526

At the request of Mr. DOLE, the Senator from New York (Mr. MOYNIHAN) and the Senator from Florida (Mr. STONE) were added as cosponsors of Senate Resolution 526, commemorating the 10th anniversary of the Soviet invasion of Czechoslovakia.

SENATE RESOLUTION 546—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. SPARKMAN, from the Committee on Foreign Relations, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 546

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 3161. Such waiver is necessary to allow the authorization of $1,360,000 in funds for the National Commission on the International Year of the Child, without fiscal year limitations.

Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible by the May 15, 1978, deadline, because there had been inadequate time for the newly created National Commission to formulate its plans, programs and budget. Further, the proposed legislation was not submitted by the Administration as a request until May 26, 1978.

The effect of defeating consideration of this authorization will be to handicap programs and activities of the National Commission and to curtail U.S. participation as a national entity in the United Nations International Year of the Child.

The desired authorization will not delay the appropriation process and could be accommodated in a supplemental appropriation.

This authorization is sufficiently small that it will not significantly affect the congressional budget.

SENATE RESOLUTION 547—SUBMISSION OF A RESOLUTION RELATING TO PRESERVATION AND RESTORATION OF RHODES TAVERN

Mrs. HUMPHREY (for herself, Mr. ANDERSON, Mr. HAYAKAWA, Mr. LEAHY, Mr. MATHIAS, and Mr. MATSUNAGA) submitted the following resolution, which was referred to the Committee on Energy and Natural Resources:

S. RES. 547

Whereas Rhodes Tavern, which dates back to 1799, is the oldest building between the White House and the Capitol and the last remaining example of 18th century commercial architecture in the central compass of Washington and is threatened with destruction;

Whereas Rhodes Tavern is the only building to remain on the inaugural route from the day that President Thomas Jefferson began the tradition of the Inaugural Parade;

Whereas Rhodes Tavern is known to have served as the headquarters for the British commanders during the burning of the White House and the Treasury in 1814;

Whereas Senators Daniel Webster and Thomas Hart Benton, and Presidents Andrew Jackson, Martin Van Buren, John Tyler, Theodore Roosevelt, William Howard Taft, and Woodrow Wilson were all associated with Rhodes Tavern in the course of their careers; and

Whereas the 179-year-old tavern is of unquestionable historic value to the Nation and the American people: Now, therefore, be it

Resolved, That the Senate expresses its strong interest and concern in the preservation and restoration, for the benefit and inspiration of present and future generations of Americans, of Rhodes Tavern, a building of unique historical significance located in the District of Columbia near the White House, opposite the Treasury Department Building at the northeast corner of 15th and F Streets, N.W.; and encourages every effort to be made by the National Trust for Historic Preservation, the Commission of Fine Arts, the District of Columbia Historic Preservation Office, the Mayor of the District of Columbia, and the Council of the District of Columbia for the preservation of Rhodes Tavern and its restoration to its original condition, or as near thereto as possible.

SEC. 2. The Secretary of the Senate shall transmit copies of this resolution to the National Trust for Historic Preservation, the Commission of Fine Arts, the District of Columbia Historic Preservation Office, the Mayor of the District of Columbia, and the Council of the District of Columbia.

HISTORIC RHODES TAVERN THREATENED

● Mrs. HUMPHREY. Mr. President, it has come to my attention that a building

in Washington, D.C., which ought to be preserved as a part of our national heritage is in danger of destruction.

It is not just another building whose passing need not concern us. I found the story of this particular building of such interest that I am today introducing a Senate resolution which I hope will contribute significantly to the movement to restore the building that is known as Rhodes Tavern.

Rhodes Tavern, which dates back to 1799, is the oldest building between the Capitol and the White House and very likely the last remaining example of 18th century architecture in the central compass of Washington. Located at 15th and F Streets, it is the only building to remain on the inaugural route from the day that President Thomas Jefferson began the tradition of the inaugural parade.

In August 1814, the British commanders took Rhodes Tavern for their headquarters during the burning of the President's House and the Treasury. Senators Daniel Webster and Thomas Hart Benton, and Presidents Andrew Jackson, Martin van Buren, John Tyler, Theodore Roosevelt, William Howard Taft, and Woodrow Wilson were all associated with enterprises at Rhodes Tavern during the course of their careers. The 179-year-old tavern building may be destroyed to make way for a $55 million office and shopping complex. Also threatened by this development along 15th Street are the graceful Beaux-Arts-style Keith-Albee theater and National Metropolitan Bank Buildings which face the Treasury Building and form a graceful complement to its classic architecture.

Currently, preservation groups and the Citizens Committee to Save Historic Rhodes Tavern are actively engaged in identifying and stimulating public support for the restoration of Rhodes Tavern. I find it difficult to believe that, after spending millions of Federal dollars in the past few years to preserve the ceremonial character of Pennsylvania Avenue, we should lose the only building that has witnessed every one of its ceremonies—Rhodes Tavern.

I urge my colleagues to take a personal interest in the preservation of Rhodes Tavern, a building of unique historical significance.

Mr. President, I ask unanimous consent that two Washington Post articles by Anne H. Oman detailing the history and current dilemma of Rhodes Tavern and a brief history by Richard Squires be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HISTORY OF TAVERN THE FOCUS OF MOVE TO SAVE IT

(By Anne H. Oman)

A newly formed committee dedicated to saving Rhodes Tavern last week kicked off its campaign to preserve the city's oldest surviving commercial structure with an inventive bit of public relations.

Members of the Citizens Committee to Save Rhodes Tavern, aware that a large group would be touring Decatur House and Lafayette Square as part of National Historic Preservation Week, milled about the square and buttonholed people to tell them about the tavern. By the end of the afternoon, tavern supporters had rerouted about 50 of the visitors to a tour of their own.

The demolition of the tavern has been proposed by the Oliver Carr Company, which plans to build a $40-million, shopping-hotel-office mall in the block bounded by 14th, 15th, F and G streets.

"I was on one side of the room asking a lot of questions, and (James and Grano) were on the other side of the room asking a lot of questions," said Linder. "After the meeting we looked at each other and decided to form the committee."

The committee, with a nucleus of eight people, hopes to attract support by showing the building to the public and telling them about its history, according to Linder. A reception, open to the public, will be held at 6:30 p.m. May 17 at the historic tavern at 15th and F streets.

One day last week, Grano took visitors on walking tours. Richard Squires, who rented the building's upper two floors as an artist's studio, showed visitors through the tavern and passed out pamphlets describing its history.

"I moved in here in 1974, got interested in the tavern and started doing historical research on it at the Columbia Historical Society," said Squires, who uses the studio to build wooden sculptures. "We're now standing in the part that was added in 1945, on the land that was originally a garden."

The original building, constructed between 1799 and 1801, was a hotel run by William Rhodes. Frequented by people active in civic affairs, the hotel was a meeting place for the Orphans Court and a polling place in the first municipal election June 7, 1802. About 1810, the F Street frontage was converted to stores one of which was run by Roger Weightman, the eighth mayor of Washington. In 1814, the Bank of the Metropolis, of which Andrew Jackson was a stockholder bought the building and set up its headquarters there.

The same year, two British officers, General Ross and Admiral Cockburn, took over the building for their headquarters when the British invaded Washington. Mrs. Barbara Suter, who ran the tavern on the second floor of the building, later recalled serving the two commanders a dinner of roast chicken as their troops burned the White House.

". . . Admiral Cockburn, blowing out the candles, said he preferred the light of the burning Presidential Palace and Treasury," she wrote, whose conflagration hard by illumined the room, outshining the pale moonlight, also beaming in all its silver radiance."

In 1840, the banking firm of Corcoran and Riggs, the forerunner of the Riggs National Bank, was set up in the building. Since that time a variety of shops have occupied the lower floor. From 1909 to 1914, the second and third floors were used by the National Press Club.

The building, now on the National Register of Historic Places, originally had a large wing fronting on 15th Street; the wing was demolished during the 1950's.

"Carr says it will cost $1.5 million to save this building—but that figure includes reproducing the wing that was torn down," said Squires. "But just to renovate the existing building and turn it into a restaurant would cost under half a million and would soon pay for itself. With the history of the place and its beautiful views of the city, it would be very popular."

"We hope to get an architect working on design alternatives," said James.

In March, the Fine Arts Commission, which reviews demolition and building permits for buildings near important federal installations, decided it would not require Carr to save the tavern. The commission, however, ruled that Carr must save two other landmark buildings in the block—the Albee-Keith Theater Building and the Metropolitan Bank Building. The decisions are only advisory, but the District government invariably follows this advice.

The District's State Historic Preservation officer has ordered a 180-day period of negotiations before any of the buildings can be demolished. The Joint Committee on Landmarks is holding a series of negotiations with representatives of the Carr Company, preservation groups and interested citizens. The newly formed Citizens Committee to Save Historic Rhodes Tavern is participating in the negotiations.

DEVELOPER OFFERS DELAY ON TAVERN DECISION

(By Anne H. Oman)

Groups trying to save the historic Rhodes Tavern from the wrecker's ball will have an additional year for their efforts if the city accepts a new proposal from developer Oliver Carr.

The 177-year-old tavern building is located at 15th and F Streets NW, and is part of the Garfinkel block where Carr plans to build a $40 million hotel, office, and shopping complex. As things now stand, Carr could obtain a permit to demolish the tavern building in October. That is when a current 180-day demolition delay would expire.

Carr's proposal calls for suspending negotiations on the fate of the tavern building until he begins work on the first phase of the two-phase project. The first phase, scheduled to begin in April, covers the northern half of the block between 14th and 15th streets and F and G streets. The tavern building is on the south side of the block.

Included in the first phase are two other historic landmark buildings—the Albee Building and the Metropolitan Bank Building. Carr says he intends to save the facades of the two buildings and incorporate them in the new complex if the city provides the financial assistance necessary.

The fate of the tavern building has been under discussion for the past two months during negotiations among representatives of the city, Carr and community groups.

"There is a need to focus attention first," Carr wrote in a letter to State Historic Preservation Officer Lorenzo Jacobs, "on that portion of the project that is to be developed initially, rather than confronting all of the preservation questions at one time. . . ."

Carr said that he would agree to the one-year delay in the negotiations on the Rhodes Tavern if the city, in return, would agree to come up with $1.5 million in benefits, including property tax relief, historic preservation grants and the waiver of alley closing fees.

Carr has previously offered to absorb $2 million in costs to help preserve the facades of the Albee and Metropolitan Bank buildings along 15th Street. The total cost of preserving the facades is estimated by Carr at $3.5 million.

Carr company officials say it would take an additional $1 million to $2 million to save the existing Rhodes building or $4.3 million to reproduce the original Rhodes building, part of which was demolished in the 1950s.

"This gives us more time to identify support for the Rhodes," said a spokesman for the Citizens Committee to Save Historic Rhodes Tavern. "Giving more time does take the pressure off, and we worry about declining interest, but we won't decrease our efforts to inform the public."

Leila Smith, who has represented the Don't Tear It Down organization in the negotiations, said that Carr's proposal "creates confusion and leaves many questions unanswered. It sounds as if there might be some difficulty designing the rest of the block when we don't know what's going to happen to the tavern. And new legislation may be needed to provide the tax relief that Carr is seeking, tax relief for people who preserve low-rise commercial structures like the Rhodes."

Thomas Lodge, chairman of Advisory Neighborhood Council 2C, called Carr's proposal "a good idea. It gives the Rhodes Tavern people another year and it will concentrate efforts on the other two buildings. We have to find the money to save them by October."

Jacobs commented that he is "now studying Mr. Carr's proposals as to whether they can be implemented." Jacobs plans to respond to Carr's letter this week, according to his press secretary, Steve Johnson.

RHODES TAVERN AND THE HISTORY OF WASHINGTON, D.C.

(By Richard Squires)

Many cities on the Eastern Seaboard are blessed with ancient public taverns, where the history of the nation is understood as a continuing and lively enterprise, governed by the inclination of great and small men to come to terms amid an atmosphere of food and drink. Fraunces Tavern is the notable example in New York City, as is City Tavern in Philadelphia. The only candidate for this distinction in Washington is Rhodes Tavern, located since the founding days of the Capital on the other side of the Treasury Building from the White House. It is scheduled to be destroyed in November of this year.

The cornerstone of Rhodes Tavern was laid in 1799, making it the oldest building to remain between the White House and the Capitol, and that area's last remaining example of 18th Century architecture. It is the only building to remain along Pennsylvania Avenue from the day that President Thomas Jefferson first began the tradition of the Inaugural Parade in March 1805.

William Rhodes was one of the Federal City's first businessmen, establishing a tavern in the Little Hotel, next door to the present Rhodes Tavern, as early as 1796. George Washington visited this tavern on 18 December 1798. About 1800 Mr. Rhodes relocated in larger quarters next door, in the present tavern, just in time to greet the administration of President John Adams, moving down to Washington from New York City. With the Capitol and Presidential Palace still under construction, the tavern quickly became a kind of unofficial city hall to the fledgling town, where courts and city councilmen held session, and political parties met to work out their affairs.

In April 1814 General John Van Ness founded the Bank of the Metropolis in part of Rhodes Tavern, the second bank to open in Washington, and soon to be the city's largest. Van Ness, a boyhood friend of Martin Van Buren, was a congressman from New York and ultimately mayor of Washington. General Andrew Jackson was numbered among the bank's original stockholders. On the bank's opening day, General Jackson was fighting the British in Pensacola, Florida.

With Napoleon's abdication in April 1814, the British Army was finally free for combined assaults on Washington and New Orleans in a final attempt to win the War of 1812. In August 1814 the British Command took Rhodes Tavern—Bank of the Metropolis for its headquarters during its invasion of Washington. Setting the Capitol, the Presidential Palace, and the Treasury aflame, Admiral Sir George Cockburn rode into the main room of the tavern on a mule, and dismounting, introduced himself to the startled innkeeper as "the much abused Cockburn, come to sup with you, madam." The company of officers retired to a dining room and ate a dinner of roast chicken, "for which Cockburn, blowing out the candles, said he preferred the light of the burning Presidential Palace and Treasury, whose conflagration hard by illuminated the room, outshining the pale moonlight, also beaming in all its silver radiance." Cockburn's reward for the success of this expedition came in 1815, when he was made Governor of Saint Helena Island, and custodian of Emperor Napoleon Bonaparte.

General Jackson revenged the nation with a stunning victory at the Battle of New Orleans in January 1815, three weeks after the signing of the Treaty of Ghent. Two of the most lasting effects of this war surely came from the burning of the Presidential Palace and the elevation of Andrew Jackson in the public eye. When the reconstruction of the Palace was completed with a final coat of paint, it soon took on a new name—the White House—and its previous association with the royal tradition of England was lost forever. Within a dozen years the dropping of property qualifications prepared the nation for its first fully democratic vote, and its subsequent election of President Andrew Jackson.

The central drama of Jackson's Presidency was his battle to destroy Nicholas Biddle and the Bank of the United States, and the exclusive aristocracy of wealth which he believed they represented. The climax of the Bank War came in 1833, when Jackson pulled the Government's deposits from the B.U.S. and placed them in certain selected "Pet Banks". The Bank of the Metropolis at Rhodes Tavern, a solid friend of the administration, was named the sole depository of Federal funds in Washington, D.C.

With the sudden addition of nearly $1 Million in Government money, the Bank of the Metropolis found that it had outgrown Rhodes Tavern, and left the building in 1836. Its offices were quickly taken by an ambitious young financier named W. W. Corcoran, who understood the value of locating opposite the Treasury at a time when the Government needed private bankers to fill the void caused by the collapse of the Bank of the United States. Philadelphia, having lost political control of the country Washington, now lost financial control of the country to New York, and entered a period of decline from which it has yet to recover. On Wall Street, especially at the Democratic Merchant's Bank and Bank of America, the birth of the Washington-New York political-finance axis was met with whoops of joy, tempered somewhat by the memory of the destruction of Nicholas Biddle in the hands of the politicians. To forestall the repetition of such a calamity, Wall Street engaged the services of Corcoran, whose capitalization amounted to only $2500, but whose contacts included every living President, many of them on intimate terms. As the representative of Wall Street to the U.S. Treasury, and the President's frequent envoy to New York, Corcoran effected a marriage of politics and finance from the rooms of Rhodes Tavern that changed his time. The fortune he acquired through the good offices of Presidents Tyler, Polk, Buchanan, and Senators Daniel Webster and Thomas Hart Benton, was put to good use in the construction of the Washington Monument and the Renwick Gallery. He was Washington's leading citizen of the 19th Century. The firm of Corcoran and Riggs, founded at Rhodes Tavern in 1840 and now known simply as Riggs, was the city's largest bank when it left the tavern in 1845. It remains so today.

The Reconstruction Era and the Gilded Age which followed brought the corruption of almost every public office. James A. Garfield a classics professor turned politician, who was often found immersed in Horace on the Senate floor, received the nomination by a fluke and found himself the President in 1881, promising to reinstate the noble stripe of leadership that had been the ensign of our early years. In May 1881 a disappointed office seeker named Charles Guiteau walked into a gun shop on the ground floor of Rhodes Tavern and tested the revolvers, finally settling on a costly model with a pearl handle, feeling it would look the best in a museum. After stalking the President on Lafayette Square and the White House grounds for the next three weeks, he finally caught Garfield in the railroad station, shooting the President fatally, twice in the back. On the gallows Guiteau sang out, "I have saved my party and my land! Glory Hallelujh!", as the rope was snapped.

The age of free capitalism finally felt the reins in the Progressive Era of Roosevelt, Taft and Wilson, supported by a new brand of independent, investigative writing which Roosevelt dubbed "muckraking" journalism. The National Press Club, the Capital's leading association for the Fourth Estate, was founded in 1908 and had its second home in the upper stories of Rhodes Tavern from 1909–1914. Presidents Theodore Roosevelt, William Howard Taft, and Woodrow Wilson were all members of the Press Club during its years at Rhodes Tavern. President Taft visited the club on the eve of his Inauguration in 1909, and throughout his term in office was a frequent visitor of the club, conveniently located on the path of his weekend strolls in the neighborhood. Woodrow Wilson was a member of the club while still President of Princeton University.

The election of 1912 pitted the three club members against each other for the Nation's highest honor: Wilson for the Democrats, Taft for the Republicans, and Roosevelt for the renegade Bull Moose. All three spoke for their respective platforms at Rhodes Tavern, and were in turn subjected to "interpretative" skits by the lampooning membership. The windows of Rhodes Tavern, considered the best on the parade route, were offered to the public at an average of $1000 apiece for the Inaugural Parade of Taft and Wilson in 1909 and 1913. Sarah Bernhardt was among the many celebrities who visited the Press Club, appearing as an honored guest in 1914.

Fences were constructed to surround the White House during World War I, beginning a process of progressively augmented isolation that has left recent Presidents so removed from the life of the city that they might as well be living in Spokane.

In the days of Henry Adams and Daniel Webster, it was common practice for the President to stroll from home to home in the neighborhood, visting the Ministers, Justices, and Senators who naturally tried to live as close as possible to the seat of power. It was L'Enfant's clear intent to make the Presidential Palace the central residence in town. With everyone of fashion long since emigrated to the older streets of Georgetown, the transition of the White House from home among homes to bureaucratic and electronic nerve center is now fairly complete.

No one but the President lives in the neighborhood now, and he is increasingly surrounded by office buildings that belie the fact that people lived there in the past, and preclude the chance for people of the future to reestablish the design. The old homes of Lafayette Square, long abandoned by society, were nearly destroyed to make office buildings in 1962. President and Mrs. John F. Kennedy, who knew the buildings from walks in the neighborhood, entreated that they be saved, and so they were. He was, however, the last President to take a stroll beyond the White House grounds.

In this light it is possible to see how an ancient Georgian building with a history that reflects so many of the greatest men of the Republic, can yet be held so easily expendable. The White House and the Capitol are the focal points for the axis around which the city of Washington was built, and the recent decline of the area between them should not blind us to the fact that the history, geometry, and business of the city are all directed to this part of town. People come to Washington to get a sense of what this city has meant to the nation over the whole course of its existence. The more we can tie in to the quest for our national

roots, the more likely they will be to stay longer or come more often.

In a very real sense, history is Washington's stock-in-trade, and we should be diligent in keeping up our inventory and keeping it in good condition. Demolition of buildings of beauty and significance, or even a simple charm that people have grown to love, or of flourishing neighborhoods with local color and activity is often a drastic form of surgery that can prove fatal to the streets, neighborhoods, and ultimately the cities involved.

Rhodes Tavern is Washington's oldest commercial building, continuously active and self-supporting for the past 178 years. It presently houses a newsstand, souvenir shop, fruit stand, coffee shop, and art conservation lab. Its tenants include people of African, English, Irish, Japanese, Jewish, and Palestinian descent. It remains one of the more colorful and charming buildings in the city.

A visit to the National Archives will reveal dozens of photographs and prints depicting the triumphant march of Presidents past the windows of Rhodes Tavern. After spending millions of Federal dollars in the past few years to preserve the ceremonial character of Pennsylvania Avenue, it is difficult to believe that we should lose the only building that has witnessed every one of its ceremonies—Rhodes Tavern.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Energy and Natural Resources Committee be authorized to meet during the session of the Senate today to consider S. 3418, the Pacific Northwest electric power bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE ON HUMAN RESOURCES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Human Resources be authorized to meet during the session of the Senate on Friday, August 25, 1978 to hold a markup session on the following legislation: S. 2910, the Adolescent Health Services and Pregnancy Prevention and Care Act; S. 3115, Disease Prevention and Health Promotion Act.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SECRETARY BROWN SUPPORTS SALT AND IMPROVED READINESS

● Mr. CULVER. Mr. President, in an address to the American Legion national convention on August 22, our able and articulate Secretary of Defense, Harold Brown, spoke about America's current strengths and the measures necessary to preserve our security in the future.

Noting that our overall strength compared to the Soviet Union depends on more than military forces, Secretary Brown declared that "we outstrip the Soviets in nearly every category"—including economic strength and productivity, political stability and cohesion, technological skill, the appeal of our way of life and our international policies, and our national will. "It is only on the military side that their society has been able to rival us," he said.

In order to maintain a military balance, the United States has been improving and modernizing our own forces. Both now and in the future, we shall maintain a devastating strategic nuclear force. As Secretary Brown assured his audience:

Right now, even after a Soviet surprise attack, we could deliver literally thousands of thermonuclear weapons to targets in the Soviet Union. Despite the improving Soviet offensive and defensive forces, that capability of ours is not going to decline in the future. It is going to increase.

Secretary Brown strongly endorsed arms control agreements as "another and complementary way of dealing with Soviet military efforts." He listed three important advantages of carefully drawn and verifiable agreements:

They can make the achievement of future advantages even more unlikely, while allowing current vulnerabilities to be removed.

They can make future structures more predictable and lower the need for extreme conservatism in our defense planning.

They can contribute to a healthier political environment, an environment in which still further restraints can be imposed on both sides according to the principle of equivalence.

Although most press attention centered on Secretary Brown's statement that we are studying mobile ICBM systems, it is important to note that he linked that option to SALT. "Any mobile ICBM basing system," he said, "would, of course, have to be fully consistent with all provisions—including verification provisions—of a strategic arms limitation agreement." That comment wisely and properly recognizes that mobile ICBM systems can enhance our security only if they are part of a constrained and verifiable arms control regime, one which prevents the U.S.S.R. from making such massive and secret missile deployments as to overwhelm and nullify our own mobile system.

Mr. President, with regard to our conventional forces, Secretary Brown echoed a theme I have made repeatedly since coming to the Senate and joining the Armed Services Committee. He called combat readiness "the most effective counter to the Soviet military threat." He noted that:

Spending money on spare parts, unit training, and field exercises may not grab the headlines. But considering the investment we already are making in hardware, that is the right way at the right time to neutralize the Soviet buildup.

This renewed stress on readiness—with dollars added to do the job—is one of this administration's most important changes and improvements in our defense posture.

Mr. President, I ask that the full text of Secretary Brown's address be printed in the RECORD.

The address follows:

Commander Smith, Distinguished Guests, Ladies and Gentlemen:

It is an honor to speak before this opening session of your Sixtieth Annual National Convention. Discussing defense issues with any audience of American citizens is always a valuable opportunity. But being here with the American Legion is particularly helpful—and challenging. You are well informed and have strong views, views that deserve particular respect because of your own sacrifices in the uniform of our country.

I want to talk with you today about how we are working to assure our military security—both by building balanced and fully adequate armed forces of the kind we most need, and by seeking arms control agreements consistent with the interests of this country.

There is a great deal I don't need to tell this audience. The American Legion already knows that the first duty of government is defense. The Legion already recognizes that, without a sufficient defense, none of our liberties is secure. The President and we in the Defense Department have that same view. We have acted and will act accordingly. President Carter and I intend to do all in our power to see that the defense needs of this country are fully met.

It is for precisely that reason that last week President Carter sent back to the Congress without his approval a defense procurement bill which would have weakened our defense—by taking $2 billion from high priority defense needs in order to pay for one nuclear-powered aircraft carrier. The President and I support the full amount of the Defense budget of $126 billion which he requested. We want no Congressional cut to be made from it. But we do want that money spent wisely, and spent where it is most needed.

The nuclear aircraft carrier costs nearly a billion dollars more than would a future non-nuclear carrier. We plan to build carriers in the future, but we do not need to build this one now at the expense of more urgent needs. And we do not need to add $1 billion to the price tag.

The President is asking the Congress that in the coming year, instead of building a $2 billion carrier with a nuclear power plant, that great amount of money be applied to more urgent needs like the following:

$800 million for helicopters, combat vehicles, and ammunition for the Army.

$200 million for airlift, electronic warfare equipment, and modern electronically guided ordnance for all the services.

Half a billion dollars to upgrade the readiness of all our Armed Forces, by providing spare parts, ship overhauls, training, communications and logistical support.

Several hundred million dollars more for research and development.

More construction of modern general purpose naval ships. For instance, we could build next year two new guided missile frigates, three antisubmarine warfare ships, and a fleet oiler—all for less than one-third the cost of a nuclear-powered carrier.

The President's action is one to enhance our defense, and it certainly is not anti-Navy. We have the strongest Navy in the world, and we intend to keep it that way. We need to have balanced forces to meet all our defense needs, including particularly the need for our forces that are in Europe or are oriented for combat there to combine with the forces of our NATO allies to counter the steady Soviet buildup. The Navy itself needs to bring the ship construction program into balance. It must stop the drift of the past ten years toward a Navy of fewer and fewer ships, each of which costs more and more to build. No ship, no matter how costly and capable, can be in more than one place at a time. We want to keep ours the world's strongest Navy—not to build the world's most expensive ship.

Let me turn now to a broader look at where we stand in the world, and how it shapes our defense decisions.

I should note first, of course, that the overall relative strength of the United States and the Soviet Union depends on more than military forces alone—although those forces are a necessary and crucial element. The total balance includes many parts—economic strength and productivity, political stability and cohesion, our technological skill, the appeal of our way of life and our international policies, and our national will. In these overall terms, there is no doubt in my mind that the United States is the most powerful country in the world. We outstrip the Soviets in nearly every category I have mentioned. It is only on the military side that their society has been able to rival us. But the fact that they have turned so much of their effort to military activities is serious, and has to be troubling to us. We need to do what is necessary to keep a military balance, as well as favorable overall balance of national power.

I noted a moment ago that we are urging the Congress to keep our Defense budget for next year at the full amount the President requested in January. We have also pledged, along with our NATO allies, to increase our defense effort in real terms, after allowing for inflation, with a goal of about three per cent increase per year.

Why are we making this effort to increase our defense? In deciding just how many defense dollars we need, we have to start by looking at the military efforts and capabilities of the Soviet Union. I have examined those Soviet capabilities carefully, with the help and advice of the Joint Chiefs of Staff. They and I meet at least once a week, and I meet daily with General Jones, the Chairman of the Joint Chiefs of Staff. We consider frequently what responses the United States should make to growth in Soviet military power.

We find that the Soviets have been engaged in a substantial military buildup for nearly twenty years. Over that period they have increased their military expenditures by about four per cent each year in real terms, compounded, year in and year out. And their buildup is continuing.

But that does not mean that we and our allies have been sitting on our hands, or that we have suddenly become inferior to the Warsaw Pact. We are not. And it does not mean that, as we continue to improve our forces, we should make them a carbon copy of the Soviet posture, or that we should plan forces simply to match certain Soviet capabilities.

The Soviets must wrestle with a number of problems that we do not now have, especially with respect to China. Their planning has to take into account a difficult geography and a harsh climate—though they do have the advantage of internal lines of communication. They lack willing and effective allies. Our planning should neither forget their burdens, nor assume we have the same problems—we have problems, but ours are different.

Thus, simple comparisons of Soviet and American forces are only the beginning of understanding our military needs. In planning our forces, we need to be careful not to be misled by such comparisons.

Take the case of our strategic nuclear posture. With the warheads we already deploy, we can target all significant military objectives in the Soviet Union, even after undergoing a first strike by the Soviets. Our basic offensive strength, in other words, is adequate today. But as strategic forces have grown more sophisticated in both the Soviet Union and the United States, the requirements of deterrence have become more demanding: not necessarily in terms of missile throw-weight, or megatonnage, or warheads—the sorts of measures one often hears about—but rather in other dimensions.

For example, control and the ability to withhold some offensive forces—to be able to attack some targets and spare others at a particular phase of combat—may be as important as rapid reaction against the entire enemy target system. As a consequence, our offense needs improved communications, command and control, even though such capability tends to be ignored in most simple comparisons of Soviet and American strategic capabilities.

Age also often is ignored in simple comparisons, and some of our offensive forces are growing old. Also, some—particularly the ICBM component—are becoming more vulnerable than is desirable from the standpoint of flexibility, even though we might decide to use those forces under attack before they were destroyed.

We have not been idle in the face of these needs. Aging of the force is being brought under control. The modernization of the submarine and bomber forces—with the Trident missile and with cruise missiles—is well under way. We are moving toward development of a new and more sophisticated ICBM. And we are continuing to examine possible replacements for our B-52 bombers.

We are giving equal priority to our other strategic force needs, even though they are less visible and do not lend themselves to simple, numerical comparisons with Soviet capabilities:

Our warning systems are being improved.

We are developing increased accuracy for all our missiles—ballistic and cruise.

We are upgrading our communications and ability to use those communications selectively.

New warheads soon will be deployed, and advanced avionics systems for our bombers are being tested.

Right now, even after a Soviet surprise attack, we could deliver literally thousands of thermonuclear weapons to targets in the Soviet Union. Despite the improving Soviet offensive and defensive forces, that capability of ours is not going to decline in the future. It is going to increase.

In response to the potential threat new Soviet ICBMs pose to our ICBMs, I have asked the military services and the Joint Chiefs of Staff to consider a number of options to enhance the survivability of that leg of our nuclear deterrence triad—a triad which is composed of bombers and cruise missiles, submarine-launched ballistic missiles, and inter-continental land-based missiles. A number of mobile ICBM basing concepts are being evaluated, including some involving alternate launch points for each missile. This concept envisions moving missiles and their launchers among multiple sites which might themselves be hardened, thus substantially complicating Soviet targeting of our deterrent.

No decision has been made whether or not to deploy mobile ICBM systems, like the alternate launch point system (or multiple aim point system, as it is sometimes called) that I just mentioned. Nor have we decided which particular concept we would implement, if we were to elect to deploy a mobile ICBM system. The current and projected capabilities of our strategic forces give us time to study thoroughly questions of technical feasibility, military effectiveness and cost prior to making decisions about deploying mobile ICBMs.

Any mobile ICBM basing system would, of course, have to be fully consistent with all provisions—including verification provisions—of a strategic arms limitation agreement. The United States will not deploy a mobile ICBM system that would not permit adequate verification of the number of launchers deployed, and other provisions of the agreement. You may be confident that we will insist that any Soviet system meet the same verification standards.

The parts of the joint draft text of the SALT II agreement that have already been agreed allow deployment of mobile ICBM systems of the types we are considering. The draft agreement explicitly permits deployment of mobile ICBM launchers during its term, after the expiration of an interim protocol period which would end well before mobile ICBM systems would be ready for deployment.

I know that some of you are concerned about SALT. I want to assure you that no SALT agreement will be signed unless it is in the interest of the United States to sign it. That means particularly that it must not undermine our military security. An acceptable strategic arms limitation agreement is not going to weaken the U.S. second-strike capability that I have described. We will retain our assurance—and the Soviets will know—that we can deliver such a devastating second-strike blow. And that will remain true despite the current Soviet civil defense program.

Let me turn finally to conventional forces. Here detailed comparisons count even more than in strategic forces. Despite the growth in Soviet theater capabilities, we and our allies already have bought and are paying for the land, naval, and air forces needed to protect our interests in the world. Despite our global responsibilities, we already are well equipped to deal with contingencies that allow ample time for readying and deploying our forces. If NATO could be sure of a month or more to set up its defenses, for example, I doubt that any Soviet marshal would recommend an attack on Western Europe.

Unfortunately, however, we and our allies no longer can count on having that kind of time. The Soviet theater forces have changed most significantly, not in numbers, but in their ability to wage short, intense, non-nuclear campaigns using large, modernized forces, with relatively little advance preparation. In consequence, as General Haig, the Supreme Allied Commander in Europe, recently observed, surprise attack has become more feasible. Our needs have changed accordingly: not toward larger forces, but toward higher combat-readiness, greater short-run sustainability, improved interoperability with allies, and more long-range mobility for the forces we already have.

Don't misunderstand me; I recognize the need for modern weapons. We need improved equipment. But our modern weapons must be fully effective. Therefore, the members of our Armed Forces must be able to maintain them, adequately train on them, and get them into a combat theater before our defenses are overrun.

Combat effectiveness depends on many factors. We must keep the size of our forces, their modernization, their readiness (including their mobility) and their sustainability, in balance—especially when the incentives for surprise attack and short, intense campaigns have gone up. Spending money on spare parts, unit training, and field exercises may not grab the headlines. But considering the investment we already are making in hardware, that is the right way at the right time to neutralize the Soviet buildup. That is what the President had in mind, as I said earlier, when he sent the Defense Authorization Bill back to the Congress last week, with a request to put our dollars where they will provide us the greatest protection from the Soviet military effort.

An adequately and properly balanced Defense budget, then, is one way we assure our security against the Soviet military threat. It is a necessary way, but it is not the only one. Although some may still be skeptical about arms control agreements—and it is a particular responsibility of mine not to be gullible about them—such agreements are another and complementary way of dealing with Soviet military efforts. The interests of the Soviet Union and the United States clearly

diverge in many respects. But the Soviets understand that, as long as we remain strong—and I intend that we will—direct conflict with the United States and its friends could quickly lead to disaster. At a minimum, they share our interest in avoiding such a conflict. And there are other problems of mutual concern on which communication remains necessary and cooperation should be possible. We cannot afford to ignore those possibilities.

I say that because the interests of the United States are best advanced under conditions of peace and orderly change. We need as much stability and predictability as we can manage in our internal relations, consistent with national security. U.S. and allied arms buildups offer one way of obtaining security, stability, and predictability; arms control provides another. What mix of the two works best depends on the circumstances.

As matters now stand, we are well positioned for further competition and an arms buildup. But that is not our preferred path, if we can obtain security, stability, and predictability through precise, equitable, and verifiable arms control. In that case we prefer agreed restraints and reductions to competition and buildups. As a nation, we have no vested interest in arms races.

Our preference for restraint is bound to be especially strong where nuclear forces are concerned. I say this for several reasons. Nuclear weapons represent the only real threat to the survival of the United States and, for that matter, to that of the Soviet Union. Those weapons could destroy in hours all that the two nations have built over centuries.

Both the United States and the Soviet Union already deploy nuclear forces capable of this kind of destruction. As a consequence, it is increasingly unlikely that further buildups by one side will yield a meaningful advantage, providing that the other side takes prudent countermeasures. This is so even though civil defense or exotic technologies may continue to create the illusion of potential advantage.

This is not to say that agreements to limit strategic or other armaments can solve all problems, remove all grounds for fear and suspicion, or bring all competition to a complete halt. But carefully drawn agreements—backed by verification of compliance with them—can accomplish a great deal.

They can make the achievement of future advantage even more unlikely, while allowing current vulnerabilities to be removed.

They can make future structures more predictable and lower the need for extreme conservatism in our defense planning.

They can contribute to a healthier political environment, an environment in which still further restraints can be imposed on both sides according to the principle of equivalence.

I do not see any immediate prospect of achieving a mutual end to competition in military strength. A reasonable objective today is to maintain the modest momentum toward arms control. But arms control as such, I can assure you, is not our sole or even principal objective in SALT. What we want, what we insist on, is that the security of the United States and its allies be at least as assured with a SALT agreement as without it. If an agreement does not meet that test, it will not be signed. If it does, it will be.

But with or without SALT, our Defense programs will—in the main—have to continue. As we proceed with them, the issue is not whether to have as much defense as we need to protect our domestic and foreign interests. Nobody should doubt the absolute priority of that requirement. To the extent that there is an issue, it is over what, in detail, constitutes the necessary defense.

Experts can argue for hours—my own time is heavily involved in such considerations—about how important, absolutely or relatively, it is to add a seventeenth Army division, a twenty-seventh fighter-attack wing, or a thirteenth attack carrier. The fact of the matter is that, with the force structure we already have, individual changes of that order are not going to make much difference to our overall military effectiveness. But changes in our ability to maintain, move, supply, and operate professionally the weapons already in our inventories can make all the difference in the world in our effectiveness, and in our deterrent power. You can recall your own military experiences. You probably remember the difficulties of performing your mission when weapons and equipment were not in adequate supply, or not functioning properly, or down for lack of spare parts.

The President and I want fully effective forces. The competition from the Soviet Union demands it. Real readiness to fight is the most effective counter to the Soviet military threat. Our resources must be spent to assure effectiveness for the kinds of conflicts that are the most likely now and in the foreseeable future. We must not drift back toward the old strategy of sacrificing immediate readiness but counting on a long time for mobilization—a strategy that was barely feasible in the 1930s. Today we do not have luxury of time, and combat-readiness and quick response are what we need. As Secretary of Defense, I with the concurrence of the President intend to shape and provide for our forces to meet those very real requirements. You are a group who because of those very real requirements can understand this. I hope I will have your support.

In closing, let me add that there is another and more fundamental reason why priority should go to combat-readiness, assuring the immediate fighting capability of our people in uniform. It is that only people—professionally trained people with high morale—can make our weapons work. Even pushbuttons have to be pushed.

As the Legion knows better than most, people are the greatest asset we have in defense. Technologically, we have a comparative advantage over the Soviet Union. But it is not nearly as great as the advantage we obtain from being a free people. The Soviets may be able to close the gap in weapons production and to narrow the gap in military technology. They will never come close to the spirit, the dedication, and the initiative of the men and women in the Armed Forces of the United States.

You, our veterans, gave us the margin necessary to victory in the past. The men and women of our Armed Forces today offer us the opportunity for the same decisive margin. As long as I am Secretary of Defense, I intend to make the most of it. I hope to have your support in doing so.

Thank you.●

ERA EXTENSION

● Mr. GARN. Mr. President, Grover Rees III, a New Orleans attorney, has written a very helpful article on the problems involved with extending the time for ratification of a constitutional amendment. Mr. Rees' article appeared in the August 18, 1978, edition of National Review.

Mr. Rees' research and analysis are very helpful, of course. But one of the most enlightening aspects of his article is the spirit in which it is written. Mr. Rees asks us to consider the rules not as they apply to ERA, but as they would apply to the constitutional amendment we would most like to see adopted and the amendment we most fear. Then, to apply the same rules to both situations.

As Mr. Rees says about the current controversy over an extension—

Do not think in terms of the ERA. Instead, think of your very favorite proposed constitutional amendment. Then imagine the constitutional change you fear the most. Examine the several alternative constructions of the technical rules on the amendment process provided in the Constitution itself, keeping in mind that the same rules will apply to the good and the bad proposals. That's what the Framers did when they designed the process.

Mr. President, it is my sincere hope that when the Senate considers House Joint Resolution 638 to extend the time for ratification of the equal rights amendment that each Senator will bear this important fact in mind: that we are dealing with a procedure for the proposal, consideration, and possible ratification of good and bad amendments alike, and that the actions taken by this body during the next several weeks will establish a precedent that may last for decades.

I trust that we will act accordingly.

I ask that Mr. Rees' article be printed in the RECORD.

The article follows:

WHEN THE VOTING SHOULD HAVE STOPPED

(By Grover Rees III)

When Congress proposed the Equal Rights Amendment in 1972, the proposing resolution stated the amendment would become part of the Constitution "when ratified by the legislatures of three-fourths of the several states within seven years from the date of its submission . . ." Those seven years will be over next March. However, Congress and several state legislatures are now considering actions that would create serious doubt, among legal scholars as well as the general public, about what is part of the Constitution and what is not.

Ratifications by 38 state legislatures are necessary for final passage. To date, 35 legislatures have ratified; of these, four have passed resolutions purporting to rescind their ratifications. Congress, meanwhile, is considering a resolution (already passed by the House Judiciary Committee) to extend for another 39 months the period in which states may ratify. In March, we will all—those of us who wish to know for sure what the Constitution says—find ourselves in one of the following situations:

1. Assuming that Congress does not attempt to extend the deadline, and that fewer than three additional states ratify the ERA, the legal situation will be clear. The ERA will be "dead," in the limited sense that the 1972 resolution with its 35 ratifications will be null. ERA supporters say they'll get Congress to re-propose the amendment; opponents say they're not worried.

2. If Congress declares the deadline extended, and if by March fewer than three more states have ratified, the effect of the congressional extension will be unclear. Some ERA supporters argue that all prior ratifications—even by states that later rescinded—will remain valid. Another view is that Congress cannot "carry forward" the prior ratifications, and that 38 new ratifications would be needed. Finally, a few legal scholars take the view that extension is valid, but only if states are permitted to rescind their ratifications. Under this view, the ERA would need six or seven more states. Prognosis: at least 39 more months of uncertainty.

3. If Congress passes no extension resolution, but at least four (but fewer than seven) more states ratify by the March deadline, then the ERA will become law only if the four rescissions are ineffective.

4. If exactly three additional states ratify (assuming, again, no congressional extension), then whether the ERA is part of the Constitution will depend on the rescission issue and on the delightfully arcane question whether Kentucky's lieutenant governor could legally veto a rescission resolution passed by the legislature (the governor was out of the state). Governors have never exercised a role in the ratifying process, since the Constitution provides that state legislatures or conventions—not "states"—ratify amendments, and the Supreme Court has held that a state may not restrict its legislature's ratifying function.

There are other permutations, partaking of the juridical elements of one or more of the above. Don't worry about them. Instead, join me in a brief review of a few legal principles, gleaned from the debate over the adoption of the federal Constitution and from the few occasions on which the Supreme Court has construed the formula for constitutional amendment.

A caveat: Do not think in terms of the ERA. Instead, think of your very favorite proposed constitutional amendment. Then imagine the constitutional change you fear the most. Examine the several alternative constructions of the technical rules on the amendment process provided in the Constitution itself, keeping in mind that the same rules will apply to the good and the bad proposals. That's what the Framers did when they designed the process.

Speaking logically, not historically, the rescission controversy seems artificial. Article V of the Constitution, which provides for amendments, is silent on rescission. The general rule is that states are sovereign: a legislature can do anything not prohibited by the federal or state constitution. In particular, legislatures can undo what they have done. They regularly reconsider and repeal their own prior enactments.

If there is a genuine question about the validity of state rescissions, it is created by a sordid and better-forgotten bit of American history. In 1868, three-fourths of the legislatures had ratified the Fourteenth Amendment; Ohio and New Jersey, however, had rescinded before the last state had ratified. Nevertheless, both houses of Congress passed a resolution declaring the amendment to be part of the Constitution.

The Senate passed the resolution without debate and without a roll-call vote. The House debated only for a minute or two, rejecting a request that the Judiciary Committee consider the resolution. (It was almost referred to the Joint Committee on Reconstruction, but the House opted instead to pass it without any committee consideration whatever.) This was the Reconstruction Congress, and the members who voted—in a near-perfect party-line vote—that Ohio and New Jersey could not rescind were, virtually man for man, those who five months earlier had voted to impeach Andrew Johnson for refusing to obey unconstitutional orders.

A few thoughts on the 1868 resolution. First, it was not framed as a general statement on the right to rescind. Indeed, debate revealed more support for the proposition that these particular rescissions were invalid because the Democratic legislatures of Ohio and New Jersey did not truly represent the citizens of those states. Moreover, up to that moment in history nobody had suggested that Congress had any power over the amending process except to propose amendments and to designate the mode of ratification. The only prior controversy over the validity of an amendment—the Eleventh, in 1798—had been settled by the Supreme Court. The attempt by the Reconstruction Congress to judge whether its own proposal had been duly ratified can best be explained in light of the felt necessities of the time: this Congress not only impeached Johnson, it also proudly regarded several states as "conquered territory" and ruled them accordingly.

Most important, the Reconstruction resolution was never tested in court, not even implicity. On the very day of its passage, Georgia ratified the Fourteenth Amendment, bringing the total to three-fourths without Ohio and New Jersey, and rendering the rescission issue irrelevant. In 1939, three members of the Supreme Court referred to the congressional action, with apparent approval; but the reference was unnecessary to the Court's decision, and was therefore a mere expression of personal opinion.

It should be stressed that the Reconstruction resolution is moot: if the Supreme Court should recognize the validity of the ERA rescissions, it will not be compelled, either logically or practically, to raise questions about the validity of the Fourteenth or any other existing amendment.

Except for the 1868 resolution, with its endorsement by three Justices in 1939, the history of the amending process tends to support the right to rescind. The Constitutional Convention debates reveal the attitude that amendment should be possible only when a broad consensus exists: that a substantial minority of states should be able to block changes favored by a majority, and that frequent amendment would be undesirable. In *The Federalist* No. 85, Hamilton argued that the amending process would ensure that "the will of the requisite number" should prevail; amendment would be possible only when three-fourths of the states "were united in the desire of a particular amendment." Obviously, no state that has rescinded is "united in the desire" with a state that later ratifies. No consensus is achieved.

The Supreme Court has recognized contemporaneous consensus, and not just the formality of a certain number of isolated legislative acts, as necessary for ratification. Consensus was the basis for the Court's holding that an amendment must be ratified within a "reasonable time" to become part of the Constitution: state ratifications must be "sufficiently contemporaneous . . . to reflect the will of the people in all sections at relatively the same period." The "reasonable time" doctrine is based on the mere *possibility* that a ratifying state would lose its enthusiasm for an amendment after a few years. With even more reason, a state that has positively indicated its lack of support for an amendment cannot be counted as part of a consensus.

Not only logic and history, but also fairness, requires a state's right to rescind. It is universally recognized that a state legislature, having rejected an amendment, can later ratify it. To allow such reconsideration of a negative judgment, but not of a positive one, would give those who want to change the Constitution an unlimited opportunity to bounce back from defeat, while denying the same right to those who prefer to keep the Constitution as it is. Does anybody think the Framers intended such a result?

Opponents of the right to rescind—aside from invoking with reverence the two shaky precedents mentioned above—advance two principal arguments:

First, we desperately need the ERA. The women of America have worked so hard and so long that a defeat on this issue would prove that The System Does Not Work.

Second, it is the act of ratification that counts. Once a state has ratified, it has no more power over an amendment. Under this view, if 37 states had ratified in a flurry of enthusiasm for a new proposal, and every ratifying state had later rescinded, any one state could still bind the nation by ratifying, consensus or no consensus. There are, then, two views of the amending process: the consensus theory and the sacramental act theory.

The mind's eye pictures Bella Abzug standing astride the nation with a great sack. Now she plucks up Connecticut, now Indiana, now little Delaware. Each time she bags a new state, a frisky Tennessee or Idaho scrambles out of the sack, only to be jammed back inside. Two views of the amending process: the consensus and the "Gotcha!" theory.

Since Congress can propose a new ERA whenever it chooses, identical to the old but with a new time limit, it could presumably achieve the same result by extending the 1972 resolution for 39 more months. But what effect will this have on states that have already ratified?

Advocates of extension insist that the time limit is a mere procedural matter, and that Congress has the implied power to change it at will, holding onto the prior ratifications. Opponents point to the fact that each ratifying state voted on a specific resolution; which contained the seven-year time limit. Approval of the ERA thus limited—in effect, a statement that "We're for it if 37 other states will ratify within seven years"—cannot be equated with unconditional approval.

Extension supporters place great weight on the location of the seven-year language in the ERA resolution. They generally admit that if the time limitation were in the text of the amendment itself, Congress could not extend without releasing the previously ratifying states. The seven-year limit on the ERA, however, is not in the body of the amendment, but in the preamble. Therefore, the argument goes, in changing the time limit Congress is not tampering with the amendment itself, which is all the states ever voted on.

This technical contention elevates form over substance, ignoring what really happened in the ratifying process. Each state received from Congress a copy of the entire resolution, including the preamble with the seven-year time limit. The whole package was on the bargaining table when the states agreed to ratify.

At a House subcommittee hearing on extension, ERA advocates ridiculed the notion that legislatures actually relied on the time limit and would have opposed the amendment had they thought the limit might be extended. Any doubt about legislative intent, however, has been resolved by the careful research of Professor Jules Gerard of Washington University Law School, who has examined the actual resolutions by which the states ratified the ERA. Professor Gerard reveals that of 35 such resolutions, 26 expressly mention the time limit.

To circumvent this argument, extension proponents invoke the sacramental act theory, arguing that no matter what a legislature thought it was ratifying, it actually did ratify whatever it was that Congress proposed. Like Isaac, a legislature may have been tricked into giving its blessing to a resolution it never loved; but a blessing is a blessing. Gotcha.

Assuming for the sake of argument that state legislative intent is irrelevant, the key inquiry becomes whether the Congress that proposed the ERA intended for the time limit to be subject to change. It did not. The Senate hotly debated the question of a time limit, with several members indicating they could not support an amendment that might be "lingering in limbo for an indefinite number of years." The time limit was inserted on a roll-call vote, with the principal ERA sponsors on the losing side. But why was the limitation put into the preamble, rather than the text?

Several prior amendments did include the time limitation in the body of the amendment itself. Every amendment since the Twenty-Third, however, has had a time limit in the preamble, like the ERA. Extension supporters argue that the switch was in-

tended to make the time limit a procedural detail, not a substantive part of the amendment immune to extension. But there is proof positive to the contrary.

Early proposed drafts of the Twenty-Third Amendment included the time limit in the text. At the request of its author, however, the amendment was rewritten by Professor Noel Dowling, perhaps the most respected constitutional scholar of his time. He had this to say:

"The seven-year limitation is put in the resolution rather than in the text of the amendment. There is no doubt about the power of Congress to put it there; and it will be equally effective. The usual way, to be sure, has been to write the limitation into the amendment; but we hope such an unnecessary cluttering up of the Constitution can be ended." [Emphasis added.]

In other words, the change was purely stylistic. A time limit has no business actually becoming part of the Constitution, since it has outlived its usefulness at the moment the last state ratifies. It was placed in the preamble as a step toward a more elegant Constitution, not a more powerful Congress. A time limit in the preamble was intended to have the same legal effect as a time limit in the text: to be reliable, predictable, tamper-proof.

Extension and rescission are technically unrelated issues. Several scholars have suggested, however, that if Congress extends the deadline, it will be necessary to allow states to rescind. This is more a fairness argument than a legal theory, but as a fairness argument it is compelling. A ten-year deadline would give amendment supporters at least ten chances in most states. Nine rejections followed by one acceptance would put the state squarely in the pro-ERA column. Meanwhile, state legislatures that ratified back in 1972 might be hating themselves for it, and passing annual resolutions rescinding and deploring the ERA, to no avail. Professor Charles Black of Yale Law School, a strong ERA supporter, calls it a "silly lobster-trap." But the House Judiciary Committee is not impressed: in considering the extension resolution, it rejected an amendment acknowledging the states' right to rescind.

The case for congressional power to extend the deadline and bind previously ratifying states, like the case against a state's right to rescind, is so weak that supporters seldom argue the merits. Rather, they assert that matters of constitutional amending procedure are "political questions," in which the Supreme Court will allow judgments of Congress to stand, right or wrong. By the same token, a few zealous ERA supporters are frankly urging Congress to forget the legal niceties and to treat votes on extension and rescission as votes for or against the ERA.

The "political-questions doctrine" originated as a view that the text of the Constitution forbade the courts to review certain actions of the Legislative and Executive branches. The best example is the provision that each house of Congress shall be "the sole judge" of its members' qualifications. In this matter, Congress is said to act as a *court*, and no other court can review its decisions. The political-questions doctrine gradually expanded to include a few areas (notably foreign policy) where there was no clear constitutional mandate for the courts to keep out, but where judicial intervention was regarded as impractical or dangerous.

In 1939 the Supreme Court held in *Coleman* v. *Miller* that some, but not all, matters of amendment procedure are political questions. Four judges stated flatly that the text of Article V commits adjudication of amendment questions to Congress; but they quoted no such language, and in fact there is none. Three others argued that, as a practical matter, Congress is the best judge of certain facts, and so the courts will not interfere. These three judges were the ones who approved the Reconstruction resolution. They did not indicate how courts should decide which congressional judgments to let stand and which to review; indeed, the decision was widely criticized as internally inconsistent.

Coleman would probably be decided differently by the Supreme Court today. The scope of the political-questions doctrine has narrowed considerably. In 1969, Representative Adam Clayton Powell sued the Speaker of the House, asserting that he had been illegally expelled from Congress. The Supreme Court took the case and declared Powell entitled to his seat, despite the explicit provision in the Constitution that Congress is "the sole judge." Since *Powell* v. *McCormack*, scholars have been asking whether there is really anything left of the political-questions doctrine.

Even those who disapprove of *Powell* should welcome its effect on those areas where there is *no* textual commitment of a judicial matter to Congress. Just as the courts ought to leave legislating up to the legislature, it is proper for Congress to leave adjudication to the courts.

John Marshall pointed out that the Supreme Court's first duty is "to say what the law is." The first step in observing that duty is to say what the Constitution contains.

It has been suggested that the Supreme Court has an institutional conflict of interest in matters of amending procedure, because some amendments might limit the Court's power. Congress, however, has a twofold conflict: first, amendments frequently limit or expand congressional power; second, Congress already has a role in the amending process, that of proponent. The ERA spectacle now unfolding is an illustration: Congress proposes the ERA, then votes to extend the time limit on its proposal, then passes a resolution "judging" ratifying states to be bound by the extension, and also "judges" the constitutionality of state rescissions. It's 1978: do you know where your Constitution is?

The impact of declaring amendment procedure to be a political question would extend far beyond the ERA controversy. A model in which the limited role of Congress is boot-strapped into that of general overseer of the amending process—sitting as a "court" in judgment of the success or failure of its own proposals, and free to disregard the clear intentions of the other protagonists—would do unique violence to federalism and to the separation of powers.

A political question, by definition, is one on which Congress cando anything it wishes, no matter how extreme, and be immune from judicial review. Congress could, for instance, propose an amendment on Monday, then pass a resolution on Tuesday "judging" its proposal to have been ratified by 38 states. Everyone could see the congressional resolution was a lie; but the Supreme Court, if it accepted this as a "political question" on which it was powerless to rule, would have to apply the Constitution thus rewritten.

Of course it's unlikely that Congress would pursue the political-questions doctrine to its logical extreme. Nevertheless, at every turn there will be voices urging Congress to disregard legal niceties, to regard procedural votes as expressions of support or opposition to the amendment of the hour. At its best, the Constitution protects the rights of racial, religious, sectional, and other minorities. To entrust the ultimate power over its amendment to a single institution—a highly political, majoritarian, federal-level institution—would be to trust that institution with those rights.

Greasing the skids for the ERA will set a precedent for future amendments which, Professor Black reminds us, could "change the Presidency to a committee of three, hobble the treaty power, make the federal judiciary elective, repeal the Fourth Amendment, make Catholics ineligible for office, and move the national capital to Topeka."

No thoughtful person, liberal or conservative, ERA supporter or opponent, will let his feelings about a particular amendment color his judgment about who shall wield, for all time, the power to rewrite the Constitution.

In response to ERA opponents' entreaties not to "change the rules in the middle of the game," Congressman Barbara Jordan recently replied, with righteous indignation, "This is no game!" She's right. It's a Republic, if we can keep it.●

OVER 750,000 OPPOSE NUCLEAR POWER

● Mr. GRAVEL. Mr. President, I am delighted to report to Congress that an organization dedicated to banning unsafe, unnecessary, uneconomic nuclear fission power has received support, in writing, from over 750,000 Americans.

The Task Force Against Nuclear Pollution, Inc. (P.O. Box 1817, Washington, D.C. 20013) now has over 750,000 signatures on the following, or similar, "Clean Energy Petition," which is endorsed by Ralph Nader:

I petition my representatives in government to sponsor and actively support legislation to: (1) foster wide use of solar (including wind) power NOW, and (2) phase out operation of nuclear powerplants as quickly as possible.

Mr. President, the task force's growing number of petitions is only one indication of the growing number of Americans who are saying "no" to nuclear power. For example, on June 24, 1978, about 25,000 people came to the anti-nuclear rally in Seabrook, N.H. Contrary to some press reports, the participants did not come just to have a good time near the sea; the rally was held in the middle of a dusty garbage dump infested with mosquitoes. The depth of understanding of the nuclear problem exhibited by the people at the rally was remarkable, and even surprised some of the speakers.

When I began having severe reservations about nuclear power several years ago, there was almost no evidence that my opinion was shared by many Americans. But thanks to relentless efforts by what was at first a small number of concerned citizens, the message is finally reaching more and more people: Nuclear powerplants, which each year can produce as much radioactive garbage as 1,000 Hiroshima bombs per powerplant, represent a unique and unmanageable hazard to present and future generations. And further, they are an unmanageable economic burden and are completely unnecessary since all our legitimate energy demands can be met through non-nuclear fission energy sources, like solar energy.

Mr. President, so that my colleagues may see the extent of concern over the nuclear power issue across the country, I submit the August 1978, report of the task force, which lists by congressional district the number of signed petitions, to be printed in the RECORD.

TASK FORCE AGAINST NUCLEAR POLLUTION
REPORT OF AUGUST, 1978

(Representatives listed by last name by Congressional District; those in CAPITAL letters are sponsors of nuclear power moratorium legislation. UN: Unidentified by district)

Alabama

1. Edwards	162
2. Dickinson	229
3. Nichols	457
4. Bevill	123
5. Flippo	650
6. Buchanan	508
7. Flowers	574
UN	18
Total	2,271

Alaska

At Large—Young	417

Arizona

1. Rhodes	529
2. Udall	1,226
3. Stump	305
4. Rudd	252
UN	4,539
Total	6,949

Arkansas

1. Alexander	183
2. Tucker	437
3. Hammerschmidt	2,570
4. Thornton	193
UN	44
Total	3,427

California

1. Johnson	1,684
2. Clausen	4,339
3. Moss	2,456
4. Leggett	734
5. Burton (John)	2,935
6. Burton (Phillip)	2,140
7. Miller	976
8. DELLUMS	5,486
9. STARK	766
10. Edwards	778
11. RYAN	862
12. McCloskey	234
13. Mineta	848
14. McFall	1,753
15. Sisk	1,584
16. Panetta	5,410
17. Krebs	2,672
18. Vacant	261
19. Lagomarsino	2,283
20. Goldwater	1,244
21. Corman	611
22. Moorhead	709
23. Bellenson	2,467
24. Waxman	3,936
25. ROYBAL	625
26. Rousselot	764
27. Dornan	2,651
28. Burke	815
29. Hawkins	128
30. Danielson	292
31. Wilson (Charles)	298
32. Anderson	583
33. Clawson	689
34. Hannaford	838
35. Lloyd	599
36. Brown	394
37. Pettis	619
38. Patterson	292
39. Wiggins	613
40. Badham	2,350
41. Wilson (Bob)	1,604
42. Van Deerlin	700
43. Burgener	1,476
UN	1,004
Total	64,502

Colorado

1. Schroeder	1,459
2. Wirth	222
3. Evans	756
4. Johnson	1,343
5. Armstrong	518
UN	181
Total	4,479

Connecticut

1. Cotter	1,810
2. Dodd	3,940
3. Giaimo	3,093
4. McKinney	3,577
5. Sarasin	1,891
6. Moffett	1,699
UN	1,942
Total	16,952

District of Columbia

At Large—Fauntroy	2,205

Delaware

At Large—Evans	7,243

Florida

1. Sikes	253
2. Fuqua	1,680
3. Bennett	157
4. Chappell	407
5. Kelly	289
6. Young	501
7. Gibbons	248
8. Ireland	488
9. Frey	193
10. Bafalis	730
11. Rogers	1,123
12. Burke	358
13. Lehman	452
14. Pepper	448
15. Fascell	1,176
UN	151
Total	8,653

Georgia

1. Ginn	287
2. Mathis	72
3. Brinkley	501
4. Levitas	1,458
5. Fowler	68
6. Flynt	176
7. McDonald	260
8. Evans	201
9. Jenkins	695
10. Barnard	551
UN	551
Total	4,820

Hawaii

1. Heftel	800
2. Akaka	298
Total	1,098

Idaho

1. Symms	700
2. Hansen	319
UN	2
Total	1,021

Illinois

1. Metcalfe	91
2. Murphy	14
3. Russo	65
4. Derwinski	846
5. Fary	8
6. Hyde	542
7. Collins	23
8. Rostenkowski	30
9. Yates	303
10. Mikva	1,727
11. Annunzio	28
12. Crane	1,071
13. McClory	861
14. Erlenborn	487
15. Corcoran	1,560
16. Anderson	914
17. O'Brien	295
18. Michel	137
19. Railsback	431
20. Findley	516
21. Madigan	1,743
22. Shipley	216
23. Price	386
24. Simon	852
UN	3,629
Total	16,781

Indiana

1. Benjamin	230
2. Fithian	444
3. Brademas	1,121
4. Quayle	326
5. Hillis	219
6. Evans	111
7. Myers	1,905
8. Cornwell	247
9. Hamilton	842
10. Sharp	482
11. Jacobs	163
UN	294
Total	6,544

Iowa

1. Leach	3,633
2. Blouin	1,567
3. Grassley	628
4. Smith	2,424
5. Harkin	1,083
6. Bedell	323
UN	70
Total	9,817

Kansas

1. Sebelius	1,694
2. Keys	853
3. Winn	1,007
4. Glickman	2,718
5. Skubitz	1,505
UN	108
Total	7,885

Kentucky

1. Hubbard	173
2. Natcher	302
3. Mazzoli	1,060
4. Snyder	219
5. Carter	377
6. Breckinridge	541
7. Perkins	139
UN	20
Total	2,920

Louisiana

1. Livingston	474
2. Boggs	935
3. Treen	98
4. Waggonner	677
5. Huckaby	44
6. Moore	834
7. Breaux	307
8. Long	178
UN	16
Total	3,563

Maine

1. Emery	2,350
2. Cohen	1,936
UN	28
Total	4,418

Maryland

1. Bauman	631
2. Long	336
3. Mikulski	27
4. Holt	601
5. Spellman	906
6. Byron	435
7. Mitchell	147
8. Steers	1,853
UN	1,431
Total	6,357

Massachusetts

1. Conte	12,166
2. Boland	2,471
3. Early	1,538
4. Drinan	978
5. Tsongas	1,972
6. Harrington	2,335
7. Markey	372
8. O'Neill	1,361
9. Moakley	457
10. Heckler	2,056
11. Burke	492
12. Studds	1,771
UN	3,971
Total	31,930

Michigan

1. Conyers	386
2. Pursell	1,585
3. Brown	681
4. Stockman	618
5. Sawyer	395
6. Carr	749
7. Kildee	205
8. Traxler	366
9. Vander Jagt	388
10 Cederberg	514
11. Ruppe	668
12. Bonior	316
13. Diggs	313
14. Nedzi	464
15. Ford	360
16. Dingell	323
17. Brodhead	629
18. Blanchard	540
19. Broomfield	744
UN	23
Total	10,267

Minnesota

1 Quie	671
2. Hagedorn	713
3. Frenzel	149
4. Vento	1,721
5. Fraser	2,519
6. NOLAN	411
7. Stangeland	453
8. Oberstar	382
UN	77
Total	7,096

Mississippi

1. Whitten	53
2. Bowen	79
3. Montgomery	24
4. Cochran	204
5. Lott	444
UN	3
Total	807

Missouri

1. Clay	711
2. Young	410
3. Gephardt	632
4. Skelton	895
5. Bolling	355
6. Coleman	568
7. Taylor	523
8. Ichord	2,600
9. Volkmer	468
10. Burlison	131
UN	124
Total	7,417

Montana

1. Baucus	608
2. Marlenee	329
UN	3
Total	940

Nebraska

1. Thone	511
2. Cavanaugh	215
3. Smith	146
Total	872

Nevada

At Large—Santini	590

New Hampshire

1. D'Amours	4,562
2. Cleveland	3,472
UN	4,011
Total	12,045

New Jersey

1. Florio	1,587
2. Hughes	5,205
3. Howard	1,673
4. Thompson	1,342
5. Fenwick	3,424
6. Forsythe	2,213
7. Maguire	3,156
8. Roe	1,298
9. Hollenbeck	1,816
10. Rodino	1,198
11. Minish	2,020
12. Rinaldo	1,730
13. Meyner	1,348
14. Le Fante	1,636
15. Patten	1,820
UN	1,072
Total	32,574

New Mexico

1. Lujan	4,192
2. Runnels	323
UN	844
Total	5,359

New York

1. Pike	6147
2. Downey	1881
3. Ambro	3346
4. Lent	2334
5. Wydler	2336
6. Wolff	1647
7. Addabbo	34
8. Rosenthal	103
9. Delaney	31
10. Biaggi	103
11. Scheuer	284
12. Chisholm	19
13. Solarz	58
14. Richmond	41
15. Zeferetti	45
16. Holtzman	37
17. Murphy	1896
18. Green	2941
19. Rangel	1744
20. Weiss	3337
21. Garcia	17
22. Bingham	22
23. Caputo	2980
24. Ottinger	4307
25. Fish	12310
26. Gilman	3377
27. McHugh	12307
28. Stratton	2534
29. Pattison	8932
30. McEwen	6495
31. Mitchell	1629
32. Hanley	4007
33. Walsh	3203
34. Horton	2295
35. Conable	1208
36. LaFalce	6093
37. Nowak	3738
38. Kemp	2288
39. Lundine	2616
UN	10544
Total	119,266

North Carolina

1. Jones	609
2. Fountain	3032
3. Whitley	448
4. Andrews	4449
5. Neal	1347
6. Preyer	732
7. Rose	276
8. Hefner	832
9. Martin	798
10. Broyhill	499
11. Gudger	2769
UN	16
Total	15,807

North Dakota

At Large—Andrews	328

Ohio

1. Gradison	1,263
2. Luken	953
3. Whalen	449
4. Guyer	223
5. Latta	409
6. Harsha	274
7. Brown	591
8. Kindness	168
9. Ashley	1,322
10. Miller	456
11. Stanton	746
12. Devine	445
13. Pease	591
14. Seiberling	2,054
15. Wylie	436
16. Regula	360
17. Ashbrook	350
18. Applegate	174
19. Carney	635
20. Oakar	348
21. Stokes	237
22. Vanik	1,381
23. Mottl	741
UN	683
Total	15,289

Oklahoma

1. Jones	2,269
2. Risenhoover	1,662
3. Watkins	506
4. Steed	967
5. Edwards	584
6. English	92
UN	99
Total	6,171

Oregon

1. AuCoin	6,322
2. Ullman	1,296
3. Duncan	1,695
4. Weaver	6,530
UN	119
Total	15,962

Pennsylvania

1. Meyers	1,039
2. Nix	1,523
3. Lederer	713
4. Eilberg	925
5. Schulze	1,304
6. Yatron	707
7. Edgar	1,160
8. Kostmayer	1,888
9. Shuster	430
10. McDade	3,526
11. Flood	5,925
12. Murtha	870
13. Coughlin	1,218
14. Moorhead	54
15. Rooney	2,137
16. Walker	2,151
17. Ertel	1,912
18. Walgren	120
19. Goodling	1,863
20. Gaydos	209
21. Dent	176
22. Murphy	255
23. Ammerman	1,317
24. Marks	657
25. Myers	340
UN	1,304
Total	33,453

Puerto Rico

At Large—Corrada	11

Rhode Island

1. St Germain	3,789
2. Beard	7,151
UN	50
Total	10,990

South Carolina

1. Davis	301
2. Spence	920
3. Derrick	940
4. Mann	385
5. Holland	549
6. Jenrette	70
Total	3,165

South Dakota

1. Pressler	142
2. Abdnor	94
Total	236

Tennessee

1. Quillen	377
2. Duncan	544
3. Lloyd	422
4. Gore	2,969
5. Vacant	6,905

Tennessee—Continued

6. Beard	924
7. Jones	107
8. Ford	70
UN	226
Total	12,544

Texas

1. Hall	96
2. Wilson	165
3. Collins	587
4. Roberts	159
5. Mattox	409
6. Teague	259
7. Archer	478
8. Eckhardt	12
9. Brooks	188
10. Pickle	6,584
11. Poage	245
12. Wright	220
13. Hightower	49
14. Young	76
15. de la Garza	451
16. White	98
17. Burleson	140
18. Jordan	227
19. Mahon	82
20. Gonzalez	1,748
21. Krueger	834
22. Gammage	185
23. Kazen	593
24. Milford	792
UN	2,723
Total	17,400

Utah

1. McKay	632
2. Marriott	1,006
Total	1,638

Vermont

At Large—Jeffords	7,831

Virginia

1. Trible	557
2. Whitehurst	732
3. Satterfield	369
4. Daniel (Robert)	606
5. Daniel (Dan)	167
6. Butler	267
7. Robinson	1,608
8. Harris	1,028
9. Wampler	559
10. Fisher	1,942
UN	150
Total	7,732

Washington

1. Pritchard	3,662
2. Meeds	4,615
3. Bonker	7,014
4. McCormack	1,338
5. Foley	606
6. Dicks	1,709
7. Cunningham	2,779
UN	715
Total	22,438

West Virginia

1. Mollohan	327
2. Staggers	963
3. Slack	485
4. Rahall	166
UN	3
Total	1,944

Wisconsin

1. Aspin	320
2. Kastenmeier	6,215
3. Baldus	7,041
4. Zablocki	543
5. Reuss	1,281
6. Steiger	1,704
7. Obey	13,493
8. Cornell	2,169
9. Kasten	2,143
UN	48
Total	34,957

Wyoming

At Large—Roncalio	259

Nationwide total: 619,630.

NOTE.—As of August 10, 1978, over 135,000 additional petitions are unsorted by District due to lack of funds to hire sorters.●

WMAL EDITORIAL ON CETA

● Mr. CURTIS. Mr. President, last Monday morning, it was my privilege to hear an editorial over radio station WMAL, here in Washington, concerning the CETA program. I believe it merits the attention of the Congress.

Every time a Government agency wastes money or allows the money to be used in a manner that is not consistent with the intent of the legislation, great damage is done. It lessens the confidence of the taxpayers in their Government, and it can lead to a total ending of some activities which have the possibility of doing good. I commend this editorial to my colleagues.

Mr. President, I wish to submit the editorial for printing in the RECORD.

The editorial follows:

WMAL EDITORIAL

I'm Andy Ockershausen, executive vice-president, with a WMAL radio opinion.

The Comprehensive Employment and Training Act or CETA started out five years ago as a ray of hope to millions of unemployed Americans. It was a shot in the arm for our staggering unemployment picture, but gradually the remedy produced an even greater disease—bigger government.

As was disclosed in the Washington metropolitan area, municipalities are using CETA funds to hire people to fatten local government operations. All the blame for this cannot be placed on local officials. There were enough loopholes in the national legislation to permit the abuses which resulted. That's why we support the measures now being discussed in Congress and suggest a further step. CETA funds should be used exclusively for the training of the hard-core unemployed and the youth that are bulging our jobless rolls. The best way to do this is in the form of direct grants to the private sector. Get government at any level out of the training process.

Let's get this money to the people who know how to use it—and that is private industry.●

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

● Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million, or in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD at the conclusion of my remarks in accordance with previous practice.

I wish to inform Members of the Senate that two such notifications were received on August 23, 1978.

Interested Senators may inquire as to the details of these preliminary notifications at the offices of the Committee on Foreign Relations, room S-116 in the Capitol.

The official notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., August 23, 1978.

Dr. HANS BIENKENDIJK,
Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BIENKENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a European country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERICH F. VON MARBOD,
Acting Director, Defense Security Assistance Agency.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., August 23, 1978.

Dr. HANS BIENKENDIJK,
Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BIENKENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Near Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERICH F. VON MARBOD,
Acting Director, Defense Security Assistance Agency.●

PROPOSED ARMS SALES

● Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have

printed in the RECORD at this point the two notifications I have just received.

The notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., August 17, 1978.

In reply refer to: I-6002/78ct.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78-81, concerning the Department of the Air Force's proposed Letter of Offer to Saudi Arabia for other than major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $1,300 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERICH F. VON MARBOD,
Acting Director,
Defense Security Assistance Agency.

Attachments.

[Transmittal No. 78-81]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Saudi Arabia.

(ii) Total Estimated Value:

[In millions]

Major defense equipment*	0
Other	$1,300
Total	1,300

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: Three (3) year continuation of aircraft maintenance, training and support services provided through US Air Force contract with private industry under the code name of PEACE HAWK program. In addition, the program involves modification and expansion of some existing Saudi Air Force facilities and construction of a small number of new.**

(iv) Military Department: Air Force.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: August 17, 1978.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., August 17, 1978.

In reply refer to: I-4922/78ct.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78-95, concerning the Department of the Army's proposed Letter of Offer to Saudi Arabia for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $173.5 million and support costs of $46.5 million for a total estimated cost of $220 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERICH F. VON MARBOD,
Acting Director,
Defense Security Assistance Agency.

Attachments.

**Facilities.

[Transmittal No. 78-95]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Saudi Arabia.

(ii) Total Estimated Value:

[In millions]

Major defense equipment*	$173.5
Other	46.5
Total	220.0

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: This notification includes phase one of the follow-on program which is to train and equip one logistics battalion and to maintain the readiness of the four battalions modernized in the original program Saudi Arabian National Guard (SANG) Modernization.**

(iv) Military Department: Army.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to the Paid: None.

(vi) Date Report Delivered to Congress: August 17, 1978.

**Program.●

AN AMERICAN DIPLOMATIC OPPORTUNITY

● Mr. HEINZ. Mr. President, "Members of Congress for Peace Through Law," a bipartisan group of my colleagues in the House and the Senate, has recently issued a report on the status of American-Vietnamese relations—and their impact and interrelation with the foreign policy goals of China and the Soviet Union.

I wou'd like to commend to the critical reading of all my Senate colleagues this report entitled: "Vietnam and China: An American Diplomatic Opportunity," and ask that it be printed in the RECORD.

The report follows:

VIETNAM AND CHINA: AN AMERICAN DIPLOMATIC OPPORTUNITY

Allowing the "China Card" global strategy to shape American diplomatic relations with Vietnam may cause the United States to miss a crucial opportunity to lessen Soviet influence in Indochina and to strengthen peace and stability in Southeast Asia.

A cross roads in American policy in the Far East has been reached. Since the end of the Indochina War, the situation in the region has changed dramatically. New political alignments have emerged. The primary conflict in the Far East today is no longer between communist and non-communist states as it was during the 1950's and 1960's. The primary conflict is between China and Vietnam, who are fighting Southeast Asia's new cold war. This realignment presents both dangers and opportunities for American diplomacy.

The danger is that the United States will drift into a de facto alignment with China against Vietnam which could, in turn, force Vietnam into an exclusive alliance with the Soviet Union. This could lead to a long-term Soviet military presence in Southeast Asia and to greater insecurities for the member states of the Association of South East Asian Nations (ASEAN).

The opportunity, on the other hand, arises from the Vietnamese willingness to turn to the United States as the alternative to a dependency relationship with the Soviet Union. Vietnam now seems prepared to work toward closer diplomatic and economic cooperation with the United States as a means of maintaining its independence from both the Soviet Union and China. The question facing Congress and the Administration is whether to provide this alternative to Vietnam.

American-Vietnamese diplomatic relations and a Vietnam equidistant from the superpowers could be the keystone for a more peaceful and stable political order in a Southeast Asia where both Soviet and Chinese influence would be lessened and where the development of each nation could be determined by internal policies rather than external pressures. American influence in the region would increase.

These dramatic changes call for a creative American diplomacy in a region marked by some of the worst American diplomatic blunders in our history. But the Carter Administration has not yet developed a clear-cut policy toward Southeast Asia in general or Vietnam in particular.

Why has this region been moved to the back burner? The absence of a policy may represent a failure to appreciate the full significance of our relations with Vietnam for the future of the entire region. Another explanation may be the domestic political constraints concerning post-war relations. But there are, as well, some disturbing questions which must be raised: Are we letting the Chinese determine our policy for us? Are we recognizing a Chinese "sphere of influence" in the region?

The United States does not now appear to appreciate either the dangers or the opportunities. The issue is not whether the U.S. should normalize relations with Peking. Rather, the issue is whether by rushing into China's arms the U.S. will forfeit its potential for influence on the mainland of Southeast Asia and give its de facto approval to Chinese policies which destabilize the old Indochina area. The unfortunate irony may be that the very Soviet influence which the "China card" global strategy is designed to ward off will be increased in Southeast Asia by a shortsighted play of the card, vis-a-vis our relations with Vietnam.

HISTORICAL BACKGROUND: UNITED STATES-VIETNAM POST-WAR RELATIONS

When the war in Vietnam finally ended in April, 1975, the U.S. adopted a policy of hostility and isolation toward Vietnam. Secretary of State Kissinger indicated that Hanoi should be punished for its use of military force to defeat the Thieu government, and refused either diplomatic recognition or trade. The continuation of the trade embargo with the North and its extension to South Vietnam after the war constituted a clear sanction, even though the Executive Branch explained its action as a "wait and see" policy. He opposed Vietnamese membership in the United Nations. Although Hanoi offered to negotiate with the U.S. on post-war relations, Kissinger refused even that much diplomatic contact. The Carter Administration ended these openly hostile policies, stopped vetoing Vietnamese membership in the UN, and offered to exchange Ambassadors without preconditions, although it maintained the trade embargo intact.

On its side, Hanoi began the postwar period demanding postwar reconstruction aid as a condition for diplomatic relations. But after a series of three meetings with U.S. diplomats in Paris in May, June and December, 1977, the Vietnamese were realistic enough to recognize that such a condition was impossible to fulfill given the political atmosphere in Congress. Congress had been willing to lift the trade embargo to improve prospects for an M.I.A. accounting but postwar aid was out of the question. The Vietnamese are now indicating a desire to negotiate with the U.S. a formula which would advance U.S.-Vietnamese relations without reconstruction aid. The open military conflict with Cambodia and the tensions with China have accelerated Vietnamese interest in normalization of relations with the U.S. Deputy Foreign Minister Phan Hien declared recently in Japan that Vietnam is now ready

to begin diplomatic relations with the U.S. without preconditions.

While diplomacy of post-war relations has been entangled in the politics of the war itself, the impact of the China connection on post-war prospects was already visible in Kissinger's attitudes. Kissinger's thinking about post-war relations with Vietnam was very much colored by the whole China link. Understandably, Kissinger saw post-war relations with Vietnam as distinctly secondary to relations with China. But to achieve his China policy, he was willing to foster the growth of China-Vietnam tensions. By withholding an American alternative from Vietnam, he apparently sought to increase China's paranoia about the Soviet's role in Vietnam.

Kissinger had noted as early as 1972, in background press briefings, that the Chinese had indicated a desire for the U.S. to keep its bases in Thailand and the Philippines as a counterweight to the Soviets. He assumed that China would be worried about a unified Vietnam without the U.S. counterweight and that, as a result, China would be motivated to pursue "parallel interests" (i.e. oppose Soviet influence in Southeast Asia) with the United States. Less than one week after the Saigon government was defeated, Kissinger said China "now has 40 million Vietnamese on its border who do not exactly suffer from lack of confidence in themselves," and he suggested that Peking, as a result of its appraisal of this new balance of power, would want to continue normalizing relations with the United States. He also hoped that China would normalize relations with Thailand, strengthen ties with the non-communist Southwest Asian countries and become a force for stability in the region.

This brief review of Kissinger's policy indicates that the "China card" was a prominent feature in America's diplomatic hand throughout the post-war diplomacy. What appears to have changed is that it has become the dominant theme of American diplomatic strategy.

RELATIONS BETWEEN CHINA AND VIETNAM

China and Vietnam have had a tradition of national conflicts. But the primary tensions which now divide them can be traced to the schism in the international communist movement. As far back as 1963, the Chinese tried to persuade the Vietnamese to sign their statement creating a new international communist order which would exclude the Soviet Union. The Vietnamese refused, even though they harbored serious policy disagreements with the Soviet Union and shared certain ideological principles with China. (Similarly, Vietnam later withheld support for Soviet-inspired efforts to read China out of the international communist movement.) China's fears must have increased as the Vietnamese drew closer to the Soviet Union in their quest for military and economic aid during the war against the United States.

Throughout the war, the Chinese apparently were concerned about the potential consequences of a Vietnamese military victory. They opposed a Vietnamese diplomatic settlement early in the war out of fear that the Soviet Union would have a strong influence on the settlement. Many diplomatic observers in the 1965–68 period commented correctly that the "Chinese are willing to fight until the last Vietnamese."

A key turning point came in 1969–70. The Chinese leadership adopted a position advocated by Mao since the mid-1960's that the Soviet Union posed a greater danger to China than the United States. The Russian invasion of Czechoslovakia in August, 1968, and the Sino-Soviet border clashes in March, 1969, had bolstered Mao's line of argument as did the quiet signals emanating from the new Nixon administration that it was interested in improving ties with China. The Chinese were seeking to counter the Soviet Union by opening ties to the U.S. The U.S. hoped that the new relationship with China would exacerbate Sino-Soviet differences and, at the same time, prevent any direct Soviet action against China. This new strategic equation, Washington hoped, would give the U.S. greater leverage with both of Hanoi's main allies and arms suppliers to obtain their help in pressuring North Vietnam to accept U.S. terms.

The Nixon Administration pressed the Chinese to slow the flow of arms to Vietnam and to help find a settlement short of victory for the revolutionary movements in Indochina. The Chinese apparently were responsive to the Nixon request. China opposed the Vietnamese Spring Offensive in 1972 and advised the Vietnamese to pursue a long-term, low level, low cost guerilla war. To the Chinese, a Vietnamese military offensive meant greater military reliance on the Soviet Union as well as greater Vietnamese economic and political indebtedness to the Soviets. However, Vietnam apparently did not accept this Chinese advice and continued to conduct the war on its own terms.

During the war, China could not make known its serious differences with Vietnam nor openly attack Soviet influence in Vietnam. But once the war ended, China took a more aggressive stance, insisting that Vietnam drop its relations with the Soviet Union in order to be accepted as a fully friendly nation. An early manifestation of the new attitude was the Chinese reaction to the disputed islands in the South China Sea, the Paracels and the Spratleys. In December, 1975, a Chinese Communist newspaper in Hong Kong reprinted a People's Republic of China newspaper editorial on the Chinese claims to the islands, along with an editorial accusing the Soviet Union of trying to "stir up" Vietnam against China by backing the Vietnamese claims to the islands. Vietnamese offers to negotiate on the disputed islands brought no reply from the Chinese, who regard it as a non-negotiable issue.

The status of ethnic Chinese in Vietnam is another major issue of contention. Recent events appear to have all the earmarks of a major Chinese polemical campaign against Vietnam and the Soviet Union.

In 1955, the Chinese and Vietnamese communist parties signed an agreement which permitted the Hoa (Chinese origin) people in North Vietnam to choose either to become full Vietnamese citizens or to remain as resident foreigners; most became Vietnamese citizens of Chinese origin. However, this agreement did not extend to South Vietnam, which was ruled by the Diem regime. Diem used coercive measures to force Chinese residents to become Vietnamese and even issued an edict stating that all children of Chinese parents born in Vietnam were to be South Vietnamese citizens. After the war, all the citizens of the old regime automatically became citizens of reunified Vietnam.

The Chinese in Saigon historically have constituted an economically powerful group of rich merchants, businessmen, and middle traders. On March 23, Vietnam's government announced the abolition of "capitalist commerce" in the south. These and subsequent decrees fell most harshly on the Chinese merchant community and it appears that the manner in which the reforms were implemented at the local level by Vietnamese cadres caused some panic. These reforms seem little different, however, from those enforced by other socialist governments, including China after its revolution.

Normally, a dispute of this type involving ethnic residents would be negotiated by the two countries. But what appears most significant in this case is the element of anti-Soviet propaganda which the Chinese inject into the issue. A pro-Chinese Hong Kong newspaper stated in May, for example, that the USSR had instigated Vietnam to expel large numbers of ethnic Chinese from Vietnam and it claimed that Moscow has "pushed Vietnam into an anti-China road." The head of Peking's office for overseas Chinese affairs told a delegation of Japanese politicians in early June that "the Soviet Union is behind the expulsion of Chinese residents from Vietnam . . . Vietnam listens to the Russians on everything these days." *Newsweek* correctly analyzed the problem when it stated "the refugee issue was basically a sideshow; the real problem was China's fear that Vietnam and the Soviet Union were in league to dominate Southeast Asia." (July 3, 1978)

It appears that China is using the issue of the Chinese exodus from Vietnam, whatever its origins, as a means of discrediting Vietnam internationally and as a pretext for making clear moves in the direction of an open break. On May 19, the Chinese announced the withdrawal of aid to Vietnam, which amounts to several hundred million dollars over 5 years and involves at least 73 economic development projects. In May the Chinese ordered three Vietnamese consulates in China to close. In June, China withdrew its nearly 1600 technicians from Vietnam. China's ambassador to Vietnam, Chen Chi-fang, was recalled.

There are also reports of military preparations on the Chinese-Vietnamese border, border clashes and increasing possibilities of armed conflict.

The post-war border conflict between Vietnam and Kampuchea (Cambodia) has roots not only in traditional ethnic rivalries but in the Chinese-Soviet rivalry and in the factional disputes within the Cambodian communist party. Apparently there have been two distinct factions within the community party of Cambodia at least since the nearly 1960's. One favored cooperation with Vietnam while the other faction strongly opposed it, fearing that such cooperation would deny this faction effective control over the party apparatus and lead to Vietnamese domination of the party. The anti-Vietnam faction, led by Pol Pot, won and now rules Cambodia. Many of the Cambodian officials and intellectuals which the regime has been accused of eliminating were members of the pro-Vietnam faction.

The Pol Pot faction, which had allied itself with China during the 1970–75 war, apparently made a critical decision during the war that Cambodia would not cooperate with Vietnam when the war ended. Henceforth, Cambodia would take a distant and unfriendly stance toward Vietnam and would turn to China for material aid to carry out this policy, which included using unilateral force on territorial issues.

The Cambodian government has publicly admitted that it attacked the islands of Phu Quoc and Tho Chu within days of the end of the war. The Vietnamese retaliated by seizing temporarily islands which had been controlled by Cambodia in the Gulf of Thailand. These problems were then negotiated in 1975 and resolved to the apparent satisfaction of both sides. The Cambodians gave up their claims to the Vietnamese islands and the Vietnamese gave up their claims to the Cambodian islands.

The origins of the Vietnamese-Cambodian fighting along the border are obscure, but the diplomatic efforts to resolve the problems are relatively clear. In May, 1976, the two sides met in Hanoi to prepare for higher-level negotiations on the border conflict. Both sides agreed that a 1 to 100,000 scale map printed by the Geographical Service of Indochina, would serve as a basis for the delimi-

tation of the land border between the two countries. But the Cambodians broke off the preparatory talks and refused to go ahead with any further negotiations on the border. It appears to be well established that at the beginning of 1977, Cambodian forces launched stepped-up attacks on Vietnamese settlements in the border area. In June, 1977, the Vietnamese offered once more to undertake high-level negotiations with Cambodia to resolve the problem, but Cambodia replied that they would discuss it only after "a period of time until the situation returns to normal, without further border conflicts." This was of course a refusal to negotiate at all, since it was precisely because of border clashes that the talks were necessary.

Troops along the entire length of the Vietnamese-Cambodian border in late September, 1977, which apparently led the Vietnamese to begin preparations for a major military move into Cambodia, aimed at forcing the Cambodians to reassess their policy. Instead the Vietnamese military response led to the open airing of the seriousness of the conflict by Cambodia, and the beginning of vituperative propaganda by both sides. Cambodia refused Vietnam's offer in February to pull its forces back five miles from the existing border and begin negotiations if the Cambodians would do the same. At the same time, the Cambodians began to use 130mm long-range artillery to devastate the capitals in at least three Vietnamese provinces adjoining the Cambodian border.

The Vietnamese apparently have now responded with moves to encourage Cambodian refugee military groups dedicated to overthrowing the Pol Pot government. Unless there is a major initiative from outside, therefore, the conflict appears not only unresolvable but capable of escalating still further, with potentially serious consequences in terms of Chinese and Soviet involvement.

The anti-Vietnam faction of Cambodian party leader Pol Pot could not have attacked Vietnam without active political and material support from China. China is reputed to have 1,000 military advisors in Cambodia and has supplied the Cambodian military with long-range artillery, tanks, recoilless rifles, heavy mortars and anti-tank weapons, and other military aid since 1975. At the very least, it can be said to a practical certainty that China has done nothing to discourage the Cambodians from assuming a very strong military posture on the border with Vietnam.

Chinese policy of support for Cambodia appears to be a part of its overall anti-Soviet strategy in the Far East: to isolate Vietnam in Southeast Asia while, at the same time, encouraging Cambodia and Thailand to normalize relations; to encourage the U.S. to maintain its bases in Thailand (which the Vietnamese opposed) despite Thai opposition; and to cement ties with ASEAN states. Clearly, polarization between Vietnam and Cambodia serves Chinese interests.

The Chinese view of Vietnam reflects an obsession with the influence of the Soviet Union which is strangely reminiscent of the U.S. attitude during the 1950's Cold War: "If you're not with us, you're against us." China seems to view the world with a rigid and distorted vision which sees overweaning Soviet influence in any country which has economic or military ties with the Soviet Union or is not explicitly anti-Soviet. The ironic outcome of such a rigid and obsessive Chinese attitude may be to mistake potential friends for enemies and to bring into being the very Soviet influence it wants to avoid.

THE AMERICAN OPPORTUNITY

The conflicts between Vietnam, China and Cambodia have had two major implications for Vietnamese policy. First, Vietnam now perceives China as the main threat to its security. It sees China as a threat because of China's policy to treat it as an adjunct of the Soviet Union. Business Week was not underestimating when it stated: "The escalation of propaganda and implied threats by Peking against the Vietnamese regime have created a crisis for Hanoi." (June 19, 1978)

Second, the Vietnamese have responded by recognizing that it is even more urgent than before to develop a cooperative relationship with the United States as a basic element of their security policy.

The combination of these two responses constitutes the opportunity for American diplomacy in the region.

It seems almost inevitable that Vietnam must react to the increased Chinese pressure in the north and from the Cambodians in the south by securing military, political and economic counterweights. One source is the Soviet Union. Vietnam is almost certainly to appeal to the Soviet Union for greater support in order to neutralize the increased Chinese pressure. Chinese allegations of Soviet missile or naval bases in Vietnam have been dismissed as without foundation by American intelligence officials. However, Vietnamese requests for some tangible symbol of Soviet deterrence against Chinese military pressures would seem a serious possibility if the pressures continue to build.

Economic conditions are equally significant. Vietnam faces drastic economic hardships in the wake of its wartime destruction. The devastation is compounded by rice shortfalls caused by unusually severe droughts in 1976–77. The loss of Chinese aid—as much as $500 million over 1976–80—and the withdrawal of Chinese technicians will compound the problems. The continuing border strife with Cambodia will drain manpower and resources away from the civilian reconstruction effort. The unfortunate consequence of these pressures may be to make economic transformation in southern Vietnam more harsh than would otherwise be the case.

The Vietnamese must find replacements for the lost Chinese aid in the form of both project and commodity assistance. The Soviet Union already is giving approximately $3 billion for the 1976–80 5-year plan out of a total of $4.2 billion from all socialist countries. Western and multilateral aid to Vietnam joined the Council for Mutual Economic Assistance (COMECON), the Eastern bloc's equivalent of the Common Market.

In our view, there is a strong danger that a mechanistic playing of the "China card" will create all types of pressure on Vietnam to strengthen its tries to the Soviet Union which could diminish its own independence and increase big-power tensions in the region. Increased Vietnamese dependence on the Soviet Union would be contrary to both American policy interests and the interest of peace and stability in the region.

There are two major consequences of these pressures for American policymakers to consider. First, we may be entering the formative period for an era of international relations in Southeast Asia comparable to the Cold War in which certain alignments were maintained for two decades (i.e. SEATO 1954–75). It should be an important objective of American policy to use whatever influence we may have to prevent the hardening of the new alignments as we have described them.

Second, it should not be forgotten by U.S. policymakers that the Vietnamese would be entering into this new dependency reluctantly. They don't regard the Soviet interests are not necessarily co-extensive with their own. They remember the failure of the Soviet Union to provide sufficiently strong diplomatic support in the mid-1950's to force the implementation of the political provisions of the Geneva Accords of 1954. They also remember that the Soviet Union sold them out diplomatically when President Nixon was received in Moscow at detente's summit while the U.S. was bombing northern Vietnam and mining Haiphong harbor.

This distrust of Soviet motives fits well with the Vietnamese preference for an equidistant relationship among the great powers. As noted by *Business Week*, "Maintaining a balance between Moscow and Peking has always been a fundamental tenet of the Vietnamese Communists." (June 19, 1978). It is this balance which is now threatened.

The opportunity for American diplomacy today is to restore this balance. The U.S. could help maintain a long-term system of peace and stability in Southeast Asia based in part on the ability of Vietnam to maintain its independence from all the great powers. American and Vietnamese interests overlap to the extent that we wish to minimize Soviet dominance, stabilize the region, and at the same time avoid Chinese hegemony over the mainland of Southeast Asia. In the present circumstances, the way to achieve these objectives is to present to Vietnam an alternative source of diplomatic and commercial relations against both the Soviet Union and China. Diplomatic and economic relations with the U.S. would give the Vietnamese additional room to maintain an independent stance equidistant from all the great powers.

Our failure to take advantage of this opportunity would be unfortunate for American diplomacy. Thus far, U.S. diplomatic signals provide no grounds for the Vietnamese to believe that America intends to offer a new relationship as an alternative to a closer reliance on the Soviet Union.

The first cluster of signals has been an implicit if not explicit American acquiescence in China's campaign against Vietnam. This cluster involves:

*the absence of any effort by the U.S. to restrain China or urge a negotiated settlement;

*the endorsement in China by National Security Advisor Brzezinski of the pursuit of "parallel interests" with China in the context of implicit approval of China's position on the Cambodia-Vietnam issue.

National Security Advisor Brzezinski's toast on May 20 at the welcoming banquet in Peking was evidently a signal to the Chinese that the U.S. was sympathetic to its views on the future of Southeast Asia. "Asia needs stability, respect for frontiers, freedom from foreign intervention, for peaceful development," he said. "In many of these areas, we can enhance the cause of peace through consultations and, where appropriate, through parallel pursuit of our similar objectives.

This banquet toast, couched in diplomatic language, certainly encouraged the Chinese to feel that they had U.S.-backing for their policy of arming the Cambodians and thus encouraging a rejection of negotiations for a settlement of the Cambodia-Vietnamese War. The visit to Peking and the toast were signals that the U.S. would support the Chinese interest. According to columnists Evans and Novak, "The U.S. team (to China) was particularly impressed with Chinese recitation of Soviet machinations in unified Vietnam". (June 22, 1978)

It is easy for American officials to plead "no influence" over Chinese policy. Given its passive stance toward Indochina in the past three years, the U.S. has indeed lost much of its political influence. However, we are far from having no influence. In the context of the "parallel interests" which the U.S. proclaims with China, the U.S. has not only the right but the obligation to make known its views where these differ from China's. This is certainly done on the Taiwan and Korean issues; it should also be done on Vietnam. Indeed, the absence of any American intention to dominate the region or to threaten any of the Southeast Asian states should actually lend weight to our views in Chinese eyes.

The second cluster concerns the U.S. response to the direct negotiations between the U.S. and Vietnam in Paris on the normalization of relations. The Vietnamese now have dropped their insistence on a promise of postwar reconstruction aid as a precondition for progress toward normalization of relations with the U.S. U.S. diplomatic officials are aware of this clear change of attitude by Vietnam. The Vietnamese now suggest that a lifting of the trade embargo would be a sufficient indication of an end to U.S. hostility, with the possibility of aid to be discussed subsequently in the context of normal bilateral negotiations. This represents a major shift toward the American position of removing post-war normalization from the diplomatic framework of the Paris Agreement on Ending the War.

Above all, this new Vietnamese attitude removes the outstanding domestic political obstacle in the U.S., since a lifting of the trade embargo in the context of normalization of relations is a far less emotional issue in Congress than was the reparations issue. In contrast to Congressional restrictions imposed recently on direct and indirect U.S. financial aid to Vietnam, Congress actually voted to conditionally lift the trade embargo in 1976 only to have it vetoed by President Ford.

Since normalization remains the official goal of American policy, we believe this new Vietnamese position creates enough common ground for our negotiators at the next round of negotiations to respond affirmatively and to make real progress. By responding affirmatively, we would make clear that our desire for normalization has not been cooled by the decision to play the "China card" in big power relations. Prospects for successful negotiations were improved by recent "goodwill gestures" by the Vietnamese, including the successful visit of a delegation of Vietnamese specialists to the MIA identification center in Hawaii and their letter to Senator Kennedy approving the reuniting of American citizen children holding U.S. passports with their families in the United States.

A NEW AMERICAN DIPLOMACY

We believe that conditions are ripe for a new American diplomacy in Southeast Asia. We should move now to take advantage of the opportunity open to us—and forestall the dangers that might freeze the region's disturbing new alignments for the next generation. Just as we have responded recently to events in Africa by opening a line of communication with Angola, despite our ideological differences, we should similarly move to establish diplomatic communication with Vietnam.

It may seem ironic that we, who strongly opposed the Vietnam War, are now calling for a renewed American interest in the area. American diplomacy can have a constructive impact—but without military intervention or an intent to dominate. We can and should use our influence wisely.

Justification for this new diplomacy begins with the change in the domestic political equation based on the Vietnamese willingness to drop their insistence on post-war aid as a precondition for normalized relations with our country. It now seems politically feasible for an American President to defend normalization on this new basis in exchange for the real and immediate gains for our interests in Southeast Asia.

A second major issue is whether a new American policy of relations with Vietnam would obstruct normalization of our relations with China.

In our view, such a policy toward Vietnam is not contradictory to normalizing relations with China. First, it does not violate any of the 5 principles embodied in the Shanghai Communique, which are the basis for further development of normal relations between the United States and China.

Secondly, normalizing relations with Vietnam does not appear to contradict U.S. policy principles, enunciated by Dr. Brzezinski in Peking recently, that the U.S. approaches relations with China on the basis of "three fundamental beliefs . . . that friendship between the United States and the People's Republic of China is vital and beneficial to world peace; that a secure and strong China is in America's interest; that a powerful, confident and globally engaged United States is in China's interest."

A new Vietnam policy could even further these objectives. It could help stabilize events and reduce the intensification of existing conflicts in the Southeast Asian area. The present policy contains the seeds of intensified military confrontations. Also, it would be a vivid demonstration of American interest in the area and a symbol of our unwillingness to write off the newly independent states to Soviet domination.

The American role in Southeast Asia is another major issue. While we have no major national interests which should lead us to commit military forces in the area, we should not underestimate the importance of an American role to help stabilize Southeast Asia. There already has been a degree of normalization between Vietnam and Southeast Asian nations. But the major influence on the attitudes of Southeast Asian countries towards unified Vietnam will be the American attitude.

Normalized relations between the U.S. and Vietnam would promote a further degree of Vietnamese cooperation and accommodation with the ASEAN countries which would contribute to stability. Similarly, it is important that Vietnam no longer view the United States as a threat to its society. If Vietnam continues to view the U.S. as part of a cabal with China against Vietnam, it may not be possible for accommodation to occur between Vietnam and U.S.-supported states in the region. The main remaining obstacle to close, stable and friendly relations between Vietnam and the ASEAN nations is the lingering fear of American ill-will and bad intentions towards Vietnam. If Vietnam fears the U.S. will use non-communist and anti-communist Southeast Asian states to pressure Vietnam in a hostile manner, then tensions may rise needlessly.

It should be noted that American intelligence analysts agree that Vietnam has rejected the role of supplier or motivator for revolutionary movements in Southeast Asia. The massive stockpiles of U.S. arms captured at the end of the war have not been given or sold to insurgent movements in other states, as had been feared. Vietnam seems to have rejected this policy, in part because the communist parties of Thailand, Malaysia, Indonesia and the Philippines are, as a whole, more sympathetic to China than to the Soviet Union. Vietnam appears to prefer conservative governments which are closer to the U.S. than Chinese-oriented insurgencies, and continues to regard the issue of independence vs. foreign intervention/domination as the central problem in the region rather than the problem of the free market vs. socialism.

As noted by a prominent analyst of Southeast Asian politics, the Vietnamese—

". . . have adopted a conciliatory posture toward their non-communist neighbors. Interviews with a cross-section of military and civilian leaders in all five ASEAN countries conducted during October–November 1977 indicate that Hanoi's efforts have eased regional anxieties about Vietnam's intentions. Approximately 65 interviews with senior foreign ministry officials, military leaders, politicians, journalists, businessmen, academic specialists, and foreign diplomats make it abundantly clear that Vietnam's neighbors do not, at present, feel threatened by Hanoi.

"Earlier fears that the victorious Vietnamese would give a major boost to their communist compatriots elsewhere in Southeast Asia have not materialized.

"The central point is this: if the United States has an interest in the stability and security of Southeast Asia, then it has an interest in persuading Hanoi that its conciliatory policy of seeking cooperative relationships with non-communist states is viable. The normalization of U.S. relations with Vietnam could well be important, if not decisive, in determining whether Hanoi deems its conciliatory policy a success." (Franklin B. Weinstein, *U.S.-Vietnam Relations and the Security of Southeast Asia*, Foreign Affairs, July, 1978, pp. 846–859.)

American links with Vietnam should be established now so as to minimize the future danger that changing conditions would place the Vietnamese more at odds with the Southeast Asian countries.

The opportunity we have in Southeast Asia may not remain open for long, and may not come again for a long time. Taking advantage of the opportunity requires us to act—both to dispel the impression of supporting China against Vietnam and to make a positive diplomatic response to the new Vietnamese offer for normalization. We cannot let the rigid application of the "China card" strategic policy vis-a-vis the Soviet Union blind us to an opportunity to reduce Soviet influence, strengthen an independent tendency in a difficult region and enhance prospects for peace and stability in Southeast Asia for the next generation.●

EDUCATION AMENDMENTS OF 1978—STUDENT LOANS

● Mr. DOLE. Mr. President, the Senator from Minnesota (Mr. ANDERSON) was a cosponsor to amendment No. 1737 to S. 1753, the Education Amendments of 1978. This amendment corrected a technical flaw in the student loan guaranty program under the Higher Education Act, and set the effective date of new loan agencies as the date of enactment. The Senate accepted my amendment.

The Senator from Minnesota (Mr. ANDERSON) was necessarily absent at the time this amendment was considered, but he requested that his statement be reprinted in the RECORD. I ask that his statement be printed in the RECORD, and that in the permanent RECORD, it appear under floor debate on the amendment.●

The statement follows:

STATEMENT BY MR. ANDERSON ON STUDENT LOANS

Mr. ANDERSON. I am pleased to join with Senator DOLE in cosponsoring an amendment to the elementary and secondary education amendments which will allow student loan recipients in Minnesota and Kansas to receive the same assistance as students in other States under the guaranteed student loan program.

Because of a provision in the Education Amendments of 1976, a State guarantee agency established prior to October 1, 1977, does not qualify as a new guarantee agency for purposes of Federal assistance. The Higher Education Assistance Foundation, which serves both Minnesota and Kansas, is the only agency in this category in the country. Without a technical amendment to change the effective date of the 1976 amendments to allow guarantee agency programs initiated between October 1, 1977, to participate, Minnesota and

Kansas will not benefit from the assistance for new agencies provided by the amendments. Failure to receive the assistance for new guarantee agencies will mean that students in these two States will pay higher guarantee premiums for a longer period of time than would otherwise be necessary.

For this reason, I urge my colleagues to adopt this amendment, which simply makes a technical adjustment in the law insuring that students from Minnesota and Kansas are not unfairly penalized.

CONSUMERS AND FOOD POLICY IN NORTH AMERICA

● Mr. BAYH. Mr. President, I would like to share with my colleagues recent remarks by Assistant Secretary of Agriculture Carol Tucker Foreman to the American Agriculture Economics Association and the Canadian Agricultural Economics Society in Blacksburg, Va.

As we all know, the quality and safety of our food supply has been the subject of increasing attention in recent years, and public discussion and debate will likely continue.

Advances in science and technology now enable us to secure with increasing sophistication information on the effects of chemicals and preservatives in our food supply and their potential hazards. And with increasing frequency we are finding that there are enormous economic and social tradeoffs as those charged with making our food supply safe and nutritious go about their job.

Recent reports on the potential health hazards posed by sodium nitrite, used in curing about 70 percent of the pork products on the market illustrate clearly the need for further research on the economic effects of regulation. We know, for instance, that a total ban of nitrite would cause tremendous economic hardship to a large portion of the Nation's farm economy, but specific facts and data on the impact of various regulatory actions in regard to nitrite are lacking.

Ms. Foreman, in her remarks, documents the need for increased research regarding the impact of Government regulation on the affected industries in the food producing, processing, and distribution cycle. We certainly need additional information. I ask that her remarks be printed in the RECORD.

The statement follows:

CONSUMERS AND FOOD POLICY IN NORTH AMERICA

Anything more than a cursory look at our more successful agricultural policies will demonstrate that they have usually been based on the economic and policy research of people such as you. I applaud your past successes. But I come before you today to ask you to help forge new successes: to turn more of your talents to public policy and social science research in the food and nutrition fields.

We meet at an exciting time for you and your profession. I feel relatively certain that none of you chose agricultural economics as a vocation in the fond hope that you would wind up as lead editorials in the New York Times or the Wall Street Journal. The Economics Journal, maybe. Not Wall Street's.

But you may have been wrong. Food is news today. And two interesting and important things are happening right now—both of which involve you.

First, the traditional debate over "agricultural" policy has been expanded into a debate over food and nutrition policy. We are no longer concerned only with the mechanisms for producing, processing and distributing food, and what kinds of economic returns are available to producers, processors and distributors. Within the past few years the traditional agricultural arena has been enlarged to include a debate over food composition, nutritional values, chemical additives, and costs to consumers. And these new issues may have an enormous impact on the economy of production, processing, and distribution.

Second, we have reached a point in our national life when the people of this country, while still willing to use government action to attack a wide variety of problems, are quite rightly unwilling to tolerate unforeseen, unintended and unfortunate consequences of those actions. We are, it seems to me, in desperate search of competence in government.

Both of these developments are of enormous importance to your profession. You, in turn, can play a crucial role in resolving the problems which they present.

First, let's look at the debate over a food and nutrition policy. It's interesting that it is a debate. Does anyone, anywhere raise food for its own sake? Of because the plants look so pretty popping out of fields? We produce, process, package and market food so that people will buy it, eat it, and be nourished by it. In food, more clearly than any other sphere of the economic world, the consumer is the sole end of production.

But, until recently, government food policy has tended to be overwhelmingly concerned with increasing production, improving processing and enhancing distribution. These are good and worthwhile aims. At one time they were the only things we needed to be concerned about. Now they ignore some very current problems. Let me outline some of the most pressing.

We have for years used chemicals at various points in the food system to increase production, retard spoilage and preserve foods. They seemed a stunningly successful solution to those problems. Now they are presenting problems themselves as we learn that some of the same chemicals, which had such beneficial effects on food, treat the human body rather less kindly.

We have become so dependent upon food processing and upon nationwide food distribution systems that the farm value of production bears little relationship to final costs of food.

Although millions of Americans still are unable to get enough to eat without assistance, for millions of others nutritional problems are a result of consuming too much food.

For those who simply cannot afford an adequate diet, nutrition research and education and food safety regulations are irrelevant.

Another problem area is the dramatic change in American lifestyles over the past 15 years. Educators and nutritionists alike are becoming increasingly concerned about the capability of consumers to make food choice decisions that provide nutritionally sound diets.

Finally, government policies encourage certain kinds of production and marketing and discourage others through support prices, research, and regulation. But we know little about the impact of these programs on nutrition and on consumer prices. Government must deal with these problems. The goal that I would seek is the development of policies that will provide an adequate supply of safe, high quality and nutritious food at reasonable prices, while providing a reasonable return on investment to those who produce and distribute food, and assuring some assistance to those at home and abroad who cannot afford an adequate diet even at reasonable prices.

Obviously, no one program will achieve this goal. It requires a mixture of public and private action. Perhaps more than anything it requires wise, rational, well thought out public policies. Which brings me to my second point—the need for competence in government action. You and your professional cohorts hold important keys to competency in government action.

When I look back over some of the issues I have wrestled with since entering the government 18 months ago, the potential for your influence and the need for your expertise is overwhelming. The gaps created by their absence are sometimes appalling.

For example, in food assistance programs, one of the very first issues that confronted us was the debate over President Carter's welfare reform program and whether food stamps should be "cashed out."

We know that food stamps account for about $6 billion a year in federal tax dollars, going to some 16 million people each month. However, with the exception of the work done by my long-time friend, Sylvia Lane, we have little research on the impact of the food stamp program. We have little information on the impact of "cash out" on the nutritional well-being of food stamp families; on the total purchase of food; or on the prices received by farmers.

There isn't much research on school feeding programs either. To a greater and greater degree, schools want processed foods. They don't want whole chickens. They want precut, pre-breaded, pre-cooked frozen chickens because that reduces labor costs for the school. But what impact does that have on the producer? What impact does it have on the budget of the program at the federal level and the state level? What impact does it have on the nutritional adequacy of the school lunch?

Let's talk about superdonut and its friends. There is a perfect example of the need for your expertise. The superdonut is a formulated grain-fruit product. It is used in the school breakfast program to take the place of both the cereal-bread and vegetable-fruit portions of the breakfast. Usually a school must serve a 3-component meal. With this product, only two components are necessary. But, there is no fruit in the grain-fruit product. It is a donut or cupcake fortified with vitamins and iron. It is also high in sugar and fat.

It was originally introduced in order to encourage schools with no cafeteria facilities to take part in the breakfast program. But, we now know that most of the schools which use it have cafeterias. It is a convenient way to save money on school breakfast. But its use means that vitamin C manufactured in a laboratory is substituting for vitamin C manufactured by a citrus farmer. Further, the superdonut may be teaching children that a sugary, high-fat product is an appropriate item to have for a nutritious breakfast. Surely, it increases the child's sugar and fat consumption. These are unintended, unanticipated and unfortunate results of a government action taken to resolve one problem. It didn't resolve that problem. It created potential new ones. The problems could have been and should have been avoided. They might have been if there had been adequate analysis before we started to use them. We never had any kind of analysis until it was done by Bill Boehm and his staff last year.

Is the superdonut a trivial issue? It is typical of child nutrition problems and child nutrition programs cost $3.5 billion per year.

Let's take another example. No issue has been more hotly debated in the agricultural community over the past couple of years than the Senate Nutrition Committee's dietary goals. Nutritionists are debating the scientific validity of the goals. Cattle producers

are screaming that the goals portend their economic ruin. Do they?

I don't know. You haven't told me. I'm not aware that you have written about the potential economic impact on cattlemen if consumers follow the guidelines, and you haven't analyzed whether cattlemen might gain economically from less grain feeding. You haven't written about whether the production of leaner cattle would reduce consumer prices; reduce imports of lean beef, or any of the other myriad possible results. You haven't analyzed the costs to society of time lost from work as a result of diseases that may be diet-related.

Every time new nutritional and dietary information comes to light, tremors run through the affected industry—understandably so. Egg producers, or hog raisers, or cattle feeders are told the government is out to get them and that they are going to be driven out of business. Their very natural reaction is to attempt to refute the scientific data or prevent any attempt to act on it. That's normal and natural. It may also be the wrong reaction in terms of national health. But worst of all, it may be a great waste of energy. Perhaps the recommended changes will not cause great economic dislocation. We won't know if we don't have the research. Even if change must come, public policy can be shaped to reduce the burdens of that change—if we have research and analysis that will provide policy options.

Let me turn for a moment to regulatory decisions and the absence of economic data on which to base our actions. Nitrite is a good example. The USDA and the meat industry have known for 10 years that the sodium nitrite used in curing meat is implicated in the formation of cancer-causing nitrosamines. We know that this causes the meat to be adulterated under the definition in the Meat Inspection Act. The impact on the industry and the public may be very great. But I cannot find any economic or policy research, except a little done by the affected industry, on the extent of that impact, or on policy strategies that will help us comply with the law and reduce the impact on the industry and the public.

I believe strongly that we must act to protect the public health through vigorous enforcement of food safety laws. When the evidence is clear and strong, I am not much persuaded when the economic health of an industry is used as an argument against an action to protect the physical well-being of the public.

However, we can and should choose the public policy alternative which reduces the economic impact, or at least spreads it as broadly and equitably as possible. To do so requires development of policy alternatives based on economic research data.

These problems aren't going to go away. They're going to increase and in the absence of solid research it will be increasingly difficult to make good policy judgments.

Two years ago your former president, Ken Farrell, gave an address to this association in which he urged you to expand your vision of your field. He chided you then for failing to address the most important policy problems in the food system. I frequently seem to follow Ken's lead and so I guess much of what I've said today has the ring of "Amen, Brother." Not without reason. I read your Journal from time to time. And I have looked in vain for results of research relevant to the new food agenda. Perhaps you have expanded your research and analysis projects since Ken's speech, but I must confess I have seen little evidence of it. I was pleased to see some items on your agenda here. I hope you would agree that a 2-year gestation period is long enough.

In the past and even today you might plead that you've lacked sufficient funds to do this work. It is a legitimate complaint. Secretary Bob Bergland, Howard Hjort, Ken Farrell and even I are working to end that.

The USDA's $5 million competitive grants program for human nutrition research includes for the first time a category for funding studies relating to the social science aspects of nutrition. In addition, the Secretary has noted the need to devote increased resources to the various agencies within USDA responsible for economic research and policy analysis of food and nutrition related issues. Clearly, we are committed to do more than has been done in the past to free money for research on such issues.

Recently, Secretary Bergland announced as a goal of the Department of Agriculture to "improve the analytical capabilities in order to determine the cost effectiveness of nutrition research, education, distribution, food safety and quality of regulations and other nutrition programs; as well as the agricultural pricing and stabilization programs as they affect food an nutrition policy within USDA."

Now, you know we need you and you know we're willing to come up with some money. Next comes my "wish list" of the research we need. I hope you will consider devoting resources to some of the following areas.

First, we need to know a lot more than we do about the intricate web of factors which make people decide what to eat. Singly, and in combination, we should evaluate the influence of education, income, race, religion, sex, age, advertising, labeling, and lifestyles on food choice decisions. We should also determine how all these factors and resulting choices relate to health and to farm income. It would also be useful to identify the relationship between the consumer demand for nutrients and the demand for marketing services. Conceptual developments in this area are as old as your profession, but we haven't gotten much beyond a conceptual understanding.

This research can provide the foundation for policy analyses and evaluations of federal programs in nutrition education, food labeling and food quality regulation. It would also help us understand the nutrition-related consequences of federal agricultural production, marketing and income stabilization programs.

Some nutritionists contend that food industry practices, including advertising, are important factors in nutritional decline. In large measure these industry practices are a reflection of, and are encouraged by, technological changes in food processing and retailing. We badly need economic research to evaluate the extent to which these changes actually result in lower per unit costs for consumers. What good is all this technological advance if consumers do not benefit through lower costs?

Economists have long recognized the important trade-off between technical and pricing efficiency. Now we need research to document the magnitude of the relationship. Fritz Mueller and his colleagues believe the effect of inadequate competition in retail food markets is substantial "monopoly overcharges." Others point out the weaknesses of these studies. We must get beyond the point-counterpoint stage.

Research in this area must also deal directly with the economic consequences of such practices as the use of universal product code (UPC) and electronic funds transfer (EFT), vitamin fortification and the proliferation of packaging. It must also deal with the costs and benefits of economic regulation on industry practices. Backhaul regulations would appear to be an obvious case in point.

The third item on my agenda would be analyses to determine the impact of food safety regulations. Surely you can sense that one of the most frustrating aspects of my job at USDA has been the lack of research on the economic impact of various food safety alternatives. Research of this type could help us ease the burden of changing government policies on food system participants.

The fourth item, research in food quality, is probably the one most familiar to agricultural economists. Most of the present food grades and standards are products of the agricultural establishment. But are they meaningful to today's consumers? Do they even know what the grades mean? Evaluation of present regulations is badly needed and I cannot encourage too strongly the initiation of such research.

Finally, it is essential that we know more about how our various domestic food assistance programs actually contribute to nutrition and to farm income, other than encouraging the consumption of surplus products.

"Cash-out" of food stamps appears to be postponed at least for now, but Congress did pass legislation last September to eliminate the purchase requirement for food stamps, and to extend its benefits to an estimated 3 million more needy people.

In addition to the school breakfast and lunch programs, the Women, Infants, Children (WIC) food program has perhaps the greatest potential to use food and nutrition to improve health. It provides prescription food packages to vulnerable persons at nutritional risk during the most critical phase of human growth and development—that is, to pregnant women, nursing mothers and young children.

WIC legislation was not part of the Food and Agriculture Act of 1977, but amendments are pending now in the Congress. It is important that we research the nutritional contributions of all these programs because they affect people who cannot afford an adequate diet, and because they are taxpayer-supported. I don't have to tell you that we need to get the most of our government's money.

That's a pretty hefty agenda. I present it to you because I believe agricultural economists have the tools and the training to resolve many of these complex issues. Or, at the very least, to shed light rather than heat on them.

To do so will, of course, require an investment of human capital. You'll have to learn as much about food and nutrition programs as you already know about commodity prices, income supports, and marketing order programs. But you'll be playing a very large role in a very important decision-making process.

I ask you to seize the moment. If you do not, the work will be relegated to analysts who know little or nothing about agriculture. I don't want that to happen, and I don't think you do either. But surely you understand that we will decide and we will act. The absence of good data to help resolve a problem doesn't make the problem go away.

We in government who carry a responsibility for human nutrition do not like to pull and tug at the scientific community. We would much rather follow you. John Dewey once wrote that "every great advance in science has issued from a new audacity of imagination." Or one could simply say, "Behold the turtle, he makes progress by sticking his neck out."

I hope you will help us proceed in a more rational fashion to deal with food and nutrition issues.●

AFRICA AFTER KENYATTA

● Mr. BAYH. Mr. President, the United States has lost a firm friend committed to peace, justice, and progress with the death of President Jomo Kenyatta of Kenya. For 15 years, President Kenyatta

was a force for these high principles through constructive change in East Africa. People the world over join with the 14 million Kenyans in mourning the loss of a great leader and good man.

I think my colleagues would agree that because Jomo Kenyatta was a giant in the independence movement of his country he has earned a special place in the hearts of our countrymen as well who share a similar heritage. In addition, Kenya's orderly internal economic development and mature conduct in foreign affairs bear the unmistakable imprint of President Kenyatta's steady hand. Let us hope for the people of Kenya, the other nations of Africa and all the world that the good which men do will indeed live after them. If this is the case, then Jomo Kenyatta's legacy is a bright one filled with promise and hope.

Today I read with interest an editorial appearing in the Christian Science Monitor underlining what an outstanding example President Kenyatta established for the rest of Africa to follow. At this time, I ask that this article be printed in the RECORD. In the spirit of "Harambee" we must assist the people of Kenya in renewing our dedication to high goals which President Kenyatta worked so hard to achieve.

AFRICA AFTER KENYATTA

Jomo Kenyatta proved it could be done—that a white-controlled African colony could become a black-controlled African nation without eliminating the whites or turning into tyranny. Kenya's degree of success gives hope that even the tough transition period in southern Africa can have an outcome without the predicted continuing strife. It will require a renewed dedication to the idea of "Harambee" ("let's all pull together"), which the passing of President Kenyatta has recalled as the climactic appeal in so many of his speeches.

Earlier this month it was encouraging to get a report from Zambia that Namibian revolutionary forces were already seeking to include whites in plans for moderation in Namibia (South-West Africa) when the independence process is complete. An official of SWAPO (South-West Africa People's Organization) said, "If we win power, our first interest will be to keep commerce and industry functioning." An expected appeal to whites in the first election campaign would be: "You are welcome in the new state. We want and need you if you are prepared to share our aspirations."

President Kenyatta's Kenya showed that such working with whites was possible. There are said to be twice as many whites in Kenya now as there were at the time of independence. Not only racial but tribal animosities appear to have been muted in a functioning mixed society.

Not that Kenya no longer has problems to solve. A "neocolonial" black elite has risen paralleling the white elite. Economic growth has not been matched by genuine national development. There is maldistribution of resources. Charges of corruption and repression keep coming up.

A test of how soundly Kenyatta built will be how well the country proceeds without him. But the fact remains that, after the bloody independence struggles in which Kenyatta was allegedly involved, a degeneration into chaos was avoided.

In the Rhodesian turmoil now there are reports of the black nationalist guerrilla forces in conflict with each other. There are predictions of power struggles among black factions. Many whites are giving up and leaving the country.

The memorials to Mr. Kenyatta recall that he was confronted with parties in conflict in the early days of independence. But he combined with severity a willingness to forgive and forget, to form coalitions, to stress the pulling together signified by "Harambee."

Of course, each region, each country, of Africa has its particular combination of challenges. Otherwise more of the 1960s wave of independent nations would be more stable and successful in the Kenya sense.

But the Kenyatta legacy cannot be ignored. The newly independent lands—and those where freedom is now so prominent on the horizon—would do well to learn more from him than from the Mobutus or, worse, the Amins.●

THE RAFSHOON VETO

● Mr. HAYAKAWA. Mr. President, I was dismayed by the President's recent veto of the fiscal year 1979 Military Procurement Authorization bill. The President expressed his disappointment with the Congress for its overwhelming support of a fifth nuclear-powered aircraft carrier. I am one of the many Members that supports this carrier. The administration-supported CVV (conventionally powered medium-size carrier) could only carry about two-thirds as many aircraft as the *Nimitz* class. If it were certain to be less expensive, the CVV might be a good choice—current cost is estimated at $1.5 billion, compared to $2.1 billion for the *Nimitz*. However, the *Nimitz* price tag includes a 13-year fuel supply and it is a proven design, the cost of which can be estimated accurately, while the CVV is a new design which is likely to have large costs overruns. Consequently, the CVV could end up costing as much as the *Nimitz*. Since only one more large carrier of any type is planned, I feel the more prudent choice would be to go with the *Nimitz* class carrier.

Today's Wall Street Journal has an editorial entitled "The Rafshoon Veto" which provides an excellent discussion of the President's veto. I think that the points made concerning the distinction between authorization and appropriation and those made concerning the pursuit of cosmetic politics are well taken. I, therefore, ask that this article be printed in the RECORD.

The editorial follows:

THE RAFSHOON VETO

President Carter's veto of the defense procurement authorization is everywhere interpreted as part of a new "get tough" act, the practical incarnation of media adviser Gerald Rafshoon's efforts to massage the President's sagging poll ratings. The veto would have helped Mr. Carter's competency rating more if he had not clouded the issue in monumental confusion, including confusion about what the bill he vetoed actually contained.

To cut through the clouds, it's necessary to keep in mind two simple facts. First: while Mr. Carter objects to the congressional decision to spend $2 billion on a nuclear aircraft carrier, his administration has already announced plans to include a large oil-burning carrier in its next budget request. The whole issue is, merely, this year or next year, and conventional or nuclear? Second: There is a difference between authorization bills, which set programs, and appropriations bills, defense procurement authorization. The Pentagon appropriations bill has not yet been completed by Congress.

This elemental parliamentary distinction was entirely overlooked in Mr. Carter's charge that Congress is building the carrier by "diverting funds away from far more important defense needs." Among the congressional items to which he objected, for example, was a supposed cut of $500 million in military operational funds. But operational funds are not dealt with in the defense procurement bill; if this was the President's problem, he vetoed the wrong bill.

Doing the President one better, Defense Secretary Brown complained that Congress had killed three anti-submarine ships. There is a dispute over the appropriations for these ships, with the House on one side and the Senate on the other. But whatever the eventual appropriation, the ships were included in the defense procurement bill. Secretary Brown complains about Congress killing ships that were in fact in the bill his chief just vetoed.

Now, within the context of the procurement authorization, it's true that despite $1.9 billion for the aircraft carrier, the congressional total was close to the President's original request. About half of the funds came from rather ordinary changes: the Army reporting it would not spend money on its new XM-1 tank as fast as it originally thought; Congress's decision that it could both save money and improve the NATO tank force faster by upgrading more existing M60A1 tanks and producing fewer new M60A3 tanks than contemplated in the original administration request.

The other half of the carrier money came from funds originally requested for the Trident submarine program, but which cannot be spent in this year's bill because of delays. With the Trident program delayed, and with the administration poised to order up a new carrier next year, Congress is merely saying, let's use this idle money and get the carrier started now.

There remains the issue of what kind of carrier. In passing, it should be noted that in light of the latest studies it is far from clear that large carriers are especially vulnerable. They can sustain hits from Soviet cruise missiles that would atomize small carriers, which have their magazines above water line. Large ships also make sense in light of electronic battlefield management, which promises a defense capable of shooting down attacking missiles. But this debate is beside the immediate point, since the White House has requested no small carriers. Indeed, the bill Mr. Carter vetoed provided more research funding for small carriers than he requested.

It is also unclear that oil-powered carriers save money. They are cheaper to build, but more expensive to fuel. Over the lifetime of a ship, it is difficult to see much difference in total cost. Congress prefers the nuclear carrier because it has better performance, being unencumbered by a train of tankers to refuel it every few days. The administration prefers a conventional carrier, saving money on construction now but spending more on operations later. And over this difference the President is willing to veto the entire procurement bill, inviting further controversy and delay that may hinder the improvements on which he and Congress agree.

In order to escalate this minor quarrel to veto proportions, President Carter launched an attack on Congress that seriously distorts the record. Sen. Stennis rose on the floor to complain, in what is for him strong language, of the administration's "false facts." The Senator was too much of a gentleman to say it, but we will: This is not a case of the Congress being soft on national security, but of the President dallying with defense in pursuit of cosmetic politics. The defense procurement bill was vetoed not because of any large difference on substance, but because it was the first bill to come along after Mr. Rafshoon whispered in the President's ear that he could look "strong" by vetoing something.●

NEW PROGRAMS TO HARNESS ENERGY FROM FORESTS, FARMS

● Mr. BAYH. Mr. President, last month I had the honor and privilege of talking with Judd Buchanan, Canadian Minister of Public Works and of State Science and Technology, about Canadian and American efforts to stimulate use of renewable energy sources. As a followup to this conversation, Mr. Buchanan forwarded me some information on Canadian efforts to develop energy from Canada's vast natural resources.

Mr. President, last week I inserted a Wall Street Journal article into the RECORD on Brazil's efforts in this area. I ask that the information on Canadian efforts also be made a part of the RECORD, so that my colleagues and others around the country can familiarize themselves with them.

The material follows:

NEW PROGRAMS TO HARNESS ENERGY FROM FORESTS, FARMS

(Prepared by Canadian Ministry of Energy, Mines and Resources)

New Federal government programs will encourage large-scale development of energy from the forests and other forms of organic material, or biomass, as a substitute for oil, gas and even electricity.

The programs are as follows:

Forest Industry Renewable Energy Program (FIRE).—$143 million for the forest industry to use wood wastes as a fuel source instead of oil or gas. The program covers the period 1978–1985. Fuel savings will be important; job-creation in areas of high unemployment will be substantial. In the longer term, investment of this kind should allow forest industry expansion as a producer of energy and chemical byproducts for home and export markets.

Biomass Energy Loan Guarantees.—Federal government guarantees for loans, worth a total of $150 million to assist in establishing electrical generating facilities using biomass as the energy source. This approach will encourage groups of industries, in cooperation with nearby communities and possibly provincial electrical utilities, to combine efforts on a local level to use wastes for electrical generation. Terms of the program will especially encourage co-generation of electricity and heat.

Expanded Research, Development and Demonstration.—Approximately $40 million will be available from the Federal Government between 1978 and 1984 to help fund research projects and demonstrations of innovative techniques such as biomass plantations and the conversion of biomass to liquid fuels or chemicals. Federal-provincial cost-sharing will be the preferred approach to demonstration activities.

The ready availability of inexpensive oil and gas in the postwar era slowed the use by the forest industry of its own wastes for fuel. Now all that has changed, and the mill wastes and forest residues are being looked on as a pollution problem that can be turned into a solution to soaring energy costs.

Recent assessments have shown that the unused potential in existing logging and milling wastes alone is very substantial, even though 3.5 per cent of Canada's primary energy production—twice that of nuclear energy—now comes from wood wastes. Mill wastes and slash remaining after forest logging operations have an energy potential equal to 2½ times the annual production of the $2 billion Syncrude plant in the Alberta oil sands.

The potential is very much larger if species unsuited to commercial logging operations are harvested along with merchantable species.

In the short term, the forest industry, with the new federal assistance, will be able to step up sharply its use of mill and other wastes. By 1985, biomass could provide 7 per cent of the nation's primary energy—double its current contribution. Our goal is to make the forest industry—Canada's largest—energy self-sufficient as soon as possible.

Federal assistance under the FIRE program will be particularly useful for relatively small forestry operations, who may now find substitution of wood for other fuels attractive but who could encounter difficulties with financing new equipment purchases.

The financial assistance to be provided under the new program will make this less of a problem. Subject to Parliamentary approval, federal contributions will be available to cover 20% of the approved capital cost of certain classes of equipment used to burn, gasify or otherwise make use of the energy content of wood wastes.

New equipment orders will substantially increase business for Canadian based forest equipment manufacturers.

As a result of the program, an estimated 24,000 man-years of employment will be created across the country between now and 1984.

In addition to the federal contribution, private investment by the industry is expected to be about $950 million. Fuel-cost savings should be an important benefit to the industry over the long term. There will also be pollution-control benefits, with the reduction of abandoned wastes, and better forest management practices.

With other fuels increasing rapidly in price, reliance on local wood resources as a source of electricity has become attractive in some regions, for example interior British Columbia, Northern Ontario and Quebec.

In B.C., there are a number of locations where plants with a generating capacity of 50 MW or more would be feasible. Collectively, the identifiable B.C. potential, at present prices, is in excess of 400 MW, and the resulting electricity would be competitive with other sources.

In order to encourage this utility approach, a federal loan guarantee will be provided for the first such project to be undertaken in any province.

With the agreement of the provincial government, a loan guarantee will be provided for up to 50 per cent of the approved capital cost for a biomass-based electrical generation facility. An even more extensive guarantee (66⅔ per cent of the capital cost) will be provided if a project is to achieve the high efficiencies associated with the joint production, or cogeneration, or electricity and heat—either for industrial uses or community district heating.

This type of loan guarantee has proved itself effective in encouraging the construction of nuclear generating plants.

Large-scale growth of biomass energy will require adaptation of a variety of known techniques to Canadian conditions and the development and introduction of new techniques.

An expanded research and development effort will be supported by the federal government.

An estimated $30 million will be allocated for this purpose by the federal government between 1978 and 1983, with further funds available on a cost-sharing basis with the provinces and private industry for the expensive but crucial demonstration phases.

Direct use of wood as an industrial source of heat can be accomplished with a number of different types of equipment. Modified or new designs can expand the potential for wood use in pulp and paper production and other phases of the forest industry. Funding is to be provided on a shared-cost basis for innovative projects to demonstrate this potential.

Conversion of wood to a gas is another process with a wide range of actual and potential applications. The basic process involves applying heat to wood with a deficiency of oxygen. This resulting gas is relatively low in energy but is adequate for some industrial requirements and power generation.

An upgraded gas can also be produced for use in more sophisticated conversion processes. These include production of substitute natural gas and methanol or other synthetic fuels.

These synthetic liquids are capable of becoming a source of fuel for motor vehicles, but continuing research will be required, concerning compatibility of fuels with various engines, safe handling, blending with petroleum fuels and other points.

In future, extensive development of these high-quality products may also be undertaken to provide an alternative feedstock for the chemical industry, which now relies on petroleum for essential hydrocarbons. The potential for wood-based chemical production will be explored as part of the continuing research effort.●

DAN BREWSTER

● Mr. McGOVERN. Mr. President, in today's Washington Post there appeared an article on one of our former colleagues, Senator Daniel Brewster of Maryland. Dan Brewster and I came to the Senate at the same time. He has been my friend ever since. His strong voice and leadership are sorely missed in the Senate, and he is remembered with respect and affection.

I ask that the article be printed in the RECORD as follows:

[From the Washington Post, Aug. 24, 1978]

THE FALL AND RISE OF DAN BREWSTER: LIFE CLOSE TO THE LAND

(By Michael Kernan)

Wasn't it Scott Fitzgerald who said there are no second acts in American lives?

Dan Brewster leaned back from the newspaper-covered picnic table on the lawn between the pool and his sprawling country house. His hands clear up to the wrist were freckled with green sauce from the crabs he was eating. One eye always on his wandering 7-month-old daughter Danielle Lynn, he was listening to a report on a sick colt. Its temperature was down to 100 now, he was told. Great. This morning he'd given it a shot of penicillin.

Farther down the table his teen-age stepdaughter was arguing with her friends about whether to go see "Revenge of the Pink Panther" or "Foul Play," and his third wife, Judy Lynn, was trying to get everyone to move to the patio because the string beans were ready ("picked this afternoon") and the corn and fried chicken, and besides it was thundering and Rabbit the near-Labrador was getting frantic.

Those who knew him before say Daniel Baugh Brewster is a different person today. Born to wealth, tall and handsome, he was president of his class in college, captain of the football team, at 19 the youngest officer in the entire Marine Corps, at 26 one of the youngest Maryland state legislators ever, a U.S. Senator at 39 . . . people called him the Golden Boy.

"It all came so easily," he said.

And in 1968 it all came to pieces.

The drinking got out of control. He lost an election to his old college friend Charles McC. Mathias. He was divorced, nearly died the following year after an alcoholic collapse. And then there was the federal in-

dictment, "something I didn't understand and still don't understand." In any case, it broke his career.

"Alcohol began to be a problem in the Wallace campaign of '64," he said, going back to the time when he ran in the Maryland primary for president as a stand-in for Lyndon Johnson to test George Wallace's strength. It was a hard race. He barely won.

For the next four years, though there were long periods of sobriety, the drinking gradually took over. He tried every dodge he could think of: not before 5 p.m., not after 5 p.m., only in Washington, only in Maryland, only at meals, never at meals, and so on.

By 1969, after the defeat for re-election to the Senate—Republican Mathias used a slogan that hurt by its very diffidence, "Reason for Change"—Brewster was "drinking with a vengeance," as he put it.

He didn't get really turned around until 1973.

"First you have to admit to yourself that you're powerless over alcohol. It's a drug, and the alcoholic is an addict, it's as simple as that. You turn over your life to it, and then you go step by step. It's not instantaneous, you don't achieve independence in one day. In my own case I came back [to the sanitarium] several times. I got my master's and doctor's degrees. It took a long time to ruin what seemed a promising career, and it takes a long time to rebuild a life."

Dan Brewster says he has learned to roll with the punches and accept life on its terms. This from a compulsive achiever who won his first 12 elections, from the House of Delegates in 1950, the year he got out of law school, to the Senate in '62. . . .

He was the oldest of six, and his father died when he was 10. Raised in comfort on a beautifully appointed farm in Maryland fox-hunting country, inheritor of the Baugh Chemical fortune, he waltzed through St. Paul's School, started at Princeton and when war came enlisted in the Marines as a private.

Next thing he knew, he was an officer leading assault teams onto Pacific beaches, collecting seven wounds and a chestful of medals (on Okinawa his Raider unit was point for the initial attack and he personally, his own personal body, was point for the unit), coming home a captain. He retired a colonel in the reserves in 1972.

"The Marine years were my most formative years," he said. "I went in a sheltered kid, and at 21, I was a company commander. I came out of the war with a very different sense of values: I was interested in civil rights, politics. Really admired FDR. I joined the American Veterans Committee for awhile. Things happen fast in a war. You stop being a schoolboy in a hell of a hurry."

The military experience influenced his thinking in another way too: For years he was the most hawkish of hawks on Vietnam. "Let's face it, I was always a hawk. I wanted to go in there and do the thing right if we were going to do it at all. Even drop the bomb."

This was, he added, the greatest mistake he ever made on a public issue in his decade in Congress.

"I went over and saw the soldiers, I was given the tour, and I saw that people were getting killed because we didn't have an all-out commitment there. I used to say, if it was worth doing. . . . The fact is, it wasn't worth doing in the first place. Being a world leader doesn't mean you should police the whole world too."

But the issues of world affairs can seem abstract to a man living close to the earth. (And he does that, even if it is a model 150-acre spread. He helped fence it himself, and he works with the horses and handles the veterinary chores. Horses have always been part of his life.)

Brewster says he no longer has ambitions to run for major political office, though some day "it may cross my mind," he admitted with a reflective, gentle smile, to come back to the Maryland legislature as a farmer, to work on the things that concern farmers.

Of course he still keeps in touch, is consulted informally by ex-colleagues, maintains political contact of a sort through the alcoholism commission, to which he was appointed two years ago by Gov. Mandel.

Does he miss the Senate?

"No. No more than I miss the Marines. I think about it sometimes, I remember it all right. But I don't miss it. Life goes on. As a young man I was forever thinking of tomorrow. Then with my defeat and illness I thought only of the past. Idealism turned into ambition which turned into alcoholism."

He blames alcohol, by the way, for his drift into a situation that led to his indictment in 1969 on charges of taking a bribe from a mail-order house, Spiegel Inc., for a vote on postal-rate legislation. Six years later, the original charge reduced to accepting an illegal gratuity of $4,500, Brewster pleaded no contest and was fined $10,000. From the beginning he had denied ever taking a bribe; his lawyers contended that one of his own aides had fabricated the charges.

Today, Dan Brewster lives in the present.

"Each day is a new adventure," he said. "I like simple things, and now I have time for 'em: riding—I ride every day, it's my main exercise—and jogging and tennis, the garden, working at the stables. In the old days my appointments secretary ran my life. Now I do stuff that wouldn't even have made her list."

Last week he helped Judy can beans and tomatoes. Twice a week they go to cattle auctions (he has 70 head), and every now and then they slip away to the track to watch their 2-year-old, Early Double, race.

Two and a half days a week he counsels and lectures on alcoholism at a nearby veterans' hospital, helps with its detoxification program, leads group therapy, runs an informal legal clinic. The job pays $100 a week.

He also heads the Governor's Advisory Council on Alcoholism—"I see it as part of my recovery"—and works with a quarter-way house in Baltimore. At St. John's Episcopal Church, where is a vestryman, he serves on a committee dealing with alcoholism.

He is proud of his trim shape. This spring he dieted down to 185 pounds, which looks just fine on his large-boned, 6–3 frame, and he came in third in the rudgged My Lady's Manor point-to-point steeplechase. He had won that race 30 years ago.

"I tell you, it felt great. Racing at 55 against 20-year-olds."

He is discovering the joys of being old-shoe. He sold the other farm where he held the big political clambakes, impersonal as a PR-man's smile, and in fact no liquor at all is served at his place in the white-fence countryside west of Baltimore.

There are always children around: his own younger son Gerry, 21, and Judy's two, Krista and Kurt Aarsand, 17 and 15, and their friends, and of course the baby, who goes everywhere with them and who now cruised imperturbably through the house and across the lawns, tasting things.

It was time to move to the covered porch. Unceremoniously, Brewster dipped a pail of water from the pool and washed his hands. A crack of thunder made everyone jump, and the big concern was getting Rabbit into the house because she is terrified of thunder and has been known to jump through screen doors in panic. After the fried chicken and beans and corn there would be home-made chocolate-chip ice cream.

He watched the first big drops splatter on the flagstones. "I'm a happy man," he said.●

DECLINE OF THE DOLLAR AND U.S. FOOD EXPORTS

● Mr. BAYH. Mr. President, we have all noted with due concern the decline of the American dollar on the Japanese yen market. While some have pointed to the dampening impact which this process has had on Japanese exports to this country, it has also contributed to making sales of U.S. agricultural commodities in Japan even more difficult. Coupled with restrictive Japanese import policies, the decline of the dollar has made it more expensive for the average Japanese household to buy oranges grown in California, a loaf of bread made from wheat harvested in Kansas or a box of corn flakes the principal ingredient for which was raised in Indiana.

A recent article in the Christian Science Monitor explaining how "Japanese Quotas Work Against U.S. Food Import" provided a clear presentation of the present problem American food exporters face. With a multilateral trade agreement anticipated for consideration next year by the Congress, I believe that we should begin to review the issues raised in the Monitor article. For that reason, I ask that this article be printed in the RECORD.

The article follows:

[From the Christian Science Monitor, Aug. 22, 1978]

BEHIND THE YEN-DOLLAR TUG OF WAR—JAPANESE QUOTAS WORK AGAINST U.S. FOOD IMPORT

(By Norman Sklarewitz)

These days, American tourists in Japan find current food prices as fascinating as the country's ancient cultural heritage. The decline in the value of the U.S. dollar has pushed grocery price tags to record heights.

Checking the cost of fruits, vegetables, and other items of daily household use and then comparing them with the same products back home is a particular source of astonishment to visitors and painful dismay to residents.

For example, shoppers going to neighborhood supermarkets find these prices: five peaches, 950 yen, or at the 192 yen to $1 U.S. exchange rate $4.95; one American honeydew melon, 1,630 yen ($8.48); a can of American fruit juice, 285 yen ($1.48); a 10-ounce jar of instant coffee, 1,390 yen ($7.23); or a can of vegetable soup, 230 yen ($1.19).

Those prices are important to people other than foreigners living in Japan; they play a role in U.S. export deficits. Japan has traditionally been one of the leading markets for U.S. agricultural products. This year, the value of American foodstuffs sold to Japan is expected to hit $4 billion for the first time.

FOOD SALES ENCOURAGED

Last year, the value of American farm exports to Japan was $3.8 billion. That volume represented some 16 percent of total U.S. agricultural exports worldwide. So it is important to American farmers and ranchers that the Japanese continue to buy their commodities. If, however, food prices continue to rise, the market could be threatened or at least kept from expanding as the population warrants.

American trade negotiators are currently trying to increase the volume and variety of American food products permitted into Japan. That effort comes as part of a general effort by the U.S. and Japan to correct the current trade imbalance between the two countries. At midyear, Japan had sold some $10 billion more worth of its goods than it imported from the U.S.

If Japan eased some on its long-standing restrictions against agricultural imports, experts argue, at least some of that trade surplus would be reduced. In addition, increased availability of goods on the marketplace would logically help drive down retail prices.

What concerns American exporters are official Japanese quotas and semi-official practices which work to limit U.S. agricultural sales. For example, Japan rigidly limits imports of fresh oranges. For years, the quota of 15,000 metric tons was imposed on the argument that Tokyo had to protect the interest of its own farmers who grow mikan-mandarin oranges.

Under heavy U.S. pressures this past January, however, Japan finally increased the quota three times. While this seems large enough a spokesman for Sunkist Growers, Inc., in Los Angeles, figures out the new volume works out to about 2½ more oranges per person per year here.

"There's so little fruit going into Japan that even with the increase, only a small number of oranges is involved," says Bob Harz, a Sunkist marketing expert.

It is not just foreigners who have to pay those steep prices, of course. The Japanese housewife on a budget is being asked to pay the yen equivalent of 75 cents for one orange. And if a tourist should decide to order a glass of fresh-squeezed orange juice in a hotel restaurant for breakfast, he will get a check for close to $4.50.

The high prices are not all going to support American exporters. A 40-pound carton of top-quality oranges is landed in Yokohama for around $14. But the Japanese have a complicated distribution system that involves layer upon layer of middlemen. As a result, the price of that same carton can easily rise to the equivalent of $66, or some 400 percent, by the time it is sold at retail.

OTHER APPLICATIONS

The same situation prevails with other U.S. products such as wheat. Sales here, too, are limited by stiff marketing markups and controls set by the Japanese Government. These tie the market price of imported wheat to the country's rice subsidy program. In other words, U.S. wheat that may be landed in Japan at $3.25 a bushel is immediately marked up by the Japanese to $8 a bushel; the difference supports subsidies to rice farmers. Not surprising, then, a small loaf of white sandwich bread in Tokyo sells for around $1.34.

Beef is another example of how Japanese import restrictions and a single distribution system combine to limit supplies and guarantee high profit margins. A surcharge on about 95 percent of all imported beef permits domestic beef producers who have high unit costs to be sure that imported beef, which may come in cheap, does not compete with them at retail. First, there is a 25 percent duty on all imported beef and then a surcharge of nearly $6.40 per pound. As a result: hamburger patties are around $3.25 a pound; a T-bone steak is around $11.40 a pound and tenderloin or strip-loin steaks are higher. Prices like those effectively limit sales to a comparatively small market of very affluent Japanese.

"If we had complete import liberalization of the 19 agricultural items now under some sort of Japanese controls, we could sell some $500 million more worth of American agricultural products to Japan in from three to five years," says one U.S. Embassy source here.●

FEEDING THE MONSTER

● Mr. GOLDWATER. Mr. President, the Institute for Socioeconomic Studies, a nonprofit foundation in White Plains, N.Y., has published "An Inventory of Federal Income Transfer Programs"—the first such comprehensive research effort. This 220-page volume lists 182 separate programs costing $250 billion of the $360 billion in taxes collected by the Federal Government in fiscal 1977. The Arizona Republic, a newspaper highly regarded in my home State and nationally, has commented editorially on the complexity of current welfare programs. In its editorial, it declares that the Institute report "defines the root of the (welfare) problem." I ask that this editorial be printed in the RECORD.

The editorial follows:

[From the Arizona Republic, Apr. 24, 1978]

FEEDING THE MONSTER

So monstrous has become the federal government's Erector set complex of welfare programs that it defines comprehension.

It is so monstrous it is unmanageable.

The Secretary of Health, Education, and Welfare, Joseph A. Califano Jr., only recently revealed that of the $147 billion spent by HEW last year—more than 35 percent of total federal budget—upwards of $7 billion (five cents on every dollar) was misused or misspent through mismanagement and fraud.

Medicaid—a health-care program Arizona thankfully never has funded—was the largest source of abuse. Of all Medicaid funds spent, upwards of $2.6 billion was illegal or fraudulent, or about 27 cents of every dollar.

To his credit, Califano has begun a crackdown. Using computers to track recipients of HEW funds, Califano's department has turned up tens of thousands of health professionals and recipients who have been siphoning off tax dollars illegally.

Now comes a team of researchers from the Institute for Socioeconomic Studies and Pace University Graduate School of Business with a report which defines the root of the problem.

There simply are so many separate federal programs and agencies involved in welfare, the government has lost track of who is spending what on whom.

The report, "An Inventory of Federal Income Transfer Programs," lists 182 separate programs for income maintenance and poverty prevention.

But the most astonishing finding of the study, according to co-author Dr. William J. Lawrence, is that federal welfare costs now claim 69 percent of all the tax income taken in by the U.S. Treasury.

Of the $360 billion in taxes collected in fiscal 1977, the report says that $250 billion went to the 182 programs.

To meet other non-welfare obligations, the federal government used the remaining $110 billion in tax income and had to borrow billions of other dollars to meet the budget.

Except for HEW's welfare crackdown to recover a billion misspent here and a billion misspent there, there is no sign that Washington has the stomach to reduce the scope of its handouts.

What lies ahead is a continuation of the spending scenario—expansion of existing programs, and introduction of new ones. If President Carter and Congress go along with Sen. Edward Kennedy's national health insurance proposals, today's spending will seem almost painless.

The only way for Washington, and thus the taxpayers, can end this raid on the nation's income is to give up the idea that it can be a savior to those who say they are in need.●

CONFLAGRATION DAY—AUGUST 24, 1814

● Mrs. HUMPHREY. Mr. President, Rear Adm. Sir George Cockburn, Knight Commander of the Bath, his troops, musicians and camp followers will return to Washington for the first time in 164 years to help save the old tavern where the British ate roast chicken as Washington burned in the War of 1812.

The Citizen's Committee to Save the Historic Rhodes Tavern is recreating the British invasion of Washington at noon today, August 24, with a march down Pennsylvania Avenue.

The Rhodes Tavern, 15th and F Streets NW, the oldest commercial structure in Washington and the only building on Pennsylvania Avenue to have witnessed all the inaugural parades since Thomas Jefferson, is scheduled to be torn down to make room for a shopping mall. The building dates from 1799.

I am pleased that Senators ANDERSON, HAYAKAWA, LEAHY, MATHIAS, and MATSUNAGA have joined me today in introducing a resolution relating to the preservation and restoration of this unique historical structure. Rhodes Tavern is the only building to remain between the White House and the Capitol from the founding days of Washington. To suggest that we destroy the oldest building on the city's principal thoroughfare is an idea that would garner dim applause in Boston or Savannah or any city with an active understanding of the past.

I would like to encourage my colleagues to act swiftly to pass this resolution. I do not see the Rhodes Tavern as merely another building whose time has gone, but rather as a visual link between the city's difficult formative years and the present. The Rhodes Tavern has long been associated with personages, institutions, and events of both national and local significance.

Mr. President, the incident of the British dining in Rhodes Tavern, while the White House and other public buildings burned in 1814, is only one small segment of the rich history of this building. I would, however, like to share with my colleagues an informative and enjoyable account of the British invasion of Washington which emphasizes the role Rhodes Tavern played in our Nation's history. I ask that the brief history of "Conflagration Day—August 24, 1814" by Robert Gair be printed in the RECORD.

The material follows:

CONFLAGRATION DAY—AUGUST 24, 1814

(By Robert Gair)

On a golden summer evening one hundred sixty-four years ago, Rear Admiral Sir George Cockburn, KCB, rode into Washington, D.C.—and into American history—on the back of a mule.

Like many people who come to this town, he was looking for fame and fortune—the fame that would come to the British Officer who captured the capital of the United States, and the fortune in booty the city fathers could be expected to offer up in return for sparing Washington from destruction.

Earlier in the afternoon, British troops under Cockburn and General Robert Ross had routed the American army in the nearby battle of Bladensburg, Maryland. It was a terrible defeat. Poorly trained and led, the U.S. forces disintegrated. Hundreds of people from Washington and Georgetown had gone out to watch the fight in carriages, on horseback and on foot, and these same crowds, mixed with stragglers from the battle, stampeded back through town when it became apparent that all was lost.

An eyewitness said later that he saw the Secretary of War in full flight, followed by crowds of gentlemen on horseback, one of whom loudly bawled out as they came on, "Fly, fly, the ruffians are at hand. If you can-

not get away yourselves, for God's sake send off your wives and daughters, for the ruffians are at hand."

London-born Cockburn, the leader of the "ruffians," was one of the youngest admirals in the history of the British Navy. He built his reputation on ruthless ambition, but he is best remembered in America for his twisted sense of humor. His "frolics" or raids on the coastal towns of the Chesapeake Bay during the previous year had earned him the title of "Harlequin of Havoc." The Boston "Gazette" went so far as to call him a "disgrace to England and the human race."

Cockburn never planned to sack the city or burn any of its buildings. He rode into town under a white flag with the 21st Royal Scots Fusileers and rocket batteries which would later be used in the siege of Baltimore. He expected to be met by government officials who would be disposed to make a liberal donation of their money to save the city.

Washington in 1814 had a population of about 8000, but Cockburn found the city almost empty. The citizens had fled in such haste that warm meals still steamed on dining room tables all over town.

Instead of a parley to talk surrender terms and prize money, the British were greeted by a volley of shots from the Sewell House at the corner of Second and Constitution, NE. Bullets shot Ross' horse under him (third that day), killed one soldier and wounded three others. These were the only shots fired in defense of the city, and nobody ever found out who provided the greeting.

Cockburn and Ross argued for awhile about what to do next. Cockburn urged burning the entire city. Ross consented to burning public buildings. They started with the Capitol and worked their way down Pennsylvania Avenue. American congressmen later related that Cockburn began this pyromaniacal night by mounting the speaker's chair in the House of Representatives and putting the question to the assembled redcoats: "Shall this harbor of Yankee democracy be burned? All for it will say, Aye!"

Picking up a bookseller they found in the Rhodes Tavern at 15th and F Streets to act as guide, the small British party went on to the President's house. There Cockburn discovered Dolley Madison's three o'clock dinner, uncleared by household servants in the confusion of the afternoon's panic. Cockburn counted covers for forty, and after taking a short tour of the mansion, sat down with his officers to a cold buffet.

"We found supper all ready," wrote one British officer, "which was sufficiently cooked without more fire, and which many of us speedily consumed, and drank some very good wine also." Cockburn drank a toast to James Madison's health, and then ordered furniture piled up in the drawing room for a bonfire. By the summer of 1814, Cockburn had become an artist at setting fires, and a blaze soon raged which swept up the Jefferson staircase and poured skyward through the roof in a conflagration seen for thirty miles.

Delighted with his visit to what he called "Jimmy's Palace," Cockburn rode back over to the Rhodes Tavern to eat the dinner he had ordered before reaching the White House. The sacking of Washington had become a moveable feast.

Mrs. Suter, the innkeeper in the Tavern, killed some chickens she found in the yard, dressed and roasted them, and warmed some bread. The Admiral rode partly into the tavern on his mule and introduced himself as "the much abused Admiral Cockburn." Mrs. Suter recognized one of his staff as a spy she had seen in the Tavern only a few nights earlier.

Blowing out the table's candles, Cockburn jovially told his companions that he preferred to eat by the light of the burning White House and Treasury Building, which by that time was also wrapped in flames.

As the British dined in the captured city, the Americans made do as best they could in the surrounding countryside. Dolley Madison was riding through the dark of an approaching rainstorm in search of her husband. James Madison was trying to evade capture by British patrols. James Monroe was scouring the countryside in search of troops to cut off the British retreat to their ships, while Washington's citizens "spent the night gazing on fires and lamenting the disgrace of their city."

When the storm finally broke near midnight, Cockburn retired to "the coarse luxury of lust in a brothel."

The British left the next day in another rainstorm, fearful of massive American reprisals. But before leaving, Cockburn burned a few more buildings, exploded the city's arsenal, and ransacked the office of the city's major newspaper, the "National Intelligencer." He warned the troops to be especially sure to destroy all the letter "c"s in the type boxes so that his name could not be defamed after he left town.

The British then returned to their ships under cover of darkness, which were moored 40 miles from Washington on the Patuxent River in Maryland. Cockburn went on to earn a footnote in history as the British officer who escorted Napoleon Bonaparte to his final exile on St. Helena Island. Legend says that the Corsican Emperor and the Harlequin of Havoc became fast friends.●

UNITED STATES-JAPAN TRADE

● Mr. ROTH. Mr. President, over the past year I have spoken out frequently on the need to rectify the United States-Japan trade imbalance.

So far this year, the imbalance in dollar terms is even worse than last year's. The U.S. trade deficit against Japan is expected to be about $12 billion in 1978 compared to $9 billion in 1977. Japan's global trade surplus may reach $24 billion for Japan's fiscal year 1978, compared to $20 billion in fiscal year 1977.

It is important to recognize, however, that in volume terms the quantity of Japan's exports to the United States and worldwide has decreased. According to an article in this week's Economist, MITI is estimating a 10-percent decline in the volume of Japan's exports this fiscal year, even though the value of those exports is increasing. This drop stems from several causes—Japan's efforts to restrain exports, limitations on imports of Japanese goods placed by the United States and other trading partners, and the appreciation of the yen which has made Japanese products more expensive.

Since it is the volume of exports and imports that is most closely related to jobs, the drop in the volume of imports from Japan is good news to American workers.

In Japan, however, the Government will be under considerable political and economic pressure to ease its export restraints. As long as Japan's current account is in surplus, this would be unacceptable to the United States and, I believe, to Japan's other major customers. Despite the drop in the volume of Japanese exports, it is essential to reach equilibrium in value terms.

I have repeatedly said to my Japanese friends that the best way to rectify the trade balance is for Japan to increase its imports of American-made products. In the short term, this can be done on an emergency basis. I have suggested many times that Japan undertake emergency imports of American agricultural goods, either for storage or food aid programs, and I regret that this and other suggested emergency import programs have not been implemented.

As a long-term solution to the problem it is essential that Japan reduce import barriers. Japan continues to have one of the most heavily protected domestic economies in the developed world. In the manufacturing area, for example, this had limited Japan's imports of manufactured goods relative to domestic consumption to half that of the United States and other industrial countries.

Increased Japanese imports from the United States are the best means of correcting the trade imbalance from both the American and Japanese points of view. It would create more jobs in the United States and help Japan not only by providing a wider range and volume of consumer goods and raw materials, but also by partly avoiding the economic difficulties caused by the present contraction in the volume of Japanese exports.

I submit for the RECORD an article entitled "Down Is Up," which was published in the Economist on August 19, 1978.

The article follows:

DOWN IS UP

As the yen rises, Japan is earning more dollars from its exports but exporting less. Overseas sales were down in volume 2.7 percent in April–June, and 8 percent in July from a year earlier. New export contracts of Japanese trading companies were 30 percent down (in yen terms) in June. The ministry of international trade and industry (Miti) is worried. Mr. Toshio Komoto, Miti's boss, reckons a possible 10 percent drop in export volume over the full fiscal year may reduce expected gnp growth from 7 percent to 6 percent. Rather than that, he says, Miti may lift its informal controls on exports by eight key industries (steel, cars, ships, etc.) as early as October.

In fact, Miti's "guidance" has had little to do with lower car sales in America or steel sales in Europe. Nobody is quite sure how much of the export decline is due to the rise of the yen, but the best guess is most, if not all. Miti is therefore unlikely to lift its controls abruptly. That would irk Japan's trading partners as long as Japan continues to run massive surpluses. The eight industries it has kept an eye on since May all show signs of flagging exports. Miti reckons sales of motorcycles, copying machines, cameras and wrist-watches may all decline by about 10 percent this year, and the outlook is uniformly bleak on the four main items:

Ships. In July ship exports were down 55 percent on a year earlier. Japan's shipyards exported 8.5m gross registered tonnes in 1977, and reckoned (optimistically) on a 5.4m grt in 1978. The forecast has now been revised downward to 4.5m.

Cars. Miti informally set a ceiling of 4.56m cars to be exported in 1978. Carmakers were pretty much on target in April–June with exports of 1.19m cars, but in July for the first time car exports fell below the year-ago level. Miti reckons export volume will fall far short of the ceiling, even if dollar earnings on exports to America rise by a quarter (as they did in July).

Steel. With over a dozen blast furnaces idle, Japan's steel industry hoped to contain the drop in exports in 1978 to 6 percent (from 34.3m tonnes to 32m). Between April and June, shipments were down 10 percent on a year ago, and the industry now reckons it will be lucky to export 30m tonnes this year. In the American market, where steelmakers are having to charge well above the "trigger" prices now that the yen has strengthened, exports in July were nearly 27 percent below a year ago in yen terms, i.e, practically flat in dollar terms.

Television sets. Miti reckons colour television exports to America will be down sharply, well below levels stipulated in the voluntary restraint agreement. Worldwide shipments are expected to fall from 9m units in 1977 to 8.5m in 1978. Volume was down 7 percent in July.

The story in dollars is rather different. Miti officials talk of a current surplus of perhaps $16 billion in 1978 (compared with $14 billion in fiscal 1977 to last March) i.e., triple what Japan was promising the Americans last January. The trade surplus could exceed $24 billion ($20.4 billion last year). Miti wants to cut the surplus by "emergency" imports of now-cheap raw materials and aeroplanes. The government has given the green light for Japan's Eximbank to help finance up to $4 billion of such imports, and Mr. Komoto suggested last week the target be lifted to $12½ billion. This seems preposterous, certainly in fiscal 1978. In practice, virtually no "emergency" imports have yet come in. Big companies are not willing to stockpile many more raw materials than they need.

In July Japan had a $2.7 billion trade surplus on exports of $8.15 billion (which grew 15 percent in dollar terms even while falling in volume). The current-account surplus was $2 billion.●

ARGENTINA

● Mr. HOLLINGS. Mr. President, last year I had the opportunity to chair a Senate delegation visit to several Latin-American countries, including Argentina. What we saw in Argentina was an effort to put the pieces back together again. You will recall that when Mrs. Peron's regime was deposed, the country was only a short distance from total civil collapse. And it was against this background that General Videla's government began its work. Our conclusion was that if Argentina is to make a go of it over the long run, it will be because not just government—but business leaders, labor leaders, and academic leaders—face squarely the decisions which must be made.

The United States cannot, of course, save the day for Argentina nor chart that nation's course. But it can offer encouragement, and it can work quietly to help the Argentine overcome some of its difficulties.

Sad to report, the record of the administration in dealing with Argentina has not been good. Recently I received a letter from Mr. Julio Werthein, who I had the opportunity to meet and talk with during my visit. He reports on what has been happening since that time, and his conclusions do not provide encouraging reading. The administration, the State Department in particular, and the Ex-Im Bank have been throwing up roadblocks instead of tearing down obstacles, and in the process we are only opening the doors to others whose interests in the Argentine are inimical to us. I hope we will wake up to the reality of the situation before it is too late, because here is a country of intrinsic importance, destined to play a far greater role on the world scene in the years ahead. Here, too, is a nation of great potential weight as a friend and ally.

Mr. President, I ask unanimous consent that the letter be printed in today's edition of the RECORD, and I urge all my colleagues to study it and to ponder the implications of the wrongheaded policy our Government has been practicing in its relations with Argentina.

The letter follows:

JULIO WERTHEIN,
Buenos Aires, Argentina, August 3, 1978.

Hon. Senator ERNEST F. HOLLINGS,
Washington, D.C.

DEAR SENATOR: I had the privilege of meeting you during your visit last year to Argentina and at the Embassy we discussed the relationship between our two countries.

I had hopes to see the relationship between our countries improving, but everything looks to the contrary. The problems go further than the eye could see, and this may be part of an organized plan with big roots that you must take into consideration.

The enclosed picture will probably give some thoughts, and should be shown to the champions of Human rights defenders.

Argentina has been a steady friend of USA but since the arrival of President Carter to the White House, we are being pushed to become orientated towards countries whose ideas do not conform to the Americanism which has been part of the Monroe declaration. I must say that your Ambassador here is doing his best, but is not receiving the necessary help from your State Department.

Import Export Bank is punishing American Companies, not authorizing credits for Argentina. i.e. Export of Turbines to Yacireta Apipe, by Allis-Chalmers. Boeing Airplanes to Argentine Airlines, etc. etc.

The State Department is blocking the export of Spare parts to the Argentine Navy. Navy planes are grounded and UNITAS operation will be held without the participation of Argentina.

I will only mention that the turbines for SALTO GRANDE had been furnished by the Russians and in the case of Yacireta Apipe will probably happen the same. Do Americans realize the influx of "TECHNICIANS" to cooperate in that job??? In one side you are fighting Russians, in the other you are pushing your friends in their arms. WHAT IS THE GAME???

With kindest regards and in the hope to see you soon again in our country, I remain

Sincerely yours,

JULIO WERTHEIN.●

A TOUCHING POEM TO THE UNKNOWN SOLDIER

● Mr. CRANSTON. Mr. President, I recently received a very touching and sensitive poem dedicated to the "Unknown Soldier." It was written by a fellow Californian, Mr. Alex Hyman of Los Angeles, and I would like to share it with my colleagues in the Congress.

Mr. President, I ask that the full text of the poem be printed in the RECORD.

THE UNKNOWN SOLDIER

(By Alex Hyman)

They destroyed my body but my soul lives
on in another form;
I am waiting to be reborn.
As I wait to enter my new world through this
door,
I pray to God we have no more wars.
Here I lie in Arlington with my comrades
who have fallen from mortal wounds,
but I was very special: I was placed
in a tomb.
Once a year they think of me and say to
themselves,
"Who in God's heaven could he be?
Was he a friend or foe?"
No one will ever know.
They placed what was left of me in this tomb,
Only God knows that I came from my mother's womb.
Many tears have been shed for my wounds
that bled—here I lie in eternal rest.
They placed a wreath of flowers and inscribed
a marble stone and lit the eternal light
upon my grave:
This is *my country's greatest honor* for the
life I gave.
Once a year it is read, *here lies the Unknown
Soldier, known only to God.*●

THE SOUTH

● Mr. HOLLINGS. Mr. President, it has become very popular these days for the political pundits and the sociologists to speak of the "New South" and the "Sunbelt" as though the Southern States of the Republic had suddenly, and almost by accident, been born again.

We natives of the South have a different perspective entirely, knowing as we do that there has been nothing accidental about the progress we have made in so many areas.

The South, and my State of South Carolina in particular, enjoys a new prosperity because of the dedication and hard work of its people. I cannot think of a better example of this than my good friend George Phinney down in Laurens County, S.C.

George took over as chairman of the Laurens County Development Board 20 years ago. At that time, Laurens County had not had a new industry locate there in 26 years. But George Phinney took time away from his family and from his own business, because he cared about his community, and when he finally retired from that position on July 1 of this year, he could point to a remarkable record of achievement.

George's story is really the story of my entire State. Many would argue that we have a long way to go, but we have certainly come a long way already, and the credit for that must go to people like George Phinney who have worked in the trenches for years and years.

George's hometown newspaper, The Laurens County Advertiser, detailed his accomplishments in an editorial of August 21, and I ask that it be printed in the RECORD for the benefit of my colleagues.

The editorial follows:

RECOGNITION DUE

When George Phinney took over as chairman of the Laurens County Development Board some 20 years ago, Laurens County had not had a new industry in 26 years.

He went to work on American Lava of Chattanooga, then a subsidiary of 3M, to get them to build a plant in Laurens. Phinney and other business leaders contacted American Lava people over a period of two years, sometimes spending one day a month, sometimes three or four days a week.

"I'll believe it when I see it," some people said about the plant. After about two years when American Lava built a small

plant and hired 65 people, those same folks said "It won't amount to anything."

Today the little plant with 65 employees has become two plants of the 3M Technical Ceramics Products Division and is one of the country's largest plants.

That broke the ice and soon the Gilliland Plant came. This was followed by the Clinton Bearings Plant of the Torrington Company, our largest industry. Then Ascoe Felts located in Clinton, the Benjamin F. Shaw Plant in Laurens, St. Joe Paper Company, then Josten's, and the latest industry is Hackney & Sons of the northwestern edge of the county. And of course there is Tavern Sportswear, and possibly others that we have missed.

During the past 20 years there have been between three and four thousand new jobs created, with plant investment of between $30 and $40 million dollars, and that's a conservative figure.

Phinney retired as chairman of the Laurens County Development Board July 1, and he says that "I don't know of anything I have enjoyed any more."

But just because he has retired as chairman doesn't mean that he isn't going to continue working to help the county. "Only today," he said one day last week, "representatives of an industry that has been looking at Laurens for over two years were in my office, and the prospects are very bright for their bringing their industry, a completely diversified one, to Laurens.

"I believe Laurens County has as much to offer new industry as any part of the United States. And it has always been my philosophy of life that every human being should at least have the opportunity to secure a good job with good pay."

Although he has had help from others, Phinney has always been the leader in getting new industry. But it was taking too much of his time from his own business, Southern Research and Development Corporation, to which he plans to devote more of his time.

A lion's share of the credit for Laurens County's growth in the past 20 years is due Phinney and he is to be commended for his long service which was given at great sacrifice of money and time away from his family.●

CAPITAL PUNISHMENT

Mr. THURMOND. Mr. President, on July 31, 1978, an editorial was broadcasted by the Spartan Radiocasting Company of Spartanburg, S.C., urging the reinstatment of the death penalty.

The contents of this editorial are so informative that I was prompted to bring it to the attention of my colleagues.

Many of our citizens have become victims of murder and other horrendous crimes. Yet, since 1967 there has been only one execution in this country.

Even though the U.S. Supreme Court has decided that the death penalty for murder is constitutional, *Gregg* v. *Georgia*, 428 U.S. 153 (1976), legislators are hesitant in enacting legislation to reinstate capital punishment. I have cosponsored legislation, S. 1382, to reinstate capital punishment on the Federal level.

Mr. President, I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

CAPITAL PUNISHMENT

One of the victims in the wave of kidnapping and terror that has spread over Italy in recent months was asked on television recently how law and order could be restored to the Italian people. His reply was brief and to the point: "Reinstate capital punishment."

Cold-blooded murder and atrocious crime of all kinds has been spreading so fast in the United States that unfortunately it is becoming almost an accepted way of life in the world's greatest democracy.

Recently six persons in an Oklahoma City steak house at closing time were robbed, then herded into a walk-in freezer and killed one by one with a bullet through the head. Four of the victims were teen-agers working during the summer months to have money to continue their high school education in the fall. A few years ago, this would have been sensational headline news throughout the entire nation, and the people would have been greatly aroused.

Yet this "horrendous crime" hardly made the front pages, because cold-blooded murder has become so commonplace throughout the country.

If the two gunmen who committed this outrageous crime against society are apprehended, convicted by a jury of their peers, and given the death sentence, a great hue and cry will go up from certain quarters in this country against sending the two men to the electric chair or gallows.

The Supreme Court has enunciated such fuzzy decisions on how and when the death penalty can apply, rather than leaving the punishment for murder to the states where it belongs, that publicly and privately paid lawyers can tie up the trial and conviction of criminals in the courts for months. Then the focus of the public is so centered on taking the lives of murderers that the victims, like the poor six who died in that steak house locker, are all but forgotten.

In every state there are cold-blooded murderers, similar to those who committed the Oklahoma City crime, waiting on death row. Already many have been turned back on society, and in many states there continues a reluctance to invoke capital punishment, even though the Supreme Court has ruled it constitutional under certain conditions.

WSPA believes with the Italian victim that unless capital punishment is reinstated, and done soon, murder and terrorism will increase. Nothing would stop these kinds of crime more quickly than letting this element in society know once and for all that they will forfeit their own lives if they kill and butcher their fellowman.

WALL STREET JOURNAL EDITORIAL ON CARTER VETO OF MILITARY BILL

Mr. THURMOND. Mr. President, there appeared in the Wall Street Journal today an editorial entitled "The Rafshoon Veto" in which the merits of the Presidential veto of the military authorization bill are discussed.

As one Senator who is greatly disturbed about this veto, I certainly view with alarm the charges in this editorial that the President struck down this bill merely to enhance his image.

This is a major bill we are talking about. It took months to develop it in committee, on the floor, and in conference. The administration had its say when it was first submitted, and during each step of the legislative process. I do not think the President's preference for a conventional aircraft carrier over a nuclear carrier was anywhere near sufficient reason to veto this legislation.

Now this editorial from a highly respected newspaper claims the main thrust of the veto is to make the President look strong by casting a veto on which he feels confident of winning the one-third vote necessary to sustain it. If this is the reasoning behind this veto, I cannot believe the House and the Senate are ready to play such games when so much important legislation is piled up here in the Congress. The President himself is calling upon Congress to get various bills out, yet he has added greatly to the workload for what the Wall Street Journal calls promotion of his new "get tough" image.

Mr. President, I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Aug. 24, 1978]

THE RAFSHOON VETO

President Carter's veto of the defense procurement authorization is everywhere interpreted as part of a new "get tough" act, the practical incarnation of media adviser Gerald Rafshoon's efforts to massage the President's sagging poll ratings. The veto would have helped Mr. Carter's competency rating more if he had not clouded the issue in monumental confusion, including confusion about what the bill he vetoed actually contained.

To cut through the clouds, it's necessary to keep in mind two simple facts. First: while Mr. Carter objects to the congressional decision to spend $2 billion on a nuclear aircraft carrier, his administration has already announced plans to include a large oil-burning carrier in its budget request. The whole issue is, merely, this year or next year, and conventional or nuclear? Second: There is a difference between authorization bills, which set programs, and appropriations bills, which spend money. Mr. Carter vetoed the defense procurement authorization. The Pentagon appropriations bill has not yet been completed by Congress.

This elemental parliamentary distinction was entirely overlooked in Mr. Carter's charge that Congress is building the carrier by "diverting funds away from far more important defense needs." Among the congressional items to which he objected, for example, was a supposed cut of $500 million in military operational funds. But operational funds are not dealt with in the defense procurement bill; if this was the President's problem, he vetoed the wrong bill.

Doing the President one better, Defense Secretary Brown complained that Congress had killed three antisubmarine ships. There is a dispute over the appropriations for these ships, with the House on one side and the Senate on the other. But whatever the eventual appropriation, the ships were included in the defense procurement bill. Secretary Brown complains about Congress killing ships that were in fact in the bill his chief just vetoed.

Now, within the context of the procurement authorization, it's true that despite $1.9 billion for the aircraft carrier, the congressional total was close to the President's original request. About half of the funds came from rather ordinary changes: the Army reporting it could not spend money on its new XM-1 tank as fast as it originally

thought: Congress's decision that it could both save money and improve the NATO tank force faster by upgrading more existing M60A1 tanks and producing fewer new M60A3 tanks than contemplated in the original administration request.

The other half of the carrier money came from funds originally requested for the Trident submarine program, but which cannot be spent in this year's bill because of delays. With the Trident program delayed, and with the administration poised to order up a new carrier next year, Congress is merely saying, let's use this idle money and get the carrier started now.

There remains the issue of what kind of carrier. In passing, it should be noted that in light of the latest studies it is far from clear that large carriers are especially vulnerable. They can sustain hits from Soviet cruise missiles that would atomize small carriers, which have their magazines above water line. Large ships also make sense in light of electronic battlefield management, which promises a defense capable of shooting down attacking missiles. But this debate is beside the immediate point, since the White House has requested no small carriers. Indeed, the bill Mr. Carter vetoed provided more research funding for small carriers than he requested.

It is also unclear that oil-powered carriers save money. They are cheaper to build, but more expensive to fuel. Over the lifetime of a ship, it is difficult to see much difference in total cost. Congress prefers the nuclear carrier because it has better performance, being unencumbered by a train of tankers to refuel it every few days. The administration prefers a conventional carrier, saving money on construction now but spending more on operations later. And over this difference the President is willing to veto the entire procurement bill, inviting further controversy and delay that may hinder the improvements on which he and Congress agree.

In order to escalate this minor quarrel to veto proportions, President Carter launched an attack on Congress that seriously distorts the record. Sen. Stennis rose on the floor to complain, in what is for him strong language, of the administration's "false facts." The Senator was too much of a gentleman to say it, but we will: This is not a case of the Congress being soft on national security, but of the President dallying with defense in pursuit of cosmetic politics. The defense procurement bill was vetoed not because of any large difference on substance, but because it was the first bill to come along after Mr. Rafshoon whispered in the President's ear that he could look "strong" by vetoing something.

CONFERENCE REPORT ON NATURAL GAS PRICING BILL

Mr. TOWER. Mr. President, the Senate will soon begin debate on the conference committee report on the natural gas pricing bill. This compromise bill, the Natural Gas Policy Act of 1978, is the product which has emerged after many months and many long hours of deliberation in the conference committee.

It has, of course, not been easy to fashion a natural gas plan which a majority of the House and Senate conferees were willing to sign. The House and Senate bills were as different from each other as night is different from day, and represented totally divergent philosophies. I know that the Senate conferees in particular have labored long and very hard to complete what has been a very difficult job and to bring the decades-old natural gas pricing controversy to a satisfactory resolution.

I commend the Senate conferees for their efforts. However, having said that much, Mr. President, I must also say that I am constrained to oppose the conference committee report and to oppose it vigorously. It is my considered judgment that final approval of this compromise natural gas bill would not serve the national interest, nor would it be in the interest of Texas gas consumers or producers.

I have been an active participant in the repeated efforts to remove Federal controls on the wellhead price of natural gas sold into the interstate market. I sponsored deregulation bills in 1970, 1971, and 1973, and I cosponsored the deregulation amendments adopted by the Senate in 1975 and 1977. My support for deregulation has stemmed from my long-held conviction that the present system of Federal regulation has succeeded only in encouraging wasteful use of gas while discouraging the exploration and production efforts necessary to add to existing supplies. I therefore believe that enactment of natural gas legislation can be justified only if it will contribute substantially toward the achievement of unregulated, market-determined gas pricing at an early date. The pending natural gas compromise cannot meet that test, in my estimation.

It is true that the conference bill would permit natural gas producers to receive somewhat higher wellhead prices than those permitted for natural gas sold into the interstate market under currently applicable Federal price ceilings. It would also hold out at least the hope of an eventual removal of price controls from certain categories of gas production. In my estimation, however, the proposal is not designed to serve the long-term best interests of the Nation. The bill will not substantially increase the Nation's supply of natural gas, but it will clearly lead to increased Federal regulation.

Because it has been so amply demonstrated that excessive Federal Government regulation has been the principal cause of our current natural gas supply problems, I believe the goal of natural gas pricing legislation must be to achieve unregulated, market-determined pricing for gas at an early date. Enactment of the current gas pricing compromise can be justified only if it will substantially contribute to the achievement of that goal. I must conclude that it will not achieve that goal.

From a national perspective, I believe that proposed natural gas legislation must be judged in relation to its ability to achieve three major objectives: First, the legislation must provide some reasonable promise of adding significantly to the overall nationwide supply of natural gas, not simply shifting around existing supplies. Second, the burdens and benefits of any new law should be borne equitably, to the greatest extent possible. Third, natural gas legislation must minimize Federal control and maximize economic freedom.

Unless these goals are achieved, it is unlikely that any new legislation can contribute significantly to the long-term best interests of the Nation. It is my judgment that the conference bill cannot pass the test of acceptability when measured against these criteria. It will ultimately lead to increased Federal control but will not materially increase gas supply. Further, the conference committee economic analysis has indicated quite plainly that the costs and benefits of the bill will not be distributed equally among regions and classes of consumers.

Even the administration's own analysis, which would have to be considered optimistic, suggests that the compromise would elicit only a modest increase in overall supply. The bill cannot significantly increase incentives in the interstate market, and the extension of controls will create disincentives to expanded production in what are now the major intrastate markets.

It is apparent that the bill is designed not to add to overall supply but rather to shift current shortages around in the markets. To perpetuate the current national shortage in this manner is to continue to rely on OPEC oil and imported liquefied natural gas, at prices well in excess of those which are allowed our domestic energy producers.

From my perspective as a proponent of deregulation, it could be said that in one sense enactment of the conference bill would be a step in the right direction. The bill does—however timidly—appear to endorse the concept of deregulation. It would provide for an increase in ceiling prices now applicable to natural gas sold in the interstate market, and there is widespread recognition of the fact that current controlled prices are inadequate to assure a sufficient supply. Compared to the prices that interstate gas consumers now pay, this proposal would mean somewhat higher prices.

I feel compelled to emphasize, however, that higher gas prices are not an end in themselves, but only a means to an end. Higher prices for natural gas serve a justifiable purpose only to the extent they achieve their proper economic function—that is, to increase the supply of gas while encouraging its most efficient use. An unregulated gas market permits prices to perform that function, but this bill is not designed to achieve an unregulated market.

This conference committee bill provides for a dramatic increase in the scope of Federal regulation and yet it is my conviction that Federal regulation has caused the present problem. Clearly, the prospect of deregulation in this bill is little more than an illusion.

The natural gas conference report would continue an expanded scheme of Federal controls for at least 6 more years and would extend the ugly hand of Federal regulation for the first time to intrastate natural gas. This, despite the fact that on the whole the now unregulated intrastate market, particularly in Texas, has been and continues to be a model of how the economic marketplace can work if permitted to do so.

In contrast, the conference committee bill would create a regulatory maze of

staggering complexity. Sheila Hollis, the Federal Energy Regulatory Commission's Director of Enforcement, has said that, at best,

Such legislation would require lengthy litigation—including in all likelihood a number of supreme court decisions—before the meaning of the pricing provisions is reasonably settled. Some uncertainty is inherent in passing any piece of new legislation, but the proposed bill is so marred by such uncertainties that it will be literally impossible to administer.

In her August 14, 1978 memorandum to the chairman of FERC, Director Hollis concluded that:

The proposal is so complex, ambiguous, and contradictory that it would be virtually impossible for this commission to enforce it in a conscientious and equitable manner.

Although it is quite true that changes were made in the bill subsequent to the Hollis memo, the basic problems which led the FERC director to reach her conclusions remain in the conference committee bill. These problems will result in delays and uncertainties in addition to those already present under current law, with FERC now wading through thousands of backlogged cases.

Clearly, the compromise would result in less price certainty than under current law, with pricing determinations being subject to FERC review, remand, reversal, and court appeal.

The bill's numerous and arbitrary pricing categories would mean that exploration and production decisions would increasingly be based on considerations of regulatory gamesmanship, rather than on considerations of geology and economics.

The almost unbelievable complexity and ambiguity involved in the conference bill would make it virtually impossible for producers to avoid serious compliance problems, and the penalties for noncompliance contained in the bill are quite severe.

Enactment of this bill would mean that gas producers, and especially independents, will be hit over the head with the stick of regulation for a minimum of 6 more years, with the prospect that the carrot of deregulation will then be taken away.

For intrastate gas consumers, most of whom are in Texas, it would mean paying billions of dollars more for substantially less natural gas. Yet rather than resulting in any significant additions to the Nation's overall gas supply, this bill would indeed have a chilling effect on gas exploration and production efforts.

Mr. President, the natural gas conference committee bill is a bad bill, plain and simple. It is a compromise crafted ever so carefully with just one goal in mind. That goal is to get a bill, any bill, which a majority of each House of Congress will approve for the signature of the President. However it may soothe the conscience of some—who more than anything else want to be able to declare that they have supported a natural gas bill—this bill does not deserve the support of the Senate.

SEATTLE ANTIARSON CAMPAIGN A NATIONAL MODEL

Mr. MAGNUSON. Mr. President, we are witnessing in this country a growing concern about the crime of arson. Numerous suggestions are made as to how we might succeed in focusing greater public attention on this crime, which accounts for thousands of injuries and deaths together with well over $1 billion in property loss in this country each year.

The most successful local effort combating arson has been developed in Seattle, Wash. Under the direction of Seattle fire chief, Frank Hansen, a broad cross section of the community has cooperated to reduce incidents of arson, at relatively little cost to taxpayers.

A recent article from the Washington Post of July 28, 1978 is entitled "In Seattle if You Start a Fire You Are Going To Get Caught."

Mr. President, I ask unanimous consent that this excellent article on the Seattle arson prevention program be printed in the RECORD at this point.

There being on objection, the article was ordered to be printed in the RECORD, as follows:

IN SEATTLE "IF YOU START A FIRE, YOU'RE GOING TO GET CAUGHT"

(By Neal R. Peirce)

SEATTLE.—While headlines proclaim that arson is spreading like a prairie fire, this city has demonstrated how concerted action can dramatically reduce arson incidents and the losses to property—and often life—that go with it.

Only a handful of other cities—among them Houston, Los Angeles, New York's South Bronx, Boston and Lynn, Mass.—have launched anti-arson compaigns in any way comparable to Seattle's. But the formula, explains City Counciman Randy Revelle, is deceptively simple:

"Make arson a priority crime. Establish a specialized arson unit within the fire department; combine its investigative work with that of the police department. Provide arson investigations training—that's absolutely critical. And involve local insurance companies and the media in anti-arson campaigns."

Richard Hargett, commander of "Marshal 5," the Seattle Fire Department's arson unit, says that by 1975 arson had become "the most serious problem facing the fire forces." Between 1971 and 1974, losses in Seattle had soared from $621,000 to $3.2 million. It was feared they would hit $4.4 million in 1975.

But with its new program, Seattle reduced fire losses to $2.6 million in 1975. Last year the figure was down to only $1.7 million and will probably be less in 1978. Arson incidents went down while arrests and convictions went up: In 1974, there were 622 arson incidents, with only 73 arrests; last year, incidents were down to 518, arrests up to 217, and 196 of those arrests resulted in convictions.

Seattle's turnaround stands in stark contrast to the epidemic-like spread of arson nationwide. The insurance industry estimates that national losses last year were close to $4 billion, up from only $634 million in 1975 and a mere $68 million a decade before. Arson accounts for 40 percent of all property losses, the insurers believe, and now kills about 1,000 people a year and injures 10,000 more.

How did Seattle turn the table on the arsonists?

The credit begins with Fire Chief Frank Hansen, who reasoned that the causes of arson were so complex that no single "cure would work. So he persuaded then-mayor Wes Uhlman to set up a task force including representatives of the city fire and police departments, the mayor and city council, the county prosecutor, Seattle Chamber of Commerce and the state's insurance council.

Early on, the task force discovered arsonists had good reason to believe they would get away with it. Nationally, for every 100 cases of known or suspected arson, only nine persons are arrested, only two are convicted and seldom is anyone actually jailed. The reason: Arson is difficult to detect because incriminating evidence such as fingerprints, is often destroyed in the fire.

But Hansen publicly laid down the guantlet to would-be arsonists. Many city and private agencies would be watching them, he said. "From now on, if you start a fire, you're going to get caught. And when you're caught, you're going to jail."

Delivering on that promise required tackling a problem that has plagued effective anti-arson work everywhere: lack of cooperation between police and fire departments. Typically both agencies claim authority, but neither gives arson proper attention or manpower.

Fire fighters rarely have the investigative skills to solve the more sophisticated cases, and police find arson "unglamorous" compared with robbery and murder. Jurisdictional confusion means neither department pursues arson to the point of prosecution.

Hansen solved the problem by convincing the police to give the fire department authority over arson from initial investigation through prosecution. But he persuaded the police to assign to the fire department two detectives to assist in investigations. Police/fire department tensions melted away; today, police and fire fighters share tips on arson and other crimes and the police often back up the fire department with assistance in surveillance and stakeouts and use of police helicopters, district patrol cars and communications systems.

Training for all arson-squad members includes basic law-enforcement techniques and sophisticated crime labwork. The Marshal 5 squad investigates all fires causing over $1,000 damage, and can crack seemingly insolvable arson cases. "Arsonists tend to believe they have destroyed all traces of their crime in the flames; what they fail to realize and what gives us the edge is that the very ashes that are left are where we find our clues," says Inspector Jack Higham.

The motives for arson are several: A business competitor or a disgruntled employee or even a shunned lover may seek revenge. A burglar or a murderer may try to cover up another crime. A child playing with matches may be mentally retarded or making a bid for attention. A would-be "hero" may set fires to receive accolades for discovering them. "Arson is just another means of assault." Hargett says. "It's less risky—there's no face-to-face conflict. The chances of being identified are almost nil."

Finally, there's arson for profit by financially troubled businessmen or homeowners seeking to collect insurance money. Despite the publicity surrounding such events as the arrest of 33 "respected" Bostonians in an arson ring last year, the number of fraud fires is actually small. But the dollar losses are great.

Seattle attacked the motives one by one. Since 50 percent of Seattle fires were set by juveniles, reaching them was a top priority. A United Way agency was hired to counsel children who displayed an "unusual" interest in fire; the fire department created an "arson rat" as the symbol of arsonists and received

more than 5,000 entries in a campaign to name him. The winning entry: "Sinder Sid."

Neighborhoods and business districts with high arson rates were identified; each night between 11 p.m. and 3 a.m. fire fighters travel through them in highly visible vehicles, clearly marked "Community Fire Alert/Arson Patrol." The patrol operates on tips from private citizens, employees of failing businesses, or health and liquor inspectors who may learn that a bar or restaurant owner is contemplating arson. "If we've been given a tip a building might burn or see four garbage-can fires in a small area, it's often a way for us to catch arsonists and put out a fire quickly," Hargett says. The presence of vehicles with red lights on top and spotlights make some residents nervous, "but we want everyone to know they're there," he adds.

Insurance companies agreed to withhold payment of large-loss fire claims when the policyholders may have been responsible. And the benefits of the Seattle effort spread statewide when the insurance industry set up a $5,000 pot to reward "secret witnesses" and underwrote a statewide toll-free arson hotline. The program is particularly valuable to small towns where residents often don't know who to call to report information, or are afraid of being traced.

Finally, Seattle newspapers and television stations cooperated in a long-term publicity campaign about the arson problem and the success of investigations. A four-week television series on arson produced by a local station even won an award for investigative reporting.

But the cost to the taxpayers of the entire Seattle effort is only $100,000 a year. It's an investment even the most ferocicus taxpayers' association might find worthwhile.

Mr. MAGNUSON. Mr. President, the National Fire Prevention and Control Administration, which is looked to for Federal leadership and cooperation by local authorities in the arson area, has been directed by the Senate to utilize a minimum of $1,000,000 during fiscal year 1979 on antiarson programs. I sincerely hope that the NFPCA will closely study the Seattle antiarson program as a model for other communities still suffering from the vicious crime of arson.

PROSPECT OF REFORM SLASHES AIR FARES AND INCREASES AIRLINE PROFITS

Mr. PERCY. Mr. President, on April 19, 1978, the Senate passed the Air Transportation Regulatory Reform Act of 1978 which, if enacted into law, will significantly and permanently reduce the amount of Government interference in the airline industry. The mere likelihood of less regulation, added to the earlier prodigious efforts at reform of Civil Aeronautics Board Chairman Alfred Kahn, has created a dramatic boom in air travel.

Millions of Americans are taking advantage of new lower fares offered by airlines—fares brought on by enhanced competition in the airline industry. Last year airlines carried a record 240 million passengers. This year's figures are already showing an enormous 14 percent increase in ridership over that record-breaking year.

Air travel has suddenly become an attractive alternative to many Americans who were never able to afford the earlier fares. In a few short months, the so-called American "jet-set" has come to include middle income families with several children, young married couples, elderly citizens on fixed incomes, and blue collar workers. The ability of more and more Americans to visit distant loved ones and far-off vacation spots is fulfilling one of the great popular dreams of our highly-mobile society.

But the air traveler is not the only beneficiary of the new competitive environment. Travel by air diverts people from using less energy-inefficient automobiles, thereby conserving our scarce natural resources. Regulation also encourages competition among different forms of transportation: bus and rail fares are bound to come down thanks to the new lower air fares. And the burgeoning ridership demands on all forms of transportation will undoubtedly provide a significant economic shot in the arm for the entire transportation industry.

Recent reports have indicated that the sudden increase in air travel has created some unusual strains on the market. Busy phones at reservation centers and long lines at airline terminals have created a certain amount of inconvenience for air travelers. Some airlines are introducing an average of one new low fare a day, and it has become difficult for agents to stay abreast of the changes.

But the history of American enterprise, and this great industry in particular, has shown that when new markets open, well-managed firms will be ready to respond. I am confident that the inconvenience and delays are only temporary and that passenger services will return to their usual high quality after the summer rush.

Mr. President, to illustrate the significant national impact of our recent efforts into regulatory reform, I ask unanimous consent that a sampling of recent articles on this subject from such widely read newspapers and magazines as the Wall Street Journal, Dun's Review, the Chicago Tribune and Chicago Sun-Times, the New York Times, and the Washington Star be entered in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, July 7, 1978]

THE DESINTERMEDIATION OF IATA

The International Air Transport Association, the OPEC of the airways, is apparently crumbling, for which we shed no tears. The cartel voted this week to let its members set their own fares on competitive routes without forfeiting their IATA membership. The primary reason for IATA's existence has been to protect its members from competition from one another.

The rigidity of cartel-set fares that the international airlines once found so reassuringly comfortable has quickly turned into a handicap now that free competition is lapping at their departure lounges. They could live with competition as long as it was limited to charter carriers under special conditions. But something funny happened when Freddie Laker invaded the field with his no-frills and no-reservations Laker Airways "Skytrain," offering round trip service from London to New York for about $380 less than the IATA economy class fare.

Mr. Laker did not have to work about violating IATA's rules because his British line is not a member. But his action has forced a half-dozen member lines to break ranks and offer standby New York to London fares of $299. This month Pan American is offering a temporary promotional fare of only $140 from Boston to Amsterdam. And now comes KLM, the Dutch air line, with a proposal to fly a passenger across the ocean for only one guilder [44 cents] if he happens to be on hand when a charter flight is leaving with empty seats.

Mr. Laker has always said that there is a great big market out there waiting to be served by free competition, a market made up of people on both sides of the ocean who would gladly fly overseas if they could only afford it. He gave them something that they could afford.

And now that the established carriers have responded with cut-rate fares of their own, what has happened? Trans-Atlantic traffic is soaring toward a record. Pan Am, TWA, and British Airways are each flying 20 percent more passengers across the Atlantic than last year. And of course the Laker "Skytrain" is filled to capacity almost every day.

Surprising? It may be to stick-in-the-mud backers of IATA and other price-supporting cartels [including, until recently, our own Civil Aeronautics Board]. But it shouldn't be. The lower the fares, the more ordinary people can afford to fly; and the more people fly, the more eagerly carriers will compete to attract them. And the better business is likely to be.

The same thing is being demonstrated in the domestic market since the CAB—under the Ford and Carter administrations—began moving toward the deregulation of air fares.

Credit for this free market, pro-consumer, anti-inflation revolution in air fares goes partly to the Ford and Carter administrations, but perhaps most of all to Freddie Laker, who with some help from the United States government, battled both IATA and the British government [which owns British Airways] to make his Skytrain a reality.

[From the Wall Street Journal, July 3, 1978]

NEW DESTINATION FOR PAN AM

(By Albert R. Karr)

WASHINGTON.—As the award ceremony began to wind down, the honored guest, Civil Aeronautics Board Chairman Alfred Kahn, was getting restless. He told his hosts he would have to hurry off, explaining cheerily: "I have to go back and destroy the airline industry."

The remark typifies Mr. Kahn's breezy manner, but it reflects more than that. In office only a year, the CAB chief has started to strip away his agency's regulation of airline fares and routes; the board has approved big discounts on many flights and has turned more generous in granting new routes. The deregulation pace will soon accelerate—with plans afoot to let airlines slash basic fares as much as 50% without CAB approval and to let them expand onto new routes with little restriction. Eventually, Mr. Kahn envisions free-swinging competition for routes, along with further bargain-fare innovations and an absence of CAB control.

This upheaval at the CAB is part of a current Washington pattern: Chairmen of other regulatory agencies appointed by Jimmy Carter are also acting to promote competition and protect consumers. But Mr. Kahn is moving more boldly than his fellow regulators—and sending tremors through the airline industry.

Though a few airline executives appear to be growing reconciled to Kahn-style deregulation, others have warned that removal of CAB regulation, on which they have relied for protection against too much competition, could destroy or at least badly batter their

industry. Delta Air Lines, in a major challenge to the board, is suing the CAB in a federal court on the ground that the agency is abdicating its responsibilities.

The Kahn deregulation crusade ignores the need for a "sound air transport system" to serve national defense and other public interests, says Thomas Taylor, a Trans-World Airlines vice president.

Mr. Kahn scoffs at such concerns. He predicts that less regulation will mean not only more competition but lower fares, more travel and fatter airline profits. "If I thought that having more competition in the industry, increased flying, more planes, more pilots and more markets is in conflict with our national defense, or with energy considerations, I'd confront that problem," Mr. Kahn says. "But I see no conflict."

If Mr. Kahn's attitude is unusual among government regulators, so is his background. The 60-year-old chairman combines the expertise of an economist with that of a regulator. He taught regulatory and antitrust economics at Cornell University for 30 years and headed New York State's Public Service Commission from 1974 to 1977.

A BLUNT SPEAKER

He also comes equipped with a keen intellect and a ready, self-depreciating wit. During one board meeting, he asked colleagues: "What's wrong with my logic—other than it's dishonest?" In the same meeting, he told agency staffers they could start drafting a CAB order, as they had the "sense" of the board's view; "there may not be any sense but you have it," he added.

The chairman often shows a penchant for blunt speaking. At one CAB meeting, where he backed a new low-fare policy for U.S.-British travel, a veteran CAB staff man warned, "You have just destroyed the North Atlantic fare structure." To which the chairman replied: "That's a good afternoon's work."

On another occasion, irritated by demands that Pan American World Airways was making on the board, he commented at a CAB meeting that he was inclined to tell Pan Am "to get to hell." At the next meeting, feeling compelled to soften the remark, he quipped that Pan Am had called to thank him for granting it an intriguing new route.

IN THE ROCKING CHAIR

Beyond a doubt, the Kahn style is informal. Conferring with a secretary, the chairman braces himself at an angle to her desk and begins doing minipushups. During an interview with a visitor, he takes off his shoes and begins rocking in an old-style wooden rocking chair.

Clearly, he enjoys being CAB chairman. And just as clearly, he is the star performer among the heads of federal agencies that regulate economic activity.

When the President and his staff looked for nominees to those posts last year, they sought movers-and-shakers who would encourage more competition, try to roll back regulation and put consumer interests first. Now that the new chairmen have been on the job about a year, that plan has "largely worked out," says Stuart Eisenstat, Mr. Carter's top domestic-policy adviser.

The Carter selections are generally more activist than their predecessors, as well as more knowledgeable about regulation and about Congress, which keeps a close eye on the regulators. Five of the 1977 choices to head major regulatory agencies came from Capitol Hill staff jobs. One, Michael Pertschuk of the Federal Trade Commission, says he and his counterparts keep "more distance from the regulated." As for promoting competition, the new chairmen are "certainly more sensitive to the kinds of concerns that we have than previous chairmen," says Joe Sims, a deputy assistant attorney general for antitrust.

As an example, Daniel O'Neal, head of the Interstate Commerce Commission, has been trying to roll back some ICC regulation of truck service. He also has been cracking down on fleecing of customers by household-goods carriers that illegally boost reported weights of loads hauled—and their charges to customers.

FTC Chairman Pertschuk, for his part, has advocated a "humanistic" approach to antitrust enforcement, urging consideration of the effects of industrial concentration on jobs and communities. He has also pushed for curbs on television advertising aimed at children, and the FTC has just come out with the first of a series of rules on trade practices; this one will allow eyeglass advertising in all states and permit customers to use their prescriptions to shop for glasses, to help bring prices down.

Chairman Richard Dashbach of the Federal Maritime Commission, though an avid supporter of the U.S. merchant marine and a firm foe of deregulation, has adopted some competition-minded positions that have angered ocean shipping operators. Under his lead, the commission rejected without a hearing a plan in which seven North Atlantic rate-setting conferences would join together in a "super-conference" with more concentrated power over shipping rates. Afterward, the industry "went bananas," Mr. Dashbach says.

And Charles Curtis, chairman of the Federal Energy Regulatory Commission, has sometimes taken tougher stances than his predecessors toward the natural-gas industry. In one instance, his commission refused to let producers pass along to consumers the cost of the planned Alaska gas pipeline.

There isn't a sharp turnabout at all the agencies. Consumer advocate Ralph Nader and others have castigated Mr. Curtis as too deferential, on a few occasions, to regulated industries. ICC Chairman O'Neal lacks Mr. Kahn's zeal for deregulation and has less faith that the marketplace is superior to government controls. Two other chairmen, Harold Williams of the Securities and Exchange Commission and Charles Ferris of the Federal Communications Commission, appear to favor some deregulation but seem reluctant to change the status quo in any hurry.

FIGHTING INFLATION

But even though Mr. Nader finds some of the chairmen disappointing, he rates them, all in all, as "significantly better" than their predecessors. At the U.S. Chamber of Commerce, chief economist Jack Carlson applauds the group's general support for deregulation. He doesn't like their accompanying appetite for consumer protection.

Among these Carter-appointed regulators, CAB Chairman Kahn stands out as the superstar because he has been able to do a lot in little time. He has taken advantage of momentum that was building for airline deregulation when he took command and, in doing so, has emerged as a more effective inflation-fighter than most in Washington. The fare cuts approved under his regime have brought the average air fare below year-ago levels, while retail prices generally have risen nearly 7 percent.

The CAB's plans would allow much deeper fare cuts. Perhaps just as important, they would let new airlines start flying and existing ones expand onto more routes with hardly any restraint. The board wouldn't worry about such questions as whether a new entrant would grab business from another airline.

The plan reflects Mr. Kahn's view that the key to airline competition is the prospect of new entries into a market. Without it, he says, airlines don't compete with prices but with costly offers of additional flights, more flight attendants and fancier foods.

Mr. Kahn hopes to make competition so wide-open that large and widespread fare increases would be impossible, even under some future restriction-minded CAB. Saying that the board has lately swung 180 degrees from an airline-protection policy, Mr. Kahn recently reminded Congress that the CAB could some day turn another 180 degrees, right back to protection. He urged enactment of pending deregulation legislation to "make sure this whirling dervish ends up facing in the direction you want it to face."

OPPONENTS MAY SUE

The legislation would help head off legal challenges to the board's deregulation moves—challenges that appear probable. Associates say Mr. Kahn lets his lawyers tell him what he can't legally do only when he is convinced they're right. Speaking of the CAB's route-policy plans, he himself says, "I don't give a damn about the legal aspects." He really means that he cares about the legalities only when they're forced on him.

Critics in the airline industry insist that the chairman is flouting the 1938 act that created the Civil Aeronautics Board. They say the law requires the agency to select specific carriers for specific routes, picking only those that can provide the necessary service. The airlines are likely to fight Mr. Kahn's route-entry approach in court.

Apart from any legal challenge, aviation executives are accusing him of failing to give due consideration to this unprecedented plan. Arthur Kelly, president of Western Airlines, says Mr. Kahn is "trying to do too much too fast" and thus threatening harm to "a lot of fragile segments" of the industry.

Within the government, too, the Kahn approach arouses some concern. The FTC says the CAB should proceed cautiously in easing route entry to avoid letting large carriers extend their hold on aviation, in the short run, during a free-for-all route scramble. Even Nahum Litt, the CAB's own chief administrative-law judge, has warned Mr. Kahn that the board is acting in haste. He is especially wary of plans to scrap trial-type oral hearings in many cases to speed up decisions.

ONE-SIDED STAFF?

Critics also say that Mr. Kahn listens too much to the deregulation-minded staff he has brought to the board and that it lacks dissenting voices. The chairman concedes his staffers are "all on one side" of the regulation issue, but he says it is his job to raise doubts about his own ideas and theirs.

The new low-fare plans that airlines are coming up with are "answering most of my doubts" about deregulation, Mr. Kahn says. Still, he confesses to some worries. One is that charter carriers will be hurt as scheduled airlines are freed to slash fares. Another concern is how to protect a new, small airline wanting to start an innovative service from fierce competition by existing carriers.

These worries don't mean he is backing off from deregulation, however. "I just admit, Hamlet-like, to some concern," the CAB chief says.

Despite his misgivings, Mr. Kahn can clearly see where he would like to move—toward eventual abolition of the agency he heads. The board's basic functions of awarding routes and approving fares offend him. He concludes: "I don't see any need for a CAB, quite apart from the fact that I have tenure at Cornell and don't need a job."

DISCOUNT AIR FARES PROVE TO BE A REAL HIT

[From the Washington Star, July 7, 1978]

(By Brian Murchison)

For 19 hours a day, seven days a week, 24 shifts of sales agents handle the phones at the United Airlines Reservation Center in McLean, Va.

But that still hasn't been enough to handle the volume of callers who are often shopping

for "Super Saver" tickets and other discount fares.

More than 20,000 people a day have been calling the reservations center, according to Willie Davis, supervisor of reservations sales. Eighty percent or more of the callers are waiting as long as 10, 20 or 30 minutes to get through.

"One man said he watched an entire baseball game on television while he waited for us to answer his call," said Diane Fleming, one of the 341 sales agents taking phone calls at the reservation center.

Fleming said that another man resorted to asking for a reservation by letter because "he'd given up trying to get us on the phone."

There aren't enough phones or sales agents at United, or any of the other airlines, it seems, to take care of the demand these days.

Tens of thousands of people either want to purchase one of the highly publicized new discount fares, have been detoured because of the Northwest Airline strike, or simply want to fly off for summer vacation during the traditional peak of the travel season.

The lower fares are the result of the Civil Aeronautics Board opening up competition among domestic airlines, which has inspired the companies to offer a marketbasket of bargains. The Carter administration is also moving to liberalize international air fares, also likely to create new bargains for travelers going overseas.

"With a board that is certainly working under a mandate from the White House to deregulate the industry by letting management decide fare levels, every fare is being accepted," said William Jackman, assistant vice president for public relations at the Air Transport Association. "You could almost call it a deregulated atmosphere now."

When a caller does get through, according to Gill Perlroth, manager of public relations for Eastern Airlines, the conversation often lasts another 10 or 15 minutes while the agent explains the conditions that must be met for each discount fare, or lists the various fares possible for travel between two points.

As one agent put it, "We average one fare change a day, so you can see how confusing it is for everybody."

For example, between Washington and New York there are now 19 possible discount fares, ranging in price from $106 to $40 round-trip.

Braniff International currently leads the scramble for cheapest Washington to New York flight. A customer may jet out of National or Dulles aboard Braniff for $40 round-trip to New York or Newark on any of seven daily non-stop flights.

Dubbed the "Small Potatoes" fare, the lower coach rates will become effective July 15. Only a few of the cheaper seats will be available with each flight, but customers flying "Small Potatoes" will be entitled to all of the services that normally accompany regular coach fare.

In the current fare derby, price depends on the customer's departure date, length of stay, length of time left before departure date, whether the customer plans to travel at night or during the day, whether the customer is a senior citizen, a foreigner, a member of the military, a member of the job corps, a child, or fits into some other special category.

The Super Saver Fare at United is available only for customers who make their reservations 30 days in advance and plan to stay a minimum of seven days and a maximum of 45 days. There are different Super Saver rates, ranging from 30 to 50 percent reductions, for flights during the week, on the weekend, at day and night, for children and adults.

The fine print in advertisements also points out that the airlines "allocate only those seats for discount sale which have been traditionally unsold, therefore insuring adequate space for full-fare demand."

Only a limited number of Super Saver seats, then, are available, and Chuck Kinzie, a reservation manager at the United center in McLean, said that the number ranges from 5 to 35 percent of the total seats on the flight.

There are also about 30 possible fares for flights from Washington to Miami, ranging in price from $268 for a round-trip first-class ticket, to a $103 excursion fare requiring a 30-day advanced booking and traveling at night.

For flights from Washington to Los Angeles, there are about 20 fares, ranging from the first-class round-trip seat at $538, to the $207 night coach, midweek, 30-day advance booking, seven-day minimum stay flight.

As one consumer who spent a half-hour trying to get through to Eastern Airlines last week put it, "They've got fares for every kind of person and trip except for someone who's got green hair and wants to spend a month on Mars."

Travel agents are also feeling the pressure of constantly ringing phone calls and the need to be up on all the latest fares.

Faralyn Leighton, an agent with Global Travel in Rosslyn, says, "It's been an old woman's nightmare. You dial, dial, and dial for a good 20 minutes most of the time," Leighton said. "Then you get a recording which repeats itself 12 times until the poor recording itself gets tired. Then you're put on hold, and sometimes the circuits overload and you get thrown off."

Leighton also finds herself explaining legal points to her clients. Types of fares are often advertised before they are actually approved by the CAB, Leighton said. "This makes it tough on us, because we're the ones who have to tell the people that a particular fare isn't ready yet, hasn't been approved. We tell them to read the small print in the ads."

A typical comment made by irritated customers to agents picking up phones at the McLean center is that United Airlines "ought to hire more than two or three clerks to man the phones." Sales agent Fleming said that "when I tell them that there are 1,002 of agents working here, they're shocked, and they start to understand what we're up against."

Kinzie, the United reservations manager, said there has been a 27 percent increase this year in calls coming into the McLean center. "We were only forecasting a 2 percent rise in calls this year."

Kinzie added that he has had to hire 95 new sales agents since January, and that he expects to add 20 more before the summer is over. United has hired agents for its other reservations centers for a total of about 300 new hires in recent months.

The hiring surge has not been confined to United. In May, Delta Airlines added 400 reservation agents to its central office because "average talk time is up anywhere from 2 to 40 percent," according to J. A. Cooper, senior vice president of Delta.

Eastern has added about 500 agents since January. Perlroth said that even those additions "haven't kept us on top of our standard of answering calls within a few seconds."

Continental has hired about 310 agents since March, and TWA says its sales staff has increased by "the hundreds."

The McLean reservation center, which is the third-largest United Airlines center in the country, gets calls from throughout the mid-Atlantic region: Washington, Baltimore, Richmond, Norfolk, Newport News, Allentown, Philadelphia, parts of Ohio, and all of Maryland and Virginia. Kinzie predicts a 25 percent increase this year in passengers flying United from this region.

Even when agents have mastered the rules of the most popular discount fares, they still can't relax. Newly approved fares come in from the airlines each day, keeping the agents under constant pressure to absorb and remember new information.

Between 7 and 8 p.m. on a recent weekday, the United center in McLean received 500 calls. Only 34 percent were answered within 20 seconds, the goal set by United officials.

"The rest probably took between 10 and 20 minutes to answer," Logan said. No more than 2,000 of the 20,000 calls each day are answered within 20 seconds, he estimated.

Flying fever is rampant, despite the difficulty in getting in touch with the airlines. Jackman, of the Air Transport Association, said the airlines are carrying 75,000 more people a day this year than they did last year, or two million more passengers each month.

[From the Chicago Sun-Times, July 9, 1978]

AIRLINE TRAVEL SOARING AS FARES TOPPLE

(By Dennis Byrne)

"Let's fly instead."

More people are doing it these days, and it could signal a major change in how Americans get from here to there.

Record numbers of travelers are heading for the airport. They include families who usually would load the family into the car for a 300-mile vacation trip. Others, instead of leaving the driving to the bus driver, are flying the friendly skies. And regular fliers, such as businessmen, are doing more of it.

People who never have flown before also are trying it, prompting one airline to put out a press release explaining to the neophytes that those "bumps, thumps, groans and squeals" they hear on a plane are normal and no cause for alarm.

The airport is beginning to look more like a bus terminal, with backpackers and "ma and pa and their six little rug rats" waiting for a flight, according to one observer.

The big shift to air travel has astonished even the most optimistic airline executives and stockholders. But it has given travel agents, reservation clerks, airport administrators and seasoned business travelers a huge headache.

Experts thank the wave of discount fares, which can cut the cost of flying in half, and a healthy economy for the increases in airline passengers. Just how long the trend will last is anyone's guess.

For now, the airlines are basking in the figures: More than 3 million passengers flew during the Fourth of July weekend, making it the busiest in aviation history. Domestic revenue-passenger traffic for all airlines was up 14.2 per cent in the first five months of the year compared with the same period in 1977.

At Chicago's O'Hare Airport, volume grew 10.8 per cent in the first five months compared with the same 1977 period. From January to June this year, 18.8 million passengers passed through the airport.

And records are falling with increasing frequency. Take Chicago-based United Airlines, billed as the free world's largest carrier. It recently became the first U.S. airline to carry more than a million passengers and to fly more than 1 billion revenue-passenger miles in a single week. On June 30, the Friday before the Independence Day weekend, United recorded 29,655 boardings at O'Hare, an all-time record. While August usually is the busiest month, United in June already had broken its own systemwide record for the number of daily passenger boardings three times and the record for revenue passenger miles five times.

But not everyone is delighted. Try to phone

an airline reservations desk and you'll probably get a busy signal or a recorded message advising patience until a clerk can come on the line. Because of the confusing array of discount plans—more than a score just between Chicago and New York—the phones are tied up by prospective passengers who are trying to get a clear explanation or who are just shopping around. United, for example, has 444 more reservation clerks and 362 more customer service representatives than it did a year ago to handle the load.

At the airport, parking and the long check-in and baggage lines have become serious problems. Regular flyers, especially businessmen, are bristling not only at the fact that they are not eligible for many discount fares, but also at unaccustomed delays.

"We're seeing an increase in late-hour traveling," O'Hare manager John Carr said. "There's the gypsy backpacker, the folks in blue jeans and what not, standing around and waiting for a flight or sleeping in the corners. We do 60 per cent of the housekeeping between 10 p.m. and 6 a.m., but now with all these bodies around, it's a problem."

"Then you have Mickey the Mope, with nothing to do, and he discovers the employes' washrooms in the basement level," Carr said. Because of the hanky-panky that has been discovered, those washrooms have been locked at 6 p.m. In the meantime, the increased crowds have forced the airport to plan on enlarging its public washrooms.

Also to cope with the crowds, plans are being made to add a second cafeteria. A phone number was established to give travelers information on the parking situation at the airport.

"The volume is good, but the bottom line doesn't look too good. We have to work three to four times as hard as before," said Francis Goranin, president of Vega International Travel Service, 201 N. Wells. "First, it's hard to get ahold of the airlines (for flight information and bookings). Then we have to explain to the client that even if (an airline) says its (bargain fare) has no restrictions, there are some because only so many seats are available on each flight. So we go back and forth between the client and the airline. Then we may have to try a different airline," Goranin said.

"Then you get very unhappy clients because they go to the airport and have to wait a very long time," he said. Goranin said he is advising his customers to arrive 90 minutes before flight time and to try to choose a plane that has a carry-on luggage cabinet. "Take a relatively small suitcase and go immediately to the gate. And if you come too late, you might be bounced. Oh, yes, it's legal—the airline still has a right to oversell."

Increased volume does not necessarily produce more profits for travel agents, he said. Lower fares mean that the agents with their 7-to-8 per cent commission take in less money on each sale. That may explain why a group of travel agents spent part of a recent Chicago meeting making up derisive names for the promotional fares, such as "Go-For-Broke Fares," "Super Ripoff Fares," "Take-It-Or-Leave-It Fares" and "Welfare Fares." A local aviation official was even less subtle, calling one of the plans "Chicken-fares."

Not too long ago, most airlines took a dim view of such fares. But they could not be ignored when huge United Airlines urged government deregulation of the airlines, including fare policies. At the same time, deregulation legislation began looking promising in Congress and the Civil Aeronautics Administration under the new free-wheeling chairman Alfred Kahn decided to espouse a more free-market approach to airline regulation.

The result has been a confusing array of fare plans, with discounts ranging from 20 per cent to 50 per cent depending on the day of the week, time of day and length of stay at the destination. The wave even has swept overseas, where the ultimate cheap fare reportedly is being offered by a Dutch tour operator—an unfilled charter seat on a standby basis for one guilder, about 45 cents.

But the airline industry is taking it all very seriously. Revival of Midway Airport rests on a proposal for cutrate fares that attract persons who normally would drive to other Midwest cities. For instance, while the cost of driving to Detroit is estimated between $33 and $38.60, the fares proposed by the airlines would range from $15 to $32, compared with the standard $41 for a coach seat.

Howard Putnam, United's group vice president for marketing services, said he did not think there "will ever be one simple discount fare, just as there is no one price to buy a television set." The wide variety of plans, he said, allows the tailoring of fares to individual needs. Others point out that the restrictions permit the lower fares because they put passengers in seats that otherwise would have been unoccupied.

But Putnam and Ken Paneral, an analyst for the Chicago's Becker Securities, said the lower fares are not solely responsible for the record number of air travelers. They pointed to an improved "economic environment" and increased disposable income, enabling businessmen and vacationers to take deferred trips.

Putnam said his statistics show a healthy increase in business travel. The median income of the air traveler is $29,500, compared with $27,300 a year ago. He says there is "nothing to prove that we've stimulated a whole new group of travelers. . . . I think that will be the case when we get new figures."

Paneral had a word of caution, though, about the high-flying optimism launched by the increased revenue and passenger figures. At same point it no longer will be profitable to keep cutting fares. The airlines will run out of empty seats to offer at a cut-rate fare and they will have to decide whether to cut into their regular full-fare revenues. They can, of course, buy more planes, but that's a huge capital investment, cutting into profits.

On the other hand, they could raise fares. But now that everyone, including politicians, the consumers, legislators and even the CAB, are on the free market bandwagon, such a move would be hard to swallow. "It will get very interesting," Paneral said.

[From the New York Times, July 3, 1978]

AIR TRAVEL REACHES NEW HEIGHT—CUT-RATE FARES CREDITED WITH PASSENGER SURGE

(By Winston Williams)

Tens of thousands of passengers are crowding the nation's airports over the long holiday weekend, in what many airline experts say is the busiest travel period in American aviation history. For the last year, traffic on United States-flag carriers, spurred largely by a proliferation of cut-rate fares, has surged.

In 1977, a record 240 million passengers boarded planes in the United States, and this year the air-travel pace is running 14 percent higher. Some air carriers expect summer business to improve 20 percent over last year's levels.

Airline executives are pleased with the boom, although some of them are expressing concern over higher costs and the impact of lower fares on profits. Still, they say, conditions have improved markedly since the pre-1977 days when the industry suffered from the double impact of costly fuel and low passenger traffic. The current trend, they add, is helping profits more than it is hurting them, partly because a new class of traveler is flying these days, even if he is buying tickets at bargain prices.

"The lines are longer and the planes are fuller," said Robert Crandall, senior vice president of American Airlines. "We're becoming more like a mass transportation business and less like a customized service."

Passengers by the thousands are taking advantage of the new cut-rate fares. A Queens postal worker who wandered from counter to counter in the airline ticket office on 42d Street the other day, said he had trouble getting through to the airlines on the phone, so he decided to spend his lunch hour at the ticket office shopping for bargain fares to Disneyland. "I don't mind going a little out of my way for these prices," he said.

PROSPERITY AND PROBLEMS

With prosperity have come problems. Passengers like the Queens postal worker are finding it harder to make reservations by phone. They are also encountering longer lines at the check-in counter and more frequent flight delays. Overworked flight attendants and information clerks often are wearing half the usual smile. Hustling skycaps are more impatient with pleas for information.

For their part, the airlines seem divided over the wisdom of cutting rates. Some carriers are characterizing the new policy, fostered by the Civil Aeronautics Board, as "routes for rates." Last week, T.W.A. asked the board's permission to raise rates on its London-to-New York route, contending that the fares were hurting profitability. It said the fares were creating new administrative costs and were not producing enough new traffic to fully offset the added costs.

Lufthansa, the German airline, asserted that fare-cutting by American companies over the Atlantic was "irresponsible" and could have damaging effects on all international airlines.

PROFITS RECOVERING RAPIDLY

Profits are recovering rapidly from the lows reached in 1976. In the first quarter of this year the airlines led American industry in profits growth, reporting earnings of $98 million, an 80 percent increase over the previous year. That performance followed a 34 percent improvement for 1977, when industry earnings totaled $754 million. But that was before the heavy rate-cutting began.

The traffic boom comes at a time when the airlines need to spend billions of dollars to modernize their aging fleets, and complicates planning because no one knows whether the growth will continue or traffic will decline if the economy turns down next year as some economists expect. Mr. Crandall of American predicted that the traffic growth rate would decline to 4 percent next year from its current double-digit rate.

And, there are losers in the air boom—mainly the charter operators, who say that the scheduled airlines, with their new low fares, are diverting traffic from the charters. The charter operators contend that the scheduled carriers will raise fares again when competition from charters has been eliminated.

The metamorphosis of the airline industry has been fostered in part by Alfred Kahn, the activist chairman of the C.A.B. who has encouraged greater competition among the airlines by granting new routes to carriers that promise lower fares. During the late 1960's, when the last such traffic surge occurred, the carriers were bringing jumbo jets into service, making the per seat cost of flying more economical.

The ascendancy of marketing experts to the top of domestic airlines also has fostered the maze of new fares, some more than 50 percent lower than economy-class fares. Hardly a day passes without an airline announcing a new promotional fare or an application for a new route. So-called "sales" are becoming an acceptable way of doing business in the airline industry.

For example, Pan American World Airways, which was recently awarded the right to fly from Boston to Amsterdam, initiated a 30-day opening "sale" of a $149 round trip, the cheapest available fare to Europe. On July 14, the carrier's "no-reservations" fare goes up to $279, still cheaper than the $299 standby fares available between London and New York on scheduled airlines, but more than the $246 "no frills" fare offered by Laker Airways on the same route.

"The response tops anything we ever expected," says a Pan Am spokesman. Travelers have been flying, driving and hitchhiking to Boston's Logan Airport from points around the country to take advantage of the fare. Lines are so long that many prospective passengers wait as long as five days before getting a seat.

Similarly, United says it has had an "overwhelming" response to its introductory fares to various destinations from Kansas City, Mo., the site of a new "mini-hub" the carrier is establishing in its system (considered by some an audacious move since Kansas City is the operating home of Trans World Airways).

Much of the traveling public has found the changing lines on route maps and the variety of "conditional" fares to be confusing. There are 21 different fares, for instance, between New York and Chicago. Some disgruntled travel agents say they spend an inordinate amount of time sorting out cheap fares for customers, and then collect reduced commissions.

Passengers who deal directly with the airlines by telephone often get repeated busy signals before a recording announces that "all lines are busy now" and says the wait could be as long as five minutes.

An increase in the volume of calls is only one reason for the delay. Reservations clerks also concede they have trouble keeping abreast of the changes, and many customers are demanding that all cut-rate possibilities be checked. Comparison shopping among the different carriers is also common and helps overload the systems.

After the wait and the shopping, passengers are frequently told a fare is not available on the desired flight. Airline executives acknowledge that few of the discounts are available on popular flights. Their strategy, they say, is to fill up seats on flights that traditionally have empty seats. Using computer systems, airline planners allot a specific number of discount seats to each flight.

The unavailability of bargain seats has outraged some customers and prompted Gerald H. Trautman, the chairman of the Greyhound Corporation, to denounce the fare cuts and their advertisements as a fraud. Mr. Kahn of the C.A.B. warned the airlines earlier this year that the board would be vigilant against "bait-and-switch" tactics. For their part, airline executives say many cut-rate seats go begging and are available if passengers keep their plans flexible.

Congestion at airports and crowded aircraft are evoking complaints from the airlines' traditional customers, with business travelers the most vocal critics. They have trouble, they say, making last-minute reservations, and find it hard to prepare for meetings during flights because of distractions created by the new breed of flier—described in a recent United survey as a 44-year-old with an annual income of less than $23,500. The same survey found that females, blue-collar workers and infrequent travelers are flying more often, often to visit relatives.

Other seasoned travelers echo the complaints of businessmen. Recently, for example, Carey Anthony, headmaster of a junior high school in Nassau, the Bahamas, stood anxiously at an Eastern Air Lines departure gate wondering whether he and his wife and their four children would be able to get on board a late-evening flight to Orlando, Fla.

Mr. Anthony, himself a former flight engineer for British Airways, travels frequently on the discounts his wife receives as an airline employee. He had hurriedly changed an earlier plan to take his family to London after El Al said it was canceling its London stopover because the plane was filled with passengers bound for Israel.

As Mr. Anthony bemoaned the disappearance of "cologne in the restrooms and champaigne in the cabin," an agent called out his name and told him only one seat was available. Leaving the airport for a hotel, he grumbled, "This has never happened in the 10 years we've been traveling as a family."

THE AIRLINES: FLYING HIGH

(By Thomas J. Murray)

"This summer, every major airport in the country will be like a zoo," predicts Robert Six, the outspoken chairman of Continental Airlines. "Passengers are going to find the crowds so dense and delays so annoying, they'll be hopping mad. And airline personnel will be harassed and overworked like never before."

If Six's scenario materializes, air travel will be a frustrating experience for millions of vacationers. But for the nation's airlines, it will be one more confirmation of their remarkable turnaround in the past two years. Like the fabled Phoenix, the airlines have emerged from the ashes and are flying high again. From a disastrous earnings loss of $84 million in 1975, the eleven major trunk lines set a new profits record of $606 million last year, and flew more passengers—240 million—than ever before. Even perennial big losers like Pan American, Trans World Airlines and Eastern made big gains. Indeed, 1977 was the first year since 1967 that all the major carriers were in the black.

Of course, the airlines have had profitable years before and then crashed. But most industry leaders believe that this upsurge is different and that the good times will continue.

Getting off to a good start this year, the traditionally weak off-season first quarter was profitable for the first time in a decade, with overall industry earnings of $73 million on a surprisingly strong 14% gain in passengers. For such carriers as United, Continental and Western, it was the best first quarter in history. And barring any unforeseen events, Wall Street analysts, who only a few months ago were predicting an earnings decline for the year, are now forecasting another record performance. They expect the carriers to earn $700 million or more on a 10%-or-better rise in traffic.

Helping mightily to pump up the profits is the fact that, for the first time in years, the airlines are running close to full capacity. The industry's load factor (the percentage of available seats filled), its most important yardstick of profitability, is currently up four points over last year to an average 60%, the highest level since 1967. And with little new plane capacity planned for the next five years, analysts expect load factors to remain high. (Airlines consider an average load factor of a little above 60% to be practical full capacity because they fly at all hours of the day and night. Since most passengers want to fly at the most desirable times, light night loads lower the percentage even though day flights may be full.)

One major reason for the high load factors is the healthy state of the economy. Airline traffic is closely aligned with the pace of real Gross National Product, and during the past two years rising employment and expanding disposable income have released a huge pent-up demand for travel stemming from the last recession. Even more important is the recent proliferation of discount fares, which attracted millions of Americans to air travel for the first time. With few exceptions, these heavily promoted special deals have succeeded beyond the airlines' wildest expectations.

Ironically, the discount fares would never have happened if it hadn't been for pressure from Washington to increase price and route competition in the industry. A controversial bill to sharply reduce the federal regulations that govern the airlines is currently making its way through Congress. And even without such legislation, the Civil Aeronautics Board in mid-1976 gave the carriers permission to offer discount rates of up to 45 percent on regular fares.

Afraid that discount tickets would cut heavily into full-fare business, most of the carriers at first resisted the pressure to lower prices. And one early cut-rate plan, the "No Frills" flights introduced by National Airlines on its Florida-New York route and later adopted by competitors Delta and Eastern, was unprofitable from the beginning.

Then early last year, American Airlines introduced its "Super-Saver" plan, which offers discounts of 45 percent to passengers who book seats thirty days in advance and stay at their destination for a minimum of seven days. The other airlines quickly joined the bandwagon with similar programs on a wide variety of routes. And this year, Continental and Western heated up the competition by eliminating all requirements on advance reservations and minimum stays.

PACKING THEM IN

So far at least, the airlines' fears that they would lose money on discounts have proved groundless. In this year's unexpectedly profitable first quarter, not only did millions of unanticipated passengers flock after the cheap rates, but the volume of full-fare passengers held up, and probably even increased over last year. In the airline industry, the key to improving profitability is to fill more seats per plane-mile flown; as a rule, it costs a carrier almost the same to run a flight full or half empty. So packing more people into every flight, even at discount prices, lowers operating costs by spreading them out over a much broader base.

On some routes, the low fares have meant the difference between red and black ink. TWA, for example, had been losing heavily on its Chicago-Los Angeles run before launching its "Super Coach" fare last year, and now claims that it is in the black. On Western's Los Angeles-Florida route, which lost $3 million in 1977, the load factor rose to 53 percent this spring from 32 percent last year, and the company started making a profit in May.

Starting this month, the airlines can slice fares another 5%. But despite the early successes, not all industry leaders are convinced that the low fares will prove beneficial in the long run. Such chief executives as American's Albert V. Casey and United's Richard J. Ferris still fear that they may eventually divert many regular-fare passengers and eat into profits. "If that should happen," says Ferris, "they will be cut back sharply and used more selectively."

On the other hand, Ferris also sees the possibility that as more and more people take to flying, ongoing passenger traffic might increase to the point that discount fares will no longer be necessary on a wide scale. "If they create so much demand that load factors are consistently bumping up against full capacity," he says, "they are likely to be reduced in line with normal market forces."

To cash in on the passenger boom and raise load factors even higher, most of the airlines are increasing the seating density of their planes. United, for instance, has just completed a total reconfiguration of its planes, raising the number of seats an average 5%. And at Continental, the lounge on its DC-10s has been eliminated, allowing the company to expand seating 38%, from 203 to 259, on every aircraft. According to Bob Six, the expanded seating is the equiv-

alent of adding four new DC-10s, a saving in capital outlays of $130 million. The carriers are also buying new planes with denser seating. United is currently taking delivery of 46 new B-727s with 134 seats, versus the 128 in its existing fleet. And Continental is getting ten B-737s with ten more seats.

To be sure, even high load factors have not yet significantly boosted airline profit margins. Last year, the average return was only 3.5%, compared with an average 4% for all industries. As one of the highest-cost industries in the nation, the airlines are strapped by two big expense items: labor, which constitutes roughly 40% of its operating costs; and fuel, which has more than tripled in cost during the past five years and eats up 20 cents of every dollar of revenue. On top of that, more than half the eleven trunk lines are still flying many aging planes, which have inefficient seating capacity, eat up too much fuel and cannot meet the government's new pollution and noise standards.

As a result, it is estimated that at least 75% of the nearly 2,000 commercial planes in the U.S. fleet will have to be replaced through the 1980s. A few carriers, such as Delta, Northwest, National and Continental, have kept pace with changing needs and will not require massive replacements. But United, for example, will require some 300 new planes, American close to 200.

BOEING VS. AIRBUS

Beginning about 1982, the airlines are expected to shell out a whopping $60 billion for new jets—versus the $24 billion they spent in the 1960s and 1970s. The biggest question in the industry is which of the new-generation planes will be selected and how they will be financed. As the carriers learned after their last splurge in the early 1970s, many of the planes they bought proved to be either too big or too small for their most heavily traveled routes. The largest of the narrow-bodied jets in use, the B-707 and DC-8, carry up to 180 passengers, while the wide-bodied B-747, DC-10 and L-1011 carry more than 250. The next time around, the airlines figure they will need a new plane with 200 seats, an 1,800-to-2,000-mile range and, of course, sharp reductions in fuel consumption.

Boeing has designed a family of planes tailored to these specifications. Its proposed twin-engine 767 is in the wide-cabin configuration that has become popular with the public and will carry 180 to 200 passengers. Boeing claims it will also save up to 40% in fuel costs over current narrow-bodied jets. Boeing's major competition in the new-plane stakes is the B-10 Airbus being planned by Airbus Industrie, a French-German consortium, and is similar in size and range.

Both United and American are expected to decide on either the 767 or the B-10 in the next few months. The final decision will turn on a number of factors, says United's Ferris, including not only the technology but the costs of operating the planes and the financing terms offered to buy them. The new jets are expetced to cost at least one-third more than their predecessors, and the Europeans are currently considered to have an edge in the kind of financing offered. This year, for example, Airbus Industrie got a $776 million order for 23 of its current big jet, the A-300, from financially strapped Eastern Airlines. Airbus agreed to lease four of the planes to the carrier at marginal cost and is picking up part of the interest costs in tandem with General Electric, which makes the engines. "With the resources of their governments behind them," says Ferris, "the Europeans can offer easier terms as of now."

But Boeing is counting on the reputation of its planes for high quality and performance to give it the lion's share of the new business. "Moreover," says one industry analyst, "it is unlikely that many of the airlines will risk the political head that would surely result from major purchases abroad. With the balance of payments in such terrible shape, the odds are growing that we'll see more 'Buy American' sentiment in the industry."

HEALTHIER BALANCE SHEETS

Perhaps surprisingly, most of the airlines are in pretty good financial shape as they gear up for the 1980s. With relatively few plane purchases in the past six years, the once-horrific balance sheets have become nearly healthy. The eleven carriers reduced their long-term debt by nearly $1 billion to $4.4 billion in 1977, and improved their average debt-equity ratio to 45-55 at the end of the year from 58-42 in 1975.

Some of the airlines will have to take on extra debt this year due to a new regulation requiring them to capitalize their leased aircraft on the balance sheet. Still, the long-term debt load is considered bearable, and the carriers are expected to continue reducing their debt substantially over the next few years when capital outlays will continue to be relatively light.

In fact, the airlines are beginning to be able to raise money again for the first time in years. To finance plane purchases in the past year, Braniff raised $240 million from a common-stock offering and bank loans, and American raised $95 million through a preferred-stock offering. Industry analysts believe that more sources, including the insurance companies, will open up over the next five years.

One plus for the future, say observers, is that the airlines seem to have learned from the mistakes of the past and will make their new plane purchases in far more orderly and efficient fashion this time around. "Most of us were flying by the seats of our pants seven or eight years ago," says one chief executive. But I think we've all learned that this is a business and that the bottom line is what really counts."

The carriers are also working hard to get a handle on their spiraling operating and labor costs. Besides boosting seating density, they are making an effort to reduce the number of flights on unprofitable routes. TWA, for one, has made its Chicago-Los Angeles route profitable for the first time by cutting the number of daily flights from five to two and taking two big L-1011s off the run.

To keep a lid on personnel, Continental, for example, says it is planning no more than its normal summer increment in hiring despite the anticipated surge in business. And United, the biggest employer with 5,400 pilots and 7,400 flight attendants, has just completed a total rescheduling of its system that is expected to sharply reduce the very costly layover time between flights.

Fuel costs, of course, are largely beyond the airlines' control. And for every penny-per-gallon increase in fuel, expenses for the eleven trunk lines rise $100 million. After tripling in the three-and-a-half years following the 1973 oil embargo, fuel cost increases have slowed to an annual rate of about 12% recently. The airlines hope to keep annual increases to no more than 15% over the next few years, and then are counting on the next generation of aircraft to help reduce the burden.

The one shadow overhanging the industry is the deregulation bill, which recently passed the Senate and is now under consideration in the House. The bill would allow the airlines to add new routes and permit new carriers to enter the business without CAB approval.

The industry is split on the issue. Such smaller carriers as Western and Braniff are adamently opposed to deregulation, while United and Pan American are supporting it. The antis fear that the bigger carriers would swamp the smaller ones with price wars and unfair competition, forcing them out of business or into a merger in order to survive. The proponents, on the other hand, contend that the freedom to choose new routes and drop unprofitable ones would be healthy for the business.

The chances for passage of the deregulation bill appear to be strong. Even some of its opponents seem resigned to its passage, possibly this year and almost certainly by 1979. Moreover, the CAB made an unprecedented move to relax its strict regulation of routes a few weeks ago. After months of considering which airlines should be awarded new routes between Oakland, California, and other cities, it suggested, in effect, that the carriers fight it out among themselves. According to the CAB's proposal, a total of fifteen new routes could be established from Oakland, and any airline would be allowed to enter new routes without the board's approval.

GREATER EFFICIENCY?

Some industry analysts believe that a merger movement is on the way with or without deregulation. The burden of paying for new planes in the 1980s, they say, could be too much for weaker lines such as National. And a number of analysts agree with Robert Joedicke of Lehman Brothers, Kuhn, Loeb Inc., who says: "Properly conceived, mergers could produce a more efficient airline system."

The opening gun may have been fired several weeks ago when Continental and Western announced that they have begun merger talks again. The two Los Angeles-based carriers have long felt that consolidation of their routes—Continental's are mostly East-West, Western's North-South—would create a much stronger single airline, and they came within a hair-breadth of merging in 1970.

But despite the problems deregulation could bring, most airline chiefs are optimistic about the future. The basic economic factors affecting air travel have so improved, they say, that the industry is entering a new era of mass transportation. Even if the economy should falter or discount fares have to be rolled back, they believe that many of the new passengers they have attracted for the first time will continue flying, allowing the carriers to maintain their healthy load factors. Equally important, they expect to reap long-term benefits from their own operational economies. "We haven't completely eliminated the ups and downs that have plagued us," says United's Ferris. "But in the future we expect them to be much more moderate."

THE FORECAST: FLYING HIGHER

Profits for the major U.S. airlines are expected to set another record this year—rising to at least 15% to an estimated $700 million. According to analysts' projections, most of the carriers should share in that improvement. Lower earnings are forecast for Northwest, which was hit by a pilots' strike in May. American is also expected to be down slightly after a loss of $7 million in the first quarter. (American was hit by a huge increase in its fuel bill after the termination of a low-cost contract, and the severe winter weather forced it to cancel more than 2,000 flights.) National is expected to have a huge gain as it continues its comeback from two lengthy strikes.

Earnings per share

Company	1977	1978 est.	Percent change
American	$2.54	$2.50	−1.6
Braniff	1.82	2.30	+26.4
Continental	1.77	2.20*	+24.3
Delta	5.86	6.00	+2.4
Eastern	1.73	2.25	+30.1
National	0.35	2.10	+500.0
Northwest	4.29	3.85	−10.3
Pan American	0.83	1.65	+98.8
TWA	3.83	5.25	+37.1
United	3.72*	5.75	+54.6
Western	1.09	2.50**	+129.4

*Excluding extraordinary gain of $1.32 a share for Continental in 1978 and $1.82 for United in 1977.

**Including $1.28 a share from change in accounting methods. Estimates based on analysts' projections.

JAPAN'S EXPORTS AND OURS

Mr. PERCY. Mr. President, we have heard a great deal this spring about the administration's efforts to expand our exports. The President directed the formation of an interagency export policy task force, for example, giving many businesses the impression that the Federal Government was about to take exports seriously.

Unfortunately we have heard very little of this group since its formation and have been led to believe that its recommendations for export expansion are gathering dust on the President's desk. Some press reports indicated that the task force has recommended retention of DISC—the Domestic International Sales Corporation—provision of the tax laws. It is one of the very few incentives for export we now have, but the President had recommended elimination of it in his tax message earlier this year. In short, the chances for the hard-hitting export program we need seem slim indeed.

What is more, an August 1978 National Journal report on our export position pointed out that:

Between 1974 and 1977, the U.S. share of total OECD exports dropped from 18.5 percent to 16.8 percent—a postwar low—and the share in most major markets dropped, too.

The following chart, from the National Journal article, is very revealing about our long-term slide as an exporter:

U.S. exports to major markets (U.S. share of OECD exports)

[In percent]

	1974	1977
Japan	52.4	48.2
European community	11.0	9.8
Developing countries	27.2	24.6
Communist countries	12.4	8.4

Mr. President, these figures reveal that our slowdown in exporting is attributable to more than just the temporary faster rate of economic recovery in the United States. Our faster growth rate has pulled in more imports in recent months than our major trading partners have been able to buy from us. One clue as to why we have not kept pace was presented in an August 4 Chicago Tribune editorial which I would like to insert for the benefit of my colleagues.

The Tribune editorial shows that our trade partners—especially Japan—are "driven" to export because of the amount of resources imported. We should be mounting the same effort here and I hope the President acts on the export policy task force's recommendations soon.

Mr. President, I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A CLOSER LOOK AT JAPAN'S EXPORTS

It's enough to make one bow toward the Orient. The latest six-month figures show our trade deficit with Japan was $6.3 billion, double that of a year earlier. We're reminded of the Japanese auto maker's slogan: "We are *driven*!" The double meaning of the Datsun motto applies to Japan itself. Its products are driven, snapped on, clicked, and buttoned up—by purchasers of cars, stereos, cameras, and clothes, here and abroad.

From advanced electronics to basic steel, Japanese business—in close cooperation with the Japanese government—tailors excellent products for foreign markets which are cultivated with the diligence of a people who are—well—driven. As a result, the Japanese are now the undisputed champions in the global trade-surplus sweepstakes, ahead even of the West Germans.

The surpluses and deficits

[January–June, 1978; in billions of dollars]

Japan	14.2
West Germany	11.2
Canada	1.4
France	0.2
United Kingdom	−1.5
United States	−16.3

In view of the Japanese success as traders, it's surprising to see figures, showing them next to last among big industrial nations in the importance of exports to the national economy.

Dependence on exports

[Exports as percentage of gross domestic product, 1977]

Ireland	48.9
Belgium, Luxembourg	46.8
Netherlands	41.5
Denmark	23.3
United Kingdom	23.3
Italy	23.2
West Germany	22.9
France	16.8
Japan	11.8
United States	6.5

These figures seem to imply that Japan is much less dependent on foreign trade than Europe. Does that account for President Carter's apparent belief that the Japanese can afford to stifle exports voluntarily and to eat up more imports, as he called on them to do at the London economic summit last year and in Bonn this year?

We hope not, because the figures are woefully misleading. We asked the European Economic Community [Common Market] office in Washington to subtract from the figure the value of exports by Common Market nations to each other. The resulting ratios are very similar to Japan's.

Dependence on exports

[Eliminating trade within the Common Market; 1977 percentages of GDP]

United Kingdom	14.8
Belgium, Luxembourg	13.5
Denmark	13.0
West Germany	12.8
Italy	12.4
Netherlands	12.2
Common Market	11.9
Ireland	11.2
France	8.3

This is understandable because the nine Common Market countries trade among themselves through their Customs Union almost as freely as the 50 American states trade with each other.

With respect to exports to the rest of the world Europe differs little from Japan; only the U.S. ranks well below all of them.

The Japanese have a special reason to feel "driven" when it comes to exports. Unlike the Americans and Europeans, Japan has to import practically all its raw materials and energy. It has to pay for these things by selling its products to the rest of the world.

So the Japanese aren't going to roll over and play dead when it comes to export competition. This is worth remembering, because Mr. Carter's domestic policy advisor, Stuart Eisenstat, was quoted recently as saying the government's plan to raise U.S. exports by $15 billion in five years rates a low priority in the administration. If that is correct, then Mr. Eisenstat deserves a gold medal—from the Japanese ministry of trade.

CAPTIVE NATIONS

Mr. PERCY. Mr. President, recently in Chicago the Polish-Hungarian World Federation and Affiliates, under the leadership of my good friend Dr. Karol Ripa, adopted a resolution of support for the captive nations of Europe. The resolution further called on the United States and the United Nations to reaffirm commitments to the peoples of these nations. It asked the United Nations to take proper steps in planning for free elections in these nations now dominated by a foreign power.

The resolution also appealed to the President and to local governments to appoint more members of ethnic groups to high positions. It stated that ethnic Americans are underrepresented in public office and in executive positions in business.

Finally it urged the leaders and members of ethnic groups to unite to oppose communism at home and abroad.

In another resolution the Federation called for an end to discrimination against Hungarians living in Transylvania so that the Romanians and Hungarians may work out their destinies in mutual understanding.

I appreciate the opportunity to bring these positions to the attention of my colleagues.

DOLLAR FALLS, CONGRESS FIDDLES

Mr. PERCY. Mr. President, I would like to bring to the attention of my colleagues an editorial which appeared on August 17, in the Chicago Sun-Times.

The article focuses on an issue of current nationwide concern: inflation. Careless Government spending is one cause of inflation which Congress must rigorously address. As ranking minority member of the Government Affairs Committee, I have consistently sought to streamline the operations of our Federal Government's regulatory agencies, and to eliminate unnecessary programs.

Another important, and potentially expanding, source of inflation is our Nation's dependence upon foreign oil. To combat this source of inflation, it is imperative that we devote greater effort to the exploration, extraction, and broader utilization of domestic fossil fuels.

While we must encourage the further development of our oil and coal resources, it is essential that we look beyond these conventional technologies. In evaluating new technologies, however, we must be wary of apparent panaceas. Over the past three decades, we have pumped billions of Federal dollars into the civilian nuclear power program. Many people within and outside of Government expected nuclear power to fill the supply vacuum created by dwindling fossil fuel supplies. As it has turned out, nuclear fission is likely to fall short of this hope because of technical difficulties, unresolved safety questions, and poor economics.

We must continue to work to resolve the problems associated with nuclear fission, and we can guardedly hope that nuclear fusion—still an infant technology—may someday become a safe and economical energy producer. However, we would be foolish to stake our energy future on these technologies.

Less risky, potentially more economical energy sources include the wind, the sun, and products of the sun such as forest and crop debris. Federal incentives for these promising technologies are essential. On March 13 of this year, I introduced the Small Scale Energy Technology Programs Reorganization Act. In response to this bill, the Department of Energy is in the process of creating an Office of Small Scale Technology, and has expanded its small grants program.

A final aspect of a sound U.S. energy policy is conservation. Many European countries have discovered that energy efficiency can contribute to, rather than detract from, a high standard of living. The Alliance to Save Energy, which the late Senator Humphrey and I started last fall, is one attempt to encourage conservation here in America.

Mr. President, I ask unanimous consent that the article, "Dollar Falls, Congress Fiddles," be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

DOLLAR FALLS, CONGRESS FIDDLES

Suppose this country got its economic house in order tomorrow. It stopped inflation. It ended its trade deficit. Would the dollar turn from its sickly green to a robust green of good health and renewed value?

Ask 10 experts, and you'll get 10 different opinions. Yet the concensus is a cautious yes: The dollar's slide to postwar record lows—it plunged a shocking 4 percent against the Swiss franc Monday alone—would stop and its value would rise.

But several things must occur to slow down inflation, much less stop it, and to reduce record-high trade deficits. For example, Congress and the public must do more about needless spending (one aspect of rising prices) and energy waste (one aspect of the trade deficit, since America imports almost half the oil it uses, and misuses).

In other words, don't hold your breath waiting for the economy to get well.

For example, Congress still insists on spending needless billions for nuclear aircraft carriers. Never mind that they're outmoded; never mind inflation. But we've mentioned all that before.

Now Congress may sink a modest aspect of President Carter's energy bill—a compromise to deregulate natural gas by stages until 1985. Yet without positive action on energy, this country's reliance on foreign supplies increases, imports increase and—not balanced by increased exports—the trade deficit increases.

Carter has said the "energy crisis is an invisible crisis, which grows steadily worse—even when it is not in the news." He told a press conference last week that the public still doesn't realize how oil imports weaken the dollar's value.

That's a big part of the problem. An understanding public would be an angry public. And an angry public wouldn't tolerate Congress' virtual inaction on energy steps Carter proposed a year and a half ago.

Maybe a public that often drives to the corner drug store and too often shuns public transportation (in the Chicago area, drivers wrongly believe driving is cheaper than L, bus and train service) is counting on things like Princeton University's "breakthrough" on nuclear fusion to bring cheap, abundant energy; or counting on natural gas discoveries in the Baltimore Canyon, 100 miles off the East Coast. That's a mistake.

Fusion power is decades away, if at all. Princeton scientists spoke too soon. And the amounts of offshore gas are unknown. The only sure energy bet is ending energy waste.

If not, see how far the dollar can drop.

THE COSTS OF FEDERAL REGULATION ARE TOO HIGH

Mr. PERCY. Mr. President, on August 12 the National Journal carried a very informative article on regulatory reform, entitled "Carter's Assault on the Costs of Regulation." The article was written by Timothy B. Clark.

Regulatory agencies pay a surprisingly large role in our everyday lives. They regulate virtually everything from television to toys, to trading on the stock market. For the consumers and industries affected, the actions of a particular regulatory agency are sometimes as important as the actions of Congress or the President.

National Journal, which was commended in a recent Wall Street Journal editorial for taking "an uncommon interest in how our Government actually works," underscores in this article the importance of regulatory reform—and the difficulty of enacting it. Special interests are often well-funded, noisy, and powerful. They are only sometimes right. The essence of statesmanship is to look past the clamors of the special interests to the needs of the public interest. And the public interest requires objective assessment of costs and benefits, apart from whose ox is being gored.

Where the public interest is the goal, regulatory reform produces dramatic success stories. Recent airline reform efforts have led to much lower prices, more passengers, and higher profits. In short, everything is turning out exactly as reformers promised.

Most regulation has yet to be reformed. The special interests maintain their reign in some sectors. Meanwhile, every year, according to authoritative estimates, Federal regulation costs the economy from $60 to possibly in excess of $100 billion.

It is time to scrutinize all of Federal regulation. To the extent practicable, we must strive to better assess proposed and existing regulations and determine whether the costs are indeed outweighed by the benefits. I say this with full awareness that it can be exceedingly difficult to calculate the vital benefits of health, safety, and environmental regulation. But that does not mean that we should not make the effort. We should—making improvements in what is admittedly an imprecise art as we go along.

Mr. President, because of the timeliness and thoroughness of Mr. Clark's National Journal article, I ask unanimous consent that it may be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the National Journal, Aug. 12, 1978]

CARTER'S ASSAULT ON THE COSTS OF REGULATION

(By Timothy B. Clark)

If President Carter seriously expects to cut down on the inflationary consequences of federal regulation, he will have to endure the outrage of important constituent groups, hostility from congressional powers, resistance from the bureaucracy—and a very long wait.

The first three problems may be tolerable, though progressively less so as the 1980 election draws closer. But the last may be a political impossibility. Before Carter reaps any benefits from his efforts, he will antagonize a lot of interest groups.

For reform in the growth industry of federal regulation is a long-term proposition. A noticeable reduction in the rate of inflation directly attributable to changes in the regulatory process will not be achieved in the short term—in fact, the volume of federal regulation and its cost to the economy are virtually certain to grow in the decade ahead.

But if the changes Carter has made in the regulatory process are not likely to reduce the cost of living, they may well provoke controversy by producing a bias within the Administration against federal regulation.

Already, a coalition of labor and environmental groups has complained to Carter that his new regulatory review process represents "a serious threat to . . . the environmental, labor and consumer protection movements." At the same time, the Business Roundtable and other business groups have praised the President for instituting the new process.

Carter's assault on the inflationary impact of regulation got off the ground this spring, when the President became directly involved in a decision on standards to protect textile workers against "brown lung" caused by exposure to cotton dust. The dispute pitted the Labor Department and its Occupational Safety and Health Administration (OSHA) against the President's economic advisers, led by Charles L. Schultze, chairman of the Council of Economic Advisers (CEA).

A compromise was struck between Labor, whose chief concern was safety for the workers, and Schultze, who feared the cost of the proposed regulation. Even if the highly publicized flap, is soon forgotten, the controversy illustrated both the willingness of Carter to become personally involved in regulatory issues and the potential of the new process he has instituted to bring those issues to his attention.

The cotton dust case focused public attention for the first time on the Regulatory Analysis Review Group created by the Administration late last year to improve the quality of the analysis of proposed regulations that will have a significant impact on the economy.

Chaired by the CEA, the group intends to play a formal role in the rule-making process on major regulations. As demonstrated by the cotton dust case, it will also provide a mechanism for less formal involvement of Administration economic aides and the President himself.

Because the regulatory review group intends to examine no more than 10 or 20 regulations a year, it hopes to set examples for the agencies to follow with regulations that escape White House review.

The group represents one effort to implement the executive order that Carter signed on March 23 to ensure more thorough analysis of the consequences of proposed regulations. Agencies must prepare semiannual agendas of regulations under consideration, conduct early economic analyses of proposed regulations, provide for more public participation in rule making and regularly identify existing regulations for review. The order applies to executive branch departments and agencies but not to the independent regulatory agencies.

Among forthcoming regulations likely to go to the Regulatory Analysis Review Group are the following, according to those close to the operations of the group:

Environmental Protection Agency regulations governing the kind of technology new coal-fired power plants must install to reduce air pollution and setting new air quality standards for lead;

Interior Department regulations on reclamation of lands ravaged by strip mining;

Agriculture Department decisions on price supports for major commodities—wheat, feed grains and cotton;

Transportation Department rules on auto safety and fuel efficiency. Already under review is a proposed regulation, costing $2.8 billion, on access for the handicapped to public transit;

Energy Department regulations on conversion of power and industrial facilities from oil and natural gas to coal, and proposals for mandatory efficiency standards for equipment;

A Council on Environmental Quality proposal to make major exports subject to a requirement for preparation of environmental impact statements;

A variety of Labor Department issues, most notably OSHA's attempt to establish a general framework for regulating cancer-causing substances in the workplace. The regulatory review group, in its first formal comment, has criticized OSHA's economic analysis on control of exposure to the chemical acrylonitrile;

Treasury Department regulations on treatment of the handicapped under the revenue sharing program.

REGULATION AND INFLATION

By itself, Carter's regulatory reform effort can hardly make a dent in the double-digit inflation that has returned in recent months. But the President hopes his campaign will symbolize his determination to do everything in his power to control inflation, and he is doing his best to publicize it.

"We must cut inflationary costs which private industry bears as a result of government regulations," he said in his April 11 speech on inflation. "I am determined to eliminate unnecessary regulations and to ensure that future regulations do not impose unnecessary costs to the American economy."

It sounds simple: reduce the costs of regulation borne by industry, and industry will cut the costs of the goods and services it provides to the public. However, it may not be so simple.

There is no question that the costs imposed by regulation on the private sector have multiplied in recent years, although estimating the actual costs is a very imprecise science.

The most widely cited figures are those of Murray L. Weidenbaum, director of the Center for the Study of American Business at Washington University in St. Louis, and his associate, Robert DeFino. They estimate that in fiscal 1979, the cost of complying with the regulations of 41 federal agencies will total $98 billion—and Weidenbaum says his estimate is probably understated.

A recent analysis by Warren B. Buhler, former director of the defunct Federal Paperwork Commission, concludes that the total cost of complying with federal regulations will probably approach $200 billion in fiscal 1979.

Estimates of the cost of future regulations range even higher. James Miller, in a report submitted to OSHA for the Vistron Corp., calculated that the cost to business of controlling the 1,500 substances identified by the government as possible cancer-causing agents could conceivably reach $400 billion a year—or 20 per cent of the nation's current gross national product.

The truth is that no one knows how much regulation costs. And though it's not clear that reliable estimates can ever be made, the Commerce Department is trying to develop a "regulatory budget" that would show the costs to the economy of regulations issued by all government agencies. Such a budget might possibly be used to allocate costs among programs and agencies—allowing, for example, an increase of 5 percent for OSHA in a given year. OSHA then would have to set priorities and consider costs more carefully.

Clearly, federal regulation has had an enormous impact on business. Edward F. Denison, a senior fellow at the Brookings Institution, estimated that pollution abatement requirements and health and safety regulations (as well as a rise in crime) have cut productivity by half a percentage point—a significant number in light of the fact that over-all productivity has been rising by only about 2 per cent annually in recent years.

Barry P. Bosworth, director of the Council on Wage and Price Stability, calculates that regulation contributes as much as three-quarters of a percentage point annually to the increase in the consumer price index, and that compensatory increases (as in wages and prices) "double the original impact within two years."

But unfortunately for Carter, there may not be much the President can do to reduce the impact of regulation on business. Most regulations are required by law, and Congress is not showing any signs of cutting back on the number of laws requiring federal regulation. In fact, the departments and agencies will have to promulgate many more regulations just to comply with recently enacted laws.

For example, current air quality standards for new power plants would cost electricity consumers some $36 billion from 1983 to 1990. To comply with changes enacted in 1977 in the Clean Air Act, the EPA staff has proposed new standards that would cost, according to the Energy Department, an additional $26 billion to $37 billion. The Council on Environmental Quality estimated last December that requirements imposed since 1970 would add $290 billion in the decade beginning in 1976 to the cost of the total federal pollution control effort.

Another very expensive regulation in the works is OSHA's proposal for noise control. The proposed standards would cost an estimated $18.5 billion in capital costs and billions more in annual operating costs.

Thus Carter can hardly hope to reduce federal regulation on his own authority. As one Administration official said, the changes that Carter has adopted in the regulation-making process are "simply not credible as a tool against inflation."

Simon Lazarus, who is in charge of regulatory reform on the White House Domestic Policy Staff, said the greater benefit of the Administration's attempts to restrain inflation through regulation will lie in their symbolic value.

"No one is silly enough to pretend that these efforts will affect the consumer price index by half a point," Lazarus said. But in an Administration "which is not contemplating mandatory [wage and price] controls," he said, "we are trying hard to show that government is doing what it can to restrain inflation, and so to convince the private sector, which is responsible for most of the inflation, to restrain itself."

CONTROLLING REGULATION

Carter is not the first President to worry about the mounting cost of regulation, nor the first to attempt to make the regulatory agencies pay more attention to the economic consequences of their actions.

After two "inflation summit conferences," President Ford in November 1974 issued an executive order to require agencies to prepare inflation impact statements for all major regulations. Just before leaving office, at the end of 1976, Ford extended the life of inflation impact statements, changing their name to "economic impact statements." Carter's new executive order requiring "regulatory analyses" is the latest extension of the idea.

During the Ford Administration, agencies typically prepared impact statements for major regulations after proposals already had been developed. Thus the analyses became tools to justify the course of action the agency had already decided to take.

Carter, with his Executive Order 12044, is seeking to force the agencies to weigh regulatory alternatives earlier in the process, and unlike Ford, he is asking for a review of regulations already on the books.

As a first step in implementing the new order, agencies were required to publish descriptions of their procedures for developing regulations. Forty agencies complied, filling 240 pages of the *Federal Register* with 235,000 words. Another 26 agencies claimed they were exempt from the order because they issue few regulations. Public comments are being received on the agencies' submissions, and final procedures are due to be published by Sept. 15.

The Regulatory Analysis Review Group, created by Carter to implement the executive order, is chaired by CEA chairman Schultze, who has assigned day-to-day responsibility to CEA member William D. Nordhaus. The group includes the principal economic and regulatory agencies of the government. The economic members are the CEA, the Office of Management and Budget (OMB) and the Commerce, Labor and Treasury Departments. Regulatory members are the Agriculture, Energy, Health, Education and Welfare, Housing and Urban Development, Interior, Justice and Transportation Departments and the EPA.

The group intends to review 10 to 20 regulations each year, with the issues picked by an executive committee whose members are the CEA, OMB and two other agencies.

Nordhaus said the group has no formal agenda of regulations to be reviewed, though it is aware of major regulations under development in the agencies. As a matter of process, however, regulations are not considered for review until they are formally proposed by the agencies.

Once an issue is chosen for review, the Council on Wage and Price Stability prepares a report focusing on the economic consequences of the proposed regulation. In most cases, recommendations apparently will not be made, but the analysis will be entered into the agency's record before the comment period is closed.

If, however, Schultze determines that the wage-price council review militates strongly for a course of action that is contrary to the agency's intentions, he can press his case with the agency head and, as a last resort, take the issue to Carter.

COTTON DUST

The full regulatory review process, including selection of a regulation shortly after it is proposed and the development of a formal comment by the Council on Wage and Price Stability, has been used only once, in OSHA's acrylonitrile case.

But the regulatory review group, on a more informal basis, has brought about changes in some other regulations. The most controversial case concerned cotton dust.

Unions representing some 600,000 textile workers have been trying for better than a decade to force companies to reduce exposure to the dust, which, according to Labor Department estimates, already has afflicted some 35,000 people with a respiratory illness called byssinosis, or "brown lung."

With a cotton dust regulation in the offing, textile executives were among the heaviest contributors to Richard M. Nixon's 1972 reelection campaign, and OSHA pledged that, as an aid to Nixon's campaign, "no highly controversial standards, i.e. cotton dust, will be proposed by OSHA."

In 1975, in response to a union court suit, OSHA proposed a cotton dust standard estimated to cost industry some $2.7 billion in capital investment. Predictably, the companies protested, and the case continued under Labor Department review until final standards were published on June 23, 1978. During the review, OSHA modified its proposed standard and cut costs; the final regulation is estimated by the Labor Department to cost $656 million in capital investment and $206 million in annual expenditures.

Schultze became interested in the issue late in the review process. Though OSHA had promised a federal judge it would publish a standard by May 31, Schultze told the Regulatory Analysis Review Group in a May 2 memo that because of Carter's concern about inflation, "it is important to ensure that any new regulations do not impose unnecessary or uneconomic costs on American industry." He said he and Robert S. Strauss, the President's inflation counselor, would like the standard delayed to make time for a study of "its likely economic impact."

OSHA's proposal relied on installation by industry of engineering controls within factories, but in a May 18 memo, the wage-price council said that $125 million in compliance costs could be saved by greater reliance on medical surveillance and heavier use of respirators, Schultze, with the President's consent, told Labor Secretary Ray Marshall that revisions in the standard were desirable.

This produced a blast from Marshall; in a five-page memo to the President, he directly challenged the right of CEA and the wage-price council to delay enforcement of the cotton dust standard and said that delay "will cause a major political upheaval among such groups as textile unions, the AFL-CIO, the Brown Lung Association, public interest groups and Congress."

Carter and Vice President Walter F. Mondale met on June 7 with Schultze, Marshall and other Administration officials. Backtracking from his earlier stand, Carter decided essentially to support the Labor Department, although two changes were made in the OSHA proposal. A firm, four-year timetable for compliance was established (instead of leaving the deadlines to OSHA) and the regulations were amended to permit the normal OSHA procedure of allowing variances if alternatives to engineering controls could achieve the same health benefits.

Although both industry and labor are challenging the cotton dust standard in the courts, Carter seems pleased by it. In a June 8 statement, he said a solution had been found "to control this threat to the health of the workers in textile mills, but with a greatly reduced over-all cost."

OTHER CASES

The Regulatory Analysis Review Group also played a role in modifying standards issued June 13 by EPA to limit increases of air pollution in clean air areas of the country.

Following the provisions of 1977 legislation, the agency last November proposed rules that would have required new or modified pollution sources to install the best available pollution control technology if their emissions would exceed 100 tons per year without pollution controls. Some 4,000 new sources per year were to be affected.

Nordhaus and Bosworth took an early interest in the case, holding meetings and exchanging memos with EPA officials during the first half of this year.

Partly as a result of their efforts, EPA moved to exempt any source that would emit less than 50 tons of pollutants with a lesser degree of control. This cut the number of sources to 1,600 per year.

CEA wanted to restrict the standards further, so that only 900 new sources would be subject to the stringent requirements. But EPA administrator Douglas M. Costle argued against this step in a meeting with Schultze (during which he cited other concessions EPA had made to CEA), and Schultze decided not to take the issue to the President.

The formal review process has been applied so far only to an OSHA proposal to regulate worker exposure to acrylonitrile, a chemical that produces cancerous growths in animals and probably humans as well.

E. I. du Pont de Nemours & Co. and three other companies produced 1.5 billion pounds of the chemical in 1976, and according to OSHA, 5,130 workers inhale the substance. It is used in the manufacture of dozens of products, including clothing and brake linings.

In its published proposal, OSHA asked for comments on three possible ceilings that could be set on exposure to acrylonitrile: 2 parts per million parts of air, 1 part per million and 0.2 parts per million. An economic impact statement filed with the proposal estimated capital costs to the companies at $109 million for the first, $198 million for the second and $698 million for the third.

On May 22, Bosworth, on behalf of the Regulatory Analysis Review Group, sent OSHA a review of the agency's economic analysis of the proposed regulation.

The review asked how regulations should be set when the gains—in this case, the reduced risk of cancer—cannot be definitely quantified. Criticizing OSHA for failing to undertake a risk assessment, the review estimated it would cost $4 million to prevent a single cancer death under OSHA's least stringent standard, $29 million under the middle standard and $170 million under the strictest standard. The latter, said the review, seemed too high.

The review took issue with OSHA's official position that estimates of risk reductions are not necessary so long as some risks can be reduced, and that exposure to risk should be reduced to the lowest level feasible. "Simply knowing that the lower the permissible exposure level, the lower the risk of cancer, is not information enough on which to base a standard unless it is intended to eliminate immediately all risks regardless of the consequences. Although as a long-range goal this may describe the intend of the OSHA act, as an operational procedure it is empty, since in order to eliminate all risks forthwith, industry would have to shut down."

The regulatory review group also addressed an issue that frequently arises in OSHA cases: the merits of mandated engineering technologies as opposed to so-called performance standards. In general, the economic advisers favor the latter, on the grounds that if industry is told it must perform up to a given level, it will find the most cost-efficient way to do so.

OSHA, by contrast, traditionally has favored specific standards dictating engineering controls. With cotton dust, acrylonitrile and other substances, industries might be able to meet performance standards (limiting worker exposure) by providing personal respiratory devices to their employees—a step often less costly than redesigning the workplace but one that is fiercely resisted by OSHA and by organized labor.

Whether the acrylonitrile review will have an impact on OSHA's decision cannot be predicted; the final regulations will not be published for several weeks.

In late June, the Regulatory Analysis Review Group chose a second issue for formal consideration: a Transportation Department draft regulation to make public transportation accessible to people in wheelchairs. The group questioned whether the most efficient way to meet this goal was to install elevators in existing subway stations at a cost of $1.8 billion, as the department suggested.

OPPOSITION

The regulatory review process has encountered suspicion and hostility from environmental and labor groups, the bureaucracy and some Members of Congress.

On Aug. 3, 31 organizations sent a letter to Carter calling for elimination of the regulatory review program on the grounds that it "threatens important commitments you have made to the health and welfare of the American people, with little or no effect on inflation or government efficiency." Signatories included representatives of the Natural Resources Defense Council Inc., the AFL-CIO, the United Auto Workers, the United Mineworkers of America, the United Steelworkers of America, the Environmental Defense Fund Inc. and the Sierra Club.

From the agencies, particularly EPA, has come a defense of regulatory programs. In an April 27 speech, Costle said that although a recent study by Chase Econometrics had concluded that EPA programs add 0.3 to 0.4 percentage points a year to the consumer price index (CPI), "an estimated increase in the CPI does not mean that environmental regulations are inflationary. The CPI ignores improvements to public health, reduced property damage, increased crop yields, etc., that result from pollution control spending." If the CPI measured these "savings to the consumer, then pollution control spending would not appear inflationary," Costle said.

Deputy EPA administrator Barbara Blum, in July 26 congressional testimony, said EPA "would prefer that they [the Regulatory Analysis Review Group] work with us earlier in the future on selected regulations to gain a fuller understanding of the constraints and tradeoffs and to suggest alternatives when they are less likely to delay final decisions on our regulations."

Others in EPA worry about the possibility that the regulatory review program could be abused. Assistant administrator William Drayton Jr. recalled that the last Administration had created a "quality of life" review program in OMB, which he said had been used to "muzzle" EPA and to "suggest that economic interests had a special access and could come in and influence the agency's decisions."

"For us," said Drayton, "regulatory independence is absolutely imperative, and it is entirely inappropriate to have any group with special access." He said that while it was unlikely, "we could slip back and have an arrogant, imperial White House trying to dictate our responsibilities."

At the Labor Department's OSHA, worries about the review program are at least as strong. Marshall's explosion over Schultze's intervention in the cotton dust case was one indicator.

In defense of their regulations, agency spokesmen cite the OSHA law, which requires that workplace hazards be reduced to the lowest level technically and economically feasible. OSHA has long resisted the kind of cost-benefit analysis favored by White House economists on grounds that it is impossible to calculate the benefits. "How do you quantify the benefits of saving a human life, or preventing the loss of a limb?" asked Charles B. Knapp, a special assistant to Marshall.

Knapp said that the department viewed the regulatory review program "with no fear" but that he hoped the program would turn out to be "more supportive and less adversarial. If it turns out to be combat over every regulation, that will be a problem."

In Congress, Members seem to guard the regulatory programs they enacted as fiercely as they do spending programs. When Carter published a draft of his new executive order last November, he proposed to apply it not only to agencies reporting to him but also to the independent regulatory agencies. This provoked a hands-off letter from 13 senior Senators, and the proposal was dropped from the final order.

In reaction to the cotton dust controversy, 16 members of the House Education and Labor Committee on June 7 sent a letter to Carter saying that White House intervention "threatened to undermine the basic procedures" mandated by Congress in the OSHA statute.

Rep. Paul G. Rogers, D-Fla., a leading congressional health expert, on June 14 asked the General Accounting Office to investigate whether the regulatory review group was acting legally and whether it was adequately assessing "the potential impact on inflation of failure to undertake maximum feasible efforts to prevent . . . 'environmentally-related' diseases."

Yet other Members are worried about the proliferation of regulation. Their concern is reflected in the increasing tendency of Congress to add amendments to bills providing for legislative vetoes of agency rules.

In the Senate, two committees have approved a "sunset" bill (S 2) authored by Sen. Edmund S. Muskie, D-Maine, requiring periodic review of spending programs. If it comes to the floor, Sen. Charles H. Percy, R-Ill., will try to add a requirement for regular "sunset" reviews of regulatory agencies.

OUTLOOK

The regulatory review program is likely to generate more controversy and attract increased public attention. It also could cut some regulatory costs. Nordhaus estimates potential savings could amount to a few billion dollars a year, though others working with the program say that is optimistic.

But the review group, with small staff resources and a commitment to examine only 10 to 20 regulations a year, cannot by itself hope to make a major dent in the costs of regulation.

Agencies in 1975 considered some 10,000 regulations and actually issued more than 7,000, and the trend does not seem to be moderating appreciably. Nordhaus estimates the prospective costs of regulations to be issued under existing laws at $20 billion to $50 billion "over the next few years."

The main hope for more cost-effective regulation lies in persuading agencies to take the President's executive order seriously, with the review group setting examples for them to follow. But that will be a long and difficult task. "It's a feudal war, fought with tunnels and trenches," said one OMB official.

And Nordhaus said. "We're not going to turn the beast around in a year. It'll take a decade, assuming we can do it."

But Nordhaus emphasized the Administration's intention to make the necessary effort, saying the program has the full support of the President, the Vice President and "the major officers of the government."

CHALLENGES FACING THE PRESIDENT'S COMMISSION ON THE COAL INDUSTRY

Mr. PERCY. Mr. President, on May 26, in remarks at Charleston, W. Va., President Carter announced the formation of a Commission to determine the state of the coal industry. This Commission, which will be composed of 13 members representing the coal management, labor, the general public, the administration, and both Houses of Congress, will be responsible for outlining some of the challenges currently confronting the industry and to offer some suggestions for future comprehensive coal policy. I am pleased to serve on his Commission together with my distinguished colleagues, Senator JENNINGS RANDOLPH of West Virginia and Senator WALTER HUDDLESTON of Kentucky.

Many of the Members of this Chamber come from coal-producing States and have a responsibility to maintain a sound and healthy coal mining industry both in their respective States and in the Nation. My colleagues from these States have likewise become acutely aware of the National, regional, and local problems that have plagued the industry. Some of these problems are not new. Labor and social unrest, in the Eastern coal producing States has plagued the coal industry for decades. Even today, legal battles are being fought for the right to organize miners in some parts of the country. In areas where the coal miners are collectively represented, interruptions in the supply of coal have become almost as regular as clockwork every 3 years with the expiration of the contract. Only recently, the mine operators and labor representatives settled the longest coal strike in our Nation's history—a 103-day interruption which could have severely affected much of the Eastern half of the United States. Because of this interruption, as of July 3, 1978, coal production was approximately 18.7 percent below that for the same period in 1977. This represents a reduction of almost 67 million tons of coal that was lost to the Nation's utilities, its steel plants and to coal exports. The effects of the coal strike were not only felt by the power companies, but by the striking miners themselves and particularly the primary coal carrying railroads that loaded almost 449,000 fewer coal cars during the first 6 months of 1978 than during the same period of 1977.

In addition to the hardships experienced by unemployed miners and their families, miners who have long since retired and are dependent upon benefits generated from coal production for food, clothing, and particularly medicine were likewise affected. Many of these recipients are disabled from black-lung disease.

The industry has also been faced with declining productivity in the underground mines for the past several years. According to industry statistics, the average output per person, in tons-per-man-day has fallen from 18.02 short tons in 1971 to 14.74 in 1975. Although the increased labor costs resulting from these declines can be passed through in most steam-coal contracts, losses in productivity are ultimately reflected in higher electricity bills. In the metallurgical coal industry, however, increases in production costs oftentimes must be directly absorbed by the produced. The combination of increasing variable costs and escalating transportation charges for U.S. metallurgical coal overseas has caused some of our principal importers to switch to lower quality but lower cost Australian "met" coal. Just recently, my distinguished colleague from West Virginia, Senator ROBERT BYRD, discussed declining exports of U.S. metallurgical coal to Japan with officials of that government.

Even when metallurgical coal is consumed domestically, lower productivity and resulting higher production costs must ultimately be passed through to the price of steel, which is losing its competitive edge in world markets.

Although surface mine operators can produce more coal per man-day, their costs have also increased with the passage of the Surface Mining Control and Reclamation Act of 1977.

Because of the site specificity of surface mining operations it is virtually impossible to determine an average cost increase resulting from the passage of the law. It is reasonable to assume, however, that most of the operators, especially the smaller ones, in the mountainous coal-producing regions of the country will experience cost increases in complying with the new law and its regulation. Many surface mine operators have become outspoken concerning what they term the overzealousness of the new Office of Surface Mining in implementing regulations that go beyond the letter and intent of the Surface Mining Act, and have challenged some of the more stringent regulations in court.

Surface mine operators in the Western United States have also had their problems. A great percentage of the coal in the Northern Great Plains is relatively low in sulfur content, by weight, and the major portion of these reserves are extremely thick—some in beds up to 100 feet in thickness. The ability to develop this otherwise very desirable resource has been frustrated by a confusing pattern of ownership among Federal, State, and private interests, and by an Interior Department moratorium on long-term leasing since early in 1971. Presently, to comply with a 1977 Federal district court ruling, the Department of the Interior is preparing a new environmental impact statement to evaluate the need for new long-term leasing and to determine its potential regional effects.

Furthermore, with the passage of the Clean Air Act Amendments of 1977 and their associated regulations, serious questions have arisen concerning the continued economic desirability of shipping low-sulfur western coal to eastern markets. If the Environmental Protection Agency intends to require the scrubbing of powerplant emissions regardless of the sulfur content of the coal, many utility officials may conclude that the economics suggest burning higher-energy eastern coal.

These are just a few of the challenges which must be met by the coal mining industry. Others include such things as increasing the carrying capacity of the railroads and barge transportation systems in the United States; improving underground and surface mining technology in order to permit the recovery of

deeper and thinner seams of coal without further adversely affecting the productivity rates; enhancing the image of coal mining in order to attract the talent that will be needed to nearly double our output by 1985 or 1990; determining the most desirable locations for the development of an energy resource that is competing with other land uses such as housing and agricultural development; and generating sufficient amounts of capital and equipment necessary to enable the mining industry to produce coal in quantities sufficient to alleviate our dependence on foreign energy sources.

In order to help the Commission launch its study, I have requested the Congressional Research Service to prepare a background report for the members which will provide them with a comprehensive picture of the coal mining industry as it is today, along with information related to some of the challenges facing the industry that I have briefly discussed above. I am confident that the CRS treatment of this crucial issue will help the Commission members examine the challenges confronting the industry and to offer the appropriate recommendations for solutions. In particular, I want to thank Mr. Duane Thompson and Mr. Dave Gusbee of CRS for the tremendous cooperation and responsiveness they are evidencing.

I ask unanimous consent that the text of my letter to Mr. Gilbert Gude, the Director of the Congressional Research Service, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., July 10, 1978.

Mr. GILBERT GUDE,
Director,
Congressional Research Service,
Library of Congress,
Washington, D.C.

DEAR GIL: On May 26, 1978, Preident Carter announced the formation of a Presidential Commission to review and report on the condition of the Nation's coal industry. The Commission created by the Executive Order will consist of thirteen members representing coal-industry management, labor, the general public, the House of Representatives, the Senate, and the Departments of Labor and Energy. During its year-long existence, it will be responsible for a comprehensive review of the industry with emphasis on its general economic health, collective bargaining issues, socio-economic effects of increasing coal production, the development of new mining technology, and the impact of recent Federal regulations on the mining industry. The final report of the Commission may include other subjects as deemed appropriate.

I am pleased that Vice President Mondale has named me as one of the three Senate representatives to the Commission. As you know, Illinois has considerable coal deposits underlaying most of our State. The value of coal produced during 1977 amounted to approximately $1 billion, a figure representing almost sixty percent of the total value of minerals produced in Illinois during the year. Like so many other coal-producing states, however, Illinois has experienced problems that the President's Commission should address during its investigations.

In order to prepare myself and to provide my fellow members on the Commission with sufficient information for the job ahead, I would appreciate the Congressional Research Service preparing a background study outlining some of the problems confronting the industry. The study should be structured around the five subject areas listed in the Executive Order, although other pertinent issues and information can be included along with any suggestions for possible legislative action in the 96th Congress.

On Friday, June 23, Mr. Christopher Palmer of the staff of the Governmental Affairs Committee, at my request, discussed the possibility of CRS assistance with Duane Thompson, a mines and mining analyst in the Environment and Natural Resources Division Mr. Palmer has indicated that Mr. Thompson was not only enthusiastic about the work of the Commission but also about the potential contribution that the Research Service could make by providing a back ground report for the group. I am equally confident that your staff can provide the Commission with a thorough understanding of the problems and challenges confronting the coal mining industry.

I would greatly appreciate approval of this request so that Mr. Thompson and Mr. Palmer can arrange a planning session. I would need the background study ready for distribution to the Chairman and members at the first meeting of the Commission in October. If you or your staff have any questions, please contact Mr. Palmer or me. Thanking you in advance, I remain.

Sincerely yours,

CHARLES H. PERCY,
U.S. Senator.

SALT

Mr. MATHIAS. Mr. President I have a brief statement to make to the Senate on behalf of the distinguished Senator from Kansas (Mr. PEARSON), the distinguished Senator from Massachusetts (Mr. BROOKE), the distinguished Senator from Oregon (Mr. MARK O. HATFIELD), the distinguished Senator from Colorado (Mr. HART), and the distinguished Senator from Oregon (Mr. PACKWOOD), and, of course, on my own behalf.

Mr. President, yesterday in New York City Paul Warnke, Director of the Arms Control and Disarmament Agency, was asked whether the administration was considering the possibility of bringing a SALT agreement before Congress in other than treaty form. Mr. Warnke confirmed that the decision on whether to bring SALT to the Hill as a treaty or as an executive agreement "remains open."

The administration has decided to publicly state what has been the subject of a great deal of private discussion between the executive branch and Members of the Senate. A number of Senators have made the point privately to senior members of the administration that not to bring SALT to Congress in treaty form would be a serious mistake. It would bring into question the constitutional responsibilities of the U.S. Senate. It would be viewed as an effort to circumvent the clear and established procedures which lie at the very root of our federal system.

We have opposed heretofore any administration consideration of alternatives to the treaty route. We wish to reiterate publicly our continued opposition to such consideration.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. MATHIAS. I am happy to yield to the Senator from California.

Mr. CRANSTON. Mr. President, I join with the distinguished Senator from Maryland in his statement, and I applaud him for bringing this matter to the attention of the Senate.

It became known to those of us following SALT a little while ago that the administration was keeping open the option of submitting the protocol and the treaty re SALT I or both to this body as executive agreements or as treaties, perhaps one one way, one the other, perhaps both as executive agreements or perhaps both as treaties.

It is tempting to try to reduce the number of votes that are necessary to pass something through this body and an executive agreement would only need 60 for cloture and then 51 for passage; whereas 67 would be required to pass a treaty if all Senators were present and voting.

After thinking this over with care and discussing this with a number of my colleagues, I came to the conclusion personally that it would be quite unwise for any part of the SALT agreements to be submitted to this body as an executive agreement rather than a treaty.

(Mr. SASSER assumed the chair.)

Mr. CRANSTON. I think it is generally known within the Senate that a number of us who are deeply interested in SALT, and who are committed to the concept of arms control and arms limitations, and arms reductions are meeting regularly to acquaint ourselves with the issues in SALT so that we will be prepared to judge whatever agreement is ultimately submitted to this body intelligently and knowledgeably. If we find it is an agreement that we can support we will be equipped to support it steadfastly and strongly.

This is a group comprising one-fifth of the Senate, Democrats and Republicans, liberals and conservatives. We are not committed to any particular SALT agreement. We reserve judgment until an agreement is negotiated with the Soviet Union and submitted to this body, and until that is done and until we have examined it, we do not know whether we will support that particular agreement. We hope an agreement will be submitted to the Senate that we can support.

I polled all the members of that group not too many days ago to ascertain their views on this issue of treaty versus executive agreement. It was almost unanimous within this group that it would be a great error for the administration to submit any SALT agreement as anything other than a treaty. Some members felt so strongly that they said they might not be able to support even a good agreement if it came as an executive agreement.

It plainly would inject a wholly new and separate issue into our deliberations on the SALT matters if it came to us as an executive agreement rather than a treaty. I believe it would very badly jeopardize the success here of considering any such agreement with a favorable outcome no matter how good that agreement might be.

As a matter of fact, I feel that the administration might just as well not submit an agreement to this body if it submitted it in the form of an executive agreement. I think its fate would be foreordained and it would go down to defeat.

After polling this group and finding that only one member was uncertain—he did not favor the executive route, he just wanted to think it over—but that all others strongly opposed it, Senator CHURCH and I—he also is a member of this group—called the administration and made plain our views and the views of this group. They have been transmitted to the President, I am certain, and I just want to reiterate very strongly the views of many Senators on both sides of the aisle that it would be exceedingly unwise for the administration to submit any part of the SALT agreement as anything other than a treaty.

It would diminish, it would seemingly diminish, the importance of the agreement if it was submitted as an executive agreement rather than a treaty. I think probably no matter more important than arms limitation and SALT will be considered by the Senate during the time I am in this body, nothing more related to the ultimate survival and security of our Nation. Anything that solemn and that significant should certainly come to us in the form of a treaty since it involves the signature and the adherence to the agreement of people in another land.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. MATHIAS. I am happy to yield.

Mr. CLARK. I would like to join with my two colleagues in encouraging the President to give second thoughts to sending this agreement, international agreement, here as a treaty. I think it is obvious that that is its appropriate role, and I think the Senator from California's description of the historical recent events that have occurred is very helpful.

It seems to me that any reading of the Constitution makes clear this point. Article II, section 2, paragraph 2, states:

> He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur.

There is no provision even in the Constitution for international agreements. Obviously, the historical development of this country has been such that we have seen more and more international agreements sent up to the Senate and the House as executive agreements, and important agreements increasingly seem to be sent up as agreements, whereas rather insignificant agreements, dealing with international shrimp agreements, for example, are now sent up as treaties.

So one could argue, I suppose, the President's authority, constitutional authority, to send this very important agreement to the Congress, which form it would take. But it does seem to me it would make a complete mockery of the Constitution, article II, section 2, if we were to have an international agreement as significant as this one and yet say, "This is not really important enough an agreement to be considered as a treaty."

If this is not important enough, then it seems to me there is absolutely no limit and no meaning to this part of the Constitution.

I would just like to say further that with this historical trend in mind about 2 years ago I introduced a resolution that was referred to the Committee on Foreign Relations which would require a point of order in the Senate to lie against any money bill if the Senate had expressed itself by Senate resolution in favor of an international agreement being considered as a treaty.

We had hearings on that subject, and we decided at that time not to push it forward.

This year, in consideration of the foreign aid authorization bill, Senator GLENN and I joined in that same effort, and the Senate committee indeed adopted that provision. It failed by a relatively close margin to succeed in the Senate.

But I would point out what was pointed out by the opponents of that resolution at that time, that at any time the Senate can simply pass a resolution saying that a point of order would lie against any money bill to implement that treaty. So that that option is open to this body. One would hope that that would not be necessary. But I think it ought to be clear to those who make the decision that that option is open to the Senate, and then there would be no way in which an international agreement could really be implemented without the Senate's approval.

So I think—I would hope, at any rate—that the President would recognize the Senate's view. Not only are his strong supporters of a meaningful agreement in agreement on this point, I think, but if there is a single Member of the United States Senate who does not believe that this kind of agreement ought to be sent to this body as a treaty, I have not heard that man or woman speak up. I think it is one issue on which we are very united.

An agreement of that magnitude and this significance, this importance, certainly ought to come before the Senate and receive the Senate's advice and consent as required by the Constitution.

I thank the Senator for yielding.

Mr. MATHIAS. I thank the Senator from Iowa and the Senator from California. I think both of them have made a very essential point, and one that the administration is certain to listen to.

In addition, with all the serious consideration that every Member of the Senate would give to an agreement, in whatever form it came to the Senate, we would add the very serious problem of the procedural approach if it came as other than a treaty.

As the Senator from Iowa and the Senator from California pointed out, this is the constitutional route; it is the only way to go.

Mr. CRANSTON. Mr. President, I would like to point out one of the difficulties of going the route of submitting part of the agreement as an executive agreement and part as a treaty, which is one of the options the administration apparently is keeping open.

The Soviets would likely assume we were putting into the executive agreement the parts we would like to get out of most easily if we decided we did not like them, and putting into the treaty the parts we did not mind being bound by.

I think this would greatly increase the difficulty of the negotiations with the Soviet Union. They would have some of the same temptations on their part, and that might work out to our disadvantage.

Rather plainly the administration also would seek to put into the executive agreement those parts that would be most difficult in passing the Senate, and put into the treaty those parts where there would be virtual unanimity, if anything like that could be achieved.

There are all sorts of pitfalls with this route. I understand all the temptations, and I strongly urge the administration to heed these words in the Senate from people dedicated to the concept of arms control.

I know the administration, the President, Secretary Vance, and others want an effective SALT treaty, an effective SALT agreement.

I urge them to take to heart, to weigh very seriously, the words spoken today on the Senate floor on this subject.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there are, I believe, three measures on the calendar which have been cleared for action by unanimous consent. The distinguished acting Republican leader is here; I believe there are five measures.

I ask unanimous consent that the Senate proceed to the consideration of Calendar Order Nos. 1047, 1049, 1053, 1056, and 1057.

The PRESIDING OFFICER. Without objection, it is so ordered.

MARITIME MEDALS

The bill (H.R. 13235) for the relief of James Thomas Lantz, Jr., David D. Bulkley, and Arthur J. Abshire, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1128), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of H.R. 13235 is to authorize the issuance to the individuals named in the bill of the enumerated decorations and indicia of service in full recognition of their service in the U.S. merchant marine during World War II.

BACKGROUND AND NEED

The U.S.-flag merchant marine has been aptly termed America's fourth arm of defense. During World War I the U.S. merchant marine lost more men than the U.S. Navy, and in World War II, the merchant marine lost a greater percentage of its members to hostile enemy action than did any of the Armed Forces.

A grateful Government gave recognition to their service by means of various decorations and indicia of service. Public Law 524, 77th Congress (56 Stat. 217), Public Law 52, 78th Congress (57 Stat. 81), and certain Executive orders authorized the Maritime Commission and the Administrator of the War Shipping Administration (the predecessor of the Maritime Administration of the Department of Commerce) to issue citations, medals, and decorations to merchants seamen, and plaques to ships. These honors were given mainly for bravery under combat conditions. Public Law 524 was expressly repealed and the operation of Public Law 52 was terminated by the act of July 25, 1947 (61 Stat. 450). Public Law 698, 79th Congress (60 Stat. 960), authorized issuance of medals and honorable discharge buttons to seamen for war zone service on Government-owned and operated vessels in World War II, and to any seaman entitled to receive a certificate of substantially continuous service under Public Law 87, 78th Congress (58 Stat. 162). The operation of these laws was also terminated by the act of July 25, 1947 (61 Stat. 450), and the Maritime Administration has revoked all general orders based on these statutes, effective June 30, 1954 (Federal Register, March 31, 1954, vol. 19, p. 1763).

Were these statutes still in effect, the individuals named in H.R. 13235 would have been eligible to receive the decorations and indicia of service set forth in the bill.

CARL ALBERT INDIAN HEALTH FACILITY

The bill (S. 3184) to designate the Indian Health Facility in Ada, Okla., the "Carl Albert Indian Health Facility," was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Indian Health Facility located at 1001 North Country Club Road, Ada, Oklahoma, shall hereafter be known and designated as the "Carl Albert Indian Health Facility".

SEC. 2. Any reference in law, map, regulation, document, record, or other paper of the United States to such facility shall be held to be reference to the "Carl Albert Indian Health Facility".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1130), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

S. 3184, as referred, would designate the Indian Health facility in Ada, Okla., the "Carl Albert Indian Health Facility."

BACKGROUND

On March 17, 1978, the Chickasaw Nation of Oklahoma adopted a resolution requesting that the comprehensive Indian Health Care Facility located in Ada, Okla., be named in honor of Hon. Carl Albert in appreciation for his friendship and service to the Chickasaw Nation.

Speaker Albert was instrumental in securing the funds necessary to construct the health care facility which will provide complete health services to primarily the Chickasaw Indians.

THE AMERICAN EPHEMERIS AND NAUTICAL ALMANAC

The bill (H.R. 3532) to amend chapter 639 of title 10, United States Code, to enable the Secretary of the Navy to change the name of a publication of the Naval Observatory providing data for navigators and astronomers, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1134), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE LEGISLATION

The purpose of the legislation is to remove the requirement that the publication in which the Secretary of the Navy makes available data for navigators and astronomers be entitled "The American Ephemeris and Nautical Almanac." Removal of this requirement would allow the Secretary to administratively change the name of this publication.

BACKGROUND

Current law was adopted in 1912 when the advantages of international cooperation in the exchange of astronomical data were recognized. The principal nations involved in the exchange of astronomical data at that time, the United States, France, Germany, Great Britain, and Spain, each published an "ephemeris," which is an orderly collection of information relating to the assigned places of celestial bodies at regular intervals. In the statute, the publication is entitled, "American Ephemeris and Nautical Almanic." H.R. 3532 would enable the Secretary of the Navy to change the name of the publication by striking the words "in the American Ephemeris and Nautical Almanac" from section 7396(a) of title 10, United States Code.

The Department of the Navy believes that the name of the publication, imposed by statute, is no longer appropriate. The ephemeris offices of several nations currently contribute data included in the publication. Elimination of the word "American" in the title of the publication would encourage those nations to further participate in the preparation of the annual volumes. The single printing of the volumes in this country could then be distributed and used in other countries. The use of the name of one country in the title of a publication being prepared and used in several countries does not appear to be appropriate.

Additionally, there is continuing confusion between two separate publications of the Naval Observatory, "The Nautical Almanac" and "The American Ephemeris and Nautical Almanac." Because of the similarity of titles, it is incorrectly concluded that the two are the same, or that there is direct duplication between them. The Naval Observatory regards the solution to this problem as an ancillary benefit of the passage of H.R. 3532.

The Secretary of the Navy proposes to change the name to "Astronomical Ephemeris."

TRANSPORTATION FOR GIRL SCOUTS OF AMERICA

The Senate proceeded to consider the bill (S. 3373) to amend title 10, United States Code, to authorize the Secretary of Defense to provide transportation to the Girl Scouts of the United States of America in connection with international world, friendship events, or troops on foreign soil meetings, and for other purposes, which had been reported from the Committee on Armed Services with amendments as follows:

On page 2, line 3, strike "reurn" and insert "return,"

On page 2, line 7, strike "an international world friendship event or troops on foreign soil" and insert "any International World Friendship Event or Troops on Foreign Soil";

On page 2, line 13, after "(2)" insert "United States citizen";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 151 of title 10, United States Code, is amended by adding after section 2544 the following new section:

"§ 2545. Transportation services: international Girl Scout events

"(a) The Secretary of Defense is authorized, under such regulations as he may prescribe, to provide, without expense to the United States Government, transportation from the United States or military commands overseas, and return, on vessels of the Military Sealift Command or aircraft of the Military Airlift Command for (1) those Girl Scouts and officials certified by the Girl Scouts of the United States of America as representing the Girl Scouts of the United States of America at any International World Friendship Event or Troops on Foreign Soil meeting which is endorsed and approved by the National Board of Directors of the Girl Scouts of the United States of America and is conducted outside of the United States, (2) United States citizen delegates coming from outside of the United States to triennial meetings of the National Council of the Girl Scouts of the United States of America, and (3) the equipment and property of such Girl Scouts and officials, to the extent that such transportation will not interfere with the requirements of military operations.

"(b) Before furnishing any transportation under subsection (a), the Secretary of Defense shall take from the Girl Scouts of the United States of America a good and sufficient bond for the reimbursement to the United States by the Girl Scouts of the United States of America, of the actual costs of transportation furnished under subsection (a).

"(c) Amounts paid to the United States to reimburse it for the actual costs of transportation furnished under subsection (a) shall be credited to the current aplicable appropriations or funds to which such costs were charged and shall be available for the same purposes as such appropriations or funds.".

SEC. 2. The table of sections at the beginning of chapter 151 of title 10, United States Code, is amended by adding after the item relating to section 2544 the following new item:

"2545. Transportation services: international Girl Scout events.".

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A bill to amend title 10, United States Code, to authorize the Secretary of Defense to provide transportation to the Girl Scouts of the United States of America in connection with International World Friendship Events or Troops on Foreign Soil meetings, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1137), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF BILL

The purpose of this legislation is to provide permanent authority for the Secretary of Defense to provide transportation on military aircraft or vessels to the Girl Scouts of the United States of America to attend international world friendship events or troops on foreign soil meetings. The use of this transportation will be for international travel only. This transportation will be provided to Girl Scouts, and officials certified by the Girl Scouts of the United States of America as representing the Girl Scouts at international world friendship events or troops on foreign soil meetings.

Transportation will be furnished to the extent that it does not interfere with the requirements of military operations. It will be provided at no expense to the U.S. Government. The legislation requires that before furnishing transportation, the Girl Scouts of the United States of America shall furnish to the Secretary of Defense a good and sufficient bond for reimbursement to the United States for the actual cost of the transportation. The reimbursement shall be credited to the applicable appropriations or funds to which such costs were charged.

BACKGROUND

Public Law 92–249, enacted on March 10, 1972, gave the Secretary of Defense the permanent authority to provide transportation, to lend certain equipment and other services to the Boy Scouts of America in connection with the Boy Scout jamborees. The Congress had passed enabling legislation providing for the loan of equipment and provision of services for seven previous jamborees. The committee foresaw no circumstances under which such loan of equipment and provision of services would not continue to be appropriate. In Public Law 92–249, a permanent authorization was established to obviate the need for periodically enacting such legislation.

IMPROVEMENTS IN THE SURVIVOR BENEFIT PROGRAM FOR RETIRED MILITARY PERSONNEL

The Senate proceeded to consider the bill (H.R. 3702) to amend title 10, United States Code, to make certain changes in the retired serviceman's family protection plan and the survivor benefit plan as authorized by chapter 73 of that title, and for other purposes, which had been reported from the Committee on Armed Services with an amendment to strike all after the enacting clause and insert the following:

TITLE I—ANNUITIES UNDER SURVIVOR BENIFIT PLAN

DEFINITION OF BASE AMOUNT

SEC. 101. Section 1447 (2) of title 10, United States Code, is amended to read as follows:

"(2) 'Base amount' means—

"(A) in the case of a person who dies after becoming entitled to retired or retainer pay, the amount of monthly retired or retainer pay to which the person—

"(i) was entitled when he became eligible for that pay; or

"(ii) later became entitled by being advanced on the retired list, performing active duty, or being transferred from the temporary disability retired list to the permanent disability retired list;

"(B) in the case of a person who would have become eligible for retired pay under chapter 67 of this title but for the fact that he died before becoming sixty years of age, the amount of retired pay for which the person would have been eligible—

"(i) if he had been sixty years of age on the date of his death, for purposes of an annuity to become effective on the day after his death in accordance with a designation made under section 1448(e) of this title, or

"(ii) upon becoming sixty years of age (if he had lived to that age), for purposes of an annuity to become effective on the sixtieth anniversary of his birth in accordance with a designation made under section 1448(e) of this title; or

"(C) any amount which is less than the amount otherwise applicable under clause (A) or (B) with respect to an annuity provided under the Plan and which is designated by the person providing the annuity on or before (i) the first day for which he becomes eligible for retired or retainer pay, in the case of a person who elects to provide an annuity by virtue of eligibility under section 1448(a)(1)(A) of this title, or (ii) the end of the ninety-day period beginning on the date on which he receives the notification required by section 1331(d) of this title that he has completed the years of service required for eligibility for retired pay under chapter 67 of this title, in the case of a person who elects to provide an annuity by virtue of eligibility under section 1448(a)(1)(B) of this title, but not less than $300;

as increased from time to time under section 1401a of this title.".

APPLICATION OF SURVIVOR BENEFIT PLAN

SEC. 102. (a) Subsection (a) of section 1448 of title 10, United States Code, is amended to read as follows:

"(a)(1) The program established by this subchapter shall be known as the Survivor Benefit Plan. The following persons are eligible to participate in the Plan:

"(A) Persons entitled to retired or retainer pay.

"(B) Persons who would be eligible for retired pay under chapter 67 of this title but for the fact that they are under sixty years of age.

"(2) The Plan applies—

"(A) to a person who is eligible to participate in the Plan under paragraph (1)(A) and who is married or has a dependent child when he becomes entitled to retired or retainer pay, unless he elects not to participate in the Plan before the first day for which he is eligible for that pay, and

"(B) to a person who (i) is eligible to participate in the Plan under paragraph (1)(B), (ii) is married or has a dependent child when he is notified under section 1331(d) of this title that he has completed the years of service required for eligibility for retired pay under chapter 67 of this title, and (iii) elects to participate in the Plan (and makes a designation under subsection (e)) before the end of the ninety-day period beginning on the date he receives such notification.

A person described in subclauses (i) and (ii) of clause (B) who does not elect to participate in the Plan before the end of the ninety-day period referred to in such clause shall remain eligible, upon reaching sixty years of age and otherwise becoming entitled to retired pay, to participate in the Plan in accordance with eligibility under paragraph (1)(A).

"(3)(A) If a person who is eligible under paragraph (1)(A) to participate in the Plan who is married elects not to participate in the Plan at the maximum levels, or elects to provide an annuity for a dependent child but not for his spouse, that person's spouse shall be notified of that election.

"(B) If a person who is eligible under paragraph (1)(B) to participate in the Plan and who is married does not elect to participate in the Plan at the maximum level, or elect to provide an annuity for a dependent child but not for his spouse, that person's spouse shall be notified of that action.

"(4)(A) An election under paragraph (2)(A) not to participate in the Plan is irrevocable if not revoked before the date on which the person first becomes entitled to retired or retainer pay.

"(B) An election under paragraph (2)(B) to participate in the Plan is irrevocable if not revoked before the end of the ninety-day period referred to in such paragraph.

"(5) A person who is not married when he becomes eligible to participate in the Plan but who later marries or acquires a dependent child, may elect to participate in the Plan, but his election must be written, signed by him, and received by the Secretary concerned within one year after he marries or acquires that dependent child. Such an election may not be revoked. His election is effective as of the first day of the first calendar month following the month in which his election is received by the Secretary concerned. In the case of a person who is eligible to participate in the Plan under paragraph (1)(B), such an election shall include a designation under subsection (e).".

(b) susbection (b) of such section is amended—

(1) by striking out "entitled to retired or retainer pay" and inserting in lieu thereof "eligible to participate in the Plan"; and

(2) by adding at the end thereof the following new sentence: "In the case of a person who is eligible to participate in the Plan under subsection (a)(1)(B), such an election shall include a designation under subsection (e).".

(c) Such section is further amended by adding at the end thereof the following new subsection:

"(e) In any case in which an election to participate in the Plan provides for a designation under this subsection, the person making the election shall designate whether, in the event he dies before becoming sixty years of age, the annuity provided shall become effective on the day after the date of his death or on the sixtieth anniversary of his birth.".

PAYMENT OF ANNUITY

SEC. 103. Section 1450 of title 10, United States Code, is amended—

(1) by inserting "(or on such other day as he may provide under subsection (j))" in subsection (a) after "of this title applies" the first time such words appear therein; and

(2) by adding at the end thereof the following new subsections:

"(j) An annuity elected by any person eligible to participate in the Plan by virtue of section 1448(a)(1)(B) shall be effective in accordance with the designation made by such person under section 1448(e).

"(k) Where the annuity has been adjusted under subsection (c) of this section and there is no entitlement to compensation under section 411(a) of title 38, due to remarriage of the spouse after reaching age sixty, such annuity shall be readjusted to the rate of entitlement existing prior to the adjustment under subsection (c) of this section if the amount of any refund made under subsection (e) of this section is repaid.".

AMOUNT OF ANNUITY

SEC. 104. (a) The first sentence of subsection (a) of section 1451 of title 10, United States Code, is amended to read as follows: "The monthly annuity payable to a widow, widower, or dependent child who is entitled under section 1450(a) of this title to an annuity shall be—

"(1) 55 percent of the base amount, if the annuity is provided under eligibility to provide an annuity under section 1448(a)(1)(A) of this title, or

"(2) a lesser percentage (determined by the Secretary of Defense in accordance with subsection (d)) of the base amount, if the annuity is provided under eligibility to provide an annuity under section 1448(a)(1)(B) of this title.".

(b) The last sentence of subsection (a) of section 1451 of such title is amended to read as follows: "For the purpose of the preceding sentence, a widow or widower shall not be considered as entitled to a benefit under subchapter II of chapter 7 of title 42 to the extent that such benefit has been offset by deductions under section 402 of title 42 on account of work.".

(c) Subsection (b) of such section is amended to read as follows:

"(b) The monthly annuity payable under section 1450(a)(4) of this title shall be—

"(1) 55 percent of the retired or retainer pay of the person who elected to provide that annuity after the reduction in such pay in accordance with section 1452(c) of this title, if the annuity is provided by a person eligible to participate in the Plan by virtue of section 1448(a)(1)(A) of this title, or

"(2) a lesser percentage (determined by the Secretary of Defense in accordance with subsection (d)) of the retired pay of the person who elected to provide that annuity after the reduction in such pay in accordance with section 1452(c) of this title, if the annuity is provided by a person eligible to participate in the Plan by virtue of section 1448(a)(1)(B) of this title.

A person who provides an annuity which is determined in accordance with clause (2) and who dies before becoming sixty years of age and is otherwise entitled to retired pay shall be considered to have been entitled to retired pay, for the purpose of such clause, at the time of his death, and the retired pay of such person for the purpose of such clause shall be computed on the basis of the rates of basic pay in effect on the date on which the annuity is to become effective in accordance with the designation of such person under section 1448(e) of this title.".

(d) Such section is further amended by adding at the end thereof the following new subsection:

"(d) The percentage to be applied by the Secretary of Defense in determining the amount of an annuity under subsection (a)(2) or (b)(2) shall be 55 percent reduced by such amount as the Secretary shall by regulation prescribe, taking into consideration the age of the person electing to provide the annuity at the time of such election, the difference in age between such person and the beneficiary of the annuity, whether such person provided for the annuity to become effective (in the event he died before becoming sixty years of age) on the day after his death or on the sixtieth anniversary of his birth, appropriate group annuity tables, and such other factors as the Secretary considers relevant.".

SEC. 105. Section 4 of the Act entitled "An Act to amend chapter 73 of title 10, United States Code, to establish a Survivor Benefit Plan, and for other purposes", approved September 21, 1972 (Public Law 92-425), is amended—

(a) by striking out "$2,100" in subsections (a)(3) and (b) and inserting in lieu thereof "$2,340"; and

(b) by adding at the end thereof the following new subsection:

"(c) If at any time after the date of the enactment of this subsection the maximum annual income limitation provided for in section 541(b) of title 38, United States Code, is increased by any amount, the maximum annual income limitation set forth in subsection (a)(3) of this section and the dollar figure set forth in the first sentence of subsection (b) of this section (relating to the computation of annuities payable under this section) shall be increased by a like amount effective on the date on which any such increase with respect to such section 541(b) first takes effect.".

REDUCTION IN RETIRED PAY

SEC. 106. (a) The first sentence of subsection (a) of section 1452 of title 10, United States Code, is amended by striking out "shall be reduced each month" and all that follows in such sentence and inserting in lieu thereof "shall be reduced each month—

"(1) by an amount equal to 2½ percent of the first $300 of the base amount plus 10 percent of the remainder of the base amount, if the person is providing an annuity under eligibility to provide an annuity under section 1448(a)(1)(A) of this title; or

"(2) by an amount prescribed under regulations of the Secretary of Defense, if the person elects an annuity by virtue of eligibility under section 1448(a)(1)(B).".

(b) Subsection (c) of such section is amended to read as follows:

"(c) The retired or retainer pay of a person who has elected to provide an annuity to a person designated by him under section 1450(a)(4) of this title shall be reduced—

"(1) in the case of a person who elects to provide an annuity by virtue of eligibility under section 1448(a)(1)(A) of this title, by 10 percent plus 5 percent for each full five years the individual designated is younger than that person; or

"(2) in the case of a person who elects to provide an annuity by virtue of eligibility under section 1448(a)(1)(B) of this title, by an amount prescribed under regulations of the Secretary of Defense.

However, the total reduction under clause (1) may not exceed 40 percent. The reduction in retired or retainer pay prescribed by this section shall continue during the lifetime of the person designated under section 1450(a)(4) of this title or until the person receiving retired or retainer pay changes his election under section 1450(f) of this title.".

NOTIFICATION

SEC. 106. Section 1331(d) of title 10, United States Code, is amended by adding at the end thereof the following new sentence: "Such notice shall include notification of the elections available to such person under the Survivor Benefit Plan established under subchapter II of chapter 73 of this title and the effects of such elections.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 107. (a) The first sentence of section 1449 of title 10, United States Code, is amended by striking out "the first sentence of subsection (a), or subsection (b)," and inserting in lieu thereof "subsection (a)(2) or (b)".

(b) Section 1450(d) of such title is amended by striking out "section 8339(1)" and inserting in lieu thereof "section 8339(j)".

(c) Section 1450(f) of such title is amended by striking out "the last three sentences of section 1448(a)" and inserting in lieu thereof "section 1448(a)(5)".

TRANSITION

SEC. 108. With respect to any individual who—

(1) is eligible for retired pay under chapter 67 of title 10, United States Code, on the date of the enactment of this Act but for the fact that such individual is under sixty years of age, or

(2) receives, before the end of the nine-month period beginning on the date of the enactment of this Act, a notification that such individual has completed the years of service required for eligibility for such retired pay,

the ninety-day period referred to in section 1447(2)(C) of title 10, United States Code (as amended by section 101 of this Act), and in sections 1448(a)(2) and 1448(a)(4)(B) of title 10, United States Code (as amended by section 102(a) of this Act), shall be considered to end at the end of the one-year period beginning on the date of the enactment of this Act.

EFFECTIVE DATES

SEC. 109. (a) Except as provided by subsection (b), the provisions of this title and the amendments made by this title shall take effect on October 1, 1978, or the date of the enactment of this Act, whichever is later, and shall apply to annuities payable by virtue of such amendments for months beginning on or after such date.

(b) The amendment made by section 106 shall apply to notifications under section 1331(d) of title 10, United States Code, on and after the date of the enactment of this Act.

TITLE II—MEDICAL AND DENTAL CARE

SEC. 201. (a) Section 1076 of title 10, United States Code, is amended by (1) redesignating subsection (c) and (d) as subsections (d) and (e), respectively, and (2) adding after subsection (b) a new subsection (c) as follows:

"(c) Under joint regulations to be prescribed by the Secretary of Defense and the Secretary of Health, Education, and Welfare, a department of a member or former member who—

"(1) is deceased,

"(2) had, prior to his death, completed the years of service required for eligibility for retired pay under chapter 67 of this title but had not, because of age, become entitled to such pay, and

"(3) had elected, prior to death, to participate in the Survivor Benefit Plan provided for under subchapter II of chapter 73 of this title,

may, upon request, on or after the date on which such member or former member would have become entitled to retired pay under chapter 67 of this title had such member or former member attained sixty years of age and made timely application for such retired pay, be given the medical and dental care prescribed in section 1077 of this title in facilities of the uniformed services, subject to the availability of space and facilities and the capabilites of the medical and dental staff.".

(b) Section 1086(c)(1) of such title is amended to read as follows:

"(1) Persons covered by sections 1074(b) and 1076 (b) and (c) of this title, except persons covered by section 1072(2)(F) of this title.".

(c) The first sentence of section 1087 of such title is amended by inserting "and (c)" after "1076(b)".

SEC. 202. The amendment made by section 201 shall become effective on October 1, 1978, or the date of the enactment of this Act, whichever is later.

TITLE III—RETIRED SERVICEMEN'S FAMILY PROTECTION PLAN

SEC. 301. (a) Section 1434(a) of title 10, United States Code, is amended by—

(1) striking out "or remarries" in clause (1) and inserting in lieu thereof "or the spouse remarries prior to age sixty"; and

(2) striking out "or remarriage of that spouse" in clause (3) and inserting in lieu thereof "of that spouse or the remarriage of that spouse prior to age sixty".

(b) Section 1434 of title 10, United States Code, is further amended by adding at the end thereof a new subsection as follows:

(c) Whenever retired or retainer pay is increased under section 1401(a) of this title, each annuity that is payable under this subchapter on the day before the effective date of that increase to a spouse or child of a member who died on or before March 20, 1974, shall be increased at the same time by the same total per centum.".

SEC. 302. Each annuity that is payable under subchapter I of chapter 73 of title 10, United States Code, on the day before the date of enactment of this Act to a spouse or child of a member of the uniformed services who died on or before March 20, 1974, shall be increased effective as of the first day of the first calendar month following the month in which this Act is enacted, or as of October 1, 1978, whichever is later, by the total per centum that retired or retainer pay has been increased under section 1401a of that title since September 21, 1972.

SEC. 303. No benefits shall accrue to any person by virtue of the enactment of this Act for any period prior to the first day of

the first calendar month following the month in which this Act is enacted or prior to October 1, 1978, whichever is later.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1138), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PROVISIONS IN HOUSE VERSION OF H.R. 3702 ACCEPTED BY COMMITTEE

There were a number of provisions in the House version of H.R. 3702 which the committee accepted. These were: (1) cost-of-living adjustments of certain annuities under the retired serviceman's family protection plan (RSFPP); (2) reinstatement of survivor benefit plan (SBP) payments to widows whose dependency and indemnity compensation (DIC) payments are terminated upon remarriage after age 60; (3) elimination of the social security offset under the survivor benefit plan for working widows or widowers who do not receive social security because of their income.

Cost-of-living adjustments for retired serviceman's family protection plan (RSFPP) annuitants

The retired serviceman's family protection plan (RSFPP) was established in 1953. Under RSFPP a retired member could elect to cover a surviving spouse and/or children up to 50 percent of the member's retired pay. It was an actuarially sound plan, that is, at no cost to the Government. RSFPP was complex with specific rules of election and definitions of beneficiaries. Only 15 percent of eligible retirees elected coverage under RSFPP. Benefit payments to widows and children were specific dollar amounts which were fixed over the life of the annuity. Because RSFPP was not indexed to the cost of living, inflation has seriously eroded the purchasing power of the fixed amount paid to RSFPP annuitants.

The committee bill authorizes increases in RSFPP annuities for the survivors of retired members who died on or before March 20, 1974—the last date on which retired members could elect to participate in the current survivor benefit plan (SBP). In addition to providing future increases, the bill authorizes annuities to be increased effective October 1, 1978, or the first day of the month after the date of enactment whichever is later, by the percentage by which retired pay has been increased since September 21, 1972, the date of establishment of the survivor benefit plan.

Reinstatement of survivor benefit plan (SBP) payments to a surviving spouse whose dependency and indemnity compensation benefits are terminated on remarriage after age 60

Under present law, SBP payments to surviving spouses who remarry before age 60 are terminated. If remarriage is after age 60, these payments continue. In the case of a retiree whose death is service connected, the widow or widower receives dependency and indemnity compensation (DIC) from the Veterans' Administration. If that compensation exceeds the SBP payments to which the survivor is entitled, he or she can receive DIC payments only and receive a refund of the deductions from the deceased retiree's retired pay. If the DIC is less than the SBP payment, the survivor receives the full DIC payment and, in addition, the amount of SBP benefits which exceeds the DIC payment along with a refund of the proportionate amount of the deductions from the deceased retiree's retired pay.

Unlike the SBP law, the law governing payment of DIC does not permit continued payment to the widow or widower who remarries after age 60. Accordingly, the DIC payments terminate with remarriage after age 60. Having received a refund of either all, or part of, the deductions from the deceased retiree's retired pay, the widow or widower is not entitled to the full SBP payment to which he or she would have been entitled if the deceased retiree's death had not been service connected. The committee bill would reinstate the full SBP payment to which the surviving spouse would otherwise be entitled subject to repayment of the refund of the deductions from the deceased retiree's retired pay which was received.

Elimination of social security offset under the survivor benefit plan (SBP) for working widows or widowers

Under current law when survivors of military personnel who are receiving payments under the survivor benefit plan become eligible for social security, the payment under the survivor benefit plan is reduced by 100 percent of any social security benefits attributable to the retiree's earnings while on military service.

The committee bill would eliminate the offset of social security under the SBP where the widow or widower works and thereby does not receive all or a portion of their social security payments. The committee bill provides that a working widow or widower shall not be considered entitled to a social security benefit to the extent that such benefit has been offset by deductions on account of work. The committee intends that a working widow or widower will only have an offset of the SBP annuity to the extent that the full social security annuity is reduced by working. For example, if a widow or widower were to lose 80 percent of the full social security benefit (the amount that would be received if he or she did not work) as a result of wages or salaries earned, then the widow or widower would receive an offset in the SBP annuity of 20 percent of the amount determined to be attributable to her husband's military service, or stated differently, 20 percent of the amount that would be offset if he or she did not work.

PROVISIONS NOT IN HOUSE VERSION OF H.R. 3702 ACCEPTED BY COMMITTEE

Minimum income guarantee for certain widows

The 1972 survivor benefit plan (SBP) law provided for a guaranteed minimum annual income for certain needy widows whose husbands died prior to September 21, 1972 without being able to elect into the survivor benefit plan. To qualify in 1972 for the minimum annual income, a widow must (1) have been entitled to a VA non-service-connected death pension and (2) have had less than $1,400 annual income from other sources (other than the VA death pension). The Department of Defense supplemented the widow's income up to the $1,400 and she was then also eligible for a VA death pension annuity. Public Law 94-496, enacted October 14, 1976, increased the $1,400 to the current $2,100 and the committee bill would increase this amount to $2,340. The committee bill also provides that the $2,340 would be increased at the same time and by a like amount as the VA's non-service-connected death pension annual income limitation under 38 U.S.C. 541(b) is increased.

Benefits for remarried retired serviceman's family protection plan (RSFPP) annuitants

Under current law, annuities paid under retired serviceman's family protection plan are terminated upon remarriage regardless of age. When the current service benefit plan law was enacted in 1972 it terminated annuities when remarriage occurred before age 60 but continued them if the remarriage occurred at age 60 or after. The committee, therefore, adopted a provision to conform the retired serviceman's family protection plan law to the current service benefit plan law and permit retired serviceman's family protection plan annuities to continue upon remarriage after age 60.

Survivor benefit plan for reservists

Under current law, a reservist who reaches age 60 may elect to participate in the current survivor benefit plan for military retirees on the same basis as any other retiree entitled to retired pay. In other words, if the member elects to provide survivor coverage after age 60, his monthly retired pay is reduced by 2½ percent of the first $300 plus 10 percent of any portion over $300. The member must make the election to participate at the time he begins to draw his retired pay. The survivor benefit payable at the time of his death is 55 percent of his retired pay.

Should the reservist die before reaching age 60, however, the survivor is not eligible for any benefit from the survivor benefit plan. This is true even though the reservist had completed 20 years of satisfactory service and had become entitled to retired pay at age 60.

Survivor program for reservists in committee bill

The committee had pending before it three bills (S. 2856, S. 1996, and the House-passed H.R. 11797) that would change the survivor benefit program for reservists. S. 2856 (introduced by Senator Morgan) and the House-passed bill H.R. 11797 are similar in substance so the committee used the text of these bills as the basis for its recommendation for changes in the survivor program for reservists.

The committee bill is designed to provide survivor protection to the spouse, spouse and children, children alone, or persons with an insurable interest of reservists who have completed 20 years of satisfactory Federal service but who have not yet reached age 60.

Compared to the current SBP law, the Committe's survivor program for reservists provides two additional options for coverage. Each reservist will be required to make an election upon completing 20 years of creditable service. Reservists will be notified of the options available to them under the survivor benefit plan at that time. They will have 3 months from receipt of notification to elect in writing one of the three options available to them.

Options available to reservist under committee bill

The retirement-eligible reservist has the following options:

(1) No change from the current survivor benefit plan.—The member can decline to make an election for or against survivor benefit plan coverage until attaining age 60. Consequently, there would be no coverage in the years between becoming retirement eligible and attaining 60 years of age; and coverage for the time beyond age 60 would remain subject to the retiree's election upon becoming entitled to retired pay. At that time the provisions of the SBP as they currently exist would apply.

(2) First new option.—A survivor annuity payable on the date the member would have attained age 60 if he dies before age 60, or on the date of his death if he dies on or after that date.

(3) Second new option.—A survivor annuity payable on the date of the member's death whether before or after age 60.

Election to participate

A positive election in writing is required if the reservist wishes coverage under either

of the two new options. If no election is made by the reservist within the 3 months following notification, the member is presumed to have elected not to make an election until age 60. An election not to participate during the interim period, at the maximum level, requires that the spouse be notified. It is the intent of the committee that a concentrated effort be made to insure that the spouse of the reservist is made aware of the provisions of the plan in a timely manner so that a joint decision can be reached before the 3-month period expires. The election to participate under either of the new options is irrevocable as long as there remains an eligible beneficiary. The committee bill permits a reservist to discontinue coverage should there no longer be an eligible beneficiary. This is similar to the provision in the current SBP. In addition, if the member's original beneficiary becomes ineligible and a second beneficiary is obtained, the member would be permitted to rejoin the plan within one year. The costs under the plan would be revised to reflect this most recent election. A member with no beneficiaries upon completion of 20 years of service, who later acquires a beneficiary, would be given a year to join the plan. Reservists who have completed 20 years of creditable service before the bill is enacted would be given a year in which to elect into the plan. The committee intends that the Department of Defense will make every reasonable effort to locate and notify retirement-eligible reservists of their options under the new survivor benefit plan.

Cost to participants

The cost of providing additional coverage under the new options in the committee's bill before age 60 is shared entirely by those individuals potentially benefiting from the coverage. The cost to the retiree will be in the form of an additional reduction above the standard contribution of 2½ percent of the first $300 of retired pay plus 10 percent of the remainder. The cost to the survivor will be in the form of a reduction applied to the 55 percent of the retired pay normally received.

The amount of these reductions will be based on an actuarial calculation using a specified group annuity table and discount rate, the member's age at election, the difference in age and sex of the survivor, and the option elected. The percentage reduction will be computed at the time of the member's election and based on the actuarial charges in effect at that time. The committee expects the Department of Defense to consult with the committee prior to initially implementation and any subsequent changes to the actuarial charges. The committee bill does not extend eligibility to survivors of members who die before the date of enactment. The committee bill authorizes medical benefits to survivors of reservists (who select either of the new survivor options) as provided for in current law; that is, at such time as the reservist reaches age 60 or would have reached age 60.

Cost estimates of committee's survivor program for reservists

The Congressional Budget Office estimates an increase in outlays of $494 million between fiscal year 1979–2000, including estimated inflation, for the cost of the committee's survivor program for reservists. The committee fully intends, however, that this program be actuarially sound, that is, at no cost to the Government. The committee is informed by the Department of Defense that the committee's program for reservists will be actuarially sound and that actuarial charges to survivors and reservists who live beyond age 60 will pay after the year 2000 for the outlays initially incurred as a result of initial "start-up costs" for survivors who become eligible for coverage during the early years of the program. The committee directs the Department of Defense to review regularly the actuarial reduction factors for both the immediate and deferred options so as to assure the actuarial soundness of the plan. A recent analysis of the cost of the program indicates that only modest changes in the currently prepared reduction factors may be necessary to make the program actuarially sound.

PROVISIONS IN H.R. 3702 NOT ACCEPTED BY THE COMMITTEE

There were a number of provisions in the House version of H.R. 3702 which the committee deferred action on. These were: (1) reduction of the social security offset under the survivor benefit plan from 100 to 50 percent, (2) change in the method of calculating the reduction of military retired pay for members covered under the survivor benefit plan (cost to the retiree), (3) elimination of the social security offset under the survivor benefit plan when the widow has one dependent, (4) elimination of the social security offset when the widow is collecting social security based on her own earnings, (5) elimination of the social security offset for certain reservists who serve on active duty for less than 30 continuous days and who receive a refund of social security taxes withheld for those periods.

Reduction in social security offset from 100 to 50 percent

Under the current survivor benefit plan, the payments by the Department of Defense to widows are reduced at age 62 by an amount equal to 100 percent of the amount of social security benefits to which she is entitled based on her husband's military service.

The committee recommends against a change in the social security offset under the survivor benefit plan pending a thorough study of the current military survivor benefit plan. The committee is concerned that there is no actuarial data and analysis to support a change in the offset at this time. The Congressional Budget Office estimates a total cumulative cost of $6.1 billion between fiscal years 1979 and 2000 for changing the offset of social security from 100 to 50 percent. An increase in Government outlays of $6.1 billion for fiscal year 1979–2000 should require more careful actuarial and other types of analyses than currently available.

Change in formula for calculating retiree's cost under survivor benefit plan

The House version of H.R. 3702 provides in law for a change in how the reduction in military retired pay will be calculated for those participating in the SBP to make it conform identically to the formula used for the Federal civil service survivor plan. The Congressional Budget Office estimates a total cumulative cost of $3.5 billion between fiscal years 1979 and 2000 for making the military SBP identical to the civil service plan in the method of calculating cost to the member. The committee was concerned with this significant cost to make the two survivor plans identical in one area when the military and civil service retirement plans are significantly different in a number of areas:

average years of service, average age at retirement, average years in retirement, average lifetime retired pay and contributions to the retirement system. These differences make a comparison of the military and civil service retirement programs difficult at best and suggests that any attempt to equate the two systems in any one particular area may not be appropriate. The committee would prefer to have a sound actuarial basis provided for making a change of this kind.

Elimination of social security offset where there is one independent child

When a military retiree dies, leaving a widow and one or more children, a social security benefit is payable to the mother and to each dependent child. Under the survivor benefit plan, if there is only one child, an amount equal to the amount of social security "mother's benefit" payable based solely on the member's military service is "offset" against the survivor benefit plan payment. If there is more than one dependent child there is no offset. The committee does not have sufficient actuarial or other evidence at this time to justify a change in the offset for a widow with one dependent child particularly considering the potential cost implications.

Elimination of offset for widows or widowers collecting social security on their earnings

The current survivor benefit plan requires an offset in the surviving spouse's annuity at age 62 even though he or she may be receiving social security benefits based on his or her own earnings and not on the basis of the deceased retiree's military service. The committee did not approve this provision and recommends that the Department of Defense develop more reliable cost data on this provision.

Elimination of the social security offset for widows or widowers of certain reservists

The House version of H.R. 3702 contained a provision which eliminated the social security offset under the survivor benefit plan for the widow or widowers of a reservist whose only active service consisted of periods of active duty of 30 or less continuous days for which periods the reservist received a refund of social security taxes because he or she had maximum social security coverage from private employment. The committee was concerned that this group of reservists was not a distinct group. Some reservists had periods of active duty of 30 days or more but in many of their years of reserve service had the maximum taxable wages in their civilian employment. This provision would also ignore regular members who had substantial civilian covered wages and who received a refund for excess social security taxes in some years of military service. The committee was also concerned that this provision would cause selective consideration of civilian wages for certain reservists. Moreover, such a change would fail to recognize the government contribution in social security taxes on the military covered wages of these reservists.

Committee requirement for Department of Defense study on survivor benefit plan

The committee requests the Secretary of Defense to undertake a study of the current military survivor benefit plan and report his findings to the committee no later than February 1, 1979. The study should include, but not be limited to, the following:

A statement of policy by the Department of Defense as to the goals of the Survivor Benefit Plan in terms of participation, cost to the member and to the Government, the rationale for this policy, and the recommended changes in law to accomplish it.

An actuarially based analysis of the survivor benefit plan, including net outlay estimates, benefit payments, expected reductions in retired pay under the current survivor benefit plan, and with a 50 percent offset of social security and change in the method of calculating retired pay deductions as provided for in the House version of H.R. 3702. The analysis should include the effect on benefit payments, reductions in retired

pay, and net outlays of increased participation in the survivor benefit plan.

An actuarial analysis of the cost of officers and enlisted personnel of the survivor benefit plan and the cost to the Government under the current survivor benefit plan and with the changes provided for in the House version of H.R. 3702.

An actuarial analysis of how the current survivor benefit plan impacts on the unfunded liability of the military retirement system and how the provisions in the House version of H.R. 3702 impact on this unfunded liability.

A comparison between the current survivor programs for military and civilian service retirees in terms of what portion of each program is paid for by the retirees. A similar comparison should also be provided based on the House version of H.R. 3702.

The committee recommends that the opinions of independent actuaries be reflected in this analysis.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move, en bloc, to reconsider the votes by which the various measures were passed.

The PRESIDING OFFICER (Mr. CLARK). Without objection, it is so ordered. The motion is in order.

Mr. ROBERT C. BYRD. I so move.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE OLDER AMERICANS PROGRAMS

Mr. CRANSTON. Mr. President, I would like to speak about S. 2850, the proposed "Older Americans Act of 1978," as reported from the Committee on Human Resources. As the ranking majority member of the Subcommittee on Aging, I am most concerned and involved with programs and projects with respect to elderly individuals. At my request, my colleague from Missouri, Mr. EAGLETON, announced that I would be inserting into the RECORD a statement on S. 2850, as reported.

GENERAL BACKGROUND

Mr. President, it has been 5 years since Congress authorized, as part of the Older Americans Act, the creation of a national network of area agencies on aging to plan, coordinate, and develop a wide variety of services for elderly individuals. Area agencies—AAA—are designed to serve as the focal point on aging for their planning and service area—PSA—and to develop a comprehensive and coordinated system of services for older persons within their PSA. Since the enactment of the 1973 amendments, 563 area agencies have been established covering 90 percent of the eligible elderly population. Approximately 11 million individual community services are provided annually through the network. In my home State of California, approximately 88.4 percent of the elderly population lives in counties served by AAA's. The remainder live in counties where title III funding comes directly from the State for particular services.

Mr. President, testimony presented by Secretary Califano before the House Select Education Subcommittee of the Committee on Education and Labor last March reveals the importance of long and short-range planning and program development with respect to aging and the value of evaluating current efforts. He said:

In 1960, 9.2 percent of our population, or 16.5 million people, were 65 or older. Today, that older group has grown to 10.05 of our population: 22.4 million people. Looking ahead to the year 2035, we can predict that nearly one-fifth of the population, or more than 55 million people, will be 65 and over. Today, 38 percent of the elderly are over 75 years of age. By the year 2030, that figure may be nearly one-half of the elderly population.

The reauthorization of the Older Americans Act provides a pertinent opportunity for evaluation of the AAA network. After 5 years, sufficient time has passed to enable us to determine whether, and to what extent, the AAA approach is working as intended. Senator EAGLETON, chairman of the Subcommittee on Aging, and Senator CHAFEE, the ranking minority member, along with their staffs, have worked hard on this reauthorization, and their efforts should be applauded.

GOALS

Mr. President, in order to evaluate whether, and to what extent, the older American programs are working, I believe it is important to discuss the gages by which such programs should be measured. We must not fail to remember that these programs are intended to serve older individuals—people who have served this country for many years. I believe that of uppermost importance in the evaluation of the older Americans programs—and, indeed, all such programs—is whether they further the Nation's goal of assuring that each and every American has the opportunity to live their life in dignity, and whether the programs do so effectively, equitably, expeditiously, efficiently, and compassionately—and with a minimum of red-tape, regulation, and paperwork.

Mr. President, we all realize there are limitations on the amount of Federal money available for meeting the goals I have outlined. Recognizing such limitations, and, in conjunction with the overall goals of the Older Americans Act, I believe that it is necessary to make hard decisions on priorities for the funds available. In this regard, I direct my colleagues' attention to the following findings of the California Department of Aging in their recently developed long-range plan on aging, adopted early this spring:

While the California Department of Aging is committed to improving the quality of life for all older Californians, because of limitations in funds and other resources, its efforts must be focused on the portion of the elderly population determined most "at risk" of premature or unnecessary institutionalization. This is in keeping with its mission under the Older Americans Act to secure and maintain maximum independence and dignity in a home environment for older persons capable of self-care with appropriate supportive services. The factors contributing to an older person's being considered "at risk" can be generally summarized as poverty, physical, or psychological impairment, and social isolation. These factors are inter-related and intercausal and are present predominantly among the minority elderly, elderly women, and the frail elderly.

Mr. President, in 1975, approximately 512,000 elderly Californians—aged 65 and over—had incomes in the near-poor or poor range. This represents approximately 25 percent of all Californians aged 65 and older. California's share of the Nation's elderly poor as counted by the Census Bureau is 6.4 percent.

The long-range report revealed that members of ethnic minority groups are more than twice as likely than white individuals to live in poverty. In addition, not only are elderly minority persons more likely to live in poverty but, as I will discuss in greater detail later in this statement, they are also less likely to receive the benefits and services that would alleviate their poverty. Elderly women have about half of the income of elderly men, and they are twice as likely as men to living alone. The long-range plan reports:

Older single women are among the poorest persons in our society. While about 15 percent of all persons aged 65 and over live below the poverty threshhold set by the Census Bureau, 32 percent of all single women have incomes below this level and 50 percent have incomes below the "near-poverty" threshhold.

Finally, Mr. President, with respect to "frail elderly", I recall that Secretary Califano described these individuals as those whose ability to function in the ordinary business world and daily living has become limited because of poor health, disability, or senility. The Secretary estimated that 3½ to 4½ million people fall within the classification of "frail elderly." Said Secretary Califano, "We can expect that an increasingly older population will mean a greater incidence of disability and isolation."

Mr. President, I believe that when we examine S. 2850 as reported, and the provisions included as part of that measure, we should do so in light of the elderly population we are trying to serve, the goals we are trying to attain, and, importantly, the particular needs of those categories of older individuals who, it seems to me, are in need of special consideration with respect to our efforts in this area.

CONSOLIDATION

Mr. President, the reported bill is an ambitious undertaking designed to consolidate administratively under the AAA network three Older American Act legislative thrusts—social services, multipurpose senior centers, and nutrition programs. I believe that consolidations of these three titles within one administrative framework should result in a more efficient and effective administration of the Older American programs and should strengthen the capacity and effectiveness of local area agencies on aging. As my colleagues are aware, currently, title III programs—social services—are generally administered by area agencies, title V programs—multipur-

pose senior centers—are operated by the Commissioner on Aging, and title VII programs—nutrition programs—are administered by the States.

The general success of the AAA network has made it possible to give serious consideration to consolidation at this time. In California, currently, more than 80 nutrition projects are being operated under title VII throughout the State with most of them being conducted in PSA's in which AAA's have been designated. The California's long-range plan on aging emphasizes:

> Many AAA's have developed specialized knowledge of the needs and resources in their PSA's as well as specialized knowledge of administration of aging projects, and may be qualified to administer a coordinated, efficient, and effective title VIII program within their PSA.

The long-range plan recommended that—

> the CDA (California Department of Aging) shall transfer direct responsibility for title VII nutrition project administration to area agencies on aging.

Mr. President, I do not take lightly the consolidation of title VII and title III to be administered by the AAA network. It is a major step. On the whole, title VII projects have done an admirable job in attempting to meet the nutritional needs of elderly citizens. However, the advantages of consolidating responsibility for the multipurpose senior centers and the nutrition programs along with the social services within the AAA network will, in my judgment, outweigh the disadvantages. Under S. 2850, as reported, accountability for the responsive, expeditious, and efficient operation of such programs will reside in a direct chain-of-command from area agencies through the States to the Commissioner on Aging.

Although we are shifting responsibility for the operation of title VII programs from the States to AAA's—and derivately back to the States—I believe that it would be unfortunate and unwise if AAA's do not take into account and give special consideration to the special talents and abilities of current title VII grantees.

OTHER ADMINISTRATIVE PROVISIONS

There are a number of other administrative provisions contained in the measure which I believe should be highlighted. With respect to accountability, the bill would make specific the responsibility of the Commissioner to advise, consult, and cooperate with Federal agencies or departments administering programs designed to serve older individuals. This change would revise the existing requirement of Federal agency cooperation by reassigning to the Commissioner on Aging the burden for assuring coordinated interagency dealings. In addition, a paperwork reduction requirement is included, at my suggestion, derived from Senator DOMENICI's bill, S. 2609. The Commissioner would be authorized to request only such information as the Commissioner deems essential to carry out the purposes and provisions of the Older Americans Act. In this regard, the reduction of the frequency of submission of State and area plans should also facilitate the ability of States and area agencies to concentrate on pooling, coordinating, and delivering services. Under the committee bill, State plans would be submitted every 2 years, rather than every year as presently required. These provisions, in conjunction with other administrative changes included in the reported bill, Mr. President, should result in a reduction of paperwork and a more streamlined administrative structure, better able to serve the needs of older Americans.

INTRASTATE FORMULA

Mr. President, the reported measure includes a number of changes which affect States and the manner in which States administer Older American programs. One very important change would require States, for the first time, to develop a formula, in accordance with guidelines issued by the Commissioner, taking into account the best available statistics on the geographical distribution of individuals aged 60 and older in the State, the incidence of such low-income individuals, and the number of individuals who are members of minority groups. I emphasize that the committee report—No. 95-855—to accompany S. 2850 stresses that Older Americans Act "social services delivery has never been a poverty program in the sense that its benefits were provided solely to poor persons or that a means test was employed." This amendment would not change the intent of or the operation of the Older Americans Act in that regard. However, as I indicated earlier, there are segments of elderly individuals whose needs are particularly striking and to whom special consideration should be given. When we are attempting to plan programs designed to address needs, especially when we have limited funds available, I believe that special efforts to target assistance on meeting those most in need should be taken. The inclusion of low-income and minority aged for purposes of intrastate formula distribution is a desirable step in the direction of assuring that segments of the elderly population with the most striking needs are given the maximum opportunity to participate in and benefit from programs under the act.

Under the committee bill, States would be required to publish the intrastate formula for review and comment. This requirement should provide the opportunity for interested individuals and organizations to become involved in the process for allocating these funds. Another important provision in the bill designed to assure that interested individuals and organizations have the opportunity to participate in the State's aging efforts is the requirement that State agencies provide an opportunity for a hearing, upon request, to any area agency on aging submitting a plan, to any provider of services under such plan, and to any applicant to provide services under such a plan.

AAA DESIGNATION

Mr. Presient, another aspect of the measure affecting relationships between a State and AAA's involves the consideration of applications of certain cities to become AAA's. My colleagues are aware that title III of the Older Americans Act is primarily a State-run program. Under the committee bill, States, subject to the act's limitations, generally, are the final arbiters on AAA applications submitted by general purpose local governments. Currently, cities and towns are denied AAA designation by States for a variety of reasons. In most instances, such a denial can be very frustrating to the involved city's efforts to provide the best possible service—as they see it—to its older Americans. However, I believe that an effective system of comprehensive and coordinated planning responsibilities for older American services with a State requires that States must generally have authority for determining the focal points for service delivery.

Mr. President, recently, the city of Long Beach sought and was denied AAA designation by the State of California. I recognize and appreciate the State's position—just as I appreciate and understand the city of Long Beach's position. The amendment offered on the floor by the Senator from New Mexico, Mr. DOMENICI, with respect to providing an opportunity for appeal to the Commissioner for general purpose local governments which are otherwise eligible, but whose applications for AAA designation have been denied by the State, would provide a solution—albeit, not a perfect one. I would expect, however, that the Commissioner, in making these determinations, would do so in view of the aims and goals of the approved State plan within which the appellant city is located.

STATE ADMINISTRATIVE EXPENSES

Mr. President, during consideration of Older Americans Act legislation this year, a great deal of concern was expressed concerning the availability of moneys for the administration by States of State programs. I believe that consolidation of the three titles and the extension of the period of time for submission of plans should alleviate somewhat the concerns expressed to us that insufficient funds are provided for State administration.

However, I realize the importance of providing sufficient administrative funds. For example, S. 2850 as reported would require the State-designated aging agency "to serve as an effective and visible advocate for the elderly by reviewing and commenting upon all State plans, budgets, and policies which affect the elderly and providing technical assistance to any agency, organization, association, or individual representing the needs of the elderly." Such duties, while benefiting older individuals, do not increase the amount of administrative funds under the formula in present law. In addition to such advocacy and technical assistance responsibilities, the State agency must oversee the operation

of older American programs within its jurisdiction generally. Additionally, pooling, coordinating, and serving as focal points for delivery of services can result in greater administrative expenditures than would generally be required for provision of services.

In recognition of these problems, Mr. President, we included in the 1975 amendments to the Older Americans Act a mechanism for relieving the costs of the administrative burden on States. Specifically, a provision was included as part of those amendments for providing additional administrative funds to an applying State for the administration of its plan. To date, only three States have so applied. Such limited use of this mechanism could be interpreted in at least two ways—one, that the States' administrative burdens are not sufficient to warrant application for additional administrative funds; or, two, that the procedures established are so rigorous or inequitable as to inhibit any such application. In either instance, I will be examining with care the further operation of this section in order to determine whether, or to what extent, changes are needed.

In addition, under the committee bill, the minimum amount allowed for administration of State plans would be increased. This, of course, would also result in an overall reduction in the amount available for other than minimum-allocation States when the funds appropriated are allocated on the basis of the population. In this regard, we have been assured by the subcommittee chairman that, at the time appropriations for the Older Americans Act are considered, the effect of this increase for the 7 minimum States, on the 43 nonminimum States will be brought to the attention of appropriate members of the Subcommittee on Labor and HEW of the Committee on Appropriations.

PUBLIC MATCH AMENDMENT

Mr. President, I was pleased to join with the Senator from New York, Mr. JAVITS, in offering an amendment to reinstate the currently required State-and-local-public-agency funding match provision. Under current law, of the amounts provided by States or local public agencies to match the Federal Government's share, 25 percent must be from State and local public sources. Under S. 2850 as reported, the public sources share of the match would have been increased to 50 percent in order to increase the minimum level of State and local public involvement.

Whatever the source of dollars used by State and local public agencies to match Federal dollars, the important consideration is the provision of assistance to eligible older Americans. I believe that requiring an increase in the current level of such public involvement would be unwise at this time. The current 25 percent match assures State and local public involvement. If a State or local public agency undertakes efforts to generate or involve the private sector in older American programs, these efforts should not be penalized—rather, they should be encouraged.

FUTURE MANPOWER NEEDS

Mr. President, I would like to draw attention to provisions in the reported measure relating to title IV of the act. Currently, title IV is, in part, designed to improve the quality of services and help meet critical shortages of adequately trained personnel for programs in the field of aging. The Commissioner on Aging is required to appraise the Nation's existing and future personnel needs in the field of aging at all levels and in all types of programs, and evaluate the adequacies of the Nation's efforts to meet those needs.

Mr. President, at the turn of the century, the U.S. Census calculated that 4 of every 100 persons living in our country were 65 years of age or older. By 1978, the proportion had more than doubled. More than 10 of every 100 persons in the United States today are at least 65 years of age. Because of these and prospective changes in our society, we must examine how we are going to meet the needs of our older population today, and, especially in light of "the graying of America," how we are going to meet the needs of our older population in the future. In addition, as I discussed previously, aged minority group members have generally had more aging problems than generally besets older Americans. In July, 1977, there were 32,856 persons aged 60 or over in our country—of that figure approximately 9.3 percent were aged minority group Americans. Hence, I want to focus special attention on the amendment to title IV which I proposed with respect to future personnel and minority group needs which would require the Commissioner to "assess future national personnel needs with respect to the aging with special emphasis on the needs of aged minority group individuals the need for the training of minority group individuals to meet such needs." This provision should be an important one in terms of meeting tomorrow's needs among all elderly individuals, especially minority group elderly.

WHITE HOUSE CONFERENCE—AGING RESEARCH

Mr. President, the committee bill cites—at my suggestion—as a reason for the convening of the 1981 White House Conference on Aging, the great need for a national policy with respect to increasing, coordinating, and expediting medical and other appropriate research directed at determining the causes of the aging process. The measure also specifically directs that the Director of the National Institute on Aging shall have a major role in planning and conducting the conference. In addition, researchers on problems with the elderly and the process of the aging are included in the groups of individuals who are to be participants in the conference.

I proposed these involvements because I am convinced that research in the aging process can lead to findings which will enable older individuals to live happier, productive, and more dignified lives, and add more—and quality—years to our lives. I have become increasingly concerned that sufficient emphasis has not been placed on the support of basic biomedical research, and I am convinced that a greater emphasis—such as will be provided by the White House Conference on Aging—will have a real payoff for medical advances with respect to the aging process generally, both in the long and short runs.

Among those areas with the greatest potential for unlocking the basic mysteries of the aging process are:

Immunology.—Research in the immune system, including the effect of antioxidants on the decline of the immune response with age.

Nutrition.—Research on nutrition and aging, and the importance of nutrition research to the maintenance of health and the prevention of disease in the aging adult.

Pharmacology.—Studies of drug absorption, distribution, metabolism, and excretion in the aging, as compared to, younger individual.

Endocrinology.—Research into the association between osteoporosis and hormones secreted by the parathyroid.

Neurosciences.—Study of organic brain diseases that cause major disabilities and institutionalization among the elderly.

Mr. President, the emphasis on this research into the aging process in the provisions for a 1981 White House Conference on Aging will be a major step. Research into the aging process can have major implications for biomedical research generally. Research in the aging process does not focus principally on specific diseases but rather on genetic controls and the time-dependent mechanisms that cause progressive changes in the body—changes that are likely to set the stage for the onset of disease as well as of the aging process. The results of our research efforts, as well as the result of the attention given to the White House Conference on Aging, may help us find the key to causes of such major crippling and killing diseases as diabetes, multiple sclerosis, arthritis, and so many others.

The inclusion of research in the White House Conference on Aging and the major role given to the Director of the National Institute on Aging on the conduct of planning for the Conference is designed to insure that these important issues will be given appropriate attention. Such inclusion should assist the development of a national policy to increase, coordinate, and expedite medical and other appropriate research directed at determining the causes of the aging process.

ADDITIONAL KEY PROVISIONS

Mr. President, there are a number of other aspects of the committee bill which I believe are worthy of mention. The requirement that 50 percent of the AAA's service expenditures are to be expended on transportation—access—in-home, and legal services should facilitate greater efforts in those three important

areas. There are limited amounts of Federal funds available for AAA services. We must recognize that we can do only so many jobs well—and so many need to be done. These three priorities are all services of utmost importance. Concentration on these areas should provide greater opportunity for elderly individuals, particularly those individuals in need of special consideration, to receive needed services, while still allowing local communities to tailor services to local needs with the other half of the service funds. The special provisions for legal services should play a key role in assuring that elderly individuals are able to obtain, in a coordinated, cost-effective fashion, the benefits to which they are entitled under law. The new ombudsman program should be an important tool in assuring that institutionalized older Americans are assisted appropriately. Institutionalized persons are very vulnerable. The amendments regarding ombudsman projects should provide a mechanism for protecting these vulnerable individuals and assuring that they receive appropriate care and attention. The improvements in the nutrition program—including the extension of eligibility for Meals-on-Wheels to homebound handicapped individuals—are also noteworthy and should assure continuation of these important and worthwhile programs.

SUMMARY

In sum, Mr. President, I believe that S. 2850 will go a long way toward assuring that each and every American has the opportunity to live his or her life in dignity and that programs designed to accomplish that goal will be operated and administered more effectively and responsively. In addition, I believe that those segments of the elderly population in need of special consideration will be benefited by the changes made.

I would like to express my appreciation to Chairman EAGLETON, Senator CHAFEE, and their hard working staffs—particularly Marcia McCord and Steve Roling—for their fine and creative efforts in putting together the committee bill and guiding it through the Senate, and for their cooperation with me and my staff on numerous issues. I look forward to working with my colleagues at a conference on this measure.

THE SHAPE OF NEW CHILD-CARE LEGISLATION

Mr. CRANSTON. Mr. President, the Subcommittee on Child and Human Development, which I am privileged to chair, recently completed a series of four hearings on the subject of child-care and child-development programs. The purpose of these hearings was to solicit the comments of parents, child-care providers, and others concerned with the welfare of children about the need for Federal legislation in the child-care area and how best to shape such legislation. These hearings were, I believe, extremely helpful to me and to the other members of the subcommittee, and I wanted to share today with my colleagues some of the data and thoughts emerging from those hearings. Before discussing the testimony, I would like to describe some of the dimensions of the child-care picture that led to the decision to hold hearings.

The need for adequate child-care services in this country has been documented time and again. Statistics released by the U.S. Department of Labor in March of 1977 indicate that a majority—51 percent—of the mothers of children under the age of 18 work outside of the home. Most of these working mothers have entered the labor force for reasons of financial necessity, and two-thirds work full time. These statistics also indicate that 41 percent of the mothers with children under the age of 6 are in the labor force.

In the terms of the numbers of children involved, these statistics translate to 6.4 million children under the age of 6 whose mothers work and 22.4 million children from 6 to 17 whose mothers work. Yet, there are only 1.6 million licensed child-care openings, including center-based and family-based child care, available throughout the Nation, according to 1976 data from HEW—enough to cover only 25 percent of the children under 6 whose mothers work. Many witnesses at our hearing concluded from this data that substantial numbers of children are left in inadequate care, shuffled from one care arrangement to another, or simply left alone while the mother is at work.

The President's Commission on Mental Health discussed the need for more child care programs in its recently issued report:

With the growing number of working mothers—51 percent of the mothers of school-age children are employed, and many mothers work in order to meet subsistence needs—many families urgently need more and better daycare for their children. There are not enough programs available. A variety of child-care options should be explored. Research has shown that child-care programs that focus on emotional and cognitive development can help to promote positive mental health. The Commission therefore recommends increases in the number of Project Headstart and developmental day-care programs, so that within a reasonable period of time all children needing these and similar programs can have them available. Special attention should be paid to ensuring the inclusion of additional handicapped, rural, and migrant children. Such programs should be culturally acceptable to parents and the communities . . . The Commission specifically recommends that the Administration for Children, Youth, and Families in the Department of Health, Education, and Welfare design a flexible program that supports a variety of child-care arrangements, with adequate provision for evaluation. The Commission also recommends that the Department of Health, Education, and Welfare support programs to recruit and train caretakers at all educational levels and from a wide variety of age, ethnic, and socio-cultural groups.

Although the need for more child care seems clear, the solution has not been easy to come by. Several attempts have been made in Congress over the last 8 years to enact comprehensive child-care legislation. In 1971, we passed such a bill, but it was vetoed by President Nixon. In 1975, hearings were held in both Houses of Congress on similar legislation, the proposed Child and Family Services Act, introduced by former Senator Mondale and Congressman BRADEMAS, but no action was taken on that legislation in either body.

Today, it appears that the need for child-care legislation is even greater than it was 8 years ago. Although the Federal Government already provides support—either directly through social services programs funded through title XX of the Social Security Act which are targeted toward welfare recipients and poor families, or indirectly through tax credits which benefit primarily middle- and upper-income families—large numbers of low-income, working families receive little or no assistance from these programs. Many families, struggling to stay in the work force and off welfare, are simply unable to find reasonable quality child care at prices they can afford in the present marketplace. Some families are able to find neighbors or relatives to take care of the children—and many of these arrangements are adequate. Many others, however, are forced to leave their children alone or in unsafe or unhealthy situations.

NEED FOR MORE PROGRAMS

Mr. President, the strongest theme to emerge from the hearings held by the subcommittee was the need for more child-care programs. Witness after witness told of the difficulties that parents face in trying to find good child care that they can afford, of the long waiting lists for all types of child-care programs, and of the lack of funds to start new programs or to expand existing ones. I would like to give you some examples.

In the Chinatown community in San Francisco, there are 3,000 preschool children in need of child-care services, but only 10 percent of these can be served by existing programs. In Sonoma County, Calif., there are approximately 20,000 low-income children in need of child care but only 5,000 licensed slots for all children in the county, regardless of income. The children's center program in the Hayward school district in California has a waiting list of 400 children for its after-school program.

In response to questions I asked at our hearing about what is happening to these 400 children on the waiting list in the Hayward community, I was told by the supervisor of this program that there were no other programs providing after-school care for the low-income families served by the school district program. Where these children were is simply unknown. A survey done by the Childcare Switchboard of child-care needs in San Francisco found that the 52 children's centers run by the San Francisco school district were all full and had a combined waiting list of 1,600 children. The 25 other publicly funded programs in the city had a total of 12 openings. As Patty Siegel, director of the Switchboard, put it:

It is depressing to talk to 60 parents a day and know that three-quarters of them are

not going to be able to find the child care they want.

The Switchboard's counterpart across the Bay in Oakland—called BANANAS because parents who are trying to find child care are usually "going bananas"—reports a similar demand and a similar lack of facilities.

In case anyone thinks that California is unusual in this respect, I would like to note that we had witnesses at the hearings from all parts of the country—from Arizona, Colorado, Connecticut, Florida, Kansas, Maryland, New Jersey, New York, Pennsylvania, Virginia, and Washington. The subcommittee also received written testimony from numerous other States.

The story is the same everywhere, Mr. President. In Newark, N.J., the waiting list for the title XX funded child-care centers is 3,000 children—at one neighborhood center the waiting list is triple the number of spaces in the center—and this figure does not include the parents who are so discouraged by the length of the waiting list that they do not complete an application. The families that are turned away must pay $25 to $50 per child per week for non-subsidized care out of take-home pay that averages $125 per week. In Colorado, eligibility for title XX child-care programs has been limited to single parents earning less than 60 percent of the median family income, but even so there are 24,000 children eligible while the State's capacity in the title XX programs is 8,000.

CHILDREN ON WAITING LISTS

Mr. President, many of my colleagues may be wondering what is happening to all of the children whose families are on waiting lists for the existing child-care programs. I have been asking this question consistently throughout the hearings. I am still asking it. The truth is, we do not really know where most of these children are, who is taking care of them, or what kind of care they are receiving. Some of the answers to these questions are, however, truly alarming. Ms. Jeanne Ellis, director of the Child Care Center of Stamford, Conn., did a survey of the 139 children on the waiting list for her center and reported the following five actual cases in her testimony before the subcommittee:

1. The parent returned the child to her native country because she needed day care, couldn't find it, and had to work. Parent and child are separated.

2. Another parent was able to talk her neighbor and her maternal grandmother into sharing the day care duties. Child does not have consistent caregiver.

3. One put her child in an expensive, lower-quality, for-profit center. Child gets poor care, parent poor bargain.

4. One wanted "respite" because she was undergoing psychiatric treatment. She got no day care and she's still having mental problems. Parent's future is dim.

5. One stayed home and went on welfare. Another willing worker is added to the millions on the welfare rolls.

Ms. Ellis subsequently provided the subcommittee with a breakdown of the rest of the 134 children on the waiting list: 64 were receiving care by friends of the family, neighbors, private babysitters; 29 were enrolled in expensive, for-profit centers; 35 remained at home, with the parents either remaining unemployed or going on welfare; and 6 were relocated out of the State to reside with relatives who provided child care, resulting in the separation of parent and child.

This summary does not, however touch on one of the most distressing phenomenon—no care. Although we do not know where all of the children not in licensed child-care programs are, we do know that many do not receive any care at all. Statistics from the Census Bureau on the kind of child care used by parents show that there are at least 20,000 children aged three to six caring for themselves while their mothers work. There are another 1.8 million children aged 6 to 13 caring for themselves after school—and sometimes for younger siblings as well. These figures—particularly those for preschool children—probably grossly underestimate the actual number of children caring for themselves since—as Bill Pierce of the Child Welfare League noted in his testimony before the subcommittee—parents are reluctant to admit that they leave a young child alone. The President's Commission on Mental Health made special mention of these "latch-key" children in its report:

Two-thirds of the children estimated to need day care are of school age. According to the Bureau of the Census, there are nearly two million "latch-key" children who come home to an empty house each day. It seems more than coincidental that the rise in the number of "latch-key" children has been accompanied by an increase in school vandalism, adolescent alcoholism, and juvenile participation in serious crime (now 45 percent of the serious crime committed).

Mr. President, I want to stress here the enormous costs—social as well as economic—which this increase in school vandalism, adolescent alcoholism, and juvenile delinquency generates. Each of us, I am sure, shares a deep concern about the increasing problem of juvenile delinquency. Yet, with a small investment in after-school programs, these children can be provided the supervision and direction needed in the hours before their parents return from work, and our over-all costs resulting from vandalism and juvenile crime can be greatly reduced. Society in general, as well as these children and their families, will benefit greatly in the long run.

These statistics, coupled with what we know about the limited number of licensed arrangements in comparison with the number of children in need of child care, suggest that many parents are forced—out of necessity—to leave their children either unsupervised or in otherwise inappropriate situations. The social consequences of these arrangements, as the President's Commission suggests, are multiple and almost always unfortunate.

WOMEN WORK OUT OF FINANCIAL NECESSITY

Mr. President, many who testified stressed the fact that most women work for the same reasons that men do: financial necessity. Their incomes may be the only one the family has—as with the 9.7 million single parents in this country—or their income may make the difference between poverty and a decent living. Marian Wright Edelman, director of the Children's Defense Fund, noted in her testimony to the subcommittee that in 1974 almost 2 million families with incomes over $5,000 were kept there by the wife's income and that 4.5 million families with earnings over $10,000 were kept above the poverty line by the wife's income. According to Ms. Edelman, in single parent families headed by women, the average income is $7,513 if the mother works and $3,794 if she does not.

I could go on and on with these statistics, but I think that the point has been made. There is a pressing need for more child-care programs in this country—although exactly how many more, no one can say. There will be those who say that we do not know enough in the child-care area to act, that we need more research. I do not agree. Although it is true that we do not know everything, we do know enough to move forward with legislation that addresses some of the needs that we know about and that will help us uncover the answers we are presently lacking about the full dimension of the problem.

In her testimony before the subcommittee, on February 20, 1978, Arabella Martinez, Assistant Secretary for Human Development Services in HEW, expressed this same point. She presented an overview of what research in the area of child development tells us about children and their needs and then continued:

I have chosen to emphasize what we know about the development of young children, not because I believe that only professionals can rear children, or that research provides the answers to everything we do, but because I am very conscious of how often we hear that we cannot act until we have the evidence. To a much larger degree than many recognize, I believe we do have the evidence. Not to make all of the decisions we will want to make in the years ahead, not to specify the details of exactly what does or does not work, but to move in the right directions. We will never have a neat equation which spells out how many parts of professional training or units of affection, to how many staff, to how large a nutrition component will equal optimal child care. Child care involves children, and their needs are as individualized as their particular personalities and the circumstances of their families' lives. It is not for us to dictate to families or communities precisely what we might think is best for them. But we do know, with some assurance and the wealth of scholarly and practical research that has been contributed by many thoughtful, caring individuals over the years, what children need in the most basic terms, and what harms children—in equally basic terms. At the very least, we should build on what we know to be good, and do our best to avoid what we know to be harmful.

Ultimately, I find myself agreeing in large measure with the sentiment expressed by Dr. Kenneth Kenniston, who directed the Carnegie Council on Children, when he said: "The call for 'more research' is a common academic reaction to conflicts in the area of child and family policy. This book, Child Care in the Family, clearly implies that research is only a necessary beginning. In the end, a better society for children requires not just more knowledge, but a commitment to change."

SUGGESTIONS FOR LEGISLATION

I would like to turn now to some of the suggestions that the witnesses made con-

cerning the shape Federal legislation should take in this area.

Mr. President, when I began the hearings, I outlined the following five questions to which I felt the hearings should help us find answers. These are not simple questions—and they are ones on which there will continue to be a wide variety of opinions—but they are questions that are central to the development of a comprehensive child-care policy in this country.

First, what constitutes quality child care and what can we do to bring about such quality in our child-care programs?

Second, what are the special needs of different groups for child care, and how can legislation provide for the diversity of programs required to meet those needs?

Third, what types of supportive services, such as information and referral agencies, are necessary to assist families in finding the type of child care and services that meet their individual needs?

Fourth, what is the relationship of child care to employment—both to the employment of parents whose children are in the program and to the employment of those who care for children?

Fifth, how do we assure that the programs will be cost effective and still provide care within reasonable limits of quality?

QUALITY IN CHILD CARE PROGRAMS

Mr. President, in discussing the question of what constitutes quality child care and what we can do to bring about the quality in our child-care programs, the witnesses made four main points.

Federal minimum standards: First, the witnesses expressed strong support for having Federal regulations tied to Federal money. Almost all of the witnesses felt that the Federal Government has not only the right but also the responsibility to set standards for child care purchased with Federal dollars. In general, the witnesses thought that the Federal interagency day care requirements (FIDCR) were appropriate, basically sound, and beneficial to children. Witnesses indicated concern that the same requirements are not applied to all programs receiving Federal funds.

For example, in California, and many other States, child care paid for under the income-disregard provision of the AFDC program is completely unregulated. Witnesses also expressed concern that some States have been able to ignore the intent of the Congress that the FIDCR apply to care supported under title XX of the Social Security Act by substituting State dollars for Federal ones in the child-care area—and using the released Federal dollars to support other social services—thus being able to apply State standards that allow fewer staff members for a given number of children. Many of the witnesses who operated child-care programs testified that the ratios specified in the FIDCR were good ones, and that they wanted to have the funds to be able to hire staff to meet these ratios.

The general support for FIDCR expressed by the various witnesses has also been expressed by HEW in its recently released report to Congress on the appropriateness of FIDCR. The HEW report concluded that regulation of federally supported day care is appropriate and suggested that consideration be given to extending revised FIDCR to all child care supported with Federal funds. It also concluded that the current FIDCR should be rewritten, based on 10 years of experience, to improve their ability to protect the well-being of children. HEW has already announced its intention to develop new FIDCR provisions and has indicated that it will be seeking wide public input in the development of these new provisions. Hopefully, this process will result in the development of standards that are feasible and will promote the quality of care each of us wants for all children.

Importance of licensing: Mr. President, the second main point that was made by a number of witnesses in addressing the question of quality concerned the importance of State and local licensing. Although most States have licensing procedures on their books, a number of them have failed to provide sufficient funds to inspect the child-care programs in their States—some have never appropriated any money at all. In some cases, State licensing codes are too restrictive in areas not really related to the quality of care—for example, specifying the dimensions of windows—and this keeps a number of providers—mainly family day-care providers—from seeking to be licensed. No one is exactly sure what percentage of family day-care homes are licensed nationwide, but estimates are that it is only 2 to 3 percent. Bill Pierce, executive director of the Child Welfare League, described the current child-care situation as an underground one:

> There are a substantial amount of children of working parents who are somewhere, we don't know where. The Census won't tell us because few parents will admit they have their child in a custodial warehouse or overcrowded, unlicensed home, or that they are alone or in the care of a young brother or sister. Licensing people cannot tell us because policy-makers somehow have failed to see the wisdom of spending for licensing child-care providers. Yet, they license others who provide services of a less important nature, like eating places and haircutting establishments. . . . The children are floating in an unsupervised limbo while . . . two and a half billion tax dollars somehow swirl about them. The accountability is virtually nil, and there has been absolutely no response to repeated requests from the League that the Federal Government try and find out what's happening to the children. Instead, we are fed myths, guesses, and hopes—not facts.

Clearly, Mr. President, we need to develop the kind of mechanisms that will give us the answers to these questions and that will assure some minimum forms of accountability where Federal funds are involved in child-care programs.

At the same time, it is important to make sure that licensing requirements or standards are reasonable and do not result in needless redtape or overregulation. Many of the informal child-care arrangements that presently exist—between neighbors or friends—are perfectly adequate and precisely what some parents want for their children. These informal situations are not generally licensed now and should not face licensing requirements in the future. A careful balance obviously needs to be achieved between promoting licensing as a mechanism for protecting the welfare of children on the one hand, and interfering with informal and acceptable arrangements for child care on the other. These decisions, of course, must be made at the local and State level—not the Federal.

No magic recipes: Mr. President, the third main point that was made about quality in child care programs was that there are no magic recipes that will automatically insure quality. Although licensing should help protect children from harmful or detrimental situations, it does not guarantee quality. Even the FIDCR, which set much more comprehensive standards, can only set the stage for quality—they cannot insure it. Ultimately, the quality of a child-care program depends on the people involved. Because the child-care provider is such a crucial element in the quality question, the witnesses stressed the need to provide adequate training and support for child-care workers. As Arlyce Currie, testifying on behalf of a special advisory board of the California State Department of Health, said:

> The bottom line in providing quality care is that a provider is doing what she or he wants to be doing. As it stands now, many people go into child care because they have no options of earning a living. Some want to do it and many don't. People should have access to employment or security so they don't find themselves taking care of children because there is no other way to survive. Child care should not be seen as a cottage industry for the poor. Somehow the present licensing system or the current certification procedures, which are ostensibly there to obtain and maintain quality, don't do the job. What happens is that people who do child care suffer isolation, low prestige, and insufficient benefits. Those who genuinely want to be with children and care for them 40 or 50 hours a week burn out fast.

Mr. President, many witnesses pointed out the irony that even though our children are our Nation's future, the job of caring for them is accorded low status and even lower pay.

Importance of parental involvement: Finally, Mr. President, most of the witnesses noted that parental involvement is related to quality in a number of ways. First, there was a feeling that parents are good arbitrators of quality in child-care programs. One witness noted that a parent can almost always tell whether a child wants to go back to the program and that this is, in itself, a good indicator of quality. Several witnesses said that parents should be involved in setting standards for licensing and in monitoring programs for compliance. Nearly all agreed that it was important to involve parents in the process of planning to meet child-care needs.

The witnesses also testified that parental involvement in a program generally contributed to the quality. It is my belief that the social, emotional, and intellectual development that occurs during childhood—and especially during the preschool years—can best be enhanced

if there is a close involvement between the child-care or child-development program—the planning and operation of it—and the family. In this connection, I would like to note that the Headstart program has been successful in its high degree of parental involvement.

NEED FOR DIVERSITY

I would like to turn now to the issue of diversity, Mr. President. Almost without exception the witnesses at our hearings stressed the need for a pluralistic child-care system that would allow parents a range of alternatives from which they could choose the program that was best for themselves and their child.

Special needs children: As the witnesses testified, it became clear that two kinds of diversity are required. First, there must be child-care programs that will meet the special child-care needs of different groups of children. We had witnesses who represented a number of programs designed to serve such needs, and I would like to present a few highlights of their testimony.

Eleanor Clement from Continuing Development, a migrant child-care program in San Jose, Calif., testified about the special requirements of programs serving migrant children: long hours—beginning at 5 or 6 in the morning—during the peak season; extra funds for start-up and closing costs every year; bilingual staff with a knowledge of migrant culture; health and social services components that can do followup with families in a way that community agencies cannot; and Federal regulations that will promote consistency of care when the migrant children cross State lines.

Stephen Park, the director of Rural Community Child Care in Ukiah, Calif., spoke on the special problems in rural areas: isolation and distance between areas; the seasonal nature of employment and unemployment; the inappropriateness of many governmental regulations for rural areas; and a lack of other resources for programs to draw on.

Ms. Judith Lewis from the Family Developmental Center in San Francisco, Calif., testified about the special needs of school-age parents; support and education for parenthood; guidance in setting and pursuing career goals; mature role models to help them deal with the problems involved in their own growth as well as that of their infants; and child-care programs in close proximity to their high schools. Ms. Lewis also addressed the special requirements of programs for infants; staffing by stable caregivers assigned to the same infants every day; appropriate attention to nutritional needs; staff relief during breaks and lunch periods; and a lower child-staff ratio than programs for older children.

Ruth Yee, of the Chinatown Community Children's Center, in San Francisco, spoke about the needs of children from families in which English is not the dominant language; bilingual staff members who respect and understand the children's primary language and culture; mechanisms to ease the transition to public school; programs to teach the English language; and a high degree of parental involvement.

Judith Lewis also testified about the requirements of programs for handicapped children; specific teacher training; support and education for the parents to help them understand and deal with their child's handicap; modified equipment and facilities; and funds for consultations with specialists such as occupational, physical, and speech therapists.

GIVING FAMILIES OPTIONS

Mr. President, in addition to addressing the special child-care needs of different groups of children, the witnesses talked about the importance of a second kind of diversity; providing families with a range of program types from which to choose. They noted that there are families who prefer center care and those who prefer family day care. Among those with a preference for center care, some prefer centers in their neighborhoods; others prefer centers at or near their worksites. Different families want different types of program emphasis—for example, programs stressing school readiness or those giving more importance to social skills and interaction. Some parents prefer church-sponsored programs; others do not.

The witnesses at our hearings almost uniformly stressed that these choices should be made by parents and that their options should not be limited by what kind of a program is eligible for subsidy. Even within families, the needs of different children may vary. One witness in San Francisco testified that her two preschool children needed the structure of a center-based program while her infant needed the home-like atmosphere of a family day-care program.

Unfortunately, although her low income qualified her for a subsidy for child care, that subsidy was available only for center care. Rather than quit work and go on welfare, she borrowed money from friends to pay for family day care 3 days a week and took the child with her to work or left him with friends the other 2 days. During the course of her testimony, she noted that next year her oldest child will be in school and she will have a whole new set of child care problems to solve.

Actually, Mr. President, to a certain extent, the kind of diversity that the witnesses are talking about already exists—at least for middle-income families. Our task in developing legislation is to devise ways to support and encourage this diversity and to increase the range of options for families who are unable, because of financial constraints to share these options.

During the February 20 hearing at which the representatives of the administration testified, Dr. Blandina Cardenas, Commissioner of the Administration for Children, Youth, and Families of the Department of Health, Education, and Welfare, talked about the ways in which Federal assistance can support and nurture the pluralistic philosophies in child care that already exist in our country. Dr. Cardenas noted that one of the keys to supporting the many diverse cultural and ethnic traditions regarding child care is to provide the financial assistance necessary to make parental choice feasible:

> I have found that where there is little choice in terms of the availability of services to a parent who, in fact, has no alternative but to go to the day care center that is there, and who, in fact, does not have access to the kinds of resources that would help them fashion a more ideal day care situation or one more conducive to their own cultural beliefs and attitudes, that, in fact, that danger [lack of pluralism] is heightened. It is the lack of availability of child care which puts the parents in a more vulnerable position in terms of the day care that is available.

Mr. President, I strongly share the view that a fundamental way to try to assure that a family's child-care arrangements are appropriate to the child's needs and consistent with the parent's values is to encourage the development of a range of program types and models. Meaningful choice, however, rests ultimately on an adequate supply, and until that is available, families will be unable to find the kind of care that meets their individual needs.

INFORMATION AND REFERRAL PROGRAMS

Mr. President, I would like to turn now to the third of our areas of focus for the child-care hearings—the role of supportive services such as information and referral programs. At both of the hearings in California, we received testimony from people involved with information and referral—also called resource and referral—programs. I was very impressed with the range of services offered by these programs, services not only to parents but also to child-care providers and to State and local agencies.

According to Betty Cohen of BANANAS, an information and referral program, Berkeley, Calif., the services of information and referral programs go far beyond simply giving parents a list of child-care programs. They include helping parents figure out what they want from a child-care program, giving them a chance to discuss their feelings about going to work and leaving their child with another caretaker, providing referrals to other much needed family services, and answering parents' questions on everything from infant car seats to organizing cooperative babysitting services.

For child-care providers, Mr. President, the information and referral program serves as a resource center providing information on such subjects as possible sources of funding, where to purchase supplies, and State and local regulations. It gives providers a chance to talk to each other and to share their experiences. Sometimes the information and referral programs serve as sponsors for family day-care homes who want to participate in the child-care food program. If someone wants to start a child-care program, the information and referral agency can use the information that they have gathered comparing child-care needs and programs in various neighborhoods to suggest an appropriate location.

Information and referral programs can also provide services to State and local agencies trying to meet child-care needs by documenting for them not only the need for additional child-care services, but also the type of services that are desired—part-time or full-time, infant care or care for older children, family day care or center care. This information allows these agencies to plan for child-care services in a community and to assess the progress that is being made toward meeting the community's needs.

Finally, I think information and referral programs are absolutely essential to offering parents the option of child care through other than center-based models. Without some network for letting parents know, for example, of family day-care homes in their neighborhoods, parents are often faced with very difficult tasks in locating these options. These agencies thus can provide invaluable services in helping parents find the kind of care arrangements they truly want for their children.

CHILD CARE AND EMPLOYMENT

Mr. President, I come now to the fourth area of focus of our child-care hearings: The relationship of child care to the employment of parents and to the employment of child-care workers. I will talk first about the testimony presented concerning the relationship between parental employment and child care.

NOTCH EFFECT

Mr. President, one of the main concerns of those who addressed themselves to the relationship between child care and employment was that the current child-care programs funded under title XX of the Social Security Act, as well as the child-care services made available to people in CETA and WIN programs, often operate so that once a person moves off welfare and out of the training program, that person does not get the necessary assistance needed in child care and working becomes a disadvantage for them.

Persons in low-paying jobs who are receiving subsidized child care under title XX may have to stay in those jobs rather than taking promotions, or raises since, once they are near the cutoff point, an increase in salary of just a few dollars may mean an increase in child-care costs of $35 to $50 per week per child. The witnesses suggested that a sliding fee scale under which parents pay an increasing share of their child-care expenses as their income increases would not only eliminate the problem of this "notch effect," but would also provide a mix of economic levels in each child-care program.

EFFECT OF CHILD CARE ON EARNING POWER

Mr. President, several witnesses pointed out that the availability of child care has an effect on the earning power of women.

For example, Joe Breiteneicher, of the Employment Law Center in San Francisco, testified:

> . . . [the] paucity of child care services has a direct and depressing impact on the workforce mobility of poor women, who traditionally have been consigned low-wage, dead-end jobs. The lack of positive child care alternatives means that women are unable to move to a job which may have better pay or the opportunity for career training, because any change in the work schedule may upset child care arrangements which were already tenuous. In addition, minority women are forced to take jobs close to their ghetto homes in order to be near children left alone or with older youths. The work they manage to find is generally less remunerative and fulfilling than that which is available in the overall labor market. Thus, the absence of child care resources contributes directly to the continuation of poverty for those who are working mightily just to keep their heads above water.

OTHER EMPLOYMENT CONCERNS

Mr. President, another way in which employment and child care are related is that the hours of a parent's employment determine the hours during which child care is needed. Several witnesses pointed out that there are many parents whose working hours may not be the same as the hours most child-care programs are open. For those who work night or evening shifts the only options may be in-home care or a 24-hour child-care program. At one of our hearings we heard from the director of one such program: Ms. Annie Green of the Small Fry Center in Los Angeles. Although this center is providing an essential service to its community that is not available elsewhere, it has not been able to obtain a secure source of funding and is constantly threatened with extinction.

Our witnesses pointed out that employers—as well as parents and children—benefit from having good child care available and affordable since a lack of child-care facilities may have an adverse effect on worker morale and productivity. If a mother is constantly worrying about her child, trying to solve minor crises over the phone, and missing days of work when her makeshift child-care arrangements fall through, she is not able to do her best at her job. Recognizing this, a number of employers have helped support child-care programs. Russell Yoas and Donald Shearer of the Baltimore Regional Joint Board, Health and Welfare Fund, Amalgamated Clothing and Textile Workers Union, testified about the ACTWU's program of child-care centers supported jointly by the union, the employer, and the participating parents. This highly successful program has been expanding since its foundation in 1968 and now serves over 1,000 children. Workplace or onsite child care is an option which needs to be encouraged and supported.

Mr. President, I have spoken before about my interest and concern for the on-site child care programs that have been established in a number of Federal agencies. I think these programs provide valuable services—both to the employees and the agencies involved. On May 9, the Office of Management and Budget held a hearing on proposed regulations that would seriously damage these programs. I sincerely hope that there will be continued leadership on the part of Federal Government in supporting these programs.

CHILD CARE EMPOYEES

Mr. President, our witnesses noted that the expansion of child-care services has the potential to provide employment for thousands of people. They stressed, however, that because the quality of a program depends so much on the people involved, child-care workers must be given adequate emotional, social, and physical support. Sue Brock, of the California children's lobby, gave the following response when I asked what effect paying inadequate wages to child-care providers had on the quality of child care:

> Well, most people care for children between 10 and 12 hours a day. If they are on food stamps because they don't make enough money and if they don't have any relief from their job, and if they don't have any training linked into it, they get very tired and often they get very bitter. They are not really the kind of people you want working with your children.

There was general agreement among the witnesses that providing adequate support for child-care workers would mean at a minimum insuring that the following were made available to them:

First, adequate pay; second, employment benefits such as health insurance, leave time, and retirement plans; third, adequate preservice and in-service training; and fourth, opportunities to improve their skills and move into positions of increasing responsibility.

COST-EFFECTIVENESS

Mr. President, I turn now to the fifth and last area of focus for our hearings: Cost-effectiveness. I would like to note that this term made a number of our witnesses uneasy. Dr. Vivian Weinstein, chairperson of California's Governor's Advisory Committee on Child Development Programs, began her testimony this way:

> When I hear the phrase "cost-effectiveness" applied to child care services, I really shudder because in this context, cost-effective has only one meaning, and that's cheap. Cheap applied to the needs of the young children generally results in . . . much higher costs later on—unemployment and crime and untold cost in human misery and the waste of human potential.

This notion—that short-term savings achieved by providing low-quality care with too few staff members per child, inadequate pay for child-care workers, or a lack of supportive services for parents results in much higher human and social service costs later—was echoed by most of the witnesses. Real cost effectiveness, the witnesses suggested, could be achieved by the following activities:

First, reducing duplication of effort by comprehensive, long-range planning and by coordinating programs funded under different auspices.

Second, eliminating conflicting requirements and regulations imposed on child-care programs by different agencies and different levels of government agencies.

Third, utilizing resources such as the Department of Housing and Urban Development in the rehabilitation or construction of child-care facilities.

Fourth, increasing the involvement of local government officials.

Fifth, coordinating child-care services with other Federal, state and local programs, such as CETA, and eliminating the Federal and State regulations that hamper this kind of coordination.

Sixth, using community facilities in the training of child care workers.

Seventh, staffing child-care programs with

a range of personnel, from professionals with more academic credentials to paraprofessionals with field-based training.

Eighth, providing information and referral services.

Ninth, utilizing all resources, both public and private.

At a time when we are increasingly concerned about the cost of all government programs, cost-effectiveness is clearly an important factor that must be addressed in any new Federal legislative approach. In many ways, child-care programs are among the most cost effective of social service programs because they permit parents to get out and earn their living, rather than collect welfare. Quality child care is also a long-term investment in the future. Our children are far too valuable to society to place in jeopardy. Nevertheless, the taxpayer is entitled to know that Government funds are utilized in appropriate, cost-effective ways.

THOUGHTS ON LEGISLATION

Mr. President, I hope that this brief overview of the testimony presented at the subcommittee's 4 days of hearings on child care and child development has given my colleagues some idea of the dimensions of the child-care problems in our country and the issues that must be addressed in legislation designed to begin resolving these problems.

When I announced the hearings last fall, I indicated that I planned to draft and introduce new child-care legislation and that I would draw upon the testimony presented at the hearings and later submitted for the record in preparing this legislation. Although I am still reviewing this testimony and considering the legislative options, there are some basic principles that I beileve should be followed which I would like to share with my colleagues now.

PURPOSE

Mr. President, the purpose of the legislation must be to make child care more available and affordable for low-income, working parents who are not receiving child-care services through other programs who cannot afford not to work. Families in this group should be given priority for services, and fees should be charged on a sliding scale based on income. Utilization of sliding fee scales can also promote economic diversity in child care programs and help avoid segregation of low-income children in particular programs.

STATE ROLE

In order to insure both effective planning and coordination and responsiveness to local needs and conditions, I believe that State governments must be involved as principal agents for planning and coordination of the program. Past legislative efforts in this area have sometimes sought to establish administrative structures outside of State and local government units. This approach can be costly and result in the diversion of much needed funds for child care into the establishment of new bureaucratic structures. I believe there is a great need to work in partnership with existing agencies to meet these critical needs.

The approach I am developing would distribute funds through the States in accordance with the respective populations of the groups most in need of child care assistance.

The States would be required to assess their child care needs and to devise a plan to meet those needs. The State plan to be submitted would cover areas such as:

First, provisions to assess and seek to meet the need for services for such groups as preschool children, and school-age children, up to age 14, with special provisions for services to migrant children, handicapped children, bilingual or non-English-speaking children, and other groups with special needs;

Second, coordination by State and/or local governments of all child-care programs receiving government subsidies including those funded under title XX of the Social Security Act;

Third, support for some reasonable form of licensing by State and/or local governments for all child care except care in a child's own home or care by a relative or in a very informal, non-commercial neighborhood setting;

Fourth, provision for information and referral sevices;

Fifth, training and certification of child-care workers;

Sixth, establishing mechanisms for data collection and evaluation;

Seventh, establishing linkages between child-care programs and other family services such as health and nutritional services; and

Eighth, parental involvement in State and local planning and oversight activities.

By utilizing State governments as a primary mechanism for channeling funds to the program level, I believe we can best achieve the kind of comprehensive and cohesive system of services that is needed. This is particularly vital to attaining linkages with other services—such as health and nutritional services.

Mr. President, I would like to expand on several of the provisions which are critical to this legislation.

LEGISLATIVE PROVISIONS RELATING TO THE QUALITY OF CHILD CARE PROGRAMS

In order to insure quality in our child-care programs, I think that the legislation should include the following four provisions:

First, it should require that programs meet Federal standards in order to receive Federal funds. The Department of Health, Education, and Welfare has announced its intention to develop new requirements. I was pleased to note HEW's plans for broad public participation in this effort. I believe that, by building on the strengths of the current FIDCR and dealing creatively with some of the problems therein, a set of regulations can be developed that will be appropriate to the needs of children and families.

Hopefully, these new requirements will provide for quality standards, yet allow flexibility to meet different needs of different groups of children in different settings.

Second, the legislation should provide ways to help States improve their own licensing procedures. In some cases, this will mean simply providing funds to allow them to increase the number of inspectors; in other cases, it may mean giving them technical assistance in the development of licensing provisions that will promote quality child care. Great care, however, must be taken so that licensing procedures are reasonable, and so that over-burdensome requirements are not established which will result in needless redtape and actually reduce child-care availability. Licensing, under any circumstances, must remain a State or local responsibility, not a Federal one.

Third, the legislation should include provisions for insuring good working conditions, adequate pay, and appropriate training for child-care workers.

Fourth, it must provide opportunities for parent involvement in the programs themselves, in setting standards and, at all levels of Government, in working out plans to meet child-care needs. I believe that it is absolutely essential that parents be given meaningful opportunities for full involvement at all levels in child-care programs.

TYPE OF SERVICES AND ELIGIBLE PROVIDERS

Mr. President, because families have a variety of child-care needs and preferences, the legislation should promote as wide a range of child-care alternatives as possible. It must, therefore, encompass all types of child-care arrangements—full day and part-day, center-based and home-based, neighborhood and worksite—and allow participation of all programs that are licensed and meet basic quality standards. Each local community must have flexibility, however, in determining what types of child-care arrangements are needed in that particular community. It may not be necessary—or appropriate—for each community to offer the entire range of child-care programs, but each community must be free to explore the entire range of options. Only with such a pluralistic system can parents make their choices about child-care programs on the basis of what is best for their children and themselves, rather than on the basis of eligibility for subsidies.

To achieve a diversity of arrangements, we must allow for a diversity of sponsorships. All types of groups—school districts, community nonprofit groups, employers, churches, proprietary centers, unions—should be eligible to participate in some fashion. No group should be arbitrarily excluded or given exclusive control. At the same time, new funding mechanisms such as vendor or voucher approaches should be options for States to explore in attempting to find effective avenues for stimulating a variety of child-care options.

I think it is important to stress here that parents want different things for their children—not all parents want center-based care, particularly for young children and infants. In the past, perhaps too much emphasis has been placed on the center-based model as the primary vehicle for Federal support. The hearings produced data on the wide range of child-care programs that presently exist. Some of these—for example, child-care centers with satellite family day-care homes—provide unique and innovative methods of meeting the child-

care needs of families and communities. I believe we must support this diversity.

RELATIONSHIP TO OTHER PROGRAMS

Mr. President, in order to insure that funds provided under the new legislation are used to supplement, not supplant, existing Federal child-care moneys, the bill should include provisions to maintain the current level of Federal expenditures in this area. In addition, States would be required to coordinate—or provide for local governmental units to do so—the child-care programs funded under different authorities and to coordinate, to the maximum extent feasible, child-care programs with programs providing other services to children and families.

DEMONSTRATION AND TRAINING PROJECTS

Mr. President, in addition to the funds provided to the States, I plan to include a special grant program to support innovative demonstration programs in areas such as care for children whose parents work nights or care for children who are sick. These necessary services often get lost in the demand for "ordinary" child care, and the lack of experience with providing them makes them difficult to establish and maintain. Similarly, some funds should be provided for training and technical assistance programs.

EVALUATION AND ASSESSMENT OF NEED

Mr. President, I consider it vitally important that any new legislation in this area contain very specific provisions that will enable both Congress and the public to assess how funds are being expended and what progress States are making toward helping families in real need of assistance. I believe that the fact that we do not know what is happening to the children on waiting lists and in unlicensed care is simply unacceptable. At the same time, we canot afford to wait until all the data are collected and the whereabouts of each child is known before we move forward in an area where additional support is clearly warranted. We know enough to make a start—perhaps a cautious and measured start—but certainly a significant beginning.

Gwen Morgan, professor of early childhood education at Wheelock College and a recognized expert in the field of child care, has written an excellent review of child-care policy. One of her principal recommendations is that we stop trying to predict the exact demand for child-care services before moving forward:

> Recently we have seen a somewhat ridiculous debate between those who see the need for daycare as the difference between the number of children of working mothers and the number of children in formal daycare arrangements, *versus* those who look at the data on what working parents are doing with their children and conclude that no new daycare is needed. Obviously the truth lies between these two extremes . . .
>
> There is no absolute number which represents the final, future demand for child daycare. It depends. It depends on the fluctuations of the economy; demand will be greater at some times than others. It depends on the types of jobs available. If and when part-time jobs are available in ready supply the pattern of daycare demand will be different. It depends on the type of income maintenance available, how adequate it is for meeting survival needs of families and how adequate it is for meeting the needs for self-respect among adults and the needs children have to look up to the role models in their parents. It depends on the quality of the daycare and how well it matches consumer needs and expectations in its location.
>
> If we postpone daycare decisions until we can predict all these factors, or have made firm and final policy in all these areas, we are going to wait forever. There is no one final policy which will describe the way things are supposed to be. Any society, like any living organism, is in constant interaction with the people and things in the environment, constantly changing goals as conditions change. This dynamic change is the constant; it is the way things are supposed to be. We are not evolving toward some correct fixed condition; the evolution and change itself is the condition we will forever be addressing in our policy.
>
> There is no absolute number representing daycare demand, any more than there is an absolute daycare cost. The only way to plan daycare is to plan incrementally, in small steps, in the directions of consumer demand. . . .
>
> We know families need daycare, and they need it now. We know the demand will not produce a runaway service, but will be modest.
>
> Sensible policy would be to increase daycare, within a fixed appropriation, but with broad eligibility, with improved support systems in the form of training and consultation, both to centers and homes. It appears from consumer studies that we need a modest increase in the number of children in centers, over time perhaps double what we now have, but a much smaller increase now; and we need better support for the family daycare homes.
>
> The delivery system should be flexible enough to shift as patterns of consumer demand shift. The best indicator of consumer preferences would be what consumers choose, given options. It is time to provide these options.

NONINTERFERENCE WITH FAMILIES

Mr. President, I want to emphasize that the legislation I am proposing would in no way interfere with the role and responsibilities of parents in raising and caring for their children. The family is and must continue to be the primary influence upon children, and it is absolutely critical that any Federal legislation proposed recognize—and, indeed, reinforce—this principle. The legislation I am proposing will make assistance available to parents who request help in finding child care for their children while they work to support their families. I think it is important to stress that participation in any of the child-care programs supported by this legislation would be strictly at the option of the parent. It is not intended to, nor will it, set up governmental agencies or anyone else to intervene in any of the decisions parents make about how they want to rear their children, nor will it provide any agencies—public or private—with any basis for interfering with child-rearing decisions parents may make.

Mr. President, both by making it absolutely clear that participation in any program supported by this legislation is totally voluntary, and by providing parents who seek assistance the right to choose among a variety of options the type of child care they want for their children, as well as providing for meaningful roles for parents in the setting of policy and planning for child-care programs at the local and State levels, I believe we make it truly possible for parents to make the decisions and choices about how they want their children cared for while they work.

Mr. President, I also want to stress the fact that by providing additional Federal assistance for families in need of child-care services for their children, we are providing the kind of assistance which holds families together. The testimony presented at our hearings describing children being separated from their parents and sent to other States to live when child care was not available in their community provides a dramatic illustration of how families can actually be broken up when adequate child care is not available. The incredible stress and strains placed upon working parents when they are unable to find reliable child care also contributes to family disintegration. Child-care services for families that need them both support families and help them to function and stay together.

ADMINISTRATION SUPPORT

Mr. President, just a month before he was elected President, Jimmy Carter told the National Women's Agenda Conference in Chevy Chase, Md., that he was "committed to join in developing a comprehensive child-care program which will help fund State and local programs and provide subsidies or scaled fees for employed mothers from low- and moderate-income families." President Carter further observed that "adequate child care services are just as essential to the children of mothers who work as food, shelter, and clothing."

At our fourth hearing last February, Arabella Martinez, HEW Assistant Secretary for Human Development Services, and Blandina Cardenas, HEW Commissioner for the Administration for Children, Youth, and Families, shared with us the views and concerns of the administration in the area of child care. Before their testimony, Secretary Califano advised me that the administration was not yet prepared to discuss specific legislative initiatives in this area. However, their testimony was very positive, and I look forward to working closely and constructively with the administration in the coming months as we move forward in meeting President Carter's commitment to join in the development of a comprehensive child-care program.

OTHER GROUPS

Mr. President, child care is not a conservative versus liberal issue. I can foresee a broad coalition of groups from all over our society—from business and labor, from the right and the left—united behind this effort to provide decent options for working parents and their children so that we can hold families together. Just this past weekend I stressed the need for moderate, careful Federal leadership in this area at a meeting of the American Legion Children and Youth Committee during the American Legion National Convention in New Orleans. My remarks were very well received. I look forward to working with many groups on this issue. We clearly do not know all

the answers at the Federal level. In fact, no one does. HEW stressed this in our February hearing. What we do now know is enough to get started, provide a blue print for planning, action, data gathering, and a prudent expansion of programs and arrangements.

CONCLUSION

Mr. President, the subcommittee has received letters from all over the country encouraging us to move forward with Federal child-care legislation and expressing support for our efforts. One of the most moving pleas for child-care assistance came from a woman who was unable to attend our first hearing, because she could not afford a babysitter. She wrote:

> To decrease expenses for child care, I work a p.m. shift and my husband works a day shift. I drop the children off at 2:30 p.m. and he picks them up at 5:30 p.m. I am half asleep when he leaves before seven in the morning and he is asleep when I return home a little before midnight. This is a terrible way to live, but we cannot afford to spend $400 per month for child care. If we had that much extra money, I wouldn't be working in the first place.

I am sure that most of my colleagues have received inquiries about plans for Federal legislation in this area, and I want to assure them that I am giving the issue high priority and will be drafting legislation to carry out the foregoing specifications during the coming months. If possible, I plan to introduce the legislation before the end of this Congress, and to reintroduce it—with appropriate revisions based on suggestions—at the outset of the 96th Congress. Consideration of this legislation will be the top priority for the Subcommittee on Child and Human Development in the next Congress.

Mr. President, I hope that this legislation will be received by all those interested in this area as a new beginning toward enactment of comprehensive child-care legislation. I also hope that a constructive dialog will be stimulated around this legislation so that our goals can be achieved in the foreseeable future.

EXECUTIVE SESSION—TAX CONVENTION WITH THE REPUBLIC OF KOREA

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session for the purpose of calling up the tax convention with the Republic of Korea, Executive P, 94th Congress, 2d session.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider Executive P, 94th Congress, 2d session, the tax convention with the Republic of Korea.

Mr. ROBERT C. BYRD. I ask unanimous consent that the treaty be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object, there will be time for comments on that when the majority leader calls it up?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. I am not going to ask for a vote on it, but I do want to raise my reservation that I voiced before about one provision in it which concerns what I consider to be a tax break.

Mr. ROBERT C. BYRD. Would the Senator prefer that I not make this request tonight?

Mr. STEVENS. No, I know of no objection to taking it up. I just want to make sure I have an opportunity to make those remarks.

The PRESIDING OFFICER. Without objection, the protocol will be considered to have passed through its various parliamentary stages, up to and including the presentation of the resolution of ratification, which the clerk will state.

The assistant legislative clerk read as follows:

> *Resolved, (two-thirds of the Senators present concurring therein).* That the Senate advise and consent to the ratification of the Convention between the United States of America and the Republic of Korea for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and the Encouragement of International Trade and Investment, signed at Seoul June 4, 1976, together with a related Exchange of Notes (Executive P, 94th Congress, second session).

The PRESIDING OFFICER. The Chair will state that the resolution of ratification will be debatable.

Mr. ROBERT C. BYRD. Mr. President, there will be a rollcall vote on that tax convention. It could occur tomorrow, or it could occur when we return from the recess, but I assure the distinguished acting Republican leader that it will not be until such time as he is present.

ORDER FOR RECESS UNTIL 8:15 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 8:15 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS McGOVERN, DOLE, STENNIS, ROBERT C. BYRD, STEVENS, AND SASSER TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders have been recognized under the standing order tomorrow, the Senator from South Dakota (Mr. McGOVERN) and the Senator from Kansas (Mr. DOLE) be recognized, each for not to exceed 15 minutes, and that they be followed by Mr. STENNIS, Mr. ROBERT C. BYRD, Mr. STEVENS, and Mr. SASSER, each for not to exceed 15 minutes.

I have named these other Senators because Mr. STENNIS will want an hour, and by unanimous consent, I ask that the orders for the recognition of Mr. ROBERT C. BYRD, Mr. STEVENS, and Mr. SASSER be transferred to the control of Mr. STENNIS tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. It will be my intent, Mr. President, at the completion of those orders, under the order previously entered, to ask that the Chair lay before the Senate the CETA bill. For the information of the Senate, the action of the Senate tomorrow on the CETA bill will complete the action on that bill, I trust, and then the Senate will proceed to the consideration of the other tax bills for which the order has already been entered.

Any other measures that have been cleared for action will be taken up, hopefully the Senate can complete all this work tomorrow; it may take a few extra hours, but if it can be completed, we can then recess for the Labor Day holiday.

SENATE LEGISLATIVE ACHIEVEMENTS, JANUARY 19 TO AUGUST 25, 1978

Mr. ROBERT C. BYRD. Mr. President, the No. 1 priority for the 95th Congress has been the enactment of a comprehensive national energy program, the five components of which were passed and sent to conference during the first session. Senate and House conferees have worked diligently and under extreme duress since then to reach agreement on the many facets of this program which will affect all aspects of the Nation's well-being at home and abroad. On July 18, the Senate agreed to the first component of the package to be reported from conference, the coal utilization bill, which requires utilities and major industries to burn more plentiful domestic coal instead of oil and natural gas. Conference agreement has also been reached on the public utility rate reform measure and on all but one provision of the conservation policy bill. Just last week, a major breakthrough was reached by conferees on the controversial issue of natural gas pricing, a matter no Congress has been able to agree on since 1958. I am increasingly hopeful that the many months of work on this legislation will culminate in the enactment this fall of the first comprehensive national energy program in history which will serve the Nation into the next decade.

Already written into law this year is an authorization of $75 million for loans and loan guarantees to small businesses to encourage the design, manufacture, marketing, and installation of solar technologies and energy conservation practices. We have sent to the President for his signature a military construction authorization bill which requires the incorporation of solar energy systems in all new military family housing and in at least 25 percent of all other new military facilities that are put under design. Earlier this week we cleared legislation establishing a policy for the development

of oil and natural gas on the Outer Continental Shelf. This measure, which represents 5 years of effort by the Congress in opposition to previous administrations, strikes a balance between oil and gas development and potentially adverse economic, social, and environmental impacts that accompany it. These are but the most recent measures which the Congress has agreed upon dealing with the energy problem. We have long recognized the need for a comprehensive energy policy and have enacted 100 energy-related pieces of legislation since 1969.

With regard to the other related priority concern of this Congress—the state of the economy—we need only compare the economy today with what it was when we began our work in January of last year.

The gross national product is up by 7½ percent;

Disposable income is up by more than 5 percent per capita;

Farm income is up more than 35 percent per farm;

Unemployment has dramatically declined over the past 19 months from 7.4 to 6.2 percent; and

Housing starts are up 21 percent.

These measured improvements in the Nation's economy bear witness to our enactment of the economic stimulus jobs legislation last year, and Congress should be proud of its part in bringing about this recovery.

Since submission of the President's budget request in January, the Congress has demonstrated fiscal restraint which has been reflected in the sizable budget cuts made by the Congress in the first budget resolution and by the further cuts proposed by the Senate Budget Committee in the second concurrent resolution. In the budget resolution we will consider in early September, Federal outlays and budget authority will each be cut by approximately $10 billion while the deficit will be pared down by about $18 billion.

In the area of international affairs, the Senate has given the President strong support. We have squarely faced several extremely controversial and unpopular foreign policy initiatives this year. Most notable of these was the approval of ratification the Panama Canal treaties which had been under negotiation for 14 years. The careful examination Senators gave the treaties resulted in essential clarifications of the American right to defend the canal and to have priority passage through the canal in an emergency. While their ratification has improved our relations with Latin America and smaller countries throughout the world, support for the treaties was extremely unpopular in some quarters. Many Senators showed immense courage in voting for ratification of the Panama Canal treaties when a majority of their constituents vociferously opposed them.

The President's Mideast arms sales to Egypt, Israel, and Saudi Arabia and the lifting of the Turkish arms embargo exemplify two other important and controversial administration initiatives which the Congress supported. They illustrate the cooperation between the two branches of Government which is all too often overlooked. The Congress and the President sometimes differ on the means of achieving mutual objectives, for they both bear the responsibility to the American people to do what they believe is in the best interest of the Nation. Differences of approach will always exist, especially when seeking to enact complex legislation on over 100 proposals sent to the Congress. I would note, however, that notwithstanding all the talk of conflict between the executive and legislative branches, President Carter has vetoed only 5 measures while our last President had vetoed 46 bills during his first 20 months in office and Presidents Kennedy and Johnson had each vetoed 11 bills during a similar period of time.

Among other important legislation enacted by the 95th Congress are the following:

The most significant and far-reaching farm credit legislation since 1961 to help farmers cope with both economic and natural disasters;

An increase in the minimum wage over the next 4 years to insure low-paid workers a decent living;

A refinancing of the social security system to make it solvent into the next century for Americans living in retirement now and in the future;

The creation of a Cabinet-level Department of Energy to insure effective management of energy functions of the Federal Government;

New York City financial assistance in the form of Federal guarantees of up to $1.65 billion over the next 4 years;

Nuclear nonproliferation legislation which will lessen the spread of nuclear materials and technology while improving the framework for international cooperation; and

Reestablishment of the President's authority for 3 years to submit to Congress plans to reorganize executive branch agencies, an authority he has exercised by the submission of six reorganization plans, four of which have already become effective.

In addition, the Senate debated and passed a codification of Federal criminal law and an airline deregulation bill which, although not yet enacted by the House, has already stimulated reduced airfares. We have sent the President a proposed amendment to the Constitution granting the District of Columbia full voting representation in the House and Senate. We passed legislation to alleviate the financial burden borne by middle class Americans with children in college. Today, we passed the most comprehensive reform of the civil service laws in almost 100 years. The Senate has completed debate on a 2-year $16 billion highway construction and safety bill which will hasten the completion of remaining segments of the interstate highway system. We have also passed numerous reauthorizations of existing programs ranging from elementary and secondary education assistance to veterans pensions. A more complete listing of these measures is contained in a report prepared by the staff of the Democratic policy committee.

I ask unanimous consent that this report and related material concerning the work of the Senate be inserted at this point in the RECORD.

FISCAL YEAR 1979 BUDGET

[In millions of dollars]

	President Carter's January budget	1st budget resolution	President's midsession review	2d budget resolution amendment—P/H	Senate Budget Committee amendment
Budget authority	$568,172	$568,850	$571.4	$561,019	$557.7
Outlays	500,174	498,800	496.6	489,790	489.5
Deficit	60,586	50,900	48.5	39,790	42.3

1979 APPROPRIATIONS CUTS BY SENATE

[Dollar amounts in millions[1]

Department	Budget request considered	Senate passed amount	Amount cut	Percent cut
Transportation	$9,296	[1] $8,802	—$494	3.32
Legislative	1,144	[1] 1,118	—26	2.27
Interior	12,831	11,566	—1,265	9.86
Treasury	9,206	8,837	—369	4.01
Military construction	4,253	[1] 3,881	—372	8.75
Public works	11,040	[1] 10,160	—880	7.97
State, Justice, Commerce	8,660	8,433	—224	2.59
Agriculture	23,090	23,366	+274	—1.18
HUD	69,518	67,657	—1,861	2.68
District of Columbia	460	[1] 225	—235	51.09

[1] Amount agreed to in conference.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MAJOR LEGISLATION SUMMARY, 95TH CONGRESS—2D SESSION, AUGUST 24, 1978

Agricultural Credit: Amends the Consolidated Farm and Rural Development Act in order to improve Federal agricultural assistance programs; extends eligibility for farm real estate and operating loans under this act to family farms, corporations and partnerships; increases the lending limits for farm real estate and operating loans under the act; authorizes a new economic emergency loan program for established farmers, ranchers or domestic agricultural corporations and partnerships; and extends and amends the Emergency Livestock Credit Act of 1974 to enable the Secretary to make new loan guarantees for an additional year. H.R. 11504—Public Law 95-334, approved August 4, 1978. (146)

Agricultural Emergency Act: Amends the Food and Agricultural Act of 1977 to give the Secretary of Agriculture discretionary authority to increase the target prices for wheat, feed grains and upland cotton for the 1978 through 1981 crops whenever a set-aside program is in effect for one or more of these crops; if the target price is increased for any commodity for which a set-aside is in effect, allows the Secretary to increase the target price for any other commodity in such amounts as he determines necessary for the effective operation of the program; makes technical changes in the formula contained

in the 1977 Farm Act for computing the loan level for upland cotton, and sets a minimum loan level of 48 cents per pound regardless of the formula for the 1978-81 crops; increases the borrowing authority of the Commodity Credit Corporation from $14.5 to $25 billion, effective October 1, 1978; and provides that the Secretary may permit the acreage set-aside or diverted from the production of a commodity to be devoted to the production of any other commodity for the conversion into gasohol if the Secretary determines that such production is desirable in order to provide an adequate supply of gasohol and will not adversely affect farm income. H.R. 6782—Public Law 95-279, approved May 15, 1978. (72,85)

Airline Deregulation: Sets forth U.S. policy to develop an air transportation system which places increased reliance on market competition, with safeguards against unfair or predatory practice or decreases in services to smaller communities; revises current standards governing entry application for interstate and overseas scheduled air transportation to promote competition by directing the Civil Aeronautics Board (CAB) to authorize proposed air transportation entries unless it determines that such transportation is not consistent with the public convenience and necessity, thereby negating current policy whereby a proposed new service must be "required" by the public convenience and necessity; establishes a graduated automatic entry program by allowing existing carriers to enter one new route a year for the first two years and two new routes a year thereafter without CAB approval; provides a five-year adjustment period to the automatic entry program during which carriers may place a limited number of their routes outside automatic entry and during which subsidized and smaller carriers will be protected by limiting the number of their unprotected routes; contains provisions throughout the bill requiring expedient action on all applications, complaints, and other matters filed before the CAB; and creates a new section of the Federal Aviation Act to insure surveillance of safety standards throughout the transitional period of reform. S. 2493—Passed Senate April 19, 1978. (146)

Child Nutrition: Makes permanent the child care food program that currently provides meals for 676,000 children in day care centers; makes certain changes designed to improve the means by which the Secretary of Agriculture assists States in providing nonprofit food service programs for children, in institutions providing child care; and extends the special supplemental food program for women, infants, and children (WIC) for four years with changes designed to improve the means by which the Secretary assists States in providing nutritious supplemental foods to pregnant, postpartum, and breastfeeding women, and to infants and children, who are determined to be a "nutritional risk" because of inadequate nutrition and inadequate income. S. 3085—Passed Senate July 21, 1978. (236)

Coal Conversion: Prohibits certain new electric power plants and major fuel burning installations (MFBI's) from using natural gas or petroleum as their primary energy source except for fuel required for startup testing, flame stabilization, feedstock uses and direct-fire uses; requires existing electric powerplants and MFBI's capable of using coal to cease using nautral gas as their primary energy source after January 1, 1990, and not to increase the proportional use of natural gas before that date, with certain exemptions; prohibits the use of petroleum by new MFBI's with certain exemptions. H.R. 5146—Passed House July 18, 1977; Passed Senate amended September 8, 1977; Senate agreed to conference report July 18, 1978. (*356,219)

Commodity Futures Trading Commission: Extends for six years through fiscal 1984 the authorization for the Commodity Futures Trading Commission and makes significant changes in the Act to strengthen the regulation of the nation's $1.1 trillion commodity futures industry. S. 2391—Passed Senate July 12, 1978. (210)

Criminal Code Reform: Creates for the first time a systematic, consistent and comprehensive Federal criminal code to remedy the hodgepodge that now exists, by replacing title 18 with a "Federal Criminal Code"; creates a Sentencing Commission to establish guidelines to govern the imposition of sentences for all Federal offenses, taking into consideration factors relating to the purposes of sentencing (deterrance, protection of the public, assurance of just punishment and rehabilitation), the characteristics of the offender, and the aggravating and mitigating circumstances of the offense; provides for a penalty structure of consistent penalties for conduct of a similar nature or seriousness; provides for appellate review of a sentence by appeal of the defendant if it exceeds the maximum guideline for such a crime or by the government if it is less than the minimum; provides that the maximum term of imprisonment established by the Commission shall not exceed the minimum by more than 25 percent; requires the Commission in promulgating guidelines to consider alternatives to incarceration for nonviolent first offenders; allows pretrial detention of an individual charged with a serious crime such as murder, rape, armed kidnapping, drug trafficking, and armed robbery; reduces the present 79 different terms to define states of mind to four: international, knowing, reckless, or negligent; applies sex offenses without discrimination to both men and women and includes forcible sodomy in the definition of rape; provides that rape by means of force, threats of imminent serious injury, kidnapping or drugs will be punishable even where the victim is married to the offender; eliminates corroboration of a victim's testimony; prohibits defense or grading distinction based upon the promiscuity of the victim and severely restricts inquiry into the prior sexual conduct of the victim; expands the offense of kidnapping to include a case in which one holds his own child for ransom, as a hostage, or with similar criminal intent; provides that simple possession of more than 100 grams (about 1 pound) of an opiate (which retails for at least $4,000) is made a more serious offense than a simple possession of other drugs; makes possession of 30 grams (about one ounce) or less of marijuana subject to prosecution by summons rather than arrest, reduces the penalties and has liberal provisions for expungement of the record of conviction; and contains provisions regarding wiretapping, racketeering, white collar crimes, among others. S. 1437—Passed Senate January 30, 1978. (21)

Dam Inspection and Safety: Seeks to develop on-going programs that will reduce the likelihood of dam failure by encouraging the development and maintenance among the states of dam safety programs, and by gradually reducing the Corps of Engineers' role of inspecting non-Federally owned dams. S. 2444 and S. 2437—Passed Senate June 6, 1978. (VV)

Dam Safety: Provides permanent authority for the Secretary of the Interior to undertake actions deemed necessary to insure the safety of dams and related facilities under the jurisdiction of the Bureau of Reclamation; and authorizes up to $100 million to carry out the safety of dams program, with a proviso that the obligation of funds shall be conditioned upon the Secretary having submitted a report to Congress finding that the proposed works are required for the safety of dams. S. 2820—Passed Senate July 28, 1978. (259)

D.C. Voting Representation: Proposes an amendment to the Constitution which must be ratified to be valid as part of the Constitution by three-fourths of the States within seven years, to provide representation of the District of Columbia in the U.S. House of Representatives and the Senate; permits the District to participate fully in the electoral college; and extends to the people of the District the right to participate in the ratification process of proposed amendments to the Constitution. H.J. Res. 554—Public Law 95- , approved 1978. (350)

Diplomatic Immunity: Compliments the 1961 Vienna Convention on Diplomatic Relations which entered into force with respect to the United States on December 13, 1972; codifies the privileges and immunities provisions of the Vienna Convention as the sole U.S. law on the subject; repeals a 1790 statute barring suits against diplomats and their servants, which has been construed to create full immunity for these individuals and is in conflict with the 1961 Vienna Convention on Diplomatic Relations; states specifically that the provisions of the Convention shall apply to nonratifying nations; permits the President to extend, on a reciprocal basis, more favorable or less favorable treatment than the Convention specifies to members of missions, their families and diplomatic couriers; requires foreign diplomats in the United States to carry auto liability insurance against risks arising from the operation of automobiles, vessels, or aircraft in the United States at a level to be established by the Executive; creates, as a matter of Federal law, a substantive right of an injured or damaged party to proceed directly against the insurance company where the insured diplomat enjoys immunity from suit; and makes certain conforming amendments to the Judiciary Code. H.R. 7819—Passed House July 27, 1977; Passed Senate amended August 17, 1978. (VV)

Domestic Violence: Provides for Federal support and stimulation of state, local and community activities to prevent domestic violence, to assist the victims of domestic violence, and to coordinate Federal programs and activities pertaining to domestic violence; authorizes therefore $30 million for each of fiscal years 1979 through 1982; and specifies that 85 percent of the funds authorized annually shall be used for grants, 8 percent for operation of the HEW center on domestic violence and regional support centers, and 7 percent for research of which at least half shall be transferred to the Alcohol, Drug Abuse, and Mental Health Administration for research to be conducted by institutes within the administration. S. 2759—Passed Senate August 1, 1978. (VV)

Education Tuition Tax Credit: Provides a Federal income tax credit for certain educational expenses paid by an individual for himself, his spouse, or his dependents. The benefits provided by the bill will become effective in two stages. Beginning August 1, 1978, individuals will be entitled to claim a credit in an amount equal to 50 percent of tuition and fees with a maximum credit of $250 per student for expenses in an undergraduate college or a post-secondary vocational school. H.R. 12050—Passed House June 1, 1978; Passed Senate amended August 15, 1978; Senate requested conference August 15, 1978.

Endangered Species: Amends the Endangered Species Act of 1973 to establish an Endangered Species Interagency Committee to review Federal projects which have come into irresolvable conflict between the Act's mandate to protect and manage endangered and threatened species and other legitimate national goals and priorities, such as providing energy, economic development and other benefits to the American people, and to determine if the project should be completed, modified or terminated. S. 2899—Passed Senate July 19, 1978. (225)

First Budget Resolution, 1979: Recommends 1979 total estimated revenues of $447.9 billion, budget outlays of $498.8 billion, budget deficit of $50.9 billion, budget authority of $568.85 billion, and public debt level of $849.1 billion as compared to the President's recommendations of $439.6 billion in estimated revenues, $500.2 billion in budget outlays, $60.6 billion in budget deficits, $568.2 billion in budget authority, and $867.5 billion as the public debt level. S. Con. Res. 80—Action completed May 17, 1978. (140)

Foreign Development Assistance: Authorizes $1.7 billion (which reflects a 5 percent across-the-board decrease agreed to during Senate floor debate) for fiscal year 1979, for bilateral development assistance, international disaster assistance programs, operating expenses for the United States Agency for International Development (AID) and voluntary U.S. contributions to international organizations; amends the Foreign Assistance Act of 1961 to improve the coordination and administration of U.S. development-related policies and programs; and prohibits the use of funds for any form of aid, either monetary payment or by the sale or transfer of any goods of any nature to the Socialist Republic of Vietnam, Cambodia, Uganda, or Cuba or to any country which allows, supports, or encourages acts of terrorism. H.R. 12222—Passed House May 15, 1978; Passed Senate amended June 26, 1978; In conference. (177)

Foreign Intelligence Surveillance: Requires that all foreign intelligence electronic surveillance within the United States, as well as some overseas interceptions, be subject to a judicial warrant requirement based on the probable cause; prohibits the dissemination of information concerning U.S. persons which does not relate to national defense, foreign affairs, or the terrorist, sabotage or clandestine activities of a foreign power; sets limits on the dissemination of information relating solely to national defense or foreign affairs; requires certification, from an appropriate executive branch official, that any information sought by the surveillance is related to, and in the case of surveillance of a U.S. person is necessary to the national defense, the national security, or the successful conduct of the foreign affairs of the United States; allows the court to approve electronic surveillance for foreign intelligence purposes for a period of 90 days or, in the case of a foreign government, faction, or entity openly controlled by a foreign government, for a period of up to 1 year; permits emergency surveillance without a court order in limited circumstances, but provides that a court order must be obtained within 24 hours of the initiation of any emergency surveillance; and sets forth civil and criminal sanctions for violations of the bill's provisions. S. 1566—Passed Senate April 20, 1978. (128)

Foreign Security Assistance: Authorizes $2,886,400,000 for seven programs which constitute the fiscal 1979 international security assistance program; authorizes $133.5 million for grant military assistance to Portugal, Spain, Jordan and the Philippines; authorizes military assistance advisory groups for 14 countries in fiscal 1979, and further limits the activities of such groups; provides for the lifting of U.S. sanctions against Rhodesia if the government in Salisbury has made a good faith effort to negotiate with all parties and a new government, chosen by free elections, has been installed; repeals the limited embargo on arms sales to Turkey but requires that future requests for military or economic assistance, credits or arms sales to Turkey, Greece or Cyprus must support a solution to the situation in Cyprus as certified by the President to Congress; authorizes a foreign military sales credit program for fiscal 1979 of $2 billion, including $1 billion for Israel and $275 million for the Republic of Korea. S. 3075—Passed Senate July 26, 1978; Passed House amended August 2, 1978; House requested conference August 2, 1978. (254)

Higher Education Grants and Loans: Amends the Higher Education Act of 1965 to improve the basic educational opportunity grants programs and to make significant changes in the guaranteed student loan program in order to make college affordable once again for middle-income families; expands the basic educational opportunity grants program so that families with incomes of $25,000 instead of the present cutoff at $13,000, and one child in college will be eligible for a basic grant which will result in eligibility of an additional 1.5 million students; removes the cap from the guaranteed student loan program and permits any qualified family or person to borrow from private lenders funds for education which would be amortized and repaid through the private loan market with 100 percent payment guarantees by the Federal government. S. 2539—Passed Senate August 16, 1978. (324)

Housing and Community Development: Authorizes $30 billion in fiscal 1979 to extend the basic housing and community development programs conducted by the Department of Housing and Urban Development and the Farmers Home Administration; authorizes a major expansion of the section 312 rehabilitation loans and the urban homesteading programs with important changes designed to increase the effectiveness of these programs. S. 3084—Passed Senate July 20, 1978; Passed House amended July 25, 1978; In conference. (234)

Indian Claims Settlement in Rhode Island: Authorizes $43.5 million for the purchase of private settlement lands by the Federal government on behalf of the Narragansett Tribe as provided in the settlement agreement. S. 3153—Passed Senate July 21, 1978. (VV)

International Monetary Fund: Amends the Bretton Woods Agreement Act to authorize the United States to participate in a Supplementary Financing Facility of the International Monetary Fund (known as the Witteveen Facility) which shall make financial resources available to nations with serious balance-of-payments problems; authorizes the U.S. Department of Treasury to make available approximately $1.7 billion to the Witteveen Facility as the U.S. contribution, which is about 17 percent of the overall initial total; directs the U.S. Executive Director to oppose any Witteveen Facility loans to Cambodia, Uganda, and any nation which provides aid or assistance to terrorists or hijackers; directs the President to impose a trade embargo on Ugandan products until he certifies that the Ugandan government has ceased committing gross violations of human rights; and mandates a balanced Federal budget beginning in fiscal 1982. H.R. 9214—Passed House February 23, 1978; Passed Senate amended July 31, 1978. (271)

Mental Health—Biomedical Research—Family Planning: Extends for one year funding for Community Mental Health Centers which will provide community out-patient mental health care to over 2.3 million persons in 1978 while a thorough review of the program is undertaken; establishes a Presidential Commission for the Protection of Human Subjects in Federal Research; increases substantially authorizations for family planning and population research to expand the availability of voluntary family planning services emphasizing such services for sexually active adolescents and to increase research in contraceptives. S. 2450—Passed Senate June 26, 1978; S. 2522—Passed Senate June 7, 1978. (VV)

Middle East Arms Sales: States the objections of the Congress to the President's proposed sale of fifty F-5 aircraft to Egypt, fifteen F-15 aircraft and seventy-five F-16 aircraft to Israel, and sixty F-15 aircraft to Saudi Arabia. S. Con. Res. 86—Senate rejected disapproval resolution May 15, 1978. (161)

Military Construction Authorization: Authorizes $4 billion for fiscal 1979 for construction and other related authority for the military departments, and the Office of the Secretary of Defense within and outside the United States; requires the incorporation of optimum solar systems in all new military family housing and in 25 percent of all new facilities placed under design and provides the necessary authorities for the Department of Defense to develop geothermal resources and purchase public utility services from resources other than nuclear or fossil; and makes a substantial reduction in the administration's request for construction in Europe. H.R. 12602—Public Law 95- , approved 1978. (VV)

Military Procurement: Authorizes $36.957 billion during the fiscal year 1979, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, to authorize the military training student loads; and to authorize funds for civil defense. H.R. 10929—Vetoed August 18, 1978; House vote to override on September 7, 1978. (203)

National Consumer Cooperative Bank: Establishes a National Consumer Cooperative Bank with authority to make up to $1.09 billion in subsidized loans and guarantees to eligible non-profit consumer cooperatives; creates the Office of Self-Help Development and Technical Assistance within the Bank, with the purpose of providing technical assistance for consumer cooperatives; and makes self-help funds available for fledgling cooperatives in inner-city areas and among the poor and elderly. H.R. 2777—Public Law 95-351, approved August 20, 1978. (216)

National Historic Trails: Establishes within the national trail system a new category of National Historic Trails and designates the Oregon Trail, the Mormon Pioneer Trails, the Lewis and Clark Trail and the Iditarod Trail as the first such trails. H.R. 6900—Passed House April 3, 1978; Passed Senate amended July 24, 1978. (VV)

New York City Loan: Provides additional financial assistance to New York City over the next four years in the form of long-term Federal guarantees of New York City Securities of up to $1.6 billion through June 30, 1982; seeks to provide a basis for New York City to work out all of its remaining financial problems over the four-year period in order to bring its budget into balance in accordance with generally accepted accounting principles, to restructure its debt and lengthen maturities, to reenter the credit markets through sales of its own notes and bonds, and to end its dependence on Federal financial assistance. H.R. 12426—Public Law 95-339, approved August 8, 1978. (197)

Nuclear Non-Proliferation: Establishes a more effective framework for international cooperation to encourage development of peaceful nuclear activities to meet energy needs and to assure that export by any nation of nuclear materials and technology does not contribute to proliferation; authorizes the United States to take such actions as are required to insure that it can act reliably in licensing the export of nuclear reactors and fuel to nations which share our non-proliferation policies; provides incentives to other nations to join in non-proliferation activities and to ratify the Nuclear Non-Proliferation Treaty; and sets forth effective controls by

the United States over its exports of nuclear materials, equipment and technology. H.R. 8638—Public Law 95-242, approved March 10, 1978. (30)

Oil Shale Commercialization: Establishes a program within the Department of Energy for the purpose of testing the commercial, environmental and social viability of various oil shale technologies using the "GOCO" concept whereby the Federal government would supply all funds and a private corporation would contract to perform the construction and operation of the facilities; authorizes $1.4 million in fiscal year 1979 for the establishment of the program; and provides that nothing in the bill shall be construed as affecting in any way state law or regulations dealing with control of water and water rights. S. 419—Passed Senate June 27, 1978. (177)

Older Americans: Continues for an additional two years, until September 30, 1981, authorizations for programs conducted under the Older Americans Act of 1965; consolidates the existing titles III, State and Community Services, V, Multipurpose Senior Centers, and VII, Nutrition Services into a single title for the purpose of administration; establishes three priorities of (1) services associated with access, (2) in-home services, and (3) legal services, requiring that at least 50 percent of each area agency on aging allocation be directed to these three categories; authorizes a White House Conference on Aging in 1981; and mandates a study on racial and ethnic discrimination in Federal programs for the elderly to be conducted by the U.S. Commission on Civil Rights. H.R. 12255—Passed House May 15, 1978; Passed Senate amended July 24, 1978; In conference. (243)

Panama Canal Neutrality Treaty: Establishes a permanent regime of neutrality in order that both in time of peace and in time of war the Canal shall remain secure and open to peaceful transit;

Provides that Panama and the U.S. agree to maintain the regime of neutrality beginning in the year 2000 which shall be maintained in order that the Canal shall remain permanently neutral and applies the same regime to any other international waterway that may be built in Panama; by amendment, provides that each country shall, in accordance with their respective constitutional processes, defend the Canal against any threat to the regime of neutrality and consequently shall have the right to defend the Canal against any threat or aggression, but this shall not be interpreted as a right of intervention into the internal affairs of Panama or against the territorial integrity or political independence of Panama; provides that beginning in the year 2000 Panama alone shall operate the Canal and maintain all military forces and installations within Panama's territory; provides, as a condition to the resolution, that notwithstanding these provisions, if the Canal is closed or its operation is interferred with, the U.S. and Panama may unilaterally take steps they deem necessary to reopen the Canal or restore its operation, including the use of military forces in Panama;

Provides as a condition that nothing in the Treaty shall preclude Panama and the U.S. from making, in accordance with their respective constitutional processes, any agreement to facilitate their responsibility to defend the Canal including an agreement for continued U.S. military presence in Panama;

Provides that the war and auxiliary vessels of the U.S. and Panama shall have the right to transit the Canal expeditiously; by amendment, states that this expeditious transit shall include the right to go to the head of the line of vessels in order to transit the Canal rapidly in case of need or emergency; provides as a reservation that such need or emergency shall be determined by the nation operating the vessel;

Provides before the Treaty can go into force that the U.S. and Panama must negotiate an agreement under which the American Battle Monuments Commission would administer the American Sector of the Corozal Cemetery and makes provision for the transfer of the remains of other Americans buried at Mount Hope Cemetery.

Contains as a reservation a prohibition on economic assistance, military grant assistance, security supporting assistance, foreign military sales credits or international military education and training to Panama; and provides that all amendments, reservations, understandings, declarations and other statements incorporated by the Senate in its resolutions of ratification be included in the instrument of ratification exchanged with the government of Panama. Ex. N, 95th-1st—Resolution of Ratification agreed to March 17, 1978. (66)

Panama Canal Treaty: Terminates prior United States-Panama treaty relationships concerning the Canal and establishes a partnership arrangement for the operation, maintenance and defense of the Panama Canal by the United States and Panama through December 31, 1999; provides that the treaty enter into force simultaneously with the Neutrality Treaty, six months from the date of exchange of instruments of ratification; by reservation, provides that exchange of the instruments of ratification shall not be effective prior to March 31, 1979, and the treaties shall not enter into force prior to October 1, 1979, unless implementing legislation has been enacted before March 31, 1979;

Grants to the U.S. the rights to manage, operate and maintain the canal including the right to establish and collect tolls; provides operation and maintenance of the Canal through a new United States government agency, the Panama Canal Commission, which will replace the Panama Canal Company and the Canal Zone Government and which will be supervised by a board of nine members, five Americans and four Panamanians; requires the Commission to reimburse Panama $10 million semiannually for costs incurred by Panama in providing various public services in the canal operating area and in certain housing areas; by an understanding, requires the U.S. and Panama to agree on specific levels and quality of services to be provided by Panama for the $10 million annual payment for services which are essential to the effective functioning of the canal, to examine the cost of services every three years and to resubmit any disagreement between the United States and Panama to a binding independent audit;

Grants the U.S. the primary responsibility for the protection and defense of the canal for the duration of the treaty; by reservation, provides that the right to intervene militarily in Panama to keep the canal open and operating (pursuant to the DeConcini condition to the resolution of ratification of the Neutrality Treaty) shall not have as its purpose or be interpreted as a right of intervention into the internal affairs of Panama or interference with its independence or sovereign integrity; provides for the establishment of a Combined Board comprised of an equal number of senior military representatives from the two countries to facilitate planning and cooperation between the armed forces of both;

Provides that Panama and the U.S. study jointly the feasibility of a sea-level canal and enter into negotiations for its construction in the event that it is determined that such a facility is necessary; prohibits, for the duration of the treaty, construction of a canal except in accordance with the provisions of this treaty or as the U.S. and Panama may otherwise agree; prohibits the U.S. from negotiating with other countries for the right to construct an interoceanic canal on any other route during the life of the treaty; provides as a reservation that the instruments of ratification to be exchanged shall include provisions whereby each party agrees to waive these two prohibitions;

Upon entry into force, transfers to Panama all right, title and interest which the U.S. may have in real property and non-removable improvements located in areas not reserved for U.S. use under the treaty; provides that upon termination of the treaty, Panama will assume total responsibility for the Panama Canal which shall be turned over in operating condition free of liens and debts;

Provides that Panama receive payments to be derived from canal operating revenues as "a just and equitable return on the national resources which it has dedicated to" the Panama Canal as follows: (a) a share of tolls amounting to 30 cents per Panama Canal ton of shipping transiting the canal; (b) a fixed amount of $10 million per year; and (c) an additional sum of up to $10 million per year if the Canal operating revenues yield a surplus over expenditures including other payments made under the treaty; by reservation, provides that any accumulated unpaid balance under item (c) at the termination of the treaty shall be payable only to the extent of any operating surplus in the last year of the treaty's duration and that nothing shall be construed as obligating the U.S. to pay any unpaid balance and that no U.S. Treasury funds may be used for any of the above three payments without statutory authorization; and by amendment to the resolution of ratification, requires the Panama Canal Commission to reimburse the U.S. for interest on funds or other assets directly invested by the U.S. Commission or its predecessor Panama Canal Corporation. Ex. N, 95th-1st—Resolution of Ratification agreed to April 18, 1978. (119)

Petroleum Marketing Practices: Establishes minimum Federal standards governing the termination and nonrenewal of gas station franchises. H.R. 130—Public Law 95-297, approved June 19, 1978. (159)

Redwood National Park Expansion: Increases the authorized acreage of the Redwood National Park by approximately 48,000 acres to bring the total acreage to 106,000; designates an additional 30,000 acres as a "park protection zone" which the Secretary of Interior, following notice to the appropriate Congressional committees, may acquire upon a finding that failure to acquire all or a portion of the land could result in physical damage to the park resources, and contains provisions designed to protect persons adversely affected by the park expansion. S. 1976—PubliLaw 95-250, approved March 27, 1978. (24, 73)

Small Business Energy Loans: Authorizes the Small Business Administration to make direct immediate participation and guaranteed loans to certain small businesses that manufacture or market renewable energy equipment or conservation equipment or firms which provide professional engineering or achitectural services which conserve energy or apply renewable energy measures as their main objective. H.R. 11713—Public Law 95-315 approved July 4, 1978. (VV)

Veterans Benefits: Provides an improved and more equitable pension program for needy wartime veterans who are disabled by reason of non-service-connected disability or who are 65 years of age or older and for the needy surviving spouses and children of wartime veterans. H.R. 10173—Passed House

June 28, 1978; Passed Senate July 31, 1978. (263)

Provides a 7.3 percent cost-of-living increase in veterans' disability compensation and dependency and indemnity compensation (DIC); extends entitlement to service-connected disability compensation to U.S. citizens who served in the armed forces of an allied nation during World War II; raises to $200 per month the special pension rate payable to Congressional Medal of Honor recipients; and call for a report by March 1, 1979, on issues relating to the adequacy, compensation awards to and health care needs of former prisoners of war. H.R. 11886—Passed House June 28, 1978; Passed Senate amended August 7, 1978. (VV)

Increases the maximum grants for qualified veterans to acquire specially adapted housing and the maximum loan guaranty entitlement for the purchase of a home and extends such entitlements to Vietnam veterans; makes various improvements in the VA mobile home loan program; establishes a program of grants to assist states in establishing, improving, maintaining and expanding veterans' cemeteries; calls for an on-going review of the VA education default rate; and permits the Administrator to limit eligibility for education loans and to reduce the loan repayment period for certain types of loans. H.R. 12078—Passed House July 17, 1978; Passed Senate amended August 7, 1978. (VV)

Water Resources Projects—Waterway User Fee: Authorizes $2.4 billion for certain public works for improvement of navigation on U.S. inland waters and sundry water resources projects in 34 states; for such purposes as floor control, water supply and beach restoration; includes authorization of $421 million for replacement of locks and dam 26 at Alton, Illinois, on the Mississippi River with a new dam and a single 1,200-foot lock; imposes a fuel tax of four cents per gallon on shallow-draft commercial vessels that use the inland waterways which will begin in 1982 or when construction begins on locksand dam 26, whichever is sooner, and increase to 12 cents eight years later; and directs the Secretaries of Commerce and Transportation jointly to understake a study regarding the impact of fuel taxes on inland waterway users or alternative or supplemental charges and to report findings and recommendations to Congress within three years. H.R. 8309—Passed House October 13, 1977; Passed Senate amended May 4, 1978; Senate requested conference May 4, 1978. (153)

White House Personnel Authorization: Provides for the first time a 5-year authorization for the employment of personnel, employment of experts and consultants, expenses, maintenance and operation of the White House Office and the Executive Residence at the White House, the executive duties and responsibilities of the Vice President, the Domestic Policy Staff and the Office of Administration. H.R. 11003—Passed House April 13, 1978; Passed Senate amended July 16, 19; In conference. (VW)

AUGUST 24, 1978.

ENERGY-RELATED LEGISLATION, 1969–77

91st Congress (1969–1970) (5).—

1. Public Law 91–158, Interstate Oil Compact Commission, 2-Year Extension, S.J. Res. 54.
2. Public Law 91–173, Coal Mine Health and Safety Act of 1969, S. 2917.
3. Public Law 91–245, Oil and Gas Leases, S. 1193.
4. Public Law 91–581, Geothermal Steam Act of 1970, S. 368.
5. Public Law 91–631, National Mines and Minerals Policy Act, S. 719.

92nd Congress (1971–1972) (7).—

6. Public Law 92–84, Atomic Energy Commission Authorization, 1972, H.R. 9388.
7. Public Law 92–307, Temporary Operating Licenses for Nuclear Powerplants, H.R. 14655.
8. Public Law 92–314, Atomic Energy Commission Appropriations, 1973, S. 3607.
9. Public Law 92–401, Natural Gas Pipeline Safety Act of 1968, H.R. 5065.
10. Public Law 92–500, Federal Water Pollution Control Act Amendments of 1972, S. 2770.
11. Public Law 92–583, Coastal Zone Management Act of 1972, S. 3507.
12. S. Res. 45, to establish the Senate National Fuels and Energy Policy Study Group.

93rd Congress (1973–1974) (43).—

13. Public Law 93–28, Economic Stabilization Act Amendments of 1973; Voluntary Petroleum Allocation, S. 398.
14. Public Law 93–60, AEC Authorization, S. 1994.
15. Public Law 93–74, NASA Authorization, H.R. 7529.
16. Public Law 93–87, Federal-Aid Highway Act, S. 502.
17. Public Law 93–88, Euratom Corporation Act of 1958 Amendments, S. 1993.
18. Public Law 93–119, Oil Pollution Act Amendments, H.R. 5451.
19. Public Law 93–153, Mineral Leasing Act of 1920, Amendments, and Trans-Alaska Oil Pipeline Authorization, S. 1081.
20. Public Law 93–159, Emergency Petroleum Allocation Act of 1973, S. 1570.
21. Public Law 93–182, Emergency Daylight Saving Time Energy Conservation Act of 1973, H.R. 11324.
22. Public Law 93–208, G.I. Bill Benefits During Energy Crisis, S. 2794.
23. Public Law 93–239, Highway Speed Limit Reduction, H.R. 11372.
24. Public Law 93–245, Supplemental Appropriations; Naval Petroleum Reserves, H.R. 11576.
25. Public Law 93–248, Intervention on the High Seas Act, S. 1070.
26. Public Law 93–249, Fuel Cost Pass-Through for Truckers, S.J. Res. 185.
27. Public Law 93–275, Federal Energy Administration, H.R. 11793.
28. Public Law 93–276, AEC Authorization Act, S. 3292.
29. Public Law 93–316, NASA Authorization Act, H.R. 13998.
30. Public Law 93–319, Energy Supply and Environmental Coordination Act of 1974, H.R. 14368.
31. Public Law 93–322, Special Energy Research and Development Appropriations for 1975, H.R. 14434.
32. Public Law 93–377, AEC Omnibus Legislation of 1974, S. 3669.
33. Public Law 93–383, Housing and Community Development Act, S. 3066.
34. Public Law 93–388, Aid to Energy Affected Small Businesses, S. 3331.
35. Public Law 93–403, Natural Gase Pipeline Safety Act, as amended, Additional Appropriations, H.R. 15205.
36. Public Law 93–409, Solar Heating and Cooling Demonstration Act of 1974, H.R. 11864.
37. Public Law 93–410, Geothermal Energy Research, Development, and Demonstration Act, H.R. 14920.
38. Public Law 93–426, Defense Production Act of 1950, two-year extension, S. 3270.
39. Public Law 93–434, Emergency Daylight Saving Time Energy Conservation Act of 1973, Amendments, H.R. 16102.
40. Public Law 93–438, Energy Reorganization Act of 1974, H.R. 11510.
41. Public Law 93–454, Federal Columbia River Transmission System, S. 3362.
42. Public Law 93–473, Solar Energy Research, Development and Demonstration Act of 1974, S. 3234.
43. Public Law 93–482, Duty Free Entry of Methanol for use as Fuel, H.R. 11251.
44. Public Law 93–485, International Nuclear Cooperation Act, S. 3698.
45. Public Law 43–496, National Railroad Passenger Corporation, H.R. 15427.
46. Public Law 93–511, Emergency Petroleum Allocation Act of 1973 Extension, H.R. 16757.
47. Public Law 93–514, Nuclear Information Annual Report, S. 3802.
48. Public Law 93–522, Sequoia National Park Hydroelectric Project, H.J. Res. 444.
49. Public Law 93–577, Federal Nonnuclear Energy Research and Development Act of 1975, S. 1283.
50. Public Law 93–627, Deep Water Ports Act, H.R. 10701.
51. Public Law 93–643, Federal-Aid Highway Act Amendments of 1975—Fuel Exports to U.S.S.R., S. 3934.
52. Public Law 93–646, Export-Import Bank Act Amendments, H.R. 15977.
53. S. Res. 138, National Consumer Effort to Save Gas.
54. S. Res. 249, Oil Price Increase.
55. S. Res. 279, Washington Energy Conference.

94th Congress (1975–1976) (23).—

56. Public Law 94–12, Tax Reduction Act of 1975; Repeal of Depletion Allowance, H.R. 2166.
57. Public Law 94–18, Nuclear Regulatory Commission Authorization, S. 994.
58. Public Law 94–79, Nuclear Regulatory Commission Authorization, S. 1716.
59. Public Law 94–139, TVA Bonding Authority, H.R. 9472.
60. Public Law 94–163, Energy Policy and Conservation Act, S. 622.
61. Public Law 94–180, Public Works—ERDA Appropriations 1976, H.R. 8122.
62. Public Law 94–187, ERDA Authorization 1976, H.R. 3474.
63. Public Law 94–197, Nuclear Accident Indemnity, H.R. 8631.
64. Public Law 94–227, International Petroleum Exposition, S.J. Res. 59.
65. Public Law 94–258, Naval Petroleum Reserves Production Act of 1976, H.R. 49.
66. Public Law 94–269, ERDA Supplemental Authorization, 1976, S. 3108.
67. Public Law 94–291, Nuclear Regulatory Commission Authorization, S. 3107.
68. Public Law 94–332, Federal Energy Administration Extension, S. 3625.
69. Public Law 94–355, Public Works—ERDA Appropriations, 1977, H.R. 14236.
70. Public Law 94–364, Motor Vehicle Information and Cost Savings Act, S. 1518.
71. Public Law 94–370, Coastal Zone Management Act Amendments, State grants, S. 586.
72. Public Law 94–377, Federal Coal Leasing Amendments Act, S. 391.
73. Public Law 94–385, Energy Conservation and Production, H.R. 12169.
74. Public Law 94–413, Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976, H.R. 8800.
75. Public Law 94–422, Land and Water Conservation Fund Act, S. 327.
76. Public Law 94–477, Natural Gas Pipeline Safety, H.R. 12168.
77. Public Law 94–493, Interstate Oil and Gas Compact, S.J. Res. 126.
78. Public Law 94–586, Alaskan Gas Transportation, S. 3521.

95th Congress (1977–1978) (22).—

79. Public Law 95–2, Natural Gas Emergency, S. 474.
80. Public Law 95–3, Urgent Power Supplemental Appropriations, H.J. Res. 227.
81. Public Law 95–36, Deepwater Ports, S. 891.
82. Public Law 95–39, ERDA Nonnuclear Authorization, 1977, S. 36.
83. Public Law 95–52, Export Control Administration, H.R. 5840.
84. Public Law 95–70, FEA Authorization, S. 1468.
85. Public Law 95–87, Stripmining Reclamation, H.R. 2.
86. Public Law 95–91, Department of Energy, S. 826.
87. Public Law 95–95, Clean Air, H.R. 6161.
88. Public Law 95–96, Public Works—Energy Research Appropriations, 1978, H.R. 7553.
89. Public Law 95–158, Alcan Pipeline, H.J. Res. 621.

90. Public Law 95–164, Mine Safety, S. 717.
91. Public Law 95–183, ERDA Nuclear Authorization, S. 1339.
92. Public Law 95–236, Radiation Exposure, S. 266.
93. Public Law 95–238, ERDA Nuclear/Nonnuclear Authorization, S. 1340.
94. Public Law 95–242, Nuclear Nonproliferation, H.R. 8638.
95. Public Law 95–279, Emergency Agricultural Act—Gasahol Program, H.R. 6782.
96. Public Law 95–297, Petroleum Marketing Practices, H.R. 130.
97. Public Law 95–315, Small Business Energy Loans, H.R. 11713.
98. Public Law 95–343, Stripmining Program Authorizations, S. 2463.
99. Public Law 95– , Military Construction Authorization, 1979—Solar, Geothermal and Utility Systems Programs, H.R. 12602.
100. Public Law 95– , Outer Continental Shelf, S. 9.

ENERGY MEASURES, 95TH CONGRESS, AUGUST 24, 1978

Enacted.—(23):

Alcan Pipeline (H.J. Res. 621, P.L. 95–158).
Clean Air (H.R. 6161, P.L. 95–95).
Deepwater Ports Extension (H.R. 6401, P.L. 95–36).
Department of Energy (S. 826, P.L. 95–91).
Emergency Agricultural Act—Gasohol Program (H.R. 6782, P.L. 95–279).
ERDA Nonnuclear Authorization, 1977 (S. 36, P.L. 95–39).
ERDA Nuclear Authorization (S. 1339, P.L. 95–183).
ERDA Nuclear/Nonnuclear Authorization—Civilian (S. 1340, P.L. 95–238).
Export Control—Arab Boycott (H.R. 5840, P.L. 95–52).
FEA Authorization (S. 1468, P.L. 95–70).
Military Construction Authorization, 1979—Solar, Geothermal and Utility Systems Programs (H.R. 12602, P.L. 95–).
Mine Safety (S. 717, P.L. 95–164).
Natural Gas Emergency (S. 474, P.L. 95–2).
Nuclear Nonproliferation Act (H.R. 8638, P.L. 95–242).
Outer Continental Shelf (S. 9, P.L. 95–).
Petroleum Marketing Practices (H.R. 130, P.L. 95–297).
Public Works—Energy Research Appropriations, 1978 (H.R. 7553, P.L. 95–96).
Radiation Exposure (S. 266, P.L. 95–236).
Small Business Energy Loans (H.R. 11713, P.L. 95–315).
Strategic Petroleum Reserve Plan No. 1 (S. Res. 429—S. agreed to disapproval resolution).
Stripmining (H.R. 2, P.L. 95–87).
Stripmining Program Authorization (S. 2463, P.L. 95–343).
Urgent Power Supplemental Appropriations, 1977 (H.J. Res. 227, P.L. 95–3).

In conference.—(11):

Agricultural Appropriations, 1979—Energy Conservation Programs (H.R. 13125).
Coal Conversion (H.R. 5146—S. agreed to July 18, 1978).
Energy Conservation (H.R. 5037).
Energy Taxation (H.R. 5263).
HUD Authorization—Solar and Home Insulation Programs (S. 3084).
Interior Appropriations, 1979—Energy Production, Supply, and Regulation Programs (H.R. 12932).
International Development Assistance—Bilateral Assistance for Energy Resource Development (H.R. 12222).
Natural Gas Pricing (H.R. 5289—Conf. rept. filed)
Public Utility Rate Reform (H.R. 4018).
Public Works Energy Research Appropriations. 1979—Energy Research Projects (H.R. 12928—Conf. rept. filed).
Water Resource Projects—Waterway User Fee—Fuel Use Taxes (H.R. 8309—H. conferees not named).

Passed Senate, not House.—(9):

Alaska Pipeline Destruction (S. 1496).
Educational Institution Energy Savings Grants (S. 701—Provisions are now in energy conservation bill).
Endangered Species—Possible exemptions for certain energy supply projects (S. 2899).
ERDA Nuclear Authorization—Civilian/Military (S. 1341).
ERDA Synthetic Fuel Loan Guarantee Program (S. 37).
Natural Gas Pipeline Safety (S. 1895).
Oil Shale Commercialization (S. 419).
Pipeline Destruction (S. 1502).
Rate Discrimination (S. 2249).

Vetoed.—(1):

ERDA Nuclear/Nonnuclear—Civilian (S. 1811—Contained Clinch River—enacted as P.L. 95–238).

RECESS UNTIL 8:15 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 8:15 tomorrow morning.

The motion was agreed to; and at 8:49 p.m. the Senate recessed until tomorrow, Friday, August 25, 1978, at 8:15 a.m.

NOMINATIONS

Executive nominations received by the Senate August 24, 1978:

SOCIAL SECURITY ADMINISTRATION

Stanford G. Ross, of the District of Columbia, to be Commissioner of Social Security of the Department of Health, Education, and Welfare, vice James B. Cardwell.

HOUSE OF REPRESENTATIVES—*Thursday, August 24, 1978*

REGULATION OF LOBBYING ACT

In compliance with Public Law 601, 79th Congress, title III, Regulation of Lobbying Act, section 308(b), which provides as follows:

(b) All information required to be filed under the provisions of this section with the Clerk of the House of Representatives and the Secretary of the Senate shall be compiled by said Clerk and Secretary, acting jointly, as soon as practicable after the close of the calendar quarter with respect to which such information is filed and shall be printed in the CONGRESSIONAL RECORD.

The Clerk of the House of Representatives and the Secretary of the Senate jointly submit their report of the compilation required by said law and have included all registrations and quarterly reports received.

REGISTRATIONS*

*All alphanumeric characters and monetary amounts refer to receipts and expenditures on page 2, paragraphs D and E of the Quarterly Report Form.

The following registrations were submitted for the third calendar quarter 1978:

(NOTE.—The form used for report is reproduced below. In the interest of economy in the RECORD, questions are not repeated, only the essential answers are printed, and are indicated by their respective letter and number.)

FILE ONE COPY WITH THE SECRETARY OF THE SENATE AND FILE TWO COPIES WITH THE CLERK OF THE HOUSE OF REPRESENTATIVES:

This page (page 1) is designed to supply identifying data; and page 2 (on the back of this page) deals with financial data.

PLACE AN "X" BELOW THE APPROPRIATE LETTER OR FIGURE IN THE BOX AT THE RIGHT OF THE "REPORT" HEADING BELOW:

"PRELIMINARY" REPORT ("Registration"): To "register," place an "X" below the letter "P" and fill out page 1 only.

"QUARTERLY" REPORT: To indicate which one of the four calendar quarters is covered by this Report, place an "X" below the appropriate figure. Fill out both page 1 and page 2 and as many additional pages as may be required. The first additional page should be numbered as page "3," and the rest of such pages should be "4," "5," "6," etc. Preparation and filing in accordance with instructions will accomplish compliance with all quarterly reporting requirements of the Act.

Year: 19_____

REPORT

PURSUANT TO FEDERAL REGULATION OF LOBBYING ACT

P	QUARTER			
	1st	2d	3d	4th
	(Mark one square only)			

NOTE ON ITEM "A".—(a) IN GENERAL. This "Report" form may be used by either an organization or an individual, as follows:

(i) "Employee".—To file as an "employee", state (in Item "B") the name, address, and nature of business of the "employer". (If the "employee" is a firm [such as a law firm or public relations firm], partners and salaried staff members of such firm may join in filing a Report as an "employee".)

(ii) "Employer".—To file as an "employer", write "None" in answer to Item "B".

(b) SEPARATE REPORTS. An agent or employee should not attempt to combine his Report with the employer's Report:

(i) Employers subject to the Act must file separate Reports and are not relieved of this requirement merely because Reports are filed by their agents or employees.

(ii) Employees subject to the Act must file separate Reports and are not relieved of this requirement merely because Reports are filed by their employers.

A. ORGANIZATION OR INDIVIDUAL FILING:

1. State name, address, and nature of business.

2. If this Report is for an Employer, list names of agents or employees who will file Reports for this Quarter.

NOTE ON ITEM "B".—*Reports by Agents or Employees.* An employee is to file, each quarter, as many Reports as he has employers, except that: (a) If a particular undertaking is jointly financed by a group of employers, the group is to be considered as one employer, but all members of the group are to be named, and the contribution of each member is to be specified; (b) if the work is done in the interest of one person but payment therefor is made by another, a single Report—naming both persons as "employers"—is to be filed each quarter.

B. EMPLOYER.—State name, address, and nature of business. If there is no employer, write "None."

NOTE ON ITEM "C".—(a) The expression "in connection with legislative interests," as used in this Report, means "in connection with attempting, directly or indirectly, to influence the passage or defeat of legislation." "The term 'legislation' means bills, resolutions, amendments, nominations, and other matters pending or proposed in either House of Congress, and includes any other matter which may be the subject of action by either House"—§ 302(e).

(b) Before undertaking any activities in connection with legislative interests, organizations and individuals subject to the Lobbying Act are required to file a "Preliminary" Report (Registration).

(c) After beginning such activities, they must file a "Quarterly" Report at the end of each calendar quarter in which they have either received or expended anything of value in connection with legislative interests.

C. LEGISLATIVE INTERESTS, AND PUBLICATIONS in connection therewith:

1. State approximately how long legislative interests are to continue. If receipts and expenditures in connection with legislative interests have terminated, place an "X" in the box at the left, so that this Office will no longer expect to receive Reports. ☐

2. State the general legislative interests of the person filing and set forth the *specific* legislative interests by reciting: (a) Short titles of statutes and bills; (b) House and Senate numbers of bills, where known; (c) citations of statutes, where known; (d) whether for or against such statutes and bills.

3. In the case of those publications which the person filing has caused to be issued or distributed in connection with legislative interests, set forth: (a) Description, (b) quantity distributed; (c) date of distribution, (d) name of printer or publisher (if publications were paid for by person filing) or name of donor (if publications were received as a gift).

(Answer items 1, 2, and 3 in the space below. Attach additional pages if more space is needed)

4. If this is a "Preliminary" Report (Registration) rather than a "Quarterly" Report, state below what the nature and amount of anticipated expenses will be; and if for an agent or employee, state also what the daily, monthly, or annual rate of compensation is to be. If this is a "Quarterly" Report, disregard this item "C4" and fill out item "D" and "E" on the back of this page. Do not attempt to combine a "Preliminary" Report (Registration) with a "Quarterly" Report.

AFFIDAVIT

[Omitted in printing]

PAGE 1

A. Adfast Systems, Inc. d.b.a., Free Enterprise Task Force, Ltd., Box 8954, Denver, Colo. 80201.

A. Ad Hoc Committee of Concerned Parents, P.O. Box 343, Lexington, Mass. 02173.

A. Terrance M. Adlhock, 1775 K Street NW., Suite 310, Washington, D.C. 20006.
B. El Paso Natural Gas Co., P.O. Box 1492, El Paso, Tex. 79978.

A. James J. Albertine, Interstate Natural Gas Association of America, 1660 L Street NW., Suite 601, Washington, D.C. 20036.
B. Interstate Natural Gas Association of America, 1660 L Street NW., Suite 601, Washington, D.C. 20036.

A. Alcalde, Henderson, O'Bannon & Kline, 1911 North Fort Myer Drive, No. 1207, Rosslyn, Va. 22209.
B. Air Sunshine, 1129 Simonton Street, Key West, Fla.

A. Alcalde, Henderson, O'Bannon & Kline, 1911 North Fort Myer Drive, Suite 1207, Rosslyn, Va. 22209.
B. The Continental Group, Inc., 633 Third Avenue, New York, N.Y. 10017.

A. George Alderson, 323 Maryland Avenue NE., No. 5, Washington, D.C. 20002.
B. Sierra Club, 330 Pennsylvania Avenue SE., Washington, D.C. 20003.

A. Susan Alexander, Zero Population Growth, 1346 Connecticut Avenue NW., Washington, D.C. 20036.
B. Zero Population Growth, 1346 Connecticut Avenue NW., Washington, D.C. 20036.

A. Joseph C. Allwarden, Nathan Lord Road, Amherst, N.H. 03031.
B. Kollsman Instrument Co., Division of Sun Chemical Corp., Daniel Webster Highway South, Merrimack, NH. 03054.

A. American Advertising Federation, 1225 Connecticut Avenue NW., Suite 401, Washington, D.C. 20036.

A. American Childrens' Citizenship Rights League, 157 Route du Grand Lancy, 1213 Onex, Geneva, Switzerland.

A. American Honda Motor Co., Inc., Suite 905, 955 L'Enfante Plaza North, Washington, D.C. 20024.

A. The American League of Anglers, 810 18th Street NW., Washington, D.C. 20006.

A. Scott P. Anger, 1200 18th Street NW., Suite 607, Washington, D.C. 20036.
B. American Petroleum Refiners Association, 1200 18th Street NW., Suite 607, Washington, D.C. 20036.

A. John D. Aquilino, Jr., 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
B. National Rifle Association of America, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.

A. Arent, Fox, Kintner, Plotkin & Kahn, 1815 H Street NW., Washington, D.C. 20006.
B. Bayerische Vereinsbank (Union Bank of Bavaria), Kardinal-Faulhaber-Str. 1, Munich, Germany.

A. Arent, Fox, Kintner, Plotkin & Kahn, 1815 H Street NW., Washington, D.C. 20006.
B. League of Women Voters of the United States, 1730 M Street NW., Washington, D.C. 20036.

A. Arnold & Porter, 1229 19th Street NW., Washington, D.C. 20036.
B. American Association of Dealers in Ancient Oriental, and Primitive Art, 159½ East 94th Street, New York, N.Y. 10028.

A. Walter G. Asmus, 3950 East Costilla Place, Littleton, Colo. 80122.
B. Adfast Systems, Inc., d.b.a., Free Enterprise Task Force, Ltd., Box 8954, Denver, Colo. 80201.

A. Robert D. Bannister, National Association of Home Builders of the United States, 15th & M Streets NW., Washington, D.C. 20005.
B. National Association of Home Builders of the United States, 15th & M Streets NW., Washington, D.C. 20005.

A. Barnes, Richardson & Colburn, 1819 H Street NW., Washington, D.C. 20006.
B. Meat Importers Council of America, 1 Penn Plaza, New York, N.Y. 10001.

A. Barnett, Alagia & Carey, 1627 K Street, NW., Washington, D.C. 20006.
B. Florida Fruit & Vegetable Association, 4401 East Colonial Drive, Orlando, Fla. 32814.

A. Eileen Barthelmy, The American League of Anglers, 810 18th Street NW., Washington, D.C. 20006.
B. The American League of Anglers, 810 18th Street NW., Washington, D.C. 20006.

A. Margaret H. Barton, Alston, Miller & Gaines, 1800 M Street NW., Suite 1000, Washington, D.C. 20036.
B. Board of Trade Clearing Corp., 141 West Jackson Boulevard, Chicago, Ill. 60604.

A. Richard A. Barton, Direct Mail/Marketing Association, 1730 K Street NW., Suite 905, Washington, D.C.
B. Direct Mail/Marketing Association, 6 East 43d Street, New York, N.Y.

A. Beer, Boltz & Bennis, 10 West Square Lake Road, Suite 303, Bloomfield Hill, Mich. 48013.
B. City of Pontiac, Pontiac, Mich.

A. John Roger Beers, 2345 Yale Street, Palo Alto, Calif. 94306.
B. Natural Resources Defense Council, Inc., 2345 Yale Street, Palo Alto, Calif. 94306.

A. Howard H. Bell, 1225 Connecticut Avenue NW., Suite 401, Washington, D.C. 20036.
B. American Advertising Federation, 1225 Connecticut Avenue NW., Suite 401, Washington, D.C. 20036.

A. Kim Alan Benjamin, 1725 DeSales Street NW., Suite 403, Washington, D.C. 20036.
B. American Society for Medical Technology, 1725 DeSales Street NW., Suite 403, Washington, D.C. 20036.

A. Douglas P. Bennett, 1776 F Street NW., Suite 108, Washington, D.C. 20006.
B. Pepsi Co., Inc., Purchase, N.Y.

A. Berman & Associates, 1776 K Street NW., Washington, D.C. 20006.
B. Unicare Services, Inc., 105 West Michigan Street, Milwaukee, Wis. 53203.

A. Berry, Epstein, Sandstrom & Blatchford, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Constructora Nacional de Carros de Ferrocarril, S.A., Av. Universidad y Miguel Laurent, Mexico 12, D.F.

A. Berry, Epstein, Sandstrom & Blatchford, 1700 Pennsylvania Avenue NW., Suite 670, Washington, D.C. 20006.
B. Great Western Sugar Co., P.O. Box 5308, Denver, Colo. 80217.

A. Max N. Berry, Berry, Epstein, Sandstrom & Blatchford, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Committee to Assure the Availability of Casein, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.

A. Beveridge, Fairbanks & Diamond 1 Farragut Square South, Washington, D.C. 20006.
B. Florida Power & Light Co., P.O. Box 013100, Miami, Fla. 33101.

A. Beveridge, Fairbanks & Diamond, 1634 I Street NW., Washington, D.C. 20006.
B. New England Fish Co., Pier 89, Seattle, Wash. 98119.

A. Tom Biery, Mid-Continent Oil & Gas Association, 1800 K Street NW., Washington D.C. 20006.
B. Mid-Continent Oil & Gas Association, 1111 Thompson Building, Tulsa, Okla. 74103.

A. Birch, Horton, Bittner & Monroe, 4400 Jenifer Street NW., Washington, D.C. 20015.
B. Global Seafoods, Inc., 1 Canal Plaza, Portland, Maine 94111.

A. Robert Bird, 1629 K Street NW., Suite 300, Washington, D.C.
B. General Mills, Inc., P.O. Box 1113, Minneapolis, Minn. 55440.

A. Robert J. Bird, 1140 Connecticut Avenue NW., No. 804, Washington, D.C. 20036.
B. Zachry, Inc., P.O. Box 21130, San Antonio, Tex. 78285.

A. Kristine Blackwood, 133 12th Street SE., Washington, D.C. 20003.
B. National Organization for Women, Inc., 425 13th Street NW., Washington, D.C. 20004.

A. Kristine Blackwood, 133 12th Street SE., Washington, D.C. 20003.
B. Women's Lobby, 201 Massachusetts Avenue NE., Washington, D.C. 20002.

A. Edward Blankstein, 30 Jefferson Road, Princeton, N.J. 08540.
B. Edward Blankstein, Inc., Research Park, Princeton, N.J. 08540.

A. Blum, Parker & Nash, 1015 18th Street NW., Suite 408, Washington, D.C. 20036.
B. New York Merchantile Exchange, 4 World Trade Center, New York, N.Y. 10048.

A. Carolyn Bode, 7008 Partridge Place, Hyattsville, Md. 20782.
B. Women's Lobby, Inc., 201 Massachusetts Avenue NE., Washington, D.C. 20002.

A. Christie K. Bohner, 900 17th Street NW., No. 1016, Washington, D.C. 20006.
B. Kaiser Steel Corp., 900 17th Street NW., No. 1016, Washington, D.C. 20006.

A. Bonneville Associates, Inc., 747 East South Temple, Suite 111, Salt Lake City, Utah 84103.
B. Western Regional Council, P.O. Box 8144, Salt Lake City, Utah 84108.

A. Charles G. Botsford, 1730 M Street NW., Suite 609, Washington, D.C. 20036.
B. Colt Industries, Inc., New York City, N.Y.

A. Sheila H. Boykin, National Health Law Program, Inc., 1200 15th Street NW., Room 503, Washington, D.C. 20005.
B. The National Health Law Program Inc., 2401 Main Street, Santa Monica, Calif. 90405.

A. Raymond F. Bragg, Jr., 1200 18th Street NW., Suite 607, Washington, D.C. 20036.
B. American Petroleum Refiners Association.

[Omitted in printing]

PAGE 1

A. Bregman, Abell, Solter & Kay, 1900 L Street NW., Suite 610, Washington, D.C. 20036.

B. American Psychiatric Association, 1700 18th Street NW., Washington, D.C. 20009.

A. Dale E. Brooks, Chevron U.S.A., Inc., 1700 K Street NW., Washington, D.C. 20006.

B. Chevron U.S.A., Inc., a subsidiary of Standard Oil Co. of California, 1700 K Street NW., Washington, D.C. 20006.

A. Gary A. Brown, 1101 17th Street NW., Suite 700, Washington, D.C. 20036.

B. National Association of Real Estate Investment Trusts, 1101 17th Street, Suite 700, Washington, D.C. 20036.

A. John M. Burzio, Hydeman, Mason & Goodell, 1220 19th Street NW., Washington, D.C. 20036.

B. The Bureau of National Affairs, Inc., 1231 25th Street NW., Washington, D.C. 20037.

A. Gary Bushell, 309 Bermuda, Corpus Christi, Tex. 78411.

B. Atlantic Richfield Co., 1601 Bryan Street, Dallas, Tex. 75221.

A. Kenneth W. Butler, 1155 15th Street NW., No. 713, Washington, D.C. 20005.

B. American Consulting Engineers Council, 1155 15th Street NW., Washington, D.C. 20005.

A. Michael F. Butler, Andrews, Kruth, Campbell & Jones, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.

B. Grocery Manufacturers of America, 1425 K Street NW., Washington, D.C. 20005.

A. John W. Byrnes, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.

B. Foley, Lardner, Hollabaugh & Jacobs (for Fort Howard Paper Co.), 1775 Pennsylvania Avenue NW., Washington, D. C. 20006.

A. John W. Byrnes, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.

B. Foley, Lardner, Hollabaugh & Jacobs (for Johnson Controls, Inc.), 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.

A. Morrison G. Cain, American Speech and Hearing Association, 10801 Rockville Pike, Rockville, Md. 20852.

A. Charles J. Caldwell, 444 North Capitol Street, Suite 800, Washington, D.C. 20001.

B. District No. 1, Pacific Coast District, Marine Engineers' Beneficial Association, 444 North Capitol Street, Suite 300, Washington, D.C. 20001.

A. Milton F. Capps, 1914–B Senate Street, Columbia, S.C. 29201.

B. Cook, Ruef, Spann & Weiser, Inc., 1735 Saint Julian Place, Columbia, S.C. 29204; and J. Crawford Cook, Inc., 2218 Terrace Way, Columbia, S.C. 29205 (for The Royal Embassy of Saudi Arabia).

A. Henry Chajet, American Mining Congress, 1100 Ring Building, Washington, D.C. 20036.

B. American Mining Congress, 1100 Ring Building, Washington, D.C. 20036.

A. Steven M. Champlin, Suite 931, 1346 Connecticut Avenue, NW., Washington, D.C.

B. Council of Vietnam Veterans, Inc., Suite 931, 1346 Connecticut Avenue NW., Washington, D.C.

A. Chapman, Duff & Paul, 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.

B. Bundesverband deutscher Banken, Mohrenstr. 35–41, 5000 Cologne 1, Germany.

A. Vanessa Lea Chiapetta, 2515 Community, No. 1014, Dallas, Tex. 75220.

B. Doctors for the Equal Rights Amendment, P.O. Box 19531, Dallas, Tex. 75219.

A. Yvonne Chicoine, 422 First Street SE., Washington, D.C. 20003.

B. American Conservative Union, 422 First Street SE., Washington, D.C. 20003.

A. Julia Churchman, Preservation Action, 2101 L Street NW., Washington, D.C. 20037.

B. Preservation Action, 2101 L Street NW., Washington, D.C. 20037.

A. Citizens for Tax Reform in 1978, Inc., 1730 Pennsylvania Avenue, Suite 230, Washington, D.C. 20006.

A. Citronelle-Mobile Gathering, Inc., 717 First Southern Federal Tower, Mobile, Ala. 36616.

A. Betty Jane Clark, Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C. 20062.

B. Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C. 20062.

A. Jean Marshall Clarke, National Organization for Women, 425 13th Street NW., Washington, D.C. 20004.

B. National Organization for Women, 425 13th Street NW., Washington, D.C. 20004.

A. A. Stephens Clay, Kilpatrick, Cody, Rogers, McClatchey & Regenstein, Suite 400, 2033 K Street NW., Washington, D.C. 20006.

B. Kilpatrick, Cody, Rogers, et al., Suite 400, 2033 K Street NW., Washington, D.C. 20006 (for Furniture Rental Association of America (FRAA)).

A. Cleary, Gottlieb, Steen & Hamilton, 1250 Connecticut Avenue NW., Suite 400, Washington, D.C. 20036.

B. Time-Critical Shipment Committee.

A. Clifford, Glass, McIlwain & Finney, 815 Connecticut Avenue NW., Washington, D.C. 20006.

B. Australian Meat and Live-Stock Corp., One World Trade Center, New York, N.Y. 10048.

A. Clifford, Glass, McIlwain & Finney, 815 Connecticut Avenue NW., Washington, D.C. 20006.

B. The Proprietary Association, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.

A. Lynne Revo Cohen, 12273 Turkey Wing Court, Reston, Va.

B. Women's Lobby, Inc., 201 Massachusetts Avenue NE., Washington, D.C. 20002.

A. Cohen & Uretz, 1775 K Street NW., Washington, D.C. 20006.

B. Estate of Sylvia S. Buring, 1837 Harbor Avenue, Memphis, Tenn. 38113.

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.

B. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036 (for Mars, Inc.).

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.

B. Patton, Boggs and Blow, 1200 17th Street NW., Washington, D.C. 20036 (for Mocatta Metals).

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.

B. Patton, Boggs and Blow, 1200 17th Street NW., Washington, D.C. 20036 (for Jack Philip & Son, Inc.).

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.

B. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. (for Pyrotechnic Signal Manufacturers Association).

A. Collier, Shannon, Rill, Edwards & Scott, 1055 Thomas Jefferson Street NW., Washington, D.C. 20007.

B. Allegheny Ludlum Industries, Inc., 2 Oliver Plaza, Pittsburgh, Pa. 15222.

A. Committee for Ratification of the Panama Treaties, Inc., 2021 L Street NW., Suite 405, Washington, D.C. 20036.

A. Committee of Producers of High Carbon Ferrochrominum: Airco Alloys Division, Airco, Inc., Niagara Falls, N.Y.; Chromium Mining and Smelting Corp., Memphis, Tenn.; Globe Metallurgical Division, Interlake, Inc., Cleveland, Ohio.

A. Committee to Assure the Availability of Casein, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.

A. Stephen R. Conafay, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.

B. Pfizer, Inc., 235 East 42d Street, New York, N.Y. 10017.

A. John B. Conlan, 2033 M Street NW., Washington, D.C. 20036.

B. Western Association of Christian Schools, Whittier, Calif.

A. Constructora Nacional de Carros de Ferrocarril, S.A., Av. Universidad y Miguel Laurent, Mexico 12, D.F.

A. Robert M. Cook, Livestock Marketing Association, 4900 Oak Street, Kansas City, Mo. 64112.

B. Livestock Marketing Association, 4900 Oak Street, Kansas City, Mo. 64112.

A. Edward Cooney, Food Research & Action Center, 2011 I Street NW., Suite 700, Washington, D.C. 20006.

B. Food Research & Action Center, 2011 I Street NW., Suite 700, Washington, D.C. 20006.

A. Benjamin Y. Cooper, Printing Industries of America, Inc., 1730 North Lynn, Arlington, Va. 22209.

B. Printing Industries of America, Inc., 1730 North Lynn Street, Arlington, Va. 22209.

A. Carl B. Cordes, Battle, Fowler, Jaffin, Pierce & Kheel, 280 Park Avenue, New York, N.Y. 10017.

B. State Troopers Fraternal Association of New Jersey, Inc., 30 Newport Drive, Howell, N.J. 07731.

A. Alfred C. Cordon, Jr., Cordon & Jacob, No. 616, 2000 L Street NW., Washington, D.C. 20036.

B. Buffalo Broadcasting Co., Inc., 2077 Elmwood Avenue, Buffalo, N.Y.

A. Bennett J. Corn, New York Coffee & Sugar Exchange, Inc., Four World Trade Center, New York, N.Y. 10048.

B. New York Coffee & Sugar Exchange, Inc., Four World Trade Center, New York, N.Y. 10048.

A. Richard L. Corrigan, 1155 15th Street NW., No. 713, Washington, D.C. 20005.

B. American Consulting Engineers Council, 1155 15th Street NW., No. 713, Washington, D.C. 20005.

A. Carol Coston, 2030 M Street NW., Washington, D.C. 20036.

B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.

A. Covington & Burling, 888 16th Street NW., Washington, D.C. 20006.

B. Anchor National Life Insurance Co., Camelback at 22d Street, Phoenix, Ariz. 85016.

A. Covington & Burling, 888 16th Street NW., Washington, D.C. 20006.

B. Campbell Soup Co., One Campbell Place, Camden, N.J. 08101.

A. Harold P. Coxson, Jr., Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C. 20062.

B. Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C. 20062.

A. Cramer, Visser, Lipsen & Smith, 475 L'Enfant Plaza SW., Suite 4100, Washington, D.C. 20024.

B. Institute of Signage Research, 541 University Avenue, Palo Alto, Calif. 94301.

A. James M. Cubie, Union of Concerned Scientists, 1025 15th Street NW., Washington, D.C. 20005.

B. Union of Concerned Scientists, 1208 Massachusetts Avenue, Cambridge, Mass. 02138.

A. Daniels, Houlihan & Palmeter, 1819 H Street NW., Washington, D.C. 20002.

B. Industrial Fasteners Group, American Importers Association, 420 Lexington Avenue, New York, N.Y. 10017.

A. Clarence Davan, P.O. Box 5308, Denver, Colo. 80217.

B. Great Western Sugar Co., P.O. Box 5308, Denver, Colo. 80217.

A. DECQ Committee, P.O. Box 551, Beverly Hills, Calif. 90210.

A. DeHart Associates, Inc., 1505 22d Street N.W., Washington, D.C. 20037.

B. Recording Industry Association of America, Inc., 1 East 57th Street, New York, N.Y. 10022.

A. Stephen T. DeLaMater, Halliburton Co., 3211 Southland Center, Dallas, Tex. 75201.

B. Halliburton Co., 3211 Southland Center, Dallas, Tex. 75201.

A. Dewey, Ballantine, Bushby, Palmer & Wood, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.

B. Jefferson/Young & Associates, 1600 Kapiolania Boulevard, Honolulu, Hawaii 96814.

A. Dickstein, Shapiro & Morin, 2101 L Street NW., Washington, D.C. 20037.

B. Mitsubishi International Corp., 1730 Pennsylvania Avenue N.W., Washington, D.C. 20006.

A. J. L. Disque, 556 Morris Avenue, Summit, N.J. 07901.

B. CIBA–GEIGY Corp., 556 Morris Avenue, Summit, N.J. 07901.

A. William A. Dobrovir, Andra N. Oakes, Joseph D. Gebhardt and David L. Scull, 2005 L Street NW., Washington, D.C. 20036.

B. The Fund for Constitutional Government, 121 Constitution Avenue NE., Washington, D.C. 20002.

A. Doctors for the Equal Rights Amendment (E.R.A.), P.O. Box 19531, Dallas, Tex. 75219.

A. Patrick Donoho, National Association of Chain Drug Stores, Inc., 1911 Jefferson Davis Highway, Suite 504, Arlington, Va. 22202.

B. National Association of Chain Drug Stores, Inc., 1911 Jefferson Davis Highway, Suite 504, Arlington, Va. 22202.

A. Joseph W. Dorn, Kilpatrick, Cody, Rogers, McClatchey & Regenstein, Suite 400, 2033 K Street NW., Washington, D.C. 20006.

B. Kilpatrick, Cody, Rogers, McClatchey & Regenstein, Suite 40, 2033 K Street NW., Washington, D.C. 20006 (for Furniture Rental Association of America).

A. Richard Morgan Downey, American Speech & Hearing Association, 10801 Rockville Pike, Rockville, Md. 20852.

B. American Speech & Hearing Association, 10801 Rockville Pike, Rockville, Md. 20852.

A. Robert H. Doyle, 1120 Connecticut Avenue NW., No. 310, Washington, D.C. 20036.

B. National Association of Military Widows, P.O. Box 254, Coronado, Calif. 92118.

A. Robert E. Duffy, The Carborundum Co., Kennecott Copper Corp., 1022 15th Street NW., Washington, D.C. 20005.

B. The Carborundum Co., Kennecott Copper Corp., 1022 15th Street NW., Washington, D.C. 20005.

A. Jeffrey M. Duke, 260 Madison Avenue, New York, N.Y. 10016.

B. American Paper Institute, Inc., 260 Madison Avenue, New York, N.Y. 10016.

A. Duncan, Brown, Weinberg & Palmer, 1775 Pennsylvania Avenue NW., Suite 1200, Washington, D.C. 20006.

B. Iva May Harvey, Route 7, Box 117, Blythe, Calif. 92225.

A. Duncan, Brown, Weinberg & Palmer, 1775 Pennsylvania Avenue NW., Suite 1200, Washington, D.C. 20006.

B. Huron-Clinton Metropolitan Authority, 3050 Penobscot, Detroit, Mich. 48226.

A. Joseph L. Duran, The First National Bank of Boston, 100 Federal Street, Boston, Mass. 02110.

B. The First National Bank of Boston, 100 Federal Street, Boston, Mass. 02110.

A. Eaton Associates, 1750 K Street NW., Washington, D.C. 20006.

A. Robert E. L. Eaton, 1750 K Street NW., Washington, D.C. 20006.

B. Eaton Associates, Inc., 1750 K Street NW., Washington, D.C. 20006.

A. Joan Eazareky, Phelps Dodge Corp., 1620 I Street NW., Washington, D.C. 20006.

B. Phelps Dodge Corp., 300 Park Avenue, New York, N.Y. 10022.

A. Daniel J. Edelman, Inc., 1730 Pennsylvania Avenue NW., No. 460, Washington, D.C. 20006.

B. Alaska Airlines, P.O. Box 68900, Seattle, Wash. 98188.

A. Edelman International Corp., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.

B. Republic of Haiti/Embassy of Haiti, 4400 17th Street NW., Washington, D.C.

A. Phyllis Eisen, Zero Population Growth, 1346 Connecticut Avenue NW., Washington, D.C. 20036.

B. Zero Population Growth, 1346 Connecticut Avenue NW., Washington, D.C. 20036.

A. Jonathan P. Eis, Midwest Office, Sierra Club, 444 West Main, Madison, Wis. 53703.

B. Sierra Club, 530 Bush Street, San Francisco, Calif. 94108.

A. Timothy L. Elder, Caterpillar Tractor Co., 100 Northeast Adams Street, Peoria, Ill. 61629.

B. Caterpillar Tractor Co., 100 Northeast Adams Street, Peoria, Ill. 61629.

A. Kimberly A. Elliott, 444 North Capitol Street NW., No. 409, Washington, D.C. 20001.

B. Associated Builders and Contractors, Inc., 444 North Capitol Street NW., No. 409, Washington, D.C. 20001.

A. Law offices of Northcutt Ely, Watergate 600 Building, Washington, D.C. 20037.

B. Associated Electric Cooperative, Inc., Springfield, Mo. 65801.

A. John W. Feist, 900 17th Street NW., No. 1016, Washington, D.C. 20006.

B. Kaiser Steel Corp., 900 17th Street NW., No. 1016, Washington, D.C. 20006.

A. Jack Ferguson Associates, 513 A Street SE., Washington, D.C. 20003.

B. State of Alaska, Department of Revenue and the Multi-State Tax Commission, Pouch S, Juneau, Alaska.

A. Jack Ferguson Associates, 513 A Street S.E., Washington, D.C. 20003.

B. U.S. Borax, 3075 Wilshire Boulevard, Los Angeles, Calif. 90010.

A. Paul Edward Finger III, 1745 Jefferson Davis Highway, Suite 511, Arlington, Va. 22202.

B. Manufactured Housing Institute, 1745 Jefferson David Highway, Suite 511, Arlington, Va. 22202.

A. Mark Fitzgerald, National Association of Home Builders of the United States, 15th and M Streets NW., Washington, D.C. 20005.

B. National Association of Home Builders of the United States, 15th and M Streets NW., Washington, D.C. 20005.

A. Claud Fleet, 681 Lafayette, Denver, Colo. 80218.

B. Hunt International Resources, 3500 First National Bank of Dallas, Dallas, Tex.

A. Claud Fleet, 681 Lafayette, Denver, Colo. 80218.

B. N. B. Hunt, 2500 First National Bank, Dallas, Tex.

A. Foley, Lardner, Hollabaugh & Jacobs, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.

B. Fort Howard Paper Co., 1919 South Broadway, Green Bay, Wis. 54305.

A. Foley, Lardner, Hollabaugh & Jacobs, 1775 Pennsylvania, Avenue NW., Washington, D.C. 20006.

B. Johnson Controls, Inc., 507 East Michigan, Street, P.O. Box 423, Milwaukee, Wis. 53201.

A. Dave Foreman, The Wilderness Society, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.

B. The Wilderness Society, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.

A. Forest Land Services, Inc., P.O. Box 1311, Elkins, W. Va. 26241.

B. Inland Forest Resource Council, 320 Savings Center Building, Missoula, Mont. 59801.

A. Joseph L. Fraites, New York Coffee & Sugar Exchange, Inc., 4 World Trade Center, New York, N.Y. 10048.

B. New York Coffee & Sugar Exchange, Inc., 4 World Trade Center, New York, N.Y. 10048.

A. William H. G. France, National Motorsports Committee of ACCUS, Suite 302, 1735 K Street NW., Washington, D.C. 20006.

B. National Motorsports Committee of ACCUS, Suite 302, 1735 K Street NW., Washington, D.C. 20006.

A. Fraser/Associates, Inc., 1800 K Street NW., Suite 1006, Washington, D.C. 20006.
B. National Action Committee on Labor Law Reform, 1800 K Street NW., Washington, D.C. 20006.

A. Glenn Preis, P.O. Box 66, Des Moines, Iowa 50301.
B. Meat Price Investigators Association, P.O. Box 66, Des Moines, Iowa 50301.

A. Kenneth E. Frick, Western Cotton Growers' Association, Route 1, Box 318, Arvin, Calif. 93203.
B. Western Cotton Growers' Association, Route 1, Box 318, Arvin, Calif. 93203.

A. Marie Louise P. Friendly, Preservation Action, 2101 L Street NW., Washington, D.C. 20037.
B. Preservation Action, 2101 L Street NW., Washington, D.C. 20037.

A. E. Douglas Frost, American Bus Association, 1025 Connecticut Avenue NW., Suite 308, Washington, D.C. 20036.
B. American Bus Association, 1025 Connecticut Avenue NW., Suite 308, Washington, D.C. 20036.

A. Gordon H. Fry, 3251 Old Lee Highway, Suite 501, Fairfax, Va. 22030.
B. National Limestone Institute, Inc., Suite 501, 3251 Old Lee Highway, Fairfax, Va. 22030.

A. Diane Fuchs, Public Citizen's Tay Refor Research Group, 133 C Street SE., Washington, D.C. 20003.
B. Public Citizen's Tax Reform Research Group, 133 C Street SE., Washington, D.C. 20003.

A. G-4 Children's Coalition, 7309 Delfield Street, Chevy Chase, Md. 20015.

A. Gadsby & Hannah, 60 State Street, Boston, Mass. 02109.

A. Gardner, Carton & Douglas, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
B. Elmer W. Kneip, 911 West Fulton Street, Chicago, Ill. 60607.

A. Gardner, Carton & Douglas, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
B. Sealed Power Corp., 2001 Sanford Street, Muskegon, Mich. 49443.

A. Robert L. Gardner, Alter Co., Box 3708, Davenport, Iowa 52808.
B. Alter Co., Box 3708, Davenport, Iowa 52808.

A. James J. Garry, New York Coffee and Sugar Exchange, Inc., No. 4 World Trade Center, New York, N.Y. 10048.
B. New York Coffee and Sugar Exchange Inc., No. 4 World Trade Center, New York, N.Y. 10048.

A. Morton A. Geller, The First National Bank of Boston, 100 Federal Street, Boston, Mass. 02110.
B. The First National Bank of Boston, 100 Federal Street, Boston, Mass. 02110.

A. Michael Gildea, 815 16th Street NW., Washington, D.C. 20006.
B. American Federation of Labor and Congress of Industrial Organizations, 815 16th Street NW., Washington, D.C. 20006.

A. John E. Giles, 1600 I Street NW., Washington, D.C. 20006.
B. Motion Picture Association of America, Inc., 1600 I Street NW., Washington, D.C. 20006.

A. Ginsburg, Feldman & Bress, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. P & O Falco, Inc., Shreveport, La.; True Oil Purchasing Co., Casper, Wyo.; Western Crude Oil, Inc., Denver, Colo.

A. Peter Ginsberg, Consumer Federation of America, 1012 14th Street NW., Washington, D.C. 20005.
B. Consumer Federation of America, 1012 14th Street NW., Washington, D.C. 20005.

A. Jonah Gitlitz, 1225 Connecticut Avenue, NW., No. 401, Washington, D.C. 20036.
B. American Advertising Federation, 1225 Connecticut Avenue NW., No. 401, Washington, D.C. 20036.

A. Robert Glavin, American Hospital Association, 444 North Capitol Street NW., No. 500, Washington, D.C. 20001.
B. American Hospital Association, 840 North Lake Shore Drive, Chicago, Ill. 60611.

A. Thomas V. Glynn, Battle, Fowler, Jaffin, Pierce & Kheel, 280 Park Avenue, New York, N.Y. 10017.
B. State Troopers Fraternal Association of New Jersey, Inc., 30 Newport Drive, Howell, N.J. 07731.

A. Godfrey Associates, Inc., 918 16th Street NW., S-500, Washington, D.C. 20006.
B. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.

A. Howard S. Goldberg, DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036.
B. DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036 (for Airbus Industrie, Avenue Lucien Servanty, 31700 Blagnac, France).

A. John F. Grant, Printing Industries of America, Inc., 1730 North Lynn Street, Arlington, Va. 22209.
B. Printing Industries of America, Inc., 1730 North Lynn Street, Arlington, Va. 22209.

A. Great Western Sugar Co., P.O. Box 5308, Denver, Colo. 80217.

A. John T. Grupenhoff, No. 208, 6410 Rockledge Drive, Bethesda, Md. 20034.
B. American Academy of Dermatology, 820 Davis Street, Evanston, Ill. 60201.

A. John T. Grupenhoff, No. 208, 6410 Rockledge Drive, Bethesda, Md. 20034.
B. American Gastroenterological Association, c/o Charles Slack, Inc., Thorofare, N.J. 08086.

A. Marjorie Guthrie, Committee To Combat Huntington's Disease, 250 West 57th Street, New York, N.Y. 10019.

A. Peter H. Hahn, 918 16th Street NW., No. 501, Washington, D.C. 20006.
B. Chromalloy American Corp., 120 South Central Avenue, St. Louis, Mo. 63105.

A. Martin Ryan Haley & Associates, Inc., 1511 K Street NW., Washington, D.C. 20005.
B. Agri-Business Inc., 11411 Rendezvous, San Antonio, Tex. 38180.

A. Martin Ryan Haley & Associates, Inc., 1511 K Street NW., Washington, D.C. 20005.
B. Federal Express Corp., AMF Box 30167, Memphis, Tenn. 38180.

A. Martin Ryan Haley & Associates, Inc., 1511 K Street NW., Washington, D.C. 20005.
B. M&M/MARS Division of MARS, Inc., High Street, Hackettstown, N.J. 07840.

A. Martin Ryan Haley & Associates, Inc., 1511 K Street NW., Washington, D.C. 20005.
B. Tobacco Tax Council, P.O. Box 8269, 5407 Patterson Avenue, Richmond, Va. 23226.

A. Martin Ryan Haley & Associates, Inc., 1511 K Street NW., Washington, D.C. 20005.
B. Yandell & Hiller, Inc., 2805 Fort Worth National Building, Fort Worth, Tex. 76102.

A. HALT, Inc., 10 E Street SE., Washington, D.C. 20003.

A. Martha Hardee, 4311 Cedar Springs, Dallas, Tex. 75219.
B. Doctors for the Equal Rights Amendment, P.O. Box 19531, Dallas, Tex. 75219.

A. Michael T. Harrigan, Suite 701, 2033 M Street NW., Washington, D.C. 20036.
B. U.S. Olympic Committee, 57 Park Avenue, New York, N.Y. 10017.

A. Robert L. Harris, Aluminum Association, 818 Connecticut Avenue NW., Washington, D.C. 20006.
B. Aluminum Association, 818 Connecticut Avenue NW., Washington, D.C. 20006.

A. Charles D. Hartman, National Council of Farmer Cooperatives, 1129 20th Street NW., Washington, D.C. 20036.
B. National Council of Farmer Cooperatives, 1129 20th Street NW., Washington, D.C. 20036.

A. Paul T. Hasse, 10 E Street SE., Washington, D.C.
B. HALT, Inc. 10 E Street SE., Washington, D.C. 20003.

A. Mary W. Haught, Sun Co., Inc., 1800 K Street NW., Suite 820, Washington, D.C. 20006.
B. Sun Co., Inc., 100 Matsonford Road, Radnor, Pa. 19087.

A. Henkel & Lamon, 2500 Peachtree Center, Cain Tower, 229 Peachtree Street NE., Atlanta, Ga. 30303.
B. National Association of Pension Consultants & Administrators, Inc., 151 Ellis Street NE., Atlanta, Ga. 30303.

A. Herick, Allen & Davis, 1701 K Street NW., No. 706, Washington, D.C. 20006.
B. Amusement & Music Operators Association, 35 East Wacker Drive, Suite 1940, Chicago, Ill. 60601.

A. Dave Hill, American Farm Bureau Federation, 425 13th Street NW., Washington, D.C. 20004.
B. American Farm Bureau Federation, 225 Touhy Avenue, Park Ridge, Ill.

A. Bertram E. Hirsch, 76-17 250 Street, Bellerose, N.Y. 11426.
B. Sisseton-Wahpeton Sioux Tribe, Sisseton, S. Dak.

A. Sheila K. Hixson, 1101 17th Street NW., Washington, D.C. 20036.
B. American Dental Association, 1101 17th Street NW., Washington, D.C. 20036.

A. Gerald Hogan, Consumer Federation of America, 1012 14th Street NW., Washington, D.C. 20005.
B. Consumer Federation of America, 1012 14th Street NW., Washington, D.C. 20005.

A. Hogan & Hartson, 815 Connecticut Avenue, Washington, D.C. 20006.
B. Champlin Petroleum Co., P.O. Box 9365, Fort Worth, Tex. 76107.

A. Holland & Knight, P.O. Box 1288, Tampa, Fla. 33601.
B. Sikes Corp., 608 Prospect, Lakeland, Fla. 33802.

A. Holt International Children's Services, Inc., Holt Adoption Program, Inc., P.O. Box 2420, Eugene, Oreg. 97402.

A. Houdaille Industries, Inc., 1 Financial Plaza, Fort Lauderdale, Fla. 33394.

A. Hudson & Leftwich, 1101 15th Street NW., No. 806, Washington, D.C. 20005.
B. Kansas City, Mo.

A. Hudson & Leftwich, 1101 15th Street NW., No. 806, Washington, D.C. 20005.
B. City of Detroit, Mich.

A. Lawrence H. Hunt, Jr., Sidley & Austin, 1 First National Plaza, Chicago, Ill. 60603.
B. Heinold Commodities, Inc., 222 South Riverside Plaza, Chicago, Ill. 60606 and Conti-Commodity Services, Inc., 141 West Jackson Boulevard, Chicago, Ill. 60604.

A. Celia Hunter, The Wilderness Society, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. The Wilderness Society, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.

A. Randy Huwa, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.

A. International Management Consultants, Ltd., 1155 15th Street NW., Washington, D.C.
B. Swaziland Sugar Association, P.O. Box 445, Mbabane, Swaziland.

A. James K. Jackson, Baker, Hostetler, Frost & Towers, 818 Connecticut Avenue NW., Washington, D.C. 20006.
B. Sun Co., Inc., 100 Matsonford Road, Radnor, Pa. 19087.

A. Scott M. Jackson, 1155 15th Street NW., No. 713, Washington, D.C. 20005.
B. American Consulting Engineers Council, 1155 15th Street NW., No. 713, Washington, D.C. 20005.

A. T. Destry Jarvis, 529 Tennessee Avenue, Alexandria, Va. 22305.
B. National Parks and Conservation Association, 1701 18th Street NW., Washington, D.C. 20009.

A. Linda Jenckes, 1750 K Street NW., Washington, D.C. 20006.
B. Health Insurance Association of America, Inc., 1750 K Street NW., Washington, D.C.; 919 Third Avenue, New York, N.Y.; 332 South Michigan Avenue, Chicago, Ill.

A. Robert K. Jenkins, Jr., National Board of Young Men's Christian Associations, 1666 Connecticut Avenue NW., Washington, D.C.
B. National Board of Young Men's Christian Associations, 291 Broadway, New York, N.Y. 10007.

A. Billy B. Johnson, P.O. Box 24764, Seattle, Wash. 98109.
B. The 13th Regional Corp., P.O. Box 24764, Seattle, Wash. 98109.

A. David H. Johnson, Mississippi Petroleum Council, 215 Lamar Life Building, P.O. Box 42, Jackson, Miss. 39205.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.

A. Johnson, Hoar & Co., Inc., 1220 19th Street NW., Suite 201, Washington, D.C. 20036.
B. Allstate Insurance Co., c/o Van Ness, Feldman & Sutcliffe, 1220 19th Street NW., Suite 500, Washington, D.C. 20036.

A. Jerome Johnson, Box 9158, Amarillo, Tex. 79105.
B. Outdoor Advertising Association of America, Inc., 1660 L Street NW., Suite 215-16, Washington, D.C. 20036.

A. Karen Johnson, 1841 Ontario Place NW., No. 4, Washington, D.C. 20009.
B. Women's Lobby, 201 Massachusetts Avenue NE., Washington, D.C. 20002.

A. Spencer A. Johnson, Paperboard Packaging Council, 1800 K Street NW., Suite 600, Washington, D.C. 20006.
B. Paperboard Packaging Council, 1800 K Street NW., Suite 600, Washington, D.C. 20006.

A. John W. Johnstone, Jr., Airco Alloys, 3801 Highland Avenue, Niagara Falls, N.Y. 14305.
B. Airco Alloys, 3801 Highland Avenue, Niagara Falls, N.Y. 14305.

A. Jones, Day, Reavis & Pogue, 1100 Connecticut Avenue NW., Suite 1200, Washington, D.C. 20036.
B. Associated Gas Distributors, 1100 Connecticut Avenue NW., Suite 1200, Washington, D.C. 20036.

A. William R. Joyce, Jr., Vance & Joyce, Suite 520, 1701 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Vance & Joyce, Suite 520, 1701 Pennsylvania Avenue NW., Washington, D.C. 20006.

A. Irving K. Kaler, Kaler, Lefkoff, Pike & Fox, Suite 2101, 100 Colony Square, 1175 Peachtree NE., Atlanta, Ga. 30361.
B. Outdoor Advertising Association of America, Inc., 1660 L Street NW., Suite 215-16, Washington, D.C. 20036.

A. Candace Sue Kasper, 4525 Sylvester No. 207, Dallas, Tex. 75219.
B. Doctors for the Equal Rights Amendment, P.O. Box 19531, Dallas, Tex. 75219.

A. Kristina Kiehl, 8720 Milford Avenue, Silver Spring, Md. 20910.
B. Women's Lobby, Inc., 201 Massachusetts Avenue NE., Washington, D.C. 20003.

A. Gibson Kingren, Group Health Association of America, Inc., 1717 Massachusetts Avenue NW., No. 701, Washington, D.C. 20036.
B. Group Health Association of America, Inc., 1717 Massachusetts Avenue NW., Washington, D.C. 20036.

A. Arthur E. Klauser, Dow Corning Corp., 1800 M Street NW., Suite 710 South, Washington, D.C. 20036.
B. Dow Corning Corp., Midland, Mich. 48640.

A. Christiann L. Klein, National Organization for Women, 425 13th Street NW., Washington, D.C. 20004.
B. National Organization for Women, 425 13th Street NW., Washington, D.C. 20004.

A. Keith LeVern Kline, 330 Pennsylvania Avenue SE., Washington, D.C. 20003.
B. Sierra Club, 530 Bush Street, San Francisco, Calif. 94108.

A. Bart Koehler, The Wilderness Society, Box 1184, Cheyenne, Wyo.
B. The Wilderness Society, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.

A. Louis C. Kramp & Associates, 1819 H Street NW., Washington, D.C. 20006.
B. Servicemaster Industries, Inc., 2300 Warrenville Road, Downers Grove, Ill. 60515.

A. Raymond B. Krause, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Pfizer, Inc., 235 East 42d Street, New York, N.Y. 10017.

A. Krivit & Krivit, 101 Duddington Place SE., Washington, D.C. 20003.
B. City of Camden, N.J.; City of Bridgeport, Conn.; Gloucester County, N.J.; and CETA-Hudson County Consortium.

A. L. Wayne Krug, 461 South Boylston Street, Los Angeles, Calif. 90017.
B. Union Oil Co. of California, 461 South Boylston Street, Los Angeles, Calif. 90017.

A. Philip A. Lacovara, Hughes, Hubbard & Reed, 1660 L Street NW., Washington, D.C. 20036.
B. Pfizer, Inc., 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.

A. Walter B. Laessig, 1101 17th Street NW., Suite 700, Washington, D.C. 20036.
B. National Association of Real Estate Investment Trusts, 1101 17th Street, Suite 700, Washington, D.C. 20036.

A. Thomas M. Landin, 1150 Connecticut Avenue NW., Suite 310, Washington, D.C. 20036.
B. SmithKline Corp., 1500 Spring Garden Street, Philadelphia, Pa. 19101.

A. Duncan Lane, Jr., 1231 25th Street N.W., Washington, D.C. 20037.
B. Bureau of National Affairs, Inc., 1231 25th Street NW., Washington, D.C. 20037.

A. Lawrence C. Laser, Cities Service Co., 1660 L Street NW., Suite 207, Washington, D.C. 20036.
B. Cities Service Co., 1660 L Street NW., Suite 207, Washington, D.C. 20036.

A. Terry R. Lash, 2345 Yale Street, Palo Alto, Calif. 94306.
B. Natural Resources Defense Council, Inc., 2345 Yale Street, Palo Alto, Calif. 94306.

A. John W. League, c/o Tom B. Cunningham, Sr., Rural Route No. 5, Darlington, S.C. 29532.
B. National Association of Farmer Elected Committeemen, c/o Tom B. Cunningham, Sr., Rural Route No. 5, Darlington, S.C. 29532.

A. Richard A. Leahy, David L. Babson & Co., Inc., 1 Boston Place, Boston, Mass. 02108.
B. Investment Counsel Association of America, Inc., 127 East 59th Street, New York, N.Y. 10022.

A. Will E. Leonard, 900 17th Street NW., Suite 714, Washington, D.C. 20006.
B. Universal Leaf Tobacco Co., Inc., Hamilton Street at Broad, Richmond, Va. 23260.

A. Richard L. Lesher, Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C. 20062.
B. Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C. 20062.

A. Gilbert B. Lessenco, Wilner & Scheiner, 2021 L Street NW., Washington, D.C. 20036.
B. General Mills, Inc., 9200 Wayzata Boulevard, Minneapolis, Minn. 55440.

A. Leva, Hawes, Symington, Martin & Oppenheimer, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Committee of Producers of High Carbon Ferrochromium.

A. Leva, Hawes, Symington, Martin & Oppenheimer, 815 Connecticut Avenue NW., Washington, D.C.

B. Glass Packaging Institute, 1800 K Street NW., Washington, D.C. 20006.

A. William C. Liensch, 4927 Manitoba Drive, Alexandria, Va. 22312.
B. National Parks and Conservation Association, 1701 18th Street NW., Washington, D.C. 20009.

A. Eric D. Lindeman, 3251 Old Lee Highway, Suite 501, Fairfax, Va. 22030.
B. National Limestone Institute, Inc., Suite 501, 3251 Old Lee Highway, Fairfax, Va. 22030.

A. Linton, Mields, Reisler & Cotton, 1015 18th Street NW., Suite 200, Washington, D.C. 20036.
B. The Metropolitan District, Hartford Plaza, P.O. Box 800, Hartford, Conn. 06101.

A. Charles B. Lipsen, Cramer, Visser, Lipsen & Smith, 475 L'Enfant Plaza SW., Suite 4100, Washington, D.C. 20024.
B. Cramer, Visser, Lipsen & Smith (for Institute of Signage Research, 541 University Avenue, Palo Alto, Calif. 94301), 475 L'Enfant Plaza SW., Suite 4100, Washington, D.C. 20024.

A. Livestock Marketing Association, 4900 Oak Street, Kansas City, Mo. 64112.

A. Alan G. Macdonald, Suite 700, 1025 Connecticut Avenue NW., Washington, D.C. 20036.
B. Gulf Oil Corp., P.O. Box 1166, Pittsburgh, Pa. 15230.

A. Pamela MacEwan, 311 Maryland Avenue NE., No. 3, Washington, D.C. 20002.
B. Women's Lobby, Inc., 201 Massachusetts Avenue NE., Washington, D.C. 20002.

A. A. Everette MacIntyre, Room 710, 1900 L Street NW., Washington, D.C. 20036.
B. Grocery Manufacturers of America, Inc., 1425 K Street NW., Suite 900, Washington, D.C. 20005.

A. James M. MacLeod, 101 Pleasant Street SW., Vienna, Va. 22180.

A. James B. Magnor, National Airlines, Inc., 1025 Connecticut Avenue NW., Washington, D.C. 20036.
B. National Airlines, Inc., P.O. Box 592055 AMF, Miami, Fla. 33159.

A. W. Terry Maguire, National Newspaper Association, 1627 K Street NW., Washington, D.C. 20006.
B. National Newspaper Association, 1627 K Street NW., Suite 400, Washington, D.C. 20006.

A. Marine Engineers' Beneficial Association, AFL–CIO, District No. 1, Pacific Coast District, 444 North Capitol Street, Suite 800, Washington, D.C. 20001.

A. Ernest C. Marty, 1/40 Waters Road, Cremorne 2090, Australia.
B. Amalgamated Wireless (Australasia) Ltd., 32 York Street, Sydney, Australia.

A. Judith Marty, 1/40 Waters Road, Cremore 2090, Australia.
B. Amalgamated Wireless (Aust'Asia) Ltd., 32 York Street, Sydney 2000, Australia.

A. Margaret H. Mason, National Organization for Women, 425 13th Street NW., Washington, D.C. 20004.
B. National Organization for Women, 415 13th Street NW., Washington, D.C. 20004.

A. William F. Massmann, Dr. Pepper Co., P.O. Box 225086, Dallas, Tex. 75265.
B. Dr. Pepper Co., P.O. Box 225086, Dallas, Tex. 75265.

A. Robert E. Mayer, States Steamship Co., 320 California Street, San Francisco, Calif. 94104.
B. States Steamship Co., 320 California Street, San Francisco, Calif. 94104.

A. Mays, Valentine, Davenport & Moore, 910 17th Street NW., Washington, D.C. 20006.
B. Grocery Manufacturers of America, Suite 900, 1425 K Street NW., Washington, D.C. 20005.

A. John A. McCahill, 2033 M Street NW., Suite 701, Washington, D.C. 20036.
B. United States Olympic Committee, 57 Park Avenue, New York, N.Y. 10017.

A. McClure & Trotter, 1100 Connecticut Avenue NW., Suite 600, Washington, D.C. 20036.
B. Allied Capital Corp., 1625 I Street NW., Suite 603, Washington, D.C. 20006.

A. Francis O. McDermott, 1750 K Street NW., Suite 1110, Washington, D.C. 20006.
B. Bal Cor Co., 10024 Skokie Boulevard, Skokie, Ill. 60077.

A. Francis O. McDermott, 1750 K Street NW., Suite 1110, Washington, D.C. 20006.
B. JMB Realty Corp., 875 North Michigan Avenue, Suite 3804, Chicago, Ill. 60611.

A. James M. McGarry, Jr., 1750 K Street NW., Washington, D.C. 20006.
B. Eaton Associates, Inc., 1750 K Street NW., Washington, D.C. 20006.

A. Ruth G. McGill, 5437 Druid Lane, Dallas, Tex. 75209.
B. Doctors for the Equal Rights Amendment (E.R.A.), P.O. Box 19531, Dallas, Tex. 75219.

A. Jerome J. McGrath, Interstate Natural Gas Association of America, 1660 L Street NW., Suite 601, Washington, D.C. 20036.
B. Interstate Natural Gas Association of America, 1660 L Street NW., Suite 601, Washington, D.C. 20036.

A. Walter McHugh, American Hospital Association, 444 North Capitol Street NW., No. 500, Washington, D.C.
B. American Hospital Association, 840 North Lake Shore Drive, Chicago, Ill. 60611.

A. Michael R. McLeod, 1776 F Street NW., Suite 108, Washington, D.C. 20006.
B. Florida Sugar Cane League, Inc., P.O. Box 1148, Clewiston, Fla. 33440.

A. Michael R. McLeod, 1776 F Street NW., No. 108, Washington, D.C. 20006.
B. National Cattlemen's Association, 1001 Lincoln Street, Denver, Colo. 80201.

A. Michael R. McLeod, 1776 F Street NW., No. 108, Washington, D.C. 20006.
B. United Egg Producers, 3951 Snapfinger Parkway, Suite 580, Decatur, Ga. 30032.

A. Paula V. McMartin, Physicians National Housestaff Association, 1625 L Street NW., Washington, D.C. 20016.
B. Physicians National Housestaff Association, 1625 L Street NW., Washington, D.C. 20016.

A. McNutt, Dudley, Easterwood & Losch, 910 17th Street NW., Washington, D.C. 20006.
B. Northville Industries Corp., Suite 4C01, 1 Huntington Quadrangle, Huntington Station, N.Y. 11746; and Port of Galveston (Galveston Wharves), P.O. Box 328, Galveston, Tex.

A. Robert McVicker, 2421 Cavendish Drive, Alexandria, Va. 22308.
B. Kollsman Instrument Co., Division of Sun Chemical Corp., Daniel Webster Highway South, Merrimack, N.H. 03054.

A. Meat Price Investigators Association, P.O. Box 66, Des Moines, Iowa 50301.

A. Harold Mercer, Airco Alloys, 3801 Highland Avenue, Niagara Falls, N.Y. 14305.
B. Airco Alloys, 3801 Highland Avenue, Niagara Falls, N.Y. 14305.

A. Edward L. Merrigan, 6000 Connecticut Avenue, Washington, D.C. 20015.
B. National Council of Farmer Cooperatives, 1129 20th Street NW., Washington, D.C. 20006.

A. Charles J. Micoleau, 1 Canal Plaza, Portland, Maine 04112.
B. Pfizer, Inc., 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.

A. Joy Midman, National Association of Private Psychatric Hospitals, 1701 K Street NW., No. 1205, Washington, D.C. 20006.
B. National Association of Private Psychiatric Hospitals, 1701 K Street NW., No. 1205, Washington, D.C. 20006.

A. Miller & Chevalier, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. DECQ Committee, P.O. Box 5551, Beverly Hills, Calif. 90210.

A. Miller & Chevalier, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Lockheed Corp., Burbank, Calif. 91520.

A. R. Eric Miller, 1620 I Street NW., Suite 703, Washington, D.C. 20006.
B. Bechtel Corp., 1620 I Street NW., Suite 703, Washington, D.C. 20006.

A. Millman Broder and Curtis, 1730 M Street NW., Suite 908, Washington, D.C. 20036.
B. American Brotherhood for the Blind, 524 Fourth Street, Des Moines, Iowa 50309.

A. Edward J. Milne, Jr., 1140 Connecticut Avenue NW., Washington, D.C. 20036.
B. National Association of Electric Cos., 1140 Connecticut Avenue NW., Room 1010, Washington, D.C. 20036.

A. Donald Craig Mitchell, 1601 F Street Anchorage, Alaska 99501; 510 A Street, Washington, D.C. 20002.
B. Alaska Federation of Natives, 550 West Eighth Avenue, Anchorage, Alaska 99501.

A. Phillip W. Moery, 612 East Capitol, No. 2, Washington, D.C. 20003.
B. Surrey, Karasik & Morse, 1156 15th Street NW., Washington, D.C. 20005 (for Westway Trading Corp.).

A. Moss, Frink & Franklin, Watergate Six Hundred, Suite 480, Washington, D.C. 20037.
B. KUTV, Inc., 179 Social Hall Avenue, Salt Lake City, Utah 84111.

A. Moss, Frink & Franklin, Watergate Six Hundred, Suite 480, Washington, D.C. 20037.
B. Ogden Standard-Examiner, P.O. Box 951, Ogden, Utah 84402.

A. Moss Frink & Franklin, Watergate Six Hundred, Suite 480, Washington, D.C. 20037
B. Radwaste Management Group, 1800 M Street NW., Washington, D.C. 20036.

A. Moss Frink & Franklin, Watergate Six Hundred, Suite 480, Washington, D.C. 20037.
B. Sunsat Energy Council, Watergate Six Hundred, Suite 480, Washington, D.C. 20037.

A. Motor Vehicle Manufacturers Association of the United States, Inc., 300 New Center Building, Detroit, Mich. 48202.

A. Nicholas Motters, R.F.D. Millwood, Va. 22646.
B. Food Policy Center, 538 Seventh Street SE., Washington, D.C. 20003.

A. Perry Moyle, The Wilderness Society, 518½ Main Street, Grand Junction, Colo. 81501.
B. The Wilderness Society, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.

A. Murdoch & Walsh, P.O. Box 949, Wilmington, Del. 19899.
B. The Group, Inc., Box 949, Wilmington, Del. 19899.

A. Daniel Patrick Murphy, II, SAMA, 1140 Connecticut Avenue NW., No. 610, Washington, D.C. 20036.
B. Scientific Apparatus Makers Association (SAMA), 1140 Connecticut Avenue NW., No. 610, Washington, D.C. 20036.

A. Edward E. Murray, 854 National Press Building, Washington, D.C. 20045.
B. National Pleasure Boat Owners Association, 325 Pennsylvania Avenue SE., Washington, D.C. 20003.

A. National Association of Pension Consultants & Administrators, Inc., 151 Ellis Street, Atlanta, Ga. 30303.

A. National Association of Real Estate Association of Real Estate Investment Trusts, 1101 17th Street NW., Washington, D.C. 20036.

A. National Committee For Citizens In Education, Suite 410, Wilde Lake Village Green, Columbia, Md. 21044.

A. National Newspaper Association, 1627 K Street NW., Suite 400, Washington, D.C. 20006.

A. National Organization for Women, 425 13th Street NW., Washington, D.C.

A. New England Fish Co., Pier 89, Seattle, Wash. 98119.

A. John B. Nicholson, 1101 17th Street NW., Suite 700, Washington, D.C. 20036.
B. National Association of Real Estate Investment Trusts, 1101 17th Street, Suite 700, Washington, D.C. 20036.

A. Stewart E. Niles, Jones, Walker, Waechter, Poitevent Carrere, and Denegre, 225 Baronne Street, New Orleans, La.
B. Shipbuilders Council of America, 600 New Hampshire Avenue NW., Washington, D.C. 20037.

A. 19th Pro-Life Congressional District Action Committee, c/o Norbert H. Riegel, 409 North Third Street, Lompoc, Calif. 93436.

A. Franklin W. Nutter, 1025 Connecticut Avenue NW., Washington, D.C. 20036.
B. Reinsurance Association of America, 1025 Connecticut Avenue NW., Washington, D.C. 20036.

A. Mary Eileen O'Brien, Dow Corning Corp., 1800 M Street NW., Suite 710 South, Washington, D.C. 20036.
B. Dow Corning Corp., Midland, Mich. 48640.

A. O'Connor & Hannan, 1747 Pennsylvania Avenue NW., Suite 600, Washington, D.C. 20006.
B. National Association of Independent Lumbermen, 1747 Pennsylvania Avenue NW., Suite 600, Washington, D.C. 20006.

A. Leonard F. O'Connor, The First National Bank of Boston, 100 Federal Street, Boston, Mass. 02110.
B. The First National Bank of Boston, 100 Federal Street, Boston, Mass. 02110.

A. John F. O'Neal, Law Offices of John F. O'Neal, 600 New Hampshire Avenue NW., Suite 952, Washington, D.C. 20037.
B. International Precious Metals Corp., 6451 North Federal Highway No. 1101, Fort Lauderdale, Fla. 33308.

A. J. Denis O'Toole, American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
B. American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.

A. Pacific Seafood Processors Association, 1600 South Jackson Street, Seattle, Wash. 98144.

A. Scootch Pankonin, 1010 16th Street NW., Suite 700, Washington, D.C. 20036.
B. Inland Forest Resource Council, 320 Savings Center Building, Missoula, Mont. 59801.

A. Scootch Pankonin, 1010 16th Street NW., Suite 700, Washington, D.C. 20515.
B. Slurry Transport Association, 490 L'Enfant Plaza East SW., Suite 3210, Washington, D.C. 20024.

A. Carl A. Parker, 449 Stadium Road, Port Arthur, Tex.
B. Government of Republic of Liberia, Monrovia, Liberia.

A. Lynn Parker, Food Research and Action Center, 2011 I Street NW., Suite 700, Washington, D.C. 20006.
B. Food Research and Action Center, 2011 I Street NW., Suite 700, Washington, D.C.

A. Pass 1010 Committee, Suite 310, 165 West 46th Street, New York, N.Y. 10036.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. General Mills Corp., 9200 Wayzata Boulevard, Minneapolis, Minn. 55426.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Pillsbury Corp., 608 Second Avenue South, Minneapolis, Minn. 55402.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. St. Joe Minerals Corp., 1730 Rhode Island Avenue NW., Suite 911, Washington, D.C. 20036.

A. Steve Payne, The Wilderness Society, P.O. Box 3187, Duluth, Minn. 55803.
B. The Wilderness Society, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.

A. Peabody, Rivlin, Lambert & Meyers, 1150 Connecticut Avenue NW., Washington, D.C. 20036.
B. Tuna Research Foundation, 1101 17th Street NW., Washington, D.C. 20036.

A. Pendleton & McLaughlin, 888 17th Street NW., Suite 700, Washington, D.C. 20006.
B. Canned & Cooked Meat Importers' Association, 888 17th Street NW., Suite 700, Washington, D.C. 20006.

A. John P. Perrin, 1611 North Kent Street, Suite 803A, Arlington, Va. 22209.
B. American Osteopathic Association, 1611 North Kent Street Suite 803A, Arlington, Va. 22209.

A. Physicians National Housestaff Association, 1625 L Street NW., Washington, D.C. 20036.

A. Pierce, Atwood, Scribner, Allen, Smith & Lancaster, 1 Monument Square, Portland, Maine 04101.
B. Great Northern Paper Co., 75 Prospect Street, Stamford, Conn. 06901; Dead River Co., 55 Broadway, Bangor, Maine 04401; Baskahegan Co., c/o Milliken & Co., 1045 Sixth Avenue, New York, N.Y. 10018.

A. Grace Pierce, The Wilderness Society, 1901 Pennsylvania Avenue NW., Washington, D.C.
B. The Wilderness Society, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.

A. Pierson, Ball & Dowd, 1200 18th Street N.W., Washington, D.C. 20036.
B. American Institute of Certified Public Accountants, 1620 I Street NW., Washington, D.C. 20006.

A. Pierson, Ball & Dowd, 1200 18th Street NW., Washington, D.C. 20036.
B. Grocery Manufacturers of America, Inc., 1425 K Street NW., Washington, D.C. 20005.

A. Pierson, Ball & Dowd, 1200 18th Street NW., Washington, D.C. 20036.
B. Securities Industry Association, 490 L'Enfant Plaza East SW., Washington, D.C. 20024.

A. Pierson, Semmes, Crolius, & Finley, 1054 31st Street NW., Washington, D.C. 20007.
B. Independent Refiners' Association of California, 900 Wilshire Boulevard, Los Angeles, Calif. 90048.

A. Rena S. Pies, 1611 North Kent Street, Arlington, Va. 22209.
B. American Footwear Industries Association, 1611 North Kent Street, Arlington, Va. 22209.

A. Robert N. Pitner, 1205 National Press Building, Washington, D.C. 20045.

A. City of Pontiac, Pontiac, Mich.

A. Garry C. Porter, 11356 Southeast Black Road, Olalla, Wash. 98359.
B. The Boeing Co., P.O. Box 3707, Seattle, Wash. 98124.

A. Preston, Thorgrimson, Ellis, Holman & Fletcher, 1776 F Street NW., Suite 201, Washington, D.C. 20006.
B. Citronelle-Mobile Gathering, Inc., 717 First Southern Federal Tower, Mobile, Ala. 36616.

A. Preston, Thorgrimson, Ellis, Holman & Fletcher, 1776 F Street NW., Suite 201, Washington, D.C. 20006.
B. Moore McCormack Resources, Inc., 1 Landmark Square, Stamford, Conn.

A. Preston, Thorgrimson, Ellis, Holman & Fletcher, 1776 F Street NW., Suite 201, Washington, D.C. 20006.
B. Seatrain Lines, Inc., 1 Chase Manhattan Plaza, New York, N.Y. 10005.

A. Preston, Thorgrimson, Ellis, Holman & Fletcher, 1776 F Street NW., Suite 201, Washington, D.C. 20006.
B. Transportation Institute, 923 15th Street NW., Washington, D.C. 20005.

A. Patricia Pride, Financial Accounting Standards Board, 1100 17th Street NW., Washington, D.C. 20036.
B. Financial Accounting Standards Board, High Ridge Park, Stamford, Conn. 06905.

A. Pro-Life/Congressional District 11, P.O. Box 727, San Carlos, Calif. 94070.

A. Robert N. Pyle, Independent Bakers Association, P.O. Box 3731, Washington, D.C. 20007.

B. Independent Bakers Association, P.O. Box 3731, Washington, D.C. 20007.

A. Wm. J. Randall, Suite 821, 1515 Jefferson Davis Highway, Arlington, Va. 22202.

B. United States Railway Association; city of Independence, Mo.; Peoples Republic of Benin.

A. Lola Redford, 1125 Fifth Avenue, New York, N.Y. 10028.

B. Consumer Action Now, 317 Pennsylvania Avenue SE., Washington, D.C. 20003.

A. John H. Reed, 444 North Capitol Street NW., Washington, D.C. 20001.

B. Associated Builders and Contractors, Inc., 444 North Capitol Street NW., No. 409, Washington, D.C. 20001.

A. Anne Regenstein, 2920 Upton Street NW., Washington, D.C.

B. Women's Lobby, Inc., 201 Massachusetts Avenue SE., Washington, D.C.

A. Murray P. Reiser, 73 Tremont Street, Boston, Mass. 02108.

B. Edward Blankstein, Inc., Research Park, Princeton, N.J.

A. Grace Ellen Rice, American Farm Bureau Federation, 425 13th Street NW., Washington, D.C. 20004.

B. American Farm Bureau Federation, 225 Touhy Avenue, Park Ridge, Ill.

A. John P. Richardson, National Association of Arab Americans, 1825 Connecticut Avenue NW., No. 211, Washington, D.C. 20009.

B. National Association of Arab Americans, 1825 Connecticut Avenue NW., No. 211, Washington, D.C. 20009.

A. Cary Ridder, 317 Pennsylvania Avenue SE., Washington, D.C. 20003.

B. Environmental Policy Center, 317 Pennsylvania Avenue SE., Washington, D.C. 20003.

A. Paula Roberts, Food Research and Action Center, 2011 I Street, NW., Suite 700, Washington, D.C. 20006.

B. Food Research and Action Center, 2011 I Street, NW., Suite 700, Washington, D.C. 20006.

A. Margaret Rogers, Printing Industries of America, Inc., 1730 North Lynn Street, Arlington, Va. 22209.

B. Printing Industries of America, Inc., 1730 North Lynn Street, Arlington, Va. 22209.

A. Rogers & Wells, 1666 K Street NW., Washington, D.C. 20006.

B. Squibb Corp., 40 West 57 Street, New York, N.Y. 10019.

A. Rogers & Wells, 1666 K Street NW., Washington, D.C. 20006.

B. Teachers Insurance and Annuity Association/College Retirement Equities Fund, 730 Third Avenue, New York, N.Y. 10017.

A. Alan J. Roth, Spiegel & McDiarmid, 2600 Virginia Avenue NW., Washington, D.C. 20037.

B. Fort Pierce Utilities Authority of the city of Fort Pierce, Gainesville-Aluchua County Regional Electric Water and Sewer Utilities; Sebring Utilities Commission, cities of Homestead, Kissmmee, Lakeland, Starke, Tallahassee, Fla.

A. Donald M. Rubel, 3889 North 30th Street, Arlington, Va. 22207.

A. Michael Sandifer, Food Research and Action Center, 2011 I Street NW., Suite 700, Washington, D.C. 20006.

B. Food Research and Action Center, 2011 I Street, NW., Suite 700, Washington, D.C. 20006.

A. Herbert Y. Schandler, 475 L'Enfant Plaza SW., Suite 4400, Washington, D.C. 20024.

B. American League for International Security Assistance, Inc., 475 L'Enfant Plaza SW., Suite 4400, Washington, D.C. 20024.

A. Kenneth I. Schaner, Leva, Hawes, Symington, Martin & Oppenheimer, 815 Connecticut Avenue NW., Washington, D.C. 20006.

B. Leva, Hawes, Symington, Martin & Oppenheimer, 1700 K Street NW., Suite 605, Washington, D.C. (for National Association for Hospital Development).

A. Jay T. Scheck, Jr., Ford Motor Co., 815 Connecticut Avenue NW., Washington, D.C. 20006.

B. Ford Motor Co., The American Road, Dearborn, Mich. 48121.

A. Denise Schlener, The Wilderness Society, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.

B. The Wilderness Society, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.

A. Anne Schmitt, 10601 Wise Owl Way, Great Falls, Va. 22066.

B. Women's Lobby, 201 Massachusetts Avenue NE., Washington, D.C. 20002.

A. Andy Schneider, National Health Law Program, Inc., 1200 15th Street NW., Room 503, Washington, D.C. 20005.

B. The National Health Law Program, Inc., 2401 Main Street, Santa Monica, Calif. 90405.

A. John M. Schobel, Jr., New York Coffee & Sugar Exchange, Inc., 4 World Trade Center, New York, N.Y. 10048.

B. New York Coffee & Sugar Exchange, Inc., 4 World Trade Center, New York, N.Y. 10048.

A. Peter Scholes, The Wilderness Society, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.

B. The Wilderness Society, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.

A. Deborah K. Sease, The Wilderness Society, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.

B. The Wilderness Society, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.

A. David Seidner, 1155 15th Street NW., No. 713, Washington, D.C. 20005.

B. American Consulting Engineers Council, 1155 15th Street NW., No. 713, Washington, D.C. 20005.

A. Stanley E. Senner, SR Box 30481, Fairbanks, Alaska 99701.

B. The Wilderness Society, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.

A. Servicemaster Industries, Inc., 2300 Warrenville Road, Downers Grove, Ill. 60515.

A. Barbara J. Shailor, 1300 Connecticut Avenue NW., Washington, D.C. 20036.

B. International Association of Machinists & Aerospace Workers, 1300 Connecticut Avenue NW., Washington, D.C. 20036.

A. David C. Sharman, 1100 17th Street NW., Suite 1000, Washington, D.C. 20036.

B. U-Haul International, Inc., 2727 North Central Avenue, Phoenix, Ariz. 85004.

A. John H. Sharon, 1800 M Street NW., Washington, D.C. 20036.

B. Mauritius Sugar Syndicate, Mauritius Chamber of Agriculture, Plantation House, Place d'Armes, Port Louis, Mauritius.

A. Shaw, Pittman, Potts & Trowbridge, 1800 M Street NW., Washington, D.C. 20036.

B. American Childrens' Citizenship Rights League (ACCRL), 157 Route du Grand-Lancy, 1213 ONEX, Geneva, Switzerland and Samuel Cummings, P.O. Box 88, Monte Carlo, Monaco.

A. Shaw, Pittman, Potts & Trowbridge, 1800 M Street NW., Washington, D.C. 20036.

B. Emerson Electric Co., 8100 Florissant, St. Louis, Mo. 63136.

A. Dale Sherwin, 888 17th Street NW., 902, Washington, D.C. 20006.

B. A. E. Staley Manufacturing Co., 2200 Eldorado Street, Decatur, Ill. 62525.

A. Mark A. Siegel, 12614 Laurie Drive, Silver Spring, Md. 20904.

B. Tadco Enterprises, 1625 I Street NW., Suite 1009, Washington, D.C. 20006.

A. David A. Skedgell, American Gas Association, 1515 Wilson Boulevard, Arlington, Va. 22209.

B. American Gas Association, 1515 Wilson Boulevard, Arlington, Va. 22209.

A. William J. Skinner, 815 15th Street NW., Washington, D.C. 20005.

B. American Association of Colleges of Pharmacy, 4630 Montgomery Avenue, Bethesda, Md. 20014.

A. William J. Skinner, 815 15th Street NW., Washington, D.C. 20005.

B. U.S. Pharmacopeial Convention, Inc., 12601 Twinbrook Parkway, Rockville, Md. 20852.

A. Douglas J. Smith, Cramer, Visser, Lipsen & Smith, 475 L'Enfant Plaza SW., Suite 410, Washington, D.C. 20024.

B. Cramer, Vissar, Lipsen & Smith (for Institute of Signage Research, 541 University Avenue, Palo Alto, Calif. 94301), 475 L'Enfant Plaza SW., Suite 4100, Washington, D.C. 20024.

A. Randall D. Snodgrass, The Wilderness Society, 3110 Maple Drive, Suite 407, Atlanta, Ga. 30305.

B. The Wilderness Society, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.

A. Snyder & Ball Associates, Inc., 1600 Wilson Boulevard, No. 720, Arlington, Va. 22209.

B. Gould, Inc., 10 Gould Center, Rolling Meadows, Ill. 60008.

A. Janice N. Somers, National Federation of Independent Business.

B. National Federation of Independent Business, 490 L'Enfant Plaza East SW., Suite 3206, Washington, D.C. 20024.

A. Caren C. Steadman, 316 Pennsylvania Avenue SE., Washington, D.C.

B. American Conservative Union, 316 Pennsylvania Avenue SE., No. 400, Washington, D.C. 20003.

A. Steptoe & Johnson, 1250 Connecticut Avenue NW., Washington, D.C. 20036.

B. Robert College of Istanbul, Turkey, 380 Madison Avenue, New York, N.Y. 10017.

A. Elliot J. Stern, American Health Planning Association, 2560 Huntington Avenue, Suite 305, Alexandria, Va. 22303.

B. American Health Planning Association, 2560 Huntington Avenue, Suite 305, Alexandria, Va. 22303.

A. Art Stewart, P.O. Box 5308, Denver, Colo. 80217.

B. Great Western Sugar Co., P.O. Box 5308, Denver, Colo. 80217.

A. Stroock & Stroock & Lavan, 1150 17th Street NW., Washington, D.C. 20036.

B. Patsy Perry, 70 Glen Cove Road, Roslyn Heights, N.Y.

A. Sullivan & Cromwell, 125 Broad Street, New York, N.Y. 10004; 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.

B. Investment Company Institute, 1775 K Street NW., Washington, D.C. 20006.

A. Surrey, Karasik & Morse, 1156 15th Street NW., Washington, D.C. 20005.

A. Surrey, Karasik & Morse, 1156 15th Street NW., Suite 1200, Washington, D.C. 20005.

B. Westway Trading Corp., 464 Hudson Terrace, Englewood Cliffs, N.J. 07632.

A. Sutherland, Asbill & Brennan, 1666 K Street NW., Washington, D.C. 20006.

B. The Lincoln National Life Insurance Co., 1300 South Clinton Street, Fort Wayne, Ind. 46801.

A. Sutherland, Asbill & Brennan, 1666 K Street NW., Washington, D.C. 20006.

B. Estate of Cartter Lupton, c/o Miller & Martin, Volunteer State Life Building, Chattanooga, Tenn. 37402.

A. Sutherland, Asbill & Brennan, 1666 K Street NW., Washington, D.C. 20006.

B. The Northwestern Mutual Life Insurance Co., 720 East Wisconsin Avenue, Milwaukee, Wis. 53202.

A. Sutherland, Asbill & Brennan, 3100 First National Bank Tower, Atlanta, Ga. 30303 and 1666 K Street NW., Washington, D.C. 20006.

B. Oglethorpe Electric Membership Corp., 3951 Snapfinger Parkway, Decatur, Ga. 30035.

A. Rosemarie Sweeney, 1659 32d Street NW., Washington, D.C. 20007.

B. American Osteopathic Association, 1611 North Kent Street, Suite 803A, Arlington, Va. 22209.

A. Robert Taft, Jr., 1150 Connecticut Avenue NW., Washington, D.C. 20036.

B. Taft, Stettinius & Hollister, Dixie Terminal Building, Cincinnati, Ohio 45202 and Capitol Hill Hospital, c/o Williamson, 1701 K Street NW., Washington, D.C. 20006.

A. Robert Taft, Jr., 1150 Connecticut Avenue NW., Washington, D.C. 20036.

B. Taft, Stettinius & Hollister, Dixie Terminal Building, Cincinnati, Ohio 45202 and Grocery Manufacturers of America, Inc., 1425 K Street NW., Washington, D.C. 20005.

A. Angelo Tarallo, Airco, Inc., 85 Chestnut Ridge Road, Montvale, N.J. 07645.

B. Airco, Inc., 85 Chestnut Ridge Road, Montvale, N.J. 07645.

A. Robert P. Terzian, 1140 Connecticut Avenue NW., Suite 1010, Washington, D.C. 20036.

B. National Association of Electric Cos., 1140 Connecticut Avenue NW., Suite 1010, Washington, D.C. 20036.

A. 34th Pro-Life Congressional District Action Committee, 4158 Quigley Avenue, Lakewood, Calif. 90713.

A. 32d Congressional District Action Committee, 1245 Ash Bridge Avenue, Harbor City, Calif. 90710.

A. Robert L. Thomas, National Association of Private Psychiatric Hospitals, 1701 K Street NW., No. 1205, Washington, D.C., 20006.

B. National Association of Private Psychiatric Hospitals, 1701 K Street NW., No. 1205, Washington, D.C. 20006.

A. Timmons & Co., Inc., 1776 F Street NW., Washington, D.C. 20006.

B. Major League Baseball, 75 Rockefeller Plaza, New York, N.Y. 10019.

A. Transportation Institute, 923 15th Street NW., Washington, D.C. 20005.

A. Paula C. Treat, National Home Furnishings Association, 1025 Vermont Avenue NW., Washington, D.C. 20005.

B. National Home Furnishings Association, 405 Merchandise Mart, Chicago, Ill. 60654.

A. 22d Congressional District Action Committee, 724 Andover Drive, Burbank, Calif. 91504.

A. G. John Tysse, Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C. 20062.

B. Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C. 20062.

A. United Effort Trust, 1430 K Street NW., Washington, D.C. 20005.

A. U.S. Merchant Marine Academy Alumni Association, Inc. (Kings Point Fund, Inc.), Kings Point, N.Y. 11024.

A. Van Ness, Feldman & Sutcliffe, 1220 19th Street NW., Suite 550, Washington, D.C. 20036.

B. Delaware & Hudson Railway Co., Albany, N.Y. 12207.

A. Van Ness, Feldman & Sutcliffe, 1220 19th Street NW., Suite 500, Washington, D.C. 20036.

B. Huntington's Disease Coalition, 250 West 57th Street, New York, N.Y. 10019.

A. Vance & Joyce, Suite 520, 1701 Pennsylvania Avenue NW., Washington, D.C. 20006.

B. Embassy of Bolivia, 3014 Massachusetts Avenue NW., Washington, D.C. 20008.

A. Sheldon B. Vance, Vance & Joyce, Suite 520, 1701 Pennsylvania Avenue NW., Washington, D.C. 20006.

B. Vance & Joyce, Suite 520, 1701 Pennsylvania Avenue NW., Washington, D.C. 20006.

A. Larry R. Veselka, 1701 Pennsylvania Avenue NW., Washington, D.C. 20006.

B. Vinson & Elkins, 1701 Pennsylvania Avenue NW., Washington, D.C. 20006 (for Bunker Hunt).

A. Wakefield Washington Associates, Inc., 1129 20th Street NW., Washington, D.C. 20036.

B. National Distillers & Chemical Corp., 99 Park Avenue, New York, N.Y. 10016.

A. Johanna H. Wald, 2345 Yale Street, Palo Alto, Calif. 94306.

B. Natural Resources Defense Council, Inc., 2345 Yale Street, Palo Alto, Calif. 94306.

A. Jerome R. Waldie, 100 Indiana Avenue NW., Washington, D.C. 20001.

B. Mineral King District Association, P.O. Box 205, Three Rivers, Calif. 93271.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.

B. Getty Oil Co., 3810 Wilshire Boulevard, Los Angeles, Calif. 90010.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.

B. ITT, 320 Park Avenue, New York, N.Y. 10022.

A. Don Wallace Associates, Inc., 1707 L Street NW., Suite 540, Washington, D.C. 20036.

B. American Sugar Cane League of the U.S.A., Inc., 416 Whitney Building, New Orleans, La. 70130.

A. Don Wallace Associates, Inc., 1707 L Street NW., Suite 540, Washington, D.C. 20036.

B. American Textile Machinery Association, 1730 M Street NW., Suite 804, Washington, D.C. 20036.

A. John E. Ward, 182 Soundview Avenue, White Plains, N.Y., 10606.

B. Meat Importers Council of America, Inc., 1 Penn Plaza, New York, N.Y. 10001.

A. William J. Way, General Motors Corp., 1660 L Street NW., Washington, D.C. 20036.

B. General Motors Corp., 3044 West Grand Boulevard, Detroit, Mich. 48202.

A. Webster & Sheffield, 1 Rockefeller Plaza, New York, N.Y. 10020 and 1750 New York Avenue NW., Suite 830, Washington, D.C. 20006.

B. City of Northglen, 10701 Melody Drive, Suite 313, Northglen, Colo. 80234.

A. Fred W. Wegner, National Retired Teachers Association/American Association of Retired Persons, 1909 K Street NW., Washington, D.C. 20049.

B. National Retired Teachers Association/American Association of Retired Persons, 1909 K Street NW., Washington, D.C. 20049.

A. W. R. Werner, CertainTeed Corp., 1627 K Street NW., Suite 610, Washington, D.C. 20006.

B. CertainTeed Corp., P.O. Box 860, Valley Forge, Pa. 19482.

A. Phyllis West, National Organization for Women, 425 13th Street NW., Washington, D.C. 20004.

B. National Organization for Women, 425 13th Street NW., Washington, D.C. 20004.

A. Williams & Connolly, 1000 Hill Building, Washington, D.C. 20006.

B. CBS, Inc., 800 M Street NW., Washington, D.C.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.

B. American Quasar Petroleum Co., 2500 Fort Worth National Bank Building, Fort Worth, Tex. 76102.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.

B. Litton Industries, 360 North Crescent Drive, Beverly Hills, Calif. 90210.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.

B. The Pillsbury Co., 608 Second Avenue South, Minneapolis, Minn. 55402.

A. Lee Williams, American Retail Federation, 1616 H Street NW., Washington, D.C. 20006.

B. American Retail Federation, 1616 H Street NW., Washington, D.C. 20006.

A. Thomas C. Williams, 1776 K Street NW., Washington, D.C. 20006.

B. Norfolk & Western Railway Co., P.O. Box 23632, L'Enfant Plaza Station, Washington, D.C. 20024.

A. Allen W. Wills, Memorex Corp., 1970 Chain Bridge Road, McLean, Va. 22102.

B. Memorex Corp., San Tomas at Central Expressway, Santa Clara, Calif. 95052.

A. Winner/Wagner & Associates, Inc., 6535 Wilshire Boulevard, Los Angeles, Calif.

B. Rockwell International, Space Division, 12214 Lakewood Boulevard, Downey, Calif.

A. Karen Winterbottom, 1611 North Kent Street, 803-A, Arlington, Va. 22209.

B. American Osteopathic Association, 1611 North Kent Street, 803-A, Arlington, Va. 22209.

A. Jane Wishner, 2030 M Street NW., Washington, D.C. 20036.

B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.

A. Herman C. Witthaus, General Motors Corp., 1660 L Street NW., Washington, D.C. 20036.

B. General Motors Corp., 3044 West Grand Boulevard, Detroit, Mich. 48202.

A. Carolyn Woolley, 5323 41st Avenue NW., Washington, D.C. 20115.

B. Women's Lobby, 201 Massachusetts Avenue, NE., Washington, D.C.

A. P. Melanie Woolston, 20A Seventh Street, SE., Washington, D.C. 20003.

B. Self-Determination for D.C., 2030 M Street NW., Washington, D.C. 20036.

A. John L. Zorack, Cook & Henderson, 1735 K Street NW., Washington, D.C. 20006.

B. Resource Associates of Alaska, 3230 Airport Way, Fairbanks, Alaska 99701.

A. John L. Zorack, Cook & Henderson, 1735 K Street NW., Washington, D.C. 20006.

B. Time-Critical Shipment Committee.

A. Frances Zweig, Food Research and Action Center, 2011 I Street NW., Suite 700, Washington, D.C. 20006.

B. Food Research and Action Center, 2011 I Street NW., Suite 700, Washington, D.C. 20006.

QUARTERLY REPORTS*

*All alphanumeric characters and monetary amounts refer to receipts and expenditures on page 2, paragraphs D and E of the Quarterly Report Form.

The following quarterly reports were submitted for the first calendar quarter 1973:

(NOTE.—The form used for registration is reproduced below. In the interest of economy in the RECORD, questions are not repeated, only the essential answers are printed, and are indicated by their respective letter and number.)

FILE ONE COPY WITH THE SECRETARY OF THE SENATE AND FILE TWO COPIES WITH THE CLERK OF THE HOUSE OF REPRESENTATIVES:

This page (page 1) is designed to supply identifying data; and page 2 (on the back of this page) deals with financial data.

PLACE AN "X" BELOW THE APPROPRIATE LETTER OR FIGURE IN THE BOX AT THE RIGHT OF THE "REPORT" HEADING BELOW:

"PRELIMINARY" REPORT ("Registration"): To "register," place an "X" below the letter "P" and fill out page 1 only.

"QUARTERLY" REPORT: To indicate which one of the four calendar quarters is covered by this Report, place an "X" below the appropriate figure. Fill out both page 1 and page 2 and as many additional pages as may be required. The first additional page should be numbered as page "3," and the rest of such pages should be "4," "5," "6," etc. Preparation and filing in accordance with instructions will accomplish compliance with all quarterly reporting requirements of the Act.

Year: 19_____ ◄

REPORT

PURSUANT TO FEDERAL REGULATION OF LOBBYING ACT

P	QUARTER			
	1st	2d	3d	4th
(Mark one square only)				

NOTE ON ITEM "A".—(a) IN GENERAL. This "Report" form may be used by either an organization or an individual, as follows:

(i) "Employee".—To file as an "employee", state (in Item "B") the name, address, and nature of business of the "employer". (If the "employee" is a firm [such as a law firm or public relations firm], partners and salaried staff members of such firm may join in filing a Report as an "employee".)

(ii) "Employer".—To file as an "employer", write "None" in answer to Item "B".

(b) SEPARATE REPORTS. An agent or employee should not attempt to combine his Report with the employer's Report:

(i) Employers subject to the Act must file separate Reports and are not relieved of this requirement merely because Reports are filed by their agents or employees.

(ii) Employees subject to the Act must file separate Reports and are not relieved of this requirement merely because Reports are filed by their employers.

A. ORGANIZATION OR INDIVIDUAL FILING:

1. State name, address, and nature of business.

2. If this Report is for an Employer, list names of agents or employees who will file Reports for this Quarter.

NOTE ON ITEM "B".—*Reports by Agents or Employees.* An employee is to file, each quarter, as many Reports as he has employers, except that: (a) If a particular undertaking is jointly financed by a group of employers, the group is to be considered as one employer, but all members of the group are to be named, and the contribution of each member is to be specified; (b) if the work is done in the interest of one person but payment therefor is made by another, a single Report—naming both persons as "employers"—is to be filed each quarter.

B. EMPLOYER.—State name, address, and nature of business. If there is no employer, write "None."

NOTE ON ITEM "C".—(a) The expression "in connection with legislative interests," as used in this Report, means "in connection with attempting, directly or indirectly, to influence the passage or defeat of legislation." "The term 'legislation' means bills, resolutions, amendments, nominations, and other matters pending or proposed in either House of Congress, and includes any other matter which may be the subject of action by either House"—§ 302(e).

(b) Before undertaking any activities in connection with legislative interests, organizations and individuals subject to the Lobbying Act are required to file a "Preliminary" Report (Registration).

(c) After beginning such activities, they must file a "Quarterly" Report at the end of each calendar quarter in which they have either received or expended anything of value in connection with legislative interests.

C. LEGISLATIVE INTERESTS, AND PUBLICATIONS in connection therewith:

1. State approximately how long legislative interests are to continue. If receipts and expenditures in connection with legislative interests have terminated, ☐ place an "X" in the box at the left, so that this Office will no longer expect to receive Reports.

2. State the general legislative interests of the person filing and set forth the *specific* legislative interests by reciting: (a) Short titles of statutes and bills; (b) House and Senate numbers of bills, where known; (c) citations of statutes, where known; (d) whether for or against such statutes and bills.

3. In the case of those publications which the person filing has caused to be issued or distributed in connection with legislative interests, set forth: (a) Description, (b) quantity distributed; (c) date of distribution, (d) name of printer or publisher (if publications were paid for by person filing) or name of donor (if publications were received as a gift).

(Answer items 1, 2, and 3 in the space below. Attach additional pages if more space is needed)

4. If this is a "Preliminary" Report (Registration) rather than a "Quarterly" Report, state below what the nature and amount of anticipated expenses will be; and if for an agent or employee, state also what the daily, monthly, or annual rate of compensation is to be. If this is a "Quarterly" Report, disregard this item "C4" and fill out item "D" and "E" on the back of this page. Do not attempt to combine a "Preliminary" Report (Registration) with a "Quarterly" Report.◄

AFFIDAVIT

[Omitted in printing]

PAGE 1◄

COPIES WITH THE CLERK OF THE HOUSE OF REPRESENTATIVES:

NOTE ON ITEM "D."—(a) *In General.* The term "contribution" includes *anything of value.* When an organization or individual uses printed or duplicated matter in a campaign attempting to influence legislation, money received by such organization or individual—for such printed or duplicated matter—is a "contribution." "The term 'contribution' includes a gift, subscription, loan, advance, or deposit of money, or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make a contribution"—Section 302(a) of the Lobbying Act.

(b) IF THIS REPORT IS FOR AN EMPLOYER.—(i) *In General.* Item "D" is designed for the reporting of all receipts from which expenditures are made, or will be made, in accordance with legislative interests.

(ii) *Receipts of Business Firms and Individuals.*—A business firm (or individual) which is subject to the Lobbying Act by reason of expenditures which it makes in attempting to influence legislation—but which has no funds to expend except those which are available in the ordinary course of operating a business not connected in any way with the influencing of legislation—will have no receipts to report, even though it does have expenditures to report.

(iii) *Receipts of Multipurpose Organizations.*—Some organizations do not receive any funds which are to be expended solely for the purpose of attempting to influence legislation. Such organizations make such expenditures out of a general fund raised by dues, assessments, or other contributions. The percentage of the general fund which is used for such expenditures indicates the percentage of dues, assessments, or other contributions which may be considered to have been paid for that purpose. Therefore, in reporting receipts, such organizations may specify what that percentage is, and report their dues, assessments, and other contributions on that basis. However, each contributor of $500 or more is to be listed, regardless of whether the contribution was made solely for legislative purposes.

(c) IF THIS REPORT IS FOR AN AGENT OR EMPLOYER.—(i) *In General.* In the case of many employees, all receipts will come under Items "D 5" (received for services) and "D 12" (expense money and reimbursements). In the absence of a clear statement to the contrary, it will be presumed that your employer is to reimburse you for all expenditures which you make in connection with legislative interests.

(ii) *Employer as Contributor of $500 or More.*—When your contribution from your employer (in the form of salary, fee, etc.) amounts to $500 or more, it is not necessary to report such contribution under "D 13" and "D 14," since the amount has already been reported under "D 5," and the name of the "employer" has been given under Item "B" on page 1 of this report.

D. RECEIPTS (INCLUDING CONTRIBUTIONS AND LOANS):

Fill in every blank. If the answer to any numbered item is "None," write "None" in the space following the number.

Receipts (other than loans)

1. $_____Dues and assessments
2. $_____Gifts of money or anything of value
3. $_____Printed or duplicated matter received as a gift
4. $_____Receipts from sale of printed or duplicated matter
5. $_____Received for services (e.g., salary, fee, etc.)
6. $_____TOTAL for this Quarter (Add items "1" through "5")
7. $_____Received during previous Quarters of calendar year
8. $_____TOTAL from Jan. 1 through this Quarter (Add "6" and "7")

Loans Received

"The term 'contribution' includes a . . . *loan* . . ."—Sec. 302(a).

9. $_____TOTAL now owed to others on account of loans
10. $_____Borrowed from others during this Quarter
11. $_____Repaid to others during this Quarter
12. $_____"Expense money" and Reimbursements received this Quarter

Contributors of $500 or more (from Jan. 1 through this Quarter)

13. Have there been such contributors?

Please answer "yes" or "no": _____

14. In the case of each contributor whose contributions (including loans) during the "period" from January 1 through the last days of this Quarter total $500 or more:

Attach hereto plain sheets of paper, approximately the size of this page, tabulate data under the headings "Amount" and "Name and Address of Contributor"; and indicate whether the last day of the period is March 31, June 30, September 30, or December 31. Prepare such tabulation in accordance with the following example:

Amount	*Name and Address of Contributor*
	(*"Period"* from Jan. 1 through _____, 19____)
$1,500.00	John Doe, 1621 Blank Bldg., New York, N.Y.
$1,785.00	The Roe Corporation, 2511 Doe Bldg., Chicago, Ill.
$3,285.00	TOTAL

NOTE ON ITEM "E".—(a) *In General.* "The term 'expenditure' includes a payment, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure"—Section 302(b) of the Lobbying Act.

(b) IF THIS REPORT IS FOR AN AGENT OR EMPLOYER. In the case of many employees, all expenditures will come under telephone and telegraph (Item "E 6") and travel, food, lodging, and entertainment (Item "E 7").

E. EXPENDITURES (INCLUDING LOANS) in connection with legislative interests:

Fill in every blank. If the answer to any numbered item is "None," write "None" in the spaces following the number.

Expenditures (other than loans)

1. $_____Public relations and advertising services
2. $_____Wages, salaries, fees, commissions (other than item "1")
3. $_____Gifts or contributions made during Quarter
4. $_____Printed or duplicated matter, including distribution cost
5. $_____Office overhead (rent, supplies, utilities, etc.)
6. $_____Telephone and telegraph
7. $_____Travel, food, lodging, and entertainment
8. $_____All other expenditures
9. $_____TOTAL for this Quarter (Add "1" through "8")
10. $_____Expended during previous Quarters of calendar year
11. $_____TOTAL from January 1 through this Quarter (Add "9" and "10")

Loans Made to Others

"The term 'expenditure' includes a . . . *loan* . . ."—Sec. 302(b).

12. $_____TOTAL now owed to person filing
13. $_____Lent to others during this Quarter
14. $_____Repayment received during this Quarter

15. Recipients of Expenditures of $10 or More

In the case of expenditures made during this Quarter by, or on behalf of the person filing: Attach plain sheets of paper approximately the size of this page and tabulate data as to expenditures under the following heading: "Amount," "Date or Dates," "Name and Address of Recipient," "Purpose." Prepare such tabulation in accordance with the following example:

Amount	*Date or Dates—Name and Address of Recipient—Purpose*
$1,750.00	7-11: Roe Printing Co., 3214 Blank Ave., St. Louis, Mo.—Printing and mailing circulars on the "Marshbanks Bill."
$2,400.00	7-15, 8-15, 9-15: Britten & Blaten, 3127 Gremlin Bldg., Washington, D.C.—Public relations service at $800.00 per month.
$4,150.00	TOTAL

A. Robert J. Asgre, Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C. 20062.
B. Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C. 20062.
E. (9) $236.10.

A. Bruce Adams, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $6,524.97.

A. John J. Adams, Suite 1060, 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Ethyl Corp., 330 South Fourth Street, Richmond, Va.

A. John J. Adams, Suite 1060, 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. VEPCO, 7th and Franklin Streets, Richmond, Va.

A. Thomas L. Adams, Jr., Republic Steel Corp., 1101 15th Street NW., Washington, D.C. 20005.
B. Republic Steel Corp., Republic Building, Cleveland, Ohio 44101.

A. The Adherence Group, 21 West Street, New York, N.Y. 10006.
D. (6) $1,275. E. (9) $1,275.

A. Terrance M. Adlhock, 1775 K Street NW., Suite 310, Washington, D.C. 20006.
B. El Paso Natural Gas Co., P.O. Box 1492, El Paso, Tex. 79978.
D. (6) $2,700. E. (9) $293.40.

A. Advisors, Inc., 229 Pennsylvania Avenue SE., Washington, D.C. 20003.
B. Electric Data Systems Corp., 7171 Forest Lane, Dallas, Tex. 75230.
E. (9) $40.

A. Aerospace Industries Association of America, Inc., 1725 DeSales Street NW., Washington, D.C. 20036.
D. (6) $11,783.57. E. (9) $11,783.57.

A. AFL–CIO Maritime Committee, 100 Indiana Avenue NW., Washington, D.C. 20001.
D. (6) $4,100. E. (9) $5,099.04.

A. Donald G. Agger, DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036.
B. DGA International, Inc., 1225 19th Street NW., Washington, D.C. (for Aerospatiale, 37 Boulevard de Montmorency, 75016 Paris, France).

A. Alan P. Agle, P.O. Box 946, Buckingham, Pa. 18912.
B. Buckingham Township, Buckingham, Pa.
E. (9) $170.16.

A. Air Products & Chemicals, Inc., P.O. Box 538, Allentown, Pa. 18105.
E. (9) $77.25.

A. Air Transport Association of America, 1709 New York Avenue NW., Washington, D.C. 20006.
D. (6) $16,215.47. E. (9) $16,215.27.

A. Aircraft Owners & Pilots Association, P.O. Box 5800, Washington, D.C. 20014.
E. (9) $4,740.97.

A. Randolf H. Aires, 1211 Connecticut Avenue, NW., Suite 802, Washington, D.C. 20036.
B. Sears, Roebuck & Co., Sears Tower, Chicago, Ill. 60684.
D. (6) $1,450. E. (9) $156.26.

A. G. Colburn Aker, Hill & Knowlton, Inc., 1425 K Street NW., Washington, D.C. 20005.
B. Hill & Knowlton, Inc., 633 Third Avenue, New York, N.Y. 10017.

A. Akin, Gump, Hauer & Feld, 1100 Madison Office Building, 1155 15th Street NW., Washington, D.C. 20005.
B. American Collectors Association, Inc., 4040 West 70th Street, Minneapolis, Minn. 55435.

A. Akin, Gump, Hauer & Feld, 1100 Madison Office Building, 1155 15th Street NW., Washington, D.C. 20005.
B. American Polygraphs Association, 3701 West Alabama, Suite 330, Houston, Tex. 77027.

A. Akin, Gump, Hauer & Feld, 1100 Madison Office Building, 1155 15th Street NW., Washington, D.C. 20005.
B. Beacon Oil Co., P.O. Box 466, Hanford, Calif. 93230.

A. Akin, Gump, Hauer & Feld, 1100 Madison Office Building, 1155 15th Street NW., Washington, D.C. 20005.
B. Coastal States Gas Producing Co., 5 Greenway Plaza East, Houston, Tex. 77046.
D. (6) $6,500. E. (9) $200.

A. Akin, Gump, Hauer & Feld, 1100 Madison Office Building, 1155 15th Street NW., Washington, D.C. 20005.
B. E & J Gallo Winery, P.O. Box 1130, Modesto, Calif. 95353.
D. (6) $5,000.

A. Akin, Gump, Hauer & Feld, 1100 Madison Office Building, 1155 15th Street NW., Washington, D.C. 20005.
B. Haskins & Sells, 1114 Avenue of the Americas, New York, N.Y. 10036.
D. (6) $1,200.

A. Akin, Gump, Hauer & Feld, 1100 Madison Office Building, 1155 15th Street NW., Washington, D.C. 20005.
B. Northwest Alaskan Pipeline Co., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
D. (6) $4,000.

A. Akin, Gump, Hauer & Feld, 1100 Madison Office Building, 1155 15th Street NW., Washington, D.C. 20005.
B. Northwest Pipeline Corp., 314 East Second South, Salt Lake City, Utah 84111.
D. (6) $1,000.

A. Akin, Gump, Hauer & Feld, 1100 Madison Office Building, 1155 15th Street NW., Washington, D.C. 20005.
B. Sun Co., Inc., 1608 Walnut Street, Philadelphia, Pa. 19103.
D. (6) $6,000.

A. Akin, Gump, Hauer & Feld, 1100 Madison Office Building, 1155 15th Street NW., Washington, D.C. 20005.
B. Sun Pipe Line Co., P.O. Box 2039, Tulsa, Okla. 74102.
D. (6) $250. E. (9) $23.20.

A. Akin, Gump, Hauer & Feld, 1100 Madison Office Building, 1155 15th Street NW., Washington, D.C. 20005.
B. United Refining Co., P.O. Box 780, Warren, Pa. 16365.

A. Akin, Gump, Hauer & Feld, 1100 Madison Office Building, 1155 15th Street NW., Washington, D.C. 20005.
B. Vickers Petroleum Corp., P.O. Box 2240, Wichita, Kans. 67201.
D. (6) $2,500. E. (9) $200.

A. Alaska Coalition, Inc., 620 C Street SE., Washington, D.C. 20003.
D. (6) $55,131.12. E. (9) $42,973.81.

A. Alaska Fund, Inc., 810 18th Street NW., Washington, D.C. 20006.
D. (6) $78,494.49. E. (9) $66,444.62.

A. Alcalde, Henderson, O'Bannon & Kline, 1911 North Fort Myer Drive, No. 1207, Rosslyn, Va.
B. Air Sunshine, 1129 Simonton Street, Key West, Fla.
D. (6) $250.

A. Alcalde, Henderson, O'Bannon & Kline, 1911 North Fort Myer Drive, Suite 1207, Rosslyn, Va. 22209.
B. Associated Industries of Florida, 203 South Adams Street, Tallahassee, Fla. 32302.

A. Alcalde, Henderson, O'Bannon & Kline, 1911 North Fort Myer Drive, Suite 1207, Rosslyn, Va. 22209.
B. Association of Local Transport Airlines, 1801 K Street NW., Suite 802, Washington, D.C. 20006.
D. (6) $6,565.

A. Alcalde, Henderson, O'Bannon & Kline, 1911 North Fort Myer Drive, Suite 1207, Rosslyn, Va. 22209.
B. Computer Sciences Corp., 1616 North Fort Myer Drive, Arlington, Va. 22209.
D. (6) $3,000.

A. Alcalde, Henderson, O'Bannon & Kline, 1911 North Fort Myer Drive, Suite 1207, Rosslyn, Va. 22209.
B. The Continental Group, Inc., 633 Third Avenue, New York, N.Y. 10017.
D. (6) $1,000.

A. Alcalde, Henderson, O'Bannon & Kline, 1911 North Fort Myer Drive, Suite 1207, Rosslyn, Va. 22209.
B. Tampa Electric Co., P.O. Box 111, Tampa, Fla. 33601.
D. (6) $1,500.

A. Alcalde, Henderson, O'Bannon & Kline, 1911 North Fort Myer Drive, Suite 1207, Rosslyn, Va. 22209.
B. Tampa Port Authority, P.O. Box 2192, Tampa, Fla. 33601.
D. (6) $3,600.

A. Alcalde, Henderson, O'Bannon & Kline, 1911 North Fort Myer Drive, Suite 1207, Rosslyn, Va. 22209.
B. Jim Walter Corp., P.O. Box 22601, Tampa, Fla. 33622.
D. (6) $3,000.

A. Alderson, Ondov, Leonard & Sween, 105 East Oakland Avenue, Austin, Minn. 55912.
B. The Hormel Foundation, Austin, Minn. 55912.

A. G. Kenneth Aldrich, National Association of Manufacturers, 222 South Prospect Avenue, Park Ridge, Ill. 60068.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $225.

A. Willis W. Alexander, American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
B. American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $1,875. E. (9) $4,660.48.

A. Maxton M. Allcox, 400 First Street NW., Room 801, Washington, D.C. 20001.
B. Brotherhood of Maintenance of Way Employes, 12050 Woodward Avenue, Detroit, Mich. 48203.
D. (6) $5,625.

A. Alliance of American Insurers, 20 North Wacker Drive, Chicago, Ill. 60606.
E. (9) $15,755.

A. Ricardo R. Alvarado, 6108 Fort Hunt Road, Alexandria, Va. 22307.
B. Lockheed Corp., P.O. Box 551, Burbank, Calif. 91520.
D. (6) $2,940. E. (9) $926.20.

A. Robert Alvarez, 317 Pennsylvania Avenue SE., Washington, D.C. 20003.
B. Environmental Policy Center, 317 Pennsylvania Avenue SE., Washington, D.C. 20003.
D. (6) $450.

A. Amalgamated Transit Union, AFL-CIO, 5025 Wisconsin Avenue NW., Washington, D.C. 20210.

A. Amalgamated Transit Union, National Capital Local 689, 100 Indiana Avenue NW., No. 403, Washington, D.C. 20001.

A. American Academy of Family Physicians, 1740 West 92d Street, Kansas City, Mo. 64114; Suite 2970, 475 L'Enfant Plaza West SW., Washington, D.C. 20024.
D. (6) $1,133.36. E. (9) $1,133.36.

A. American Association of Meat Processors, 224 East High Street, Elizabethtown, Pa. 17022.
D. (6) $79.12.

A. American Automobile Association, 8111 Gatehouse Road, Falls Church, Va. 22042.

A. American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $32,528.16. E (9) $32,528.16.

A. American Council for Capital Formation, 1425 K Street NW., Suite 1007, Washington, D.C. 20005
D. (6) $5,350. E. (9) $4,074.74.

A. American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.
D. (6) $2,490. E. (9) $1,614.

A. American Dental Association, 211 East Chicago Avenue, Chicago, Ill. 60611.
D. (6) $12,734.91. E. (9) $12,734.91.

A. American Farm Bureau Federation, 225 Touhy Avenue, Park Ridge, Ill. 60068; 425 13th Street NW., Washington, D.C. 20004.
D. (6) $55,006. E. (9) $55,006.

A. American Federation of Labor and Congress of Industrial Organizations, 815 16th Street NW., Washington, D.C. 20006.
E. (9) $110,766.26.

A. American Feed Manufacturers Association, 1701 North Fort Myer Drive, Arlington, Va. 22209.
D. (6) $2,666.55. E. (9) $2,666.55.

A. American Frozen Food Institute, 1700 Old Meadow Road, McLean, Va. 22101.
D. (6) $166,457.50. E. (9) $550.

A. American Gas Association, 1515 Wilson Boulevard, Arlington, Va. 22209.
D. (6) $12,215.54. E. (9) $12,215.54.

A. American Hellenic Institute, Public Affairs Committee, Inc., 1730 K Street NW., Washington, D.C. 20006.
D. (6) $750. E. (9) $1,125.43.

A. American Honey Producers Association, P.O. Box 368, Minco, Okla. 73059.
D. (6) $7,925. E. (9) $3,703.11.

A. American Hotel & Motel Association, 888 Seventh Avenue, New York, N.Y. 10019.
D. (6) $11,188.38. E. (9) $5,526.46.

A. American Institute of Merchant Shipping, 1625 K Street NW., Washington, D.C. 20006.
E. (9) $1,882.12.

A. American Insurance Association, 85 John Street, New York, N.Y. 10038.
D. (6) $57,815.25. E. (9) $57,815.25.

A. American Land Title Association, 1828 L Street NW., Washington, D.C. 20036.
E. (9) $4,519.

A. American League for International Security Assistance, Suite 4400, 475 L'Enfant Plaza SW., Washington, D.C. 20024.
D. (6) $9,181.62. E. (9) $9,181.62.

A. American Library Association, 50 East Huron Street, Chicago, Ill. 60611.
D. (6) $587.20. E. (9) $4,504.83.

A. American Meat Institute, P.O. Box 3556, Washington, D.C. 20007. (1600 Wilson Boulevard, Arlington, Va.)
E. (9) $6,381.17.

A. American Medical Association, 535 North Dearborn Street, Chicago, Ill. 60610.
D. (6) $2,732.50. E. (9) $34,947.01.

A. American Nuclear Energy Council, 1750 K Street NW., Suite 300, Washington, D.C.
D. (6) $111,058.48. E. (9) $28,928.90.

A. American Nurses' Association, 2420 Pershing Road, Kansas City, Mo. 64108.
D. (6) $7,404.85. E. (9) $7,404.85.

A. American Optometric Association, c/o Dr. Wendell D. Waldie, 3111 Aloma, Wichita, Kans. 67211.
D. (6) $1,616.49. E. (9) $1,616.49.

A. American Paper Institute, Inc., 260 Madison Avenue, New York, N.Y. 10016.
E. (9) $565.99.

A. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $50,916. E. (9) $164,354.

A. American Physical Therapy Association, 1156 15th Street NW., Washington, D.C. 20005.
D. (6) $7,653.16. E. (9) $7,653.16.

A. American Plywood Association, 1119 A Street, Tacoma, Wash. 98401.

A. American Podiatry Association, 20 Chevy Chase Circle, Washington, D.C. 20015.
E. (9) $13,891.47.

A. American Postal Workers Union, AFL-CIO, 817 14th Street NW., Washington, D.C. 20005.
D. (6) $2,471,224.67. E. (9) $112,510.02.

A. American Pulpwood Association, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.

A. American Seed Trade Association, 1030 15th Street NW., Suite 964, Washington, D.C. 20005.
E. (9) $3,000.

A. American Short Line Railroad Association, 2000 Massachusetts Avenue NW., Washington, D.C. 20036.
D. (6) $995.89. E. (9) $995.89.

A. American Surveys, Embassy Square, Suite 901, 2000 N Street NW., Washington, D.C. 20036.
B. National Customs Brokers & Forwarders Association of America, Inc., 1 World Trade Center, Suite 1109, New York, N.Y. 10048.
D. (6) $273.93. E. (9) $138.46.

A. American Textile Manufacturers Institute, Inc., Wachovia Center, 400 South Tryon Street, Charlotte, N.C. 28285.
D. (6) $30,184.99. E. (9) $30,184.99.

A. American Trucking Associations, Inc., 1616 P Street NW., Washington, D.C. 20036.
D. (6) $10,290.06. E. (9) $69,699.60.

A. American Veterinary Medical Association, 1522 K Street, NW., No. 828, Washington, D.C. 20005.
D. (6) $50. E. (9) $125.

A. The American Waterways Operators, Inc., 1600 Wilson Boulevard, Suite 1101, Arlington, Va. 22209.
D. (6) $2,468.81. E. (9) $2,555.57.

A. Americans for Alaska, Inc., P.O. Box 50, Riderwood, Md. 21139.
D. (6) $41,335. E. (9) $39,059.

A. Gwen A. Anderson, American Sign & Indicator Corp., 1220 19th Street, Washington, D.C. 20036.
B. American Sign and Indicator Corp., 2310 Fancher Way, P.O. Drawer 272", Spokane, Wash. 99220.
D. (6) $1,500. E. (9) $413.08.

A. Anderson, Pendleton, McMahon, Peet & Donovan, 1000 16th Street NW., Suite 701, Washington, D.C. 20036.
B. Embassy of Chile, 1732 Massachusetts Avenue, NW., Washington, D.C. 20036.
D.(6) $4,166. E. (9) $40.06.

A. Robert L. Anderson, Deere & Co., John Deere Road, Moline, Ill. 61265.
B. Deere & Co., John Deere Road, Moline, Ill. 61265.

A. Stanton D. Anderson, 1156 15th Street NW., Washington D.C. 20005.
B. Surrey, Karasik & Morse, 1156 15th Street NW., Washington, D.C. 20005.

A. Wm. C. Anderson, 1101 16th Street NW., Washington, D.C. 20036.
B. Independent Petroleum Association of America, 1101 16th Street NW., Washington, D.C. 20036.
E. (9) $24.45.

A. Emmet Andrews, American Postal Workers Union, AFL-CIO, 817 14th Street NW., Washington, D.C. 20005.
B. American Postal Workers Union, AFL-CIO, 817 14th Street NW., Washington, D.C. 20005.
D. (6) $7,363.90.

A. Robert C. Angel, 1000 Connecticut Avenue, NW., Washington, D.C. 20036.
B. U.S.-Japan Trade Council, 1000 Connecticut Avenue, NW., Washington, D.C. 20036.
D. (6) $300.

A. Jack R. Angell, United Gas Pipe Line Co., 1101 17th Street NW., Washington, D.C. 20036.
B. United Gas Pipe Line Co., P.O. Box 1478, Houston, Tex. 77001.
D. (6) $1,584. E. (9) $38.50.

A. Scott P. Anger, 1200 18th Street NW., Suite 607, Washington, D.C. 20036.
B. American Petroleum Refiners Association, 1200 18th Street NW., Suite 607, Washington, D.C. 20036.
D. (6) $150.

A. C. Stephen Angle, Marathon Oil Co., 1800 M Street NW., Suite 975, Washington, D.C. 20036.
B. Marathon Oil Co., Findley, Ohio 45840.
E. (9) $273.12.

A. J. Donald Annett, 1050 17th Street NW., No. 500, Washington, D.C. 20036.
B. Texaco, Inc., 2000 Westchester Avenue, White Plains, N.Y. 10650.
D. (6) $200.

A. APA Co., 400 First Street N., Washington, D.C. 20001.
B. University of Health Sciences/The Chicago Medical School, 2020 West Ogden Avenue, Chicago, Ill. 60612.
D. (6) $750.

A. John Archer, American Automobile Association, 8111 Gatehouse Road, Falls Church, Va. 22042.
B. American Automobile Association, 8111 Gatehouse Road, Falls Church, Va. 22042.

A. Arnold & Porter, 1229 19th Street NW., Washington, D.C. 20036.
B. The Kroger Co., 1014 Vine Street, Cincinnati, Ohio 45201.
D. (6) $3,011.09. E. (9) $235.27.

A. Arnold & Porter, 1229 19th Street, NW., Washington, D.C. 20036.
B. MFA Mutual Insurance Co., 1817 West Broadway, Columbia, Mo. 65201.
E. (9) $1.35.

A. Maureen Aspin, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $4,375. E. (9) $152.25.

A. Associated Credit Bureaus, Inc., 6767 Southwest Freeway, Houston, Tex. 77074.
E. (9) $201.05.

A. Associated Employers, Inc., 6009 Rittiman Plaza, San Antonio, Tex. 78218.

A. Associated Third Class Mail Users, Suite 607, 1725 K Street NW., Washington, D.C. 20006.
D. (6) $600. E. (9) $600.

A. Association for the Advancement of Invention & Innovation, Suite 301, 1911 Jefferson Davis Highway, Arlington, Va. 22202.
D. (6) $3,902. E. (9) $2,577.98.

A. Association for the Improvement of the Mississippi River, c/o Ramsay D. Potts, Shaw Pittman, 1800 M Street NW., Washington, D.C. 20036.
E. (9) $2,018.60.

A. Association of American Publishers, 1707 L Street NW., Suite 480, Washington, D.C. 20036.
D. (6) $5,363.11. E. (9) $5,363.11.

A. Association of American Railroads, American Railroads Building (211), 1920 L Street NW., Washington, D.C. 20036.
D. (6) $24,841.38. E. (9) $24,841.38.

A. Association of American Veterinary Medical Colleges, 1522 K Street NW., No. 828, Washington, D.C. 20005.
D. (6) $50. E. (9) $45.

A. Association of Maximum Service Telecasters, Inc., 1735 DeSales Street NW., Washington, D.C. 20036.

A. The Association of Trial Lawyers of America, 1050 31st Street NW., Washington, D.C. 20007.
D. (6) $8,070. E. (9) $ 8,070.

A. Carl E. Atkinson, United States Steel Corp., 818 Connecticut Avenue NW., Washington, D.C. 20006.
B. United States Steel Corp., 600 Grant Street, Pittsburgh, Pa. 15230.
D. (6) $350. E. (9) $516.10.

A. Atlantic Richfield Co., 515 South Flower Street, Los Angeles, Calif. 90071.
E. (9) $3,875.22.

A. Allan Auger, P.O. Box 5308, Denver, Colo. 80217.
B. Great Western Sugar Co., P.O. Box 5308, Denver, Colo. 80217.
D. (6) $800. E. (9) $252.

A. John D. Austin, Jr., American Mining Congress, 1100 Ring Building, Washington, D.C.
B. American Mining Congress, 1100 Ring Building, Washington, D.C.

A. John S. Autry, John-Minville Corp., 1025 Connecticut Avenue NW., Suite 214, Washington, D.C. 20036.
B. Johns-Manville Corp., P.O. Box 5108, Denver, Colo. 80217.
D. (6) $1,000. E. (9) $1,200.

A. Avon Products, Inc., 9 West 57th Street, New York, N.Y. 10019.
E. (9) $372.

A. Walter C. Ayers, Virginia Petroleum Industries, 1809 Staples Mill Road, Richmond, Va. 23230.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $150. E. (9) $71.49.

A. Craig H. Baab, American Bar Association, 1800 M Street NW., Washington, D.C. 20036.
B. American Bar Association, 1155 East 60th Street, Chicago, Ill. 60637.
D. (6) $600. E. (9) $100.

A. Carl E. Bagge, Coal Building, Washington, D.C. 20036.
B. National Coal Association, Coal Building, Washington, D.C. 20036.
D. (6) $1,900. E. (9) $281.

A. Charles W. Bailey, 8316 Arlington Boulevard, Suite 600, Fairfax, Va. 22038.
B. National Right to Work Committee, 8316 Arlington Boulevard, Suite 600, Fairfax, Va. 22038.

A. George F. Bailey, Jr., Alabama Railroad Association, P.O. Box 21, Montgomery, Ala. 36101.
B. Alabama Railroad Association, P.O. Box 21, Montgomery, Ala. 36101.

A. William W. Bailey, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. The Proprietary Association, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
D. (6) $6,000. E. (9) $123.80.

A. David L. Baird, Jr., 1025 Connecticut Avenue NW., Suite 1014, Washington, D.C. 20036.
B. Exxon Corp., 1251 Avenue of the Americas, New York, N.Y.
E. (9) $261.18.

A. Baker & Botts, 1701 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Houston Lighting & Power Co., P.O. Box 1700, Houston, Tex. 77001.

A. Baker & Botts, 1701 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Pennzoil Co., Pennzoil Place, P.O. Box 2967, Houston, Tex. 77002.

A. Baker & Daniels, 1800 M Street NW., Washington, D.C. 20036.
B. Independent Refiners Association of America, 1220 19th Street NW., Washington, D.C. 20036.
D. (6) $200.

A. Donald Baldwin, Donald Baldwin Associates, Suite 906, 1625 I Street NW., Washington, D.C. 20006.
B. National Taxpayers Union, 325 Pennsylvania Avenue SE., Washington, D.C. 20003.
D. (6) $3,600.

A. Jacqueline Balk-Tuss, 1625 I Street NW., No. 809, Washington, D.C. 20006.
B. Boise Cascade Corp., 1625 I Street NW., Washington, D.C. 20006.
D. (6) $9,123.

A. Michael Baly III, American Gas Association, 1515 Wilson Boulevard, Arlington, Va. 22209.
B. American Gas Association, 1515 Wilson Boulevard, Arlington, Va. 22209.
D. (6) $2,800. E. (9) $360.02.

A. Robert D. Bannister, National Association of Realtors, 925 15th Street NW., Washington, D.C. 20005.
B. National Association of Realtors, 925 15th Street NW., Washington, D.C. 20005; 430 North Michigan Avenue, Chicago, Ill. 60601.
D. (6) $2,406.25. E. (9) $286.34.

A. Will G. Barber, 1300 American Bank Tower, Austin, Tex. 78701.
B. Texas Medical Association, 1801 North Lamar Boulevard, Austin, Tex. 78701.
D. (6) $250. E. (9) $60.

A. Wayne B. Bardsley, Investment Company Institute, 1775 K Street NW., Washington, D.C. 20006.
B. Investment Company Institute, 1775 K Street NW., Washington, D.C. 20006.

A. Robert O. Barker, 801 Northland Towers West, Southfield, Mich. 48075.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $1,500. E. (9) $637.97.

A. Thomas H. Barksdale, Jr., 2101 L Street NW., Washington, D.C. 20037.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $7,000. E. (9) $780.

A. Barnes, Richardson & Colburn, 1819 H Street NW., Suite 600, Washington, D.C. 20006.
B. American Importers Association, 420 Lexington Avenue, New York, N.Y. 10016.
E. (9) $1,924.32.

A. Barnes, Richardson & Colburn, 1819 H Street NW., Washington, D.C. 20006.
B. Meat Importers Council of America, 1 Penn Plaza, New York, N.Y. 10001.
D. (6) $500. E. (9) $500.

A. Larry P. Barnett, Air Transport Association of America, 1709 New York Avenue NW., Washington, D.C. 20006.
B. Air Transport Association of America, 1709 New York Avenue NW., Washington, D.C. 20006.
D. (6) $1,875. E. (9) $166.55.

A. Richard L. Barr, Iowa Railway Association, 620 Capital City Bank Building, Des Moines, Iowa 50309.
B. Iowa Railway Association, 620 Capital City Bank Building, Des Moines, Iowa 50309.

A. Barrett Smith Schapiro Simon & Armstrong, 26 Broadway, Suite 1400, New York, N.Y. 10004.
B. New York Cocoa Exchange, Inc., and New York Cocoa Clearing Association, Inc., 127 John Street, New York, N.Y. 10038.
D. (6) $217. E. (9) $1.07.

A. Barrett Smith Schapiro Simon & Armstrong, 26 Broadway, Suite 1400,, New York, N.Y., 10004.
B. New York Coffee and Sugar Exchange, Inc. and New York Coffee and Sugar Clearing Association, Inc., Four World Trade Center, New York, N.Y. 10048.
D. (6) $1,200. E. (9) $516.89.

A. Robert W. Barrie, General Electric Co., 777 14th Street NW., Washington, D.C. 20005.
B. General Electric Co., 3135 Easton Turnpike, Fairfield, Conn. 06431.
D. (6) $2,500. E. (9) $500.

A. David S. Barrows, 1201 Southwest 12th, Portland, Oreg. 97205.
B. Association of Oregon and California Land Grant Counties, Douglas County Court House, Roseburg, Oreg. 97470.
D. (6) $1,200. E. (9) $642.96.

A. James P. Bass, 1101 17th Street NW., Washington, D.C. 20036.
B. American Airlines, Inc., 1101 17th Street NW., Washington, D.C. 20036.
D. (6) $950. E. (9) $85.

A. Robert E. Bates, Jr., 1100 Connecticut Avenue NW., Washington, D.C. 20036.
B. Mobil Oil Corp., 150 East 42d Street, New York, N.Y. 10017.
D. (6) $1,125.

A. Laurie C. Battle, 1709 New York Avenue NW., Suite 801, Washington, D.C. 20006.
B. United States League of Savings Associations, 111 East Wacker Drive, Chicago, Ill.
D. (6) $3,031.25.

A. John F. Battles, Massachusetts Petroleum Council, 11 Beacon Street, Boston, Mass. 02108.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $425. E. (9) $331.

A. Batzell, Nunn & Bode, 1523 L Street NW., Washington, D.C. 20005.
B. Independent Terminal Operators Association, 1523 L Street NW., Washington, D.C. 20005.
D. (6) $1,376.50.

A. Batzell, Nunn & Bode, 1523 L Street NW., Washington, D.C. 20005.
B. Joc Oil Inc., Olympic Tower, 645 Fifth Avenue, New York, N.Y. 10022.
D. (6) $2,336.25.

A. Batzell, Nunn & Bode, 1523 L Street NW., Washington, D.C. 20005.
B. Mt. Airy Refining Co., International Energy Building, 256 North Belt East, Suite 150, Houston, Tex. 77060.
D. (6) $3,640.

A. Gary L. Bauer, Direct Mail/Marketing Association, 1730 K Street NW., Suite 905, Washington, D.C. 20006.
B. Direct Mail/Marketing Association, 6 East 43d Street, New York, N.Y.
D. (6) $4,000. E. (9) $100.

A. Richard H. Bauer, 1025 Connecticut Avenue N.W., No. 1014, Washington, D.C. 20036.
B. Exxon Corp., 1251 Avenue of the Americas, New York, N.Y.
E. (9) $611.03.

A. Sadie R. Baulch, National Forest Products Association, 1619 Massachusetts Avenue, NW., Washington, D.C. 20036.
B. National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
D. (6) $780.

A. Marvella Bayh, American Cancer Society, Inc., 1875 Connecticut Avenue No. 1018, Washington, D.C.
B. American Cancer Society, 777 Third Avenue, New York, N.Y. 10017.
D. (6) $605. E. (9) $3,487.69.

A. Tina Marie Beach, General Electric Co., 777 14th Street NW., Washington, D.C.
B. General Electric Co., 3135 Easton Turnpike, Fairfield, Conn.
D. (6) $25.

A. Bruce A. Beam, Appalachian Power Co., 40 Franklin Road SW., Roanoke, Va. 24011.
B. Appalachian Power Co., 40 Franklin Road SW., Roanoke, Va. 24011.
D. (6) $1,006.80. E. (9) $804.25.

A. John E. Bearer, 1001 Broad Street, Johnstown, Pa. 15907.
B. GPU Service Corp., 260 Cherry Hill Road, Parsippany, N.J. 07054.
D. (6) $2,755.16. E. (9) $2,341.85.

A. Donald S. Beattie, Railway Labor Executives' Association, 400 First Street NW., Washington, D.C. 20001.
B. Railway Labor Executives Association, 400 First Street NW., Washington, D.C. 20001.
D. (6) $2,651.08

A. Christine T. Beatty, 1730 Rhode Island Avenue NW., Suite 911, Washington, D.C. 20036.
B. St. Joe Minerals Corp., 250 Park Avenue, New York, N.Y. 10017.
D. (6) $2,410.

A. Robert J. Becker, Joint Council of Allergy and Immunology, 401 East Prospect Avenue, Suite 210, Mount Prospect, Ill., 60056; 229 North Hammes Avenue, Joliet, Ill., 60435.
B. Joint Council of Allergy and Immunology, 401 East Prospect Avenue, Suite 210, Mount Prospect, Ill. 60056.

A. Alexander B. Bell, 9618 Cottrell Terrace, Silver Spring, Md. 20903.
B. United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, 901 Massachusetts Avenue NW., Washington, D.C. 20001.
D. (6) $3,750. E. (9) $196.15.

A. C. Thomas Bendorf, 1620 I Street NW., Washington, D.C. 20006.
B. The Association of Trial Lawyers of America, 1050 31st Street NW., Washington, D.C. 20007.
D. (6) $3,000. E. (9) $100.

A. C. Robert Benedict, 603 Pennsylvania Avenue SE., Washington, D.C. 20003.
B. American Osteopathic Hospital Association, 930 Busse Highway, Park Ridge, Ill. 60068.
D. (6) $480. E. (9) $155.

A. Bruce Benefield, TRW, Inc., 2030 M Street NW., No. 800, Washington, D.C. 20036.
B. TRW, Inc., Suite 800, 2030 M Street NW., Washington, D.C. 20036
D. (6) $1,000.

A. Kenneth U. Benjamin, Jr., American Medical Association, 1776 K Street NW., Washington, D.C. 20006.
B. American Medical Association, 535 Dearborn Street, Chicago, Ill. 60610.
D. (6) $2,887.50. E. (9) $652.

A. James M. Bennett, Jos. Schlitz Brewing Co., 235 West Galena, Milwaukee, Wis. 53201.
B. Jos. Schlitz Brewing Co., 235 West Galena, Milwaukee, Wis. 53201.
D. (6) $600. E. (9) $300.

A. William C. Bennett, Jr., 1025 Connecticut Avenue NW., Washington, D.C. 20036.
B. Atlantic Richfield Co., 515 South Flower Street, Los Angeles, Calif. 90071.
D. (6) $405.

A. Walter L. Bening, 14901 Ritchie Road, Centreville, Va. 22020.
B. Manufactured Housing Institute, 1745 Jefferson Davis Highway, Arlington, Va. 22202.
D. (6) $2,100. E. (9) $750.

A. David Berick, 317 Pennsylvania Ave. SE., Washington, D.C. 20003.
B. Environmental Policy Center, 317 Pennsylvania Ave. SE., Washington, D.C. 20003.
D. (6) $393.75.

A. Berman and Associates, 1776 K Street NW., Washington, D.C. 20006.
B. CNA, CNA Plaza, Chicago, Ill. 60685.
D. (6) $1,500.

A. Berman and Associates, 1776 K Street NW., Washington, D.C. 20006.
B. Dutcher Industries, 7617 Convoy Court, San Diego, Calif. 92111.
D. (6) $3,000.

A. Berman and Associates, 1776 K Street NW., Washington, D.C. 20006.
B. Loews Corp., 666 Fifth Avenue, New York, N.Y. 10019.
D. (6) $3,000.

A. Berman and Associates, 1776 K Street NW., Washington, D.C. 20006.
B. Unicare Services, Inc., 105 West Michigan Street, Milwaukee, Wis. 53203.
D. (6) $1,250.

A. Berman and Associates, 1776 K Street NW., Washington, D.C. 20006.
B. Warner Communications, Inc., 75 Rockefeller Plaza, New York, N.Y. 10019.
D. (6) $10,000.

A. William R. Berman, American Automobile Association, 8111 Gatehouse Road, Falls Church, Va. 22042.
B. American Automobile Association, 8111 Gatehouse Road, Falls Church, Va. 22042.

A. Arthur S. Berner, Inexco Oil Co., Suite 1900, 1100 Milam Building, Houston, Tex. 77002.
B. Inexco Oil Co., 1100 Milam Building, Suite 1900, Houston, Tex. 77002.

A. Berry, Epstein, Sandstrom & Blatchford, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Constructora Nacinal de Carros de Ferrocarril, S.A., Av. Universidad y Miguel Laurent, Mexico 12, D.F.
D. (6) $2,000.

A. Berry, Epstein, Sandstrom & Blatchford, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. East-West Trade Council, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
D. (6) $4,800. E. (9) $95.34.

A. Berry, Epstein, Sandstrom & Blatchford, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Energy Consumers and Producers Association, Petroleum Plaza, Box 1726, Seminole, Okla. 74868.
D. (6) $2,502.

A. Berry, Epstein, Sandstrom & Blatchford, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Great Western Sugar Co., P.O. Box 5308, Denver, Colo. 80217.
D. (6) $15,900. E. (9) $1,308.70.

A. Berry, Epstein, Sandstrom & Blatchford, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. National Pest Control Association, 8150 Leesburg Pike, Vienna, Va.
D. (6) $1,406.25. E. (9) $41.60.

A. Berry, Epstein, Sandstrom & Blatchford, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Orkin Exterminating Co., Inc., 2170 Peidmont Road NE., Atlanta, Ga. 30324.

A. Max N. Berry, Berry, Epstein, Sandstrom & Blatchford, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Committee to Assure the Availability of Casein, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
D. (6) $2,000.

A. Robert A. Best, 475 L'Enfant Plaza SW., Suite 4400, Washington, D.C. 20024.
B. American League for International Security Assistance, Inc., 474 L'Enfant Plaza SW., Suite 4400, Washington, D.C. 20024.
D. (6) $1,500. E. (9) $250.68.

A. Robert A. Best, 475 L'Enfant Plaza SW., Suite 4400, Washington, D.C. 20024.
B. TADCO Enterprise, Inc., 1625 I Street NW., Washington, D.C. 20006, and Archer-Daniels-Midland Co., Decatur, Ill. 62525.
D. (6) $600. E. (9) $1,079.80.

A. Robert L. Bevan, American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
B. American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $1,140. E. (9) $67.93.

A. Beveridge Fairbanks & Diamond, One Farragut Square South, Washington, D.C. 20006.
B. Alaska Movers Association, 10777 Main Street, Suite 205, Bellevue, Wash. 98004.

A. Beveridge, Fairbanks & Diamond, One Farragut Square South, Washington, D.C. 20006.
B. International Paper, Inc., 1620 I Street NW., Suite 700, Washington, D.C. 20006.

A. Beveridge, Fairbanks & Diamond, One Farragut Square South, Washington, D.C. 20006.
B. Moving and Storage Association of Hawaii, P.O. Box 17865, Honolulu, Hawaii 96817.

A. Beveridge, Fairbanks & Diamond, One Farragut Square South, Washington, D.C. 20006.
B. New England Fish Co., Pier 89, Seattle, Wash. 98119.
D. (6) $900.

A. Beveridge, Fairbanks & Diamond, One Farragut Square South, Washington, D.C. 20006.
B. New England Power Co., 20 Turnpike Road, Westborough, Mass. 01581.
D. (6) $2,850.

A. Beveridge, Fairbanks & Diamond, One Farragut Square South, Washington, D.C. 20006.
B. The Society of Plastics, Inc., 1150 17th Street NW., Suite 1000, Washington, D.C. 20036.

A. Beveridge, Fairbanks & Diamond, One Farragut Square South, Washington, D.C. 20006.
B. SoGen Swiss International Corp., 20 Broad Street, New York, N.Y. 10005.

A. Beveridge, Fairbanks & Diamond, One Farragut Square South, Washington, D.C. 20006.
B. Union Seas, c/o The Corporation Trust Inc., 25 South Charles Street, Baltimore, Md. 21201.

A. Eileen M. Biermann, 512 Washington Building, Washington, D.C. 20005.
B. National Association of Small Business Investment Co., 512 Washington Building, Washington, D.C. 20005.
D. (6) $550.

A. Andrew J. Biemiller, AFL–CIO, 815 16th Street NW., Washington, D.C. 20006.
B. American Federation of Labor and Congress of Industrial Organizations, 815 16th Street NW., Washington, D.C. 20006.
D. (6) $12,103.

A. Walter J. Bierwagen, 5025 Wisconsin Avenue NW., Washington, D.C. 20016.
B. Amalgamated Transit Union, AFL–CIO, 5025 Wisconsin Avenue NW., Washington, D.C. 20016.

A. Thomas E. Biery, 1101 16th Street NW., Washington, D.C. 20036.
B. Independent Petroleum Association of America, 1101 16th Street NW., Washington, D.C. 20036.
E. (9) $22.50.

A. Billig, Sher & Jones, 2033 K Street NW., Washington, D.C. 20006.
B. The Adherence Group, 21 West Street, New York, N.Y. 10006.
D. (6) $1,250. E. (9) $25.

A. Birch, Horton, Bittner & Monroe, 4400 Jenifer Street, NW., Suite 300, Washington, D.C. 20015.
B. Calista Corp., 516 Denali Street, Anchorage, Alaska 99501.

A. Birch, Horton, Bittner & Monroe, 4400 Jenifer Street, NW., Suite 300, Washington, D.C. 20015.
B. Coastal States Gas Corp., 5 Greenway Plaza East, Houston, Tex. 77046.

A. Birch, Horton, Bittner & Monroe, 4400 Jenifer Street, NW., Suite 300, Washington, D.C. 20015.
B. Columbia Gas System Service Corp., 20 Montchanin Road, Wilmington, Del. 19807.

A. Birch, Horton, Bittner & Monroe, 4400 Jenifer Street, NW., Suite 300, Washington, D.C. 20015.
B. General Teamsters Local 959, State of Alaska, 1200 Airport Heights Road, Anchorage, Alaska 99504.

A. Birch, Horton, Bittner & Monroe, 4400 Jenifer Street, NW., Suite 300, Washington, D.C. 20015.
B. Global Seafoods, Inc., 1 Canal Plaza, Portland, Maine 04111.

A. Birch, Horton, Bittner & Monroe, 4400 Jenifer Street, NW., Suite 300, Washington, D.C. 20015.
B. Steerling Council for Alaska Lands, 1016 West Sixth Avenue, Suite B, Anchorage, Alaska 99501.

A. Birch, Horton, Bittner & Monroe, 4400 Jenifer Street, NW., Suite 300, Washington, D.C. 20015.
B. Westinghouse Electric Corp., 1801 K Street NW., Washington, D.C. 20006.

A. Robert J. Bird, 1140 Connecticut Avenue, NW., No. 804, Washington, D.C. 20036.
B. Occidental Life Insurance Co., 12th and Hill, Los Angeles, Calif. 90054.

A. Robert J. Bird, 1140 Connecticut Avenue, NW., No. 804, Washington, D.C. 20036.
B. The Paul Revere Corp., Worcester, Mass. 01608.

A. John L. Birkinbine, Jr., National Association of Manufacturers, 222 South Prospect Avenue, Park Ridge, Ill. 60068.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $225.

A. C. Thomason Bishop III, National Association of Manufacturers, 1719 Route 10, Parsippany, N.J. 07054.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.

A. Neal R. Bjornson, National Milk Producers Federation, 30 F Street NW., Washington D.C. 20001.
B. National Milk Producers Federation, 30 F Street NW., Washington, D.C. 20001.

A. Brent Blackweider, 317 Pennsylvania Avenue SE., Washington, D.C. 20003.
B. Environmental Policy Center, 317 Pennsylvania Avenue SE., Washington, D.C. 20003.
D. (6) $2,799.99.

A. Steven H. Blackwell, 2626 Pennsylvania Avenue NW., Washington, D.C. 20037.
B. National Telephone Cooperative Association, 2626 Pennsylvania Avenue NW., Washington, D.C. 20037.
D. (6) $200.

A. Donna C. Blair, 1025 Connecticut Avenue NW., Washington, D.C. 20036.
B. Atlantic Richfield Co., 515 South Flower Street, Los Angeles, Calif. 90017.
D. (6) $240. E. (9) $124.60.

A. Richard W. Blake, 1776 K Street NW., No. 900, Washington, D.C. 20006.
B. American Sugarbeet Growers Association, 1776 K Street NW., No. 900, Washington, D.C. 20006.
D. (6) $540.

A. Robert W. Blanchette, Alston, Miller & Gaines, 1800 M Street, NW., Suite 1000, Washington, D.C. 20036.
B. Agri-Businessmen, Inc., 141 West Jackson Boulevard, Suite 1245, Chicago, Ill.

A. Robert W. Blanchette, Alston, Miller & Gaines, 1800 M Street, NW., Suite 1000, Washington, D.C. 20036.
B. Board of Trade Clearing Corp., 141 West Jackson Boulevard, Chicago, Ill. 60604.
D. (6) $462. E. (9) $160.75.

A. Kenneth T. Blaylock, American Federation of Government Employees, 1325 Massachusetts Avenue NW., Washington, D.C. 20005.
B. American Federation of Government Employees, 1325 Massachusetts Avenue NW., Washington, D.C. 20005.
D. (6) $16,929.50. E. (9) $2,884.33.

A. Michael M. Blevins, National Society of Professional Engineers, 2029 K Street NW., Washington, D.C. 20006.
B. National Society of Professional Engineers, 2029 K Street NW., Washington, D.C. 20006.
D. (6) $1,250.

A. Richard W. Bliss, National Association of Electric Cos., 1140 Connecticut Avenue NW., Suite 1010, Washington, D.C. 20036.
B. National Association of Electric Cos., 1140 Connecticut Avenue NW., Suite 1010, Washington, D.C. 20036.
D. (6) $480. E. (9) $27.

A. Jerald Blizin, Hill and Knowlton, Inc., 1425 K Street NW., Washington, D.C. 20005.
B. Hill and Knowlton, Inc., 633 Third Avenue, New York, N.Y. 10017.

A. L. Thomas Block, Irving Trust Co., One Wall Street, New York, N.Y. 10015.
B. Irving Trust Co., One Wall Street, New York, N.Y. 10015.
D. (6) $400. E. (9) $325.

A. Robert J. Bolger, National Association of Chain Drug Stores, Inc., 1911 Jefferson Davis Highway, Suite 504, Arlington, Va. 22202.
B. National Association of Chain Drug Stores, Inc., 1911 Jefferson Davis Highway, Suite 504, Arlington, Va. 22202.
D. (6) $1,650.

A. Mark Bloomfield, American Council for Capital Formation, 1425 K Street NW., Suite 1007, Washington, D.C. 20005.
B. American Council for Capital Formation, 1425 K Street NW., Washington, D.C. 20005.
D. (6) $1,400.

A. Mark Andrew Bloomfield, 1661 Crescent Place NW., No. 309, Washington, D.C. 20009.
B. American Electronics Association, 2600 El Camino Real, Palo Alto, Calif. 94306.
D. (6) $3,000. E. (9) $50.75.

A. Jack A. Blum, 1015 18th Street NW., Washington, D.C. 20036.
B. Independent Gasoline Marketers Council, 1015 18th Street NW., Suite 408, Washington, D.C. 20036.
D. (6) $10,000. E. (9) $10,747.05.

A. Jared O. Blum, 1730 M Street NW., Suite 610, Washington, D.C. 20036.
B. Direct Selling Association, 1730 M Street NW., Suite 610, Washington, D.C. 20036.
D. (6) $900. E. (9) $73.96.

A. Blum, Parker & Nash, 1015 18th Street NW., No. 408, Washington, D.C. 20036.
B New York Mercantile Exchange, 4 World Trade Center, New York, 10048.

A. Wayne F. Boan, National Association of Manufacturers, 8320 Gulf Freeway, Suite 243, Houston, Tex. 77017.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $1,200.

A. Seth M. Bodner, 1101 15th Street NW., Suite 803, Washington, D.C. 20005.
B. Lead-Zinc Producers Committee, 1101 15th Street NW., Suite 803, Washington, D.C. 20005.
D. (6) $1,500.

A. Becky Bogard, 2000 Florida Avenue NW., Washington, D.C. 20009.
B. National Rural Electric Cooperative Association, 2000 Florida Avenue NW., Washington, D.C. 20009.
D. (6) $193.50.

A. Christie K. Bohner, 900 17th Street NW., No. 1016, Washington, D.C. 20006.
B. Kaiser Steel Corp., 900 17th Street NW., No. 1016, Washington, D.C. 20006.
D. (6) $500. E. (9) $740.

A. Patricia M. Boinski, 1025 Connecticut Avenue NW., Washington, D.C. 20036.
B. Atlantic Richfield Co., 515 South Flower Street, Los Angeles, Calif. 90071.
D. (6) $16.40. E. (9) $6.

A. A. Dewey Bond, American Meat Institute, P.O. Box 3556, Washington, D.C. 20007.
B. American Meat Institute, P.O. Box 3556, Washington, D.C. 20007 (1600 Wilson Boulevard, Arlington, Va.).
D. (6) $500. E. (9) $22.

A. L. H. Bonin, Jr., 1025 Connecticut Avenue NW., Suite 700, Washington, D.C. 20036.
B. Gulf Oil Corp., Pittsburgh, Pa. 15230.
D. (6) $2,400. E. (9) $350.

A. Jay Bonitt, 300 Maryland Avenue NE., Washington, D.C. 20002.
B. The Bendix Corp., 300 Maryland Avenue NE., Washington, D.C. 20002.
D. (6) $425.

A. Sharon Lee Bonitt, Shell Oil Co., 1025 Connecticut Avenue NW., Washington, D.C. 20036.
B. Shell Oil Co., 1 Shell Plaza, P.O. Box 2463, Houston, Tex. 77001.
D. (6) $500.

A. Edward T. Borda, 1625 I Street NW., Suite 1023, Washington, D.C. 20006.
B. Association of General Merchandise Chains, Inc., 1625 I Street NW., Suite 1023, Washington, D.C. 20006.
D. (6) $4,000. E. (9) $320.

A. Charles G. Botsford, 1730 M Street NW., Suite 609, Washington, D.C. 20036.

A. Frank J. Bowden, Jr., Associated Petroleum Industries of Pennsylvania, P.O. Box 925, Harrisburg, Pa. 17108.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.

A. David W. Bowers, 1801 K Street NW., Suite 1201, Washington, D.C. 20006.
B. United States Independent Telephone Association, 1801 K Street NW., Suite 1201, Washington, D.C. 20006.
D. (6) $1,000.

A. Robert R. Bowers, West Virginia Petroleum Council, Suite 714, Atlas Building, Charleston, W. Va. 25301.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $540. E. (9) $530.

A. T. L. Bowes, IPO, Inc., Route 2, Box 183AB, Leesburg, Va. 22075.
B. IPO, Inc., 1800 K Street NW., Washington, D.C. 20006.
D. (6) $200.

A. Edward L. Bowley, American Postal Workers Union AFL–CIO, 817 14th Street NW., Washington, D.C. 20005.
B. American Postal Workers Union, AFL–CIO, 817 14th Street NW., Washington, D.C. 20005.
D. (6) $10,614.60. E. (9) $6,293.94.

A. Randal R. Bowman, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
B. National Rifle Association of America, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
D. (6) $500. E. (9) $13.66.

A. Francis J. Boyd, Jr., 3251 Old Lee Highway, Suite 501, Fairfax, Va. 22030.
B. National Limestone Institute, Inc., 3251 Old Lee Highway, Suite 501, Fairfax, Va. 22030.
E. (9) $30.16.

A. John G. Boyd, 1801 K Street NW., Washington, D.C. 20006.
B. International Business Machines, Old Orchard Road, Armonk, NY 10504.
D. (6) $576. E. (9) $96.16.

A. Sheila H. Boykin, National Health Law Program, Inc., 1200 15th Street NW., Room 503, Washington, D.C. 20005.
B. The National Health Law Program, Inc., 2401 Main Street, Santa Monica, Calif. 90405.
D. (6) $2,208. E. (9) $1,148.21.

A. Robert E. Bradford, 1750 K Street NW., Washington, D.C. 20006.
B. Food Marketing Institute, 1750 K Street NW., Washington, D.C. 20006.
D. (6) $2,000.

A. Frank W. Bradley, Chevron, U.S.A., Inc., 1700 K Street NW., Washington, D.C. 20006.
B. Chevron, U.S.A., Inc., a subsidiary of Standard Oil Co. of California, 1700 K Street NW., Washington, D.C. 20006.
E. (9) $100.

A. Wayne W. Bradley, American Medical Association, 535 North Dearborn Street, Chicago, Ill. 60610.
B. American Medical Association, 535 North Dearborn Street, Chicago, Ill. 60610.
D. (6) $500. E. (9) $10.73.

A. Charles N. Brady, American Automobile Association, 8111 Gatehouse Road, Falls Church, Va. 22042.
B. American Automobile Association, 8111 Gatehouse Road, Falls Church, Va. 22042.

A. Charles G. Bragg, P.O. Box 12285, Memphis, Tenn. 38112.
B. National Cotton Council of America, P.O. Box 12285, Memphis, Tenn. 38112.
D. (6) $2,110.77. E. (9) $284.81.

A. Raymond P. Bragg, Jr., American Petroleum Refiners Association, 1200 18th Street NW., Suite 607, Washington, D.C. 20036.
B. American Petroleum Refiners Association, 1200 18th Street NW., Suite 607, Washington, D.C. 20036.
D. (6) $100.

A. David C. Branand, American Mining Congress, 1100 Ring Building, Washington, D.C.
B. American Mining Congress, 1100 Ring Building, Washington, D.C.

A. Robert M. Brandon, Public Citizen's Tax Reform Research Group, 133 C Street SE., Washington, D.C. 20003.
B. Public Citizen's Tax Reform Research Group, 133 C Street SE., Washington, D.C. 20003.
D. (6) $2,062.50.

A. John Henry Brebbia, Alston, Miller & Gaines, 1800 M Street NW., Suite 1000, Washington, D.C. 20036.
B. Board of Trade Clearing Corp., 141 West Jackson Boulevard, Chicago, Ill. 60604.
D. (6) $1,500. E. (9) $160.75.

A. Jerome J. Breiter, 1800 K Street NW., Washington, D.C. 20006.
B. Hercules Inc., 910 Market Street, Wilmington, Del. 19899.
D. (6) $482. E. (9) $57.

A. Edward J. Brenner, Suite 301, 1911 Jefferson Davis Highway, Arlington, Va. 22202.
B. Association for the Advancement of Invention & Innovation, Suite 301, 1911 Jefferson Davis Highway, Arlington, Va. 22202.

A. Claude S. Brinegar, 461 South Boylston Street, Los Angeles, Calif. 90017.
B. Union Oil Co. of California, 461 South Boylston Street, Los Angeles, Calif. 90017.
E. (9) $122.28.

A. Wally Briscoe, National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
B. National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
D. (6) $1,031.

A. David A. Brody, Anti-Defamation League of B'nai B'rith, 1640 Rhode Island Avenue NW., Washington, D.C. 20036.

B. Anti-Defamation League of B'nai B'rith, 315 Lexington Avenue, New York, N.Y. 10016.
D. (6) $1,425.

A. Michael D. Bromberg, 1101 17th Street NW., Suite 310, Washington, D.C. 20036.
B. Federation of American Hospitals, 1101 17th Street NW., Suite 310, Washington, D.C. 20036.
D. (6) $4,500.

A. Dale E. Brooks, Chevron, U.S.A., Inc., 1700 K Street NW., Washington, D.C. 20006.
B. Chevron, U.S.A., Inc., a subsidiary of Standard Oil Co. of California, 1700 K Street NW., Washington, D.C. 20006.
D. (6) $100. E. (9) $60.

A. Phillip W. Brooks, Volunteer State Oil Committee, 19th Floor, Third National Bank Building, Nashville, Tenn. 37219.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $250. E. (9) $516.04.

A. Donald G. Brotzman, Rubber Manufacturers Association, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Rubber Manufacturers Association, 1901 Pennsylvania NW., Washington, D.C. 20006.
D. (6) $8,000. E. (9) $40.

A. David S. J. Brown, 1101 17th Street NW., Suite 604, Washington, D.C. 20036.
B. Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, Missouri 63166.
D. (6) $450. E. (9) $115.17.

A. Dennis E. Brown, 2 Militia Dr., Lexington, Mass. 02173.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $225.

A. Donald K. Brown, 1127 11th Street, Suite 618, Sacramento, Calif. 95814.
B. Summa Corp., P.O. Box 14000, Las Vegas, Nev. 89156.

A. Gary Brown, 1101 17th Street NW., Suite 700, Washington, D.C. 20036.
B. National Association of Real Estate Investment Trusts, 1101 17th Street, Suite 700, Washington, D.C. 20036.

A. Howard C. Brown, Jr., 9618 Carriage Road, Kensington, Md. 20795.
B. Centar Associates, 369 Passiac Avenue, Fairfield, N.J. 07006.
D. (6) $200. E. (9) $190.

A. Howard C. Brown, Jr., 9618 Carriage Road, Kensington, Md. 20795.
B. National Association of Life Sciences, 9200 Leesburg Turnpike, Vienna, Va. 22180.
D. (6) $100.

A. J. D. Brown, American Public Power Association, 2600 Virginia Avenue, NW., Washington, D.C. 20037.
B. American Public Power Association, 2600 Virginia Avenue NW., Washington, D.C. 20037.
D. (6) $350.

A. Karen H. Brown, 1750 K Street NW., Washington, D.C. 20006.
B. Food Marketing Institute, 1750 K Street NW., Washington, D.C. 20006.
D. (6) $500.

A. Michael F. Brown, 919 18th Street NW., Washington, D.C. 20006.
B. American Frozen Food Institute, 1700 Old Meadow Road, McLean, Va. 22101.
D. (6) $200.

A. Vincent D. Brown, Nebraska Petroleum Council, 334 South 13th Street, P.O. Box 95063, Lincoln, Nebr. 68509.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.

A. William E. Brown, Ford Motor Co., 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Ford Motor Co., Dearborn, Mich.
D. (6) $140. E. (9) $62.16.

A. Stanley R. Browne, 1701 Pennsylvania Avenue NW., Suite 210, Washington, D.C. 20006.
B. E. I. du Pont de Nemours & Co., 1007 Market Street, Wilmington, Del. 19898.
D. (6) $275. E. (9) $6.50.

A. Brownstein, Zeidman & Schomer, 1025 Connecticut Avenue NW., Suite 900, Washington, D.C. 20036.
B. Holiday Inns, Inc., 3742 Lamar Avenue, Memphis, Tenn. 38118.

A. Brownstein, Zeidman & Schomer, 1025 Connecticut Avenue NW., Suite 900, Washington, D.C. 20036.
B. International Foodservice Manufacturers Association, 875 North Michigan Avenue, Chicago, Ill. 60611.

A. Brownstein, Zeidman & Schomer, 1025 Connecticut Avenue NW., Washington, D.C. 20036.
B. International Franchise Association, 7315 Wisconsin Avenue, Bethesda, Md. 20014.

A. Brownstein, Zeidman & Schomer, 1025 Connecticut Avenue NW., Suite 900, Washington, D.C. 20036.
B. Mortgage Guaranty Insurance Corp., MGIC Plaza, Milwaukee, Wis. 53201.

A. Brownstein, Zeidman & Schomer, 1025 Connecticut Avenue NW., Suite 900, Washington, D.C. 20036.
B. New York State Urban Development Corp., 1345 Avenue of the Americas, New York, N.Y. 10019.

A. John R. Bruch, P.O. Box 5000, Cleveland, Ohio 44101.
B. The Cleveland Electric Illuminating Co., P.O. Box 5000, Cleveland, Ohio 44101.
D. (6) $1,800. E. (9) $290.83.

A. Jacqueline M. Brunell, American Nurses' Association, 1030 15th Street NW., Washington, D.C. 20005.
B. American Nurses' Association, 2420 Pershing Road, Kansas City, Mo.
D. (6) $2,132. E. (9) $47.50.

A. Fred J. Bruner, Indiana & Michigan Electric Co., 2101 Spy Run Avenue, Fort Wayne, Ind. 46801.
B. Indiana & Michigan Electric Co., 2101 Spy Run Avenue, Fort Wayne, Ind. 46801.
D. (6) $1,819.85. E. (9) $2,054.06.

A. Paul A. Brunkow, 1776 F Street NW., Washington, D.C. 20006.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $1,300.

A. Michael E. Brunner, American Meat Institute, P.O. Box 3556, Washington, D.C. 20007.
B. American Meat Institute, P.O. Box 3556, Washington, D.C. 20007 (1600 Wilson Boulevard, Arlington, Va.).
D. (6) $3,000. E. (9) $257.

A. J. Charles Bruse, 1700 Pennsylvania Avenue NW., Suite 750, Washington, D.C. 20006.
B. Allstate Enterprises, Inc., Allstate Plaza, Northbrook, Ill. 60062.

A. J. Charles Bruse, 1700 Pennsylvania Avenue NW., Suite 750, Washington, D.C. 20006.
B. Allstate Insurance Cos., Allstate Plaza, Northbrook, Ill. 60062.

A. Margaret H. Bryant, 1730 Pennsylvania Avenue NW., Suite 1111, Washington, D.C. 20006.
B. American Natural Service Co., 1730 Pennsylvania Avenue NW., Suite 1111, Washington, D.C. 20006.
D. (6) $250. E. (9) $25.

A. Philip N. Buckminster, 1100 Connecticut Avenue NW., Washington, D.C. 20036.
B. Chrysler Corp., 12000 Lynn Townsend Drive, Highland Park, Mich.
D. (6) $2,000. E. (9) $276.78.

A. Robert D. Buehler, 1800 K Street NW., Suite 929, Washington, D.C. 20006.
B. B. F. Goodrich Co., Akron, Ohio 44318.
D. (6) $400.

A. David J. Burch, 1101 15th Street NW., Washington, D.C. 20005.
B. National Constructors Association, 1101 15th Street NW., Suite 1000, Washington, D.C. 20005.

A. Norman D. Burch, 1775 K Street NW., Washington, D.C. 20006.
B. College of American Pathologists, 7400 North Skokie Boulevard, Skokie, Ill. 60076.
D. (6) $3,275. E. (9) $68.26.

A. David G. Burden, 300 East Randolph Drive, Chicago, Ill. 60601.
B. Standard Oil Co., 200 East Randolph Drive, Chicago, Ill. 60601.

A. William J. Burhop, Air Transport Association of America, 1709 New York Avenue NW., Washington, D.C. 20006.
B. Air Transport Association of America, 1709 New York Avenue NW., Washington, D.C. 20006.
D. (6) $1,875. E. (9) $116.44.

A. J. J. Burke, Jr., 40 East Broadway, Butte, Mont. 59701.
B. The Montana Power Co., Butte, Mont. 59701.
E. (9) $71.47.

A. Burley and Dark Leaf Tobacco Export Association, 1100 17th Street NW., Suite 308, Washington, D.C. 20036.
D. (6) $1,771.48. E. (9) $797.05.

A. Phillip C. Burnett, 1918 North Parkway, Memphis, Tenn. 38112.
B. National Cotton Council of America, P.O. Box 12285, Memphis, Tenn. 38112.
D. (6) $415.38. E. (9) $44.

A. Charles S. Burns, Phelps Dodge Corp., 1620 I Street NW., Washington, D.C. 20006.
B. Phelps Dodge Corp., 300 Park Avenue, New York, N.Y. 10022.
D. (6) $1,200.

A. Gerrie Bjornson Burns, 1800 K Street NW., Suite 929, Washington, D.C. 20006.
B. B. F. Goodrich Co., Akron, Ohio 44318.
D. (6) $100.

A. B. Kent Burton, American Trucking Associations, Inc., 1616 P Street NW., Washington, D.C. 20036.
B. American Trucking Association, Inc., 1616 P Street NW., Washington, D.C. 20036.
D. (6) $6,000. E. (9) $637.56.

A. John M. Burnio, Hydeman, Mason & Goodell, 1220 19th Street NW., Washington, D.C. 20037.
B. The Bureau of National Affairs, Inc., 1231 25th Street NW., Washington, D.C. 20037.

A. John M. Burnio, Hydeman, Mason & Goodell, 1220 19th Street NW., Washington, D.C. 20036.

B. Magazine Publishers Association, Inc., Magazine Center, 575 Lexington Avenue, New York, N.Y. 10022.
D. (6) $565.15.

A. Nicholas J. Bush, Suite 1014, 1025 Connecticut Avenue NW., Washington, D.C. 20036.
B. Exxon Corp., 1251 Avenue of the Americas, New York, N.Y.
E. (9) $260.

A. Business Executives Move for New National Priorities, 901 North Howard Street, Baltimore, Md. 21218.
D. (6) $628. E. (9) $1,044.99.

A. James J. Butera, 1709 New York Avenue NW., Washington, D.C. 20006.
B. National Association of Mutual Savings Banks, 200 Park Avenue, New York, N.Y. 10017.
D. (6) $2,250. E. (9) $214.29.

A. Butler, Binion, Rice, Cook & Knapp, 818 Connecticut Avenue NW., Washington, D.C. 20006.
B. Inexco Oil Co., 1100 Milam Building, Suite 1900, Houston, Tex. 77002.

A. Michael F. Butler, Andrews, Kurth, Campbell & Jones, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Grocery Manufacturers of America, 1425 K Street NW., Washington, D.C. 20005.
D. (6) $350. E. (9) $10.

A. John W. Byrnes, Foley, Lardner, Hollabaugh & Jacobs, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Foley, Lardner, Hollabaugh & Jacobs (for American Family Mutual Insurance Co.), 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.

A. John W. Byrnes, Foley, Lardner, Hollabaugh & Jacobs, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Foley, Lardner, Hollabaugh & Jacobs (for Cabot Corp.), 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.

A. John W. Byrnes, Foley, Lardner, Hollabaugh & Jacobs, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Foley, Lardner, Hollabaugh & Jacobs (for Fort Howard Paper Co.), 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.

A. John W. Byrnes, Foley, Lardner, Hollabaugh & Jacobs, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Foley, Lardner, Hollabaugh & Jacobs (for Insurance Association of Connecticut), 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.

A. John W. Byrnes, Foley, Lardner, Hollabaugh & Jacobs, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Foley, Lardner, Hollabaugh & Jacobs (for Johnson Controls, Inc.), 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.

A. Cable, McDaniel, Bowie & Bond, 900 Blaustein Building, Baltimore, Md. 21201.
B. Crown Central Petroleum Corp., 1 North Charles Street, P.O. Box 1168, Baltimore, Md. 21203.

A. Cadwalader, Wickersham & Taft, 11 Dupont Circle NW., Suite 450, Washington, D.C. 20036.
B. Amex Commodities Exchange, Inc., 86 Trinity Place, New York, N.Y. 10006.
D. (6) $1,545.66. E. (9) $15.

A. Cadwalader, Wickersham & Taft, 11 Dupont Circle NW., Suite 450, Washington, D.C. 20036.
B. Associated Metals & Minerals Corp., 30 Rockefeller Plaza, New York, N.Y. 10020.
D. (6) $1,064.48. E. (9) $47.50.

A. Cadwalader, Wickersham & Taft, 11 Dupont Circle NW., Suite 450, Washington, D.C. 20036.
B. Mocatta Metals Corp., 25 Broad Street, New York, N.Y. 10004.
D. (6) $6,741.86. E. (9) $37.50.

A. Morrison G. Cain, American Speech & Hearing Association, 10801 Rockville Pike, Rockville, Md. 20852.
B. American Speech & Hearing Association, 10801 Rockville Pike, Rockville, Md. 20852.
D. (6) $4,565.50.

A. Alan Caldwell, 1825 K Street NW., Washington, D.C. 20006.
B. Del Monte Corp., 1 Market Plaza, San Francisco, Calif. 94119.
D. (6) $1,000. E. (9) $50.

A. C. Richard Calkins, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
B. American Paper Institute, Inc., 260 Madison Avenue, New York, N.Y. 10016.

A. F. Patricia Callahan, 1211 Connecticut Avenue NW., No. 802, Washington, D.C. 20036.
B. Sears, Roebuck & Co., Sears Tower, Chicago, Ill. 60684.
D. (6) $560. E. (9) $55.50.

A. Peter E. Callanan, 1100 Connecticut Avenue NW., Washington, D.C. 20036.
B. Honeywell, Inc., Honeywell Plaza, Minneapolis, Minn. 55408.
D. (6) $450. E. (9) $290.

A. Gordon L. Calvert, Box 34-531, Washington, D.C. 20034.
B. Commercial Collection Agency Section, Commercial Law League of America, 222 West Adams Street, Chicago, Ill. 60606.
D. (6) $1,000. E. (9) $18.66.

A. Victoria Calvert, 919 18th Street NW., Washington, D.C. 20006.
B. American Frozen Food Institute, 1700 Old Meadow Road, McLean, Va. 22101.
D. (6) $50.

A. Donald L. Calvin, New York Stock Exchange, Inc., 11 Wall Street, New York, N.Y. 10005.
B. New York Stock Exchange, Inc., 11 Wall Street, New York, N.Y. 10005.

A. C. R. Campbell, Jr., Suite 900, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
B. General Telephone & Electronics Corp., 1 Stamford Forum, Stamford, Conn. 06904.
D. (6) $500. E. (9) $219.50.

A. Carl C. Campbell, 1030 15th Street NW., Suite 700, Washington, D.C. 20005.
B. National Cotton Council of America, P.O. Box 12285, Memphis, Tenn. 38112.
D. (6) $476.54.

A. Jerry L. Campbell, Tennessee Valley Public Power Association, 415 Pioneer Building, Chattanooga, Tenn. 37402.
B. Tennessee Valley Public Power Association, 415 Pioneer Building, Chattanooga, Tenn. 37402.

A. Can Manufacturers Institute, 1625 Massachusetts Avenue NW., Washington, D.C. 20036.
E. (9) $300.

A. Alyce D. Canaday, Pacific Power & Light Co., 918 16th Street NW., Washington, D.C. 20006.
B. Pacific Power & Light Co., Public Service Building, Portland, Oreg. 97204.
D. (6) $400. E. (9) $332.79.

A. David A. Caney, The American Institute of Architects, 1735 New York Avenue NW., Washington, D.C. 20006.
B. The American Institute of Architects, 1735 New York Avenue NW., Washington, D.C. 20006.
D. (6) $5,337.50. E. (9) $431.67.

A. David L. Cantor, National Association of Electric Cos., 1140 Connecticut Avenue NW., Room 1010, Washington, D.C. 20036.
B. National Association of Electric Cos., 1140 Connecticut Avenue NW., Room 1010, Washington, D.C. 20036.
D. (6) $500. E. (9) $90.

A. Marvin H. Caplan, Industrial Union Department, AFL-CIO, 815 16th Street NW., Washington, D.C. 20006.
B. Industrial Union Department, AFL-CIO, 815 16th Street NW., Washington, D.C. 20006.
D. (6) $4,946.50. E. (9) $132.05.

A. Caplin & Drysdale, 1101 17th Street NW., Washington, D.C. 20036.
B. Association of American Publishers, 1 Park Avenue, New York, N.Y. 10016.
D. (6) $10,462.43. E. (9) $49.89.

A. Caplin & Drysdale, 1101 17th Street NW., Washington, D.C. 20036.
B. Council on Foundations, Inc., 888 Seventh Avenue, New York, N.Y. 10019.
D. (6) $2,119.07. E. (9) $12.76.

A. Caplin & Drysdale, 1101 17th Street NW., Washington, D.C. 20036.
B. Salomon Bros., 1 New York Plaza, New York, N.Y. 10004.
E. (9) $25.

A. Ronald A. Capone, Kirlin, Campbell & Keating, 1150 Connecticut Avenue NW., No. 800, Washington, D.C. 20036.
B. Council of European & Japanese National Shipowners' Association, 17/18 Bury Street, London, EC3A 5AH, England.
D. (6) $7,000. E. (9) $527.69.

A. Milton F. Capps, 196 Sweet Wood Circle, Columbia, S.C. 29210.
B. J. Crawford Cook, Inc., 2218 Terrace Way, Columbia, S.C. 29205; Cook, Ruef, Spann & Weiser, Inc., 1735 St. Julian Place, Columbia, S.C. 29204.

A. Charles E. Capron, 2401 Calvert Street NW., Suite 905, Washington, D.C. 20008.
E. (9) $112.

A. Norval E. Carey, 2021 K Street NW., Washington, D.C. 20006.
B. General Atomic Co., San Diego, Calif.
D. (6) $1,000. E. (9) $375.

A. Charles R. Carlisle, 1730 Rhode Island Avenue NW., Suite 911, Washington, D.C. 20036.
B. St. Joe Minerals Corp., 250 Park Avenue, New York, N.Y. 10017.
D. (6) $9,360. E. (9) $50.16.

A. Peter Carlson, 317 Pennsylvania Avenue SE., Washington, D.C. 20003.
B. Environmental Policy Center, 317 Pennsylvania Avenue SE., Washington, D.C. 20003.
D. (6) $1,200.

A. Chapin Carpenter, Jr., Magazine Publishers Association, Inc., 1629 K Street NW., No. 603, Washington, D.C. 20006.
B. Magazine Publishers Association, Inc., 575 Lexington Avenue, New York, N.Y. 10022.
D. (6) $1,500. E. (9) $236.64.

A. Jack Carpenter, American Mining Congress, 1100 Ring Building, Washington, D.C. 20036.
B. American Mining Congress, 1100 Ring Building, Washington, D.C.
D. (6) $149.35. E. (9) $59.80.

A. L. C. Carpenter, Midcontinent Farmers Association, 201 South Seventh Street, Columbia, Mo. 65201.
B. Midcontinent Farmers Association, 201 South Seventh Street, Columbia, Mo. 65201.
D. (6) $5,299.32. E. (9) $1,414.90.

A. John R. Carson, 20 Chevy Chase Circle, Washington, D.C. 20015.
B. American Podiatry Association, 20 Chevy Chase Circle, Washington, D.C. 20015.
D. (6) $8,000.

A. Charles S. Carter, National Association of Electric Cos., 1140 Connecticut Avenue NW., Washington, D.C. 20036.
B. National Association of Electric Cos., 1140 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $195. E. (9) $22.

A. Joseph L. Carter, Jr., Association of American Railroads, 40 Ivy Street SE., Washington, D.C. 20003.
B. Association of American Railroads, 1920 L Street NW., Washington, D.C. 20036.
D. (6) $277.50. E. (9) $105.51.

A. James P. Carty, National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $385.

A. Ann M. Case, Phelps Dodge Corp., 1620 I Street NW., Washington, D.C. 20006.
B. Phelps Dodge Corp., 300 Park Avenue, New York, N.Y. 10022.
D. (6) $150.

A. John S. Casey, 207 Duke Drive, Heflin, Ala. 36264.
B. Alabama Railroad Association, P.O. Box 21, Montgomery, Ala. 36101.

A. Casey, Lane & Mittendorf, 815 Connecticut Avenue, Suite 802, Washington, D.C. 20006.
B. Independent Gas Producers Committee, 2601 Northwest Expressway, Oklahoma City, Okla. 73112.
E. (9) $160.47

A. Casey, Lane & Mittendorf, 815 Connecticut Avenue NW., Suite 802, Washington, D.C. 20006.
B. Kansas Delaware Tribe of Indians, Inc., 1909 Aladdin, Norman, Okla. 73069.
E. (9) $285.38.

A. Casey, Lane & Mittendorf, 815 Connecticut Avenue NW., Suite 802, Washington, D.C. 20006.
B. Slurry Transport Association, 490 L'Enfant Plaza East, Suite 320, Washington, D.C. 20024.
D. (6) $5,386.25. E. (9) $595.75.

A. Casey, Lane & Mittendorf, 815 Connecticut Avenue NW., Suite 802, Washington, D.C. 20006.
B. Texas Oil & Gas Corp., 2700 Union Fidelity Tower, Dallas, Tex. 75201.
D. (6) $14,910. E. (9) $220.78.

A. Casey, Lane & Mittendorf, 815 Connecticut Avenue NW., Suite 802, Washington, D.C. 20006.
B. Wabanex Energy Corp., Ltd., 759 Victoria Square, Montreal, Quebec H2Y 2K4, Canada.
D. (6) $1,252.50. E. (9) $712.19.

A. James B. Cash, Jr., American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
B. American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $3,000 E. (9) $23.75.

A. Allen R. Caskie, American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.
B. American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.
D. (6) $172. E. (9) $220.

A. Eugene I. Casraies, Jr., United Automobile, Aerospace & Agricultural Implement Workers of America, 1125 15th Street NW., Washington, D.C. 20005.
B. International Union, United Automobile, Aerospace & Agricultural Implement Workers of America, 8000 East Jefferson Avenue, Detroit, Mich. 48214.
D. (6) $6,512.94. E. (9) $930.37.

A. John J. Castellani, National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $165. E. (9) $7.80.

A. Rita L. Castle, Caterpillar Tractor Co., 100 Northeast Adams Street, Peoria, Ill. 61629.
B. Caterpillar Tractor Co., 100 Northeast Adams Street, Peoria, Ill. 61629.

A. Philip T. Cavanaugh, Chevron, U.S.A., Inc., 1700 K Street NW., Washington, D.C. 20006.
B. Chevron, U.S.A., Inc., a subsidiary of Standard Oil Co. of California, 1700 K Street NW., Washington, D.C. 20006.
D. (6) $300. E. (9) $180.

A. Frank R. Cawley, Agricultural Publishers Association, Inc., P.O. Box 2351, Falls Church, Va., 22042.
B. Agricultural Publishers Association, Inc. P.O. Box 2351, Falls Church, Va. 22042.

A. Dorothy D. Ceceiski, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $4,312.50.

A. Owen R. Chaffee, 203 Yoakum Parkway, No. 1012, Alexandria, Va. 22304.
B. Manufactured Housing Institute, 1745 Jefferson Davis Highway, Arlington, Va. 22202.
D. (6) $2,400. E. (9) $500.

A. Chain Saw Manufacturers Association, 1015 18th Street NW., Suite 403, Washington, D.C. 20036.

A. R. S. Chamberlin, Dow Chemical, U.S.A., 1800 M Street NW., Suite 700 South, Washington, D.C. 20036.
B. The Dow Chemical Co., Midland, Mich., 48640.
D. $1,000. E. (9) $680.

A. Jerry L. Chambers, 2322 Caswell Drive, Bethel Park, Pa. 15102.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $1,000.

A. Steven M. Champlin, Suite 931, 1346 Connecticut Avenue NW., Washington, D.C. 20036.
B. Vietnam Veteran Coalition, Inc., Suite 931 1346 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $245.47.

A. J. W. Chandler, York Division, Borg-Warner Corp., 1101 17th Street NW., Washington, D.C. 20036.
B. York Division, Borg-Warner Corp., South Richland Avenue, York, Pa.
E. (9) $26.50.

A. William C. Chapman, 1660 L Street NW., Washington, D.C. 20036.

B. General Motors Corp, 3044 West Grand Boulevard, Detroit, Mich.
D. (6) $3,000. E. (9) $5,260.10.

A. Seymour M. Chase, 1250 Connecticut Avenue, Washington, D.C. 20036.
B. American Subscription Television, Inc., et al.
D. (6) $400.

A. Leslie Cheek III, Crum and Forster Corp., 1120 Connecticut Avenue NW., Suite 1142, Washington, D.C. 20036.
B. Crum and Forster Corp., Madison Avenue at Canfield Road, P.O. Box 2357, Morristown, N.J. 07960.
D. (6) $12,500. E. (9) $1,300.

A. Jane H. Cheever, The First National Bank of Boston, 100 Federal Street, Boston, Mass. 02110.
B. The First National Bank of Boston, 100 Federal Street, Boston, Mass. 02110.
D. (6) $344. E. (9) $326.44.

A. Chemical Specialties Manufacturers Association, 1001 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $474.25. E. (9) $474.25.

A. Chemtex Fibers, Inc, 850 Third Avenue, New York, N.Y., 10022.

A. Chester, Saxbe, Hoffman & Willcox, 8 East Broad Street, Columbus, Ohio 43215.
B. Cox, Langford & Brown, 21 Dupont Circle, Washington, D.C. (for National Collegiate Athletic Association, U.S. Highway 50 and Null Avenue, P.O. Box 1906, Shawnee Mission, Kans. 66222).

A. Phillip R. Chisholm, National Oil Jobbers Council, Inc., 1707 H Street NW., 11th Floor, Washington, D.C. 20006.
B. National Oil Jobbers Council, Inc., 1707 H Street NW., 11th Floor, Washington, D.C. 20006.
D. (6) $6,125. (9) $771.

A. Hal M. Christensen, 1101 17th Street NW., Washington D.C. 20036.
B. American Dental Association, 1101 17th Street NW., Washington, D.C. 20036.
D. (6) $3,000.

A. James M. Christian, Potomac Electric Power Co., 1900 Pennsylvania Avenue NW., Washington D.C. 20068.
B. Potomac Electric Power Co., 1900 Pennsylvania Avenue NW., Washington, D.C.

A. James Ciarrocchi, 1025 Connecticut Avenue NW., Washington, D.C. 20036.
B. Natural Gas Supply Committee, 1025 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $862.51. E. (9) $185.06.

A. Cigar Association of America, Inc., 1120 19th Street NW., Washington, D.C. 20036.
E. (9) $55.

A. Citizens Committee for the Right to Keep and Bear Arms, 1601 114th SE., No. 151, Bellevue, Wash. 98004.
D. (6) $327,829.25. E. (9) $219,128.11.

A. Citizens for Government Fairness, P.O. Box 1336, Brawley, Calif. 92227.
D. (6) $12,509. E. (9) $92,415.81.

A. Citizens for Tax Reform in 1978, Inc., 1730 Pennsylvania Avenue, Suite 230, N.W., Washington, D.C. 20006.
D. (6) $16,211. E. (9) $12,456.34.

A. Bob Clark & Associates, Suite 1905, 409 Madison Street, Alexandria, Va. 22314.
B. Ryder System, Inc., P.O. Box 520816, Miami, Fla.
D. (6) $750. E. (9) $50.

A. Earl W. Clark, 100 Indiana Avenue NW., Washington, D.C. 20001.
B. Labor-Management Maritime Committee, 100 Indiana Avenue NW., Washington, D.C. 20001.
D. (6) $3,039. E. (9) $18.

A. James W. Clark, Jr., American Optometric Association 1730 M Street NW., Washington, D.C. 20036.
B. American Optometric Association, c/o Dr. Wendell D. Waldie, 2111 Aloma, Wichita, Kan. 67211.
D. (6) $702. E. (9) $761.27.

A. Kimball Clark, Association of American Railroads, 40 Ivy Street SE., Washington, D.C. 20003.
B. Association of American Railroads, 1920 L Street NW., Washington, D.C. 20036.
D. (6) $312.17. E. (9) $261.

A. Richard W. Clark, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $2,750.01. E. (9) $238.85.

A. Thomas R. Clark, General Electric Co., 777 14th Street NW., Washington, D.C. 20005.
B. General Electric Co., 777 14th Street NW., Washington, D.C. 20005.
D. (6) $178.72.

A. Vernon A. Clark, 1660 L Street NW., Suite 215–16, Washington, D.C. 20036.
B. Outdoor Advertising Association of America, Inc., 1660 L Street NW., Suite 215–16, Washington, D.C. 20036.
D. (6) $550. E. (9) $749.

A. Donald M. Clarke, Manufacturing Chemists Association, 1825 Connecticut Avenue NW., Washington, D.C. 20009.
B. Manufacturing Chemists Association, Inc., 1825 Connecticut Avenue NW., Washington, D.C. 20009.
D. (6) $300. E. (9) $150.

A. Wade P. Clarke, Jr., Deere & Co., John Deere Road, Moline, Ill. 61265.
B. Deere & Co., John Deere Road, Moline, Ill. 61265.
D. (6) $345. E. (9) $483.

A. Clay Pipe Industry Depletion Committee, P.O. Box 6, Pittsburg, Kans. 66762.

A. Jacob Clayman, 815 16th Street NW., Washington, D.C. 20006.
B. Industrial Union Department, AFL–CIO, 815 16th Street NW., Washington, D.C. 20006.
D. (6) $1,375.

A. Cleary, Gottlieb, Steen & Hamilton, 1250 Connecticut Avenue NW., Washington, D.C. 20036.
B. Synthetic Organic Chemical Manufacturers Association, 1075 Central Park Avenue, Scarsdale, N.Y. 10583.

A. Cleary, Gottlieb, Steen & Hamilton, 1250 Connecticut Avenue NW., Suite 400, Washington, D.C. 20036.
B. Time-Critical Shipment Committee.

A. Earle C. Clements, 1776 K Street NW., Washington, D.C. 20006.
B. The Tobacco Institute, Inc., 1776 K Street NW., Washington, D.C. 20006.
D. (6) $25. E. (9) $25.

A. Franklin Clements, United Mine Workers of America, 900 15th Street NW., Washington, D.C. 20005.
B. United Mine Workers of America, 900 15th Street NW., Washington, D.C. 20005.
D. (6) $1,808.68.

A. Ronald D. Clements, 1140 Connecticut Avenue NW., Suite 1010, Washington, D.C. 20036.
B. National Association of Electric Cos., 1140 Connecticut Avenue NW., Suite 1010, Washington, D.C. 20036.
D. (6) $195. E. (9) $51.

A. Clifford, Glass, McIlwain & Finney, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. American Electric Power Co., Inc., 2 Broadway, New York, N.Y. 10004.
D. (6) $1,125. E. (9) $399.65.

A. Clifford, Glass, McIlwain & Finney, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Australian Meat & Live-Stock Corp., One World Trade Center, New York, N.Y. 10048.
D. (6) $400. E. (9) $112.32.

A. Clifford, Glass, McIlwain & Finney, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Avco Corp., 750 Third Avenue, New York, N.Y. 10017.

A. Clifford, Glass, McIlwain & Finney, 815 Connecticut Avenue, NW., Washington, D.C. 20006.
B. Joint Corporate Committee on Cuban Claims, c/o Lone Star Industries, Inc., P.O. Box 5050, Greenwich, Conn. 06830.
D. (6) $900. E. (9) $270.

A. Clifford Glass, McIlwain & Finney, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. New York Cocoa Exchange, Inc. and New York Cocoa Clearing Association, Inc., 127 John Street, New York, N.Y.; New York Coffee & Sugar Exchange, Inc., 79 Pine Street, New York, N.Y.; Commodity Exchange, Inc., 81 Broad Street, New York, N.Y.
D. $2,920. E. (9) $739.50.

A. Clifford, Glass, McIlwain & Finney, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Warner-Lambert Co., 201 Tabor Road, Morris Plains, N.J. 07950.

A. CNA Financial Corp., CNA Plaza, Chicago, Ill. 60685.
E. (9) $1,500.

A. Coalition of Automotive Associations, 1825 K Street NW., Suite 1103, Washington, D.C. 20006.

A. Thomas B. Coates, c/o Connecticut Petroleum Council, 410 Asylum Street, Hartford, Conn. 06103.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $450. E. (9) $500.

A. The Coca-Cola Bottlers' Association, 166 16th Street NW., Atlanta, Ga. 30318.

A. The Coca-Cola Co., P.O. Drawer 1734, Atlanta, Ga. 30301.
E. (9) $2,964.41.

A. Lynn Coddington, 317 Pennsylvania Avenue SE., Washington, D.C. 20003.
B. Environmental Policy Center, 317 Pennsylvania Avenue SE., Washington, D.C. 20003.
D. (6) $5,492.99. E. (9) $46.15.

A. John J. Coffey, Suite 638, 2101 L Street NW., Washington, D.C. 20037.
B. Western Oil and Gas Association, 727 West Seventh Street, Suite 850, Los Angeles, Calif. 90017.
D. (6) $825.

A. Jeffery Cohelan, Group Health Association of America, Inc., 1717 Massachusetts Avenue NW., No. 701, Washington, D.C. 20036.
B. Group Health Association of America, Inc., 1717 Massachusetts Avenue NW., No. 701, Washington, D.C. 20036.
D. (6) $4,549.98.

A. David Cohen, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $11,749.98. E. (9) $553.48.

A. Thomas Cohen, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $3,600.

A. Cohen & Uretz, 1775 K Street NW., Washington, D.C. 20006.
B. Estate of Sylvia S. Buring, 1837 Harbor Avenue, Memphis, Tenn. 38113.
E. (9) $40.17.

A. Marcus Cohn, Cohn and Marks, 1920 L Street NW., Washington, D.C. 20036.
B. Wometco Enterprises, Inc., P.O. Box 2440, Miami, Fla. 33128.
D. (6) $500.

A. Cole, Corrette & Bradfield, 1200 17th Street NW., Washington, D.C. 20036.
B. Chase Manhattan Bank N.A., One Chase Manhattan Plaza, New York, N.Y. 10015.
D. (6) $4,113.20. E. (9) $201.

A. E. William Cole, Jr., 461 South Boylston Street, Los Angeles, Calif. 90017.
B. Union Oil Co. of California, 461 South Boylston Street, Los Angeles, Calif. 90017.
D. (6) $600. E. (9) $200.

A. Eleanor Cole, UBA, Inc., 1800 M Street NW., Suite 460 South, Washington, D.C. 20036.
B. UBA, Inc., 1800 M Street NW., Suite 460 South, Washington, D.C. 20036.
D. (6) $1,000. E. (9) $1,000.

A. Ken W. Cole, Security Life Building, Denver, Colo. 80202.
B. Standard Oil Co. (Indiana), 200 East Randolph Drive, Chicago, Ill. 60601.
D. (6) $485. E. (9) $1,182.05.

A. R. Michael Cole, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $7,750.02. E. (9) $102.20.

A. Robert E. Cole, 1660 L Street NW., Washington, D.C.
B. General Motors Corp., 1660 L Street NW., Washington, D.C.
D. (6) $2,500. E. (9) $3,407.81.

A. Stacey W. Cole, New Hampshire Petroleum Council, 23 School Street, Concord, N.H. 03301.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $258.46. E. (9) $188.62.

A. Coles & Goertner, 1000 Connecticut Avenue NW., Washington, D.C. 20036.
B. Crown Central Petroleum Corp., One North Charles Street, Baltimore, Md. 21203.

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Cardio Pulmonary Contractors Association, 1200 17th Street NW., Washington, D.C. 20036.
D. (6) $6,000.

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. College of American Pathologists, 7400 North Skokie Boulevard, Skokie, Ill. 60076.

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. National Pharmaceutical Alliance, P.O. Box 13547, St. Petersburg, Fla. 33733.
D. (6) $7,500.

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036 (for Ad Hoc 602 Committee).
D. (6) $750.

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036 (for Air Products and Chemical Co.).

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036 (for American Guild of Authors and Composers).

A. William J. Colley, 1200 17th Street NW., Washington, D.C 20036.
B. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036 (for American Imported Automobile Dealers Association).

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036 (for American Maritime Association).

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036 (for American Society of Association Executives).

A. William J. Colley, 1200 17th Street NW., Washington, D.C 20036.
B. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036 (for Boating Industry Association).
D. (6) $2,500.

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036 (for Chicago Roundtable).

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036 (for Chicago Board Options Exchange).

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036 (for Committee Concerned With Safe Banking Act).

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036 (for Computer Sciences Corp.).

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036 (for Council of State Chambers of Commerce).

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036 (for Energy Advances).

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036 (for Independent U.S. Tanker Owners).

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036 (for Machinery Dealers National Association).

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036 (for Marathon Oil).

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036 (for Mars, Inc.).

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036 (for National Association of Engine and Boat Manufacturing).

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036 (for Reading Co.).

A. William J. Colley, 1200 17th Street NW., Washington, D.C 20036.
B. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036 (for Redwood Industry Park Committee).

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036 (for State of Louisiana).

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036 (for Uncle Ben's Foods).

A. Collier, Shannon, Rill, Edwards & Scott, 1055 Thomas Jefferson Street NW., Suite 308, Washington, D.C. 20007.
B. Ad Hoc Committee For a Fair Natural Gas Policy, 1055 Thomas Jefferson Street NW., Washington, D.C. 20007.
E. (9) $288.50.

A. Collier, Shannon, Rill, Edwards & Scott, 1055 Thomas Jefferson Street NW., Washington, D.C. 20007.
B. American Feed Manufacturers Association, 1701 North Fort Myer Drive, Arlington, Va. 22209.
D. (6) $370.

A. Collier, Shannon, Rill, Edwards & Scott, 1055 Thomas Jefferson Street NW., Suite 308, Washington, D.C. 20007.
B. American Footwear Industries Association, Inc., 1611 North Kent Street, Arlington, Va. 22209.
D. (6) $500. E. (9) $475.

A. Collier, Shannon, Rill, Edwards & Scott, 1055 Thomas Jefferson Street NW., Suite 308, Washington, D.C. 20007.
B. Bicycle Manufacturers Association of America, Inc., 1101 15th Street N.W., Washington, D.C. 20005.
D. (6) $500. E. (9) $100.

A. Collier, Shannon, Rill, Edwards & Scott, 1055 Thomas Jefferson Street NW., Washington, D.C. 20007.
B. Can Manufacturers Institute, 1625 Massachusetts Avenue NW., Washington, D.C. 20036.

A. Collier, Shannon, Rill, Edwards & Scott, 1055 Thomas Jefferson Street NW., Suite 308, Washington, D.C. 20007.
B. Food Marketing Institute, 1750 K Street NW., Washington, D.C. 20006.
D. (6) $1,000.

A. Collier, Shannon, Rill, Edwards & Scott, 1055 Thomas Jefferson Street NW., Washington, D.C. 20007.
B. National Broiler Council, 1155 15th Street NW., Washington, D.C. 20005.
D. (6) $450.

A. Collier, Shannon, Rill, Edwards & Scott, 1055 Thomas Jefferson Street NW., No. 308, Washington, D.C. 20007.
B. Tool and Stainless Steel Industry Committee, 1055 Thomas Jefferson Street NW., Washington, D.C. 20007.
D. (6) $1,250. E. (9) $535.

A. Bruce Collins, National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
B. National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
D. (6) $1,562. E. (9) $245.

A. Robert B. Collyer, UBA, Inc., 1800 M Street NW., Suite 460 South, Washington, D.C. 20036.
B. UBA, Inc., 1800 M Street NW., Suite 460 South, Washington, D.C. 20036.
D. (6) $1,000. E. (9) $1,000.

A. Colorado Railroad Association, 420 Denver Club Building, Denver, Colo. 80202.

A. Committee for a Uniform Investment Tax Credit, 1050 17th Street NW, Suite 1112, Washington, D.C. 20036.
D. (6) $66,000. E. (9) $9,375.

A. Capital Formation Through Dividend Reinvestment, 1800 M Street NW., Suite 700 North, Washington, D.C. 20036.
D. (6) $300. E. (9) $300.

A. Committee for Consumers No-Fault, 1220 19th Street NW., Suite 500, Washington, D.C. 20036.
D. (6) $22,435. E. (9) $17,997.63.

A. Committee for Ratification of the Panama Canal Treaties, Inc., 2021 L Street, NW., No. 405, Washington, D.C. 20036.
D. (6) $167. E. (9) $6,204.20.

A. Committee of Americans for the Canal Treaties, 1019 19th Street NW., Washington, D.C. 20036.
D. (6) $20,000. E. (9) $35,402.99.

A. Committee of Urban Program Universities, Suite 802, 11 Dupont Circle, Washington, D.C. 20036.
D. (6) $21,000. E. (9) $8,482.15.

A Committee to Assure the Availability of Casein, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
D. (6) $15,150. E. (9) $2,000.

A. Committee To Save the Panama Canal, P.O. Box 2549, Reston, Va. 22090.
D. (6) $4,957. E. (9) $17,204.

A. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $1,062,425.57. E. (9) $367,122.96.

A. Lance Compa, 917 15th Street NW., Washington, D.C. 20005.

B. United Electrical, Radio and Machine Workers of America, 11 East 51st Street, New York, N.Y. 10022.
D. (6) $3,744. E. (9) $390.

A. Computer & Communications Industry Association, 1500 Wilson Boulevard, Suite 512, Arlington, Va. 22209.
D. (6) $93,500. E. (9) $12,926.

A. Stephen R. Conafay, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Pfizer, Inc., 235 East 42d Street, New York, N.Y. 10017.
D. (6) $330. E. (9) $390.

A. Congress Watch, 133 C Street SE., Washington, D.C. 20003.
D. (6) $3,250.

A. Connecticut Bankers Association, 100 Constitution Plaza, Suite 956, Hartford, Conn. 06103.

A. Robert J. Conner, Chrysler Corp., 1100 Connecticut Avenue NW., Washington, D.C. 20036.
B. Chrysler Corp., 12000 Lynn Townsend Drive, Highland Park, Mich.
D. (6) $500. E. (9) $615.58.

A. Stephen N. Conner, Route 1, Box 165, Easton, Md. 21601.
B. Ministry of Foreign Affairs, Kingdom of Saudi Arabia, care of Royal Embassy of Saudi Arabia, 1520 18th Street NW., Washington, D.C.
E. (9) $25,734.39.

A. Albert J. Conners, Air Force Sergeants Association, Inc., 1608 Pittsfield Lane, Bowie, Md. 20715.
B. Air Force Sergeants Association, Inc., 4235 28th Avenue, Marlow Heights, Md. 20031.

A. John J. Connolly, The American Waterways Operators, Inc., 1600 Wilson Boulevard, Suite 1101, Arlington, Va. 22209.
B. The American Waterways Operators, Inc., 1600 Wilson Boulevard, Suite 1101, Arlington, Va. 22209.
D. (6) $2,000.

A. Jerry C. Connors, American Automobile Association, 8111 Gatehouse Road, Falls Church, Va. 22042.
B. American Automobile Association, 8111 Gatehouse Road, Falls Church, Va. 22042.

A. Consolidated Natural Gas Service Co., Inc., Four Gateway Center, Pittsburgh, Pa. 15222.

A. Contract Carrier Conference of American Trucking Associations, Inc., 1730 Rhode Island Avenue NW., Washington, D.C. 20036.
D. (6) $250.

A. Constructora Nacional de Carros de Ferrocarril, S.A. (Mexican Association of Railroad Car Manufacturers), Av. Universidad y Miguel Laurent, Mexico 12, D.F.
E. (9) $2,000.

A. Dana Contratto, Suite 700, 1800 M Street NW., Washington, D.C. 20036.
B. Associated Gas Distributors, 1800 M Street NW., Washington, D.C. 20036.

A. Bernard J. Conway, 211 East Chicago Avenue, Chicago, Ill. 60611.
B. American Dental Association, 211 East Chicago Avenue, Chicago, Ill. 60611.
D. (6) $2,600.

A. Charles F. Cook, American Mining Congress, 1100 Ring Building, Washington, D.C. 20036.
B. American Mining Congress, 1100 Ring Building, Washington, D.C. 20036.
D. (6) $562.16. E. (9) $32.85.

A. Cook & Franke, 660 East Mason Street, Milwaukee, Wis. 53202.
B. M. & I. Marshall & Ilsley Bank, 770 North Water Street, Milwaukee, Wis. 53202.

A. Frederick N. Cook, Vermont Petroleum Association, P.O. Box 566, Montpelier, Vt. 05602.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $450.

A. Cook & Henderson, 1735 K Street, NW., Suite 200, Washington, D.C. 20006.
B. Aleutian/Pribilof Islands Association Inc., 1689 C Street, Anchorage, Alaska 99501.
D. (6) $6,000.

A. Cook & Henderson, 1735 K Street, NW., Suite 200, Washington, D.C. 20006.
B. Consolidated Natural Gas Co., Four Gateway Center, Pittsburgh, Pa. 15222.
D. (6) $6,800.

A. Cook & Henderson, 1735 K Street NW., Suite 200, Washington, D.C. 20006.
B. Food Distributors Task Force, 1750 K Street NW., Suite 700, Washington, D.C. 20006.
D. (6) $9,000. E. (9) $60.65.

A. Cook & Henderson, 1735 K Street NW., Suite 200, Washington, D.C. 20006.
B. Texas Gas Transmission Corp., 3800 Frederica Street, Owensboro, Ky. 42301.
D. (6) $3,600. E. (9) $34.85.

A. Cook & Henderson, 1735 K Street NW., Suite 200, Washington, D.C. 20006.
B. The Tobacco Institute, 1776 K Street NW., Washington, D.C. 20006.
D. (6) $2,800. E. (9) $15.94.

A. J. Crawford Cook, P.O. Box 5845, Columbia, S.C. 29250.
B. J. Crawford Cook, Inc., 2218 Terrace Way, Columbia, S.C. 29205; Cook, Ruef, Spann & Weiser, Inc., 1735 St. Julian Place, Columbia, S.C. 29204.

A. Robert M. Cook, Livestock Marketing Association, 4900 Oak Street, Kansas City, Mo. 64112.
B. Livestock Marketing Association, 4900 Oak Street, Kansas City, Mo. 64112.
E. (9) $1,640.58.

A. Charles E. Cooke, 1801 K Street NW., Suite 1041, Washington, D.C. 20006.
B. Southern California Edison Co., P.O. Box 800, Rosemead, Calif. 91770.
D. (6) $200. E. (9) $50.

A. Eileen D. Cooke, American Library Association, 110 Maryland Avenue NE., Suite 101, Box 54, Washington, D.C. 20002.
B. American Library Association, 50 East Huron Street, Chicago, Ill. 60611.
D. (6) $849.

A. Edward Cooper, 1600 I Street NW., Washington, D.C. 20006.
B. Motion Picture Association of America, Inc., 1600 I Street NW., Washington, D.C. 20006.

A. Jesse D. Cooper, North Dakota Petroleum Council, P.O. Box 1395, Bismarck, N. Dak. 58501.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $130. E. (9) $281.62.

A. Joshua W. Cooper, 626 South Lee Street, Alexandria, Va. 22314.
B. Portsmouth-Kittery Armed Services Committee, Inc., Box 1123, Portsmouth, N.H. 03801.
D. (6) $1,250. E. (9) $526.01.

A. Mitchell J. Cooper, 1001 Connecticut Avenue NW., Washington, D.C. 20036.
B. Footwear Division, Rubber Manufacturers Association, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.
D. (6) $10,500. E. (9) $4.

A. Mitchell J. Cooper, 1001 Connecticut Avenue NW., Washington, D.C. 20036.
B. Council of Forest Industries, 1055 West Hastings Street, Vancouver 1, Canada.
D. (6) $3,000.

A. Cooperative League of the U.S.A., 1828 L Street NW., Suite 1100, Washington, D.C. 20036.
D. (6) $5,500. E. (9) $761.

A. Darrell Coovers, National Association of Independent Insurers, 1625 I Street NW., Suite 1001, Washington, D.C. 20006.
B. National Association of Independent Insurers, 2600 River Road, Des Plaines, Ill. 60018.
D. (6) $2,000. E. (9) $286.

A. Paul Corbin, 1028 Connecticut Avenue, NW., Suite 516, Washington, D.C. 20036.
B. Pontchartrain State Bank, P.O. 73768, Metairie, La. 70003.
D. (6) $3,750.

A. Bennett J. Corn, New York Coffee and Sugar Exchange, Inc., Four World Trade Center, New York, N.Y. 10048.
B. New York Coffee and Sugar Exchange, Inc., Four World Trade Center, New York, N.Y. 10048.
D. (6) $1,454.48. E. (9) $1,953.30.

A. William R. Corson, 1707 H Street NW., Washington, D.C. 20006.
B. Penthouse International, Ltd., 1707 H Street NW., Washington, D.C. 20006.
D. (6) $8,750. E. (9) $6,505.

A. R. H. Cory, 1510 American Bank Tower, Austin, Tex. 78701.
B. Central and South West Services, Inc., 1510 American Bank Tower, Austin, Tex. 78701.
D. (6) $318.75. E. (9) $92.80.

A. John E. Cosgrove, Public Employee Department, AFL–CIO, 815 16th Street NW., Washington, D.C. 20006.
B. Public Employee Department, AFL–CIO, 815 16th Street NW., Washington, D.C. 20006.
D. (6) $9,407.19.

A. David Cosson, 2626 Pennsylvania Avenue NW., Washington, D.C. 20037.
B. National Telephone Cooperative Association, 2626 Pennsylvania Avenue NW., Washington, D.C. 20037.
D. (6) $1,440.

A. Michael E. Costello, 1660 L Street NW., Suite 901, Washington, D.C. 20036.
B. Texas Eastern Transmission Corp., P.O. Box 2521, Houston, Tex. 77001.
E. (9) $309.19.

A. Carol Coston, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.

A. Daniel T. Coughlin, Jos. Schlitz Brewing Co., 235 West Galena, Milwaukee, Wis. 53201.
B. Jos. Schlitz Brewing Co., 235 West Galena, Milwaukee, Wis. 53201.
D. (6) $1,000. E. (9) $480.93.

A. Council for a Livable World, 100 Maryland Avenue NE., Washington, D.C. 20002.
D. (6) $30,379.99. E. (9) $30,300.98.

A. Council for Inter-American Security, 305 Fourth Street NE., Washington, D.C. 20002.
D. (6) $20,820. E. (9) $23,441.

A. Council of State Chambers of Commerce, 1028 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $860.80. E. (9) $08.41.

A. Douglas Couttee, Active Ballot Club Department, Retail Clerks International Union, AFL–CIO, 1775 K Street NW., Washington, D.C. 20006.
B. Retail Clerks International Union, AFL–CIO, 1775 K Street NW., Washington, D.C. 20006.
D. (6) $8,706.23. E. (9) $2,347.14.

A. John A. Couture, National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
B. National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
D. (6) $825. E. (9) $315.80.

A. Covington & Burling, 888 16th Street NW., Washington, D.C. 20006.
B. American Association of Oral and Maxillofacial Surgeons, 211 East Chicago Avenue, Chicago, Ill. 60611.
D. (6) $21,300. E. (9) $503.08.

A. Covington & Burling, 888 16th Street NW., Washington, D.C. 20006
B. Anchor National Life Insurance Co., Camelback at 22d Street, Phoenix, Ariz. 85016.
E. (9) $197.63.

A. Covington & Burling, 888 16th Street NW., Washington, D.C. 20006.
B. Delmarva Poultry Industry, Inc., R.D. No. 2, Box 47, Georgetown, Del. 19947.
E. (9) $80.19.

A. Covington & Burling, 888 16th Street NW., Washington, D.C. 20006.
B. Hugo Neu, 380 Madison Avenue, New York, N.Y. 10017; and Hugo Neu & Sons, Inc., 380 Madison Avenue, New York, N.Y. 10017.
E. (9) $36.40.

A. Covington & Burling, 888 16th Street NW., Washington, D.C. 20006.
B. Interbank Card Association, 888 Seventh Avenue, New York, N.Y. 10019.
E. (9) $12.

A. Covington & Burling, 888 16th Street NW., Washington, D.C. 20006.
B. Investment Company Institute, 1775 K Street NW., Washington, D.C. 20006.
E. (9) $121.33.

A. Covington & Burling, 888 16th Street NW., Washington, D.C. 20006.
B. Irving Trust Co., One Wall Street, New York, N.Y. 10015.
E. (9) $313.68.

A. Covington & Burling, 888 16th Street NW., Washington, D.C. 20006.
B. National Committee for Limited Profit Housing, c/o HHR Construction Corp., 515 Madison Avenue, New York, N.Y. 10022.

A. Covington & Burling, 888 16th Street NW., Washington, D.C. 20006.
B. National Federation of Independent Business, 921 Washington Building, Washington, D.C. 20005.

A. Covington & Burling, 888 16th Street NW,. Washington, D.C. 20006.
B Perdue, Inc., P.O. Box 1537, Salisbury, Md. 21801.
E (9) $55.05.

A. Covington & Burling, 888 16th Street NW., Washington, D.C. 20006.
B. Pyramid Ventures Group, Inc., P.O. Box 1671 Morgan City, La. 70380.

A. Covington & Burling, 888 16th Street NW., Washington, D.C. 20006.
B. The Superior Oil Co. P.O. Box 1521, Houston, Tex. 77001.

A. Eugene S. Cowen, 9024 Willow Valley Drive, Potomac, Md. 20854.
B. American Broadcasting Co., 1150 17th Street NW., Washington, D.C. 20036.
D (6) $180.

A. Carol A. Cowgill, American Academy of Family Physicians, 475 L'Enfant Plaza West SW., Suite 2970, Washington, D.C. 20024.
B. American Academy of Family Physicians, 1740 West 92d Street, Kansas City, Mo. 64114.
D. (6) $757.35. E. (9) $83.68.

A. C. Bryan Cox, P.O. Box 139, Kansas City, Mo. 64141.
B. Kansas City Life Insurance Co., P.O. Box 139, Kansas City, Mo. 64141.
D. (6) $120. E. (9) $547.48.

A. Cox, Langford & Brown, 21 Dupont Circle NW., Washington, D.C. 20036.
B. American Society of Anesthesiologists, 515 Busse Highway, Park Ridge, Ill 60068.
E. (9) $640.70.

A. Cox, Langford & Brown, 21 Dupont Circle NW., Washington, D.C. 20036.
B. National Collegiate Athletic Association, U.S. Highway 50 and Nall Avenue, P.O. Box 1906, Shawnee Mission, Kans. 66222.
D. (6) $6,077.74. E. (9) $52.50.

A. William J. Cox, 1707 L Street NW., Washington, D.C. 20036.
B. National Committee for a Human Life Amendment, Inc., 1707 L Street NW., Washington, D.C. 20036.
D. (6) $9,237.06. E. (9) $3,190.26.

A. Judith Lynne Crain, 1745 Jefferson Davis Highway, Arlington, Va. 22202.
B. Manufactured Housing Institute, 1745 Jefferson Davis Highway, Arlington, Va. 22202.

A. Cramer, Visser, Lipsen & Smith, 475 L'Enfant Plaza SW., Suite 4100, Washington, D.C. 20024.
B. American Sign and Indicator Corp., North 2310 Fancher Way, Spokane, Wash. 99206.
D. (6) $5,556.36. E. (9) $5,556.36.

A. Cramer, Visser, Lipsen & Smith, 475 L'Enfant Plaza SW., Suite 4100, Washington, D.C. 20024.
B. Government of Nicaragua.
D. (6) $10,800. E. (9) $10,800.

A. Cramer, Visser, Lipsen & Smith, 475 L'Enfant Plaza SW., Suite 4100, Washington, D.C. 20024.
B. Institute of Signage Research, 541 University Avenue, Palo Alto, Calif. 94301.
D. (6) $3,000. E. (9) $3,000.

A. Cramer, Visser, Lipsen & Smith, 475 L'Enfant Plaza SW., Suite 4100, Washington, D.C. 20024.
B. Norman, Lawrence, Patterson & Farrell, 211 East 43d Street, New York, N.Y. 10017.
D. (6) $5,149.35. E. (9) 5,149.35.

A. William D Crawford, 400 First Street N.W., Washington, D.C. 20001.
B. Brotherhood of Railway Carmen of the United States and Canada, 4929 Main Street, Kansas City, Mo. 64112.
D. (6) $1,470.

A. William P. Crewe, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
B. National Rifle Association, 1600 Rhode Island Avenue NW., Washington, D.C.
D. (6) $550.

A. P. H. Croft, American Short Line Railroad Association, 2000 Massachusetts Avenue NW., Washington, D.C. 20036.
B. American Short Line Railroad Association, 2000 Massachusetts Avenue NW., Washington, D.C. 20036.
D. (6) $1,149.99.

A. Donald A. Crosier, c/o Nebraska Petroleum Council, 334 South 13th Street, P.O. 95063, Lincoln, Nebr. 68509.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.

A. H. C. Crotty, Brotherhod of Maintenance of Way Employes, 12050 Woodward Avenue, Detroit, Mich. 48203.
B. Brotherhood of Maintenance of Way Employes, 12050 Woodward Avenue, Detroit, Mich. 48203.

A. Bobby E. Crow, P.O. Box 683, Houston, Tex. 77001.
B. Columbia Gulf Transmission Co., P.O. Box 683, Houston, Tex. 77001.
D. (6) $1,508.35. E. (9) $1,969.23.

A. Jack A. Crowder, American Textile Manufacturers Institute, Inc., Suite 1001, 1150 17th Street NW., Washington, D.C. 20036.
B. American Textile Manufacturers Institute, 400 South Tryon Street, Suite 2124, Charlotte, N.C. 28285.
D. (6) $2,000. E. (9) $91.35.

A. George D. Crowley, Jr., Shaw, Pittman, Potts, & Trowbridge, 1800 M Street NW., Washington, D.C. 20036.
B. Marlene C. McGuirl, 3416 P Street NW., Washington, D.C. 20007.
E. (9) $33.40.

A. James M. Cubie, New Directions, 2021 L Street NW., Washington, D.C. 20036.
B. New Directions, 2021 L Street NW., Washington, D.C. 20036.
D. (6) $2,798.40.

A. Richard D. Cudahy, Suite 701, 1050 17th Street NW., Washington, D.C. 20036.
B. Central and South West Corp., P.O. Box 1631, Wilmington, Del. 19899.
D. (6) $100. E. (9) $5.

A. Barry M. Cullen, 1620 I Street NW., No. 700, Washington, D.C. 20006.
B. International Paper Co., 1620 I Street NW., No. 700, Washington, D.C. 20006.
D. (6) $100. E. (9) $55.

A. Frank Cummings, 1140 Connecticut Avenue NW., Washington, D.C. 20036.
B. The Institute of Electrical and Electronics Engineers, Inc., 345 East 47th Street, New York, N.Y. 10022.
D. (6) $3,200.

A. John T. Curran, Laborers' International Union of North America, AFL–CIO, 905 16th Street NW., Washington, D.C. 20006.
B. Laborers' International Union of North America, AFL–CIO, 905 16th Street NW., Washington, D.C. 20006.
D. (6) $10,977.27. E. (9) $2,891.91.

A. Curtis, Mallet-Prevost, Colt & Mosle, 100 Wall Street, New York, N.Y. 10005.
B. U.S. Trust Co. of New York, 45 Wall Street, New York, N.Y. 10005.
D. (6) $3,090.94. E. (9) $90.53.

A. Everett E. Cutter, Oregon Railroad Association, 620 South West Fifth Avenue Building, Suite 912, Portland, Oreg. 97204.

B. Oregon Railroad Association, 620 Southwest Fifth Avenue Building, Suite 912, Portland, Oreg. 97204.

A. William K. Dabaghi, American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
B. American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $950. E. (9) $273.22.

A. William Kay Daines, American Retail Federation, 1616 H Street NW., Washington, D.C. 20006.
B. American Retail Federation, 1616 H Street NW., Washington, D.C. 20006.
D. (6) $275. E. (9) $30.25.

A. Thomas A. Daly, National Soft Drink Association, 1101 16th Street NW., Washington, D.C. 20036.
B. National Soft Drink Association, 1101 16th Street NW., Washington, D.C. 20036.

A. Damon Corp., 115 Fourth Avenue, Needham Heights, Mass. 02194.

A. Tracy Danese, P.O. Box 529100, Miami, Fla. 33152.
B. Florida Power & Light Co., P.O. Box 529100, Miami, Fla. 33152.
D. (6) $784. E. (9) $4,777.39.

A. John E. Daniel, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
B. American Paper Institute, Inc., 260 Madison Avenue, New York, N.Y. 10016.

A. Daniels, Houlihan & Palmeter, 1819 H Street NW., Washington, D.C. 20006.
B. Industrial Fasteners Group, American Importers Association, 420 Lexington Avenue, New York, N.Y. 10017.
E. (9) $401.54.

A. David S. Danielson, American Optometric Association, 1730 M Street NW., Washington, D.C. 20036.
B. American Optometric Association, c/o Dr. Wendell D. Waldie, 3111 Aloma, Wichita, Kans. 67211.
D. (6) $165.20. E. (9) $198.79.

A. William H. Darden, 1620 I Street NW., Washington, D.C. 20006.
B. Reynolds Metals Co., 6601 West Broad Street, Richmond, Va. 23261.
D. (6) $750. E. (9) $30.

A. Thomas Roger Dart, Alabama Petroleum Council, 660 Adams Avenue, Suite 188, Montgomery, Ala. 36104.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $430. E. (9) $453.77.

A. John C. Datt, American Farm Bureau Federation, 425 13th Street NW., Washington, D.C. 20004.
B. American Farm Bureau Federation, 225 Touhy Avenue, Park Ridge, Ill.
D. (6) $5,625. E. (9) $151.83.

A. Joseph Dauksys, Rubber Manufacturers Association, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Rubber Manufacturers Association, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.

A. Clarence Davan, P.O. Box 5308, Denver, Colo. 80217.
B. Great Western Sugar Co., P. O. Box 5308, Denver, Colo. 80217.
D. (6) $3,200. E. (9) $2,561.51.

A. John B. Davenport, Jr., 2000 Florida Avenue NW., Washington, D.C. 20009.
B. National Rural Electric Cooperative Association, 2000 Florida Avenue NW., Washington, D.C. 20009.
D. (6) $210.36.

A. Daniel I. Davidson, Spiegel & McDiarmid, 2600 Virginia Avenue NW., Washington, D.C. 20037.
B. Northern California Power Agency (770 Kiely Boulevard, Santa Clara, Calif. 95051, cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Redding, Roseville, Santa Clara, Ukiah, Calif., and associate member, Plumas-Sierra Rural Electric Cooperative).

A. Charles W. Davis, 1 First National Plaza, No. 5200, Chicago, Ill. 60603.
B. First Chicago Corp., 1 First National Plaza, Chicago, Ill. 60670.

A. Charles W. Davis, 1 First National Plaza, No. 5200, Chicago, Ill. 60603.
B. Inland Steel Co., 30 West Monroe Street, Chicago, Ill. 60603.

A. Charles W. Davis, 1 First National Plaza, No. 5200, Chicago, Ill. 60603.
B. National Association of Independent Insurers, 2600 River Road, Des Plaines, Ill. 60018.
D. (6) $215.

A. Charles W. Davis, 1 First National Plaza, No. 5200, Chicago, Ill. 60603.
B. Northwest Industries, Inc., 6300 Sears Tower, Chicago, Ill. 60606.

A. Charles W. Davis, 1 First National Plaza, No. 5200, Chicago, Ill. 60603.
B. Peoples Gas Co., 122 South Michigan Avenue, Chicago, Ill. 60603.
D. (6) $2,370.

A. Charles W. Davis, 1 First National Plaza, No. 5200, Chicago, Ill. 60603.
B. Sears, Roebuck & Co., Sears Tower, Chicago, Ill. 60684.

A. Charles W. Davis, 1 First National Plaza, No. 5200, Chicago, Ill. 60603.
B. Trans Union Corp., 90 Half Day Road, Lincolnshire, Ill. 60015.
D. (6) $130.

A. David R. Davis, Indiana Petroleum Council, 714 Harrison Building, Indianapolis, Ind. 46204.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.

A. Edward M. Davis, American Nuclear Energy Council, 1750 K Street NW., Suite 300, Washington, D.C.
B. American Nuclear Energy Council, 1750 K Street NW., Suite 300, Washington, D.C.
D. (6) $2,415. E. (9) $69.20.

A. George R. Davis, Amalgamated Transit Union, Local 689, 100 Indiana Avenue NW., No. 403, Washington, D.C. 20001.
B. Amalgamated Transit Union, National Capital, Local 689, 100 Indiana Avenue NW., No. 403, Washington, D.C. 20001.

A. Kenneth E. Davis, 1025 Connecticut Avenue NW., No. 202, Washington, D.C. 20036.
B. Rohm & Haas Co., Independence Mall West, Philadelphia, Pa. 19105.
D. (6) $500. E. (9) $100.

A. Ovid R. Davis, the Coca-Cola Co., P.O. Drawer 1734, Atlanta, Ga. 30301.
B. The Coca-Cola Co., P.O. Drawer 1734, Atlanta, Ga. 30301.
D. (6) $350. E. (9) $517.

A. R. Hilton Davis, Chamber of Commerce of the U.S.A., 1615 H Street NW., Washington, D.C. 20062.
B. Chamber of Commerce of the U.S.A., 1615 H Street NW., Washington, D.C. 20062.

A. Robert W. Davis, Ford Motor Co., 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Ford Motor Co., Dearborn, Mich.
D. (6) $1,300. E. (9) $771.

A. Walter L. Davis, Retail Clerks International Union, AFL-CIO, 1775 K Street NW., Washington, D.C. 20006.
B. Retail Clerks International Union, AFL-CIO, 1775 K Street NW., Washington, D.C. 20006.
D. (6) $750.

A. William Lee Davis, 299 Park Avenue, New York, N.Y. 10017.
B. Westvaco, 299 Park Avenue, New York, N.Y. 10017.

A. J. Edward Day, 21 Dupont Circle NW., Washington, D.C. 20036.
B. Associated Third Class Mail Users, 1725 K Street NW., Washington, D.C. 20006.

A. J. Edward Day, 21 Dupont Circle NW., Washington, D.C. 20036.
B. Electronic Industries Association, Consumer Electronics Group, 2001 I Street NW., Washington, D.C. 20006.

A. John Russell Deane III, 1825 K Street NW., Suite 1103, Washington, D.C. 20006.
B. Coalition of Automotive Associations, 1825 K Street NW., Suite 1103, Washington, D.C. 20006.

A. John Russell Deane III, 1825 K Street NW., Suite 1103, Washington, D.C. 20006.
B. Specialty Equipment Manufacturers Association, 11001 East Valley Mall, Suite 204, El Monte, Calif. 91731.

A. Gaston de Bearn, Hoffmann-La Roche, Inc., 1775 K Street NW., No. 300, Washington, D.C. 20006.
B. Hoffmann-La Roche, Inc., 340 Kingsland Street, Nutley, N.J. 07110.

A. Debevoise & Liberman, Suite 700, 806 15th Street NW., Washington, D.C. 20005.
B. Aetna Life & Casualty, 151 Farmington Avenue, Hartford, Conn. 06156.
D. (6) $3,400.

A. Tony T. Dechant, 1012 14th Street NW., Washington, D.C. 20005.
B. The Farmers Educational and Co-Operative Union of America (National Farmers Union), Denver, Colo. 80251; 1012 14th Street NW., Washington, D.C. 20005.
D. (6) $5,000. E. (9) $201.70.

A. W. M. Decker, Association of American Veterinary Medical Colleges, 1522 K Street NW., Suite 828, Washington, D.C. 20005.
B. Association of American Veterinary Medical Colleges, 1522 K Street NW., No. 828, Washington, D.C. 20005.
D. (6) $45.

A. Catharine B. Deely, 1730 M Street NW., Washington, D.C. 20036.
B. The League of Women Voters of the United States, 1730 M Street NW., Washington, D.C. 20036.
D. (6) $775.40.

A. DeHart & Broide, Inc., 1505 22d Street NW., Washington, D.C. 20037.
B. Council on Foundations, 888 Seventh Avenue, New York, N.Y. 10019.

A. DeHart & Broide, Inc., 1505 22d Street NW., Washington, D.C. 20037.
B. Kansas City Southern Industries, Inc., 114 West 11th Street, Kansas City, Mo. 64105.
D. (6) $220. E. (9) $7.40.

A. DeHart & Broide, Inc., 1505 22d Street NW., Washington, D.C. 20037.
B. Recording Industry Association of America, Inc., One East 57th Street, New York, N.Y. 10022.
D. (6) $1,600. E. (9) $463.65.

A. deKieffer & Associates, 1055 Thomas Jefferson Street W., Washington, D.C. 20007.
B. Bureau of National and International Communications, Private Bag X152, Pretoria, 0001, Republic of South Africa.
D. (6) $7,472.87. E. (9) $15,159.52.

A. DeLaney & Patrick, 1801 K Street NW., Suite 1104, Washington, D.C. 20006.
B. Cargill Inc., P.O. Box 9300, Minneapolis, Minn. 55440.
D. (6) $5,953.85.

A. DeLaney & Patrick, 1801 K Street NW., Suite 1104, Washington, D.C. 20006.
B. Continental Grain Co., 277 Park Avenue, New York, N.Y. 10017.
D. (6) $952.88.

A. DeLaney & Patrick, 1801 K Street NW., Suite 1104, Washington, D.C. 20006.
B. Dynamic Instrument Corp., 933 Long Island Parkway, Hauppauge, N.Y. 11787.
D. (6) $624.13.

A. DeLaney & Patrick, 1801 K Street NW., Suite 1104, Washington, D.C. 20006.
B. Trade Adjustment Assistance Coordinating Committee.
D. (6) $6,000.

A. John L. Delano, Montana Railroad Association, Box 1172, Helena, Mont. 59601.
B. Montana Railroad Association, Box 1172, Helena, Mont. 59601.

A. Myra J. DeLapp, 1901 L Street NW., Suite 702, Washington, D.C. 20036.
B. Security Pacific National Bank, 333 South Hope Street, Los Angeles, Calif. 90071.
D. (6) $621.50. E. (9) $142.85.

A. Ray Denison, 815 16th Street NW., Washington, D.C.
B. American Federation of Labor and Congress of Industrial Organizations, 815 16th Street NW., Washington, D.C.
D. (6) $9,945. E. (9) $390.66.

A. John H. Denman, Missouri Oil Council, 428 East Capitol, Suite 203, Jefferson City, Mo. 65101.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $277.

A. Daniel B. Denning, 1025 Connecticut Avenue NW., No. 700, Washington, D.C. 20036.
B. Gulf Oil Corp., P.O. Box 1166, Pittsburgh, Pa. 15230.
D. (6) $2,572.50. E. (9) $347.70.

A. Wells Denyes, Eastman Chemical Products, Inc., 500 12th Street SW., Washington, D.C. 20024.
B. Eastman Chemical Products, Inc., P.O. Box 431, Kingsport, Tenn. 37662.
D. (6) $30.

A. Desautels Associates, Inc., 1725 K Street NW., Suite 811, Washington, D.C. 20006.
B. Flavor & Extract Manufacturers Association of the United States, 900 17th Street NW., Washington, D.C. 20006.
D. (6) $900.

A. Desautels Associates, Inc., 1725 K Street NW., Suite 811, Washington, D.C. 20006.
B. Merrill Lynch, Pierce, Fenner & Smith, Inc., 1 Liberty Plaza, New York, N.Y. 10006.
D. (6) $2,000.

A. Dennis Devaney, 1750 K Street NW., Washington, D.C. 20006.
B. Food Marketing Institute, 1750 K Street NW., Washington, D.C. 20006.
D. (6) $1,500.

A. John M. Devaney, The American Institute of Architects, 1735 New York Avenue NW., Washington, D.C. 20006.
B. The American Institute of Architects, 1735 New York Avenue NW., Washington, D.C. 20006.
D. (6) $4,143.75.

A. James T. Devine, Leonard, Cohen, Gettings & Sher, Suite 550, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Rosenthal & Co., Chicago, Ill.
D. (6) $1,500. E. (9) $45.

A. R. Daniel Devlin, Trans World Airlines, Inc., 1000 16th Street NW., Washington, D.C. 20036.
B. Trans World Airlines, Inc., 605 Third Avenue, New York, N.Y. 10016.
D. (6) $275.

A. DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036.
B. Airbus Industrie, Avenue Lucien Servanty, 31700 Blagnac, France.
D. (6) $885. E. (9) $48,066.78.

A. DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036.
B. Krauss-Maffei AG, Krauss-Maffei-Strasse 2, 8000 Munich, Federal Republic of Germany.
D. (6) $154. E. (9) $557.65.

A. DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036.
B. Societe Nationale Industrielle Aerospatiale, 37 Boulevard de Montmorency, 75016 Paris, France.

A. DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036
B. Thomson-CSF, Division Equipements Avioniques, 178 Boulevard Gabriel Péri, 92240 Malakoff, France.

A. John M. Dickerman, John Dickerman & Associates, Inc., 1730 Rhode Island Avenue NW., Washington, D.C. 20036.
B. National Lumber & Building Material Dealers Association, 1990 M Street NW., Suite 350, Washington, D.C. 20036.
D. (6) $6,000. E. $359.42.

A. John R. Dierker, 1150 17th Street NW., Washington, D.C. 20036.
B. McDonnell Douglas Corp., P.O. Box 516, St. Louis, Mo. 63166.
D. (6) $300. E. (9) $213.60.

A. Paula A. Dilley, Marathon Oil Co., 1600 M Street NW., Suite 975, Washington, D.C. 20036.
B. Marathon Oil Co., Findlay, Ohio 45840.

A. Timothy V. A. Dillon, 1850 K Street NW., Washington, D.C., 20006.
B. Westlands Water District, P.O. Box 5222, Fresno, Calif. 93755.
D. (6) $4,244.44. E. (9) $494.44.

A. Michael F. Dineen, Lumbermen's Mutual Casualty Co., Suite 206, 600 Pennsylvania Avenue SE., Washington, D.C. 20003.
B. Lumbermen's Mutual Casualty Co., Long Grove, Ill. 60049.
D. (6) $1,800.

A. Direct Selling Association, 1730 M Street NW., Washington, D.C. 20036.
E. (9) $9,631.13.

A. Harley M. Dirks, American Medical Association, 1776 K Street NW., Washington, D.C. 20006.
B. American Medical Association, 535 North Dearborn Street, Chicago, Ill. 60610.
D. (6) $2,867.50. E. (9) $815.

A. Disabled American Veterans, 3725 Alexandria Pike, Cold Spring, Ky. 41076.
D. (6) $63,863.28. E. (9) $63,863.28.

A. Norman L Dobyns, Cutler-Hammer, Inc., 1660 L Street NW., No. 912, Washington, D.C. 20036.
B. Cutler-Hammer, Inc., 4201 N. 27th Street, Milwaukee, Wis. 53216.
E. (9) $175.

A. James F. Doherty, Group Health Association of America, Inc., 1717 Massachusetts Avenue NW., No. 701, Washington, D.C. 20036.
B. Group Health Association of America, Inc., 1717 Massachusetts Avenue NW., No. 701, Washington, D.C. 20036.
D. (6.) $9,375.

A. John D. Doherty, Jr., 900 17th Street NW., Washington, D.C. 20006.
B. The Chase Manhattan Bank, National Association, 1 Chase Manhattan Plaza, New York, N.Y. 10015.
D. (6.) $140. E. (9.) $50.20.

A. Robert C. Dolan, National Association of Electric Co's., 1140 Connecticut Avenue NW., Suite 1010, Washington, D.C. 20036.
B. National Association of Electric Co's., 1140 Connecticut Avenue NW., Suite 1010, Washington, D.C. 20036.
D. (6.) $140. E. (9.) $48.

A. Hollis M. Dole, 1025 Connecticut Avenue NW., Washington, D.C. 20036.
B. Atlantic Richfield Co., 515 South Flower Street, Los Angeles, Calif. 90071.
D. (6) $950. E. (9) $88.82.

A. David P. Dolgen, Seafarers International Union, 815 16th Street NW., Suite 510, Washington, D.C. 20006.
B. Seafarers International Union, 815 16th Street NW., Suite 510, Washington, D.C. 20006.
D. (6) $3,500. E. (9) $933.94.

A. Richard M. Donaldson, 1700 Guildhall Building, Cleveland, Ohio 44115.
B. The Standard Oil Co. (Ohio), Guildhall Building, Cleveland, Ohio 44115.

A. Francis X. Dooley, 525 School Street SW., Washington, D.C.
B. American Road & Transportation Builders Association, 525 School Street SW., Washington, D.C. 20024.
D. (6) $2,500. E. (9) $39.50.

A. James A. Dorsch, 1750 K Street NW., Washington, D.C.
B. Health Insurance Association of America, Inc., 1750 K Street NW., Washington, D.C.; 919 Third Avenue, New York, N.Y., 332 S. Michigan Avenue, Chicago, Ill.
D. (6) $210.94. E. (9) $35.79.

A. Charlene Dougherty, 1525 18th Street NW., Washington, D.C. 20036.
B. Environmental Defense Fund, 1525 18th Street NW., Washington, D.C. 20036.
E. (9) $3,311.82.

A. Dow, Lohnes & Albertson, 1125 Connecticut Avenue NW., Washington, D.C. 20036.
B. Univest Corp., 777 East Wisconsin Avenue, Milwaukee, Wis. 53202.
D. (6) $231.50. E. (9) $67.50.

A. Richard Morgan Downey, American Speech & Hearing Association, 10801 Rockville Pike, Rockville, Md. 20852.
B. American Speech & Hearing Association, 10801 Rockville Pike, Rockville, Md. 20852.
E. (9) $35.

A. Robert H. Doyle, 1120 Connecticut Avenue NW., No. 310, Washington, D.C. 20036.
B. National Association of Military Widows, P.O. Box 254, Coronado, Calif. 92118.
D. (6) $600.

A. Robert H. Doyle, 1120 Connecticut Avenue NW., No. 310, Washington, D.C. 20036.
B. Water Quality Association, 477 East Butterfield Road, Lombard, Ill. 60148.
D. (6) $200.

A. Nancy Drabble, 133 C Street SE., Washington, D.C. 20003.
B. Congress Watch, 133 C Street SE., Washington, D.C. 20003.
D. (6) $2,750.

A. James E. Drake, American Medical Association, 1776 K Street NW., Washington, D.C. 20006.
B. American Medical Association, 535 North Dearborn Street, Chicago, Ill. 60610.
D. (6) $2,984.85. E. (9) $599.

A. R. Larry Drake, Consumers Power Co., 212 West Michigan Avenue, Jackson, Mich. 49201.
B. Consumers Power Co., 212 West Michigan Avenue, Jackson, Mich. 49201.

A. Andrew Drance, Room 402, 2020 North 14th Street, Arlington, Va. 22201.
B. Media General, Inc., 333 East Grace Street, Richmond, Va. 23219.
D. (6) $116.66. E. (9) $48.97.

A. Thomas E. Drumm, Jr., 1730 Rhode Island Avenue NW., Washington, D.C. 20036.
B. Macmillan, Inc., 1730 Rhode Island Avenue NW., Washington, D.C. 20036.
D. (6) $400. E. (9) $3,830.

A. Franklin B. Dryden, 1776 K Street NW., Washington, D.C. 20006.
B. The Tobacco Institute, 1776 K Street NW., Washington, D.C. 20006.
D. (6) $200. E. (9) $100.

A. Lawrence M. Dubin, 1 First National Plaza, No. 5200, Chicago, Ill. 60603.
B. Peoples Gas Co., 122 South Michigan Avenue, Chicago, Ill. 60603.
D. (6) $2,870.

A. Evelyn Dubrow, International Ladies' Garment Workers' Union, 1710 Broadway, New York City, N.Y. 10019.
B. International Ladies' Garment Workers' Union, 1710 Broadway, New York City, N.Y. 10019.
D. (6) $5,904.60. E. (9) $4,014.05.

A. Morgan D. Dubrow, 2000 Florida Avenue NW., Washington, D.C. 20009.
B. National Rural Electric Cooperative Association, 2000 Florida Avenue NW., Washington, D.C. 20009.
D. (6) $120.

A. Ann Anderson Duff, NL Industries, Inc., 1150 Connecticut Avenue NW., Washington, D.C. 20036.
B. NL Industries, Inc., 1230 Avenue of the Americas, New York, N.Y. 10020.
D. (6) $1,000.

A. Michael J. Duff, National Paint & Coatings Association, Inc., 1500 Rhode Island Avenue NW., Washington, D.C. 20005.
B. National Paint & Coatings Association, Inc., 1500 Rhode Island Avenue NW., Washington, D.C. 20005.
D. (6) $1,000. E. (9) $46.18.

A. Francis J. Duggan, Association of American Railroads, 40 Ivy Street SE., Washington, D.C. 20003.
B. Association of American Railroads, 1920 L Street NW., Washington, D.C. 20036.
D. (6) $166.67. E. (9) $285.43.

A. Jeffrey M. Duke, 260 Madison Avenue, New York, N.Y. 10016.
B. American Paper Institute, Inc., 260 Madison Avenue, New York, N.Y. 10016.
E. (9) $300.

A. William R. Duke, 1025 Connecticut Avenue NW., Washington, D.C. 20036.
B. Atlantic Richfield Co., 515 South Flower Street, Los Angeles, Calif. 90071.
D. (6) $800. E. (9) $420.

A. Mervin E. Dullum, 1629 K Street NW., Room 204, Washington, D.C. 20006.
B. Delta Air Lines, Inc., Hartsfield Atlanta International Airport, Atlanta, Ga. 30320.
D. (6) $200. E. (9) $510.30.

A. M. L. DuMars, 2000 Florida Avenue NW., Washington, D.C. 20009.
B. National Rural Electric Cooperative Association, 2000 Florida Avenue NW., Washington, D.C. 20009.
D. (6) $60.

A. Duncan, Brown, Weinberg & Palmer, 1775 Pennsylvania Avenue NW., Suite 1200, Washington, D.C. 20006.
B. East Bay Regional Park District, 11500 Skyline Boulevard, Oakland, Calif. 94169.

A. Duncan, Brown, Weinberg & Palmer, 1775 Pennsylvania Avenue NW., Suite 1200, Washington, D.C. 20006.
B. Iva May Harvey, Route 7, Box 117, Blythe, Calif. 92225.
D. (6) $75.

A. Duncan, Brown, Weinberg & Palmer, 1775 Pennsylvania Avenue NW., Suite 1200, Washington, D.C. 20006.
B. Huron-Clinton Metropolitan Authority, 3050 Penobscot, Detroit, Mich. 48226.

A. Duncan, Brown, Weinberg & Palmer, 1775 Pennsylvania Avenue NW., Suite 1200, Washington, D.C. 20006.
B. Kenai Native Association, Inc., P.O. Box 1210, Wildwood, Kenai, Alaska.

A. Duncan, Brown, Weinberg & Palmer, 1775 Pennsylvania Avenue NW., Suite 1200, Washington, D.C. 20006.
B. Koniag, Inc., P.O. Box 746, Kodiak, Alaska.
D. (6) $175. E. (9) $10.25.

A. Duncan, Brown, Weinberg & Palmer, 1775 Pennsylvania Avenue NW., Suite 1200, Washington, D.C. 20006.
B. Mid-West Consumers' Association, Inc., P.O. Box 5089, Evergreen, Colo. 80439.

A. Duncan, Brown, Weinberg & Palmer, 1775 Pennsylvania Avenue NW., Suite 1200, Washington, D.C. 20006.
B. Shee Atika, Inc., Box 578, Edgecombe, Alaska 99835.

A. Duncan, Brown, Weinberg & Palmer, 1775 Pennsylvania Avenue NW., Suite 1200, Washington, D.C. 20006.
B. Western Railroad Association, 222 South Riverside Plaza, Room 1200, Chicago, Ill. 60606.

A. Douglas G. Dunn, Northern Natural Gas Co., 1133 15th Street NW., Washington, D.C. 20005.
B. Northern Natural Gas Co., 2223 Dodge Street, Omaha, Nebr. 68102.
D. (6) $1,500.

A. Mari Lee Dunn, American Council for Capital Formation, 1425 K Street NW., Suite 1007, Washington, D.C. 20005.
B. American Council for Capital Formation, 1425 K Street NW., Washington, D.C. 20005.
D. (6) $160.

A. Dunnells, Duvall & Porter, 1220 19th Street NW., Washington, D.C.
B. United Action for Animals, Inc., 205 East 42d Street, New York, N.Y.
D. (6) $500. E. (9) $5.

A. James A. Dupree, Ford Motor Co., 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Ford Motor Co., Dearborn, Mich. 48121.
D. (6) $2,250. E. (9) $1,252.

A. Joseph L. Duran, The First National Bank of Boston, 100 Federal Street, Boston, Mass. 02110.
B. The First National Bank of Boston, 100 Federal Street, Boston, Mass. 02110.
D. (6) $1,882.40. E. (9) $1,294.43.

A. Dutcher Industries, 7617 Convoy Court, San Diego, Calif. 92111.
E. (9) $3,000.

A. Frederick G. Dutton, Suite 505, 1140 Connecticut Avenue NW., Washington, D.C. 20036.
E. (9) $4,300.

A. L. L. Duxbury, Burlington Northern, Inc., Suite 506, 2000 L Street NW., Washington, D.C. 20036.
D. (6) $2,000. E. (9) $674.45.

A. Henry I. Dworshak, American Mining Congress, 1100 Ring Building, Washington, D.C.
B. American Mining Congress, 1100 Ring Building, Washington, D.C.

A. Jean F. Dye, 12700 Lake Avenue, Lakewood, Ohio 44107.
B. National Congress of Parents & Teachers, 700 North Rush Street, Chicago, Ill. 60611.
E. (9) $1,823.61.

A. Jack D. Early, The Madison Building, Suite 514, 1155 15th Street NW., Washington, D.C. 20005.
B. National Agricultural Chemicals Association, The Madison Building, Suite 514, 1155 15th Street NW., Washington, D.C. 20005.
D. (6) $250. E. (9) $24.75.

A. Roy W. Easley, Association of Maximum Service Telecasters, Inc., 1735 DeSales Street NW., Washington, D.C. 20036.
B. Association of Maximum Service Telecasters, Inc., 1735 DeSales Street NW., Washington, D.C. 20036.

A. East-West Trade Council, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
D. (6) $3,395. E. (9) $0.41.

A. George H. Eatman, American Gas Association, 1515 Wilson Boulevard, Arlington, Va. 22209.
B. American Gas Association, 1515 Wilson Boulevard, Arlington, Va. 22209.
D. (6) $2,800. E. (9) $352.21.

A. John Easarsky, Phelps Dodge Corp., 1620 I Street NW., Washington, D.C. 20006.
B. Phelps Dodge Corp., 300 Park Avenue, New York, N.Y. 10022.
D. (6) $150.

A. Donald R. Ebe, 1800 K Street NW., Suite 800, Washington, D.C. 20006.
B. The Goodyear Tire & Rubber Co., Akron, Ohio 44316.
D. (6) $1,500.

A. Robert E. Ebel, ENSERCH Corp., 1025 Connecticut Avenue NW., Suite 1206, Washington, D.C. 20036.
B. ENSERCH Corp., 301 South Harwood Street, Dallas, Tex. 75201.
D. (6) $1,450. E. (9) $815.

A. N. Boyd Ecker, 1100 Connecticut Avenue NW., Washington, D.C. 20036.
B. Mobil Oil Corp., 150 East 42d Street, New York, N.Y. 10017.
D. (6) $1,500. E. (9) $30.30.

A. Daniel J. Edelman, Inc., 1730 Pennsylvania Avenue NW., No. 460, Washington, D.C. 20006.
B. American Seat Belt Council, 271 North Avenue, New Rochelle, N.Y. 10701.
D. (6) $14,000. E. (9) $608.67.

A. Daniel J. Edelman, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. EMI Medical, Inc., 3605 Woodhead Drive, Northbrook, Ill. 60062.
D. (6) $500. E. (9) $15.

A. Daniel J. Edelman, Inc., 1730 Pennsylvania Avenue NW., Suite 460, Washington, D.C. 20006.
B. Manufactured Housing Institute, 1745 Jefferson Davis Highway, Suite 511, Arlington, Va. 20202.

A. Daniel J. Edelman, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. National Insulation Contractors Association, 1120 19th Street NW., Suite 405, Washington, D.C. 20036.

A. Daniel J. Edelman, Inc., 1730 Pennsylvania Avenue NW., Suite 460, Washington, D.C. 20006.
B. National Utility Contractors Association, 815 15th Street NW., Suite 838, Washington, D.C. 20005.
D. (6) $500. E. (9) $211.03.

A. Edelman International Corp., 1730 Pennsylvania Avenue NW., No. 460, Washington, D.C. 20006.
B. DGA International, 1225 19th Street N.W., Washington, D.C. 20036 (for Airbus Industrie Avenue Lucien Servanty, 31700 Elagnac (Toulouse), France).
D. (6) $45,000. E. (9) $1,611.19.

A. Edelman International Corp., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Republic of Turkey/Embassy of Turkey, 1606 23d Street NW., Washington, D.C. 20008.
D. (6) $23,300. E. (9) $19,750.36.

A. William R. Edgar, 1025 Connecticut Avenue NW., Suite 517, Washington, D.C. 20036.
B. General Aviation Manufacturers Association, 1025 Connecticut Avenue NW., Suite 517, Washington, D.C. 20036.
D. (6) $2,218.75.

A. Arthur B. Edgeworth, Jr., 1709 New York Avenue NW., Suite 801, Washington, D.C. 20006.
B. United States League of Savings Associations, 111 East Wacker Drive, Chicago, Ill.
D. (6) $3,750.

A. Ed Edmondson, P.O. Box 11, Muskogee, Okla. 74401.
B. Cherokee Nation, P.O. Box 119, Tahlequah, Okla. 74464.
D. (6) $5,375. E. (9) $1,258.12.

A. Ed Edmondson, P.O. Box 11, Muskogee, Okla. 74401.
B. Oklahoma Association of Electric Cooperatives, P.O. Box 11047, Oklahoma City, Okla. 73111.
D. (6) $1,850. E. (9) $402.06.

A. J. Rodney Edwards, 260 Madison Avenue, New York, N.Y. 10016.
B. American Paper Institute, Inc., 260 Madison Avenue, New York, N.Y. 10016.
E. (9) $232.24.

A. Jonathan W. Edwards, 507 Second Street NE., Washington, D.C. 20002.
B. Blue Ribbon Sports, 8285 Southwest Nimbus Avenue, Suite 115, Beaverton, Oreg. 97005.

A. Jonathan W. Edwards, 507 Second Street NE., Washington, D.C. 20002.
B. The Confederated Tribes of Warm Springs, Warm Springs, Oreg. 97761.

A. Jonathan W. Edwards, 507 Second Street NE., Washington, D.C. 20002.
B. The Navajo Nation, Window Rock, Ariz. 86515.

A. Jonathan W. Edwards, 507 Second Street NE., Washington, D.C. 20002.
B. Portland General Electric Co., 121 Southwest Salmon Street, Portland, Oreg. 97204.

A. Macon T. Edwards, 1030 15th Street NW., Suite 700, Washington, D.C. 20005.
B. National Cotton Council of America, P.O. Box 12285, Memphis, Tenn. 38112.
D. (6) $1,200. E. (9) $37.02.

A. H. Brent Egbert, 1800 K Street NW., Suite 920, Washington, D.C. 20006.
B. Bank..merica Corp., Bank of America Center, San Francisco, Calif.
D. (6) $923.58. E. (9) $1,075.61.

A. Charles E. Ehrhart, 1800 K Street NW., Suite 924, Washington, D.C. 20006.
B. Ralston Purina, Co., Checkerboard Square, St. Louis, Mo. 63188.
D. (6) $400. E. (9) $134.

A. J. C. B. Ehringhaus, Jr., 1776 K Street NW., Washington, D.C. 20006.
B. The Tobacco Institute, 1776 K Street NW., Washington, D.C. 20006.
D. (6) $175.

A. Adelaide K. Eisenmann, 607 G Street SW., Washington, D.C. 20024.
B. Panamanian Committee for Human Rights, P.O. Box 570643, Miami, Fla. 33157.

A. Richard Eisenmann, 607 G Street SW., Washington, D.C. 20024.
B. Panamanian Committee for Human Rights, P.O. Box 570643, Miami, Florida 33157.
E. (9) $206.85.

A. George K. Eliades, Society of American Wood Preservers, Inc., 1401 Wilson Boulevard, Arlington, Va. 22209.
B. Society of American Wood Preservers, Inc., 1401 Wilson Boulevard, Suite 205, Arlington, Va. 22209.
D. (6) $320. E. (9) $660.

A. J. Burton Eller, Jr., 425 13th Street NW., Suite 1020, Washington, D.C. 20004.
B. National Cattlemen's Association, 1001 Lincoln Street, Denver, Colo. 80203.
D. (6) $1,000.

A. Charles W. Elliott, Wisconsin Petroleum Council, 25 West Main Street, Room 705, Madison, Wis. 53703.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.

A. John Doyle Elliott, 5500 Quincy Street, Hyattsville, Md. 20784.

A. Kimberly A. Elliott, 444 North Capitol Street, NW., Suite 409, Washington, D.C. 20001.
B. Associated Builders and Contractors, Inc., 444 North Capitol Street, NW., Suite 409, Washington, D.C. 20001.
D. (6) $3,620. E. (9) $300.

A. Ruth Bowdey Elliott, 5500 Quincy Street, Hyattsville, Md. 20784.
D. (6) $714.21. E. (9) $365.07.

A. Dorothy A. Ellsworth, 1300 Connecticut Avenue, NW., Washington, D.C. 20036.
B. International Association of Machinists and Aerospace Workers, 1300 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $4,057.50. E. (9) $634.

A. Law offices of Northcutt Ely, Watergate 600 Building, Washington, D.C. 20037.
B. Associated Electric Cooperative, Inc., Springfield, Mo. 65801.
D. (6) $5,570.

A. Law offices of Northcutt Ely, Watergate 600 Building, Washington, D.C. 20037.
B. Ocean Mining Associates, Gloucester Point, Va.
D. (6) $6,000.

A. Emerson Electric Co., c/o Ramsay D. Potts, 1800 M Street, NW., Washington, D.C. 20036.
E. (9) $4,384.10.

A. Employers Insurance of Wausau, 2000 Westwood Drive, Wausau, Wis. 54401.

A. Lowell J. Endahl, 2000 Florida Avenue NW., Washington, D.C. 20009.
B. National Rural Electric Cooperative Association, 2000 Florida Avenue NW., Washington, D.C. 20009.
D. (6) $235.

A. Energy Action Educational Foundation, 1523 L Street NW., Washington, D.C. 20005.
E. (9) $2,405.59.

A. Energy Consumer and Producer Associate, Petroleum Plaza, Box 1726, Seminole, Okla. 74868.
D. (6) $10,000. E. (9) $21.51.

A. Gertrude Engel, 2450 Virginia Avenue NW., Washington, D.C. 20037.
B. York Barbell Co., York, Pa. 17405.
D. (6) $1,800. E. (9) $507.47.

A. Ralph Engel, 1001 Connecticut Avenue NW., Suite 1120, Washington, D.C. 20036.
B. Chemical Specialties Manufacturers Association, 1001 Connecticut Avenue NW., Washington, D.C. 20036.

A. Steven L. Engelberg, Suite 404, 2033 M Street NW., Washington, D.C. 20036.
B. American Association of Marriage and Family Counselors, 225 Yale Avenue, Claremont, Calif. 91711.
D. (6) $12,600. E. (9) $178.91.

A. James R. Enyart, 1101 17th Street NW., Suite 604, Washington, D.C. 20036.
B. Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, Mo. 63166.
D. (6) $500. E. (9) $59.14.

A. John M. Erskine, Jr., P.O. Box 2062, Houston, Tex. 77001.

B. Standard Oil Co. (Indiana), P.O. Box 3092, Houston, Tex. 77001.
D. (6) $1,272. E. (9) $839.44.

A. George T. Esherick, United States Steel Corp., 818 Connecticut Avenue NW., Washington, D.C. 20006.
B. United States Steel Corp., 600 Grant Street, Pittsburgh, Pa. 15230.
D. (6) $90. E. (9) $87.

A. Thomas E. Esterly, American Trucking Associations, Inc., 1616 P Street NW., Washington, D.C. 20036.
B. American Trucking Associations, Inc., 1616 P Street NW., Washington, D.C. 20036.
D. (6) $6,000. E. (9) $628.91.

A. John T. Estes, 1150 Connecticut Avenue NW., No. 700, Washington, D.C. 20036.
B. Allied Chemical Corp., P.O. Box 3000–R, Morristown, N.J. 07960.
D. (6) $2,000. E. (9) $218.26.

A. David C. Evans, 1150 Connecticut Avenue NW., Suite 900, Washington, D.C. 20036.
B. Brick Institute of America, 1750 Old Meadow Road, McLean, Va. 22101.

A. Joseph O. Evans, 4401 Lee Highway, Apt. 21, Arlington, Va. 22207.

A. Robert D. Evans, American Bar Association, 1800 M Street NW., Washington, D.C. 20036.
B. American Bar Association, 1155 East 60th Street, Chicago, Ill. 60637.
D. (6) $400. E. (9) $50.

A. William J. Evans, 1800 K Street NW., Suite 900, Washington, D.C. 20006.
B. Pan American World Airways, Inc., Suite 900, 1800 K Street NW., Washington, D.C. 20006.
E. (9) $94.70.

A. Fawn K. Evenson, 1611 North Kent Street, Arlington, Va. 22209.
B. American Footwear Industries Association, 1611 North Kent Street, Arlington, Va. 22209.
D. (6) $400. E. (9) $164.70.

A. Robert R. Fahs, Cargill, Inc., 1050 17th Street NW., 12th floor, Washington, D.C. 20036.
B. Cargill, Inc., P.O. Box 9300, Minneapolis, Minn 55440.
D. (6) $2,500. E. (9) $45.10.

A. Robert J. Falasca, American Seed Trade Association, 1030 15th Street NW., Suite 964, Washington, D.C. 20005.
B. American Seed Trade Association, 1030 15th Street NW., Suite 964, Washington, D.C. 20005.

A. Edward Falck, Edward Falck & Co., 1625 I Street NW., Washington, D.C. 20006.
B. Delhi International Oil Corp., 2500 First International Building, Dallas, Tex. 75270.
D. (6) $600. E. (9) $119.

A. Thomas B. Farley II, 2101 L Street NW., Washington, D.C. 20037.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $3,220. E. (9) $135.65.

A. The Farmers' Educational & Cooperative Union of America (National Farmers Union), Denver, Colo. 80251; 1012 14th Street NW., Washington, D.C. 20005.
D. (6) $181,012. E. (9) $54,398.27.

A. John W. Farquhar, Food Marketing Institute, 1750 K Street NW., Washington, D.C. 20006.
B. Food Marketing Institute, 1750 K Street NW., Washington, D.C. 20006.
D. (6) $1,500.

A. Dolores L. Farr, American Nurses' Association, 1030 15th Street NW., Washington, D.C.
B. American Nurses' Association, 2420 Pershing Road, Kansas City, Mo. 64108.
D. (6) $2,503. E. (9) $119.60.

A. E. Roy Fausset, 1050 17th Street NW., No. 301, Washington, D.C. 20036.
B. Freeport Minerals Co., 200 Park Avenue, New York, N.Y. 10017.
D. (6) $300.

A. Clinton B. Fawcett, Coastal States Gas Corp., 5 Greenway Plaza East, Houston, Tex. 77046.
B. Coastal States Gas Corp., 5 Greenway Plaza East, Houston, Tex. 77046.
D. (6) $1,375. E. (9) $80.

A. Peter J. Fearey, 215 Market Street, No. 930, San Francisco, Calif. 94105.
B. California Council for Environmental & Economic Balance, 215 Market Street, No. 930, San Francisco, Calif. 94105.

A. Federation of American Controlled Shipping, 17 Battery Place North, New York, N.Y. 10004.
D. (6) $1,070.04. E. (9) $1,070.04.

A. Federation of American Hospitals, 1101 17th Street NW., Suite 310, Washington, D.C. 20036.
D. (6) $7,650. E. (9) $7,650.

A. Federation of American Scientists, 307 Massachusetts Avenue NE., Washington, D.C. 20002.
E. (9) $2,641.33.

A. Arthur B. Fefferman, American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.
B. American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.
D. (6) $150. E. (9) $170.

A. Andrew Feinstein, 133 C Street SE., Washington, D.C. 20003.
B. Congress Watch, 133 C Street SE., Washington, D.C. 20003.
D. (6) $3,250.

A. John W. Feist, 900 17th Street NW., No. 1016, Washington, D.C. 20006.
B. Kaiser Steel Corp., 900 17th Street NW., No. 1016, Washington, D.C. 20006.
D. (6) $923.

A. Stuart F. Feldman, Suite 931, 1346 Connecticut Avenue NW., Washington, D.C. 20036.
B. Vietnam Veteran Coalition, Inc., Suite 931, 1346 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $1,544.13. E. (9) $702.57.

A. Stuart F. Feldstein, National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
B. National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
D. (6) $2,250.

A. Kenneth E. Feltman, National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $400.

A. Jack Ferguson Associates, 513 A Street SE., Washington, D.C. 20003.
B. Northwest Pipeline Co., P.O. Box 1526, Salt Lake, Utah 84110.
D. (6) $6,450. E. (9) $4,156.

A. Jack Ferguson Associates, 513 A Street SE., Washington, D.C. 20003.

B. State of Alaska, Department of Revenue and the Multi-State Tax Commission, Pouch 5, Juneau, Alaska.
E. (9) $973.

A. Jack Ferguson Associates, 513 A Street SE., Washington, D.C. 20003.
B. U.S. Borax & Chemical Co., 3075 Wilshire Boulevard, Los Angeles, Calif. 90010.
D. (6) $1,000. E. (9) $1,938.

A. James H. Ferguson, 1625 I Street NW., Suite 926, Washington, D.C. 20006.
B. American Society for Personnel Administration, 19 Church Street, Berea, Ohio 44017.
D. (6) $5,000. E. (9) $800.

A. John L. Festa, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
B. American Paper Institute, Inc., 260 Madison Avenue, New York, N.Y. 10016.

A. C. H. Fields, American Farm Bureau Federation, 425 13th Street NW., Washington, D.C. 20004.
B. American Farm Bureau Federation, 225 Touhy Avenue, Park Ridge, Ill.
D. (6) $3,841. E. (9) $103.72.

A. Manuel D. Fierro, Pharmaceutical Manufacturers Association, 1155 15th Street NW., Washington, D.C. 20005.
B. Pharmaceutical Manufacturers Association, 1155 15th Street NW., Washington, D.C. 20005.

A. Herbert A. Fierst, 610 Ring Building, 1200 18th Street NW., Washington, D.C. 20036.
B. Council of Forest Industries of British Columbia, 1500/1055 West Hastings Street, Vancouver V6E 2H1, British Columbia, Canada.
D. (6) $9,999.99. E. (9) $625.

A. Matthew P. Fink, Investment Company Institute, 1775 K Street NW., Washington, D.C. 20006.
B. Investment Company Institute, 1775 K Street NW., Washington, D.C. 20006.
D. (6) $130.50. E. (9) $46.76.

A. Thomas D. Finnigan, Union Carbide Corp., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Union Carbide Corp., 270 Park Avenue, New York, N.Y. 10017.
E. (9) $135.35.

A. Firearms Lobby of America, 325 Pennsylvania Avenue SE., Washington, D.C. 20003.
D. (6) $12,658.00. E. (9) $21,297.92.

A. The First National Bank of Boston, 100 Federal Street, Boston, Mass. 02110.
E. (9) $13,670.05.

A. First National Boston Corp., 100 Federal Street, Boston, Mass. 02110.

A. Richard L. Fischer, 1000 16th Street NW., Washington, D.C. 20036.
B. Standard Oil Co. (Indiana), 200 East Randolph Drive, Chicago, Ill. 60601.
D. (6) $204. E. (9) $29.

A. Mary Clare Fitzgerald, 1800 K Street NW., Suite 920, Washington, D.C. 20006.
B. BankAmerica Corp., Bank of America Center, San Francisco, Calif.
D. (6) $601. E. (9) $1,047.70.

A. Margaret Fitzgerald-Bare, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $3,843.75.

A. Hilliard J. Flord, 602 Main Street, Cincinnati, Ohio 45202.

B. The Ohio River Co., 580 Walnut Street, Cincinnati, Ohio 45202.
D. (6) $3,000. E. (9) $485.46.

A. Susan Garber Flack, American Retail Federation, 1616 H Street NW., Washington, D.C. 20006.
B. American Retail Federation, 1616 K Street NW., Washington, D.C. 20006.
D. (6) $2,000. E. (9) $250.

A. James J. Flanagan, New England Power Service Co., 20 Turnpike Road, Westborough, Mass. 01581.
B. New England Power Service Co., 20 Turnpike Road, Westborough, Mass. 01581.
D. (6) $2,573.76. E. (9) $1,419.42.

A. C. D. Fleet, Jr., 681 Lafayette, Denver, Colo. 80218.
B. Hunt International Resources Corp., 3500 First National Bank Building, Dallas, Tex. 75102.
E. (9) $9,616.80.

A. C. D. Fleet, Jr., 681 Lafayette, Denver, Colo. 80218.
B. N. B. Hunt, 2500 First National Bank Building, Dallas, Tex. 75102.
E. (9) $3,742.25.

A. Charles D. Fleishman, 20 North Wacker Drive, Chicago, Ill. 60606.
B. American Fishing Tackle Manufacturers Association, 20 North Wacker Drive, Chicago, Ill. 60606.
D. (6) $1,725. E. (9) $4,715.29.

A. Ronald L. Floor, American Textile Manufacturers Institute, Inc., 1150 17th Street NW., Suite 1001, Washington, D.C. 20036.
B. American Textile Manufacturers Institute, Suite 2124, 400 South Tryon Street, Charlotte, N.C. 28285.
D. (6) $650. E. (9) $53.80.

A. James F. Flug, 2904 Brandywine Street NW., Washington, D.C. 20008.
B. Energy Action Educational Foundation, 1523 L Street NW., Washington, D.C. 20005.
D. (6) $1,349.08.

A. Robert P. Fogarty, 3499 Ridgewood Drive, Columbus, Ohio 43220.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $1,000.

A. Foley, Lardner, Hollabaugh & Jacobs, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. American Family Mutual Insurance Co., 3099 East Washington Avenue, Box 7430, Madison, Wis. 53707.
D. (6) $3,378. E. (9) $13.88.

A. Foley, Lardner, Hollabaugh & Jacobs, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Cabot Corp., and subsidiaries, 125 High Street, Boston, Mass. 02110.
D. (6) $7,790. E. (9) $24.79.

A. Foley, Lardner, Hollabaugh & Jacobs, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Fort Howard Paper Co., 1919 South Broadway Green Bay, Wis. 54305.
D. (6) $555.

A. Foley, Lardner, Hollabaugh & Jacobs, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Insurance Association of Connecticut, 60 Washington Street, Hartford, Conn. 06106.
D. (6) $4,025. E. (9) $12.04.

A. Foley, Lardner, Hollabaugh & Jacobs, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.

B. Johnson Controls, Inc., 507 East Michigan Street, P.O. Box 423, Milwaukee, Wis. 53201.

A. Food & Beverage Trades Department, AFL–CIO, 815 16th Street NW., Washington, D.C. 20006.
D. (6) $6,917.45. E. (9) $6,917.45.

A. Food Marketing Institute, 1750 K Street NW., Washington, D.C. 20006.
D. (6) $7,000. E. (9) $7,000.

A. Food Policy Center, 538 Seventh Street SE., Washington, D.C. 20003.
E. (9) $28,486.88.

A. Food Research & Action Center, Inc., 2011 I Street NW., Suite 700, Washington, D.C. 20006.
D. (6) $15,125. E. (9) $15,020.59.

A. Gordon Forbes, 203 Hanover Building, 480 Cedar Street, St. Paul, Minn. 55101.
B. Minnesota Railroads Association, 203 Hanover Building, 480 Cedar Street, St. Paul, Minn. 55101.
D. (6) $500. E. (9) $999.95.

A. James W. Foristel, American Association of Ophthalmology, 1100 17th Street NW., Washington, D.C. 20036.
B. American Association of Ophthalmology, 1100 17th Street NW., Washington, D.C. 20036.
D. (6) $5,000.

A. John S. Forsythe, American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.
B. American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.
D. (6) $400. E. (9) $230.

A. David H. Foster, 1025 Connecticut Avenue NW., Washington, D.C. 20036.
B. Natural Gas Supply Committee, 1025 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $2,775.01. E. (9) $592.12.

A. Ebert E. Fournace, Ohio Power Co., 301 Cleveland Avenue SW., Canton, Ohio 44702.
B. Ohio Power Co., 301 Cleveland Avenue SW., Canton, Ohio 44702; a subsidiary of American Electric Power Co., Inc., 2 Broadway, New York, N.Y. 10004.
D. (6) $192. E. (9) $309.43.

A. Albert A. Fox, Jr., Suite 700, 1150 Connecticut Avenue NW., Washington, D.C. 20036.
B. Allied Chemical Corp., P.O. Box 3000–R, Morristown, N.J. 07960
D. (6) $680. E. (9) $206.50.

A. John G. Fox, American Telephone and Telegraph Co., 3000 L Street NW., Washington, D.C. 20036.
B. American Telephone & Telegraph Co., 195 Broadway, New York, N.Y. 10007.
D. (6) $172.

A. Joe H. Foy, Houston Natural Gas Corp., P.O. Box 1188, Houston, Tex. 77001.
B. Houston Natural Gas Corp., P.O. Box 1188, Houston Tex. 77001.

A. Joseph L. Fraites, New York Coffee & Sugar Exchange Inc., 4 World Trade Center, New York, N.Y. 10048.
B. New York Coffee & Sugar Exchange, Inc., 4 World Trade Center, New York, N.Y. 10048.

A. William H. G. France, National Motorsports Committee of ACCUS, Suite 302, 1735 K. Street NW., Washington, D.C. 20006.

B. National Motorsports Committee of ACCUS, Suite 302, 1735 K Street NW., Washington, D.C. 20006.

A. Harley Frankel, 1520 New Hampshire Avenue NW., Washington, D.C. 20036.
B. Children's Defense Fund of the Washington Research Project, Inc.
D. (6) $3,118.38.

A. Walter L. Frankland, Jr., 1717 K Street NW., Washington, D.C. 20006.
B. Silver Users Association, 1717 K Street NW., Washington, D.C. 20006.
D. (6) $937.50. E. (9) $90.62.

A. Frank C. Frantz, 2917 Livingston Street NW., Washington, D.C. 20015.
B. Greater Southeast Community Hospital, 1310 Southern Avenue SE, Washington, D.C. 20032.
D. (6) $3,750. E. (9) $48.75.

A. Fraser Associates, Inc., 1800 K Street NW., Suite 1006, Washington, D.C. 20006.
B. Chamber of Commerce of the United States; National Association of Manufacturers; Associated General Contractors.
D. (6) $385. E. (9) $40.

A. Fraser Associates, 1800 K Street NW., Suite 1006, Washington, D.C. 20006.
B. Committee of Americans for the Canal Treaties, Inc., 1019 19th Street NW., Suite 1120, Washington, D.C. 20036.
D. (6) $300. E. (9) $63.50.

A. Harry L. Freeman, Sr., American Express Co., 1700 K Street NW., Washington, D.C. 20006.
B. American Express Co., American Express Plaza, New York, N.Y. 10004.

A. James O. Freeman, 1709 New York Avenue NW., Suite 801, Washington, D.C. 20006.
B. United States League of Savings Associations, 111 East Wacker Drive, Chicago, Ill.
D. (6) $2,300. E. (9) $62.50.

A. Paul A. Freeman, 2626 Pennsylvania Avenue NW., Washington, D.C. 20037.
B. National Telephone Cooperative Association, 2626 Pennsylvania Avenue NW., Washington, D.C. 20037.
D. (6) $850.

A. Pamela B. Freer, International Ladies' Garment Workrs' Union, 1710 Broadway, New York City, N.Y. 10019.
B. International Ladies' Garment Workers' Union, 1710 Broadway, New York City, N.Y. 10019.
D. (6) $3,750.11. E. (9) $189.30.

A. David T. French, American Bakers Association, Suite 850, 2020 K Street NW., Washington, D.C. 20006.
B. American Bakers Association, Suite 850, 2020 K Street NW., Washington, D.C. 20006.
D. (6) $63. E. (9) $3.25.

A. Verrick O. French, National Retail Merchants Association, 1000 Connecticut Avenue NW., No. 700, Washington, D.C. 20036.
B. National Retail Merchants Association, 100 West 31st Street, New York, N.Y. 10001.
D. (6) $650. E. (9) $30.

A. Annette P. Fribourg, 1776 F Street NW., Washington, D.C. 20006.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.

A. George L. Frick, Delaware Oil Men's Association, 20 East Division Street, Dover, Del. 19901.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.

A. Susan Pridy, 30 F Street NW., Washington, D.C. 20001.
B. National Milk Producers Federation, 30 F Street NW., Washington, D.C. 20001.
D. (6) $1,170.

A. Fried, Frank, Harris, Shriver & Kampelman, 600 New Hampshire Avenue NW., Washington, D.C. 20037.
B. Cheyenne River Sioux Tribe, Box 100, Eagle Butte, S. Dak. 57625.
E. (9) $22.95.

A. Fried, Frank, Harris, Shriver & Kampelman, 600 New Hampshire Avenue NW., Washington, D.C. 20037.
B. Metlakatla Indian Community, P.O. Box 8, Metlakatla, Alaska 99926.
D. (6) $899. E. (9) $19.10.

A. Fried, Frank, Harris, Shriver & Kampelman, 600 New Hampshire Avenue NW., Washington, D.C. 20037.
B. The Nez Perce Tribe, Lapwai, Idaho.
D. (6) $300. E. (9) $11.60.

A. Fried, Frank, Harris, Shriver & Kampelman, 600 New Hampshire Avenue NW., Washington, D.C. 20037.
B. The Oglala Sioux Tribe of the Pine Ridge Reservation, Pine Ridge, S. Dak. 57770.
E. (9) $04.40.

A. Fried, Frank, Harris, Shriver & Kampelman, 600 New Hampshire Avenue NW., Washington, D.C. 20037.
B. Pueblo of Laguna, Laguna, N. Mex.
D. (6) $1,180. E. (9) $32.98.

A. Fried, Frank, Harris, Shriver & Kampelman, 600 New Hampshire Avenue NW., Washington, D.C. 20037.
B. Rosebud Sioux Tribe, Rosebud, S. Dak.
D. (6) $856. E. (9) $2.10.

A. Fried, Frank, Harris, Shriver & Kampelman, Suite 1000, 600 New Hampshire Avenue NW., Washington, D.C. 20037.
B. Schenley Industries, Inc., 888 Seventh Avenue, New York, N.Y. 10019.

A. Fried, Frank, Harris, Shriver & Kampelman, 600 New Hampshire Avenue NW., Washington, D.C. 20037.
B. The Seneca Nation of Indians, Box 231, Salamanca, N.Y. 14779.
E. (9) $19.75.

A. Philip P. Friedlander, Jr., 1343 L Street NW., Washington, D.C. 20005.
B. National Tire Dealers & Retreaders Association, Inc., 1343 L Street NW., Washington, D.C. 20005.
D. (6) $1,000.

A. Gay H. Friedmann, 1150 Connecticut Avenue NW., Suite 717, Washington, D.C. 20036.
B. Southern California Gas Co., 720 West Eighth Street, M.L. 1208, Los Angeles, Calif. 90017.
D. (6) $2,187.50. E. (9) $268.77.

A. Owen V. Frisby, 900 17th Street NW., Washington, D.C. 20006.
B. The Chase Manhattan Bank, National Association, 1 Chase Manhattan Plaza, New York, N.Y. 10015.
D. (6) $819. E. (9) $3,503.48.

A. Charles H. Fritzel, National Association of Independent Insurers, 1625 I Street NW., Suite 1001, Washington, D.C. 20006.
B. National Association of Independent Insurers, 2600 River Road, Des Plaines, Ill. 60018.
D. (6) $1,500. E. (9) $200.

A. Cornelius F. Froeb, Cities Service Co., 1660 L Street NW., Suite 207, Washington, D.C. 20036.
B. Cities Service Co., 1660 L Street NW., Suite 207, Washington, D.C. 20036.
D. (6) $60.

A. E. Douglas Frost, American Bus Association, 1025 Connecticut Avenue NW., Suite 308, Washington, D.C. 20036.
B. American Bus Association, 1025 Connecticut Avenue NW., Suite 308, Washington, D.C. 20036.
D. (6) $1,232.05. E. (9) $1,232.05.

A. Gordon H. Fry, 3251 Old Lee Highway, Suite 501, Fairfax, Va. 22030.
B. National Limestone Institute, Inc., 3251 Old Lee Highway, Suite 501, Fairfax, Va. 22030.
E. (9) $12.11.

A. Rosann Fuhrman, Retail Store Employees Union, Local No. 400, 7801 Old Branch Avenue, Clinton, Md. 20735.
B. Retail Store Employees Union, Local No. 400, 7801 Old Branch Avenue, Clinton, Md. 20735.
D. (6) $5,200. E. (9) $1,126.79.

A. Full Employment Action Council, 815 15th Street NW., Washington, D.C. 20005.
D. (6) $19,000. E. (9) $35,594.60.

A. David C. Fullarton, 2626 Pennsylvania Avenue NW., Washington, D.C. 20037.
B. National Telephone Cooperative Association, 2626 Pennsylvania Avenue NW., Washington, D.C. 20037.
D. (6) $625.

A. Ronald K. Fuller, 1150 Connecticut Avenue NW., Suite 517, Washington, D.C. 20036.
B. San Diego Gas & Electric Co., 101 Ash Street, San Diego, Calif. 92112.
D. (6) $4,800. E. (9) $357.

A. G-4 Children's Coalition, 7309 Delfield Street, Chevy Chase, Md. 20015.
D. (6) $1,100.

A. Terry Gabrielson, 490 L'Enfant Plaza, No. 3202, Washington, D.C. 20024.
B. Transcontinental Gas Pipe Line Corp., 2700 South Post Oak Road, Houston, Tex. 77001.
D. (6) $450.

A. James E. Gaffigan, American Hotel and Motel Association, 777 14th Street NW., Washington, D.C. 20005.
B. American Hotel and Motel Association, 888 Seventh Avenue, New York, N.Y. 10019.
D. (6) $735. E. (9) $246.26.

A. Mark J. Gallagher, National Committee for a Human Life Amendment, Inc., 1707 L Street NW., Washington, D.C. 20036.
B. National Committee for a Human Life Amendment, Inc., 1707 L Street NW., Washington, D.C. 20036.
D. $8,052.17. E. (9) $234.35.

A. Robert M. Gants, National Constructors Association, 1101 15th Street NW., Washington, D.C. 20005.
B. National Constructors Association, 1101 15th Street NW., Suite 100, Washington, D.C. 20005.
D. (6) $3,000. E. (9) $1,388.55.

A. M. D. Garber, Jr., Phillips Petroleum Co., 2101 L Street NW., Sixth Floor, Washington, D.C. 20037.
B. Phillips Petroleum Co., Bartlesville, Okla. 74004.

A. Terry D. Garcia, Committee for Ratification of the Panama Canal Treaties, Inc., 2021 L Street NW., No. 405, Washington, D.C. 20036.
B. Committee for Ratification of the Panama Canal Treaties, Inc., 2021 L Street NW., Suite 405, Washington, D.C. 20036.

A. Terry D. Garcia, New Directions, 2021 L Street, NW., No. 405, Washintgon, D.C. 20036.
B. New Directions, 2021 L Street NW., No. 405, Washington, D.C. 20036.
D. (6) $3,749.38.

A. Gardner, Carton & Douglas, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
B. Elmer W. Kneip, 911 West Fulton Street, Chicago, Ill. 60607.
D. (6) $525. E. (9) $0.60.

A. Gardner, Carton & Douglas, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
B. Sealed Power Corp., 2001 Sanford Street, Muskegon, Mich. 49443.
D. (6) $187.50. E. (9) $2.95.

A. John W. Gardner, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $4,000.02. E. (9) $189.99.

A. Wendell P. Gardner, Jr., 1211 Connecticut Avenue NW., No. 802, Washington, D.C. 20036.
B. Sears, Roebuck and Co., Sears Tower, Chicago, Ill. 60684.
D. (6) $500. E. (9) $37.45.

A. James J. Garry, New York Coffee and Sugar Exchange, Inc., Four World Trade Center, New York, N.Y. 10048.
B. New York Coffee and Sugar Exchange, Inc., Four World Trade Center, New York, N.Y. 10048.
E. (9) $227.70.

A. Eleanor Garst, 4840 MacArthur Boulevard NW., Washington, D.C. 20007.
B. National Council for a World Peace Tax Fund, 2111 Florida Avenue NW., Washington, D.C. 20008.
D. (6) $217.64.

A. Gas Appliance Manufacturers Association, Inc., 1901 North Fort Myer Drive, Arlington, Va. 22209.
E. (9) $75.

A. Lillian B. Gaskin, American Bar Association, 1800 M Street NW., Washington, D.C. 20036.
B. American Bar Association, 1155 East 60th Street, Chicago, Ill. 60637.
D. (6) $600. E. (9) $100.

A. Philip Gasteyer, United States League of Savings Association, 1709 New York Avenue NW., Suite 801, Washington, D.C. 20006.
B. United States League of Savings Associations, 111 East Wacker Drive, Chicago, Ill.
D. (6) $4,000.

A. Margaret L. Gehres, Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C. 20062.
B. Chamber of Commerce of the United States, 1615 H Street N.W., Washington, D.C. 20062.
E. (9) $129.59.

A. Morton A. Geller, The First National Bank of Boston, 100 Federal Street, Boston, Mass. 02110.
B. The First National Bank of Boston, 100 Federal Street, Boston, Mass. 02110.
D. (6) $3,612. E. (9) $1,627.70.

A. General Aviation Manufacturers Association, 1025 Connecticut Avenue NW., Suite 517, Washington, D.C. 20036.
E. (9) $2,593.75

A. Joseph G. Gerard, Ford Motor Co., 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Ford Motor Co., Dearborn, Mich.
D. (6) $750. E. (9) $874.

A. Donald H. Gerrish, Suite 850, 2020 K Street NW., Washington, D.C. 20006.
B. American Bakers Association, Suite 850, 2020 K Street NW., Washington, D.C. 20006.
D. (6) $103.75. E. (9) $7.15.

A. Getty Oil Co., 3810 Wilshire Boulevard, Los Angeles, Calif. 90010.
E. (9) $27,108.69.

A. William T. Gibb III, American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.
B. American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.
D. (6) $470. E. (9) $200.

A. Wayne Gibbens, Mid-Continent Oil & Association, 1800 K Street NW., Washington, D.C. 20006.
B. Mid-Continent Oil & Gas Association, 1111 Thompson Building, Tulsa, Okla. 74103.
D. (6) $1,600. E. (9) $100.

A. Anne Marie Gibbons, American Public Power Association, 2600 Virginia Avenue NW., Suite 212, Washington, D.C. 20037.
B. American Public Power Association, 2600 Virginia Avenue NW., Suite 212, Washington, D.C. 20037.
D. (6) $400.

A. William L. Gifford, General Electric Co., 777 14th Street NW., Washington, D.C. 20005.
B General Electric Co., Fairfield, Conn. 06431.

A. John E. Giles, 1600 I Street NW., Washington, D.C. 20006.
B. Motion Picture Association of America, Inc., 1600 I Street NW., Washington, D.C. 20006.

A. Mark W. Gillaspie, Houston Natural Gas Corp., P.O. Box 1188, Houston, Tex. 77001.
B. Houston Natural Gas Corp., P.O. Box 1188, Houston, Tex. 77001.

A. James T. Gillice, Alliance of American Insurers, 1776 F Street NW., Washington, D.C. 20006.
B. Alliance of American Insurers, 20 North Wacker Drive, Chicago, Ill., 60606.
D. (6) $1,425. E. (9) $230.

A. Michael J. Giuffrida, 1469 Quail Hollow Road, Harrisburg, Pa. 17112.
B. National Frozen Food Association, Inc., 1 Chocolate Avenue, P.O. Box 398, Hershey, Pa. 17033.
D. (6) $175.50. E. (9) $340.22.

A. Dave Givens, Tennessee Railroad Association, 916 Nashville Trust Building, Nashville, Tenn. 37201.
B. Class I Railroads in Tennessee.

A. Vernie R. Glasson, American Farm Bureau Federation, 425 13th Street NW., Washington, D.C. 20004.
B. American Farm Bureau Federation, 225 Touhy Avenue, Park Ridge, Ill.
D. (6) $3,875. E. (9) $93.45.

A. George L. Gleason, American Nuclear Energy Council, 1750 K Street NW., Suite 300, Washington, D.C.
B. American Nuclear Energy Council, 1750 K Street NW., Suite 300, Washington, D.C.
D. (6) $1,000. E. (9) $76.45.

A. John F. Gleason, Brick Institute of America, 1750 Old Meadow Road, McLean, Va. 22102.
B. Brick Institute of America, 1750 Old Meadow Road, McLean, Va. 22102.
D. (6) $1,793. E. (9) $1,793.

A. Elmer G. Gleske, 1629 K Street NW., Suite 400, Washington, D.C. 20006.
B. Flight Safety International, Inc., Marine Air Terminal, LaGuardia Airport, Flushing, N.Y. 11371.
D. (6) $769. E. (9) $73.02.

A. George T. Glover, National Association of Electric Cos., 1140 Connecticut Avenue NW., Washington, D.C. 20036.
B. National Association of Electric Cos., 1140 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $115. E. (9) $23.

A. Godfrey Associates, Inc., 918 16th Street NW., S-500, Washington, D.C. 20006.
E. (9) $602.30.

A. Godfrey Associates, Inc., 918 16th Street NW., S-500, Washington, D.C. 20006.
B. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
E. (9) $311.99.

A. Horace D. Godfrey, 918 16th Street, NW., S-500, Washington, D.C. 20006.
B. Godfrey Associates, Inc., 918 16th Street, NW., S-500, Washington, D.C. 20006.
D. (6) $3,000. E. (9) $914.29.

A. Patrick L. Godfrey, National Association of Manufacturers, 601 North Vermont Avenue, Los Angeles, Calif. 90004.
B. National Association of Manufacturers, 1776 F Street, NW., Washington, D.C. 20006.
D. (6) $1,400.

A. Harvey S. Gold, Velsicol Chemical Corp., 910 17th Street NW., Suite 1000, Washington, D.C. 20006.
B. Velsicol Chemical Corp., 341 East Ohio Street, Chicago, Ill., 60611.

A. Howard S. Goldberg, DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036.
B. DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036 (for Aerospatiale, 37 Boulevard de Montmorency, 75016 Paris, France).

A. Howard S. Goldberg, DGA International Inc., 1225 19th Street, NW., Washington, D.C. 20036.
B. DGA, International Inc., 1225 19th Street NW., Washington, D.C. 20036 (for Airbus Industrie, Avenue Lucien Servanty, 31700 Blagnac, France.
D. (6) $27.18. E. (9) $15.

A. Carl Goldfield, American Public Power Association, 2600 Virginia Avenue, NW., Suite 212, Washington, D.C. 20037.
B. American Public Power Association, 2600 Virginia Avenue, NW., Washington, D.C. 20037.
D. (6) $1,500. E. (9) $12.

A. William M. Goldstein, Morgan, Lewis & Bockius, 1800 M Street NW., Suite 700 North, Washington, D.C. 20036.
B. Committee for Capital Formation Through Dividend Reinvestment, 1800 M Street NW., Suite 700 North, Washington, D.C. 20036.
D. (6) $200.

A. Ruth Gonse, American Public Power Association, 2600 Virginia Avenue, NW., Washington, D.C. 20037.
B. American Public Power Association, 2600 Virginia Avenue NW., Washington, D.C. 20037.
D. (6) $600.

A. Don A. Goodall, 1625 I Street, NW., Suite 401, Washington, D.C. 20006.
B. American Cyanamid Co., Wayne, N.J. 07470.
D. (6) $90. E. (9) $12.

A. Charles E. Goodell, DGA International, Inc., 1225 19th Street, NW., Washington, D.C. 20036.
B. DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036 (for Aerospatiale, 37 Boulevard de Montmorency, 75016 Paris, France).

A. Charles E. Goodell, DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036.
B. DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036 (for Krauss-Maffei AG, Krauss-Maffei-Strasse 2, 8000 Munich, FRG).

A. Vance V. Goodfellow, 307 Fourth Avenue South, P.O. Box 15047, Minneapolis, Minn. 55415.
B. Crop Quality Council, 307 Fourth Avenue South, P.O. Box 15047, Minneapolis, Minn. 55415.
D. (6) $8,081.25.

A. Vivian Goodier, National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
B. National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
D. (6) $425. E. (9) $216.

A. Bruce G. Goodman, Damon Corp., 115 Fourth Avenue, Needham Heights, Mass. 02194.
B. Damon Corp., 115 Fourth Avenue, Needham Heights, Mass. 02194.

A. Robert F. Goodwin, Meredith Corp., 1850 K Street NW., Suite 275, Washington, D.C. 20006.
B. Meredith Corp., 1850 K Street NW., Suite 275, Washington, D.C. 20006.
E. (9) $72.40.

A. Sara Ann Gordon, 1155 15th Street NW., No. 713, Washington, D.C. 20005.
B. American Consulting Engineers Council, 1155 15th Street NW., No. 713, Washington, D.C. 20005.
D. (6) $1,000. E. (9) $75.

A. Frederick D. Goss, 2626 Pennsylvania Avenue NW., Washington, D.C. 20037.
B. National Telephone Cooperative Association, 2626 Pennsylvania Avenue NW., Washington, D.C. 20037.
D. (6) $950.

A. Gould, Reichert & Strauss, 2613 Carew Tower, Cincinnati, Ohio 45202.
B. Francis J. Rorke, Box 1336, Cristobal, CZ, et al.
E. (9) $328.17.

A. Carl F. Graham, Amway Corp., 7575 East Fulton Road, Ada, Mich. 49355.
B. Amway Corp., 7575 East Fulton Road, Ada, Mich. 49355.

A. Lawrence T. Graham, American Hotel and Motel Association, 777 14th Street NW., Washington, D.C. 20005.
B. American Hotel and Motel Association, 888 Seventh Avenue, New York, N.Y. 10019.
D. (6) $735. E. (9) $93.13.

A. Allan Grant, American Farm Bureau Federation, 225 Touhy Avenue, Park Ridge, Ill. 60068.
B. American Farm Bureau Federation, 225 Touhy Avenue, Park Ridge, Ill., 60068.
D. (6) $1,500.

A. Wm. W. Grant, Utah International, Inc., 1150 Connecticut Avenue NW., Suite 710, Washington, D.C. 20036.
B. Utah International, Inc., 550 California Street, San Francisco, Calif. 94104.
E. (9) $1,208.97.

A. James A. Gray, 7901 Westpark Drive, McLean, Va. 22102.
B. National Machine Tool Builders' Association, 7901 Westpark Drive, McLean, 22102.
D. (6) $1,131. E. (9) $25.

A. Martha W. Gray, Independent Petroleum Association of America, 1101 16th Street NW., Washington, D.C. 20036.
B. Independent Petroleum Association of America, 1101 16th Street NW., Washington, D.C. 20036.
E. (9) $10.15.

A. Robert Keith Gray, 1425 K Street NW., Washington, D.C. 20005.
B. Hill and Knowlton, Inc., 633 Third Avenue, New York, N.Y. 10017.

A. Samuel A. Grayson, Union Pacific Railroad, 611 Idaho Building, 216 North Eighth Street, Boise, Idaho 83702.
B. Union Pacific Railroad, 1416 Dodge Street, Omaha, Nebr. 68179.

A. The Great Atlantic & Pacific Tea Co., Inc., 2 Paragon Drive, Montvale, N.J. 07645.
E. (9) $2,900.

A. Great Western Sugar Co., P.O. Box 5308, Denver, Colo. 80217.
E. (9) $30,101.57.

A. Donald E. Greeley, 1101 17th Street NW., Suite 503, Washington, D.C. 20036.
B. Celanese Corp., 1211 Avenue of the Americas, New York, N.Y. 10036.
D. (6) $625. E. (9) $163.58.

A. Edward M. Green, American Mining Congress, 1100 Ring Building, Washington, D.C.
B. American Mining Congress, 1100 Ring Building, Washington, D.C.

A. Mark Green, 133 C Street SE., Washington, D.C. 20003.
B. Congress Watch, 133 C Street SE., Washington, D.C. 20003.
D. (6) $4,250.

A. Howard Greenberg, 7426 Arrowood Road, Bethesda, Md. 20034.
B. Public Timber Purchasers Group, 1214 Oregon Bank Building, Portland, Oreg. 97204.
D. (6) $4,500.

A. Margit S. Greenspon, 2626 Pennsylvania Avenue NW., Washington, D.C. 20037.
B. National Telephone Cooperative Association, 2626 Pennsylvania Avenue NW., Washington, D.C. 20037.
D. (6) $1,250.

A. Dale W. Greenwood, Washington Railroad Association, 302 Hoge Building, Seattle, Wash. 98104.
B. Washington Railroad Association, 302 Hoge Building, Seattle, Wash. 98104.

A. Saunders Gregg, Entex, Inc., P.O. Box 2628, Houston, Tex. 77001.
D. (6) $3,500. E. (9) $2,335.

A. William G. Greif, 1155 15th Street NW., Washington, D.C. 20005.
B. Bristol-Myers Co., 345 Park Avenue, New York, N.Y. 10022.
D. (6) $9,000. E. (9) $55.23.

A. Lori Gribbin, 1025 Connecticut Avenue NW., No. 202, Washington, D.C. 20036.

B. Rohm and Haas Co., Independence Mall West, Philadelphia, Pa. 19105.
D. (6) $500. E. (9) $100.

A. Roger F. Griffin, 1620 I Street NW., Suite 703, Washington, D.C. 20006.
B. Bechtel Corp., 1620 I Street NW., Suite 703, Washington, D.C. 20006.

A. Robert J. Grimm, 9 West 57th Street, New York, N.Y., 10019.
B. Avon Products, Inc., 9 West 57th Street, New York, N.Y. 10019.
D. (6) $100. E. (9) $137.

A. Grocery Manufacturers of America, Inc., 1010 Wisconsin Avenue NW., Suite 800, Washington, D.C. 20007.

A. Frank N. Grossman, Santa Fe Industries, Inc., Suite 840, 1100 Connecticut Avenue, NW., Washington, D.C. 20036.
B. Santa Fe Industries, Inc., 224 South Michigan Avenue, Chicago, Ill. 60604.
D. (6) $1,500. E. (9) $300.

A. James J. Gudinas, American Automobile Association, 8111 Gatehouse Road, Falls Church, Va. 22042.
B. American Automobile Association, 8111 Gatehouse Road, Falls Church, Va. 22042.

A. Kenneth J. Guido, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $800.01.

A. Gun Owners of America, Inc., 455 Capitol Mall, Suite 315, Sacramento, Calif. 95814.
D. (6) $17,766.50. E. (9) $46,881.77.

A. Thomas M. Gunn, P.O. Box 516, St. Louis, Mo. 63166.
B. McDonnell Douglas Corp., P.O. Box 516, St. Louis, Mo. 63166.
D. (6) $200. E. (9) $110.

A. Marjorie Guthrie, 250 West 57th Street, New York, N.Y. 10019.

A. C. James Hackett, American Plywood Association, 1119 A Street, Tacoma, Wash. 98401.
B. American Plywood Association, 1119 A Street, Tacoma, Wash. 98401.

A. Craig Hackler, RR 1, Box 177-5, Kearneysville, W. Va. 25430.
B. Independent Consultants, Inc., 1120 Connecticut Avenue NW., No. 1128, Washington, D.C. 20036.
D. (6) $500.

A. Loyd Hackler, American Retail Federation, 1616 H Street NW., Washington, D.C. 20006.
B. American Retail Federation, 1616 H Street NW., Washington, D.C. 20006.
D. (6) $2,000. E. (9) $295.

A. Paul R. Haerle, Thelen, Marrin, Johnson & Bridges, Two Embarcadero Center, Room 2200, San Francisco, Calif. 94111.
B. Energy Transportation Systems, Inc., P.O. Box 3966, San Francisco, Calif. 94119.
E. (9) $1,097.73.

A. Charles T. Hagel, Firestone Tire & Rubber Co., 1730 K Street NW., Washington, D.C. 20006.
B. Firestone Tire & Rubber Co., 1200 Firestone Parkway, Akron, Ohio 44317.
D. (6) $3,750. E. (9) $360.

A. Peter H. Hahn, 918 16th Street NW., No. 501, Washington, D.C. 20006.
B. Chromalloy American Corp., 120 South Central Avenue, St. Louis, Mo. 63105.
D. (6) $1,000. E. (9) $275.

A. Thomas F. Hairston, 461 South Boylston Street, Los Angeles, Calif. 90017.
B. Union Oil Co. of California, 461 South Boylston Street, Los Angeles, Calif. 90017.
E. (9) $193.07.

A. Hall, Estill, Hardwick, Gable, Collingsworth & Nelson, 1701 Pennsylvania Avenue NW., Suite 404, Washington, D.C. 20006.
B. The Williams Companies, 1 Williams Center, Tulsa, Okla. 74101.

A. Joseph Halow, North American Export Grain Association, Inc., 1800 M Street NW., Washington, D.C. 20036.
B. North American Export Grain Association, Inc., 1800 M Street NW., Washington, D.C. 20036.
D. (6) $17,125.

A. Jerald V. Halvorsen, Allied-General Nuclear Services, 2120 L Street NW., Suite 245, Washington, D.C. 20037.
B. Allied-General Nuclear Services, P.O. Box 847, Barnwell, S.C. 29812.

A. Hamel, Park, McCabe & Saunders, 1776 F Street NW., Washington, D.C. 20006.
B. Belize Sugar Industries, Ltd., Belize City, Belize.
E. (9) $582.79.

A. Hamel, Park, McCabe & Saunders, 1776 F Street NW., Suite 400, Washington, D.C. 20006.
B. Central Bank for Cooperatives and associated district banks, P.O. Box 17389, Denver, Colo. 80217.

A. Hamel, Park, McCabe & Saunders, 1776 F Street NW., Washington, D.C. 20006.
B. Government of Republic of Panama, Compania Azucarera La Estrella, S.A., and Azucarera Nacional, S.A., Panama City, Panama.
E. (9) $549.59.

A. Hamel, Park, McCabe & Saunders, 1776 F Street NW., Washington, D.C. 20006.
B. National Wool Growers Association, 600 Crandall Building, Salt Lake City, Utah 84101.
E. (9) $190.01.

A. Hamel, Park, McCabe & Saunder, 1776 F Street NW., Washington, D.C. 20006.
B. Sociedad Agircola e Industrial San Carlos, S.A., Compania Azucarera Valdez, S.A., Azucarera Tropical Americana, S.A., Tababuela Industrial Azucarera, S.A., Ecuador.

A. Hamel, Park, McCabe & Saunders, 1776 F Street NW., Washington, D.C. 20006.
B. Sugar Association of the Caribbean, Port of Spain, Trinidad.
D. (6) $8,807.84. E. (9) $44.05.

A. Hamel, Park, McCabe & Saunders, 1776 F Street NW., Washington, D.C. 20006.
B. United Student Aid Funds, Inc., 200 East 42 Street, New York, N.Y. 10017.

A. Philip W. Hamilton, 1901 L Street NW., Washington, D.C. 20036.
B. Wilson E. Hamilton & Associates, Inc., 1901 L Street NW., Washington, D.C. 20036 (for the National Labor-Management Foundation, Louisville, Ky.).
E. (9) $134.95.

A. Thomas A. Hammer, American Farm Bureau Federation, 425 13th Street NW., Washington, D.C. 20004.
B. American Farm Bureau Federation, 225 Touhy Avenue, Park Ridge, Ill.
D. (6) $3,750. E. (9) $72.44.

A. Patricia L. Hanahan, 1155 15th Street NW., Washington, D.C. 20005.

B. Bristol-Myers Co., 345 Park Avenue, New York, N.Y. 10022.
D. (6) $470.

A. Christopher G. Hankin, 3251 Old Lee Highway, Suite 501, Fairfax, Va. 22030.
B. National Limestone Institute, Inc., 3251 Old Lee Highway, Suite 501, Fairfax, Va. 22030.
E. (9) $28.45.

A. George J. Hanks, Jr., Union Carbide Corp., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Union Carbide Corp., 270 Park Avenue, New York, N.Y. 10017.
E. (9) $31.35.

A. Erling Hansen, Group Health Association of America, Inc., 1717 Massachusetts Avenue NW., No. 701, Washington, D.C. 20036.
B. Group Health Association of America, Inc., 1717 Massachusetts Avenue NW., No. 701, Washington, D.C. 20036.
D. (6) $2,899.52.

A. Peter J. Hapworth, 1850 K Street NW., Suite 850, Washington, D.C. 20006.
B. National Restaurant Association, 1850 K Street NW., Washington, D.C. 20006; 1 IBM Plaza, Suite 2600, Chicago, Ill. 60611.
D. (6) $625. E. (9) $53.95.

A. Chester L. Harding, Jr., 2 Militia Drive, Lexington, Mass. 02173.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $225.

A. William E. Hardman, 9300 Livingston Road, Washington, D.C. 20022.
B. National Tool, Die & Precision Machining Association, 9300 Livingston Road, Washington, D.C. 20022.

A. Eugene J. Hardy, 1776 F Street NW., Washington, D.C. 20006.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $2,500. E. (9) $12.30.

A. Andrew E. Hare, 8316 Arlington Boulevard, Suite 600, Fairfax, Va. 22038.
B. National Right to Work Committee, 8316 Arlington Boulevard, Suite 600, Fairfax, Va. 22038.
D. (6) $700. E. (9) $484.

A. Bryce N. Harlow, 1801 K Street NW., Washington, D.C. 20006.
B. The Procter & Gamble Manufacturing Co., 301 East Sixth Street, Cincinnati, Ohio 45202.
D. (6) $75.

A. Donald L. Harlow, Air Force Sergeants Association, Inc., 310 Riley Street, Falls Church, Va. 22046.
B. Air Force Sergeants Association, 4235 28th Avenue, Marlow Heights, Md. 20031.

A. William B. Harman, Jr., American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.
B. American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.
D. (6) $60. E. (9) $9.

A. C. Wayne Harmon, 1025 Connecticut Avenue NW., Suite 700, Washington, D.C. 20036.
B. Gulf Oil Corp., P.O. Box 1166, Pittsburgh, Pa. 15230.
D. (6) $550. E. (9) $275.

A. Saul J. Harris, 1140 Connecticut Avenue NW., Washington, D.C. 20036.

B. National Association of Electric Cos., 1140 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $380. E. (9) $4.

A. Jim Harrison, Committee of Urban Program Universities, Suite 802, 11 Dupont Circle, Washington, D.C.
B. Committee of Urban Program Universities, Suite 802, 11 Dupont Circle, Washington, D.C.
D. (6) $5,000. E. (9) $218.

A. William C. Hart, 1625 I Street NW., Washington, D.C. 20006.
B. Columbia Gas System Service Corp., 20 Montchanin Road, Wilmington, Del. 19807.
D. (6) $325.50. E. (9) $165.50.

A. Hartford Fire Insurance Co., Hartford Plaza, Hartford, Conn. 06115.
E. (9) $7,100.

A. Wayne Hartke, Cliffside Corp., Watergate 600, Suite 700, Washington, D.C. 20037.
B. Cliffside Corp., Watergate 600, Suite 700, Washington, D.C. 20037.
E. (9) $155.

A. David A. Hartquist, Collier, Shannon, Rill, Edwards & Scott, 1055 Thomas Jefferson Street NW., Washington, D.C. 20007.
B. United States Fastener Manufacturing Group, 1505 East Ohio Building, 1717 East 9th Street, Cleveland, Ohio 44114.
E. (9) $2,100.

A. Mary W. Haught, Sun Co., Inc., 1800 K Street NW., Suite 820, Washington, D.C. 20006.
B. Sun Co., Inc., 100 Matsonford Road, Radnor, Pa. 19087.
D. (6) $2,000. E. (9) $275.

A. Charles W. Havens III, Reinsurance Association of America, 1025 Connecticut Avenue NW., Washington, D.C. 20036.
B. Reinsurance Association of America, 1025 Connecticut Avenue NW., No. 512, Washington, D.C. 20036.
E. (9) $25.

A. Sidney G. Hawkes, The Mead Corp., 1000 Connecticut Avenue NW., Washington, D.C. 20036.
B. The Mead Corp., Mead World Headquarters, Courthouse Plaza NE., Dayton, Ohio 45463.
D. (6) $1,250.

A. John H. Hawkins, Jr., Alabama Power Co., 600 North 18th Street, Birmingham, Ala. 35291.
B. Alabama Power Co., 600 North 18th Street, Birmingham, Ala. 35291.
D. (6) $8,814. E. (9) $8,060.81.

A. Paul M. Hawkins, 1750 K Street NW., Washington, D.C.
B. Health Insurance Association of America, Inc., 1750 K Street NW., Washington, D.C.; 919 Third Avenue, New York, N.Y.; 332 South Michigan Avenue, Chicago, Ill.
D. (6) $217.75. E. (9) $11.95.

A. Bruce R. Hawley, American Farm Bureau Federation, 425 13th Street, Washington, D.C.
B. American Farm Bureau Federation, 225 Touhy Avenue, Park Ridge, Ill.
D. (6) $3,500. E. (9) $77.

A. Health Insurance Association of America, Inc., 1750 K Street NW., Washington, D.C.
D. (6) $13,811.20. E. (9) $13,811.20.

A. Patrick B. Healy, National Milk Producers Federation, 30 F Street NW., Washington, D.C. 20001.

B. National Milk Producers Federation, 30 F Street NW., Washington, D.C. 20001.
D. (6) $487.50.

A. Heavy & Specialized Carriers Conference, 1155 16th Street NW., Washington, D.C. 20036.
E. (9) $250.

A. William H. Hecht, 1776 K Street NW., No. 1200, Washington, D.C. 20006.
B. The Tobacco Institute, 1776 K Street NW., No. 1200, Washington, D.C. 20006.
D. (6) $1,620. E. (9) $650.

A. Robert E. Heggestad, 5151 North 14th Street, Arlington, Va. 22202.
B. Manufactured Housing Institute, 1745 Jefferson Davis Highway, Arlington, Va. 22202.

A. John F. Heilman, Disabled American Veterans, 807 Maine Avenue SW., Washington, D.C. 20024.
B. Disabled American Veterans, 3725 Alexandria Pike, Cold Spring, Ky. 41076.
D. (6) $8,554. E. (9) $50.

A. Spencer H. Heine, Montgomery Ward & Co., Inc., 1100 Connecticut Avenue NW., No. 530, Washington, D.C. 20036.
B. Montgomery Ward & Co., Inc., 535 West Chicago Avenue, Chicago, Ill. 60671.
D. (6) $181. E. (9) $150.

A. Daniel R. Heimick, 1625 I Street NW., Room 301, Washington, D.C. 20006.
B. Columbia Gas Distribution Cos., 99 North Front Street, Columbus, Ohio 43215.
D. (6) $7,125. E. (9) $2,462.02.

A. Phil D. Heimig, 410 East College Street, Roswell, N. Mex. 88201.
B. Atlantic Richfield Co., 515 South Flower Street, Los Angeles, Calif. 90071.

A. Douglas F. Henderson, Rocky Mountain Oil & Gas Association, 345 Petroleum Club Building, Denver, Colo. 80202.
B. Rocky Mountain Oil & Gas Association, 345 Petroleum Club Building, Denver, Colo. 80202.
D. (6) $50. E. (9) $827.94.

A. Richard Dean Henderson, Private Truck Council of America, Inc., 1101 17th Street NW., Washington, D.C. 20036.
B. Private Truck Council of America, Inc., 1101 17th Street NW., No. 1008, Washington, D.C. 20036.

A. Henkel & Lamon, 229 Peachtree Street NE., Suite 2500, Atlanta, Ga. 30303.
B. The National Association of Pension Consultants & Administrators, Inc., 151 Ellis Street NE., Atlanta, Ga. 30303.
D. (6) $6,246.50.

A. Edmund P. Hennelly, 150 East 42d Street, New York, N.Y. 10017.
B. Mobil Oil Corp., 150 East 42d Street, New York, N.Y. 10017.
D. (6) $1,500. E. (9) $353.10.

A. Thomas M. Hennessy, 1701 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Getty Oil Co., 3810 Wilshire Boulevard, Los Angeles, Calif. 90010.
D. (6) $14,654.50. E. (9) $1,854.41.

A. George F. Henrikus, Jr., 1625 I Street NW., Washington, D.C.
B. The Retired Officers Association, 1625 I Street NW., Washington, D.C. 20006.
D. (6) $3,578.

A. Donald A. Henriksen, 515 South Flower Street, Los Angeles, Calif. 90071.
B. Altantic Richfield Co., 515 South Flower Street, Los Angeles, Calif. 90071.

A. Hercules Inc., 910 Market Street, Wilmington, Del. 19899.
E. (9) $6,612.

A. Jack E. Herington, 1801 K Street NW., Suite 1201, Washington, D.C. 20006.
B. United States Independent Telephone Association, 1801 K Street NW., Suite 1201, Washington, D.C. 20006.
D. (6) $500.

A. Carolyn A. Herr, 2000 Florida Avenue NW., Washington, D.C. 20009.
B. National Rural Electric Cooperative Association, 2000 Florida Avenue NW., Washington, D.C. 20009.
D. (6) $100.

A. Herrick, Allen & Davis, 1701 K Street NW., Suite 706, Washington, D.C. 20006.
B. Amusement & Music Operators Association, 35 East Wacker Drive, Suite 1940, Chicago, Ill. 60601.
D. (6) $416.74. E. (9) $97.64.

A. Esther Herst, 510 C Street NE., Washington, D.C. 20002.
B. National Committee Against Repressive Legislation, 1250 Wilshire Boulevard, Los Angeles, Calif. 90017.
D. (6) $2,730. E. (9) $2,612.48.

A. Elena Hess, 3705 Porter Street NW., Washington, D.C. 20016.
B. Self-Determination for District of Columbia, Room 300, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $5,000. E. (9) $61.44.

A. Ted A. Heydinger, Chamber of Commerce of the United States, 1615 H Street NW, Washington, D.C. 20062.
B. Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C. 20062.
E. (9) $171.80.

A. Andrew I. Hickey, Jr., Federal National Mortgage Association, 1133 15th Street NW., Washington, D.C. 20005.
B. Federal National Mortgage Association, 1133 15th Street NW., Washington, D.C. 20005.
D. (6) $13,575. E. (9) $888.01.

A. Frederic W. Hickman, 1 First National Plaza, No. 5200, Chicago, Ill. 60603.
B. First Chicago Corp., 1 First National Plaza, Chicago, Ill. 60670.

A. Frederic W. Hickman, 1 First National Plaza, No. 5300, Chicago, Ill. 60603.
B. Northwest Industries, Inc., 6300 Sears Tower, Chicago, Ill. 60606.

A. Frederic W. Hickman, 1 First National Plaza, No. 5200, Chicago, Ill. 60603.
B. Peoples Gas Co., 122 South Michigan Avenue, Chicago, Ill. 60603.
D. (6) $2,370.

A. Frederic W. Hickman, 1 First National Plaza, No. 5200, Chicago, Ill. 60603.
B. Trans Union Corp., 90 Half Day Road, Lincolnshire, Ill. 60015.
D. (6) $130.

A. Paul T. Hicks, c/o Rhode Island Petroleum Association, 154 Francis Street, Providence, R.I. 02908.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $100. E. (9) $55.

A. J. Thomas Higginbotham, Mellon Bank, N.A., Pittsburgh, Pa. 15230.
B. Mellon Bank, N.A. and Mellon National Corp., Mellon Square, Pittsburgh, Pa. 15230.
D. (6) $2,000. E. (9) $1,618.18.

A. Dave Hill, American Farm Bureau Federation, 425 13th Street NW., Washington, D.C. 20004.
B. American Farm Bureau Federation, 225 Touhy Avenue, Park Ridge, Ill.
D. (6) $1,401. E. (9) $14.70.

A. Gerald "Jerry" Hill, 6 Executive Park Drive, Atlanta, Ga. 30329.
B. Standard Oil Co. (Indiana), 200 East Randolph Drive, Chicago, Ill. 60601.
D. (6) $241.52. E. (9) $247.52.

A. J. Eldred Hill, Jr., UBA, Inc., 1800 M Street NW., Suite 460 South, Washington, D.C. 20036.
B. UBA, Inc., 1800 M Street NW., Suite 460 South, Washington, D.C. 20036.
D. (6) $2,000. E. (9) $2,000.

A. E. Joseph Hillings, National Airlines, Inc., 1025 Connecticut Avenue NW., Washington, D.C. 20036.
B. National Airlines, Inc., P.O. Box 592055 AMF, Miami, Fla. 33159.
D. (6) $1,100. E. (9) $50.

A. Kathryn Hilton, National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
B. National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
D. (6) $1,687. E. (9) $21.

A. Joe Hinson, National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C.
B. National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
D. (6) $3,750. E. (9) $75.

A. Bertram E. Hirsch, 76–17 250 Street, Bellerose, N.Y. 11426.
B. Fallon Paiute and Shoshone Tribes, Fallon, Nev.
E. (9) $166.

A. Janet L. Hirshberg, 2626 Pennsylvania Avenue NW., Washington, D.C. 20037.
B. National Telephone Cooperative Association, 2626 Pennsylvania Avenue NW., Washington, D.C. 20037.
D. (6) $650.

A. Robert Hitzhusen, American Farm Bureau Federation, 425 13th Street NW., Washington, D.C. 20004.
B. American Farm Bureau Federation, 225 Touhy Avenue, Park Ridge, Ill.
D. (6) $3,186. E. (9) $42.75.

A. Lawrence S. Hobart, American Public Power Association, 2600 Virginia Avenue NW., Washington, D.C. 20037.
B. American Public Power Association, 2600 Virginia Avenue NW., Washington, D.C.
D. (6) $1,200.

A. Claude E. Hobbs, Westinghouse Electric Corp., 1801 K Street NW., Washington, D.C. 20006.
B. Westinghouse Electric Corp., Westinghouse Building, Gateway Center, Pittsburgh, Pa. 15222.
D. (6) $1,100. E. (9) $475.

A. Ralph D. Hodges, Jr., National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C.
B. National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
E. (9) $1,576.19.

A. Howard E. Hoelter, Illinois Petroleum Council, P.O. Box 5034, Springfield, Ill. 62705.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.

A. Lawrence S. Hoffheimer, 6845 Elm Street, Suite 511, McLean, Va. 22101.
B. American Group Practice Association, 20 South Quaker Lane, Alexandria, Va. 22314.
D. (6) $5,000. E. (9) $850.

A. Ellen S. Hoffman, 1520 New Hampshire Avenue NW., Washington, D.C. 20036.
B. Children's Defense Fund of the Washington Research Project, Inc.
D. (6) $417.30. E. (9) $482.20.

A. Herbert E. Hoffman, American Bar Association, 1800 M Street NW., Washington, D.C. 20036.
B. American Bar Association, 1155 East 60th Street, Chicago, Ill. 60637.
D. (6) $400. E. (9) $50.

A. Hogan & Hartson, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Council of European and Japanese National Shipowners' Association, 17/18 Bury Street, London EC3A 5AH, England.

A. Hogan & Hartson, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Direct Selling Association, 1730 M Street NW., Washington, D.C. 20036.
D. (6) $5,000.

A. Hogan & Hartson, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Energy Transportation Systems, Inc., 50 Beale Street, San Francisco, Calif. 94119.
D. (6) $315.

A. Hogan & Hartson, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. National Rehabilitation Association, 1522 K Street NW., Washington, D.C.
D. (6) $143.75. E. (9) $1.30.

A. Hogan & Hartson, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Schrader Stoves, Inc., Energy Alternatives, Inc., J N J Enterprises, Inc., c/o Fisher Stoves International, Inc., P.O. Box 10605, Eugene, Oreg. 97440.

A. Robert L. Holding, Association of Home Appliance Manufacturers, 1901 L Street NW., Suite 730, Washington, D.C. 20036.
B. Association of Home Appliance Manufacturers, 20 North Wacker Drive, Chicago, Ill.

A. Henry W. Holling, Caterpillar Tractor Co., 100 Northeast Adams Street, Peoria, Ill. 61629.
B. Caterpillar Tractor Co., 100 Northeast Adams Street, Peoria, Ill. 61629.
D. (6) $575. E. (9) $393.

A. Wendell M. Holloway, Ford Motor Co., 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Ford Motor Co., Dearborn, Mich.
D. (6) $2,799.99. E. (9) $2,171.40.

A. J. K. Holman, Consolidation Coal Co., 1130 17th Street NW., Washington, D.C. 20036.
B. Consolidation Coal Co., Consol Plaza, Pittsburgh, Pa. 15241.
D. (6) $1,250.

A. Thomas D. Holman, Alliance of American Insurers, 1776 F Street NW., Washington, D.C. 20006.
B. Alliance of American Insurers, 20 North Wacker Drive, Chicago, Ill. 60606.
D. (6) $1,825. E. (9) $275.

A. Eric Holmes, Jr., Petroleum Council of Georgia, 230 Peachtree Street NW., Suite 1500, Atlanta, Ga. 30303.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.

A. Lee B. Holmes, 1709 New York Avenue NW., Suite 801, Washington, D.C. 20006.
B. United States League of Savings Associations, 111 East Wacker Drive, Chicago, Ill. 60606.
D. (6) $5,075.

A. Peter E. Holmes, General Electric Co., 777 14th Street NW., Washington, D.C. 20005.
B. General Electric Co., 3135 Easton Turnpike, Fairfield, Conn. 06431.
D. (6) $1,250.

A. Richard C. Holmquist, American Mining Congress, 1100 Ring Building, Washington, D.C.
B. American Mining Congress, 1100 Ring Building, Washington, D.C.

A. John W. Holton, American Banker's Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
B. American Banker's Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $2,000. E. (9) $68.50.

A. The Hormel Foundation, Austin, Minn. 55912.

A. Michael E. Horrell, American Nuclear Energy Council, 1750 K Street NW., Suite 300, Washington, D.C.
B. American Nuclear Energy Council, 1750 K Street NW., Suite 300, Washington, D.C.
D. (6) $1,300. E. (9) $40.11.

A. John F. Horty, National Council of Community Hospitals, 815 Connecticut Avenue, Suite 206, Washington, D.C. 20006.
B. National Council of Community Hospitals, 815 Connecticut Avenue NW., Suite 206, Washington, D.C. 20006.
E. (9) $2,687.85.

A. Houger, Garvey & Schubert, 1725 K Street NW., No. 303, Washington, D.C. 20006.
B. American Pyrotechnics Association, 407 Campus Avenue, Chestertown, Md. 21620.
D. (6) $1,147.50. E. (9) $360.60.

A. Thomas B. House, 1700 Old Meadow Road, McLean, Va. 22102.
B. American Frozen Food Institute, 1700 Old Meadow Road, McLean, Va. 22102.
D. (6) $750.

A. Mary Greer Houston, 1901 L Street NW., Suite 711, Washington, D.C. 20036.
B. Wilson E. Hamilton & Associates, Inc., 1901 L Street NW., Washington, D.C., (for Farm Labor Research Committee).
D. (6) $250.

A. Houston Natural Gas Corp., P.O. Box 1188, Houston, Tex. 77001.
E. (9) $17,800.02.

A. C. T. Hoversten, 209 West 53d Street, Western Springs, Ill. 60558.
B. National Advertising Co., 6850 South Harlem, Bedford Park, Ill. 60501.

A. Howell Corp., 800 Houston Natural Gas Building, Houston, Tex. 77002.

A. Joe L. Howell, 1700 Pennsylvania Avenue NW., Suite 750, Washington, D.C. 20006.
B. Allstate Enterprises, Inc., Allstate Plaza, Northbrook, Ill. 60062.

A. Joe L. Howell, 1700 Pennsylvania Avenue NW., Suite 750, Washington, D.C. 20006.
B. Allstate Insurance Cos., Allstate Plaza, Northbrook, Ill. 60062.

A. Paul N. Howell, Howell Corp., 800 Houston Natural Gas Building, Houston, Tex. 77002.
B. Howell Corp., 800 Houston Natural Gas Building, Houston, Tex. 77002.

A. John B. Howerton, ASARCO Inc., 1730 Rhode Island Avenue NW., Suite 206, Washington, D.C. 20036.
B. ASARCO Inc., 120 Broadway, New York, N.Y. 10005.
D. (6) $1,500.

A. Tony R. Huerta, National Association of Letter Carriers, 100 Indiana Avenue NW., Washington, D.C. 20001.
B. National Association of Letter Carriers, 100 Indiana Avenue NW., Washington, D.C. 20001.
D. (6) $4,197.05.

A. David Emery Hughes, Union Mutual Life Insurance Co., 2211 Congress Street, Portland, Maine 04112.
B. Union Mutual Life Insurance Co., 2211 Congress Street, Portland, Maine 04112.

A. William G. Hughes, National Association of Federal Veterinarians, Suite 836, 1522 K Street NW., Washington, D.C. 20005.
B. National Association of Federal Veterinarians, Suite 836, 1522 K Street NW., Washington, D.C. 20005.
D. (6) $52.52.

A. David C. Hull, 1030 15th Street NW., Suite 700, Washington, D.C. 20005.
B. National Cotton Council of America, P.O. Box 12285, Memphis, Tenn. 38112.
D. (6) $452.50. E. (9) $1.18.

A. William J. Hull, Ohio Valley Improvement Association, Inc., 401 Carew Tower, Cincinnati, Ohio.
B. Ohio Valley Improvement Association, Inc.

A. David J. Humphreys, Paulson & Humphreys, 5272 River Road, Suite 400, Washington, D.C. 20016.
B. Recreation Vehicle Industry Association, P.O. Box 204, 14650 Lee Road, Chantilly, Va. 22021.
D. (6) $19,800.

A. Keith R. Hundley, 1625 I Street NW., Suite 902, Washington, D.C. 20006.
B. Weyerhaeuser Co., Tacoma, Wash. 98401.
D. (6) $200. E. (9) $83.47.

A. Burt H. Hunley, Chevron, U.S.A., Inc., 1700 K Street NW., Suite 1204, Washington, D.C. 20006.
B. Chevron, U.S.A., Inc., a subsidiary of the Standard Oil Co. of California, 1700 K Street NW., Suite 1204, Washington, D.C. 20006.
D. (6) $150. E. (9) $75.

A. Acacia G. Hunt, 2020 K Street NW., Suite 850, Washington, D.C.
B. American Bakers Association, Suite 850, 2020 K Street NW., Washington, D.C. 20006.
D. (6) $180. E. (9) $6.70.

A. Hunt International Resources Corp., 3500 First National Bank Building, Dallas, Tex. 75102.
E. (9) $6,000.

A. N. B. Hunt, 2500 First National Bank Building, Dallas, Tex. 75102.
E. (9) $5,000.

A. Richard M. Hunt, NL Industries, Inc., Suite 1009, Connecticut Building, 1150 Connecticut Avenue NW., Washington, D.C. 20036.
B. NL Industries, Inc., 1230 Avenue of the Americas, New York, N.Y. 10020.
D. (6) $2,000.

A. Robert C. Hunt, 1010 Wisconsin Avenue NW., Suite 800, Washington, D.C. 20007.
B. Grocery Manufacturers of America, 1010 Wisconsin Avenue NW., Suite 800, Washington, D.C. 20007.
D. (6) $89.05.

A. Milton F. Huntington, c/o Maine Petroleum Association, 283 Water Street, Augusta, Maine 04330.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $96.

A. James L. Huntley, Active Ballot Club Department, Retail Clerks International Union, AFL–CIO, 1775 K Street NW., Washington, D.C. 20006.
B. Retail Clerks International Union, AFL–CIO, 1775 K Street NW., Washington, D.C. 20006.
D. (6) $8,889.92. E. (9) $3,079.49.

A. B. Melvin Hurwitz, Coastal States Gas Corp., 1015 18th Street NW., S–610, Washington, D.C. 20036.
B. Coastal States Gas Corp., 5 Greenway Plaza East, Houston, Tex. 77046.
D. (6) $1,200. E. (9) $60.

A. John F. Hussey, 1101 17th Street NW., Suite 604, Washington, D.C. 20036.
B. Monsanto Co, 800 North Lindbergh Boulevard, St. Louis, Mo. 63166.
D. (6) $500. E. (9) $274.79.

A. Dewey M. Hutchins, Eastman Kodak Co., 500 12th Street NW., Washington, D.C. 20024.
B. Eastman Kodak Co., 343 State Street, Rochester, N.Y. 14650.
D. (6) $375. E. (9) $110.

A. Philip A. Hutchinson, Jr., Volkswagen Manufacturing Corp. of America, 475 L'Enfant Plaza SW., Suite 2450, Washington, D.C. 20024.
B. Volkswagen Manufacturing Corp. of America, 7111 East 11 Mile Road, Warren, Mich. 48092.
D. (6) $250.

A. Philip A. Hutchinson, Jr., Volkswagen of America, Inc., 475 L'Enfant Plaza SW., Suite 2450, Washington, D.C. 20024.
B. Volkswagen of America, Inc., 818 Sylvan Avenue, Englewood Cliffs, N.J. 07632.
D. (6) $250. E. (9) $50.

A. Randy Huwa, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $3,300.

A. Lee M. Hydeman, Hydeman, Mason & Goodell, 1220 19th Street NW., Washington, D.C. 20036.
B. Continental Air Lines, Inc., Los Angeles International Airport, Los Angeles, Calif. 90009.
E. (9) $100.

A. David C. Hyer, c/o Ohio Petroleum Council, 88 East Broad Street, Columbus, Ohio 43215.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.

A. Frank N. Ikard, 2101 L Street NW., Washington, D.C. 20037.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $3,750. E. (9) $1,803.

A. Atilla S. Ilkson, National Association of Realtors, 925 15th Street NW., Washington, D.C. 20005.
B. National Association of Realtors, 430 North Michigan Avenue, Chicago, Ill. 60611; 925 15th Street NW., Washington, D.C. 20005.
D. (6) $2,000. E. (9) $133.55.

A. Independent Consultants, Inc., 1120 Connecticut Avenue NW., No. 1132, Washington, D.C. 20036.
D. (6) $500.

A. Independent Data Communications Manufacturers Association, Inc., 1735 New York Avenue NW., Washington, D.C. 20006.
D. (6) $589. E. (9) $589.

A. Independent Insurance Agents of America, Inc., 85 John Street, New York, N.Y. 10038.
E. (9) $14,094.44.

A. Independent Local Newspaper Association, 1050 17th Street NW., Washington, D.C. 20036.
D. (6) $7,500. E. (9) $7,500.

A. Independent U.S. Tanker Owners' Committee, 1612 K Street NW., Suite 510, Washington, D.C. 20006.
E. (9) $250.

A. Industrial Union Department, AFL–CIO, 815 16th Street NW., Washington, D.C. 20006.
D. (6) $13,565.10. E. (9) $13,565.10.

A. G. Conley Ingram, Citizens & Southern National Bank Building, 35 Broad Street, Atlanta, Ga. 30303.
B. Board of Trade Clearing Corp., 141 West Jackson Building, Chicago, Ill. 60604.
D. (6) $5,460.

A. Intellectual Property Owners, Inc., 1800 K Street NW., Washington, D.C. 20006.
D. (6) $200.

A. Interlake, Inc., 2015 Spring Road, Oak Brook, Ill. 60521.
E. (9) $10,469.65.

A. International Association of Machinists and Aerospace Workers, 1300 Connecticut Avenue NW., Washington, D.C. 20036.
E. (9) $11,181.97.

A. International Brotherhood of Painters and Allied Trades, 1750 New York Avenue NW., Washington, D.C. 20006.
E. (9) $1,528.40.

A. International Brotherhood of Teamsters, 25 Louisiana Avenue NW., Washington, D.C. 20001.
E. (9) $25,154.54.

A. International Union, United Automobile, Aerospace & Agricultural Implement Workers of America, 8000 East Jefferson, Detroit, Mich. 48214.
D. (6) $192,559. E. (9) $192,559.

A. Investment Company Institute, 1775 K Street NW., Washingtin, D.C. 20006.
E. (9) $2,985.86.

A. Investment Counsel Association of America, Inc., 127 East 59th Street, New York, N.Y. 10022.
E. (9) $735.30.

A. Iron Ore Lessors Association, Inc., 1500 First National Bank Building, Saint Paul, Minn. 55101.
D. (6) $14,191.75. E. (9) $7,910.56.

A. William A Irvine, 1725 K Street NW., Suite 607, Washington, D.C. 20006.
B. Associated Third Class Mail Users, 1725 K Street NW., Suite 607, Washington, D.C. 20006.
D. (6) $600.

A. John D. Isaacs, Council for a Livable World, 100 Maryland Avenue NE., Washington, D.C. 20002.
B. Council for a Livable World, 100 Maryland Avenue NE., Washington, D.C. 20002.
D. (6) $4,197.39. E. (9) $47.17.

A. Joseph S. Ives, 2000 Florida Avenue NW., Washington, D.C. 20009.

B. National Rural Electric Cooperative Association, 2000 Florida Avenue NW, Washington, D.C. 20009.
D. (6) $130.

A. Robert A. Jablon, Spiegel & McDiarmid, 2600 Virginia Avenue NW., Washington, D.C. 20037.
B. Fort Pierce Utilities Authority of the city of Fort Pierce; Gainesville-Alachua County Regional Electric Water & Sewer Utilities; Sebring Utilities Commission, cities of Homestead, Kissimmee, Lakeland, Starke, Tallahassee, Fla., et al.
E. (9) $380.

A. Glenn Jackson, 644 Massachusetts Avenue NE., Apt. 507, Washington, D.C. 20002.
B. National Taxpayers Union, 325 Pennsylvania Avenue SE., Washington, D.C. 20003.
D. (6) $1,920. E. (9) $500.

A. Mary Jo Jacobi, National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $258.

A. Walter Jaenicke, National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
B. National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
D. (6) $2,775. E. (9) $50.

A. E. A. Jaenke, 1735 I Street NW., Suite 610, Washington, D.C. 20006.
B. E. A. Jaenke & Associates, 1735 I Street NW., Suite 610, Washington, D.C. 20006.
D. (6) $1,500.

A. E. A. Jaenke & Associates, Inc., 1735 I Street NW., Washington, D.C. 20006.
B. The Cooperative League of the U.S.A., 1828 L Street NW., Washington, D.C. 20036.
D. (6) $500.

A. E. A. Jaenke & Associates, 1735 I Street NW., Suite 610, Washington, D.C. 20006.
B. Land O'Lakes, Inc., 614 McKinley Place, Minneapolis, Minn. 55413.
D. (6) $500.

A. E. A. Jaenke & Associates, Inc., 1735 I Street NW., Washington, D.C. 20006.
B. Midcontinent Farmers Association, Columbia, Mo. 65201.
D. (6) $500.

A. Evie Jarvis, National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
B. National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
D. (6) $81.

A. Joseph A. Jeffrey, American Mining Congress, 1100 Ring Building, Washington, D.C. 20036.
B. American Mining Congress, 1100 Ring Building, Washington, D.C. 20036.
D. (6) $274.70.

A. Joseph S. Jenckes, Abbott Laboratories, 1730 M Street NW., No. 808, Washington, D.C. 20036.
B. Abbott Laboratories, Abbott Park, North Chicago, Ill. 60064.
E. (9) $224.

A. Linda Jenckes, 1730 Pennsylvania Avenue NW., No. 220, Washington, D.C. 20006.
B. Blue Shield Association, 211 East Chicago Avenue, Chicago, Ill. 60611.

A. James Courtney Jennings, Hill & Knowlton, Inc., 1425 K Street NW., Washington, D.C. 20005.

B. Hill & Knowlton, Inc., 633 Third Avenue, New York, N.Y. 10017.

A. Jennings, Strouss & Salmon, 111 West Monroe, Phoenix, Ariz. 85003.
B. Shamrock Foods Co., 2228 North Black Canyon, Phoenix, Ariz. 85009.

A. W. Pat Jennings, Slurry Transport Association, 490 L'Enfant Plaza East SW., Suite 3210, Washington, D.C. 20024.
B. Slurry Transport Association, 490 L'Enfant Plaza East SW., Suite 3210, Washington, D.C. 20024.
D. (6) $4,400.

A. Chris L. Jensen, Florida Petroleum Council, 111 North Gadsden Street, Tallahassee, Fla. 32301.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $472.50. E. (9) $760.84.

A. A. W. Jessup, 1025 Connecticut Avenue NW., No. 1014, Washington, D.C. 20036.
B. Exxon Corp., 1251 Avenue of the Americas, New York, N.Y. 10020.
E. (9) $92.

A. Guy E. Jester, 2150 Kienlen Avenue, St. Louis, Mo. 63121.
B. Association for the Improvement of the Mississippi River, 10 Broadway, St. Louis, Mo. 63102.

A. Charles E. Joeckel, Jr., Disabled American Veterans, 807 Maine Avenue SW., Washington, D.C. 20024.
B. Disabled American Veterans, 3725 Alexandria Pike, Cold Spring, Ky. 41076.
D. (6) $4,872. E. (9) $100.

A. Ronald P. Johnsen, Columbia Gas System Service Corp., 1625 I Street NW., Suite 301, Washington, D.C. 20006.
B. Columbia Gas System Service Corp., 20 Montchanin Road, Wilmington, Del. 19807.
D. (6) $175. E. (9) $149.80.

A. Bob Johnson, National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
B. National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
D. (6) $2,234. E. (9) $193.

A. Calvin P. Johnson, 1750 K Street NW., Washington, D.C. 20006.
B. Health Insurance Association of America, Inc., 1750 K Street NW., Washington, D.C. 919 Third Avenue, New York N.Y.; 332 South Michigan Avenue, Chicago, Ill.
D. (6) $323. E. (9) $219.87.

A. H. Bradley Johnson, American Mining Congress, 1100 Ring Building, Washington, D.C. 20036.
B. American Mining Congress, 1100 Ring Building, Washington, D.C. 20036.

A. Johnson, Hoar & Co., Inc., 1220 19th Street NW., Suite 201, Washington, D.C. 20036.
B. Allstate Insurance, Co., c/o Van Ness, Feldman & Sutcliffe, 1220 19th Street NW., Suite 500, Washington, D.C. 20036.
D. (6) $237.19. E. (9) $203.25.

A. Johnson, Hoar & Co., Inc., 1220 19th Street NW., Suite 201, Washington, D.C. 20036.
B. Committee for Consumers No-Fault, c/o Van Ness, Feldman & Sutcliffe, 1220 19th Street NW., Suite 500, Washington, D.C. 20036.
D. (6) $623.36. E. (9) $578.83.

A. Jess Johnson, Jr., Shell Oil Co., 1025 Connecticut Avenue NW., Washington, D.C. 20036.

B. Shell Oil Co., One Shell Plaza, P.O. Box 2463, Houston, Tex. 77001.
D. (6) $500.

A. John B. Johnson, Alabama Petroleum Council, 660 Adams Avenue, Suite 188, Montgomery, Ala. 36104.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $991.25. E. (9) $379.15.

A. John Paul Johnson, 1025 Connecticut Avenue NW., Washington, D.C. 20036.
B. Natural Gas Supply Committee, 1025 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $10,091.28. E. (9) $648.45.

A. Rady A. Johnson, 1000 16th Street NW., Washington, D.C. 20036.
B. Standard Oil Co. (Indiana), 200 East Randolph Drive, Chicago, Ill. 60601.
D. (6) $1,860. E. (9) $99.

A. Reuben L. Johnson, 1012 14th Street NW., Washington, D.C. 20005.
B. The Farmer's Educational and Co-Operative Union of America, Denver, Colo. 80251; 1012 14th Street NW., Washington, D.C. 20005.
D. (6) $7,753.87. E. (9) $257.93.

A. Richard W. Johnson, Jr., 110 Maryland Avenue NE., Box 43, Washington, D.C. 20002.
B. Non-Commissioned Officers Association of the U.S.A. (NCOA), P.O. Box 2268, San Antonio, Tex. 78298.
D. (6) $2,888.68. E. (9) $354.99.

A. Spencer A. Johnson, Paperboard Packaging Council, 1800 K Street NW., Suite 600, Washington, D.C. 20006.
B. Paperboard Packaging Council, 1800 K Street NW., Suite 600, Washington, D.C. 20006.
D. (6) $225.

A. Stanley L. Johnson, Texaco, Inc., 1050 17th Street NW., Washington, D.C. 20036.
B. Texaco, Inc., 2000 Westchester Avenue, White Plains, N.Y. 10650.
D. (6) $50.

A. William Johnson, Consumers Power Co., 1150 Connecticut Avenue NW., Washington, D.C. 20036.
B. Consumers Power Co., 212 West Michigan Avenue, Jackson, Mich. 49201.
D. (6) $600. E. (9) $193.52.

A. James D. Johnston, General Motors Corp., 1660 L Street NW., Washington, D.C. 20036.
B. General Motors Corp., 3044 West Grand Boulevard, Detroit, Mich. 48202.
D. (6) $3,600. E. (9) $2,012.22.

A. Joint Corporate Committee on Cuban Claims, c/o Lone Star Industries, Inc., P.O. Box 5050, Greenwich, Conn. 06830.
D. (6) $19,250. E. (9) $1,170.

A. Allan R. Jones, American Trucking Associations, Inc., 1616 P Street NW., Washington, D.C. 20036.
B. American Trucking Associations, Inc., 1616 P Street NW., Washington, D.C. 20036.
D. (6) $6,000. E. (9) $2,043.31.

A. Jones, Day, Reavis & Pogue, 1100 Connecticut Avenue NW., Washington, D.C. 20036.
B. Avon Products, Inc., 9 West 57th Street, New York, N.Y. 10019.
D. (6) $125. E. (9) $10.

A. Jones, Day, Reavis & Pogue, 1100 Connecticut Avenue NW., Washington, D.C. 20036.
B. Pacific Southwest Airlines, 3225 North Harbor Drive, San Diego, Calif. 92101.

A. James E. Jones, Jr., Alliance of American Insurers, 1776 F Street NW., Washington, D.C. 20006.
B. Alliance of American Insurers, 20 North Wacker Drive, Chicago, Ill. 60606.
D. (6) $1,850. E. (9) $220.

A. L. Dan Jones, Independent Petroleum Association of America, 1101 16th Street NW., Washington, D.C. 20036.
B. Independent Petroleum Association of America, 1101 16th Street NW., Washington, D.C. 20036.
E. (9) $16.65.

A. Phillip W. Jones, Railway Progress Institute, 700 North Fairfax Street, Alexandria, Va. 22314.
B. Railway Progress Institute, 700 North Fairfax Street, Alexandria, Va. 22314.
D. (6) $270.83.

A. Randall T. Jones, 1030 15th Street NW., Suite 700, Washington, D.C.
B. National Cotton Council of America, P.O. Box 12285, Memphis, Tenn. 38112.
D. (6) $500. E. (9) $97.83.

A. Thomas E. Jones, Dow Chemical U.S.A., 1800 M Street NW., Suite 700 South, Washington, D.C. 20036.
B. The Dow Chemical Co., Midland, Mich. 48640.
D. (6) $375. E. (9) $250.

A. Donald L. Jordan, Alliance of American Insurers, 1776 F Street NW., Washington, D.C. 20006.
B. Alliance of American Insurers, 20 North Wacker Drive, Chicago, Ill. 60606.
D. (6) $2,350. E. (9) $165.

A. James V. Jordan III, P.O. Box 2563, Birmingham, Ala. 35202.
B. Southern Natural Gas Co., P.O. Box 2563, Birmingham, Ala. 35202.

A. Jeffrey H. Joseph, Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C. 20062.
B. Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C. 20062.

A. Thomas M. Joyce, 1120 19th Street NW., Suite 503, Washington, D.C. 20036.
B. Independent Insurance Agents of America, Inc., 85 John Street, New York, N.Y. 10038.
D. (6) $4,937.37. E. (9) $300.

A. Ardon B. Judd, Jr., 1100 Connecticut Avenue NW., Suite 310, Washington, D.C. 20036.
B. Dresser Industries, Inc., 1100 Connecticut Avenue NW., Suite 310, Washington, D.C. 20036.

A. James N. Juliana, 1750 New York Avenue NW., Suite 340, Washington, D.C. 20006.
B. Braniff International, Exchange Park, Dallas, Tex. 75235.
D. (6) $481.11.

A. Robert E. Juliano, Hotel and Restaurant Employees and Bartenders International Union, 1666 K Street NW., Washington, D.C. 20006.
B. Hotel and Restaurant Employees and Bartenders International Union, 120 East Fourth Street, Suite 1300, Cincinnati, Ohio 45202.
D. (6) $9,999.96. E. (9) $5,801.86.

A. Ann P. Kahn, National Congress of Parents & Teachers, 9202 Ponce Place, Fairfax, Va. 22030.
B. National Congress of Parents & Teachers, 700 North Rush Street, Chicago, Ill. 60611.
E. (9) $19.95.

A. Donald J. Kaniewski, Laborers' International Union of N.A., AFL–CIO, 905 16th Street NW., Washington, D.C. 20006.
B. Laborers' International Union of N.A., AFL–CIO, 905 16th Street NW., Washington, D.C. 20006.
D. (6) $4,749.99. E. (9) $1,433.17.

A. Charles W. Karcher, 1780 Guildhall, Cleveland, Ohio 44115.
B. The Standard Oil Co. (Ohio), Midland Building, Cleveland, Ohio 44115.
E. (9) $10.56.

A. Gene Karpinski, 133 C Street SE., Washington, D.C. 20003.
B. Congress Watch, 133 C Street SE., Washington, D.C. 20003.
D. (6) $2,750.

A. Joseph E. Karth, 475 L'Enfant Plaza SW., Suite 4400, Washington, D.C. 20024.
B. American League for International Security Assistance, Inc., (ALISA) 475 L'Enfant Plaza SW., Suite 4400, Washington, D.C. 20024.
D. (6) $4,800. E. (9) $582.94.

A. Joseph E. Karth, Suite 4400, 475 L'Enfant Plaza SW., Washington, D.C. 20024.
B. General Electric Co., 777 14th Street NW., Washington, D.C. 20005.
D. (6) $3,000. E. (9) $675.

A. Joseph E. Karth, 475 L'Enfant Plaza SW., Suite 4400, Washington, D.C. 20024.
B. Special Committee for U.S. Exports, 1666 K Street NW., Washington, D.C. 20005.
D. (6) $4,500. E. (9) $1,947.50.

A. Joseph E. Karth, 475 L'Enfant Plaza SW., Suite 4400, Washington, D.C. 20024.
B. TADCO Enterprises, Inc., 1625 I Street NW., Washington, D.C. 20006 and Archer Daniels Midland, Decatur, Ill. 62525.
D. (6) $1,200.

A. Linda E. Katz, 3350 Huntley Square Drive, T-2, Temple Hills, Md. 20031.
B. Chicago, Rock Island & Pacific RR. Co., 332 South Michigan Avenue, Chicago, Ill. 60604.
D. (6) $5,000. E. (9) $570.12.

A. Kathryn Kavanagh, Common Cause, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $3,000.

A. William J. Keating, 725 15th Street NW., Washington, D.C. 20005.
B. National Grain & Feed Association, P.O. Box 26328, Washington, D.C. 20005.
D. (6) $34. E. (9) $34.

A. Keck, Cushman, Mahin & Cate, 8300 Sears Tower, 233 South Wacker Drive, Chicago, Ill. 60606.
B. Schwinn Bicycle Co., 1856 North Kostner Avenue, Chicago, Ill. 60639.
D. (6) $910. E. (9) $15.

A. Howard B. Keck, the Superior Oil Co., 555 South Flower Street, Los Angeles, Calif. 90071.
B. The Superior Oil Co., 555 South Flower Street, Los Angeles, Calif. 90071.
E. (9) $300.

A. W. M. Keck, Jr., 1801 Avenue of the Stars, Suite 1110, Los Angeles, Calif. 90067.
E. (9) $275.

A. Patricia Keefer, Common Cause, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $6,200.01.

A. David C. Keehn, Air Products & Chemicals, Inc., 1800 K Street NW., Suite 1016, Washington, D.C. 20006.
B. Air Products & Chemicals, Inc., P.O. Box 538, Allentown, Pa. 18105.
D. (6) $33.75.

A. Jefferson D. Keith, 8150 Leesburg Pike, Suite 1100, Vienna, Va. 22180.
B. National Pest Control Association, 8150 Leesburg Pike, Suite 1100, Vienna, Va. 22180.
D. (6) $500.

A. John B. Kelley, 1025 Connecticut Avenue NW., Suite 1200, Washington, D.C. 20036.
B. Avco Corp., 1275 King Street, Greenwich, Conn. 06830.
D. (6) $1,500.

A. Ty Kelley, National Association of Chain Drug Stores, Inc., 1911 Jefferson Davis Highway, Suite 504, Arlington, Va. 22202.
B. National Association of Chain Drug Stores, Inc., 1911 Jefferson Davis Highway, Suite 504, Arlington, Va. 22202.
D. (6) $1,500.

A. Stephen S. Kellner, 1001 Connecticut Avenue NW., Suite 1120, Washington, D.C. 20036.
B. Chemical Specialties Manufacturers Association, 1001 Connecticut Avenue NW., Suite 1120, Washington, D.C. 20036.
D. (6) $412.25. E. (9) $62.10

A. Carol A. Kelly, American Textile Manufacturers Institute, Inc., 1150 17th Street NW., Suite 1001, Washington, D.C. 20036.
B. American Textile Manufacturers Institute, 400 South Tryon Street, Suite 2124, Charlotte, N.C. 28265.
D. (6) $2,440. E. (9) $223.31

A. Harold V. Kelly, 1101 15th Street NW., Washington, D.C. 20005.
B. Republic Steel Corp., Republic Building, Cleveland, Ohio 44101.

A. John J. Kelly, United Mine Workers of America, 900 15th Street NW., Washington, D.C. 20005.
B. United Mine Workers of America, 900 15th Street NW., Washington, D.C. 20005.
D. (6) $1,598.50.

A. John T. Kelly, Pharmaceutical Manufacturers Association, 1155 15th Street NW., Washington, D.C. 20005.
B. Pharmaceutical Manufacturers Association, 1155 15th Street NW., Washington, D.C. 20005.

A. Robert F. Kelly, 1701 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. E. I. duPont de Nemours & Co., 1007 Market Street, Wilmington, Del. 19898.

A. Thomas J. Kenan, 1000 Fidelity Plaza, Oklahoma City, Okla. 73102.
B. Cocquina Oil Corp., P.O. Box 2690, Midland, Tex.
E. (9) $423.85.

A. William J. Kendrick, Air Products & Chemicals, Inc., 1800 K Street NW., Suite 1016, Washington, D.C. 20006.
B. Air Products & Chemicals, Inc., P.O. Box 538, Allentown, Pa. 18105.
D. (6) $43.50.

A. Jeremiah J. Kenney, Jr., Union Carbide Corp., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Union Carbide Corp., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
E. (9) $362.85.

A. Robert T. Kenney, Texaco, Inc., 1050 17th Street NW., Washington, D.C. 20036.
B. Texaco, Inc., 2000 Westchester Avenue, White Plains, N.Y. 10650.

A. Kenyon & Kenyon, Reilly, Carr & Chapin, 59 Maiden Lane, New York, N.Y. 10038.
B. Estate of Bert N. Adams, et al.
E. (9) $5.

A. Robert M. Ketchel, General Electric Co., 777 14th Street NW., Washington, D.C. 20005.
B. General Electric Co., 777 14th Street NW., Washington, D.C. 20005.

A. Carl F. Kettler, Air Transport Association of America, 1709 New York Avenue NW., Washington, D.C. 20006.
D. (6) $2,000. E. (9) $902.42.

A. William S. Kies, 1750 K Street NW., Washington, D.C. 20006.
B. Food Marketing Institute, 1750 K Street NW., Washington, D.C. 20006.
D. (6) $500.

A. Richard H. Kimberly, Kimberly-Clark Corp., 3390 Peachtree Road NE., Executive Suite, Atlanta, Ga. 30326.
B. Kimberly-Clark Corp., North Lake Street, Neenah, Wis. 54956.
D. (6) $80.45. E. (9) $1,232.69.

A. Timothy J. Kincaid, Alston, Miller & Gaines, 1800 M Street NW., Suite 1000, Washington, D.C. 20036.
B. Board of Trade Clearing Corp., 141 West Jackson Boulevard, Chicago, Ill. 60604.
D. (6) $842. E. (9) $20.

A. Charles L. King, American Council of Life Insurance, Inc., 1850 K Street, NW., Washington, D.C. 20006.
B. American Council of Life Insurance, 1850 K Street NW., Washington, D.C. 20006.
D. (6) $180. E. (9) $230.

A. Gibson Kingren, Group Health Association of America, Inc., 1717 Massachusetts Avenue NW., No. 701, Washington, D.C. 20036.
B. Group Health Association of America, Inc., 1717 Massachusetts Avenue NW., No. 701, Washington, D.C. 20036.
D. (6) $9,000.

A. John M. Kinnaird, American Trucking Associations, Inc., 1616 P Street NW., Washington, D.C. 20036.
B. American Trucking Associations, Inc., 1616 P Street NW., Washington, D.C. 20036.
D. (6) $7,500. E. (9) $1,662.20.

A. Irvin M. Kipnes, Kipnes & Associates, 7909 Old Falls Road, McLean, Va. 22102.
B. John L. Harmer, 7135 J Bar B Drive, Roseville, Calif. 95678.
D. (6) $30,000. E. (9) $1,697.92.

A. Alan G. Kirk II, Potomac Electric Power Co., 1900 Pennsylvania Avenue NW., Washington, D.C. 20068.
B. Potomac Electric Power Co., 1900 Pennsylvania Avenue NW., Washington, D.C. 20068.

A. Kirkland & Ellis, 1776 K Street NW., Washington, D.C. 20006.
B. Grocery Manufacturers of America, Inc., 1425 K Street NW., Washington, D.C. 20005.

A. Saul B. Klaman, National Association of Mutual Savings Banks, 200 Park Avenue, New York N.Y. 10017.
B. National Association of Mutual Savings Banks, 200 Park Avenue, New York, N.Y. 10017.
D. (6) $676.93.

A. Richard P. Kleeman, Association of American Publishers, Inc., 1707 L Street NW., No. 480, Washington, D.C. 20036.
B. Association of American Publishers, Inc., 1707 L Street NW., Suite 480, Washington, D.C. 20036.

A. Richard A. Kline, 1150 17th Street NW., Suite 609, Washington, D.C.
B. Council of Active Independent Oil & Gas Producers, 1150 17th Street NW., Suite 609, Washington, D.C. 20036.
D. (6) $3,437.

A. S. Lee Kling, 812 Bluespring Lane, St. Louis, Mo. 63131.
B. Committee of Americans for the Canal Treaties, Inc., 1019 19th Street NW., Suite 1120, Washington, D.C. 20036.

A. John J. Klocko III, 1701 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. E. I. du Pont de Nemours & Co., 1007 Market Street, Wilmington, Del. 19898.

A. Gary D. Knight, Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C. 20062.
B. Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C. 20062.
E. (9) $25.

A. Keith R. Knoblock, American Mining Congress, 1100 Ring Building, Washington, D.C.
B. American Mining Congress, 1100 Ring Building, Washington, D.C. 20036.
D. (6) $126.59. E. (9) $4.50.

A. John C. Knott, Burlington Northern, Inc., Burlington Northern Station, Casper, Wyo. 82601.
B. Burlington Northern, Inc., 176 East Fifth Street, St. Paul, Minn. 55101.

A. C. Neal Knox, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
B. National Rifle Association of America, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
D. (6) $1,125.

A. John S. Knox, Jr., 166 16th Street NW., Atlanta, Ga. 30318.
B. The Coca-Cola Bottlers' Association, 166 16th Street NW., Atlanta, Ga. 30318.

A. Philip M. Knox, Jr., 1211 Connecticut Avenue NW., Suite 802, Washington, D.C. 20036.
B. Sears, Roebuck & Co., Sears Tower, Chicago, Ill. 60684.

A. Ruth E. Kobell, 1012 14th Street NW., Washington, D.C. 20005.
B. The Farmers Educational and Co-Operative Union of America, Denver, Colo. 80251; 1012 14th Street NW., Washington, D.C.
D. (6) $3,876.98. E. (9) $224.82.

A. Bradley R. Koch, 2000 Florida Avenue NW., Washington, D.C. 20009.
B. National Rural Electric Cooperative Association, 2000 Florida Avenue NW., Washington, D.C. 20009.
D. (6) $126.50.

A. George W. Koch, 1010 Wisconsin Avenue NW., Washintgon, D.C. 20007.
B. Grocery Manufacturers of America, Inc., 1010 Wisconsin Avenue NW., Washington, D.C. 20007.

A. Robert M. Koch, 3251 Old Lee Highway, Suite 501, Fairfax, Va. 22030.
B. National Limestone Institute, Inc., 3251 Old Lee Highway, Suite 501, Fairfax, Va. 22030.
E. (9) $49.08.

A. Horace R. Kornegay, Suite 1200 1776 K Street NW., Washington, D.C. 20006.
B. The Tobacco Institute, Inc., 1776 K Street NW., Washington, D.C. 20006.
D. (6) $500. E. (9) $150.

A. Michael J. Kowalsky, Cigar Association of America, Inc., 1120 19th Street NW., Washington, D.C. 20036.
B. Cigar Association of America, Inc., 1120 19th Street NW., Washington, D.C. 20036.
D. (6) $9,253.86. E. (9) $22.35.

A. Mylio S. Kraja, The American Legion, 1608 K Street NW., Washington, D.C.
B. The American Legion, 700 North Pennsylvania Street, Indianapolis, Ind.
D. (6) $6,795. E. (9) $734.52.

A. Amos Kramer, Kansas Petroleum Council, 8th and Jackson Streets, Suite 1414, Topeka, Kans. 66612.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $282.50. E. (9) $396.39.

A. Stephen W. Kraus, American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.
B. American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.
D. (6) $100.

A. Raymond R. Krause, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Pfizer, Inc., 235 East 42d Street, New York, N.Y. 10017.
D. (6) $75.

A. Lawrence E. Kreider, Conference of State Bank Supervisors, 1015 18th Street NW., Washington, D.C. 20036.
B. Conference of State Bank Supervisors, 1015 18th Street NW., Washington, D.C. 20036.

A. Anthony L. Kucera, The American Waterways Operators, Inc., 1600 Wilson Boulevard, Suite 1101, Arlington, Va. 22209.
B. The American Waterways Operators, Inc., 1600 Wilson Boulevard, Suite 1101, Arlington, Va. 22209.
D. (6) $200.

A. Lloyd R. Kuhn, Aerospace Industries Association, 1725 DeSales Street NW., Washington, D.C. 20036.
B. Aerospace Industries Association of America, Inc., 1725 DeSales Street NW., Washington, D.C. 20036.
D. (6) $10,500. E. (9) $1,165.74.

A. Thomas R. Kuhn, American Nuclear Energy Council, 1750 K Street NW., Suite 300, Washington, D.C.
B. American Nuclear Energy Council, 1750 K Street NW., Suite 300, Washington, D.C.
D. (6) $1,548.75. E. (9) $214.46.

A. Robert J. Kukla, 500 Thames Parkway, No. 2D, Park Ridge, Ill. 60068.
B. Citizens Committee for the Right to Keep and Bear Arms, 1601 114th SE., Suite 151, Bellevue, Wash. 98004.
D. (6) $3,000.

A. Daniel M. Kush, CertainTeed Corp., 1627 K Street NW., Suite 610, Washington, D.C. 20006.
B. CertainTeed Corp., P.O. Box 860, Valley Forge, Pa. 19482.
E. (9) $47.45.

A. Kutak Rock & Huie, 1156 15th Street NW., Suite 701, Washington, D.C. 20005.
B. Citibank, 399 Park Avenue, New York, N.Y. 10043.
D. (6) $1,500. E. (9) $190.59.

A. Kutak Rock & Huie, 1650 Farnam Street, Omaha, Neb. 68102.
B. E. F. Hutton & Co., Inc., 1 Battery Park Plaza, New York, N.Y. 10004.
D. (6) $1,120. E. (9) $865.85.

A. Labor Bureau of Middle West, 1200 15th Street NW., Washington, D.C. 20005; 11 South LaSalle Street, Chicago, Ill. 60603.

A. Labor-Management Maritime Committee, 100 Indiana Avenue NW., Washington, D.C. 20001.
D. (6) $12,304. E. (9) $6,207.

A. Laborers' International Union of North America, 905 16th Street NW., Washington, D.C. 20006.
E. (9) $22,751.72.

A. Philip A. Lacovara, Hughes, Hubbard & Reed, 1660 L Street NW., Washington, D.C. 20036.
B. Bristol-Myers Co., 1155 15th Street NW., Washington, D.C. 20005.
D. (6) $780. E. (9) $8.

A. Philip A. Lacovara, Hughes, Hubbard & Reed, 1660 L Street NW., Washington, D.C. 20036.
B. Merck & Co., Inc., P.O. Box 2000, Rahway, N.J. 07065.
D. (6) $650.

A. Philip A. Lacovara, Hughes, Hubbard & Reed, 1660 L Street NW., Washington, D.C. 20036.
B. Pfizer, Inc., 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
D. (6) $1,300. E. (9) $15.

A Walter B. Laessig, 1101 17th Street NW., Suite 700, Washington, D.C. 20036.
B. National Association of Real Estate Investment Trusts, Inc., 1101 17th Street, Suite 700, Washington, D.C. 20036.
D. (6) $435. E. (9) $30.15.

A. Sarah M. Laird, 1730 M Street NW., Washington, D.C. 20036.
B. The League of Women Voters of the United States, 1730 M Street NW., Washington, D.C. 20036.
D. (6) $980. E. (9) $5,670.60.

A. Lake Carriers' Association, 1411 Rockefeller Building, Cleveland, Ohio 44113.

A. David W. Landsidle, 2 Militia Drive, Lexington, Mass. 02173.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $225.

A Karl S. Landstrom, 510 North Edison Street, Arlington, Va. 22205.
B. Geothermal Resources International, Inc., 4676 Admiralty Way, Suite 603, Marina del Ray, Calif. 90291.
D. (6) $750.00.

A. Lane & Edson, Suite 400 South, 1800 M Street NW., Washington, D.C. 20036.
B. National Leased Housing Association, Suite 400 South, 1800 M Street NW., Washington, D.C. 20036.
D. (6) $450.

A. James J. LaPenta, Jr., Laborers' International Union of North America, AFL–CIO, 905 16th Street NW., Washington, D.C. 20006.
B. Laborers' International Union of North America, AFL–CIO, 905 16th Street NW., Washington, D.C. 20006.
E. (9) $824.38.

A. J. Stephen Larkin, 1620 I Street NW., Washington, D.C.
B. International Paper Co., 1620 I Street NW., Suite 700, Washington, D.C. 20006.
D. (6) $300. E. (9) $50.

A. Lucille Larkin, National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
B. National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
D. (6) $62.50.

A. Reed E. Larson, 8316 Arlington Boulevard, Suite 600, Fairfax, Va. 22038.
B. National Right to Work Committee, 8316 Arlington Boulevard, Suite 600, Fairfax, Va. 22038.
D. (6) $90.

A. Glenn T. Lashley, American Automobile Association, Wheaton Plaza North Building, Silver Spring, Md. 20902.
B. American Automobile Association, 8111 Gatehouse Road, Falls Church, Va. 22042.

A. Theodore A. Lattanzio, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
B. National Rifle Association, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
D. (6) $200. E. (9) $16.

A. Louis F. Laun, 260 Madison Avenue, New York, N.Y. 10016.
B. American Paper Institute, Inc., 260 Madison Avenue, New York, N.Y. 10016.

A. George H. Lawrence, American Gas Association, 1515 Wilson Boulevard, Arlington, Va. 22209.
B. American Gas Association, 1515 Wilson Boulevard Arlington, Va. 22209.
D. (6) $200.

A. Lead-Zinc Producers Committee, 1101 15th Street NW., Suite 803, Washington, D.C. 20005.
D. (6) $1,328.

A. Alice V. Leaderman, 1140 Connecticut Avenue NW., Washington, D.C. 20036.
B. Scientific Apparatus Makers Association 1140 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $230.

A. Richard A. Leahy, David L. Babson & Co., Inc., 1 Boston Place, Boston, Mass. 02108.
B. Investment Counsel Association of America, Inc., 127 East 59th Street, New York, N.Y. 10022.

A. John I. Le Berre, 900 17th Street NW., Washington, D.C. 20006.
B. Kaiser Aluminium and Chemical Corp., 900 17th Street NW., Washington, D.C.
D. (6) $200. E. (9) $500.

A. Michael L. Lehrman, 301 2 Cortland Place NW, Washington, D.C. 20008.
B. The Plessey Co. Ltd., Ilford, Essex, England.

A. Robert J. Leigh, 2626 Pennsylvania Avenue NW., Washington, D.C. 20037.
B. National Telephone Cooperative Association, 2626 Pennsylvania Avenue NW., Washington, D.C. 20037.

A. Leighton & Conklin, 2033 M Street NW., Suite 800, Washington, D.C. 20036.
B. The Clorox Co., 1221 Broadway, Oakland, Calif. 44612.

A. Leighton & Conklin, 2033 M Street NW., Suite 800, Washington, D.C. 20036.
B. Grocery Manufacturers of America, Inc., 1425 K Street NW., Suite 900, Washington, D.C. 20005.

A. Lynette B. Lenard, 1800 M Street NW., Suite 700S, Washington, D.C. 20036.
B. The Dow Chemical Co., Midland, Mich. 48640.
D. (6) $1,000. E. (9) $236.26.

A. Earl T. Leonard, Jr., The Coca-Cola Co., P.O. Drawer 1734, Atlanta, Ga. 30301.
B. The Coca-Cola Co., P.O. Drawer 1734, Atlanta, Ga. 30301.
D. (6) $750. E. (9) $1,347.41.

A. Lloyd Leonard, 1730 M Street NW., Washington, D.C. 20036.
B. The League of Women Voters of the United States, 1730 M Street NW., Washington, D.C. 20036.
D. (6) $723.40.

A. Steven H. Lesnik, Lumbermens Mutual Casualty Co., Long Grove, Ill. 60049.
B. Lumbermens Mutual Casualty Co., Long Grove, Ill. 60049.
D. (6) $300.

A. Gilbert B. Lessenco, Wilner & Scheiner, 2021 L Street NW., Washington, D.C. 20036.
B. General Mills, Inc., 9200 Wayzata Boulevard, Minneapolis, Minn. 55440.
D. (6) $1,650.

A. Leva, Hawes, Symington, Martin & Oppenheimer, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Consolidated Edison Co. of New York, Inc., 4 Irving Place, New York, N.Y. 10003.

A. Leva, Hawes, Symington, Martin & Oppenheimer, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Cooperative for American Relief Everywhere, Inc., 660 First Avenue, New York, N.Y. 10016.
D. (6) $70.

A. Leva, Hawes, Symington, Martin & Oppenheimer, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. General Electric Co., Gas Turbine Division, 1 River Road, Building 500, Room 228, Schenectady, N.Y. 12345.

A. Leva, Hawes, Symington, Martin & Oppenheimer, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Glass Packaging Institute, 1800 K Street NW., Washington, D.C. 20006.
D. (6) $300.

A. Leva, Hawes, Symington, Martin & Oppenheimer, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. National Beer Wholesalers' Association of America, 5205 Leesburg Pike, Falls Church, Va. 22401.
E. (9) $277.30.

A. Leva, Hawes, Symington, Martin & Oppenheimer, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. National Council of Community Hospitals, 815 Connecticut Avenue NW., Washington, D.C. 20006.
D. (6) $1,025.

A. Morris J. Levin, 1050 17th Street NW., Washington, D.C. 20036.
B. Association of American Railroads, American Railroad Building, Washington, D.C.
D. (6) $1,000.

A. Morris J. Levin, 1050 17th Street NW., Washington, D.C. 20036.
B. Independent Local Newspaper Association, Suite 240, 1050 17th Street NW., Washington, D.C. 20036.
D. (6) $7,800.

A. Harry LeVine, Jr., General Electric Co., 777 14th Street NW., Washington, D.C.
B. General Electric Co., 3135 Easton Turnpike, Fairfield, Conn.
D. (6) $65.

A. Roger N. Levy, 1120 19th Street NW., Suite 503, Washington, D.C. 20036.
B. Independent Insurance Agents of America, Inc., 85 John Street, New York, N.Y. 10038.
D. (6) $4,937.37. E. (9) $200.

A. Tamar Lewin, Common Cause, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $3,379.39.

A. Robert G. Lewis, 1012 14th Street NW., Washington, D.C. 20005.
B. The Farmers' Educational and Co-Operative Union of America, Denver, Colo. 80251; 1012 14th Street NW., Washington, D.C. 20005.
D. (6) $2,181.73. E. (9) $75.34.

A. Stuart A. Lewis, 1800 M Street NW., Suite 1010, Washington, D.C. 20036.
B. Association of Reserve City Bankers, 1800 M Street NW., Suite 1010, Washington, D.C. 20036.
D. (6) $200.

A. Walter R. Lewis, Jr., National Association of Manufacturers, 1719 Route 10, Parsippany, N.J. 07054.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $212.50.

A. Herbert Liebenson, National Small Business Association, 1604 K Street NW., Washington, D.C. 20006.
B. National Small Business Association, 1604 K Street NW., Washington, D.C. 20006.
D. (6) $4,500. E. (9) $1,200.

A. Herbert Liebenson, Small Business Legislative Council, 1604 K Street NW., Washington, D.C. 20006.
B. Small Business Legislative Council, 1604 K Street NW., Washington, D.C. 20006.
D. (6) $4,500. E. (9) $1,200.

A. Russell B. Light, 955 L'Enfant Plaza North SW., Washington, D.C. 20024.
B. The Boeing Co., P.O. Box 3707, Seattle, Washington 98124.
D. (6) $375. E. (9) $72.43.

A. Charles W. Linderman, Slurry Transport Association, 490 L'Enfant Plaza East SW., Suite 3210, Washington, D.C. 20024.
B. Slurry Transport Association, 490 L'Enfant Plaza East SW., Suite 3210, Washington, D.C. 20024.
D. (6) $500.

A. Lester W. Lindow, Association of Maximum Service Telecasters, Inc., 1735 DeSales Street NW., Washington, D.C. 20036.
B. Association of Maximum Service Telecasters, Inc., 1735 DeSales Street NW., Washington, D.C. 20036.

A. Linton, Mields, Reisler & Cotton, 1015 18th Street NW., Suite 200, Washington, D.C. 20036.
B. County of Baltimore, 111 West Chesapeake Avenue, Towson, Md. 21204.
D. (6) $1,200. E. (9) $124.21.

A. Linton, Mields, Reisler & Cotton, 1015 18th Street NW., Suite 200, Washington, D.C. 20036.
B. Lake Superior District Power Co., 101 West Second Street, Ashland, Wis. 54806.
D. (6) $524.92. E. (9) $36.69.

A. Linton, Mields, Reisler & Cotton, 1015 18th Street NW., Suite 200, Washington, D.C. 20036.
B. Madison Gas & Electric Co., 100 North Fairchild Street, Box 1231, Madison, Wis. 53701.
D. (6) $1,164.65. E. (9) $81.43.

A. Linton, Mields, Reisler & Cotton, 1015 18th Street NW., Suite 200, Washington, D.C. 20036.
B. The Metropolitan District, Hartford Plaza, P.O. Box 800, Hartford, Conn. 06101.
D. (6) $4,075. E. (9) $162.08.

A. Linton, Mields, Reisler & Cotton, 1015 18th Street NW., Suite 200, Washington, D.C 20036.
B. Northern States Power Co., 100 North Barstow Street, Eau Claire, Wis. 54701.
D. (6) $1,574.43. E. (9) $110.07.

A. Linton, Mields, Reisler & Cotton, 1015 18th Street NW., Suite 200, Washington, D.C. 20036.
B. State of Oregon, Department of Transportation, Transportation Building, Salem, Oreg. 97310.
D. (6) $6,000.

A. Linton, Mields, Reisler & Cotton, 1015 18th Street NW., Suite 200, Washington, D.C. 20036.
B. Superior Water, Light & Power Co., 1230 Tower Avenue, Superior, Wis. 54880.
D. (6) $315.54. E. (9) $22.06.

A. Linton, Mields, Reisler & Cotton, 1015 18th Street NW., Suite 200, Washington, D.C. 20036.
B. Wayne County Board of Commissioners, 706 City County Building, Detroit, Mich. 48226.
D. (6) $7,500. E. (9) $702.01.

A. Linton, Mields, Reisler & Cotton, 1015 18th Street NW., Suite 200, Washington, D.C. 20036.
B. Wisconsin Electric Power Co., 231 West Michigan, Milwaukee, Wis. 53201.
D. (6) $5,107. E. (9) $357.32.

A. Linton, Mields, Reisler & Cotton, 1015 18th Street NW., Suite 200, Washington, D.C. 20036.
B. Wisconsin Power & Light Co., Madison, Wis. 53701.
D. (6) $2,185.70. E. (9) $152.80.

A. Linton, Mields, Reisler & Cotton, 1015 18th Street NW., Suite 200, Washington, D.C. 20036.
B. Wisconsin Public Service Corp., P.O. Box 700, Green Bay, Wis. 54305.
D. (6) $2,112.66. E. (9) $147.70.

A. Ron M. Linton, 1015 18th Street NW., Suite 200, Washington, D.C. 20036.
B. The Metropolitan Sanitary District of Greater Chicago, 100 East Erie Street, Chicago, Ill. 60611.
D. (6) $8,946.08. E. (9) $915.77.

A. Ron M. Linton, 1015 18th Street NW., Suite 200, Washington, D.C. 20036.
B. Radwaste Management Group, 1800 M Street NW., Washington, D.C. 20036.
D. (6) $20,447.45. E. (9) $186.19.

A. Ron M. Linton, 1015 18th Street NW., Suite 200, Washington, D.C. 20036.
B. State of Illinois, Department of Transportation, Division of Water Resources, 2300 South Dirksen Parkway, Springfield, Ill. 62764.
D. (6) $2,887.50. E. (9) $346.97.

A. Ron M. Linton, 1015 18th Street NW., Suite 200, Washington, D.C. 20036.

B. State of Illinois, Department of Transportation, 2300 South Dirksen Parkway, Springfield, Ill. 62764.
D. (6) $10,050. E. (9) $2,257.17.

A. Charles B. Lipsen, 475 L'Enfant Plaza SW., Suite 4100, Washington, D.C. 20024.
B. Cramer, Visser, Lipsen & Smith (for American Sign & Indicator Corp., North 2310 Fancher Way, Spokane, Wash. 99206), 475 L'Enfant Plaza SW., Suite 4100, Washington, D.C. 20024.

A. Charles B. Lipsen, 475 L'Enfant Plaza SW., Suite 4100, Washington, D.C. 20024.
B. Cramer, Visser, Lipsen & Smith (for Government of Nicaragua), 475 L'Enfant Plaza SW., Suite 4100, Washington, D.C. 20024.

A. Charles B. Lipsen, Cramer, Visser, Lipsen & Smith, 475 L'Enfant Plaza SW., Suite 4100, Washington, D.C. 20024.
B. Cramer, Visser, Lipsen & Smith (for Institute of Signage Research, 541 University Avenue, Palo Alto, Calif. 94301), 475 L'Enfant Plaza SW., Suite 4100, Washington, D.C. 20024.

A. Charles B. Lipsen, 475 L'Enfant Plaza SW., Washington, D.C. 20024.
B. Norman, Lawrence, Patterson & Farrell, 211 East 43d Street, New York, N.Y. 10017 and Cramer, Visser, Lipsen & Smith, 475 L'Enfant Plaza SW., Suite 4100, Washington, D.C. 20024.

A. Charles B. Lipsen, Cramer, Visser, Lipsen & Smith, 475 L'Enfant Plaza, No. 4100, Washington, D.C. 20024.
B. U.S. and Overseas Employees Tax Fairness Committee, 1101 15th Street NW., Suite 1000, Washington, D.C. 20005.
D. (6) $11,409.89.

A. Robert G. Litschert, National Association of Electric Cos., 1140 Connecticut Avenue, NW., Washington, D.C. 20036.
B. National Association of Electric Cos., 1140 Connecticut Avenue NW., Room 1010, Washington, D.C. 20036.
D. (6) $280. E. (9) $21.

A. Andrew Litsky, National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
B. National Cable Television Association, Inc., 918 16th Street, NW., Washington, D.C. 20006.
D. (6) $1,169.

A. E. F. Livaudais, Jr., 1025 Connecticut Avenue, NW., Washington, D.C. 20036.
B. Atlantic Richfield Co., 515 South Flower Street, Los Angeles, Calif., 90071.
D. (6) $400. E. (9) $95.

A. Livestock Marketing Association, 4900 Oak Street, Kansas City, Mo. 64112.
E. (9) $9,501.20.

A. H. Richard Lloyd, Jr., General Electric Co., 777 14th Street, NW., Washington, D.C. 20005.
B. General Electric Co., 777 14th Street, NW., Washington, D.C. 20005.
D. (6) $44.05.

A. James T. Lloyd, Hydeman, Mason & Goodell, 1220 19th Street NW., Washington, D.C. 20036.
B. Continental Airlines, Inc., Los Angeles International Airport, Los Angeles, Calif. 90009.

A. Harold D. Loden, American Seed Trade Association, 1030 15th Street, NW., Suite 964, Washington, D.C. 20005.
B. American Seed Trade Association, 1030 15th Street, NW., Suite 964, Washington, D.C. 20005.
D. (6) $2,000.

A. Robert H. Loeffler, Suite 701, 1050 17th Street, NW., Washington, D.C. 20036.
B. State of Alaska Attorney General's Office, Department of Law, Pouch K, State Capitol Building, Juneau, Alaska 99811.
D. (6) $6,506.25. E. (9) $152.

A. Loews Corp., 666 Fifth Avenue, New York, N.Y. 10019.
E. (9) $3,000.

A. Law Offices of Sheldon I. London, 1725 DeSales Street, NW., Suite 401, Washington D.C. 20036.
B. American Hardware Manufacturers Association, 117 East Palatine Road, Palatine, Ill. 60067.
D. (6) $1,500.

A. Robert W. Long, American Mining Congress, 1100 Ring Building, Washington, D.C. 20036.
B. American Mining Congress, 1100 Ring Building, Washington, D.C. 20036.
D. (6) $71.43. E. (9) $2.50.

A. Loomis, Owen, Fellman & Coleman, 2020 K Street NW., Washington, D.C. 20006.
B. Association of Bituminous Contractors, 2020 K Street NW., Washington, D.C. 20006.

A. Loomis, Owen, Fellman & Coleman, 2020 K Street NW., Washington, D.C. 20006.
B. Classroom Publishers Association, 2020 K Street NW., Washington, D.C. 20006.

A. Loomis, Owen, Fellman & Coleman, 2020 K Street NW., Washington, D.C. 20006.
B. Industrial Diamond Association, 59 East Main Street, Moorestown, N.J. 08057.

A. Loomis, Owen, Fellman & Coleman, 2020 K Street NW., Washington, D.C. 20006.
B. Linen Supply Association of America, 1250 East Hallandale Beach Boulevard, Hallandale, Fla. 33009.

A. Loomis, Owen, Fellman & Coleman, 2020 K Street NW., Washington, D.C. 20006.
B. National Association of Casualty & Surety Agents, 5225 Wisconsin Avenue NW., Washington, D.C. 20016.

A. Loomis, Owen, Fellman & Coleman, 2020 K Street NW., Washington, D.C. 20006.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.

A. Loomis, Owen, Fellman & Coleman, 2020 K Street NW., Washington, D.C. 20006.
B. Optical Manufacturers Association, 1901 North Fort Myer Drive, Arlington, Va. 22209.

A. Christopher LoPiano, United Mine Workers of America, 900 15th Street NW., Washington, D.C. 20005.
B. United Mine Workers of America, 900 15th Street NW., Washington, D.C. 20005.
D. (6) $1,067.90. E. (9) $12.95.

A. Edward J. Lord, The American Legion, 1608 K Street NW., Washington, D.C.
B. The American Legion, 700 North Pennsylvania Street, Indianapolis, Ind.
D. (6) $4,242. E. (9) $335.12.

A. Philip J. Loree, 17 Battery Place North, New York, N.Y. 10004.
B. Federation of American Controlled Shipping, 17 Battery Place North, New York N.Y. 10004.
D. (6) $200.

A. Judith A. Lorenson, 1960 Lake Clay Drive, Chesterfield, Mo. 63017.
B. Chromalloy American Corp., 120 South Central Avenue, St. Louis, Mo. 63105.
D. (6) $7,500. E. (9) $940.53.

A. Herschel C. Loveless, 7523 17th Street NW., Washington, D.C. 20012.
B. Chromalloy American Corp., 120 South Central Avenue, St. Louis, Mo. 63105.

A. James F. Lovett, 1801 K Street NW., Washington, D.C. 20006.
B. Westinghouse Electric Corp., Westinghouse Building, Gateway Center, Pittsburgh, Pa. 15222.
D. (6) $1,000. E. (9) $300.

A. James P. Low, American Society of Association Executives, 1101 16th Street NW., Washington, D.C. 20036.
B. American Society of Association Executives, 1101 16th Street NW., Washington, D.C. 20036.

A. Robert C. Lower, 1200 Citizens & Southern National Bank Building, 35 Broad Street, Atlanta, Ga. 30303.
D. (6) $1,849.

A. Robert C. Lower, 1200 Citizens & Southern National Bank Building, 35 Broad Street, Atlanta, Ga. 30303.
B. Rosenthal & Co., 141 West Jackson Boulevard, Chicago, Ill. 60604.
D. (6) $2,445.

A. Gerald M. Lowrie, American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
B. American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $2,000. E. (9) $918.46.

A. Freddie H. Lucas, General Motors Corp., 1660 L Street NW., Washington, D.C. 20036.
B. General Motors Corp., 3044 West Grand Boulevard, Detroit, Mich.
D. (6) $3,000. E. (9) $1,438.63.

A. John S. Lucas, Jr., National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $335. E. (9) $50.

A. Lumbermens Mutual Casualty Co., Long Grove, Ill. 60049.
E. (9) $3,050.

A. Milton F. Lunch, National Society of Professional Engineers, 2029 K Street NW., Washington, D.C. 20006.
B. National Society of Professional Engineers, 2029 K Street NW., Washington, D.C. 20006.
D. (6) $1,000.

A. Christian J. Lund, 1125 15th Street NW., Washington, D.C. 20005.
B. United Technologies Corp., United Technologies Building, Hartford, Conn. 06101; 1125 15th Street NW., Washington, D.C. 20005.
D. (6) $10,000. E. (9) $1,736.79.

A. Lund Levin & O'Brien, 1625 I Street NW., Washington, D.C. 20006.
B. Federation of American Controlled Shipping, 17 Battery Place North, New York, N.Y. 10004.
E. (9) $4.31.

A. Lund Levin & O'Brien, 1625 I Street NW., Washington, D.C. 20006.

B. National Product Liability Council, Box 11111, Cincinnati, Ohio 45211.
D. (6) $250.

A. Lund Levin & O'Brien, 1625 I Street NW., Washington, D.C. 20006.
B. Pennsylvania Power & Light Co., 2 North Ninth Street, Allentown, Pa. 18101.
D. (6) $750. E. (9) $152.28.

A. Lund Levin & O'Brien, 1625 I Street NW., Washington, D.C. 20006.
B. Shanghai Power Co., 100 West 10th Street, Wilmington, Del. 19801.
D. (6) $120.

A. James H. Lynch, Jr., American Federation of Government Employees, 1325 Massachusetts Avenue NW., Washington, D.C. 20005.
B. American Federation of Government Employees, 1325 Massachusetts Avenue NW., Washington, D.C. 20005.
D. (6) $9,109.10. E. (9) $12,775.59.

A. Richard Lyng, American Meat Institute, P.O. Box 3556, Washington, D.C. 20007.
B. American Meat Institute, P.O. Box 3556, Washington, D.C. 20007 (1600 Wilson Boulevard, Arlington, Va.).
D. (6) $500.

A. Douglas E. MacArthur, P.O. Box 626, Bridgeton, Mo. 63044.
B. Zantop International Airlines, Inc., Willow Run Airport, Ypsilanti, Mich. 48197.
D. (6) $1,200. E. (9) $1,936.

A. Alan G. MacDonald, 1025 Connecticut Avenue NW., Washington, D.C. 20036.
B. Gulf Oil Corp., P.O. Box 1166, Pittsburgh, Pa. 15230.
D. (6) $2,000.

A. A. Everette MacIntyre, Room 710, 1900 L Street NW., Washington, D.C. 20036.
B. Grocery Manufacturers of America, Inc., 1010 Wisconsin Avenue NW., Suite 800, Washington, D.C. 20007.
D. (6) $5,200. E. (9) $1,500.

A. James E. Mack, National Association of Mirror Manufacturers, 5101 Wisconsin Avenue, Suite 504, Washington, D.C. 20016.
B. National Association of Mirror Manufacturers, 5101 Wisconsin Avenue, Suite 504, Washington, D.C. 20016.
D. (6) $7,500. E. (9) $395.90.

A. James E. Mack, National Confectioners Association, 5101 Wisconsin Avenue, Suite 506, Washington, D.C. 20016.
B. National Confectioners, 36 South Wabash Avenue, Chicago, Ill. 60603.
D. (6) $17,000. E. (9) $1,497.98.

A. James E. Mack, Peanut Butter Manufacturers and Nut Salters Association, 5101 Wisconsin Avenue, Suite 504, Washington, D.C. 20016.
B. Peanut Butter Manufacturers and Nut Salters Association, 5101 Wisconsin Avenue, Suite 504, Washington, D.C. 20016.
D. (6) $9,499.98. E. (9) $635.50.

A. James H. Mack, 7901 Westpark Drive, McLean, Va. 22102.
B. National Machine Tool Builders' Association, 7901 Westpark Drive, McLean, Va. 22102.
D. (6) $622. E. (9) $500.

A. Duncan H. Mackenzie, 3019 Goat Hill Road, Bel Air, Md. 21014.
D. (6) $210. E. (9) $227.54.

A. John P. Mackey, Ad Hoc Committee in Defense of Life, Inc., 810 National Press Building, Washington, D.C. 20045.
B. Ad Hoc Committee in Defense of Life, Inc., 150 East 35th Street, New York, N.Y. 10016.
D. (6) $4,377.50. E. (9) $8,556.68.

A. Thomas J. Mader, Common Cause, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $46.59. E. (9) $35.

A. John R. Maguire, 10612 Runaway Lane, Great Falls, Va. 22066.
B. Manufactured Housing Institute, 1745 Jefferson Davis Highway, Arlington, Va. 22202.
D. (6) $500.

A. John F. Mahoney, American Medical Association, 1776 K Street NW., Washington, D.C. 20006.
B. American Medical Association, 535 North Dearborn Street, Chicago, Ill. 60610.
D. (6) $3,610.44. E. (9) $791.

A. Michael C. Malbach, Caterpillar Tractor Co., 100 Northeast Adams Street, Peoria, Ill. 61629.
B. Caterpillar Tractor Co., 100 Northeast Adams Street, Peoria, Ill. 61629.
D. (6) $400. E. (9) $622.40.

A. Robert L. Maier, 900 17th Street NW., Washington, D.C. 20006.
B. Kaiser Aluminum and Chemical Corp., 900 17th Street NW., Washington, D.C. 20006.
D. (6) $180. E. (9) $6.

A. Andre Maisonpierre, Alliance of American Insurers, 1776 F Street NW., Washington, D.C. 20006.
B. Alliance of American Insurers, 20 North Wacker Drive, Chicago, Ill. 60606.
D. (6) $965. E. (9) $205.

A. J. Wilson Malloy, Jr., Eastman Chemical Products, Inc., 500 12th Street SW., Washington, D.C. 20024.
B. Eastman Chemical Products, Inc., P.O. Box 431, Kingsport, Tenn. 37662.
D. (6) $700. E. (9) $70.89.

A. The Management Group, 1211 Connecticut Avenue NW., Suite 403, Washington, D.C. 20036.
B. United States Industrial Council, P.O Box 2686, Nashville, Tenn. 37219.
D. (6) $1,500.

A. Carter Manasco, 5932 Chesterbrook Road, McLean, Va. 22101.
B. National Coal Association, 1130 17th Street NW., Washington, D.C. 20036.
D. (6) $9,000. E. (9) $72.85.

A. Mike Manatos, 1801 K Street NW., Suite 230, Washington, D.C. 20006.
B. The Procter & Gamble Manufacturing Co., 301 East Sixth Street, Cincinnati, Ohio 45202.
D. (6) $20.

A. Forbes Mann, 1155 15th Street NW., No. 1004, Washington, D.C. 20005.
B. The LTV Corp., 1525 Elm Street, Dallas, Tex. 75222.
D. (6) $2,000. E. (9) $550.

A. Manufactured Housing Institute, 1745 Jeff Davis Highway, Arlington, Va. 22202.
D. (6) $8,250. E. (9) $8,250.

A. Manufacturing Chemists Association, Inc., 1825 Connecticut Avenue NW., Washington, D.C. 20009.
D. (6) $5,000. E. (9) $3,000.

A. Dallace E. Marable, N.A.M., 1776 F Street NW., Washington, D.C. 20006.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $1,050. E. (9) $31.35.

A. March for Life, Inc., P.O. Box 2950, Washington, D.C. 20013.
D. (6) $5,238.21. E. (9) $6,070.90.

A. Charles T. Marck, 1800 M Street NW., Suite 700 South, Washington, D.C. 20036.
B. The Dow Chemical Co., Midland, Mich. 48640.
D. (6) $1,000. E. (9) $250.

A. Ralph J. Marlatt, Professional Insurance Agents, 400 North Washington Street, Alexandria, Va. 22314.
B. Professional Insurance Agents, 400 North Washington Street, Alexandria, Va. 22314.
D. (6) $300. E. (9) $900.

A. Jack D. Maroney, 1300 American Bank Tower, Austin, Tex. 78701.
B. Texas Medical Association, 1801 North Lamar Boulevard, Austin, Tex. 78701.
D. (6) $250. E. (9) $50.

A. John O. Marsh, Jr., Barr Building, Washington, D.C. 20006.
B. Committee of Americans for the Canal Treaties, Inc. (COACT), 1019 19th Street NW., Suite 1120, Washington, D.C. 20036.

A. M. & I. Marshall & Ilsley Bank, 770 North Water Street, Milwaukee, Wis. 53202.

A. J. Paull Marshall, Association of American Railroads, 40 Ivy Street SE., Washington, D.C. 20003.
B. Association of American Railroads, 1920 L Street NW., Washington, D.C. 20036.
D. (6) $675. E. (9) $348.75.

A. David O. Martin, Kimberly-Clark Corp., North Lake Street, Neenah, Wis., 54956.
B. Kimberly-Clark Corp., North Lake Street, Neenah, Wis., 54956.
D. (6) $435. E. (9) $270.

A. Katherine R. Martin, Association of American Railroads, 40 Ivy Street SE., Washington, D.C. 20003.
B. Association of American Railroads, 1920 L Street NW., Washington, D.C. 20036.
D. (6) $95.82. E. (9) $90.

A. Thomas A. Martin, 2101 L Street NW., Washington, D.C. 20037.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $500. E. (9) $200.

A. Joseph J. Martyak, American Gas Association, 1515 Wilson Boulevard, Arlington, Va. 22209.
B. American Gas Association, 1515 Wilson Boulevard, Arlington, Va. 22209.
D. (6) $2,800. E. (9) $632.61.

A. Maryland Savings-Share Insurance Corp., 901 North Howard Street, Baltimore, Md. 21201.
E. (9) $43.99.

A. Mike M. Masaoka, Suite 520, the Farragut Building, 900 17th Street NW., Washington, D.C. 20006.
B. American Japanese Trade Committee, Suite 520, 900 17th Street NW., Washington, D.C. 20006.

A. Mike M. Masaoka, Association on Japanese Textile Imports, Inc., Suite 520, the Farragut Building, 900 17th Street NW., Washington, D.C. 20006.
B. Association on Japanese Textile Imports, Inc., 551 Fifth Avenue, New York, N.Y. 10017.
D. (6) $250.

A. Mike M. Masaoka, Suite 520, the Farragut Building, 900 17th Street NW., Washington, D.C. 20006.
B. Nisei Lobby, Suite 520, the Farragut Building, 900 17th Street NW., Washington, D.C. 20006.

A. Mike M. Masaoka, Masaoka-Iahi'-awa & Associates, Inc., Suite 520, 900 17th Street NW., Washington, D.C. 20006.
B. West Mexico Vegetable Distributors Association, P.O. Box 848, Nogales, Ariz. 85621.
D. (6) $500.

A. Paul J. Mason, American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.
B. American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.

A. Cliff Massa III, National Association of Manufacturers, 1776 F Street NW., Washington, D.C., 20006.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $250.

A. Robert A. Matthews, Railway Progress Institute, 700 North Fairfax Street, Alexandria, Va. 22314.
B. Railway Progress Institute, 700 North Fairfax Street, Alexandria, Va. 22314.
D. (6) $541.66.

A. Joanne E. Mattiace, 1211 Connecticut Avenue NW., No. 802, Washington, D.C. 20036.
B. Sears, Roebuck & Co., Sears Tower, Chicago, Ill. 60684.
D. (6) $175. E. (9) $45.

A. Robert R. Mattson, Standard Oil Co., (Indiana), 200 East Randolph Drive, Mail Code 6402, Chicago, Ill. 60601.
B. Standard Oil Co. (Indiana), 200 East Randolph Drive, Chicago, Ill. 60601.
D. (6) $300. E. (9) $409.

A. C. V. and R. V. Maudlin, 1111 E Street NW., Washington, D.C. 20004.
B. Georgia Power Co., 270 Peachtree Street, Atlanta, Ga.

A. C. V. and R. V. Maudlin, 1111 E Street NW., Washington, D.C. 20004.
B. Joint Government Liaison Committee, 1111 E Street NW., Washington, D.C. 20004.

A. Anthony F. Mauriello, New York State Petroleum Council, 551 Fifth Avenue, New York, N.Y. 10017.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.

A. Thomas H. Maxedon, Kentucky Petroleum Council, 4010 Dupont Circle, Suite 469, Louisville, Ky. 40207.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $162.50. E. (9) $85.86.

A. Albert E. May, Council of American-Flag Ship Operators, 1625 K Street NW., Washington, D.C. 20006.
B. Council of American-Flag Ship Operators, 1625 K Street NW., Washington, D.C. 20006.
D. (6) $463. E. (9) $13.39.

A. Harold R. Mayberry, Jr., Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C. 20062.
B. Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C. 20062.
E. (9) $25.

A. Arnold Mayer, Amalgamated Meat Cutters & Butcher Workmen of North America (AFL-CIO), 100 Indiana Avenue NW., Room 502, Washington, D.C. 20001.
B. Amalgamated Meat Cutters & Butcher Workmen of North America (AFL-CIO), 2800 North Sheridan Road, Chicago, Ill. 60657.
D. (6) $9,623. E. (9) $560.

A. Mayer, Brown & Platt, 888 17th Street NW., Washington, D.C. 20006.
B. Aerospace Industries Association of America, Inc., 1725 De Sales Street NW., Washington, D.C. 20036.

A. Mayer, Brown & Platt, 888 17th Street NW., Washington, D.C. 20006.
B. The ERISA Industry Committee, Suite 1201, 1750 Pennsylvania Avenue, NW., Washington, D.C. 20006.
D. (6) $143.75. E. (9) $1.

A. Mayer, Brown & Platt, 888 17th Street NW., Washington, D.C. 20006.
B. Nokota Co., P.O. Box 1633, Bismarck, N.D. 58501.

A. Robert E. Meyer, States Steamship Co., 320 California Street, San Francisco, Calif. 94104.
B. States Steamship Co., 320 California Street, San Francisco, Calif. 94104.
E. (9) $452.

A. Mays, Valentine, Davenport & Moore, 910 17th Street NW., Washington, D.C. 20006.
B. Grocery Manufacturers of America, 1425 K Street NW., Washington, D.C. 20005.
D. (6) $1,136.

A. Mays, Valentine, Davenport & Moore, 910 17th Street NW., Suite 301, Washington, D.C. 20006.
B. Trans Union Corp., 90 Half Day Road, Lincolnshire, Ill. 60015.
D. (6) $1,700.

A. Richard F. McAdoo, 1901 L Street NW., Suite 702, Washington, D.C. 20036.
B. Security Pacific National Bank, 333 South Hope Street, Los Angeles, Calif. 90071.
D. (6) $957.50. E. (9) $168.54.

A. William J. McAuliffe, Jr., American Land Title Association, 1828 L Street NW., Washington, D.C. 20036.
B. American Land Title Association, 1828 L Street NW., Washington, D.C. 20036.
D. (6) $575.

A. Ann McBride, Common Cause, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $6,750. E. (9) $105.

A. William C. McCamant, 1725 K Street NW., Washington, D.C. 20006.
D. (6) $300.

A. McCandlees & Barrett, 1707 H Street NW, Washington, D.C. 20006.
B. Transamerica Insurance Corp. of California (Occidental Life), Occidental Center, Hill and Olive at 12th Street, Los Angeles, Calif. 90015.
D. (6) $7,031.25. E. (9) $1,761.93.

A. John A. McCart, Public Employee Department, AFL-CIO, 815 16th Street NW., Washington, D.C. 20006.
B. Public Employee Department, AFL-CIO, 815 16th Street NW., Washington, D.C. 20006.
D. (6) $2,248.96.

A. McCarty & Noone, 490 L'Enfant Plaza East, Suite 3306, Washington, D.C. 20024.
B. American Medical Technologists, 710 Higgins Road, Park Ridge, Ill. 60068.
D. (6) $540. E. (9) $9.26.

A. Alfred R. McCauley, 1629 K Street NW., Washington, D.C. 20006.
B. Lonza, Inc., 22-10 Route 208, Fair Lawn, N.J. 07410.

A. McClure & Trotter, 1100 Connecticut Avenue NW., Suite 600, Washington, D.C. 20036.
B. Allied Capital Corp., 1625 I Street NW., Suite 603, Washington, D.C. 20006.
E. (9) $7.28.

A. McClure & Trotter, 1100 Connecticut Avenue NW., Suite 600, Washington, D.C. 20036.
B. Avon Products, Inc., Nine West 57th Street, New York, N.Y. 10019.
E. (9) $65.83.

A. McClure & Trotter, 1100 Connecticut Avenue NW., Suite 600, Washington, D.C. 20036.
B. Cities Service Co., Box 300, Tulsa, Okla. 74102.
E. (9) $296.59.

A. McClure & Trotter, 1100 Connecticut Avenue NW., Suite 600, Washington, D.C. 20036.
B. The Coca-Cola Co., P.O. 1734, Atlanta, Ga. 30301.
E. (9) $90.81.

A. McClure & Trotter, 1100 Connecticut Avenue NW., Suite 600, Washington, D.C. 20036.
B. Gulf & Western Industries, Inc., One Gulf & Western Plaza, New York, N.Y. 10023.
E. (9) $199.82.

A. McClure & Trotter, 1100 Connecticut Avenue NW., Suite 600, Washington, D.C. 20036.
B. Mobil Oil Corp., 150 East 42d Street, New York, N.Y. 10017.
E. (9) $111.16.

A. McClure & Trotter, 1100 Connecticut Avenue NW., Suite 600, Washington, D.C. 20036.
B. Tidewater Marine Service, Inc., 3308 Tulane Avenue, New Orleans, La.

A. McClure & Trotter, 1100 Connecticut Avenue NW., Suite 600, Washington, D.C. 20036.
B. United Artists Corp., 729 Seventh Avenue, New York, N.Y. 10019.

A. McClure & Trotter, 1100 Connecticut Avenue NW., Suite 600, Washington, D.C. 20036.
B. United States Fastener Manufacturing Group, 1505 East Ohio Building, Cleveland, Ohio 44114.

A. Linda A. McCurkie, Blum, Parker & Nash, 1015 18th Street NW., Washington, D.C. 20036.
B. Independent Gasoline Marketers Council, 1015 18th Street NW., Washington, D.C. 20036.

A. William T. McCormick, Jr., American Gas Association, 1515 Wilson Boulevard, Arlington, Va. 22209.
B. American Gas Association, 1515 Wilson Boulevard, Arlington, Va. 22209.
D. (6) $500.

A. Robert E. McCoy, Suite 1014, 1025 Connecticut Avenue NW., Washington, D.C. 20036.
B. Exxon Corp., 1251 Avenue of the Americas, New York, N.Y.

A. Bruce A. McCrodden, 1050 17th Street N.W., Suite 650, Washington, D.C. 20036.
B. The Standard Oil Co. (Ohio), Midland Building, Cleveland, Ohio 44115.
D. (6) $130.

A. E. L. McCulloch, Brotherhood of Locomotive Engineers, 819 Railway Labor Building, 400 First Street NW., Washington, D.C. 20001.

B. Brotherhood of Locomotive Engineers, Engineers Building, Cleveland, Ohio 44114.
D. (6) $284.60. E. (9) $61.50.

A. Albert L. McDermott, American Hotel and Motel Association, 777 14th Street NW., Washington, D.C. 20005.
B. American Hotel and Motel Association, 888 Seventh Avenue, New York, N.Y. 10019.
D. (6) $1,442.57. E. (9) $691.94.

A. Jack McDonald, 6845 Elm Street, No. 512, McLean, Va. 22101.
B. Jack McDonald Associates, 6845 Elm Street, No. 512, McLean Va. 22101 (for Union Oil Co., P.O. Box 7600, Los Angeles, Calif. 90051).
D. (6) $4,000.

A. Jack McDonald Associates, 6845 Elm Street, No. 512, McLean, Va. 22101.
B. Northrop Corp., 1800 Century Park East, Los Angeles, Calif. 90067.
D. (6) $4,500. E. (9) $2,450.

A. Jack McDonald Associates, 6845 Elm Street, No. 512, McLean, Va. 22101.
B. Union Oil Co., P.O. Box 7600, Los Angeles, Calif. 90051.
D. (6) $10,000. E. (9) $6,500.

A. James McDonald, 6845 Elm Street, No. 512, McLean, Va. 22101.
B. Jack McDonald Associates, 6845 Elm Street, No. 512, McLean, Va. 22101 (for Northrop Corp., 1800 Century Park East, Los Angeles, Calif. 90067).
D. (6) $2,250.

A. James McDonald, 6845 Elm Street, No. 512, McLean, Va. 22101.
B. Jack McDonald Associates, 6845 Elm Street, No. 512, McLean, Va. 22101 (for Union Oil Co., P.O. Box 7600, Los Angeles, Calif. 90051).
D. (6) $2,000.

A. Michael D. McDonald, Maryland Petroleum Association, 60 West Street, Annapolis, Md. 21401.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 21401.
D. (6) $100.

A. Joseph A. McElwain, 40 East Broadway, Butte, Mont. 59701.
B. The Montana Power Co., Butte, Mont. 59701.
E. (9) $292.35.

A. Thomas H. McGannon, Chemtex Fibers, Inc., 850 Third Avenue, New York, N.Y. 10022.
B. Chemtex Fibers, Inc., 850 Third Avenue, New York, N.Y. 10022.

A. J. Raymond McGlaughlin, Brotherhood of Maintenance of Way Employes, 400 First Street NW., Room 801, Washington, D.C. 20001.
B. Brotherhood of Maintenance of Way Employes, 12050 Woodward Avenue, Detroit, Mich. 48203.
D. (6) $9,674.10.

A. Robert M. McGlotten, AFL–CIO, 815 16th Street NW., Washington, D.C. 20006.
B. American Federation of Labor and Congress of Industrial Organizations, 815 16th Street NW., Washington, D.C. 20006.
D. (6) $10,871. E. (9) $826.60.

A. Joseph B. McGrath, National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
B. National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
D. (6) $7,875. E. (9) $3,400.

A. F. Howard McGuigan, AFL–CIO, 815 16th Street NW., Washington, D.C. 20006.
B. American Federation of Labor and Congress of Industrial Organizations, 815 16th Street NW., Washington, D.C. 20006.
D. (6) $10,094.50. E. (9) $407.68.

A. Peter McGuire, National Association of Retired and Veteran Railway Employees, Inc., 400 First Street NW., Washington, D.C. 20001.
B. National Association of Retired and Veteran Railway Employees, Inc., P.O. Box 6060, Kansas City, Kans. 66106; Hotel and Restaurant Employees and Bartenders International Union, 1666 K Street NW., Washington, D.C. 20006; International Conference of Police Association, 1239 Pennsylvania Avenue SE., Washington, D.C. 20003.
D. (6) $900. E. (9) $350.

A. Marlene C. McGuirl, 3416 P Street NW., Washington, D.C. 20007.

A. Clarence M. McIntosh, Jr., Railway Labor Executives Association, 400 First Street NW., Washington, D.C. 20001.
B. Railway Labor Executives' Association, 400 First Street NW., Washington, D.C. 20001.
D. (6) $1,045.39.

A. Lyn R. McIntosh, American Nuclear Energy Council, 1750 K Street NW., Suite 300, Washington, D.C.
B. American Nuclear Energy Council, 1750 K Street NW., Suite 300, Washington, D.C.
D. (6) $1,375. E. (9) $201.57.

A Robert S. McIntyre, Public Citizen's Tax Reform Research Group, 133 C Street SE., Washington, D.C. 20003.
B. Public Citizen's Tax Reform Research Group, 133 C Street SE., Washington, D.C. 20003.
D. (6) $937.50.

A. William F. McKenna, 1800 M Street NW., Washington, D.C. 20036.
B. Silver, Freedman, Housley & Taff, 1800 M Street, NW., Washington, D.C. 20036.

A. C. A. "Mack" McKinney, 110 Maryland Avenue NE., Box 43, Washington, D.C. 20002.
B. National Headquarters, Marine Corps League, 933 North Monroe Street, Suite 321, Arlington, Va. 22201.
E. (9) $23.

A. C. A. "Mack" McKinney, 110 Maryland Avenue NE., Box 43, Washington, D.C. 20002.
B. Non-Commissioned Officers Association of the U.S.A. (NCOA), P.O. Box 2268, San Antonio, Tex. 78298.
D. (6) $4,878.74. E. (9) $5,582.22.

A. John S. McLees, Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C. 20062.
B. Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C. 20062.
E. (9) $300.

A. William F. McManus, General Electric Co., 777 14th Street NW., Washington, D.C. 20005.
B. General Electric Co., Easton Turnpike, Fairfield, Conn. 06431.
D. (6) $690. E. (9) $370.

A. Paula V. McMartin, Physicians National Housestaff Association, 1625 L Street NW., Washington, D.C. 20016.
B. Physicians National Housestaff Association, 1625 L Street NW., Washington, D.C. 20016.
D. (6) $3,500. E. (9) $13.85.

A. C. W. McMillan, 425 13th Street NW., Suite 1020, Washington, D.C. 20004.
B. National Cattlemen's Association, 1001 Lincoln Street, Denver, Colo. 80203.
D. (6) $1,500.

A. McNutt, Dudley, Easterwood & Losch, 910 17th Street NW., Washington, D.C. 20006.
B. American Dredging Co., 12 South 12th Street, Philadelphia, Pa. 19107, et al.
D. (6) $21,000. E. (9) $3,564.87.

A. McNutt, Dudley, Easterwood & Losch, 910 17th Street NW., Washington, D.C. 20006.
B. Republic of Turkey, 1606 23d Street NW., Washington, D.C. 20008.
D. (6) $6,300. E. (9) $1,112.63.

A. George G. Mead, American Trucking Associations, Inc., 1616 P Street NW., Washington, D.C. 20036.
B. American Trucking Associations, Inc., 1616 P Street NW., Washington, D.C. 20036.
D. (6) $6,000. E. (9) $1,400.02.

A. Joseph J. Meder, Interlake, Inc., 1050 17th Street NW., No. 1160, Washington, D.C. 20036.
B. Interlake, Inc., Commerce Plaza, 2015 Spring Road, Oak Brook, Ill. 60521.
D. (6) $6,840. E. (9) $538.15.

A. David O. Meeker, The American Institute of Architects, 1735 New York Avenue NW., Washington, D.C. 20006.
B. The American Institute of Architects, 1735 New York Avenue NW., Washington, D.C. 20006.
D. (6) $1,500. E. (9) $1,000.

A. Carl J. Megel, American Federation of Teachers, AFL–CIO, 11 Dupont Circle NW., Washington, D.C. 20036.
B. American Federation of Teachers, 11 Dupont Circle NW., Washington, D.C. 20036.
D. (6) $8,135. E. (9) $300.

A. William H. Megonnell, National Association of Electric Cos., 1140 Connecticut Avenue NW., Washington, D.C. 20036.
B. National Association of Electric Cos., 1140 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $105. E. (9) $1.

A. Kenneth A. Meiklejohn, AFL–CIO, 815 16th Street NW., Washington, D.C.
B. American Federation of Labor and Congress of Industrial Organizations, 815 16th Street NW., Washington, D.C.
D. (6) $10,094.50.

A. Frederick A. Meister, Jr., 1611 North Kent Street, Arlington, Va. 22209.
B. American Footwear Industries Association, Inc., 1611 North Kent Street, Arlington, Va. 22209.
D. (6) $270. E. (9) $250.

A. R. Otto Meletzke, American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.
B. American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.
D. (6) $58. E. (9) $230.

A. Marilee Menard, National Broiler Council, 1155 15th Street NW., Washington, D.C. 20005.
B. National Broiler Council, 1155 15th Street NW., Washington, D.C. 20005.
D. (6) $600.

A. Ellis E. Meredith, American Apparel Manufacturers Association, Inc., 1611 North Kent Street, Arlington, Va. 22209.

B. American Apparel Manufacturers Association, Inc., 1611 North Kent Street, Arlington, Va. 22209.
E. (9) $849.20.

A. Ralph J. Merigliano, National Association of Letter Carriers, 100 Indiana Avenue NW., Washington, D.C. 20001.
B. National Association of Letter Carriers, 100 Indiana Avenue NW., Washington, D.C. 20001.
D. (6) $4,439.96.

A. Harold E. Mesirow, Hydeman, Mason & Goodell, 1220 19th Street NW., Washington, D.C. 20036.
B. Stencel Aero Engineering Corp., P.O. Box 5836, Asheville, N.C. 28803.

A. Tanya K. Metaksa, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
B. National Rifle Association, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
D. (6) $500. E. (9) $131.09

A. Nancy S. Metler, 1750 K Street NW., Suite 300, Washington, D.C.
B. American Nuclear Energy Council, 1750 K Street NW., Suite 300, Washington, D.C.

A. Metzger, Shadyac & Schwarz, 1 Farragut Square South, Washington, D.C. 20006.
B. Melex, U.S.A., Inc., 1201 Front Street, Raleigh, N.C. 27609.
D. (6) $375.

A. M. Barry Meyer, Aluminum Association, 818 Connecticut Avenue NW., Washington, D.C. 20006.
B. Aluminum Association, 818 Connecticut Avenue NW., Washington, D.C. 20006.
D. (6) $250. E. (9) $50.

A. Ronald A. Mitchell, 425 13th Street NW., Suite 1020, Washington, D.C. 20004.
B. National Cattlemen's Association, 1001 Lincoln Street, Denver, Colo. 80203.
D. (6) $1,000.

A Mid-Continent Oil & Gas Association, 1111 Thompson Building, Tulsa, Okla. 74103.
D. (6) $3,491.61. E. (9) $2,101.65.

A. Roy H. Millenson, Association of American Publishers, 1707 L Street NW., Room 480, Washington, D.C. 20036.
B Association of American Publishers, 1707 L Street N.W., Room 480, Washington, D.C. 20036.
D. (6) $1,850. E. (9) $130.

A. A. Stanley Miller, 910 16th Street, Room 302, Washington, D.C. 20006.
B. Federation of American Controlled Shipping, 17 Battery Place North, New York, N.Y. 10004.
D. (6) $200.

A. Miller, Cassidy, Larroca & Lewin, 2555 M Street NW., Suite 500, Washington, D.C. 20037.
B. American Motors Corp., 14250 Plymouth Road, Detroit, Mich. 48232.

A. Miller & Chevalier, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Hercules Inc., 910 Market Street, Wilmington, Del. 19899.
D. (6) $4,180.

A. Miller & Chevalier, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. IDS Life Insurance Co., IDS Tower, Minneapolis, Minn. 55402.
D. (6) $7,110.

A. Miller & Chevalier, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Lockheed Corp., Burbank, Calif. 91520.
D. (6) $5,125.

A. Dale Miller, 377 Mayflower Hotel, Washington, D.C. 20036.
B. Gulf Intracoastal Canal Association, Houston, Tex.
D (6) $262.50. E. (9) $33.69.

A. Dale Miller, 377 Mayflower Hotel, Washington, D.C. 20036.
B. Texasgulf, Inc., Stamford, Conn.
D. (6) $450. E. (9) $471.32.

A. Joe D. Miller, 535 North Dearborn Street, Chicago, Ill. 60610.
B. American Medical Association, 535 North Dearborn Street, Chicago, Ill. 60610.

A. Kirk Miller, American Farm Bureau Federation, 425 13th Street NW., Washington, D.C. 20004.
B. American Farm Bureau Federation, 225 Touhy Avenue, Park Ridge, Ill.
D. (6) $3,375. E. (9) $36.60.

A. Luman G. Miller, Oregon Railroad Association, 620 Southwest Fifth Avenue Building, Suite 912, Portland, Oreg. 97204.
B. Oregon Railroad Association, 620 Southwest Fifth Avenue Building, Suite 912, Portland, Oreg. 97204.

A. R. Eric Miller, 1620 I Street NW., Suite 703, Washington, D.C. 20006.
B. Bechtel Corp., 1620 I Street NW., Suite 703, Washington, D.C. 20006.

A. William P. Miller, Jr., American Society of Mechanical Engineers, 2029 K Street NW., Washington, D.C. 20006.
B. American Society of Mechanical Engineers, 345 East 47th Street, New York, N.Y. 10017.
E. (9) $172.26.

A. Millman Broder & Curtis, 1730 M Street NW., Suite 908, Washington, D.C. 20036.
B. American Brotherhood for the Blind, 524 Fourth Street, Des Moines, Iowa 50309.
D. (6) $3,600. E. (9) $361.02.

A. Millman Broder & Curtis, 1730 M Street NW., Suite 908, Washington, D.C. 20036.
B. National Council of Senior Citizens, 1511 K Street NW., Washington, D.C. 20005.
D. (6) $4,500. E. (9) $1,678.70.

A. John F. Mills, 1776 K Street NW., Washington, D.C. 20006.
B. The Tobacco Institute, Inc., 1776 K Street NW., Washington, D.C. 20006.
D. (6) $1,200. E. (9) $180.

A. Linda F. Mills, 1629 K Street NW., Suite 300, Washington. D.C. 20006.
B. General Mills, Inc., P.O. Box 1113, Minneapolis, Minn. 55440.
D. (6) $300. E. (9) $450.

A. Edward J. Milne, 1140 Connecticut Avenue NW., Room 1010, Washington, D.C. 20036.
B. National Association of Electric Cos., 1140 Connecticut Avenue NW., Room 1010, Washington, D.C. 20036.
D. (6) $313. E. (9) $9.

A. Stephan M. Minikes, Butler, Binion, Rice, Cook & Knapp, 818 Connecticut Avenue NW., Washington, D.C. 20006.
B. Seatrain Lines, Inc., 1 Chase Manhattan Plaza, New York, N.Y. 10005.

A. Charles W. Mitchell, 7915 Sherwood Road, Ruxton, Md. 21204.
B. Americans for Alaska, P.O. Box 50, Riderwood, Md. 21139.
D. (6) $3,000. E. (9) $254.15.

A. Clarence Mitchell, NAACP, 733 15th Street NW., Suite 410, Washington, D.C. 20005.

B. National Association for the Advancement of Colored People, 1790 Broadway, New York, N.Y. 10019.
D. (6) $4,000.

A. Thomas F. Mitchell, Georgia-Pacific Corp., 1735 I Street NW., Washington, D.C. 20006.
B. Georgia-Pacific Corp., 900 Southwest Fifth Avenue, Portland, Oreg. 97204.
E. (9) $315.

A. Richard Mizrack, 270 Madison Avenue, New York, N.Y. 10016.
B. Wolf Haldenstein, Alder, Freeman & Herz, 270 Madison Avenue, New York, N.Y. 1006 (for Pallek-Lankro Corp., Tuscaloosa, Ala.)
D. (6) $300. E. (9) $82.

A. Stacey J. Mobley, 1701 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. E. I. du Pont de Nemours & Co., 1007 Market Street, Wilmington, Del. 19898.

A. Phillip W. Moery, 612 East Capitol Street, No. 2, Washington, D.C. 20003.
B. Surrey, Karasik & Morse, 1156 15th Street NW., Washington, D.C. 20005.
D. (6) $354. E. (9) $41.

A. George Moffett, 1606 34th Street NW., Washington, D.C. 20007.
B. Committee of Americans for the Canal Treaties, Inc. (COACT), 1019 19th Street NW., Washington, D.C. 20036.
D. (6) $2,362.08. E. (9) $1,659.72.

A. Robert M. Moliter, General Electric Co., 777 14th Street NW., Washington, D.C. 20005.
B. General Electric Co., 3135 Easton Turnpike, Fairfield, Conn. 06431.
D. (6) $96.

A. John S. Monagan, Whitman & Ransom, 1730 Pennsylvania Avenue NW., Suite 1010, Washington, D.C. 20006.
B. Connecticut Bankers Association, 100 Constitution Plaza, Suite 956, Hartford, Conn.

A. John O. Mongoven, 6934 Stoneybrooke Lane, Alexandria, Va. 22306.
B. Committee of Americans for the Canal Treaties, Inc. (COACT), 1019 19th Street NW., Suite 1120, Washington, D.C. 20036.
D. (6) $1,500.

A. Montgomery Ward & Co., Inc., 1100 Connecticut Avenue NW., No. 530, Washington, D.C. 20036.
B. Montgomery Ward & Co., Inc., 535 West Chicago Avenue, Chicago, Ill. 60671.
D. (6) $338.50. E. (9) $150.

A. G. Merrill Moody, Association of American Railroads, 40 Ivy Street SE., Washington, D.C. 20003.
B. Association of American Railroads, 1920 L Street NW., Washington, D.C. 20036.
D. (6) $487.49. E. (9) $36.35.

A. Alan J. Moore, The Atchison, Topeka & Santa Fe Railway Co., Suite 940, 1100 Connecticut Avenue NW., Washington, D.C. 20036.
B. The Atchison, Topeka & Santa Fe Railway Co., 80 East Jackson Boulevard, Chicago, Ill. 60604.
D. (6) $1,000. E. (9) $150.

A. Clarence W. Moore, 407 Lincoln Road, Miami Beach, Fla. 33139; Barr Building 912, 910 17th Street NW., Washington, D.C. 20006.
B. National Barrel & Drum Association, 1028 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $1,250.

A. J. Calvin Moore, Oil, Chemical & Atomic Workers International Union, 1636 Connecticut Avenue NW., Washington, D.C. 20009.
B. Oil, Chemical & Atomic Workers International Union, 1636 Connecticut Avenue NW., Washington, D.C. 20009.
D. (6) $1,500. E. (9) $1,000.

A. Michael S. Mulhern, National Association of Electric Cos., 1140 Connecticut Avenue NW., Washington, D.C. 20036.
B. National Association of Electric Cos., 1140 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $105. E. (9) $1.

A. Mullen & Co., 1000 Vermont Avenue NW., Washington, D.C. 20005.
B. Ad Hoc Committee for Fair Trade, 1000 Vermont Avenue NW., Washington, D.C. 20005.
D. (6) $2,000. E. (9) $1,000.

A. Mullen & Co., 1000 Vermont Avenue NW., Washington, D.C. 20005.
B. Ad Hoc Committee for Fair Trade, 1000 Vermont Avenue NW., Washington, D.C. 20005.
D. (6) $2,000. E. (9) $1,000.

A. Mullen & Co., 1000 Vermont Avenue NW., Washington, D.C. 20005.
B. Ad Hoc Committee for Fair Trade, 1000 Vermont Avenue NW., Washington, D.C. 20005.
D. (6) $2,000. E. (9) $1,000.

A. Mullen & Co., 1000 Vermont Avenue NW., Washington, D.C. 20005.
B. Ad Hoc Committee for Fair Trade, 1000 Vermont Avenue NW., Washington, D.C. 20005.
D. (6) $2,000. E. (9) $1,000.

A. Mullen & Co., 1000 Vermont Avenue NW., Washington, D.C. 20005.
B. Ad Hoc Committee for Fair Trade, 1000 Vermont Avenue NW., Washington, D.C. 20005.
D. (6) $2,000. E. (9) $1,000.

A. Mullen & Co., 1000 Vermont Avenue NW., Washington, D.C. 20005.
B. Ad Hoc Committee for Fair Trade, 1000 Vermont Avenue NW., Washington, D.C. 20005.
D. (6) $2,000. E. (9) $1,000.

A. Mullen & Co., 1000 Vermont Avenue NW., Washington, D.C. 20005.
B. Ad Hoc Committee for Fair Trade, 1000 Vermont Avenue NW., Washington, D.C. 20005.
D. (6) $2,000. E. (9) $1,000.

A. Mullen & Co., 1000 Vermont Avenue NW., Washington, D.C. 20005.
B. Ad Hoc Committee for Fair Trade, 1000 Vermont Avenue NW., Washington, D.C. 20005.
D. (6) $2,000. E. (9) $1,000.

A. Mullen & Co., 1000 Vermont Avenue NW., Washington, D.C. 20005.
B. Ad Hoc Committee for Fair Trade, 1000 Vermont Avenue NW., Washington, D.C. 20005.
D. (6) $2,000. E. (9) $1,000.

A. Mullen & Co., 1000 Vermont Avenue NW., Washington, D.C. 20005.
B. Ad Hoc Committee for Fair Trade, 1000 Vermont Avenue NW., Washington, D.C. 20005.
D. (6) $2,000. E. (9) $1,000.

A. Mullen & Co., 1000 Vermont Avenue NW., Washington, D.C. 20005.
B. Ad Hoc Committee for Fair Trade, 1000 Vermont Avenue NW., Washington, D.C. 20005.
D. (6) $2,000. E. (9) $1,000.

A. Mullen & Co., 1000 Vermont Avenue NW., Washington, D.C. 20005.
B. Ad Hoc Committee for Fair Trade, 1000 Vermont Avenue NW., Washington, D.C. 20005.
D. (6) $2,000. E. (9) $1,000.

A. Mullen & Co., 1000 Vermont Avenue NW., Washington, D.C. 20005.
B. Ad Hoc Committee for Fair Trade, 1000 Vermont Avenue NW., Washington, D.C. 20005.
D. (6) $2,000. E. (9) $1,000.

A. Mullen & Co., 1000 Vermont Avenue NW., Washington, D.C. 20005.
B. Ad Hoc Committee for Fair Trade, 1000 Vermont Avenue NW., Washington, D.C. 20005.
D. (6) $2,000. E. (9) $1,000.

A. Mullen & Co., 1000 Vermont Avenue NW., Washington, D.C. 20005.
B. Ad Hoc Committee for Fair Trade, 1000 Vermont Avenue NW., Washington, D.C. 20005.
D. (6) $2,000. E. (9) $1,000.

A. Mullen & Co., 1000 Vermont Avenue NW., Washington, D.C. 20005.
B. Ad Hoc Committee for Fair Trade, 1000 Vermont Avenue NW., Washington, D.C. 20005.
D. (6) $2,000. E. (9) $1,000.

A. Mullen & Co., 1000 Vermont Avenue NW., Washington, D.C. 20005.
B. Ad Hoc Committee for Fair Trade, 1000 Vermont Avenue NW., Washington, D.C. 20005.
D. (6) $2,000. E. (9) $1,000.

A. Mullen & Co., 1000 Vermont Avenue NW., Washington, D.C. 20005.
B. Ad Hoc Committee for Fair Trade, 1000 Vermont Avenue NW., Washington, D.C. 20005.
D. (6) $2,000. E. (9) $1,000.

A. Mullen & Co., 1000 Vermont Avenue NW., Washington, D.C. 20005.
B. Ad Hoc Committee for Fair Trade, 1000 Vermont Avenue NW., Washington, D.C. 20005.
D. (6) $2,000. E. (9) $1,000.

A. Mullen & Co., 1000 Vermont Avenue NW., Washington, D.C. 20005.
B. Ad Hoc Committee for Fair Trade, 1000 Vermont Avenue NW., Washington, D.C. 20005.
D. (6) $2,000. E. (9) $1,000.

A. Mullen & Co., 1000 Vermont Avenue NW., Washington, D.C. 20005.
B. Ad Hoc Committee for Fair Trade, 1000 Vermont Avenue NW., Washington, D.C. 20005.
D. (6) $2,000. E. (9) $1,000.

A. L. Calvin Moore, Oil, Chemical & Atomic Workers International Union, 1126 16th Street NW., Washington, D.C. 20036.
B. Oil, Chemical & Atomic Workers International Union, 1636 Champa Street, Denver, Colo. 80201.
D. (6) $3,575. E. (9) $318.50.

A. Powell A. Moore, 1155 15th Street NW., Suite 424, Washington, D.C. 20005.
B. Mondakota Gas Co., P.O. Box 224, Billings, Mont. 59103.

A. Powell A. Moore, 1155 15th Street NW., Suite 424, Washington, D.C.
B. Southern Natural Gas Co., P.O. Box 2563, Birmingham, Ala. 35202.
D. (6) $1,495.

A. E. Joyce Morgan, American Mining Congress, 1100 Ring Building, Washington, D.C.
B. American Mining Congress, 1100 Ring Building, Washington, D.C.

A. Earl J. Morgan, 1150 17th Street NW., Washington, D.C. 20036.
B. McDonnell Douglas Corp., P.O. Box 516, St. Louis, Mo. 63166.
D. (6) $270. E. (9) $110.

A. Morgan, Lewis & Bockius, 1800 M Street NW., Suite 700 North, Washington, D.C. 20036.
B. Committee for Capital Formation Through Dividend Reinvestment, 1800 M Street NW., Suite 700 North, Washington, D.C. 20036.
D. (6) $300. E. (9) $200.

A. Morison, Murphy, Abrams & Haddock, 1776 K Street NW., Suite 900, Washington, D.C. 20006.
B. The Sperry & Hutchinson Co., 330 Madison Avenue, New York, N.Y. 10017.

A. Stephen C. Morrisette, NC Petroleum Council, P.O. Box 167, Raleigh, N.C. 27602.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.

A. Alan B. Morrison, Public Citizen, Inc., Suite 700, 2000 P Street NW., Washington, D.C. 20036.
B. Public Citizen, Inc., P.O. Box 19404, Washington, D.C. 20036.
D. (6) $135. E. (9) $135.

A. Lynn E. Mote, Northern Natural Gas Co., 1123 15th Street NW., Suite 503, Washington, D.C. 20005.
B. Northern Natural Gas Co., 2223 Dodge Street, Omaha, Nebr. 68102.
D. (6) $2,000.

A. Walter L. Mote, Rocky Mountain Oil & Gas Association, 1155 15th Street NW., Suite 314, Washington, D.C. 20005.
B. Rocky Mountain Oil & Gas Association, 345 Petroleum Club Building, Denver, Colo. 80202.

A. David Moulton, Congress Watch, 133 C Street SE., Washington, D.C. 20003.
B. Congress Watch, 133 C Street SE., Washington, D.C. 20003.
D. (6) $2,000.

A. Roger L. Mosingo, The Tobacco Institute, 1776 K Street NW., Washington, D.C. 20006.
B. The Tobacco Institute, 1776 K Street NW., Washington, D.C. 20006.
D. (6) $120.

A. Karen Mulhauser, 825 15th Street NW., Washington, D.C. 20005.
B. National Abortion Rights Action League, 825 15th Street NW., Washington, D.C. 20005.
D. (6) $237.50.

A. Michael S. Mulkey, National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.

A. William G. Mullen, National Newspaper Association, 1627 K Street NW., Suite 400, Washington, D.C. 20006.
B. National Newspaper Association, 1627 K Street NW., Suite 400, Washington, D.C. 20006.
D. (6) $11,250.

A. Robert M. Mulligan, 910 17th Street NW., Washington, D.C. 20006.
B. International Association of Ice Cream Manufacturers & Milk Industry Foundation, 910 17th Street NW., Washington, D.C. 20006.

A. Mullin, Connor & Rhyne, P.C., 1000 Connecticut Avenue, Washington, D.C. 20036.
B. Alberto de la Vega-Ripol, 804 Garching, Konigsbergerstr. 2, West Germany.
E. (9) $32.57.

A. Tracy Mullin, National Retail Merchants Association, 1000 Connecticut Avenue NW., No. 700, Washington, D.C. 20036.
B. National Retail Merchants Association, 100 West 31st Street, New York, N.Y. 10001.
D. (6) $400. E. (9) $30.

A. Robert J. Mullins, 1012 14th Street NW., Washington, D.C. 20005.
B. The Farmers' Educational & Co-Operative Union of America, Denver, Colo. 80251; 1012 14th Street NW., Washington, D.C. 20005.
D. (6) $3,876.98. E. (9) $33.51.

A. Anne G. Murphy, 3415 South Stafford Street, Arlington, Va. 22206.
B. Public Broadcasting Service, 475 L'Enfant Plaza SW., Washington, D.C. 20024.
D. (6) $9,490. E. (9) $184.95.

A. Beverly Murphy, National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
B. National Cable Television Association, Inc., 918 16th Street NW., Washintgon, D.C. 20006.
D. (6) $237.

A. William T. Murphy, Jr., 1730 Pennsylvania Avenue NW., Suite 1111, Washington, D.C. 20006.
B. American Natural Service Co., 1730 Pennsylvania Avenue NW., Suite 1111, Washington, D.C. 20006.
D. (6) $2,500. E. (9) $1,200.

A. D. Michael Murray, 1120 Connecticut Avenue NW., No. 1128, Washington, D.C. 20036
B. Chicago, Milwaukee, St. Paul & Pacific RR., 516 West Jackson Boulevard, Chicago, Ill. 60606.
D. (6) $300. E. (9) $76

A. D. Michael Murray, 1120 Connecticut Avenue NW., No. 1128, Washington, D.C. 20036.
B. The Cleveland-Cliffs Iron Co., 1460 Union Commerce Building, Cleveland, Ohio 44115.
D. (6) $150. E. (9) $25.

A. D. Michael Murray, 1120 Connecticut Avenue NW., No. 1128, Washington, D.C. 20036.
B. Freeport Minerals Co., 161 East 42d Street, New York, N.Y. 10017.
D. (6) $200. E. (9) $40.

A. D. Michael Murray, 1120 Connecticut Avenue NW., No. 1128, Washington, D.C. 20036.
B. Iron Ore Lessors Association, Inc., 1500 First National Bank Building, St. Paul, Minn. 55101.
D. (6) $150.

A. D. Michael Murray, 1120 Connecticut Avenue NW., No. 1128, Washington, D.C. 20036.
B. LTV Corp., P.O. Box 5003, Dallas, Tex. 75222.
D. (6) $200.

A. D. Michael Murray, 1120 Connecticut Avenue NW., No. 1128, Washington, D.C. 20036.
B. National Association of Industrial & Office Parks, 1901 Fort Myer Drive, No. 1100, Arlington, Va. 22209.
D. (6) $250. E. (9) $105.

A. D. Michael Murray, 1120 Connecticut Avenue NW., No. 1128, Washington, D.C. 20036.
B. National Council of Coal Lessors, 1130 17th Street NW., Washington, D.C. 20035.
D. (6) $150. E. (9) $45.

A. William E. Murray, 2000 Florida Avenue NW., Washington, D.C. 20009.
B. National Rural Electric Cooperative Association, 2000 Florida Avenue NW., Washington, D.C. 20009.
D. (6) $170.50.

A. Harold D. Mutz, 1600 Wilson Boulevard, Suite 1101, Arlington, Va. 22209.
B. The American Waterways Operators, Inc., 1600 Wilson Boulevard, Suite 1101, Arlington, Va. 22209.
D. (6) $300.

A. Fred J. Mutz, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
B. American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $2,500. E. (9) $159.90.

A. Gary D. Myers, The Fertilizer Institute, 1015 18th Street NW., Washington, D.C. 20036.
B. The Fertilizer Institute, 1015 18th Street NW., Washington, D.C. 20036.
D. (6) $500. E. (9) $235.74.

A. Daniel Nachtigal, Morgan, Lewis & Bockius, Suite 700 North, 1800 M Street NW., Washington, D.C. 20036.
B. Committee For Capital Formation Through Dividend Reinvestment, Suite 700 North, 1800 M Street NW., Washington, D.C. 20036.

A. Gerald P. Nagy, National Home Furnishings Association, 1025 Vermont Avenue NW., Washington, D.C. 20005.
B. National Home Furnishings Association, 405 Merchandise Mart, Chicago, Ill. 60654.
D. (6) $300.

A. John J. Nangle, National Association of Independent Insurers, 1625 I Street NW., Suite 1001, Washington, D.C. 20006.
B. National Association of Independent Insurers, 2600 River Road, Des Plaines, Ill. 60018.
D. (6) $250.

A. Raymond Nathan, 5025 Garfield Street NW., Washington, D.C. 20016.
B. American Ethical Union, 2 West 64th Street, New York, N.Y. 10023.
D. (6) $750. E. (9) $353.93.

A. National Abortion Rights Action League, 825 15th Street NW., Washington, D.C. 20005.
D. (6) $170,365.23. E. (9) $20,457.45.

A. National Agricultural Chemicals Association, 1155 15th Street NW., Washington, D.C. 20005.
D. (6) $274.75. E. (9) $274.75.

A. National Association for Humane Legislation, Inc., 675 Pinellas Point Drive South, St. Petersburg, Fla. 33705.
D. (6) $35.92.

A. National Association of Chain Drug Stores, Inc., 1911 Jefferson Davis Highway, Suite 504, Arlington, Va. 22202.
E. (9) $3,326.78.

A. National Association of Electric Cos., 1140 Connecticut Avenue NW., Suite 1010, Washington, D.C. 20036.
D. (6) $9,237. E. (9) $9,376.

A. National Association of Federal Veterinarians, Suite 836, 1522 K Street NW., Washington, D.C. 20005.
E. (9) $111.64.

A. National Association of Furniture Manufacturers, 8401 Connecticut Avenue, Suite 911, Washington, D.C. 20015.
D. (6) $1,750. E. (9) $1,230.

A. National Association of Letter Carriers, 100 Indiana Avenue NW., Washington, D.C. 20001.
D. (6) $1,555,974.05. E. (9) $108,685.79.

A. National Association of Manufacturers, 1776 F Street NW., Washington, D.C.
D. (6) $80,091.80. E. (9) $80,091.80.

A. National Association of Mutual Insurance Cos., 7931 Castleway Drive, Indianapolis, Ind. 46250.

A. National Association of Mutual Savings Banks, 200 Park Avenue, New York, N.Y. 10017.
D. (6) $9,553.18. E. (9) $9,553.18.

A. National Association of Pension Consultants and Administrators, Inc., 151 Ellis Street NE., Atlanta, Ga. 30303.
D. (6) $2,150. E. (9) $7,017.31.

A. National Association of Real Estate Investment Trusts, Inc., 1101 17th Street, No. 700, Washington, D.C. 20036.
D. (6) $1,800. E. (9) $1,797.94.

A. National Association of Realtors, 430 North Michigan Avenue, Chicago, Ill., 925 15th Street NW., Washington, D.C.
E. (9) $29,348.11.

A. National Association of Wheat Growers, 1030 15th Street NW., Suite 1030, Washington, D.C. 20005.
D. (6) $17,458.15. E. (9) $7,156.71.

A. National Audio-Visual Association, Inc., 3150 Spring Street, Fairfax, Va. 22031.
D. (6) $24,339.28. E. (9) $8,076.96.

A. National Broiler Council, 1155 15th Street NW., Washington, D.C. 20005.
D. (6) $1,650. E. (9) $1,650.

A. National Business Aircraft Association, One Farragut Square South, Washington, D.C. 20006.
E. (9) $11.25.

A. National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
D. (6) $14,699.50. E. (9) $16,136.50.

A. National Cattlemen's Association, 1001 Lincoln Street, Denver, Colo. 80203.
E. (9) $4,040.

A. National Citizens Communications Lobby, P.O. Box 19101, Washington, D.C. 20036.
D. (6) $2,980. E. (9) $2,809.10.

A. National Associated Businessmen, Inc., 1000 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $1,555.75. E. (9) $1,094.09.

A. National Coal Association, Coal Building, Washington, D.C. 20036.
D. (6) $877,784.91. E. (9) $6,648.61.

A. National Committee Against Repressive Legislation, 1250 Wilshire Boulevard, Los Angeles, Calif. 90017.
D. (6) $3,454.73. E. (9) $6,965.92.

A. National Committee for a Human Life Amendment, Inc., 1707 L Street NW., No. 400, Washington, D.C. 20036.
D. (6) $57,097.66. E. (9) $13,972.30.

A. National Committee for Research in Neurological and Communicative Disorders, 927 National Press Building, Washington, D.C. 20045.
D. (6) $1,350. E. (9) $2,991.52.

A. National Cotton Council of America, P.O. Box 12285, Memphis, Tenn. 38112.
D. (6) $23,129.59. E. (9) $23,129.59.

A. National Council for a Responsible Firearms Policy, Inc., 1028 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $167. E. (9) $320.

A. National Council for a World Peace Tax Fund, 2111 Florida Avenue NW., Washington, D.C. 20008.
D. (6) $9,502.42. E. (9) $11,336.05.

A. National Electrical Manufacturers Association, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $3,239.05. E. (9) $3,239.05.

A. National Federation of Licensed Practical Nurses, 888 Seventh Avenue, New York, N.Y. 10019.
D. (6) $1,645. E. (9) $1,645.

A. National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
D. (6) $24,029.99. E. (9) $24,029.99.

A. National Grain and Feed Association, 725 15th Street NW., Washington, D.C. 20005.
E. (9) $50.

A. National Guard Association of the United States, 1 Massachusetts Avenue NW., Washington, D.C. 20001.
D. (6) $2,540.20. E. (9) $2,494.31.

A. National Home Furnishings Association, 405 Merchandise Mart, Chicago, Ill. 60654.
E. (9) $482.41.

A. National Housing Conference, Inc., 1126 16th Street NW., Washington, D.C. 20036.
D. (6) $52,058.26. E. (9) $54,937.44.

A. National Leased Housing Association, Suite 400 South, 1800 M Street NW., Washington, D.C. 20036.
D. (6) $450. E. (9) $450.

A. National Limestone Institute, Inc., 2251 Old Lee Highway, Suite 501, Fairfax, Va. 22030.
D. (6) $6,472.39. E. (9) $6,472.39.

A. National Milk Producers Federation, 30 F Street NW., Washington, D.C. 20001.
D. (6) $5,907.45. E. (9) $5,907.45.

A. National Motorsports Committee of ACCUS, Suite 302, 1735 K Street NW., Washington, D.C. 20006.
E. (9) $156.50.

A. National Oil Jobbers Council, Inc., 1707 H Street NW., 11th Floor, Washington, D.C. 20006.
D. (6) $127,841.77. E. (9) $68,192.94.

A. National Organization for the Reform of Marijuana Laws, 2317 M Street NW., Washington, D.C. 20037.
D. (6) $90,535. E. (9) $121,705.

A. National Pest Control Association, 8150 Leesburg Pike, Suite 1100, Vienna, Va. 22180.
D. (6) $6,300. E. (9) $5,798.70.

A. National Rehabilitation Association, 1522 K Street NW., Washington, D.C. 20005.
E. (9) $5,200.

A. National Retail Merchants Association, 100 West 31st Street, New York, N.Y. 10001.
D. (6) $200. E. (9) $3,340.

A. National Right to Work Committee, 8316 Arlington Boulevard, Suite 600, Fairfax, Va. 20038.
D. (6) $4,736. E. (9) $4,736.

A. National Rural Electric Cooperative Association, 2000 Florida Avenue NW., Washington, D.C. 20009.
E. (9) $4,997.87.

A. National Security Traders Association, Inc., 55 Broad Street, New York, N.Y. 10004.
E. (9) $1,875.

A. National Small Business Association, 1604 K Street NW., Washington, D.C. 20006.
D. (6) $5,000. E. (9) $2,600.

A. National Small Business Index, Rural Route 1, Aitkin, Minn. 56431.

A. National Society of Professional Engineers, 2029 K Street NW., Washington, D.C. 20006.
D. (6) $12,500. E. (9) $12,200.

A. National Soft Drink Association, 1101 16th Street NW., Washington, D.C. 20036.
E. (9) $164.12.

A. National Solid Wastes Management Association, 1120 Connecticut Avenue NW., No. 930, Washington, D.C. 20036.

A. National Telephone Cooperative Association, 2626 Pennsylvania Avenue NW., Washington, D.C. 20037.
E. (9) $5,965.

A. National Tire Dealers and Retreaders Association, 1343 L Street NW., Washington, D.C. 20005.
D. (6) $1,000. E. (9) $1,000.

A. Natural Gas Supply Committee, 1025 Connecticut Avenue NW., No. 505, Washington, D.C. 20036.
D. (6) $56,750. E. (9) $19,085.13.

A. Nazario & Ortiz-Daliot, 1522 K Street NW., Suite 410, Washington, D.C. 20005.
B. The Puerto Rico Mayors Association, 1510 Ponce de León Avenue, Santurce, P.R. 00909.
E. (9) $4.

A. Alexander W. Neale, Jr., Conference of State Bank Supervisors, 1015 18th Street NW., Washington, D.C. 20036.
B. Conference of State Bank Supervisors, 1015 18th Street NW., Washington, D.C. 20036.
D. (6) $2,762. E. (9) $7,439.86.

A. Alan M. Nedry, 1801 K Street NW., Suite

B. American Postal Workers Union, AFL

A. Alan M. Nedry, 1801 K Street NW., Suite 1041, Washington, D.C. 20006.
B. Southern California Edison Co., P.O. Box 800, Rosemead, Calif. 91770.
D. (6) $350. E. (9) $200.

A. Louis J. Nelson III, National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006
D. (6) $625.

A. Mark D. Nelson, 1701 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. E. I. du Pont de Nemours & Co., 1007 Market Street, Wilmington, Del. 19898.

A. Robert W. Nelson, 2000 Florida Avenue NW., Washington, D.C. 20009.
B. National Rural Electric Cooperative Association, 2000 Florida Avenue NW., Washington, D.C. 20009.
D. (6) $160.

A. NETWORK, 1029 Vermont Avenue NW., No. 650, Washington, D.C. 20005.
D. (6) $17,390.83. E. (9) $16,364.73.

A. Robert B. Neville, National Restaurant Association, 1850 K Street NW., Suite 850, Washington, D.C. 20006.
B. National Restaurant Association, 1850 K Street NW., Washington, D.C.; One IBM Plaza, Suite 2600, Chicago, Ill.
D. (6) $5,400. E. (9) $9,758.02.

A. Louis H. Nevins, 1709 New York Avenue NW., Suite 200, Washington, D.C. 20006.
B. National Association of Mutual Savings Banks, 200 Park Avenue, New York, N.Y. 10017.
D. (6) $3,250. E. (9) $899.86.

A. New England Fish Co., Pier 89, Seattle, Wash. 98119.
D. (6) $2,124. E. (9) $1,548.

A. Kathryn L. Newman, 1101 15th Street NW., Washington, D.C. 20005.
B. Republic Steel Corp., Republic Building, Cleveland, Ohio 44101.

A. Thomas E. Newman, National Association of Manufacturers, 1719 Route 10, Parsippany, N.J. 07054.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $250.

A. New York Committee of International Committee of Passenger Lines, 25 Broadway, New York, N.Y. 10004.
D. (6) $31,500. E. (9) $24,996.

A. Charles E. Nichols, 101 Constitution Avenue NW., Washington, D.C. 20001.
B. United Brotherhood of Carpenters and Joiners of America, 101 Constitution Avenue NW., Washington, D.C. 20001.
D. (6) $1,987.31. E. (9) $527.93.

A. F. Clayton Nicholson, Box 15, Route 1, Henryville, Pa. 18332.
B. Northern Helex Co., 2223 Dodge Street, Omaha, Nebr. 68102.
D. (6) $2,225. E. (9) $668.

A. Donald R. Niemi, Caterpillar Tractor Co., 100 Northeast Adams Street, Peoria, Ill. 61629.
B. Caterpillar Tractor Co., 100 Northeast Adams Street, Peoria, Ill. 61629.
D. (6) $1,300. E. (9) $1,128.85.

A. Patrick J. Nilan, American Postal Workers Union, AFL–CIO, 817 14th Street NW., Washington, D.C. 20005.
B. American Postal Workers Union, AFL–CIO, 817 14th Street NW., Washington, D.C. 20005.
D. (6) $11,439.95. E. (9) $7,356.94.

A. 19th Pro-Life Congressional District Action Committee, 409 North Third Street, Lompoc, Calif. 93436.
E. (9) $12.93.

A. Nan Fielding Nixon, 309 Fourth Street SE., Apt. 7, Washington, D.C. 20003.
B. Office of Government and Community Affairs, et al., Grays Hall 16, Harvard University, Cambridge, Mass.
D. (6) $6,000. E. (9) $930.05.

A. NL Industries, Inc., 1230 Avenue of the Americas, New York, N.Y. 10020.
E. (9) $3,000.

A. H. Christopher Nolde, National Soft Drink Association, 1101 16th Street NW., Washington, D.C. 20036.
B. National Soft Drink Association, 1101 16th Street NW., Washington, D.C. 20036.

A. Charles M. Noone, 490 L'Enfant Plaza East, No. 3304, Washington, D.C. 20024.
B. National Association of Small Business Investment Co., 512 Washington Building, Washington, D.C. 20005.
D. (6) $1,800. E. (9) $379.44.

A. Richard B. Norment IV, 2 Militia Drive, Lexington, Mass. 02173.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $475.

A. North American Export Grain Association, Inc., 1800 M Street NW., Washington, D.C. 20036.
E. (9) $17,125.

A. Northeast Utilities Service Co., Selden Street, Berlin, Conn.
E. (9) $2,271.02.

A. N.O.S.I. ("Not One Square Inch"), 4082 Howard Street, Los Alamitos, Calif. 90720.
E. (9) $50.04.

A. Seward P. Nyman, 20 Chevy Chase Circle, Washington, D.C. 20015.
B. American Podiatry Association, 20 Chevy Chase Circle, Washington, D.C. 20015.
D. (6) $650.

A. Mary E. Oakes, 1800 K Street NW., Washington, D.C. 20006.
B. Hercules Inc., 910 Market Street, Wilmington, Del. 19899.
D. (6) $618. E. (9) $111.

A. Coleman C. O'Brien, United States League of Savings Associations, 1709 New York Avenue NW., Suite 801, Washington, D.C. 20006.
B. United States League of Savings Associations, 111 East Wacker Drive, Chicago, Ill.
D. (6) $3,000. E. (9) $52.65.

A. John F. O'Brien, Connecticut Petroleum Council, 410 Asylum Street, Hartford, Conn. 06103.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.

A. Raymond V. O'Brien, International Telephone & Telegraph Corp., 1707 L Street NW., Suite 200, Washington, D.C. 20036.
B. International Telephone & Telegraph Corp., 320 Park Avenue, New York, N.Y. 10022.
D. (6) $200. E. (9) $30.

A. W. Brice O'Brien, American Mining Congress, 1100 Ring Building, Washington, D.C.
B. American Mining Congress, 1100 Ring Building, Washington, D.C.
D. (6) $436.20. E. (9) $25.

A. G. H. Ochenrider, Grumman Aerospace Corp., 1600 Wilson Boulevard, Arlington, Va. 22209.
B. Grumman Aerospace Corp., Bethpage, N.Y. 11714.
D. (6) $2,500. E. (9) $1,100.

A. William B. O'Connell, 111 East Wacker Drive, Chicago, Ill. 60601.
B. United States League of Savings Associations, 111 East Wacker Drive, Chicago, Ill. 60601.
D. (6) $1,450. E. (9) $487.44.

A. O'Connor & Hannan, 1747 Pennsylvania Avenue NW., Suite 600, Washington, D.C. 20006.
B. American Clinical Laboratory Association, 1747 Pennsylvania Avenue NW., Suite 600, Washington, D.C. 20006.
D. (6) $3,500. E. (9) $196.13.

A. O'Connor & Hannan, 1747 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. American Institute of Certified Public Accountants, 1620 I Street NW., Washington, D.C. 20006.
D. (6) $3,670.44. E. (9) $355.84.

A. O'Connor & Hannan, 1747 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. American Public Transit Association, 1100 17th Street NW., Washington, D.C. 20036.
D. (6) $3,750. E. (9) $333.20.

A. O'Connor & Hannan, 1747 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. American Retail Federation, 1616 H Street NW., Washington, D.C. 20006.

A. O'Connor & Hannan, 1747 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Association of General Merchandise Chains, 1625 I Street NW., Suite 1022, Washington, D.C. 20006.

A. O'Connor & Hannan, 1747 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Hennepin County, 2300 Government Center, Minneapolis, Minn. 55487.
D. (6) $10,412.50. E. (9) $1,040.

A. O'Connor & Hannan, 1747 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Hospital Financing Study Group, New York, N.Y.
D. (6) $2,500. E. (9) $466.27.

A. O'Connor & Hannan, 1747 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Minneapolis City Council, 307 City Hall, Minneapolis, Minn. 55415.
D. (6) $10,282.50. E. (9) $1,023.

A. O'Connor & Hannan, 1747 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. National Association of Personnel Consultants, 1835 K Street NW., Washington, D.C. 20006.
D. (6) $750.

A. O'Connor & Hannan, 1747 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. National Committee for Quality Health Care, New York, N.Y.,
D. (6) $1,000. E. (9) $250.

A. O'Connor & Hannan, 1747 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. National Retail Merchants Association, 1000 Connecticut Avenue NW., Washington, D.C. 20036.

A. O'Connor & Hannan, 1747 Pennsylvania Avenue NW., Washington, D.C. 20006.

B. John Nuveen & Co., Inc., 209 South LaSalle Street, Chicago, Ill. 60604.

A. O'Connor & Hannan, 1747 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Securities Industry Association, 490 L'Enfant Plaza East SW., Washington, D.C. 20024.
D. (6) $3,333.33. E. (9) $389.06.

A. L. L. O'Connor, 20 North Wacker Drive, Chicago, Ill. 60606.
B. Profit Sharing Council of America, 20 North Wacker Drive, Chicago, Ill. 60606.

A. Robert C. Odle, Jr., International Paper Co., 1620 I Street NW., No. 700, Washington, D.C. 20006.
B. International Paper Co., 1620 I Street NW., Suite 700, Washington, D.C. 20006.
D. (6) $400. E. (9) $100.

A. John A. O'Donnell, 1001 Connecticut Avenue NW., No. 716, Washington, D.C. 20036.
B. Philippine Sugar Commission.
D. (6) $3,000. E. (9) $250.

A. Neil H. Offen, 1730 M Street NW., Washington, D.C. 20036.
B. Direct Selling Association, 1730 M Street NW., Washington, D.C. 20036.
D. (6) $3,400. E. (9) $257.15.

A. Kathleen L. O'Flaherty, American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
B. American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $175. E. (9) $12.

A. Jane O'Grady, AFL–CIO, 815 16th Street NW., Washington, D.C.
B. American Federation of Labor and Congress of Industrial Organizations, 815 16th Street NW., Washington, D.C.
D. (6) $9,154.20.

A. Bartley O'Hara, 25 Louisiana Avenue NW., Washington, D.C. 20001.
B. International Brotherhood of Teamsters, 25 Louisiana Avenue NW., Washington, D.C. 20001.
D. (6) $8,025.

A. James G. O'Hara, Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. American Federation of Teachers, 11 Dupont Circle NW., Washington, D.C. 20036.
D. (6) $62.50.

A. James G. O'Hara, Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. General Motors Corp., 1660 L Street NW., Washington, D.C. 20036.
D. (6) $437.50.

A. Alvin E. Oliver, 725 15th Street NW., Washington, D.C. 20005.
B. National Grain & Feed Association, P.O. Box 28328, Washington, D.C. 20005.

A. Nancy J. Olson, Johns-Manville Corp., 1025 Connecticut Avenue NW., Suite 214, Washington, D.C. 20036.
B. Johns-Manville Corp., P.O. Box 5108, Denver, Colo. 80217.
D. (6) $400. E. (9) $500.

A. Roy E. Olson, 260 Madison Avenue, New York, N.Y. 10016.
B. American Paper Institute, Inc., 260 Madison Avenue, New York, N.Y. 10016.

A. George C. P. Olsson, 25 Clifford Road, Plymouth, Mass. 02360.
B. Ocean Spray Cranberries, Inc., Plymouth, Mass. 02360.
D. (6) $337.50.

A. Olwine, Connelly, Chase, O'Donnell & Weyher, 299 Park Avenue, New York, N.Y. 10017.
B. U.S. Industries, Inc., 250 Park Avenue, New York, N.Y. 10017.
D. (6) $2,520. E. (9) $232.14.

A. Samuel Omasta, 3251 Old Lee Highway, Suite 501, Fairfax, Va. 22030.
B. National Limestone Institute, Inc., 3251 Old Lee Highway, Suite 501, Fairfax, Va. 22030.
E. (9) $36.80.

A. R. E. Omohundro, National Association of Federal Veterinarians, Suite 836, 1522 K Street NW., Washington, D.C. 20005.
B. National Association of Federal Veterinarians, Suite 836, 1522 K Street NW., Washington, D.C. 20005.
D. (6) $59.12.

A. Hugh L. O'Neill, 324 North Pitt Street, Alexandria, Va. 22314.
B. Committee of Americans for the Canal Treaties, Inc., 1019 19th Street NW., Suite 1120, Washington, D.C. 20036.
D. (6) $1,500.

A. Townes Osborn, National Citizens Communications Lobby, 1028 Connecticut Avenue, Washington, D.C. 20036.
B. National Citizens Communications Lobby, 1028 Connecticut Avenue, Suite 918, Washington, D.C. 20036.

A. Roland A. Quellette General Motors Corp., 1660 L Street NW., Suite 501, Washington, D.C. 20036.
B. General Motors Corp., 3044 West Grand Boulevard, Detroit, Mich.
D. (6) $3,600. E. (9) $5,322.55.

A. Outdoor Power Equipment Institute, Inc., 1901 L Street NW., Suite 700, Washington, D.C. 20036.

A. J. Allen Overton, Jr., American Mining Congress, 1100 Ring Building, Washington, D.C.
B. American Mining Congress, 1100 Ring Building, Washington, D.C.
D. (6) $700.61. E. (9) $82.75.

A. William H. Owens, Jr., 1101 17th Street NW., Washington, D.C. 20036.
B. American Dental Association, 1101 17th Street NW, Washington, D.C. 20036.
D. (6) $1,000.

A. Raymond S. Page, Jr., Mill Creek Terrace, Gladwyne, Pa. 19035.
B. Campbell Soup Co., Campbell Place, Camden, N.J. 08101.

A. Henry S. Palau, 1625 I Street NW., Washington, D.C. 20006.
B. The Retired Officers Association, 1625 I Street NW., Washington, D.C. 20006.
D. (6) $547.

A. Fred Panzer, 1776 K Street NW., Washington, D.C. 20006.
B. The Tobacco Institute, Inc., 1776 K Street NW., No. 1200, Washington, D.C. 20006.
D. (6) $480. E. (9) $350.

A. Paperboard Packaging Council, 1800 K Street NW., Suite 600, Washington, D.C. 20006.
E. (9) $412.40.

A. G. Oliver Pappa, New Jersey Petroleum Council, 170 West State Street, Trenton, N.J. 08608.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $10.

A. Herschell E. Parent, Arkansas Petroleum Council, 302 Commercial National Bank Building, Little Rock, Ark. 72201.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
E. (9) $9.20.

A. Joel B. Paris, III, P.O. Box 28081, Atlanta, Ga. 30328.
B. Northrop Corp., 1701 North Fort Myer Drive, Suite 208, Arlington, Va. 22209.

A. Tom E. Paro, Association of Maximum Service Telecasters, Inc., 1735 DeSales Street N.W., Washington, D.C. 20036.
B. Association of Maximum Service Telecasters, Inc., 1735 DeSales Street NW., Washington, D.C. 20036.

A. Robert D. Partridge, 2000 Florida Avenue NW., Washington, D.C. 20009.
B. National Rural Electric Cooperative Association, 2000 Florida Avenue NW., Washington, D.C. 20009.
D. (6) $312.32.

A. Nicholas D. Pasco, 600 New Hampshire Avenue NW., Suite 420, Washington, D.C. 20037.
B. Shipbuilders Council of America, 600 New Hampshire Avenue NW., Suite 420, Washington, D.C. 20037.
D. (6) $800. E. (9) $225.

A. Howard G. Paster, United Automobile, Aerospace & Agricultural Implement Workers of America, 1125 15th Street NW., Washington, D.C. 20005.
B. International Union, United Automobile, Aerospace & Agricultural Implement Workers of America, 8000 East Jefferson Avenue, Detroit, Mich. 48214.
D. (6) $10,959.36. E. (9) $933.28.

A. Richard M. Patterson, 1800 M Street NW., Suite 700S, Washington, D.C. 20036.
B. The Dow Chemical Co., Midland, Mich. 48640.
D. (6) $500. E. (9) $239.50.

A. William H. Patterson, General Electric Co., 777 14th Street NW., Washington, D.C.
B. General Electric Co., 777 14th Street NW., Washington, D.C.
D. (6) $115.

A. Kenton Pattie, National Audio-Visual Association, Inc., 3150 Spring Street, Fairfax, Va. 22031.
B. National Audio-Visual Association, Inc., 3150 Spring Street, Fairfax Va. 22031.
D. (6) $2,512.25.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
D. (6) $13,975.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Ad Hoc Committee on Section 602, 1101 16th Street NW., Suite 300, Washington, D.C. 20006.
D. (6) $450. E. (9) $360.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Ad Hoc Committee of Zonal Electric Heating Manufacturers, 150 Avenue L, Newark, N.J. 07101.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.

B. Air Products & Chemicals, Inc., P.O. Box 538, Allentown, Pa. 18105.
D. (6) $57.50. E. (9) $25.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Alyeska Pipeline Service Corp., P.O. Box 576, Bellevue, Wash. 98004.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. American Guild of Authors and Composers, 50 West 57th Street, New York, N.Y. 10019.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. American Imported Automobile Dealers Association, 1129 20th Street NW., Washington, D.C. 20036.
D. (6) $240.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. American Maritime Association, 17 Battery Place, New York, N.Y. 10004.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. American Retail Federation, 1616 H Street NW., Washington, D.C. 20006.
D. (6) $1,400. E. (9) $11.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. American Society of Association Executives, 1101 16th Street NW., Washington, D.C. 20036.
D. (6) $680. E. (9) $10.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. AMFAC, Inc., 700 Bishop Street, Honolulu, Hawaii 96801.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Armco Steel Corp., General Offices, Middletown, Ohio 45042.
D. (6) $1,060.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Association of General Merchandise Chains, 1625 I Street NW., Washington, D.C. 20006.
D. (6) $200.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Association of Oil Pipelines, 1725 K Street, Washington, D.C. 20006.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Association of Trial Lawyers of America, 20 Garden Street, Cambridge, Mass. 02138.
D. (6) $4,500. E. (9) $180.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Bath Iron Works Corp., 700 Washington Street, Bath, Maine 04530.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Boating Industry Association, 401 North Michigan Avenue, Chicago, Ill. 60601; National Association of Engine & Boat Manufacturers, P.O. Box 5555, Grand Central Station, New York, N.Y. 10017.
D. (6) $815.95. E. (9) $2,520.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. The Business Roundtable, 1801 K Street NW., Washington, D.C. 20006.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Central American Sugar Council, 1200 17 Street NW., Washington, D.C. 20036.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Chicago Board Options Exchange, LaSalle at Jackson, Chicago, Ill. 60604.
D. (6) $520.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Chippewa-Cree Tribe, Rocky Boy Reservation, Box Elder, Mont. 59521.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. City of Birmingham, City Hall, Birmingham, Ala. 35203.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Committee Concerned with the Safe Banking Act, 5500 Veterans Memorial Boulevard, Metairie, La. 70003.
D. (6) $1,100. E. (9) $305.80.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Council of State Chambers of Commerce, 1028 Connecticut Avenue NW., Suite 1018, Washington, D.C. 20036.
D. (6) $530. E. (9) $25.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Donaldson, Lufkin & Jenrette, Inc., 140 Broadway, New York, N.Y. 10005.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Federal Pacific Electric Co., 150 Avenue L, Newark, N.J. 07101.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Frontier Spar Corp., P.O. Box 235, Salem, Ky. 42078.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. General Mills Corp., 9200 Wayzata Boulevard, Minneapolis, Minn. 55426.
D. (6) $515.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Hobby Industry of America, 200 Fifth Avenue, New York, N.Y. 10010.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Independent U.S. Tanker Owners Committee, 1612 K Street NW., Suite 510, Washington, D.C. 20006.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Institute of Electrical & Electronics Engineers, 2029 K Street NW., Washington, D.C. 20006.
D. (6) $62.50.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Institute of Scrap Iron & Steel, Inc., 1729 H Street NW., Washington, D.C. 20006.

A. Patton, Boggs & Blow, 1200 17th Street, NW., Washington, D.C. 20036.
B. Landmark Services, Inc., 900 Ohio Drive SW., Washington, D.C. 20024.

A. Patton, Boggs & Blow, 1200 17th Street, NW., Washington, D.C. 20036.
B. Lane, Powell, Moss & Miller, 1700 Washington Building, Seattle, Wash. 98101.
D. (6) $57.50.

A. Patton, Boggs & Blow, 1200 17th Street, NW., Washington, D.C. 20036.
B. Lehman Bros., 1 William Street, New York, N.Y. 10000.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. LOOP, Inc., 1010 Common Street, 350 Bank of New Orleans Building, New Orleans, La. 70112.
D. (6) $1,605. E. (9) $10.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Louisiana-Pacific Corp., 1300 Southwest Fifth Avenue, Portland, Oreg. 97201.
D. (6) $2,875.

A. Patton, Boggs & Blow, 1200 17th Street, NW., Washington, D.C. 20036.
B. Machinery Dealers National Association, 1400 20th Street, NW., Washington, D.C. 20036.
D. (6) $150.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Marathon Oil Co., 539 South Main Street, Findlay, Ohio 45840.
D. (6) $900. E. (9.) $11.25.

A. Patton, Boggs & Blow, 1200 17th Street, NW., Washington, D.C. 20036.
B. Mars, Inc., 1651 Old Meadow Road, McLean, Va. 22101.
D. (6) $4,855. E. (9) $6,150.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Mocatta Metals Corp., 35 Broad Street, New York, N.Y. 10004.
D. (6) $1,800. E. (9) $3,736.50.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. National Medical Care, Inc., 560 Sylvan Avenue, Englewood Cliff, N.J. 07632.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. National Retail Merchants Association, 1000 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $200.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. New Process Co., 220 Hickory Street, Warren, Pa. 17365.
D. (6) $2,000.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Northwest Pipeline Corp., 315 East 200 South, Salt Lake City, Utah 84111.
D. (6) $9,607.50. E. (9) $137.60.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Ocean Minerals Co., 465 North Bernardo, Mountain View, Calif. 94040.
D. (6) $1,912.50. E. (9) $40.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Pepsico, Inc., Purchase, N.Y. 10577.
D. (6) $345.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Jack Philip & Son, Inc., 724 Dupont Plaza Center, Miami, Fla. 33131.
D. (6) $500. E. (9) $582.31.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Pillsbury Corp., 608 Second Avenue South, Minneapolis, Minn. 55402.
D. (6) $515.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Pryotechnical Signal Manufacturers Association, Inc., 1730 K Street NW., Suite 1300, Washington, D.C. 20006.
D. (6) $1,150. E. (9) $2,625.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Ralston Purina Co., Checkerboard Square, St. Louis, Mo. 63188.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Reader's Digest Association, Inc., Pleasantville, N.Y. 10570.
D. (6) $4,000.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Redwood Industry Park Committee, 2750 Sand Hill Road, Menlo Park, Calif. 94205.
D. (6) $1,437.50. E. (9) $93.65.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. St. Joe Minerals Corp., 1730 Rhode Island Avenue NW., Suite 911, Washington, D.C. 20036.
D. (6) $937.50.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. State of Louisiana, Department of Conservation, P.O. Box 44275, Baton Rouge, La. 70804.
D. (6) $750.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Tax Corp. of America, 2441 Honolulu Avenue, Montrose, Calif. 91020.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Todd Shipyards Corp., 1 State Street Plaza, New York, N.Y. 10004.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. United Plant Guard Workers of America, 25510 Kelly Road, Roseville, Mich. 48066.
D. (6) $250.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Virgin Islands Manufacturers & Importers Association, Inc., c/o Thomas Travis, 1290 Avenue of the Americas, New York, N.Y. 10019.
D. (6) $250.

A. Barbara Jo Pease, Shell Oil Co., 1025 Connecticut Avenue NW., Suite 200, Washington, D.C. 20036.
B. Shell Oil Co., P.O. Box 2463, Houston, Tex. 77001.
D. (6) $500.

A. Pennsylvania Power & Light Co., 2 North Ninth Street, Allentown, Pa. 18101.
E. (9) $902.28.

A. Gregory M. Pensabene, Santa Fe Industries, Inc., Suite 840, 1100 Connecticut Avenue NW., Washington, D.C. 20036.
B. Santa Fe Industries, Inc., 224 South Michigan Avenue, Chicago, Ill. 60604.
D. (6) $1,000. E. (9) $150.

A. Victor J. Perini, Jr., 1776 Massachusetts Avenue NW., Washington, D.C. 20036.
B. Highway Users Federation for Safety & Mobility, 1776 Massachusetts Avenue NW., Washington, D.C. 20036.
D. (6) $150. E. (9) $7.60.

A. J. Carter Perkins, Shell Oil Co., Suite 200, 1025 Connecticut Avenue NW., Washington, D.C. 20036.
B. Shell Oil Co., 1 Shell Plaza, P.O. Box 2463, Houston, Tex. 77001.
D. (6) $1,000.

A. Tony Perkins, 2000 Florida Avenue NW., Washington, D.C. 20009.
B. National Rural Electric Cooperative Association, 2000 Florida Avenue NW., Washington, D.C. 20009.
D. (6) $100.

B. American Public Transit Association, 1100 17th Street NW., Washington, D.C. 20036.
American Public Transit Association, 1100 17th Street NW., Washington, D.C. 20036.
D. (6) $2,100. E. (9) $3,629.16.

A. Tom E. Persky, 8150 Leesburg Pike, Suite 1100, Vienna, Va. 22180.
B. National Pest Control Association, 8150 Leesburg Pike, Suite 1100, Vienna, Va. 22180.
D. (6) $2,500.

A. John Joseph Peach, 1701 North Fort Myer Drive, Suite 1208, Arlington, Va. 22209.
B. Northrop Corp., 1701 North Fort Myer Drive, Suite 1208, Arlington, Va. 22209.
D. (6) $7,500. E. (9) $3,124.96.

A. Kenneth Peterson, 815 16th Street NW., Washington, D.C. 20006.
B. American Federation of Labor and Congress of Industrial Organizations, 815 16th Street NW., Washington, D.C. 20006.
D. (6) $10,094.50. E. (9) $211.84.

A. Mary B. Peterson, General Motors Corp., 1660 L Street NW., Washington, D.C.
B. General Motors Corp., 3044 West Grand Boulevard, Detroit, Mich. 48202.
D. (6) $3,000. E. (9) $1,706.31.

A. Paul F. Petrus, 1100 Connecticut Avenue NW., Washington, D.C. 20036.
B. Mobil Oil Corp., 150 East 42d Street, New York, N.Y. 10017.
D. (6) $1,200.

A. John Pfleger, Time, Inc., 806 16th NW., Washington, D.C.
B. Time, Inc., Time and Life Building, Rockefeller Center, New York, N.Y. 10020.
D. (6) $1,700. E. (9) $550.

A. Pharmaceutical Manufacturers Association, 1155 15th Street NW., Washington, D.C. 20005.

A. John P. Philbin, 1100 Connecticut Avenue NW., Washington, D.C. 20036.
B. Mobil Oil Corp., 150 East 42d Street, New York, N.Y. 10017.
D. (6) $1,500.

A. Barbara F. Phillips, 1620 I Street NW., Washington, D.C. 20006.
B. Energy Transportation Systems, Inc., P.O. Box 3965, San Francisco, Calif. 94119.
D. (6) $80.80. E. (9) $141.10.

A. Scott H. Phillips, Howell Corp., 800 Houston Natural Gas Building, Houston, Tex. 77002.
B. Howell Corp., 800 Houston Natural Gas Building, Houston, Tex. 77002.

A. Physicians National Housestaff Association, 1635 L Street NW., Washington, D.C. 20036.
E. (9) $3,917.85.

A. Sam Pickard, 1101 17th Street NW., Suite 604, Washington, D.C. 20036.
B. Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, Mo. 63166.
D. (6) $500. E. (9) $57.42.

A. Ace Pickens, 1300 American Bank Tower, Austin, Tex. 78701.
B. Texas Medical Association, 1801 North Lamar Boulevard, Austin, Tex. 78701.
D. (6) $250. E. (9) $111.

A. Wilhelm Pichaus, 1000 Rhode Island Avenue NW., Washington, D.C. 20005.
B. National Rifle Association, 1000 Rhode Island Avenue NW., Washington, D.C. 20005.
D. (6) $750. E. (9) $41.48.

A. Pierce, Atwood, Scribner, Allen, Smith & Lancaster, One Monument Square, Portland, Maine 04101.
B. Great Northern Paper Co., et al., 75 Prospect Street, Stamford, Conn. 06901.
E. (9) $6.

A. Pierson, Ball & Dowd, 1200 18th Street NW., Washington, D.C. 20036.
B. Satellite Business Systems, 8283 Westpark Drive, McLean, Va. 22101.
D. (6) $3,500.

A. Pierson Semmes Crollius and Finley, 1054 31st Street NW., Washington, D.C. 20007.
B. American Land Title Association, 1828 L Street NW., Washington, D.C. 20036.
D. (6) $3,180. E. (9) $122.72.

A. Pierson Semmes Crollius and Finley, 1054 31st Street NW., Washington, D.C. 20007.
B. Edgington Oil Co., 2400 East Artesia Boulevard, Long Beach, Calif. 90805.
D. (6) $105. E. (9) $5.27.

A. Plains Cotton Growers, Inc., P.O. Box 3640, Lubbock, Tex. 79452.
D. (6) $55,574.73. E. (9) $1,250.

A. R. Rogers Pleasants, 1701 Pennsylvania Avenue NW., Suite 210, Washington, D.C. 20006.
B. E. I. du Pont de Nemours and Co., 1007 Market Street, Wilmington, Del. 19898.
D. (6) $60. E. (9) $2.25.

A. Michael M. Pocost, New York State Petroleum Council, 551 Fifth Avenue, New York, N.Y. 10017.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.

A. Frances A. Pollak, 1800 K Street NW., Suite 800, Washington, D.C. 20006.
B. The Goodyear Tire & Rubber Co., Akron, Ohio 44316.
D. (6) $1,000.

A. Population Resource Center, Inc., 622 Third Avenue, New York, N.Y. 10017.
D. (6) $764. E. (9) $3,729.

A. S. J. Poray-Tucholski, 15257 East Cedar Springs Drive, Whittier, Calif. 90603; P.O. Box 1681, Whittier, Calif. 90609.
B. Bermejo River Project Development Association.

A. Everett O. Post, National Association of Service Contractors, 1511 K Street NW., Washington, D.C. 20005.
B. National Association of Service Contractors, 1511 K Street NW., Washington, D.C. 20005.
D. (6) $250. E. (9) $14.05.

A. Alonzo M. Poteet, Veterans of Foreign Wars of the United States, 200 Maryland Avenue NE., Washington, D.C. 20002.
B. Veterans of Foreign Wars of the United States.
D. (6) $2,500.

A. Edmond A. Potter, NCR Corp., 2301 Research Boulevard, Rockville, Md. 20850.
B. NCR Corp., 1700 South Patterson Boulevard, Dayton, Ohio 45479.
D. (6) $8,150. E. (9) $3,169.

A. Potter International, Inc., 900 17th Street NW., Suite 300, Washington, D.C. 20006.
B. Rockwell International, Inc., 600 Grant Street, Pittsburgh, Pa. 15219.
D. (6) $5,000.

A. Potter International, Inc., 900 17th Street NW., Suite 300, Washington, D.C. 20006.
B. Rohr Industries, Inc., P.O. Box 23000, San Diego, Calif. 92123.
D. (6) $4,500.

A. Potter International, Inc., 900 17th Street NW., Suite 300, Washington, D.C. 20006.
B. Western Shipbuilding Association, P.O. Box 3976, San Francisco, Calif. 94119.
D. (6) $3,000.

A. Ramsay D. Potts, Shaw, Pittman, Potts & Trowbridge, 1800 M Street NW., Washington, D.C. 20036.
B. Investment Company Institute, 1775 K Street NW., Washington, D.C. 20006.
D. (6) $2,625. E. (9) $5.70.

A. Richard M. Powell, International Association of Refrigerated Warehouses, 7315 Wisconsin Avenue, Washington, D.C. 20014.
B. International Association of Refrigerated Warehouses, 7315 Wisconsin Avenue, Washington, D.C. 20014.

A. Robert D. Powell, Suite 401, 734 15th Street NW., Washington, D.C. 20005.
B. National Business Aircraft Association, 1 Farragut Square South, Washington, D.C. 20006.

A. Carlton H. Power, 1918 North Parkway, Memphis, Tenn. 38112.
B. National Cotton Council of America, P.O. Box 12285, Memphis, Tenn. 38112.
D. (6) $462.50.

A. John J. Power, 101 Constitution Avenue NW., Washington, D.C. 20001.
B. United Brotherhood of Carpenters and Joiners of America, 101 Constitution Avenue NW., Washington, D.C. 20001.
D. (6) $4,002.71. E. (9) $425.71.

A. Graydon B. Powers, Jr., 1140 Connecticut Avenue NW., Washington, D.C. 20036.
B. Scientific Apparatus Makers Association, 1140 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $200.

A. William C. Prather, United States League of Savings Associations, 111 East Wacker Drive, Chicago, Ill. 60601.
B. United States League of Savings Associations, 111 East Wacker Drive, Chicago, Ill. 60601.
D. (6) $678.

A. James T. Prendergast, 250 East 87th Street, New York, N.Y. 10028.
B. Staff Builders, Inc., 122 East 42d Street, New York, N.Y. 10028.

A. William B. Prendergast, Distilled Spirits Council of the United States, 1300 Pennsylvania Building, Washington, D.C. 20004.
B. Distilled Spirits Council of the United States, 1300 Pennsylvania Building, Washington, D.C. 20004.
D. (6) $750.

A. Dan Prescott, Mid-Continent Oil and Gas Association, 1800 K Street NW., Washington, D.C. 20006.
B. Mid-Continent Oil and Gas Association, 1111 Thompson Building, Tulsa, Okla. 74103.
D. (6) $165.

A. Lloyd T. Preslar, DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036.
B. DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036 (for Aerospatiale, 37 Boulevard de Montmorency, 75016 Paris, France).

A. Lloyd T. Preslar, DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036.
B. DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036 (for Airbus Industrie, Avenue Lucien Servanty, 31700 Blagnac, France).
D. (6) $57.78.

A. Paul F. Preston, National Association of Realtors, 925 15th Street NW., Washington, D.C. 20005.
B. National Association of Realtors, 925 15th Street NW., Washington, D.C. 20005.
D. (6) $2,128. E. (9) $45.20.

A. Preston, Thorgrimson, Ellis, Holman & Fletcher, 1776 F Street NW., Washington, D.C. 20006.
B. Tennessee Gas Pipeline Co., P.O. Box 2510, Houston, Tex. 77001.
D. (6) $6,953.50.

A. Preston, Thorgrimson, Ellis, Holman & Fletcher, 1776 F Street NW., Washington, D.C. 20006.
B. Wometco Enterprises, Inc., 306 North Miami Avenue, Miami, Fla. 33128.
D. (6) $390.

A. Forrest J. Prettyman, 730 15th Street NW., Washington, D.C. 20005.
B. Association of Bank Holding Co., 730 15th Street NW., Washington, D.C. 20005.
D. (6) $625.

A. Patricia Pride, Financial Accounting Standards Board, 1100 17th Street NW., Washington, D.C. 20036.
B. Financial Accounting Standards Board, High Ridge Park, Stamford, Conn. 06905.
D. (6) $247.34. E. (9) $67.18.

A. Arnold J. Prima, Jr., The American Institute of Architects, 1735 New York Avenue NW., Washington, D.C. 20006.
B. The American Institute of Architects, 1735 New York Avenue NW., Washington, D.C. 20006.
D. (6) $1,200.

A. Jerry C. Pritchett, Mechanical Contractors Association of America, Inc., 5530 Wisconsin Avenue, Suite 750, Washington, D.C. 20015.
B. Mechanical Contractors Association of America, Inc., 5530 Wisconsin Avenue, Suite 750, Washington, D.C. 20015.

A. Pro-Life Congressional District 11, P.O. Box 727, San Carlos, Calif. 94070.
D. (6) $1,096.40. E. (9) $82.59.

A. Profit Sharing Council of America, 20 North Wacker Drive, Chicago, Ill. 60606.

A. The Proprietary Association, 1700 Pennsylvania Avenue NW., Washington, D.C.
E. (9) $6,123.40.

A. Jerry Z. Pruzan, Atlantic Richfield Co., 1025 Connecticut Avenue NW., Washington, D.C. 20036.
B. Atlantic Richfield Co., 515 South Flower Street, Los Angeles, Calif. 90071.
D. (6) $300. E. (9) $30.

A. Public Citizen's Tax Reform Research Group, 133 C Street SE., Washington, D.C. 20003.
D. (6) $3,485.66. E. (9) $3,485.66.

A. Public Employee Department, AFL–CIO, 815 16th Street NW., Washington, D.C. 20006.
D. (6) $29,110.14. E. (9) $34,551.50.

A. Philip N. Pulizzi, Jr., 1776 F Street NW., Washington, D.C. 20006.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $400.

A. David E. Pullen, Johns-Manville Corp., 1025 Connecticut Avenue NW., Suite 214, Washington, D.C. 20036.
B. Johns-Manville Corp., P.O. Box 5108, Denver, Colo. 80217.
D. (6) $600. E. (9) $700.

A. Earle W. Putnam, 5025 Wisconsin Avenue NW., Washington, D.C. 20016.
B. Amalgamated Transit Union, 5025 Wisconsin Avenue NW., Washington, D.C. 20016.

A. Robert N. Pyle, P.O. Box 3731, Washington, D.C. 20007.
B. Independent Bakers Associations, P.O. Box 3731, Washington, D.C. 20007.
D. (6) $3,000.

A. Clifford H. Raber, McDonald's Corp., 1 McDonald's Plaza, Oak Brook, Ill. 60521.
B. McDonald's Corp., 1 McDonald's Plaza, Oak Brook, Ill. 60521.
E. (9) $291.08.

A. Alex Radin, American Public Power, 2600 Virginia Avenue NW., Washington, D.C. 20037.
B. American Public Power Association, 2600 Virginia Avenue NW., Washington, D.C. 20037.
D. (6) $636.68.

A. Radioactive Waste Management Corp, c/o Shaw, Pittman, Potts & Trowbridge, 1800 M Street NW., Washington, D.C. 20036.
D. (6) $34,584.59. E. (9) $34,584.59.

A. Richard W. Rahn, American Council for Capital Formation, 1425 K Street NW., Suite 1007, Washington, D.C. 20005.
B. American Council for Capital Formation, 1425 K Street NW., Washington, D.C.
D. (6) $1,425.

A. Railway Labor Executives' Association, 400 First Street NW., Washington, D.C. 20001.
D. (6) $28,800. E. (9) $28,800.

A. Railway Progress Institute, 700 North Fairfax Street, Alexandria, Va. 22314.

A. Gretchen P. Ralph, 303 Kimry Moor, Fayetteville, N.Y. 13203.
B. National Committee for Symphony Orchestra Support, 1100 17th Street NW., Suite 313, Washington, D.C. 20036.
D. (6) $10,500. E. (9) $792.44.

A. William J. Randall, Suite 821, 1515 Jefferson Davis Highway, Arlington, Va. 22202.
B. United States Railway Association; City of Independence, Mo.; Peoples Republic of Benin, West Africa.
D. (6) $4,500. E. (9) $748.

A. R. Ray Randlett, 1150 Connecticut Avenue NW., Suite 700, Washington, D.C. 20036.
B. Allied Chemical Corp., P.O. Box 3000–R, Morristown, N.J. 07960.
D. (6) $547. E. (9) $60.34.

A. Arthur G. Randol III, American Nuclear Energy Council, 1750 K Street NW., Suite 300, Washington, D.C.
B. American Nuclear Energy Council, 1750 K Street NW., Suite 300, Washington, D.C.
D. (6) $3,250. E. (9) $128.42.

A. Jerry F. Rapp, Bristol-Myers Co., 1155 15th Street NW., Suite 606, Washington, D.C. 20005.
B. Bristol-Myers Co., 345 Park Avenue, New York, N.Y. 10022.
D. (6) $750.

A. D. Michael Rappoport, Salt River Project, P.O. Box 1980, Phoenix Ariz. 85001.
B. Salt River Project, P.O. Box 1980, Phoenix, Ariz. 85001.
D. (6) $2,405.15. E. (9) $2,464.18.

A. G. J. Rauschenbach, Comsat, 950 L'Enfant Plaza SW., Washington, D.C. 20024.
B. Communications Satellite Corp., 950 L'Enfant Plaza SW., Washington, D.C. 20024.
D. (6) $2,000. E. (9) $985.

A. Susan E. Recce, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
B. National Rifle Association, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
D. (6) $505. E. (9) $53.76.

A. Dwight C. Reed, National Soft Drink Association, 1101 16th Street NW., Washington, D.C. 20036.
B. National Soft Drink Association, 1101 16th Street NW., Washington, D.C. 20036.
D. (6) $63.11.

A. John H. Reed, 444 North Capitol Street NW., Suite 409, Washington, D.C. 20001.
B. Associated Builders & Contractors, Inc., 444 North Capitol Street NW., Suite 409, Washington, D.C. 20001.
D. (6) $7,500. E. (9) $600.

A. Jerry Rees, National Association of Wheat Growers, 1030 15th Street NW., No. 1030, Washington, D.C.
B. National Association of Wheat Growers, 1030 15th Street, No. 1030, Washington, D.C. 20005.
D. (6) $1543.32. E. (9) $200.

A. Thomas M. Rees, 1025 Connecticut Avenue NW., Suite 914, Washington, D.C. 20036.
B. American Constituency Overseas, George E. Fishcher Associates, 2152 Du Pont Drive, 106, Irvine, Calif., 92715.

A. Thomas M. Rees, 1025 Connecticut Avenue NW., Suite 914, Washington, D.C. 20036.
B. California Savings & Loan League, 9800 South Sepulveda Boulevard, Los Angeles, Calif. 90045.

A. Thomas M. Rees, 1025 Connecticut Avenue NW., Suite 914, Washington, D.C. 20036.
B. Fluor Corp., 1627 K Street NW., Washington, D.C. 20006.

A. Thomas M. Rees, 1025 Connecticut Avenue NW., Suite 914, Washington, D.C. 20036.
B. Imperial Resources Association, P.O. Box 119, Brawley, Calif. 92227.

A. Robert S. Reese, Jr., American Trucking Associations, Inc., 1616 P Street NW., Washington, D.C. 20036.
B. American Trucking Associations, Inc., 1616 P Street NW., Washington, D.C. 20036.
D. (6) $6,000. E. (9) $1,997.87.

A. Reid & Priest, 1701 K Street NW., Washington, D.C. 20006.
B. National Association of Electric Companies, 1140 Connecticut Avenue NW., Suite 1010, Washington, D.C. 20036.
D. (6) $169. E. (9) $1.65.

A. Murray P. Reiser, 73 Tremont Street, Boston, Mass. 02108.
B. Edward Blankstein, Inc., Research Park, Princeton, N.J. 08540.
D. (6) $2,414.

A. W. W. Renfroe, 69 Fountain Place, Frankfort, Ky. 40601.
B. Kentucky Railroad Association, 69 Fountain Place, Frankfort, Ky. 40601.

A. Diane Rennert, 1707 L Street NW., Washington, D.C. 20036.
B. Association of American Publishers, 1707 L Street NW., Washington, D.C. 20036.
D. (6) $950. E. (9) $401.23.

A. Jamie Replogle, 1101 16th Street NW., Washington, D.C. 20036.
B. Independent Petroleum Association of America, 1101 16th Street NW., Washington, D.C. 20036.
E. (9) $10.55.

A. Research to Prevent Blindness, Inc., 598 Madison Avenue, New York, N.Y. 10022.
E. (9) $1,268.87.

A. The Retired Officers Association, 1625 I Street NW., Washington, D.C. 20006.
D. (6) $5,268.

A. John H. Reurs, 25 Broadway, New York, N.Y. 10004.
B. New York Committee of International Committee of Passenger Lines, 25 Broadway, New York, N.Y. 10004.
D. (6) $9,375. E. (9) $700.

A. James J. Reynolds, American Institute of Merchant Shipping, 1625 K Street NW., Washington, D.C. 20006.
B. American Institute of Merchant Shipping, 1625 K Street NW., Washington, D.C. 20006.
D. (6) $1,875. E. (9) $7.12.

A. Nancy C. Reynolds, 300 Maryland Avenue NE., Washington, D.C. 20002.
B. The Bendix Corp., 300 Maryland Avenue NE., Washington, D.C. 20002.
D. (6) $975.

A. Austin T. Rhoads, 910 17th Street NW., Washington, D.C. 20006.
B. International Association of Ice Cream Manufacturers & Milk Industry Foundation, 910 17th Street NW., Washington, D.C. 20006.

A. C. Brewster Rhoads, Jr., Bell Telephone Co. of Pennsylvania, 1 Parkway, 15th Floor, Philadelphia, Pa. 19102.
B. The Bell Telephone Co. of Pennsylvania, 1 Parkway, Philadelphia, Pa. 19102.
D. (6) $90. E. (9) $308.96.

A. Kent Rhodes, The Reader's Digest Association, Inc., Pleasantville, N.Y. 10570.
B. Reader's Digest Association, Inc., Pleasantville, N.Y. 10570.
D. (6) $2,500.

A. M. Lee Rice, 277 Park Avenue, New York, N.Y. 10017.
B. Ogden Corp., 277 Park Avenue, New York, N.Y. 10017.

A. Theron J. Rice, Continental Oil Co., 1130 17th Street NW., No. 400, Washington, D.C. 20036.
B. Continental Oil Co., High Ridge Park, Stamford, Conn. 06904.

A. Alan H. Richardson, American Public Power Association, 2600 Virginia Avenue NW., Washington, D.C. 20037.
B. American Public Power Association, 2600 Virginia Avenue NW., Washington, D.C. 20037.
D. (6) $750.

A. Sheffield C. Richey, Jr., 7901 Westpark Drive, McLean, Va. 22102.
B. National Machine Tool Builders' Association, 7901 Westpark Drive, McLean, Va. 22102.
D. (6) $375. E. (9) $250.

A. Cary Ridder, 317 Pennsylvania Avenue SE., Washington, D.C. 20003.
B. Environmental Policy Center, 317 Pennsylvania Avenue SE., Washington, D.C. 20003.
D. (6) $460.

A. Peter S. Ridley, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
B. National Rifle Association of America, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
D. (6) $525.

A. E. Philip Riggin, The American Legion, National Legislative Commission, 1608 K Street NW., Washington, D.C.
B. The American Legion, 700 North Pennsylvania Street, Indianapolis, Ind.
D. (6) $3,747. E. (9) $177.28.

A. Morris A. Riley, American Medical Association, 1776 K Street NW., Washington, D.C. 20006.
B. American Medical Association, 535 North Dearborn Street, Chicago, Ill. 60610.
D. (6) $2,025. E. (9) $217.

A. John S. Rippey, 730 15th Street NW., Washington, D.C. 20005.
B. Association of Bank Holding Cos., 730 15th Street NW., Washington, D.C. 20005.
D. (6) $562.50. E. (9) $46.85.

A. Carol A. Risher, Association of American Publishers, 1707 L Street NW., Washington, D.C. 20036.
B. Association of American Publishers, 1707 L Street NW., Washington, D.C. 20036.
D. (6) $1,000. E. (9) $550.

A. Nancy J. Risque, Suite 650, 1050 17th Street NW., Washington, D.C. 20036.
B. The Standard Oil Co., Ohio, Midland Building, Cleveland, Ohio 44115.

A. James E. Ritchie, 1776 F Street NW., Washington, D.C. 20006.
B. Gaming Industry Association of Nevada, Inc., 1 East First Street, No. 1007, Reno, Nev. 89501.
D. (6) $1,667. E. (9) $716.03.

A. James E. Ritchie, 1776 F Street NW., Washington, D.C. 20006.
B. National Association of Off-Track Betting, P.O. Box 446, Batavia, N.Y. 14020.
D. (6) $3,500. E. (9) $3,335.56.

A. James E. Ritchie, 1776 F Street NW., Washington, D.C. 20006.
B. Nevada Resort Association, 932 East Sahara Avenue, Las Vegas, Nev. 89104.
D. (6) $3,333. E. (9) $1,408.61.

A. Stark Ritchie, American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.

A. George W. Ritter, 3914 King Arthur Road, Annandale, Va. 22003.
B. Alton Box Board Co., Alton, Ill. 62002.
D. (6) $6,250. E. (9) $1,281.

A. Paul H. Robbins, National Society of Professional Engineers, 2029 K Street NW., Washington, D.C. 20006.
B. National Society of Professional Engineers, 2029 K Street NW., Washington, D.C. 20006.
D. (6) $1,500.

A. Perry A. Roberts, Emerson Electric Co., c/o Bennett D. Potts, 1200 M Street NW., Washington, D.C. 20036.
B. Emerson Electric Co., 8100 Florissant, St. Louis, Mo. 63136.
E. (9) $632.45.

A. William S. Roberts, National Rural Electric Cooperative Association, 2000 Florida Avenue NW., Washington, D.C. 20009.
B. National Rural Electric Cooperative Association, 2000 Florida Avenue NW., Washington, D.C. 20009.
D. (6) $70.

A. Hope E. Robertson, 317 Pennsylvania Avenue SE., Washington, D.C. 20003.
B. Environmental Policy Center, 317 Pennsylvania Avenue SE., Washington, D.C. 20003.
D. (6) $3,000.

A. Charles A. Robinson, Jr., 2000 Florida Avenue NW., Washington, D.C. 20009.
B. National Rural Electric Cooperative Association, 2000 Florida Avenue NW., Washington, D.C. 20009.
D. (6) $327.52.

A. John K. Robinson, Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C.
B. Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C.
E. (9) $60.

A. Katherine Robinson, American Paper Institute, Inc., 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
B. American Paper Institute, Inc., 260 Madison Avenue, New York, N.Y. 10016.

A. Antoinette K. Roche, 2021 K Street NW., Suite 702, Washington, D.C. 20006.
B. General Atomic Co., San Diego, Calif.
D. (6) $500. E. (9) $35.

A. Thomas G. Roderick, 1101 16th Street NW., No. 400, Washington, D.C. 20036.
B. Consolidated Natural Gas Service Co, Inc., 4 Gateway Center, Pittsburgh, Pa. 15222.

A. John F. Rodgers, 1140 Connecticut Avenue NW., Washington, D.C. 20036.
B. Scientific Apparatus Makers Association, 1140 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $300.

A. Robert Rodrigues, Common Cause, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $3,300.30.

A. Mitch Rofsky, 133 C Street SE., Washington, D.C. 20003.
B. Congress Watch, 133 C Street SE., Washington, D.C. 20003.
D. (6) $3,250.

A. Donald L. Rogers, 730 15th Street NW., Washington, D.C. 20005.
B. Association of Bank Holding Cos., 730 15th Street NW., Washington, D.C. 20005.
D. (6) $1,187.50.

A. Frank W. Rogers, 2101 L Street NW., Suite 635, Washington, D.C. 20037.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $2,200.

A. Frank W. Rogers, 313 Cambridge Road, Alexandria, Va. 22314.
B. Vetco Offshore Industries, Inc., 5808 Telephone Road, Suite 201, Ventura, Calif. 93003.
D. (6) $200.

A. Terrence L. Rogers, American Federation of Government Employees, 1325 Massachusetts Avenue NW., Washington, D.C. 20005.
B. American Federation of Government Employees, 1325 Massachusetts Avenue NW., Washington, D.C. 20005.
D. (6) $5,889.80. E. (9) $153.22.

A. Rogers & Wells, 1666 K Street NW., Washington, D.C. 20006.
B. Martina Navratilova, Dallas, Tex.
D. (6) $1,500.

A. Martin H. Rogol, 239 10th Street SE., Washington, D.C. 20003.
B. Food Policy Center, 538 7th Street SE., Washington, D.C. 20003.
D. (6) $7,000.02.

A. Richard A. Rohrbach, 1625 I Street NW., No. 809, Washington, D.C. 20006.
B. Boise Cascade Corp., 1625 I Street NW., No. 809, Washington, D.C. 20006.
D. (6) $15,000.

A. John P. Rolph III, American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
B. American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $2,000.

A. Kenneth S. Rolston, Jr., 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
B. American Pulpwood Association, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.

A. Nicholas Roomy, Jr., Appalachian Power Co., P.O. Box 1986, Charleston, W. Va. 25327.
B. Appalachian Power Co., P.O. Box 1986, Charleston, W. Va. 25327 (subsidiary of American Electric Power Co., Inc., 2 Broadway, New York, N.Y. 10004).
D. (6) $230.76. E. (9) $185.76.

A. Kevin M. Rooney, Long Island Lighting Co., 250 Old Country Road, Mineola, N.Y. 11501.
B. Long Island Lighting Co., 250 Old Country Road, Mineola, N.Y. 11501.
D. (6) $1,125. E. (9) $3,754.50.

A. James C. Rosapepe, 101 North Columbus Street No. 400, Alexandria, Va. 22314.
B. Rosapepe & Associates, 101 North Columbus Street, No. 400, Alexandria, Va. 22314 (for Interfaith Center on Corporate Responsibility, New York, N.Y. 10027).
D. (6) $675. E. (9) $180.15.

A. Walda W. Roseman, National Public Radio, 2025 M Street NW., Washington, D.C. 20036.
B. National Public Radio, 2025 M Street NW., Washington, D.C.
D. (6) $9,000. E. (9) $173.21.

A. Larry M. Rosenstein, American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.
B. American Council of Life Isurance, Inc., 1850 K Street NW., Washington, D.C. 20006.
D. (6) $100. E. (9) $25.

A. Seymour N. Ross, DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036.
B. DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036 (for Thompson-CSF (AVS), 178 Boulevard Gabriel Peri, 92240 Malakoff, France).

A. William F. Ross, South Carolina Petroleum Council, 716 Keenan Building, Columbia, S.C. 29201.

B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $265. E. (9) $530.85.

A. Alan J. Roth, Spiegel & McDiarmid, 2600 Virginia Avenue NW., Washington, D.C. 20037.
B. Fort Pierce Utilities Authority or the city of Fort Pierce, Gainesville-Alachua County Regional Electric Water & Sewer Utilities, Sebring Utilities Commission, cities of Homestead, Kissimmee, Lakeland, Starke, Tallahassee, Fla., et al.
E. (9) $540.

A. Edwin Rothschild, 1696 Westwind Way, McLean, Va. 22101.
B. Energy Action Educational Foundation, 1523 L Street NW., Washington, D.C. 20005.
D. (6) $99.45.

A. Donald D. Rounds, South Dakota Petroleum Council, P.O. Box 669, Pierre, S. Dak. 57501.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $435.50. E. (9) $651.36.

A. William C. Rountree, Suite 650, 1050 17th Street NW., Washington, D.C. 20036.
B. The Standard Oil Co. (Ohio), Midland Building, Cleveland, Ohio 44115.
E. (9) $2,022.

A. Rouss & O'Rourke, Lawyers Building, 231 East Vermijo, Colorado Springs, Colo. 60903.
B. Union Nacional de Productores de Azucar, S.A. de C.V. (UNPASA) Balderas 36, Mexico, D.F., Mexico.
D. (6) $1,700. E. (9) $2,299.27.

A. John W. Rowland, 5025 Wisconsin Avenue NW., Washington, D.C. 20016.
B. Amalgamated Transit Union, AFL–CIO, 5025 Wisconsin Avenue NW., Washington, D.C. 20016.

A. Kathryn Coe Royce, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
B. National Rifle Association of America, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
D. (6) $505. E. (9) $75.30.

A. Donald M. Rubel, 3889 North 30th Street, Arlington, Va. 22207.
D. (6) $175. E. (9) $108.89.

A. James S. Rubin, 1150 Connecticut Avenue NW., Suite 700, Washington, D.C. 20036.
B. Allied Chemical Corp., P.O. Box 3000–R, Morristown, N.J. 07960.
D. (6) $234. E. (9) $22.

A. Leonard H. Ruppert, New Jersey Petroleum Council, 170 West State Street, Trenton, N.J. 08608.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.

A. Perry A. Russ, Society of American Florists & Ornamental Horticulturists, 901 North Washington Street, Alexandria, Va. 22314.
B. Society of American Florists & Ornamental Horticulturists, 901 North Washington Street, Alexandria, Va. 22314.

A. Albert R. Russell, P.O. Box 12285, Memphis, Tenn. 38112.
B. National Cotton Council of America, P.O. Box 12285, Memphis, Tenn. 38112.
D. (6) $2,824.32. E. (9) $255.75.

A. Robert M. Russell, 2170 Piedmont Road NE., Atlanta, Ga. 30324.

B. Orkin Exterminating Co., 2170 Piedmont Road NE., Atlanta, Ga. 30324.
D. (6) $420.

A. Wally Rustad, 2000 Florida Avenue NW., Washington, D.C. 20009.
B. National Rural Electric Cooperative Association, 2000 Florida Avenue NW., Washington, D.C. 20009.
D. (6) $100.

A. J. T. Rutherford & Associates, Inc., 1660 L Street NW., No. 514, Washington, D.C. 20036.
B. American Association of Bioanalysts/International Society of Clinical Laboratory Technicians, 800 Ambassador Building, St. Louis, Mo.
D. (6) $500. E. (9) $1,278.36.

A. J. T. Rutherford & Associates, Inc., 1660 L Street NW., No. 514, Washington, D.C. 20036.
B. American College of Radiology, 20 North Wacker Drive, Chicago, Ill. 60606.
D. (6) $750. E. (9) $1,366.07.

A. J. T. Rutherford & Associates, Inc., 1660 L Street NW., No. 514, Washington, D.C. 20036.
B. American Optometric Association, 1730 M. Street NW., Washington, D.C. 20036.
D. (6) $750. E. (9) $1,965.10.

A. John F. Ryan, International Telephone & Telegraph Corp., 1707 L Street NW., Suite 200, Washington, D.C. 20036.
B. International Telephone & Telegraph Corp., 320 Park Avenue, New York, N.Y. 10022.
D. (6) $514. E. (9) $27.

A. Joseph P. Saba, 1156 15th Street NW., Washington, D.C. 20005.
B. Surrey, Karasik & Morse, 1156 15th Street NW., Washington, D.C. 20005.

A. Fred J. Sacco, N.J. Petroleum Council, 170 West State Street, Trenton, N.J. 08608.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $175.

A. Frank P. Sanders, 815 Connecticut Avenue, NW., Washington, D.C.
B. The Signal Companies, Inc., 9665 Wilshire Boulevard, Beverly Hills, Calif. 90212.
D. (6) $300.

A. Frank P. Sanders, 815 Connecticut Avenue NW., Washington, D.C.
B. Flying Tiger Lines, Inc., Los Angeles International Airport, Los Angeles, Calif.
D. (6) $300.

A. Charles E. Sandler, 2101 L Street NW., Washington, D.C. 20037.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $5,000.

A. Sandler & Travis, 330 Madison Avenue, Suite 2850, New York, N.Y. 10017; 444 Brickell Avenue, Suite 905, Miami, Fla. 33131.
B. Virgin Islands Manufacturers & Importers Association, P.O. Box Q, Kings Hill Post Office, Christiansted, Virgin Islands 00850.
D. (6) $5,854.91. E.(9) $4,158.18.

A. Peter G. Sandlund, Room 400—919 18th Street NW., Washington, D.C. 20006.
B. Council of European & Japanese National Shipowners' Associations, 17/18 Bury Street, London EC3A 5AH, England.
D. (6) $300.

A. Harold B. Say, 916 Prince St., Alexandria, Va. 22314.
B. Veterans of World War I of the U.S.A., Inc., 916 Prince St., Alexandria, Va. 223314.
D. (6) $525.

A. Thomas T. Scambos, DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036.
B. DGA International, Inc., 1225 19th Street, NW., Washington, D.C. 20036 (for Krauss-Maffei AG, Krauss-Maffei-Strasse 2, 8000 Munich, FRG).
D. (6) $76.92.

A. Thomas T. Scambos, DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036.
B. DGA International, 1225 19th Street NW., Washington, D.C. 20036 (for Thomson-CSF(AVS), 178 Boulevard, Gabriel Peri, 92240 Malakoff, France).

A. Henry Schacht, California Canners & Growers, 3100 Ferry Building, San Francisco, Calif. 94106.
B. California Canners & Growers, 3100 Ferry Building, San Francisco, Calif. 94106.
D. (6) $3,125. E. (9) $2,414.52.

A. Herbert Y. Schandler, 475 L'Enfant Plaza SW., Suite 4440, Washington, D.C. 20024.
B. American League for International Security Assistance, Inc., 475 L'Enfant Plaza SW., Suite 4400, Washington, D.C. 20024.
D. (6) $2,000.

A. Lois M. Schell, National Association of Manufacturers, 222 South Prospect Avenue, Park Ridge, Ill. 60068.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $170.

A. Jacques T. Schlenger, 1800 Mercantile Bank & Trust Building, 2 Hopkins Plaza, Baltimore, Md. 21202.
B. Maryland Savings-Share Insurance Corp., 901 North Howard Street, Baltimore, Md. 21201.
E. (9) $43.99.

A. Stephen I. Schlossberg, 1125 15th Street NW., Suite 600, Washington, D.C. 20005.
B. International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America, 8000 East Jefferson Avenue, Detroit, Mich.
D. (6) $10,959.36. E. (9) $1,845.34.

A. Allan D. Schlosser, 1000 Connecticut Avenue NW., Washington, D.C. 20036.
B. United States-Japan Trade Council, 1000 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $400.

A. Richard M. Schmidt, Jr., 1920 L Street NW., Suite 700, Washington, D.C.
B. Association of American Publishers, Inc., 1707 L Street NW., Suite 480, Washington, D.C. 20036.
D. (6) $500.

A. Robert L. Schmidt, National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
B. National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
D. (6) $227. E. (9) $95.

A. Terry L. Schmidt, Terry L. Schmidt Associates, Inc., 1701 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. American College of Emergency Physicians, 3900 Capitol City Boulevard, Lansing, Mich. 48906.
D. (6) $900.

A. Andy Schneider, National Health Law Problem, Inc., 1200 15th Street NW., Room 503, Washington, D.C. 20005.
B. The National Health Law Program, Inc., 2401 Main Street, Santa Monica, Calif. 90405.
D. (6) $4,250. E. (9) $1,148.21.

A. Mahlon C. Schneider, Green Giant Co., Haseltine Gates, Chaska, Minn. 55318.
B. Green Giant Co., Haseltine Gates, Chaska, Minn. 55318.
D. (6) $250. E. (9) $267.40.

A. John M. Schobel, Jr., New York Coffee and Sugar Exchange, Inc., Four World Trade Center, New York, N.Y. 10048.
B. New York Coffee and Sugar Exchange, Inc., Four World Trade Center, New York, N.Y. 10048.
D. (6) $614.35. E. (9) $1,197.10.

A. Michael M. Schoor, National Society of Professional Engineers, 2029 K Street NW., Washington, D.C. 20006.
B. National Society of Professional Engineers, 2029 K Street NW., Washington, D.C. 20006.
D. (6) $2,500.

A. Anthony Schopp, Machinery Dealers National Association, 1110 Spring Street, Silver Spring, Md. 20910.
B. Machinery Dealers National Association, 1110 Spring Street, Silver Spring, Md. 20910.

A. A. Kolbet Schrichte, 1850 K Street NW., Suite 850, Washington, D.C. 20006.
B. National Restaurant Association, 1850 K Street NW., Washington, D.C. 20006; One IBM Plaza, Suite 2600, Chicago, Ill. 60611.
D. (6) $1,325. E. (9) $26.70.

A. N. Donald Schroeder, Maryland Petroleum Association, 60 West Street, Annapolis, Md. 21401.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $80.

A. Stanley W. Schroeder, Gas Appliance Manufacturers Association, Inc., 1901 North Fort Myer Drive, Arlington, Va. 22209.
B. Gas Appliance Manufacturers Association, Inc., 1901 North Fort Myer Drive, Arlington, Va. 22209.
E. (9) $75.

A. Kathy Schroeher, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $4,275.03.

A. Lauren Kim Schryver, 1619 Massachusetts Avenue, NW., Washington, D.C. 20036.
B. American Paper Institute, Inc., 260 Madison Avenue, New York, N.Y. 10016.

A. Robert L. Schulz, c/o Iowa Petroleum Council, 1012 Fleming Building, Des Moines, Iowa 50309.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.

A. Donald H. Schwab, Veterans of Foreign Wars of the United States, 200 Maryland Avenue NE., Washington, D.C. 20002.
B. Veterans of Foreign Wars of the United States, 200 Maryland Avenue NE., Washington, D.C.
D. (6) $3,750. E. (9) $227.95.

A. Evi Schwartz, P.O. Box H, Tuscaloosa, Ala. 35401.
B. Falck-Lankro Corp., P.O. Box H, Tuscaloosa, Ala. 35401.

A. Harold B. Scoggins, Jr., Independent Petroleum Association of America, 1106 16th Street NW., Washington, D.C. 20036.
B. Independent Petroleum Association of America, 1106 16th Street NW., Washington, D.C. 20036.
E. (9) $39.06.

A. Earl W. Sears, P.O. Box 12285, Memphis, Tenn. 38112.

B. National Cotton Council of America, P.O. Box 12285, Memphis, Tenn. 38112.
D. (6) $2,109.38. E. (9) $263.22.

A. Pamela Sederholm, 1730 Rhode Island Avenue NW., No. 213, Washington, D.C. 20036.
B. Brown & Root, Inc., 1730 Rhode Island Avenue NW., No. 213, Washington, D.C. 20036.
D. (6) $1,400. E. (9) $250.

A. Ronald C. Seeley, 701 Fairview, Milford, Mich. 48042.
B. Estate of Bert N. Adams, et al.
E. (9) $161.55.

A. Self-Determination for D.C., Room 300—2030 M Street NW., Washington, D.C. 20036.
D. (6) $13,731. E. (9) $8,064.92.

A. Stanton P. Sender, 1211 Connecticut Avenue NW., Washington, D.C. 20036.
B. Sears, Roebuck and Co., Sears Tower, Chicago, Ill. 60684.
D. (6) $300. E. (9) $17.

A. Seven Months Session for Congress, 7201 Wood Hollow Drive, No. 337, Austin, Tex. 78731.
E. (9) $336.

A. Seventh Pro-Life Congressional District Action Committee, 2735 Ivy Street, Tampa, Fla., 33607.
D. (6) $65.

A. J. Richard Sewell, 1701 K Street NW., Suite 503, Washington, D.C. 20006.
B. Florida Power & Light Co., P.O. Box 529100, Miami, Fla. 33152.
D. (6) $1,202. E. (9) $395.02.

A. Leo Seybold, Air Transport Association of America, 1709 New York Avenue NW., Washington, D.C. 20006.
B. Air Transport Association of America, 1709 New York Avenue NW., Washington, D.C. 20006.
D. (6) $1,700. E. (9) $58.75.

A. Seyfarth, Shaw, Fairweather & Geraldson, 1800 M Street NW., Wahington, D.C. 20036.
B. Dresser Industries, Inc., P.O. Box 718, Dallas, Tex. 75221.

A. Seyfarth, Shaw, Fairweather & Geraldson, 1800 M Street NW., Wahington, D.C. 20036.
B. Trans-Union Corp., 90 Half Day Road, Lincolnshire, Ill. 60015.

A. Robert L. Shafer, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Pfizer Inc., 235 East 42d Street, New York, N.Y. 10017.
D. (6) $550. E. (9) $660.

A. James M. Shamberger, Reinsurance Association of America, 1025 Connecticut Avenue NW., No. 512, Washington, D.C. 20030.
B. Reinsurance Association of America, 1025 Connecticut Avenue NW., No. 512, Washington, D.C.
E. (9) $25.

A. Shamrock Foods Co., 2228 North Black Canyon, Phoenix, Ariz., 85009.

A. Lloyd D. Shand, 1101 17th Street NW., Washington, D.C. 20036.
B. Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, Mo. 63166.
D. (6) $55.

A. Harry D. Shapiro, 1800 Mercantile Bank & Trust Building, Two Hopkins Plaza, Baltimore, Md. 21201.
B. Maryland Savings-Share Insurance Corp., 901 North Howard Street; Baltimore, Md. 21201.
E. (9) $43.99.

A. John J. Sharkey, 1629 K Street NW., Room No. 204, Washington, D.C. 20006.
B. Delta Air Lines, Inc., Hartsfield Atlanta International Airport, Atlanta, Ga. 30320.
D. (6) $922.50. E. (9) $3,112.25.

A. Luther W. Shaw, 1625 I Street NW., Suite 827, Washington, D.C. 20006.
B. Paluszek & Leslie Associates, 1500 Broadway, New York, N.Y. 10036.
E. (9) $51.63.

A. Shaw, Pittman, Potts & Trowbridge, c/o Ramsay D. Potts, 1800 M Street NW., Washington, D.C. 20036.
B. Association for the Improvement of the Mississippi River, 10 Broadway, St. Louis, Mo. 63102.
D. (6) $2,007. E. (9) $11.60.

A. Shaw, Pittman, Potts & Trowbridge, c/o Ramsay D. Potts, 1800 M Street NW., Washington, D.C. 20036.
B. Emerson Electric Co., 8100 Florissant, St. Louis, Mo. 63136.
D. (6) $3,284.25. E. (9) $4.

A. Shaw, Pittman, Potts & Trowbridge, 1800 M. Street NW., Washington, D.C. 20036.
B. Institute of Foreign Bankers, 95 Wall Street, New York, N.Y. 10005.
E. (9) $349.10.

A. Shaw, Pittman, Potts & Trowbridge c/o Ramsay D. Potts, 1800 M Street NW., Washington, D.C. 20036.
B. Investment Counsel Association of America, Inc., 127 East 59th Street, New York, N.Y. 10022.
D. (6) $733. E. (9) $2.30.

A. Shaw, Pittman, Potts & Trowbridge c/o Ramsay D. Potts, 1800 M Street NW., Washington, D.C. 20036.
B. National Committee on Locks & Dams 26, 1129 20th Street NW., Washington, D.C. 20036.
D. (6) $1,500. E. (9) $4.20.

A. Shaw, Pittman, Potts & Trowbridge, 1800 M. Street NW., Washington, D.C. 20036.
B. Radioactive Waste Management Group, c/o Shaw, Pittman, Potts & Trowbridge, 1800 M Street NW., Washington, D.C. 20036.
D. (6) $3,428.42.

A. John J. Sheehan, United Steelworkers of America, 815 16th Street NW., Suite 706, Washington, D.C. 20006.
B. United Steelworkers of America, 5 Gateway Center, Pittsburgh, Pa. 15222.
D. (6) $8,744.15. E. (9) $5,050.68.

A. Spencer C. Sheldon, 1025 Connecticut Avenue NW., Suite 700, Washington, D.C. 20036.
B. Gulf Oil Corp., P.O. Box 1166, Pittsburgh, Pa. 15230.
D. (6) $375. E. (9) $38.75.

A. Norman R. Sherlock, American Bus Asciation, 1025 Connecticut Avenue NW., Suite 308, Washington, D.C. 20036.
B. American Bus Association, 1025 Connecticut Avenue NW., Suite 308, Washington, D.C. 20036.
D. (6) $1,373.24. E. (9) $1,621.01.

A. Morris Shipley, 1629 K Street NW., Room No. 204, Washington, D.C. 20006.
B. Delta Air Lines, Inc., Hartsfield Atlanta International Airport, Atlanta, Ga., 30320.
D. (6) $800. E. (9) $500.88.

A. Harvey A. Shipman, 2021 K Street NW., Suite 700, Washington, D.C. 20006.
B. Penn Central Transportation Co., 1700 Market Street, Philadelphia, Pa. 19103.
D. (6) $250. E. (9) $475.

A. Fred B. Shippee, American Apparel Manufacturers Association, 1611 North Kent Street, Suite 800, Arlington, Va. 22209.
B. American Apparel Manufacturers Association, 1611 North Kent Street, Suite 800, Arlington, Va. 22209.

A. W. Ray Shockley, American Textile Manufacturers Institute, Inc., 1150 17th Street NW., Suite 1001, Washington, D.C. 20036.
B. American Textile Manufacturers Institute, 400 South Tryon Street, No. 2124, Charlotte, N.C. 28285.
D. (6) $2,550. E. (9) $29.78.

A. Scott Shotwell, National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C.
B. National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
D. (6) $2,475. E. (9) 50.

A. Lawrence E. Siegel, 1101 16th Street NW., Washington, D.C. 20036.
B. Independent Petroleum Association of America, 1101 16th Street NW., Washington, D.C. 20036.
D. (6) $3,000. E. (9) $93.21.

A. Richard H. Siemsen, c/o Ramsay D. Potts (Shaw Pittman et al.) 1800 M Street NW., Washington, D.C. 20036.
B. Emerson Electric Co., 8100 Florissant, St. Louis, Mo. 63136.
E. (9) $462.40.

A. Bernard H. Sieracki, Illinois Petroleum Council, 200 East Randolph Drive, Suite 7209, Chicago, Ill. 60601.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.

A. Karen Sikkema, 461 South Boylston Street, Los Angeles, Calif. 90017.
B. Union Oil Co. of California, 461 South Boylston Street, Los Angeles, Calif. 90017.
D. (6) $212.10. E. (9) $2,042.

A. David Silver, Investment Company Institute, 1775 K Street NW., Washington, D.C. 20006.
B. Investment Co. Institute, 1775 K Street NW., Washington, D.C. 20006.
D. (6) $75. E. (9) $34.90.

A. Silver Users Association, 1717 K Street NW., Washington, D.C. 20006.
D. (6) $600. E. (9) $1,866.26.

A. Talmadge E. Simpkins, 100 Indiana Avenue NW., Washington, D.C. 20001.
B. AFL-CIO Maritime Committee, 100 Indiana Avenue NW., Washington, D.C. 20001.
D. (6) $240. E. (9) $349.27.

A. Talmadge E. Simpkins, 100 Indiana Avenue NW., Washington, D.C. 20001.
B. Labor-Management Maritime Committee, 100 Indiana Avenue NW., Washington, D.C. 20001.
D. (6) $3,039. E. (9) $18.

A. Robert C. Singer, The Soap & Detergent Association, 475 Park Avenue South at 32d Street, New York, N.Y. 10016.
B. The Soap & Detergent Association, 475 Park Avenue South at 32d Street, New York, N.Y. 10016.

A. Barney J. Skladany, Jr., 1100 Connecticut Avenue NW., Washington, D.C. 20036.
B. Mobil Oil Corp., 150 East 42d Street, New York, N.Y. 10017.
D. (6) $1,125.

A. Carstens Slack, Phillips Petroleum Co., 1825 K Street NW., Washington, D.C. 20006.
B. Phillips Petroleum Co., Bartlesville, Okla. 74004.

A. F. Slatinshek & Associates, Inc., 218 North Lee Street, Alexandria, Va. 22314.
B. Grumman Aerospace Corp., Bethpage, N.Y. 11714; United Technolgies Corp., 1125 15th Street NW., Washington, D.C. 20005; General Dynamics Corp., Pierre LacLede Center, St. Louis, Mo. 63105.
D. (6) $550.

A. William Jay Slosberg, 7205 Brennon Avenue, Chevy Chase, Md. 20015.
B. Committee of Americans for the Canal Treaties, Inc. 1019 19th Street NW., Suite 1120, Washington, D.C. 20036.
D. (6) $2,368.05.

A. Slurry Transport Association, 490 L'Enfant Plaza East SW., Suite 3210, Washington, D.C. 20024.
D. (6) $16,000. E. (9) $9,338.34.

A. Small Producers for Energy Independence, Suite 970, Fourth Financial Center, Wichita, Kans. 67202.
D. (6) $91,816.96. E. (9) $4,780.71.

A. Stephen K. Small, Suite 3212, 490 L'Enfant Plaza East SW., Washington, D.C. 20024.
B. Securities Industry Association, 490 L'Enfant Plaza East SW., Washington, D.C. 20024.
D. (6) $711. E. (9) $75.

A. Donald E. Smiley, 1025 Connecticut Avenue NW., Suite 1014, Washington, D.C. 20036.
B. Exxon Corp., 1251 Avenue of the Americas, New York, N.Y.
E. (9) $758.21.

A. Arthur J. Smith, Shell Oil Co., 1025 Connecticut Avenue NW., Suite 200, Washington, D.C. 20036.
B. Shell Oil Co., P.O. Box 2463, Houston, Tex. 77001.
D. (6) $500.

A. Smith, Barney Real Estate Corp., 1345 Avenue of the Americas, New York, N.Y. 10019.
E. (9) $2,306.

A. Douglas J. Smith, 475 L'Enfant Plaza SW., Suite 4100, Washington, D.C. 20024.
B. Cramer, Visser, Lipsen & Smith, 475 L'Enfant Plaza SW., Suite 4100, Washington, D.C. 20024 (for American Sign & Indicator Corp., North 2310 Pancher Way, Spokane, Wash. 99206).

A. Douglas J. Smith, 475 L'Enfant Plaza SW., Suite 4100, Washington, D.C. 20024.
B. Cramer, Visser, Lipsen & Smith, 475 L'Enfant Plaza SW., Suite 4100, Washington, D.C. 20024 (for Institute of Signage Research, 541 University Avenue, Palo Alto, Calif. 94301).

A. J. Kenneth Smith, Sun Co., Inc., 1800 K Street NW., Suite 820, Washington, D.C. 20006.
B. Sun Co., Inc., 100 Matsonford Road, Radnor, Pa. 19087.
D. (6) $6,500. E. (9) $1,450.

A. Michael P. Smith, The New York State Bankers Association, 485 Lexington Avenue, New York, N.Y. 10017.
B. New York State Bankers Association, 485 Lexington Avenue, New York, N.Y. 10017.
D. (6) $500. E. (9) $722.

A. Robert Bland Smith, Jr., American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.
B. American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.
D. (6) $450. E. (9) $230.

A. Robert Wm. Smith, Railway Progress Institute, 700 North Fairfax Street, Alexandria, Va. 22314.

B. Railway Progress Institute, 700 North Fairfax Street, Alexandria, Va. 22314.

A. William H. Smith, American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
B. American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.

A. Wayne H. Smithey, Ford Motor Co., 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Ford Motor Co., 815 Connecticut Avenue NW., Washington, D.C. 20006.
D. (6) $2,500. E. (9) $1,020.10.

A. Arthur V. Smyth, 1625 I Street NW., Washington, D.C. 20006.
B. Weyerhaeuser Co., Tacoma, Wash. 98401.
D. (6) $3,000. E. (9) $95.25.

A. Frank B. Snodgrass, 1100 17th Street NW., Suite 306, Washington, D.C. 20036.
B. Burley and Dark Leaf Tobacco Export Association, 1100 17th Street NW., Suite 306, Washington, D.C. 20036.
D. (6) $797.05.

A. John M. Snow, 8401 Connecticut Avenue NW., Washington, D.C. 20015.
B. National Association of Furniture Manufacturers, 8401 Connecticut Avenue, Suite 911, Washington, D.C. 20015.
D. (6) $500. E. (9) $30.

A. Snyder & Ball Associations, Inc., 1600 Wilson Boulevard, No. 720, Arlington, Va. 22209.
B. Gould, Inc., 10 Gould Center, Rolling Meadows, Ill. 60008.
D. (6) $75.

A. John M. Snyder, 600 Pennsylvania Avenue SE., Suite 205, Washington, D.C. 20003.
B. Citizens Committee for the Right To Keep and Bear Arms, Bellefield Office Park, 1601 114th SE., Suite 151, Bellevue, Wash. 98004.
D. (6) $5,100.

A. Keith Snyder, 1346 Connecticut Avenue NW., Suite 610, Washington, D.C. 20036.
B. Association of Northeastern Veterans Counseling Organizations, 84 Fifth Avenue, New York, N.Y. 10011.
D. (6) $300. E. (9) $2.10.

A. Society for Animal Protective Legislation, P.O. Box 3719, Georgetown Station, Washington, D.C. 20007.
D. (6) $13,466.72. E. (9) $15,036.67.

A. Edmund T. Sommer, Jr., Council of American-Flag Ship Operators, 1625 K Street NW., Washington, D.C. 20006.
B. Council of American-Flag Ship Operators, 1625 K Street NW., Washington, D.C. 20006.
D. (6) $165. E. (9) $12.25.

A. S. L. Sommer & Associates, Inc., 1800 North Kent Street, Arlington, Va. 22209.
B. Northrop Corp., 1701 North Fort Myer Drive, Suite 1208, Arlington, Va. 22209.
D. (6) $15,000. E. (9) $14,168.68.

A. Shelby E. Southard, 1828 L Street NW., Suite 1100, Washington, D.C. 20036.
B. Cooperative League of the U.S.A., 1828 L Street NW., Suite 1100, Washington, D.C. 20036.
D. (6) $5,500. E. (9) $761.

A. Souther, Spaulding, Kinsey, Williamson & Schwabe, 1200 Standard Plaza, Portland, Oreg. 97204.
B. National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C.
E. (9) $1,530.85.

A. Rodney K. Speckman, National Association of Manufacturers, 601 North Vermont Avenue, Los Angeles, Calif. 90004.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $800.

A. Girardeau A. Spann, Public Citizen, Inc., 2000 P Street NW., Suite 700, Washington, D.C. 20036.
B. Public Citizen, Inc., Box 19404, Washington, D.C. 20036.
D. (6) $360.

A. Larry M. Speakes, Hill & Knowlton, Inc., 1425 K Street NW., No. 1000, Washington, D.C. 20005.
B. Hill & Knowlton, Inc., 633 Third Avenue, New York, N.Y. 10017.

A. Philip J. Spear, 8150 Leesburg Pike, Suite 1100, Vienna, Va. 22180.
B. National Pest Control Association, 8150 Leesburg Pike, Suite 1100, Vienna, Va.
D. (6) $250.

A. Frank J. Specht, Schenley Distillers, Inc., 1725 DeSales Street NW., Washington, D.C. 20036.
B. Schenley Distillers, Inc., 888 Seventh Avenue, New York, N.Y. 10019.

A. Specialty Equipment Manufacturers Association, 11001 East Valley Mall, Suite 204, El Monte, Calif. 91731.

A. John F. Spoer, Jr., 1105 Barr Building, Washington, D.C. 20006.
B. International Association of Ice Cream Manufacturers & Milk Industry Foundation, 1105 Barr Building, Washington, D.C. 20006.

A. William C. Spence, P.O. Box 683, Houston, Tex. 77001.
B. Columbia Gulf Transmission Co., P.O. Box 683, Houston, Tex. 77001.
D. (6) $600. E. (9) $564.14.

A. George Spiegel, Spiegel & McDiarmid, 2600 Virginia Avenue NW., Washington, D.C. 20037.
B. Northern California Power Agency (770 Kiely Boulevard, Santa Clara, Calif. 95051), cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Redding, Roseville, Santa Clara, Ukiah, Calif. and associate member, Plumas-Sierra Rural Electric Cooperative.

A. Spiegel & McDiarmid, 2600 Virginia Avenue NW., Washington, D.C. 20037.
B. Northern California Power Agency, et al.
D. (6) $6,379.87.

A. Larry N. Spiller, 1155 15th Street NW., No. 713, Washington, D.C. 20005.
B. American Consulting Engineers Council, 1155 15th Street NW., No. 713, Washington, D.C. 20005.
D. (6) $1,850. E. (9) $75.

A. Joseph L. Spilman, Jr., 2101 L Street NW., Washington, D.C. 20037.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $483. E. (9) $100.

A. Earl C. Spurrier, 1101 17th Street NW., Suite 604, Washington, D.C. 20036.
B. Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, Mo. 63166.
D. (6) $160.

A. Squibb Corp., 40 West 57th Street, New York, N.Y. 10019.
E. (9) $378.

A. Staff Builders, Inc., 122 East 42d Street, New York, N.Y. 10017.

A. Lynn E. Stalbaum, National Milk Producers Federation, 30 F Street NW., Washington, D.C. 20001.
B. National Milk Producers Federation, 30 F Street NW., Washington, D.C. 20001.
D. (6) $2,000. E. (9) $91.70.

A. The Standard Oil Co. (Ohio), Midland Building, Cleveland, Ohio 44115.
E. (9) $2,162.56.

A. David P. Stang, Suite 601, 1629 K Street NW., Washington, D.C. 20006.
B. J. Ray McDermott & Co., Inc., 1010 Common Street, New Orleans, La.
D. (6) $144.56.

A. David P. Stang, Suite 601, 1629 K Street NW., Washington, D.C. 20006.
B. National Ocean Industries Association, 1100 17th Street NW., Washington, D.C. 20036.
D. (6) $382.16. E. (9) $200.

A. David P. Stang, Suite 601, 1629 K Street NW., Washington, D.C. 20006.
B. Ocean Minerals Co., P.O. Box 4531, Mountain View, Calif. 94040.
D. (6) $34.65.

A. David P. Stang, Suite 601, 1629 K Street NW., Washington, D.C. 20006.
B. Fred J. Russell, P.O. Box 54228, Los Angeles, Calif. 90054.

A. Melvin L. Stark, 1707 L Street NW., Suite 321, Washington, D.C. 20036.
B. Hartford Insurance Group, Hartford, Conn.
D. (6) $6,000.

A. Walter M. Starke, P.O. Box 2563, Birmingham, Ala. 35202.
B. Southern Natural Gas Co., P.O. Box 2563, Birmingham, Ala. 35202.
D. (6) $603.12. E. (9) $1,592.81.

A. State & Federal Associates, Inc., 1101 15th Street NW., Suite 205, Washington, D.C. 20005.
B. National Association of Convenience Stores, 5205 Leesburg Pike, Suite 305, Falls Church, Va. 22041.
D. (6) $5,906.35.

A. State & Federal Associates, Inc., 1101 15th Street NW., Suite 205, Washington, D.C. 20005.
B. Potato Chip/Snack Food Association, 5205 Leesburg Pike, Baileys Crossroads, Va. 22041.

A. State & Federal Associates, Inc., 1101 15th Street NW., Suite 205, Washington, D.C. 20005.
B. Schering-Plough Corp., Galloping Hill Road, Kenilworth, N.J. 07033.
D. (6) $5,736.68. E. (9) $57.90.

A. Leon P. Stavrou, 1730 K Street NW., Washington, D.C. 20006.
B. American Hellenic Institute Public Affairs Committee, Inc., 1730 K Street NW., Suite 903, Washington, D.C. 20006.
D. (6) $48.

A. Randolph J. Stayin, 1150 Connecticut Avenue NW., Washington, D.C.
B. Taft, Stettinius & Hollister, Dixie Terminal Building, Cincinnati, Ohio 45202 and American Hospital Association, 444 North Capitol Street, Washington, D.C. 20001.

A. Randolph J. Stayin, 1150 Connecticut Avenue NW., Washington, D.C.
B. Taft, Stettinius & Hollister, Dixie Terminal Building, Cincinnati, Ohio 45202 and Special Committee for Workplace Product Liability Reform, 1150 Connecticut Avenue NW., Washington, D.C. 20036.

A. E. H. Stearns, American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.

A. Theodore P. Stein, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $3,375. E. (9) $226.26.

A. David J. Steinberg, National Council for a Responsible Firearms Policy, Inc., 1028 Connecticut Avenue NW., Washington, D.C. 20036.
B. National Council for a Responsible Firearms Policy, Inc., 1028 Connecticut Avenue NW., Washington, D.C. 20036.

A. Steptoe & Johnson, 1250 Connecticut Avenue NW., Washington, D.C. 20036.
B. Robert College of Istanbul, Turkey, 380 Madison Avenue, New York, N.Y. 10017.
D. (6) $75. E. (9) $2.

A. Karen L. Stevens, 512 Washington Building, Washington, D.C. 20005.
B. National Association of Small Business Investment Co., 512 Washington Building, Washington, D.C. 20005.
D. (6) $500.

A. Art Stewart, P.O. Box 5308, Denver, Colo. 80217.
B. Great Western Sugar Co., P.O. Box 5308, Denver, Colo. 80217.
D. (6) $1,100. E. (9) $620.20.

A. Margaret Stewart, R.F.D. 5, Box 109, Piedmont, Ala. 36272.

A. Robert B. Stewart, 1701 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Getty Oil Co., 3810 Wilshire Boulevard, Los Angeles, Calif. 90010.
D. (6) $3,475.20. E. (9) $199.14.

A. Edward W. Stimpson, 1025 Connecticut Avenue NW., Suite 517, Washington, D.C. 20036.
B. General Aviation Manufacturers Association, 1025 Connecticut Avenue NW., Suite 517, Washington, D.C. 20036.
D. (6) $375.

A. Kenneth F. Stinger, American Trucking Associations, Inc., 1616 P Street NW., Washington, D.C. 20036.
B. American Trucking Associations Inc., 1616 P Street NW., Washington, D.C. 20036.
D. (6) $6,000. E. (9) $634.77.

A. Stephen A. Stitle, 1901 L Street NW., No. 705, Washington, D.C. 20036.
B. Eli Lilly & Co., 307 East McCarty Street, Indianapolis, Ind. 46206.
D. (6) $3,000. E. (9) $150.

A. Richard Boyle Storey, Suite 2B, 1750 Old Meadow Road, McLean, Va. 22101.
B. International Military Club Executives' Association, 1750 Old Meadow Road, Suite 2B, McLean, Va. 22101.

A. William M. Stover, Manufacturing Chemists Association, Inc., 1825 Connecticut Avenue NW., Washington, D.C. 20009.
B. Manufacturing Chemists Association, Inc., 1825 Connecticut Avenue NW., Washington, D.C. 20009.
D. (6) $1,000. E. (9) $100.

A. John D. Stringer, Alliance of American Insurers, 1776 F Street NW., Washington, D.C. 20006.
B. Alliance of American Insurers, 20 North Wacker Drive, Chicago, Ill. 60606.
D. (6) $2,520. E. (9) $365.

A. George W. Strong, Houston Natural Gas Corp., P.O. Box 1188, Houston, Tex. 77001.
B. Houston Natural Gas Corp., P.O. Box 1188, Houston, Tex. 77001.
D. (6) $1,749. E. (9) $1,223.

A. Stroock, Stroock & Lavan, 1150 17th Street NW., Washington, D.C. 20036.
B. J. Aron & Co., Inc., 160 Water Street, New York, N.Y.
E. (9) $296.19.

A. Stroock, Stroock & Lavan, 61 Broadway, New York, N.Y. 10006; 1150 17th Street NW., Suite 600, Washington, D.C. 20036.
B. Bank Hapoalim B.M., 50 Rothschild Boulevard, Tel Aviv, Israel.
E. (9) $170.

A. Stroock, Stroock & Lavan, 1150 17th Street NW., Washington, D.C. 20036.
B. Commonwealth of Puerto Rico, Office of Commonwealth of Puerto Rico, 1625 Massachusetts Avenue NW., Washington, D.C. 20036.
E. (9) $14.36.

A. Stroock, Stroock & Lavan, 1150 17th Street NW., Washington, D.C. 20036.
B. Tris Indemnity Corporate Group, 1150 17th Street NW., No. 600, Washington, D.C. 20036.
D. (6) $1,200. E. (9) $82.52.

A. R. Keith Stroup, 2317 M Street NW., Washington, D.C. 20037.
B. National Organization for the Reform of Marijuana Laws, 2317 M Street NW., Washington, D.C. 20037.
D. (6) $5,366.06.

A. Norman Strunk, 111 East Wacker Drive, Chicago, Ill. 60601.
B. United States League of Savings Association, 111 East Wacker Drive, Chicago, Ill. 60601.
D. (6) $3,347. E. (9) $264.90.

A. Walter B. Stults, 512 Washington Building, Washington, D.C. 20005.
B. National Association of Small Business Investment Cos., 512 Washington Building, Washington, D.C. 20005.
D. (6) $4,000.

A. Eugene F. Sturgeon, 182 Crater Lane, Kensington, Conn.
B. Northeast Utilities Service Co., Selden Street, Berlin, Conn.
D. (6) $1,128.03. E. (9) $1,142.99.

A. Sullivan & Cromwell, 125 Broad Street, New York, N.Y. 10004.
B. General Electric Credit Corp., 260 Long Ridge Road, Stamford, Conn. 06902.
D. (6) $2,000.

A. Harold R. Sullivan, 1750 K Street NW., Washington, D.C. 20006.
B. Food Marketing Insitute, 1750 K Street NW., Washington, D.C. 20006.
D. (6) $1,500.

A. Roger H. Sullivan, Hawaiian Sugar Planters' Association, 723 Investment Building, Washington, D.C. 20005.
B. Hawaiian Sugar Planters' Association, Aiea, Hawaii 96701.
E. (9) $81.85.

A. Surrey, Karasik & Morse, 1156 15th Street NW., Washington, D.C. 20005.
B. Westway Trading Corp., 464 Hudson Terrace, Englewood Cliffs, N.J. 07632.
D. (6) $395. E. (9) $395.

A. Sutherland, Asbill & Brennan, 1666 K Street NW., Washington, D.C.

B. Carnegie Corporation of New York, 437 Madison Avenue, New York, N.Y. 10022.
D. (6) $500. E. (9) $15.

A. Sutherland, Asbill & Brennan, 1666 K Street NW., Washington, D.C. 20006 and 3100 First National Bank Tower, Atlanta, Ga. 30303.
B. The Coca-Cola Bottlers' Association, 166 16th Street NW., Atlanta, Ga.

A. Sutherland, Asbill & Brennan, 1666 K Street NW., Washington, D.C. 20006.
B. Equifax, Inc., P.O. Box 4081, Atlanta, Ga. 30302.
D. (6) $5,000. E. (9) $300.

A. Sutherland, Asbill & Brennan, 1666 K Street NW., Washington, D.C. 20006.
B. Massachusetts Mutual Life Insurance Co., 1295 State Street, Springfield, Mass. 01111.
D. (6) $500. E. (9) $2.50.

A. Sutherland, Asbill & Brennan, 1666 K Street NW., Washington, D.C. 20006.
B. Mutual of Omaha Insurance Co., Dodge at 33d Street, Omaha, Nebr. 68131.
D. (6) $10,000. E. (9) $1,000.

A. Sutherland, Asbill & Brennan, 3100 First National Bank Tower, Atlanta, Ga. 30303 and 1666 K Street, Washington, D.C. 20006.
B. Oglethorpe Electric Membership Corp., 3951 Snapfinger Parkway, Decatur, Ga. 30035.
D. (6) $480. E. (9) $26.50.

A. Glenn A. Swanson, Independent Bankers Association of America, 1625 Massachusetts Avenue NW., Suite 203, Washington, D.C. 20036.
B. Independent Bankers Association of America, Sauk Centre, Minn. 56378.
D. (6) $64,794.08. E. (9) $18,122.83.

A. Irving W. Swanson, Harris Corp., 11212 Farmland Drive, Rockville, Md. 20852.
B. Harris Corp., 2600 Virginia NW., Washington, D.C. 20037.
D. (6) $12,256.40. E. (9) $780.96.

A. Noble J. Swearingen, American Lung Association, 101 2d Street NE., Washington, D.C. 20002.
B. American Lung Association, 1740 Broadway, New York, N.Y. 10019.
D. (6) $1,000.

A. David A. Sweeney, 25 Louisiana Avenue NW., Washington, D.C. 20001.
B. International Brotherhood of Teamsters, 25 Louisiana Avenue NW., Washington, D.C. 20001.
D. (6) $10,031.25.

A. John R. Sweeney, 800 Solar Building, 1000 16th Street NW., Washington, D.C. 20036.
B. Bethlehem Steel Corp., Bethlehem Pa. 18016.
D. (6) $260. E. (9) $185.40.

A. Richard Preston Swigart, 1660 L Street NW., Suite 201, Washington, D.C. 20036.
B. American Can Co., American Lane, Greenwich, Conn. 06830.
E. (9) $431.50.

A. Robert Taft, Jr., 1150 Connecticut Avenue NW., Washington, D.C. 20036.
B. Taft, Stettinius & Hollister, Dixie Terminal Building, Cincinnati, Ohio 45202 (for American Hospital Association, 444 North Capitol Street, Washington, D.C. 20001.
D. (6) $4,950. E. (9) $236.75.

A. Robert Taft, Jr., 1150 Connecticut Avenue NW., Washington, D.C. 20036.
B. Taft, Stettinius & Hollister, Dixie Terminal Building, Cincinnati, Ohio 45202 (for Capitol Hill Hospital, c/o Williamson, 1701 K Street NW., Washington, D.C. 20006).

A. Robert Taft, Jr., 1150 Connecticut Avenue NW., Washington, D.C. 20036.
B. Taft, Stettinius & Hollister, Dixie Terminal Building, Cincinnati, Ohio 45202 (for Family Leisure Centers, Inc., 1906 Highland Avenue, Cincinnati, Ohio 45219).
D. (6) $885.

A. Robert Taft, Jr., 1150 Connecticut Avenue NW., Washington, D.C. 20036.
B. Taft, Stettinius & Hollister, Dixie Terminal Building, Cincinnati, Ohio 45202 (for Grocery Manufacturers of America, Inc., 1010 Wisconsin Avenue NW., No. 800, Washington, D.C. 20007).
D. (6) $2,007.

A. Robert Taft, Jr., 1150 Connecticut Avenue NW., Washington, D.C. 20036.
B. Taft, Stettinius & Hollister, Dixie Terminal Building, Cincinnati, Ohio 45202 (for Sisters of Charity of Cincinnati, Ohio).

A. Robert Taft, Jr., 1150 Connecticut Avenue NW., Washington, D.C. 20036.
B. Taft, Stettinius & Hollister, Dixie Terminal Building, Cincinnati, Ohio 45202 (for Special Committee for Workplace Product Liability Reform, 1150 Connecticut Avenue NW., Washington, D.C. 20036).

A. Robert Taft, Jr., 1150 Connecticut Avenue NW., Washington, D.C. 20036.
B. Taft, Stettinius & Hollister, Dixie Terminal Building, Cincinnati, Ohio 45202 (for Taft Broadcasting Co., 1906 Highland Avenue, Cincinnati, Ohio 45219).
D. (6) $10,578.

A. Robert Taft, Jr., 1150 Connecticut Avenue NW., Washington, D.C. 20036.
B. Taft, Stettinius & Hollister, Dixie Terminal Building, Cincinnati, Ohio 45202 (for Werner Von Clemm, New York, N.Y.).
D. (6) $1,500.

A. Burt L. Talcott, American Consulting Engineers Council, 1155 15th Street NW., No. 713, Washington, D.C. 20005.
B. American Consulting Engineers Council, 1155 15th Street NW., No. 713, Washington, D.C. 20005.
D. (6) $2,000. E. (9) $100.

A. H. William Tanaka, d.b.a. Tanaka Walders & Ritger, 1619 H Street NW., Washington, D.C. 20006.
B. The Fasteners Institute of Japan, Kikai Shinko Building 3-5-8, Shiba Koen, Minato-ku, Tokyo, Japan; and Japan Machinery Exporters Association, 21-15, Shiba Koen, Minato-ku, Tokyo, Japan.
D. (6) $6,500. E. (9) $549.78.

A. Susan Tannenbaum, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $6,000.02. E. (9) $76.25.

A. Norman Wilson Tanner, Jr., 1650 L Street NW., Suite 215-16, Washington, D.C. 20036.
B. Outdoor Advertising Association of America, Inc., 1660 L Street NW., Suite 215-16, Washington, D.C. 20036.
D. (6) $112. E. (9) $11.

A. William M. Tartikoff, Investment Company Institute, 1775 K Street NW., Washington, D.C. 20006.
B. Investment Company Institute, 1775 K Street NW., Washington, D.C. 20006.
D. (6) $68.

A. Clayton C. Taylor, McDonald's Corp., One McDonald's Plaza, Oak Brook, Ill. 60521.
B. McDonald's Corp., One McDonald's Plaza, Oak Brook, Ill. 60521.
E. (9) $225.55.

A. Harold W. Taylor, 1120 17th Street NW., Washington, D.C. 20036.
B. National Clay Pipe Institute, P.O. Box 310, 350 Terra Cotta Avenue, Crystal Lake, Ill. 60014.
D. (6) $150.

A. David K. Taylor, Jr., 1100 Connecticut Avenue NW., No. 620, Washington, D.C. 20036.
B. Mobil Oil Corp., 150 East 42d Street, New York, N.Y. 10017.
D. (6) $375.

A. Sid Taylor, National Taxpayers Union, 325 Pennsylvania Avenue SE., Washington, D.C. 20003.
B. National Taxpayers Union, 325 Pennsylvania Avenue SE., Washington, D.C. 20003.
D. (6) $1,200. E. (9) $349.

A. William K. Tell, Jr., 1050 17th Street NW., Washington, D.C. 20036.
B. Texaco, Inc., 2000 Westchester Avenue, White Plains, N.Y. 10650.
D. (6) $550.

A. Paul Tendler, 2020 K Street NW., Suite 420, Washington, D.C. 20006.
B. Paul Tendler Associates, 2020 K Street NW., Suite 420, Washington, D.C. 20006 (for the National Federation of Licensed Practical Nurses).
D. (6) $1,500. E. (9) $1,645.

A. Robert P. Terzian, National Association of Electric Cos., 1140 Connecticut Avenue NW., Suite 1010, Washington, D.C. 20036.
B. National Association of Electric Cos., 1140 Connecticut Avenue NW., Suite 1010, Washington, D.C. 20036.
D. (6) $53. E. (9) $16.

A. Thevenot, Murray & Scheer, 1120 Connecticut Avenue NW., No. 1128, Washington, D.C. 20036.
B. National Association of Stevedores, 919 18th Street NW., Washington, D.C. 20006.
D. (6) $500.

A. Craig G. Thibaudeau, 3251 Old Lee Highway, Suite 501, Fairfax, Va. 22030.
B. National Limestone Institute, Inc., 3251 Old Lee Highway, Suite 501, Fairfax, Va. 22030.
E. (9) $17.24.

A. 13th Congressional District Action Committee, 7370 Pegasus Way, San Jose, Calif. 95139.
D. (6) $242. E. (9) $330.90.

A. 38th Pro-Life Congressional District Action Committee, 83 Thistle Lea, Williamsville, N.Y. 14221.
E. (9) $15.

A. 35th Congressional District Action Committee, Box 1, Chaffee, N.Y. 14030.
E. (9) $2.50.

A. 39th Congressional District Action Committee, Rural Delivery 2, Allegany, N.Y. 14706.
D. (6) $15. E. (9) $30.27.

A. John W. Thomas, 1522 K Street NW., No. 828, Washington, D.C. 20005.
B. American Veterinary Medical Association, 1522 K Street NW., No. 828, Washington, D.C. 20005.
D. (6) $30.

A. John W. Thomas, Association of American Veterinary Medical Colleges, 1522 K Street NW., No. 828, Washington, D.C. 20005.
B. Association of American Veterinary Medical Colleges, 1522 K Street NW., No. 828, Washington, D.C. 20005.

A. Stephen M. Thomas, Council for a Livable World, 100 Maryland Avenue NE., Washington, D.C. 20002.

B. Council for a Livable World, 100 Maryland Avenue NE., Washington, D.C. 20002.
D. (6) $2,420.26.

A. Jerry P. Thompson, 1300 Connecticut Avenue N.W., Washington, D.C. 20036.
B. International Association of Machinists & Aerospace Workers, 1300 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $4,192.75. E. (9) $337.20.

A. Kenneth W. Thompson, Interstate Natural Gas Association of America, 1660 L Street NW., Suite 601, Washington, D.C. 20036.
B. Interstate Natural Gas Association of America, 1660 L Street NW., Suite 601, Washington, D.C. 20036.
D. (6) $300.

A. Melissa A. Thompson, Population Resource Center, Inc., 110 Maryland Avenue NE., Washington, D.C. 20002.
B. Population Resource Center, Inc., 622 Third Avenue, New York, N.Y. 10017.
D. (6) $2,616. E. (9) $1,113.

A. Roger G. Thompson, Kentucky Power Co., 15th Street and Carter Avenue, Ashland, Ky. 41101.
B. Kentucky Power Co., 15th Street and Carter Avenue, Ashland, Ky. 41101.
D. (6) $150. E. (9) $503.78.

A. Terence Hastings Thorn, American Gas Association, 1515 Wilson Boulevard, Arlington, Va. 22209.
B. American Gas Association, 1515 Wilson Boulevard, Arlington, Va. 22209.
D. (6) $525. E. (9) $246.

A. Robert T. Thornburg, Minnesota Petroleum Council, 1020 Northern Federal Building, St. Paul, Minn. 55102.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $475. E. (9) $1,086.20.

A. Gil Thurm, National Association of Realtors, 925 15th Street NW., Washington, D.C. 20005.
B. National Association of Realtors, 430 North Michigan Street, Chicago, Ill. 60611; 925 15th Street NW., Washington, D.C. 20005.
D. (6) $1,500. E. (9) $219.95.

A. Cyrus C. Tichenor III, 1050 17th Street NW., Suite 1104, Washington, D.C. 20036.
B. A. H. Robins Co., Inc., 1407 Cummings Drive, Richmond, Va. 23220.
D. (6) $6,000. E. (9) $9,362.80.

A. Paul J. Tierney, 1100 17th Street NW., Suite 1107, Washington, D.C. 20036.
B. Transportation Association of America, 1100 17th Street NW., Suite 1107, Washington, D.C. 20036.

A. Wallace Tillman, 2000 Florida Avenue NW., Washington, D.C. 20009.
B. National Rural Electric Cooperative Association, 2000 Florida Avenue NW., Washington, D.C. 20009.
D. (6) $180.

A. Timmons & Co., Inc., 1776 F Street NW., Washington, D.C. 20006.
B. American Inland Waterways Committee, 7733 Forsyth Boulevard, St Louis, Mo. 63105.
D. (6) $210.

A. Timmons & Co., Inc., 1776 F Street NW., Washington, D.C. 20006.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $156.

A. Timmons & Co., Inc., 1776 F Street NW., Washington, D.C. 20006.
B. The Association of Trial Lawyers of America, 1050 31st Street NW., Washington, D.C. 20007.
D. (6) $140.

A. Timmons & Co., Inc., 1776 F Street NW., Washington, D.C. 20006.
B. Baxter Travenol Laboratories, Inc., 1 Baxter Parkway, Deerfield, Ill. 60015.
D. (6) $70.

A. Timmons and Co., Inc., 1776 F Street NW., Washington, D.C. 20006.
B. H. J. Heinz Co., P.O. Box 57, Pittsburgh, Pa. 15230.
D. (6) $140.

A. Timmons & Co., Inc., 1776 F Street NW., Washington, D.C. 20006.
B. Middle South Services, Inc., Box 61000, New Orleans, La. 70161.
D. (6) $105.

A. Timmons and Co., Inc., 1776 F Street NW., Washington, D.C. 20006.
B. National Rifle Association of America, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
D. (6) $175.

A. Timmons and Co., Inc., 1776 F Street NW., Washington, D.C. 20006.
B. Northrop Corp., 1800 Century Park East, Los Angeles, Calif. 90067.
D. (6) $140.

A. Timmons and Co., Inc., 1776 F Street NW., Washington, D.C. 20006.
B. G. D. Searle & Co., P.O. Box 1045, Skokie, Ill. 60076.
D. (6) $105.

A. Timmons and Co., Inc., 1776 F Street NW., Washington, D.C. 20006.
B. Standard Oil Co. of Indiana, 1000 16th Street NW., Washington, D.C. 20036.
D. (6) $105.

A. Michael L. Tiner, Active Ballot Club Department, Retail Clerks International Union, AFL–CIO, 1775 K Street NW., Washington, D.C. 20006.
B. Retail Clerks International Union, AFL–CIO, 1775 K Street NW., Washington, D.C. 20006.
D. (6) $6,454.76. E. (9) $788.78.

A. E. Linwood Tipton, 910 17th Street NW., Washington, D.C. 20006.
B. International Association of Ice Cream Manufacturers and Milk Industry Foundation, 910 17th Street NW., Washington, D.C. 20006.
E. (9) $523.28.

A. Tobacco Associates, Inc., 1101 17th Street NW., Suite 912, Washington, D.C. 20036.
E. (9) $2,526.

A. James R. Tobin, Becton Dickinson and Co., Rutherford, N.J. 07070.
B. Becton Dickinson and Co., Rutherford, N.J. 07070.
D. (6) $2,000. E. (9) $200.

A. H. Willis Tobler, 1735 I Street NW., Washington, D.C. 20006.
B. E. A. Jaenke & Associates, Inc., 1735 I Street NW., Suite 610, Washington, D.C. 20006.
D. (6) $750.

A. Warren D. Toburen, Cities Service Co., 1660 L Street NW., Suite 207, Washington, D.C. 20036.
B. Cities Service Co., 1660 L Street NW., Suite 207, Washington, D.C. 20036.
D. (6) $171.

A. David G. Todd, American Mining Congress, 1100 Ring Building, Washington, D.C.
B. American Mining Congress, 1100 Ring Building, Washington, D.C.

A. David R. Toll, National Association of Electric Cos., 1140 Connecticut Avenue NW., Washington, D.C. 20036.
B. National Association of Electric Cos., 1140 Connecticut Avenue NW., No. 1010, Washington, D.C. 20036.
D. (6) $728. E. (9) $35.

A. William R. Tolley, Jr., 2600 Virginia Avenue NW., Eighth Floor, Washington, D.C. 20037.
B. Harris Corp., 55 Public Square, Cleveland, Ohio 44113.
E. (9) $289.32.

A. Howard A. Topel, 1000 Connecticut Avenue, Washington, D.C. 20036.
B. Mullin, Connor and Rhyne, 1000 Connecticut Avenue, Washington, D.C. 20036 (for Alberto de la Vega-Ripol, 804 Garching, Konigsbergerstr. 2, W. Germany).
D. (6) $20.34.

A. John M. Torbet, 1745 Jefferson Davis Highway, Arlington, Va. 22202.
B. Rockwell International, 1745 Jefferson Davis Highway, Arlington, Va. 22202.
D. (6) $32.25. E. (9) $386.64.

A. Jay C. Townley, 715 South Harvey, Oak Park, Ill. 60304.
B. Schwinn Bicycle Co., 1856 North Kostner Avenue, Chicago, Ill. 60639.
D. (6) $127.63. E. (9) $23.

A. John P. Tracey, 1801 K Street NW., Suite 1201, Washington, D.C. 20006.
B. United States Independent Telephone Association, 1801 K Street NW., Suite 1201, Washington, D.C. 20006.
D. (6) $1,000.

A. Transportation Association of America, 1100 17th Street NW., Suite 1107, Washington, D.C. 20036.

A. R. S. Tribbe, Trans World Airlines, Inc., 1000 16th Street NW., Washington, D.C. 20036.
B. Trans World Airlines, Inc., 605 Third Avenue, New York, N.Y. 10016.
D. (6) $312.

A. Paul E. Trimble, Lake Carriers' Association, 1411 Rockefeller Building, Cleveland, Ohio 44113.
B. Lake Carriers' Association, 1411 Rockefeller Building, Cleveland, Ohio 44113.

A. Glenwood S. Troop, Jr., 1709 New York Avenue NW., Suite 801, Washington, D.C. 20006.
B. United States League of Savings Associations, 111 East Wacker Drive, Chicago, Ill.
D. (6) $8,500. E. (9) $153.

A. George G. Troutman, General Electric Co., 777 14th Street NW., Washington, D.C. 20005.
B. General Electric Co., 3135 Easton Turnpike, Fairfield, Conn.
D. (6) $300.

A. Jerry R. Tucker, United Automobile, Aerospace and Agricultural Implement Workers of America, 1125 15th Street NW., Washington, D.C. 20005.
B. International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, 8000 East Jefferson Avenue, Detroit, Mich. 48214.
D. (6) $6,587.94. E. (9) $682.61.

A. Bruce H. Turnbull, National Retail Merchants Association, 1000 Connecticut Avenue NW., No. 700, Washington, D.C. 20036.
B. National Retail Merchants Association, 100 West 31st Street, New York, N.Y. 10001.
D. (6) $500. E. (9) $30.

A. Richard F. Turney, 1725 K Street NW., Washington, D.C. 20006.
B. Courtney & McCamant, 1725 K Street NW., Washington, D.C. 20006.
D. (6) $300.

A. Sheila C. Turpin, American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
B. American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $1,200. E. (9) $530.

A. 12th Congressional District Action Committee, 2372 Lida Drive, Mountain View, Calif. 94043.
D. (6) $94.20. E. (9) $9.56.

A. Joan E. Twiggs, 1730 M Street NW., Washington, D.C. 20036.
B. The League of Women Voters of the United States, 1730 M Street NW., Washington, D.C. 20036.
D. (6) $624.80.

A. Stewart L. Udall, Duncan, Brown, Weinberg & Palmer, 1775 Pennsylvania Avenue NW., Suite 1200, Washington, D.C. 20006.
B. The Alaska Federation of Natives, Inc., 550 West Eighth Street, Anchorage, Alaska 99501.
D. (6) $1,600.

A. Stewart L. Udall, Duncan, Brown, Weinberg & Palmer, 1775 Pennsylvania Avenue NW., Suite 1200, Washington, D.C. 20006.
B. The Aloha Association, Suite 572, Alex Young Building, Honolulu, Hawaii 96813.

A. Stewart L. Udall, Duncan, Brown, Weinberg & Palmer, 1775 Pennsylvania Avenue NW., Suite 1200, Washington, D.C. 20006.
B. Foothills Pipe Lines (Yukon) Ltd., Suite 212, Tower A, 320 Queen Street, Ottawa, Ontario, Canada KIRSA 3.

A. Jerry G. Udell, American Retail Federation, 1616 H Street NW., Washington, D.C. 20006.
B. American Retail Federation, 1616 H Street NW., Washington, D.C. 20006.
D. (6) $100. E. (9) $50.

A. Wayne R. Underwood, American Seed Trade Association, 1030 15th Street NW., Washington, D.C. 20005.
B. American Seed Trade Association, 1030 15th Street, No. 964, Washington, D.C. 20005.

A. Joseph Uehlein, Industrial Union Department, AFL–CIO, 815 16th Street NW., Washington, D.C. 20006.
B. Industrial Union Department, AFL–CIO, 815 16th Street NW., Washington, D.C. 20006.
D. (6) $1,408. E. (9) $73.60.

A. Union Mutual Life Insurance Co., 2211 Congress Street, Portland, Maine 04112.

A. United Action for Animals, Inc., 205 East 42d Street, New York, N.Y. 10017.
D. (6) $500. E. (9) $500.

A. United Brotherhood of Carpenters & Joiners of America, 101 Constitution Avenue NW., Washington, D.C. 20001.
E. (9) $6,943.66.

A. United Egg Producers, 3951 Snapfinger Parkway, Suite 580, Decatur, Ga. 30035.
D. (6) $1,200.

A. United Gas Pipe Line Co., P.O. Box 1478, Houston, Tex. 77001.
E. (9) $2,518.90.

A. United Mine Workers of America, 900 15th Street NW., Washington, D.C. 20005.
E. (9) $5,039.76.

A. U.S. Cane Sugar Refiners' Association, 1001 Connecticut Avenue, Washington, D.C. 20036.
E. (9) $461.

A. United States-Japan Trade Council, 1000 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $820. E. (9) $820.

A. United States League of Savings Associations, 111 East Wacker Drive, Chicago, Ill.
E. (9) $88,187.26.

A. U.S. Maritime Committee, Inc., 600 New Hampshire Avenue NW., Washington, D.C.
D. (6) $4,250. E. (9) $22,636.82.

A. U.S. Overseas Employees Tax Fairness Committee, 1101 15th Street NW., Suite 1000, Washington, D.C. 20005.
D. (6) $51,930.88. E. (9) $68,765.62.

A. Lloyd N. Unsell, Independent Petroleum Association of America, 1101 16th Street NW., Washington, D.C. 20036.
B. Independent Petroleum Association of America, 1101 16th Street NW., Washington, D.C. 20036.
E. (9) $18.75.

A. Howard S. Useem, 1101 16th Street NW., Washington, D.C. 20036.
B. Independent Petroleum Association of America, 1101 16th Street NW., Washington, D.C. 20036.
E. (9) $25.

A. Lynn Kay Utzinger, Cities Service Co., 1660 L Street NW., Suite 207, Washington, D.C. 20036.
B. Cities Service Co., 1660 L Street NW., Suite 207, Washington, D.C. 20036.
D. (6) $87.

A. J. Joseph Vacca, National Association of Letter Carriers, 100 Indiana Avenue NW., Washington, D.C. 20001.
B. National Association of Letter Carriers, 100 Indiana Avenue NW., Washington, D.C. 20001.
D. (6) $2,862.44.

A. Jack J. Valenti, 1600 I Street NW., Washington, D.C. 20006.
B. Motion Picture Association of America, Inc., 1600 I Street NW., Washington, D.C. 20006.

A. Francis R. Valeo, 818 18th Street NW., Washington, D.C. 20006.
B. United Nations University, D.C., 1180 U.N., New York, N.Y.
D. (6) $3,087.26. E. (9) $2,006.35.

A. Nicholas L. Van Nelson, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
B. American Paper Institute, Inc., 260 Madison Avenue, New York, N.Y. 10016.

A. Van Ness, Feldman & Sutcliffe, 1220 19th Street NW., Suite 500, Washington, D.C. 20036.
B. Allstate Insurance, Allstate Plaza, Northbrook, Ill. 60062.
D. (6) $100. E. (9) $40.

A. Van Ness, Feldman & Sutcliffe, 1220 19th Street NW., Suite 500, Washington, D.C. 20036.
B. American Institute for Certified Public Accountants, 1620 I Street NW., Washington, D.C. 20006.
D. (6) $270. E. (9) $5.50.

A. Van Ness, Feldman & Sutcliffe, 1220 19th Street NW., Suite 500, Washington, D.C. 20036.
B. Arctic Slope Regional Corp., Barrow, Alaska.
D. (6) $130. E. (9) $71.

A. Van Ness, Feldman & Sutcliffe, 1220 19th Street NW., Suite 500, Washington, D.C. 20036.
B. Association of Local Transport Airlines, 1801 K Street NW., Washington, D.C. 20006.
D. (6) $1,250. E. (9) $9.

A. Van Ness, Feldman & Sutcliffe, 1220 19th Street NW., Suite 500, Washington, D.C. 20036.
B. Basin, Inc., P.O. Box 2297, Midland, Tex. 79702.
D. (6) $400. E. (9) $197.30.

A. Van Ness, Feldman & Sutcliffe, 1220 19th Street NW., Suite 500, Washington, D.C. 20036.
B. Car and Truck Renting & Leasing Association, 1725 K Street NW., Washington, D.C. 20006.
D. (6) $1,000. E. (9) $146.35.

A. Van Ness, Feldman & Sutcliffe, 1220 19th Street NW., Suite 500, Washington, D.C. 20036.
B. Central & Southwest Corp., P.O. Box 1631, Wilmington, Del. 19899.
D. (6) $60. E. (9) $44.

A. Van Ness, Feldman & Sutcliffe, 1220 19th Street NW., Suite 500, Washington, D.C. 20036.
B. Delaware & Hudson Railway Co., Albany, N.Y. 12207.
D. (6) $200. E. (9) $8.

A. Van Ness, Feldman & Sutcliffe, 1220 19th Street NW., Suite 500, Washington, D.C. 20036.
B. Huntington's Disease Coalition, 250 West 57th Street, New York, N.Y. 10019.
E. (9) $222.59.

A. Van Ness, Feldman & Sutcliffe, 1220 19th Street NW., Suite 500, Washington, D.C. 20036.
B. North Slope Borough, P.O. Box 69, Barrow, Alaska 99723.
D. (6) $870. E. (9) $114.25.

A. Van Ness, Feldman & Sutcliffe, 1220 19th Street NW., Suite 500, Washington, D.C. 20036.
B. Northern Tier Pipeline Co., P.O. Box 5568, 1776 Lincoln Street, Denver, Colo. 80217.
D. (6) $550. E. (9) $170.

A. Van Ness, Feldman & Sutcliffe, 1220 19th Street NW., Suite 500, Washington, D.C. 20036.
B. Palm Beach-Broward Farmers Committee for Legislative Action, P.O. Box 396, Boynton Beach, Fla. 33435.
D. (6) $120. E. (9) $22.

A. Van Ness, Feldman & Sutcliffe, 1220 19th Street NW., Suite 500, Washington, D.C. 20036.
B. Republic Geothermal, Inc., 11822 East Slauson Avenue, Suite 1, Santa Fe Springs, Calif. 90670.
D. (6) $110. E. (9) $25.10.

A. Van Ness, Feldman & Sutcliffe, 1220 19th Street NW., Suite 500, Washington, D.C. 20036.

B. South Florida Tomato & Vegetable Growers Association, P.O. Drawer B.B., Homestead, Fla. 33030.
D. (6) $120. E. (9) $22.

A. Van Ness, Feldman & Sutcliffe, 1220 19th Street NW., Suite 500, Washington, D.C. 20036.
B. South West Winter Vegetable Growers Association, P.O. Box 1670, Immokalee, Fla. 33934.
D. (6) $120. E. (9) $23.

A. Van Ness, Feldman & Sutcliffe, 1220 19th Street NW., Suite 500, Washington, D.C. 20036.
B. TOSCO Corp., 10100 Santa Monica Boulevard, Los Angeles, Calif. 90067.

A. Van Ness, Feldman & Sutcliffe, 1220 19th Street NW., Suite 500, Washington, D.C. 20036.
B. Wheelabrator-Frye Inc., Liberty Lane, Hampton, N.H. 03842.
D. (6) $580. E. (9) $56.80.

A. H. Stewart Van Scoyoc, 1701 Pennsylvania Avenue NW., Suite 210, Washington, D.C. 20006.
B. E. I. du Pont de Nemours & Co., 1007 Market Street, Wilmington, Del. 19898.
D. (6) $155. E. (9) $32.

A. Lois W. Van Valkenburgh, 3512 Halcyon Drive, Alexandria, Va. 22305.
B. Citizens Committee for UNICEF, 110 Maryland Avenue NE., Washington, D.C. 20002.
D. (6) $448. E. (9) $11.50.

A. John A. Vance, Pacific Gas & Electric Co., 1050 17th Street NW., No. 1180, Washington, D.C. 20036.
B. Pacific Gas & Electric Co., 77 Beale Street, San Francisco, Calif. 94106.
D. (6) $1,530. E. (9) $2,642.01.

A. Velsicol Chemical Corp., 341 East Ohio Street, Chicago, Ill. 60611.

A. Jerry T. Verkler, P.O. Box 2521, Houston, Tex. 77001.
B. Texas Eastern Transmission Corp., P.O. Box 2521, Houston, Tex. 77001.
E. (9) $84.30.

A. Verner, Liipfert, Bernhard & McPherson, 1660 L Street NW., Washington, D.C. 20036.
B. Pan American World Airways, Inc., Pan American Building, New York, N.Y. 10017.
D. (6) $9,912.19. E. (9) $651.61.

A. Verner, Liipfert, Bernhard & McPherson, 1660 L Street NW., Washington, D.C. 20036.
B. Small Producers for Energy Independence, Suite 970, Fourth Financial Center, Wichita, Kans. 67202.
D. (6) $1,085. E. (9) $158.71.

A. Verner, Liipfert, Bernhard & McPherson, 1660 L Street NW., Washington, D.C. 20036.
B. Texas International Airlines, P.O. Box 12788, Houston, Tex. 77017.
D. (6) $3,857.50 E. (9) $27.49.

A. Richard E. Vernor, American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.
B. American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.
D. (6) $350. E. (9) $60.

A. Larry R. Veselka, 1701 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Vinson & Elkins, 1701 Pennsylvania Avenue NW., Washington, D.C. 20006 (for Bunker Hunt).

A. Larry R. Veselka, 1701 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Vinson & Elkins, 1701 Pennsylvania Avenue NW., Washington, D.C. 20006 (for Houston Natural Gas).
D. (6) $14,445. E. (9) $383.02.

A. Larry R. Veselka, 1701 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Vinson & Elkins, 1701 Pennsylvania Avenue NW., Washington, D.C. 20006 (for Texas Eastern Transmission Corp.).
D. (6) $2,520.

A. R. Eric Vige', Cities Service Co., 1660 L Street NW., Suite 207, Washington, D.C. 20036.
B. Cities Service Co., 1660 L Street NW., Suite 207, Washington, D.C. 20036.

A. Rudolph A. Vignone, 1800 K Street NW., Suite 800, Washington, D.C. 20006.
B. The Goodyear Tire & Rubber Co., Akron, Ohio 44316.
D. (6) $2,500.

A. Walter D. Vinyard, Jr., American Insurance Association, 1025 Connecticut Avenue NW., Suite 415, Washington, D.C. 20036.
B. American Insurance Association, 1025 Connecticut Avenue NW., Suite 415, Washington, D.C. 20036.
D. (6) $1,500. E. (9) $250.

A. Virgin Islands Manufacturers & Importers Association, P.O. Box Q, Kings Hill Post Office, Christiansted, V.I. 00850.
D. (6) $8,005.29. E. (9) $8,005.29.

A. Andrew Vitali, Jr., 2101 L Street NW., Washington, D.C. 20037.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $6,000. E. (9) $700.

A. Volkswagen Manufacturing Corp. of America, 7111 East 11 Mile Road, Warren, Mich. 48092.
E. (9) $300.

A. Volkswagen of America, Inc., 818 Sylvan Avenue, Englewood Cliffs, N.J. 07632.
E. (9) $325.

A. Betty Vorhies, United Egg Producers, 705 National Press Building, Washington, D.C. 20045.
B. United Egg Producers, 3951 Snapfinger Parkway, Suite 580, Decatur, Ga. 30035.
D. (6) $1,200.

A. Joseph S. Wager, Sellers, Conner & Cuneo, 1625 K Street NW., Washington, D.C. 20006.
B. Zantop International Airlines, Inc., Willow Run Airport, Ypsilanti, Mich. 48197.
D. (6) $1,224. E. (9) $43.

A. Robert J. Wager, 2020 K Street NW., Washington, D.C.
B. American Bakers Association, Suite 850, 2020 K Street NW., Washington, D.C. 20006.
D. (6) $1,620.31. E. (9) $9.70.

A. Herbert R. Waite, The First National Bank of Boston, 100 Federal Street, Boston, Mass. 02110.
B. The First National Bank of Boston, 100 Federal Street, Boston, Mass. 02110.
D. (6) $2,125. E. (9) $2,498.08.

A. Wald, Harkrader & Ross, 1320 19th Street NW., Washington, D.C. 20036.
B. Chemtex Fibers, Inc., 850 Third Avenue, New York, N.Y. 10022.

A. Robert E. Waldron, c/o Associated Petroleum Industries of Michigan, 930 Michigan National Tower, P.O. Box 10070, Lansing, Mich. 48901.

B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $451.25. E. (9) $617.79.

A. E. F. Waldrop, Jr., Association of American Railroads, 40 Ivy Street SE., Washington, D.C. 20003.
B. Association of American Railroads, 1920 L Street NW., Washington, D.C. 20036.
D. (6) $877.50.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Allegheny Airlines, Inc., Washington National Airport, Washington, D.C. 20001.
D. (6) $250.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Allen Products Company, Inc., P.O. Box 2187, Rural Delivery No. 3, Allentown, Pa. 18001.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Aluminum Company of America, Washington, D.C. 20006.
D. (6) $1,000.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Amax, Inc., et al.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. American Airlines, Inc., 633 Third Avenue, New York, N.Y. 10017.
D. (6) $500.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Bechtel Corp., 1620 I Street NW., Washington, D.C. 20006.
D. (6) $625.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Bethlehem Steel Corp., Bethlehem, Pa., 18016.
D. (6) $1,000.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. The Business Roundtable, 1801 K Street NW., Washington, D.C. 20006.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Dresser Industries, Inc., 1100 Connecticut Avenue NW., Room 310, Washington, D.C. 20036.
D. (6) $625.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Eastern Air Lines, Inc., 10 Rockefeller Plaza, New York, N.Y. 10020.
D. (6) $500.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. E. I. du Pont de Nemours & Co., Wilmington, Del. 19898.
D. (6) $1,000.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.

B. Fluor Engineers and Constructors, Inc., 3333 Michelson Drive, Irvine, Calif. 92730.
D. (6) $625.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Ford Motor Co., The American Road, Dearborn, Mich. 48121.
D. (6) $1,000.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. General Electric Co., Washington, D.C. 20005.
D. (6) $1,000.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Getty Oil Co., 3810 Wilshire Boulevard, Los Angeles, Calif. 90010.
D. (6) $500.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. The Goodyear Tire & Rubber Co., 1[illegible] K Street NW., Washington, D.C. 20006.
D. (6) $1,000.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Hughes Airwest, San Francisco International Airport, San Francisco, Calif. 94128.
D. (6) $250.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. International Paper Co., 1620 I Street NW., Suite 700, Washington, D.C. 20006.
D. (6) $1,000.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. ITT, 320 Park Avenue, New York, N.Y. 10022.
D. (6) $500.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Lone Star Steel Co., 2200 West Mockingbird Lane, Dallas, Tex. 75215.
D. (6) $833.33.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Magma Power Co., 631 South Witmer Street, Los Angeles, Calif. 90017.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. McCulloch Oil Corp., 10880 Wilshire Boulevard, Los Angeles, Calif. 90024.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. National Bankers Association, 490 L'Enfant Plaza East SW., Washington, D.C. 20024.
D. (6) $250.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Owens-Illinois, Inc., Owens-Illinois Building, P.O. Box 1035, Toledo, Ohio 43666.
D. (6) $1,000.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.

B. Pan American World Airways, Inc., Pan Am Building, New York, N.Y. 10017.
D. (6) $500.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Piedmont Airlines, Smith Reynolds Airport, Winston-Salem, N.C. 27102.
D. (6) $250.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Procter & Gamble, Cincinnati, Ohio 45201.
D. (6) $1,000.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Pullman-Kellogg, Division of Pullman, Inc., 1300 Three Greenway Plaza East, Houston, Tex. 77046.
D. (6) $625.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Trans Union Corp., 90 Half Day Road, Lincolnshire, Ill. 60015.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Trans World Airlines, Inc., 605 Third Avenue, New York, N.Y. 10016.
D. (6) $500.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Union Carbide Corp., 270 Park Avenue, New York, N.Y. 10017.
D. (6) $1,000.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Union Oil Company of California, 461 South Boylston, Los Angeles, Calif. 90017.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. United Air Lines, Inc., P.O. Box 66100, Chicago, Ill. 60666.
D. (6) $500.

A. Elaine Nogay Walker, 1625 Massachusetts Avenue NW., Washington, D.C. 20036.
B. Can Manufacturers Institute, 1625 Massachusetts Avenue NW., Washington, D.C. 20036.
D. (6) $200. E. (9) $25.

A. Warren W. Walkley, General Electric Co., 777 14th Street NW., Washington, D.C. 20005.
B. General Electric Co., 777 14th Street NW., Washington, D.C. 20005.
D. (6) $4.

A. R. Duffy Wall, 1050 17th Street NW., No. 301, Washington, D.C. 20036.
B. Freeport Minerals Co., 200 Park Avenue, New York, N.Y. 10017.
D. (6) $240.

A. Carl S. Wallace, 1800 K Street NW., Suite 614, Washington, D.C. 20006.
B. Purolator, Inc., 255 Old New Brunswick Road, Piscataway, N.J. 08854.
D. (6) $160.44.

A. Don Wallace Associates, Inc., 1707 L Street NW., Suite 540, Washington, D.C. 20036.

B. American Sugar Cane League of the U.S.A., Inc., 416 Whitney Building, New Orleans, La., 70130.
D. (6) $5,000. E. (9) $5,631.08.

A. Don Wallace Associates, Inc., 1707 L Street NW., Suite 540, Washington, D.C. 20036.
B. American Textile Machinery Association, 1730 M Street NW., Suite 804, Washington, D.C. 20036.
D. (6) $1,800. E. (9) $ 2,830.30.

A. Don Wallace Associates, Inc., 1707 L Street NW., Suite 540, Washington, D.C. 20036.
B. Cotton Warehouse Association of America, 1707 L Street NW., Suite 540, Washington, D.C. 20036.
D. (6) $9,375. E. (9) $10,236.44.

A. Raymond C. Wallace, 5025 Wisconsin Avenue NW., Washington, D.C. 20016.
B. Amalgamated Transit Union, AFL-CIO, 5025 Wisconsin Avenue NW., Washington, D.C. 20016.

A. Lionel L. Wallenrod, 260 Madison Avenue, New York, N.Y. 10016.
B. American Paper Institutes, Inc., 260 Madison Avenue, New York, N.Y. 10016.

A. J. W. Walsh, Brotherhood of Railroad Signalmen, 400 First Street NW., Washington, D.C. 20001.
B. Brotherhood of Railroad Signalmen, 601 W. Golf Road, Mount Prospect, Ill. 60056.
D. (6) $350.

A. Bonnie B. Wan, Montgomery Ward & Co., Inc., 1100 Connecticut Avenue NW., No. 530, Washington, D.C. 20036.
B. Montgomery Ward & Co., Inc., 535 W. Chicago Avenue, Chicago, Ill. 60671.
D. (6) $157.50. E. (9) $150.

A. John F. Wanamaker, 1625 I Street NW., Washington, D.C.
B. The Retired Officers Association, 1625 I Street NW., Washington, D.C. 20006.
D. (6) $1,143.

A. Alan S. Ward, 818 Connecticut Avenue NW., Washington, D.C. 20006.
B. Baker, Hostetler, Frost & Towers, 818 Connecticut Avenue NW., Washington, D.C. 20006 (for The Soap and Detergent Association, 475 Park Avenue South at 32d Street, New York, N.Y. 10016).

A. Jack Ware, 2101 L Street NW., Washington, D.C. 20037.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $5,980. E. (9) $111.10.

A. Michael O. Ware, Continental Oil Co., 1130 17th Street NW., Washington, D.C. 20035.
B. Continental Oil Co., High Ridge Park, Stamford, Conn. 06904.
D. (6) $800.

A. Peter F. Warker, TRW Inc., 2030 M Street NW., Washington, D.C. 20036.
B. TRW Inc., 23555 Euclid Avenue, Cleveland, Ohio 44117.
D. (6) $850. E. (9) $130.

A. Michael G. Wasserman, 1200 Citizens and Southern National Bank Building, 35 Broad Street, Atlanta, Ga. 30303.
B. Board of Trade Clearing Corp., 141 W. Jackson Boulevard, Chicago, Ill. 60604.

A. Nan Waterman, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $5,250. E. (9) $739.85.

A. George A. Watson, 1612 K Street NW., Suite 800, Washington, D.C. 20006.
B. The Ferroalloys Association, 1612 K Street NW., Suite 800, Washington, D.C. 20006.
E. (9) $1,500.

A. Ralph J. Watson, 1745 Jefferson Davis Highway, Arlington, Va. 22202.
B. Rockwell International, 1745 Jefferson Davis Highway, Arlington, Va. 22202.
D. (6) $495. E. (9) $171.20.

A. George B. Watts, National Broiler Council, 1155 Fifteenth Street NW., Washington, D.C. 20005.
B. National Broiler Council, 1155 Fifteenth Street NW., Washington, D.C. 20005.
D. (6) $600.

A. James L. Watts, 512 Washington Building, Washington, D.C. 20005.
B. National Association of Small Business Investment Companies, 512 Washington Building, Washington, D.C. 20005.
D. (6) $3,400.

A. William J. Way, General Motors Corp., 1660 L Street NW., Washington, D.C. 20036.
B. General Motors Corp., 3044 West Grand Boulevard, Detroit, Mich. 48202.
D. (6) $2,500. E. (9) $345.80.

A. Raymond J. Weatherly, 1745 Jefferson Davis Highway, Arlington, Va. 22202.
B. Manufactured Housing Institute, 1745 Jefferson Davis Highway, Arlington, Va. 22202.
D. (6) $1,500. E. (9) $500.

A. William H. Weatherspoon, N.C. Petroleum Council, P.O. Box 167, Raleigh, N.C. 27602.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $350. E. (9) $239.78.

A. Douglas M. Webb, 1025 Connecticut Avenue NW., No. 1014, Washington, D.C. 20036.
B. Exxon Corp., 1251 Avenue of the Americas, New York, N.Y. 10019.

A. Webster & Chamberlain, 1747 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. American Society of Radiologic Technologists, 500 North Michigan Avenue, Suite 836, Chicago, Ill. 60611.
D. (6) $1,500.

A. Webster & Chamberlain, 1747 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Associated Credit Bureaus, 6767 Southwest Freeway, Houston, Tex.

A. Webster & Chamberlain, 1747 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. National Club Association, 1129 20th Street NW., Washington, D.C.
D. (6) $425.

A. Webster & Chamberlain, 1741 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. National Sporting Goods, 717 North Michigan Avenue, Chicago, Ill. 60611.
D. (6) $350.

A. Webster & Chamberlain, 1747 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Sand Springs Home, c/o E. J. Doerner, 1200 Atlas Life Building, Tulsa, Okla.
D. (6) $2,150.

A. Webster & Chamberlain, 1747 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Truck Body and Equipment Association, Inc., Suite 1220, 5530 Wisconsin Avenue NW., Washington, D.C.

A. Webster & Sheffield, 1750 New York Avenue, NW., Washington, D.C. 20006.
B. National Conference of Bankruptcy Judges c/o Webster & Sheffield, 1750 New York Avenue, NW., Washington, D.C. 20006.
D. (6) $3,750. E. (9) $349.75.

A. Webster & Sheffield, One Rockefeller Plaza, New York, N.Y. 10020.
B. Smith, Barney Real Estate Corp., 1345 Avenue of the Americas, New York, N.Y. 10019.
D. (6) $2,305. E. (9) $555.

A. Joan Weinstock, American Optometric Association, 1730 M Street NW., Washington, D.C. 20036.
B. American Optometric Association, c/o Dr. Wendell D. Waldie, 3111 Aloma, Wichita, Kans. 67211.
D. (6) $570.90. E. (9) $481.33.

A. Weisman, Celler, Spett, Modlin & Wertheimer, 1025 Connecticut Avenue NW., Suite 317, Washington, D.C. 20036.
B. Beneficial Management Corp., 200 South Street, Morristown, N.J. 07960.
D. (6) $2,000.

A. Weisman, Celler, Spett, Modlin & Wertheimer, 1025 Connecticut Avenue NW., Suite 317, Washington, D.C. 20036.
B. National Football League Players Association, 1300 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $2,000.

A. Arnold H. Weiss, Arent, Fox, Kintner, Plotkin & Kahn, 1815 H Street NW., Washington, D.C.
B. Constructora Nacional de Carros de Ferrocarril, S.A., Paseo de la Reforma, 369, Mexico 5, D.F., Mexico.
D. (6) $1,500.

A. Morton N. Weiss, National Security Traders Association, 55 Broad Street, New York, N.Y. 10004.
B. National Security Traders Association, Inc., 55 Broad Street, New York, N.Y. 10004.
D. (6) $1,875. E. (9) $100.

A. Dennis W. Weissman, 1725 DeSales Street NW., Suite 403, Washington, D.C. 20036.
B. American Society for Medical Technology, 1725 DeSales Street NW., Suite 403, Washington, D.C. 20036.
D. (6) $1,350. E. (9) $150.

A. L. H. Wells, Shell Oil Co., 1025 Connecticut Avenue NW., Suite 200, Washington, D.C. 20036.
B. Shell Oil Co., P.O. Box 2463, Houston, Tex. 77001.
D. (6) $500.

A. Carol Werner, 825 15th Street NW., Washington, D.C. 20005.
B. National Abortion Rights Action League, 825 15th Street NW., Washington, D.C. 20005.
D. (6) $3,990.48.

A. W. R. Werner, CertainTeed Corp., 1627 K Street NW., Suite 610, Washington, D.C. 20006.
B. CertainTeed Corp., P.O. Box 860, Valley Forge, Pa. 19482.
D. (6) $650. E. (9) $170.

A. Fred Wertheimer, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $10,500. E. (9) $343.36.

A. West Mexico Vegetable Distributors Association, P.O. Box 848, Nogales, Ariz. 85621.
E. (9) $500.

A. Harry H. Westbay III, 1625 I Street NW., Suite 805, Washington, D.C. 20006.
B. St. Regis Paper Co., 150 East 42d Street, New York, N.Y. 10017.
D. (6) $1,200. E. (9) $600.

A. Harvey J Wexler, Continental Airlines, Inc., 1050 17th Street NW., Washington, D.C. 20036.
B. Continental Airlines, Inc., International Airport, Los Angeles, Calif. 90009.
D. (6) $2,000. E. (9) $1,000.

A. Brian B. Whalen, International Harvester, 401 N. Michigan Avenue, Chicago, Ill. 60611.
B. International Harvester, 401 N. Michigan Avenue, Chicago, Ill. 60611.
D. (6) $2,500. E. (9) $1,276.25.

A. Clyde A. Wheeler, Jr., 1800 K Street NW., Suite 820, Washington, D.C. 20006.
B. Sun Co., Inc., 100 Matsonford Road, Radnor, Pa. 19087.
D. (6) $14,000. E. (9) $2,625.

A. Edwin M. Wheeler, The Fertilizer Institute, 1015 18th Street NW., Washington, D.C. 20036.
B. The Fertilizer Institute, 1015 18th Street NW., Washington, D.C. 20036.
E. (9) $25.

A. Thomas E. Wheeler, National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
B. National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
D. (6) $995. E. (9) $650.

A. White & Case, 1747 Pennsylvania Avenue NW., Washington, D.C.
B. The Presbyterian Hospital in the City of New York, 622 West 168th Street, New York, N.Y.

A. Donald F. White, American Retail Federation, 1616 H Street NW., Washington, D.C. 20006.
B. American Retail Federation, 1616 H Street NW., Washington, D.C. 20006.
D. (6) $1,250. E. (9) $100.

A. John C. White, Private Truck Council of America, Inc., 1101 17th Street NW., Washington, D.C. 20036.
B. Private Truck Council of America, Inc., 1101 17th Street NW., No. 1008, Washington, D.C. 20036.

A. John S. White, Marathon Oil Co., 1800 M Street NW., Suite 975, Washington, D.C. 20036.
B. Marathon Oil Co., Findlay, Ohio 45840.
E. (9) $650.34.

A. Alton W. Whitehouse, Jr., 1750 Midland Building, Cleveland, Ohio 44115.
B. The Standard Oil Co. (Ohio), Midland Building, Cleveland, Ohio 44115.

A. Louis M. Whitlock, Beker Industries Corp., P.O. Box 396, Carlsbad, N. Mex. 88220.
B. Beker Industries Corp., 124 West Putnam Avenue, Greenwich Conn. 06830.

A. Wickham, Craft & Cihlar, 1050 17th Street NW., Suite 1100, Washington, D.C. 20036.
B. Allegheny Airlines, National Airport, Washington, D.C. 20001.
D. (6) $40.

A. Wickham, Craft & Cihlar, 1050 17th Street NW., Suite 1100, Washington, D.C. 20036.
B. American Airlines, 633 3d Avenue, New York, N.Y. 10017.
D. (6) $40.

A. Wickham, Craft & Cihlar, 1050 17th Street NW., Suite 1100, Washington, D.C. 20036.
B. Committee for a Uniform Investment Tax Credit, 1050 17th Street NW., Suite 1112, Washington, D.C. 20036.
D. (6) $1,500.

A. Wickham, Craft & Cihlar, 1050 17th Street NW., Suite 1100. Washington, D.C. 20036.
B. Congaree Limited Partnership, 222 West Adams Street, Suite 821, Chicago, Ill. 60606.

A. Wickham, Craft & Cihlar, 1050 17th Street NW., Suite 1100, Washington, D.C. 20036.
B. Eastern Air Lines, Miami International Airport, Miami, Fla. 33148.
D. (6) $40.

A. Wickham, Craft & Cihlar, 1050 17th Street NW., Suite 1100, Washington, D.C. 20036.
B. Encyclopaedia Britannica, Inc., 425 Michigan Avenue, Chicago, Ill. 60611.
D. (6) $200.

A. Wickham, Craft & Cihlar, 1050 17th Street NW., Suite 1100, Washington, D.C. 20036.
B. Hughes Air West, San Francisco International Airport, San Francisco, Calif. 44128.
D. (6) $40.

A. Wickham, Craft & Cihlar, 1050 17th Street NW., Suite 1100, Washington, D.C. 20036.
B. Pan American World Airways, Pan Am Building, New York, N.Y. 10017.
D. $40.

A. Wickham, Craft & Cihlar, 1050 17th Street NW., Suite 1100, Washington, D.C. 20036.
B. Piedmont Airlines, Smith Reynolds Airport, Winston Salem, N.C. 27102.
D. (6) $40.

A. Wickham, Craft & Cihlar, 1050 17th Street NW., Suite 1100, Washington, D.C. 20036.
B. Ryder System, Inc., 3600 Northwest, 82d Avenue, Miami, Fla. 33166.

A. Wickham, Craft & Cihlar, 1050 17th Street NW., Suite 1100, Washington, D.C. 20036.
B. Trans World Airlines, 605 Third Avenue, New York, N.Y. 10016.
D. (6) $40.

A. Wickham, Craft & Cihlar, 1050 17th Street NW., Suite 1100, Washington, D.C. 20036.
B. United Airlines, Inc., P.O. Box 66100, Chicago, Ill. 60666.
D. (6) $40.

A. Leonard M. Wickliffe, 1801 K Street NW., Suite 221, Washington, D.C. 20006.
B. California Railroad Association, 1127 11th Street, Suite 242, Sacramento, Calif. 95814.
D. (6) $11,000.01. E. (9) $3,783.79.

A. Richard J. Wiechmann, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
B. American Paper Institute, Inc., 260 Madison Avenue, New York, N.Y. 10016.

A. Jerry C. Wilkerson, 7315 Wisconsin Avenue, Washington, D.C. 20014.
B. International Franchise Association, 7315 Wisconsin Avenue, Washington, D.C. 20014.
D. (6) $1,171. E. (9) $1,417.54.

A. Wilkinson, Cragun & Barker, 1735 New York Avenue NW., Washington, D.C. 20006.
B. American Society of Travel Agents, Inc., 711 5th Avenue, New York, N.Y. 10022.
E. (9) $2,331.88.

A. Wilkinson, Cragun & Barker, 1735 New York Avenue NW., Washington, D.C. 20006.
B. Arapahoe Tribe of Indians, Fort Washakie, Wyo.
E. (9) $293.98.

A. Wilkinson, Cragun & Barker, 1735 New York Avenue NW., Washington, D.C. 20006.
B. Association of Data Processing Service Organizations, Inc., 210 Summit Avenue, Montvale, N.J. 07645.

A. Wilkinson, Cragun & Barker, 1735 New York Avenue NW., Washington, D.C. 20006.
B. Bonneville International Corp., 36 South State Street, Salt Lake City, Utah.
E. (9) $741.44.

A. Wilkinson, Cragun & Barker, 1735 New York Avenue NW., Washington, D.C. 20006.
B. Brigham Young University, Provo, Utah.
E. (9) $2.82.

A. Wilkinson, Cragun & Barker, 1735 New York Avenue NW., Washington, D.C. 20006.
B. The Church of Jesus Christ of Latter-Day Saints, 10 East North Temple, Salt Lake, Utah.
E. (9) $53.72.

A. Wilkinson, Cragun & Barker, 1735 New York Avenue NW., Washington, D.C. 20006.
B. College Placement Council, Inc., 65 Elizabeth Street, Bethlehem, Pa.
E. (9) $434.86.

A. Wilkinson, Cragun & Barker, 1735 New York Avenue NW., Washington, D.C. 20006.
B. Confederated Salish and Kootenai Tribes of the Flathead Reservation, Mont.
E. (9) $515.81.

A. Wilkinson, Cragun & Barker, 1735 New York Avenue NW., Washington, D.C. 20006.
B. The Hoopa Valley Tribe, P.O. Box 817, Hoopa, Calif.
E. (9) $128.95.

A. Wilkinson, Cragun & Barker, 1735 New York Avenue NW., Washington, D.C. 20006.
B. Independent Data Communications Manufacturers Association, Inc., 1735 New York Avenue NW., Washington, D.C. 20006.
D. (6) $580. E. (9) $9.

A. Wilkinson, Cragun & Barker, 1735 New York Avenue NW., Washington, D.C. 20006.
B. Independent Insurance Agents of America, 85 John Street, New York, N.Y. 10038.
D. (6) $3,714. E. (9) $204.

A. Wilkinson, Cragun & Barker, 1735 New York Avenue NW., Washington, D.C. 20006.
B. Nana Regional Corp., Inc., Box 49, Kotzebue, Alaska 99752.
E. (9) $24.

A. Wilkinson, Cragun & Barker, 1735 New York Avenue NW., Washington, D.C. 20006.
B. State of Hawaii, Department of Regulatory Agencies, P.O. Box 531, Honolulu, Hawaii.
D. (6) $427.50. E. (9) $20.

A. Wilkinson, Cragun & Barker, 1735 New York Avenue NW., Washington, D.C. 20006.
B. The Three Affiliated Tribes of the Fort Berthold Reservation, New Town, N. Dak.
E. (9) $235.24.

A. Wilmer, Cutler & Pickering, 1666 K Street NW., Washington, D.C. 20006.
B. The Business Roundtable, 1901 K Street NW., Washington D.C. 20006.
D. (6) $450.

A. Williams & Connolly, 1000 Hill Building, Washington, D.C. 20006.
B. Business Roundtable, 405 Lexington Avenue, New York, N.Y. 10017.
D. (6) $145. E. (9) $145.

A. Williams & Connolly, 1000 Hill Building, Washington, D.C. 20006.
B. CBS, Inc., 1800 M Street NW., Washington, D.C. 20036.

A. Williams & Connolly, 1000 Hill Building, Washington, D.C. 20006.
B. Federal National Mortgage Association, 1133 15th Street NW., Washington, D.C. 20005.

A. Harry D. Williams, 1025 Connecticut Avenue NW., Suite 507, Washington, D.C. 20036.
B. Ashland Oil, Inc., P.O. Box 391, Ashland, Ky. 41101.
D. (6) $2,000.

A. Lee Williams, American Retail Federation, 1616 H Street NW., Washington, D.C. 20006.
B. American Retail Federation, 1616 H Street NW., Washington, D.C. 20006.
D. (6) $1,600. E. (9) $135.

A. Lucinda L. Williams, 1101 17th Street NW., Suite 310, Washington, D.C. 20036.
B. Federation of American Hospitals, 1101 17th Street NW., Suite 310, Washington, D.C. 20036.
D. (6) $3,150.

A. Williams, Myers & Quiggle, 888 17th Street NW., Washington, D.C. 20006.
B. Church Alliance for Clarification of ERISA, c/o Mr. Gary S. Nash, 511 North Akard Building, Suite 311, Dallas, Tex. 75201.
D. (6) $15,750. E. (9) $251.31.

A. Bertram C. Willis, International Telephone & Telegraph Corp., 1707 L Street NW., Suite 200, Washington, D.C. 20036.
B. International Telephone & Telegraph Corp., 320 Park Avenue, New York, N.Y. 10022.
D. (6) $130. E. (9) $18.

A. Allen W. Wills, Memorex Corp., 1970 Chain Bridge Road, McLean, Va. 22102.
B. Memorex Corp., San Tomas at Central Expressway, Santa Clara, Calif. 95052.
D. (6) $8,124. E. (9) $550.

A. George S. Wills, 7914 Sherwood Road, Buxton, Md. 21204.
B. Americans for Alaska, P.O. Box 50, Riderwood, Md. 21139.
D. (6) $4,690. E. (9) $2,673.48.

A. Charles D. Wilson, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
B. American Paper Institute, Inc., 260 Madison Avenue, New York, N.Y. 10016.
E. (9) $33.75.

A. Henry T. Wilson, 1750 New York Avenue NW., Washington, D.C. 20006.
B. International Brotherhood of Painters and Allied Trades, 1750 New York Avenue NW., Washington, D.C. 20006.
D. (6) $913.50.

A. Winston P. Wilson, 523 North Forrest Street, Forrest City, Ark. 72335.

B. Northrop Corp., 1701 North Fort Myer Drive, Suite 1206, Arlington, Va. 22209.
D. (6) $5,800. E. (9) $2,350.

A. Albert Winchester, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $3,167.50.

A. Joseph B. Winkelmann, 925 15th Street NW., Washington, D.C. 20005.
B. National Association of Realtors, Government Affairs Office, 925 15th Street NW., Washington, D.C. 20005.
D. (6) $1,500. E. (9) $1,230.19.

A. Winston & Strawn, 1730 Pennsylvania Avenue NW., No. 1040, Washington, D.C. 20006.
B. Atlanta/LaSalle Corp., 150 South Wacker Street, Chicago, Ill. 60600.
D. (6) $65.

A. Winston & Strawn, 1730 Pennsylvania Avenue NW., No. 1040, Washington, D.C. 20006.
B. Building Owners & Managers Association International, 1221 Massachusetts Avenue NW., Washington, D.C. 20005.
E. (9) $18.

A. Winston & Strawn, 1730 Pennsylvania Avenue NW., No. 1040, Washington, D.C. 20006.
B. Gould, Inc., 8550 Bryn Mawr Avenue, Chicago, Ill. 60631.

A. Winston & Strawn, 1730 Pennsylvania Avenue NW., No. 1040, Washington, D.C. 20006.
B. International Council of Shopping Centers, 665 Fifth Avenue, New York, N.Y. 10022.
D. (6) $65. E. (9) $24.

A. Winston & Strawn, 1730 Pennsylvania Avenue NW., No. 1040, Washington, D.C. 20006.
B. New England Petroleum Corp., 825 Third Avenue, New York, N.Y. 10022.
D. (6) $180. E. (9) $11.

A. Mark E. Winter, American Land Title Association, 1828 L Street NW., Washington, D.C. 20036.
B. American Land Title Association, 1828 L Street NW., Washington, D.C. 20036.
D. (6) $3,000.

A. Jane Wishner, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $2,400.

A. Richard F. Witherall, Colorado Railroad Association, 420 Denver Club Building, Denver, Colo. 80202.
B. Colorado Railroad Association, 420 Denver Club Building, Denver, Colo.

A. Glenn P. Witte, 1105 Barr Building, Washington, D.C. 20006.
B. International Association of Ice Cream Manufacturers and Milk Industry Foundation, 1105 Barr Building, Washington, D.C. 20006.

A. H. C. Witthaus, General Motors Corp., 1660 L Street NW., Suite 501, Washington, D.C. 20036.
B. General Motors Corp., 3044 West Grand Boulevard, Detroit, Mich. 48202.
D. (6) $3,000. E. (9) $1,044.93.

A. Erving Wolf, Inexco Oil Co., Suite 1900, 1100 Milam Building, Houston, Tex. 77002.
B. Inexco Oil Co., Suite 1900, 1100 Milam Building, Houston, Tex. 77002.
E. (9) $205.

A. Wolf, Haldenstein, Adler, Freeman, & Herz, 270 Madison Avenue, New York, N.Y. 10016.
B. Fallek-Lankro Corp., P.O. Box H, Tuscaloosa, Ala.
D. (6) $100. E. (9) $332.02.

A. James E. Wolf, The Trane Co., 2020 14th Street North, Arlington, Va. 22201.
B. The Trane Co., 3600 Pammel Creek Road, LaCrosse, Wis. 54601.
D. (6) $1,000. E. (9) $28.80.

A. Don Womack, 1150 Connecticut Avenue NW., Suite 1013, Washington, D.C. 20036.
B. Texas Utilities Services, Inc., 2001 Bryan Tower, Dallas, Tex. 75201.
D. (6) $1,687. E. (9) $160.19.

A. Diane Woodruff, Committee of Urban Program Universities, Suite 802, 11 Dupont Circle, Washington, D.C. 20036.
B. Committee of Urban Program Universities, Suite 802, 11 Dupont Circle, Washington, D.C. 20036.
D. (6) $1,875. E. (9) $75.50.

A. M. Alan Woods, DGA International, Inc., 1225 19th Street NW., Washington, D.C.
B. DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036. (For Airbus Industrie, Avenue Lucien Servanty, 31700 Blagnac, France).
D. (6) $101.33. E. (9) $6.40.

A. M. Alan Woods, DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036.
B. DGA International, Inc. 1225 19th Street NW., Washington, D.C. 20036 (For Thomson-CSF (AVS) 178 Boulevard Gabriel Peri, 92240 Malakoff, France).

A. William E. Woods, National Association of Retail Druggists, 1750 K Street NW., Washington, D.C. 20006.
B. National Association of Retail Druggists, 1750 K Street NW., Washington, D.C. 20006.
D. (6) $750. E. (9) $150.

A. Perry W. Woofter, 2101 L Street NW., Washington, D.C. 20037.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $5,000. E. (9) $185.

A. Paige Wooldridge, Box 1006, Bluefield, W. Va. 24701.
B. National Council of Coal Lessors, Inc., 1130 17th Street NW., Suite 230, Washington, D.C. 20036.
D. (6) $7,500. E. (9) $966.64.

A. Melanie Woolston, 20 A Seventh Street SE., Washington, D.C. 20003.
B. Self-Determination for the District of Columbia, Room 300, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $2,625.

A. Ronald L. Wooten, American Mining Congress, 1100 Ring Building, Washington, D.C. 20036.
B. American Mining Congress, 1100 Ring Building, Washington, D.C.

A. George M. Worden, Hill & Knowlton, Inc., 1425 K Street NW., Washington, D.C. 20005.
B. Hill & Knowlton, Inc., 633 Third Avenue, New York, N.Y.

A. W. Robert Worley, 1546 Farnell Court, Apt. 3, Decatur, Ga. 30033.
B. Georgia Power Co., 270 Peachtree Street NW., Atlanta, Ga. 30302.
D. (6) $2,960. E. (9) $4,420.64.

A. Edward E. Wright, Muir & Stolper, 1819 H Street NW., Washington, D.C. 20006.
B. G-4 Childrens' Coalition, 7309 Delfield Street, Chevy Chase, Md. 20015.
E. (9) $15.08.

A. Franklin L. Wright, Jr., 1709 New York Avenue NW., Suite 200, Washington, D.C. 20006.
B. National Association of Mutual Savings Banks, 200 Park Avenue, New York, N.Y. 10017.
D. (6) $1,937.50. E (9) $95.84.

A. Wyman, Bautzer, Rothman & Kuchel, Suite 1140, the Watergate 600, 600 New Hampshire Avenue NW., Washington, D.C. 20037.
B. Petersen Publishing Co., 8490 Sunset Boulevard, Los Angeles, Calif. 90060.
D. (6) $250.

A. John Yarmola, Seafarers International Union of North America, 815 16th Street NW., Suite 510, Washington, D.C. 20006.
B. Seafarers International Union of North America, 815 16th Street NW., Suite 510, Washington, D.C. 20006.
D. (6) $2,500. E. (9) $343.04.

A. Edward R. Yawn, American Farm Bureau Federation, 125 13th Street NW., Washington, D.C. 20004.
B. American Farm Bureau Federation, 225 Touhy Avenue, Park Ridge, Ill.
D. (6) $3,500. E. (9) $212.91.

A. A. Steven Young, National Small Business Association, 1604 K Street NW., Washington, D.C. 20006.
B. National Small Business Association 1604 K Street NW., Washington, D.C. 20006.
D. (6) $1,500. E. (9) $200.

A. Kenneth Young, 815 16th Street NW., Washington, D.C.
B. American Federation of Labor and Congress of Industrial Organizations, 815 16th Street NW., Washington, D.C.
D. (6) $10,998. E. (9) $482.33.

A. Reynolds Young, American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
B. American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $1,100. E. (9) $550.

A. Eugene A. Yourch, 17 Battery Place North, New York, N.Y. 10004.
B. Federation of American Controlled Shipping, 17 Battery Place North, New York, N.Y. 10004.
D. (6) $200.

A. Donald Zahn, 8316 Arlington Boulevard, Suite 600, Fairfax, Va. 22038.
B. National Right to Work Committee, 8316 Arlington Boulevard, Suite 600, Fairfax, Va. 22038.
D. (6) $420. E. (9) $164.

A. Lynn Zakupowsky, General Electric Co., 777 14th Street NW., Washington, D.C. 20005.
B. General Electric Co., 3135 Easton Turnpike, Fairfield, Conn. 06431.
D. (6) $500.

A. John S. Zapp, American Medical Association, 1776 K Street NW., Washington, D.C. 20006.
B. American Medical Association, 535 North Dearborn Street, Chicago, Ill. 60610.
D. (6) $3,870. E. (9) $484.

A. Thomas K. Zaucha, 1800 M Street NW., Suite 645-S, Washington, D.C. 20036.
B. The Great Atlantic & Pacific Tea Co., Inc., 2 Paragon Drive, Montvale, N.J. 07645.
D. (6) $2,000.

A. John L. Zorack, Cook & Henderson, 1735 K Street NW., Washington, D.C. 20006.
B. Allegheny Airlines, Washington National Airport 20001.
D. (6) $4,500. E. (9) $420.

A. John L. Zorack, Cook & Henderson, 1735 K Street NW., Washington, D.C. 20006.
B. Frontier Airlines, 1776 K Street NW., Washington, D.C. 20006.
D. (6) $4,500. E. (9) $420.

A. John L. Zorack, Cook & Henderson, 1735 K Street NW., Washington, D.C., 20006.
B. Pan American World Airways, 1800 K Street NW., Suite 900, Washington, D.C. 20006.
D. (6) $3,000. E. (9) $538.27.

A. Barry Zorthian, Time, Inc., 888 16th NW., Washington, D.C.
B. Time, Inc., Time and Life Building, Rockefeller Center, New York, N.Y. 10020.
D. (6) $2,950. E. (9) $900.

A. Charles O. Zuver, American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
B. American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $3,500. E. (9) $92.92.

A. Frances Zwenig, 133 C Street SE., Washington, D.C. 20003.
B. Congress Watch, 133 C Street SE., Washington, D.C. 20003.
D. (6) $2,750.

QUARTERLY REPORTS*

*All alphanumeric characters and monetary amounts refer to receipts and expenditures on page 2, paragraphs D and E of the Quarterly Report Form.

The following quarterly reports were submitted for the second calendar quarter 1974:

(NOTE.—The form used for report is reproduced below. In the interest of economy in the RECORD, questions are not repeated, only the essential answers are printed, and are indicated by their respective letter and number.)

FILE ONE COPY WITH THE SECRETARY OF THE SENATE AND FILE TWO COPIES WITH THE CLERK OF THE HOUSE OF REPRESENTATIVES:

This page (page 1) is designed to supply identifying data; and page 2 (on the back of this page) deals with financial data.

PLACE AN "X" BELOW THE APPROPRIATE LETTER OR FIGURE IN THE BOX AT THE RIGHT OF THE "REPORT" HEADING BELOW:

"PRELIMINARY" REPORT ("Registration"): To "register," place an "X" below the letter "P" and fill out page 1 only.

"QUARTERLY" REPORT: To indicate which one of the four calendar quarters is covered by this Report, place an "X" below the appropriate figure. Fill out both page 1 and page 2 and as many additional pages as may be required. The first additional page should be numbered as page "3," and the rest of such pages should be "4," "5," "6," etc. Preparation and filing in accordance with instructions will accomplish compliance with all quarterly reporting requirements of the Act.

Year: 19_____

REPORT

PURSUANT TO FEDERAL REGULATION OF LOBBYING ACT

P	QUARTER			
	1st	2d	3d	4th
(Mark one square only)				

NOTE ON ITEM "A".—(a) IN GENERAL. This "Report" form may be used by either an organization or an individual, as follows:
(i) "Employee".—To file as an "employee", state (in Item "B") the name, address, and nature of business of the "employer". (If the "employee" is a firm [such as a law firm or public relations firm], partners and salaried staff members of such firm may join in filing a Report as an "employee".)
(ii) "Employer".—To file as an "employer", write "None" in answer to Item "B".
(b) SEPARATE REPORTS. An agent or employee should not attempt to combine his Report with the employer's Report:
(i) Employers subject to the Act must file separate Reports and are not relieved of this requirement merely because Reports are filed by their agents or employees.
(ii) Employees subject to the Act must file separate Reports and are not relieved of this requirement merely because Reports are filed by their employers.

A. ORGANIZATION OR INDIVIDUAL FILING:
1. State name, address, and nature of business.
2. If this Report is for an Employer, list names of agents or employees who will file Reports for this Quarter.

NOTE ON ITEM "B".—*Reports by Agents or Employees.* An employee is to file, each quarter, as many Reports as he has employers, except that: (a) If a particular undertaking is jointly financed by a group of employers, the group is to be considered as one employer, but all members of the group are to be named, and the contribution of each member is to be specified; (b) if the work is done in the interest of one person but payment therefor is made by another, a single Report—naming both persons as "employers"—is to be filed each quarter.

B. EMPLOYER.—State name, address, and nature of business. If there is no employer, write "None."

NOTE ON ITEM "C".—(a) The expression "in connection with legislative interests," as used in this Report, means "in connection with attempting, directly or indirectly, to influence the passage or defeat of legislation." "The term 'legislation' means bills, resolutions, amendments, nominations, and other matters pending or proposed in either House of Congress, and includes any other matter which may be the subject of action by either House"—§ 302(e).
(b) Before undertaking any activities in connection with legislative interests, organizations and individuals subject to the Lobbying Act are required to file a "Preliminary" Report (Registration).
(c) After beginning such activities, they must file a "Quarterly" Report at the end of each calendar quarter in which they have either received or expended anything of value in connection with legislative interests.

C. LEGISLATIVE INTERESTS, AND PUBLICATIONS in connection therewith:

1. State approximately how long legislative interests are to continue. If receipts and expenditures in connection with legislative interests have terminated, place an "X" in the box at the left, so that this Office will no longer expect to receive Reports. ☐

2. State the general legislative interests of the person filing and set forth the *specific* legislative interests by reciting: (a) Short titles of statutes and bills; (b) House and Senate numbers of bills, where known; (c) citations of statutes, where known; (d) whether for or against such statutes and bills.

3. In the case of those publications which the person filing has caused to be issued or distributed in connection with legislative interests, set forth: (a) Description, (b) quantity distributed; (c) date of distribution, (d) name of printer or publisher (if publications were paid for by person filing) or name of donor (if publications were received as a gift).

(Answer items 1, 2, and 3 in the space below. Attach additional pages if more space is needed)

4. If this is a "Preliminary" Report (Registration) rather than a "Quarterly" Report, state below what the nature and amount of anticipated expenses will be; and if for an agent or employee, state also what the daily, monthly, or annual rate of compensation is to be. If this is a "Quarterly" Report, disregard this item "C4" and fill out item "D" and "E" on the back of this page. Do not attempt to combine a "Preliminary" Report (Registration) with a "Quarterly" Report.

AFFIDAVIT

[Omitted in printing]

PAGE 1

A. Albert E. Abrahams, National Association of Realtors, 925 15th Street NW., Washington, D.C. 20005.
B. National Association of Realtors, 430 North Michigan Avenue, Chicago, Ill., 60611 and 925 15th Street NW., Washington, D.C. 20005.
D. (6) $3,875. E. (9) $829.38.

A. ACLI International Inc., 110 Wall Street, New York, N.Y. 10005.
E. (9) $1,090.

A. John J. Adams, Suite 1060, 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Ethyl Corp., 330 South Fourth Street, Richmond, Va.

A. John J. Adams, Suite 1060, 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Vepco, Seventh and Franklin Streets, Richmond, Va.
D. (6) $80.

A. Ad Hoc Committee of Concerned Parents, P.O. Box 343, Lexington, Mass. 02173.
D. (6) $2,396.78. E. (9) $1,978.60.

A. Alaska Coalition, 620 C Street SE., Washington, D.C. 20003.

D. (6) $11,170.80. E. (9) $7,842.41.

A. Anne Genevieve Allen, Rockwell International, International Airport, Los Angeles, Calif. 90009.
B. Rockwell International, International Airport, Los Angeles, Calif. 90009.
D. (6) $335.94. E. (9) $613.21.

A. American Arts Alliance, 424 C Street NE., Washington, D.C. 20002.
D. (6) $25,414.23. E. (9) $42,925.66.

A. American Automobile Association, 8111 Gatehouse Road, Falls Church, Va. 22042.

A. American Federation of State, County, and Municipal Employees, AFL–CIO, 1625 L Street NW., Washington, D.C.
E. (9) $37,318.04.

A. American Hospital Association, 840 North Lake Shore Drive, Chicago, Ill. 60611.
D. (6) $22,762.27. E. (9) $22,762.27.

A. American Israel Public Affairs Committee, 444 North Capitol Street NW., No. 412, Washington, D.C. 20001.
D. (6) $63,725. E. (9) $41,150.67.

A. American Maritime Association, 17 Battery Place North, New York, N.Y. 10004; 1612 K St. NW., Washington, D.C. 20004.
E. (9) $311.90.

A. American Meat Institute, P.O. Box 3556, Washington, D.C. 20007 (1600 Wilson Boulevard, Arlington, Va.).
E. (9) $21.10.

A. American-Nicaraguan Council, 475 L'Enfant Plaza SW., Suite 4110, Washington, D.C. 20024.
D. (6) $8,121.44. E. (9) $8,121.44.

A. American Parents Committee, 1346 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $3,875.

A. Americans for Democratic Action, 1411 K Street NW., No. 850, Washington, D.C. 20005.
D. (6) $65,970.27 E. (9) $8,783.79.

A. Morris J. Amitay, 444 North Capitol Street NW., No. 412, Washington, D.C. 20001.
B. American Israel Public Affairs Committee, 444 North Capitol Street NW., No. 412, Washington, D.C. 20001.
D. (6) $6,874.98.

A. J. L. Anderson, Time Inc., 866 16th Street NW., Washington, D.C. 20006.
B. Time Inc., Time & Life Building, Rockefeller Center, New York City, N.Y.
D. (6) $2,500. E. (9) $950.

A. Jack R. Angell, United Gas Pipe Line Co., 1101 17th Street NW., Washington, D.C. 20036.
B. United Gas Pipe Line Co., P.O. Box 1478, Houston, Tex. 22001.
D. (6) $1,320. E. (9) $32.

A. J. Donald Annett, 1050 17th Street NW., No. 500, Washington, D.C. 20036.
B. Texaco Inc., 2000 Westchester Avenue, White Plains, N.Y. 10650.
D. (6) $200.

A. Linda M. Anzalone, Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C. 20062.
B. Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C.
E. (9) $25.

A. APA Co., 400 First Street NW., Washington, D.C. 20001.
B. University of Health Sciences/The Chicago Medical School, 2020 West Ogden Avenue, Chicago, Ill. 60612.
D. (6) $750.

A. John Archer, American Automobile Association, 8111 Gatehouse Road, Falls Church, Va. 22042.
B. American Automobile Association, 8111 Gatehouse Road, Falls Church, Va. 22042.

A. John Christian Archer, 1730 Rhode Island Avenue NW., No. 213, Washington, D.C. 20036.
B. Brown & Root, Inc., 1730 Rhode Island Avenue NW., No. 213, Washington, D.C. 20036.
D. (6) $1300. E. (9) $550.

A. Roy A. Archibald, National Education Association, 1705 Murchison Drive, Burlingame, Calif. 94010.
B. National Education Association, 1201 16th Street NW., Washington, D.C. 20036.
D. (6) $3,282.42. E. (9) $100.

A. Arnold & Porter, 1229 19th Street NW., Washington, D.C. 20036.
B. Commissioner of Baseball, 15 West 51st Street, New York, N.Y. 10019.
D. (6) $1,230. E. (9) $38.

A. Arnold & Porter, 1229 19th Street NW., Washington, D.C. 20036.
B. Price Waterhouse & Co., 1259 Avenue of the Americas, New York, N.Y. 10020.

A. Arnold & Porter, 1229 19th Street NW., Washington, D.C. 20036.
B. Recording Industry Association of America, Inc., 1 East 57th Street, New York, N.Y. 10022.
D. (6) $575. E. (9) $94.

A. Arnold & Porter, 1229 19th Street NW., Washington, D.C. 20036.
B. State Farm Mutual Automobile Insurance Co., One State Farm Plaza, Bloomington, Ill. 61701.
D. (6) $3,352. E. (9) $198.

A. Arnold & Porter, 1229 19th Street NW., Washington, D.C. 20036.
B. West Mexico Vegetable Distributors Association, P.O. Box 848, Nogales, Ariz.
D. (6) $12,609.29. E. (9) $1,102.66.

A. Association for the Advancement of Invention and Innovation, Suite 301, 1911 Jefferson Davis Highway, Arlington, Va. 22202.
D. (6) $3,175. E. (9) $3,482.25.

A. Associated Credit Bureaus, Inc., 6767 Southwest Freeway, Houston, Tex. 77074.
E. (9) $335.32.

A. Association of Data Processing Service Organizations, Inc., 210 Summit Avenue, Montvale, N.J. 07645.
D. (6) $473,869.

A. Association of Independent Corrugated Converters, 2530 Crawford Avenue, Evanston, Ill. 60201.
D. (6) $7,500. E. (9) $9,822.10.

A. Association of Oil Pipe Lines, 1725 K Street NW., Washington, D.C. 20006.
E. (9) $1,220.37.

A. The Association of Trial Lawyers of America, 1050 31st Street NW., Washington, D.C. 20007.
D. (6) $7,050. E. (9) $7,050.

A. Aviation Consumer Action Project, P.O. Box 19029, Washington, D.C. 20036.
E. (9) $70.

A. Charles W. Bailey, 8316 Arlington Boulevard, Suite 600, Fairfax, Va. 22038.
B. National Right to Work Committee, 8316 Arlington Boulevard, Suite 600, Fairfax, Va. 22038.

A. Emil F. Baker, 1303 New Hampshire Avenue NW., Washington, D.C. 20036.
B. Fleet Reserve Association, 1303 New Hampshire Avenue NW., Washington, D.C. 20036.

A. John H. Barnard, Jr., 803 Ironbark Place, Orinda, Calif. 94563.
B. Bechtel Corp., 50 Beale Street, P.O. Box 3965, San Francisco, Calif. 94119.

A. Barnes, Richardson & Colburn, 1819 H Street NW., Washington, D.C. 20006.
B. Meat Importers Council of America, 1 Penn Plaza, New York, N.Y. 10001.

A. James C. Barr, National Association of Federal Credit Unions, 1156 15th Street NW., Suite 329, Washington, D.C. 20005.
B. National Association of Federal Credit Unions, 1156 15th Street NW., Suite 329, Washington, D.C. 20005.
D. (6) $300. E. (9) $60.45.

A. Davis M. Batson, 1155 15th Street NW., Suite 611, Washington, D.C. 20005.
B. Ethyl Corp., 1155 15th Street NW., Suite 611, Washington, D.C. 20005.
D. (6) $600.

A. Lucius D. Battle, Communications Satellite Corp., 950 L'Enfant Plaza SW., Washington, D.C. 20024.
B. Communications Satellite Corp., 950 L'Enfant Plaza SW., Washington, D.C. 20024.
D. (6) $160. E. (9) $5.

A. Sadie R. Bauich, National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
B. National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.

A. Robert J. Becker, Joint Council of Allergy and Immunology, 401 East Prospect Avenue, Suite 210, Mount Prospect, Ill. 60056; 229 North Hammes Avenue, Joliet, Ill. 60435.
B. Joint Council of Allergy and Immunology, 401 East Prospect Avenue, Suite 210, Mount Prospect, Ill. 60056; 229 North Hammes Avenue, Joliet, Ill. 60435.

A. Walter L. Benning, 14901 Ritchie Road, Centreville, Va. 22020.

B. Manufactured Housing Institute, 1745 Jefferson Davis Highway, Suite 511, Arlington, Va. 22202.
D. (6) $2,500. E. (9) $1,000.

A. Randolph C. Berkeley, National Association for Uniformed Services, 6300 Lakeview Drive, Falls Church, Va. 22041.
B. National Association for Uniformed Services, 956 North Monroe Street, Arlington, Va. 22201.
D. (6) $790.

A. Ellen Berman, Energy Policy Task Force of Consumer Federation of America, 1012 14th Street NW., Washington, D.C. 20005.
B. Energy Policy Task Force of Consumer Federation of America, 1012 14th Street NW., Washington, D.C. 20005.
D. (6) $1,350. E. (9) $75.

A. William R. Berman, American Automobile Association, 8111 Gatehouse Road, Falls Church, Va. 22042.
B. American Automobile Association, 8111 Gatehouse Road, Falls Church, Va. 22042.

A. George K. Bernstein, 1730 K Street NW., Washington, D.C. 20006.
B. American Insurance Association, 1025 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $18,825. E. (9) $5,625.

A. Charles L. Binsted, National Congress for Petroleum Retailers, Inc., No. 201, 2021 K Street NW., Washington, D.C. 20006.
B. National Congress of Petroleum Retailers, 2021 K Street NW., No. 201, Washington, D.C. 20006.
D. (6) $1,554. E. (9) $1,575.

A. Robert Bird, 1629 K Street NW., Suite 300, Washington, D.C. 20006.
B. General Mills, Inc., P.O. Box 1113, Minneapolis, Minn. 55440.
D. (6) $500. E. (9) $600.

A. Robert J. Bird, 1140 Connecticut Avenue NW., No. 804, Washington, D.C. 20036.
B. Occidental Life Insurance Co., 12th and Hill, Los Angeles, Calif. 90054.

A. Robert J. Bird, 1140 Connecticut Avenue NW., No. 804, Washington, D.C. 20036.
B. The Paul Revere Corp., Worcester, Mass. 01608.

A. H. Radford Bishop, Robert H. Kellen Co., 64 Perimeter Center East, Atlanta, Ga. 30346.
B. Robert H. Kellen Co., 64 Perimeter Center East, Atlanta, Ga. 30346 for Calorie Control Council, 64 Perimeter Center East, Atlanta, Ga. 30346.
D. (6) $200.

A. Carolyn Bode, 2941 28th Street NW., Washington, D.C. 20008.
B. Women's Lobby, Inc., 201 Massachusetts Avenue NE., Washington, D.C. 20002.
D. (6) $1,430.

A. A. Dewey Bond, American Meat Institute, P.O. Box 3556, Washington, D.C. 20007.
B. American Meat Institute, P.O. Box 3556, Washington, D.C. 20007; 1600 Wilson Boulevard, Arlington, Va.
D. (6) $500. E. (9) $25.

A. Bonneville Associates, Inc., 747 East South Temple, Suite 111, Salt Lake City, Utah 84102.
B. Western Regional Council, P.O. Box 8144, Salt Lake City, Utah 84108.
E. (9) $344.34.

A. Edward T. Borda, 1625 I Street NW., Suite 1023, Washington, D.C. 20006.
B. Association of General Merchandise Chains, 1625 I Street NW., Suite 1023, Washington, D.C. 20006.
D. (6) $4,000. E. (9) $290.

A. G. Stewart Boswell, American Textile Manufacturers Institute, Inc., Suite 1001, 1150 17th Street NW., Washington, D.C. 20036.
B. American Textile Manufacturers Institute, Suite 2124, South Tryon Street, Charlotte, N.C. 28285.
D. (6) $1,836. E. (9) $269.99.

A. Mary M. Bourdette, 733 15th Street NW., Washington, D.C. 20005.
B. Legal Services Corp., 733 15th Street NW., Washington, D.C. 20005.
D. (6) $137.44. E. (9) $20.

A. Rodney A. Bower, International Federation of Professional and Technical Engineers, AFL–CIO, 1126 16th Street NW., Washington, D.C. 20036.
B. International Federation of Professional and Technical Engineers, AFL–CIO, 1126 16th Street NW., Washington, D.C. 20036.
D. (6) $625. E. (9) $100.

A. Edward Bowman, c/o Tom B. Cunningham, Sr., Rural Route No. 5, Darlington, S.C. 29532.
B. National Association of Farmer Elected Committeemen, c/o Tom B. Cunningham, Sr., Rural Route No. 5, Darlington, S.C. 29532.
E. (9) $67.58.

A. Boyden, Kennedy, Romney & Howard, 1000 Kennecott Building, Salt Lake City, Utah 84133.
B. The Zuni Indian Tribe, Zuni, N. Mex.
E. (9) $1,612.09.

A. Gene M. Bradley, 955 L'Enfant Plaza North SW., Washington, D.C. 20024.
B. The Boeing Co., P.O. Box 3707, Seattle, Wash. 98124.
D. (6) $400. E. (9) $380.

A. Charles N. Brady, American Automobile Association, 8111 Gatehouse Road, Falls Church, Va. 22042.
B. American Automobile Association, 8111 Gatehouse Road, Falls Church, Va. 22042.

A. Charles G. Bragg, P.O. Box 12285, Memphis, Tenn. 38112.
B. National Cotton Council of America, P.O. Box 12285, Memphis, Tenn. 38112.
D. (6) $1,065.38. E. (9) $200.85.

A. S. Gail Bramblett, National Education Association, 1201 16th Street NW., Washington, D.C. 20036.
B. National Education Association, 1201 16th Street NW., Washington, D.C. 20036.
D. (6) $3,867.80. E. (9) $295.84.

A. Bregman, Abell, Solter & Kay, 1900 L Street NW., Suite 610, Washington, D.C. 20036.
B. The Air Transport Association of America, 1709 New York Avenue NW., Washington, D.C. 20036.
D. (6) $800. E. (9) $50.

A. Bregman, Abell, Solter & Kay, 1900 L Street NW., Suite 610, Washington, D.C. 20036.
B. The Car and Truck Renting and Leasing Association, 1725 K Street NW., Suite 408, Washington, D.C. 20006.
D. (6) $500. E. (9) $150.

A. Bregman, Abell, Solter & Kay, 1900 L Street NW., Suite 610, Washington, D.C. 20036.
B. Trans World Airlines, Inc., 1000 16th Street NW., Washington, D.C. 20036.
D. (6) $1,250. E. (9) $100.

A. Bregman, Abell, Solter & Kay, 1900 L Street NW., Suite 610, Washington, D.C. 20036.
B. The Washington Psychiatric Society, 1700 18th Street NW., Washington, D.C. 20009.
D. (6) $500. E. (9) $75.

A. Edward J. Brenner, Suite 301, 1911 Jefferson Davis Highway, Arlington, Va. 22202.
B. Association for the Advancement of Invention and Innovation, Suite 301, 1911 Jefferson Davis Highway, Arlington, Va. 22202.

A. Bill Brier, National Council of Farmer Cooperatives, 1129 20th Street NW., Washington, D.C. 20036.
B. National Council of Farmer Cooperatives, 1129 20th Street NW., Washington, D.C. 20036.
D. (6) $1,366. E. (9) $56.

A. Claude S. Brinegar, 461 South Boylston Street, Los Angeles, Calif. 90017.
B. Union Oil Co. of California, 461 South Boylston Street, Los Angeles, Calif. 90017.
D. (6) $600. E. (9) $166.05.

A. Belva B. Brissett, 1771 N Street NW., Washington, D.C. 20036.
B. National Association of Broadcasters, 1771 N Street NW., Washington, D.C. 20036.
D. (6) $1,406.25. E. (9) $288.

A. John B. Brock, Quintana Refinery Co., P.O. Box 3331, Houston, Tex. 77001.
B. Quintana Refinery Co., P.O. Box 3331, Houston, Tex. 77001.

A. Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employes, 815 16th Street NW., Washington, D.C. 20006.
B. Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employes, 6300 River Road, Rosemont, Ill. 60018.
D. (6) $35,000.80. E. (9) $35,000.80.

A. Gary A. Brown, 1101 17th Street NW., Suite 700, Washington, D.C. 20036.
B. National Association of Real Estate Investment Trusts, 1101 17th Street NW., Suite 700, Washington, D.C. 20036.
D. (6) $60.

A. Michael E. Brunner, American Meat Institute, P.O. Box 3556, Washington, D.C. 20007.
B. American Meat Institute, P.O. Box 3556, Washington, D.C. 20007; 1600 Wilson Boulevard, Arlington, Va.
D. (6) $3,000. E. (9) $675.

A. David A. Burn, 1211 Connecticut Avenue NW., No. 406, Washington, D.C. 20036.
B. Magazine Publishers Association, 575 Lexington Avenue, New York, N.Y. 10022.
D. $4,000. E. (9) $200.

A. David A. Burn, Parcel Shippers Association, 1211 Connecticut Avenue NW., Washington, D.C. 20036.
B. Parcel Shippers Association, 1211 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $1,000. E. (9) $700.

A. George J. Burger, National Federation of Independent Business, 150 West 20th Avenue, San Mateo, Calif. 94403.
B. National Federation of Independent Business, 150 West 20th Avenue, San Mateo, Calif. 94403.
D. (6) $1,000. E. (9) $700.

A. Thomas G. Burke, 1625 I Street NW., Suite 1023, Washington, D.C. 20006.

B. Association of General Merchandise Chains, Inc., 1625 I Street NW., Suite 1023, Washington, D.C. 20006.
D. (6) $2,000. E. (9) $250.

A. David G. Burney, United States Tuna Foundation, 525 B Street, Suite 2290, San Diego, Calif. 92101.
B. United States Tuna Foundation, 525 B Street, Suite 2290, San Diego, Calif. 92101.
D. (6) $6,000. E. (9) $3,000.

A. Calorie Control Council, 64 Perimeter Center East, Atlanta, Ga. 30346.
E. (9) $21,080.

A. Arthur E. Cameron, 918 16th Street NW., Suite 406, Washington, D.C. 20006.
B. LFE Corp., 1601 Trapelo Road, Waltham, Mass. 02154; Eagle Signal Corp., 8004 Cameron Road, Austin, Tex. 78753; Safetran Systems Corp., 7721 National Turnpike, Louisville, Ky. 40214.
D. (6) $4,625.

A. Arthur E. Cameron, 918 16th Street NW., Suite 406, Washington, D.C. 20006.
B. Prismo Universal Corp., et al., Four Research Place, Rockville, Md. 20850.
D. (6) $4,374.

A. Bruce P. Cameron, Americans for Democratic Action, 1411 K Street NW., No. 850, Washington, D.C. 20005.
D. (6) $1,250.02.

A. Charles Argyll Campbell, Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C. 20062.
B. Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C. 20062.
E. (9) $300.50

A. John E. Campbell, American Hospital Association, 444 North Capitol Street NW., No. 500, Washington, D.C. 20001.
B. American Hospital Association, 840 North Lake Shore Drive, Chicago, Ill. 60611.

A. Can Manufacturers Institute, 1625 Massachusetts Avenue NW., Washington, D.C. 20036.
E. (9) $200.

A. Caplin & Drysdale, 1101 17th Street NW., Washington, D.C. 20036.
B. Association of American Publishers, Mass Market Paperback Book Division.
E. (9) $6.80.

A. Ross Capon, National Association of Railroad Passengers, 417 New Jersey Avenue SE., Washington, D.C. 20003.
B. National Association of Railroad Passengers, 417 New Jersey Avenue SE., Washington, D.C. 20003.
D. (6) $3,975.01.

A. Richard M. Carrigan, National Education Association, 1201 16th Street NW., Washington, D.C. 20036.
B. National Education Association, 1201 16th Street NW., Washington, D.C. 20036.
D. (6) $4,953.30 E. (9) $337.83.

A. Eugene I. Casraiss, Jr., United Automobile, Aerospace & Agricultural Implement Workers of America, 1125 15th Street NW., Washington, D.C. 20005.
B. International Union, United Automobile, Aerospace & Agricultural Implement Workers of America, 8000 East Jefferson Avenue, Detroit, Mich. 48214.
D. (6) $7,531.87. E. (9) $493.88.

A. Catholics for a Free Choice, 201 Massachusetts Avenue NE., No. 105, Washington, D.C. 20002.
D. (6) $1,270.20 E. (9) $4,990.88.

A. Owen R. Chaffee, 203 Yoakum Parkway, No. 1012, Alexandria, Va. 22304.
B. Manufactured Housing Institute, 1745 Jefferson Davis Highway, Arlington, Va. 22202.
D. (6) $3,500. E. (9) $500.

A. R. S. Chamberlin, Dow Chemical, U.S.A., 1800 M Street NW., Suite 700 South, Washington, D.C. 20036.
B. The Dow Chemical Co., Midland, Mich. 48640.
D. (6) $900. E. (9) $750.

A. David Chatfield, Credit Union National Association, Inc., 1730 Rhode Island Avenue NW., Washington, D.C. 20036.
B. Credit Union National Association, Inc., 1617 Sherman Avenue, Madison, Wis.
D. (6) $1,520. E. (9) $150.

A. Chugach Electric Association, Inc., P.O. Box 3518, Anchorage, Alaska 99501.
E. (9) $6,178.81.

A. Julia Churchman, Preservation Action, 2101 L Street NW., Washington, D.C. 20037.
B. Preservation Action, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $251.84.

A. Citizens for Management of Alaska Lands, Inc., P.O. Box 3256, Anchorage, Alaska 99510.
D. (6) $177,883.50. E. (9) $118,852.65.

A. Anne Harrison Clark, 10564 Jason Lane, Columbia, Md. 21044.
B. National Consumers League, 1028 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $424.99.

A. Kathleen Ann Clarken, National Federation of Independent Business, 490 L'Enfant Plaza East SW., Suite 3206, Washington, D.C. 20024.
B. National Federation of Independent Business, 490 L'Enfant Plaza East SW., Suite 3206, Washington, D.C. 20024.
D. (6) $400.

A. Charles M. Clusen, 330 Pennsylvania Avenue SE., Washington, D.C. 20003.
B. Sierra Club, 530 Bush Street, San Francisco, Calif. 94106.
D. (6) $6,500. E. $144.18.

A. CNA Financial Corp., CNA Plaza, Chicago, Ill., 60685.
E. (9) $2,500.

A. Coalition on American Rivers, P.O. Box 2667, Station A, Champaign, Ill. 61820.
D. (6) $7,582.38. E. (9) $3,856.38.

A. The Coca-Cola Bottlers' Association, 166 16th Street NW., Atlanta, Ga. 30318.

A. Jerry S. Cohen, Suite 708, 1776 K Street NW., Washington, D.C. 20006.
B. National Congress of Petroleum Retailers, Suite 301, 2021 K Street NW., Washington, D.C.
D. (6) $3,000.

A. Rhea L. Cohen, 10 Greendale Place, Greenbelt, Md. 20770.
B. Sierra Club, 330 Pennsylvania Avenue SE., Washington, D.C. 20003.
D. (6) $4,625. E. (9) $57.

A. Robert E. Cole, 1660 L Street NW., Washington, D.C.
B. General Motors Corp., 1660 L Street NW., Washington, D.C.
D. (6) $2,500. E. (9) $3,264.40.

A. Frank Collins, Oil, Chemical & Atomic Workers International Union, 1126 16th Street NW., Washington, D.C. 20036.
B. Oil, Chemical & Atomic Workers International Union, 1636 Champa Street, Denver, Colo. 80201.
D. (6) $2,000. E. (9) $225.

A. George R. Collins, IUE–AFL–CIO, 1126 16th Street NW., Washington, D.C. 20036.
B. International Union of Electrical, Radio & Machine Workers, AFL–CIO, 1126 16th Street NW., Washington, D.C. 20036.
D. (6) $600. E. (9) $300.

A. Committee for 806.20 and 807, Inc., 1611 North Kent Street, Suite 800, Arlington, Va. 22209.
D. (6) $14,500. E. (9) $8,863.63.

A. Committee for Humane Legislation, Inc., 2101 L Street NW., Washington, D.C., 20037; 11 West 60th Street, New York City, N.Y. 10023.
D. (6) $27,032.50. E. (9) $46,367.70.

A. Committee For Public Advocacy, Suite 925, 1346 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $35.71. E. (9) $97.13.

A Computer & Communications Industry Association, 1500 Wilson Boulevard, Suite 512, Arlington, Va. 22209.
D. (6) $97,968. E. (9) $13,312.

A. Connecticut Bankers Association, 100 Constitution Plaza, Suite 956, Hartford, Conn. 06103.

A. Donald L. Connors, Tyler, Reynolds & Craig, One Boston Place, Boston, Mass. 02108.
B. Electro Signal Laboratory, Inc., 1022 Hingham Street, Rockland, Mass. 02370.
D. (6) $200.

A. Jerry C. Connors, American Automobile Association, 8111 Gatehouse Road, Falls Church, Va. 22042.
B. American Automobile Association, 8111 Gatehouse Road, Falls Church, Va. 22042.

A. Consumer Action Now, 317 Pennsylvania Avenue SE., Washington, D.C. 20003.
D. (6) $4,588.81. E. (9) $5,557.48.

A. Consumer Federation of America, 1012 14th Street NW., Washington, D.C. 20005.
D. (6) $10,144. E. (9) $13,560.02.

A. Contract Carrier Conference of American Trucking Associations, Inc., 1730 Rhode Island Avenue NW., No. 801, Washington, D.C. 20036.
D. (6) $5,500.

A. Paul Corbin, 1028 Connecticut Avenue NW., Suite 516, Washington, D.C. 20036.
B. Pontchartrain State Bank, Metairie, La. 20033.
D. (6) $5,000.

A. Patrick H. Corcoran, Association of Oil Pipe Lines, 1725 K Street NW., Washington, D.C. 20006.
B. Association of Oil Pipe Lines, 1725 K Street NW., Washington, D.C. 20006.
E. (9) $1,220.37.

A. Glen S. Corso, National Association of Home Builders of the United States, 15th and M Streets NW., Washington, D.C. 20005.
B. National Association of Home Builders of the United States, 15th and M Streets NW., Washington, D.C. 20005.
D. (6) $5,166.24. E. (9) $424.11.

A. The Cosmetic, Toiletry & Fragrance Association, Inc., 1133 15th Street NW., Suite 1200, Washington, D.C. 20005.
D. (6) $2,050. E. (9) $2,050.

A. John A. Couture, National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
B. National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
D. (6) $825. E. (9) $100.

A. Kenneth A. Cox, 1150 17th Street NW., Washington, D.C. 20036.
B. MCI Communications Corp, 1150 17th Street NW., Washington, D.C. 20036.
D. (6) $2,039.87. E. (9) $5.64.

A. Cox, Smith, Smith, Hale & Guenther Inc., 500 National Bank of Commerce Building, San Antonio, Tex. 78205.
B. Sanchez-O'Brien Petroleum Group and the National Association of Independent Gas Producers, 500 National Bank of Commerce Building, San Antonio, Tex. 78205.
D. (6) $125. E. (9) $3.30.

A. Judith Lynne Crain, 1745 Jefferson Davis Highway, Arlington, Va. 22202.
B. Manufactured Housing Institute, 1745 Jefferson Davis Highway, Arlington, Va. 22202.
D. (6) $825.

A. Cramer, Viser, Lipsen & Smith, 475 L'Enfant Plaza SW., Suite 4100, Washington, D.C. 20024.
B. The American Nicaraguan Council, 475 L'Enfant Plaza SW., Suite 4110, Washington, D.C.

A. Cramer, Visser, Lipsen & Smith, 475 L'Enfant Plaza SW., Suite 4100, Washington, D.C. 20024.
B. American Sign & Indicator Corp., North 2310 Pancher Way, Spokane, Wash. 99206.
D. (6) $5,433.94. E. (9) $5,433.94.

A. Cramer, Visser, Lipsen & Smith, 475 L'Enfant Plaza SW., Suite 4100, Washington, D.C. 20024.
B. Government of Nicaragua, Managua, Nicaragua.
D. (6) $12,184.76. E. (9) $12,184.76.

A. Cramer, Visser, Lipsen & Smith, 475 L'Enfant Plaza SW., Suite 4100, Washington, D.C. 20024.
B. Norman, Lawrence, Patterson & Farrell, 211 East 43d Street, New York, N.Y. 10017.
D. (6) $3,333.15. (9) $3,333.15.

A. Roger C. Crampton, Cornell Law School, Ithaca, N.Y. 14850.
B. Legal Service Corp., 733 15th Street NW., Washington, D.C. 20005.
D. (6) $180. (9) $132.96.

A. Credit Union National Association, Inc., 1617 Sherman Avenue, Madison, Wis.
D. (6) $10,755. E. (9) $1,225.

A. Joseph M. Cribben, 6900 Valley Brook Drive, Falls Church, Va. 22042.
B. United Association of Journeymen and Apprentices of the Plumbing & Pipe Fitting Industry of the United States and Canada, 901 Massachusetts Avenue NW., Washington, D.C. 20001.
D. (6) $1,750. E. (9) $34.33.

A. Thomas G. Crikelair, National Association of Railroad Passengers, 417 New Jersey Avenue SE., Washington, D.C. 20003.
B. National Association of Railroad Passengers, 417 New Jersey Avenue SE., Washington, D.C. 20003.
D. (6) $3,180.06.

A. Richard E. Cristol, 64 Perimeter Center East, Atlanta, Ga. 30346.
B. Robert H. Kellen Co., 64 Perimeter Center East, Atlanta, Ga. 30346 for Calorie Control Council, 64 Perimeter Center East, Atlanta, Ga. 30346.
D. (6) $200.

A. Barry M. Cullen, 1620 I Street NW., No. 700, Washington, D.C. 20006.
B. International Paper Co, 1620 I Street NW., No. 700, Washington, D.C. 20006.
D. (6) $100. E. (9) $50

A. Culp, Dwyer, Guterson & Grader, 1300 Hoge Building, Seattle, Wash. 98104.
B. Pacific Northwest Utilities Conference Committee, 27 North Wenatchee Avenue, Wenatchee, Wash. 98801.
D. (6) $7,620. E. (9) $3,071.54.

A. William E. Cumberland, Mortgage Bankers Association of America, 1125 15th Street NW., Washington, D.C. 20005.
B. Mortgage Bankers Association of America, 1125 15th Street NW., Washington, D.C. 20005.
D. (6) $488. E. (9) $1,868.

A. Frank Cummings, 1140 Connecticut Avenue NW., Washington, D.C., 20036.
B. The Institute of Electrical & Electronics Engineers, Inc., 345 East 47th Street, New York, N.Y. 10022.
D. (6) $5,890.

A. Tom B. Cunningham, Rural Route 5, Darlington, S.C. 29532.
B. National Association of Farmer Elected Committeemen, c/o Tom B. Cunningham, Sr., Route 5, Darlington, S.C. 29532.
E. (9) $127.50.

A. Robert J. Cushman, National Association of Home Builders of the United States, 15th and M Streets NW., Washington, D.C. 20005.
B. National Association of Home Builders of the United States, 15th and M Streets NW., Washington, D.C. 20005.
D. (6) $3,025. E. (9) $526.01.

A. Jay B. Cutler, American Psychiatric Association, Suite 802, 2033 M Street NW., Washington, D.C. 20036.
B. American Psychiatric Association, 1700 18th Street NW., Washington, D.C. 20009.
D. (6) $3,278. E. (9) $1,991.62.

A. Mimi Cutler, 1346 Connecticut Avenue NW., Washington, D.C. 20036.
B. Aviation Consumer Action Project, P.O. Box 19029, Washington, D.C. 20036.
D. (6) $60.

A. John M. Damgard, ACLI International, Inc., 888 17th Street NW., Washington, D.C. 20006.
B. ACLI International, Inc., 110 Wall Street, New York, N.Y., 10005.
D. (6) $1,000.

A. Daniels, Houlihan & Palmeter, 1819 H. Street NW., Washington, D.C. 20006.
B. American Importers Association, 420 Lexington Avenue, New York, N.Y. 10017.
D. (6) $3,000. E. (9) $532.35.

A. Daniels, Houlihan & Palmeter, 1819 H. Street NW., Washington, D.C. 20006.
B. Associacao Brasileira de Produtores de Fero Ligas "ABRAFE", Grupo 1305, Rio de Jeniero, Brazil.
E. (9) $26.60.

A. Richard C. Darling, 1156 15th Street NW., Washington, D.C., 20005.
B. J. C. Penney Co., Inc., 1301 Avenue of the Americas, New York, N.Y.
D. (6) $3,009.60. E. (9) $1,710.

A. Kenneth E. Davis, 1025 Connecticut Avenue NW., No. 202, Washington, D.C. 20036.
B. Rohm and Haas Co., Independence Mall West, Philadelphia, Pa. 19105.
D. (6) $500. E. (9) $100.

A. Dawson, Riddell, Taylor, Davis & Holroyd, 723 Washington Building, Washington, D.C. 20005.
B. Air Transport Association, 1709 New York Avenue NW., Washington, D.C. 20005.
D. (6) $6,000.

A. Dawson, Riddell, Taylor, Davis & Holroyd, 723 Washington Building, Washington, D.C. 20005.
B. Beneficial Finance Co., Morristown, N.J. 07960.
D. (6) $3,000.

A. Dawson, Riddell, Taylor, Davis & Holroyd, 723 Washington Building, Washington, D.C. 20005.
B. C.I.T. Financial Corp., 650 Madison Avenue, New York, N.Y. 10022.

A. Dawson, Riddell, Taylor, Davis & Holroyd, 723 Washington Building, Washington, D.C. 20005.
B. Consumer Credit Insurance Association, 307 North Michigan Avenue, Chicago, Ill. 60601.

A. Dawson, Riddell, Taylor, Davis & Holroyd, 723 Washington Building, Washington, D.C. 20005.
B. U.S. Brewers Association, Inc., 1750 K Street NW., Washington, D.C. 20006.
D. (6) $25,000.

A. Deaver & Hannaford, Inc., 2030 M Street NW., No. 403, Washington, D.C. 20036.
B. National Venture Capital Association, 2030 M Street NW., No. 403, Washington, D.C. 20036.
D. (6) $7,500. E. (9) $1,166.01.

A. deKieffer and Associates, 1055 Thomas Jefferson Street NW., Washington, D.C. 20007.
B. Department of Information, Private Bag X152, Pretoria 001, Republic of South Africa.
D. (6) $9,717.57. E. (9) $16,862.66.

A. Garry J. DeLoss, 317 Pennsylvania Avenue SE., Washington, D.C. 20003.
B. Environmental Policy Center, 317 Pennsylvania Avenue SE., Washington, D.C. 20003.
D. (6) $3,249.99.

A. Ray Denison, AFL–CIO, 815 16th Street NW., Washington, D.C.
B. American Federation of Labor and Congress of Industrial Organizations, 815 16th Street NW., Washington, D.C.
D. (6) $9,945. E. (9) $435.98.

A. Charles J. DiBona, 2101 L Street NW., Washington, D.C. 20037.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.

A. DK Consultants, Inc., 918 16th Street, Suite 402, Washington, D.C. 20006.
B. Aberrant Behavior Center, 1250 Dallas Federal Savings Tower, Dallas, Tex. 74225.
D. (6) $719.29. E. (9) $719.29.

A. Domestic Wildcatters Association, 900 First City National Bank Building, Houston, Tex. 77002.
D. (6) $45,000. E. (9) $11,527.36.

A. Charlene Dougherty, 1525 18th Street NW., Washington, D.C. 20036.
B. Environmental Defense Fund, 1525 18th Street NW., Washington, D.C. 20036.
D. (6) $12.50. E. (9) $5,344.43.

A. H. Eugene Douglas, Memorex Corp., 1970 Chain Bridge Road, McLean, Va. 22101.
B. Memorex Corp., San Tomas at Central Expressway, Santa Clara, Calif. 95052.
D. (6) $8,124. E. (9) $314.

A. Sally L. Douglas, National Federation of Independent Business, 490 L'Enfant Plaza East SW., Suite 3206, Washington, D.C. 20024.
B. National Federation of Independent Business, 490 L'Efant Plaza East SW., Suite 3206, Washington, D.C. 20024.
D. (6) $400.

A. Thomas E. Drum, Jr., 1730 Rhode Island Avenue NW., Washington, D.C. 20036.
B. Macmillan, Inc., 1730 Rhode Island Avenue NW., Washington, D.C. 20036.
D. (6) $400. E. (9) $330.

A. W. H. Drushel, Jr., 2100 First City National Bank Building, Houston, Tex. 77002.
B. Vinson & Elkins, 2100 First City National Bank Building, Houston, Tex. 77002 (for Quintana Petroleum Corp., 601 Jefferson Street, Houston, Tex. 77002).
D. (6) $5,800.

A. William DuChessi, 815 16th Street, NW., Washington, D.C. 20006.
B. Amalgamated Clothing & Textile Workers Union, 99 University Place, New York, N.Y. 10003.
D. (6) $4,404.79. E. $100.

A. Michael J. Duff, National Paint & Coatings Association, Inc., 1500 Rhode Island Avenue NW., Washington, D.C. 20005.
B. National Paint & Coatings Association, Inc., 1500 Rhode Island Avenue NW., Washington, D.C. 20005.
D. (6) $1,000. E. (9) $43.02.

A. Duncan, Brown, Weinberg & Palmer, 1775 Pennsylvania Avenue NW., Suite 1200, Washington, D.C. 20006.
B. Alaska Federation of Natives, 550 West Eighth Street, Anchorage, Alaska 99503.
D. (6) $1,100.

A. Duncan, Brown, Weinberg & Palmer, 1775 Pennsylvania Avenue NW., Suite 1200, Washington, D.C. 20006
B. Foothills Pipe Lines (Yukon) Ltd., Suite 1212, Tower A. 320 Queen Street, Ottawa, Canada, KIRSA 3.

A. John H. Dunne, International Federation of Professional and Technical Engineers, AFL–CIO, 1126 16th Street NW., Washington, D.C. 20036.
B. International Federation of Professional and Technical Engineers, AFL–CIO, 1126 16th Street NW., Washington, D.C. 20036.
D. (6) $600. E. (9) $100.

A. David F. Dunning, 64 Perimeter Center East, Atlanta, Ga. 30346.
B. Robert H. Kellen Co., 64 Perimeter Center East, Atlanta, Ga. 30346 (for Calorie Control Council, 64 Perimeter Center East, Atlanta, Ga. 30346).
D. (6) $3,950.

A. William E. Dutcher, Independent Gas Producers' Committee, 2601 Northwest Expressway, Suite 300, Oklahoma City, Okla. 73112.
B. Independent Gas Producers' Committee, Suite 300, 2601 Northwest Expressway, Oklahoma City, Okla. 73112.
D. (6) $7,000. E. (9) $5,840.77.

A. Edelman International Corp., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Republic of Turkey/Embassy of Turkey, 1606 23d Street NW., Washington, D.C. 20008.
D. (6) $24,300. E. (9) $13,980.96.

A. Charles E. Ehrhart, 1800 K Street NW., Suite 924, Washington, D.C. 20006.
B. Ralston Purina Co., Checkerboard Square, St. Louis, Mo. 63188.
D. (6) $400. E. (9) $134.

A. Thomas Ehrlich, 733 15th Street NW., Washington, D.C. 20005.
B. Legal Services Corp., 733 15th Street NW., Washington, D.C. 20005.
D. (6) $97.44.

A. Adelaide K. Eisenmann, 607 G Street SW., Washington, D.C. 20024.
B. Panamanian Committee for Human Rights, Box 570843, Miami, Fla. 33157.

A. Richard Eisenmann, 607 G Street SW., Washington, D.C. 20024.
B. Panamanian Committee for Human Rights, Box 570843, Miami, Fla. 33157.
E. (9) $881.82.

A. Doreen Elsinger, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
B. American Paper Institute, Inc., 260 Madison Avenue, New York, N.Y. 10016.

A. Jonathan P. Ela, Sierra Club, 444 West Main, Madison, Wis. 53703.
B. Sierra Club, 530 Bush Street, San Francisco, Calif. 94108.
D. (6) $2,887.50 E. (9) $588.64.

A. Roy Elson, 1771 N Street NW., Washington, D.C. 20036.
B. National Association of Broadcasters, 1771 N Street NW., Washington, D.C. 20036.
D. (6) $4,200. E. (9) $587.50.

A. John W. Emeigh, National Rural Letter Carriers' Association, 1750 Pennsylvania Avenue NW., Washington, D.C.
B. National Rural Letter Carriers' Association, 1750 Pennsylvania Avenue NW., Washington, D.C.

A. Emergency Committee for American Trade, 1211 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $3,184.88. E. (9) $5,352.20.

A. Steven L. Engelberg, Suite 404, 2033 M Street NW., Washington, D.C. 20036.
B. American Association of Marriage and Family Counselors, 225 Yale Avenue, Claremont, Calif. 91711.
D. (6) $3,600. E. (9) $141.23.

A. M. Dale Ensign, Husky Oil Co., 1800 M Street NW., Suite 295, Washington, D.C. 20036.
B. Husky Oil Co., P.O. Box 380, Cody, Wyo. 82414.
E. (9) $679.44.

A. Jerry N. Ervin, Quintana Refinery Co., P.O. Box 3331, Houston, Tex. 77001.
B. Quintana Refinery Co., P.O. Box 3331, Houston, Tex. 77001.

A. Donald H. Estey, Jr., Hospital Association of New York State, 15 Computer Drive, West, Albany, N.Y. 12205.
B. Hospital Association of New York State, 15 Computer Drive West, Albany, N.Y. 12205.
D. (6) $900. E. (9) $470.03.

A. Ethyl Corp., 1155 15th Street NW., No. 611, Washington, D.C. 20005.
E. (9) $600.

A. Brock Evans, Sierra Club, 330 Pennsylvania Avenue SE., Washington, D.C. 20003.
B. Sierra Club, 530 Bush Street, San Francisco, Calif. 94108.
D. (6) $8,600. E. (9) $127.

A. Edward Falck, Edward Falck & Co., 1625 I Street NW., Washington, D.C. 20006.
B. Delhi International Oil Corp., 2500 First International Building, Dallas, Tex. 75270.
D. (6) $3,319. E. (9) $407.

A. Richard H. Fay, 1150 Connecticut Avenue NW., Suite 900, Washington, D.C. 20036.
B. Peoples Drug Stores, et al., 6315 Bren Mar Drive, Alexandria, Va. 22312.
D. (6) $5,000.

A. Federal Express Corp., AMF Box 30167, Memphis, Tenn. 38130.
E. (9) $82,424.17.

A. Joseph D. Feeney, 222 South Riverside Plaza, Chicago, Ill. 60606.
B. Western Railroad Association, 222 South Riverside Plaza, Suite 1200, Chicago, Ill. 60606.
D. (6) $2,708.29.

A. Stuart F. Feldman, Suite 925, 1346 Connecticut Avenue NW., Washington, D.C. 20036.
B. Committee For Public Advocacy, Suite 925, 1346 Connecticut Avenue NW., Washington, D.C. 20036.

A. Stuart F. Feldman, Suite 925, 1346 Connecticut Avenue NW., Washington, D.C. 20036.
B. Vietnam Veteran Coalition, Inc., Suite 925, 1346 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $530. E. (9) $30.

A. Leon Felix, Jr., National Education Association, 1419 Joan Drive, Palatine, Ill. 60067.
B. National Education Association, 1201 16th Street NW., Washington, D.C. 20036.
D. (6) $3,282.42. E. (9) $75.

A. Bernard Fensterwald, Jr., 2101 L Street NW., Suite 203, Washington, D.C. 20037.
B. Committee for Humane Legislation, Inc., 11 West 60th Street, New York, N.Y. 10023.
D. (6) $5,000. E. (9) $1,034.49.

A. Bernard Fensterwald, Jr., 2101 L Street NW., Suite 203, Washington, D.C. 20037.
B. National Nutritional Foods Association, 7727 South Painter Avenue, Whittier, Calif. 90602.
D. (6) $1,833.32. E. (9) $388.74.

A. Theodora Fine, American Psychiatric Association, 2033 M Street NW., Suite 802, Washington, D.C. 20036.
B. American Psychiatric Association, 1700 18th Street NW., Washington, D.C. 20009.
D. (6) $1,438. E. (9) $615.52.

A. James H. Fitzpatrick, Hospital Association of New York State, 15 Computer Drive West, Albany, N.Y. 12205.
B. Hospital Association of New York State, 15 Computer Drive West, Albany, N.Y.
D. (6) $170. E. (9) $28.

A. Dave Foreman, The Wilderness Society, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. The Wilderness Society, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.
D. (6) $226.89.

A. Forest Farmers Association, P.O. Box 95385, Atlanta, Ga. 30347.

A. J. Dee Frankfourth, 620 C Street SE., Washington, D.C. 20003.
B. Alaska Coalition, 620 C Street SE., Washington, D.C. 20003.
D. (6) $1,246.26. E. (9) $113.74.

A. Donald A. Frederick, National Council of Farmer Cooperatives, 1129 20th Street NW., Washington, D.C. 20036.

B. National Council of Farmer Coopera-

B. National Council of Farmer Cooperatives, 1129 20th Street NW., Washington, D.C. 20036.
D. (6) $366. E. (9) $17.

A. Robert M. Frederick, the National Grange, 1616 H Street NW., Washington, D.C. 20006.
B. The National Grange, 1616 H Street NW., Washington, D.C. 20006.
D. (6) $7,222.50.

A. Burton D. Fretz, 806 15th Street NW., Washington, D.C. 20005.
B. Migrant Legal Action Program, Inc., 806 15th Street NW., Washington, D.C. 20005.
D. (6) $3,059.47. E. (9) $9.20.

A. Greg Friberg, 918 16th Street NW., No. 402, Washington, D.C. 20006.
B. DK Consultants, Inc., 918 16th Street NW., 402, Washington, D.C. 20006.

A. Marie Louise F. Friendly, Preservation Action, 2101 L Street NW., Washington, D.C. 20037.
B. Preservation Action, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $165.39.

A. Sharon Frink, Zero Population Growth, Inc., 1346 Connecticut Avenue NW., Washington, D.C. 20036.
B. Zero Population Growth, Inc., 1346 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $74.

A. Robert D. Fritz, Brotherhood of Railway, Airline & Steamship Clerks, Freight Handlers, Express & Station Employes, 815 16th Street NW., Washington, D.C. 20006.
B. Brotherhood of Railway, Airline & Steamship Clerks, Freight Handlers, Express & Station Employes, 6300 River Road, Rosemont, Ill. 60018.
D. (6) $1,360. E. (9) $2,550.

A. E. Douglas Frost, American Bus Association, 1025 Connecticut Avenue NW., Suite 308, Washington, D.C. 20036.
B. American Bus Association, 1025 Connecticut Avenue NW., Suite 308, Washington, D.C. 20036.
D. (6) $962.81. E. (9) $962.81.

A. Full Employment Action Council, 815 15th Street NW., Washington, D.C. 20005.
D. (6) $41,310. E. (9) $38,102.05.

A. Norman S. Gaines, 1150 Connecticut Avenue NW., Suite 805, Washington, D.C. 20036.
B. RJR Industries, Inc., P.O. Box 2959, Winston-Salem, N.C. 27102.
D. (6) $556.04. E. (9) $20.39.

A. Terry D. Garcia, New Directions, 2021 L Street NW., No. 405, Washington, D.C. 20036.
B. New Directions, 2021 L Street NW., No. 405, Washington, D.C. 20036.
D. (6) $2,127.21.

A. Eleanor Garst, 4840 MacArthur Boulevard, NW., Washington, D.C. 20007.
B. National Council for a World Peace Tax Fund, 2111 Florida Avenue NW., Washington, D.C. 20008.
D. (6) $748.99.

A. Leo J. Gehrig, American Hospital Association, 444 North Capitol Street NW., No. 500, Washington, D.C. 20001.
B. American Hospital Association, 840 North Lake Shore Drive, Chicago, Ill. 60611.
D. (6) $2,031.54. E. (9) $424.65.

A. Robert C. Gelardi, 64 Perimeter Center East, Atlanta, Ga. 30346.
B. Robert H. Kellen Co., 64 Perimeter Center East, Atlanta, Ga. 30346 (for Calorie Control Council, 64 Perimeter Center East, Atlanta, Ga. 30346).
D. (6) $800.

A. Louis Gerber, Communications Workers of America, 1925 K Street NW., Washington, D.C. 20006.
B. Communications Workers of America, 1925 K Street NW., Washington, D.C. 20006.
D. (6) $3,635.49. E. (9) $3,709.77.

A. Jonathan Carl Gibson, 330 Pennsylvania Avenue SE., Washington, D.C. 20003.
B. Sierra Club, 530 Bush Street, San Francisco, Calif. 94108.
D. (6) $3,033.07.

A. Arthur F. Gildea, Holiday Park East, Room 428-432, 801-B West Eighth Street, Cincinnati, Ohio 45203.
B. Brewery & Soft Drink Workers Conference, U.S.A. and Canada, 1400 Renaissance Drive, Suite 408, Park Ridge, Ill. 60068.

A. Martin J. Gleason, 1625 L Street NW., Washington, D.C. 20036.
B. American Federation of State, County, & Municipal Employees, AFL-CIO, 1625 L Street NW., Washington, D.C. 20036.
D. (6) $10,000. E. (9) $100.

A. Richard C. Gohla, 6525 Belcrest Road, Hyattsville, Md. 20782.
B. Retail Bakers of America, Presidential Building, Suite 250, 6525 Belcrest Road, Hyattsville, Md. 20782.

A. Lloyd L. Golding, National Association of Truck Stop Operators, Inc., 700 North Fairfax Street No. 505, Alexandria, Va. 22314.
B. National Association of Truck Stop Operators, Inc., 700 North Fairfax Street, No. 505, Alexandria, Va. 22314.
D. (6) $1,180.

A. Michael E. Goldman, Suite 1101, 1730 K Street NW., Washington, D.C. 20006.
B. National Treasury Employees Union, Suite 1101, 1730 K Street NW., Washington, D.C. 20006.
D. (6) $1691.20. E. (9) $654.54.

A. Neil B. Goldstein, Sierra Club, 800 Second Avenue, New York, N.Y. 10017.
B. Sierra Club, 530 Bush Street, San Francisco, Calif. 94108.
D. (6) $5,280.50. E. (9) $842.10.

A. Frank D. Gorham III, 1150 Connecticut Avenue NW., Suite 805, Washington, D.C. 20036.
B. RJR Industries, Inc., P.O. Box 2959, Winston-Salem, N.C. 27102.
D. (6) $463.74. E. (9) $72.59.

A. Donald E. Graham, National Council of Farmer Cooperatives, 1129 20th Street NW., Washington, D.C. 20036.
B. National Council of Farmer Cooperatives, 1129 20th Street NW., Washington, D.C. 20036.
D. (6) $3,167. E. (9) $11.

A. James W. Green, National Education Association, 1201 16th Street NW., Washington, D.C. 20036.
B. National Education Association, 1201 16th Street N.W., Washington, D.C. 20036.
D. (6) $5,572.30. E. (9) $437.22.

A. P. Michael Greenwald, American Hospital Association, 444 North Capitol Street NW., No. 500, Washington, D.C. 20001.
B. American Hospital Association, 840 North Lake Shore Drive, Chicago, Ill. 60611.
D. (6) $651.65.

A. Lori Gribbin, 1025 Connecticut Avenue NW., No. 202, Washington, D.C. 20036.
B. Rohm & Haas Co., Independence Mall West, Philadelphia, Pa. 19105.
D. (6) $500. E. (9) $100.

A. Harold H. Grimm, 1050 17th Street NW., No. 320, Washington, D.C. 20036.
B. Family Health Program, Inc., 2925 North Palo Verde Avenue, Long Beach, Calif. 90815.
D. (6) $2,437. E. (9) $176.82.

A. Group Health Association of America, Inc., 1717 Massachusetts Avenue NW., No. 701, Washington, D.C. 20036.
D. (6) $43,421.79. E. (9) $43,421.79.

A. James J. Gudinas, American Automobile Association, 8111 Gatehouse Road, Falls Church, Va. 22042.
B. American Automobile Association, 8111 Gatehouse Road, Falls Church, Va. 22042.

A. C. James Hackett, American Plywood Association, 1119 A Street, Tacoma, Wash. 98401.
B. American Plywood Association, 1119 A Street, Tacoma, Wash. 98401.

A. Charles T. Hagel, The Firestone Tire & Rubber Co., 1730 K Street NW., Suite 915, Washington, D.C. 20006.
B. Firestone Tire & Rubber Co., 1200 Firestone Parkway, Akron, Ohio 44317.
D. (6) $3,750. E. (9) $380.

A. Harry L. Hall, National Multiple Sclerosis Society, 6845 Elm Street, McLean, Va. 22101.
B. National Multiple Sclerosis Society, 205 East 42d Street, New York, N.Y. 10017.
D. (6) $3,750.

A. Hamel, Park, McCabe & Saunders, 1776 F Street NW., Washington, D.C. 20006.
B. Belize Sugar Industries, Limited, Belize City, Belize Central America.
E. (9) $222.28.

A. Hamel, Park, McCabe & Saunders, 1776 F Street NW., Washington, D.C. 20006.
B. Government of Republic of Panama, Compania Azucarera La Estrella, S.A., and Azucarera Nacional, S.A., Panama City, Panama.
E. (9) $135.19.

A. Hamel, Park, McCabe & Saunders, 1776 F Street NW., Washington, D.C. 20006.
B. National Wool Growers Association, 600 Crandall Building, Salt Lake City, Utah 84101.
D. (6) $3,000. E. (9) $61.31.

A. Hamel, Park, McCabe & Saunders, 1776 F Street NW., Washington, D.C. 20006.
B. Sociedad Agricola e Industrial San Carlos, S.A., Compania Azucarera Valdez, S.A., Azucarera Tropical Americana, S.A., Tababuela Industrial Azucarera, C.A., Ecuador.

A. Hamel, Park, McCabe & Saunders, 1776 F Street NW., Washington, D.C. 20006.
B. Sugar Association of the Carribbean, Port of Spain, Trinidad.
D. (6) $8,848.10. E. (9) $503.51.

A. Robert N. Hampton, National Council of Farmer Cooperatives, 1129 20th Street NW., Washington, D.C. 20036.
B. National Council of Farmer Cooperatives, 1129 20th Street NW., Washington, D.C. 20036.
D. (6) $1,682. E. (9) $48.

A. Donald K. Hanes, National Council of Farmer Cooperatives, 1129 20th Street NW., Washington, D.C. 20036.

B. National Council of Farmer Cooperatives, 1129 20th Street NW., Washington, D.C.
D. (6) $98. E. (9) $5.

A. Andrew E. Hare, 8316 Arlington Boulevard, Suite 600, Fairfax, Va. 22038.
B. National Right to Work Committee, 8316 Arlington Boulevard, Suite 600, Fairfax, Va. 22038.
D. (6) $781. E. (9) $331.

A. Robert E. Harman, National Education Association, 1201 16th Street NW., Washington, D.C. 20036.
B. National Education Association, 1201 16th Street NW., Washington, D.C. 20036.
D. (6) $3,922.20. E. (9) $75.

A. John L. Harmer, 10 East South Temple Street, No. 696, Salt Lake City, Utah 84111.
D. (6) $62,700. E. (9) $61,450.

A. Kay Harrold, 825 15th Street NW., Washington, D.C. 20005.
B. National Abortion Rights Action League, 825 15th Street NW., Washington, D.C. 20005.
D. (6) $173.09.

A. William C. Hart, 1625 I Street NW., Washington, D.C. 20006.
B. Columbia Gas System Service Corp., 20 Montchanin Road, Wilmington, Del. 19807.
D. (6) $325.50. E. (9) $165.50.

A. Clifford J. Harvision, National Tank Truck Carriers, Inc., 1616 P Street NW., Washington, D.C. 20036.
B. National Tank Truck Carriers, Inc., 1616 P Street NW., Washington, D.C. 20036.

A. Michael M. Hash, American Hospital Association, 444 North Capitol Street NW., No. 500, Washington, D.C. 20001.
B. American Hospital Association, 840 North Lake Shore Drive, Chicago, Ill. 60611.
D. (6) $2,033.08. E. (9) $140.10.

A. Health Research Group, 2000 P Street NW., Suite 708, Washington, D.C. 20036.
D. (6) $550.30. E. (9) $550.30.

A. Heavy & Specialized Carriers Conference, 1155 16th Street NW., Washington, D.C. 20036.
E. (9) $250.

A. Edward D. Heffernan, 1125 15th Street NW., Washington, D.C. 20005.
B. Cast Iron Pipe Research Association, Oak Brook, Ill.

A. Edward D. Heffernan, 1125 15th Street NW., Washington, D.C. 20005.
B. Citizen's for Management of Alaska Lands (CMAL), Anchorage, Alaska.
D. (6) $6,000.

A. Robert H. Hefner III, 2601 NW. Expressway, Suite 300, Oklahoma City, Okla. 73112.
B. Independent Gas Producers' Committee, Suite 300, 2601 NW. Expressway, Oklahoma City, Okla. 73112.
E. (9) $628.

A. Robert E. Heggestad, 5151 N. 14th Street, Arlington, Va. 22202.
B. Manufactured Housing Institute, 1745 Jefferson Davis Highway, Suite 511, Arlington, Va. 22202.

A. Daniel R. Helmick, 1625 I Street NW., Room 301, Washington, D.C. 20006.
B. Columbia Gas Distribution Company, 99 North Front Street, Columbus, Ohio 43215.
D. (6) $7,125. E. (9) $2,305.21.

A. Harry V. Helton, 1800 SW. First Street, Suite 520, Portland, Oreg. 97201.
B. Reynolds Metals Co., 6601 West Broad Street, Richmond, Va. 23261.

A. C. Dayle Henington, Chicago Mercantile Exchange, 444 West Jackson Boulevard, Washington, D.C. 20006.
B. Chicago Mercantile Exchange, 444 West Jackson Boulevard, Chicago, Ill. 60606.
D. (6) $2,000. E. (9) $1,186.82.

A. William E. Hibbs, Georgetown Station/P.O. Box 3554, Washington, D.C. 20007.
B. The National Ecumenical-Coalition, Inc., Georgetown Station/P.O. Box 3554, Washington, D.C. 20007.

A. Janet E. Hieber, 317 Pennsylvania Avenue SE., Washington, D.C. 20003.
B. Environmental Policy Center, 317 Pennsylvania Avenue SE., Washington, D.C. 20003.
D. (6) $3,000.

A. Stuart L. Hill, 12010 Devilwood Drive, Potomac, Md. 20854.
B. Bechtel Inc., 50 Beale Street, P.O. Box 3965, San Francisco, Calif. 94119.
E. (9) $593.11.

A. E. Joseph Hillings, National Airlines, Inc., 1025 Connecticut Avenue NW., Washington, D.C. 20036.
B. National Airlines, Inc., P.O. Box 592055 AMF, Miami, Fla. 33159.
D. (6) $1,100. E. (9) $50.

A. Stephen Hiniker, 620 C Street SE., Washington, D.C. 20003.
B. Alaska Coalition, 620 C Street SE., Washington, D.C. 20003.
D. (6) $1,080.84.

A. Joe Hinson, National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
B. National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
D. (6) $1,250.

A. Ralph D. Hodges, Jr., National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
B. National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
E. (9) $6,075.

A. Charles L. Hoebel, Carrier Corp., Suite 510—1025 Connecticut Avenue NW., Washington, D.C. 20036.
B. Carrier Corp., Carrier Tower—Box 4800, Syracuse, N.Y. 13221.
D. (6) $2,817. E. (9) $684.

A. Glen D. Hofer, National Council of Farmer Cooperatives, 1129 20th Street NW., Washington, D.C. 20036.
B. National Council of Farmer Cooperatives, 1129 20th Street NW., Washington, D.C. 20036.
D. (6) $616. E. (9) $527.

A. Austin B. Hogan, Jr., American Hospital Association, 444 North Capitol Street NW., No. 500, Washington, D.C.
B. American Hospital Association, 840 North Lake Shore Drive, Chicago, Ill. 60611.
D. (6) $1,123.17. E. (9) $396.88.

A. Gerald Hogan, 1012 14th Street NW., Washington, D.C.
B. Consumer Federation of America, 1012 14th Street NW., Washington, D.C. 20005.
D. (6) $113. E. (9) $20.

A. Hogan & Hartson, 815 Connecticut Avenue, Washington, D.C. 20006.

B. Cravens Wanlass Corp., 1442 Irvine Boulevard, Suite 101, Tustin, Calif. 92680.
E. (9) $6,150.

A. Hogan & Hartson, 815 Connecticut Avenue, Washington, D.C. 20006.
B. National Rehabilitation Association, 1522 K Street NW., Washington, D.C.

A. Holiday Inns, Inc., 3742 Lamar Avenue, Memphis, Tenn. 38118.
E. (9) $1,860.

A. Douglass C. Horstman, 1612 K Street NW., Suite 906, Washington, D.C. 20006.
B. Maytag Co. and Northern Textile Association.
D. (6) $6,000. E. (9) $2,000.

A. Hospital Association of New York State, 15 Computer Drive West, Albany, N.Y. 12205.
D. (6) $3,760.62. E. (9) $3,569.56.

A. C. T. Hoversten, 209 West 53d Street, Western Springs, Ill. 60558.
B. National Advertising Co., 6850 South Harlem Avenue, Bedford Park, Argo, Po, Ill. 60501.

A. Arthur L. Howard, 1100 H Street NW., Washington, D.C. 20080.
B. Washington Gas Light Co., 1100 H Street NW., Washington, D.C. 20080.
D. (6) $37.95.

A. Thomas Howarth, 1625 L Street NW., Washington, D.C. 20036.
B. American Federation of State, County and Municipal Employees, AFL-CIO, 1625 L Street NW., Washington, D.C. 20036.
D. (6) $4,348. E. (9) $149.15.

A. Linda Hudak, Consumer Federation of America, 1012-14th Street NW., Suite 901, Washington, D.C. 20005.
B. Consumer Federation of America 1012 14th Street NW., Suite 901, Washington, D.C. 20005.

A. Edward L. Huie, Suite 415, Wheaton Plaza North, Wheaton, Md. 20902.
B. National Association of Air Traffic Specialists, Inc., Suite 415, Wheaton Plaza North, Wheaton, Md. 20902.
D. (6) $5,085. E. (9) $331.39.

A. William J. Hull, Ohio Valley Improvement, Association, Inc., 401 Carew Tower, Cincinnati, Ohio 45202.
B. Ohio Valley Improvement Association, Inc., 401 Carew Tower, Cincinnati, Ohio 45202.

A. Gregory A. Humphrey, American Federation of Teachers, AFL-CIO, 11 Dupont Circle NW., Washington, D.C. 20036.
B. American Federation of Teachers, AFL-CIO, 11 Dupont Circle NW., Washington, D.C. 20036.
D. (6) $8,188.50. E. (9) $430.

A. David J. Humphreys, Paulson and Humphreys, 5272 River Road, Suite 400, Washington, D.C. 20016.
B. Recreation Vehicle Industry Association, P.O. Box 204, 14650 Lee Road, Chantilly, Va. 22021.
D. (6) $19,800.

A. Celia M. Hunter, The Wilderness Society, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. The Wilderness Society, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.

A. Gerard F. Hurley, Suite 602, 1129 20th Street NW., Washington, D.C. 20036.

B. National Club Association, Suite 602, 1129 20th Street NW., Washington, D.C. 20036.
D. (6) $2,000. E. (9) $12,100.

A. Philip A. Hutchinson, Jr., Volkswagen Manufacturing Corp. of America, 475 L'Enfant Plaza SW., Suite 2450, Washington, D.C. 20024.
B. Volkswagen Manufacturing Corp. of America, 7111 East 11 Mile Road, Warren, Mich. 48090.
D. (6) $250.

A. Philip A. Hutchinson, Jr., Volkswagen of America, Inc., 475 L'Enfant Plaza SW., Suite 2450, Washington, D.C. 20024.
B. Volkswagen of America, Inc., 818 Sylvan Avenue, Englewood Cliffs, N.J. 07632.
D. (6) $250. E. (9) $50.

A. Independent Gas Producers' Committee, Suite 300, 2601 Northwest Expressway, Oklahoma City, Okla. 73112.
D. (6) $24,100. E. (9) $21,056.77.

A. Independent U.S. Tanker Owners' Committee, 1612 K Street NW., Suite 510, Washington, D.C. 20006.

A. Institute of Foreign Bankers, 489 Fifth Avenue, New York, N.Y.
D. (6) $2,321.07. E. (9) $16,303.74.

A. Interlake, Inc., 2015 Spring Road, Oak Brook, Ill. 60521.
E. (9) $10,519.24.

A. International Brotherhood of Painters & Allied Trades, 1750 New York Avenue, NW., Washington, D.C. 20006.
E. (9) $1,346.64.

A. International Union, United Automobile, Aerospace & Agricultural Implement Workers of America, UAW, 8000 East Jefferson, Detroit, Mich. 48214.
D. (6) $192,912. E. (9) $192,912.

A. David L. Ivey, National Parking Association, 1101 17th Street NW., Washington, D.C. 20036.
B. National Parking Association, 1101 17th Street NW., Washington, D.C. 20036.
D. (6) $3,000.

A. Glenn Jackson, 644 Massachusetts Avenue NE., No. 507, Washington, D.C. 20002.
B. National Taxpayers Union, 325 Pennsylvania Avenue SE., Washington, D.C. 20003.
D. (6) $2,704.

A. Walter Jaenicke, National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C.
B. National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
D. (6) $925.

A. Evie Jarvis, National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C.
B. National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
D. (6) $50.

A. Philip F. Jehle, 1150 Connecticut Avenue NW., Suite 310, Washington, D.C. 20036.
B. Smith Kline Corp., 1500 Spring Garden Street, Philadelphia, Pa. 19101.
D. (6) $1,000. E. (9) $950.

A. Walter W. John, Organization of Professional Employees of the U.S. Department of Agriculture, Room 1247-S Building, Washington, D.C. 20250.
B. Organization of Professional Employees of USDA, Room 1247-S Building, Washington, D.C. 20250.
D. (6) $300.

A. Ronald P. Johnsen, Columbia Gas System Service Corp., 1625 I Street NW., Suite 301, Washington, D.C. 20006.
B. Columbia Gas Service System Service Corp., 20 Montchanin Road, Wilmington, Del. 19807.
D. (6) $175. E. (9) $154.71.

A. Bruce T. Johnson, Mortgage Bankers Association of America, 1125 15th Street NW., Washington, D.C. 20005.
B. Mortgage Bankers Association of America, 1125 15th Street NW., Washington, D.C. 20005.
D. (6) $3,750. E. (9) $6,284.

A. Nicholas Johnson, 1028 Connecticut Avenue NW., Washington, D.C. 20036.
B. National Citizens Communications Lobby, P.O. Box 19101, Washington, D.C. 20036.

A. Stuart H. Johnson, Jr., 910 17th Street NW., Washington, D.C. 20006.
B. New York Dock Railway, 334 Furman Street, Brooklyn, N.Y.

A. Wilson S. Johnson, National Federation of Independent Business, 150 West 20th Avenue, San Mateo, Calif. 94403.
B. National Federation of Independent Business, 150 West 20th Avenue, San Mateo, Calif. 94403.
D. (6) $500. E. (9) $300.

A. Joint Corporate Committee on Cuban Claims, c/o Lone Star Industries, Inc., P.O. Box 5050, Greenwich, Conn. 06830.
D. (6) $200. E. (9) $1,170.

A. Thomas E. Jones, Dow Chemical, U.S.A., 1800 M Street NW., Suite 700 South, Washington, D.C. 20036.
B. The Dow Chemical Co., Midland, Mich. 48640.
D. (6) $375. E. (9) $250.

A. Robert E. Juliano, Hotel & Restaurant Employees & Bartenders International Union, 1666 K Street NW., Washington, D.C. 20006.
B. Hotel & Restaurant Employees & Bartenders International Union, 120 East Fourth Street, Suite 1300, Cincinnati, Ohio 45202.
D. (6) $9,696.98. (9) $7,233.30.

A. H. Richard Kahler, 1850 K Street NW., Suite 925, Washington, D.C. 20006.
B. Caterpillar Tractor Co., 100 Northeast Adams Street, Peoria, Ill. 61629.
D. (6) $2,500. (9) $2,375.50.

A. Gary Paul Kane, National Association of Home Builders of the United States, 15th and M Streets NW., Washington, D.C. 20005.
B. National Association of the Home Builders of the United States, 15th and M Streets NW., Washington, D.C. 20005.
D. (6) $3,976.83. E. (9) $54.77.

A. Elizabeth R. Kaplan, 620 C Street SE., Washington, D.C. 20003.
B. Friends of the Earth, 620 C Street SE., Washington, D.C. 20003.
D. (6) $1,800.

A. Alan H. Kaufman, 205 Mount Auburn Street, Cambridge, Mass. 02138.
B. SEDCO, Inc., 1901 North Akard Street, Dallas, Tex. 75210.
D. (6) $6,000. E. (9) $417.54.

A. Robert H. Kellen, 64 Perimeter Center East, Atlanta, Ga.
B. Robert H. Kellen, Co., 64 Perimeter Center East, Atlanta, Ga. 30346 (for Calorie Control Council, 64 Perimeter Center East, Atlanta, Ga. 30346).

A. George J. Kelly, 1700 Pennsylvania Avenue NW., Washington, D.C.

B. Blue Cross Association and Blue Shield Association, 840 North Lake Shore Drive, Chicago, Ill. 60611.
D. (6) $2,500. E. (9) $700.

A. James J. Kennedy, Jr., Brotherhood of Railway, Airline & Steamship Clerks, Freight Handlers, Express & Station Employes, 815 16th Street NW., Washington, D.C. 20006.
B. Brotherhood of Railway, Airline & Steamship Clerks, Freight Handlers, Express & Station Employes, 6300 River Road, Rosemont, Ill. 60018.
D. (6) $7,000. E. (9) $8,520.80.

A. William F. Kennedy, General Electric Co., Fairfield, Conn. 06431.
B. General Electric Co., Fairfield, Conn. 06431.

A. Kenyon & Kenyon, Reilly, Carr & Chapin, 59 Maiden Lane, New York, N.Y. 10038.
B. Estate of Bert N. Adams, et al.
E. (9) $5.

A. Kristina Kiehl, 8720 Milford Avenue, Silver Spring, Md. 20910.
B. Women's Lobby, Inc., 201 Massachusetts Avenue NE., Washington, D.C. 20002.
D. (6) $1,430.

A. G. Jack King, Washington National Airport, Washington, D.C.
B. Allegheny Airlines, Inc., Washington National Airport, Washington, D.C. 20001.
D. (6) $1,000. E. (9) $50.50.

A. John M. King, 934 Jaysmith Street, Great Falls, Va. 22066.
B. The Institute of Electrical & Electronics Engineers, Inc., 2029 K Street NW., Washington, D.C. 20006.
D. (6) $2,500. E. (9) $280.

A. Terrence H. Kleaky, Independent Bankers Association of America, 1625 Massachusetts Avenue NW., Suite 203, Washington, D.C. 20036.
B. Independent Bankers Association of America, 1168 South Main, Sauk Centre, Minn. 56378.
E. (9) $300.

A. Roger Klein, 1 World Trade Center, Suite 5271, New York, N.Y. 10048.
B. Public Securities Association, 1 World Trade Center, New York, N.Y. 10048.
D. (6) $5,429.

A. Allie C. Klempeter, Jr., Louisiana Bankers Association, 666 North Street, P.O. Box 2871, Baton Rouge, La. 70821.
B. Louisiana Bankers Association, P.O. Box 2871, 666 North Street, Baton Rouge, La. 70821.
D. (6) $500. E. (9) $74.08.

A. John J. Klocko III, 1701 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. E. I. du Pont de Nemours & Co., 1007 Market Street, Wilmington, Del. 19898.

A. John S. Knox, Jr., 166 16th Street NW., Atlanta, Ga. 30318.
B. The Coca-Cola Bottler's Association, 166 16th Street NW., Atlanta, Ga. 30318.

A. Bart Koehler, The Wilderness Society, P.O. Box 1184, Cheyenne, Wyo.
B. The Wilderness Society, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.
D. (6) $807.84.

A. Robert L. Koob, Koob Associates, 1155 15th Street NW., Suite 311, Washington, D.C. 20005.
B. Morton-Norwich Products, Inc., 110 North Wacker Drive, Chicago, Ill. 60606.
D. (6) $3,750. E. (9) $878.50.

A. Robert L. Koob, Koob Associates, 1155 15th Street NW., Suite 311, Washington, D.C. 20005.
B. Resilient Floor Covering Institute, 1030 15th Street NW., Suite 350, Washington, D.C. 20005.
D. (6) $1,050. E. (9) $509.75.

A. William G. Kopit, Epstein & Becker, Suite 730, 1900 M Street NW., Washington, D.C. 20036.
B. American Association of Professional Standards Review Organizations, 1900 M Street NW., Washington, D.C. 20036.
D. (6) $3,000. E. (9) $40.

A. Louis C. Kramp & Associates, 1819 H Street NW., Washington, D.C. 20006.
B. Holiday Inns, Inc., 1819 H Street NW., Washington, D.C. 20006.
D. (6) $1,860. E. (9) $1,860.

A. Louis C. Kramp & Associates, 1819 H Street NW., Washington, D.C. 20006.
B. National Association of Homes for Children, 200 South Tryon Street, Suite 1500, Charlotte, N.C. 28202.
D. (6) $300. E. (9) $300.

A. James S. Krzyminski, National Council of Farmer Cooperatives, 1129 20th Street NW., Washington, D.C. 20036.
B. National Council of Farmer Cooperatives, 1129 20th Street NW., Washington, D.C. 20036.
D. (6) $991. E.(9) $73.

A. Joseph A. Kuchler, American Hospital Association, 444 North Capitol Street NW., No. 500, Washington, D.C. 20001.
B. American Hospital Association, 840 North Lake Shore Drive, Chicago, Ill. 60611.
D. (6) $1,024.98. E. (9) $47.10.

A. Dan Kuykendall, 918 16th Street NW., No 402, Washington, D.C. 20006.
B. DK Consultants, Inc., 918 16th Street, No. 402, Washington, D.C. 20006.

A. Dan Kuykendall, 918 16th Street NW., No. 402, Washington, D.C. 20006.
B. Southern Furniture Manufacturers Association, 918 16th Street NW., No. 402, Washington, D.C. 20006.
D. (6) $21,817.12. E. (9) $21,817.12.

A. Walter B. Laessig, 1101 17th Street NW., Suite 700, Washington, D.C. 20036.
B. National Association of Real Estate Investment Trusts, Inc., 1101 17th Street, Suite 700, Washington, D.C. 20036.
D. (6) $435. E. (9) $28.50.

A. Ralph D. B. Laime, National Education Association, 3140 Valley Lane, Falls Church, Va. 22044.
B. National Education Association, 1201 16th Street NW., Washington, D.C. 20036.
D. (6) $3,282.42. E. (9) $75.

A. David R. Lambert, The National Grange, 1616 H Street NW., Washington, D.C. 20006.
B. The National Grange, 1616 H Street NW., Washington, D.C. 20006.
D. (6) $4,000.

A. Clifford LaPlante, 955 L'Enfant Plaza North SW., Washington, D.C. 20024.
B. The Boeing Co., P.O. Box 3707, Seattle, Wash. 98124.
D. (6) $950. E. (9) $340.40.

A. Reed E. Larson, 8316 Arlington Boulevard, Suite 600, Fairfax, Va. 22038.
B. National Right To Work Committee, 8316 Arlington Boulevard, Suite 600, Fairfax, Va. 22038.
D. (6) $80. E. (9) $10.

A. Robert B. Laurents, National Association for Uniformed Services, 7205 Reservoir Road, Springfield, Va. 22150.
B. National Association for Uniformed Services, 956 North Monroe Street, Arlington, Va. 22201.
D. (6) $1,475.

A. Susannah Lawrence, 4452 Farraday Place NW., Washington, D.C. 20016.
B. Consumer Action Now, 317 Pennsylvania Avenue SE., Washington, D.C. 20003.
D. (6) $13,200. E. (9) $51.

A. Dale Lestina, National Education Association, 1201 16th Street NW., Washington, D.C. 20036.
B. National Education Association, 1201 16th Street NW., Washington, D.C. 20036.
D. (6) $4,876.50. E. (9) $191.20.

A. Joseph A. Letorney, National Education Association, 112 Union Street, S. Weymouth, Mass. 02190.
B. National Education Association, 1201 16th Street NW., Washington, D.C. 20036.
D. (6) $3,336.90. E. (9) $75.

A. Leva, Hawes, Symington, Martin & Oppenheimer, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Commonwealth Edison Co., One First National Plaza, Chicago, Ill.
D. (6) $9,893.75. E. (9) $106.40.

A. Stuart A. Lewis, 1800 M Street NW., Suite 1010, Washington, D.C. 20036.
B. Association of Reserve City Bankers, 1800 M Street NW., Suite 1010, Washington, D.C. 20036.
D. (6) $200.

A. Liberty Lobby, Inc., 130 3d Street SE., Washington, D.C. 20003.
D. (6) $63,659.07. E. (9) $63,034.63.

A. Jonathan Lindley, Credit Union National Association, Inc., 1730 Rhode Island Avenue, NW., Washington, D.C. 20036.
B. Credit Union National Association, Inc., 1617 Sherman Avenue, Madison, Wis.
D. (6) $3,600. E. (9) $200.

A. Charles B. Lipsen, Cramer, Visser, Lipsen & Smith, 475 L'Enfant Plaza SW., Washington, D.C.
B. The American-Nicaraguan Council, 475 L'Enfant Plaza SW., Suite 4110, Washington, D.C.

A. Charles B. Lipsen, Cramer, Visser, Lipsen & Smith, 475 L'Enfant Plaza SW., Suite 4100, Washington, D.C. 20024.
B. Cramer, Visser, Lipsen & Smith, 475 L'Enfant Plaza SW., Suite 4100, Washington, D.C. 20024 (for American Sign & Indicator Corp., North 2310 Fancher Way, Spokane, Wash. 99206).

A. Charles B. Lipsen, Cramer, Visser, Lipsen & Smith, 475 L'Enfant Plaza SW., Suite 4100, Washington, D.C. 20024.
B. Government of Nicaragua, Managua, Nicaragua.

A. Charles B. Lipsen, Cramer, Visser, Lipsen & Smith, 475 L'Enfant Plaza SW., Suite 4100, Washington, D.C. 20024.
B. Norman, Lawrence, Patterson and Farrell, 211 East 43rd Street, New York, N.Y. 10017.

A. Charles B. Lipsen, Cramer, Haber, Becker, Suite 475, L'Enfant Plaza SW., Washington, D.C.
B. U.S. & Overseas Employees Tax Fairness Committee, 1101 15th Street NW., Suite 1000, Washington, D.C. 20005.
D. (6) $9,552.64.

A. Nils Lofgren, Motor Vehicle Manufacturers Association of the U.S., Inc., 1909 K Street NW., Washington, D.C. 48202.
B. Motor Vehicle Manufacturers Association of the U.S., Inc., 320 New Center Building, Detroit, Mich. 48202.
D. (6) $300.

A. J. Patrick Logue, American Hospital Association, 444 North Capitol Street NW., No. 500, Washington, D.C. 20001.
B. American Hospital Association, 840 North Lake Shore Drive, Chicago, Ill. 60611.
D. (6) $934.34. E. (9) $7.69.

A. Lucas, Friedman & Mann, 1028 Connecticut Avenue NW., Washington, D.C. 20036.
B. Coushatta Tribe of Louisiana, c/o Ernest Sickey, Tribal Chairman, Elton, La. 70532.

A. Lucas, Friedman & Mann, 1028 Connecticut Avenue NW., Washington, D.C. 20036.
B. NcMamara Construction of Manitoba, Ltd., 255 Consumers Road, Willowdale, Ontario.

A. William F. Ludlam, Sr., P.O. Box 5282, Virginia Beach, Va. 23455.
B. ARBA Licensees Association, P.O. Box 10, Cocoa Beach, Fla. 32931.
E. (9) $385.

A. C. Lance Lujan, National Education Association, 1201-16th Street, NW., Washington, D.C. 20036.
B. National Education Association, 1201-16th Street NW., Washington, D.C. 20036.
D. (6) $4,876.50. E. (9) $171.50.

A. Richard Lyng, American Meat Institute, P.O. Box 3556, Washington, D.C. 20007.
B. American Meat Institute, P.O. Box 3556, Washington, D.C. 20007 (1600 Wilson Boulevard, Arlington, Va.).
D. (6) $500.

A. James E. Lyons, International Federation of Professional and Technical Engineers, AFL-CIO, 1126 16th Street NW., Washington, D.C. 20036.
B. International Federation of Professional and Technical Engineers, AFL-CIO, 1126 16th Street NW., Washington, D.C. 20036.
D. (6) $435. E. (9) $200.

A. Douglas E. MacArthur, P.O. Box 10162, St. Louis, Mo. 63145.
B. Zantop International Airlines, Willow Run Airport, Ypsilanti, Mich. 48197.
D. (6) $1,200. E. (9) $2,596.46.

A. Timothy MacCarthy, Motor Vehicle Manufacturers Association of the United States, Inc., 1909 K Street NW., Washington, D.C. 20006.
B. Motor Vehicle Manufacturers Association of the United States, Inc., 320 New Center Building, Detroit, Mich. 48202.
D. (6) $270.

A. Pamela MacEwan, 311 Maryland Avenue NE., No. 3, Washington, D.C. 20002.
B. Women's Lobby, Inc., 201 Massachusetts Avenue NE., Washington, D.C. 20002.

A. John E. Maguire, 10612 Runaway Lane, Great Falls, Va. 22066.
B. Manufactured Housing Institute, 1745 Jefferson Davis Highway, Suite 511, Arlington, Va. 22202.
D. (6) $500.

A. Manufactured Housing Institute, 1745 Jefferson Davis Highway, Arlington, Va. 22202.
D. (6) $11,075. E. (9) $11,075.

A. R. V. Mariani, Brotherhood of Railway, Airline & Steamship Clerks, Freight Handlers, Express & Station Employes, 815 16th Street NW., Washington, D.C. 20006.
B. Brotherhood of Railway, Airline & Steamship Clerks, Freight Handlers, Express & Station Employes, 6300 River Road, Rosemont, Ill. 60018.
D. (6) $1,120. E. (9) $2,100.

A. David J. Markey, 1771 N Street NW., Washington, D.C. 20036.
B. National Association of Broadcasters, 1771 N Street NW., Washington, D.C. 20036.
D. (6) $2,000. E. (9) $456.

A. Lawrence D. Markley, P.O. Box 3518, Anchorage, Alaska 99501.
B. Chugach Electric Association, Inc., P.O. Box 3518, Anchorage, Alaska 99501.
D. (6) $3,099.28. E. (9) $3,079.53.

A. John C. Marlin, P.O. Box 2667, Station A, Champaign, Ill. 61820.
B. Coalition on American Rivers, P.O Box 2667, Station A, Champaign, Ill. 61820.
D. (6) $2,505. E. (9) $57.45.

A. C. Travis Marshall, 1776 K Street NW., Washington, D.C. 20006.
B. Motorola, Inc., 1776 K Street NW., Washington, D.C. 20006.
D. (6) $1,000. E. (9) $165.

A. Martin, Whitfield, Smith & Bebchick, 1701 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Alaska International Air, Inc., P.O. Box 60029, Fairbanks International Airport, Fairbanks, Alaska 99701.
D. (6) $3,375. E. (9) $50.

A. Reynaldo L. Martinez, National Education Association, 1330 Gaylord Street, Suite 707, Denver, Colo. 80206.
B. National Education Association, 1201 16th Street NW., Washington, D.C. 20036.
D. (6) $3,282.42. E. (9) $100.

A. C. V. & R. V. Maudlin, 1111 E Street NW., Washington, D.C. 20004.
B. Georgia Power Co., 270 Peachtree Street, Atlanta, Ga.

A. C. V. & R. V. Maudlin, 1111 E Street NW., Washington, D.C.
B. Joint Government Liaison Committee, 1111 E Street NW., Washington, D.C. 20004.

A. Charles H. Mauzy, National Education Association, P.O. Box 7308, Reynolds Station, Winston Salem, N.C. 27109.
B. National Education Association, 1201 16th Street NW., Washington, D.C. 20036.
D. (6) $3,282.42. E. (9) $75.

A. Mayer, Brown & Platt, 888 17th Street NW., Washington, D.C. 20006.
B. Nokota Co., P.O. Box 1633, Bismark, N. Dak. 58501.

A. J. R. McAlpin, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Armco Steel Corp., 815 Connecticut Avenue NW., Washington, D.C. 20006.
D. (6) $600. E. (9) $285.

A. F. Stephen McArthur, 444 North Capitol Street ,NW., No. 412, Washington, D.C. 20001.
B. American Israel Public Affairs Committee, 444 North Capitol Street NW., No. 412, Washington, D.C. 20001.
D. (6) $4,500.

A. John F. McClelland, National Association of Retired Federal Employees, 1533 New Hampshire Avenue NW., Washington, D.C. 20036.

B. National Association of Retired Federal Employees, 1533 New Hampshire Avenue NW., Washington, D.C. 20036.
D. (6) $1,170. E. (9) $6.50.

A. Melanie Wirken McClintock, Zero Population Growth, Inc., 1346 Connecticut Avenue NW., Washington, D.C. 20036.
B. Zero Population Growth, Inc., 1346 Connecticut Avenue NW., Washington, D.C. 20036.

A. Phyllis McClure, 806 15th Street NW., No. 940, Washington, D.C. 20006.
B. NAACP Legal Defense and Educational Fund, Inc., 806 15th Street NW., Washington, D.C. 20006.
D. (6) $485. E. (9) $30.

A. E. T. McDonald, Brotherhood of Railway, Airline & Steamship Clerks, Freight Handlers, Express & Station Employes, 815 16th Street NW., Washington, D.C. 20006.
B. Brotherhood of Railway, Airline & Steamship Clerks, Freight Handlers, Express & Station Employes, 6300 River Road, Rosemont, Ill. 60018.
D (6) $1,760. E. (9) $3,300.

A. Stanley J. McFarland, National Education Association, 1201 16th Street, NW., Washington, D.C. 20036.
B. National Education Association, 1201 16th Street NW., Washington, D.C. 20036.
D. (6) $6,975. E. (9) $773.83.

A. Robert M. McGlotten, 815 16th Street NW., Washington, D.C.
B. American Federation of Labor and Congress of Industrial Organizations, Washington, D.C. 815 16th Street NW.
D. (6) $9,945. E. (9) $510.80.

A. Joseph B. McGrath, National Forest Products Association, 1619 Massachusetts Avenue, NW., Washington, D.C., 20036.
B. National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
D. $7,875. E. (9) $250.

A. F. Howard McGuigan 815 16th Street N.W., Washington, D.C.
B. American Federation of Labor and Congress of Industrial Organizations, 815 16th Street NW., Washington, D.C.
D. (6) $9,945. E. (9) $496.08.

A. Peter E. McGuire, National Association of Retired & Veteran Railway Employees, Inc., 400 First Street NW., Washington, D.C. 20001.
B. National Association of Retired & Veteran Railway Employees, Inc., P.O. Box 6060, Kansas City, Kans. 66106; Hotel & Restaurant Employees & Bartenders Union, 1666 K Street NW., Washington, D.C. 20006; International Conference of Police Association 1239 Pennsylvania Avenue SE., Washington, D.C. 20003.
D. (6) $900. E. (9) $350.

A. Phil A. McKeaney, American Federation of Teachers, AFL–CIO, 11 Dupont Circle NW., Washington, D.C. 20036.
B. American Federation of Teachers, 11 Dupont Circle, NW., Washington, D.C. 20036.
D. (6) $5,830.02. E. (9) $401.13.

A. James D. McKevitt, 1747 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. National Association of Women's & Children's Apparel Salesmen, 515 Peachtree, Palisades Building, Atlanta, Ga. 30309.
D. (6) $2,000. E. (9) $55.

A. James D. McKevitt, National Federation of Independent Business, 490 L'Enfant Plaza East SW., Suite 3206, Washington, D.C. 20024.

B. National Federation of Independent Business, 490 L'Enfant Plaza East SW., Suite 3206, Washington, D.C. 20024.
D. (6) $3,500. E. (9) $60.

A. Ronald E. McWilliams, 955 L'Enfant Plaza North SW., Washington, D.C. 20024.
B. The Boeing Co., P.O. Box 3707, Seattle, Wash. 98124.
D. (6) $172.80. E. (9) $32.50.

A. Carl J. Megel, American Federation of Teachers, AFL–CIO, 11 Dupont Circle NW., Washington, D.C. 20036.
B. American Federation of Teachers, 11 Dupont Circle NW., Washington, D.C. 20036.
D. (6) $8,135. E. (9) $300.

A Kenneth A Meiklejohn, AFL–CIO, 815 16th Street NW., Washington, D.C. 20006.
B. American Federation of Labor and Congress of Industrial Organizations, 815 16th Street NW., Washington, D.C. 20006.
D. (6) $9,945

A. Nanine Meiklejohn, 1625 L Street NW., Washington, D.C. 20036.
B. American Federation of State, County & Municipal Employees, AFL–CIO, 1625 L Street NW., Washington, D.C. 20036.
D. (6) $6,803. E. (9) $150.69.

A. Ellis E. Meredith, American Apparel Manufacturers Association, Inc., 1611 North Kent Street, Arlington, Va. 22209.
B. American Apparel Manufacturers Association, Inc., 1611 North Kent Street, Arlington, Va. 22209.
E. (9) $656.65.

A. Charles L. Merin, National Association of Retired Federal Employees, 1533 New Hampshire Avenue NW., Washington, D.C. 20036.
B. National Association of Retired Federal Employees, 1533 New Hampshire Avenue NW., Washington, D.C. 20036.
D. (6) $950. E. (9) $62.

A. Migrant Legal Action Program, Inc., 806 15th Street NW., Washington, D.C. 20005.
E. (9) $9,097.37.

A. Miller & Chevalier, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Lockheed Corp., Burbank, Calif. 91520.
D. (6) $4,400.

A. Deborah Imle Miller, National Association of Home Builders of the United States, 15th and M Streets NW., Washington, D.C. 20005.
B. National Association of Home Builders of the United States, 15th and M Streets NW., Washington, D.C. 20005.
D. (6) $1,625. E. (9) $71.72.

A. Clarence Mitchell, NAACP, 733 15th Street NW., Suite 410, Washington, D.C. 20005.
B. National Association for the Advancement of Colored People, 1790 Broadway, New York, N.Y. 10019.
D. (6) $4,000.

A. John E. Monagan, Whitman & Ransom, 1730 Pennsylvania Avenue NW., Suite 1010, Washington, D.C. 20006.
B. Connecticut Bankers Association, 100 Constitution Plaza, Suite 956, Hartford, Conn. 06103.

A. Michael Monroney, TRW, Inc., 2030 M Street NW., Suite 800, Washington, D.C. 20036.
B. TRW, Inc., 23555 Euclid Avenue, Cleveland, Ohio 44117.
D. (6) $1,000.

A. April D. Moore, 1667 California Street NW., Washington, D.C. 20009.
B. National Consumers League, 1028 Connecticut Avenue NW., Suite 522, Washington, D.C. 20036.
D. (6) $45.

A. L. Calvin Moore, Oil, Chemical & Atomic Workers International Union, 1126 16th Street NW., Washington, D.C. 20036.
B. Oil, Chemical & Atomic Workers International Union, 1636 Champa Street, Denver, Colo. 80201.
D. (6) $3,575. E. (9) $318.50.

A. Alan B. Morrison, Public Citizen, Inc., Suite 700, 2000 P Street NW., Washington, D.C. 20036.
B. Public Citizen, Inc., P.O. Box 19404, Washington, D.C. 20036.
D. (6) $165. E. (9) $165.

A. Moss, Frink & Franklin, Watergate 600, Suite 480, Washington, D.C. 20037.
B. American Federation of Government Employees, 1325 Massachusetts Avenue NW., Washington, D.C. 20005.

A. Moss, Frink & Franklin, Watergate 600, Suite 480, Washington, D.C. 20037.
B. District of Columbia Federation of Musicians, Local 161–710, 5020 Wisconsin Avenue NW., Washington, D.C. 20016.

A. Moss, Frink & Franklin, Watergate 600, Suite 480, Washington, D.C. 20037.
B. Kellogg Co., 235 Porter Street, Battle Creek, Mich. 49016.

A. Moss, Frink & Franklin, Watergate 600, Suite 480, Washington, D.C. 20037.
B. Radwaste Management Group, 1800 M Street NW., Washington, D.C. 20036.

A. Moss, Frink & Franklin, Watergate 600, Suite 480, Washington, D.C. 20037.
B. Steering Council for Alaska Lands, 1016 West Sixth Avenue, Suite B, Anchorage, Alaska 99501.
D. (6) $2,300. E. (9) $32.25.

A. Moss, Frink & Franklin, Watergate 600, Suite 480, Washington, D.C. 20037.
B. Thiokol Corp., P.O. Box 1000, Newtown, Pa. 18940.

A. Moss, Frink & Franklin, Watergate 600, Suite 480, Washington, D.C. 20037.
B. United Parcel Service of America, Inc., Greenwich Office Park 5, Greenwich, Conn. 06830.

A. Moss, Frink & Franklin, Watergate 600, Suite 480, Washington, D.C. 20037.
B. Utah Power & Light Co., 1407 West North Temple Street, Salt Lake City, Utah 84101.

A. John J. Motley, National Federation of Independent Business, 490 L'Enfant Plaza East SW., Suite 3206, Washington, D.C. 20024.
B. National Federation of Independent Business, 490 L'Enfant Plaza East SW., Suite 3206, Washington, D.C. 20024.
D. (6) $2,250. E. (9) $375.

A. Perry Moyle, The Wilderness Society, 518½ Main Street, Grand Junction, Colo. 81501.
B. The Wilderness Society, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.
D. (6) $386.25. E. (9) $119.25.

A. Robert O. Muller, 17 Stoneywell Court, Dix Hills, N.Y. 11746.
B. Vietnam Veteran Coalition, Inc., Suite 925, 1346 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $200.

A. Daniel J. Mundy, Building and Construction Trades Department, 815 16th Street NW., Suite 603, Washington, D.C. 20006.
B. Building and Construction Trades Department, 815 16th Street NW., Suite 603, Washington, D.C. 20006.
D. (6) $7,574.88. E. (9) $2,249.69.

A. Rosemary Griffin Murray, 1800 K Street NW., Suite 900, Washington, D.C. 20006.
B. Pan American World Airways, Inc., Suite 900, 1800 K Street NW., Washington, D.C. 20006.
E. (9) $703.23.

A. George E. Myers, Credit Union National Association, Inc., 1730 Rhode Island Avenue NW., Washington, D.C. 20036.
B. Credit Union National Association, Inc., 1617 Sherman Avenue, Madison, Wis.
D. (6) $1,200. E. (9) $300.

A. J. Walter Myers, Jr., Forest Farmers Association, P.O. Box 95385, Atlanta, Ga. 30347.
B. Forest Farmers Association, P.O. Box 95385, Atlanta, Ga. 30347.

A. Kenneth D. Naden, National Council of Farmer Cooperatives, 1129 20th Street NW., Washington, D.C. 20036.
B. National Council of Farmer Cooperatives, 1129 20th Street NW., Washington, D.C. 20036.
D. (6) $1,917. E. (9) $118.

A. National Associated Businessmen, Inc., 1100 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $1,200.40. E. (9) $1,200.40.

A. National Association for the Advancement of Colored People, 1790 Broadway, New York, N.Y. 10019.
D. (6) $23,735. E. (9) $22,604.

A. National Association for Uniformed Services, 956 North Monroe Street, Arlington, Va. 22201.
D. (6) $46,465.91. E. (9) $7,162.98.

A. National Association of Air Traffic Specialists, Inc., Suite 415, Wheaton Plaza North, Wheaton, Md. 20902.
D. (6) $97,121.50. E. (9) $5,416.39.

A. National Association of Farmer Elected Committeemen, c/o Tom B. Cunningham, Sr., Rural Route 5, Darlington, S.C. 29532.
D. (6) $2,098.50. E. (9) $2,098.90.

A. National Association of Home Builders of the United States, 15th and M Streets NW., Washington, D.C. 20005.
D. (6) $79,879.68. E. (9) $77,937.38.

A. National Association of Homes for Children, 200 South Tryon Street, Suite 1500, Charlotte, N.C. 28202.
E. (9) $300.

A. National Association of Margarine Manufacturers, 1725 K Street NW., Suite 1202, Washington, D.C. 20006.

A. National Association of Railroad Passengers, 417 New Jersey Avenue SE., Washington, D.C. 20003.
D. (6) $27,067.85. E. (9) $22,828.70.

A. National Association of Real Estate Investment Trusts, Inc., 1101 17th Street, No. 700, Washington, D.C. 20036.
D. (6) $1,650. E. (9) $1,654.

A. National Association of Realtors, 430 North Michigan Avenue, Chicago, Ill.; 925 15th Street NW., Washington, D.C.
E. (9) $24,028.21.

A. National Association of Retired Federal Employees, 1533 New Hampshire Avenue NW., Washington, D.C.
D. (6) $10,369.20. E. (9) $10,369.20.

A. National Association of Truck Stop Operators, Inc., 700 North Fairfax Street, No. 505, Alexandria, Va. 22314.
D. (6) $14,598.92. E. (9) $14,598.92.

A. National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
D. (6) $14,699.50. E. (9) $15,011.50.

A. National Committee for Symphony Orchestra Support, 1100 17th Street NW., Suite 313, Washington, D.C. 20036.
D. (6) $8,589.74. E. (9) $25,425.22.

A. National Council of Agricultural Employers, 1425 H Street NW., 237 Southern Building, Washington, D.C.
D. (6) $56,000. E. (9) $2,628.

A. National Council of Farmer Cooperatives, 1129 20th Street NW., Washington, D.C. 200036.
D. (6) $87,848. E. (9) $94,747.

A. National Counsel Associates, Inc., 421 New Jersey Avenue SE., Washington, D.C. 20003.
B. American Paratransit Institute, Inc., 1747 Pennsylvania Avenue, Suite 1000, Washington, D.C. 20006.
D. (6) $23,825. E. (9) $791.18.

A. National Counsel Associates, Inc., 421 New Jersey Avenue SE., Washington, D.C. 20003.
B. Belco Petroleum Corp., 1 Dag Hammarskjold Plaza, New York, N.Y. 10017.
D. (6) $3,150. E. (9) $102.59.

A. National Counsel Associates, Inc., 421 New Jersey Avenue SE., Washington, D.C. 20003.
B. Cenco Instruments, 2600 South Kostner Avenue, Chicago, Ill.
D. (6) $8,250. E. (9) $56.67.

A. National Counsel Associates, Inc., 421 New Jersey Avenue SE., Washington, D.C. 20003.
B. North American Telephone Association, 1030 15th Street NW., Washington, D.C. 20036.
D. (6) $24,193.84. E. (9) $2,753.73.

A. National Counsel Associates, Inc., 421 New Jersey Avenue SE., Washington, D.C. 20003.
B. Trailways, Inc., 1500 Jackson Street, Dallas, Tex. 75201.
D. (6) $20,830. E. (9) $1,297.23.

A. The National Ecumenical Coalition, Inc., Georgetown Station, P.O. Box 3554, Washington, D.C. 20007.

A. National Education Association, 1201 16th Street NW., Washington, D.C. 20036.
D. (6) $67,906.39. E. (9) $15,089.72.

A. The National Federation of Business and Professional Women's Clubs, Inc., 2012 Massachusetts Avenue NW., Washington, D.C. 20036.
D. (6) $40,048.17. E. (9) $4,673.40.

A. National Federation of Independent Business, 490 L'Enfant Plaza SW., Washington, D.C. 20024.
B. National Federation of Independent Business, 150 West 20th Avenue, San Mateo, Calif. 94403.
D. (6) $52,528. E. (9) $52,528.

A. National Forest Products Association

A. National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
D. (6) $18,225. E. (9) $18,225.

A. The National Grange, 1616 H Street, NW., Washington, D.C. 20006.
D. (6) $114,652.11. E. (9) $18,097.50.

A. National Hairdressers and Cosmetologists Association, 3510 Olive Street, St. Louis, Mo. 63108.
D. (6) $1,546.62.

A. National Organization for the Reform of Marijuana Laws, 2317 M. Street NW., Washington, D.C. 20037.
D. (6) $54,545.40. E. (9) $113,600.61.

A. National Parking Association, 1101 17th Street NW., Washington, D.C. 20036.
E. (9) $3,745.77.

A. National Rifle Association, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
D. (6) $8,000. E. (9) $53,336.75.

A. National Right to Life Committee, Inc., No. 341, National Press Building, 529 14th Street NW., Washington, D.C. 20005.
D. (6) $11,500. E. (9) $10,900.

A. National Right to Work Committee, 8316 Arlington Boulevard, Suite 600, Fairfax, Va. 22038.
D. (6) $3,461. E. (9) $3,531.

A. National Tax Equality Association, 1000 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $12,004.22. E. (9) $5,659.71.

A. National Taxpayers Union, 10 E Street SE., Washington, D.C. 20003.
D. (6) $21,253.56. E. (9) $10,472.35.

A. National Water Resources Association, 955 L'Enfant Plaza North SW., Suite 1202, Washington, D.C. 20024.
D. (6) $16,649. E. (9) $11,243.15.

A. National Woman's Christian Temperance Union, 1730 Chicago Avenue, Evanston, Ill. 60201.
D. (6) $2,563.50. E. (9) $2,834.56.

A. New Directions, 2021 L Street NW., Washington, D.C.
D. (6) $119,340.79. E. (9) $52,051.06.

A. Harold Frank Newman, 900 17th Street NW., Washington, D.C. 20006.
B. Kaiser Foundation Health Plan, Inc.
D. (6) $8,562.01. E. (9) $1,500.

A. Robert W. Nolan, 1303 New Hampshire Avenue NW., Washington, D.C. 20036.
B. Fleet Reserve Association, 1303 New Hampshire Avenue NW., Washington, D.C. 20036.
D. (6) $100.

A. Julia J. Norrell, National Association of Home Builders of the United States, 15th and M Streets NW., Washington, D.C. 20005.
B. National Association of Home Builders of the United States, 15th and M Streets NW., Washington, D.C. 20005.
D. (6) $5,437.49. E. (9) $1,114.39.

A. North American Telephone Association, Inc., 1030 15th Street NW., Washington, D.C. 20005.
D. (6) $24,193.84. E. (9) $2,753.73.

A. Frank Northcutt, Southwest Homefurnishings Association, 7139 Hunters Ridge Drive, Dallas, Tex. 75248.
B. Southwest Homefurnishings Association, 4313 North Central Expressway, Dallas, Tex. 75205.

A. William B. O'Connell, 111 East Wacker Drive, Chicago, Ill. 60601.
B. United States League of Savings Associations, 111 East Wacker Drive, Chicago, Ill. 60601.
D. (6) $1,450. E. (9) $1,253.18.

A. Therese S. Ogle, 825 15th Street NW., Washington, D.C. 20005.
B. National Abortion Rights Action League, 825 15th Street NW., Washington, D.C. 20005.
D. (6) $2,500.

A. Jane O'Grady, AFL–CIO, 815 16th Street NW., Washington, D.C.
B. American Federation of Labor and Congress of Industrial Organizations, 815 16th Street NW., Washington, D.C.
D. (6) $8,755.50. E. (9) $84.60.

A. John F. O'Neal, Law Offices of John F. O'Neal, 600 New Hampshire Avenue NW., Suite 952, Washington, D.C. 20037.
B. Commodity Exchange Inc., Four World Trade Center, S. East Plaza Building, New York, N.Y. 10048.
D. (6) $8,467.50.

A. John F. O'Neal, Law Offices of John F. O'Neal, 600 New Hampshire Avenue NW., Suite 952, Washington, D.C. 20037.
B. Wheat & Wheat Foods Foundation, 14 East Jackson Boulevard, No. 1010, Chicago, Ill. 60604.
D. (6) $2,685.

A. Organization of Professional Employees of the Department of Agriculture, Room 1247–S Building, Department of Agriculture, Washington, D.C. 20250.
D. (6) $1,473.48. E. (9) $565.25.

A. Kathleen F. O'Reilly, 1012 14th Street NW., Washington, D.C. 20005.
B. Consumer Federation of America, 1012 14th Street NW., Washington, D.C. 20005.
D. (6) $5,084.60. E. (9) $800.

A. Francis J. O'Rourke, Ad Hoc Committee of Concerned Parents, 75 Federal Street, Suite 600, Boston, Mass. 02110.
B. Ad Hoc Committee of Concerned Parents, P.O. Box 343, Lexington, Mass. 02173.
D. (6) $4,500. E. (9) $412.95.

A. J. Denis O'Toole, National Association of Home Builders of the United States, 15th and M Streets NW., Washington, D.C. 20005.
B. National Association of Home Builders of the United States, 15th and M Streets NW., Washington, D.C. 20005.
D. (6) $7,658.26. E. (9) $1,864.24.

A. Pacific Northwest Utilities Conference Committee, 327 North Wenatchee Avenue, Wenatchee, Wash.
D. (6) $15,141. E. (9) $11,506.50.

A. Gerard Paul Panaro, 6525 Belcrest Road, Hyattsville, Md. 20782.
B. Retail Bakers of America, 6525 Belcrest Road, Hyattsville, Md.
D. (6) $50.

A. Scootch Pankonin, 1010 16th Street NW., Suite 700, Washington, D.C. 20036.
B. Inland Forest Resource Council, 320 Savings Center Building, Missoula, Mont. 59801.
D. (6) $2,850. E. (9) $160.12.

A. Scootch Pankonin, 1010 16th Street NW., Suite 700, Washington, D.C. 20036.
B. Slurry Transport Association, 490 L'Enfant Plaza East SW., Suite 3210, Washington, D.C. 20024.

A. Lew M. Paramore, Mo-Ark Basins Flood Control and Conservation Association, P.O. Box 1160, Kansas City, Kans. 66117.

B. Mo-Ark Basins Flood Control & Conservation Association, P.O. Box 1160, Kansas City, Kans. 66117.

A. Paraplegia Cure Research, 100 Maryland Avenue NE., Washington, D.C. 20002.
D. (6) $550.39. E. (9) $413.01.

A. Judy E. Park, National Association of Retired Federal Employees, 1533 New Hampshire Avenue NW., Washington, D.C. 20036.
B. National Association of Retired Federal Employees, 1533 New Hampshire Avenue NW., Washington, D.C. 20036.
D. (6) $1,200. E. (9) $40.70.

A. Kimberly C. Parker, National Treasury Employees Union, 1730 K Street NW., Suite 1101, Washington, D.C. 20006.
B. National Treasury Employees Union, 1730 K Street NW., Suite 1101, Washington, D.C. 20006.
D. (6) $3,881.60. E. (9) $333.44.

A. Steve Payne, The Wilderness Society, P.O. Box 3187, Duluth, Minn. 55803.
B. The Wilderness Society, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.
D. (6) $274.06. E. (9) $286.88.

A. Richard A. Paysor, 274 Falling Leaves Court, Creve Coeur, Mo. 63141.
B. Chromalloy American Corp., 120 South Central, St. Louis, Mo. 63105.

A. Edmund J. Perret II, American Psychiatric Association, 2033 M. Street NW., Suite 802, Washington, D.C. 20036.
D. (6) $913. E. (9) $571.16.

A. John Joseph Pesch, 1701 North Fort Myer Drive, Suite 1208, Arlington, Va. 22209.
B. Northrop Corp., 1701 North Fort Myer Drive, Suite 1208, Arlington, Va. 22209.
D. (6) $7,083. E. (9) $2,366.55.

A. Kenneth Peterson, AFL–CIO, 815 16th Street NW., Washington, D.C. 20006.
B. American Federation of Labor and Congress of Industrial Organizations, 815 16th Street NW., Washington, D.C. 20006.
D. (6) $9,945. E. (9) $83.33.

A. John Pflieger, Time Inc., 888–16th NW., Washington, D.C.
B. Time Inc., Time & Life Building, Rockefeller Center, N.Y. 10020.
D. (6) $1,700. E. (9) $550.

A. Grace Pierce, The Wilderness Society, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. The Wilderness Society, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.
D. (6) $641.22 E. (9) $19.25.

A. Paul E. Pierce, National Association of Truck Stop Operators, Inc., 700 North Fairfax Street, No. 505, Alexandria, Va. 22314.
B. National Association of Truck Stop Operators, Inc., 700 North Fairfax Street, North 505, Alexandria, Va.
D. (6) $3,249.99.

A. Grant C. Pinney, 730 North Balsom Street, Ridgecrest, Calif. 93555.
B. Sierra Sands Unified School District, 730 North Balsam Street, Ridgecrest, Calif. 93555.

A. Rafe Pomerance, 620 C Street SE., Washington, D.C. 20003.
B. Friends of the Earth, 620 C Street SE., Washington, D.C. 20003.
D. (6) $2,640.

A. Judith A. Pond, 1800 K Street NW., Suite 924, Washington, D.C. 20006.
B. Ralston Purina Co., Checkerboard Square, St. Louis, Mo. 63188.
D. (6) $200. E. (9) $104.

A. Population Resource Center, Inc., 622 Third Avenue, New York, N.Y. 10017.
D. (6) $5,712. E. (9) $3,472.

A. Joan Porte, 4201 South 31st Street, No. 326, Arlington, Va. 22206.
B. Consumer Action Now, 317 Pennsylvania Avenue SE., Washington, D.C. 20003.
D. (6) $960.

A. A. Frank Portmann III, AMAX Coal Co., 105 South Meridian Street, Indianapolis, Ind. 46225.
B. AMAX Coal Co., 105 South Meridian Street, Indianapolis, Ind. 46225.
E. (9) $149.

A. Richard M. Powell, International Association of Refrigerated Warehouses, 7315 Wisconsin Avenue, Washington, D.C. 20014.
B. International Association of Refrigerated Warehouses, 7315 Wisconsin Avenue, Washington, D.C. 20014.
E. (9) $135.

A. Prather Seeger Doolittle & Farmer, 1101 Sixteenth Street NW., Washington, D.C. 20036.
B. Bankers' Association for Foreign Trade, 1101 Sixteenth Street NW., Washington, D.C. 20036.
D. (6) $4,000.

A. Prather Seeger Doolittle & Farmer, 1101 Sixteenth Street NW., Washington, D.C. 20036.
B. The First National Bank of Chicago, One First National Plaza, Chicago, Ill. 60670.
D. (6) $500.

A. Paul F. Preston, National Association of Realtors, 925 15th Street NW., Washington, D.C. 20005.
B. National Association of Realtors, 925 15th Street NW., Washington, D.C. 20005.
D. (6) $2,125. E. (9) $39.14.

A. Pro-Life Congressional District Action Committee IN–2, 926 South 10th Street, Lafayette, Ind. 47905.
E. (9) $23.26.

A. Public Securities Association, One World Trade Center, New York, N.Y. 10048.
D. (6) $445,750. E. (9) $59,147.

A. Public Timber Purchasers Group, 1214 Oregon Bank Building, Portland, Oreg. 97204.
D. (6) $25,500. E. (9) $7,409.

A. Purcell & Nelson, 1776 F Street NW., Washington, D.C. 20006.
B. The Business Roundtable, 405 Lexington Avenue, New York, N.Y. 10017.

A. Howard Pyle III, 1150 Connecticut Avenue NW., Suite 805, Washington, D.C. 20036.
B. R. J. Reynolds Industries, Inc., P.O. Box 2959, Winston-Salem, N.C. 27102.
D. (6) $285.71. E. (9) $9.89.

A. Quintana Refinery Co., P.O. Box 3331, Houston, Tex. 77001.

A. Clifford H. Raber, One McDonald's Plaza, Oak Brook, Ill. 60521.
B. McDonald's Corp., One McDonald's Plaza, Oak Brook, Ill. 60521.
E. (9) $29.47.

A. Radioactive Waste Management Group, c/o Shaw, Pittman, Potts & Trowbridge, 1800 M Street NW., Washington, D.C. 20036.
D. (6) $18,294.83. E. (9) $18,294.83.

A. Ragan & Mason, 900 17th Street NW., The Farragut Building, Washington, D.C.
B. American Shipbuilding Co., Bond Court Building, Room 911, 1300 East Ninth Street, Cleveland, Ohio.
D. (6) $1,000.

A. Ragan & Mason, 900 17th Street NW., The Farragut Building, Washington, D.C.
B. Bechtel Corp., 141 Battery Street, San Francisco, Calif.

A. Ragan & Mason, 900 17th Street NW., The Farragut Building, Washington, D.C.
B. Bermuda Department of Tourism, Hamilton, Bermuda.
D. (6) $1,666. E. (9) $51.80.

A. Ragan & Mason, 900 17th Street NW., The Farragut Building, Washington, D.C.
B. First Colony Farms, Route 1, Box 130, Creswell, N.C.
D. (6) $1,000.

A. Ragan & Mason, 900 17th Street NW., The Farragut Building, Washington, D.C.
B. Glass Packaging Institute, 1800 K Street NW., Washington, D.C.
D. (6) $6,000.

A. Ragan & Mason, 900 17th Street NW., The Farragut Building, Washington, D.C.
B. Greater Cleveland Growth Association, 600 Union Commerce Building, Cleveland, Ohio.
D. (6) $6,000.

A. Ragan & Mason, 900 17th Street NW., The Farragut Building, Washington, D.C.
B. Gulf Oil Corp., P.O. Box 1166, Pittsburgh, Pa.
D. (6) $2,000. E. (9) $0.20.

A. Ragan & Mason, 900 17th Street NW., The Farragut Building, Washington, D.C.
B. The Harris Corp., 55 Public Square, Cleveland, Ohio.
D. (6) $2,000.

A. Ragan & Mason, 900 17th Street NW., The Farragut Building, Washington, D.C.
B. National Bulk Carriers, Inc., 1345 Avenue of the Americas, New York, N.Y.
D. (6) $4,500.

A. Ragan & Mason, 900 17th Street NW., The Farragut Building, Washington, D.C.
B. National Ski Areas Association, 61 South Main Street, West Hartford, Conn.
D. (6) $1,500.

A. Ragan & Mason, 900 17th Street NW., The Farragut Building, Washington, D.C.
B. New York Yankees, Flushing Medes, Corona Park, Flushing, N.Y.
D. (6) $2,000.

A. Ragan & Mason, 900 17th Street NW., The Farragut Building, Washington, D.C.
B. Ohio Board of Regents, 30 East Broad Street, Columbus, Ohio.

A. Ragan & Mason, 900 17th Street NW., The Farragut Building, Washington, D.C.
B. Princess Hotels International (a division of National Bulk Carriers, Inc.), 1345 Avenue of the Americas, New York, N.Y.
D. (6) $3,000.

A. Ragan & Mason, 900 17th Street NW., The Farragut Building, Washington, D.C.
B. R. J. Reynolds Industries, Inc., 401 North Main Street, Winston-Salem, N.C.
D. (6) $1,000.

A. Ragan & Mason, 900 17th Street NW., The Farragut Building, Washington, D.C.
B. Sea-Land Service, Inc., P.O. Box 900, Edison, N.J.
D. (6) $5,000. E. (9) $44.10.

A. Ragan & Mason, 900 17th Street NW., The Farragut Building, Washington, D.C.
B. Seacoast Products, Inc., Box D, Port Monmouth, N.J.

A. Ragan & Mason, 900 17th Street NW., The Farragut Building, Washington, D.C.
B. Security Pacific Leasing Corp., 333 South Hope Street, Los Angeles, Calif.

A. Ragan & Mason, 900 17th Street NW., The Farragut Building, Washington, D.C.
B. Security Pacific National Bank, 333 South Hope Street, Los Angeles, Calif.
D. (6) $2,000.

A. Ragan & Mason, 900 17th Street NW., The Farragut Building, Washington, D.C.
B. Stimson Lumber Co. and Miller Redwood Co., 315 Pacific Building, Portland, Oreg.
D. (6) $125.

A. Gretchen P. Ralph, 303 Kimry Moor, Fayetteville, N.Y. 13066.
B. National Committee for Symphony Orchestra Support (NCSOS), 1100 17th Street NW., Suite 313, Washington, D.C. 20036.
D. (6) $10,500. E. (9) $963.16.

A. Sydney C. Reagan, 6815 Prestonshire, Dallas, Tex. 75225.
B. Southwestern Peanut Shellers Association, 6815 Prestonshire, Dallas, Tex. 75225.
D. (6) $150.

A. Patricia S. Record, Midwest Office, Sierra Club, 444 West Main, Madison, Wis. 53703.
B. Sierra Club, 530 Bush Street, San Francisco, Calif. 94108.
D. (6) $2,887.50. E. (9) $568.64.

A. Recording Industry Association of America, Inc., One East 57th Street, New York, N.Y. 10022.
D. (6) $777,331.93. E. (9) $91,241.76.

A. Recreation Vehicle Industry Association, P. O. Box 204, 14650 Lee Road, Chantilly, Va. 22021.
E. (9) $19,800.

A. Lola Redford, 1125 Fifth Avenue, New York, N.Y. 10028.
B. Consumer Action Now, 317 Pennsylvania Avenue SE., Washington, D.C. 20003.

A. J. Ronald Reeves, Allegheny Airlines, Inc., Washington National Airport, Washington, D.C. 20001.
B. Allegheny Airlines, Inc., Washington National Airport, Washington, D.C. 20001.
D. (6) $2,000. E. (9) $103.83.

A. John T. Reggitts, Jr., Rural Delivery No. 2, Boonton Avenue, Boonton, N.J. 07005.

A. Harry O. Reinsch, 1310 Jones Street, Apt. 902, San Francisco, Calif. 94109.
B. Bechtel Power Corp., 50 Beale Street, P.O. Box 3965, San Francisco, Calif. 94119.

A. Mark Reis, 620 C Street SE., Washington, D.C. 20003.
B. Friends of the Earth, 620 C Street SE., Washington, D C. 20003.
D. (6) $1,775.

A. Research to Prevent Blindness, Inc., 598 Madison Avenue, New York, N.Y. 10022.
E. (9) $898.64.

A. Reserve Officers Association of U.S., One Constitution Avenue NE., Washington, D.C. 20002.
D. (6) $1,787.56. E. (9) $2,336.11.

A. Edmund B. Rice, American Hospital Association, 444 North Capitol Street NW., No. 500, Washington, D.C. 20001.
B. American Hospital Association, 840 North Lake Shore Drive, Chicago, Ill. 60611.
D. (6) $577.95.

A. M. Lee Rice, 277 Park Avenue, New York, N.Y. 10017.
B. Ogden Corp., 277 Park Avenue, New York, N.Y. 10017.

A. K. O. Richardson, Brotherhood of Railway, Airline & Steamship Clerks, Freight Handlers, Express & Station Employes, 815 16th Street NW., Washington, D.C. 20006.
B. Brotherhood of Railway, Airline & Steamship Clerks, Freight Handlers, Express & Station Employes, 6300 River Road, Rosemont, Ill. 60018.
D. (6) $1,280. E. (9) $2,400.

A. Russell W. Richardson, Lear Siegler, Inc., Suite 1002, 1911 Jefferson Davis Highway, Arlington, Va. 22202.
B. Lear Siegler, Inc., 3171 South Bundy Drive, Santa Monica, Calif. 90406.
D. (6) $30. E. (9) $10.50.

A. James W. Riddell, 723 Washington Building, Washington, D.C. 20005.
B. The Kellogg Co., Battle Creek, Mich.

A. James W. Riddell, 723 Washington Building, Washington, D.C. 20005.
B. W. K. Kellogg Foundation, Battle Creek, Mich.

A. James W. Riddell, 723 Washington Building, Washington, D.C. 20005.
B. Volume Footwear Retailers of America, 51 East 42d Street, New York, N.Y. 10017.

A. Peter S. Ridley, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
B. National Rifle Association of America, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
D. (6) $526.

A. Mark J. Riedy, Mortgage Bankers Association of America, 1125 15th Street NW., Washington, D.C. 20005.
B. Mortgage Bankers Association of America, 1125 15th Street NW., Washington, D.C. 20005.
D. (6) $1,875. E. (9) $8,215.

A. Siert F. Riepma, 1725 K Street NW., Suite 1202, Washington, D.C. 20006.
B. National Association of Margarine Manufacturers, 1725 K Street NW., Suite 1202, Washington, D.C. 20006.

A. RJR Industries, Inc., 401 North Main Street, Winston-Salem, N.C. 27101.
E. (9) $1,929.62.

A. Ronn Robinson, National Education Association, P.O. Box 558, Mercer Island, Wash. 98040.
B. National Education Association, 1201 16th Street NW., Washington, D.C. 20036.
D. (6) $3,282.42. E. (9) $100.

A. Ted V. Rodgers, Suite 304, 1000 Connecticut Avenue NW., Washington, D.C. 20036.
B. Nationwide Insurance Companies & Affiliates, 246 North High Street, Columbus, Ohio 43216.
D. (6) $2,500.

A. Bruce N. Rogers, National Association of Home Builders of the United States, 15th & M Streets NW., Washington, D.C. 20005.
B. National Association of Home Builders of the United States, 15th and M Streets NW., Washington, D.C. 20005.
D. (6) $4,312.67. E. (9) $647.32.

A. James C. Rosapepe, Rosapepe & Associates, 101 N. Columbus Street, No. 400, Alexandria, Va. 22314.
B. Rosapepe & Associates, 101 N. Columbus Street, No. 400, Alexandria, Va. 22314 (for Interfaith Center on Corporate Responsibility, New York, N.Y. 10027).
D. (6) $960. E. (9) $77.76.

A. Albert B. Rosenbaum III, National Tank Truck Carriers, Inc., 1616 P Street NW., Washington, D.C. 20036.
B. National Tank Truck Carriers, Inc., 1616 P Street NW., Washington, D.C. 20036.

A. Harry H. Rosenfield, 1735 DeSales Street NW., Washington, D.C. 20036.
B. American Chiropractic Association, 2200 Grand Avenue, Des Moines, Iowa 50312.
D. (6) $1,500. E. (9) $173.

A. Robert M. Russell, 2170 Piedmont Road, NE., Atlanta, Ga. 30324.
B. Orkin Exterminating Co., 2170 Piedmont Road NE., Atlanta, Ga. 30324.
D. (6) $261.

A. Sheryl P. Rutledge, 1100 H Street NW., Washington, D.C. 20080.
B. Washington Gas Light Co., 1100 H Street NW., Washington, D.C. 20080.
D. (6) $846.84. E. (9) $309.10.

A. Jennifer Sauve, National Association of Home Builders of the United States, 15th and M Streets NW., Washington, D.C. 20005.
B. National Association of Home Builders of the United States, 15th and M Streets NW., Washington, D.C. 20005.
D. (6) $5,484.38. E. (9) $642.18.

A. Frank J. Scaduto, 1750 New York Avenue NW., Washington, D.C. 20006.
B. Sheet Metal Workers' International Association, 1750 New York Avenue NW., Washington, D.C. 20006.
D. (6) $5,800.

A. Henry Schacht, California Canners and Growers, 3100 Ferry Building, San Francisco, Calif. 94106.
B. California Canners and Growers, 3100 Ferry Building, San Francisco, Calif. 94106.
D. (6) $2,850. E. (9) $951.04.

A. Denise Schlener, The Wilderness Society, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. The Wilderness Society, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.
D. (6) $706.16. E. (9) $41.76.

A. Robert L. Schmidt, National Cable Television Association, 918 16th Street NW., Washington, D.C. 20006.
B. National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
D. (6) $227. E. (9) $236.

A. Terry L. Schmidt, Terry L. Schmidt Associates, Inc., 1701 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. American College of Emergency Physicians, 3900 Capitol City Boulevard, Lansing, Mich. 48906.
D. (6) $900.

A. Ann Elizabeth Schmitt, 10601 Wise Owl Way, Great Falls, Va. 22060.
B. Women's Lobby, Inc., 201 Massachusetts Avenue NE., Washington, D.C. 20002.
D. (6) $770.

A. Peter Scholes, The Wilderness Society, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. The Wilderness Society, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.
D. (6) $400.31. E. (9) $36.70.

A. John W. Scott, National Grange, 1616 H Street NW., Washington, D.C. 20006.
B. The National Grange, 1616 H Street NW., Washington, D.C. 20006.
D. (6) $6,875.

A. Seafarers International Union of North America, 675 Fourth Avenue, Brooklyn, N.Y.
E. (9) $2,626.49.

A. Deborah Sease, The Wilderness Society, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. The Wilderness Society, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.
D. (6) 220.17. E. (9) $15.85.

A. Ronald C. Seeley, 701 Fairview, Milford, Mich. 48042.
B. Estate of Bert N. Adams, 1461 West 16th Place, Yuma, Ariz. 85364; et al.
E. (9) $273.10.

A. Stanley E. Senner, SR Box 30461, Fairbanks, Alaska 99701.
B. The Wilderness Society, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.
D. (6) $291.40. E. (9) $367.72.

A. Seven Months Session for Congress, 7201 Wood Hollow Drive, No. 337, Austin, Tex. 78731.
E. (9) $389.75.

A. Yvonne L. Shafer, National Education Association, c/o Classroom Teachers of Dallas, 3816 San Jacinto Street, Dallas, Tex. 75204.
B. National Education Association, 1201 16th Street NW., Washington, D.C. 20036.
D. (6) $2,932.10. E. (9) $100.

A. Kathleen Dillon Sheekey, Consumer Federation of America, 1012 14th Street NW., Washington, D.C. 20005.
B. Consumer Federation of America, 1012 14th Street NW., Washington, D.C. 20005.
D. (6) $1,753.85. E. (9) $211.90.

A. John P. Sheffey, National Association for Uniformed Services, 956 North Monroe Street, Arlington, Va. 22201.
B. National Association for Uniformed Services, 956 North Monroe Street, Arlington, Va. 22201.
D. (6) $1,125.

A. Jowanda Shelton, 2101 L Street NW., Washington, D.C. 20037.
B. Committee for Humane Legislation, Inc., 11 West 60th Street, New York, N.Y. 10023.
D. (6) $5,100.

A. Norman R. Sherlock, American Bus Association, 1025 Connecticut Avenue NW., Suite 308, Washington, D.C. 20036.
B. American Bus Association, 1025 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $1,246.77. E. (9) $1,246.77.

A. Russell L. Shipley, Jr., 1430 K Street NW., Suite 1000, Washington, D.C. 20005.
B. National Candy Wholesalers Association, Inc., 1430 K Street NW., Suite 1000, Washington, D.C. 20005.
D. (6) $40.

A. Fred B. Shippee, American Apparel Manufacturers Association, 1611 North Kent Street, Suite 800, Arlington, Va. 22209.
B. American Apparel Manufacturers Association, 1611 North Kent Street, Suite 800, Arlington, Va. 22209.

A. Scott Shotwell, National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
B. National Forest Products Association, 1619 Massachusetts Aveune NW., Washington, D.C. 20036.
D. (6) $825. E. (9) $50.

A. Mark S. Sigurski, 1776 K Street NW., Suite 200, Washington, D.C. 20006.
B. Motorola, Inc., 1776 K Street NW., Suite 200, Washington, D.C. 20006.
D. (6) $400. E. (9) $200.

A. Silverstein and Mullens, 1776 K Street NW., Washington, D.C. 20006.
B. Bristol-Myers Co., 345 Park Avenue, New York, N.Y. 10002.

A. Silverstein and Mullens, 1776 K Street NW., Washington, D.C. 20006.
B. Champion International Corp., One Landmark Square, Stamford, Conn. 06921.

A. Silverstein and Mullens, 1776 K Street NW., Washington, D.C. 20006.
B. Federal National Mortgage Association, 1133 15th Street NW., Washington, D.C. 20005.

A. Silverstein and Mullens, 1776 K Street NW., Washington, D.C. 20006.
B. General American Transportation Co., 120 South Riverside Plaza, Chicago, Ill. 60606.

A. Silverstein and Mullens, 1776 K Street NW., Washington, D.C. 20006.
B. Music Corporation of America, Inc., 100 Universal City Plaza, Universal City, Calif. 91608.

A. Silverstein and Mullens, 1776 K Street NW., Washington, D.C. 20006.
B. National Association of Home Builders, 15th and M Street NW., Washington, D.C.

A. Silverstein and Mullens, 1776 K Street NW., Washington, D.C. 20006.
B. National Savings and Loan League, 1200 17th Street NW., Washington, D.C. 20036.

A. Silverstein and Mullens, 1776 K Street NW., Washington, D.C. 20006.
B. Ogden Transportation Corp., 277 Park Avenue, New York, N.Y. 10017.

A. Thomas K. Singer, 900 17th Street NW., Washington, D.C. 20006.
B. Kaiser Aluminum and Chemical Corp., 900 17th Street NW., Washington, D.C. 20006.
D. (6) $598.50.

A. Richard L. Sinnott and Co., 888 17th Street NW., Suite 212, Washington, D.C. 20006.
B. Citizens for Management of Alaska Lands, P.O. Box 3256 DT, Anchorage, Alaska 99510.
D. (6) $1,500.

A. Richard L. Sinnott & Co., 888 17th Street NW., Suite 212, Washington, D.C. 20006.
B. Port of Oakland, Oakland, Calif.
D. (6) $1,250.

A. Marcus W. Sisk, Jr., 1775 K Street NW., Suite 220, Washington, D.C. 20006.
B. American Bankers Association, 2020 K Street NW., Washington, D.C. 20006.
D. (6) $883.33 E. (9) $11.68.

A. Marcus W. Sisk, Jr., 1775 K Street NW., Washington, D.C. 20006.
B. Tosco Corp., 10100 Santa Monica Boulevard, Los Angeles, Calif. 90067.
D. (6) $1,600. E. (9) $62.

A. Hall Sisson, Communications Workers of America, 1925 K Street NW., Washington, D.C. 20006.
B. Communications Workers of America, 1925 K Street NW., Washington, D.C. 20006.
D. (6) $3,635.49. E. (9) $3,715.27.

A. Stephen L. Skardon, Jr., National Association of Retired Federal Employees, 1533 New Hampshire Avenue NW., Washington, D.C. 20036.
B. National Association of Retired Federal Employees, 1533 New Hampshire Avenue NW., Washington, D.C. 20036.
D. (6) $900. E. (9) $65.

A. Jonathan W. Sloat, 1425 K Street NW., Suite 900, Washington, D.C. 20005.
B. Grocery Manufacturers of America, Inc., 1425 K Street NW., Suite 900, Washington, D.C. 20005.

A. Smathers, Symington & Herlong, 1700 K Street NW., Washington, D.C. 20006.
B. American Horse Council, 1700 K Street NW., Washington, D.C. 20006.
D. (6) $5,500. E. (9) $823.92.

A. Smathers, Symington & Herlong, 1700 K Street NW., No. 400, Washington, D.C. 20006.
B. American Inland Waterway Committee, 7733 Forsyth Boulevard, St. Louis, Mo. 63105.
D. (6) $3,750. E. (9) $1,063.05.

A. Smathers, Symington & Herlong, 1700 K Street NW., Washington, D.C. 20006.
B. The Arthritis Foundation, 422 C Street NW., Washington, D.C.
D. (6) $5,000. E. $9.15.

A. Smathers, Symington & Herlong, 1700 K Street NW., Washington, D.C. 20006.
B. Pennzoil Co., Houston, Tex. 77001.
D. (6) $6,000. E. (9) $11.18.

A. Robert G. Smerko, G. D. Searle & Co., Suite 320, 1750 Pennsylania Avenue NW., Washington, D.C. 20006.
B. G. D. Searle & Co., Box 1045, Skokie, Ill.

A. John G. Smillie, 900 17th Street NW., Washington, D.C. 20006.
B. Permanente Medical Group.
D. (6) $19,710. E. (9) $379.

A. Cathy Smith, 620 C Street SE., Washington, D.C. 20003.
B. Friends of the Earth, 620 C Street SE., Washington, D.C. 20003.
D. (6) $1,950.

A. Douglas J. Smith, Cramer, Visser, Lipsen & Smith, 475 L'Enfant Plaza SW., Suite 4100, Washington, D.C. 20024.
B. Cramer, Visser, Lipsen & Smith, 475 L'Enfant Plaza SW., Washington, D.C. 20024 (for American Sign and Indicator Corp., North 2310 Fancher Way, Spokane, Wash. 99206).

A. Elizabeth M. Smith, 815 16th Street NW., Room 310, Washington, D.C. 20006.
B. Amalgamated Clothing and Textile Workers Union, 15 Union Square, New York, N.Y. 10003.
D. (6) $6,000. E. (9) $148.75.

A. Robert F. Smith, 8316 Arlington Boulevard, Suite 600, Fairfax, Va. 22038.
B. National Right to Work Committee, 8316 Arlington Boulevard, Suite 600, Fairfax, Va. 22038.
D. (6) $155. E. (9) $35.

A. Talbott C. Smith, Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C. 20062.
B. Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C. 20062.
E. (9) $25.

A. Randall G. Snodgrass, The Wilderness Society, 3110 Maple Drive, Suite 407, Atlanta, Ga. 30305.
B. The Wilderness Society, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.
D. (6) $48.29. E. (9) $314.62.

A. Janice N. Somers, 490 L'Enfant Plaza East, SW., No. 3206, Washington, D.C. 20024.
B. National Federation of Independent Business, 490 L'Enfant Plaze East, SW., No. 3206, Washington, D.C. 20024.
D. (6) $400.

A. Julius P. Sommer, 5803 Callaway Street, 7K, Rego Park, Queens, N.Y. 11368.
E. (9) $85.

A. S. L. Sommer & Associates, Inc., 1800 North Kent Street, Arlington, Va. 22209.
B. Northrop Corp., 1701 North Fort Myer Drive, Suite 1208, Arlington, Va. 22209.
D. (6) $15,000. E. (9) $12,269.25.

A. Southwest Homefurnishings Association, 4313 North Central Expressway, Dallas, Tex. 75205.

A. Southwestern Peanut Shellers Association, 6815 Prestonshire, Dallas, Tex. 75225.
D. (6) $150. E. (9) $150.

A. David E. Stahl, National Association of Home Builders of the United States, 15th and M Streets NW., Washington, D.C. 20005.
B. National Association of Home Builders of the United States, 15th and M Streets NW., Washington, D.C. 20005.
D. (6) $2,877.50. E. (9) $36.71.

A. Gloria Starks, National Education Association, 1201 16th Street NW., Washington, D.C. 20036.
B. National Education Association, 1201 16th Street NW., Washington, D.C. 20036.
D. (6) $3,616.95. E. (9) $227.90.

A. Elliot J. Stern, American Health Planning Association, 2560 Huntington Avenue, Suite 305, Alexandria, Va. 22303.
B. American Health Planning Association, 2560 Huntington Avenue, Suite 305, Alexandria, Va. 22303.
D. (6) $14,386. E. (9) $14,386.

A. Sarah Jane Stewart, 825 15th Street NW., Washington, D.C. 20005.
B. National Abortion Rights Action League, 825 15th Street NW., Washington, D.C. 20005.
D. (6) $300.

A. Travis B. Stewart, Hoffman-La Roche, Inc., 1775 K Street NW., Washington, D.C. 20006.
B. Hoffmann-La Roche, Inc., 340 Kingsland Street, Nutley, N.J. 07110.
D. (6) $1,000. E. (9) $250.

A. Richard Boyle Storey, Suite 2B, 1750 Old Meadow Road, McLean, Va. 22101.
B. International Military Club Executives' Association, 1750 Old Meadow Road, Suite 2B, McLean, Va. 22101.

A. Richard B. Straus, 444 North Capitol Street NW., No. 412, Washington, D.C. 20001.
B. American Israel Public Affairs Committee, 444 North Capitol Street NW., No. 412, Washington, D.C. 20001.
D. (6) $7,099.98.

A. R. Keith Stroup, 2317 M Street NW., Washington, D.C. 20037.
B. NORML, 2317 M Street NW., Washington, D.C. 20037.
D. (6) $5,522.79.

A. Sullivan & Worcester, 1025 Connecticut Avenue NW., Washington, D.C. 20036.
B. Deutsche Bank AG, Grosse Gallus, Strasse 10–14, 6 Frankfurt (Main), West Germany.
D. (6) $27,062.50. E. (9) $59.61.

A. Sullivan & Worchester, 1025 Connecticut Avenue NW., Washington, D.C. 20036.
B. Marion Laboratories, Inc., 10236 Bunker Ridge Road, Kansas City, Mo. 64137.
D. (6) $10,735. E. (9) $65.27.

A. Sutherland, Asbill & Brennan, 1666 K Street NW., Washington, D.C. 20006.
B. American Industrial Clay and Georgia Kaolin Division of Yara Engineering Corp., 511 Westminster Avenue, Elizabeth, N.J. 07207.
D. (6) $1,000. E. (9) $210.

A. Sutherland, Asbill & Brennan, 1666 K Street NW., Washington, D.C. 20006.
B. Anglo-American Clays Corp., P.O. Box 471, Sandersville, Ga. 31082.
D. (6) $1,000. E. (9) $210.

A. Sutherland, Asbill & Brennan, 1666 K Street NW., Washington, D.C. 20006 and 3100 First National Bank Tower, Atlanta, Ga. 30303.
B. The Coca-Cola Bottlers' Association, 166 16th Street NW., Atlanta, Ga.

A. Sutherland, Asbill & Brennan, 1666 K Street NW., Washington, D.C. 20006.
B. Engelhard Minerals & Chemicals Corp., 299 Park Avenue, New York, N.Y. 10017.
D. (6) $1,000. E. (9) $210.

A. Sutherland, Asbill & Brennan, 1666 K Street NW., Washington, D.C. 20006.
B. Equifax Inc., Post Office Box 4081, Atlanta, Ga. 30302.
D. (6) $5,000. E. (9) $250.

A. Sutherland, Asbill & Brennan, 1666 K Street NW., Washington, D.C. 20006.
B. Freeport Kaolin Division of Freeport Minerals Co., 161 East 42d Street, New York, N.Y. 10017.
D. (6) $1,000. E. (9) $210.

A. Sutherland, Asbill & Brennan, 1666 K Street NW., Washington, D.C. 20006.
B. J. M. Huber Corp, Thornall Street, Edison, N.J. 08817.
D. (6) $1,000. E. (9) $210.

A. Sutherland, Asbill & Brennan, 1666 K Street NW., Washington, D.C. 20006.
B. Mullite Company of America, Andersonville, Ga. 31711.
D. (6) $1,000. E. (9) $210.

A. Sutherland, Asbill & Brennan, 1666 K Street NW., Washington, D.C. 20006.
B. Mutual of Omaha Insurance Co., Dodge at 33d Street, Omaha, Nebr. 68131.
D. (6) $7,500. E. (9) $500.
A. Sutherland, Asbill & Brennan, 3100 First National Bank Tower, Atlanta, Ga. 30303; and 1666 K Street NW., Washington, D.C. 20006.
B. Oglethorpe Electric Membership Corp., 3951 Snapfinger Parkway, Decatur, Ga. 30035.
E. (9) $49.

A. Sutherland, Asbill & Brennan, 1666 K Street NW., Washington, D.C. 20006.
B. Thiele Kaolin Co., Kaolin Road, Sandersville, Ga. 31082.
D. (6) $1,000. E. (9) $210.

A. Frank S. Swain, National Federation of of Independent Business, 490 L'Enfant Plaza East SW., Suite 3206, Washington, D.C. 20024.
B. National Federation of Independent Business, 490 L'Enfant Plaza East SW., Suite 3206, Washington, D.C. 20024.
D. (6) $2,250. E. (9) $205.37.

A. Glenn A. Swanson, Independent Bankers Association of America, 1625 Massachusetts Avenue NW., Washington, D.C. 20036.
B. Independent Bankers Association of America, Sauk Centre, Minn. 56378.
D. (6) $67,227.14. E. (9) $19,824.80.

A. John R. Sweeney, 800 Solar Building, 1000 16th Street NW., Washington, D.C. 20036.
B. Bethlehem Steel Corp., Bethlehem, Pa. 18016.
D. (6) $200. E. (9) $96.25.

A. Swerdloff Associates, Inc., 18 West 10th Street, New York, N.Y. 10011.
B. Coalition for New York, Inc./Coalition to Save New York, Inc., 230 Park Avenue, New York, N.Y. 10017.

A. Robert D. Swezey, Jr., 1150 17th Street NW., Washington, D.C. 20036.
B. MCI Communications Corp., 1150 17th Street NW., Washington, D.C. 20036.
D. (6) $2,653.28. E. (9) $63.34.

A. Swift & Swift, 1100 17th Street NW., Washington, D.C. 20036.
B. IU International, 1500 Walnut Street, Philadelphia, Pa. 19102.
D. (6) $1,500.

A. Taxation with Representation, 2369 North Taylor Street, Arlington, Va. 22207.
D. (6) $29,979.48. E. (9) $55,624.47.

A. Clayton C. Taylor, 1 McDonald's Plaza, Oak Brook, Ill. 60521.
B. McDonald's Corp., 1 McDonald's Plaza, Oak Brook, Ill. 60521.
E. (9) $25.05.

A. Tennessee Gas Pipeline Co., P.O. Box 2511, Houston, Tex. 77001.
E. (9) $115.

A. 13th Congressional District Action Committee, 22273 Bahl Street, Cupertino, Calif. 95014.
D. (6) $314. E. (9) $281.40.

A. Melissa A. Thompson, Population Resource Center, 110 Maryland Avenue NE., Washington, D.C. 20002.
B. Population Resource Center, Inc., 622 Third Avenue, New York, N.Y., 10017.
D. (6) $2,215. E. (9) $1,257.

A. Drew V. Tidwell, Consumer Bankers Association, 1725 K Street NW., Suite 1410, Washington, D.C. 20006.
B. Consumer Bankers Association, 1725 K Street NW., Suite 1410, Washington, D.C. 20006.
D. (6) $2,000. E. (9) $3,454.28.

A. Patrick Tobin, International Longshoremen's & Warehousemen's Union, 417 Fourth Street SW., Washington, D.C. 20001.
B. International Longshoremen's & Warehousemen's Union, 1188 Franklin Street, San Francisco, Calif. 94109.
D. (6) $4,680.

A. William D. Toohey, 1100 Connecticut Avenue NW., Washington, D.C. 20036.
B. Discover America Travel Organizations, Inc., 1100 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $1,942.

A. Joseph P. Trainor, Brotherhood of Railway, Airline & Steamship Clerks, Freight Handlers, Express & Station Employees, 815 16th Street NW., Washington, D.C. 20006.
B. Brotherhood of Railway, Airline & Steamship Clerks, Freight Handlers, Express & Station Employees, 6300 River Road, Rosemont, Ill. 60018.
D. (6) $6,750. E. (9) $8,990.34.

A. Jerry R. Tucker, United Automobile, Aerospace & Agricultural Implement Workers of America (UAW), 1125 15th Street NW., Washington, D.C. 20005.
B. International Union, United Automobile, Aerospace & Agricultural Implement Workers of America (UAW), 8000 East Jefferson Avenue, Detroit, Mich. 48214.
D. (6) $7,531.87. E. (9) $1,210.72.

A. Jerry G. Udell, American Retail Federation, 1616 H Street NW., Washington, D.C. 20006.
B. American Retail Federation, 1616 H Street NW., Washington, D.C. 20006.
D. (6) $100. E. (9) $50.

A. Union Mutual Life Insurance Co., 2211 Congress Street, Portland, Maine 04112.
A. United Gas Pipe Line Co., P.O. Box 1478, Houston, Tex. 77001.

A. U.S. Merchant Marine Academy, Alumni Association, Inc. (Kings Point Fund, Inc.), Kings Point, N.Y. 11024.
E. (9) $1,250.

A. Vincent Usera, CUNA, Inc., 1730 Rhode Island Avenue NW., Washington, D.C. 20036.
B. Credit Union National Association, Inc., 1617 Sherman Avenue, Madison, Wis.
D. (6) $1,035. E. (9) $175.

A. R. Dick Vander Woude, National Education Association, 1718 Yahara Place, Madison, Wis. 53704.
B. National Education Association, 1201 16th Street NW., Washington, D.C. 20036.
D. (6) $3,282.42. E. (9) $75.

A. Vietnam Veteran Coalition, Inc., Suite 925, 1346 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $21,000. E. (9) $760.

A. David K. Voight, National Federation of Independent Business, 490 L'Enfant Plaza East SW., Suite 3206, Washington, D.C. 20024.
B. National Federation of Independent Business, 490 L'Enfant Plaza East SW., Suite 3206, Washington, D.C. 20024.
D. (6) $2,250. E. (9) $425.

A. Volkswagen Manufacturing Corp. of America, 7111 East 11 Mile Road, Warren, Mich. 48090.
E. (9) $300.

A. Volkswagen of America, Inc., 818 Sylvan Avenue, Englewood Cliffs, N.J. 07632.
E. (9) $325.

A. Vorys, Sater, Seymour & Pease, 1800 M Street NW., Suite 800 South, Washington, D.C. 20036.
B. International Agricultural Development Service, 1133 Avenue of the Americas, New York, N.Y. 10036.
E. (9) $97.32.

A. Jerome R. Waldie, 100 Indiana Avenue, Washington, D.C. 20001.
B. Alameda Naval Employees' Association, Alameda Naval Air Station, Alameda, Calif. 94501.
D. (6) $625. E. (9) $164.30.

A. Jerome R. Waldie, 100 Indiana Avenue, Washington, D.C. 20001.
B. American Association of Independent News Distributors, 25 Kearney Street, Suite 300, San Francisco, Calif.
D. (6) $665. E. (9) $125.

A. Jerome R. Waldie, 100 Indiana Avenue, Washington, D.C. 20001.
B. American League of Anglers, 75 Rockefeller Plaza, No. 1705, New York, N.Y. 10019.
D. (6) $1,000. E. (9) $257.82.

A. Jerome R. Waldie, 100 Indiana Avenue, Washington, D.C. 20001.
B. Contra Costa County Water Agency, Administration Building, Martinez, Calif. 94553.
D. (6) $2,000. E. (9) $171.28.

A. Jerome R. Waldie, 100 Indiana Avenue, Washington, D.C. 20001.
B. Friends of the Earth, 124 Spear Street, San Francisco, Calif. 94105.
D. (6) $150. E. (9) $115.

A. Jerome R. Waldie, 100 Indiana Avenue NW., Washington, D.C. 20001.
B. Mineral King District Association, P.O. Box 205, Three Rivers, Calif. 93271.
D. (6) $750. E. (9) $1,974.40.

A. Jerome R. Waldie, 100 Indiana Avenue NW., Washington, D.C. 20001.
B. National Association of Letter Carriers, 100 Indiana Avenue NW., Washington, D.C. 20001.
D. (6) $8,899.86 E. (9) $926.03

A. Jerome R. Waldie, 100 Indiana Avenue NW., Washington, D.C. 20001.
B. National Council of Bureau of Indian Affairs and Indian Health Service Locals, 540 N Street NW., Washington, D.C. 20024.
E. (9) $30.

A. Jerome R. Waldie, 100 Indiana Avenue NW., Washington, D.C. 20001.
B. National Franchise Association Coalition, P.O. Box 366, Fox Lake, Ill. 60020.
D. (6) $2,000. E. (9) $142.99.

A. Jerome R. Waldie, 100 Indiana Avenue NW., Washington, D.C. 20001.
B. Task Force One, Federal Employees' Organization, Point Mugu, Calif.
D. (6) $700. E. (9) $64.25.

A. Leonard F. Walentynowicz, 4970 Sentinel Drive, Apartment 301, Summer, Md. 20016.
B. Polish American Congress, 1200 North Ashland Avenue, Chicago, Ill. 60622.
D. (6) $3,750. E. (9) $418.80.

A. Demelt E. Walker, Credit Union National Association, Inc., 1730 Rhode Island Avenue NW., Washington, D.C. 20036.
B. Credit Union National Association, Inc., 1617 Sherman Avenue, Madison, Wis.
D. (6) $1,350. E. (9) $100.

A. Elaine Nogay Walker, 1625 Massachusetts Avenue NW., Washington, D.C. 20036.
B. Can Manufacturers Institute, 1625 Massachusetts Avenue NW., Washington, D.C. 20036.
D. (6) $200. E. (9) $24.

A. Alan S. Ward, 818 Connecticut Avenue NW., Washington, D.C. 20006.
B. Baker, Hostetler, Frost & Towers, 818 Connecticut Avenue NW., Washington, D.C. 20006 for the Soap & Detergent Association 475 Park Avenue South at 32d Street, New York, N.Y. 10016.

A. Carol Ann Ward, National Federation of Independent Business, 490 L'Enfant Plaza East SW., Suite 3206, Washington, D.C. 20024.
B. National Federation of Independent Business, 490 L'Enfant Plaza East SW., Suite 3206, Washington, D.C. 20024.
D. (6) $400.

A. Gregg Ward, SMACNA, 8224 Old Courthouse Road, Vienna, Va. 22180.
B. Sheet Metal & Air Conditioning Contractors' National Association, Inc., 8224 Old Courthouse Road, Vienna, Va. 22180.
D. (6) $800.

A. Warner Communications, Inc., 75 Rockefeller Plaza, New York, N.Y. 10019.
E. (9) $12,000.

A. Washington Gas Light Co., 1100 H Street NW., Washington, D.C. 20080.
E. (9) $1,193.89.

A. Washington State NARAL, P.O. Box 15549, Seattle, Wash. 98115.
D. (6) $2,665.08. E. (9) $3,670.97.

A. Raymond J. Weatherly, 1745 Jefferson Davis Highway, Arlington, VA. 22202.
B. Manufactured Housing Institute, 1745 Jefferson Davis Highway, Arlington, Va. 22202.
D. (6) $1,500. E. (9) $750.

A. Webster & Sheffield, One Rockefeller Plaza, New York, N.Y. 10020.
B. Smith, Barney Real Estate Corp. (a wholly owned subsidiary of Smith Barney, Harris Upham & Co., Inc.), 1345 Avenue of the Americas, New York, N.Y. 10019.
D. (6) $1,624. E. (9) $603.

A. Paul S. Weiler, Jr., National Council of Farmer Cooperatives, 1129 20th Street NW., Washington, D.C. 20036.
B. National Council of Farmer Cooperatives, 1129 20th Street NW., Washington, D.C. 20036.
D. (6) $4,397. E. (9) $201.

A. William B. Welsh, 1625 L Street NW., Washington, D.C. 20036.
B. American Federation of State, County & Municipal Employees, AFL-CIO, 1625 L Street NW., Washington, D.C. 20036.
D. (6) $12,716. E. (9) $100.

A. Carol Werner, 825 15th Street NW., Washington, D.C. 20005.
B. National Abortion Rights Action League, 825 15th Street NW., Washington, D.C. 20005.
D. (6) $3,508.34.

A. Western Railroad Association, 222 South Riverside Plaza, Room 1200, Chicago, Ill. 60606.
D. (6) $8,942.75. E. (9) $8,942.75.

A. Evelyn J. White, 2301 Market Street, Philadelphia, Pa. 19101.
B. Philadelphia Electric Co., 2301 Market Street, Philadelphia, Pa. 19101.
E. (9) $28.35.

A. Rebecca Wilcox, 900 17th Street NW., Washington, D.C. 20006.
B. Kaiser Foundation Health Plan, Inc.
D. (6) $8,000.

A. Thomas D. Wilcox, 919 18th Street NW., Washington, D.C. 20006.
B. National Association of Stevedores, 919 18th Street NW., Washington, D.C. 20006.

A. Sandra L. Willett, 3023 Dumbarton Avenue NW., Washington, D.C. 20007.
B. National Consumers League, 1028 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $2,000.

A. Williams & Connolly, 1000 Hill Building, Washington, D.C. 20006.
B. Federal National Mortgage Association, 1133 15th Street NW., Washington, D.C. 20006.

A. Williams & Connolly, 1000 Hill Building, Washington, D.C. 20006.
B. State of Maine, Office of the Governor, Augusta, Maine 04333.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. American Medicorp, Inc., 111 Presidential Boulevard, Bala Cynwyd, Pa.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. American Physical Therapy Association, 1156 15th Street NW., Washington, D.C. 20005.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. The Association of Family Farmers, 1130 17th Street NW., Washington, D.C. 20036.
D. (6) $600. E. (9) $60.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. Bangor Punta Operations, Inc., One Greenwich Plaza, Greenwich, Conn. 06830.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. Blyth, Eastman, Dillon & Co., Inc., McGraw-Hill Building, 1221 Avenue of the Americas, New York, N.Y. 10020.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. C. Brewer & Co., Ltd., P.O. Box 1826, Honolulu, Hawaii 96801.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. Brown & Root, Inc., Box 3, Houston, Tex. 77001.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. Domestic Petroleum Council, 1130 17th Street NW., Washington, D.C. 20036.
D. (6) $500. E. (9) $50.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. Estee Lauder, Inc., 767 Fifth Avenue, New York, N.Y. 10022.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. Federal Express Corp., AMF Box 30167, Memphis, Tenn. 38180.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. Institute for Due Process for Financial Institutions, 1130 17th Street NW., Washington, D.C. 20036.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. IU International Management Corp., 1500 Walnut Street, Philadelphia, Pa. 19102.
D. (6) $200. E. (9) $20.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. Krause Milling Co., P.O. Box 1156, Milwaukee, Wis. 53201.
D. (6) $30.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. The Louisiana Land & Exploration Co., P.O. Box 60350, New Orleans, La. 70160.
D. (6) $500. E. (9) $50.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. Martin Ryan Haley & Associates, Inc., 40 Central Park South, New York, N.Y. 10019.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. National Association of Water Cos., Box 387, Washington, D.C. 20044.
D. (6) $100. E. (9) $10.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. Nationwide Insurance Co., 1 Nationwide Plaza, Columbus, Ohio 43216.
D. (6) $600. E. (9) $60.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. Northrop Corp., 1800 Century Park East, Los Angeles, Calif. 90067.
D. (6) $200. E. (9) $20.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. The Superior Oil Co., First City National Bank Building, Houston, Tex. 77002.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. Texas County Irrigation & Water Resources Association, 118 West Sixth Street, Guymon, Oklahoma. 73942.
E. (9) $15.

A. Wade S. Williams, 1620 I Street NW., Washington, D.C. 20006.
B. American Institute of Certified Public Accountants, 1211 Avenue of the Americas, New York, N.Y. 10036.

A. Peters Willson, Zero Population Growth, Inc., 1346 Connecticut Avenue, NW., Washington, D.C. 20036.
B. Zero Population Growth, Inc., 1346 Connecticut Avenue, NW., Washington, D.C. 20036.
D. (6) $851. E. (9) $45.

A. Henry T. Wilson, 1750 New York Avenue NW., Washington, D.C. 20006.
B. International Brotherhood of Painters and Allied Trades, 1750 New York Avenue NW., Washington, D.C. 20006.
D. (6) $913.50.

A. Winston P. Wilson, 523 North Forrest Street, Forrest City, Ark. 72335.
B. Northrop Corp., 1701 North Fort Myer Drive, Suite 1208, Arlington, Va. 22209.
D. (6) $5,800. E. (9) $2,350.

A. James R. Winnie, Cities Service Gas Co., P.O. Box 25128, Oklahoma City, Okla. 73125.
B. Cities Service Gas Co., P.O. Box 25128, Oklahoma City, Okla. 73125.

A. Richard F. Witherall, Colorado Railroad Association, 420 Denver Club Building, Denver, Colo. 80202.
B. Colorado Railroad Association, 420 Denver Club Building, Denver, Colo. 80202.
E. (9) $2,886.

A. Frank R. Wolf, 1901 North Moore Street, Suite 804, Arlington, Va. 22209.
B. Gerber Products Co., 445 State Street, Fremont, Mich. 49412.
D. (6) $600.

A. Frank R. Wolf, 1901 North Moore Street, Suite 804, Arlington, Va. 22209.
B. National Farm & Power Equipment Dealers Association, 10877 Watson Road, St. Louis, Mo. 63127.
10877 Watson Road, St. Louis, Mo. 63127.
D. (6) $600.

A. Sidney M. Wolfe, 2000 P Street NW., Suite 708, Washington, D.C. 20036.
B. Health Research Group, 2000 P Street NW., Suite 708, Washington, D.C. 20036.

A. Irwin Wolkstein, American Hospital Association, 444 North Capitol Street NW., No. 500, Washington, D.C. 20001.
B. American Hospital Association, 840 North Lake Shore Drive, Chicago, Ill. 60611.
D. (6) $490.88. E. (9) $97.10.

A. Kenneth Wollack, 444 North Capitol Street NW., No. 412, Washington, D.C. 20001.
B. American Israel Public Affairs Committee, 444 North Capitol Street NW., No. 412, Washington, D.C. 20001.
D. (6) $8,250.

A. Burton C. Wood, Mortgage Bankers Association of America, 1125 15th Street NW., Washington, D.C. 20005.
B. Mortage Bankers Association of America, 1125 15th Street NW., Washington, D.C. 20005.
D. (6) $5,938. E. (9) $24,002.

A. Merle E. Wood, Marion Laboratories, Inc., 10236 Bunker Ridge Road, Kansas City, Mo. 64137.
B. Ewing M. Kauffman, Marion Laboratories, Inc., 10236 Bunker Ridge Road, Kansas City, Mo. 64137.
D. (6) $375. E. (9) $593.

A. Merle E. Wood, Marion Laboratories, Inc., 10236 Bunker Ridge Road, Kansas City, Mo. 64137.
B. Marion Laboratories, Inc., 10236 Bunker Ridge Road, Kansas City, Mo. 64137.
D. (6) $500. E. (9) $1,107.10.

A. William E. Woods, National Association of Retail Druggists, 1750 K Street NW., Washington, D.C. 20006.
B. National Association of Retail Druggists, 1750 K Street NW., Washington, D.C. 20006.
D. (6) $750. E. (9) $150.

A. Paige Wooldridge, Box 1006, Bluefield, W. Va. 24701.
B. National Council of Coal Lessors, Inc., 1130 17th Street NW., Suite 230, Washington, D.C. 20036.
D. (6) $7,500. E. (9) $426.66.

A. World Federalist Political Education Committee, 600 Valley Road, Wayne, N.J. 07470.
D. (6) $14,005.79. E. (9) $9,531.57.

A. Donald Yarborough, Paraplegia Cure Research, 100 Maryland Avenue NE., Washington, D.C. 20002.
B. Paraplegia Cure Research, 100 Maryland Avenue NE., Washington, D.C. 20002.
D. (6) $240.

A. Jack Yelverton, 1303 New Hampshire Avenue NW., Washington, D.C. 20036.
B. Fleet Reserve Association, 1303 New Hampshire Avenue NW., Washington, D.C. 20036.

A. Kenneth Young, AFL–CIO, 815 16th Street NW., Washington, D.C.
B. American Federation of Labor and Congress of Industrial Organizations, 815 16th Street NW., Washington, D.C.
D. (6) $10,998. E. (9) $278.86.

A. Donald Zahn, 8316 Arlington Boulevard, Suite 600, Fairfax, Va. 22038.
B. National Right to Work Committee, 8316 Arlington Boulevard, Suite 600, Fairfax, Va. 22038.
D. (6) $445. E. (9) $130.

A. Edison R. Zayas, National Federation of Independent Business, 490 L'Enfant Plaza East SW., Suite 3206, Washington, D.C. 20024.
B. National Federation of Independent Business, 490 L'Enfant Plaza East SW., Suite 3206, Washington, D.C. 20024.
D. (6) $2,250. E. (9) $75.

A. Donald P. Zeifang, 1771 N Street NW., Washington, D.C. 20036.
B. National Association of Broadcasters, 1771 N Street NW., Washington, D.C. 20036.
D. (6) $3,000. E. (9) $268.

A. Zero Population Growth, Inc., 1346 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $1,111. E. (9) $3,081.

A. Ziontz, Pirtle, Morisset, Ernstoff & Chestnut, 208 Pioneer Building, 600 First Avenue, Seattle, Wash. 98104.
B. Confederated Tribes of the Colville Indian Reservation, P.O. Box 150, Nespelem, Wash. 99155.
E. (9) $1,538.91.

A. Ziontz, Pirtle, Morisset, Ernstoff & Chestnut, 208 Pioneer Building, 600 First Avenue, Seattle, Wash. 98104.
B. Lummi Tribe of Indians, 2616 Kwina Road, Bellingham, Wash. 98225.
E. (9) $1,411.31.

A. Ziontz, Pirtle, Morisset, Ernstoff & Chestnut, 208 Pioneer Building, 600 First Avenue, Seattle, Wash. 98104.
B. Makah Indian Tribe, P.O. Box 115, Neah Bay, Wash. 98357.
E. (9) $1,498.30.

A. Ziontz, Pirtle, Morisset, Ernstoff & Chestnut, 208 Pioneer Building, 600 First Avenue, Seattle, Wash. 98104.
B. Metlakatla Indian Community, P.O. Box 8, Metlakatla, Alaska 99926.

A. Ziontz, Pirtle, Morisset, Ernstoff & Chestnut, 208 Pioneer Building, 600 First Avenue, Seattle, Washington 98104.
B. Northern Cheyenne Indian Tribe, P.O. Box 128, Lame Deer, Mont. 59043.
E. (9) $2.05.

A. Ziontz, Pirtle, Morisset, Ernstoff & Chestnut, 208 Pioneer Building, 600 First Avenue, Seattle, Wash. 98104.
B. Quileute Indian Tribe, P.O. Box 279, LaPush, Wash. 98350.

A. Ziontz, Pirtle, Morisset, Ernstoff & Chestnut, 208 Pioneer Building, 600 First Avenue, Seattle, Wash. 98104.
B. Suquamish Indian Tribe, P.O. Box 556, Suquamish, Wash. 98392.

A. John L. Zorack, Cook & Henderson, 1735 K Street NW., Washington, D.C. 20006.
B. Federal Express Corp., AMF Box 30167, Memphis, Tenn. 38130.
D. (6) $1,500. E. (9) $220.

A. John L. Zorack, Cook & Henderson, 1735 K Street NW., Washington, D.C. 20006.
B. Pan American World Airways, 1800 K Street NW., Suite 900, Washington, D.C. 20006.
D. (6) $3,000. E. (9) $180.

A. Barry Zorthian, Time Inc., 888 16th Street NW., Washington, D.C.
B. Time Inc., Time & Life Building, Rockefeller Center, New York, N.Y. 10020.
D. (6) $2,950. E. (9) $900.

UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 95th CONGRESS
SECOND SESSION

VOLUME 124—PART 21

AUGUST 25, 1978 TO SEPTEMBER 12, 1978

(PAGES 27753 TO 29090)

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1978

J
11
.R
v.124
pt. 21

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 95th CONGRESS, SECOND SESSION

SENATE—*Friday, August 25, 1978*

(Legislative day of Wednesday, August 16, 1978)

The Senate met at 8:15 a.m., on the expiration of the recess, and was called to order by Hon. QUENTIN N. BURDICK, a Senator from the State of North Dakota.

PRAYER

The Honorable CARL T. CURTIS, a Senator from the State of Nebraska, offered the following prayer:

Our Father, who art in heaven, in whom we live and move and have our being, we thank Thee for Thy guiding hand in the founding of our country, and we humbly pray that Thou will bless and preserve the United States of America. Imbue the citizens of our Republic with patriotism, honesty, and self-reliance. Open our minds to the truth that blessed is the nation whose God is the Lord. Give us vision that we perish not. Make us a nation of uncommon men and women. Forgive our national and personal sins and make us worthy of the liberty and freedom that is ours. Renew in us the faith of our fathers and accept our thanks for our many blessings.

We pray Thy blessing upon the Senate of the United States, the Members, their staffs, and all who labor in this place. May every action taken this day and always, be in accord with Thy holy will. We ask in the name of Thy Son, our Saviour, Jesus Christ. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., August 25, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable QUENTIN N. BURDICK, a Senator from the State of North Dakota, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. BURDICK thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SENATOR CURTIS CONGRATULATED

Mr. ROBERT C. BYRD. Mr. President, it always gives me great pride when a Member of our own delivers the prayer before the session begins. CARL CURTIS this morning has performed that high calling. It reminds me of that passage in the Scripture, I think it was Isaiah, who said, "Here am I; send me."

I congratulate the Senator from Nebraska. I congratulate him on his patriotism, his steadfast integrity, and on his unshakable belief in the Creator who rules over the destinies of men and nations. He is a fine Senator.

Mr. CURTIS. Mr. President, I thank the distinguished leader very much.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, there are a few nominations that are ready for confirmation. I ask unanimous consent, if it meets with the approval of the distinguished acting Republican leader, that the Senate go into executive session to consider the nominations on the calendar, all of which have been cleared, I believe.

Mr. STEVENS. That is correct, Mr. President.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will read the first nomination.

DEPARTMENT OF STATE

The second assistant legislative clerk read the nomination of Mary S. Olmsted, of Tennessee, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Solomon Islands.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

INTERNATIONAL ATOMIC ENERGY AGENCY CONFERENCE REPRESENTATIVES

The second assistant legislative clerk read the nomination of Dale D. Myers, of Virginia, to be the representative of the United States of America to the 22d session of the General Conference of the International Atomic Energy Agency.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The second assistant legislative clerk read the nomination of Gerald C. Smith, of the District of Columbia, and Roger Kirk, of the District of Columbia, to be alternate representatives of the United States of America to the 22d session of the General Conference of the International Atomic Energy Agency.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed.

U.S. AIR FORCE

The second assistant legislative clerk read the nomination of Maj. Gen. Howard MacLane to be lieutenant general.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

U.S. NAVY

The second assistant legislative clerk read the nomination of Vice Adm. Harry D. Train II to be admiral.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The second assistant legislative clerk read the nomination of Adm. Isaac C. Kidd, Jr., to be placed on the retired list in the grade of admiral.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF JUSTICE

The second assistant legislative clerk read the nomination of Tyree A. Richburg, of Alabama, to be U.S. marshal for the southern district of Alabama.

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF THE INTERIOR

The second assistant legislative clerk read the nomination of Roger A. Markle, of Utah, to be Director of the Bureau of Mines.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF ENERGY

The second assistant legislative clerk read the nomination of Ruth C. Clusen, of Wisconsin, to be an Assistant Secretary of Energy (Environment).

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

NEW REPORTS

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

The second assistant legislative clerk read the nominations of Marian Pearlman Nease, of Maryland; Frank F. Jestrab, of North Dakota; A. E. Lawson, of Pennsylvania; Richard V. Backley, of Virginia, and Jerome R. Waldie, of Maryland, to be members of the Federal Mine Safety and Health Review Commission.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE ARMY AND NAVY

The second assistant legislative clerk proceeded to read sundry nominations in the Army and in the Navy placed on the Secretary's desk.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

(All nominations confirmed today are printed at the end of the Senate proceedings.)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move en bloc to reconsider the vote by which the various nominees were confirmed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I make that motion.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominees.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TAX CONVENTION WITH THE REPUBLIC OF KOREA

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that it be in order at any time to order the yeas and nays on the tax convention with the Republic of Korea.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that when the legislative business is completed today, the Senate proceed with a vote on the tax convention with the Republic of Korea.

Mr. STEVENS. Reserving the right to object, Mr. President, I had been of the understanding that last evening, the Senator from West Virginia, the distinguished majority leader, indicated that would be called up the week of the 11th. Was I mistaken?

Mr. ROBERT C. BYRD. I did not understand it was to be the week of the 11th. I understood it was to be at a time when the Senator from Alaska is here. If he prefers that it be the week of the 11th, that will be agreeable to me.

Mr. STEVENS. I make that request. I shall not be able to return until the 11th.

Mr. ROBERT C. BYRD. All right. The Senator will not be able to do it today?

Mr. STEVENS. It may be possible to do it later today.

Mr. ROBERT C. BYRD. All right, then, we will leave that in abeyance.

Does the Senator from South Dakota need any additional time over and above his 15 minutes?

Mr. McGOVERN. I think not.

Mr. ROBERT C. BYRD. If he does, Mr. President, I ask unanimous consent that my remaining time may be allotted to him.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McGOVERN. I thank the distinguished majority leader.

Mr. STEVENS. Mr. President, I yield to the majority leader part of the minority leader's time.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders numbered 1054 and 1055.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

BROADER ELIGIBILITY FOR THE JUNIOR RESERVE OFFICERS' TRAINING CORPS PROGRAM

The bill (H.R. 7161) to amend title 10, United States Code, to allow nationals, as well as citizens, of the United States to participate in the Junior Reserve Officers' Training Corps program, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1135), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

H.R. 7161 is designed to permit nationals of the United States, as well as citizens, to participate in the Junior Reserve Officers' Training Corps program.

The bill will have the effect of permitting a Junior Reserve Officers' Training Corps program to be established in American Samoa.

BACKGROUND

The Junior Reserve Officers Training Corps was established to provide a vehicle for developing informed and responsible citizens, to help form habits of self-discipline in the student participants, and to provide information on the basic elements and requirements of national security. One of the requirements established for Junior ROTC at the time of its enactment (Public Law 88–647, October 13, 1964) was that student participants must be citizens of the United States. That provision, found in section 2031 (b)(1) of title 10, United States Code, has effectively prevented the establishment of a Junior ROTC program in American Samoa, since its residents are not U.S. citizens but U.S. nationals under relevant immigration and nationality statutes.

The House-passed bill, H.R. 7161, would simply broaden the coverage of the Junior ROTC program to both nationals and citizens, making it possible for a unit to be established in American Samoa. The report of the House Committee on Armed Services noted the desire of American Samoans to establish such a program, and the inequity in the present statutory language. The House report also cited the consistent and significant contributions made by residents of American Samoa to the defense of the United States since it became a U.S. territory in 1900.

The committee fully endorses the change proposed in H.R. 7161 A similar Senate bill, S. 1607, would accomplish the same statutory change.

U.S.S. "WYOMING"

The bill (H.R. 8471) to authorize the Governor of the State of Wyoming to exhibit the nameplate, ship's bell, and silver service of the U.S.S. *Wyoming* without restriction as to the place of such exhibition, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. I move to reconsider the vote and lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1136) explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The legislation authorizes the Governor of the State of Wyoming to exhibit the nameplate, ship's bell, and silver service of the U.S.S. *Wyoming* without restriction as to the place of such exhibition.

BACKGROUND

Existing law, Public Law 397, 79th Congress, 60 Stat. 234, provides for exhibition of the nameplate, the ship's bell, and the silver service of the U.S.S. *Wyoming* at the University of Wyoming. The State government now desires to display the silver service at the Wyoming State Museum.

Senators Wallop and Hansen had introduced S. 1908 to convey title of these items to the Governor of Wyoming and to provide for display of the silver service at the Wyoming State Museum. H.R. 8471 provides the State of Wyoming with some flexibility for display of these items with title remaining with the Department of the Navy. Senators Wallop and Hansen wrote the committee requesting that H.R. 8471, as passed by the House, be favorably reported.

ORDER OF BUSINESS

Mr. STEVENS. Mr. President, there is no request for time on our side. If the Senator from South Dakota needs extra time, we will be happy to yield him our time.

Mr. McGOVERN. I appreciate that.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from South Dakota (Mr. McGOVERN) is recognized for not to exceed 15 minutes.

A QUESTION OF CONSCIENCE AND CIVILIZATION

Mr. McGOVERN. Mr. President, a generation ago the world stood silently on the sidelines while Hitler systematically exterminated 6 million of our fellow humans. When the full horror of this genocide finally struck the conscience of humanity, we vowed "Never again." Never again would we remain silent in the face of such barbarism. There was, of course, a special horror about Hitler's diabolical plot to exterminate an entire people identified by a common religious heritage. The crime of Hitler stands alone in its terrifying dimensions.

But, however different in concept and execution, a massive slaughter is once again taking place in our time. For the past 3 years in beautiful, ancient Cambodia, a band of murderous thugs has been systematically killing their fellow citizens. Two million Cambodians are said to have been destroyed. But the world turns its face and stills its voice and dulls its conscience. Nothing is done.

The United Nations, charged with the maintenance or restoration of international peace and security, does nothing. Our own Government, while proclaiming its concern for human rights, is seemingly ineffective in confronting the issues of life and death in Cambodia. Cambodia's chief ally, China, seems to be doing nothing to contain the slaughter; indeed, it provides arms and support to the Cambodian regime.

We have rightfully deplored the mistrial of two dissident citizens of the Soviet Union, but where is our voice in international councils about the 2 million people who may have died in Cambodia? Do we turn away because of the bitter mistakes we made for so long in Vietnam, which helped to unleash the savagery of Cambodia? Do we turn away, because Cambodia is small and weak? Do we turn away, because Cambodians are orientals far from our shores?

Mr. President, it is well known that I hate needless and ill-conceived military ventures. That is why I opposed our military intervention against Ho Chi Minh's popularly based revolution for independence in Vietnam.

But to hate a needless and foolish intervention that served no good purpose does not give us the excuse to do nothing in the face of mass murder in another time and place and under vastly differing circumstances. Cambodia challenges the conscience and decency of the world. It cries out for a carefully conceived response from the international community to end the slaughter.

I call upon our Government to pursue this matter at the Security Council of the United Nations. Will we wait until 6 million Cambodians have died before we recognize that another holocaust is unfolding in our time? Or will we proceed under chapter VII of the U.N. Charter to challenge the conscience and civil instincts of the world community in taking collective action to halt the slaughter of the innocents?

Cambodia puts the question of human rights before humanity in its starkest form. If we fail at least to ask the questions, and to seek the answers, and to consider what action is appropriate for the United Nations, then let us dip the standard of human rights and confess the impotence of the world community to respond to the world's most flagrant evil.

Frequently, during my long years of opposition to our interference in the Vietnamese struggle for independence, I quoted Edmund Burke's words:

> A conscienctious man would be cautious how he dealt in blood.

But I have never forgotten that there are times when interference is necessary to stop needless bloodletting. That is why as a young man I volunteered with millions of others to halt the blood purge of Adolf Hitler. That is why I believe the nations of the world must counsel together on what steps are most appropriate to end the blood purge in Cambodia. That is why I authored legislation that was approved by the Senate and House conferees on this year's State Department authorization bill in which "Congress urges the President to move aggressively to support multilateral action by the United Nations and other international organizations, and to encourage bilateral action by countries having more extensive relations with Cambodia and Uganda, to bring about a lessening of such brutal and inhumane practices."

At the very least, let us put Cambodia on the agenda for debate at the next meeting of the United Nations Security Council.

Mr. President, since I made reference to the tragedy in Cambodia several days ago, in a hearing before a subcommittee of the Committee on Foreign Relations, there have been considerable comments about the queries that I have raised. The Department of State briefing officer, on August 22 of this week, was queried at some length about the issues which I had raised. I ask unanimous consent that appropriate excerpts from the news briefing of the Department of State of August 22 be printed at this point in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

EXCERPT, NEWS BRIEFING, DEPARTMENT OF STATE

Q. Tom, would you like to comment on Senator McGovern's proposal for a multinational peacekeeping force in Cambodia?

A. Yes. The United States does not intend to initiate an effort to resolve the terrible human rights situation in Kampuchea by military force, nor are we aware of any international support for a plan to affect the situation in Kampuchea through the use of military force.

The United States' position on Cambodia is clear. The President has described the Kampuchean Government as the worst violator of human rights in the world, and the United States Government recognizes that the extent of human rights abuses in Kampuchea makes the situation there a special case. Although the United States has no means of direct influence in Phnom Penh, we will continue to do everything in our power through consultations with other governments, through efforts at the United Nations, and in other international fora, to focus international attention on the inhuman situation in Kampuchea—this in order to seek an end to the monstrous human rights violations there.

Q. Tom, you said the United States does not intend to initiate an effort. Would you join one?

A. That's a hypothetical situation. As I say, we know of no support in the international community for resolving that situation by military force. It's an entirely hypothetical question.

Q. Tom, when you say, "this in order to seek an end to the monstrous human rights violations there," how do you propose to seek an end?

A. I think as I noted, we don't have relations with Kampuchea; therefore, we don't have a way of talking directly through normal diplomatic channels. But we are in consultation with other governments about this situation. We are active in the United Nations. I might add that the Subcommittee on Minorities, the United Nations Human Rights Commission will begin a scheduled meeting this coming Monday on this situation in Kamouchea.

Q. Which subcommittee is that, Tom?

A. It is the Subcommittee on Minorities of the U.N. Human Rights Commission.

Q. Well, my question goes to—so you're consulting with other governments about what?

A. About the human rights situation in Cambodia. We're trying to focus international attention on the situation there, and I think there have been a variety of govern-

ments which have talked with the Cambodians about what has been occurring inside Kampuchea.

Q. I think there's considerable international attention focused on it. What are you going to do once you have the international attention focussed on it?

A. We are hopeful that this will help to bring about an end to the human rights abuses which have been occurring inside Cambodia. But what we are not considering is a unilateral military action by the United States to resolve the situation.

Q. No one suggested unilateral military action. Senator McGovern's proposal, as I recall it, was that through the Security Council at the U.N. some kind of international military action be taken. Why does the United States oppose that?

A. Let me reiterate what I said before, which was, that we are not aware of any support in the international community for resolving this terrible situation by the use of military force.

Now as to what we would do if there was such support, that is a hypothetical situation, which simply does not exist now.

Q. What about economic sanctions, Tom? Would the United States favor the imposition of global economic sanctions against the regime in Kampuchea?

A. I don't have anything to offer you on that question at the moment.

Q. On the question of not being aware of any international efforts to resolve this by force, it is a fact that Vietnam is engaged in combat with Kampuchea and is supported by the Soviet Union; and indeed the President's National Security Advisor remarked a few months ago that he regarded this as a proxy war. Would you care to enter that mine field and tell us whether you feel that is not or is an international effort?

A. I'm not sure I would care to enter that mine field. When I said we are not aware of any international support, I think I was talking about a very broad-based collection of many, many nations around the world. Obviously, I have seen reports of the fighting in Cambodia, and along that border. I have nothing to say about that.

Q. Have we talked to the Chinese about this, and maybe they could use whatever influence they have with Phnom Penh on that?

A. I'm not in a position to answer that question.

Q. If I may follow that, when you say you know of no international support for military efforts, do you know this because you have discussed such an idea with various governments?

A. I am not aware of how we came to the knowledge which would allow us to make this statement.

Q. When you say that you can't answer that question on China, does that come under the heading of private diplomatic conversations?

A. Yes, but I am not necessarily meaning to confirm that that subject matter has arisen.

Q. When you talk about discussing it with nations that have contacts with the government in Phnom Penh, you're only talking about two or three to begin with, and only one that has any real influence, and that's China.

A. I'm sorry, I'm not going to be in a position to go into our diplomatic conversations.

Q. It's on the record already, Tom.

A. Well, I'll have to dig it out then.

Q. When you say the U.S. does not intend to initiate efforts to resolve this terrible human rights situation by military force, do you intend or would you be willing to initiate efforts to resolve it using some other kind of pressure, such as economic, or trying to isolate Cambodia?

A. Let me take the question as to whether consideration is being given to economic means.

Q. Also, arms embargo against Cambodia.

A. I'm not aware that we're shipping any arms to Cambodia.

Q. No, no. I'm talking about initiating a global arms embargo against Cambodia.

Q. Sure. What we're trying to find out is, are you going to do anything beyond saying that they're naughty for what they're doing?

A. Well, I'm simply not going to accept that kind of characterization of policy. We do not have diplomatic relations with Cambodia. We have, in a whole variety of ways, through the U.N. and other international fora, tried to focus international attention on this problem, what we regard as a problem, and what many people around the world regard as a problem. But, I will be glad to take those two specific questions.

Q. The point, I think, is that although Dick phrased it in a humorous fashion, U.S. policy does appear to be somewhat empty, rhetorical and nothing else. What, if anything, has the United States done beyond rhetorical flourishes, beyond encouraging others to make rhetorical flourishes, to do anything about what is going on inside Cambodia?

A. Look, I think Hodding has said up here on many occasions, it just doesn't work that way any more that every time we say something, everybody falls in line. We have limited means of talking directly with the Cambodians. We have limited, if not so, economic relations with Cambodia.

Q. The thrust of my question is what, if anything—you have all kinds of means to marshal international support for non-military programs; and the impression that I get, or the inference that I draw, is that the United States has done absolutely nothing beyond the rhetorical.

Now, if I'm incorrect in that assumption, I wish you would set the record straight.

A. I have promised to take the question on the question of economic sanctions and on the question of an internationally agreed to arms embargo.

Q. Or anything else. If you would just broaden the question to that. Anything beyond words?

A. I will try to get a more complete answer as to what we are presently doing with regard to the situation in Cambodia. I have taken the question as to what future options may be under consideration. Now, Ted, as usual I want to warn you away from any certainty of getting an answer to what we might be considering doing in the future. But I will try.

Q. I've been here long enough not to have any great expectations.

A. Well, I haven't been here very long, but that's one expectation I'm—

Q. Is any effort being made to establish relations with Cambodia since they've made some overtures in the last few weeks?

A. I have nothing to offer on that question.

Q. Does the United States want diplomatic relations with Cambodia?

A. I don't think I have anything to say about that matter.

Q. I'm just curious, you know. There are a number of countries which have been making diplomatic overtures, and it's becoming increasingly unclear whether the President is adhering to his policy of wanting relations with all countries.

A. There may have been some guidance about that recently. Let me try to dig it out and see what it says.

Q. On a somewhat related matter, the Congressmen who were visiting Hanoi apparently have received a very cordial reception which indicates from the stories the Vietnamese are quite eager to have some greater development of relations with the United States. Does the U.S. have any date now to meet with the Vietnamese, or any plan to respond to the various private and public overtures which they have made to the United States?

A. To answer your specific question, there has been no date set for a meeting with the Vietnamese. We agreed at the last time that we met with them, that we would meet with them at some future time; and that is still our intention, but no date has been set. I have nothing new to offer you on the state of U.S.-Vietnamese relations.

Mr. McGOVERN. Mr. President, there have also been numerous editorials written, commenting, in the last few days, on questions I have raised relative to the possibility of some international response to the situation in Cambodia. Some of those editorials have been critical, some have been generally supportive of the concerns that I expressed.

Two of the critical editorials would include an editorial in the August 23 issue of the Washington Star entitled "Senator McGovern On Cambodia," and an editorial in the Wall Street Journal of the same day entitled "McGovern The Hawk." Then there was a generally supportive editorial in the Boston Globe of August 23 entitled "McGovern and Indochina—Again."

I ask unanimous consent that these representative editorials of the pro and con response to the concerns I have raised also be printed in the RECORD at this point.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows.

[From the Washington Star, Aug. 23, 1978]

SENATOR MCGOVERN ON CAMBODIA

Senator McGovern is undoubtedly right when he says people are likely to misunderstand his latest remarks on Cambodia. To some it will indeed seem that the Democratic leader who was so strong against U.S. military intervention designed to forestall a communist tyranny in Vietnam now looks with enthusiasm at the idea of military intervention to overthrow communist tyranny in Vietnam's next-door neighbor.

However, Senator McGovern has made it clear that he doesn't mean American troops when he suggests that somebody ought to do something about the Cambodian government killing more than a third of the country's population. What the senator was actually suggesting was that the U.N. consider on a philosophic level where international responsibility begins and ends in cases of genocide. After the Holocaust in which Hitler killed six million Jews, we did say it shouldn't happen again, didn't we? But the most Senator McGovern was urging was the appropriateness of multilateral action, perhaps by some of the smaller countries near Cambodia, to soften the inhumane policies of Cambodia's rulers if not to replace them.

Lest any eyebrows should still be up, it is possible to clarify the clarifications and see an internal consistency in the senator's reasoning. The first thing to remember is his belief that the state of, shall we say, civil liberties in Cambodia is our fault. It's part of "the legacy of Vietnam." Had American bombing not torn the country apart, it would never have fallen into the hands of murderous fanatics.

Presumably the senator's theory is that except for American influence, Cambodia might have been controlled by the kind of "popularly supported revolution" that is now rearranging things in Vietnam. If boatloads of refugees fleeing Cambodia can be found floating side by side with boatloads of refugees fleeing Vietnam, that's a coincidence. Naturally there would be former lackeys of the Americans who would try to get out of doing their share in building the new Vietnam.

The senator's faith in the Hanoi regime is central to his thinking about the rest of Southeast Asia. Since Hanoi has been engaged in a bitter border war with the Cambodians, it is easier for Senator McGovern to notice Cambodian imperfections. The senator has said nothing about a liberation aspect to the fighting, and neither have the Vietnamese; to most outsiders, the war appears to be a matter of simple power rivalries, sharpened by historic tribal hatreds of the sort that cause wars among capitalist countries. But to have Cambodians fighting Vietnamese makes people of the McGovern point of view readier to wax indignant about human rights in Cambodia.

For all the momentary embarrassments of a seeming about-face on a Southeast Asian question, Senator McGovern's outrage over the Cambodian severities makes sense on other grounds too. What better proof that George McGovern, champion of the idea that civic well-being and international altruism prevail in Cuba, is no uncritical admirer of Marxist regimes? His readiness to see fiendishness in Phnom Penh—and Solzhenitsyn himself couldn't have been more outspoken about it—just shows how well Senator McGovern knows the difference between repressive totalitarian communists and popularly supported people's democracies that may have to slap a wrist once in a while.

We hope this clears up any misunderstandings about Senator McGovern's consistency as a thinker in the foreign policy area. And we are glad he noticed what's been going on in Cambodia.

[From the Wall Street Journal, Aug. 23, 1978]

MCGOVERN THE HAWK

Sen. George McGovern said something Monday that will almost surely find a place in future history books on American foreign policy. Sen. McGovern, you will scarcely forget, was one of the public figures who insisted most stridently that this country had to get out of our immoral war in Indochina. As of Monday, the Senator thinks that we ought to consider getting back in.

The occasion was a Senate Foreign Relations subcommittee hearing on developments in Indochina since the U.S. withdrew from the place in 1975. In the course of its inquiries the subcommittee has been getting the latest news and estimates of the slaughter in Cambodia, whose present Communist rulers have starved, worked, shot, beaten and hacked to death upwards of a million of the country's citizens out of a total population of some eight million. Sen. McGovern judged that the Communists' achievements made the Nazis' extermination program against the Jews "look very tame" by comparison.

Then the Senator asked, "Do we sit on the sidelines and watch a population slaughtered, or do we marshal military force and put an end to it?" He further commented that "we ought not to dismiss out of hand" the possibility of action by the international community. He made clear that he wasn't proposing unilateral U.S. involvement; what would be appropriate was a military operation mounted by the UN. He knew there was little realistic hope of the UN's following his suggestion. But he said, "One would think the international community would at least condemn the situation and move to stop what appears like genocide."

There is a truly mind-boggling quality to a statement like this. Nearly 20 years ago, American liberals came to power in this country exhorting us to take a more vigorous and expansive view of our role as leader of the free world. They came complete with a theory of counterinsurgency, "winning the hearts and minds of the people." When the then-existing government of South Vietnam failed to fully adopt this prescription, they blithely arranged its overthrow. Upon discovering the price of the commitment thereby sealed, they set about toppling the American President, who inherited the aftermath of the coup. Not content when American troops were finally withdrawn, they set about slashing, on the grounds that the South Vietnamese government was "immoral," the aid funds it needed to maintain any pro-Western presence in Indochina. Now, having finished the task of destroying that presence, they are shocked and dismayed by the news of the grim and brutal world that resulted.

One of the few good things to come out of the sordid end of our Indochina campaign was a period of relative silence from the people who took us through all its painful contortions. They should have the grace to maintain their quiet for at least a while longer.

[From the Boston Globe, Aug. 23, 1978]

MCGOVERN AND INDOCHINA—AGAIN

Sen. George McGovern has the often discomforting knack of raising tough questions—on Vietnam, on busing, on CIA credibility. Monday, he did it again by suggesting the possibility of sending an international military force into Cambodia to topple the monstrous regime there. The ironic effect of his suggestion may have been to give comfort to his habitual conservative critics while disquieting his liberal allies. Yet, the truth is that no one can take comfort from what he said, for he has focused critical attention on maybe the most heinous script being played out on the world stage.

No one knows exactly what is happening inside Cambodia, but, from reports of the half-million or more refugees that have fled the Khmer Rouge regime in the last three years, no one doubts that it is diabolical. While a half million have fled, untold thousands—amounting, by some estimates, to one-seventh of Cambodia's population—have been killed. Millions more have been relocated from urban centers to the rural countryside where they have been impressed in slave-like conditions as agricultural laborers. McGovern said the situation "is the most extreme I've heard of . . . Based on the percentage of the population that appears to have died, this makes Hitler's operation look tame."

There are many who, in assessing the situation, will want to look backward. Those who opposed our withdrawal from Vietnam will be quick to say that they had always warned McGovern and others in the antiwar movement of the "bloodbath" that would ensue. Yet, of course, the "bloodbath" they warned against was to have occurred in Vietnam—and it has not. McGovern himself took the opposite tack—suggesting that the United States was responsible for the destruction of Cambodia, the triumph of the Khmer Rouge and the resulting massacre. Yet, of course, despite the substantially greater damage the United States inflicted in Vietnam, no comparable horror has befallen that country.

What has happened in Cambodia is not susceptible to any grand theorizing. The government has fallen into the hands of a small group of young and fanatical outlaws who renounce most contact with the outside world and who apparently set out to impose their ideal society by destroying a civilization. While they have set out to annihilate the past, it is not yet clear that they have begun to build any kind of a future. It is not clear what they control or how they control it; it is not certain that a successful "judo chop" at the Cambodian government—one State Department officer's description of what Vietnam failed to achieve last year—would really change much.

The State Department officer, Douglas Pike, suggested that only a village-by-village occupation could work, that its prospects were doubtful and that such an attempt would mean "stepping deeper into the swamp."

Maybe China, the one major country with some reasonable relations with Cambodia, can bring increased pressure to bear. Certainly as China moves to take a more active role in the international community, it must demonstrate a maximum effort to curtail activity in Cambodia that is offensive to all organized society. And as McGovern and Sen. Robert Dole suggested Monday, international efforts to pressure Cambodia—through the UN—ought to be attempted.

By most assessments, however, neither approach is likely to bring success. And as civilized society in Cambodia continues to disintegrate, a world community that once declared "never again" will have to wrestle continuously with its conscience.

THE CAMBODIAN HOLOCAUST

Mr. DOLE. Mr. President, I want to commend the Senator from South Dakota for bringing this issue to the attention of the Senate once again, for the Cambodia holocaust has not yet received the full public attention that it deserves.

One thing about Senator McGOVERN's statement of last week is that it did focus attention on what has been a very serious problem, and continues to be a very serious problem.

The U.S. Congress can perform a valuable humanitarian service in devoting appropriate time and efforts to the plight of the unfortunate people of Cambodia.

A MATTER OF PUBLIC AWARENESS

The wanton murder and destruction of the Khmer (K'mere) people and their culture has proceeded unhindered for 3 years now. Can a Nation such as ours, which has raised its voice against violations of human rights in other parts of the world, which struggled to overcome the excesses of the Nazis in the Second World War, which clamors for adherence to basic norms of human rights and dignity, really claim to be sincere without expressing outrage at this martyrdom of an entire people?

With our help, the world must be made aware of the brutality of the Communist Cambodian regime. Public opinion must be motivated and mobilized against the government of "Democratic Kampuchea." In this way, popular support can be generated for the kind of international pressure that is not only warranted in this situation, but which is demanded by all principles of human justice.

AN ACTIVE FEW

So far, a relatively few individuals in this country have devoted their efforts to directing public attention to the Cambodian genocide. These have included certain journalists, such as columnist Jack Anderson, certain organizations, such as the International Rescue Committee, directed by Mr. Leo Cherne, and private

individuals, such as Mr. Chhang Song, the former minister of information of the Republic of Cambodia.

The Senator from Kansas joined these efforts last November in proposing Senate Resolution 323, which condemns the atrocities in Cambodia, and which calls upon the President to take effective measures to register the concern of the American people and to cooperate with other nations in an effort to bring these human rights violations to an end.

More recently, on July 31, I sponsored an amendment to direct our representative to the International Monetary Fund to oppose financial assistance for the Cambodian regime. The amendment was approved by the Senate after a tabling motion was defeated, 30 to 57. The action reflects, I think, a reticence by this body to shore up the Communist Cambodian Government with international financial aid.

NEED FOR DIRECT PRESSURE

What we need to do now is to deny the Communist regime the economic and diplomatic support it needs to survive. This could be more effectively achieved by using our contacts with those few countries which do have diplomatic relations with the Cambodian Government—and I have the People's Republic of China in mind—to pressure the Kampuchean Government to moderate its policies. It should be incumbent on the administration to utilize its increasing ties and contacts with the PRC to influence them to cooperate in condemning this criminal situation and pressing for its end. No regime can survive for long in total isolation. Few nations maintain contacts with the Cambodian regime, and we should make every effort to utilize the leverage that exists.

PRACTICAL LIMITS TO CONDEMNATION

Public condemnations and resolutions of denunciation are necessary as an initial step. But there are practical limits to their effectiveness. Ultimately, they must be accompanied by more substantive steps. For the sake of the Cambodian people, substantive steps are needed now. On August 3, the Senator from Kansas proposed an amendment to the State-Justice-Commerce Department appropriations bill, urging the Attorney General to use his parole authority to allow the emigration of 15,000 Cambodian refugees, mostly from that refugee camps, to the United States.

REFUGEES A VALUABLE TESTIMONY

The terrible nature of the "restructuring" of Cambodian society has been emphasised by the stream of refugees, fleeing at great personal risk: Those who have "voted with their feet" by escaping into neighboring Thailand. The escape from Cambodia to the relative safety of these camps in Thailand involves great risks across terrain so difficult, so thoroughly mined and patroled, that it is remarkable that anyone would attempt it, let alone succeed. And yet each month an average of some 50 Cambodians make their way through to one of the four camps in Thailand. Only through the testimony of these courageous people has the world been alerted to the actual extent of this targedy. By allowing the immigration of these people to the United States, we can help relieve the pressure on refugee camps in Thailand, and insure that additional Cambodian refugees can be accomodated by that country in the months ahead.

CAMBODIAN REFUGEE PROBLEM

By now there are about 15,000 Cambodians concentrated in four refugee camps in Thailand. Their outlook for resettlement in that country is dim. The Thais have been more than generous and merciful in accepting these people, but their burden is not getting any lighter. On the contrary, they are also hosts to those fleeing from Vietnam and Laos, and the heavy stream of refugees from all three Communist nations is not abating. The great majority of those Cambodians now in Thailand have been there for nearly the entire 3 years since the calamity began—those who escaped at the outset when they had the chance. In Thailand, they are considered a transient burden. The situation of these people is grave. Their camps are close to the Cambodian border, where they are in danger of reprisals from the Communists. The living standards are minimal. The Thais cannot be expected to completely shoulder the cost of maintaining a higher standard of living for these people when they have obligations to their own people. This has had its strains—last November, Thailand declared that all further refugees would be considered illegal immigrants and subject to forcible repatriation, even at the risk of death in the country from which they came.

OBSTACLES FACING CAMBODIAN REFUGEES

Our Government has taken steps to help. In June, the Attorney General announced a special immigration program for 25,000 Indochinese refugees. But, ironically, those who have left the worst hell of all among the Indochinese countries—the Cambodians—are those who will be helped the least by the new parole program. This is simply because permission to come to the United States is granted in priority order: First, to those who have close family relationships in the United States; and second, to those refugees who were directly employed by the U.S. Government in the past. Few Cambodians qualify for either of these criteria. And those two categories alone fill virtually all of the parole numbers authorized by the new program. Under present immigration laws, then, few Cambodians stand a chance to escape this unfortunate situation. As these categories stand, they face great obstacles.

PAROLE AMENDMENT

With this in mind, I feel that it is not only appropriate, but most urgent, that some action be taken to relieve the Cambodian refugees as a special group: They have been singled out for extraordinary brutality by the government of their country; they have little hope of qualifying for emigration to the United States under present laws; and their need is most pressing. By allowing their immigration, we can give a sign that the United States still stands behind its commitment to support those peoples of the world who are victims of oppression and tryanny, as we have in the past.

A SIGN OF CONCERN AND COMMITMENT

In this manner, we give those Camlief, and demonstrate to the world that we are concerned about the fate of those people, about the situation in Cambodia, bodians now in Thailand immediate reand that we are willing to take on our responsibility, as the leader of the free world, in attempting to alleviate this tragedy.

IMMIGRATION ONLY AN INITIAL STEP

Mr. President, this humanitarian parole, which I sincerely hope the Attorney General heeds, is only an initial step toward a comprehensive mobilization of opinion and action against this great international crime. It is my hope, that the conscience of the world will be stirred enough by the terrible excesses of the Cambodian Communists to prompt a more active approach toward alleviating the plight of these innocent people This is a test for the conscience of the United States and for the free world as humanitarians and defenders of international freedom.

Mr. President, let me again commend the distinguished Senator from South Dakota. Though I may not totally agree with his statement of last week, or inquiry of last week, which is really what it was, it is an indication that there is more and more attention being focused by Members of Congress on what I consider to be a very grave problem. Certainly Senator MCGOVERN is a leader in Congress, one who spoke out strongly about the war in Vietnam and one who has now become very active in some of the tragic aftermaths of that conflict.

So knowing the distinguished Senator from South Dakota, I know he will persist, and I am pleased that he has taken his position and demonstrated his interest and his concern. I trust that it continues.

MR. JOSEPH L. RAUH, JR.

Mr. MCGOVERN. Mr. President, on another matter, one of the most distinguished, long-time voices of American liberalism is Mr. Joseph L. Rauh, Jr., the Washington attorney. It has been my privilege to know Mr. Rauh as a friend during all of the years I have been here in Washington since the days I arrived as a new Member of the House of Representatives in 1956.

I have always found him to be one of the most intellectually honest and compassionate men in our national life.

In the August 19 issue of the Washington Post, Mr. Rauh has written a stimulating article entitled "Who Says Liberalism Is Dead?"

At a time when that question is being raised pro and con in all parts of the country, I think it would be interesting to the Members of the Congress to read Mr. Rauh's words. So I ask unanimous consent that his article of August 19 be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 19, 1978]

WHO SAYS LIBERALISM IS DEAD?

(By Joseph L. Rauh, Jr.)

Every time the conventional wisdom gets practically unanimous in Washington—"Truman is done" (1947-48), "Johnson can't be toppled" (1968), "Muskie is a shoo-in" (1972)—things are fairly sure to turn out quite the opposite. So it doesn't take much courage to attack the present conventional wisdom that liberalism is dead or at least dying.

Actually, the most significant vital signs point the other way—that liberalism is quite alive and well:

While columnists and editorial writers prate about failings of New Deal and Great Society social programs, the public demands one of the biggest social programs of them all, national health insurance, and the present political struggle is not over whether there should be such a program but over the time period necessary to phase it into the economy.

With all the cannonading for tax reduction and spending restrictions, the attack never focuses on any particular New Deal or Great Society program. The Proposition 13 and the Kemp-Roth backers don't level their fire at particular programs to be curtailed or repealed, but rely for support on Pavlovian antipathy to the very real unfairness of the present tax system. Despite all the demagoguery calling for a rollback of big government, the "welfare state" social programs are so deeply imbedded in the system that no one seriously proposes their curtailment or demise.

On the civil-liberties front, even so hateful a group as the Nazis was given full First Amendment protection for the recent march in Chicago, and the bill for a revised criminal code, supported by most of the Senate's most distinguished liberals, is being held up in the House not because it is too liberal but because leading members of the House feel it doesn't do enough to rectify existing law with anti-civil-liberties aspects.

On the civil-rights front, the Supreme Court, often a bellwether of the public mood, used its *Bakke* decision not only to validate race-conscious preferences for education, employment, etc., but to announce that goals and timetables and even quotas are within constitutional sanction where there are legislative, judicial, executive or administrative findings of past discriminaton to back them up.

The Moynihan-Meany-Jackson hardliners have, thus far at least, had only minimal success in their attempts to reopen the cold war and this despite considerable Soviet provocation.

Many large labor unions are coalescing with liberal groups more closely than they have for years.

The nation's conservative party, the Republicans, have made little if any progress in broadening their ranks.

Every poll shows Sen. Edward Kennedy (D-Mass.), who has a near-perfect voting record over the years on the Americans for Democratic Action and other liberal scorecards, far and away the No. 1 choice of Democrats for 1980.

Of course, a number of problems for liberals do inhere in the current political situation. For example, many of today's issues are incremental ones extending or improving upon the more fundamental economic reforms of Franklin Roosevelt or civil-rights reforms of Lyndon Johnson and thus far less easy to dramatize than earlier more fundamental changes. Then, too, 45 years of social change in the interest of a more egalitarian society was bound to produce a certain amount of the tired "we-have-done-enough for *them*" syndrome and the self-interested "we have to be with the winner this time" syndrome.

And, finally, the hardest time for liberals is when there is a middle-of-the-road Democrat in the White House. It is easy to work in support of a liberal Democratic president. It is not too hard to work in opposition to a conservative Republican president. But a non-ideological middle-of-the-road Democrat in the White House creates a sort of no-man's land with maximum uncertainty as to who is doing what to whom.

But whether the next surge of liberal successes comes from a left-turn in the White House (Truman made his big shift leftward as the 1948 election neared), or from the fine young liberals in the administration banding together to demand more vigorous action, or from the deep belief of the American people in the role of government as the builder of an ever-fairer society, conservatives are clucking much too soon.

ORDER OF BUSINESS

Mr. MCGOVERN. Mr. President, I have nothing further to add to the discussion at this time. I know that other Senators who have been deeply concerned about this issue, including the Senator from Kansas, Mr. DOLE, and the Senator from New Jersey, Mr. CASE, will also be speaking out today and I welcome their contributions and their leadership.

I yield back the remainder of my time.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Kansas (Mr. DOLE) is to be recognized for not to exceed 15 minutes.

Mr. STEVENS. Mr. President, has the Senator from South Dakota used the time I yielded to him?

The ACTING PRESIDENT pro tempore. No, he did not.

Mr. STEVENS. Mr. President, I ask unanimous consent that the quorum call be charged to that time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Mississippi (Mr. STENNIS) is recognized for and is in control of 60 minutes.

VETO OF THE MILITARY AUTHORIZATION BILL

Mr. STENNIS. Mr. President, I am delighted to have some time this morning to discuss a very important matter, my main purpose being to get into the official record some thoughts I have and an analysis I have made of the President's veto message with reference to the military authorization bill.

I emphasize that this discussion is for the benefit of the Senate, the press, and the public—even the President, himself—and is not any kind of attack on what the President has done with reference to vetoing the bill.

I have no feeling of resentment. Naturally, I was disappointed, because the committee had worked on it all year. But the President has to perform his constitutional duties, as I told him the morning a few of us were at the White House, at his invitation, when he told us the veto would come.

I attribute nothing except good faith to the President and to Secretary Brown, who also is involved in the matter. But I will spare no language in pointing out what I shall call errors of fact or mistakes of fact that were made in presenting this matter to the President and in getting up the facts to present to Mr. Brown.

I have asked our Senate Armed Services Committee staff, assisted in some degree by the staff of the Appropriations Subcommittee on the Department of Defense, to go very carefully into the facts I am going to mention and to be certain that they have probed deeply and have obtained the real facts. They have assured me that they have done this. I know them personally, and I know their competence, and I know how they approach matters. I adopt the figures and everything else as mine for this speech.

I emphasize again that I am talking about mistakes of fact or errors of information or errors of fact on the part of the President and Mr. Brown, the Secretary of Defense, rather than any kind of wrongdoing or willfulness or anything else.

Mr. President, the Senator from New Hampshire (Mr. MCINTYRE), who is a very important and essential part of our work in the Armed Services Committee, handles the research and development section of the bill. About $12 billion annually is now going into that field. The members of that subcommittee perform a valuable task. He will be here, and I will yield some time to him.

Mr. President, I will take these matters up one group at a time.

Mr. Carter's veto message says:

> The bill I am returning does not spend wisely. Instead, it actually would lead to less defense capability than I have requested. It does this by eliminating funds for high priority defense requirements and adding funds for purposes which do not meet our defense needs. Most notably, it would take nearly $2 billion from the total and set it aside for purchase of a nuclear powered aircraft carrier.

Mr. President, I note here that the issue with President Carter is not so much a carrier. He said later that he would approve a large carrier, and said later that it would come up in the fiscal 1980 budget. So, really, he approves of the large carrier, but it is just a variance of 1 year, the only difference being the type of power that is used in the carrier. That is a very significant fact in this matter.

We have to go back into this matter—either override the veto or rewrite a bill, if we can. That is a big "if."

I refer now to the statement about spending the money, eliminating funds for high priority defense. The eliminated funds for high priority requirements are identified in the veto message as follows: $800 million of the required $1 billion increase for Army weapons and equipment; $200 million for Air Force weapons and equipment; $500 million of the requested $1 billion increase for readiness funds; $500 million for research and development.

Now I will take them up. First, of course, we developed these facts months and months after the President's budget was finished. We have capable men who examine and cross-examine knowledgeable people about the various line items, as to whether the need has slipped, whether there is a change of facts, what the capability is of the manufacturer, and so forth.

Congress then, of course, has to make some changes, and uses their judgment, as was done in this bill.

In all this process to which I have referred, here is the source of the money that allowed us to add the nuclear carrier. This is the way it came about: $910 million of these reductions that President Carter talked about resulted from the slipping of a Trident submarine into fiscal year 1980 because of construction delays. There is no doubt about that fact. All agreed, including the company that makes it.

A savings result of $600 million from the Presidential decision to hold the fiscal year 1979 military and civilian pay raises to 5.5 percent, plus the usual absorption by DOD of some pay raise costs. That is an item that was worked out, and I commend the President very highly with reference to that saving, which is justified without releasing anything else.

A reduction of $200 million in military construction projects that were deferred or financed differently.

Mr. President, members of the committee learn a good deal about these military construction projects over the years. I was chairman of that subcommittee for some 10 years, and I have not forgotten some of the fundamentals I learned there. We go after it, frankly.

And if there is any fat in there or anything that has delayed construction or may not be built, and they want to use the money for something else, we take it out, and that is what happened here. It added up to a $200 million reduction in military construction projects that were deferred or financed differently.

And these happened in the ordinary course of getting into these bills. There is a $120 million reduction in research and development programs and a $100 million reduction in nuclear weapons programs, and as I recall it was not in dispute about that reduction in this field of nuclear weapons which runs into billions of dollars, and $300 million reduction in procurement not reclamaed, not reclamaed by the Department of Defense. Listen at that now. Matters that we took out that were not even reclamaed. They did not come back and ask for reconsideration of $300 million.

I will have to move on. The items not challenged by the Department of Defense included $127 million for the XM-1 tank program that DOD had agreed was overfunded.

The second item is $113 million for A-4 aircraft. According to their testimony this item could be taken out.

Twenty-three million dollars for DDG-2 conversions based upon DOD modification of the program. Here is where they found a way to save some money on a modification program, and we took that money out.

Twenty-seven million dollars for MK-46 torpedoes, based upon lower unit costs, lower unit costs, Mr. President. Think of that. They actually found something in the bill where they could get it for less, and we took that money out.

Now, going to another item, impact on weapons and equipment for the Army. The President's veto message says:

> I requested a $1 billion increase to strengthen our ground forces, particularly our NATO-oriented forces, by providing more helicopters, combat vehicles and ammunition for our front-line forces. Adding the nuclear-powered aircraft carrier means eliminating $800 million of that increase.

Mr. President, here are the facts: The vetoed bill provides $3.24 billion for Army procurement. This was a $621 million or 24-percent increase over fiscal year 1978 Army procurement.

Regarding the specific areas that are mentioned in the veto message, the following actions were taken:

The vetoed bill eliminated eight helicopters costing $45 million from the President's request. These helicopters were for forces in Korea and were older models. Deferral of this expenditure will not affect NATO initiatives and will permit procurement of newer model helicopters in the future.

If anyone knows what we are going to do about this Korea situation, knows for certain about the Korean removal they know a lot more than I do. But there is a matter totally unrelated to this Army procurement for NATO. Still it is stuck in here by someone as one of the reasons.

Combat vehicles: As mentioned previously, the XM-1 tank program was cut by $127 million. DOD agreed that this cut was appropriate based upon the program status.

However, the vetoed bill funded several additional initiatives for NATO-oriented combat vehicles that were beyond the President's request. For instance, $34 million for modification of an additional 160 M60A1 tanks to the improved M60A3 configuration.

We have men on the committee that know something about these tanks, and this was gone into with the Army $39 million for development, with West Germany, of the 120 millimeter tank gun; and $39 million to begin production of the infantry fighting vehicle. In other words, we said on that infantry fighting vehicle, "Don't put it off until next year; start now, start production now."

Funding for Army ammunition is not included in H.R. 10929, the vetoed bill. It is not even in it. There is no authorization that has to be made for ammunition.

In the House appropriations bill, $349 million was cut from the budget request for Army ammunition.

This shows that those who got the facts up jumped from one bill to the other.

The DOD had not requested restoration of $73 million of this cut mainly because funds requested for fiscal year 1979 could not be spent during that year. The Senate Appropriations Committee has been considering a cut of Army ammunition by $324 million, or $25 million less than the House cut. So there is an area here that certainly requires a careful look and a decision. We are getting into it when the lightning struck on this veto. But Chairman MAGNUSON just suspended the whole thing.

In summary, the President's initiatives for Army ground forces have been supported by Congress and in some cases exceeded by the vetoed bill. Other than the cuts in helicopter and XM-1 tank programs, only an additional $16 million was cut from the budget request for the Army procurement of $3.43 billion. Think of that. That was such an overwhelming approval. While DOD and Congress disagree on about $250 to $275 million in ammunition cuts, the Appropriations Committees believe that the requested expenditures are unwarranted.

I refer that to the Appropriations Committee because what was done by the House Appropriations Committee is mixed all up in this veto message all the way through.

Impact on weapons and equipment for the Air Force: President Carter in his veto message said:

> I requested more funds for airlift, electronic warfare equipment and electronically guided ordnance. Adding the nuclear-powered aircraft carrier means eliminating $200 million of this increase.

Mr. President, with all deference, that is a mistaken statement of fact. It had nothing to do with the carrier, and I have a detailed explanation of that item here. It is very involved.

It goes into the discussion about the civil reserve, air fleet modifications, and so forth.

The facts show that the money was not materially reduced for the airlift, electronic equipment, and so forth.

The Senator from New Hampshire (Mr. MCINTYRE) may have some special remarks on that, and I will move along because of time.

While some reordering of priorities occurred in Air Force weapons and equipment, the President's funding level has been sustained. In addition, there is a substantial increase in aircraft procurement provided by H.R. 10929.

Now, Mr. President, again with reference to the President's responsibility, he said in the veto message:

> I requested an increase of $1 billion for items which are not glamorous, but which provide the immediate fighting capability of our forces—funds (requiring appropriation but not prior authorization) for repairs of weapons, spare parts for vehicles and aircraft, ship overhauls, training of personnel, communications, and logistical support to move equipment to where it is needed. Adding the nuclear-powered aircraft carrier means eliminating half of that increase in fighting capability—some $500 million.

Now, Mr. President, as a matter of fact, here we went into great detail on some of the proposed reductions by the executive branch for training and restored, put back in, some of that money. But before addressing the impact of congressional action, it should be noted that the budget requested, the President's budget requested, a decrease in training manpower of 6,800 Army military personnel and 1,300 civilians, and 10,500 Navy military personnel and 800 civilians. This would result in a reduction in training courses, the number of people who would be trained, and the number of instructors.

The budget requested a manpower decrease of 35,600 in the Naval Reserve.

The budget contained no provisions to address the declining strength of the Reserves, and other items here, Mr. President.

Now, this is something that the committees of Congress went into a few years ago. An amendment was passed making civilian and military personnel—an authorization requirement. Always theretofore the Appropriations Committee only had looked into these matters. They did the best job they could, in the rush of things. The committee members of the Armed Services Committee have delved into this. I appointed the Senator from Georgia (Mr. NUNN) as chairman of a subcommittee there, and other able members on that subcommittee, and they charged the breastworks and have led the fight for some of these reductions over a period of years. But this year—and I say this with all deference—there hsa been more urging of reductions from the Senate than there has the House, and we settle these matters in conference, sometimes after a great deal of effort, but this year even those of us who had been insistent on these personnel considerations thought that the budget went too far with reference to training personnel in particular. We restored more than the budget asked for in the authorization bill, the bill that has been vetoed.

If we had gone by the President's request, it would not have required as much money. So I tell you there is no basis for this talk about every time we turn around we did something to make room for a carrier. It is just not correct, they are not true facts, and here is an illustration of the way the committee was going down the line trying to work these matters out on a basis of what was sound and what was better, and let the totals fall where they would, with two exceptions: I think every man on our committee who wrote this vetoed bill did not want to go beyond—any appreciable amount anyway—the President's request, the executive budget. I think every man wanted to come within the legislative budget, our budget, the Muskie-Bellmon committee budget. I know I did not, and I was going to do all I could to keep from doing that, not only on the ground that we must not just throw money in because we want to, but because that committee stopped us here on the floor of the Senate once after we came back from conference because we had not been conscious enough of their ceiling. That committee has come a long way, and I commend them for it.

So we have an eye on those two things regardless of whatever else we did, and we came in with bills, put the essentials in as we saw them, without running over.

Now, I have a detailed analysis here of the President's statement with reference to these $1 billion items which I will enumerate in detail. It is here for the press to see if they wish, for the people, the membership, the people-at-large, anyone to see, that this is an attempt to bring in the hard facts upon which our bill is based, upon which the President's veto message—not to his blame really, but he got some of the wrong facts.

The budget requested a decrease of civilians for aircraft maintenance in the Navy and Air Force and a corresponding decrease in the operational readiness rates of Navy and Air Force aircraft. In the Air Force, one out of every eight civilian reductions was in the maintenance area. Testimony by Assistant Secretary White revealed that, "Reductions in maintenance were made in the very final changes in the budget because of financial constraints."

Testimony by Deputy Secretary Duncan indicated that "tight overall fiscal constraints" were the cause of the overall decline in readiness rates from those that were achieved in fiscal year 1978 primarily through increases in readiness funding by the Congress.

Discussion of congressional actions on readiness items is facilitated by addressing H.R. 10929 and the appropriations bills separately. H.R. 1099 gives readiness a shot in the arm:

Made increases in Army and Navy military manpower for training programs above the President's requests;

Increased Naval Reserve manpower by 35,600 to provide help in Navy base operations;

Provided $25 million to increase Selected Reserve strengths;

Provides for an increase of 1,000 civilians for aircraft maintenance in the Navy and 400 civilians for aircraft maintenance in the Air Force to correct the decline in operational readiness rates presented as a part of the President's budget;

Funded all but $10 million of a budget request of $2,058 million for spare parts; and

Funded all but $31 million of a budget request of $2,825 million for weapons modifications.

Regarding the appropriations bill the President requested $37.4 billion for operations and maintenance. The House appropriations bill funded all of this amount except for $37.7 million or a cut of about one-tenth of one percent. One substantial improvement for readiness included in the bill was the addition of $170 million to readiness-related depot maintenance funding. Moreover, the current DOD request for operations and maintenance, identified in the reclama to this House bill, is for $48.8 million less than the amount that would be appropriated by the House bill. The Senate Appropriations Committee is considering a smaller cut from the President's request—$22.9 million—than was made in the House and has planned to add $145 million for readiness-related depot maintenance.

The House Appropriations bill has made and the Senate Appropriations Committee is considering an accounting change that may have lead to some confusion and apparently is the source of the veto message charge of a $500 million cut in readiness funds. The accounting changes within operations and maintenance being considered is to create a new $500 million fund to accommodate increased costs that occur as a result of fluctuations in the value of the dollar overseas. The House made and the Senate Appropriations Committee is considering a reduction of about $500 million in funds requested for inflation to offset the creation of this new fund. The basic fact is that there is a need within the O. & M. account to offset the reduced buying power of the dollar in the future. The creation of this fund provides an orderly process for doing so rather than forcing absorption of these cuts in important O. & M. programs at a later date. This action is merely a transfer from one inflation account to another.

The statement in the veto message that $500 million has been cut from readiness items is unfounded. In fact, as in the past, the Congress has again augmented the budget request in several areas to improve readiness.

Mr. President, as I indicated before, the time allotted here this morning was going to be used in part by the Senator from New Hampshire. I ask unanimous consent that I may yield now to the Senator from New Hampshire 15 minutes of the allotted time.

The PRESIDING OFFICER (Mr. MORGAN). Without objection, the Senator from New Hampshire is recognized.

Mr. STENNIS. First, let me just say this, Mr. President: I want to say it strongly for the record. This man went out into the wilderness a few years ago at my request and urging. Somebody had challenged me on the floor about 10 years ago when I was handling a bill—I was not chairman of the subcommittee, but I was handling it—and I was challenged to explain the $7 or $8 billion worth of research and development money, and I could not do it. So I made up my mind then to handle it better and persuaded the Senator from New Hampshire to handle it, and he has done an amazing job. No one knows how many nights, days, months he works on these bills, and I have never seen him come out with a set of facts that failed to stand up. I might not always agree with him. He is

no chiseler either on this money. He is concerned, and I want to thank him publicly again for the marvelous work he does year after year, and I hope he gets some satisfaction out of it. He deserves the satisfaction and the credit, great credit.

Mr. McINTYRE. Mr. President, I thank the distinguished and able chairman of our committee. I am grateful to him not only for the leadership that he gives to us but, of course, for the longstanding ability that he has manifested in this important field of national security.

Mr. President, like many of those who serve on the Armed Services Committees of the House of Representatives and the Senate, I was generally stunned and taken aback when the President announced his decision to veto the authorization bill for this fiscal year, 1979.

Part of the rationale given for the veto of the Department of Defense Appropriation Authorization Act of 1979 is that the bill penalizes research and development programs in order to fund a nuclear-powered aircraft carrier. In his veto message to the Congress, the President stated:

> • • • to sustain our position of excellence in a world of weapons increasingly dependent on technology, I requested a three percent real growth in defense research and development. Adding the nuclear powered aircraft carrier leads to an actual reduction in research and development.

Careful examination of the research and development portion of the bill, however, does not bear this out.

For fiscal year 1978 Congress appropriated $11.4 billion for research and development. For fiscal year 1979 the Department of Defense requested $12.47 billion, and the bill in question authorized $12.25 billion. This is an increase of $840 million over that appropriated for research and development in fiscal year 1978, a total increase of about 8 percent. The real growth rate that would result depends on the actual rate of inflation, but at a minimum this bill provides between 1 and 2 percent real growth.

In deciding to veto this bill the President looked beyond the authorization bill, projecting the impact into the Department of Defense appropriations bill. Therefore, to understand the entire issue we must look at the appropriations bill. The Defense approriations bill is not yet completed but if the final R. & D. total is midway between the House and Senate versions, the real funds available for R. & D. will be about the same as last year. It is highly unlikely that there will be an actual reduction, and there could be as much as 1 percent real growth. So I must conclude that the President was misinformed when he stated that adding a nuclear carrier leads to a reduction from last year's level for research and development.

The changes, both reductions and additions, made in the research and development program were made on the merits of each issue. They were not made to reach some arbitrary total or to provide funds for some pet project. I would have preferred to authorize more for research and development, and, in fact, the Senate version of the bill added $87 million to the President's request. The House version of the bill reduced the President's request by $635 million. The final figure was a reduction of $209 million. However, each item was thoroughly reviewed and debate on the merits of that program, not to reach a preset total. To suggest that no cuts should be made in the budget request implies two questionable assertions. First, that the budget submitted by the Department of Defense has no soft spots and can stand up to the closest scrutiny. Second, that Congress is not entitled to its own view on the priority and importance among 800 separate programs. I cannot believe that the President feels this to be the case.

The net reduction of $209 million in our authorization bill results from program reduction totaling $611 million and program additions totaling $402 million. It is important to note that the Department of Defense did not challenge $130 million of the reduction or $143 million of the additions. Let me cite some of the other program reductions to illustrate that, indeed, there are soft spots in the budget request, and that Congress has exercised its responsibility in searching out these soft spots. First is the question of continuing research for the B–1 bomber. $105 million was requested by the Department of Defense to continue research and development on the B–1, a plane that will not go into production.

The bill provides $55 million to complete construction of a fourth aircraft and to continue testing of those components such as engines and electronic countermeasure systems which may have application to future aircraft. This resulted in a reduction of $50 million from the DOD request.

A second area of significant reductions was in terminally guided submunitions. This is an exciting, new area of technology which shows promise for improving the ability of our forces to attack large tank concentrations. However, this new area of technology has fallen prey to normal bureaucratic competition. Funds were requested in eight separate programs spread out among the Army, Air Force, and Defense Advanced Research Projects Agency (referred to as DARPA). Unfortunately, many of the programs were only vaguely defined, and were, at best, attempts to get a foot in the door in the competition to be the leader in this new area.

The authorization bill reduced the funding for these programs by $35 million and the conferees had strong words urging DOD to gain control of these programs, and to limit interservice competition. This is an area where, time and time again, we see examples of their interservice rivalry.

Another major area of reduction was in Navy V/STOL aircraft. $75 million was requested by the administration to continue research and development of Navy V/STOL aircraft by the testimony presented. But the Department of Defense has not yet defined the missions of V/STOL aircraft. That is, should these planes be used for air defense interceptors, attack aircraft, or antisubmarine warfare and so forth. Recent events indicate that the Navy is rethinking the entire plan for V/STOL aircraft. They are going back and looking at it all over again, their interim plan for the short takeoff and landing aircraft.

The bill provides $23.5 million to continue development of basic V/STOL technology. This is a reduction of over $50 million, but is entirely appropriate since there is such uncertainty as to where the Navy is going on V/STOL.

Another area of reduction was in what has become known as the "studies and analysis" area. Both Houses of Congress expressed concern over the proliferation of studies, particularly those which seem to only result in the need for more studies and which are used as an excuse for slowing the development and fielding of new systems. Funds were asked for two programs, one in the Air Force and one in the Navy, to have contractors study what studies were needed. Both of these programs were eliminated. In another case, one Navy program manager had commissioned a study with the sole purpose of proving his program was needed. The authorization bill reduced money available for studies by $35 million from the $228 million requested.

These four areas represent reductions of about $175 million. Other examples could be cited to show that, indeed, the Department of Defense request needed careful scrubbing. However, I think these four areas make my point very well.

Let me now turn to some of the additions that were made to the budget request. These resulted from a different viewpoint as to the proper priority of certain programs. Clearly, Congress has not only the right, but the responsibility to speak with regard to how our Armed Forces are equipped.

This does not mean that the Armed Services Committee has understanding and knowledge of defense issues superior to that of the leaders of the Department of Defense. I would estimate that 90 percent of the time we accept the judgments and decisions of the military experts. But commonsense, sharpened by years of reviewing defense budgets leads us to ask that certain areas, either over looked by the Pentagon, or lost in interservice rivalry, be explored. This does not mean we have the time or knowledge to examine each type of rifle or backpack. But we do have a responsibility to speak on the key policy questions that will determine our future security.

One of the most significant initiatives included in this bill coincides with what appears to be a basic concern of the administration, that is building a Navy of highly capable ships, but in adequate numbers to cover the vast areas of possible conflict. To do this will require new concepts of ship design and construction. The budget submitted by the administration was particularly weak in this area. The program developed by Congress in the authorization bill includes the following initiatives in this area.

Three million dollars for design studies for a lower cost SSBN–X to complement the very large and very expensive Trident submarine.

That is the nuclear ballistic submarine to complement the very large and very

expensive Trident submarine. The Trident submarines were estimated initially to cost about $750 million and are now running about $1.4 billion.

Constraints on development of a new attack submarine until it can be demonstrated that the R. & D. programs for submarines will reverse the cost-growth trend in attack submarines.

Eighty million dollars for the surface effect ship. A ship that could travel at 80 knots and be a great submarine hunter.

Twenty-five million dollars for the design of a new light carrier.

Seven million dollars to explore new modularity ship-design concepts that would facilitate mounting of weapons aboard ships.

One million dollars to explore a new ship design called SWATH which has potential to be a highly stable aircraft platform.

SWATH refers to small waterborne area twin hull, which has the potential to be a highly stable aircraft platform.

These initiatives will give the President a wide range of options to accomplish our common goal of an affordable, effective Navy.

The sum of $87.4 million was added for the AV–8B program, a Marine Corps V/STOL fighter. In this case, the Congress was saying that in their judgment the Marine Corps should move ahead with the development of an improved V/STOL aircraft, as opposed to buying the 20-year-old A–4M aircraft. In the case of the Marine Corps, a mission and role for the V/STOL aircraft has been clearly defined, and it would seem to be a regression in our force development to buy old aircraft when there are advantages in moving ahead in this new area.

Ten million dollars was added to this bill to begin design studies for a theater mobile ballistic missile as a complement to some of our existing forces, and as a way to counter Soviet activity in the short-range ballistic missile area. Again, Congress is saying this is an area that was neglected in the budget submission, but one of critical importance.

These examples illustrate the nature of the additions made by Congress. They are not done frivolously or with parochial constituent interest in mind. They are done because of a deep concern for the future combat capability of our forces.

Careful review and scrutiny of the Department of Defense research and development program has been done each year and will continue to be done regardless of what happens to the other parts of the budget. To judge whether the R. & D. budget is adequate solely on its total is not responsible. The important question is what that budget will do for this country. The R. & D. program authorized by this bill is strong in all of the important areas including technology base, strategic programs, and general purpose forces.

The PRESIDING OFFICER. The Senator's 15 minutes have expired.

Mr. STENNIS. Mr. President, I yield an additional 5 minutes to the Senator.

Mr. McINTYRE. It provides nearly $2 billion for sustaining and strengthening our technology base. This is an increase of 11 percent over last year.

In the strategy area this bill provides for a number of opinions that will give the weapons for preserving the strategic balance in the years ahead. These include: $158 million for advanced ICBM technology; $55 million to continue development and testing of those parts of the B–1 which may have application to future manned bombers; $20.6 million for the cruise missile carrier; $237 million for the air-launched cruise missile; $152 million for the sea-launched cruise missile; $3 million to consider another submarine to complement the Trident; $5 million to do initial studies of the Trident II missile; and $20 million to do initial design studies of a mobile theater nuclear ballistic missile.

I am satisfied that this bill provides not only the options but the hardware development to give the President the weapons he needs to sustain the strength and effectiveness of our strategic forces.

The bill also provides for a dazzling array of systems for our conventional forces. These include: $35.6 million for the 120 mm tank gun, a cooperative development program with West Germany; $78 million to continue development of the XM–1 tank; $228 million for the Patriot air defense system; $22 million for the Roland air defense system which starts production in 1979; $177 million for the advanced attack helicopter, the helicopter that will fly off our ships and hunt the submarines with new electronic devices that the world has never before seen; $95 million for the LAMPS Mark III ASW helicopter; and $498 million for the F–18 fighter.

Mr. President, I cite this list of programs to illustrate we are not standing still. We are improving our forces. We hear so much, I hear so much, of the growing Russian threat—and I do not belittle it—that I think it needs to be pointed out from time to time that we are not standing idly by. This bill will continue our commitment to a strong defense.

In summary, Mr. President, it is incorrect to state that the reductions made in the research and development program will cause an actual reduction from last year's program. I would have preferred to authorize more for R. & D. and indeed the Senate bill provided $87 million more than requested by the President. However, the House bill reduced R. & D. by $635 million.

In the conference, through the leadership of our distinguished chairman of the committee, we were able to restore all the $209 million.

We got the House to come up almost $400 million from where they had been when we entered the conference.

This reduction would still provide for 1 percent real growth.

The appropriations bill will reduce the R. & D. program some more but I do not think it will fall below the real value of last year's program.

Further, Mr. President, it is totally incorrect to state that these reductions were made to fund a nuclear powered carrier. These reductions were made as a result of careful review of many programs. I know in this regard I speak for my colleagues on the Research and Development Subcommittee Senators CULVER, ANDERSON, BARTLETT, and GOLDWATER.

Even with those conflicting views, we were able to bring to the full committee a unanimous subcommittee report.

As I said, in that report to the full committee, we had advocated $87 million more than the President requested in his defense budget. I am proud of that record by the Research and Development Subcommittee and we shall continue to call them as we see them, regardless of the outcome of the veto.

I thank my chairman for yielding to me in order that I might vent my feelings on this issue.

Mr. STENNIS. I thank the Senator very much, indeed. He has done more than express his feelings; he has stated facts here for the record.

Mr. President, if there is any doubt about these facts that the Senator from New Hampshire has given, I challenge the press to look into them enough to know, and if they can find any basis for challenging our committee or the statements of the Senator from New Hampshire, bring them out. That is the way we have worked on this matter. He knows what he is talking about and his figures are correct.

After all is said and done, Mr. President, there is reduction here or there, some, but in the end, as the Senator said, there is far more in here, considerably more, at least, than there was in this category last year. It is an increase and not a decrease. I am certain that, in the field of technology, there are no reductions, or virtually none, unless it is just something where a lagging program lost a lot of time; but in the field of pure research or technology research and all of those items that are really scientific research, there are additions rather than reductions.

Some of the big money in this $12 billion plus comes from development, and that includes prototypes. That is big money. There is where you have slippages, there is where there can be some reduction. But if we had this confined to research and technological advancement, items of that nature, there would be nothing said about reductions for R. & D.

Here is another thing that we are up against: There is a lot of sentiment at the Pentagon—and the reason I know this is they came to me soon after I appointed this subcommittee and Senator McINTYRE got into it, saying that our committee ought to look upon the R. & D. recommendations as sacred ground and not intervene and not look at what is behind the scenes; in other words, not examine them, just give them a blank check. Well, we could not do that. That is why we created this subcommittee and that is why we required authorization.

In the old days, there was no authorization required. The Appropriations Committee just made the best guess they could, a lick and a promise, and then went. But this has gotten down to a minute examination, here, as Senator McINTYRE has gone on.

Mr. President, one other word: The idea that was put out was that there was a great effort or connivance, or whatever you want to call it, to make room here for a carrier, something glamorous, at the expense of these other programs. They made the President think that that was it. That is what his veto message sums up.

Mr. President, we have many conflicting elements—the competing contractors. The plane manufacturers, and the shipbuilders and the missile makers and all of that group, that is all piled up on our doorstep. We had the old B-1 fight, remnants of it, coming in on us this year from every direction, fragments of that fight still flying around.

Every Senator is on the spot, to a degree, about things that go on in his own State—I mean either military programs or the lack of them. So we have to adjust for all those matters.

All of these organizations and appropriations finally find their way through the respective committees, House and Senate, and they finally find their way to the floor and are passed on, out in the open, and voted on in the same way. Then that bill or those bills go to a conference. There the fur flies, sure enough.

My point is that it is impossible to have any kind of scheme to eliminate a whole lot of things in order to make room for something. It just does not happen that way. Then, when, finally, the matter is agreed on in conference, it comes back to each House and is subject to debate on the final version.

When we finished this bill that had been vetoed, I went to the press gallery and stated all the main points—to the press, to the public, to the membership, to everyone. Then the matter lay here about a week. Then we took up the conference report when it came over and there had been not a single protest filed with us about that conference report. The committee heard nothing. They were not all just happy, but they were not displeased. They knew the problems of legislation. The press covered it to a degree so the public was informed.

And when we brought that conference report on this vetoed bill back here a week after all this exposure, there was not a single murmur from a single Senator, although notice was given that it was coming, that we were going to take it up. The leadership on each side notified through the telephones and so forth. Not one single murmur.

That does not mean every Senator was for everything that was in it, but it meant the legislative processes had been completed and we had a bill that I thought was the best balanced bill that we had gotten out in several years in this new regime.

Just a word here about the carrier. I have already said as far as the President is concerned, he is not opposed to a carrier. He said he would approve one next year, a big one. It is just a question of what method of power that is debatable itself. The veto based upon a deletion of these other items.

But back to the ships. For 3 consecutive years at least, we have had a madhouse, to a degree, in our committee about ships because there was no forward-looking plan upon which the Navy was agreed with the administrations—I say plural—the retiring one and the incoming one. And we got recommendations here, there, and yonder. I said one time, we had four navies in our committee room going around in different ways. Once we had one from former Senator Taft, who had been on the committee and worked on it. But anyway, we had all those claims that were piling up and required money. Nobody was doing anything about getting those out. Our committee met that issue about putting money in every year, authorizations and appropriations, too, because I thought that was part of the roadblock.

This bill that has been vetoed is the first bill that put in some line items that relate to the new Navy—I mean meaningful line items. They were not large amounts of money, but it was the beginning of thought with reference to a V/STOL-type plane for use on a new-type carrier and a new so-called smaller carrier, each one of those items—the new-type carrier and the plane that goes with it—being 12 or 14 years in advance. That is a surprise to me; it is to everybody. But it is a fact.

So we are talking about a navy, something to fill in here in the interim. But so far as legislation is concerned, this vetoed bill goes further, I think, than anything with reference to the possible new-type navy than any executive recommendation we have had from any source, either the past administration or the present one.

I have no fight with anyone. I have no hard feelings with anyone—not anyone—about this. But I am determined that we get the facts out.

I challenge the press now to look at this evaluation, look at it any way, and if it is not substantially correct, let us know. We want only the facts as they really are.

In spite of all that has been said and done, the veto message convinces me that the President did not have all the facts before him when he had that message prepared. I know he did not write all of it. My Lord, he does as great a volume of work as any President that ever came along. He should have a lot of help. I am not imputing any bad motives or anything like that. But this is serious business.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STENNIS. I thank the Chair very much and I thank the Senator from New Hampshire again.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I have a little time left under the leader's time and I seek to utilize that at this time.

The PRESIDING OFFICER. The Senator shall proceed.

POSSIBLE TREATMENT OF A STRATEGIC ARMS PACT AS AN AGREEMENT RATHER THAN AS A TREATY

Mr. ROBERT C. BYRD. Mr. President, questions have been raised about the possible treatment of a strategic arms pact with the Soviet Union as an "agreement" rather than as a treaty.

There should be no question. If an arms limitation pact is successfully negotiated with the Soviet Union, I strongly urge that the basic document should be submitted to the Senate in the form of a treaty.

Because of my very strong feelings on this matter, and because I have been hearing speculation to the effect that such a pact might be submitted to both Houses as an agreement, rather than as a treaty, I wrote to President Carter on August 15, urging that such a pact be submitted as a treaty and not as an executive agreement.

As set forth in my letter to President Carter, I believe there are compelling constitutional grounds for insisting that the document take the form of a treaty.

An international pact as significant to the security interests of the United States must receive full status as a treaty. It is of such consequence that it must merit the confidence of the American people and it must merit the confidence of the Senate.

The administration should not resort to an end run around the Senate.

Now, I have had no definite information that this is about to happen, but I have heard it a number of times.

Because of that, I wrote to the President on August 15 to express my concerns. A pact as important as this must be sound in every respect and be able to withstand the constitutional test of advice and consent.

As I told President Carter in my letter, I am hopeful that a good—and I underline the word "good," I stress the word "good," I emphasize the word "good"—SALT treaty—fully protective of our interests and those of our NATO allies—can be negotiated. This is a matter of primordial importance. However, such an arms limitation pact has to be submitted to the Senate in the appropriate form—as a treaty. The Senate will insist that it have the opportunity to exercise its constitutional prerogative.

I want to read my letter to the President.

I have not received a reply to this hour.

OFFICE OF THE MAJORITY LEADER,
Washington, D.C., August 15, 1978.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I understand that consideration is being given to the submission of a strategic arms pact with the Soviet Union—if and when one is successfully negotiated—to the House and Senate for their joint action. This course of action would involve treating the pact as an "agreement" rather than a treaty.

With great respect for your prerogatives as Chief Executive, I must strongly urge you not to take this course. In the field of foreign affairs the roles of the Executive and the Congress are restricted by the principles of the Constitution. The limitations, indeed the requirements of Article II, Section 2, with regard to the treaty-making power cannot be lightly waived. As set forth unambiguously in that section, the United States may become a party to a treaty only through the action of the President, by and with the advice and consent of two-thirds of the Senate.

An international pact which is so significant to the security interests of the United States must, I believe, receive full status as a treaty which meets the full and only Constitutional definition of a treaty: one which is submitted to the Senate and must obtain a "super majority" in that body before it may be ratified by the Executive. As discussed at the Constitutional Convention and in the Federalist Papers, Article II, Section 2 was intended to impart a "peculiar propriety" to the union of the Executive and the Senate in the treaty area. It is incumbent upon both the Senate and the Executive to maintain this special relationship. If such an arms limitation pact is successfully negotiated, I strongly believe that the basic document should be submitted to the Senate in the form of a treaty.

A strategic arms pact with the Soviet Union is of such consequence that it must merit the confidence of the American people and broad support within the Senate.

I hope that a good SALT treaty, fully protective of our security interests and those of our allies, can be negotiated. I believe this to be a matter of highest importance. We want to do all in our power to reduce the threat of nuclear conflict. However, such a pact must be sound in every respect and able to withstand the Constitutional test of advice and consent.

Sincerely,

ROBERT C. BYRD,
Majority Leader.

So, Mr. President, I reiterate that I have heard, on several occasions, reports that there might be an attempt to avoid proceeding through the treaty process, which is clearly set forth in the Constitution, in the event a SALT pact is agreed upon by the administration.

I want again to urge that that approach not be utilized. I want to again urge that the matter be put at rest, as a matter of fact.

If the administration is not considering that approach, then I think it should say so, because if such a pact cannot stand the scrutiny and the careful and thorough study that is normally given to a treaty by the U.S. Senate, then there are serious questions in my mind as to whether or not such an agreement would be fully protective of the interests of the United States and our NATO allies.

So I urge, with all the sincerity I can muster, that such an approach not be utilized. If such a pact can stand the test, if the pact is in the protective interests of the United States and our NATO allies, then two-thirds of the Senate can be convinced, if the case is there and the case is made properly.

However, if there is any doubt that such a pact would stand that kind of scrutiny, then, in my judgment, the American people will not have faith and trust in that pact. If they observe what appears to be an attempt to make an end run, around the due constitutional process which provides that treaties have to be made by and with the advice and consent of the Senate, then the American people are going to be pretty dubious, and so am I, and so are a lot of Senators, in my judgment—pretty dubious about what is in that pact and why such an approach is being taken.

I hope that the reports are not well founded. I hope the administration will put them to rest, because I can say this—and I think I can say it with modest sincerity: If that is the approach that is going to be taken, then the administration is in for a very tough time.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, do I have any time remaining?

The PRESIDING OFFICER. The Senator has 5 minutes.

Mr. ROBERT C. BYRD. I yield to the Senator from Illinois.

Mr. STEVENSON. I thank the distinguished majority leader.

ADDITIONAL COPIES OF REPORT AND HEARINGS ON THE KOREAN INFLUENCE INQUIRY—SENATE CONCURRENT RESOLUTION 105

Mr. STEVENSON. Mr. President, I send a concurrent resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 105) authorizing the printing of additional copies of the final report and of volume II of the executive session hearings on the Korean influence inquiry.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. STEVENSON. Mr. President, this has been cleared on both sides and with the chairman and the ranking minority member of the Rules Committee, as well as the Ethics Committee and the minority leader.

Mr. President, this resolution would authorize printing, for the use of the Senate Select Committee on Ethics, 5,000 additional copies of its final report to the Senate on the Korean influence inquiry.

I know of no objection to the resolution, and I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to, as follows:

S. CON. RES. 105

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Select Committee on Ethics five thousand additional copies of its final report to the Senate, and two thousand additional copies of volume II of its executive session hearings, on the Korean influence inquiry.

SPECIAL ORDER

Mr. ROBERT C. BYRD. Mr. President, I yield whatever time I have remaining to the Senator from Kansas.

The PRESIDING OFFICER. Under the previous order, the Senator from Kansas (Mr. DOLE) is recognized for not to exceed 15 minutes, plus the time yielded by the majority leader.

SALT TREATY

Mr. DOLE. Mr. President, I share the views just expressed by the distinguished majority leader with reference to SALT.

When we stop to consider that the American people, in a recent survey by, I believe, the New York Times and CBS—a rather significant survey—indicated that for the first time they believe the Soviets are ahead of us militarily, then I think we want to focus very carefully on what could be, as the distinguished majority leader said, an end run around the Senate of the United States.

As one of those Senators who would like very much to support a good SALT agreement, I would find it very difficult if an effort were made to present it to us in some way other than a treaty. As a treaty, we could discuss it fully and it would require a two-thirds vote.

On the basis of that report, I hope the administration will follow the usual procedure; because, as the distinguished majority leader has indicated, there might be significant difficulty otherwise.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time I will consume now not be charged against the Senator from Kansas.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME LIMITATION AGREEMENT—S. 2266

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar No. 1026, S. 2266, the bankruptcy bill, is called up and made the pending business before the Senate, there be a time agreement as follows:

One hour on the bill, to be divided equally between Mr. DECONCINI and Mr. WALLOP; 30 minutes on any amendment; 15 minutes on any debatable motion, appeal, or point of order, if such is submitted to the Senate; with the exception that there be no time limit on any amendment dealing with railroads; and that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That when the Senate proceeds to the consideration of S. 2266 (Order No. 1026), a bill to establish a uniform law on the subject of bankruptcies, debate on any amendment (except any amendment dealing with railroads, on which there shall be no time limitation) shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 15 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the Senator from Arizona (Mr. DECONCINI) and the Senator from Wyoming (Mr. WALLOP): *Provided*, That the said Senators, or either of them, may,

from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

COMPREHENSIVE EMPLOYMENT AND TRAINING ACT AMENDMENTS OF 1978

Mr. ROBERT C. BYRD. Mr. President, under the order previously entered I ask that the Chair lay before the Senate Calendar Order No. 821, the CETA bill.

The PRESIDING OFFICER (Mr. LEAHY). The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2570) to amend the Comprehensive Employment and Training Act of 1973 to provide improved employment and training services, to extend the authorization, and for other purposes.

The Senate resumed consideration of S. 2570.

Mr. ROBERT C. BYRD. Mr. President, I yield myself 1 minute from Mr. NELSON's time.

FEDERAL EMPLOYEES PART-TIME CAREER EMPLOYMENT ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1037.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 518) to provide increased employment opportunity by executive agencies of the U.S. Government for persons unable to work standard working hours, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs with an amendment to strike all after the enacting clause and insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Employees Part-Time Career Employment Act of 1978".

CONGRESSIONAL FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) many individuals in our society possess great productive potential which goes unused because they cannot meet the requirements of a standard workweek; and

(2) part-time permanent employment—

(A) provides older individuals with a gradual transition into retirement;

(B) provides employment opportunities to handicapped individuals or others who require a reduced workweek;

(C) provides parents opportunities to balance family responsibilities with the need for additional income;

(D) benefits students who must finance their own education or vocational training;

(E) benefits the Government, as an employer, by increasing productivity and job satisfaction, while lowering turnover rates and absenteeism, offering management more flexibility in meeting work requirements, and filling shortages in various occupations; and

(F) benefits society by offering a needed alternative for those individuals who require or prefer shorter hours (despite the reduced income), thus increasing jobs available to reduce unemployment while retaining the skills of individuals who have training and experience.

(b) The purpose of this Act is to provide increased part-time career employment opportunities throughout the Federal Government.

PART-TIME CAREER EMPLOYMENT PROGRAM

SEC. 3. (a) Chapter 33 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"Subchapter VIII—PART-TIME CAREER EMPLOYMENT OPPORTUNITIES

"§ 3391. Definitions

"For the purpose of this subchapter—

"(1) 'agency' means—

"(A) an Executive agency;

"(B) a military department;

"(C) an agency in the judicial branch;

"(D) the Library of Congress;

"(E) the Botanic Garden; and

"(F) the Office of the Architect of the Capitol; but does not include—

"(i) a Government controlled corporation;

"(ii) the Tennessee Valley Authority;

"(iii) the Alaska Railroad;

"(iv) the Virgin Island Corporation;

"(v) the Panama Canal Company;

"(vi) the Federal Bureau of Investigation, Department of Justice;

"(vii) the Central Intelligence Agency; and

"(viii) the National Security Agency, Department of Defense; and

"(2) 'part-time career employment' means part-time employment of 10, 20, or 30 hours a week under a schedule consisting of an equal or varied number of hours per day, whether in a position which would be part-time without regard to this section or one established to allow job-sharing or comparable arrangements, but does not include employment on a temporary or intermittent basis.

"§ 3392. Establishment of part-time career employment programs

"(a)(1) In order to promote part-time career employment opportunities in all grade levels, the head of each agency, by regulation, shall establish and maintain a program for part-time career employment within such agency. Such regulations shall provide for—

"(A) the review of positions which, after such positions become vacant, may be filled on a part-time career employment basis (including the establishment of criteria to be used in identifying such positions);

"(B) procedures and criteria to be used in connection with establishing or converting positions for part-time career employment, subject to the limitations of section 3393 of this title;

"(C) annual goals for establishing or converting positions for part-time career employment, and a timetable setting forth interim and final deadlines for achieving such goals;

"(D) a continuing review and evaluation of the part-time career employment program established under such regulations; and

"(E) procedures for notifying the public of vacant part-time positions in such agency, utilizing facilities and funds otherwise available to such agency for the dissemination of information.

"(2) The head of each agency shall provide for communication between, and coordination of the activities of, the individuals within such agency whose responsibilities relate to the part-time career employment program established within that agency.

"(3) Regulations established under paragraph (1) of this subsection may provide for such exceptions as may be necessary to carry out the mission of the agency.

"(b)(1) The Civil Service Commission, by regulation, shall establish and maintain a program under which it shall, on the request of an agency, advise and assist such agency in the establishment and maintenance of its part-time career employment program under this subchapter.

"(2) The Commission shall conduct a research and demonstration program with respect to part-time career employment within the Federal Government. In particular, such program shall be directed to—

"(A) determining the extent to which part-time career employment may be used in filling positions which have not traditionally been open for such employment on any extensive basis, such as supervisory, managerial, and professional positions;

"(B) determining the extent to which job-sharing arrangements may be established for various occupations and positions; and

"(C) evaluating attitudes, benefits, costs, efficiency, and productivity associated with part-time career employment, as well as its various sociological effects as a mode of employment.

"§ 3393. Limitations

"(a) An agency shall not abolish any position occupied by an employee in order to make the duties of such position available to be performed on a part-time career employment basis.

"(b) Any person who is employed on a full-time basis in an agency shall not be required to accept part-time employment as a condition of continued employment.

"§ 3394. Personnel ceilings

"In administering any personnel ceiling applicable to an agency (or unit therein), an employee employed by such agency on a part-time career employment basis shall be counted as a fraction which is determined by dividing 40 hours into the average number of hours of such employee's regularly scheduled workweek.

"§ 3395. Nonapplicability

"(a) If, on the date of enactment of this subchapter, there is in effect respect to positions within an agency a collective-bargaining agreement which establishes the number of hours of employment a week, then this subchapter shall not apply to those positions.

"(b) This subchapter shall not require part-time career employment in positions the rate of basic pay for which is fixed at a rate equal to or greater than the minimum rate fixed for GS-16 of the General Schedule.

"§ 3396. Regulations

"Before any regulation is prescribed under this subchapter, a copy of the proposed regulation shall be published in the Federal Register and an opportunity provided to interested parties to present written comment and, where practicable, oral comment. Initial regulations shall be prescribed not later than 180 days after the date of the enactment of this subchapter.

"§ 3397. Reports

"(a) Each agency shall prepare and transmit on a biannual basis a report to the Civil Service Commission on its activities under this subchapter, including—

"(1) details on such agency's progress in meeting part-time career employment goals established under section 3392 of this title; and

"(2) an explanation of any impediments experienced by such agency in meeting such goals or in otherwise carrying out the provisions of this subchapter, together with a statement of the measures taken to overcome such impediments.

"(b) The Commission shall include in its annual report under section 1308 of this title a statement of its activities under this subchapter, and a description and evaluation of the activities of agencies in carrying out the provisions of this subchapter.

"§ 3398. Employee organization representation

"If an employee organization has been accorded exclusive recognition with respect to a unit within an agency, then the employee organization shall be entitled to represent

all employees within that unit employed on a part-time career employment basis.".

(b) Subpart B of the table of chapters of part III of the analysis of chapter 33 of title 5, United States Code, is amended by inserting after the item relating to section 3385 the following:

"Subchapter VII—PART-TIME CAREER EMPLOYMENT OPPORTUNITIES

"Sec.
"3391. Definitions.
"3392. Establishment of part-time career employment programs.
"3393. Limitations.
"3394. Personnel ceilings.
"3395. Nonapplicability.
"3396. Regulations.
"3397. Reports.
"3398. Employee organization representation.".

SEC. 4. (a) Section 8347(g) of title 5, United States Code, is amended by adding at the end thereof the following: "However, the Commission may not exclude any employee who occupies a position on a part-time career employment basis (as defined in section 3391(2) of this title).".

(b) Section 8716(b) of such title 5 is amended—

(1) by striking out of the second sentence "or part-time";

(2) by striking out "or" at the end of clause (1);

(3) by striking out the period at the end of clause (2) and inserting in lieu thereof "; or"; and

(4) by adding at the end thereof the following:

"(3) an employee who is occupying a position on a part-time career employment basis (as defined in section 3391(2) of this title).".

(c)(1) Section 8913(b) of such title 5 is amended—

(A) by striking out "or" at the end of clause (1);

(B) by striking out the period at the end of clause (2) and inserting in lieu thereof "; or"; and

(C) by adding at the end thereof the following:

"(3) an employee who is occupying a position on a part-time career employment basis (as defined in section 3391(2) of this title).".

(2)(A) Section 8906(b) of such title 5 is amended—

(i) by striking out "paragraph (2)" in paragraph (1) and inserting in lieu thereof "paragraphs (2) and (3)"; and

(ii) by adding at the end thereof the following new paragraph:

"(3) In the case of an employee who is occupying a position on a part-time career employment basis (as defined in section 3391 (2) of this title), the biweekly Government contribution shall be equal to the percentage which bears the same ratio to the percentage determined under this subsection (without regard to this paragraph) as the average number of hours of such employee's regularly scheduled workweek bears to the average number of hours in the regularly scheduled workweek of an employee serving in a comparable position on a full-time career basis (as determined under regulations prescribed by the Commission)".

(B) The amendments made by subparagraph (A) shall not apply with respect to any employee serving in a position on a part-time career employment basis on the date of the enactment of this Act for such period as the employee continues to serve without a break in service in that or any other position on such part-time basis.

SEC. 5. Each report prepared by an agency under section 3397(a) of title 5, United States Code (as added by this Act), shall, to the extent practicable, indicate the extent to which part-time career employment opportunities have been extended by such agency during the period covered by such report to each group referred to in subparagraphs (A), (B), (C), and (D) of section 2(a)(2) of this Act.

UP AMENDMENT NO. 1779

Mr. ROBERT C. BYRD. Mr. President, I send to the desk two amendments and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes unprinted amendment numbered 1779.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12 line 1, strike "10, 20 or 30," and insert in lieu thereof, "16 to 32."

On page 15, line 4, after the word "workweek." insert the following additional language: "This section shall become effective on October 1, 1979."

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1116), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

I. PURPOSE OF LEGISLATION

The purpose of S. 518 is to encourage the use of part-time career employment in the Federal government by requiring each agency to establish a program to provide for increased part-time career employment opportunities.

II. SUMMARY OF LEGISLATION

S. 518, the Federal Employment Part-Time Career Employment Act:

(1) Requires the creation of a part-time career employment program in every Federal agency to promote the creation of part-time job opportunities at all civil service grade levels up to grade 16 (GS-16). By using the term "part-time career employment," the legislation makes clear the intent to encourage permanent part-time work, rather then temporary or intermittent employment. The number of part-time work opportunities created would be established by an annual goal set at the discretion of each agency. The program would entail the review of positions as they become open to ascertain whether they are appropriate for conversion to part-time slots; and procedures and criteria for establishing or converting such positions.

(2) Requires the Civil Service Commission to provide technical assistance and to advise and assist agencies in the establishment and maintenance of their part-time career employment program.

(3) Requires the Civil Service Commission to conduct a research and demonstration program with respect to part-time career opportunities in the Federal Government.

(4) Provides that an agency shall not abolish any position occupied by an employee in order to make the duties of that position available to be performed on a part-time basis. The legislation also provides that no full-time employee can be coerced into taking a part-time position as a condition of continued employment.

(5) Changes the current method for determining personnel ceilings in each agency by requiring the counting of employees on the basis of the fractional part of the 40-hour week actually worked.

(6) Prorates fringe benefits for part-time employees, including Government contribution to employee health insurance, on the basis of hours worked. Those employees currently working for the government on a permanent part-time basis would continue to receive benefits in accordance with current law and regulations.

III. LEGISLATIVE HISTORY

S. 518 was introduced on January 31, 1977, by Senator Nelson. Similar legislation had passed the Senate in the previous Congress, but was not considered by the House of Representatives. On March 13, 1978, however, the House did approve part-time legislation, H.R. 10126, by a vote of 294–94.

On June 29, 1978, the committee held hearings on S. 518 and H.R. 10126, as well as S. 517 and H.R. 7814, legislation dealing with flexible work hours in the Federal Government. At that time, the committee received testimony from Senator Gaylord Nelson; Representative Yvonne Brathwaite Burke; Representative Patricia Schroeder; Ersa Poston, U.S. Civil Service Commissioner, representing the administration's viewpoint; J. Gene Randolph, Executive Director of the National Federation of Federal Employees; Dr. Carol Greenwald, Commissioner of Banks, State of Massachusetts; Lynne Revo Cohen, director of Part-time Employment for the Women's Lobby, Inc.; and Dr. Fred Best of the National Commission for Manpower Policy. The committee has also received and benefited from a large number of written statements and letters concerning the need for legislation like S. 518.

On July 24, 1978, the committee considered S. 518 and unanimously adopted an amendment in the nature of a substitute. The bill approved by the committee differs from the bill as introduced in the following ways. The substitute:

(1) Deletes the requirement that agencies make available 2 percent of all their positions for permanent part-time workers every year for five years until at least a 10-percent level is attained.

(2) Changes the definition for part-time career employment from anything less than 40 hours per week to employment of 16, 20, or 30 hours per week.

(3) Allows agencies to prorate health benefits to employees based on the number of hours worked, eliminating the argument that the bill would increase the costs incurred by Government.

(4) Requires the Civil Service Commission to conduct a research and demonstration program to evaluate and assess the impact of part-time career opportunities in the Federal Government.

Overall, S. 518, as reported by the committee, mirrors H.R. 10126, the House-passed legislation, except for the definition of part-time career employment and the handling of fringe benefits.

IV. NEED FOR LEGISLATION

1. THE CURRENT SITUATION

In the past few years, there has been an increasing demand on the part of many Americans for productive, challenging em-

ployment which can be performed on a regular basis, working substantially less than a 40-hour week. The committee believes that S. 518 would represent a significant first legislative step in response to this interest in part-time work. Moreover, the committee believes such a step is overdue and that the Federal Government bears a particular responsibility to act in this area.

Approximately 17 percent[1] of those employed in the private sector in the United States are working on a part-time basis. These part-time jobs are generally clustered at the low end of the employment spectrum. For instance, a Labor Department report notes that the average hourly wage for women working part-time is $2.87, 96 cents below the wage of full-time women workers. As Lynne Cohen testified to the committee, "part of the difference is due to lower pay within the same occupations; part is due to part-time workers being in occupations that have lower wages for everyone."

Any simple profile of the present situation in the private sphere tends to mask significant progress which has taken place in recent years. An article in the June 1978 issue of Changing Times magazine reported:

Not everyone wants or can manage a full-time job. But until recent years, your chances of getting someone to hire you on a part-time basis were pretty limited. You could work for a retail store or a fast-food place, maybe be on call with a temporary help agency, sometimes get a regular arrangement with a bank or other company that needed to smooth out the work flows peculiar to its operation.

Today the picture is much bigger and better. Companies and government agencies are discovering the advantages of hiring part-time workers. There is a push to make part-time work a permanent fixture of payrolls.

The Federal Government has lagged far behind the private sphere in providing and improving part-time employment opportunities of any type. In 1977, only 2.3 percent of the Federal work force were permanent part-time employees. Moreover, 89 percent of the part-time federal jobs are in the lower grade levels, primarily in the clerical, food and medical services.

This record is particularly disappointing because the issue of increasing part-time employment opportunities in the Federal Government is not new. Fifteen years ago the President's Commission on the Status of Women recommended that the Federal Government establish a permanent structure for part-time job opportunities in Federal agencies. Since that time, the Civil Service Commission has reiterated that position in its booklet, "A Point of View."

The Department of Labor has also endorsed increased part-time employment opportunities. A 1975 GAO study cited major benefits for the Federal Government which would be derived from the increased use of part-time employees. In 1975 also, the Senate passed legislation sponsored by Senator Tunney, which would have mandated each agency in the Federal Government to fill 2 percent of its positions for each of the next 5 years with part-time employees. Despite this string of reports and initiatives, the number of people employed part-time in the Federal Government remains very low.

As Senator Nelson, sponsor of S. 518, has stated:

The Federal Government is the Nation's largest employer, but certainly not the most innovating one. The enactment of part-time legislation would authorize the Federal Government to undertake some very significant initiatives to enhance its position as a model employer—one which public and private employers could look to for leadership.

Most studies indicate that the failure to provide decent part-time employment opportunities reflects adherence by employers to certain preconceptions about part-time workers. Traditionally, those interested in working less than full-time have been stereotyped as unreliable and uncommitted. As Dr. Carol Greenwald, an economist and Commissioner of Banking in Massachusetts testified to the committee:

Firms have resisted part-time employment for a variety of philosophical and administrative reasons. Philosophically, they have viewed part-time work as not legitimate, legitimacy being defined as what men do. One can't be serious about a job if one wants to work part-time. . . . Management ignores the fact that what is considered full-time is not an immutable fact of nature, and that there have been more changes in what is full-time working during this century than there had been in the previous thousand years.

The same point was made by Professor William B. Werther in a March 1976 article entitled, "Mini-Shifts: An Alternative to Overtime," where he wrote that most managers do not regard part-timers as mature, dependable workers because they associate the concept of part-time work with young and inexperienced transient workers.

The committee believes that this stereotype is seriously misleading. It certainly confuses the concepts of temporary or intermittent work on one hand with part-time permanent employment on the other. Even a cursory review of the individuals and groups who stand to benefit most from S. 518 shows that there are many good reasons why people would want to work less than 40 hours a week, at least during some period of their lives. The Committee believes that permitting, even encouraging, individuals to work part-time when they want to further vitally important social policies.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1066, H.R. 10126.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the bill by title.

The legislative clerk read as follows:

H.R. 10126, a bill to amend title 5, United States Code, to establish a program to increase part-time career employment within the civil service, reported without amendment.

The Senate proceeded to consider the bill.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all after the enacting clause be stricken and the language of Senate bill S. 518, as amended, be inserted in lieu thereof; that the bill proceed to third reading; that it be passed; and that the motion to reconsider laid on the table and that S. 518 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill, as amended, is passed, and the motion to lay on the table the motion to reconsider is agreed to.

Mr. ROBERT C. BYRD. And S. 518 is indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there are three additional measures that have been cleared with the minority side. I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1004, Calendar Order No. 1052, and Calendar Order No. 1072.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISCONTINUANCE OF ANNUITY PAYMENTS FOR EMPLOYMENT OF A JUSTICE OR JUDGE

The Senate proceeded to consider the bill (H.R. 4320) to amend chapter 83 of title 5, United States Code, to discontinue civil service annuity payments for periods of employment as a justice or judge of the United States, and for other purposes, which had been reported from the Committee on Governmental Affairs with amendments as follows:

On page 3, line 12, after "3." insert "(a)";

On page 4, beginning with line 6, insert the following:

(b) Notwithstanding the provisions of section 8339(k) (2) of title 5, United States Code, an annuitant—

(1) who was unmarried at the time of retiring under subchapter III of chapter 83 of such title,

(2) who married after retiring during the period beginning on January 9, 1971, and ending on the day before the date one year before the date of the enactment of this Act, and

(3) who certifies to the Civil Service Commission that he was unable to file a timely election under such provision of law by reason of his failure to receive notification of his right to file such an election,

may irrevocably elect, in a signed writing received in the Commission within one year after the effective date of this section, a reduction in his current annuity in accordance with the provisions of section 8339(j) of title 5, United States Code, but only if at the time of such election he deposits an amount equal to the amount by which, if he had filed an election on the last day on which he could timely file under such section 8339(k)(2), his annuity would have been reduced during the period beginning on the first day his annuity would have been reduced if he had so filed and ending on the day before a reduction is to take effect under this subsection. The reduction in annuity resulting from an election filed under this subsection is effective the first day of the month after the election is received in the Commission.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1082), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF AMENDMENTS

The amendments permit an unmarried annuitant, who married between January 8, 1971, and the day before the date 1 year before the date of the enactment of this legislation, 1 additional year in which to elect a reduced annuity to provide a survivor benefit, provided such annuitant deposits an amount equal to the amount by which his annuity would have been reduced if he had made a timely election for a reduced annuity under the provisions of section 8339(k), title 5, United States Code.

PURPOSE

The primary purpose of H.R. 4320, as amended, is to authorize the discontinuance of civil service annuity payments to former civil service employees who, on or after the effective date of this legislation, are appointed as justices or judges of the United States. Annuity payments would be resumed upon resignation or retirement from regular active service as such a justice or judge.

The bill, as amended, would also reopen for 1 year an opportunity provided under Public Law 91–658 for annuitants who had been unmarried at the time of retirement, but who had married prior to that law's enactment on January 8, 1971, to elect within 1 year following such date of enactment a reduced annuity with a survivor annuity payable to a spouse.

In addition, the bill, as amended, permits unmarried annuitants, who married between January 8, 1971, and 1 year prior to the date of enactment, an additional year to elect a reduced annuity to provide a survivor benefit, provided such annuitant pays into the civil service retirement fund the amount which would have been deducted had an election been made at the time of marriage.

COMMITTEE ACTION

H.R. 4320 was the subject of hearings by the Subcommittee on Civil Service and General Services on May 17, 1978. Statements in support of the legislation were received from Hon. Gladys Spellman, Representative of Maryland, and Mr. Thomas Tinsley, Director, Bureau of Retirement, Insurance and Occupational Health, U.S. Civil Service Commission.

Thereafter, the subcommittee on July 12, 1978, recommended favorable action by the full committee on the bill, as amended.

BACKGROUND

As a general policy, annuitants under the civil service retirement system who are reemployed in the Federal Government are not entitled to receive both the annuity and the full salary during the period of reemployment. This policy is established under two provisions of law.

The first provision (5 U.S. Code 8344(a)) applies to most annuitants, other than retired Members of Congress, who are reemployed in Federal positions, and requires that an amount equal to the annuity allocable to the period of actual employment shall be deducted from the pay.

The second provision (5 U.S. Code 8344(d)) applies only to a retired Member of Congress receiving an annuity who is reemployed in an appointive or elective Federal position and requires that the annuity payments be discontinued during the reemployment and resumed in the same amount upon termination of the employment.

However, an annuitant, other than a retired Member of Congress, who is appointed as a justice or judge of the United States is not subject, under existing law, to any reduction, either in his civil service annuity or in his judicial pay. There is no specific provision of law authorizing the discontinuance of the annuity of such a justice or judge, such as there is under 5 U.S. Code 8344(d) in the case of a retired Member of Congress. The provisions of section 8344(a) authorizing an amount equal to the annuity to be deducted from the pay cannot be applied to the pay of a justice or judge, since article III of the Constitution prohibits the salary of a justice or judge from being diminished during his continuance in office.

The provisions of section 1, the bill, as amended, will place a restriction on the payment of civil service annuities to retirees from civil service positions who are appointed as justices or judges on or after the effective date of the Act. This restriction is identical to the one which now applies to retired Members of Congress—that is, upon reemployment as a justice or judge, the annuity payments will be discontinued during such employment and resumed in the same amount upon resignation or retirement from regular active service as such a justice or judge. The discontinuance of the annuity during such employment will have no effect whatever on any survivor rights that otherwise may be available.

Upon further study of this issue, the committee finds that much confusion and some controversy exists due to the differing interpretations and the administrative decisions based on the interpretations which have been handed down.

Since the pay of a justice or judge could not be reduced due to the constitutional prohibition, the Commission, until recently, took the alternative action of suspending payment of their annuities in order to avoid the dual payment of retirement annuity and salary. This action was based, in part, on a 1966 General Accounting Office decision (45 Comp. Gen. 383) concerning retirement benefits in the case of a judge who, on the basis of service in the executive branch, had established entitlement to a civil service annuity prior to his appointment as a judge. The Administrative Office of the U.S. Courts requested a decision as to whether he was entitled to receive the salary of his judicial office without reduction on account of the civil service annuity he was receiving. The Comptroller General held that, while the judge was entitled to full salary because of the constitutional prohibition against diminishing the compensation of a judge, the payment of his annuity was not authorized while he was in regular active service as a district judge.

In 1973, a judge of the Court of Claims appealed to the Civil Service Commission's Board of Appeals and Review the decision of the Commission's Bureau of Retirement, Insurance, and Occupational Health that he could not receive a civil service annuity during his tenure as a judge of the Court of Claims. In his appeal the judge stated his disagreement with the prior decision, as not being grounded in law. After the Board of Appeals and Review sustained the Bureau's decision on the basis of the GAO decision, the GAO decided to review its position on the issue. As a result, the General Accounting Office wrote to the General Counsel of the Civil Service Commission on August 29, 1974, expressing the view that GAO should not have considered the question of eligibility for a civil service annuity and that the 1966 decision was incorrect.

In 1975, the General Counsel of the Civil Service Commission and the Acting Assistant Attorney General reviewed this question and concluded that the suspension of the annuities of other than former Members of Congress was without authority of law.

In the absence of legal authority to suspend the judges' annuities, the Civil Service Commission concluded, in January 1976, that it could no longer continue the administrative practice of suspending their annuities, except in the case of retired Members of Congress. Also, any other judges who become entitled to annuity while serving as judges, and who apply for such annuity, will be entitled to receive payment thereof.

This decision is applicable only in those cases where the annuity is based on prior service in the civil service of the Government. Payment of annuity is still barred, however, to retired Members of Congress who are serving as justices or judges. Under the provisions of section 8344(d) of title 5, United States Code, the payment of annuity to Member annuitants is discontinued during reemployment and resumed in the same amount on termination of the reemployment.

The committee finds that there are 481 active justices and judges and 174 retired justices and judges who are receiving continuation of pay under 28 U.S.C. 371. At least 90 of these individuals have more than 5 years of prior civil service and a possible claim to at least a deferred annuity at age 62. The amount of annuity payable, though, will vary with each individual case. Back annuity totaling more than $300,000 is being paid to four judges whose annuities had actually been suspended under the prior practice. Eleven more judges have a vested title to deferred annuity which will be paid upon application for it. At least 70 judges have a vested title to deferred annuity based on more than 5 years of creditable service before they became judges, but they technically voided their annuity title by taking a refund upon being appointed a judge. To the extent that they relied on advice that payment of annuity to which they might become entitled at age 62 would be suspended during their active service as a judge, the refunds might be held as erroneous, but it is at best very questionable as to whether the Commission has any legal authority to permit them to make a redeposit and reestablish title to deferred annuity. Section 2 of the bill will give the right to redeposit.

Another provision of the bill (section 3), unrelated to the payment of civil service annuities to judges, would reopen for 1 year an opportunity given in 1971 by Public Law 91–658 for annuitants who had been unmarried at the time of retirement, but who had married prior to the law's enactment on January 8, 1971, to elect within 1 year after the law's enactment, a reduced annuity with a survivor annuity payable to their spouses. The new opportunity for such annuitants to elect a reduced annuity with survivor annuity payable to their spouses would be limited to annuitants who certify to the Civil Service Commission that they were unable to file a timely election under the 1971 law by reason of their failure to receive notification of their right to file such an election.

In addition, H.R. 4320, as amended, will permit a second group of unmarried annuitants, who married between January 8, 1971, and 1 year prior to the enactment of this legislation, 1 additional year in which to elect a reduced annuity to provide a survivor benefit, provided such annuitant deposits into the Civil Service Retirement Fund an amount equal to that which would have been deducted had a timely election been made under the provisions of Public Law 91–658.

Under the provisions of the new subsection (g) of section 8344, as added by the first section of the bill, a former employee or a former Member who becomes employed as a justice or judge of the United States, as defined by 28 U.S.C. 451, may apply for and be paid, in accordance with 5 U.S.C. 8342(a), the amount by which his lump-sum credit exceeds the total annuity paid to him, notwithstanding the time limitation on filing such an application presently contained in section 8342(a) of title 5.

Mr. STEVENS. Mr. President. Under existing law, U.S. justices and judges who are retired Federal employees are permitted to receive both full salary and annuity during periods of reemployment. I wish to support H.R. 4320 which, if enacted would place Federal justices and judges under the same provisions of existing law as relating to the reemployment of all other Federal employees.

In addition, there are judges who are appointed to the bench and who erroneously assume they are no longer entitled to retirement benefits. They void their rights to an annuity by taking a refund from their retirement contributions. H.R. 4320 gives them 1 year to redeposit the refund with interest and reestablish their right to the annuity.

The bill also covers annuitants who were unmarried at the time of retirement but married before the "second

[1] 17 percent is the figure most commonly cited. Depending on the definition of part-time work used, certain studies put the figure as high as 22 percent. See Stanley D. Nollen and Virginia H. Martin, "Alternative Work Schedules Part 2: Permanent Part-Time Employment," AMACOM, a Division of American Management Associates 1978.

spouse law" was enacted—January 1971. It grants them 1 additional year to elect a reduction in annuities to cover their spouse if they can show they failed to receive notification of the change in law.

Finally, anyone married after January 8, 1971, but 1 year prior to this bill's enactment, also has 1 year to elect a reduction. The requirement is that he redeposits the amount of the annuity he received over and above the reduced amount he should have received if he had made the timely reduction. In addition to the benefits which H.R. 4320 would have for those concerned, it is estimated that enactment of the bill will result in a reduction in Federal expenditures.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PAPAGO INDIAN LANDS

The bill (H.R. 8397) to provide that a certain tract of land in Pinal County, Ariz., held in trust by the United States for the Papago Indian Tribe, be declared a part of the Papago Indian Reservation, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1133), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of this legislation is to formally declare that a 20-acre tract of land, now held by the United States in trust for the Papago Tribe of Arizona, is part of the Papago Indian Reservation.

BACKGROUND

The 20-acre tract of land, which the Papago people call Florence Village, is located approximately 30 miles from the main Papago Reservation. It lies adjacent to the city limits of Florence, Ariz. Papago tribal members originally settled the general area in the late 1800's, while pursuing agricultural employment there.

Sometime in 1917, the present site of Florence Village was occupied, and there are now some 40 people living there. Title to the tract was conveyed by the non-Indian owners to the United States by gift deed for the benefit of the Papago Tribe on December 30, 1974. The Secretary of the Interior then took the land into trust for the tribe, pursuant to the provisions of the act of June 18, 1934, chapter 576, section 5 (48 Stat. 985; 25 U.S.C. 465).

Prior to 1974, the Florence Villagers occupied the tract with the verbal consent of the owners, and paid annual taxes on the land. The residents are members of the Papago Tribe.

Although the tract is now Papago trust land, the Secretary of the Interior is statutorily precluded from administratively declaring the land to be formally a part of the Papago Indian Reservation. Section 4 of the act of March 3, 1927 (55 Stat. 1347; 25 U.S.C. 398d) prohibits the changing of any boundary of an Executive order Indian reservation except by act of Congress. Additionally, section 2 of the act of May 25, 1919 (40 Stat. 570; 25 U.S.C. 211) proscribes the creation of, or addition to, any Indian reservation within either New Mexico or Arizona except by act of Congress.

Thus, H.R. 8397 must be enacted to effectively annex this 20-acre tract of land as a part of the Papago Indian Reservation.

NEED

Denials or delays in the delivery of Federal program services have been experienced, due to Florence Village's nonreservation status. Assistance in the areas of housing improvement and development of sanitary facilities are vitally needed. Tribal jurisdiction over the tract may be questioned without formal reservation status. Enactment of H.R. 8397 will provide access to programs and services to resolve many of these problems.

NATIONAL PORT WEEK

The joint resolution (H.J. Res. 773) authorizing and requesting the President of the United States to issue a proclamation designating the 7 calendar days beginning September 17, 1978, as "National Port Week," was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PASCUA YAQUI INDIANS OF ARIZONA—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I submit a report of the committee of conference on S. 1633 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1633) to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of July 11, 1978.)

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

COMPREHENSIVE EMPLOYMENT AND TRAINING ACT AMENDMENTS OF 1978

The Senate continued with the consideration of S. 2570.

The PRESIDING OFFICER. Who yields time? Does the Senator from Wisconsin seek recognition? If neither side yields time, time runs equally against both sides.

Mr. NELSON addressed the Chair.

The PRESIDING OFFICER. At the present time the parliamentary situation is that time is running equally against both sides. If the Senator from Wisconsin seeks recognition, time is running against him.

Mr. NELSON. Time is running against time on the bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. NELSON. Equally divided.

The PRESIDING OFFICER. Does the Senator seek recognition?

Mr. NELSON. Yes, Mr. President. I have some additional material which is entitled "Further Analysis S. 2570" which goes into much greater detail than the material put into the RECORD prior to this. I ask unanimous consent that this analysis of S. 2570 be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

FURTHER ANALYSIS OF S. 2570—STATEMENT OF PURPOSE

The CETA statement of purpose is amended to stress the goals of increased earned income for the program's participants and program coordination under the Act with other related programs such as economic development, community development, vocational education, vocational rehabilitation, and social service programs.

TITLE I—ADMINISTRATIVE PROVISIONS

Summary

Title I authorizes the administrative and general provisions applicable to all programs. Among such provisions are those governing the designation of prime sponsors; Secretary's authority; program planning; grievance procedures; planning councils; authorizations of appropriations; conditions applicable to employment, wages, and labor standards; reports; program discrimination, and program abuses.

Authorizations of appropriations

An authorization of appropriations of such sums as may be necessary is provided for four years (fiscal year 1979 through fiscal year 1982) for Title I (Administrative Provisions), II (Comprehensive Employment and Training Services), III (Special Federal Responsibilities), IV–B (Job Corps), IV–C (Summer Youth Program), and VI (Public Service Employment Program).

An authorization of appropriations of $3 million for fiscal year 1979 and such sums as may be necessary for the three succeeding fiscal years is provided for Title V (National Commission for Employment and Training Policy).

An authorization of appropriations of $400 million for fiscal year 1979 and such sums as may be necessary for fiscal year 1980 is provided for Title VII (Private Sector Opportunities for the Economically Disadvantaged).

An authorization of appropriations of such sums as may be necessary for fiscal years 1979 and 1980 is provided for Titles VIII and IV, Parts A and D, (Youth Employment and Demonstration Projects Act and Young Adult Conservation Corp).

Titles VII and IV, Parts A and D are authorized for only two years because they are demonstration programs.

Up to 20 percent of the funds appropriated for the Act (exclusive of funds appropriated for Titles II–D and VI) is authorized for Title III programs and activities.

Between $3 million and $5 million of Title III funds annually are set aside for purposes of the National Occupational Information Coordinating Committee.

Prime sponsor designation

The current system for designating prime sponsors is retained by the bill reported by the Senate Human Resources Committee. However, S. 2570 further provides that a prime sponsor which has performed effectively in the past, and has been determined by the Secretary to have the capability for continued effective performance in the future, shall be designated a prime sponsor regardless of whether its population declines below 100,000 persons.

To promote local participation in CETA programs, a provision has been added which directs State prime sponsors to allow subareas to assist in the planning and delivery of services in their subareas. However, this provision is not intended to designate such subareas as program agents.

The Secretary is authorized to act as the prime sponsor for all employment programs which would normally be run by a prime sponsor when no prime sponsor applies to serve an area or when employment services are discontinued as a result of action by the Secretary on a complaint or in disapproving a prime sponsor's plan. This provision expands the Secretary's current authority to administer only existing Title I programs in such circumstances and assures that participants will not be denied services in such cases.

Comprehensive employment and training plan

The CETA grant system directs a prime sponsor to submit a comprehensive employment and training plan. It consists of a comprehensive employment and training agreement and an annual employment and training plan. The comprehensive employment and training agreement serves as the long-term charter governing the operation of a prime sponsor's program. The annual employment and training plan describes a prime sponsor's proposed activities and contains other program information for the fiscal year for which the prime sponsor is seeking CETA funds.

The annual employment and training plan includes modifications of the comprehensive employment and training agreement resulting from changed labor market conditions or other factors; a description of the eligible population identified by age, race, sex, and national origin, and the proposed activities and the services to be provided to these persons; the prime sponsor's performance and placement goals and the relationship of such goals to the Secretary's performance standards; proposed efforts to involve the private sector in CETA programs; and the prime sponsor's budget for the program year.

Outreach and placement procedures

Included in the information which prime sponsors submit in the comprehensive employment and training agreement is a description of the methods which they use to identify and place participants in programs.

The Committee report states that prime sponsors should employ a variety of outreach services to notify all segments of the community about the availability of CETA opportunities. The Committee bill requires prime sponsors to use objective placement procedure which are free of bias or stereotyped attitudes.

Intensive outreach programs and objective placement procedures are necessary to assure that various groups of unemployed persons are served equitably.

The Subcommittee on Employment, Poverty, and Migratory Labor received testimony at the CETA hearings that women and older American have not been served in certain CETA programs proportionate to their representation in the eligible population. Their underrepresentation has been particularly significant in the high wage public service employment programs.

CHARACTERISTIC OF CETA PARTICIPANTS PERCENT DISTRIBUTION

	Title I	Title II	Title VI
Fiscal year 1977:			
Male	51.5	60.0	64.1
Female	48.5	40.0	35.9
Age:			
Under 22	51.7	20.3	20.3
22 to 44	40.8	64.2	64.6
45 to 54	4.3	9.6	9.2
55 and over	3.1	5.9	6.8
First half of fiscal year 1978:			
Male	48.9	55.7	62.7
Female	51.1	44.3	37.3
Age:			
Under 22	49.9	20.3	20.4
22 to 44	42.4	64.9	65.6
45 to 54	4.4	9.3	8.6
55 and over	3.3	5.6	5.4

Although reliable statistics indicating the wage rates of older Americans in CETA programs are not available, survey statistics submitted by the Department of Labor indicate that women, regardless of their academic qualifications, on an average receive lower wages than men performing public service employment.

FISCAL YEAR 1977 CETA PSE ENROLLEES BY EDUCATION AT ENTRY, SEX, AND BEGINNING WAGE (ESTIMATES BASED ON CLMS DATA)

Beginning hourly wage	12 yr (less than high school)			High school degree or equivalent			12 yr (more than high school)		
	Male	Female	Total	Male	Female	Total	Male	Female	Total
Total	79,346	28,154	107,500	85,548	58,727	144,276	78,915	58,098	137,013
Percent (total)	100	100	100	100	100	100	100	100	100
$2.76	26,046	16,866	42,912	13,716	19,785	33,500	7,439	10,637	18,076
Percent	35	54	42	17	35	24	10	20	14
$2.76 to $3.00	9,094	2,355	11,449	8,386	8,280	16,666	5,310	4,688	10,000
Percent	12	9	11	10	15	12	7	9	8
$3.01 to $3.25	6,997	2,580	9,577	7,064	8,356	15,419	4,034	4,221	8,255
Percent	9	10	9	9	15	11	6	8	6
$3.26 to $3.50	9,269	1,497	10,766	11,533	6,578	18,111	7,341	7,984	15,325
Percent	12	5	11	14	12	13	10	15	12
$3.51 to $3.75	5,022	664	5,686	6,932	5,185	12,117	6,965	3,683	10,648
Percent	7	3	6	9	9	9	9	7	8
$3.75 to $4.00	5,461	1,042	6,503	7,252	2,905	10,157	6,628	4,019	10,647
Percent	7	4	6	9	5	7	9	7	8
$4.01 to $4.50	7,138	1,090	8,228	13,483	3,094	16,577	17,399	7,301	24,700
Percent	10	4	8	17	6	12	24	13	19
$4.51 to $5.00	5,273	77	5,350	9,245	1,757	11,002	12,995	6,527	19,522
Percent	7		5	11	3	8	18	12	15
$5.01	1,185		1,185	3,383	331	3,714	5,852	5,379	11,231
Percent	2		2	4	1	3	8	10	9
NA	3,862	1,984	5,845	4,555	2,457	7,011	4,953	3,649	8,601
Percent									
Average	3.24	2.76	3.12	3.64	3.11	3.42	4.12	3.75	3.96
Median [1]	3.08	2.66	2.93	3.50	3.00	3.31	3.97	3.47	3.81

[1] The lower limit of the $2.76 interval was set at $2.30.

The foregoing statistics may be the result of a number of factors including de jure and de facto discrimination practices in the development and administration of CETA programs.

The hiring and employment practices of prime sponsors may also reflect popular myths concerning women and older workers. Among such myths is the belief that these groups as a whole are interested in or capable of performing only a limited range of work; that they universally lack the stamina to perform labor intensive jobs; and that they do not need higher paying jobs or skilled training opportunities because they are temporary or secondary wage earners.

As women enter the labor market in record numbers, frequently as primary wage earners, and as they branch into fields traditionally occupied by men, myths concerning the female worker are slowly disappearing.

Likewise, the increasing longevity of Americans, coupled with the need of many older

citizens to work beyond the normal retirement period in order to sustain their basic needs, is reshaping public opinion concerning the older worker.

The Subcommittee received testimony that certain laws and directives establishing job referral and placement priorities for veterans limits the ability of prime sponsors to serve other groups. For example, many prime sponsors use the Employment Service as a primary or sole source of CETA job referrals. The Employment Service is directed by law to list certain job orders for Vietnam-era veterans prior to making them available to the general public. Women and older Americans are at a disadvantage in applying for positions which are listed in this manner, since only a small percentage of these persons are Vietnam-era veterans.

The testimony indicated that a Departmental policy which directs prime sponsors to award Vietnam-era veterans 35 percent of public service employment positions has a detrimental effect upon the prime sponsor's ability to assist other eligible groups. Moreover, many prime sponsors are unable to meet this goal because there is an insufficient number of eligible veterans in their jurisdictions. For these reasons and because the unemployment rate for Vietnam-era veterans ages 20–34 has been lower than the national unemployment rate for men the same age throughout the entire year, the Committee bill prohibits the establishment of national or local hiring goals for veterans.

Civil rights enforcement

The Department of Justice recently completed a review of the Department of Labor's civil rights enforcement practices. The Chairman of the Senate Human Resources Subcommittee on Employment, Poverty and Migratory Labor wrote the Attorney General concerning this review. In response the Department of Justice Civil Rights Division made several observations concerning Labor's civil rights enforcement practices.

If a prime sponsor is determined to have been maintaining discriminatory employment practices or otherwise failing to serve equitably the eligible CETA population, CETA provides that a prime sponsorship may be terminated after an opportunity is provided for a hearing. Though Justice stated that between July 1, 1974, and September 30, 1977, the Department of Labor reported 283 findings of noncompliance with Title VI of the Civil Rights Act, none of these findings have resulted in an administrative hearing being brought against the recipient of funds who was in noncompliance.

The Department of Justice stated that the Department of Labor does not uniformly apply standards for investigating and evaluating compliance with civil rights laws. Different standards prevail in the various regional offices.

Justice noted that Labor does not have a uniform system for monitoring the number, type, and status of cases, but rather occasionally conducts *ad hoc* reviews of regional civil rights programs. All regional offices are required to maintain Title VI complaint logs which are routinely forwarded to Labor. However, since Title VI is only applicable to discrimination on the basis of race, color, and national origin, these are the only types of complaints which are logged. Thus, complaints on the ground of discrimination on the basis of age, sex, handicap, religion, or political belief are not discovered by Labor except during a regional monitoring visit.

No overall statistics are available which provide information on the number of unresolved findings of noncompliance, their current status or age. Though the Attorney General may take action against a recipient of CETA funds upon notification by the Secretary of Labor that the recipient is in noncompliance with nondiscrimination provisions, Labor has never filed a Report of Noncompliance with Justice.

The Justice Department letter stated that there are an inadequate number of equal opportunity staff in the Department of Labor's regional offices. Though current CETA regulations require that Labor initiate a prompt investigation regarding discrimination complaints, a regional survey by Justice indicates that an average of 42.9 percent of such cases between October 1, 1976, and March 31, 1978, were back-logged in excess of 180 days.

The Committee bill modifies CETA's nondiscrimination provisions and enhances a complainant's ability to pursue civil rights remedies.

S. 2570 expands the grounds for filing a nondiscrimination complaint to include discrimination on the basis of handicap, political affiliation, religious belief, or age.

To assure that discrimination and other complaints are swiftly and appropriately resolved, the Committee bill requires recipients of CETA financial assistance to maintain both a formal and informal grievance procedure, and establishes a time frame for the processing of such complaints.

The current law provides that a prime sponsorship may be revoked upon a finding that the prime sponsor is maintaining a pattern or practice of discrimination or otherwise has failed to make employment services available equitably among significant segments of the eligible population. The Committee bill further provides that a ground for the termination of financial assistance is the failure to provide participants with employment opportunities at a level of skill and remuneration that are commensurate with their capabilities and not based upon stereotyped attitudes.

Appropriate Administrative action also is necessary to protect adequately civil rights under CETA. Labor should take appropriate action with respect to the problems identified during Justice's review. Further, the Secretary of Labor should individually monitor prime sponsors who fail to serve equitably significant segments of the eligible population, both with respect to the number of persons served from such groups and the nature of the employment service provided to them. When a prime sponsor fails to correct inequities, the Secretary should take appropriate remedial action.

Service to those most in need

S. 2570 requires prime sponsors to specify services for those who are experiencing severe hardship in obtaining employment, including those who lack credentials and need remedial skill development. The Committee is concerned that persons who lack academic credentials or skill training are not receiving appropriate consideration for employment services by prime sponsors.

Approximately 75 percent of all public service employment participants in fiscal year 1977 held high school diplomas and many of them held advanced degrees. The Secretary of Labor should establish procedures to assure that CETA positions are available to persons who would be unemployed absent such opportunities.

The failure to target CETA programs on persons who face the greatest employment barriers will continue the public criticism that the Congress has wasted taxpayers' money by creating federally assisted jobs for persons . . .

EDUCATIONAL ATTAINMENT OF CETA PARTICIPANTS FISCAL YEAR 1977

	Title I	Title II	Title VI
Education:			
8 grades or less	10.0	7.3	8.2
9 to 11	39.8	15.2	18.9
12 and over	50.2	77.5	72.8
Education:			
8 grades or less	9.4	6.0	8.0
9 to 11	39.7	14.1	19.5
12 and over	51.0	79.9	72.5

A survey of CETA participants in public service employment programs shows the following level of educational attainment beyond grade 12.

	In percent
13–15 years of education	23.5
16 years of education	10.6
More than 16 years	5.5

Prime sponsor plan

S. 2570 modifies the review process pertaining to the approval of a prime sponsor's annual plan. The Committee bill provides that the prime sponsor is to transmit the plan to the local planning council, the private industry council, the State employment and training council, appropriate units of general local government, and labor organizations. It must make the plan available to the State of legislature, general public appropriate community-based organizations, and educational agencies. These groups are allowed at least thirty days to review and comment upon the plan.

The prime sponsor is to consider the comments and recommendations made by all of these groups and is to pay special consideration to the remarks of the local planning council. The final decision with respect to plan modification, prior to its submission to the Secretary, lies with a prime sponsor. However, if the Secretary directs a prime sponsor to modify its plan as a result of the Secretary's review of the recommendations made by the Governor, the State employment and training council, or the prime sponsor planning council, the prime sponsor must explain its reasons for rejecting such recommendations.

The Committee bill provides that each prime sponsor must maintain a readily accessible and complete copy of the comprehensive employment and training plan for review by the public. This is intended to assure full public disclosure of the prime sponsors programs.

The expanded review process provided under the Committee bill will assure that a prime sponsor's plan has the benefit of the comments of the whole community.

Complaints and sanctions

The Committee bill modifies the current complaints and sanctions provisions. All recipients must establish formal and informal grievance procedures, including provisions for hearings. Time frames are established for handling complaints. At the prime sponsor level, an aggrieved party may seek an informal or formal determination of a complaint. The Secretary is charged with requiring prime sponsors to establish a formal process which requires that, when a hearing is requested, a determination on the merits be made within 60 days. A party who wishes to appeal to the Secretary either the formal or informal decision of the prime sponsor has the right to a due process hearing and a determination on the merits of the case within 120 days after exhausting the prime sponsor's grievance procedure.

The grounds for revoking a prime sponsorship have been expanded to include failing to materially expend funds within a reasonable time, failing to give due consideration to persons in areas of chronic and concentrated unemployment and failing to provide recipients with employment and training at levels of skill that are commensurate with their capabilities and not based upon stereotyped attitudes.

Prime sponsor planning council

The Committee bill modifies provisions governing the prime sponsor planning councils with respect to the membership of the council, its functions, and its staff.

The chairman of a prime sponsor planning council is to be a public member and the council membership must be representative of significant segments of the eligible population. The Committee believes that by requiring the council to be composed of men and women who represent various ethnic,

racial and age groups, the employment needs of the total community served will be considered in the council deliberations.

The council is to meet at least 6 times a year in meetings which are open and accessible to the public, and is to have a full-time staff which is funded by the prime sponsor. A full-time staff will assist the council to carry forth its responsibilities and will help to avoid conflicts of interest which otherwise might arise were the staff both to serve the council and perform services for the prime sponsor.

State employment and training council

The Committee bill makes similar modifications of provisions pertaining to the State employment and training council. The State council is required to have a public member as chairman, to meet at least 6 times a year in meetings which are open and accessible to the public, and to have a full-time staff.

Additionally, the membership of the council is changed to increase the coordination of employment activities within the State and to assure broad community consideration of employment policies. Under the new provisions, representatives of labor, business, and agricultural employers and workers comprise one-fourth of the membership of the council; community representatives one-fourth; representatives of local governments, including prime sponsors, comprise at least one-fourth; and representatives of service deliverers, including representatives of State agencies which have a direct interest in employment and human resource policies, comprise no more than one-fourth.

PART B—GENERAL PROVISIONS

Special consideration for community based organizations

The Committee bill provides that the Secretary is to give special consideration to community based organizations which have demonstrated effectiveness in the delivery of employment programs. There are certain community based organizations which, though recent arrivals in the manpower field, have expertise in delivering other services to the poverty community. Where such expertise is established, it is expected that such agencies also will be given careful consideration as deliverers of manpower services, particularly in programs intended to assist economically disadvantaged persons.

Reporting requirements

S. 2570 modifies the provisions of the current CETA law with respect to the reports which the Secretary of Labor is directed to provide to the Congress. These changes were prompted by what the Committee perceives to be a lack of basic program data essential for reviewing program effectiveness, including cost effectiveness, and determining whether specific programs are meeting the purposes and objectives of the Act.

For instance, though certain termination data is available, it is impossible to determine what happened to the participant. "Positive termination", for example, is a term used by the Department of Labor to describe a variety of termination situations. It may mean that a participant upon leaving a particular program entered the military, returned to school, or simply transferred to another CETA program.

S. 2570 directs the Secretary to provide pre-enrollment and post-enrollment follow-up data including information on various employees' retention rates in unsubsidized jobs and whether workers experience an increase or decrease in earnings after receiving CETA services. Such information should help to identify the kinds of employment services which assist program participants to successfully transition from CETA programs to unsubsidized employment.

Prime sponsors who have adequate labor information systems will not find this change in reporting burdensome. The Secretary should make technical assistance available to prime sponsors to develop or improve existing information systems. As noted by the National Commission for Manpower Policy, "such a system would contribute to the development of better performance standards; it would help prime sponsors improve the management of their programs; and it would provide the Department of Labor and the Congress with the information they need to maintain effective oversight of CETA."

A recent publication of the Department of Labor, Employment and Training Administration, recommends as a first priority for the successful management of an on-the-job training program the establishment of an adequate information system. The Committee bill provides for expanded on-the-job training opportunities. Thus, the availability of adequate labor information systems also would assist program management.

The establishment of management information systems would make essential data readily accessible and at the same time reduce the paperwork and reporting burden of prime sponsors.

TITLE II—COMPREHENSIVE EMPLOYMENT AND TRAINING SERVICES

Summary

Title II provides a program of comprehensive employment services for primarily structurally unemployed persons. Major modifications of the program from the current CETA law include targeting services on economically disadvantaged persons, participant employability assessment, special provisions relating to services for youth and older workers, mandatory training and supportive services provisions, and the addition of an upgrading and retraining program, as well as a public service employment program.

PART A—FINANCIAL ASSISTANCE PROVISIONS

Allocation formula

For Parts B and C, the Committee bill retains the current allocation formula in Title I, except that 85 percent rather than 80 percent of the funds appropriated for these programs is allocated by formula. The formula provides: of the amount available for distribution by formula, 50 percent is allocated to each State on the basis of the State's manpower allotment for the preceding fiscal year compared to the sums received by all States for these activities in that year; 37½ percent is allocated to States on the basis of the relative number of unemployed persons residing within the State compared to the number in all States; and 12½ percent is allocated to each State on the basis of the relative number of adults in low-income families residing within the State compared to the total number in all States. Not less than $2 million is to be set aside for distribution to the United States Trust territories, Guam, the Virgin Islands, American Samoa, and the Northern Marianas.

Of the remaining amount, 5 percent is available for vocational education assistance; 1 percent is available for operation of the State employment and training councils; 1 percent is available for States to establish linkages between prime sponsors and educational agencies providing training programs; 4 percent is available for the Governors' coordination and special services responsibilities under section 105; and the remainder of funds is available for discretionary distribution by the Secretary of Labor.

PART B—SERVICES FOR THE ECONOMICALLY DISADVANTAGED

Part B of Title II authorizes services for economically disadvantaged persons who are unemployed, underemployed, or in school youths. Supported work programs, part-time, flexitime and other alternative working arrangements, client outreach, classroom education, institutional skill training, on-the-job training, work experience, supportive services, and a variety of other activities are authorized.

PART C—UPGRADING AND RETRAINING

Part C authorizes occupational upgrading and retraining programs. These programs assist persons, regardless of their income, to be upgraded in their current employment, or retrained if they have received a bona fide notice of layoff, and are unlikely to find a similar job in that locale.

If either upgrading or retraining programs involve jobs covered by collective bargaining agreements, the programs must have the concurrence of labor organizations representing the employees in those jobs.

Since these activities are the only Title II programs which are not targeted on economically disadvantaged persons, the Committee has limited the authorization of appropriations for these programs to 5 percent of those funds allocated under Part A.

PART D—PUBLIC SERVICE EMPLOYMENT OPPORTUNITIES FOR THE ECONOMICALLY DISADVANTAGED

Part D provides for a public service employment program. However, comprehensive employment and training services authorized under Part B are permissible activities.

Eligibility

As with services authorized by Part B, program participation is limited to persons who are economically disadvantaged. Additionally, persons seeking services under this part must have been unemployed for 12 or more weeks.

Wages

Wages are limited to $10,000 per year adjusted upward on the basis of a wage adjustment index issued by the Secretary, but in no case may wages be increased by more than 20 percent. Prime sponsors are not permitted to supplement wages. Thus, in the highest wage areas, the maximum wage a person would receive is $12,000.

Length of program participation

Persons may hold Title II public service jobs for 78 weeks within a five year period, though no more than 26 weeks prior to October 1, 1978, shall be counted as part of the 78 weeks. Program participation may be extended for 6 months in areas of high unemployment as determined by the regulations of the Secretary.

Authorization of appropriations

An authorization of appropriations of such sums as may be necessary for fiscal years 1979 and the succeeding three fiscal years is provided. In order to assure that there is a large public service employment program for the structurally unemployed, the Committee bill provides that no funds may be made available for Title VI until a minimum of three billion dollars is first made available for Title II, Part D.

Training and supportive services

The Committee bill requires all Title II public service employment under it to be accompanied by appropriate training and supportive services. Individuals who lack job skills or prior employment experience will be able to participate in CETA programs more successfully if such programs are accompanied by training and supportive services. To assure that adequate funds are made available for these purposes, not less than 90 percent of the funds allocated for Part D are to be expended for wages, employment benefits, training, and supportive services. The remaining funds may be used for administrative and other allowable costs.

Allocation formula

The Committee bill provides that 85 percent of the funds available for Part D are to be distributed by formula. Not less than 2 percent is to be allocated to Native American entities. The remaining amount is available to the Secretary for his discretionary distribution to prime sponsors and Native American entities.

Of the amount distributed by formula, funds are allocated to prime sponsors in the following manner: one-third on the basis of the relative number of unemployed persons who reside in areas within the jurisdiction of each applicant as compared to the number of unemployed persons who reside in all such areas in all States; one-third on the basis of the relative excess number of unemployed persons (the number in excess of 4½ percent) who reside in areas within the jurisdiction of the applicant as compared to the excess number of unemployed persons who reside within the jurisdiction of all prime sponsors; and one-third to prime sponsors on the basis of the number of unemployed persons residing in areas of substantial unemployment (areas with an unemployment rate equal to or in excess of 6½ percent) within the jurisdiction of the prime sponsor compared to the number of unemployed persons residing in all areas of substantial unemployment.

SPECIAL FEDERAL RESPONSIBILITIES

Summary

Title III directs the Secretary to provide special programs for workers who are in need of supplementary services beyond the scope of Title II programs, including programs for Native Americans and migrant and seasonal farmworkers. The Secretary of Labor is also authorized to conduct programs of research, training, and evaluation.

PART A—SPECIAL NATIONAL PROGRAMS AND ACTIVITIES

National programs

The Committee bill modifies provisions relating to special national programs and activities so as to define more precisely the ways in which national program resources may be used. The Secretary is authorized to carry out programs which meet the employment-related needs of persons who face particular disadvantages in specific and general labor markets or occupations; programs which are most appropriately administered at the national level; programs which foster linkages with private sector employers; programs which eliminate or reduce critical skill shortages; and programs which serve those who become unemployed as a result of a large-scale loss of jobs in a locality. The Secretary is authorized to provide continued support for programs of demonstrated effectiveness. Additionally, the Secretary is directed to establish programs for displaced homemakers, offenders, persons of limited English-language proficiency, older workers, single parents, and the handicapped.

Displaced homemakers

In September, 1977, the Subcommittee on Employment, Poverty, and Migratory Labor held 2 days of hearings concerning displaced homemakers. A displaced homemaker is an individual who is frequently in their middle or older years, who has been absent from the labor force or working in the home for a substantial number of years, and who becomes "displaced" from his family role as a result of such occurrences as the death of a spouse, a divorce, or the disability of the primary wage earner.

The Committee agreed that the severity of the employment barriers faced by this group merits special attention through a program administered nationally by the Secretary. The authorization provides that the Secretary shall make funds available to conduct employment and training programs through multi-purpose projects or otherwise. Such programs may offer a full array of employment services including appropriate supportive services.

The original displaced homemaker amendment offered a set-aside of Title III funds for the establishment of a displaced homemaker program. The Committee, in lieu of a set-aside, agreed to accept a commitment made by the Department of Labor's Assistant Secretary for Employment and Training, Ernest Green, during full Committee consideration of the legislation that the Department would make available at least $5 million in fiscal year 1979 for funding displaced homemaker programs.

The Department also agreed to establish a special task force on displaced homemakers to coordinate the Deapartment's efforts in this area. The task force is to be composed of representatives of the Women's Bureau and the Employment and Training Administration.

Native American Programs

The Committee bill retains the provisions of the current CETA law with respect to Native American employment programs. However, the Committe bill increases the authorization of appropriations for Native American programs from an amount equal to not less than 4 percent of the title II funds which are distributed by formula under Part A, to an equivalent of 4½ percent of such funds. This action was taken because amendments to CETA in 1976 added native Hawaiians to the definition of "Native Americans". Additional funds are required to serve this enlarged group of Native Americans.

Migrant and seasonal farmworkers programs

The Committe bill retains the provisions of the current CETA law with respect to migrant and seasonal farmworkers programs. The Office of National Programs remains responsible for the administration of the program in recognition of the interestate nature of migrant and seasonal employment.

S. 2570 continues the current authorization of appropriations for this program, which is an amount equal to not less than 5 percent of the Title II funds which are distributed by formula under Part A.

Job search and relocation

The Committee bill adds a provision which authorizes the Secretary of Labor to carry out job search and relocation activities through agreements with States, State agencies, and prime sponsors. Under the provisions, job search assistance may be provided to economically disadvantaged, unemployed and underemployed persons, and relocation loans and grants may be provided to involuntarily unemployed individuals who have bona fide offers of employment.

PART B—RESEARCH, TRAINING, AND EVALUATION

Research and demonstration projects

The Secretary's research and demonstration authority in the areas of supported work, job sharing and other flexible employment arrangements, and welfare demonstration projects has been expanded. The Committee bill also authorizes a voucher demonstration project and an incentive program for prime sponsors who transition a significant number of Title II participants into unsubsidized employment.

Welfare demonstration projects

The purpose of the welfare demonstration projects is to test and analyze various employment programs as alternatives to public assistance for employable persons.

Welfare demonstration projects will provide information relevant to the successful implementation of an employment approach to meeting the income maintenance needs of low-income persons. This information will be useful regardless of whether or not Congress passes a comprehensive welfare reform package in the near future. All of the major welfare reform alternatives being considered by the Congress contain sizable programs of employment and training assistance to low-income families. The demonstrations will be conducted so that it will be possible to generalize the findings to a variety of different employment approaches.

Program participation will be voluntary. In a household headed by two adults, only one person may participate in the program at any given time. The decision of which person that will be is left to the choice of the family unit. In order to increase the opportunities of program participants to obtain unsubsidized employment, appropriate training and supportive services will be made available to all participants.

Evaluations and incentive grants

The bill authorizes an incentive grants program for prime sponsors who have conducted effective Title II programs. Grants are awarded based upon special evaluations which are to consider, among other things, the costs and difficulties encountered in assisting structurally unemployed persons. The Committee believes that prime sponsors who conduct successful programs should be rewarded for optimizing their resources without compromising client services. Such awards may also encourage other prime sponsors to develop innovative methods for assisting the transition of structurally unemployed persons to unsubsidized employment.

The Secretary is directed to establish in fiscal year 1979 a special voucher project to demonstrate the efficacy of providing vouchers to economically disadvantaged persons who are unemployed or underemployed. These vouchers entitle private employers to provide employment and/or training to such individuals in amounts equal to the value of the voucher, pursuant to the regulations of the Secretary.

The Committee agreed that the Secretary shall consider the following principles when developing regulations for this project:

1. Eligibility of participants is to be limited to persons who are unemployed, or underemployed, and disadvantaged.

2. Vouchers shall be issued by prime sponsors to enhance the employability of individual. Vouchers shall be worth up to $1.00 per hour of paid work by the participant to offset the lower productivity of eligible individuals. Factors to be considered in determining the value of the vouchers shall include, but not be limited to, participant employability, local wage rates and labor market conditions.

3. Vouchers shall be portable between employers, not committing the employer or employee to continue the work arrangement other than by mutual agreement, and shall be valid for up to eighteen months, as determined by the Secretary.

4. Procedures shall be established to insure that currently employed individuals are not displaced by voucher-eligible employees.

5. Voucher eligible employees shall be paid at a rate not less than the higher of the Federal on State minimum wage or the rate paid by that employer to other individuals performing the same or similar work.

6. In choosing prime sponsors to participate in this project, the Secretary shall select sites in such a manner as to insure an appropriate mix of rural and urban areas, of different concentrations of eligible participants, of different regions and labor markets and of different categories of price sponsors.

7. Participating prime sponsors shall integrate vouchers into their comprehensive services, and utilize a significant proportion of available vouchers for individuals completing training programs, so as to direct voucher recipients toward jobs with meaningful advancement opportunities.

The Secretary is instructed to prepare and submit a report to the Congress evaluating the effectiveness of this demonstration project. The Secretary's report shall include an evaluation of the project's effectiveness in increasing the employability and earnings of eligible groups, the willingness of private sector employers to participate, the desirability and skill level of jobs obtained by

participants, the displacement of regular employees as a result of the voucher program, the administrative feasibility of the program and any other factors deemed important by the Secretary.

TITLE IV—YOUTH PROGRAMS

The Committee bill places all youth programs in Title IV. Part A of Title IV consists of three programs enacted last year under the Youth Employment Demonstration Projects (YEDPA)—Youth Incentive Entitlement Pilot Projects, Youth Community Conservation and Improvement Projects, and Youth Employment and Training Programs. Part B authorizes the Job Corps; Part C authorizes the Summer Youth Program; and, Part D authorizes the fourth program which was enacted as part of the YEDPA—Young Adult Conservation Corps.

YEDPA was passed by the Congress last year. The Committee believes that these programs should be reexamined after they have had time to become fully operational and their impact has been analyzed. Thus, the Committee makes only minimal changes in these programs and authorizes them only through fiscal year 1980.

The Youth Employment and Training Programs is amended to authorize a demonstration program to test the efficacy of providing incentives to private industry to establish additional employment opportunities for youth. The Secretary is directed to provide a subsidy of up to $2,500 per worker to employers to hire economically disadvantaged youth. The Secretary is authorized to establish a maximum of ten such demonstration programs in urban and rural areas with high youth unemployment.

TITLE V—NATIONAL COMMISSION FOR EMPLOYMENT AND TRAINING POLICY

The current CETA law, Title V, provides for a national commission to examine national employment policies and to advise the Secretary of Labor concerning such policies.

The Committee bill modifies Title V. The membership of the Commission is increased from 17 to 27 persons. The Secretary of Housing and Urban Development, the Chairman of the Equal Employment Opportunity Commission, the Director of the Community Services Administration, the Director of the ACTION agency and an additional six public members are added to the Commission's membership. The name of the Commission is changed from the National Commission for Manpower Policy to the National Commission for Employment and Training Policy. The advisory role of the Commission is amended so that it is responsible for advising the President and the Congress on national employment and training issues.

The Commission currently is funded from a variety of sources, including the Department of Labor, other Federal agencies and private foundations. The Committee bill provides the Commission with an authorization of appropriation of three million dollars for fiscal year 1979 and such sums as may be necessary for the three succeeding fiscal years.

TITLE VI—PUBLIC SERVICE EMPLOYMENT PROGRAM

Summary

The purpose of Title VI in both the current CETA law and S. 2570 is to provide transitional public service employment jobs, to persons who are countercyclically unemployed. However, S. 2570 substantially modifies the eligibility, wage, and project provisions.

Eligibility

S. 2570 provides that eligibility for Title VI services is limited to an individual who has been unemployed for 45 days or more and whose family income over the preceding 3 months, which when annualized, does not exceed 85% of the lower living standard income level as compiled by the Bureau of Labor Statistics.

Under the provisions of the 1976 CETA amendments, all Title VI public service employment positions funded in addition to those positions existing on June 30, 1976, are to be filled by persons who meet strict eligibility criteria, and these jobholders also are to be employed in 12 month projects. Generally, persons are qualified for these positions if their previous annual family income is no more than 70 percent of the BLS lower living standard budget and if they have been unemployed for at least 15 weeks, exhausted unemployment insurance, compensation benefits, or if they are receiving AFDC. One-half of the vacancies below the June 30, 1976, sustainment level created by attrition also are required to be filled by persons who meet the strict eligibility criteria set forth above.

The remaining 50% of the jobs below the June 30, 1976, sustainment level, however, can be filled by persons without regard to income eligibility requirements so long as they have been unemployed for a brief period of time—15 days in areas having at least 7% unemployment rate, or 30 days in an area with an unemployment rate of less than 7%.

S. 2570 would eliminate these "sustainment jobs" provisions from the CETA law. This means that all positions which become available either by attrition or by new program dollars would have to meet the targeted eligibility criteria of the new Title VI program.

Length of program participation

Program participation is limited to one year within a five year period, though it may be extended for a period of no more than 6 months in areas of high unemployment. Under current law, a person may participate in CETA programs for an undefined period.

Projects

Current law provides that funds expended for Title VI sustainment positions may be used for both activities of an unlimited duration and projects which are twelve months in length. Testimony received by the Committee indicates that projects tend to reduce the rate of fiscal substitution. Thus, the Committee bill provides that all public service employment under Title VI is to be only in projects. The projects are to be of limited duration, but may be extended beyond twelve months upon review by the prime sponsor at least once a year, in accordance with regulations issued by the Secretary. The Committee intends that the Secretary, in extending such projects, assure that they are not merely increments of existing municipal services, but rather that they involve work which the prime sponsor would not finance in the absence of federal assistance.

Wages

S. 2570 amends the current law by restricting the total wages which may be paid to a Title VI jobholder. As in current law, a maximum federal wage base of $10,000 is provided. S. 2570 provides that this federal base may be adjusted upward to $12,000 on the basis of a wage index. Thus, high wage areas will have a higher federal wage base than low wage areas. Supplementation of the Federal wage base by local resources is limited under the Committee bill to a maximum amount equivalent to 10 percent of a prime sponsor's Title VI allocation, no individual may have his federal base salary supplemented by more than 20 percent. Thus, in the highest wage areas, the maximum wage a Title VI participant may receive is $14,400.

Allocation formula

The Committee bill retains the same allocation formula as the one currently used to distribute Title VI funds except that 85 percent rather than 90 percent of the funds available are to be distributed by formula.

S. 2570 provides that not less than 85 percent of the amount available for Title VI is to be allocated to prime sponsors in accordance with the following formula: 50 percent is allocated on the basis of the relative number of unemployed persons who reside in areas within the jurisdiction of each prime sponsor compared to the number of unemployed persons who reside in all such areas in all states; 25 percent is allocated on basis of the number of unemployed persons residing in areas of substantial unemployment (areas with an unemployment rate equal to or in excess of 6½ percent) within the jurisdiction of the prime sponsor compared to the number of unemployed persons residing in all areas of substantial unemployment; and 25 percent is allocated on the basis of the relative excess number of unemployed persons (the number of unemployed persons in excess of 4½ percent) who reside within the jurisdiction of the prime sponsor compared to the total excess number of unemployed persons who reside within the jurisdictions of all eligible prime sponsors.

The Secretary must reserve an amount of not less than 2 percent of the sums available for Title VI for Native American entities. The Secretary may use the remaining amount in his discretion to assist prime sponsors and Native American entities.

Training and supporting services

S. 2570 provides that not less than 10 percent of the funds allocated to prime sponsors for public service employment under Title VI shall be used to provide training and employability counseling and other services. Under current law, 85 percent of Title VI allocations may be used only for wages and fringe benefits for employees. The remaining 15 percent may be used for allowable costs, including administration, equipment, supplies, and materials. There is no specific allowance for training funds, although prime sponsors are authorized to use available funds from the 15 percent allowance for training. Under the Committee bill, not less than 80 percent is to be used for wages and fringe benefits, not less than 10 percent for training and other services for participants, and the remainder for administrative costs.

Training and employability services under Title VI are necessary because due to the new limitations on program participation, many participants who will be required to leave the program on September 1, 1979, will be ill-equipped to undertake employment in the private sector. Many Title VI employees have been drawn over the past year from the ranks of the long-term unemployed and from low-income households pursuant to eligibility standards enacted by the Congress in October 1976. These participants have been afforded work, but many have been provided with little or no training. Lack of funds for this purpose, combined with the urgency with which Title VI employment projects were established, account for the lack of training. For these reasons, the Committee believes it is important that funds be made available in Title VI specifically for training and employability counseling and services.

In order to assure that a maximum of the allocation is expended for client services, the Secretary should assure that the administrative fee retained by prime sponsors upon subcontracting with a program agent is the actual costs incurred in administering the program.

Verification of eligibility

Public service employment programs have demonstrated an ability to rapidly expand. Under President Carter's economic stimulus package the number of public service positions more than doubled to over 750,000 in a little more than one year. Notwithstanding such rapid expansion, few serious problems were encountered. However, it does appear that in the rush to fill these positions, par-

ticipant eligibility verification was lax. Based upon a recent survey by the Comptroller General, the General Accounting Office reported that approximately 10 percent of all public service employment participants in the programs surveyed were ineligible. Though this situation may have been difficult to avoid as a result of the rapid build-up of the public service jobs programs, the Committee considers the high percentage of ineligible CETA participants to be a serious problem. The Committee urges the Department of Labor to develop a method of verifying participant eligibility statements. Every CETA position obtained by an ineligible person eliminates a position for someone who may not otherwise have the opportunity to be employed, but for federally assisted employment programs.

TITLE VII—PRIVATE SECTOR OPPORTUNITIES FOR THE ECONOMICALLY DISADVANTAGED

Title VII authorizes prime sponsors to establish private industry councils. The purpose of the councils is to involve the private sector and labor in the development and implementation of CETA programs, so as to increase private sector training and job placements for economically disadvantaged workers.

Council responsibilities

The councils will assist prime sponsors to develop and implement employment programs in private businesses and industries. Programs primarily will consist of on-the-job training with private employers. The councils are authorized to undertake a variety of other activities, such as developing linkages between educational institutions and employment programs, and disseminating information to private employers to encourage their participation in CETA programs.

The councils will serve as the focal point for the business perspective on CETA matters. They should both advise the prime sponsor of the viewpoint of private enterprise and translate to fellow members of the business community the advantages of working closely with the CETA program. It is the committee's intent that funds available under Title VII be used for additional innovative sector progams and that prime sponsors will continue without reduction their existing sector efforts under other parts of CETA. Also, the committee recognizes the existence of many community-based organizations and other service deliverers who are currently engaged in successful private sector programs with the prime sponsor and it expects that the prime sponsor will closely coordinate the activities of all these deliverers with the councils to ensure an expansion in service levels, to avoid competition, and to take advantage of the effectiveness of current deliverers of services.

Council membership

It is the responsibility of the prime sponsor to appoint the members of the private industry council and to designate a chairman. Business, including small and minority business, and labor are to be represented on the Council. Though a majority of the Council's membership must be business representatives, the prime sponsor may also appoint representatives of community-based organizations, educational agencies and institutions, and client groups. In order to provide substantial cross-fertilization between the local prime sponsor planning council and the private industry council, the chairman, or a designee of the chairman, of the prime sponsor planning council is to serve as an ex officio, nonvoting member of the private industry council, and the chairman, or a designee of the chairman of the private industry council is to serve that same capacity on the local planning council.

Business representation on the council may consist of an existing organization, or a newly formed organization and members of the prime sponsor planning council. However, representation of a variety of business organizations on the council is preferable in order to encourage the involvement of a wide spectrum of the business community in CETA programs.

Integration of the private industry council and the local planning council

The private industry councils will assist prime sponsors in relating the planning and operation of the prime sponsor's other programs and activities to the private sector. Recognizing that there is a CETA planning council in each area and that the prime sponsor itself is ultimately responsible for all CETA operations, it is the committee's intent to assure the integration of the private industry council with existing CETA functions.

In addition to the respective chairman of the local planning council and the private industry council serving as ex-office members on one another's councils, both councils are required to provide copies of one another's plan to each other for comment. These recommendations are to be considered by each respective body in developing its programs. The legislation provides that the comments of the prime sponsor planning council must have been satisfactorily considered prior to submission of the private industry plan to the Secretary.

Prime sponsor authority

While the private industry council is under the authority of the prime sponsor, the council is to have major responsibility for the development of Title VII programs. However, the role of the prime sponsor is imminent as the Secretary may not authorize any program which does not have the approval of the prime sponsor. If part of the plan fails as a result of the prime sponsor's refusal to approve a particular program, the Secretary is to finance the remainder of the plan.

Financial assistance provisions

Ninety-five percent of the funds available for title VII are to be allocated on an equitable basis among participating prime sponsors taking into account the factors used to distribute funds for Title II, Parts A, B and C. Of the remaining available amount, the Secretary is to provide financial assistance to prime sponsors who join together to establish a single private industry council to Native American prime sponsors who operate programs on the reservation.

Miscellaneous provisions

The general and administrative provisions of title II are applicable to title VII.

Mr. NELSON. Mr. President, I ask unanimous consent that Steve Paradise and Mike Forney have the privilege of the floor during the course of the consideration of the pending legislation and the rollcall votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I have some technical amendments, if the Senator from Kansas does not mind.

Mr. DOLE. Go ahead.

UP AMENDMENT NO. 1780

(Purpose: To strengthen the provisions relating to the Commission for Employment Policy

Mr. NELSON. Mr. President, I send to the desk an unprinted amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. NELSON) proposes certain technical corrections as unprinted amendment numbered 1780.

The amendment is as follows:

On page 363, beginning with line 12, strike out through line 19 on page 368 and insert in lieu thereof the following:

"TITLE V—NATIONAL COMMISSION FOR EMPLOYMENT POLICY

"STATEMENT OF PURPOSE

"SEC. 501. The purpose of this title is to establish a National Commission for Employment Policy which will have the responsibility for examining broad issues of development, coordination and administration of employment and training programs, and for advising the President and the Congress on national employment and training issues.

"COMMISSION ESTABLISHED

"SEC. 502. (a) There is established a National Commission for Employment Policy (formerly known as the National Commission for Manpower Policy and hereinafter referred to as the 'commission'). The Commission shall be composed of 15 members selected as follows:

"(1) The Secretary of Labor, the Secretary of Health, Education, and Welfare, the Administrator of Veterans' Affairs, the Chairman of the Equal Employment Opportunity Commission, the Director of the Community Services Administration;

"(2) A representative of the National Advisory Council on Vocational Education established under section 162 of the Vocational Education Act of 1963; and

"(3) Nine members broadly representative of labor, industry, commerce, education (including vocational and technical education), veterans, State and local elective officials, community based organizations, individuals served by employment and training programs and of the general public, appointed by the President.

"(b) The term of office of each member of the Commission appointed under clause (3) of subsection (a) shall be 3 years except that—

"(1) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed, and

"(2) the members first taking office shall serve as designated by the President, four for terms of two years, and five for terms of three years.

"(c)(1) The Chairman shall be selected by the President from among members appointed pursuant to clause (3) of subsection (a).

"(2) The Commission shall meet not fewer than 3 times a year at the call of the Chairman.

"(3) A majority of the members of the Commission shall constitute a quorum, but a lesser number may conduct hearings. Any recommendation may be passed only by a majority of the members present. Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

"(d) There shall be an Executive Director of the Commission who shall be appointed by the President.

"FUNCTIONS OF THE COMMISSION

"SEC. 503. The Commission shall—

"(1) identify the employment goals and needs of the nation, and assess the extent

to which employment and training, vocational education, institutional training, vocational rehabilitation, economic opportunity programs, public assistance policies, employment-related tax policies, labor exchange policies, and other policies and programs under this Act and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs and achieving such goals;

"(2) develop and make appropriate recommendations (including recommendations responsive to requests made by the Committee on Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives), and develop innovative approaches, designed to meet the needs and goals described in clause (1);

"(3) examine and evaluate the effectiveness of any federally assisted employment and training programs (including programs assisted under this Act), with particular reference to the contributions of such programs to the achievement of objectives sought by the recommendations made under clause (2) of this section;

"(4) examine and evaluate major Federal programs which are intended to, or potentially could, contribute to achieving major objectives of existing employment and training and related legislation or those objectives set forth in the recommendations of the Commission. Particular attention shall be given to the programs which are designed, or could be designed, to develop information and knowledge about employment and training problems through research and demonstration projects or to train personnel in fields (such as occupational counseling, guidance, and placement) which are vital to the success of employment and training programs;

"(5)(i) identify, after consultation with the National Advisory Council on Vocational Education, the employment and training and vocational education needs of the Nation and assess the extent to which employment and training, vocational education, vocational rehabilitation, and other programs assisted under this and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs; and (ii) comment, at least once annually, on the reports of the National Advisory Council on Vocational Education which comments shall be included in one of the reports submitted by the National Commission pursuant to this title and in one of the reports submitted by the National Advisory Council on Vocational Education pursuant to section 162 of the Vocational Education Act of 1963; and

"(6) evaluate and continue to study and make recommendations to the Congress on the impact of energy shortages and new energy developments upon employment and training needs and include the findings and recommendations with respect thereto in the reports required by section 505;

"(7) study and make recommendations on how, through policies and actions in the public and private sectors, the Nation can attain and maintain full employment, with special emphasis on the employment difficulties faced by the segments of the labor force that experience differentially high rates of unemployment;

"(8) identify and assess the goals and needs of the Nation with respect to economic growth and work improvements, including but not limited to conditions of employment, organizational effectiveness and efficiency, alternative working arrangements, and technological changes;

"(9) examine and evaluate the relationships between employment and training programs assisted under this Act with programs under parts A and C of title IV of the Social Security Act and related public assistance programs under the Social Security Act; and

"(10)(i) examine and evaluate the eligibility standards set forth in titles II and VI of the Comprehensive Employment and Training Act of 1973, as amended, to determine their impact on single heads of households (especially women and older Americans); and (ii) submit a report, no later than July 1, 1979, to Congress, for appropriate referral, on the Commission's findings together with any proposed changes in the Comprehensive Employment and Training Act of 1973, as amended, concerning the eligibility standards for such single heads of households.

"ADMINISTRATIVE PROVISIONS

"SEC. 504. (a) Subject to such rules and regulations as may be adopted by the Commission, the Chairman is authorized to—

"(1) prescribe such rules and regulations as may be necessary;

"(2) appoint and fix the compensation of such staff personnel as the Chairman deems necessary, and without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and the general schedule pay rates, appoint not to exceed 3 additional professional personnel;

"(3) procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code;

"(4) accept voluntary and uncompensated services of professional personnel, consultants, and experts, notwithstanding any other provision of law;

"(5) accept in the name of the United States and employ or dispose of gifts or bequests to carry out the functions of the Commission under this title;

"(6) enter into contracts and make such other arrangements and modifications, as may be necessary;

"(7) conduct such studies, hearings, research activities, demonstration projects, and other similar activities as the Commission deems necessary to enable the Commission to carry out its functions under this title;

"(8) use the services, personnel, facilities, and information of any department, agency, and instrumentality of the executive branch of the Government and the services, personnel, facilities, and information of State and local public agencies and private research agencies, with the consent of such agencies, with or without reimbursement therefor; and

"(9) make advances, progress, and other payments necessary under this Act without regard to the provisions of section 3648 of the revised statutes as amended (31 U.S.C. 529).

"(b) Upon request made by the Chairman of the Commission, each department, agency, and instrumentality of the executive branch of the Government is authorized and directed to make its services, personnel, facilities, and information (including computer-time, estimates, and statistics) available to the greatest practicable extent to the Commission in the performance of its functions under this Act.

"REPORTS

"SEC. 505. The Commission shall make at least annually a report of its findings and recommendations to the President and the Congress. The annual report required by the previous sentence shall be transmitted to the President and to the Congress not later than February 1 in the year succeeding the fiscal year for which the report is being made. The Commission may make such interim reports or recommendations to the Congress, the President, Secretary of Labor, or to the heads of other Federal departments and agencies, and in such form, as it may deem desirable.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 506. There are authorized to be appropriated $3,000,000 for the fiscal year 1979 and such sums as may be necessary for the three succeeding fiscal years, for the purpose of carrying out this title."

On page 384, line 6, insert "(1)" after "(a)".

On page 384, between lines 13 and 14, insert the following:

(2) The National Commission for Manpower Policy in existence on the day before the date of enactment of this Act shall continue in existence until the National Commission for Employment Policy is appointed pursuant to title V of the Comprehensive Employment and Training Act (as amended by section 2 of this Act).

On page 181, in the table of contents, strike out title V and items 501 through 506 and insert in lieu thereof the following:

"TITLE V—NATIONAL COMMISSION FOR EMPLOYMENT POLICY

"SEC. 501. Statement of purpose.
"SEC. 502. Commission established.
"SEC. 503. Functions of the Commission.
"SEC. 504. Administrative provisions.
"SEC. 505. Reports.
"SEC. 506. Authorization of appropriations.

Mr. NELSON. Mr. President, today Senators JAVITS, BELLMON, DOMENICI, and I are offering an amendment to establish an independent Commission on Employment Policy. This Commission would replace the present advisory body responsible for examining and evaluating this Nation's employment and training programs and policies, the National Commission for Manpower Policy.

This amendment would reconstitute the present Commission and establish it as an independent Commission. The Commission is renamed the Commission for Employment Policy. The number of members on the Commission is decreased, and its functions are modified.

Under this amendment, the following Federal members would serve on the Commission: the Secretary of Labor, the Secretary of Health, Education, and Welfare, the Administrator of the Veterans' Affairs, the Chairman of the Equal Employment Opportunity Commission, and the Director of the Community Services Administration.

As in current law, the President is to appoint the public members and to designate the Chairman of the Commission from among the public appointees.

The purpose of the Commission is amended to provide that the Commission is to serve as an advisory body not only to the President, as under current law, but to the Congress as well.

The functions of the Commission would include an assessment of the extent to which public assistance policies, labor exchange policies, and related employment tax policies meet the employment goals and needs of the Nation. The Commission is directed to examine ways of achieving full employment, as well as to examine employment policies with respect to economic growth and work improvements. The Commission is directed to undertake a study of the relationship between public assistance programs (including those programs established under the Social Security Act) and employment policies and to study and report to Con-

gress on the impact of eligibility criteria under titles II and VI of the Comprehensive Employment and Training Act of 1973, as amended, on single heads of households, especially women and older Americans.

The amendment modifies current law concerning Commission appointments and vacancies, meetings and voting procedures, rules and regulations, appointment and compensation of staff, the acceptance of gifts, contractual rights, and technical assistance.

The Commission is authorized for a period of 4 years. An authorization of appropriations of $3 million for the fiscal year 1979 is provided and such sums as may be necessary for the 3 succeeding fiscal years.

Mr. President, the National Commission for Manpower Policy was enacted as part of the Comprehensive Employment and Training Act (CETA) in 1973. The Commission now has the responsibility to advise the Secretary of Labor on employment policies, and it has submitted an annual report and other reports to the President and the Congress.

The Commission's studies and reports have been very useful. Its reports are timely and nationally cited as authoritative sources on employment issues. However, the Commission's present dependency on Federal agencies for the bulk of their resources creates uncertainty because of the ad hoc nature of this funding arrangement, and it has severely limited the Commission's ability to pursue independently its objectives or to develop a long range agenda.

This amendment would reconstitute the Commission and establish it as an independent Commission with an authorization of appropriations of $3 million for fiscal year 1979 and such sums as may be necessary for the 3 succeeding fiscal years. The amendment also requires that other Federal agencies provide appropriate technical assistance in furtherance of the Commission's work.

During fiscal year 1978, the Commission's budget is estimated at $2.6 million. The majority of the Commission's funds now are provided by the Department of Labor. However, with the exception of a basic operating budget provided by Labor to support the Commission's staff and the regular meetings of the Commission, the Commission must solicit further funds from the Labor Department and other Federal agencies and the public to support the balance of its responsibilities. This means that resources to undertake special studies and reports, conferences, and other basic administrative and technical support activities are, at best, very uncertain.

Mr. President, last year the Congress directed the Commission to report on the implementation of public service employment programs under CETA. This year the Commission delivered to the Congress, in time for its deliberations on the reauthorization of CETA, a three-volume report on public service employment job creation.

The Commission is now studying the problem of youth unemployment and the role of the private sector in federally assisted employment programs.

This amendment would direct the Commission to examine a number of employment programs and related policies which will be of particular interest to the Congress next year. The amendment would direct the Commission to examine labor exchange programs, employment related tax policies, full employment policies, economic growth and work improvements, the relationship between public assistance programs and Federal employment programs, and the eligibility criteria for single heads of households under titles II and VI of CETA.

This amendment will provide the Commission with a more stable source of funding. It will no longer be dependent on the good will and concurrence of Federal agencies to support its objectives. A stable source of revenue is essential both to maintain the independent advisory nature of the Commission and to provide the Commission with sufficient lead time in which to formulate major undertakings. It will also assure that the work of the Commission is not interrupted due to an unexpected cut back in funding.

Mr. President, we have agreed on this amendment with the ranking Republican member of the Subcommittee on Employment, Poverty, and Migratory Labor (Mr. JAVITS), as well as Senators BELLMON and DOMENICI. I think it is noncontroversial. Would the Senator from New York wish to comment?

Mr. President, I do not believe there is any controversy on this legislation, and I am prepared to yield back the remainder of my time and let the Senator from New York proceed.

Mr. JAVITS. Mr. President, I ask unanimous consent that the following staff people may have access to the floor during consideration of this measure: Diane Kamino for the committee, Chip Waggoner and Sally Crossman for Senator STEVENS, and Jeff Boothe for Senator MARK O. HATFIELD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I thank the Chair.

Mr. President, I regret very much that I was not here as soon as Senator NELSON started, but my problem was that we had a meeting of the Human Resources Committee to report out some bills, and my presence there was essential.

Mr. President, I have already made my opening statement on this bill, which is contained in the RECORD of August 22. I believe the bill is now truly in balance.

The staff, I think, is entitled to enormous commendation for the degree to which an effort has been made to adjust different aspects of the bill to the views of our colleagues insofar as it could humanly be done. Much ingenuity has been demonstrated in that regard respecting every aspect of the bill, including the authorization, which comes, of course, under our scrutiny altogether at this time.

I would like, because it is so critically important at this point by way of supplementing my own statement, to ask unanimous consent to have printed in the RECORD as a part of this debate an extraordinary summary of a study made by the Department of Labor, which has ascertained the postprogram experience for those who were in the CETA program and who terminated their work under the program.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[U.S. Department of Labor, Employment and Training Administration]

SUMMARY OF HIGHLIGHTS OF CONTINUOUS LONGITUDINAL MANPOWER SURVEY (CLMS) FOLLOWUP REPORT NO. 1, POST-PROGRAM EXPERIENCE AND PRE-POST COMPARISONS FOR TERMINEES WHO ENTERED CETA IN JANUARY-JUNE 1975

This is the first CLMS followup report. From interviews conducted about 18 months after entry, it presents data on how CETA participants have fared after leaving CETA and how their postprogram employment and earnings compare to their preprogram levels.

The data are on participants who entered CETA in January to June 1975, were enrolled in Titles I, II, or VI adult-oriented programs (class training, on-the-job training, adult work experience, and public service employment), and had been terminated by the time of followup interviews about 18 months after entry.

The report focuses on an estimated 320,000 such terminees (about two-thirds of all the January-June 1975 entrants) who had been out of the program at least 3 months and, for longer-term data, a subgroup of 193,000 who had been out for at least a year. All terminees are included, whatever the reasons for termination, so the data cover early dropouts as well as "completers."

Caution: This is the pilot CLMS followup effort. It is on participants enrolled in CETA's first year, is limited to early postprogram experience (3 months to a year), and does not include postprogram data on those still in the program 18 months after entry. For these and other reasons, it should be regarded only as a first general indication of how CETA participants make out after termination.

The key findings in brief are:

CETA participants had more employment and earnings after the program than before.

The improvement was accomplished despite more difficult economic conditions in the postprogram period which may have restrained the gain. (The national unemployment rate in the preprogram period was a bit over 5 percent, while in the postprogram period it averaged around 8 percent.)

Postprogram employment and earnings improved gradually over time. They were higher a year after termination from the program than in the first months after leaving the program.

The overall gain masks major differences between participants who had stable employment backgrounds and participants who had histories of limited employment.

Those with relatively good employment and earnings the year before entering CETA had a good level after the programs too, although it did not quite get back up to the preprogram level. Because they did not gain their prior level, they pulled down the all-terminee average gain.

Those with little employment and earnings before enrolling in CETA had a modest average level after the program, but that modest level was a very considerable gain over their low preprogram record. They therefore had much greater gains than the average for all terminees.

Over four-fifths of terminees gave a position rating to the CETA programs: 59 percent said they were "satisfied" with it, and 22 percent more said they were "very satisfied."

The following pages present highlight findings in a bit more detail.

Employment Experience: (1) Three months after leaving the CETA program, 58 percent of the terminees were employed. Some 25 percent were unemployed at that time and 17 percent were out of the labor force (primarily in school or another training program, in an

institution, or not seeking work because of family responsibilities, ill health, or other reasons).

This was much better than their status shortly (1 month) before they entered the program: Over twice as many were employed, unemployment was down by half, and the not-in-the-labor-force percentage was down by a third. The specific data, for the 320,000 terminees out at least 3 months, are:

Point in time	Labor force status (percent)		
	Employed	Unemployed	Not in labor force
3 mo after termination	58	25	17
1 mo before entry	26	49	25
Change: 1 mo before to 3 mo after	+32	−24	−8

(2) A sizable improvement over status shortly before entry was to be expected, however, for the group had a rather low employment level then (which was the basis for their being enrolled in CETA). There would likely have been improvement over the low level even if there were no program, although it is uncertain how quickly or how much in the absence of the program.

If we look further back before entry to the program to find a "more normal" prior period for them, and select 12 months before entry as a "before" measure, we find that 3-months-after record still is better, but only slightly: The proportion employed is up a bit, but unemployment is up too, as the main change was a decline in the number out of the labor force. The specific data for the 320,000 terminees are:

Point in time	Labor force status (percent)		
	Employed	Unemployed	Not in labor force
3 mo after termination	58	25	17
12 mo before entry	51	21	28
Change: 12 mo before to 3 mo after	+7	+4	−11

(3) It must be recognized that these before and after records were under different economic conditions. The 12-months-before of this group occurred in January to June 1974, when the national unemployment rate averaged 5.1 percent. The 3-months-after point occurred between Spring 1975 and late 1976, a period when national unemployment averaged 8.1 percent (low of 7.4 and high of 9.1%). The postprogram experience was clearly in a more difficult economic period which may have restrained the extent of postprogram improvement.

(4) Did postprogram employment at 3 months after hold steady, deteriorate or improve over time? The indication from data on those out at least a year is that there was gradual improvement during the first postprogram year: 54 percent were employed 1 month after termination, 57 percent after 3 months, and 62 percent at the 12-month-after point. (The group out of the program at least a year had been in the program an average of only 3 months and so are made up heavily of early dropouts or those in relatively brief programs.) The trend data on this group of 193,000 early terminees out at least a year are:

Time point after termination	Labor Force Status (percent)		
	Employed	Unemployed	Not in labor force
1 mo	54	28	18
3 mo	57	25	18
6 mo	57	24	18
9 mo	60	21	19
12 mo	62	22	16

(5) The overall data for all the terminees obscure major differences among subgroups. The most marked differences are related to prior employment history, as summarized below. (Differences by demographic characteristics and by program activity are also presented in this report.)

To compare the pre/post experience of those with good vs. poor pre-entry employment records, the terminees out at least 3 months were classified into 4 groups according to their predominant labor force status in the year before they entered CETA.

(a) Predominantly employed. These were the people employed 90% or more of the preprogram year. This subgroup, who can be characterized roughly as "cyclically unemployed" enrollees, made up 15% of the terminee group.

(b) Predominantly unemployed. These were persons with severe unemployment records, unemployed 50% or more of the pre-entry year. These "structurally unemployed" were 25% of the total terminees.

(c) Predominantly not in the labor force. These were primarily in school or not seeking work for 50% or more of the preprogram year. This subgroup, basically entrants or reentrants to the labor force, were 24% of the total group.

(d) Other were persons with a more mixed record who did not fit in any of the 3 preceding mutually exclusive categories. They generally had some extensive unemployment but not for as much as 50% of the year. They accounted for 36% of the terminee group.

The attached Table 1 shows the labor force status of each of these subgroups 3 months after termination compared to 12 months before entry to CETA. The subgroup predominantly employed the year before entry did relatively well after leaving the program: 67 percent were employed 3 months after termination. But because they also had a very high-pre-entry level (97 percent were employed 12 months before program entry), and some did not recover from the difficulties that led them to enter CETA, the subgroup as a whole fell far short of recovering to its high 12 months-before level.

Those who were predominantly unemployed the year before entry had a "modest" postprogram employment level: 50 percent employed 3 months after termination (vs. 67 percent for those who had a predominantly employed history). But because their pre-entry employment level had been quite low (31 percent employed 12 months before entry), their modest postprogram level of 50 percent employed represented a very substantial gain.

Those who were predominantly not in the labor force the year before entry to CETA also had a modest postprogram employment level (46 percent employed 3 months after termination) which was substantially higher than the level 12 months before entry (15 percent). But they also had sizable flow into unemployment and a substantial return to not-in-the-labor-force status, as many who sought to enter or reenter employment were apparently unable to do so quickly.

Finally, for the "other" group, which had a more mixed history the year before entry, the postprogram employment level was relatively high (67 percent employed 3 months after termination), but their level at 12 months before entry was also fairly high (70 percent employed) so this subgroup did not quite recover fully to its 12-months preprogram level.

In sum, the breakdown by prior employment history indicates that (a) the subgroups with better employment records before the program also had better records after the program, but did not get back up to the employment levels they had a year before entry, while (b) the subgroups who had limited employment the year before entry did not attain a high employment level after the program, but that level was a considerable gain over their preprogram level.

Earnings Experience: The findings on earnings before and after the program basically parallel the findings on employment status. Again, the extent of change depends in part on which pre-entry period is used to represent the before-program level.

(1) Earnings in the first quarter after leaving the program were up sharply over earnings in the quarter before entry to the program. The average annual earnings rate of all the terminees in the first 3 months after termination ($4,080, including those with no earnings) was $2,310 or 130% more than the same group's annual earnings rate ($1,770) in the 3 months before entry to the program.

(2) Since the earnings rate in the quarter just before entry was depressed by the fact that most enrollees had little or no earnings in that period, comparisons have been made with earlier periods too. Compared to earnings the full year before entry ($2,790), the annual earnings rate in the first quarter after termination was $1,290 or 46% higher. Compared to the earnings rate in the 4th quarter (months 10 to 12) before entry ($3,340), the first postprogram quarter's earnings rate was $740 or 22% higher.

(3) These overall data mask major differences among groups with different pre-entry employment histories. For the four classifications of predominant pre-entry experience cited earlier, the attached Table 2 presents annualized earnings for both the first quarter before entry and the fourth quarter before entry, compared to earnings in the first quarter after termination.

The table shows that the average rise in annualized earnings for all terminees of 130%, from the first quarter before to the first quarter after, was a product of three quite separate patterns: One subgroup roughly got back to its earlier level, another improved by 125%, and the other two improved over 500%. Specifically:

(a) Those predominantly employed the year before entry had the highest postprogram earnings, but did not recover their high pre-entry earnings level. Their earnings the first quarter after termination were 8% less than in the first quarter before entry.

(b) Those predominantly unemployed or not in the labor force the year before entry had lower postprogram earnings than the group who had been predominantly employed the year before, but their lower level still was a huge improvement over their very much lower pre-entry earnings. They earned roughly 500% more in the first quarter after termination than in the first quarter before program entry.

(c) The "other" group, with a mixed employment record the year before entry, gained about as much in dollar terms as the predominantly unemployed and not-in-the-labor force groups, but because their pre-entry earnings had been higher than those other groups, their percentage increase was of course smaller, about 125%.

If annualized earnings for the first quarter after termination are compared to an earlier pre-entry period, the fourth quarter before entry, the average change for all terminees was a 22% increase ($740 gain in annual earnings). Within this average, there was a much greater gain for those who had been predominantly unemployed in the preprogram year ($1,610 or 85%) or predominantly not in the labor force (increase of $2,300 or 258%). On the other hand, those who had been predominantly employed had lower earnings after the program than a year earlier ($1,100 or 19% less), because some did not recover to their former levels and pulled down the group's postprogram average. This was true too of the "other" group, whose average annual earnings in the first quarter after termination were less ($290 or 6%) than in their fourth quarter before program entry.

(4) Looking at each program activity separately, the largest pre-to-post earnings gains were experienced by terminees from public service employment and on-the-job training programs, with classroom training lagging behind a bit, and those in adult work experience programs experiencing the least change. The attached Table 3 presents the data for each activity. (These data do not enable appropriate comparison of the relative effectiveness of each activity, because there is considerable variation in who is served in each activity and for other reasons). Future CLMS reports will attempt to develop better bases for comparing the different activities.

Satisfaction with CETA: Terminees were asked about their "satisfaction" with the CETA program. Although this is a soft measure of program performance, it is noteworthy that 81% gave positive responses: 22% said they were "very satisfied" and 59% selected "satisfied" as their answer. Of the remaining 19% who gave negative responses, 18% said they were "dissatisfied" with their CETA experience, while only 6% chose "very dissatisfied" as their response.

There was a slight difference between activities: 77% rated classroom training as satisfactory, while on-the-job training, work experience, and public service employment were each rated satisfactory by 83%.

Other Data: The report presents detailed additional data on (1) in-program experience, including occupation of training or employment, wages and earnings while enrolled, length of stay, and proportions receiving ancillary manpower or supportive service in addition to their principal activity, and (2) variations in program outcome by selected demographic characteristics.

TABLE 1.—PREPOST CHANGES IN LABOR FORCE STATUS FOR CETA TERMINEES[1] BY PREDOMINANT LABOR FORCE STATUS IN PREPROGRAM YEAR

Predominant status in year before entry and points in time	Labor force status (percent)		
	Employed	Unemployed	Not in labor force
All terminees:[1]			
3 mo after termination	58	25	17
12 mo before termination	51	21	28
Change: 12 mo before to 3 mo after	+7	+4	−11
Predominantly employed:			
3 mo after termination	67	20	13
12 mo before entry	97	2	1
Change: 12 mo before to 3 mo after	−30	+18	+12
Predominantly unemployed:			
3 mo after termination	50	35	15
12 mo before entry	31	57	12
Change: 12 mo before to 3 mo after	+19	−22	+3
Predominantly not in labor force:			
3 mo after termination	46	24	30
12 mo before entry	15	6	79
Change: 12 mo before to 3 mo after	+31	+18	−49
Other (no predominant status in prior year):			
3 mo after termination	67	22	11
12 mo before entry	70	13	18
Change: 12 mo before to 3 mo after	−3	+9	−7

[1] Estimates for 320,900 terminees out at least 3 mo who had entered CETA in January–June 1975.

Source: CLMS Followup Report No. 1.

TABLE 2.—PRE-POST AVERAGE ANNUAL EARNINGS LEVELS AND CHANGES FOR CETA TERMINEES[1] BY PREDOMINANT LABOR FORCE STATUS IN PREPROGRAM YEAR

	Employment experience in year before entry				
	All terminees	Predominantly employed	Predominantly unemployed	Predominantly not in labor force	Other
Number of terminees	320,900	48,400	81,000	76,600	114,900
Time periods:					
1st quarter after termination	$4,080	$4,830	$3,510	$3,190	$4,760
1st quarter before entry	1,770	5,210	570	560	2,120
Change:					
1st quarter before	+2,310	−380	+2,940	+2,630	+2,640
1st quarter after (percent)	(+131)	(−8)	(+516)	(+470)	(+125)
4th quarter before entry	3,340	5,930	1,900	890	5,050
Change:					
4th quarter before	+740	−1,100	+1,610	+2,300	−290
1st quarter after (percent)	(+22)	(−19)	(+85)	(+258)	(−6)

[1] Estimates are for terminees out at least 3 mo who had entered CETA in Jan.–June 1975. Annualized earnings average include terminees with zero earnings.

Source: CLMS Followup Report No. 1.

TABLE 3.—PRE-POST AVERAGE ANNUAL EARNINGS LEVELS AND CHANGES FOR CETA TERMINEES BY CETA PROGRAM ACTIVITY

	CETA program activity[2]				
	All terminees	Classroom training	On-the-job training	Adult work experience	Public service employment
Number of terminees	320,900	73,700	31,800	48,700	145,300
Time periods:					
1st quarter after termination	$4,080	$3,000	$5,190	$3,010	$4,720
1st quarter before entry	1,770	1,480	2,500	1,620	1,830
Change:					
1st quarter before	+2,310	+1,520	+2,690	+1,390	+2,890
1st quarter after (percent)	(+131)	(+103)	(+108)	(+86)	(+158)
4th quarter before entry	3,340	2,550	3,660	3,050	3,820
Change:					
4th quarter before	+740	+450	+1,530	−40	+900
1st quarter after (percent)	(+22)	(+18)	(+42)	(−1)	(+24)

[1] Estimates are for terminees out at least 3 mo who had entered CETA in Jan.–June 1975. Annualized earnings average includes terminees with zero earnings.

[2] Does not include 21,400 in multiple activities.

Source: CLMS Followup Report No. 1.

TABLE 56.—CETA TERMINEES OUT AT LEAST 3 MO ENROLLED DURING JANUARY–JUNE 1975: PERCENT OF TERMINEES NOT IN LABOR FORCE BY PROGRAM ACTIVITY AND SELECTED TIME POINTS

	Program activity					
Time points	Classroom training	On-the-job training	Adult work experience	Public service employment	Multiple activities	All
Estimated number	73,700	31,800	48,700	145,300	21,400	320,900
Prior to entry:						
12 mos	33	28	25	27	(28)	28
9 mos	31	25	23	23	(25)	25
6 mos	29	26	25	22	(24)	25
3 mos	30	27	26	21	(23)	25
1 mo	33	25	23	20	(30)	25
1 day	37	(22)	22	18	(34)	24
After termination:						
Day after	37	(14)	22	17	(18)	22
1 mo	23	(11)	20	15	(13)	17
3 mos	21	(11)	20	16	(10)	17

TABLE 57.—CETA TERMINEES OUT AT LEAST 12 MO ENROLLED DURING JANUARY–JUNE 1975: PERCENT OF TERMINEES EMPLOYED BY PROGRAM ACTIVITY AND SELECTED TIME POINTS

	Program activity					
Time points	Classroom training	On-the-job training	Adult work experience	Public service employment	Multiple activities	All
Estimated number	47,600	21,000	30,800	85,500	8,500	193,500
Prior to entry:						
12 mos	44	53	51	55	(52)	51
9 mos	44	56	48	59	(50)	53
6 mos	42	53	47	53	(44)	49
3 mos	31	42	38	42	(35)	38
1 mo	24	37	30	25	(31)	27
1 day	20	42	29	27	(26)	27
After termination:						
Day after	31	70	55	62	(56)	54
1 mo	44	70	52	57	(62)	54
3 mos	46	66	52	60	(77)	57
6 mos	49	69	52	60	(64)	57
9 mos	50	72	56	63	(68)	60
12 mos	54	73	58	65	(69)	62

TABLE 58.—CETA TERMINEES OUT AT LEAST 12 MOS ENROLLED DURING JANUARY–JUNE 1975: PERCENT OF TERMINEES UNEMPLOYED BY PROGRAM ACTIVITY AND SELECTED TIME POINTS

	Program activity					
Time points	Classroom training	On-the-job training	Adult work experience	Public service employment	Multiple activities	All
Estimated number	47,600	21,000	30,800	85,500	8,500	193,500
Prior to entry:						
12 mos	23	(18)	(24)	17	(19)	20
9 mos	22	(17)	26	18	(24)	21
6 mos	28	(19)	26	24	(30)	25
3 mos	36	(29)	34	37	(42)	35
1 mo	41	37	44	54	(39)	46
1 day	42	36	46	55	(41)	47
After termination:						
Day after	27	(16)	(21)	20	(18)	21
1 month	32	(19)	29	28	(21)	28
3 mos	32	(21)	27	23	(15)	25
6 mos	30	(19)	28	22	(18)	24
9 mos	24	(17)	(22)	21	(13)	21
12 mos	25	(17)	(24)	21	(15)	22

TABLE 59.—CETA TERMINEES OUT AT LEAST 12 MOS ENROLLED DURING JANUARY–JUNE 1975: PERCENT OF TERMINEES NOT IN LABOR FORCE BY PROGRAM ACTIVITY AND SELECTED TIME POINTS

	Program activity					
Time points	Classroom training	On-the-job training	Adult work experience	Public service employment	Multiple activities	All
Estimated number	47,600	21,000	30,800	85,500	8,500	193,500
Prior to entry:						
12 mos	33	(29)	26	28	(29)	29
9 mos	34	(27)	25	22	(26)	25
6 mos	31	(28)	26	23	(26)	26
3 mos	33	(28)	28	21	(23)	26
1 mo	36	(26)	26	21	(30)	26
1 day	30	(22)	25	19	(33)	26
After termination:						
Day after	42	(14)	(24)	18	(26)	25
1 mo	24	(11)	(20)	15	(17)	18
3 mos	22	(13)	(21)	17	(16)	18
6 mos	22	(12)	(20)	18	(18)	18
9 mos	25	(11)	(22)	16	(18)	19
12 mos	21	(10)	(22)	14	(16)	16

Mr. JAVITS. The report focuses on some 320,000 such terminees, as they are called, about two-thirds of whom were entrants into the program in the period January to June 1975, and who had been out of the program for about 3 months when this survey was taken.

The committee findings in the survey are as follows: The CETA participants had more employment and earnings after having been through the program than before, notwithstanding that the economic conditions were more difficult in the postprogram period, as that was very much within the 1975 recession period. The postprogram employment and earnings for these terminees improved gradually over time. They were hired, for example, a year after termination of the program and in the several months after leaving the program. The overall gain was, of course, to be judged in the light of the fact that some of these people had stable employment backgrounds and others had very unstable employment backgrounds. Obviously, those who had stable employment backgrounds did better. But nonetheless, the overall result demonstrates that CETA training is effective; and it is interesting that more than 80 percent of these terminees gave a high rating to the CETA program, with 59 percent saying they were satisfied with it and 22 percent more, that is, over and above the 59 percent, saying that they were very satisfied.

The employment experience indicated the rather extraordinary development that those who went through the program had about half the rate of unemployment of those who had not gone through the program.

I think, now that they have had the program for a time, that these are extremely important overall vindications of the position which our committee and Senator NELSON and I have taken, that this is an extremely worthwhile activity. I believe, Mr. President, for that reason, the report should be submitted as a part of the record to the Senate.

Mr. President, I make the further unanimous-consent request that Karen Steidl of Senator YOUNG's staff have the privilege of the floor during the debate on this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I join Senator NELSON, who has done an extraordinary job of guidance and leadership in this program, in yielding back the time on this amendment.

Mr. NELSON. Mr. President, all time has been yielded back, I understand.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment (UP No. 1780).

The amendment was agreed to.

Mr. NELSON. Mr. President, I join Senator JAVITS in commending the staff of the minority on the committee and the staff of the majority—Scott K. Ginsburg, the staff director and counsel of the subcommittee, and Joan Hunziker—as well as the members of staffs of other committee members, who have spent an enormous amount of time in helping to design and work out a very comprehensive, significant, and important amendment to the CETA legislation. CETA legislation was introduced on February 23, 1978; it has had careful hearings and extensive drafting and redrafting. The cooperation of staffs and members of the committee, along with administration has resulted in a superb job and they are to be commended for it.

Mr. JAVITS. Will the Senator yield?

Mr. NELSON. I yield.

Mr. JAVITS. I think it would really be noninclusive if we did not add Jim O'Connell, of the minority staff.

Mr. NELSON. By all means.

UP AMENDMENT NO. 1781

Mr. NELSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. NELSON) proposes an unprinted amendment numbered 1781.

Mr. NELSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 224 line 14 insert "(1)" after "(c)" and between lines 24 and 25, insert the following: "(2) The Secretary shall facilitate the initiation and extension of projects for work on the weatherization of housing in public service employment programs carried out by prime sponsors under this Act. The Secretary shall, in coordination with other appropriate agencies, provide technical assistance and otherwise encourage prime sponsors, serving areas where such projects would significantly contribute to energy savings, to develop and continue weatherization projects as part of their public service employment programs"

Mr. NELSON. Mr. President, this amendment will instruct the Secretary of Labor to facilitate the initiation and extension of public service employment projects for work on the weatherization of housing. The amendment further provides that the Secretary shall provide technical assistance and otherwise encourage prime sponsors to develop and continue weatherization projects as part of their public service employment programs.

This amendment is necessary because many weatherization projects, especially in the Midwest and Northeast, have been terminated by prime sponsors because of the 1-year project requirement under current law. The weatherization of low-income homes is a national priority, and is also one of the most successful and productive activities undertaken by prime sponsors.

The inclusion of this amendment in the CETA legislation will assure that weatherization activities are given appropriate attention by prime sponsors.

Mr. President, I think this is a sound amendment and noncontroversial. I am prepared to yield back the remainder of my time.

Mr. JAVITS. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1782

Mr. NELSON. Mr. President, I send another amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. NELSON) proposes an unprinted amendment numbered 1782.

Mr. NELSON. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 225, line 25, strike "and the succeeding fiscal year" and insert in lieu thereof "and until such time as the Secretary determines that current population survey data is available for use on a satisfactory basis for such areas and for the remaining areas of each state,".

Mr. NELSON. Mr. President, this amendment would provide that the so-called "hold-harmless" vision for those standard metropolitan statistical areas (SMSA's) and central cities where current population survey (CPS) data had been used to determine annual employment data prior to January 1, 1978, which had been included in the committee bill, be effective through fiscal year 1979 and until such time as CPS survey data becomes available on a satisfactory basis.

The Department of Labor requested the inclusion of this amendment. It is intended to assure that once CPS data becomes available for the impacted SMSA's and central cities, the "hold harmless" provisions will be terminated. The Department of Labor now believes that such CPS data will be available in 1980 or 1981 on a quarterly basis. However, reliable quarterly data requires some expansion of the CPS interviews, which will only be undertaken if we are resolved to solve the problem that led to the inclusion of the "hold-harmless" provision. The "hold-harmless" provision will remain in effect until such CPS expansion can be implemented, and this provision will help insure that the expansion of CPS data begins as soon as possible.

Mr. President, I believe this amendment is noncontroversial. I yield back the remainder of my time.

Mr. JAVITS. I yield back my time, Mr. President.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1783

(Purpose: To require publication of substantial changes in the method of calculating unemployment)

Mr. NELSON. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. NELSON), for himself and Mr. HUDDLESTON, proposes an unprinted amendment numbered 1783.

Mr. NELSON. Mr. President, I ask unanimous consent to dispense with further reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 225, between lines 18 and 19, insert the following:

"(e)(1) The Secretary, through the Bureau of Labor Statistics, shall publish in the Federal Register any substantial change in the method of calculating unemployment for the purpose of allocating any funds under this Act or any other Act of Congress at least 6 months prior to the effective date of the use of the changed method.

On page 225, line 19, strike out "(e)(1)" and insert in lieu thereof "(2)".

Mr. NELSON. Mr. President, this amendment would require the Secretary of Labor to publish in the Federal Register any substantial change in the method of calculating unemployment for the purpose of allocating funds under the Comprehensive Employment and Training Act of 1973, as amended, or under any other act of Congress at least 6 months prior to the effective date of the use of the changed method.

Mr. President, unemployment statistics play a prominent role in the allocation of Federal dollars to State and local areas because unemployment statistics are used in many Federal programs' allocation formulas. Whenever the method by which the unemployment rate is calculated is changed, it can have a dramatic impact on the distribution of Federal dollars throughout the country.

Last January, for example, new procedures were initiated by the Bureau of Labor Statistics (BLS) for estimating unemployment and labor statistics. These changes were undertaken to improve the accuracy of labor market statistics, statistics which are used to allocate CETA funding, antirecession assistance, and many other forms of Federal assistance to State and local governments. This new BLS methodology, however, resulted in a substantial decline in unemployment rates in some of the 28 standard metropolitan statistical areas and 9 central cities whose unemployment rates were calculated in a different manner as a result of the BLS methodological change. The decline in unemployment rates in many of these areas did not occur as a result of any economic changes in the area, but is instead a result of the change in the methodology used to calculate unemployment rates.

Without debating the merits of whether the methodological changes were appropriate, in my judgment, the January 1978 methodological changes were undertaken without adequate notice to Congress and to those areas which were to be affected by the changes.

That is why I am offering this amendment today. It will give at least 6 months of public notice in the Federal Register prior to any substantial change being implemented in the method by which unemployment rates in State and local areas are calculated. This wait and see provision will give Congress and the public the necessary time to examine proposed methodological changes in calculating unemployment rates and to study the impact these changes will have upon State and local areas.

I am prepared to yield back the remainder of my time.

Mr. BENTSEN. Will the manager of the bill yield for a request?

Mr. NELSON. Yes.

Mr. BENTSEN. I would like to be added as a cosponsor to the amendment.

Mr. NELSON. Mr. President, I ask unanimous consent that the Senator from Texas (Mr. BENTSEN) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is all time yielded back?

Mr. JAVITS. Yes.

Mr. NELSON. Yes.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1784

(Purpose: Technical and conforming changes)

Mr. NELSON. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. NELSON) proposes an unprinted amendment numbered 1784.

Mr. NELSON. Mr. President, I ask unanimous consent to dispense with further reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 180, in the table of contents, section 451, insert "the" immediately after "of".

On page 180, in the table of contents, section 461, strike "development" and insert in lieu thereof "developmental".

On page 184, line 9, insert "Act" immediately after "Training".

On page 184, line 12, insert a comma after "in".

On page 184, line 13, insert a comma after "for".

On page 185, line 6, insert "a" immediately after "as" and strike "sponsors" and insert in lieu thereof "sponsor".

On page 187, line 22, strike "elevate" and insert in lieu thereof "evaluate".

On page 189, line 17, strike "insure" and insert in lieu thereof "assure".

On page 189, insert a comma at the end of line 18.

On page 192, line 4, strike "employment" and insert in lieu thereof "employment".

On page 197, line 18, strike "ensure" and insert in lieu thereof "assure".

On page 197, lines 18 and 19, strike "shall make" and insert in lieu thereof "makes".

On page 199, line 25, strike the comma after "Act".

On page 200, line 5, insert "to enforce such order" immediately after "necessary".

On page 200, line 25, insert "or investigation" immediately after "proceeding".

On page 201, strike line 1 and "or investigation," on line 2.

On page 206, line 2, insert "of" immediately after "and".

On page 207, line 7, strike "with" and insert in lieu thereof "with".

On page 207, line 17, insert "and" immediately after "employment".

On page 208, line 8, strike "agency" each time it appears and insert in lieu thereof "agencies".

On page 211, line 1, strike "such".

On page 213, line 4, strike "every" and insert in lieu thereof "each".

On page 214, line 16, strike "this Act" and insert in lieu thereof "the Comprehensive Employment and Training Act Amendments of 1978".

On page 216, line 11, insert "opportunities" immediately after "training".

On page 217, line 7, strike "this Act" and insert in lieu thereof "the Comprehensive Employment and Training Act Amendments of 1978".

On page 217, section 121(aa) is amended to read as follows:

"Prime sponsors shall provide, where such employment opportunities already exist or

where there is a reasonable expectation of a near-term expansion of such employment opportunities, appropriate employment and training opportunities in the development, conservation and use of solar, hydro-electric, and other alternative energy technologies, especially those clean, safe, renewable resources which may assist communities in resolving energy demand problems, thereby reducing their reliance on conventional nonrenewable fuels. For purposes of this subsection "solar energy technologies" shall refer to "solar energy sources" as defined in section 3 of the Solar Energy Research, Development and Demonstration Act of 1974.".

On page 219, line 11, insert "opportunities" after "training".

On page 221, line 9, strike "under this Act".

On page 233, line 3, strike out "and" and insert in lieu thereof "or".

On page 235, line 21, strike "a" and insert in lieu thereof "an annualized".

On page 235, line 25, insert "as" immediately after "level".

On page 236, strike line 10 and insert in lieu thereof:

"V of the Older Americans Act of 1965, as amended, or a handi-".

On page 238, line 22, strike "means".

On page 239, line 4, strike "cerificate" and insert in lieu thereof "certificate".

On page 242, line 14, insert a comma after "facilities" and strike "and".

On page 242, line 22, strike "needed" and insert in lieu thereof "needing".

On page 243, line 7, insert "employment" immediately after "service".

On page 244, line 13, strike "c" and insert in lieu thereof "a".

On page 250, line 9, strike semicolon.

On page 252, line 3, strike "manpower" and insert in lieu thereof "employment and training".

On page 252, line 12, strike "funds" and insert in lieu thereof "amounts available for parts A, B, and C of this title".

On page 252, line 23, insert at the beginning of the sentence " 'under".

On page 253, line 1, strike "1978)." and insert in lieu thereof "1978)' ".

On page 257, line 23, strike "either".

On page 257, line 24, insert "youth" before the period.

On page 262, line 7, insert "at rates" immediately after "not" and insert "that" immediately after "than".

On page 264, line 6, strike "9" and insert in lieu thereof "90".

On page 265, line 7, strike "applicant" and insert in lieu thereof "prime sponsor".

On page 265, line 13, strike "applicant" and insert in lieu thereof "a prime sponsor".

On page 265, line 20, strike "an applicant" and insert in lieu thereof "a prime sponsor".

On page 266, lines 8 and 9, delete the parentheses.

On page 266, line 12, insert "available under this part shall be".

On page 267, line 15, insert before the period a comma and "except as provided in section 122(j)(4)(B)".

On page 270, line 8, strike "obtain" and insert in lieu thereof "retain".

On page 270, strike line 12.

On page 272, line 8, insert "other" immediately after "with".

On page 279, insert at the begining of line 2 "testing the".

On page 279, line 13, strike "the".

On page 279, line 25, strike "support" and insert in lieu thereof "supportive".

On page 280, line 14, insert "and" immediately after the semicolon.

On page 280, line 18, strike "f" and insert in lieu thereof "e".

On page 283, line 3, insert "and" immediately after "activities,".

On page 283, line 4, insert "conducted" immediately after "projects".

On page 287, lines 21 and 22, strike "efficiency" and insert in lieu thereof "efficacy".

On page 292, line 23, strike "project" and insert in lieu thereof "projects".

On page 312, line 18, strike "the" the second time it appears and insert in lieu thereof "this".

On page 326, line 1, strike "such as".

On page 326, line 3, insert "such as" immediately after "displacement".

On page 327, line 1, strike "presonnel" and insert in lieu thereof "personnel".

On page 327, line 17, strike "conpul ory" and insert in lieu thereof "compulsory".

On page 329, line 5, strike "CONSELING" and insert in lieu thereof "COUNSELING".

On page 331, between lines 6 and 7, add the following subsection:

"(1) has attained age fourteen but not attained age twenty-two at the time of enrollment;".

On page 331, line 7 is amended to read as follows:

"(2) is economically disadvantaged or is a member of a family which is economically disadvantaged who requires additional education, training, or".

On page 331, line 13, strike "2" and insert in lieu thereof "3".

On page 331, line 19, strike "3" and insert in lieu thereof "4".

On page 331, line 24, strike "4" and insert in lieu thereof "5".

On page 337, line 23, strike "ther" and insert in lieu thereof "their".

On page 339, line 19, strike "advistory" and insert in lieu thereof "advisory".

On page 339, line 22, strike "Secretary" and insert in lieu thereof "Secretary".

On page 344, line 14, strike "disicipline" and insert in lieu thereof "discipline".

On page 352, following line 25, insert the language which appears on page 372, lines 1 through 25, inclusive, and on page 373, line 1 through 21, inclusive.

On page 360, strike "subsection" and insert in lieu thereof "section 493".

On page 370, line 13, insert "(1)" after "(b)".

On page 372, strike lines 1 through 25, inclusive.

On page 373, strike lines 1 through 21, inclusive.

On page 375, line 2, insert "annualized" immediately after "whose".

On page 375, line 7, insert "(1)" immediately after "122".

On page 375, line 13, strike "Wages to".

On page 375, line 14, insert "wages" immediately after "paid".

On page 382, line 25, strike "employees" and insert in lieu thereof "employee".

On page 387, line 9, insert a comma after "security".

On page 389, line 8, strike "94–563" and insert in lieu thereof "93–567".

On page 180, in the table of contents for the Act, the caption of Sec. 446 is amended to read "Disregarding payments".

On page 228, sec. 124(a)(2) is amended to read as follows: "A trainee receiving public assistance, or whose needs or income are taken into account in determining such public assistance payments to others, shall receive an incentive, which shall consist of disregarding up to $30 per week of the basic hourly allowance, depending upon the number of hours spent in training, in determining the amount of public assistance payments under Federal or federally assisted public assistance programs."

On page 229, between lines 4 and 5, add a new subparagraph 124(a)(4) to read as follows:

"(4) Participants may be given allowances for transportation subsistence and other expenses incurred in training or employment.".

On page 256, lines 20–23, delete subsection 211(9) and renumber the following subsections accordingly.

On page 314, line 22, at the end of subparagraph 436(a)(5), insert the following clause: "except that the provisions of section 446 of this title shall apply with respect to the disregarding of allowances".

On page 330, line 1, the caption of Sec. 446 is amended to read: "Disregarding payments".

On page 330, line 2, the word "earnings" is amended to read "payments".

On page 341, between lines 23 and 24, add the following new subsection:

"(c) The Secretary may delegate within the Department of Labor authority over the Office established pursuant to section 135 in order to effectively carry out the purposes of such section.".

Mr. NELSON. Mr. President, this is a technical amendment to the committee bill. This technical amendment is to correct minor errors in the drafting and printing of committee bill S. 2570. It makes no substantive changes in the bill. It has been considered and approved by the ranking minority member (Mr. JAVITS).

Mr. JAVITS. It is approved on this side, Mr. President.

Mr. NELSON. I yield back the remainder of my time.

Mr. JAVITS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. Did the Chair understand the Senator from Wisconsin was about to make an unanimous-consent request in behalf of the Senator from Vermont?

Mr. NELSON. Mr. President, I ask unanimous consent that Mr. Larry Patton of Senator PROXMIRE's office and Mr. Mike Choukas, of Senator LEAHY's staff, be granted the privileges of the floor during the course of the pending legislation and any rollcall votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1785

(Purpose: To prohibit individuals who voluntarily terminate full-time employment, without good cause, from being employed in public service jobs)

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk for myself and the distinguished Senator from New Mexico (Mr. SCHMITT) and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), for himself and Mr. SCHMITT, proposes an unprinted amendment numbered 1785.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 223, line 23, add the following new subsection:

SEC. 122. (c) No individual shall be eligible to be employed in a Public Service Employment position, if such individual has voluntarily terminated, without good cause, his or her last previous full-time employment at a wage rate no less than the Federal minimum

wage as prescribed under Section 6(a)(1) of the Fair Labor Standards Act, as amended.

On page 223, line 23, strike "(o)" and substitute "(p)".

Mr. DOLE. I ask unanimous consent that Ernest Garcia, of my staff, and John Backer, of Senator HAYAKAWA's staff, be granted the privileges of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Will the Senator yield for a unanimous-consent request?

Mr. DOLE. Yes.

Mr. HATCH. I ask unanimous consent that Mr. Ron Docksai, of my staff, be granted the privileges of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I first want to recognize the chairman of the Committee on Human Resources, Senator WILLIAMS and ranking Republican Senator JAVITS, and the distinguished chairman, Senator NELSON, and the distinguished members of the subcommittee for the consideration that they have given to this complex and important legislation. While I believe there is more to be done, the committee is to be commended for making constructive and important changes to this very important bill.

Mr. President, it is my understanding that the distinguished floor leaders have considered my amendment and have agreed to accept it. I am pleased to have the committee accept my amendment as I believe it contributes to the committee's overall effort in trying to make CETA an effective program.

DOLE AMENDMENT

Mr. President, my amendment simply states that no individual shall be eligible to be employed in a public service position, at any time, under title II and VI if such individual has voluntarily terminated, without good cause, previous full-time employment at a wage rate not less than the Federal minimum wage as prescribed under the Federal Labor Standards Act as amended.

PSE'S: A LIMITED APPROACH TO SOLVING UNEMPLOYMENT

Mr. President, an issue that is critical to the success and public support of the CETA program, is whether CETA participants are able to secure nonsubsidized employment after leaving the program. The CETA experience, whether in the form of training or a public service job, should give the individual significant skills to enter the regular private sector job market.

One wonders, however, how serious we are in preparing an individual for meaningful employment in the private sector job market when you consider that of the current CETA budget of $11.5 billion, $8 billion is being spent to fund 725,000 public service jobs. The crucial question in this area is what is the best way of providing people with additional skills, experience, and references so that their chances of entering the private sector will be maximized. As I have stated previously I believe the emphasis of the CETA program should be redirected from public service jobs toward training and developing programs. In this regard, I believe my amendment provides a disincentive in the misuse of public service employment and on the other hand, provides an incentive for those who are lacking job skills and experience to utilize the training programs of CETA.

ON TARGET

Mr. President, this amendment, at first glance, appears to be a rather harsh approach in addressing some of the misuse of public service employment, however, when one considers that this amendment will greatly enhance the focus of PSE's upon individuals who are in most need of employment income, it is very much in line with the original intent of public service employment. That is, to provide a temporary emergency program of public service employment to help ease the impact of high unemployment.

THOSE WHO VOLUNTARILY QUIT THEIR JOBS

Mr. President, this amendment is designed to discourage those who have full-time employment at a wage rate not less than the Federal minimum wage, from voluntarily terminating their employment to acquire a public service job under the CETA program. The intent of public service employment was never to provide alternative employment but to provide employment and income to the hard-core unemployed. I would suggest to those who would voluntarily quit their jobs in search of a higher paying job or a more meaningful job to consider participation in the CETA training programs. Job training and skills development is one of the most effective ways in alleviating hard-core unemployment and not public service employment, a program which was designed to provide temporary unemployment relief to the hard-core unemployed.

Mr. President, this amendment also takes into consideration that there will be, unfortunately, those who will be forced to terminate their employment. In these cases, that is, voluntary termination with good cause, my amendment would not apply.

Mr. President, once again, I just want to say that I am pleased to have the committee accept my amendment.

The PRESIDING OFFICER. Who yields time?

Mr. NELSON. Does the distinguished Senator have a copy of his amendment? I was partially diverted by another discussion.

Mr. DOLE. I send a copy to the Senator.

Mr. President, while the distinguished floor manager is looking over the amendment, I might say that the determination of what would constitute "good cause" for terminating employment was originally addressed in my amendment by having this determination made as defined by appropriate State unemployment laws.

However, because of the diverse State interpretation of what constitutes "good cause," the need for developing a uniform standard is apparent. Therefore, it is the intent of this amendment to authorize the Secretary of Labor to promulgate the appropriate rules and regulations in defining "good cause." The Senator from Kansas would also suggest that until such rules and regulations are set by the Secretary, "good cause" will be defined as currently stated by State unemployment laws.

That is one area where I believe if the intent is not clear, we can clarify that with a brief change.

Mr. NELSON. I agree with the amendment offered by the distinguished Senator from Kansas. Persons who quit their job in the private sector or in other regular public employment should not participate in the CETA public service employment programs. The amendment by the distinguished Senator from Kansas (Mr. DOLE) would provide that a person who voluntarily quits a full-time job without good cause, and which pays at least the Federal minimum wage, is ineligible for public service employment program provided under the CETA legislation, To implement this amendment the managers of the CETA bill expect the Department of Labor to issue regulations to serve as a guide to prime sponsors as to the meaning of "without good cause," which is the language of the Senator's amendment.

There are many legitimate reasons for persons to leave their private sector jobs. For example, pregnancy, harassment, or moving from one geographical region to another would be such legitimate reasons. I think, with the Secretary having the flexibility to issue the regulations, that the proposal by the Senator from Kansas is a sound proposal. There has never been any intent, and should not be, that people who leave regular employment without good cause, where they are earning the minimum wage, go into a CETA program.

Mr. JAVITS. Will the Senator yield?

Mr. NELSON. Yes.

Mr. JAVITS. Mr. President, I think this is a good amendment and I am ready to accept it. I have just one point which we must make clear.

According to the terms of the bill, and I beg the Senator to turn to page 384, lines 6 through 15 of the bill—I shall just say it, then the Senator can catch up with it.

All the new provisions become effective and will be implemented by rules by April 1, 1979; that is, on or before April 1, 1979. Is our understanding correct, therefore, that in view of the need for the definition to accord with the pattern of the bill, this amendment would also become effective as of April 1, 1979?

Mr. DOLE. That is the understanding of the Senator from Kansas, yes.

I have just one other question. I agree with the distinguished Senator from Wisconsin with regard to the outlook, but in the interim, while the Secretary of Labor is promulgating regulations, would it be fair that we follow "good cause" as defined currently in existing State laws?

Mr. JAVITS. One of the reasons for my asking the previous question was that that becomes academic, because by April 1, he has to promulgate regulations, anyway, so we do not have to worry about that.

Mr. DOLE. I thank the Senator. I understand.

Mr. NELSON. Mr. President, the distinguished ranking minority Member (Mr. JAVITS) and I agree with the amendment. We yield back the remainder of our time.

Mr. DOLE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1786

(Purpose: To provide membership for representatives of handicapped individuals on the prime sponsor's planning council)

Mr. DOLE. Mr. President, I send two amendments to the desk and ask that they be considered en bloc.

Mr. JAVITS. Mr. President, could we hear them before we vote on them?

The PRESIDING OFFICER. The amendments will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes unprinted amendment 1786:

On page 204, line 4, after "veterans' organizations" insert a comma and the following: "representatives of handicapped individuals".

On page 206, line 20, strike out the word "and".

On page 206, line 21, strike out the period and insert in lieu thereof a semicolon and the word "and".

On page 206, between lines 21 and 22, insert the following:

"(vi) representatives of handicapped individuals.

The PRESIDING OFFICER. Does the Senator from Kansas ask unanimous consent that they be considered en bloc?

Mr. DOLE. Yes, I do.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I think I can clarify them. There is no question on the amendments. They are direct and to the point. They amend the administrative provisions of title I to allow for greater participation with the CETA organization by handicapped consumers and representatives.

DESCRIPTION OF AMENDMENTS

My first amendment adds language to section 109 to include representatives of handicapped individuals to the list of members on the prime sponsor's planning council.

In a similar fashion, my second amendment adds representatives of handicapped individuals to the list of members comprising the State employment and training council under section 110.

Mr. President, throughout this bill, mention is frequently made of the needs of handicapped individuals and to the special disadvantages they experience in the labor market. Various sections of the bill clearly reflect the committee's views that handicapped individuals are to be regarded as legitimate recipients of CETA services.

The Senator from Kansas supports this concept, and hopes that in the future, there will be a noticeable increase in the number of disabled persons who are introduced into the labor market via CETA.

NEED FOR AMENDMENTS

As much as I support this concept, and regardless of how much I wish for these employment goals to be realized, the fact remains that the handicapped have always been eligible for CETA jobs. This bill does not change current policy in that respect.

Recognizing this, it then becomes imperative that some changes be made to S. 2570 to encourage greater participation of handicapped workers. I shall not suggest that the two amendments I offer today will remedy all the problems that contribute to the high rate of unemployment among the handicapped. However, by including the handicapped on the prime sponsor's planning council and on the State employment and training council, I feel we are moving a step or two closer to more active involvement of the handicapped within CETA.

IMPACT AND PLANNING STAGES

For the first time, these amendments allow for the handicapped to make recommendations on CETA activities at the administrative level, when reviewing the prime sponsor's plan. As members on the council, handicapped persons will be expected to evaluate and monitor the prime sponsor's employment and training programs. Membership on the council should insure that needs and concerns of the handicapped are represented at a level where critical decisions are made.

Likewise, including the handicapped on the employment and training council will allow them to check the operation of programs and the adequacy of State services. Clearly, my intention with these amendments is to help promote the participation of handicapped individuals in CETA programs.

Mr. President, I believe my amendments make desired improvements in the CETA legislation, and I urge my colleagues to accept them.

Mr. President, the bill clearly reflects the committee's concern about handicapped and I think by adding representatives, we underscore that concern that both the managers and others on the committee have. As far as I know, the amendments are acceptable.

Mr. JAVITS. Mr. President, if the Senator will yield, the amendment is acceptable to this side.

Mr. NELSON. Mr. President, we are agreeable to the amendment. I yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. JAVITS. Yes.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments were agreed to.

Mr. DOLE. Mr. President, let me say that I have a fourth amendment but we shall try to work that out and offer it later today. The committee report on title VII includes a paragraph that allows representation of community-based organization and clients on the private industry councils.

We have been trying to figure out some way, without mandating representation, particularly with reference to client representation on private industry councils, and I shall be discussing it later today with the distinguished floor managers. Perhaps we can agree on some compromise that will mandate community-based organization representation only, not clients. I can discuss that later and bring up the amendment later. I thank the distinguished floor manager.

AMENDMENT NO. 3527

(Purpose: To tighten eligibility requirements for public service employment programs and to improve the opportunities for public assistance recipients to receive employment and training services)

Mr. BELLMON. Mr. President, I call up amendment No. 3527 and ask that it be considered.

The PRESIDING OFFICER. Is this the amendment on which the Senator from Oklahoma had reserved 2 hours?

Mr. BELLMON. That is correct.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma, for himself and Mr. NELSON, Mr. JAVITS, Mr. MUSKIE, Mr. RIBICOFF, Mr. BAKER, Mr. CHILES, Mr. BARTLETT, Mr. DECONCINI, Mr. DOMENICI, Mr. HATCH, and Mr. DANFORTH, proposes an amendment numbered 3527.

Mr. BELLMON. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 182, line 14, after "rehabilitation" insert a comma and the following: "public assistance".

On page 185, line 9, insert after "shall" a comma and the following: "in coordination with units of general local government,".

On page 189, line 7, after "agencies" insert a comma and the following: "State public assistance agencies".

On page 190, line 23, strike out the word "or".

On page 190, line 23, before the period insert a comma and the following: "or are public assistance recipients".

On page 195, lines 3 and 4, after "education" insert a comma and the following: "State and local public assistance agencies".

On page 204, line 5, after "agencies" insert a comma and the following: "public assistance agencies".

On page 206, between lines 14 and 15, insert the following:

"(iii) one representative of the State public assistance agency;".

On page 206, line 15, strike out "(iii)" and insert in lieu thereof "(iv)".

On page 206, line 19, strike out "(iv)" and insert in lieu thereof "(v)".

On page 206, line 21, strike out "(v)" and insert in lieu thereof "(vi)".

On page 207, line 18, after "rehabilitation" insert a comma and the following: "public assistance".

On page 218, line 21, before the period insert a comma and the following: "and to eligible persons who are public assistance recipients or who are eligible for public assistance but not receiving such assistance".

On page 243, line 20, strike out "and" the first time it appears.

On page 243, line 21, insert before the semicolon a comma and the following: "and public assistance recipient status".

On page 244, between lines 11 and 12, insert the following:

"(6) an estimate of the savings realized in public assistance, food stamps, housing

assistance, medical assistance, and other programs due to the increased employment of recipients of benefits under those programs as a result of the employment and training services provided under this Act.".

On page 280, between lines 19 and 20, insert the following:

"SERVICES FOR PUBLIC ASSISTANCE RECIPIENTS

"SEC. 216. (a) Services for public assistance recipients under this part shall be designed to assist eligible participants in overcoming the particular barriers to employment experienced by such recipients, including lack of basic educational or vocational skills, insufficient preparation for the personal adaptations necessary for labor force participation, inability to find or successfully apply for employment, inability to obtain transportation to employment opportunities, medical problems, inability to obtain satisfactory child care, and lack of appropriate job opportunities.

"(b) The Secretary shall insure that each prime sponsor's plan for serving eligible public assistance recipients under this part includes provisions for—

"(1) coordinating services assisted under this part with other programs assisted under this Act;

"(2) coordinating services assisted under this Act with services provided by State and local public assistance agencies;

"(3) assisting public assistance recipients to develop skills necessary for taking advantage of opportunities to enter or reenter the labor force, including, but not limited to—

"(A) outreach, assessment, and orientation to the local labor market and to occupational and training opportunities available in the community;

"(B) counseling, placement assistance, and job placement;

"(C) technical assistance to employers for establishing flexitime, child-care, job sharing, and other innovative arrangements suited to public assistance recipients;

"(D) activities to overcome sex and welfare status stereotyping in job placement and development; and

"(E) other activities designed to increase labor force participation rates among eligible participants who are able and willing to work but have been unable to secure employment.

On page 263, delete lines 19 through 23.

On page 263, line 18, strike out "(a)".

On page 385, between lines 12 and 13, insert the following:

"(c) The Secretary shall develop information relating to the number of individuals who have attained sixteen years of age and who are members of a family with an income which is equal to or less than 70 per centum, 85 per centum, and 100 per centum of the lower living standard income level for the jurisdiction of each prime sponsor. The Secretary shall prepare and submit, not later than one year after the date of enactment of the Comprehensive Employment and Training Act Amendments of 1978, to the President and to the Congress a report on the information required by this subsection.".

On page 267, line 3, insert "(1)" after "person".

On page 267, line 4, strike out "twelve" and insert in lieu thereof "fifteen".

On page 267, line 5, before the period insert a comma and the following: "(2) or who is, or whose family is receiving aid to families with dependent children provided under a State plan approved under part A of title IV of the Social Security Act, or who is receiving supplemental security income benefits under title XVI of the Social Security Act".

On page 268, line 5, after "older workers" insert a comma and the following: "public assistance recipients,".

On page 292, line 7, after "agencies" insert a semicolon and the following: "State and local public assistance agencies".

On page 294, line 2, strike out "and".

On page 294, between lines 2 and 3, insert the following:

"(L) assurances that special efforts will be made to recruit youth from families receiving public assistance, including parents of dependent children who meet the age requirement of this subpart; and".

On page 294, line 3, strike out "(L)" and insert in lieu thereof "(M)".

On page 301, line 20, before the comma insert a comma and the following: "a description of arrangements with public assistance agencies on the employment of youth from families receiving public assistance, including parents of dependent children".

On page 314, line 10, after "organizations" insert a comma and the following: "public assistance agencies".

On page 353, line 25, after "service" insert a comma and the following: public assistance agencies".

On page 374, line 25, beginning with the word "a", strike out through line 5 on page 375 and insert in lieu thereof a hyphen and the following:

"(A) an individual—

"(i) who has been unemployed for at least ten out of the twelve weeks immediately prior to a determination under this section,

"(ii) who is unemployed at the time the determination is made, and

"(iii) whose family income does not exceed 85 per centum of the lower living standard income level based on the three-month period prior to the individual's application for participation; or

"(B) an individual—

"(i) who is, or whose family is, receiving aid to families with dependent children provided under a State plan approved under part A of title IV of the Social Security Act, or who is receiving supplemental security income benefits under title XVI of the Social Security Act,

"(ii) who has been unemployed for at least ten out of the twelve weeks immediately prior to the determination under this section, and

"(iii) who is unemployed at the time the determination is made.".

On page 178, in the table of contents, after item "Sec. 215." insert the following new item:

"Sec. 216. Services for public assistance recipients.".

Mr. BELLMON. Mr. President, I ask unanimous consent that Mrs. Carol Cox of the Senate Budget Committee be granted the privilege of the floor during debate and votes on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. I am pleased to say, Mr. President, that this amendment is cosponsored by the managers of the bill, Senators NELSON and JAVITS, as well as the distinguished chairman of the Budget Committee (Mr. MUSKIE) and by Senators BAKER, RIBICOFF, DANFORTH, CHILES, DOMENICI, DECONCINI, and HATCH.

I am particularly pleased also that my colleague from Oklahoma, Senator BARTLETT, is cosponsoring this amendment, and he, perhaps, will be here later to make some comments about this amendment.

This amendment thus has support on both sides of the aisle. The administration—and, yes, many of the public interest groups—support this amendment. I am encouraged, Mr. President, by this wide acceptance of the amendment. I believe it reflects a broad commitment on the part of Congress, as well as those who have worked with the program to improve CETA.

I have here a letter, Mr. President, from Secretary of Labor Marshall expressing support for my amendment. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
August 21, 1978.

Hon. GAYLORD NELSON,
Chairman, Subcommittee on Employment, Poverty, and Migratory Labor, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is to express the views of the Department of Labor with respect to S. 2570, the "Comprehensive Employment and Training Amendments of 1978." The Department strongly supports passage of this bill which would reauthorize the Comprehensive Employment and Training Act of 1973 (CETA) for another four years, while making important changes in the design and management requirements of the programs conducted under the umbrella of CETA.

S. 2570 makes significant improvements in CETA. The bill targets CETA towards those most in need by imposing strict income and unemployment eligibility tests. It limits the length of time any individual can stay in a CETA program so as to eliminate substitution of CETA workers for permanent workers, to increase the number of persons who can be served, and to increase the transition from CETA into regular jobs.

S. 2570 also places strict limitations on the Federal wages that can be paid PSE workers and the amount by which local jurisdictions can supplement the Federal base. This will assure that CETA jobs are not more attractive than career-type jobs in the private economy.

The bill also increases the authority of the Secretary to eliminate fraud and abuse in the CETA program by giving him increased regulatory authority and by allowing him to directly attack violations of CETA by subgrantees and subcontractors of prime sponsors if the prime sponsor takes no action.

S. 2570 simplifies the paperwork burden on prime sponsors. Prime sponsors will have to provide in their comprehensive employment and training plans each year only the information that had changed from the previous year. In addition, the information required of prime sponsors has been limited to that information that is necessary for the Secretary to determine that the program is being conducted efficiently, effectively, and in conformance with the Act's requirements and purposes.

We strongly support the passage of S. 2570. CETA has met the needs of this Nation for a program that will train the structurally unemployed so that they can have marketable skills. At the same time it has served the Nation well in a time of economic crisis by providing employment to those persons who were countercyclically unemployed.

Under the proposed legislation, an increased emphasis would be placed on training as a component of any public service employment. Special programs would be conducted to help individuals facing special disadvantages in the labor market—such as the elderly and the young, the handicapped, displaced homemakers, and those of limited English-speaking proficiency. The Job Corps and the summer youth program would be extended, as would the youth programs that are experimenting with methods for improving the unsatisfactory unemployment situation of this Nations's young adults.

In addition, title VII of the bill would introduce into CETA a major, new attempt to involve the private sector in the design and implementation of programs. Under the new Private Sector Opportunities for the Economically Disadvantaged program, the private sector of the economy would work with prime sponsors to create opportunities for the economically disadvantaged in private industry. This program represents a critical effort to create permanent, career-type jobs in the private sector for those who are not in the mainstream of the economy.

We understand that Senator Bellmon intends to offer a series of amendment to S. 2570 that would increase the integration of CETA with State public assistance offices, would increase services to those on public assistance, and would make clear the eligibility for public service employment of those families receiving aid under title IV (Aid to Families With Dependent Children) and title XVI (Supplemental Security Income) of the Social Security Act. We support the purpose of these amendments and hope they will be adopted.

The amendments also include a proposal to eliminate the requirement that before any funds can be made available for title VI countercyclical PSE, $3 billion must be made available for title II structural PSE. We support this amendment. As we have seen in the past, the needs of the economy for structural or countercyclical PSE job opportunities change over time. We do not believe that the authorizing legislation should lock CETA into so rigid a formula. We believe it would be preferable to leave the amounts for title II and title VI to the flexibility of the budget and appropriation processes.

Finally, we are opposed to any amendment that may be offered to remove the Young Adult Conservation Corps (YACC) from the jurisdiction of the Labor Department. The current arrangement, whereby the Department makes referrals to the Departments of Agriculture and the Interior for the program and also promulgates certain regulations within our specific expertise and jurisdiction, has created a strong and smoothly run program. We believe that this program stability and the benefits generated by the central coordination of all employment and training policies in the Department of Labor are essential to maintain.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

RAY MARSHALL,
Secretary of Labor.

Mr. BELLMON. Mr. President, I have a brief description of the amendment, an explanation, and I ask unanimous consent it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXPLANATION OF PROPOSED FLOOR AMENDMENT TO S. 2570, COMPREHENSIVE EMPLOYMENT AND TRAINING ACT AMENDMENTS OF 1978

The following is a summary of the changes the amendment would make in S. 2570.

ELIGIBILITY FOR PUBLIC SERVICE (PSE) JOBS UNDER TITLES II AND VI

Eligibility for the Title II PSE jobs—which are intended to relieve structural unemployment—would be limited to persons receiving AFDC or SSI benefits, and persons unemployed 15 weeks or more whose family incomes do not exceed 70 percent of the Bureau of Labor Statistics lower living standard for urban households. (The bill as reported by the Human Resources Committee would require 12 weeks of unemployment and would not make AFDC and SSI recipients categorically eligible for Title II jobs.)

For Title VI PSE jobs—intended to relieve cyclical unemployment—persons hired would have to be unemployed for ten out of the previous twelve weeks and either have family incomes of less than 85 percent of the Bureau of Labor Statistics lower living standard, or be receiving SSI or AFDC. (The Title VI eligibility provisions in the reported bill require ony 45 days of unemployment and do not make AFDC and SSI recipients categorically eligible.)

HIGHER PRIORITY FOR EMPLOYMENT OF PUBLIC ASSISTANCE RECIPIENTS

This amendment will emphasize throughout the CETA legislation that public assistance recipients are a high priority group for CETA employment and training services. These changes will require the Department of Labor, States and CETA prime sponsors to focus in their CETA planning and operations on steps to expand work and training opportunities for AFDC recipients.

ELIMINATION OF APPROPRIATIONS-FORCING PROVISIONS

This amendment will eliminate a provision which would require Congress to appropriate at least $3 billion for public service jobs for the structurally unemployed under Title II of the bill before any money was appropriated for counter-cyclical public jobs under Title VI. The amendment will leave Congress free to decide the levels and mix of structural and counter-cyclical public jobs in each year's appropriations process.

JUSTIFICATION FOR AMENDMENTS

These amendments will have the following benefits:

1. They will speed the re-orientation of CETA resources from attacking cyclical employment to providing increased employment and training services to people who are structurally unemployed. This shift, which is appropriate in light of the improved unemployment picture in the nation, is already contemplated by the reported bill; these amendments will emphasize and expedite this re-orientation.

2. By targeting public service jobs under Titles II and VI on more narrowly defined groups, the amendments will help minimize "skimming" more of the money will be spent in employing people who would not be able to obtain other jobs.

3. Recipients of cash public assistance benefits will receive a substantially larger share of the job and training opportunities under CETA pursuant to these amendments. The unemployment rate for employable public assistance recipients is in the 80% range. These amendments recognize that this group is at the end of the hiring line, despite the fact that they are required by provisions of the Social Security Act to register for work and accept work or training when offered. The amendments take account of the fact that, despite the emphasis placed on employment of welfare recipients in the 1976 amendments to CETA, only about 10% of total enrollments in the CETA public service employment programs are present or former recipients of AFDC. Employment of larger numbers of public assistance recipients in CETA public service jobs will help reduce expenditures for public assistance and food stamps.

4. Congress will be able to decide in the annual appropriations process the number of public service employment slots and training opportunities which should be provided in the next fiscal year and what the mix should be between jobs and training focused on the structurally unemployed and on the cyclically unemployed.

Mr. BELLMON. Mr. President, under my amendment, eligibility for the title II PSE jobs—which are intended to relieve structural unemployment—would be limited to persons receiving AFDC or SSI benefits, and persons unemployed 15 weeks or more whose family incomes do not exceed 70 percent of the Bureau of Labor Statistics lower living standard income. (The bill as reported by the Human Resources Committee would require 12 weeks of unemployment and would not make AFDC and SSI recipients categorically eligible for title II jobs.)

For title VI PSE jobs—intended to relieve cyclical unemployment—persons hired would have to be unemployed for at least 10 of the previous 12 weeks and either have family incomes of less than 85 percent of the Bureau of Labor Statistics lower living standard, or be receiving SSI or AFDC. (The title VI eligibility provisions in the reported bill require only 45 days of unemployment and do not make AFDC and SSI recipients automatically eligible.)

This amendment will also emphasize throughout the CETA legislation that public assistance recipients are a high priority group for CETA employment and training servcies. These changes will require the Department of Labor, States, and CETA prime sponsors to focus in their CETA planning and operations on steps to expand work and training opportunities for AFDC recipients.

Finally, this amendment will eliminate a provision which would require Congress to appropriate at least $3 billion for public service jobs for the structurally unemployed under title II of the bill before any money was appropriated for countercyclical public jobs under title VI. The amendment will leave Congress free to decide the levels and mix of structural and countercyclical public jobs and training programs in each year's appropriations process.

These amendments will have the following benefits:

First. They will speed the reorientation of CETA from attacking cyclical unemployment to providing increased employment and training services to people who are structurally unemployed.

Second. By targeting public service jobs under titles II and VI on more narrowly defined groups, the amendments will help minimize "skimming." More of the money will be spent in employing people who would not be able to obtain other jobs.

I want to stress to the managers of the bill that I believe it is critical that the Senate conferees not accept the much looser eligibility standards contained in the bill now pending in the House. This would, in my view, undermine the necessary targeting of CETA jobs and would make at least this Senator much less willing to support a large CETA program.

Third. Recipients of cash assistance will receive a substantially larger share of the job and training opportunities under CETA. The unemployment rate for employable recipients is in the 80 percent range.

Mr. President, I would like to reemphasize that point.

The unemployment rate for employ-

able recipients is in the 80 percent range.

This amendment is intended to closely target CETA jobs to that particular group of people.

Employment of larger numbers of public assistance recipients in CETA public service jobs will help reduce expenditures for public assistance and food stamps.

Fourth. Tighter targeting and increased emphasis on hiring of welfare recipients will reduce the inflationary effects of public service employment.

Fifth. Congress will have better control of the CETA program, as the mix of jobs and services (countercyclical and structural) will be subject to annual review through the budget and appropriations processes.

It would be impossible to discuss reauthorization of the Comprehensive Employment and Training Act (CETA), Mr. President, without adressing ourselves to the management failures and the abuses of the existing programs. We read about scandals in CETA daily, if not in the Washington Star or Washington Post—then in our hometown papers.

I am very hopeful that the passage of S. 2570 will mark the beginning of a new and better CETA, Mr. President. S. 2570, as reported by the Human Resources Committee, addresses many of the concerns we all share about the CETA program.

I commend the committee, and the staff of the committee, for the fine work that has been done in bringing S. 2570 to the Senate floor.

This amendment, Mr. President, will build upon the good work begun by the Human Resources Committee in the reported bill. It will tighten eligibility criteria for public service jobs under titles II and VI of CETA. It will improve access for welfare recipients to these jobs—and produce savings in cash assistance programs. Finally, Mr. President, this amendment will delete a requirement, which is included in the reported bill, for appropriation of $3 billion for public service jobs under title II, before any funds can be made available for title VI.

Mr. President, I urge adoption of this amendment.

While many of us have criticized the CETA programs, Mr. President, few of us will deny the need for a continued, concerted effort to provide employment for those of our citizens who suffer the burdens of unemployment—particularly those who are chronically out-of-work, the structurally unemployed.

I am prepared to argue, Mr. President, that CETA—with its basic commitment to decentralized delivery of services to the unemployed—is basically sound in concept. The problems of the unemployed in Oklahoma City, or in Tulsa, are different from the problems of the unemployed in New York City. A different mix of programs will make sense in different labor markets. Only by providing for local planning and priority setting can we hope to meet these different needs.

Federal funding for a program such as CETA with a decentralized delivery system presupposes, however, that the Federal Government has the responsibility to set and convey to State and local prime sponsors clear priorities and goals. It also presupposes a commitment on the part of the Federal administering agency (DOL) to see that these priorities and goals are met. This amendment, Mr. President, both clarifies priorities and it gives some very clear directions to the Department of Labor. Together with other amendments on which some of my colleagues have taken the lead, particularly Senator DOMENICI's antifraud and abuse amendment, which I cosponsored, this amendment can help turn CETA into a program which we can view with pride instead of embarassment.

THE SUBSTITUTION PROBLEM

One of the criticisms most often leveled at the CETA program is that State and local governments do not use public service funds to create new jobs; rather, that they use these funds to pay people they would have hired anyway to do things they would have done—absent this funding—with State/local dollars. This is referred to as "substitution." When CETA was last extended, in 1976, I offered an amendment which required a study of substitution. That study is still underway, although we received a preliminary report on it last March.

The National Commission for Manpower Policy contracted with the Brookings Institutions for a major field review of substitution in the CETA program—pursuant to my amendment. Preliminary results indicate that substitution is much less widespread in CETA than some have charged.

In its preliminary report, Brookings concluded that about 18 percent of CETA public service employment funds went to pay for positions they would label as out-and-out substitution. Brookings also concluded that about 30 percent of the funds were being used to fill positions which would otherwise have been left vacant because of severe State or local fiscal problems. This Brookings report is considerably more favorable to CETA than some other estimates of substitution rates—some had estimated substitution as high as 90 percent. Mr. President, even the substitution rates reported by Brookings are counterproductive in terms of the objectives of CETA. The Congress, of course, wants and expects that public service jobs created under CETA will be additional jobs—that they will represent a real increase in employment opportunities.

BETTER TARGETING OF CETA JOBS

To the extent that we target CETA jobs on the long-term, hardcore unemployed, we make substitution less and less likely, Mr. President. If State and local governments must hire people under CETA whom they would otherwise not hire, they are unlikely to substitute very much if at all. This amendment will tighten targeting by lengthening the required duration of unemployment, before a person will be eligible for a job under CETA as follows: In title II, the reported bill would require 12 weeks of unemployment. This amendment requires 15 weeks; in title VI, the reported bill requires 45 days of unemployment. This amendment requires unemployment during 10 out of the previous 12 weeks.

Tighter eligibility standards for CETA public service jobs has been strongly recommended by the National Commission on Manpower Policy in its latest annual report.

The Commission, Mr. President, would go even further. They recommend use of the eligibility criteria this amendment proposes for title II counterstructural jobs for title VI countercyclical jobs as well. I have been convinced, however, that in the countercyclical part of the jobs program, there is merit in having somewhat less restrictive eligibility standards so that in areas suffering especially high unemployment the working poor will become eligible for CETA jobs before they become destitute.

Tighter targeting has another important benefit, Mr. President. Most economists agree that, as unemployment declines the risk that public service jobs programs may be inflationary increases. Economists also agree, however, that to the extent such jobs are targeted on the long-term, low-skilled, structurally unemployed, that they do not place significant pressure on private sector wages and, therefore, they are much less inflationary. This is of major importance right now, as we must be very concerned about the potential inflationary impact of such programs as well as about the unemployment problems these programs are designed to help solve.

A recent CBO analysis indicates that tighter targeting through lengthening the required weeks of unemployment is the most efficient way of reducing the eligible population for CETA.

I want to note at this point, Mr. President, that this amendment proposes no change in the income eligibility limits recommended by the Human Resources Committee. The reported bill provides that persons obtaining title II public service jobs must be from families with incomes below 70 percent of the Bureau of Labor Statistics lower living standard. This currently averages about $7,500 for a family of four. The bill provides that the family income eligibility for title VI countercyclical jobs will be 85 percent of the Bureau of Labor Statistics lower living standard—about $9,100 for a family of four.

I was initially inclined to try to move the title VI standard back to the 70 percent level. As with the weeks of unemployment standard, however, we become convinced that somewhat more flexibility is appropriate for countercyclical jobs.

PRIORITY FOR WELFARE RECIPIENTS

This amendment will build into CETA a set of unmistakably clear signals that welfare recipients are a high priority group for CETA training and public service jobs. My concern about this group of people—who have an unemployment rate of about 80 percent—stems both from the Budget Committee's efforts to identify savings in welfare programs as a result of the expansion of CETA, and from the work several of my colleagues and I have done on welfare reform during the past year.

One of the major dilemmas facing

those of us who would address the serious problems in the welfare system in this country today is the question of how to get more welfare recipients onto payrolls. To the extent that we can increase the participation of welfare recipients in the CETA program, we will reap the short-term benefit of reduced payments in existing cash assistance and food stamp programs; and we will help alleviate the perception that welfare reform presupposes the creation of huge numbers of new public jobs—on top of those funded under CETA.

This bill, as altered by the amendment we are now considering, will move the CETA program a considerable way in the directions pointed to in the welfare reform proposals contained in S. 2777. The focus on welfare recipients added by this amendment coupled with the private sector job voucher testing directed by title III of the bill, and the President's private sector initiatives incorporated in title VII of the bill, will, I believe, significantly increase the contribution CETA makes to improving the employability and increasing the employment of welfare recipients.

I am also hopeful that the tax bill we will soon consider will contain a targeted tax credit for employers who hire welfare recipients, unemployed youth, and handicapped persons. This will also help increase the private sector work opportunities for these groups. Congress thus has two big opportunities this year—the CETA bill and the tax bill—to adopt "reforms" which can help substantially on the "welfare problem" in this Nation.

ELIMINATION OF APPROPRIATIONS-FORCING PROVISIONS

In addition to tightening eligibility requirements and to increasing the emphasis on hiring welfare recipients under CETA, Mr. President, this amendment will eliminate the mandatory minimum funding requirement for title II public service jobs included in the reported bill. S. 2570, as reported by the Human Resources Committee, would require an appropriation of at least $3 billion for public service jobs under title II, before any funds could be made available for title VI.

In its report on the first budget resolution, the Budget Committee expressed its opinion that the time had come for a shift in the focus of Federal employment and training policy, from countercyclical to structural unemployment. The Budget Committee reaffirmed this position, in its report on the second budget resolution. As you would expect from my remarks on targeting, Mr. President, I wholeheartedly concur in this position.

The Human Resources Committee agreed with the Budget Committee, in this regard, Mr. President, and the reported bill reflects the Human Resources Committee's commitment to a major shift in emphasis in the CETA program from countercyclical to structural objectives.

S. 2570, as reported, groups most of the programs to serve the structurally unemployed in a new title II. The new title includes the training and employability development programs which are funded under title I of the existing law; and, as envisioned by the Human Resources Committee, it would include nearly one-half (or about 300,000 of the existing public service jobs. It couples these public service jobs for the structurally unemployed with training opportunities, counseling and placement efforts. As envisioned in the reported bill, by the end of the upcoming fiscal year, we will have the largest structural public service jobs program since the Great Depression.

As I have already stated, I believe the Human Resources Committee has presented us with a good plan for an orderly shift from the countercyclical focus of the existing programs to an emphasis on the needs of the structurally unemployed; I compliment the Human Resources Committee for its work.

S. 2570, in an effort to assure that the structurally unemployed receive the priority the Human Resources Committee feels they should receive, requires an appropriation of at least $3 billion for public service jobs under title II, before any funds can be made available for jobs under title VI (the proposed countercyclical title). While I wholeheartedly support the intent of this provision, I cannot support this kind of appropriations-forcing provision. We do not reconsider authorizing legislation annually. We do review priorities annually, through the budget and appropriations processes; and the Budget and Appropriations Committees, and the Congress, should not, I believe, be bound in this annual review by mandatory minimum appropriations provisions. Such provisions have virtually the same effect on the budget and appropriations processes as have entitlements. We already have far too little discretion in the Federal Budget—far too many "uncontrollables." For this reason, my amendment will strike this provision from S. 2570.

Lest anyone misunderstand, however, I shall support the policy which underlies the very position I move to strike. I shall resist, as we consider the second concurrent resolution on the budget, and when the Appropriations Committee considers funding for CETA, any effort to shortchange the structural programs under CETA in order to provide a higher level of jobs under the countercyclical title—title VI. I believe that the time has come to phase down countercyclical jobs—if the concept of a countercyclical jobs program which phases up and down with national unemployment is to have any credibility; but I sincerely hope the necessity of this phase down does not muddy the waters, with respect to our consideration of the needs of the structurally unemployed.

MANAGEMENT IMPROVEMENTS AND CONTROL OF FRAUD AND ABUSE

While I have the floor, Mr. President, let me say something about other amendments to this bill, of which I am a cosponsor. I enthusiastically support the amendment Senators DOMENICI and CHILES will offer which will strengthen the bill's antifraud and abuse provisions.

S. 2570, as reported, includes a number of antifraud and abuse provisions. It clarifies the responsibilities of the Secretary of Labor—particularly his responsibility to act promptly where fraud and abuse are alleged and his responsibility to withdraw funding and require repayment, where prime sponsors have misspent CETA funds. It makes it a criminal offense to misspend, embezzle, or otherwise make fraudulent use of CETA funds.

There is one major deficiency, I believe, in the antifraud and abuse provisions of the bill and that deficiency will be remedied by the Chiles-Domenici amendment. The Comptroller General, in a recent report on CETA, questions the ability of the existing CETA system to verify the eligibility of people enrolled in CETA jobs and training.

In my own State of Oklahoma, as well as here in the District of Columbia, we have had very disturbing recent reports of apparently ineligible people being hired in CETA jobs. We must end these abuses and make sure that the CETA jobs go to people who would otherwise be unemployed.

The Domenici-Chiles amendment, Mr. President, will establish a division of monitoring and compliance in the Office of the Secretary of Labor. It will charge that office specifically with investigation and action, in suspected cases of abuse or impropriety in the selection of participants. It will require the Secretary to satisfy himself that each prime sponsor's plan includes procedures for monitoring eligibility, in the prime sponsor's directly run programs, as well as in each subcontractor and subgrantee program. It will require the Secretary to establish national procedures to assure that participants are eligible. Finally, Mr. President, it will make it a criminal offense, subject to a fine of up to $10,000, for any individual to knowingly hire an ineligible participant in CETA.

I mention this amendment now Mr. President, because I believe that the adoption on my amendment—now before the Senate—and the adoption of the Domenici-Chiles antifraud and abuse amendment—when it is called up for consideration, promise a CETA program which will accomplish the objective of meeting the needs of the Nation's unemployed—particularly the structurally unemployed who must be our highest priority; and it will give us a CETA program free from scandal.

Mr. President, I urge the adoption of these amendments.

Mr. BELLMON. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. DECONCINI). The Senator from Wisconsin.

Mr. NELSON. Mr. President, I ask unanimous consent that Sara H. Turner of Senator ALLEN's staff be granted the privilege of the floor during the course of the consideration of the pending legislation and the rollcall votes thereon, along with Mr. Tom Altmeyer of the committee staff during consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I commend the distinguished Senator from Oklahoma. He has carefully drafted some modifications of the legislation

which are directed toward the objectives of the legislation. Speaking for myself, I think they are improvements. I am prepared to accept the amendment.

The Bellmon amendments would have the following impact:

First. Special consideration is to be given by prime sponsors to public assistance recipients and persons eligible to receive public assistance in filling public service employment jobs;

Second. Categorical eligibility is given to SSI and AFDC recipients in public service employment programs—titles II and VI;

Third. The required number of weeks of unemployment to be eligible for public service employment in titles II and VI is increased;

Fourth. Public assistance agencies and recipients are given increased attention in the planning and implementation of the CETA programs; and

Fifth. The provision that the first $3 billion made available for public service employment is to be used for the structural public service employment program is eliminated.

First. This amendment would modify section 122(c)(1) of the committee bill. Section 122(c)(1) provides that special consideration in filling public service jobs shall be given to eligible persons who are the most severely disadvantaged in terms of their length of unemployment and their prospects for finding employment and to persons who are Vietnam-era veterans. The proposed amendment would provide special consideration in filling public service jobs to eligible public assistance recipients and to persons who are eligible for public assistance, but who are otherwise eligible to participate in public assistance programs.

Public assistance recipients have a higher rate of unemployment than any other group of persons in this Nation. Yet, in fiscal year 1977 less than 14 percent of all title II public service job holders were public assistance recipients. That same year less than 18.5 percent of all title VI public service jobholders were public assistance recipients.

It is sound policy to provide for the employment needs of public assistance recipients in CETA. Not only would State and local governments benefit from the savings which would result from the transfer of public assistance recipients to federally assisted employment programs, but CETA would be serving persons who are most disadvantaged in their prospects of finding unsubsidized employment.

Second. S. 2570 provides that in order to be eligible for public service employment programs a person must both meet an income test and be unemployed for a certain length of time.

The proposed amendment would allow AFDC and SSI recipients to participate in title II and VI public service employment programs without regard to the number of weeks which they have been unemployed.

This amendment is similar to the eligibility provisions of the current title VI public service employment program. The 1976 CETA amendments provided that an AFDC recipient who meets the income eligibility requirement is eligible for public service employment services without regard to the number of weeks that person has been unemployed.

Under the Bellmon amendment, SSI recipients would be added to the list of groups for which the number of weeks of unemployment are disregarded.

By immediately employing AFDC recipients and SSI recipients, public assistance transfers may be reduced. Further, these persons will be given an opportunity to become gainfully employed before they begin to lose their ability to gain meaningful employment as a result of their protracted welfare status.

Third. The proposed Bellmon amendment also would lengthen the required weeks of unemployment for purposes of determining eligibility for public service employment from a minimum of 12 weeks in title II to 15 weeks; and from a minimum of 45 days to 10 out of 12 weeks in title VI.

These amendments are intended to tighten eligibility requirements for these programs and thereby help to assure that only those who are having the greatest difficulties in obtaining unsubsidized employment are served.

Fourth. The Bellmon amendment provides for a variety of other modifications to S. 2570 which will increase the coordination of State and local public assistance agencies and programs with CETA programs. These amendments also will assure that the employment related needs of public assistance recipients will be appropriately considered in development and implementation of CETA programs.

Fifth. The Bellmon amendment also would delete a provision in S. 2570 which directs the Secretary to first make available from the funds available for public service employment in titles II–D and VI $3 billion for the title II–D program.

The Human Resources Committee included this provision in order to insure that the structurally unemployed persons are given appropriate services under CETA. However, the committee at the request of the chairman and ranking minority members of both the Senate Budget and Appropriations Committees—Senators MUSKIE, MAGNUSON, BELLMON, and YOUNG—have agreed to delete this provision. The committee does not agree to this amendment on any substantive ground. However, in order to reach a compromise with the Budget and Appropriations Committees, the Human Resources Committee will comply with their request.

Mr. NELSON. I would make one comment. I would have preferred to leave in the legislation the provision that the first $3 billion allocated for public service employment be used for structural public service employment. However, I understand why there is some objection to that.

My view has been and is that in the long pull the most important objective of this legislation is to get people who are structurally unemployed the opportunity for employment and training, and the full-time jobs in the private sector.

I recognize also the importance of the countercyclical parts of the bill.

In any event, I understand why the Appropriations Committee prefers not to have—and the Senator from Oklahoma prefers not to have—us specifically identify the amount. There is a sound legislative rationale for that, and, in addition, the Carter administration itself opposes it.

Therefore, I am prepared to accept the total amendment. I commend the Senator from Oklahoma for doing a very careful job of improving the language in the legislation.

Mr. JAVITS. Mr. President, I yield to the Senator from Maine.

Mr. MUSKIE. I thank the Senator from New York.

I express my appreciation to the Senator from Oklahoma and the distinguished floor managers of the bill for reaching agreement on the Bellmon amendment, which I think is a constructive contribution to the bill.

Mr. President, I support the Bellmon amendments to the Comprehensive Employment and Training Act.

Since the inception of the budget process in 1975 the Budget Committee has been actively involved in employment and training issues because of the important role these programs play in fashioning a congressional economic policy.

In the first budget resolution for fiscal year 1976 the committee supported expansion of public service jobs as part of a mix of temporary recovery programs designed to alleviate the employment effects of economic recession.

Employment issues and employment programs were again a major focus during the markup on the first concurrent resolution for fiscal year 1977. During Senate Budget Committee debate, Senator CRANSTON offered a proposal developed in cooperation with Senator KENNEDY and MONDALE to provide public service jobs targeted on the low-income, long-term unemployed. This proposal was the forerunner of the 1976 amendments to title VI of CETA.

The committee went on record at that time in support of the concept of targeted public service jobs. The committee stated:

> Although Committee members did not formally endorse any specific public service program, the discussion of funding for such programs focused on the possibility of budget savings that would result from temporary programs with low unit costs that would concentrate on hiring low-income household heads now drawing unemployment insurance or other public benefits.

In February of 1977, as a result of continuing economic problems the committee considered a third budget resolution. There was extensive debate among committee members at that time regarding the increasingly structural nature of the unemployment problem as the unemployed population became increasingly comprised of the untrained, inexperienced, young, minority, and female. The third budget resolution allowed an additional $1.5 billion for youth employment, expanded public service jobs funded under CETA from 310,000 to 725,000, and provided significant expansion

in programs targeted on older Americans and other special populations. The committee report stated:

> Much of today's unemployment problem is not susceptible to the macrostimulus cure. Changing rates of participation by various groups within the labor force and changing mixes of skill requirements dictate that a more targeted approach to training and job placement is the only means of significantly reducing unemployment for a meaningful length of time. Only a relatively small portion of the existing unemployment rate appears to be cyclical in nature, about 1½ percentage points. The remainder is primarily structural, requiring job training or retraining.

In the first budget resolution for fiscal year 1978 the committee again went on record in support of targeting. The report stated:

> The Committee continued its support for provisions to target CETA Title VI public service jobs on the chronically unemployed and low income individuals and recommends that any reductions in jobs that occur as the recovery proceeds be taken in nontargeted public service employment.

During consideration of the first budget resolution for fiscal year 1979 the committee noted that economic conditions had improved and that there was a reduced need for countercyclical employment subsidies. The committee recommended at that time "that half the current spending effort for public service jobs be directed toward employment and training services for the structurally unemployed."

The amendment proposed by Senator BELLMON and the floor managers of the bill further strengthens the targeting in our employment and training programs. These amendments provide individual eligibility requirements more nearly consistent with current law than those included in the reported bill. These amendments also provide categorical eligibility for welfare recipients and additional language that makes welfare recipients a high priority clientele for employment and training services throughout the CETA legislation.

An additional amendment would eliminate provisions requiring Congress to appropriate at least $3 billion for public service jobs targeted on the structurally priority implicit in this provision, I cannot support the provision—and I am glad that the Bellmon proposal has dealt with it—because it reduces the discretion of the Appropriations Committee in providing CETA funding.

I encourage Senators to support these amendments. I am delighted that agreement has been reached to accommodate what I think are the essential thrusts supported by both the floor managers of the bill and their committee and the Budget Committee.

I do not really believe this amendment reflects a sharp division in objective by the two committees.

Mr. JAVITS. Nothing Senator MUSKIE could have told me would please me more than the fact that he recognizes the same priority. Knowing how we do business around here, frankly, the fact that the priority has been eliminated by the Bellmon amendment—which I hope will be accepted, because I agree with it thoroughly—does not disturb me a bit, so long as the chairman and the ranking minority member of the Budget Committee feel that we have pointed out the right way.

I have every confidence that the Appropriations Committee will see it the same way. It is the substance that counts with me, not the pride of authorship, but that is the way we wrote it.

How does the Senator from Oklahoma feel about that priority?

Mr. BELLMON. Mr. President, I agree with the comments of the distinguished Senator from New York.

I feel that the Appropriations Committee and some of the Budget Committees share the same priority preferences with the Human Resources Committee, and I am sure there will be no problem in working out satisfactory funding levels.

Mr. JAVITS. I thank both Senators. Their help is far more important to me than the language of the bill.

I think it is useful to refer for an instant to how this came about. I spoke before the Conference of Mayors late in 1977, and the demand there very clearly by the people who are the prime sponsors—they want this program—was that they were deeply concerned that it would be cut materially and indiscriminately, realizing that one of the major problems of our country, without regard to the fact that unemployment has come down from well over 7 to 6 percent, was the structurally unemployed. That is an endemic problem in America.

They impressed this on me so much that when I came back, I put the bill in that way. That is the genesis of our approach.

Mr. MUSKIE. I think another point should be made clear in this dialog, and it is this: There is a tendency in some quarters to believe that with unemployment down to 6 percent, with many of the changes in the labor market, unemployment as a problem has been reduced to a much less important one, and I could not disagree more. When we get down to 6 percent, what we really have done is dramatize the role of structural unemployment in creating social problems, problems of instability, and problems of lack of opportunity for minorities and the unemployed that we should not overlook. I could not agree more with the Senator.

I assure the Senator that in the discussions on the second budget resolution, structural unemployment was the emphasis of the Budget Committee, and there really is absolutely no distinction between us.

With all of us watching the appropriations levels, we should keep our efforts targeted in the direction the four of us agree upon.

Mr. JAVITS. I expect that Senator BENTSEN's amendment will help us with a very informed appraisal of the finite details of the economic scene.

I say to both my colleagues that one thing I have learned—and I think members of the committee will agree with me, but I will just speak for myself—in all this manpower problem of our country is that the problem of unemployment has a triple detailing: One is the division among the unemployed. What kind are they? I will speak to that in an instant—and I will not detain the Senate long—about the relative income levels, especially of the working poor, which are recognized by Senator BELLMON's amendment.

Second, we have learned that training is a critical point. I say to Senator MUSKIE and Senator BELLMON that it would amaze many of us to realize that some people have to be trained to set the alarm, get up at 6:30, put their pants on, have breakfast, and go to work. It is amazing, but it is true. It is almost a cultural deficiency.

Third, as to education, I doubt that I will ever see the day, but I wish to see every plant at GM, Ford, and IBM also a university. There is not any reason in the world why it should not be so, especially within this century when we are going to require, and Senator BENTSEN is well acquainted with this, 25 percent of the working force, that is a working force of almost 100 million, to be professional or paraprofessional. That is how technologically advanced we will be in the requirements. The hewers of wood and drawers of water are for the birds. That is old time stuff. There are very different requirements now for any kind of employment that pays anything that is worth living on.

So those are the points which we must keep abreast of here if we are going to do manpower bills which really make sense.

Mr. President, I should just comment very briefly on only one other thing. The targeting to the structurally unemployed we have already covered, I think, very effectively, and I am very satisfied with that. I do wish to call attention to the fact that we are emphasizing, both in the program and by this amendment, the working poor, those who are in the lower economic levels because that is what this is all about. And Senator BELLMON's amendment has various provisions which deal with that, and they are entirely acceptable to us. Senator NELSON has already indicated that.

But I wish to point out also the very study that Senator MUSKIE referred to, a study of the Congressional Budget Office issued in August 1978, which shows that under our bill the universe which is being reached is reduced from what it is under current law, some 41 million workers, to 8.2 million workers. In other words, we are reducing that universe by almost 80 percent. Then these amendments which Senator BELLMON is sponsoring further help us to reduce and consolidate that position, and I think that is what the position should be.

I am well aware of Senator BELLMON's welfare reform which will tie into this, and we are moving in that direction.

I do not want it exclusive any more than we want to send only poor children to one school, and also we wish to encourage the working poor, those who are a little bit above the absolute poverty level, so they are not welfare clients.

But we certainly must narrow those parameters because the purpose of public service employment is to reach those not

only disadvantaged by lack of a job or training, but also disadvantaged by economic conditions.

I think these amendments are very constructive, and I am very pleased, especially at the high degree of understanding, which to me is even more important than cooperation, on the part of Senator BELLMON and Senator MUSKIE which dictated the relationship to our staffs and enabled us to work this out. The amendment is acceptable to me, Mr. President, and on this side I believe it is divisible, so I ask unanimous consent that it may be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. BARTLETT. Mr. President, I would like to congratulate my colleague, Mr. BELLMON, for his efforts to restrict many of the abuses that have occurred under the Comprehensive Employment Training Act. I am pleased to join as cosponsor of his amendment. Senator BELLMON has already spent a good deal of time establishing the justification for his amendment. He has described the national problems which have resulted in many of the measures contained in the Human Resources Committee bill, and the amendment which my colleague has introduced.

I would like to take the opportunity to relate some of the specific examples in my own State of Oklahoma that would have been prevented if the Bellmon amendment had been part of the existing act.

Certainly Oklahoma has had its successes, and many people who might not have had an opportunity to work or learn a job skill have been assisted. Oklahoma is not the only State that has had problems in administering the CETA program, but I think we can learn from the incidents in Oklahoma, and correct the deficiencies in the law to insure that people who really need the employment and training are reached.

It is important to note that this amendment does not make it more difficult for a long-term or chronically unemployed person to obtain a CETA position. The amendment does however, make it more difficult for persons who are not really in need of assistance to become a CETA employee, or for a sponsor to divert the funds to political purposes.

In a recent report concerning the Oklahoma CETA program to the Federal Bureau of Investigations, 50 instances of possible violations of CETA have been noted. These violations include failure to establish a priority system for hiring which led to nepotism, favoritism, patronage and preselection.

Specifically, preselection is the creation of a job for a specific person rather than creating a necessary job for which a recruiting procedure among eligible applicants is carried out.

The result of this patronage preselection has been the elimination from eligibility of many qualified persons for which the CETA program was intended.

Senator BELLMON's amendment specifically targets recipients of supplemental security income and aid for dependent children for the receipt of public service employment jobs under title 2 of the act. Title 2 is directed at the chronically unemployed. Also targeted are those individuals unemployed for more than 15 weeks whose family income does not exceed 70 percent of the Bureau of Labor Statistics' lower living standard for urban households.

Further, for title IV public service employment jobs, similar methods are used with minor modifications to address the cyclical unemployment problem.

These strategies insure that such occurrences as local politicians obtaining jobs for their relatives will be impossible.

Senator BELLMON's amendment directs the Department of Labor, States and prime sponsors to focus planning and operations on steps to expand work and training opportunities for AFDC recipients. This makes it even more difficult for nepotism abuses like those in Oklahoma to occur.

All of these provisions would made it extremely difficult to "preselect" or to fail to list all the job opportunities available under the CETA program. These practices have allegedly occurred in Oklahoma and have resulted in loss of jobs to those who truly are in need.

I do not now whether a program such as CETA can ever be made to operate without the abuses that have occurred in Oklahoma and other States. It is the type of program that entices some people to indulge their public trust to the fullest extent. However, I believe that Senator BELLMON's amendment will provide significant redirection to the entire program.●

Mr. HART. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. JAVITS. I yield.

Mr. HART. Mr. President, I ask unanimous consent that C. L. Harmar, of my staff, be accorded the privilege of the floor during debate and votes on the pending measures.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I have a similar request. I ask unanimous consent that Miss Nancy Barrow, of my staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, I yield back the remainder of my time.

Mr. NELSON. Mr. President, I am prepared to yield back the remainder of my time. All time is yielded back.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NELSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1787

(Purpose: To authorize a study on structural unemployment programs to be done by the Joint Economic Committee)

Mr. BENTSEN. Mr. President, I have an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN) proposes an unprinted amendment numbered 1787.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 385, between lines 12 and 13, insert the following new subsection:

"(c) On or before March 1, 1979, the Joint Economic Committee shall report to Congress on the ability of targeted structural employment and training programs to achieve and sustain (1) a decrease in unemployment rates among those segments of the labor force having special difficulties in obtaining employment and (2) a decrease in the national unemployment rate without exacerbating inflation and shall make such recommendations, as the Committee deems appropriate, for improving the ability of targeted structural employment and training programs to achieve such goals. The Joint Economic Committee shall, to the extent feasible, consult with appropriate Federal agencies, the Human Resources Committee of the Senate and the Committee on Education and Labor of the House of Representatives, the Congressional Budget Office, the National Commission for Employment and Training Policy, the Board of Governors of the Federal Reserve, and other appropriate individuals, both public and private, and obtain their assistance in preparing the report."

Mr. BENTSEN. Mr. President, for the benefit of those who have been patiently waiting with their own amendments, I have two amendments here that I have discussed with the floor managers which I believe will be acceptable and should not take too long.

Mr. President, I wish to propose a short amendment to S. 2570, the CETA reauthorization bill, that will authorize the Joint Economic Committee to study and report on the impact of structural training and employment programs, such as CETA, on our economy's ability to reduce the unemployment rate without stimulating inflation. The amendment calls for the report to be completed by March 1 of next year, in time for the report's recommendations to be considered in the CETA appropriations bill.

Senator JAVITS, who is the ranking Republican Senator on the Joint Economic Committee, and who is also the minority floor manager for the CETA bill, has joined me as cosponsor of this amendment and it is at his urging and largely his inspiration that I propose this study.

Three and a half years ago, our economy was mired in a deep recession that required highly stimulative monetary and fiscal policies. Millions of highly skilled workers had been thrown out of jobs in the cyclical downturn and appropriate macroeconomic policy measures were taken to get these workers back into the factories and construction sites where they could contribute to the productive power of our economy and earn a decent living for themselves and their families.

Today, most of these skilled workers are back on the job. The stimulative policies taken during the recession generally have been successful. Our economy has scored an extraordinary success in creating nearly 4 million additional jobs since last year. In July, 94.4 million workers were employed or 58.6 percent of the population.

But there are still more than 6 million potential workers who remain unemployed. These are not skilled workers jobless because of recessionary job cutbacks and layoffs. Instead, these persons include those segments of society that find it hardest to secure jobs—minorities, women, teenagers, new entrants to the labor force—people who have never held a job or have never been trained for a job. For example, unemployment among minority teenagers was 37 percent in July. That means hundreds of thousands of America's teenagers were forced into idleness, leading, for some, to a life of crime and, for others, to a life dependent on welfare and handouts.

Before we allocate resources to the CETA appropriations bill next spring, we need to know just how effective our dollars are going to be. We need some factual and analytical basis for determining the consequences of specific Government policy expenditures on the unemployment rate. Because our economy is vulnerable to severe imbalance resulting from an acceleration of the inflation rate, we need to choose very carefully the policies that will contribute the most benefit to the unemployed and the least detriment to price stability.

As vice chairman of the Joint Economic Committee, I believe our committee could and should undertake a study to determine the extent to which targeted structural employment and training programs can alleviate the problem of structural unemployment in the least inflationary way.

I have no preconceived notions about what the JEC study will find, no predetermined idea as to whether the report will be favorable or unfavorable. But I do believe it is essential that the CETA employment and training programs must be investigated to determine whether or not the American taxpayers are receiving full value for the billions of dollars devoted to this program.

Mr. President, I defer to the distinguished managers of the bill.

Mr. JAVITS. Mr. President, I am very pleased with what Senator BENTSEN had to say about this amendment and my part in it, and my reason for urging it upon the Joint Economic Committee was really twofold. I hope he will not mind my saying this.

He will be the chairman next year when this job is done. He has a very fine, I think as good as there is in this Chamber, touch with the business world, and it is the business world that is going to test out CETA because its graduates or terminees, as they are technically called, will be looking for jobs in the private sector. That is what this exercise is all about.

So I believe that a study really has a much better chance made that way in the Joint Economic Committee because especially under his chairmanship it will catch on to the business community.

Second, we have a very fine analysis from the Congressional Budget Office to which I have referred and Senator MUSKIE has referred. We must remember that the analysis from the Congressional Budget Office is technical. They are the technical people and the economists, and so on.

I think there is a good deal to be said for the working echelon, to wit, the Members of the House of Representatives and Senate on this joint committee. It is a joint committee giving us that study and refining its conclusions and recommendations.

Third, it is the broad relationship with all committees in the House, all committees in the Senate, and with the key Government agencies again on the top level like the Federal Reserve Board, the Treasury, the Department of Commerce, the Department of Labor, and the other economic agencies of the Government on the level which really can only be reached appropriately by Senators and Members of the House of Representatives.

The Joint Economic Committee has a splendid economic staff, which DICK BOLLING has helped to materially amplify now with this long-range study on the economy of the United States.

By the way, the study really has not had nearly enough notice considering its consequences and importance but will as its results begin to come out.

For all those reasons, Mr. President, I strongly commend this amendment to the Senate and certainly am for it myself.

Mr. NELSON. Mr. President, I agree with the remarks made by the distinguished Senator from New York. He covered the subject very well.

We are prepared to yield back the remainder of our time.

Mr. BENTSEN. I thank the distinguished manager of the bill and am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas.

The amendment was agreed to.

UP AMENDMENT NO. 1788

(Purpose: To reduce the paperwork burden and regulatory costs of administering the Comprehensive Employment and Training Act)

Mr. BENTSEN. Mr. President, I have an amendment I send to the desk and ask the clerk to report.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN) proposes an unprinted amendment numbered 1788.

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 241, between lines 23 and 24, insert the following new subsection:

"(c) The Secretary shall, to the extent feasible, reduce the costs of compliance imposed on prime sponsors by rules and regulations issued under this Act including, but not limited to, the costs of applications, plan preparation, data collection, recordkeeping, report preparation, and other paperwork and regulatory cost burdens.

On page 244, line 12, insert "(1)" after "(e)".

On page 244, between lines 17 and 18, insert the following new paragraph:

"(2) In the annual report required in subsection (c), the Secretary shall include a description of the actions, if any, which the Secretary undertook during the fiscal year for which the report is made to reduce the costs of compliance imposed on the prime sponsors by rules or regulations issued under this Act, as required under section 127(c).

On page 248, line 4, insert "(a)" after "134.".

On page 249, between lines 6 and 7, insert the following new subsection:

"(b) The Secretary shall complete all audits of recipients of funds which he deems necessary in a timely fashion following the end of the fiscal year for which the audits are made. In the annual report required under section 128(c), the Secretary shall include a statement of the average delay between the end of each fiscal year and the audits of prime sponsors for such year, the actions, if any, taken by the Secretary to reduce the delay, and the additional funds and personnel the Secretary would need in order to carry out all audits within the 24 month period following the end of the fiscal year for which the audits are made.

On page 262, following line 25, add the following new subsection:

"(a) To reduce the cost of carrying out the provisions of this section, the Secretary shall consult with the National Commission on Employment and Unemployment Statistics.

On page 284, between lines 2 and 3, insert the following new subsection:

"(c) In order to reduce the paperwork burden and costs on prime sponsors, project applicants and program agents, in carrying out evaluations of the cost-effectiveness of identical or similar programs of prime sponsors, the impact of such programs on communities and agents, the implication for related programs, and the adequacy of the mechanism for the delivery of services, the Secretary shall to the maximum extent possible, consistent with the purposes of this Act, use statistical sampling techniques.

Mr. BENTSEN. Mr. President, my amendment is designed to relieve the horrendous paperwork burden imposed on the 450 city and State governments which act as prime sponsors for this program.

The regulatory and paperwork burden imposed on prime sponsors is a bottomless pit which has devoured the taxpayers money at an incredible rate. For example, in fiscal 1975, the prime sponsors had to file nearly 5 million forms or reports with the Department of Labor. By the Department's own estimate, these forms and reports took over 2 million hours to fill out.

This represents only the tip of the iceberg. When the paperwork required of the organizations who run the programs under the supervision of the prime sponsors is considered, the Commission on Federal Paperwork estimated that the CETA program absorbed more than 100 million man-hours annually just on paperwork.

That is equivalent to 50,000 full-time workers doing nothing but CETA paperwork. According to the Commission on Federal Paperwork, the total cost of all this paper shuffling was nearly $500

million. That is nonproductive expenditure of the taxpayers' money.

That was the figure for fiscal 1975, when the entire CETA program cost was about $3 billion. Today, CETA is an $11 billion program. If the compliance costs have grown apace—and there is every reason to believe they have—paperwork generated by the CETA program may now cost in excess of $1.5 billion.

This is an outrageous waste of tax dollars which should be devoted to training people for productive jobs rather than to filling out countless and often irrelevant forms.

Mr. President, all this paperwork has not produced a scandal free program. To the contrary, a program which is awash in unnecessary bureaucratic red-tape and morassed in a floodtide of complex and often unnecessary rules, regulations, forms, and directives is one which cannot be managed effectively so as to prevent abuses.

So it is not surprising that the CETA program has been riddled with far too many examples of nepotism, favoritism, and payroll padding.

Mr. President, unemployment among minority teenagers was 37 percent in July. That means hundreds of thousands of America's teenagers were forced into idleness—an idleness which leads many into lives of crime, which causes many others to give up on the American system and which leads still others into lives of dependency on welfare and handouts.

We simply cannot afford to squander tax dollars earmarked to help these youngsters on mindless bureaucratic demands for more and more unnecessary and repetitive information.

The amendment I offer today will not eliminate all the waste and inefficiency in the CETA program. but it will go a long way toward alleviating a number of paperwork and regulatory problems which were first identified by the Commission on Federal Paperwork.

First, it requires the Secretary of Labor to cut the compliance costs imposed on the prime sponsors by DOL rules and regulations and to report annually to Congress on the actions taken during the previous year to cut compliance costs and regulatory burden.

Second, it requires the Labor Department to complete all audits of prime sponsors in a timely fashion, with a goal of completing audits within 2 years of the fiscal year being audited.

Third, it urges the Secretary of Labor to make full use of the findings of the Commission on Employment and Unemployment Statistics in developing hardship and local unemployment indexes, as required under the CETA reauthorization bill.

Finally, it authorizes the Labor Department to use sampling techniques wherever possible in gathering data to evaluate the effectiveness of CETA programs.

CETA is now an $11 billion program. The taxpayers of this country hold us responsible for assuring that this $11 billion is spent wisely and effectively. The American taxpayer is fed up with waste and inefficiency in Government programs.

My amendment, by cutting unnecessary paperwork and reducing the costs of complying with CETA rules and regulations, will help achieve this and provide a better managed and more effective employment and training program for unskilled and underskilled workers.

I know the Labor Department is sympathetic to this effort. My staff has worked closely with individuals at the Labor Department on this amendment, and their help is greatly appreciated. I trust that enactment of this amendment will be only the start of a major effort within the Labor Department to cut the regulatory costs of CETA programs and improve the administration of CETA.

I defer to the distinguished manager of the bill.

Mr. NELSON. Mr. President, let me say that I think the Senator from Texas has very carefully designed an excellent amendment. If there is anything that is a cause of despair among all of us it is the amount of paperwork the Government is able to generate somehow or other.

Incidentally, the Paperwork Commission concluded that the cost of paperwork in this country by all levels of government amounts to $100 billion a year.

It is my view, looking at lots of the paperwork that is required by various agencies, that 75 to 80 percent of it could be eliminated and thereby improve the efficiency and the information flow within the Government. That would mean we could also balance the budget and have a surplus if we were to save that amount.

So I am in agreement with the very fine amendment offered by the Senator from Texas.

Mr. JAVITS. Mr. President, the amendment offered by the Senator from Texas is completely acceptable to me, and I think it is in line with what the Senator has been doing very ably for all of us. It is the kind of job I would like to leave to him.

I would like to ask him one question because we do not seem to be quite as pressured on this bill as we have been on others. One thing appeals to me, and would he agree with me, that this inundation of paperwork was brought on by the same public that now demands that it cease, and I will explain why. I would just like to do that.

I have had trouble, because I have been involved in the poverty program so much for years, with agencies which are doing a marvelous job in antipoverty but have very bad records, and they have often been stripped of financing, they have been put out of business, because of the public clamor that, "Well, they don't keep accurate records. We cannot check back on every $5 that they spend. The petty cash is in disorder." So we will spend $50,000 to catch the last $5.

Business does not do that. Every chain and department store accepts 2 percent leakage minimum, that is, stealing, inefficiency, stuff disappears, and so on, but they realize that it is counterproductive.

The U.S. Government—and I am all for the amendment and I am all for cutting paperwork—but I hope the public will remember it when some Government agency has not spent $50,000 to catch the last guy who wasted or threw out in the wastebasket $10 or $20. I think that is an injunction we ought to constantly be giving ourselves as we cut paperwork. Let us cut it. I am all for it. But let us remember we do not get that free, either. There will be some price to pay, very well worth paying.

Mr. BENTSEN. The Senator makes a very good point because we are talking about putting on what we consider to be one of business' best techniques, and that is sampling techniques. Instead of checking every bloody form that is there, and, obviously, you are not going to catch everything, but if you see that there are some serious aberrations in an area, then you come in with a concentrated audit. But it results in some of the very things the Senator is talking about. These are things we should do in trying to save the taxpayers some money.

On these forms business is not totally without waste in its work on forms and having proliferation of forms. I can recall one where a management consultant told me he came into a major company and in their reorganization work asked that all forms that had to be filled out, all reports that had to be filled out, should all be sent to the president's office and not where they had been sent previously.

After 6 months he then went into the president's office where they had stacked these reports and found those that had never been asked for and never missed by the people they had previously been sent to, and he said, "Those we can eliminate."

So the same thing happens in business. You have to have these periodic purges, in effect, to try to clean up the records to see that we get effective management.

Mr. JAVITS. I thank my colleague.

Mr. BENTSEN. We are prepared to yield back the remainder of our time.

Mr. NELSON. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas.

The amendment was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

UP AMENDMENT NO. 1789

(Purpose: To assure inclusion of Hawaiian Natives in programs under title VII)

Mr. INOUYE. Mr. President, I ask that my amendment be called up.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Hawaii (Mr. INOUYE), for himself and Mr. MATSUNAGA, proposes an unprinted amendment numbered 1789.

Mr. INOUYE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 377, line 10, strike out "section 302(c)(1)(A)" and insert "sections 302(c)(1)(A) and (B)".

On page 377, line 15, strike out "section 302(c)(1)(A)" and insert "sections 302(c)(1)(A) and (B)".

On page 377, line 14, strike out "or a Native American entity" and insert "entities described in".

Mr. INOUYE. Mr. President, I am pleased to advise the Senate that I have discussed this matter with the distinguished managers of the bill and, in fact, the members of the staff actually drafted this amendment.

Mr. President, today I ask my colleagues' most serious consideration of an amendment to the Comprehensive Employment and Training Act of 1978. This legislation as reported from the Human Resources Committee bars native Hawaiians from receiving special native American benefits provided under title VII, private sector opportunities for the economically disadvantaged programs. My amendment seeks to instate native Hawaiians in this far-reaching provision of the act, and thereby significantly increase the beneficial impact the act will have on this very important portion of my constituency.

This amendment will permit native Hawaiians to receive special native American benefits provided under title VII, the private sector opportunities for the economically disadvantaged programs.

Mr. President, as some are aware, native Hawaiians were first incorporated as native Americans in the Comprehensive Employment and Training Act in 1977. At that time they were placed along with federally and State recognized Indian tribes and bands and Alaskan Native groups in section 302(c)(1) of title III, the native American employment and training programs. This action stood as yet another recognition by the U.S. Congress of the unique relationship existing between the Hawaiian people and the Federal Government. It was moreover another affirmation of the pressing social and economic crisis faced by this native American group.

Native Hawaiians, descendants of the original inhabitants of Hawaii, like other native Americans, have the highest incidence of poverty and the highest unemployment rate of any other racial group in my State. Their level of education, skill and training is among the lowest. Their level of effective participation in the system is almost nil.

The reauthorizing legislation now being considered by the Senate continues to recognize the desperate plight of the native Hawaiian people and the ability of CETA to effectively address their unique needs. This is commendable. It does not, however, recognize the grave necessity of providing Native Hawaiians with a means to enter into the private sector of our communities through employment and training for private sector employment options that will be allowed under program options. The bill as reported from committee does allow reservation Indian tribes and Alaskan native villages and groups to share in the title's 5 percent discretionary funds.

Native Hawaiians, like American Indian tribes and Alaskan Native villages and groups, have a demonstrated need for programs specifically designed to increase their participation in the private sector. A large number, as one Department of Labor official reported during a visit to Hawaii, seek employment in entrepreneurships and small business enterprises. Though CETA offers an excellent opportunity to gain the basic knowledge required for such activity current law has prevented assistance in this area. The new title VII, Private Sector Opportunities for the Economically Disadvantaged provisions, included in the legislation before us, was created to correct this problem. Accordingly, Native Hawaiian exclusion from title VII would greatly diminish CETA's potential impact on the Native Hawaiian people.

One reason given for this exclusion is that title VII is intended only for prime sponsors who serve large populations of disadvantaged individuals. Mr. President, there are approximately 150,000 Native Hawaiians in Hawaii and an estimated 150,000 more residing in other States. Twenty-one percent of those living in Hawaii are receiving some form of welfare assistance; 11.6 percent are unemployed; and 27. 4 percent exist below the poverty line. Though these employment figures correspond with those of Indians and Alaskan Natives, very few Indian tribes and Alaskan Native villages have as many as 150,000 members. Rather tribal and village memberships range from 155,000 to numbers below 100.

Concern has also been expressed that unlike tribal and Alaskan Native reservation Indians and Alaskan Natives, native Hawaiians are eligible for CETA PSE and title VII benefits from States and county prime sponsors. Though this is true, these prime sponsors have no programs specifically designed to answer the unique needs to Hawaii's native Hawaiian people. It is clear that the vast majority of the Hawaiians in my State would prefer to and do participate in the native Hawaiian CETA prime sponsor program rather than in those of other prime sponsors.

Further, officials in the Department of Labor inform me that reservation Indians and Alaskan Natives are also eligible for assistance from other prime sponsors as well as from Native American prime sponsors. In fact, title I general population prime sponsors operating in areas with high native American populations are required to assist native Americans who seek their services, either by providing direct services or subcontracting this responsibility to a native American prime sponsor.

On July 9, 1975, the Comptroller General issued an opinion supporting this assertion. (July 9, 1975, file B14868—Comptroller General Memorandum to Department of Labor.)

Another concern expressed concentrated on the difficulty of obtaining accurate population counts of native Hawaiians. Federally funded State census runs have taken care of this problem in Hawaii. However, official data counts of the numbers of native Hawaiians residing in other States is hard to come by.

I have been working with the Census Bureau to correct this problem and am confident that the next national census will provide the most accurate count of the mainland native Hawaiian population yet obtained. In the interim, I hope that the U.S. Senate can be responsive to the needs of Hawaii's native Hawaiians.

Mr. President, native Hawaiians comprise 18 percent of the Hawaii State population yet occupy the bottom most rungs of our social and economic ladders. I hope that the U.S. Senate will once again recognize the Federal responsibility to this segment of our citizenry and the urgent need of native Hawaiians for assistance by adopting my amendment.

Mr. MATSUNAGA. Mr. President, as a cosponsor, I rise in support of the amendment offered by Hawaii's senior Senator (Mr. INOUYE) which would make native Hawaiians eligible for assistance under title VII of the Comprehensive Employment and Training Act amendments.

Under existing law, native Hawaiians, along with American Indians, Eskimos, and Aleuts, are eligible for CETA assistance as native Americans. The current law, to which native Hawaiians were added by the 94th Congress, is consistent with the Community Services Act of 1974, which defines native Hawaiians as "Native Americans."

However, in amending the Comprehensive Employment and Training Act this year, the Committee on Human Resources separated native Hawaiians from other native Americans eligible for assistance under title III of CETA. While native Hawaiians would still be eligible for certain types of CETA assistance, they would not be able to receive aid under title VII, "Private Sector Opportunities for the Disadvantaged," or would they be eligible for public service employment programs funded under CETA. The proposed amendment would enable native Hawaiians to receive assistance under title VII.

Mr. President, the exclusion of native Hawaiians from certain types of CETA programs available to other native Americans is inconsistent with the intent of the 94th Congress and it would cripple efforts currently underway to help native Hawaiians achieve self-sufficiency. In enacting special CETA provisions to benefit native Americans, Congress wisely recognized that their high rate of unemployment is related, at least in part, to their unique culture and traditions. Native Hawaiians are no different, in this respect, from American Indians and Alaskan Natives. They need the special assistance provided under CETA to overcome the disadvantages they face after years of social change and exploitation.

Although native Hawaiians have a higher rate of unemployment than the general population in the State of Hawaii, and although they comprise a disproportionate share of welfare recipients in the island State, studies have repeatedly shown that what they desire above all is self-sufficiency. They are nearly unanimous in their desire to obtain better occupational training and educational

opportunities such as are provided under the Comprehensive Employment and Training Act. I urge my colleagues not to bar this door to opportunity. The special benefits provided under CETA to native Americans could make all the difference for native Hawaiians. I am happy to be a cosponsor of the amendment offered by Senator INOUYE and I urge the Senate to act favorably on it.

Mr. INOUYE. Mr. President, I am prepared to yield back the remainder of my time.

Mr. JAVITS. Mr. President, I find this amendment entirely acceptable.

THE PRESIDING OFFICER. The Senator from Wisconsin.

Mr. NELSON. Mr. President, I agree with the distinguished Senator from New York. I am prepared to yield back the remainder of my time.

Mr. INOUYE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment (UP No. 1789).

The amendment was agreed to.

UP AMENDMENT NO. 1790

Mr. CHAFEE. Mr. President, I had an amendment in the committee to establish a voucher demonstration project. That was accepted by the committee under title III, part B, section 317. The committee staff inadvertently left out the details——

The PRESIDING OFFICER. Is the Senator offering an amendment?

Mr. CHAFEE. I send to the desk an unprinted amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Rhode Island (Mr. CHAFEE) for himself and Mr. WALLOP offers an unprinted amendment numbered 1790.

Mr. CHAFEE. How much time on the amendment, Mr. President?

The PRESIDING OFFICER. Thirty minutes equally divided.

Mr. CHAFEE. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 224, beginning on line 5, strike all following "industries" through line 7 and insert in lieu thereof the following: "except for those jobs (i) for which there exists a training program, approved by the Secretary, of a specified length of time designed to teach specific skills and (ii) where the rate of labor turnover does not differ substantially from the rate of labor turnover in other industries in the same area."

Mr. CHAFEE. Mr. President, as I say, in the committee I had an amendment to establish a voucher demonstration, and that was accepted, as I mentioned a moment ago. The committee staff inadvertently left out the details of the intended program from the committee report.

Since the Labor Department has had the authority to run a voucher program for years, but has not used it, I believe it is necessary to spell out in more detail than usual what we had in mind with this voucher program.

Therefore, I ask unanimous consent that a proposed explanation be printed in the RECORD dealing with the voucher demonstration program.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VOUCHER DEMONSTRATION PROJECT

Under current law, Section 311, the Secretary has had the authority to conduct an experimental program of issuing vouchers for subsidized private sector employment to offset the barriers to employment faced by disadvantaged persons. Thus far, the Secretary has not chosen to conduct such a program.

The Committee agreed that a voucher system deserves attention as a useful tool to encourage employment. Therefore, the Secretary is required to establish in FY 1979 a special voucher project to demonstrate the efficacy of providing vouchers to economically disadvantaged persons who are unemployed or underemployed. These vouchers shall entitle private employers who provide employment with or without training to such individuals to payment in amounts equal to the value of the voucher, pursuant to regulations of the Secretary.

The Secretary shall consider the following principles when developing regulations for this project:

1. Eligibility of participants is to be limited to persons who are unemployed, or underemployed, and disadvantaged.

2. Vouchers shall be issued by Prime Sponsors to enhance employability of individual. Vouchers shall be worth up to $1.00 per hour of paid work by the participant to offset the lower productivity of eligible individuals. Factors to be considered in determining the value of the vouchers shall include, but not be limited to, participant employability, local wage rates and labor market conditions.

3. Vouchers shall be portable between employers, not committing the employer or employee to continue the work arrangement other than by mutual agreement, and shall be valid for up to a year, as determined by the Secretary.

4. Procedures shall be established to insure that currently employed individuals are not displaced by voucher-eligible employees.

5. Voucher-eligible employees shall be paid at a rate not less than the higher of the minimum wage or the rate paid by that employer to other individuals performing the same or similar work.

6. In choosing prime sponsors to participate in this project, the Secretary shall select sites in such a manner as to insure an appropriate mix of rural and urban areas, of different concentrations of eligible participants, of different regions and labor markets and of different categories of prime sponsors.

7. Participating prime sponsors shall integrate vouchers into their comprehensive services, and utilize a significant proportion of available vouchers for individuals completing training programs, so as to direct voucher recipients toward jobs with meaningful advancement opportunities.

The Secretary is instructed to prepare and submit a report to the Congress evaluating the effectiveness of this demonstration project. The Secretary's report shall include an evaluation of the project's effectiveness in increasing the employability and earnings of eligible groups, the willingness of private sector employers to participate, the desirability and skill level of jobs obtained by participants, the administrative feasibility of the program and any other factors deemed important by the Secretary.

Mr. CHAFEE. Mr. President, in connection with the amendment which I have sent to the desk, it amends section 123 in the following manner: It leaves intact the language through line 4 and the first two words in line 5, and then inserts, after that, the following:

. . . except for those jobs (i) for which there exists a training program, approved by the Secretary, of a specified length of time designed to teach specific skills and (ii) where the rate of labor turnover does not differ substantially from the rate of labor turnover in other industries in the same area.

What I was particularly aiming at, Mr. President, is that, as provided under the prior legislation and the regulations pursuant thereto, the language specifically prohibits the training under CETA of any sewing machine operators. My language would permit the training of sewing machine operators, although it does not specifically refer to them, if it is determined that there is a need for such operators.

What I am striking at, Mr. President, is language that has grown up in the regulations which actually specifically mentions sewing machine operators in section 4 of field memorandum 285–77; and I send to the desk and ask unanimous consent to have printed in the RECORD this language, which states that CETA funds may not be used for the purpose of training sewing machine operators in the garment industry.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Employment and Training Administration]

Directive: Field Memorandum No. 285–77.
To: All Regional Administrators.
From: Floyd E. Edwards, *Administrator, Field Operations.*
Subject: Training of Sewing Machine Operators under CETA.

1. Purpose. To advise RA's of the continuing prohibition against using CETA funds for the training of sewing machine operators in the garment industry.

2. Reference. May 23, 1975, TWX to all ARDM's on same subject.

3. Background. Section 95.37(a) of the regulations states that "no participant may be enrolled in any activity or service under this act in any lower wage industry in jobs where prior skill or training is typically not a prerequisite to hiring and where labor turnover is high (section 704(a) of the Act)." The occupation of sewing machine operator in the garment industry has long been cited as a specific occupation having these characteristics. Recent data show that this occupation continues to be characterized by high turnover and low wages.

4. Policy. CETA funds may not be used for the training of sewing machine operators in the garment industry. This prohibition applies to any job which is, in fact, a sewing machine operator job regardless of the job title by which it is classified; e.g., "Strip Sewer" of "Shirring Machine Operator."

5. Action Required. RA's should ensure that all prime sponsors are aware of this prohibition and should ensure its enforcement. If CETA funds are presently being used for the training of participants in the prohibited occupation, the contracts should be allowed to expire and no further funds obligated for this purpose.

6. Inquiries. Questions should be directed to June Sekera on 8–376–7006.

Mr. CHAFEE. Mr. President, there could well be, and we believe there is in my section of the country, a need for sewing machine operators, but that can be determined by the Secretary in the usual course, just as he determines whether there is a need for training in

this work, that work, or whatever it might be.

Up in my area, the wage for sewing machine operators is $4.27 an hour, which is, indeed, higher than the general manufacuring wage. So, Mr. President, all this amendment would do—and it is necessary in order to have the regulations changed—would be to permit the training of workers in an area such as I have described, sewing machine operators, where a specific length of time is required to teach the skill, and where the rate of turnover does not differ substantially from the rate of turnover of other industries in the same area.

I have discussed the amendment with the floor managers of this bill, and it is my understanding that it is acceptable to them, Mr. President.

Mr. NELSON. Mr. President, we have examined this amendment, and it is in conformance with the objectives of the legislation. It is carefully drafted to apply only to a training program approved by the Secretary, for a specific length of time, to teach a specific skill, and the amendment is acceptable to the manager of the bill.

Mr. JAVITS. Mr. President, the way the amendment is drafted, it would send the present language—and Members should turn to page 224, lines 1 to 5, inclusive. It would end the present language after the words "lower wage industries" and would leave the definition of lower wage industries to the Secretary.

It is my understanding that the Secretary will construe lower wage industries to mean—and now I go to the rest of the words which are going to be stricken—"lower wage industries" will mean industries where there are jobs where prior skill or training is typically not a prerequisite to hiring or where labor turnover is high.

But the amendment will now permit even jobs in those industries to be permissible for CETA jobs, if there exists a training program approved by the Secretary, of a specified length of time, designed to teach specific skills, and the rate of labor turnover does not differ substantially from the rate of labor turnover in other industries in the same area.

With that understanding of the meaning of the amendment, it is entirely acceptable to me.

Mr. CHAFEE. Yes, it is, Mr. President, and we are striking at the particular area of sewing machine operators—I cannot understand the nationwide, industrywide prohibition, I guess it was an unfortunate experience in the West and Southwest, dealing with sewing machine operators—so that the regulations specifically prohibiting the training of sewing machine operators under CETA will be changed.

There are some possibilities in our area for employment of sewing machine operators where they can validly be used, and at least we want to have the opportunity to explore that possibility. Maybe it will not work out; maybe it will be rejected. But I do not think the law should specifically prohibit this particular section of industry.

I am grateful to the managers.

I want to quit while I am ahead, Mr. President, but I would say one thing about this whole act. It seems to me we are treading that narrow line between trying to prevent scandals about having people in the program who should not be there, and at the same time tying it up so much with regulations that we prevent the program from moving on to achieve the very purposes we are seeking. Sometimes it is a very difficult path to travel.

I have always felt in Government, and this may sound like a shocking thing, that there ought to be a little waste in Government. The answer to the little bit of waste is to have so many regulations, so many rules and so many watchers that nothing can be accomplished.

I think those who have worked so hard on this legislation have done a good job trying to tread this path, and I just hope it is not so bound up with prohibitions about this person or that person coming in that we will be prevented from getting on with the training of those people we want to train.

Mr. NELSON. I agree with the statement of the Senator. I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Rhode Island yield back the remainder of his time?

Mr. CHAFEE. Yes.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1791

(Purpose: To provide demonstration projects for training disadvantaged young adults in growth occupations)

Mr. GLENN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN) proposes an unprinted amendment numbered 1791.

Mr. GLENN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 287, between lines 12 and 13 insert the following:

"'GROWTH OCCUPATIONS DEMONSTRATION PROJECTS

"'SEC. 318. (a) The Secretary shall establish demonstration projects designed to demonstrate the effectiveness of training young adults, disadvantaged individuals and structurally unemployed individuals for jobs in growth occupations such as positions in the transportation, energy, plastics and food processing industries. In carrying out the provisions of this section the Secretary is authorized to make grants to and to enter into contracts with public agencies and private organizations.

"'(b) The Secretary shall determine growth occupations for the purpose of the demonstration projects authorized by this section.".

On page 179 in the table of contents after section 317 insert the following:

"Sec. 318. Growth occupations demonstration projects.

Mr. GLENN. This amendment would provide for demonstration projects designed to demonstrate the effectiveness of training young adults, disadvantaged individuals, and structurally unemployed individuals in jobs in growth occupations in particular, such as positions in certain parts of the transportation industry, energy, plastics, and food processing industries.

Mr. President, I want to express my basic support for S. 2570. I think that the floor managers and staff have worked diligently to improve and tighten up the CETA program. My primary concern is that the CETA program be tightly targeted so that it provides meaningful training to those most in need. The administration and the committee have worked diligently toward this goal and I support these efforts.

My concern is that the skills training that we attempt to undertake through CETA be in viable skills areas that offer the promise of long-term, productive careers. Much of the damage to the reputation of CETA has come from an image of it as being heavily involved in irrelevant or frivolous job activities.

There clearly do exist major occupations that could be termed "growth occupations." These are occupations that indicate by projection that significant opportunities will exist in future years. I believe that the Labor Department, in its job training programs and demonstration projects, should try to target these professions. For example, I refer to transportation, energy, plastics, and food-processing industries among many others which the "Occupational Outlook Handbook" indicates will show significant growth in the years ahead.

Mr. President, as a specific example of my point, let me cite the motor carrier industry. The Labor Department's Office of National Programs currently funds an on-the-job training program with the Teamsters Joint Council 40 and 53 to train men and women to be tractor trailer truck drivers. This program will have 106 enrollees. It is the sixth contract with the Teamsters Joint Council. It is an outstanding success that has trained over 800 enrollees and placed 85 percent of them in jobs averaging $7 to $8 per hour.

Mr. President, I submit that is what CETA is all about, to attempt to do exactly that. It is not only to train people but to get them jobs in private industry, to move them out into well-paying jobs.

Similarly, the cities of Cincinnati and Cleveland at separate times had highly successful truck driver training programs that immediately placed 80 to 90 percent of their graduates. These Government-sponsored programs were well received by common carriers in Ohio, especially many that are too small to initiate their own in-house training programs. These courses were so comprehensive that common carriers accepted the graduates in many instances without recourse to the standard driving tests the carriers ordinarily give to new employees.

Mr. President, the career promise that this type of effort holds for the structurally unemployed and for minority youth is obvious. We should do as much as possible in this area.

I would like to ask the distinguished floor manager of the bill who has done so much to tighten up the language in the bill, and the ranking minority member also, if they do support efforts along the lines mentioned.

Mr. NELSON. I agree with the distinguished Senator from Ohio that it is true that CETA individuals should be offered training in industries with growth potential. Section 121(i)4 of the Senate committee bill provides that—

No person shall be referred for training unless there is a reasonable expectation of employment in the occupation for which the person is being trained.

Prior to placing CETA participants in a classroom, institution, or on-the-job training, a prime sponsor should assure that there is a reasonable likelihood that private sector employment opportunities will be available to trainees in the occupation in which they are trained.

Mr. GLENN. I am very encouraged to hear the comments of the distinguished floor manager of the bill.

I would welcome any comments by the minority floor manager also. I think this can help to point out, through the legislative history of this legislation, the intent of Congress, the intent that we mean it to be meaningful employment, and not only providing immediate employment but training that can move those trainees into private industry which can help in dislocations where industries are going downhill in a particular area and people need to be trained, or taking the unemployed and the disadvantaged and moving them into productive lives in the private sector.

Mr. JAVITS. The Senator is absolutely right. It ties in with the bill very closely. To me one of the most innovative parts of the bill is the $400 million provision for training in private enterprise. I was in attendance at the White House when the President announced that program. Many of the very top executives of major American enterprises were there. It looks very promising. It is something in which I deeply believe. I think this will be a very real guideline to those authorities who are charged with carrying that out, as well as the CETA program generally.

The Senator is absolutely right. One of the most successful of the voluntary programs, such as the nongovernmental programs, are the opportunities industrialization centers, which are run by Rev. Leon Sullivan, of Philadelphia. One of the elements that has commended that program is the fact that they have tied into local business so well that very little of their training is deadend, to wit, training for which there is no job at the end of the road.

I thoroughly agree with the Senator and I assure the Senator I will do everything I can.

We have already heard from Senator NELSON, to influence the Department to administer this law, to which it is so very pertinent, in exactly that manner.

Mr. GLENN. I thank the distinguished floor manager very much. I think these comments in the RECORD this morning will indicate to those who are managing the whole CETA program that any projects they can design to demonstrate the effectiveness of training of adults, the disadvantaged, and the structurally unemployed for the growth occupations will be particularly well looked on by Congress.

Mr. President, with that type of support and with the knowledge that the distinguished floor managers of this bill will be keeping close tabs on what is going on in the future and be influencing future legislation influencing these programs, I withdraw my amendment.

The amendment was withdrawn.

UP AMENDMENT NO. 1792

(Purpose: To give preference in CETA training program benefits to the unskilled over college graduates and holders of higher education degrees)

Mr. HATCH. Mr. President, I call up an unprinted amendment and ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes unprinted amendment numbered 1792.

Mr. HATCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 269, after "workers," on line 5, add "those who lack educational credentials."

Mr. HATCH. Mr. President, like many of my colleagues, I support the honorably stated purposes of this legislation. The stated purposes of any legislation are usually honorable, and in the case of CETA, all of us want to support any proper and effective effort to solve our national youth and structural unemployment problems. I believe my friends and colleagues (Mr. JAVITS and Mr. NELSON) deserve our gratitude and respect for their characteristic high-quality work in this regard. They have been willing to compromise, they have been willing to change, they have dedicated themselves and worked very hard, I think, to try to correct this bill and to make it a more just and service-type bill. I have nothing but respect for the work that they have done here.

As a member of the Senate Human Resources Committee, and as one who devoted a lot of his time to working to improve this bill, I want to vote for it. I feel that I can do so provided that the fine series of amendments to be considered by us during the full consideration of this bill are accepted, amendments which go a great distance to reinstitute respectability in the CETA program.

Respectability is a descriptive noun too seldom heard these days in the course of CETA discussions, and seldom seen in articles about CETA's administration. The series of articles on CETA in the Washington Post, in the Los Angeles Times or the New York Times all read the same. They describe the program's abuses. They quote the ballet dancers, the golfers, or the city bureaucrats, all of whom enjoy the most personalized of capital gains because of moneys they receive as CETA applicants.

Any reasonable citizen, especially anyone paying taxes, who reads any one of these stories will conclude that it would be in our national economic and ethical interest to be rid of this program; to be rid of this $11.4 billion drain on our national economy. Certainly I would, supporting all the more my own conviction that we must see this body approve amendments tightening eligibility and preventing fraud and abuse. We must approve amendments which are every bit as strong as those proposed by a number of us to assure that the scandals reported in the operation and administration of CETA are never again repeated. Senators BELLMON, BARTLETT, and DOMENICI have performed in exemplary fashion to draft a series of amendments intended to reform CETA, and I am delighted to be among their original cosponsors.

As a complement to this larger effort, I have sent to the desk the amendment I have offered is a straightforward and manageable modification in the language of S. 2570. It has the effect of expressly giving preference in CETA funding to the unskilled and needy job applicants over those who hold a college degree, a graduate school diploma, or any other certificate of higher education.

I believe the purposes of my amendment are self-evident, and it is both unfortunate and ironic that it should even have to be introduced. But of the many stories of CETA abuses which have been circulating this country—all of them accurate stories—certainly few can compete in flagrancy with stories about college graduates or other products of American education being on the CETA dole.

There have been a lot of stories about this, too many of them true. The most descriptive summary of this problem which my amendment attempts to solve was described by the distinguished economist, Mr. David Meiselman, who after conducting a thorough survey research study of the CETA program's applicant pool, concluded,

Evidence from diverse sources implies that CETA participants are best classified not as unskilled but as being from the middle of the skill range. Fewer than 46 percent of the persons hired under CETA were economically disadvantaged, using the federal government's own definition of a family earning less than the poverty threshold.

Mr. President, in a Federal program to help the hard-core unemployed develop job skills and find employment, it is wrong to see any of the funds provided given, in whole or in part, to those with higher education degrees not in dire need. Certainly American education has not waned to such a degree that college graduates need a Federal program to teach them a vocational skill; and certainly if they need it, they do not deserve it. It is the purpose of my amendment to direct the unemployment training relief to the indigent, to the unskilled and truly needy for whom this program was intended. They deserve our compassion, and they need our help, and I seek the assistance of my colleagues in righting this particular wrong.

Finally, Mr. President, I express my gratitude to my Human Resources Committee chairman and friend from New Jersey, HARRISON WILLIAMS, and to all of my colleagues on the committee for including in the final version of the reported CETA bill an amendment sponsored and offered by Senator HAYAKAWA and myself. This amendment establishes a social bonus program to increase the participation of the private sector in the general effort to solve our Nation's structural unemployment problem. As this issue is addressed in the days ahead, I know that we will have the opportunity to discuss this in greater detail. Let it be said, though, that if our CETA experience to date has taught us anything, it has served to remind us of the problems inherent in any attempt to solve major social and economic problems using the arm of the Federal Government. As always, the private and independent sectors can do it better. They will do it, provided that we do not stifle their initiative, and that we give them the incentive required to conduct this major task.

On paper, as well as it is presented in theory, CETA is the best Federal aid program we have. It is decentralized. It is intended to attack the root of the welfare problem by teaching job skills rather than showering the countryside with Federal dollars, as is too often the bureaucratic custom.

But CETA, as it has been administered to date, has failed to serve its purpose, and has too often been a national disgrace. Hopefully, the problems needing solutions will get them. I believe they will if we pass the series of corrective amendments currently pending. And I hope that they will be passed, in order that I and many others can therefore vote for this legislation.

I can say this, that I expect to see changes in the administration of CETA in the future and I expect to see less ripoff from those living in the States, administering in the States, and administering in the Federal Government than has heretofore occurred. I think everybody in the Human Resources Committee feels exactly the same way.

If these things are not corrected and if they are not taken care of, we shall have to find ways other than CETA to correct these problems and provide relief for our structurally unemployed and the above 35 percent of the black youths in our society who do not have a job because now they are not only structurally unemployed but unemployable. I think it is time we did something about this major national disgrace, the biggest cancer facing our society today. I think that some aspects of this bill will help us to accomplish that and I do think my amendment will help us press on in that direction.

I believe the managers of the bill are prepared to accept my amendment. If that is so, I am prepared to yield back my time.

Mr. NELSON. Mr. President, let me say that a substantial number of criticisms that the distinguished Senator has made of the CETA program are correct. There have been sponsors in various parts of the country who have violated the spirit of the law, there are some who have violated the law. On the other hand, it is also clear that there are a large number of prime sponsors around the country who have done a very good job.

Mr. HATCH. I agree with the distinguished Senator.

Mr. NELSON. This bill, as the Senator knows, as he is a member of the committee, is a very comprehensive redesign and tightening up of the legislation in order to prevent the kind of abuses that all of us are critical of.

As the Senator knows, No. 1, we are trying to eliminate the substitution which has occurred under the law. Not all of that has been done illegally, of course, because in the historical development of this act, there have been those who, when unemployment was high, were supporting the concept of substitution.

I never did support that concept, but the law permitted it. So there was substitution that really was in compliance with the law, and then there was quite a bit that was not.

We have now targeted CETA programs to avoid that kind of question. For example, we only allow in title II, 18 months of employment, with extension under certain circumstances. Title VI, 12 months of employment. Training programs have to be developed with the concept being to get the unemployed into private employment in order to avoid the question of high-paid people being on the CETA programs.

There used to be no limit on wages, so we had people that were working in many cities at $17,000, $18,000, $19,000 a year. I have never approved of that, but it was legal because we did not limit the matching funds of the local municipality.

But in this bill, as the Senator knows, we limit the maximum that can be paid, both by the dollar amount and the number of people who can participate in the higher brackets by simply limiting to 10 percent of the Federal allocation, the amount of matching moneys the prime sponsor can contribute.

We also require that the average wage not exceed $7,800. The House, in fact, has set it at $7,000.

We emphasize, as the Senator knows, programs for the structurally unemployed and we have done a whole lot of work, in which the Senator participated very constructively, in tightening up this whole legislation, targeting it better, I think a very good job has been done by the Labor Department, the administration, by the minority and majority members and staffs, and that we have designed a very substantial improvement in the legislation which seeks to tackle very important problems in our society.

Now, the amendment of the Senator is three words. In the bill on page 219, the language would read, starting at line 3:

Special emphasis in filling special service jobs shall be given to eligible members of groups specifically identified in section 301 (a) as facing particular labor market disadvantages, taking into account the household support obligations.

At that point, the amendment inserts three words: "and educational attainment" of persons applying for such jobs, but nothing in this act shall authorize the Secretary to establish hiring or participation goals for such persons.

Let me say, the general objective the Senator is talking about, I agree with. We are aiming and targeting, as best we can, to disadvantaged groups. Of course, an education is an advantage.

However, I want to be sure we understand the language correctly, because it reads: "taking into account the household support obligations and the educational attainment."

That is not a mandate that an education may prohibit one from receiving a job, or training under this program.

As the Senator knows, we have a provision for displaced homemakers. As the Senator will be well aware, a displaced homemaker at age 50 or 55 who has not been to college for 30 years and whose job has been for 30 years raising a family, even though that individual had a bachelor's degree in literature, or something else, does not mean one should be prohibited, now that they are displaced homemakers, with no skill that is salable, from participating in a program. Of course, we provided the displaced homemaker section here because one could have a college education and still be more advantaged than another person of a different age group, different experience, without a college education.

I am sure the Senator understands that.

Mr. HATCH. Yes.

Will the Senator yield?

Mr. NELSON. Yes.

Mr. HATCH. I agree with the Senator and I agree with the comments he has made with regard to this bill.

The Senator did have the wrong copy of my amendment. The language would apply to page 268.

Mr. NELSON. Pardon?

Mr. HATCH. It would apply to page 268, line 5.

Mr. NELSON. We were using a different one.

Mr. HATCH. An older version.

Mr. JAVITS. I think Senator HATCH will agree with me in this, the Senator did use in his presentation—and I do not want to extend this, I have nothing further to say——

Mr. HATCH. I understand.

Mr. JAVITS. But the Senator did use in his presentation the word "preference," and I think it is important we all agree, in other words, we do not want an absolute exclusion.

Mr. HATCH. No.

Mr. JAVITS. The word is "special emphasis."

Mr. HATCH. I also agree with both Senators, they are both right, that the preference is for those who lack educational credentials. But it does not foreclose those who have educational credentials, but who might otherwise be disadvantaged, such as a housewife who may have graduated from college at age 22, but now at age 55, after 33 years——

Mr. JAVITS. One with a bachelor's degree, 30 years ago, Senator HAYAKAWA understands that, might be really unemployed.

Mr. HATCH. That is right, or I presume, there are any number of other illustrative situations.

We do agree in this matter and I am hopeful the managers of the bill will accept it.

Mr. JAVITS. Mr. President, the amendment is acceptable to me.

Mr. NELSON. My marvelous contribution to the dialog was irrelevant.

Mr. JAVITS. No. It was very important.

Mr. NELSON. I stated three words, "and educational attainment," because I was addressing those three words when the Senator had in fact offered another amendment.

Mr. HATCH. I was wondering why we had that rather extensive educational dialog.

Mr. NELSON. I agree, obviously, with what was said.

Mr. HATCH. I am glad we had it. I am sure everybody else is.

Mr. NELSON. I agree with what I did say about it, and I do think it is important, but I was addressing the original amendment.

Mr. HATCH. Yes.

Mr. NELSON. Which was amended by the Senator.

I am perfectly prepared to accept the amendment.

Mr. HATCH. I thank the Senator and I yield back the remainder of my time.

Mr. NELSON. I yield back the remainder of my time.

Mr. HATCH. I move acceptance of the amendment.

The PRESIDING OFFICER (Mrs. ALLEN). The question is on agreeing to the amendment of the Senator from Utah.

So the amendment (UP No. 1792) was agreed to.

Mr. HATCH. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Senator HAYAKAWA addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida will be recognized.

Mr. CHILES. I yield to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

UP AMENDMENT NO. 1793

(Purpose: To provide for utilization of funds under title VI)

Mr. HAYAKAWA. Madam President, I call up an unprinted technical amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. HAYAKAWA) proposes an unprinted amendment numbered 1793.

Mr. HAYAKAWA. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 276, between lines 6 and 7, insert the following new section:

"UTILIZATION OF FUNDS

"Sec. 610. Funds available under this title to a prime sponsor may be used, with respect to individuals qualifying for assistance under this title, for programs authorized under title II (other than upgrading and retraining under part C and public service employment under part D), part A of title III, title IV, and title VII.

On page 181, in the table of contents after item sec. 609 add the following new item:

"Sec. 610 Utilization of funds.".

Mr. HAYAKAWA. Madam President, in both House and Senate versions of the CETA reauthorization bill, title II, includes a provision for the use of funds "for any programs or activities authorized by part A of title III, title IV, and title VII of this act." The House bill has an equivalent provision for title VI funds. My amendment now would add this provision to the Senate bill. The exact language has been discussed with the committee staff. The basic purpose of the amendment is of course to make unused title VI funds available for other appropriate titles of the bill.

I hope the floor managers of the bill will accept this technical amendment.

Mr. NELSON. I say to the distinguished Senator from California that I agree with the amendment. It should have been in the bill, in title VI. I am glad that the Senator from California called it to our attention and offered the amendment. I am prepared to accept it.

Mr. JAVITS. I accept the amendment.

Mr. NELSON. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

The amendment was agreed to.

UP AMENDMENT NO. 1794

(Purpose: To establish a program of controlled evaluations of employment and training programs)

Mr. CHILES. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Florida (Mr. CHILES), for himself and Mr. DOMENICI, proposes an unprinted amendment numbered 1794.

Mr. CHILES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 284, between lines 2 and 3 insert:

"Annual Evaluation Plan and Report to Congress

"(c) The Secretary shall prepare and submit to the Congress, at the same time as the President submits his budget to Congress each year, an annual evaluation plan, setting forth major themes for the areas of research, statistics, evaluation, experimentation, and demonstrations to be undertaken in the succeeding fiscal year, the program purpose and policy alternatives to which each such area is related and the current and proposed funding and staffing levels. The Secretary shall specify in the portions of the plan relating to experimentation and demonstrations the intended outcome of proposed major innovations and the amount of time required to test the innovations or to achieve adoption of the demonstration.

"(d) The Secretary shall prepare and submit to the Congress at the same time as the President submits his budget to Congress each year, an annual evaluation report for employment and training programs. The Secretary shall include in such report—

"(1) a summary of the achievements, failures, and problems of the various programs authorized in this Act in meeting the objectives of this Act;

"(2) a summary of major findings from research, evaluation, and experiments conducted in the previous fiscal year;

"(3) recommendations for program modifications based upon analysis of such findings; and

"(4) such other recommendations for legislative or administrative action as the Secretary deems appropriate.

"(e) The Secretary shall develop an ongoing program to notify prime sponsors of experiments and demonstrations to be conducted in their States and shall disseminate to prime sponsors and governors the results of all research, demonstrations, evaluations, and experiments of employment and training programs;

"(f) Funds available under this section may be transferred to any other Federal department or agency to carry out functions delegated to that department or agency pursuant to agreements with the Secretary.

CETA REAUTHORIZATION

Mr. CHILES. Madam President, I would like to say a few words in general about the CETA reauthorization bill which the Human Resources Committee has reported. I wish especially to compliment the managers of the bill, Senator NELSON and Senator JAVITS, for their continued creative leadership in this area. They, as well as Chairman WILLIAMS of the full committee, have been particularly responsive to the views of Senators who are not members of the committee, but who share their concern for the importance of this legislation. I believe this legislation responds to changing economic conditions and to the actual operating experience of the last few years, and the committee deserves praise for being willing to redirect the program this way.

I will not repeat the detailed description of the bill already provided by the managers, but I do wish to highlight several areas which I think are very important, and where the committee has responded to the suggestions which Senator DOMENICI and I offered in the bill we introduced.

First, this bill returns the emphasis of CETA from the countercyclical goal of temporary job creation to the permanent goal of aiding those persons who are least able to obtain employment. This is a shift not just of language, but of $3 billion which is moved to comprehensive employment and training programs for disadvantaged persons. In addition, the bill contains provisions to tighten up eligibility standards and prevent local governments from substituting CETA funds for their normal hiring.

Second, the committee has recognized the essentially different needs of different age groups. They have taken the first step to mandate coordination of the various youth employment programs which have proliferated in recent years. The bill also contains an older workers section, which Senator DOMENICI and I suggested. This responds to the recognition that only 2 percent of current CETA enrollees are over age 55, yet this group has faced increasing problems in staying in the labor force. The new program will not shift older workers into public jobs, but will require CETA programs to work with

private employers to keep older workers on the payroll.

Without going into the general administrative provisions in detail, I think the committee should be complimented for maintaining local flexibility and control of the program. Many provisions offered by the administration would have reduced local flexibility or added to program fragmentation and complexity. The committee has resisted the temptation to create separate program structures for every new need, but has wisely kept them within the framework of the comprehensive service plan to be developed at the local level. I hope that as the various youth programs and other experimental projects come up for renewal, we will be able to work more of them into the comprehensive framework. The job voucher demonstration project included in the committee bill has the potential for becoming a major component in the set of tools we offer to local programs, so I will discuss it at greater length.

VOUCHER DEMONSTRATION PROJECT

Madam President, I am pleased that the CETA bill reported by the Human Resources Committee goes a long way toward improving private sector involvement. If 80 percent of the jobs in our economy are private sector, then we must train people for the skills and occupations which private industry needs. Work experience in a public job is helpful to a disadvantaged person in gaining entry to the labor market, but experience in a private job offers four times as many opportunities. Part of bills S. 2805 and S. 2806, which I introduced along with Senator DOMENICI, was a permanent program of tax vouchers for employing disadvantaged youths, as well as integrating private sector involvement in all phases of CETA.

Disadvantaged youth have a cluster of attributes which keep them out of jobs: Lack of skills, no experience, poor work attitudes and expectations, too low productivity to justify the Federal minimum wage or minimum union scale. An effective program should seek to modify all of the factors, and do so in a way that is most attractive to private employers. For this reason we designed a tax voucher system that will allow this kind of private business participation without requiring any contract or grant relationship between the employer and the local CETA program.

The CETA prime sponsor would determine eligibility and issue the youth a voucher, which would entitle a private employer to a credit against his employee withholding tax, with no grant applications or paperwork. Each prime sponsor will have a set amount of voucher authorization based on the prime sponsor's allocation. Each local prime sponsor would issue to eligible youth a voucher good for a credit of 50 cents to $1 an hour. The youth would then seek employment in the private market. The voucher would entitle the employer to a reduction of his employees withholding tax equal to that 50 cents to $1 for each hour worked. The youth would be paid minimum wage, or union scale, or whatever rate the employer considered appropriate. The voucher would be portable and valid for 24 months, so that the youth and employer would not have to worry about being locked into an unsatisfactory arrangement. The employer would not have to go through the paperwork of waiting for a grant or contract. He would get the immediate cash benefit at each payroll period. All he would have to do is add a column to his withholding statement and attach the voucher along with his W-2 forms at the end of his tax year. The youth would have the benefit of a regular private sector job, paid at the same rate as his fellow workers. If he did not perform well, he could be fired; if he performed well, he could get raises and promotions.

Madam President, I am gratified that the Human Resources Committee included a required demonstration of the voucher concept in the bill it reported. Unfortunately, the accompanying report language which defined the way the demonstration is to be conducted was inadvertently omitted.

I had intended to offer an amendment to insert this clarifying language into the bill. However, I accept the assurance from the managers of the bill that they will include this description in the statement of the conference managers. In order to clarify the legislative history, I ask unanimous consent that the text of the clarifying amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

On page 287, strike lines 1 through 12 and insert:

"(b) The Secretary shall consider the following principles when developing regulations for this project:

(1) Vouchers shall be worth up to $1.00 per hour of paid work by the participant to offset the lower productivity of eligible individuals. Factors to be considered in determing the value of the vouchers shall include, but not be limited to, participant employability, local wage rates and labor market conditions. Voucher-eligible employees shall be paid at a rate not less than the higher of the minimum wage or the rate paid by that employer to other individuals performing the same or similar work.

(2) Vouchers shall be portable between employers, not committing the employer or employee to continue the work arrangement other than by mutual agreement, and shall be valid for up to two years, as determined by the Secretary.

(3) Procedures shall be established to avoid displacing currently employed individuals by voucher-eligible employees.

(4) Participating prime sponsors shall integrate vouchers into their comprehensive services, and utilize a significant proportion of available vouchers for individuals completing training programs, so as to direct voucher recipients toward jobs with meaningful advancement opportunities.

"(c) The Secretary is instructed to prepare and submit to the Congress not later than October 1, 1980, a report evaluating the effectiveness of this demonstration project. The Secretary's report shall include an evaluation of the project's effectiveness in increasing the employability and earnings of eligible groups, the willingness of private sector employers to participate, the desirability and skill level of jobs obtained by participants, the administrative feasibility of the program and any other factors deemed important by the Secretary."

EVALUATION AMENDMENT

Mr. CHILES. Madam President, as to the amendment I have sent to the desk, one of the frustrations I have had in considering CETA as a member of the Budget and Appropriations Committees is that we do not have good evaluations of the effectiveness of all the major components of the program. We get reports on bits and pieces as problems reach a crisis stage, but we have no assurance that all parts of the program are being evaluated. We are forced to allocate funds on the basis of the fine goals of the program, without clear evidence of whether the goals are being achieved. Over the last few years Congress has compounded the problem by adding different economic goals to the original program. The bill before us today goes a long way toward clarifying the objectives of the program in reducing barriers to employment.

My amendment will require the Secretary of Labor to develop an annual evaluation plan and report to Congress. This will tell us how he intends to use his broad discretionary authority to conduct experiments and demonstrations. He will have to tell us what he is going to spend and what we can expect to get out of these evaluations. More important, the Secretary will be required to report to Congress a summary of his findings on the achievements, failures, and problems in the various programs. This will allow us to put the money where it does the most good, and take any corrective actions necessary from the legislative side.

Madam President, I would not like to see this plan and report turn into a massive document loaded down with detailed descriptions of every little research project. Rather, I would hope that the Department would focus on pulling their projects together into major themes, and showing how those themes relate to the program objectives of CETA. I believe we will find in the initial attempt that there is no ongoing evaluation of how some of the basic purposes of the act are being fulfilled.

A second area addressed by this amendment is creation of an ongoing program to disseminate the results of research and evaluation. Governors and local prime sponsors should be notified about the various experimental and demonstration projects conducted in their States. They should also receive summaries of evaluation efforts conducted nationally or in other States, so that they can improve their own programs without waiting for Federal regulations.

The final provision of this amendment allows funds to be transferred among Federal departments in order to carry out experimental or demonstration projects. This is critical for areas like welfare reform, where we are trying to test out the relations among work, welfare, and food stamp programs. We have had the problem where experiments intended by Congress have been held up by administrative barriers on how to pay benefits for various programs. In any such case, the arrangement would be made pursuant to agreement of the Sec-

retary of Labor in order to protect the program purposes of CETA.

Madam President, program evaluation does not generate the kind of popular support that we get for funding services, but it is absolutely essential if we are to find out how those services can be provided most effectively.

I understand that the managers of the bill have looked at this particular amendment, and I hope that they will accept the amendment.

Mr. NELSON. Madam President, the amendment proposed by the Senator from Florida is a very good one. If there is anything that concerns us all, it is the lack of adequate information concerning the performance of programs that we legislate, but do not manage. We can design the legislation, but the management of programs is the business of the executive branch and not Congress.

We have the authority to authorize a program. We have authority to appropriate money for a program. We have authority to put in the statute the objectives of the program, and we have the oversight responsibility through the hearing process.

Nonetheless, the managers of all Federal programs are in the executive branch and not in the legislative branch.

Any program that is carefully designed to provide information, information index, if you will, of performance that is done in a manner so that Congress has better information to evaluate how well these programs perform so that we can further support them, reduce them, eliminate them, improve them, is a good concept and a good idea.

I agree with the amendment of the Senator from Florida in his mandating an annual evaluation program and it is designed in such a way that it does not go into great detail about how the Secretary must do it because I think the Senator is correct. We need to give him flexibility to produce the best information in the most efficient way so that we can judge the programs.

I am prepared to accept this very good and constructive amendment.

Mr. JAVITS. Madam President, I adopt everything that Senator NELSON has said.

I am prepared to accept the amendment.

Madam President, I yield back the remainder of my time.

Mr. JAVITS. I yield back the remainder of my time.

Mr. NELSON. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida.

The amendment was agreed to.

UP AMENDMENT NO. 1798

(Purpose: To provide special emphasis for services for displaced workers)

Mr. CHILES. Madam President, I send to the desk a second amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Florida (Mr. CHILES) proposes an unprinted amendment numbered 1798.

On page 260, between lines 19 and 20, insert the following:

"SERVICES FOR DISPLACED WORKERS

"SEC. 216 (a) Services under this section shall have the purpose of overcoming the particular barriers to employment created by technological change or by the decline in local economies.

"(b) The Secretary shall insure that each prime sponsor's plans for serving eligible displaced workers under this part include:

"(1) Steps to assure that activities for displaced workers described in this section are, to the extent practicable, consistent with the overall economic development plan for the area required by section 202(b)(10) of the Public Works and Economic Development Act of 1965.

"(2) Steps to assure that private employers shall be involved in the planning and implementation of such programs for displaced workers.

"(3) Steps to assure that representatives of displaced workers shall be involved in the planning and implementation of such programs for displaced workers.

"(4) Such services may include, but not be limited to the Job Search Relocation Assistance authorized under Section 304.

(c) Each prime sponsor may use assistance available under this title for experimental projects designed to increase employment opportunities for displaced workers, with the approval of the Secretary.

(d) On page 178 in the table of contents after item "Sec. 215." insert the following: "Sec. 216. Services for displaced workers."

(e) On page 287, following line 12, insert: "Sec. 318:

"(a) The Secretary is authorized to carry out a special experimental program to link the employment and training activities of prime sponsors to a workable strategy for stimulating local private economic development and replacement of declining industries. Any determination concerning the nature of skills to be provided in training and retraining programs shall be made after consultation with agencies charged with fostering the growth or introduction of industries in a given labor market. This experiment may include use of vouchers as authorized in Section 317.

"(b) The Secretary shall take whatever action is necessary to assure that any experimental program conducted under this section is coordinated with Federal, State, Regional, and Local agencies responsible for administering and receiving funds from the Economic Development Administration pursuant to Sections 201 and 202 of the Public Works and Economic Development Act of 1965 and from the Small Business Investment Act of 1958. Activities under any such program shall be consistent with the overall economic development plan for the area required by section 242(b)(10) of the Public Works and Economic Development Act of 1965.

Mr. CHILES. Madam President, the purpose of this amendment is to restore one of the original purposes of title II of CETA, which is to provide services to workers who are displaced by technological change, by the decline of the industry in which they work or the economic decline of the area in which they live. This is a different kind of structural unemployment than that faced by persons entering the labor market for the first time. It is useless to retrain a worker unless you are also locating or expanding an industry which needs his or her new skills. This amendment therefore requires that local prime sponsors provide services appropriate to such displaced workers, and that they coordinate their efforts with the local economic development plans required under the Public Works and Economic Development Act. We also intend to offer a complementary amendment to that act, requiring economic development programs to coordinate their activities with CETA. We have two sets of Federal programs with related objectives, but we need a mechanism to get them working together.

The second section of our amendment authorizes the Secretary of Labor to carry out a special experimental program to link the employment and training activities of prime sponsors to to a workable strategy for stimulating local economic development and replacement of declining industries.

Madam President, I believe this is a problem we are all sensitive to, and we try to deal with it piecemeal by steering investment in many Federal programs to declining areas. However, we do not have an overall strategy to tie these efforts together.

We do know that availability of skilled workers is a major factor for industrial location decisions, including expansion decisions. The cost of labor is also a major factor. We ought to take advantage of the experimental authority to find out what kind of local economic development strategies will provide jobs for the people assisted by CETA, and how CETA can contribute to the success of those strategies.

Madam President, this amendment does not attempt to shift the emphasis of CETA from assisting disadvantaged individuals to assisting employers. Rather, it is a recognition of the fact that CETA acts within a set of local economic conditions, and carries that recognition to the fact that CETA can affect those conditions. The whole local structure of CETA is built on the necessity of relating employment and training programs to their local economic context. I hope the Senate will move to start the process of gathering the knowledge necessary to improve that relationship.

Madam President, the managers have looked over this amendment and I hope that they will accept it.

Mr. JAVITS. Madam President, again we understand the thrust of the amendment and we will certainly do everything we can, in the Appropriations Committee, et cetera, to enforce it, but we understand that while we do all that, I think any prime sponsor who acts under the bill is not going to expect that we are going to sue them tomorrow because we complain about how he handled this and get our money back.

In short, we understand that we mean it. We are going to enforce it. We will do our utmost to carry it out. But it does not represent a statutory requirement and condition precedent because we just could not administer it on that basis.

Mr. CHILES. I thank the distinguished Senator.

Mr. JAVITS. On that basis, Madam President, I am for the amendment.

We yield back our time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida.

The amendment was agreed to.

Mr. SCHWEIKER. Madam President, I would like to call to the attention of

my colleagues one very important provision of the committee bill. It outlines the role of community-based organizations in delivering employment and training services under CETA.

I am referring to section 123(m) of the proposed act, which provides that the Secretary and prime sponsors shall give special consideration in carrying out programs authorized by CETA to community-based organizations which have demonstrated effectiveness in the delivery of employment and training services.

I offer this provision during full committee markups of S. 2570, and I am pleased it was unanimously adopted. Our purpose is to insure maximum utilization of the effective programs offered by community-based organizations. This provision is virtually identical to one enacted last year in the Youth Employment and Demonstration Projects Act, and similar to requirements contained in the Senate-passed version of the original CETA legislation in 1973.

The record compiled by community-based organizations under CETA is impressive, as was illustrated in a recent survey of prime sponsors conducted by the Employment and Training Council of the United States Conference of Mayors. The survey included evaluations of the major national community-based organizations, opportunities industrialization centers, SER-Jobs for Progress, National Urban League, United Way/United Fund, and a wide range of local community-based organizations.

Prime sponsors rated the effectiveness of almost all community-based organizations in the top third of all organizations the prime sponsors deal with. Particularly noteworthy is the data compiled by the Conference of Mayors survey concerning the placement of trainees in permanent, unsubsidized employment during fiscal year 1977. Placement rates of trainees by community-based organizations varied from 46.6 percent to 76.6 percent. This compares very favorably to an overall CETA title I placement rate during the same period of 39 percent.

Therefore, community-based organizations have earned the special consideration our bill provides for.

Madam President, section 123(m) uses two terms I would like to elaborate on for the benefit of my colleagues. First is the term "special consideration." This term was very precisely and expertly explained by the distinguished ranking minority member of the Human Resource Committee last year during debate on the Youth Employment and Demonstration Projects Act as follows, and I quote.

Special consideration means a strong impact . . . it means a very open door . . . it means that community-based organizations shall be used, and they shall be the ones whose services are employed unless there is a demonstrably better way.

The second critical term is "demonstrated effectiveness." By this term we contemplate a high standard of effectiveness—one which earns for the community-based organization the right to require special consideration of what it has to offer. Although the prime sponsor is not to impose upon community-based organizations higher performance standards than those which would be used in judging programs the prime sponsor directly administers, we are most anxious to see effective utilization of all CETA funds.

Appropriate considerations for determining "demonstrated effectiveness" should include an analysis of results of prior employment and training programs—or related services to the poverty community—taking proper perspective of the scope of the program, the clientele served, the similarity between past programs and the services the community-based organization is offering to perform, and other like considerations.

Careful attention could also be given, when appropriate, to the program to be offered, to the ability of the community-based organization to provide an effective outreach and recruitment mechanism to reach the hard-to-employ and economically disadvantaged, to maintain effective pretraining, in-training, and posttraining counseling, and to increase the chances for job retention.

Another possible consideration in appropriate circumstances is the value to prime sponsors, private sector employers, and the accountability of the entire CETA system, of employment and training programs which combine the functions of recruitment, counseling, training, supportive services, job placement, and followup.

Therefore, Madam President, it is not our intention to overburden the Secretary or prime sponsors with this special consideration requirement. However, it is the specific directive of section 123 (m) that programs offered by effective community-based organizations are to be funded and utilized unless there is a demonstrably better way.

Madam President, I would like to ask if the managers of this bill share my understanding of the committee's intent in including section 123(m) in this bill.

Mr. JAVITS. Madam President, if the Senator will yield, I think the Senator has presented upon the basis of precedents a very fair and balanced appraisal of what we had in mind in the use of the term "special consideration."

I will say to the Senator that, having invented it, I had better learn how to live with it.

Mr. SCHWEIKER. The Senator certainly did a very fine job with that concept.

Mr. JAVITS. I thank the Senator. I am also very pleased that the Senator, in referring to what we had in mind, made it clear that it included a range of organizations, and he specifically named them in the bill because of our respect for them, the Opportunities Industrialization Centers, the SER-Jobs for Progress, the National Urban League and Main Stream, as well as a wide range of community action agencies.

I have long been a supporter of giving greater consideration to these organizations, and they also include in my own city the VFI, and I would like to call attention to the fact that Senator TOWER has been very devoted to the SER, which is essentially a Hispanic organization. The others are very well known as playing a very important part even in the history of CETA to date.

So, Madam President, I find myself, as I say, in agreement with the basic outline given to us of his understanding of the situation by Senator SCHWEIKER who has been, I might say, and quite justly, an indefatigable proponent of the usefulness of the Opportunities Industrialization Centers.

He was not here earlier when I commented upon their usefulness. I do so again. I think the record of their growth is a most extraordinary tribute to the worth of the organization, and also to Senator SCHWEIKER's advocacy of them as the Reverend Leon Sullivan comes from his State, and he has every reason to be very proud of what has been accomplished.

Mr. SCHWEIKER. I thank the distinguished Senator for his encouragement and support.

I would also like to ask the chairman, who has also been very helpful and responsive, the same question, whether this statement I made sets forth his understanding of what the intent of this section on special consideration is.

Mr. NELSON. Yes, I do agree with it.

Mr. SCHWEIKER. I sincerely thank the chairman.

AMENDMENT NO. 3526

Mr. SCHWEIKER. I call up my amendment 3526 and ask for its immediate consideration

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SCHWEIKER) proposes an amendment numbered 3526.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 200, line 10, redesignate paragraph (2) as paragraph (3); and after line 9 insert the following new paragraph:

"(2) If the Secretary concludes that a public service employment program is being conducted in violation of section 121 (h)(1), (h)(2), (h)(3), (j), section 122 (d), (f), or section 123(h), or regulations promulgated pursuant to such sections, the Secretary shall, pursuant to paragraph (1) of this subsection, terminate or suspend financial assistance in whole or in part, order the repayment of misspent funds from sources other than funds under this Act or other funds used in connection with programs funded under this Act (unless, in view of special circumstances, the Secretary determines that requiring payment would not serve the purposes of this section), and order such other sanctions or corrective actions as are appropriate.".

Mr. SCHWEIKER. Madam President, the purpose of this amendment is to provide stronger protection against abuses of the public service employment program. Specifically, it deals with the problem of substitution of regular local government employees with CETA

workers and other flagrant abuses, such as kickbacks, political patronage, nepotism, and the like. My amendment would establish the firm rule that when such abuses occur, the Secretary shall take strong action to correct the abuse and to require reimbursement of the misspent funds.

The Secretary is given this discretionary authority in the committee bill with respect to violations of any provision of the act or of applicable regulations. My amendment would make effective, appropriate enforcement action mandatory in connection with these most critical areas of abuse.

Estimates of the extent of substitution in the public service employment program vary considerably. It is clear that many cities have become heavily dependent upon CETA workers in the composition of their work force. Whenever substitution occurs, the entire purpose of the program—to create new jobs for the unemployed—is completely defeated.

Similarly, other abuses of the program not only waste millions of Federal dollars, but jeopardize public support for the entire CETA program.

It is essential that we send a clear message to prime sponsors, to the Labor Department, and to the American people that these abuses will not be tolerated. We must also make clear that prime sponsors must effectively police their own programs, and that when they fail to do so, the Federal Government will take effective action against them.

Under my amendment, when these abuses are found, after notice and an opportunity for a fair hearing, the Secretary shall suspend funding for the program in question until the problem is corrected. If it is not corrected, then he shall terminate funding. The Secretary shall also, absent very unusual circumstances, require reimbursement of the misspent funds from funds other than those provided by CETA. Nor may reimbursement come from local funds used directly in support of CETA programs such as funds legally used to supplement public service employment wages. The intent is to insure that remedies for abuses by prime sponsors do not adversely affect the very people CETA is designed to serve.

My amendment preserves some discretion for the Secretary not to require reimbursement from the prime sponsor under very limited and special circumstances.

For example, if CETA funds are misspent by a subcontractor of a prime sponsor in spite of the exercise by the prime sponsor of extreme care and prudence in selecting the subgrantee and monitoring compliance, the Secretary might reasonably conclude that repayment by the prime sponsor would not further the need to protect the integrity of the CETA program. In such special circumstances, reimbursement could be waived. However, I must stress that the intent of this amendment is to make reimbursement of misspent funds for these particularly critical abuses the prevailing rule, and the waiver of repayment a very narrow exception.

I would also like to point out that this amendment is very similar to one adopted by the House by a vote of 407 to 1 in their version of the CETA reauthorization bill. In addition, I want to make clear, in response to some concern expressed on the House floor, that this amendment would have no retroactive application.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. SCHWEIKER. I yield.

Mr. JAVITS. That was the only thing I was going to ask the Senator. The amendment deals with strict application of the law, but I think retroactivity would be very unfortunate. The Senator makes that clear, that there will be no retroactivity.

Mr. SCHWEIKER. I thank the Senator for that suggestion. We have incorporated that. I agree with him. As a matter of basic fairness, I feel enforcement standards and policy should be clear in advance. Therefore, only conduct occuring after enactment of this bill would be specifically covered by this amendment.

Mr. President, I wish to compliment the managers of this bill for their forceful and imaginative efforts to correct the abuses which have too frequently characterized the CETA program. My amendment, I believe, is entirely consistent with these efforts. I hope the chairman and the ranking members will support it.

Mr. JAVITS. Madam President, the amendment, with the observations we have just handled in the colloquy, is entirely agreeable to me.

Mr. NELSON. Yes, I agree with the amendment. The House tackled the question, and I believe the Senator from Pennsylvania has made a substantial improvement in the approach he took.

I am prepared to yield back the remainder of my time.

Mr. JAVITS. We yield back the remainder of our time.

Mr. SCHWEIKER. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania (Mr. SCHWEIKER).

The amendment was agreed to.

UP AMENDMENT NO. 1796

Mr. METZENBAUM. Madam President, I send to the desk an unprinted amendment in behalf of myself and Senators LONG, CHILES, RIEGLE, and CANNON, and ask for its immediate consideration.

The PRESIDENT OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM), for himself, Mr. LONG, Mr. CANNON, Mr. CHILES, and Mr. RIEGLE, proposes an unprinted amendment numbered 1796.

Mr. METZENBAUM. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 214, strike out lines 20 through 25 and on page 215 strike out lines 1 and 2, and insert in lieu thereof the following:

"(o) Funds available for employment benefits under this Act may be used, for the duration of participation, for contributions on behalf of participants who are, prior to July 1, 1979, enrolled in retirement systems or plans. With respect to participants enrolled in retirement systems or plans on or after such date, except as otherwise provided in regulations promulgated by the Secretary, no funds under this Act may be used for contributions to retirement systems or plans unless such contributions bear a reasonable relationship to the cost of providing benefits to participants. Such regulations shall take into consideration circumstances where efforts are being made to change State or local laws or both affecting retirement coverage for individuals who are participants in activities funded pursuant to this Act. Pursuant to section 314 of this Act, the Secretary shall provide technical assistance to recipients to enable retirement systems or plans to comply with section 122(1) and this paragraph."

On page 223, line 4, strike the period and insert in lieu thereof a comma and add the following:

". . . but within any single classification a distinction may be made between public service employees and other employees for purposes of determining eligibility for participation in retirement systems or plans which provide benefits based on age or service or both. Nothing in this paragraph or in section 121(o) shall be deemed to require a contribution to a retirement system or plan for the purpose of providing retirement benefits based on age or service, or both, to a public service employee unless funds under this Act are available, pursuant to section 121(o) to make such contribution."

Mr. METZENBAUM. Madam President, this amendment addresses the problem of how State and local laws governing retirement benefits can adversely affect the CETA program.

In many States CETA employers are required to contribute a portion of their operating funds—moneys which could be used to create public service employment—to a retirement system. This is so in spite of the fact that CETA employment is temporary in nature and despite of the fact that the employee could never qualify for a retirement check. The net effect of such contributions is a reduction in the number of PSE participants and a waste of local government tax revenues.

Our amendment resolves this complex problem which involves over 6,000 public pension plans, 50 State retirement statutes, and the regulations of the Department of Labor. Specifically, the amendment:

Places severe restrictions on the use of Federal funds to pay retirement benefits for participants in short-term public service jobs;

Insures that no State or local tax revenues will be used to pay retirement benefits; and

Insures that Federal funds will be used to create the maximum number of public service jobs instead of increasing the coffers of retirement systems from which few PSE jobholders will ever benefit.

This amendment insures that CETA funds will not be used to finance retirement systems, but it does permit payments in those few instances where CETA workers would lose tangible benefits if not enrolled. For example, in retirement systems which couple other benefits with retirement CETA participants could lose health or disability coverage if they were excluded from participating in retirement plans. The cost of separately purchasing other benefits may exceed savings gained from excluding retirement.

Exclusion from retirement plans can occur immediately in some States, if the temporary nature of CETA public service jobs is acknowledged. Implicit in our amendment is that CETA participants are recognized as temporary employees. Thus, within any single employment classification a distinction may be made between public service employees and other employees for determining eligibility for participation in retirement systems or plans.

In other cases we need more time. Since CETA participants are not Federal employees but are employees of States, counties, cities, school boards, and community-based organizations, they are subject to the laws and collective bargaining agreements governing other regular employees. To exclude retirement as a benefit requires changes in numerous State and local laws. Since it requires time to implement those changes, we have chosen July 1, 1979 as the date by which we expect those changes to be made.

Our amendment makes funds available for employment benefits for the duration of their participation for those enrolled prior to July 1, 1979. Once a CETA participant has been hired with the understanding that his employer will make payments into a retirement fund on his behalf, no local, State or Federal law can change that situation without effectively changing a condition of employment and violating personnel practices. Hence, the only solution for current CETA participants is to continue to provide for their retirement coverage out of CETA funds. Given the time limits on participation in the CETA program, this cost is of a short-term nature which will rapidly phase out. Further, the equal benefits provisions of current CETA law, as interpreted by Federal regulation, created this obligation.

Finally, our amendment provides a safeguard for the local property taxpayer by insuring that nothing in CETA can mandate the use of local property tax revenues for CETA retirement coverage.

The Department of Labor estimates that between $150 and $175 million will be saved each year by this amendment. Frankly, I am not very comfortable with those numbers. But I do know that there will be a savings—both to the Federal Government and to the State and local governments which act as the prime sponsors.

I urge adoption of the amendment.

Mr. NELSON. Madam President, this amendment creatively and successfully undertakes to resolve the problem of pension contributions for CETA employees, and I think it is a very good proposal and I am prepared to accept the amendment.

Mr. JAVITS. Madam President, the amendment, it seems to me, fits in exactly with the basic purpose of the bill which, in section 121(o) on page 214, calls for such contributions, to wit, contributions to retirement systems, to "bear a reasonable relationship to the cost of providing benefits to participants."

I believe this amendment properly implements that purpose, and it is acceptable.

Mr. METZENBAUM. Madam President, I commend both the Senator from Wisconsin and the Senator from New York for their superb leadership in sponsorship of this legislation, which I believe to be very much needed legislation, based on yeoman work in bringing it to the floor.

I am very grateful to them for indicating that the amendment is acceptable to them. Therefore, Madam President, I yield back the remainder of my time and move the adoption of the amendment.

Mr. JAVITS. I yield back the remainder of our time.

The PRESIDING OFFICER. The question is on agreeing to the amendment (UP No. 1796) of the Senator from Ohio.

The amendment was agreed to.

AMENDMENT NO. 3528

(Purpose: Authorizes prime sponsor planning council to review efforts to reduce artificial barriers to employment, thereby emphasizing the importance of these efforts)

AMENDMENT NO. 3529

(Purpose: To add to the bill a definition of "artificial barriers to employment")

AMENDMENT NO. 3530

(Purpose: To emphasize efforts to eliminate artificial barriers to employment by including such programs in the list of topics on which the Secretary may conduct research)

AMENDMENT NO. 3531

(Purpose: To insure coordination between the prime sponsor and the resources of the juvenile court system under the Youth Employment and Training Program)

Mr. PERCY. Madam President, I call up my amendments 3528, 3529, 3530, and 3531 to the CETA bill, and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. If these are the amendments of which we have had notice, while I generally call on them to be read, we are familiar with them and I will not insist on that.

The PRESIDING OFFICER. The amendments will be stated.

Mr. PERCY. I ask unanimous consent that the reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 3528

On page 204, insert immediately before the period at the end of line 23 the following: ", including efforts to reduce and eliminate artificial barriers to employment".

AMENDMENT NO. 3529

On page 230 at line 15, insert the following new paragraph and redesignate the succeeding paragraphs and references thereto accordingly:

"(1) the term 'artificial barriers to employment' refers to limitations in the terms and conditions of employment which are not directly related to the individual's qualifications to perform the duties required by the employment position."

AMENDMENT NO. 3530

On page 278 at line 17, after the word "processes" insert the following: ", including programs designed to eliminate artificial barriers to employment".

AMENDMENT NO. 3531

On page 313, at line 18, after the words, "public employment service," and before "other youth programs" insert the following: "the courts of jurisdiction for status and youthful offenders,".

On page 314, at line 14, after "public employment service system" add the following: ", and the courts of jurisdiction for status and youthful offenders".

The PRESIDING OFFICER. Will the Senator use his microphone?

Mr. PERCY. I am sorry, Madam President, I have my microphone on.

Madam President, I am proposing today for consideration four amendments to the Comprehensive Employment and Training Act. Three would clarify and emphasize the general proviso already in the bill that programs under CETA "shall contribute to the maximum extent feasible to the elimination of artificial barriers to employment and occupational advancement." The fourth would require that applicants for funds under the CETA youth programs coordinate their activities with the juvenile justice system, as well as the other youth-related agencies already enumerated in the bill.

The bill reported by the Human Resources Committee authorizes the continuation of special Federal programs for disadvantaged workers who are in need of supplementary services beyond the scope of title II programs. The Secretary of Labor is directed to establish programs for certain groups, including offenders, who have unique employment problems.

The problems of all the people targeted by the bill—the handicapped, older workers, displaced homemakers, and others—urgently need solutions that we can provide. I can speak, however, with special knowledge of the problems of offenders because I have the honor of serving as an honorary chairman of the PACE Institute in Chicago. The PACE Institute is an organization of volunteers, businesspeople, Federal and local people who, for 10 years, have worked with the inmates of Cook County, Ill., jails giving them educational and vocational training opportunities they would not otherwise have had. Madam President, I ask unanimous consent that a description of the work of the PACE Institute be printed in the RECORD at the conclusion of these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. PERCY. Under the effective leadership of the Reverend John R. Erwin, the PACE Institute has had an outstanding record of success in helping offenders become responsible members of the community, an effort which we can all recognize as a major deterrent to crime. It is because of Reverend Erwin that I have developed such an appreciation of the offender training programs

sponsored through CETA and others and an understanding of the need for the amendments I offer today. Although my amendments emphasize efforts to eliminate artificial barriers to employment for all disadvantaged groups it must be recognized that rehabilitated ex-offenders bear a uniquely heavy burden in this regard. Therefore, it is my hope that the three amendments concerning artificial barriers will be particularly helpful in assisting this group.

My fourth amendment would require that applicants for funds under the CETA youth programs coordinate their activities with the juvenile justice system as well as other youth-related agencies. I feel it makes good sense to mobilize and coordinate the efforts of all community agencies working with young people in order to maximize the effectiveness of their programs.

Madam President, I urge the Senate to adopt these simple amendments which I believe will go a long way toward improving the performance of prime sponsors and the Labor Department in addressing the special employment problems of disadvantaged groups in our country.

EXHIBIT 1

PACE PHILOSOPHY

PACE Institute, Inc., started out in 1967 with a handful of students, volunteers, and donated teaching machines to improve the lives of the inmates of the Cook County Department of Corrections. In response to a criminal justice system in which offenders are punished by incarceration that affords little chance for productive activity, PACE Institute believes that the incarcerated must be given the opportunity to grow and learn through meaningful educational activity if they so desire. Time spent doing nothing in jail leads, in the majority of cases, to repeated criminal behavior upon release. In 1978, PACE has expanded to an educational institution serving over 500 inmates a year. Housed inside the walls of the Cook County Jail, PACE (Programmed Activities for Correctional Education) provides basic academic education, vocational training, counseling, and job referral services.

It is PACE's philosophy that through its program offenders can learn to live positive lives outside the cycle of crime and that education can also reduce their rate of recidivism (return to jail). PACE has proven this with its 23% rate of recidivism (return to jail within one year after release) compared with the 80% rate of the Cook County Department of Corrections as a whole. The Institute currently is placing approximately 74% of its students in jobs, educational institutions, or vocational training schools after their release from jail.

PROGRAM PLANS

During 1978, PACE has plans for several new program initiatives. At the request of the Board of Directors of the Cook County Department of Corrections, PACE is designing an educational program to serve a greater number of the jail population on a self-selecting basis. Plans will be developed for expanded programs in (1) high school level education, (2) college level education, (3) vocational education, (4) counseling, (5) job referral, and (6) financial aid for furthering education after release.

PACE also has plans to create a formal, written curriculum in basic academic education, as well as begin new courses in vocational education—such as auto body and fender repair—so that our students acquire marketable skills.

The Institute will also be doing its own research into the most effective teaching methods in education for the incarcerated. PACE will be conducting an experimental program using slow scan TV (two-way visual/audio transmission) to instruct math and English courses—comparing this method with direct teacher-student instruction to judge the more effective technique. If the slow scan TV approach proves more beneficial there is the possibility of serving more inmates and offering more learning opportunities through this technology.

PACE also plans to work with personnel directors of major Chicago-area businesses in training inmates in how to write job applications and conduct themselves on job interviews. PACE has found through its experience that inmates lack the interpersonal communication skills necessary to "sell" themselves in the labor market. PACE also is aware that there are many personnel directors who are eager to learn how to evaluate more effectively the skills of inmates. The basic objective of this program is to improve the skills of both groups. PACE intends to get commitments from the participating businesses to hire PACE students.

Mr. PERCY. As I say, in the formation of these amendments, I have worked closely with the Reverend Erwin, for whom I have the highest respect.

Madam President, amendment No. 3528 refers to section 109 of the committee bill which requires that the prime sponsor's planning council provide a "continuing analysis of the need for employment training and related services in such area." In keeping with the overall commitment of this legislation to eliminating artificial barriers to employment, my amendment 3528 specifies that the need in the prime sponsor's community for efforts to reduce and eliminate these artificial barriers be a part of the overall analysis submitted by the council.

Amendment 3529 pertains to Part B: General Provisions of S. 2570. The bill provides that "Programs shall contribute to the maximum extent feasible to the elimination of artificial barriers to employment and occupational advancement." Nowhere in the bill, however, is there a definition of "artificial barriers." I think it would be helpful to both the administrators and the beneficiaries of these programs to have a definition to work under. The language of my amendment 3529 has been worked out carefully with the committee and I believe it is acceptable to the managers of the bill.

Amendment 3530 refers to section 311 of the bill which requires the Secretary to engage in research programs related to the purposes of the bill. In keeping, again, with the overall commitment of the bill to reduce and eliminate artificial barriers to employment, my amendment 3530 adds "programs designed to eliminate artificial barriers to employment" to the list of topics on which the Secretary of Labor may conduct studies.

Amendment 3531 concerns title VI of the bill, the reauthorization of the youth employment and training programs we passed last year. Section 436 of the bill requires that applicants for financial assistance under the youth programs show that they have coordinated with other agencies in the community that work with young people and certain types of agencies are listed. My amendment No. 3531 would include the juvenile justice system to this list. I think it makes sense to mobilize and coordinate the efforts of all community agencies working with young people in order to get the best results from these programs. The fact that the juvenile justice system is not mentioned in the bill is, I think, a small oversight I would like to correct. I move the adoption of the amendments en bloc.

Mr. JAVITS. Madam President, this amendment is uniquely appealing to me because I am the author of that section of the bill which is found under title III, section 301(b)(2), which relates expressly to offenders and an offender program. I thoroughly concur with and have worked very hard in the committee to bring about offender programs. I believe recidivism, to wit, the repetition of offenses, is one of the major problems in the administration of criminal justice, and the fact that a person has job training and the opportunities for a job is a great way to avoid recidivism.

We have an organization in New York called the Vocational Foundation, Inc., VFI, which specializes in this field and has done extraordinarily gifted work.

I am thoroughly in agreement with the Senator. I think what he has done is to take other aspects of the CETA activities and implement the offender program into those. I believe the amendment is very constructive and completely complimentary to the bill. I hope very much the Senate will accept it.

Mr. PERCY. I thank my distinguished colleague.

Mr. NELSON. Madam President, we are familiar with that very successful offender program in Illinois. We think this is a very constructive amendment to the bill. As manager, I am prepared to accept the amendment and yield back the remainder of my time.

Mr. PERCY. I yield back the remainder of my time.

Mr. JAVITS. I yield back our time.

The PRESIDING OFFICER. The question is on agreeing to the amendments of the Senator from Illinois.

The amendments were agreed to en bloc.

Mr. PERCY. Madam President, I move to reconsider the vote by which the amendments were agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PERCY. Madam President, I wish to thank my distinguished colleagues very much for the work they have done in putting this bill together and particularly the attention they have given to the area of particular concern and interest to the Senator from Illinois. It is very much appreciated.

The Senator from Illinois would like to express appreciation also to the members of the staff of the floor managers of the bill who have worked so closely with Barbara Block, of my staff, to arrive at an agreement on these amendments.

I commend the entire committee in general for the work they have done on the bill. It is a good bill and one that I hope will bring a great many improvements in the administration of the CETA program.

UP AMENDMENT NO. 1797

(Purpose: To reduce the reporting requirements of prime sponsors)

Mr. MARK O. HATFIELD. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon (Mr. MARK O. HATFIELD) proposes an unprinted amendment numbered 1797.

Mr. MARK O. HATFIELD. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 243, lines 8 to 26 and page 244 lines 1 to 11, insert in lieu thereof the following:

"(d) In order to assist the Secretary in preparing the report required by this section, the Secretary shall require as a condition of financial assistance that annual reports and evaluations be submitted in accordance with regulations. The data derived from such reports shall be compiled on a State, regional, and national basis, and shall be included in the annual report to the Congress. Such reports shall include but not be limited to the following information:

"(1) a detailed comparison of program performance with approved plan;

"(2) participant characteristics (cross-tabulated) including age, race, sex, national origin, handicap, education level, previous wage, termination wage and public assistance status;

"(3) average cost per participant, including breakdowns by wages or salaries, allowances, training, supportive services, fringe benefits, administrative costs, and by program activity;

"(4) the types of outcomes that participants experience after the program including, but not limited to, placement in the public sector, placement in the private sector, entered school, entered the military, transferred to another program under this Act, and received public assistance (cross-tabulated by program activity);

"(5) a post-enrollment followup of a statistical sample of participants of each prime sponsor which is adequate to ascertain the duration of employment and wages paid to program participants for six months following their termination from federally assisted programs."

Mr. MARK O. HATFIELD. I would like to say I have discussed this amendment with the managers of the bill, both the majority and minority managers.

Madam President, this amendment would alter the reporting requirements, as required under section 128(d), to make them more manageable and cost-effective. Under the present legislation, prime sponsors are required to compile data, which many do not have the technical capabilities to process efficiently at this time. In addition, the Department of Labor at this time does not have the capabilities to provide the necessary technical expertise to adequately assist prime sponsors in establishing the necessary data systems. As a consequence, the present requirement will cost more to implement than will be effective for the purposes of the act and will produce a surplus of information which is unnecessary.

I applaud the committee's effort to reduce paperwork for prime sponsors and the Secretary of Labor. The committee has acknowledged that the more time and money spent on this kind of paperwork will result in less funds being available for program management and monitoring. The committee has expressed the need to be able to assess the "true virtues and failures occasioned by this complex multibillion dollar program" and this objective is accomplished in this legislation. However, the problems seemingly addressed by these reporting requirements will be moot as amendments aimed at tightening eligibility requirements and increasing auditing and monitoring are adopted.

The changes I am proposing in section 128(d) will be consistent with the committee goals, while making data collection more accessible and understandable. The reduction in the volume of information required of prime sponsors will contribute to knowledge rather than bury it in a morass of trivial data.

In section 128(d)(2) the reporting requirements will increase slightly from that which is presently required under CETA. However, S. 2570 requires that cross-tabulation be conducted according to program activity. Program activities are dynamic and changing, with participants often moving and changing. Each move by a participant requires that a participant's file must be pulled to log characteristics. If we assume each participant is involved in one and a half program activities, we can predict that the reporting system would be made about three times more complex and time consuming. This is clearly information overkill.

As can be seen throughout this section, the requirements for cross-tabulation have been reduced to only those areas that are most essential and cost-effective. The purpose here is to reduce prime sponsor paperwork, as well as require only meaningful information. As I stated earlier, to require cross-tabulation for age, sex, race, national origin, and handicap for each subsection is onerous and unnecessary. Prime sponsors do not have the necessary computer capability to report this information and it is unlikely that this technical capability would be available before the authorization for this act expires.

Finally, the postenrollment followup was reduced from 1 year to 6 months enabling prime sponsors to react more quickly to deficiencies in their program's effectiveness. In addition, this will reduce the load of information that must be recorded and maintained by prime sponsors and it will eliminate the difficulties that would arise from tracking participants for a full year after termination.

The essential purpose of this amendment is to provide the information desired by the Senate in this bill, but at a cost which is not prohibitive and which will yield the desired results.

Last, I would only state as a member of the Paperwork Commission, which has now ceased to exist, that I think this is one more opportunity to stay within the requirement of the data necessary to make assessments, evaluations, and reports of various kinds, but to cut down a little on the unnecessary paperwork that I feel would be an overburden to the prime sponsors.

Mr. NELSON. I agree with the senior Senator from Oregon. The only information which would be requested is that which is absolutely necessary. As I said earlier today, of the many forms I have looked at, 80 to 90 percent of the information they are asking for is totally unnecessary. I agree with the amendment and am prepared to accept it.

Mr. JAVITS. I agree with the amendment and yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MARK O. HATFIELD. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MARK O. HATFIELD. I thank the managers.

UP AMENDMENT NO. 1798

(Purpose: To provide greater flexibility in determining wage adjustments)

Mr. STEVENS. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS), for himself and Mr. GRAVEL, proposes an unprinted amendment numbered 1798.

Mr. STEVENS. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 221, line 14, strike out "." and insert in lieu thereof ", except in the case of an area where the average annual wage exceeds 150 percent of the national average annual wage of all such areas."

On page 222, line 2, strike out "." and insert in lieu thereof ", except in the case of an area where the average annual wage exceeds 150 percent of the national average annual wage of all such areas."

Mr. STEVENS. Mr. President, the amendment I am offering will provide for greater flexibility in determining wage adjustments under section 122(j) for those areas of our country where the average annual wage exceeds by 150 percent the national average annual wage for all other such areas under the authority granted to the Secretary under subsection (3) of section 122(j).

For many months, as this bill was being considered by the Employment, Poverty and Migratory Labor Subcommittee and by the full Human Resources Committee, we have attempted to convince Congress that S. 2570 is too restrictive to work effectively in Alaska. I have been assured that everyone understands that Alaska needs some exemptions because of its

unique problems which set it apart from all other areas of our country. The major problem Alaska faces under the bill as written is the limitation imposed upon wages for public service employees paid under this act. Mr. President, if I may, I would like to cite a few examples of Alaska's high wage rates. First, our State's average annual wage covered by unemployment insurance is 250 percent of the national average. Second, an economically disadvantaged family of four composed of two adults and two children with no income qualifies for a minimum of $13,584 in welfare benefits within the State of Alaska.

This is $1,584 above the maximum CETA wage authorized under section 122(j). In other words, an unemployed person in Alaska could make more on welfare than by going to work as a CETA employee. Third, the average entry level wage for a State of Alaska employee is approximately $17,000 per year. The average annual salary for an Alaska State employee is $22,497 per year. Fourth, neither the State of Alaska nor the municipality of Anchorage salary classification systems provide for salaries below the $12,000 per year maximum provided for in section 122(j).

Mr. President, the CETA program is extremely important to my State, as Alaska has the highest unemployment rate of any State in the Nation. I might add that our present 10.9 percent unemployment rate represents our summer employment rate when the construction season is in high gear. Our unemployment rate in the winter far exceeds this rate. Mr. President, I am asking for support for my amendment which will provide flexibility in determining appropriate wage rates for CETA participants. Otherwise, I fear for the CETA program in Alaska. The bill prohibits the creation of new job classifications for CETA participants. It prohibits dead-end, makework jobs. The Senate report accompanying this bill provides that transitional employment is the objective of the CETA program. Mr. President, Alaska must have relief from the wage limitation provision to enable our prime sponsors to create jobs which will lead to unsubsidized employment.

Under existing law, which provides for greater supplementation, the municipality of Anchorage under title II has successfully transitioned 66 percent of their CETA participants into unsubsidized employment. The State of Alaska, representing the balance of the State, has transitioned 45 percent of its CETA participants into unsubsidized employment. I suspect this is the most successful transition of CETA participants into unsubsidized employment in the country. Under the proposed bill, this success story will end as it is not possible to transition CETA participants from dead-end jobs into meaningful, productive unsubsidized jobs.

Last, Mr. President, I would like to add that my amendment does not provide any additional money for Alaska. All it does is provide greater flexibility in determining CETA wages given Alaska's tremendously high wage structure and given the need to comply with the intent of CETA. It would be ironic if the State most in need of a strong employment and training program would be unable to effectively participate in the proposed public service employment program. Without the flexibility that my amendment will provide, it will be extremely difficult for Alaska's prime sponsors to operate an effective public service employment program. I strongly urge my colleagues to adopt my amendment and at this time I thank the able Senator from Wisconsin (Mr. NELSON), chairman of the Employment, Poverty, and Migratory Labor Subcommittee, and also the distinguished Senator from New York (Mr. JAVITS), ranking minority member, for their understanding and compassion for Alaska's problem.

Thank you, Mr. President.

Madam President, I ask unanimous consent that the statement of my colleague be printed in the RECORD in full at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY MR. GRAVEL

Mr. President, the amendment Senator Stevens and I are introducing will assure the continuation of the CETA public service employment (PSE) program in Alaska. This amendment gives the Secretary of Labor discretion to raise the wage ceiling for public service employment in States experiencing an average wage at least 150% higher than the U.S. average wage as covered by unemployment insurance.

Earlier this year, I submitted testimony to the Subcommittee on Poverty, Employment, and Migratory Labor requesting an increase in the PSE wage ceiling. At that time, I pointed out that the wage rate of $10,000 imposed in 1972 had remained stagnant, while the Consumer Price Index had risen 52.2% cent and union wages had increased at least 7.5% each year.

The Committee recommendation allowed the PSE wages to increase up to $12,000 when local wages warranted an increase. The Committee's action responds reasonably to the inflationary condition experienced by most States. However, it clearly does not respond to Alaska's needs and it renders creditable provisions of the law requiring equal pay for equal work, adherance to fringe benefit policies, and reasonable assurance of transition to a private sector job meaningless in Alaska.

The entire Alaskan delegation has worked prodigiously to illustrate the unsuspected catastrophic effect of the wage ceiling on implementation of the PSE program in Alaska. Senator Nelson and Senator Javits in an effort to insure employment to the most economically and socially disadvantaged citizens within the confines of limited resources have extracted every fact and figure marginally relevant to Alaska's situation. Once they were satisfied of the legitimacy of our request they committed themselves to resolving our serious dilemma. I commend their responsible attitude and their understanding of a critical Alaskan problem.

Let me point out that Alaska's situation is not enviable. We have the highest unemployment rate in the country. Since the implementation of CETA my State has experienced an increase in double digit unemployment. Why has CETA not worked for us and why do we need an amendment to raise the wage ceiling on public service jobs?

The answer is revealed in a few simple statistics. To be eligible for a CETA public service job, an applicant must be economically disadvantaged, that is, have an income less than 70% of the BLS Lower Living Standard Budget, which is $12,000 for an Alaskan. Yet, once eligible, an Alaskan cannot earn a wage above the level of economically disadvantaged. The unemployed with families have little choice but to opt for welfare, which in Alaska provides at least $14,000 for a family of four.

Coupled with the economic disincentive for the unemployed to participate in CETA, is the equally difficult task of finding low-paying PSE jobs in Alaska. The program functions now because in excess of 55% of PSE slots are supplemented with non-Federal funds. These supplemented jobs are not the notorious jobs contributing to substitution that have been exposed in newspaper accounts of CETA. Rather these are the entry level, unskilled positions that CETA stresses. There are, in fact, no State entry level jobs paying less than $12,000.

The reauthorization of CETA eliminates supplementation for Title II PSE, limits the maximum wage to $12,000, and requires training and supportive services. Alaska cannot administer a public service job program with these requirements. We must have the flexibility to operate a program that responds to our unusual needs.

Mr. President, Senator Stevens and I propose to allow the Secretary of Labor to raise the wage ceiling for public service jobs up to the amount our average wage exceeds the national average wage as covered by unemployment insurance. As a precondition of this secretarial waiver, a jurisdiction must experience a significantly higher wage than the national wage.

Again, I appreciate the support and assistance of my colleagues, Senator Nelson and Senator Javits, and their steadfastness in redesigning the CETA program.

Mr. STEVENS. Let me state for the RECORD that, although my colleague is not here, I am sure he would join me in commending our staff assistants, Chip Wagoner and Nancy MacWood, who have worked very hard with the majority and minority staffs of the committee handling the bill from the Human Resources Committee. I feel that this amendment is most important to people of my State.

Mr. NELSON. Madam President, may I say that we have carefully evaluated and discussed this amendment. Alaska does stand alone, is unique, in terms of the wages paid and the high cost of living. This applies to only one State, in effect, because we are using the percentage of 150. I think that Alaska, without this provision, is being rather dramatically discriminated against. I think it is a sound amendment and I am willing to accept it.

Mr. JAVITS. Madam President, this amendment provides that Alaska will have more flexibility in this area. It just determines how the funds may be assigned to them. For the reasons advanced by Senator NELSON, I find the amendment unobjectionable on this side.

Mr. STEVENS. Madam President, as I pointed out in my statement, the Senator from New York is correct. We do not seek any additional funds.

Mr. JAVITS. Mr. President, we yield back our time.

Mr. STEVENS. I yield back the remainder of my time. Mr. President.

The PRESIDING OFFICER (Mr. MELCHER). Does the Senator from Wisconsin yield back his time?

Mr. NELSON. Yes, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. STEVENS. I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1799

(Purpose: To permit handicapped individuals over the age of 21 to enroll in the Job Corps, if the Secretary approves)

Mr. WILLIAMS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS) proposes an unprinted amendment numbered 1799.

On page 332, between lines 2 and 3, insert the following: "In the case of any handicapped individual, the Secretary may waive the maximum age requirement specified in the preceding sentence."

Mr. WILLIAMS. Mr. President, before I address myself to this amendment, and that will be brief, I should like to say a word of appreciation and applause not only for the management of the bill today on the floor by the Senator from Wisconsin (Mr. NELSON) and the Senator from New York (Mr. JAVITS), but for all of their work in bringing this measure to us. It represents the finest work in understanding problems that have developed in the CETA program, addressing them, and finding wise, very intelligent solutions to them and including them in the bill. As it develops on the floor today, the whole Senate has contributed to an understanding of this most necessary and worthy program. The Members have brought their good minds and concern to the floor with constructive amendments. What has been developed, not only by those I have mentioned, who are the leaders, but by all the Senate is a legislative masterpiece.

The fact that we have come this far without conflict in considering S. 2570 is a further tribute to the managers of the bill. They have worked tirelessly with Senators to shape further amendments which have strengthened the legislation without offending its essential principles, and I know that all of my colleagues share my deep admiration for the sensitive and expert way in which Senator NELSON and Senator JAVITS have handled this difficult responsibility.

Mr. President, I should also like to express my gratitude to all of the members of the Committee on Human Resources, who contributed greatly to developing the bill and the consensus that has formed behind it. In particular, I want to thank the distinguished Senator from West Virginia (Mr. RANDOLPH) for his special attention and many constructive suggestions for strengthening and streamlining the legislation and for his advice and assistance to me in obtaining adoption of special provisions for handicapped and older workers, who have unique needs in the labor market.

Finally, Mr. President, I should like to assure that my colleagues know how deeply we appreciate the work of the committee's dedicated staff, in particular the staff members of the subcommittee, Scott Ginsburg and Joan Hunziker for the majority and Jim O'Connell for the minority, and my assistants as chairman of the committee, Martin Jensen and Tom Lindsley. Their able assistance and technical expertise has been invaluable to the committee in shaping this legislation and to all the Members of the Senate who took a special interest in the bill.

Mr. NELSON. Mr. President, if the Senator will yield momentarily, I wish to say that this legislation is complicated. It is very important. There has been, as the Senator knows, a considerable amount of publicity here, in the Capitol, and many places around the country about certain abuses of the program, which were abuses, obviously enough, but I think exaggerated in the minds of many on how much abuse there was. Nevertheless, there were abuses and it is a difficult, complicated, controversial issue on which many months were spent in the hearings by the Human Resources Committee. They were participated in by the ranking minority member (Mr. JAVITS) as well as other members of the committee on both sides of the aisle. But even more important, the staff members who have worked on this, week after week, on the issues that have been raised by various Members of the Senate, have done a superb job in evaluating and working on the appropriate design of constructive amendments which have been offered by Members other than those on the committee. I want particularly to commend Mr. Scott Ginsburg and Ms. Joan Hunziker of the Subcommittee on Employment, Poverty, and Migratory Labor, and Mr. Jim O'Connell on the minority side for their constant, energetic and persistent work in designing a bill which I think shows the superb craftsmanship in its final result.

Mr. WILLIAMS. I certainly agree with the Senator from Wisconsin.

Has the amendment been stated, Mr. President?

The PRESIDING OFFICER. The Senator is correct.

Mr. WILLIAMS. Mr. President, in the Job Corps, eligibility extends to economically disadvantaged young persons who are 14, but not yet 22, years of age.

The amendment would simply permit the Secretary to waive the upper age limit in the case of handicapped individuals.

Age is not a particularly useful criterion to apply to handicapped individuals. Many who have passed the age of 21, because of their handicap or disability, have been unable to develop their employability in step with others their own age. The Job Corps provides an ideal setting for doing so.

The amendment would permit the Secretary to enroll handicapped persons beyond the age of 21 in the Job Corps.

It would neither increase nor decrease any other requirement respecting accessibility to Job Corps centers, since accessibility is now required for handicapped individuals between the ages of 14 and 22.

Mr. President, I know that this amendment has been studied and understood by the managers of the bill.

Mr. NELSON. Mr. President, we have previously looked at the amendment and discussed it with the distinguished chairman of the Committee on Human Resources. It is a constructive amendment to the pending legislation. I am prepared to accept it.

I shall yield back the remainder of my time as soon as the distinguished Senator from New York has completed.

Mr. JAVITS. I want to ask one question. The Senator has named an age bracket, 14 to 22. Is that in the regulations or in the bill?

Mr. WILLIAMS. That is in the law and restated in the bill.

Mr. JAVITS. Accepting that premise, because it would have to have some reference, I do not find the amendment objectionable. What did occur to me is, if there are any pragmatic difficulties brought up by the Department, though I am told the Department thinks this is all right, we shall hear about them. But certainly as we stand here——

Mr. WILLIAMS. They are apprised and have made statements of their approval that this be included.

Mr. JAVITS. I have no objection.

I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1800

Mr. WILLIAMS. Mr. President, I have a technical amendment which I send to the desk and ask to have considered.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS) proposes an unprinted amendment numbered 1800.

Mr. WILLIAMS. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 226, between lines 3 and 4, insert the following:

"(2) The provisions of this subsection shall not apply to allocations for any fiscal year after the fiscal year ending September 30, 1981."

Mr. WILLIAMS. Mr. President, the Senator from Wisconsin earlier today offered an amendment designed to press the administration into acting as quickly as possible to establish a sound statistical basis upon which to base the distribution of CETA funds. The amendment was adopted.

Subsequently, we discovered a technical oversight in the amendment. It inadvertantly eliminated the outside time limit by which the statistical improvement process must be completed.

My amendment would simply add September 30, 1981, as the date after which previously utilized methodology for establishing unemployment rates could no longer be used as a basis for distributing any CETA funds.

Mr. JAVITS. Mr. President, the amendment is acceptable.

Mr. NELSON. Mr. President, we agree with the proposed amendment. We are willing to accept the amendment.

I yield back the remainder of my time.

Mr. WILLIAMS. I yield back the remainer of my time.

The PRESIDING OFFICER. (Mr. ZORINSKY). All time having been yielded back, the question is on agreeing to the amendment of the Senator from New Jersey.

The amendment (UP No. 1800) was agreed to.

UP AMENDMENT NO. 1801

(Purpose: Technical change regarding educational institutions)

Mr. WILLIAMS. Mr. President, I send another technical amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS) proposes an unprinted amendment numbered 1801.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 196, lines 18 and 19, strike "local educational agencies" and insert in lieu thereof: "designated educational agencies and institutions."

Mr. WILLIAMS. Mr. President, during final markup of the bill, the committee divided educational agencies into two classes, for purposes of definition.

One class is "local educational agencies" as defined in the Elementary and Secondary Education Act.

The other class is "designated educational agencies and institutions" as defined in the Vocational Education Act, which includes certain postsecondary institutions.

The amendment would correct an oversight in changing the appropriate references to conform to the new definitions.

Mr. NELSON. Mr. President, we agree with that proposed change. I am prepared to accept the amendment. I yield back the remainder of my time.

Mr. JAVITS. Mr. President, the amendment is acceptable.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from New Jersey.

The amendment (UP No. 1801) was agreed to.

UP AMENDMENT NO. 1802

(Purpose: To define conditions under which CETA participants may be employed on the rehabilitation of housing for lower-income families)

Mr. WILLIAMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS) proposes an unprinted amendment numbered 1802.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 224, line 14, insert (1) after (c), and between lines 24 and 25, insert the following:

"(2) The Secretary shall issue regulations setting forth conditions under which prime sponsors, in carrying out community improvement projects, community betterment activities, and public service employment projects under this Act, may provide work for eligible participants on the rehabilitation of housing for lower-income families as defined in Section 8(f)(1) of the United States Housing Act of 1937, as amended, as part of community revitalization or stabilization projects."

On page 381, line 5, strike "low-" and insert "lower".

Mr. WILLIAMS. Mr. President, S. 2570 provides for the employment of CETA workers on a variety of community improvement and community betterment projects, including rehabilitation of housing for low-income families. However, the bill does not define "low-income families" for purposes of housing rehabilitation, nor does it establish any additional conditions under which such work may be done with CETA funds.

The amendment would establish, as a condition of such projects, that the housing to be rehabilitated be limited to housing that is for "lower income families" as refined in the U.S. Housing Act of 1937 and that is identified as in need of rehabilitation under a community revitalization or stabilization project.

Such projects are assisted under programs administered by the Department of Housing and Urban Development and carried out by local chief elected officials, who are also CETA prime sponsors or program agents.

The amendment would encourage coordinated use of HUD and CETA funds in housing rehabilitation projects. By using a common definition of eligible housing, administrative complexities would be avoided.

The result of combining CETA and other Federal funds in meeting urgent community needs would be a highly visible and valuable product that would reflect positively on the CETA program.

Mr. President, I hope the managers, who I believe have been advised of this amendment, will see the wisdom of getting comparability into the two programs so that CETA employees can work on housing rehabilitation projects in coordination with HUD programs.

Mr. NELSON. I am prepared to accept the very constructive amendment.

Mr. JAVITS. Mr. President, just one question.

We would not want to see the Community Development Corporations, which are authorized under title VII of the Economic Opportunity Act, excluded from this type of activity, because they also may employ CETA workers.

Mr. WILLIAMS. That is understood.

Mr. JAVITS. That would be covered.

Mr. WILLIAMS. They are directed toward the same objectives discussed here.

Mr. JAVITS. I have no objection.

Mr. WILLIAMS. I yield back the remainder of my time.

Mr. NELSON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from New Jersey.

The amendment (UP No. 1802) was agreed to.

UP AMENDMENT NO. 1803

Mr. NELSON. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. NELSON) proposes an unprinted amendment numbered 1803.

Mr. NELSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On Page 251, line 10, insert before the period: "and services, pursuant to regulations of the Secretary, to participants in programs under this Act in accordance with an agreement between the State vocational education board and the prime sponsor."

Mr. NELSON. Mr. President, this amendment would require State vocational educational boards to reach agreements with prime sponsors prior to dispensing funds provided to State vocational educational boards under title II of CETA. An amendment offered earlier in the week by Senator DOMENICI inadvertently eliminated such agreements from having to be entered into. I have checked with Senator DOMENICI, and he has no objection to this amendment.

Mr. JAVITS. That is fine with me, as long as Senator DOMENICI understands.

Mr. NELSON. We have checked with Senator DOMENICI.

Mr. President, I yield back the remainder of my time.

Mr. JAVITS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Wisconsin.

The amendment (UP No. 1803) was agreed to.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO RECOMMIT H.R. 3946 TO THE COMMITTEE ON FINANCE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar Order No. 988, H.R. 3946, providing for a refundable Federal income tax credit for

educational purposes, be recommitted to the Committee on Finance.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO INDEFINITELY POSTPONE SENATE RESOLUTION 524

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar Order No. 990, Senate Resolution 524, waiving section 303(a) of the Congressional Budget Act with respect to the consideration of H.R. 3946, be indefinitely postponed.

Mr. JAVITS. Any required clearances have been made, I gather?

Mr. ROBERT C. BYRD. These have all been cleared on the Senator's side.

Mr. JAVITS. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order Nos. 1064, 1070, and 1071.

The PRESIDING OFFICER. Without objection, it is so ordered.

DAYS OF REMEMBRANCE OF THE HOLOCAUST

The joint resolution (H.J. Res. 1014) designating April 28 and 29 of 1979 as "Days of Remembrance of Victims of the Holocaust," was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

M/S WILLIAM E. BOONE

The bill (H.R. 2952) for the relief of M. Sgt. William E. Boone, U.S. Army, retired, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

STEPHANIE JOHNSON

The bill (H.R. 7162) for the relief of Stephanie Johnson, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, that completes the measures cleared for action by unanimous consent with the minority.

I thank Mr. STEVENS and Mr. JAVITS.

PRIVILEGE OF THE FLOOR

Mr. HEINZ. Mr. President, I ask unanimous consent that the following members of my staff have the privilege of the floor for the duration of the day: Gwen King, Mary Louise Krukowski, and Bob Hepler.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPREHENSIVE EMPLOYMENT AND TRAINING ACT AMENDMENTS OF 1978

The Senate continued with the consideration of S. 2570.

Mr. JAVITS. Mr. President, I yield 2 minutes to the Senator from Illinois, on the bill.

Mr. STEVENSON. I thank the distinguished Senator from New York for yielding.

Mr. President, it would be difficult to contrive more inefficient and politically corrosive means of creating employment than by the public service employment programs of CETA. The efforts of the distinguished managers of the bill and the Human Resources Committee will do little to reform programs which in concept are defective.

This expensive measure, over $11 billion in total CETA expenditures for fiscal 1979, most for public service employees, will authorize in practice a complex form of revenue sharing for units of Government facing less critical budgetary constraints than the Federal Government. CETA frequently produces Federal support for existing jobs, instead of new jobs. New jobs are sometimes "make work" jobs. The availability of funds depends on arbitrary formulas. The CETA programs require for their implementation layers of bureaucracy and consultants which absorb funds better saved or spent elsewhere. It will continue to facilitate widespread corruption. For example, records are missing which are needed to ascertain the uses of millions of dollars of CETA funds in East St. Louis, Ill. Last fall the Department of Labor recommended that the prime sponsorship for CETA be moved from that city to the Illinois Governor's Office of Manpower and Human Development. Now that office is itself the object of an investigation into allegations of corruption. CETA spawns corruption. It produces political patronage. And it is a grossly inefficient means of providing training and jobs for those most in need of both.

The funds would be better used to reduce the Federal deficit and reform the welfare system. They could create jobs by funding essential public works, housing or transportation facilities. During the depression the Federal Government involved itself directly in the creation of jobs and good works through such instrumentalities as CCC and WPA. The legacies of those efforts enrich our lives. The legacy of CETA is a mass of public cynicism and distrust toward government.

If my vote made the difference I would hesitate to cast it against this bill. Time is needed to develop alternative means of creating employment in the public and private sectors. Time is needed for the Congress to change its habits which first create unemployment, as by its refusal to permit a subminimum wage for youth, and then require it to fund jobs for unemployed youth. We are not likely to take the time and begin the effort without some protest against our habits and their consequences, including this bill. So I intend to cast my vote to protest a well-intentioned but ill-conceived measure which by its cost and waste causes unemployment and inflation.

Mr. JAVITS. Mr. President, we are ready for another amendment, if Senator DOLE wishes to call it up.

The PRESIDING OFFICER. The Senator from Kansas.

UP AMENDMENT NO. 1804

(Purpose: To include the membership of community-based organizations in the private industry councils)

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), for himself and Mr. SCHMITT, proposes an unprinted amendment numbered 1804.

Mr. DOLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 379, line 6, strike out "and".

On page 379, line 6, insert after "labor" a comma and the following: "community-based organizations."

On page 379, line 9, strike out "community-based organizations,".

Mr. DOLE. Mr. President, title VII of the Comprehensive Employment and Training Act is an innovative plan to coordinate private industry and CETA planners in an effort to solve the problem of structural unemployment. I am pleased to join the committee in wholeheartedly approving this measure which will foster the channeling of CETA participants into unsubsidised private sector jobs. I have long believed that, given appropriate training and employment opportunities, the vast majority of the hardcore structurally unemployed could be a viable and worthwhile part of the private sector work force. Title VII is a move in that direction, and I commend the distinguished members of the committee and, in particular, the two floor leaders of the bill for their thoughtful and innovative approach to this very serious unemployment matter.

DOLE AMENDMENT

Mr. President, the private industry councils to be set up on the local level will be the tool by which private industry will be drawn into the CETA effort. The success of title VII depends on the effectiveness of the PIC's to integrate business into CETA's goal of solving the problem of structural unemployment. S. 2570 mandates that busi-

ness, including small and minority businesses, and labor be represented on the council, a majority being business representatives. In addition to the mandated employer and labor representatives, the committee language provides that the prime sponsor may appoint representatives of community-based organizations, educational agencies, and representatives of persons eligible to participate in activities funded under this title.

My amendment to title VII would mandate the important participation on the PIC councils of existing community-based organizations under title VII. Mr. President, I firmly believe that the membership of such organizations, such as the SER-Jobs for Progress, the NAACP, the Urban League, and others would significantly enhance the effectiveness of the private industry councils. And I would further suggest that it would be unwise for us to permit their membership on the councils to be left up to the arbitrary discretion of the prime sponsor. To allow this, I believe we would be jeopardizing the potential effectiveness of the private industry council in making the private sector an integral part of CETA in the community.

MEMBERSHIP OF COMMUNITY-BASED ORGANIZATIONS ON THE PRIVATE INDUSTRY COUNCIL

Community-based organizations such as SER-Jobs for Progress, the NAACP, the Urban League, and other similar groups, have been striving for years to deal with the problem of structural, hardcore unemployment. These groups, with their experience and expertise in unemployment problem solving in their own respective communities can provide critical input to private industry councils. One has only to look at the long record of success of such groups to see that their presence on the PIC's would be a tremendous asset to business leaders who are attempting to solve structural unemployment problems. The proven effectiveness of community-based organizations clearly indicates that mandating their membership on the PIC's would provide the experience in unemployment problem solving that the business leaders will need, and would be an important linkage to the groups that local PIC's will serve. The official vote of community-based organizations on the council would be highly educational to council members not immediately involved in the delivery of manpower services. Mr. President, my amendment would serve only to strengthen the language of this bill so that representation by those who are very knowledgeable of the problems and needs of the hardcore unemployed be insured on the PIC's.

PIC'S: A REPRESENTATIVE GROUP

While the importance of input from community-based organizations is useful and important, the concept behind title VII rests on the belief that the problem of hardcore unemployment can best be alleviated through cooperation with private industry, thus the mandate for the majority of the members of the private industry council to be business representatives. This is as it should be, given the fact that the goal of title VII is to give private sector focus to local CETA programing. Mr. President, my amendment does not weaken the ability of business representatives to draw the private sector community into the private sector program, rather, through balanced representation of the private sector and community-based organizations, this amendment will aid the private industry council in helping to alleviate a very serious structural unemployment situation.

Mr. President, I urge the adoption of this important amendment.

Mr. President, as background, I think I should indicate that originally I had proposed an amendment that would mandate community-based organization representation and would mandate client representation on the private industry councils. I have since modified that amendment to eliminate a requirement for client representation on private industry councils and have retained the provision which would mandate representation by community-based organizations on private industry councils.

Specifically, I am talking about community-based organizations such as NAACP, SER-Jobs for Progress, CAP, the Urban League, and others who have had long experience in this area and who have a real interest in it.

Also, it is fair to say that the primary author of this amendment was the distinguished Senator from New York (Mr. JAVITS) in the committee. But I believe that by modifying the amendment, it is now acceptable to the floor managers, and on that basis I will not pursue it further.

Mr. JAVITS. Mr. President, I am the author of this idea, and I am very proud of it. I think it is a very good amendment, and it is acceptable to me.

Mr. NELSON. Mr. President, in all honesty I have to say I did not support including the placement of community based organizations on the private industry councils, in committee, not because I do not think the private industry councils should have representation on them from community-based organizations, but only that we should not mandate it, because all prime sponsors have other planning councils that do have representation from client organizations, community-based organizations, and in some circumstances it may be a good idea and in some circumstances it may not.

There was one other point, of course. This private industry council is entirely new. This bill only provides for representation of labor and management on the private industry councils. There were a number of people who had ideas about mandating categorical representation of many other groups.

I was concerned about expanding it beyond labor and management to leave the flexibility with the prime sponsor.

However, I am prepared to accept the amendment of the Senator from Kansas.

I yield back the remainder of my time.

Mr. DOLE. I might just say to the distinguished floor manager it had been modified, of course.

Mr. NELSON. Yes.

Mr. DOLE. Right

Mr. JAVITS. That is the reason it is acceptable.

Mr. DOLE. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. PAUL G. HATFIELD). All time having been yielded back, the question is on agreeing to the amendment of the Senator from Kansas.

The amendment was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3459

(Purpose: To eliminate the Senate's advice and consent waiver respecting the creation of a sixth Department of Labor Assistant Secretary)

Mr. HELMS. Mr. President, I have an amendment No. 3459 at the desk, which I call up, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an amendment numbered 3459.

Mr. HELMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 389, strike lines 15 through 21.

On page 389, line 22, redesignate paragraph "(c)" as paragraph "(b)" and renumber all lines accordingly.

Mr. HELMS. Mr. President, I shall be quite brief. Two paragraphs in S. 2570 would create both a new assistant secretary position in the Department of Labor and further assure that it go to Nik B. Edes, currently Labor's Deputy Undersecretary for Legislation and Intergovernmental Relations. Edes' name is not mentioned in the bill, but everyone seems to agree that he would get the job.

My amendment leaves intact the newly created position, but it does remove the "grandfather clause." Along with OMB and key House Members, I do not approve of the language which appears designed to abridge the President's authority to make an appointment to an executive level position. This sets a bad precedent for the Senate.

Our Constitution requires that the President make all executive-level appointments and that the Senate give its advice and consent after examining the nominee's fitness to hold office. This procedure should not be altered.

For that reason, I urge adoption of the amendment, and I hope that the managers of the bill will accept it.

Mr. JAVITS. Mr. President, I yield such time as he may desire to the Senator from New Jersey.

Mr. WILLIAMS. I thank the Senator from New York.

Mr. President, the purpose of section 8 of the committee's bill is to establish a sixth Assistant Secretary in the Department of Labor to manage the Department's legislative affairs and intergovernmental relations.

The White House has approved the establishment of this position so as to put the Department's legislative affairs activities on a par with that of other agencies who have an Assistant Secretary for those duties.

The section also provides that the President may—and I emphasize may—fill the new position, without the necessity of nomination and confirmation by the Senate, by appointment of the person who now performs those same duties for the Department as a Deputy Undersecretary.

In offering this section as an amendment to the CETA bill in committee, it seemed to me to be unnecessary to require the White House and the Senate to undertake the cumbersome confirmation process for an individual who has been performing well in a job whose title is being changed to conform to Federal agency practice.

I understand that a member of the staff of the Office of Management and Budget has objected that waiving the confirmation process would impinge upon the President's constitutional power of appointment. This simply is not correct.

The provisions of the section would allow the President to fill the new position with anyone he chose. It would allow the President full freedom to submit a nominee for the position to the Senate for confirmation, even if that nominee were the present Deputy Undersecretary, Mr. Edes.

Under the section, Mr. Edes would fill the new position, and the Senate confirmation process would be waived, only if those were the President's wishes.

It is not my intent to embroil the Senate in any debate over the wisdom of waiving the confirmation of an appointive official.

Therefore, in the interests of resolving this matter quickly, I would have no objection to the deletion of subsection (b) of section 8.

But I believe it is important for the Department of Labor to have an Assistant Secretary for handling these duties, and since that is the wish of the President, I hope that my colleagues will agree to the establishment of the position.

Mr. JAVITS. Mr. President, in reply to the Senator, as I understand it, the establishment of the position is taken care of by page 39, lines 12 through 14. What the amendment strikes is the vesting of that position in the person holding the office which means it strikes page 39, lines 15 to 21, and it is on that basis that the amendment is acceptable to me.

Mr. NELSON. I agree with the distinguished Senator from New York.

I am prepared to yield back the remainder of my time.

Mr. HELMS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from North Carolina.

The amendment was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1805

(Purpose: To prevent the use of CETA funds for promoting unionization or requiring persons to join a union as a condition of receiving training under CETA programs)

Mr. HELMS. Mr. President, I have another amendment at the desk which I call up and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes unprinted amendment numbered 1805.

On page 218, between lines 4 and 5, insert the following: "(bb) No prime sponsor may use any funds received under this Act to assist or promote union organizing.

"(cc) No individual may be required to join a union as a condition of enrolling in a program assisted under this Act in which only institutional training is provided, unless such institutional training involves individuals employed under a collective-bargaining agreement which contains a union security provision.

Mr. HELMS. Mr. President, on May 8, 1978, I received a letter from Mr. Willis Lawrence, an attorney representing the Guam Employer's Council, requesting that I look into the misuse of CETA funds in the territory of Guam.

The Guam Employer's Council had previously filed a formal complaint with Labor Secretary Marshall, and I understand the Department did in fact initiate an investigation of the allegations in March of 1978. However, it appears the Labor Department has been reluctant to hold an administrative hearing either in Guam or California on the alleged violations. Indeed the investigation seems to stalled at the present time. Upon receiving Mr. Lawrence's letter and supporting documents, I wrote to Secretary Marshall urging that the investigation be completed and a hearing scheduled if necessary. That was over a month ago, I have had no response from the Secretary.

Quite timely, Inquiry magazine published just this month an article by Bill Keller which describes this misuse of CETA funds in Guam. I ask unanimous consent that the article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. According to the complaint of the Guam Employer's Council, Labor Department officials intentionally used the CETA program to enable the Operating Engineers Union to "lock up" the construction trades on the island. In fact, the Labor Department did award a $450,000 training contract to the operating engineers. It is alleged that this was accomplished without soliciting competitive bids as required by law and further that Labor Department officials conspired with union officials to simultaneously issue regulations to restrict the use of nonunion labor.

Because of these serious allegations and because of the Labor Department's seeming inability to get to the bottom of the matter, Senator HATCH and I will in all likelihood be calling for a GAO investigation within the next several days.

Mr. President, my amendment simply forbids prime sponsors from making CETA grants to unions for the purpose of enabling them to move in and organize an area—as has been the case apparently in Guam. My amendment serves notice that federally funded CETA grants cannot be used as political payoffs to unions.

My amendment is also directed at another unfair situation. The amendment would give limited protection to a worker by not requiring him to join a union as a condition of enrolling in any institutional training program assisted by this act and sponsored by a union unless such institutional training involves individuals employed under a collective bargaining agreement.

Since unions are eligible to receive CETA grants to operate training programs—programs financed by the taxpayers—as a matter of public policy, the trainees should not be required to join the union or be forced to pay union dues. The Federal Government should not be financing training programs where the enrollees are required to join the very union which has received the Federal grant. If the worker chooses to join the union voluntarily, then that is his choice. But he should have the choice as long as he is enrolled in the federally financed training which pays his salary.

My amendment simply provides the worker some freedom of choice and further protects the integrity of the CETA program by insuring that unions will not have the unlimited use of the taxpayers' funds to enlarge their own membership rolls without any restrictions whatsoever. I am pleased that the sponsors have agreed to accept the amendment.

EXHIBIT 1

LOCKING UP GUAM FOR LOCAL 3

(By Bill Keller)

Last February, employers in the construction industry on Guam sent a formal complaint to Secretary of Labor Ray Marshall alleging that Labor Department officials in San Francisco had conspired with the Operating Engineers Union and the Dillingham Corporation to award a $1.8 million CETA contract for job-training on the island. In March the department began an investigation of the charges, but to date it has issued no finding.

If the Labor Department has been slow in making a judgment on these charges, it is not because of a lack of evidence. Indeed, interviews and government documents reveal that Labor Department officials and politicians, notably Phillip Burton (D.-Calif), attempted to use the CETA program to help the Operating Engineers lock up the construction trades on Guam. In so doing, they have apparently broken the law by circumventing competitive bidding requirements and exercising administrative powers to promote union activities and accomplish objectives far broader than the employment and training Congress intended. They have also attempted to disable competition from Asian firms by manipulating Guam's wage and labor structures. According to these sources, the department awarded a $450,000 training contract to the union—without soliciting bids as required by law—and issued regulations that raised construction wages and restricted the use of nonunion, alien labor. When Governor Ricardo J. Bordallo of Guam

opposed these actions, Labor Department representatives threatened to withhold CETA employment and training funds as a means of obtaining his cooperation.

Oddly enough the Labor Department-Operating Engineers plan to lock up Guam's construction trades for the union had its beginnings not on Guam, but in Hawaii. Late in 1976, when unemployment in the Hawaiian building trades was high, Governor George R. Ariyoshi and representatives of various trade unions set their sights on Guam as a possible solution for the problems of Hawaii's construction business.

Guam was an obvious choice. Located 6000 miles from the West Coast of the United States, Guam is a central link in the chain of islands on which the United States has anchored its military might in the Western Pacific. Major installations on the island include a nuclear submarine base, a large naval ship repair facility, and a Strategic Air Command airfield. Military spending is almost always a boon for the construction industry, but in 1976, nature and the military combined to make Guam especially attractive to builders. In May of that year, Typhoon Pamela swept the island, causing major damage; shortly afterwards, the navy was prepared to let over $400 million in contracts for redevelopment and construction on Guam. Short-term spending of this magnitude presaged a booming economy and certain prosperity for the construction industry. Everyone, including Governor Ariyoshi's friends, wanted to share in the feast.

Especially eager was Local 3 of the International Union of Operating Engineers. Based in San Francisco, Local 3 has 35,000 members in a jurisdiction covering Northern California, Nevada, Utah, Hawaii, and the mid-Pacific Islands. Local 3 has long been interested in organising on Guam—it assigned staff members to the island in 1963 and built offices in Agana, the capital, in 1971—but its efforts have met with little success. Union officials have conceded that as of August 1977, they had organized only about 130 of Guam's estimated 4800 construction workers. Therefore, in recent years the union has intensified its drive on Guam, hoping to cash in on what it contends will be "massive amounts of construction and industrial development in the next 10–15 years" for "storm repair," "oil deposits," and "industrial and trade zone work to supply the booming Pacific Rim economy and the entire spectrum of ocean resources development."

Also anxious to get in on the construction boom in Guam was the Dillingham Corporation of Hawaii, a multinational conglomerate with a broad range of construction operations on the Pacific coasts of the United States and Canada, and in Hawaii, Australia, and New Zealand. Already involved on Guam through its subsidiary, the Hawaiian Dredging and Construction Company, Dillingham was looking for new ways to compete against local and Asian construction firms.

But it was not easy for the Operating Engineers or Dillingham to cash in on Guam's new construction prosperity. Guam's construction industry has traditionally used foreign laborers, principally "non-immigrant aliens" from the Philippines and South Korea, who are admitted for temporary work assignments. These workers have been brought in to ease a shortage of skilled construction workers. Many Chamorros, or natives of Guam, look down on construction work. As a result, few of them have been trained in the construction trades, and those who are skilled often leave the island for the higher wages and better working conditions on Hawaii or the U.S. mainland. Hence, in March 1977, temporary alien workers held approximately 82 percent of Guam's construction jobs. Moreover, the ready availability of foreign workers has kept wages low. For example, in 1977 a construction electrician on Guam received $3.22 an hour, while his counterpart in Hawaii was paid $10.34.

The use of alien workers angers the Operating Engineers, who have termed it "the inhuman and cancerous exploitation of working people on Guam." The union asserts that the practice artificially holds down wages and forces workers to accept substandard working conditions. The union is also concerned that its efforts to organize the island have failed largely because alien workers are granted only temporary working permits and generally must acquiesce in conditions offered by their employers or face deportation. But firms on Guam, as well as many Japanese and Korean companies that do business on the island, depend on temporary alien workers to fill their demand for skilled construction artisans. Without a ready supply of relatively inexpensive Asian labor, they cannot compete with huge, off-island American firms such as Dillingham.

It was with this in mind that the Operating Engineers and their government friends developed a strategy to unionize Guam's construction trades. According to informed sources, late in 1976 Governor Ariyoshi of Hawaii and trade union representatives met with Labor Department officials, including top Labor Department regional administrators William Haltigan and Royce Hulsey. At the meeting, they asked the Labor Department not to certify aliens for employment on Guam unless the employers there first recruited in Hawaii at prevailing Hawaiian wage rates. Similar meetings were held early in 1977. During these sessions the idea first surfaced of changing the certification of aliens and increasing wage rates to aid a union takeover on Guam. According to persons present at the meetings, Labor Department officials agreed to the concept of unionization for Guam, and supported Dale Marr of Local Union 3 in his plans to use the Comprehensive Employment and Training (CETA) program as a means of locking up the island. This could be accomplished if the Labor Department paid the union to run the CETA training program on Guam. CETA funds would then be used to recruit new union members and train them in organizing techniques, as well as in construction industry trades. The new union men would then enter "open shops" on Guam and apply their newly acquired skills.

Misuse of CETA funds on Guam has been commonplace for several years, and the training program has been an annual fiasco. In December 1976, a federal audit revealed "gross mismanagement and lack of control," and questioned nearly half of all CETA expenditures, and amount exceeding $1 million. Federal correspondence with Governor Bordallo chronicles numerous violations of CETA regulations, including "loss of control over program activities," "enrolling and employing ineligible participants," and "improper expenditure of program funds." On March 10, 1977, the Labor Department fired the CETA staff on Guam and ended funding for all CETA training programs and related activities. Within a fortnight, the associate regional administrator for Region IX withdrew Guam's letter of credit for federal funds, charging that the governor had overdrawn the CETA accounts by $192,112.

In mid-August 1977, Regional Administrator Haltigan traveled to Guam to present proposals that would set up a construction-trades training program under CETA, double wages paid to construction workers over a two-year period, and provide for new alien certification procedures to be administered by the Labor Department. Local newspaper accounts of that period document the near universal panic with which the Haltigan proposals were received on Guam. On August 20, the Pacific Daily News reported, "The proposals are directly opposed by business, construction, military and government officials, who say the increases will come too soon and will have a direct negative impact on the island's economy." Haltigan's proposals included a requirement that any employer who used alien labor must pay higher rates determined by the U.S. Department of Labor. Governor Bordallo stated, "This whole thing is going to hit Guam like a bombshell."

Alone in welcoming the proposal was Local 3 of the Operating Engineers Union. In a letter to Haltigan, dated August 9, 1977, union leader Dale Marr underscored his support for the proposals and warned, "I would point out to you that you can expect formidable opposition from a number of employees of federal [Government of Guam] agencies and politicians whose ox you will be goring. We are of the opinion, however, that the Carter administration, Secretary Marshall, and above all, Don Elisburg [assistant secretary of Labor] and the American labor movement will support your efforts on all fronts. Hang tough." According to another Pacific Daily News story, the Labor Department was under acute political pressure to solve the alien labor problem on Guam. "The pressure, sources have said, comes from the Governor of Hawaii, the AFL-CIO, representatives of the Departments of Defense and Interior and unnamed persons in the White House." In confirmation, Haltigan said "Guam is something of a cause célèbre at the moment. This thing has been squirreling around at very high levels on Capitol Hill."

The new proposals and the reaction on Guam also caused consternation at the Department of Defense. On August 19, 1977, high-level Defense Department officials telegrammed Undersecretary of Labor Brown, stating that "the bidding for all construction work for military activities on Guam has been postponed because of confusion about labor availability and wage policy applicable to Guam, and that DOD's contractual efforts to carry out the typhoon damage restoration effort have come to a complete standstill." Apparently, the navy was under pressure to spend its Guam construction funds, which exceeded $400 million. It became incumbent upon the Department of Labor to produce a labor force and get Guam's house back in order—to make sure that future allocations for the navy would not be jeopardized.

On September 13, 1977, under the Immigration and Nationality Act, the Labor Department published new regulations that imposed "adverse effect rates," doubling the wages of construction workers on Guam over two years, with the first increment to become effective as of March 1, 1978. The regulations also specified new certification procedures for temporary alien workers on Guam, and provided that the certification process was to be administered by the U.S. Department of Labor. Many Guam employers reviewed the new regulations uneasily, fearing the Labor Department's new certification power. In the face of mandatory wage hikes, they questioned whether they could continue to compete with large off-island and multinational construction firms. Many cast a wary eye at the Operating Engineers Union, fully aware that the new regulations removed major barriers to a union takeover on Guam.

The Guam employers did not know that early in September the Labor Department had begun informal discussions with a private consulting firm in San Francisco. During October and November, Labor Department representatives briefed members of the firm's staff on the situation in Guam and showed them many documents and letters. The name of Congressman Phillip Burton cropped up more than once in their discussions as a reference point and, though unseen, a force to be reckoned with.

On November 16, 1977, the consultants met in San Francisco with the Department of Labor grants officer and his staff to discuss a

way to refund the Guam CETA program. At that meeting a strategy was hashed out to hire and train a new CETA staff and to tender contracts to employers on Guam who had demonstrated training capabilities. Five days later, on November 23, the consultants submitted the final proposal to Associate Regional Administrator Hulsey. According to persons who were present, during that meeting Hulsey offered to hire the consulting firm to legitimize or "launder" illegal contracts with the Dillingham Corporation and the Operating Engineers Union, Local 3. When Hulsey made the offer, he mumbled under his breath. "What's that?" one of the consultants asked. "Dillingham," he repeated, "and the Engineers. The training contracts will have to go to them." On the following day, when the firm withdrew from the proposed scheme, Hulsey stated his intention to continue without its participation or assistance.

On the afternoon of November 18, 1977, another meeting took place on the ninth floor of the Federal Building in San Francisco. Labor Department administrators Haltigan, Hulsey, and Charles Pickens met with Local Union 3 officials, including Dale Marr, and with two executives of the Dillingham Corporation. Virginia Allee, regional administrator for the Employment Standards Administration, also was present. A plan to use CETA Title I funds to train construction workers on Guam was reviewed. The sum of $1.8 million was earmarked for the Engineers Union and Dillingham. At approximately 2:45 p.m., Congressman Burton arrived. Assistant Secretary of Labor Donald Elisburg arrived a few minutes later. The group exchanged greetings and the progress of the meeting to that point was summarized. Both Burton and Elisburg agreed on the soundness of the plan and on the scheme to set the union and Dillingham up in the training business. "Burton was brought in by the Engineers," one source said. "It was a show of strength; they go back a long way together."

This entente represented the culmination of a longstanding political alliance between the Operating Engineers and the Burton machine. Burton, who presides over the House National Parks and Insular Affairs Subcommittee which oversees Guam and the Pacific Trust Territories, found himself in a position to help his friends—friends whose unquestioned loyalty could be tabulated in terms of large yearly campaign contributions and membership support. The Guam employers didn't know they never had a chance.

In December, the Labor Department sent representatives Jess Ramos and Tony Corderp to Guam to convince Governor Bordallo to go along with the union-Dillingham CETA training deal. According to informed sources, the governor relented only after he was told that his complicity was a condition for refunding the CETA programs that had been terminated six months earlier. At that time, severe media criticism had been leveled at the governor's men for bungling the program and losing the CETA revenues and jobs. Presumably to protect his own reelection prospects, Bordallo agreed to support the union-Dillingham deal through a subcontract financial arrangement.

On January 16, 1978, the *Pacific Daily News* reported an agreement to start a new construction training program on Guam. The article stated, "The agreement was reportedly reached after three days of negotiations last week in Honolulu between officials of Dillingham Construction Company, the Operating Engineers Union, GovGuam and the U.S. Department of Labor."

By late January, the Labor Department was well on its way to insuring unionizing for Guam and to meeting Defense construction industry needs. But for an indiscretion on the part of the associate regional administrator, the Labor Department might have succeeded in containing the alien problem, controlling construction industry wages, and enriching the friends of Phillip Burton—all at the expense of the people of Guam and the increasingly rebellious American taxpayer.

This indiscretion took the form of a memo to Haltigan, which fell into the hands of Michael McClure of the Guam Employers Council sometime in early February. In it, Hulsey alludes to the opposition of the Guam employers to the union-Dillingham training agreement. According to the January 30 memo, Dillingham Vice President Pete Errect suggested that the Labor Department use its new certification power to snap the already weakening opposition of the Guam employers. Hulsey wrote:

"He [Errect] said that a little pressure from us—some overt manifestation of our commitment—should do the trick.

"I asked for something more specific, and he said our most effective leverage in this situation was our certification actions. He thought that if word got out that non-cooperating contractors might have their certification requests reviewed with great pains, they would become noticeably more anxious to cooperate in the program.

"I see his point and agree that he is likely right in what he says. I told him we would do whatever we could do legitimately and legally. He thought that if that were our attitude, word to that effect ought to get out. I told him we would look into the matter and take the best course available to us.

"At any rate, I agree that the opposition is weakening and full active participation by all contractors seems to be fairly imminent. We will feel our way carefully and give a fateful push when we feel the time is right."

To many Guam employers whose businesses depend on foreign workers, this memo signaled the Labor Department's determination to exclude local firms from operating the training program and, if necessary, to move against them economically—using the new labor certification procedures as a weapon. Contrary to its intended purpose, the Hulsey memo galvanized opposition to the training program. On February 10, 1978, attorneys for the Guam Employers Council, Black Construction Company, and Modular Homes, Inc. sent a formal letter of complaint to the secretary of Labor requesting an investigation. And on March 9, a suit was filed in federal district court on Guam to halt the award of the joint-union-Dillingham contract.

Representatives of the aggrieved employer organizations and their attorneys have met with the Labor Department's investigators on Guam and provided substantial documentation supporting the charges in their complaint. In San Francisco, the investigators have questioned regional Labor Department officials closely and made copies of pertinent documents in their files. According to reliable sources who request that their names be withheld, the investigation team was informed of Congressman Burton's involvement, including the meeting of November 18—in which he and Assistant Secretary of Labor Don Elisburg met with the Operating Engineers and Dillingham to approve the joint training program. In addition, they were given copies of correspondence and complete information regarding the private consulting firm through which high-ranking Labor Department officials attempted to "launder" the training contracts under investigation. Since March, four months of official silence have elapsed. According to federal regulations, the secretary of Labor must investigate all complaints promptly, publish findings within a reasonable time, and provide an administrative hearing in all appropriate cases. Despite impressive evidence, repeated efforts, and rising costs, the Guam employers and their attorneys report that they "have been unable to secure any relief, prompt or otherwise, from the Secretary of Labor."

Faced with a lawsuit in the district court and the internal Labor Department investigation, the Dillingham Corporation has backed away from the union-management deal and its coercive tactics which were revealed in the fatal Hulsey memo of January 30. On the other hand, the Operating Engineers and Labor Department regional administrators remain unflappable—seemingly oblivious to the course of recent events and unconcerned about the as-yet unpublished findings of the investigation.

On May 13, 1978, the Department of Labor awarded a construction training contract to the Operating Engineers Union in the amount of $450,000. General President Jay Turner of the union jetted to San Francisco for the signing ceremony. A union press release of May 13 said, "Turner complimented Secretary of Labor F. Ray Marshall and Representative Phil Burton (D.-San Francisco) for their cooperation in establishing the new training program." The statement quoted Turner as Saying that Burton had been very active in supporting the Department of Labor and the Operating Engineers in their efforts on Guam. The contract provides funds to train 150 workers in construction trades, and to upgrade the skills of 50 additional workers. Dale Marr, who was present both at the November 18 meeting with Burton and at the signing ceremony, characteristically predicted, "If Guam contractors do not cooperate with the government by hiring these workers once they are trained, the Labor Department undoubtedly will have to tighten its enforcement of federal wage and hour rules."

This remark makes it clear that union leaders anticipate the continued assistance of the U.S. Labor Department in their drive to organize the construction trades on Guam. And they may just be right. It is likely that most of the 200 union trainees will turn out to be union men. If 10 percent of them also receive training in organizing techniques, the union will then have a 20-man task force to spread its influence across the island. Under current regulations, no contractor who uses alien labor will be able to refuse union-trained workers. And since all contractors depend on alien labor, all will have to welcome the newly trained worker-organizers. For the next 18 months, the union can consolidate its membership while "adverse effect rates" push up industry wages.

Large American construction concerns like Dillingham are favored by these conditions. Because wages are established by the Labor Department and paid through Defense Department contracts, cooperation with the Operating Engineers becomes a viable and paid through Defense Department contracts, cooperation with the tractors will dwindle as increased payrolls and tighter controls on the use of alien labor force many contractors out of business. As wage rates in Guam approach parity with those on Hawaii and the U.S. mainland, importing American workers will become more and more common. Foreign construction firms which have traditionally depended on cheap labor and advantageous currency exchange rates for their competitive edge will be handicapped by increased unionization and Labor Department policies structured to accommodate American interests and workers on Guam.

Several unanswered questions remain. They suggest that a full congressional investigation of this matter may be appropriate: What, if anything, did Representative Burton and the governor of Hawaii get for their troubles? Was their action a political payoff involving public funds? Why has the Labor Department investigation been stalled? By what reasoning has Secretary Marshall failed to grant an administrative

hearing or, in fact, take any action in the face of blatant official wrongdoings perpetrated by top Labor Department administrators? And finally, what remedies will be available to the Guam employers when Local 3 has succeeded in locking up the island?

Mr. NELSON. Mr. President, we will go along with the amendment as presently drafted, and I am prepared to accept it.

Mr. JAVITS. Mr. President, I understand this amendment has been worked out with Senator HELMS. I am not happy with it, but in the interest of facilitating passage of the bill, I interpose no objection.

Mr. HELMS. Mr. President, I appreciate the comments of the distinguished Senator from Wisconsin and the distinguished Senator from New York. I appreciate their being willing to accept the amendment.

I would like to have the yeas and nays on the amendment.

The PRESIDING OFFICER (Mr. ZORINSKY). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, will the Senator agree to have it back-to-back with passage of the bill?

Mr. HELMS. Indeed, I do.

Mr. JAVITS. Mr. President, I ask unanimous consent that the rollcall on this amendment take place immediately prior to the vote on passage of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The bill is open to further amendment.

UP AMENDMENT NO. 1806

(Purpose: To assure that at least 90 percent of the funds used for private sector opportunities for economically disadvantaged are expended only for wages, employment benefits, training, and supportive services)

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an unprinted amendment numbered 1806.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 382, between lines 3 and 4, insert the following:

"(c) Not less than 90 per centum of the funds allocated in accordance with the provisions of this part which are used by a prime sponsor for private sector programs under this title shall be expended only for wages, employment benefits, training, and supportive services, to persons employed in private sector jobs pursuant to this title. The remaining funds may be used for administrative and other allowable costs (such as supplies, materials, and equipment) incurred by the prime sponsor, private industry councils, project applicants or subgrantees or contractors, in accordance with such regulations as the Secretary may prescribe.

Mr. HEINZ. Mr. President, the amendment which I offer today will insure that the funds authorized to be appropriated under title VII of the CETA bill, the private sector opportunities for the economically disadvantaged, will be expended primarily for promoting job opportunities, and not for administrative costs. My amendment would require not less than 90 percent of the funds allocated under title VII to be expended only for wages, employment benefits, training, and supportive services to persons employed pursuant to the conditions of this title. The remaining funds may be used for administrative costs and other allowable costs incurred by the prime sponsor, private industry councils, or contractors according to regulations to be developed by the Secretary of Labor. This means that of the $400 million authorization, no less than $360 million would be used for wages, training, and supportive services, and $40 million for administrative costs.

I believe it is high time we moved to get the private sector more involved in our efforts to get the people in this country back to work. Public service employment, as we all know, is not the place to build permanent jobs. And if we are serious about providing permanent employment opportunities, we must look for help to the private sector. Through the effective linking of CETA prime sponsor activities and the private sector involvement we can begin to address the problem of structural unemployment that has been plaguing our Nation. Government cannot do it alone, as our past experiences in this and other programs have shown us. While the CETA program has been working to try to develop employment opportunities for the economically disadvantaged, a great deal of concern has been expressed to me that the program has trained people in areas where there are no available jobs; and that there is no mechanism to effectively match training with future projected areas of need.

Title VII is a real attempt to improve those necessary linkages between private industry and CETA prime sponsors and assure the integration of business community activities with CETA activities toward a common goal.

But I am concerned that simply authorizing a sum of money without providing some guidelines as to how it is to be spent would be irresponsible. We have already seen the results of this kind of oversight in the charges of abuse and fraud that have met other Federal programs in the past, and, indeed, this program as well. I believe that the earmarking of funds to be spent for jobs and those to be used for staff and other administrative costs would be a reasonable and responsible approach to avoiding on the front end the kind of problems that could possibly occur further down the road.

Everyone knows what is expected of each party right from the beginning. The prime sponsors and the private industry councils know what is expected of them; what they will be held accountable for in the future; and the program perimeters within which they must operate. The Department of Labor knows what the Congress expects them to monitor and enforce. Yet, my amendment still leaves for the prime sponsors and the private industry councils the flexibility necessary to carry out the program activities encouraged under this title.

In sum, I am encouraged by this attempt to change the structural direction of the CETA program and begin in earnest to put the unemployed and economically disadvantaged back to work in jobs which ultimately contribute not only to their feeling of participation and self-worth, but also to the greater productivity and real growth of our national economy.

Mr. President, I understand that the committee has reviewed the amendment I offer today and is willing to accept it.

This is an amendment that has been discussed with the committee. Its purpose is to insure that at least 90 percent of the funds used for private sector opportunities for economically disadvantaged are expended only for wages, employment benefits, training, and support services.

It is my understanding the committee has evaluated this amendment and concurs in it.

Mr. NELSON. I was momentarily diverted and did not hear the inquiry of the Senator from Pennsylvania.

Mr. HEINZ. It is my understanding that the committee has carefully looked at this amendment and feels it can accept it.

Mr. NELSON. Yes, we have looked at this amendment and that sets the same percentage limitations as in the other titles of the bill, and I have no objection to it.

Mr. JAVITS. I have no objection either.

Mr. HEINZ. I thank my colleagues.

The PRESIDING OFFICER Is all time yielded back?

Mr. JAVITS. We yield back our time.

The PRESIDING OFFICER. Does the Senator from Pennsylvania yield back his time?

Mr. HEINZ. I do.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1807

(Purpose: To provide for private employer incentive grant projects)

Mr. HEINZ. Mr. President, I send an unprinted amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an unprinted amendment numbered 1807.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 278, between lines 2 and 3 insert the following new section:

"PRIVATE EMPLOYER INCENTIVE GRANT PROJECTS

"SEC. 318. (a) In order to achieve certain national and regional priorities and to provide incentives to private employers to employ individuals eligible for assistance under this Act, particularly unemployed veterans, youths and economically disadvantaged individuals, to provide additional employment opportunities the Secretary is authorized to make grants to private employers in accordance with the provisions of this section.

"(b) No grant may be made under this section unless the Secretary determines—

"(1) that the project for which the grant is made under this section will contribute to carrying out the purposes of this Act and will contribute to attaining other national priorities including, but not limited to, better housing, health care, agriculture, and transportation;

"(2) that the project for which the grant is made under this section will have a reasonable prospect of leading to long-term employment for individuals employed with assistance under this section;

"(3) that the private employer will provide to the employee assisted under this section training designed to contribute to such long-term employment potential;

"(4) that the project assisted under this section will not result in the displacement of any other employee of the private employer participating in the project assisted under this Act;

"(5) that the grant is applied by the private employer only for wages for employees assisted under this section;

"(6) that wages paid to individuals employed with the assistance under this section will not exceed the wage rate set forth in Title VI of this Act; and

"(7) that individuals employed with assistance under this section will be paid for a period not to exceed 6 months of employment with the private employer participating in the project assisted under this Act, unless the Secretary finds that a longer period is needed in order to achieve the purposes of this section, but in any event such period shall not exceed 12 months.

"(c) The Secretary shall establish such other necessary and reasonable criteria for making grants to achieve the purposes of this section.

On page 179, in the Table of Contents, after item Sec. 305. Insert the following:

"Sec. 306. Private employer incentive grant projects."

Mr. HEINZ. Mr. President, this amendment would authorize the Secretary of Labor to do something he cannot now do, and that is to establish programs to create employment opportunities in the private sector for individuals eligible for assistance under CETA by making grants available to private employers under title III.

Title III, of course, Mr. President, is the special national programs and activities title of this bill.

I first want to commend the managers of the bill, Mr. President, and the committee for a thorough, thoughtful work product. I know that Senator WILLIAMS, Senator NELSON, and Senator JAVITS have worked extremely hard on this legislation and that they have also carefully considered the issue raised by my amendment, private sector employment incentives. My interest in such incentives has been long-standing.

Over the last several years, I have endeavored on several occasions to persuade Congress to address this important issue. In fact, the Commerce Committees of the House and Senate were agreed in 1975 to adopt this approach; that is, programs to encourage private sector employment.

Now, title VII of this bill is a step in the right direction; it encourages private sector employment opportunities.

Title VII of the bill, through the establishment of private industry councils, each established within a prime sponsor area, will allow some private sector involvement in the CETA program, and that is good. But what is also equally true, because of the local nature of each prime sponsor area, is that the impact of those job initiatives will also be local. My amendment seeks to do the same thing, to encourage private sector employment, but on a national and regional level, by giving the Secretary authority to establish a national private employment program through which it will be possible to create both private employment opportunities and address national or regional priorities in a coordinated manner.

Addressing local priorities under title VII is good, but it is not enough. It cannot possibly succeed in meeting a national or regional priority as this amendment would authorize the Secretary to do.

I am sure the committee is familiar with the criticism that some have leveled against public service jobs as "makework" or "raking leaves and sweeping streets." While this may not be a fair characterization, the fact is that many of the jobs we provide under CETA are service-oriented and do not result in the construction or rehabilitation of vital facilities, for example, schools or hospitals or housing or bridges or roads or irrigation projects or what have you.

This amendment would provide an opportunity for jobs that produce lasting public benefits. A case in point, and one I think we are all familiar with, indeed, the Senate and the House in the 94th Congress passed legislation to this effect, is; namely, the rehabilitation of unsafe rail lines. As I say, that is a case in point. That is a precedent for this kind of program.

I am as concerned about costs as anybody else. I want to explicitly and emphatically point out that this amendment does not increase any cost, does not mandate any expenditures, does not increase any authorizations in the bill.

The purpose of this amendment, as I said in the beginning, is simply to give the Secretary discretion that he does not now have to take advantage of private sector opportunities through programs which would further national and regional needs in ways not possible under title VII or any other title of this bill.

Mr. President, I think there is general agreement that giving the unemployed the means to enter the private sector will reduce the need for long-term Government support of them while, most importantly, providing these Americans with job opportunities they deserve.

My amendment is carefully drawn to achieve these goals, while insuring that the Secretary provides rigid safeguards to prevent unjustifiable expenditures. It includes provisions to prohibit displacement of any existing employees or substitution for any other expenditure. It limits grants to those projects which would have a reasonable prospect of long-term employment, and which would include employer training programs designed to contribute to such employment.

It would establish the same wage rate limit which is set forth in title VI. It would require that grants not only achieve the purpose of the bill but would also contribute to other national priorities, including, but by no means limited to, such things as better housing, health care, agriculture, and transportation.

Mr. President, I think the time has come for us to broaden our focus, to develop programs to move the unemployed into productive positions in the private sector. Such programs can, and I believe they will, provide disadvantaged individuals, unemployed individuals, young people, minorities, veterans, and other groups to which CETA is correctly and justifiably directed, with the skills and experience to secure permanent, unsubsidized jobs in the private sector.

It is to this end, and to meet these goals, Mr. President, that I direct my amendment, and I hope my colleagues will accept it.

I reserve the remainder of my time.

Mr. JAVITS. Mr. President, I think that my attitude toward this amendment can best be characterized by a Member who approached me and said, "How are you going to handle this thing?" Because that is very accurate.

The fact is that I am extremely sympathetic to such actions, so much so that I introduced, in 1975, a bill to employ 20,000 workers on, generally speaking, a combination of public and private terms, to rehabilitate the railroads. Anybody who has taken a ride on the railroad, especially in the East, will cheer and applaud.

Our problem, Senator HEINZ, very frankly is this: You are putting your amendment in title III, which is the national projects title. Title III covers a great many people that we want to cover. They are spelled out in great detail, and as a matter of fact we have included another group today, respecting educational credentials. But they would include offenders, people of limited English language-proficiency, handicapped individuals, single parents, displaced homemakers, youth, older workers, and so on—$400 million is provided for this title, and we have every right to expect that something like that is likely to be provided again.

The problem which we have is that what you want us to do is turn over this volition to a Secretary, without any more specificity, really, than that. Also, it presents some very grave union problems, Senator. I ran into that with the railroad proposition.

In addition, the bill already has two programs which are somewhat directed along these lines. One is found at section 439(a), which deals with an effort to provide particular incentives to pri-

vate business to establish additional employment opportunities for youth who have not had significant previous employment experience; this is Senator HAYAKAWA's "social bonus" program. We are to experiment with that in 10 areas. Then we have another program at page 286 of the bill, which is a voucher program. That is a well-known scheme by which we will give the individual a voucher in terms, again, of youth, to go out and see what he can do, carrying with him, as it were, the amount which the Government is willing to use to finance him in a job, and we call for a report by the Secretary no later than October 1, 1980, evaluating the effectiveness of this demonstration project.

I think the idea is a good one, as I say. I so characterized it myself when I opened, because it is something I have had very much in mind.

Pragmatically, I doubt whether we can do anything with it in CETA at this late stage of the consideration of the bill. Those are the realities of life. This would be threatening to various other vested people who will come under this national projects title, justly or unjustly.

So my feeling would be—as I say, I am very sympathetic, but my feeling would be that we need a somewhat more matured concept for this particular kind of enterprise, and as the ranking member of the committee, I would certainly do my utmost to press for a hearing upon a bill which the Senator could introduce, which could carry this idea.

I am deeply concerned that if we run the course of the hazard of a motion to table on this bill, and the amendment is tabled, while we always like to feel that tabling only means we do not want to think about it right now, actually it may mean more than that, and a very good idea may be run down the drain just because we are not ready for it on this particular bill.

I am laying that before the Senator very frankly. My colleague will expand on it.

Mr. NELSON. Mr. President, I wonder if I might make a suggestion. The objectives sought by the Senator from Pennsylvania I think everyone will agree with. It is, we find from dealing with this question in the Finance and Human Resources Committees, very complicated, but I wonder if I could make a suggestion to the Senator.

We have not had an opportunity to look at his proposal very closely, and, as the Senator from New York said, we have not had a chance to have hearings. However, there is a vehicle coming along, in the major tax bill. We have the question before us in the Finance Committee right now of expanding or modifying the current tax credit provision to employers who hire additional employees over their past number, employees in excess of 102 percent of their previous year's employees.

We will start the markup on that legislation, I believe, at the end of the first week or the beginning of the second week after we return from the Labor Day recess. I have no notion of what the Finance Committee itself may do with it or wish to do with it, but if the Senator offered his proposal as a bill, it would go to Finance in the meantime, and at least have an opportunity for everyone to take a look at the provisions of the bill; thus there would be an opportunity for the Finance Committee to consider it, and then there would be an opportunity, in the event the Finance Committee did nothing with it or did not approve of it, at least, to bring to the floor a bill that has been available to Senators for 2 or 3 weeks. If the Senator then still thought it was an amendment that ought to go on, there would still be a vehicle, which is the tax bill, to offer it on the floor at that time, rather than to this bill.

Mr. HEINZ. First, I think both of you have made excellent cases for this amendment, and I appreciate that. I understand also, Senator JAVITS, some of your concerns.

I would like to address those concerns because the Senator is a true expert in this matter and I think he is properly considered the father of the CETA legislation.

Taking the points as I recollect them, the Senator pointed out correctly that title III covers many, many groups of people. Indeed, the intention of my amendment is to cover exactly the same group. We would not be adding or subtracting any people. What we would be adding are different kinds of job opportunities if the Secretary of Labor feels that these opportunities are worthwhile and accomplish the purposes of the act.

The Senator also points out that we do delegate discretionary authority to the Secretary. This is not the first time we have done that. We have delegated a lot of authority to the various Cabinet Secretaries, and, indeed, we should.

This amendment contains most of the safeguards that anybody would reasonably want: safeguards against substitutions, safeguards to insure no diversion of the money, safeguards to insure that no outrageous wage is paid, safeguards to insure that any payment made in the form of a supplement does not go to somebody with an extremely high salary, and so forth.

If the Senator will look carefully at the third page of my amendment, he will see that we tell the Secretary to establish—and he will have to do so by regulation—such other necessary and reasonable criteria for making grants as he deems appropriate.

Therefore, he is going to be on the public record in implementing these programs, there is going to be opportunities for public comment. Senators from New York, from New Jersey, myself, anybody may comment. After all, we are the Congress, and if we do not like what the Secretary is doing we do not have to fund everything he wants to do. We have the power over the purse strings. We have the appropriations process. If we find that these programs are not working, we can terminate them, but I do not think that will be the case.

The Senator from New York, my good friend, brings up the question of union problems. I know what he is talking about. There may be matters which must be worked out, but I do not know of anybody better to deal with union disagreements of the nature we encountered on the rail jobs bill than the Secretary of Labor. If not the Secretary of Labor, who is better qualified? I do not know.

With respect to section 439 of the bill, the so-called social bonus program, that is a good program. It is directed toward youth with no job experience. However, it is also only a demonstration program. It goes just to 10 areas and those 10 areas are, once again, under the jurisdiction, so to speak, of the local prime sponsors. So it does not have the national or regional scope. It could not be used to meet those national or regional needs that I would hope would be met by my amendment.

The Senator also mentions section 317, which establishes a voucher program. Again, it is a demonstration program. Again, it is one subject to control by prime sponsors. It could not further the regional and national goals that I would hope my amendment would serve.

Finally, the Senator from New York has mentioned that he felt possibly that this amendment might create some threats to somebody or some group.

I do know this about my amendment, that it applies to the same people we are trying to help under title III and title I, the very same people, the same unemployed, the same underemployed. Those are the people who need jobs, who need permanent jobs, who need real jobs. I am a little at a loss to know exactly who we are threatening.

This simply provides an additional degree of freedom to those people we are trying to help. If we have reached the stage where freedom is a threat, then, indeed, we have changed what this country is all about.

Perhaps the Senator from New York would want to make that statement clearer. I honestly cannot see who it is that this amendment threatens.

To my good friend from Wisconsin (Mr. NELSON), I commend him and the work of the Finance Committee on the employment tax credit on which I know he is working. I do not know what the future will hold in the Finance Committee. He may or may not be able to write legislation that will be enacted into law. I do not wish to prejudge. We simply do not know.

I do know that we have precedents for this approach. The Senator from New York was kind and thoughtful enough to point out that he had supported, and the committee had passed, a similar measure, similarly targeted toward one area of our economy, the rail industry, by the creation of jobs for the unemployed restoring our railroad lines.

I would hope, Mr. President, that the committee could accept this amendment.

Mr. NELSON. Mr. President, I know the distinguished Senator from Pennsylvania is aware how complicated legislation of this kind is. Even if I studied it for the next week and reached the conclusion that this legislation was properly drafted and a good idea, that still does not permit me to support it today.

We started on this CETA legislation in February of this year. We conducted extensive hearings. The question of subsidizing wages is a very complicated business, as the Senator knows.

We reported the bill more than 3 months ago. It has been here for over 3 months. The Senator now offers an amendment, which I saw for the first time 10 minutes ago, on an enormously complicated thing.

I know the Senator has thought about it because he drafted it, but those of us who are managing the legislation are certainly entitled to as much time to consider the implications of the legislation as the drafter of the amendment.

That is why I suggested what I believe to be a proper suggestion, that there is an appropriate vehicle, much more appropriate than this bill, which will be before us in 3 or 4 weeks. If the Senator would reconsider the concept of introducing it, so that it is printed, so that everyone involved has an opportunity to examine it, so that the Finance Committee has the opportunity to look at it, then if the Finance Committee did not agree, and I suspect they would not without any hearings because it is rare to adopt this kind of a complicated provision without some kind of hearings—I would feel irresponsible to accept it myself without having hearings on it—then the Senator would have the opportunity to come to the floor of the Senate 3 weeks or a month from now and say, "I introduced the legislation and I am now offering it as an appropriate amendment to the tax bill," which, in itself, will contain legislation for a tax credit, not a wage subsidy.

Then I think it would be a reasonable argument to say, "Well, the Finance Committee looked at it, the Members of the Congress have had a chance to look at it, the Senate, and the administration has had a chance to look at it. It is no surprise to anybody. Let us take it up and debate it."

Quite frankly, to ask me, as manager of the bill to accept an enormously complicated proposal, which has all kinds of implications in it, is asking much too much.

I urge the Senator to offer it today as a bill, and then bring it before the Committee on Finance. Then we shall have time to take a look at it. I might very well conclude, 3 weeks from now, when I am on the Finance Committee, that I could support it. I might conclude I cannot. But at least I would have a reason for supporting or opposing it. I cannot give any detailed analysis of the reasons pro or con at this time, since I have not had the chance to examine the legislation that the Senator from Pennsylvania, himself, has had.

Mr. HEINZ. I understand the feelings of the Senator from Wisconsin. I wish I could say it is an original amendment. It is not. We have had amendments like this before. I know the committee has had a lot of discussion about it. Notwithstanding that, even if I were to grant as 100-percent correct everything that the Senator has just asserted, the fact is that this is only permissive authority.

Even if the Secretary abused his discretion, even if he got around the regulation-writing process, even if we forgot how to read them, we still have the Committee on Appropriations as a brake if that is what the Senator is concerned about.

I just say briefly, Mr. President, and I do want to be brief because I know my colleagues want to get to a vote on this amendment, I am still concerned for those who are now unemployed. They do not much care that we, here in Washington, want to wait a month, 2 months, 4 months, 6 months, or, as in the case of the railroad jobs now, 3 years. They want decent employment opportunities. They want a chance to earn their own way. That simply is the purpose of this amendment.

I ask for the yeas and nays on the amendment, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. NELSON. Mr. President, I move to lay the amendment on the table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, I realize that the motion to table is not debatable, but I ask unanimous consent that this rollcall, too, may come back to back with the other, the rollcall on Senator HELMS' amendment and final passage.

The PRESIDING OFFICER. Is there objection?

Mr. HEINZ. When might that occur?

Mr. JAVITS. Right away. We do not know of any other amendments.

Mr. HEINZ. I have no objection.

Mr. NELSON. In what order would they come?

Mr. JAVITS. My intention, I say to the Chair, was that this tabling motion would come first, followed by Helms, followed by what is, I assume, passage.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I yield myself 2 minutes on the bill and no more, because I do not want to detain the Senate any more. I should like to answer a couple of questions, because I shall vote to table with tears in my eyes, because I really like this amendment. But I cannot do anything else, and I shall explain why.

The Senator says we are going to use all the people who are provided for by title III. I doubt very much that we are going to satisfy those who are interested in offenders—that is, criminal law offenders—those who are interested in homemakers or the older workers, or handicapped individuals, that these broad national and regional projects are going to use them. We are going to have to use an awful lot of them and use more than $400 million.

Second, the Senator has made it mandatory that grants are to be provided to private employers to defray the wage costs only of the first 6 months of employment. Well, the juxtaposition between that and CETA is very great. On the one title, it is 6 months; under another title, it is 18 months. We are only experimenting with the idea of subsidizing private business. Under no circumstances that I know of has the United States paid the compensation of CETA workers who are working for private business. This is quite a stretch of this program.

So, again, I have one last suggestion to the Senator. We have a March 1 deadline for the Joint Economic Committee study. I believe, and I counsel him as my friend—and he knows that happens to be true in this case—that he ought to take about 5 minutes and write a paragraph saying that the JEC should report back on this proposition. He does not lose anything. If he wins on his motion to table and we take his amendment, he loses nothing. But I should like to see this proposition reported on. It is going to be studied by a very competent staff and it will take just three lines to make it part of that study. Then the Senators——

The PRESIDING OFFICER (Mr. NUNN). The Senator's time has expired.

Mr. JAVITS. I yield myself another minute on the bill.

Mr. President, I suggest the absence of a quorum on my time.

Mr. ZORINSKY. Mr. President——

The PRESIDING OFFICER. Does the Senator withhold his suggestion of a quorum?

Mr. JAVITS. Of course.

Mr. ZORINSKY. Could the majority floor manager yield me 1 minute for entering a statement into the RECORD?

Mr. JAVITS. I yield 2 minutes.

Mr. ZORINSKY. Mr. President. I rise in support of this legislation. The CETA program is a good one. The Comprehensive Employment and Training Act is one instance where a Federal program has had a positive impact on many Americans. CETA strives not to foster a dependence on government, but to train men and women to be independent and productive members of society. Of course it is not perfect—it has flaws—however, I say from first-hand experience that this program can work, it will work, and it is working in many communities throughout the country in helping to create jobs, in helping to train workers and in easing the waste of human energy that comes from unemployment.

In Washington, tax dollars are spent too freely and my voting record reflects a commitment to check the spendthrift inclinations that seems to pervade this town. But commonsense and logic dictate that it is more fiscally sound and more cost-efficient to establish programs which provide job training and experience than to pay the tremendous costs associated with high unemployment. We should not give the CETA program unbridled license to expand, but any changes in the CETA entitlements contained in S. 2570 should not be made without examining the long-range cost-effectiveness of these changes. I consider myself a fiscal conservative and I ask my colleagues not only to reflect on the costs of this program, but the high price we would pay if we did not have CETA.

I know there are problems with CETA and it is not perfect. But any reform of CETA should be structured to deal with the mismanagement, waste and cor-

ruption that has plagued some CETA programs, without destroying the decentralized authority that has allowed many CETA programs to become flexible and effective tools in dealing with unemployment.

Obviously, a high degree of accountability and program monitoring must be instituted to insure the integrity of this program and provisions in the CETA legislation before Congress will help promote just that. In the act, there are sections dealing with corruption in CETA—providing criminal sanctions for such activities as kickbacks, embezzlement of funds, and obstruction of CETA investigations. Bonding is required for officers, directors, agents, and employees of CETA recipients who handle funds or property under the act. No program may involve political activities and CETA wages are limited to a reasonable and realistic figure. Discrimination is prohibited and the Secretary of Labor is given better monitoring and investigatory authority. In addition, on Tuesday, an amendment to S. 2570 by the Senator from New Mexico, Mr. DOMENICI, was unanimously adopted; this amendment will strengthen the Secretary's ability to police the program even more. This measure, as it has been amended, will go far in ending the abuses that have plagued CETA.

In recent months there have been a number of news stories about CETA programs marked by scandal and abuse. Yet, we have heard little of the good news about CETA. Why? One reason is that many prime sponsors are busy trying to help people who are out of work and who need counseling, training, and job experience. Where the prime sponsors are effective in administering comprehensive employment and training programs, they do not really have time for a comprehensive public relations campaign. There are many cases where CETA programs are working extremely well.

I have seen the CETA program firsthand in Omaha where CETA performed an excellent job of training workers who were laid off. I have seen CETA's positive impact, both in terms of dollars, wisely and prudently managed, and in terms of bettered human lives. Although many programs are a waste and some CETA programs are poorly administered, the program in Omaha is compelling evidence that CETA can succeed in helping persons become less dependent on public dollars and more productive as contributing members of their community.

I ask to have printed in the RECORD an article by Bob Armstrong, director of CETA in Omaha, that was recently printed in the Omaha World Herald. Mr. Armstrong wrote this in response to a number of articles condemning the CETA program. The article does an excellent job of pointing out the shortsightedness of many of the armchair critics of CETA and underlining the effectiveness that CETA has had in Omaha and elsewhere.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Omaha World Herald, Aug. 16, 1978]

BUILD ON SUCCESSES OF JOB PLAN

(By Robert L. Armstrong)

In the August 8 World-Herald, James J. Kilpatrick jumped on the Comprehensive Employment and Training Act (CETA) bandwagon, borrowed heavily from an article written by Ralph K. Bennett in the August issue of Reader's Digest, added a few adjectives, and became a self-proclaimed critic of CETA. I find this kind of journalistic piracy deplorable.

I should point out that there are 466 CETA programs around the country. The number of programs criticized in all of the articles written totals 22. I would be the first to admit that all CETA programs are not responsibly administered; however, the percentage is quite small and has been blown completely out of proportion. For those of us who put in long hours trying to help people in need and who are unemployed, this kind of journalism is irresponsible and immature.

If Kilpatrick and other critics properly researched CETA, they would find there are different parts or titles which make up the total act. Contrary to what Kilpatrick reported, the original intent of CETA is still intact.

Title I assists the "hard-core" unemployed by providing needed vocational and academic training: Title II provides subsidized employment for 15 months to those individuals who have skills, but are unemployed; Title III provides funding for youth programs and special projects; Title IV provides funding for the Job Corps; Title V establishes a National Commission for Manpower Policy; and Title VI (the one that has received all the criticism) provides staff funding for community projects in non-profit organizations. I might also add that Title VI was the last one developed, and was designed to ease the recession of 1975.

We have an outstanding CETA Program in Omaha. We are serving all segments of society that need our help, as intended by the act. We have not been accused or found guilty of favoritism, nepotism, political handouts, and/or mismanagement of our program.

I have never been asked or pressured, during my eight years' involvement with employment and training programs, by any elected official to put into effect any irregular or irresponsible activity. I think this speaks well for the integrity of the elected officials in the Douglas and Sarpy County area.

If more of these self-appointed CETA critics would travel beyond their typewriters and telephones and observe a CETA program in operation, then perhaps they would understand that CETA, as it currently exists, is not a bad piece of legislation.

I do not believe that a good program can be legislated. I believe that administrators and local staff, with the cooperation of the total community, can make any program work if given the flexibility to adjust their program to local needs. Omaha has done this, and done it well.

Any business organization which is successful does not scrap its entire operation because a few of its units are not functioning properly; rather they concentrate on resolving the weaknesses and bringing those sub-standard units up to par. So it should also be with CETA.

I would hate to see a good piece of legislation destroyed because of the errors of a few; instead, it should be built around the successes of the majority.

Mr. NELSON. Mr. President, I ask unanimous consent that the last two votes, the vote on the Helms amendment and the vote on final passage, be limited to 10 minutes.

The PRESIDING OFFICER (Mr. HOLLINGS). Is there objection?

Mr. SCOTT. Mr. President, reserving the right to object, could we have a 15-minute vote on the first and then 10-minute votes on all subsequent ones?

Mr. NELSON. That is my intention.

Mr. SCOTT. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum on my time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, as far as I know, I do not wish to call for third reading, because we shall have another minor amendment, but just for the information of Members, I do not know of any other amendments and we are ready to vote on the tabling motion in respect of the Heinz amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the Heinz amendment on the table. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Montana (Mr. HATFIELD), the Senator from Maine (Mr. HATHAWAY), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Maine (Mr. MUSKIE), the Senator from Tennessee (Mr. SASSER), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Alaska (Mr. GRAVEL) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mrs. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BARTLETT), the Senator from Massachusetts (Mr. BROOKE), the Senator from Missouri (Mr. DANFORTH), the Senator from New Mexico (Mr. DOMENICI), the Senator from Maryland (Mr. MATHIAS), the Senator from Kansas (Mr. PEARSON), and the Senator from New Mexico (Mr. SCHMITT) are necessarily absent.

The result was announced—yeas 47, nays 32, as follows:

[Rollcall Vote No. 366 Leg.]

YEAS—47

Allen	Glenn	Nelson
Bayh	Hart	Pell
Bentsen	Hodges	Proxmire
Bumpers	Hollings	Randolph
Burdick	Inouye	Ribicoff
Byrd, Robert C.	Jackson	Riegle
Cannon	Javits	Sarbanes
Case	Leahy	Stafford
Chiles	Long	Stevenson
Church	Magnuson	Stone
Clark	Matsunaga	Talmadge
Cranston	McGovern	Weicker
Culver	McIntyre	Williams
Dole	Melcher	Young
Eagleton	Metzenbaum	Zorinsky
Ford	Moynihan	

NAYS—32

Bellmon	Hatch	Packwood
Biden	Hatfield, Mark O.	Percy
Byrd, Harry F., Jr.	Hayakawa	Roth
Chafee	Heinz	Schweiker
Curtis	Helms	Scott
DeConcini	Huddleston	Stennis
Durkin	Laxalt	Stevens
Garn	Lugar	Thurmond
Goldwater	McClure	Tower
Griffin	Morgan	Wallop
Hansen	Nunn	

NOT VOTING—21

Abourezk	Gravel	Mathias
Anderson	Haskell	Muskie
Baker	Hatfield, Paul G.	Pearson
Bartlett	Hathaway	Sasser
Brooke	Humphrey	Schmitt
Danforth	Johnston	Sparkman
Domenici	Kennedy	
Eastland		

So the motion to lay on the table UP amendment No. 1807 was agreed to.

UP AMENDMENT NO. 1808

Mr. JAVITS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. JAVITS), on behalf of himself and Mr. Heinz, proposes an unprinted amendment numbered 1808.

Mr. JAVITS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I will read the amendment to the Senate.

I submit this amendment on behalf of myself and Senator HEINZ. It is in deference to the fact that many of us think he had a good idea, though we voted to table. But the matter hit us at a moment when we could not take it, as managers.

So my suggestion is to give him a study, and we have one study in the bill now; so the amendment reads as follows:

On page 385 insert the following: "The Joint Economic Committee as part of the above report to the Congress, is requested to include with recommendations, if any, an analysis of the subject of incentive grants, or other assistance permissible under this act, to private employers in reducing unemployment rates among individuals eligible for assistance under this act, through national priority projects, including, but not limited to, better housing, health care, agriculture and transportation".

As one of the managers of the bill, I find the amendment acceptable.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. HEINZ. I thank the Senator from New York sincerely for his amendment. I am pleased to be a cosponsor. I appreciate his interest in obtaining a definitive recommendation in the form of a study.

I thank Senator JAVITS and Senator NELSON.

Mr. NELSON. Mr. President, the amendment offered by the distinguished Senators from New York and Pennsylvania is perfectly acceptable to me.

I yield back the remainder of my time.

Mr. JAVITS. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. WEICKER. Mr. President, I wonder if the distinguished managers of the bill will yield for a question.

Do they have a cost estimate for the study which is requested in this amendment?

Mr. JAVITS. I believe it will represent no greater cost than the cost we already have of the study, which is an amendment to the bill, by the Joint Economic Committee, of the subject generally.

Mr. WEICKER. So the Senator does not feel that this will add to that cost?

Mr. JAVITS. Not at all.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, I do not have an amendment.

Mr. President, will the Senator yield me time on the bill?

Mr. NELSON. I yield whatever time the Senator desires from the bill.

Mr. HELMS. I thank the Senator.

Mr. President, several Senators have close schedules and need to catch planes. The yeas and nays have been ordered on an amendment which I submitted earlier this afternoon which is acceptable to the managers of the bill. To save Senators time I ask unanimous consent that the order for the yeas and nays on my amendment be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, will the Senator yield further?

Mr. NELSON. I yield.

Mr. HELMS. Mr. President, CETA has grown, in just 4 years time, from a relatively modest $1.5 billion program to $11 billion. Such incredible growth really is no surprise, because this is just another typical example of the futility of throwing tax dollar after tax dollar at a problem.

But we cannot be blind to the real problem in this country at the present time: the overburdened American taxpayer who is on the verge of total revolt against the big spending policies of this Congress, and rightfully so. If we really wanted to do something for the oppressed taxpayers of this country, we would curtail this massive CETA boondoggle.

Nearly every day I read about some new and startling example of CETA funding abuse. For many people, CETA has become a better alternative than going to work for the minimum wage. Perhaps James J. Kilpatrick has described it best:

The authors of this grotesque imposition on the taxpayers could not prevent abuses if they kept at the rewriting job till Christmas. Nothing in my experience—not food stamps, nor foreign aid, nor the old Job Corps, nor the follies of the arts and humanities people—nothing has approached the sheer mind-boggling, boondoggling waste and corruption of the CETA billions.

And millions of Americans feel exactly the same way. Typical of the many letters I have received is one that came from Mr. Daniel M. Harris of Raleigh, N.C. Listen, my colleagues, to what he wrote:

Given the choice of supporting the Carter Administration plan to maintain the present CETA program or Senator Roth's suggestion for tax cuts that will guarantee business expansion and the creation of permanent taxpaying jobs, I would support the latter. CETA will do nothing except contribute to more inflation.

Why not follow Mr. Harris' suggestion and approve the Kemp-Roth concept? Why not create real jobs, real business expansion, and real economic opportunity?

The amendments that have been adopted are just feeble gestures toward reform of the CETA boondoggle, and there is no doubt in my mind that we will be reading about massive abuses in the program this same time next year. We are not helping the taxpayers with this big spending, inflationary program. To the contrary, we would perform a great service for the American taxpayer if we just let CETA die right here today.

I thank the Senator.

AMENDMENT NO. 1805

Mr. NELSON. Mr. President, we have discussed this amendment. Speaking as manager of the bill I am prepared to accept this.

Mr. JAVITS. We have no objection.

Mr. NELSON. I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NELSON. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. No, not on passage.

Mr. JAVITS. Mr. President, I ask for the yeas and nays on passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, I yield a half minute to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I ask unanimous consent that Mr. Eric Hultman of the Judiciary Committee staff, be accorded the privilege of the floor during the vote on S. 2970.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, I give my utmost support to S. 2570, a bill to amend the Comprehensive Employment and Training Act of 1973 and to praise the floor manager, the able and dedicated Senator from Wisconsin, Mr. NELSON and the ranking minority member of the Subcommittee on Employment, Poverty, and Migratory Labor, Senator JAVITS of New York, and to acknowledge the important input from the Senator from New Jersey, Mr. WILLIAMS, as chairman of the Human Resources Committee.

As ranking majority member of the authorizing committee for the Comprehensive Employment and Training Act, I have worked, in conjunction with my colleagues on the committee, to revise and modify this program to facilitate the accomplishment of the program's goals as defined in the act we authored in 1973. This program, through its decentralized implementation, provides an opportunity for all Americans to be among the ranks of the employed, contributing to their families, their communities, and the country.

An ancillary benefit of this program, but of great significance, is its ability to afford our country's disadvantaged the opportunity to develop the sense of self esteem and self worth which accompanies gainful employment.

CETA reaches out to attack, head-on, one of our country's most persistent problems—chronic unemployment. Through its job training and counseling provisions, its public service employment, and its involvement of the private sector, CETA has, in large part, been responsible for reducing the rate of unemployment from greater than 8 percent in 1976 to its current level of less than 6 percent. This contribution alone should serve as a mandate to the Congress to reauthorize and offer its uncompromised support to the CETA program.

Therefore, I join with those who express genuine concern and a deep feeling of urgency about the need for passage of CETA legislation without delay and without crippling amendments.

In our State of West Virginia and throughout the Appalachian region, we are familiar with the damaging effects that follow when projects legislated begin to work and then are suddenly curtailed, weakened, cut back, or designed for built-in failure.

I am especially concerned that we not "throw out the proverbial baby with the bath water" as we try to correct problems with the program.

There are some programs that have been operating successfully under CETA. We do not hear about them. Some point with alarm to the programs that are guilty of misuse and abuse of Federal funds. Seldom is it newsmaking to report reliable, dependable programs that year after year recruit those people who need help, and give them motivational and attitudinal training as well as skills training, place them on a job and provide them with "hands-on" counseling throughout the entire process.

A program which does just this is OIC, Opportunities Industrialization Centers, founded by the Reverend Leon Sullivan, a Baptist clergyman.

Although Reverend Sullivan was originally from Charleston, W. Va., he is now based in Philadelphia, Pa., the national headquarters for OIC of America, which currently operates in 45 States.

Senator SCHWEIKER of Pennsylvania and myself have in a way symbolically reflected the contribution that our two States have made through Reverend Sullivan by cosponsoring the OIC Skills Training and Community-Based Organization Job Creation Act of 1978. When the 1978 CETA legislation was brought before the Human Resources Committee, we submitted an amendment to provide an insurance policy that this exceptionally good employment and training program and other community-based organizations will survive and continue to deliver cost-effective services, training, and job opportunities.

The track record of Opportunities Industrialization Centers in our State in Huntington and Charleston is outstanding. The 85 percent retention rate of people placed and the 78 percent rate of placement of OIC has led our businessmen and employers to regard an OIC label on a trainee as the equivalent of the label "sterling" on silver.

OIC has a reputation of producing a quality product at the least cost. At a per capita cost of $1,500 Reverend Sullivan plans to train and place 100,000 unemployed for a cost of $150 million. He has already managed, with commendation from GAO for accountability, a $100 million budget which this past year was secured through the prime sponsors and the CETA system.

A program like this one deserves special consideration by prime sponsors and is the kind of effort we should encourage. It is my judgment that programs such as OIC which were doing a good job before CETA gained the confidence and cooperation of private industry and Government. They should not be fragmented or phased out during the development of CETA during the next 4 years.

Mr. President, West Virginia, as well as the other 49 States, have benefited from the services provided by OIC and other similar community-based organizations in addressing the problems of our society's less fortunate. I recommend the CETA legislation to my Senate colleagues and strongly urge its passage.

Mr. MUSKIE. Mr. President, the legislation we consider here today, the Comprehensive Employment and Training Act Amendments of 1978, would reauthorize the major spending programs for job training and job creation included in the Federal budget.

These programs have expanded dramatically over the past 4 years from $2.5 to $12 billion in response to cyclical unemployment problems created by the recent economic downturn. The major expansion has come in public service jobs funded under CETA, which have expanded since 1974 from 50,000 jobs to the current 725,000 jobs level. The Budget Committee has supported this expansion in light of economic conditions.

During the recent recession the unemployed population was composed largely of skilled workers who required temporary jobs until regular employment became available with economic recovery. These cyclically unemployed people did not require extensive training and supportive services to make them employable.

As a result, most of the resources spent under CETA have gone in recent years to providing temporary public service employment to the cyclically unemployed.

The economy has made considerable progress during the 3 years of expansion since the severe 1974–75 recession. The unemployment rate has fallen from 8.8 percent in the second quarter of 1975 to 5.9 percent in the second quarter of 1978, entering the 5 to 6 percent range in which most economists would place the point at which inflationary pressures become significant in the labor market.

The current unemployed population contains many persons with insufficient training and work experience to make them employable. These people are the structurally unemployed. Cyclical unemployment has fallen substantially and the emphasis of economic policy should now shift more to the more difficult challenge of reducing structural unemployment while at the same time restraining inflation.

Unless job creation programs are targeted on individuals who have few opportunities in the labor market, such programs run the risk of competing with regular employers for available workers, thereby tightening labor markets and adding to inflationary pressures. The more targeted the program is on the structurally unemployed, the less risk of inflation it entails.

During consideration of the first budget resolution the committee noted the problem of structural unemployment in its discussion of CETA programs.

The committee report stated:

> This Committee believes that economic policy, while maintaining the high level of aggregate demand necessary for the success of any employment policy, must gradually shift its primary emphasis from overall economic expansion to the task of targeting employment opportunities on the structurally unemployed.

In order to shift Federal employment and training policy from its current countercyclical emphasis to a more structural focus, the report on the first budget resolution for fiscal year 1979 recommended that at least one-half the resources devoted to maintaining the current 725,000 public service jobs be redirected to structural purposes.

This bill would bring about a fundamental shift from countercyclical to structural purposes as envisioned in the first budget resolution. Senator NELSON and members of the Human Resources Committee are to be commended for reporting a bill which redirects this important employment and training program to the needs of the most severely unemployed.

The shift in emphasis from the countercyclical title VI to the new structural title II proposed in this bill would reduce inflationary pressures that could result from the continuation of the existing countercyclical program level during this period of economic improvement.

Moreover, to the extent that the structural portions of this bill would provide training and job experience for the unskilled and inexperienced, the program would assist recipients in obtaining permanent jobs, thereby expanding the Nation's potential output and reducing the level of unemployment which is consistent with nonaccelerating inflation.

To further counteract potential inflationary pressure, the bill would set wage limits on public service jobs and incorporate some measures to reduce substitution of Federal funds for State and local payrolls.

It is crucial that Federal dollars appropriated for countercyclical purposes be used by local governments to hire more people than they would have hired in the absence of the program. If there is simply a substitution of Federal dollars for local payrolls then the employment effects are no larger than those which would result from revenue sharing programs.

Some estimates of fiscal substitution range from 30 to 100 percent over an 18 month period. These estimates, however, tend to focus on the CETA program prior to the increased targeting included in the 1976 amendments.

A more recent and more extensive study requested by Senator Bellmon and conducted by the Brookings Institution found that of every 100 jobs funded, 18 represented positions that would have been financed out of local funds in the absence of CETA, 31 represented positions which already existed but which would have been eliminated in the absence of CETA, and 51 represented CETA-induced job creation. The study concludes that these more optimistic findings result from the increased targeting included in the CETA program in the 1976 amendments.

In light of these findings I am disturbed that targeting provisions proposed for the new countercyclical title VI are liberalized as compared with current law. I do not favor reduced targeting in title VI. The new provisions would double the size of the eligible poor of clientele and encourage CETA employers to hire those who need the jobs least. This "creaming" would encourage substitution of Federal dollars for State and local payrolls.

Furthermore, it is my view that the most needy should be served first, even in a countercyclical program.

There has been some concern that excessive targeting would slow the rate of implementation—a crucial factor in countercyclical programs. Targeting provisions in the existing CETA title VI are much more stringent than those proposed in this bill. Yet existing provisions did not impede the rapid expansion from 310,000 to 725,000 public service jobs funded in the economic stimulus appropriation.

For these reasons I will support amendments to be offered by Senator BELLMON to tighten the targeting provisions for public service employment.

In light of forecast unemployment and inflation, the second budget resolution as reported recommends that the level of countercyclical public service jobs should be phased down beginning in fiscal year 1979. S. 2570 suggests that the countercyclical jobs be funded in view of economic conditions but provides no specific phase-down mehanism and authorizes "such sums" as may be necessary. This bill leaves the appropriate funding level for countercyclical jobs to the budget and appropriations processes, where the responsibility should be.

I urge Senators, not only to support this important legislation, but to support improvement to it through amendments to target spending on the people most in need.

Mr. JAVITS. Mr. President, I ask unanimous consent to insert in the RECORD a statement by Senator MATHIAS.

STATEMENT OF SENATOR MATHIAS

Mr. President, I would like to speak briefly in support of the Comprehensive Employment and Training Act and to commend the Chairman of the Human Resources Committee and the Chairman of the Subcommittee on Employment, Poverty and Migratory Labor for their careful work in preparing this bill and in preserving the strong national commitment to assist the unemployed and disadvantaged to become productive citizens.

For the past four years, CETA has been the keystone in the domestic policy of this country. It has assumed even greater importance than we originally anticipated. The CETA system has been called on to address the persistent difficulties of moving the structurally unemployed into the economic mainstream, and it has responded. The system was used to stimulate a sagging economy and, in an eight-month period, nearly three-quarters of a million of the long-term unemployed were hired, earning income and providing needed local public services. As Congress recognized the critical nature of the problems of youth unemployment, CETA was there to launch major new initiatives and to put hundreds of thousands of youths to work.

The CETA system has, in its infancy, responded effectively to the major demands of both social and economic policy. It has been required to undergo unprecedented expansion and rapid redirection in a very short time, and it succeeded. Yet in spite of its impressive record, the CETA system has not always been judged on the total record of its solid achievement.

In the past several years, allegations of abuse have been made about corporations, about unions and even about the Presidency. In none of these cases, however, has it been proposed that to root out the abuse the institution itself be abolished. Yet some of my colleagues may feel that scattered abuses in CETA warrant crippling legislative action. I do not agree. I urge my colleagues to resist adopting amendments that would further restrict this valuable program.

It is our responsibility to act on the total record of the CETA program. The abuses that have occurred in the CETA program are serious. They demand serious responses. And I believe the bill before us today represents that response. It addresses the major shortcomings of the program without unduly restricting the flexibility of local officials to act on local needs.

The CETA program is our most important and effective national tool for putting people back to work and for helping those who have never worked gain the skills necessary to participate fully in our economy. We must remember that the national unemployment rate has fallen largely because of the responsible acts of this Congress in fully funding CETA.

In the Baltimore Metropolitan Area, the Prime Sponsor has budget authority for more than $170 million for this year. More than 150,000 people received both subsidized and unsubsidized full-time employment through CETA. An additional 28,000 youths received part-time employment. This is a substantial record of accomplishment.

It is important that the flexibility and effectiveness demonstrated by the Baltimore Metropolitan Manpower Consortium be fostered not frustrated by Congress. It is incumbent on us to ensure the continuing success of CETA. I hope we will support this bill enthusiastically and resist amendments designed to unduly hamper the achievements of the laudable goals of the program.

CETA has in great measure helped us move toward economic recovery and social stability. The program is expensive. But we must measure that expense against the cost of unemployment, lost productivity and lost hope. Those are the costs we really can't afford.

● Mr. HART. Mr. President, I would like to join my colleagues in commending Senator NELSON and other members of the Human Resources Committee for their diligent efforts to improve the Comprehensive Employment and Training Act. Because of their efforts, I will support S. 2570 in the belief that the reforms which the committee has recommended should be given an opportunity to work. S. 2570 contains many important new provisions which should improve administration of CETA programs, target assistance at those individuals with the greatest need, and discourage abuses which seriously threaten the credibility of the act.

My support of S. 2570, however, must be qualified. While I applaud the efforts of my colleagues who have worked so hard on this legislation, I am not as optimistic as some that legislative remedies can correct the abuses CETA has experienced. Certainly, clearer goals, tighter eligibility criteria, wage ceilings, improved administrative procedures, and strong enforcement provisions should discourage abuses. Many of my constituents support these reforms and have urged me not to oppose the entire program because a small number of those responsible for operating it have used it for their own purposes, in conflict with the purposes of the act.

We cannot turn our backs on those people who want to work but are unsuccessful in competing in the labor market for lack of skills or opportunities. Programs such as CETA have an important advantage over other employment policies because they can target such individuals directly. But I am concerned that CETA does not become another institution which survives long after it has outlived its purpose or its effectiveness. I am concerned that without the full cooperation and commitment of local sponsors who operate CETA programs, CETA will become another costly Federal program mired in regulations and increasingly occupied with ferreting out fraud and

abuses. The American people will not tolerate this happening and it would be tragic if our less advantaged citizens seeking gainful employment were to become victims of this all too familiar scenario.

I intend to exercise my oversight responsibilities and do what I can to see this program works by giving the taxpayers their money's worth or is terminated.●

● Mr. CRANSTON. Mr. President, I rise in support of the pending measure, S. 2570, the "Comprehensive Employment and Training Act Amendments of 1978." I would like to express my appreciation to the distinguished floor managers of this measure—Senator NELSON, the chairman of the Subcommittee on Employment, Poverty, and Migratory Labor; and Senator JAVITS, the ranking minority member of both the subcommittee and the full Human Resources Committee. I have worked very closely with them, and the other members of the committee in developing this measure. I believe the committee has done both a responsible and a magnificent job in designing the reauthorization legislation.●

● Mr. KENNEDY. Mr. President, I rise to support the reauthorization of the Comprehensive Employment and Training Act. CETA is our primary vehicle for dealing with the problems of the structurally unemployed. It is an important part of our efforts to meet the problems of the cyclically unemployed.

At any one time some 400,000 people are receiving training under CETA programs and some 725,000 people are employed through these programs. Many of those who are employed receive on-the-job training.

During the course of a year, some three times as many people rotate through these training programs, and millions benefit from the employment programs.

There is no greater purpose that this body can have than assuring employment opportunities to everyone in this country who is able to work and desires to work. The No. 1 issue in the land—the first priority on the agenda of economic justice—must continue to be providing jobs for American workers. With this act we attempt to provide the tools with which people can go out and get jobs in the private sector or in the regular public sector. We also provide the means by which those who are cyclically unemployed can make great contributions to our communities.

Mr. President, there are many important amendments which have been incorporated into our reauthorization of CETA. They make this a better bill. Senator NELSON, the chairman of the Employment, Poverty, and Migratory Labor Subcommittee of the Human Resources Committee and Senator JAVITS, who is the ranking minority on both the full committee and the subcommittee deserve great credit for the work that they have done in improving this act.

I have been particularly interested in, and am particularly pleased, with some of the changes we have made.

We have strengthened the role of the community based organizations. We have decided that title VI workers should all be employed through the project method. And, we now allow these projects to continue beyond a year; where a project has been providing valuable service to those employed in it and to the community at large, it should not be leveled at the end of 12 months.

We have added to the flexibility of prime sponsors and the equitable treatment of CETA employees by taking regional cost differences into account in setting the ceiling wage rates that may be paid to CETA employees.

We have focused more of our efforts on the structurally unemployed. Not only are the structurally unemployed given greater training opportunities, but a new section of the act, title II-D, provides public service employment positions specifically reserved for such people. That employment must be accompanied by appropriate training.

We have also improved our focus on other people who would particularly value CETA services. In title III, the Secretary of Labor is required to fund programs to help displaced homemakers. We also call for greater assistance to help ex-offenders to take regular jobs in society. We have retained the requirement that programs for Indians and migrants should be administered at the national level; elsewhere in the act we have increased the proportion of the funds which must be devoted to Native American programs.

Mr. President, two developing national concerns are reflected in amendments which I introduced and which are in this bill.

First, section 316 reflects our concern that governmental agencies be made as responsive as possible to the reasons for which they were established. In this provision, we have established that the Secretary shall award funds to prime sponsors on the basis of how well they have done in placing CETA trainees in jobs, how good those jobs are, and how long the people who have been placed hold them. The Department of Labor, in evaluating the prime sponsors which volunteer for this program, will have to control for economic conditions and for the personal characteristics of those involved, so as to avoid penalizing areas with high unemployment and to avoid "cream skimming" among the CETA eligible population. With this amendment, we will, for the first time, be rewarding those prime sponsors which really get the job done—thus helping the trainees and spending taxpayer money most effectively.

This reauthorization also incorporates amendments which I introduced which reflect our growing concern with the energy problem and the consequences of our energy policies. One amendment mandates that the Department of Labor do an employment impact statement on energy proposals coming out of the Department of Energy, as well as energy related proposals coming out of other departments, like HUD. This is important because certain energy sources which are just as efficient, employ a larger number of workers, while requiring less capital. The act is also amended so that work on solar and renewable energy sources would be eligible for CETA activity. CETA workers will now be able to install solar panels and wood burning units. Under the current authorization, they are limited to conservation activities.

Mr. President, we have before us today the legislation upon which the hope and future of so many of our fellow citizens depends. This legislation has been tailored to respond more effectively to the employment and training needs of American workers. I support its reauthorization, and I believe that my colleagues will, as well.●

Mr. McCLURE. I would like to ask? How do you perceive the role and responsibilities of the Department of Labor under the Comprehensive Employment and Training Act?

Mr. NELSON. The role of the Department is that of administrative oversight. It is supposed to assure that prime sponsors, in their plans, have given adequate attention to such concerns as client selection, selection of program operators, auditing and monitoring procedures, and other priorities expressed by Congress.

The Department is supposed to oversee the implementation of those plans, to assure that the objectives of the plans are met, that the clients who are supposed to be served are actually receiving services, to assure that funds are being spent according to plan, and according to law, and to assure that the prime sponsors have sufficient records and adequate monitoring to meet congressional expectations—both in terms of information about the program and in terms of assuring compliance with the Federal law.

It is critical to the role of the Department of Labor that the Department focus its energy on the activities of those prime sponsors who are operating programs in violation of the law or where there are allegations of impropriety. It is clear that the Department cannot give equal attention to all prime sponsors. This involves a simple ordering of priorities.

On the other hand, the Labor Department should regularly audit and review the operations of all CETA prime sponsors. It should also make technical assistance and training available to State and local governments, to help them with reporting requirements, to help them develop adequate selection procedures, to help them develop systems to audit subcontractors and subgrantees, and to help them develop programs suitable to the needs of a particular clientel.

Mr. McCLURE. How does the role of administrative oversight, which the managers have so adequately described, square with the activities of the Labor Department over the last 4 years? It seems to me that the Department has often becomed bogged down in administrative minutia and/or acted like a frustrated program operator. Let me give you some examples of what I mean. The Labor Department seems to have an overwhelming urge to tell prime sponsors what program mix the State or

locality should have to meet their clients' needs.

That is to say that it is not unusual for the Department to tell a prime sponsor they need more classroom training; or, as has clearly been the case in many areas that the prime should spend more money on on-the-job training. Now I happen to favor on-the-job training in the private sector; but I thought CETA specifically left the decision on program mix to the prime sponsors—subject to review by the Labor Department only if it appeared that certain funds or programs were being abused.

We all know of specific instances where the Labor Department has brought pressure to bear on prime sponsors to select specific subcontractors or subgrantees. In the absence of indications that there is something wrong with the State or local selection process, does the Department have any business intervening in favor of specific deliveries of service?

One more specific example of what seems to me a misuse of resources by the Department, is the retirement issue—which I understand we will see an amendment to deal with today. I have no doubt that some prime sponsors must have abused CETA, by using CETA funds to build up their retirement funds and reduce the local burden for supporting such funds. There must have been such blatant abuses to have justified the reaction of the Department. But I ask you: Would not it have been more consistent with the role of the Labor Department as you have described it either to have clamped down on those prime sponsors who were doing something wrong; or to have come to Congress and asked for some legislative remedy; or both. What I understand the Department did, however—and please correct me if I am wrong—was to issue elaborate regulations, which is some cases required prime sponsors to violate their own State laws, which in some cases required changes in existing State laws, and which have generally proved incapable of implementation.

All of this consumed a great deal of time. And yet, the Labor Department evidently has let actual cases of alleged out-and-out abuse of CETA law and hiring practices go for over a year, without reaching a final resolution, right here in the District of Columbia.

Mr. NELSON. The Department of Labor has not always exercised its administrative oversight responsibilities in the appropriate manner. There are some mitigating circumstances. First, CETA programs have grown very quickly. Second, the goals of the program, and the expectations of the Congress, have not always been clearly articulated. And finally, we expect a certain amount of dislocation in any new program.

S. 2570 takes a number of important steps to solve these problems. The reported bill contains many provisions designed specifically to make clear to the Department of Labor and to CETA prime sponsors, just exactly what the Congress expects.

A number of amendments proposed to this bill have had as their purpose an even clearer articulation on those expectations. The Labor Department is required under this bill to require specific information from the prime sponsors—as to the prime sponsors' plans for management, auditing, and monitoring of the CETA program. It is required to establish a division for monitoring and compliance, within the office of the Secretary. The Department must establish procedures for monitoring of prime sponsors and for auditing, and for assuring that prime sponsors have the capacity to assure that their subcontractors and subgrantees are properly carrying out their responsibilities.

The Department must report to Congress, as to its progress in these areas, and as to any action it takes against prime sponsors under the compliance and sanctions sections.

We have included in the bill a whole section, which amends the criminal code, to make individuals who fraudulently use CETA funds, or who knowingly hire ineligible individuals, subject to personal prosecution and fines.

We could go on and on, but the point is: if the Department fulfills the specific responsibilities assigned to it under this bill, its performance should conform much more closely to the expectations of the distinguished Senator from Idaho—and of us all. The CETA program should have a new beginning, and an opportunity to fulfill the promise we have all held for it—since its enactment—that is, it should provide an effective, manageable, decentralized delivery system to serve the Nation's unemployed.

● Mr. HATHAWAY. Mr. President, I am pleased to support the pending reauthorization of the Comprehensive Employment and Training Act. As approved by the Employment, Poverty, and Migratory Labor Subcommittee and the full Human Resources Committe, on which I am pleased to serve, it contains a number of substantial improvements and reforms to the existing program.

Key to these provisions are strengthened requirements that the employment and training opportunities under CETA be targeted to those most in need. The bill stipulates that eligibility for title II structural programs be limited to those with incomes less than 70 percent of the lower living standard for the area as defined by the Bureau of Labor Statistics. For the title VI countercyclical programs, eligibility is limited to 85 percent of the lower living standard.

The bill also imposes strict limits on the length of time an individual can participate in CETA activities, and limits the wages paid to CETA workers, as has been detailed by the Senator from Wisconsin. It also includes rigid criminal penalties for fraud and abuse of CETA funds, and links CETA programs to the private sector through private industry councils.

In addition, the bill includes a number of amendments I proposed at the subcommittee level which should improve its administration, and allow it to better fulfill its stated objectives.

First, as a result of one of my amendments, the bill will require prime sponsors, in formulating their comprehensive employment and training agreement, to include a detailed description of the methods and arrangements to be used to involve community based organizations, educational agencies, and other deliverers of services, and also the methods used to select these deliverers of services from an inventory of those potentially available.

This amendment would thereby establish a mechanism to promote greater cooperation at the local levels and at the same time provide greater accountability with respect to the utilization of public funds. While many prime sponsors are already involving all available deliverers of services to the maximum extent practicable, there are instances where resources and facilities which could be used to great advantage are somehow excluded from participation in CETA programs.

This amendment does not dictate to any prime sponsor which mix of deliverers of services to utilize. That would be contrary to the principles behind CETA, which stress local decisionmaking and responsibility. But the amendment does require the prime sponsor to set forth methods and criteria used to determine who will participate from an inventory of all those community-based organizations, educational facilities, and other deliverers of services, which expressed an interest in being a part of CETA.

This system of accountability will then be reviewed at the State and local level by the Governor, by the State employment and training council, by the prime sponsor planning council, by appropriate units of general local government, and by labor organizations in the area, as required by new section 104. With the language of this amendment, these individuals and entities will have the opportunity to review the rationale which went into determining which deliverers of services are to be relied upon, as opposed to being presented with a bottom line fait accompli.

Equally important, the community-based organizations and educational facilities will have the opportunity to assert to these bodies their ability to be relied upon and to ask that, if they are unjustifiably excluded, such a decision be reexamined.

While in most parts of the Nation, cooperation is occurring, there have been instances where individual prime sponsors have set up delivery services which are duplicative of those already existing. This amendment is intended to eliminate this practice and to encourage to the maximum extent possible the utilization of available community programs and facilities.

Further, this would not create an impossible paperwork or administrative burden on prime sponsors. On the contrary, the Department of Labor has estimated that the changes made by the reauthorization, by relying on one comprehensive agreement, along with annual plans, paperwork for prime sponsors would be cut between 20 and 33 percent.

My second amendment dealt with the overall conditions set forth for utilization of CETA funds with respect to public service employment. This amendment

modifies the condition contained in the administration bill requiring that public service jobs be provided in occupational fields which are most likely to expand within the public and private sector. The amendment added as a complementary condition that public service employment at the same time:

Shall meet community needs including but not limited to community betterment activities (including rehabilitation of public properties, assistance in the weatherization of homes occupied by low income families, demonstrations of energy conserving measures including solar energy techniques, and neighborhood revitalization), education, health care, transportation services, crime prevention and control, and environmental quality control.

Thus this language, set forth as an overall requirement on the expenditure of all CETA funds, will serve to insure that overall community needs are being met.

In the 1977 fiscal year, nearly 1 million individuals were employed in CETA funded public service employment (PSE) programs. Over $3 billion was devoted to these activities.

While many worthwhile projects were undertaken, at the same time there has been criticism in the national media regarding some make-work, leaf-raking activities. Though only a very small proportion to the overall effort, this has nonetheless served to give CETA as a whole a tarnished reputation.

This amendment would clearly stipulate that all public service employment activities should be directed toward community needs. As a condition on the utilization of such funds, this language will provide added impetus to fulfilling this goal in all parts of our Nation.

My third amendment modifies section 311 of the bill. The amendment imposes the additional requirement that the demonstration programs authorized under the act be conducted in rural as well as urban areas, in sparsely populated as well as densely populated areas, and in areas with inadequate means of transportation.

Section 311 is intended by the administration to fund demonstration projects which are to be the precursors to welfare reform. It is essential to the well-being of our Nation and to the integrity of each of our citizens that our welfare system be made to function fairly and equitably. I applaud the President's initiatives in this regard and look forward as a member of the Committee on Finance and the Committee on Human Resources to working to shape these proposals into their final form.

But in the course of demonstrating effective methods to reform this system, it is vital that these activities be conducted in all parts of our Nation. The problems of the rural poor are different from those of their urban counterparts. They are further isolated from available job opportunities and lack the resources—transportation and otherwise—to extricate themselves from their Catch 22 dilemma.

These problems may well be the most difficult to solve as we undertake welfare reform.

Yet, unless the statutory language is explicit, I fear that demonstration of welfare reform may be overly concentrated on urban centers, to the detriment of rural areas, and in the end of the detriment of the Nation as a whole to the degree that a proposed solution neglects these needs.

This amendment would clarify this situation and form the basis for mandating that rural areas be fully included. I intend to monitor this matter closely as definitive welfare reform proposals are developed, but this language will serve as an important first step to achieving our overall goals.

Fourth, I offered language requiring that the school-based youth programs in title IV be coordinated with the activities under the Career Education Incentive Act. That act, signed into law last December, is intended to give greater attention to providing career skills and knowledge in our Nation's schools, and it is appropriate that the youth programs under this bill be coordinated with it.

Finally, there has been considerable attention in recent weeks and months to abuses under CETA, which I am convinced are the rare exception rather than the rule. But to give my colleagues an example of how CETA can work extremely well, I ask unanimous consent that there be printed in the RECORD at the conclusion of my remarks an article titled "Penobscot, Maine, CETA: 'One of the Best,'" by Gloria Stevenson, which appeared in the August 1978 edition of Worklife.

[From Worklife, August 1978]

PENEBSCOT, MAINE, CETA: "ONE OF THE BEST"

(By Gloria Stevenson)

A few months ago, Newsweek magazine called the Penobscot Consortium Training and Employment Administration—a two-county program headquartered in Bangor, Maine—"one of the best local CETA programs" in the country. Noting that the consortium will serve some 4,000 persons this year, Newsweek also reported that local officials responsible for the program have "opted for professional—not political—management."

Among readers familiar with CETA, (Comprehensive Employment and Training Act), the Newsweek statements were apt to provoke several question: How does the Penobscot program operate? Is it effective in moving people into jobs? Does "professional" management mean freedom from local politics?

To seek answers to questions like these, WORKLIFE visited the $9.9 million Penobscot program and found a structure that reflects traditional Maine values of individualism, self-reliance, and pragmatism. These qualities have been present since the program's beginning in 1975.

At that time, every county in Maine was served by the balance-of-State program. But the three commissioners governing Penobscot County, population about 138,000, applied to become an independent prime sponsor. This effort was led by Earl Banks, chairman of the county commissioners and a long-time resident of the Bangor area.

Banks, then 66, had owned a successful automotive supplies store before being elected county commissioner. A firm believer in local government, he thought that Penobscot County would get better CETA services if it ran its own program rather than relying on the State. The commissioners' application was approved, and Penobscot County, which had virtually no background in the employment and training field, became a prime sponsor.

"The minute we got this thing organized," Banks recalls, "We knew it was beyond our ability to run it. We needed a professional director, and that's what we got in Chuck."

"Chuck" is Charles Tetro, now 31, who was running a county CETA program for the New Hampshire balance-of-State when the Penobscot opening arose.

He was referred to the Penobscot opening by the National Association of Counties, a political interest group with a strong interest in CETA. "I wanted a change," Tetro says, "but I wasn't hungry for a job. I was quite interested in the opening, but I wanted it on my terms."

Key among those terms was that the Penobscot County commissioners, who served as the executive board for the program, would maintain a hands-off policy toward managing the program. They agreed, and Tetro took the job. One of his first moves was to hire Earl Banks, who had finished his term as county commissioner, to be his administrative assistant.

Banks, who had long been active in both local and State civic groups, was able to introduce Tetro to organizations and individuals whose support would help the program. Through membership in the Chamber of Commerce and Rotary club, he knew most Bangor employers and was able to enlist their cooperation. His service with the Boy Scouts and on the YWCA Executive Board and the board of directors of the local community action agency had given him access to community-based organizations. He had been active in the Maine Association of Counties and the Maine Economic Development Association and knew political figures throughout the State. Through friends in the Maine AFL–CIO, he was able to help CETA establish a working relationship with organized labor.

"My contacts were what helped to put this together," Banks says." "I had the open door to the big guys and the open door to the little guys."

With Banks leading efforts to gain community acceptance, Tetro, an energetic man who thrives on innovation, was free to concentrate on program development. At the outset, Tetro, Banks, and one other person were the sole CETA employees. But Tetro hired several bright young professionals to fill key administrative posts, proposed and received funding for new programs—including a contract to run Maine's entire migrant and seasonal farmworker program, covering some 200 persons—and expanded operations considerably.

The program also grew after neighboring Hancock County, formerly served by the balance-of-State, asked to join the Penobscot program. Hancock—which includes Bar Harbor, Acadia National Park, and a variety of other woods and waterfront vacation areas—is the fastest growing county in Maine, but its population now numbers only 41,000.

"I sat down," Earl Banks recalls, "with the three Hancock County commissioners and said, 'You're welcome to join us, but we're going to run the program. You're the authority, but it has to be professionally run.'"

The commissioners agreed, and in October 1976, the two counties formed a consortium whose staff now numbers about 100. Says Banks, who still serves as Tetro's administrative assistant, "None of the six commissioners who run the program have ever made any attempt to use patronage or nepotism or to interfere—except to offer suggestions—in our operations. We have a good relationship that way."

Tetro adds. "We have about as much freedom to run a program as you can get within CETA. Since we didn't have political constraints, we were able to sit down and build, as an architect would, the structure to fit our program scheme."

The consortium's program design reflects, first, the needs of a rural labor market. According to the prime sponsor's last annual, plan, about 5,100 local residents will become unemployed sometime during the fiscal year. These potential CETA participants are widely dispersed over an area that measures about 130 miles from northernmost to southernmost points and 120 miles from east to west.

Women make up about 70 percent of the economically disadvantaged persons in the area. Among jobless women, many are entering or reentering the work force after being widowed, divorced, or separated. Unemployment among youth is also severe. Most jobless residents are white: Only about 55 unemployed residents are from minority groups, and most of these are Native Americans.

Like most other rural areas, Penobscot and Hancock counties lack large industries. The biggest employers are papermills, but since they experience little turnover, vacancies seldom arise. Clerical and business occupations, allied health jobs, logging, heavy equipment operation, and mechanics jobs provide some of the best local opportunities. Hancock County also offers fishing, lobstering, and tourism jobs, but these are highly seasonal.

As a result of geographic and economic conditions, area residents often travel long distances, as much as 80 miles one way, to work. Public transportation is not available, so a driver's license and reliable car—one that can brave severe winters and bumpy roads—are usually necessities for work. Lack of transportation is a special problem for women and youth.

To bridge the distance between CETA headquarters and outlying areas, the consortium has set up three local Offices of Training and Employment Programs (OTEP's,) where participants can get comprehensive intake, counseling, and job placement services. These are located in Bangor, Ellsworth (in Hancock County), and a rural area of western Penobscot County. In addition, the rural OTEP oversees several smaller satellite offices—most consisting of only one person—which serve the most remote parts of Penobscot County, while outreach staff from the Ellsworth OTEP regularly hold office hours in a variety of Hancock County locations.

The OTEP's are staffed primarily by employability developers (E.D.'s)—the name Penobscot has given counselors in order to emphasize their role in helping applicants overcome job barriers. John Dorrer, the consortium's director of policy, evaluation, and research, explains, "We want to get away from the whole social service, do-good image. The fundamental notion of what we're about is to provide participants an economic service rather than a social service."

OTEP staffs also include youth employability developers and job developers. In addition, Employment Service personnel are stationed at the Bangor OTEP part time to offer placement assistance.

"Our philosophy," says Operations Manager Barbara Hamaluk, "is that each OTEP should offer the whole array of CETA services. We're interested in providing comprehensive services at one-stop centers."

Services are also highly individualized. Each CETA applicant is interviewed at length by an E.D. who helps him or her draw up an individual employability development plan. The plan lists employment barriers such as inadequate education, lack of skills, and transportation problems. Personal problems such as alcoholism are included, too. The plan also outlines specific actions which the applicant must take in order to overcome each problem. Applicants are not enrolled as CETA participants until after this plan is completed.

The time and attention spent in applicant assessment reflect the consortium administrators' belief that CETA should confine its activities to those which are likely to improve participants' employability. "CETA has to know what it can do and what it can't do," says Charles Tetro. "We're not a therapeutic social service agency. We can't rehabilitate alcoholics, for example. But we can help them remove other labor market barriers after they've dealt with that."

Another consortium stance is that CETA participants must assume responsibility for themselves and their worklives. Tetro says, "Our communications with participants emphasize that this is a shared opportunity. We tell them that we'll do our part, but they have to do theirs." Brian Sass, an E.D. in Bangor, puts it this way: "Applicants have to convince me that they really want to help themselves. Otherwise, it just doesn't work."

The number of persons who apply for CETA services is far greater than the number selected for service. According to Barbara Hamaluk, only about 10 to 25 percent of all applicants become participants. Most others are referred to local social service and rehabilitation agencies for assistance or to the Job Service for placement assistance.

Individuals who do enter the program generally work with the same E.D. throughout their participation. Each title I participant is also immediately introduced to a job developer who will be responsible for finding an appropriate on-the-job training (OJT) slot or job opportunity as soon as the person is ready. Consortium staff believe that such one-to-one relationships mean better service to each individual.

In line with their respect for self-reliance, program administrators favor training activities that enable participants to become economically independent. "We prefer intensive investment in a few individuals to less investment in a wider range of people," Tetro says. Most title I participants go through several program components, such as classroom training, work-experience, and OJT.

Penobscot puts heavy emphasis on direct training by employers. The consortium has subcontracted with the Maine AFL–CIO to develop OJT positions in unionized occupations, and OTEP job developers seek OJT slots in other fields. Because most area employers are small, OJT opportunities are developed to meet the needs of individual participants, and most employers have only one or two trainees.

Some 500 of the 1,250 persons to be served under title I this fiscal year are scheduled to get OJT. The proportion of title I participants to be served through this form of training is thus 40 percent, much higher than the 12 percent average registered last year for all CETA programs. Moreover, all Penobscot OJT positions include employer commitments to hire participants after training, which averages about 6 months.

In addition, two local employers are conducting larger CETA training programs which also include commitments to hire. Eastern Maine Medical Center, the local hospital, is conducting a STIP project (See *STIP, the Private Sector Connection* in the April 1978 issue of WORKLIFE) to train 30 people—many of them women receiving welfare—as medical secretaries and respiratory therapy technicians. Training will last 9 months and will include classroom study, laboratory training, and a practicum at the hospital.

In the other program, a large diesel repair shop, Bean & Conquest, is providing vestibule training for 32 diesel mechanics under a title I contract. Both programs were designed by the employers to meet specific hiring needs, and both are being conducted on employers' premises by employers' staff.

The Penobscot consortium plans to move about 400 title I participants into unsubsidized jobs in fiscal year 1978, and at the end of the second quarter it was only 5 people behind its mid-year target of 186. Title I funds for the year total $1.3 million.

The consortium also expects to put 1,269 individuals in public service employment (PSE) funded under title VI this year. Penobscot's $5.7 million title VI program is called LIFTE—Local Initiative Funding for Training and Employment. The name, Charles Tetro explains, was designed to help the PSE projects concept gain local acceptance.

Penobscot now funds about 300 LIFTE projects, most with 3 or 4 employees. "We try to use LIFTE positions almost like we use work-experience," says E. D. Brian Sass, "to help individuals develop a job history and to get their work habits and skills up to the level they need for OJT." Sass also reports that staff members try to keep in touch with LIFTE participants by visiting or calling them at their worksites at least once a month.

Among ongoing LIFTE projects are these:

The Spruce Run Association, a private, nonprofit organization, has hired four persons to staff a shelter for battered women. The shelter offers temporary housing, a 24-hour telephone hot line, a crisis intervention program for the children of battered women, and personal and divorce counseling. Project employees also seek community resources needed by shelter residents. The four persons hired for the project all had previous counseling experience, but each got at least 36 hours of crisis intervention training before going to work.

The Bangor Historical Society and the Penobscot Heritage Museum have jointly hired eight persons to catalog, label, and preserve what one consortium staff member calls "a whole museum full" of previously neglected artifacts owned by these agencies. In addition, LIFTE employees now staff the museum—which was formerly open only by appointment because of lack of funds—on a regularly scheduled basis.

The Penobscot consortium has employed 20 LIFTE participants to renovate three old barracks that recently became CETA's administrative headquarters. The consortium leased the dilapidated structures—built for a Strategic Air Command base and now owned by Bangor Community College—after they had stood vacant for about 8 years.

The barracks are being revamped to accommodate offices, space for classroom and laboratory training, and sleeping quarters for CETA trainees from remote parts of the consortium area. LIFTE employees are reshaping rooms within the structures, rebuilding window frames, repairing floors, replacing plumbing, painting interior and exterior walls, and building bookcases and other furniture. The project employs eligible CETA participants and Employment Service registrants who had indicated an interest in construction work.

Sixteen teenagers employed through the Youth Community Conservation and Improvement Projects (YCCIP) program are also helping to renovate Penobscot CETA headquarters. The Maine AFL–CIO sponsors this project, which is funded under title III of CETA. Enrollees are unemployed, out-of-school youth, two of them female.

The YCCIP project is supervised by two union members with extensive experience in the construction trades. They teach basic carpentry skills, stress good work habits, and serve as mentors for participating youth.

As designed by law, YCCIP does not emphasize remedial education, formal training, or support services for participants, and Charles Tetro finds this lack disturbing. "I don't think sweat jobs per se help dropouts get jobs," he says, "although we're evaluating this project closely and will eventually see whether or not that's true."

He continues, "We haven't offered the kids any extras, but we did wait to see if they'd ask for more. And they have. Fifteen of the 16 don't have driver's licenses and some want help in getting them. Others have asked for training in welding and pouring foundations."

Combatting youth unemployment—especially among dropouts—is a consortium priority. In an effort to strengthen services to this group, Penobscot recently proposed to establish a highly innovative Job Corps center. The Employment and Training Administration has accepted the proposal, and the new center—the first in the country to be operated directly by a local prime sponsor—will open in September.

The coed center will be situated on the campus of Husson College, a small, private school about 2 miles from CETA headquarters. It will provide residential services for 250 high school dropouts and will serve another 100 commuters, most of them women receiving Aid to Families with Dependent Children.

Enrollees, who will be recruited by the consortium from throughout Maine, will live in Husson dormitories, share dining halls with regular students, and attend some classes at the school. Additional training will be provided by Bangor Community College and other training facilities used by CETA. Says Tetro, "By colocating the center on the Husson campus, we're offering a positive social environment for growth."

Center activities will include a pilot Advanced Career Training program that will provide 3 to 4 months of intensive education to enrollees who dropped out of high school shortly before graduation. The program will be geared to preparing Corpsmembers for community college enrollment.

The Job Corps center has given the consortium another opportunity to build a program from the ground up, an activity that staffers seem to relish. In other developmental projects, administrators are setting up a new program to provide CETA participants with localized job market information, gearing up for further program expansion—neighboring Piscataquis County is scheduled to join the consortium in October—and devising a sophisticated economic model for evaluating program results.

Few prime sponsors as small as the Penobscot consortium have put much emphasis on evaluation, but Penobscot administrators regard it as a key program ingredient. John Dorrer, who heads the evaluation effort says, "Evaluation of outcomes is a vital part of decisionmaking concerning the allocation of resources. It's the rationale for determining what we do in this system."

Tetro adds, "Without a sufficiently developed method of evaluating program output, nobody can say with any assurance that investments in employment and training pay off."

The concept of investment figures prominently in the consortium's overall management philosophy. Says Tetro, "We've tried to stress that employability developers are making investments in human capital formation."

Tetro often describes CETA activities in terms of costs and benefits. He says, for example, "The consortium offers relatively little work-experience. Twenty-six weeks of work-experience translates into $3,000. But there are often better ways to use that $3,000. We're looking for optimality in the training mix for each individual."

The consortium also seeks maximum program flexibility to serve individual needs. The administrative staff is organized along functional lines—planning, OTEP operations, and finance and budget, for example—rather than according to CETA titles. "This way," Tetro says, "there are no institutional constraints to providing any service for any eligible participant. And practically speaking, we can deal with any CETA legislative changes that might emerge."

Consortium staffers—all of whom but Tetro are covered by an employee merit system developed with the help of the U.S. Civil Service Commission—seem highly committed to the local CETA program and its aims. Key administrators routinely put in 60-to-70-hour weeks. Tetro reports, and OTEP staff members often arrive at work early and stay late.

Brian Sass, from the Bangor OTEP, expresses his enthusiasm by saying, "CETA is a beautiful program. It's not perfect, but it's great. It gets people jobs and it gets workers for employers.

"As an E.D., I have a chance to really get to know people, and I'm pleased when they do well. That's the nonmonetary reward. And when I see someone on the street who thanks me, that's the little—and here he makes a *p-o-o-o-f* sound—that makes everything, even the paperwork, worthwhile." ●

"CETA ARTS TRAINING IS TICKET TO GOOD POST"

● Mr. PELL. Mr. President, widespread news accounts of abuses, mismanagement, and ineffectiveness in the CETA jobs program have tended to create the impression that CETA is not accomplishing the objectives Congress intended that it should.

However, while some problems do exist—problems which are addressed and explicitly resolved in the new bill at hand—CETA had produced some notable and durable positive results.

One of the most successful and effective dimensions of the CETA program involves CETA/Arts projects, which offer highly meaningful employment opportunities to unemployed and underemployed artists, as well as a wide variety of support personnel. Approximately 10,000 such positions are currently filled in CETA/Arts projects across the country, with results that are almost uniformly positive. Such projects naturally attract popular support, and are a real credit to the overall program.

An article appearing in the August 17 edition of the Washington Post helps to illustrate my point. The article, by Post staff writer Joann Stevens, is entitled "Arts Training Is Ticket to Good Post." It describes the encouraging progress being made by Arts D.C., "a local, nonprofit agency dedicated to placing CETA participants and other artists in training programs that lead to permanent, unsubsidized jobs." Arts D.C., currently has 60 CETA arts trainees working with 36 local arts agencies. About 38 percent of the participants have found permanent employment, and Arts D.C., hopes that figure will increase to 50 percent by year's end.

Ms. Stevens' article offers convincing evidence that CETA/Arts projects do "provide training that leads to well-paying permanent jobs," thus effectuating congressional intent. As one of the successful project participants told Ms. Stevens, "I thought CETA was a very positive experience. It expanded my scope of skills, and should this job fall through, I feel I'm better qualified to find other employment."

Mr. President, I ask that Ms. Stevens' article be included at this point in the RECORD.

The article follows:

ARTS TRAINING IS TICKET TO GOOD POST

(By Joann Stevens)

Film-maker Wilfred Williams is a CETA graduate—a testimonial that the government program does provide training that leads to well-paying, permanent jobs.

Ten months ago, Williams said, he was a CETA arts management trainee making $9,500 a year. Today he earns what he calls a "satisfactory" $14,000 in a permanent, unsubsidized job as assistant director of Arts D.C., a local, nonprofit agency dedicated to placing CETA participants and other artists in training programs that lead to permanent, unsubsidized jobs.

The agency has 60 CETA arts trainees working in 36 local arts agencies, including the Capitol Ballet, the Museum of African Art and the Childrens Opera Theater.

This year, Williams said the center hopes to place half of its CETA artists in permanent positions. About 38 percent already have found permanent jobs, he added.

"One of our people got a $20,000-a-year job in New York with a public relations firm," he offered as an example. The trainee had worked with the Washington Area Filmmakers organization, and the director of a New York public relations firm had been impressed with the way the trainee had coordinated a Washington film festival, Williams said.

"A lot of stage technicians and actors are also being absorbed by different theaters."

As Williams pointed out the benefits of CETA, he chatted easily about his own lean years of employment, which he smilingly called his freelance period. That period ended one morning last October after he had read a newspaper article about city funding, through CETA programs, for unemployed artists.

Williams said he went to the unemployment office that afternoon and narrowly missed the program deadline for filing a CETA certification application. The next day he was interviewed by a prospective employer, and a few days later he began his CETA job at The Support Center, 1424 16th St. NW., as an arts management consultant to local arts groups.

"They had a CETA grant for three arts management consultants. We provided free consulting services to arts groups in the city," he said.

Information was provided about fundraising, arts management, taxes, accounting, public relations and various other issues, he said.

Williams said he worked with seven to 10 different arts groups handling most of the public relations work. One of his groups was Arts D.C. When the agency learned its assistant director was leaving her job, Williams said, he was offered the position.

A native of Brooklyn, N.Y., Williams said he rapidly developed Potomac Fever when he came here to attend Howard University 10 years ago. In 1972 he was graduated with a B.A. from the School of Communications, and for several years, he said, he worked at local radio and television stations where he earned his 3rd Class FCC license and filmed various youth documentaries and television series.

He misses the film-making, he said, but "I've found it's important to get into the administrative end, too. I thought CETA was a very positive experience. It expanded my scope of skills, and should this job fall through I feel I'm better qualified to find other employment." ●

● Mr. STONE. Mr. President, I would like to direct the attention of my colleagues momentarily to a specific provision of the bill currently before us. At the beginning of this Congress legislation was introduced by the Senator from Indiana (Mr. BAYH) which was intended to provide for the special needs of women forced into the job market through divorce or widowhood. This legislation proposes the establishment of centers for such women throughout the country, offering vocational training, job placement, guidance counseling, and referral services for health care, education and legal problems. I became a cosponsor of the Displaced Homemakers Act upon its introduction 2 years ago, and have testified on its behalf in committee hearings. The language of the bill has since been incorporated into S. 2570, the measure we are considering here today, as most existing centers for displaced homemakers are presently operating in part under grants from the Comprehensive Employment and Training Act.

Those of us committed to the resolution of this growing national problem had hoped that the incorporation of the Displaced Homemakers Act under CETA might result in the allocation of specific funds addressing these needs. Unfortunately, the $10 million originally requested under our bill has now been replaced by language directing the Secretary of Labor to "make available financial assistance," of an undetermined amount, for displaced homemaker centers. Although the committee report reflects a verbal commitment from the Secretary to spend $5 million, we believe that this amount cannot begin to scratch the surface of this growing national problem.

In 1977, there were 10 million widows and 4.9 million divorced women in the United States, and the numbers are steadily increasing. Many, middle-aged or older, are entering the job market for the very first time and are finding themselves in competition with younger and more experienced people. An overwhelming percentage of those who need financial assistance are ineligible for existing welfare, social security, or unemployment compensation programs. Furthermore, lacking job skills and self-confidence, these women face an almost insurmountable task in trying to support themselves.

At a time of heightened consciousness about unwarranted Government spending, I realize that new and relatively unproven programs are subject to reduced priority. However, many local and privately supported centers—including one which has already helped hundreds of women at Valencia Junior College in Orlando, Fla.—are already flourishing around the country, many with the benefit of CETA grants. If we do not support such a Federal program now, we will be supporting these same women later—but then it will be in programs for welfare, battered wives, alcohol, or drug abuse.

The $10 million originally requested in the Displaced Homemakers Act is the barest minimum that can be allowed if we are to establish a national commitment to the alleviation of this problem. I am hopeful that the Secretary of Labor will recognize the urgency and the economic advantage of helping this segment of our population become productive citizens.●

● Mr. NUNN. Mr. President, I would like to take just a moment to ask the distinguished floor manager of this legislation a question in regard to his interpretation of certain provisions of the CETA bill.

In reviewing this legislation, I have noticed in several places that the bill refers to "work experience programs" or "on-the-job training." I would like to know if these phrases are meant to include the very successful cooperative vocational education program. The cooperative education program assists schools in providing young people with on-the-job supervised training, mostly with the private sector, which is coordinated with in-school academic and vocational learning. There are currently 700,000 youths in this program and approximately one-half of the participants stay with their present employers after the structured program ends. The cooperative education program also has a job placement rate of over 90 percent.

I believe that it is very important to utilize existing and successful training programs in any efforts to serve our targeted youth population. I would appreciate the bill manager's comments on the cooperative education program and his views as to its potential involvement in the CETA program.

Mr. NELSON. The current CETA law permits prime sponsors to determine the appropriate mixture of services for their clients. This concept is continued under the committee bill, thus "work experience" and "on-the-job training" programs may be combined with cooperative vocational educational programs as well as other programs.●

● Mr. HUDDLESTON. Mr. President, first, I commend the distinguished floor managers of the bill for the outstanding job they have done in bringing this most important legislation before the Senate. The extension of the CETA program is of great importance to the entire country and by acting on S. 2570 now we can be assured that these vital services will continue.

I am particularly pleased to see that in the committee reported bill there is a provision which, as I understand it, will alleviate a problem that has occurred in the northern portion of my State. This past January the Bureau of Labor Statistics changed the way unemployed is estimated. Although these changes had no effect on the real level of unemployment in Kentucky, they did substantially change the unemployment rate for three northern Kentucky counties near Cincinnati. While the numbers of hardcore unemployed are increasing, the new methodology for computing unemployment statistics is causing an uncalled for, unrealistic reduction in Federal allocations for programs based on rates of unemployment in Boone, Kenton, and Campbell Counties.

Section 123(e)(1) of the bill before us directs the Secretary of Labor to provide the sufficient funds to assure that allocations under any title of the CETA program are not reduced by the termination of the use of current population surveys to determine annual unemployment data prior to January 1, 1978. This speaks directly to the problem at hand in northern Kentucky and other cities and counties adjoining metropolitan area across the country. Hopefully, those overseeing the operation of other Federal programs will take notice of this action and conform their regulations accordingly.

I might also comment here on Senator NELSON's amendment, which I have cosponsored, that mandates a 6-month notification of any changes in the methodology used to determine unemployment rates. Certainly such prenotification will prevent the kind of situation that we had in January when a sudden change had a very dramatic, negative impact on certain areas of the country. State and local officials will now at least have time to prepare for adjustments that must be made to conform with new statistical data. This too is a productive and necessary step.●

Mr. THURMOND. Mr. President, I am supporting S. 2570, the Comprehensive Employment and Training Assistance Act Amendments of 1978, because I believe that a number of changes have been made on the Senate floor which substantially improve what some have called another Government give-away program.

This legislation would extend for 4 additional years a program that was originally created to put the unemployed back to work. Because it was a new program, it was subject to certain abuses that have been published in a number of newspaper articles and editorials.

I have always opposed waste and inefficiency in Government. The taxpayers deserve to have their tax dollars spent wisely and productively. Although the CETA program has been subject to some abuse in the past, I think the Senate has taken substantial steps to curb abuses and problems in this program.

There are provisions in the bill to crack down on abuses in CETA programs that have led to embezzlement, fraud and misuse of funds. The Secretary of Labor may make use of State and local agencies, especially law enforcement agencies, to monitor and enforce the requirements of the program.

The eligibility requirements of the bill have been tightened up in order to target in on the hard-core unemployed such as welfare recipients, youth, seasonal farmworkers, women with limited educational backgrounds and disabled veterans, as well as other handicapped persons. By taking people off the welfare rolls, and training them to work on jobs that will keep them employed is the primary goal of the CETA program. The tightening of eligibility requirements should improve the record of this program.

Mr. President, $3 billion has been cut from the bill for public service employment. While this cut is contingent on certain conditions that were added in floor amendments, it recognizes that Federal spending must be reduced, and a careful reduction of this program of $3 billion will not hurt the program, but instead will help keep inflation down and make the program more acceptable to a number of people.

Finally, provisions have been added to give Congress more control over this program. Increased oversight by the Senate Human Resources Committee,

the Appropriations Committee, and the Budget Committee should lead to a more efficient program. This program is also run by State and local citizens as well as the Federal Government. Thus, increased accountability up and down the line should help to eliminate any past abuses or problems in the CETA program.

Mr. President, I am against big Government spending, but I also want to see every American have a job. Jobs mean salaries, which help feed the family. Salaries mean taxes, which help support our schools, roads, and public services. Jobs means fewer people on welfare. Any program that can achieve those objectives should be given a chance to work.

Mr. BAYH. Mr. President, I would like to take this opportunity to comment on one particular aspect of the pending CETA legislation—that portion which provides for funding of displaced homemakers programs under title III of CETA as well as under other titles of the bill.

On January 30 of this year, I introduced legislation which called for the funding of displaced homemakers programs under CETA. This legislation was cosponsored by Senators MCGOVERN, HUMPHREY, RIBICOFF, CLARK, METCALF, LEAHY, MARK O. HATFIELD, PELL, ABOUREZK, RIEGLE, SARBANES, PERCY, ANDERSON, STONE, KENNEDY, CHURCH, HATHAWAY, BENTSEN, and HASKELL.

I would like to take this opportunity to thank the chairman of the Employment, Poverty and Migratory Labor Subcommittee, Senator NELSON, for incorporating much of this earlier legislation into the bill we have before us today. I would like to also thank one of my earlier cosponsors, Senator RIEGLE, for his tireless efforts in moving this legislation through the committee.

During the last 15 years, we have made great strides toward eliminating discrimination against women in employment. We have enacted the Equal Pay Act of 1963, title VII of the Civil Rights Act of 1964, and title IX of the Education Amendments of 1972. These legislative barriers against discrimination along with an increased societal awareness of the importance of the labor force participation of women have contributed to a significant increase in the number of women in the civilian work force over the last decade. In fact, during this period women accounted for nearly three-fifths of the total increase in the civil labor force. The Department of Labor now predicts that 9 out of every 10 young women will work at some time in their life.

With these employment advances for women, what have we done to assure the financial security of those 15 million married women who have chosen to be full-time homemakers? The answer is not nearly enough. To begin with, we have never adequately recognized the value of the homemaker's contribution to our Nation's economy. We have neglected the homemaker's contribution despite the fact that as early as 1918, the National Bureau of Economic Research estimated the value of the homemaker's work as one-fourth of the gross national product.

For the homemaker, who has spent a substantial number of years providing unpaid services to family members, we have provided little, if any, assistance to become a productive member of the labor force when faced with sudden financial insecurity due to death of her spouse, divorce, or loss of traditional family income. These women, who are not in the labor force and are over the age of 40, are designated "displaced homemakers." It is difficult to estimate the number of women who would qualify as "displaced homemakers" since Government statistics are not collected on homemakers as such. Howwe can see the scope of the problem faced by displaced homemakers by looking at some selected statistics; for example:

Thirty-five percent of all female heads of households were widowed in 1975;

Over the past decade, single parent families headed by women have grown 10 times as fast as two-parent families;

The highest rate of labor force participation by women family heads was among those 45 to 54 years of age where nearly 7 out of every 10 worked; and

In 1975, there were 10,104,000 widows and 3,978,000 divorced women; a 45 percent increase in widows since 1950 and 223 percent increase in divorcees since 1950.

What happened to these displaced homemakers once they lost their traditional source of income? Many of these women try to reenter the work force without marketable job skills or training. Unable to secure employment on their own, some of these women turn to the Federal Government for assistance. Sadly, the eligibility criteria for most Federal programs do not cover displaced homemakers.

Because there has been no nationwide program addressing the concerns of displaced homemakers, several localities have attempted to address the employment problems of these women. The most notable of these efforts have been in Baltimore, Md., and Oakland, Calif. In my own State of Indiana, the Fort Wayne displaced homemakers program has also been successful in this regard. The bill the Senate is considering today will strengthen the efforts of these programs, as well as permitting the establishment of other similar programs across the Nation.

Briefly, the CETA bill before us today would provide for the funding of displaced homemakers programs under title III of CETA, as well as other titles of the bill. While the bill does not provide for a specific set aside of $5 million for the funding of displaced homemakers programs under title III, it is the understanding of this Senator and the chairman of the committee, that the Department of Labor has committed to spending this amount on displaced homemakers programs during fiscal year 1979. This amount would be in addition to any moneys made available to displaced homemakers programs under other titles of the bill.

In defining displaced homemakers, the Human Resources Committee stated in its report that it did not place a statutory age limitation in the bill, however, the committee did believe, "in implementing the program, the Secretary should take into account and give special attention to the needs of older women who are displaced homemakers." Since the problems of displaced homemakers are too often a combination of both age discrimination and sex discrimination, I would hope the Secretary of Labor would be particularly mindful of the committee's recommendations in this area.

Statistical evidence indicated clearly that women are entering the labor force in increasing numbers for basic economic reasons. Older women, whether to support their children or themselves, are often ill prepared to enter the job market. If they do breach the barriers of age and sex discrimination they are still likely to be employed at menial, low-level occupations which provide only marginal income. This cycle can be broken only by supplementing their inadequacies of earlier education and training with counseling and training programs designed to provide better paying job opportunities. It is this need which would be addressed by the displaced homemaker provisions of the CETA legislation.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. JAVITS. I yield back my time.

Mr. NELSON. Mr. President, I yield back the remainder of our time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Montana (Mr. HATFIELD), the Senator from Maine (Mr. HATHAWAY), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Maine (Mr. MUSKIE), the Senator from Tennessee (Mr. SASSER), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from Alaska (Mr. GRAVEL) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON), the Senator from Minnesota (Mrs. HUMPHREY), and the Senator from Georgia (Mr. TALMADGE) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BARTLETT), the Senator from Massachusetts (Mr. BROOKE), the Senator from Missouri (Mr. DANFORTH), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. MATHIAS), the Senator from Kansas (Mr. PEARSON), and the Senator from New Mexico (Mr. SCHMITT) are necessarily absent.

The result was announced—yeas 66, nays 10, as follows:

[Rollcall Vote No. 367 Leg.]

YEAS—66

Allen	Griffin	Morgan
Bayh	Hart	Moynihan
Bellmon	Hatch	Nelson
Bentsen	Hatfield, Mark O.	Nunn
Biden	Hayakawa	Packwood
Bumpers	Heinz	Pell
Burdick	Hodges	Percy
Byrd, Robert C.	Hollings	Randolph
Cannon	Huddleston	Ribicoff
Case	Inouye	Riegle
Chafee	Jackson	Sarbanes
Chiles	Javits	Schweiker
Church	Leahy	Stafford
Clark	Long	Stevens
Cranston	Lugar	Stone
Culver	Magnuson	Thurmond
DeConcini	Matsunaga	Tower
Dole	McClure	Weicker
Durkin	McGovern	Williams
Eagleton	McIntyre	Young
Ford	Melcher	Zorinsky
Garn	Metzenbaum	
Glenn		

NAYS—10

Byrd, Harry F., Jr.	Helms	Scott
Curtis	Laxalt	Stevenson
Hansen	Proxmire	Wallop
	Roth	

NOT VOTING—24

Abourezk	Gravel	Muskie
Anderson	Haskell	Pearson
Baker	Hatfield, Paul G.	Sasser
Bartlett	Hathaway	Schmitt
Brooke	Humphrey	Sparkman
Danforth	Johnston	Stennis
Domenici	Kennedy	Talmadge
Eastland	Mathias	
Goldwater		

So the bill (S. 2470), as amended, was passed.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. NELSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NELSON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 2570.

The PRESIDING OFFICER. Without objection, it so ordered.

Mr. NELSON. Mr. President, I ask unanimous consent that S. 2570 be printed as passed by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, at a time when inflationary pressures are great—at a time when we need to do whatever we can to put an end to the cycle where wages and prices rise in an illusory attempt to "catch up" with each other—an excessive reliance on monetary and fiscal policy to reduce unemployment can prove counterproductive. Indeed, exclusive reliance on macroeconomic stimulus can leave us with an unacceptably high rate of joblessness. This is the case largely because many individuals with limited skills and experience—the structurally unemployed—would be bypassed, while the wages of skilled workers would continue to be bid up.

Fortunately, there is another way to lower the level of joblessness among the structurally unemployed, a way which will not exacerbate inflationary pressures. Job-creation programs can be targeted to those who are generally excluded from the job market because of lack of skills and experience. Such programs lead to an expansion of economic growth without a concomitant bidding up of the wages of those already employed.

In addition, it has been documented that there is a real increase in the employment and earnings potential of participants in such programs. While the increase is limited, it does indicate that these targeted programs can work to the benefit of the structurally unemployed.

Mr. President, the facts are these: We have seen a dramatic decline in joblessness over the past 19 months—from 7.4 percent in January 1977 to 6.2 percent last month. However, some segments of our society have not fully benefited from this improvement. Blacks and youths are two such groups. The joblessness rate for blacks, 12.5 percent in July, was more than twice the 5.3 percent rate for whites. The unemployment rate for youths 16 to 19 years of age was 16.3 percent.

The need to expand programs for the hard-to-employ is reflected to the Comprehensive Employment and Training Act Amendments of 1978. The amendments as reported by the Human Resources Committee call for support in fiscal year 1979 of public service jobs at the current level of 725,000. About half of these jobs would be under title II, the structural unemployment title of the bill.

Mr. President, I believe that the chairman of the Employment, Poverty, and Migratory Labor Subcommittee, Mr. GAYLORD NELSON, and the ranking minority member, Mr. JACOB JAVITS, are to be commended for their work on the Comprehensive Employment and Training Act—particularly for having partially refocused the bill on the problem of structural unemployment. With the changes they and other members of the Human Resources Committee have made, CETA will play a vital role—together with a moderate tax cut—in helping to move our Nation toward fuller employment without exacerbating inflation.

SECOND SUPPLEMENTAL APPROPRIATIONS, 1979—CONFERENCE REPORT

Mr. MAGNUSON. Mr. President, I submit a report of the committee of conference on H.R. 13467 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 13467) making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of August 10, 1978.)

Mr. MAGNUSON. Mr. President, this is the supplemental appropriation bill. The committee on conference met on August 10, and a report was filed in the other body on that date and printed in the RECORD. Thus the conference report has been available now to the Members of Congress for almost 2 weeks.

The bill, as agreed to in conference, is $6,808,778,686, which is $359,668,300 under the President's budget estimates, $475,389,000 above the House bill, and approximately $89 million above the Senate bill, $89,550,000 to be exact.

It is very important that we finish this bill today because a great portion of this money involved mandatory pay raises in most of the departments of Government which were not included in the regular appropriation bills.

There are some other items in the conference report which are greater than the House or Senate bill. This was due to the lack of authorizations on some of the very necessary items or late submission of items after we marked up the regular bills.

Mr. President, I would like to review some of the matters which were in conference which have resulted in the conference report being greater than both the House and Senate bill.

The conferees deleted a Senate rescission of $30,000,000 in emergency drought and flood assistance funds available under the agricultural conservation program.

The conferees agreed to an appropriation of $52,200,000 for construction and renovation of St. Elizabeths Hospital. These funds were not contained in the Senate bill. They were in the budget.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

PRIVILEGES OF THE FLOOR

Mr. HATCH. Mr. President, I ask unanimous consent that Ken Beadles of my staff be accorded privileges of the floor during the consideration of all the bills.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that Ron Tammen of my staff be given privileges of the floor during debate on the tax bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, diverting from the conference report, after this when this Senator gets started on a very important matter he is going to ask unanimous consent that if Senators want

some of their staff on the floor that they go out there and drop their names in a box so that we can proceed with the Senate's business. I think that will be a good change in the rules. It is not his fault, I say to the Senator from Wisconsin.

Mr. President, I ask unanimous consent that there be printed in the RECORD, at this point, a memorandum that addresses a number of the distortions and inaccuracies that have been circulating regarding the Hart Building. I also ask unanimous consent that a fact sheet regarding the Hart Building be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEMORANDUM ON THE HART SENATE OFFICE BUILDING, AUGUST 21, 1978

The recent discussions concerning the Hart Senate Office Building have given rise to a number of distortions and inaccuracies concerning the physical characteristics of the building which it seems useful to rectify and clarify.

Without necessarily indicating the items in order of importance, the following list consists of those most often referred to:

1. The sixteen foot ceiling heights. It is useful to note that only 15% of the ceiling heights in the Hart Building, namely in the offices which are on the exterior perimeter of the building, are of that ceiling height. The balance of the building office space, that is to say 85% of it, has an eight foot ceiling height, which is less than the ceiling height in the existing Dirksen Building in the office areas. In fact, the so-called sixteen foot ceiling height is slightly less than that in the existing Russell Building built in 1910, and which is thought by most people to be the most desirable of the two present Senate Office Buildings.

The Hart Building was designed to make very efficient use of the volume in the building by providing virtually all of the floor area with low ceiling heights. The distortion associated with the comments that have been made concerning the ceiling heights have made it appear that the building has high ceilings throughout, whereas, in fact, it is an unusual circumstance and confined only to certain small areas, thus increasing the internal efficiency of the building and at the same time creating an atmosphere comparable to the Russell Building.

2. The gymnasium. The gymnasium is in fact a simple basketball court together with associated locker rooms and shower rooms. It is not usually mentioned that there are also locker rooms for male and female staff personnel, so that they can also use the physical fitness facilities. The basketball court can be divided at one end with nets so that paddle ball games can be played. It is not a large area, it has no room for spectators and is in the simplest form possible.

The so-called existing gymnasiums are, in fact, not gymnasiums at all. They are simple exercise rooms, one of which exists in the Dirksen Building and is 17 x 34 feet, slightly larger than most living rooms, with a very low ceiling height and which contains a few exercise machines; a similar room exists in the Russell Building and is about 12 x 12 feet in dimension, smaller than the size of a living room in many homes, and again with very low ceilings and containing a few exercise machines. These are by no means capable of being termed gymnasiums in the ordinary sense of that word. Thus, the facility that is being added is comparable to that which exists on the House side and would be available for health giving exercise for staff personnel as well as Senators. It is austere and simple in its design and in its characteristics. There are no steam rooms, saunas, swimming pool or any other facilities except a basketball court which can also be used alternatively for indoor tennis.

3. The Ninth Floor Dining Facility. This facility was never at any time intended to be, nor was it designed to be, a private dining room for Senators only. It is a simple dining room with an associated kitchen in which it is intended to serve buffets to the public as well as to staff personnel and Senators, similar to the function of the cafeterias presently in existence in the Dirksen Building. 80 percent of the floor on which the facility is located is devoted to the use of mechanical and electrical equipment under the roof itself; it therefore is a location which makes efficient use of an isolated area of the building.

4. The Multi-Media Room. The temporary title of this room has apparently caused a good deal of misunderstanding to arise. It is in fact a hearing and assembly room for the use of the public and the writing press, as well as for the electronic media, for those instances in which recording and reporting of hearings is desirable. It has built in facilities to enable television cameras and the writing press to be able to provide accurate reporting of events to the public and at the same time not have television equipment and cables running up and down the corridors and damaging the buildings as is presently occurring because the existing buildings were designed before the advent of television. Thus, it is not an overly decorated or opulent room; it is a simple hearing room for the use of the public.

5. The marble exterior. It is useful to recall that the exterior and the interior design of this building was the subject, for the first time in history and prior to Senate approval, of public hearings conducted by the Senate Committee on Public Works on the design of a public building. The use of marble was chosen as of architectural importance in order to match the material of the existing buildings and especially since the Hart Building is connected directly to the existing Dirksen Building. To use another material was judged to have been inappropriate in the light of the architectural and historical aura on Capitol Hill. It is further a material of extreme durability and therefore is cost beneficial in terms of maintenance, as is well known. The design is simple and dignified and was so judged by the numerous professional architectural critics that testified before the Committee, as well as by the comments made in the press which covered the hearings widely at the time.

6. Paneling in the Senator's personal offices. Wood paneling was chosen not only for the aura of quiet dignity which it exudes, but also because of its cost benefit value, in that it does not require redecorating, repainting or other costly maintenance over its life, as do plaster walls. It was felt to be an appropriate expenditure which, of course, could be eliminated, but nevertheless needs to be viewed on the basis of its cost benefit value in small areas of the building. Less than 1% of the wall area in the building has paneling.

The following general comments are also useful to note:

A. The building has a sophisticated electronic control system as well as electrical and mechanical systems which yield extremely high energy efficiency and which are designed to interconnect with the energy management program that is being installed throughout the Hill. The initial increased expenditures for energy efficiency are well known, and are deemed to be not only advisable but a necessity in the light of the present energy concerns of the nation. Just as it costs more money to insulate a private house than not to insulate it, the cost of providing sophisticated mechanical and electrical control systems in an office building costs more initially but more than pays for itself and thus is extremely cost beneficial as well as energy saving.

B. The interior of Senators' offices is austere and simple. It is by no means complicated, nor is it highly decorated or expensive either in fact or in appearance. The staff spaces are modern, simple and inexpensive to maintain. Some of the materials that have been used are deemed to be necessary as a life cycle cost benefit decision, inexpensive materials which are difficult to maintain and need to be replaced more often were avoided. This is particularly evident in examples such as baseboards which receive the continuous abuse of mops and floor polishing equipment.

C. The need for the building. The documented need has been made apparent by study after study beginning as early as 1971 indicating the extreme shortage of space with which everyone is familiar. The fact that only 67 square feet per employee exists in the average Senator's office, thus reducing productivity, generates requests for increases in staff because the working conditions often do not enable staff to produce the amount of work necessary to respond to constituent and legislative needs. With increased productivity because of increased space availability and modern configurations of furniture and word processing equipment, increases in staff in the future can be either minimized or reduced to zero.

D. It should be remembered that $18 million of the funds requested has resulted purely and simply from increases in construction costs resulting from inflation in the economy larger than that which was estimated. Thus, without any change in the original program at all, an additional $18 million is necessary in order to make up for the change in the value of the dollar that has occurred since the time the original estimates were made.

E. The vote of the House of Representatives. The vote on the floor of the House was taken without a single hearing of any kind having taken place on the House side with regard to this project since its inception five years ago, and therefore without any direct knowledge on the part of any Committee of the House nor any of the Members of the House with regard to this project; the rule of comity was thus observed during the entire development of the project. Many of the Members of the House were unfamiliar with the fact that the building is already under construction, and presumed that the funding was being requested for a future building, not yet even in the planning stage. Thus, not only was the vote not on the issue of the project as it exists, taking into account all the facts, such as the $60 million loss that would take place as a result of termination of the project, but also without regard to the needs or any other matter of fact associated with the project. It was thus obviously an uninformed vote.

F. It has been the intention from the beginning, one, to design a building which is flexible, so that the needs of the Senate in the future can be accommodated irrespective of how those needs may require the use of space, and secondly, to design a building that was austere and functional, and yet gave an appearance of dignity and decorum commensurate with the historic qualities of the Senate itself. It should be emphasized that there is nothing in the design of this building either exterior or interior which creates the feeling of opulence or excess.

HART BUILDING FACT SHEET

COMPARABLE SQUARE FOOT COSTS OF OTHER BUILDINGS

Hart: $101 per sq. foot.
Rayburn: $186 per sq. foot.
FBI: $90 per sq. foot.

AT&T Long Lines Bldg., Bedminster, N.J.: $111 per sq. foot.

Federal Office Bldg., Albany, N.Y.: $139 per sq. foot.

Underwood Headquarters Bldg., Westwood, Mass. $110 per sq. foot.

IBM Bldg., New York City: $120 per sq. foot; ($92 per sq. foot for shell plus $30 to $40 per sq. foot to finish).

AT&T Headquarters Bldg., New York City: $170 per sq. foot ($137.50 per sq. foot for shell plus $30 to $40 sq. foot to finish).

AT&T Headquarters Building, N.Y. City will cost $110 million for 1,000 employees.

Hart Building will cost $125 million and house 3,000 employees.

Currently, about 1,700 employees are housed in the old Carroll Arms Hotel, Senate Courts and other Senate annex buildings. These buildings are not intended for use as office space. In fact, Senate rules prohibit anything larger than two drawer file cabinets for fear that a larger file cabinet would result in a collapse in the flooring with the larger file cabinet crashing through to the floor below. Also, the limited wiring capacity is inadequate for office space and the possibility of a dangerous overload is ever present.

The Hart Building is designed to house these 1,700 staff personnel now housed in substandard facilities and alleviate current overcrowding in the Russell and Dirksen Office buildings.

9 Hearings held and Senate has voted for building 4 times already.

It is true that the number of employees on the Senate rolls has increased by 150% over the past 20 years (from 2,415 in October of 1958 to 6,312 in October 1977). However, during this same period the Federal Budget for which the Congress is charged with oversight, has increased 500% (from $82.6 million in 1958 to $462.2 million in 1978). (During this period, the GNP rose by 500%, from $442.1 billion to $2043.2 billion). Does any Member seriously think he can do a quality job for his constituents here in the Senate with a 1958 level of staff which would be one-third of the current level? Increased complicity of legislation requires more staff with specialized knowledge in order to keep Senators abreast of solutions to complicated problems.

Mr. MAGNUSON. Mr. President, the Senate acted responsibly in enacting a ceiling of $135 million for the Hart Building.

Unfortunately, the action of the House of Representatives will have only one effect. It will delay the completion date with the result that the total cost will necessarily rise above the $135 million ceiling.

If the House keeps delaying, it might cause the present cost of $101 per square foot for the Hart Building to exceed the $186 per square foot cost of the Rayburn House Office Building. But I doubt that the delays would ever cause the Hart Building to approach the $250 per square foot cost of the building sponsored by the senior Senator from Rhode Island (Mr. CHAFEE). That is all I have to say about it.

The conferees agreed to the House figure for the student loan insurance fund. This is a mandatory item, and the figure agreed upon was $223 million, which is $43,939,000 above the Senate bill.

I would like to point out that the conference considered a total of 83 amendments. Of that total, the Senate receded on 6 and the House receded on 31. A total of 15 Senate amendments were further amended and agreed to by the House, and 30 amendments have been reported to the House in technical disagreement.

Mr. President, I would like to thank the members of the committee for their assistance in bringing this conference report to the floor, because of its urgency. The Senator from North Dakota (Mr. YOUNG) had a great part in this as ranking minority member; so, Mr. President, I will yield to him, but first I ask unanimous consent that immediately following my remarks there be printed in the RECORD a summary table showing the conference totals and comparative figures.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY—SUPPLEMENTAL BILL

	New budget authority estimates fiscal year 1978	New budget authority House fiscal year 1978	New budget authority Senate fiscal year 1978	New budget authority conference fiscal year 1978	Conference compared with fiscal year 1978 estimate	Conference compared with House bill	Conference compared with Senate bill
TITLE I—GENERAL SUPPLEMENTALS							
I Agriculture: New budget (obligational) authority	6,136,000	187,706,000	151,226,000	181,771,000	+175,635,000	−5,935,000	+30,545,000
II Foreign operations: New budget (obligational) authority	38,394,000	21,250,000	24,305,000	24,015,000	−14,379,000	+2,765,000	−290,000
III Housing and Urban Development—Independent agencies:							
New budget (obligational) authority	560,777,000	538,553,000	539,553,000	539,553,000	−21,224,000	+1,000,000	
Appropriations	536,477,000	514,253,000	515,253,000	515,253,000	−21,224,000	+1,000,000	
Contract authority	24,300,000	24,300,000	24,300,000	24,300,000			
(Increase in limitations)	(250,000)			(−250,000)			
(Increased limitation for annual contract authority)	(24,300,000)	(24,300,000)	(24,300,000)	(24,300,000)			
IV Interior and related agencies:							
New budget (obligational) authority	507,547,000	571,235,000	542,161,000	555,628,000	+48,081,000	−15,607,000	+13,467,000
(By transfer)	(6,000,000)			(−6,000,000)			
V Labor and Health, Education, and Welfare:							
New budget (obligational) authority	487,752,000	379,674,000	298,325,000	394,964,000	−92,788,000	+15,290,000	+96,639,000
(Increase in limitations)	(36,797,000)	(18,797,000)		(8,800,000)	(−27,997,000)	(−9,997,000)	(+8,800,000)
VI Legislative branch: New budget (obligational) authority	60,027,550	9,063,050	74,060,550	74,010,550	+13,983,000	+64,947,500	−50,000
VII Public Works:							
New budget (obligational) authority	5,350,000	8,700,000	8,700,000	8,700,000	+3,350,000		
(By transfer)	(3,305,000)				(−3,305,000)		
VIII State, Justice, Commerce and the Judiciary: New budget (obligational) authority	665,594,000	256,772,000	656,121,000	649,360,000	−16,234,000	+392,588,000	−6,761,000
IX Transportation:							
New budget (obligational) authority	93,429,000	49,044,000	131,044,000	91,044,000	−2,385,000	+42,000,000	−40,000,000
(By transfer)	(9,000,000)	(9,000,000)	(9,000,000)	(9,000,000)			
(Appropriations to liquidate contract authority)	(9,940,000)	(9,940,000)	(9,940,000)	(9,940,000)			
(Increase in limitation on commitments)	(49,479,000)	(40,000,000)	(40,000,000)	(40,000,000)	(−9,479,000)		
X Treasury, Postal Service and General Government:							
New budget (obligational) authority	632,220,000	549,600,000	551,600,000	551,600,000	−80,620,000	+2,000,000	
(Increase in limitations)	(1,027,000)	(1,027,000)	(1,027,000)	(1,027,000)			
XI Defense:							
New budget (obligational) authority	748,000,000	599,766,000	514,766,000	514,766,000	−233,234,000	−85,000,000	
(By transfer)			(100,000,000)	(100,000,000)	(+100,000,000)	(+100,000,000)	
XII Military Construction: New budget (obligational) authority	73,540,000		8,500,000	8,500,000	−65,040,000	+8,500,000	
Total, title I—General supplementals:							
New budget (obligational) authority	3,878,766,550	3,171,363,050	3,500,361,550	3,593,911,550	−284,855,000	+422,548,500	+93,550,000
(Appropriation to liquidate contract authority)	(9,940,000)	(9,940,000)	(9,940,000)	(9,940,000)			
(By transfer)	(18,305,000)	(9,000,000)	(109,000,000)	(109,000,000)	(+90,695,000)	(+100,000,000)	
(Increase in limitations)	(38,074,000)	(19,824,000)	(1,027,000)	(9,827,000)	(−28,247,000)	(−9,997,000)	(+8,800,000)
(Increased limitation for annual contract authority)	(24,300,000)	(24,300,000)	(24,300,000)	(24,300,000)			
(Increase in limitation on commitments)	(49,479,000)	(40,000,000)	(40,000,000)	(40,000,000)	(−9,479,000)		
Total title II—Increased pay cost:							
New budget (obligational) authority	3,289,680,436	3,197,224,136	3,218,867,136	3,214,867,136	−74,813,300	+17,643,000	−4,000,000
(By transfer)	(49,305,677)	(4,951,331)	(10,951,331)	(10,951,331)	(−38,354,346)	(+6,000,000)	
(Increase in limitations)	(125,530,000)	(118,501,000)	(118,501,000)	(118,501,000)	(−7,029,000)		
(Trust fund transfer	(45,000)				(−45,000)		
(Transfer from Commodity Credit Corporation)	(1,036,000)	(1,036,000)	(1,036,000)	(1,036,000)			
(By transfer from FHA fund)	(10,929,000)	(10,929,000)	(10,929,000)	(10,929,000)			
Total, title III—General provisions		−35,198,000				+35,198,000	

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY—SUPPLEMENTAL BILL—Continued

	New Budget authority estimates fiscal year 1978	New Budget authority House fiscal year 1978	New Budget authority Senate fiscal year 1978	New Budget authority conference fiscal year 1978	Conference compared with fiscal year 1978 estimate	Conference compared with House bill	Conference compared with Senate bill
TITLE I—GENERAL SUPPLEMENTALS							
Grand total—Titles I, II, and III:							
New budget (obligational) authority	7,168,446,986	6,333,389,186	6,719,228,686	6,808,778,686	−359,668,300	+475,389,500	+89,550,000
(Appropriation to liquidate contract authority)	(9,940,000)	(9,940,000)	(9,940,000)	(9,940,000)			
(By transfer)	(67,610,677)	(13,951,331)	(119,951,331)	(119,951,331)	(+52,340,654)	(+106,000,000)	
(Increase in limitations)	(163,604,000)	(138,325,000)	(119,528,000)	(128,328,000)	(−35,276,000)	(−9,997,000)	(+8,800,000)
(Trust fund transfer)	(45,000)				(−45,000)		
(Transfer from Commodity Credit Corporation)	(1,036,000)	(1,036,000)	(1,036,000)	(1,036,000)			
(By transfer from FHA fund)	(10,929,000)	(10,929,000)	(10,929,000)	(10,929,000)			
(Increased limitation for annual contract authority)	(24,300,000)	(24,300,000)	(24,300,000)	(24,300,000)			
(Increase in limitation on commitments)	(49,479,000)	(40,000,000)	(40,000,000)	(40,000,000)	(−9,479,000)		

Mr. MAGNUSON. I yield to the Senator from North Dakota.

Mr. YOUNG. Mr. President, the distinguished chairman of the Committee on Appropriations (Mr. MAGNUSON), has given us a good summary of the conference report on the second supplemental appropriations bill. I am in accord with his views.

More than half of this $6.8 billion bill agreed to by the conferees is needed to pay for the October 1, 1977, pay raise for military and civilian personnel. Overall, this bill is $359 million below the budget estimate.

I am very disturbed about the action of the House concerning the Hart Building. The rejection by the House of the conference item on the Hart Building breaks a longstanding tradition of comity between the two bodies for their respective funding requirements. I was less than enthusiastic about providing additional funds for the Hart Building, but the issue was debated at length on the Senate floor and it was the will of the Members of the Senate to provide the additional $54 million to complete the Hart Building.

It does not make sense to me to stop construction of the building when it is half completed. I was opposed to it when it was first started and I was opposed to adding all the additional employees under Senate Resolution 60, and other measures which made it necessary to provide more office space. I supported the $54 million in additional funds to complete the Hart Building because it was a far better alternative than to have spent a huge amount of money and then leave the building partially completed.

The amendment of the chairman of the Appropriations Committee (Mr. MAGNUSON) also provided a cap of $135 million for the completion of the construction of the Hart Building, which was intended to put to rest the issue of the construction of the building. Some of the opponents of the Hart Building were claiming the cost would reach at least $200 million or more.

Mr. President, I hope that the action of the House will not create a feud between the two bodies and that this problem can be resolved. I do not believe this is the time to react to the House action. I recommend that we accept the House's disagreement and approve this bill as reported by the conferees.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. INOUYE). The question is on agreeing to the conference report.

Mr. MAGNUSON. Mr. President, I yield to the Senator from Alaska.

Mr. STEVENS. Mr. President, I certainly agree with the ranking member on our side and the chairman of our committee concerning reactions to the Hart Building matter. I do not feel it is time for us to get in a feud, necessarily, and I accept Senator YOUNG's advice in that regard. But I would like to point out to the Senate that the House has increased its own contingency expenses by $14 million over last year. That is an increase of 15 percent.

We have been silent about that in the past. Those are contingent funds, and a Member who does not spend his allowance from that contingent fund may pocket the difference. It has meant that some of our colleagues on the other side have had sort of a free ride in voting against pay raises, because they could, by not spending the contingent fund, thereby have additional income from not spending for contingent expenses.

I only mention this because I think the record ought to be clear that if we are going to stop this historic practice of not looking into the expenses of the other body, I think we ought to start by looking at some of the items in the legislative appropriations bill next year.

It is my hope that the House will see fit to reconsider its action. Even though many of us had some questions about the Hart Building in the beginning, and others had questions as to whether it should continue, it was a Senate decision, and I do not believe that the House should allow this very bad precedent which it has established on a supplemental appropriation bill to continue over until next year, because while we may and I hope we will accept the request of the chairman and the ranking member that this bill be cleared, I think if this precedent persists through the balance of this year, next year we should look at every item in the House legislative appropriations bill with great care.

Mr. MAGNUSON. Mr. President, I want to express my approval of the remarks of the Senator from Alaska, and I do hope we will work this matter out. But there are so many other important, pressing items in the bill that I felt the better part of discretion now was to get this bill down to the White House. It involves paychecks early next month, and there might be some layoffs involved; and as pointed out by the Senator from North Dakota, almost half of the bill is for mandatory pay raises.

Mr. YOUNG. Two-thirds.

Mr. MAGNUSON. Two-thirds of the bill; close to $4 billion.

Mr. President, the Senator from Pennsylvania wishes to be heard on this matter. I yield to him.

Mr. SCHWEIKER. Mr. President, I join with our chairman (Mr. MAGNUSON) in recommending adoption of the conference report on the second supplemental appropriations bill for fiscal 1978.

In all, the Labor-HEW chapter of the conference report provides an additional $394,964,000 for fiscal year 1978, $96,639,000 more than the Senate version of the bill, and $15,190,000 more than the House, but $92,788,000 less than the supplemental budget request.

For the most part, the conferees accepted the Senate amendments to the House bill. Of the 17 amendments in chapter V, the House agreed to recede on 13, and accepted compromises with the Senate on 2 others.

I am deeply disappointed in the conference report's resolution of one important area, the question of funding a new influenza immunization program. I led the fight against this proposal in the Appropriations Committee and on the floor of the Senate, and I continue to believe it is very unwise to proceed with a new program this year. We do not have the scientific questions resolved: we cannot predict with certainty whether or not a flu epidemic will occur, and if it does, whether or not the vaccine will provide protection. We cannot produce a vaccine that will be free from the serious paralyzing and sometimes fatal side effect of Guillain-Barre syndrome.

There are also serious questions of liability that have not been resolved. The Secretary of HEW does not plan to have recommendations on liability policy until another 12 to 18 months have passed. Liability claims against the United States for immunization programs date back to 1972, and the total of claims from the ill-fated swine flu program is now approaching 1 billion.

It is also unclear whether or not the program as designed will have any noticeable effect on immunization rates, since it may just supplant private immunization efforts. Lastly, and this is a very serious point, attempting to gear up a new immunization program now through the end of September, when the school year is beginning, means that there will be an adverse affect on the important, proven childhood immunization program.

I do not wish to belabor these points. I am sure all my colleagues are aware of my concern. I sincerely hope that the authorizing Health Subcommittee, on which I serve as the ranking Republican member, will address these questions in the proper way before we end up with a permanent new influenza immunization program. I hope the conference decision of this bill does not place Congress in the position of having to appropriate additional amounts later to deal with liability and other problems that could be created by this immunization program, for which the conference report provides $8.2 million.

The House conferees agreed to the Senate amendment to provide $6 million for the rural health initiative program to expand services to medically underserved areas.

The Senate conferees receded to the House on the questions of funding for the renovation of St. Elizabeths Hospital. The agreement will provide $52.2 million to make needed repairs so the hospital can regain its accreditation.

The conferees also agreed to increase the allowance for medicare administrative expenses by $8.8 million to cover increasing costs in medicare claims processing contracts. Of this amount, $3.8 million is for outstanding bills and $5 million is for possible further cost increases arising from unanticipated growth in workload.

Under education, the Senate conferees also agreed to the House position to provide $223.9 million for the student loan insurance fund. This amount is the same as the budget request and is necessary to cover mandatory payments for federally insured student loans. The supplemental is required by unexpected growth in the number of new loans granted.

The conferees agreed to provide the positions needed by the Office for Civil Rights to comply with a court order to clear up a large backlog of discrimination complaints and to work on compliance with the new regulations covering the handicapped.

With the exception of the Russian flu immunization program, I believe we have developed an acceptable Labor-HEW chapter and I recommend its adoption.

Mr. MAGNUSON. I yield to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I would like to ask a brief question of the chairman.

As I understand it, the additional money for the Hart Building was knocked out, as well as the cap was knocked out, so the bill is as it originally came to the floor of the Senate, with no money in it one way or the other for the Hart Building?

Mr. MAGNUSON. That is correct.

Mr. CHAFEE. So, therefore, the present appropriation for the Hart Building remains at the $85 million where it was before we started this whole business?

Mr. MAGNUSON. Yes, and then I understand—I do not have the exact figures, but within that amount there are some unspent funds.

Mr. CHAFEE. That is correct.

Mr. MAGNUSON. I think it is $32 million.

Mr. CHAFEE. No—well, whatever it is.

Mr. MAGNUSON. Whatever it is, I will put the exact figure in the RECORD.

Mr. CHAFEE. I also understand that we expect, somewhere down the road, probably early next year, that the proponents of the Hart Building will be back for more money to complete that building.

Mr. MAGNUSON. I suspect that will be true.

Mr. CHAFEE. And I suspect we will all be waiting for them.

Mr. MAGNUSON. I imagine on the first supplemental next year, they will show up and make their case.

Mr. CHAFEE. I thank the Senator.

Mr. BELLMON. Mr. President——

Mr. MAGNUSON. I yield to the Senator from Oklahoma.

Mr. BELLMON. Mr. President, I have a statement I would like to make in behalf of the chairman of the Budget Committee (Mr. MUSKIE), who could not be here.

The Senate is about to act on the conference report on H.R. 13467, the second supplemental appropriations bill for 1978. This is likely to be the last spending bill for fiscal year 1978. It provides budget authority of $6.8 billion, with outlays estimated at $5.6 billion.

As chairman of the Budget Committee, Senator MUSKIE would like to bring to the Senate's attention the current status of the budget in comparison to the final budget ceilings for fiscal year 1978 which we adopted in the second budget resolution last September.

If this bill is enacted into law, outlays for fiscal year 1978 would total $448.0 billion, a comfortable $10.3 billion below fiscal year 1978 second budget resolution ceilings.

Let me repeat that for emphasis:

If this bill is enacted into law, outlays for fiscal year 1978 would total $448.0 billion, a comfortable $10.3 billion below fiscal year 1978 second budget resolution ceilings.

Budget authority, however, would total almost $500 billion, leaving only about $0.2 billion in budget authority remaining under the second budget resolution ceiling. Any subsequent spending legislation which exceeds the remaining very small amount of budget authority would not be in order since it would cause the second budget resolution budget authority ceiling to be exceeded.

Mr. President, it now appears that fiscal 1978 will be the third consecutive year that the Congress has been successful in keeping Federal spending within its own budgetary ceilings. I offer my congratulations to Members of both the Senate and the House for this significant achievement.

I believe that our success in meeting budgetary targets is compelling evidence that the budget process is an orderly and effective tool to insure responsible Federal spending. I hope and expect that its success will continue in future years.

Mr. MAGNUSON. I want to add on behalf of the members of the Appropriations Committee, I hope this is the last one. There have been eight supplemental appropriations bills. Some were directed to specific things, like the drought money, with loans; but there have been eight. It is getting to be so that there are more supplementals than regular appropriations. All members of the committee have joined to alert the administration that we are going to put our foot down on supplementals. They better have their estimates ready for the regular bill. If there is some real emergency, we will entertain it. But they dillydally along and get them up here late. The legislative committees do not authorize. The Appropriations Committee is developing, I hope, a get-tough attitude on this, and I hope this is the last one.

Mr. BELLMON. I congratulate the chairman for taking that position.

Mr. MAGNUSON. All Members have helped me and joined with me.

Mr. HARRY F. BYRD, JR. Will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. HARRY F. BYRD, JR. As I understand the conference report now before the Senate, insofar as the new Senate Office Building is concerned, the conferees eliminated the $54 million which the Senate added to the bill.

Mr. MAGNUSON. The House did. The House eliminated it.

Mr. HARRY F. BYRD, JR. The House eliminated it.

Mr. MAGNUSON. After we had had our conference.

Mr. HARRY F. BYRD, JR. But the conference report now before the Senate——

Mr. MAGNUSON. The report now has it out.

Mr. HARRY F. BYRD, JR. It has the $54 million out.

Mr. MAGNUSON. That is right. And it has out the ceiling, too, which I was sort of hopeful would be left in. But maybe we want to change the ceiling. I do not know. I think I might agree to that.

Mr. President, I ask for the yeas and nays on passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LONG. Will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. LONG. Mr. President, as one Member of this body I want to go on record as supporting the chairman of the Appropriations Committee and his committee in doing their best to move forward with that office building. The reason I say that is the greatest waste in Government is to start something and never finishing it. It is like building a road that goes halfway out of town and then stops without getting it to an adjoining city. Everything you have put into it at that point is an absolute and complete waste.

I do not have the figures, but I believe the chairman and his committee have the figures, which show that we have far more people working with the amount of floor space we have in the building now than when the building was built. I recall when we built the Dirksen Building, the figures were that there were five times as many people working in that Senate Office Building as there were when the building was first built. I know that in my office as well as in a number of other offices we can find as many as eight people working in a single room back to back. That sort of crowding really is not a good idea.

I am not here to pass judgment on the design of the building. I did not look

into all that. All I want to say is that we do very much need the space. It is inefficient to be crowded together the way we have been. There is no greater waste in my judgment than to start something and not finish it.

Mr. MAGNUSON. I hope both Houses will take a good, long look at this matter. As I pointed out, there is some money available, unspent money, to continue some basic progress in the building. Then we will see where we are next year.

Mr. RANDOLPH. Will the able chairman yield?

Mr. MAGNUSON. Yes, I yield.

Mr. RANDOLPH. I wish to follow the colloquy between Senator LONG and the chairman.

I recall when we authorized this building in the committee which I chaired in 1972, the amount of money then was just in excess of $47 million. The Senator from Louisiana said, of course, when there are delays, whatever are the reasons for the delays, there is a spiraling inflation which sets in.

This is what I want to enforce, if I may: There are many Members of the Senate, and I shall not refer to them by name—their names are on the record—Members who are very conservative, Members who try to keep the cost of Government to the minimum, hoping, however, for realistic efforts. I remember one Senator who said at that time, and he is a Member of this body who, by his votes, as all others know, tries to keep down the cost of operations of the Federal Government. But he has said, "If I am to serve my constituency I must have space for the staff I am working with, and they are working with me, to serve these constituents. I cannot do it with the present quarters that I have as a Senator."

That is just an illustration of what one Member has said. I know he was speaking from personal experience in the operation of his office.

I deplore, of course, the increasing costs of any building, as do other Members, but I do know that when we begin any project, and there is a period of time that elapses before beginning the construction, with the authorizing and appropriations of moneys for that structure—or for a road or for any type of public or private structure—that the costs under the inflationary spiral rise in amounts that, frankly, make us wonder what has happened.

That is what has happened here.

I think a close look, a careful review, is certainly a good idea of the able chairman.

Mr. MAGNUSON. I thank the Senator.

Mr. LUGAR. Will the Senator yield for a comment?

Mr. MAGNUSON. I yield.

Mr. LUGAR. Mr. President, I rise simply because the comments made with regard to the bill have certainly extended the debate. The Senators from Louisiana and West Virginia have spoken well. But let me add for the record that one reason the House of Representatives apparently intruded into this question is that many Members of the House have been hearing from their constituents. Whatever our general judgments may be about service to our constituents, there are a number of our constituents who simply do not want to be served in that way, that is, with such a substantial new edifice constructed.

I think the debate can proceed at another time on this matter.

I am aware by the mail received from my constituents that they would prefer that the building be stopped. I voted in behalf of the measure of the distinguished Senator from Rhode Island last week, as an expression of that sort of feeling.

I hope as the Appropriations Committee proceeds it would be mindful of what I think is a rather substantial groundswell of opinion in the country and at least at minimum will cut the ceiling below the $135 million which was mentioned. If we are to proceed at all, we should at least do so with a great deal more prudence and sensitivity as to what is going on in this country as an expression about the building.

I thank the Senator.

Mr. MAGNUSON. Mr. President, I think the members of the Appropriations Committee have a fair knowledge of what is going on. The trouble is that so much of this got off into a tangent about whether or not there is going to be a restaurant upstairs or down in the basement, who will eat in there, and all of that, which is incidental. If the Appropriations Committee decided, we would not have to have it there.

I think the basic thing is whether or not we need some more office space. The other things, the so-called frills, those are the ones that were played up quite a bit. That need not be in there at all. There is not enough money now to continue the basic building over there instead of having the skeleton standing up there. It may end up just being a plain office building; I do not know.

I know that many of the Senators are pretty well cramped, including the Senator from Washington. We have people sitting on top of one another in my office. It is because this country is bigger; you get more mail. And when you have a $500 billion budget, I think you get just as much criticism if you do not pay attention and review that amount of money and have the help to do it as you would for building a place to house them. A $500 billion budget is a pretty big budget.

It still is—well, I guess it is the best example of our growth. It is still about 21 percent of the gross national product, $500 billion. That is the average of the last 17 years; it has been from 18, 19, to 22. It is now 21 percent of the $500 billion. But that shows you what the growth is and what we have to do. People expect us not only to give personal service, but to take a look at the expenditure of that vast amount of money.

Senators have an important part to play in that, not only the members of the Appropriations Committee, because we hear from all of them. It is a question of whether we want to spend some amount of money to be consistent with our responsibilities in carrying them out. We should not go overboard on it or do something that is wrong. But we should not base our decision on whether or not we are going to have some frill here or some frill there. We are building a building, no matter what we build over there, to last.

I have had an office for over 30 years in the same building. It is now, I think, the old one, close to 90 years old, I think; that is when they started it. You know, the only real repairs they have made are that they now find they have to change the windows over there. They had wood frames, but the wood was so good that they have lasted all these years, almost three quarters of a century. So when you do build a building, you are going to have to spend a little more money for an ordinary office building, because you want it to last.

We are working these things out to be as prudent as possible and consistent with the responsibility of Senators.

Mr. MAGNUSON. Mr. President, if there are no further comments and no further amendments, I move adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Montana (Mr. HATFIELD), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Montana (Mr. MELCHER), the Senator from New York (Mr. MOYNIHAN), the Senator from Maine (Mr. MUSKIE), the Senator from Georgia (Mr. NUNN), the Senator from Tennessee (Mr. SASSER), the Senator from Alabama (Mr. SPARKMAN), the Senator from Georgia (Mr. TALMADGE), and the Senator from Minnesota (Mrs. HUMPHREY) are necessarily absent.

I also announce that the Senator from Alaska (Mr. GRAVEL) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mrs. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BARTLETT), the Senator from Massachusetts (Mr. BROOKE), the Senator from Missouri (Mr. DANFORTH), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Maryland (Mr. MATHIAS), the Senator from Kansas (Mr. PEARSON), and the Senator from New Mexico (Mr. SCHMITT) are necessarily absent.

The result was announced—yeas 61, nays 11, as follows:

[Rollcall Vote No. 368 Leg.]

YEAS—61

Allen	Glenn	Packwood
Bayh	Hansen	Pell
Bellmon	Hart	Percy
Bentsen	Hatfield,	Randolph
Bumpers	Mark O.	Ribicoff
Burdick	Hayakawa	Riegle
Byrd, Robert C.	Heinz	Sarbanes
Cannon	Hodges	Schweiker
Case	Hollings	Stafford
Chafee	Inouye	Stennis
Chiles	Jackson	Stevens
Church	Javits	Stevenson
Clark	Leahy	Stone
Cranston	Long	Thurmond
Culver	Magnuson	Tower
Curtis	Matsunaga	Wallop
DeConcini	McClure	Weicker
Dole	McGovern	Williams
Durkin	McIntyre	Young
Eagleton	Metzenbaum	Zorinsky
Ford	Morgan	

NAYS—11

Biden	Hatch	Nelson
Byrd,	Helms	Proxmire
Harry F., Jr.	Laxalt	Roth
Garn	Lugar	Scott

NOT VOTING—28

Abourezk	Griffin	Melcher
Anderson	Haskell	Moynihan
Baker	Hatfield,	Muskie
Bartlett	Paul G.	Nunn
Brooke	Hathaway	Pearson
Danforth	Huddleston	Sasser
Domenici	Humphrey	Schmitt
Eastland	Johnston	Sparkman
Goldwater	Kennedy	Talmadge
Gravel	Mathias	

So the conference report (H.R. 13467) was agreed to.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the Senate concur in the amendments of the House to the amendments of the Senate numbered 18, 29, 51, and 62, en bloc.

The PRESIDING OFFICER. The clerk will state the amendments in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 18 to the aforesaid bill, and concur herein with an amendment as follows:

In lieu of the matter proposed by the said amendment, insert:

For an additional amount for influenza vaccination, $8,200,000, to remain available until September 30, 1978.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 29 to the aforesaid bill, and concur therein with an amendment as follows:

On lieu of the matter proposed by the said amendment, insert:

Special Institutions

Hereafter, Gallaudet College, Howard University, the National Technical Institute for the Deaf, and the American Printing House for the Blind are authorized to make purchases through the General Services Administration.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 51 to the aforesaid bill and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert "$50,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 62 to the aforesaid bill and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: "*Provided*, That not to exceed $20,000 shall be available from existing appropriations made under this heading to be used for construction and installation of improvements to existing National Bureau of Standards buildings.".

Resolved, That the House insist on its disagreement to the amendments of the Senate numbered 48 and 62 to the aforesaid bill.

The PRESIDING OFFICER. Is there objection to the request that the Senate concur in the amendments of the House to the amendments of the Senate numbered 18, 29, 51, and 62?

Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, I move that the Senate recede from its amendments numbered 48 and 62.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

CONSTRUCTIVE SALE PRICE FOR EXCISE TAX ON CERTAIN TRUCKS, BUSES, TRACTORS, ETC.

Mr. ROBERT C. BYRD. Mr. President, under the previous order, I ask the Chair to lay before the Senate Calendar No. 1046.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 1337) to amend the Internal Revenue Code of 1954 with respect to excise tax on certain trucks, buses, tractors, et cetera.

The Senate proceeded to consider the bill which had been reported from the Committee on Finance with an amendment to strike all after the enacting clause and insert the following:

SECTION. 1. EXCISE TAX ON CERTAIN TRUCKS, BUSES, TRACTORS, ETC.

(a) IN GENERAL.—Paragraph (1) of section 4216(b) of the Internal Revenue Code of 1954 (relating to constructive sale price) is amended by inserting after the second sentence thereof the following new sentence: "In the case of an article the sale of which is taxable under section 4061(a) and which is sold at retail, the computation under the first sentence of this paragraph shall be a percentage (not greater than 100 percent) of the actual selling price based on the highest price for which such articles are sold by manufacturers and producers in the ordinary course of trade (determined without regard to any individual manufacturer's or producer's cost)".

(b) CONFORMING AMENDMENT.—The second sentence of paragraph (1) of such section 4216(b) is amended by inserting "(other than an article the sale of which is taxable under section 4061(a))" after "sold at retail".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer or producer on or after the first day of the first calendar quarter beginning 30 days or more after the date of enactment of this Act.

SEC. 2. HOME PRODUCTION OF BEER AND WINE.

(a) EXEMPTION FROM TAX ON WINE.—Section 5042(a)(2) of the Internal Revenue Code of 1954 (relating to production of wine for personal consumption) is amended to read as follows:

"(2) WINE FOR PERSONAL OR FAMILY USE.—Subject to regulations prescribed by the Secretary—

(A) EXEMPTION.—Any adult may, without payment of tax, produce wine for personal or family use and not for sale.

"(B) LIMITATION.—The aggregate amount of wine exempt from tax under this paragraph with respect to any household shall not exceed—

"(i) 200 gallons per calendar year if there are 2 or more adults in such household, or

"(ii) 100 gallons per calender year if there is only 1 adult in such household.

"(C) ADULT.—For purposes of the paragraph, the term 'adult' means an individual who has attained 18 years of age, or the minimum age (if any) established by law applicable in the locality in which the household is situated at which wine may be sold to individuals, whichever is greater."

(b) EXEMPTION FROM TAX ON BEER.—

(1) IN GENERAL.—Section 5053 of such Code (relating to exemptions from excise tax on beer) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new section:

"(e) BEER FOR PERSONAL OR FAMILY USE.—Subject to regulations prescribed by the Secretary, any duly registered adult may, without payment of tax, produce beer for personal or family use and not for sale if the amount of such beer on hand at any time (including beer in process) does not exceed 30 gallons. The aggregate amount of beer exempt from tax under this subsection with respect to any household shall not exceed—

"(1) 200 gallons per calendar year if there are 2 or more adults in such household, or

"(2) 100 gallons per calendar year if there is only 1 adult in such household.

For purposes of this subsection, the term 'adult' means an individual who has attained 18 years of age, or the minimum age (if any) established by law applicable in the locality in which the household is situated at which beer may be sold to individuals, whichever is greater."

(2) ILLEGALLY PRODUCED BEER.—

(A) Section 5051 of such Code (relating to imposition and rate of tax) is amended by adding at the end thereof the following new subsection:

"(c) ILLEGALLY PRODUCED BEER.—The production of any beer at any place in the United States shall be subject to tax at the rate prescribed (a) and such tax shall be due and payable as provided in section 5054(a)(3) unless—

"(1) such beer is produced in a brewery qualified under the provisions of subchapter G, or

"(2) such production is exempt from tax under section 5053(e) (relating to beer for personal or family use)."

(B) Section 5054(a)(3) of such Code (relating to illegally produced beer) is amended to read as follows:

"(3) ILLEGALLY PRODUCED BEER.—The tax on any beer produced in the United States shall be due and payable immediately upon production unless—

"(A) such beer is produced in a brewery qualified under the provisions of subchapter G, or

"(B) such production is exempt from tax under section 5053(e) (relating to beer for personal or family use)."

(3) DEFINITION OF BREWER.—Section 5092 of such Code (defining brewer) is amended to read as follows:

"SEC. 5092. DEFINITION OF BREWER.

"Every person who brews beer (except a person who produces only beer exempt from tax under section 5053(e)) and every person who produces beer for sale shall be deemed to be a brewer."

(4) EXEMPTION FROM CERTAIN PROVISIONS RELATING TO DISTILLING MATERIALS.—Section 5222(a)(2)(C) of which Code (relating to certain exemptions) is amended by striking

out "; or" and inserting in lieu thereof "or 5053(e); or",

(5) PENALTY FOR UNLAWFUL PRODUCTION OF BEER.—

(A) Section 5674 of such Code (relating to penalty for unlawful removal of beer) is amended to read as follows:

"SEC. 5674. PENALTY FOR UNLAWFUL PRODUCTION OR REMOVAL OF BEER.

"(a) UNLAWFUL PRODUCTION.—Any person who brews beer or produces beer shall be fined not more than $1,000, or imprisoned not more than 1 year, or both, unless such beer is brewed or produced in a brewery qualified under subchapter G or such production is exempt from tax under section 5053(e) (relating to beer for personal or family use).

"(b) UNLAWFUL REMOVAL.—Any brewer or other person who removes or in any way aids in the removal from any brewery of beer without complying with the provisions of this chapter or regulations issued pursuant thereto shall be fined not more than $1,000, or imprisoned not more than 1 year, or both."

(B) The item relating to section 5674 in the table of sections for part III of subchapter J of chapter 51 of such Code is amended to read as follows:

"Sec. 5674. Penalty for unlawful production or removal of beer."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act.

SEC. 3. REFUNDS TO BE MADE TO AERIAL APPLICATORS IN CERTAIN CASES.

(a) ENTITLEMENT OF AERIAL APPLICATORS TO REFUND OF GASOLINE TAX IN CERTAIN CASES.—Subsection (c) of section 6420 of the Internal Revenue Code of 1954 (defining use on a farm for farming purposes) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) CERTAIN FARMING USE OTHER THAN BY OWNER, ETC.—In applying paragraph (3)(A) to a use on a farm for any purpose described in paragraph (3)(A) by any person other than the owner, tenant, or operator of such farm—

"(A) the owner, tenant, or operator of such farm shall be treated as the user and ultimate purchaser of the gasoline, except that

"(B) if the person so using the gasoline is an aerial applicator who is the ultimate purchaser of the gasoline and the person described in subparagraph (A) waives (at such time and in such form and manner as the Secretary shall prescribe) his right to be treated as the user and ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial applicator shall be treated as having used such gasoline on a farm for farming purposes."

(b) ENTITLEMENT OF AERIAL APPLICATORS TO REFUND OF SPECIAL FUELS TAX IN CERTAIN CASES.—The second sentence of subsection (c) of section 6427 of such Code (relating to use for farming purposes) is amended to read as follows: "For purposes of this subsection, if fuel is used on a farm by any person other than the owner, tenant, or operator of such farm, the rules of paragraph (4) of section 6420(c) shall be applied (except that 'liquid taxable under section 4041' shall be substituted for 'gasoline' each place it appears in such paragraph (4))."

(c) CONFORMING AMENDMENT.—Subparagraph (A) of section 6420(c)(3) of such Code is amended by striking out "except that" and all that follows down through the semicolon at the end of such subparagraph (A).

(d) EFFECTIVE DATE.—The amendments made by the first section of this Act shall take effect on the first day of the first calendar quarter which begins more than 90 days after the date of the enactment of this Act.

SEC. 4. PARTIAL ROLLOVERS OF LUMP SUM DISTRIBUTIONS.

(a) PARTIAL ROLLOVER PERMITTED.—Paragraph (5) of section 402(a) of the Internal Revenue Code of 1954 (relating to rollover amounts) is amended to read as follows:

"(5) ROLLOVER AMOUNTS.—

"(A) GENERAL RULE.—If the balance to the credit of an employee in a qualified trust is paid to him within his taxable year in a termination or discontinuance distribution or in a lump sum distribution and he transfers all or a portion of the total taxable amount (as defined in subsection (e)(4)(D)) of the distribution to an eligible rollover source, then the amount transferred shall not be included in gross income.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) QUALIFIED TRUST.—The term 'qualified trust' means an employees' trust described in section 401(a) which is exempt from tax under section 501(a).

"(ii) TERMINATION OR DISCONTINUANCE DISTRIBUTION.—The term 'termination or discontinuance distribution' means a distribution on account of a termination of the plan of which a qualified trust is a part, or, in the case of a profit-sharing or stock bonus plan, a complete discontinuance of contributions under the plan.

"(iii) LUMPSUM DISTRIBUTION.—The term 'lump sum distribution' means a distribution described in subparagraph (A) of subsection (e)(4) (determined without regard to subparagraph (B) of that subsection).

"(iv) ELIGIBLE ROLLOVER SOURCE.—The term 'eligible rollover source' means—

"(I) an individual retirement account described in section 408(a),

"(II) an individual retirement annuity described in section 408(b) (other than an endowment contract),

"(III) a retirement bond described in section 409,

"(IV) a qualified trust, or

"(V) an annuity plan described in section 403(a).

"(C) SPECIAL RULES.—

"(i) TRANSFER TREATED AS ROLLOVER CONTRIBUTIONS UNDER SECTION 408.—A transfer described in subparagraph (A) to an eligible rollover source described in subclause (I), (II), or (III) of subparagraph (B)(iv) shall be trtated as a rollover contribution as described in section 408(d)(3).

"(ii) SELF-EMPLOYED INDIVIDUALS AND OWNER-EMPLOYERS.—Qualified rollover sources described in subclause (IV) or (V) of subparagraph (B) shall not be treated as qualified rollover sources for transfers of a distribution if any part of the distribution is attributable to a trust forming part of a plan under which he employee was an employee within the meaning of section 401(c)(1) at the time contributions were made on his behalf under the plan.

"(iii) PROPERTY ROLLED OVER MUST BE THE PROPERTY RECEIVED.—Subparagraph (A) shall not apply to a transfer of property other than money unless the property transferred is the property which was received in the distribution.

"(iv) TRANSFER MUST BE MADE WITHIN 60 DAYS OF RECEIPT.—Subparagraph (A) shall not apply to any transfer of a distribution made after the 60th day following the day on which the employee received the property distributed.".

(b) TAXATION OF PORTION EXCLUDED FROM ROLLOVER.—Paragraph (6) of section 402(a) of such Code (relating to special rollover rules) is amended—

(1) by striking out "For purposes of paragraph (5)(A)(i)—" and inserting in lieu thereof "For purposes of paragraph (5)—", and

(2) by adding at the end thereof the following new subparagraph:

"(C) TAXATION OF NONROLLOVER PORTION.—If the total taxable amount of a distribution described in paragraph (5)(A) exceeds the amount transferred in a transfer described in such paragraph, then—

"(i) subsection (c) and section 62(11) shall not aply with respect to the distribution, and

"(ii) to the extent that the total taxable amount of such distribution exceeds the amount transferred, the excess shall be treated as ordinary income (or loss)."

(c) SPECIAL RULE.—For the purpose of applying the amendment made by subsection (a) of this section in the case of a taxpayer whose attempt to comply with the requirements of section 402(a)(5) of the Internal Revenue Code of 1954 (relating to rollover amounts) for a taxable year beginning before the date of enactment of this Act failed to meet the requirement of such section that all property received in a distribution be transferred, the provisions of such section (as amended by subsection (a)) shall be applied by treating any transfer of property made on or before the later of December 31, 1978, or the 60th day after the date of enactment of this Act as if it were made on or before the 60th day after the day on which the taxpayer received such property. For purposes of this subsection, a transfer of money shall be treated as a transfer of property received in a distribution to the extent that the amount of the money transferred does not exceed the fair market value of the property distributed on (or at any time within 60 days after) the date on which the taxpayer received the distribution.

(d) EFFECTIVE DATE.—The amendment made by subsections (a) and (b) shall apply with respect to taxable years begining after December 31, 1974.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, for the information of the Senate, following the disposition of Calendar No. 1046 under the order previously entered, I will ask the Chair to lay before the Senate Calendar No. 1032.

In the meantime, Mr. LONG has a conference report which he will call up.

CUSTOMS PROCEDURAL REFORM—CONFERENCE REPORT

Mr. LONG. Mr. President, I submit a report of the committee of conference on H.R. 8149, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8149) to provide customs procedural reform, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of August 17, 1978.)

Mr. LONG. Mr. President, this bill is the most important customs legislation to come before Congress in the last 30 years.

H.R. 8149 will permit the establishment of more efficient and flexible procedures for handling the documentary and financial aspects of import transactions. It will also improve the ability of the Customs Service to enforce customs laws.

H.R. 8149 will revise the customs law penalty for false statements to relate the amount of the penalty to the culpability of the offender. It will also provide due process for persons potentially liable for penalties.

The provision of H.R. 8149 which is of most interest to the general public will permit returning travelers to enter free of duty up to $300 worth of goods they purchase abroad. The next $600 worth of goods purchased by a traveler will be subject to a flat 10-percent duty. The purpose of these changes is to speed the customs processing of travelers when they return to the United States.

Mr. President, this is a good bill. It will bring many antiquated customs procedures up to date. It will help to end long delays for travelers at airports and ports. It is noncontroversial. I recommend the Senate approve the conference report.

I ask unanimous consent that a more detailed summary of the conference report be printed at this point in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

PRINCIPAL FEATURES OF THE BILL

Under present law, each importation is a separate transaction. Appropriate documents and estimated duties must be deposited at the customhouse for each entry. Under the statutory scheme, goods will not be released to the importer until they are inspected and the entry documents are verified. After release of the goods, any overpayment or underpayment of duties is settled with the importer on an entry-by-entry basis. Most goods are in fact released before all the entry documents and the estimated duties are deposited. This is permitted under customs regulations which require all documents and duties to be deposited within 10 days after the goods are released. Accounts are settled with importers under this system on an entry-by-entry basis.

The Conference Report on H.R. 8149 would permit the Secretary of the Treasury to release goods when an entry document is filed. All documents relating to the importation would have to be filed within 10 days after the entry document is filed. Estimated duties would have to be deposited within 30 days. Customs intends to send importers a periodic (monthly) consolidated statement for all entries made during the billing period. To insure compliance with this system, H.R. 8149 would impose recordkeeping requirements on importers and strengthen Customs authority to inspect import related books and records. It would also insure the collection of accurate import statistics by Customs under the new entry system.

PENALTIES

The Conference Report would amend section 592 of the Tariff Act of 1930, the penalty provision for false and material statements in the Tariff Act. Existing section 592 is strongly criticized by all segments of the importing public because it requires a fixed penalty regardless of the nature of the violation, lacks due process safeguards, and does not permit effective judicial review.

Present law prohibits the importation of goods into the United States "by means of any fraudulent or false invoice, declaration, affidavit, letter, paper, or by means of any false statement, written or verbal, or by means of any false or fraudulent practice or application whatsoever" unless the person has reasonable cause to believe the truth of such statement. The penalty imposed for violation of this provision is forfeiture of the merchandise itself or a fine equal to its domestic value.

The penalty under section 592 applies without regard to the degree of culpability. The penalty of forfeiture value may be applied to a violation occurring as a result of simple negligence. While Customs has procedures for mitigation of a section 592 penalty, the issuance of the original unmitigated claim creates several problems. For example, publicly held corporations must disclose penalty claims as contingent liabilities leading to difficulties involving the corporation's financial relationships. H.R. 8149 would provide different penalties for three different degrees of culpability: fraud, gross negligence, and negligence.

Section 592 also lacks procedural safeguards for the alleged violator and does not permit effective judicial review. The respondent is forced to choose between accepting the mitigated administrative penalty or face a Government suit, in which case the claim is for full forfeiture value. The court can only decide whether or not a violation occurred. It cannot change the amount of the statutory penalty, domestic value.

The risks of litigation are enormous when the initial penalty may become the final assessment. H.R. 8149 provides procedural rules for Customs consideration of penalty cases and provides for a trial in the Federal district courts on all issues if the matter is not resolved administratively.

CUSTOMS RULINGS

The Conference Report would require the publication of precedential Customs rulings in response to requests for advice from private parties regarding import transactions.

CUSTOMHOUSE BROKER REPORTS

The Conference Report would require licensed customhouse brokers to report every 3 years to Customs. The report would state whether or not they are actively engaged in the brokerage business and their address.

PERSONAL EXEMPTIONS

The personal duty exemption for returning residents would be increased from $100 to $300. The current $100 exemption has been in effect since 1961. The proposed increases are intended to expedite the entry of travelers and account for the effects of inflation.

TEN-PERCENT DUTY FOR TRAVELERS

A 10 percent rate of duty would be applied to articles brought to the United States by individuals if the importation is not commercial and the goods are for the traveler's personal use and their value does not exceed $600. The application of tariff classification procedures to merchandise imported by travelers requires an inordinate amount of processing time, compared to the amount of duty collected, and creates a bottleneck in the processing of persons entering the country. The bill would help to eliminate the bottleneck without adversely affecting customs revenue collections.

TRAVELERS RETURNING FROM U.S. POSSESSIONS

The Conference Report would increase the personal duty exemption from $200 to $600 for U.S. residents returning from American Samoa, Guam, or the Virgin Islands of the United States. The flat rate of duty applied to articles referred to in the previous paragraph would be 5 percent for articles acquired in these U.S. insular possessions. Further, travelers returning from these possessions could have the personal exemption and flat rate provisions applied to those goods shipped home as well as to those goods accompanying the traveler through customs entry.

LIQUOR AND TOBACCO

The disparity between the rights of U.S. residents and nonresidents to enter liquor and cigarettes free of duty would be reduced. A nonresident may now bring in duty free substantially more liquor and cigarettes than may a resident. Under the bill, both resident and nonresidents would be able to import 1 liter of alcoholic beverages and 200 cigarettes duty free. This represents a cutback in present levels in all respects save the quantity of liquor which a resident may now import duty free.

TIME LIMIT ON LIQUIDATION

The Conference Report would put a 1-year limit on the time in which customs has to liquidate an entry. "Liquidation" means the final ascertainment of the amount of duties due on an entry. Eliminated by this provision would be unanticipated requests by Customs, many years after importation, for additional duties which often result in substantial losses to importers because they are unable to anticipate such duties when pricing their products. Surety companies, which are jointly liable with importers for additional duties, would be better able to control their liabilities. Sureties would also be better protected against losses resulting from the dissolution of their principals in instances where there has been undue delay in liquidating entries. Benefits to Customs would primarily relate to improved management of the liquidation process which could result in some cost savings.

COUNTERFEIT TRADEMARKS

The Conference Report changes the procedures relating to disposal of imported merchandise which violates the law prohibiting unauthorized imports of merchandise bearing a mark copying or simulating a U.S. registered trademark. The bill would require notification of the trademark owner when such goods are seized by the Customs Service.

Goods seized under this provision would be forfeited to the Government unless the trademark owner consents, in writing, to some other disposition of the goods. The Government would have to attempt to donate the forfeited goods to a Federal, State, or local government agency or to a charitable institution. One year after forfeiture, the goods could be sold at a public auction. Destruction of the goods would be permitted if they are unsafe or a hazard to health.

PREFERENTIAL TREATMENT FOR U.S. OFFICIALS

The Conference report would prohibit duty-free entry for the baggage and effects of any individual including an officer or employee of the Federal Government or Member of Congress.

AUTHORIZATION OF APPROPRIATIONS

The Conference Report would require an annual authorization of appropriations to the U.S. Customs Service beginning with fiscal year 1980. Authorizing legislation would require Finance and Ways and Means Committee review, on a regular basis, of the operations of the Customs Service. Customs now receives nearly $400 million a year for operating expenses.

Mr. MORGAN. Mr. President, with regard to the conference report on the Customs Procedural Reform Act, I wish to make a few remarks that I consider extremely important to the Members of the Senate concerning the matter that took place with regard to this bill, some acts which I think seriously infringe upon the rights of the Members of the Senate to investigate and to legislate.

A DISTURBING INFRINGEMENT

Mr. President, when I returned from Japan last spring, I was very disturbed by the impact that the dumping of Japa-

nese television sets has had on the American industry. I had advised officials of the Japanese Government that such tactics could only undermine relations between our countries. The matter was serious. Thousands of jobs had been lost in the U.S. television industry, which essentially lay in ruins.

By chance, upon my return, I met an attorney I knew, who shares my interest in antitrust law. And I might add, Mr. President, that he previously was a staff member of the Judiciary Committee in the Senate. I raised the issue of television dumping with him, and discovered that he himself was representing an American manufacturer of television sets, and was concerned about the problem. In our discussion the matter of the Customs Procedural Reform Act came up.

The act as drafted would have retroactively lowered the penalties for the false filing of customs documents, which I believe to have been part and parcel of the dumping scheme. It would have increased and shifted the burden of proof, and it may well have allowed those responsible for the dumping to escape all penalty, or at the very least to suffer only a very reduced penalty.

I ask the attorney to inform me fully of the situation, and he complied.

Disturbed by the prospects offered by H.R. 8149, Senator CURTIS and I offered an amendment to make certain that the law on the books when the violations occurred would apply to the filing of false customs documents, and not the provisions of H.R. 8149 as drafted. Senator CURTIS and I were successful, and I am very glad to see that appropriate handling of the issue is reflected in the language of the conference version of the bill. I want to commend Senator LONG, Senator RIBICOFF, and Senator CURTIS for their work on this matter in the conference committee.

But I think the Senate should know of one other result of our efforts which ought to be of great concern to all my colleagues, for it involves an infringement of any Senator's right to investigate and to legislate.

A little background is in order. One very disturbing fact about the Customs Procedural Reform Act is that attorneys representing Japanese television manufacturers had a hand in drafting the bill which came over from the House.

It is perhaps less disturbing that a highly active lobbying campaign was carried on to get the Curtis-Morgan amendment dropped in conference. That is to be expected.

But it is positively outrageous that in the middle of our attempts to make sure the amendment stayed in the bill, attorneys representing the Japanese subpenaed all the documents sent to me by the attorney from whom I had requested information, and who had petitioned me for redress.

Mind you, they did not subpena my own files. They subpenaed from the attorney copies of everything he had sent me. They subpenaed every communication between him and every Member of the Senate or House. They subpenaed his correspondence with his client. They subpenaed his communications with public officials in the executive branch.

Mr. President, I ask unanimous consent that copies of the subpenas be included at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MORGAN. The subpenas were issued in a case, pending in the eastern district of Pennsylvania, and the taking of depositions was scheduled for the very day the conference committee was to take up the issue in question. I might add that the attorney who cooperated with me in my legislative activity was not a party to that suit. But his client was, and the Japanese television manufacturers and American importers, on whose behalf the subpenas were issued, were parties. The case is an antitrust suit growing out of the dumping, and has no direct connection with the Customs Procedural Reform Act, save for a similar cast of characters.

I have informed the court that I intend to file an intervention in the matter of the subpenas. I am doing so, because such harassment is of concern to me and to every Member of this Senate. I am not doing it to hide anything. There is absolutely nothing in my files which would embarass me or the Senate or the attorney with whom I corresponded. The only people who might be embarrassed are those involved in television dumping or violation of the customs laws.

But two points need to be made loud and clear.

First, I have a privilege, as does every Member of this Senate, to investigate, coterminous with my legislative intent. Unless we are going to start issuing congressional subpenas every whip-stitch, we must be able to depend on the willingness of interested parties to supply information to us.

In the second place, every citizen has the absolute right under the first amendment to petition Members of the Senate for redress of grievances. And he ought to be able to exercise that right without the threat of having lobbyists on the other side of a question haul him into court.

I ask my colleagues in the Senate to consider the relationship between these two facts.

How can we obtain information voluntarily from those who have it, if giving that information might subject a citizen to harassment, including the subpenaing of his files wholesale? Who would want to cooperate if he knew he might have to defend himself in a court in a distant city; in this case in Philadelphia?

What attorney would want to risk his attorney-client relationship by having companies, in direct competition with his clients in the marketplace and in court, have access to his files? In this case, a cartel of Japanese firms might have a good look at inside information on one of the few remaining American manufacturers, if there is anything there. It might even be possible for secret information relating to the competitive strength of American industry to become known to foreign competitors and governments, so close is their relationship in foreign countries, and especially in Japan. Yet, we would have no information showing the lobbying, and other activities between foreign companies and their attorneys, on the one hand, and the Government of Japan, on the other.

If subpenas of this kind become a successful tactic, then American citizens would be penalized for exercising their first amendment rights, or for cooperating with the Congress in its investigations.

We do not want the first amendment to become a risky proposition for our citizens. We do not want our ability to investigate and legislate infringed. But the use of American legal process, by foreign interests or any other interests, to undermine that process of communication, can only have a chilling effect, both on exercise of the first amendment, and on congressional investigations. The two are very closely related, and both must be preserved.

Mr. President, in closing let me say that after receiving these documents I made a statement on the floor of the Senate concerning this matter. The Washington Post did an article on it, and it was following that that the attorney was harassed by having his records subpenaed and subjecting him to a deposition in the courts on the very day the conference committee was meeting. Now he and his law firm are involved in extensive litigation in the city of Philadelphia simply because he complied with my request to give me information which led to the Curtis-Morgan amendment to the Customs Procedural Reform Act.

I think it is a serious matter, and I think it is one the public should know about and the Senate should take note of.

EXHIBIT 1

[In the U.S. District Court for the Eastern District of Pennsylvania, Civil Action No. 74-2451, M.D.L. 189]

ZENITH RADIO CORPORATION, PLAINTIFF, V. MATSUSHITA ELECTIC INDUSTRIAL CO., LTD., ET AL., DEFENDANTS

(In re Japanese electronic products antitrust litigation)

NOTICE OF DEPOSITION

To: Edwin P. Rome, Esquire, Blank, Rome, Klaus & Comisky, 1100 Four Penn Center Plaza, Philadelphia, Pa. 19103. Counsel for Plaintiff Zenith Radio Corporation.
All defense counsel

Please take notice that pursuant to the Federal Rules of Civil Procedure, defendant Motorola, Inc., will take the deposition of Bernard Nash, Esquire, Blum, Parker & Nash, 1015 18th Street, N.W., Suite 408, Washington, D.C. 20036 at the offices of Kirkland & Ellis, 1776 "K" Street, N.W., Washington, D.C. before a notary public or some other person authorized to administer oaths. The deposition will commence at 10:00 A.M. on Thursday, August 3, 1978, and will continue thereafter from day to day, or as required, until completed. You are invited to attend and to examine the witness.

A subpoena duces tecum will be served on the deponent, requiring him to produce the documents specified in the attached Schedule of Documents to Be Produced.

KIRKLAND & ELLIS,
By THOMAS COFFEY,

Dated: July 27, 1978.

(Standard Oil Building, 200 E. Randolph Avenue, Chicago, Illinois 60601 (312) 861-2000, Attorneys for Motorola, Inc.)

SCHEDULE OF DOCUMENTS TO BE PRODUCED

1. All documents in the possession, custody or control of Bernard Nash or the firm of Blum, Parker and Nash which relate in any way to remarks concerning Motorola, Inc. which were made by Senator Morgan on June 27, 1978, and which were subsequently published in the *Congressional Record* for June 27, 1978, 124 CONG. REC., p. 19159–19164 (daily ed. June 27, 1978) (remarks of Sen. Morgan).

2. All documents in the possession, custody or control of Bernard Nash or the firm of Blum, Parker and Nash referring or relating in any way to the identity of any person or persons who communicated to Senator Morgan or any member of his staff information pertaining to Motorola, Inc. which was subsequently published in the *Congressional Record* for June 27, 1978, 124 CONG. REC., p. 19159–19164 (daily ed. June 27, 1978) (remarks of Sen. Morgan).

3. All documents in the possession, custody or control of Bernard Nash or the firm of Blum, Parker and Nash pertaining to Motorola, Inc., which were communicated to any member or employee of the legislative or executive branch of government, including but not limited to the Antitrust Subcommittee of the Senate Judiciary Committee, Senernment, including but not limited to the Department of Justice, or which were communicated to any official or employee of any agency or activity of the United States government, including but not limited to the Securities Exchange Commission.

4. All documents in the possession, custody or control of Bernard Nash or the firm of Blum, Parker and Nash or documents pertaining to Motorola, Inc. which bear on the face of the document the legend "CONFIDENTIAL PER COURT ORDER."

5. All documents in the possession, custody or control of Bernard Nash or the firm of Blum, Parker and Nash which relate in any way to any communication, relating in any way to Motorola, Inc., between Bernard Nash or the firm of Blum, Parker and Nash and any member, employee or official of the legislative or executive branch of the United States government or any agency of the United States government or official or employee thereof since January, 1976.

6. All documents in the possession, custody or control of Bernard Nash or the firm of Blum, Parker and Nash pertaining to Motorola, Inc. which were obtained from Zenith Radio Corporation or any employee thereof, including but not limited to Philip Curtis or John Borst, or any member of the firm of Blank, Rome, Kalus and Comisky or any attorney associated with that firm, if those documents were designated confidential pursuant to Pretrial Order No. 35 in the case of Zenith Radio Corporation v. Matsushita, et al., Civil Action No. 74-2451.

CERTIFICATE OF SERVICE

I, Patrick T. Ryan, Esquire, certify that on this date copies of the Notice of Deposition of Bernard Nash, Esquire, were today served on Edwin P. Rome, Esquire, 1100 Four Penn Center Plaza, Philadelphia, Pennsylvania 19103, counsel for plaintiff Zenith Radio Corporation, by hand delivery, and a copy mailed, first class mail, postage pre-paid, to all defense counsel.

Dated: July 27, 1978.

PATRICK T. RYAN.

[Civil Subpoena, United States District Court for the District of Columbia]

ZENITH RADIO CORPORATION, PLAINTIFF, VS. MATSUSHITA ELECTRIC INDUSTRIAL CO., DEFENDANT.

In Re: Japanese Electronic Products Antitrust Litigation.

Civil Action No. 74-2451—In the United States District Court for the Eastern District of Pennsylvania.

To: Bernard Nash, Blum, Parker & Nash, 1015 18th Street NW., Suite 408, Washington, D.C. 20036.

You Are Hereby Commanded to appear in (the office of Kirkland & Ellis, 1776 K Street NW., Washington, D.C. 20006) to give testimony in the above-entitled cause on the 3rd day of August, 1978, at 10 o'clock a.m. (and bring with you) the documents listed on the attached Schedule of Documents to be Produced attached to Other Defendants' Notice of Deposition and do not depart without leave.

JAMES F. DAVEY,
Clerk.
By ROBERT L. LINE,
Deputy Clerk.

Date: July 28, 1978.

TIMOTHY S. HARDY,
Attorney for Defendant.

Kirkland & Ellis, 1776 K Street NW., Washington, D.C.

[In the U.S. District Court for the Eastern District of Pennsylvania, M.D.L. 189, Civil Action No. 74-2451]

(In re: Japanese electronic products antitrust litigation)

ZENITH RADIO CORPORATION, PLAINTIFF, V. MATSUSHITA ELECTRIC INDUSTRIAL CO., LTD., ET AL., DEFENDANTS.

NOTICE OF TAKING DEPOSITION

To: Edwin P. Rome, Esquire, Blank, Rome, Klaus & Comisky, 1100 Four Penn Center Plaza, Philadelphia, Pennsylvania 19103, Counsel for Plaintiff Zenith Radio Corporation.

Peter J. Gartland, Esquire, Wender, Murase & White, 350 Park Avenue, New York, New York 10022, Counsel for Sharp Defendants.

E. Houston Harsha, Esquire, Kirkland & Ellis, Standard Oil Building, 200 E. Randolph Avenue, Chicago, Illinois 60601, Counsel for Motorola, Inc.

Please take notice that the undersigned defendants will take, in the above-captioned action, for use as authorized by the Federal Rules of Civil Procedure, the deposition upon oral examination of: Bernard Nash, Blum, Parker & Nash, 1015–18th Street, N.W., Washington, D.C., before a person duly authorized to administer oaths on August 3, 1978 at 10:00 A.M. and thereafter from day to day, for as long as as the taking of the deposition may take or until it is adjourned, at the offices of Kirkland & Ellis, 1776 K Street, N.W., Washington, D.C., at which time and place you are hereby given notice to appear and take such part in said examinations as you may be advised and shall be fit and proper.

The matters which examination of the subpoenaed person will include are set forth in the attached Schedule of Documents To Be Produced.

A subpoena duces tecum will be served on the deponent, requiring him to produce the documents listed on the attached Schedule of Documents To Be Produced.

Dated: New York, New York
July 27, 1978

MUDGE ROSE GUTHRIE & ALEXANDER,

By DONALD J. ZOELLER,
A Member of the Firm, 20 Broad Street, New York, New York 1005 (212) 422-6767.

DRINKER BIDDLE & REATH,

By PATRICK T. RYAN,
A Member of the Firm, 1100 Philadelphia National Bank Building, Philadelphia, Pennsylvania 19107 (215) 988-2700, Attorneys for Toshiba Defendants.

Weil, Gotshal & Manges, 767 Fifth Avenue, New York, New York 10022 (212) 757-7800 and Morgan, Lewis & Bockius, 2100 The Fidelity Building, 123 South Broad Street, Philadelphia, Pennsylvania 19107 (212) 491-9400, Attorneys for Matsushita Defendants.

Tanaka, Walders & Ritger, 1819 "H" Street, NW, Washington, D.C. 20006; Metzger, Shadyac & Schwarz, One Farragut Square South, Washington, D.C. 20006; and Pepper, Hamilton & Scheetz, 123 South Broad Street, Philadelphia, Pennsylvania 19109, Attorneys for Hitachi Defendants.

Whitman & Ransom, 522 Fifth Avenue, New York, New York 10036 and Pepper, Hamilton & Scheetz, 123 South Broad Street, Philadelphia, Pennsylvania 19109. Attorneys for Sanyo Defendants.

Reid & Priest, 40 Wall Street, New York, New York 10005 and Montgomery, McCracker, Walker & Rhoads, Three Parkway, Philadelphia, Pennsylvania 19102, Attorneys for Mitsubishi International Corporation.

Arnstein, Gluck, Weitzenfeld & Minow, 75th Floor, Sears Tower, Chicago, Illinois 60606 (312) 876-7100 and Robert F. Maxwell, Arnold J. Bennett, 555 East Lancaster Avenue, St. Davids, Pennsylvania 19087, Attorneys for Sears, Roebuck & Co.

Baker & McKenzie, Suite 700, Prudential Plaza, Chicago, Illinois (312) 565-0025; Duane, Morris & Hechscher, 1600 Land Title Building, Broad and Chestnut Streets, Philadelphia, Pennsylvania 19103 (215) 854-6300; and Crummy, Del Deo, Dolan & Purcell, Gateway 1, Newark, New Jersey 07102 (201) 622-2235, Attorneys for Mitsubishi Electric Corporation.

SCHEDULE OF DOCUMENTS TO BE PRODUCED

A. DEFINITIONS

1. As used herein, the term "you" means you, any partner, associate or employee of the firm Blum, Parker & Nash, and any other person employed by you or subject to your control.

2. As used herein, the term "Zenith" means plaintiff Zenith Radio Corporation, including but not limited to its divisions, departments, subsidiaries, branches, its predecessors in interest, present or former officials, executives, officers, employees, agents, attorneys, and all other persons acting or purporting to act on behalf of Zenith Radio Corporation, its divisions, departments, subsidiaries, branches, predecessors in interest or joint ventures in which it is a party or participant.

3. As used herein, the term "documents" means all written or printed matter of any kind, and recorded, transcribed, punched, taped, filmed or graphic matter, however produced or reproduced, including the originals and all non-identical copies, whether different from the originals by reason of any notation made on such copies or otherwise, including without limitation, correspondence, memoranda, notes, diaries, letters, telegraphs, minutes, agendas, contracts, reports, studies, checks, statements, receipts, returns, summaries, pamphlets, books, prospectuses, interoffice and intraoffice communications, written notations of conversations, bulletins, computer printouts, teletypes, telefax, invoices, worksheets, graphic or manual records or representations of any kind, including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, tape recordings, motion pictures and electronic mechanical or electric records or representations of any kind, including without limitations, tapes, cassettes, discs, and recordings.

4. As used herein, the term "persons" or "persons" includes not only natural persons, but also firms, partnerships, associations and corporations, subsidiaries, divisions, departments or other units thereof, joint ventures or syndicates.

5. As used herein, the term "consumer electronic products," means radios, phonographs, stereo and audio instruments, mono-

chrome television receivers, color television receivers, tape equipment, and components of each of the above, including but not limited to, picture tubes for monochrome and color television receivers. Use of this defined term does not indicate any endorsement of or agreement with any of the allegations, definitions, terms or language in the Complaints filed in the above captioned actions.

6. As used herein, the term "communication" refers to any contact, message, notice, report, statement or submission, whether written, oral or in any other form.

7. As used herein, the terms "and" and "or" shall be interpreted conjunctively and shall not be interpreted disjunctively to exclude any information otherwise within the scope of any specification.

8. As used herein, the term "trade association" means any formal or informal association, organization, council, committee or group, or any officer, director, employee, attorney, representative agent, committee, subcommittee or other subdivision thereof, the members or participants in which constitute, in whole or in part, manufacturers, sellers or distributors of consumer electronic products in the United States, including without limitation the Electronic Industries Association ("EIA"), the United States Chamber of Commerce, the Electronic Industry Committee for Fair International Trade ("EICFIT"), Fair International Trade and Employment ("FITE") and the Committee to Preserve American Color Television ("COMPACT").

9. As used herein, the term "labor union" means any association or group of workers, the members of which are employed by manufacturers, sellers or distributors of consumer electronic products, including without limitation the following:

(a) Industrial Union Department, AFL-CIO;

(b) Allied Industrial Workers of America, International Union;

(c) American Flint Glass Workers of America, North America;

(d) Communications Workers of America;

(e) Glass Bottle Blowers' Association of the United States & Canada;

(f) Independent Radionic Workers of America;

(g) International Association of Machinists;

(h) International Brotherhood of Electrical Workers;

(i) International Union of Electrical, Radio & Machine Workers;

(j) United Furniture Workers of America; and

(k) United Steelworkers of America.

10. As used herein, the term "United States governmental body" means any United States governmental agency, department, commission, legislative body or committee or subcommittee thereof, or employee, including but not limited to the Justice Department, the Treasury Department, the Customs Service, the Securities and Exchange Commission, the Federal Maritime Commission, the International Trade Commission, the Labor Department, any congressional committee or subcommittee and any congressman or his staff.

11. As used herein, the terms "refer or relate" and "concerning" include alluding to, responding to, connected with, commenting upon, in respect of, about, regarding, discussing, showing, disclosing, describing, explaining, mentioning, reflecting, analyzing, constituting, comprising, evidencing, pertaining to, setting forth, summarizing or characterizing, either directly or indirectly, in whole or in part.

B. PRIVILEGED DOCUMENTS AND COMMUNICATIONS

With respect to any document responsive to this subpoena which you may decline to produce by reason of any claim or privilege or immunity, a statement is to be provided setting forth, as to each such document:

(a) the name of the sender(s) of the document;

(b) the name of the author(s) of the document;

(c) the name(s) of person(s) to whom copies of the document were sent or furnished;

(d) the job title of every person named in (a), (b), and (c) above;

(e) the date of the document;

(f) the date on which the document was received or sent by you;

(g) a brief description of the nature and subject matter of the document; and

(h) the statute, rule or decision which is claimed to give rise to the privilege or immunity.

C. RELEVANT PERIOD

Each of the following specifications calls for documents prepared during, or which refer or relate to, the period January 1, 1963 to date.

D. DOCUMENT SPECIFICATIONS

1. All documents which refer or relate to any communication between you and any United States governmental body concerning imports of consumer electronic products into the United States, the trade practices or other activities of any defendant in this litigation or of any alleged coconspirator of defendants or the impact of such imports, trade practices or activities upon United States manufacturers or assemblers of such products or their employees.

2. All documents which refer or relate to any communication between Zenith and any United States governmental body concerning imports of consumer electronic products into the United States, the trade practices or other activities of any defendant in this litigation or of any alleged coconspirator of defendants or the impact of such imports, trade practices or activities upon United States manufacturers or assemblers of such products or their employees.

3. All documents which refer or relate to any communication between any trade association, labor union or any other person and any United States governmental body, concerning imports of consumer electronic products into the United States, the trade practices or other activities of any defendant in this litigation or of any alleged coconspirator of defendants or the impact of such imports, trade practices or activities upon United States manufacturers or assemblers of such products or their employees.

4. All documents concerning imports of consumer electronic products into the United States, the trade practices or other activities of any defendant in this litigation or of any alleged coconspirator of defendants or the impact of such imports, trade practices or activities upon United States manufacturers or assemblers of such products or their employees, which have been submitted by you to (i) any United States governmental body, or (ii) any other person, including but not limited to any person affiliated with any news media or trade publication.

5. All documents concerning imports of consumer electronic products into the United States, the trade practices or other activities of any defendant in this litigation or of any alleged coconspirator of defendants or the impact of such imports, trade practices or activities upon United States manufacturers or assemblers of such products or their employees, which have been submitted by Zenith to (i) any United States governmental body, or (ii) any other person, including but not limited to any person affiliated with any news media or trade publication.

6. All documents concerning imports of consumer electronic products into the United States, the trade practices or other activities of any defendant in this litigation or of any alleged coconspirator of defendants or the impact of such imports, trade practices or activities upon United States manufacturers or assemblers of such products or their employees, which have been submitted by any union or any other person, including but not limited to any person affiliated with any news media or trade publication.

7. All documents which refer or relate to any communication between you and Zenith concerning imports of consumer electronic products into the United States, the trade practices or other activities of any defendant in this litigation or of any alleged coconspirator of defendants or the impact of such imports, trade practices or activities upon United States manufacturers or assemblers of such products or their employees.

8. All documents which refer or relate to any communication between you and any trade association concerning imports of consumer electronic products into the United States, the trade practices or other activities of any defendant in this litigation or of any alleged coconspirator of defendants or the impact of such imports, trade practices or activities upon United States manufacturers or assemblers of such products or their employees.

9. All documents which refer or relate to any communication between you and any labor union concerning imports of consumer electronic products into the United States, the trade practices or other activities of any defendant in this litigation or of any alleged coconspirator of defendants or the impact of such imports, trade practices or activities upon United States manufacturers or assemblers of such products or their employees.

10. All documents which refer or relate to any communication between you and any other person, including but not limited to any person affiliated with any news media or trade publication, concerning imports of consumer electronic products into the United States, the trade practices or other activities of any defendant in this litigation or of any alleged conconspirator of defendants or the impact of such imports, trade practices or activities upon the United States manufacturers or assemblers of such products or their employees.

11. All documents concerning imports of consumer electronic products into the United States, the trade practices or other activities of any defendant in this litigation or of any alleged conconspirator of defendants or the impact of such imports, trade practices or activities upon United States manufacturers or assemblers of such products or their employees, which you have received from Zenith.

12. All documents concerning imports of consumer electronic products into the United States, the trade practices or other activities of any defendant in this litigation or of any alleged coconspirator of defendants or the impact of such imports, trade practices or activities upon United States manufacturers or assemblers of such products or their employees, which you have received from any trade association.

13. All documents concerning imports of consumer electronic products into the United States, the trade practices or other activities of any defendant in this litigation or of any alleged coconspirator of defendants or the impact of such imports, trade practices or activities upon United States manufacturers or assemblers of such products or their employees, which you have received from any labor union.

14. All documents concerning imports of consumer electronic products into the United States, the trade practices or other activities of any defendant in this litigation or of any alleged coconspirator of defendants or the impact of such imports, trade practices or activities upon United States manufacturers or assemblers of such products or their employees, which you have received from any other person.

15. All documents which refer or relate to your activities as a lobbyist on behalf of Zenith and/or any other person concerning imports of consumer electronic products into the United States, the trade practices or other activities of any defendant in this litigation or of any alleged coconspirator of defendants or the impact of such imports, trade practices or activities upon United States manufacturers or asemblers of such products or their employees, including but not limited to all documents which refer or relate to your registration as a lobbyist under any applicable statute or regulation.

CERTIFICATE OF SERVICE

I, Patrick T. Ryan, Esquire, certify that on this date copies of the Notice of Taking Deposition of Bernard Nash were today served on Edwin P. Rome, Esquire, 1100 Four Penn Center Plaza, Philadelphia, Pennsylvania 19103, counsel for plaintiff Zenith Radio Corporation, by hand delivery and a copy mailed, first class mail, postage prepaid to:

Peter J. Gartland, Esquire, Wender, Murase & White, 350 Park Avenue, New York, New York 10022 and E. Huston Harsha, Esquire, Kirkland & Ellis, Standard Oil Building, 200 E. Randolph Avenue, Chicago, Illinois 60601.

PATRICK T. RYAN.

Dated: July 27, 1978.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

PRIVILEGE OF THE FLOOR

Mr. LONG. Mr. President, I ask unanimous consent that the same staff members of the Joint Committee on Taxation and the Finance Committee who had the privilege of the floor Wednesday be permitted to be on the floor when the other tax bills are considered today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that Pamela Milton, of the Judiciary Committee, have the privilege of the floor during the consideration of the tax bills today.

Mr. CRANSTON. Mr. President, I make the same request for John Fleming, of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I ask unanimous consent that all other staff members who had the privilege of the floor in connection with the tax bills earlier this week also have the privilege of the floor today.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSTRUCTIVE SALE PRICE FOR EXCISE TAX ON CERTAIN TRUCKS, BUSES, TRACTORS, ETC.

The Senate continued with the consideration of the bill (H.R. 1337).

Mr. LONG. Mr. President, the pending bill H.R. 1337, as reported by the Committee on Finance, is a combination of several small bills which have been passed by the House, and a committee amendment dealing with individual retirement accounts.

The first section of the bill provides that the use of the administratively developed "cost floor" rule is specifically prohibited as an alternative tax base for purposes of computing the excise tax on trucks, buses and other highway equipment sold by manufacturers at retail. Under a committee amendment to the House bill, this rule will apply beginning with the first calendar quarter which begins more than 30 days after enactment.

The second section of the bill deals with excise taxes on beer and wine. It corrects problems in interpreting present law so that an adult may brew beer or make wine in limited quantities for personal and family use without incurring beer or wine excise taxes or being subject to certain penalties.

The third section of the bill expands the farming exemption from fuel taxes to enable an aerial crop duster who uses fuel for farming purposes to claim the tax refund or credit. Under a committee amendment to the House-passed provision, the farmer must waive his right to the refund or credit in order for the crop duster to claim it.

Finally, the bill would allow tax-free treatment for any portion of a lump-sum distribution from a qualified retirement plan which is deposited in an individual retirement account or another qualifying plan. Under present law an individual is required to deposit the entire proceeds of the lump-sum distribution in order to obtain tax-free rollover treatment. Under this provision, there is also a special make-up rule for individuals who previously attempted to make a rollover deposit but failed to transfer the required amount.

Mr. President, this is truly a small bill since all of its provisions taken together will result in a revenue loss of $3.5 million in fiscal year 1979 and thereafter $3 million per year. I urge the adoption of H.R. 1337.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. LONG. I yield to the Senator.

Mr. PROXMIRE. As I understand it, this bill really incorporates the four different provisions of three bills and one amendment.

Mr. LONG. Yes.

Mr. PROXMIRE. The first one, H.R. 2028, dealt with the home production of beer and wine. This simply permits the home production of beer and wine.

Mr. LONG. That is right, for one's own personal consumption.

Mr. PROXMIRE. So I take it the Milwaukee brewing industry does not have to worry about this.

Mr. LONG. No.

Mr. PROXMIRE. There is no objection from the brewers or wine makers?

Mr. LONG. There is no objection from the Treasury or anyone, as far as I know. No. Apparently Schlitz is not worried the least bit about the competition of a home brewery.

Mr. PROXMIRE. There is no effect on revenues?

Mr. LONG. The entire bill would have a revenue impact of less than $3.5 million annually.

Mr. PROXMIRE. What section of the bill would have that revenue? Is that the IRA amendment by Senator CURTIS?

Mr. LONG. The principal consequence of the retirement rollover amendment is that it has a great deal of justice and equity to recommend it.

Mr. CURTIS. Mr. President, will the Senator yield at that point?

Mr. PROXMIRE. I yield.

Mr. CURTIS. I do not believe that this would have any adverse revenue effect. What it does is it corrects an error. When Congress passed the Individual Retirement Act, Congress provided that workers who participated in a company pension plan or a private sharing plan, when that was terminated they could take their proceeds and roll them over into an individual retirement account. That is the law. They have the right. There is nothing in this bill that changes that. And there is not any loss of revenue.

This bill arose out of a case in Nebraska where a man who performed physical labor, worked his entire life, came to the end of his employment and he had an accumulation of lifetime savings of only about $22,000, as I recall. His company erroneously, because the IRA was just barely into law—I do not think all the regulations are written yet—erroneously advised him that there was an insurance policy that he might pay up out of these proceeds. He did so with a few hundred dollars, paid up that insurance. Then he went to his local bank and went through the process of putting this in an individual retirement plan.

Months later when he filed his tax return he learned for the first time that if he did not put every dollar of his accumulation into the individual retirement plan he was subject to a very severe penalty. Actually it amounted to between 15 and 18 percent of his lifetime savings.

As I say, the program was totally new. The bank and the trust company were not aware of this requirement. His employer was not. The insurance company apparently did not know what was going on.

It was not discovered until he filed his income tax return and was faced with a penalty of about 15 or 18 percent of his lifetime savings.

If saving him from such a penalty is a loss of revenue, it is a loss of revenue, but it is not. It is not. All we are asking is that this be corrected so that this man will not have an unjust and unconscionable penalty.

It calls for considerable imagination on my part when they figure any sizeable amount of loss of revenue here because the Government is not entitled to the revenue in the first place.

Mr. PROXMIRE. May I ask the Senator from Nebraska, the Government does say there is a loss of revenue. The Senator from Nebraska may be dead right that there is at least no just loss.

Mr. CURTIS. Because of an unjust penalty. It was the intent of Congress that if there were such a rollover it should be tax free. This man got caught on the technicality. That is grossly unjust.

Mr. PROXMIRE. Would the $3.5 million, if there is such an amount, accrue to one taxpayer or many?

Mr. CURTIS. No. There is only $22,000 involved and this is his total lifetime savings, and he is subject to this penalty of about 15 or 18 percent, which I would guess is a couple thousand dollars. I do not have the figures right now.

Mr. LONG. The retirement rollover provision has a negligible impact on the budget.

The amendment relating to beer and wine that would involve a revenue loss of less than $1.5 million a year.

Mr. PROXMIRE. That would be several thousand homebrewers.

Mr. LONG. At least.

Mr. PROXMIRE. Maybe tens of thousands.

Mr. LONG. It could be 100,000.

I have a dear friend, a relative, and I suppose without his consent I should not use his name, but my wife gave that dear person a set to go in the backyard, where he has a grape vine, and he takes the grapes, and they enjoy sitting there and crushing up the grapes and putting them aside, and after a while they have a little wine.

Some people find more enjoyment making the stuff than they do in consuming it.

So that type of thing is a great big pain in the neck for the Treasury to go around and check on it and it is a bother for the citizen.

I guess the Senator recalls, if he studied history, that one of the first revolts we had during the Civil War was the Whiskey Rebellion where some people back in the woods——

Mr. PROXMIRE. In Pennsylvania.

Mr. LONG [continuing]. In Pennsylvania were concerned about the Federal excise tax on liquor at that time.

But this just involves people who make some wine in their own homes.

Mr. PROXMIRE. Wine and beer, not whisky.

Mr. LONG. That is right, only wine and beer. Nothing really strong, Senator. Nothing to put hair on your chest, you might say.

Mr. CURTIS. Mr. President, will my chairman yield? I am interested in this colloquy. I am interested in the homebrew business, but I am fascinated at these estimates of loss of revenue. If it was not for this bill, they would spend 10 times this much trying to collect, and collect nothing. This saves the Treasury money, in my opinion.

Mr. PROXMIRE. The Senator said $1.5 million for H.R. 2028; a negligible amount for the Curtis amendment; then, dealing with cropdusting, was there a loss there?

Mr. LONG. Less than $1 million for cropdusting.

Mr. PROXMIRE. The remainder then on the Cranston amendment, which, as I understand it, is S. 3424, which concerns the paperwork of filing reports to the Federal Government for beer- and wine-making at home.

Mr. LONG. The Senator from California has not offered an amendment yet. I see he is ready to offer an amendment, and I assume that is what he had in mind. But I believe that would also have a negligible revenue impact. It probably would save us some money.

Mr. CRANSTON. It would save some money.

Mr. LONG. It would save money because it would cut down on needless paperwork.

UP AMENDMENT NO. 1809

(Purpose: To provide equal treatment in the regulation of the home production of beer and wine)

Mr. CRANSTON. May I offer the amendment now? I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. METZENBAUM). The clerk will report.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 1809.

Mr. CRANSTON. Mr. President, I ask unanimous consent to dispense with further reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, strike out section 2 and insert in lieu thereof the following:

(a) EXEMPTION FROM TAX ON WINE.—Section 5042(a)(2) of the Internal Revenue Code of 1954 (relating to production of wine for personal consumption) is amended to read as follows:

"(2) WINE FOR PERSONAL OR FAMILY USE.—Subject to regulations prescribed by the Secretary—

"(a) EXEMPTION.—Any adult may, without payment of tax, produce wine for personal or family use and not for sale.

"(b) LIMITATION.—The aggregate amount of wine exempt from tax under this paragraph with respect to any household shall not exceed—

"(i) 200 gallons per calendar year if there are 2 or more adults in such household, or

"(ii) 100 gallons per calendar year if there is only 1 adult in such household.

"(C) ADULTS.—For purposes of this paragraph, the term 'adult' means an individual who has attained 18 years of age, or the maximum age (if any) established by law applicable in the locality in which the household is situated at which wine may be sold to individuals, whichever is greater."

(b) EXEMPTION FROM TAX ON BEER.—

(1) IN GENERAL.—Section 5053 of such Code (relating to exemptions from excise tax on beer) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new section:

"(e) BEER FOR PERSONAL OR FAMILY USE.—Subject to regulations prescribed by the Secretary, any adult may, without payment of tax, produce beer for personal or family use and not for sale. The aggregate amount of beer exempt from tax under this subsection with respect to any household shall not exceed—

"(1) 200 gallons per calendar year if there are 2 or more adults in such household, or

"(2) 100 gallons per calendar year if there is only 1 adult is such household.

For purposes of this subsection, the term 'adult' means an individual who has attained 18 years of age or the minimum age, if any, established by law applicable in the locality in which the household is situated for individuals to whom beer may be sold, whichever is greater."

(2) ILLEGALLY PRODUCED BEER.—

(A) Section 5051 of such Code (relating to imposition and rate of tax) is amended by adding at the end thereof the following new subsection:

"(c) ILLEGALLY PRODUCED BEER.—The production of any beer at any place in the United States shall be subject to tax at the rate prescribed in subsection (a) and such tax shall be due and payable as provided in section 5054 (a)(3) unless—

"(1) such beer is produced in a brewery qualified under the provisions of subchapter G, or

"(2) such production is exempt from tax under section 5053(e) (relating to beer for personal or family use).".

(B) Section 5054(a)(3) of such Code (relating illegally produced beer) is amended to read as follows:

"(3) ILLEGALLY PRODUCED BEER.—The tax on any beer produced in the United States shall be due and payable immediately upon production unless—

"(A) such beer is produced in a brewery qualified under the provisions of subchapter G, or

"(B) such production is exempt from tax under section 5053(e) (relating to beer for personal or family use).".

(3) DEFINITION OF BREWER.—Section 5092 of such Code (defining brewer) is amended to read as follows:

"SEC. 5092. DEFINITION OF BREWER.

"Every person who brews beer (except a person who produces only beer exempt from tax under section 5053(a)) and every person who produces beer for sale shall be deemed to be a brewer.".

(4) EXEMPTION FROM CERTAIN PROVISIONS RELATING TO DISTILLING MATERIALS.—Section 5222(a)(2)(C) of such Code (relating to certain exemptions) is amended by striking out "; or" and inserting in liue thereof "or 5053(e); or".

(5) PENALTY FOR UNLAWFUL PRODUCTION OF BEER.—

(A) Section 5674 of such Code (relating to penalty for unlawful removal of beer) is amended to read as follows:

"SEC. 5674. PENALTY FOR UNLAWFUL PRODUCTION OR REMOVAL OF BEER.

"(a) UNLAWFUL PRODUCTION.—Any person who brews beer or produces beer shall be fined not more than $1,000, or imprisoned not more than 1 year, or both, unless such beer is brewed or produced in a brewery qualified under subchapter G or such production is exempt from tax under section 5053(e) (relating to beer for personal or family use).

"(b) UNLAWFUL REMOVAL.—Any brewer or other person who removes or in any way aids in the removal from any brewery of beer without complying with the provisions of this chapter or regulations issued pursuant thereto shall be fined not more than $1,000, or imprisoned not more than 1 year, or both.".

(B) The item relating to section 5674 in the table of sections for part III of subchapter J of chapter 51 of such Code is amended to read as follows:

"SEC. 5674. PENALTY FOR UNLAWFUL PRODUCTION OR REMOVAL OF BEER.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act.

Mr. CRANSTON. This amendment is very simple.

It establishes for homebrew beer the same legal treatment provided in H.R. 1337 for homemade wine.

First, brewers of home beer for personal consumption will not be required to register with the Bureau of Alcohol, Tobacco and Firearms.

Second, home beer brewers will be limited to 200 gallons annually as are home winemakers.

Third, the amendment removes the proposed 30-gallon-on-hand limitation presently provided in H.R. 1337.

Treasury has indicated that the registration requirement for winemakers, which has been in effect for many years, has been of little use to the Federal Government, and indeed has proven burdensome to the public and it is costly, too,

because Government employees have been doing work that does not need to be done.

Concern has been expressed that removing the registration provision sought to be imposed on home beer brewers for the first time somehow will afford camoflage for illegal whiskey distilling operations.

According to BATF, this is the problem: Beer mash is technically "mash fit for distillation." But prosecutions for possessing a mash fit for distillation are rare. And, without strong corroborating evidence of a capability for distilling whiskey and an intent to do so, such prosecutions virtually cannot be sustained.

BATF, I might add, does not suspect home beer brewers of being illegal moonshiners.

Then what is the purpose of requiring otherwise law-abiding citizens to register with the Federal bureaucracy so they can make a few gallons of beer in their homes for their personal consumption?

As far as I can determine, BATF merely wants to hold on to some busy work for its clerks.

I think such white-collar leaf-raking is unfair to Government workers and gives Government a bad name.

To go ahead with legislation requiring home beer brewers to register with the Federal Government is a waste of everybody's time, energy and money. The Bureau has adopted a sensible position with respect to homemade wine. It should do the same for homebrew beer. My amendment assures that the agency will do so. I have just learned that Treasury has no objection to my amendment. I am most pleased at this development.

I urge the amendment's adoption.

Mr. PROXMIRE. Mr. President, will the Senator from California yield?

Mr. CRANSTON. Yes.

Mr. PROXMIRE. This amendment seems to be very meritorious, but I am disturbed about one thing. First, the Treasury, as I understand, supports the amendment?

Mr. CRANSTON. Yes, it just came around to supporting it now.

Mr. PROXMIRE. But, on the other hand, part of the Treasury which the Senator was talking about, that is, the Bureau of Alcohol, Tobacco and Firearms, do they still oppose the amendment? As I understood the Senator, he indicated they wanted to protect their busy work, and they opposed the amendment on the ground apparently that they would not be able to do it.

Mr. CRANSTON. The official Treasury position now is no opposition to the amendment.

Mr. PROXMIRE. But does the Senator have any information on how the Bureau of Alcohol, Tobacco and Firearms feels about this?

Mr. CRANSTON. They want to hang onto it because they have some work to do, and they would like to do it.

Mr. PROXMIRE. Do they have any argument, any reasoning, at all?

Mr. CRANSTON. They have never given a reasonable argument for it.

Mr. PROXMIRE. At any rate, what the Senator is saying is these reports are filed, they constitute, therefore, a burden on the people who produce the wine and beer.

Mr. CRANSTON. And a burden to the taxpayers.

Mr. PROXMIRE. The reports are never used, they are simply stored?

Mr. CRANSTON. Right.

Mr. PROXMIRE. With cost to the Federal Government, but they are not processed?

Mr. CRANSTON. Right.

Mr. PROXMIRE. Has there been any enforcement under this provision?

Mr. CRANSTON. No.

Mr. PROXMIRE. Has there been any investigation?

Mr. CRANSTON. No.

Mr. PROXMIRE. Has anybody ever gone to jail or been brought into court on it?

Mr. CRANSTON. No.

Mr. PROXMIRE. So the Senator's argument is it is of no use, a burden both on the private sector and the public sector?

Mr. CRANSTON. Yes. If ever there was a regulation and paperwork we can do without this is a classic example.

Mr. PROXMIRE. Does the Treasury agree there would be no revenue loss?

Mr. CRANSTON. No what?

Mr. PROXMIRE. No revenue loss.

Mr. CRANSTON. We do not know how there could be a revenue loss. This is going to be a gain to the taxpayer because there will be some people no longer needed to do some work.

Mr. PROXMIRE. The only kind of revenue loss you would have is that you have violations, I presume, so there will not be since you are not enforcing the law, and the revenue loss would be, if they produce it in the bathtub or wherever they produce it, that therefore they escape the very, very high excise taxes we have on wine and beer.

Mr. CRANSTON. I do not know any revenue we are getting from that source, so I do not know how we can lose it.

Mr. PROXMIRE. All right.

Mr. President, I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

The amendment was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1810

(Purpose: To provide in certain instances, cash payments in lieu of food stamps to recipients of SSI benefits)

Mr. CRANSTON. Mr. President, I send to the desk one more amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON), for himself and Mr. HAYAKAWA, proposes an unprinted amendment numbered 1810.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add at the end thereof the following new section:

SEC. . (a) Section 8(d) of Public Law 93-233 is amended by adding at the end thereof the following new sentences: "For purposes of this subsection, if the State requests the Secretary to make the finding specified in the first sentence of this subsection and to make an additional cash payment under title XVI in lieu of food stamps, in the amount and the manner described below, to every individual in the State who does not have an eligible spouse and who receives a supplementary payment pursuant to an agreement under section 1616(a) of the Act (other than an individual who (i) receives such a supplementary payment at a level prescribed by the State by reason of his or her residence in an institution, or other living arrangement in which board and care are provided, or (ii) receives payments pursuant to section 212 of Public Law 93-66 at a level in excess of the level applicable to such individual as established by the State under such agreement), the Secretary shall make such payments if he finds that the conditions of paragraph (1) have been met (and for this purpose the conditions of paragraph (1) shall be considered to have been met to the extent that they involve amounts payable under the law referred to in paragraph (1)(B) notwithstanding the suspension in 1978 of the cost-of-living increase in State supplementary payments under such law) for months beginning with the first month in which, as determined by the Secretary, such additional cash payment can be made, and ending with the month before the first subsequent month for which the conditions of paragraph (1) are met without regard to this sentence (and the requirements of paragraph (2) shall also be considered to have been met, effective on the first day of such first subsequent month, for purposes of applying the first sentence of this subsection to that month and succeeding months). For purposes of the preceding sentence, the amount of an additional cash payment under title XVI in lieu of food stamps shall equal the cash value of the minimum allotment specified by section 8 (a) of the Food Stamp Act of 1977 for one-person households, and such additional cash payment shall be appropriately included in or with the check issued to such individual in payment of his supplementary security income benefit (or supplementary payment under such section 1616(a)).".

(b) No additional cash payment under title XVI of the Social Security Act may be made pursuant to the third sentence of section 8(d) of Public Law 93-233 (as added by subsection (a) of this section) for any month beginning before October 1, 1978, or ending after September 30, 1979.

Mr. CRANSTON. I want the RECORD to note that Senator HAYAKAWA has joined me in this amendment. It is not controversial, and it will take me just one moment to explain it.

Mr. President, this amendment addresses a problem which has recently arisen regarding the supplemental security income—SSI—program in California. This amendment is identical to H.R. 13814 which was introduced by Representative CORMAN in the House on August 9, and which was ordered favorably reported by the House Ways and Means Committee on August 16. I know

that the distinguished floor management (Mr. LONG) is well aware of the problem this amendment is designed to correct.

HEW has been fully advised as to the nature of this amendment and has no opposition.

Mr. President, briefly, this amendment would amend section 8(d) of Public Law 93–233 to provide that SSI recipients in California who would become eligible to receive food stamps in that State on September 1 would, instead, receive an amount in cash equivalent to the value of their food stamp entitlement. This amendment would be effective for 1 year only.

Mr. President, when the SSI program began in 1974, California included in its State supplementary cash payment an amount equal to the average bonus value of food stamps that SSI recipients in the State generally would have been eligible to receive. California was authorized to and did maintain "cash-out" status as long as the Federal Government was contributing to the cost of the State supplementary payment under the "hold-harmless" provisions of section 401 of Public Law 92–603.

In 1976, however, California would have lost this "cash-out" status under the provisions of Federal law then in effect because of increases in the Federal SSI benefit level. At that time, at the request of the State of California, Congress enacted legislation—Public Law 94–379—that allowed California to continue its "cash-out" status as long as it met two conditions. First, the State had to pass through to SSI recipients any cost-of-living increases provided in the Federal SSI benefits and, second, the State had to provide a yearly cost-of-living increase in the State supplementary SSI payment.

California has met these two conditions up to this time; however, effective September 1, 1978, the State will no longer meet the second condition because it has recently suspended the cost-of-living increase in its SSI supplementary benefits. Most single, aged, or disabled SSI recipients in California will become eligible on September 1 for $10 in food stamps.

The cost-benefit ratio of administering this program after conversion would be totally unacceptable, I think. The State estimates that approximately 42 percent of the eligible SSI recipients will participate in the food stamp program and, on an annual basis, that only $25 million would be paid in food stamps benefits, whereas total administrative costs are estimated to be about $75 million. In other words, the taxpayers will be expending $3 in administrative costs for every $1 in benefits which goes to recipients.

This amendment would provide that the Secretary of HEW—upon the request of the State—would make an additional monthly cash payment of $10—the minimum food stamp allotment for an eligible one person household—to eligible recipients. This additional payment would be included in or with the individual's SSI check. These SSI recipients would receive this cash payment in place of the food stamps they would otherwise be entitled to receive.

It is estimated that the total annual costs under this amendment—benefits plus administrative costs—would be approximately $60 million. This is $40 million less than the total estimated costs after conversion to a regular food stamp program.

Mr. President, while this amendment will affect only the State of California, each of us shares an interest in seeing that funds—Federal, State, or local—intended to help the needy are expended in the most cost-effective and efficient manner. This amendment is designed to serve that purpose.

Mr. President, this amendment is virtually identical to S. 3424, a bill I introduced on August 16. I ask unanimous consent that the full text of my remarks on August 16, explaining the background and purpose of this amendment be reprinted in the RECORD.

I urge adoption of the amendment.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

CALIFORNIA SSI/FOOD STAMP PROGRAM

Mr. CRANSTON. Mr. President, I am introducing today a measure dealing with a problem which has recently developed in California regarding the supplemental security income—SSI—program in that State. This bill is identical to one introduced last Wednesday in the House by my good friend from California, Mr. Corman, H.R. 13814, which was today ordered favorably reported by the House Ways and Means Committee.

BACKGROUND

When the SSI program began in 1974, California included in its State supplementary cash payment an amount equal to the bonus value of good stamps that SSI recipients in the State generally would have been eligible to receive. In other words, the State provided SSI recipients with an additional amount of cash generally equivalent to the average value of, and in place of, food stamps, and in this sense "cashed-out" food stamps for SSI recipients. Pursuant to section 401 of the law establishing the SSI program, Public Law 92–603, California was able to maintain this "cash-out" status as long as the Federal Government was contributing to the cost of the State supplementary payment under the "hold-harmless" provision of section 401.

In 1976, as a result of increases in the Federal SSI benefit level, California would have lost the "cash-out" status allowed under the provisions of Federal law then in effect. At that time, at the request of the State of California, Congress enacted legislation—Public Law 94–379—that allowed California to continue its "cash-out" status as long as it met two conditions: beginning June 1976, and for every month thereafter, the State had to first, pass through to SSI recipients any cost-of-living increases provided in the Federal SSI benefits and second, provide a yearly cost-of-living increase in the State supplementary payment. California has continued to meet these two conditions up to this time, and has, in effect, continued to "cash-out" food stamp benefits for SSI recipients.

Beginning in September 1978, however, Mr. President, California will cease to meet the second of these statutory conditions because the State suspended, as of September 1, 1978, the cost-of-living increase in its SSI supplementary payments. The State will thus lose its "cash-out" status and most noninstitutionalized, stride, aged or disabled SSI recipients will be eligible for the minimum stamp allotment of $10 per month. Couples and most single, blind SSI recipients will not qualify for food stamps because the level of their SSI payments exceed the income limits under the food stamp program. Institutionalized SSI recipients will not qualify for food stamps because they do not constitute an eligible household under the provisions of the food stamp law.

TEMPORARY MEASURE

At this time, Mr. President, California has reached an oral agreement with the Department of Agriculture under which, at least until December 1978, food stamps will be distributed to eligible SSI recipients under a demonstration project system that will greatly simplify food stamp eligibility determination and distribution procedures. The State estimates that during these 4 months approximately 90 percent of the noninstitutionalized, single, aged, and disabled individuals who would be entitled to $10 a month in food stamps will participate in the program. According to the State, the estimated annual cost under the demonstration project system is $51 million for food stamp benefits and $6 million for administration.

CONVERSION TO REGULAR SYSTEM; ADMINISTRATIVE COSTS OUTWEIGH BENEFITS

The State advises that, as of January 1, 1979, it will have to begin converting from the demonstration project to the regular food stamp eligibility determination and distribution procedures. SSI recipients will then have to make application for food stamps at the local welfare offices and pick up the stamps at designated locations. After conversion to the regular food stamp system, the State estimates that participation in the program will drop to 42 percent and, on an annual basis, that $25 million will be paid in food stamps benefits with administrative costs increased to approximately $75 million. In other words, the taxpayers will be expending $3 in administrative costs for every dollar in benefits that go to recipients. Of the total costs, the Federal Government will pay all the costs of the benefits and one-half of the administrative costs, with the State paying the other half.

PURPOSE OF LEGISLATION

The object of the measure I am introducing today is to avoid this patently wasteful result by amending section 8(d) of Public Law 93–233 to provide that SSI recipients in California who would be eligible for food stamps will receive an amount in cash equivalent to the value of their food stamp entitlement. Under this legislation, if requested by the State of California, the Secretary of Health, Education, and Welfare, would, during fiscal year 1979, make an additional monthly cash payment of $10—the minimum food stamp allotment for an eligible one person household—to eligible recipients. This additional payment would be included in or with the individual's SSI check. These SSI recipients would receive this cash payment during fiscal year 1979 in place of the food stamps they would otherwise be entitled to receive.

The amendment would allow California to resume "cash-out" status beginning with the first month in which the additional payments in lieu of food stamps provided under this bill are actually made by the Secretary of HEW. These additional payments would end at the end of fiscal year 1979 or sooner with the first month California comes back into compliance with the two conditions contained in Public Law 94–379. Thus, if California resumes including cost-of-living increases in its supplementary payments before the end of fiscal year 1979, including amounts necessary to reflect all increases in the cost of living which have occurred since June 1976, the special $10 payments would cease and the State could continue its "cash-out" status under the provisions of current law. The amendments also specifies that the requirements of paragraph (2) of section

8(d) will be considered to have been met when California does make the required cost-of-living increases. This provision makes clear that, when California does resume making annual cost-of-living increases in its State supplementary SSI payment, the State will be considered to have satisfied the requirement of paragraph (2) of section 8(d) of Public Law 94–379 that such increases have been paid for all months since June 1976.

COSTS OF PROPOSED LEGISLATION

It is estimated that the total annual costs under this proposed legislation—benefits plus administrative costs—will be approximately $60 million in fiscal year 1979, or about the same as the annualized cost of the food stamp demonstration project system scheduled to begin on September 1, 1978. The benefit costs under the proposed legislation will be somewhat higher, but the administrative costs should be less. This, however, will be $40 million less than the total estimated costs after conversion, as required by law, to the regular food stamp program after January 1, 1979.

Under the regular food stamp program, Mr. President, the State estimates that it will cost about $75 million to administer $25 million worth of food stamp benefits, and the total fiscal year 1979 cost to the Federal Government will exceed $60 million. Under this proposed legislation, approximately $60 million in benefits will be provided to eligible SSI recipients with negligible administrative costs since the additional payments will be made along with regular SSI checks. Twice as many individuals will receive benefits during fiscal year 1979 under this legislation at essentially the same cost to the Federal Government. Thus, this money will go into direct cash benefits, rather than administrative costs.

Mr. President, I have been informed that this legislation will affect only the State of California, but I think that everyone of us shares an interest in seeing that funds—Federal, State, or local—intended to help the needy are expended in the most cost-effective and efficient manner. This legislation is designed to serve that purpose.

Mr. LONG. Mr. President, I know of no objection to the amendment. The Senator has explained it to me and, as he has stated, the department has no objection to it.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, will the Senator yield for a question on that amendment? I just wonder, the Senator says this is an amendment that would enable SSI recipients in California who would become eligible to receive food stamps to receive an amount of cash equivalent to the value of their food stamp entitlement; is that right?

Mr. CRANSTON. They have to convert it to regular food stamps, and it is a saving, incidentally, of $40 million.

Mr. PROXMIRE. A saving?

Mr. CRANSTON. Yes, a savings of $40 million.

Mr. PROXMIRE. How can there be a saving if they are given cash, they are paid cash?

Mr. CRANSTON. Well, effective September 1, California would no longer meet the condition of cash-out requirements because it recently suspended the cost-of-living increase in SSI supplementary benefits. Most single, aged, or disabled SSI recipients in California will become eligible on September 1 for $10 in food stamps.

The cost-benefit ratio of administering this program at conversion would be totally unacceptable. I think it would be a very costly operation.

Mr. PROXMIRE. I see. So if we do not pass this amendment the beneficiaries would receive food stamps——

Mr. CRANSTON. Right.

Mr. PROXMIRE. At great cost to the Federal Government. Instead of those food stamps they would be given $10 in cash and that would be far less expensive to administer?

Mr. CRANSTON. It would be.

Mr. PROXMIRE. To the extent of $40 million?

Mr. CRANSTON. Yes, $40 million. The taxpayers would be paying if we did not adopt this amendment $3 in administrative costs for every $1 in benefits to go to the recipients. It would be an incredibly noncost-effective program.

Mr. PROXMIRE. I am a little puzzled by that, but I am not on the Committee on Finance, and I just do not know. But you have a situation here where they are supplied food stamps because they are unable to get adequate food.

Do we have any precedent for providing cash in substitution?

Mr. CRANSTON. California is currently providing cash.

Mr. CURTIS. As provided in the law.

Mr. PROXMIRE. I thank the Senator.

Mr. CURTIS. Mr. President, I have no objection to the amendment, but I want to be recognized just briefly before we vote on the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CURTIS. Mr. President, I wish to inform the Senate, particularly the distinguished Senator from Wisconsin, that I now have the file before me.

This man worked for his employer for 34 years. He had an accumulation of $23,660.88 coming to him. Before the check was drawn to put into the IRA account to provide for his retirement, the sum of $368.31 was deducted to pay for a small fully paid up life insurance policy. The law said it all had to go over there, but because of this error of paying for a life insurance policy of $368, he was subjected to a penalty tax of $3,815.13. It amounted to 16 percent of his lifetime savings.

Instead of this being a loss to the Treasury, what it is is stopping the Treasury from gaining something they should not gain, because there was no fraud involved. It was a new law; no one told him that if he permitted his employer to pay out $368 to pay up his life insurance, and he put the rest in the plan, he would be subject to a penalty.

So, rather than being a loss in revenue, it is just preventing the imposition of an unconscionable penalty. It was one of those things that were not anticipated when we passed the law on the individual retirement.

Then, in reference to the alleged loss of revenue from the gasoline tax for crop dusters, gasoline taxes are imposed to build roads. Gasoline taxes are imposed for highway purposes. We do not impose the gasoline tax for gasoline consumed elsewhere, whether it is to generate electricity, to plow a field, or what not. This exemption relates to that fuel burned by a small airplane that does not use the highways. It cannot be said that a loss of revenue is accruing to the taxpayers. It is merely correcting a situation, so that the Government would not receive something they are not entitled to receive, because we do not impose the tax on diesel fuel or gasoline where it is not used for highways.

UP AMENDMENT NO 1811

(Purpose: To permit certain State and local governments to distribute to charity amounts generated by the advance refunding of high-yield general obligation bonds before the publication of a Treasury Department decision prohibiting such distributions and to provide relief to those jurisdictions which have already accounted for such amounts)

Mr. EAGLETON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) proposes an unprinted amendment numbered 1811.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert the following new section:

SEC. . DISPOSITION OF AMOUNTS GENERATED BY ADVANCE REFUNDING OF CERTAIN GENERAL OBLIGATION BONDS.

(a) Notwithstanding any provision of the Internal Revenue Code of 1954 or any regulation or ruling promulgated thereunder to the contrary, interest or other amounts generated by the advance refunding, before September 24, 1976, of one or more issues of general obligation bonds issued by a State or political subdivision of a State (hereinafter referred to as the "refund profit"), held in a trust fund or escrow arrangement, or held by an underwriter or other person under an agreement (whether or not enforceable), which provides for the payment of the refund profit to one or more organizations described in section 501(c)(3) of the Internal Revenue Code of 1954 and exempt from taxation under section 501(a) of such Code, may be paid out in accordance with the provisions of such agreement as if the distribution of such amount were permitted under regulations promulgated by the Secretary of the Treasury under the Internal Revenue Code of 1954.

(b) In the case of a State or political subdivision of a State which has accounted to the United States for all or a portion of the refund profit directly, or by purchasing United States obligations which bear an interest rate substantially lower than the highest rate of interest borne by public debt securities of the United States generally available for purchase at the time such obligations were purchased, the Secretary of the

Treasury shall pay, out of any amounts in the Treasury not otherwise appropriated, an amount equal to that portion of the refund profit for which the State or political subdivision has accounted to the United States. Amounts paid to a State or a political subdivision of a State shall be distributed within 180 days after receipt in accordance with the provisions of subsection (a) in the same manner as if such amounts had been held in a trust or escrow arrangement under an agreement which provided for such distribution.

Mr. EAGLETON. Mr. President, I rise to discuss an amendment to the bill currently before the Senate, which would attempt to correct a problem created by the Internal Revenue Service's efforts to clarify regulations on refinancing of tax-exempt bond issues.

On September 24, 1976, the IRS issued a press release outlining some new "do's and don'ts" for municipal bond refundings. My colleagues and I certainly do not object to this legitimate exercise of IRS authority. However, we feel that IRS has erred in trying to apply their new interpretation of the law retroactively. In doing so, IRS is changing the rules in the middle of the ball game for the seven local governments which are affected by my bill. These other jurisdictions are located in Pennsylvania, Rhode Island, Kansas, Wisconsin, West Virginia, and Alabama.

These involve seven local governments, or creations of local governments. For instance, in Missouri it is Jackson County, Mo. In Alabama it is a school district in Mobile; and other local entities of government in these other States as well. Furthermore, IRS is taking millions of dollars out of the coffers of some very worthwhile charities.

In a municipal bond refunding, Mr. President, the issuer purchases U.S. Government obligations which are deposited in escrow until the initial bond issue is refunded. Under arbitrage restrictions enacted in 1969, the Government obligations must bear a limited yield rather than a market yield. Prior to the September 24, 1976, news release, issuers could purchase these obligations in either of two ways. One way was to buy them from a private party at a price greater than the market price thereby generating a "windfall" profit which was held in escrow. The other way was to buy special low-yielding obligations issued by the U.S. Treasury, thereby generating a "windfall" for the Federal Government.

Jackson County, Mo., was one local government which had chosen to go the first route. In the spring of 1976, Jackson County refinanced $65 million worth of general obligations bonds, and in the process picked up a windfall profit of about $4 million. In order to dispose of the profit in accordance with IRS rules, the county devised a plan to distribute the money to 200 local charitable and civic organizations.

That was the situation on September 24, 1976, when IRS threw a wrench into the works with its press release. The release indicated that such "windfall" profits no longer would be allowed. Furthermore, the IRS indicated that the new interpretation would be effective retroactively. The IRS since has proposed that "windfall" profits accumulated prior to the September 24 release should be allowed to be distributed only to the U.S. Treasury, or to the investment bankers involved in the refundings. It appears that the IRS intends to regard the bonds issued as arbitrage bonds, which will lose their tax-exempt status if the windfall is distributed to charity.

It should be noted, Mr. President, that this whole issue is a matter of IRS interpretation. There is no statute on the books which would prohibit charitable distribution of this type of profit, nor were there any regulations in effect to prohibit this at the time Jackson County and the six other local governments refunded their bonds. In fact, Congress in 1973 had an opportunity to enact legislation very similar to the current IRS policy, and Congress chose not to act on the issue.

I do not quarrel with the Internal Revenue Service's right and duty to interpret the regulations. I do quarrel with the manner in which these regulations are being arbitrarily applied to seven jurisdictions which already had completed their bond refundings, and had done so in good faith and in accordance with existing rules. I further find it somewhat ironic that while the IRS will not allow the profits to be given to tax-exempt charities, they seem perfectly content to allow the profits to be given to the investment bankers who consulted on the refundings.

Mr. President, I feel that my amendment would rectify this situation, with the effect of allowing only these seven local governments to proceed with the distribution of their windfall profits. However, some of my colleagues have expressed their concern that there has not been sufficient time for committee deliberation of this amendment. I will, therefore, defer to the judgment of my colleagues on the Finance Committee and I will not call up my amendment at this time, in the hope that the Finance Committee will be able to schedule a brief and modest hearing on this subject in the near future.

While I recognize the need for adequate committee deliberation, I also recognize the urgency of the problem faced by Jackson County and the other communities, and I hope to solve that problem as quickly as possible.

I might say to the Senator from Louisiana that I talked with the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.), and he indicates that, subject to necessary scheduling constraints, he would try to work this matter in before his subcommittee sometime after Labor Day. I most deeply appreciate the interest he has shown in the matter, and I compliment Senator LONG, and say to him that I appreciate the help that his staff has been to me on this subject matter.

I will pursue the matter further at a later time.

Mr. LONG. Mr. President, I thank the distinguished Senator for withholding the matter at this point. We are going to legislate in this area in connection with the big tax bill. There have been witnesses before the committee testifying, not on this particular amendment, but in favor of permitting more industrial bonds to be issued, and testifying about the jobs they have created and the employment that has been made possible in areas of the Nation that very much need the jobs.

A good case has been made that something should be done in the area, so we will be considering amendments of that nature in connection with the bill. That would be the appropriate time for the Senator to offer his amendment.

Mr. EAGLETON. I thank my colleague from Louisiana. The matter he was talking about, industrial bonds, is an analogous hearing to what I am talking about, not identical. This is a bit separate and distinct. But the broad subject matter will be before the committee. I appreciate the attention of the Senator from Louisiana.

Therefore, Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. PROXMIRE. As I understand it, the bill in its present form as amended by Senator CRANSTON is approved throughout in every detail by the Treasury Department, is that correct?

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Yes.

Mr. PROXMIRE. And, in addition, the total lost revenue is $3.5 million?

Mr. LONG. That is correct.

Mr. HASKELL. Mr. President, I have a question regarding this bill's effect on the so-called cost-floor method of calculating the tax base. I understand that this cost-floor method was developed administratively by the IRS and is nowhere reflected in the Internal Revenue Code. Therefore, this bill specifically prohibits the use of the cost-floor rule. Am I correct?

Mr. LONG. That is correct. Congress has never enacted the cost-floor rule into law.

Mr. HASKELL. I understand that no inference is to be drawn as to the application of the cost-floor rule to controversies between the IRS and taxpayers concerning sales prior to the effective date of this bill. However, as the Senator has pointed out, the cost-floor rule has never been a part of the Internal Revenue Code. Therefore, I further understand that it would be incorrect for the IRS to contend in controversies relating to sales prior to the effective date of this bill that the cost-floor rule had ever been adopted by Congress.

Mr. LONG. That understanding is correct in all respects.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment, as amended, and third reading of the bill.

The committee amendment, as amended, was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 1337), as amended, was passed.

Mr. LONG. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. CURTIS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

An Act to amend the Internal Revenue Code of 1954 with respect to excise tax on certain trucks, buses, tractors, et cetera, home production of beer and wine, refunds of the taxes on gasoline and special fuels to aerial applicators, and partial rollovers of lump sum distributions.

REFUND OF EXCISE TAX ON ALCOHOLIC BEVERAGES DESTROYED BY VANDALISM OR MALICIOUS MISCHIEF

Mr. LONG. Mr. President, I move that the Senate proceed to the consideration of Calendar Order No. 1032.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 1920) to amend section 5064 of the Internal Revenue Code of 1954 to provide for refund of tax on distilled spirits, wines, rectified products, and beer lost or rendered unmarketable due to fire, flood, casualty, or other disaster, or to breakage, destruction, or other damage (excluding theft) resulting from vandalism or malicious mischief while held for sale.

The PRESIDING OFFICER. The Senate will proceed to its consideration.

The Senate proceeded to consider the bill, which had been reported from the Committee on Finance with an amendment to strike all after the enacting clause and insert the following:

SECTION 1. REFUND OF TAX ON ALCOHOLIC BEVERAGE LOSSES RESULTING FROM DISASTER, VANDALISM, OR MALICIOUS MISCHIEF.

(a) IN GENERAL.—So much of section 5064 of the Internal Revenue Code of 1954 (relating to losses caused by disaster) as precedes subsection (c) is amended to read as follows:

"SEC. 5064. LOSSES RESULTING FROM DISASTER, VANDALISM, OR MALICIOUS MISCHIEF.

"(a) PAYMENTS.—The Secretary, under such regulations as he may prescribe, shall pay (without interest) an amount equal to the amount of the internal revenue taxes paid or determined and customs duties paid on distilled spirits, wines, rectified products, and beer previously withdrawn, which were lost, rendered unmarketable, or condemned by a duly authorized official by reason of—

"(1) fire, flood, casualty, or other disaster, or

"(2) breakage, destruction, or other damage (but not including theft) resulting from vandalism or malicious mischief,

if such disaster or damage occurred in the United States and if such distilled spirits, wines, rectified products, or beer were held and intended for sale at the time of such disaster or other damage. The payments provided for in this section shall be made to the person holding such distilled spirits, wines, rectified products, or beer for sale at the time of such disaster or other damage.

"(b) CLAIMS.—

"(1) PERIOD FOR MAKING CLAIM; PROOF.—No claim shall be allowed under this section unless—

"(A) filed within 6 months after the date on which such distilled spirits, wines, rectified products, or beer were lost, rendered unmarketable, or condemned by a duly authorized official, and

"(B) the claimant furnishes proof satisfactory to the Secretary that the claimant—

"(i) was not indemnified by any valid claim of insurance or otherwise in respect of the tax, or tax and duty, or the distilled spirits, wines, rectified products, or beer covered by the claim; and

"(ii) is entitled to payment under this section.

"(2) MINIMUM CLAIM.—Except as provided in paragraph (3)(A), no claim of less than $250 shall be allowed under this section with respect to any disaster or other damage (as the case may be).

"(3) SPECIAL RULES FOR MAJOR DISASTERS.—If the President has determined under the Disaster Relief Act of 1974 that a 'major disaster' (as defined in such Act) has occurred in any part of the United States, and if the disaster referred to in subsection (a)(1) occurs in such part of the United States by reason of such major disaster, then—

"(A) paragraph (2) shall not apply, and

"(B) the filing period set forth in paragraph (1)(A) shall not expire before the day which is 6 months after the date on which the President makes the determination that such major disaster has occurred.

"(4) REGULATIONS.—Claims under this section shall be filed under such regulations as the Secretary shall prescribe."

(b) CLERICAL AMENDMENTS.—The table of sections for subpart E of part I of subchapter A of chapter 51 of such Code is amended by striking out the item relating to section 5064 and inserting in lieu thereof the following:

"Sec. 5064. LOSSES RESULTING FROM DISASTER, VANDALISM, OR MALICIOUS MISCHIEF."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to disasters (or other damage) occurring on or after the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act

SEC. 2. EXCISE TAX EXEMPTION FOR CERTAIN TRAILERS DESIGNED TO BE USED WITH LIGHT-DUTY VEHICLES.

(a) IN GENERAL.—Section 4063(a) of the Internal Revenue Code of 1954 (relating to exemptions from motor vehicle excise taxes) is amended by adding at the end thereof the following new paragraph:

"(8) CERTAIN TRAILERS USED FOR FARMING OR FOR TRANSPORTING HORSES OR LIVESTOCK.—The tax imposed under section 4061(a) shall not apply in the case of any trailer or semitrailer, or any chassis or body for any trailer or semitrailer, which is—

"(A) suitable for use with a vehicle having a gross vehicle weight of 10,000 pounds or less (as determined under regulations prescribed under section 4061(a)(2), and

"(B) designed to be used for farming purposes (determined in accordance with section 6420(c)) or for transporting horses or livestock.".

(b) FLOOR STOCKS REFUNDS.—

(1) IN GENERAL.—Where, before the day after the date of the enactment of this Act, any article made exempt from taxation by reason of the amendment made by subsection (a) has been sold by the manufacturer, producer, or importer and on such day is held by a dealer and has not been used and is intended for sale, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer an amount equal to the tax paid by such manufacturer, producer, or importer on his sale of the article, if—

(A) claim for such credit or refund is filed with the Secretary of the Treasury or his delegate before the first day of the tenth calendar month beginning after the day after the date of the enactment of this Act based upon a request submitted to the manufacturer, producer, or importer before the first day of the seventh calendar month beginning after the day after the date of the enactment of this Act by the dealer who held the article in respect of which the credit or refund is claimed; and

(B) on or before the first day of such tenth calendar month reimbursement has been made to the dealer by the manufacturer, producer, or importer an amount equal to the tax paid on the article or written consent has been obtained from the dealer to allowance of the credit or refund.

(2) LIMITATION ON ELIGIBILITY FOR CREDIT OR REFUND.—No manufacturer, producer, or importer shall be entitled to credit or refund under paragraph (1) unless he has in his possession such evidence of the inventories with respect to which the credit or refund is claimed as may be required by regulations prescribed by the Secretary of the Treasury or his delegate under this subsection.

(3) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4061 of the Internal Revenue Code of 1954 shall, insofar as applicable and not inconsistent with paragraphs (1) and (2) of this subsection, apply in respect of the credits and refunds provided for in paragraph (1) to the same extent as if the credits or refunds constituted overpayments of the tax.

(c) DEFINITIONS.—For purposes of subsection (b)—

(1) The term "dealer" includes a wholesaler, jobber, distributor, or retailer.

(2) An article shall be considered as "held by a dealer" if the title thereto has passed to such dealer (whether or not delivery to him has been made) and if for purposes of consumption title to such article or possession thereof has not at any time been transferred to any person other than a dealer.

(d) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to articles sold on or after the date of the enactment of this Act.

Mr. LONG. Mr. President, this bill, H.R. 1920, provides for repayment of the alcohol taxes and duties paid on distilled spirits, wines, rectified products, or beer held for sale if these products are lost or ruined by fire, flood, casualty, or other disaster, or by damage—not including theft—resulting from vandalism or malicious mischief.

Mr. President, alcohol taxes become due upon the making of the product. The cost of the product thereafter, as in the hands of the retailer, includes a larger portion representing prepaid taxes than does any other type of product. In some instances of distilled spirits, more than half the cost of the product may represent taxes. Nevertheless, present law permits these taxes to be refunded to the merchant holding these alcohol products for sale only if the cause of their loss is a "major disaster" which is so declared by the President of the United States.

This bill extends the relief for loss of alcoholic products held for sale, as I have described, to certain losses that are not described by the President as "major disasters."

In order to avoid undue administrative problems to the Internal Revenue Service, the bill requires that the tax refund claimed on account of any single disaster or damage event must be at least $250. In addition, a claim must be filed within 6 months after the loss. This should also discourage unfounded claims.

Also, the committee added to H.R. 1920 the substance of H.R. 2984 as passed by the House. This amendment would exempt certain farm trailers from the 10-percent excise tax imposed on trailers

and semitrailers. The exemption would apply to farm trailers suitable for use with a "light-duty" towing vehicle.

The provision relating to alcohol taxes would reduce budget receipts by about $500,000 annually and the provision relating to farm trailers would reduce budget receipts by less than $2 million annually.

Mr. President, I urge the adoption of this bill.

Mr. PROXMIRE. Mr. President, the bill would exempt from the 10-percent manufacturer's excise tax on trucks, truck trailers, and buses, those trailers or semitrailers which are suitable for use with a towing vehicle having a gross vehicle weight of 10,000 pounds or less and which are designed to be used for farming purposes or for transporting horses or livestock. Provision also is made for refund of the tax to dealers holding tax-paid trailers exempted by the bill which they hold for sale on the day after the date of enactment of the bill.

I am just talking about the first part of the bill. The first part of the bill I understand has no objection to it. I am talking about the truck and truck trailer part.

The Revenue Act of 1971—Public Law 92–178—exempted from the manufacturer's excise tax trucks with a gross vehicle weight of 10,000 pounds or less and trailers and semitrailers with a gross vehicle weight of 10,000 pounds or less if suitable for use with a vehicle having a gross vehicle weight of 10,000 pounds or less. The proposed bill would remove the present 10,000 pound limit for the exemption of trailers and semitrailers provided they were designed to be used for farming purposes or for transporting horses and other animals.

Because the trailers proposed to be exempted would have a gross vehicle weight in excess of 10,000 pounds, the exemption would be accorded to trailers with a gross vehicle weight at which single unit trucks are taxable. The proposed exemption for trailers thus would constitute an obvious discrimination against single unit trucks in the 10,000 to 20,000 pound class. That is the first objection.

The bill also would create a dual standard for trailers over 10,000 pounds gross vehicle weight which are suitable for use with pickup trucks. Those designed for farming purposes or the hauling of animals would be exempt, while trailers of the same capacity designed for hauling general merchandise, or supplies and equipment for mechanics, would continue to be taxable.

The Treasury opposes H.R. 2984 because the bill would discriminate against single unit trucks and non-farm trailers and semitrailers of the same carrying capacity. It could also be expected that there would be problems in differentiating trailers and semitrailers "designed to be used for farming purposes" from similar vehicles designed for the carriage of general cargo.

The revenue loss is small but it is a revenue loss, a loss of $2 million a year.

I would suggest to the distinguished manager of the bill, if he would be willing to do it, that he drop the second section of the bill, that is, the section dealing with trailers that I just spoke about, I would have no objection to the first section. Otherwise, I would propose that we have a division and approve the first part and then I would want to discuss at some length the second part.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, I am sure the Senator realizes that this is a House-passed bill that we are talking about. It is not a bill sponsored by one of the Senators.

We could consider it at some later date if some Senator wanted to move the bill in order to expedite consideration of the bill to which the amendment is attached. I think it would be well to drop the amendment.

UP AMENDMENT NO. 1812

Mr. LONG. Mr. President, I ask unanimous consent to strike everything on page 7, line 9 through page 10, line 8. We can perhaps consider this in connection with some other measures later on.

Mr. PROXMIRE. I thank the distinguished chairman very much. I appreciate it.

The PRESIDING OFFICER. Is the Senator offering that as an amendment?

Mr. LONG. Yes, Mr. President.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an unprinted amendment numbered 1812.

Strike everything from page 7, line 9 through page 10, line 8.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. LONG. There is no need to change the title now, Mr. President, in view of the fact that the amendment has been deleted.

Mr. PROXMIRE. As I understand it, the bill in its present form would have the support of the Treasury Department.

Mr. LONG. There is no opposition to it. The Treasury is not opposed to it.

Mr. PROXMIRE. There is no opposition to it.

Mr. LONG. That is right.

Mr. PROXMIRE. Could the Senator give us an estimate of the Treasury loss with that section he deleted?

Mr. LONG. It is about $500,000 annually, a half-million dollars. And, of course, the Senator knows that a loss to the Treasury is a gain to the taxpayer in this situation.

The PRESIDING OFFICER. Are there further amendments? If there are no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended was agreed to.

The PRESIDING OFFICER. The question is on engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 1920) was passed.

Mr. LONG. I move to reconsider the vote by which the bill was passed.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

An Act to amend the Internal Revenue Code of 1954 with respect to the refund of tax on alcoholic beverages lost or rendered unmarketable due to disaster, vandalism, or malicious mischief, and to exempt from the excise tax imposed on trailers and trailer designed to be used with a light-duty vehicle for farming purposes or for transporting horses or livestock.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. LONG. I yield.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. I ask unanimous consent that there now be a period for the transaction of routine morning business, that Senators may speak up to 20 minutes, and that the period last no longer than 1 hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

ENROLLED JOINT RESOLUTION SIGNED

At 3:43 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 554. A joint resolution proposing an amendment to the Constitution to provide for representation of the District of Columbia in the Congress.

The enrolled joint resolution was subsequently signed by the Acting President pro tempore (Mr. BURDICK).

ORDER FOR STAR PRINT OF REPORT NUMBER 95–1125

Mr. CANNON. Mr. President, I ask unanimous consent that a star print of Senate Report 95–1125, the Deep Seabed Mineral Resources Act, be authorized, in order to make technical corrections that were omitted when the original report was filed by the committees.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MUSKIE, from the Committee on Environment and Public Works, with an amendment and an amendment to the title:

S. 2083. A bill to establish a uniform and comprehensive legal regime governing liability and compensation for damages and cleanup costs caused by oil pollution, and for other purposes (together with additional views) (Rept. No. 95–1152).

By Mr. TALMADGE, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. 3467. An original bill to designate the U.S. Department of Agriculture Pecan Field Station in Brownwood, Tex., as the "W. R. 'Bob' Poage Pecan Field Station", and to designate the U.S. Department of Agriculture Meat Animal Research Center located near Clay Center, Nebr., as the "Roman L. Hruska Meat Animal Research Center" (Rept. No. 95–1153).

S. 3468. An original bill to amend the Agricultural Act of 1949 to ensure that the interest rates on price support loans for upland cotton are not less favorable to producers than the interest rates for such loans on other commodities (Rept. No. 95–1154).

By Mr. PELL, from the Committee on Rules and Administration, without amendment:

S. Res. 536. A resolution authorizing the reprinting of the committee print entitled "Colonization of the West Bank Territories by Israel: (Rept. No. 95–1155).

S. Res. 548. An original resolution to pay a gratuity to Valerie E. Kait, Marguerite E. Gill, and George E. Gill.

By Mr. HUDDLESTON, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment:

S. 976. A bill to amend the Perishable Agricultural Commodities Act, 1930, relating to practices in commodities (Rept. No. 95–1156).

By Mr. BARTLETT, from the Select Committee on Indian Affairs, with an amendment:

S. 1081. A bill to amend the laws relating to the Osage Tribe in Oklahoma (Rept. No. 95–1157).

By Mr. DECONCINI (for Mr. ABOUREZK), from the Select Committee on Indian Affairs, with an amendment and an amendment to the title:

H.R. 11092. An act to increase the authorization of appropriations under the act of December 22, 1974 (88 Stat. 1712) (Rept. No. 95–1158).

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, with an amendment:

S. 2981. A bill to amend the Department of Transportation Act as it relates to the local rail service assistance program, and for other purposes (Rept. No. 95–1159).

By Mr. RANDOLPH, from the Committee on Environment and Public Works, without amendment:

S. Res. 549. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to consideration of S. 2083. Referred to the Committee on the Budget.

By Mr. RIBICOFF (for Mr. SASSER), from the Committee on Governmental Affairs, without amendment:

H.R. 8112. An act to repeal chapter 27 of title 44, United States Code (Rept. No. 95–1160).

H.R. 12915. An act to amend section 2301 of title 44, relating to the National Archives Trust Fund Board (Rept. No. 95–1161).

By Mr. RIBICOFF (for Mr. SASSER), from the Committee on Governmental Affairs, with amendments and an amendment to the title:

S. 2376. A bill to authorize withholding from salaries disbursed by the Secretary of the Senate and the Architect of the Capitol for contributions to certain charitable organizations (Rept. No. 95–1162).

By Mr. EAGLETON, from the Committee on Governmental Affairs, with an amendment:

H.R. 7747. An act to amend title 23 of the District of Columbia Code with respect to the release or detention prior to trial of persons charged with certain violent or dangerous crimes, and for other purposes (Rept. No. 95–1163).

By Mr. RANDOLPH, from the Committee on Environment and Public Works, without amendment:

S.J. Res. 131. A joint resolution to change the name of Copan Dam and Lake in the States of Oklahoma and Kansas to Copan Dam and the Lake of the Delawares (Rept. No. 95–1164).

By Mr. RANDOLPH, from the Committee on Environment and Public Works, with amendments and an amendment to the title:

H.R. 12112. An act designating Gathright Lake on the Jackson River, Va., as Lake Moomaw (Rept. No. 95–1165).

By Mr. SPARKMAN, from the Committee on Foreign Relations, with an amendment and an amendment to the title:

S. Res. 469. A resolution concerning the inhuman acts of the Government of Cambodia against the people of Cambodia (Rept. No. 95–1166).

By Mr. STONE, from the Committee on Agriculture, Nutrition, and Forestry and the Committee on Environment and Public Works, jointly, with an amendment:

S. 3337. A bill to terminate, in the year 1979, further construction of the Cross-Florida Barge Canal project, to adjust the boundary of the Ocala National Forest, Fla., and for other purposes (Rept. No. 95–1167).

By Mr. STONE, from the Committee on Agriculture, Nutrition, and Forestry and the Committee on Commerce, Science, and Transportation, jointly, with an amendment:

S. 3408. A bill to provide for the development of aquaculture in the United States, and for other purposes (Rept. No. 95–1168).

By Mr. FORD (for Mr. HASKELL), from the Committee on Energy and Natural Resources, with an amendment:

S. 3189. A bill to further amend the Mineral Leasing Act of 1920 (30 U.S.C. 201(a)), to authorize the Secretary of the Interior to exchange Federal coal leases and to encourage recovery of certain coal deposits, and for other purposes (Rept. No. 95–1169).

By Mr. DECONCINI, from the Select Committee on Indian Affairs, with amendments:

S. 3002. A bill to modify a portion of the south boundary of the Salt River Pima-Maricopa Indian Reservation in Arizona, and for other purposes (Rept. No. 95–1170).

By Mr. ROBERT C. BYRD (for Mr. SPARKMAN), from the Committee on Foreign Relations, with an amendment:

S. Res. 536. A resolution expressing the sense of the Senate with respect to whether certain international agreements should be submitted as treaties (Rept. No. 95–1171).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. ROBERT C. BYRD (for Mr. SPARKMAN) from the Committee on Foreign Relations, without reservation:

Ex. J, 95–2. Protocol Amending the International Convention for the High Seas Fisheries of the North Pacific Ocean (Exec. Rept. No. 95–27).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. WALLOP:

S. 3463. A bill to amend section 1035(c) tax credit for production sharing contracts; of the TAX Reform Act of 1976 relating to the Committee on Finance.

By Mr. STONE:

S. 3464. A bill to amend the Internal Revenue Code of 1954 to allow a credit against income tax liability for increases in social security taxes resulting from increases in social security tax rates, and the contribution and benefit base effective after December 31, 1978; to the Committee on Finance.

By Mr. DANFORTH:

S. 3465. A bill to amend the Internal Revenue Code of 1954 to treat as public charities certain institutions which operate libraries; to the Committee on Finance.

By Mr. NELSON (for himself, Mr. PERCY, and Mr. BELLMON):

S. 3466. A bill to amend the Internal Revenue Code of 1954 to change the period for the payment of taxes under section 4161(a) of such code; to the Committee on Finance.

By Mr. TALMADGE (from the Committee on Agriculture, Nutrition, and Forestry):

S. 3467. A bill to designate the U.S. Department of Agriculture Pecan Field Station in Brownwood, Tex., as the "W. R. 'Bob' Poage Pecan Field Station", and to designate the U.S. Department of Agriculture Meat Animal Research Center located near Clay Center, Nebr., as the "Roman L. Hruska Meat Animal Research Center." Original bill reported and placed on the calendar.

S. 3468. A bill to amend the Agricultural Act of 1949 to insure that the interest rates on price support loans for upland cotton are not less favorable to producers than the interest rates for such loans on other commodities. Original bill reported and placed on the calendar.

By Mr. MOYNIHAN:

S. 3469. A bill for the relief of the Manhattan Bowery Corporation, of New York, N.Y.; to the Committee on Finance.

By Mr. MOYNIHAN (for himself, Mr. CRANSTON, and Mr. LONG):

S. 3470. A bill to amend the Social Security Act to improve the operation of the aid to families with dependent children program and thereby provide fiscal relief for State and local welfare costs; to the Committee on Finance.

By Mr. TOWER (for himself, Mr. MORGAN, Mr. HAYAKAWA, Mr. STONE, Mr. HATCH, and Mr. LUGAR):

S. 3471. A bill to postpone the increase in the minimum wage and the adjustment to the tip credit under the Fair Labor Standards Act of 1938; to the Committee on Human Resources.

By Mr. HART (by request):

S. 3472. A bill to amend the Atomic Energy Act of 1954, as amended, to provide for the protection from unauthorized disclosure of safeguards information, and for other purposes; to the Committee on Environment and Public Works.

By Mr. TOWER (for himself and Mr. CRANSTON):

S. 3473. A bill to permit Federal savings and loan associations to raise additional capital through the issuance of mutual capital certificates, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HART:

S. 3474. A bill to amend the Clean Air Act to require vehicles sold at high altitudes to comply with emission standards; to the Committee on Environment and Public Works.

By Mr. DECONCINI (for himself and Mr. KENNEDY):

S. 3475. A bill to provide for the reform of class action litigation procedures; to the Committee on the Judiciary.

By Mr. MATSUNAGA:

S. 3476. A bill to amend the Internal Revenue Code of 1954 to provide the same treatment, with respect to determination of sources of income, for interest paid by foreign branches of domestic banks and interest paid by foreign branches of domestic savings and loan institutions; to the Committee on Finance.

By Mr. RANDOLPH:

S. 3477. A bill to amend the Internal Revenue Code of 1954 to insure that the deduction for contributions to a black lung benefit

trust be allowed for any such contributions which are made for the purpose of satisfying unfunded future liability, and for other purposes; to the Committee on Finance.

By Mr. PROXMIRE (by request):

S. 3476. A bill to amend the One Bank Holding Company Act of 1970; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CHURCH:

S. 3479. A bill to amend title XVIII of the Social Security Act to prevent the imposition, under part B thereof, of more than one deductible with respect to expenses incurred for the purchase or rental of any particular piece of durable medical equipment; to the Committee on Finance.

By Mr. McCLURE (for himself and Mr. WEICKER):

S. 3480. A bill to provide representation in the Senate for the District of Columbia as if it were a part of the State of Maryland; to the Committee on the Judiciary.

S. 3481. A bill to retrocede to the State of Maryland all lands within the District of Columbia except lands owned by the United States; to the Committee on Governmental Affairs.

S.J. Res. 156. A joint resolution to provide representation in the Congress for the District of Columbia; to the Committee on the Judiciary.

S.J. Res. 157. A joint resolution proposing an amendment to the Constitution to retrocede to the State of Maryland all lands within the District of Columbia except lands owned by the United States; to the Committee on the Judiciary.

By Mr. WEICKER (for himself and Mr. McCLURE):

S.J. Res. 158. A joint resolution proposing an amendment to the Constitution to provide for Statehood for the District of Columbia; and for other purposes; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. STONE:

S. 3464. A bill to amend the Internal Revenue Code of 1954 to allow a credit against income tax liability for increases in social security taxes resulting from increases in social security tax rates, and the contribution and benefit base effective after December 31, 1978; to the Committee on Finance.

INCOME TAX CREDIT FOR SOCIAL SECURITY TAX INCREASES

● Mr. STONE. Mr. President, today I am introducing a bill which will provide much-needed tax relief to the American taxpayer. This bill would provide for a tax credit against Federal income tax liability of up to $200 for the amount of the upcoming increase in the social security tax for employees, employers, and the self-employed over what the taxpayer paid in 1978.

While the social security tax rate has increased by only 1.65 percentage points in the past 10 years, the taxable wage has increased by a whopping 227 percent in the same period. Under the 1977 amendments, effective January 1, 1979, the taxable wage base will rise to $47,100 by 1988, a 604 percent increase over the 20-year period 1969–88. By 1988, this wage base will include the entire salary of most of the work force.

I am limiting the time period of this credit to 3 years in the hope that Congress by then will be able to enact comprehensive legislation which will maintain the solvency of the social security program without placing an oppressive burden on the American wage earner as will be the case if the scheduled social security tax increases go into effect without modification.

Mr. President, in this time of spiraling inflation which eats away the hard-earned wages of the American worker, the scheduled social security tax increases must be ameliorated. My proposed tax credit, though not a final answer to the problem of social security financing, will insure against a further reduction of the American worker's spendable income. It will, at least, prevent most taxpayers from shouldering the additional social security tax increase scheduled to escalate on January 1, 1979.

As can be seen by the table, workers in the $10,000–$15,000 bracket will receive a credit for their entire social security tax increases over the next 3 years ($60 and $90 respectively in 1981). The worker in the $20,000-a-year bracket will be entitled to a tax credit for the entire amount of the scheduled increase in 1979 and 1980, and $200 of the $260 scheduled increase in 1981. Those in the higher level income brackets, $25,000 and up, will receive the maximum credit of $200 for each of the 3 years which will partially offset these increases in social security taxes.

Mr. President, there is no doubt about the fact that adequate social security funding is a necessity. The personal well-being of millions of our citizens depends on it. However, it is equally important that, in funding the social security program, we do not place an intolerable Federal tax burden on the American worker. While this proposal should not by any means be the extent of or only approach for tax relief adopted this year, it does address directly the problem of scheduled social security tax increases. I hope that the Senate Finance Committee will review this proposal carefully as it continues its consideration of a tax reduction bill this year.

Mr. President, I ask unanimous consent that the text of the bill, together with the table, be printed in the RECORD following my statement.

There being no objection, the bill and table were ordered to be printed in the RECORD, as follows:

S. 3464

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ALLOWANCE OF CREDIT.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of subchapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting after section 44B the following new section.

"SEC. 44C. POST-1978 INCREASES IN SOCIAL SECURITY TAX LIABILITY.

"(a) GENERAL RULE.—

'(1) EMPLOYERS AND SELF-EMPLOYED INDIVIDUALS.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the excess social security tax liability of the individual for the taxable year.

"(2) EMPLOYERS.—In the case of an employer, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the excess social security employer tax liability of the taxpayer for the taxable year.

"(b) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the amount of tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under a section of this part having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43.

"(c) DEFINITIONS, SPECIAL RULES.—

(1) EXCESS SOCIAL SECURITY TAX LIABILITY.—For purposes of this section, the term 'excess social security tax liability' means the amount by which—

"(A) the liability of the individual for taxes imposed under sections 1401 and 3101 for the taxable year, exceeds

"(B) the amount of such liability which would be determined for the taxable year if—

"(i) the rates of the taxes imposed under section 1401 totaled 8.1 percent,

"(ii) the rates of the taxes imposed under section 3101 totaled 6.05 percent, and

"(iii) the contribution and benefit base determined under section 230 of the Social Security Act were $17,700

"(2) SPECIAL RULE FOR STATE AND LOCAL GOVERNMENT EMPLOYERS.—For purposes of this section, any tax imposed on an employee of any State or political subdivision thereof—

"(a) which is paid by the State to the Federal Government under an agreement under section 218 of the Social Security Act, and

"(B) which, under such agreement, is equivalent to the tax imposed by section 3101, shall be treated as a tax imposed by section 3101.

"(3) EXCESS SOCIAL SECURITY EMPLOYER TAX LIABILITY.—The term 'excess social security employer tax liability' means the amount by which—

"(A) the liability of the taxpayer under subchapter B of chapter 21 for the taxable year exceeds

"(B) the amount of such liability which would be determined for the taxable year if—

"(i) the rates of tax imposed under section 3111 totaled 6.05 percent, and

"(ii) the contribution and benefit base determined under section 230 of the Social Security Act were $17,700.

(c) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by inserting immediately before the item relating to section 45 the following:

"Sec. 44C. Post-1978 increases in social security tax liability.".

SEC. 2. EFFECTIVE DATE.

The amendments made by section 4 shall apply with respect to taxable years beginning after December 31, 1978, and before January 1, 1982.

INCREASE IN SOCIAL SECURITY TAX FROM 1968–78 (BROKEN DOWN BY INCOME BRACKETS)

Income	Increase	Percent increase
$10,000	$251.80	83.74
15,000	554.30	161.50
20,000+	727.65	212.00

INCREASE IN SOCIAL SECURITY TAX FROM 1978–81

$10,000	$60.00	9.9
15,000	90.00	9.9
20,000	260.15	24.3
25,000	591.65	55.3
30,000+	904.20	84.4

AMOUNT OF TAX CREDIT GIVEN (BROKEN DOWN BY INCOME BRACKET AND YEAR)

Income	1979	1980	1981
$10,000	$8.00	$8.00	$60.00
15,000	12.00	12.00	90.00
20,000	155.15	155.15	200.00
25,000+	200.00	200.00	200.00

By Mr. DANFORTH:

S. 3465. A bill to amend the Internal Revenue Code of 1954 to treat as public charities certain institutions which operate libraries; to the Committee on Finance.

● Mr. DANFORTH. Mr. President, I am introducing a bill to provide that any tax-exempt institution that operates a bona fide library, as a permanent and principal part of its public services, that is organized by a special act of the United States of America, by any State or its predecessor government, by the District of Columbia, or by any possession of the United States, shall be treated as a public charity. Because the investment income from their endowments prevents them from obtaining "public status" under current law, many tax-exempt institutions which operate libraries as a part of their public services, including those created by legislative act, are classified as private operating foundations or as private foundations for Federal income tax purposes.

As a result, although these organizations are established and operate exclusively for educational purposes, they are subject to the complex private foundation rules, they must keep many detailed records, and they must pay a 4 percent excise tax based upon net investment income. It has been determined that certain of these institutions should be designated as "public charities" for Federal income tax purposes because of the benefits that the libraries of these institutions provide to the public. Private foundation rules are no more pertinent to them than to any other educational institution and effectively limit or inhibit organizations' use of their funds in the performance of tax-exempt activities. Furthermore, private foundation rules discourage grants of funds to such institutions by charitable foundations, and by private parties and corporations.

This bill would place these institutions in the same category as educational organizations described in section 170(b)(1)(A)(ii). To insure that only those institutions that operate libraries that are clearly organized to serve the public will benefit, this provision is limited to only those organizations that were organized by a special legislative act and that maintain permanent library facilities.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3465

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) clause (ii) of section 170(b)(1)(A) of the Internal Revenue Code of 1954 (relating to charitable, etc., contributions and gifts) is amended by adding at the end thereof "or any institution which operates a library which was established by State or Federal law and which is operated as a permanent and principal part of the public services of such institution.".

(b) Paragraph (1) of section 170(b) of such Code is amended by adding at the end thereof the following new subparagraph:

"(F) Libraries established by State or Federal law.—For purposes of subparagraph (A)(ii), a library shall be treated as established by State or Federal law if such library was established as a library—

"(i) by a law of a State, a law of the United States, a law of a possession of the United States, or a law of the District of Columbia, or

"(ii) before 1743 in the geographic area now comprising the United States."

(c)(1) The amendments made by this section shall apply to contributions made on or after the date of enactment of this Act, and to taxable years beginning after such date.

(2) For purposes of sections 509(b) and 507 of such Code, an organization which for its first taxable year beginning after the date of enactment of this Act is described in the amendment made by subsection (a) shall be treated as not having been a private foundation at any time before the first day of such first taxable year.

By Mr. TALMADGE (from the Committee on Agriculture, Nutrition, and Forestry):

S. 3467. A bill to designate the U.S. Department of Agriculture Pecan Field Station in Brownwood, Tex., as the "W. R. 'Bob' Poage Pecan Field Station," and to designate the U.S. Department of Agriculture Meat Animal Research Center located near Clay Center, Nebr., as the "Roman L. Hruska Meat Animal Research Center". Original bill reported and placed on the calendar.

● Mr. BENTSEN. Mr. President, it is my privilege and my great pleasure to join as a cosponsor of S. 3647, a bill which would in part designate the U.S. Department of Agriculture Pecan Field Station in Brownwood, Tex., as the W. R. "Bob" Poage Pecan Field Station.

Congressman W. R. "Bob" POAGE has given dedicated and outstanding service to the citizens of central Texas since 1925, as State representative, State senator, and as U.S. Congressman since 1936.

BOB POAGE has served with distinction on the House Agriculture Committee for the last 38 of his 42 years in Congress, serving as vice-chairman and chairman of the committee. His energy, talent and dedication to agriculture have earned him the title of "Mr. Agriculture" throughout his home State of Texas. He has been instrumental in shaping every major piece of agricultural legislation since the Roosevelt administration, and he has labored tirelessly for the "little man" in agriculture. BOB POAGE has been instrumental in passing legislation which has helped our family farmers to have electricity, telephones, rural water systems, flood control, soil conservation, adequate credit, and many other things which we consider basic necessities today.

Electricity and telephones are taken for granted by those who live in cities, but those who live in rural areas know that BOB POAGE has spent a lifetime working to defend the rights of those citizens who live on small farms and in rural communities to work and earn a decent and responsible living, and to enjoy the fruits of our modern technology which others take for granted.

Congressman BOB POAGE is just as much a unique part of central Texas as the stately and productive pecan trees which line its creeks and rivers. His retirement this year will leave a gap that those of us who have been privileged to serve as his colleagues know will not soon be filled.

It is only fitting that such a man as Congressman BOB POAGE should be honored by this body for his exemplary service to the citizens of central Texas and to the small farmers and ranchers who are the backbone of our most vital and viable industry—agriculture.

I urge the Senate to remember this unique dedication to agriculture and to the people of central Texas by designating the U.S. Department of Agriculture's Pecan Field Station in Brownwood, Tex., at the "W. R. 'BOB' POAGE Pecan Field Station".●

By Mr. MOYNIHAN (for himself, Mr. CRANSTON, and Mr. LONG):

S. 3470. A bill to amend the Social Security Act to improve the operation of the aid to families with dependent children program and thereby provide fiscal relief for State and local welfare costs; to the Committee on Finance.

STATE AND LOCAL WELFARE REFORM AND FISCAL RELIEF ACT OF 1978

● Mr. MOYNIHAN. Mr. President, the bill that Senators CRANSTON, LONG and I are introducing today takes a significant step toward the constructive reform of the American welfare system. It would move us toward acknowledgment of the principle that welfare is a national responsibility and the National Government should bear the primary burden of paying for it. The States should have the ability to design and administer appropriate programs and should retain a limited financial involvement. But as promised in the 1976 platform of the Democratic Party "local governments should no longer be required to bear the burden of welfare costs."

This measure would provide substantial fiscal relief to hard-pressed State and, especially, local governments, with proper emphasis on those jurisdictions whose fiscal burdens result in large measure from conscientious efforts to serve their dependent families adequately.

But much more than fiscal relief is involved. This bill would allow significant improvement in welfare benefits in States where they are presently low. In every State, it would allow benefit levels to keep pace with the rising cost of living. This is particularly important to me, because in New York City the benefits "freeze" occasioned by the city's severe fiscal problems has resulted in a 28 percent decline in the purchasing power of an AFDC recipient's grant during the past 4 years.

I would ask persons concerned, as I have been, with the welfare of welfare recipients to consider that in New York State this has meant that for the first

time in history we have cut our provision for the poor. Inflation has cut payments—by more than one-quarter—just as surely as the most punitive administrative or legislative measures might have done. Stalemate on welfare reform has punished the poor.

This bill offers an opportunity to break that impasse and to renew the momentum of welfare reform. For let me be clear: This bill does not contain all that I would like to see done. But it does contain worthwhile changes in the present system that the Congress is capable of making this year. And there is no reason again to allow "the best to become the enemy of the good" in the field of welfare reform. Let us do what we can do this year. And let us return to do more next year, and the year after that.

A word on the "block grant" approach, which is a major structural change from the current system of "matching payments." A familiar goal of most welfare reform proposals of the past decade, indeed one may fairly say part of the conventional wisdom about welfare reform, has been establishment of a uniform national program. Yet recent research, demonstration projects and experiments have led to widespread doubt that enough is known about the causes and remedies of dependency to permit us to move confidently toward a uniform national program. Instead, our bill would change the nature of the incentive structure so as to give the strongest encouragement for reforming welfare to the level of government that has the primary administrative role.

We propose to increase the current Federal share of AFDC costs by amounts sufficient to replace local expenditures in most jurisdictions that still require them. Over time we will seek further increases sufficient to make the Federal share equivalent to at least 75 percent of each State's AFDC outlays in the base period (adjusted for cost-of-living increases), thus entirely eliminating the "local share" in every jurisdiction; in States with lower benefits during the base period, the Federal share will approach 100 percent, thus permitting State funds to be used for improved benefit levels.

The eventual Federal assumption of all county AFDC costs will have a significant effect on the fiscal stability of local governments in the United States and on their ability to reduce taxes, particularly the onerous property tax. In New York, for example, if local governments choose to pass this relief through to taxpayers, most county property taxes could, in time, be cut by 10 to 20 percent. As early as fiscal 1980 there could be reductions of 4 to 8 percent.

We also propose to change the nature of the Federal commitment to AFDC financing from an open-ended matching grant to a block grant, initially set at a significantly increased amount and thereafter fixed, save for annual "cost of living" increases and legislated additions aimed at achieving the 75 percent floor and eliminating the local share. As a result, the level of government subject to the main variation in welfare costs will be the States. If expenditures rise faster than the Federal block grant, States must absorb the costs.

Similarly, if expenditures are reduced as the result of better management or an effective plan for dealing with dependency, States will realize the savings. There can be no stronger incentive than to pay the price for one's actions and to reap the reward. Our bill would, for the first time, place this incentive at the heart of our welfare policy. Its underlying assumption is the American federalism offers a constructive solution to contemporary doubts about how to reform welfare.

For the genius of a Federal system is that it permits a variety of approaches to resolving common problems. Perhaps Connecticut or Missouri, Tennessee or Oklahoma will discover a new and effective way of dealing with dependency; so long as they conform with minimum Federal standards they should be encouraged to try. The financing formula contained in our bill gives them a powerful incentive to do so. Far from taking the steam out of welfare reform, our bill should lead to a profusion of innovative efforts as States come to realize that their own self-interest lies in an efficient, humane and sensible program of assistance.

Perhaps in time one or another of these State programs will seem so clearly desirable that the manifold obstacles to national legislation will dissolve. The logjam on welfare reform has persisted for a decade now; our bill offers a real chance for ending it and setting in motion a process that will produce true solutions to the problems of poverty and dependency.●

WELFARE LEGISLATION

● Mr. CRANSTON. Mr. President, I am introducing today, along with the chairman of the Senate Finance Committee, the Senator from Louisiana (Mr. LONG), and the chairman of the Finance Committee's Public Assistance Subcommittee, the Senator from New York (Mr. MOYNIHAN), a bill to provide fiscal relief to States and localities, and to begin movement toward the type of welfare reforms that are so urgently needed throughout the country. I thank Senator Moynihan, who for so long has been a leader in the effort to achieve welfare reform, and Senator LONG, who has likewise played such a vital role in this field, for their cooperation in this mutual effort.

MODIFIED PROPOSAL

Mr. President, nearly 2 months ago, when it became apparent that it was no longer possible to enact comprehensive welfare reform legislation during this Congress, Senators MOYNIHAN and LONG and I announced a joint effort to sponsor a measure to provide fiscal relief to the States along with certain measures to achieve some reforms in the welfare system, as well as strengthen existing tax credits to encourage the employment of welfare recipients in the private sector and provide tax benefits to low-income workers.

Mr. President, we originally envisioned a more extensive measure than that which is being introduced today. In order to get started with legislation that can be enacted this year, we are introducing a more limited bill, but one that provides much needed fiscal relief and movement toward the reform greatly needed. The measure being introduced today would provide for a block grant to States based upon their current aid to families with dependent children—AFDC—costs with an additional $1.5 billion dollars to be distributed annually among the States through a three-part formula. This formula would provide for distribution of $1.32 billion based upon a State's current AFDC costs and a revenue sharing formula. This formula was adopted by Congress last year in a more modest welfare relief measure.

COST OF LIVING

The legislation also would provide for a cost-of-living increase each year on the State's block grant. This cost of living would be passed on to the recipients unless the State made a specific finding that such a cost-of-living increase was not necessary for the State to provide adequate benefit payments to welfare recipients.

TIMING OF FISCAL RELIEF

Mr. President, this legislation provides for the payment of additional Federal financial assistance to the States and localities beginning in the first quarter after June 30, 1979. Thus approximately $400 million of the total additional funding will be made available to the States and localities during fiscal year 1979, with the remainder of the additional funding with cost-of-living adjustments provided in the succeeding quarters.

The first year total additional Federal financial assistance—formula distribution plus cost of living—will be approximately $1.5 billion.

BLOCK GRANT APPROACH

Mr. President, under the block grant approach, a State would be able to retain any savings it achieved through reduction of welfare costs and implementation of welfare reform measures. States will thus have an incentive to eliminate error, fraud or abuse as well as help welfare recipients get work.

Mr. President, this bill would provide that funds received by States under the block grant would be restricted to social welfare programs. In other words, any savings achieved in the welfare program must be expended on other social welfare programs, not general governmental matters.

Mr. President, I know that many people are concerned about the possible adverse consequences of a block grant approach. Our original proposal envisioned a higher annual level of additional Federal financial assistance than the amounts proposed in the legislation being introduced today. This amount, however, was reduced in light of the indications we have received that the House will simply not accept fiscal relief on the scale we originally outlined.

While the reduction in the amount of fiscal relief may diminish the attractiveness of the block grant approach, I think that this approach still offers opportunities and incentives for some welfare reform movement on the State and local level. I believe that it is still useful to have this block grant approach considered this year. I know that the sponsors of this legislation certainly welcome the constructive modifications and refinements which may be offered by other Members of the Senate who share our concern and interest in finding solutions to our welfare problems.

EMPLOYMENT TAX CREDITS

Mr. President, in our original proposal, we indicated that this legislation would provide for substantial increases in the existing welfare recipient/employer tax credit and the earned income tax credit. The measure being introduced today does not contain those provisions, but we fully intend to move ahead with these measures in separate tax legislation before this session of Congress adjourns.

CONTINUED MOVEMENT TOWARD COMPREHENSIVE WELFARE REFORM

Mr. President, I have previously indicated my continued support for a comprehensive reform of our current welfare system. At the same time, I believe it is essential that we take immediate steps to provide some fiscal relief to State and local taxpayers who are struggling under the current costs of our welfare system, as we begin—in this Congress—our efforts to provide incentives for more comprehensive welfare reform.

I do not believe that we can continue to hold this fiscal relief hostage for more comprehensive reforms. Indeed, continuation of the existing financial pressures upon States and localities to pay the costs of welfare programs may well result in a fiscal backlash to the ultimate detriment of welfare recipients. There is a desperate need to change a welfare system that no one likes—neither the taxpayer who foots the bill, nor the administrators who run the welfare programs, nor the recipients who supposedly benefit from them. This legislation is a start in that direction.●

By Mr. TOWER (for himself, Mr. MORGAN, Mr. HAYAKAWA, Mr. STONE, Mr. HATCH, and Mr. LUGAR):

S. 3471. A bill to postpone the increase in the minimum wage and the adjustment to the tip credit under the Fair Labor Standards Act of 1938; to the Committee on Human Resources.

INFLATION REDUCTION AND JOBS PROTECTION ACT

Mr. TOWER. Mr. President, less than a year ago, the Senate considered legislation which was subsequently enacted to amend the Fair Labor Standards Act. As a result of that law, the minimum wage rate of $2.30 was increased to $2.65 at the beginning of this year, and it will continue to rise to $2.90 in 1979, $3.10 in 1980, and $3.35 in 1981.

In addition, changes were made in the tip credit section of the law to reduce the amount of tip income which can be counted toward the minimum wage amount. These changes are scheduled to begin in January of 1979, when the tip credit will be reduced from 50 to 45 percent, and continue in 1980 with a further reduction to 40 percent.

During Senate debate on this bill, a number of us warned against this action, citing the bill's potential for increasing inflation and boosting unemployment. Unfortunately, our efforts did not prevail: And even more unfortunately, we find ourselves, less than 1 year into the scheduled rate increases, with the dubious honor of being able to say "I told you so."

Just look at the facts. We are quickly approaching double digit inflation in this country, and in fact by some economic calculations we are already there. The unemployment rate for youth, who are most immediately affected by changes in the minimum wage is 16.3 percent. And for young blacks, the jobless rate is a staggering 37 percent. The decline of the dollar in international markets has become a problem of major concern, and the threat this poses to financial markets and our economic well-being in general is creating an uneasy feeling among financial experts. If domestic inflationary problems continue unchecked, we can expect dire consequences in the world marketplace.

And if the statistics are not enough, listen to what the economic experts are saying. Men and women of all philosophical persuasions—from academia, the government, and the private sector—all cite the minimum wage as a tool of inflation, and many have advocated the sound judgment that we should slow down here: That we should postpone some of this action to give the economy a chance to revive.

For example, William Miller, Chairman of the Federal Reserve Board, said he "personally would welcome" a 2-year deferral of the minimum wage increase scheduled for January 1. Testifying before the House Budget Committee, Miller said:

> It seems appropriate to consider deferring the increase in the minimum wage that is scheduled for January 1, 1979, given its implications for costs and for youth employment opportunities. . . .

Others have echoed this thought. Arthur Okun, senior economist at the Brookings Institution and former Chairman of the Council of Economic Advisers under Lyndon Johnson, echoes this opinion. According to Okun:

> The country would be better off if we postponed both the minimum wage and the social security hikes. . . . It would be worth one-half a point on the Consumer Price Index and make the economy outlook for 1979 significantly better.

Mr. President, I could cite similar comments from a great many people here—Barry Bosworth of the Wage and Price Stability Council; Alice Rivlin, Director of the Congressional Budget Office; Secretary of the Treasury Michael Blumenthal; economist Milton Friedman; Joel Popkin of the National Bureau of Economic Research; economist Walter Williams from Temple University, and the list goes on and on.

In response to the realistic and widely held view that action should be taken, I am today introducing legislation to curb this agent of inflation in order to prevent even further weakening of our economic condition, at home and abroad. I am pleased to have as coauthors of my bill my distinguished colleague from North Carolina, Mr. MORGAN, from California, Mr. HAYAKAWA, from Florida, Mr. STONE, and from Utah, Mr. HATCH. I invite others to join us in this effort.

The provisions of our bill are simple and straightforward. We propose a 1-year moratorium on the scheduled minimum wage increases, as well as a 1-year postponement of the changes scheduled to take effect in the tip credit provisions.

I believe that Congress must take the initiative here and acknowledge the well-recognized fact that the size and the timing of last year's minimum wage increases, while undoubtedly a political plus among many sectors, was a serious economic mistake. And the brunt of this misguided policy will fall hardest on those very individuals whose earnings are most closely associated with the minimum wage level.

I am reminded here of an interesting commentary on this issue written by William Raspberry. The subjects of Mr. Raspberry's article are William and Willie May Clark, who run the Sparkle Car Wash right here in Washington. Commenting on the proposed wage increases, Mrs. Clark says:

> It would just about put us out of business . . . and not just us. A lot of blacks trying to make it in business would be hurt by this.

Today we are considering legislation here in the Senate to extend the Comprehensive Employment and Training Act, and I have been a supporter of CETA programs, particularly as they encourage private sector employment and job training. While I continue to support Federal efforts to provide meaningful employment assistance, I think we might be well advised to consider an interesting relationship between this CETA legislation, which I expect will pass today, and the minimum wage laws.

To the extent that these scheduled increases in the minimum wage will boost inflation, these inflated costs will be reflected in higher Federal spending. It is estimated the Government-sponsored jobs, such as those in this CETA bill, cost the taxpayers about $16,000 per job. Now here we are, passing one law which has already cost nearly $2.4 billion in terms of lost jobs just this year, and now we are about to pass another law costing over $8 billion in 1979, to create new jobs. Let us face it: There is a nice little racket going on here. On the one hand, Congress is throwing thousands of people out of work, only to turn right around and cite the resulting unemployment statistics as a basis for more Government make-work programs. Once again, the taxpayers are being taken for a ride.

Mr. President, it is time to put politics aside here and deal with the practicalities. Based on the cold, hard facts, and on the advice of a wide range of economic experts, I believe that the action we offer today constitutes a reasonable and effective approach to dealing with our economic problems.

Mr. President, I ask unanimous consent that our bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3471

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Inflation Reduction and Jobs Protection Act".

SEC. 2. (a) Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206

(a)(1)) is amended by striking out "1979" and inserting in lieu thereof "1980" and by striking out "1980" each time it appears in such section and inserting in lieu thereof "1981" in each case.

(b)(1) Section 3(b)(1) of the Fair Labor Standards Amendments of 1977 is amended by striking out "1979" and inserting in lieu thereof "1980".

(2) Section 3(b)(2) of the Fair Labor Standards Amendments of 1977 is amended by striking out "1980" and inserting in lieu thereof "1981".

(c) The amendments made by this section shall take effect on the date of enactment of this section or on December 1, 1978, whichever first occurs.

Mr. MORGAN. Mr. President, the bill which I am introducing today along with Senator TOWER is a very serious piece of legislation. It is by no means an attempt to destroy the minimum wage legislation hammered out by the Senate last October.

Last year I voted against the minimum wage law. Primarily I was concerned about the cost of the measure to the economy and about the absence of a youth differential from the bill. I will not raise those issues here. The Congress expressed its will and the measure is now law.

Today, my concern is that much of what was predicted to result from increasing the minimum wage rate has come to be.

Our inflation rate is simply running at too high a level. During the first quarter of this year, inflation was eating away at our income at a rate of 9 to 10 percent. Predictions from the White House are that we may see an annual figure of 7.2 percent and the Congressional Budget Office has projected even higher figures.

This year the minimum wage went up 15 percent. Next year and through 1981, it will go up at a rate of 9 percent annually. While an increase in the minimum wage rate does not account for all inflation, it has been asserted that as much as ½ percent of our inflation rate can be seen to flow directly from the minimum wage increase.

What we are urging the Senate to do is to put a 1-year moratorium on the increase in the minimum wage. We are asking for a delay of 1 year. We are not attempting to undo what the Congress has seen fit to do. Again, we are simply seeking a delay in the next increase so as to ease the inflationary pressure on the economy.

William Miller of the Federal Reserve Board, Mr. Blumenthal, the Secretary of the Treasury, Mr. Barry Bosworth, head of the President's Council on Wage and Price Stability and Arthur Okun of the Brookings Institution have all endorsed this approach.

I will not touch on the impact the minimum wage increase has had on general unemployment, minority unemployment or on our youth employment. I do want to restate that this bill simply attempts to delay the increase in the wage rate for 1 year. A move which may help the inflation rate, may increase the number of jobs and give more confidence to our people in their economy and Government. I believe this to be a sound move for our people and for our economy.

Mr. HAYAKAWA. Mr. President, I wish to join my colleague, Senator TOWER, in support of his efforts to delay the next increment of the minimum wage increase scheduled to go into effect this January. I have, in the past, opposed raising the minimum wage levels. I have gone so far as to introduce legislation that would have allowed young people to work for less than the minimum wage, allowing them to get good apprentice jobs.

Mr. President, in October of 1977, the Senate considered and passed legislation to raise the minimum wage level gradually over a period of several years. At that time, I opposed this measure, and spoke in defense of the people who would be harmed by a rise in the minimum wage levels. I said it then and I say it again now—the unemployed and the young are the people most harmed by a rise in the minimum wage. Raising the minimum wage does nothing to help them. If anything, raising the wage level prices them out of the job market. How many businesses that you can think of, aside from big, big businesses, can afford to pay a 17 year old $2.65 an hour to learn a job? Not many, I think. If I were a small businessman, I, too, would hesitate to pay someone with so little job experience that much money.

I have in the past made serious efforts to pass legislation to enable young people to work for less than the minimum wage. This way an employer can hire a young, inexperienced, but willing worker to learn a trade while getting paid. I firmly believe that this must be done if we are to begin solving the youth unemployment problem. I do not have to tell any of you how important it is for people to have a sense of personal worth and financial independence. Jobs providing pocket money are a necessary part of growing up. The money gives a young man or woman the freedom to go on dates, buy lunch instead of carting a brown bag to school, and buy their own clothes. These are all things that are important to young people growing up today in America. This extra money that is earned by oneself is special money—money that was worked hard for, and which proves to the young person, and to society, that the youth is self-sufficient.

Look at your own children—or at yourself. Do you remember the first dollar you earned? It seemed so special because it was something that you earned by yourself without anyone's help. Earning money teaches the value of money. It also gives a person an exhilarating feeling—one that tells you that you can take care of yourself—that you are able to make it in the real world.

Those who favor increases in the minimum wage genuinely believe that they are helping people at the poverty level. Those who oppose raising the minimum wage, including myself, want to help the poor also. However, large increases in the minimum can be counterproductive, because although higher minimums may raise wages for some workers, they can bring others total unemployment. Increases in the minimum wage, by increasing the price of low-productivity labor, reduce the demand for that labor. As a result the number of young, poor, and other low-productivity workers declines. The very people who are supposed to be helped are hurt in a terrible way. Four out of every five black teenagers cannot find work. Is it better to be out of a job at $2.65 an hour or to have one at a lower wage? If you ask anyone who wants to, but cannot find a job, they will tell you it is better to have a job at any wage than none at all.

One argument in favor of raising the minimum is that the current level is not high enough to ensure a good standard of living for workers. They argue that the current minimum leaves some workers at the poverty level. But they do not see that raising the minimum wage leaves the problem unsolved. Not having enough money is related to income, not the level of the minimum wage. People who lose their jobs as the result of a minimum wage increase—because employers cannot afford employees at a higher wage—suffer a decline in income, not an increase.

Raising the minimum wage affects all parts of society. It has been debated whether or not the minimum wage adds to inflation. This debate is active now because two advisers to President Carter, Federal Reserve Board Chairman G. William Miller and Treasury Secretary W. Michael Blumenthal have recently suggested that the next scheduled increment in the minimum wage be delayed. I agree with this, and believe that we should postpone this next increase for 1 year. How are employers to make up for this mandated rise in wages? They must either raise the price of goods to cover the cost of these higher wages, or they lower the quality of the goods so that they do not raise prices. Either way, the effects of a higher minimum wage are felt by all of us. The average consumer today squawks about the high cost of living—an increase in the minimum wage would only aggravate the situation.

I recall a phrase that many of us use quite frequently—the "American work ethic." Minimum wage laws, union demands and other factors have all but made this phrase meaningless. It used to mean hard, honest, fair work. No more. Our work ethic has become something altogether different. We have even taken away the incentive to look for jobs. Now those people we have kept from gaining work because of the minimum wage get jobs paid for by the taxpayer. I believe that most people who take public service jobs do so simply because they were priced out of others. We would not need all of these public service programs if we did all in our power to enable people to get jobs in the private sector.

Business and industry would prefer to decrease unemployment through the action of a free-market private sector rather than through Federal make-work programs. However, if Congress continues to increase the minimum wage, the unemployment problem will continue to grow. Business wants to grow and absorb the young and capable worker who wants a job; we cannot deny business the right to have a good worker at an affordable price, and we must not deny

those willing to work their freedom to do so.

I say let us listen to the wise advice of Reserve Board Chairman Miller and delay the next increment in the minimum wage. Our economy and the level of inflation need our help and good sense now. In the face of the declining U.S. dollar abroad, we must do everything we can to help ourselves and the country return to a sound economic base.

I ask my colleagues to join with me to support a postponement of the next minimum wage rise. Those who are skeptical, just take a look at the growing inflation and interest rates. We must do something now. This is not a time for the Government to add to inflation. Let us do what we can to control it; we have a choice—I ask for your support.

By Mr. HART (by request):

S. 3472. A bill to amend the Atomic Energy Act of 1954, as amended, to provide for the protection from unauthorized disclosure of safeguards information, and for other purposes; to the Committee on Environment and Public Works.

NUCLEAR SAFEGUARDS INFORMATION PROTECTION ACT

● Mr. HART. Mr. President, by request, I am introducing legislation proposed by the Nuclear Regulatory Commission to provide for the protection from unauthorized disclosure of safeguards information. While I am not prepared to endorse the provisions in this legislation, the bill does address an important issue that warrants thorough consideration by the Congress.

In the months ahead the Senate Committee on Environment and Public Works Subcommittee on Nuclear Regulation will meet to address this issue. Though there will not be time for the subcommittee to complete its work before the end of the session, I fully anticipate that our work this fall will enable the committee to act early next year.

Mr. President, so that my colleagues and their staff might have the opportunity to review this proposal, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3472

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Chapter 12 of the Atomic Energy Act of 1954, as amended, is amended by adding at the end thereof a new section 147 to read as follows:

SEC. 147. SAFEGUARDS INFORMATION.

a. In addition to any other authority or requirement regarding protection or disclosure of information and notwithstanding Section 552 of Title 5, United States Code, relating to the availability of records, the Commission shall prescribe such regulations or orders as it may deem necessary to prohibit the unauthorized disclosure of:

(1) safeguards information which identifies a licensee's or applicant's detailed—

(a) control and accounting procedures, security measures, including security plans, procedures and equipment, for the physical protection of special nuclear material in quantities determined by the Commission to be significant to the public health and safety or the common defense and security from the standpoint of theft, diversion or sabotage, by whomever possessed, whether in transit or at fixed sites;

(b) security measures, including security plans, procedures and equipment, for the physical protection of source material or byproduct material in quantities determined by the Commission to be significant to the public health and safety or the common defense and security from the standpoint of theft, diversion or sabotage, by whomever possessed, whether in transit or at fixed sites;

(c) security measures, including security plans, procedures and equipment, for the physical protection of, and the location of certain plant equipment vital to the safety of, production or utilization facilities involving nuclear materials covered by (a) and (b) in this paragraph; and

(2) studies, reports and analyses which are conducted by or on behalf of the Commission, its licensees, or applicants for Commission licenses and which concern the safeguarding of nuclear materials or facilities against theft, diversion or sabotage.

The Commission shall exercise the authority in this subsection so as to apply the minimum restrictions needed to achieve the objectives of protecting the health and safety of the public or the common defense and security, and upon a determination that the unauthorized disclosure of such information could have a significant adverse effect on the health and safety of the public or the common defense and security by facilitating theft, diversion or sabotage of such material or such facility. Any person, whether or not a licensee of the Commission, who violates any regulation adopted under this section shall be subject to the civil monetary penalties of Section 234 of this Act. Nothing in this section shall be construed to authorize the withholding of information from the duly authorized Committees of the Congress.

SEC. 2. Section 181 of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

GENERAL

"SEC. 181. The provisions of the Administrative Procedure Act (Public Law 404, Seventy-ninth Congress, approved June 11, 1946) shall apply to all agency action taken under this Act, and the terms 'agency' and 'agency action' shall have the meaning specified in the Administrative Procedure Act: *Provided, however,* That in the case of agency proceedings or actions which involve Restricted Data, defense information, or safeguards information protected from disclosure under the authority of Section 147 of this Act, the Commission shall provide by regulation for such parallel procedures as will effectively safeguard and prevent disclosure of Restricted Data, defense information, or such protected safeguards information to unauthorized persons with minimum impairment of the procedural rights which would be available if Restricted Data, defense information or such protected information were not involved.".

By Mr. TOWER (for himself and Mr. CRANSTON):

S. 3473. A bill to permit Federal savings and loan associations to raise additional capital through the issuance of mutual capital certificates, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

SAVINGS AND LOAN ASSOCIATIONS MUTUAL CAPITAL CERTIFICATE ACT

● Mr. TOWER. Mr. President, I am introducing legislation today, on behalf of Senator CRANSTON and myself, that will increase the availability of funds for housing. This legislation will allow savings and loan associations to increase their capital by issuing mutual capital certificates. This, in turn, will increase the lending capacity of savings and loan associations and permit them to make more home loans. The same bill was introduced in the House by Representative GARRY BROWN on June 12 of this year and by Banking Committee Chairman REUSS on August 12.

This legislation is needed to help savings and loan associations meet the increasing demand for housing. The savings and loan industry is the major source of funds for housing in this country. But, many savings and loan associations are finding it difficult to increase their capital, and the lack of sufficient capital has limited their ability to make mortgage loans.

Overall, the savings and loan industry has experienced a substantial decline in its capital position since the early 1950's, as shown in the accompanying table. Many savings and loans have experienced an even more dramatic decline in their capital position than the industry as a whole. The result has been a serious limitation on the ability of many savings and loan associations to finance homeownership.

The savings and loan industry is not the only industry that needs to increase capital. Many industries in our economy are experiencing a capital shortage and need to increase their capital if they are to continue growing and providing the opportunity for meaningful and productive employment. The availability of sufficient capital is important to our Nation's financial system if it is to continue to meet the increasing demand for credit. But, the lack of sufficient capital poses a special problem to the savings and loan industry. Most savings and loan associations are mutual institutions and cannot raise capital by issuing stock. The only way they can increase their capital is through retained earnings.

One approach to solving this problem has been to allow mutual savings and loans to convert to a stock form of ownership. Stock savings and loans can raise capital by issuing stock. However, the conversion of mutual savings and loans to stock savings and loans has been surrounded by a great deal of controversy, particularly in the case of mutual savings and loan associations converting to a stock form of institution at the Federal level. There are only about 750 stock savings and loan associations in existence in this country, accounting for roughly 16 percent of the total. Hopefully, more conversions will be allowed in the future.

An alternative approach is to allow savings and loan associations to issue mutual capital certificates as a substitute for equity capital. Funds raised through the issuance of these certificates will allow savings and loan associations to expand their lending capacity and provide more funds for housing.

The issuance of these certificates would be particularly helpful in solving a problem faced by many savings and loan associations whose deposits are insured by the Federal Savings and Loan Insurance Corporation (FSLIC). Federally insured savings and loan associations are required by the FSLIC to hold reserves equal to 5 percent of their savings accounts. Many associations are operating

at or near that required ratio, and cannot seek new deposits to make mortgage loans. These reserves are required for the purpose of protecting against losses, and there is reluctance to reduce this ratio sufficiently to permit a more aggressive acquisition of savings accounts by these savings and loan associations.

Yet, new savings accounts are the life blood of an association and are needed if savings and loans are to meet the rising demand for financing homeownership. This problem would be alleviated through the issuance of mutual capital certificates. Funds obtained through issuance of these certificates could be used to meet the FSLIC's reserve requirements, thereby expanding the deposit-taking capacity of these savings and loan associations. The end result would be more funds for housing.

Savings and loan associations would issue these certificates under rules and regulations adopted by the Federal Home Loan Bank Board. They could be issued and sold directly to subscribers or through underwriters, and they would be subordinated to all savings accounts, savings certificates and debt obligations. In the case of liquidation, they would constitute a claim on an association's net worth only after the payment in full of all savings accounts, savings certificates, and other debt obligations. These certificates could be issued with either a variable or fixed rate of interest. In order to make these certificates attractive to investors, capital losses may be charged against these certificates only after all other reserve and net worth accounts have been exhausted. However, if an association does not maintain the reserve ratio required by the FSLIC, it may not pay interest on those certificates without the approval of the FSLIC.

This bill will not solve all of the problems facing the savings and loan industry or the Nation's housing market. It does not solve the problem which the savings and loan industry faces in losing funds whenever market interest rates rise. But, it would go a long way toward addressing the problem of insufficient capital faced by many savings and loan associations and it would help provide additional funds for housing.

I ask unanimous consent that the bill and table be printed in the RECORD.

There being no objection, the bill and table were ordered to be printed in the RECORD, as follows:

S. 3473

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Savings and Loan Associations Mutual Capital Certificate Act".

SEC. 2. Section 5(b) of the Homeowners' Loan Act of 1933 is amended by deleting paragraph (2) and substituting the following new provisions:

"(2) To such extent as the Board may authorize by regulation or advice in writing, an association may borrow, may give security, may be surety as defined by the Board and may issue such notes, bonds, debentures, mutual capital certificates, or other obligations, or other securities as the Board may so authorize.

"(3) In accordance with rules and regulations issued by the Board, mutual capital certificates may be issued and sold directly to subscribers or through underwriters, and said certificates shall constitute part of the general reserve and net worth of the association.

"(4) The Board in its rules and regulations authorizing the issuance and sale of mutual capital certificates shall provide that said certificates:

"(i) be subordinate to all savings accounts, savings certificates, and debt obligations,

"(ii) shall constitute a claim in liquidation on the general reserves, surplus, and undivided profits of the association remaining after the payment in full of all savings accounts, savings certificates, and debt obligations,

"(iii) shall be entitled to the payment of interest prior to the allocation of income to reserve and net worth accounts, and

"(iv) may have a fixed or variable rate of interest.

"(5) The Board shall provide in its rules and regulations that in the event losses are charged to reserve or other net worth accounts such losses shall be charged against mutual capital certificates only after other reserve and net worth accounts have been exhausted.".

SEC. 3. Section 403(b) of the National Housing Act, as amended, 12 U.S.C. 1726(b), is hereby amended by adding at the end thereof the following paragraph:

"Mutual capital certificates and debentures, subordinate to the rights of holders of savings accounts, savings certificates, and the Corporation, shall be deemed to be reserves for the purposes of this subsection (b) in accordance with rules and regulations made by the Corporation. In the event losses are charged to reserve or other net worth accounts such losses shall be charged against mutual capital certificates and subordinated debentures only after other reserve and net worth accounts have been exhausted. In the event an insured institution fails to maintain the reserves required by this Act, no payment of interest on said certificates or said debentures shall be made except with the approval of the Corporation.".

Ratio of net worth to savings deposits and assets at savings & loan associations, 1950–77

Year	Ratio of net worth to— Savings deposits	Total assets
1950	9.15	7.58
1955	7.96	6.79
1960	8.02	6.97
1965	7.89	6.72
1966	8.29	7.05
1967	7.97	6.91
1968	8.12	6.99
1969	8.57	7.17
1970	8.47	7.04
1971	7.80	6.60
1972	7.37	6.27
1973	7.51	6.27
1974	7.59	6.24
1975	6.92	5.85
1976	6.55	5.61
1977	6.51	5.48

●

● Mr. CRANSTON. Mr. President, I join with Senator TOWER in introducing a bill to allow Federal savings and loan associations to increase their capital by issuing mutual capital certificates. Savings and loan associations along with other deposit institutions have, over the last decade, consistently experienced a decline in their ratio of permanent capital to total assets.

Savings and loan associations are required to hold reserves at or about 5 percent of their savings accounts. Retained earnings essentially are the only source of permanent capital for a mutual association. By law, when an institution cannot satisfy the 5-percent ratio requirement, it is prohibited from seeking new savings depositors and future growth is curtailed until the ratio requirements are met. Money for housing, because lack of sufficient capital is simultaneously restricted. In this instance, a regular corporation would sell stock to raise equity to support future growth. However, the only option a savings and loan association has when this situation occurs is to convert from a mutual to a stock institution, as savings and loans are not legally able to issue stock to raise capital as other corporations. The conversion from mutual form to a stock association is presently still a very controversial idea and restricted by the Congress for Federal savings and loan associations.

This bill will provide a new tool for those savings and loans that are experiencing rapid growth such as in my home State, California, in halting the deterioration in their capital ratios. It is by no means the answer to capital adequacy problems for depository institutions. I would hope that the FHLBB would immediately review the need for the 5-percent Federal insurance requirement for it is clearly evident that depository institutions will need larger sums of capital if they are to hold their own in the competitive battle with an increasing number of nontraditional, nondeposit, and unregulated institutions in a fast growing marketplace involving a host of new and expensive financial services.

The only true solution to the capital problem is larger retained earnings and greater profitability. This will be possible only when major financial reform occurs and savings and loans have all the tools needed to compete fully in the marketplace. This bill will provide some measure of relief while the Congress and the Federal Home Loan Bank Board continue to study the broader question of capital adequacy and financial reform for the savings and loan industry.●

By Mr. HART:

S. 3474. A bill to amend the Clean Air Act to require vehicles sold at high altitudes to comply with emission standards; to the Committee on Environment and Public Works.

AUTO EMISSION STANDARDS

● Mr. HART. Mr. President, I am today introducing a bill to amend the Clean Air Act to require automobiles which are sold in high altitude areas to meet the emission standards of the Act.

The original Clean Air Act simply required all cars to meet Federal standards on the amount of pollution they emit. In practice, however, the Environmental Protection Agency just checked the cars as they came off the production lines in Michigan. Because autos operate differently at different altitudes, the cars that EPA certified in Michigan did not meet the standards when they were shipped to high-altitude areas. The cars in Denver, for instance, emitted about 50 percent more pollution than allowed by the Federal standards.

To address this failure of high altitude cars to comply with the Federal standards, EPA in 1974 issued regulations requiring cars sold at high altitudes to be certified to meet the Federal standards at an elevation of 5,200 feet above sea level (the elevation of the high altitude testing facility). These regulations went into effect in model year 1977.

As part of the comprehensive amendments to the Clean Air Act, Congress last year overturned these regulations, in effect exempting high-altitude cars from the Federal pollution standards, until model year 1984. Beginning that year, each car will have to meet the Federal standards regardless of the elevation.

Mr. President, the Federal emission standards are designed to protect the health of our citizens. People living in high altitude areas have as much right to these health-protecting standards as everybody else in the country.

Therefore, I am introducing legislation to end the exemption of high altitude areas from the Federal emission standards of the Clean Air Act. I ask permission that the text of my bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3474

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 202(f) of the Clean Air Act is amended to read:

"(f) The Administrator shall issue regulations requiring new motor vehicles manufactured in model years 1980 through 1983, inclusive, for initial sale to ultimate purchasers by dealers located in any county with an average elevation of 4,000 feet or more above sea level to comply at an altitude of 5,200 feet above sea level with the emission standards established under this section. The regulations shall prohibit manufacturers from discriminating against dealers and ultimate purchasers in high altitude areas either by increasing the price of new motor vehicles provided to such dealers or by restricting the models available to such dealers because of the manufacturers' compliance with the regulations. A certificate of conformity may be issued under section 206 of this Act only for a model of motor vehicle or motor vehicle engine for which has been issued a certificate of conformity with the regulations under this subsection.".

By Mr. DECONCINI (for himself and Mr. KENNEDY:)

S. 3475. A bill to provide for the reform of class action litigation procedures; to the Committee on the Judiciary.

REFORM OF CLASS ACTION LITIGATION PROCEDURES

● Mr. DECONCINI. Mr. President, on behalf of Senator KENNEDY and myself, I am introducing legislation to revise and reform the rules and procedures under which class actions are litigated in the Federal courts. Dissatisfaction with the current situation is widespread, and I believe the need for change is compelling. The proposal we are introducing, which was drafted in close consultation with the Department of Justice, contains some interesting and challenging departures from present practice. If implemented, it may go far toward rationalizing class action litigation. At the same time, I recognize that this is a subject matter of great complexity and great interest to many diverse groups. While this bill was prepared in consultation with a wide variety of interests, it is only a first step, not the last. Neither Senator KENNEDY nor I are wedded to its provisions. The Subcommittee on Improvements in Judicial Machinery plans extensive hearings on the measure beginning this fall and continuing into the 96th Congress. Those hearings will focus on the broader questions associated with class actions; The need for revision of the class action rule; the legitimate purposes which class action litigation should serve; the extent to which our society should devote judicial resources to class actions; and the actual and potential abuses of this instrument.

The bill which I am introducing repeals Federal rule 23(b)(3) and replaces it with two new procedures: First, a public action for redress of small monetary injuries (less than $300), and second, a class compensatory action for substantial monetary injuries (more than $300). In addition, the bill provides the courts with new tools to make cases under both procedures more manageable.

The statute created by this bill reflects the recognition that there are, in fact, two distinct types of class suits which are presently litigated under rule 23(b)(3). One type arises where the economic injury is small but widespread. In these cases, it is not economically feasible for the injured parties to initiate individual actions. Nevertheless, where there has been a violation of the law, the public has a strong interest in seeing that the wrongdoer does not profit from his illegal conduct. Thus, the primary purpose of bringing suit in these cases is to prevent unjust enrichment and to deter illegal conduct rather than to compensate the injured parties. In contrast, the second type of suit arises from situations where the economic injury is more substantial and it is assumed that the parties will have sufficient incentive to form a class and secure adequate and representative counsel to assert their claims. In these cases, compensation of the parties remains the primary focus of the litigation.

The public action created by this bill vests a single claim in the United States against a wrongdoer where, first, 200 persons have each sustained injury less than $300; second, the combined damages exceed $60,000, and third, the injuries arise out of the same transaction or occurrence and present a substantial common question of law or fact. The policy behind the public action is, as I mentioned earlier, the public interest in preventing unjust enrichment and deterring unlawful conduct.

The public action can be brought by the United States, or on its behalf, by one or more injured persons, thereby providing a role for private enforcement of the public interest. If an action is brought by a private person, he must promptly serve notice on the Attorney General and the local U.S. attorney and provide them with all evidence in his possession supporting the claim. The United States may then either assume control of the action, permit the action to be prosecuted by the private party, refer the action to a State attorney general, or recommend to the court that the public interest would not be served by allowing the action to continue as a public action. If the United States assumes control of and prevails in an action brought initially by a private party, the party is entitled to an incentive fee. The public action thus accommodates public and private interests.

The public action procedure also provides for a preliminary hearing, after strictly controlled discovery, within 4 months from the filing of the complaint. The court, at that time, decides if the prerequisites of the public action have been met and makes a preliminary assessment of the merits of the case. The preliminary hearing thus serves to protect all parties from open-ended discovery fishing expeditions and to screen out frivolous strike suits. It will also give the plaintiff a preliminary indication of his chances of prevailing before he invests substantial resources in pursuing the action. If a defendant is found liable, the judgment is calculated in an amount equal to either the total benefits realized by the defendant by this illegal conduct or the total damages caused by the defendant. This calculation can be made by any reasonable means.

Judgments in public actions will be transferred to the Administrative Office of the U.S. Courts where they will be deposited into a public recovery fund. The Administrative Office is charged with the responsibility of giving notice of the judgment, processing claims and distributing the fund. A claim must be greater than $15 and submitted within 1 year. The transfer of this responsibility from the courts to the Administrative Office serves to conserve judicial resources.

The compensatory action created by this bill is patterned on the present rule, but includes significant changes which are intended to increase the fairness of the procedure and to make it less expensive and time consuming. The compensatory action is to be used where 40 persons suffer injury exceeding $300 and the injuries arise out of the same transaction or occurrence and present a substantial common question of law or fact. The theory here is that persons injured in excess of $300 will have sufficient incentive to form a class and vindicate their claims.

As in the public action, the trial judge in a compensatory action must hold a preliminary hearing, after strictly controlled discovery, within 4 months of the filing of the complaint. At this hearing, the court decides whether the class requirements have been met, makes a preliminary assessment of the merits, and also decided the content and the means of giving notice to the class. Where notice and proof of individual damage will be difficult and time-consuming, the court is given discretion to try the issues of liability and damage separately. If the defendant is found liable, then the cost of notice will shift to him. This provision, like many others in the bill, allows the court to divide complex cases into more manageable steps.

Both the public action and the compensatory action would be subject to new management techniques which are intended to promote stronger judicial stewardship of these actions. For example, the bill provides for, first, the regulation of settlements; second, supervision by the circuit judicial councils of over-delayed district court rulings; and third, a precise method for computing an award of attorney fees based on hourly rates, but with provision for risk adjustments.

This bill is by no means perfect. However, it does address in an innovative manner the problems inherent in present practice. And, unless we begin to act, the basic credibility of our justice system and access to our Federal courts will be called into question. To arbitrarily close the doors of the courts on class action claims gives the appearance of condoning illegal conduct. As Vice President MONDALE has pointed out:

Nothing is more destructive to a sense of justice than the widespread belief that it is much more risky for an ordinary citizen to take five dollars from one person at the point of a gun than it is for a corporation to take five dollars each from a million customers at the point of a pen.

At the same time, however, we must protect honest and legitimate business interests from unwarranted attacks. The challenge is there, and I look forward to developing and further exploring the potential of the new concepts embodied in this legislation.

Mr. President, I ask unanimous consent that a commentary on the bill be printed in the RECORD.

There being no objection, the commentary was ordered to be printed in the RECORD, as follows:

PROPOSED REVISIONS IN FEDERAL CLASS DAMAGE PROCEDURES—BILL COMMENTARY

I. INTRODUCTION

A. Need for legislation

Few aspects of federal procedural law have given rise to as much critical comment and dissatisfaction as Rule 23(b)(3) of the Federal Rules of Civil Procedure, which governs the conduct of most class damage actions in the federal district courts. This memorandum describes a proposal developed in the Office for Improvements in the Administration of Justice of the Department of Justice. It has not yet been formally approved by the Department of Justice and it continues under study there. The proposal would repeal Rule 23(b)(3) through legislation, and replace it with two separate statutory procedures designed to improve access to justice. The proposal also attempts to lessen the severe problems of cost and management which have created thousands of pages of overly-complex, contradictory precedent.

Class damage actions may also be brought under Rules 23(b)(1), 23(b)(2), and 23.1. However, these actions have presented many fewer problems than those brought under Rule 23(b)(3) and they are unaffected by the proposed bill.

There is widespread support from both plaintiff and defendant perspectives for comprehensive revision of Rule 23(b)(3). In the 12 years since amendment of the Rule[1] several judicial decisions interpreting and applying its terms have done much to inhibit access to federal courts for class relief by requiring expensive individual notice to all reasonably identifiable class members[2] and by emphasizing the difficulties of management.[3] At the same time, defendants in class damage actions have claimed that the high costs of litigation and the accompanying risk of overwhelming financial liability have forced them into unwarranted settlements.[4] These problems and others have resulted in great dissatisfaction among practitioners,[5] including members of the public interest community.[6]

The business community has also taken strong exception to the operation of the present Rule. The Times Mirror Corporation through counsel has commended attempts "to reform present class [damage] action procedures which have clogged the courts, fostered strike suits and resulted in other abuses of the judicial system. * * *"[7] Also the class damage action's proliferation and cumbersomeness has been cited as one reason for rapidly escalating business legal expenses.[8]

President Carter has stressed his desire to "expand the opportunity for responsible class actions" and Vice President Mondale has said that the Administration "is committed to the principle that no American should suffer injustice because the price of justice is too high."[9] During his confirmation hearings, Attorney General Bell affirmed the Administration's commitment to work with the Congress in an effort to secure passage of fair legislation which would improve the management of class actions and reduce the costs of such litigation.[10] The need for a workable, collective judicial procedure is highlighted by the Vice President:

"[A]ccess to federal court is often the only way the [ordinary person] * * * can effectively challenge the massive power of a modern corporation or the far-reaching power of government itself. Closing the courthouse door leaves them no other place to go.

"Nothing is more destructive to a sense of justice than the widespread belief that it is much more risky for an ordinary citizen to take $5 from one person at the point of a gun than it is for a corporation to take $5 each from a million customers at the point of a pen."[11]

There is support for revision of class action procedures in the legislative branch. For example, Senator Edward M. Kennedy has recently pointed out:

[I]t is easy to sympathize with the courts' motivation for limiting class actions, but in a larger sense such [course] appears misguided. Although class actions are more complex and time consuming than the average civil case, they can also be a most efficient way of disposing of controversies. In one proceeding—however lengthy and time consuming it may be—a judge can adjudicate the rights of thousands of persons. The class action also makes the courts accessible to those who simply could not pursue their claims individually.[12]

Also a substantial portion of the federal judiciary believes that Rule 3(b)(3) procedures should be changed. In response to a recent inquiry by the Advisory Committee on Civil Rules, 50 percent of 145 district judges indicated that they favored prompt amendment of rule 23.[13] The same percentage found that the present rule "wastes judicial resources through cumbersome, expensive, time-consuming procedures."[14] Judge Henry J. Friendly, in his 1973 Carpentier Lecturers, expressed the view that the mass small claim action needed "urgent attention."[15] Not surprisingly, lack of effective management tools has led courts to take the serious step of limiting important substantive rights normally effectuated through the class damage action.[16]

Finally, several recent academic surveys and empirical studies have called for (1) more sensitivity to the interaction between class damage procedures and the substantive law[17]; (2) greater attention to management problems associated with the mass, small-claim action[18]; (3) closer settlement scrutiny;[19] and (4) reliance on the parens patriae concept to better effectuate policy in the small claim context.[20]

Given this clear need for comprehensive reform, revision of class damage procedures should be accomplished by direct legislative enactment rather than through the rule-making process. This view is based on the perception that such revision would have a significant impact on public policy. The deterrence of widespread injury is of substantial public interest, and Congress should devote extensive consideration to any proposal. Also, revision of class damage procedures would have significant economic ramifications, which raise serious questions as to whether such revision is appropriately within the scope of the rule-making authority granted by the Rules Enabling Act.[21]

In March 1976, the Judicial Conference of the United States adopted a resolution which "approve[d] in principle the revision of Rule 23(b)(3) . . . by direct legislative enactment, rather than by the rule-making authority."[22]

B. Consultation process

In June 1977, the Office for Improvements in the Administration of Justice mailed over 250 copies of a discussion memorandum to members of the bar familiar with the issues in class damage actions. The memorandum catalogued many Rule 23(b)(3) difficulties and suggested possible remedies. A cross-section of legal analysts, commentators, judges, and practicing attorneys of diverse views were invited to Washington by the Attorney General to review the memorandum and suggest alternative approaches. More than 30 smaller consultation sessions were also held with other interested parties. The information derived from these meetings was supplemented by the responses to a questionnaire on class actions circulated to 1,800 judges, practitioners, and law professors by the Supreme Court's Advisory Committee on Civil Rules.[23]

In December 1977, approximately 1,000 copies of a draft statute were widely circulated with an accompanying summary prepared especially for nonlawyers. The draft reached an even larger audience when it was published by the Bureau of National Affairs.[24] Nearly 2,000 pages of comment were received in response. The December draft was also the subject of numerous informal discussions with congressional staff, trade associations, public interest counsel, and academic commentators. Following extensive analysis of the comments, the December draft was substantially revised to produce this bill.

C. Controlling premises

The proposed statute is based on several major premises. First, there are basically two types of class suits now litigated under Rule 23(b)(3) and to a significant degree the problems encountered with them stem from a failure of the current procedure to distinguish them. The two types of suits are: (1) a class damage action brought where individual economic injury is small and where the primary purpose of the suit is to prevent unjust enrichment and deter illegal conduct rather than to compensate individuals for minor economic harm; and (2) a class action brought where individual economic injury is more substantial and the primary purpose of the suit is to compensate the injured individuals.

Recognizing that basic distinction, the proposed statute creates two separate procedures to replace Rule 23(b)(3): one is designed for the situation in which illegal conduct is alleged to have caused widespread harm to individuals in small amounts each (not exceeding $300)[25] and where it is not economically feasible for the injured to initiate individual actions; the other is designed to provide more effective, less cumbersome procedures for compensatory class actions (where individual injury

Footnotes at end of article.

exceeds $300).[26] In the first situation the proposed statute recognizes the interest of the United States[27] in preventing unjust enrichment and deterring illegal conduct by creating a public action which provides a close meshing of public and private interests[28] and encourages private detection[29] as well as responsible initiation of actions by the bar.[30]

Another major premise underlying the proposed statute is that some of the major problems encountered in class damage actions have stemmed from ineffective judicial management. The bill includes provisions designed to provide the courts with the necessary tools[31] to manage these actions more effectively. The bill could reduce much of the judicial work load created by (1) the unnecessary complexity of these actions; (2) the lack of congressional guidance on fundamental procedural question[32]; and (3) the absence of salutary management procedures. The bill breaks class damage actions into discrete, manageable phases.[33] It also contains a provision to expedite the filing of judicial rulings.[34]

The proposed statute has three major parts: Subchapter A deals with the public action for widespread injury in small amounts; Subchapter B contains procedures for a class compensatory action involving larger individual claims; and Subchapter C sets forth several management procedures pertinent to both types of actions. The last section of the bill establishes a uniform procedure for interlocutory appeals from orders denying or granting public or class compensatory action status.

II. PUBLIC ACTION FOR WIDESPREAD SMALL INJURY

Subchapter A creates a public action which may be brought in federal district courts by the United States directly or in the name of the United States by a person injured by unlawful conduct ("upon relation").[35] It also provides that the United States may take control of any action originally brought by a realtor, or inform the court that, in its view, the action is not in the public interest.[36] In order for a realtor, or the United States, to bring an action, at least 200 persons named or unnamed must each sustain injury not exceeding $300 as a consequence of a violation which otherwise would give rise to a civil private right of action for damages under any existing Act of Congress regulating commercial conduct.[37] The aggregate of all harm must be $60,000 or more. No new substantive rights of action are created. Most mass, small claim injuries will arise in the commercial context. Also, the commercial limitation on coverage minimizes the number of instances where a public action on behalf of the United States could be brought against the United States.[38]

The public action is intended to prevent unjust enrichment by divesting wrongdoers of fruits gained through a violation of federal law and to deter others from similar conduct. Compensation of the injured is a secondary purpose. Use of a collective procedure in this context has been widely advocated.[39]

A. Need for public action procedure

The public action provides a vehicle for a collective civil suit where the injured would not otherwise have the ability or incentive to sue. As Judge Weinstein has put it, "[w]hen the organization of a modern society such as ours affords the possibility of illegal behavior accompanied by widespread, diffuse consequences, some procedural means must exist to remedy—or at least deter—that conduct."[40]

The bill reflects the view that present procedures are ineffective where deterrence and prevention of unjust enrichment are the primary objectives. The bill substitutes, for the widespread small injury case, procedures designed to enable those objectives to be more effectively realized.

Sufficiently increased deterrence cannot be achieved solely by replacing the current compensatory procedure (in small claim context) with expanded enforcement initiated by federal or state agencies. Even if bureaucratic expansion to augment civil and criminal enforcement were feasible, privately initiated and publicly supervised civil enforcement is preferable. It tends to be more innovative and effective in disgorging ill-gotten gain.

1. Ineffectiveness of Current Procedure to Prevent Unjust Enrichment and to Deter Unlawful Conduct

The use of the Rule 23(b)(3) compensation-oriented procedures for actions brought to remedy pervasive small harm has posed major problems for plaintiffs, defendants and the courts.

First, current procedures do not place sufficient emphasis on the problems of detection in the small claim context. Because the injury is so small and so widely diffused throughout the economy, it may not be brought to the attention of private or public counsel. Yet sociologists, government officials and businessmen agree that illegal conduct is most efficiently deterred by the probability that the offense will be detected and some redress ensue.[41] The deterrent interest of the United States can be best advanced by modification of class damage procedures in a manner which increases the probability that the laws will be enforced whenever broken, even though the resulting injury to each consumer is small.

Second, deterrence also relies upon the expectation that, not only will there be detection, but rapid redress as well. Procedures are needed to assure swift judgments. The present notice requirement of Rule 23(c)(2) and certification prerequisites of Rule 23(b)(3) are designed for actions brought predominantly for compensatory, rather than deterrent purposes. The burden of these requirements can thwart entirely the maintenance of an action where the individual injury is small, even though the case may be meritorious and the harm widespread. The problem is magnified when cross-claims, counter-claims, and pendent claims further delay and obfuscate the core issues.

Third, even if detection occurs today, current procedures, employed in the small injury context can create pressures for settlement which undermine deterrence policy. Because these actions create potential large scale liability and legal costs, and because the existence of the lawsuit alone, even if frivolous, could unfairly damage a defendant's reputation, defendants may feel forced to settle early regardless of the merits.[42] There is insufficient incentive for injured persons to work closely with counsel and counsel tends to reap more from these actions than the client, because counsel often receives a percentage of a large aggregate recovery. The plaintiff attorney is likely to be the real party in interest, and may reach a settlement that does not fully effectuate deterrence policy. The settlement may reflect counsel's interests, rather than those of the absentee injured.[43] In sum, the current situation, which seems to defendants to encourage overdeterrence, tends ultimately to result in pervasive underdeterrence.

Fourth, present procedures do not necessarily prevent a wrong-doing defendant from retaining monetary benefits derived from the wrong-doing. It is unconscionable to permit a defendant who has profited from the violation of a federal statute to enjoy those illegally gotten gains.[44] The bill deals effectively with this problem by providing for the single public recovery calculated by the totality of such profits.

Fifth, present practice imposes significant and inappropriate administrative duties on the courts. It is apparent that the anticipation of potential difficulties in the computation and distribution of class recovery has created some judicial hostility toward small claim class actions, which impedes or eliminates deterrence oriented suits.[45]

Finally, noticeably lacking in current procedures is any provision for executive branch involvement to represent the United States' interest in deterrence and prevention of unjust enrichment.

Available data support the conclusion that, in light of the above, present public enforcement and compensation oriented procedures have not deterred large scale, small claim illegality. Consumer fraud, including illegal competition and deceptive practices, is estimated by the United States Chamber of Commerce to cause direct injury of $21 billion annually.[46] Conservative estimates also place the cost of price-fixing "and other antitrust violations" to American consumers at more than $150 billion a year.[47] Recently the Middle Atlantic Office of the Antitrust Division set up a toll-free hotline service, by which disgruntled consumers, retailers and employees could report suspected price-fixing violations. Twenty-five of sixty-seven calls led to initial investigations. Of these investigations, twelve have already been deemed to be sufficiently substantial to merit further examination and these probes are still in progress. All these Chamber, Congress, and the Antitrust Division data suggest that current private and public enforcement has not provided sufficient deterrence.

2. Limited Impact of Recent Federal Antitrust and Consumer Protection Legislation

Recent federal legislation such as the Magnuson-Moss Warranty—Federal Trade Commission Improvements Act[48] and the Truth-in-Lending Act[49] are designed to mesh with a compensation oriented procedure which, as has been shown, is ill-suited in the mass, small injury context.

The recent parens patriae innovations of the Hart-Scott-Rodino Antitrust Improvements Act of 1976[50] does augment federal resources with State aid of a limited sort. However, the coverage of this statute is not broad. It authorizes State attorneys general to represent natural persons residing in their states in suits for monetary damages suffered due to trade practices undertaken in violation of the Sherman Act.[51] These attorneys general may only sue under the Sherman Act.[52] The statute's benefits do not accrue to many current class action plaintiffs, *e.g.*, those seeking redress for violations of the securities, truth-in-lending and consumer protection laws. Furthermore, many antitrust violations which cause great damage to the public, such as violations of the Clayton[53] and Robinson-Patman Acts,[54] are similarly excluded from the coverage of the bill.

The parens patriae bill also authorizes State attorneys general to act only on behalf of "natural persons."[55] Thus, this procedure will be of no use to the small business victim of Sherman Act violation, although many businesses, such as distributors and retailers, are obviously damaged by price-fixing as much as the ultimate consumer.

Although the Hart-Scott-Rodino statute permits use of aggregation techniques to compute and distribute damages, the Act provides that these techniques may only be used in price-fixing cases.[56] The State attorney general will still face the considerable obstacle of proving small, individual damages in some of the actions brought under the legislation.[57]

Finally, the parens patriae bill is dependent upon the activisation of a large bureaucracy. The injured consumer must trust in the State attorney general to bring suit. Because of the obvious restraints posed by the limited budgets of these State officials, some clearly meritorious suits will have to be foregone in the interests of sound fiscal

Footnotes at end of article.

policy. For all these reasons the public action is needed to expand the role of the State attorneys general beyond that permitted by the parens patriae statute and to mesh their efforts with private initiative.

In addition to the parens patriae legislation, the Antitrust Procedures and Penalty Act was passed in 1974. It could be argued that, at least in the antitrust area, the Act is a potent deterrent and there is no need for the public action. However, the provisions of this statute allowing fines are inadequate to deter illegal conduct where the potential profit is great. As Attorney General Chauncey Browning of West Virginia, President of the National Association of Attorneys General, has noted, corporate antitrust conspirators:

"may be fined $1,000,000 on an $18 million conspiracy. They may serve 10 or 30 days in jail on . . . a $100 million conspiracy [like] the tetracycline case. I suspect that those corporate conspirators would be happy to trade a $1,000 fine, or a million dollar fine, for a $100 million price-fixing profit. The other $99 million they can stick in their pocket." [58]

In the two-year period after the Act's passage, fines imposed against 294 entities amounted to nearly $7 million, an average of just over $23,000 each. Forty-one corporate defendants have been sentenced in felony cases to date with total fines of approximately $5.5 million, an average of $35,000.[59] These numbers should be compared to the estimated *annual* injury from consumer fraud and price fixing *alone* of $171 billion.

3. Reliance on Private Initiative Rather Than Bureaucracy

All the impediments to deterrent policy plus the insufficiency of recent federal statutes, make it highly unlikely that adequate deterrence or prevention of unjust enrichment are being achieved in the mass small injury context. However, it might be argued that, rather than replace maladroit compensatory procedures, enforcement bureaucracies should be expanded to pursue civil enforcement of the laws where prevention of unjust enrichment and deterrence are the primary goals. This argument, which has been made long and often, has not been accepted for two reasons: (1) the amount of bureaucratic expansion required by the federal or state governments necessary to achieve these goals effectively is unacceptable; and (2) enforcement by meshing private and agency initiative under proper procedures is more efficient and effective.

In contemplating the amount of agency expansion required for expanded bureaucratic enforcement, it should be noted that the current budgets of the Federal Trade Commission, the Securities and Exchange Commission, and the Department of Justice Antitrust Division collectively are approximately 1/1000 of the estimated consumer fraud and antitrust injury noted above; [60] and, of course, these budgets are not entirely enforcement oriented. Willard Mueller, former director of the FTC Bureau of Economics, argued as early as 1970 that antitrust enforcement funding levels are so insufficient that "antitrust policy has never been given a fair test." [61] Another commentator has characterized the Antitrust division's budget as "absurdly low" and suggested that proper enforcement would require a budget nearly four times larger.[62]

Although the public action does require expenditure of public resources because a privately initiated action must be assumed or supervised by the United States or by a State, the public action will not require enormous expansion of agency budgets because of its reliance on private initiative. In fact, implementation of the procedure may result in a substantial net gain to the Treasury,[63] a gain that can be used to better implement the public action and expand deterence.

Even if purely public civil enforcement were financially feasible, it still would not be desirable. As the Senate Judiciary Committee has recently noted in the context of antitrust enforcement "[m]any legal commentators . . . believe that private enforcement of the antitrust laws has been more innovative and effective than federal enforcement." [64]

Because of the possibility of the client achieving substantial recoveries [65] and counsel a significant, but fair fee,[66] private citizens are encouraged to undertake vigorous and innovative enforcement. Such enforcement is pursued by the injured, who are those most likely to detect violations. Augmentation of the client's incentive to report violations in the small claim context [67] harnesses a great enforcement potential while preserving public oversight to assure adequate deterrence and small claim compensation.

Thus, the public action procedure, described below, has been designed because (1) compensation oriented procedures have been ineffective in preventing unjust enrichment or in deterring illegal conduct in the small claim context; (2) recent federal legislation does not sufficiently achieve those goals; and (3) the meshing of private initiative and public enforcement is more desirable than the expanding of the federal bureaucracy to pursue those ends.

B. Prerequisites

The public action is not a "class action." Rather it is a procedure for litigating a single collective claim in the name of the United States.[68] At least 200 persons must be alleged to have been injured not exceeding $300 each; the combined total of all injuries must be at least $60,000, and the injuries must arise out of the same transaction or occurrence with the action containing at least one substantial question of law or fact common to all injured persons.[69] The factual basis for pleading these prerequisites must be shown with specificity in the complaint.[70]

The same "transaction or occurrence" and "common question" tests in the proposed statute are similar to those found elsewhere in the federal rules.[71] The only modification in the common question language is the requirement that the question be "substantial." [72] This emphasizes that a common question must be more than incidental or peripheral.

The proposed statute does not carry forward the requirement in Rule 23(b)(3) that the common issues "predominate" over all other issues. Courts which have attempted to articulate a practical test of predominance have failed.[73] Indeed, if applied literally predominance would prevent all Rule 23(b)(3) damage actions because, by their nature, these actions aways involve many different impact and damage issues, while at the same time displaying some issues capable of combined treatment.[74] A literal application of predominance could completely insulate violators from liability. As one court put it:

"On one hand, the defendants [contend] that individual proof of damages at trial would require so much time and create such complexities for the parties, the court and jury, that the action would be unmanageable. On the other hand, they [contend] that any other method of proving this issue at trial would substantially prejudice them and violate their rights to a jury trial and due process." [75]

Furthermore, literal predominance rewards costly legal research and discovery by the defense to unearth as many uncommon issues as possible and shifts the litigation focus from potentially important common violation issues.[76]

Because of these difficulties, the courts have discarded literal predominance and have used the test to determine pragmatically whether there is a significant common issue [77] and to force counsel to articulate their theories of recovery early in the lawsuit.[78] Both of these are useful endeavors and they are retained in the proposed statute by the same transaction and substantial common question formulas, as well as other provisions in the bill.

The proposed bill mandates, after a preliminary hearing and limited discovery, the entry of an early scope-of-action order including a description of the transaction and the substantial common question (or questions). This procedure is aided by the factual pleading-with-particularity requirement of section 3001(d). In the unlikely event, given several provisions in the bill,[79] that management of damage calculation may prove difficult, then separate trials, or even separate actions, can be had under section 3028(b). Skillful use of these techniques would assure that at least common issues can be tried together with resulting economies.

A number of requirements in Rule 23(b)(3) which have also proved troublesome and unproductive in compensatory class actions are eliminated or modified. For example:

The impracticability of joinder test contained in Rule 23(a) is replaced by the requirement of a specific minimum number of injured persons (200).

The requirement that the claim of the class representative be typical of the claims of the class is deleted because it has tended to be a duplicative standing test.[80]

Certification and prejudgment notice requirements are omitted and other means provided to assure that injured persons' interests are adequately represented as noted below.[81]

The method-superiority test, which has been given no form under existing law, is eliminated.[82]

Proof of individual damages as an element of liability is deleted and other means for establishing damages are provided.[83]

C. Preliminary hearing

The bill requires that a preliminary hearing be held within 120 days of the filing of the complaint.[84] In order for the action to continue thereafter the court must determine at or immediately following the hearing that all of the prerequisites are met and that there are "sufficiently serious questions going to the merits to make them fair grounds for litigation."

This early evaluation provides needed defendant protection from the costs of extensive and unnecessary discovery (and motion practice) in cases not presenting serious issues. It provides realtors and the United States with an early, tentative judicial determination on the merits so they are better able to assess the wisdom of pursuing the action. Also given the present potential for over-discovery and undue motion practice by both sides, the preliminary hearing requires the court to take firm control of the action at the first opportunity.[85]

The "serious-question" merits language forms a portion of a preliminary injunction test employed in the Second Circuit.[86] This test is considered not as demanding as the "reasonable likelihood of success" on the merits standard.[87] It is sufficient that "'vast and intricate problems of fact and law [are involved] . . . which cannot be fairly resolved short of . . . a trial . . .'" [88] The "serious-questions" test can be met with limited discovery.[89] The idea of a preliminary look at the worthiness of a lawsuit has wide support.[90]

In conformance with his regulations, at or prior to the preliminary hearing, the Attorney General of the United States may (a) assume the action; (b) decline to enter an appearance and allow the relator to conduct

Footnotes at end of article.

the action [91]; (c) refer the matter to a State attorney general who may assume or make a showing that the action is not in the public interest [92]; or (d) recommend that a public action be dismissed if it is not found to serve the public interest.[93] If there has been assumption, the relator attorney may continue to participate in the action at the attorney general's option.[94]

It is anticipated that where a statute covers a substantive area which is the concern of a federal agency with its own litigation authority, the Department of Justice, pursuant to the regulations provided for in section 3002(b), will either cede control of the assumption and litigation decisions to that agency or seek their cooperation in making these decisions.

As the ability to make a public interest showing is vested in the federal and State attorneys general, the court cannot dismiss a public action as contrary to the "public interest" if such attorney general has not made a specific recommendation. However, such a recommendation requires a dismissal, unless the relator can convince the court that the action is in the public interest.

Prior to dismissal for failure to satisfy the public action prerequisites, the court must allow amendment of the complaint if the action would otherwise meet the prerequisites of the class compensatory action as set out in section 3011(a).[95]

If there is no dismissal at the preliminary hearing, the court must enter a conditional order describing the scope of possible injury, including a description of the transaction and the substantial question of law or fact common to all injured persons. This conditional order serves to define, early in the action, the parameters of the lawsuit for both the parties and for the court. It also provides the defendant with a tentative insight into the probable scope of liability and the breadth of potential res judicata. The court is also empowered to establish litigation timetables, including schedules for discovery, to govern the subsequent course of the action. [96]

D. Discovery

Both plaintiffs and defendants have the opportunity for limited discovery prior to the preliminary hearing, including ten depositions per side, interrogatories to identify documents and locate persons to be deposed, and document production.[97] The limits on numbers of depositions and the types of interrogatories permitted prior to the preliminary hearing can be modified upon leave of the court for good cause shown.

There is an explicit prohibition—both before and after the preliminary hearing—on discovery of unnamed injured persons without leave of court after a showing that there is a "substantial need of the materials" and that there is an inability "without undue hardship to obtain the substantial equivalent of the material by other means." [98] The latter exception, borrowed from precedent applicable to discovery of work product,[99] is designed to be a narrow one.

Under current law [100] there is an incentive for defendants to request discovery of absent class members to winnow-down the class, to exclude by means of discovery sanctions those who do not respond, and to circumvent the normal "opt-out" mechanisms of the class action.[101] Of course there is no class as such to reduce in the public action and individual proof of claim is not required before judgment.[102] However, there is still the danger that a litigant may use this discovery to harass or to delay.

E. Adequacy of representation

Prejudgment notice of any sort to injured persons is not required. While the public eliminates the expense of the notice and opt-out procedures now available under Rule 23(b)(3), it provides at the same time for a more effective means to assure that interests of injured persons are adequately represented.

An early requirement of notice delays the action and undermines swiftness of judgment and deterrent impact. Furthermore, when small, widely spread claims are at stake, notice does very little to protect the interests of absent class members. On the one hand, if notice is attempted, courts and counsel are lured into believing representation of those interests has been assured. On the other hand, the expense of notice creates a significant roadblock to advancing the interests of injured persons and indeed encourages those interests to be ignored in favor of an early settlement benefiting only the named class representatives and plaintiff counsel.[103] The public action represents a marked advance in representation of the interests of injured persons in small claim cases. For the first time, those suffering a small injury would in fact, rather than in theory, have a "day in court", with the United States as their legal representative.

Some of the several facets of the bill that would advance adequacy of representation are:

The United States may bring or assume control of these actions or maintain oversight of a settlement or withdrawal executed by a relator.

The court is required to make inquiry as to the legal competence of the relator's counsel, guided by statutory criteria,[104] when assumption has not occurred.

The relator attorney's compensation is regulated to avoid conflicts of interest between the attorney and the injured [105]; these conflicts may have caused the interests of injured persons to suffer in the past.[106]

An incentive fee of up to $10,000 is paid to a relator [107] who initiates an action that is ultimately successful, thus encouraging closer relator cooperation and supervision of the litigation.

While the public action eliminates the necessity of notice to injured persons prior to the preliminary hearing, it specifies that the claims of those whose injuries do not exceed $300 will be foreclosed by any final judgment on the merits.[108] If the final judgment results in a recovery by the United States, a public recovery fund is created. Persons injured will then be given notice and the right to receive compensation for their injuries from the United States.[109] Care has been taken to assure that the compensatory interests of the injured are adequately represented by the United States during the public action, in order that the foreclosure of claims is fair.

Recently there has been considerable scholarly discussion of whether judgment in a class action may, consistent with the due process clause of the Fifth Amendment, bind the members of a class absent some form of notification to them of the pending action. Every United States Court of Appeals which has considered the question has ruled that the due process clause does not require that notice be given to class members in all cases. An analysis of these opinions has been prepared by the Department of Justice Office of Legal Counsel which strongly supports the view that more effective means than notice of the pending action exist to achieve adequacy of representation and compensation.[110]

F. Incentive fee

Section 3005(a) provides a direct monetary incentive for injured persons to detect and report violations of federal law. A major purpose of Subchapter A is to make the incentive not run only to attorneys—now often the only beneficiaries of class settlements.[111] A modest increase is made in the incentive for injured persons, those best able to detect violations who otherwise stand to gain only a maximum of $300. An active, informed citizenry is the best means to assure that there is widespread compliance with the law without the creation of a massive new bureaucracy.[112]

Under present law persons with small injuries have little incentive to become a named plaintiff in a Rule 23(b)(3) damage action. Nor do they possess any significant incentive to control or contribute to the litigation on their behalf.[113] The plaintiff attorney who stands to win a large fee becomes something more than a representative of their interests: counsel must also represent himself, which presents an inherent conflict.[114]

Under section 3005(a) if the United States prevails in a public action brought by a relator, the defendant shall pay to the relator taxable costs, reasonable expenses (including attorney's fees where otherwise authorized by law), and an incentive fee equal to 20 percent of the first $25,000 of public recovery plus 10 percent of the next $50,000 of public recovery. The maximum incentive fee is $10,000 [115] and is not to be paid to the relator's attorney, either directly or indirectly.

G. Calculation of public recovery

Under section 3006 the United States or the relator may seek to recover a judgment for an amount equal to the value of the benefit or profit accruing to the defendant as a consequence of a violation of Federal law; or one or the other may seek the combined value of all damages found to have been inflicted on persons individually injured not in excess of $300 each. The court may provide injunctive relief if there has been a monetary judgment.

Both these standards advance the primary purposes of the public action—deterrence and prevention of unjust enrichment. The most expeditious mode of recovery calculation can be selected by the court.[116] In this selection the court may also wish to consult the dictates of the underlying substantive law.[117] If the damage test is selected by the court as the appropriate measure of recovery, "separate proof of individual damage shall not be required." [118] This does not foreclose court-regulated sampling of injured persons in order to measure the combined damages.

The recovery is owed to the United States, not to the injured persons upon whose claims it may be calculated. Such persons, however, will be entitled to compensation from the United States under section 3007 in any action in which the United States prevails. The amount of the United States' recovery would be increased by any multiple provided for in the underlying statute.[119]

As to the Constitutional issue whether the United States can retain damages unclaimed by the injured under section 3007(a), the Congress has recently addressed the matter and approved a similar procedure in the Hart-Scott-Rodino Act of 1976.[120]

H. Claims administration

Section 3007 removes the burden of administering the public recovery from the district court and places it in the Administrative Office of the United States Courts. That Office would administer the new Public Recovery Fund and supervise notice to injured persons following a judgment. Notice of the recovery can be made in any manner reasonably "likely to inform" persons eligible for compensation and shall be financed out of the fund.

Those who have injuries of $300 or under file claims with the fund, or receive without filing a claim a distribution based on business or other similar records if these records permit "reasonably accurate" claim calculation. When individual claim forms are required, it is anticipated that the forms will provide a simple and inexpensive means of payment. The Director must pay all claims thought valid within a reasonable time.[121] Claims under $15 will not be reimbursed

Footnotes at end of article.

because the cost of paying and administering claims of that size is likely to exceed the value of the claim.

The Director may pay claims exceeding $300 arising from the same transaction or occurrence from the judgment or settlement funds remaining after all smaller claims are paid. Those receiving such compensation must execute a release of any right to bring a civil action under any Act of Congress based on the same transaction.

I. Involvement of State attorneys general

Section 3002(b)(3) allows the Attorney General of the United States to refer a public action to a State attorney general, pursuant to regulations established by the Department of Justice. The State attorney general must be found to have the capacity to adequately represent the United States' interests and "a substantial number of persons alleged to be injured" must reside in the State.

State participation provides a decentralized means of regionally addressing injury covered by the public action. Only a relatively small percentage of "national" public actions will be assumed by the Attorney General of the United States.[122] "Regional" violations can best be handled by State attorneys general in the affected area. As Assistant Attorney General John Shenefield recently pointed out:

"[I]direct impact on the lives and pocketbooks and the citizens of local conspiracies in any particular State are probably as much of a problem as nationwide conspiracies. We frequently uncover violations involving a few communities and a few million dollars of commerce annnually. Such businesses as dairies, bakeries, building contractors, retail women's stores, and others have been subject to prosecutions for engaging in local conspiracies that may be small by national standards, but dig deeply into the pockets of local residents. . . .

"The unfortunate truth is that this kind of conduct is still far too prevalent in our society—and may be hardest of all for the federal government to prosecute when it occurs on a local basis, away from national scrutiny.

"[M]assive expansion [of enforcement] at the federal level [should not continue]. Where problems can be handled locally they should be." [123]

Under section 3030(d), nothing in Chapter 176 is to affect the right of a State attorney general to bring a Hart-Scott-Rodino parens patriae action, save application of the normal rules of estoppel.

J. Impact of public action on U.S. resources

Public actions assumed by the Attorney General of the United States will be conducted by officers of the Department of Justice, or litigated by the relator under close United States supervision. The Department of Justice commissioned a study by Arthur Young and Company, which is available on request, to determine the impact of this proposed statute on the Department's work load. Under the most plausible assumptions it projects that, when the full force of the bill is felt, approximately 22 cases would be assumed annually, requiring 46 attorneys and $3.1 in new resources. The United States may recoup much of this expense from recoveries unclaimed by the injured. In two recent cases alone, the amount of unclaimed damages totaled $6,678,426.[124]

III. CLASS COMPENSATORY ACTION

When individual injury is more substantial, private compensation becomes the paramount concern. Subchapter B establishes (1) prerequisites for the class compensatory procedure; (2) early judicial review of the action before major judicial and litigant resources are committed; and (3) better management of damage calculation.

Footnotes at end of article.

A. Prerequisites

Under Subchapter B, the class compensatory action is available where federal statutes create any civil private right of action for damages. Its application to federal statutes is thus considerably broader than that of the public action.[125] The action is designed to be the exclusive collective damage remedy for violation of federal statute.[126] For a compensatory action to arise, at least 40 persons named or unnamed must suffer injury exceeding $300 or be alleged to be liable for damages exceeding $300. As in the public action,[127] each injury must: (1) arise out of the same transaction or occurrence, or series of transactions or occurrences; and (2) present a substantial question of law or fact common to the class. There must also be a representative party who, with counsel, adequately represents the class interests.[128]

As in the public action, the bill substitutes a class size requirement for the impracticability of joinder test of Rule 23(a) to avoid unnecessary litigation. Other unnecessary prerequisite complexity is also reduced substantially and the common transaction and adequacy of representation aspects of private initiated, collective relief are emphasized.[129]

B. Preliminary hearing

Section 3013 sets out a preliminary hearing procedure also similar to that in the public action.[130] After the same limited discovery the court must determine that the class representative has shown that the prerequisites have been met and that there are "sufficiently serious questions going to the merits to make them fair grounds for litigation." If an action does not fulfill the compensatory action prerequisites, but would otherwise meet the requirements of a public action, the plaintiff shall have leave to amend the complaint.[131]

Failure of an injured person to respond to discovery—prior to or following the preliminary hearing—may not be grounds for excluding him from the class.[132]

C. Adequacy of representation

If the action continues following the preliminary hearing, the court must direct notice "reasonably necessary to assure adequacy of representation" and "fairness" to all persons included in the class.[133] Since individual amounts in controversy are substantially greater in compensatory actions, individual notice may sometimes be justified despite its additional complexity and cost. The revised standard for notice supersedes the present language of Rule 23(c)(2).[134]

A person so apprised may be required either to opt out or into the action by notifying the court of his preference.[135] Before imposing an opt-out or opt-in requirement the court must determine the likelihood that the size or kind of individual interests held by such persons would make it "feasible for them to pursue their interests separately," and whether the persons are likely to have the business sophistication and resources to conduct their own litigation.[136] This determination is discretionary with the trial court in each case.

Only individuals with large stakes, in the neighborhood of $10,000, or unusual claims or defenses, should be required to opt-in. These persons should be accorded greater protection from inadequate representation than an opt-out procedure provides. The larger or more unique the interest the greater the impetus to pursue a separate, more adequate remedy and perhaps a different litigation course. Such persons are also more likely to consult counsel and to reach a more fully informed decision than those with smaller claims.

D. Amount of class recovery

Section 3014 takes a large step toward making present Rule 23(b)(3) compensatory actions triable and settles current-procedural disputes as to the management of damage calculation.[137] The amount of actual damages to each person may be "proven by any method permitted or required by law." Damages often cannot be proven expeditiously if the court finds that each class member's proof of damage must be made at trial[138] for reasons of statutory or constitutional policy. If this is so, the court is mandated to take three steps.

First, if it does not impair the Constitutional rights of any party,[139] the court shall try liability issues separately from actual damage issues. Second, if liability is found, the defendant is required to identify from his business records, or any other reasonably available source, persons likely to have been injured and the extent of their injury. Third, individual notice is to be sent to these persons. Additional notice shall be sent to those who are likely to have been injured, but have not been identified from the business records or similar sources.[140] All these steps are to be undertaken at defendant's expense.

IV. MANAGEMENT OF PUBLIC AND CLASS COMPENSATORY ACTIONS

A. Management of concurrent actions

Public and class compensatory actions are complementary procedures rather than mutually-exclusive choices, and not infrequently the overlapping statutory coverages of sections 3001(a) and 3011(a) will mean that both will be brought simultaneously.

Where overlapping or multiple claims are brought separately in different districts, and by separate relators or representative parties, section 3021 provides notwithstanding present law [141] for mandatory transfer to and consolidation in any district court of all public and class compensatory actions arising out of the same transaction or occurrence, to the extent "feasible." Unlike the temporary transfer procedures for pretrial now available in multidistrict litigation under section 1407 of title 28, transfer and consolidation under section 3021 is of the entire action and is permanent. Mandatory notice to the judicial panel on multidistrict litigation of the filing of public and class compensatory actions is required, as well as notice of a "civil action that the court believes could be consolidated with a public action or a class compensatory action."

Also, where public and class compensatory actions are not brought simultaneously a public action cannot be dismissed at the preliminary hearing for failure to meet the prerequisites of that action if it meets the prerequisites of the compensatory action unless the plaintiff has had leave to amend the complaint. This procedure also applies to the dismissal of a compensatory action.[142]

If simultaneous pursuit of a public and a class compensatory action is desirable, a person may seek alternative forms of relief under Rule 8(a), Fed. R. Civ. P., by initiating a public action as relator on behalf of the United States while simultaneously seeking class compensatory relief as a representative party. These alternative claims may be present in the original pleading, or may appear later by amendment, when injury estimates become better defined.[143] The preliminary discovery authorized by sections 3003 and 3012 provides a means to reconcile possibly discrepant injury claims between the actions. In its order describing the scope of each action following the preliminary hearing, the court may direct appropriate changes in the alignment of relators or representative parties to avoid inconsistent findings in the two actions.

After the preliminary hearing the court may prescribe schedules to govern discovery, and simultaneous or coordinated proceedings following that discovery. It may in its preliminary order describing the scope of

each action provide for consolidated or coordinated trial of each. Although multiple and overlapping actions are required to be consolidated in a single district, there is no requirement that they be tried in a single proceeding.

Section 3028(b) authorizes the district court to order that either a public or class compensatory action be divided into two or more separate actions as may be required in the interest of case management, provided that each of the resulting action continues to meet the prerequisites of section 3001(a) or 3011(a).

A person who claims injury not exceeding $300 may not intervene in a public action, whether or not it overlaps a class compensatory action. That person's compensatory interests are preserved by the subsequent right of compensation from the United States in any action where the United States prevails and intervention would not, in any event, be likely in view of the relatively small size of such individual claims.

A person who claims injury exceeding $300 may either claim compensation under section 3007(f)—and waive further rights of federal action—or pursue any other remedy available.

Judgment on the merits in a public action is conclusive against the defendant against whom the judgment was entered; the United States, any person injured not exceeding $300; and any other person who has received or been denied payment under section 3007(f) regardless of the size of their claim. Otherwise, the judgment will not impair or impede the interests of persons with claims exceeding $300 who retain the right of individual or class compensatory relief. Consequently they will seldom be entitled to intervention of right in the public action. The court may, however, allow permissive intervention, based upon a common question of law or fact between such persons' compensatory claims and those of the United States in the public action.[144]

A judgment on the merits in a class compensatory action is conclusive against the defendant for whom or against whom the judgment was entered, and any injured person who remained in or entered the action pursuant to section 3013(e).

B. Adequacy of representation

The key to effective handling of complex actions is responsible counsel and judicial management. The adequacy of counsel's performance has not received sufficient attention under present law. Although federal courts have had to confront the question of adequacy of representation on a regular basis, the doctrine which has developed under Rule 23 "hardly extends beyond an often empty requirement that . . . attorneys be competent and an unfocused hostility to classes whose members are in disagreement or in different situations." [145] This inquiry normally focuses on subclassing and intervention to cure conflicts.[146] It does not necessarily examine the attorney's past class or complex litigation performance.

The primary focus of section 3022 is on counsel, rather than on the named parties, for counsel is the officer of the court and, as Professor Dam has pointed out, there is normally no real client supervision in a class action.[147]

In a public action by relation or in a class compensatory action, section 3022(a) requires that the court consider the training, experience, and past performance of counsel in past public or class compensatory actions or other complex litigation. This section should be read in conjunction with the public interest representations permitted attorneys general under sections 3002(b)(3)(c) and 3002(b)(4).

The court must also examine the extent to which the representative party in a class compensatory action has interests common to those of the class or any fundamental interests antagonistic to those of the class.

Initially the court is to make these adequacy of representation determinations on its own motion without the benefit of oral or written argument or motion by the parties.[148] Affidavits [149] requested by the court are to be filed. Thereafter, the court may request the parties to brief or argue particular issues. This approach gives absolute judicial control over an essential [150] policy evaluation. It also curbs harassing motion practice [151], and moots the question of whether denials of disqualification motions are appealable.[152]

C. Aids to judicial management

1. Litigation Timetables

Section 3024 requires the use of litigation timetables in both public and compensatory actions. Suggested timetables must be submitted by the parties within 10 days of the preliminary hearing determination. By this point the parties' sense of the time requirements of the action should be accurate. After considering the suggestions, the court shall promulgate a timetable within 30 days which may be amended thereafter.

2. Expediting Judicial Rulings

Section 3025 provides that the Judicial Council of each circuit shall prescribe guidelines pertinent to judicial rulings or opinions pending beyond a reasonable time. Under the proposed statute the clerk of the court shall within 10 days notify the Judicial Council of the appropriate circuit of any rulings or motions pending longer than Council guidelines. The circuit executive must inquire as to the causes for delay and report the response "promptly" to the Council. The Council is to expedite these filings using any resource available.

Unfortunately, little empirical data exist to define the extent by which class damage motions and opinions are delayed.[153] However, lawyers frequently noted during the consultation that it was not uncommon for the court to postpone rulings and orders in the hope that settlement would make the expenditure of judge time unnecessary. Judicial officers hostile to the class action will tend to delay class certification determinations.[154]

Expeditious rulings, especially during the pretrial period, are essential to the efficient and fair conduct of litigation. "Failure by the judge to so [rule], leads to disappointment, confusion, inordinate delay, and injustice." [155] The preliminary hearing determination is of particular importance in the proposed statute as is made clear by the Manual for Complex Litigation:

"[I]f the determination whether the action proceeds as a class action is delayed, serious injustices may result, and avoidable procedural difficulties of great magnitude may ensue . . . [For example,] [i]f discovery proceeds in the action while the class action request remains undetermined, and the court later determines that the action may be so maintained, the discovery may be unusable because of the absence of parties and absence of representation of the members of the class." [156]

D. Settlement

Section 3026 expands the present Rule 23(e) settlement requirements as they apply to the compensatory or public actions.[157] It explicitly requires that, if settlement is reached prior to the entry of the preliminary hearing pretrial order, the court shall assure that the judgment entered after settlement describes both the common transaction or occurrence out of which the action arose and the scope of the action. It also requires that parties favoring settlement demonstrate the fairness of settlement.

Recent empirical studies demonstrate that present class settlements are often not adequately supervised by the court: "[a] factor in the poor level of success of plaintiff antitrust complaints . . . has been the willingness of plaintiff attorneys to enter, and courts to approve, settlements that benefit the attorneys rather more than the class or the public." [158] A recent study of security actions in the Northern Distrrict of Texas shows that many settlements result in no recorded judgment and may be used to leverage an attorney fee or recovery for class representatives alone. If there is a recorded judgment, the order often is uninformative.[159]

The plaintiff attorney can be too willing to accord the defendant a broad class definition (and broad *res judicata* protection) as an incentive for early settlement benefitting the named representative and the attorney. The court should assure that settlement proceedings do not unfairly prejudice the interests of absentee class members.[160]

Section 3026(a) does not require class certification prior to settlement in a compensatory action. However, it does recognize some of the valid objections to the practice of forming tentative settlement classes which may not represent all interests.[161]

Before any settlement is approved in a compensatory action, the court must first determine the likely scope of the action based on such settlement discovery as it may order or which the parties have undertaken. At the settlement hearing the court should encourage representation of diverse interests. It is not appropriate that the court merely present the settlement to the class and give them an opt-out or opt-in privilege alone.[162] Parties dissatisfied should be encouraged to participate in the settlement hearing. This procedure addresses the major concern of those opposed to tentative settlement classes,[163] without requiring prior formal certification.

Similar steps to assure fairness are to be taken in the public action settlements. Any public action settlement must have the approval of the United States.

E. Attorney's fees

Section 3027 provides a framework for calculating attorney's fees awarded in public and class compensatory actions. Under existing law, [164] calculation of attorney's fees has been the source of considerable litigation: [165]

"Given the frequency with which the courts are confronted with the task of fee setting and the impact it has upon the allocation of legal resources, one would expect a general consensus to have emerged on the manner in which reasonable attorneys' fees should be determined. On the contrary, there are nearly as many approaches as there are judges. The Supreme Court has never addressed the question, and many of the courts of appeals have left the matter substantially to the discretion of the district court. As a result, many lower courts have confronted the problem with little or no analysis; those courts that have been more analytical have adopted widely varying approaches. To a great extent, the outcome of these cases depended upon 'the throw of the dice'—from court to court and from case to case." [166]

Of particular concern is the possibly arbitrary use of such factors as "contingent nature of success" or "quality of attorney's work" to multiply awards based on hourly charges. " 'The widespread adoption of [the hours and risk factor award method] has not meant insurance against abuses of the class action.' " [167]

Under section 3027(a) attorney's fees awarded in a public or class compensatory action must be based solely upon the nonduplicative time found to have been "reasonably spent" on the action by the attorney.[168] The court must encourage attorneys to use less-expensive administrative personnel by allocating hours to them—instead of to attorneys—if this personnel could reasonably have performed the task.

Footnotes at end of article.

Subsection (b) directs the court to value the hours reasonably expended at an "hourly rate most commonly billed by the attorney for similar services at that time such services were provided." If counsel does not normally conduct hourly billing, the court shall examine the fair market value of the hours based on rates charged by others. Time of administrative personnel must be valued at market value, rather than at cost. A cost-based formula would encourage law firms to use attorneys rather than administrative personnel against the interests of efficient low-cost adjudication.[169]

Subsection 3027(c) authorizes the court to measure the amount of attorney's fees awarded by multiplying the hourly rate determined under subsection (b) by factors which reflect the varying risk of committing possibly uncompensated time at each stage of litigation.[170] The result is not to be further altered by any allowance for the perceived quality and ability of counsel, since these factors are reflected in the hourly billing rate itself.[171] The total compensation achieved shall not exceed a reasonable portion of the recovery.[172]

The premise underlying these risk multiples is that the degree of risk varies directly with the relative uncertainty of success at each major stage of the lawsuit. Section 3027 (c) sets out a range within which the court may apply a risk multiple to counsel's fee. Lower risk factors would be applied to a case which carried a high likelihood of success or in which counsel relied to a "substantial extent" on the products of prior litigation. Higher risk multiples would reward attorneys who brought more risky meritorious lawsuits or who had not relied on products of a prior proceeding. Also, in actions where there had been no substantial reliance on a prior litigation, section 3027(c) allows a higher risk factor range before the preliminary hearing because assessment of uncertainty is more difficult and risk higher due to lack of information.

Minimum and maximum risk multiples are specified to prevent arbitrary swings in risk factor application and to guard against creating "an uneasy tension between the attorneys' duty to press their clients interests vigorously . . . and the fear that . . . they may literally pay the price at the close of the lawsuit."[173] Or more generally, attorney ardor can be cooled if it is known that a particular district is hostile to class damage actions,[174] and manifests this hostility by employing abnormally low risk factors.

Subsection (e) "addresses an important current question"[175] by mandating that total compensation paid counsel for a litigation can be no greater than authorized by section 3027. In view of the generous risk multiples authorized, there is no justification for an attorney to receive a private percentage-of-recovery contingency compensation greater than the fee award to his client. There is even less justification for an attorney to receive such compensation in addition to the fee award, if, by arrangement, the fee award is passed to an attorney by the client.

F. Miscellaneous provisions

Section 3028 makes it clear that all the management options available to the courts under the Federal Rules of Civil Procedure apply in a public or class compensatory action. Because it is of special importance, the trial court is given the explicit authority to order separate trials of liability and damage issues to expedite the proceedings.

Section 3029 would assure that the $300 injury line between the public and class compensatory actions, as well as dollar amounts pertinent to the incentive fee, and to the payment of exceptionally small claims under the public action, will be adjusted periodically to reflect the economic realities of inflation and deflation.

Sections 3030(b) and 3030(e) harmonize the application of the proposed statute with specialized class damage provisions in other statutes, *e.g.*, the Magnuson-Moss-Warranty—Federal Trade Commission Improvement Act, 15 U.S.C. § 2310(d)(3)(c) and (b) and the Fair Labor Standards Act, 29 U.S.C. 216(b).[176]

Subsection 3030(c) assures that certain limitations on aggregate liability contained in recent enactments will be maintained in the public and class compensatory actions. Subsection (d) preserves the parens patriae actions authorized by the Hart-Scott-Rodino Antitrust Improvements Act of 1976 as they apply to public and class compensatory action procedures. However, special management provisions concerning preliminary hearings, calculation of damages in the compensatory actions, transfer and consolidation, effect of judgments, litigation timetables, expediting of judicial rulings, settlement, attorney's fee awards, and separate trial of issues in public and compensatory actions will apply to the extent not inconsistent with that Act.

Section 4 of the bill establishes a uniform federal procedure for the appeal of orders of the district courts which either permit or refuse to permit actions to go forward as public or class compensatory suits pursuant to sections 3004(c) and 3013(c). Either party may petition the circuit for leave to appeal within 20 days of the entry of the preliminary hearing order. In so doing the bill responds to the recent invitation by the Supreme Court[177] to seek special appeal procedures where it is likely that a denial of public or class compensatory action status will end litigation of possible meritorious underlying claims.[178] An order allowing an action to continue under section 3004(c) or 3013(c) significantly increases the defendant's litigation burden and adds substantially to the costs of litigation, the risks of potential classwide liability, and the pressures for an early settlement on terms favorable to the relator or class representative. Its impact on the class opponent is fully as heavy as a denial would be on the class, or the United States in a public action. In view of these major consequences, it is appropriate to allow either party an early appellate test of this limited, but important, issue under expedited and discretionary procedures.

FOOTNOTES

[1] For background on the 1966 amendments, *see* Advisory Committee on Civil Rules, Proposed Rules of Civil Procedure, 39 F.R.D. 95 (1965).

[2] *Eisen v Carlisle & Jacquelin*, 417 U.S. 156, 173–77 (1974).

[3] *See, e.g., Reiter v. Sonotone Corp.*, No. 77-1474 (8th Cir. June 19, 1978); *Windham v. American Brands, Inc.* 565 F.2d 59, 71–72 (4th Cir. 19), *cert. denied*, 46 U.S.L.W. 3643 (1978).

[4] Notes 5, 42–43 *infra* & accompanying text. *See also* Senate Judiciary Committee Minority Views, The Antitrust Enforcement Act of 1978, S. Rep. No. 95-934, Pt. 2 95th Cong. 2d Sess. (1978).

[5] *Responses to the Rule 23 Questionnaire of the Advisory Committee on Civil Rules, as reprinted in* 5 Class Action Rep. 10, 17 (1978) [hereinafter cited as *Rule 23 Questionnaire Responses*] (48 percent of legal practitioners found Rule 23 in need of amendment due to its wasteful character; 71 percent of 62 defense attorneys felt that present rule "encourages defendants to settle rather than defend on merits" because of size of potential recovery, with a plurality of 39 percent of attorneys representing neither plaintiffs nor defendants concurring with this view; 205 respondents from the entire profession, or 57% favored requiring more affirmative participation in the lawsuit by class members; 211 respondents from the entire profession, or 57%, found that "Rule 23" placed "the lawyer in the position of an entrepreneur.") *See also* Handler, *The Shift from Substantive to Procedural Innovations in Antitrust Suits*, 71 Colum. L. Rev. 1, 11 (1971) (defense viewpoint that new small claim machinery needed).

[6] Institute for Public Interest Representation (Geo. Univ. Law Ctr.), Comments on OIAJ Dec. Draft (1978); Letter from Ad Hoc Public Interest Committee on OIAJ Dec. Draft to OIAJ (Jan. 3, 1978) (signed on behalf of the Americans for Democratic Action, Consumer Federation of America, Council for Public Interest Law; National Consumers League, Public Citizens Congress Watch, Public Citizens Litigation Group).

[7] Letter from Durham J. Monsma, Staff Counsel, Times Mirror Corp. to OIAJ (Jan. 17, 1978). *But see* United States Chamber of Commerce, *Statement on OIAJ Dec. Proposal* 3 (1978) (no need for urgent change); Bristol-Myers Co., Merck & Co., and Pfizer, Inc., *Comments on Draft Statute Proposed by OIAJ* 1 (1978) (Rule 23(b)(3) "fine tuning" all that is required).

[8] *The Chilling Effect of Litigation, Business Week* 59, 62 (June 6, 1977); *The "Legal Explosion" Has Left Business Shell Shocked, Fortune* 65, 66 (April, 1973).

[9] President's Message to Congress, 13 Weekly Comp. of Pres. Doc. 497 (April 11, 1977); Address by Vice President Mondale to the Second Judicial Circuit Conference (Sept. 10, 1977). *See also* Address of President Jimmy Carter to Los Angeles Bar Ass'n (May 4, 1978).

[10] *Hearings on Confirmation of Griffin B. Bell, Senate Comm. on the Judiciary*, 95th Cong., 1st Sess. 103 (1977).

[11] Address by Vice President Mondale, note 9 *supra*.

[12] Address of Senator Edward M. Kennedy, National Center for State Courts (March 21, 1978).

[13] *Rule 23 Questionnaire Responses, supra*, note 5, at 3.

[14] *Id.* at 17. *See also* American Bar Ass'n., Report of Pound Conference Follow-up Task Force 30–31 (1976).

[15] H. Friendly, Federal Jurisdiction: A General View 18–20 (1973).

[16] *Illinois Brick Co. v. State of Ill.*, 431 U.S. 720 (1977); *Reiter v. Sonotone Corp.*, No. 77-1474 (8th Cir. June 19, 1978).

[17] *Developments in the Law of Class Actions*, 89 Harv. L. Rev. 1318, 1625–1630 (1976) (eight suggested revisions of Rule 23 as well as call for more analysis of impact on substantive law; *see* Proposed § 3006(a) & comment).

[18] Note, *To Right Mass Wrong: A Federal Consumer Class Action Act*, 13 Harv. J. Legis. 776 (1976); Note, *The Rule 23(b)(3) Class Action: An Empirical Study*, 62 Geo. L. J. 1123, 1166 (1974) [hereinafter cited as Senate Commerce Study] ("[T]he study [has] identified a group of cases in which management of notice and damage methods under present [Rule 23(b)(3)] became difficult or impossible. Those cases usually involve both very large classes and several individual claims-frequent characteristics of consumer class litigation."); Handler, *supra* note 5.

[19] [J.] Kennedy, *Securities Class and Derivative Actions in the United States District Court for the Northern District of Texas*, 14 Houston L. Rev. 769, 832 (1977) [hereinafter cited as *Securities Study*] (most actions settled; revision of settlement procedures needed).

[20] Duval, *The Class Action as an Antitrust Enforcement Device: The Chicago Experience (II)*, 1976 Am. Bar Foundation Res. J. 1273, 1353–58 (1976).

[21] 28 U.S.C. § 2072.

[22] Text in letter from Hon. Rossel C. Thomsen, Standing Committee Chairman, Committee on Rules of Practice and Procedure, to Standing Committee (March 14, 1978).

[23] Note 5 *supra*.

[24] [1977] Antitrust & Trade Reg. Rep. (BNA) A–19, F–1 (Dec. 8, 1977).

[25] §§ 3001–3007 (public action).

[26] §§ 3011–3014 (class compensatory action).

[27] §§ 3001(a) (the public action is brought by relation on behalf of United States); 3022 (adequacy of representation of United States' interests); 3026(b) (approval by United States of public action settlement).

[28] §§ 3002(b)(1) (United States assumption of actions brought on its behalf); 3002(b)(4) (discretionary "not in the public interest" statement by United States); 3005(a) (incentive fee to persons bringing action on behalf of United States); 3007(c) (compensation of injured persons in successful public actions); 3022 (adequacy of representation of United States); 3026(b) (United States approval of settlement). *See also* discussion *infra* at II.E. (United States representation of injured persons' interests).

[29] § 3005 (incentive fee for private relator).

[30] §§ 3001(d) (factual pleading with particularity); 3002(b)(4) (discretionary public interest recommendation by United States); 3022(a) (counsel's experience with complex litigation); 3026 (closer judicial scrutiny of settlement; 3027 (rationalization of compensation to provide generous, but not excessive, return to successful relator counsel).

[31] §§ 3004(a), 3013(a) (preliminary hearing determinations); 3006, 3014 (expeditious proof of recovery); 3007 (public action claims administration outside district court); 3021–22, 3024–25, 3027 (management provisions pertinent to transfer; adequacy of representation; timetables; expediting judicial rulings; settlement; codification of fee award standards).

[32] A qualitative analysis of the work load impact of various provisions in the bill has been prepared by the Office for Improvements in the Administration of Justice and is available on request. It is commissioning a quantitative analysis for the 96th Congress' consideration.

[33] §§ 3004(a), 3013(a) (preliminary hearings); 3014, 3028(b) (separate trial of issues).

[34] § 3025.

[35] For examples of similar actions by relation, *see generally* Cappelletti, *Vindicating the Public Interest Through the Courts: A Comparativist's Contribution*, 25 Buff. L. Rev. 643 (1976); Homburger, *Private Suits in the Public Interest in the United States of America*, 23 Buff. L. Rev. 343 (1973).

[36] §§ 3002(b)(1), 3002(b)(4).

[37] A list of illustrative federal statutes covered has been prepared by the Office for Improvements in the Administration of Justice and is available on request. Public actions cannot, however, be based upon statutes pertaining to hours, wages or other terms and conditions of employment, including discrimination in employment, *e.g.*, 29 U.S.C. § 206 (Fair Labor Standard Act); 42 U.S.C. § 2000e *et seq.* (Title VII); 29 U.S.C. § 206(d) (1970) as amended 29 U.S.C. § 213 (a) (1976) (Equal Pay Act). These actions may continue as either compensatory actions, § 3011(a), or under unaffected Rules 23(b)(1) and 23(b)(2), Fed. R. Civ. P.

[38] Even under the bill's formulation, there could be rare instances where the United States is on both sides of the lawsuit. Section 3001(e) provides the court the tools to avoid any possible collusion.

[39] *See, e.g.*, Dam, *Class Actions: Efficiency, Compensation, Deterrence and Conflict of Interest*, 4 J. Legal Stud. 47 (1975); *Class Actions: A Symposium*, 12 San Diego L. Rev. 1 (1974); *Class Action Symposium*, 68 Nw.U.L. Rev. 991 (1974).

[40] *As quoted in* Report on the Antitrust Enforcement Act of 1978, S. Rep. No. 95-934, Pt. 1, 95th Cong., 2d Sess. 21 (1978).

[41] *See* K. Elzinga and W. Breit, *The Antitrust Penalties* 118 (1976).

[42] *Rule 23 Questionnaire Responses, supra* note 5, at 10; note 4 *supra*.

[43] *Eisen v. Carlisle & Jacquelin*, 391 F. 2d 555, 571 (2d Cir. 1968) (Lumbard, J. dissenting). S. Rep. No. 95-1397 Pt. 2, *supra* note 4 (remarks of Richard Posner) (incentive for plaintiff lawyer in consumer class action to settle for small judgment and large attorney fee; no incentive for class member to supervise attorney); *Securities Study, supra* note 19, at 830; DuVal, *supra* note 20, at 1357; Senate Commerce Study, *supra* note 18, at 1136–37.

[44] *See* Report on Hart-Scott-Rodino Antitrust Improvements Act of 1976, H. Rep. No. 94-449, Pt. 1, 16 (1976).

[45] *Windham, supra* note 3, at 70; *Philadelphia v. American Oil Co.*, 53 F.R.D. 45, 72–73 (D. N.J. 1971). *Harvard Developments, supra* note 17, at 1516.

[46] Chamber of Commerce of the United States, A Handbook on White-Collar Crime 6 (1974).

[47] *Fair and Effective Enforcement of the Antitrust Laws: Hearings on S. 1874 Before the Subcomm. on Antitrust and Monopoly of the Senate Comm. on the Judiciary*, 95th Cong., 1st Sess. 1 (1977) [hereinafter] cited as *Hearings on S. 1874*] (statement of Senator Kennedy).

[48] 15 U.S.C. §§ 2310(d)(3),(e). *See* § 3030 (b).

[49] 15 U.S.C. § 1640(a)(2)(B). *See* § 3030(c).

[50] 15 U.S.C. § 15c.

[51] 15 U.S.C. § 15c(a)(1).

[52] *Id.*

[53] 15 U.S.C. § 12 *et seq.*

[54] 15 U.S.C. § 13.

[55] 15 U.S.C. § 15c(a)(1).

[56] 15 U.S.C. § 15d.

[57] *See* note 44 *supra* and accompanying text.

[58] *Hearings on S. 1874, supra* note 47, at 103.

[59] Remarks of Joe Sims, Deputy Assistant Attorney General, Antitrust Division, Before the American Bar Association Section of Antitrust Law (April 6, 1978).

[60] *See* text accompanying notes 46–47 *supra*.

[61] W. Mueller, *A Primer on Monopoly and Competition* 117 (1970).

[62] M. Green, *et al.*, *The Closed Enterprise System* 130 (1972).

[63] Note 124 *infra*.

[64] S. Rep. No. 95-1397 Pt. 1 *supra* note 40, at 19.

[65] In the case of the public action, an incentive fee. *See* discussion *infra* at II.F.

[66] *See* discussion *infra* at II.F., IV.E.

[67] Note 65 *supra*.

[68] Relevant portions of the bill defining the United States' control are §§ 3001(a) (public action on behalf of the United States); 3002 (a) (service on United States of a copy of summons, complaint, and information relevant to prosecution of action); 3002(b) (United States or State assumption and public interest recommendation); 3002(c) (role of relator attorney if assumption or reference occurs); 3003(c) (notice of relator discovery served upon the Attorney General of the United States); 3005(a) (incentive fee, costs and expenses for relator); 3007 (public recovery fund administered by Administrative Office of the United States Courts); 3022 (representation of United States' interests by relator); 3026(b) (United States approval of public action settlement).

[69] § 3001(a).

[70] § 3001(d).

[71] *See, e.g.*, Fed. R. Civ. P. 13, 20 (counterclaims and cross-claims; joinder); 9 C. Wright and A. Miller, Federal Practice and Procedure §§ 1410, 1653 (1972) [hereinafter cited as Wright & Miller] (Rules 13, 20).

[72] *See* C. Wright, Law of Federal Court § 71 (1972) (Rule 20).

[73] *Harvard Developments, supra* note 17, at 1505–06; Landers, *Of Legalized Blackmail and Legalized Theft: Consumer Class Actions and the Substance-Procedure Dilemma*, 47 S. Cal. L. Rev. 842, 862 (1974).

[74] *Green v. Wolf Corp.*, 406 F. 2d 291 (2d Cir. 1968), *cert. denied sub nom. Troster, Singer & Co. v. Green*, 395 U.S. 977 (1969); *Harvard Developments, supra* note 17, at 1505–06; 7A Wright & Miller, *supra* note 71, § 1778 nn. 30–32 (1972).

[75] *In re Antibiotic Antitrust Actions*, 333 F. Supp. 278, 287 (S.D.N.Y. 1971).

[76] *Harvard Developments, supra* note 17, at 1506 n.262; Landers, *supra* note 73, at 863.

[77] *Harvard Developments, supra* note 76; Landers, *supra* note 73; 7A Wright & Miller, *supra* note 71.

[78] *Harvard Developments, supra* note 17, at 1455 n.6, 1506–07 & accompanying text. *Windham, supra* note 3, at 66–72.

[79] §§ 3001(b) (no treatment of cross-claims, counter-claims, or pendent jurisdictional claims); 3006(a) (possible election of most expeditious proof of recovery); and 3006(c) (no individual proof of claims in public action).

[80] *Harvard Developments, supra* note 17, at 1459–63.

[81] *See* discussion *infra* at II.E.

[82] *Harvard Developments, supra* note 17, at 1498 n.230.

[83] *See* discussion *infra* at II.G.

[84] Subject to the United States' right to petition for a postponement given an ongoing federal or State investigation. § 3004(a).

[85] *See* Patrick, *Initial Evaluation of a Class Action by Plaintiff's Counsel*, ALI–ABA Course of Study Materials: Class and Derivative Actions 3–4 (1978) [hereinafter cited as ALI–ABA Materials]; Blecher, *Is the Class Action Doing the Job?*, 55 F.R.D. 365, 370 (1972). *Rule 23 Questionnaire Responses, supra* note 5, at 32 (written responses). Text *infra* at IV.C.

[86] *Jacobson & Co., Inc. v. Armstrong Cash Co.*, 548 F.2d 438 (2d Cir. 1977); *Sonestal International Hotels Corp. v. Wellington Associates*, 483 F.2d 247, 250 (2d Cir. 1973) (Mansfield, J.); *Gulf and Western Industries, Inc. v. The Great Atlantic and Pacific Tea Co.*, 476 F.2d 687, 692 (2d Cir. 1973).

[87] It is enough that the claims raised contain issues ripe for litigation. *See Jacobson & Co., Inc., supra* note 86, at 442–43.

[88] *Columbia Pictures Industries, Inc. v. American Broadcasting Co.*, 501 F.2d 894, 897 (2d Cir. 1974).

[89] *Gulf and Western Industries, supra* note 86, at 693 n.6 (five depositions over two days).

[90] *Rule 23 Questionnaire Responses, supra* note 5, at 24 (63 percent of 375 lawyers responding favored amending Rule 23(b)(3) to require plaintiffs to show a "reasonable likelihood" of success on the merits; 79 percent of 24 circuit judges and 77 percent of 145 district court judges favored a merits hearing before certification); DuVal, *supra* note 20, at 1305; *Harvard Developments, supra* note 17, at 1418; Los Angeles Class Action Manual § 421.2; Senate Committee Study, supra note 18, at 1126; Committee on Class Actions of ABA Section of Corp., Banking and Bus. Law, *Recommendations Regarding Consumer Class Actions for Monetary Relief*, 29 Bus. Lawyer 957, 958 (1974).

[91] Subject to §§ 3002(a), 3003(c) 3026(b) (United States approval of withdrawal or settlement; notice of discovery served on United States).

[92] § 3002(b)(3). *See* discussion *infra* at II.I.

[93] § 3002(b)(4).

Cf. National Conference of Commissioners on Uniform State Laws, Uniform Class Actions [Act] [Rule] § 9(a)(4) [hereinafter cited as UCCA] (State attorney general participation in adequacy of representation determination).

[94] § 3002(c).

[95] § 3004(c).

[98] § 3024(a).

[99] § 3003(a).

[100] § 3003(b). UCCA, *supra* note 93, § 10(a) (discovery of absentees only by leave of the court). For the same phrasing, *see* Rule 26 (b)(3) Fed. R. Civ. P., (trial preparation: materials).

[101] Wright & Miller, *supra* note 71, § 2025 nn.86–90 (emphasis on importance of materials to case); *id.* nn.72–73 (no discovery if for example information is obtainable by witness deposition).

[102] *Harvard Developments, supra* note 17, at 1147 n.275. For a less demanding test for absentee discovery, *see, e.g., Brennan* v. *Midwestern United Life Insurance Co.*, 450 F.2d 999 (7th Cir. 1971), *cert. denied*, 405 U.S. 921 (1972).

[103] Blecher, *Discovery of Absent Class Members . . .*, ALI-ABA Materials, *supra* note 85, at 59–60; Newberg On Class Actions, § 2820a [hereafter cited as Newberg].

[104] § 3006(c).

[105] Note 43 *supra*.

[106] § 3022(a); *see* discussion *infra* at IV.B.

[107] § 3027.

[108] *Securities Study, supra* note 19; DuVal, *supra* note 20; Senate Commerce Study, *supra* note 18. Note 43 *supra*.

[109] § 3005(a).

[110] § 3032(a)(3).

[111] § 3007.

[112] The opinion is available upon request. *See also Harvard Developments, supra* note 17, at 1528; Comment, *Importance of Being Adequate: Due Process Requirement of Class Actions Under Federal Rule*, 123 U. Pa. L. Rev. 1217 (1975); Dam, *Class Action Notice: Who Needs It?* 1974 Sup. Ct. Rev. 97, 112 (1974).

[113] Note 43 *supra*.

[114] *See* discussion *supra* at II.A.3.

[115] Some courts have even gone so far as to interpret this lack of substantial interest as a ground for disqualifying an injured person as a class representative. *See, e.g., Rollins* v. *Sears, Roebuck & Co.*, 71 F.R.D. 540 (E.D. La. (1976).

[116] *Id.*; note 43 *supra*.

[117] *See also* § 3005(b) (division of incentive fee if separate action mandated).

[118] *See, e.g., Hearings on S. 1874, supra* note 47, at 47 (Statement of Harold E. Kohn): ("It is easier in my opinion to show [unjust enrichment] concentrated in the hands of conspirators than it is to [seek individual proof of injury].")

[119] *See Harvard Developments, supra* note 17, at 1523–36.

[120] §§ 3006(b)(2), 3006(c). *See* Manual for Complex Litigation § 1.43 (1978) [hereinafter cited as Manual.]

Judge Cohn in a careful opinion, *In re Sugar Industry Antitrust Litigation*, 73 F.R.D. 322, 350–55 (E.D. Pa. 1976), examined policies articulated in Rule 703, Fed. R. Evid., the Manual (§ 2.712), and the Constitution. He makes a forceful argument for more aggressive use of polling technique as a management device.

See also Sanders v. *Levy*, 556 F.2d 636 (2d Cir. 1977), *cert. granted on other grounds sub nom. Oppenheimer, Inc.* v. *Sanders*, 98 S. Ct. 391 (1977); *Partain* v. *First National Bank of Montgomery*, 59 F.R.D. 56, 59 (M.D. Ala. 1973) (Johnson, J); *Milberg* v. *Lawrence Cedarhurst Federal Savings and Loan Assn.*, 68 F.R.D. 49 (E.D. N.Y. 1975); Newberg, *supra* note 101, § 11556 nn.64–66.

The House Judiciary Committee has noted "[t]he Federal courts have repeatedly permitted classwide proof of injury and damage in class actions. . . ." The Committee catalogues at least thirteen cases where classwide proof of damages has been permitted. H. Rep. No. 95–1397, *supra* note 44, at 14, 52–53 (1978); Patrick, ALI-ABA Materials, *supra* note 85, at 238–39.

[121] § 3006(d). *See, e.g.*, 15 U.S.C. § 15 (antitrust treble damage recovery). *Compare* § 3007(d) (no application to amount of claim paid).

[122] 15 U.S.C. § 15c(2). *Compare* H. Rep. No. 94–499, note 44 *supra with* § 15(c)(2). *See also Harvard Developments, supra* note 17, at 1524–36 & cases cited therein.

[123] *Compare* § 3007(d) (different timing of payment if the action is settled) *with* § 3007 (e) (payment pro rata of settlement amounts; full payment of litigated judgment amounts using where necessary funds not depleted in prior actions).

In a great majority, if not all, instances the small claims against either fund will not exhaust it.

Note 124 *infra. See generally* National Ass'n of [State] Attorneys General, *Distribution of Antitrust Class Action Proceeds* (1977). Failure to prorate settlement claims would encourage understatement of settlement amounts during negotiations.

See also §§ 3007(c), 3007(g) (no payment of claims less than $15; or of claims which cannot be assessed with reasonable accuracy).

[124] *See* discussion *infra* at II.J.

[125] Statement of John M. Shenefield, Ass't. Attorney General, Antitrust Division, Before the Appropriations Committee of the Vermont House of Representatives (March 2, 1978).

[126] *Mazur* v. *Behrens*, 1974 Trade Cases, ¶75,213 (N.D. Ill. 1974) (class members claimed only $210,000 of the $1,750,000 awarded). *Colson* v. *Hilton Hotels, Inc.*, 59 F.R.D. 324 (N.D. Ill. 1972) (only $18,980 of a $5,157,406 settlement were disbursed to class members).

[127] *Compare* § 3001(a) *with* 3011(a). Note 37 *supra*.

[128] § 3011(b). Section 3011(b) does not affect any remedy otherwise available under State statute or other state law. These judgments are affected only by estoppel. § 3023.

[129] *See* discussion *supra* at II.B.

[130] *See* discussion *infra* at IV.B.

[131] *See* discussion *supra* at II.B.

[132] *See* discussion *supra* at II.C, D.

[133] § 3013(c).

[134] § 3012(b). Manual, *supra* note 118, § 1.45.

[135] § 3013(e). *See* UCAA, *supra* note 93, §§ 7(c)–(e), (f).

[136] "[B]est notice practicable under the circumstances, including individual notice, [shall be given] to all members who can be identified through reasonable effort."

[137] § 3013(e).

[138] Rule 1711(b), Pa. R. Civ. P. (court at its discretion may mandate opt-in if it finds "individual claims are substantial" and "potential members have sufficient resources, experience and sophistication in business affairs to conduct their own litigation.")

[139] *Compare, Windham, supra* note 3, at 71–72 *with Bogosian* v. *Gulf Oil Corp.*, 561 F.2d 434, 455 (3d Cir. 1977), *cert. denied*, 46 U.S.L.W. 3527 (1978).

[140] *See Windham, supra* note 3, at 70.

[141] *See* Office of Legal Counsel Memoranda, Appendix B; *Link* v. *Mercedes-Benz of N. Am., Inc.*, 550 F.2d 860 (3d Cir. 1977) (en banc) (Gibbons, J. dissenting), *cert. denied*, 431 U.S. 93 (1977).

[142] As to the Constitutionality of such cost shifting, the Department of Justice Office of Legal Counsel has prepared a memorandum, which is available on request. *Cf.* Note, *Allocation of Identification Costs in Class Actions*, 91 Harv. L. Rev. 703, 711 n.61 (1978) (notice cost shifting prior to liability determination).

[143] 28 U.S.C. § 1407(c), (g) (permissive notice and lack of application of consolidation to United States as complainant). The Hart-Scott-Rodino Antitrust Improvements Act of 1976, 15 U.S.C. 15c *et seq.*, added subsection (h) to section 1407 permitting consolidation of parens patriae actions for all purposes.

See also Report on Clayton Act Amendments of 1976, H. R. 11942, 95th Cong., 2d Sess. § 4 (1978).

[144] §§ 3004(c), 3013(c).

[145] Fed. R. Civ. P. 4(h), 15(a)–(d).

[146] Fed. R. Civ. P. 24(a), 24(b).

[147] *Harvard Developments, supra* note 17, at 1471–72 (notes omitted).

[148] *Id.* at 1471–1498.

[149] Dam, *supra* note 39, at 59–60. *See also* [D]. Bell, *Serving Two Masters: Integration Ideals and Client Interest in School Desegregation Litigation*, 85 Yale L. J. 470, 508–09 n. 124 (1976).

[150] § 3022(a).

[151] Los Angeles Class Action Manual, *supra* note 90, § 1.1 (use of a declaration on adequacy of representation).

[152] Chayes, *The Role of the Judge in Public Law Litigation*, 89 Harv. L. Rev. 1281, 1284, 1298 (1976).

[153] *J. P. Foley & Co., Inc. v. Vanderbilt*, 523 F.2d 1357, 1360 (2d Cir. 1975) (Gurfein J. concurring) (use of disqualification motions as litigating tactic). Blecher, *supra* note 101, at 66, 68; Patrick, *supra* note 85, at 14; McLaughlin, *Appealability: . . . Disqualification of Counsel . . .* ALI-ABA Materials, *supra* note 85, at 152.

[154] McLaughlin, *supra* note 151, at 145–158; Patrick, *supra* note 85, at 14.

[155] In fiscal 1977, 600 class and non-class civil actions, and 559 motions, were held "under advisement" for over 60 days. Of these, 356 cases and 367 motions were held over 60 days but not more than six months. There were 126 cases held for between six months and one year, and 115 motions. Finally, 118 cases and 82 motions were held for over a full year. Administrative Office of the United States Courts, Report of the Director of the Administrative Office 296 (1977).

[156] *Securities Study, supra* note 19, at 801.

[157] Manual, *supra* note 118, § 1.10.

[158] *Id.* § 1.40.

[159] "A class action shall not be dismissed or compromised without the approval of the court, and notice of the proposed dismissal or compromise shall be given to all members of the class in such manner as the court directs." Fed. R. Civ. P. 23(e).

[160] DuVal, *supra* note 20, at 1340. Note 43 *supra*.

[161] *Securities Study, supra* note 19, at 811–12, 828.

[162] UCAA, *supra* note 93, § 12(a) (mandatory approval by court of settlement after a hearing). Manual, *supra* note 118, § 1.46 (greater supervision of settlements needed). *See also* text accompanying notes 42–43 *supra*.

[163] Manual, *supra* note 118, § 1.46.

[164] *Id.*

[165] *Id.*

[166] For a listing of federal statutes authorizing fee awards *see* Newberg, *supra* note 101, § 7040. *See also id.* §§ 6905a *et seq.* (equitable fund doctrine).

[167] *See, e.g., Lindy Bros. Builders, Inc.* v. *American Radiator & Standard Sanitary Corp.*, 540 F. 2d 102 (3d Cir. 1976) (en banc) (*Lindy II*); *City of Detroit* v. *Grinnell Corp.*, 495 F. 2d 448 (2d Cir. 1974) (*Grinnell I*). Berger *infra* note 166, at 291–92.

[168] [S.] Berger, *Court Awarded Attorneys' Fees: What Is "Reasonable"?* 126 U. Pa. L. Rev. 281, 283–84 (1977).

[169] Manual, *supra* note 118, § 1.47.

[170] §§ 3027(a)(1) (duplicative and "churning" hours); 3027(e) (fee award under this section and private contingent agreement compensation not to exceed proper compensation calculated under this section).

[171] *Accord, Dorfman* v. *First Boston Corp.*, 70 F.R.D. 336, 373–74 (E.D. Pa. 1976) (Lord, C.J.); *In re Gypsum Cases*, 386 F. Supp. 959, 972 (N.D. Cal. 1974), *aff'd on other grounds*, 565 F.2d 1123 (9th Cir. 1977). *Contra, Grinnell I, supra* note 165, at 473.

[172] Such an approach is now applied in some cases. Note 165 *supra*.

[173] *Lindy II, supra* note 165, at 117.

[174] § 3027(e).

[175] Berger, *supra* note 166, at 293.

[176] *Cf. Securities Study, supra* note 154 (judicial officer tendency to put off essential class determination).

[177] Manual, *supra* note 118, § 1.47.

[178] These provisions remain in full force except where they require a minimum number of named parties.

[179] *Coopers & Lybrand* v. *Livesay*, 98 S. Ct. 2754, 2458–59 (1978).

[180] *Compare Blackie* v. *Barrack*, 524 F.2d 891 (9th Cir. 1975), *cert. denied*, 429 U.S. 816 (1976); *Ott* v. *Speedwriting Publishing Co.*, 518 F.2d 1143, 1148–49 (6th Cir. 1975) *with Shelter Realty Corp* v. *Allied Maint. Corp.*, No. 77–7545 (2d Circ., Apr. 6, 1978).●

Mr. KENNEDY. Mr. President, there is widespread agreement among lawyers and judges, consumers and business people, that better procedures are required to alleviate the critical problem which have been encountered in the litigation of class damage actions. This comprehensive bill, developed after a year of intensive inquiry by the Department of Justice, will begin the debate on revision of one of our most important procedural rules. The application of rule 23(b)(3) of the Federal Rules of Civil Procedure has profound implication for effective consumer and small-business redress in areas that have held my interest for a number of years—antitrust, civil rights, and consumer rights, to name a few.

The introduction of this bill is significant because it marks the beginning of a comprehensive congressional inquiry into how present damage procedures, all too often, fail to function. My mind is still open on specific details of the bill pending hearings, but I commend the Department of Justice for a useful beginning toward passage of legislation in the 96th Congress.

This bill recognizes that the "consumer" class action—the mass, small-claim action—needs to be analyzed separately from other class actions. Until we learn to manage the mass, small-claim class action, we will in all likelihood continue to see courts erode by narrow construction substantive rights simply because the courts perceive these lawsuits as burdensome and inconvenient. The present debate over the ability of indirect purchasers to sue under the antitrust laws is an excellent example of the unacceptable and pernicious side-effects that the failure to manage the consumer class action has had.

It is easy to sympathize with the courts' motivation for limiting class actions, but in a larger sense this course appears misguided. Although class actions are more complex and time consuming than the average civil case, they can also be a most efficient way of disposing of controversies. In one proceeding—however lengthy and time consuming it may be—a judge can adjudicate the rights of thousands of persons. The class action also makes the courts accessible to those who simply could not pursue their claims individually. A defendant who has the cunning to harm a large number of people, only a small amount each should not get off the hook because of the complexities of class action lawsuits.

To achieve effective management we must look to the present application of contradictory and overly complex legal doctrines to the class damage action—doctrines which are unrelated to the efficiency-of-adjudication rationale for this procedure. In fact, they create enormous litigation inefficiencies, to the advantage to the party with the most resources, not the best case. Because of the expensive motion and discovery practices created, the litigants become emeshed in a duel of dollars until one decides the costs are too great to continue the battle.

The overwhelming advantage present class procedures give to the deep-pocket litigant undermines the procedure's role in equalizing the power of the consumer and the small businessman to deal in our courts with large public and private institutions.

The sad fact is that today small companies and private citizens are Davids without slingshots, competing against corporate and governmental Goliaths in wars of attrition which have become increasingly difficult to win.

With delaying tactics, huge legal costs, and complex litigation, large companies can effectively force small adversaries to forego any effort to vindicate their rights in court. It may be as simple as outspending smaller opponents. As Warren Avis has wisely pointed out, "small may very well be better—but not in the courts. We have reached a point in this country where, in many instances, power has become more important than justice—not the matter of who is right, but of who has the most money, time, and the largest battery of lawyers to drag a case through the courts."

Rather than face extended delays and enormous costs, the small litigants are likely under present class damage procedures to hoist the white flag of unconditional surrender, or settle a claim for much less than they are otherwise entitled. We must find ways to reduce the burdens and delays associated with class litigation—which inevitably work the greatest hardship on promising individuals and small business. The introduction of this bill assures full consideration of these issues this Congress and next.

By Mr. MATSUNAGA:

S. 3476. A bill to amend the Internal Revenue Code of 1954 to provide the same treatment, with respect to determination of sources of income, for interest paid by foreign branches of domestic banks and interest paid by foreign branches of domestic savings and loan institutions; to the Committee on Finance.

● Mr. MATSUNAGA. Mr. President, at the present time, interest on deposits, which qualify as "possession source investment income," in commercial banks in Puerto Rico is not subject to Federal tax. It recently has been determined that this exemption does not extend to similar deposits in savings and loan associations.

The disparate treatment of deposits in banks and deposits in savings and loan associations is contrary to the expressed will of Congress which is found in the Senate Committee report on Public Law 89–809—Foreign Investors Tax Act of 1966, report No. 1707, amending section 861 (a)(1) and (c) of the Internal Revenue Code.

Unfortunately, the language of the Code does not implement the congressional intent. Section 861(a)(1)(F) provides for foreign source status for "interest on deposits with a foreign branch of a domestic corporation or a domestic partnership, if such branch is engaged in the commercial banking business." Savings and loan associations are not considered to be in the commercial banking business for purposes of the Code.

The Office of Tax Legislative Counsel at the Department of Treasury has examined the problem and agrees that the anomally resulted from legislative oversight. It cannot be cured by Treasury regulation, but requires legislative action.

Today I am introducing a bill to correct this drafting oversight.●

By Mr. PROXMIRE (by request):

S. 3478. A bill to amend the One Bank Holding Company Act of 1970; to the Committee on Banking, Housing, and Urban Affairs.

CARSON CITY SILVER DOLLARS

Mr. PROXMIRE. Mr. President, at the request of the administration I am introducing legislation to amend the Bank Holding Company Act Amendments of 1970. Section 205(a) of this legislation (P.L. 91–607) authorized the public sale of approximately 3 million rare silver dollars by the Administrator of General Services under procedures recommended by the now defunct Joint Commission on the Coinage. These coins represent the last of the U.S. Government's holdings of 90 percent silver dollars. For only 13 years the Carson City Mint in Nevada produced these silver dollars. In the early 1900's, the demands for silver to support our war efforts in World War I resulted in massive coin melts, and the stored Carson City Silver dollars were thought to have been melted to meet these demands. However, in 1964 when silver was no longer used in coinage or for the redemption of silver certificates, the General Accounting Office made an audit of the Treasury's silver dollars and discovered in a Treasury vault nearly 3 million coins, most of which were uncirculated silver dollars from the long-closed Carson City Mint.

Mr. President, while receipts to the Treasury from the sale of these coins total $55.3 million, it is the administration's opinion that the guidelines set down by the Joint Commission are no longer an effective method of marketing the remaining coin inventory of approximately 1 million coins. Accordingly, the proposed amendment to section 205(a) of the Bank Holding Company Act Amendments of 1970 would allow the Administrator of General Services to conduct future sales in a less cumbersome manner than the currently authorized procedure. If enacted, the legisla-

tion would bring an estimated $24 million into the U.S. Treasury, and our committee will be happy to hold hearings on it.

By Mr. CHURCH:

S. 3479. A bill to amend title XVIII of the Social Security Act to prevent the imposition, under part B thereof, of more than one deductible with respect to expenses incurred for the purchase or rental of any particular piece of durable medical equipment; to the Committee on Finance.

ELIMINATE DOUBLE DEDUCTIBLE FOR DURABLE EQUIPMENT

● Mr. CHURCH. Mr. President, I introduce for appropriate reference a bill to correct an inequity in medicare relating to payment of a "double deductible" for the purchase of durable medical equipment.

My proposal would eliminate the possibility that a medicare beneficiary be required to meet the annual part B $60 deductible twice on the purchase of a single piece of medical equipment. Under existing law, this "double deductible" charge must be made when installment payments for the purchase or rental of equipment—such as a wheelchair—extend into more than one deductible period, or calendar year.

This inequity in existing law first came to my attention a few years ago when an Idaho resident purchased a wheelchair for cash payment in the middle of the year. She submitted a claim to medicare under part B, and it was her only claim for that year. She was notified that her deductible had been met for that year, then at $50. Under normal circumstances, she would then expect to receive reimbursement for 80 percent of the remaining "reasonable" charge for the wheelchair.

However, she did not begin receiving her installment payments from medicare until the next calendar year. She did not submit any additional part B claims the second year, and when she received a notification of an amount being applied to her second year deductible she realized that she was being charged a deductible twice on the same wheelchair.

The Department of Health, Education, and Welfare assures me that this requirement is not actually imposed on many beneficiaries, as the second year deductible is most often met through claims for other services. However, when no other claims are submitted—or claims in an insufficient amount to meet the full deductible—the additional amount would be subtracted from payments still due on the medical equipment claim previously submitted.

To my way of thinking, a medicare amount would be subtracted from pay- a deductible twice for one purchase of durable equipment.

The Department of Health, Education, and Welfare assures me that my proposal would result in only negligible additional costs to the medicare program. I am also assured that it need not impose a significant additional administrative or paperwork burden on the Medicare Bureau.

For these reasons, I urge approval of my bill.

Mr. President, I ask unanimous consent to have my bill printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3479

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first sentence of section 1833(b) of the Social Security Act is amended by inserting "(subject to subsection (f)(5)" immediately after are determinable) shall".

(b) Section 1833(f) of such Act is amended by adding at the end thereof the following new paragraph:

"(5) The deductible imposed by subsection (b) shall, insofar as such deductible relates to expenses incurred by an individual for the purchase of rental of any piece of durable medical equipment included under section 1861(s)(6), be deemed to have been met for any calendar year, if, for such calendar year and any preceding calendar years, there have been imposed, under subsection (b), reductions with respect to the purchase or rental of such piece of equipment, the aggregate of which equals $60. In determining, for purposes of the preceding sentence, the amount of the reduction under subsection (b) for any calendar year with respect to the purchase or rental of any such piece of equipment, there shall not be taken into account any expenses incurred with respect to such piece of equipment until account has first been taken of all other expenses to which the deductible imposed by subsection (b) is applicable.".

(c) The amendments made by subsections (a) and (b) shall be applicable in the case of durable medical equipment purchased or rented after December 31, 1978.

By Mr. McCLURE (for himself and Mr. WEICKER):

S. 3480. A bill to provide representation in the Senate for the District of Columbia as if it were a part of the State of Maryland; to the Committee on the Judiciary.

S. 3481. A bill to retrocede to the State of Maryland all lands within the District of Columbia except lands owned by the United States; to the Committee on Governmental Affairs.

S.J. Res. 156. A joint resolution to provide representation in the Congress for the District of Columbia; to the Committee on the Judiciary.

S.J. Res. 157. A joint resolution proposing an amendment to the Constitution to retrocede to the State of Maryland all lands within the District of Columbia except lands owned by the United States; to the Committee on the Judiciary.

THE DISTRICT OF COLUMBIA

● Mr. McCLURE. Mr. President, I am pleased to join the Senator from Connecticut in introducing a bill that would grant statehood to the District of Columbia. In my opinion, this provides a fair solution to the issue of extending full rights of political participation to all citizens of the District, and at the same time avoids the insurmountable constitutional objections that mar other proposals, including the recently approved House Joint Resolution 554.

Granting statehood to the District would not only guarantee to District of Columbia residents voting representation in both Houses of Congress, under article I of the Constitution. They would also be able to participate in the process of ratification of proposed amendments to the Constitution, article V; they would be entitled to as many electors for President and Vice President as they have Senators and Representatives, article 2, section 1; they would be assured of territorial integrity and protection against absorption into other States, article I, section 3; and they would have complete legislative control over internal matters, free of congressional veto. All congressional authority over the District now provided in article I, section 8, clause 17 would be effectively turned over to the people of the District acting through their elected representatives in a State legislature.

This amendment would not only assure to District of Columbia residents equal citizenship rights with other Americans; it would grant to the District complete self-government according to the wishes of its own people, without Federal interference. It would free the Federal Government of the responsibility of providing special treatment for the District at a tremendous expense to other U.S. citizens. The people of the District would not only enjoy the rights and powers of statehood. They would also assume the full burdens and responsibilities of citizens of a State of the Union. No longer would District citizens be considered second-class Americans or be victims of "taxation without representation."

It is dangerous to argue for granting full voting rights to American citizens without also providing for commensurate voting responsibilities. The effort to establish in any group of people rights unassociated with responsibilities has been proven throughout history to be destructive of individual fiber and freedom, and it is certainly harmful to government as well.

Full representation is consistent with the principles of democracy upon which our Nation was founded. This would end the myth which is both dangerous and unfair that the District of Columbia should be guaranteed representation as though it were a State without being a State. The Federal principle is far too important to be sacrificed on the basis of political expediency.

I am pleased to cosponsor this legislation and in light of recent congressional approval of a proposed constitutional amendment providing for voting representation in both the House and the Senate, I hope for speedy consideration of this measure.

In addition to the statehood idea, I am also introducing two other proposals, both as proposed amendments to the Constitution or in the alternative, as legislative enactments.

The first, gives full voting rights to the citizens of Washington by retrocession of the residental sections of the city to Maryland. This, of course, is based on the historic precedent which occurred when the Virginia portion of the District was returned to that State.

The second proposal provides that the District of Columbia be treated as though it were part of Maryland for purposes of representation in the Senate.

These suggestions, unlike the resolution passed earlier this week, are consistent with the mandates of the Constitution. They preserve the Federal nature of our Republic. We are all familiar with the history of the Constitutional Convention and the great compromise by which the conflict between the large and small States was resolved.

Madison, in the Federalist Papers wrote of our system as a "compound republic" of "independent and sovereign States. . . . In this spirit it may be remarked that the equal vote allowed to each State is at once a constitutional recognition of the portion of sovereignty remaining in the individual States and an instrument for preserving that residuary sovereignty."

I quote from the Federalist Papers to show how fundamental to the American system is the idea that the Senate represents States. The proposals I am offering today can be achieved either through legislation or constitutional amendment, and I offer them in both forms. Each of these proposals is more consistent with the American political tradition than House Joint Resolution 554, and we should not tamper with the basic principals of our systems when our goals can be achieved within that system.

Mr. President, my argument is best summed up in the very name of our country. We are not the republic of America, nor the federation of various political entities of America, we are the United States of America.

Mr. President, I ask unanimous consent that the resolution and bills be printed in the RECORD following my statement.

There being no objection, the bills and joint resolutions were ordered to be printed in the RECORD, as follows:

S. 3480

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

For purposes of representation in the Senate, the District constituting the seat of the government of the United States shall be treated as though it were part of the State of Maryland.

S. 3481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Upon acceptance by the State of Maryland, and except as provided in section 2, the lands comprising the District constituting the seat of the government of the United States on the day before the day on which this article is ratified are retroceded to the State of Maryland.

SEC. 2. Section 1 shall not apply to lands owned by the United States on the day before the day on which this article is ratified and such lands shall, on and after the day on which this article is ratified, comprise the District constituting the seat of the government of the United States.

S.J. RES. 156

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein) That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. For purposes of representation in the Senate, the District constituting the seat of the government of the United States shall be treated as though it were part of the State of Maryland.

"SEC. 2. For purposes of representation in the House of Representatives, the District constituting the seat of the government of the United States shall be treated as though it were a state."

S.J. RES. 157

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Except as provided in section 2 the lands comprising the District constituting the seat of the government of the United States on the day before the day on which this article is ratified are retroceded to the State of Maryland.

SEC. 2 Section 1 shall not apply to lands owned by the United States on the day before the day on which this article is ratified and such lands shall on and after the day on which the article is ratified, comprise the District constituting the seat of the Government of the United States.

SEC. 3. The twenty-third article of amendment to the Constitution of the United States is hereby repealed.

By Mr. WEICKER (for himself and Mr. McCLURE):

S.J. Res. 158. A joint resolution proposing an amendment to the Constitution to provide for Statehood for the District of Columbia; and for other purposes; to the Committee on the Judiciary.

STATEHOOD FOR THE DISTRICT OF COLUMBIA

● Mr. WEICKER. Mr. President, I join with my distinguished colleague from Idaho, Senator McCLURE, in introducing a constitutional amendment to provide for statehood for the District of Columbia.

Earlier this week, I voted in favor of House Joint Resolution 554, a constitutional amendment providing voting representation for the District of Columbia. At that time, I expressed concern that Congress was not facing the central issue in the debate over representation: Whether the District of Columbia should be a State.

What the Congress has done in voting representation without statehood is the politically expedient thing—not the right thing.

Congress must face up to the issue before us—granting full rights to the District of Columbia. It does not do this by carving out another exception to the Constitution and amending the Constitution each time it is politically expedient to grant piecemeal rights to District citizens. It would do this by granting statehood to the District, with all the benefits (including full representation) and burdens that come with statehood.

Mr. President, I urge my colleagues to address the issue of full rights for the District of Columbia by acting expeditiously to provide for statehood by this constitutional amendment.

Mr. President, I ask unanimous consent that the amendment be printed in the RECORD.

when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. For purposes of representation in the Senate, the District constituting the seat of the government of the United States shall be treated as though it were part of the State of Maryland.

"SEC. 2. For purposes of representation in the House of Representatives, the District constituting the seat of the government of the United States shall be treated as though it were a state."

S.J. RES. 157

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Except as provided in section 2 the lands comprising the District constituting the seat of the government of the United States on the day before the day on which this article is ratified are retroceded to the State of Maryland.

SEC. 2 Section 1 shall not apply to lands owned by the United States on the day before the day on which this article is ratified and such lands shall on and after the day on which the article is ratified, comprise the District constituting the seat of the Government of the United States.

SEC. 3. The twenty-third article of amendment to the Constitution of the United States is hereby repealed.

By Mr. WEICKER (for himself and Mr. McCLURE):

S.J. Res. 158. A joint resolution proposing an amendment to the Constitution to provide for Statehood for the District of Columbia; and for other purposes; to the Committee on the Judiciary.

STATEHOOD FOR THE DISTRICT OF COLUMBIA

● Mr. WEICKER. Mr. President, I join with my distinguished colleague from Idaho, Senator McCLURE, in introducing a constitutional amendment to provide for statehood for the District of Columbia.

Earlier this week, I voted in favor of House Joint Resolution 554, a constitutional amendment providing voting representation for the District of Columbia. At that time, I expressed concern that Congress was not facing the central issue in the debate over representation: Whether the District of Columbia should be a State.

What the Congress has done in voting representation without statehood is the politically expedient thing—not the right thing.

Congress must face up to the issue before us—granting full rights to the District of Columbia. It does not do this by carving out another exception to the Constitution and amending the Constitution each time it is politically expedient to grant piecemeal rights to District citizens. It would do this by granting statehood to the District, with all the benefits (including full representation) and burdens that come with statehood.

Mr. President, I urge my colleagues to address the issue of full rights for the District of Columbia by acting expeditiously to provide for statehood by this constitutional amendment.

Mr. President, I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 158

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. The District constituting the seat of government of the United States is hereby admitted into the Union as a State of the United States on an equal footing with the other States in all respects, except that the Congress shall exercise exclusive legislation over all lands and property owned by the United States.

"SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

"SEC. 3. The twenty-third article of amendment to the Constitution of the United States is hereby repealed.

"SEC. 4. This article shall be inoperative, unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission."

ADDITIONAL COSPONSORS

S. 835

At the request of Mr. CHURCH, the Senator from Colorado (Mr. HASKELL) was added as a cosponsor of S. 835, a bill to provide a program of income tax counseling for elderly individuals.

S. 1967

At the request of Mr. ROBERT C. BYRD, the Senator from Utah (Mr. GARN) was added as a cosponsor of S. 1967, a bill to amend section 218 of the Social Security Act to require that States having agreements entered into thereunder will continue to make social security payments and reports on a calendar-quarter basis.

S. 2843

At the request of Mr. HELMS, the Senator from Utah (Mr. GARN) and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of S. 2843, a bill to provide for the issuance of gold medallions, and for other purposes.

S. 2920

At the request of Mr. THURMOND, the Senator from North Dakota (Mr. YOUNG), the Senator from Utah (Mr. GARN), the Senator from Nebraska (Mr. CURTIS), the Senator from Vermont (Mr. STAFFORD), the Senator from Kansas (Mr. DOLE), the Senator from Virginia (Mr. SCOTT), the Senator from Wyoming (Mr. WALLOP), the Senator from Pennsylvania (Mr. HEINZ), and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 2920, a bill to amend the Trade Act of 1974.

S. 3111

At the request of Mr. MOYNIHAN, the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of S. 3111, a bill to amend the Internal Revenue Code of

1954 to allow the charitable deduction to taxpayers whether or not they itemize their personal deductions.

S. 3414

At the request of Mr. WALLOP, the Senator from Alaska (Mr. STEVENS) and the Senator from New Mexico (Mr. SCHMITT) were added as cosponsors of S. 3414, a bill to amend the Internal Revenue Code of 1954 to provide that nonresident aliens are taxable on gain from the sale or exchange of farming property and underdeveloped real property at capital gains rates.

S. 3453

At the request of Mr. WALLOP, the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of S. 3453, a bill to limit imports of feeder and slaughter cattle and to authorize a trade agreement for that purpose.

S. 3467

At the request of Mr. TALMADGE, the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of S. 3467, a bill to designate the U.S. Department of Agriculture Pecan Field Station in Brownwood, Tex., as the "W. R. 'Bob' Poage Pecan Field Station," and to designate the U.S. Department of Agriculture Meat Animal Research Center located near Clay Center, Nebr., as the "Roman L. Hruska Meat Animal Research Center."

AMENDMENT NO. 3241

At the request of Mr. FORD, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of amendment No. 3241 intended to be proposed to S. 3229, a bill to amend title 39 of the United States Code to improve the organizational structure of the U.S. Postal Service, to provide authorizations for funds to maintain the public service function of the U.S. Postal Service, to provide a reduced rate for certain individuals, and for other purposes.

AMENDMENT NO. 3419

At the request of Mr. TOWER, the Senator from Texas (Mr. BENTSEN) and the Senator from Wyoming (Mr. WALLOP) were added as cosponsors of amendment No. 3419 intended to be proposed to S. 3077, a bill to amend and extend the Export-Import Bank Act.

AMENDMENT NO. 3477

At the request of Mr. KENNEDY, the Senator from New York (Mr. JAVITS) was added as a cosponsor of amendment No. 3477 intended to be proposed to H.R. 8285, an act to amend the Tariff Schedules of the United States with respect to the tariff treatment accorded to film, strips, sheets, and plates of certain plastics or rubber.

SENATE RESOLUTION 548—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY

Mr. PELL, from the Committee on Rules and Administration, reported the following original resolution:

S. RES. 548

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Valerie E. Kilt and Marguerite E. Gill, daughters, and George E. Gill, son, of Helen Gill, an employee of the Senate at the time of her death, a sum to each equal to one third of seven months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 549—ORIGINAL RESOLUTION REPORTED WAIVING THE CONGRESSIONAL BUDGET ACT

Mr. RANDOLPH, from the Committee on Environment and Public Works, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES 549

Resolved, that pursuant to Section 402(c) of the Congressional Budget Act of 1974, the provisions of Section 402(a) of such Act are waived with respect to considerations of S. 2083, a bill to establish a uniform and comprehensive legal regime governing liability and compensation for damages and clean up costs caused by the discharge of oil and hazardous substances, and for other purposes.

Such waiver is necessary to permit consideration of S. 2083. The position of the Administration on a key issue (the question of coverage of hazardous substances) was not available until June 1. Hearings were held on April 17 and 18 and May 24, 1978.

This legislation creates a self-funding mechanism which covers its own costs and does not require funding from the U.S. Treasury. A separate Fund is created, with payments to the Fund collected from oil received at terminals and refineries. This Fund is then available to pay for clean up costs and damages associated with spills. Clean up costs and damage claims are to be paid directly from the Fund. Administrative, research, and equipment costs are to be paid from the Fund, subject to such amounts as are provided in appropriations Acts. There are no requirements for funds to be appropriated from general revenues.

AMENDMENTS SUBMITTED FOR PRINTING

DEPARTMENTS OF LABOR-HEW APROPRIATIONS—H.R. 12929

AMENDMENTS NOS. 3540 THROUGH 3562

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted 23 amendments intended to be proposed by him to H.R. 12929, an act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1979, and for other purposes.

PACIFIC NORTHWEST ELECTRIC POWER PLANNING AND CONSERVATION ACT—S. 3418

AMENDMENTS NOS. 3563 THROUGH 3576

(Ordered to be printed and referred to the Committee on Energy and Natural Resources.)

Mr. PACKWOOD submitted 14 amendments intended to be proposed by him to S. 3418, a bill to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River Power System to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes.

● Mr. PACKWOOD. Mr. President, today, I testified before the Senate Energy and Natural Resources Committee on the Pacific Northwest Electric Power Planning and Conservation Act (S. 3418), a bill dealing with the Bonneville Power Administration.

While the bill is of primary concern to the people of the Northwest, I feel the obligation to give the public and my colleagues in Congress full access to information on the bill as it proceeds through committee and the Senate.

For this purpose, I ask unanimous consent that my testimony be printed in the RECORD. And since my testimony urged the adoption of several amendments to S. 3418, I ask unanimous consent that the amendments I offered appear at the end of my remarks.

There being no objection, the statement and amendments were ordered to be printed in the RECORD, as follows:

TESTIMONY BY SENATOR PACKWOOD

INTRODUCTION

Mr. Chairman, Members of the Committee, I appear before you today to offer my complete support for the Pacific Northwest Electric Power Planning and Conservation Act (S. 3418).

I am a cosponsor of this measure. It may be the most beneficial legislation to Oregon consumers of this decade. Monthly electricity bills of the typical Oregon rate payer will be between 10 and 20 percent less than if this legislation is not enacted. For this reason alone I would support and work toward early passage of this bill, but it has many other benefits as well.

I see the emphasis on conservation and renewable sources of energy as a most encouraging development. The public, under this bill, would participate in energy decisions more than ever before in the Northwest.

AMENDMENTS

I do, however, ask the Committee members and staff to consider the adoption of sixteen amendments I have prepared. I will vote for the bill if none of my amendments are adopted and I will retract any amendments that might slow the bill's passage. On the other hand, I feel strongly that the changes I am recommending will improve the bill and without any delay. Several of the changes I am offering simply build on concepts already in the bill. Others, I think, will be noncontroversial but necessary nonetheless. I have attached to my testimony suggested language for each of the sixteen amendments proposed.

PASS THROUGH OF BENEFITS

The direct economic benefits of this bill should go to ultimate consumers. While I believe this is the clear intention of all persons involved in the drafting of this bill, I see no reason why we should not include actual language in its text to that effect. The Administrator of BPA should be required to insure, by contract or otherwise, that rates charged ultimate consumers reflect the wholesale rate benefits received by the utilities under this act.

PROTECT EXISTING ORGANIZATIONS

Second, five of my amendments are intended to protect existing institutions in the region.

The first would simply state in the findings that one purpose for the bill is to provide technical assistance to existing and emerging businesses already engaged in energy conservation and renewable resource development.

Frankly, I find that many individuals in these businesses and research organizations in Oregon are way ahead of BPA and Congress in recognizing the benefits of conservation and renewables. Forcing these people to jump through our Federal hoops could be a set back to them which we cannot afford. Also, these individuals have shown the initiative to demonstrate and develop small scale projects Federal agencies tend to ignore. These groups deserve encouragement and assistance. They should be consulted and cooperated with, not pushed around by us or BPA.

For these reasons, I suggest the Administrator be required to include in his 20 year plan those measures he deems appropriate to utilize and protect the region's small business community and research entities. In addition, BPA should develop the means of recognizing local communities which achieve relatively high amounts of energy conservation and conversion to renewable energy sources. Also, construction undertaken by BPA should proceed only after a determination that similar efforts by other groups will not be jeopardized. BPA should be required to maximize the use of local talent, materials and financial institutions wherever it is possible.

Finally, in order to protect existing institutions, the autonomy of state governments, and the public interest, I urge that the governors, the Bonneville Consumers Council and the Bonneville Utilities Council be required to approve, by majority vote, the 20 year plan established by the BPA Administrator before its implementation.

RATES FOR STATES AND LOCAL GOVERNMENTS

Next, I find it frustrating that the rates charged local governments served by private utilities remain extremely high under this plan. For example, the city of Portland would be required to pay rates equivalent to those charged industrial loads. Federal agencies, on the other hand, benefit greatly by this bill.

I urge the adoption of three amendments that would bring the rates charged municipalities and states down to the same level charged residential consumers. This rate would, of course, not be available to such governments for power resold to an ultimate consumer. Only electricity actually used by the municipality or state would qualify.

CONSERVATION AND RENEWABLE RESOURCES CLARIFICATION AND GRANT PROGRAM

Further, I recommend that the definition for "Conservation" should include investigations and studies to determine energy efficiency. I also recommend clarifying the definition for "Renewable resources." Does it, for example, include the direct application of solar collectors by ultimate consumers? Would BPA finance such projects? Conversion to natural gas heat will reduce electricity requirements. Does that mean it is renewable?

Probably the biggest departure from the bill I propose is a $10 million grant program to fund individuals and groups with demonstrated excellence in the energy field to develop creative conservation measures and renewable energy resources. Applicants, under my proposal, would be given preference if they could show (1) the project would have a beneficial economic impact on the ultimate energy consumer, (2) the project and its end result would make maximum use of the region's small businesses and existing labor force, (3) the project would not duplicate other efforts, (4) their willingness to match the grant with an equivalent amount from other sources, (5) a lack of additional funding from other sources, (6) they are requesting less than $30,000, and (7) they are based in the Pacific Northwest.

I am recommending this grant program because of the constant stream of excellent research projects which cross my desk from Oregon and which are not receiving cooperation or funding from the Department of Energy.

In addition, BPA has consistently been charged with ignoring small scale and exotic energy projects. This grant program would permit an investment by BPA in the widest possible search for these energy alternatives.

WATER CONSERVATION

Finally, I urge that the Administrator be required to project the use of the region's water resources as a part of his 20-year plan. Use of water for hydroelectricity precludes its use for several other uses, such as irrigation. We simply must know what BPA intends to use for the generation of energy so that other uses might be planned accordingly.

CONCLUSION

As I stated at the outset, I do not want to hold up passage of this bill. I intend to cooperate fully with you as Members of the Energy Committee and with the Committee staff.

I believe you have before you a very good bill. It could be better and I feel it could be better without jeopardizing its successful passage this year. I look forward to working with you. Thank you.

BASIC THRUST OF PACKWOOD AMENDMENTS TO S. 3418

A. Amendment 16 would insure that wholesale rate benefits to the region's utilities would be passed along to the ultimate consumers of electricity.

B. Amendments 1, 6, 7, 8, 12 and 13 are intended to protect the efforts of existing institutions, small businesses and existing community labor forces.

C. Amendments 10, 11 and 15 would provide state and local governments electricity for their own use at the same rates as residential consumers, instead of those rates charged industrial loads.

D. Amendments 2 and 3 would clarify the definitions of conservation and renewable resources. Amendment 14 would set up a BPA grant program to investigate the feasibility and cost-effectiveness of creative conservation measures and renewable energy sources.

E. Amendment 9 would insure that the region is made aware of the projected use of water by hydroelectric dams.

AMENDMENT No. 3563

On page 2, insert the following between lines 15 and 16:

(d) The current interest of Pacific Northwest consumers and many existing and emerging businesses to conserve energy and use renewable sources of energy is not receiving enough federal technical assistance and encouragement.

AMENDMENT No. 3564

On page 14, insert the following between lines 22 and 23:

(g) The Administrator shall insure, by contract clause or otherwise, that rates charged the ultimate residential and local government consumers shall directly reflect the benefits received by any sale of power to a Pacific Northwest utility under this Act.

AMENDMENT No. 3565

On page 12, line 21, insert "and State and local government" after "residential".

AMENDMENT No. 3566

On page 11, insert the following between lines 16 and 17:

(1) In order to assist in the determination of the feasibility and cost effectiveness of conservation measures for the purposes of resource acquisition under section 6(a) and waste heat, cogeneration or renewable resources acquisition under subsection (b), the Administrator with consultation with the region's governors, the Bonneville Consumers Council and the Bonneville Utilities Council, is authorized to establish and carry out a program of contracts with, or grants-in-aid to, groups, or, in appropriate cases, individuals with exceptional talent and expertise engaged in research and development of creative energy alternatives. Preference shall be given to—

(1) projects having greatest beneficial economic impact on the ultimate energy consumer;

(2) projects having as an end result the maximum use of a community's small businesses and labor force;

(3) projects minimizing duplication of research or demonstrations being carried on by other entities either Federal or non-Federal;

(4) applicants offering to match the grant with an equivalent amount from other sources;

(5) applicants demonstrating a lack of funding from other sources;

(6) applicants requesting not more than $30,000; and

(7) applicants from Pacific Northwest.

The contracts or grants-in-aid provided under this subsection shall be further regulated under such rules as the Administrator deems necessary and appropriate but shall, in no event, exceed a total annual outlay of $10,000,000.

AMENDMENT No. 3567

On page 10, strike lines 5 through 9 and substitute the following:

(e) To the extent conservation or acquisition of resources under this Act require direct arrangements with the ultimate consumers of electric power, the Administrator shall make maximum practicable use of existing local institutions able to supply credit, materials or expertise to such consumers.

AMENDMENT No. 3568

On page 10, strike line 4, and substitute the following: reliability: *Provided*, That, prior to taking any action pursuant to this section, the Administrator shall determine that his proposed actions will not jeopardise other, similar efforts being initiated by current institutions or utilities in the region.

AMENDMENT No. 3569

On page 7, line 11, insert "and State and local government" after "residential".

On page 7, line 15, insert "and State and local government" after "residential".

AMENDMENT No. 3570

On page 7, line 5, insert "and State and local governments for their own use, not for resale," after "agencies,".

AMENDMENT No. 3571

On page 6, line 16, insert the following new sentences after the period: Such program must also include those measures the Administrator deems appropriate to utilize and protect the region's small business community, especially those emerging businesses and other entities engaged in energy conservation and the use of renewable sources of energy. Such program must include the measures the Administrator intends to take in order to give added economic recognition for the greater achievement of conservation and conversion to renewable resources by certain local communities beyond that of other communities in the region.

AMENDMENT No. 3572

On page 6, line 12, insert "projections of monthly water use," after "forecast,".

AMENDMENT No. 3573

On page 6, line 10, insert the following new sentence after the period: Before such pro-

gram is implemented it must be approved by a single majority of (1) the regions' governors, (2) the Bonneville Consumers Council and (3) the Bonneville Utilities Council.

AMENDMENT No. 3574

On page 4, insert the following between lines 19 and 20:

(k) "Utility" means unless otherwise indicated, either a publicly owned or investor owned entity dedicated in whole or in part to providing electricity or other energy to ultimate consumers.

AMENDMENT No. 3575

On page 4, strike lines 7 through 11 and substitute the following:

(h) "Renewable resources" means a source of energy which recurs in the natural environment such that tapping its force does not diminish its future availability. Such resources include, solar, wind, hydro, geothermal, and biomass, which is used for electrical generation or which will reduce the electrical requirements of a consumer by direct application.

AMENDMENT No. 3576

On page 2, strike lines 20 through 22 and substitute the following:

(b) "Conservation" means any appropriate improvements in the power system or investment which increases the efficiency of energy production or use, including investigations and studies carried out to determine the feasibility and cost-effectiveness of various means to achieve efficiency of energy production or use.

NUCLEAR REGULATORY COMMISSION AUTHORIZATIONS—S. 2584

AMENDMENT NO. 3577

(Ordered to be printed and to lie on the table.)

Mr. HART (for himself, Mr. DOMENICI, Mr. STAFFORD, and Mr. RANDOLPH) submitted an amendment intended to be proposed by them, jointly, to S. 2594, a bill to authorize appropriations to the Nuclear Regulatory Commission in accordance with sec. 261 of the Atomic Energy Act of 1952, as amended, and sec. 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes.

● Mr. HART. Mr. President, over the past several months, the Environment and Public Works Subcommittee on Nuclear Regulation has been actively studying the nuclear waste problem confronting this country. The subcommittee has held 5 days of hearings devoted exclusively to the consideration of nuclear waste issues. In addition, the subcommittee has held a total of 8 days of hearings on NRC's fiscal year 1979 authorization and on nuclear licensing reform where nuclear waste issues were tangentially addressed. In all, the Committee has heard from over 20 witnesses who are deeply concerned with the nuclear waste issue.

Mr. President, it is on the basis of this record, that I intend to offer an amendment to S. 2584 which would address several important issues of nuclear waste management. This amendment which has the support of the Full Environment and Public Works Committee would add two new provisions to S. 2584. The first provision would expand the Nuclear Regulatory Commission's licensing and regulatory authority over the disposal of uranium mill tailings—an authority which the Commission does not now have. The second provision directs the Nuclear Regulatory Commission to study the relative costs and benefits of extending the Commission's licensing and regulatory authority over the storage and disposal of all nuclear wastes.

Both of these provisions can be fairly characterized as addressing nuclear waste management issues. While this amendment cannot provide this country with the total answer to our nuclear waste dilemma, it does address the immediate and serious problem of mill tailings disposal. Furthermore, it provides for the gathering of information necessary for Congress to answer legislative questions on nuclear waste disposal which will be considered next year.

Mr. President, so that my colleagues and their staff may have the full opportunity to review this amendment before it is considered by the Senate, I ask unanimous consent that the full text of the amendment and a section-by-section analysis be printed in the RECORD.

There being no objection, the amendment and analysis were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 3577

On page 15, after line 23, insert the following new sections:

SEC. 12. Section 11 e. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"e. The term 'byproduct material' means (1) any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material, and (2) any radioactive material resulting from the processing of ores primarily for the extraction of source material.".

SEC. 13. Section 81 of the Atomic Energy Act of 1954, as amended, is amended by adding a new sentence at the end thereof as follows: "No license shall be required by the Commission for the transfer, receipt, acquisition, ownership, or possession of byproduct material as defined by section 11 e. (2) of this Act until three years from the date of enactment of this sentence.".

SEC. 14. Section 161 g. of the Atomic Energy Act of 1954, as amended, is amended by adding at the end thereof the following:

"The Department of Energy may accept donations of reclaimed land used for the disposal of byproduct material as defined in section 11 e. (2) of this Act. Land donated under this section shall not be subject to the provisions of Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, nor to disposal under the Federal Property and Administrative Services Act of 1949, as amended. The President shall assign custody of such land to any agency authorized by law to manage land title to which is held by the United States.".

SEC. 15. Section 161 of the Atomic Energy Act of 1954, as amended, is further amended by adding at the end thereof a new subsection x. as follows:

"x. establish by rule, regulation, or order, in accordance with the requirements of section 181 of this Act, such standards and instructions as the Commission may deem necessary or desirable to ensure that funds will be made available by a licensee to permit the timely completion of all requirements established by the Commission for the decommissioning, decontamination, and reclamation and long term maintenance and monitoring where necessary of sites, structures, and equipment used in connection with the generation or disposal of byproduct material as defined in section 11 e. (2) of this Act.".

SEC. 16. Section 274 b. of the Atomic Energy Act of 1954, as amended, is amended by adding "as defined in section 11 e. (1) of this Act" after the words "byproduct materials" in paragraph (1); by adding a new paragraph (2) to read as follows: "(2) byproduct materials as defined in section 11 e. (2) of this Act."; and by renumbering existing paragraphs (2) and (3) accordingly.

SEC. 17. Section 274 d. (2) of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"(2) the Commission finds that the State program is in accord with subsection o. of this section and is in all other respects compatible with the Commission's program for the regulation of the materials covered by the proposed agreement, and that the State program is adequate to protect the public health and safety with respect to such materials.".

SEC. 18. Section 274 e. of the Atomic Energy Act of 1954, as amended, is amended by adding a new paragraph (3) to read as follows:

"(3) Prior to the expiration of three years from the date of enactment of this paragraph, nothing in this Act shall preclude the exercise of State authority over byproduct material as defined by section 11 e. (2) of this Act. Except as otherwise permitted by Federal law, on or after three years from such date, a State may exercise authority for protection of the public health and safety from radiation hazards associated with such byproduct material only pursuant to an agreement or an amendment thereto entered into with the Commission in accordance with subsection b. of this section. Amendments to existing agreements to provide for the continuation of State authority over such byproduct material shall be subject to paragraphs (1) and (2) of this subsection and to subsection d. of this section.".

SEC. 19. Section 274 j. of the Atomic Energy Act of 1954, as amended, is amended by inserting after the words "with the State" the following: ", or that part of an agreement respecting any of the materials enumerated in subsection b. of this section,".

SEC. 20. Section 274 of the Atomic Energy Act of 1954, as amended, is further amended by adding at the end thereof the following new subsection:

"o. In the licensing and regulation of byproduct material as defined by section 11 e. (2) of this Act pursuant to an agreement entered into in accordance with subsection b. of this section, a State shall adopt and enforce substantive standards for the protection of the public health and safety from radiation hazards which are equivalent to, or more stringent than, standards adopted and enforced by the Commission for the same purpose, including requirements, standards, and criteria promulgated by the Commission and the Administrator of the Environmental Protection Agency pursuant to sections 84, 85 and 275 of this Act.".

SEC. 21. Chapter 8 of the Atomic Energy Act of 1954, as amended, is amended by adding a new section 83 to read as follows:

"SEC. 83. REMEDIAL ACTION, EXEMPTION AND ENFORCEMENT.

a. Persons otherwise subject to the requirement of a license by section 81 of this Act shall be exempt from such requirement with respect to the ownership and possession of byproduct material as defined in section 11 e. (2) of this Act which is covered by a remedial action program conducted or approved by the Department of Energy.

b. The Commission may require, by rule, regulation, or order, the Department of Energy or persons exempted by subsection a. of this section or section 81 of this Act from the requirement of a license for the ownership or possession of byproduct material as defined in section 11 e. (2) of this

Act to conduct monitoring, perform remedial work or comply with such other measures as the Commission deems necessary or desirable to protect health or minimize danger to life or property in connection with the disposal and storage of such byproduct material.

c. The Commission may make such studies and conduct such inspections as it may deem necessary or desirable to ensure compliance with rules, regulations, and orders issued pursuant to subsection b. of this section. Persons violating any such rule, regulation, or order, and persons refusing to permit inspections conducted pursuant to this subsection, shall be subject to a civil penalty in an amount equal to that provided by section 234 a. of this Act. Notification and enforcement of such penalty shall be in accordance with sections 234 b. and c. of this Act.".

SEC. 22. (a) Chapter 8 of the Atomic Energy Act of 1954, as amended, is amended by adding at the end thereof a new section 84 to read as follows:

"SEC. 84. AUTHORITIES OF COMMISSION RESPECTING CERTAIN BYPRODUCT MATERIAL—

The Commission shall ensure that the management of any byproduct material as defined in section 11 e. (2) of this Act is carried out in such a manner as—

(1) the Commission deems appropriate to protect the public health, safety, and environment from radiological and nonradiological hazards associated with the processing and with the possession and transfer of such material;

(2) conforms with the applicable standards and criteria promulgated by the Administrator of the Environmental Protection Agency under section 275 of this Act; and

(3) conforms to general requirements, established by the Commission, with the concurrence of the Administrator of the Environmental Protection Agency, which are at least comparable to requirements applicable to the possession, transfer, and disposal of similar hazardous material under the Solid Waste Disposal Act, as amended.".

(b) The table of contents for such chapter 8 is amended by inserting the following new item after the item relating to section 83:

"SEC. 84. AUTHORITIES OF COMMISSION RESPECTING CERTAIN BYPRODUCT MATERIAL.".

SEC. 23. (a) Chapter 19 of the Atomic Energy Act of 1954 as amended, is amended by inserting after section 274 the following new section:

"SEC. 275. HEALTH AND ENVIRONMENTAL STANDARDS FOR URANIUM MILL TAILINGS.—

a. As soon as its practicable, but not later than eighteen months after the date of enactment of this section, the Administrator of the Environmental Protection Agency (hereinafter in this section referred to as the Administrator) shall, by rule, promulgate standards and criteria of general application for the protection of the public health, safety, and the environment from radiological and non-radiological hazards associated with the processing and with the possession and transfer of byproduct material, as defined in section 11 e.(2) of this Act at sites where ores are processed primarily for their source material content, or at sites which are used for the disposal of such byproduct material.

b. Such generally applicable standards and criteria promulgated pursuant to this section for nonradiological hazards shall provide for the protection of human health and the environment as required by subtitle C of the Solid Waste Disposal Act, as amended: *Provided, however,* That no permit issued by the Administrator is required under this Act or the Solid Waste Disposal Act, as amended, for the processing, possession, transfer or disposal of byproduct material, as defined in section 11 e.(2) of this Act.

c. The Administrator may periodically revise any standard or criterion promulgated pursuant to subsection a. of this section. Any such revision shall be applied upon license renewal to persons holding on the date of promulgation of such revision a license for byproduct material as defined in section 11 e.(2) of this Act issued by the Commission or by a State exercising authority pursuant to section 274 b.(2) of this Act: *Provided, however,* That in no event shall such a revision be applied later than five years from the date of promulgation thereof.

d. Implementation and enforcement of the standards and criteria promulgated pursuant to subsection a. of this section shall be the responsibility of the Commission in the conduct of its licensing activities under this Act. States exercising authority pursuant to section 274 b. (2) of this Act shall implement and enforce such standards and criteria in accordance with subsection o. of such section.

e. Nothing in this Act applicable to byproduct material as defined in section 11 e. (2) of this Act shall affect the authority of the Administrator under the Clean Air Act of 1970, as amended, or the Federal Water Pollution Control Act, as amended.".

(b) The table of contents for chapter 19 of the Atomic Energy Act of 1954, as amended, is amended by inserting the following new item after the item relating to section 274:

"Sec. 275. Health and environmental standards for uranium mill tailings."

SEC. 24. Chapter 8 of the Atomic Energy Act of 1954, as amended, is amended by adding a new section 85 to read as follows:

"SEC. 85 The Commission may require by rule, regulation, or order, in accordance with the requirements of section 181 of this Act, that byproduct material as defined by section 11 e.(2) of this Act be disposed of on land to which title has been transferred to the State or the United States at the time of termination of any license for the generation or possession of such material upon finding that such action is necessary or desirable to protect health or minimize danger to life or property in connection with the disposal of such byproduct material. Any such rule, regulation, or order shall specify standards for the transfer of title to such land to the State or the United States, including: (1) standards to assure the completion, prior to the transfer of title, of all requirements established by the Commission for the decommissioning, decontamination and reclamation of sites, structures and equipment on the land which are used in connection with the generation or disposal of byproduct material as defined in section 11 e.(2) of this Act; (2) standards to minimize the need for future remedial work; (3) standards to minimize the cost, including the cost to the State or the United States, for any long-term care; and (4) standards to permit the reservation of rights by the transfer to the future reprocessing of byproduct material, as defined in section 11 e. (2) of this Act, and to the future use of the surface or subsurface estate, consistent with any standards or requirements promulgated by the Commission which are applicable to the generation, possession of transfer of byproduct material, as defined in section 11 e. (2) of this Act. This section shall not be construed as authorizing or requiring the transfer of title to Indian land.".

SEC. 25. (a) The Commission, in cooperation with the Department of Energy, is authorized and directed to conduct a study of extending the Commission's licensing or regulatory authority to include categories of existing and future Federal radioactive waste storage and disposal activities not presently subject to such authority.

(b) Each Federal agency, subject to the provisions of existing law, shall cooperate with the Commission in the conduct of the study. Such cooperation shall include providing any necessary access to existing facilities and sites and providing any information needed to conduct the study which the agency may have or be reasonably able to acquire.

(c) On or before March 1, 1979, the Commission shall submit a report to the Congress containing the results of the study. The report shall include:

(1) a complete listing and inventory of all radioactive waste storage and disposal activities now being conducted or planned by Federal agencies;

(2) an assessment of the benefits of extending the Commission's licensing or regulatory authority to include categories of existing and future Federal radioactive waste storage and disposal activities not presently subject to such authority;

(3) an evaluation of the relative potential risk to the public health and safety and the environment from such categories of existing and future Federal radioactive waste storage and disposal activities;

(4) an evaluation of the feasibility and cost of extending the Commission's licensing or regulatory authority to include such categories of existing and future Federal radioactive waste storage and disposal activities, including the technical and other data requirements for licensing or regulation and the likely characteristics of the Commission's licensing or regulatory program;

(5) an evaluation of the national security implications of extending the Commission's licensing or regulatory authority to include such categories of existing and future Federal radioactive waste storage and disposal activities; and

(6) the Commission's recommendations concerning the categories of existing and future Federal radioactive waste storage and disposal activities, if any, which should be made subject to the Commission's licensing or regulatory authority and the type of authority which the Commission should be granted.

SECTION-BY-SECTION ANALYSIS COMMITTEE AMENDMENT TO S. 2584

Sec. 12. Section 12 adds a new class of byproduct material to the definition of byproduct material now contained in section 11 e. of the Atomic Energy Act of 1954. As presently defined, byproduct material does not include uranium mill tailings. These tailings are a waste product resulting from uranium milling. Under the expanded definition, mill tailings would become a licensable material because they contain radium, radon and other radioactive isotopes. The revised definition would in effect bring mill tailings within the licensing and regulatory framework of the Atomic Energy Act. The revised definition is not intended, however, to make mine wastes subject to NRC licensing or regulation.

Sec. 13. Section 13 amends section 81 of the Atomic Energy Act of 1954 to defer until three years from enactment the authority of the Nuclear Regulatory Commission to license this new class of byproduct material. During this transition period, standards and regulations would be developed and agreements with states conducting their own regulatory program would be amended to cover the new class of byproduct material.

Sec. 14. Section 14 adds to section 161 g. of the Atomic Energy Act of 1954 a provision to authorize the Department of Energy to accept donations of land used as mill tailings disposal areas. Donations would be without cost to the United States and would not be eligible for subsequent sale by the United States as surplus property. The President is directed to assign custody of donated land to any agency authorized to manage land owned by the United States. This provision does not require a licensee of the Nuclear Regulatory Commission to transfer a tailings disposal area to the United States, but rather empowers the Department of Energy to accept voluntary donations of such areas. Such a direct licensee has the option of retaining ownership under Federal licensing.

Sec. 15. Section 15 adds a new subsection x. to section 161 of the Atomic Energy Act of

1954 to provide the Commission with explicit authority to require licensees to provide financial arrangements to ensure the proper decommissioning, decontamination, reclamation and long-term maintenance and monitoring if necessary, of sites, structures, and equipment used in connection with activities or materials licensed under the Atomic Energy Act of 1954. This provision affords a clear legal basis for the dedication of funds prior to the termination of the milling license for any long-term maintenance and monitoring which may be required. Such authority now exists only under the more general language of section 161 b.

Sec. 16. Section 16 gives states entering into new agreements under section 274 b. of the Atomic Energy Act of 1954 the option of assuming, or declining to assume, licensing and regulatory authority over mill tailings.

Sec. 17. Section 17 amends section 274 d. of the Atomic Energy Act of 1954 to condition the acceptability of a new or amended agreement upon a state program that is at least equivalent to the Commission's program for substantive regulation of tailings disposal areas. The standard of compatibility remains in effect for all other aspects of an agreement state program.

Sec. 18. Section 18 adds a new paragraph to Section 274 e. of the Atomic Energy Act of 1954 to make clear that existing agreements with states under section 274 must be amended for states to assume licensing and regulatory authority over the new class of byproduct material after three years from enactment. In the interim, states may continue to exercise their police power to regulate mill tailings. If an agreement state fails to amend its agreement on or after three years from enactment the Commission will license and regulate the byproduct material in tailings disposal areas.

Sec. 19. Section 19 amends section 274 j. of the Atomic Energy Act of 1954, to empower the Commission, after notice and opportunity for hearing, to terminate or suspend the exercise of an argeement state's authority pertaining to any of the materials enumerated in section 274 b. which are eligible for state licensing and regulation, including mill tailings. Present law permits termination or suspension only of the entire agreement. The standard for such action would remain the adequacy of protection of the public health and safety.

Sec. 20. Section 20 adds new subsection o. to section 274 of the Atomic Energy Act of 1954. Subsection o. requires agreement states to incorporate in their licensing and regulation of mill tailings standards which are equivalent to, or more stringent than, requirements, standards, and criteria promulgated by the Commission and the Administrator of the Environmental Protection Agency in the degree of protection from radiation hazards afforded the public health and safety.

Sec. 21. Section 21 adds a new section 83 to the Atomic Energy Act of 1954 to provide an exemption from licensing for that portion of a mill tailings disposal site where the Department of Energy has conducted or approved a remedial action. Legislation to permit the Department of Energy to conduct a remedial action program for certain existing mill tailings is now pending before other committees of the Congress. This provision is intended to exempt from Commission licensing any mill tailings covered by a Department of Energy remedial program pursuant to that or similar legislation.

The Commission may, however, require persons so exempted, or the Department of Energy, to monitor such sites, perform remedial work, or take other measures to protect health or minimize danger to life or property. The Commission is authorized to inspect, as necessary, and persons found to be in violation of rules or orders may be subject to a civil penalty even though not licensed. These provisions also apply to persons in possession of mill tailings who have been exempted from licensing in the Commission's discretion under section 81 of the Atomic Energy Act.

Sec. 22. Section 22 adds a new section 84 to the Atomic Energy Act of 1954 which directs the Commission to ensure the protection of the public health, safety and the environment from radiological and nonradiological hazards associated with the processing, possession, and transfer of mill tailings by requiring conformity with both the applicable standards and criteria promulgated by the Administrator of the Environmental Protection Agency and the general requirements established by the Commission, with concurrence of the Administrator, which are at least comparable to requirements for similar hazardous material under the Solid Waste Disposal Act, as amended.

Sec. 23. Section 23 adds new section 275 to the Atomic Energy Act of 1954 to delineate the responsibilities of the Administrator of the Environmental Protection Agency in the regulation of mill tailings. The Administrator is given up to 18 months to promulgate general standards and criteria to protect the public health, safety, and the environment from the radiological and nonradiological hazards associated with the processing, possession, and transfer of mill tailings at sites where ores are processed for their uranium content and at sites used for mill tailings disposal. These standards and criteria are intended to prescribe general standards of performance rather than to impose specific management requirements, including particular techniques or technologies for meeting the general standards. These general standards are not intended to be site specific.

For radiological hazards, the section would preserve the authority of the Administrator under the Atomic Energy Act of 1954, as amended, to set generally applicable standards for mill tailings. Generally applicable standards and criteria promulgated for nonradiological hazards must provide for the protection of human health and the environment as required by subtitle C of the Solid Waste Disposal Act, as amended. In the promulgation of such standards and criteria for nonradiological hazards, it is expected that the Administrator will take into account the degree to which human health and the environment are already protected by requirements established by the Commission pursuant to section 84 of the Atomic Energy Act. Any revision of the standards and criteria respecting either type of hazard may be applied to current licenses only upon license renewal but in no event later than five years from the promulgation of the revision.

The section expressly precludes any requirement, either under this Act or the Solid Waste Disposal Act, as amended, for a permit issued by the Administrator for the processing, possession, transfer or disposal of uranium mill tailings. Licensing responsibilities under this Act for the processing, possession, transfer or disposal of uranium mill tailings are assigned to the Commission, and this provision is intended to eliminate any requirement for a duplicate permit by the Administrator for those activities.

Responsibility for implementation and enforcement of the standards and criteria is vested in the Commission in the conduct of its licensing activities. However, agreement states that have elected to license mill tailings would have to incorporate standards at least equivalent to these standards and criteria. Finally, no provision of the Atomic Energy Act of 1954 relating to the new class of byproduct material is intended to affect the authority of the Administrator of the Environmental Protection Agency under the Clean Air Act, as amended, or the Federal Water Pollution Control Act, as amended.

Sec. 24. Section 24 adds a new section 85 to the Atomic Energy Act of 1954 to empower the Commission to require that mill tailings be disposed of on land which is transferred to State or Federal ownership on the termination of the original milling license for possession of source material. Any rule, regulation or order imposing such a requirement must be supported by a finding that it is necessary or desirable to protect health or minimize danger to life or property.

Such a requirement must include: (1) standards to ensure completion prior to the transfer of title of all Commission decommissioning, decontamination, and reclamation requirements; (2) standards to minimize the need for future remedial work; (3) standards to minimize the cost, including the cost to the State or to the United States, for any long term care; and (4) standards to permit the transferor to reserve surface or subsurface rights.

Sec. 25. Section 25 authorizes and directs the Commission, in cooperation with the Department of Energy to conduct a study and report to the Congress by March 1, 1979 on the following elements:

1. Complete listing and inventory of all radioactive waste storage and disposal activities now being conducted or now being planned by agencies of the Federal Government, including long and short-term storage and disposal activities, research and development activities, and decommissioned facilities, for high-level radioactive wastes, transuranic wastes, low-level wastes, and spent fuel.

2. An assessment of the benefits of extending Commission regulatory authority to such wastes, to the extent that they are not now covered, including an evaluation of the potential risk to the public health and the environment from the various categories of radioactive wastes now or planned to be in the custody of the Federal Government, together with a comparison of those risks.

3. An evaluation of the feasibility and cost of extending NRC licensing or regulatory authority to include such existing and future activities. This evaluation would cover such factors as the information and data needed by the Commission for licensing or regulation, the impact of licensing on project schedules, and the likely characteristics of a Commission licensing or regulatory program for the various categories of Federal waste storage and disposal activities.

4. An evaluation of the national security implications of extending Commission licensing or regulatory authority to cover the various categories of Federal waste storage and disposal activities.

5. Recommendations by the Commission, as to which categories of existing and future Federal nuclear waste storage and disposal activities should be made to subject to NRC authority, and the type of authority (licensing, safety review and concurrence, etc.) which the Commission should be given.●

NOTICES OF HEARINGS

COMMITTEE ON HUMAN RESOURCES

● Mr. WILLIAMS. Mr. President, the Committee on Human Resources will hold a hearing on the nomination of Howard Jenkins, Jr., to be a member of the National Labor Relations Board on Thursday, September 7, 1978, at 9:30 a.m. in room 4232 of the Dirksen Senate Office Building.●

COMMITTEE ON GOVERNMENTAL AFFAIRS

● Mr. RIBICOFF. Mr. President, the Governmental Affairs Committee will hold 1 day of hearings on Thursday, September 7, 1978, on Reorganization Plan No. 4 of 1978, relating to the Employment Income Security Act of 1974. The hearing will commence at 9 a.m. in room 3302 of the Dirksen Senate Office Building. Testimony will be received from both administration and outside witnesses.●

SUBCOMMITTEE ON ADMINISTRATIVE PRACTICE AND PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, for Mr. ABOUREZK, I wish to announce that the hearings scheduled by the Subcommittee on Administrative Practice and Procedure on the FBI Charter, for August 28 and 29, have been canceled.●

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. PROXMIRE. Mr. President, I wish to announce that the oversight hearings on the use of export controls and export credits for foreign policy purposes scheduled for Thursday, September 21 and Friday, September 22, will be held by the full Committee on Banking, Housing, and Urban Affairs, not the Subcommittee on International Finance as previously announced. The distinguished chairman of the subcommittee, Senator STEVENSON, and I have agreed to make this change because we feel strongly that the subject of the hearings is of such importance to the Nation that it should be addressed at the highest levels of government.

A general description of the hearings appeared in the RECORD on August 17 at pages 26712–26713. The hearings will begin at 10 a.m. each day in room 5302 of the Dirksen Senate Office Building. Persons interested in testifying or desiring additional information concerning the hearings should contact Robert W. Russell, counsel to the Subcommittee on International Finance at (202) 224–0819.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate today to hold a markup session on S. 2053, legislation regarding the exploration of hard mineral resources of the deep sea bed.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate today to consider the nomination of John W. McGarry as a member of the Federal Election Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to consider S. 3418, the Pacific Northwest Electric Power Planning and Conservation Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON MERCHANT MARINE AND TOURISM

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Merchant Marine and Tourism of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Wednesday, September 6, to conduct a hearing on S. 2873, a bill to provide for the regulation of rates or charges by certain State-owned carriers in the foreign commerce of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

"LET THEM EAT CAKE": THE HUMPHREY-HAWKINS SOLUTION TO UNEMPLOYMENT

● Mr. GARN. Mr. President, the Humphrey-Hawkins approach to unemployment reminds me of the situation in France in the late 1780's. Rather than unemployment the great worry at that time was inflation of the price of bread. Bread had become nearly unaffordable by the people generally. Many were suffering. The problem, due in some part to a bad harvest, appeared intractable. The story is told, perhaps apocryphal, that Marie Antoinette, in response to the information that the people of Paris had no bread, proposed in solution, "Then let them eat cake."

Mr. President, unemployment is like the bread problems of France 200 years ago. The Humphrey-Hawkins bill reechoes the words of Marie Antoinette. It is an excuse for inaction, a pushing away of the problem. The problem and suffering are real, the Humphrey-Hawkins "solution" vacuous. It sanctimoniously well-wishes that the problem be solved but proposes nothing that will effectively bring about its promised result. As in France then, Humphrey-Hawkins today would add the frustration of unfeeling and ineffective government to the suffering of the economically hard-shipped.

Positive, meaningful steps must be taken to alleviate the problems of unemployment, rather than the rhetorical banalities puffing up all of the present versions of Humphrey-Hawkins. We all know that unemployment is bad, and full employment good. We do not need to pass a bill to tell us that. We might just as well pass a bill making crime illegal, and claim that it will solve the problems of law and order.

Humphrey-Hawkins has the Congress set economic goals—goals that no one would deny would be fine to realize—and then leaves it up to the President to figure out how to achieve them. Humphrey-Hawkins says, "Let them eat cake," and then leaves it up to the President to discover the recipe and bake it.

A major cause of unemployment today is the lack of sufficient capital formation in the United States. Yet no version of the Humphrey-Hawkins bill adequately addresses itself to this need. I have supported and will continue to support measures to facilitate investment and other forms of capital formation in the United States, which is essential for the creation of jobs and the improvement of the competitive position of U.S. industry vis-a-vis that of other nations. This will lead to the creation of new, meaningful jobs at home and reduce the flight of jobs abroad.

Mr. President, these and similar measures will lead to the alleviation of unemployment. These are specific, concrete measures addressed directly to the problem. They are not glamorous. Neither, however, are they empty rhetoric. I am firmly opposed to promising people cake when they need jobs.●

RESIDENTIAL SOLAR AND CONSERVATION TAX CREDITS

● Mr. HART. Mr. President, during consideration of H.R. 112 on the floor of the Senate on Wednesday, I offered, with a number of my colleagues, an amendment which would extricate the residential solar and conservation tax credits from the more controversial provisions of the energy tax bill, which has not been acted upon by a Senate-House conference committee. In light of the lengthy debate on my amendment and on an amendment offered subsequently by the distinguished Senator from Alaska (Mr. GRAVEL), I feel it is important that I clarify my intentions in taking this initiative.

As chairman of the Subcommittee on Energy and Foundations of the Senate Finance Committee, Senator GRAVEL is to be commended for his work on H.R. 112, a bill to reduce the excise tax on the investment income of private foundations from 4 to 2 percent. Private foundations serve a vital role in American society by providing a broad range of essential services, from improved health care to greater educational opportunities.

After extensive hearings before Senator GRAVEL's subcommittee, it was determined that the 4 percent excise tax enacted by Congress in 1969 to cover the auditing costs of foundations was excessive and unduly hampered their ability to provide desirable public services. The Finance Committee acted prudently to reduce this excise tax from 4 to 2 percent, and I joined 50 of my colleagues in cosponsoring this amendment when it was brought to the floor of the Senate.

Because this bill had been strongly supported in both the Senate and the House of Representatives, as well as by the administration, it was my judgment and that of those Members of Congress who form the solar coalition that this would be the appropriate vehicle to insure expeditious consideration of our amendment by both Houses of the Congress.

I am deeply appreciative of Senator GRAVEL's commitment to support this amendment in conference. During deliberation on this amendment, the Senator from Alaska attempted to carry it one step further, to provide additional incentives for other new energy tech-

nologies and applications, such as the production of geothermal energy, gasohol, low-head hydro, cogeneration and investment tax credits for businesses which he also felt deserve expeditious action I either sponsored or actively supported many of the provisions included in the Gravel amendment when the original energy tax bill was considered on the Senate floor.

However, tentative agreement on these provisions had not been reached by in the Senate and House energy tax conference during their meetings last fall. This is an important distinction. In constructing the Hart amendment, it was our considered judgment that the inclusion of provisions which had not been at least tentatively agreed to in conference would create the same confused state of affairs which has prevented the tax conferees from reporting a bill for full Senate and House consideration. Consequently, provisions of the energy tax bill which were either controversial or had not been at least tentatively agreed to in the energy tax conference were intentionally excluded from my amendment.

It was this line of reasoning—and not disagreement with the substance of the Gravel amendment—which necessitated that I oppose its addition to my amendment during the debate on Wednesday. My motion to table the Gravel amendment merely reflected an attempt to focus Senate consideration on the solar and energy conservation tax credits alone. I know a large number of my colleagues shared this view and were not addressing the appropriateness of the Gravel amendment.

Mr. President, the Senator from Alaska (Mr. GRAVEL) has distinguished himself as an ardent and effective advocate of energy conservation and development of renewable energy technologies. Senator GRAVEL's efforts to promote new sources of energy and conservation, exercised through his work on the Energy and Foundations Subcommittee and other actions, pre-dates the recent surge of congressional interest in this area. I believe he should be commended for his leadership in developing these sources of energy.●

PANAMA CANAL: EVOLUTION OF A PLAN

● Mr. HELMS. Mr. President, although public discussions related to the vital subject of the Panama Canal during recent months have been extensive, relatively little has been published regarding its fundamental planning and the leaders involved.

The Isthmus of Panama is a narrow neck of land about 50 miles wide from deep water in the Atlantic to deep water in the Pacific. It is located in one of the heavier rainfall areas of the world and has one of the most treacherous geological formations with which engineers ever had to deal. A mountain range, paralleling the Pacific coastline about 10 miles away, forms the Continental Divide; a secondary divide is near the Atlantic coast.

There are two tropical rivers with their head waters near the Continental Divide: the Obispo-Chagres flowing into the Atlantic and the Rio Grande into the Pacific, with both of them subject to heavy flooding during wet seasons. The drainage area of the Chagres River valley is about 1,320 square miles; that for the Rio Grande is 37.4 square miles.

In 1879, Ferdinand de Lusseps, the hero of the Suez Canal, chaired a congress of 135 leaders in Paris to decide upon the crucial questions of site and type of canal to be constructed across the Central American Isthmus and let the full force of his tremendous prestige and genius to bring about a recommendation by that congress for a canal of the "sea level" design at Panama.

Long before this congress met one of its members had made a "brilliant engineering evaluation" of the topographical, geological, and hydrological problems involved. When he saw what was taking place he rose in strong protest saying that rather than have his name associated with what he knew would be a great disaster he voted no but added that there is a "practical plan" for constructing the Panama Canal:

> Build a dam at Gatun and another at Miraflores, or as close to the seas as the configuration of the land permits. Let the waters rise to form two lakes about 80 feet high, join the lakes thus formed wfith a channel cut through the Continental divide, and connect the lakes with the oceans by locks. This is not only the best plan for engineering but also best for navigation. *U.S. Nav. Inst. Proc.*, March 1955, p. 264.)

The one who conceived this plan was the eminent French engineer, Adolph Godin de Lepinay, by so doing, won lasting fame as the precursor of the Panama Canal.

In 1905, after acquisition of the Canal Zone by the United States, President Theodore Roosevelt appointed the greatest railroad builder of our country as Chief Engineer of the Isthmian Canal Commission—John F. Stevens of West Gardiner, Maine.

Qualified by his long experience in undeveloped western mountainous areas of the United States and Canada, iron ore excavation in the Mesabi Range in Minnesota, and extensive study of Panama Canal history, Stevens was eminently to make valid decisions that assured ultimate success. Moreover, he was a determined fighter for causes he felt were right and not overawed by high authority.

Crossing the Isthmus on foot and interpreting the terrain in the light of both engineering and operational needs, he recognized the merits of the De Lepinay concept for the lake and lock type canal, gave full support to Dr. William C. Gorgas in matters of health and sanitation, convinced Secretary of War, W. H. Taft, President Roosevelt and the Congress of the soundness of the plan and, against strong opposition, brought about the great decision in 1906 for the high-level-lake and lock type—Miles P. DuVal, Jr., "And the Mountains Will Move," Stanford University Press, 1947, pages 206–21.

He acquired a major part of the plant for canal construction, created the organization required, brought the project to a point where success was a certainty with an estimated date of completion in January 1915, and resigned to seek other challenging assignments. His contributions during 1905–07 won him appointment by President Roosevelt as the first Chairman and Chief Engineer of the Isthmian Canal Commission and great fame as the basic architect of the Panama Canal.

Stevens was succeeded by Col. George W. Goethals, one of the ablest Army engineers of that time, under whose direction—1907–14—the project was completed under the Stevens plan and organization until it was ready for opening to traffic; and, as the first Governor of the Panama Canal—1914–16—he launched it into the era of operation. For all this Goethals won an outstanding reputation as the builder of the Panama Canal. Nevertheless, he always gave full credit to Stevens whose monument in Stevens Circle in Balboa bears this inscription: "The Canal is his monument." Goethals.

In 1943, as the result of extensive studies of the marine operational problems of the existing Panama Canal during both peace and war, before and after the suspension of construction on the 1939 third locks project, including an operational evaluation of the "sea-level" design, Commander Miles P. DuVal, Jr., then captain of the port, Balboa, in charge of marine operations in the Pacific sector of the canal, developed the Terminal Lake-Third Locks Plan for the future canal. Publicly presented by him on May 20, 1943, before a most knowledgeable gathering of Army, Navy, and Panama Canal officials, engineers and pilots, it caused an immediate sensation on the Isthmus, winning strong support among experienced canal engineers and navigators, including canal pilots—A.S.C.E. Proceedings, February 1947, pages 161–74 gives text of this address.

Because experience at the Atlantic end of the canal with a convenient summit level anchorage just south of the Gatun Locks demonstrated the flexible canal operations there, Commander DuVal recognized the location of the bottleneck Pedro Miguel Locks directly in the south end of Gaillard Cut as the major cause for serious operational problems in the Pacific sector and the necessity for having an "expansion chamber" for traffic in the summit level at the Pacific end to match the layout at Gatun on the Atlantic end and to enable uninterrupted navigation on that level.

Recognized as the "first comprehensive plan for fundamental improvement of the canal based on actual marine operating experience," responsible engineers felt that with the terminal lake concept established it would be possible to "plan further improvements with every assurance of success," attain the "best canal for the future," and that "all engineering considerations associated with the plan are favorable to it"—Principal Engineer E. Sydney Randolph,

Memorandum to the Governor, March 26, 1943.

The plan received the approval in principle by two experienced Governors of the Panama Canal for the major modernization of the existing canal: in 1944, by Gov. Glen E. Edgerton, who recommended it to the Secretary of War for comprehensive investigation; and in 1945, by Gov. J. C. Mehaffey in testimony before the House Committee on Merchant Marine and Fisheries.

From the foregoing summation, the key figures in the evolution of the plan for the future Panama Canal were:

Adolphe Godin de Lepinay who, in 1879 presented the fundamental plan for its construction.

John F. Stevens who, by bringing about the great decision of the President and the Congress for the high-level-lake and lock type, was its "basic architect."

George W. Goethals who, by completing the canal according to the Stevens Plan, won a place in history as the builder of the Panama Canal.

Miles P. DuVal, Jr., who as the result of experience during both peace and war, developed the Terminal Lake-Third Locks Plan—a work that in the opinion of experienced engineers will make its author the architect of the future Panama Canal.

In notable testimony illustrated with schematic operational and data diagrams on June 28, 1978, before the Subcommittee on the Panama Canal, House Committee on Merchant Marine and Fisheries, Captain DuVal strongly supported the major modernization of the existing Panama Canal along the lines provided in the Flood-Murphy-Snyder bill—H.R. 1587, 95th Congress—and opposed further studies of the sea level proposal.

Mr. President, to make the June 28, 1978, statement by Captain DuVal and the introduction of him by Chairman JOHN M. MURPHY of New York available to the Congress and the Nation at large, I ask unanimous consent for both to be printed in the RECORD.

The items follow:

INTRODUCTION OF CAPTAIN DUVAL, JUNE 28, 1978

Mr. MURPHY. The acquisition of the U.S. Canal Zone territory in 1904 and the construction of the Panama Canal, 1904–1914, form a highly important chapter in American history. Our witness today has had an extensive naval career, including service in the Canal Zone during the canal's most crucial period, 1941–1944, when he was in charge of marine operations in the Pacific half of the canal.

As the author of two authoritative books, (1) "Cadiz to Cathay: The Story of the Long Diplomatic Struggle for the Panama Canal"; and (2) "And the Mountains Will Move: The Story of the Building of the Panama Canal," as well as contributor to the Encyclopedia Britannica, and professional magazines on canal history and problems, he combines the qualifications of the experienced navigator, a peace and war canal operating official, and scholar.

As a former Secretary of the Navy Department Shore Station Development Board, it was only natural that he should have evolved, while in the Panama Canal organization, what proved to be the first comprehensive proposal for the future canal derived from marine experience known as the terminal lake-third locks plan. This proposal was submitted to higher authorities and finally to President Franklin D. Roosevelt, who expressed his approval of it as a post-war project.

Today is not the first time that our witness has appeared before this committee. On March 14, 1947, on invitation of Secretary of the Navy, James Forrestal, the entire committee visited the Navy Department and heard an extensive presentation by our witness. He will not speak as an engineer but solely as a former canal operating official and historian.

I now introduce Captain Miles P. Duval, Jr., who will describe certain features in the formulation of our Isthmian canal policy with special reference to the third locks project and the development during World War II of the terminal lake-third locks solution for the future Panama Canal.

THE MARINE OPERATIONAL PROBLEMS, PANAMA CANAL, AND THEIR SOLUTION

(Statement by Capt. Miles P. Duval, Jr., U.S. Navy, retired)

Mr. Chairman, members of the Committee on Merchant Marine and Fisheries, and guests: At the outset, I dedicate my testimony today to the great American leaders who formulated our Isthmian Canal policies in the early 20th century and are thus mainly responsible for giving the world its maritime gateway to the Pacific.

The main purposes of this statement are to make four important points:

First, that the Panama Canal needs major modernization;

Second, that an attempt toward such improvement was started in 1939 but suspended in 1942;

Third, that there is a tested plan for major modernization on which $171,000,000 has been expended; and

Fourth, that this plan will provide the best operational canal practicable of achievement, including proposals for a canal of sea level design.

Because certain documents supply important information for the study of canal history and problems, I request that the following be appended to my statement:

(1) Roosevelt, President Theodore. Message to the Congress transmitting the report of the Board of Consulting Engineers for the Panama Canal, February 19, 1906.

(2) Duval, Miles P., Jr., "The Marine Operating Problems, Panama Canal, and the Solution." *Am. Soc. Civ. Engrs. Proceedings*, vol. 73 (Feb. 1947), pp 161–74.

(3) ———. "Isthmian Canal Policy—An Evaluation." *U.S. Nav. Inst. Proceedings*, vol. 81 (Mar. 1955), pp 263–75.

(4) ——— "The Interoceanic Canal—A Problem." *Explorers Journal*, XLII (Dec. 1964), pp 215–22.

(5) ———. "Panama Canal." *Encyclopaedia Britannica*, 1970, vol. 17, pp 205–13; quoted in *Congressional Record* (Feb. 10, 1971), pp 2453–2460.

(6) Randolph, E. Sydney. "An Engineer's Evaluation of Isthmian Canal Policy," *U.S. Nav. Inst. Proceedings*, vol. 82 (Apr. 1956), pp 395–99.

(7) ———. "Panama Canal—Proposed Improvement of Operating Conditions and Increasing Capacity," Memorandum for the Governor, March 26, 1943 (unpublished manuscript.)

As historically evolved, U.S. Isthmian policy has had two prime objectives: (1) the best canal site; and (2) the best type of canal.

The decision as to site was made by the Congress in 1902 following a dramatic struggle known as the "battle of the routes." The decision as to type was made in 1906 after another sharp contest known as the "battle of the levels." The three key leaders for the last were chief engineer John F. Stevens of the Isthmian Canal Commission, Secretary of War William H. Taft, and President Theodore Roosevelt.

The first major improvement for the Panama Canal after opening to traffic was the construction of the Madden dam and power project completed in 1935. That work increased the reserve water supply for maintaining channel depths in Gatun Lake during dry seasons, supplied additional power for canal operations and reduced the danger of floods from the Upper Chagres River. In addition to this project, canal engineers had long foreseen that the next step in canal improvement would be additional lock capacity and planned accordingly.

When World War II approached, the Congress, on administrative recommendations, authorized the construction of the 1939 third locks project at a cost not to exceed $277,000,000. An undisclosed objective in that project was "conversion" of the existing Panama Canal to "sea level," which had not been specifically authorized in the statute.

Hurriedly considered during those pre-world war II days of hectic activity without adequate consideration of the operational aspects of the problem at a time when there was fear of bombing attacks, this project provided for an additional set of larger locks a short distance away from the existing locks and joining them with existing channels by means of new bypass channels.

It is important to realize that this authorization was not enacted until after the ratification in 1939 of the 1936 Hull-Alfaro Treaty. That treaty provides for "expansion and new construction" for the existing canal (Cong. Record, July 24, 1939, p. 9834). The 1977 Panama Canal Treaty provides for construction of a sea level canal or a third lane of locks". (Cong. Record, Feb. 8, 1978, p. 2704.)

Construction on the third locks project, then hailed as the greatest single engineering work in the world, started in 1940 and was pushed vigorously until suspended in May 1942 because of more urgent war needs for ships, material and manpower. More than $76,000,000 was expended, largely on huge lock site excavations near Gatun and Miraflores, a roadbed for relocating the Panama railroad near Gatun, and a rail-vehicular bridge cross the Miraflores locks, all of which can be used in completing major modernization. Fortunately, no excavation was undertaken at Pedro Miguel.

As a direct consequence of the publication in 1940 of my first book, *Cadiz to Cathay*, I was ordered to the Canal Zone for duty on the eve of U.S. involvement in World War II. When arriving on the Isthmus in February 1941, the Canal Zone was the scene of tremendous activities in connection with the third locks project and vast preparations for defending the canal.

My assignment was as Captain of the Port of Balboa with supervision over marine operations in the Pacific sector of the canal. This area included the southern part of Gatun Lake, Gaillard Cut, the two sets of Pacific locks, Miraflores Lake, and the Pacific Sea level section to deep water, the most hazardous part of the Canal.

Soon after arrival two marine accidents in the canal followed by the suspension of construction on the third locks project led to the study of the problems of marine operations, of which I shall discuss seven crucial ones:

(1) The dangerous bottleneck at Pedro Miguel caused by placing the locks there squarely across the south end of Gaillard Cut thereby forcing southbound vessels to slow in the restricted cut channel and thus to lose rudder force under hazardous conditions.

(2) The double handling of vessels at the Pacific locks, with resulting inconvenience, increased numbers of accidents, and loss of time.

(3) The adverse effect of night fogs in Gaillard Cut on canal capacity and operation.

(4) The surges of 3' maximum amplitude in the Gaillard Cut water level caused by the operation of the locks at Pedro Miguel.

(5) The limited operating range of Gatun Lake water level from a high of 87' to a low of 82'.

(6) The navigation hazards of Gaillard Cut restricted channels, then of 300' minimum bottom width.

(7) The limited dimensions of the present locks, 1000' × 110' × 41'.

To secure the best canal for the transit of vessels, the only practical solution, as demonstrated by more than half a century of operations, is as follows:

(1) The physical removal of the bottleneck Pedro Miguel locks from their position in the south end of Gaillard Cut to enable vessels to leave the cut without stopping.

(2) The consolidation of all Pacific locks in new structures of continuous lifts south of Miraflores near Aguadulce as they are at Gatun.

(3&4) The elevation of the intermediate Miraflores Lake, 54' above mean sea level, to that of Gatun Lake to provide uninterrupted summit navigation from the Atlantic locks to the Pacific locks, create a summit level lake anchorage at the Pacific end of the canal in the Miraflores basin, mitigate the effect of fog on canal capacity and operations, eliminate lockage surges in Gaillard Cut, save transit time, and simplify canal operations.

(5) Raising the summit water level, now 87' maximum, to its optimum height of 92' (report of the governor of the Panama Canal under Public Law 280, 79th Congress, summarized in A.S.C.E. *Transactions*, Vol. 114 (1949), P. 619.)

(6) Continued enlargement of Gaillard Cut as demonstrated by experience to be needed. Widening the cut from 300' to 500' and correlated channel improvements were completed on August 15, 1970, at a cost of $95,000,000.

(7) Construction of one set of larger locks, 1200' × 140' × not less than 45'.

This action program, known as the terminal lake-third locks plan, can be accomplished under the "maintenance" factor in existing treaty provisions. It would provide a two-way ship channel in the summit level from the Atlantic locks to the Pacific locks with adequate and logically arranged locks at each end of the canal.

Moreover, any major modernization plan that fails to provide for the elimination of the Pedro Miguel Locks is fatally deficient and should be summarily dismissed as being without sufficient merit to warrant any consideration except to refute it. In this connection, proposals for a surge basin, mooring stations, and certain other projects are not realistic solutions of the crucial marine operational problems but mere symptomatic treatments that can only serve to delay or confuse. Besides, the Terminal Lake-Third Locks solution is the proposal fully supported by Panama Canal pilots who have the responsibility for the navigation and movement of vessels in Canal Zone waters and thus know the navigational problems involved at first hand. When these problems are evaluated from all significant angles the Terminal Lake proposal provides the best solution at least cost and can be accomplished with every assurance of success.

A part of the Terminal Lake proposal was the widening of Gaillard Cut from 300' to 500', completed in 1970 at a cost of some $95,000,000. When added to the $76,000,000 previously expended on the Third Locks project, the total is over $171,000,000 already invested toward major Canal modernization.

Many have asked why the Terminal Lake concept was not developed previously. It was.

In 1906, it was proposed by Colonel William L. Sibert but not adopted because it would have caused a delay in opening the Canal. In 1906 it was recommended by William Gerig. Prior to Gerig, it was urged on the Congress as a desirable change in approved plans by Chief Engineer Stevens. Perhaps the inability to secure its adoption was the failure to have facts that could be derived only from actual Marine experience in operating the Canal.

The Terminal Lake solution is so obvious, simple and logical that many have wondered why it was not proposed at the start of the French effort. It was.

At the Paris Congress of 1879, called by Ferdinand De Lesseps to consider the issues of site and type, De Lesseps, relying upon his experience in constructing the Suez Canal, applied the full force of his genius and prestige to securing the approval by that body of 134 distinguished leaders for a canal at the Panama site of the sea level type.

When he saw what was taking place, one member rose in protest. His words, here summarized, were: Of all then present, he was the only one who had studied this subject. Rather than have his name associated with what he knew would be a great disaster, he voted no, but stated there is a "practical plan" for constructing the Panama Canal. "Build a dam at Gatun and another at Miraflores, or as close to the seas as the configuration of the land permits. Let the waters rise to form two lakes about 80 feet high, join the lakes thus formed with a channel cut through the Continental Divide, and connect the lakes with the oceans by locks. This is not only the best plan for engineering but also best for navigation." (U.S. Nav. Inst. Proc., Mar. 1955, P. 264).

Essentially, this was the plan eventually adopted by the United States in 1906 through the leadership of John F. Stevens. The originating genius who conceived it was the eminent French engineer, Adolphe Godin De Lepinay, who, by so doing, won a lasting fame as the precursor of the Panama Canal.

The Terminal Lake proposal now before the Congress has been described by experienced engineers as the most fundamental proposal since the 1906 relocation of the Atlantic Locks and Dam from Bohio to Gatun. Its adoption will complete the De Lepinay-Stevens conceptions and, by providing a balanced lake waterway, will give the world the best canal for navigation practicable of achievement.

As to the "sea-level" canal proposal, this is not a new idea but an ancient one. Studied in 1905–06, it was opposed by Chief Engineer Stevens and President Theodore Roosevelt. Later, in 1924, former Governor of the Panama Canal Jay J. Morrow described it as a "hardy perennial" and that apparently there would always be "someone to argue for it, no matter how often the impossibility of realizing any such scheme within practicable limits of time and cost may be demonstrated." (Jay J. Morrow, personal letter to John F. Stevens, May 31, 1924.)

In 1929–31, it was examined by a U.S. Army Interoceanic Canal Board but opposed by Governor Harry Burgess who stated: "As the experience in operating the canal has proved that vessels of the largest size can transit a lock canal safely and expeditiously, there appears to be no necessity for converting it into a sea-level canal, so far as can now be foreseen." This reference was to the transits in 1928 of the *Lexington-Saratoga* class of aircraft carriers, the overall dimensions of which were 888' by 106'. The report failed to receive the support of the chief of engineers who merely recommended its publication. (Ho. Doc. No. 139, 72nd Congress.) The Congress took no action thereon but in 1939 authorized the construction of a third set of locks. (Ho. Doc. No. 210 and Pub. Law 391, 76th Congress.)

In 1942, because of the congestion in Balboa Harbor of vessels loaded with ammunition, canal authorities became concerned about a potential Halifax disaster, which was a factor leading to the enlargement of the harbor. Today, super tankers and liquified natural gas (LNG) vessels create grave dangers. The record of super tanker disasters, even in ocean spaces, (Nat. Geo., July 1978, pp. 102–24) and possible calamitous explosions of LNG vessels (Lib. Cong. LNG Safety, siting and policy concerns, 1978, pp. xi–xiii) raise serious questions as to the wisdom of permitting such vessels to navigate in restricted waters of populated areas, including any type of interoceanic canal.

In regard to the capacity of an isthmian canal to handle naval vessels, the modernized existing canal would be able to transit efficiently and expeditiously the entire U.S. Navy except 13 large aircraft carriers.

In 1943, as the result of experience in World War II, extensive studies of marine operations in the Panama Canal from 1914 through 1942, and an operational evaluation of the then projected "sea-level" plan, there was developed in the canal organization the well known terminal lake-third locks plan as offering the best solution for increased capacity and operational improvement of trans-isthmian transit facilities. This plan was submitted on February 25, 1943, to higher canal authority, publicly presented in Balboa, C.Z., on May 20, 1943, before the Panama section of the American Society of Civil Engineers, high army, navy and canal officials, and published by the society after World War II under the title of "the marine operating problems, Panama Canal, and the solution." (*A.S.C.E. Proceedings*, Feb. 1947, pp. 161–74.)

In 1944, after completing his preliminary studies of the plan on January 17, Governor Glen E. Edgerton recommended it to the Secretary of War (now Army) for comprehensive investigation but warned the secretary that it was possible that "advocates of a sea-level canal would oppose *unjustifiably* (emphasis supplied) any expensive change in present plans on the grounds that it would defer the time when the conversion of the existing canal to sea level might otherwise be authorized." (*Congressional Record*, June 21, 1956, pp. 10756–66 contains the full text of the Edgerton report preceded by a summary of its significant points.)

In 1945 after the advent of the atomic bomb, during testimony on November 15 before the Committee on Merchant Marine and Fisheries, Governor Joseph C. Mehaffey, in response to questions, approved the terminal lake-third locks plan in principle for completing the third locks but did not commit himself as to type of canal. (Executive hearings on H.R. 4480, 79th Congress, November 15, 1945, p. 9.)

In 1947, the voluminous report under public 280, 79th Congress, recommended only the sea level project in the canal zone with a much improved operational channel alignment for major canal construction (A.S.C.E. transactions, vol. 114 (1949), p. 608). That report failed to receive executive approval and President Truman transmitted it without comment or recommendation to the Congress, which did not act upon its major objective.

Also in 1947, the National Assembly of Panama, on December 22, amidst scenes of unexpected mob violence rejected the defense base treaty and the United States promptly evacuated all military bases in that country. Those events served as warnings against hasty action by the Congress and the 1945–47 sea-level drive lost its momentum.

In 1960, an independent engineering inquiry under the direction of the Committee

on Merchant Marine and Fisheries opposed the construction of a sea-level canal in the Canal Zone because of possible "slides of the first magnitude" with "serious danger of a long interruption of traffic." (HO. Rept. No. 1960, 86th Congress, p. 5.)

In 1970, the report under Public No. 88-609, 88th Congress, as amended, recommended construction of a "sea-level" canal located about 10 miles west of the existing canal.

In 1973, Panama Canal pilots strongly supported the terminal lake-third locks plan and opposed the "sea-level" proposal as "needlessly expensive, diplomatically hazardous, ecologically dangerous and less satisfactory operationally than the existing canal." (Congressional Record, Nov. 15, 1973, p. 37176, copy of pilots' supporting resolution attached.)

In 1974, Governor David S. Parker (1971–75), in a notable address on the canal problem, made this significant statement when comparing the "sea-level" proposal with the existing canal as improved: "Navigation through such a (modernized lock) canal would be relatively simple because it would make use of the existing Gatun Lake, avoiding the currents and initially narrow channels of a sea level canal." (David S. Parker, "The Panama Canal" circa 1974.)

In regard to the comparative operational characteristics of the types of canal, it is self-evident that the unrestricted channels in the lakes of a modernized high-level-lock canal enable better navigation than the necessarily restricted and much longer narrow channels of any sea-level project wherever located. The advantages of unrestricted navigation in the lakes outweigh the minor hazards and time lost by passage through the locks. Furthermore, the terminal lake-third locks solution is not only the most economical plan but, as previously stated, can be accomplished with every assurance of operational success for it has been tested for more than 60 years at Gatun and found eminently satisfactory.

Thus, when the more significant aspects of the canal question are evaluated objectively, the solution is not a sea-level project but the major modernization of the existing canal by completing the suspended third locks project adapted to the principles of the terminal lake-third locks solution as set forth in the Flood-Murphy-Snyder bill (H.R. 1587, 95th Congress.)

This bill provides for the elimination of the bottleneck locks at Pedro Miguel, the consolidation of all Pacific locks in new structures just south of Miraflores at Aguadulce, raising the summit water level from 87 to 92 feet, the construction of one channel of larger locks, and the formation of a summit level terminal lake in the Pacific end of the canal to correspond with the layout at Gatun. (Vital speeches, September 1, 1977, p. 689.) As previously stated, a total of more than $171,000,000 has been expended toward such major modernization.

The foregoing record shows that the major increase of capacity and navigational improvement of the existing canal has been under intermittent consideration by the Congress since 1939. With the exception of the widening of Gaillard Cut all other improvements have been mere symptomatic treatments that do not solve the major marine problems.

In regard to proposals for a "sea-level" canal, there has been no stronger statement than the January 2, 1973, report of this committee that it is "irrelevant and should not be allowed to confuse (the question) of the canal's major needs, i.e., its increase of capacity and operational improvements." (HO. Rept. No. 92-1629. p. 36.) The meeting of these requirements as outlined in H.R. 1587 will provide the best conditions for the transit of vessels.

In view of all the above history, the availability of a tested plan for major modernization derived from actual experience in both peace and war that can be constructed with every assurance of success, and the expenditure of $26,600,000 on the last two "sea-level" studies ($4,600,000 for the 1947 report and $22,000,000 for the 1970 report), there is no valid reason for further studies of such type, which would be less satisfactory operationally than the existing canal. Far better use could be found for the funds required for such studies that would only serve to delay further the canal's long needed major increase of capacity and operational improvement.

[From the CONGRESSIONAL RECORD, Nov. 15, 1973]

PANAMA CANAL PILOTS ASSOCIATION,
Washington, D.C., October 25, 1973.

Re Panama Canal—Third Locks-Terminal Lake Plan.

DEAR CONGRESSMAN: The Panama Canal Pilots Association strongly supports the Thurmond-Flood bills regarding major modernization of the Panama Canal.

We have given much thought and study to this matter. Furthermore, in our work of transiting vessels through the Canal we constantly observe the operations and are, of course, thoroughly familiar with the physical features of the Canal.

The original engineering and construction were magnificant. The engineers involved were very farseeing and the Canal has essentially met the needs of world shipping for over 60 years. However, time and progress are fast catching up with and will soon overwhelm the Panama Canal as now structured.

Attached hereto, is a copy of a Resolution which was passed unanimously at a very well attended General Meeting of our Association held on October 15, 1973.

We hope that you will be able to support the Thurmond-Flood bills.

Sincerely yours,

Capt. W. H. VANTINE,
President.

PANAMA CANAL MAJOR MODERNIZATION—OCTOBER 15, 1973

Whereas, since 1914 the pilots of the Panama Canal have accumulated a vast knowledge concerning its marine operations through thousands of transits on all types of vessels; and

Whereas, during World War II extensive studies in the Canal organization of marine operations conclusively established the location of the bottleneck at Pedro Miguel Locks in the south end of Gaillard Cut as the fundamental operational error in constructing the Canal; and

Whereas, as a result of those World War II studies, there was developed in the Canal organization and approved by a committee of our most distinguished senior pilots what is now known as the Terminal Lake-Third Locks Plan; and

Whereas, this plan has been consistently recognized by various responsible independent navigation interests as providing the best operational canal practicable of achievement; and

Whereas, more than $171,000,000, has been expended toward the major modernization of the Canal, $76,357,405 on the suspended Third Locks Project and some $95,000,000 on the enlargement of Gaillard Cut; and

Whereas, the several items in the 1969 Improvement Program for the Panama Canal, though important, are non-basic in character and no solution for the Canal's major marine operational problems; and

Whereas, the Thurmond-Flood bills for the major modernization of the Canal now before the Congress will provide increased lock capacity for larger vessels, greater transit capacity, and eliminate the Pedro Miguel bottleneck locks; and

Whereas, the plan provided for in these bills would preserve the existing fresh water barrier between the oceans and thus continue to protect them from the biological hazards feared by respected scientists in any sea level undertaking; and

Whereas, responsible organizations and informed experts oppose the construction of any sea level canal as needlessly expensive, diplomatically hazardous, ecologically dangerous and less satisfactory operationally than the existing canal; now therefore, be it

Resolved, by the Panama Canal Pilots Association that it supports the Terminal Lake-Third Lock solution as provided in the Thurmond-Flood bills; and

Resolved, that the Panama Canal Pilots Association urges the Governor of the Canal Zone to use the full force of his office to support prompt enactment of the pending legislation for major canal modernization; and

Resolved, that the Panama Canal Pilots Association opposes the construction of a new canal of so-called sea level design; and

Resolved, that the Panama Canal Pilots Association directs that copies of this resolution be sent to the following:

President of the United States.
Vice President of the United States.
Secretary of State.
Secretary of Defense.
Secretary of the Army.
Secretary of the Navy.
All Members of the Congress.
Leading Marine Organizations and Periodicals.
American Society of Civil Engineers.
Society of American Military Engineers.
American Legion.
Veterans of Foreign Wars.

Capt. W. H. VANTINE,
President, Panama Canal Pilots Association.

Mr. Chairman, two former members of the Congress who made significant contributions to increased understanding of elemental Canal issues were Representative Willis W. Bradley of California, a retired naval officer and ordnance expert and a member of the Committee on Merchant Marine and Fisheries; and Representative (later Senator) Thomas E. Martin of Iowa, a retired Army officer. Both of them were close students of interoceanic canal problems.

In a comprehensive discussion of the Panama Canal in 1948, which was soon after the advent of the atomic bomb, Representative Bradley summarized his views on crucial canal security as follows:

"As far as I can ascertain, the greatest authorities on modern weapons of war who have given this subject serious attention hold uniformly that any canal would be critically vulnerable to the atomic bomb regardless of type; that a sea-level canal would be in the same security class as a lake canal; that a sea-level canal could be closed for prolonged periods of time beyond any hope of speedy restoration; and that a sea-level canal cannot be considered secure in an atomic war. These same authorities also agree that the atomic bomb is irrelevant as a controlling factor in the planning of operational improvements for the Panama Canal." (*Cong. Record*, April 21, 1948, p. A2449).

Congressman Martin, on many occasions, expressed similiar views regarding canal security and cited the authorities upon which he based them.

Because the crucial parts of their conclusions of both of these two distinguished leaders are still applicable, some with even greater force, I request that the following list of their statements be included at this point in the hearing record:

Bradley, Honorable Willis W. "What of

the Panama Canal?" Address before the Cosmos Club of Washington, D.C., April 19, 1948. *Congressional Record* (80th Congress, 2nd Session), Vol. 94, Pt. 10 (April 21, 1948), p. A2449.

———. "The Whys of the Panama Canal." Address before the Engineers Club of Washington, D.C., February 24, 1949. *Congressional Record* (81st Congress, 1st Session), Vol. 95, Pt. 12 (Mar. 4, 1949), P. A1303.

Martin, Honorable Thomas E. "The Atomic Bomb and the Panama Canal." Extension of Remarks quoting an article by Major General C. F. Robinson in the *Military Engineer*, January-February 1949. *Congressional Record* (81st Con., 1st Session), Vol. 95, Pt. 12 (Feb. 18, 1949), p. A755.

———. "The Panama Canal and Nuclear Weapons." Extension of Remarks quoting an article by Lt. Colonel A. W. Betts in the *Military Engineer*, Mar.-Apr. 1949. *Congressional Record* (81st Cong., 1st Sess.), Vol. 95, Pt. 13 (Mar. 24, 1949), p. A1713.

———. "The Atomic Bomb and the Isthmian Canals." Extension of Remarks quoting an article by Lt. General Leslie R. Groves in *Cosmopolitan*, January 1949. *Congressional Record* (81st Cong., 1st Session), Vol. 95, Pt. 12 (January 13, 1949), p. A169.

———. "Panama Canal Security Against Atomic Attack." Extension of Remarks quoting an article by Lt. Commander H. B. Seim in the U.S.N.I. *Proceedings*, April 1949. *Congressional Record* (81st Congress, 1st Sess.). Vol. 95, Pt. 13 (May 2, 1949), p. A2639.

———. "Isthmian Canals and National Defense". Extension of Remarks quoting an article by Hanson W. Baldwin in *Atlantic Monthly*, July 1949. *Congressional Record* (81st Con., 1st Sess.), Vol. 95, Pt. 15 (July 14, 1949), p. A4627.

———. "A Balanced Military Policy for the United States". Extension of Remarks quoting an address by General Omar N. Bradley in the *Military Engineer*, Mar.-Apr. 1949. *Congressional Record* (81st Cong., 1st Sess.) Vol. 95, Pt. 15 (Aug. 18, 1949), p. A5402.

———. "Interoceanic Canals—The Atomic Bomb and National Defense". Extension of Remarks quoting an article by Commander Robert C. Wing in the U.S.N.I. *Proceedings*, Sept. 1949. *Congressional Record* (81st Cong., 1st Sess.) Vol. 95, Pt. 16 (Oct. 11, 1949), p. A6197.

———. "Isthmian Canals and Atomic Defense." Extension of Remarks quoting an article by Lt. Colonel Richard D. Wolfe in the *Military Engineer*, Nov.-Dec. 1949. *Congressional Record* (81st Cong., 2nd Sess.) Vol. 96, Pt. 14 (Mar. 7, 1950), p. A1725.

———. "Isthmian Canal and Atomic Bomb Defense Plans." Extension of Remarks quoting a statement by Dr. Vannevar Bush in the Associated Press, February 9, 1950. *Congressional Record* (81st Cong., 2nd Sess.), Vol. 96, Pt. 14 (Mar. 8, 1950), p. A1754.

———. "Interoceanic Canals-Modern Arms and National Defense." Extension of Remarks quoting a condensation of a book by Dr. Vannevar Bush in the *Readers Digest*, Feb. 1950. *Congressional Record* (81st Cong., 2nd Sess.), Vol. 96, Pt. 14 (Mar. 9, 1950), p. A1986.

———. "Apropos of Interoceanic Canals: Atomic Bomb and National Defense." Extension of Remarks quoting a statement by Dr. Vannevar Bush in the *Washington Daily News* of Dec. 18, 1950. *Congressional Record* (82nd Cong., 1st Sess.), Vol. 97, Pt. II (Jan. 22, 1951), p. A 263.

———. "Re Panama Canal: Modern Weapons and National Defense." Extension of Remarks quoting an article by Dr. Vannevar Bush in the *Readers Digest*, Jan. 1951. *Congressional Record* (82nd Cong., 1st Sess.), Vol. 97, Pt. II (Jan. 22, 1951), p. A 349.

———. "Army Chief of Staff Minimizes Threat to Panama Canal in Major War." Extension of Remarks quoting a statement of General J. Lawton Collins, Chief of Staff, in the May 13, 1953, issue of the *Star & Herald*, Panama, R.P., *Congressional Record* (83rd Cong., 1st Sess.), Vol. 99, Pt. 11 (June 11, 1953), p. A3408.

———. "Panama Canal: New Defense Role." Address before the U.S. Senate quoting a news story by Hanson W. Baldwin in the New York Times of April 28, 1957. *Congressional Record* (85th Cong., 1st Sess.), Vol. 103, Pt. 5 (May 1, 1957), p. 6200.

———. "Interoceanic Canals and the Hydrogen Bomb." Address in U.S. Senate quoting an article by William L. Laurence in the *American Weekly*, July 29, 1956. *Congressional Record* (85th Cong., 1st Sess.), Vol. 103, Pt. 5 (Apr 29, 1957), pp. 6091–94.

———. "Panama Canal: New Defense Role." Statement in the U.S. Senate quoting an article by Hanson W. Baldwin in the *New York Times*, Apr. 28, 1957. *Congressional Record* (85th Cong., 1st Sess.), Vol. 103, Pt. 5 (May 1, 1957), p. 6200.

———. "Nuclear Warfare and National Defense." Extension of Remarks quoting an article by Vice Admiral T. G. W. Settle in *National Review*, July 5, 1958. *Congressional Record* (85th Cong., 2nd Sess.), Vol. 104 (July 1, 1958), p. A5958.

———. "Panama Canal: Protection and Defense." Statement in U.S. Senate. *Congressional Record* (86th Cong., 1st Sess.), Vol. 105, Pt. 4 (Mar 20, 1959), p. 4732.●

REBUILDING OUR NAVY

● Mr. HARRY F. BYRD, JR. Mr. President, the September issue of the Harvard Journal of Law and Public Policy will feature an article by former Secretary of the Navy, J. William Middendorf, entitled "We Must Rebuild Our Navy Now."

Secretary Middendorf was Secretary of the Navy from 1974 to 1977, and is now president of Financial General Bankshares. His interest in national security affairs has been long and serious. He is well qualified to comment on such matters.

The article is not a pleasant one, for it raises concerns that human nature often tries to ignore.

I have read the article, and it has left a firm impression. It reminds one of the late 1930's when many responsible people refused to read the warning signals of war.

Adolf Hitler had begun the remilitarization of Germany and had sent many signals of his intended aggression.

Many refused to accept those signals for what they were.

The result was a catastrophe—a catastrophe that cost millions of lives—a catastrophe that could have been prevented.

Secretary Middendorf's article points to many of the same kinds of warning signals that are in evidence today and urges the reader to take heed.

I urge my colleagues to read this article and ponder its relevance.

I ask that the article be printed in the RECORD.

The article follows:

WE MUST REBUILD OUR NAVY NOW

(By J. William Middendorf II)

Since retiring as Secretary of the Navy in 1977, I am, of course, no longer responsible for trying to see to it that the Navy gets its share of the defense budget. I do not own stock in the Navy. I am just another American citizen who feels that we should insist that we maintain a military posture strong enough to deter war, and to insure we would prevail if our vital interests and freedoms were threatened in an actual war situation. I believe that all wars have come about primarily from one side perceiving weakness in the other, and that true peace is maintained only from a perception of at least roughly equal strengths. For most of the post-war period, our position of strength was undisputed but in recent years there has been a very serious decline in our real or perceived strength relative to the one potential adversary who can threaten us, the Soviet Union. In fact, this relative decline has been rapid and we are approaching a period in which four or five years from now, we may find ourselves dealing from weakness in a number of areas. Should we end up in this position, we would be forced when threatened to back away one at a time from our vital interests around the world, and when finally pushed to the wall, we would then attempt something desperate which would be destabilizing in the extreme.

How much better to rebuild our strengths now during the precious moments of freedom we are still enjoying.

The warning signals are up all over. To confine it to my own area of expertise, consider some of the dramatic events that have been occurring for years on the world's oceans: just after the outbreak of hostilities during the Middle East War in 1973, the Soviet Navy massed 96 ships on station in the Mediterranean, nearly doubling the size of its normal fleet there; a force that included a powerful array of cruisers, frigates, destroyers, and escort ships, amphibious ships, fast, well-armed offshore patrol boats, intelligence collectors and approximately 25 submarines, some of the latter nuclear-powered. We were able to reinforce our Sixth Fleet to a strength of 66 units, including three carrier task forces. Along with a full complement of more or less conventional weaponry, Soviet combatants were armed with deadly anti-ship cruise missiles, a weapon not then—and not yet—in our own inventory. The Soviets closely shadowed our carrier forces. In turn we kept airpower over them, ready to shoot down on them in the extremely short interval between the telltale lighting off of their missiles and the time they are actually fired. The Soviets had no airpower in the area, but airfields were available in the Crimea and Egypt and Libya to their sizable force of land-based naval bombers. It was "High Noon" in the Mediterranean. When the Israelis trapped the Egyptian Third Army in the Sinai Desert and were threatening its destruction, the Kremlin delivered a tough ultimatum to Washington: call off the Israelis or we're going in—and indeed the Red Army was preparing to drop airborne troops in the Sinai. To underline the seriousness of the situation and perhaps to send the Russians a signal, the President placed our Armed Forces on alert (Def. Con III) one of the few times since World War II.

I vividly recall following from my office the great drama that took place that long night downstairs in the "tank" (the situation room in the basement of the Pentagon), and over at the White House as the members of our Joint Chiefs of Staff, the National Security Council and the President wrestled with their momentous decisions. I felt the tension on our great naval leaders as they debated our chances for victory (or even survival) in that far away duckpond against the greatest array of potentially hostile forces our Navy or any navy had ever faced. I am personally convinced that World War III, and thus the survival of mankind, hung in the balance that night. Our Navy, I am proud to say; was the only substantial force in being—and on the spot, as it so often is—that permitted us to negotiate from strength. The next morning as a result of negotiations, the Soviets began to withdraw their ships, and the crisis passed.

Perhaps it was just as well, but I noted how little press coverage was given to this, my candidate for the most significant event, or non-event, since World War II.

Many differ as to the outcome should trouble have come. Some believe that the Soviets would have decisively defeated us because they had us outgunned on the surface and in the subsurface, and could have added massive airpower at any time. Others dispute that, insisting that we would have had ample warning had the Soviets begun to move airpower, that we could have taken appropriate counter action, and that we would have in any case retained air superiority—which, along with our ability to jam the electronics systems that guide Soviet anti-ship cruise missiles and our superior anti-submarine warfare capability would have given us the edge. Fortunately, we didn't have to find out, for what is not debatable is that, regardless of who had prevailed, it would have been exceedingly costly for us in terms of men, ships and aircraft, and half of the carriers assigned to defend our entire East Coast would have been bottled up in the Mediterranean Sea.

But the important point is that the Soviets felt confident enough nearly five years ago to boldly move strong naval forces into a volatile situation in what for a generation had been regarded as an American lake and to issue Washington an ultimatum. The U.S.-Soviet naval face-off during the October 1973 War was full of ominous meaning for the future.

Equally ominous for the future were the Soviet's navy war games held in 1970 and again in 1975. These were "Okean (Ocean) 70" and "Okean 75". In these vast maneuvers, the Soviets set about evaluating for themselves, and, no doubt, to show us their newly developed threatening worldwide capabilities. On a signal, hundreds of air surface and underwater combatants were spread out over the world's oceans accompanied by merchant convoys, intelligence collectors, repair ships and oilers, and engaged in remarkably complex maneuvers. Advanced communications systems enabled missile-armed surface ships, submarines and aircraft rapidly to trade targeting information and team up in imaginatively conceived and well-coordinated simulated attacks on submarine and surface ship targets. Soviet naval air armadas simultaneously attacked "enemy" warships in both the Atlantic and Pacific. In Moscow, the Navy Commander-in-Chief maintained instantaneous communications with his major units all over the world, was kept advised in "real" (instant) time as to the status of his air, surface and undersea units and "the enemy's" posture, and was thus able to rate the performance of his individual commanders. In the Atlantic, the exercise stretched from Norway's North Cape to the Azores under an umbrella of U.S.S.R.-based airpower. Forces in the Caribbean operated under Soviet air cover flying out of Cuba. Soviet Navy bombers based in the Guinea patrolled Africa's West Coast. Two missile-armed cruisers led anti-carrier operations between Sicily and Italy in the Mediterranean. Bombers based in Soviet Central Asia and near Berbera, Somalia, covered a strong Indian Ocean force. Four potent task groups worked in the Western Pacific. Extensive maneuvers were conducted in the Black Sea. Everywhere, the Soviets were "at war". It was mind-boggling, the greatest show of naval strength in world history!

More recently, the Soviets just last April 1977 suddenly flooded 89 attack (anti-shipping) submarines into the North Atlantic in a spine-chilling exercise of unprecedented scope that all but overwhelmed NATOs surveillance systems. NATO had to concentrate primarily on the U.S.S.R.'s strategic (long-range nuclear ballistic missile-carrying) submarines, keeping its most effective tracking systems—submarines—assigned to them, but at the same time mount an intensive tracking effort against the Soviet attack submarines with less effective systems: surface ships and aircraft. Not easy, especially since the Soviet attack fleet was accompanied by powerful surface and air forces. Imagine what such a Soviet submarine force could do in the event of real war! Nazi Germany, which began World War II with 57 submarines—perhaps only a quarter of them fully operational, and all of them primitive by today's standard—very nearly succeeded in severing our Atlantic supply lines, sinking some 14,000,000 tons of shipping. Clearly, the lesson was not lost on the Soviets.

Secretary of Navy Claytor said recently: "Today the submarine poses the single most dangerous threat to our life lines at sea. Covert by design, a modern submarine contains the power to cripple these life lines quicker and more effectively than any other threat."

The events described above signal an alarming and accelerating shift in the balance of naval power The Soviet Navy's ability to perform its particular mission has been increasing; the U.S Navy's ability to perform its mission has been decreasing. Let's understand what those missions are or should be: The United States really is an island nation. Our industrial output, our way of life, is dependent on the unimpeded flow to us of essential raw materials and energy—46 of the 47 critical raw materials, including half of our oil, vital to American industry are wholly or partially imported. Some 99 percent of our overseas trade is carried by ship. That's one reason we have security treaties and agreements with 43 nations, 41 of them overseas. Such accords are in our own vital interest. I believe very strongly that essential to our survival as the island nation that we are is that we have a navy capable of posing a believable deterrent in case of a war and capable of keeping our sea lanes open.

The Soviets by contrast are relatively self-sufficient in energy and raw materials and can supply most of the Warsaw Pact allies with military and economic support over a contiguous land mass. The Soviet Union is the opposite of an island nation—a truly peaceful Soviet Government without expansionist motives would find little need for the highly expansive global-capable Navy it has built and is still building. It would be content with adequate coastal defense forces it maintained a decade and a half ago.

How does one explain the recent Soviet buildup? The masters of the Kremlin have always wanted to be masters of the world.

The Committee on The Present Danger describes Soviet Russia today "as a country in which a ruling elite and those whom it designates live comfortably, while the remaining two hundred fifty million citizens not only have few material advantages but are deprived of basic human liberties. This elite can enjoy its monopoly of advantages only so long as it is able to keep the deprived population under effective control—a significant relaxation of that control could spell the end of its favored status and advantages. The elite, however, is not guided merely by self-serving motives. The Soviet leadership asserts that it is the vanguard of a revolutionary society which has discovered the fundamental laws of history. The openly stated ultimate Soviet objective is the worldwide triumph of Communism. This triumph would give the Soviet elite ready access to the world's resources, both human and material; it would also do away with all external challenges to its privileged position by eliminating once and for all alternate political and social systems."

The Soviets became aware in the early 1960s that they could not influence world events without a blue water navy. Powerless to act in the 1956 British and French Naval expedition that invaded Suez, and again powerless in 1958 when the United States Navy moved strong forces into the Eastern Mediterranean to abort a communist takeover of Lebanon; finally the Cuban missile crisis was the last straw when an American Naval blockade combined with the threat of nuclear retaliation forced the Soviets to remove nuclear missiles they were installing in Cuba. That was the watershed, after which begin the U.S.S.R. arms buildup, the greatest in world history, and the naval component has not been shortchanged.

For openers, the U.S.S.R. now has the world's largest strategic submarine fleet, 90 having been launched in the last decade, 8 in 1976 alone, an extraordinary feat which bespeaks a well-organized industry humming with momentum, and they are continuing to add to that fleet. The new Delta-class submarine of which they already have 27 operational is capable of firing a missile from the U.S.S.R.'s relatively protected home waters to reach every significant target or city in the United States. Its 4300 mile range missiles exceed by 1700 miles the range of our most advanced submarine-based missile, the Poseidon. Our Trident I missile, not yet operational, will approximate the range of the Delta class missile when we can produce it.

The fact that their missiles can reach our home land from their own waters enormously complicates matters for our anti-submarine warfare (ASW) forces. In addition, the Soviets have 34 Yankee-class submarines with 1300 mile missiles and 30 older submarines capable of carrying 350 to 650 mile nuclear missiles. The latter probably are for theater use—i.e., for use within a specific battle area—to pose a presence and capability meant to neutralize our stronger allies. Last year, six of the diesel-powered boats were transferred from the Northern Fleet to the Baltic; it's the first time ballistic missile submarines have been stationed in the Baltic.

Thus, the Soviets have approximately 90 ballistic missile-firing submarines prowling the depths, and are still building. About 35 percent of all Soviet strategic missiles are now aboard submarines, and the percentage will rise as new boats keep coming out of the U.S.S.R.'s busy shipyards. The Soviets also currently have two new missiles in advanced stages of developemnt for their Delta and Yankee-class fleets which will have even longer ranges, greater accuracies and increased explosive power.

In contrast to this expanded Soviet submarine threat, our own Navy has a ballistic missile firing submarine fleet of 41 Polaris and Poseidon submarines, all relatively old. Our first Trident boat, which will be roughly the equivalent of the Soviet's Delta-class won't reach the water until almost 1980, by which time the Soviets will have nearly 30 Deltas at sea. The American plan is to keep adding Tridents at the rate of one or two a year until we have a total force of ten or more, and eventually each will carry 24 longer range Trident II missiles—when the latter is developed in the still distant future.

Meanwhile, the Soviets recently have been engaged in a massive civil defense effort that is designed to protect a significant portion of their war-making capability and civilian population in the event of a nuclear exchange. The fact that we lay virtually naked in this area opens us up more and more to nuclear blackmail, because we and they know in advance that our losses would vastly exceed theirs.

Nevertheless, I don't believe that the rapid buildup of the Soviet strategic submarine force means that a nuclear assault against us is imminent. We still could deliver a lot of destruction upon the U.S.S.R., and I doubt the Kremlin wants that. Rather, I am convinced that the entire Soviet nuclear building is intended as a deterrent, to neutralize the American nuclear arsenal and free the Kremlin to employ its conventional naval forces in support of an ambitious foreign

policy designed to subvert the world's raw materials and oil, with the obvious implications to the free world of those actions.

Which gets us to the Soviet Navy's mission: its architect and Commander-in-Chief, Fleet Admiral Sergei Gorshkov, insists that "the Soviet navy is the only armed force capable of supporting state interest on peacetime." To that end, Gorshkov has stated that the Kremlin will have a navy that is "second to none," that contributes importantly to the cancelling out of the American nuclear threat, that can help assure victory if deterrence fails, that can cut our vital supply lines to our sources of raw materials and energy, that can separate us from our allies, that can dominate the seas, and, finally, that can function worldwide as an effective instrument of state policy.

How close is Gorshkov to achieving his "second-to-none" navy? Not long ago, Admiral James L. Holloway, III, our recently retired former Chief of Naval Operations, who served brilliantly in that role, gave the Congress the following sober assessment: in the event of conflict involving the most vital American interests, we retain "a slim margin of superiority today." We could hold open the North Atlantic sea lanes to Europe, but would suffer heavy losses in the early stages. In the Eastern Mediterranean, our ability to operate would be "uncertain at best". In the Pacific, we could hold open the sea lanes to Hawaii and Alaska—but we "would have difficulty protecting our sea lanes of communication into the Western Pacific." Holloway made it clear that he was talking about today. The way the trends are going now, would the Chief of Naval Operations in the early 1980s be able to report any margin of superiority? What would be the result if he had to report major weaknesses relative to the Soviets while the Soviets were threatening, or were acquiring through one of their proxies such as the Cubans, raw materials vital to our own interests?

It takes up to five years to build a major warship, more for an aircraft carrier, so the profile of our Navy of 1981 and 1982 is already set, for better or for worse.

With our worldwide interests and commitments, we can't afford not to be superior at sea. That "slim margin" with which Admiral Holloway credits us now is represented by our 13 aircraft carriers. We normally have two operating in the Mediterranean two in the Atlantic, two in the Eastern Pacific, two to three in the Far West Pacific or for occasional deployments to the Indian Ocean, and up to four in overhaul or change of station situations. Considering our far-flung needs, that is not an over-abundance of seagoing airpower; when the Soviets started their naval buildup, we had 26 carriers deployed around the world. More than any other naval power, we ourselves demonstrated what an effective weapon system the carrier is. Two years ago, ironically, in one of naval history's most significant events, the Soviets deployed their first carrier, the *Kiev*. At 45,000 tons, she's designed to raise havoc with our submarine forces, but could also mount a fleet air defense, launch attacks on surface vessels and support an amphibious landing force (the Soviets also are increasing the size of their "infantry", or Marine Corps). The *Kiev* carries 35 V STOL (Vertical/Short Takeoff and Landing) aircraft and helicopters; two sonars for finding submarines; a nuclear-capable anti-submarine missile launcher; anti-submarine rockets and torpedoes; eight large surface-to-surface missile launchers; two twin 76mm guns; eight small caliber Gatling guns. She is also extensively equipped with communications gear and electronics systems for jamming enemy communications radars and weapons guidance systems.

Second and third *Kiev*-class carriers are under construction or nearing completion. In the 1980s, we probably will see larger carriers joining the Soviet fleet. Along with an expanding amphibious force, a large fleet of surface combatant ships, a large and growing merchant fleet and an improving ability to replenish while underway, Gorshkov's development of carrier forces indicates a determination to challenge the United States seriously for sea control and to project Soviet power into distant areas. Indeed, Gorshkov says he wants to be able to do everything from showing the flag to sending naval infantry ashore. His carriers do not yet give him the long-range striking powers ours provide but he has 1250 land-based naval bombers. Some 30 of them are the new supersonic *Backfires*. These can range far into the Western Pacific, can cover the Atlantic approaches to Europe, the Persian Gulf, the northern reaches of the Indian Ocean, the Sea of Japan, much of Africa, and the entire Mediterranean—*Backfire* squadrons in the Crimea pose a terrible threat to our Sixth Fleet.

The Russians have tried to offset our superiority in aircraft carriers with an arsenal of deadly anti-surface ship cruise missiles, arming scores of their surface ships and submarines with them.

To counter the Soviet cruise missile, our Navy has developed the Aegis anti-missile defense, and we must move ahead with Aegis to ensure that in the event of conflict we are going to retain a navy and merchant fleet. A few platforms have been planned for the Aegis but we need many more. Even with work beginning immediately, it will be 1981–82 before the system can be built and deployed.

The trends have favored the Russians. In addition to their large and growing strategic submarine force, which now outnumbers by almost twice the size of ours, they also have the world's largest "attack" submarine fleet, used for anti-submarine and anti-shipping purposes, numbering 200 submarines, all are torpedo-armed, and nearly 70 are additionally armed with anti-surface ship cruise missiles. That force will improve—in capabilities if not numbers (which is also possible). The technology required to yield a new generation of nuclear-powered attack boats has been several years in development, and construction is expected to begin as quickly as the Soviets complete their strategic submarine force.

In contrast, we have a total of 77 torpedo-armed submarines.

But that's only the beginning. The Soviets have more than all kinds of surface combatants than we have, more cruisers, more destroyers and other escort types—they outnumber us by something as absurd as 850 to 15 in "small" (less than 1000-ton) attack boats. Although a carrier in the area not otherwise engaged could deal effectively with most such smaller vessels, there is nothing unimportant about them—they are fast, maneuverable, and hard to hit, and they pack a lethal wallop. During the 1967 Arab-Israeli War, a single missile from such a Soviet-supplied Egyptian boat sank the Israeli destroyer *Eilat*. During a 1971 conflict, missiles from a Soviet-supplied Indian boat sank one Pakistani destroyer, badly damaged another and are believed to have sunk several merchant ships. By the time of the 1973 Middle East War, the Soviets were confident enough to keep a small guided missile boat stationed close to our big carrier the *John F. Kennedy*. It gave us something else to think about!

In another vital area, amphibious ships used to carry tanks and landing forces into beach areas, they now have over 100 of these. We would need 48 of our force of 63 to embark a single marine division and its associated air wings. Even that would take some doing, since our amphibious ships are scattered all over the Atlantic and Pacific—we would be pressed to completely respond to a major strike order in less than two months' time. Our Marines, under the leadership of Medal of Honor winner General "Lou" Wilson, are the best in the world and they are, as always, ready for combat "at any time in any climate," but from an amphibious transport standpoint alone it can hardly be said that we, the nation, are battle-ready!

The list is endless. The Soviets have now built the largest naval mine warfare force. It has the world's largest fleet of intelligence collectors (so-called "spy ships"): 50 are spread across the world's oceans. Some are always on station near our Polaris-Poseidon submarine bases at Holy Loch, Scotland; Rota, Spain; and Guam; in the Pacific. Others monitor the ship traffic that passes through the world's strategic waterways, such as the Strait of Gibraltar. Others keep positions off the Southeastern United States, where they can keep watch on our submarine base at Charleston, S.C., and our Cape Canaveral, Florida, missile test center. Others are always close to all NATO and American naval exercises. They are, in effect, everywhere our Navy moves. (Some press reports still indicate that Soviet intelligence collectors are disguised as fishing trawlers. Not so. Some are of modified trawler design, but most are of relatively recent construction. All fly the Soviet naval ensign and there is no attempt any more to hide their capabilities or purpose.)

We have no such intelligence collection force. We once had a group of old, converted World War II cargo ships on the job. Then, after the North Koreans seized one, the U.S.S. *Pueblo*, and the Israelis shot up another, the U.S.S. *Liberty*, we opted out of the business.

All new Soviet ships are built for chemical, biological and radiological (CBR) warfare and are regularly put through highly sophisticated CBR exercises.

A key role for an expanded imperialistic nation like the Soviets is to show the flag in more and more places, hoping to influence events. They now cruise in the world's major seas. Every American maneuver that I have ever attended in the Mediterranean was accompanied by Soviet "tattle tales", usually a destroyer. Soviet task forces have circled one of our states, Hawaii. Another has entered the Gulf of Mexico. They now enjoy extensive port facilities along the vital oil routes from the Middle East, in the Mediterranean, the Caribbean, and on the West Coast of Africa. As their proxies, in the push for the raw materials of the world, the Cubans have expanded their activities in Angola, in the Horn of Africa, and in South Yemen, with Soviet naval units never far away. The proximity of the Cubans to oil rich Saudi Arabia upon which the West depends is of ominous importance.

To stay modern and at full strength at sea, the Soviets are engaged in a continuing intensive naval research and development program. They are concentrating on such fields as anti-submarine warfare, missile technology, satellite systems, surface effect ships,* and electronics. The fruits of their vigorous program are being realized in five major shipyards that produce submarines, six more that build major surface combatants and a number of others that are producing minor combatants and support ships. The major yards all have been expanded and modernized within the past five years. A steady progression of newer, larger, more versatile, more capable ships are being designed and built.

Admiral Holloway put it in the clearest terms in presenting the Navy's budget to Congress last year.

"The primary threat facing the United States and its allies comes from the Soviet Union. The Soviet Navy today has capabilities in all naval warfare areas and continues to grow in capability, especially in its ability to conduct multi-dimensional naval warfare in Okean (ocean) areas remote from the Soviet Union."

*See "*Here Comes the 100-mile-an-hour Navy*", The Reader's Digest, August 1977.

Despite a strong and growing Soviet presence on virtually all waters of the globe, despite the existence of a potential Achilles' heel in our dependence on foreign sources of liquid fuel, and despite the necessity to maintain two virtually independent navies—a strategic deterrent ballistic missile submarine force and the larger force of tactical ships, aircraft and submarines—there remains a very real demand, in Congress and elsewhere, to reduce expenditures on the Armed Forces. The result, insofar as the current U.S. Navy budget is concerned, seems to be an emphasis on Army-related expenditures to bolster the central front of NATO. Unfortunately, this justified emphasis comes at the expense of the Navy, which has equally crucial NATO roles.

Still these questions persist:

What are the roles in the international arena—especially the NATO arena—of a U.S. Navy force at peace?

Does the Navy today have sufficient resources to carry out these roles now and in the future?

The United States Navy has three main roles: strategic deterrence—carried out by the ballistic missile submarine force; projection of power in support of U.S. interests and allies; and maintaining the freedom of the traditional ocean routes of commerce, referred to today as the sea lanes of communication (SLOC). The latter two roles overlap to a great degree in wartime. Yet, there is an even more crucial international role of the U.S. Navy—more crucial because of its continuing importance in international commerce. This is, of course, U.S. support of and, hence, U.S. Navy involvement in, NATO. The U.S. as a country is historically and politically committed to a strong and effective Atlantic alliance. This fact has been reemphasized by the current United States government. Less obvious to the Administration's system analysts, however, has been the fact that the North Atlantic Treaty Organization is also very much a maritime affair. Allied naval strength is the cornerstone to integrity of the sea lanes between America and Europe and, hence, very much one of the principal tenets of NATO's strength. While the U.S. Navy cannot alone guarantee the security of NATO, it is the mainspring among an integrally functioning community of naval powers. Into this tenuous situation is interjected the suggestion, reportedly attributed to some U.S. Defense Department analysts, that in a NATO war U.S. aircraft and carriers and supporting ships should be withdrawn from the Mediterranean. Imagine what political mischief such a policy, if adopted and enunciated, would do to the southern flank of the alliance! Similarly, the thought reportedly put forward by U.S. Defense Department analysts that the Norwegian sea should be conceded to the Soviets in a NATO war is an example of the sheer lack of understanding of the uses of naval forces. In a NATO war, U.S. Naval forces should have as their mission, controlling the seas, not conceding them! They should be used to hit the Soviets where they would be the most effective—on the northern and southern flank.

Further, I, like many Americans, am concerned about a purported Defense Department plan to down grade the role of Navy-Marine forces in U.S. Global strategy. The need for supporting our allies around the world as widespread as Norway, Greece, Turkey, and Israel on the flanks of NATO, and Japan, and our raw material rich friends in the Middle East and Africa outweigh any cost savings that may come from the source of cutting.

With security of the North Atlantic traffic lanes so crucial to NATO's capability to reinforce and supply a sustained military effort on the continent, the readiness status of the U.S. Atlantic Fleet and the counterpart European navies remains critical.

Yet, the question remains: How will the forces of the U.S. Navy be used in a NATO war? This is of crucial importance to the alliance, and the early decisions of the present administration are not reassuring: the five-year shipbuilding plan to rebuild the Navy has been cut in half, F-14 procurement was to be closed down. No nuclear-powered cruiser was requested, and no aircraft carrier (conventionally powered or nuclear) was in the budget presented to Congress. On the latter issue, powerful forces in Congress have moved to restore a carrier to this year's budget but as of this writing, the situation is still in doubt.

These signals would seem to be urgent warnings to our European allies who understand the importance of maritime strength. The NATO defense ministers have created a maritime posture task force that is specifically charged with increasing the capability of allied navies to operate as a joint, collective fighting force. It is also apparent that the NATO defense ministers should address themselves—hurriedly, it seems—to the question of the role of that the U.S. Navy will play in a NATO conflict. NATO should also take a long hard look at their lifeline, looking beyond the Mediterranean to the Indian Ocean and not to conclude that their responsibilities end at the borders of their members.

Currently, our Navy has fewer ships than at any time since two years before Pearl Harbor. Some people discount the "numbers game" approach, insisting that it is capability that counts, not numbers. I can only answer that geography doesn't change, that the size of the world doesn't change, that one ship can be in only one place at one time and that our Navy does not have the numbers of ships and types of weaponry it must have to perform its numerous worldwide missions. We need both capability and numbers.

What to do? We simply must rebuild the Navy, just as we did before World War II (and that doesn't mean we are building for war, but to prevent war). Rebuilding does not mean refurbishing obsolete ships. The Navy can't perform its mission today with old World War II and Korean War vintage ships pulled out of mothballs—even if they still existed in any quantity, which they don't. It's sheer nonsense to think the old ships can accommodate the kind of weaponry and provide the capabilities we must have to cope with the naval challenge the Soviets are continuing to mount. Some of our older ships wouldn't last a quarter of an hour in the hostile environment of today's warfare technology. We need a modern, self-sufficient navy, one that can operate in distant areas without having to rely on bases in those areas—overseas bases help enormously, but enemies can seize them, and even allies may sometimes find it politically expedient to deny us their use (for example, most of our NATO allies denied us bases in our support of Israel during the 1973 Middle East War). So our naval forces must be self-contained, must carry their own airpower and Marine landing forces, must be able to defend themselves against any kind of attack, must be able to keep open the sea lanes to our raw materials sources and allies.

We must understand certain fundamentals of the age in which we are trying to survive: development time for new weapons systems is enormously lengthened today—from the time of preparation of the initial plans that must be presented for Congressional approval, it takes five years to get an Aegis anti-cruise missile system to sea, for example; eight years for a Trident system, the years for an aircraft carrier. At the same time, weapons technologies are accelerating to rapidly that time-to-obsolescence is short. Prior to World War II, a major weapon systems' lifespan ranged to 30-40 years. Following World War II, that time frame was reduced to about 20 years. Today, when we build certain new systems, we have to hope that the state of the art won't overtake them in ten years!

But if we are to survive in freedom we have no choice. The rebuilding of our Navy is mandatory, and if we can afford anything as a nation we certainly can, and must, still afford to defend ourselves. The will of the American people surely demands that we stay as a free people. Thinking Americans no longer believe that it's preordained that without a strong defense we can remain free. Our overall economic resources are still enormous and we can see to *all* our defense needs for no greater a percentage of our Gross National Product than we were investing *before* the Vietnam War—nothing even approaching the stupendous percent the Kremlin has been spending for years on its military posture.

There is not a moment to lose—in fact, so much time has been lost already that even if we start now we probably are in for a time of testing in the years directly ahead. Still, when presented with the facts, the American people throughout our history always have done what had to be done, and I am confident that we shall do so again.

I, like so many others, pray that future historians, looking back on this great two hundred and two year old experiment in freedom conceived so optimistically, will never be able to record its demise. May "The Great Nightfall" that has come to so many once-free nations unable to defend themselves, never come here.●

THE FALLACY OF BONN

● Mr. JAVITS. Mr. President, Euromoney is a highly sophisticated monthly journal which focuses on the issues relating to and the problems facing the world capital markets. Quite often its tough editorial positions reflect the views of the world banking community on major financial and economic questions.

In the August 1978, issue, Euromoney's editors analyzed the results of the Bonn Economic Summit in an editorial entitled "The Fallacy of Bonn." Although I do not agree with all the points made in the editorial, I urge consideration of its main conclusion: that the Bonn Summit and the macroeconomic policies that the major industrialized countries will be pursuing do not get at the primary causes of inadequate world growth.

The Euromoney editors perceptibly point out that—

> The failure of private investment is the cause of slow world growth.

The editors argue that the business sectors of the industrialized countries will not be able to take advantage of the excess demand that will be generated by the macroeconomic policies adopted at Bonn, because of their unwillingness in these precarious times to take the risk to invest to expand capacity. So instead, the editors write:

> Much of the extra demand pumped into their economies leaks out on imports, causing trade balances to deteriorate and exchange rates to fall. Inflation gets worse.

The solution proposed by the editors is to transfer the excess savings from the trade surplus countries of Germany and Japan to investment in countries which now have comparative cost advantages through the encouragement of overseas investment.

The solution proposed by Euromoney parallels very closely my views in urging the President and his colleagues at the Bonn Summit to undertake a growth development fund for productive investment in the developing countries. In addition, we must follow policies in the United States that specifically encourage capital formation to produce jobs, not just generate extra overall demand to produce inflation. This is the heart of Danforth-Javits tax package, which focuses on capital formation as the way of dealing with inflation and encouraging productivity.

Mr. President, I commend the article to my colleagues and ask that it be printed in the RECORD.

The article follows:

THE FALLACY OF BONN

The Bonn summit was a fraud based on a fallacy that the world will live to regret it. The fraud was that Bonn purported to produce agreement between world leaders on a coherent and "comprehensive strategy" to pull the world out of stagnation. It was nothing of the sort. Seven national political leaders, several of whom face early elections, agreed to let each do his own thing for reasons of national and domestic political self-interest. Almost everything promised at Bonn would have been done anyway.

President Carter promised to cut oil imports and raise American oil prices to world levels by 1980, with or without Congressional approval. The US yawning trade deficit and the dollar's drop forced his hand, not his trip to Bonn. Chancellor Helmut Schmidt promised to cut taxes and increase public spending up to 1% of Germany's GNP. This was to bolster a sagging growth rate caused by the Deutschemark's climb. Prime Minister Fukuda of Japan promised reflation and to hold the volume of exports in fiscal 1978 to their 1977 level. He acted to prevent other countries starting a trade war. James Callaghan was perhaps the most honest. He promised nothing new and merely suggested that Britain's pre-election budget boost was in some way a pre-paid contribution to the international deal.

The fallacy at Bonn was that these national policies, when put together, amounted to a strategy to steer the world economy out of stagnation. They are more likely to increase world inflation in 1979, increase the risk of a new world slump in 1980, or add to pressures for trade protection everywhere.

The failure of private investment is the cause of slow world growth. In weak currency countries, investment is deterred by the fact and fear of inflation. Increased public sector deficits do more harm, through their monetary and inflationary consequences, than any good they may do by temporarily boosting demand. Businessmen will not borrow money, install new capacity, build up stocks, employ extra labour or raise production schedules to meet a bubble in demand, which they expect to burst. They had enough trouble with debts, overcapacity, and overmanning from the 1974–75 slump to risk being caught once again. So instead, much of the extra demand pumped into their economies leaks out on imports, causing trade balances to deteriorate and exchange rates to fall. Inflation gets worse. The US, Britain, France, Italy and Canada are close to the end of this road of fiscal reflation. That's why they look to others, Germany and Japan, to take up the running.

Sluggish investment in these countries is not caused by excessive inflation nor by inadequate domestic aggregate demand. It is structural, inevitable and desirable. German and Japanese industry is overblown, a legacy of a past age of cheap energy and undervalued currencies. In 1973, for instance, Japanese industrial production accounted for nearly 48.3% of Japan's GNP and 70% of its output was of investment goods or exports; Germany's was 52.1%, of which 60% was investment on export goods; in the US industrial production was 33.9% of GNP, of which 30% for the production of investment goods and exports. Investment in Germany and Japan will remain depressed until resources have been transferred out of industry and into services, distribution and agriculture. The mechanism causing depressed investment and a transfer of resources is the appreciation of the Deutschemark and yen which is squeezing industrial profits. The German and Japanese current account surpluses are the reflection of excess domestic savings geared to finance a level of investment no longer appropriate to today's international comparative costs.

Reflation in Japan, by tax cuts and public spending increases, cannot expand the 30% of Japanese industrial output serving the home consumer enough to offset the fall in demand for the 70% which was devoted to investment and now-to-be-frozen exports. That's why Japan can't get both 7% growth and a smaller trade surplus at the same time. The Japanese family will not buy two new cars a year instead of one. Nor does expenditure on schools create demand for computerized machine tools. The extra money pumped into the economy will either be saved, or will go on things like sewers, which cannot be imported and where the supply is inelastic until resources are transferred out of industry into their production. This process cannot be hurried. So Japanese reflation will either fail or lead to demand inflation.

The Japanese and German trade surpluses will only decline as excess savings over investment is reduced. This will only happen at the pace dictated by the transfer of resources out of industry. While this transfer occurs Japan and Germany will experience slow growth. The only way their surpluses can be rapidly and substantially reduced is through inflation causing a run out of monetary savings.

The Bonn strategy can be summed up as a policy to encourage demand inflation in stable-price, trade-surplus, strong-currency countries, because nobody has found a way to cut cost inflation in rising-price, trade-deficit, weak-currency countries. Savings in Germany and Japan must be cut, because investment in America, Britain, France, Italy and Canada cannot be expanded. If the strategy succeeds, the result will be accelerated world inflation leading to slump. If it fails, the German and Japanese surpluses will remain objectionably large and the result will be a slide into world protection.

What was needed at Bonn was a comprehensive strategy to reduce cost inflation in weak currency countries, coupled with measures to transfer excess saving from Germany and Japan to investment in countries which now have a comparative cost advantage. The only move in the right direction was Japan's promise to open its capital markets to foreign borrowers and to encourage overseas investment.●

THE DELINKAGE OF SALT

● Mr. KENNEDY. Mr. President, in the current issue of Arms Control Today our friend and colleague, Senator CHURCH, has written an article entitled "SALT II, Linkage and National Security" which perceptively examines and accurately responds to the questions and arguments surrounding the continuing strategic arms limitation talks with the Soviet Union. In this article, Senator CHURCH, with his extensive expertise and experience in the field of foreign affairs, welcomes a new SALT agreement as "the only realistic alternative to a senseless nuclear arms race which neither side can win" and the "only practical way to achieve stability (and) enhance national security".

I join with Senator CHURCH in his strong support of a SALT II agreement, and in his opposition to linking the vital SALT negotiations with other issues between the United States and the U.S.S.R. A new SALT treaty is an essential element of our foreign policy which will strengthen, not compromise, our national security. It is too important to be held hostage to a fluctuating political climate.

Linkage, as the Senator from Idaho suggests, presumes not only that SALT II holds more benefits for one side than the other, but that either side can afford a renewed and even more costly deadly arms race. Neither presumption is correct or wise for the foreign and defense policies of the United States. As Senator CHURCH notes at the beginning of his article, the SALT process is now under attack at a time when we are on the verge of an agreement. I would hope that the clear and concise analysis presented in this article will help to stem these attacks and help convince the Senate and the American people of the pressing need for SALT II.

I ask that Senator CHURCH's article be printed in the RECORD.

The article follows:

[From the Arms Control Today. Aug./Sept. 1978]

SALT II, LINKAGE AND NATIONAL SECURITY

(By Senator FRANK CHURCH)

Since 1973, the United States and the Soviet Union have been endeavoring, slowly and haltingly, to achieve a new treaty limiting strategic offensive arms. Now, on the verge of agreement, the SALT process itself is under attack.

The strategic arms limitation effort has been caught up in the maelstrom of our stormy relationship with the Soviet Union. As a result, no one knows whether a new agreement will emerge in weeks, in months, or at all.

PROBLEM OF LINKAGE

Some of my Senate colleagues have suggested that the United States should unilaterally break off the SALT negotiations to protest the political trials of Soviet dissidents, Anatoly Scharansky and Aleksandr Ginsburg. The Carter Administration says it is opposed to using the SALT talks as a tool for pressuring the Kremlin on its internal human rights policies. However, the President, himself, may have opened the door to this kind of linkage when he suggested that the successful conclusion of SALT II could be jeopardized by Soviet and Cuban activities in Africa. Once the concept of linkage between strategic arms negotiations and other extraneous political developments has been legitimized, it is inevitable that this same principle will be invoked by others to argue in favor of suspending the arms control talks for a myriad of other reasons. In the process, the hope of ever negotiating an

end to the nuclear arms race may fade altogether.

If we persist in tying SALT to Russian behavior in the Horn of Africa, in Central Africa, or even in Moscow, we are quite unlikely to find that perfect moment in the flow of events at which we can say, "At last, our persistent competitor, the Soviet Union, is comporting itself to our complete satisfaction. Now, we should discuss the conclusion of a SALT agreement."

And if we hold the Kremlin responsible for Castro's every move in Angola or Ethiopia, then what is to stop the Russians from arguing that SALT cannot proceed until our allies, the French and Belgians, pull out of Zaire or Chad? Once you espouse the theory or linkage, where do you break the chain?

Finally, the notion that SALT II can be held hostage for changes in Soviet behavior in other areas flies in the face of the fundamental precept that makes the arms limitation talks possible at all; that is, that an agreement to limit strategic arms equally serves the vital interests of both powers, and further, is mutually perceived to do so. The linkage theory presumes that an agreement is more in the interest of the Soviets than of the United States, and we can therefore "punish" the Kremlin by delaying conclusion of the talks. But if the SALT talks are more in the interest of the Soviet Union than our own country, why are we engaging in them?

I agree wholeheartedly with Secretary of State Vance that this issue must be treated differently from others:

"The imperatives to go to Geneva now are that we are dealing with negotiations that affect the national security of our nation and the security and well-being of the world in general. . . . It is a question which deals with the prospect of mutual annihilation. . . ."

THE NEED FOR A STRATEGIC ARMS LIMITATION AGREEMENT

SALT is the only realistic alternative to a senseless nuclear arms race which neither side can win. We have already assembled a nuclear arsenal of such staggering proportions that the United States could destroy the Soviet Union several times over, even after enduring an attack upon itself. This ability to strike back devastatingly if attacked—an ability the Soviet Union also possesses—has brought the two sides to a state of mutual deterrence, and a suicidal holocaust has thus far been averted.

But we are on the verge of a new, even more dangerous stage of the arms race. The United States and the Soviet Union are developing new counterforce weapons which could enable each side to destroy the other's ICBM's. If these weapons are deployed, each nation's fear of a first strike will be dramatically increased. The psychology of the arms race is such that without a mutual agreement between the U.S. and the U.S.S.R. to limit these new weapons developments, the race will escalate—even though it is obvious that we would never reach a point through competition at which we would feel secure enough to stop. In fact, a new counterforce competition would make us feel less secure, because the stability of mutual deterrence would be weakened. In short, the only practical way to achieve stability, enhance our national security and, simply put, keep the lid on, is through strategic arms limitation agreements.

Secretary of Defense Harold Brown said in his presentation this year to the Senate Arms Services Committee:

"We want mutual deterrence to be so stable that it cannot be upset in a crisis. We want it to be so well designed that neither side will be tempted to try to upset it over the longer term. These are the two essential types of strategic stability that we seek."

There is no question in my mind that strategic arms limitation agreements are indispensible if we are ever to achieve this kind of strategic stability.

The value of arms limitation is much more obvious when we consider how indefatigably we and the Soviets have pursued the other path—only to secure a stalemate. We kicked off the nuclear weapons age in 1945 and outdistanced the Soviets throughout the 1950s. We maintained both a quantitative and qualitative lead in the 1960s, and we still hold a qualitative lead. But from the start, the Soviet catch-up has only been a matter of time.

In 1966, the Soviet Union had 244 Intercontinental Ballistic Missiles (ICBMs). We were then approaching our present total of 1,054 land-based ICBM's. The Russians had 29 Submarine-Launched Ballistic Missiles (SLBMs) and we had almost finished our program of 656 such missiles.

In the late 1960s, with forces more than adequate for deterrence, we decided to stick with our missile totals, at least for the near future. Meanwhile, the Soviet Union was coming from behind, and its land-based missile force exceeded ours by the end of the decade. Their submarine force grew larger than ours a few years ago.

But we were not idle while the Soviet Union was increasing its missile totals. In 1970, we began installing multiple independently targetable re-entry vehicles (MIRVs)—a technical name for strategic warheads—atop both our land-based Minuteman missiles and our submarine-based Poseidon missiles. (We also installed less sophisticated multiple warheads on our Polaris submarine missiles.) The Soviet Union did not start MIRVing its land-based missiles until 1975, and only recently acquired the ability to deploy MIRVs on submarine-based missiles. By comparison, every one of our submarine-based ballistic missiles boasts a multiple warhead.

As a result of our earlier start and better technology, we presently possess more than twice as many deliverable strategic nuclear warheads as the Soviet Union. Our analysts tell us that we will maintain a warhead lead for the foreseeable future.

Some discount this lead by pointing out that the Soviets have developed generally larger ICBMs and more of them—about 1,500 compared to our 1,054. They have also installed more submarine-launched ballistic missiles, although we have built more bombers. The total forces, as measured by the number of strategic delivery systems, compare at more than 2,500 for the Soviets to about 2,100 for us. But the numerical disparity is not in itself a cause for concern, since our current forces are capable of hitting twice as many targets as theirs, with a punch many times larger than the blasts which destroyed Nagasaki and Hiroshima.

A BETTER ALTERNATIVE

To understand why we should welcome the prospective new treaty now being negotiated, we should look at some of the contemplated controls and limitations. We should also consider both the added cost and uncertainty that would face us without a new treaty.

The basic element of a new SALT package will be a treaty to last until 1985, which will establish certain ceilings on overall strategic delivery systems, as well as sub-limits on missiles with MIRVs, upon heavy bombers carrying cruise missiles, and upon land-based MIRVed ICBMs. The second component will be a protocol applying temporary additional limitations until around the end of 1980. The third component will be a statement of principles and guidelines for SALT III.

The emerging three-part SALT agreement would hold many benefits for the national security interests of the United States:

—The maximum limit of 2,250 on strategic delivery systems will force the Soviet Union to dismantle about 300 of its missiles and/or bombers. This reduction is even more striking by comparison with what the Soviets might add without SALT. The Department of Defense projects more than 3,000 Soviet strategic weapons by 1985, without a treaty. If so, then we can correctly credit SALT II with removing the threat an additional 800 Soviet intercontinental bombers and/or ballistic missiles would pose. By contrast, the ceiling will not force us to make any reductions in the number of our strategic weapons. Indeed, if we choose to do so, we can add new weapons in sufficient number to equate our total force with that of the Russians.

—The ceiling of about 1,200 on missiles with MIRVs will constrain the United States only slightly. However, it will hold the Soviet side to a total hundreds below what we believe they would otherwise install.

—We benefit most immediately from the expected allowance above the MIRV ceiling of 120 heavy bombers equipped with air-launched cruise missiles (ALCMs), as we are well along with our cruise missile program.

—Since a far smaller proportion of our forces are on land, the Soviet side will be most affected by the limit of 820 on land-based ICBMs with MIRVs. Our intelligence believes that the Russians would deploy hundreds more land-based missiles with MIRVs by 1985 without a treaty.

—The treaty limitations may cause the Soviets to give greater emphasis to seabased forces at the expense of landbased forces, a move which will be inherently less threatening and more stabilizing.

—The mobile missile provisions in the protocol are decidely in our interest. A Soviet mobile missile now ready to be deployed, the SS–16, would be banned for the period of the protocol, while the development of our own mobile missile, the M–X, would not be constrained, should we decide to proceed with it.

—The cruise missile provisions in the protocol will allow us to proceed as quickly as we are able with cruise missile development and deployment. The Soviets will not derive similar benefits, since they have no comparable program.

Against this background, one might ask, what is in this package for the Soviet Union that does not increase the danger to us?

First, the land-based missile forces of the Soviet Union possess greater throw-weight in megatonnage than the comparable forces of the United States. This will compensate them for the threat posed by us of our far superior submarine missiles and our larger force of penetration bombers with ALCMs. Second, SALT II, by incorporating the principle of equal aggregates, will acknowledge the fact that the Soviet Union has become the relative equal of the United States in strategic nuclear arms. Third, the new agreement will save the Russians—as it will us—the heavy financial burden and the needless diversion of resources which would be entailed in an unrestrained continued competition.

To sum up, in no case will SALT II cause the United States to yield any advantage whatever to the Soviet Union in strategic nuclear arms. On the contrary, SALT II will leave the United States relatively better off, for the life of the treaty, than it would be if there were no treaty and each side continued to proceed through 1985 according to current plans.

Obviously, if there were no SALT II agreement, the United States would not sit still, militarily. If the Russians continued to expand their strategic force at the current rate, we could expect upward revisions in our own military budget.

Even if the Russians did not step up their own strategic program in the event of a SALT breakdown, the United States would have to spend an extra $30 billion, at the very least, between now and 1985, just to main-

tain the relative force strength that would be guaranteed by SALT II. This amount would cover the construction of 100 FB-111 bombers and modernization of existing ones, the deployment of additional sea-launched cruise missiles, the replacement of the remaining 450 Minuteman IIs, with MIRVed Minuteman IIIs, and the installation of more ICBMs.

If, in addition, we were to speed up development of the M-X mobile missile by two years and restart the B-1 bomber program, we would have to pile on another $24 billion over the next 10 years. The Senate Budget Committee staff has estimated that over 12 years, the incremental cost to the United States of building a maximum force reasonably envisioned in the absence of a SALT agreement could be $90 to $100 billion!

The willingness of the American people to bear whatever cost is necessary is not in doubt, nor is the ability of our military to keep pace with the Russians. The question is, why should we pour additional billions of dollars for defense into a federal budget already deep in deficit and further inflame inflationary pressures, when precisely the same measure of security can be achieved by concluding a sensible arms agreement with the U.S.S.R.?

(Senator Frank Church (D-Idaho) has played an active role in foreign affairs since coming to the Senate in 1957. In 1970 he authored the Cooper-Church Amendment cutting off funds for the war in Indo-China. He is the second-ranking Democrat on the Senate Foreign Relations Committee).●

ERA

● Mr. GARN. Mr. President, one of the documents that will be often cited during the debate on extending the time for ratification of the equal rights amendment is "Hearings on House Joint Resolution 638 Before the Subcommittee on Civil and Constitutional Rights of the House Committee on the Judiciary," 95th Cong., 1st and 2d sess., Ser. No. 41 (1977 and 1978). The Senate has also held hearings and I hope that the Senate hearings will be published before debate in the Senate begins. It would be unfortunate if Senators could not avail themselves of the Senate hearing record during the Senate debate.

Of course, one of the first things that one will notice about the hearings is that there is a wide divergence of opinion regarding questions which are basic to the issue of extension and related matters. Constitutional authorities, other witnesses, and members of the committees disagreed about the meaning of the constitutional language itself, the framers' intentions, judicial interpretations, and congressional policy. Although opinions are broadly scattered about the constitutional field, one of the most thoughtful analyses was done by Prof. Charles L. Black, Jr., Sterling professor of law at the Yale Law School.

Professor Black is, of course, one of this country's most distinguished lawyers and we are fortunate to have the benefit of his wisdom on this matter. I will submit at the end of these brief remarks Professor Black's two short statements presented to the House committee. Professor Black's testimony begins on page 69 of the House hearings I think Professor Black may be wrong in one or two of his conclusions, but I find them thought provoking as will many of our colleagues, I am sure.

In addition to Professor Black's written remarks which will appear below, I wish to give a portion of his oral remarks on the subject of rescission (see, pages 72 and 73 of House hearings):

The simple thing about rescission is that it would make it possible for an amendment to go into effect with a majority of the States on record against it, if you don't allow rescission. You could have ratification by 37 States, rescission by 20 of them, ratification by one more, and an amendment going into effect which had been actually approved by only 18 States, in fact, rather than in the kind of constructive "contemplation of law" which comes about from what I call the "lobster-trap theory," where a State that enters the lobster trap is forever caught therein.

I can't believe that that is good constitutional law, and the 14th amendment precedent is so thin that it would break if a cat walked on it.

They knew in the House of Representatives the day that that proposal passed that Georgia had already ratified and that they were voting on a moot question. They had a telegram, as the Congressional Globe shows, which was correct, that on July 21, 1868, Georgia had ratified, and you had the 28 states whether or not Ohio and New Jersey rescissions were valid.

This was a totally moot question, as everybody know. And when Seward actually proclaimed the amendment, it was, of course, entirely so, and known to everybody.

If that is a precedent to rule the future and produce a mathematical absurdity of the kind that the no rescission rule would produce, then I really want to go into some other business than constitutional law. That is not my kind of constitutional law.

Mr. President, I ask that Professor Black's written remarks be printed in the RECORD. I believe our colleagues will find his views on rescission, two-thirds vote, Presidential signature, and other matters of great interest.

The remarks follow:

YALE LAW SCHOOL,
New Haven, Conn., October 28, 1977.

STATEMENT ON EXTENSION OF TIME FOR ACTION ON AMENDMENTS FOR THE STATES

(For House Judiciary Subcommittee, in connection with November 4 Hearing)

It is my view that, in the entire silence of the Constitution on the subject Congress has the power to extend time for the ratification of an amendment. I see no reason at all why the body which set the time in the first place should not have this power. There certainly is a limit on what could be looked on as a "reasonable time," but a few more years would probably not raise any serious question on this.

I have three other opinions directly connected with this:

1. If the original resolution combined the proposal of the amendment and the setting of the time, the integral package being then passed by 2/3 vote (and I understand this to have been true of the Equal Rights Amendment) then it seems to me plainly right that a 2/3 vote of each House of Congress should be required for an extension. It may easily happen, in any given case, that a vote for the original resolution is cast partly on the ground that, in the view of the caster of the vote, the time is suitably limited. If this is not possible then that must be because the limitation of time in the first instance was utterly meaningless—an impermissible assumption. It is impermissible to assume that this question of time never matters to anybody: if that were so, why put it in? It cannot therefore be assumed that the original would surely have passed by the requisite 2/3 majorities if the time had been longer. On a constitutional question of this kind one cannot afford to guess, as to a particular amendment, what might have happened; one must rather follow a procedure which would always be suitable and fair.

2. I firmly believe that a proposal extending time ought to be submitted to the President for his signature. Article I, Section 7, is unmistakeably clear on this point, and the case of *Hollingsworth v. Virginia*, 3 Dallas 378, which held that the vote on the substance of an amendment need not be submitted to the President, was decided in the teeth of the plain language of the Constitution, and was (to understate the position inadequately reasoned, as anyone who reads it can see. This holding has been accepted in practice since 1798, and I would not therefore want to disturb the case on its own facts. But it should not be extended one inch beyond those facts, since every such extension is a plain violation of the Constitution.

3. It seems to me that it would be entirely impermissible to extend the time for ratification without also extending the time for rescission. Extension of time, in my view, must be for action on the amendment, and not simply for one kind of action on the amendment. The concept of "contemporaneous consensus" is more and more stretched and violated as more and more time passes with States having actually changed their minds on the merits of an amendment proposal.

The extension of time for ratification but not for rescission would be so grotesque that I should think that one would not have to reach the constitutional question, but if the question is reached I am firmly of the opinion that lopsided extension would be unconstitutional and that an amendment adopted in that fashion would be invalidly adopted. The right to rescind, in my view, arises by operation of law, and cannot be taken away by Congress.

Respectfully,

CHARLES L. BLACK, Jr.,
Sterling Professor of Law, Yale University.

YALE LAW SCHOOL,
New Haven, Conn., November 1, 1977.

SUPPLEMENTARY STATEMENT ON EXTENSION OF TIME FOR ACTION ON AMENDMENTS FOR THE STATES

I have only today seen a copy of the proposed extension bill, and have, in addition, only just now received certain information on the legislative history of ERA, relevant to one of the points in my statement dated October 28. Apologizing for the unavoidable fragmentation, I add the following points.

1. The language setting a time limit, both in the original and in the new bill, is the operative language providing for the actual going into effect of the amendment. This furnishes some purely technical support, though I doubt any is needed, for the requirement that two-thirds of each House consent to the presently proposed extension.

2. The legislative history seems to furnish support for the proposition that, as to this particular amendment, the time-limitation was seriously considered as a significant part of the "proposal" being voted on; this supports, again, the contention that extension should require a two-thirds vote in each House, since evidence of serious attention to the seven-year limit makes it quite plausible, in this very case, that some affirmative votes may have been influenced by the time-limit.

3. Until I saw the bill, I had not known that a seven-year extension was proposed; I had (perhaps without reason) thought that one had to do with a slight extension to meet possible state-legislative convenience. A doubling of the time, to fourteen years, seems

to me to raise serious constitutional questions, for I find it hard to apply the concept of "contemporaneous consensus" to such a period. It may be that a judicial court would hold this to be a "political question," in the sense of its being finally committed to Congress. But the anticipation of such a holding ought to increase, rather than to diminish, Congress' own sense of responsibility to the spirit as well as the letter of the Constitution. To call a question of this kind "political" is not to say, one fervently hopes, that anything goes.

In any case, a doubling of the period, to fourteen years, seems to me to make even more clearly visible the strength of the case for the validity of rescissions. How could it be right that States that had for, say, ten years been on record as being against an amendment be counted as being for it?

Very respectfully,

CHARLES L. BLACK, Jr.,
Sterling Professor of Law, Yale University.●

MAJOR SAVINGS BY INDUSTRY

● Mr. KENNEDY. Mr. President, a year ago the Subcommittee on Energy of the Joint Economic Committee which I chair held hearings on industrial energy conservation which clearly identified the huge savings that can be made by industry.

Now the August 21 Time magazine points out the dramatic energy savings that have been achieved by corporations taking the initiative in the fight to save energy.

For example, Time points out that:

In the last five years Ma Bell's business has grown by 44 percent, but its energy usage has dropped 10 percent." . . . "Since 1973 Raytheon's business has grown 75 percent, to 2.8 billion, but its use of fuel oil, natural gas and electricity has been cut by about 25 percent."

Industry has focused on this important issue and made substantial savings where substantial waste existed before. The question is whether industry can keep up and maintain this pace. I have encouraged greater Government attention to this opportunity for reducing our oil imports and I urge the Department of Energy to increase its support for industrial conservation to continue progress made in the last 2 years.

Mr. President, I ask that "Reaching For Fuel-Saving Ideas" be printed in the RECORD.

The article follows:

REACHING FOR FUEL-SAVING IDEAS

The initials B.T.U. stand for British thermal unit, the basic measurement of heat in a given amount of energy. But to more and more business people, the letters are coming to mean something else—Better Tighten Up.

Much of the public continues to behave as if there were a constitutional mandate to expend energy; the nation will burn nearly 4 percent more oil this year than in 1977. But this trend is being countered in a notable way by some corporate consumers, who are discovering that saving fuel is just about the simplest way to cut costs and boost profits.

While conservation alone cannot solve the nation's energy problems, it is essential to any solution, and the experience of industry is dramatic evidence of just how much can be done. Ever since the 1973 oil embargo, companies have been not only determinedly turning off lights and turning down thermostats but also redesigning buildings, installing energy-saving devices on assembly lines and driving the conservation message home to employees. The economical use of power at the plant or office is bound to carry over to a heightened energy consciousness for workers at home. Last year, when the economy grew at a rate of nearly 5 percent, industrial use of energy increased only 1 percent.

The saving to business, which Department of Energy officials estimate to be nearly $3 billion since 1974, is the result of a variety of conservation ideas. While some companies have been experimenting with various alternative sources of energy, most of the immediate gains have come from simple conservation steps or the application of proven available technology. Some of the measures taken have been as sophisticated as the elaborate computer system that Burlington Industries, the big textile firm, has installed to regulate the use of electricity in 20 of its 99 plants. Others are as uncomplicated as the discovery by General Motors that it could save $1,576 a year in electricity bills merely by removing the fluorescent bulbs in its shop-floor vending machines. North Carolina's Sanford Brick and Tile Co. (350 employees) is taking advantage of the mountains of sawdust discarded by nearby furniture factories: it is combining the sawdust with either natural gas or diesel fuel to cut the cost of firing its baking kilns.

In a number of companies, energy consciousness has practically become a corporate religion. Three examples:

AT & T

In the past five years Ma Bell's business has grown by 44 percent, but its energy use has dropped 10 percent. Tiny electronic devices known as microprocessors, which are being installed to replace mechanical switching devices throughout the system, are proving to be considerable energy savers. To cut heating costs, the ceilings of office buildings are being fitted with special ducts that capture and then recycle the heat thrown off from electric typewriters, copying machines and even office workers (who radiate as much heat as 100-watt light bulbs). Though there are 7 percent more phone-company cars and trucks (total: 177,000) on the road than in 1973, gasoline consumption has been cut by 3 percent, in large part simply by teaching employees to use economical driving skills.

RAYTHEON CO.

Since 1973, the electronic company's business has grown 75 percent, to $2.8 billion annually, but its use of fuel oil, natural gas and electricity has been cut by about 25 percent. Automatic shutoff timers have been installed on everything from coffee makers to light switches in corridors. Any worker who wanders off leaving a piece of factory machinery running gets a large Day-Glo orange "energy conservation ticket" slapped on his equipment by company inspectors, who are constantly on the prowl for offenses.

TRW INC.

Sales of the diversified Cleveland-based maker of auto components, electronic and electrical equipment have nearly doubled since 1972, to $3.3 billion, but energy consumption has declined by 19 percent. Unnecessary machine runs have been eliminated; the number of ventilating fans cut by a quarter; and air conditioning is now reduced an hour before some plants close. Workers are rewarded financially for energy-saving ideas and division managers now have to make quarterly "energy use forecasts," just as they do for sales, profits and capital-spending projections. Says Vice President Pierce Angell: "Energy accounted for 4 percent of our company's production costs in 1972, but by 1985 it could be as high as 15 percent. That's a damned critical thing."

Industry's new energy stinginess is one of the few bright spots in the nation's struggle to adjust to a world of rising petroleum costs. Although oil imports were down 13 percent in the first half of 1978, that was only the temporary result of some special factors, including the start of the flow of Alaskan oil. Imports are expected to pick up rapidly during the rest of this year and reach new records in 1979, above last year's peak of 8.7 million bbl. a day. These projections have not been lost on the OPEC nations. Although they agreed to continue the cost of crude oil at its present $13 per bbl. when they last met in June, there have been signals from OPEC oil ministers that they may meet again as early as next month to jack up the price about 5 percent. To the present $42 billion cost of the U.S.'s annual oil imports, that would add $2 billion.●

THE DOLLAR CRISIS

● Mr. THURMOND. Mr. President, I have watched with growing concern the rapidly deteriorating value of the dollar on the world's currency markets. The situation has become so critical in recent months that further delay toward major, positive and aggressive action to aid the dollar cannot be tolerated.

The administration and the Federal Reserve Board have made some efforts in recent weeks to bolster the sagging dollar, but these efforts have been extremely timid and thus largely ineffective. The stakes in this dollar crisis are extremely high—for both the American economy and the world economy.

Mr. President, I am sure that all of us are aware that this is a complex problem with no simple and easy solution. We know that, in addition to the actions needed in the foreign exchange markets, we need to tighten our belts sharply on inflation and to put much more stringent controls on our own Government spending.

We, as leaders in the world community, have faced difficult and complex problems before and handled them well. Certainly we can, and must, meet this current challenge that will allow us to continue our leadership position in the world's economic community.

An editorial titled, "The Sliding Dollar", in the Washington Post on August 21, 1978, provides an introspective statement concerning this critical problem.

Mr. President, I ask that the attached editorial from the Washington Post be printed in the RECORD for the benefit of my colleagues.

The editorial follows:

[From the Washington Post, Aug. 21, 1978]

THE SLIDING DOLLAR

The rise in interest rates Friday was the right opening move. In the past several weeks, the fall of the dollar's value on the world's currency markets has suddenly become much more dangerous. It was urgent that the Carter administration and the Federal Reserve Board respond. The Fed has increased its discount rate—the rate at which it lends to commercial banks—by half a percentage point. That's a necessary remedy, but it's not sufficient. What comes next?

Over the winter and spring, the administration's posture of benign neglect of the exchange rates was perfectly reasonable. Most of the movement was modest. The principal exception was the rise of the yen, resulting from Japan's huge and persistent trade surpluses. But since the beginning of July, things have changed sharply for the worse. Now the dollar is falling against most of the world's major currencies, the weak as well as

the strong. The reason for this ominous change is a spreading impression, among currency traders and bankers, that the U.S. government either can't or won't reduce the level of inflation here.

Exchange rates are swayed by people who have to gamble on the values of currencies months and years ahead. If they think that the dollar is going to depreciate faster than other kinds of money, they sell—and the prediction quickly tends to become self-fulfilling. When people sell dollars, the exchange rates fall. That increases inflation in two ways. Imports into the United States become more expensive and some of the domestic industries—steel, for example—happily raise their own prices as the competing foreign products get more expensive. At the same time, American goods become cheaper to foreign buyers who bid up prices for Americans. Inflation and exchange rates are not separate issues.

How do the financial markets make up their collective minds about American intentions? The last two months provide a good illustration. At the end of June, the Secretary of the Treasury, W. Michael Blumenthal, said at the National Press Club that the Federal Reserve Board's high interest rates were forcing the administration to lower its estimates for economic growth.

On the same day the Fed voted to raise the discount rate by a quarter of 1 percent. But it was a split vote, and the Fed's new chairman, G. William Miller, had dissented. Currency dealers concluded that the administration was putting pressure on the Fed not to interfere with growth, and it had won over Mr. Miller. In July, Mr. Miller seemed to confirm that assessment when he began saying that interest rates would peak soon, he hoped, and begin to decline before the end of the year.

Meanwhile, the administration's energy program was in endless trouble in Congress. Financial experts, here and abroad, took that as a clear indication that the United States would do nothing about its inordinate imports of oil. They are contributing, of course, to inflation and the weakness of the dollar.

In late July, the government published the usual statistics on the nation's economic performance in the previous three months. They showed an inflation rate over 10 percent a year. It meant that inflation was rising here, while falling in most other major economies. It also meant that the Carter administration had underestimated the speed with which prices were rising. The decline of the dollar began to accelerate.

Last week Mr. Carter summoned Mr. Blumenthal and Mr. Miller to discuss the dollar. The White House subsequently put out a statement to the effect that they would consider what to do. But, when you say that you will have to consider what to do, you inevitably leave the impression that you have no clear line of action in mind. The currency markets began to bounce around wildly. Then, on Friday, the Fed raised the discount rate again.

The conventional objection to higher interest rates is that they threaten to choke off business expansion and tip the country into a recession. But there is no simple choice between inflation and recession. Inflation at the present level will produce a recession—and, to judge from the 1974–75 experience, it can be a recession of great severity.

To bring down the inflation rate will require further increases in interest rates. It will require firm decisions to hold down oil imports. It will require a federal budget of great stringency. It is not a pleasant prospect. But if it seems to you excessively harsh, think for a minute about the alternative.●

SALT

● Mr. HART. Mr. President, I would like to call the attention of my colleagues to an editorial which appeared in the Denver Post on Wednesday, August 16, entitled "The Importance of SALT." It makes a point with which I totally agree.

We must judge the final SALT II agreements, when they are submitted to the Senate, solely on the basis of national security criteria. It would be a tragic—and potentially dangerous—mistake to tie ratification of SALT II to Soviet compliance with our wishes on the range of issues from the treatment of Soviet political dissidents to the adventurism of its forces in Africa. These issues are obviously important and merit our continued concern. But they are peripheral to the central issue at stake in these talks—nuclear security.

Linkage of SALT and Soviet behavior in general implies that SALT is somehow a "favor" we grant the Russians. SALT is not a favor we grant anybody. It is in our own best interests to conclude an agreement that serves our national security objectives, and is comprehensively verifiable. For, in the words of the editorial—

> . . . both nations have a compelling interest in the success of these talks. A new and ruinously expensive arms race could move the world even closer to nuclear Armageddon at worst and bankruptcy at best.
>
> That's why the issue of SALT II needs to be contained within the field of national security—period.

Mr. President, I ask that the full text of the Denver Post editorial of August 16, entitled "The Importance of SALT," be printed in the RECORD.

The editorial follows:

THE IMPORTANCE OF SALT

As the November elections approach, it may be time to dust off the old diplomatic principle of "containment" and apply it to political rhetoric relating to U.S.-Soviet relations.

There is rising, and justified, anger in the United States at the behavior of the Russian government in matters both international and internal.

Responding to that, office-seekers are now demanding everything from U.S. withdrawal from the 1980 Olympics to breaking off the Strategic Arms Limitation Talks (SALT).

Well, whatever the merits of the Olympics in general and of Moscow in particular, world history will hardly turn over the issue of who wins the hammer throw in the shadow of the Kremlin.

The upcoming SALT II treaty is quite another matter. It has been six years in the making and the final text is still both secret and incomplete.

Obviously, this is not the time, therefore, to praise or damn the negotiations upon which so much of our national future rests.

But it is appropriate to remind the politicians of just what they're calling for when they demand use of SALT as a pawn to influence Soviet policy in matters unrelated to national security.

Just suppose we try and the Soviets agree to release dissidents Anatoly Scharansky and Aleksandr Ginsburg. Do we then "reward" the Soviets by giving them another thousand nuclear-tipped rockets aimed at us?

Do we agree to scrap our cruise missiles if they increase Jewish emigration?

If they rein in the Cubans in Africa, can we safely drop the MX missile program?

Obviously, such folly would leave the American people defenseless against an ascendant Soviet military machine—and even those modest Soviet concessions would then doubtless be revoked.

The Soviets, of course, would be equally sure to reject proposals that would "punish" them in terms of strategic weapons inventory because of our displeasure at peripheral matters. Thus, the talks would be doomed to failure in Geneva or rejection in the Senate.

That would be tragic, for both nations have compelling interest in the success of these talks. A new and ruinously expensive arms race could move the world even closer to nuclear Armageddon at worst and bankruptcy at best.

That's why the issue of SALT II needs to be contained within the field of national security—period.

If from that vital perspective the final draft of the treaty is found wanting, then the Senate should reject it, come what may.

But to needlessly doom SALT II, in advance, for unrelated issues of whatever merit, would be a tragedy for mankind.●

CAPPER-VOLSTEAD ACT

● Mr. BURDICK. Mr. President, recently Reuben L. Johnson, director of legislative services of the National Farmers Union, addressed the National Commission for the Review of Antitrust Laws and Procedures in Washington, D.C.

Mr. Johnson's remarks are very instructive as to the proposed review and appraisal being made of the Capper-Volstead Act. I request that Mr. Johnson's remarks be printed in the RECORD and I commend them to my colleagues attention as the views expressed are important and deserving of attention.

The statement follows:

STATEMENT OF REUBEN L. JOHNSON

In its 76-year history, the National Farmers Union has been actively involved in the propagation, extension, promotion, and occasionally, the defense of farmer cooperatives.

As is noted in the attached Exhibit I, "Genesis of the Capper-Volstead Act," our organization has been involved in the development of a basic cooperative statute from as early as 1906.

The Capper-Volstead Act, and succeeding cooperative statutes have been of distinct importance to American farmers, their industry and their communities. Farmers have used the institutions, which have become possible as a result of these cooperative statutes, to overcome to an extent, the weakness of their situations as individuals in the market place.

But, while the cooperative instrumentality has improved the situation of farmers, it has not enabled farmers to achieve a desired and deserved status of income equity and stability. As a matter of fact over the past 45 years, farm price and income stabilization measures of a substantial and comprehensive nature have become necessary.

Even the combined effect of farm programs and cooperative marketing has not raised farmers generally to a situation in which their prices and income afford them a condition of parity.

As a matter of record, farm prices and purchasing power last reached the 100% of parity level in the year 1952. As of June 30, 1978, farm prices were averaging 73% of parity, 27% less than the level needed for a return fair in terms of production and living costs.

It seems quite obvious that, from what can be observed in Exhibit II, farm prices and income are normally well below parity levels.

In the past year, farm prices on virtually all commodities have also been well below the full cost of production.

To make a further comparison, Exhibit III indicates the average return to farm equity and the ratio of profits to stockholders' equities for the years 1973 and 1977.

Even in the relatively favorable agricultural year of 1973, the farm return was below most other major enterprises.

For 1977, the return to farm equity was only 2.1%.

As regards this hearing, we have no objection to a review and appraisal being made of the Capper-Volstead Act.

Any fair and objective review of the law and the extent and impact of its use by farmers and their cooperatives will, we are confident, result in a positive finding that the Capper-Volstead Act has been and is in the public interest.

Members of the National Farmers Union, at their most recent annual convention (March 4–8, Salt Lake City, Utah) acted to "reaffirm our support of the Capper-Volstead Act" which allows agricultural producers to act together collectively to market their products.

Over the years, Farmers Union has felt that a more comprehensive and effective marketing and bargaining statute is needed.

At our March, 1978 convention, Farmers Union delegates mandated the creation of a special marketing research task force and this group has now begun the task of developing recommendations.

Our attitude therefore is that Capper-Volstead should be retained in its present form and that rather than consider amendments to change the nature and content of that law, the strategy should be to develop a comprehensive marketing and bargaining law.

In a somewhat parallel effort, Farmers Union and other major general farm organizations and the National Council of Farmer Cooperatives, have already reached a consensus on a bill to replace the Agricultural Fair Practices Act. That bill will be introduced early in the next Congress.

We are aware, of course, of the charges of monopoly, abuse and predatory pricing leveled against farmer cooperatives in 1975 Federal Trade Commission Staff Report on Agricultural Cooperatives and U.S. Department of Justice Report on Milk Marketing in 1976.

These accusations, largely based on a misunderstanding of the nature of cooperatives and agricultural marketing and ignorance of the facts or misinterpretation of them, have been time and time again, patiently, thoroughly and factually refuted—verse by verse, point by point.

We are not inclined to belabor the record with a comprehensive rebuttal of the mistaken judgments made by the FTC and the Department of Justice.

However, the unfounded allegations and biased statements continue to persist and some general observations are therefore in order.

There are recurring questions about when a cooperative is "too big."

One member of the 94th Congress proposed that a $5 million limit be placed upon the volume that any cooperative could handle. This limitation on size would not only have affected virtually all regional cooperatives in the nation, but some local associations as well.

Those who use the term "mega-cooperatives" to describe the larger farm cooperatives seem to be intimating that these institutions are a million times too big.

As a matter of legislative history, there is nothing in the Capper-Volstead Act or in Section 6 of the Clayton Act to suggest the desirability of a limit on the size of a cooperative entity.

What is important, in the opinion of Farmers Union, is not sheer size, but what one does with the size.

In Exhibit IV, we show a comparison of cooperative and other firm share of selected farm product marketings and input purchases for the year 1975.

In only one of these sectors, do the cooperatives have a dominant share—dairying at 77 percent. But this market share figure is misleading, because the 77 percent share represents the activities of 630 separate companies.

Likewise, the market share of cooperatives generally appears larger than it is because many of the major cooperatives are federations. Of the ten largest U.S. farm cooperatives, six are federations and in turn are owned by 3,700 local cooperatives. In fertilizer, the 30 percent market share is dispersed among 3,865 separate local associations.

Second, the fact that farm cooperatives handle the bulk of a particular commodity as it comes from the producers' hands does not mean that the cooperatives control a like proportion of that commodity through to the ultimate consumer. In dairy products, cooperatives handle 77 percent of the milk sold by farmers, but process only 26 percent of it. In grain and soybeans, cooperatives handle 40 percent of the grain sold by producers, but process only 16 percent of it and export only 8 percent of it.

Third, for most commodities, the current market share of cooperatives is little changed from earlier years. There are special reasons why the cooperative share has increased significantly for three types of products. The cooperative share of petroleum products sold to farmers has risen for the principal cause that some major oil companies withdrew from midwest markets early in the energy crisis, leaving the field by default to remaining dealers, for the most part the farm cooperatives. In the case of fertilizer, proprietary dealers chose, during a shortage situation in 1973 and 1974, to ship scarce supplies to lucrative export markets. The farm cooperatives resisted that temptation and kept their supplies for domestic customers, winning thereby a larger share of the market.

A significant comparison of the market shares of the four largest cooperatives and the four largest proprietary firms for the year 1975 is made in Exhibits V and VI.

As can be observed from Exhibit V, cooperative activity in these four sectors is small compared to that of the other firms.

Again, the cooperative share in the farm inputs is small compared to the four largest proprietary firms, as is indicated in Exhibit VI.

A 25-year comparison of the cooperative share in seven industries appears in Exhibit VII.

In three of the industries, the cooperative share is unchanged, or virtually so. These are feed, poultry and eggs and fruits and vegetables.

The cooperative share on grain and dairy products has advanced significantly in the 25 years. However, as noted earlier, these figures represent the cooperative share at the point of sale from the farmer's hands. But, the processing of both drops off sharply and the domestic retailing or export share becomes very small.

The cooperative share of petroleum and fertilizer markets has advanced in the past four years, as explained earlier, because of the abandonment of rural markets by some proprietary dealers following the energy crisis of 1973.

Finally, market shares of the cooperatives should not be assumed to be as susceptible of abuse as similar market shares of the for-profit firms. The key again, as with sheer size, is what is done with the market share. Not even where, in individual markets, a cooperative has a 100% market share, has abuse of that condition been demonstrated.

That the nation's farmers have not abused the privileges they have under the Capper-Volstead Act by extortionate pricing of their products can be conclusively determined by examining the levels of farm prices and income, generally and in specific commodities.

Authority exists under Section 2 of the Capper-Volstead Act for the Secretary of Agriculture to issue cease and desist orders when he determines that farmers have used the Capper-Volstead Act cooperatives to "unduly enhance" farm prices.

In the aforementioned FTC and Department of Justice studies, it has been charged that the monopoly dairy cooperatives have used their position to "rip-off" consumers to the extent of hundreds of millions a year.

"Why isn't someone charged with undue enhancement?" it is asked.

Amazement has been voiced that no Secretary of Agriculture has ever issued a cease and desist order on account of "undue enhancement." There should be no mystery about that. Over the years, investigations have been made on a number of occasions.

No evidence of "undue enhancement" was found because there was no undue enhancement.

Undue enhancement has never been specifically defined; however, there is nothing unclear about the concept.

Congress has often and repeatedly stated the goal of parity for American agriculture. It is the only legally constituted and defined yardstick for farm prices and income—the only officially recognized measurement of the fairness of farm prices.

Therefore, any action taken by producers to raise their prices and income to parity could in no way be construed as "undue enhancement."

Producers would have to act in concert through their cooperatives to raise their prices and income substantially above full parity levels before that enhancement could be construed as "undue."

A glance at Exhibit II shows that farm prices have been at full parity levels only for 11 years in the past 50. The highest parity average since Capper-Volstead was adopted in 1922 and the farm stabilization programs began in 1933 was the figure of 115% in 1947. Even this can scarcely be termed too high, but at any rate the price strength was attributable to market factors and the farm programs then in operation, and hardly attributable to Capper-Volstead machinations.

Even in the dairy sector, where the rip-off of consumers has been alleged, facts do not support a finding of undue enhancement.

One thing can be said for the dairy cooperatives and the dairy price support programs—there is somewhat less volatility in prices than in other major commodities. This is a definite plus.

The dairy statutes spell out a farm parity goal, as for other commodities, but USDA has authority to fix Class I prices at a higher level if costs justify such an action.

So, there is no possible finding that dairy prices have been unduly enhanced.

This has been corroborated in a thorough-going study made by a special Capper-Volstead task force in 1976. USDA made the "undue enhancement" investigation as a result of a petition filed by the National Consumers Congress.

The report found that there was no evidence that over-order prices obtained by the cooperatives in 1974–75 were too high for economic conditions. To the contrary, evidence indicated that the over-order prices were needed to compensate producers for a severe cost-price squeeze and to help them offset sharply rising feed prices.

Even with the higher prices, the investigation found that many farmers still had a "negative cash flow."

THE GENESIS OF THE CAPPER-VOLSTEAD ACT

In the late 1890's, the Nation's farmers were among the leading proponents of legislative proposals to control predatory actions of the trusts and assure fair competition. Some statutes were adopted in the states and most of these exempted farmers' associations or cooperatives from these laws.

When some of these state laws were set-aside by the courts and when the agricultural exemption was questioned, farmers supported adoption of the Sherman Anti-trust Act in 1890. But, because there was some fear that the Act might be turned against cooperatives, Senator Sherman accepted an amendment which declared:

"Provided, That this Act shall not be construed to apply to any arrangements, agreements, or combinations between laborers made with a view of lessening the number of hours of their labor or of increasing their wages; nor to any arrangements, agreements, associations, or combinations among persons engaged in horticulture or agriculture made with a view to enhancing the price of their own agricultural or horticultural products."

Subsequently, the agricultural exemption was considered to be unnecessary and it was dropped from the law in the final rewriting.

The earlier suspicions of farmers proved to be well founded in the 1890's and early 1900's when the Sherman Act was frequently used to challenge the development of large-scale cooperatives.

In 1906, the Farmers Educational and Cooperative Union of America (National Farmers Union) proposed adoption of a uniform law regarding the establishment of agricultural cooperative societies.

After several years of unsuccessful effort, the early farm organizations were able to obtain the inclusion of a rider in H.R. 28775, an appropriations bill, mandating "that no part of this appropriation shall be expended for the prosecution of producers of farm products and associations of farmers who cooperate and organize in an effort to and for the purpose to obtain a fair and reasonable price for their products."

H.R. 28775 was vetoed by President Taft on March 4, 1913, his last day in office.

Charles S. Barrett, president of National Farmers Union, then proposed legislation to exempt farmers and labor unions from the Sherman Anti-Trust Act.

The result eventually was the inclusion in the Clayton Act of 1914 of Section 6 which provided:

"That the labor of a human being is not a commodity, or article of commerce. Nothing contained in the anti-trust laws shall be construed to forbid the existence and operation of labor, agricultural or horticultural associations, instituted for the purposes of mutual help, and not having capital stock or conducted for profit, or to forbid or restrain individual members of such organizations from lawfully carrying out the legitimate objects thereof; nor shall such organization, or the members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade, under the anti-trust laws."

Because Section 6 did not apply to cooperatives which issued stock and since it did not satisfy his desire for a broader statute, Barrett continued his efforts and, beginning in 1918, channelled them through the National Board of Farm Organizations (NBFO) which he helped form and which he headed as president. National Farmers Union and the National Milk Producers Federation were the moving forces in NBFO.

Barrett appointed a committee, which he chaired, to draft a new cooperative statute, and when this was achieved persuaded Senator Capper of Kansas and Rep. Hersman of California to become the chief sponsors.

Hearings of the Capper-Hersman bill, which was based on amendments to the anti-trust laws, were held in October, 1919, before the House Agriculture committee.

The name of Rep. Volstead of Minnesota was substituted on the bill for that of Rep. Hersman, when the former, the chairman of the House Judiciary committee, refused to move the bill unless it bore his name.

The legislation was approved by both House and Senate in 1920, but a House-Senate conference committee failed to resolve differences.

In 1921, the legislation was rewritten as a basic statute on its own and eventually approved in February, 1922, and signed into law by President Harding on February 18th.

In the course of the debate, Rep. Volstead made the following statement:

"It is objected in some quarters that this repeals the Sherman Anti-Trust Act as to farmers. This is not true."

Senator Capper observed:

"The Cooperative marketing bill as it was offered in both the Senate and House seeks simply to make definite the law relating to cooperative associations of farmers and to establish a basis on which these organizations may legally be formed. Its purpose is to give the farmer the same right to bargain collectively that is already enjoyed by corporations."

Basically, Capper-Volstead was designed to assure that the individual farmer would not be subject to prosecution for having joined and participated in a cooperative unit.

The legislation did not, as was subsequently clearly determined in court suits, empower farmers to engage in unlawful conduct, by themselves or with third parties.

President Barrett visualized agriculture as needing something far beyond Capper-Volstead and in the subsequent four years spearheaded introduction and discussion of proposals, such as the Curtis-Aswell and Capper-Haugen bills, which assigned to farmer cooperatievs the principal role in farm marketing. These bills proved to be too far-reaching and failed to get substantial support in the Congress. However, the failure of these measures to get action and the veto of the McNary-Haugen bills probably helped establish the climate for passage of the Cooperative Marketing Act of 1926 and the Agricultural Marketing Act of 1929.

One more significant statute was added in 1937 with approval of the Agricultural Marketing Agreements Act which enabled cooperatives to seek to stabilize agricultural markets for milk and specialty crops through marketing agreements and orders.

Thus, the fundamental right of farmers to organize cooperative organizations and act jointly through them was established but without any authority to engage in discriminatory or predatory conduct.●

LEGAL ASPECTS OF NORMALIZING RELATIONS WITH THE PEOPLE'S REPUBLIC OF CHINA

Mr. KENNEDY. Mr. President, there has been some confusion about the legal implications of establishing normal diplomatic relations with the People's Republic of China—an objective which I strongly believe can and should be achieved by this administration.

In an article in the July issue of the American Bar Association Journal, Prof. Jerome A. Cohen of Harvard Law School effectively dispels the confusion.

First, he makes clear that the issues of normalization and sovereignty over Taiwan are separate ones.

Second, he cogently indicates why the 1954 treaty to defend Taiwan will lapse when we normalize relations with Peking, although this does not at all prevent us from providing for the future security of the island.

Third, he explains why termination of the defense treaty does not require formal consent of the Senate or the Congress, although it is clear that the executive and legislative branches will want to consult before this comes to pass.

I commend this article to my colleagues as a clear and convincing exposition of the legal implications of normalizing our relations with China. While Professor Cohen appreciates the political importance of consultation between the Congress and the administration, he concludes that "there can be no constitutional obstacle to normalization and its consequence—formal termination of the defense treaty."

I request that this important and timely analysis be printed in the RECORD.

The article follows:

NORMALIZING RELATIONS WITH THE PEOPLE'S REPUBLIC OF CHINA

(By Jerome Alan Cohen)

More than six years ago the Shanghai Communique committed the United States and the People's Republic of China to the establishment of formal diplomatic relations. In April President Carter expressed the hope that the long overdue normalization of relations will be achieved in a matter of months. In May Zbigniew Brzezinski, the administration's national security adviser, visited the People's Republic. Although only global issues were on his agenda, he probably probed Peking's attitude toward normalization.

Yet in Washington confusion exists concerning the legal implications of normalization. This inhibits the president from accurately assessing its international and domestic costs. Three misconceptions cloud analysis.

The first is that normalization will mean our acceptance of Peking's sovereignty over Taiwan. If so, we would have no legal basis for continuing to defend Taiwan. But a recognizing state need not confirm the territorial claims of the government it recognizes, and the P.R.C. has established diplomatic relations with many states that have failed to acknowledge its sovereignty over Taiwan.

Although the 1943 Cairo Declaration committed the United States to restore Taiwan to China after World War II, Washington has never formally approved the restoration. Between mid 1945 and mid-1950 we treated Taiwan as part of China but anticipated that the island's de facto status would be confirmed de jure by the forthcoming peace treaties. Once the Korean conflict occurred, however, Washington announced, "The determination of the future status of Formosa must await the restoration of security in the Pacific, a peace settlement with Japan, or consideration by the United Nations." This implied the possibility of separating the island from China, and the peace treaties were artfully constructed to confirm Japan's renunciation of Taiwan without confirming China's title.

Yet at Shanghai in 1972 the United States declared that it "does not challenge" the claim of all Chinese on either side of the Taiwan Strait that Taiwan is a part of China. Although American officials argued that this language did not represent another shift in position, it did appear to eliminate the specter that Washington might permanently separate the island from China by failing to fulfill the Cairo Declaration's pledge. Nevertheless, the carefully chosen terminology did not formally confirm Taiwan's reincorporation into China. It simply renewed the hope that the pledge would be fulfilled at some future date.

Thus, if in the process of recognizing the P.R.C. as the government of China, Washington does nothing further to clarify Taiwan's status, it will not have undermined its legal basis for defending the island.

The second misconception is that normalization need not terminate the 1954 United States treaty to defend Taiwan. It has been argued that the treaty, made with the Republic of China, can survive recognition of the P.R.C. as the new government of China, since its terms are limited to territory controlled by the R.O.C. This would vastly complicate the normalization process.

Fortunately, the argument is wrong. The defense treaty was concluded with the R.O.C. as the government of the state of China. Once the United States meets Peking's first condition for normalization by formally acknowledging the P.R.C. rather than the R.O.C. as the government of that state, it will be for Peking, as well as Washington, to determine whether the treaty should be maintained. Whatever the consequence for the defense treaty might be if we were simply withdrawing recognition from Taipei, that is not the situation contemplated. By recognizing Peking, we will confer upon it the mantle of China for legal purposes, thereby enabling it to decide not to continue the treaty regardless of whether the treaty applies to only a specific area.

Termination of the treaty is the second of Peking's conditions for normalization. The P.R.C. has branded the treaty void since its negotiation. * * * an analogous example. The consent of the Senate is necessary for their appointment, but it is not required for their termination.

Thus, although the power of the president to terminate treaties is not entirely free from doubt, Louis Henkin, our leading commentator on foreign affairs and the Constitution, appears to be correct in concluding that neither the Senate nor the Congress is likely to be successful in asserting a plausible legal challenge to it, since it is the president who acts for the nation internationally. This does not mean, of course, that it would be politically wise for the president not to consult the Congress about his plans for normalization, only that there can be no constitutional obstacle to normalization and its consequence—formal termination of the defense treaty.●

DR. GORI'S CRIME: TRUTH

● Mr. HUDDLESTON. Mr. President, last Monday I made a floor statement on the reaction of HEW Secretary Joseph Califano, Dr. Arthur Upton, head of the National Cancer Institute, and others to the research findings of Dr. Gio Batta Gori.

Dr. Gori is Deputy Director of Cancer Prevention for the National Cancer Institute. He recently reported that his research indicates that some of the new low tar and nicotine cigarettes can be smoked in moderate numbers with significantly less health hazard.

Secretary Califano, Dr. Upton and others launched a campaign of villification and slander in an effort to discredit Dr. Gori and his findings.

I said at the time that Dr. Gori's heresy was that he dared tell the truth in an environment that would not allow deviation from the party line—and that line is a prohibitionist attitude about tobacco that does not even allow consideration of research to produce a safer cigarette.

In yesterday's Washington Star syndicated columnist James J. Kilpatrick stated: "The gentleman committed truth. In the Washington Wonderland, this qualifies as a capital offense. Off with his head! The poor fellow is not long for this world."

Mr. Kilpatrick continues: "The denunciations heaped upon Dr. Gori have ugly, ominous overtones. Dissent from the official Califano-Nader line is not to be tolerated. The high priests of anti-smoking have staked out a monopoly on Truth. No competing ideas may apply."

Why, Mr. President, do Mr. Califano, Dr. Upton, and lie-minded people—who so loudly proclaim their commitment to the health of the American people—oppose research aimed at improving the health of millions of Americans who smoke?

Why are they afraid of the truth?

Why are they trying to fire or otherwise discipline a scientist who did nothing more than faithfully report the outcome of his research?

If the kind of attitude exhibited by Mr. Califano and Dr. Upton had prevailed down through the ages we would still be operating on the assumption that the Earth was flat.

This is not the first, nor will it be the last time that truth has been sacrificed in pursuit of some cause. Hopefully, however, it will not come to that if more people like Mr. Kilpatrick speak up and denounce the attitude that does not allow truth to be spoken unless it concurs with the party line or official Government policy.

I ask that Mr. Kilpatrick's column be printed in the RECORD.

The column follows:

DR. GORI'S CRIME: TRUTH

(By James J. Kilpatrick)

Let us heave a sigh for Gio Batta Gori. The gentleman committed truth. In the Washington Wonderland, this qualifies as a capital offense. Off with his head! The poor fellow is not long for this world.

Dr. Gori is deputy director of cancer prevention for the National Cancer Institute. Two weeks ago, he disclosed that he and his research associate, Dr. Cornelius Lynch, had completed a paper dealing with the phenomenal reductions that have been achieved in the tar and nicotine content of cigarettes.

"We can now begin to talk about 'tolerable' levels of smoking from an overall, public health standpoint," he said. He emphasized that he was not calling any cigarette safe. "The only cigarette that is safe is a cigarette that is unlit."

He surely was not endorsing cigarettes in any way. He was not talking in individual terms, but in average terms.

On the average, he explained, a smoker could now smoke 23 Carlton Menthols a day and suffer no more risk than he might have suffered with only two of the potent cigarettes of 1960. A smoker could smoke seven Decades, or five Kent Golden Lights, or three Merits a day on the same basis. Dr. Gori's point was that progress has in fact been made toward the production of less harmful cigarettes. He thought he was bringing us good news.

If there were any rationality left in this whole business of cigarettes and cancer, Dr. Gori's cheerful and sensible observations would have been received with equanimity and pleasure. But reason has fled the temples. The campaign against smoking has turned into a crusade, a jehad, a holy war. Zealotry is seldom pretty, and there was nothing pretty about the reaction to his statement.

Joseph A. Califano, Secretary of Health, Education and Welfare, was officially reported to be "upset." Unofficially, the word reaching the press was that Califano, a reformed smoker who metaphorically has become more Catholic than the pope, had blown his gussets.

Dr. Arthur Upton, head of the Cancer Institute, said Dr. Gori's "unfortunate" disclosures had "set back our cause." Dr. Sidney Wolfe, head of the Ralph Nader Health Research Group, favored the direct approach to heresy. Dr. Gori should be fired, said Dr. Wolfe, for "the most damaging statement that has been made about smoking in the past 10 years.

Let us get a few things straight. The cause is, or ought to be, Truth. Dr. Gori is no reckless, impulsive amateur in the field of cancer research. He is a highly respected scholar who two years ago won the Cancer Institute's superior service award. He has devoted 10 years to intensive research in the field of tobacco.

The paper he prepared in collaboration with Dr. Lynch is to appear in the Journal of the American Medical Association. The denunciations heaped upon Dr. Gori have ugly, ominous overtones. Dissent from the official Califano-Nader line is not to be tolerated. The high priests of anti-smoking have staked out a monopoly on Truth. No competing ideas may apply.

The reaction is both indefensible and contemptible. Surely scientists, no less than philosophers, should live by Milton's exhortation: Let Truth and Falsehood grapple! Whoever knew Truth put to the worst in a fair encounter? We do not yet know, finally and irreversibly, all the truths about tobacco and cancer. The best research is filled with puzzlements and contradictions.

Good scientists pursue Truth in the humble conviction that their pursuit may take 100 turns and may never capture its object. It is entirely conceivable that in some human beings, tobacco has a synergistic impact in combination with other substances thought to cause cancer.

We inquire about lung cancer victims: How many cigarettes did they smoke? Do we ask as assiduously: How much bacon did they eat? How much urban smog did they absorb? What kind of stressful people were they?

We never will have all the answers. But we will have many fewer right answers if the anti-smoking establishment persists in crucifying scientists whose findings fail to conform to the party line.●

DROUGHT IN THE SAHEL

● Mr. KENNEDY. Mr. President, in recent years the Congress and the American people have responded generously and compassionately to humanitarian needs among the drought stricken men, women, and children of the Sahel region of West Africa. We all know the desperate plight of these people, and the important international effort which has been initiated over the past several years to assist them in coping with the drought, and developing their countries.

Recent reports from the field tell us what we should have known all along, that the critical problems the people of the Sahel face are not simply relief problems, but longer term developmental and rehabilitation problems.

Earlier this week, an editorial in the Washington Post served to remind us of this, by focusing on the critical and continuing needs of the Sahelian people, particularly now, during the recurrence of drought conditions in many areas.

In per capital income and infant mortality rate, the Sahelians suffer more than any other people in the world. The Arabic word "sahel" signifies the borderline between rain forest and desert. But when the rains fail, it becomes a tragic borderline between hunger and starvation for many, especially women and children.

The United States is a leading participant in not only providing necessary relief assistance, but also in collaborating with the international community in mounting a long-term effort to prevent the devastating consequences of future drought. This involves the irrigation of new lands, reforestation, dry land agricultural development, livestock production, and the provision of basic education and maternal/child health and population services.

The development assistance program in the Sahel represents a coordinated international effort to alleviate human suffering in an entire region of Africa. It is a rare example of donors collaborating to enhance efforts to meet human needs, and clearly deserves the strong and continuing support of the United States.

Mr. President, I ask that the text of the Washington Post editorial be printed in the RECORD.

The editorial follows:

[From the Washington Star, Aug. 21, 1978]

DROUGHT IN THE SAHEL

Part of the Sahel region of Africa is suffering drought and famine again. That is the band of eight sub-Saharan nations, from the Cape Verde Islands to Chad, which suffered a devastating six-year drought in the early 1970s. As many as 100,000 people and more than half the livestock of those basically agricultural countries perished from the resulting famine. This year's drought, though severe, has not had a catastrophic effect. That is because both the Sahelian nations and the international community have learned the costly lessons of the previous drought: Early warning and an efficient response to widespread food storages, plus a concerted regional and international-developmental effort can reduce the impact of recurring droughts.

The current drought and famine severely affects four Sahelian nations—the Cape Verde Islands, Gambia, Senegal and Mauritania. Those countries' appeals for emergency food supplies brought a quick international response. Led by the United States, other countries have shipped about 450,000 tons of food to the area. And, unlike the helter-skelter approach of five years ago, the food apparently is being distributed efficiently and equitably. Most important, the relief effort is part of a larger regional-development program sponsored by the Sahelian nations and a score of more advanced countries. Their aim is to reduce the region's vulnerability to droughts.

The goals of this unique international effort are as numerous as the needs of the Sahelian countries. They include: Increasing crop production in that generally arid region; building thousands of miles of roads and a communications system for the region, which is larger than Europe, but which has a population of only about 30 million people; and bringing modern educational and health services to a population that still lives largely as its ancestors did a century ago.

The host of African, Arabic, and Western nations that have pledged more than $1 billion annually to the Sahel development effort, in addition to various bilateral agreements, have done so for more than the obvious and laudable humanitarian reasons. They want to learn how to check "desertification"—the spread of desert land, which, in developing countries, is often caused by efforts to modernize rapidly. Because of where it is, the Sahel is especially vulnerable to the rapid growth of arid land. The widespread concern of developing and industrialized countries about this spurred the U.N.-sponsored conference on the subject held in Nairobi last year. The Sahel is the first area of the world where the various techniques discussed during that conference are to be put to the test. Thus, the Sahel has become, in effect, a laboratory for solutions to not only desertification, but a host of problems that affect developing nations—and, in one way or another, the developed nations too.●

PROPOSED ARMS SALES

● Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD the notification I have just received:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., August 24, 1978.

In reply refer to I-14228/77ct

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78-53, concerning the Department of the Navy's proposed Letter of Offer to Iran for defense articles and services estimated to cost $38 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERICH F. VON MAREOD,
Acting Director.

[Transmittal No. 78-53]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Iran.

(ii) Total Estimated Value):

	[In millions]
Major Defense Equipment*	$0
Other	38
Total	38

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: One year spare parts to support the AH-1J/TOW helicopter.

(iv) Military Department: Navy.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: August 24, 1978.●

THE HIGH COST OF "MEDI-GAP"

● Mr. CHILES. Mr. President, the Senate Committee on Aging has long been concerned about unnecessary and sometimes unscrupulous drains on retirement income.

We on that committee emphatically believe that precious dollars needed to meet the necessities of life in the later years should be put to best possible effect.

Accordingly, we have looked into such issues as health care fraud—which often raises the costs that older persons must pay—questionable mail order land sales, and kickbacks in some prescription drug sales.

A recurring concern is high-pressure door-to-door salesmanship of "medigap" policies, often sold by scare arguments to older persons who are concerned about the very real inadequacies of medicare coverage.

Earlier, this year, I chaired two hearings for the Committee on Aging to check into reports about such operations. The testimony revealed shocking and intolerable situations in at least three States; the committee is continuing its investigation.

One already heartening sign is the positive response by Federal Trade Commissioner Elizabeth Hanford Dole, who said at our hearing that the FTC is seeking broad cooperative efforts to explore medi-gap issues more intensively. Health, Education, and Welfare Secretary Califano has since assured the Committee on Aging that he will assign HEW officials to work with the FTC. In addition, the National Association of Insurance Commissioners has assured the committee of its cooperation and interest.

One tangible result of the mounting concern about medi-gap is a new staff report issued by the Federal Trade Commission within recent days. I ask to have printed in the RECORD a Los Angeles Times article by Penny Girard, who gives a lucid summary of its major points, many of which are similar to those already expressed to the Committee on Aging.

In addition, I would like to request insertion of an article which was neatly juxtaposed to Ms. Girard's article. It dramatically documents the daily struggle that many retired couples and individuals are having with inflation's steady rise in essential items.

Faced with this grim situation, the last thing that older Americans need is to fall prey to the empty promises of the seller of worthless "medi-scare" policies, as several witnesses have called those policies sold by what is probably a minority of companies or salesmen.

Lastly, I ask consent to have printed a news release issued by Committee on Aging Chairman CHURCH, ranking minority member DOMENICI, and by me commenting on the FTC staff report.

The material follows:

[From the Los Angeles Times, Aug. 13, 1978]

AGED BUY UNNEEDED INSURANCE TO FILL MEDICARE GAP, STUDY SAYS

(By Penny Girard)

WASHINGTON.—A Federal Trade Commission report says that one-quarter of the elderly Americans who annually spend $1 billion for extra insurance to cover Medicare gaps actually buy unnecessary, costly and overlapping coverage.

The report, released here today, said a lack of consumer information, unscrupulous sales tactics by some firms and a lack of uniformity in policies had created considerable confusion among consumers and caused higher health costs for many elderly persons living on fixed incomes.

The government eventually may have to act to correct the situation, the commission staff said, "because its own Medicare program created the problem." Many of these policies evolved as a byproduct of the Medicare program.

"The lack of consumer information in the Medicare supplement market is so great that it is almost impossible to make rational purchase decisions. Very few people understand the complexities of Medicare and its gaps," the study said.

The staff planning paper was delivered Friday to the Senate Special Committee on Aging, which had held hearings this spring on the problem of "Medigap" insurance.

Health care coverage is a major expense and a constant concern for many citizens over age 65. Such persons spend an average of $1,300 on health care each year, three times what the rest of the adult population spends, one commission official said recently.

According to the commission's report, in 1976 Medicare covered only 38% of the health care costs for the elderly. Even with Medicare coverage, recipients are required to pay certain deductions and share other costs. Medicare does not cover such items as prescriptions, dental care, eye glasses, hearing aids, routine examinations and some nursing home care.

Because of rising medical costs and limited income, millions of elderly persons have purchased extra insurance, hoping to have complete health coverage. More than 50% have at least one additional policy, the commission said.

But lack of standardization among policies and poor consumer education mean that the aged often buy duplicate policies and some that fall short of their needs, as well as policies which mix services with indemnity plans.

Even with Medicare and private insurance, the study said, elderly individuals paid an average of more than $400 each for out-of-pocket health care expenses in 1976.

The FTC report reflects the testimony of Federal Trade Commissioner Elizabeth Dole, who told the Senate committee in June that "elderly persons who live on fixed incomes can ill afford to spend their money on worthless duplications."

"There is a need for coverage outside Medicare," a Senate committee staff member said. "Nobody is going to want to say that supplemental insurance is bad. It's just that a number of plans are aggressively sold that don't offer much return."

Th Federal Trade Commission report recommended conducting a study with the Department of Health, Education, and Welfare and the National Assn. of Insurance Commissioners to evaluate current state insurance laws.

Insurance generally is regulated by the states. Federal antitrust laws prevent the government from interferring and, in some cases from taking any action.

Some states, including California, already have begun setting standards for private insurance.

COST OF LIVING INCREASES 7 PERCENT FOR RETIRED COUPLES

(By Robert A. Rosenblatt)

WASHINGTON.—Rising medical costs played a major role in driving the cost of living up 7 percent for retired couples during 12 months of 1976 and 1977, the Labor Department reported Saturday.

A hypothetical intermediate-level budget for a retired urban couple required $7,198 during the year ended in autumn 1977, the department said in its annual survey.

That national-average budget figure compared with these figures for retired couples living in California; $7,403 in the Los Angeles-Long Beach area; $7,089 in San Diego; $6,727 in Bakersfield and $8,014 in San Francisco-Oakland.

The government study is based on a hypothetical husband over age 65 and retired, and his wife. "They are assumed to be self-supporting and living in an urban area; they are in reasonably good health and able to take care of themselves," said the Bureau of Labor Statistics, which released the study.

Inflation is getting worse for retired persons, the report makes clear. A cost of living increase of 4.5 percent in 1975–76 accelerated to 7 percent in 1976–77.

The biggest inflationary pressure on retired persons were medical care, which rose 10.1 percent in the intermediate level budget during the year, and housing, which climbed 7.9 percent. Food prices advanced 6.8 percent.

Monthly expenses for the hypothetical couple living on an intermediate budget included $169 for food, $52 for medical expenses, $30 for clothing and $54 for transportation. For renters, rent, heating and electricity bills average $131 a month. Homeowners had monthly expenses of $138, which paid for property taxes, heating and electricity. The study assumed that the retired homeowners had full ownership of their property, with no remaining mortgage payments.

The budgets "generally are lowest in nonmetropolitan areas and in the Southeastern cities and highest in Anchorage, Honolulu, Northeastern and Western cities," the study said.

The Bureau of Labor Statistics prepared three hypothetical annual budgets for lower, intermediate and higher standards of living.

The lower budget does not represent poverty nor does the upper one reflect affluence. Rather, they cover different ranges of spending. For example, the lower budget allots $12 a month for restaurant or cafeteria meals. The intermediate budget is $18 a month and the higher one allows $33 a month for meals away from home.

FTC ISSUES STAFF REPORT ON MEDI-GAP INSURANCE

WASHINGTON, D.C., August 11, 1978.—"A new Federal Trade Commission staff report raises issues which point to the need for continuing Federal attention to Medicare supplemental health insurance sold to the elderly," said Senators Frank Church, Lawton Chiles, and Pete V. Domenici of the Senate Special Committee on Aging today.

The staff study on "Medi-Gap" insurance was promised to the Committee by Federal Trade Commissioner Elizabeth Hanford Dole when she testified before the Committee on June 29, 1978.

The hearings uncovered widespread instances of oversale and misrepresentation of benefits on health insurance policies sold to the elderly to supplement Medicare.

Chiles, who conducted the hearings, said: "The Federal Trade Commission staff report sheds additional light on the problems we found during our hearings. The report concludes that there is very little good information available to older consumers on any form of health insurance, whether it be Medicare or private policies. This was cited to the Committee by witness after witness as one of the major underlying causes of uniformed purchases and it creates a wide-open situation for abuse.

"The staff report also argues for a good hard look at the varying approaches States have taken to set standards for information disclosure and minimum policy benefits. Commission staff found virtually no standardization in Medicare supplemental insurance now, and the Committee has been concerned that this lack of standardization, as well as the very limited benefits offered in some policies, also contributes to duplications in coverage and unnecessary expenses.

"New questions are raised about the actual value of some types of policies commonly sold to older Americans and the report makes it clear that most policies specifically exclude protection for the very same areas not covered by Medicare."

Church, Committee Chairman, said the Committee is continuing its inquiry into Medicare supplemental insurance and that he expects the Committee to keep in touch with the Federal Trade Commission and the Department of Health, Education, and Welfare in a broad-based national evaluation of the approaches taken by States to regulate the sale of Medi-Gap insurance.

Domenici, the Committee's Ranking Minority Member, stressed "the need for reforms to protect the elderly from overlapping and inadequate 'medi-gap' coverage. Most of the reforms will have to be made at the State level and insurance companies will have to institute safeguards of their own."

The Federal Trade Commission staff report, titled "Private Health Insurance to Supplement Medicare," is available from the Federal Trade Commission's Office of Public Information.●

SENATOR LEAHY'S WHISTLE-BLOWER AMENDMENT

● Mr. KENNEDY. Mr. President, I rise to express my strong support for the amendment offered by the distinguished Senator from Vermont. In doing so I would also like to commend Senators RIBICOFF and PERCY, as well as the Governmental Affairs Committee as a whole, for their work on this important and timely legislation.

The whistle-blower provisions of this bill, if coupled with the Leahy amendment, will be just what the public and the Congress want—and what the bureaucracy needs—for this proposal is clearly in line with the message that we have been receiving from an angry public: We have had too much waste in Government; we have had too much ineptitude in Government; we have had too much inefficiency in Government; and we have even had too much corruption in Government. And we do not need new ranks of bureaucrats to clean up what others have messed up. We merely need to provide protection and incentives, for those presently in public service, to bring to light—and to rectify—lawlessness and waste in Government.

For whistle-blowing will be amply staffed by our existing army of the conscientious and dedicated Government employees—those who are committed enough, professional enough, and patriotic enough to "blow the whistle" on corruption, waste or illegality that they see around them. That is why I express

strong support for S. 2640 and its protection for Government employee whistle-blowers.

But insuring that the alarm is sounded, and insuring that the employee is indeed protected, is only the first step in the process. For the true purpose of whistle-blowing is not the public recognition of the dedicated employee, but the correction of Government wrongdoing, the saving of taxpayer's money, and the prosecution of the corrupt.

Some provision must therefore be made to follow up on substantial allegations of waste or wrongdoing, while screening out frivolous or unfounded accusations. This is exactly what our amendment accomplishes.

If after a period of 15 days, under this proposal, the Special Counsel finds a substantial likelihood that an allegation is true, he can require that the head of the relevant agency conduct an investigation and submit a report on that investigation within 60 days. To insure that an agency does not attempt to whitewash an in-house scandal, the amendment explicitly spells out what that report must include, including substantiation of the charges, corrective measures, disciplinary actions, et cetera.

Any report not deemed adequate will be transmitted to the Congress and the President, thereby opening further incentives for correction of any wrongdoing.

In turn, the Special Counsel would act as a filtering process that would screen out frivolous or self-serving accusations by eliminating cases during the initial 15-day investigatory period. The amendment goes further to provide an opportunity for the agency to exonerate itself of baseless charges and to correct and eliminate any internal waste or corruption within its own house. The amendment thus allows the agency the opportunity of an internal investigation. Only if the agency refuses to undertake an investigation, or their investigation proves inadequate, does the glare of publicity come into play. Of course, throughout this process the identity of the whistleblower is kept confidential, unless the Social Counsel determines that he has acted in bad faith.

I have been a firm believer in the benefits of "whistleblowers" since I introduced the first whistle-blower legislation in 1971. I chaired hearings before the Subcommittee on Administrative Practice and Procedure where we heard dozens of witnesses recount stories of transfer, demotion, harassment, and retaliation in return for telling the public the truth. I am more than happy to see the fruits of these efforts today.

All but the most simplistic of sloganeers know that our Federal agencies are not "faceless bureaucracies," but that they are instead made up of individuals who are professional, honest, and hard working. We must maximize the contributions that conscientious public servants can have to good government and increased economy. We must provide our civil servants with an impartial "dissent channel" to which they can direct reports of corruption or waste. We must provide them with the protection that they deserve for speaking out. And we must make the most of their courage and honesty by providing a follow-through mechanism that will correct the wrongs that are disclosed, Let us achieve all of these worthy purposes, by supporting S. 2640, the civil service reform bill, and Senator LEAHY's amendment.●

ALASKA LEGISLATION REFLECTS DIVERSITY OF CONCERNS

● Mr. HART. Mr. President, before this session of Congress ends the Senate will have an opportunity to act upon one of the most important and far-reaching land preservation measures in the history of our Nation. I refer to the Alaska National Interest Lands Conservation Act (S. 1500/amendment 2176). I have endorsed this fair and balanced bill, which incorporates the concerns of a diversity of interests: conservationists, Alaska's Natives, the State of Alaska, and the commercial development sector. While no group will be entirely satisfied with this bill, it is an excellent compromise that will allow Alaska's economy to develop in a healthy manner while also preserving that State's highest quality scenic and wildlife resources. The Federal lands in Alaska are owned by all the citizens of this Nation, and we all have a stake in insuring that this great wilderness frontier receives strong protection from Congress.

The Alaska National Interest Lands Conservation Act is a measure that has deservedly won widespread public support. As evidence of this, I call the attention of my colleagues to editorials endorsing this legislation which appeared in the Los Angeles Times, the Atlanta Journal, the Salt Lake City Tribune, the Lancaster Intelligencer Journal, and the Anchorage Daily News.

Mr. President, I request that these editorials be printed in the RECORD:

[From the Los Angeles Times, May 23, 1978]

A VOTE FOR MAGNIFICENCE

Last week's overwhelming House vote of 277 to 31 for the ambitious Alaska land-preservation bill was an encouraging sign of strong nationwide support for restraint in the exploitation of Alaska's magnificent assets.

We hope that this message is not lost on Alaska's two senators, Democrat Mike Gravel and Republican Ted Stevens, who have opposed stiff controls and pushed for more development. We hope that it is not lost on Senate Majority Leader Robert C. Byrd (D-W. Va.), who has been inclined to go along with the Alaskan senators on the mistaken supposition that the legislation affects only their state.

The bill's effect on every American would be substantial and enduring. Known as the Alaska National Interest Lands Conservation Act, the legislation would allocate 102 million federally controlled acres, roughly one-third of Alaska's huge area, as wilderness areas, new national parks and monuments, wildlife refuges and national forests. They would become the country's most massive physicial investment in its own future.

Neither the nation's nor the state's immediate economic interests would be shortchanged. Fully 70% of Alaska's rock minerals would still be accessible to miners, and some 95% of the state's petroleum reserves would remain within drillers' reach. Hunting and fishing areas would be far greater than what is needed to satisfy current need.

The lands that would be set aside in the Alaska bill will always be there if some materials crisis or strategic need develops. They will be in the bank, and they will be growing in value.

Seeing this bill through the Senate may require a long fight. The goal is worth the fight. President Carter and Interior Secretary Cecil D. Andrus have recognized the importance of this legislation. Byrd now should recognize it, too.

[From the Atlanta Journal, May 23, 1978]

UNLOCKING ALASKA

The overwhelming House vote on Friday, 277–31, to set aside 102 million acres in Alaska for national parks and wildlife refuges was a strong expression of commitment to both conservation and development.

Both conservationists and developers agreed that balance is the key issue in the bitter dispute. And both have suggested that the balance is not on their side.

That being the case, legislators obviously went along with Rep. Morris Udall of Arizona, chief sponsor in the House, who argued that what emerged from his committee was a good, balanced bill.

Whether the Senate will go along with the House is open to question, especially with talk of a threatened filibuster headed by Alaska senators Make Gravel and Ted Stevens.

The bill, S 1500, is currently in the Senate Energy and National Resources Committee where the chairman, Sen. Henry Jackson of Washington, has promised to clear the bill for floor action next month.

But Senate Majority Leader Robert Byrd says he will not schedule it for floor action as long as the Alaska senators intend to filibuster.

Senator Byrd is obviously paying due respect to the two senators. But the large margin of approval in the House demands that the Senate majority leader not avoid responsibility as a leader with a national constituency.

What the House-passed bill would do, in fact, is unlock land and establish clear management rules, spelling out what land will be permanently set aside, and what will be open for development.

Under the present conditions, no one knows what the rules are. That does not benefit either side. If, at a later date, there is a serious development need to go into an area the law can always be changed.

The important matter now is to take the issue out of limbo and let all concerned know where they stand.

[From the Anchorage Daily News, March 16, 1978]

TIME TO COME TO d-2 TERMS

H.R. 39, the Udall d-2 lands bill, passed a landmark Wednesday when the U.S. House committee that has been molding it into shape for more than a year finally completed its work.

The results of the Interior Committee work have left both sides with victories, and the reports from Washington are confirming a suspicion we've had: the Udall bill in its present form is not the environmental monster it is sometimes made out to be.

When it was first introduced in January of 1977 by U.S. Rep. Morris Udall and a number of co-sponsors, H.R. 39 did indeed appear to be an extreme position. But it has moved toward a much more moderate stance.

It would have taken 144 million acres of Alaska—more than one-fourth of all the land in the state—and seemingly indiscriminately declared the land to be wilderness.

With a broad sweep, 114 million acres of the state would have been added to the national parks, refuges, and wild and scenic rivers systems.

Many Alaskans were naturally alarmed. With federal influence already heavily felt in the state, another layer of restrictions encompassing so much of the state's wild country would not be welcomed.

But Alaskans, like it or not, must come to terms with some hard facts:

First, all of the land concerned in the d-2 debate belongs to the federal government, and the federal government will decide what to do with it, one way or another.

Second, there is broad sentiment afoot that many of the wildlands in the country's last frontier are worth preserving in their natural state. The question in Washington is not whether a d-2 bill should be enacted, but what sort of restrictions should be placed on the federal land included in the bill.

Since the Udall bill was introduced, it has undergone major surgery, influenced by hundreds of people testifying at public hearings, by years of resource studies done by the State of Alaska and the federal-state Land Use Planning Commission for Alaska, and by the well-researched position taken by the Carter administration.

Boundaries for parks and refuges have been reworked to accommodate mining, hunting and fishing interests. Subsistence hunting and fishing provisions have been worked out by state, Native and federal representatives in Washington. In an unprecedented action, the State of Alaska has been specifically designated to manage subsistence hunting and fishing on public lands covered by the bill.

The bill would cut through red tape holding up the transfer of land to Alaska Natives and to the State of Alaska, as well. Initially, the Udall bill would have swallowed up some state selections, but now the attitude in Washington is different.

At least the basics of cooperative land planning for the private, state and federal landholders in Alaska are now in the bill, after repeated prompting by Gov. Jay S. Hammond and the Land Use Planning Commission.

The bill is down to 95 million acres of parks, refuges and wild and scenic rivers, and the instant wilderness classification would apply to some 73 million acres instead of 144 million acres.

Most significantly, the "instant" wilderness in Southeast Alaska, where the controversy over timber jobs versus conservationist values rages strongest, has been cut in half.

There are still significant problems with the Udall proposal. Most notably, the provisions for permitting mining on non-wilderness areas of refuges and preserves seem cumbersome, requiring extensive "findings" by the Interior secretary and approval of both houses of Congress. And while some concessions have been made to accommodate State of Alaska interests in land selections, there seems to be a persistent attitude that any land in the hands of the state will automatically be open to development, and lost for wilderness. A less cynical approach to the state's interests would be helpful.

But the bill has been much improved so far, and will undergo more revisions when it passes on to the House Merchant Marine and Fisheries Committee.

On balance, we believe the Udall bill is moving toward a position that can do much to assure the attractive qualities of life in Alaska will survive. It could go far toward preserving the subsistence lifestyle in rural Alaska. And it could leave America with a last frontier far longer than might have been the case.

[From the Salt Lake Tribune, May 14, 1978]

BILL PROTECTS "CROWN JEWELS," WITHOUT TOSSING OUT "KEY"

When someone begins talking about land in Alaska they must deal in superlatives, there is so much of the stuff up there. The state's area totals some 375 million acres, the equivalent of a little bit more than 7 Utahs.

The House Interior Committee has reported out the Alaska Wilderness Bill that would place 95 million acres of the state into parks, preserves, wildlife refuges and forests. Of those acres the bill, HR 39, designates some 50 million acres as wilderness where mining would be prohibited. Additionally another 24 million acres in existing conservation units would be classified wilderness.

That would mean that nearly 20 percent of Alaska would be off limits to mining and timber harvesting. Or roughly the equivalent of about one and a half times the size of Utah.

But before anyone starts talking about "locking up" the state's mineral lands, they would be well advised to remember that 80 percent of Alaska would be eligible for mineral prospecting and development. Also, written into the Alaska Wilderness Bill are special provisions that permit oil and gas exploration in areas that would be denied to mineral exploitation.

As the committee's report says, "It (HR 39) will not 'lock up' the mineral and energy resources of this land, but will provide for their discovery and development in the national interest and subject to the control of Congress."

In drafting the legislation the committee members have been very deliberate in attempting to leave, whenever possible, potential oil and gas deposits and mineral veins outside the protected areas. About 70 percent of the hard rock mineral deposits in Alaska would be excluded, along with about 95 percent of the potential oil and gas deposits, according to the Interior Committee's report.

Also contained in the bill is a special mineral process which permits mineral and energy resource extraction within conservation areas if Congress determines there is a national need for these resources involved and if that need outweighs the potential adverse environmental impact of the development.

HR 39 is a carefully constructed mechanism for preserving what Secretary of the Interior Cecil Andrus has called the "crown jewels" of America's northernmost state—its spectacular scenic beauty—while assuring reasonably ready access to that land's equally precious mineral and energy resources.

The bill does this by making some 300 million Alaskan acres, an area equal to more than five and a half Utahs, still eligible for mineral leasing and other development. And even in that part of Alaska that might conceivably be "locked up," the House Interior Committee is not proposing to throw away the key.

[From the Intelligencer Journal, June 6, 1977]

THE EMBATTLED WILDERNESS

In this part of the country we think of a wilderness in terms of a few acres of timber in which there are no roads. In the West a wilderness is considered in larger figures. But in Alaska, where roadless timbered regions appear to be infinite, the consideration is in millions of acres.

Without having seen it, it is impossible to envision a million acres of wilderness with mountains, glaciers, cold, pure streams, towering trees as far as the eye can see, the whole place inhabited by a marvelous variety of wildlife.

Conservationists, specifically The Wilderness Society, are in a battle in Alaska. On the one hand is the Kennecott Copper Co.

On the other hand are the embattled Wilderness people. Somewhere in between stand the U.S. Dept. of the Interior and the U.S. Forest Service. The wilderness advocates are watching warily to make sure the government does not give away the heritage of the entire nation.

Kennecott wishes to whittle to 15 million acres The Wilderness Society's program that encompasses 110 million acres of protected wilderness. The company wishes to exploit whatever it can grab of 95 million acres.

The Alaskan government is on the edge of the war. It halfway agrees with the conservationists, but covets the taxes development of this vast area would bring.

The question is a difficult one. To allow exploitation is to ultimately obtain ore, metals and timber that may be converted into consumer goods. But once the land is denuded, thousands of years are required for it to come back to the primeval state in which it presently exists.

Although 110 million acres of forest appears to be more than anyone will ever be able to employ for recreational purposes, we must line up with The Wilderness Society.

As has been proven over and over again, specifically in the case of the American Indian whose holdings spanned an entire continent, once greed is permitted the tiniest wedge there is no stopping it. It runs like fire through a wilderness.●

HOSPITAL COST CONTAINMENT

● Mr. NELSON. Mr. President, I would like to respond to allegations made by the American Hospital Association about an amendment to encourage hospital cost containment, which other Senators have joined me in offering to H.R. 5285, a medicare/medicaid reform bill. Hospital costs are a major inflationary item, rising at twice the rate of inflation for other items.

The amendment, very simply, says that hospitals should continue a voluntary effort to control costs, which they began early in 1977. The hospital industry itself has set a goal of reducing the rate of increase in hospital costs, on the national average, by 4 percentage points in 1979 through 1982 below the rate of increase in 1977. The American Hospital Association estimates that the 1977 rate of inflation was 15.6 percent.

The amendment contains an additional factor: hospitals would not be required to reduce their rate of increase below a level that is 1½ times the rate of inflation for other items in the economy. Therefore, if the rate of general inflation—now about 7.2 percent, as measured by the GNP deflator, were to increase, the voluntary hospital cost containment goal would be adjusted upward to reflect 1½ times the general inflation rate.

If the voluntary effort failed to meet its goal by July 1, 1979 or thereafter, a system of cost containment would be triggered into effect, in which HEW would establish, on a hospital-by-hospital basis, maximum allowable increases. There would be no arbitrary "cap". States whose hospitals, on the aggregate, maintained rates of increase at or below either the voluntary or mandatory goals, would be exempt from any Federal program.

Hospital costs would be reduced by more than $30 billion over 5 years, if either the voluntary program succeeds, or the mandatory controls were triggered into effect.

I ask that, following my rebuttal, the AHA's assertions be printed in the RECORD, followed by a summary of the amendment and a table comparing cost savings of the Human Resources Committee bill (S. 1391), amendment No. 3478, and the Finance Committee bill (H.R. 5285).

The material follows:

REBUTTAL TO HOSPITAL INDUSTRY

On August 11, all Senators received a form letter over the signature of J. Alexander McMahon, President of the American Hospital Association (AHA), attaching a detailed list of criticisms about an amendment on hospital cost containment that I and other Senators introduced August 16 (Amendment number 3478 to H.R. 5285). Although the AHA letter purported to describe the amendment in detail, it was in fact written and distributed several days *before* the amendment was even completed and introduced in final form.

Perhaps partially as a result of its timing, the AHA letter contained numerous misconceptions and distortions concerning the amendment, and thus I feel it is necessary to take this opportunity to respond to several of its misleading assertions, as follows:

The AHA asserts that the Nelson amendment would "apply an arbitrary flat cap on hospital revenues". . . .

The truth is, the Nelson amendment is neither arbitrary nor a "flat cap". Rather, it builds upon the Talmadge bill (S. 1470 as it amends H.R. 5285) approach, which the hospitals support, and which compares the routine costs of hospitals only with other hospitals of similar size, type and location. Even if standby controls in the amendment trigger in, each hospital affected by those controls would have a different limit, based upon its own routine cost experience, and also upon the rate of inflation in the "market basket" of goods and services purchased by hospitals. As a result, efficient hospitals—those with lower routine costs—would be permitted a higher increase than inefficient hospitals—those with higher routine costs.

The AHA asserts that the Nelson amendment would "undermine the voluntary effort". . . .

The truth is, far from "undermining" that effort, the amendment probably presents the best opportunity for the voluntary effort to succeed. Unlike the original Administrative bill, the amendment recognizes and adopts the voluntary effort as its central element. There would be no mandatory controls if hospitals succeed—on either a national or state-wide basis—in holding down their cost increases by 2 percentage points in 1978 and 4 percentage points in 1979 through 1982 below the rate of increase in 1977 (estimated by the American Hospital Association to have been 15.6%). This is the very goal set by the hospital industry itself, under the sponsorship of the American Hospital Association, the Federation of American Hospitals, and the American Medical Association.

Moreover, even as high as they already are, the voluntary goals could be adjusted upward under the amendment whenever the overall rate of inflation increases significantly. In other words, the voluntary goal need never be *less* than 1½ times the overall rate of inflation, as measured by the GNP. That seems as generous a legislative response as the hospitals have any reason to expect.

The AHA asserts the Nelson amendment would "establish a massive Federal bureaucracy for control". . . .

The truth is, while the current HEW bureaucracy is already "massive" by any standards, this program would actually add very little to current government personnel requirements. Indeed, for the most part, the day-to-day operations of the program would be in the hands of Medicare fiscal intermediaries—a group consisting of Blue Cross, Aetna and other carriers, not Federal employees. Such carriers would be expected to need just 270 additional employees on a nationwide basis to administer this program. And the total $11 million administration costs estimated for this program (of which over $5.5 million would go to intermediaries and nearly $2 million to a one-time cost of developing the hospital classification system) compared with the potential savings of $34 billion over 5 years may make it the single most cost effective regulatory effort in HEW history.

The AHA asserts that the Nelson amendment "disregards the needs and differences of individual hospitals" and "does not include any specific bases for exceptions" other than "the discretion of the Secretary" . . .

The truth is, this assertion fails to recognize a number of specific exceptions written into the amendment, including the outright exemption of hospitals with fewer than 4,000 admissions; of hospitals in which Health Maintenance Organizations account for more than 75% of the patients; and of psychiatric and tuberculosis hospitals. Although these exceptions account for more than half of all hospitals in the country, they account for less than 10% of total hospital costs. In addition, the amendment incorporates specific hospital-by-hospital exceptions (Sec. 2 of H.R. 5285), such as for underutilized hospitals if they are needed in underserved areas, or for hospitals with atypical case-mix, e.g., unusually elderly population. Nor does the AHA assertion account for the the extremely lenient State exceptions permitted, whereby even if the national voluntary effort fails, all hospitals in any State would be exempt either if the State meets the national voluntary goals or if the State has in effect a cost containment program of its own that meets or exceeds the national goal. Moreover, the amendment specifically exempts all new hospitals from the voluntary program, by defining "hospital" as a hospital which has had a Medicare agreement in effect in all calendar quarters since 1975; such hospitals are also exempt for at least two years from the standby, mandatory controls. Finally, giving the Secretary discretion to develop other exceptions, especially after the new Commission has analyzed the needs in this area, by no means indicates (as the AHA implies) that such authority would never be used.

The AHA asserts that the "wage pass through" in the Nelson amendment "could lead employees to expect wage increases which hospitals could not afford" . . .

The truth is, there is simply no such implication contained in the "wage pass-through" provisions of the amendment. In effect, these provisions remain absolutely neutral on the subject of potential wage increases—neither giving hospital workers a blank check to demand inflationary increases nor permitting hospitals to use the threat of controls to deny employees' legitimate requests. The amendment is neither pro-labor nor anti-labor—it simply leaves both parties in the same collective bargaining position they would be in in the absence of controls. The amendment does not include overtime wages or shift differentials in the pass through".

The AHA asserts that "the amendment grants additional, broad authority to the HEW Secretary (such as . . . imposition of the revenue 'cap' on hospitals even though the voluntary effort is successful" . . .

The truth is, mandatory controls could not be imposed unless the voluntary effort fails, on the national average.

The AHA asserts that it is improper to consider controls on "a single component of one industry in our economy" . . .

The truth is, this particular "single component" is significantly different from virtually every other "component" of the economy—in ways which basically require us to respond to them as a separate element. Hospitals account for far and away the largest and most inflationary component (over 40%) of health care costs, which themselves have been more than twice as inflation-prone as the rest of the economy. This sector is characterized by an almost complete absence of direct consumer responsibility for either the goods which are purchased or the price of those goods (91% of the bills are paid by someone other than the patient). Moreover, in no other industry not subject to tight regulatory controls does the government pay over 40% of the costs. Finally, it is simply not true that other isolated components of the economy are not also subject to serious scrutiny (and even controls)—many segments of the energy industry, freight and passenger transportation of all kinds, and telephone services and other utilities, spring immediately to mind.

The AHA asserts that the Nelson amendment (or any other controls) would force hospitals to "reduce or cut back needed health care services" . . .

The truth is, this assertion is perhaps the most misleading allegation in the whole AHA letter. Under the amendment, there would be no Federal controls at all if the hospital industry simply meets its own voluntary goals. I believe it is safe to assume that the AHA would not have set such goals—nor would the AMA have also endorsed them—if the "quality" of health care would suffer.

And finally, the AHA asserts that "most would agree" that standby controls such as in this amendment are "inherently inflationary", and would lead to "inflationary, anticipatory increases", and that the problem "already is being addressed through the voluntary efforts of the health care industry" . . .

The truth is, the most inflationary aspect of the amendment is that it never requires the "voluntary" effort to reduce hospital inflation more than 4 percentage points below the 1977 rate (15.6% according to AHA) in order to avoid mandatory Federal controls.

As for the notion that hospitals will artificially inflate their prices in anticipation of standby controls, I believe that the argument flies in the face of the very nature of the amendment. For it is only by *avoiding* unnecessary increases during the voluntary period that hospitals will guarantee that the standby controls will not trigger in. If some hospitals prove to be so irresponsible that they unnecessarily increase prices despite the threat of mandatory controls, however, limits under such controls would still be adjusted on a hospital-by-hospital basis in comparison with all other hospitals in the same category, meaning that some or all of any earlier unnecessary increases would simply not be factored into the limits. Moreover, under the stand-by controls, any hospital that exceeds the voluntary limit would have an additional penalty, which would be a reduction in their maximum allowable increase by 1 percentage point for every percentage point that the hospital had exceeded the voluntary goal. Finally, with regard to the assertion that the voluntary effort will be sufficient, one need only look at the claims made in 1974 by the hospital industry before economic stabilization controls were removed. At that time, the hospital industry asserted that it would keep the lid on costs without controls. However, as soon as controls were lifted, hospitals costs jumped to more than twice the rate of inflation in the rest of the economy. On March 20, 1974, for example, the same Alexander McMahon who signed the AHA letter mailed to Senators on August 11, told the Health Subcommitee of the (then) Labor and Public Welfare Committee that:

"We do not think the allegations that Dr. Dunlop has made about the health industry

are fair or supportive of the need for continuation of health controls, and that it (the termination of controls) will not lead, as he is suggesting, to huge mushrooming of prices and costs in the health industry."

"All responsible parts of the health industry, hospitals, doctors, and other providers of care, know that if we were to be irresponsible, as we will not be, we would bring down on your heads tremendous pressures for even more oppressive regulatory measures than we have suffered through under the economic stabilization program."

And in another hearing at that time before the Commitee on Banking, Housing, and Urban Affairs, Senator Johnston asked McMahon "What kind of bulge would you expect if we took controls off immediately?" McMahon replied:

"I have heard the answer to that given in various figures of the 2 to 3 percent area. I should think, because of the other controls that exist, it would be less than it would be in the rest of the economy, because the rest of the economy wouldn't be subject to these other constraints that come to bear on hospitals.

"Very clearly, being aware what has happened, what happened after Medicare and Medicaid enactment in 1965, the AHA, working through our system of State hospital associations, would be *doing everything that we could to bring to the attention of the hospitals the need to avoid certainly any unnecessary bulge* that would follow the elimination of controls." (Emphasis added.)

Despite the AHA's promises and predictions, total hospital costs rose by 17.6% in 1975, the first full year immediately following the lifting of controls. Only since the introduction of the Administration's cost containment bill early in 1977 has there been any downward trend at all in the rate of hospital inflation—which proves, directly contrary to the AHA's current assertion, that the only way any voluntary effort is going to work in this sector is if it is backed up by the threat of mandatory controls.

The overriding and incontrovertible fact, which the American Hospital Association does not address, is that the amendment guarantees that more than $30 billion in inflationary costs will be saved over five years—that this money which comes out of taxpayers' private and public pockets; and which impacts heavily on the overall rate of inflation and the ability of Federal, State and local governments to balance their budgets and reduce taxes.

AMERICAN HOSPITAL ASSOCIATION'S COMMENTS ON THE NELSON AMENDMENT TO H.R. 5285

The Nelson amendment, which will be offered to the Talmadge bill reported by the Senate Finance Committee as H.R. 5285 on August 3, has many basic and serious defects. Its most fundamental problems for hospitals would be the following:

1. The amendment would authorize wage and price controls on a single segment of one industry. Experience has shown that such controls are inequitable and counterproductive.

2. Wage/price controls, on a standby basis, are inherently inflationary because they lead to protective, anticipatory increases. Thus, they would undermine and be destructive of the Voluntary Effort to contain health care costs.

The Voluntary Effort, which has brought together physicians, hospitals, consumers, insurers and others, is succeeding. The latest American Hospital Association Hospital Panel Survey data show that, for the first five months of 1978, the rate of increase of hospital expenditures decreased 3.3 percentage points when compared to the same period in 1977.

3. Federal operation of the control structure required by the Nelson amendment would result in a massive new bureaucracy. Although a "cap" is a simplistic response to a complex problem, the mechanism for its implementation would be extremely complicated and would require the development of elaborate and costly methods based upon data and indices that do not presently exist.

4. The amendment promises wage increases to nonsupervisory personnel, but the wage increase pass-through would not include important elements of hospital wages such as shift differentials, overtime, and other fringe benefits. Thus, this promise could lead employees to expect wage increases which hospitals could not afford.

5. The amendment would impose a flat "cap" on all hospitals, thus ignoring the legitimate differences among institutions and their needs. Further, such a "cap" would most severely penalize efficiently managed institutions.

6. The amendment does not include specific bases for exceptions, but rather would leave the development of any exceptions criteria to the discretion of the Secretary of HEW. It even fails to recognize the grounds for exceptions that are identified in the Talmadge bill.

7. The amendment grants additional, broad authorities to the HEW Secretary on the strength of which he could make sweeping decisions without statutory limitation or guidance. Some examples of such authority are:

Imposition of the revenue "cap" on hospitals even though the Voluntary Effort is successful;

Determination of whether to recognize state-administered cost control programs without any opportunity for state appeal of such decisions if they were negative; and

Determination of what adjustments, if any, would be made in the revenue "cap" as a result of changes in the number of hospital admissions.

Further, there are numerous and serious technical defects in the Nelson amendment, including the following:

Although the amendment appears to establish an upper limit of payments at 115 percent of the average per diem routine costs for hospitals in each classification group, it would not, in fact, do so. The amendment provides that the computation of the group averages would exclude from consideration *all* costs in the previous year in excess of 115 percent. Under this methodology, it has been estimated that over 30 percent of all hospitals could be paid below their actual costs. Further, in the Western region of the United States, almost two-thirds of the hospitals could be reimbursed below their costs.

The amendment would retroactively apply a revenue "cap" if the mandatory program was initiated after 1979.

The evaluation of the success of the Voluntary Effort would not take into account the impact of unanticipated changes in the general rate of inflation.

The amendment requires that 50 percent of any hospital incentive payments be made to employees regardless of the reasons for the hospital's lowered costs.

SUMMARY OF NELSON AMENDMENT TO H.R. 5285

The proposed amendment is intended as a compromise between the mandatory, immediate Federal controls contained in the Human Resources Committee-reported bill, and the limited Medicare/Medicaid, routine cost, approach in H.R. 5285. Current estimates are that this amendment would save between $30 and $35 billion over the next five years, compared to $50 to $60 billion for the Administration/Human Resources bill and less than $500 million for the Talmadge bill approach. Basically, the amendment expands upon, rather than substitutes for, the Talmadge bill and consists of three major parts.

1. A New System for Reimbursing Hospitals. The amendment would not alter the general approach of the Talmadge bill for revising reimbursement for routine costs under Medicare/Medicaid. The new mechanism, to be effective July 1, 1979, would provide for incentive reimbursement—rewarding hospitals whose routine operating costs are below average, and penalizing hospitals whose routine operating costs are substantially above the average. Hospitals would be classified; and target rates for costs would be established for types of hospitals based on the "market-basket" cost of goods and services and on areawide wages. (See page 2, Report No. 95–1111 to accompany H.R. 5285.) Several minor modifications to Section 2 are included in the Nelson amendment that would result in increased cost savings (see items 5 through 8 in Section-by-Section Analysis, Congressional Record, p. 26422).

2. Recognition of Voluntary Effort. The amendment would statutorily recognize that the hospital industry itself may be able to bring overall hospital cost increases under control through voluntary efforts. The amendment adds a new subsection to Title XVIII of the Social Security Act, which sets out the voluntary goals as proposed by the industry. Those goals apply to hospitals in the national aggregate, rather than individually. They call for cost increases (other than those arising from increases in the average hourly wage rates for nonsupervisory employees) to be held to 2 percentage points less in 1978 and 4 percentage points less in 1979 through 1982 than the rate by which such expenses increased in 1977 (15.6%).* However, in order not to unfairly penalize hospitals for increases in inflation for which they aren't responsible, in no case would the goals need to be less than one and one-half times the increase in the GNP deflator.

A new Health Facilities Cost Commission created by the Talmadge bill would be expanded, and it would be charged with oversight of the voluntary effort, and with determining whether it has succeeded.

3. Mandatory Controls. If, in any year, the national voluntary effort fails to meet its announced goals, standby, mandatory controls would go into effect for the following year (except that if the voluntary effort fails for 1978, such controls would take effect July 1, 1979). Even if the national voluntary effort fails, however, hospitals would be exempt from controls in any State which, on the aggregate, meets the national goals, or which has in effect a State cost containment program at least as comprehensive and effective as the Federal program.

The standby controls would involve limitations applicable to all costs and all payors. They would limit the allowable rate of increase on a hospital-by-hospital basis to a percentage derived from: (1) the increase in routine costs allowable under the Talmadge bill; (2) the increase in general wages in the hospital's area; and (3) a "market basket" index of increases in the goods and services normally purchased by hospitals. No arbitrary or single "cap" would be imposed. Maximum allowable costs would vary by individual hospital. All hospitals with less than 4,000 annual admissions would be exempt from either voluntary or mandatory controls. (That represents slightly more than one-half of the nation's hospitals but affecting only about 12.4 percent of total hospital expenditures.)

Increases beyond the limits would not be paid by Medicare and Medicaid, for either ancillary or routine costs. With regard to private payors, any excess paid by such payors following the imposition of controls would be required to be held in escrow until returned to payors in the form of rate reductions.

The percentage limitation would be subject to adjustment to take into account excessive increases in the prior year, changes in the volume of admissions, and a manda-

*Estimate of 1977 hospital cost inflation

ual and the community. By using this ap-

tory "pass-through" of increases in the wage rates of nonsupervisory employees. The wage "pass-through" would be at the option of States that had previously established cost containment programs and were exempted from any mandatory controls. It would be required of States that desired to start new cost containment programs and were exempt. The Secretary would be authorized to issue appropriate regulations to define terms, provide exceptions and guard against attempts to avoid the intent of the limits.

COMPARISON OF ESTIMATED SAVINGS UNDER VARIOUS HOSPITAL COST CONTAINMENT PLANS

		Estimated savings					
				Senator Nelson's amendment			
	Hospital revenues under current law (billions)	Administration bill—If effective Jan. 1, 1979 (billions)	Senator Kennedy's bill.[1]—If effective Oct. 1, 1978 (billions)	Voluntary program (billions)	If voluntary program fails in 1979, standby program effective in 1980 (billions)	Sec. 2 of Senator Talmadge's bill (millions)
1978	$54.5			−$0.4	−$0.4	
1979	63.0	−$2.2	−$2.8	−2.0	−1.7	
1980	72.7	−5.2	−6.4	−4.0	−3.4	−$6
1981	83.5	−9.9	−10.7	−6.3	−6.7	−70
1982	95.2	−15.9	−16.5	−8.4	−9.5	−122
1983	107.6	−22.6	−23.2	−10.2	−12.3	−175
Total	476.5	−55.8	−59.6	−31.3	−34.0	−373
Total for medicare and Federal medicaid	178.9	−18.7	−29.0	−11.5	−11.6	−373

[1] Estimate of Senator Kennedy's bill done by the Congressional Budget Office, the estimate indicates a relatively higher savings under medicare and medicaid because the CBO projected higher current law growth rates for the Federal programs, resulting in greater savings upon application of the limit.

OPPORTUNITIES PRESENTED BY MEXICAN OIL

Mr. KENNEDY. Mr. President, the lead editorial on the August 19th edition of "The New Republic" deserves special attention from Members of the Senate. The editorial comments on the probable existence in Mexico of enormous quantities of oil, perhaps as much as 150 to 200 billion barrels. It then discusses the question of whether administrator planners in fashioning the National Energy Plan in 1977, took this potential into account in telling us that the world might well run out of oil by 1985.

The editorial then going on to talk about the potential of Mexican oil breaking the "special hold" that the Saudis have on the United States and calls for the establishment of "something better than the small 'special relationship' that exists between the United States and Saudi Arabia—an 'extra special relationship' perhaps." I endorse this call for an effort to establish a policy which favors, if at all possible, Mexican oil over Saudi Arabian oil and makes possible a shift of our political and economical dependence upon one country at least to two or more when it comes to a resource so important as oil.

While not endorsing every part of the editorial, it contains a very clear statement of the problem and of the opportunities which await the United States as we seek to understand how to deal with the potential good that this oil resource can achieve for both the United States and Mexico. It concludes with the following thoughtful paragraph which I endorse:

There are obvious opportunities here for tradeoffs, but the negotiations will have to be conducted delicately and at a high level in both governments. President Carter should consider appointing an experienced and prestigious official to a special office for U.S.-Mexican relations. But, first the Administration should decide how it wants relations between the countries to proceed. One thing that U.S.-Mexican relations surely could use is a change in people's attitudes on both sides of the border. The United States cannot treat a rich Mexico with contempt. And Mexicans need no longer remain paranoid about the "colossus of the north." U.S. public attitudes toward Mexico are less likely to change, however, if the U.S. government persists in keeping Mexican oil wealth an official secret.

Mr. President, I ask that "The New Republic" editorial be printed in the RECORD.

The editorial follows:

[From the New Republic, Aug. 19, 1978]

OIL OF OLÉ

The U.S. government has been keeping a secret with enormous implications, but now it's out: Mexico apparently has petroleum reserves of 150 billion to 200 billion barrels, making it an oil power potentially greater than Saudi Arabia.

The CIA has known about Mexico's vast potential reserves since 1976, but two administrations have concealed this information from the American people and from Congress, apparently to avoid undermining energy policies premised on scarcity and foreign policies based on nuzzling the Arabs.

High officials in the departments of Energy, State and Treasury now confirm that Mexican potential reserves are huge, and some of them even admit the deception. But they claim that the Carter administration took Mexico's resources fully into account when fashioning its "moral equivalent of war" energy policy, which anticipates a world oil shortage by the mid-1980s or 1990.

Carter's foreign policy is designed to insure that Saudi Arabia will produce enough oil to overcome the shortages. But these high-level assurances are disputed by subordinate officials, who assert that Mexican reserves never were factored into Department of Energy computer studies of world oil supplies and prices until last month.

Apparently, the people who make policy in the Carter administration did "take account" of Mexican reserves—but quickly dismissed Mexico's potential production as being of minor importance to the world's energy outlook.

The administration seems to believe that Mexico and its state-owned oil company, PEMEX, lack the equipment, the technical ability and the political will to produce more than four or five million barrels of oil per day by 1985. Saudi Arabia, by comparison, is pumping 7.5 million barrels a day now and has the capacity to produce 11.5 million.

The administration is counting on the Saudis to increase their production capacity to at least 12 million or 14 million barrels a day. Some experts contend it will take 18 to 23 million barrels a day of Saudi oil to save the industrialized world from collapse in the mid-1980s or early 1990s.

We do not think that Mexico's reserves mean the administration can drop its conservationist energy policy or tell Saudi Arabia to go jump in the Persian Gulf. But there is evidence that Mexico's potential production in the next decade has been underrated. Conservation reserve-to-production ratios used in the oil industry suggest that Mexico might be able to produce 10 million barrels a day by 1985 or 1990.

Some Mexican government officials anticipate that production will indeed rise to these levels. If it does, Mexican petroleum could be an important factor in holding down world energy prices and in reducing the West's dependence on Saudi Arabia and other OPEC sources.

Right now there is an oil glut. If we play our cards right, there need never be a shortage. This means the special hold the Saudis have had over us can be broken. The United States should be doing what it can to encourage Mexican production. It has been doing so in some ways. But in other ways it has done just the opposite. The Department of Energy's veto of a major US-Mexican natural gas deal this year is a notable example.

The administration seems not to have thought very hard, at any very high level, about the opportunities that Mexican oil presents and about the implications for US-Mexican relations. Besides lowering oil prices and diversifying our sources of oil, development of Mexico's oil riches could help to alleviate the poverty in that country and reduce the flow of illegal immigration into the United States.

The opportunities, along with Mexico's proximity, suggest that Mexico and the US should develop something better than the "special relationship" that exists between the US and Saudi Arabia—an "extra-special relationship," perhaps.

There are plenty of problems in the way. The most serious is a climate of suspicion in Mexico fostered by years of US exploitation, discrimination and aggression. So far President Carter has not even ordered a "Presidential Review Memorandum" on US-Mexican relations, as he has done on other important foreign relations issues. We think the subject is worth at least that.

Critics of the Carter energy policy (including some within the government) contend that concealment of CIA data on Mexican reserves is part of some nefarious grand design. Some accuse the administration of being so obsessed with "neo-Malthusian" scarcity theories that it is driven to suppress evidence suggesting that the world really has abundant supplies of oil—not only in Mexico, but in Iraq (which also may possess reserves as big as the Saudis') and elsewhere in the third world.

Others charge that the administration is so intimidated by Saudi Arabia that it is afraid to explore rival energy possibilities. Still others see evidence of collusion with the major oil companies, which have no access to Mexico. The Mexican revolution nationalized oil production in 1938 and kicked foreign companies out. Still other critics say the administration is unwisely committed to a policy of higher, not lower, energy prices—possibly to encourage domestic production and bring on alternative sources like coal gas.

Without proof, we are not inclined to accept conspiracy theories, but it did nothing for our faith in the administration's credibility or its motives to be told by a high-ranking DOE official that CIA data on Mexican reserve were concealed from the public and the Congress because "these are areas where people can lose their lives." Getting energy data—even for the CIA—is not a high-risk occupation.

We sympathize up to a point with administration contentions that it would have been undiplomatic for the US government to publish figures on Mexican oil that would have been wildly different from the Mexican government's own figures, especially on a topic as uncertain as potential oil and gas reserves. Ever since it got caught making oil claims in the 1960s that didn't pan out, Mexico has been extremely cautious, even secretive, about its estimates. Even now, PEMEX's official statement of wealth includes "proved" reserves of 16 billion barrels (expected to be revised to 18 billion or 20 billion within a few months), plus "probable" reserves of 31 billion, for a total of only about 50 billion. By comparison the CIA puts Saudi Arabia's oil reserves—proved, probable and potential—at 150 billion barrels.

Officials at Treasury, DOE and State confirmed last week that the latest U.S. estimates of potential Mexican reserves are in the range of Saudi Arabia's proved reserves. One Treasury oil expert said it is commonly believed in the oil industry that Mexico's potential may run as high as 200 billion barrels, and some estimates go as high as 280 billion barrels.

A top official in DOE said he has seen upper-limit estimates for Mexico that run as high as 300 to 325 billion barrels, but that he considers estimates of 100 to 160 billion as reliable. He said that figures like these have appeared in secret government reports for at least two years. "There's no news in these numbers," he said. A former national security aide to President Ford confirmed that the CIA began reporting "enormous" Mexican reserves in 1975 or 1976.

The Mexican government has been speedily upgrading even its own cautious estimates. Before 1972, when PEMEX began exploring its Southeast oil fields, Mexico set its reserves at only 3.5 billion barrels. In the six years since then, the certified figures have risen by more than 360 percent. Alvaro Franco, an expert on PEMEX at the International Association of Drilling Contractors in Houston, says that all the Mexican figures are "extremely cautious and ultraconservative."

He explained that there are about 350 known oilbearing geological structures in two of Mexico's newly discovered petroleum areas in the Southeast. They are waiting to be drilled and tested. In the Bay of Campeche alone, there are 200 identified structures. Ten of these have been drilled and eight have turned out to be producers. He said the oil is being found in geologic pockets so thick that each one contains large quantities.

If the "tremendous success" the Mexicans have had in drilling since 1972 continues, he said, then the country has "way, way more" than the 100 billion to 120 billion barrels of petroleum that some Mexican officials privately acknowledge as their estimate of potential reserves.

Even if Mexico turned out to have only 60 billion barrels of oil, it could have a major impact on the world energy market. The oil industry considers it conservative to plan on producing one barrel of oil a year for every 20 barrels of estimated reserve. By that measure, Mexico could easily pump out eight million barrels a day—half a million more than Saudi Arabia produces right now. Mexico actually produces 1.3 million barrels a day, and is working to increase output to 2.2 million by 1980.

In spite of Mexico's potential, both the Ford and Carter administrations seem to have made deliberate decisions to discount Mexican oil in charting U.S. energy and foreign policy. Having made this decision, these planners seem to have decided to keep quiet about the Mexican reserves in order to avoid having the figures available to refute their judgment. Why did the energy planners decide to ignore Mexico?

A former Ford administration official said that the CIA information came in too late for the Republicans to do much with it. He said the policies of former Mexican president Luis Echeverria did not give much hope for expanded Mexican production or cooperation with the United States. President Carter has developed much warmer relations with Mexico's current president, José Lopez Portillo, who is regarded as a businesslike planner and administrator. But administration policymakers still seem convinced that Mexico can't or won't produce up to its potential.

The "Mexico can't" school prevails at high levels of DOE, where some officials believe that only a U.S.-style integrated oil company can move quickly to develop oil fields like those in Mexico. One DOE executive bluntly disparaged PEMEX's ability to manage the job. He spoke of the "Mexican theology of not allowing oil companies to meddle with the national patrimony." He said, "Given the limitations of PEMEX, to put it kindly . . . you're just not going to see the kind of dramatic impact that those reserves figures would indicate."

PEMEX does not have the managerial know-how, the "systems approach" and the new technology that the major companies have. The Chinese, this official said, are going about things more sensibly by inviting in Western companies as partners. The Mexicans, because of their stubborn hostility toward oil companies, probably will be able to produce no more than four or five million barrels a day by 1985. Needless to say, the major U.S. oil companies see things the same way.

Other U.S. officials belong to the "Mexico won't" school. They say there are powerful political pressures in Mexico to develop oil production slowly, even though 51 percent of Mexico's workers are unemployed at least some of the time and it takes 800,000 new jobs a year to keep the unemployment rate from rising.

The Mexican elite, which enjoys a share of national wealth as disproportionate as any in the world, is not interested in rapid, inflationary and socially dislocating growth. Leftists want to keep Mexico's oil riches in the ground, where they think it will increase in value over time. The leftists especially do not want Mexico to produce its oil to satisfy the appetite of the United States.

There is still another school in the administration, which holds that Mexico inevitably will produce up to its capacity—provided that the United States' actions do not create a Mexican political backlash. "It's like a fruit tree," said a State Department official. "If you don't shake it too hard or too fast, pretty soon you'll get nice fruit.

There is a natural symbiosis here. We are Mexico's natural market for oil. They are our natural supplier. If we play it cool, a nice relationship could develop naturally. But we could mess it up if we are too eager to tell them what to do."

Since it is obviously in the US national interest for Mexico to produce as much as possible, what should the United States do? We already are offering capital and such technical expertise as Mexican pride will permit it to accept. We also ought to avoid botches like last year's natural gas fiasco.

PEMEX and a group of American companies thought they had concluded a deal to build a pipeline across the Texas border and move Mexican natural gas into the US, only to have it aborted by the US Department of Energy. Administration officials acknowledge that domestic US considerations forced the action.

The American companies and PEMEX agreed on a price of $2.60 per thousand cubic feet, which is more than domestic US gas producers are paid and more than Canadian exporters get. If the deal had gone through, Congress certainly would have rejected President Carter's energy plan, which calls for US gas producers to get $1.90 per thousand cubic feet.

American officials claim that negotiations with Mexico will resume when—and if—Congress enacts an energy bill. But meanwhile, Mexico is offended and has decided to use its naural gas for domestic utilities, industries and even city buses.

If the United States wants more energy production from Mexico, there are things that Mexico wants from the United States. These include free immigration across the Rio Grande and lower trade barriers against Mexican agricultural commodities. There are obvious opportunities here for tradeoffs, but the negotiations will have to be conducted delicately and at a high level in both governments.

President Carter should consider appointing an experienced and prestigious official to a special office for US-Mexican relations. But, first the administration should decide how it wants relations between the countries to proceed. One thing that US-Mexican relations surely could use is a change in people's attitudes on both sides of the border.

The United States cannot treat a rich Mexico with contempt. And Mexicans need no longer remain paranoid about the "colossus of the north." US public attitudes toward Mexico are less likely to change, however, if the US government persists in keeping Mexican oil wealth an official secret.

"A NEIGHBORHOOD FAMILY IN MIAMI"

Mr. CHILES. Mr. President, isolation, impaired mobility, growing health problems, distant and inadequate health services, lack of power and resources to improve substandard housing conditions, decreasing communications networks, loss of friends and family, decreasing opportunities for productive activities—and overall, financial resources too meager to make changes: These are just a few of the complicated and interacting problems which creep up on many older Americans until, one day, despair may begin to set in.

Without help, without resources, there is not much an older person can do.

And there are not many options available. In case of illness there is always the hospital or a nursing home. And there may also be a nursing home for those who cannot afford to live independently any more.

Some older Americans are a little luckier—there may be a special apartment available in a congregate housing program with assistance and services readily available. Or there may be a special day health center or multipurpose senior center close enough to serve as a contact point for friends and services.

It takes a concerted effort by many people and different services to make much of a difference. As a recent article appearing in Aging magazine puts it:

The phenomenal growth of the elderly population in the U.S., and particularly in Miami, Florida, has forced health professionals to face the reality that there will never be enough Federal dollars or professional personnel to effectively reach every elderly person requiring assistance.

I would like to share this article with my colleagues, because it also describes a unique solution in Miami.

A "neighborhood family" has been created in which elderly living close together have banded together to organize their own programs and provide assistance to each other. The "family" receives professional assistance and services from the Jackson Memorial Hospital and its community mental health service.

It is an example of a very direct attack on basic problems and it offers lessons for similar action elsewhere. I ask that the article from "Aging" magazine be printed in this RECORD.

The article follows:

THE NEIGHBORHOOD FAMILY

(By Hilda K. Ross and The Neighborhood Family)

The phenomenal growth of the elderly population in the U.S. and particularly in Miami, Fla., has forced health professionals to face the reality that there will never be enough Federal dollars or professional personnel to effectively reach every elderly person requiring assistance.

In 1974, the staff gerontologist of Jackson Memorial Hospital's Community Mental Health Service became interested in testing a new organization model—the Neighborhood Family. This would allow the elderly to identify their own personal and environmental problems, and then resolve them with a minimum of funds and professional staff. They believed that the elderly should act as both the planners and consumers, with the staff working as a liaison between The Neighborhood Family members and community agencies. Thus, the elderly would have a direct impact on the distribution of resources by letting agencies know what they, as a group, wanted for their community.

The program's objective was to educate a group of older people to be the primary agents in altering the negative social and environmental conditions in their community. Through the group learning process, other basic needs of the elderly would also be met: the need to be needed, to be part of a community group, and to be recognized as effective people.

The word "Neighborhood" was chosen in order to enlist individuals from an area which they defined geographically and psychologically as their neighborhood. The word "Family" was chosen because it implied a bond of similar values. It was felt that older people, most of whom have lost their relatives, would adopt a surrogate family and rely on it for reciprocal friendship and support.

The Neighborhood Family is staffed by the Community Mental Health Service (CMHS), but the Neighborhood Family itself is much more than the Jackson Memorial Hospital (JMH) Community Mental Health Clinic because it belongs to the people rather than to JMH. The Family developed within the JMH-CMHS framework, but the members choose to be autonomous.

The Northside Neighborhood Family Services was formed as a non-profit incorporated organization with its own Board of Directors drawn from the Neighborhood Family membership. The Board formulates the Family's policy and programs subject to approval by The Neighborhood Family membership. Staff advise and help the members to carry through on their decisions.

A WAREHOUSE BECOMES A CENTER

Selection of a site for The Neighborhood Family began with demographic surveys of neighborhoods in the inner-city areas of Miami and Dade County which had large concentrations of elderly persons. The most suitable site seemed to be a low-income trailer park development near a large shopping center. This area had the highest crime rate in Dade County, few services provided by agencies, limited recreational and educational facilities that were nearby, and minimal social interaction between the elderly beyond shopping. An informal survey also indicated a wide range of personal and environmental problems.

Since transportation was frequently mentioned as a problem, it was decided that a facility close to the target population was necessary. With no budget, the burden of housing rested on the community. The Northside Shopping Plaza had the most traffic. The management was approached, and within a month, a huge warehouse was offered with free rent and electricity. The Family cleaned, painted, and furnished it themselves.

One person carried out the initial contact with residents by knocking on each trailer door and explaining The Neighborhood Family concept of working together "as a Family confronting problems most older people seem to have." An interview was conducted to explore the needs of each individual and the community. Py using this approach, a climate of positive expectation and individual involvement and commitment was created and continues to be a strategy for encouraging participation. In a period of 10 weeks, 27 elderly persons expressed an interest in the project and came to the first meeting.

Data from the Assessment of Needs survey were presented to the members at the first meeting in the facility.

The next six weeks involved learning the names, telephone numbers, and services provided by community agencies. Twice a week, some 25 other people met at the facility to plan for two panel discussion meetings involving various agency heads who would provide information on services available to The Neighborhood Family. Through this process, the elderly learned organizational skills as well as the selection and protocol techniques needed in contacting appropriate agencies.

It took 10 weeks from the first meeting for a group of elderly people to turn the warehouse into a Center, identify themselves and their purpose, plan and execute two large panel meetings, form an administrative body, and prepare a program for an Open House.

Although a staff was offered by the JMH-CMHS, the staff gerontologist chose to work alone at first. During the initial four months, no staff or agency personnel were there to impose preconceived notions of how to work with older people.

There were no agencies to extend services, no operating funds, and no administrative structure to contend with. It was important for the members to see themselves as the only participants who would transform the theoretical model into a functioning Family.

The Neighborhood Family continues to be understaffed. Aside from a full-time director, there are two part-time nurses, a full-time social worker, and secretary. Six hours of psychiatric time are available to The Neighborhood Family from the JMH-CMHS. The Family survives with the help of volunteers from the membership. Five volunteers each work 38 hours a week, and 20 volunteers work from 2 to 37 hours a week.

ALL RACES, ALL AGES BAND TOGETHER

Although the area defined as The Neighborhood was in the trailer parks area, we discovered at the end of the first year that only 70 percent lived in the trailer parks. Another 24 percent lived in small private homes in areas beyond the parks. Those 50–59 years of age represent 12 percent, while those 60–69 make up 31 percent of the membership. The 70–79 age group comprises 20 percent and the 80 and over group, 9 percent.

The youngest member is 28 years of age and the oldest is 98. Eighty-five percent are white Americans; 6 percent are Black. There are very few Spanish-speaking members. However, we are seeing an increase in the number of Black elderly women, both American Blacks and Bahamian, and in the number of Asians, particularly Filipinos.

Thirty-five percent of the members have lived in Miami for less than 10 years, but 54 percent have lived in the same neighborhood from 11 to 30 years. This large group represents the elderly who did not join the flight from the inner-city. The majority live alone, and 43 percent are married. Most of the members say they had "some high school," and 27 percent finished high school.

Originally 65 percent of the members had telephones; this dropped to 56 percent at the beginning of the second year and is still dropping. We are notified of telephone cutoffs each day. When The Neighborhood Family opened, 52 percent indicated that they had cars. This has dropped significantly as insurance rates have sky-rocketed in Dade County and as members can no longer afford to maintain a car.

A levelling off is occurring as more affluent residents choose to go elsewhere, leaving The Neighborhood Family to those "who really need it."

One of the major problems cited by the Family members is poor health. Sixty-eight percent indicate that health "prevents them from doing what they want to do." Sixty-six percent are under care for their medical problems. Eye problems, arthritis, heart trouble and hypertension are leading complaints. Reasons cited for not seeing a physician include: "It's not bothering me now," "finances," "can't find a suitable doctor," and "transportation."

In the first year, participants listed their major concerns in this order: health, money, and a desire for a better self-image. At the end of the second year they listed health, crime in the neighborhood, and finances.

DEALING WITH THE PROBLEMS

Residents who were helped with a problem usually became active in the Center and used it for social support as well. However, there were others who, for reasons of ill health or similar problems, could not come and yet supported the idea of working together "like a family." A network system was initiated in the trailer parks for these individuals. Its purpose was to keep a record of new people moving in, to communicate information quickly, to be in close contact with individuals needing services, and to

keep residents informed of center services and activities.

During the first year, weekly outdoor meetings were held on a member's patio in one of the four trailer parks. This laid the groundwork for dealing with larger environmental problems within the trailer park and provided a base for collective problem-solving. After a year the environmental problems were resolved, but residents continued to be in close contact with The Neighborhood Family. They were already in the habit of contacting The Neighborhood Family for help with everyday problems and crises, and for companionship and social activities.

This year, the network meetings have been reactivated in another trailer park which the entire Neighborhood Family membership, including policy and agency personnel, identified as one of the worst crime areas in the Neighborhood Family community. Their specific objective is to "Reclaim Your Neighborhood" and the project has the approval of the trailer park owner, manager, and many residents who were already Neighborhood Family members.

Elderly members are presently offering very young mothers help with child care. Their problem list for future action is long, including removal of a dope-peddling ring, drunkenness, noise, and finally, crime.

HEALTH SERVICES

The Neighborhood Family provides supportive and preventive community health care. With the aid of the nurses, social worker, and "the friendly Family place," crises in health care have been largely eliminated. The Well-Adult Health Program in The Neighborhood Family now includes screening, health interviews, lectures, blood pressure and weight checks, health counseling, home visits, and an exercise program.

Project members eagerly talk to the nurses and look forward to the health interview and blood pressure reading. However, only half of them comply with instructions or referrals. Some noncompliers voice the fear of a disability being discovered, believing that they will be rejected and forced into isolation if people knew they were not well. Some have had unsatisfactory experiences with clinic services. Others say they just want "to go it alone." In some instances, it took a year and many interviews to identify the salient problems. Eroding the resistance of noncompliers is a continuing effort.

The nurses make home visits and hospital calls. Their persistence after two years is finally paying off. Members have begun a regular exercise program at the center, and they urge others to "see the nurse," "to go to your doctor," or "take care of yourself." There are lines for blood pressure checks. Members accompany one another to a nearby primary health care facility. Healthy older members look out for the sick.

SOCIAL SERVICES AND COUNSELING

The Neighborhood Family provides direct and referral services involving personal economic and environmental assistance. These include food stamps, the Senior Companion Program, SSI, housing, counseling, and legal aid. Hot meals are served daily at the Neighborhood Family Center and to the nonambulatory at home.

Individual and group therapy are provided by Family members and professional staff, along with continuing evaluation by the psychiatrist and nurses.

Social activities include discussion groups on the development of mutually supportive activities. Thursday morning membership meetings, neighborhood improvement meetings, network systems meetings, bi-monthly trips, parties, and bingo sessions. Nothing is superimposed from above. Members continue to hold weekly meetings and to express their ideas and desires. The Board of Directors plans programs based on these ideas and members vote on the programs.

One idea which has been carried through to completion was the Italian Day, which was such a success that a Middle East Day was planned.

Public officials have also been brought in to address the Neighborhood Family group on concerns voiced in the Thursday membership meetings and on such issues as garbage fees, insurance rates, and crime. This has led to feelings of personal worth and effectiveness among the members.

The scheduling of events or programs reflects the interest and energy level of the members. The members, director, social worker, or nurses may contribute ideas for activities, but the development of a program is a mutual effort. The Family paces the "life" of an event whether it is an hour, a day, a week, or a month.

BUDGET

Based on the staff-service ratio of The Neighborhood Family, this community-based program offers a structure for serving large numbers of individuals at minimal costs. Direct care services, that is, medical, psychiatric, and social services, were given to 650 people from July 1975 to July 1976.

This number generated 2,500 encounters per month at a cost of $24 per member per year. This figure does not include 1,440 people who came into the Center for recreational, educational, and special events. Contributing to the low cost is the volunteer labor of 27 members and the rent-free, electricity-free facility.

SUMMARY

We have described what can be accomplished in a two-year period in a low-income neighborhood composed of residents with multiple physical, psychological, social, environmental, and economic problems. Quasi-familial bonds and community action have developed in an area of social decay, mutual suspicion, apathy, and hopelessness.

The Neighborhood Family differs in the most fundamental sense from other service providers because it is not under the aegis of an agency extending its services to its constituents. It is free to develop its own services.

The Neighborhood Family is a community-based and community-administered body which utilizes the services of professional personnel working as members of the Family, not apart from its "staff." The elderly participants are the decision-makers who function as peers with the professionals.

The Neighborhood Family can supplement programs in senior centers, in churches, and in community mental health centers. It warrants replication in rural areas, and with other ethnic groups.

In its third year, The Neighborhood Family model continues to prove the hypothesis that older people living in the community can work together as a Family to reduce stress from personal problems and environmental conditions.●

CONTROVERSIAL NUCLEAR DEAL

● Mr. PELL. Mr. President, all Americans concerned about the dangers of nuclear proliferation should be encouraged by the reported termination of the arrangement under which France would provide a nuclear reprocessing plant to Pakistan.

While I can appreciate the frustration of Pakistan's leader, Gen. Mohammed Zia al Haq, in having this major program stopped by France, I hope that the leadership of Pakistan can understand how so many people believe that this decision was the right one for Pakistan and will be of major importance in efforts to control nuclear proliferation elsewhere. It would be very unfortunate if Pakistan were to react by maintaining a determination somehow to go ahead with a reprocessing plant through some other means. As testimony given to the Committee on Foreign Relations has made clear, a national nuclear fuel reprocessing plant simply does not make economic sense for Pakistan.

Much of the credit for this reported outcome should go to a former colleague, Senator Stuart Symington, who sponsored in 1976 an amendment to the Foreign Assistance Act of 1961. The Symington amendment required termination of all military and most economic assistance to any state delivering or receiving nuclear enrichment or reprocessing equipment, materials, or technology, unless multilateral auspices and international management were applied when available and a recipient country entered into a full-scope safeguards agreement with the International Atomic Energy Agency. As my fellow Members are aware, enrichment and reprocessing under national auspices under unsafeguarded conditions are key to the development of nuclear explosive devices.

The amendment was accepted by the Committee on Foreign Relations and the Senate. With the strong support of other Senators, including our late colleague, Senator Hubert H. Humphrey, the Senator from New York (Mr. JAVITS), and the Senator from Ohio, (Mr. GLENN), who argued strongly for the Symington amendment, the amendment was accepted in conference.

The Symington amendment was a key initial effort to control the spread of nuclear proliferation. Since then, the Congress has approved the Glenn amendment to the Foreign Assistance Act of 1961 which expands the scope of the Symington amendment. The Congress earlier this year passed the comprehensive Nuclear Non-Proliferation Act of 1978.

The countries most immediately concerned with the effects of the Symington amendment were Pakistan and Brazil. As chairman following Senator SYMINGTON of the Arms Control Subcommittee of the Senate Committee on Foreign Relations, I have made it a particular point to follow closely developments in Pakistan and Brazil. Clearly, at some point, the provisions of the Symington amendment would have been triggered and Pakistan would have faced a formal cutoff of U.S. military and economic assistance.

No one, of course, desired such a disruptive event in the relations between Pakistan and the United States. On the other hand, the threat of nuclear proliferation is so severe that it was clear that the Symington amendment would have to be enforced if the deal between France and Pakistan were not stopped.

Fortunately, the deal is off, according to General Zia, and it will be possible to resume normal aid relations with Pakistan.

Mr. President, I ask unanimous consent that the full text of the August 24 Washington Post article on this matter be paneled in the RECORD following my remarks.

The article follows:

[From the Washington Post, Aug. 24, 1978]

PAKISTAN SAYS FRANCE KILLING CONTROVERSIAL NUCLEAR DEAL

(By Milton R. Benjamin)

Pakistan announced yesterday that France has backed out of an agreement to provide it with a nuclear reprocessing plant that would produce plutonium suitable for use in manufacturing an atomic bomb.

The announcement, made by Pakistani ruler Gen. Mohammed Zia al Haq at a press conference in Rawalpindi, represents a major triumph for the Carter administration's nuclear nonproliferation policy.

The administration hoping for an additional piece of good news in the next couple of weeks in the form of a decision by South Africa to sign the nuclear nonproliferation treaty.

France's decision not to go through with the Pakistani deal is also expected to bring new pressure on West Germany, which has sold a pilot nuclear reprocessing facility to Brazil.

West Germany is now the only country still planning to go ahead with plans to provide a nuclear reprocessing facility to a Third World nation.

Officials in Bonn insist they have no intention of canceling the Brazilian sale, but U.S. sources feel Germany may in the end decide to proceed "as slowly as possible" in providing the reprocessing equipment.

Gen. Zia, in announcing the French decision said, he had been informed that France was backing out of the agreement in a "very polite" letter from President Valery Giscard d'Estaing.

"In military terms, we would say that although it was full of sentiment, it was a lemon," Zia said.

In Paris, the government confirmed last night that Giscard had sent a letter to Zia concerning the deal but suggested that the French president had once again offered to amend the original deal to provide Pakistan with a nuclear co-processing plant.

Both types of plant take the spent fuel from nuclear power stations and produce fuel that can be used again. But while a reprocessing plant yields plutonium suitable for weapons, a co-processing facility would not separate the plutonium from the uranium. This mix could not be used in fashioning a nuclear bomb.

Pakistan, while insisting that it has no intention of developing a nuclear weapons capability, has adamantly rejected France's efforts to substitute the co-processing facility and has insisted that Paris honor the contract signed in 1976.

This insistence has led many observers to conclude that Pakistan's primary motivation is to gain the capability to join subcontinent rival India—which exploded an underground atomic device in 1974—as a nuclear power.

These suspicions are buttressed by the fact that few experts in nuclear energy accept Pakistan's arguments that it needs the facility to supply a network of nuclear power plants.

At present, Pakistan has only one atomic power plant in operation, and one other plant in the works. It seems unlikely to have the dozen or more required to make a reprocessing facility economically viable until at least the middle of the 21st century.

The French decision not to go through with the sale to Pakistan marks a final turnabout from the course undertaken by the government of former Prime Minister Jacques Chirac, which also had negotiated to sell a reprocessing facility to South Korea. U.S. pressure on the Korean government was a major factor in aborting that deal.

France and West Germany later announced that while they intended to honor their contracts with Pakistan and Brazil respectively, they would not sell additional reprocessing facilities to Third World nations.

French officials say that since Chirac's departure, France has taken a much more serious view of the nonproliferation implications of the spread of nuclear technology. Giscard has been trying to gracefully back out of the Pakistani deal for some time.

But the Carter administration, with its emphasis on nuclear nonproliferation, certainly deserves "considerable credit for the whole major change that has taken place in world sensitivity" to this issue, one U.S. expert outside the government noted yesterday.

The administration official who has led the nonproliferation effort, Deputy Undersecretary of State for Security Assistance Joseph Nye, took pains to emphasize yesterday that the reprocessing deal is "a matter between France and Pakistan."

But both the United States and Canada have brought pressure on Pakistan in an effort to persuade it to cancel the deal.

The Carter administration last October informally cut off all but food aid to Pakistan, and has not signed any new aid agreements with it since that time.

Canada, which built Pakistan's only operating power plant outside Karachi, also announced in late 1976 that it was ending its nuclear cooperation with Islamabad and would not supply uranium fuel for the facility. As a result, the plant has been operating at less than 70 percent of capacity.

Canadian officials hailed news of the French decision yesterday.

The Carter administration's hopes that South Africa will shortly agree to sign the nuclear nonproliferation treaty grow out of a visit to Pretoria by top U.S. nuclear negotiator Gerard Smith earlier this summer.

Smith, according to informed sources, outlined to the Pretoria government a proposed method for international inspection of uranium enrichment facilities that could be used in safeguarding South Africa's pilot enrichment plant at Valindaba.

South Africa has long expressed concern that subjecting the Valindaba plant to inspection would result in piracy of its secret uranium enrichment process.

The United States, in an effort to persuade Pretoria to sign the treaty, has been holding up a shipment of highly enriched fuel needed to operate a South African research reactor. South Africa also is seeking U.S. fuel for two nuclear power reactors scheduled to go into operation in the early 1980s.●

THE RAFSHOON TORPEDO

● Mr. GARN. Mr. President, because the Congress has the constitutional authority and responsibility to restructure the priorities of the executive branch and to pass legislation as they see fit, President Carter has reacted with a temper tantrum in vetoing the defense authorization bill, primarily stemming from bad White House advice. Coming at a time when the Soviets are underway to be a Navy second to none, our President has cut back on our naval shipbuilding program while promising to have naval forces at sea to support important American goals and objectives.

The President's veto of the defense procurement bill follows extensive work by both the Senate and House Armed Services Committees and expanded testimony by both civilian and military experts. His allegation of irresponsibly voted money for a carrier that was supported at the expense of NATO is yet another distortion of the truth. In fact, this bill would have:

First, added to the number of tanks to be modernized for the Army;

Second, added funds for an infantry fighting vehicle;

Third, added funds for the Army tank gun program done in cooperation with the German Government; and

Fourth, added study funds for a theater mobile ballistic missile to counter the ominous Soviet SS-20.

There still remains the confusion of the President apparently not knowing the difference between the authorization bill, which sets programs, and the appropriation bill which expends money.

The Soviet Navy today outnumbers the U.S. Navy in ocean-going surface ships, nuclear and strategic missile submarines, as well as other vital categories of surface elements. In addition, the Soviets have recently completed their second aircraft carrier and a 20,000-ton nuclear-propelled battle cruiser. To complete this measure of threat, the Soviets are presently allocating more than half of their supersonic Backfire jet bombers to the Red navy.

It is difficult to ascertain all the reasons for our sad decline in naval sea power, but in the pursuit of a strong national defense, President Carter's recent salvo at the Navy based on superficial or specious facts points once again to consistent bad advice.

The Wall Street Journal of August 24, 1978, presents a thoughtful profile as to the reasons why the President vetoed the defense procurement authorization bill, and I ask that it be printed in the RECORD.

The article follows:

[From the Wall Street Journal, Aug. 24, 1978]

THE RAFSHOON VETO

President Carter's veto of the defense procurement authorization is everywhere interpreted as part of a new "get tough" act, the practical incarnation of media adviser Gerald Rafshoon's efforts to massage the President's sagging poll ratings. The veto would have helped Mr. Carter's competency rating more if he had not clouded the issue in monumental confusion, including confusion about what the bill he vetoed actually contained.

To cut through the clouds, it's necessary to keep in mind two simple facts. First: while Mr. Carter objects to the congressional decision to spend $3 billion on a nuclear aircraft carrier, his administration has already announced plans to include a large oil-burning carrier in its next budget request. The whole issue is, merely, this year or next year, and conventional or nuclear? Second: There is a difference between authorization bills, which set programs, and appropriations bills, which spend money. Mr. Carter vetoed the defense procurement authorization. The Pentagon appropriations bill has not yet been completed by Congress.

This elemental parliamentary distinction was entirely overlooked in Mr. Carter's charge that Congress is building the carrier by "diverting funds away from far more important defense needs." Among the congressional items to which he objected, for example, was a supposed cut of $500 million in military operational funds. But operational funds are not dealt with in the defense procurement bill; if this was the President's problem, he vetoed the wrong bill.

Doing the President one better, Defense Secretary Brown complained that Congress had killed three anti-submarine ships. There is a dispute over the appropriations for these ships, with the House on one side and the

Senate on the other. But whatever the eventual appropriation, the ships were included in the defense procurement bill. Secretary Brown complains about Congress killing ships that were in fact in the bill his chief just vetoed.

Now, within the context of the procurement authorization, it's true that despite $1.9 billion for the aircraft carrier, the congressional total was close to the President's original request. About half of the funds came from rather ordinary changes: the Army reporting it could not spend money on its new XM-1 tank as fast as it originally thought; Congress's decision that it could both save money and improve the NATO tank force faster by upgrading more existing M60A1 tanks and producing fewer new M60A3 tanks than contemplated in the original administration request.

The other half of the carrier money came from funds originally requested for the Trident submarine program, but which cannot be spent in this year's bill because of delays. With the Trident program delayed, and with the administration poised to order up a new carrier next year, Congress is merely saying, let's use this idle money and get the carrier started now.

There remains the issue of what kind of carrier. In passing, it should be noted that in light of the latest studies it is far from clear that large carriers are especially vulnerable. They can sustain hits from Soviet cruise missiles that would atomize small carriers, which have their magazines above water line. Large ships also make sense in light of electronic battlefield management, which promises a defense capable of shooting down attacking missiles. But this debate is beside the immediate point, since the White House has requested no small carriers. Indeed, the bill Mr. Carter vetoed provided more research funding for small carriers than he requested.

It is also unclear that oil-powered carriers save money. They are cheaper to build, but more expensive to fuel. Over the lifetime of a ship, it is difficult to see much difference in total cost. Congress prefers the nuclear carrier because it has better performance, being unencumbered by a train of tankers to refuel it every few days. The administration prefers a conventional carrier, saving money on construction now but spending more on operations later. And over this difference the President is willing to veto the entire procurement bill, inviting further controversy and delay that may hinder the improvements on which he and Congress agree.

In order to escalate this minor quarrel to veto proportions, President Carter launched an attack on Congress that seriously distorts the record. Sen. Stennis rose on the floor to complain, in what is for him strong language, of the administration's "false facts." The Senator was too much of a gentleman to say it, but we will: This is not a case of the Congress being soft on national security, but of the President dallying with defense in pursuit of cosmetic politics. The defense procurement bill was vetoed not because of any large difference on substance, but because it was the first bill to come along after Mr. Rafshoon whispered in the President's ear that he could look "strong" by vetoing something.●

EQUAL RIGHTS AMENDMENT

● Mr. MUSKIE. Mr. President, tomorrow is the 58th anniversary of the adoption of the 19th amendment to the Constitution, the women's suffrage amendment. The years which preceded adoption of that amendment saw the growth and development of a "women's movement," and the 19th amendment was their symbol of social equality.

Today, 58 years later, a strong new women's movement is fighting for another amendment to the Constitution, the equal rights amendment. That amendment has become a symbol of social equality for the women of today.

The amendment is the subject of great controversy in the States which have not yet ratified, and in some States which have. As a supporter of the equal rights amendment, I believe the case for it is clear, even obvious. I hope those States which have not ratified will do so quickly.

And most importantly, I hope that the women—and men—who have fought so hard and so persuasively for the equal rights amendment, first in Congress and for the past 7 years in the States, will resolve on tomorrow's anniversary to keep up the fight until it is won.

I am concerned that the question of the 7-year time limit suggested by the 92d Congress has obscured the debate over the equal rights amendment, diverted the energies of supporters and created a controversy which may well be empty of meaning.

The fate of the equal rights amendment still lies in the hands of those legislatures which have not yet approved it. I urge supporters of the amendment to redouble their efforts in the States, and concentrate on convincing three more legislatures of the need to ratify the amendment.

The Congress finds itself in a curious postion, which the framers of the Constitution either did not foresee, or thought so improbable that the question was never addressed.

We are debating deadlines as if amending the Constitution were some sort of sports event, with four quarters or three periods or nine innings. The development of a Constitution by the people is and must be a more dynamic and sensible process than that.

To make matters worse, the question of a deadline for ratification of the equal rights amendment has run up against a "deadline" the Congress itself has imposed for adjournment this fall. Perhaps it is the pace of modern society which makes these ad hoc days on the calendar seem like a solid brick wall blocking the road to ERA. A closer examination, I believe, will expose the deadline as a mirage.

The Constitution sets no such deadline or time limit in article V, which describes the method of amending the Constitution. The framers made no reference to time limits when debating the article. And the Congress set no time periods for ratification for nearly 130 years until 1917, when it proposed the 18th amendment.

Even then, a time period was proposed mainly in response to approval by the Ohio legislature of a long-forgotten amendment proposed 80 years earlier.

The Supreme Court has given only limited guidance on the question of deadlines. The Court's major pronouncements have been these:

That the ratification procedure ought to be "succeeding steps in a single endeavor," and "sufficiently contemporaneous in that number of States to reflect the will of the people in all sections at relatively the same period * * *";

That the Congress may set time limits:

And that the question of a reasonable time for ratification is one which may be addressed "in the presence of certified ratifications by three-fourths of the States."

It seems to me the Supreme Court has felt that the question of amending the Constitution is closely intertwined with the political and social climate of any given period. While the passage of generations before adoption is probably not a reasonable time, some other period might well be reasonable. And it is the Congress which makes that decision.

The key question is not what the Congress does next month, or before next March. The key is getting the approval of the legislatures. Regardless of our decision on a time period this year or next, the Congress almost certainly will be confronted with the questions of timely ratification again, after three more legislatures ratify. Regardless of whether Congress acts now, it certainly could declare then that ratification had in fact occurred.

And anyone who might wonder whether the question of ERA is alive need only observe the events of tomorrow's anniversary. The fact of the controversy itself is persuasive evidence that ERA is a live issue ripe for action.

I hope the question is settled in favor of the equal rights amendment. Whether or not we act this year to extend the time period, the passage of days will not end the hopes of equal rights amendment supporters.

When the Senate is given an opportunity to extend or eliminate the time limit suggested 7 years ago, I will support that approach. I do not believe it is necessary. Nor is it likely to finally settle the question of what constitutes a reasonable time.●

UNITED STATES RELATIONS WITH CHINA

● Mr. MCGOVERN. Mr. President, the August 1978 issue of the American U.S. relations with China written by the distinguished Senator from Utah, my friend JAKE GARN, and by me. I ask that these views be printed in the RECORD.

The articles follow:

[From the American Legion Magazine, August 1978]

OPPOSING VIEWS ON A QUESTION OF INCREASING IMPORTANCE: SHOULD THE U.S. NORMALIZE RELATIONS WITH RED CHINA?

(By Senator George McGovern)

"YES"

In 1972, President Nixon signed the Shanghai Communique, committing the United States to normalizing relations with Peking (mainland China). Since then, Presidents Ford and Carter have endorsed this commitment. More than 100 nations—all of our major allies—recognize Peking. Polls show a majority of Americans favoring normalized relations. However, we remain the only major power with diplomatic links with Taiwan instead of Peking.

The establishment of diplomatic relations with Peking is vital to our national interests. Let us look at two examples.

China has sought our support in the U.S.—U.S.S.R.—People's Republic of China power triangle. Peking's shared objectives to restrain Moscow has added flexibility to our strategic capacities in Korea, Southeast Asia, the Middle East, Africa and Europe. Recognition of Peking will secure and expand our leverage. Failure to do so with responsible expediency can only lead to a renewal of mistrust and hostility.

Peking is already an important trading partner with many of our allies. Peking's economy is one of the world's largest. By the year 2000, its Gross Domestic Product is expected to equal well over $1,000 billion and its trading capacity will have quadrupled. There are mutual economic benefits in increased trade. For example, one-fourth of the human race lives in the PRC; 80 percent are involved in agricultural production at a level similar to ours in 1815. Consequently, China would like to buy U.S. machinery, grain and agricultural commodities. U.S. agricultural exportation is a multi-billion dollar industry, employing 1.2 million Americans. The trade potentials in agriculture, as in other spheres, are substantial. Until we normalize relations, we will continue to lose this world market.

The benefits of normalizing relations with Peking do not mitigate our commitment to Taiwan. The substance of our relationship will essentially remain—only the form will differ. We should make a unilateral statement opposing aggression against Taiwan, assure its access to self-defense supplies, and encourage Peking to indicate unilaterally it peaceful intent toward Taiwan. Additionally, we will continue to develop economic and other nondiplomatic relations with Taiwan following our recognition of Peking.

A realistic evaluation of Peking's objectives indicates its desire for peace with Taiwan. Peking lacks the military capability for a confrontation and doesn't want to jeopardize a Sino-American alliance. Peking needs grain, trade, technology and credits which are contingent upon a sound relationship with Japan, Western Europe and the United States. Finally, Peking desires that we change the form of our relationship—they accept our continued economic and other non-diplomatic relations with Taiwan.

Since 1972, each President and Secretary of State has affirmed that normalizing relations serves the interests of our nation, East Asia and the world. I concur with this conclusion and would support the proper legislation to insure it.

"No"

(By Senator JAKE GARN)

The United States should not "normalize" relations with Communist China—if doing so would mean the abandonment of Taiwan. In view of our longstanding and mutually beneficial ties with Nationalist China, I think it is up to the "normalizers" to explain what advantages would flow to the U.S. by shifting our allegiances in that critical area of the world. I can see none.

For the foreseeable future, Communist China would not be a major trading partner. In its present state of underdevelopment, the mainland has no foreign reserves with which to buy our production. Any trade would have to be financed with loans from the U.S. Government. We would be buying our own goods with our tax money.

We would be forced to abrogate important treaties and understanding to the detriment of our credibility in the world. The People's Republic of China has just reiterated its intention eventually to establish control over Taiwan, and has repeatedly said that "normalization" must involve the abandonment of Taiwan. Were we to acquiesce, we would destroy the last shred of credibility we have in the Far East. The Communist influence in that part of the world would be irresistible.

It is true that Communist China can serve as a counterweight to a growing Soviet threat, and that is a positive advantage that should be exploited. However, there is no indication that "normal" relations are a prerequisite to increased competition between the Soviet Union and Communist China. There is already mistrust between the two nations, and that can most easily be exploited by a United States acting forthrightly and confidently.

In fact, there is some evidence that the Communist Chinese maintain respect for us to the extent that we do act positively. When we yield too quickly to every demand made to us by great power rivals, we reduce our own weight and status in the world. It is likely, in my opinion, that we command more respect from the Communist Chinese by pursuing our own interests in the Far East, including support for Taiwan, than we would by abandoning a longtime ally. Communist China is interested in using us as a counterweight to the Soviet Union. Might her rulers not conclude, if we were to abandon Taiwan, that we are an untrustworthy ally? And might they not seek rapprochement with the Soviets?

I have no objection to the establishment of relations with Communist China, providing that can be done without breaking relations with Taiwan. In fact, I propose that we make that offer. If the Communist Chinese do not like it, that would be their problem. The actual establishment of relations with the two countries may involve some risks to Taiwan, but I am convinced that the problems can be worked out to mutual advantage.●

SEATTLE'S EXAMPLE TO THE COUNTRY

● Mr. KENNEDY. Mr. President, I call to the Senate's attention a recent article in Public Power magazine on how one of the Nation's leading cities has chosen energy conservation as the most environmentally and economically sound ways of supplying its future energy needs and ask that it be printed in the RECORD.

Three years ago Seattle's municipally owned electric utility, City Light, asked the city council for approval of a plan to buy additional power capacity from three proposed nuclear powerplants. Instead of rubberstamping the request, the council opened up one of the most interesting and instructive decisionmaking processes of any community, large or small. Over 14 months, 12,000 Seattle citizens participated in the decision about how the city would get additional power.

In the end the citizens chose conservation as Seattle's new power source. Although not traditionally thought of as a source of power, achieving energy efficiency can frequently result in more available energy and lower cost than any new supply source. Half of Seattle's growth up to 1990 will come from conservation.

If every electric utility followed the example of Seattle City Light, and each city and public utility commission followed the example of Seattle's City Council, we would be well on our way to reducing the need for increased oil imports, prohibitively expensive central powerplants, and unproven synthetic fuels. As Seattle has shown, allowing local residents to make decisions on what type of energy policy is best for them will be the cornerstone for any future national energy policy.

The article follows:

[From the Public Power, July/August 1978]

SEATTLE'S "ENERGY 1990": CONSERVATION AS GENERATION

(By Joan Whiley)

Seattle City Light's year-long study, "Energy 1990", has been termed one of the most comprehensive ever undertaken by an electric utility. Energy 1990 involved a programmatic review of load forecasts, generation alternatives, energy economics, environmental impact and conservation.

Three consulting firms worked on the project as well as City Light staff; a Citizens Advisory Committee labored for months prior to advising the Seattle City Council of its recommendations; the City Council undertook lengthy public hearings. Finally in July, 1976, the City Council selected conservation as the favored energy source through the year 1990 in lieu of participation in two projected nuclear plants.[1]

Specific conservation goals and programs were adopted by the Seattle City Council to offset average energy growth by 230 mw by 1990. The 230-mw goal means that Seattle must satisfy nearly half its normal growth by conservation. At the present time, the Seattle system has a current average load of about 900 mw and a peak load of just over 1,500 mw. The conservation target is to be achieved by reducing residential average load growth by 85 mw, and industrial and commercial average load growth by 145 mw.

Main emphasis of the energy 1990 decisions is on conservation as a resource. However, accurate load forecasting and development of contingency generation play key roles in the planning process.

For contingency generation, Seattle City Light is concentrating mainly on hydro which the Council specified as the preferred source. Evaluation of Copper Creek, a fourth dam proposed on the Skagit River, is being conducted at a high level of effort and assessment is being made of all feasible hydro sites throughout the state of Washington. Coal options are also under investigation.

City Light is currently working with a second generation econometric model to develop both short- and long-range forecasts. Econometric models present a distinct advantage in their sensitivity to independent factors or variables.

CONSERVATION GETS TOP PRIORITY

The conservation program, which has been given top priority by Seattle City Light Superintendent Gordon Vickery, involves virtually every discipline and organizational entity in the utility. Focal point is the Office of Conservation.

The program now consists of over 30 projects concentrating on residential energy savings; commercial/industrial conservation; education/community outreach; and conservation research, development and demonstration. An additional category covers a range of project activities from in-house conservation and participation on the municipal energy task force, to tracking energy conservation legislation, conservation grants, application and grants management.

In October of 1977, the Department of Energy awarded Seattle a grant of $375,651 for the first five years of a demonstration utility conservation program. The six projects included in the program are: neighborhood workshops and residential audits; revision of electrical service requirements; bank financing of the insulation program; energy management information system; hourly load prediction system; and analysis of the legal authority of the city to require that energy consumption of a home be disclosed at time of sale. This grant was one of 10 awarded nationally for pilot conservation demonstration by utilities.

[1] Development of the "Energy 1990" study was described by Ms. Whiley in an earlier article in *Public Power*, Nov.-Dec. 1976, pages 20–22.

The severe drought of 1976 to 1977, which affected the entire Northwest, imposed an immediacy to the entire conservation program that had not been anticipated. As generating utility with a 90 percent hydro base, Seattle City Light was heavily impacted by the water shortage. From a self-generating capability of 70 percent, Seattle was reduced to 53 percent. The difference was made up by outside power purchases at costly thermal rates. The utility goal had been an accumulation of 17 mw per year through 1990. Due to the severe drought, a voluntary curtailment program was initiated for a 10 percent reduction in consumption.

The immediate need was to develop public awareness and a mood of public urgency. Numerous programs were promptly initiated for consumer information, energy audits, media advertising and development of an employees' speakers bureau.

ADS ATTRACT ATTENTION

City Light embarked on an aggressive program by radio, television and newspaper advertising. Themes were catchy, clever and funny. They got public attention.

Radio spots featured a husky-voiced woman describing the benefits of a shorter shower; a housewife greeting her weary husband with a martini and low lights to discuss—energy conservation. Television spot commercials were similarly designed to be humorous attention-getters. Newspaper advertising included photos of an energy hog, a power junkie, and infrared photos of a home dissipating thermal energy.

The City Energy Office, working in cooperation with the Conservation Office, initiated a program for reduced lighting on arterials and reduced energy use in municipal buildings. Public display materials were another necessity, with formal City Light exhibits appearing in Home Shows and street fairs.

The public awareness portion of City Light's conservation program was a turbulent and creative period. It involved interfacing with schools, community groups, industrial and commercial organizations, professional groups and citizen groups. It required a mixture of humor and an adventurous, creative management mood; it also took management vision since its success meant sharp, short-term revenue reductions.

By the end of 1977, the entire program yielded the remarkable savings of nearly half a billion kwh.

Since the drought ended in the fall of 1977, City Light has returned to the long-term conservation effort. Heavy promotion has been replaced by emphasis on customer contact, neighborhood-based projects and research and development.

Substantial savings will be achieved by adoption of amendments to the City's structure-related codes. Over 100 mw of load growth should be saved by the use of energy efficient building standards. Substantial progress has been made in this area, however, interaction of the many parties involved necessitates a slow and steady pace.

RESIDENTIAL AUDITS CONDUCTED

The residential audit program which was initiated early in 1977 involved the training of 80 employees to conduct energy surveys of customer homes in line with regular duties of inspection of high bill complaints and answering appliance service calls.

Later in the year, the audits were extended to include installation of a water heater insulation jacket at cost, lowering the water heater thermostat, selling 40-watt and 60-watt bulbs for 25 cents to replace specific higher wattage bulbs and giving away free shower head flow restrictors. This service, again greatly expanded by the Department of Energy grant, now includes an in-depth survey of each home.

Working in tandem with the audits is the concept of home energy workshops which is being researched through the Department of Energy grant. Focus on the home workshop is on neighborhood groups and on the strong localized structure of Seattle communities.

A neighborhood "host" home is volunteered and a City Light energy checker gives a walk-through audit of the home for the host and neighbors. Emphasis is on low-cost and easily accomplished conservation measures. "How-to" information and brochures are distributed. Goal of the workshops is to combine fun with instruction and engender a feeling of neighborhood togetherness in conservation projects. Workshops are held both days and evenings. Still in its initial stages, the project will be fully operational in the fall.

Also tying into neighborhoods is the thermograph project. During the winter of 1976–77, Seattle City Light contracted for an infrared flyover of its 131-square-mile service area. The thermograph photos have been made available to the public through displays, public libraries and fire stations, through the home workshops and through the community workshops where they have been the main drawing card.

Located in church and school auditoriums, 14 community workshops have been held thus far. Workshop attendance has been as high as 800, and as low as 30 persons, depending on the community structure. Emphasis is on hands-on materials, do-it-yourself projects and interpretation of individual thermographs by City Light staff.

SEMINARS HELD FOR BUSINESSES

Energy management seminars have played a key role in training commercial and industrial businesses in the application of basic management principles toward the development of their individual energy conservation programs.

To date, 14 seminars have been conducted by City Light staff to train 160 commercial and industrial customers. Success of the seminars spread and the Washington State Energy Office contracted with the utility to hold sessions for personnel of other utilities throughout the state.

To address the issue of outdoor decorative lighting, a Citizens Task Force was formed to develop recommendations. The downtown business community also contributed. Result was the drafting of a holiday lighting brochure which outlined some conservation-oriented guidelines and the creation of some innovative ideas for energy efficient ways to observe the festive season.

Employee awareness, one of the prime motivating factors of any program and essential to utility credibility, has not been overlooked. Quarterly briefing sessions to all employees by specially trained peers, plus a number of incentive and involvement projects have served to keep City Light personnel up to speed on conservation and energy issues.

As energy information center with hands-on materials, brochures, how-to material, advisory personnel and a bicycle generator to equate electricity with human energy use, is in full use in the customer lobby.

SENIOR CITIZENS AIDED

Possibly one of the more rewarding conservation programs has been that of providing low-income senior citizens with insulation. Through this program, senior citizens whose income was under a certain specified amount and who had electric heat received, free of charge, an inspection of their home and installation of insulation with necessary retrofit. A post-insulation inspection was also provided.

Insulation has been provided to over 300 home owners who have written letters of appreciation and gratitude for both the visit and audit by City Light personnel and the fact that their homes have been made far more livable.

To prove that conservation begins at home, City Light embarked on a comprehensive internal program to reduce its own energy consumption through reduced lighting levels, revision in lighting controls, replacement of incandescent lights with more efficient lighting sources, reduced building space, and refinements in system operation.

Conversion of the utility's main building to a heat pump system had dramatic results. The system demonstrated total energy consumption of two-thirds that of the original steam heat from a central downtown plant with cooling via a conventional chiller. Electricity consumption in the building was reduced by 76%. There was a 24.9% overall savings in electricity used in the facilities and distribution system.

Research and development also play a key role in the conservation program. Several studies are in progress. Project Weathervane was initiated in 1975 to determine the efficacy of sun and wind in providing electricity in Seattle.

Weathervane features flat plate collectors, a heat pump, and a six-kw wind powered generator, installed in a typical single-family residence. During nearly two years of operation, the solar heating system has supplied 47% of the energy required for space heating in the home during the winter, while wind power has supplied less than 10%.

A low cost solar collector heat pump demonstration project is under study at Seattle Fire Station No. 13 to supply energy for heating domestic water. This solar heating system has the potential to collect significant heat under rainy or cloudy conditions, with the heat pump refrigerant functioning as the solar panel working fluid. Less expensive and lighter than systems using flat plate collectors, its design eliminates all need for cover glass and insulation.

Recently Seattle City Light received a Department of Energy grant to proceed with a biomass project in conjunction with the University of Washington.

The utility is also in the business of awarding grants or contracts to communities. One R & R project involves neighborhoods in competing for grants or contracts for up to $5,000 for innovative and workable conservation projects. Eligible projects could be exhibits, do-it-yourself classes, inventions, or cooperative work projects. Main criteria are the involvement of 10 or more persons in the project and demonstrated benefit to a specific neighborhood.

As Seattle City Light's conservation program evolves, it will almost surely become more complex when it begins to affect more customers and more employees.

"We perceive our conservation program as an additional source of generation as much a part of our day-to-day operations as generation from our hydroelectric plants," said superintendent Gordon Vickery. "We must still find additional sources of generation by 1989, but for us in Seattle conservation has top priority."●

LEADERSHIP AND FOLLOWERSHIP: ARE WE TOO REPRESENTATIVE?

● Mr. MUSKIE. Mr. President, the current issue of Newsweek contains an article by Mr. Jerry Tucker, a professor

at Manchester College in Indiana. His article, "Up Against the White House Wall," contains some provocative thoughts for all 44½ dozen of us in the Congress, and for the country. As they read the article, I hope my colleagues will not be distracted by the chuckles and belly laughs they will find therein.

Mr. Tucker raises some fundamental questions about the nature of our society and the job of being a representative of a portion of it.

I say that not because I once tried to become President of the United States, or because I have in the past offered candy to a few of my friends' children. I say it because I believe a fundamental national debate over the uses of government has already begun.

Mr. President, I ask that the article by Mr. Jerry Tucker in the August 28, 1978, issue of Newsweek be printed in the RECORD.

The article follows:

[From Newsweek magazine, Aug. 28, 1978]

UP AGAINST THE WHITE HOUSE WALL

(By Jerry Tucker)

Only two things can permanently ruin a man's reputation. One is giving candy to someone else's children, and the other is becoming President of the United States.

For almost twenty years no American President has completed two full terms in the White House. We use up presidents like hot dogs at a bowl game and the reasons go deeper than Vietnam, Watergate or walking into doors. We *like* to see the top dog get sacked.

Ritual destruction of leaders is not new. In ancient Greece the first kings were sacrificial victims. They were fattened and fondled, but come spring it was deemed necessary to slit their throats to ensure a good harvest. Likewise, the Biblical prophet Hosea wrote: "They . . . devour their rulers; all their kings have fallen."

American mythology holds that anyone's son can become President. Yet, when we discover that the seat of power is occupied by an ordinary posterior, we feel cheated. It's not that we resent an equal exalted to power; rather, we need to feel superior to whichever poor hamster is running in circles around the Oval Office.

It was bad enough that Lyndon Johnson spoke with a drawl, but when he bared the Presidential belly and picked up a basset by the ears, he was finished. Gerald Ford stumbled a lot and forgot where he put Eastern Europe. The beauty of Richard Nixon was that he fully justified our desire to kick him around.

In Jimmy Carter's case we began by pretending shock at the lust in his born-again heart. Carter has been critised for defending human rights, having too many teeth and for committing statesmanship with Panama. If Jimmy could change water into wine, the pundits would complain about the vintage.

CUTTING UP

Freedom of speech is a highly competitive business. There is intense pressure in the media to create a daily sensation, even if it amounts to nothing more than an side cutting up in a saloon. Reporters face a constant demand to fill up blank paper on days when little has happened. Deadlines lead even the best writers to cater to the public's taste for gossip and soft-core slander.

As individuals, members of the press are decent and conscientious people. As a group, the demands of professional success cause otherwise gentle journalists to swarm at the first scent of blood. With dreams of pulitzer prizes dancing in their heads, the media fraternity justifies carnivorous copy in the name of "the public's right to know." Under these conditions, it is inevitable that every President will be pilloried in the Post.

Columnists feel helpless in the face of the social diseases of poverty, racism and militarism. After all, you can't pull down a slum with a slashing expose that landlords are putting ketchup on their cottage cheese. Social problems aren't good copy and it's easier to bang out a piece on a dead President's mistress. Surrounded by social cancer, columnists are more comfortable attacking the moral equivalent of warts.

The obsession with trivia reflects popular taste. Perhaps one person in a thousand could give a coherent summary of Federal urban policy, but nine out of ten would recognize the First Brother's mug on a six-pack. The press, politicians and public do not want to face tough issues. If we took social injustice seriously, we would have to accept responsibility for doing something about it.

HEROES ON THE HILL

The failures and excesses of the imperial Presidency gave Congress a golden opportunity to expand its potency at the expense of the executive. In twelve years we have moved from passive acquiescence in the Tonkin Gulf resolution to a ranking senator's complaint that the President is "interfering" in foreign policy. The heroes on the hill have inflated their egos without demonstrating an ability to exercise responsibility.

Congress is a body composed of 535 members, every one of whom is convinced he or she deserves a larger role in national affairs. Here are 44½ dozen people who think they are personally important just because they've in Congress. Consequently, collective Congressional accountability is as improbable as finding doctors who make house calls.

Legislators can make a splendid symbolic show on hard issues and avoid the consequences. When angry farmers drove their $30,000 tractors into Washington to demonstrate their poverty, Congress passed a self-contradictory farm bill knowing the President would have to veto it. If you can't take the heat, punt.

The Congressional approach is quite practical; it recognizes that presidents go away even if problems do not. While presidents flounder for lack of support, Congressional committees huddle with special-interest and agency heads to block significant change. Presidents are expendable; buraucratic empires and campaign contributors are not.

RESPECT FOR AUTHORITY

The Founding Politicians wisely created a system in which the government cannot function unless there is cooperation between Capitol Hill and the White House. The Constitution succeeds admirably in checking ambition with ambition. Our current problem, however, is not checking power but rather the absence of effective power. By sacrificing Presidential authority to the twin gods of ego and expediency, we are left with a form of pluralistic anarchy in which neither Congress nor President can command respect.

The disrepute of government has not been created by Jimmy or Jerry or even Dirty Dick. Contempt for authority extends beyond politics to every segment and level of society. Good leadership requires followership, but our ethic for the '70s is look out for No. 1 and grab all the gusto you can get.

A nation gets the government it deserves. Self-indulgence, scapegoating and disrespect for authority are perfect ingredients for political decline. We shouldn't need a Russian hermit to tell us that a people unwilling to subordinate personal gratification to common goals has become a mob. No civilization has been able to dispense with acceptance of legitimate authority.

Staying afloat as a nation requires respect for the Presidential office. I am naive enough to trust a President until he gives me reason not to. I am cynical enough to believe that no President can singlehandedly stop organized greed, whip inflation or cure the common cold. Presidents are really not very powerful, and that's why they need all the help they can get.

(NOTE.—Tucker is a political-science professor at Manchester College in Indiana.) ●

ASTRONOMY RATES HIGH IN HAWAII

● Mr. MATSUNAGA. Mr. President, Hawaii is well known throughout the country as a beautiful place to visit in order to enjoy its lovely beaches, balmy weather, and unique way of life. Indeed, more and more visitors travel to Hawaii each year, making tourism the State's leading industry.

Not as well known is the fact that Hawaii also has become a major center for scientific research. The University of Hawaii, as the principal research center in the State, ranks consistently among the top U.S. universities in the receipt of Federal research grants, and, in one recent year, received more money from the National Aeronautics and Space Administration than any other university in the country.

Recently, the New York Times carried an article which described the development of what is called "one of the world's most important observation sites" atop Mount Mauna Kea. I would like to share the following article which appeared in the New York Times on August 1, 1978 with my colleagues, and therefore ask it be printed in the RECORD.

The article follows:

[From the New York Times, Aug. 1, 1978]

ISLAND IN HAWAII IS BECOMING A WORLD ASTRONOMY CENTER

(By Walter Sullivan)

MOUNT MAUNA KEA, HAWAII—Here, atop the most massive protuberance from the earth's surface—the highest island mountain—astronomers from four nations are developing one of the world's most important observation sites.

Its telescopes, some already in operation, will probe the farthest observable reaches of the universe, and, closer to home, study such targets, as the atmospheres of moons orbiting Jupiter and Saturn in ways previously beyond reach.

After tests at sites around the world, many astronomers have become convinced that conditions for observation are better here than anywhere else in the Northern Hemisphere.

The summit of this volcano, 13,796 feet above the surrounding sea, is so high that clouds rarely pass overhead. Even more impotant, the air above is extremely dry, making the site ideal for infrared observations—one of the fastest growing fields of astronomy.

KEYS TO MANY MYSTERIES

Infrared wavelengths—those beyond the red end of the spectrum—are strongly absorbed by water vapor, but their observation is the key to many astronomical mysteries. The infrared telescope being built here at a cost of $6 million provided by the National Aeronautics and Space Administration has a mirror 120 inches in diameter.

Its design is much like that of an ordinary optical telescope except that it must avoid exposure of the optics to any structural surfaces that might radiate heat—that is, energy at infrared wavelengths.

The site's disadvantages include winds that sometimes exceed 125 miles an hour and a location bristling with cinder cones left by past eruptions, suggesting the possibility of another. There has, however, been no volcanic activity on this mountain for thousands of years.

The atmosphere is so thin that the astronomers do not live here and some find it difficult to do profound thinking. They commute from a base station at 9,200 feet elevation, where they can do much of their homework.

PREPARATION FOR EARTHQUAKES

Finally there are occasional earthquakes, one of which has already done slight damage. The telescope mounts have been built with the possibility of temblors in mind.

The advantages, however, are overwhelming. The site's nearness to the Equator means that most of the southern and all of the northern sky, can be observed. Astronomers sometimes have rare conditions when clearness and stability of the atmosphere make it possible to observe features only one second of arc in angular width.

Such nights occur fairly often at the Kitt Peak National Observatory in Arizona, considered an excellent site and perhaps the most extensive observing facility in the world. Here, it has been estimated that they occur three times more frequently.

While remoteness of the site is a problem for some sponsoring institutions, notably in France, almost halfway around the world, it also means there are virtually no city lights to contend with.

NORMAL STREET LAMP GLOW

Even the most remote mainland American sites are near enough to a community with sodium vapor street lamps for their glow to be scattered back from overhead. Thus every spectrum recorded from the light of the most distant object shows an overwhelmingly strong sodium line.

Here the nearest large city is Hilo, but like other shoreline communities, it is usually covered by low-lying clouds.

Mauna Kea and its twin summit, Mauna Loa, crown the largest volcanic massif on earth, rising in a gentle slope more than 30,000 feet from the Pacific floor. While Mount Everest stands 29,141 feet higher above the distant sea, its height above the surrounding land is far less.

The summit of Mauna Kea is a cluster of barren humps of volcanic debris reminiscent of a lunar landscape, but sometimes in winter it is white with snow, providing the Hawaiians with the rare experience of skiing while their fellow islanders are swimming off the beaches far below. A two-stage rope tow is operated, as well as jeep service that shuttles skiers back to the top.

The crown jewels of the summit are three great telescopes all nearing completion. NASA's infrared telescope, when finished early next year, will be operated by the University of Hawaii as a national facility.

FRANCE-CANADA PROJECT

The chief interest of the space agency is to use the instrument in conjunction with spacecraft making observations of such targets as the moons of the outer planets to determine the temperatures and compositions of their atmospheres. Infrared observations are also opening new vistas on cosmology as well as the formation of stars and planets.

The primary optical telescope, in terms of expected performance, is one with a 144-inch mirror being built as a joint project of Canada, France and the University of Hawaii. It was budgeted in 1973 at $18 million, to be provided equally by France and Canada.

Each of those countries, when the telescope goes into operation some time next year, will be entitled to 42.5 percent of the observing time. The University of Hawai, in return for providing support facilities, will use the remaining 15 per cent.

The largest telescope on the summit is Britain's 150-inch reflector, to be used for both optical and infrared work. It is a "bargain basement" instrument without the precisely shaped mirror needed for distinguishing tiny features. The mirror reportedly became available after the manufacturer had made it as an experiment. It should be in operation before the end of this year.

The University of Hawaii has been operating an 88-inch reflector here since 1970.●

GEORGE PHINNEY

● Mr. THURMOND. Mr. President, the dedicated chairman of the Laurens County, S.C., Development Board, Mr. George Phinney, recently retired after 20 years of distinctive service.

When Mr. Phinney became chairman of the development board, Laurens County had not had a new industry for 26 years. Under Phinney's guidance, however, the Laurens County Development Board was able to attract such diverse industries as the Torrington Co., Ascoe Felts, and Josten's.

Through his tenacity and hard work, Mr. Phinney has perfromed a great service to Laurens County. During his tenure as chairman of the development board, the industries Phinney was instrumental in locating in Laurens County have created between 3,000 and 4,000 new jobs and plant investment lies between $30 and $40 million.

Although he has retired from the development board, he continues to work hard for Laurens County. He will long be remembered for the service he has performed for his county and his State.

Mr. President, in order to share with my colleagues a recent editorial in the Laurens County Advertiser concerning Mr. Phinney's retirement, I ask that it be printed in the RECORD.

The editorial follows:

[From the Laurens (S.C.) County Advertiser, Aug. 25, 1978]

RECOGNITION DUE

When George Phinney took over as chairman of the Laurens County Development Board some 20 years ago, Laurens County had not had a new industry in 26 years.

He went to work on American Lava of Chattanooga, then a subsidiary of 3M, to get them to build a plant in Laurens. Phinney and other business leaders contacted American Lava people over a period of two years, sometimes spending one day a month, sometimes three or four days a week.

"I'll believe it when I see it," some people said about the plant. After about two years when American Lava built a small plant and hired 65 people, those same folks said "It won't amount to anything."

Today the little plant with 65 employees has become two plants of the 3M Technical Ceramics Products Division and is one of the country's largest plants.

That broke the ice and soon the Gilliland Plant came. This was followed by the Clinton Bearings Plant of the Torrington Company, our largest industry. Then Ascoe Felts located in Clinton, the Benjamin F. Shaw Plant in Laurens, St. Joe Paper Company, then Josten's, and the latest industry is Hackney & Sons of the northwestern edge of the county. And of course there is Tavern Sportswear, and possibly others that we have missed.

During the last 20 years there have been between three and four thousand new jobs created, with plant investment of between $30 and $40 million dollars, and that's a conservative figure.

Phinney retired as chairman of the Laurens County Development Board July 1, and he says that "I don't know of anything I have enjoyed any more."

But just because he has retired as chairman doesn't mean that he isn't going to continue working to help the county. "Only today," he said, one day last week, "representatives of an industry that has been looking at Laurens for over two years were in my office, and the prospects are very bright for their bringing their industry, a completely diversified one, to Laurens.

"I believe Laurens County has as much to offer new industry as any part of the United States. And it has always been my philosophy of life that every human being should at least have the opportunity to secure a good job with good pay."

Although he has had help from others, Phinney has always been the leader in getting new industry. But it was taking too much of his time from his own business, Southern Research and Development Corporation, to which he plans to devote more of his time.

A lion's share of the credit for Laurens County's growth in the past 20 years is due Phinney and he is to be commended for his long service which was given at great sacrifice of money and time away from his family.●

STATE OF THE ELDERLY—1978

● Mr. CLARK. Mr. President, this marks the fifth time in as many years that I have shared my thoughts with my colleagues on the state of the elderly. As one who represents a State with a significant older population—in fact, one in eight Iowans are 65 years or older—I have a special interest in their needs, in their problems, and in their aspirations.

The state of the elderly—particularly as compared to the situation I found 5 years ago—is much improved. In 1973, I cited statistics indicating—

That more than 3 million senior citizens lived in poverty;

That all too many older people could not afford to stay alive because they could not afford decent health care;

That hundreds of thousands of older Americans were ill housed, ill clothed, and ill fed; and

That the burden of inadequate transportation, high property taxes, and insufficient social services fell hardest on those least able to carry it.

This Nation has made substantial progress in this decade in confronting the acute problems of the aged.

Almost 1½ million fewer older Americans now have income below the official poverty level than in 1970. Much of the improvement can be attributed to such Federal programs as social security, supplemental security income, and food stamps. In 1970, the average monthly social security benefit for a retired couple was only $169. Today, that level has increased to $400, following enactment of legislation in 1972 that substantially boosted benefits and tied future benefit increases to changes in the cost of living.

The consolidation of State old-age assistance programs into the SSI program was another significant step in reducing poverty among older Americans—even though SSI benefits still fail to provide

poor elderly persons with sufficient income.

And the food stamp program recently was overhauled to make it more available to the low-income elderly. Just a few years ago, only 18 percent of elderly persons living in poverty took advantage of the food stamp program. This means that more than 2 million poor senior citizens, most of whom were automatically eligible for food stamps, either chose not to or were discouraged from participating in the program. However, the changes enacted last year, which eliminate the burdensome purchase requirement, should lead to a higher participation level among the elderly.

Many of the problems I cited in 1973—relating to health care, housing, nutrition, transportation, and social services—are being confronted on the local level through cooperative efforts by communities, States, and the Federal Government.

While Federal social services funding for the elderly through title XX of the Social Security Act has remained constant since 1972, the Federal role has expanded in recent years through the Older Americans Act.

Approximately $150 million in Federal dollars is now being channeled through nearly 560 area agencies on aging for the provision of social services and for area planning. The area agencies, of which there are 11 in Iowa, support a wide range of services, including the following: Information and referral, transportation, Outreach, home services (including homemaker and home health), escort, legal and other counseling, and residential repair and renovation.

One of the largest and most popular of all elderly programs is the nutrition program for the elderly. At the present time, about 10,000 nutrition sites scattered across the country are serving nearly 600,000 hot meals each day. In Iowa $3.6 million in Federal funds support 200 nutrition sites that serve 13,000 meals daily.

Other valuable programs for senior citizens are also authorized by the Older Americans Act, including senior centers, senior community service employment, and model projects.

The Older Americans Act gives local communities discretion in spending Federal aging dollars. This assures that the special problems of a given area are addressed. The act grants responsibility for coordination and planning not to bureaucrats in Washington, but to those persons in the States and localities who best know how to effectively implement older American programs.

With the fine tuning that Congress is continuing, the Older Americans Act will undoubtedly bring greater fulfillment to the lives of this Nation's 25 million elderly.

CHALLENGES AHEAD

I would like to take a few moments to discuss some general attitudinal and societal trends that relate to our treatment of senior citizens. Often in an atmosphere of crisis, we tend to overlook the "big picture," the overall status of older Americans today as compared to decades ago. We also fail to be attentive to future challenges and to make appropriate plans to meet those challenges.

For example, it was not too long ago that older citizens were institutionalized with little thought. We tended to classify every stress and strain encountered by our older relatives as "senility"—a phenomenon that we rarely attempted to deal with.

Our general attitude was that senior citizens are unable to continue as contributing members of our society, and, therefore, we treated them as charity cases.

Describing this condescending attitude in the past tense, in fact be overly optimistic. Undoubtedly there are many who continue to have the deep-seated view of the elderly as dependent citizens, and this cannot be changed overnight.

Special types of efforts on behalf of the elderly are necessary to make society more sensitive to the aging process. We must promote those programs that emphasize a humane approach toward the elderly—treating older persons as whole individuals.

We should be discussing the realities of life for the aged, not only in terms of their physiological changes, but also in terms of the psychological and social problems they must face. We should then discuss various creative strategies that can be employed to help our senior citizens as individuals and in groups. We should examine the available resources on the community level that can be utilized in pursuit of these objectives.

Over the past two decades, most of the financial resources and the legislative mandates for elderly programs have flowed from the Federal level. The list of programs entirely or primarily focused on the needs of the elderly grows with each passing year—medicare, supplemental security income, the elderly nutrition program, the Older Americans Act, the retired senior volunteer program, and the foster grandparent program are just a few examples.

Until recently, programs of this sort have been considered "motherhood and apple pie" issues for most Congressmen and Senators. Most voters want the very best for older Americans. In addition, older persons themselves are the most active participants in the political process, and have become a powerful force giving representatives further reason in support of programs for the elderly.

However, there has been a subtle change in this atmosphere, a change that results directly from two factors. First, our fragile economy appears to be unable to generate sufficient Federal revenues to begin massive new social programs or to expand existing ones. Instead of witnessing the creation of new domestic initiatives, we see instead consolidation of existing programs at constant funding levels. While funding for Federal elderly programs, especially those authorized by the Older Americans Act, has risen dramatically these past few years, continued increases may not be forthcoming.

Second, demographic trends for the coming decades translate into potential conflict between generations. By the end of the century—just 22 years from now—one in every eight Americans will be 65 years or older. What sort of life will these 32 million Americans lead, and will the nonelderly be able to continue their financial and moral support for programs that serve the elderly?

During the last 12 months, we saw two examples of the type of conflicts that could develop in the coming years. During the congressional debate over mandatory retirement, concerns were often raised that older workers would take jobs from younger heads of families. In fact, the issue that divided the House and Senate on mandatory retirement legislation was whether college professors, schoolteachers, and business executives should be forced to retire at age 65 in order to enhance job mobility for younger professionals.

Another topic that demonstrates in a clear way the intergenerational struggle is social security financing. For the first time since I have been in Washington, I have been receiving a considerable amount of letters questioning the value of the social security program—once the sacred cow of all Federal programs. Faced with the prospect of significant increases in payroll taxes in order to save the program from bankruptcy, our Nation's workers are growing more and more skeptical of the need for more generous social security benefits.

RECENT SUCCESSES AND CURRENT ISSUES

In other legislative issues, particularly those that are not exclusively focused on the elderly, we have seen some progress this year. As I have mentioned, the new amendments to the food stamp program should make it easier for low-income senior citizens to participate, because of the elimination of the purchase requirement. We hope this new legislation will be fully implemented this year, allowing those who had been deterred by the purchase price to enter the program.

Another successful effort was passage of the rural health clinic bill. In 1976, I brought the Senate Rural Development Subcommittee to Iowa to study rural health care in the State. During those public hearings, and in other similar hearings in the Midwest and in New England, we discovered that the medicare and medicaid programs discriminated against rural people. This was because the programs prohibit reimbursement for health services furnished by rural satellite clinics. The new rural health clinic legislation, which I authored with Senator LEAHY, reverses this inequitable policy and demonstrates a new Federal commitment to rural health.

Improving rural health care delivery will be of special value to the elderly who live in small towns or rural areas—and they represent 45 percent of the national elderly population. For example, nearly one-fifth of the 275,000 Iowans who live in rural areas classified by HEW as "medically underserved" are 65 years and over.

Our Nation is just now starting to realize that using local sources of health care, provided at a health center or within the home, is the most socially desirable and cost-efficient approach. Whenever we force the elderly to travel to a

larger city for medical treatment, and whenever we force them to be institutionalized for lack of an adequate alternative, we waste health dollars and increase the stress for senior citizens.

As a result, there can be little disagreement over the need to do much more in the area of home health care. Because of the restrictive nature of the medicare coverage, less than 1 percent of medicine funds is used for home health care. This is clearly undesirable, especially when HEW studies indicate that 1 in 7 acuate-care hospital patients and 1 in 4 nursing home patients could be appropriately cared for in their homes.

And as is the case for other types of health services, home health services are most lacking in rural areas—precisely where physical and financial obstacles to other forms of patient care make home health care services especially appropriate. Fifty-four percent of the Nation's counties have no certified home health agency, and these counties are predominately rural.

A few months ago, I discussed these and other problems facing the rural elderly, an article appearing in the National Council on the Aging's publication, Perspective on Aging. At that time, I proposed a modification of the Older Americans Act to make it more equitable for persons living in small towns and rural areas.

Specifically, I called for a change in the senior centers program that would encourage the development of centers in our smallest communities. Funding is now restricted to acquiring, altering, or renovating buildings so they can be suitable for providing a broad spectrum of services to older persons. In testimony before the Senate Aging Subcommittee, I suggested allowing funding for limited construction of senior centers when—as is often the case in small communities—no vacant facilities are available for conversion into senior centers.

I also urged Congress to make transportation services a higher priority in the Older Americans Act, to establish a meals on wheels program for the homebound elderly, and to make other social services more accessible to the rural elderly.

I ask that this article be printed in the RECORD at the conclusion of my remarks.

Congress is in the process of adopting these recommendations, as the conference committee will soon report out legislation to extend and improve the Older Americans Act. The House and Senate bills both would establish a meals on wheels program and permit limited construction of senior centers. In addition, the Senate bill would require States to assure that at least half of the social services funds be spent on three priorities alone—in-home services, improving access to services, and legal services.

When the Senate considered the reauthorization of the act in July of this year, I offered an amendment that would require special consideration of rural areas for the receipt of model projects. To this date, no model projects money has gone to rural area agencies. My amendment was adopted by the Senate, and will increase support for the elderly in rural areas.

In addition, the Senate adopted another of my amendments, which established the Senior Environmental Employment Corps. This program is especially important to me because it is based on a project that began in my home State of Iowa. In Iowa, a few years ago, senior citizens were hired by the State environmental agency to work in conservation, soil and well sampling, and other environmental projects. The Senior Environmental Employment Corps is based on the success of this Iowa project. I am pleased that the Senate has agreed with me that this program should be expanded for the benefit of senior citizens nationwide.

The Senate has also recognized that the special needs of rural Americans have been overlooked for too long. This oversight has particular effect on the elderly. Because of this, I cosponsored an amendment, which the Senate adopted, that will weigh the funding formulas under the act to the benefit of the rural elderly. Therefore, if the Senate version of the bill is adopted, rural people's access to services would be expanded.

In the Congress, the potential exists to immediately address the concerns of the elderly in a most direct way. Soecifically, the reauthorization of the Older Americans Act and the revision of the food stamp program afford Members of Congress the opportunity to adequately serve the needs of this Nation's older Americans. I call on my colleagues and on the President to work as partners in this effort.

I am confident that during the 95th Congress we can continue our efforts to substantively improve the state of the elderly in this country. Through these efforts we must be attentive to the needs of the poor elderly as well as those with adequate resources; to those older Americans in rural areas as well as those in the metropolises. We must give attention to all of this Nation's elderly, for with them lies our history, and a forecast for our future.

The article follows:

TOO MUCH PROMISED, TOO LITTLE DONE

(By Dick Clark)

I congratulate the National Council on the Aging for its initiatives in the area of the rural elderly—to work toward establishment of a National Center on the Rural Aging and the decision to devote an entire issue of *Perspective on Aging* to this topic.

Despite the fact that four of every 10 older Americans live outside metropolitan areas, most Federal programs for the aged continue to neglect the rural elderly's needs. When one analyzes the impact of policies and programs in practically every area—health, transportation, housing, employment and income, to name a few—the clear impression emerges that older persons who live in small towns and rural areas are subject to discrimination.

Income maintenance programs, such as Supplemental Security Income (SSI), do not reach adequately into small towns.

Senior citizen housing—built with U.S. Department of Housing and Urban Development (HUD) Section 202 funds—is now concentrated in the nation's urban centers.

The Medicare program, until this year, discriminated against the rural elderly by refusing to reimburse services provided by rural health clinics in areas that lack physicians.

And the key to the delivery of all services for the elderly—transportation—needs to be greatly expanded, so that senior citizens in small towns have access to programs and services that other older Americans take for granted.

Medicare is a prime example of a Federal program that promises more to the rural elderly than it actually provides. While intended to provide all older Americans with financial access to medical services and hospital care, in reality older persons who live in cities receive about 40 percent more in Medicare benefits than do those residing in rural areas.

But financial resources do not guarantee services for small town residents. The lack of physicians and other health providers in rural communities often frustrates older persons in their attempts to use the Medicare benefits to which they're entitled.

Similarly, home health services are most lacking in rural areas, precisely where physical and financial obstacles to other forms of patient care make home health care services especially appropriate. The strict and complex Federal Medicare requirements make it difficult for home health agencies to be estbished in rural America, with the result that more than half of the nation's counties—most of them rural—have no certified home health agency.

It appears that Congress and the Carter Administration are beginning to realize that Federal policies and practices, such as those in the area of health, contribute to the problems of the rural elderly rather than to help in alleviating them.

ADDED EMPHASIS URGED

In 1975, I sponsored a series of amendments to the Older Americans Act that would have required all senior citizen programs to place additional emphasis on the rural aged's needs. In the end, the amendments were converted into legislative authority for demonstration projects to improve the delivery of services and meet the special rural needs.

This initiative was continued through Senate Special Committee on Aging field hearings on "The Nation's Rural Elderly" in three midwestern states during the summer of 1976. Those fruitful hearings, and my subsequent involvement in rural health issues as chairman of the Senate Rural Development Subcommittee, have enriched my personal understanding of the rural aged's problems.

Congress took an important first step in the area of rural health in 1977 by enacting the Rural Health Clinic Act. Based on legislation that I sponsored with overwhelming congressional support, the new law permits payment under Medicare and Medicaid for the medical services furnished by physician assistants and nurse practitioners within rural health clinics.

Until enactment of the legislation the Federal Government and most states forbade Medicare and Medicaid reimbursement when physicians did not directly supervise the care. It was a disastrous policy for the rural elderly because many live in towns where no physicians practice. An alternative that has gained public acceptance is the small health clinic staffed by non-physician health providers. I intend to sponsor additional legislation in the coming year to encourage the development of these clinics.

OLDER AMERICANS ACT REVIEW SEEN

In the coming months, Congress will again review the Older Americans Act, which authorizes a wide range of service programs for senior citizens. I believe the act should be further amended to make it more relevant

to those who are living in small towns and rural areas.

Title V of the act authorizes funds for multipurpose senior centers, and $40 million will be spent in the current Fiscal Year for that worthy program. However, existing policies hamper the development of senior centers in our smallest communities—those under 10,000 population.

Funding for senior centers is restricted to acquiring, altering or renovating buildings so they can be suitable for providing a broad spectrum of services to older persons. Regrettably, most small towns lack available vacant facilities that can be converted into senior centers. The few buildings that are vacant—usually school buildings and small hospitals—require a tremendous financial investment to be made suitable.

My intention is to urge Congress to permit the use of Federal Older Americans Act funds for limited construction of senior centers. State agencies on aging would develop criteria for construction funding, and area agencies on aging would make recommendations for possible sites.

Two other special needs of the rural elderly that should be addressed more adequately by the act are nutrition and transportation.

MEALS ON WHEELS CRUCIAL NEED

If we as a nation are sincere in our goal of increased independence for older Americans, we should be doing more to maintain them in their own homes through such programs as home-delivered meals. For rural citizens—often unable to travel to congregate meals sites—a meals on wheels approach is all the more necessary. While there is substantial agreement among policymakers on the need for a national program to promote home-delivered meals, we need to reach a concensus on the best way to administer such a program.

The Federal Government should be doing far more to expand public transportation services in rural areas. It is the key to increasing access to all services. My hope is that Congress will place greater priority within the Older Americans Act on small transportation bus systems for the elderly and handicapped.

I also intend to urge Congress to consider ways to modify the act's funding formula to take into account the extra expense of serving the rural elderly. Due to the lack of public transportation facilities in small communities and sparsely settled areas, the cost of delivering services to those localities has risen, a factor not now considered when the Federal Government funds agencies on aging and services programs for elderly persons.

Only the "tip of the iceberg" of what Congress has done in response to the rural elderly's needs and what yet requires congressional attention has been discussed.

I hope NCOA's National Center on the Rural Aging becomes a resource for information on the rural elderly and an advocate for the kinds of changes that are vitally needed.●

CRIME AND THE FEDERAL GOVERNMENT

● Mr. THURMOND. Mr. President, the Criminal Laws Subcommittee, on which I serve as ranking minority member, has begun its oversight and reauthorization hearings on the Law Enforcement Assistance Administration. Recently, editorials appeared in the Boston Globe and the Wilmington News which offer throughtful and informed commentary on this program. I was especially impressed by the Globe's observaiton that it is easy enough to take potshots at LEAA, but that—

Crime by all accounts, is still one of the most two or three problems that Americans find most distressing. Yet, the Federal Government, which has involved itself heavily in almost every other aspect of public life at the local level, has made only a small contribution to crime fighting.

The Globe then observes that the Federal Government could reasonably do even more than the pending LEAA bill provides.

Mr. President, the subcommittee will continue its hearings in the coming months. Thoughtful commentary, such as those I will shortly submit, will be most helpful in constructively focusing our deliberations to the important issues involved in LEAA reauthorization.

Mr. President, I ask that the August 21, 1978, editorial from the Boston Globe and the July 17, 1978, editorial from the Wilmington News be printed in the RECORD.

The editorials follow:

[From the Boston Globe, Aug. 21, 1978]

LOCAL CRIME AND THE FEDS

Hearings have begun in Washington on a proposal to restructure and refinance the federal effort to aid local anti-crime fighting that is embodied in the Law Enforcement Assistance Administration. It's easy enough to take potshots at the LEAA's layers of bureaucracy and occasional approval of expenditures on wild military armaments. And it's always arguable whether the federal government ought to be involved in what is essentially a local-government activity. In fact, it is because of the ease with which those arguments can be made that the LEAA legislation now in Congress is modest. The approach is nonetheless worthy.

Most of the bureaucratic layering—the cross-sections of criminal justice planners and criminal justice plan analysts—is removed. Of the proposed $825 million annual expenditure, $450 million would be allocated as anti-crime revenue-sharing by a formula that weights population, crime rates, local anti-crime spending and the local tax effort to finance the expenditure.

Another $125 million would be distributed not by formula but would be used as matching money—50 federal cents for each $1 of local spending—to help with the costs of running special programs that a quasi-independent federal Institute for Criminal Justice believes are particularly promising. Special efforts to expedite the trials of career criminals and financial assistance to help secure witnesses in trials would be two examples.

The total outlay proposed amounts to less than a nickel of every dollar spent in the nation on fighting crime. Yet, the matching funds could prove a valuable carrot in encouraging localities to try innovative approaches to law enforcement.

The $450 million is simply designed to ease the financial burden of local anticrime efforts. While some may argue against such federal involvement, the really startling fact is that the federal government is so little involved.

Crime, by all accounts, is still one of the two or three problems that Americans find most distressing. Yet the federal government, which has involved itself heavily in almost every other aspect of public life at the local level, has made only a small contribution to crime fighting. With its revenue-raising capacity, it could reasonably do even more than the pending LEAA bill provides.

That it hasn't, probably reflects, more than anything else, a decade of polarization in Congress, fostered by President Nixon's "law and order" campaigns. That polarization is gradually ending. The LEAA bill sponsors range from Sen. Kennedy, its primary drafter, to Sen. Thurmond. Its passage would be an initial signal that the national government is now prepared to make a meaningful, if modest, response to crime as one of the most pressing of national problems.

[From the Wilmington (Del.) News, July 17, 1978]

NEW DIRECTIONS NEEDED

On the whole, President Carter's proposals to drastically overhaul the Law Enforcement Assistance Administration make a lot of sense. It certainly is a better solution to the problem-plagued agency than abolishment.

The decade-old federal agency has been fraught with lack of direction and any real sense of what it should be doing. The result, in the words of the president, is that LEAA has been "ineffective."

Perhaps the essence of the agency's problems lies in its attempt to be all things to all aspects of the criminal justice system. Because money to help state and local anti-crime efforts came through this agency, all those with any legitimate claim on such money were constantly battling each other for it.

Police departments wanted hardware (patrol cars, uniforms, weaponry), the courts wanted more clerks or pre-sentence investigators, the prosecutors and corrections systems had their demands.

As each group became more sophisticated in the writing of complex applications and in the art of courting the state coordinating body and federal bureaucrats, their slice of the pie got bigger.

A key to intelligent coordination in this scrambled eggs program was the state commission. In Delaware the commission, known variously as Delaware Agency to Reduce Crime, the Law Enforcement Planning Commission, the Governor's Commission on Criminal Justice, and now, the Delaware Criminal Justice Planning Commission, has had a spotty record.

Over the years there have been cries of "Too much money for administration" or "The police are getting all the money." At a meeting last summer a skillfully coordinated coalition managed to gain several changes in the commission staff's proposal, much to the chagrin of other commission members.

Yet, on balance, a federally supported effort to curb crime at local and state levels makes sense. LEAA money was largely responsible for improving the Delaware Superior Court's docketing procedures, establishing the computerized networks on criminal records and motor vehicle records used by the courts and police, and LEAA is now funding Atty. Gen. Richard R. Weir Jr.'s investigation of white collar crime.

What President Carter wants to do is streamline the agency and give it some direction. Major elements of his proposal are:

Ban the use of federal money for salary increases or construction projects and sharply reduce use of federal money for police hardware.

Eliminate the requirement that state and local applicants submit annual plans—and instead submit three-year plans.

Guarantee fixed allotments for cities over 100,000 and counties with populations of more than 250,000 because that's where most crime occurs.

These all make a lot of sense. If nothing else they would reduce the amount of needless, repetitious paperwork that applicants must go through year after year.

One part of the president's proposals establishing a research oriented National Institute of Justice within the Justice Department gives us some trouble. We agree with the American Bar Association that such a research unit should be clearly separate from the "action" part of anti-crime efforts. The ABA is promoting legislation that would make a National Institute of Justice a separate governmental body, not unlike the National Science Foundation or the National Institutes of Health. Such an independent body would be relatively free of the kinds of political pressure that have marred the efforts of LEAA for years. So freed it could produce valid data on ways to improve court procedures, police and corrections operations without concern for stepping on toes.

The president's proposals were introduced in the Senate by Sen. Edward M. Kennedy, who is scheduled to head the Judiciary Committee next year. With that kind of backer the reorganization could be accomplished soon.●

CONGRESS MUST ACT QUICKLY TO HALT NARCOTICS SMUGGLING

● Mr. PERCY. Mr. President, last week I was pleased to join my distinguished colleague from Iowa, Senator CULVER, and Senators CHAFEE, THURMOND, HATCH, RIBICOFF, NUNN, HATHAWAY, and BENTSEN in introducing S. 3437, the Drug Trafficking Control Act of 1978. Although we are rapidly approaching the end of this session of Congress, this is a piece of legislation that ought to receive the immediate attention of the Senate.

There has been a tremendous upsurge in the importation of narcotics into this country. The volume of this criminal enterprise is of staggering proportions. Hundreds of millions of dollars worth of illicit drugs enter this country each year promoting crime, violence, and human misery. From January through July of this year, the Coast Guard seized 101 vessels, arrested 494 persons and confiscated over $700 million in drugs. This is more than twice as much as the year before.

Just 2 weeks ago, the Senate Permanent Subcommittee on Investigations, on which I serve as the ranking minority member, heard testimony from underworld figure, Gary Bowdach, on this alarming situation. He testified about his role as a bodyguard and enforcer in the notorious Rick Cravero gang, a loosely alined group of 150 members which illegally imported millions of dollars of marihuana and cocaine into south Florida. He told us that the biggest risk for the drug trafficker "is getting into the country;" because of that, a kilo of cocaine purchased for $8,000 in Colombia, South America, immediately triples in price once it has made its way into Florida.

But the risk is not nearly as great as it should be. Mr. Bowdach also made it clear that in fighting this battle, law enforcement officials are outmanned and outsmarted.

The Cravero gang brought its drugs into Miami by ship. Bowdach described how the narcotics would be shipped on used Colombian freighters, or "mother ships," and transferred on the open sea, beyond the 12-mile territorial limit of the United States. The transfers would often take place at night, when the Cravero gang would send out high-speed boats to pick up the loads and bring them into a remote landing area.

Money was no problem for the Cravero operation. They would spend as much as $40,000 for each small high-speed craft. Then they would "soup up" an engine to further increase its speed, and equip the boat with sophisticated radio and electronic gear capable of picking up law enforcement communications. When Bowdach was asked how fast the law enforcement craft are able to go, he replied simply, "not as fast as ours."

We also heard testimony from two members of the Dade County Florida Department of Public Safety that, just a few years ago, a drug load worth $100,000 was considered a large shipment. Today, a load with a value of less than $500,000 is considered "peanuts." Indeed we are being confronted with a tidal wave of narcotics flowing into this country from the southeastern United States. In 1976, 60 percent of marihuana seizures took place along the Mexican border. That figure is now down to 7 percent; 89 percent of the marihuana seized this year was in the gulf and southeast Atlantic region. Florida is rapidly becoming the national clearinghouse for most of the marihuana and cocaine in this country. For example, according to DEA, more than half the marihuana coming into Chicago arrives via Miami.

Wherever big money is to be made, you can be sure that organized crime is lurking close by. Bowdach testified that organized crime is becoming increasingly involved in this nefarious enterprise. Bowdach was personally aware of the extensive narcotics dealings of Ralph Broccoli, a soldier in the Gambino crime family of New York. Bowdach put it this way:

> So everybody in organized crime shied away from the narcotic action. What had happened as a result of shying away from it, various other groups got into it. . . . But when they saw the money, the amount of money that was coming in that these people were making, that is when it decided to go full steam into it.

What is most outrageous is that our present laws encourage and aid these drug pirates. Much as Mr. Bowdach described, a large percentage of these illicit drugs enter this country from large "mother ships" which anchor outside the 12-mile territorial limit of the United States. From here, these ships unload these drugs onto smaller boats which can safely elude drug enforcement officials and carry their dangerous cargo to shore. Law enforcement officials estimate that at best they are only able to stop 10 percent of this tidal wave of drugs.

Under present law, U.S. enforcement agents can prosecute the crews of these large mother ships only if they have actual proof of the actual act of distribution from the mother ship to the smaller craft. With very limited resources, the chances of EDA or the Coast Guard catching the crews of the mother ships in the act of distribution on the high seas is much like the proverbial search for a needle in the haystack. This inadequacy in the law has greatly frustrated enforcement efforts. In fact, only 40 percent of the individuals arrested when mother ships are seized are even prosecuted. Most of these are foreign nationals who are deported, and, in effect, given a free ride back home. In a few days, they are right back in business.

The Drug Trafficking Control Act which has the full support of the DEA, Customs, and the Coast Guard, would put an end to this invitation to smugglers. Under the act, enforcement agents would be required to show only that the crew possessed the illegal drugs and intended to distribute them in the United States or had actual knowledge thereof. This would effectively plug a major hole in drug trafficking regulations and would make the occupation of the drug trafficker significantly more risky.

A second section of the Drug Trafficking Control Act would correct another loophole in current law that makes it difficult to prosecute drug traffickers attempting to "launder" their illegal profits or buy more drugs by taking large amounts of money out of the country.

Under existing law, individuals coming into the country, or leaving it, must file a report whenever they transport monetary instruments in excess of $5,000. This is intended to allow the authorities to monitor such activity, with a view toward determining when it is connected to illicit smuggling or other illegal conduct. However, in a recent court case involving an individual who attempted to leave the country with $250,000 in unreported currency, a judge dismissed the case because the arrest took place prior to the time the individual actually left the United States. This is a Catch-22 situation for customs officials. It is only when the person is out of the country that you can prosecute him. But you cannot prosecute him because he is out of the country. Under the terms of this decision, it will be virtually impossible to bring prosecutions in the future.

This bill would amend the Currency and Foreign Transactions Reporting Act to require the reports to be filed prior to departure, and to stipulate that persons must file such reports prior to boarding outbound common carrier vessels or aircraft.

The bill would also clarify existing law with respect to searches for currency. It would permit warrantless searches by customs agents under exigent circumstances if they have probable cause to believe this law is being violated. This is consistent with prior Supreme Court interpretations of the fourth amendment.

Lastly, the act would require the master of any vessel arriving from a foreign port immediately to report the arrival of his vessel to the appropriate American officials. Present regulations allow vessels coming from foreign ports, other than Canada or Mexico, 24 hours in which to report. Drug traffickers often transfer their contraband cargo during this 24-hour grace period, and, thus, do their damage without fear of prosecution.

Mr. President, the problem we now face can be put very simply: Drug trafficking must be stopped. The White House estimates that drug abuse costs this country $18 to $27 billion a year. Law enforcement experts estimate that one-half of all robberies and property crimes are drug related. In this battle against crime, we must utilize every weapon at our disposal. Yet, this Nation is at a severe disadvantage. We cannot fight these drug traffickers with one hand tied behind our backs.

The tremendous fortunes that can be made from drug trafficking have attracted a literal horde of gangsters and criminals to its seamy cause. Against their sea and air armada, the Federal

Government has put into the fight very limited resources. In Georgia, for example, the Drug Enforcement Administration has but three agents to protect some 2,300 miles of coastline from drug traffickers. The regional customs office has only 10 planes at its disposal, and these are so frequently in need of repair, because of age, that there are many days when none of them can take off.

Current laws against drug trafficking are inadequate and unable to prevent this Nation from becoming the dumping ground for the world's drug traffickers. How can we succeed to stamping out such trafficking if the laws themselves make this goal impossible? Indeed, if these laws are not remedied, I fear the battle against drugs will be lost entirely.

The Drug Traffickers Control Act will make our criminal laws work for justice, not against it. It plugs loopholes in current law, aids enforcement efforts, and makes it clear to potential traffickers that the full force and effect of the law will be used against them.

We must not ignore the great damage and violence that has resulted from drug trafficking and drug use in this country. Mr. Bowdach told us of the greed and viciousness which were facts of life in the Cravero gang. He estimated that of the 150 members of the gang, about 40 were murdered or "made one-way trips out to sea and never returned." The ugliness that surrounds drug use is acted out again and again as illicit drugs are passed from their source to their ultimate destination across this country. Crime in Miami leads to crime in Chicago, New York, Detroit, Philadelphia, and elsewhere. The frightening cycle perpetuates itself.

But, with the aid of effective laws, we can stop the cycle before it begins. We can put a halt to the alarming use of drugs by the youth of this Nation. And, we can make the United States a safer and more decent place in which to live.

Mr. President, on August 22, the Juvenile Delinquency Subcommittee, chaired by Senator CULVER, held a hearing on this drug smuggling epidemic. I would like to print in the RECORD the testimony of Peter Bensinger, Administrator of DEA, G. R. Dickerson, Deputy Commissioner of the U.S. Customs Service, and Captain Robert H. Overton III, Chief Ocean Operations Revision of the U.S. Coast Guard. All three of these agencies have been dedicated troops in our fight to halt this invidious narcotics trade. They have had to go into battle with meager resources and contend with laws that put them at a severe disadvantage.

The heads of these agencies, Peter Bensinger, Robert Chasen, and Adm. John Hays deserve much praise for the joint efforts they are making. After a period of trouble and turmoil within its ranks, it is especially gratifying to witness the outstanding work of DEA under Peter Bensinger's able administration.

DEA statistics show that the purity level of retail heroin is now 4.9 percent, the lowest level since the early 1970's. Heroin deaths and injuries are down 60 percent from the time Bensinger began as administrator. This is a record to be proud of, and DEA agents in the field should be rightfully proud of the courageous work they are doing.

Mr. President, I also ask unanimous consent that S. 3437, the Drug Trafficking Control Act of 1978 be printed at the conclusion of my remarks.

The requested material follows:

STATEMENT OF PETER B. BENSINGER ON DRUG TRAFFICKING FROM SOUTH AMERICA

Chairman Culver, Gentlemen: It is a pleasure to appear here this morning before the Subcommittee to Investigate Juvenile Delinquency to discuss the Drug Enforcement Administration's role in the Federal effort to stem the flow of drugs from South and Central America to this country.

A serious situation facing the law enforcement community today is the recent surge of drug trafficking into the Southeast sector of the United States. Nearly all the cocaine distributed in the U.S. and a substantial amount of the marihuana originates from source countries in South America. An estimated 65 per cent of worldwide illicit cocaine is processed in Columbia. Columbia is also a major source of supply for marihuana.

In transporting the contraband from South America to the United States, the traffickers use various routes by private and commercial aircraft. Drug smuggling on commercial air carriers has been limited to quantities which can be carried by individuals on their person or in their luggage. Private aircraft take advantage of Florida's many natural landing strips and heavy legal air traffic. Some fly directly into the United States from South America; while others involve stopovers on any of the major Caribbean Islands or in the Central American countries for refueling or cargo drop-offs. To a lesser extent, the traffickers also traverse an overland route through Central America.

Because the Caribbean Sea and the Gulf of Mexico are natural paths for the traffickers, narcotics interdiction on the high seas plays an important part in the United States' enforcement program. There are four "established" maritime routes. They are through the Yucatan, Windward, and Mona Passages in the Caribbean and up the Pacific Coasts of the South and North American continents.

A variety of vessel types and methods of operation are employed by maritime smugglers. There appear to be several basic trafficking patterns:

The first involves smugglers who use relatively small vessels such as fishing and pleasure craft, which are privately owned and/or operated by the traffickers themselves.

The second category involves larger commercial vessels such as freighters and passenger liners. The contraband is carried onboard in addition to the regular cargo. As a rule, the management of these vessels are not involved in the smuggling activity.

A third type of smuggling operation involves a "mother ship" and several contact vessels. The typical "mother ship" is usually a vessel which, by size and registration, may be regarded as a commercial vessel, generally ranging from 100 to 300 feet in length. Usually the entire crew, captain and owners are involved. It appears, that the "mother ships" are principally owned and operated by traffickers located in source countries rather than in the United States. They are also generally manned entirely by foreign nationals. The entire ship is load with contraband. Those vessels then proceed to areas off the U.S. coasts, where they eventually transship their loads to smaller high-speed vessels, fishing boats, cabin cruisers and yachts. These smaller vessels quickly become assimilated with legitimate vessel traffic, making enforcement action difficult.

To meet this challenge presented to law enforcement by the maritime smugglers, a multi-faceted approach is required. Within DEA, we have implemented several measures that are designed to have an impact on the Southeastern area. Specifically, DEA has established two new Resident Offices and opened Airport Offices in two major cities in Florida. Furthermore, additional Special Agents have been assigned to Florida, as has an element of the DEA Airwing. Because the Bahamas are a significant transit point, we are establishing an office there pending approval from the Department of State. Manpower has been redistributed among the South American posts so that the majority are now stationed in drug source countries. DEA is also working with State and local enforcement agencies to improve the coordination and intelligence collection/exchange activities.

Interagency cooperation is essential if we are to realize any successes in immobilizing narcotics traffickers. A White House review team, with the participation of DEA, U.S. Customs, U.S. Coast Guard and the State Department, has been examining action initiatives that will have a lasting impact on drug trafficking in the Southeastern United States. Briefly, these measures are designed to disrupt the entire chain of drug smuggling from the source and transit countries through the distribution systems in our nation.

In addition to monitoring these programs, the White House review team will be seeking longer term solutions through legislative, juidical and diplomatic initiatives.

One such model for interagency joint efforts was Operation Stopgap, a 45-day program initiated by DEA to coordinate its efforts with those of the United States Customs Service, the United States Coast Guard and the Immigration and Naturalization Service. Stopgap's objective was to decrease the availability of marihuana in the United States by seizing multi-ton quantities and the vessels transporting the marihuana; by arresting and prosecuting entire crews abroad the vessels; thus ultimately disrupting the operations of large-scale Colombian marihuana smuggling operations. Intelligence on suspect aircraft and vessels, primarily "mother ships", was relayed thru the El Paso Intelligence Center (EPIC) to the U.S. Coast Guard for appropriate enforcement action.

The U.S. Coast Guard, in particular, is to be commended for their contributions to Operation Stopgap. In all, 900,000 pounds of marihuana were seized, as were 33 vessels (4 of which were sunk or scuttled), 6 aircraft, 18 land vehicles, 3 hydraulic presses and $15,000 in cash. Furthermore, approximately 220 persons were arrested and/or detained and deported. A similar program is going on in the North Atlantic/New England area and another is being developed for the Pacific/West Coast region.

For the present, we are monitoring several trends in maritime vessel smuggling. There has been a rapid expansion in both number of and sophistication of "mother ships" operations, especially between Colombia and the East Coast and Gulf Coast of the U.S. DEA expects that the growth in vessel traffic will continue. We anticipate the increased law enforcement pressure will displace the traffic to some extent, forcing it to the Colombian Pacific coast or causing the "mother ships" to divert eastward around the island chains in order to avoid the three passages where the U.S. Coast Guard has concentrated its efforts. Expanded use of aircraft for smuggling is anticipated.

We recognize that the conviction and incarceration of top-level traffickers does not necessarily disrupt trafficking organizations; the acquisition of vast capital permits regrouping and the incarcerated trafficker can continue to direct operations. Therefore, it is essential to attack the finances that are the back bone of organized drug traffickers.

Vast profits, generated by the sale of drugs, leave the United States. Valuable intelligence regarding drug trafficking organizations can be realized from monitoring the flow of currency and monetary instruments. Existing statutes provide us with one investigative tool.

One section of the Bank Secrecy Act requires every domestic financial institution to report to the Internal Revenue Service (Form 4789) the identity of persons involved in currency transactions exceeding $10,000. Since October 1977, a DEA/FBI Joint Task Force has been conducting just such an investigation into the utilization of U.S. financial institutions to facilitate payments for drug shipments and other financial aspects of drug trafficking. While this type of investigative endeavor is time consuming, it can be very effective. The financial evidence which is being developed will enable U.S. enforcement officials to attack the profits and operating funds of narcotics traffickers.

Unfortunately, there are gaps in the existing statutes which unintentionally aid the cause of the traffickers. Therefore, as I mentioned earlier, legislative initiatives will provide law enforcement with needed tools to cope with drug smuggler's tactics.

The Comprehensive Drug Abuse, Prevention and Control Act of 1970 replaced an earlier act (the Act of July 11, 1941, 55 Stat 584), but in the process inadvertently omitted the prohibition against possession of controlled substances on vessels engaged on a foreign voyage. The extant act prohibits possession of a controlled substance ". . . (only if it) was arriving in or departing from the U.S. or the Customs territory of the U.S."

Thus, there is a significant gap in the present law regarding the commission of substantive controlled substance offenses on *American owned or registered* vessels on the high seas.

Specifically, the United States Code (Section 959, Title 21) has extraterritorial application only if a controlled substance is manufactured or distributed outside of the United States with the intent of smuggling it into this country. This section does not, however, include possession with intent to smuggle as an extraterritorial offense.

Several cases have arisen at the United States District Court level in which ships registered in the United States, carrying large amounts of marihuana, were intercepted outside the territorial waters of the United States. The District Courts held that the Government lacked jurisdiction to prosecute the individuals on board for possession of marihuana even though the evidence showed the marihuana was possessed with the knowledge that it would be unlawfully imported into the United States.

Thus, a legislative proposal that would cure this defect would be strongly supported by the Drug Enforcement Administration.

The same statute to which I referred earlier, the Bank Secrecy Act, requires an individual to file a report (Form 4790) if he knowingly transports monetary instruments in excess of $5,000 in or out of the United States. The law, as written, is inadequate in that it does not provide for attempted or intended violations of existing reporting requirements. And, in fact, in March 1976, the United States District Court for the Southern District of Florida dismissed a criminal proceeding against a defendant who was discovered departing the United States with $250,000 of unreported currency. The Drug Enforcement Administration endorses legislation that would close this gap in existing law by requiring this report to be filed prior to departure from the United States.

At present, a search warrant is required in all instances in order to seize monetary instruments being taken from the United States in violation of the Bank Secrecy Act. In many cases, it is impossible to obtain a search warrant in time to search individuals thought to be in possession of monetary instruments or currency who have not reported them or have filed a false report. As such, DEA would also support a proposition that would strengthen the existing statute and allow U.S. Customs officials to search persons under exigent circumstances, as they do now in other searches.

There is another loophole in existing law which affords shelter for traffickers. The present law allows the master of any vessel carrying foreign merchandise 24 hours in which to report his arrival to U.S. Customs. The smaller boats that transport the drugs from the "mother ship" cannot be readily distinguished from the many legitimate private vessels of the Southeastern coastal area. Under this cover, there have been cases where vessels have arrived in the United States, unloaded their illicit cargo, and departed, all within 24 hours, thereby circumventing the intent of the law. A legislative proposal that would require immediate reporting of such a vessel's arrival would greatly assist the U.S. Customs Service and the Federal drug enforcement effort.

Legislative proposals, such as the ones presently under consideration by this Committee, would give to the Federal drug enforcement effort much needed support. Based on intelligence and interdiction data, we believe that drug smuggling on the high seas and smuggling by air is escalating.

Chairman Culver, on behalf of the Drug Enforcement Administration, I would like to thank you for initiatives with respect to this serious problem. I look forward to working with you and the Congress on this vital agenda directed to help disrupt the flow of illicit drugs from South America.

STATEMENT OF G. R. DICKERSON

Mr. Chairman, and members of the Committee, I appreciate the opportunity to appear before you today to discuss the need for new legislation to tighten the laws relating to drug smuggling by vessels and the exportation of currency. I understand that your committee is considering introducing new legislation on these subjects. We welcome your interest and believe that now is the time to address the problems created by our present law.

We are presently facing a new wave of drug smuggling into the United States, particularly by vessels and aircraft in the Gulf and Southeastern Atlantic areas. Fortunately, present law is adequate with respect to smuggling by aircraft. However, we have encountered many problems with respect to smuggling by vessels which are magnified due to the scope of the problem.

What limited success we have realized is due primarily to the excellent cooperation which exists among DEA, the Coast Guard, and Customs. Last month, Coast Guard and Customs signed an agreement which solidifies our strong present working relationship. In fact, most of the seizures recorded by Customs are a direct result of this relationship.

Statistics indicate that over 3.5 million pounds of marihuana have been seized through July of this fiscal year compared to 1.2 million pounds during the same period last year. An additional measure of the size of the smuggling problem facing us in the Southeast border is the changing seizure rate as compared to other significant smuggling areas. As recently as 1976, Mexican border districts averaged 60% of the national total of marihuana seized. Today seizures of marihuana in the Gulf and Southeastern Atlantic, almost all multi-ton loads, now account for 87% of a much increased total.

Cocaine seizures have also increased. For the first half of this fiscal year, the amount of cocaine seized has nearly surpassed the amount that has been seized for the entire preceding fiscal year. The Miami region has accounted for approximately 60% of the total amount of cocaine seized, while making only 25% of the total seizures. These figures indicate that the bulk shipments of cocaine are also being smuggled into the United States along the Southeastern coastline. We believe that the cocaine, which is more easily hidden, is smuggled via commercial vessels, very often in banana boats originating out of a Turbo, Colombia, which land at our Southeastern ports.

Another measure of the problem of drug smuggling in this region is the number of vessels seized. Through July of this fiscal year, 190 vessels have been seized in this area out of a national total of 269, while for the entire preceding fiscal year only 122 vessels were seized in this area.

We believe that several factors account for the increasing use of vessels by the drug smuggler—the continuing Mexican eradication program has made Colombia marihuana more attractive, the use of large vessels provides a relatively cheap method of transporting vast quantities of the bulky marihuana, the extensive coastline offers easy, undetected access to the United States, and gaps and inadequacies in our present law make successful prosecutions difficult. Thus, smuggling by vessel has become the new modus operandi of the drug smuggler.

To take full advantage of all of these factors, smuggling by vessel is primarily achieved by the use of "motherships." By this method, freighters, sometimes 300 feet in length, are loaded with large quantities of marihuana—50 to 60 tons is common—in Colombia and then set their course for the United States. These motherships, most often under foreign registry, will remain on the high seas outside the 3 mile territorial or 12 mile Customs waters, thus effectively beyond the United States jurisdiction, where they rendezvous with smaller high-speed craft generally owned by or registered to United States citizens. It is these smaller craft which then transport the contraband into the thousands of bays and inlets which line our coast.

Consequently, it is evident that two types of vessels are involved: the large motherships often flying under foreign flag, and the smaller "runners" which ferry the marihuana to shore. We face different problems with respect to each.

Once a vessel laden with marihuana is seized, loopholes in our present law create prosecutorial problems which often result in the individuals gaining their freedom to once again make another smuggling attempt. Under present law, the smuggler has committed no substantive crime by possessing narcotics on the high seas, even though he is an American citizen or aboard a vessel of the United States. This is so despite our obligation under the Single Convention on Narcotic Drugs to suppress drug trafficking by our vessels and citizens. Additionally, under present law it is extremely difficult to prosecute foreign nationals engaged in smuggling efforts aimed at the United States so long as they remain on the high seas. Consequently, the high seas remain a smuggler's paradise.

More importantly, international law presents many of the same obstacles. Since most of the motherships found on the high seas are of foreign registry, except under limited circumstances, permission must be requested and received from the country in which the vessel is registered before any enforcement action can be taken, even when there is proof that the particular vessel has a load of contraband destined for the United States. While most nations have been cooperative, the time required to notify the country of registry and to receive the proper authorization has caused some problems. The time may vary from several hours to two days, depending upon the hour or day of the week when the request is made. During this time

delay, the suspect vessel may take evasive action or may have sufficient time to jettison its contraband cargo. However, once permission is received to take enforcement action, either the gaps in our own law create prosecutorial difficulties or the foreign government will be reluctant to prosecute their nationals because of what they believe to be evidentiary problems created by a seizure and arrest by United States officials.

The small "runners" take advantage of our vast coastline with its numerous harbors and inlets and can easily mingle with the thousands of legitimate craft which sail in these same waters. Present law provides twenty-four hours from the time of arrival that a report must be made to Customs of such arrival. As a result, it is extremely difficult for Customs to intercept the few smugglers from among the thousands of legitimate vessels.

To begin to solve all of these problems, we believe that legislation which would tighten the conspiracy, transshipment, and extra-territorial provisions of the present law must be addressed. Further, legislation which would clearly delineate which vessels are subject to the jurisdiction of the United States would greatly enhance our enforcement effort aimed at the mother vessels flying foreign flags.

With respect to smuggling by private pleasure vessels, we strongly believe that immediate reporting at designated places should be required. While we do not foresee the smuggler dutifully reporting immediately upon his arrival, nonetheless such a requirement would enable us to establish designated reporting stations for vessels just as we now require for vehicles and aircraft. Then, assuming that a great majority of the legitimate vessel traffic would comply with the immediate reporting requirement, it would become a far easier task to sort the legitimate traffic from the illicit traffic. Thus, we can exert our enforcement efforts more judiciously. We are pleased to learn that your Committee is considering legislation to require immediate reporting.

I would like to relate to the Committee a very recent seizure which illustrates the nature of the problem and the process we must go through.

On August 5, 1978, based on information supplied by DEA, a Customs patrol aircraft established a search pattern 40-miles from the Bahamas. While the Customs aircraft was attempting to locate a particular vessel for DEA and after flying for several hours, our aircraft sighted two maneuvering in small slow circles and lying heavy in the water approximately 38-miles north northeast of Walkers Cay in the Bahamas, some 360 miles east of Florida. The other, the "Rio Chico" was a 70' shrimper without its proper riggings. Since both vessels appeared quite suspicious, the air crew notified the Coast Guard.

The aircraft continued the surveillance, departed for refueling, returned and completed over seven hours of surveillance, four being on the suspect vessels. While the Coast Guard had been notified and the Cape Knox responded, stormy weather that appeared and loss of its radar required that all vectoring of the cutter to the suspect vessels be accomplished by the air crew.

The larger vessel, whose stern bore the name "Heidi", failed to display any flag but claimed to be registered in the Netherlands Antilles. A check with that country revealed that the claimed registry was false. We understand that other countries were also queried without any records being located. The Coast Guard then boarded the "Heidi" as a stateless vessel.

The boarding officers found the vessel fully loaded with marihuana. The vessel was taken into Jacksonville, where Customs officers have already unloaded 225,469 pounds (113 tons) of marihuana. I might add that it took 57 hours to incinerate the marihuana which will not be needed for trial.

The other vessel, the Rio Chico, was also boarded and discovered to have 44,000 pounds of marihuana which is believed to have been off-loaded from the Heidi. Two other vessels which were expected to rendezvous with the Heidi are believed to have broken-up in the stormy seas.

Fortunately, there will be a trial in this case. The 22 Colombians and 1 Chilean on board have been linked to a conspiracy developed by DEA involving several U.S. citizens—seven of whom have since been arrested pursuant to federal warrants.

I say fortunately there will be a trial, because very often there is no evidence to link the foreign crewmembers with any conspiracy to smuggle the marihuana. As a result, the foreign crewmembers are deported. Also, we were fortunate that the concerned agencies had sufficient prior information so that we could detect the mothership before all of its contraband cargo was offloaded to smaller "runner" vessels, such as the shrimper, Rio Chico. Additionally, the determination of foreign registry, or lack thereof, was made relatively quickly.

While this particular seizure did proceed smoothly with expected successful prosecutions, it is illustrative of the types of problems we face.

In response to the noticeably growing smuggling problem by both vessels and aircraft, Customs has undertaken the following steps to improve our interdiction program. We have surveyed potential smuggling locations for additional resource needs. At this time, we are planning to establish a new patrol station at Fort Myers, and to increase the staff presently serving the stations at Key West and Port Everglades. In the future we expect to establish a patrol station at Fort Pierce. To insure a rapid deployment, a number of patrol officer positions will be transferred from other border stations. When the survey is completed and all resource requirements are identified, Customs will make every effort, within budget constraints, to meet these needs.

With respect to our efforts aimed at the problem of smuggling by aircraft, a significant improvement in our radar detection capability has recently come about as a result of a DOD agreement to use the newly operating AWACS radar system for detecting smuggler aircraft along the entire southern border. As reported in recent media accounts, AWACS radars operate from aircraft which fly along the border. Its radar can observe a larger area with a very high probability of detection.

At this time, we are staffing sufficient personnel to accompany the AWACS flights. Our personnel currently are in training to better operate with the Air Force. Customs personnel have already accompanied the AWACS aircraft on familiarization flights, and additional flights are scheduled for the future.

Several problems must still be overcome before the system can be truly operational. Of immediate concern is improved communication and logistics. Customs currently has one sensor-equipped high performance aircraft and is in the process of procuring another.

Customs has received approval from DOD for the loan of four Air Force T-39A aircraft. Since these aircraft are not equipped with radar, Customs is negotiating to modify and install appropriate radars. From this point, the first aircraft will be operationally available in 6 months and the remainder within 12 months.

Unfortunately, the actual smuggling of the contraband into the United States is just a piece of the puzzle. The glue to this puzzle is the vast amount of currency which is necessary to finance these transactions. The sale of narcotics and dangerous drugs in the United States produces vast sums of money, much of which leaves the United States, often to finance other smuggling attempts. By monitoring the flow of currency and monetary instruments, significant information about narcotics trafficking can be developed. While present law does require that report be filed with the Customs Service by persons transporting or causing to be transported monetary instruments in excess of $5,000 out of the United States, various courts have interpreted this law to mean that no violation can occur until the person has actually left the United States without filing the required report. Needless to say, effective enforcement of this reporting requirement has been significantly impaired.

To remedy this defect in the law, we believe that the Committee should consider legislation which would require that a report be filed prior to departure by any person who wishes to transport or have transported out of the United States any amount exceeding $5,000. The Secretary of the Treasury could then, by regulation, determine the time and manner in which such reports should be filed. For example, the regulation could provide that a person departing by aircraft or vessel would have to file the report prior to boarding the outbound carrier.

Currently, Section 235 of the Currency and Foreign Transaction Reporting Act (31 U.S.C. 1105) states that application may be made for a search warrant authorizing the search of any person, place, vehicle, or physical object when the Secretary has reason to believe that there will be a violation of certain reporting provisions of the Act. The implication is that if there is reason to believe, for example, that there will be an attempt to transport a substantial amount of currency out of the country without filing the required report, a search may be conducted only after a search warrant is obtained. Decisions of the U.S. Supreme Court, however, have made it clear that in certain "exigent circumstances" warrantless searches can be conducted where there is probable cause to believe that a law has been violated. We believe that the Committee should consider legislation which would remove any doubt as to the application of the "exigent circumstances" exception to currency reporting cases by authorizing warrantless searches to be made for violations of the Reporting Act where exigent circumstances can be shown. In many instances, this may prove critical. Frequently, circumstances leading to probable cause do not surface until just before the departure of an aircraft or boat, and subsequent enforcement action by the Federal Government is severely restricted.

Under such legislation, Customs would still have to show that probable cause as well as exigent circumstances existed at the time of any warrantless search.

While Customs continually is striving to develop new procedures and new working arrangements with other agencies which will result in a more effective interdiction effort, it is evident that there exist many problems which need solving. We appreciate the Committee's concern and interest, and we remain willing to work closely with you to solve these problems.

I will be happy at this time to answer any questions.

Thank you.

STATEMENT OF CAPTAIN ROBERT H. OVERTON III

Mr. Chairman and members of the Committee:

I am Captain Robert H. Overton, Chief of the Coast Guard's Ocean Operations Divison, and Manager of the Enforcement of Laws and Treaties Program. I thank you for this opportunity to testify concerning the proposed bill, the "Drug Trafficking Control Act of 1978," and the Coast Guard's maritime

drug interdiction effort. With me here today are Cdr. John E. Streeper, USCG and Lcdr E. Alex Blanton, USCG who are members of my staff.

The Coast Guard supports the purposes of legislation along these lines. Such legislation would increase our ability to take law enforcement action against U.S. vessels, and persons aboard them who are engaged in illicit drug trafficking on the high seas. As written, the bill overcomes the current necessity for proving intent to import controlled substances into the United States, by making mere possession of these substances aboard U.S. vessels, a crime. Insofar as persons aboard U.S. vessels are concerned, it would close one significant loophole in our enforcement scheme.

We are still reviewing the Bill within the administration with a view towards possibly recommending amendments which we believe will make it a more effective vehicle for countering maritime drug smuggling.

Specific language to accomplish such changes will be provided to the Committee by separate correspondence after our review is completed.

The Coast Guard's drug interdiction effort is based upon continuing surface and aircraft patrols of known or suspected smuggling areas, and a vigorous boarding program. Our major cutters may be assigned to conduct surveillance of a geographic area, patrol a known smuggling route, blockade a passage or "choke point," or pursue a specific target identified by intelligence information. A helicopter is normally embarked on flight-deck-equipped cutters, to extend the range and detection capability of the cutter and to improve patrol efficiency. These patrols by our larger cutters are normally from three weeks to one month in duration. Cutters may be deployed between districts during these operations to permit expanded coverage of a "hot" area or to provide flexibility, should the trafficker shift their activity to avoid enforcement pressure.

Supplementing the patrol activity of our high and medium endurance cutters are our 82 and 95 foot patrol boats. These small cutters are used in a similar manner, however their habitability and endurance limits patrol length during independent operations to approximately one week. Multi-unit operations are conducted as a means to overcome this limitation. This concept consists of a high or medium endurance cutter acting as a refueling and reprovisioning "base" for one or more WPB class vessels in company, and has the advantages of providing expanded patrol area coverage in addition to extending the WPB's endurance.

A concept vital to our operations that should be clearly understood is that of "multi-mission" operations. It is this concept which allows us to accomplish our many duties simultaneously in an effective manner, with a minimum number of resources and personnel. Simply stated, many of our tasks are performed in a common environment—at sea. Attendant to these tasks are three elements: First, surveillance—to determine the activity in a given area of ocean; Second, detection—to discover violations of applicable U.S. laws, marine casualties, or pollution incidents; and third, apprehension or recovery—to arrest the law violator or rescue casualty victims. It is our contention that the factor necessary to accomplish these tasks, regardless of the label applied to the individual mission, is the continuing presence of a suitable maritime unit, capable of response in a given time. Thus, because of their capabilities to surveil, detect and apprehend any of our cutters and aircraft may respond to the demands of the drug interdiction effort at any time during their operations.

The Coast Guard's vessel boarding program is governed primarily by our jurisdictional limitations. In the case of United States vessels, we are authorized to board and search at any time, for the enforcement of U.S. law, regardless of the location of the U.S. vessel. This includes the high seas environment as well as the waters of our country. A significant problem we face in the boarding and seizing of U.S. vessels is the necessity to prove conspiracy to import should a large cargo of controlled substances be discovered aboard a U.S. vessel on the high seas.

Foreign vessels, on the other hand, are normally immune to boarding and search by Coast Guard units except in special circumstances. Such special circumstances include foreign vessels in U.S. waters, stateless or assimilated stateless vessels, and foreign vessels "constructively present". In U.S. waters by virtue of their acts.

Generally, foreign vessels operating within 12 miles of the United States are subject to our jurisdiction, and may be boarded and seized for violations of smuggling or customs laws with the concurrence of the Department of State. Similarly, a stateless vessel, that is, a vessel which is not registered in any country, or a vessel which can be assimilated to statelessness by its claiming of the protection of more than one country, can be boarded and seized with Department of State concurrence. Since such vessels are not entitled to the protection of any flag, any nation may exert jurisdiction over them for enforcement purposes on the high seas.

"Constructive presence," may also be used to obtain jurisdiction over a foreign vessel on the high seas, if three elements exist. First the foreign vessel must be "adjacent" to the waters of the United States. Second, it must be acting as part of a team with another vessel in an attempt to violate U.S. law. Third, the "teammate" must have engaged in a violation of U.S. law, within U.S. waters. Once these elements have been established, the foreign vessel may be boarded and seized as though it were actually within the waters of the United States. This concept has proven effective in combatting "mothership" operations, where foreign vessels with multi-ton loads of marijuana hover offshore to effect the transfer of illicit cargo to smaller "contact boats," which then introduce the contraband into the U.S.

Foreign vessels which do not fall within the preceeding exceptions and enjoy the legitimate protection of their flag state may not routinely be boarded or searched. The alternative used by the Coast Guard to pursue law enforcement action against suspect vessels in this category is to seek the permission of the flag state, through the State Department, to board and search the vessel. In the event contraband is found, we may, with the concurrence of the flag state, prosecute any violations of U.S. law discovered, or failing this, we may detain the vessel for further enforcement action by the flag state. The success of this approach varies with the flag state queried, and cooperation ranges from excellent to very poor. There are indications that some countries are becoming increasingly reluctant to grant this intrusion on their sovereignty, particularly if the laws of the nation involved do not contain appropriate provision for doing so.

As a practical matter, the impact of delays encountered while attempting to obtain flag state permission for boarding and seizure of a foreign vessel on the high seas leads to a significant reduction in enforcement capability. Generally, the unit seeking authorization to board is faced with maintaining overt surveillance of the suspect, often for several days, as negotiation continues. The object of the boarding invariably continues on course during this period, drawing the Coast Guard unit away from the patrol area. It is conceivable that during this evolution, other trafficking vessels may transit the patrol area and remain undetected. The Department of State and the Coast Guard are investigating the possibility of establishing pre-seizure agreements with foreign governments which may reduce the time required to obtain the appropriate authorizations.

In response to direction from the President and Congress to place increased emphasis on drug interdiction, the Coast Guard has focused on four positive actions:

First, we are continuing to expand our interdiction program through the increased use of our 82 ft and 95 ft patrol boats for dedicated law enforcement patrols. Approximately 54,800 hours of additional WPB patrol time will be expended for this purpose in FY 1979. Additionally, our Groups and Stations are using smaller utility boats to conduct more frequent surveillance of inshore areas. Our major cutters, augmented by the WPB's, continue to conduct frequent patrols of the Yucatan, Windward and Mona Passage "choke points," and we are directing more attention to the Northern Bahama area which has developed into a hotbed for illicit at-sea transfer of drugs.

Second, we are committed to improving the quality and quantity of Coast Guard law enforcement training, to promote increased professionalism among enforcement personnel. Judgmental weapons training, jurisdictional issues and limitations, search and arrest procedures, and boarding techniques are areas which require concentrated instruction.

Third, we are continuing our efforts in conjunction with the Customs Service, the Drug Enforcement Administration, and the Department of Defense, to improve and expand our intelligence capability. A Maritime Information Team with representation from the Coast Guard, the Customs Service, and the Drug Enforcement Administration has been formed to centrally collect and analyze post-seizure information. Through close cooperation with the Department of Defense, and in particular with the Navy, the number of at-sea intelligence collectors has recently been significantly increased. Naval units will furnish sighting data accumulated during their routine operations to the Coast Guard. This information may consist of specific reports concerning previously targeted suspect vessels, or data of a more general nature based on "profiles" of smuggling activity furnished by the Coast Guard. Information collected by Naval units reaches us through the Naval Ocean Surveillance Information Center, where a Coast Guard liaison officer is assigned. Efforts to further expand and refine this vital program within the limitations of the "Posse Comitatus" Act and the availability of DOD resources are continuing.

Finally, we are accumulating data from all available sources to better define the trafficking problem, evaluate our interdiction effectiveness and determine the appropriate level of law enforcement activity. This quantification must be obtained if we are to adequately justify expansion beyond the limits of existing resources. As we increase our participation in the overall federal effort to control the flow of illegal drugs, we are seeing improvements in several areas. The recent success of joint enforcement operations directed against specific trafficking operations, and the increasing number of seizures resulting from exchanges of information between agencies lead us to conclude that cooperation between federal entities involved in anti-drug activity is improving. Memoranda of understanding have been executed with the Drug Enforcement Administration and the Customs Service. This is particularly important and we will continue our attempts to foster

these productive relationships in any way possible.

Mr. Chairman, this concludes my formal statement. I will be happy to respond to any questions that you may have at this time.

S. 3437

A bill to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 and other laws to prevent the illicit importation of controlled substances into the United States and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Drug Trafficking Control Act of 1978".

TITLE I—POSSESSION OF A CONTROLLED SUBSTANCE ON THE HIGH SEAS

SEC. 101. Section 1009 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 959) is amended to read as follows:

"MANUFACTURE, DISTRIBUTION, OR POSSESSION FOR PURPOSES OF UNLAWFUL IMPORTATION

"SEC. 1009. It shall be unlawful for any person to manufacture or distribute a controlled substance in schedule I or II, or to manufacture, distribute, or possess a controlled substance in schedule I or II onboard a vessel subject to the jurisdiction of the United States as defined in section 1001—

(1) intending that such substance will be unlawfully imported into the United States; or

(2) knowing that such substance will be unlawfully imported into the United States.

This section is intended to reach acts of manufacture or distribution outside the territorial jurisdiction of the United States, and acts of manufacture, distribution, and possession on vessels on the high seas. Any person who violates this section shall be tried in the United States district court at the point of entry where such person enters the United States, or in the United States District Court for the District of Columbia.".

SEC. 102. Section 1005 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 955) is amended by—

(a) striking the heading for the section and inserting in lieu thereof: "POSSESSION ONBOARD VESSELS, AIRCRAFT, AND OTHER VEHICLES";

(b) inserting "(a)" immediately after "SEC. 1005."; and

(c) adding at the end thereof the following new subsection:

"(b) It shall be unlawful for any person to bring or possess onboard any vessel or aircraft of the United States, or onboard any vehicle of a carrier of the United States, a controlled substance in schedule I or schedule II or a narcotic drug in schedule III or IV, unless such substance or drug is part of the cargo entered into in the manifest or part of the official supplies of the vessel, aircraft, or vehicle. This subsection is intended to reach acts of possession committed outside the United States or the customs territory of the United States. Any person who violates this section shall be tried in the United States district court at the point of entry where such person enters the United States, or in the United States District Court for the District of Columbia.".

SEC. 103. Subsection (a)(3) of section 1010 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 960(a)(3)) is amended to read as follows:

"(3) contrary to section 1009, manufactures distributes or possesses a controlled substance,".

SEC. 104. Subsection (a) of section 1001 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 951) is amended by adding at the end thereof the following:

"(3) The term 'high seas' means all waters beyond the territorial sea of the United States and beyond any foreign nation's territorial sea which is recognized by the United States and includes the Customs waters as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401).

"(4) The term 'vessel of the United States' means any vessel documented under the laws of the United States, or numbered as provided by the Federal Boat Safety Act of 1971, as amended, or owned in whole or in part by the United States, or any citizen of the United States, or any corporation created under the laws of the United States, or any State, territory, district, Commonwealth or possession thereof, unless such vessels has been granted nationality by a foreign nation in accordance with article 5 of the 1968 Convention on the High Seas.

"(5) The term 'vessel' includes every description of watercraft used or capable of being used as a means of transportation on the water.

"(6) The term 'vessel subject to the jurisdiction of the United States' includes (A) any vessel without nationality; (B) any vessel assimilated to a vessel without nationality in accordance with paragraph (2) of article 6 of the 1958 Convention on the High Seas; (C) any hovering vessel or any vessel within the customs waters as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401); (D) any vessel on the high seas registered in a foreign nation when that nation authorizes the United States to assert jurisdiction over such vessel for the purposes of enforcing this Act; and (E) any vessel of the United States.".

SEC. 106. The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by—

(a) striking out

"Sec. 1005. Possession on board vessels, etc., arriving in or departing from United States.

and inserting in lieu thereof

"Sec. 1005. Possession on board vessels, aircraft, and other vehicles.";

and

(b) striking out

"Sec. 1009. Manufacture or distribution for purposes of unlawful importation."

and inserting in lieu thereof

"Sec. 1009. Manufacture, distribution, or possession for purposes of unlawful importation.".

TITLE II—ILLEGAL EXPORT OF CASH

SEC. 201. Section 231(a) of the Currency and Foreign Transactions Reporting Act (31 U.S.C. 1101) is amended to read as follows:

"(a) Except as provided in subsection (c) of this section, whoever, whether as principal, agent, or bailee, or by an agent or bailee—

"(1) intends to transport, or have transported, monetary instruments from any place within the United States to or through any place outside the United States in an amount exceeding $5,000 on any one occasion shall file a report or reports in accordance with subsection (b) prior to departing from the United States;

"(2) knowingly transports, or causes to be transported, monetary instruments from any place outside the United States to or through any place within the United States in an amount exceeding $5,000 on any one occasion shall file a report or reports prior to or at the time of arrival in accordance with subsection (b); or

"(3) receives monetary instruments at the termination of their transportation by common carrier to the United States from or through any place outside the United States in an amount exceeding $5,000 on any one occasion shall file a report or reports in accordance with subsection (b).".

SEC. 202. Section 235 of the Currency and Foreign Transactions Reporting Act (31 U.S.C. 1105) is amended by redesignating subsection (b) as subsection (c) and by adding a new subsection (b) as follows:

"(b) When because of exigent circumstances a warrant cannot be obtained, any officer of Customs may search without a warrant any of the individuals or objects included in subsection (a) of this section if he has probable cause to believe that monetary instruments are in the process of transportation and with respect to which a report required under section 231 of this Act (31 U.S.C. 1101) has not been filed or contains material omissions or misstatements.".

TITLE III—PROMPT REPORTING OF VESSELS

SEC. 301. Section 433, Tariff Act of 1930, as amended (19 U.S.C. 1433), is amended to read as follows:

"The master of any vessel from a foreign port or place, or of a foreign vessel from a domestic port, or of a vessel of the United States carrying bonded merchandise, or foreign merchandise for which entry has not been made, arriving at any port or place within the United States, shall immediately report the arrival of the vessel at the nearer customhouse or such other place as the Secretary of the Treasury may prescribe in regulations. The Secretary may by regulation prescribe the manner in which arrival shall be reported and may extend the time, not to exceed twenty-four hours after the arrival of the vessel, in which to report arrival.".

SEC. 302. Section 459, Tariff Act of 1930, as amended (19 U.S.C. 1459), is amended by substituting a comma for the word "or" wherever it appears between the words "entry" and "customhouse", and inserting after the word "customhouse" the phrase "or other places as the Secretary of the Treasury may prescribe in regulations.".●

POVERTY DECLINES FOR OLDER AMERICANS

● Mr. CHURCH. Mr. President, our Nation has made considerable progress in reducing poverty among older Americans during the past decade.

In 1967, almost 5.4 million persons 65 years or older fell below the poverty line. Ten years later the number of aged poor declined to 3.2 million.

The rate of poverty among the elderly has also been slashed substantially, from 29.5 percent in 1967 to 14.1 percent in 1977.

Social security increases, improvements in other retirement benefit programs, and the establishment of supplemental security income have helped to improve the economic well-being of older Americans.

A recent advance report from the Census Bureau provides new information about improved economic conditions for most elderly persons, although not all older Americans. Poverty, for example, declined by 136,000 from 1976 to 1977 for all persons 65 or older.

However, the Census report provides some disturbing information. Poverty among aged blacks actually increased by 57,000, from 644,000 in 1976 to 701,000 in 1977.

Moreover, the low-income thresholds represent a barebones existence: $2,895 a year for a single aged person and $3,637 on an annual basis for elderly couples.

As chairman of the Committee on Aging, my No. 1 goal is to work for the eventual elimination of poverty for all older Americans.

Our Nation can take pride in the concrete actions to improve the well-being of the aged in recent years. But, much more remains to be done.

The Senate Committee on Aging has launched a comprehensive hearing concerning "Retirement, Work, and Lifelong Learning." We plan to focus on many subjects, including the most efficient and effective means to enable older persons to live in dignity and self-respect.

Mr. President, I ask that three tables from the Census Bureau's advance report on "Money Income and Poverty Status of Families and Persons in the United States: 1977" be printed in the RECORD.

The tables follow:

TABLE 16.—PERSONS BELOW THE POVERTY LEVEL BY FAMILY STATUS, SEX OF HEAD, AND RACE, 1959–77

[Numbers in thousands; persons as of March of the following year; for meaning of symbols, see text]

Year, race, and sex of head	Number below poverty level							Poverty rate						
	Total		In families					Total		In families				
	All persons	65 yr and over	Total	Head	Related children under 18	Other Families members	Unrelated individuals	All persons	65 yr and over	Total	Head	Related children under 18	Other family members	Unrelated individuals
ALL PERSONS														
All races:														
1977	24,720	3,177	19,505	5,311	10,028	4,165	5,216	11.6	14.1	10.2	9.3	16.0	5.9	22.6
1976	24,975	3,313	19,632	5,311	10,081	4,240	5,344	11.8	15.0	10.3	9.4	15.8	6.0	24.9
1975	25,877	3,317	20,789	5,450	10,882	4,457	5,088	12.3	15.3	10.9	9.7	16.8	6.4	25.1
1974 [1]	23,370	3,085	18,817	4,922	9,967	3,928	4,553	11.2	14.6	9.9	8.8	15.1	5.7	24.1
1974	24,260	3,308	19,440	5,109	10,196	4,135	4,820	11.6	15.7	10.2	9.2	15.5	6.0	25.5
1973	22,973	3,354	18,299	4,828	9,453	4,018	4,674	11.1	16.3	9.7	8.8	14.2	5.9	25.6
1972	24,460	3,738	19,577	5,075	10,082	4,420	4,883	11.9	18.6	10.3	9.3	14.9	6.6	29.0
1971	25,559	4,273	20,405	5,303	10,344	4,757	5,154	12.5	21.6	10.8	10.0	15.1	7.2	31.6
1970	25,420	4,709	20,330	5,260	10,235	4,835	5,090	12.6	24.5	10.9	10.1	14.9	7.4	32.9
1969	24,147	4,787	19,175	5,008	9,501	4,667	4,972	12.1	25.3	10.4	9.7	13.8	7.2	34.0
1968	25,389	4,632	20,695	5,047	10,739	4,909	4,694	12.8	25.0	11.3	10.0	15.3	7.8	34.0
1967	27,769	5,388	22,771	5,667	12,427	5,677	4,998	14.2	29.5	12.5	11.4	16.3	9.1	38.1
1966 [1]	28,510	5,114	23,809	5,784	12,146	5,879	4,701	14.7	28.5	13.1	11.8	17.4	9.5	38.3
1966	30,424	NA	25,614	6,200	12,876	6,538	4,810	15.7	NA	14.2	12.7	18.4	10.5	38.9
1965	33,185	NA	28,358	6,721	14,388	7,249	4,827	17.3	NA	15.8	13.9	20.7	11.8	38.8
1964	36,055	NA	30,912	7,160	15,736	8,016	5,143	19.0	NA	17.4	15.0	22.7	13.3	42.7
1963	36,436	NA	31,498	7,554	15,691	8,253	4,938	19.5	NA	17.9	15.9	22.8	13.8	44.2
1962	38,625	NA	33,623	8,077	16,630	8,916	5,002	21.0	NA	19.4	17.2	24.7	15.1	45.4
1961	39,628	NA	34,509	8,391	16,577	9,541	5,119	21.9	NA	20.3	18.1	25.2	16.5	45.9
1960	39,851	NA	34,925	8,243	17,288	9,394	4,926	22.2	NA	20.7	18.1	26.5	16.2	45.2
1959	39,490	5,481	34,562	8,320	17,208	9,034	4,928	22.4	35.2	20.8	18.5	26.9	15.9	46.1
White:														
1977	16,416	2,426	12,364	3,540	5,943	2,882	4,051	8.9	11.9	7.5	7.0	11.4	4.6	20.4
1976	16,713	2,633	12,500	3,560	6,034	2,906	4,213	9.1	13.2	7.5	7.1	11.3	4.7	22.7
1975	17,770	2,634	13,799	3,838	6,748	3,213	3,972	9.7	13.4	8.3	7.7	12.5	5.2	22.7
1974 [1]	15,736	2,460	12,181	3,352	6,079	2,750	3,555	8.6	12.8	7.3	6.8	11.0	4.5	21.8
1974	16,290	2,642	12,517	3,482	6,180	2,855	3,773	8.9	13.8	7.5	7.0	11.2	4.7	23.2
1973	15,142	2,698	11,412	3,219	5,462	2,731	3,730	8.4	14.4	6.9	6.6	9.7	4.5	23.7
1972	16,203	3,072	12,268	3,441	5,784	3,043	3,935	9.0	16.8	7.4	7.1	10.1	5.1	27.1
1971	17,780	3,605	13,566	3,751	6,341	3,474	4,214	9.9	19.9	8.2	7.9	10.9	5.8	29.6
1970	17,484	3,984	13,323	3,708	6,138	3,477	4,161	9.9	22.5	8.1	8.0	10.5	5.9	30.8
1969	16,659	4,052	12,623	3,575	5,667	3,381	4,036	9.5	23.3	7.8	7.7	9.7	5.8	32.1
1968	17,395	3,939	13,546	3,616	6,373	3,557	3,849	10.0	23.1	8.4	8.0	10.7	6.3	32.2
1967	18,983	4,646	14,851	4,056	6,729	4,066	4,132	11.0	27.7	9.2	9.0	11.3	7.2	36.5
1966 [1]	19,290	4,357	15,430	4,106	7,204	4,120	3,860	11.3	26.4	9.7	9.3	12.1	7.4	36.1
1966	20,751	NA	16,732	4,481	7,649	4,602	4,019	12.2	NA	10.5	10.2	12.8	8.2	37.3
1965	22,496	NA	18,508	4,824	8,595	5,089	3,988	13.3	NA	11.7	11.1	14.4	9.2	38.1
1964	24,957	NA	20,716	5,258	9,573	5,885	4,241	14.9	NA	13.2	12.2	16.1	10.8	40.7
1963	25,238	NA	21,149	5,466	9,749	5,934	4,089	15.3	NA	13.6	12.8	16.5	11.0	42.0
1962	26,672	NA	22,613	5,887	10,382	6,344	4,059	16.4	NA	14.7	13.9	17.9	12.0	42.7
1961	27,890	NA	23,747	6,205	10,614	6,928	4,143	17.4	NA	15.8	14.8	18.7	13.3	43.2
1960	28,309	NA	24,262	6,115	11,229	6,918	4,047	17.8	NA	16.2	14.9	20.0	13.3	43.0
1959	28,484	4,744	24,443	6,185	11,386	6,872	4,041	18.1	33.1	16.5	15.2	20.6	13.3	44.1
Black and other races:														
1977	8,304	751	7,141	1,771	4,085	1,283	1,165	29.0	34.9	28.1	26.5	38.8	15.7	35.9
1976	8,262	680	7,132	1,751	4,047	1,334	1,131	29.4	32.7	28.2	26.4	38.3	16.5	39.5
1975	8,107	683	6,990	1,612	4,134	1,244	1,116	29.3	34.0	28.0	25.3	38.9	15.6	40.9
1974 [1]	7,634	625	6,636	1,570	3,888	1,179	999	28.3	32.5	27.2	25.1	37.1	15.5	38.0
1974	7,970	666	6,923	1,627	4,016	1,280	1,047	29.5	34.7	28.4	26.0	38.4	16.7	40.0
1973	7,831	656	6,887	1,609	3,991	1,287	944	29.6	35.5	28.8	26.2	38.3	17.4	37.8
1972	8,257	666	7,309	1,634	4,298	1,377	948	31.9	37.5	31.0	27.7	41.3	19.0	40.9
1971	7,780	668	6,839	1,552	4,003	1,283	941	30.9	38.4	29.7	27.4	38.7	18.2	44.9
1970	7,936	725	7,007	1,552	4,097	1,358	929	32.0	46.2	30.7	28.1	39.6	19.5	46.7
1969	7,488	735	6,552	1,433	3,834	1,286	936	31.0	48.1	29.6	26.9	37.7	19.4	45.5
1968	7,994	693	7,149	1,431	4,366	1,352	845	33.5	46.6	32.4	28.2	41.6	20.9	45.7
1967	8,786	742	7,920	1,611	4,698	1,611	866	37.2	51.0	36.3	32.1	44.9	25.3	48.2
1966 [1]	9,220	757	8,379	1,678	4,942	1,759	841	39.8	53.4	38.9	33.9	48.2	27.7	53.1
1966	9,673	NA	8,882	1,719	5,227	1,936	791	41.7	NA	41.1	35.0	50.7	30.2	50.0
1965	10,689	NA	9,850	1,897	5,793	2,160	839	47.1	NA	46.8	39.7	57.3	35.3	50.7
1964	11,098	NA	10,196	1,902	6,163	2,131	902	49.6	NA	49.1	40.0	61.5	35.7	55.6
1963	11,198	NA	10,349	2,088	5,942	2,319	849	51.0	NA	50.5	43.7	60.9	38.9	58.3
1962	11,953	NA	11,010	2,190	6,248	2,572	943	55.8	NA	55.3	48.0	66.4	43.2	62.1
1961	11,738	NA	10,762	2,186	5,963	2,613	976	56.1	NA	55.6	49.0	65.7	44.8	62.7
1960	11,542	NA	10,663	2,128	6,059	2,476	879	55.9	NA	55.7	49.0	66.6	43.3	59.3
1959	11,006	737	10,119	2,135	5,822	2,162	887	56.2	60.8	56.0	50.4	66.7	42.5	57.4
Black:														
1977	7,726	701	6,667	1,637	3,850	1,181	1,059	31.3	36.3	30.5	28.2	41.6	17.4	37.0
1976	7,595	644	6,576	1,617	3,758	1,201	1,019	31.1	34.8	30.1	27.9	40.4	17.8	39.8
1975	7,545	652	6,533	1,513	3,884	1,136	1,011	31.3	36.3	30.1	27.1	41.4	16.9	42.1
1974 [1]	7,182	591	6,255	1,479	3,731	1,053	927	30.3	34.3	29.3	26.9	39.6	16.4	38.3
1974	7,467	626	6,506	1,530	3,819	1,157	961	31.4	36.4	30.3	27.8	40.7	17.6	41.0
1973	7,388	620	6,560	1,527	3,822	1,211	828	31.4	37.1	30.8	28.1	40.6	18.7	37.9
1972	7,710	640	6,841	1,529	4,025	1,287	870	33.3	39.9	32.4	29.0	42.7	20.0	42.9
1971	7,396	623	6,530	1,484	3,836	1,210	866	32.5	39.3	31.2	28.8	40.7	19.1	46.0
1970	7,548	683	6,683	1,481	2,922	1,279	865	33.5	48.0	32.2	29.5	41.5	20.5	48.3
1969	7,095	689	6,245	1,366	3,677	1,202	850	32.2	50.2	30.9	27.9	39.6	20.0	46.7
1968	7,616	655	6,839	1,366	4,188	1,285	777	34.7	47.7	33.7	29.4	43.1	21.7	46.3
1967	8,486	715	7,677	1,555	4,558	1,564	809	39.3	53.3	38.4	33.9	47.4	27.1	49.3
1966 [1]	8,867	722	8,090	1,620	4,774	1,696	777	41.8	55.1	40.9	35.5	50.6	29.4	54.4
1959	9,927	711	9,112	1,860	5,022	2,230	815	55.1	62.5	54.9	48.1	65.5	44.1	57.8

[1] Based on revised methodology.

Note: For the year 1959, data for persons 65 yr and over and for blacks are based on 1-in-1,000 sample of the 1960 census. For the years 1969 to 1977, data are based on 1970 census population controls.

TABLE 19.—AGE, TYPE OF RESIDENCE, REGION, AND WORK EXPERIENCE—PERSONS BY POVERTY STATUS IN 1977, BY RACE AND SPANISH ORIGIN

[Numbers in thousands. Persons as of March 1978. For meaning of symbols, see text]

	Total			White			Black			Spanish origin [1]		
		Below poverty level			Below poverty level			Below poverty level			Below poverty level	
	Total	Number	Percent of total	Total	Number	Percent of total	Total	Number	Percent of total	Total	Number	Percent of total
AGE												
BOTH SEXES												
Total	213,867	24,720	11.6	185,254	16,416	8.9	24,710	7,726	31.3	12,046	2,700	22.4
Under 3 yrs	9,197	1,693	18.4	7,610	989	13.0	1,424	666	46.8	948	268	28.3
3 to 5 yrs	9,138	1,634	17.9	7,504	977	13.0	1,406	627	44.6	854	268	31.4
6 to 13 yrs	28,270	4,529	16.0	23,538	2,743	11.7	4,138	1,671	40.4	2,183	596	27.3
14 and 15 yrs	8,200	1,210	14.8	6,883	696	10.1	1,169	483	41.3	517	145	28.1
16 to 21 yrs	24,614	3,136	12.7	20,922	1,986	9.5	3,236	1,080	33.4	1,494	333	22.3
22 to 44 yrs	68,400	5,780	8.5	59,525	4,011	6.7	7,397	1,587	21.5	3,940	689	17.5
45 to 54 yrs	23,071	1,672	7.2	20,425	1,199	5.9	2,273	441	19.4	1,012	179	17.7
55 to 59 yrs	11,031	944	8.6	9,950	664	6.7	945	262	27.8	353	64	18.2
60 to 64 yrs	9,478	946	10.0	8,580	726	8.5	791	208	26.3	226	44	19.6
65 yrs and over	22,468	3,177	14.1	20,316	2,426	11.9	1,930	701	36.3	518	113	21.9
Total, 5 to 17 years	47,929	7,449	15.5	40,008	4,444	11.1	6,957	2,821	40.5	3,506	981	28.0
Related children 5 to 17 years	47,615	7,249	15.2	39,745	4,290	10.8	6,913	2,782	40.2	3,478	961	27.6
MALE												
Total, 16 years and over	75,688	5,757	7.6	66,894	4,147	6.2	7,470	1,429	19.1	3,574	553	15.5
16 to 21 yrs	12,171	1,341	11.0	10,409	849	8.2	1,528	453	29.6	715	146	20.5
22 to 44 yrs	33,424	2,086	6.2	29,442	1,567	5.3	3,287	435	13.2	1,885	243	12.9
45 to 54 yrs	11,154	666	6.0	9,933	514	5.2	1,058	140	13.3	468	71	15.1
55 to 59 yrs	5,239	338	6.5	4,754	243	5.1	414	88	21.3	172	25	14.7
60 to 64 yrs	4,530	364	8.0	4,107	288	7.0	365	70	19.3	101	12	11.9
65 yrs and over	9,170	961	10.5	8,249	686	8.3	819	243	29.7	232	55	23.7
Total, 5 to 17 years	24,399	3,787	15.5	20,430	2,296	11.2	3,483	1,392	40.0	1,797	509	28.4
Related children 5 to 17 years	24,317	3,713	15.3	20,366	2,240	11.0	3,472	1,380	39.8	1,788	501	28.0
FEMALE												
Total, 16 years and over	83,374	9,897	11.9	72,824	6,864	9.4	9,102	2,850	31.3	3,970	870	21.9
16 to 21 yrs	12,443	1,794	14.4	10,513	1,137	10.8	1,708	627	36.7	780	187	23.9
22 to 44 yrs	34,976	3,694	10.6	30,083	2,444	8.1	4,111	1,153	28.0	2,055	446	21.7
45 to 54 yrs	11,917	1,005	8.4	10,492	685	6.5	1,215	300	24.7	544	108	19.9
55 to 59 yrs	5,792	605	10.4	5,196	422	8.1	531	174	32.8	181	39	21.4
60 to 64 yrs	4,948	582	11.8	4,473	438	9.8	426	138	32.4	125	32	25.8
65 yrs and over	13,298	2,216	16.7	12,067	1,739	14.4	1,111	457	41.2	286	58	20.4
Total, 5 to 17 years	23,530	3,662	15.6	19,578	2,147	11.0	3,473	1,428	41.1	1,709	472	27.6
Related children 5 to 17 years	23,298	3,536	15.2	19,379	2,049	10.6	3,442	1,401	40.7	1,690	460	27.2
TYPE OF RESIDENCE												
Total	213,867	24,720	11.6	185,254	16,416	8.9	24,710	7,726	31.3	12,046	2,700	22.4
Nonfarm	206,032	23,381	11.3	177,941	15,291	8.6	24,296	7,561	31.1	11,969	2,674	22.3
Farm	7,835	1,339	17.1	7,313	1,125	15.4	414	165	39.9	77	26	33.5
Inside metropolitan areas	142,791	14,859	10.4	121,409	9,265	7.6	18,483	5,289	28.6	10,165	2,255	22.2
Inside central cities	59,626	9,203	15.4	44,556	4,762	10.7	13,627	4,254	31.2	5,961	1,539	25.8
In poverty areas	11,340	4,132	36.4	4,733	1,312	27.7	6,435	2,755	42.8	1,906	710	37.2
Outside central cities	83,165	5,657	6.8	76,852	4,503	5.9	4,856	1,035	21.3	4,204	717	17.0
In poverty areas	4,531	972	21.5	3,284	511	15.6	1,180	448	38.0	729	201	27.5
Outside metropolitan areas	71,076	9,861	13.9	63,846	7,151	11.2	6,227	2,437	39.1	1,881	445	23.6
In poverty areas	24,449	5,236	21.4	19,562	3,115	15.9	4,381	1,904	43.5	938	303	32.3
REGION												
Total	213,867	24,720	11.6	185,254	16,416	8.9	24,710	7,726	31.3	12,046	2,700	22.4
Northeast	48,823	4,956	10.2	43,991	3,725	8.5	4,364	1,183	27.1	2,336	814	34.8
North central	56,969	5,589	9.8	51,544	3,938	7.6	4,931	1,584	32.1	1,040	150	14.4
South	69,148	10,249	14.8	55,406	5,735	10.3	13,162	4,383	33.3	3,775	908	24.1
West	38,927	3,927	10.1	34,314	3,018	8.8	2,253	576	25.6	4,894	828	16.9
WORK EXPERIENCE IN 1977												
Total, 14 yrs and over	167,262	16,864	10.1	146,601	11,707	8.0	17,741	4,762	26.8	8,060	1,568	19.5
Worked last yr	109,292	6,459	5.9	97,019	4,780	4.9	10,332	1 504	14.6	5,034	567	11.3
50 to 52 weeks	66,958	2,063	3.1	59,775	1,590	2.7	6,066	428	7.1	2,840	151	5.3
Full time	58,869	1,458	2.5	52,496	1,151	2.2	5,380	275	5.1	2,572	113	4.4
49 weeks or less [2]	42,334	4,395	10.4	37,244	3,190	8.6	4,266	1,075	25.2	2,193	416	19.0
Duration of unemployment:												
1 to 4 weeks	4,289	419	9.8	3,769	306	8.1	436	105	24.1	226	33	14.5
5 to 14 weeks	5,769	537	9.3	5,022	394	7.8	636	125	19.7	350	62	17.7
15 to 26 weeks	3,723	473	12.7	3,086	307	9.9	576	159	27.6	271	49	18.3
27 weeks or more	2,695	552	20.5	2,107	368	17.5	517	163	31.5	185	57	30.5
Did not work last year	57,096	10,384	18.2	48,863	6,909	14.1	7,286	3,255	44.7	3,001	1,001	33.3
Main reason did not work:												
Ill or disabled	7,472	2,299	30.8	5,832	1,483	25.4	1,573	788	50.1	329	138	41.8
Keeping house	24,818	3,788	15.3	22,550	2,808	12.5	1,883	913	48.5	1,378	442	32.1
Going to school	12,174	2,241	18.4	9,483	1,209	12.8	2,402	962	40.0	915	291	31.8
Unable to find work	1,385	553	39.9	859	274	31.9	492	269	54.8	98	49	50.0
Retired	9,925	1,131	11.4	9,116	893	9.8	697	214	30.7	198	41	20.6
All other reasons	1,322	371	28.1	1,024	242	23.6	240	109	45.4	83	41	49.0
In armed forces	874	22	2.5	719	18	2.5	123	3	2.7	26	.....	(B)

[1] Persons of Spanish origin may be of any race.
[2] Includes "no weeks" unemployed, not shown separately.

TABLE 15.—WEIGHTED AVERAGE THRESHOLDS—POVERTY CUTOFFS IN 1977, BY SIZE OF FAMILY AND SEX OF HEAD, BY FARM-NONFARM RESIDENCE

Size of family unit	Total	Nonfarm			Farm		
		Total	Male head	Female head	Total	Male head	Female head
1 person (unrelated individual)	$3,067	$3,075	$3,214	$2,969	$2,588	$2,672	$2,498
14 to 64 years	3,147	3,152	3,267	3,023	2,709	2,776	2,569
65 years and over	2,895	2,906	2,936	2,898	2,475	2,495	2,363
2 persons	3,928	3,951	3,961	3,907	3,318	3,325	3,176
Head 14 to 64 years	4,054	4,072	4,095	3,981	3,466	3,474	3,278
Head 65 years and over	3,637	3,666	3,670	3,646	3,128	3,131	3,079
3 persons	4,806	4,833	4,860	4,708	4,093	4,110	3,883
4 persons	6,157	6,191	6,195	6,162	5,273	5,274	5,213
5 persons	7,279	7,320	7,329	7,238	6,247	6,247	6,237
6 persons	8,208	8,261	8,258	8,197	7,026	7,026	7,040
7 persons or more	10,137	10,216	10,249	9,995	8,708	8,706	8,738

SENATOR CLAIBORNE PELL—CHAMPION OF THE ARTS AND EDUCATION

● Mr. KENNEDY. Mr. President, since his first election to the Senate in 1960, the distinguished senior Senator from Rhode Island, CLAIBORNE PELL, has been a true champion of the arts and education. His important role in making the National Endowments of the Arts and Humanities a reality, is well known to all of us; his commitment and support for preserving the artistic heritage of our Nation and promoting a distinctive and unique American culture assures him the grateful thanks of the American people. And his valuable work in the area of education—especially his tireless support of the community college—has helped make it possible for millions of Americans to earn a college diploma.

A recent article by Ernesto Cuneo in the Newport Daily News pays tribute to my friend Senator PELL and his notable achievements. I ask that the article be printed in the RECORD.

The article follows:

RHODE ISLAND SENATOR WON PLACE IN HISTORY FOR AID TO ART, EDUCATION

(By Ernest Cuneo)

When it comes to government spending, Sen. Claiborne Pell makes Scrooge himself look like a big time spender. Pell is a fierce, growling Cerberus, hostilely stationed at the treasury doors. Since Rhode Island, in its providence, has seen fit to send him back to the Senate three times, God, the calendar and seniority have elevated Pell to the chairmanship of the Rules Committee. This committee allots the moneys to the 17 major committees which run the Senate. The 17 Senate chairmen are among the most influential men in the world, let alone the Senate.

Prudent men walk wide of offending them. However, casting advice on how to win friends and influence people to the winds, Pell had the temerity to tell every last one of the chairmen that they were spending too much money, ruling that, except for cost-of-living allowances, the cashier's window was shut.

Amazingly enough, the powerhouse Senate chairman acctpted Pell's order. One reason, presumably, is that Pell's own committee was the first to feel Pell's ax. There was hope in some quarters that "Big Jim" Eastland, longtime chairman of the mighty Judiciary Committee, might lead a revolt. However, Eastland was among the first to go along with Pell, because Pell is also a Claiborne. South of the Mason-Dixon Line, a Claiborne rates with a Bankhead, a Breckinridge, a Madison, or a Byrd. A Claiborne was the governor of Louisiana; George Dallas, another ancestor, after whom the city of Dallas and Pell's daughter are named, was President James Polk's vice president.

And thereby hangs a tale of the creation of the National Endowments of the Arts and the Humanities. When Claiborne Pell was elected to the Senate 18 years ago, the cultural history of these United States was not impressive. Actually, with the fall of the European dynasties—the Hapsburgs, the Romanovs, the Savoys and even the Hohenzollerns—the tradition of the government as patron of the arts also fell. There seemed little hope that the U.S. government would ever assume such role.

Despite the huge effort of Northern liberals, the Southern conservative bloc was utterly opposed. However, when Pell introduced the bill, the Southern Senators, with arch-conservative Harry F. Byrd of Virginia as leader, voted as a bloc to support not Pell of Rhode Island, but his ancestors, the Claibornes of Virginia and Louisiana! President Lyndon B. Johnson handed Pell the first pen he used to establish the endowments at $5 million each. They are now nearly $150 million each, and have been all but matched by American free enterprise .

Ancient royalty has been exceeded by the American Republic. Pell's whole program is a dazzling success. As an example, Pell fought for and got the Air and Space Museum. The recordbreaking 10 millionth visitor passed through its gates this week.

Nevertheless, Pell's place in American history, for sheer sweep, will be for his education acts. That incredible record can be summed up in a paragraph: Thomas Jefferson and Benjamin Franklin founded the Universities of Virginia and Pennsylvania. Abraham Lincoln gave the common people a crack at a college education by establishing the first state universities. Claiborne Pell's great educational acts put up over 1,500 community colleges. Under the Pell Acts, American higher education doubled and redoubled, and has a 12-million attendance today. Again, LBJ gave the Rhode Island senator the first pen with which the bill creating the greatest educational system in recorded history became law.

That, of course, is the hilarious paradox of Pell. His work is monumental, but he, as chairman, is chintzy enough to tell the 16 Senate chairmen, "No, brothers, I can't spare a dime!"

It might well be assumed that with such a record, Pell is as flamboyant as a Huey Long. That's the paradox. He is so solid and so gray that he makes Calvin Coolidge appear as romantic as Buffalo Bill.●

VETO OF DEFENSE AUTHORIZATION BILL

● Mr. TOWER. Mr. President, on August 17, the President, in a televised press conference, announced his veto of the fiscal year 1979 defense authorization bill. That bill, as passed by the Senate and the House was a carefully crafted piece of legislation. However, the President cast aside the legislative branch's judgment but did not offer any specific congressional action that he would have preferred. In fact, it has become apparent that the President's remarks were directed at the wrong bill.

It is generally understood that the President's veto was contrived to bolster his decline in public opinion polls and shore up his indecisive image. The President has chosen to ignore the collective judgment of individual Members of Congress who worked together to provide the very best for U.S. defense. In its place, President Carter would substitute some fleeting political advantage to aid his sagging image. In short, the President chose to play politics with America's military might at a time when we are seeing an ever-increasing challenge by the Soviets and can ill afford such chicanery.

The effect of the veto is to disrupt the orderly process. The net result could be that production workloads will have to be adjusted, training with new and much needed equipment will have to be put off and the modernization of defenses would be slowed.

In my State of Texas, the President's action could upset plans to modernize the Fort Hood tank assets of the 2d Division and place in jeopardy the delivery of Bell helicopter Cobra/TOW attack helicopters to units there. The veto could also cause a delay in beginning production of the two-place TA-7D attack aircraft, added to the bill by my amendment, for the Air National Guard.

The bill also contains the Roland, Patriot and Hawk air defense systems, the training for which is conducted at Fort Bliss.

The House will, of course, have to act first in voting to override the veto, and I hope that they will do so. The President's action came at the wrong time, on the wrong bill, and for the wrong reasons.

Mr. President, a number of press accounts have reported the difficulties raised by the veto. I ask that four of these articles be printed in the RECORD.

The articles follow:

[From the Wall Street Journal, Aug. 24, 1978]

THE RAPSHOON VETO

President Carter's veto of the defense procurement authorization is everywhere interpreted as part of a new "get tough" act, the practical incarnation of media adviser Gerald

Rafshoon's efforts to massage the President's sagging poll ratings. The veto would have helped Mr. Carter's competency rating more if he had not clouded the issue in monumental confusion, including confusion about what the bill he vetoed actually contained.

To cut through the clouds, it's necessary to keep in mind two simple facts. First: while Mr. Carter objects to the congressional decision to spend $2 billion on a nuclear aircraft carrier, his administration has already announced plans to include a large oil-burning carrier in its next budget request. The whole issue is, merely, this year or next year, and conventional or nuclear? Second: There is a difference between authorization bills, which set programs, and appropriations bills, which spend money. Mr. Carter vetoed the defense procurement authorization. The Pentagon appropriations bill has not yet been completed by Congress.

This elemental parliamentary distinction was entirely overlooked in Mr. Carter's charge that Congress is building the carrier by "diverting funds away from far more important defense needs." Among the congressional items to which he objected, for example, was a supposed cut of $500 million in military operational funds. But operational funds are not dealt with in the defense procurement bill; if this was the President's problem, he vetoed the wrong bill.

Doing the President one better, Defense Secretary Brown complained that Congress had killed three antisubmarine ships. There is a dispute over the appropriations for these ships, with the House on one side and the Senate on the other. But whatever the eventual appropriation, the ships were included in the defense procurement bill. Secretary Brown complains about Congress killing ships that were in fact in the bill his chief just vetoed.

Now, within the context of the procurement authorization, it's true that despite $1.9 billion for the aircraft carrier, the congressional total was close to the President's original request. About half of the funds came from rather ordinary changes: the Army reporting it could not spend money on its new XM-1 tank as fast as it originally thought; Congress's decision that it could both save money and improve the NATO tank force faster by upgrading more existing M60A1 tanks and producing fewer new M60A3 tanks than contemplated in the original administration request.

The other half of the carrier money came from funds originally requested for the Trident submarine program, but which cannot be spent in this year's bill because of delays. With the Trident program delayed, and with the administration poised to order up a new carrier next year, Congress is merely saying, let's use this idle money and get the carrier started now.

There remains the issue of what kind of carrier. In passing, it should be noted that in light of the latest studies it is far from clear that large carriers are specially vulnerable. They can sustain hits from Soviet cruise missiles that would atomize small carriers, which have their magazines above water line. Large ships also make sense in light of electronic battlefield management, which promises a defense capable of shooting down attacking missiles. But this debate is beside the immediate point, since the White House has requested no small carriers. Indeed, the bill Mr. Carter vetoed provided more research funding for small carriers than he requested.

It is also unclear that oil-powered carriers save money. They are cheaper to build, but more expensive to fuel. Over the lifetime of a ship, it is difficult to see much difference in total cost. Congress prefers the nuclear carrier because it has better performance, being unencumbered by a train of tankers to refuel it every few days. The administration prefers a conventional carrier, saving money on construction now but spending more on operations later. And over this difference the President is willing to veto the entire procurement bill, inviting further controversy and delay that may hinder the improvements on which he and Congress agree.

In order to escalate this minor quarrel to veto proportions, President Carter launched an attack on Congress that seriously distorts the record. Sen. Stennis rose on the floor to complain, in what is for him strong language, of the administration's "false facts." The Senator was too much of a gentleman to say it, but we will: This is not a case of the Congress being soft on national security, but of the President dallying with defense in pursuit of cosmetic politics. The defense procurement bill was vetoed not because of any large difference on substance, but because it was the first bill to come along after Mr. Rafshoon whispered in the President's ear that he could look "strong" by vetoing something.

[From the National Security, Aug. 19, 1978]

CARTER VETOES ARMS BILL, CITES CARRIER COST

(By Pat Towell)

President Carter: "This is not a question of money [but] of how that money is going to be spent."

In announcing his veto of the $36.9 billion fiscal 1979 weapons procurement bill, President Carter based his decision squarely on the impact of the costly nuclear-powered aircraft carrier added by Congress.

To pay for the $2 billion ship, Congress had cut "into the muscle of our military defense," Carter told a nationally televised press conference Aug. 17. "This is not a question of money. . . . It's a question of how that money is going to be spent."

Carter wanted more of it spent for projects directly related to the U.S. commitment to NATO and for maintaining the combat-readiness of forces already in the field, he said. But many of the congressional changes in the budget to which the president reportedly objected were not contained in the bill (H.R. 10929) he vetoed. H.R. 10929 set appropriations ceilings for weapons procurement, research projects and civil defense—about 35 percent of the annual defense budget.

By noon the day after Carter's announcement, neither the White House nor the Defense Department had a list of the specific congressional actions Carter disagreed with, but various sources indicated that he really had two other bills in mind:

The Senate version of the defense appropriations bill (H.R. 13635). The Defense Subcommittee reportedly had cut $200 million budgeted for Army ammunition, $437 million for operations and maintenance costs and $200 million for A-10 tank-hunting planes.

The final version of the military construction appropriations bill (H.R. 12927), which cut several hundred million dollars requested for NATO-related construction projects in Europe.

According to some sources, the president concluded that he had to show his determination not to fund the carrier so Congress—and especially the Senate Appropriations Committee, which still was marking up the defense bill—would redirect the funds to items on which Carter placed a higher priority.

House Democratic leaders quickly rallied to the president's position, but a lengthy battle is likely. Three times this year the House, which will consider the veto first, has voted in favor of the nuclear carrier by relatively large margins, most recently only 10 days before Carter acted.

On Aug. 7 the House rejected, 156-218, an amendment to the defense appropriations bill by Sidney R. Yates, D-Ill., that would have killed the carrier.

Lobbying Called Ineffective. Yates said administration lobbyists had worked on behalf of his amendment, and an aide to another member who also backed Yates insisted the administration had gone "full bore" on the amendment, at least "the best way they knew how." He added that this had not been done very effectively.

But an aide to another Pentagon critic charged that the administration effort had been feeble by comparison to its efforts in February to kill the B-1 bomber and its campaign early in August to save the foreign aid appropriations bill from crippling cuts. Carter's decision to take on Congress by vetoing the authorization bill, he said, was just "one more ploy in making him a decisive president."

CARRIER POLITICS

Carter complained that another big carrier would continue the trend toward a smaller number of very expensive Navy ships. But Gary Hart, D-Colo., a leading congressional proponent of moving the Navy toward a larger fleet consisting of cheaper ships, warned that a veto would set back that policy.

The final version of the authorization bill incorporated a very tenuous compromise that included the big carrier but also nearly $348 million to accelerate the Navy's development of vertical takeoff jets (V/STOLs) that could operate from ships appreciably smaller than the giant 1,000-foot-long carriers. (*Navy future, Weekly Report p. 1255*)

But several Senate committee votes on the V/STOL portions of the bill had been very close and, according to some sources, Sen. Hart nearly lost on all of them. Inclusion of the big carrier was essential to winning the support of many Senate committee members for the V/STOL acceleration and the concurrence of the House panel, which was even more skeptical of the new approach.

Hart urged the Senate to override the veto, arguing that Carter had ignored the bill's contribution to a new direction for the Navy.

DIFFERENCES BETWEEN VETOED BILL AND BUDGET REQUEST

Programs	Carter request		Final authorization		Highlights
	Number	Amount (in millions)	Number	Amount (in millions)	
Aircraft carrier			1	$1,930.0	Not counted: $1,575,000,000 nonnuclear carrier administration said it would accept.
Carrier planes	53	$1,557.4	81	1,988.8	Faster production rates for F-14, F-18.
V/STOL development:					
Planes		158.0		208.5	Shift to modified Harriers by 1980's instead of new planes. Not counted: bill's cancellation of $113,000,000 of non-V/STOL planes for Marines.
Ships				140.0	

Programs	Carter request		Final authorization		Highlights
	Number	Amount (in millions)	Number	Amount (in millions)	
Trident missile submarine	1	911.9			
Surface effects ship				80.0	
XM-1 tank	110	585.1	110	493.3	Funding readjustments requested by administration and Congress' increase of $27,500,000 to adapt German cannon.
M-60 tank (production)	480	383.8	410	345.0	Shift from purchase to modernization gives 90 more tanks for $4,800,000 less.
M-60 tank (modernization)	220	98.4	380	132.4	
Infantry fighting vehicle				39.0	Shift to begin production of new type of troop carrier.
M-113 troop carrier	910	74.2	550	44.5	
Multiple antitank homing warheads		85.5		50.5	Funds shifted among eight research projects because of fear of duplication.
Medium-range ballistic missile		15.1		22.0	Pershing II missile shifted from Army to Air Force.
Air National Guard planes			24	223.0	Includes attack trainers and Hercules transports.
Strategic warplane research		210.0		140.9	Includes cuts of 50 percent in research on B-1 bomber ($50,500,000) and cruise missile carrier ($20,600,000).
Strategic attack warning		115.3		131.3	Increase of $25,000,000 for satellite protection.

[In millions]

	Increases above Carter's requests	Decreases from Carter's requests	Net change from request
Army:			
Procurement	$97.4	$273.7	−$176.3
Research	54.0	113.7	−59.7
Navy and Marines:			
Procurement	2,941.2	1,122.6	+1,818.6
Research	287.4	279.1	+8.4
Air Force:			
Procurement	253.0	138.2	+114.8
Research	83.9	258.5	−174.6
Defense agencies: Research	47.8	15.0	+32.8
Subtotal, procurement	(3,291.6)	(1,534.5)	(+1,757.1)
Subtotal, research	(473.1)	(666.3)	(−193.1)
Total	3,764.7	2,200.8	+1,564.0

CHANGES MADE BY CONGRESS

ARMY WEAPONS

Although the president maintained that Congress had cut $800 million from the Army weapons budget, the reductions made in the procurement bill totaled only $387.4 million. This was in part offset by additions to the Army budget of $151.4 million.

The cuts included $127.4 million for production overhead costs for the new XM-1 tank contract. But much of this reduction was approved by the administration and did not change the number of tanks authorized.

Other cuts included some management reshuffles prompted by congressional dissatisfaction with the Army's control of various programs. For instance, $15.1 million for programs connected with the Army's 400-mile-range Pershing ballistic missile was cut. Instead, Congress gave the Air Force $20 million to manage the Pershing program. The two Armed Services Committees had been concerned that the long-range missile program was being given too low a priority by the Army and decided that the Air Force was more likely to push it.

Another management-related reduction in Army weapons involved the new A3 model of the current M-60 tank that has more accurate gun-aiming equipment than the earlier M-60 models. Carter had requested $383.3 million to produce 480 new M-60s and $98.4 million to add the new equipment to 220 of the older models already in stock. The Armed Services Committees concluded that by buying fewer new models (410) and modernizing more of the old ones (380), the Army would get 90 more tanks for $4.8 million less.

AIR FORCE WEAPONS

The net reduction made in Air Force programs in the authorization bill was only $59.8 million, a quarter of the $200 million reduction cited by Carter. But that figure was derived from cuts totaling $396.7 million and additions of $336.9 million.

There were no cuts in Air Force planes and cuts of only $36.7 million in three missile programs. But Carter may have been piqued by the addition of $223 million for 16 trainers and 8 transports for the Air National Guard. And $40 million was cut from a program that was central to Defense Secretary Brown's plan to greatly increase the number of reinforcements that could be flown from the United States to Europe in case of a war. Called CRAF, the program called for modifying civilian passenger jets so they could quickly be converted in an emergency to carry military cargo. Of $68.5 million requested, the bill approved only $7.5 million.

READINESS-RELATED PROGRAMS

Carter's reference to a $500 million congressional cut in programs related to combat-readiness is unclear since the types of programs he mentioned—ship overhauls, training and logistical support—are not contained in the bill he vetoed.

Overhauls. Major overhauls of ships, combat vehicles, airplanes and airplane engines do not require congressional authorization, but are an important element of the Operations and Maintenance account of the defense appropriations bill. Even if that was what Carter was referring to, his criticism was not relevant to House action on this year's bill (HR 13635). Of the $1.6 billion requested in the budget for major ship overhauls, the appropriations bill cut only $41 million. The House Appropriations Committee had argued that the shipyards could not absorb all the scheduled jobs. The bill added $182 million to the administrattion's request for Navy and Air Force overhauls of planes and aircraft engines. From the Army request of $975 million for major vehicle overhauls, the appropriations bill cut $8.4 million. (*Weekly Report pp. 2099, 2016*)

TRAINING

Funds for training are not included in the authorization bill, nor are funds for any other personnel costs. But the bill does authorize manpower ceilings, and in that section Congress increased the number of Army and Navy personnel engaged in training by 3,950 above the number requested. The two Armed Services Committees rejected proposed cutbacks in the duration of recruit training for those services.

LOGISTICAL SUPPORT

The President did not explain what he meant by "logistical support," but according to news reports administration officials said he would like to see up to $500 million of the aircraft carrier funds used instead for spare parts for ships and planes. Spare parts for ships are not separately budgeted in the authorization bill, and the total budget request for airplane spares was only $1.8 billion, from which Congress made almost no changes.

NAVY PROGRAMS

In addition to the congressionally imposed $1.93 billion for the nuclear carrier, the authorization bill increased Navy procurement funds by $428.4 million for carrier planes. Much of this increase was to increase the production of F-14 and F-18 fighters. The Armed Services Committees had complained that the slower rate at which the administration planned to buy the aircraft was inefficient and would increase the planes' cost per copy.

Partly offsetting the added cost of the carrier was a cut of $911.9 million for the eighth Trident missile-launching submarine. Both committees and the administration agreed that the construction of the ship could not begin in fiscal 1979 because of production delays at the General Dynamics shipyard where the ships are being built.

CARRIER COSTS

Opponents of the nuclear carrier had argued that the ship would, in effect, cost far more than its already hefty price tag of $2.2 billion (of which $268 million was appropriated in 1977). To derive the full benefits of nuclear power—essentially unlimited range at top speed—such a ship would need three nuclear-powered escorts, according to most Navy testimony. But the Navy already has a shortage of nuclear escort ships for the four nuclear carriers already built or being built, and such escort vessels now cost upwards of $1 billion each.

But pro-carrier members warned against placing too much hope in the savings resulting from the lower cost—$1.585 billion—predicted for the non-nuclear carrier requested by Carter. The smaller ship was only a gleam in an admiral's eye, they said. Design work was far from complete, and the history of recent Navy ship contracts almost invariably included large cost overruns by the time detailed designs finally were completed.

The nuclear ship, on the other hand, would be almost a carbon copy of the existing *Nimitz*-class carriers. The conference committee that wrote the final version of the vetoed bill had turned down a House proposal to modify the ship's design in order to better protect the ammunition magazines partly to reduce the potential for cost increases.

[From the Washington Post, Aug. 25, 1978]

CARTER'S VETO POLITICS

(By Rowland Evans and Robert Novak)

There is substantial evidence that in his daring veto of the defense bill, President

Carter was guided chiefly by a desire to reestablish his presidential authority rather than by fervent opposition to a costly, fifth nuclear aircraft carrier.

"The president was looking for a peg to hang his veto on," one usually pro-Carter Democrat on the House Armed Services committee told us. "The carrier was his best bet."

But asserting presidential mastery and muscling Congress to sustain his veto after Labor Day, Carter is following public-relations adviser Gerald Rafshoon's get-tough formula. But in getting tough, he has risked losing major defense items obtained as trade-offs for the carrier in the intricate congressional log-rolling process.

None of the president's military advisers, uniformed or civilian, recommended the veto. There was mirthless laughter in the Pentagon when Carter told his press conference that he had "not had a single adviser who told me that we ought to go ahead with the nuclear aircraft carrier."

By law, the president's "principal naval adviser" is the chief of naval operations. Both the present chief, Adm. Thomas B. Hayward, and Adm. James L. Holloway III, who was replaced by Hayward July 1, have been strong proponents of the nuclear carrier.

Apart from the president himself, the moving force behind the veto was White House political adviser Hamilton Jordan, along with Rafshoon—not Secretary of Defense Harold Brown.

That came out in Brown's private talks with congressional military specialists, sounding out sentiment before the veto. The defense secretary made clear he had not proposed such drastic action, but that Carter seemed determined on it.

Talking to one friendly congressman, Brown showed this was politics, not defense. He speculated whether the best way to defend the veto would be opposition to the nuclear carrier or opposition to cuts in research and development and in readiness funds. As it turned out, Carter used both arguments, emphasizing the carrier.

Politics showed itself when one congressman warned Rafshoon the veto might make the president look anti-defense. Rafshoon's answer revealed how clearly the political tactics had been developed: Don't worry; the president can deal with that in the veto message. Deal with it he did by calling Congress anti-defense.

Ignored by Rafshoon and Jordan was the effect of the veto on the delicate log-rolling needed to produce a defense bill. Although the veto probably will be sustained, writing a new defense bill will be no easy task.

A case in point is liberal Democratic Sen. Gary Hart of Colorado, an Armed Services Committee member highly skeptical of big nuclear carriers. Hart agreed in a trade-off with conservative Republican Sen. Jesse Helms of North Carolina to support the nuclear carriers in return for Helms' backing of a new generation of small carriers favored by Hart.

One day after the veto, Hart wrote all senators urging an override of the veto with this argument: "The Congress produced a carefully crafted, logical and progressive conceptual approach to the question of the future of the carrier. The veto destroys this achievement and puts us back on the treadmill of the carrier question—with no solution in sight."

Routine trade-offs, spun into a seamless web, are at the heart of the congressional defense-budget process. That explains why vetoing a major defense bill is so rare that it has not been tried in this century. In his dramatic effort to show himself a commander-in-chief who truly commands, the president ignored that record for the gamble of large political gain.

For now, however, the president is less concerned with putting the defense bill back together than with mobilizing public opinion behind his argument that he, not Congress, is the staunch fighter for national defense. That was the message Aug. 23 when 200 prominent businessmen were summoned to the White House for enlistment in the anti-carrier crusade led by Vice President Walter Mondale.

Results were mixed. One executive was puzzled that the White House expected him to accept Mondale's word on faith against that of Sen. John Stennis (D-Miss.), veteran chairman of the Senate Armed Services committee. "They're crazy if they think I'm going to tell Sen. Stennis he's wrong," the executive told us.

No such national campaign was started against the carrier until *after* the defense bill was sent to the Oval Office. That only reinforces suspicions about the president's veto motives.

[From the Dallas Morning News, Aug. 23, 1978]

NO TIME FOR IMAGERY

(By Joe Dealey, Jr.)

If President Carter's veto last week of that $37 billion military weapons authorization bill was an attempt to enhance his public image by standing firm against a free-spending Congress, Gerald Rafshoon's tenure at the White House may rival that of Bert Lance's for brevity.

Carter invoked the presidential veto for the fifth time since taking office 20 months ago, ostensibly because the military weapons authorization bill included $2 billion for construction of a nuclear-powered aircraft carrier.

Sorry, Mr. President. That excuse, if you'll pardon the expression, won't float.

In the first place, the Navy didn't request funding for the additional aircraft carrier. The aircraft carrier was added by the appropriations committee for inclusion in the fiscal 1979 budget, a full year before the Navy was expected to seek such funds.

Carter's veto of the military weapons authorization bill was another ill-timed slap at the Congress. Regrettably, in this instance, the White House blow has fallen on a Navy Department that has image problems of its own.

Last week's presidential veto, which all but laid the blame for the military weapons authorization bill's failure to get a presidential signature on an aircraft carrier, was patently unfair to the Navy.

Last week, one unidentified Department of Defense official described the aircraft carrier as a "glamour" item included in the military weapons authorization bill at the expense of U.S. military readiness.

Chances are the official was a booster for the North Atlantic Treaty Organization, which accounts for his attitude. Had he been in the Navy, he would know just how vital the aircraft carrier is to the Navy.

The NATO ministers, who met in Washington earlier this year, were assured of continued U.S. support, both economically and militarily. Chances are that the bulk of the funds pared from the military weapons authorization bill were to have gone to North Atlantic alliance members.

Instead, the appropriations committee cut these items out, substituted an aircraft carrier the Navy itself didn't want, at least not yet, sent it to Congress for approval, which may, in part, account for NATO's supreme commander's, Gen. Alexander Haig, reluctance to discuss the President's veto.

"This is not a question of money," Carter told reporters at his press conference.

"The Congress reduced only slightly the amount of money I recommended. It's a question of how that money is going to be spent."

Agreed, Mr. President. The problem was that the aircraft carrier represented money destined for NATO, money Congress wanted to enhance U.S. military readiness.

By vetoing a military weapons authorization bill many members of Congress felt reflected the mood of the nation toward military spending—or lack thereof—the President hasn't exactly enhanced his public or congressional image.

Furthermore, by laying the bill's failure at the Navy's doorstep, Carter has served only to further undermine the entire military establishment's attitude toward him as commander in chief.

The Navy, in this instance, will shoulder the blame for the failing of this military weapons authorization bill, but what of the other uniformed services that must go without much-needed funding because the President chose this particular time, indeed this altogether critical military weapons authorization bill, to show how tough he was in the face of a free-spending Democratic Congress?

Secretary of the Navy Graham Claytor, a former Navy veteran like the President, is understandably concerned about the Navy's future role in the event of Soviet intervention on the high seas.

Like the President, Claytor doesn't believe another nuclear-powered aircraft carrier is needed. What is needed, according to Claytor, is for the Navy "to start building another carrier of some kind in the near future."

Critics charge that aircraft carriers are vulnerable. Certainly they are, but only as vulnerable as other surface-going vessels.

To be sure, aircraft carriers are a more desirable military target than, say, a guided missile cruiser, but an aircraft carrier carries a substantial part of its defenses along with it in the form of its aircraft.

Adding to the carrier's survivability are the incorporation of extensive damage control features, hardening if you will, in addition to electronic countermeasure technology to guard and defend against surface-to-surface attack.

In time, the Navy will be presenting a request to Congress to fund aircraft-carrying surface vessels. It's hoped that last week's presidential veto didn't scuttle the Navy's chances for getting an admittedly "glamorous" piece of equipment, but one that is sorely needed if the Navy is to remain militarily viable.●

A TRIBUTE TO G. JOSEPH MINETTI

● Mr. CANNON. Mr. President, I rise to pay tribute to G. Joseph Minetti who will retire next week as a member of the Civil Aeronautics Board. I want to emphasize that this is not a pro forma tribute. It is based upon my deep personal respect for an exceptionally dedicated and talented public servant.

When Joe Minetti retires, he will have been a Federal regulatory commissioner continuously for a total of 24 years and 3 days. This is longer, I believe, than any other commissioner before him. It is, however, not an endurance record which motivates this tribute, but a history of the highest quality public service. The "new" mood in Government for less regulation and more competition in regulated industries is old hat to Joe Minetti. For years he was the lone voice of dissent against the restrictive policies of an entrenched protective CAB. I am very disappointed that he will not be able to remain on the Board to participate in the development of a truly competitive air transportation system which he has advocated for so long.

Joe Minetti's aviation experience extends back over 30 years. In 1947, he was appointed a Commissioner of the Department of Marine and Aviation for the city of New York. From there he moved on to become the Commissioner of the Board of Transportation of New York City. Then in 1954, President Eisenhower nominated him to become a member of the Federal Maritime Board; 2 years later he was nominated to the Civil Aeronautics Board. It should go without saying that each time he was unanimously confirmed by the Senate. Joe won the firm support of each President under whom he served. In 1962, he was renominated by President Kennedy. In 1967, President Johnson renominated him. And once again in 1973, he was appointed for another term by President Nixon.

As if it were not enough that Joe Minetti has such a long and distinguished record, he is also one of the kindest and most dignified individuals I have ever known either inside or outside of the Government.●

U.S. GRAIN EXPORTS AND THE SOVIET UNION

● Mr. DOLE. Mr. President, U.S. estimates of the Soviet 1978 grain crop continue to increase indicating the Russians may import less U.S. grain next year. This situation again raises the issue of the importance of the exports to U.S. farmers.

The Agriculture Department this month raised its estimate of the Russian grain crop to 220 million metric tons and said the figure could even surpass the record 224 million metric tons produced in 1976.

A big Soviet harvest raises the possibility the Russians will buy considerably less United States grain in the 12 months starting October 1 than the 15 million metric tons they are expected to buy in the current year. Before the latest crop estimate, some analysts had been forecasting the Soviets would take 8 to 10 million metric tons of U.S. grain in the next year.

Other analysts say any reduction from this figure would be moderate, despite an abundant Soviet crop, because Russian grain stocks are low and some of this year's harvest would be used to replenish them.

CURRENT 5-YEAR AGREEMENT

A current 5-year agreement requires the Soviet Union to purchase 6 to 8 million metric tons of grain annually from the United States.

Under the agreement, the Russians so far this year have bought about 14 million metric tons of wheat and feed grains, valued at more than $1 billion. Most of the wheat sold to the Russians during the current 1977–78 crop year has been delivered, but a significant portion of the feed grains sold have not been shipped.

AGRICULTURAL EXPORTS

Our agricultural exports of $24 billion in 1977 generated net earnings to the United States of almost $10.5 billion last year. This year, farm exports will contribute an estimated $12 billion to our balance of payments deficit. That record is unmatched in any other segment of our economy.

Agricultural exports are very valuable to the farmers of this Nation. Our farmers depend on exports to keep production high in the United States and also to keep market prices strong. Any reductions in the export market would mean a severe loss of farm income to U.S. farmers.

Everyone recognizes the importance of grain sales both to the U.S.S.R. and to our own economy and that we should continue to encourage the Soviets to satisfy their import needs with U.S. gains, soybeans and other agricultural products.

American grain exports to Russia bring us into close contact with the Russian grain harvest, the Russian economy and to some extent the Russian people. Many Americans have been upset over recent developments in the Soviet Union which they feel were violations of human rights and the Helsinki agreement.

POLITICAL TRIALS

President Carter, in reprisal for the political trials in the Soviet Union, has decided to impose new controls on sales of American technology to Russia and to cancel the sale of a Sperry UNIVAC computer system to Tass, the Soviet news agency.

Some Members of Congress, myself included, have called for stronger measures. Some have suggested cancellation of the sale of a modern plant for producing oil well drilling bits.

Also, some officials say they had reports that Zbigniew Brzezinski, President Carter's national security adviser, was backing a proposal to use the administration's heaviest economic leverage against the Soviets—the 1975 grain agreement.

There are voices being heard on both sides of the issue as to whether food should be used as a weapon to express our displeasure over human rights violations and as a weapon to help force some compliance.

GRAIN EXPORTS

Certainly the President must look at all the "options" including grain sales, but I do not believe grain exports to the Soviet Union should be embargoed unless there is an international situation severe enough to warrant a total embargo of all exports to and imports from the Soviet Union.

Only if all exports and imports of all economic goods, cultural and scientific exchanges, and any other transfer of goods or special knowledge between the two countries would be embargoed should grain and other agricultural products be included.

FARMERS WILL SHARE SACRIFICES

Farmers across this country have always been willing to bear their fair share of any personal or economic sacrifices needed for necessary national strategies. They will always be willing to do so in the future.

Unfortunately, farmers have been singled out in the past to bear the burden of international policies while other American producers have not. A policy of this type is not fair or equitable. I shall continue to oppose such selective embargoes that hurt farmers and that use food as the only weapon in international strategies.

It is my view that there are other more effective ways that the United States can tell the Soviets that we deplore the continued mistreatment of Soviet citizens than by cutting or suspending grain exports through an embargo. Surely, the SALT talks and scientific exchanges are things the Soviets value highly. I have supported temporary "suspensions" in these areas.

GRAIN EXPORT EMBARGO NOT EFFECTIVE

A grain export embargo by itself would not be effective. The most immediate beneficiaries of a restriction on U.S. grain sales would be Australia, Canada, and other large grain-producing countries who would increase their sale of grain to Russia.

The world grain market seems to be peculiarly unsuited to embargoes because less than one-eighth of the grain produced in the world is traded internationally as compared with more than half of all the oil produced. Grain-producing countries have not established a cartel similar to the major oil-exporting countries.

Mr. President, in conclusion, I do not believe grain exports to the Soviet Union should be embargoed unless there is an international situation severe enough to warrant a total embargo of all exports to and of all imports from the Soviet Union. I shall continue to oppose any selective embargo that uses food as the only weapon in international strategies.●

A NEW LOOK IN AGING

● Mr. CHURCH. Mr. President, at hearings by the Senate Committee on Aging this summer dealing with "Retirement Work, and Lifelong Learning," several expert witnesses challenged wastefulness of the talents and experience of older Americans.

It is not only a matter of mandatory retirement, an institution now undergoing exhaustive scrutiny and probably on the verge of total abolition.

It is also a matter of attitudes toward aging during the work career. What do industry and business and the service sector do to keep job skills from becoming obsolete? How flexible are personnel managers in providing new work opportunities as employee interests or work capabilities change? And how do we measure such capabilities at all, in the face of widespread negative attitudes toward aging?

Such questions will receive careful attention in continuing committee studies and hearings on retirement, employment, and lifelong education. We will also heed the writings of authors such as Dr. Harvey Wheeler, chairman of the Institute for Higher Studies in Santa Barbara, who in the current issue of the American Association of Retired Persons' Modern Maturity, discusses changes which are on the way along with the virtual end of mandatory retirement in this country.

I ask to have this article printed in the RECORD.

The article follows:

AGING—THE NEW LOOK: THE VIRTUAL END OF MANDATORY RETIREMENT PRESAGES RADICAL CHANGES IN AMERICA'S OLDER POPULATION

(By Harvey Wheeler)

Few things are changing as fast today as the look of aging in the United States.

New legal prohibitions against forced retirement at 65—or at any age in some cases—are opening up new floodgates of change.

But while we see what's happening, we can't predict the outcome. America's older population has become democratized by its sheer numbers. I call it "the rise of elderhood."

That democratization is the secret of much that is new and unpredictable about today's society. One reason it is unpredictable is that we don't know enough about elderhood. Most of the conventional maxims about the elderly have been created by people who were younger; society could ignore what it's really like to be old so long as elders were politically unimportant.

Old people are—or have been—invisible. That has made it easy to fasten onto them the stereotypes of decrepitude devised by others. And that is why any rigid policy of forced retirement at a fixed age rankles.

Large employers don't like flexible retirement policies because they require discrimination according to merit and productivity. That means trasting individuals on their own merits, which is what elders now demand. Such treatment is not as hard as employers claim.

For years, employers have been able to hire people over 65 on an annual contractual basis, and they have done so on selected bases. But under the umbrella of forced retirement, such discriminations permit deals highly advantageous to the corporation.

The corporate whiplash engenders poignant complaints about "being thrown on the bone pile." Suddenly, one is no longer an individual, but only an invisible member of an outcast class of elders.

What about some of the other stereotypes?

Younger people commonly think elders dwell heavily on the subject of death. Elders do think about death; everybody does. But it is different.

An elder calculates, idly, his remaining actuarial allotment, but there is also optimistic awareness of the staying power of people like Pablo Casals, Bertrand Russell and Picasso; everyone expects to receive similar exceptional increments. A person of 60 knows that insurance companies will gamble on only another 16 years but the consolation is that it could be another 30.

We all maintain a certain psychic continuity throughout our lives and inside each one of us there dwells much the same person that has been there since youth.

Psychologically, elders do not see themselves as aged so long as they are vigorous. They identify with people of similar vigor, not with people of a similar chronological age.

My good and indefatigable friend Ernest Bader at 85 picked me up at London's Heathrow Airport, carried my two heavy bags to his Rover, and then proceeded to exhaust me with a breakfast-to-midnight schedule for the next three days.

To elders, very few people die of "old age," but of something specific like cancer, or pneumonia, or an automobile accident, or a stroke. These accidents or diseases might conceivably have been prevented or cured. They could have happened to a person of any age.

We all suffer from progeria—too rapid aging—and the disease is progressive. But death is never really imminent or inevitable in a sense that is special to elders. It always was inevitable since one first became aware of it; it is merely a little more inevitable. So a sense of impending death is not something that haunts elders as a class.

Emotionally, we are all in the same boat and always have been.

The terrified whimper that his father's death evoked from Dylan Thomas—"Go not willingly, but kicking and screaming"—is a young man's protest. The elderly are more in tune with the great Spanish philosopher Miguel de Unamuno: Death is an absurdity, an insult, a kind of biological mistake which, although for the time being is an unavoidable fate, should never be considered a just one.

All this needs to be brought into the open now because, barring the accidents that can happen at any age, most people expect to become elderly one day and already, from sheer political clout, elders must be taken into consideration.

One of the things they plead—demand may be too strong as yet—is to be considered as persons.

One reason this plea now carries considerable force is that for the first time we are on the verge of being able to make such judgments through advances in social gerontology. That is why Robert Butler, director of the National Institute of Aging, favors a flexible retirement policy. And to administer it, he promises Congress that his institute will shortly have a battery of tests to make it possible for employers to abandon chronological age as a determinant of retirement policy.

Once these more accurate measures of health, well-being, and competency are available, policies based on chronological age alone might even be violations of the equal protection clause of the United States Constitution.

Alex Comfort, one of the world's leading gerontologists, writes that old age is a "trip" society lays on the old, telling them that at a given point, 65, widowhood, or some other arbitrary point, they are henceforth to become drab, spiritless, weak, sexless, hopeless, senile, childlike, dependent, useless, incompetent, and on and on, even though the day before they may have held the highest power and esteem among their peers.

This condition has never been the lot of the elderly rich. They have always had the option of retirement at birth, like Doris Duke, or lifelong functioning, like Nelson Rockefeller.

The democratization of longevity has outmoded the stages of adulthood with which all previous people have lived and this is the bedrock foundation on which future policies involving elderhood will have to rest.

The central issue can be stated briefly: The three stages of adulthood—socialization/training, work/parenting and retirement/leisure—no longer follow precise chronological age. Within Shakespeare's seven stages of man, episodic life-stages are appearing. Education, leisure, family-building and socialization are now occurring in repetitive sequences throughout adult life. Individuals may have several careers, several matriculations, more than one family, several sabbaticals and even several status situations, as their chronological time clocks run their courses.

Our policies relating to schools, the family, Social Security and mental health all require adjustment so as to jibe with the needs of our new, rotating life-stages that are beginning to acquire special new rites of passage of their own.

Retirement is merely one of the first of these traditional rites to undergo legislative revision.

Such stage adjustment problems will have to be worked out over a period of years and with flexible approaches. In general, careers should follow each other on the principle of progressing from routine to prudence. Lifelong education should coincide roughly with this progression: the early mastery of tool competencies, whether the tools are intellectual or craft, and provision after that for career interruptions to furnish advanced education. Each additional schooling component would be designed to match accumulating experience, growing competency and maturing wisdom, with provision for preparation to adopt alternative careers at each stage.

In general, every maturing person should be able to look forward to an ultimate role that utilizes the enlarged prudential capacities of elders. From the start, all educational stages should be thought of as stage-specific preparations for this ultimate goal; not merely as training for an immediate job.

It is often said that as people get older they fall into ruts. This may be merely another way of saying that they become experts. It can also be another way of saying that everybody requires periodic refresher courses, just as do physicians and accountants.

The positive side of this is that as people age they usually acquire a greater capacity for taking into account the likely long run implications and unanticipated side effects of contemplated tasks. This talent is really what we mean when we talk of the wisdom of elders.

Like all behavioral traits, this one too is learned by experience, but the optimum way to insure getting it is by supplementing the natural benefits of experience with a complementary educational program.

Our nation is now at the beginning of a period in which all age-related problems will become aggravated by the mere fact that the post-World War I baby boom is just now entering elderhood. After it dies out, these problems may mitigate until about 2010, when the even larger post-World War II baby boom will enter elderhood.

We must solve our present problems, not only for their own sake, but also in preparation for the more serious ones that are on their way. Of course, the situation may *not* lessen between now and 2010: If the cardiac-cancer-renal killers were to be eliminated, it is estimated that by 2000 the gross number of elders might be as much as 75 percent more than we have today. What are some of the potential developments?

The first concern: ageism as a form of class consciousness.

Class consciousness is in part a function of quantity plus density. Social gerontologists have been expecting elders to exhibit signs of class consciousness for several years. That time may be now. Age-oriented associations are growing rapidly.

As the average educational level of elders rises during the next few years, they will become not only more active politically, but also more liberal ideologically. This trend has aready started.

The polls of the 1960s and 1970s provided the basis for generalizations that are now being abandoned. We now discard theories that elders, by their nature, "disengage" from society and life, and grow more conservative with age. That may have been true of our bygone elders, but it is not true of people now becoming elders.

Specialists mistakenly assumed that the elders of all times would be like those who had matured during the 1920s. More recent value-free tests have shown all this to be false.

The aging process does not produce political conservatism; it merely tends to confirm what was believed all along. People who have always been conservative continue that way, and so do those who have always been liberal.

Elders can *appear* to become more and more conservative with age if the society itself is becoming more and more liberal, as has been the case until recent times. However, if our society as a whole should continue along a conservative trajectory for some years more, those now advancing toward elderhood would naturally turn out to occupy roles in the vanguard of liberalism. Critics would doubtless call them "dated" but, in a society with nearly one-third of the voters over 65, who is dated and who isn't can be resolved by ballot rather than epithet.

The class dynamics of elderhood is another matter of great moment. The sociologist Irving Horowitz argued in the 1960s that youth then constituted a social class. Something similar may characterize the elders of the 1980s. Economically, elders tend to occupy a lower-middle-class status.

According to Dr. Butler of NIA, half of the families headed by an older person have incomes of little more than $8,000 per year, compared with over $15,000 for younger family heads. The median income of older persons living alone is about $3,500, compared with $6,500 for younger unrelated individuals. One-sixth of all elders live in households with incomes below the official poverty threshold.

Attitudes do not always correlate with incomes; England has its well-known class of Tory paupers. No social theorist has ever been able to figure out what it is that at special times in history ignites that spark of class consciousness that mobilizes a defined social stratum into a militant political force.

However, since the mid-16th century, the lower middle classes have been at the forefront of radical movements of both left and right. The social scientist Hans Speier concluded that after a drastic collapse, they tended to become reactionary, as in Nazi Germany. But his studies of other periods indicated that a lower middle class that had experienced a lifetime of gradual improvement, followed by a period of gradual decline, would tend to favor left-looking reformist policies.

At the present time, it is precisely the latter condition that characterizes elders as a class. If Speier is right, our rising elders will have some political surprises in store for America.

Consider the fact that technological obsolescence has an especially cruel impact on elders. The constant improvement of old technologies and the substitution of increasingly sophisticated computer-assisted machines (both office and factory) for more primitive equipment diminishes the value of all workers, but that of older workers most acutely. Seniority is of little help; old jobs are simply phased out.

This is a form of inflation that depreciates skills the way monetary inflation depreciates annuities. Ravaged by these dual inflationary forces, elders have nowhere else to turn but politics.

Very few of the foregoing issues have arisen because of today's economic problems. The plight of elders has been described in other terms in part to counter a common assumption: that age-related politics has surged into prominence because economic difficulties bear down heavily on the elderly.

It's true; they do. But as we have seen, inflation and the nation's business slowdown are by no means solely responsible for the rise of the elders. Those conditions merely amplify the force of a large number of recent age-related developments. Before the century is out, they will alter irrevocably the shape of our society.●

THE FEDERAL PRISON SYSTEM

● Mr. HOLLINGS. Mr. President, the Appropriations Subcommittee on the Departments of State, Justice, Commerce, the Judiciary and related agencies has focused considerable attention on the Federal prison system. Over the last 2 years we have authorized additional capacity of 4,566 because of the 25-percent overcrowding that exists in the Federal correctional facilities. We have also turned down requests for new close security facilities that recent information indicates are not needed, in favor of additional minimum security facilities and camps.

This year we provided for two new minimum security facilities at former military installations in Texas and California. Thus, for basically the cost of a fence, we will put in place beds for 750 prisoners and avoid the land acquisition and construction costs of establishing new facilities. Just as importantly we have eased the impact on the communities faced with closure of military installations.

This year's budget also marks a significant departure in the number of prisoners serving their time in community treatment centers, that are commonly called "halfway houses." Two years ago the appropriation only provided for a daily average of 2,182 persons serving their time in the community; in fiscal 1979 we are budgeting for an average of 3,156. This is a 45-percent increase.

We are justifiably proud of these efforts to improve the welfare and program of the Federal prisoners. However, these advances have encountered unexplainable criticism from various groups who apparently believe that we should set the prisoners free. By some strange and convoluted reasoning these groups argue that stopping construction and overpopulating the present facilities even further, the judges will stop sending people to prisons. That is ridiculous.

While we support the alternatives to incarceration for those whose crimes and rehabilitation warrant less than a prison sentence, we certainly are mindful of the continuing need to imprison the terrorists, drug traffickers, murderers, rapists, and other perpetrators of violent crimes. As long as I have a say in these matters there will be a more balanced view than any head-in-the-sand ideas.

Mr. President, unfortunately, most of the mail has been from the antiprison crowd. Thus it was refreshing to receive a letter from Joseph S. Bair who is presently an inmate at the Chillicothe, Ohio, correctional institution. This is a State institution so Mr. Bair has no personal advantage in writing of his admiration of Norman Carlson, the director, and the program of the Bureau of Prisons. I fully share Mr. Bair's appreciation of the outstanding service of Mr. Carlson and his associates and ask that Mr. Bair's letter be printed in the RECORD so that my colleagues and other interested persons can also have the benefit of his inside views.

The letter follows:

CHILLICOTHE CORRECTIONAL INSTITUTE,
Chillicothe, Ohio, August 8, 1978.

Hon. ERNEST F. HOLLINGS,
U.S. Senator, Senate Office Building, Washington, D.C.

DEAR SENATOR HOLLINGS: This letter, I surmise, will almost certainly end up being quite unlike the overwhelming majority of those received by you, simply because it seeks no favor of any sort, neither does it set forth some complaint, grievance or grudge, real or imaginary.

Additionally, I feel equally certain that it will be among the relative few written to express sincere, very real thanks and enthusiastic support for the careful consideration you have given in a most difficult matter, as well as the determinations that you have made as to your stance regarding that matter.

My appreciative approval is in regard to your consideration of the needs of and proposals advanced of late by the Honorable Norman A. Carlson, Director of the United States Bureau of Prisons; and, your courageous support of the Director in all.

On the one hand it is crystal clear that you and others in the Congress have been subjected to considerable pressure, coming as it does from people of a variety of persuasions and for various reasons, to deny the Bureau necessary funds with which to operate, to build, to staff and to renovate the federal penal system which, like those of numerous states, has been plagued by a seemingly endless series of problems, judicial and otherwise. This pressure comes from very small organizations but ones that are extremely active, adamant, persistent and ultradetermined.

On the other hand, it is clear no less that Director Carlson has very real needs and that they are as persistent as they are valid; and, if the United States Bureau of Prisons is to continue to operate and continue to deal with the ever-changing, ever-mounting problems that arise, he must have that sort of help that only the Congress can provide.

I am very visibly impressed by the goals, objectives and determinations of this very competent, very dedicated, very sincere and totally concerned man. I have no doubt whatsoever that my view is shared by many in the nation's capitol; but, venture to say that this is relatively very rare, coming as it does from a man who is himself confined to prison!

I am now and long have been confined to serve consecutively-imposed federal and Ohio terms for interstate transportation of stolen property and felony-fraud respectively, having served the firstly-imposed sentence in Leavenworth Penitentiary and thereupon, was remitted directly here to undertake the consecutively-imposed state sentence. I have been under felony sentence, initially in the 30-year-old maximum security federal prison and thereupon in this, a 40-year-old medium-security state prison for well over seven calendar years to date. Of late, I have been accorded parole. Thus, and for the further reason that I am not in federal custody at all, it cannot be said that my support of Mr. Carlson is motivated by any attempt to curry favor with him or the Bureau.

In the time of my confinement, consisting as it does of well over 2,500 long days and over 60,000 long hours of penal servitude, I have had ample opportunity to view prisons, prisoners, prison-keepers. And, I have had considerable exposure in a variety of ways, to both those inside of prison and without who are involved with the so-called "prison-reform" movement and who purport to be concerned over what they delineate as "prisoners' rights".

In recent years, and for a variety of reasons, a clearly erroneous picture of the penal scenario has developed, grounded in equal parts upon myth, superstitution, emotion, rhetoric and frankly, bald-faced lies and self-serving statements purported to be facts but which in reality are no such thing.

Penal authorities have been attacked, vilified, cursed, pictured as incompetents, sadists and worse. The endlessly vicious attacks come from a minute handful of prisoners; and, from an equally tiny handful of free people. Some are cranks; others are violence-inclined radicals, revolutionaries, anarchists; others are simply grossly naive do-gooders who seemingly have a huge affinity for obscure minorities and somewhat masochistically view prisoners as some sort of victims or sort of overgrown wayward youths.

I have, during the time of my confinement, paid exceedingly close attention to the so-called "prisoners' rights" movement which includes a variety of people with an even wider variety of backgrounds and an admixture of organizations—some religious, others pseudo-religious, some centered upon mental health, and so forth. Many of these are officed, understandably, in Washington, D.C. and/or New York City; and, some have branch offices or sub-divisions of the parent organizations in the major states.

While at first blush these organizations seem concerned as to reform and betterment of penal conditions, in the final analysis they are absolutely no such a thing. I think primarily and at this moment of a decidedly peculiar group, the National Moratorium on Prison Construction with sort of vague Unitarian Church affiliation; and, the National Prison Project which is an adjunct of the American Civil Liberties Union. Both are found in Washington and both are ever-eager to leap into penal problems (and, if none are at hand, they are shown, on the record, to be more than happy to create some, much to the chagrin of penal authorities, prisoners themselves, and others, too).

The total lack of moral virtue and honesty clearly visible in these groups (and others, too, including those found in Ohio, Illinois, California, New York and elsewhere) is made unequivocally clear to all save the most myopic of persons. While they are busily complained about allegedly "unconstitutional" in-prison conditions (to them, the slightest defect is per se unconstitutional) and chief among those conditions endlessly railed against being overcrowdedness, at the self-same time they are very aggressively opposing construction of necessary new institutions, the revamping, remodelling and improvement of existing ones, and so forth. In the final analysis, it is obvious even to the average prisoner, that these organizations firstly do not represent the true and best interests of prisoners any more than they do those of prison-keepers or the general public. Secondly, knowing prisoners are very well aware that the stated goals and objectives of these groups are on one hand 100% unrealistic; while on the other hand, these groups and individuals frequently propose, affirmatively or negatively as case may be, things that even hardened felons regard as absurd, outrageous, dangerous and view with grave apprehension.

But last month, the National Moratorium on Prison Construction stated with typical (and, I respectfully submit, shocking and frightening) ignorance that in their view, no more than 3,000–6,000 of the 280,000-odd confined felony prisoners in America need be confined; that the remaining 97½–98½ percent can safely be released and should in fact be released one way or another! No factual basis for this is asserted; no reasons whatsoever accompany this statement, nor was there any cognizance whatsoever of the simple fact that be all that as it may, penal authorities state or federal have no power whatsoever to release any of these prisoners themselves, for such may be done only by sentencing judges or parole agencies! Accompanying this is the equally ridiculous statement to the effect that those in prison are "political prisoners" and are there because they are (a) poor; (b) minority members and/or (c) at odds with some unspecified part of the government, federal or state, executive, administrative, judicial, legislative, etc.

The patent absurdity of statements thusly (and thinking back of it) is exceeded only by the huge and terrible danger were such to have occur, and such statements reflect mental (and moral) myopia possessed by those who make them.

These groups are rallying support for what has become the strange focal point of their decidedly sick thinking. Opposing by every means conceivable any and all construction of new prisons, improvements and enlargements of existing ones, they have mounted a campaign in regard to the proposed Federal prison at Lake Placid, New York.

There, the careful, forward-looking and budget-minded Director has determined to take the excellent advantage of construction of a Winter Olympic headquarters which, for a minimal amount of money can be converted into a new, modern, excellently equipped and staffed penal institution of an ideal size. Further, the location of it means that it will be relatively close to an area which presently has no federal facility of any sort. Finally, it is located in an area which, while less than impoverished, is devoid of industry, short on employment and one that will itself benefit a hundred times more than it can conceivably suffer from location of a permanent penal facility there.

Literally every single, solitary prisoner among the 1,700 here and the 2,000-odd at Leavenworth that I have come in contact with; literally every single one of those that I correspond with, in New York, California, Illinois, Florida and in between regards the Director's plans thusly as innately wise, considerate, humane and knowing. Penal employees high and low regard this as a true stroke of genius and more. No single, solitary critical word have I read or heard from any prisoner or penal employee; and in truth, many is the envious remarks or written word that has come my way from inmates and employees who would be privileged in the first instance to be confined there; and in the second, to be employed there.

Despite a stated concern for rehabilitation, improved prison conditions and so forth, it is clear to those within prison (and hopefully, to those without as well) that such groups as the National Moratorium on Prison Construction, the National Prison Project, the National Lawyers Guild, various pseudo- or quasi-religious organizations with similar interests, are totally disinterested in true reform, meaningful rehabilitation, and primary concern with the public good.

To like effect, it is equally clear to those confined that those who are most concerned and most capable, too, are those whose profession penology is. Despite penal problems existing in various jurisdictions, prisoners themselves unhesitatingly join hands with concerned and responsible members of the three branches of Government and private citizens, too, who know the true facts of life and do not hesitate to state them, and together both approve and applaud such very keen, capable and concerned professionals in the penal field as Mr. Carlson in the Federal bailiwick, Ohio's own Rehabilitation & Correction Director, Honorable George F. Denton and others elsewhere who are well educated, formidably experienced, and who possess and endlessly show a superb sense of balance in relating to and dealing with prison-type problems.

I most respectfully submit to you, and only wish I could somehow make my thoughts (which I hasten to assure you, leastwise in this respect) are those of nearly all confined to prison) fully known to those in both houses of the United States Congress and those in the states' legislature in relation to the matters above. At the same time, I would implore those who may be inclined to think of these organizations as being ones that enjoy the approval and cooperation of those confined to prison to stop, think and thereupon realize that these are not appointed or endorsed spokesmen of those behind prison's proverbial bars, nor are their views, more times than not grounded upon and engrafted to alien and disturbing radical, semi-anarchistic, Marcusian, totalitarian views and philosophies, the views of those who they wrongly purport to represent and "protect".

In relatively short order I go forth from prison. This fact, plus the additional fact that I am not at all in Bureau of Prisons custody since remission from federal prison to here, a state prison, make clear that I have no interest whatsoever in speaking as I do. I have had the honor to speak, in the time of my confinement with numerous federal and state legislators, various executive and administrative officials, penologists, journalists; and, I have authored various articles myself and in collusion with other prisoners. I have had no qualms about stating truth and fact; and, most clearly, have suffered no consequence large or small for doing so. I only wish that at the time when problems, monetary and otherwise, commenced to develop in regard to the Bureau of Prisons, that I might have had the honor to speak a few words, lowly soul that I am, in support of the Bureau and its wise and knowing Director, Mr. Carlson and thereby, to make an unashamed showing of support by the very people who are affected by these matters.

I can but hope that you will feel free to utilize this humble letter in any and every manner conceivable in support of the Federal penal service, which is most clearly in excellent and capable hands, headed as it is by Mr. Carlson. In going forth from prison, I freely offer myself as a living witness, willing and able at any time to speak to such matters as these, and speak to them on the basis of that which the organizations above do not have at all: Several years of in-prison experience and endless observation.

Those in the various branches of government, those in the news media, too, have been shown a penal picture by a minute handful of ex-convicts and a variety of high-pressure "rights" organizations that is either totally false or monstrously distorted. From within prison I have attempted, in speaking with and corresponding with the high and the mighty; the meek and the low, to correct the numerous falsehoods, the gross distortions and to place in proper perspective the hugely exaggerated and magnified complaints of the insatiable few.

There are today confined to prison, federal and state, 280,000-odd out of perhaps 220,000,000 people; and here in Ohio, but 13,000 of the 12,000,000 of this state's citizenry are confined felony prisoners. This minute minority consisting as it does of a small fraction of one percent of the populace, like many another minority, has no faith in, puts no trust in, and possesses no enthusiasm for the self-anointed "prisoners' rights" advocates who have commenced to tell us what our rights are, how we are purportedly being wronged and that these groups and individuals know what is necessary and best for us. There is a near-total lack of support for these organizations and individuals among the very people that they loudly claim to champion.

Rather, all knowing prisoners truly believe that penal authorities, with very rare few exceptions, well know what they are doing; and further, that many of the problems existing simply are not the fault at all of penal authorities.

In leaving prison directly, I propose to continue writing as I have for pubic consumption and speaking to like effect, and as has aways been the case, declining any and all reward, compensation, gratuity, as a matter of principle. I freely proffer my testimony and am pleased to submit to questioning, in person or in writing, in regard to imprisonment per se, the problems of penal administrators budgetary and otherwise, in support of the United States Bureau of Prisons and its excellent administration; of the Ohio Department of Rehabilitation and Correction and its, too, as well as those of numerous other states.

I beg your indulgence, in closing, for this poorly-typed letter, sir, prepared as it is very late on a hot, humid summer's night and at the end of an exceedingly long day. I take the

liberty, with your further indulgence, of providing copies of this poor letter to Senator Biden, Representative Danielson, Representative Stark, Representative Tom Railsback of Illinois (with whom I have been honored to speak in prison heretofore, among many others); and, to those concerned and competent penal administrators in charge of the Federal and Ohio penal systems.

Very respectfully yours,

JOSEPH S. BAIR.●

ADDRESS BY SENATOR CURTIS BEFORE HUMAN RIGHTS ORGANIZATION

● Mr. GRIFFIN. Mr. President, recently the distinguished senior Senator from Nebraska (Mr. CURTIS) visited Kalamazoo, Mich., to deliver an address before the National Committee for Human Rights and Fundamental Freedoms.

It was an excellent speech, which deserves the careful attention of many who were not privileged to be there. I ask that the text of his remarks be printed in the RECORD.

The remarks follow:

SPEECH OF SENATOR CARL T. CURTIS BEFORE THE NATIONAL COMMITTEE FOR HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, KALAMAZOO, MICH., AUGUST 19, 1978

Mr. Chairman and Ladies and Gentlemen:

It is always a pleasure for Mrs. Curtis and me to visit the beautiful State of Michigan. We are delighted to be in the Congressional District of Congressman Garry Brown, who serves this area so well.

It has been my privilege to serve in the Senate for many years with Michigan's outstanding United States Senator, and my good friend, the Honorable Robert P. Griffin. He has a consistent record in favor of the defense of our country and those policies that protect the principles and freedoms that we hold dear. He is one of the stalwarts of the United States Senate.

I am delighted to be here today sharing with you my thoughts on human rights. It is a particular pleasure to discuss the subject with men and women like you who know the value of freedom, and who devote their time to fighting for fundamental rights for people living in slavery throughout the world.

Today there are millions of people throughout the world who enjoy none of the rights we consider basic. From the time they arise in the morning to the time they go to sleep, their lives are regimented by the State. They are told how and where to work and how to use their spare time; they are denied the free exercise of their religious beliefs, they are instructed on what political course to support, and how to bring up their children. Regardless how hard they work, their salary is established by the State and is almost certainly insufficient to meet their families' needs. Because of the effect of this on workers' morale, and consequently on production levels, the most common material goods are scarce, when available at all.

While there are many differences between the Democratic and Communist systems of government, there is one which I would like to mention as being particularly pertinent. The United States is based on the concept of human dignity, and from this flow the freedoms we enjoy. In practical Communism, man has no intrinsic dignity and therefore no claim to fundamental rights. From a moral point of view, it is a barbaric concept, and in regarding men as just so many soulless cogs in a machine, Communist governments give proof of being hopelessly and irredeemably barbaric. To the Soviet Union, Red China and their various satellites it is inconceivable that each and every man is intrinsically endowed with dignity, and that in all areas which do not infringe on the rights of others, he should have absolute jurisdiction over his actions. Of all the governments in the world, it is precisely these "people's democracies" that cannot accept that no man has an intrinsic right to impose his will on another, and that there is nothing which fundamentally places him above anyone else.

To contrast this with the freedom and material abundance we enjoy in the United States is sobering, and allows us to most vividly grasp the nightmarish element of a lifestyle which for millions is the only routine they have ever known. This contrast, moreover, should also be made to serve a useful purpose. It should make every one of us renew our commitment to help these millions obtain freedom. It is a commitment which cannot end until every political prisoner behind the Iron Curtain has been freed from the jails in which millions are now rotting to a slow death; until people can go to the church of their choice without fearing retaliation; until it is no longer necessary to circulate literature clandestinely simply because it is written in a language offensive to the ruling authorities; and until every person knows that his life is his own to plan, and not a tool for the State to impersonally dispose of.

To those of us vitally concerned about human rights, President Carter's verbal commitment to the issue from the beginning of his presidency has been heartening. And yet, many of us are growing increasingly disturbed at the apparent lack of action with which he has supported his words.

For example, it was good to hear the Administration defend Anatoly Scharansky in the course of his recent trial, and to see Vice President Mondale meeting personally with Mrs. Scharansky. Yet how much more meaningful it would have been if the United States had supported these symbolic acts with something more concrete. While the trial was in process, many felt that the SALT talks should have been halted, at least briefly, as a sign of U.S. disapproval. Despite American public opinion, however, Secretary of State Vance proceeded to meet with Soviet Foreign Minister Andrei Gromyko while the trial was taking place.

Similarly, Mr. Carter has used stirring words in describing the strong defense posture he supports for the United States. But when the words have been translated into action the picture to emerge has been very different. Let's look at some specifics.

In the development of nuclear weapons, there has been a pattern of unilateral concessions with several key weapon systems being either cancelled or delayed. The B-1 bomber was cancelled, for example; production of the neutron bomb has been deferred, perhaps indefinitely; there have been continuous delays in the production of the MX-missile, which we badly need to keep pace with the Soviet Union's sophisticated hardware. During the same period of time, by contrast, the Soviets have developed powerful sea and land based missiles and the Backfire bomber.

Having thus unilaterally undercut the U.S. bargaining position at the SALT talks, he has proceeded to accept an arms control accord which, if signed into a treaty some time in the future, will have dangerous implications for the whole free world. He also seeks approval for a Comprehensive Test Ban Treaty which, according to experts, will result in as much advantage for the Soviet Union as it will in disadvantage for the U.S.

Given this record, how can we expect the Soviet Union, Red China, or any other adversary to take seriously our commitment to defend our freedom, let alone the freedom of any threatened nation abroad? Unfortunately, still other items can be added to the list of steps President Carter has taken, or failed to take, which weaken the position of the free world further. He has proclaimed the need for a stronger Navy, yet he has drastically cut the Navy's shipbuilding plan, and vetoed the construction of a nuclear carrier which is needed to bolster the Navy's power projection capability. He has neglected the Reserve forces, which he promised to strengthen during the campaign. He is continuing his efforts to withdraw American troops from South Korea and Taiwan, increasing these countries' vulnerability to Soviet aggression.

Many of us are concerned, moreover, that the United States, while building a dismal record of improving its defense capability, is actively, if inadvertently, helping the Soviets build up theirs. There is growing alarm, which I share, about the sophisticated technology being sold to the U.S.S.R. by some sectors in our country. It has been in the President's hands to halt this, yet with the exception of the controversial TASS computer sale which the Administration cancelled, nothing has been done. Just recently, for example, the Administration gave its blessing to the sale of sophisticated oil drilling equipment to the Soviet Union. In wartime, needless to say, having an abundant energy supply is as crucial as any weapons system. Yet no thought was apparently given to the idea that this oil which the Soviets will drill with our aid may someday be used against us, or in the course of a campaign to subjugate another nation which now enjoys freedom.

As you can see from this brief rundown, Mr. Carter's verbal commitment to human rights has meant little when translated into concrete military action. The record of its implementation from a diplomatic point of view is just as much cause for concern.

Right now it is probably in our hands to determine if in the future Rhodesia will be a democracy, or if it is to become one large concentration camp, like Angola and Mozambique. On their own initiative the Rhodesians have formed a government which includes the most popular and respected Blacks in the country, and which, if supported, promises to bring prosperity and representative democracy to the country. Yet the U.S. is unwittingly destroying that promised stability through its insistence that Marxist factions be included in the government. These Communist groups, however, have made it clear that they want absolute control.

It is sad to see the manner in which U.S. foreign policy has changed over the years in this regard. Not too many years ago we stood for representative government, and opposed the advance of Communism as being inimical to the development of such representative government. Now in the name of democracy and human rights we are trying to force Communist participation on the unwilling citizens of Rhodesia. It is as if history had not taught us the lesson, and taught it to us repeatedly, that where there is communism there cannot be freedom.

I find something else disturbing in our human rights policy. Clearly, with regard to Communist countries, we have not backed our words with action of perceptible significance. At the same time, I see "human rights" being used as a club against other governments which are far milder than Communist regimes, but have nevertheless made themselves unpopular in some quarters.

In Asia we see it happening in connection with South Korea. There are many which describe its form of government in terms of nothing but the most absolute cruelty and oppression, and work ceaselessly for the U.S. to withdraw its support and material assistance to that nation. Of the brutal regime of North Korea, however, not a word is said.

Nowhere do we see this double-standard mentality as clearly as in our policy toward Latin America. Early in his presidency, Mr. Carter succeeded in alienating Brazil, Argentina and Uruguay. In all of these countries citizens are allowed to exercise a broad range of freedoms, and all have free enterprise systems which, unlike Communist systems, allow the individual to reach his maximum material and economic potential. Uruguay and Argentina, moreover, have both made clear their intention to restore a democratic form of government within a few years.

This policy stands in sharp contrast to the Administration's attitude toward Panama. That this country has a Marxist-oriented government seems to have disturbed no one in the Executive Branch, nor has the clear fact that this government is a dictatorship caused any concerns. Panama is rated by Freedom House as granting no more liberties to its citizens than Cuba, and from Panamanian exiles we know of many political prisoners and of untold cases of torture or harassment being applied to dissidents. Yet the question of sanctions never once entered into the government's deliberations. Instead, we rewarded Panama with our Canal, and with a promise of billions of dollars of aid.

Some might think that Cuba is the exception to this double standard, that in at least this one instance the Administration is applying pressure where it rightfully belongs. Unfortunately, that is not the case. True, President Carter has verbally denounced Castro and his African expansionism. But this means little when contrasted with the opening of liaison offices between Cuba and the United States for the first time in almost 20 years at the initiative of his own administration. During these last few weeks, in a period of ever-increasing Cuban involvement in African affairs, the U.S. Government further lifted its economic embargo on Cuba. How can this be said to be meaningful implementation of a human rights policy?

The "human rights" label is being used by some as a convenient weapon to attack yet other governments in Latin America. Recently the Senate voted to ban military aid to Nicaragua and Paraguay. This was a clear display of what many call "selective morality." Fourteen countries which rated lower than Nicaragua and Paraguay in the Freedom House "political rights" scale were voted *more* aid than that which had been requested for Nicaragua and Paraguay; similarly, five countries with the same rating were also voted more aid, without a voice being raised in dissent.

It is evident that the "human rights" tag can be a dangerous weapon, and I do not see that the Administration's emphasis on it has had any constructive results. Highly publicized accusations by Brezhnev nonewithstanding, our human rights policy has not intimidated the Soviet Union one iota. It has not led the Administration to propose a truly meaningful build-up of our defense capabilities, nor to staunchly oppose Communist build-up abroad. It has merely alienated and weakened a number of theretofore staunch allies in Latin America and elsewhere.

This situation will continue until our government adopts an equitable scale of values on which to gauge human freedoms and a policy of applying this scale in a consistent manner. Last year the Senate took a sound step in this direction in adopting certain objective standards. Unfortunately, the House failed to agree to the measure, and it was never signed into law. It remains, nevertheless, an encouraging start which all of us should build on.

The first principle embodied in the standards is the Jeffersonian principle of "consent of the governed"' as the basis for a government's legitimacy. The second concept is the existence of a rule of law shielding the citizens against arbitrary government action or government by terror. Just as importantly, however, the standard includes a number of freedoms; not only freedom of speech and the press, but freedom of religion, the right to choose among educational systems and professional occupations, freedom of movement, freedom to obtain private property and to operate in the market freely, and the right to join private organizations of choice.

Were this standard to be adopted, some fairness would be introduced in our application of the U.S. human rights policy. Its inclusion of freedoms which do not relate to politics but which affect people's every day lives sharply brings out the difference between a Communist-style dictatorship and authoritarian governments which, while not being a democracy in the manner of our country, nevertheless allow citizens ample freedom in the matters most important to their everyday lives. This standard would indicate clearly which countries it is that our human rights guns should be aimed at. If we apply it, perhaps we will stop concentrating so much on the imperfections of anti-communist countries and remember that Communism is the real threat.

We have a long way to go in bringing freedom to the citizens of the captive nations the world over. For every Solzhenitsyn and Sakarov we are able to save from prison, there is a Scharansky and a Ginsburg whom we are not able to save, as well as thousands of others who are sent yearly to political prisons without it coming to the attention of the West. While we have succeeded in making the concept of human rights a national policy, it is evident that the implementation of the principle has been at best inept and at worst detrimental. Yet we cannot admit defeat in our struggle. The millions living in captive nations have only one hope that their situation will improve. We are that hope.

At the same time, I hope that the members of the National Committee for Human Rights and Fundamental Freedoms and other similar groups will not despair at the loneliness of their struggle. You have allies. I and many of my colleagues in Congress wholeheartedly share your concerns and aspirations, and have spent our public careers fighting for freedom. So let us together continue our fight. Let us try to obtain congressional approval for an equitable human rights standard; let us together try to bring some meaning to the administration's human rights policy. Together let us work to bring to the millions living in slavery the one right without which life has no meaning—the right to be free.

In our National Anthem, we sing about the land of the free and the home of the brave. We should never forget that, when we are no longer the home of the brave, we will not be the land of the free.●

VETO OF DEFENSE AUTHORIZATION BILL

● Mr. HOLLINGS. Mr. President, the recent veto of the defense procurement authorization was the wrong veto of the wrong bill at the wrong time for all the wrong reasons. As I listened to the President outline his rationale in vetoing, I was immediately struck by the extent of misunderstanding, or distortion, of the record. No distinction was made between authorization and appropriation matters; items to which the Chief Executive objected were not even contained in this particular piece of legislation; and the Congress was indicted for lapse of national security when, in fact, it is this Congress which has worked to increase defense spending.

The defense budget is no place for cavalier handling of the facts. It is no place for an artificially contrived confrontation with the Congress. And I can only wonder what the reaction must be in the capitals of both our friends and our foes when they see a matter of such fundamental importance treated is so frivolous a way.

The matter was discussed in yesterday's edition of the Wall Street Journal. The Review and Outlook editorial summed up the situation cogently and accurately, and the Journal's analysis deserves our most serious attention. For that reason, I ask that it be printed in today's RECORD, and I commend this piece to the attention of my colleagues.

The editorial follows:

THE RAFSHOON VETO

President Carter's veto of the defense procurement authorization is everywhere interpreted as part of a new "get tough" act, the practical incarnation of media adviser Gerald Rafshoon's efforts to massage the President's sagging poll ratings. The veto would have helped Mr. Carter's competency rating more if he had not clouded the issue in monumental confusion, including confusion about what the bill he vetoed actually contained.

To cut through the clouds, it's necessary to keep in mind two simple facts. First: while Mr. Carter objects to the congressional decision to spend $2 billion on a nuclear aircraft carrier, his administration has already announced plans to include a large oil-burning carrier in its next budget request. The whole issue, is merely, this year or next year, and conventional or nuclear? Second: There is a difference between authorization bills, which set programs, and appropriations bills, which spend money. Mr. Carter vetoed the defense procurement authorization. The Pentagon appropriations bill has not yet been completed by Congress.

This elemental parliamentary distinction was entirely overlooked in Mr. Carter's charge that Congress is building the carrier by "diverting funds away from far more important defense needs." Among the congressional items to which he objected, for example, was a supposed cut of $500 million in military operational funds. But operational funds are not dealt with in the defense procurement bill; if this was the President's problem, he vetoed the wrong bill.

Doing the President one better, Defense Secretary Brown complained that Congress had killed three antisubmarine ships. There is a dispute over the appropriations for these ships, with the House on one side and the Senate on the other. But whatever the eventual appropriation, the ships were included in the defense procurement bill. Secretary Brown complains about Congress killing ships that were in fact in the bill his chief just vetoed.

Now, within the context of the procurement authorization, it's true that despite $1.9 billion for the aircraft carrier, the congressional total was close to the President's original request. About half of the funds came from rather ordinary changes: the Army reporting it could not spend money on its new XM-1 tank as fast as it originally thought; Congress's decision that it could both save money and improve the NATO tank force faster by upgrading more existing M60A1 tanks and producing fewer new M60A3 tanks than contemplated in the original administration request.

The other half of the carrier money came from funds originally requested for the Trident submarine program, but which cannot

be spent in this year's bill because of delays. With the Trident program delayed, and with the administration poised to order up a new carrier next year, Congress is merely saying, let's use this idle money and get the carrier started now.

There remains the issue of what kind of carrier. In passing, it should be noted that in light of the latest studies it is far from clear that large carriers are especially vulnerable. They can sustain hits from Soviet criuse missiles that would atomize small carriers, which have their magazines above water line. Large ships also make sense in light of electronic battlefield management, which promises a defense capable of shooting down missiles. But this debate is beside the immediate point, since the White House has requested no small carriers. Indeed, the bill Mr. Carter vetoed provided more research funding for small carriers than he requested.

It is also unclear that oil-powered carriers save money. They are cheaper to build, but more expensive to fuel. Over the lifetime of a ship, it is difficult to see much difference in total cost. Congress prefers the nuclear carrier because it has better performance, being unencumbered by a train of tankers to refuel it every few days. The administration prefers a conventional carrier, saving money on construction now but spending more on operations later. And over this difference the President is willing to veto the entire procurement bill, inviting further controversy and delay that may hinder the improvements on which he and Congress agree.

In order to escalate this minor quarrel to veto proportions, President Carter launched an attack on Congress that seriously distorts the record. Sen. Stennis rose on the floor to complain, in what is for him strong language, of the administration's "false facts." The Senator was too much of a gentleman to say it, but we will: This is not a case of the Congress being soft on national security, but of the President dallying with defense in pursuit of cosmetic politics. The defense procurement bill was vetoed not because of any large difference on substance, but because it was the first bill to come along after Mr. Rafshoon whispered in the Presidents' ear that he could look "strong" by vetoing something.●

THE HOW AND WHY OF SENIOR CENTERS

● Mr. CHURCH. Mr. President, the Congress has recognized the growing significance of multipurpose senior centers within recent years. The gradually increasing support of title V of the Older Americans Act, primarily by providing some funding for converting or improving existing structures, is one sign of often enthusiastic congressional interest.

One reason for our enthusiasm is that great things occur in centers. People pull together for worthy purposes sometimes not related to aging, but instead to community improvement. There is usually a sense of concern about other center participants, and I personally know of any number of transformations which have occurred at Idaho centers where poeple who had been living fairly isolated existences have become deeply involved in new and exciting kinds of neighborliness.

The current issue of Aging, the official publication of the Administration on Aging, is devoted primarily to reports on center activities in several sites, including rural New York and downtown Baltimore.

An introductory article by Don Kent gives an across-the-board description of many such centers. It is informative and timely; I ask to have it printed in the RECORD.

The article follows:

THE HOW AND WHY OF SENIOR CENTERS

(By Donald Kent)

When Mrs. Hooper developed a sharp pain in her back last winter, the 77-year-old widow decided to see a doctor. Since she had no physician of her own, a young neighbor, who worked as a volunteer in the local senior center, suggested going there, where Mrs. Hooper could have a general health screening without an appointment and at no cost.

Mrs. Hooper had never been inside the center although she had gone past it on a bus several times. Since its completion a few years before, it had become a city landmark. The red brick and glass building, whose rugged tower dominated the local skyline, spanned most of a city block in a downtown area that was rapidly renovating.

The doctor who preformed the screening (diabetes, hypertension, cancer, and other tests, including a careful examination of the painful back) found nothing seriously wrong. Mrs. Hooper's lower back problem would probably improve in a few sessions with the center's physiotherapist and some moderate exercise, the physician said. When Mrs. Hooper felt somewhat better, the therapist helped her enroll in a special physical fitness course meeting three mornings a week.

Then one thing led to another. After morning exercises Mrs. Hooper looked into a needlework group. A staff "enabler" got her interested in embroidery again and she tried her hand at crewel, which was new to her. Then other women in the sewing group suggested staying for lunch at the center, a Title VII nutrition site. That not only solved Mrs. Hooper's noonday meal problem but kept her at the center for the main event in the afternoon program—the one o'clock concert, film, or lecture. That day the performer was a young Polish-American folk dance group. On succeeding days there would be a pianist, guitarist, wildlife films, and a discussion with several city councilmen. On Mondays, a live combo played and since there were never quite enough male partners to go around some of the women danced together.

Mrs. Hooper had grown less outgoing over the years and was never much of a dancer. She felt many of the center's programs were not for her, but she was reassured to see how much help she could find there if she needed it—a consumer counselor who might have solved her complaint against a television repair man last year; a dentist who did denture repairs or fillings almost immediately; an optometry service and podiatrist; a staff member who organized bus tours to parks, museums, and ball games; an insurance expert, legal counselor, representatives for the Food Stamp and social security programs, and—if she should ever need them—mental health services and special assistance for the deaf and blind.

Mrs. Hooper's life became more active than it had been for many years and her outlook was brighter. Her new perspective stimulated her long-dormant desire for organized study. Although she had never finished high school and had not entered a classroom for 60 years, she had always enjoyed reading and learning about the way her city and country had grown and evolved since her childhood, and she loved contacts with nature. The courses at the center were varied enough to fit with her life-long interests—local history, "ecology and you," a program called self-discovery through the humanities, weight control, poetry, several foreign languages, music appreciation, and a variety of creative skills courses such as painting, ceramics, and jewelry making.

In the course of a few months, the senior center experience became a strong new influence in Mrs. Hooper's life. She found there what Joyce Leanse, director of the National Institute of Senior Centers, says centers are uniquely qualified to give—"the help older people need in continuing their personal growth and maintaining a viable life style."

It happened to Mrs. Hopper at the Waxter Center for Senior Citizens in Baltimore, but for more than three decades older Americans have been finding the same type of stimulation at senior centers large and small across the country.

WHO USES SENIOR CENTERS AND WHY

Jean Fisher, director of the Philadelphia Center for Older People, one of America's first central-city, multi-service centers and a model for many of the centers developed during the past three decades, says, "I wish we could get anthropologists to write books about senior centers. We need people with Margaret Mead's social and community sensitivities to observe and understand the new communities being formed in the centers.

"Members are using the senior centers as their community. They come in when they know their friends will be there, to share conversation and meals. Then they call each other up at night on the phone. And when an emergency occurs, it's the friend from the center who is often the first to get to the home or hospital and provide the backup support, the undercurrent of communication, which others may get from family and neighbors. For many older people here their friends from the senior center have become family, neighbors, and community."

Such loyalty and support goes not only to each other but to the senior center itself, Mrs. Fisher says. Members raise funds to pay off the center's mortgage, chipping away in sums of $50 to $400 from sales, parties, and benefit activities.

Joyce Leanse has observed in her study of thousands of senior centers that "while data show that many older persons are attracted to a facility where services and activities are available, the fact of the facility itself and the opportunity it creates for bringing people together appear to be the most compelling."

Mrs. Leanse says, "Participants view the senior centers as a program of services and activities and also as a place to go, a place to gather for friendship and fellowship, or a place to sit, observe, and just be near other people."

In a broad survey in 1974, Mrs. Leanse found that more than 25 percent of those interviewed at centers attended daily but few had participated in any specific services or activities during the week or even the month in which they were interviewed.

Other studies have pointed out that this type of socializing is not for everyone. A typical comment is, "I just go to the center for bridge lessons. I don't need it for anything else. . . . I'm not ready for it yet." Others reject the idea of associating primarily with their age peers, saying, "It makes you feel old to associate with old people only."

Still other older people may be perfectly content to reduce their activities and fall into more and more sedentary habits.

These comments and findings were among many received in a Cleveland, Ohio survey a decade ago in connection with a comprehensive senior center there. The major deterrents to senior center membership were competing activities and interests, and feelings of ambivalence toward exclusive association with older people. The study by Dr. James E. Trela of the Cleveland Vocational Center

and Leo W. Simmons of Case-Western Reserve University noted that, "For those isolated from meaningful social opportunities and detached from supportive relations, age-graded social clubs may provide relief from a vortex of loneliness, while for those active in a variety of roles such groups may offer little attraction. The study concluded that the strongest incentive to membership in senior centers may lie in program offerings which manifestly meet the various needs of individual members.

A Stanford University study indicates that those attending Little House in Menlo Park, Calif., one of the earliest and most successful senior centers, are long-term extroverts. Many of the people who need socializing most won't go to senior centers.

Surveys by the Senior Centers Institute, however, tend to refute the Stanford findings. While users may include a somewhat higher proportion of relatively active older people than is to be found among nonusers, no evidence suggests that a large majority of users are outgoing joiners and doers. On the contrary, the NISC surveys suggest that at least a sizeable minority of users are not typically outgoing people.

More than five million older Americans from 60 to 95 years of age (about one-quarter are 75 or older), are members and participants in the country's more than 5,000 senior centers, according to the National Institute of Senior Centers.

More than half of the participants live alone compared with one-third of the general elderly population who live alone.

They come from all economic backgrounds. Among those who attended, 47 percent were blue collar workers, 16 percent, white collar workers, and 16 percent, professionals, according to the Institute.

In any given two-week period, about six percent of all older Americans attend a senior center, according to data collected for the Institute by Louis Harris & Associates, and about 18 percent have attended a senior center "recently." Another 18 percent would like to attend a center. The most frequent reason they do not is that no facility is available.

WHERE THE MONEY COMES FROM

Ever-greater sums of money, energy, and community commitment are going into senior centers today. Yearly budgets for operation, expansion, and construction of senior centers may amount to over $300 million.

Until the decade of the 60's local and State funds—private and public—provided for the bulk of building and operating expenses. Civic leaders and politicans love senior centers because they are visual proof of what a community is doing for its older citizens. Such leaders can point to the centers and count off the services they provide and the number of persons engaged.

With passage of the Older Americans Act of 1965, the Federal government began playing a constantly expanding role in funding center services and facilities.

In the 1977 fiscal year, Title V of the Older Americans Act provided $40 million for building, altering, or renovating facilities to serve as multi-purpose senior centers, while Title VII nutrition funds were the major financial source for meals served in senior centers. Many of the coordinated, comprehensive services provided by senior centers (transportation, outreach, home services, information and referral) are funded under Title III of the Older Americans Act, and Title IV continues to be a valuable source of funds for training center staff to assist older persons.

The most important change brought about by the Older Americans Act, however, may have been the efforts to channel other Federal funding sources to meet the programming and service needs of senior centers. Many senior centers now receive vital sources of funding from the Federal General Revenue Sharing program, block grants under the Community Development Act of 1974 and Title XX (Social Services) of the Social Security Act.

"These funds have become very important to us," says Jean Fisher of the Philadelphia Center, "but their mandates sometimes seriously inhibit us in running our centers.

"For example, it's terribly hard to tell a nice old person he or she can't carry away uneaten food in a doggie bag because of Federal restrictions applying to nutrition sites." Mrs. Fisher says. "It needlessly humiliates the people involved," no matter what the health-guided intent of the regulation is. The government should leave us freer, not inhibit us.

"I wish the Administration on Aging would send out questionnaires in which we could tell about the problems we run into with the mandates of the different Federal programs," she continues. "Nobody wants a heavyhanded Federal uniformity imposed in senior centers."

In Philadelphia and many other areas, United Way—which raises voluntary contributions in the community—has long been a major source of senior center funding. Other voluntary groups include the National Council of Jewish Women, church groups, Junior League, and service clubs. Foundations and trust funds also have made important grants to some centers.

City governments have also floated special bond issues for senior centers. Baltimore's $3.8 million bond issue for the Waxter Center is an example.

Many States recently provided funds for center operations and construction. Wisconsin has appropriated $2 million for facilities, staff, and programming, while Tennessee has provided $1 million for staffing and the operation of ongoing senior centers and established a goal of at least one multi-purpose senior center in each of its 95 counties. In Hawaii the legislature authorized $1.5 million for construction of senior centers, and the Hawaii State Senior Center in Honolulu receives more than $100,000 a year in State funds for a program which reaches 9,000 elderly Hawaiians.

In the 1978 fiscal year, West Virginia has allocated $350,000 in Revenue Sharing funds for construction, renovation, and acquisition of senior center facilities. The Governor's request for an additional $1.3 million of revenue sharing funds for the same purpose is now before the legislature.

During the 1977 fiscal year, New York State appropriated $1.7 million for senior center operations, and New Hampshire, Nevada, Florida, Massachusetts, and Pennsylvania are among many other States taking legislative action to fund and strengthen senior centers.

THREE DECADES OF PROGRESS

During more than three decades of existence, the concept of what senior centers can be and should do has evolved.

Until the first senior center was founded in New York City in 1943, the only special services directed to older people were homes for the aged and Old Age Assistance. What was to become the Hodson Community Center grew out of a clear need for a center where people could meet and associate on a neighborhood basis. Soon services for the elderly were introduced, especially those needed to maintain the elderly in the community. Over the years, this focus on multiple needs of older adults increased.

Two early West Coast centers which were the prototypes for many centers around the country, emphasized education and recreation more than was the case at New York's Hodson Center. The San Francisco Senior Center, created in 1947, developed out of the combined efforts of the United Community Fund, the American Woman's Volunteer Services, and the grassroots efforts of many older San Franciscans who recognized the need. The city's Parks and Recreation department granted use of a large building near Fisherman's Wharf for the group's activities. The clientele was as mixed and varied as the population of the city itself.

The Little House in Menlo Park, a primarily white-collar middle class community, has had from the start an exceptionally high degree of member participation in planning and carrying out its programs. Members not only planned their own programs but became actively involved in projects of benefit to the community.

With regard to counseling members. Little House saw itself as a referral agency—not equipped to provide certain services directly but ready to give complete advice on where to turn for aid.

In the late 1940's the Philadelphia Center for Older People also became a model of a centrally located citywide facility which tries to serve the total needs of older persons.

PATTERNS AND STRUCTURES

Since the decade of the 40's the grassroots development of senior centers has produced countless variations on several main themes:

The now-familiar multipurpose senior center with a broad spectrum of health, social, educational, and recreational activities and services in a central facility.

The network composed of a single center with multiple satellites or branches operating at the neighborhood level.

Multicenter systems, linking more or less equal facilities.

Centers linked with club programs throughout the community.

If organizational patterns and structures vary almost ad infinitum, the mix of services offered by the 5,000 or more senior centers is hardly more standard.

Slightly more than half of the centers responding to a 1974 survey by the National Institute of Senior Centers under an Administration on Aging grant rated themselves as "multi-purpose centers." In most cases, this means they provide three or more types of services, such as transportation, education, information and referral, counseling, medical help and others. One of the unexpected findings was that nearly half of the self-identified multi-purpose centers provide health services.

The publication last July of HEW's final regulations on grants for acquiring, altering, or renovating multi-purpose center facilities was broadly perceived as a sign of renewed and increased Federal interest in senior centers.

In order to assure that Title V monies go to multi-purpose center facilities which are integrated with the comprehensive and coordinated service systems under Titles III and VII of the Older Americans Act, the Administration on Aging gives priority to applications from State agencies on aging in awarding funds.

Title V defines the multi-purpose senior center as a community facility for the organization and provision of a broad spectrum of services for older persons, including health, social and educational services, and facilities for recreation activities. But it does not give a detailed description of distinguishing characteristics of a multi-purpose senior center.

HEW officials concerned with aging programs see the desirable and distinguishing characteristics in four main areas: group services and activities, individual services, the accessibility of center sites both geographically and in the sense of accommodating the handicapped and disabled, and relationships with other public and private agencies.

Group services, in this view, should include recreation for physical health and socialization, a variety of education opportunities, opportunities for sharing information,

mutual concern sessions which strengthen natural support mechanisms, congregate meals, and social events.

Individual services would normally include counseling and referral in such areas as housing, employment, and benefit entitlements; outreach programs and visiting homebound persons; health services which include screening, rehabilitation, maintenance, and restoration services aimed at maintaining independence; home-delivered meals; protective services including supportive and crisis services; and day care services which enable physically or emotionally impaired older persons to participate in the center.

Program access considerations focus on such aspects as the number of days in operation (at least five days and one evening a week seems to be an expected minimum), community visibility of the facility, adequate size and physical facilities relative to the needs of participants, and accessibility for the handicapped; appropriate assistance to the deaf, blind, and non-English speaking participants; and transportation and escort services for participants who need them.

In regard to their relationship with community services, multipurpose centers should provide opportunities for other public and private agencies in the community to deliver services in the center and become a part of its service program. There should be opportunities for participants to become involved in the decisionmaking process of the center and encouragement to take part in the local, State, and national democratic process.

WHOM SHOULD THEY SERVE

While most senior centers welcome increased Federal funding, not all are pleased with the accompanying mandates which tend to emphasize greater attention to the most frail and vulnerable elderly.

Some feel that since resources are limited, those most in need should be served first. Others, however, point out that if the 75 percent of older persons who are less vulnerable are neglected, centers will soon be used almost exclusively by those groups most urgently needing help, thus limiting the positive self-help aspects of facilities which can only operate when the physically or socially active elderly are mixed with the not-so-well and less socially aware older person.

"We want to include the frail but we do not want to lose the people who leaven the lump and give joie de vivre to everyone in the center," says one center director.

In efforts to help the thousands of diverse senior centers to see their own operations more clearly and carry them out more successfully, the National Institute of Senior Centers has been devising standards for evaluating centers. They may help senior center staffs evaluate their work periodically and determine such points as:

Is the program meeting the needs and interests of the participants?

Are resources (staff, funds, facilities) being used in the most efficient and effective manner?

Has the center reached its goals?

Are individual services and activities accomplishing their objectives?

What is the cost of a particular activity or service?

In what may be a significant new trend, some schools are being converted to senior centers.

In Nashville, Tennessee, the Knowles Senior Center is a converted elementary school. In Sheboygan, Wisconsin, the second floor of a high school shelters a senior center. In Hawaii, the Kaunoa School became the first senior center on Maui.

In Montgomery County, Maryland, part of an elementary school has been converted to a senior citizen day care center, with the remainder used for recreation department offices.

Each of the thousands of centers located across the country is unique and distinct, yet, as Leon Woolf, director of Baltimore's Waxter Center says, "The joy of them is that almost everything we do in this new building can be done in a store-front operation or almost any other site."

Jean Fisher, in Philadelphia, says, "We've accomplished so much in senior centers. Now we should look at their roots. See what they have in common. And see what new directions to take, wherever they're not getting down to living people."●

HUMAN RIGHTS AND THE HELSINKI-BELGRADE EXPERIENCE

● Mr. GRIFFIN. Mr. President, I recently delivered a speech before the National Committee for Human Rights and Fundamental Freedoms in Kalamazoo, Mich. I ask that the text of these remarks be printed in the RECORD.

The speech follows:

REMARKS BY U.S. SENATOR ROBERT P. GRIFFIN

Chairman Strautkalns, distinguished guests and friends:

Flagrant violations of human rights in Soviet-dominated countries continue unabated despite the promises given in Helsinki and Belgrade. This is intolerable and we would betray our own heritage as Americans if we were to remain silent in the face of such oppression.

The basic question suggested by the topic of your conference is this: Has the Helsinki-Belgrade experience been a success—or a failure—from a human rights standpoint?

The answer, of course, depends largely upon what one expected to achieve through the European Security Conference mechanism.

Those who really expected "nothing," have not been disappointed.

At the other extreme, it appears that many people thought that once Moscow supposedly had "agreed" in Helsinki to respect human rights, some kind of a major transformation would somehow occur almost immediately in the Soviet Union. By the time Round Two in Belgrade came along, so the theory went, all of the outstanding problems would be resolved. Needless to say, these people, if they have paid attention, have been disappointed.

In all candor, my own expectations were quite limited.

If one really never trusted the Russian leaders to begin with, he would not have expected their agreement to the principles set forth in Basket Three at Helsinki to produce much in the way of concrete results.

After all, if it had been the practice of the Soviets in the past to honor their promises, the whole Helsinki experience would have been unnecessary. History is full of broken Soviet promises to respect human rights. For example:

Stalin's 1936 Constitution of the USSR supposedly "guaranteed" freedom of religious workship, freedom of speech, freedom of the press, freedom of assembly, and a wealth of other "rights." Of course, they never have been respected.

The 1945 Charter of the United Nations—which Moscow signed—contains numerous references to the U.N.'s purpose of "reaffirm-(ing) faith in fundamental human rights," of respecting "the principle of equal rights and self-determination of peoples," and of "promoting and encouraging respect for human rights and for fundamental freedoms for all." These rights, too, were subscribed to—but then ignored—by the Kremlin.

In December 1948 the Soviets voted in the General Assembly to adopt the United Nations "Universal Declaration of Human Rights." This document guarantees the right to privacy, the right to own property, freedom of speech, assembly, religion and association. It even says that "(t)he will of the people shall be the basis of the authority of government." Again more rights debased by Moscow.

Thus, history indicates that most, if not all, of the human rights to which Moscow pledged itself three years ago in Helsinki were already allegedly "guaranteed" in other documents to which the Soviets had already officially subscribed. Therefore, it would have been naive in the extreme to assume that somehow this time was going to be significantly different—that Soviet liberalization was just around the corner.

Indeed, our reaction to Helsinki reflects, to a certain degree, a fundamental problem this country has had for more than three decades in dealing with the Soviets. Because we desperately want to see things change, too often we pretend to see change—where no change exists.

Tragically, it sometimes seems that the West did not learn much from Yalta.

Just as the realities subsequent to Yalta seemed to catch Roosevelt and Churchill by surprise, those who thought they saw a new Soviet Union in the early 1960's had a rude awakening with the October 1956 Soviet invasion of Hungary.

Tomorrow—August 20—will mark the tenth anniversary of an event that once again temporarily brought realism to Western perception of Soviet realities. I speak of the invasion of Czechoslovakia.

Not many years ago—when the term detente was in more respectable use—it was popular in some quarters to describe the Soviet Union as a "status quo power," uninterested in foreign adventurism.

Then came Africa—with billions of dollars in Soviet military aid and tens of thousands of Cuban mercenaries.

Today the Russians and their Cuban puppets are involved in no fewer than five wars in Africa—and yet our Ambassador to the United Nations assures us that things have never been better.

I don't suggest that it is hopeless even to try to affect Soviet policy. But my point is that we must be realistic.

Indeed, experience has demonstrated that, on occasion, we have had some limited success in bringing about desirable changes in Soviet policy.

In 1962, President John Kennedy's firm stand led to a withdrawal of Russian missiles from Cuba.

In 1972, President Nixon's use of increased force against North Vietnam resulted in Soviet pressure on Hanoi to conclude a peace agreement.

And Western pressure concerning Soviet human rights violations have produced some limited beneficial results.

Nevertheless, we would be naive in the extreme to assume that those limited successes signaled any basic change in Soviet goals or strategy.

In 1920, Lenin wrote that compromise is essential for the eventual success of Communism. Lenin told his supporters to fight only when what he called the "correlation of forces," was favorable; and until then to compromise and maneuver as necessary to weaken the enemy and to increase the forces of Communism.

In large measure, this strategy has worked for the Communists, and it is still being followed by Moscow. The result has been that whenever the Soviets have perceived that the United States has both superior military strength—and the will to use it if necessary—the Soviets have followed Lenin's advice and have backed down.

Khrushchev withdrew his missiles from Cuba in 1962 not because he changed his mind about their military utility. He withdrew because he became convinced that the United States had both the strength and

the will to make the costs of Soviet adventurism greater than the expected benefits.

Thus, common sense—as well as the lessons of history—tell me that the danger of war increases when the United States grows weak—or if the United States is ever perceived by a potential enemy as being weak.

Common sense—as well as the lessons of history—tell me that the prospects for peace are brighter when the United States is strong—strong not only in military power but strong also in terms of patriotism and the will to defend freedom, when necessary.

Unfortunately, the perception of the United States has been suffering under the leadership of the current Administration.

It is important to the United States and the free world that the Administration get its act together and that various spokesmen for the White House start reading from the same script—at least in foreign affairs.

National unity and resolve are difficult to achieve unless there first is unity within the Administration itself. Not only has there been inconsistency between statements made by White House spokesmen, but there has even been inconsistency between statements made by the President from day to day.

For example, on March 17 of this year President Carter delivered a hard-hitting speech in North Carolina about the need for a strong national defense.

But, just a few days later he turned around and ordered the Navy's shipbuilding program cut in half.

Then, following a vigorous propaganda campaign waged by the Soviet Union, he postponed production of the newly-developed neutron warhead (referred to by some as the "neutron bomb"), which, if deployed, could help significantly to offset the massive Soviet advantages in tanks and other conventional forces in Europe.

And these two announcements came after the President had already cancelled production of the B-1 bomber—a decision leaving the U.S. dependent upon World War II-vintage bomber planes, so old that some of our B-52 pilots are flying the same aircraft that their fathers flew two decades ago. This, while Moscow moves full-speed ahead with production of their supersonic BACKFIRE bomber and with development of a second strategic bomber that, according to intelligence reports, has characteristics strikingly similar to our B-1.

Problems resulting from conflicting signals from the President, himself, are further complicated by the varying positions taken by his senior advisers. For example, on the issue of Cuban adventurism in Africa, Secretary of State Vance, National Security Adviser Brzezinski and U.N. Ambassador Young all have taken different stands.

Despite such shortcomings in our own foreign policy, there have been a few positive signs as a consequence of the Helsinki-Belgrade experience.

In the Soviet Union, I understand that the cost of an exit visa has declined by half since Helsinki; and on the eve of Belgrade, Jewish emigration increased by more than 60 percent. Last year in the Ukraine, limited quantities of some 32 Western newspapers became available for the first time.

In Hungary, the last three years has brought a noticeable increase in religious freedom. Both evangelist Billy Graham and the President of the National Council of Catholic Bishops made week-long visits to Hungary.

In Poland, authorities last year announced a general amnesty for some 10,000 persons, and at the time of Belgrade began greater cooperation on family reunification cases presented by the U.S. Embassy.

In Bulgaria, prospects for family reunification also have improved and Western Literature—including newspapers and American novels—have become available.

In Czechoslovakia, there has been a noticeable improvement in emigration policy, and in June of last year the government proclaimed an amnesty for Czechs who fled during the Soviet invasion 10 years ago.

Finally, in Romania, two general amnesty orders last year brought the release of 30,000 prisoners; and emigration to the United States has increased 21 percent.

But another important benefit of the Helsinki-Belgrade process has been the opportunity it has provided for representatives of this country to raise the issues of human rights with the Soviet Union and Eastern European nations.

Last November, for example, my friend and colleague Senator Dole delivered a speech stressing the fact that the United States has never recognized the Soviet incorporation of Lithuania, Latvia and Estonia. And that must continue to be our policy.

At first the Russians tried to avoid the whole issue of human rights—arguing that raising such questions amounted to an interference in the internal affairs of another State, which is prohibited by the Final Act of Helsinki.

This reasoning was rejected. Soon, the Soviets tried to counterattack by charging "racism" and human rights violations by the U.S. and other Western countries. In so doing, however, they implicitly acknowledged, at least, that human rights are a legitimate and fundamental issue of East-West relations.

Even if the Helsinki-Belgrade process has accomplished nothing else, this recognition that human rights are an integral part of detente can be viewed as a significant achievement.

The Communists have heard the criticism, and it has had some effect.

But, of course, there is no basis or reason for a great deal of optimism. It's true that the 1975 Helsinki Conference led to the establishment of "Helsinki Watch" groups in Moscow and in other Soviet dominated areas—and that is good. But it is also true that more than 80 percent of the members of those groups are now in confinement, and others have been sent into foreign exile.

It is true that in some instances emigration figures increased immediately prior to the Belgrade conference. But it is also true that after Belgrade, people like Petkus, Rostropovich, Ginzburg and Scharansky have received harsh sentences for advocating respect for human rights.

This brings us to the real question: What should be our policy in seeking to promote an improvement in human rights policies behind the Iron Curtain:

I suggest that three elements are necessary for a successful policy in this regard:

First of all, our commitment to the cause of human rights must be a real commitment, and not be limited to the kind of selective moral outrage that has characterized so much of the rhetoric in recent months. For example, is criticism by this Administration of human rights practices in Rhodesia and South Africa to be judged when the Administration ignores serious human rights violations in the so-called "front line" African states of Tanzania, Mozambique and Angola? Similarly, it seems a bit strange to hear some spokesmen condemn violations in Chile, South Korea and the Philippines and then express only kind words for the Communist regimes in Cuba and Indochina. If our efforts on behalf of international human rights are to be productive, they must not be perceived simply as politically expedient posturing.

Second, we must project a policy of strength as well as consistency in our dealings with other Nations. This means we must have military and economic capabilities that are second to none, and we must make clear that we do have the will to use that strength if necessary.

The third requirement for a successful human rights policy vis a vis the Soviet Union must be the creative and consistent use of incentives. We need to reinforce responsible behavior and punish irresponsible behavior—the old "carrot-and-stick" approach. Earlier this month Ray Moseley—formerly European news editor for United Press International and one of the reporters who covered the 1975 Helsinki conference—wrote in the Chicago Tribune:

"If the West continues to make the Soviets pay a price for their unwillingness to abide by the rules of civilized conduct, then the Helsinki accords may be viewed in the Kremlin leadership for years to come as one of Leonid Brezhnev's greatest blunders."

I agree—and it is up to the United States to hold Mr. Brezhnev's feet to the fire whenever possible.

In two years the European Security Conference will convene again—in Madrid.

Madrid will provide yet another opportunity to call world attention to continuing Soviet violations of human rights.

But we must not wait until Madrid.

Although it's hardly likely to produce a radical transformation of the Soviet society, events of the recent past have shown that international protest—public and private—does have some effect.

And those of us gathered here tonight must rededicate ourselves to a continuing effort to expose human rights abuses. We must never for a moment let the world forget what is happening. * * * We must never let the Soviet authorities forget that the world is watching.

In concluding many of the speeches I deliver, particularly when I'm speaking before young people, I often express a thought that is not new—but it is a thought that can bear a good deal of repetition. It goes like this:

In the long course of history, freedom has died in various ways. Freedom has died on the battlefield—freedom has died because of ignorance and greed.

But let me suggest that the most ignominious death of all is when freedom dies in its sleep.

I commend you for your efforts to retrieve freedom where it has been lost. May you also be vigilant in making sure that the freedom we enjoy here in America does not die in its sleep.

Thank you.●

NEW OPPORTUNITIES FOR OLDER AMERICANS

● Mr. CHURCH. Mr. President, the National Council of Senior Citizens recently issued an excellent report: Senior Aides—A Unique Federal Program: New Opportunities for Older Americans.

Celebrating the 10th anniversary of what began a decade ago in 1968 as a tiny senior community service employment program providing part-time work for about 200 unemployed persons 55 and over, the report pointed out that the

number earlier this year was more than 37,000.

This growth, said the report, in a preface written by NCSC Director William Hutton, demonstrates "the high employability of many older persons and the useful part-time work that they can perform to the benefit of their communities."

The NCSC, as one of the national contractors for such programs, reports that at the start of the year it had 7,012 AIDES on projects in 118 rural or metropolitan communities, that 18.1 percent of the participants are 70 years or older, and that minority groups account for 36 percent of the AIDES. A majority are women.

We in the Congress who have long supported the title IX program under which the AIDES are enlisted know about the national significance of the overall program.

But in our home States and sometimes in others, we find from firsthand visits that the morale and effectiveness of the participants has to be seen to be fully understood—and enjoyed.

The first article in the NCSC report, which invites us to "Meet Some Senior Aides: Interesting People in Useful Jobs," captures some of the excitement and enthusiasm to be found at all AIDES sites. I ask that it be printed in the RECORD.

The article follows:

MEET SOME SENIOR AIDES: INTERESTING PEOPLE IN USEFUL JOBS

Many older persons have a special quality that helps them relate to others, young and old, more easily than those less mature. That quality appears to be a blend of experience, philosophy, patience, tolerance, compassion and the ability to listen. Perhaps, it could be summed up as the wisdom of maturity.

This wisdom is what makes Senior Aides useful workers in serving the people of their communities. It was a phenomenon observed early in the Senior AIDES program after its inception in 1968. In 1969, the Senior AIDES' National Advisory Council conducted a public hearing at St. Louis, Mo. The Advisory Council chairman was the late Matthew DeMore, former secretary-treasurer of the International Association of Machinists and Aerospace Workers. Senior Aides from various projects in the area described their work and what it meant to them.

One elderly woman, a Senior Aide employed at a state mental institution, told of her job. She helped patients in many ways, listening to their problems, keeping in touch with relatives, taking them to the hospital when they need treatment, calming them down. She appeared to have a tremendous rapport with these fear-filled persons. Chairman DeMore was so fascinated that he asked her:

"What is it in your background that gives you so much ability to relate to those unhappy people?"

With an ironic smile, the Senior Aide replied:

"I was a barmaid in New York City for 20 years."

* * * * *

BLINDNESS NO HANDICAP

Mrs. Vesta Reeves, 79, of Lawrence County, finds her blindness no handicap in her job. She works 20 hours a week making telephone calls to persons living alone and unable to leave the house. She is their main and sometimes only contact with the outside world, checking on their health, general welfare, listening to their problems and referring them to the appropriate person or agency for help.

Mrs. Reeves is employed as a Senior Aide under the outreach program operated by Wabash Valley Senior Citizens, Inc. When her blindness became acute several years ago, Mrs. Reeves worried that she wouldn't be able to keep her job so she memorized all the phone numbers. She says:

"If I didn't listen to other people's problems, I might feel sorry for myself."

As Americans grow older, their problems with local, state and Federal laws and regulations multiply. They run up against knotty questions involving Social Security, Medicare, Medicaid, income taxes, property tax regulations and a host of others. Some Senior Aides work to help elderly persons with these problems.

A PARALEGAL

Hector Monette, 68, of Lowell Mass., a retired electronics and textile worker, works as a paralegal Senior Aide with the Merrimack Valley Legal Services, an organization to help the needy. His work is typical of that performed by the three Senior Aide paralegals working in Merrimack Valley communities.

Monette helps low-income elderly persons who can't afford to pay for an attorney. Most of his cases relate to social security benefits, supplemental security income (SSI) for those with very low social security benefits, consumer problems, landlord-tenant disputes and wills.

When a case involves more complicated legal questions, he turns it over to an attorney with Merrimack Valley Legal Services. His efforts relieve the attorneys of less complicated but time-consuming matters that he has been trained to handle.

The Senior AIDES project director, Daniel Madio of Lawrence, Massachusetts, saw his potential for this sort of work, got him enrolled for paralegal training at North Shore Community College. Now Monette's desk is stacked high with folders on problems brought to him by elderly persons in need.

Monette says his interest in helping people grew out of his 30 years as an active member of the St. Vincent DePaul Society. When he retired, he started visiting young families in their homes and elderly persons in nursing homes telling them about local services which could help them with their particular problems. That in turn led to his new career as a paralegal Senior Aide.

Senior AIDES project directors like Mrs. Jimmye Batchelor at Copiah-Lincoln Junior College, Wesson, Miss., seek jobs to match the capabilities of those who apply for Senior Aide jobs. Here is an example:

HOW-TO-GET-HELP EXPERT

Senior Aide Ruth Bennett is now the how-to-get-help expert of the Pike Amite Library System in the McComb, Miss., area. She writes a weekly newspaper column, "Information Station," and short radio-TV announcements on help offered by the community's public and private service agencies. Her columns and announcements emphasize whom to call and where to go to get help for persons of all ages. Telephone numbers are emphasized.

Likewise, she has organized the library's information and referral service so that its up-to-date card file makes it possible for any staff member at library headquarters to answer calls for help accurately and intelligently.

Although she serves library patrons of all ages, her prime responsibility is for the elderly. Among the elderly she helps are those who use large-print books and talking-book machines with records or cassette tapes. She also maintains a mail service for the homebound and a home delivery service for books and equipment within the city limits.

RADIATION VICTIM

Employment as a Senior Aide has given a good many older, unemployed workers new confidence in themselves and their ability to make their way in life.

Take the case of James Hughes who won a job as a Senior Aide in the greenhouse at the Southwestern Sheltered Workshop in the Bryson City, N.C., area.

Hughes had been discouraged, despondent that he couldn't find work. He had been unemployed more than six months and he knew why employers shied away from him.

Several years before, he had worked on a job that involved handling radioactive material. A container was spilled and some of the material splashed on his face between his temple and his eye. The result is an ugly, one-inch hole on the side of his head that at first glance appears to be an open, festering sore.

On his job at the Sheltered Workshop's greenhouse, Hughes helps mentally handicapped persons learn about planting and caring for potted flowers and plants. For Hughes, the result has been new confidence in himself and release from the fear and despondency that hung over his life.

These Senior Aides whose work has been described here are but a tiny fraction of those employed on useful community service projects across the nation. Yet their skill in and dedication to community work that would not otherwise be performed is generally typical of the whole group of 7,012 Aides employed on 118 different projects. Therefore, it is useful to look at how these projects have been set up and understand the rules that govern the employment of Senior Aides to achieve the goals that Congress set for the program.●

JOHN DENVER'S ALASKA

Mr. DURKIN. Mr. President, I would like to call to the attention of my colleagues a distinguished television documentary on Alaska which will be shown throughout the country on the ABC network on Sunday, September 3, 1978, from 7:00 to 9:00 p.m.

It is entitled, "John Denver's Alaska: The American Child."

Mr. Denver, a strong conservationist, made several trips to Alaska to film this program. With veteran guides as his companions, he invites the American viewer to explore with him isolated coastal and interior regions of this great State and experience, what is perhaps the most scenic wilderness and wildlife habitat left in the United States today.

Mr. Denver's experiences in Alaska are rich and varied and show graphically why I support legislation to protect these scenic lands and wildlife areas.

He and his companions take a raft journey down the sprightly rapids of the Alagnak River on the Alaska peninsula.

He confronts a huge polar bear on the polar ice cap and witnesses a family of brown bears feasting on summer salmon.

There is an arduous climb in the

Majestic Wrangell Mountains and participation in the centuries' old ritual of hunting for the bowhead whale.

The scenes remind us all that Alaska is wild, unspoiled and unsurpassed in scenic beauty. In Mr. Denver's words, it is "a precious land," a land whose protection gives us a final opportunity to show our children and grandchildren what all of America was once like.

Alaska is too important to have its future guided by narrow and parochial interests. That is why Congress must face its responsibility in the so-called D-2 issue and set aside Federal land for permanent protection as national parks and wildlife refuges and forest wilderness.

My hope is that my colleagues and Americans everywhere will have a chance to see this valuable program. I am certain it will convince them that the Alaska lands issue is a national issue and, with development interests waiting in the wings, one that is crucial to address right now.

EFFECT OF EMPLOYEE STOCK OWNERSHIP ON LABOR PRODUCTIVITY

Mr. LONG. Mr. President, the July 31 edition of the Washington Post contained an editorial which greatly alarmed me. The editorial, entitled "American Productivity," contrasted the increase in American productivity—the average output per hour of labor—over the past decade with that of the other major world powers. I ask unanimous consent to print a copy of that editorial in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

AMERICAN PRODUCTIVITY

Throughout most of the years since World War II, productivity in the American economy has risen briskly. As it went up, it carried with it people's earnings and standards of living. But the rise began to slacken about a decade ago, and for the past year and a half there has been hardly any rise at all. Of all the changes overtaking the American economy, the behavior of productivity is one of the most peculiar—and one of the most disquieting.

The immediate consequence of no productivity gains is that inflation will become harder than ever to control. But if the present pattern continues, it will also ignite uncomfortable political questions about dividing the pie in a country that has come to expect, and to count on, steady increases in both public and private wealth. Nobody really knows why productivity has stopped rising. All explanations are, to one degree or another, speculative. But the evidence suggests that it is no minor passing blip on the chart. The causes seem to lie deep in the changing structure of the national economy.

Productivity is simply the average output per hour of labor. The Labor Department computes it every three months, and it has just published the figures for the spring quarter of this year. They show that productivity was rising at the minuscule rate of 0.1 percent a year, after having fallen during the winter. Through the 1950s and most of the 1960s, it was going up at an impressive pace of nearly 3 percent a year. In the years after 1968, the trend dropped to half that rate. Since late 1976, it has been almost flat.

That departure is consistent with two other surprises. Inflation has been running considerably higher in recent months than most people expected, and unemployment has been considerably lower. Output over the past year has been raised by putting more people on payrolls, not by improving each person's capacity to produce.

It's a striking departure, and one explanation may well lie in the rather low rates at which business has been investing new capital. That, in turn, may be the result of low profits. Another possibility is the cost of the new environmental and safety rules, requiring industry to invest heavily in equipment to control air and water pollution.

Whatever the influences controlling productivity, they vary enormously from one country to another. In international competition, the United States is currently not doing well. The following brief paragraph compares the increases in productivity in manufacturing, for the decade 1967–77, among some of the major industrial powers:

United States, 27 percent; France, 72; West Germany, 70; Italy, 62; Japan, 107; Canada, 43; and Great Britain, 27.

There is a tendency in this country to regard Britain as the world's great example of industrial decline. But you will note that the rate of productivity gain in British factories over the past 10 years has been the same as in American factories.

Since no one is quite sure why the American rate has fallen, no one is in a position to offer a sure remedy. But these latest productivity figures may well strengthen the impulse in Congress to cut taxes on capital gains, in an effort to increase investment. Beyond that, it's also necessary to consider the possibility that some of this change may lie beyond the reach of government policy. A good many Americans' ideas about work, incomes and economic growth began to change around 1968. These new attitudes may now be showing up in the statistics on the nation's economic performance.

Mr. LONG. The editorial points out that there "is a tendency in this country to regard Britain as the world's great example of industrial decline." This, I think, is a fair assessment of the average American businessman's opinion.

However, the author then cites statistics which reflects that the productivity gain in the United States over the past 10 years is no better than that of Great Britain: a miserable 27 percent.

This statistic becomes even more alarming when compared to the productivity gains over the same period for Japan, 107 percent; France, 72 percent; and West Germany, 70 percent. Even Italy had an increase of 62 percent—almost 150 percent more than our own.

Clearly, we as a country are not increasing our productivity at a rate which makes us competitive with the other free-world economic powers.

As every Senator knows, one major consequence of declining or lagging productivity is inflation. That we are now in a period of spiraling inflation cannot be denied. What we need to do is find ways to increase each individual's productivity and thereby increase the volume of goods and services which are competing for the consumers' dollar. This is one of the important ways in which we can begin to break the cycle of too many dollars chasing too few goods and begin to place a lid on the inflation spiral which we have thus far been so helpless to stem.

Also, as productivity rises, so does the potential for corporate profits and, thus, the likelihood of expanded capital investment.

Last month, the Senate Committee on Finance held 2 days of hearings on employee stock ownership plans (ESOP's). During these hearings, we received testimony from such major corporations as Sears, Roebuck & Co., Potomac Electric Power Co., the Dow Chemical Co. and Lowe's Cos., Inc. These companies were unanimous in their opinions that providing employees with a stock ownership in their employers carries with it major benefits not only for the employer and its employees, but for the economy as a whole.

There was complete agreement that the unified interest between employer and employee which results from employee stock ownership has a definite impact on productivity. Since that time, I have received statements of support for the ESOP concept from such corporations as General Telephone & Electronics Corp., Gulf Oil Corp., Weyerhauser Corp., McDonald's Corp., and Celanese Corp.

I have long believed that employee stock ownership increases productivity, and I was delighted to have my opinions reinforced by the heads of these corporations.

At the same time, we received testimony from Ambassador Robert S. Strauss, Special Counselor on Inflation. Mr. Strauss indicated that he would look carefully at ESOP as a possible solution to the problem of declining productivity and increasing inflation since, as he pointed out, an employee always works harder when he has "a piece of the action." My longstanding commitment to giving employees "a piece of the action" is well known.

Finally, I also submit for insertion in the RECORD at the close of my remarks a copy of a recent Department of Labor report, entitled "Employee-Owned Companies: Is the Difference Measurable?"

This report suggests strongly that employee stock ownership results almost invariably in better attitudes toward the job and higher productivity and corporate profits. I am gratified that the administration is finally taking a look at the beneficial effects of employee stock ownership and I hope that the results of this investigation will answer the questions raised by the "doubting Thomases" about ESOP.

I hope that other Senators will join me and the heads of many of our major U.S. corporations in actively promoting the concepts of ESOP and broadened stock ownership as vehicles for resolving some of these major economic problems which currently plague our country.

On June 23, I introduced S. 3241, the "Expanded Employee Stock Ownership

Act of 1978"; Senators WENDELL ANDERSON, MIKE GRAVEL, and BILL ROTH are cosponsors of this bill. My purpose in introducing the bill is to reduce administrative problems for ESOP's and provide greater incentives for employers to adopt such programs and provide access to greater stock ownership for their employees.

This past Tuesday, August 15, Congressmen JOE WAGGONER and BILL FRENZEL introduced the same bill in the House (H.R. 13882). I am pleased that these Members of Congress are directing their attention toward broadening stock ownership. I would encourage all Senators and Congressmen to review the proposals we are making in these bills and work with us toward providing more Americans with a "piece of the action."

Mr. President, I ask unanimous consent that an article in the Monthly Labor Review of July, 1978, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

EMPLOYEE-OWNED COMPANIES: IS THE DIFFERENCE MEASURABLE?

(By Michael Conte and Arnold S. Tannenbaum)

Employe ownership can be found throughout the history of the United States, although companies that are wholly owned by employees (including workers) have always been rare. One survey reported that 389 companies, in which a large proportion of the stock was directly owned by employees, were established in the United States between 1791 and 1940.[1] The number of companies with at least some degree of employee ownership was probably much larger, and there is evidence that this number has grown in recent years.[2]

Several aspects of performance in a variety of employee-owned companies are analyzed in this article.[3] The data employed include: the size and sales volume of employee-owned companies; the percent of employees who participate in the ownership plan; the percent of equity owned by nonmanagerial as well as managerial persons; and aspects of control of the company by employees. Also analyzed are the attitudes of managers toward the ownership plan and their judgment about the effect of the plan on productivity and profit. Actual profit data were available for a subset of companies, and the relationship between profit and other characteristics of these companies was studied.

Employee ownership can take two forms: direct, where employees own shares in the company as would ordinary shareholders in a joint-stock company; or "beneficial," where employees own shares through a trust, as illustrated by the Employee Stock Ownership Trust (ESOT).[4] The Employee Retirement and Income Security Act of 1975 stipulates that the holdings of an Ownership Trust must be invested "primarily" in the stock of its company—unlike the holdings of the usual profit-sharing trust, which may be diversified, or of a pension trust, which must be diversified.

Contributions to the Trust are governed by an Employee Stock Ownership Plan (ESOP). Depending on the plan, contributions may be made on the basis of a profit-sharing principle (whereby some fixed percentage of company profits is annually transferred to the Trust), a cost principle (whereby a fixed percentage of labor costs is annually transferred to the Trust), a fixed contribution principle (whereby a fixed dollar amount is transferred to the Trust), or by other methods determined entirely at the discretion of a single party or parties. The central requirements, however, are that the Ownership Trust invest "primarily" in employer securities and that disbursements from the Trust be made in employer securities. Dividends that may be declared are not usually distributed immediately to employees but, rather, are held in trust. Nonetheless, the financial well-being of the "beneficiaries" of stock in the Trust is tied to the success of the company.

FINDING WHO OWNS WHAT

A list of 148 companies in the United States and Canada, thought to have some degree of employee ownership, was compiled.[5] After conducting telephone interviews, usually with the financial officer, 98 of these companies actually were found to have some component of worker ownership; 68 firms had Stock Ownership Plans, and 30 had direct ownership. Their median size was approximately 350 employees; 17 percent had fewer than 100 employees and 25 percent had 1,000 or more. During the previous year, almost half of the companies had sales of at least $25 million.

As shown in table 1, employees in about three-quarters of the companies owned at least half of the equity; ownership of the entire equity by employees was more likely to occur in stock-plan than directly owned companies. This table refers to the percent of equity held by all employees, including managers. Table 2, on the other hand, refers to the percent of equity owned by the workers alone, which, of course, is less than that owned by all employees.

TABLE 1.—PERCENT OF TOTAL EQUITY OWNED BY EMPLOYEES, INCLUDING MANAGERS, IN 87 COMPANIES

Equity owned by employees	Percent of companies: Stock ownership plan (N=60)	Direct ownership (N=27)	All companies (N=87)
Less than 10 percent	4	4	4
Between 10 and 49.9 percent	18	18	18
Between 50 and 99.9 percent	28	59	38
100 percent	50	19	40

Note—Eleven companies did not provide sufficient percent of equity owned internally data to determine the percent of equity owned internally.

TABLE 2.—PERCENT OF TOTAL EQUITY OWNED BY WORKERS ONLY, IN 83 COMPANIES

Equity owned by workers	Percent of companies: Stock ownership plan (N=58)	Direct ownership (N=25)	All companies (N=83)
Less than 3 percent	34	8	27
Between 3 and 9.9 percent	16	8	13
Between 10 and 49.9 percent	43	20	36
Between 50 and 100 percent	7	64	24

NOTE—Fifteen companies did not provide data relevant to the percent of equity owned by workers.

The measure of equity owned by workers in stock-plan companies was obtained by multiplying the percent of the company's equity owned by the Trust times the percent of the Trust's equity owned by the workers. Because of the way records are kept in most of the stock-plan companies, we found it necessary to rely on the distinction between salaried and other personnel as the basis for distinguishing rank-and-file workers from managers in these companies. Furthermore, although most of the directly owned companies could report the allocation of ownership between managerial and other personnel, only about half of the stock-plan companies could report the precise allocation of stock within the Ownership Trust. In these companies, 54 percent of the Ownership Trust stock, on average, is owned by nonsalaried employees. This average then, was used to define the amount of worker-owned stock within the Trust in each of the remaining cases.[6] As estimated, therefore, worker-owned equity in the remaining cases is directly proportional to (that is, 54 percent times) the percent of the company's equity in the Trust itself.

Employee owners in the Trust are entitled to dispose of their stock at market value once it has been distributed to them. Unlike employees in directly owned companies, however, owners in a Trust generally do not vote their stock. The following tabulation shows the percent of companies where voting rights and other employee control mechanisms are reported to be available:

	(1)	(2)	(3)
Employee-owners have:			
Stock-voting rights	27	97	50
Representatives on Board of Directors	36	77	49
Union representation	32	38	33
Influence on important decisions other than through a union	51	77	56

[1] Percent of stock-plan companies.
[2] Percent of directly owned companies.
[3] Percent of all companies.

In general, the data indicate substantial differences between stock-plan and directly owned companies in these measures of employee influence over company decisions. For example, only 36 percent of the respondents in companies with Stock Ownership Plans report that worker representatives sit on the board of directors; 77 percent of the companies with direct ownership report the presence of workers on the board. Similarly, 51 percent of the respondents in companies with ownership plans, compared to 77 percent in companies with direct ownership, indicate that employees influence "important" decisions in the company. In some of the companies, this influence reportedly extends to such decisions as whether or not to make major capital acquisitions. The two types of companies do not, however, appear to differ with respect to whether or not employees are unionized. Although not specifically measured, indications are that directly owned companies have significantly fewer unionized employees than do comparable ownership-plan companies.

EMPLOYEE OWNERSHIP AND PROFITABILITY

Profit data were supplied by 30 companies. The ratio of pretax profits to sales was used as a basis for gauging profitability. Each company's ratio was then divided by its industry's 1976 ratio.[7] This weighted ratio was the primary measure of a company's pretax profitability. For five companies, however, an additional adjustment was necessary. Because these companies are directly and wholly owned by employees, they distributed a part of their "profit" to employees in the form of wages. This allocation of funds has the effect of depressing the conventional profit statement, although it has the corresponding advantage of reducing taxes. These moneys, however, should be considered as part of the company's profit for purposes of comparison with other companies in our set.

Footnotes at end of article.

To calculate the amount of money diverted from profits to wages in the five companies, the average wage differential between the worker owners and nonowner workers was used.[8] This differential in each company was added to its formally stated profit figure, and this final value was used for computing the profitability of these five companies. Although this adjustment seems appropriate as a way of maintaining comparability among companies that employ different accounting procedures, the unadjusted profit statements also were compared. This unadjusted value is, most likely, overly conservative; but there may be some utility in examining both measures of profitability.

The average adjusted profit ratio for the 30 companies was 1.7; the unadjusted ratio was 1.5. In both cases, these values, which are greater than 1, indicate greater profitability among employee-owned companies than comparable sized companies in their respective industries. However, because the variance in profitability among the 30 companies is relatively large and the number of cases is small, statistical significance is not achieved. It is also possible that the "sample" of companies may be select with respect to profitability. The results are suggestive, however, that employee ownership, in one form or another, may be associated with the profitability of a company.[9]

TABLE 3.—REGRESSION COEFFICIENTS FOR THE PREDICTORS OF "ADJUSTED" AND "UNADJUSTED" PROFITABILITY

Predictor	Adjusted	Unadjusted
ESOT (=0) vs. direct ownership (=1)	−.22	−.34
Percent employees participating in plan	−.30	−.31
Percent equity owned internally	−.31	−.19
Percent equity owned by workers	[1] 1.02	.78
Worker representativeness on board of directors	−.18	−.18
Employee stockholders vote	−.05	−.24
Multiplier	.72	.47

[1] $p < .02$.

NOTE. The data necessary to calculate the adjusted profitability ratio are unavailable in five companies of the subset and 5 companies did not provide information concerning all of the predictors in this regression. The number of cases in the adjusted and unadjusted cells are therefore 20 and 25 respectively.

In table 3, the two indexes of profitability (adjusted and unadjusted) are predicted using several aspects of employee ownership in a regression analysis. The predictors include: (1) the form of employee ownership, whether direct or through a Trust (Ownership Trust is scored "0"; direct ownership is scored "1"); (2) the percent of employees who participate in the plan; (3) the percent of company equity owned by employees (by managers and workers); (4) the percent of company equity owned by the workers themselves; (5) whether employees have representatives on the board of directors; and (6) whether employee stockholders have voting rights.

These predictors jointly explain a substantial amount of the variance in "adjusted" profitability, but only one of the predictors, the amount of equity owned by the workers themselves, proves statistically significant (p less than .02); the more equity the workers own, the more profitable the company, other things being equal (beta = 1.02).[10]

The second variable of importance in this analysis, the amount of equity owned internally, has, if anything, a negative relationship with profitability (beta = −.31); but the statistical significance of this variable is marginal, at best—a coefficient of this size occurring about one out of four times by chance. Variation in "internal ownership" in this context is really variation in ownership by managerial personnel, because ownership by the workers themselves is controlled in the analysis. The possible implication, therefore, is that increases in the amount of equity owned by managers may have a negative effect if this increase is not accompanied by an increase in the equity owned by the workers. This result is not strong statistically, but it may be worth considering as a hypothesis.

The impact of the remaining variables can easily be attributed to chance, but it is interesting to see that they, too, imply, if anything, negative relationships in the regression. Direct ownership (rather than through a Trust), the percent of employees who participate in the plan, the existence of worker representatives on the board, and the existence of voting rights show a negative relationship (if anything) to profitability when the percent of equity owned by the workers themselves is controlled.

Prediction of the unadjusted profitability index is not as good as the prediction of the adjusted index, the multiple correlation being only 0.47, and none of the predictors meets the usual criterion of significance. The pattern of results, however, is similar to that for the analysis of the adjusted profitability index; the one predictor that approaches a marginal level of statistical significance is the percent of equity owned by the workers.

The negative signs associated with several of the variables in table 3 do not imply (or they would not imply, even if they were statistically significant) that these characteristics are associated with low profitability; they imply (or would imply) such a negative association only under the conditions of the regression analysis where, for example, the amount of equity owned by the workers is controlled statistically. In fact, because companies where workers hold a high percent of the equity are likely also to be directly owned, direct ownership, like the amount of workers ownership itself, is positively associated with profitability.

TABLE 4.—CORRELATIONS AMONG ASPECTS OF EMPLOYEE OWNERSHIP AND PROFITABILITY

Characteristics	Profit (adjusted) (N=20)	Profit (unadjusted) (N=25)	Stock plan vs direct ownership (N=75)	Percent employees participating (N=75)	Percent of equity owned internally (N=75)	Percent of equity owned by workers (N=75)	Workers on board (N=75)
ESOT (=0) vs. Direct ownership (=1)	[1] 0.48	0.27					
Percent employees participating	−.33	−.29	[1] −0.23				
Percent of equity owned internally	−.02	−.06	−.10	[1] 0.25			
Percent of equity owned by workers	[1] .60	.31	[1] .68	.14	[1] 0.34		
Workers on board	.24	.08	[1] .36	.08	.04	[1] 0.43	
Employee stockholders vote	.30	.18	[1] .68	−.11	−.11	[1] .47	[1] 0.22

[1] $p < 0.05$.

Table 4 helps to illustrate these associations. This table shows the simple, zero-order correlation among the variables presented in the regression analysis. Correlations that are significant at the .05 level or better are indicated. We see in this table not only how the predictors may be associated with profitability, but also how the predictors relate to one another. For example, companies in which workers hold a high proportion of the equity tend to be directly owned (r=.68), to have worker representatives on the board (r=.36), and to provide voting rights to employee owners (r=.68). On the other hand, the correlation between the percent of equity owned by the workers and that owned internally (by workers and managers is not as high as one might expect, in view of the fact that internal ownership includes ownership by workers (r=.24). The proportion of equity owned by managers in many of these companies is relatively large and "internal ownership," therefore, reflects managerial ownership more than worker ownership.

Footnotes at end of article.

Direct ownership in this table is significantly and positively related to adjusted profitability (r=.48)—unlike the relationship indicated in the regression analysis—because direct ownership is associated with the percent of equity owned by workers, which appears from the regression analysis to be more closely associated with profitability. Voting rights is also associated with the percent of equity owned by workers and it, too, shows a positive relationship with adjusted profitability (unlike the relationship in the regression analysis), although the magnitude of the correlation does not meet the criterion of statistical significance, given the small number of cases.

The percent of employees who participate in the ownership plan, however, does not show the relationship to profitability that one might expect from the hypothesis that employee ownership has a positive effect on profitability (r=.33). The explanation may hinge on the association, or rather lack of association, between the percent of employees who participate and the percent of equity owned by workers (r=.14). Apparently, many companies that have relatively widespread employee ownership, in fact, involve only a small proportion of the companies' equity in such ownership. Many members, in other words, own very little.

SUBJECTIVELY SUPPORTED BY MANAGERS

In a previous study, substantial sentiment in favor of employee ownership was found among both managers and workers in a company that had recently adopted an ownership plan.[11] Employee ownership, they felt, contributed substantially to the satisfaction of all employees, to the motivation of workers, and, ultimately, to the productivity and profitability of the company. Records of the company also indicated that grievances and waste (in the form of expendable tools) declined and that productivity and profitability increased during the period immediately following the introduction of the plan (although profitability was higher during one period a number of years earlier).

In the present analysis, a management representative in each company was asked questions about the effect of employee ownership on productivity and profit. "Do you think that employee ownership affects profits? Does it increase profits, decrease them, or have no effect?" Similar questions were asked concerning productivity. On average, the responses to these questions indicated substantial support for employee ownership. The analyses presented in the previous section, suggesting that employee-owned companies are associated with above average profitability within their respective industries, lend some credence to the claims of these managers. However, the managers who credited employee ownership for high levels of profit did not necessarily work for the more profitable companies.

Managers in companies that were substantially worker-owned were no more likely to ascribe positive effects to employee ownership than managers in less intensively worker-owned companies even though the proportion of equity owned by workers appears to be related to profitability. On the other hand, employee ownership is more likely to be reported to have positive effects on profit where such ownership is direct, rather than through a Trust; managers also respond more favorably where workers are not represented on the board.

Each manager respondent was asked whether employee ownership affected the attitudes of workers toward their job. The average response was 0.84 on a scale from 0 to 1, where "1" means that work attitudes are better and "0" that they are worse as a result of the ownership plan. Their response, therefore, implies that these managers, on average, perceive employee-ownership plans as having a substantially positive effect on the attitudes of employees. But, according to a regression analysis, this judgment by managers may be less positive where workers have representatives on the board of directors. In general, managers were more satisfied with the plan where ownership is direct rather than through a Trust and where the percent of employees who participate in the plan is relatively large. It seems reasonable that managers should think well of the plan where participation is widespread. On the other hand, we have seen that widespread ownership, per se, is not associated with profitability; such ownership may very well mean that many employees own only a very small fraction of the equity—and it is the amount of equity owned by workers that appears to be most often associated with profitability.

TAKING STOCK

Employee ownership in the United States has taken a number of forms, although examples where workers own a substantial part of a company's equity are rare. These data, although only preliminary, offer a glimpse of the possible impact of employee ownership on the economic performance of companies and employee attitudes. On the basis of this brief analysis, some tentative conclusions may be suggested: The industrial relations climate in employee-owned companies appears to be good, in the judgment of managerial respondents; managerial respondents in these companies see employee ownership as having a positive effect on productivity and profit; the employee-owned companies that have been studied appear to be profitable—perhaps more profitable than comparable, conventionally owned companies; the ownership variable most closely associated with profitability is the percent of equity owned by the workers themselves; although workers influence in the company, as judged by managers, is a function of worker-owned equity, managers' evaluation of the ownership plan is not affected in a positive way by either the amount of equity held by the workers or the amount of influence exercised by the workers; managers appear more favorably disposed toward plans with widespread participation among employees, even though this may involve only a small fraction of the company's equity.

These conclusions are tentative. The companies that provided profit data may be select, and the analyses are based on correlations that illustrate association among variables—they do not prove causation. The results, however, are sufficiently encouraging to justify a detailed, longitudinal study of a number of companies over a period of years. Such a study should include measures of the attitudes and motivations of all employees within the companies as well as measures of company performance. If employee ownership does have an effect on the economic performance of a company, as the data of this study tentatively suggest, the explanation may be found, at least partly, in the effect of ownership on the employees themselves.

FOOTNOTES

[1] Derek Jones, "The economics and industrial relations of producer cooperatives in the United States, 1790–1940," mimeo.

[2] "Employee Ownership," Survey Research Center, Institute for Social Research, University of Michigan, Sept. 23, 1977. Matthew J. Bonaccorso and others, "Survey of Employee Stock Ownership Plans," unpublished masters thesis, University of California, Los Angeles, Graduate School of Management, December 1977.

[3] The study reported here was done under a grant from the Economic Development Administration, U.S. Department of Commerce. The views expressed are those of the authors.

[4] Louis Kelso and Patricia Hetter, *Two Factor Theory: The Economics of Reality* (New York, Random House, 1968).

[5] The list was culled from articles in newspapers, magazines and professional journals, conversations with colleagues, and references given by persons in employee-owned companies whom we contacted.

[6] The definition of "worker" implicit in the stated procedure differs somewhat in the two types of companies. "Workers" may include foremen and salaried clerical workers in some directly owned companies, but not in stock-plan companies. Table 2, therefore, may overstate the difference in worker ownership between stock-plan and directly owned companies, although we do not believe that the definitional inconsistency accounts for the entire difference shown in the table.

[7] Robert Morris Associates, Annual Statement Studies (Philadelphia, Credit Division, 1976).

[8] These nonowner-workers performed essentially the same jobs as the worker owners and received the union wage rate.

[9] For studies in which performance of worker-owned plywood firms is compared to that of conventional firms, see Carl J. Bellas, *Industrial Democracy and the Worker-Owned Firm* (New York, Praeger Publishers, 1972); Katrina Berman, *Worker-Owned Plywood Companies: An Economic Analysis*. (Pullman, Wash., Washington State University Press, 1967); "Comparative productivity in worker-managed cooperative plywood plants and conventionally run plans," unpublished, 1976; Paul Bernstein, "Democratization or organization: theory, practice and further possibilities," Ph. D dissertation, Stanford University, 1972, See also Seymour Melman, "Managerial versus cooperative decision making in Israel," *Studies in Comparative International Development*, 1970–71, who compares the performance of kibbutz firms with conventional firms in Israel. For an analysis of companies that have substantial profit-sharing programs, some of which entail a degree of employee ownership, see Bert L. Metzger, *Profit Sharing in 38 Large Companies* (Evanston, Ill., Profit Sharing Foundation, 1975).

[10] "Beta" refers to a standardized regression coefficient.

[11] *An employee owned firm*, Survey Research Center, Institute for Social Research, The University of Michigan, Jan. 17, 1977. For a study of the reaction of both managers and workers in Israeli kibbutz, Yugoslav, American, Austrian, and Italian factories that differ in their system of ownership, see Arnold S. Tannenbaum and others, *Hierachy in Organizations* (San Francisco, Jossey-Bass, Inc., 1974). See also Ana Gutierrez Johnson and William Foote Whyte, "The Mon Dragon System of Worker Production Cooperatives," *Industrial and Labor Relations Review*, October 1977, pp. 18–30; and Richard J. Long. "The Effects of Employee Ownership on Organization, Employee Job Attitudes, and Organization Performance: A Tenative Framework and Empirical Findings," *Human Relations*, January 1978, pp. 29–48.

TAX LIMITATION THROUGH INDEXATION

Mr. GRIFFIN. Mr. President, earlier today I presented a statement urging the Committee on Finance—as I urged the Subcommittee on Taxation and Debt Management 4 months ago—to report to the Senate not just a tax cut bill—but a tax reform bill that includes tax indexation.

Unless tax rates are adjusted automatically in the future to reflect future increases in the cost-of-living, the effect of any tax cut voted this year will be quickly eroded and made meaningless by inflation.

Last year, during consideration by the Senate of another tax bill, I offered a tax indexation amendment on the floor. Unfortunately, that amendment failed by a vote of 64-to-24. The very next day—April 29, 1977—I introduced the same language as a bill, S. 1431. In the future, under this bill there would be automatic annual adjustments of the personal income tax rate schedules, deductions, and exemptions to compensate for increases in the cost of living.

Since I introduced that bill last year, I am pleased to note that a number of similar bills have been introduced by other Senators, including S. 2738, which I have cosponsored with Senators DOLE and MCCLURE.

I remain steadfastly convinced that enactment of tax indexation is the single most valuable and important step that this Congress could take to give taxpayers genuine relief from the squeeze of raging inflation and ever higher taxes that economists now call "taxflation."

Tax indexation to cope with taxflation is no longer an esoteric economic concept. People all over the country understand it, and want it. I have learned that, firsthand, after traveling throughout the State of Michigan, where at every stop, people express their concern about inflation and taxation, and indicate their strong support for tax indexation.

That's true not just in Michigan. A Roper poll released last month—which surveyed nationwide attitudes toward taxation—showed that 60 percent of American taxpayers would prefer having income tax rates adjusted automati-

cally for inflation, rather than waiting for the periodic tax cuts granted by Congress.

Let me cite that figure again. Six out of every 10 taxpaying Americans want tax indexation—not just a tax cut—as the means for real relief from the scourge of taxfiation.

We all know the symptoms of taxfiation. Unbridled inflation forces wages to rise so that wage earners can keep up with the cost of living. But as his pay goes up, the worker finds that he is pushed up into higher and higher tax brackets—which mean that a higher percentage of his income is taken by the Government in taxes. Even though a pay raise means no actual gain in purchasing power—he has more dollars which are worth less—the worker is required under the present system to pay a higher rate of taxes. This is unconscionable.

To compound the problem, our progressive tax system takes a steadily increasing percentage of a taxpayer's earnings as the taxpayer gets moved into higher tax brackets. As the well-known advertisement says: "There's no living with inflation"—and I would add, there's no living with taxes!

Given this unhappy interplay between taxes and inflation, it is no wonder that workers today feel like the man trying to climb a ladder in a bog: for each rung the taxpayer climbs on the economic ladder, the ladder sinks a little deeper into the financial mire.

As in almost every arena of life, there's usually a winner and a loser. When it comes to taxfiation, the real winner now—as you might have guessed—is the Federal Government. Because the taxpayer's loss is the Government's gain.

As Nobel prize-winning economist Milton Friedman computes it, when the cost-of-living goes up by 10 percent, the taxes flowing into the Federal Treasury go up—not 10 percent—but 16 percent. This worked out to a windfall profit on inflation for the Federal Government of about $6 billion last year.

Perhaps it should be no surprise that some of the big spenders here in Washington take a dim view of my proposal to index the tax rates. As the system operates now, taxes are increased, without a vote of Congress, just by promoting policies and programs that are inflationary.

What does all this mean to the individual wage earner? Let me provide a few illustrations.

Consider the plight of the wage earner with a wife and two children who in 1977 earned $15,000. Being conservative [or perhaps the word is "optimistic"] let us assume an inflation this year of 8 percent. To stay even with inflation, our wage earner this year will have to earn $1,200 dollars more—or $16,200. But, he really does not stay even. Because, while his income increases by 8 percent, his income taxes will go up about 19 percent. Pushed up into a higher tax bracket, he will have to pay a tax increase of $260, which will give the Government a hidden profit of $150. In other words, if the worker were allowed to pay the same tax rate on his increased pay his tax bill would be $150 less.

The situation gets worse each year if the tax rates are not indexed or adjusted. The following year—in 1979—if inflation continues at 8 percent, and the worker's wages manage to keep up, his taxes will increase by another 17 percent, and the Government's windfall will be about $305—for a whopping 2-year total of $455, taken almost by stealth.

The effects of taxfiation become even harsher and more pronounced as the worker continues to climb up the income ladder. A family with a $30,000 yearly income in 1977 will have to earn $2,400 more in 1978—just to keep pace with an 8 percent inflation rate. However, at $32,400, the family's tax bill will rise by about $857. The Government's profit on that will be $423.

But income derived from wages is not the only area where taxpayers are hit by the impact of inflation. Let us look at another typical situation.

Take the case of a couple who bought a home back in 1952 for $25,000. Twenty-five years later, their children have grown up and have gone off on their own; the couple wants to sell their home for $60,000 and move into a small apartment. During the 25-year period, inflation has pushed the cost of living up 144 percent. In terms of purchasing power, the $25,000 that the couple paid in 1952 is worth or equal to about $61,000, today, 25 years later. So by selling the house for $60,000, the couple actually receives less than they paid for it.

But, under our current tax system, the Government decrees that the couple has realized a $35,000 capital "gain," and must pay tax on it. For the average taxpayer, that is a tax bill of about $7,000.

It is unconscionable that the Government imposes a tax in such a situation. The taxpayer has gained nothing at all—his dollars are just worth less.

I am very pleased to note that our colleagues in the House of Representatives have recognized this inequity in their version of the Revenue Act of 1978, which for the first time would index most capital assets (such as homes) to reflect increases in the cost of living.

This action on the part of the House is a very significant first step. But we should not stop with tax indexation of capital assets. As I have already pointed out, the effects of taxfiation on wages is equally devastating. Congress should take the bull by the horns and should also index the tax brackets, the personal exemption and the standard deduction. This bold and justified step would operate to neutralize the tax impact of inflation.

Mr. President, the Finance Committee—soon to be joined by the full Senate—is in the process of determining the size and shape of this year's tax cut. I wholeheartedly support the idea of a tax cut. However, a tax cut is not the answer to taxfiation.

Too often—and this year is a perfect example—tax cuts are determined by prevailing political winds, and they often do not make a taxpayer whole for past losses suffered through taxfiation. And even if a tax cut appears adequate at the time, the benefits are quickly lost in the years following if the inflation spiral continues.

As I told the Finance Committee this morning, it is important that we restore integrity to our tax system and give American taxpayers reason to have confidence in it. Particularly in light of the citizen tax revolt that exploded in California and is sweeping the country today, this is the year to adopt effective tax limitation by enacting tax indexation.

A tax cut this year will not really provide a tax reduction for most workers; it will merely provide an adjustment of sorts for the inflation already suffered. However, if a tax cut were coupled this year with tax indexation for the future, then the next tax bill approved by Congress could be a real tax cut.

Tax indexation is an idea whose time has come. I urge the Senate to act accordingly.

IBM PRESIDENT OUTLINES VITAL BUSINESS EFFORT ON REGULATORY REFORM

Mr. PERCY. Mr. President, the Business Roundtable has been an important ally to the Congress in its quest to weed out unnecessary regulation and put the lid on excess Government intrusions into the affairs of American businesses. Frank Cary, chairman of the board of IBM, heads a task force on regulation for the Business Roundtable. He has written a comprehensive summary of the Roundtable's current efforts and plans concerning the area of business and regulation. His statement outlines:

A study commissioned by the Business Roundtable which will assess the real and specific economic impacts of Government regulation on a variety of businesses;

A plan to make regulatory agencies more completely administered;

An invitation for businesses to play a more active role in the regulatory process;

A mandate for "sunset" legislation assuring that regulatory laws and agencies do not outlive their usefulness; and

A bid to small businesses, labor, consumers, and every American to recognize the impact excess regulation has on their lives and well-being and the importance of supporting meaningful legislation in this area.

Mr. President, I ask that this thoughtful commentary by Mr. Cary be printed in the RECORD at this point.

There being no objection, the commentary was ordered to be printed in the RECORD, as follows:

BUSINESS AND REGULATION

(By Frank T. Cary)

The growth of government regulation concerns us all. But in recent days, with the increased concern over inflation, the need for action has taken on new urgency. Clearly, the cost of regulation has emerged as a significant force in the higher and higher prices we are paying for almost everything we buy.

What must be recognized at the outset is that most regulation stems from genuine concern about genuine grievances. So it

would be unrealistic to set out to eliminate it. What is needed is a hard look at all regulations to make sure that they are both necessary and cost effective.

Recently, we've seen some progress in this area. The Administration has, among other actions, issued an Executive Order which requires that many existing regulations be periodically reviewed, and that major proposed regulations be analyzed for their economic impact.

But we still have a long way to go, and there are several actions I believe that must be taken.

The first thing is to get the facts. Despite all the rhetoric we've heard over the years about the enormous costs of regulation, only a few people have ever tried to measure those costs in any systematic, comprehensive way. The plain fact is that no common methodology exists by which a specific company or industry can measure the economic impact of a regulation on its business.

To remedy this, an organization of corporate chief executive officers called The Business Roundtable has commissioned a study to produce such a methodology and measure costs. This effort began in February with a pilot test at General Electric. In June, data collection began in over forty participating companies in a wide variety of industries, including autos, steel, chemicals, pharmaceuticals, utilities and financial organizations. The study will measure the incremental costs of government regulations affecting capital, research and development, administrative, operating, and direct product costs.

When the project is completed the end of this year, the cost impact of regulation on specific firms in a variety of industries will have been measured for the first time, and specific regulatory problem areas will have been pinpointed on the basis of cross-industry analysis. The Roundtable then plans to make its study methodology available for public use.

A second thing we have to do is make sure all regulations are competently administered. The Business Roundtable has made recommendations that would: require the President to appoint only fully qualified people to regulatory agencies; have the President submit, with the nomination, a statement of those qualifications; and require commissions to have a balance of backgrounds represented, including business.

The Roundtable rejects the contention that regulatory agencies should consist of people with no expertise in the business they're regulating. It also favors conflict-of-interest legislation not only for businessmen, but for everybody—including environmentalists, journalists, and public interest lawyers—to prevent abuse of a public trust for personal profit.

Third, we in business have to take initiatives in the regulatory process to help make it work better. We must cooperate with members of the Congress to assure that new regulatory legislation is as workable as possible; we must cooperate with the regulatory agencies to produce fair and efficient rules; and we must give sound business advice to government agencies that do economic analyses of new regulations.

The President's new Executive Order, which requires advance publication of proposed regulations and economic analyses, invites this kind of business participation.

Next, we have to get behind legislation to assure that regulatory laws and agencies don't outlive their usefulness. As you know, the Congress has been considering "sunset" legislation which provides for periodic review and renewal of agency charters, and "sunrise" legislation which requires that any new regulatory law specify its goals and include a provision for periodic review against those goals. The thrust of such legislation we applaud. And we should do what we can to see that an effective bill becomes law in this session.

Finally, I believe we have to get ourselves some allies—lots of allies—and join with them in speaking out. The plain fact is that everyone (and not just big business) suffers from excessive regulation—from what Walter Lippmann once called "the sickness of an overgoverned society."

For small business, needless regulations can mean a bar to entry into the marketplace or, even worse, a necessity to circumvent the law to keep the business alive.

For labor, excessive regulation can mean plants and mines closed or never started, and job opportunities destroyed.

For consumers, too much regulation can mean higher prices and fewer goods from which to choose.

For universities it can mean new financial burdens to meet the costs of compliance with federal standards.

And for every American, regulation has an impact on the rate of productivity increase, which it has already cut significantly over the past decade. Regulation also has had a decisive impact on our rate of inflation, which it is raising by as much as a full percentage point every year.

We cannot eliminate all federal regulations.

But we can make sure they make sense, work effectively, and become part of the solutions, not part of the problem. To this end, we need new facts, new requirements for regulators, new initiatives in business-government cooperation, new regulatory review laws, and new alliances.

We have a big job ahead of us, and we all must work together to achieve any measure of success.

CHICAGO CITY COUNCIL URGES HALT TO SURPRISE MEDIA SEARCHES

Mr. PERCY. Mr. President, on May 31, the Supreme Court ruled in Zurcher against Stanford Daily that the police, armed with a warrant, could conduct surprise searches of newsrooms for evidence of a crime, even though no newsperson is suspected of any complicity in that crime. Since that decision, there has been grave concern expressed throughout the country about the potential power that this court decision places in the hands of the police. There is a growing fear that this decision may have a profoundly harmful impact on freedom of the press, and, indeed, on every citizen's right to privacy.

The idea of policemen rummaging around a newsroom—opening drawers, rifling files, searching through wastebaskets—is totally contrary to our fundamental belief in a free press. It is an image drawn from a police state.

A reporter's stock-in-trade is the ability to gather information, often from confidential sources. If we permit these police searches, such sources will soon dry up, and with them, the public's access to information independent of Government.

In response to the Supreme Court's ruling, the Chicago City Council Committee on Federal and State Legislation, under the distinguished chairmanship of Roman Pucinski, recently held hearings to examine the ominous implications of Zurcher. The committee received testimony from Clayton Kirkpatrick, editor of the Chicago Tribune, Paul Beavers, news director of WMAQ-TV, Don Reuben, attorney for both news operations, and Anthony Damato, professor at Northwestern Law School. The committee approved a resolution on freedom of the press which the City Council passed unanimously on July 7. The resolution strongly asserts that the Supreme Court's decision endangers the first amendment guaranty of freedom of the press. Furthermore, it urges Congress to pass legislation that would preserve freedom of the press, and to review present standards for search and seizure as they affect all citizens of the United States.

I congratulate Chairman Pucinski and his colleagues on their swift response to this very troubling decision by the Court.

Zurcher should not remain the law of the land. It is not only a blow to freedom of the press, but also a serious infringement of our right to privacy. Reporters are not the only ones threatened by this decision. This ruling unlocks the doors of innocent citizens' homes and offices for surprise searches for evidence. It renders almost meaningless the confidentiality promised by clergymen, doctors, psychiatrists, and lawyers. As Justice John Paul Stevens noted in his dissent in Zurcher:

> Just as the witnesses who participate in an investigation or a trial far outnumber the defendants, the persons who possess evidence that may help to identify an offender, or explain an aspect of a criminal transaction, far outnumber those who have custody of weapons or plunder. Countless law abiding citizens—doctors, lawyers, merchants, customers, bystanders—may have documents in their possession that relate to an ongoing criminal investigation. The consequences of subjecting this large category of persons to unannounced police searches are extremely serious. The ex patre warrant procedure enables the prosecutor to obtain access to privileged documents that could not be examined if advance notice gave the custodian an opportunity to object. The search for the documents described in a warrant may involve the inspection of files containing other private matter. The dramatic character of a sudden search may cause an entirely unjustified injury to the reputation of the person searched.

The Citizen's Privacy Protection Act, S. 3164, introduced on June 5, 1978, by Senators BIRCH BAYH, HOWARD METZENBAUM, and myself would put a halt to surprise searches of innocent people. It would require Federal, State, and local law enforcement officials to forego a search warrant and, instead, obtain a subpena for evidence of a crime when that evidence is in the hands of someone not suspected of the crime. The measure would still allow police to obtain a search warrant if there is probable cause to believe that the evidence would be destroyed, hidden, or removed. I urge my colleagues to act quickly on this legislation, and protect these fundamental rights.

Mr. President, I ask unanimous consent that the text of the Chicago City

Council's resolution on freedom of the press and the accompanying letter from Roman Pucinski, the chairman of the Council's Committee on Federal and State Legislation, be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JULY 12, 1978.

Hon. CHARLES H. PERCY,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR PERCY: As Chairman of the Chicago City Council Committee on Federal and State Legislation I am enclosing for your information a copy of a resolution on "Freedom of the Press" unanimously passed by the City Council of the City of Chicago on July 7, 1978. This resolution memorializes the U.S. Congress ". . . to enact legislation which would protect newspapers and other media from governmental search where there is no reasonable basis for belief that the parties involved in the media have been guilty of any crime". This resolution further urges ". . . Congress to review present standards for search and seizure as they effect all citizens of the United States".

Sincerely,

ROMAN PUCINSKI,
Chairman, Committee on Federal and State Legislation.

RESOLUTION ON FREEDOM OF THE PRESS

Whereas the freedom of the press has been one of the tenets of American beliefs; and

Whereas newspapers and other media publicly disseminating information have historically been active and often essential in protecting our people from excess and improprieties whether by a private or governmental body; and

Whereas to preserve freedom of the press and to protect media investigation and analyses in our country it is essential that newspapers and other media publicly disseminating information be protected from governmental review of their files and records or governmental harrassment where there is no reasonable basis for belief that the parties involved in the media have been guilty of any crime; and

Whereas Congress has the obligation to uphold the principal of freedom of the press; and

Whereas the right of the various media to be protected in the confidential nature of their investigations has been endangered by a recent decision of the United States Supreme Court to the effect that the Constitutional guarantees of freedom of the press do not protect the media from governmental search and that a warrant for such search can be issued even though the party involved is not presumed guilty of or involved in any crime;

Now Therefore be it resolved that the City Council of the City of Chicago memoralize the Congress of the United States to enact legislation which would protect newspapers and other media from such governmental searches;

We further urge Congress to review present standards for search and seizure as they effect all citizens of the United States.

WORKING MOTHER'S DAY

Mr. PERCY. Mr. President, many States across the Nation, including my own State of Illinois, will observe September 3, 1978 as Working Mother's Day. I would like to commend these States for the observation of a day in honor of these women who are making a dual contribution to our country.

As we all know, the number of women in the work force has increased dramatically in recent years. A substantial number of these women are the mothers of children under 18 years of age.

Since 1970, the total number of women in the civilian labor force has increased by almost 10 million, reaching 41 million in March of this year. Of this number, 16.1 million women are mothers of children younger than 18 or about 39 percent of all working women. It is important to note also that of all mothers 16 years of age or older with children under 18, more than half had joined the work force as of March.

Whether it is by choice or necessity that these women have joined the ranks of workers, their dual contribution to the growth of the economy and the strength of the American family deserves this special recognition.

Mr. President, I ask unanimous consent that the text of the proclamation signed by the governors of these States be printed in the RECORD.

There being no objection, the proclamation was ordered to be printed in the RECORD, as follows:

WORKING MOTHER'S DAY PROCLAMATION

Whereas, more than 15 million American women with children under the age of 18 are employed outside the home; and

Whereas, working mothers are making unique and substantial contributions both to the growth of the economy and the strength of the American family; and

Whereas, working mothers deserve special recognition for meeting their exceptional responsibilities in the home and in the world of commerce,

It is appropriate that particular attention be focused on the unique accomplishments of this segment of American society.

Now, therefore, September 3, 1978 is proclaimed as Working Mother's Day and families, individual citizens, labor and civic organizations, the media and business are urged to recognize and acknowledge the importance of the working mother and express public appreciation of her role in American society.

PROCONSUMER INTERNATIONAL "OPEN SKIES" AIRLINE GUIDELINES ISSUED

Mr. PERCY. Mr. President, on August 22, 1978, the White House issued new policy guidelines for the conduct of international air transport negotiations. These bold, new guidelines can be expected to lead to lower air fares for consumers, improved direct international service to more U.S. cities, and more competitive opportunities for regularly scheduled and supplemental U.S. airlines wishing to serve international routes .

I am particularly interested in the provision which may lead to more of our cities being designated as gateway cities for international air service. For too many years, most international air travelers have been subjected to the inconveniences of having to travel to John F. Kennedy International Airport in New York City in order to reach Europe and the Middle East. This has been a particular hardship for the elderly and for families with young children who frequently must transfer between Kennedy and LaGuardia Airports after a long and tiring overseas flight.

In recent years, additional nonstop service to Europe has been approved from Atlanta, Miami, Dallas-Ft. Worth, Houston, New Orleans, and Tampa. Under this newly announced policy, hopefully, new nonstop service will be extended from Lambert International Airport in St. Louis to London and other international destinations. Approval of such service will be of direct benefit to my constituents in central and southern Illinois.

Additionally, Chicago has become increasingly identified as a major international gateway that merits additional service. For instance, Chicago was high on the list of new cities to be served by El Al-Israel Airlines under the recently signed bilateral agreement. And I am informed that United Airlines wishes to provide direct service from Chicago to Japan and mainland China.

In sum, I commend this administration for this policy. It has already been successfully carried forward in the recent landmark negotiations with the Government of Israel that will give El Al-Israel Airlines four new landing points in the United States at the lowest fares ever offered between the two countries.

I ask unanimous consent to have printed in the RECORD at this point a letter I wrote to Secretary of Transportation Brock Adams on July 20, 1978 in favor of the new policy, as well as a statement of support issued by President Carter, the policy statement itself, and an accompanying factsheet issued by the White House.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMITTEE ON
GOVERNMENTAL AFFAIRS,
Washington, D.C., July 20, 1978.

Hon. BROCK ADAMS,
Secretary, Department of Transportation,
Washington, D.C.

DEAR SECRETARY ADAMS: I am writing in support of implementation of the Department's proposed policy for the conduct of international air transportation negotiations involving the United States. It is a policy that is pro-consumer because it emphasizes competition and low fares. It is a policy which should also increase the frequency of international air transportation to many points across the United States, including Chicago and St. Louis which serves the central and southern portions of Illinois.

I am particularly pleased with the preamble to the policy which states that "Reliance on competitive market forces to the greatest extent possible in our international air transport agreements will allow the public to receive improved service at low costs that reflect economically efficient operations." This is precisely why I co-sponsored and actively supported the Air Transportation Regulatory Reform Act of 1978, which has now passed the Senate. This legislation emphasizes competitive market forces and gradually removes the control of government from domestic economic aviation policy matters. Although

the legislation does not deal with international aviation, the executive branch should implement many of the pro-competitive policies embodied in the bill in the area of international air transport.

I would like to comment on several of the proposed negotiating objectives contained in the policy, namely:

(i) Creation of new and greater opportunities for innovative and competitive pricing to respond to the varied service and price needs of different consumers.

Comment: Unquestionably, the encouragement of Freddie Laker-type Skytrain operations from cities other than New York and Los Angeles should be encouraged. I should note that Trans International Airlines (TIA) has applied for low-fare service from Chicago to Brussels on the one hand, and from Chicago to Hong Kong and Tokyo on the other. TIA proposes to charge low fares comparable to those of the Skytrain, but with advanced reservations and meals. This type of proposal should be promptly approved.

(ii) Liberalization of charter rules and elimination of restrictions on charter operations.

Comment: I enthusiastically support this concept.

(iii) Expansion of scheduled service through elimination of restrictions on capacity, frequency, and route and operating rights.

Comment: Airlines should be free to service any point on the globe from any city in the United States, without government interference, except on matters relating to safety. The position of the Israeli government, as enunciated in its recent bilateral air negotiations with the United States, should be applauded. We too need "open skies."

(iv) Elimination of discrimination and unfair competitive practices faced by U.S. airlines in international transportation.

Comment: Some of these restrictions are blatantly unfair and the U.S. government should move for their removal. It is difficult to understand why this government allows our flag carriers to be discriminated against and sometimes charged outrageously high user charges at the same time that we allow foreign carriers overflying our country to tap into our air traffic control facilities at no cost. Why should the American taxpayers continue to pick up the cost for providing free air traffic control services to foreign airlines that do not even land in this country and do not provide comparable assistance? This practice should come to an end.

(v) Flexibility to designate multiple U.S. airlines in international air markets.

Comment: Chicago is a good example of the lack of U.S. flag carrier service abroad. Pan Am does not even provide regularly scheduled service from Chicago; TWA provides one year-round daily 747 nonstop to London and a summertime-only nonstop to Paris; and Northwest Airlines provides a nonstop to Tokyo. There are many dormant routes not now being served by U.S. flag carriers out of Chicago and other cities. I would recommend that the new policy include a special international dormant route provision which would encourage airlines to apply for unused international route authority as part of an expedited approval proceeding. Domestic carriers that currently do not provide international service should be encouraged to pick up the nonstop routes to interior cities of Europe of those airlines which choose to concentrate their flights out of New York's Kennedy International Airport.

(vi) Encouragement of maximum traveler and shipper access to international markets by permitting service through more nonstop gateway cities and improving the integration of domestic and international airlines services.

Comment: On at least two occasions, Chicago has been denied international air service to Europe because of the insensitivity of U.S. Government officials to the economic and social needs for such service. For instance, in 1973, LOT the Polish Airlines, was denied access to Chicago from Warsaw and Sabena Belgian World Airlines was denied nonstop authority to Chicago from Brussels. It is difficult to understand who benefited from those decisions. These types of nonstop and direct service proposals, which would have the effect of increasing competition, should be approved in future air negotiations. With regard to St. Louis, which serves my constituents in central and southern Illinois, I have supported its designation as a "wild card" coterminal point from London as part of our current bilateral agreement with the United Kingdom. I would hope that, in the context of this new policy, U.S. and foreign flag carriers will be permitted to serve such points as St. Louis at service levels that conform to market demands. For instance, although daily nonstop service from St. Louis to many European cities may not be economically viable, weekly or semi-weekly service could prove to be economically feasible. Such service should be encouraged.

In sum, I support the framework and underlying principles of the Department's new international air transport negotiating policy and urge its prompt implementation. You are to be congratulated on your encouragement of this policy which, in the end, will better serve the nation, its economy, and the millions of air travelers who will directly benefit in terms of lower-priced, more-competitive air service abroad.

Sincerely,

CHARLES H. PERCY,
U.S. Senator.

[The White House]

UNITED STATES POLICY FOR THE CONDUCT OF INTERNATIONAL AIR TRANSPORTATION NEGOTIATIONS

INTRODUCTION

United States international air transportation policy is designed to provide the greatest possible benefit to travelers and shippers. Our primary aim is furthering the maintenance and continued development of affordable, safe, convenient, efficient, and environmentally acceptable air services. Our policy for negotiating civil air transport agreements reflects our national goals in international air transportation. This policy provides a set of general objectives, designed particularly for major international air markets, on the basis of which United States negotiators can develop specific negotiating strategies.

Maximum consumer benefits can be best achieved through the preservation and extension of competition between airlines in a fair market place. Reliance on competitive market forces to the greatest extent possible in our international air transportation agreements will allow the public to receive improved service at low costs that reflect economically efficient operations. Competition and low prices are also fully compatible with a prosperous U.S. air transport industry and our national defense, foreign policy, international commerce and energy efficiency objectives.

Bilateral aviation agreements, like other international agreements, should serve the interests of both parties. Other countries have an interest in the economic prosperity of their airline industries, as we do in the prosperity of ours. The United States believes this interest is best served by a policy of expansion of competitive opportunity rather than restriction. By offering more services to the public, in a healthy and fair competitive environment, the international air transport industry can stimulate the growth in traffic which contributes both to profitable industry operations and to maximum public benefits.

GOALS OF U.S. INTERNATIONAL AIR TRANSPORTATION POLICY

The U.S. will work to achieve a system of international air transportation that places its principal reliance on actual and potential competition to determine the variety, quality and price of air service. An essential means for carrying out our international air transportation policy will be to allow greater competitive opportunities for U.S. and foreign airlines and to promote new low-cost transportation options for travelers and shippers. Especially in major international air transport markets, there can be substantial benefits for travelers, shippers, airlines and labor from increasing competitive opportunities and reducing protectionist restrictions. Increasing opportunities for U.S. flag transportation to and from the United States will contribute to the development of our foreign commerce, assure that more airlift resources are available for our defense needs, and promote and expand productivity and job opportunities in our international air transport industry.

TRANSLATING GOALS INTO NEGOTIATING OBJECTIVES

U.S. International Air Transportation Policy cannot be implemented unilaterally. Our objectives have to be achieved in the system of international agreements that form the basic framework for the international air transportation system.

Routes, prices, capacity, scheduled and charter rules and competition in the market place are interrelated, not isolated problems to be resolved independently. Thus, the following objectives will be presented in negotiations as an integrated U.S. position:

1. creation of new and greater opportunities for innovative and competitive pricing that will encourage and permit the use of new price and service options to meet the needs of different travelers and shippers,

2. liberalization of charter rules and elimination of restrictions on charter operations,

3. expansion of competitive opportunity and elimination of restrictions on capacity, frequency, and route and operating rights,

4. elimination of discrimination and unfair competitive practices faced by U.S. airlines in international transportation.

5. flexibility to designate multiple U.S. airlines in international air markets,

6. encouragement of maximum traveler and shipper access to international markets by authorizing more cities for non-stop or direct service, and by improving the integration of domestic and international airline services, and

7. flexibility to permit the development and facilitation of competitive air cargo services.

EXPLANATION OF OBJECTIVES:

1. Pricing. The U.S. will develop new bilateral procedures to encourage a more competitive system for establishing scheduled air fares and rates. Charter pricing must continue to be competitive. Fares, rates and prices should be determined by individual airlines based primarily on competitive considerations in the marketplace. Governmental regulation should not be more than the minimum necessary to prevent predatory or discriminatory practices, to protect consumers from the abuse of monopoly position, or to protect competitors from prices that are artifically low because of direct or indirect governmental subsidy or support. Reliance on

competition and encouragement of pricing based on commercial considerations in the marketplace provides the best means of assuring that the needs of consumers will be met and that prices will be as low as possible given the costs of providing efficient air service.

2. Charters. The introduction of charters acted as a major catalyst to the expansion of international air transportation in the 1960's. Charters are a competitive spur and exert downward pressure on the pricing of scheduled services. Charters generate new traffic and help stimulate expansion in all sectors of the industry. Restrictions which have been imposed on the volume, frequency and regularity of charter services as well as requirements for approval of individual charter flights have restrained the growth of traffic and tourism and do not serve the interests of either party to an aviation agreement. Strong efforts will be made to obtain liberal charter provisions in bilateral agreements.

3. Scheduled Services. We will seek to increase the freedom of airlines from capacity and frequency restrictions. We will also work to maintain or increase the route and operating rights of our airlines where such actions improve international route systems and offer the consumer more convenient and efficient air transportation.

4. Discrimination and Unfair Competitive Practices. U.S. airlines must have the flexibility to conduct operations and market their services in a manner consistent with a fair and equal opportunity to compete with the airlines of other nations. We will insist that U.S. airlines have the business, commercial and operational opportunities to compete fairly. The United States will seek to eliminate unfair or destructive competitive practices that prevent U.S. airlines from competing on a equal basis with the airlines of other nations. Charges for providing airway and airport properties and facilities should be related to the costs due to airline operations and should not discriminate against U.S. airlines. These objectives were recognized by the Congress in legislation enacted in 1975, and their attainment is required if consumers, airlines and employees are to obtain the benefits of an otherwise competitive international aviation system.

5. Multiple Airline Designations. The designation of new U.S. airlines in international markets that will support additional service is a way to create a more competitive environment and thus encourage improved service and competition pricing. Privately owned airlines have traditionally been the source of innovation and competition in international aviation, and it is therefore particularly important to preserve for the U.S. the right of multiple designation.

6. Maximum Access to International Markets. Increasing the number of gateway cities for non-stop or direct air service offers the potential for increasing the convenience of air transportation for passengers and shippers and improving routing and market opportunities for international airlines. In addition, enhancing the integration of U.S. airline domestic and international air services benefits both consumers and airlines.

7. *Cargo Services.* We will seek the opportunity for the full development of cargo services. Frequent demand for such services requires special equipment and routes. Cargo services should be permitted to develop freely as trade expands. Also important in the development of cargo services are improved facilitation, including customs clearance, integration of surface and air movements, and flexibility in ground support services.

NEGOTIATING PRINCIPLES

The guiding principle of United States aviation negotiating policy will be to trade competitive opportunities, rather than restrictions, with our negotiating partners. We will aggressively pursue our interests in expand air transportation and reduced prices rather than accept the self-defeating accommodation of protectionism. Our concessions in negotiations will be given in return for progress toward competitive objectives, and these concessions themselves will be of a liberalizing character.

Proposed bilateral agreements which do not meet our minimum competitive objectives will not be signed without prior Presidential approval.

[The White House]

UNITED STATES INTERNATIONAL AVIATION POLICY FACT SHEET

The United States Policy for the Conduct of International Air Transportation Negotiations is a formal statement of the principles that guide our negotiations of bilateral air services agreements with foreign countries. Bilateral agreements between the United States and a foreign government set forth the rules that govern air transport services between the U.S. and that foreign country. The agreements specify the cities authorized for service, the procedures for regulating fares and prices, aviation security (anti-hijacking) commercial practices relating to aviation, and the type of airlines (scheduled/charter) that may provide service.

THE U.S. INTERNATIONAL AVIATION POLICY

The theme of our policy is to reduce government restrictions upon international aviation and rely on competitive market forces to the greatest extent possible. The international aviation policy states the following objectives:

Encouragement of price competition.

Elimination of restrictions on charter travel.

Elimination of restrictions on capacity, frequency, and route of operating rights.

Elimination of discrimination and unfair competitive practices faced by U.S. airlines.

Authorization of more cities for nonstop or direct service.

Development of competitive air cargo services.

RECENT NEGOTIATIONS

Principles embodied in this policy have already produced a number of significant competitive developments in international air travel, and are intended to produce additional benefits to travelers and shippers in bilateral negotiations to be held in the near future. Within the last year the U.S. has held negotiations with 26 countries to discuss more liberal bilateral agreements. Additional discussions are planned for the fall.

The agreement signed with Israel is the most recent example of a bilateral agreement that meets our policy objectives. The U.S.-Israeli agreement includes the following highlights:

Israel acquires two additional U.S. points immediately and two more on August 1, 1979. At this time, Israel has a route only to New York. Israel is free to select the four additional U.S. points that it will serve.

Either country may designate an unlimited number of airlines to operate scheduled and/or charter services.

Charter flights may be operated between any U.S. city and Israel without restriction on numbers. Charters will operate according to the charter rules of the country of origin of the traffic and do not require the prior approval of the other country. This provision will expand the availability of charter flights. Charter flights were not covered by the previous agreement with Israel, and for many years Israel banned charter flights completely. Only in the past two years has it accepted charters from the U.S. West Coast under restrictive conditions.

Price competition is encouraged. The U.S. and Israeli governments will intervene with airline pricing decisions only when air fares are predatory, discriminatory or an abuse of monopoly position. Beginning August 1, 1979, air fares may be disapproved only if both governments agree to such action.

Recent agreements with other countries which meet our international aviation policy objectives have already produced expanded travel opportunities and lower fares. Results of recent agreements include:

1. Fare Reductions:

Our policy of seeking international agreements which permit airlines to set prices freely in the competitive market place has already resulted in price reductions.

The table below sets out some of the fare reductions achieved in transatlantic markets.

	Lowest available reserved seat fare [1]		Percent reduction over 1977 fare		Percent reduction over 1977 fare
	July 1977	July 1978		July 1978 standby fare	
New York-Amsterdam	$477	$340	29	NA	.....
New York-London	440	299	32	[2] $248	44
Boston-Amsterdam	472	290	39	279	41
Dallas/Fort Worth-London	631	392	38	349	45
Los Angeles-London	620	441	29	441	29

[1] Low standby fares were not available in the summer of 1977
[2] Laker fare; exact cost in U.S. dollars depends on exchange rate.

Major new agreements with Israel and Mexico are also expected to result in significantly reduced prices and expanded travel opportunities for consumers within the next year.

2. Expanded Air Service:

Recent agreements have increased authority for both U.S. and foreign airlines to provide more non-stop services from U.S. cities to foreign countries.

New services that have begun include:
Atlanta–London.
Dallas/Ft. Worth–London.
Houston–London.
Miami–Paris.
Miami–Amsterdam/Frankfurt.
Tampa–Amsterdam/Frankfurt.
Houston–Guadalajara.
Los Angeles/San Francisco–Guadalajara.
U.S. West Coast–Singapore.
Boston–Amsterdam.
Atlanta–Brussels.
Authorized new services include:
Los Angeles–Amsterdam.
Los Angeles–Auckland/Sidney.

Braniff and Delta have instituted new transatlantic services. Northwest has also been authorized for a new transatlantic service but the service has been delayed by a work stoppage. In addition existing international airlines including American, Pan American, Continental, TWA, National, Western, Hughes Air West, and Flying Tiger have received expanded international authority.

3. Expanded Charter Service:

In the past many countries have restricted charter services. These restrictions have prevented consumers both in the U.S. and overseas from enjoying the benefits of international travel. A number of foreign governments have agreed to reduce or eliminate restrictions on the availability of low cost charter trips. In some cases, such as Israel, low cost charters (which had been severely restricted) will be permitted to operate from all cities in the U.S. for the first time. The Administration has obtained agreement to reduce or eliminate restrictions on charters

with the following countries: United Kingdom, Netherlands, Poland, Romania, Israel, Belgium, Yugoslavia, Singapore Republic, Mexico, Paraguay, Liberia, Senegal.

4. Encouraging Competitive Practices:

In many cases foreign countries restrict the ability of U.S. airlines to compete for business. For example, some countries refuse to permit U.S. airlines to load and unload their own aircraft and check in their own passengers, preferring to leave these services to government monopolies. Also, some countries have refused to issue custom licenses or other needed licenses to U.S. airlines. The Administration is actively engaged in seeking to eliminate these restrictions.

[The White House]

PRESIDENTIAL STATEMENT

Ever since I became President, I have been seeking to introduce the airline industry to the benefits of competition both at home and abroad.

Two events highlight that effort. I am today releasing a formal statement of international aviation policy for the United States. Recently, representatives of the U.S. and Israel signed a new air service agreement which reflects the spirit of that policy.

Our policy seeks to encourage vigorous competition, with the goals of permitting lower fares, better service to more cities, and fewer government restrictions on charter travel. Travelers of many countries have already benefited from recent agreements which reflect our competitive policy. I hope that our formal statement, by making our position clear, will ease the difficult process of negotiating additional air agreements with other countries.

The U.S.-Israeli agreement signed recently achieves these goals of reducing government restrictions. It will permit healthy competition among our airlines, and, by giving Israel authority to serve four additional U.S. cities, it will greatly expand Israel's opportunity to provide air service between our countries.

ENOUGH OF MR. YOUNG

Mr. HARRY F. BYRD, JR. Mr. President, John B. Oakes, the former senior editor of the New York Times and a widely known liberal journalist, has written in an article published in the August 3 edition of the Times that Ambassador Andrew Young is temperamentally unfit for his job.

Mr. Oakes complained that Ambassador Young continues to be treated by President Carter as "the indispensable man for the third world—as though no other American could be found who would pursue American foreign policy in support of black freedom, equality and independence in Africa without at the same time finding it occasionally necessary to derogate our own institutions, give propaganda ammunition to our enemies and enrage our friends."

It has a been a few weeks now since Ambassador Young has caused embarrassment to the United States. I suppose we should be grateful for that.

However, his most recent gaffe was of a most serious character. At a particularly sensitive point in the conduct of foreign policy, Mr. YOUNG made a public statement which was a great embarrassment to President Carter and damaging to the national interest.

Just as the President was putting pressure on the Soviet Union because of Russia's harsh treatment of dissidents, Andrew Young proclaimed to the world that the United States has "hundreds, perhaps even thousands, of political prisoners."

This assertion was not only wrong but dangerous.

In his article Mr. Oakes cites this incident as an example of Ambassador Young's "egocentric frame of reference," meaning that he was thinking only of his own role in the civil rights movement and not of the effect of his unjust and unwise words on the Soviet Union and his own country.

I agree with the analysis made by Mr. Oakes, and I ask unanimous consent that his article, "Enough of Mr. Young," be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Aug. 3, 1978]

ENOUGH OF MR. YOUNG

(By John B. Oakes)

Once again the United States Ambassador to the United Nations, Andrew Young, has played to the audience with an offhand, eye-catching statement embarrassing to his nominal boss, the President of the United States, and injurious to the conduct of a rational American foreign policy.

Once again there have had to be explanations, retractions, apologies or excuses to cover the self-indulgent comments of this disarming enfant terrible of the Carter Administration.

Once again Mr. Young has made the President and the country look ridiculous in the eyes of the world, confused our friends and handed a delicious piece of propaganda to our opponents.

His statement to a French newspaper the other day that "hundreds, perhaps even thousands, of . . . political prisoners" languish in American jails was made just at the moment when Mr. Carter was trying to place maximum heat on Moscow, in the name of human rights, during the dissidents' trials. It is a measure of Mr. Young's temperamental unfitness for the job he still holds that, when he gave that interview, he was obviously thinking not of its effect on the Russians or the Americans, or on the dissidents or human rights, but rather only of himself and of his own experience in the civil rights struggles of the past.

Such an egocentric frame of reference might be permissible if he were running for political office again; it is unacceptable when he speaks as a Cabinet-level representative of the United States Government.

When in the same interview he was asked about the recent massacres of men, women and children in several missionary outposts in Rhodesia, Ambassador Young—who is the principal American voice in the efforts to negotiate between the transitional Rhodesian Government of Ian D. Smith and the guerrillas—observed that "a planned operation of attacks against missions . . . can only have come from the Smith camp." Is it the considered American position that it is the Smith regime and not the guerrilla Patriotic Front that is responsible for these bestial murders; or was this merely another of the American Ambassador's frequent offhand remarks made in his official capacity but reflecting not facts or evidence but emotional commitment, of a piece with his freely thrown charges of racism against persons or peoples whom he dislikes or with whom he is in disagreement?

While it surely pleases the African supporters of the guerrillas, not to mention their Soviet backers, the extreme partisanship of Mr. Young could only erode whatever influence the United States has left as "honest broker" with the transition biracial Government in pursuing negotiations with the Patriotic Front.

At the same time, as Mr. Carter has repeatedly emphasized, Ambassador Young has unquestionably played a major part not only in reaching the recent agreement on Namibia but also in establishing better rapport with the third world in general and several of the black African states in particular. He has accomplished this feat at least in part by unilaterally adopting their policy line on such issues as use of Cuban troops in Angola and Ethiopia—already under attack even by numerous third-world countries, and clearly divergent from the stated policies of the United States Government, for which Mr. Young purportedly speaks. How deep and lasting will be the popularity thus gained for the United States in black Africa by such tactics is uncertain; what is certain is that it has been achieved at considerable and unnecessary cost to the image of the United States, further confusing an already confused foreign policy. Mr. Young's loose statements as United States Ambassador are a luxury that American policy, shaky as it is, cannot afford.

And yet, receiving at most a tap on the wrist for repeated verbal offenses that would have resulted in instant dismissal for anyone else, Mr. Young continues to be treated by President Carter as the Indispensable Man for the third world—as though no other American could be found who would pursue American policy in support of black freedom, equality and independence in Africa without at the same time finding it occasionally necessary to derogate our own institutions, give propaganda ammunition to our enemies and enrage our friends.

A recent New York Times/CBS Poll showed that the percentage of Americans who approve of "the way Jimmy Carter is handling his job as President" has dropped by 26 percentage points in little more than a year, to an unprecedented low (in June) of 38 percent. Perhaps Mr. Carter should consider whether one factor in this deplorable showing is his tendency to allow personal and political friendship, even in the most sensitive appointive posts, to take priority over the broader national interest.

SENATE ACCOMPLISHMENTS

Mr. ROBERT C. BYRD. Mr. President, this past week—the week of August 21—has been one of extraordinary accomplishment in the U.S. Senate.

On Tuesday, August 22, the Senate passed, 68 to 32, a joint resolution which proposes an amendment to the Constitution providing for voting representation in the House and Senate for residents of the District of Columbia. This vote was the culmination of decades of effort to enact such an amendment. Now the measure has been sent to the States for their concurrence or disapproval. It seems that at least three State legislatures are considering early action on the proposed amendment. Tuesday, August 22, was an historic day for the residents of the Federal city. If three-fourths of our State legislatures approve the adoption of the amendment, August 22 will become an important milestone in our country's constitutional history.

Action on a constitutional amendment is quite an important achievement any day of the week. But that is just the beginning of what the Senate accomplished in these few days. Yesterday, we passed a civil service reform bill—the

first major revision of the civil service system in 95 years. This measure was one of President Carter's top priorities. It is also a priority for millions of taxpayers who want to see Government streamlined and made more efficient. Enactment of civil service reform will have a far-reaching and beneficial impact on virtually every program administered by the Federal Government.

On Thursday the Senate completed action on, and sent to conference, the Education Amendments of 1978, extending for 5 years programs contained in the Elementary and Secondary Education Act of 1965 (ESEA). This legislation renews our commitment to provide educational opportunities to low-income and disadvantaged children who might otherwise receive inadequate schooling.

By clarifying objectives and simplifying requirements, the bill improves and strengthens existing programs. New initiatives have been added to address the nationwide problem of declining test scores. Title II, for example, will provide financial assistance to programs for teaching basic skills—reading, writing, and arithmetic. The bilingual education program is improved, making it more responsive to the special educational needs of children from the bilingual community.

Throughout the bill, regulations and guidelines are simplified to facilitate smoother implementation and operation of the programs by States and local education agencies.

In the area of employment, the Senate reauthorized existing job and job-training programs under the Comprehensive Employment and Training Act and established several new initiatives in the program. This legislation continues in fiscal year 1979 the current level of 725,000 public service jobs.

At a time when there is a pressing need to wind down inflation, the CETA legislation provides a way to reduce unemployment among the hard-to-employ without exacerbating inflationary pressures. It accomplishes this in part by calling for job-creation programs targeted to those who are generally excluded from the job-market because of a lack of training. The CETA program puts people to work—people who will pay taxes and contribute to our economic growth.

Today, the Senate sent to the House a major conference report to reform customs procedures. It will serve not only to modernize, but to simplify, customs procedures which affect our trade and commerce. Among the provisions of the bill which will be of interest to many Americans who travel abroad is an increase in the personal exemption for returning residents. It has long been recognized that more efficient management of customs and entry procedures is necessary and this measure will go far toward meeting this need.

In addition, the Senate completed action on a group of bills dealing with various tax issues. Two of these measures deal with unemployment compensation, including the eligibility period for extended unemployment compensation benefits and the reporting period for the National Commission on Unemployment Compensation.

We have also passed legislation affecting the treatment of private foundations and have adopted an amendment to provide for a tax credit for residential energy conservation.

In the area of energy, the Senate agreed to and sent to the President the conference report on the Outer Continental Shelf Lands Act—a bill which should spur development and production of offshore oil and natural gas. To achieve this, the measure includes two important policy provisions—improved bidding practices and a tighter system for resource assessment.

In other areas, the Senate passed and sent to conference a bill designed to improve the self-sufficiency of the District of Columbia pension fund. The proposed legislation also contains important provisions intended to prevent abuse of disability pensions—a situation which has resulted in an expensive and inadvertent drain on the pension fund.

The Senate passed and sent to the President the conference report on the military construction appropriations bill for fiscal year 1979—an appropriations bill which is almost 9 percent below the budget estimate. This is the third regular appropriations bill for fiscal year 1979 on which the Congress has completed all action.

Having agreed to the conference report on the second supplemental appropriations bill for fiscal year 1979, the Senate also sent this measure to the President.

Considerable progress has been made on the highway bill. Two major components of the final measure, dealing with safety and with the construction and maintenance of our Federal highway system, have been disposed of. The importance of our national highway system can hardly be overemphasized; it is crucial to the economic viability and growth of many regions of the country.

Mr. President, I have mentioned the major accomplishments of the week; I have not attempted to list each and every piece of legislation which the Senate has passed. Nor have I attempted to name each Senator who has made a special contribution in these areas—the list would be too long.

The Senate has come in early and worked late every day this week. Senators from both sides of the aisle have made major contributions to the important legislation on which we have acted. Committee and subcommittee chairmen, ranking minority members of committees and subcommittees, sponsors of amendments, participants in key debates—the entire Senate membership is responsible for the very constructive week which we have had.

I want to thank the distinguished minority leader, Mr. BAKER, and the minority whip, Mr. STEVENS, for their cooperation and assistance. On this side of the aisle, I especially want to thank the assistant majority leader, Mr. CRANSTON, for his invaluable help, and Mr. INOUYE, the Secretary of the Democratic Conference, and SPARKY MATSUNAGA, chief deputy whip, for their invaluable help.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. PROXMIRE). The Chair, on behalf of the Vice President, pursuant to Public Law 95–45, appoints the following Senators to attend the 65th Interparliamentary Union Conference, to be held in Bonn, Germany, September 2–14, 1978: the Senator from Vermont (Mr. STAFFORD), Chairman, in lieu of the Senator from Alabama (Mr. SPARKMAN), resigned; and the Senator from Virginia (Mr. SCOTT).

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I yield the remainder of my time to the distinguished senior Senator from Wisconsin.

REFERRAL OF BILL

Mr. PROXMIRE. Mr. President, I thank the Senator from Kentucky.

Very briefly, I send to the desk a bill and ask for its appropriate referral.

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). The bill will be appropriately referred.

THE CAMBODIAN MASSACRE: IT IS TIME TO RATIFY THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, for hundreds of thousands of Cambodians, this speech comes too late. Hundreds of thousands, perhaps more than a million, of Cambodia's 7 million people have been killed.

And who has killed them, Mr. President? Is it some disease, some natural disaster, or perhaps a long and bloody war?

The startling, shocking, outrageous truth is that none of these is responsible. Not disease, not flood, not earthquake, not hostile enemy, none of these bears the blame for the decimation of the Cambodian people.

And who is the villain?

The Cambodian Government.

How can this be true? How can the government of so-called Democratic Kampuchea—how can that government undertake the massacre of its own people? To speak of this group of executioners as a government is a perversion of the word.

In fact, that is the final, incomprehensible outrage: the Cambodian people have been the victims of a genocide perpetrated in their own name.

It is too late to save these hundreds of thousands of Cambodians. Whatever the world may eventually do to halt the massacre, it is too late for perhaps a million people.

Mr. President, we cannot allow this to happen again. There is a simple step

we can take. It is the first step down a road of international cooperation to prevent these senseless crimes. It may not stop genocide from happening in every case, but it is one strong, international step to that end.

And what is that step, the step we can and must take?

Mr. President, we can ratify the Convention for the Prevention and Punishment of the Crime of Genocide. And I emphasize that word, "prevention." We must prevent Cambodia from happening again. Eighty-three nations have signed the treaty, but we have held out. And as long as we, the leader of the free world, continue to hold out, the power of the treaty is weakened.

Let us sign the Genocide Convention and take the first step toward the prevention of mass murder.

Mr. President, it is still not too late.

(Mr. MATSUNAGA assumed the chair.)

A DIGNIFIED OLD AGE FOR AMERICANS

Mr. ROBERT C. BYRD. Mr. President, as the decade of the seventies draws to a close, as we look back just 2 years and remember our Nation's Bicentennial, let us remember that since our country's founding we have more than doubled the average lifespan of our people, and that, today, nearly 11 percent of our population are over 65 years of age. Some 23½ million of our citizens are over 65. They constitute a steadily growing proportion of our population.

These men and women have contributed mightily to the strength and prosperity of the country. It is appropriate that the Federal Government and the Nation establish the goal of a dignified and meaningful old age for our citizens. Yet this goal has not become a reality for many elderly citizens.

About one-half of the families headed by an older person have annual incomes which are much lower than those of families headed by an individual under 65. The median income of an older person living alone is only about one-half as much as that of an individual under 65 living alone. Some 3.3 million, or one-seventh of the elderly population, are reported to have incomes below the poverty level. This statistic, though distressing, does represent an improvement over 1970, when about one-quarter of the elderly were below the poverty level.

Many of our elderly become poor due to retirement. Retirement income simply does not balance out the loss of earnings from employment. The improvement in living standards which has been recorded since 1970 is largely explained, therefore, by increases in social security benefits. Social security is the economic backbone for the vast majority of older Americans; without these benefits, millions of people over 65 years of age would be forced into poverty, or onto the welfare roles. It has been estimated that, among the 34 million recipients of social security benefits (including old-age, survivors, and disability insurance), some 7 million beneficiaries are older Americans who otherwise would live in poverty.

Inflation hits very hard on older Americans because of their dependence on fixed incomes. Price inflation for certain commodities and services impacts much more severely on the elderly because of their spending patterns. Older Americans spend proportionately more of their income on food, housing, and health care than the population at large. Health costs are a particular problem. Between 1965 and 1976 the costs of health care in the United States more than tripled. Meanwhile, the health care costs for each person over 65 are about three and one-half times as much, per year, as per capita costs for those under 65. Older people represent about 11 percent of the total population, but account for 29 percent of total personal health care expenditures.

A more recent, but equally debilitating problem is the cost of energy. Rising energy costs have had a devastating impact on many older Americans. During 1976, depending on region, low-income elderly persons spent between 16 and 27 percent of their disposable income on energy for their homes. Rising energy bills place a particularly heavy burden on those elderly least able to bear it. Older Americans with annual incomes of less than $5,000 appear to spend a bigger chunk of their disposable income for household energy than those in more comfortable brackets.

Because energy prices, like health care costs, have been rising much faster than the Consumer Price Index, they are steadily outstanding social security cost-of-living increases.

Congress has taken cognizance of the energy needs of older Americans and provided, in several different pieces of legislation, some tools for addressing these needs. Thus the Community Services Administration, the Department of Housing and Urban Development, and the Farmers Home Administration are each authorized and directed to carry out weatherization programs for low-income elderly persons. With respect to health care costs, nearly 68 percent of these costs are paid for by public programs for the elderly.

Older Americans face other problems as well. Many of them would like to continue working past the age of 65, but face employment barriers. Statistics show that the middle-aged and older worker faces a greater risk of being unemployed for longer periods of time than do younger workers.

The 95th Congress acted to correct this problem and to assure that retirement is a choice rather than a forced state of inactivity. Passage of the Age Discrimination in Employment Act, now a public law, eliminated the upper-age limit of 65 for most Federal employees, and established protections against discrimination in employment for non-Federal older workers.

In the area of housing, reliable data is difficult to find, but it is generally acknowledged that a significant number of the elderly live in substandard housing. This is an issue which Congress has sought to address through various programs—in particular, through the section 8 subsidized housing program and through the section 202 direct loan program for renovation or construction, both of which are administered by the Department of HUD. Although some advances have been made in providing adequate housing to the elderly, the need for more housing still outstrips existing programs.

Another problem area for older Americans is transportation. According to the Bureau of Labor Statistics, transportation represents the third largest expenditure for older persons. Rising transportation costs make it ever more difficult for low-income older people to take advantage of mass transportation, or to own an automobile. Because many older people live in rural areas, distances become an even greater barrier to meaningful participation in the mainstream of society.

The growing congressional and national interest in mass transit systems that are free of architectural obstacles has resulted in some greater availability of these public services to the older person. Special transit services are now being developed and tested in more isolated, rural areas; it is hoped that these services will help to provide reasonably priced transportation to the elderly and disabled.

There are many other important services which the Federal Government—in many cases in conjunction with State and local governments and volunteer organizations—is helping to bring within reach of low-income elderly persons. Perhaps the most important of these functions is the provision of adequate food and nutrition to the elderly, particularly to those who are homebound. In addition, important support services are provided in many other areas, such as counseling and legal assistance.

Mr. President, Congress has acted on many pieces of legislation affecting the elderly. I would like to take this opportunity to have printed in the RECORD a list of those pieces of legislation passed by the 95th Congress to date which are designed to improve the lives and the living conditions of older Americans. This list cannot purport to exhaust every single legislative action of importance to the elderly; there are some instances of oversight hearings or investigations, or studies which do not result in legislation, but which do impact significantly on current practices, regulations, or the administration of a program. I do hope that the following list, which I request be included in the RECORD, will summarize the important measures enacted by the 95th Congress in this area.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

OLDER AMERICANS LEGISLATION—95TH CONGRESS

The Age Discrimination in Employment Act—now a public law—to protect against discrimination in employment of older workers.

The Supplemental Housing Authorization Act of 1977—now a public law—which included provisions affecting the Section 8 rent supplement program which should result in more housing units for low-income elderly.

Social Security Amendments of 1977—now a public law—which assured the financial

soundness of the Social Security Trust fund and made other improvements in the law.

Nutrition Program Amendments and Amendments to the Food Stamp Act—now public law—of importance to low-income elderly.

Legal Services Corporation Act Extension—now a public law—which assures priority services for the elderly.

Reduced Air Fare for the Elderly—now a public law—which authorizes reduced fares on a space-available basis.

Public Utility Rate Reform—has passed the Senate—provides that older persons receive the lowest possible rate for electricity.

Energy Tax Bill—has passed the Senate—provides for a refundable tax credit for older Americans for residential energy costs.

The Older Americans Act—has passed the Senate—contains the authorization for numerous programs affecting the elderly.

Housing and Community Development Amendments of 1978—has passed the Senate—includes several programs of importance to low-income elderly.

National Mass Transportation Assistance Act—has passed the Senate—provides that mass transit facilities and services be designed for effective use by the elderly and for increased attention to transportation needs of the elderly.

AMERICAN JOURNALISTS AND THE SOVIET UNION

Mr. ROBERT C. BYRD. Mr. President, the Soviet Union has indicated that it does not intend to take further action against two United States journalists who had earlier been charged with slander.

I welcome the Soviet decision to halt the legal proceedings and hope this will bring an end to this travesty.

The Soviet Foreign Ministry gave the reporters a formal warning, but did not suspend their accreditation. The Foreign Ministry said it was acting in the interest of better relations with the United States.

The Soviet courts have dropped the case against the two journalists and ended the demand that the reporters retract their story on Soviet dissidents.

However, the reporters, Hal Piper of the Baltimore Sun and Craig Whitney of the New York Times, had previously been required to pay fines and court costs. The reporters refused to attend the court hearings on their case, in addition to refusing to retract their stories, which they maintained were balanced and accurate.

Mr. President, occurrences such as this campaign of harassment against these two U.S. correspondents can only undercut the prospects for any improvement in relations between the Soviet Union and the United States. I hope that the Soviets will recognize the damage that has been done by this incident and not allow it to be repeated.

I further hope that the treatment of Mr. Piper and Mr. Whitney will not have a chilling effect on U.S. reporters in the Soviet Union. This may have been intended as an act of intimidation. I am confident, however, that it will not deter American journalists from their efforts to report accurately and thoroughly on events in the Soviet Union.

Mr. President, on June 28, when charges had just been filed against Mr. Piper and Mr. Whitney, I introduced a resolution (S. Res. 503) condemning the action by the Soviet Government. Now, as then, I urge the Soviet Union to desist from further harassment and intimidation of journalists stationed in that country.

AUTHORIZATION FOR THE VICE PRESIDENT, THE PRESIDENT PRO TEMPORE, AND THE ACTING PRESIDENT PRO TEMPORE TO TAKE CERTAIN ACTION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Vice President of the United States, the President pro tempore, and the Acting President pro tempore may be authorized to sign all duly enrolled bills and duly enrolled authorizations during the recess of the Senate over until 10 o'clock on Wednesday, September 6, 1978.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR THE SECRETARY OF THE SENATE TO RECEIVE MESSAGES FROM THE PRESIDENT AND THE HOUSE OF REPRESENTATIVES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to receive messages from the President of the United States and from the House of Representatives during the recess of the Senate over until September 6, 1978, at 10 a.m., and that they be appropriately referred.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR COMMITTEES TO FILE REPORTS ON THURSDAY, AUGUST 31, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that committees may be authorized to file reports on Thursday, August 31, 1978, between the hours of 10 o'clock a.m. and 3 p.m. except for the reporting of S. 50, the Humphrey-Hawkins bill, on which there will be an objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELEASE OF MATERIAL PERTAINING TO POSSIBLE CRIMINAL ACTIVITIES

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. JACKSON, I send to the desk a resolution dealing with the release of certain documents and ask for its immediate consideration. This has been cleared all the way around.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 550) to permit the withdrawal and release of certain documents, papers or other information pertaining to possible criminal activities.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

● Mr. JACKSON. Mr. President, I offer today a resolution to permit the withdrawal and release of documents, testimony and other information obtained by, and in the possession of, the permanent Subcommittee on Investigations of the Committee on Governmental Affairs.

By letter of July 11, 1978, the U.S. Attorney's Office, northern district of Georgia, requested that the Subcommittee supply copies of transcripts of executive session testimony and other statements and materials received by subcommittee staff during the course of a subcommittee investigation into certain homicides in the U.S. Penitentiary at Atlanta, Ga., which activities were focused upon as part of an authorized inquiry into organized crime activities in south Florida and at the Atlanta Penitentiary. The U.S. Attorney's Office is pursuing possible criminal violations by certain inmates at the Penitentiary in connection with the murder of Vincent Papa in the institution.

Pursuant to rule XXX of the standing rules of the Senate, and the privileges of the Senate, such information, documentation, statements and testimony may not be released without a resolution of the Senate.

Accordingly, Mr. President, I offer the following resolution, approved by the Committee on Governmental Affairs, and ask that this resolution be adopted.●

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 550) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

To permit the withdrawal and release of certain documents, papers or other information pertaining to possible criminal activities.

Whereas, the United States Department of Justice, through the Office of the United States Attorney for the Northern District of Georgia, is carrying out an investigation of alleged criminal activities of certain individuals relating to the murder of Vincent Papa at the United States Penitentiary-Atlanta; and

Whereas, the Office of the United States Attorney for the Northern District of Georgia has formally requested by letter dated July 11, 1978, that the Subcommittee transmit to the United States Attorney for the Northern District of Georgia certain transcripts, statements and recordings of interviews with and statements by Gary Bowdach and others, as well as certain other pertinent documents in the possession of the Subcommittee; and

Whereas, certain of the requested information relevant to the inquiry of the United States Attorney was obtained by the Subcommittee in executive session testimony and certain of the information was obtained by Subcommittee staff in the course of their duties as employees of the Permanent Subcommittee on Investigations; and

Whereas, by the privileges of the Senate of the United States and by Rule XXX of the Standing Rules of the Senate, executive session testimony and information secured by staff employees of the Senate pursuant to their official duties may not be revealed without the consent of the Senate:

Therefore, be it

Resolved, That the Permanent Subcommittee on Investigations is authorized, in the discretion of and at the direction of its

Chairman, to provide the United States Attorney for the Northern District of Georgia, with all or portions of copies of executive session testimony transcripts, statements and recordings of interviews with and statements by Gary Bowdach and others and such other documents as shall be pertinent to alleged illegal activities of certain individuals currently under investigation by that office in connection with the murder of Vincent Papa.

SEC. 2 The Secretary of the Senate shall transmit a copy of this Resolution to the United States Attorney for the Northern District of Georgia.

FEDERAL EMPLOYEE HEALTH BENEFITS AND COVERAGE UNIFORMITY

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 2931.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate numbered 1 and 2 to the bill (H.R. 2931) entitled "An Act to amend chapter 89 of title 5, United States Code to establish uniformity in Federal employee health benefits and coverage provided pursuant to contracts made under such chapter by preempting State or local laws pertaining to such benefits and coverage which are inconsistent with such contracts."

Resolved, That the House agree to the amendment of the Senate numbered 3 to the aforesaid bill with the following amendment:

In lieu of the matter inserted by the said amendment, insert:

"(2)(A) Notwithstanding the provisions of paragraph (1) of this subsection, if a contract under this chapter provides for the provision of, the payment for, or the reimbursement of the cost of health services for the care and treatment of any particular health condition, the carrier shall provide, pay, or reimburse up to the limits of its contract for any such health service properly provided by any person licensed under State law to provide such service if such service is provided to an individual covered by such contract who is a member of a medically underserved population (within the meaning of section 1302(7) of the Public Health Service Act (42 U.S.C. 300e-17)).

"(B) The provisions of subparagraph (A) shall not apply to contracts entered into providing prepayment plans described in section 8903(4) of this title.".

Resolved, That the House agree to the amendment of the Senate numbered 4 to the aforesaid bill with the following amendment:

Page 2, after line 7 of the Senate engrossed amendments, insert:

SEC. 3. The provisions of section 8902(m)(2) of title 5, United States Code, as added by the first section of this Act, shall apply to services provided under any contract entered into or renewed after December 31, 1979; except that such provisions shall not apply to services provided after December 31, 1984.

Resolved, That the House agree to the amendment of the Senate to the title of the bill with the following amendment:

In lieu of the matter proposed by the said amendment, insert: "An Act to amend chapter 89 of title 5, United States Code, to establish uniformity in Federal employee health benefits and coverage by preempting certain State or local laws which are inconsistent with such contracts, and for other purposes."

● Mr. STEVENS. Mr. President, the passage of H.R. 2931 will help facilitate uniform health insurance coverage for the three million Government employees and annuitants and 6 million dependents protected by the Federal employees' health benefits (FEHB) program. By preempting State law as applied to such Federal employee health benefit contracts, it is projected that the bill will lower premiums and deflate ballooning health costs—without any substantial additional cost on State and Federal levels.

The goal of greater health benefit uniformity for Federal employees must not, however, blind us to the necessary maintenance of an authoritative equilibrium between Federal and State governments in matters of mutual interest. Historically, health care has been regulated by the States. In this age of the growing needs of the Federal employee and of the ever escalating cost of medical services, Federal intervention at creating uniformity in this area is necessary and logical. It is also logical to view the State as the optimum judge as to who is and who is not qualified to provide health care. The State, having more immediate access with its people, can evaluate more accurately than the distant Federal Government the needs of its constituents and the qualifications of persons necessary to fulfill these medical needs.

State control would make more qualified health practioners available to those who need help than would a general limit of coverage to FEHB approved medical doctors. This would allow Federal employees in search of medical help a greater choice of possible techniques to which to entrust their problems. In this way, not only tested and conservative methods will be available, but also experimental and perhaps innovative health techniques will be accessible to Federal employees under their health coverage.

The challenge before us is to find the compromise which will provide the uniformity necessary for the future functioning of Federal health coverage and yet retain for the States a flexibility and freedom necessary for providing more qualified medical care for whatever need that may arise. It is in this continuing search for a workable solution that I support the 5-year experiment, which holds that if a Federal insurance contract covers a certain health benefit, the insurance carrier must pay for any health practitioner who is licensed by a State to provide that benefit. This experiment will be restricted to medically underserved areas in the United States.

This is the crucial test for the States to retain their right to determine who is and who is not qualified to provide health care. The medically underserved areas should benefit noticeably from this experiment. Through the States' evaluation and licensing of more qualified medical personnel—rather than just medical doctors—more Federal employees will have access, under their Federal coverage, to the medical services which they require.

H.R. 2931 is an important step in the advancement of better services for Federal employees. In the establishment of a more balanced distribution of licensing authority by the States and the Federal Government, many more qualified medical practitioners will receive support for their work and Federal employees will have available to them more extensive and economical medical coverage. The next 5 years, if H.R. 2931 is enacted, will prove most fruitful in providing the information necessary for shaping an increasingly effective and efficient medical coverage system for future Federal employees.●

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the amendments of the House.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

SECOND CONGRESSIONAL BUDGET RESOLUTION, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed, without any time being charged, to the consideration of Senate Concurrent Resolution 104, Calendar Order No. 1045.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 104) revising the congressional budget for the United States Government for the fiscal year 1979.

The Senate proceeded to consider the resolution.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the built-in time agreement with respect to the second congressional budget resolution be modified as follows: That the time on any amendment be limited to 1 hour instead of 2 hours.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE SENATE HAS HAD A GOOD WEEK—EXPRESSIONS OF APPRECIATION

Mr. ROBERT C. BYRD. Mr. President, there is a beautiful land, it is often referred to as almost heaven. It is the State of West Virginia. It is the land of viridescent hills and iridescent sky. It is mountains, clear skies, pure water, clean air, and strong mountaineers who believe that mountaineers are always free.

I urge my friends in the Senate to retire to West Virginia for the recess, spend a day or so and recuperate, revive their energies, restore their clear vision, resuscitate their spirits, and come back on September 6 ready to do a lot of work and a good job and make every effort to adjourn sine die the middle of October and not to come back after election.

Incidentally, some of the best Bluegrass music played anywhere is played in West Virginia, and the good Lord willing, I expect to be over in West Virginia on Saturday, September 2. I am going to take all seven of my violins to a pleasant place there called Coolfont, that is C-o-o-l-f-o-n-t.

My wife, Lady Byrd, and the members of my staff, many members of my staff, are going over there. We are going to eat some of that good cooking prepared at Coolfont and I am going to play some of my good Bluegrass music on my violin.

I would love, just love, to see there on

that occasion Senator and Mrs. HANSEN. Senator HANSEN is from Wyoming. He is a good man, a man whose heart is as stout as the Irish oak and as pure as the lakes of Killarney. I wish he would come over there and be my guest on that evening and I would treat him to some Bluegrass music, the kind that is going to be on my album when it comes out next month, in September.

There are going to be 14 tunes on that album, may I say to my friend, and I will be playing some of those tunes over there.

But aside from that, let me say again that I do want to thank my colleagues on both sides of the aisle. I want to thank all of the officers of the Senate and the men who are at the desk, the reading clerks, the legislative clerks, the journal clerks, the Parliamentarians, the pages, the Doorkeepers, the Official Reporters, the members of my policy committee staff, the members of the Republican—do they have a policy committee over there?

Mr. HANSEN. Just barely.

Mr. ROBERT C. BYRD. All of them. Bill Hildenbrand, Howard Green, Tom Hart, Chuck Bangert, Joe Stewart and all of these people, Susan here, everybody who makes it possible for the Senate, the Sergeant at Arms—who is a puny man—a puny man with that lean—what was it Cassius and Brutus were saying? That fellow with the lean and hungry look. That is the Sergeant at Arms. The lean and hungry look. A great football player. One of the great all-American football players for Notre Dame, bless his heart.

Well, I thank them all. We have had a good week and we are going to continue to do great work.

This Congress has faced up to some tough issues. It has had the courage to face up to the hard ones, the rough issues, the mean issues. But I am just pleased with its record thus far and I want to thank all these I have named and any I may have overlooked inadvertently for the cooperation, the understanding and the patience that they have had and the support they have all given to make this a good session.

So, with that, Mr. President, if there be no further business to come before the Senate, I move——

The PRESIDING OFFICER. If the Senator from West Virginia will permit the Chair to intervene, the Chair could have sworn that the Senator from West Virginia, when he was speaking of the place that looked like heaven, that he was speaking of my State of Hawaii.

Mr. HANSEN. Mr. President, if the distinguished Senator, my very good friend from West Virginia, will yield, let me say that I thought he was getting ready to invite everyone to join the President in Jackson Hole, when he was describing the beautiful landscapes that he later identified as West Virginia. [Laughter.]

As he knows so well, I do greatly admire our distinguished majority leader. It has been my unique privilege and pleasure to hear him play his violin and to work with him on this floor, sometimes to oppose him—and I always come out second best—but more often to join him, which is a better way of winning, I find.

I should like nothing better, nor would Mrs. Hansen, than to be privileged to be with him and his wonderful family in West Virginia. We hope that before too long we may share that enjoyment.

Mr. ROBERT C. BYRD. I thank the Senator. I look forward to the time we can do that.

ORDER OF BUSINESS

(The following proceedings occurred earlier:)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the discussion with respect to the natural gas conference report—the entire discussion by all Senators—appear in the RECORD just prior to the motion to recess.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE GAS PRICING CONFERENCE REPORT

Mr. LONG. Mr. President, I wish to address myself to the gas pricing conference report which will be before the Senate sometime soon. I was one of those Senators who voted for that bill, Mr. President, but I regret that I will not be able to vote for the conference report.

Mr. President, I will be compelled to join those Senators who have announced opposition to its passage. The bill is opposed by consumers for very good reasons. The bill is opposed by gas producers for very good reasons. The bill is opposed by labor and industry for very good reasons.

I would first like to make it abundantly clear that I am not opposed to the so-called natural gas compromise because of price. The new gas price called for in the conference report compares favorably with the prevailing unregulated intrastate market price and, therefore, is not an issue with me. My opposition is based on the nonprice elements of this proposal.

This bill will not adequately increase gas production. Furthermore, the regulatory costs and complexities are staggering—resulting in higher than necessary prices and less supply. This bill will escalate the cost of energy production and tie up producers and investors in a morass of endless paperwork, hearings, litigation, and bureaucratic redtape. For industry to comply with this act will create enough paperwork to plaster the entire United States from the Atlantic to the Pacific and from the Gulf of Mexico to the Canadian border.

No producer could survive in business unless he is permitted to pass along to the consumer the cost of complying with these burdensome regulatory requirements. This means the consumer would pay more and get less for his money. The only beneficiaries would be the armies of lawyers, accountants, court reporters, and Federal bureaucrats. Everyone else loses and must pay for this mind-boggling, make-work scheme.

Presently, the Department of Energy budget exceeds 10 billion in tax dollars. A considerable portion of that money is spent in regulating the oil and gas industry. If this bill is enacted, the additional Federal regulators, Government office personnel, and related costs needed to enforce this scheme will run this figure up even higher.

One should realize that for every tax dollar the Federal Government spends in regulating the industry, gas producers must spend a great deal more than that to comply. Obviously, these compliance costs must be passed on to the consumer in the price of the product. No one can continue to produce energy for long unless he is making a profit.

The end result is that the average American citizen is slashed from all sides. Too many of his hard-earned tax dollars will be spent on needless additional Federal regulation, and, at the same time, he will pay a higher price for energy as a consumer.

I am well aware of the months of tortuous negotiations by the House and Senate conferees on this bill. I never thought the conferees could take a House bill, favored by consumers, and a Senate bill favored by producers, and work out a fiasco opposed by both. But they have clearly succeeded in doing so.

It is strange, indeed, to see the entire free world turned toward capitalism and free enterprise in the effort to produce more energy while the United States is moving in the opposite direction—more regulation.

There are a few good provisions in the bill to permit intrastate pipelines to sell gas to interstate pipelines without subjecting the intrastate pipelines to needless regulations. There is another provision to permit gas to be moved within a State by interstate pipeline without subjecting it to Federal regulations. Those two provisions should be enacted. I will join with Senators from producing and consuming States in the effort to reject the many bad provisions in the bill and to substitute the two good provisions to which I have referred. If we are successful in doing that and no more, we will have served to eliminate the many billions of dollars of additional cost this bill would foist on the taxpayers of America.

Mr. President, I saw the old show, "Beverly Hillbillies" when it was current on television. The picture was shown of old Pa out in Arkansas firing his rifle by accident into the ground and oil gushed out. The family became rich and moved to Beverly Hills. Mr. President, under this bill, finding gas would be only the beginning of the Beverly Hillbillies' worries.

The needless impediment to production in this bill terrifies particularly every small producer. It is true that some of the major companies might be able to survive because they have a staff of lawyers and accountants. However, this bill would just add some to what they already have. But for a small independent producer, who does not have lawyers working for him, day in and day out, the bill creates an absolutely fantastic burden.

Mr. President, what do we have here? Consumers are opposing this bill for a very simple reason: It means they are going to pay more for gas, and a lot more.

You see the producers opposing the bill. You would think if the consumers are against it, the producers would be for it. It is just not the case. They look at all the nonprice regulation in this bill and say, "Spare us; just vote the bill down, defeat it. Do what you can, but do not let that bill become law."

Labor is against the bill. Labor is interested in the consumer. Business is against the bill. In the beginning, the large companies, represented by the American Petroleum Institute, were for the bill when it passed the Senate. There were a lot of things that were left to be desired, but on balance, they would have favored the bill. Now, for the most part, even some of the major companies are opposed to the bill.

One would ask, who is for the bill? Not even the environmentalists favor the bill, Mr. President. I should think there has never been a case where Members of Congress, working in the effort to serve the national interest, have so completely managed to alienate everybody as has been the case with this bill. I never thought I would find myself in agreement with the present occupant of the Chair (Mr. METZENBAUM) on a gas bill. But I am allied with him on this and might join him in a filibuster for the simple reason that we could do better than this with a simple substitute that is being suggested by Mr. METZENBAUM, Mr. KENNEDY, Mr. ABOUREZK, Mr. BAYH, as well as a number of Senators from producer States. Then we would say, as we have said twice already in the bill which passed both the House and the Senate, that gas could be purchased by the interstate pipelines from the intrastate pipelines when they find that they need additional gas. Such a provision is in the bill. That is a good provision. It ought to become law.

We will propose that the bill be recommitted with instructions to report that section.

We would also like to see a provision passed which is in the bill—I believe it is section 311(a)—that would say that gas inside a State can be moved solely within that State through an interstate pipeline without its becoming subject to Federal jurisdiction as interstate gas, under the so-called coming doctrine.

By doing that, Mr. President, every cubic foot of gas that can be sold and can be moved into interstate commerce, or intrastate commerce, as the case may be, can be made available to the consumers.

All of the problems of fantastic, mind-boggling regulation, the kind of liability that would scare anybody within an inch of his life, the sort of uncertainty that drives businessmen up the wall, would be avoided by simply passing those two provisions, and perhaps a few other things in the bill that make good sense and that everyone can readily agree upon.

The hopeless complexity, the unprecedented excess of bureaucratic regulation that is implicit in this bill, Mr. President, is such that we would do this Nation a great service to see that that bill, as represented in the conference report, does not become law.

Accordingly, Mr. President, I expect to lend my efforts to those who speak for both consumer States and producer States, speak for both the interests of labor and commerce in opposing the conference report and urging a constructive solution.

Mr. President, what I find to be one of the most impressive arguments to some Senators, when thoroughly analyzed, becomes one of the most ridiculous. That is the argument that we must pass a bad bill, even though it be a very bad bill, because it will strengthen the dolar, that somebody abroad will think America has done something about the energy question and, therefore, they will have more confidence in the dollar.

Mr. President, we might as well pass a blank sheet of paper and just write "energy bill" across the top of the sheet of paper and hope to fool somebody.

What good would it do us to pass a bad bill, a bill that is going to cause us to have less energy, not more energy, a bill that will hinder production, not increase production? What good will it do us to pass such a bill in the hope of fooling some foreigner?

Mr. President, those are sophisticated people. They are not a bunch of idiots over there in Japan, in Europe, and elsewhere. They will know from everyone they talk to in the industry that the bill does more harm than good.

Mr. HELMS. Will the Senator yield?

Mr. LONG. Yes.

Mr. HELMS. They are the last people who are going to be fooled.

Mr. LONG. Why, of course.

What good would it do us if we were successful in fooling a few Frenchmen or Germans for a few days to think we would pass something to help solve the energy problem when it makes it worse?

It would achieve absolutely nothing.

As the Senator from North Carolina so well points out, those are very smart, intelligent, perceptive people. They have allies and associates here in the United States who keep them well informed. Long before this debate on this bill was over, everyone would know that this thing is an absolute bureaucratic monstrosity that will impede the production of energy, not speed or hasten it. They would know that there is a much simpler and much easier way.

Mr. President, I hope that the President of the United States, the Vice President, and their advisers will reconsider their position. When they have a measure that is opposed by all those who started out on their side, or at least most of those, who can have any enthusiasm for the bill? I find no one who will say this is a very good bill, that it is something that will advance the Nation's interests.

About the only argument left is that we must do something. Does that mean we should pass a bad bill? I do not think so. It seems to me the answer to it is to say that, "Yes, we must do something," and pass the best bill we can.

Perhaps the administration should take credit for the fact that they have finally compelled the producers and consumers, and labor and management, to all get together. They all have united. The people on all sides are coming up with a constructive answer with which we can agree at this point.

It would be a far better approach, Mr. President, than to try to muscle through the conference report which will be presented to the Senate.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER (Mr. MATSUNAGA). The Senator from Ohio.

Mr. METZENBAUM. Mr. President, my distinguished colleague from Wyoming had joined with Senator ABOUREZK, Senator BARTLETT, and myself, in fashioning this legislative answer on the natural gas pricing measure. We are particularly pleased that the distinguished Member of the Senate, the Senator from Louisiana, has seen fit to join with us in moving toward a legislative alternative. He has stated it well when he describes that which has been offered to the Senate as being objectionable to consumers, consumer advocates, producers, labor organizations, environmentalists, business organizations.

What we have seen fashioned out of long drawn out conference committee deliberations, over a period of months, sometimes in secret session, was an effort to get a bill at any price.

If somebody wanted some particular problem resolved, it was agreed to. If somebody wanted another problem resolved, it was agreed to. By the time we got done, we really had that which could be considered a legislative monstrosity. It does not solve the problem.

It was originally talked about by the President as being a measure that would provide for mandatory allocations, so the President could go in one State and take it out into another State. That is no longer in it.

It was originally talked about, as the President addressed himself to the entire question, of not deregulating the price of natural gas, a position which my friend from Louisiana advocates. When we got all done, we did not come down either plus or minus on that question. We came out someplace in the middle, and nobody is quite certain what we did do, except we know the price will go up, if we can figure out what the legislation said.

When the bill left the Senate and the House, it provided for incremental pricing for industrial users with the idea that by doing that we would cause more industrial users to turn to other energy sources. But when the bill came back to the Senate, it did not have that in it. It provided for higher prices for household users, residential users, and more of the burden was placed upon them than was placed upon the industrial users.

When the bill came back to the Senate out of the conference committee, it provided a special kind of consideration, that incremental pricing would be applicable to those who are in the consumer States, as far as industrial users are concerned, to the extent that incremental pricing is applicable and within the limits of what I just stated previously concerning residential users, but not incremental pricing for industrial users in the producer States.

As a consequence, those of us who represent consumer States would have found that more of our industry would have seen fit to move toward the producer States and that would not have been in the best interests of this Nation and that was certainly not intended in the original draft of the legislation.

There is available a chart indicating the complexity of this legislation, and it looks like—I do not know what to describe it as, but it is so complex that nobody could conceivably understand what it said, even if they had a staff of 100 lawyers working for them.

So I say that today has been a high point in our movement toward the development of a legislative alternative with respect to the Natural Gas Price Act. Twenty-four Members of the Senate have now signed their "Dear Colleague" letter. Included with the distinguished Senator from Louisiana is the distinguished Senator who made the strong battle and provided leadership for the enactment of the bill that passed the Senate, the so-called Pearson-Bentsen measure, which became the majority view of the Senate when it left the Senate.

Mr. PROXMIRE. Will the Senator yield briefly?

Mr. METZENBAUM. I yield.

Mr. PROXMIRE. Mr. President, I congratulate the Senator from Ohio and the Senator from Louisiana on their statements. I agree with them wholeheartedly. I think this is an impossible bill. As we indicated the other day, at a time when inflation is the No. 1 issue in the country, it is highly inflationary.

At the same time, I would like to indicate one difference, perhaps—I do not know. The Senator from Ohio and the Senator from Louisiana are extremely skilled technicians. The Senator from Ohio and the Senator from South Dakota (Mr. ABOUREZK) showed their great ability in filibustering before. They know every aspect of filibustering. I hope that, under the circumstances, we will be able to vote up or down on the bill.

I say that as one who is against the bill. I recognize that we have a tremendous weapon in delaying a vote. This has been debated at great length. Everybody knows about it. We have been up the hill and down the hill, over and over, for months.

I realize that the conference report is somewhat complicated and would take quite a few days of discussion, but I hope we can get an up and down vote within 3 or 4 days of the time the conference report comes out. I think there is enough strength to defeat it. At any rate, I think it deserves a vote on the merits.

The only argument I know of for a prolonged discussion is an educational process, so that people will take a second look and understand it. In this case, I do not think we have that argument for a filibuster. But I hope we will consider the possibility of letting it come to a vote.

Mr. METZENBAUM. Mr. President, I am pleased to respond to my good friend from Wisconsin, who is one of the cosigners of the "Dear Colleague" letter.

He has contributed much in his remarks with reference to one argument that has been made about the bill, and that has to do with the subject of its impact on the dollar overseas. I am happy to say to the Senator from Wisconsin that, although I have not consulted with all the others who have been involved in putting together this legislative alternative, I believe it is our thought that at a very early point in the debate, we will offer our motion to recommit, with instructions along the line as indicated in the "Dear Colleague" letter; that there really is no reason to have extended debate with reference to that subject, because it is my view now—and I must say it frankly and openly—that I believe there is a majority in the Senate prepared to support that motion to recommit.

I hope that if and when we do it, and if we are successful, the House will see fit to join us promptly, and that the administration will accept that as the will of Congress so that we can go about our business and enact not only this legislative answer, but also enact the other three bills that have been held hostage and that have been agreed upon for the last 8 or 9 months. Then, we, indeed, would have a national energy plan that may not be everything everybody wants, but at least it will have been a major step forward in getting a program. It may not be everything that the President or Congress or any particular group feels is the right answer, but it will be an answer, and I think it will be a good answer. I believe we could conclude our work within a week, if the House will accommodate this, after we return from the recess.

Mr. HANSEN. Mr. President, I want to say two or three things.

First, I express my very high regard for the chairman of the Finance Committee, a person who has earned my admiration a long time ago and who I believe, without reservation, is one of the most skilled Senators it has been my privilege to know.

I join my colleagues in saying that I have no desire at all to prolong discussion. If there is anything we have heard much more about than we needed to have heard about, it has been this gas bill.

In order to try to accommodate everybody, it is fair to say that we have come up with a piece of legislation that has to be a monstrosity. In the words of the administrative officer, Sheila Hollis, it would be impossible to administer. I hear this from people throughout the industry.

As a matter of fact, if they think—as I am certain they do—that they have experienced tough years recently in trying to wade through the time consuming, expensive, compounding maze of regulation and redtape, "they ain't seen nothin' yet." If this bill were to become law, their difficulties, their frustrations, and their short nerve endings would be compounded 10 times.

What impresses me so much about our friend from Louisiana is simply this: He does not think—as too often his admirer from Wyoming is inclined to think—one step at a time. The Senator from Louisiana is looking down the road to see what can be done for this country to get a bill passed that will be helpful, that will be constructive, that will be in the interests of everybody. He charted the course, insofar as I know, that gave the impetus and made me open my eyes to what we should be doing.

We could get into a head-knocking confrontation that could wind up in a long filibuster and a lot of feelings hurt, and trouble on the Senate floor, and not have anything done with it. But RUSSELL LONG—God bless him—is always thinking about what is doable and what is possible and what serves the national interest.

In that respect, he demonstrated this several weeks ago in the utterances he made which encouraged me to look forward to what can be done to make the best of a very badly deteriorating situation.

So I join in applauding him, in seeing if we can pick up, out of the myriad of ideas in this bill, some things that are going to be helpful, that can be approved insofar as the Senate and the House are concerned, and that will be signed by the President.

We can turn this country around, and we will not have to fool anybody—any foreign country or any of our other friends. We will have done something that is positive, that will combat inflation, that will expand jobs, that will increase the energy supply in this country, which will reduce the outflow of dollars, which will stop the flow that now accounts too much for the deteriorating situation of the dollar. That will be a continuing forward thrust in accomplishing the purposes all of us seek to achieve for this country.

So I salute the senior Senator from Louisiana for his perceptiveness in understanding that more is necessary than simply to defeat a bad bill; but, rather, to get everyone pulling together, and I sense that is now the case. We are going to pull together.

I think that this bill, this concept, upon which all reasonable men can join, will move this country forward in a positive manner, with an energy policy that will deliver. It will achieve the goals—not all of them—but it will achieve many of the goals that each of us knows are desirable.

I have many feelings about leaving this great institution. When I leave here—and that will not be too many months away—I know it will be a source of considerable pride and pleasure to know that I have been privileged to participate with some great Americans. RUSSELL LONG is one of those persons. I thank him.

Mr. LONG. Mr. President, I thank my able friend from Wyoming for the kind things he has said.

The Senator from Wyoming has been a courageous, indefatigable fighter for the free enterprise system in this country, and has helped to make the American system work the way our forefathers intended it to work. We all will miss him tremendously when he leaves this body. Many of us on this side of the aisle join our colleagues on the other side of the aisle in deploring the fact that the Senator has decided to retire.

He has many good years ahead of him, but we appreciate all he has done for his Nation serving here.

I certainly deeply appreciate the kind words that he has said about me.

But, Mr. President, it is really the Senator from Wyoming as well as the Senator from Ohio and the Senator from Texas, and others, who have joined forces in helping to shape a compromise that the producers, consumers, business and laborers of American can support.

If we can get all those factions together behind something that will make it possible to transport to the consumer every cubic foot of gas that can be produced here in the United States, why should we not do that? Why would we want to do something that is universally opposed by the working people, the consumers, the producers, everybody?

Mr. President, I am one of those who has had the experience of some of the embarrassment of going back and having people picket me at a meeting, because I voted for the Panama Canal Treaty. I felt it was our duty to ratify that treaty, it was in the Nation's best interests. It served our national purpose. I thought the President was right. It took a lot of courage to recommend it, but I think we owed it to him to support him on that rather unpopular undertaking.

But why should we do this to pass a bill which will be horribly unpopular and supported by no one?

One would have thought when we got through with the heated very honestly fought battle here in the Senate that at least you would please some people on the producers side when you passed the bill. One might have thought when they got through with the fight over on the House side they would have pleased some consumers in the country.

But to bring us back a bill that does not please anyone, no one on the business side, no one on the labor side, no one on the consumer side, and a bill that will impose literally hundreds of millions of dollars of cost on taxpayers and consumers by needless bureaucracy and regulation?

Mr. President, maybe we must have more than two prices for gas, maybe we must have more than three prices of gas, but why do we have to have 31 different prices of gas? It is the same product. You cannot see it, you cannot feel it, you cannot smell it, but if you light a match to it it makes a flame.

But why do we need 31 different prices that have nothing to do with what someone is willing to pay for it, nothing to do with what the stuff is worth? There are 31 different prices having to do with where you found it, how deep you drilled, who you were near when you found it, matters all of which should be totally irrelevant. Thirty-one different prices—some of them just seem to me to be the mere whims and caprice of an individual.

There is no point in imposing all this on the people of this country. It is simple enough to take the meritorious provisions of this bill, and there are some very meritorious provisions in the bill, and pass those. One of the key provisions that passed both the Senate and the House of Representatives on other occasions, passed twice, and has been signed by the President twice is the idea that you could buy gas from the intrastate pipelines and put it in the interstate pipelines if you need it. If you take care of that and take care of the movement of gas within the States, then anyone who has some gas can sell it and will sell it. He will have an incentive to go ahead and produce more. While that will not solve all the problems, it will not create any additional problems which unfortunately would be the case with the so-called compromise that will be laid before us sometime soon.

I thank the distinguished Senator.

The PRESIDING OFFICER (Mr. PROXMIRE). The Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, I was sitting here listening to what appeared to be the beginning of the debate on the natural gas conference report, even though it has not yet been called up for floor consideration.

It is not often, in fact it is very rarely, that I rise to disagree with the chairman of the Finance Committee and with one of the ranking minority members of the Finance Committee, the Senator from Wyoming, all at the same time. But as one who supports the Natural Gas Deregulation Conference Report, I would like to respond to the question of the Senator from Louisiana, "Why 31 different prices?" by asking him this question, "Is it not true that without the bill which will be placed before the Senate after the recess, there would be not 31 different prices, but 1,000 different prices?" It is the understanding of the Senator from Hawaii that every time an application is made for the sale of gas by a producer, under present regulations, he applies for and normally gets a price according to the peculiar circumstances of each case, which can differ in a thousand different ways.

So while we are not now debating the gas bill, and I hope we will have a lengthy debate on the measure which will be brought back by the Energy and Natural Resources Committee, I feel that we ought to regard more seriously something which the conferees have worked on for 5 months. As a member of that conference committee, I can appreciate the great effort which the conferees exerted to arrive at the compromis. represented in the report. The Senator from Wyoming was also a member of the conference committee.

Mr. HANSEN. Mr. President, I was a member, but I was not invited to the 5 months of meetings.

Mr. MATSUNAGA. The meetings which the Senator refers to were not conference committee meetings. They were caucuses, and I myself was not invited to all of them.

Mr. HANSEN. If my good friend from Hawaii will yield, and I have nothing but the greatest respect for him, let me say that one of my good friends, and I count many of my good friends on the other side of the aisle, is Senator JACKSON. I greatly admire and respect him. I cannot help thinking that it was he, I believe, who is credited with having conceived of the idea of legislating in the sunshine. But for 5 long months, Mr. President, not much sunshine shone on the deliberations of that select group of Senate conferees and House conferees as they fashioned this bill.

Mr. MATSUNAGA. The Senator from Wyoming himself well knows that every time the Senate conferees agreed to do something, we went back to the House conferees; then there was some objection, and then when we thought we had the House conferees agreeing with us, something else came up. So we were working back and forth. If the Senator from Wyoming, along with the Senator from Ohio, who was here in the Chamber a little while ago, could have at that time made the contribution that they propose to contribute now by opposing the conference report, maybe we could have come up with something that they, too, would have accepted.

But I hope that all this will be thrashed out when the conference report is being finally considered here in this Chamber.

I do not intend to take any more time, but I just could not sit still without saying something, especially in the light of the great respect which I have for the chairman of the Finance Committee, a committee to which I belong, and my good friend from Wyoming with whom I serve not only on the Finance Committee but on the Energy and Natural Resources Committee.

Mr. HARRY F. BYRD, JR. Mr. President, the Senator from Virginia does not want to get into the middle of a fight over the natural gas bill today. The Senator from Virginia has taken no position on it at this point.

I do want to associate myself, however, with the remarks made earlier by the distinguished senior Senator from Wyoming in regard to the chairman of the Committee on Finance. I thought the tribute paid to Senator LONG by the Senator from Wyoming (Mr. HANSEN) was a splendid tribute and a much deserved tribute. I think Senator LONG is an outstanding chairman of the Committee on Finance. He is one of the hardest-working Senators I know, and I might say he is frequently a much maligned Senator merely because he happens to be chairman of that committee.

Now, I read somewhere, either today or yesterday, in one of the papers—I read 15 or 20 newspapers a day, so I am not sure just where I read it—that Senator LONG was carrying around in his pocket a number of amendments to tax bills that might be on the floor today, one amendment, the paper said, dealing with the New England Patriots. I am not sure whether that is a hockey team, a basketball team, or a football team, but in any case, the only connection, insofar as I know, that Senator LONG had with that piece of legislation was that he happened to be chairman of the Committee on Finance.

The legislation was introduced sometime ago by the Senator from Indiana (Mr. BAYH), by the Senator from Rhode Island (Mr. PELL), by the Senator from

Rhode Island (Mr. CHAFEE), and by the Senator from Massachusetts (Mr. BROOKE).

It was referred to the Committee on Finance. It was then referred to the Subcommittee on Taxation. At that time it was placed in the RECORD that a hearing would be held on this bill and who the beneficiary would be.

A hearing was held before the Subcommittee on Taxation. Subsequently it came before the Committee on Finance in open session. It was duly considered there, and it was reported to the Senate.

The only connection Senator LONG had with the bill, so far as I know, and the only reason he happened to have an amendment to the bill, was because, as chairman of the Committee on Finance, it was the procedure that needed to be followed.

So I think it is important to realize that while the Committee on Finance has a tremendously able chairman, one of the ablest political minds I have ever known, and one of the ablest persons I have ever been associated with, and he can work a lot of magic both in the committee and on the floor of the Senate, still he is very frequently being maligned for matters with which he has no connection and for which he should not be blamed.

I do not say whether the particular bill we had, that was under consideration, was a good bill or a bad bill. Whether it was good or bad it was not Senator LONG's proposal.

I just want to say again that I want to associate myself with the remarks made by the Senator from Wyoming in tribute to the chairman of the Committee on Finance.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield at that point?

Mr. HARRY F. BYRD, JR. Yes.

Mr. ROBERT C. BYRD. I was not here when the tribute was made by the Senator from Wyoming, but whatever tribute was made I want to be in on it. Count me in on that combine. He is one of the most shrewd, most effective, most personable, most likable legislators in this Senate at this time or at any time in the history of the Senate, and I certainly have the utmost admiration for him and tremendous respect. On this one particular issue I guess we will not be able to agree, but certainly he is going to be my friend and I am going to be his regardless of the outcome. I thank the Senator.

Mr. HARRY F. BYRD, JR. What the Senator from West Virginia said about the skill and the ability and the shrewdness and the finesse of the Senator from Louisiana can be applied in equal measure to the distinguished Senator from West Virginia. [Laughter.] It is just very interesting that sitting side by side right here this afternoon are two of the shrewdest and ablest and finest political minds that I have been associated with in a long time.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. HARRY F. BYRD, JR. I yield to the Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, I had fully intended to add my expressions of admiration for the Senator from Louisiana, who chairs the committee on which I serve. I join with the Senator from Wyoming and the Senator from West Virginia and the Senator from Virginia in praise of our chairman of the Committee on Finance. In singing praise of the Senator from Louisiana, I would like to relate one incident which happened while I was still a student at Harvard Law School.

I came to Washington at the call of Joe Farrington, who was Hawaii's delegate to Congress at that time. He told me Senator LONG was opposed to Hawaiian statehood, and he would not listen to Delegate Farrington because he was a Republican. He said in effect, "Sparky, you come on down and I am sure RUSSELL LONG will listen to you, because he has plenty of Aloha for the members of the 100th Battalion and the 442d Combat Regimental Team." Delegate Farrington was referring to the old Nisei regimental combat team, which served so valiantly in World War II.

In response I left my law school studies and went to see one Senator RUSSELL LONG, opponent of statehood for Hawaii.

Initially, the receptionist said he was too busy. But when he learned that I was a veteran of the famous combat team he agreed to see me.

So I spent some time with the Senator from Louisiana, opponent of statehood for Hawaii.

I started by stating what statehood would mean to those of us who served in World War II, who sacrificed not only limbs but even lives. After listening to me for a while he said to me, "Well, young man"—he called me that, and I am older than he is [laughter]—he said, "Young man, you must remember that a U.S. Senator is primarily interested in two things: one, to be elected; two, to be reelected." [Laughter.]

Then he said, "So don't come to me. Go to my constituents, and if my constituents tell me that I should support Hawaiian statehood I will."

So I took his advice and sought out his staunchest supporters in his home State. Fortunately, one of his principal supporters was a very close friend of mine, George Leightner. I telephoned him and said, "George, we have got to get RUSSELL on our side." He said, "Well, I will tell you what you do, SPARKY. You get the Governor of Hawaii to invite RUSSELL to go to Hawaii, and you lay out the red carpet. I will go with RUSSELL to help you."

We did exactly that. We got Senator RUSSELL LONG to go to Hawaii. We greeted him at the airport with leis right up to his eyes, and you know, of course, that he came back to Washington as a champion of Hawaiian statehood. [Laughter.]

At that time, some of my colleagues may recall, Senator Richard Russell was majority leader. When he saw the picture of RUSSELL LONG with leis up to his eyes, he said, "Well, there goes RUSSELL LONG. We have lost him." [Laughter.]

I thought this might be an amusing sidelight in the interesting and exciting career of the Senator from Louisiana, appropriate to the occasion, during the waning hours of this evening. I thank the Senator from Virginia for yielding.

Mr. LONG. Mr. President, if the Senator will yield, let me assure him that I very much appreciate these kind remarks from my colleagues. I do not know what prompted it. I really do not know whether my friends have in mind another Hawaiian bill or just what it may be, but whatever it is, I suppose they have me where they want me, and I will have to go along with them. I do not precisely know what it is they have in mind, but I assure my dear friends that I very much appreciate the kind words.

The Senator from Hawaii is right when he said the trip to Hawaii made an impression on the Senator from Louisiana. Senator Russell from Georgia said when he saw that picture of the Senator from Louisiana with those leis piled up all the way to his nose, "He is gone, just forget about him; he is gone."

[Laughter.]

I thank the Senator.

THE NATURAL GAS PRICING CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I have never lost faith in the strength and the ability of the U.S. Senate to meet the greatest challenge of the 95th Congress—confronting the energy problem.

I have never wavered in my confidence, though, at times, the natural gas pricing bill has had a heartbeat as faint as that of a hummingbird.

You have heard of the proverbial cat that has nine lives. This bill has had more lives than that proverbial cat. It has been pronounced dead, I guess, 100 times. I have seen tombstone after tombstone erected over this bill, and it is still living; it still has life in it. I am not willing to concede that the bill is dead, and I am not willing to concede that this Senate will not pass that legislation. I am not willing to give up, and I do not think the others who support the legislation are ready to give up, either.

The energy problem is an insidious enemy, and it has allies in deception. It is difficult to act on crisis legislation when no crisis is perceived. The humid days of August do not stimulate memories of bitter cold winters and gas shortages, rivers iced over, factories shut down, employees out of work, schools closed, and residential consumers without heat in their homes.

For three decades the issue of natural gas pricing, and its resolution, has eluded and confounded Congress and the Nation. To our allies abroad, this beachhead is the Normandy on our shore, and they expect us to meet this challenge.

If we cannot face this problem, in this case, the battle is the war, and we will have lost our initiative, our momentum, and some would say, our fortitude. This is the way it will be perceived by our friends, as well as by our enemies.

Rightly or wrongly, this energy legislation is the axis on which our image turns abroad. This was made explicit during conversations I had in Europe with Chancellor Schmitt, with Prime Minister Callaghan, and with the leaders

in Belgium. For Congress to adjourn sine die without a solution would be broadstroke evidence of our inability to meet a problem that affects every man, woman, and child in this Nation. To adjourn sine die without a solution would be—through inaction—to further emasculate the power of the dollar overseas.

Mr. President, under this conference report, consumers would be protected as more natural gas is made available through incentives for greater production. Gas shortages give rise to job layoffs, and this is definitely not in the interests of the working men and women of this country.

As for price, it is important to remember that the prices set forth in the conference report are only ceiling prices. Many energy economists doubt prices will reach the ceiling.

Since last year, average wellhead prices in the intrastate markets have been dropping. Greater supplies as a result of the report's various incentives would help to keep prices below the ceilings.

The incentives are designed to elicit greater supplies. As this occurs, the higher price would have a negligible effect on inflation. The conferees estimate that it would increase the overall inflation rate by less than one-half of 1 percent.

If greater domestic gas supplies help to reduce gas or oil imports, consumers also will benefit by a more favorable trade balance.

Under the conference report, consuming States would be better served; without the measure, however, interstate consumers would be worse off.

Everyone who represents interstate gas consumers should realize by now that consumers without adequate gas supplies are not well protected.

Interstate pipelines which lose industrial customers because of insufficient deliveries face a no-growth future. Loss of sales to big interstate industrial customers will push up prices to interstate residential customers. Moreover, the loss of gas sales to industrial customers probably will cause them to consume more oil, much of which would have to be imported.

Increased gas supplies is not the only protection afforded interstate consumers under the conference report. The incremental pricing policy which the conferees designed would protect residential consumers. Increases in the price of gas sold to residences would be borne primarily by low-priority industrial consumers.

Maintaining adequate supplies and cushioning the price impact on residential consumers is particularly important to the middle and lower income groups in the interstate market. If interstate gas supplies continue to decline, it will be most burdensome financially for the middle and lower income families to switch to another fuel, particularly for residences with gas-fired boilers and appliances. The loss of purchasing power to those who live on the margin would be significantly larger if supplies dwindle. Enactment of the natural gas conference report would work to prevent this.

Mr. President, those who oppose this legislation are honorable men, and no one would doubt their motives. But I believe that insight and vision dictate that we meet the energy challenge we accepted earlier in this Congress. Mr. President, we have been deliberating on this now for 14 months. And this is an issue that has been around the Congress for 30 years, and the American people expect Congress to deal with it.

If Congress rejects this legislation, then the American people are going to believe that Congress cannot come to grips, that Congress does not have the fortitude, it does not have the vision, it does not have the courage and the determination to deal with the foremost problem facing this country, and the image of Congress before the American people, which is already not too good, will be made even worse.

In addition, Mr. President, the image of this country before the world is not going to be good. The OPEC countries will realize that the American Congress is not willing to come to grips with this problem, and our NATO allies will believe that the American Congress is not willing or not able to deal with this small problem which, in my discussions with Chancellor Schmitt, Prime Minister Callahan, and other leaders in Europe, was the No. 1 problem on their minds.

I believe there are three questions, and if only one is answered in the affirmative by a majority of this body, we will have assured this Nation of an energy policy.

Will we in the U.S. Senate have the vision to look after the interests of our citizens not only for the moment, the hour, the day, but for tomorrow and the future?

Will we in the U.S. Senate be able to put aside regional differences in an unselfish desire to contribute to the national strength and security of our Nation?

And, will we have the tenacity to show the world that the United States will not shrink from facing a global problem, and from its global responsibility?

I believe we will.

Mr. President, in my judgment, to recommit this conference report is to kill it. To kill it. And I think we can make our choice as to whether we want a bill or whether we do not want anything. Those who favor deregulation will not have it if this measure dies. And those who believe that there should be deregulation in some period of time, as I do believe that there should be deregulation on a phased basis, will support this legislation.

Let us not be misled by the motion to recommit: that will kill this legislation. Mr. President, the word is going to go out to the American people that the Congress, after 30 years, is still unwilling to deal with the foremost problem facing this country. That the Congress, after 14 months of toil and sweat, is unable and unwilling to deal, I repeat, with the foremost problem facing this country.

Mr. President, I respect those who differ with me. I have the utmost respect and admiration for Senators who oppose this measure. I just feel that it is the duty of the Senate to take a stand now. We have spent months and months and months, and the year is running out. A decision has to be made. The clock is running out. And the American people expect me and they expect the Members of this Senate to deal with this problem and to resolve it.

Mr. President, I hope that the Senate will stand up to this question.

I heard the distinguished Senator from Wisconsin, who is presently presiding over the Senate, say not to filibuster this conference report. I think the Senator is to be congratulated on that attitude. It has been filibustered enough. There have been prefilibuster filibusters, there have been postfilibuster filibusters, there have been postcloture filibusters, there have been maxifilibusters. I tell you, my friends, it is time that we stopped filibustering and vote on this issue.

It is perfectly all right to spend some days in dealing with the conference report. That is reasonable. It is a lengthy conference report; it is a complex conference report. I expect the Senate to take days. But let us reach a decision. If the Senate is not going to deal with the problem, let it say so by voting down the conference report. Let us say yes or no. As for me, I will be found standing with those who support the conference report, and I will vote against the motion to recommit. I will vote against any motion to recommit because a motion to recommit is a motion to kill the bill, and to erect over it once and for a tombstone. That is what it means. Let no one be misled by any motion to recommit.

So, Mr. President, I trust that Senators, having discussed this, having gone up the hill, having gone down the hill, having gone through the misery, the travail, the sweat, and the labor of months of argument, passionate, emotional argument in many instances, Members will at least let the Senate have a vote up or down on the issue.

The PRESIDING OFFICER. The time for morning business has expired.

Mr. ROBERT C. BYRD. I ask unanimous consent that the period be extended for another 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Kentucky.

Mr. FORD. Mr. President, I would like to be granted 5 minutes, if that is in order.

The PRESIDING OFFICER. The Senator may have 20 minutes.

Mr. FORD. I will take the 20 minutes and yield 5 minutes to the distinguished majority leader.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. President, I have said enough at this time. This is such a very difficult issue. It cuts across regional lines, across parochial interests. It cuts across deep, deep, deep feeling.

Mr. President, if this conference report is killed, then we continue with what we have. We continue with no deregulation. There are those who say, "If we kill the bill, we will get a better one next year."

Do not bet on it. Do not bet on it.

Mr. President, I ask unanimous con-

sent that a document entitled "Points in Support of the Natural Gas Compromise" and a document entitled "Summary of the Major Provisions in the Natural Gas Conference Report" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

POINTS IN SUPPORT OF THE NATURAL GAS COMPROMISE

The world is watching to see if we can come to grips with our energy problem. In view of the President's pledge to foreign leaders, and the increasing concern over the dollar, we cannot afford to fail.

It will increase supplies of our premium fuel for the nation's consumers while providing price certainty and new markets for the nation's producers.

Substantial additional quantities of natural gas will flow into the interstate market at prices below that of displaced alternate fuels.

The bill will also make construction of the Alaska gas pipeline possible. Together with increased production in the lower 48 states, this could mean a 30 percent increase in interstate gas supplies by 1990.

This, in turn, could result in savings of well over 1 million barrels per day of imported oil by 1985, and $5 to $8 billion a year in our balance of payments.

The national gas market created by this bill will allow gas currently backed up in the intrastate market to flow into the interstate market—where it is sorely needed.

The bill provides critical new incentives and certainty for the nation's producers of natural gas.

It opens up the intrastate market to interstate demand.

It provides certain, incentive prices.

It removes burdensome FERC regulatory requirements on all new natural gas.

It removes the uncertainty associated with recent Supreme Court decisions and simplifies federal regulations.

Increased supplies of natural gas at prices below alternate foreign fuels will be available for both homeowners and industrial users.

Under the bill's incremental pricing provisions, the supply of gas throughout the nation will increase for residential and industrial users at prices well below the cost of any other substitute fuels.

In almost every region of the country, the industrial gas price in 1985 will still be well below the price of distillate—assuming world oil prices stay constant—and one-quarter the price of electricity.

Significantly, the price of natural gas to industrial users, including the incremental pricing provision in the compromise, will be lower under this bill than the price would be under the Senate-passed Pearson-Bentsen deregulation bill without incremental pricing.

There will also be expanding use of gas in industry, particularly the special process uses for which gas is best suited.

Under this bill, there will once again be enough gas at economical prices to resume home hook-ups.

Enactment of the Compromise will:

Create a national market for gas.

Greatly increase supplies for industry and homes.

Cost the consumers no more than existing law.

Substantially reduce oil imports.

Protect home consumers.

Provide substantial quantities of gas for new home hook-ups.

Failure of the Compromise will:

Back-up sorely needed gas production in the intrastate market.

Continue the trend of declining supplies in the interstate market.

Lead to the increasing use of higher priced foreign energy.

Continue to occupy the Congressional calendar with a debate on natural gas in the coming years.

Destroy the possibility for acting on a comprehensive energy program this year.

The Country needs our help in this important effort to pass the first natural gas bill in twenty years. The alternatives to passage are unacceptable from both a national and international perspective. Too much is at stake for this bill to fail.

SUMMARY OF THE MAJOR PROVISIONS IN THE NATURAL GAS CONFERENCE REPORT

I. DURATION OF PRICE CONTROLS

Controls expire January 1, 1985 for:

(a) New natural gas, except new reservoirs in old leases offshore.

(b) Special incentive gas, except that legally required as of April 20, 1977 to be sold interstate commerce and gas from wells completed at a depth of less than 5,000 feet.

(c) Gas under intrastate contracts where the contract price is greater than $1.00 on December 31, 1984.

Controls expire June 30, 1987 for special incentive gas from wells completed at a depth less than 5,000 feet.

II. STANDBY PRICE CONTROLS

(a) The President or Congress (concurrent resolution with expedited procedures) could reimpose for 18 months at any time after June 30, 1985 and prior to June 30, 1987.

(b) Concurrent resolution of Congress could veto Presidential reimposition.

(c) Prices after reimposition would be on the same trend line previously applicable, except that for special development incentive wells, controls would be reimposed at a point mid-way between the original control trend line and the new gas trend line.

III. CEILING PRICE FOR NEW GAS

(a) $1.75 as of April 20, 1977 escalated at the implicit GNP deflator plus .2% annually plus 3.5% annually to April 20, 1981 and 4.0% annually thereafter.

(b) No vintaging.

IV. DEFINITION OF NEW GAS

(a) Onshore

(1) Gas from new wells (those spudded after February 19, 1977) completed 2½ miles from the surface location of any old well or 1,000 feet deeper than any old well. (Presumption that new well is drilled vertically unless a slant drilling permit was obtained.)

(2) Gas from newly discovered (after April 20, 1977) reservoirs.

(3) Gas from previously non-producing reservoirs ("withheld" gas and behind-the-pipe gas excluded.

(b) OCS

(1) Gas from any lease executed after April 20, 1977.

(2) Gas from a newly discovered reservoir (U.S.G.S. determines whether a reservoir is new).

(c) State agency determines new gas onshore. FERC review to be initiated within 45 days and decided within 120 days.

V. ONSHORE PRODUCTION WELLS (SPECIAL DEVELOPMENT INCENTIVE GAS)

(a) Ceiling Price is $1.75 plus inflation except that after January 1, 1985, the price for gas from wells completed at less than 5,000 feet depth shall be mid-way between the previous trend line and the new gas trend line.

(b) Wells must be outside an existing spacing unit and at least one spacing pattern away from old wells but within the 2½ miles. This is essentially a special incentive for the full development of old reservoirs.

VI. AND VII. OTHER GAS FROM NEW WELLS, GAS AND OLD GAS

(a) Ceiling price of $1.45 plus implicit GNP deflator plus 0.2 percent.

(b) All other old gas receives the contract price plus the GNP deflator plus 0.2 percent.

VIII. SEVERANCE TAXES

(a) Existing taxes are not included in the ceiling prices. Future increases in severance taxes are to be incrementally priced.

IX. ROLLOVER CONTRACTS

(a) Interstate

Contracts below 0.54 can rise to that level plus GNP deflator plus 0.2 percent.

All others are contract price plus GNP deflator plus 0.2 percent.

(b) Intrastate

Below $1.00 at rollover, a ceiling price of $1.00.

Above $1.00 at rollover, new gas ceiling price.

State royalty gas and State-owned production, receive new gas ceiling price.

X. ALLOCATION AUTHORITY

Only in emergencies for maintaining residences and small commercial users after all emergency sales are used, authority is provided to allocate for coal convertable industries that burn gas.

XI. HIGH COST GAS

The following types would be deregulated at time of implementation of Incremental Pricing Rule 1:

(a) Devonian Shale
(b) Coal bed methane
(c) Geopressurized methane
(d) Gas from wells of 15,000 feet or deeper.

XIII. STRIPPER WELLS

(a) Ceiling price of $2.09 plus new gas escalation factors.

(b) Defined as gas from a well that produced less than 60 mcfd at the MER for three months.

XIV. INCREMENTAL PRICING

(a) Rule 1 (to be implemented by FERC within 12 months) would incrementally price industrial (not electric utility) boiler fuel for over 300 mcfd users up to the regional cost of distillate.

The incremental pricing account would consist of all amounts paid for gas above $1.48, except that for high cost gas it would be all amounts above the price of distillate landed in N.Y. harbor plus 30% (now about $3.40).

No Congressional review of Rule 1.

(b) Rule 2 (to be proposed within 18 months) would cover other industrial uses and be subject to one-house veto in Congress.

(c) Agricultural exemptions are provided.

Mr. MATSUNAGA. Mr. President, will the distinguished majority leader yield?

Mr. ROBERT C. BYRD. I yield.

Mr. MATSUNAGA. I congratulate the distinguished majority leader for the statement he has just made. I fully agree with him, and hope that every Senator will take time to read his statement, as it will appear in the RECORD.

If I may be permitted to make a prediction based upon the 14 months that I have been in this body, and 14 years in the House, and I make this prediction in all sincerity, the Senator from West Virginia will be recorded in history as one of the greatest, if not the greatest, majority leader this august body has ever had.

Mr. ROBERT C. BYRD. Mr. President, I just cannot find the words to thank the

distinguished Senator from Hawaii for his overly charitable, overly generous, overly gracious remarks. I am deeply grateful.

Mr. President, there is one more thing I want to say about this legislation. It is said that it is a measure that nobody wants.

Mr. President, if someone will bring a conference report in here on which everyone agrees on everything I will resign my seat from the Senate that day and say, "Hallelujah" and let out a whoop and a holler, if they bring in a measure that everybody likes.

Nobody likes everything in this conference report. I do not like everything in it. It is the kind of an issue that is so thorny, so complex, so deeply emotional, so deeply divisive, that it is impossible to bring in a conference report that everybody likes.

There is not a Senator in here, I guess, who likes everything in this measure. But on this issue there is not going to be any conference report brought in that every Senator likes. Any solution to it is probably going to be one that is not completely satisfactory to everyone.

Mr. LEAHY. Will the Senator yield?

Mr. PROXMIRE. I am happy to yield to my good friend from Vermont.

Mr. LEAHY. Mr. President, I shall try to be as brief as we Vermonters are reputed to be. I came back to the floor because I heard, over the speaker in our office, the comments the distinguished majority leader and others were making earlier.

As the majority leader knows, if the issue of the natural gas compromise were up today and I were constrained to vote right at this moment, I should have to vote against the conference committee report. But I agree completely with the distinguished majority leader that this matter should not be filibustered.

Proper debate, of course. A complex issue requires several days of debate. But, my God, we are fooling ourselves if we think that with the collective wisdom of 100 of us, we cannot handle the complexities of it within a few days. If we cannot, we do not deserve our salaries; we do not deserve to be here.

Debate it, vote it up or down. Do not play parliamentary tricks with motions to recommit solely for the sake of destroying the bill or killing it. If 51 Senators want to defeat the conference committee report, let them vote it up or down.

Mr. ROBERT C. BYRD. Right.

Mr. LEAHY. I agree with the majority leader in efforts to bring it up, have it debated properly and then vote on it. I, for one, will certainly do everything I can to help in that regard.

I shall spend a great deal of time studying it during the recess, do a great deal of reading on it. I expect to walk around the fields of my farm in Vermont and think about it and make up my mind how to vote.

I agree with the Senator from West Virginia that we ought to vote on it and not play games with the filibustering procedure.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Vermont (Mr. LEAHY). What he has just said is typical and characteristic of him. He will thoroughly study this matter; he will reach a considered judgment on it; and he is willing to show down, one way or the other.

That is what I am asking. I want the Senate to vote for the conference report, but I cannot control the will of the Senate. If it is the will of the Senate, 51 Senators, to reject it, I accept that verdict. But I want to see the Senate reach a verdict and let each Senator make up his own mind, reach his own judgment. I shall do what I can to support the conference report. I will support those who will do what they can to defeat it and I shall love them just as much afterward as before.

But let us have the vote. Let the majority prevail. If the conference report prevails, fine; I think that will be in the best interest of the country. If it is rejected, the Senate will have spoken.

I thank the Senator for his timely remarks.

(Conclusion of earlier proceedings.)

RECESS UNTIL 10 A.M., WEDNESDAY, SEPTEMBER 6, 1978

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the provisions of the order previously entered, House Concurrent Resolution 696, as amended, that the Senate stand in recess until 10 a.m. on Wednesday, September 6, in this year of our Lord, 1978.

The motion was agreed to; and at 6 p.m. the Senate recessed until Wednesday, September 6, 1978, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate August 25, 1978:

DEPARTMENT OF STATE

Mary S. Olmsted, of Tennessee, a Foreign Service officer of class 1, now Ambassador Extraordinary and the Plenipotentiary of the United States of America to Papua New Guinea, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Solomon Islands.

INTERNATIONAL ATOMIC ENERGY AGENCY

The following-named persons to be the Representative and Alternate Representatives of the United States of America to the 22d session of the General Conference of the International Atomic Energy Agency:

Representative: Dale D. Myers, of Virginia.

Alternate Representatives: Gerard S. Smith of the District of Columbia and Roger Kirk, of the District of Columbia.

DEPARTMENT OF JUSTICE

Tyree A. Richburg, of Alabama, to be U.S. marshal for the southern district of Alabama for the term of 4 years.

DEPARTMENT OF THE INTERIOR

Roger A. Markle, of Utah, to be Director of the Bureau of Mines.

DEPARTMENT OF ENERGY

Ruth C. Clusen, of Wisconsin, to be an Assistant Secretary of Energy (Environment).

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

The following-named persons to be Members of the Federal Mine Safety and Health Review Commission for the terms indicated:

For a term of 4 years: Marian Pearlman Nease, of Maryland.

For a term of 6 years: Frank F. Jestrab, of North Dakota A. E. Lawson, of Pennsylvania.

Richard V. Backley, of Virginia, to be a member of the Federal Mine Safety and Health Review Commission for a term of 4 years.

Jerome R. Waldie, of Maryland, to be a member of the Federal Mine Safety and Health Review Commission for the term of 2 years.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Howard MacLane, 422-16-1628, U.S. Air Force.

IN THE NAVY

Having been designated for commands and other duties determined to be within the contemplation of Title 10, United States Code, section 5231, Vice Adm. Harry D. Train II, U.S. Navy, for appointment to the grade of admiral while so serving.

Adm. Isaac C. Kidd, Jr., U.S. Navy (age 58), for appointment to the grade of admiral on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

IN THE ARMY

Army nominations beginning Rudolph E. Abbott, to be lieutenant colonel, and ending Michael K. King, to be first lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on July 24, 1978.

Army nominations beginning Frederick T. Abt, to be colonel, and ending John D. Rosenberger, to be second lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on July 24, 1978.

IN THE NAVY

Navy nominations beginning Keith E. Burtner, to be ensign, and ending Milton J. Hirshberg, to be commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on July 24, 1978.

Navy nominations beginning Denis R. Boudreau, to be chief warrant officer (W-2), and ending Jerry W. Vance, to be chief warrant officer (W-2), which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on July 24, 1978.

Navy nominations beginning Leon E. Ackart, to be captain and ending Thomas L. Dinges, to be ensign, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on July 26, 1978.

Navy nominations beginning William C. Abaher, to be lieutenant (j.g.), and ending Edward P. Wyatt, to be lieutenant (j.g.), which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on July 26, 1978.

Navy nominations beginning Paul A. Anderson, to be chief warrant officer, W-2, and ending Elmo G. Tucker, to be chief warrant officer, W-2, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on July 26, 1978.

EXTENSIONS OF REMARKS

THE PROBLEM OF DRUG ABUSE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for August 23, 1978 into the CONGRESSIONAL RECORD:

THE PROBLEM OF DRUG ABUSE

The headlines are frightening: Is the United States becoming a drug-ridden society? Drug use on the increase! Are drugs crippling our armed forces? Boom in illegal pills.

These headlines are supported by recent conversations I have had with community leaders and parents of young people in the Ninth District. Despite a lack of certain knowledge of the extent of drug abuse in their communities, these citizens are worried and frustrated. They are unsure how to deal with drug abuse. They want to do something, but they fear that hasty, unplanned measures could make the problem worse.

The widespread use of illicit drugs has spawned a new subculture in America, complete with its own vocabulary ("bennies," "roach," "crank," "co-pilots" and the like) and paraphernalia (spoons, pipes, needles, clips and assorted containers). The hard statistics on this subculture are disturbing. Some 43 million Americans have tried marijuana and 16 million smoke it regularly. Many Americans, especially those under 30 years of age, are beginning to accept the use of marijuana as a way of life. About 400,000 people are addicted to heroin, a deadly drug whose overdoses claimed 1,700 lives last year. About 1.8 million Americans pep themselves up with amphetamines or related stimulants. Some 1.1 million relieve their anxieties with powerful sedatives. Ten million Americans have tried cocaine, a new "glamor drug," and more than 1.6 million use it routinely. Over 1.4 million ease their moods with tranquilisers while another 1.1 million alter their minds with hallucinogens. A full six million young people use PCP, a dangerous unpredictable drug nicknamed "angel dust."

The problem of drug abuse is not confined to the young. Alongside the subculture of illicit drugs are the chronic users of alcohol and tobacco, substances which must be classified as drugs even though they are legal. Of course, the abuse of these drugs takes place in every age group and economic stratum. If the 93 million drinkers of alcohol and the 65 million smokers of tobacco are counted, more than 75% of all Americans are drug users. Perhaps the United States has already become the drug-dependent society announced in the headlines.

Beyond the people whose health is jeopardized by alcohol and tobacco, nearly a million others are treated for drug abuse each year. The annual cost is $500 million. Countless others suffer lesser effects of a "drug revolution" that is sweeping the American scene.

Although many users of illicit drugs pose no immediate threat to themselves or others, the line between drug use and drug abuse is not easy to draw. Anyone who uses drugs runs a risk. A visit to a typical hospital emergency room will almost always turn up an individual who mistakenly thought that some drug could be taken safely. Experts tell us that much workers absenteeism and many traffic mishaps result from drug use, but it is impossible to say exactly how much or how many. The harmful consequences of drug use for performance in school, social activities and family life are becoming more apparent every day, but authoritative information remains sketchy. My suspicion is that we have only seen the tip of the iceberg.

The federal government has responded to the problem of drug abuse by trying to reduce both supply of and demand for dangerous substances. To cut down supply, the federal government regulates the pharmaceutical industry and all others who handle drugs in the course of legitimate commerce or medical practice. It pursues those who operate outside legitimate channels. It aids state and local lawmen by providing technical assistance. The federal government also patrols our international borders and ports of entry to prevent smuggling. It helps to administer programs of crop substitution and eradication in foreign countries. It encourages foreign governments to step up their own drug enforcement efforts. All told, about $780 million will be spent on these activities in 1978, a nine-fold increase since 1969.

Reduction in demand for dangerous substances is a newer goal in the national strategy to curb drug abuse. During the past 15 years the federal government has instituted and expanded programs of treatment, rehabilitation, education and teacher training. Treatment and rehabilitation have received more attention to date, but many experts are arguing for improved education and teacher training. Their idea is to reach young people before drug abuse occurs. The cost of these programs will be $390 million this year, an eleven-fold increase since 1969.

The federal government is increasingly conscious of the role that it must play to crack down on drug abuse, but it cannot work alone. State and local officials, civic-minded citizens, parents and young people must also do their part. The problem of drug abuse is too important to ignore.

A SOUND VETO

HON. HAROLD E. FORD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

Mr. FORD of Tennessee. Mr. Speaker, the President has caused a great deal of controversy with his veto of the bill H.R. 10929, the Department of Defense Authorization for 1979. I would like to share with you and my colleagues in the House of Representatives an editorial appearing in the recent editions of the Memphis Press-Scimitar which explains the issues involved very well. The editorial follows:

A SOUND VETO

President Carter, whose bent is to avoid fights with Congress, nevertheless was right to veto the weapons-buying bill because it funds a fifth $2 billion nuclear-powered aircraft carrier he and the Pentagon do not want.

The huge carrier, which Sen. William Proxmire has aptly dubbed "the dinosaur of the seas," was rammed into the bill by a potent lobby of nuclear seapower advocates, some naval officers and defense contractors.

At his news conference Thursday, Carter correctly explained that the $2 billion carrier with more billions needed for its planes and escort vessels would not enhance but weaken the national defense.

To pay for the glamorous supercarrier, its congressional backers diverted funds from less glamorous military necessities: ammunition, repair of ships and planes, equipment and training. All are vital to military readiness.

Carter spoke the plain truth when he said the Navy did not need a small number of very costly ships but a large number of less expensive vessels. In the nuclear age, when one weapon can take out one ship, naval strategy should go toward dispersal, meaning more ships but smaller ones.

Unfortunately the "carrier admirals"—the spiritual descendants of the battleship admirals who led the nation astray in the years before World War II—still have great clout along with their congressional and industry allies.

All three groups will try to thwart Carter and get their pet carrier back in the $36.9 billion defense authorization bill. This is one fight the president deserves to win.

CONGRESSIONAL RECORD STATEMENT

HON. JOHN J. CAVANAUGH

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. CAVANAUGH. Mr. Speaker, as part of my ongoing effort to be accountable to the people who I represent, I have compiled for publication in the CONGRESSIONAL RECORD my complete voting record for the 95th Congress, through May 31. A most difficult yet essential element of representative government is communicating to constituents the action we take in their behalf. I intend to list all the votes I cast as a Member of the House of Representatives so the voters of the Second Congressional District of Nebraska will be fully aware of the type of representation I am providing.

Quorum calls are excluded from the listing in an effort to save space. Otherwise, the list is complete for all of 1977 and the first 5 months of 1978. Subsequent votes will be included in a future edition of the RECORD. The listings include the rollcall number, a brief description of the bill, my vote, and whether the measure passed or failed. Voting abbreviations include NV for not voting; NVA for not voting, but indicated opposition to the measure; and NVF for not voting, but indicated support for the measure.

It is my sincere hope that this listing will be a handy resource for my constituents who seek to examine the votes I cast on their behalf in Congress.

The voting record follows:

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

1977 VOTING RECORD

(2) Election of the Speaker of the House. O'Neill, 290; Rhodes, 142. Cavanaugh voted O'Neill.

(3) To bar amendments to Rules of the House for 95th Congress. Yes. Passed.

(4) Rules of the House for 95th Congress. Yes. Passed.

(9) Authorize the President to establish a 90-day emergency natural gas program. Yes. Passed.

(10) Approve journal of Feb. 1 proceedings. Yes. Passed.

(11) Emergency Natural Gas Act; 90-day emergency allocation program; 180-day emergency purchase program; delete ceiling price on gas purchased from intrastate suppliers for interstate markets. Yes. Passed.

(12) To adopt rule on resolution to create a Select Committee on Assassinations. Yes. Passed.

(13) To eliminate language defining scope of investigation of Select Committee on Assassinations. NV. Failed.

(14) To reestablish until March 31, 1977, the Select Committee on Assassinations. Yes. Passed.

(15) To approve journal of Feb. 2 proceedings. Passed.

(16) Emergency appropriation ($6.4 million) for Department of Interior's Southwestern Power Administration. Yes. Passed.

(17) To approve fishing agreements between U.S. and Bulgaria, Romania, East Germany, Poland, the Soviet Union, and the Republic of China. Yes. Passed.

(18) To approve journal of Feb. 9 proceedings. Passed.

(19) To direct Committee on Standards of Official Conduct to conduct an inquiry to determine whether Members of the House, their immediate families or their associates have accepted anything of value from the South Korean government or its representatives. Yes. Passed.

(20) To raise ceiling on Small Business Administration loans and investments in FY 1977 from $6 billion to $8 billion. Yes. Passed.

(22) To adjourn from Feb. 12 to Feb. 21. No. Failed.

(23) Reduced air fares for the handicapped and the elderly. Yes. Passed.

(24) To authorize medal to Marian Anderson in recognition of her distinguished career. Yes. Passed.

(25) Budget Resolution: To adjust revenue and spending levels downward, assuming permanent tax cuts instead of expenditures for job programs. No. Failed.

(26) Budget Resolution: Set spending ceiling and revenue floor for FY 1977. (Spending, $419.1 billion; revenue, $348.8 billion). Yes. Passed.

(27) To adopt rule on public jobs bill (Local Public Works Capital Development and Investment Act of 1977). Yes. Passed.

(28) To require that 65 per cent of funds for public works projects go to states based on number of unemployed in the state, and that 35 per cent of funds be set aside for states with unemployment rates in excess of 6.5 per cent. No. Failed.

(29) To base public works funds allocation on number of unemployed in state in relation to national rate. Yes. Passed.

(30) To make $6 billion available for public works projects on which construction could begin within 90 days. No. Passed.

(31) To extend arrest and police authority of fish and wildlife enforcement officials. No. Failed.

(33) To approve fishing agreements between U.S. and Spain, Japan, South Korea, and European Economic Community. Yes. Passed.

(34) Depository Institutions Amendments of 1977 on interest rate regulations, federal credit unions, Federal Reserve Banks. Yes. Passed.

(36) To close debate on H. Res. 287, a new code of financial ethics for the House of Representatives. Yes. Passed.

(37) To remove provision of ethics bill abolishing unofficial office accounts and, instead, increase official expense allowance. No. Failed.

(38) To remove ethics code restriction on Members' outside income. No. Failed.

(39) Code of financial ethics, strengthening financial disclosure requirements, prohibit unofficial office accounts and lame duck travel, and restrict franking privilege and outside earned income. Yes. Passed.

(41) To provide $200 million authority for disaster relief activities made necessary by severe weather in eastern U.S. Yes. Passed.

(42) To restore $81.6 million to budget for long lead time funds for Nimitz-class nuclear aircraft carrier. No. Failed.

(43) To restore to budget $371 million for converting U.S.S. Long Beach nuclear cruiser to anti-aircraft cruiser. No. Failed.

(44) Conference report (House-Senate compromise) on Third Budget Resolution calling for spending ceiling of $417.4 billion, revenue floor of $347.7 billion. Yes. Passed.

(46) To consider (adopt rule) on Kennedy Center Act Amendments. Yes. Passed.

(47) To reduce funds for Kennedy Center repairs from $4.7 million to $3.3 million. Yes. Failed.

(48) Kennedy Center repairs. Yes. Passed.

(50) To reestablish committee to study need for sports legislation. No. Failed.

(51) To accept resignation of Rep. Henry B. Gonzalez as chairman of Select Committee on Assassinations. Yes. Passed.

(52) To close debate on Tax Reduction and Simplification Act. Yes. Passed.

(53) To phase out $50 rebates for persons earning more than $25,000 per year; to provide $50 payment to recipients of social security and veterans benefits. Yes. Passed.

(54) Tax Act: To provide flat standard deduction of $2,400 for single persons and $3,000 for married couples. Yes. Passed.

(55) To provide tax credit of 40 per cent on the first $4,200 of wages paid a new employee who represents actual increase in employer's payroll. No. Passed.

(56) Tax Act: To substitute permanent tax cut in seven lowest brackets for $50 tax rebates. No. Failed.

(57) Tax Act: Final passage providing $12.7 billion in tax cuts and payments in 1977, change standard deductions, etc. Yes. Passed.

(59) To end debate on resolution establishing Select Committee on Ethics. Yes. Passed.

(60) To establish Select Committee on Ethics to issue interpretive regulations for new code of financial ethics. Yes. Passed.

(61) To recommit Judiciary Committee funding and earmark $300,000 to investigate subversive activities. No. Failed.

(62) To consider Supplemental Housing Auth. Act. Yes. Passed.

(63) Supplemental Housing to increase Section 8 contract term from 20 to 30 years. Yes. Passed.

(64) Supplemental Housing: Equal number of men and women on the National Commission on Neighborhoods: Yes. Passed.

(65) Supplemental Housing: To eliminate provision creating Commission on Neighborhoods. No. Passed.

(66) Supplemental Housing: Additional authority of $378 million for Section 8; $19.6 million for public housing; $10 million for urban homesteading. Yes. Passed.

(67) To raise overall loan limit of Small Business Administration. Yes. Passed.

(68) To prohibit importation of chrome from any nation which violates the human rights provisions of U.N. charter. Yes. Failed.

(69) To delay for 30 days effective date of Rhodesian Chrome bill. No. Failed.

(70) To allow prohibition on importation of Rhodesian Chrome. Yes. Passed.

(72) To allow and evaluate 90-day test televising of House proceedings. Yes. Passed.

(73) To consider (adopt rule) on Economic Stimulus. Appropriations. NV. Passed.

(74) To reduce countercyclical aid from $632.5 million to $250 million. No. Failed.

(75) To prohibit public works funds for projects unless at least 10 per cent of those employed had lived in area 30 days and been unemployed for at least 30 days. No. Failed.

(76) Economic Stimulus Appropriations: $23.3 billion. Yes. Passed.

(77) To consider (adopt rule) on Supplemental Appropriations for FY 1977. No. Passed.

(78) Supplemental Appropriations: $200 million for emergency assistance to low-income families to help with fuel bills. Yes. Passed.

(79) Supplemental Appropriations: To bar use of funds for salaries and expenses in connection with military pardon program. No. Passed.

(80) Supplemental Appropriations: To delete International Development Association funds. No. Failed.

(81) Supplemental Appropriations: $27.92 billion for various departments and programs. Yes. Passed.

(82) To consider (adopt rule) on National Aeronautics and Space Administration (NASA) Authorization Act. Yes. Passed.

(83) To authorize $4.05 billion for NASA, FY 1978. NV. Passed.

(84) To authorize $275 million for expanding public library services (two years). Yes. Passed.

(85) Unemployment Extension: To bar amendments to the rule. No. Passed.

(86) To consider (adopt rule) on Emergency Unemployment Compensation Extension Act. No. Passed.

(87) To extend Federal Supplemental Benefits (Unemployment Act) and reduce by one-half maximum number of FSB weeks. Yes. Passed.

(89) To amend Vocational Education Technical Amendments to remove $25 million limit on federal funds for state administration and no limit on local administration of vocational educational programs. No. Passed.

(90) Resolution protesting the lack of freedom of emigration from the Soviet Union. Yes. Passed.

(92) To consider (adopt rule) on Common Situs Picketing. Yes. Passed.

(93) Common Situs: To limit right to picket a common site to employees of persons "primarily engaged in the construction industry on the site." No. Passed.

(94) Common Situs: To exempt employers using "fast-track" or phased method of construction. No. Failed.

(95) Common Situs: To exempt certain residential builders. No. Passed.

(96) Common Situs: To require strike be approved by a majority of all workers affected, including union and non-union. No. Failed.

(97) Common Situs: Sarasin Substitute. Yes. Passed.

(98) Common Situs: Final passage, to permit picketing of an entire construction site even if the dispute was with one employer on the site. No. Failed.

(99) To approve journal of March 23. Yes. Passed.

(100) To authorize $85 million for Federal Aviation Administration. Yes. Passed.

(101) To authorize $868 million for National Science Foundation. Yes. Passed.

(102) To authorize $89.7 million supplemental funds for State Department activities. Yes. Passed.

(104) To create Select Committee on Congressional Operations. Yes. Passed.

(106) To provide that governmental reorganization plans become effective only if

both House and Senate approve the plan. Yes. Failed.

(107) To renew for three years the President's authority to submit reorganization plans to Congress, to become effective within 60 days unless rejected by either house. Yes. Passed.

(109) To consider (adopt rule) bill to continue the Select Committee on Assassinations. Yes. Passed.

(110) To withdraw authority given Assassinations Committee to bring, defend, or intervene in lawsuits. Yes. Passed.

(111) To go into secret session to continue consideration of Assassinations Committee resolution. No. Failed.

(112) Final passage, to continue Select Committee on Assassinations. Yes. Passed.

(113) To approve section of H. Res. 393 authorizing additional funds for House leadership offices. Yes. Passed.

(114) To authorize additional funds and personnel for House majority and minority leadership offices. Yes. Passed.

(115) Strategic and Critical Materials Stockpiling Act Amendments. Yes. Passed.

(116) To extend for one year authorizations for national cancer program; heart, blood vessel, lung and blood program, etc. Yes. Passed.

(117) To increase authorization for home health services demonstration and training programs. Yes. Passed.

(118) To extend for one year authorizations for grants to states for material and child health and crippled children services, etc. Yes. Passed.

(119) To restore to VA authorization to provide medical services on a fee basis to certain veterans outside VA facilities. Yes. Passed.

(120) To authorize $30 million (two years) for VA grants to states to construct veterans homes and nursing homes. NV. Passed.

(121) To change effective date of sick pay exclusion to Jan. 1, 1977, for taxpayers who wish to claim old sick pay exclusion. Yes. Passed.

(122) To adopt conference report on extending Federal Supplemental Benefits Program through Mar. 31, 1978, and reduce number of FSB weeks from 26 to 13. Yes. Passed.

(123) To consider (adopt rule) on Debt Collection Practices Act. Yes. Passed.

(124) To amend Consumer Credit Protection Act to regulate debt collectors' activities, including a prohibition on harassing and intimidating consumers and making false or misleading representations. No. Passed.

(125) To authorize $20 million for earthquake disaster relief activities in Romania. Yes. Passed.

(126) To authorize grants to states to help local and state educational agencies provide career education programs in elementary and secondary schools. Yes. Passed.

(127) To protect petroleum franchises from cancellation. Yes. Passed.

(128) To consider (adopt rule) on Federal Water Pollution Control Act Amendments. No. Passed.

(129) To authorize $18.2 billion (three years) for municipal wastewater treatment works. Yes. Passed.

(130) To approve journal of April 5 proceedings. Yes. Passed.

(131) To consider (adopt rule) on Increased U.S. Participation in International Banking Agencies. Yes. Passed.

(132) To require U.S. opposition to international banking loans for production of palm oil, citrus and sugar. No. Passed.

(133) To provide withdrawal of U.S. funds from international banking agencies if the agencies provided financial aid to Cuba, Vietnam, Laos or Cambodia. No. Failed.

(134) To increase to $5.2 billion (four years) U.S. participation in several international development lending institutions. Yes. Passed.

(135) To permit tax deductible business use of residence for day care services. Yes. Passed.

(136) To approve journal of April 18 proceedings. Yes. Passed.

(137) To amend Federal Rules of Criminal Procedure, changing language relating to secrecy of grand jury proceedings, cases tried by juries of less than 12 persons, and cases tried without a jury. Yes. Passed.

(138) To authorize $288 million for research, development and demonstration projects of Environmental Protection Agency. Yes. Passed.

(139) To consider (adopt rule) on Export Administration Act Amendments. Yes. Passed.

(140) To extend Export Administration Act through FY 1979. Yes. Passed.

(142) To adopt conference report on FY 1977 supplemental appropriations of $29 billion. Yes. Passed.

(143) Supplemental appropriations: $12.5 million for Uniformed Services University of the Health Sciences (trains doctors for the armed services). No. Passed.

(144) Supplemental appropriations: $20 million to reimburse local governments for snow removal costs in emergency areas. Yes. Failed.

(145) To approve journal of April 21 proceedings. NV. Passed.

(146) Defense: To prohibit procurement of Airborne Warning and Control System aircraft. No. Failed.

(147) To allow Treasury Department to earn interest on its idle tax and loan accounts by investing in interest-bearing securities. Yes. Passed.

(148) Defense: To deactivate 17,000 troops stationed overseas and reduce total force by 50,000. Yes. Failed.

(149) Defense: To place all future enlistees under congressional retirement plan. Yes. Failed.

(150) Defense: To prohibit use of funds to advertise the review program for less-than-honorable discharges. No. Passed.

(151) Defense: To authorize $35.9 billion for military procurement, research and development; to set active duty troop level at 2,090,425. Yes. Passed.

(152) To consider (adopt rule) First FY 1978 Budget Resolution. Yes. Passed.

(153) Budget Resolution: To increase revenue target by $900 million (Third 1977 Budget Resolution), by assuming deletion of business tax credits contained in Tax Reduction Act of 1977. Yes. Failed.

(154) Budget Resolution: To reduce targets for budget authority and outlays by $7 million by assuming deletion of funds for recent pay raise for Members of Congress. (Cancel cost-of-living raise). Yes, Passed.

(155) To resolve into committee of the whole House to consider First Budget Resolution. Yes. Passed.

(156) Budget Resolution: To transfer $7.95 billion from defense spending to reduce the national debt. No. Failed.

(157) Budget Resolution: To increase target for budget authority for defense by $4.15 billion and target for defense outlays by $2.3 billion. No. Passed.

(158) Budget Reolution: To affirm previous vote to increase defense targets. No. Passed.

(159) Budget Resolution: To transfer $6.5 billion from military spending into spending for domestic programs. No. Failed.

(160) Budget Resolution: To increase budget authority by $249 million for Law Enforcement Assistance Administration. No. Passed.

(161) Budget Resolution: To increase budget authority and outlays by $500 million in veterans' benefits and services. Yes. Passed.

(162) Budget Resolution: to reduce authority and outlays in natural resources by $100 with the intention of striking funds for water projects. Yes. Failed.

(163) Budget Resolution: To reduce outlays by $23 billion; deficit by $18 billion; assume permanent 10 percent across-the-board tax cut for individuals. No. Failed.

(164) Budget Resolution: to reduce outlays target by $55 billion; increase revenue targets by $11 billion; install 10 percent tax cut. No. Failed.

(165) Budget Resolution: Final passage, to set new budget at $505.7 billion; outlays at 466.7 billion; revenues at $398.1 billion; deficit at $69.6 billion. No. Failed.

(166) To approve journal of April 27 proceedings. No. Passed.

(167) To approve conference report, $318 supplemental appropriation for Section 8 housing. Yes. Passed.

(168) Funding ($2.5 million) for Assassinations Committee. Yes. Passed.

(169) To consider (adopt rule) on strip mining bill. NV. Passed.

(170) To resolve into committee of the whole. NV. Passed.

(171) To ban strip mining in Western alluvial valleys. NV. Passed.

(172) To require $300 million from Outer Continental Shelf oil leasing be diverted to pay for abandoned strip mine reclamation. NV. Failed.

(173) Motion to recommit Surface Mining Control and Reclamation Act. NV. Failed.

(174) Passage of strip mining bill. NV. Passed.

(175) Appropriations for U.S. territories. NV. Passed.

(176) To authorize $31.1 million for San Luis reclamation project. NV. Passed.

(177) To authorize $1.6 billion for Energy Research and Development Administration. NV. Passed.

(178) Veterans Administration Medical Facilities Acquisition Act, requiring tighter congressional oversight. NV. Passed.

(179) To permit state legislators to deduct away-from-home expenses in connection with legislative duties in 1976–77. NV. Passed.

(180) To extend Defense Production Act for two years. NV. Passed.

(181) To provide $440,000 for expenses of Select Committee on Congressional Operations. NV. Passed.

(182) To extend Export-Import Bank authority to coincide with new fiscal year; require consideration of human rights in authorizing loans; congressional review of nuclear-related loans. Yes. Passed.

(183) To strike language from Public Works Employment Act which would require spending money previously allocated for water resources projects. No. Failed.

(184) Final passage, Public Works Employment Act (jobs bill). Yes. Passed.

(185) To consider (adopt rule) on U.S. Railway Association Authorization for FY 1978. Yes. Passed.

(186) To require feasibility reports on verifying arms control agreements. Yes. Passed.

(187) To authorize $14.6 million for Arms Control and Disarmament Agency. Yes. Passed.

(188) To authorize $13 million for administrative expenses of U.S. Railway Assn. Yes. Passed.

(189) To adopt rule on Foreign Relations Authorizations. Yes. Passed.

(190) To provide $20.1 billion budget authority for economic stimulus package. Yes. Passed.

(191) To reduce authorization for U.N. Ambassador's office. No. Failed.

(192) To reduce U.S. contribution to United Nations. No. Failed.

(193) To change language of Foreign Relations Authorization to require that any new Panama Canal treaty must "protect the vital

interests of the United States," instead of "prohibiting use of funds for negotiations to surrender or relinquish the Panama Canal." No. Passed.

(194) To prohibit use of foreign relations funds to negotiate any aid for Vietnam. Yes. Passed.

(195) $1.68 billion for foreign relations operations. State Department, etc. Yes. Passed.

(197) Budget Resolution: To increase defense spending targets by $8 billion in authorizations, $2 billion in outlays. No. Failed.

(198) Budget Resolution: To increase defense authorization by $2 billion, outlays by $1 billion. No. Failed.

(199) Budget Resolution: To increase defense authorizations by $1 billion, outlays by $1 billion. No. Failed.

(200) Budget Resolution: To reduce defense authorizations $1.15 billion and outlays target by $300 million. No. Failed.

(201) Budget Resolution: To increase authority and outlays for veterans' benefits by $175 million, with intention to provide new pension for World War I veterans. No. Passed.

(202) Budget Resolution: To increase defense spending targets $3 billion and outlays $2 billion; decrease budget authority and outlays targets for interest on national debt by $2.1 billion; and increase revenue target $3.3 billion. No. Failed.

(203) Budget Resolution: To reduce outlays by $24 billion and the deficit by $21 billion and give across-the-board 10% tax reduction for individuals. No. Failed.

(204) Budget Resolution: Final passage, setting spending limit at $464.5 billion. No. Passed.

(205) To consider (adopt rule) on Housing and Community Development Act Amendments. Yes. Passed.

(206) To establish Eleanor Roosevelt National Historical Site at Hyde Park, N.Y. Yes. Passed.

(207) To authorize $1.1 billion through 1982 for programs under Education of the Handicapped Act. Yes. Passed.

(208) To extend deadline for Civil Rights Commission report on age discrimination. Yes. Passed.

(209) Higher Education Technical Amendments. Yes. Passed.

(210) To authorize funds and continue appointment of counsel to represent the House and its Commerce Committee in court case, U.S. versus AT&T. Yes. Passed.

(211) To recommit resolution dismissing the election of Rep. Gammage. No. Failed.

(212) To dismiss the election contest against Rep. Mikva. Yes. Passed.

(213) To dismiss the election contest against Rep. Pursell. Yes. Passed.

(214) To approve journal of May 9. Yes. Passed.

(215) To prohibit Alaskan pipeline oil from being exported for two years. No. Passed.

(216) To increase authorization and extend Tinicum National Environmental Center. Yes. Passed.

(217) To authorize U.S. contribution to International Commission for Conservation of Atlantic Tunas. Yes. Passed.

(218) To authorize $13.5 million for Commercial Fisheries Development Act for FY 1978–80. Yes. Passed.

(219) To strike dual formula for allocating Community Development Block Grants. No. Failed.

(220) To approve journal of May 10. Yes. Passed.

(221) To require 25% of Urban Development Grant funds go to communities under 50,000 population. No. Passed.

(222) To delete sanctions against communities which refuse to participate in flood insurance programs (Housing and Community Development Act). No. Passed.

(223) Final passage, reauthorizing for three years the Housing and Community Development block grants. Yes. Passed.

(224) To adopt rule (consider) International Development and Food Assistance Act. Yes. Passed.

(225) To reduce U.S. funds by $25.8 million to international development agencies. Passed

(226) To remove tobacco as an agricultural commodity eligible for export financing under P.L. 480 program. Yes. Passed.

(227) To prohibit aid to Vietnam and Cuba under P.L. 480 program. No. Passed.

(228) To authorize $1.68 billion for international development and international disaster assistance. Yes. Passed.

(229) To consider (adopt rule) on Intergovernmental Antirecession Assistance Act. Yes. Passed.

(230) To resolve into Committee of the Whole. Yes. Passed.

(231) To base countercyclical fund on state and local effort, instead of unemployment rates. Yes. Failed.

(232) To extend countercyclical aid program and revise formula. No. Passed.

(233) To authorize $560,000 for National Committee on Atmosphere and Oceans. Yes. Passed.

(234) To extend funding authority for Seal Beach National Wildlife Refuge. Yes. Passed.

(235) To increase authorization for Canal Zone Biological Area. No. Passed.

(236) To extend voluntary insurance program of Fisherman's Protective Act. No. Passed.

(237) To adopt conference report, Tax Reduction and Simplification Act, providing tax cuts in FY 1977, 1978 and 1979. Yes. Passed.

(238) To add Intergovernmental Antirecession Assistance Act to the tax bill. No. Passed.

(240) Final passage, to create a Young Adult Conservation Corps and other youth employment measures. Yes. Passed.

(241) To extend and fund Drug Enforcement Administration. Yes. Passed.

(242) To authorize $67 million for Securities and Exchange Commission. Yes. Passed.

(243) To authorize $10 million for water resources planning and management. Yes. Passed.

(244) To authorize $5.9 million for U.S. Water Resources Council. Yes. Passed.

(245) To authorize continued funding for 18 river basin projects. No. Passed.

(246) To authorize survey of Medicine Bow National Forest. Yes. Passed.

(247) To allow Secretary of Transportation to provide aviation insurance to cover losses from riots, civil disorders, hijackings and similar acts. Yes. Passed.

(248) To authorize "such sums as necessary" for the administration of federal disaster programs in fiscal year 1978. Yes. Passed.

(249) To authorize $2.5 million a year for administration of Deepwater Port Act. Yes. Passed.

(250) To authorize feasibility study of installing solar energy equipment in House of Representatives buildings. No. Passed.

(251) To authorize $225 million for fiscal year 1977 and "such sums as necessary" in 1978 to make loans and grants to drought-affected areas. Yes. Passed.

(252) To adopt conference report, First fiscal year 1978 Budget Resolution, including an outlays target of $460.95 billion. No. Passed.

(254) To consider (adopt rule) on National School Lunch and Child Nutrition Amendments. Yes. Passed.

(255) To limit number of children in each State who could participate in summer feeding program to 200% of children ages 5–17 in families with poverty-level incomes. No. Failed.

(256) To limit number in local summer feeding program to local number eligible to reduced-price meals in regular school programs. No. Failed.

(257) To give local school districts choice of cash or commodities for school lunch programs. No. Failed.

(258) Final passage, to extend the summer feeding program of School Lunch Act, revising provisions to control fraud and abuse. Yes. Passed.

(259) To consider (adopt rule) on International Security Assistance for FY 1978. Yes. Passed.

(260) To consider (adopt rule) on Federal Employees Political Activities Act. Yes. Passed.

(261) To assert federal employee's right to refrain from forming, joining, or participating in any organization or group which encourages political activity. Yes. Passed.

(262) To prohibit job referrals by Members of Congress, etc., for job applicants seeking employment with Civil Service. No. Failed.

(263) To limit debate on Federal Employees Political Activities Act. Yes. Failed.

(264) To prohibit federal employees from running for federal or full-time state or local offices. No. Failed.

(265) To prohibit intimidation or coercion of federal employees by an employee organization in regard to political activity. Present. Passed.

(266) To delete language from Political Activities bill relating to criminal penalties for extortion. Present. Failed.

(267) To rise from consideration of Political Activities Act. Yes. Passed.

(268) To extend Juvenile Justice and Delinquency Prevention Act for three years. Yes. Passed.

(270) To extend for three months the Privacy Protection Study Commission. NV. Passed.

(271) To increase by 6% the disability compensation to veterans and for dependency and indemnity compensation to their survivors. NV. Passed.

(272) To increase disability compensation for some veterans who have suffered loss of paired extremities. NV. Passed.

(273) To extend automobile assistance allowance to disabled veterans of World War I. NV. Passed.

(274) To authorize $10.54 million for U.S. Commission on Civil Rights for FY 1978. NV. Passed.

(275) To allow closed conference meetings on Military Procurement Authorizations for FY 1978. NV. Passed.

(276) To delete $700,000 for military education and training programs in Argentina and prohibit arms sales to that country. NV. Failed.

(277) To resolve into Committee of the Whole to consider International Security Assistance. Yes. Passed.

(278) To delete $100 million for Southern Africa Special Requirements Fund (International Security). No. Failed.

(279) To delete requirements for "majority ruled" for receiving funds from Southern Africa Special Requirements Fund. No. Passed.

(280) To reduce authorized ceiling for FY 1978 military sales by $102.8 million. Yes. Failed.

(281) To recommit International Security Assistance bill with instructions to permit the President to lift arms embargo against Turkey. No. Failed.

(282) International Security: To authorize $3.2 billion in U.S. grant military assistance, foreign military credit sales and guarantees, and security supporting assistance. No. Passed.

(283) To consider (adopt rule) on Clean Air Act Amendments. Yes. Passed.

(284) To resolve into Committee of the Whole to consider Clean Air Act Amendments. Yes. Passed.

(285) To permit governors to grant variances in clear air standards for stationary sources such as power plants. Yes. Failed.

(286) To permit governors, after public hearings, to grant variances so new or modified sources (industries and power plants) could exceed allowable limits for sulfur oxide and particles for 5 percent of days of the year. No. Passed.

(287) To postpone new compliance provisions for areas that have not attained health standards for clean air until 60 days after EPA's required one-year study of non-attainment policy. No. Failed.

(288) To resolve into Committee of the Whole to consider Clean Air Act Amendments. Yes. Passed.

(289) To modify auto emissions standards. Yes. Failed.

(290) To put off standards for auto hydrocarbon emissions until 1980 and allow higher emissions of carbon monoxide and nitrogen oxides. No. Passed.

(291) Final passage, Clean Air Act Amendments. No. Passed.

(292) Peace Corps Authorization (rule). Yes, Passed.

(293) Marine Mammal Protection, porpoise quota amendment. No. Passed.

(294) Marine Mammal, porpoise kill penalties. No. Failed.

(295) Marine Mammal Protection. final passage. Yes. Passed.

(296) Peace Corps Authorization, final passage. Yes. Passed.

(297) Rule on Department of Energy. Yes. Passed.

(298) To establish National Energy Board. No. Failed.

(299) To strike authority to regulate wellhead price of natural gas. No. Passed.

(300) To remove DOE oversight of individual leases. Yes. Failed.

(301) To allow congressional veto of DOE regulations. Yes. Passed.

(302) Resolved into Committee of the Whole. Yes. Passed.

(303) Prohibit DOT employees from taking jobs in private regulated industry. Yes. Failed.

(304) "Sunset" date of 1982 for DOE. Yes. Passed.

(305) Final passage, Department of Energy. Yes. Passed.

(306) To increase Federal Crop Insurance Corp. stock limit from $100 million to $150 million. No vote. Passed.

(307) To appraise soil and water conservation resources and develop long-range policy for orderly development. NV. Passed.

(308) To extend Federal Energy Agency through FY 1978 and give FEA authority to require power plants to convert to coal. No. Passed.

(309) To exempt Members of Congress from the taxes of states and localities other than those from which they were elected. No. Passed.

(311) To repeal language in Military Construction bill relating to Davis-Bacon Act on projects to which it would not otherwise apply. No. Failed.

(312) To authorize $3.5 billion for FY 1978 for military construction and family housing. Yes. Passed.

(313) To resolve into Committee of the Whole to consider Federal Employees Political Activities Act. Yes. Passed.

(314) To bar use of organization funds for political purposes, etc. No. Failed.

(315) To clarify language pertaining to use of dues. Yes. Passed.

(316) To eliminate all exceptions under which persons in restricted categories may participate in political campaigns. No. Failed.

(317) To define extortion as including coercion through use of authority and the use of fear or violence. No. Failed.

(318) To prohibit federal employees from soliciting campaign funds from fellow employees. No. Failed.

(319) Final passage, Federal Employees Political Activities Act of 1977. Yes. Passed.

(320) Conference report authorizing $4.7 million for Kennedy Center repairs. Passed.

(321) To provide $7.52 billion budget authority for Treasury Department. Postal Service, Executive Office of the President, and various independent agencies. Yes. Passed.

(322) To prohibit SST operations at New York unless SST met FAA noise standards for subsonic aircraft. No. Failed.

(323) To provide $5.9 billion budget authority for Department of Transportation and related agencies. Yes. Passed.

(324) To consider, adopt rule) on Victims of Crime Act. Yes. Passed.

(325) To consider (adopt rule) on Interior Appropriations for FY 1978. Yes. Passed.

(326) To increase funding for Energy Research and Development Administration. No. Failed.

(327) Final passage, to appropriate $9.5 billion for Department of the Interior and related agencies. Yes. Passed.

(328) To consider (adopt rule) on Legal Services Corp. Act Amendments. Yes. Passed.

(329) To prohibit legal service attorneys from engaging in political activity or running for public office. No. Failed.

(331) Conference report to extend Export Administration Act. Yes. Passed.

(332) To prohibit use of State Department funds for U.S. diplomatic personnel assigned to Cuba or the Swiss Embassy in Cuba. No. Failed.

(333) To resolve into Committee of the Whole to consider State-Justice-Commerce-Judiciary appropriations. Yes. Passed.

(334) To increase LEAA authorization from $600 million to $704.5 million. No. Failed.

(335) To appropriate $7.62 billion for State-Justice-Commerce-Judiciary, Yes. Passed.

(336) To authorize $900,000 for investigation of past and prospective changes in world economy. Yes. Passed.

(337) To make changes in Supplemental Security Income benefits, etc. Yes. Passed.

(338) Public Works: To delete funding for 16 water projects. Yes. Failed.

(339) Public Works: To provide $10.2 billion in budget authority for FY 1978. Yes. Passed.

(340) To consider (adopt rule) on HUD and related agencies appropriations. Yes. Passed.

(342) HUD: To require 75% of new low income housing units be for elderly and handicapped. NV. Failed.

(343) HUD: To strike provision preventing Comprehensive Planning Grant funds from going to cities of over 50,000. Yes. Failed.

(344) To prohibit use of VA funds to adjudicate claims or pay benefits to persons whose military discharges have been upgraded under President's Special Discharge Review program. No. Passed.

(345) HUD: To reduce total budget authority by 1% for nonentitlement programs. No. Failed.

(346) HUD: Final passage, $70.23 billion for HUD, NASA, Veterans Administration. Yes.

(347) To resolve into Committee of the Whole to consider Labor-HEW appropriations. NV. Passed.

(348) Labor-HEW: To reduce funding for OSHA. No. Failed.

(349) Labor-HEW: To reduce total appropriations by $563.5 million, affecting 11 health, education and elderly programs. No. Failed.

(350) Labor-HEW: To prohibit HEW from requiring the busing of students beyond the schools nearest their homes. No. Passed.

(351) To insist on human rights considerations in activities of International Banking Agencies. No. Failed.

(352) Labor-HEW: To prohibit use of federal funds to pay for abortions. No. Passed.

(353) To consider (adopt rule) on Agriculture Appropriations. Yes. Passed.

(354) Agriculture: To prohibit use of funds for subsidy payments to sugar processors. No. Failed.

(355) To direct House conferees to insist on "sunset" clause for Department of Energy. No. Passed.

(356) Agriculture: To reduce appropriation for food stamp program by $673 million. No. Failed.

(357) Agriculture: $12.7 new budget authority for agricultural, rural development, and domestic and international food programs. Yes. Passed.

(358) Military Construction: To consider (adopt rule). Yes. Passed.

(359) Military Construction: To provide new budget authority of $2.8 billion for military construction and family housing. Yes. Passed.

(360) To consider (adopt rule) on Foreign Assistance Appropriations. Yes. Passed.

(361) Foreign Assistance: To cut $31 million from the $120 million for the UN Development Program. No. Failed.

(362) Foreign Assistance: To delete $50 million for development of Sahel region of Africa. No. Failed.

(363) Foreign Assistance: To delete $100 million for the Southern African Special Requirement Fund. Yes. Failed.

(364) Foreign Assistance: To prohibit use of $700,000 earmarked for training military forces in Argentina. Yes. Passed.

(365) Foreign Assistance: To prohibit use of funds from being used directly or through multilateral lending institutions in Uganda, Cambodia, Laos or Vietnam. Yes. Passed.

(366) Foreign Assistance: To prohibit payment of repatriations to Vietnam. Yes. Passed.

(367) Foreign Assistance: To resolve into Committee of the Whole. Yes. Passed.

(369) To reduce U.S. contributions to the International Development Association by $477 million to $473 million. No. Failed.

(370) Foreign Assistance: Motion to limit debate. No. Failed.

(371) Foreign Assistance: To reinstate funds for military assistance for Nicaragua. No. Passed.

(372) Foreign Assistance: To oppose international loans to expand sugar production, palm oil, or citrus crops. No. Passed.

(373) Foreign Assistance: To prohibit use of funds for trade or assistance to Cuba. No. Passed.

(374) Foreign assistance: To reduce funds by 5 per cent. No. Passed.

(375) Foreign Assistance: Final passage, $7 billion for foreign aid, international lending institutions, and operations of State Department. No. Passed.

(376) Defense Appropriations: To consider (adopt rule). Yes. Passed.

(378) Defense: To delete $65 million for Lance missile. No. Failed.

(379) To resolve into Committee of Whole to consider Legal Services Corp. Act. Yes. Passed.

(380) Legal Services: To reduce authorization from $238.7 million to $175 million. No. Failed.

(381) Legal Services: To require Office of Management and Budget approve any budget request made by the corporation. Yes. Failed.

(382) Legal Services: To prohibit corporation-funded lawyers from becoming involved in school desegregation cases. Yes. Passed.

(383) Legal Services: To terminate funding for Legal Services Corp. on Sept. 30, 1979. No. Failed.

(384) Legal Services: To prohibit legal services attorneys from providing legal assistance in cases involving homosexual rights. No. Passed.

(385) Legal Services: Motion to recommit with instructions. No. Failed.

(386) Legal Services Corp.: To authorize $492 million for two years. Yes. Passed.

(387) To approve journal of June 27. Yes. Passed.

(388) To deny the Oct. 1, 1977, cost-of-living adjustments to persons, including Members of Congress, who received pay raises on March 1. Yes. Passed.

(389) Defense Appropriations: To delete $1.5 billion for the production of five B-1 bombers. No. Failed.

(390). To reduce production of A-10 attack aircraft from 144 to 96 planes. Yes. Failed.

(392) Legislative Appropriations: Adoption of the rule. No. Passed.

(393) Legislative: To rescind March 1 pay raise for Members of Congress, the Vice President, White House staff and other executive branch officials. No. Failed.

(394) Legislative: To provide salary expense funds for the Joint Committee on Defense Production. Yes. Failed.

(395) Legislative: To delete $55 million for extension of the west front of the Capitol building. No. Failed.

(396) Legislative Appropriations: Final passage, $928.8 million for operation of the legislative branch and related agencies and extension of the Capitol building. No. Passed.

(397) Defense Appropriations: To resolve into Committee of the Whole. Yes. Passed.

(398) Defense: To delete $26 million for development of a new engine for F-14 fighter. No. Failed.

(399) Defense: To delete provision to phase out civilian technicians employed by the National Guard. Yes. Passed.

(400) Defense: To prohibit use of funds to review the status of MIAs in Southeast Asia. Yes. Failed.

(401) Defense: To strike prohibition against military retirees receiving both retirement pay and salary for a federal job. No. Passed.

(402) Defense Appropriations: Final passage, $110.6 billion in new budget authority and transfers from other accounts. Yes. Passed.

(403) To designate week of Sept. 18 "National Lupus Week." Yes. Passed.

(404) To authorize memorial to 56 signers of the Declaration of Independence. Yes. Passed.

(405) To consider (adopt rule) Indian Claims Filing Extension. Yes. Passed.

(406) Veterans: To extend eligibility for specially adapted housing grants to veterans who have lost one upper and one lower extremity. Yes. Passed.

(407) Veterans: To provide 7 percent cost-of-living increase in VA benefits and other beneficial adjustments. Yes. Passed.

(408) To extend for two years the limit under which the Federal Government, as trustee for the Indians, may file suit for monetary damages. Passed.

(409) Defense: To adopt conference report, $36.1 billion for Military Procurement and Research and Development. Yes. Passed.

(410) To prohibit subsidies for shipment of grain to the Soviet Union in U.S. ships. No. Failed.

(411) To authorize $553.6 million for maritime programs, including subsidies for vessel construction and operation. Yes. Passed.

(412) To consider (adopt rule) National Consumer Cooperative Bank Act. No. Passed.

(413) Consumer Bank: To resolve into Committee of the Whole. No. Passed.

(414) Consumer Bank: Substitute to establish a two-year pilot. Yes. Failed.

(415) Consumer Bank: To terminate the Act on Dec. 31, 1982, transferring loans and contracts to another agency. No. Passed.

(416) Consumer Bank: To establish a National Consumer Cooperative Bank to make loans at market interest rates to consumer cooperatives. No. Passed.

(417) To establish a permanent Select Committee on Intelligence. Yes. Passed.

(418) To consider (adopt rule) Federal Mine Safety and Health Act. Yes. Passed.

(419) To resolve into Committee of the Whole to consider Mine Safety Act. Yes. Passed.

(420) Mine Safety: To keep Interior Secretary as administrator of the Act and retain safety enforcement in Interior, instead of Labor Department. No. Failed.

(421) Mine Safety: Substitute bill, transferring to Labor Department, etc. No. Failed.

(422) Mine Safety: To permit states to administer non-coal mine health and safety programs. No.

(423) Mine Safety: Final passage, transferring to Labor Department, combining coal and non-coal standards, setting mandatory dollar penalties for violations. Yes. Passed.

(424) To authorize $8.1 million for Federal Election Commission. Yes. Passed.

(425) To proclaim Thanksgiving week "National Family Week." Yes. Passed.

(426) To direct Department of Commerce to determine the paperwork burden of the 1974 agricultural census and take steps to reduce it by 40 percent. Yes. Passed.

(427) To increase salaries of director and deputy director of Office of Management and Budget. Yes. Passed.

(428) To approve additional supergrade positions for Administrative Office of the U.S. Courts. Yes. Failed.

(429) To authorize 100 additional hearing examiners (administrative law judges). Yes. Passed.

(430) To reduce time federal employee must serve to retain life and health insurance benefits during retirement. Yes. Passed.

(431) To adopt conference report, $6.2 billion in new budget authority for Department of Transportation. Yes. Passed.

(432) To adopt conference report, $7.7 billion in new budget authority for State-Justice-Commerce-Judiciary. Yes. Passed.

(433) Conference report, $69.5 billion in new budget authority for Department of Housing and Urban Development and independent agencies, including Veterans Administration. Yes. Passed.

(434) To strike from HUD appropriations $20.7 million for Jupiter Orbiter Probe. No. Failed.

(435) HUD: To insist on House language prohibiting use of VA funds to adjudicate claims or pay benefits to individuals receiving upgraded discharges under President's program. No. Passed.

(436) Conference report authorizing $4 billion for National Aeronautics and Space Administration. Yes. Passed.

(437) Conference report authorizing $3.7 billion for military construction and family housing. Yes. Passed.

(438) Conference report establishing a Young Adult Conservation Corps. Yes. Passed.

(439) To consider (adopt rule) Agricultural Act of 1977. Yes. Passed.

(440) To approve journal of July 19, 1977. Yes. Passed.

(441) Conference report to authorize funds (61.9 million) for water resources research and saline water conversion. Yes. Passed.

(442) Conference report, extending and authorizing $3.4 billion for federal health services, biomedical research, and health planning and resources development programs. Yes. Passed.

(444) Farm: To set the payment limitation for wheat, feed grains, rice and cotton at $20,000. Yes. Failed.

(445) Farm: To prohibit non-farm corporations from receiving payments on farm production. Yes. Failed.

(446) Defense: To allow closed meetings on Defense Appropriations when classified information is under consideration. Yes. Passed.

(447) Conference report authorizing $1.55 billion for international development and food assistance. Yes. Passed.

(448) Conference report, authorizing $3.2 billion for international security assistance and foreign military sales. Yes. Passed.

(449) Farm: To limit to $50,000 the annual payments sugar producers could receive under any farm program. No. Failed.

(450) To establish a federal-state program to regulate coal surface mining and require the reclamation of mined lands. Yes. Passed.

(451) To resolve into Committee of the Whole to consider Agricultural Act. Yes. Passed.

(452) Farm: Establish standards for the milk content of ice cream. Yes. Passed.

(453) Farm: To establish a mandatory grain reserve of up to 35 million tons. Yes. Failed.

(454) Conference report, $10.3 billion in public works and energy research appropriations. Yes. Passed.

(455) To consider (adopt rule) Black Lung Benefits Reform Act. Yes. Passed.

(456) Conference report, $990 million for activities of the Legislative Branch and related agencies. No. Passed.

(457) Conference report, to recede from disagreement with Senate amendment providing $225,000 for Joint Committee on Defense Production. Yes. Failed.

(458) Farm: To reduce peanut price supports from Agricultural Act level of $420 per ton. Yes. Failed.

(459) Farm: To provide that Title I of the P.L. 480 program give priority to financing food and fiber commodities, thus restoring tobacco to the program. No. Passed.

(460) Farm: Conference report appropriating $12.7 billion for agricultural, rural development, food stamp, domestic and international food programs. Yes. Passed.

(461) To resolve into Committee of the Whole to resume consideration of Agricultural Act. No. Passed.

(462) Farm: To bar use of food stamps to buy foods designated by Secretary of Agriculture as having negligible nutritional value, such as chewing gum, ice cubes, carbonated beverages, etc. No. Failed.

(463) Farm: To limit food stamp expenditures in 1978 to $5.6 billion. No. Failed.

(464) Farm: To set limit of food stamp program expenditures at $5.85 billion for FY 1978; $6.16 billion for FY 1979; $6.19 billion for FY 1980; and $6.24 billion for FY 1981. No. Passed.

(465) Farm: To exempt strikers from Kelly amendment (barring food stamps for strikers) if they had households with children under age 16. No. Failed.

(466) Farm: To exclude strikers' households from Kelly Amendment if they contained children under 16, or disabled or elderly dependents. Yes. Failed.

(467) Farm: To bar strikers from food stamp program unless the household was eligible before strike. No. Failed.

(468) Farm: To restore to the bill the purchase requirements provisions of the current food stamp program. No. Failed.

(469) Farm: to provide for government recovery of excess allocation of food stamps. Yes. Failed.

(470) Farm: To resolve into Committee of the Whole to consider Agricultural Act. Yes. Passed.

(472) Farm: To require USDA to implement any additional work/workfare projects which state agencies request. No. Failed.

(473) Farm: To eliminate purchase requirement and tighten eligibility standards for food stamps. Yes. Passed.

(475) Farm: To delete establishment of a wheat and wheat foods research and nutrition education program. No. Passed.

(476) Farm: To add sugar beets and sugar cane to list of commodities eligible for government price supports. Yes. Passed.

(476) Farm: To provide price supports of up to 13.5 cents a pound for sugar beets and sugar cane for 1977. Yes. Failed.

(477) Farm: Motion to recommit Agricultural Act with instructions to set payment limitation of $30,000 for wheat, feed grains, rice and sugar. No. Failed.

(478) Farm: Final passage, Agricultural Act extending major commodity programs for four years, etc. Yes. Passed.

(479) To approve journal of July 28. Yes. Passed.

(480) To adjourn from Aug. 5 to Sept 7. Yes. Passed.

(481) To establish two positions on Capitol Police Force. Yes. Passed.

(482) To extend several programs of HUD, including Farmers Home Administration rural housing program. Yes. Passed.

(483) To bar amendments and close debate on the rule on National Energy Act. Yes. Passed.

(484) To consider (adopt rule) National Energy Act, permitting one day of debate. Yes. Passed.

(485) To affirm vote on the rule, National Energy Act. Yes. Passed.

(486) To consider (adopt rule) Fair Labor Standards Amendments. Yes. Passed.

(487) To resolve into Committee of the Whole to consider National Energy Act. Yes. Passed.

(488) To adopt rule on conference report, Department of Energy Organization Act. Yes. Passed.

(489) Energy: Motion to recommit conference report. No. Failed.

(490) Energy: Conference report, to establish a cabinet-level Department of Energy. Yes. Passed.

(491) Energy: To reconcile differing versions of the utility weatherization program reported by the Commerce and Banking committees. Yes. Passed.

(492) Energy: To direct Department of Transportation to study the fuel savings potential of off-highway recreational vehicles and recommend efficiency standards. Yes. Passed.

(493) Energy: To direct DOT to study energy saving potential of increased bicycle use. No. Passed.

(494) Energy: To extend Davis-Bacon Act to construction work funded by grants for energy conservation in municipal buildings. Yes. Passed.

(495) Energy: To authorize $65 million in grants to state and local government for implementing energy-saving maintenance. No. Passed.

(496) Labor, HEW; Conference report, to appropriate $60.2 billion for Labor-HEW-Related Agencies. Yes. Passed.

(497) Labor-HEW: Amendment to conference report stating that none of the bill's funds shall be used to perfrom abortions except where the life of the mother would be endangered, etc. Yes. Passed.

(498) Energy: To resolve into Committee of the Whole. Yes. Passed.

(499) Energy: To remove price controls from new on-shore natural gas as of April 30, 1978. No. Failed.

(500) Energy: To delete provision extending federal antitrust jurisdiction to the siting of fossil fuel electric generating plants. No. Passed.

(501) Energy: To delete the van pooling program for federal employees. No. Passed.

(502) Energy: To resolve into Committee of the Whole. Yes. Passed.

(503) Energy: To impose additional 5-cent-a-gallon gasoline tax—half going for mass transportation, half for improving bridges, roads and highways. No. Failed.

(504) Energy: To increase gasoline tax by four cents a gallon in two stages. No. Failed.

(505) Energy: To permit oil and gas producers to recover part of their oil equalization taxes if they invested more than 25% of gross production in exploration and production. No. Failed.

(506) Energy: To transfer all revenue from crude oil equalization tax in 1978 to Social Security Trust Fund. No. Failed.

(507) To provide $302,499 for investigations and studies by the permanent Select Committee on Intelligence. Yes. Passed.

(508) Energy: To increase the earned income credit instead of providing rebates and tax credits for the crude oil equalization tax. No. Failed.

(509) Energy: To delete exemptions from the oil and gas users tax that were provided for new plants which are exempt from the coal conversion program. No. Passed.

(510) Energy: Anderson substitute for National Energy Act. No. Failed.

(511) Energy: To delete the federal van pooling program. No. Passed.

(512) Energy: To recommit National Energy Act with instructions to delete crude oil equalization tax. No. Failed.

(513) Energy: Final passage, National Energy Act, providing tax credits for converting boilers to coal and weatherizing homes. It also increased the price of natural gas, set a national policy for regulating electric utilities, required efficiency labeling of appliances and cars, and set a program for fuel conservation in federal facilities. Yes. Passed.

(516) To adopt conference report on defense appropriations ($109 billion in new budget authority). Yes. Passed.

(518) Amendment to conference report to delete $1.4 billion to build five B-1 bombers. Yes. Passed.

(520) Budget resolution: To reduce outlays ceiling by $42 billion and increase revenue floor by $8 billion to achieve a balanced budget. No. Failed.

(522) Budget: To reduce revenue floor by $175 million to provide tax credit for tuition of full-time college and vocational school students. Yes. Passed.

(523) Budget: To reduce budget authority ceiling by $109 million and outlays ceiling by $108 million to reduce U.S. food commodity support programs for South Korea. No. Failed.

(524) Budget: To lower budget ceiling $144 million and outlays ceiling $110 million to reduce U.S. military and economic aid to S. Korea. Yes. Failed.

(525) Budget: Adoption of the Second FY 1978 Budget Resolution setting outlay ceiling at $459.5 billion and a projected deficit of $61.6 billion. No. Passed.

(526) To consider (adopt rule) ERDA National Security Authorization for FY 1978. Yes. Passed.

(527) To consider (adopt rule) ERDA Civilian R&D Authorization for FY 1978. Yes. Passed.

(528) To consider (adopt rule) Federal Banking Agency Audit Act. Yes. Passed.

(529) To consider (adopt rule) Age Discrimination in Employment Act Amendment. Yes. Passed.

(530) To consider (adopt rule) Earthquake Hazards Reduction Act. Yes. Passed.

(531) To consider (adopt rule) National Climate Program Act. Yes. Passed.

(532) To authorize $210 million for national earthquake hazards reduction program. Yes. Passed.

(533) To establish a federal National Climate Program Office to develop a climate prediction program. Passed.

(535) To authorize $302 million for salaries and expenses of Nuclear Regulatory Commission. Yes. Passed.

(536) To designate 16 areas containing 1.2 million acres in western U.S. for inclusion in the National Wilderness Preservation System. Yes. Passed.

(537) To require VA to review any discharge upgraded under President's Special Discharge Review Program before extending benefits to the veteran. Passed.

(538) To increase educational assistance allowances for all veterans' educational programs by 6.6 per cent. Yes. Passed.

(539) To authorize special incentive pay for VA physicians and dentists. Yes. Passed.

(540) To repeal requirement that VA make random inspections of mobile homes purchased with VA loans. Yes. Passed.

(541) To increase liability of persons who cause oil spills and establish $200 million fund to pay for clean-up and damages caused by oil pollution. Yes. Passed.

(542) To authorize cost-of-living increases under the Retired Servicemen's Family Protection Plan. Yes. Passed.

(545) To adopt conference report on Second FY Budget Resolution setting an outlay ceiling of $458.3 billion and projecting a deficit of $61.3 billion. No. Passed.

(546) Minimum Wage: To delete indexing minimum wage to the average production worker's wage. No. Passed.

(547) Minimum Wage: To establish Minimum Wage Study Commission to study the effects of increases in minimum wage, the indexing procedure, youth subminimum wage, etc. Yes. Passed.

(548) Minimum Wage: To reinsert into bill the indexing provision. Yes. Failed.

(549) Minimum Wage: To retain 50% tip credit. No. Passed.

(550) Minimum Wage: To continue exemption for seasonal, recreational and theme parks. No. Passed.

(551) Minimum Wage: To allow employers to pay 85% of minimum wage to youths under 19 for first six months. No. Failed.

(552) Minimum Wage: To allow Secretary of Labor to waive minimum wage between June 1 and October 15 for children under age 12 in hand harvested agriculture, under certain protective conditions. Yes. Passed.

(553) Minimum Wage: To increase enterprise threshold and expand definition of small businesses to include all businesses. No. Failed.

(554) Minimum Wage: To increase enterprise coverage threshold to $500,000, but retain existing definition of small business. Yes. Passed.

(555) Minimum Wage: Final passage, increasing minimum wage to $2.65 in 1978; $2.85 in 1979, and $3.05 in 1980. Yes. Passed.

(557) To adopt conference report on Food and Agriculture Act, extending food stamp and Food for Peace Programs for four years, new payment limits for commodities, new target prices and loan levels, revising allotment, set-aside and disaster payments. Yes. Passed.

(558) Conference report, to increase U.S. participation in International Banking Agencies. Yes. Failed.

(559) To provide $323.5 million in federal payments and $1.4 billion from D.C. treasury for the District of Columbia government for FY 1978. Yes. Passed.

(561) To permit filing for black lung benefits with Labor Department for only one year after the bill took effect. No. Failed.

(562) To prohibit miners from collecting compensation on other disabilities while they are receiving total disability payments for black lung disease. No. Failed.

(563) To permit mine operators to question a black lung claim based solely on x-rays by the claimant's physician. No. Failed.

(564) Final passage, to establish an industry-financed Black Lung Disability Insurance Fund to pay all claims filed after June 30, 1973. Yes. Passed.

(565) To consider (adopt rule) Increasing the Temporary Debt Limit. Yes. Passed.

(566) To increase the debt limit to $775 billion from $700 billion. No. Failed.

(567) To approve journal of Sept. 19 proceedings. Yes. Passed.

(568) To increase district office space allowance from 1,500 to 2,500 square feet. NV. Passed.

(569) To cut ERDA funds for Clinch River Project from $150 million to $17 million to close out the project. Yes. Failed.

(570) To cut ERDA funds for Clinch River Project to $17 million and delay project for one year. NV. Failed.

(571) To consider (adopt rule) Medicare-Medicaid Antifraud and Abuse Amendments. Yes. Passed.

(572) To consider (adopt rule) Nuclear Antiproliferation Act. Yes. Passed.

(573) To consider (adopt rule) Federal Insecticide, Fungicide and Rodenticide Act. Yes. Passed.

(574) To resolve into Committee of the Whole House. Yes. Passed.

(575) To require private industry to pay part of construction costs of Clinch River Breeder Reactor demonstration project. Yes. Failed.

(576) To earmark $26 million to purchase four megawatts of solar photovoltaic equipment for the Federal Government and to provide $10 million to develop mass production techniques for photovoltaic equipment. Yes. Passed.

(577) To approve journal of Sept. 21 proceedings. Yes. Passed.

(579) To approve journal of Sept. 22 proceedings. NV. Passed.

(580) To authorize $6.6 billion for ERDA civilian research and development programs, including $150 million for Clinch River project. Yes. Passed.

(581) To amend Medicare and Medicaid to establish stricter penalties for fraud and abuse. Yes. Passed.

(582) To raise the mandatory retirement age for private workers to 70. Yes. Passed.

(583) To establish separate retirement funds for D.C. police, firefighters, teachers and judges, etc. Yes. Passed.

(584) To restate the charter of George Washington University. Yes. Passed.

(585) To appropriate estimated cost of water and sewer service provided by D.C. to Federal Government. Yes. Passed.

(586) To prohibit use of any loans in D.C. Borrowing Authority for acquisition of land or beginning construction of a convention center without prior congressional approval. No. Failed.

(587) To extend until October, 1979, the D.C. interim authority to borrow funds from the U.S. Treasury to finance capital improvements. No. Passed.

(588) D.C. Pretrial Detention Amendments: To include armed robbery as a crime for which defendants could be denied bail and be detained pending trial. Yes. Passed.

(589) To extend Child Abuse Prevention and Treatment Act and strengthen protective and treatment services. Yes. Passed.

(590) To express the sense of Congress that the Postal Service should not reduce the frequency of mail delivery service. Yes. Passed.

(592) Second on a motion to pass Black Hills Claim. Yes. Passed.

(594) To adjust Senate language on abortion (exemptions to the ban on federal funding of abortions in cases of rape, incest, where mother's life is endangered, and certified as "medically necessary"). No. Failed.

(595) To consider (adopt rule) Status of Indochina refugees. Yes. Passed.

(596) To increase the authorization for staff allowances of former presidents from $96,000 to $150,000 per year for 30 months following termination of funds under Presidential Transition Act. Failed.

(597) To allow Court of Claims to determine the merits of the Sioux claim that the U.S. took the Black Hills in violation of the Fifth amendment. Yes. Failed.

(598) To direct a five-year study of nine areas in Montana for possible inclusion in the National Wilderness Preservation System. Yes. Failed.

(599) To direct GAO audits of Internal Revenue Service and the Bureau of Alcohol, Tobacco and Firearms. Yes. Passed.

(601) To establish a 16-member Select Committee on Population to study causes and effects of changes in world population of U.S. options on global population policies. NV. Passed.

(602) To give Select Committee on Assassinations power to defend lawsuits and make certain applications to courts. Yes. passed.

(603) To consider (adopt rule) on Increasing Temporary Debt Limit. Yes. Passed.

(604) To increase the temporary debt limit to $700 billion. No. Passed.

(605) To establish safeguards against U.S. nuclear fuel exports being diverted and used in nuclear weapons or explosive devices. Yes. Passed.

(607) To resolve into Committee of the Whole to consider H.R. 6566. Yes. Passed.

(608) To prohibit use of any funds in Energy Research and Development Administration National Security Authorizations for production or deployment of neutron weapons. Yes. Failed.

(609) To authorize $2.67 billion for ERDA's national security nuclear energy programs. No. Passed.

(610) To approve recissions of $21.09 million in appropriations for foreign military credit sales and $75 million for Federal Buildings Fund. Yes. Passed.

(611) To resolve into Committee of the Whole to consider H.R. 7010, Victims of Crime Act. Yes. Passed.

(612) To compensate only victims of crime older than age 62. No. Failed.

(613) To approve journal of Sept. 29 proceedings. Yes. Passed.

(614) To reduce to 25 percent from 50 percent the amount the federal government would contribute to state programs for victims of crime. Yes. Passed.

(615) To require eligible states to insure that proceeds from articles, interviews or statements by an individual formally accused or convicted of a crime be put into an escrow fund for benefit of the victim or survivors if the accused is found guilty. No. Passed.

(616) Final passage, to provide federal assistance to state victim compensation programs and federal compensation to victims of violent crimes in federal enclaves to cover medical bills and lost wages. No. Passed.

(617) To increase staff allowance for former presidents from $96,000 a year to $150,000. Yes. Passed.

(619) To require president to present a plan for transferring the functions of Council on Wage and Price Stability to other federal agencies. No. Failed.

(620) To extend Council on Wage and Price Stability for two years. Yes. Passed.

(622) To adopt amended Senate bill increasing the temporary debt limit to $752 billion. No. Passed.

(623) To close debate and bar amendments to National Labor Reform Act. Yes. Passed.

(624) To consider (adopt rule) H.R. 8410, to National Labor Reform Act. Yes. Passed.

(625) Conference report, reauthorizing Community Block Grants, etc. Yes. Passed.

(626) To resolve into Committee of the Whole to consider Labor Reform Act. Yes. Passed.

(627) Labor reform: To delete provision which directed NLRB to promulgate regulations to insure that employees have equal opportunity to obtain information pertaining to unionization from organizers and employers. No. Failed.

(628) Labor reform: To insure employers the right to present their side of a unionization argument whenever and wherever union representatives present their views. Yes. Passed.

(629) Labor reform: To permit judicial review of NLRB's failure to implement or promulgate regulations within a reasonable period of time. Yes. Passed.

(630) Labor reform: To increase time limit for holding representational elections from 15 days to 28 days. No. Failed.

(631) Labor reform: To increase, under certain conditions, the time limit for representational elections from 15 days to 25 days. Yes. Passed.

(632) Labor reform: To strike provision permitting the Labor Secretary to prohibit government contracts for three years with companies or unions that willfully violate NLRB orders. No. Failed.

(633) Labor reform: To grant Labor Secretary authority to remove or reduce the period of time a company or union is barred from receiving federal contracts because of violations of NLRB orders. Yes. Passed.

(634) To approve journal of Oct. 5 proceedings. Yes (10-0-1). Passed, 364-16.

(635) To consider (adopt rule) Marine Protection, Research and Sanctuaries Authorization. Yes. Passed.

(636) To close debate, bar amendments to the rule on Navigation Development Act. Yes. Passed.

(637) Labor reform: To delete provision which would authorize NLRB to award employees compensation for lost pay due to an employer's refusal to bargain on the first contract. Yes. Failed.

(638) Labor reform: To recommit Labor Reform Act with instructions to change election set-aside provisions. No. Failed.

(639) Labor reform: Final passage, National Labor Reform Act, setting limits within which elections must be held, strengthening penalties for ignoring NLRB orders or violating labor laws, and authorizing NLRB to summarily affirm Administrative Law Judge decisions in unfair labor practice cases. Yes. Passed.

(641) To recommit conference report appropriating $6.8 billion for foreign economic and military assistance programs. Yes. Passed.

(642) To table request for a conference on Fair Labor Standards Act amendments. No. Failed.

(643) To consider (adopt rule) House Administrative Reorganization. Yes. Failed.

(644) To recede from the abortion language House had adopted in the conference report on Labor-HEW Appropriations. No. Passed.

(645) To add to Hyde amendment abortion language, which prohibited federal funding for abortions except when mother's life was endangered, a second exception for medical procedures necessary for prompt treatment of forced rape or incest. No. Passed.

(646) To authorize $561 million for research and development of cruise missile program and $151.6 million for F-14A aircraft and parts. Yes. Passed.

(648) To adopt conference report establishing stricter penalties for Medicare and Medicaid fraud. Yes. Passed.

(649) Amendments to strike from Federal Trade Commission Amendments the section authorizing class action suits. Yes. Passed.

(650) Motion to recommit FTC Amendments with instructions to provide for congressional review and veto of FTC regulations. No. Passed.

(651) To authorize $133 million for FTC and make certain changes in its enforcement of rules and orders. Yes. Passed.

(652) To authorize replacement of locks

and dam 26 on Mississippi River. Yes. Passed.

(653) To approve Senate compromise abortion language which dropped the "medically necessary" exception. Instead, would have prohibited federal funding of abortions except in cases where the mother's life is endangered, in cases of rape or incest, and in cases where "the mother or fetus would suffer serious health damage." No. Failed.

(654) To adopt conference report on Export-Import Bank Amendments Yes. Passed.

(655) Resolution to disapprove President Carter's proposal for reorganization of the Executive Office of the President. No. Failed.

(656) To authorize General Accounting Office to audit the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and non-monetary policy functions of the Federal Reserve System. Yes. Passed.

(657) To authorize $11.8 million for marine protection programs. Yes. Passed.

(659) To prohibit HEW from implementing, for 18 months, the FDA's proposed ban on saccharin. Yes. Passed.

(660) To revise law governing customs procedures and penalties for customs violations. Yes. Passed.

(661) To make numerous clarifying, conforming, clerical and technical changes to provisions of the Tax Reform Act of 1976. No. Passed.

(662) To exempt disaster payments for the 1977 wheat, feed grains, upland cotton and rice crops from the 1977 payment limitations ($20,000 per crop, $55,000 for rice). Yes. Passed.

(664) To provide for a five-year Agriculture Department study of nine areas in Montana for possible inclusion in the National Wilderness Preservation System. Yes. Passed.

(665) To appropriate $6.8 billion for foreign aid programs, international financial institutions, and State Department operations (conference report). Yes. Passed.

(666) To allow the president to waive the prohibition of direct aid to Mozambique and Angola under certain conditions. Yes. Failed.

(667) To strike from a House-passed bill restriction reducing aid to the Philippines. No. Failed.

(669) To consider (adopt rule) Energy Transportation Security Act. Yes. Passed.

(670) To define as "fair and reasonable rates" in Cargo Preference Bill as those no more than 50% higher than world market rates for carrying oil. No. Passed.

(671) Final passage, Cargo Preference Bill, which would require that U.S.-flag ships carry 9.5% of imported oil by 1982. No. Failed.

(672) To provide $9.1 million to build model intercultural centers at Georgetown and Tufts universities. No. Passed.

(673) To delete language which would prohibit spending appropriated funds for the Clinch River Breeder Reactor project unless authorization bill was enacted. No. Passed.

(674) To instruct conferees on Legal Services Corp. Act amendments to insist on prohibiting LSC-paid lawyers from handling cases on the desegregation of any elementary or secondary school or school system. Yes. Passed.

(676) Minimum wage: To adopt conference report to increase minimum wage in steps to $3.35 by 1981. Yes. Passed.

(677) To authorize $6.2 billion for civilian energy research and development programs. NV. Passed.

(678) To increase supplemental appropriations for Small Business Administration disaster loans by $675 million. Yes. Passed.

(679) To end debate on adding $1.4 billion for B-1 bomber in Supplemental Appropriations bill. No. Passed.

(680) Motion that the Committee rise from consideration of Supplemental Appropriations. Yes. Failed.

(681) To add $1.4 billion to supplemental appropriations for production of five B-1 bombers. No. Failed.

(682) Motion that the Committee rise from consideration of Supplemental Appropriations bill. Yes. Failed.

(684) To order a second to a motion to suspend the rules and pass H.R. 7442, Utility Pole Attachments. Yes. Passed.

(685) To permit expenditure of up to $30 million per year for three years to acquire more land for the Appalachian Trail. Yes. Passed.

(686) To make it a federal offense to use children under age 16 in the production of pornographic materials, with penalties up to 10 years in prison, a $10,000 fine, or both. Yes. Passed.

(687) To permit accredited law school libraries to serve as depositories of government publications. Yes. Passed.

(688) To extend the effective date of several provisions of the Tax Reform Act of 1976. Yes. Passed.

(689) To authorize acquiring suitable U.S. built mariner-class vessels in exchange for vessels in the National Defense Reserve Fleet that are scheduled for scrapping. Yes. Passed.

(690) To increase from 50% to 80% the federal contribution for operating expenses of commuter rail services that have been adversely affected by the Regional Rail Organization Act. Yes. Passed.

(691) To implement treaties with Mexico and Canada to permit transfer of convicted prisoners. Yes. Passed.

(692) To instruct House conferees to agree with Senate provisions that imposed criminal penalties for the transportation, sale, or distribution of pornographic material depicting children. Yes. Passed.

(693) To provide $7.2 billion supplemental budget authority for various departments and programs, including $4.5 billion for EPA construction grants, $1.4 billion for SBA disaster loans, and $80 million for Clinch River Breeder Reactor. Yes. Passed.

(694) To authorize $253.6 million for Environmental Protection Agency research and development programs. Yes. Passed.

(696) To consider (adopt rule) Social Security Financing Amendments. No. Passed.

(697) Social security: To delete provision requiring social security coverage of federal, state, and local government employees, etc. in 1982 and instead require a study recommending by Jan. 1980 a fair plan of universal coverage. Yes. Passed.

(698) Social security: To affirm the action taken on the previous vote. Yes. Passed.

(699) Social security: To raise social security payroll tax rates faster than the bill required in order to permit more gradual increases in the taxable wage base. No. Failed.

(700) Social security: To delete provision granting the Social Security System standby authority to borrow from the federal general revenues whenever trust fund reserves drop below 25% of annual outgo. No. Failed.

(701) Social Security: To eliminate the minimum benefit from the social security program. No. Failed.

(703) Social security: To resolve into Committee of the Whole House for consideration of H.R. 9346. Yes. Passed.

(704) Social Security: To phase out outside earnings ceiling (the maximum annual wage that a beneficiary age 65 to 72 may earn without losing any benefits) by 1982. No. Passed.

(705) Social Security: Motion to recommit with instructions to mandate social security coverage for federal employees. No. Failed.

(706) Social Security: Final passage, to raise social security payroll taxes by increasing the taxable wage base for employers and employees, beginning in 1978, and increasing employer and employee tax rates, beginning in 1981. Yes. Passed.

(707) To adopt conference report to transfer administration of coal and non-coal mining health and safety programs from Interior Department to the Labor Department. Yes. Passed.

(708) To adopt conference report, extending the Summer Food Program through FY 1982 and revising it in order to control fraud and abuse. Yes. Passed.

(709) To authorize the Speaker of the House to devise and implement a system for closed circuit broadcasting of House floor proceedings to offices and committees. Yes. Passed.

(710) To consider (adopt rule) Bankruptcy Law Revision. Yes. Passed.

(711) To resolve into Committee of the Whole House to consider Bankruptcy Law Revision. No. Passed.

(712) To delete provisions of Bankruptcy Law Revision which would establish an independent bankruptcy court system. No. Passed.

(713) Motion that the committee rise from consideration of Bankruptcy Law Revision. Passed.

(716) To make domestic raisins subject to the federal marketing order. Yes. Passed.

(717) To extend Regulation Q through Dec. 15, 1978, set guidelines of the Federal Reserve Board to follow in determining monetary policy, etc. Yes. Passed.

(718) To extend until April 30, 1978, Federal Reserve Bank authority to purchase U.S. obligations of up to $5 billion directly from the Treasury. Yes. Passed.

(719) To extend the Select Committee on Ethics until the end of the 95th Congress, or competition of its official business. Yes. Passed.

(720) To express the sense of the House that the Government of Korea should extend full and unlimited cooperation to the House investigation of whether Members of the House accepted anything of value from the Korean Government or its agents. Yes. Passed.

(721) To denounce acts by the Government of South Africa which suppress expression and violate individual human rights. Yes. Passed.

(722) To recommit conference report on Maritime Authorization with instructions to insist that anti-rebate provisions take effect immediately instead of eight months after enactment. Yes. Failed.

(723) To expedite EPA's registration and reregistration of pesticides. NV. Passed.

(725) To second motion to suspend rules and pass Congressional Salary Deferral. Yes. Failed.

(726) To uphold religious right to refrain from joining unions. Yes. Passed, 400-7.

(727) To increase the interest rates charged by Small Business Administration (SBA) from 3 percent to 5 percent on disaster loans between $40,000 and $250,000. Yes. Failed.

(728) To make employees of House Beauty Shop eligible for employee benefits. No. Passed.

(729) To express the sense of the House that the president should appoint a 15-member Commission on World Hunger. Yes. Passed.

(731) To permit the District of Columbia government to disburse the proceeds of revenue bonds to private colleges and universities in D.C. Yes. Passed.

(732) To adopt conference report authorizing $2.6 billion for ERDA's nuclear weapons program. No. Passed.

(734) To prohibit Overseas Private Investment Corp. from making any loans or guaranteeing or insuring any borrowings of the

National Finance Corp. of Panama without prior congressional approval. No. Failed.

(736) To require that at least 50% of all Overseas Private Investment Corp. insurance, reinsurance, guarantees and financing activities go to U.S. small business. No. Passed.

(738) To adopt rule on Labor-HEW Conference report. NV. Passed.

(739) To concur in Senate compromise abortion language. No. Failed.

(740) To consider (adopt rule) Continuing Appropriations for FY 1978. Yes. Passed.

(742) To approve journal of Nov. 3 proceedings. Yes. Passed.

(747) To authorize $325 million (5 years) to help state and local educational agencies provide career education programs in elementary and secondary schools. Yes. Passed.

(748) To resolve into Committee of the Whole House to consider H. Res. 827. Disapproving Reorganization Plan No. 2. Yes. Passed.

(749) To disapprove plan to consolidate U.S. Information Agency and Bureau of Educational and Cultural Affairs into a new International Communications Agency. No. Failed.

(751) To concur in Senate compromise abortion language. No. Failed.

(753) To close debate and prohibit amendments on a motion to recommit Supplemental Appropriations bill to conference. No. Failed.

(754) To recommit Supplemental Appropriations to conference with instructions to increase funding for Amtrak to $18 million. Yes. Passed.

(755) To affirm the vote on Amtrak appropriations. Yes. Passed.

(756) To order the previous question, thereby closing debate and barring amendments to a motion to instruct conferees on Social Security Financing Amendments. No. Passed.

(757) To instruct conferees to insist on phasing out the outside earning provisions of Social Security Financing Amendments by 1982. No. Failed.

(759) To provide an additional $10,000 in FY 1977 for foreign travel on official business relating to the investigation of Korean-American relations. Yes. Passed.

(761) To express sense of Congress that any national health planning guidelines should recognize and take into account the special problems of rural health care, to assure quality health care for rural residents. Yes. Passed.

(762) To consider (adopt rule) Continuing Appropriations for FY 1978. Yes. Passed.

(763) To further limit abortion language already voted on by requiring that rapes be forced, that incidents of rape or incest be reported promptly, for abortions to be federally funded. No. Failed.

(764) To concur to a Senate amendment to conference report, Supplemental Appropriations, to provide $200 million for the Community Services Administration's Crisis Intervention Program. Yes. Passed.

(765) To concur in a Senate amendment to rescind $462 million for production of two B-1 bombers. Yes. Failed.

(767) To adopt conference report on H.R. 9413, which repealed an existing requirement that medical schools had to reserve positions in their third year classes for ratios of Americans studying in medical schools abroad. Yes. Passed.

(768) To extend Legal Services Corporation for three years. Yes. Passed.

(769) To consider (adopt rule) Continuing Appropriations for FY 1978. Yes. Passed.

(770) To concur in Senate compromise language on abortion requiring that "rape and incest be reported promptly" to qualify as exception to prohibition of federal funds for abortion. No. Failed.

(771) To consider (adopt rule) ERDA Civilian Authorization for FY 1978. Yes. Passed.

(772) To adopt conference report, authorizing $64 million for operations of the Securities and Exchange Commission. Yes. Passed.

(773) To adopt conference report making it illegal for an SEC-registered corporation or other domestic concern to bribe a foreign official, etc. Yes. Passed.

(774) To consider (adopt rule) Continuing Appropriations for FY 1978. Yes. Passed.

(775) To amend compromise abortion language so the final version stipulated that exceptions permitted federally funded abortions only for cases where childbirth would cause a woman "severe and long-lasting" health damage "when so determined by two physicians," and for "medical procedures necessary for the victims of rape and incest, when such rape and incest have been reported promptly to a law enforcement agency or public health service." No. Passed.

(776) To approve the journal of Dec. 7 proceedings. NV. Passed.

(777) To adopt rule conference report on Clean Water Act. NV. Passed.

(778) To adopt conference report on Clean Water Act, authorizing $25.7 billion, including $24.5 billion for sewage treatment construction grants for FY 1978 through 1982. NV. Passed.

(780) To adopt rule on conference report, Social Security Financing Amendments. NVA. Passed.

(782) To adopt conference report, Social Security Financing Amendments. The bill raised social security payroll taxes by increasing the rates and taxable wage base for both employers and employees, beginning in 1979. It also stabilized the system's benefits structure, provided equal treatment for women, and increased the outside earnings ceiling in steps to $6,000 by 1982. NVA. Passed.

1978 Voting Record

(2) Amendment to clarify authority for warrantless search and seizure under Fish and Wildlife Improvement Act, specifying that federal officer must have reasonable grounds to believe offense has been committed. NV. Passed.

(3) Final passage, Fish and Wildlife Improvement Act, establishing a uniform policy of game law enforcement. NV. Passed.

(5) To authorize State Department to acquire a bust of Gen. George C. Marshall. Yes. Passed.

(6) To require Civil Service Commission to comply with state court orders or property settlements in connection with divorces or legal separations of civil service employees. Yes. Passed.

(7) To give civil service retirement credit to all federal employees of Japanese ancestry for time spent in World War II internment camps. Yes. Passed.

(8) To increase federal loan guarantee for fishing vessels from 75% to 87.5% of actual costs. Yes. Passed.

(10) To permit federal tax court judges to withdraw from tax court pension system any time before benefits begin to accrue. Yes. Passed.

(11) To authorize $6 million over three years for the Administrative Conference of the United States. Yes. Passed.

(12) To make it a federal offense to use children under age 16 for the production of pornographic materials, or to sell or distribute these materials. Yes. Passed.

(13) To consider (adopt rule) Outer Continental Shelf Lands Act Amendments. Yes. Passed.

(15) Breaux Substitute for Outer Continental Shelf Lands Act Amendments. No. Failed.

(16) Minority substitute for Outer Continental Shelf Lands Act Amendments. No. Failed.

(18) To authorize $1 million for the Office of Rail Public Counsel. Yes. Passed.

(19) To require ConRail to assume the bankrupt railroads' obligations to pay medical and life insurance premiums for 13 employees who retired before ConRail took over assets of the railroads. Yes. Passed.

(20) To allow supplemental or all-cargo air carriers to qualify for new air cargo certificates immediately, rather than wait one year. Yes. Passed.

(21) To delete Interior Department authority for core and test drilling under Outer Continental Shelf Lands Act. No. Passed.

(22) Continental Shelf: To eliminate lease cancellation compensation for investment of lessee if lease is canceled. No. Passed.

(23) Continental Shelf: To limit the use of new bidding systems, to at least 10% of newly leased areas, but not more than 30%. No. Failed.

(24) Continental Shelf: To require that new bidding system be use for at least 20%, but not more than 50%, of newly leased acreage. No. Passed.

(25) To resolve into Committee of the Whole House to consider Bankruptcy Law Revision. Yes. Passed.

(26) To strike provision of Bankruptcy Law Revision to establish an independent bankruptcy court and make bankruptcy judges federal lifetime judges. No. Failed.

(27) Continental Shelf: To give discretionary authority to Justice Department to review proposed OCS lease sales for possible antitrust implications. Yes. Passed.

(28) Continental Shelf: To strike provisions of the bill requiring random selection of tracts to be used under new bidding systems. Yes. Passed.

(29) To approve the journal of the last day's proceedings. Yes. Passed.

(30) Continental Shelf: To strike provisions establishing documentation, registry and manning requirements for vessels and rigs on the OCS. No. Failed.

(31) Continental Shelf: To require that all building and rebuilding of vessels, platforms and rigs for the OCS would have to be performed in the U.S. No. Failed.

(33) Continental Shelf: To stipulate that 20% of OCS revenues, up to $200 million per year, be shared with the coastal states most directly affected by offshore development. No. Passed.

(34) Continental Shelf: To exempt states which receive OCS revenue sharing funds from existing requirements that they have federally approved Coastal Zone Management Plans. No. Failed.

(35) Continental Shelf: Final passage, to provide specific statutory guidelines, standards and procedures for the development of Outer Continental Shelf oil, gas and other resources. Yes. Passed.

(36) To adjust Medicaid payment rates for Puerto Rico, Guam and the Virgin Islands to conform to those of the 50 States. Yes. Passed.

(37) To consider (adopt rule) on H.R. 8336, Chattahoochee River Recreation Area. Yes. Passed.

(39) Timber Sales: To direct the Secretary of Agriculture to require sealed bids on all sales of publicly owned timber. No. Failed.

(40) Timber Sales: To authorize the Secretary of Agriculture to select the bidding method which best insures fair competition, fair value to the government for timber, economic stability for timber-dependent communities, and prevention of colluive practices. Yes. Passed.

(42) To authorize 145 new federal judgeships. Yes. Passed.

(43) To consider (adopt rule) on H.R. 6806, Office of Consumer Representation. Yes. Passed.

(44) Glickman Substitute: To establish an Office of Consumer Counsel in each of the 23 departments and major agencies. No. Failed.

(46) To resolve into Committee of the Whole House to consider Office of Consumer Representation Act. Yes. Passed.

(47) Consumer: To extend to all agencies the requirement that the President be notified 30 days before the Office of Consumer Representation sought judicial review of an agency action. No. Failed.

(48) Consumer: To eliminate provision which exempted labor injunction suits, certain proceedings of the National Labor Relations Board, and activities of the Federal Mediation and Conciliation Service. No. Failed.

(49) Consumer Representation: To strike provision which exempted from the bill proceedings of the Department of Agriculture, Farmers Home Administration and Federal Crop Insurance Corp. No. Failed.

(50) Consumer Representation: Final passage, to create an independent, nonregulatory Office of Consumer Protection to represent the interests of consumers before federal agencies and the courts. No. Failed.

(52) To recommit with instructions Redwood National Park Amendments. No. Failed.

(53) To expand Redwood National Park in California by 48,000 acres. Yes. Passed.

(54) To adopt conference report on Endangered American Wilderness Act, designating 17 areas, including 1.3 million acres in the western U.S., for inclusion in the National Wilderness Preservation System. Yes. Passed.

(55) To resolve into Committee of the Whole House to consider H.R. 2664, Black Hill Claim. Yes. Passed.

(56) To instruct House conferees on Additional Federal Judgeships to insist on House provision regarding merit selection of federal district court judges. Yes. Passed.

(57) To resolve into Committee of the Whole House to consider Chattahoochee River Recreational Area. Yes. Passed.

(58) To require State of Georgia to take over ownership and operation of Chattahoochee River National Park in 1980. No. Failed.

(59) Final passage, to acquire up to 6,300 acres and develop and operate Chattahoochee River National Park. Yes. Passed.

(60) To limit number of commissioned officers in the military and establish uniform standards for appointment, promotion and retirement. Yes. Passed.

(62) To adopt conference report on black lung benefits. Yes. Passed.

(63) To create National Aquaculture Plan to facilitate development of commercial aquaculture in U.S. No. Passed.

(65) To authorize $250 million from Highway Trust Fund to states for repair of potholes and highway damage. Yes. Passed.

(66) To authorize the president to call separate White House conferences on the arts and the humanities. Yes. Passed.

(67) To extend Alcohol and Drug Abuse Education through FY 1983, and to authorize $67.6 million for five years for its programs. Yes. Passed.

(68) To authorize $5 million for the Hubert H. Humphrey Institute of Public Affairs at the University of Minnesota. Yes. Passed.

(71) To table a motion to recede and concur with a Senate amendment rescinding $462 million for production of two B-1 bombers. No. Failed.

(72) To concur in a Senate amendment to rescind $462 million for production of two B-1 bombers. Yes. Passed.

(73) To consider (adopt rule) IMF Supplementary Financing Facility. Yes. Passed.

(76) IMF: To specify that salary limits would apply only to the Supplementary Financing Facility and not to all IMF representatives. Yes. Passed.

(77) IMF: To authorize the U.S. to invest $1.8 billion in the Supplementary Financing Facility of the International Monetary Fund. Yes. Passed.

(78) Overseas Private Investment Corp. (OPIC): To prohibit OPIC loans or guarantees to the National Finance Corp. of Panama unless approved by the House of Representatives. No. Failed.

(79) OPIC: To prohibit OPIC from insuring or financing any project to establish or expand production of palm oil, sugar, or citrus crops for export. No. Passed.

(80) OPIC: Final passage, to extend OPIC through FY 1980. Yes. Passed.

(81) To consider (adopt rule) Grazing Fee Moratorium. Yes. Passed.

(82) To consider (adopt rule) Wichita Indian Tribal Lands. Yes. Passed.

(83) To place one-year moratorium on increases in public lands grazing fees. Yes. Passed.

(84) To accept Roncalio substitute to Wichita Indian Tribal Lands, defining affiliated bands, etc. NV. Passed.

(85) Final passage, to permit Wichita Indian Tribe to file its land claims against the United States with the Indian Claims Commission, etc. NV. Passed.

(87) To approve action of District of Columbia Council amending D.C. Home Rule Charter so D.C. voters can initiate laws and disapprove council acts by referendum. Yes. Passed.

(88) To approve D.C. Council action permitting D.C. voters to recall elected officials. Yes. Passed.

(90) To abolish diversity of citizenship as a basis for federal court jurisdiction. No. Passed.

(91) To authorize $290 million through FY 1981 and make substantive changes in Federal Trade Commission functions. No. Failed.

(92) To authorize funds ($3.18 million for three years) for American Folklife Center of Library of Congress. No. Passed.

(94) To consider (adopt rule) D.C. Representation in Congress. Yes. Passed.

(95) To resolve into Committee of the Whole House to consider D.C. Representation in Congress. Yes. Passed.

(96) To resolve into Committee of the Whole House to consider D.C. Representation in Congress (day after preceding vote). Yes. Passed.

(97) To propose a constitutional amendment to provide the District of Columbia with representation in Congress on the same basis as states. Yes. Passed.

(99) To approve the journal of the previous day's proceedings. Yes. Passed.

(100) To provide $400,000 for Veterans' Affairs Committee investigations and studies. Yes. Passed.

(101) To provide $275,000 for District of Columbia Committee investigations and studies. Yes. Passed.

(102) To provide $49,500 for Rules Committee investigations and studies. Yes. Passed.

(104) To approve journal of previous day's proceedings. Yes. Passed.

(105) To designate May 3, 1978, as Sun Day. Yes. Passed.

(107) To extend the authority of Commissioner of Education to waive certain requirements regarding the use of grants for 13 school districts allowing them to continue programs begun under ESEA Title I studies. Yes. Passed.

(108) To consider (adopt rule) on Increasing the Temporary Debt Limit. Yes. Passed.

(110) To strike provision requiring that subsequent debt ceilings be set in concurrent budget resolutions provided for in the Budget and Impoundment Control Act. Yes. Passed.

(111) To increase the temporary debt ceiling to $824 billion. No. Failed.

(112) To authorize Southwestern Power to purchase $13.1 million in electric power to fulfill its delivery contracts. Yes. Passed.

(113) To provide $2 million for Public Works and Transportation Committee studies and investigations. Yes. Passed.

(115) To dispense with further proceedings under the call of the House. Yes. Passed.

(116) To approve Journal of previous day's proceedings. Yes. Passed.

(117) To table a motion to reconsider the vote approving Journal of the previous day's proceedings. Yes. Passed.

(118) To close debate on adoption of the rule on Full Employment and Balanced Growth Act. Yes. Passed.

(119) To consider (adopt rule) Full Employment and Balanced Growth Act (Humphrey-Hawkins). Yes. Passed.

(120) To table a motion to reconsider vote adopting the rule on Humphrey-Hawkins. Yes. Passed.

(121) To resolve into Committee of the Whole House to consider Humphrey-Hawkins. Yes. Passed.

(123) To approve Journal of the previous day's proceedings. Yes. Passed.

(125) Humphrey-Hawkins: Anti-inflation substitute to require the President to include in the annual economic report specific price stability goals and policies and programs designed to achieve those goals. Yes. Passed.

(126) Humphrey-Hawkins: To add a specific goal of reducing inflation to 3% by 1983. No. Failed.

(127) Humphrey-Hawkins: To require President in the annual ecnomic report to measure all employment, and to count separately public service employees. No. Passed.

(128) Humphrey-Hawkins: To add to bill's economic goals a goal of 100% parity of income for farmers at the marketplace by 1983. Yes. Passed.

(129) Budget Recission: To approve recissions of $40.2 million in appropriations for the military assistance program; $10.1 million in borrowing authority for the Federal Home Loan Bank Board, and $5 million in appropriations for contributions to international peacekeeping efforts. Yes. Passed.

(131) To order a second on motion to suspend the rules and pass Rate of Interest on Individual Retirement Bonds, making their interest yield consistent with Series E savings bonds. Yes. Passed.

(132) To authorize Civil Service Commission to conduct three-year experiment in the use of compressed and flexible work schedules. No. Failed.

(133) To establish a uniform federal policy on part-time employment and to require federal agencies to establish part-time career employment programs. Yes. Passed.

(134) To provide Congress opportunity to review proposed changes in the level of nationwide postal services before they take effect. Yes. Passed.

(135) To recommit with instructions Judiciary Committee Funding. No. Failed.

(136) To recommit with instructions Select Assassinations Committee Funding. No. Failed.

(137) To provide $2.5 million for investigations and studies of the Select Assassinations Committee. Yes. Passed.

(139) To dispense with further proceedings under the call of the House. Yes. Passed.

(140) To read in full the Journal of the previous day's proceedings. No. Failed.

(141) To approve journal of the previous day's proceedings. Yes. Passed.

(142) To table a motion to reconsider the vote aproving the journal of the previous day's proceedings. Yes. Passed.

(143) To suspend the rules and pass Absaroka-Beartooth Wilderness Act. Yes. Passed.

(144) To order second to motion to suspend the rules and pass Travel Expenses of Government Officials Paid by Private Foundations. Yes. Passed.

(145) To order a second to motion to suspend the rules and pass Home Production of Beer and Wine. Yes. Passed.

(146) To designate 904,500 acres of the Custer and Gallatin National Forests in Montana as the Absaroka-Beartooth Wilderness. Yes. Passed.

(147) To broaden the exception to prohibition against private foundation reimbursement of government officials' expenses, permitting reimbursement for foreign and domestic travel. Yes. Passed.

(148) To expand Redwoods National Park by 48,000 acres, etc. Yes. Passed.

(150) To approve journal of previous day's proceedings. Yes. Passed.

(151) To resolve into Committee of the Whole House to consider Full Employment and Balanced Growth Act (Humphrey-Hawkins). Yes. Passed.

(152) Humphrey-Hawkins: To add the specific economic goal of a balanced budget by 1983 and to mandate the president to pursue policies consistent with that goal. No. Failed.

(153) Humphrey-Hawkins: To declare one purpose of the Act to be the achievement of a balanced budget consistent with achievement of the unemployment goals. Yes. Passed.

(154) Humphrey-Hawkins: To end debate on Title I at a specified time. Yes. Passed.

(155) Humphrey-Hawkins: To add goal of a permanent reduction in individual federal income taxes by 10% a year for three years, accompanied by a 1% reduction in corporate taxes annually for three years and an increase in the corporate surtax exemption to $100,000. No. Failed.

(156) Humphrey-Hawkins: To resolve into Committee of the Whole House to consider the bill. Yes. Passed.

(157) Humphrey-Hawkins: To add to the bill's national priority programs the implementation of programs already established by law as national priorities, such as the removal of architectural barriers to the handicapped. Yes. Passed.

(158) Humphrey-Hawkins: To omit certain persons from the unemployment statistics used for purposes of the Act, such as those unemployed because of strikes; those unemployed for less than four weeks; those not seeking full-time employment; those who voluntarily left their last jobs; and those who have jobs but for their own convenience are waiting to start work. No. Failed.

(159) Humphrey-Hawkins: To strike the enacting clause and thus kill the bill. No. Failed.

(160) Humphrey-Hawkins: To require the President, in carrying out the Act, to consider the impact on the national economy of all provisions of the U.S. Code and Federal Code of Regulations. No. Failed.

(161) Humphrey-Hawkins: To strike requirement that Joint Economic Committee submit its own concurrent resolution to Congress. Yes. Passed.

(162) Humphrey-Hawkins: To terminate the Act on Sept. 30, 1983, unless extended by Congress. No. Failed.

(163) Humphrey-Hawkins: To accept Republican substitute prohibiting use of public service jobs to meet unemployment goal. No. Failed.

(164) Humphrey-Hawkins: Final passage, to set 1983 unemployment target of 4% of all workers 16 and older and 3% for adults age 20 or more; 1983 target of 100% parity in farm prices; reduce income taxes 10% a year for each of three years; reduce corporate taxes and increase corporate surtax exemption; to achieve a balanced budget consistent with goals of the act; to require the President to include in annual economic report specific price stability goals and policies and programs to achieve anti-inflation goals. Yes. Passed.

(166) To order a second on a motion to suspend the rules and pass Middle Income Student Assistance Act. No. Failed.

(167) To provide $375,000 for an investigation and study of Korean-American relations. Yes. Passed.

(168) To consider (adopt rule) Postal Service Act Amendments. Yes. Passed.

(170) To condemn the March 16 kidnapping of former Italian Premier Aldo Moro. Yes. Passed.

(171) To consider (adopt rule) Public Debt Limit Extension. Yes. Passed.

(172) To extend the existing temporary debt limit to $752 billion through July 31, 1978. No. Passed.

(174) To consider (adopt rule) Federal Election Campaign Act Amendments. Yes. Failed.

(175) To abolish compulsory retirement for most federal employees and raise the mandatory retirement age for non-federal workers from 65 to 70. Yes. Passed.

(176) To resolve into Committee of the Whole House to consider Postal Service Act Amendments. Yes. Passed.

(177) To appropriate $300 million in FY 1978 for the Federal Disaster Assistance Administration. Yes. Passed.

(178) To consider (adopt rule) Shipping Act Amendments of 1978. Yes. Passed.

(179) To resolve into Committee of the Whole House to consider Shipping Act Amendments of 1978. Yes. Passed.

(180) Final passage, Shipping Act Amendments, stiffening penalties for illegal rebates in the shipping industry. Yes. Passed.

(181) To disagree with Senate amendments to Raisin Marketing Order Act. The amendments added to House bill provisions which diverted 31 million acres of wheat, corn, soybeans and cotton; increased target prices and loan rates for wheat, corn, and upland cotton. Yes. Passed.

(182) Motion to table, and thus kill, a motion to instruct House conferees to support Senate amendments to Raisin Marketing Order Act. Yes. Passed.

(184) To establish Friendship Hill National Historical site, Pennsylvania. Yes. Passed.

(185) Resolution establishing Kosciusko Military Engineering sites. Yes. Passed.

(186) To establish Oregon National Historical Trail within National Trail System. Yes. Passed.

(187) To establish the Lowell National Historical Park in Massachusetts. Yes. Failed.

(189) To demand a second on a motion to suspend the rules and pass the White House Personnel Authorization. No. Passed.

(190) To pass under suspension of the rules, thus requiring a two-thirds vote, White House Personnel Authorization. Yes. Failed.

(191) To resolve into the Committee of the Whole House for consideration of Postal Service Act Amendments. Yes. Passed.

(192) An amendment to require the Postal Service to set parcel post rates at levels that would not discriminate against or undercut rates of private parcel delivery services. Yes. Failed.

(193) An amendment requiring the Postal Service to recover all direct and indirect costs of parcel post through parcel post rates. No. Passed.

(195) An amendment providing for congressional review of rate decisions made by the Postal Rate Commission. No. Failed.

(196) To resolve into the Committee of the Whole House for consideration of Postal Service Act Amendments. Yes. Passed.

(197) An amendment requiring the Postmaster General to submit a report to Congress each year on how the Postal Service spent its public service appropriation and how it planned to spend it in the coming year. No. Failed.

(198) Postal Service Act, final passage. Yes. Passed.

(199) International Banking Act, which established Federal regulation for foreign banking operations in the U.S. Yes. Passed.

(201) Authorizing funds for programs under the Marine Mammal Protection Act. Yes. Passed.

(202) A bill authorizing the Commerce Department to embargo wildlife products from foreign countries that do not cooperate on conservation of endangered species. Yes. Passed.

(203) A bill authorizing for conservation programs on military reservations. Yes. Passed.

(204) A bill to implement programs under the Fishery Conservation and Management Act. Yes. Passed.

(205) A bill authorizing $3 million per year for the Council on Environmental Quality through Fiscal Year 1981. Yes. Passed.

(206) A bill authorizing and approving changes in Small Business Administration programs. Yes. Passed.

(208) A bill allowing judicial settlement of Riverside County, California, land claims. Yes. Passed.

(209) A bill to restore federal recognition of certain Oklahoma Indian tribes. Yes. Passed.

(210) A bill authorizing $1 million for the Navajo-Hopi Relocation Commission. Yes. Passed.

(211) Creation of the Lowell, Massachusetts, National Historical Park. Yes. Passed.

(212) Adoption of the Conference Report on the Overseas Private Investment Corporation Amendments which extend authority until September 30, 1981. Yes. Passed.

(214) Adoption of Conference Report on Emergency Agricultural Act of 1978, setting flexible target prices and higher loan rates, and increasing borrowing authority of the Commodity Credit Corporation. Yes. Failed.

(215) Adoption of the rule on a bill to reduce the basic work week of Federal firefighters. Yes. Passed.

(216) A bill to reduce the regularly scheduled administrative work week of Federal firefighters from 72 to 56 hours. Yes. Passed.

(218) Adoption of the rule on the White House Personnel Authorization. Yes. Passed.

(219) An amendment to reduce the number of White House office employees authorized at levels GS 16 and above from 100 to 75. No. Failed.

(220) An amendment to require each President to submit a new authorization request for White House office staff and related expenses within one year of assuming office. No. Failed.

(221) An amendment to prohibit White House personnel from lobbying state legislatures on proposed amendments to the Constitution. No. Failed.

(222) White House personnel authorization allowing a total of 148 staff positions at or above GS 16 and requiring a report to Congress on the number of experts, consultants and detailees employed at the White House. Yes. Passed.

(223) A motion to exclude the public from Conference Committee meetings on the natural gas pricing provisions of the National Energy Act. No. Failed.

(224) A bill approving House nominations to the Merchant Marine Academy. Yes. Passed.

(225) Authorization of the National Sea Grant Program providing colleges and universities funds for research. Yes. Passed.

(226) Authorization of the National Advisory Committee on Oceans and Atmosphere. Yes. Passed.

(227) Authorization of $1.4 billion for daily operations and maintenance of the Coast Guard in Fiscal Year 1979. Yes. Passed.

(229) The establishment of an office of an Inspector General in 12 departments and agencies to audit and investigate programs and operations. NV. Passed.

(230) Authorization of $5 million for the Hubert H. Humphrey Institute of Public Affairs and $2.5 million for the Everett McKinley Dirksen Congressional Leadership Research Center. NV. Passed.

(231) A bill to direct the Department of the Interior to acquire from New Mexico 618

acres surrounding and including the Zuni Salt Lake to be held in trust for the Zuni Tribe. NV. Passed.

(232) An amendment to add $3.2 million to the $1 million authorized to study the feasibility of converting the Glomar Explorer into a deep sea drilling vessel. No. Failed.

(233) An amendment to cut $6 million from the National Science Foundation's $158 million budget for biological behavioral and social science research. No. Failed.

(234) A bill to authorize $934.4 million for NSF in Fiscal Year 1979. Yes. Passed.

(235) To adopt the rule on Public Disclosure of Lobbying Act. Yes. Passed.

(236) Public Disclosure of Lobbying: to broaden the exemption in the bill for communications to Members of Congress. No. Failed.

(237) Public Disclosure of Lobbying: to require registered organizations to report lobbying solicitations which were made or paid for by the organization or by an affiliate not required to be registered under the Act. Yes. Passed.

(239) To resolve itself into the Committee of the Whole House for further consideration of the Public Disclosure of Lobbying Act. Yes. Passed.

(240) To table a motion to reconsider the vote by which the House agreed to resolve itself into the Committee of the Whole House. Yes. Passed.

(241) Public Disclosure of Lobbying: to include Federal departments and agencies and the White House within the definition of the word "organization" to be covered by the bill. NV. Failed.

(242) Public Disclosure of Lobbying: to require each registered organization to disclose the names of organizations from which it received $3,000 or more in dues or contributions in a calendar year if it spent the money on lobbying and if it spent more than 1 percent of its total income on lobbying activities. Yes. Passed.

(243) Public Disclosure of Lobbying: to end all debate. Yes. Failed.

(244) To adopt the rule for consideration of National Aeronautics and Space Administration Authorization for Fiscal Year 1979. Yes. Passed.

(245) A substitute amendment to the Agricultural Credit Act which would have provided through December 1979 only small, short-term loans to farmers and ranchers to cover operating expenses or installment payments on existing debts. No. Failed.

(246) The Agricultural Credit Act authorizing $4 billion for 2-year economic emergency loan program for farmers and ranchers. Yes. Passed.

(247) To resolve into the Committee of the Whole House for consideration of National Aeronautics and Space Administration Authorization for Fiscal Year 1979. Yes. Passed.

(248) Authorization of $4.4 billion for NASA research and development programs. Yes. Passed.

(249) Peace Corps Authorization: Amendment to prohibit the use of funds for programs in the Central African Empire. Yes. Passed.

(250) Authorization of $96.1 million for the Peace Corps in Fiscal Year 1979. Yes. Passed.

(251) A resolution disapproving Reorganization Plan No. 1, which would consolidate certain Federal Equal Employment programs into the Equal Employment Opportunity Commission. No. Failed.

(252) A resolution denouncing the government of Cambodia for its disregard of basic human rights. Yes. Passed.

(253) Approval of the Journal of the proceedings of April 25. Yes. Passed.

(254) Authorization of $16.4 million for the operations of the Arms Control and Disarmament Agency. Yes. Passed.

(255) Public Disclosure of Lobbying: Amendment to direct the GAO to report on lobbying activities by all levels of government and by associations of state or local elected officials. No. Failed.

(256) Public Disclosure of Lobbying: Amendment to exempt communications which deal only with the existence or status of an issue, or which seek only to determine the subject of an issue. No. Passed.

(257) Public Disclosure of Lobbying: Passage of the bill repealing existing law and replacing it with a comprehensive statute covering registration and reporting by lobbying organizations. Yes. Passed.

(258) Motion to resolve into the Committee of the Whole House for consideration of the Environmental Protection Agency Authorization for Fiscal Year 1979. Yes. Passed.

(259) Authorization of $432.9 million for environmental research and development programs of the Environmental Protection Agency. Yes. Passed.

(260) Resolution providing $13 million in supplemental appropriations for administrative expenses of the U.S. Railway Association in Fiscal Year 1978. No. Passed.

(262) A bill to increase from $3 million to $6 million the authorization for development of the tuna and other fishery resources in the Central Western and South Pacific Ocean through Fiscal Year 1979.

(263) A bill to establish a Hubert H. Humphrey Fellowship in social and political thought at the Woodrow Wilson International Center for Scholars at the Smithsonian Institute. NV. Failed.

(264) A bill to extend the authority of the Federal Reserve Banks to purchase U.S. obligations of up to $5 billion directly from the Treasury until April 30, 1979. NV. Passed.

(265) Adoption of the rule for consideration of Civil Rights of Institutionalized Persons Act. NV. Passed.

(267) An amendment to eliminate the Attorney General's authority to initiate or intervene in civil actions on behalf of inmates of jails, prisons or correctional institutions in order to redress systematic deprivation of rights. NV. Passed.

(269) SBA Solar Energy Sources Loan Program, which authorizes the SBA to make direct loans of up to $30 million in loan guarantees of up to $45 million to businesses involved with solar energy renewable energy resources and conservation. Yes. Passed.

(270) A bill to provide the Ak-Chin Indian Tribe of Arizona with a stable water supply in exchange for which the tribe would waive all claims against the U.S. for its previous failures to supply water to meet the tribe's needs. Yes. Failed.

(271) Adoption of Senate Amendments to the Security Investor Protection Act. Yes. Passed.

(272) To cite Claude Powell, Jr., for contempt of Congress for not responding when the House Select Committee on Assassinations subpoenaed him to testify in the Martin Luther King, Jr., assassination investigation. Yes. Passed.

(273) Motion to resolve into the Committee of the Whole House for consideration of the First Budget Resolution for Fiscal Year 1979. Yes. Passed.

(274) First Budget Resolution: To set budget authority at $546.8 billion, outlays at $488.3 billion, revenues at $440.1 billion and a deficit at $48.2 billion. Yes. Failed.

(275) First Budget Resolution: To add $2.4 billion in budget authority to the defense function. No. Failed.

(276) First Budget Resolution: To transfer $4.8 billion in budget authority and $2.8 billion in outlays from defense to employment and economic development programs. No. Failed.

(277) First Budget Resolution: To reduce the revenue target by $3.2 billion to accommodate a $29.7 billion net tax cut rather than the $19.4 billion net tax cut assumed in the Resolution. No. Failed.

(278) First Budget Resolution: To add $1 billion in budget authority and $844 million in outlays for new entitlement authority for veterans programs. Yes. Passed.

(279) To increase authority by $435 million in outlays by $390 million to expand job training programs for youths and other Americans. No. Failed.

(280) First Budget Resolution: To reduce budget authority and outlays by $255 million so the federal salary increase could be rolled back from 6% to 5.5%. Yes. Failed.

(281) To approve the Journal of the proceedings of May 3. Yes. Passed.

(282) Adoption of the rule of the Conference Report on the Emergency Agriculture Act. Yes. Passed.

(283) Conference Report on the Emergency Agriculture Act, which authorized the Agriculture Department to increase target prices on wheat, feed grains and cotton crops. Also encouraged the use of gasohol, increased borrowing authority of the Commodity Credit Corporation and established a raise in marketing order program. Yes. Passed.

(284) First Budget Resolution: Substitute amendment to reduce the revenue target by $635 million to accommodate a tuition tax credit for college, elementary and secondary school costs. Yes. Passed.

(241) First Budget Resolution: Agreement to the amendment as altered by the previous amendment. Yes. Passed.

(287) Authorization of programs and projects for Guam, the Virgin Islands, Northern Mariana Islands, American Samoa, and trust territory of the Pacific Islands. No. Failed.

(288) A resolution expressing the sense of Congress that the President should instruct Secretary of State to request the Secretary General of the United Nations to work through existing UN agencies for a full accounting of American MIAs in Southeast Asia. Yes. Passed.

(289) Supplemental Appropriation providing $758 million for disaster relief activities of the SBA in Fiscal Year 1978. Yes. Passed.

(290) Motion to resolve itself into the Committee of the Whole House for consideration of the First Budget Resolution. NV. Passed.

(291) First Budget Resolution: To reduce budget authority and outlays by $3.15 billion for programs of the Department of Health, Education and Welfare. NV. Passed.

(292) First Budget Resolution: Adjustment of revenue and spending targets to reflect that Panama Canal tolls be funneled through the U.S. Treasury. NV. Passed.

(293) First Budget Resolution: To reduce the total budget authority target by $8 billion and the total outlays target by $7 billion to accommodate an across the board cut in all government programs. NV. Failed.

(294) First Budget Resolution: To reduce outlays by $195.4 million and budget authority by $178.2 million to accommodate reductions in funding for various regulatory agencies. NV. Failed.

(295) Motion to resolve itself into the Committee of the Whole House for consideration of the First Budget Resolution. Yes. Passed.

(296) First Budget Resolution: An amendment to reduce budget authority and outlays by $56 million to accommodate deletion of Food for Peace funds for South Korea. No. Failed.

(297) First Budget Resolution: Substitute amendment calling for a balanced budget with no new tax cuts. No. Failed.

(298) First Budget Resolution: An amendment to reduce the outlays target by $36.8 billion to $464.6 billion, and increasing the revenue target by $21.3 billion to $464.4 billion, thus achieving a balanced budget. No. Failed.

(299) First Budget Resolution: To reduce budget authority and outlays by $3.5 billion

for programs of the Department of Health, Education, and Welfare. No. Failed.

(300) First Budget Resolution: Final adoption, setting revenue targets for fiscal year 1979 by budget aggregates and by functional categories, as guidelines to congressional action prior to the start of Fiscal Year 1979. Set aggregate budget targets as follows: Budget authority at $569.5 billion, outlays at $500.9 billion, revenues at $433 billion, and the deficit at $57.9 billion. No. Passed.

(301) Approval of the Journal of the proceedings for May 10. Yes. Passed.

(302) A resolution denouncing the assassination of Aldo Moro. Yes. Passed.

(303) Amendment reducing the authorizations for the population planning in International Disaster Assistance Program and for the Economic Security Fund. No. Failed.

(304) Amendment prohibiting assistance to nations that did not make reasonable progress towards eliminating domestic impediments to agriculture production. NV. Failed.

(305) An amendment to limit U.S. aid to Panama to 25% of the revenues Panama received from the Canal. NV. Failed.

(307) Motion to resolve itself into the Committee of the Whole House for further consideration of the International Development and Food Assistance Act. NV. Passed.

(308) An amendment making tobacco and tobacco products ineligible for the Food for Peace Program. NV. Failed.

(309) Substitute amendment to prohibit direct aid to Vietnam, Cambodia, Uganda, and Cuba. NV. Failed.

(311) Passage of the International Maritime Satellite Organization authorization. Yes. Passed.

(312) An amendment to cut funding for most programs under the International Development and Food Assistance Act by 5%. No. Passed.

(313) International Development and Food Assistance Act: final passage authorizing $3.7 billion for Fiscal Year 1979 for international development and economic support assistance programs. Yes. Passed.

(314) Establishment of a Hubert H. Humphrey Fellowship at the Woodrow Wilson International Center to be awarded annually to a distinguished scholar, statesman or cultural figure. Yes. Passed.

(315) Authorization of $20.5 million for the National Fire Prevention and Control Administration and $5.1 million for the Fire Research Center in Fiscal Year 1979. Yes. Passed.

(316) Ordering a second on a motion to suspend the rules and pass Private Foundations' holdings in public utilities. Yes. Passed.

(317) Passage of the Comprehensive Older Americans Act Amendment. Yes. Passed.

(318) Passage of private foundations holdings and public utilities, which would have established specific conditions under which a private foundation and its donors together could hold up to 51% of the stock of a qualified public utility company. No. Failed.

(319) Approval of the Journal of proceedings for May 12, 1978. Yes. Passed.

(320) Comprehensive Rehabilitation Services Amendments of 1978, which authorizes funds for handicapped individuals, establishes a Community Service Employment Program for the handicapped under the Labor Department, and authorizes HEW to provide financial and technical assistance to organizations in order to remove barriers to handicapped. Yes. Passed.

(321) A motion to table a motion to concur in the Senate Amendment to the Conference Report on the District of Columbia Fiscal Year 1978 appropriations providing $27 million for capital outlays for a Washington. D.C. civic center. Yes. Failed.

(322) Motion to concur in the Senate Amendment to the Conference Report on the D.C. Fiscal Year 1978 appropriations which provides $27 million for capital outlays for a Washington Civic Center. No. Passed.

(323) Adoption of the rule for consideration of the Energy Department National Security Authorization for Fiscal Year 1979. Yes. Passed.

(324) Motion to resolve into the Committee of the Whole House for consideration of the Energy Department National Security Authorization for Fiscal Year 1979. Yes. Passed.

(325) Energy Department National Security Authorization: An amendment to prohibit the use of any funds for production or deployment of neutron weapons. Yes. Failed.

(326) Energy Department National Security Authorization: Final passage, which authorizes $2.9 billion for Energy Department research development and for production of nuclear weapons, production of strategic and critical materials and military applications of nuclear energy. Yes. Passed.

(327) First Budget Resolution: Adoption of the Conference Report, setting spending and revenue targets to serve as guidelines for congressional action in Fiscal Year 1979 budget. Targets are as follows: Budget authority at $568.9 billion, outlays at $498.8 billion, revenue at $447.9 billion, and the deficit at $50.9 billion. No. Passed.

(328) Adoption of the rule for consideration of Temporary Public Debt Limit Extension. Yes. Passed.

(329) To increase the debt limit by $97.1 billion to $849.1 billion, the level set in the Conference Report on the First Fiscal Year 1979 Budget Resolution. No. Failed.

(330) Adoption of the rule for consideration of the Alaska National Interest Lands Conservation Act. Yes. Passed.

(331) Resolution promoting observance in the Soviet Union of the Helsinki Amendment. Yes. Passed.

(335) Alaska Lands: An amendment to remove five million acres from the proposed additions to the nation's parks, refuges, and forests so the State of Alaska could select these lands. No. Failed.

(336) Alaska Lands: An amendment to reduce lands to be designated as wilderness from approximately 66 million to 33 million acres. No. Failed.

(337) Alaska Lands. Motion to resolve into the Committee of the Whole House for further consideration of the bill. NV. Passed.

(338) Alaska Lands: An amendment calling for a Department of Interior study of mineral deposits in Alaska. NV. Passed.

(339) Alaska Lands: A motion to recommit the bill to the Interior Committee for further consideration. NV. Failed.

(340) Alaska Lands: Final passage, which designates approximately 102 million acres of federal lands in Alaska as national park, national forest, wildlife refuge and wild and scenic rivers. NV. Passed.

(291) Resolution expressing the House's objection to the proposals of the Commissioner of Education to consolidate several education advisory councils. No. Passed.

(343) Cooperative Forestry Assistance Act. Yes. Passed.

(344) Forest and Range Land Renewable Resources Act. Yes. Passed.

SENATE—*Wednesday, September 6, 1978*

(Legislative day of Wednesday, August 16, 1978)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by KANEASTER HODGES, JR., a Senator from the State of Arkansas.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray:

God of our fathers and our God, from age to age the same yet ever new, be to us now the pillar of a cloud by day and the pillar of a fire by night to guide this Nation from strength to strength in these uncertain and perilous times. Give wisdom and strength to the President and those with whom he confers for the peace of the world, to the end that all deliberations may be lifted into the higher order of Thy kingdom and that the land in which the Master walked may at last be a holy land to all men who dwell on this Earth as children of Thy creation.

We thank Thee for the persistent call to duty in this place where daily we pause to renew the oath of office and to reaffirm our vows to Thee. Order our lives according to the pattern of the Master, in whose holy name we lift our prayer. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 6, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KANEASTER HODGES, JR., a Senator from the State of Arkansas, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. HODGES thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. Under the standing order the majority leader, the Senator from West Virginia, is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NATURAL GAS POLICY ACT CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, the nations of the world will be watching with vital interest the developments in the U.S. Senate as we take up the Natural Gas Policy Act conference report in the coming days.

This is an issue that has defied resolution for four decades, going back to 1939, with enactment of a Natural Gas Act. It is an issue that has been around for 40 years. This Congress has now considered it for 16 long months.

Now, because we face an energy shortage, because the U.S. dollar is weak and growing weaker, because this Nation will be perceived as one that shrinks from its problems if we do not face this issue, I consider it "must" legislation.

In a letter sent August 31, 1978, to a number of Senators, I outlined my views, and my reasons for those views.

Mr. President, I ask unanimous consent that the contents of my letter to Senators be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD as follows:

DEAR COLLEAGUE: The Natural Gas Policy Act of 1978 has perhaps been the most divisive, emotional, and controversial issue that has faced the Senate (as we saw last fall) during the 95th Congress; yet, in many ways it is the most important legislation that has confronted the 95th Congress.

In the first place, it is an issue that has been before Congress, off and on, for almost 40 years. Presidents Truman and Eisenhower vetoed bills dealing with the subject. The Natural Gas Act of 1939 is the controlling law; yet, in the four decades that have since intervened, the gas industry and the energy market have greatly changed. The old law of the late 1930's does not meet the conditions and circumstances of the late 1970's—as witnessed during the energy crisis of the winter of 1977.

The Natural Gas Policy Act of 1978 has been before the 95th Congress now for 16 months. Senate and House conferees spent many months in hammering out a conference report. On an issue so surrounded with controversy and complexity, and so involving regional, parochial, and vested interests, it is impossible to devise a solution that is completely pleasing and agreeable, in every respect, to any single one of us. But the conference report is the best that was practicably possible under the circumstances.

To reject that conference report now would be to admit that the Senate is unable or unwilling to deal with a growing problem—a problem that simply will not go away. To reject the conference report would be an admission to the American people that the Senate cannot rise above regional differences to deal with a problem that is vital to the interest of the nation. To reject the conference report would be to see 16 months of onerous, hard work—literally thousands of man hours—go down the drain.

To reject the conference report would be to say to the OPEC countries, to our industrial and NATO allies, and to the world that the United States cannot discipline itself to deal with the energy problem at home, and, thus, is incapable of providing world leadership in dealing with a global problem. This bill is a symbol abroad of American self-discipline, fortitude, and determination to solve our energy needs.

To reject the conference report will have an adverse impact on the dollar abroad, on our international trade balance, on the fight against inflation, and on our ability to increase production of energy and meet consumer needs.

I respectfully urge support of the conference report. Any effort to recommit the conference report will effectively kill the bill. In the first place, the recommittal proposal which has been circulated would be ineffective as a solution to the problem, even if the House conferees would agree. Moreover, the Emergency Natural Gas Act of 1977 was enacted on the promise that national energy policy legislation would be subsequently proposed by the Administration. The Administration kept that promise in submitting its legislative proposal on April 20, 1977. The Senate made several changes in the Administration's legislation, but the Natural Gas Policy Act of 1978—albeit not perfect—is a linchpin of that policy. To reject it now would be to admit that the Senate cannot, or is willing to, adopt a national energy policy.

Finally, to recommit the conference report at this late hour in a Congress that will, hopefully, adjourn sine die before many more weeks, would be to deliver the coup de grace to the bill. If the Senate is going to kill the bill, it would be better to deliver the death stroke directly, and thus make it indubitably clear to the American people precisely what we have done, than to kill the bill by the indirect procedurally fatal approach of recommittal of the conference report.

I write this letter with the utmost respect for all Senators who may disagree with the position I have taken above, but I respectfully and urgently hope that you will support it.

Sincerely yours,

ROBERT C. BYRD,
Majority Leader.

CAMP DAVID SUMMIT

Mr. ROBERT C. BYRD. Mr. President, an historic opportunity exists at the Camp David summit to take an important step along the path toward peace in the Middle East.

President Carter is to be commended for extending invitations to President Anwar Sadat of Egypt and Prime Minister Menachem Begin of Israel to join him at a face-to-face meeting.

The President's decision to take the initiative and bring both sides together may end a deadlock in the negotiations and provide the needed momentum to seek a solution to the Arab-Israeli conflict.

Bold action was needed to keep alive the best chance for Mideast peace in 30 years.

But, it would be unrealistic to believe that President Carter, with a single, swift swordstroke, can cut the Gordian knot of historical and political complexities in the Middle East.

Nonetheless, President Carter will try to help the two leaders to find mutually acceptable ground that satisfies Egypt's territorial concerns and Israel's security concerns.

I would hope that both sides will show flexibility and good will in narrowing their differences so that further negotiations can result in a fair and lasting peace.

This is not the time for ultimatums or rigid postures. This is a time for quiet talk, realistic expectations, and for compromise.

The isolated setting of Camp David provides an atmosphere for serious, open and uninterrupted discussions of these vital matters.

As a friend to both Israel and Egypt, the United States can play a full part in the talks, outlining areas of agreement and disagreement and suggesting fresh ways to break impasses.

The task before these leaders is momentous and it is not without risk. But, there is too much at stake to let peace negotiations collapse and to face the prospect of slipping into a major conflict in the area once again.

I hope that, when the final chapter is written in the Middle East peace process, the Camp David summit will receive more than a footnote. It is my hope that the summit will be noted as the turning point on the road to peace in the Middle East.

Mr. President, I have no further requirement of my time. I reserve the remainder of my time.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. Under the standing order the acting minority leader, the Senator from Nebraska, is recognized.

NATURAL GAS POLICY ACT CONFERENCE REPORT

Mr. CURTIS. Mr. President, it is not too late for the President to send an energy program to Congress that will serve our economy. This has not been done. We need a program of conservation, yes. That has received attention, whether it be urging people in making incentives for them to put on storm doors, or drive slower, or whatnot. That is important.

The administration's energy program does not have a word in it toward increasing production.

Less than 5 percent of the area of the United States has been explored for oil and natural gas. We have undeveloped resources offshore. Yet we are faced with a situation where we pay for imported oil $12 to $14 a barrel. Yet our domestic produced oil is under a price ceiling, much of it for as low as $5.

Is there any businessman in the land who thinks that price controls and regulations are the way to production?

We need an energy program that faces up to production. We need not only to produce more oil and natural gas, and it can be done, but we need to pursue all alternatives. A program of gasohol would add materially to our motor fuel. We can produce alcohol from products from the soil that can be renewed year after year. A 10-percent blend of such alcohol in gasoline causes motors to run better. It would extend the available motor fuel by 10 percent. Yet the administration has not turned a hand to support such efforts in Congress.

The administration's energy program has stalled for months and months because it is not a good program. It is not in the interest of the country.

At the present time there is pressure on businessmen and others to support the bill. "Got to have a bill. Got to have a bill."

It is not a good bill. It is based upon regulation and price controls with a promise down in the future that they are going to take regulation and price controls off, but if their thinking goes along the present line it will never be done.

While we need conservation and saving of energy, I remind the Senate that it is by using energy that jobs are provided.

Oh, we could save energy by closing every factory. We could save more energy by stilling every farm tractor. We could save energy by all riding a bicycle.

However, think how much the economy and the jobs of this country are tied around the automotive industry.

Mr. President, I hope that instead of pressure on this Senate to approve a so-called energy program that is half a program only, half a program—it deals with the conservation of energy alone, and does nothing to encourage production of energy—I hope that instead of pressure to enact such a failing formula we will have some cooperation and that there can be laid before this Congress an energy bill that will serve the country. But we are faced with power.

I hope it will not be ruthlessly used to fool the American people, make them think that our energy problems are being solved when we are perpetuating the current failure.

Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Does the majority leader wish to use any of his additional time?

Mr. ROBERT C. BYRD. Mr. President, while this Congress has been wrestling with the energy problem for 16 months, the problem has been around for almost 40 years. Only 4 months remain in this calendar year, and I do not think we can do anything about that.

A new Congress will convene on January 3 of next year. So it is either this bill or it is nothing. If Congress cannot resolve this problem in 16 months, if it rejects this conference report, the matter is dead, d-e-a-d, for the remainder of this Congress, and probably for a long time to come.

I know this conference report does not please everybody. It probably pleases no one in its entirety; but it is the product of 16 months of toil, sweat, and perseverance, and it is the best we can get.

There are those who are opposed to it, and I respect their viewpoints. I am not here to argue the pros and cons of it; but I am simply here to say that if we cannot resolve this matter after 16 months, I do not think we are going to resolve it in the remaining 16 weeks, give or take a few days, of this year. The American people expect an answer to the energy problem; they expect the Congress to produce an answer; the Congress has gone over the administration's package in considerable detail.

The administration proposal lacked a great deal when it came up here. I think it has been improved. While it is not a perfect solution, it is the handiwork of thousands of man-hours of grueling labor on the part of the conferees and all the Members of the House and Senate.

So, with no disrespect to anyone, let me simply repeat that it is this gas bill or it is nothing this year, and maybe for a long time to come. To those who are hoping for something better in the event this conference report is rejected, I would suggest that they not pin too much reliance on that hope.

Mr. METZENBAUM. Mr. President, will the distinguished majority leader yield?

Mr. ROBERT C. BYRD. Yes; I yield to the Senator from Ohio.

Mr. METZENBAUM. Let me say there is nobody on the floor of the Senate for whom I have greater respect both as to his ability, his integrity, and his knowledgeability than the distinguished majority leader, Senator BYRD.

In this instance, however, I wish to take issue because I believe we can indeed have an energy bill, including a natural gas bill, and we can have it by the end of next week, a bill which would include the enactment of the utility rate reform bill, which has been awaiting enactment for about 9 months and then held hostage until the natural gas bill is passed; the conservation measure, coal conservation measure, both of which have been held hostage by the efforts of the administration and the House leadership in order to get a natural gas bill.

Those of us who have now joined together for diverse reasons do not want to kill the natural gas bill; we have consistently said, and said in our Dear Colleague letter, that we want a natural gas bill when the natural gas bill would be a bare bones bill, giving the President emergency authority, giving the Federal Energy Regulatory Commission special authority, making it possible to move intrastate gas into interstate pipelines without it becoming subject to Federal regulation.

I believe all of this would be helpful. The fact is that the natural gas bill that has come out of the conference committee is truly a piece of legislation without a constituency.

I have not been in the Senate nearly as long as many other Members, and certainly not as long as the distinguished majority leader, but I would venture to say there has never been a piece of legislation as controversial as this one which has had as little public support as has this bill. This bill is now opposed by the Energy Action Committee; it is opposed by the Environmental Policy Center; it is opposed, on the one side, by the Consumer Federation of America and the American Conservative Union, by the Independent Petroleum Association of America, by the American Farm Bureau Federation, by the AFL-CIO, by the United Auto Workers——

The ACTING PRESIDENT pro tempore. The majority leader's time has expired.

Mr. METZENBAUM. Mr. President, I ask unanimous consent for 3 minutes more.

Mr. ROBERT C. BYRD. Mr. President, I object.

Would the distinguished acting Republican leader yield some time?

The ACTING PRESIDENT pro tempore. The minority leader has 3 minutes left.

Mr. GARN. I would be happy to yield 3 minutes to the distinguished Senator from Ohio.

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

Mr. METZENBAUM. I thank the distinguished Senator from Utah.

This bill really does nothing. It will not produce substantially more natural gas. Even the best estimates indicate it would only be 3 to 4 percent more between now and 1985.

It will cost the American people between $29 billion and $41 billion in additional costs.

It will provide such a complex morass for the producers to wade through that even as distinguished an advocate of the producers as Senator RUSSELL LONG has indicated that he finds no fault with the pricing provisions—as I do, I might say—but he finds that the price is just too high to pay for the bill because it will require the producers to hire batteries of lawyers in order to defend their position.

It creates a situation where the residential users will be bearing the brunt of the additional costs in contradistinction to the industrial users as the bill left the House and Senate.

It will provide an unfair advantage for industrial users in the producers' States as against industrial users in the nonproducing States.

It is a bill that should not pass. We want a piece of legislation, we are prepared to support a piece of legislation, and we believe if the House and the administration will put their shoulders to the wheel, as those of us who are supporting this move to recommit with instructions to return with a bill that will provide the President with the necessary emergency powers, and the ability to use the emergency powers, we will have a bill by which we think the national interests will be served, as well as the interests of the world, and I think we will have a decent national energy plan.

I thank the distinguished majority and minority leaders.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business not to extend beyond 10 minutes, with statements limited therein to 2 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NATIONAL GAS POLICY ACT CONFERENCE REPORT

Mr. ROBERT C. BYRD. Let us, if we are against this conference report, deliver the coup de grace right here. Vote it up or down—and let us witness its expiring agonies right here on this floor.

Let us, by so doing, frankly admit to the American people that Congress is either unable or unwilling to rise above regional, sectional, and parochial differences to deal with a matter that is of vital interest to the Nation. Let us not kill the conference report by recommitting it. Mr. President, it would be a cop-out to recommit it with instructions to report

it back. Everybody knows that will kill the bill. We have no assurance that the House would agree to those instructions.

Time is running out. We have spent all these months. Are we going to tell the American people that after 16 months of sweat, toil, and perseverance, the Senate is unable to reach a decision in the national interest that rises above sectional, parochial, and regional concerns? And are we going to admit to the world that the United States is unable and unwilling, through its Federal legislative body, to reach a decision on the energy problem, the most vital issue concerning this country today?

If we are going to kill the bill, let us kill it up or down directly. Let us administer the knife to the heart of it, and say to the American people, "We cannot come to grips with the problem of natural gas pricing; we have tried and we are unwilling or unable—take your choice—to do it." But let us not kill it by the parliamentary procedural move of recommitting it with instructions to report it back. That erects a tombstone over it just as final as killing it by voting it up or down. But at least the people then will know, if we kill it up or down, where the fault lies. They will know that the Senate just did not have the courage and the decisiveness to act on this question; and then we can just forget about it, because there will be no more time left in this Congress.

So, I say if we are going to kill it, let us make no bones about it, but say what we are doing. Admit to the American people that we are killing it, rather than attempting to do so by a procedural mechanism that leaves a good many people thinking we tried to do something and did not. That will not work.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

SECOND CONGRESSIONAL BUDGET RESOLUTION, 1979

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume the consideration of Senate Concurrent Resolution 104, which the clerk will report.

The legislative clerk read as follows:

A concurrent resolution (Senate Concurrent Resolution 104) revising the congressional budget for the U.S. Government for the fiscal year 1979.

The ACTING PRESIDENT pro tempore. Under the law, the total time for debate on this resolution is limited to 15 hours, with a time limitation on each amendment, which is to come out of the overall total, of 1 hour, by unanimous consent to be controlled by the mover of such and the manager of the resolution.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I yield the time that is, under the law, allocated to the majority leader or his designee the Senator from Maine (Mr. MUSKIE), the chairman of the Committee on the Budget.

Mr. GARN. Mr. President, on the minority side, we yield the time to the Senator from Oklahoma (Mr. BELLMON).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask that the time be charged against the overall time on the resolution.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BELLMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, I ask unanimous consent that the following members of the Budget Committee staff be allowed to remain on the floor during the consideration of and all votes on Senate Concurrent Resolution 104: Robert Boyd, Charles McQuillen, William Stringer, Paul Carttar, Becky Davies, Carol Cox, Robert Fulton, Barry Kinsey, Joyce Purcell, and Gail Shelp.

Also, Jack Nutter, of Senator DOLE's staff; Jim Streeter, of Senator MCCLURE's staff; Charles Gentry, of Senator DOMENICI's staff; Jan Olson, of Senator HAYAKAWA's staff; Mike Kintner, of Senator HEINZ's staff, and Mike Shorr, of Senator JAVITS's staff.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the following members of the Budget Committee staff be allowed to remain on the floor during consideration of and all votes on Senate Concurrent Resolution 104: John McEvoy, Sid Brown, Karen Williams, Van Ooms, Dan Twomey, George Merrill, Rodger Schlickeisen, Ira Tannenbaum, Liz Tankersley, Jill Scheu, Bob Sneed.

Charles Flickner, Tony Carnevale, Rob Fersh, Gale Picker, Brenda Tremper, Tom Hogarty, Charles Riemenschneider, Don Campbell, Porter Wheeler, Barbera Levering, Anne Lockwood, Lewis Shuster, and Rick Brandon.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MUSKIE. I ask unanimous consent that Lynn Boyd, of Senator HODGES's, staff, be granted the privileges of the floor during the consideration of the concurrent resolution.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MUSKIE. As is the usual request, Mr. President, I ask unanimous consent to use small electronic calculators on the floor during the consideration of this concurrent resolution.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, today the Senate begins consideration of the second concurrent resolution on the budget for fiscal year 1979.

This resolution will bind all further congressional spending and tax decisions for 1979. A point of order will lie against bills which exceed this budget.

This is an anti-inflationary budget.

Its totals are significantly lower than those in either the first resolution or the President's budget.

Compared to the first resolution, it cuts projected Federal spending for 1979 by $9.3 billion. It reduces the projected deficit by $8.6 billion, nearly 17 percent.

At the same time, it contains room for tax reductions of up to $23.4 billion in the coming fiscal year.

This second budget resolution takes account of the two major changes which have occurred in the economy since the first budget resolution.

These major changes are lower unemployment and higher inflation than were foreseen when the first budget resolution was formulated.

Unemployment, forecast last spring to remain over 6.2 percent until the end of this year, has fallen below that rate, reaching 5.9 percent in August.

Inflation, forecast last spring to average 6.1 percent during the coming year, has increased to an annual rate of 9.9 percent.

So employment has improved more rapidly than could be anticipated last spring. But inflation has worsened.

These changes call for modifications in the budget we adopted last spring. They call for a more restrictive budget, designed to help reduce inflation without increasing unemployment.

This second budget resolution meets those requirements.

We intend it as a signal to our citizens and to the private economy that the Federal Government will lead the way toward reducing inflation without sacrificing jobs.

This second budget resolution reduces Federal outlays in 1979 by $9.3 billion compared to the first resolution, and by $11.5 billion compared to the President's January budget.

The resolution also reduces budget authority for 1979 by $11.1 billion compared to the first resolution, and by $11.4 billion compared to the President's January budget.

The level of budget authority enacted this year helps to determine the level of future Federal spending. So this 2 percent cut in budget authority will translate into a very real reduction in the future cost of Government.

REVENUES

This second budget resolution reaffirms the tax cut recommended in the first resolution.

This recommendation to cut taxes by $23.4 billion reflects the committee's determination to provide substantial relief to taxpayers, without raising the risk of higher inflation.

These tax cuts are also needed to sustain economic growth in the coming year. They will help offset the loss of purchasing power which would otherwise occur as inflation drives wages into higher tax brackets.

These tax cuts will also offset the negative effects of the new social security taxes scheduled to take effect January 1, 1979.

DEFICIT

The spending reductions contained in the budget resolution will substantially reduce the 1979 deficit.

The deficit projected in this resolution is $8.6 billion lower than the deficit projected in the first resolution.

It is more than $18 billion lower than the deficit projected in the President's January budget.

Much of this deficit reflects lower revenues from an economy still operating below capacity. The deficit also includes the cost of programs enacted to provide jobs and income support to our citizens during the recession. If unemployment stood at 5 percent today, for example, this deficit would be less than $15 billion, as a result of increased tax collections on higher wages and profits.

But, not Congress, nor the President, nor the public can take any comfort from the fact that after 3 years of economic recovery, the Federal deficit remains over $40 billion.

And the risk of adding to the recent resurgence of inflation will be substantially increased by excessive spending as the economy approaches its capacity.

The present economic situation forces us to resist enactment and enlargement of programs which do not fit within this reasonable and carefully constructed budget.

Such spending will add directly to the deficit and to the risk of further inflation.

THE SECOND RESOLUTION, THE ECONOMY, AND JOBS

Mr. President, this budget is designed to preserve the present economic expansion under the very difficult circumstances we confront.

The revenue and spending levels recommended in this resolution are designed to promote moderate economic growth without increasing inflationary pressures.

The general tax reduction proposed in this budget resolution will offset the negative economic effects of higher payroll taxes and the increased income tax burdens caused by inflation.

These tax cuts will also stimulate much needed business investment.

The spending proposed in this budget resolution will not increase the present level of Federal stimulus to the economy. In fact, such stimulus would fall slightly from current levels, because that is the prudent course in the present mature stage of our economic recovery.

This budget will support economic growth at an annual rate of 3½ to 4 percent in 1979. This expansion will create about 800,000 new jobs during 1979. It will preserve our gains against unemployment, without generating inflation-causing excess demand.

This growth will support a further decline in unemployment to about 5¾ percent during 1979.

The creation of jobs for American workers during the present economic recovery has been remarkable. From the worst days of the recession in 1975 to July 1978, 9.9 million new jobs were created.

During this 3-year period, the overall unemployment rate fell by more than a third—from 8.9 to 5.9 percent.

This jobs expansion would not have occurred without the support of the anti-recessionary congressional fiscal policy we have pursued.

This improvement, however, has not been uniform across demographic groups. For example, the unemployment rate for men 25 years of age and older, a "prime" segment of the labor force, fell from 8.5 to 3.3 percent. But among minority teenagers, unemployment was 36.9 percent in the second quarter of 1978, essentially unchanged from 3 years ago.

This severe unemployment which burdens many of our citizens, especially minority youth, has not been reduced by the general economic recovery which has benefited most of our citizens. Surely, these disadvantaged jobseekers would be worse off without continued economic expansion. But economic growth, by itself, cannot solve their problem.

To reduce this intolerable rate of unemployment among large segments of our population, so-called structural employment programs, effectively targeted to serve those most in need, must be designed and adequately funded.

INFLATION

But even as we act—and act we must—to deal with structural unemployment, we must recognize that inflation is the overriding problem we face today. The recent acceleration of inflation to an annual rate of nearly 10 percent threatens the morale and standard of living of every American.

This new inflationary surge results primarily from higher food prices, higher import prices, higher interest rates, and higher wage settlements.

It does not appear to be the result of either excess demand for goods and services or shortages of labor and capital.

Fiscal restraint by Government at all levels is vital to limit spending which could result in excess demand and further inflation in the economy.

AN ANTI-INFLATION BUDGET

The Budget Committee urges the adoption of this pared-down budget as a public symbol of our intention to reduce inflation and to reduce deficit spending.

For, if the Federal Government, representing all the people, does not clearly signal restraint, who else will?

This budget is intended as a clear signal that inflation control requires cooperation from all sectors and participants in the economy.

This budget will signal our citizens and the private economy that Congress is prepared to reduce Government growth as part of the fight against inflation, both this year and in the years ahead.

BALANCING THE BUDGET

The policies recommended in this second budget resolution are designed to achieve a balanced budget and full employment within the next 5 years.

Although the economic outlook now is less favorable than it was in the spring, the committee still believes that spending restraint during the next 5-year period will permit budget balance to be reached by 1983, with no greater than 4½ percent unemployment at that time.

At the same time, noninflationary tax reductions can be enacted and the size of Federal spending as a percentage of the gross national product can be reduced.

With spending restraint, outlays will fall to slightly less than 20 percent of GNP by 1983.

Attempts to balance the budget at an earlier date will be paid for by American workers through higher unemployment.

But, if we are ever to balance the budget, spending on most new programs must be financed through savings or reduction of spending levels in current programs which have lower social value.

As the report accompanying the first budget resolution made clear, presently identifiable new spending programs could add another $416 billion to the Federal budget within the next 5 years.

And that may be just the tip of the iceberg.

Congress cannot balance the budget if it continues to enact new programs without appropriate reduction and elimination of those programs which are inefficient, obsolete, or of lower priority.

A balanced budget will be imperiled by congressional actions which exceed the narrow margin available for future year tax and spending decisions.

The exact mix of future tax reductions and spending increases cannot and need not be determined now. Congress can and should make such determinations as the events of future years unfold. The budget process provides Congress with an appropriate and flexible mechanism for making those determinations annually.

Under any foreseeable circumstances, however, Congress will face substantial pressure in this and future years to increase deficit-deepening expenditures which will threaten the balanced budget this second resolution is designed to reach.

Such increases will also kindle higher inflation in future years, as increased Federal spending competes for resources with a stronger private economy.

THE 5-YEAR BUDGET

Mr. President, the second budget resolution continues the multiyear budgeting approach the Budget Committee installed in its first budget resolution last spring.

This system is unparalleled in the Federal Government. It allows Congress to set the coming year's budget with a clear set of goals and a reasonable estimate of costs for an entire 5-year period.

Deciding the budget in a 5-year context helps us to control the budget in those future years.

Through the congressional budget process, Congress develops its own fiscal policy, shapes Federal efforts to address major national needs, and controls the budget.

But none of these goals can be achieved if budgeting is pursued 1 year at a time.

Viewed in a 1-year context, three-fourths of the budget is "uncontrollable," unless existing laws are repealed and existing commitments are terminated.

In a 1-year time frame, future directions and costs of new programs are nearly impossible to determine. A single year's budget may, in fact, include many new commitments which will expand unforeseeably in the future.

Our new 5-year budgeting system will help us to meet the shortcomings of single-year budgets.

THE BUDGET BY FUNCTION

Now, Mr. President, let me describe more fully some priorities set by this second budget resolution.

FUNCTION 050: NATIONAL DEFENSE

Mr. President, the priority this second budget resolution assigns to defense reflects our continuing concern that we maintain an effective deterrent against war and the means to defeat an enemy who would risk war.

The spending ceilings for defense recommended in this resolution are based on the same three congressional perceptions underlying the first resolution.

First, Congress supports a level of defense spending adequate to maintain and modernize our strategic forces.

Second, Congress endorses an increase in our tactical arms strength to improve our capacity to participate in the defense of Western Europe.

Third, Congress believes the Federal Government should assume leadership against inflation by restraining the size of Federal pay increases through a 5.5-percent pay cap and substantial absorption within existing agency budgets of the costs of any pay increases.

The second budget resolution does reflect reductions from the first resolution of $1.7 billion in budget authority and $3.2 billion in outlays due to technical reestimates of program requirements and savings identified in the appropriations process.

FUNCTION 150: INTERNATIONAL AFFAIRS

The first budget resolution targets for international affairs were sufficient to fund two congressional objectives. These two objectives are the provision of adequate long-term capital flows for economic development in order to sustain world economic growth, and economic and military assistance for some of our allies and other friends abroad.

Much of this assistance will be used to purchase American goods and services.

The second budget resolution ceilings reaffirm these objectives. In particular, they reaffirm the expected full appropriation to cover the United States' participation in the International Monetary Fund's proposed Witteveen Facility.

They also reflect an upward reestimate of outlays which results from the recently announced acceleration of previously enacted economic support assistance for Israel.

FUNCTION 250: GENERAL SCIENCE, SPACE, AND TECHNOLOGY

For general science, space, and technology, both the first and second budget resolutions support current levels of activity as reflected in the Senate-passed appropriation bills.

For future years, the committee assumes less than a full allowance for inflation, requiring increased efficiency in order to maintain current program levels. In the civilian space program, for example, real reductions will be required over the next 5 years in some programs, if a fifth Space Shuttle orbiter is required.

FUNCTION 270: ENERGY

The second budget resolution continues the priority the first resolution gave to energy.

The first budget resolution reflected a high priority for energy funding. Significant increases over fiscal year 1978 were assumed for energy supply, energy conservation, and the strategic petroleum reserve.

The committee recommends continuation of significant Federal efforts to stimulate the supply of energy through support for new technologies.

For energy conservation, the recommended ceilings would allow for appropriations that have passed the Senate as well as funding for further initiatives expected under the National Energy Act.

The level of Federal support for energy conservation is projected to trend downward over the next 5 years as national conservation goals are achieved over that time period.

For emergency energy preparedness, the committee's recommendations would continue full support over the next 5 years for a 750-million-barrel strategic petroleum reserve. Both budget authority and outlays for fiscal year 1979 are reduced from the first budget resolution as a result of delays in achieving the planned fill rate, although these delays are expected to be made up over the next 5 years.

Other activities in this function are sustained at current policy levels in fiscal year 1979 and over the next 5 years.

FUNCTION 300: NATURAL RESOURCES AND ENVIRONMENT

For Natural Resources and Environment, both the first and second budget resolutions reflect increases over previous years' spending based on the importance the Congress attaches to the preservation and utilization of the Nation's natural resources and the improvement of the environment.

For water resources, the committee recommendations will support ongoing planning and construction activities as well as new starts approved in the appropriations process.

For conservation and land management, current programs are assumed to continue and there is some room for additional initiatives in fiscal year 1979. But no significant increases are assumed in future years.

For recreational resources, the committee recommendations will permit some real growth in fiscal year 1979, including an allowance for new initiatives such as urban parks. Over the next 5 years any real increases would have to come from greater efficiencies or reductions in existing programs.

For pollution control and abatement, the committee recommendation continues support at approximately constant real levels for fiscal year 1979 and future years.

The committee recommendation can accommodate a new oilspill pollution liability fund.

FUNCTION 350: AGRICULTURE

The committee recommendations for the second budget resolution reflect continued strong Federal support for the agricultural sector, but recognize the improvement in agricultural economic conditions that has occurred since the first budget resolution.

For farm income stabilization, the resolution allows for the first CCC borrowing authority increase in many years.

It limits the allowance for new initiatives to agricultural trade legislation that is now pending.

For the next 5 years, the resolution assumes continuation of these agricultural policies, with an additional allowance for international emergency wheat reserve acquisition in fiscal year 1980.

For agricultural research and services, the resolution reflects a lower allowance for new initiatives than contained in the first budget resolution, reflecting Senate appropriations action.

FUNCTION 370: COMMERCE AND HOUSING CREDIT

For commerce and housing credit, both the first and second budget resolutions provide the financial support necessary to insure an adequate supply of mortgage credit.

Funding for GNMA's mortgage purchase activities is assumed at the level of the President's request.

The Federal payment to the Postal Service is continued in accordance with existing law, which anticipates that the Postal Service will make steady progress toward financial self-sufficiency.

For Small Business Administration programs, this budget is designed to accommodate the recommendation of the President and the Senate Select Committee on Small Business that in the future more emphasis should be placed on the use of loan guarantees.

This second budget resolution does reflect reductions from the first resolution as a result of projected increases in loan sales by the Farmers Home Administration, and the expected transfer of Federal Financing Bank surpluses to the Treasury.

FUNCTION 400: TRANSPORTATION

Both the first and second budget resolutions reflect continued high levels of assistance for transportation activities.

For highways, the second resolution increases funding to allow for accelerated interstate construction and to permit a significant expansion in assistance for highway bridge repair and replacement as recommended by the Senate Environment and Public Works Committee.

This budget supports the current program levels of the Federal Railroad Administration. It accommodates additional investment in ConRail equal to the minimum needs estimate of $1.3 billion, including $600 million in fiscal year 1979.

This budget contemplates funding significantly in excess of the President's request in most categories of Federal activity, including mass transit construction, bus purchases, and operating subsidies.

An allowance is included for establishment of a new "second tier" mass transit operating subsidy program.

Mass transit spending totals in the second resolution have been adjusted downward since it no longer appears that prior-year contract authority will be replaced with appropriated budget authority this year.

In air transportation, both resolutions assume an allowance to support initial

funding for a new program of airport and aircraft noise reduction. For water and other transportation, both resolutions continue assistance at current program levels.

FUNCTION 450: COMMUNITY AND REGIONAL DEVELOPMENT

For community and regional development programs, the first budget resolution accommodated funding for several new initiatives in addition to current programs.

This second resolution differs significantly.

Budget authority has been reduced to reflect the committee's judgment that changed conditions since the first resolution warrant the removal of funding in fiscal year 1979 for National Development Bank grants, State incentive grants, Round 3 of local public works, and a major "soft public works" initiative.

Outlays are higher, primarily because of upward reestimates caused by unexpectedly high lending and slow disbursements in fiscal 1978 for SBA disaster loans.

Other activities in this function remain at the levels assumed in the first resolution.

FUNCTION 500: EDUCATION, TRAINING, EMPLOYMENT, AND SOCIAL SERVICES

For education, training, employment, and social services programs, the first budget resolution accommodated the President's proposal for increased funding under title I of the Elementary and Secondary Education Act, increased Federal funding for handicapped education, and an allowance for middle income tuition assistance.

The first resolution also assumed continuation of 725,000 public service jobs, with increased targeting of such jobs in the structurally unemployed. It also assumed funding for the President's private sector jobs initiative. An expansion of social services and child welfare services programs was also assumed.

The second budget resolution continues the policies of the first resolution except as follows:

No provision is made for a middle income tuition assistance program.

A reduction is assumed in funding for public service jobs for the cyclically unemployed in view of the anticipated continued improvement in the employment outlook. This reduction would reduce by 60,000 the average number of public service jobs funded in fiscal year 1979.

Only half the funding requested by the President for a private sector jobs initiative is assumed, due to likely slippage in establishing that program.

FUNCTION 550: HEALTH

For health programs, the first budget resolution provided for medicaid program expansions proposed by the President, the cost of which would be more than offset by savings in medicare and medicaid as a result of the hospital industry's voluntary cost containment efforts, and by savings in medicaid from the administration's quality control program.

The first resolution also assumed increases over current law for discretionary health services programs, and reductions below current law in funding for health professions education assistance.

The second budget resolution differs from the first resolution primarily due to downward CBO reestimates of the cost of both the medicare and medicaid programs.

FUNCTION 600: INCOME SECURITY

In the income security function, the second budget resolution adjusts the first budget resolution in three ways:

First, it makes room for increased costs associated with the Senate-passed child nutrition bill.

Second, it assumes a higher level of funds for an expanded earned income credit, while making no provision for fiscal relief to States to offset public assistance costs.

And third, it provides for a lower level of budget authority for housing programs consistent with Senate appropriations action.

FUNCTION 700: VETERANS BENEFITS AND SERVICES

For veterans programs, the second resolution basically continues the policies assumed in the first resolution.

The second budget resolution does provide for increased costs for veterans' pension and compensation legislation as passed by the Senate. These increases are partially offset by downward CBO reestimates of the current low cost of these programs.

Legislative initiatives assumed in the first budget resolution pertaining to veterans' readjustment benefits are no longer assumed. Lower funding for the VA medical system reflects Senate appropriations action.

FUNCTION 750: ADMINISTRATION OF JUSTICE

In the area of law enforcement, the first and second budget resolutions generally support current levels of program activity by the Department of Justice and other agencies to control organized crime, public corruption, drug trafficking, and illegal immigration, and to prevent racial and ethnic discrimination.

This budget also assumes continued aid to State and local governments through LEAA at about present activity levels, with a small allowance for a number of limited new program initiatives.

FUNCTION 800: GENERAL GOVERNMENT

For general government, the first budget resolution supported current levels of program activity for the legislative and executive branches, with partial allowance for inflation in future years.

The second budget resolution recommendations are the same as those in the first resolution, with the single exception that outlays have been reduced to reflect a CBO reestimate of activity under GSA's Federal buildings fund.

FUNCTION 850: GENERAL PURPOSE FISCAL ASSISTANCE

For general purpose fiscal assistance, the first budget resolution assumed continued funding of general revenue sharing at current levels, and continued assistance to distressed localities under a supplementary fiscal assistance program at levels requested in the President's urban initiative.

The second budget resolution recommendations are the same as the first resolution with regard to general revenue sharing.

In light of significant improvements in the national unemployment rate, supplementary fiscal assistance in the second resolution has been reduced to about $0.5 billion, one-half the amount assumed in the first resolution.

FUNCTION 900: INTEREST

In function 900, interest, both budget authority and outlays have increased by $1.1 billion since the first budget resolution, largely to reflect increased interest rates on the public debt.

FUNCTION 920: ALLOWANCES

Function 920, allowances, continues the anti-inflationary assumptions of the first resolution regarding the upcoming comparability pay increase for Federal employees.

As with the first budget resolution, this resolution assumes that these raises will be limited to 5.5 percent, and that employing agencies will be required to absorb 20 percent of the costs of the pay raise through savings in other activities.

Function 920 in this second resolution also includes an estimation of savings expected to result from the across-the-board cuts which Congress has adopted in several appropriations bills. We would have attributed these savings to the priority functions to which they belong if anyone could now predict where these across-the-board cuts will actually occur, but no one can.

Let me emphasize that in reflecting these assumed savings in its recommended ceilings, the Budget Committee does not intend any endorsement of meat ax reductions of this type as a responsible way to control Federal spending. The committee believes that congressional spending should reflect congressional priorities, and that Congress should make the hard choices among programs to be cut. To buck that responsibility "upstream" to the President is to revert to the kind of Government by Presidential impoundment which led to the creation of the budget process in the first place. The committee will seek to allocate these reductions to the appropriate functions in the conference with the House, in order to preserve the congressional control of the budget, the budget process is intended to provide.

FUNCTION 950: UNDISTRIBUTED OFFSETTING RECEIPTS

For function 950, undistributed offsetting receipts, the recommended ceilings are the same as the first budget resolution targets and reflect no policy changes.

1978—A YEAR OF TESTING

Mr. President, this second budget resolution comes before the Senate in a climate of support for the budget process which has significantly improved since last spring.

Our first budget resolution for 1979 was debated just a month after the Budget Act had been purposefully trampled upon during consideration of the so-called emergency agriculture bill.

This second resolution comes to the floor just a month after the Senate overwhelmingly upheld the Budget Act

against an attempt to suspend it during the tuition tax credit debate.

Last spring, we warned the Senate that on the record of excess and impulsive spending in the energy tax bill and the agriculture bills that Congress faced a clear resurgence of the free spending mentality.

Last spring I warned that—

This year's budget resolution presents a critical test case of the Senate's willingness to accept budget reform as more than political propaganda.

I am pleased and proud to be able to report that, so far this year, the Senate has passed that test.

The budget process, which seemed to be clearly on the ropes last spring, has received a strong infusion of Senate support this summer.

Major landmarks in budget control have been set. Let me mention just a few.

In July, the Senate voted 67 to 0—in connection with the Witteveen bill—to assure full appropriations process review of future U.S. commitments to international financial organizations, such as the International Monetary Fund.

The Senate also voted 60 to 21 to eliminate housing assistance funding that was $5 billion in excess of the congressional budget resolution and the President's budget request.

And, in August, the Senate voted to provide much greater flexibility for the appropriations process to control funding under the Elementary and Secondary Education Act.

Prominent and important Senate precedents to control back door spending have been set by rulings from the Chair and sustained by Senate votes.

After a very bad beginning, it has been a good year.

The Senate has not only lived within the budget we adopted last spring, but also, through a prudent pruning of new programs and appropriations, actually allowed us to reduce it substantially in this resolution.

The appropriations process is completing its work nearly on schedule, despite two major filibusters which brought the legislative process to a standstill for more than 2 months.

The Budget Committee has pioneered mission and multiyear budgeting to make the budget more comprehensible and more controllable.

The Budget and Appropriations Committees have worked more closely than ever to limit Federal expenditures and to eliminate back door spending.

And the Senate has supported our efforts.

Credit for this success belongs to every Senator who has voted to support us this year.

Particular credit belongs to Senator WARREN MAGNUSON, chairman of the Appropriations Committee, whose tight-fisted approach to Federal spending this year has shaved hundreds of millions of dollars off Federal spending and the deficit.

The majority leader has continued his constant support for the budget process and fiscal responsibility in both his budget votes and his meticulous observance of Budget Act procedures.

The constant cooperation of the leadership staff, exemplified in the efforts of our good friend Tom Hart, have made our budget work and that of the Senate much easier to conduct.

And what more can I say—that I have not previously said—about my friend and partner in this budget process, Senator HENRY BELLMON. He has been accurately described as the Vandenberg of the budget process.

His determination to make the budget process work and his courageous votes for fiscal responsibility should be a matter of great pride to the people of his State. They are a credit to him and to the Senate.

We are encouraged by the progress toward budget control so far this year.

But the year is not over.

Further tests remain—on the mass transit bill for example—before a final appraisal can be made.

The temptation to backslide into irresponsibility is always present.

But I am much more hopeful now—than I thought I could be last spring—that the budget process is really taking hold in this Congress.

And that when we adjourn in October, we can say, "well done."

Mr. President, I yield the floor to my good friend from Oklahoma.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. BELLMON. Mr. President, I thank my friend from Maine for yielding the floor and also for his very kind comments.

I am sure the Senate is now aware, as the country should be, of the remarkable job Chairman MUSKIE and the able staff, both on the majority and minority sides, have done in making the budget process work as well as it has. It has been a real pleasure to be associated with him in this endeavor.

There is a lot of comment now in the country about the so-called taxpayers' revolt and the emphasis that seems to be emerging on tighter fiscal controls on the way we use the tax money entrusted to the Congress. Senator MUSKIE has been in the vanguard of this effort for several years. He has been well out in front of those who now see that this is the popular position so far as taxpayers are concerned.

I congratulate him for the leadership he has given throughout these difficult years in getting the budget process in place and making it work as well as it has.

Mr. President, last May this body adopted spending and revenue targets for fiscal year 1979 that reflected economic circumstances and national priorities as we judged them to be. In the subsequent 4 months, however, several changes have occurred that have demanded adjustments in the budget, as it affects both next year and those following. The budget resolution before us includes the adjustments necessary to address the changes in the economy. The net result of the budget resolution, when adopted by Congress, will set us clearly on the road toward balancing the budget. It is possible that with the adoption of this resolution Congress will be making the goal of balancing the budget attainable a full year earlier than previously expected.

The country is in a more difficult economic period than previously believed. Employment has risen dramatically—an incredible 3.7 million new jobs have been created during the past year; however, inflation also has turned decidedly upward. In the present environment of declining unemployment and volatile inflation, the economy is particularly sensitive to the fiscal policies of the Federal Government. Ill-conceived, irresponsible actions could send us into an inflationary spiral leading the country into another recession. However, conscientious, pragmatic policies will allow us to perpetuate the present expansion, already the longest sustained peacetime recovery of this century. Clearly, this is not the occasion to rock the economic boat.

In light of national attitudes expressed in California and elsewhere, an appropriate economic policy must give particular attention to unanticipated acceleration of inflation. Recognizing full well that there are no simple solutions to a problem of such complexity, there are, nevertheless, significant steps that the Federal Government can and should take. Foremost among these is a reduction of the budget deficit from the unprecedented levels of the past several years, a move that would ease the current pressures on monetary authorities to raise interest rates and reduce excessive public demand for goods and services. While the first budget resolution recognized this problem and was a step in the right direction since its deficit was significantly lower than the President proposed in January, the second budget resolution as reported recommends an even smaller deficit for fiscal year 1979, one that is $8.6 billion below the figure adopted by Congress last May and a full $18.3 billion lower than the President proposed in his January budget.

The level of Federal spending for fiscal year 1979 recommended by the second budget resolution is $9.3 billion below the first resolution mark and some $10.7 billion below the level in the President's original budget. As our chairman has said, that indicates real progress.

In the development of the fiscal year 1979 budget, efforts have been made to balance concerns for inflation with the desire to promote economic stability. The economic drag effects of tax increases from inflation and mandated social security changes have been anticipated. The resolution prescribes new tax cuts of $15.2 billion, plus another $8.2 billion to extend expiring tax cuts. This tax relief should be sufficient to offset the effects of inflation on personal income taxes and the $3.3 billion increase in social security taxes.

Regarding the question of national priorities, it has become very clear in the past few months that a large portion of the American public is angered by the very size of the Federal Government—the amount of one's paycheck taken in taxes, the increasing encroachment of the public sector on the private domain, the apparent waste and inefficiency. As a result, the levels of Federal taxes and

spending have become issues in their own right, completely apart from that of fiscal policy.

The distribution of these spending reductions also reflects greater awareness of and concern for what the American public is buying with its tax dollars. These cuts fall into three broad categories:

First, the resolution recommends program reductions which correspond to the current state of congressional action. For example, EPA construction grants have been cut by $250 million in budget authority and $800 million in outlays. In addition, spending levels for various energy programs were decreased by $1.5 billion in budget authority and $900 million in outlays. While the EPA cuts are designed to eliminate some planned program activities, the energy-related reductions are intended merely to keep in the U.S. Treasury money which the agencies could not effectively spend out in fiscal year 1979.

Second, the resolution recommends reductions to be accompanied by shifting the emphasis of some current programs, a shifting that responds in great part to the changing economic environment. Most noteworthy in this regard are CETA and the antirecessional fiscal assistance program.

In response to the changing nature of our country's unemployment problem, which has increased the importance of focusing more attention on those Americans who simply do not possess marketable job skills, the budget resolution recommends reorienting available resources to emphasize structural rather than cyclical unemployment. The resolution anticipates a start should be made in fiscal year 1979 on phasing down the countercyclical part of the CETA public service employment program, a move that would save some $500 million next year alone. Another $500 million savings will be achieved through greater targeting of the antirecessional fiscal assistance program so as to provide aid only to those State and local governments with the most severe fiscal distress.

Finally, the resolution recommends the termination of several new initiatives proposed by President Carter which the Congress has not yet considered or approved at this late date. A total of $2.2 billion in budget authority and $300 million in outlays will be saved by eliminating funding for the soft public works program, national development bank grants, phase three of the local public works program and State incentive grants.

I should emphasize at this point that these reductions are consistent with the administration's stated desire to work with Congress to limit the growth of Federal spending. This desire was stated by OMB Director James McIntyre when he testified before the Senate Budget Committee on July 25th that:

The Administration is ready and willing to work with the Budget Committees, the Appropriations Committees, and others in the Congress to limit the growth in Federal Spending . . . and that . . . a target of total outlays in the neighborhood of $491-$492 billion for a cut of about $5 billion would be an appropriation objective.

The administration has called on Congress to cut spending by $5 billion.

However, it has not provided Congress with a list of specific areas for reduction. We have done our job in cutting $9.3 billion from the outlay total contained in the first budget resolution. I am somewhat dismayed, however, that there have been reports of White House lobbying to have money added back to fund administration initiatives. To include money in this resolution for the President's "soft" public works program, for example, would be inconsistent with Mr. McIntyre's testimony. If we are to achieve budget reductions, we must deny funding for new program initiatives which have not yet received congressional approval and cannot be adequately justified at this time.

Mr. President, the budget presented in this resolution should be adequate to guide the Congress as it confronts the problems of today. There are, however, two additional steps that the Congress should take—and can take within the confines of this budget—to insure that today's problems do not become those of tomorrow.

Since one of the primary causes of our current economic troubles has been deficient business investment, which has led to inadequate capital formation and productivity, I believe the Congress should consider a multi-year approach to tax cuts similar to that suggested by the Roth-Kemp proposal.

Mr. President, experience on the Budget Committee has indicated to me that budget discipline cannot be instilled a year at a time. Rather, we must view the budget each year as a single component in a multi-year spending and revenue plan. The Budget Committee in its report has offered 5-year budget numbers, and even though they are not binding, it is important that we place single year numbers in this longer-run perspective. The Roth-Kemp notion of a multi-year tax cut is in keeping with this concept of multi-year budgeting, and, as a result, would have several advantages.

Such a cut—announced now but phased in over a number of years—would have a more favorable effect on the economy than a series of cuts announced 1 year at a time. It would bolster consumer and producer confidence by insuring that aftertax income will be proportionally greater in the next several years than under current policy. It would boost lagging investment and reduce the risks of making long-term consumer commitments. In short, it would lend greater certainty to an economy now suffering from the lack of that very thing.

The second step Congress should take is to exercise disciplined spending restraint next year and in future years. We must carefully examine new spending proposals and determine how necessary they are likely to be, in light of the short and long run costs and effects. Indeed, only by resisting the temptation to enact additional costly programs can we finally reestablish the historic norms for the size and scope of the Federal Government and bring the budget into conformity with the wishes of the American people.

Again, I believe this resolution points us in the right direction. If we accept it and continue to exercise prudent judgment in the next few years, we can finally accomplish by 1982 the balanced budget that the country needs and desires.

Mr. President, again, I wish to pay tribute to the distinguished chairman of the Budget Committee. He has consistently worked to bring us to the point that we can now have a balanced budget in view. Without his leadership and without the budget process I am convinced that that objective would have been absolutely unattainable, and I hope to see the day before too long when we can bring to the Senate a budget resolution that is in balance with our income and I know that without the leadership of Senator MUSKIE and an able staff that will be impossible.

So I am very proud to support this resolution because I believe it aims us in the right direction and if we continue on this course we will very quickly have the Nation's fiscal affairs in good order.

Mr. MUSKIE. Mr. President, I thank my good friend from Oklahoma for his statement and for his compliments.

I wish to add my compliments to the staff, both the majority and minority staff, and what we call the core staff of the Budget Committee. I think that they have supplied us with increasingly improving information and analysis which has simplified our work and improved our understanding of the options available to us as we seek to bring this enormous budget under control and in balance.

The whole Senate, if it were possible to conduct seminars extensive enough and long enough, would I am sure agree with Senator BELLMON and myself on the quality of the staff work and the enlightenment that that work can provide with respect to the operations of this Federal establishment, the momentum that drives it and the difficulty of bringing it under control.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BUMPERS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I yield to the majority leader such time as he may desire.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Maine (Mr. MUSKIE).

Mr. President, in its consideration of the second concurrent resolution on the budget for fiscal year 1979, Congress must do its part to help the Nation avoid the horns of the inflation-recession dilemma. Excessive spending or too large a tax cut would overheat the economy and further unleash inflationary pressures. Too restrictive a fiscal policy—that is, too little economic stimulus or too precipitous a decline in the deficit—at the very time that the economic recovery

has begun to slow may tip our economy back into recession.

The current economic forecast by the Congressional Budget Office reflects the consensus view that economic growth will continue to slow. Specifically, CBO projects that constant dollar gross national product (GNP) will increase by 3.5 percent to 4.5 percent during 1978 and by 2.7 percent to 4.2 percent during 1979. By comparison, real GNP increased by 4.9 percent in calendar year 1977.

The projected slowdown is largely accounted for by expectations of reduced spending on residential construction because of the tightening of credit markets; slower growth in consumer spending as the result of the rise in the level of personal debt; and reduced spending on plant and equipment by business. According to a recent forecast, real business fixed investment will grow at only about 4.5 percent in 1978, compared to 9.2 percent in 1977.

In such an economic situation, a large tax cut would seem to be the proper fiscal course—the argument being that such a cut would provide Americans with additional incentive to work and thereby increase productive capacity. The national income would rise and all would seemingly benefit.

This might be the case if slow growth were the only large economic problem we were facing. It is not. At the same time that growth has begun to slow, we are plagued by a high rate of inflation which appears most resistant to current policy.

The facts are these: American prices—the CPI—accelerated at a 10.4 percent annual rate over the first half of the current calendar year. In July, the rate of increase slowed to a 6.0 percent annual rate.

The forecast is for only slight moderation in the rise of prices during calendar year 1979. Unless there is increased private sector support for moderating inflation, we are likely to be caught in a situation similar to the one we are currently experiencing: Wages will be playing catch-up with prices and both will contribute to a continuation of high inflation.

In such a situation as this—with slowing growth and high inflation—a large tax cut would not be as salutary as its proponents believe it would be. One study suggests, for example, that under a much larger tax cut—known as Roth-Kemp—the deficit would soar to $100 billion by 1983. At the same time, the rate of inflation could be as much as 2 percentage points higher with such a cut by 1982.

These are among the reasons why I feel that in fiscal year 1979 there is a need for a moderate tax cut, such as has been assumed by the second concurrent budget resolution recommended by the Budget Committee. It would be sufficient to offset on an aggregate basis the bulk of the 1979 calendar year increases in tax burdens on individual incomes and social security taxes. The second resolution, like the first, assumes a $19.4 billion general reduction made effective January 1, 1979. The CBO estimates that it would reduce fiscal year 1979 revenues by some $14.0 billion.

Most important, it would allow for improved economic performance both in real growth and employment without unleashing inflationary pressures. In addition, unlike the large, multiyear tax cut known as Roth-Kemp, it would leave Congress with the flexibility it needs to set fiscal policy in later years in light of the economic situation.

At this point, let me emphasize that a moderate tax cut should not be read as a sign that we can slacken our efforts to further reduce unemployment, the overall rate of which was recorded at 5.9 percent in August. The clear need is to lower the level of joblessness, especially among youths and minority groups in our society—without exacerbating inflationary pressures. This can best be accomplished by specific job creation measures which are targeted to the groups experiencing high levels of joblessness. Such measures expand economic capacity without encouraging inflationary wage increases for regular workers.

Mr. President, I believe that the budgetary course set in the second resolution is the right one for our economy at this time. I have focused my remarks on the size of the tax reduction—on which the second resolution appears right on target. I might also have emphasized that the resolution recommended by the Budget Committee is on target in its call for the Senate to maintain its commitment to spending restraint. The outlays or spending total of $489.5 billion represents a 2-percent cut under the spending level in the first resolution. It represents a $11.5 billion reduction in the outlays level in the President's January budget.

The reduction in Federal spending together with a moderate tax cut will allow for a significant reduction in the level of the deficit—something that we all want to see. It should contribute to a moderation in inflationary expectations on the part of business and labor communities and, it is hoped, increased support by them for moderation in wage and price increases.

Again, I suggest that the spending and taxing recommendations of the committee are right on target, reflecting the sentiment of the Senate and the mood of the Nation. The American people want to see lower inflation and continued economic growth. The second resolution as reported by the Budget Committee will move us toward the realization of those goals.

Mr. President, the chairman of the Budget Committee, Mr. MUSKIE, and the ranking minority member, Mr. BELLMON, are to be commended for their contribution to formulating our Nation's budgetary policy. Their task is a most difficult one, but one which it is perilous to neglect. Their exemplary contribution is matched by their colleagues on the committee. They are all deserving of our commendation.

Mr. President, I yield the floor.

Mr. MUSKIE. Mr. President, I thank the majority leader for his thoughtful statement both with respect to the condition of the economy, as he views it, and the relevance of the budget resolution before us to those circumstances.

His statement is a further indication of his commitment and dedication to the budget process and the attempt to make Congress a full partner in the establishment and development of fiscal policy, and especially as it relates to the other instruments for Government influence on economic conditions.

In his presence I wish to express my gratitude to him for the support of myself, Senator BELLMON, the budget process, and the often frustrating, from the point of the leadership, procedures which could starve and delay action on the floor, but which, with the cooperation of his excellent Policy Committee staff headed by Tom Hart, I think has worked very smoothly to minimize delay without denigrating the procedures. I want to say "thank you," to him for that at this point.

Mr. ROBERT C. BYRD. I thank the able chairman of the Budget Committee.

Mr. MUSKIE. Mr. President, I ask unanimous consent that Rhona Weaver of Senator BUMPERS' staff have the privilege of the floor during the consideration of this resolution, as well as Karen Mandan of Senator CRANSTON'S staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I would be remiss if I did not at this point express my appreciation to and extend my compliments to the Congressional Budget Office, headed by Alice Rivlin. The Congressional Budget Office has steadily improved in its capacity to serve the needs of the Budget Committees of the House and the Senate, as well as the Senate as a whole.

I am most grateful for the expertise, insights, information, and analyses which they have produced for us, and I would like to say "thank you" to them at this point for that service.

Mr. BELLMON. Mr. President, will the Senator yield?

Mr. MUSKIE. Yes, I yield.

Mr. BELLMON. Mr. President, I would simply like to join the chairman of the Budget Committee in paying tribute to the Congressional Budget Office. They have been an invaluable resource. We simply could not have made the budget process work as well as it has without their help and, as the chairman has said, they have become more and more proficient as the years have gone by, and they are now an absolutely invaluable resource for the Congress, and I am sure as time passes they will become even more so.

Mr. MUSKIE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I yield my colleague from Maine (Mr. HATHAWAY) such time as he may require.

Mr. HATHAWAY. I thank my distinguished colleague for yielding.

Mr. President, I just wanted to ask a few questions and make a comment in regard to the second budget resolution.

First, I am concerned about the size of the recommended tax reduction and the revenue estimates which underlie it. It is my understanding that the second budget resolution assumes, first, a reduction of $8.2 billion to accommodate extension through fiscal year 1979 of temporary income tax reductions; second, additional general income tax reductions to become effective on January 1, 1979, which would reduce revenue collections by $14 billion during the fiscal year; and, third, structural tax law changes which, together, would reduce fiscal year 1979 revenues by $1.2 billion.'

Furthermore, the resolution provides that the $14.0 billion of general income tax reductions representing $19.4 billion of reductions on a full-year basis become effective on January 1, 1979, 3 months after the beginning of the fiscal year. The first resolution assumed a $19.4 billion annual reduction made effective January 1, 1979, which would reduce fiscal year 1979 revenues by $15.0 billion. I understand that the $1.0 billion smaller fiscal year 1979 revenue loss for the second resolution general reductions represents a CBO reestimate of the extent to which a full-year tax reduction is reflected in the tax collections for the first 9 months of the annual period.

The report on the second resolution states that:

> The Committee assumed an expansion of $0.5 billion in refundable earned income credits payable to recipients in excess of their tax liabilities. The Committee believes that contemporaneous expansion of nonrefundable earned income credits which reduce recipients' income tax liabilities is to be accommodated as part of the tax reductions allowed for in the Second Budget Resolution.

Now, all of these tax changes are anticipated to result in total revenue collections of about $447 billion in fiscal year 1979, rising to $726 billion in fiscal year 1983.

There has been a great deal of speculation concerning revenue estimates after tax changes are made. I understand that generally, only the first tier affects, that is, without so-called "feedback" are taken into account in the initial revenue loss projections. Is this correct?

Mr. MUSKIE. My colleague has raised an important issue, Mr. President, with respect to the techniques employed in estimating the impact of tax legislation on Federal revenue collections. Some of the questions relate particularly to possible proposed changes in capital gains taxation.

I believe some clarification is necessary as to the methods currently used to calculate the revenue effects of tax legislation.

For all tax bills estimators calculate the extent to which revenue collections will change if the legislation had no other effects on the economy or on taxpayer behavior. Apparently, there is some belief that this type of so-called static estimate is the only type of estimate used in conjunction with tax legislation. That is the point which the Senator's question raises.

In fact, two different types of secondary effects or feedback effects are taken into account by estimators:

First, estimates of aggregate budget receipts made for budget resolutions take into account additional receipts resulting from the impact of the overall level of tax reductions assumed in those resolutions. These additional receipts are the feedback from the increased economic activity which results from providing taxpayers in the aggregate with increased after-tax income to spend. Estimates for specific, particular tax law changes do not include feedback effects for these general changes in overall economic activity. To include them would be to count their effects twice.

On the other hand, and now I sound like my good friend Senator HOLLINGS' typical economist, secondary or feedback effects that reflect specific behavioral changes have been taken into account by revenue estimators in recent years when there is some degree of consensus on the part of the experts as to what the behavioral effects of such changes are likely to be.

However, it often is extremely difficult for experts to agree on the likely secondary behavioral effects of the same tax law changes. In some cases, however, these assumptions are made. For example, when new tax expenditures are developed, assumptions are made as to the likely level of their usage, as, for example, the use of recently proposed tax credits for home heating insulation. So, occasionally, behavioral effects and secondary effects are taken into account, but even then only if a consensus among expert estimators is developed.

Mr. HATHAWAY. If the Senator will yield further, one specific area in which this debate has occurred is in the proposal to "rollback" capital gains taxes to the pre-1969 level.

In this context several econometric studies have been made of the possible effects of the change.

Chase Econometrics projected a net Treasury gain of $16.6 billion by 1985. Data Resources, Inc. projected a revenue gain of $33 billion for the period 1979–83. The Merrill Lynch study does not project a revenue effect. A slightly different version developed by Norman Ture projects a $1 billion Federal revenue gain in 1987.

Clearly the analysis is all over the ball park.

Mr. President, I ask unanimous consent that a summary of the results of these models on capital gains and a comparison of economic models be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF STUDIES ON CAPITAL GAINS TAX REDUCTION EFFECTS

A number of recent studies have been prepared in response to proposals to reduce the highest rate of tax applicable to capital gains. These studies generally have focused on the possible impact of such a change on the stock market, and have utilized a feedback, rather than a static, analysis, *i.e.*, they assume that certain responses will occur as a result of a change, and that these responses, in turn, will trigger additional reactions.

A simulation prepared by Chase Econometric Associates, Inc., projected that the provisions (to be effective January 1, 1980) would have the following effect (in constant dollars, and over currently estimated levels): (1) increase new jobs by 440,000 by 1985, (2) increase plant and equipment expenditures by 1 percent annually for the period 1980–1985; (3) increase the average annual GNP growth role by 0.2 percent for the period 1980–1985; (4) increase nonresidential construction by 2.5 percent annually for the period 1980–1985; and (5) increase Federal tax receipts by $0.7 billion in 1980, and by $15.6 billion in 1985. These projections were based on the assumption that the enactment of S. 3065's provisions would increase stock market prices by 40 percent by 1982, relative to the price level which otherwise might be anticipated. This assumed price rise was projected to increase stock market transactions, and thereby more than offset any anticipated Federal revenue loss attributable to a reduction in the capital gains tax rate through increased tax receipts generated by the greater volume of capital gains transactions.

(The Chase simulation projected that a reduction in the capital gains tax rate would stimulate economic activity through the following combination of assumptions: (1) a reduction in capital gains taxes raises stock prices; (2) increased stock prices lead to a greater rate of growth in capital spending; (3) increased stock prices lead to more equity financing, which reduces corporate debt/equity ratios, thereby decreasing interest rates; (4) increased investment creates higher employment, income, and output levels, and reduces inflationary pressures by increasing productivity and raising the maximum potential GNP; and (5) increased economic activity raises Federal revenues, reduces the budget deficit, and leads to lower inflation and interest rates.)

The Treasury Department has criticized the Chase simulation as being based on unrealistic economic assumptions. Treasury argues that neither the study's postulated 40-percent increase in stock prices by 1982, nor its assumed increase in taxpayer propensity to realize gains, can be supported. Moreover, it notes that the Chase study proceeded upon the incorrect assumption that the 1969 Act's increase in capital gains tax rates was effective for 1969, rather than beginning in 1970 (and becoming fully effective in 1972).

A study made by Data Resources, Inc. (DRI), based on assumptions supplied by the Securities Industry Association (SIA),[3] projected that the provisions (to be effective January 1, 1980) would have the following effect (in 1978 dollars, over baseline forecasts) for the period 1979–1983: (1) increase employment by more than 1.6 million manhours; (2) increase GNP by $98 billion; (3) increase personal consumption by $56 billion; (4) increase investment by $46 billion; (5) decrease Federal tax revenues by $0.8 billion in 1979 (assuming a 10-percent postponement of capital gains expected to be realized in 1979), and generate a Federal tax revenue increase of approximately $33 billion for the period; and (6) increase the rate of inflation of about 0.2 percentage points. The DRI study assumes that a change in the tax treatment of capital gains will increase the propensity to realize such gains by 10 percent, and that monetary policy accommodates the changes. (Under such an assumption, the money supply must expand to keep interest rates constant. If monetary policy does not accommodate the change, DRI's projections would shift downward.) It also assumes a 10-percent rise in the Standard and Poor's Index of stock prices, and a 5-percent decrease in corporate dividend-payout ratios.

The Treasury Department has criticized the DRI study as being based on unrealistic economic assumptions. It argues that neither the study's postulated 10-percent increase in the Standard and Poor's Index, nor its as-

sumed 10-percent increase in taxpayer propensity to realize capital gains can be supported. Moreover, Treasury notes apparent inconsistencies between the conclusions reached by the DRI model and those projected by the Chase simulation. In addition, it argues that there is no conclusive support for the proposition that reduced capital gains tax rates will cause overall tax revenues to rise.

While the Treasury criticisms have been repeated, it also has been noted that the projections of the DRI study are heavily dependent on monetary policy. For example, under an accommodating monetary policy assumption, the DRI model projected a net Federal tax revenue increase of approximately $33 billion for the period 1979–1983, but under a non-accommodating monetary policy assumption, the model projected a net Federal tax revenue increase of approximately $10.5 billion for the same period. Thus, it is argued that the model is highly dependent upon factors entirely outside the tax system.

A model used by Merrill Lynch Economics, Inc. projected that the enactment of provisions (to be effective in the third quarter of 1978) would have the following effect through 1980: (1) increase employment by 205,000; (2) increase the average growth of real GNP from 3.3 percent to 3.5 percent; (3) increase business investment for the period by $3.3 billion; and (4) decrease the Federal budget deficit by $2.8 billion in 1980. According to the study, these projections were based on assumptions made about factors which are either nonquantifiable or, at best, difficult to assess." The Merrill Lynch study assumes a stock price use of 4 to 6 percent in response to the capital gains tax change.

A model developed by Norman Ture, Inc. for the National Association of Manufacturers Tax Impact Project (TIP) projected that the enactment of provisions in early 1978 (to be effective January 1, 1980) would have the following effect (in constant 1977 dollars, and over present law), (1) increase full-time equivalent employment (over currently estimated levels) by 90,000 in 1978, and by 150,000 in 1987; (2) increase wages by $80 per year in 1978, and by $150 per year in 1987; (3) increase gross capital outlays by $8 billion in 1978, and by $13 billion in 1978; (4) increase consumption by $4 billion in 1978, and by $14 billion in 1987; and (5) decrease Federal tax revenues by $2 billion in 1980 (the first year for which the provisions would be effective), and by $3 billion in 1987. However, assuming an economic feedback, the TIP model projects a 1978 net Federal tax revenue gain of $3 billion, and a net 1987 Federal tax revenue gain of $1 billion.

The Ture study differs from the other three studies in several respects. It assumes no increase in stock prices in response to the capital gains tax cut on the grounds that sales of assets in response to reduced capital gains tax rates will tend to drive down stock prices while greater attractiveness of stocks to investors will tend to raise stock prices, leaving the net effect indeterminate. Rather, the beneficial economic effect of the capital gains tax cut in the Ture study is assumed to come from an increase in saving, which leads to more investment by businesses, greater productivity and higher wages.

The Treasury Department, on the other hand, estimates that adopting the changes proposed would reduce annual tax revenues by $2.2 billion at 1979 levels of income. This total would consist of the sum of $0.5 billion from removing the $50,000 ceiling on the application of the 25-percent alternative tax rate for long-term capital gains; $1.3 billion attributable to the elimination of long-term capital gains as a preference item subject to the minimum tax, and as an offset against the amount of personal service income eligible for the application of the maximum tax; $0.4 billion allocable to the reduction of the corporate capital gains tax rate from 30 percent to 25 percent and removing corporate capital gains as a preference item subject to the minimum tax.

A Comparison of Econometric Models

(By L. Douglas Lee)

Introduction

In the process of decisionmaking, a policymaker sometimes will pose the following question: "If we adopt this particular policy, how will it affect the economy?" Analysts will often use an econometric model to answer this question. By changing the policy assumptions which are fed into the model, an analyst can explore the probable outcome of various policy options.

There are three large macroeconomic models of the U.S. economy which are commercially marketed and widely used by analysts in government and private industry. These models were developed by Chase Econometric Associates, Inc. (Chase), Data Resources, Inc. (DRI), and Wharton Econometric Forecasting Associates, Inc. (Wharton).

Each of these models is an attempt to describe the U.S. economy using a group of mathematical equations and statistical relationships. Not surprisingly, since there is disagreement among economists on the economic theory which underlies the models and disagreement among statisticians and econometricians on the best equations to capture the statistical relationships, the three models are quite different.

The following paper is divided into two sections. The first is a description of the model structures. It is an effort to translate the mathematical equations into words. It also points out the economic theory underlying the equations. The second part of the paper discusses some of the theoretical issues surrounding this particular approach to economic analysis. In recent years this approach has come under attack by some economists who argue that it is not justified on fundamental theoretical grounds.

The Econometric Models

Since the commercially available models undergo constant revision and updating, careful attention must be paid to the specific version being used. The version of the DRI model discussed in this paper is designated 77y. It was reestimated and revised in 1977 and is described in the collection of papers, "The Data Resources Model, 1977 Edition" (mimeo) edited by Otto Eckstein. The Chase model discussed is the version in effect in December 1977. Most of the equations in the Chase model were estimated in 1976 or 1977. The discussion which follows is based on a listing of those equations. The Wharton Mark IV quarterly econometric model was constructed in 1974. While various sections have been updated and changed, the model has not undergone a complete revision since that time. The equations in the version used in this paper were estimated in 1974–77, and the discussion comes from a listing of these equations.

A few general comments are in order before plunging into the model structures. First, one should note that these general equilibrium models have grown increasingly large and complex in recent years. For example, the models designed in the 1940's and early 1950's by Lawrence Klein contained 12 equations. By contrast, today's DRI model contains some 800 equations. Similarly, the Wharton model uses 669 equations while the Chase model contains about 855 equations.

Second, these models are best used in combination with the judgment of an economist. Whether the model is used for forecasting or for policy analysis its results are always subject to modification by the analyst if they appear "unreasonable."[1] This means that different analysts may derive different results from the same model if they alter the model's output to conform to their own judgment. Several evaluations of the accuracy of these judgmental forecasts have been published.[2]

Third, the models described in this paper are all quarterly models which are typically used for analyzing 8–12 quater time period. Other models using annual data or focusing on long-term analysis are not considered. This distinction is not especially important for Chase and DRI because their long-term projections are produced by merely extending the quarterly model. For Wharton, however, the annual model is different both in structure and in the level of aggregation.

Fiscal policy

The fiscal policy variables in the DRI model correspond closely to the broad divisions used in the National Income and Product Accounts. Exogenous variables are government purchases (divided into military and nonmilitary), grants-in-aid to State and local governments, foreign transfers, wage accruals less disbursements,[3] and subsidies. Endogenous spending variables are transfers to persons and net interest. All receipt categories are determined endogenously and are broken into the following broad categories: Personal tax and non-tax payments, corporate tax accruals, indirect business, and social insurance receipts are reach generated by a behavioral relationship.

Monetary policy

The monetary sector of the DRI model is an attempt to describe the many components of each financial market in terms of supplies and demands. There are equations to describe the behavior of households, businesses, financial institutions, State and local governments, and the Federal Government. The household and nonfinancial corporate sectors share a common structure with the demands for financial assets and liabilities and the stock of assets being modeled in sufficient detail to construct a complete balance sheet. From a policy perspective the major instruments are nonborrowed reserves, the Federal funds rate, deposite rate ceilings and legal reserve requirements. Money supply is determined endogenously. Interest rates are determined in each of the individual markets through a flow of funds approach. Inflation expectations are explicitly modeled and play a role in the determination of long-term rates.

Like the DRI model, the Chase model uses a flow-of-funds approach to the financial sector. It is, however, much more highly aggregated, using 20 behavioral equations as compared to 110 for DRI. The principal policy instrument is nonborrowed reserves less currency. While both models use a lag structure with past price levels to model expected inflation, these lag structures are quite different in both weight structure and the length of the lags.

The financial sector of the Wharton model most closely resembles the traditional Keynesian model. The major interest rate comes from a liquidity preference schedule, and currency demand depends on the level of transactions. Again the model is highly aggregated, containing 24 behavioral equations. Price expectations enter the utility and corporate bond rates through a distributed lag structure although short-term interest rates are the primary explanatory variables in the long-term rates. The Wharton model also contains another variable which some consider desirable—a proxy for wealth. Once again nonborrowed reserves are the primary policy instrument.

Interest rates are, of course, the major elements linking the IS and LM structures in the models. The DRI model contains the closest ties between the financial and real sectors since it tries to model the business and the household balance sheets, and the mortgage market. In the Wharton model the interest rate links are through the influence

[1] The only nonjudgmental model of which this author is aware is the model developed by Ray Fair. For a more complete discussion of it see Ray C. Fair, *A Short-Run Forecasting Model of the United States Economy* (Lexington: D.C. Heath & Co., 1971).

[2] See, for example, the following series of articles by Stephen K. McNees: "How Accurate Are Economic Forecasts," *New England Economic Review* (Boston: Federal Reserve Bank of Boston, November/December 1974); "An Evaluation of Economic Forecasts," *New England Economic Review* (Boston: Federal Reserve Bank of Boston, November/December 1975); "The Forecasting Performance in the Early 1970's," *New England Economic Review* (Boston: Federal Reserve Bank of Boston, July/August 1976); "An Evaluation of Economic Forecasts: Extension and Update," *New England Economic Review* (Boston: Federal Reserve Bank of Boston, September/October 1976).

[3] This is a time-balancing item assumed to be zero throughout each forecast period.

payments, corporate tax accruals, individual contributions for social insurance and employer contributions for social insurance. Federal indirect business taxes are exogenous.

Government spending in the Wharton model is handled in much the same manner as in the DRI model with roughly the same level of disaggregation. There are exogenous variables for defense and non-defense purchases, subsidies, wage accruals less disbursements, transfers other than unemployment compensation, and grants-in-aid. Unemployment compensation and net interest are determined by behavioral relations.

The tax side of the Wharton model contains a theoretically nice and unique feature. Personal income is divided into seven tax brackets with a separate equation used to generate the proportion of income taxed in each bracket. These proportions are then used, in addition to an income variable, in the Federal personal tax equation.

Although the Wharton model offers the possibility of changing personal income taxes in various tax categories, this option is very complicated to use. As a practical matter, policy analysts frequently do not have the detailed information necessary to fully use this feature of the model. Corporate, indirect business, and social insurance receipts are reach generated by a behavioral relationship.

Monetary policy

The monetary sector of the DRI model is an attempt to describe the many components of each financial market in terms of supplies and demands. There are equations to describe the behavior of households, businesses, financial institutions, State and local governments, and the Federal Government. The household and nonfinancial corporate sectors share a common structure with the demands for financial assets and liabilities and the stock of assets being modeled in sufficient detail to construct a complete balance sheet. From a policy perspective the major instruments are nonborrowed reserves, the Federal funds rate, deposite rate ceilings and legal reserve requirements. Money supply is determined endogenously. Interest rates are determined in each of the individual markets through a flow of funds approach. Inflation expectations are explicitly modeled and play a role in the determination of long-term rates.

Like the DRI model, the Chase model uses a flow-of-funds approach to the financial sector. It is, however, much more highly aggregated, using 20 behavioral equations as compared to 110 for DRI. The principal policy instrument is nonborrowed reserves less currency. While both models use a lag structure with past price levels to model expected inflation, these lag structures are quite different in both weight structure and the length of the lags.

The financial sector of the Wharton model most closely resembles the traditional Keynesian model. The major interest rate comes from a liquidity preference schedule, and currency demand depends on the level of transactions. Again the model is highly aggregated, containing 24 behavioral equations. Price expectations enter the utility and corporate bond rates through a distributed lag structure although short-term interest rates are the primary explanatory variables in the long-term rates. The Wharton model also contains another variable which some consider desirable—a proxy for wealth. Once again nonborrowed reserves are the primary policy instrument.

Interest rates are, of course, the major elements linking the IS and LM structures in the models. The DRI model contains the closest ties between the financial and real sectors since it tries to model the business and the household balance sheets, and the mortgage market. In the Wharton model the interest rate links are through the influence of user cost of capital on investment, and through the housing sector. The most important linking variable in the Chase model is an index of credit rationing which is a weighted average of the real money stock, real deposits in thrift institutions, and a loan to deposit ratio. It works largely through the housing sector but also affects other components of aggregate demand, notably the durable portions of consumption. The only direct effects of interest rates in the Chase model are in the equipment and nonresidential structures equations which depend partially upon the Aa bond yield.

Anyone familiar with the extreme or very unusual financial conditions which have often characterised the 1970's might question how these conditions have influenced the econometric models. More specifically, would a shifting money demand equation invalidate the results of this analysis? The answer is surely no. Model builders typically reestimate and, if necessary, respecify the equations frequently enough to capture and model any demand shifts. Second, as pointed out elsewhere, the analysis is valid only to the extent that the model accurately describes the economy. Only if the change in fiscal policy being simulated were so radical that it caused money demand to shift, would the analysis be affected. In this event, the interpretation of the econometric results would be heavily weighted by the analyst's judgment.

Foreign sector

The foreign sector in the three models ranges from very small to practically nonexistent. The underlying problem in this area is the asymmetry between information available relating to exports and that available for imports. Export prices are largely determined domestically while import prices are determined abroad. Conversely, import demand functions can use a variety of domestic variables while there are few variables available for use in an export demand function.

The DRI model has the most disaggregated foreign sector of the three models examined here, although it is still small. The sector as a whole impacts the domestic economy through the balance on goods and services which relates by definition to the underlying end-use categories. Real merchandise exports are divided into six end-use categories while imports are divided into seven categories. Fuel imports are exogenous. There is a single equation for service exports and another for service imports. Import prices are determined primarily by a composite index of the wholesale prices of our major trading partners; export prices are related to domestic wholesale prices.

The Chase foreign sector consists of two equations—one to estimate exports of nonagricultural goods excluding petroleum and one to estimate imports of nonagricultural goods excluding petroleum. Other variables relating to the foreign sector, including import prices, are exogenous. The implicit price deflator for exports is related to domestic prices and the import deflator.

The foreign sector in the Wharton model is similar to DRI's. Endogenous imports are divided into four categories of goods and three categories of services. Most equations include a final demand variable, a terms of trade variable spread over a lengthy period by a polynomial distributed lag, and a dock strike dummy. The export sector is divided into three groups of goods and three groups of services. Generally they are related to a world trade index, a relative price term, and a strike dummy. Fuel imports are exogenous. Again export prices are related to domestic variables while import prices are exogenous.

Supply

Turning to the supply side of the models, equations for production in 75 industries form the heart of the DRI system. Production is the key determinate of investment and employment. The model begins by using an input-output matrix to produce a generated output series. Standard regression techniques are employed in comparing actual and generated output to model the implicit coefficient changes. Additional information is used to alter the coefficients if the 1967-based information is judged atypical or if structural changes have substantially altered interindustry relationships.

Industry employment is derived from a straightforward production function of the form

$$Q = \alpha L^{\beta} e^{(time)}$$

where Q is output, L is labor input growing at the rate β, and $e^{(time)}$ represents a time trend. This formulation produces a desired level of employment which corresponds to the production levels calculated earlier. Equations translating desired employment to actual employment capture any recognition delay. Military employment is exogenous and spending is the proxy for production in the civilian government employment equations. Total employment is not derived by summing the various industry employment levels. Instead, it comes from the relationship between the unemployment rate and the civilian labor force. The unemployment rate is derived using an Okun's law relationship and the labor force depends on population and participation rates. Unlike the other models which derive total man-hours from a production function then convert them into employment, in the DRI model man-hours are an uncalculated residual.

Investment is estimated using a neoclassical capital stock adjustment equation. It generally takes the form

$$I = F(K^* - K_{t-1})$$

where K^*, the target capital stock, comes from a Cobb-Douglas production function. In other words, investment is determined by the difference between the desired capital stock and the observed capital stock in the previous time period. To a large extent, aggregate investment is determined prior to production while industry-specific investment is determined directly by the rate of production and other factors. Aggregate production influences aggregate investment through capacity utilization rates and, less directly, through its impact on prices, profits, and the general level of economic activity. Financial variables, shortfalls in expected sales, and capacity utilization play less important roles.

The Chase model focuses on the macroeconomic approach to production. While there is no input-output matrix automatically solving for industry level production, Chase does have a 200 equation input-output model which can be linked to the macro model to produce a joint forecast. The macro model does contain a few equations to independently estimate certain components of special interest (i.e., manufacturing, metals, autos, construction, etc.).

Employment in the Chase model is derived from the usual Cobb-Douglas production function of the form

$$Q = \alpha L^{\beta} K^{\gamma} e^{(time)}$$

The only difference between this production function and the one specified in the earlier description of the DRI model is the addition of a capital stock variable, K, growing at the rate γ.

Unlike the DRI model where productivity is estimated by a time trend, Chase has done some special analysis of the historical data and constructed a series which shows cyclical as well as secular movements. For forecasting purposes productivity is entered exogenously. Unemployment is a residual, calculated as the difference between labor force

and the level of employment estimated for six sectors.

Normally one might expect production variables to be influential in the investment equations—certainly they play a major role in the DRI model. Chase argues that since investment is used as an independent variable in the production equations, a high degree of spurious correlation prevents the use of production variables in the investment equations. Instead, the independent variables represent rental cost of capital, an index of credit rationing, new orders, and consumption. As a result of this specification, changes in corporate taxes have a very large impact on investment.

Aggregate supply in the Wharton model is the sum of output originating in 12 industries. The 12 equations are designed to respond to demand changes, although there is substantial variation among them. For example, current consumption of food and beverages is the dominant factor in determining output originating in agriculture, forestry, and fisheries, but output originating in manufacturing durables is determined by consumption, fixed investment, government purchases, inventory stock, exports and imports, the unemployment rate, and an auto strike dummy.

Employment estimates have often been a problem in the Wharton model. Basically each industry's production function is solved twice—once for man-hours and once for employment. The conversion from man-hours to employment seems to cause problems, and as a result these equations are frequently changed. Note that the Wharton model uses only real variables in the determination of employment demands—wages and prices are not considered. Unemployment—the difference between the civilian labor force and employment—is a residual.

The investment equations in the Wharton model are an outgrowth of the same neoclassical theory which underlies the DRI model. The common explanatory variables used in these equations are level of output, the ratio of final product price to user cost, and capital stock. Business fixed investment is generated separately for each of nine sectors. Tax rates and depreciation enter through the user cost of capital variable. Separate equations divide the totals into various subgroups such as equipment and structures.

Income determination

To this point, the discussion has focused on the fiscal and monetary aspects of the models and the IS–LM structure. Approaching these models through their method of income determination provides a different perspective and highlights some of their differences. One must remember that in these simultaneous models the income and product sides fully interact.

The income side of the national income accounts is divided as follows:

Gross National Product

Less: Capital consumption allowance.

Equals: Net national product.

Less: Indirect business taxes; Business transfer payment; Statistical discrepancy.

Equals: National income.

Less: Corporate profits and inventory valuation adjustment; Contributions for social insurance.

Plus: Government transfer payments to persons; Interest; Dividends; Business transfer payments.

Equals: Personal income.

Less: Personal taxes.

Equals: Disposable personal income.

The DRI model follows this table quite closely. GNP is an identity and personal income is derived as a residual. The large piece that comes from a behavioral equation is profits. Profits are modeled as a function of capacity utilization, final sales, the wholesale price index, and the ratio of compensation to output. The capital consumption allowance derivation follows the methodology used by the Bureau of Economic Analysis which depends upon the price deflator and the average life of business investment. The inventory valuation adjustment depends upon constant dollar inventories and the price level changes. Interest payments by consumers and the Government are simply a function of interest rates and the amount of debt. For corporations they are a function of interest rates and corporate credit outstanding. Dividends are largely a function of past dividends and after-tax profits. The important government-related variables are explained elsewhere.

Despite the fact that personal income is determined as a residual, some of its components are modeled explicitly. For example, wages and salaries are determined fundamentally by an equation for average hourly earnings. It depends heavily on the change in prices to adjust for inflation and contains the inverse of the unemployment rate as a measure of labor market tightness.

Tracing through the same table for the Chase model, one finds that the capital consumption allowance, rather than using the BEA methodology, is modeled as a function of several dummy variables and the implicit price deflator. The specification of the corporate profits equation is also quite different in detail but not necessarily different in theory. Chase models profits primarily as a function of investment, consumption expenditures, net exports, prices, change in unit labor costs, interest rates, and government purchases. The inventory valuation adjustment equation contains no real variables—only prices. Interest payments by consumers depend primarily upon changes in the 4–6 month commercial paper rate; government interest payments depend upon the Treasury bill rate and the government deficit. Dividends are a function of profits, capital consumption allowances and taxes. Personal income is an identity built of its various components. The wage equations depend heavily upon previous changes in the CPI and changes in the money supply, with the unemployment rate having little impact. Cyclical fluctuations are captured by including an industrial production index.

Turning to the Wharton model, one finds a sharp difference in wage determination. Here wage rates are determined by labor market tightness, lagged changes in the CPI and social insurance contributions. While this resembles the DRI specification, it is actually much closer to a pure Phillips curve relationship. Other components of the above table are determined along the lines dicussed for the other models with this major exception: The capital consumption allowance is entered exogenously and corporate profits are a residual.

Prices

The final broad component of the models which cannot be ignored is price determination. Experience in recent years has stimulated new work aimed at improving the very poor performance observed in the 1973–75 period.

The DRI model includes 15 behavioral equations for wholesale prices with the farm products index entered exogenously. There are equations for the deflators in 19 categories of final demand and 3 components of the CPI. In general, unit labor costs are the driving force behind price increases. Wage and material costs enter with a lag structure designed to represent the stage of processing. Other variables include vendor performance, capacity utilization, and special factors.

The price sector in the Chase models is more disaggregated, but it follows the same basic approach. The components of the WPI are determined as functions of unit labor costs, capacity utilization, and other special factors. The components of the WPI along with demand factors and unit labor costs determine components of the CPI. Components of both the WPI and CPI are used to determine sector deflators. As mentioned earlier, both import prices and farm product prices are exogenous.

The price sector of the Wharton model begins with sector prices needed to deflate the output originating in the various industries. These are basically markup equations over unit labor costs. The mining deflator (which includes energy costs) is exogeneous. Final demand prices are determined by 18 behavioral equations with the dependent variable expressed as the ratio of the price deflator to a weighted average of all sector prices. These weights are determined separately from an input-output matrix. Wholesale prices are built up by stage of processing

THEORETICAL ISSUES

Having examined the structure of the models, let us turn to some of the more controversial issues surrounding this method of analysis. The first concerns the theoretical basis for using large-scale macroeconometric models and some of the criticism raised by "rational expectations" theorists, particularly Robert E. Lucas. The second concerns the limitations inherent in this approach to economic analysis.

The three econometric models described in this paper were constructed primarily for economic forecasting purposes. However, since government policy variables are exogenous inputs to the models, using the model to analyze the impact of alternative policies is a natural extension.[1] This use of models has been criticized by Robert E. Lucas and others.[2]

Lucas' criticisms can be summarized in his own words:

I shall argue that the features which lead to success in short-term forecasting are unrelated to quantitative policy evaluation, that the major econometric models are [well] designed to perform the former task only, and the simulations using these models can, in principle, provide no useful information as to the actual consequences of alternative economic policies. These contentions will be based not on deviations between estimated and "true" structure prior to a policy change but on the deviations between the prior "true" structure and the "true" structure prevailing afterwards.[3]

To put it in more operational terms, Lucas is arguing that as policy changes, the parameters of the model equations will also change. Since econometric policy analysis, according to Lucas, assumes that these parameters are fixed, the simulation is bound to yield inaccurate, results.

Lucas' criticisms have been challenged on several grounds. First, Robert Gordon has argued, while—

The mechanical extrapolation of a model with fixed parameters cannot provide useful information on the effects of *all* policy changes, on the other hand the effects of *some* policy changes can be determined if parameter shifts are allowed and are either (*a*) estimated from the response of parameters to policy changes within the sample period or (*b*) are deduced from a priori theoretical consideration. * * * Thus, the practical importance of Lucas' critique varies for each specific case.[4]

Gordon is arguing that while Lucas' criticisms may be correct, the degree of such parameter shifts is sufficiently small that the analysis remains valid. It is quite possible that Lucas is theoretically correct yet the approch to policy analysis remains useful from an empirical perspective. The degree of parameter shift is important in determining its practical significance.

A second criticism of the Lucas-type model is that it assumes perfect wage and price

Footnotes at end of article.

flexibility and symmetrical behavior. As Gordon points out, in the real world "a firm has a single option in a boom, to attract more labor input by raising its wage offer, and two options in a recession, either to reduce the wage offer or to discharge employees."[5] If firms choose to lay off employees rather than lower wages, wages and therefore prices will be sticky downward. This situation is further aggravated by prices which are fixed by law (e.g., interest rate ceilings, regulated prices, minimum wages) and by timing inflexibilities introduced by contractual arrangements. In addition, the assumption that adjustments take place instantaneously is undoubtedly an exxageration since time is required for the labor force to move from one market to another. The validity of this criticism is currently being debated within the economics profession. There are some who argue that Lucas' flexibility and timing assumptions are unnecessary and that relaxing these assumptions does not alter the conclusions.

In addition to the specific criticisms Gordon makes, the basic assumption of rational expectations can be questioned. In general terms, rational behavior means incorporating all available information into the formation of expectations about the future and acting upon those expectations. It is quite possible that this assumption may not be a good guide to individuals' actual behavior. Voluntary overwithholding of personal income taxes in 1972 is an example of behavior that seems to be nonrational. If individuals do not behave rationally they may still behave predictably and past actions may provide a good guide for making such predictions.[6]

I would raise two additional points. First, the "black box" approach to policy analysis is an inappropriate description of how these econometric models are (or at least should be) used. Lucas has argued that the reasons econometric models are successful in forecasting is that their managers adjust them for systematic bias in the residuals, frequently reestimate them, and ignore extreme values. In other words the combination of an econometric projection and an economist's good judgment and additional knowledge can produce a good forecast. This same combination is necessary to produce a good policy analysis. Further, Lucas' argument that models produce good forecasts but bad policy analysis is inconsistent with the fact that the models are typically used to generate several forecasts based on alternative policy assumptions.

For the most general types of policy change and for examining the resultant aggregate multipliers, the econometric models should work fairly well. However, for example, to analyze the impact of a temporary personal income tax cut, it would be necessary to examine the income concepts used in the consumption equations to see whether they accurately reflect current knowledge about the impact of such changes. Similarly, to analyze the impact of a government expenditure program designed to create jobs by directly hiring people, one could not simply increase the exogenous level of government expenditures. Among other things, one would need to examine the micro literature to answer questions such as how much of the expenditure will be offset by reductions in spending by other levels of government?; how much is a net addition to total government expenditure?; how much will be absorbed in administrative costs and how much will show up in wages of new workers?; will the program cause workers to move out of the private sector and into the public sector?; how rapidly can the funds be spent?; etc.

To properly use an econometric model, the analyst must be willing to apply outside information to those areas where the structure of the model is inadequate for the particular purpose. As Eckstein has argued, the most difficult and time-consuming part of policy analysis is the preparation necessary to properly plan an econometric simulation.[7] He argues that "The model exercise turns out to be a harsh discipline for the policy analyst."[8] For this reason the combination of econometric simulations and the good judgment of a policy analyst can consistently produce better analysis than would be otherwise possible.

The second point is that econometric simulations are frequently used by policymakers to influence their decisions. This factor alone makes policy simulations important regardless of whether their results are in fact "true." If I look out in the morning and decide that it is going to rain, I will wear a raincoat and carry an umbrella. Whether it actually rains is unimportant—my belief has influenced my behavior. Similarly, when econometric policy analysis predicts that a certain consequence will result from a policy change, that prediction will influence the decision to change policy. Certainly econometric analysis is not the only factor influencing policy decisions, but judging from congressional use of econometric models, it has become increasingly important in recent years.[9]

It should also be noted that even if the rational expectations theorists are correct in their criticisms of the large scale macroeconomic models, the theory will only allow one to reject the conclusion that a policy change results in a change in the growth path of the economy. The theory cannot reject the conclusions that policy changes produced no significant change in economic growth.

Having accepted the proposition that econometric model simulations are a useful tool for policy analysis, one must always keep in mind the limitations of such analysis. The most important limitation has already been implied: in order for the simulation to accurately describe the impact of alternative policies, the models must accurately describe the economy. The availability of numerous models with different characteristics indicates a lack of agreement on the best description of the economy. Therefore, to be completely correct, one must realize that simulation results show how alternative policies would affect the model and, only to the extent that the model describes the economy, how they would affect the economy.

Another limitation on all analysis of this type deserves mention. When a dynamic economic system gives rise to oscillations, they will normally be damped. In attempting to explain why this is not always observed, Frisch showed that erratic shocks, or in this case the random errors associated with the model's equations, can become an independent source of cycles.[10] Nevertheless, one can observe that econometric models based on historical averages tend to produce cycles which are weaker than those actually experienced. This suggests that random errors are not a major source of cyclical fluctuation despite the theoretical possibility raised by Frisch's analysis.

FOOTNOTES

[1] For a discussion of the theory behind econometric model forecasting see Lawrence R. Klein, *An Essay on the Theory of Economic Prediction* (Chicago: Markham Publishing Co., 1968), and Herman O. Stekler, *Economic Forecasting* (New York: Praeger, 1970). For a discussion of current use of econometric models see Otto Eckstein, "Information Processing and Econometric Model Forecasting," paper presented to the Ottawa meeting of the North American Econometric Society, June 25, 1977. (Mimeographed.)

[2] Robert E. Lucas, Jr., "Econometric Policy Evaluation: A Critique," in *The Phillips Curve and Labor Markets*, eds. Karl Brunner and Allan H. Meltzer, vol. 1 of the Carnegie-Rochester Conferences on Public Policy, a supplementary series to the *Journal of Monetary Economics*, 1976. Other papers by rational expectations theorists can be found in *A Prescription for Monetary Policy: Proceedings From a Seminar Series*, Federal Reserve Bank of Minneapolis, December 1976.

[3] Lucas, "Econometric Policy Evaluation: A Critique," p. 20.

[4] Robert J. Gordon, "Can Econometric Policy Evaluations Be Salvaged?—A Comment," in *The Phillips Curve and Labor Markets*, eds. Karl Brunner and Allan H. Meltzer, vol. 1 of the Carnegie-Rochester Conferences on Public Policy, a supplementary series to the *Journal of Monetary Economics*, 1976, pp. 47 and 49.

[5] Ibid., p. 56.

[6] Another discussion of some of these issues is found in Preston Miller, Clarence Nelson, and Thomas Supel, "The Rational Expectations Challenge to Policy Activism," in *A Prescription for Monetary Policy: Proceedings From a Seminar Series*, Federal Reserve Bank of Minneapolis, December 1976, pp. 51–64.

[7] Otto Eckstein (ed.), *Parameters and Policies in the U.S. Economy* (Amsterdam: North Holland Publishing Co., 1976).

[8] Ibid., p. 5.

[9] When the Joint Economic Committee began using the DRI model in 1973, it was the first congressional user. Today the JEC has access to Chase, Wharton, and DRI. Other congressional users of some or all of these models include the Congressional Budget Office, the House and Senate Budget Committees, the Joint Committee on Internal Revenue Taxation, the General Accounting Office, the Library of Congress, the House Information Systems Group, and the House Agriculture Committee.

[10] Ragnar Frisch, "Propagation Problems and Impulse Problems in Dynamic Economics," from *Economic Essays in Honor of Gustav Cassel*, 1933, reprinted in *Readings in Business Cycles*, selected by a committee of the American Economic Association (London: George Allen and Unwin, Ltd., 1966), pp. 155–185.

Mr. HATHAWAY. My question to the chairman is this: What provision is made for the feedback effect of capital gains in the second resolution?

Mr. MUSKIE. May I say to my colleague that the second resolution contains no specific assumption with respect to capital gains legislation. The resolution does assume $1.2 billion of reductions as an allowance for structural tax changes which could encompass capital gains reductions. However, this allowance of $1.2 billion does not assume any specific level of capital gains changes, nor does it assume any specific behavioral responses of capital gains tax reductions. At this time there is certainly no consensus as to the behavioral feedback effects of recently discussed capital gains tax law changes. I understand the Congressional Budget Office is preparing a study of the revenue effects of such changes, and that the report will be completed by the end of next week prior to Senate consideration of the forthcoming tax bill. Only after I have studied the CBO analysis, and after specific capital gains changes have been reported by the Finance Committee, will I be prepared to give the Senator my view as to the budgetary effects of these capital gains reductions.

In contrast to the still unclear behavioral effects of capital gains changes, the second budget resolution does include additional receipts resulting from the impact of the overall level of reductions

assumed in the resolution. These additional receipts from the increased general economic activity resulting from the tax reductions would be derived from either capital gains reductions or general rate reductions that would reduce tax collections directly in fiscal year 1979. Thus, the macroeconomic effects of possible capital gains reductions, as contrasted to the behavioral effects, already are taken into account in the second resolution.

Mr. HATHAWAY. If the Senator will yield further, I am extremely concerned that if we begin making second and third round assumptions about fiscal impact of tax changes then we might as well scrap the budget process.

If we say, "Well, whatever you assume, is the effect, is fine," then I believe we have lost control.

The present revenue estimating is imperfect and imprecise but it is at least consistent. We should not project results on assumed behavior change over time unless there is strong evidence of the results on a gross basis.

In his testimony before the Senate Finance Committee, 2 weeks ago, Secretary Blumenthal discussed feedback effects and revenue estimated. He stated:

Treasury policy to include multiplier effects when overall positions of fiscal policy are being established, as described earlier, is consistent with excluding multiplier effects when alternative programs are being considered that do not markedly alter the desired fiscal posture. The assumption is made that each separate tax proposal being considered is designed to be incorporated into a comprehensive package of proposals, with net tax reductions consistent with the overall fiscal policy. In this framework, it is clearly incorrect to include offsetting multiplier effects in revenue estimates for individual tax proposals. This is because the budget receipt estimates already include the feedback effect of the aggregate change in taxes. To again include feedback effects, as each component of an overall tax package is being considered, would be to double count induced revenue changes and misguide policymakers as to the size of the budget deficit or surplus.

I ask unanimous consent that his full remarks be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

APPENDIX: FEEDBACK EFFECTS AND REVENUE ESTIMATION

The term "revenue feedback effect" refers to the fact that the actual change in revenues resulting from a tax revision will depend upon economic responses to that revision. There is general agreement that such feedback effects can be important. To understand more clearly the implications of feedback effects for revenue and receipts estimation, it is useful to separate economic responses into three types.

First, there are short-run responses to changes in spendable income that results from tax increases or reductions. A tax cut, for example, will raise the amounts of after-tax income available to households and to business firms. If there is sufficient additional capacity, higher after-tax incomes will lead to increased consumption and investment which in turn will generate higher incomes and higher revenues. A number of standard macro-economic forecasting models are usually employed to estimate the magnitude of these short-run income effects.

A second type of feedback effect deals with long-run factor-supply responses to tax changes. Taxes alter the after-tax returns for work effort and for saving and thus will influence the supply of labor and capital offered to the market. The size of the capital stock and labor force will in the long run determine economic capacity and, therefore, the income base potentially available for future revenues.

The third type of feedback effect is the behavioral response to price increases or decreases brought about by tax changes. As tax changes alter relative prices, households and business firms tend to shift patterns of consumption and investment away from those activities that have increases in price or cost toward those that have decreases. That is, taxpayers will move into activities which have been granted a tax benefit and away from activities which have lost such a benefit. The result influences the allocation or composition of economic activity and also the volume of Federal revenues.

Therefore, to estimate all potential revenue feedbacks requires determination of (1) the increase or reduction in spending due to changes in income, (2) the changes in economic capacity due to changes in the supply of labor and capital, and (3) the substitution of lower cost for higher cost activities. In general, estimating procedures currently used by the Treasury do incorporate such feedback effects. Budget receipts for each fiscal year include the impact of tax changes on aggregate demand. Longer-run receipt projections allow for the likelihood of tax-induced changes in the capacity of the economy. Furthermore, whenever it is reasonable to do so, the allocation effects of price changes resulting from tax revisions are incorporated into revenue estimates. Each of the three types of feedbacks is discussed in more detail below.

MACRO-ECONOMIC RESPONSES

According to the macro-economic models, tax law changes which reduce government revenues will, over time, increase demand, resulting in higher GNP, personal incomes and corporate profits and higher tax receipts. Consequently, estimates which do not take into account these short-run multiplier effects tend to overstate revenue losses resulting from proposals which reduce tax rates or narrow the tax base and overstate revenue increases resulting from proposals to raise taxes. Treasury estimates are alleged to suffer from this defect.

However, this criticism is based on a misunderstanding of the longstanding Treasury practice to provide two types of revenue estimates for proposed changes in tax law. The first type of estimate is made for the complete program of tax changes in the President's budget. Feedback effects on incomes and tax receipts resulting from short-run multiplier effects are always incorporated in these figures to show the actual impact of the President's program on the economy.

For example, Treasury estimates of total tax receipts during the 1963–1968 period incorporated such feedback effects. The stimulative effects of the Kennedy tax cut along with anticipated growth in the population, the labor force, prices and productivity were more than enough to fully offset the reduced revenues resulting directly from lower income tax rates. While total receipts were projected to rise over this period, it is generally agreed that the 1964 tax cut by itself, could not have induced an economic response sufficient to restore the initial revenue loss. The figures in Table 1 demonstrate that Treasury anticipated the feedback revenues. The estimating errors taken from the annual budget documents for that period ran about 4½ percent, far too close to the mark for estimates which did not accurately include short-run feedback effects.

In the context of the current tax debate, Table 2 illustrates the impact on receipts of short-run multiplier effects resulting from the President's proposed $20 billion tax reduction program. The Midsession Review of the 1979 Budget shows estimated unified budget receipts of $448.2 billion in 1979 and $507.3 billion in 1980. These figures include proposed tax reductions of $14.1 billion and $21.8 billion, respectively. However, in the absence of these proposed tax reductions, revenues are estimated to be $459.3 billion in 1979 and $521.1 billion in 1980. Thus, the net cost to the Treasury of the President's proposed program is $11.1 billion in 1979 and $13.8 billion in 1980. These net tax program figures include $3 billion and $8 billion of offsetting revenues attributed to short-run multiplier effects. These feedback revenues are included in the receipt totals but are not separately identified in the published Midsession Budget Review.

The estimation of multiplier effects requires making a number of critical assumptions, including actions the Federal Reserve may take to adjust the money supply and interest rates. These assumptions can influence the multiplier effects on the economy and the resulting revenue feedback. However, there are no plausible assumptions under which induced feedback effects from tax cuts will lead to an increase in tax receipts over what they otherwise would have been. In fact, none of the macro-economic models of the United States economy predict revenue feedback sufficient to offset the initial revenue loss.

The second kind of estimate made by Treasury involves the revenue change from specific proposals without feedback effects (except to the extent Treasury is able to estimate price effects as described below). This kind of estimate is also appropriate for the kind of policy questions which may arise. For example, great attention is focused on the distribution of tax changes among taxpayers at different income levels. For distributional analysis policymakers should look at the direct impact on taxpayers engaged in a particular activity, such as paying private school tuition, or on those receiving a particular source of income, such as capital gains.

In contrast to the tax side of the Budget, there is general agreement that feedback effects are not appropriate for the expenditure side of the budget. Congressional decisions concerning the expenditure side of the budget are also properly made on the basis of gross expenditures. We should not estimate, for example, that a dam, highway, harbor, or even aircraft carrier costs only 60 percent of its initial outlay on the argument that the Federal government recoups the rest in the form of higher revenues. A dollar of outlay costs a dollar in resources used up and a dollar of tax reduction releases a dollar for use in the private sector. The macro-economic feedback effects of both of these changes are important, but it is also important, to evaluate the initial impacts correctly.

Treasury policy to include multiplier effects when overall positions of fiscal policy are being established, as described earlier, is consistent with excluding multiplier effects when alternative programs are being considered that do not markedly alter the desired fiscal posture. The assumption is made that each separate tax proposal being considered is designed to be incorporated into a comprehensive package of proposals, with net tax reductions consistent with the overall fiscal policy. In this framework, it is clearly incorrect to include offsetting multiplier effects in the revenue estimates for individual tax proposals. This is because the budget receipt estimates already include the feedback effect of the aggregate change in taxes. To again include feedback effects, as each component of an overall tax package is being considered, would be to double the count induced revenue changes and misguide policy-

makers as to the size of the budget deficit or surplus.

CAPACITY RESPONSES

Much attention has recently been focused on the potential for increasing economic capacity by reducing rates of tax. Since income taxes necessarily reduce the reward from additional work effort or from adding to savings or investment, reductions in rates of income taxes—especially reductions of the highest marginal rates—would increase significantly the aggregate amount of work effort and capital supplied in the economy. This increased work effort and larger capital stock would provide increased capacity to produce income that is subject to tax, offsetting at least some of the initial revenue lost by tax reduction.

The fundamental logic of this argument is sound, but there are a number of practical considerations that recommend against regularly reporting separate estimates of these aggregate capacity, or "supply side", effects of tax changes. There are presently no economic models that fully incorporate supply effects and that have also developed a track record over a period of years. In fact neither the magnitude nor the timing of such effects is well known and there is consequently wide professional disagreement about their importance. For example, some advocates of the Roth-Kemp tax reductions claim that induced supply responses would be so large that general rate reductions would bring about higher revenues than would occur without them. Some of these advocates argue that the responses would be so rapid that revenue increases from induced supply would occur in the first year. Other analysts, including those who have developed the well-known econometric forecasting models, predict that in the first few years following a tax change, there will be no significant increases in economic capacity resulting from higher wages or increased returns to saving.

In the case of induced labor supply even the direction of change is at issue. Historically, there has been a tendency, as incomes have increased, for the average worker to work shorter hours and to retire at an earlier age. When taxes on labor income are reduced, the positive response to higher after-tax earnings will be offset, perhaps completely, by this tendency to take some of the increased potential earnings in the form of increased leisure.

The greatest weight of professional opinion is that increased capacity in response to reduced tax rates will take effect much more slowly than the demand effects induced by higher incomes. Any tendency for labor supply to respond to increases in after-tax wages will be translated into increased economic capacity only over a period of years. In part, this is because it takes time for households to adjust—to seek out a second job, to arrange for child care, to take more schooling, and the like. More important, however, is that it takes time for businesses to make the additional investment necessary to accommodate the increased labor supply.

Nevertheless, these long-run supply effects are very important since they will help to determine the underlying growth and composition of employment and output in the future. Significant supply side factors are not ignored in derving the long range receipts projections that are included in the budget. These projections show the path of Federal receipts through time that are consistent with attainable increases in capacity and aggregate demand.

The Treasury has been devoting substantial resources to understanding and estimating supply effects. We also closely monitor new research in this area. Analysis of the longer-run implications of tax policy will build upon new research findings as they become available.

Price Effects

Tax policy changes have consequences for economic behavior other than their aggregate demand effects and supply side responses. A further important effect of tax policy changes is that they alter the relative prices or costs of particular types of consumption and investment goods. As a consequence, households and firms respond by changing their consumption and investment patterns. Not all tax changes have significant price effects. Changes in exemptions, the standard deduction, and even across-the-board cuts in tax rates do not bring about significant changes in relative prices. However, when such relative price effects do occur and when there is broad agreement as to both the magnitude and the direction of these impacts, revenue estimates incorporate the behavioral responses to the relative price changes. There are numerous examples of such behavioral responses. They include:

TABLE 1.—COMPARISON OF ESTIMATED AND ACTUAL UNIFIED BUDGET RECEIPTS, FISCAL YEARS 1963-68

[In billions of dollars]

	Fiscal year—					
	1963	1964	1965	1966	1967	1968
1963 budget (January 1962)	113.5					
1964 budget (January 1963)	105.4	109.3				
1965 budget (January 1964)	[1] 106.6	111.3	115.9			
1966 budget (January 1965)		[1] 112.7	114.6	119.8		
1967 budget (January 1966)			[1] 116.8	124.7	141.4	
1968 budget (January 1967)				[1] 130.9	150.3	158.6
Actual receipts	106.6	112.7	116.8	130.9	149.6	153.7
Estimating errors:						
Estimate made 18 mo prior to year-end minus actual receipts	+7.0	−3.4	−0.9	−11.0	−8.1	+4.9
Error as percent of actual receipts	+6.5	−3.0	−0.8	−8.4	−5.4	+3.2

[1] Denotes actual level of unified budget receipts.

Note: Details may not add to totals due to rounding.

Source: Office of the Secretary of the Treasury, Office of Tax Analysis.

TABLE 2.—PROPOSED TAX REDUCTIONS INCLUDED IN THE ADMINISTRATION'S MIDSESSION BUDGET REVIEW

[In billions of dollars]

	Fiscal year—	
	1979	1980
Unified budget receipts published in the Midsession Review	448.2	507.3
Receipt effects of the President's tax reduction and reform proposals:		
Gross change in receipts	−14.1	−21.8
Offsetting induced receipts	3.0	8.0
Net change in receipts	−11.1	−13.8
Unified budget receipts in absence of the President's tax reduction and reform proposals	459.3	521.1

Source: Office of the Secretary of the Treasury, Office of Tax Analysis.

The taxable bond option, where it is assumed that some fraction of municipal debt will be issued on a taxable basis as a result of the lower interest costs of issuing subsidized taxable debt compared to the prevailing rate on tax-exempts.

The automobile efficiency tax, where consumers are assumed to modify their pattern of automobile purchases in response to the increased prices of gas-inefficient vehicles.

Residential and business thermal efficiency and solar tax credits, where the reduction in prices of the subsidized activities are assumed to induce households and firms to install more insulation and to use lower cost sources of energy;

Any new program such as subsidies for exports (DISC) or for new retirement programs (IRA), where the revenue estimates depend upon the extent to which the new provision will be used;

Integration of corporate and personal taxes, where an increase in corporate dividends would be expected to accompany the reduction in the combined level of personal and corporate taxes on these dividends.

In all of these cases, there may be disagreement over the magnitude of the behavioral responses. Nevertheless, a good faith effort is made to incorporate behavioral responses into the revenue estimates where the behavioral responses will obviously occur and they are believed to be substantial. But we do not try to estimate feedback effects where the predominant responses are unpredictable or where there is no objective basis for making a judgment.

Two specific cases of tax induced price changes are currently of particular interest. They are the cuts of capital gains taxes and the reduction of top marginal tax rates. It has been alleged in both cases that the price effects of the tax change will induce a flood of new revenues to the Treasury, outweighing the initial revenue loss. In the case of capital gains cuts, the claim is made that the increased realizations will be so large as to yield an increase in tax receipts on capital gains. In the case of a reduction in the top marginal tax rates, the switch of investment from sheltered to unsheltered activities along with a vast increase in work effort are the alleged sources of the higher tax receipts.

Claims have been made that solid empirical analysis underlies both behavioral responses. But these claims are greatly overstated. The empirical work to date concerning the response of gains realizations to changes in capital gains tax rates has not distinguished between short-run transitional effects and long-term effects. Further, if the results are interpreted as estimates of permanent long-run effects, they imply such enormous reductions in the average holding periods of assets as to be totally at variance with the observed historical stability of these holding periods. Also, the estimates assume that every investor has an unlimited amount of unrealized accrued gains just waiting to be realized at lower tax rates, an assumption surely contrary to the facts. Moreover, it may be very difficult to separate statistically the effect of the marginal tax rates from the effect of high itemized deductions for medical expenses or casualty losses. Higher realizations of capital gains may be due to high itemized deductions rather than to low marginal rates themselves.

Attempts to adduce the likely responses of high income taxpayers to reductions in their marginal tax rates by examining historical data for the years before and after the 1964 tax cut also are seriously deficient. While it

may be true that at substantially lower marginal tax rates individuals would find tax shelters of much diminished economic advantage and would therefore tend to invest more in fully taxed assets, the likelihood and magnitude of such a response cannot be determined by merely looking at the income taxes paid by those in the upper income classes before and after the tax cuts of 1964. The upper income group did, in fact, pay more in taxes after their marginal rates were cut, but all income classes experienced tax cuts and all realized significant increases in incomes along with the general expansion of the economy in 1964–66. The share of before-tax income reported by the highest income classes was remarkably stable over the entire period from 1952 through 1972. In addition, it should be pointed out that most of the increased taxable income in these income groups was from higher realized capital gains. But the 1964 Revenue Act did not change the 25 percent alternative tax on capital gains. Thus while it may be desirable to reduce marginal tax rates to provide additional incentives to work and to save, there is little evidence for claiming large revenue gains to the Federal Treasury as a result of tax-induced price effects.

CONCLUSION

First, estimates of aggregate budget receipts do include the additional receipts resulting from the impact of tax changes on aggregate demand. However, estimates for particular tax changes, just like estimates for particular expenditure changes, do not include feedback effects. To do so when they are already in the aggregate estimates would be double counting.

Second, projections of long-run budgetary figures also accommodate the impacts of tax changes on economic capacity. As research sheds more light on the nature of these effects, it may be possible to incorporate them more formally into longer-run projections.

Third, Treasury does incorporate estimates of changes in specific types of investment or consumption induced by relative price changes whenever it appears the effects are important and it is possible to make reasonable estimates.

Mr. HATHAWAY. Mr. President, I am troubled by the idea that there is such a concept as a "free lunch." Of course, we know otherwise.

I hope that the Budget Committee and its excellent staff will review the Revenue Act of 1978 when reported by the Finance Committee in light of the mandate in section 311(b) of the Budget Act, and assure the Senate that the bill is in compliance with the second resolution or, if necessary, to challenge the assumptions and the revenue effects.

I say that as a member of the Finance Committee.

Mr. MUSKIE. I appreciate the Senator's concern and interest. He is, of course, correct, that under section 311 of the Budget Act, the Budget Committee has the responsibility to estimate the revenue effects of tax legislation to determine whether the legislation is consistent with the revenue floor in the concurrent budget resolution binding upon Congress. Thus, the views of the committee on the revenue effects of capital gains legislation and other provisions in the forthcoming tax bill could prove particularly important if, under some but not all, assumptions, the bill would be consistent with the second budget resolution revenue floor for fiscal year 1979.

I suspect that because of the interest in the issue the Senator has raised, and I know it has been discussed by the chairman of the Committee on Finance and others, we may well have that question raised at the time the Finance Committee bill comes before the Senate, and we shall try to be ready for it.

Mr. HATHAWAY. I thank the distinguished chairman for his answers to my questions and his assurance that such speculative revenue impacts will be challenged when the bill is brought to the floor.

Mr. MUSKIE. I thank my good friend.

UP AMENDMENT NO. 1813

(Purpose: To cut the level of total new budget authority $17.7 billion)

Mr. PROXMIRE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE), for himself, Mr. HATCH, Mr. HAYAKAWA, Mr. DECONCINI, Mr. BENTSEN, Mr. ROTH, Mr. STONE, Mr. HARRY F. BYRD, JR., and Mr. THURMOND, proposes an unprinted amendment numbered 1813.

On page 1, line 11, strike out "$557,700,000,000" and insert "$540,000,000,000".

Mr. PROXMIRE. Mr. President, my amendment to Senate Concurrent Resolution 104 would cut the budget authority requested by the President to $540 billion, or approximately 5 percent. The amendment would strike the Budget Committee figure for budget authority of $557.7 billion on page 1, line 11, and insert the figure of $540 billion. That obviously would not cut the budget resolution figure by 5 percent but by 3 percent.

Before I state the major reason I believe my amendment should be adopted, let me make a few preliminary observations.

No. 1, the Budget Committee has done an amazingly good job in cutting about 2 percent from both budget authority and budget outlays from the time of the first resolution. I commend them on that and I want to acknowledge their work.

Second, when one proposes a cut such as is proposed in this amendment, a cut of 5 percent below the President's original proposal and 3 percent below the Budget Committee's proposal in the second concurrent resolution, one is assailed from all sides and with contradictory arguments.

It is said first that one should not propose a general cut but should be specific.

That argument was made at the time of the first budget resolution, when I proposed an identical amendment.

It was on that basis that the managers of the bill, among others, opposed my amendment which, nonetheless, got 33 votes.

However, when the Senator from New Mexico (Mr. DOMENICI) came in with a specific amendment, the hornets descended on him to criticize his specific cuts. In fact, he got fewer votes than I did when he proposed a 1-percent specific, as opposed to a 1 percent general, cut which I proposed.

The answer to those arguments—which have almost nothing to do with the case and have nothing to do with whether or not we should cut the budget—is this:

The best way to cut a budget is to first set an overall limit, which I am doing in this amendment, and then require those proposing the details to keep within that overall limit. That is part of the budget process.

A second answer to these arguments is that we already have the means by which we can keep within the overall ceiling. The Appropriations Committee, and in fact any standing committee, has the authority under the Budget Act to propose rescissions. If we reduce the overall ceiling to $540 billion, or a measly 5-percent cut below the President's original proposal, the Appropriations Committee can go back to the job of making further appropriate cuts to keep within the second budget resolution.

In fact I can think of no more exemplary way to make the Budget Act function as it should than for us to set a $540 billion ceiling and for the appropriate committees and subcommittees to then carry that out by cutting back on appropriate items and making the tough, hard, even cruel choices which are required to be made.

So, far from being against the spirit of the Budget Act, such a procedure is the very essence of that act, namely, a general ceiling voted by the Senate, followed by appropriate particular action of the committees and subcommittees with jurisdiction over the particulars.

Let me make one further general point before getting to the reasons why we should limit budget authority to $540 billion.

When I proposed such a cut on the first budget resolution, it was said by some Senators, "All right, PROXMIRE, if you want to cut, we'll take it out of housing, the area over which you have jurisdiction." That argument may be made again, and I want to meet it head on.

First, as chairman of the Appropriations Subcommittee on HUD-Independent Agencies, I proposed cuts in my own bill. We ended up with an overall cut of 2.7 percent and a cut in housing of 2.07 percent.

Second, I am quite prepared to take a further cut, which would bring the total overall cut to 5 percent. I do not shrink from cutting the funds over which I have jurisdiction. I am willing to take a fair share of the cuts. I am not only willing, but I believe we should do so and I am fully prepared to do so.

Third, one reason Congress has been unable to cut in the past is that if any Senator has the temerity to propose a cut in a public works project or in a subsidy for a particular region of the country, attempts are made to intimidate him by threatening cuts in his projects or in his region's programs no matter how worthy or how economical they might be. That is why we overspend, because Senators soon learn that the best way to get along is to go along and that the "something in it for everybody policy" is easier to live with than rocking the boat.

So, I hope that such arguments will not be used at this time on this bill, because this Senator, at least, is willing

to practice what he preaches and to support a total cut of 5 percent from the areas over which he has jurisdiction.

Now let me turn to this issue of why this amendment should be passed.

INFLATION THE NO. 1 PROBLEM

The problem this country faces, the No. 1 problem—the No. 1 economic problem, the No. 1 domestic problem, the problem that has profound effect on our foreign policy, too—is inflation, roaring, endemic, rising inflation.

Things are not getting better. They are getting worse. Instead of a 5- to 6-percent inflation rate this year as originally predicted, it will be in the 8- to 9-percent range this year.

Interest rates are going up. This has had very little effect on slowing inflation.

The dollar is in deep trouble abroad. Why? Because of inflation here at home.

Wage demands are rising? Why? Because workers want to catch up and at least keep even with the cost of living.

Citizens are revolting against taxes and the high cost of Government. Why? Because of inflation which has cut their real incomes while pushing them into higher and higher tax brackets. At the local level, property taxes go up and up due to the inflated costs of land and buildings. But these increases in value are only paper increases until a home is sold. Meantime they result in higher and higher property taxes.

The inflation fever is here. The psychology must be broken.

The one feasible, possible, effective alternative we have is to cut the budget. That is the message the country has been waiting for. And that is the message we have not yet sent. There are very, very limited alternatives to stop the inflation. Wage and price controls are out.

I do not know of any Member of this body who would argue that we could pass wage and price controls this year, next year, or any time soon. Business does not want them.

Labor does not want them. Neither political party nor its members want them. They are not going to happen. And if they did they would be ineffective, as we found out in 1973.

Some have proposed tax incentives to both business and labor to hold down prices and wages.

I think that is a very promising approach and we have had hearings on it in the Banking, Housing, and Urban Affairs Committee. I hope they will be given consideration. But it is a last desperate choice, and would take a very, very long time to become effective. Even if the President decided today to propose it, it would be months before the details could be worked out and Congress worked its will.

The only real, immediate, effective way we have to combat inflation is to cut the budget and cut it now. That would send a message to the country that Congress means business. It is the one thing that just might turn the inflation around. In fact, it is now virtually our last and our only effective weapon. We had better use it and we had better come to grips with this problem.

The way it works is that if we cut the budget, it in turn cuts the deficit which, in turn reduces the pressure on borrowing and interest rates. Lower interest rates, in turn, can spur private investment and private spending and induce greater economic growth and a healthier economy without adding to or fueling the fires of inflation.

The amendment I propose, to limit budget authority to $540 billion, would certainly help. In fact, if anything, it may not be enough. It is a relatively modest proposal given the present state of affairs.

First, it is only a 5-percent decrease from the original budget proposed by the President and a 3-percent decrease under the Budget Committee's proposal.

In April when I first proposed a 5-percent cut it was argued it could not be done. When that was defeated I proposed a 1-percent cut, and that, too, was said to be impossible to do.

In the meantime, however, the Budget Committee itself has cut 2 percent or twice as much as my modest proposal in April which its leading members said could not be done.

Second, a $540 billion budget authority is still a $37.1 billion or 7.4 percent increase over last year's budget authority of $502.9 billion.

So it still would leave an increase, a 7-percent increase over last year, if we cut as I proposed to $540 billion.

What it means is that in real terms we are holding the line on the budget. We are giving the agencies and institutions which make up the Government of the United States enough extra money to provide for the increase in inflation—or $37.1 billion more than last year. That is not a wild, impossible, impractical, reactionary, conservative proposal. Rather than being too drastic, if anything, it is too modest.

Third, as one who has examined the budgets of at least 40 different agencies in this Government, from my position on the Appropriations Committee, I say there is no agency which could not cut its operating costs by 5 percent and improve its efficiency if it were determined to do so. We all know that. It could be done at the Defense Department, at the State Department, at the Treasury, at Commerce and HUD and at Labor, and Interior, and DOT, and HEW, and Justice, and Agriculture. And it can be done at NASA, and EPA, and the Veterans Administration without harming the muscle of the programs. Further, cutting spending would mean an automatic reduction in the cost of interest on the debt because the debt would both be smaller and interest rates should drop.

In every way it would have a salutary effect.

For all these reasons:

Because inflation is the No. 1 problem we face;

Because cutting the budget is the best, if not the only practical way we have to combat it;

Because a cut of 3 percent below the committee and 5 percent below the President's January budget is possible and do-able;

And because it would send the country a message that Congress finally means business and is acting to bring the country's No. 1 problem under control;

This amendment should be adopted.

(Mr. DECONCINI assumed the Chair.)

Mr. PROXMIRE. Mr. President, before I yield the floor, I want to take this opportunity to answer the very thoughtful and very effective arguments made by Senator MUSKIE. Senator MUSKIE, the manager of the bill, did a superb job last time in beating back all amendments. I hope he is not quite as successful this time. I hope to answer him by meeting some of the arguments he raised to this amendment when I offered it before.

I will give a list of his arguments and then answer each briefly. It will take me only a few minutes.

The manager of the bill said the Proxmire amendment goes to the heart and life of the budget process because it is ambiguous, arbitrary, and indiscriminate.

It was said it does not identify areas to be cut.

It abandons the budget process to balance priorities.

Budget authority does not all spend out at the same rate—housing funds are spent over 40 years while personnel funds are spent in 1 year. There will be little reduction in inflation or the budget if the cuts are applied to housing and tremendous cuts if applied to personnel.

Here is my answer. First. The budget resolution provides for five numbers and asks our approval of them—budget authority, outlays, revenues, the deficit, and the total debt.

This amendment says, "We don't agree with the budget authority figure. It should be lower. It should be $540 billion."

To do that is clearly a part of the budget process, within the budget process, and no more arbitrary than the President's figure for budget authority or the committee's figure for budget authority.

Second. What we are really being told is, "Don't change what the committee has done."

We are told, "Don't take part in the budget process." But proposing an amendment to the committee figure is in fact the very essence of the budget process.

Mr. President, the function of every committee, including the Budget Committee, is to advise the Senate, to serve as the Senate's adviser. The decision is made by the Senate as a whole on the Senate floor, and it should be made here.

We are not, by offering an amendment on the floor, imposing ourselves on the committee. This is where the decision should be made, where it should be discussed, where it should be debated and determined.

Too often, we just come in and whatever the committee proposes we accept. That is wrong. This is the time we should stand up and discuss it and debate it.

People coming to the Senate observe it in action and wonder why there is so little being done. We often say that the job is really done in committee. But I think any thoughtful Member of the

Senate realizes that the committee has one function, one principal function, and that is to advise the Senate, and the Senate makes the decision.

Third. This is the proper way to function. We should set the overall figure and then let the details be worked out both by the Budget Committee and the Appropriations Committees.

We have a process to carry that out. It is called rescission. Each standing committee has that right. If this amendment is passed then the Appropriations Committee goes back and cuts to keep within the overall figure.

The argument is made, the amendment does not tell us specifically where we should cut.

Mr. President, the answer to that is that the committee wants to have it both ways.

When members do that, the committee beats them back.

The McGovern amendment did that on the first budget resolution. It was overwhelmed, 77–14.

The Eagleton amendment was defeated 70–21.

The Byrd amendment was defeated.

The Domenici amendment was defeated. When I proposed a 1-percent general cut, it was argued it was too general. When Senator DOMENICI proposed a specific cut, it was argued that it was too specific.

Another argument against the amendment was that a cut in budget authority does not necessarily translate into a specific cut this year.

But the answer to that is that: First, it is true that some budget authority is for 40 years and some is for 1 year.

However, at least two-thirds of this year's budget authority is spent this year. Therefore, the problem is not that difficult.

Second, we need help both this year and next year and the year after that. We better start now.

Third, but a cut in budget authority keeps flexibility in the budget process by allowing the cuts to be made where they can have the most effect.

For that reason it is not indiscriminate or arbitrary as the chairman stated, but just the opposite. It allows us to work our will in an intelligent and orderly way by selecting those areas where the effects can be most helpful and least damaging.

Another argument against the amendment is that $535 billion of the $566.1 billion of budget authority proposed in the first budget resolution is required merely to carry out laws now on the books. Therefore, cutting to $540 billion allows for no new or expanded programs.

The answer to that is, What is so sacred about existing programs?

First, most of us are committed to what is called zero-based budgeting which says to reexamine every program now on the books each year to determine if it should be kept or cut. There is nothing sacred about programs. Why should we willy-nilly merely keep every program at last year's level plus enough for inflation?

Second, most programs are given more authority or more money is authorized for them than is spent. The Appropriations Committees do not have to fund every program and every item up to its full authorization.

Therefore, existing programs are not sacred and existing programs can be and should be cut.

Another argument is that achieving savings from changes in existing law is a long term business.

The answer is, first, that is no reason why we should not start now.

Some savings can come by cuts under the amounts authorized.

Some savings will or can come from changes in the law.

Some savings come from the effect of the budget itself on general economic conditions. (A 1 percent decline in the rate of inflation itself can bring a 1 percent cut in the cost of Government because Government pays higher prices for its services like everyone else.)

Another argument was that many of these programs are entitlements, uncontrollables, or in the form of contracts.

The answer is that some of the uncontrollables can be controlled or changed. For example:

First. Interest on the debt. If we cut the budget, reduce the deficit, and reduce interest rates, this will reduce the so-called uncontrollable item called interest on the debt.

Second. One uncontrollable or entitlement at HEW is medicare and medicaid. Yet we know there have been huge waste and even fraud involved in those programs. Here is an uncontrollable which can be cut.

Third. There are contracts which the Government must carry out, but most of them have an inflation factor which pays more as inflation rises. This can be changed and costs reduced if inflation is cut, as this amendment would tend to cut inflation.

Furthermore, some can be terminated, at a cost, but at a lesser cost than carrying them out. The SST is one example; the C–5A was another.

Also, GSA has contracts for Government goods and services and buildings, but we know there is a lack of competitive bidding, kickbacks, and fraud. It has been disclosed only in the last few weeks. Big savings can be made here.

Also, retirement pay is indexed.

So cuts can come here, if we can cut inflation. Therefore, the uncontrollables are not entirely uncontrollable.

Mr. President, a final argument is that the best way to cut and the easiest way to cut is to cutback those increases which are above existing law.

The answer is, "Good. Let the Budget Committee and the Appropriations Committee do it, if that is where cuts should be made. Let them carry through the budgetary process and cut."

However, not all new programs or increases are necessarily bad, just as all old programs are not sacred.

My proposal gives the proper committees the chance to cutback on increased programs or on existing programs and to make the choices and choose the priorities.

This amendment simply tells the Senate that we should have a $540 billion budget this year, a 7-and-a-fraction percent increase over last year, enough to allow for inflation, and no more, and that we should stay there.

It seems to me that this is a reasonable and logical proposal, and I hope the Senate will adopt it.

I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. MUSKIE. Mr. President, I would like to respond to the distinguished Senator from Wisconsin.

Mr. HATCH. I will be happy to wait. I was going to speak in favor of the Senator's amendment. I will be happy to wait until the distinguished Senator from Maine is through.

Mr. MUSKIE. I assure the Senator that I will not take too much time.

Mr. President, as I listened to the statement of my good friend from Wisconsin, I reached several conclusions that bear on the work of the Budget Committee: One, that we are not concerned about inflation; two, that we have not really tried to reduce spending; three, that we are opposed to further reductions where they can be identified.

I heard the same argument last spring. The distinguished Senator from Wisconsin has undertaken to capsulize my response of last spring in ways that I think do not accurately reflect what I said last spring. Therefore, I ask unanimous consent that my colloquy and my statement at that time, which appear on pages 11405–11408 of the RECORD for April 25, 1978, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Mr. MUSKIE. I yield myself 10 minutes.

Mr. President, let me say at the outset that the amendment of the distinguished Senator from Wisconsin is consistent with his long record of concern about Government spending and the need for budgetary restraints and prudence, and I applaud the general thrust of his efforts over the years in this connection.

However, I must say with respect to his amendment that it goes to the very heart and the very life of the congressional budget process, because it is ambiguous, it is—and I say this is the most respectful way—arbitrary and indiscriminate. It's the kind of approach to budget cutting that we tried many times before the establishment of the congressional budget process. It never worked. It never succeeded, because it never identified the areas where real cuts were possible, and where cuts could be achieved without damaging essential and vital areas of governmental activity.

If we want to return to that form of budget cutting, and abandon the congressional budget process, that is all right with me. But after we have gone through the kind of trade-offs and balancing of judgments which the budget process requires, if we are then asked to subject ourselves to an across-the-board cut of this kind, we have wasted a lot of time on identifying priorities, balancing priorities, and undertaking to set them within a rational economic policy. The two approaches to budgeting just do not go together. We tried it the other way and it did not work; and frankly I am getting pessimistic about whether or not this budget process is going to work, because here, too, we are inclined to abandon the discipline when it serves our immediate interest.

But let me get down to this specific proposal, Senator Proxmire's amendment proposing a 5 percent across-the-board cut in budget authority in fiscal year 1979. I repeat, a cut in budget authority.

He would cut budget authority by $26.1 billion, from $566.1 billion recommended by the Budget Committee to $540 billion.

He justifies all of this as a contribution to the fight against inflation and as a contribution to reducing the deficit.

Unfortunately, Mr. President, one cannot judge either of those contributions because one is not told where the cut in budget authority will come. Budget authority does not all spend out at the same rate. Budget authority for housing, for example, requires up to 40 years to spend out. As a matter of fact, in this present budget there is $25.5 billion in budget authority for housing assistance.

(Mr. MOYNIHAN assumed the chair.)

Mr. MUSKIE. If we were to apply the Senator's amendment to housing assistance, and there is nothing in the amendment to prevent us from doing so, we would eliminate the housing program from the budget. But how much of a contribution would that make to inflation? When one considers that the spendout from this program is spread over 40 years, it is very little. There would be almost no reduction in this year's deficit from such a budget authority cut. That $25.5 billion will not spend out in fiscal year 1979 to any measurable degree.

The budget does include outlays of $4.4 billion in housing assistance, but that is driven by budget authority which we provided in previous years.

So if we were to take the proposed $26.1 billion cut out of the housing assistance program, we would hardly make any contribution to reducing the deficit. We would make no contribution to reducing inflation. The size of the deficit which worries the business community and others in the country who are concerned about Government spending, would remain essentially unchanged.

If, on the other hand, one took the cut from budget authority that spends out in 1 year, where would we go?

Well, the Defense Department spends out a lot of budget authority in 1 year, much of it in the form of salaries. So if we wanted to make a maximum impact on the deficit and a maximum signal against inflation, we would cut the $26.1 billion from the defense function and mandate that it be taken out of salaries, which would probably mean that we would decimate the Armed Forces of the country.

That is the range we can consider, but the Senator does not tell us how he would distribute his cut in budget authority. It is for that reason that I call his amendment an arbitrary and undiscriminating approach to budgeting.

Mr. President, the budget process was designed to enable the Congress to make individual spending and revenue decisions in the context of the budget as a whole.

The discipline provided by the process forces Congress to make hard choices among competing national priorities after careful consideration of the issues which are involved and deliberate decisions on how our limited resources will be allocated.

Senator PROXMIRE's amendment proposes, in contrast to this, an anonymous cut of $26.1 billion in budget authority. He does not tell us which areas of the budget he would cut. He does not tell us which national priorities would be affected. He says only that—

"There is not a single agency of government which could not absorb a 5-percent decrease in its funds and actually increase the efficiency of its programs if it were determined to do so."

Well, attractive as that proposition is on its face, when one looks into the facts of individual functions and agencies and programs, one finds it to be debatable.

Rhetoric such as this was common in the Congress prior to the Budget Act. We established a congressional budget process because we found that such rhetoric did not provide effective budgetary control.

The Budget Committee recommends, Mr. President, a carefully crafted spending plan for fiscal year 1979. Of course, there is room for increases or decreases in that plan as the Senate wills. We have just acted on two proposals to cut defense spending and one proposal to increase spending in domestic programs, out of the savings in defense spending. Those are perfectly appropriate amendments. Whichever way the Senate acted upon them, the Budget Committee would live with the result.

But what would Senator PROXMIRE's amendment do to that plan? It is not focused on specific functions or programs.

The Budget Committee recommended total budget authority for fiscal year 1979 of $566.1 billion. Where did we get that? The authorizing committees requested of us $603 billion in budget authority. We cut those requests, not by $26.1 billion, as proposed by the Senator, but by $36.9 billion. The Senator now says—

"That is not good enough. You ought to add another $26.1 billion in cuts to that $36.9 billion so that we would have a total of $63 billion in cuts."

Where would we get those cuts? From what programs should we get them?

Within the total of $556.1 billion that the Budget Committee recommended, $535 billion—mark the number, $535 billion—is required simply to carry out laws currently on the books. That $535 billion total provides for no new or expanded programs and for only those inflation adjustments that are mandated by law.

Senator PROXMIRE's amendment would cut total budget authority to $540 billion, which is just slightly more than the current law level.

Laws on the books should not be regarded as sacrosanct. Indeed, the Budget Committee recommendation assumes that some reductions through changes in current law can and should be made. But the simple fact is that achieving savings from changes in existing law is a longer term business, and the savings in the first year are small. This is especially true when we realize that within that $535 billion current law estimate there is some $300 billion for entitlement programs. An entitlement program means just that: States, local governments, or individuals are entitled to receive payments under current law.

In the short run, Mr. President, savings in these programs are especially difficult to achieve.

So the truth is that the bulk of Senator Proxmire's budget authority cut in fiscal year 1979 would have to come from those areas of the budget where the Budget Committee recommends carefully considered increases over current law. These increases recommended by the Budget Committee are, as I have said before, considerably less than the increases recommended to us by the other Senate committees.

Mr. CURTIS. Will the Senator yield for a brief question?

Mr. MUSKIE. Yes, for one, and then I would like to finish my statement.

Mr. CURTIS. Does the distinguished chairman agree that to do the job that many in the country feel should be done on the budget, we ought to change some laws?

Mr. MUSKIE. Well, I think there is a recognition that in order to make the kind of cuts some would wish, we would have to change the laws. There is no question about that. The Senator understands that perfectly, and especially in the entitlement area, which is $300 billion.

Incidentally, there is one entitlement program that one should never forget. That is interest on the public debt. The obligation to pay that goes back to legislation which was enacted in the middle of the last century. It amounts to $53 billion in the fiscal year 1979 budget.

That is uncontrollable. That is a contractual obligation.

Mr. CURTIS. It is a contract, yes.

Mr. MUSKIE. And of course, there are defense and nondefense contracts, and other commitments made in prior years totaling, possibly, as much as $20 billion a year which are uncontrollable unless the Government reneges on its promises. Then there are the entitlements. Those commitments plus the entitlement programs form the so-called uncontrollable portion of the budget.

Interest on the debt we cannot reduce by changing the law without breaching a contract, and we would not want to breach other contracts and commitments. So when we talk about reducing the budget by changing existing law, we are talking about changing entitlement programs or changing other programs prior to the time commitments are made.

Of course, if we want to reduce that spending, we have to change the law, the Senator from Nebraska is absolutely correct.

Mr. President, I have a table showing the major increases over current law recommended by the Committee on the Budget. I ask unanimous consent that this table be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MUSKIE. Let me discuss a few salient elements of that table. The Budget Committee recommends a total increase in budget authority of about $32 billion over current law. One-fourth of this increase, $8 billion, is in the area of national defense. Does Senator PROXMIRE mean to eliminate all or most of this increase, which would actually cause the defense budget to decline in real terms and cause us to renege on our NATO commitment?

Agriculture programs, Mr. President, account for $5 billion of the increase. Does Senator PROXMIRE mean to reduce or eliminate this support for America's farmers? I emphasize that this number is significantly below the agriculture bill that was recently passed by the Senate and defeated in the House. So when I say there is an increase, that is not the increase that was mandated by the Senate, and a substantial majority of the Senate, not too long ago.

Energy programs account for $2 billion of the increase. Would Senator PROXMIRE have us cut back on our efforts in this critical area?

Education, employment, and veterans programs together account for $4 billion of the increase in budget authority. Would Senator PROXMIRE recommend that these increases be eliminated?

International affairs programs account for $3 billion of the increase, much of it related to U.S. commitments to the multilateral banks. Does Senator PROXMIRE suggest that these commitments be scaled back or eliminated? I am asking these questions not to prejudge the answer. It is a perfectly legitimate objective for any Senator to propose, by appropriate amendment, the elimination of any of these increases. I identify them so that we may have an answer to them from the author of this amendment, who simply gives us the overall cut of $36 billion and ask us to find the places to cut.

Community and regional development programs account for $2 billion of the increase, much of it related to the President's new urban initiatives. Would Senator PROXMIRE have us send a signal to our distressed cities that the Federal Government is not interested in their plight?

So, Mr. President, I ask the Senator, in the spirit of an effective budget process, to tell us what programs of the budget he proposes to cut and what national priorities he wishes to affect. When we have the answer to that, we shall have a better answer to the question of how fast the outlays from the proposed cuts in budget authority would flow. When we know how fast the outlays would materialize, we can judge better what the economic impact of those outlay cuts would be in 1979, 1980, or future years.

In other words, as of this moment, the Senator's amendment does not tell us what programs to cut or how fast there would be a reduction in outlays, or when, if ever, the deficit would be affected or what the economic implications would be. We cannot have the answers to those questions until and unless he tells us what programs he would cut. We cannot have an effective debate, indeed, Mr. President, unless we know more clearly the effects of his proposal in these terms. The days are over when we can simply suggest anonymous cuts without spelling out their consequences.

I know my colleagues in the Senate will agree with me on the need to make spending choices after careful consideration of the issues that are involved. The congressional budget process is the instrument for making hard choices with respect to national priorities. Arbitrary spending cuts, as in this proposal, fall unevenly on different areas of the budget, deal capriciously with national priorities, and demonstrate once again the difficulty of attempting to affect the budget in a one-year time frame.

I urge the Senate to reject this amendment. I would like to close as I began, praising Senator Proxmire for his long-held commitment to budget restraint and budget prudence. I hope I have said nothing to denigrate his reputation in that respect. With respect to this amendment, I have tried to be as candid as I can be.

EXHIBIT 1

Increases above current law proposed in S. Con. Res. 80 as reported

[Dollars in billions]

	Fiscal year 1979 budget authority
Current law estimate	534.5
National defense	+8.0
International affairs	+3.1
Energy	+2.2
Agriculture	+5.1
Transportation	+4.2
Community and regional development	+2.2
Education, training, employment, and social services	+2.5
Veterans' benefits and services	+1.4
All other	+2.9
S. Con. Res. 80 as reported	566.1

* * * * *

Mr. PROXMIRE. Mr. President, I am going to yield to the distinguished Senator from Delaware in a moment. Before I do that though, I should like to reply briefly to the Senator from Maine.

I very much appreciate his viewpoint. As I have said before, I think he has done a remarkable job, he and Senator BELLMON, in the Budget Committee in holding down spending. They did make big cuts, as he pointed out, a cut of $37 billion, roughly, in what the authorizing committees requested.

The Senator from Maine argues that this amendment is ambiguous, arbitrary, and undiscriminating. I reply that there is no way, and I think the Senator knows it better than anybody in the Chamber, that a Senator can come in and duplicate the work of the Budget Committee. After all, I have a limited staff. I have two or three people who work on this kind of thing. They work on many, many other things, too. The best that an individual Senator can do, in reality, is to indicate on the basis of the most careful analysis he can give what the level of spending ought to be. To go into meticulous detail on each one of these programs to indicate where the cutback ought to be is something that really is asking too much. If we did it, I think we would be subject to tremendous criticism, because it would be irresponsible.

I am not in a position to hold hearings and to explore in great detail with the Office of Management and Budget and with the various agencies where the cuts could be made. We have some ideas where it is possible. But to do this in detail in this enormously complex budget would be doing far more than would be responsible.

Furthermore, Mr. President, I have great faith in the Budget Committee. I think if we tell them this—after all, this is the first budget resolution; there are three—they will have the opportunity to consider where a reduction should be made in order to comply with this $26 million cutback in obligational authority.

It will not be easy, there is no question about that. It will be difficult, extraordinarily difficult, very painful. There is no way we can make this kind of cut without great difficulty.

Mr. MUSKIE. Will the Senator yield?

Mr. PROXMIRE. Yes, indeed.

Mr. MUSKIE. I do not think it would be difficult at all if the Senator wanted to do it. With respect to spending mandated by current law, you know, you could not do it easily.

But if the Senator wanted to offer an amendment that reflected the table I put in the RECORD this afternoon, it would be very simple to draft the amendment.

National defense, reduce $8 billion; international affairs, $3.1; energy, $2.2; agriculture, $5.1; transportation, $4.2; community and regional development, $2.2; education, training, employment, and social services, $2.5; veterans' benefits and services, $1.4; all other, $2.9.

There is the easiest and quickest way to make the cuts the Senator proposes to, unless he wants it out of housing assistance.

Mr. PROXMIRE. As the Senator knows, there are many ways these cuts can be made and there is a long time to do it.

Mr. MUSKIE. The Senator likes to say that.

Mr. PROXMIRE. It is true.

Mr. MUSKIE. It is not true.

Mr. PROXMIRE. Of course, it is.

Mr. MUSKIE. It is not true and I have given the reasons. These are the only increases in this budget above current law. I want to make that clear.

Mr. PROXMIRE. May I make it clear to the Senator from Maine, there is nothing written in the wind that tells us we have to make the cuts only in areas that have been increased. We can make cuts in old programs.

Mr. MUSKIE. Will the Senator yield so I may make an observation?

Mr. PROXMIRE. I yield.

Mr. MUSKIE. I have been put in as chairman of the Budget Committee in order to acquire some knowledge about how Government money is spent, where it is spent, how fast it spends out. I am saying to the Senator that, when we are talking about this budget, $535 billion of it is mandated by current law.

I am not saying current law cannot be changed, but I am recognizing that it takes some time to change current law when your objective is to run against some of these constituencies built up here in the Senate in support of programs.

So the quickest way to achieve the kind of cut the Senator is talking about is to eliminate the increases over current law that the Budget Committee proposed, and I have given him the areas.

So if the Senator wants to bite the bullet, bite the bullet and make the cuts where they could be effectively made, that is the place.

Mr. PROXMIRE. Mr. President, the Senator from Maine is right. There is no question this is the quickest way to make the cut, but it is not the only way to make the cut.

Let me take the place that is the most difficult of all the issues and examples the Senator gave, that I think every Senator and everybody in the country, would immediately, instinctively say he is absolutely right on—interest on the debt.

He says that cannot be reduced. The fact is that this is something that can be reduced, not much, but it can be reduced some, and because it is so big, it is over $50 billion a year, or $56 billion a year, something of that kind, I think any reduction here is helpful.

How can this amendment possibly result in cutting interest on the debt? We do not have long-term contracts. These are not 20-year bonds. It turns over in about a year. We have a very short term Federal debt, very short term.

The result is that to the extent a cut of this kind results in reduced inflation, results in reduced interest rates, the interest on the debt is reduced.

Now, as I say, it is not a massive reduction, but it is a limited reduction that can be taken into account.

The same thing is true——

Mr. MUSKIE. Well now—

Mr. PROXMIRE. Let me finish on this point—on a number of contracts. A number of the contracts we have written have an inflation clause in them. Almost all do. Almost all our procurement contracts provide, to the extent there is inflation tied to some index, the Federal Government will have to pay more in 1979.

If this amendment results in a lesser rate of inflation, it means the expenditures required under those uncontrollable, apparently, contracts will, in fact, be reduced.

And, of course, Government salaries also are tied to an inflation index, as is the social security tied to the inflation index.

So I do not think it is quite true to say the only way we can make any cuts is to cut the increases that have been proposed.

Mr. MUSKIE. I do not believe that I said that.

I said that when we are talking about cutting what is mandated by current law, we have to change the law. Indexing is in current law and it is reflected in this budget resolution. If we want to propose eliminating indexing for social security benefits, we have to change the law.

Mr. PROXMIRE. I do not propose that.

Mr. MUSKIE. I am not saying the Senator proposed it. But he keeps talking about these other places and every time I come to a specific place, he says, "I am not talking about that." So that every time I come to a specific place, he says, "I am not talking about that." So that every time the Budget Committee mentions specific places, tries to to identify a specific place and identify the difficulties of cutting in a specified place, the Senator says, "Well, I don't mean that specific place, I meant some other places."

Well, what other places? Every specific place I suggest, "Oh, I don't mean that."

In the table I put in the RECORD, there are specific places, and all we have to do is reject the increases proposed by the Budget Committee. They have not yet been approved by the Congress, they are not a part of law.

So, here is the easiest target. But the Senator says, "I don't want the easiest target, there are some other places."

Then he talks about indexing and I remind him that it is part of current law. He says, "I don't mean that."

Mr. PROXMIRE. No; the Senator misunderstands.

Mr. MUSKIE. I would like to know what the Senator means.

Mr. PROXMIRE. I understand indexing is part of the law. I do not say we should change the index. But I say we will have a lesser rate of inflation, in my judgment, if this amendment passes. If we have a lesser rate of inflation, it means we have a reduction in the amount to be paid out under indexing, without changing the law at all.

Mr. MUSKIE. Let me ask this——

Mr. PROXMIRE. That we have to pay out of interest. It means we have a lesser rate we have to pay out in salary increases, because there is a moderation in inflation.

Mr. MUSKIE. Let me ask the Senator this, he has not told us what budget authority he proposes to cut.

I assume without asking that he does not mean to cut $25.5 billion in budget authority from housing assistance. That spends out over as much as 40 years. If we were to cut that, the contribution to the inflation fight would be virtually zero because we do nothing to save outlays in the short run. But if we cut budget authority that spends out in 1 year, like salaries in the defense function, then we could reduce the deficit by $26 billion and that might have an impact on inflation.

It might also trigger unemployment, but, in any case, there we would make a positive impact on inflation if we wanted to cut salaries in the defense function by $26 billion.

But until the Senator tells us where he is going to cut budget authority, we cannot possibly estimate the outlays or the economic effects.

Mr. PROXMIRE. My time is almost up.

Mr. MUSKIE. Well, charge the last 10 minutes to my time. I do not need it.

He may have an estimate in his mind, but we cannot estimate how much reduction in outlays that would mean, and in the national deficit, how much less borowing that would mean, and how much downward pressure on interest rates that would produce.

How will we provide answers like that when the Senator does not tell us where the budget authority is to be cut?

Mr. PROXMIRE. Mr. President, the gist of the argument by the Senator from Maine is that we cannot do it. It cannot be done.

I say it can be done. He says that we can do all right, but only if we eliminate all of the increases that the administration has proposed.

Mr. MUSKIE. Will the Senator yield?

Mr. PROXMIRE. Well, that is what I understood him to say.

Mr. MUSKIE. I have not mentioned cuts from the administration. I have told the Senator of cuts and increases included in this budget resolution, and when he interprets my remarks saying that cuts cannot be made, I say we cut $36.9 billion from recommendations by committees, including the committee of which the Senator from Wisconsin is chairman.

Mr. PROXMIRE. I said that.

Mr. MUSKIE. So do not interpret what I say as meaning it cannot be done. We have done it, but we have done it in a thoughtful, careful rational way, in which we try to give people the facts about what we have done and the implications of what we have done. We have not given the Senator a meat ax. We have given him specific facts.

Mr. PROXMIRE. Mr. President, do I have the floor?

The PRESIDING OFFICER. The Senator from Wisconsin has the floor.

Mr. PROXMIRE. Mr. President, I have indicated that we are making an amendment that would cut obligational authority. We have a right to make that amendment. The Senator from Maine, of course, has indicated that he disagrees with the amendment very strongly.

He has pointed out, and I have agreed with him, that he has made a cut of $36.9 billion, including a cut in what the Banking Committee recommended over my objection. I wanted the committee to recommend a reduction lower than what the President had called for. But the Budget Committee has indeed made those reductions.

It is my position that we can make a 5-percent cut in obligational authority and we can do so responsibly.

The Senator has raised the question as to where cuts of this kind could be made. One is in the nonmilitary personnel in the Pentagon. The Pentagon has almost a million employees. It is proposed that they cut that number by at least 50,000. That would be $500 million. That would be a cut that would have an effect on outlays almost completely, because the military personnel and the pay of nonmilitary personnel would be reflected about 97 percent in an outlay reduction.

Any cut in operation and maintenance would be about 86 percent, reflected in a reduction in outlays.

Procurement would be a much lesser reduction. The cut there, I am told, would result in about a 14-percent cut.

Mr. President, almost every element of the budget is subject to a variation in the percentage of reduction that you get in outlays if you cut obligational authority. We recognize that. We recognize that it would be very difficult, in our view, for us to put together a specific listing of areas we might reduce.

Furthermore, if we did that, I am sure there would be no way we could get reasonable consideration. I think it is perfectly proper—I know that other Senators may not think so, including the Senator from Maine—for a Senator to come on the floor and indicate that he would like to put a limit on obligational authority and make this kind of recommendation. That is what I propose, and that is all I propose.

I think the function of the Budget Committee, if this amendment is adopted, would be extraordinarily difficult; but I think they could do it, and do it in a responsible way.

Mr. MUSKIE. Mr. President, among other things, the Senator from Wisconsin has said that my argument was that it cannot be done. Well, let us look at that. It is not a question of whether or not reductions in spending can be achieved but how best to achieve them.

In that statement of last spring, I reminded the Senator from Wisconsin that authorizing committees had requested of us $603 billion in budget authority. We cut those requests not by the $26.1 billion then proposed by the Senator but by $36.9 billion.

In the second resolution, as I indicated in my statement earlier this morning, we cut budget authority by an additional $11.1 billion because of our concern with inflation, because the Appropriations Committee, in the actions it has taken up to this point this year, has made it possible for us, in conjunction with reestimates of spending provided by CBO, to reduce spending by that much.

To argue that I said last spring that this could not be done, in the face of the fact that subsequently the Budget Committee has cut $11.1 billion additional, is to distort my whole position in this matter.

The Budget Committee spent long days and hours combing the functions, combing the administration's midsession review, combing the Appropriations Committee bills that had been before the Senate, to identify every conceivable cut.

I simply will not yield to the Senator from Wisconsin in my concern to send the clear signal to the country that we intend to reduce Government spending to the maximum extent possible.

The Senator is a member of the Appropriations Committee. Earlier this morning, I praised the Appropriations Committee for holding appropriations below the target set in the first congressional resolution. Because the Appropriations Committee did that, it was possible for us, following on the heels of those actions, to reduce budget authority and outlays in the second resolution. My argument in the spring was that that is the way to do it. If the Appropriations Committee, which goes over these appropriations bills item by item, had found it possible to cut another 5 percent or 10 percent in the budget authority, I assume it would have done so.

I think Senator MAGNUSON, the chairman of the Appropriations Committee, has demonstrated his commitment to reduce spending over and over again in these appropriations bills. We have applauded him; we have supported him in every way we possibly could; and that is the way to do it.

As of this moment, the Senate already has enacted or passed $402 billion in budget authority, leaving yet to be reported in the Senate $156 billion. I take it that, unless we are going to go back and redo the bills we already have passed, what the Senator now proposes will have to come out of the $156 billion. What will it be? Where will we cut?

Let us look at some of the budget authority items in the budget: social security and other retirement, $107 billion; Federal employee retirement, $20 billion; unemployment compensation, $15 billion; medicare, $30 billion; net interest, $39 billion.

Those five items of budget authority total $211 billion. Are we going to cut those, or is this 5 percent cut or 3 percent cut to come out of the remainder? If it comes out of the remainder, what does that total, percentagewise? This is 40 percent of the total budget authority in the budget.

I have told the story many times about the restriction that uncontrollable items in the budget imposes upon efforts to reduce Government spending. Apparently, the Senator from Wisconsin dismisses that as an inconsequential argument. Let me put it in terms of outlays, if I may.

Total outlays recommended in the second budget resolution are $489.5 billion. Let me list some favorite items of various Senators: defense programs total $112.5 billion; net interest, $38.8 billion; social security, $104.5 billion; railroad retirement, $4.3 billion; Federal employee retirement, $12.0 billion; unemployment compensation, $10.4 billion; medicare, $28.1 billion; medicaid, $11.3 billion; veterans' programs, $20.4 billion; farm income stabilization, $6.0 billion.

The total of those items is $348.3 billion; remaining outlays in second budget resolution, $141.2 billion.

The luxury that these across-the-board budget cutters are able to indulge in on the Senate floor is that they do not

have to zero in, in committee, on those particular programs. They just say, "It is possible." Of course, it is possible to cut 3 percent, even though we already have cut $36 billion and then another $11 billion. Of course, it is possible to cut another 3 percent or 2 percent or 1 percent or 5 percent or 10 percent.

It is always possible. But the budget committees and appropriations committees in their deliberations must get down to the items, the programs, and that is when you begin to realize that there are program needs that cannot be further compromised or cut, or whose constituencies are such that there is no practical way to achieve further cuts, and so in the Chamber it is nice—and I used to enjoy that business of just across-the-board cuts in the Chamber—to vote for them and vote for them, and never have to face the wrath of the constituencies interested in specific programs.

I have listed some of the most popular programs. They total $348 billion.

Any Senator who tells me it would be a simple matter to reduce any of those by the amount that is proposed has not faced the problem of program reduction in the same way that the appropriations committees and budget committees have to face them.

To look at it in an even simpler analysis, defense and veterans programs total $132.9 billion, or 27 percent of the budget; contributory insurance and retirement, $159.3 billion, or 33 percent; debt interest $38.8 billion, or 8 percent. That is a total of 68 percent of the budget, leaving $158.5 billion, or 32 percent, for all other programs.

Are we going to focus on those for this cut? Here is a way to offer a cut. The Senator proposes a cut of $17 billion. Why not exempt defense and veterans programs? We are not going to get any cuts beyond those already included in the budget resolution in those areas, whether we take the case to the Appropriations Committee or to the Senate as a whole with specific amendments. Break up the amendment. Offer the same percentage cut in defense and veterans programs in one item. Let us test the Senate's opinion on that. Just break it out, a 3-percent cut in defense and veterans programs. Then break up the amendment into a second one, contributory insurance and retirement. Let the Senate vote on that separately. And then one on interest. Let us break that up and see how the Senate votes on it. And having disposed of that 68 percent of the budget, I would be willing to make a small wager as to what the result would be and then take the total $17 billion out of all other programs and see what the Senate's vote would be. I would be interested in that. That to me would be a more responsible way to approach this business of further reducing the budget below the second resolution than this across-the-board one where you do not have to face the constituency of the programs which have the strongest support.

All you need are four amendments instead of one. It would not take that much longer to vote on them. Then we would know whether the Senate as a whole wants a 3-percent cut in defense and veterans' programs, whether the Senate wants a 3-percent cut in contributory insurance and retirement, whether the Senate wants to renege on its contract to pay interest on the Federal debt by 3 percent. We would have those blockbusters out of the way.

Then the Senator offers his amendment to cut $17 billion from all other programs and see where that goes. That would be a meaningful test.

If the Senate supported the Senator's proposed cuts in those four different categories, then we would have a clear-cut message that could be implemented by the appropriations committees and by the budget committees.

I do not really think there is that much to be added to what I said on this subject last spring. I have put that in the RECORD.

There are only four of us Senators in the Chamber at the present time anyway. There is no point in repeating that argument. It is there, and it is there in the way that I propose it.

Mr. President, I yield the floor.

Mr. PROXMIRE. Mr. President, I wish to yield shortly to my good friend from Utah and good friend from California, but before I do that let me very briefly respond to the manager of the resolution.

The manager of the resolution started out by saying that I indicated that I thought the Budget Committee was not concerned about inflation. Of course they are concerned about inflation. I said they have done a magnificent job in cutting the budget by an additional $11 billion, and I acknowledge now that they did a fine job in reducing the requests of the various committees. I commend them on that and I know they are deeply concerned with inflation. I am sure they are very interested in having further reductions, also, but I get the distinct impression from the distinguished Senator from Maine that when anyone comes in and offers a general kind of amendment we are not responsible, we do not know what we are doing, and we have no basis on which to offer such an amendment.

Mr. President, as I say, it is up to the Senate to decide this, not a committee. The committees do not dictate to the Senate. The committees just advise the Senate. We make the decisions right here.

Mr. President, the distinguished Senator from Maine indicated one of the questions that bothers him is the Budget Committee was concerned with how best to achieve these cuts, and they found out how best to achieve the cuts and they made the cut on the basis of that, and he went on to say that if the Appropriations Committee had found it possible to cut another 3 percent or 5 percent, they would have done so.

I am sure they would have tried to do so. But if the Appropriations Committee and the Budget Committee were mandated by the Senate to cut an additional 3 percent, they would find a way to do it, and that is what I am suggesting here.

As I say, it is not easy. It is tough. It is difficult. We recognize that the advice they give to us is advice we should consider very, very carefully because these are extraordinarily able and thoughtful members and they labored hard with probably the toughest job that the Senate assigns to any committee.

But for us to come in and say that we want to cut further is not an act of effrontery. It is an act of simply saying that we feel that if we are going to confront inflation effectively, if we are going to hold this spending by the Federal Government down to what we think it should be held down to, to the increase in inflation, that is our decision and of course they would have to abide by it.

Mr. STONE. Mr. President, will the Senator yield for several questions?

Mr. PROXMIRE. Yes, I am happy to yield to my good friend from Florida.

Mr. STONE. Is it not the case that this resolution does not do any substantial damage to any particular governmental program?

Mr. PROXMIRE. That is certainly my understanding, and I would be surprised if Senators came in and offered substantial amendments to increase it. Perhaps they will. But I do not know of any program that is damaged by this resolution.

Mr. STONE. Is it not a fact that this approach retains the priority-setting authority to the Budget Committee and the Appropriations Committee?

Mr. PROXMIRE. That is precisely what this does.

Let me point out that the Senator from Maine indicated that we have already passed appropriations amounting to about two-thirds or more, maybe 80 percent. Now what the second budget resolution does is require the Appropriations Committee to propose revisions, and that is what I think we have to do. Otherwise, the second budget resolution would make no sense at all. We would have come in and just accepted it because we have done so much already. We have in an active way said whatever they have done is all right.

Obviously, that is not the case. We have a right to amend it, and I am exercising that right right now.

Mr. STONE. Is it not the case that the Budget Committee itself has made cuts between the first resolution and this resolution and are coming in with some substantial improvements in this resolution?

Mr. PROXMIRE. They have indeed. As a matter of fact, in the spring when the first budget resolution was up I offered an amendment to cut it 5 percent and then 1 percent. It was said that a 1-percent cut could not be made for various reasons or could not be made responsibly without very serious effect on various programs. The Budget Committee cut twice as much as that. They cut no $5 billion but $11 billion.

They did a much better job, and I suggested here on the floor I think they can do it again.

Mr. STONE. I agree.

Mr. HARRY F. BYRD, JR. I think the Senator from Wisconsin makes a very persuasive argument, if the Senator will yield.

Mr. PROXMIRE. I yield.

Mr. HARRY F. BYRD, JR. If the position is taken that the Senate cannot

make any changes in the second concurrent resolution because some appropriation bill has been passed, then what is the purpose of bringing to the Senate the second concurrent resolution?

Mr. PROXMIRE. We have in the law a system by which that can be done by the Appropriations Committee, by simply proposing a rescission which the Senate can act on.

As the Senator points out so well, if we are circumscribed from offering any reductions, any significant reductions, in the resolution, then we might just as well forget about having a budget resolution that does anything except ratify what the committee recommends to us.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from Wisconsin include me as a cosponsor?

Mr. PROXMIRE. Mr. President, I ask unanimous consent to add the Senator from Virginia (Mr. HARRY F. BYRD, JR.) and the Senator from Texas (Mr. BENTSEN) as cosponsors of the amendment.

I yield to my good friend from Maine.

Mr. MUSKIE. I would be interested in having both Senators tell me when I ever took the position that the Senate cannot change the budget resolution. For 4 years I have been defending the Senate's right to work its will on budget resolutions. Now I have heard the Senator from Wisconsin and the Senator from Virginia putting words in my mouth I do not think I have ever uttered.

Mr. PROXMIRE. Let me answer my good friend from Maine. I do not think he recognizes how tremendously forceful he is and how effective he is when he gets up on the floor.

Mr. MUSKIE. What am I supposed to be?

Mr. PROXMIRE. That is exactly what he should be and what he is. I am praising the Senator. I am not criticizing him but praising him when he makes those statements with so much——

Mr. MUSKIE. It did not come out that way.

Mr. PROXMIRE. With so much force that he gives the Senate the understanding that if we amend this resolution, if we cut by 1 percent or 2 percent or in this case by 3 percent, that somehow we are imposing an act of irresponsible and arbitrary choice on the Budget Committee.

Mr. MUSKIE. In other words, if the suggestion you propose——

Mr. PROXMIRE. That you cannot do it.

Mr. MUSKIE [continuing]. Is arbitrary, I am not supposed to criticize it because I may intimidate you. Is that what the Senator is saying?

Mr. PROXMIRE. No. If the Senator says this is arbitrary, the Senator is wrong in describing this as arbitrary. There is nothing arbitrary about it. It is something that is specific and well within the budget process, and I just say the Senator is wrong, that is all.

Mr. MUSKIE. My job, first of all, as chairman of the Budget Committee is to see to it that the Budget Committee does the best possible job of squeezing every possible wasteful dollar or low-priority dollar out of the budget. That is my job.

Second, my job is to do my best to see that the highest possible priorities are served by the budget. We bring that product to the floor.

I have never been one to believe that committees had the ultimate wisdom, but I do happen to know what we did in the Budget Committee, what problems we ran into, how difficult it was, and I think I have the duty to report that, and I cannot help it if I have a loud voice.

Mr. PROXMIRE. I know.

Mr. MUSKIE. Or if I seem to be intimidating.

Mr. PROXMIRE. I am praising the Senator.

Mr. MUSKIE. Let me just say this——

Mr. PROXMIRE. Let me answer this. I have the floor. I only have a few minutes. My half hour is about up. Let me read what I said. I said that the Budget Committee has done an amazingly good job in cutting about 2 percent in both budget authority and budget outlays from the time of the first budget resolution. That is what I said.

Mr. MUSKIE. After that none of the rest of the Senator's statement sounded like praise. I am not expecting praise.

Mr. PROXMIRE. I think the Senator could have done a better job, and I am trying to impose it on him now.

Mr. MUSKIE. I am not expecting praise. What I am saying is if you really want to be helpful to the process, then I suggest that you break your amendment up into at least four, so that you can get real guidance.

Mr. PROXMIRE. The Senator knows the answer to that. That was tried before on the floor.

Mr. MUSKIE. The Senator is darned right. I know the real answer to that.

Mr. PROXMIRE. And it was overwhelmingly defeated.

Mr. MUSKIE. Exactly.

Mr. PROXMIRE. I think it is something perfectly proper and consistent for the Senate to do. We want a lower budget resolution. We want the Budget Committee to spend the time and expertise to tell us where that reduction can be made most responsibly and most effectively. If we want to hold down spending to $540 billion, I see nothing wrong with that as to what you should be doing.

Mr. MUSKIE. I know you see nothing wrong with it. I see everything wrong with it. When I challenge your premise and offer what I consider real guidance, you back off because it cannot be done that way, and you know it.

Mr. PROXMIRE. Mr. President, I think my time is about up. The Senator from Utah, I understand, has an amendment to my amendment which he will offer. Do I have to yield back time? I guess I do on my amendment for that to be in order.

The PRESIDING OFFICER. All time has to be yielded back.

Mr. HATCH. Mr. President, I wonder if I could ask the distinguished minority manager if he can give me 15 minutes on the bill?

Mr. BELLMON. The Senator is asking time on the bill?

Mr. HATCH. If he could, rather than to call up my amendment.

Mr. BELLMON. I see no objection.

Mr. HATCH. I would also ask unanimous consent that the same be accorded Senator HAYAKAWA immediately following my remarks.

Mr. BELLMON. That will be 15 minutes each or 15 minutes divided?

Mr. HATCH. Fifteen minutes each. I will certainly try to be shorter than that, but I think it might take that time.

Mr. BELLMON. I am glad to yield that time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I thank my friend and colleague from Oklahoma.

I rise in support of the distinguished Senator from Wisconsin's amendment, and I associate myself with much of what he said here today.

I notice that once again we have before the Senate a budget resolution with a large deficit and a small tax cut. The reason that spending is out of control is that the Congress does not give as much weight to defending the taxpayer's purse as it does to accommodating the pressure groups and building its spending constituencies. To be sure, few Federal spending programs are entirely without merit. However, the question is not whether the spending does somebody some good, but whether it justifies the higher taxes, added borrowing, or money creation to pay for it.

Apparently, the Budget Committee feels that it is acting responsibly by bringing to the Senate floor a $42 billion deficit in order to accommodate a 9.2-percent increase in Federal outlays over the current high level for fiscal year 1978. Simultaneously, the Budget Committee brings to the floor a tax cut of $15 billion that its own report admits is not a tax cut. I quote from the report:

> The tax reduction of the second budget resolution therefore does not increase fiscal stimulus but simply prevents the revenue side of the budget from becoming more restrictive in fiscal year 1979 than in fiscal year 1978.

I notice also that the budget authority for fiscal year 1979 is more than 11 percent larger than the current level. The Budget Committee has brought to the floor a resolution containing a growth rate in budget authority that is greater than the committee's projected rate of growth in nominal GNP. I would like to point out that the committee's own report states, and I quote: "Budget authority, not outlays, is the real indicator of the trend of Government cost." I see, then, from the committee's report that the real trend of Government cost is at a higher rate than the increase in the growth of the economy.

If we turn to the committee's numbers for the functional categories, we see some truly astounding increases. Between fiscal year 1978 and fiscal year 1979, General Government increases 21 percent in outlays and 14 percent in budget authority; education, training, employment, and social services has a 42-percent increase in budget authority; transportation has a 29-percent increase; agriculture has a 408-percent increase.

Outlays for energy increased 62 percent over last year. And international affairs has a 22-percent increase in outlays and a 31-percent increase in budget authority. Some of the sums represented by these percentage increases are also astounding. At a time when the administration vetoes a defense authorization bill on the grounds that this Nation cannot afford a $2 billion aircraft carrier, the Budget Committee is recommending to the Senate outlays of $41.6 billion and budget authority of $71.3 billion for international affairs for fiscal years 1979–83. I notice that one of the "national needs" addressed by this functional category is, and I quote from the report, "Efforts to improve the quality of life in the developing world." At a time when we are told that we cannot afford national defense or a tax cut, the Budget Committee is able to come up with $49 billion in budget authority and $31 billion in expenditures in its forward planned 5-year budget for foreign economic assistance and financial programs.

I believe we must give equal concern to improving the quality of life in our own country. As the committee's report points out, and I quote, "Neither Congress, the President, nor the public can take comfort from the fact that after 3 years of economic recovery, the Federal deficit remains over $40 billion." We have this deficit in spite of inflation, currently running at 10.4 percent according to the committee's report, which causes Federal tax revenues to increase 1½ times faster than the growth in the economy by pushing taxpayers into higher tax brackets and denying them increases in real income. This same inflation reduces the ability of our economy to grow in real terms because it cuts into capital formation by forcing American firms to pay taxes on costs of production. On this point I want to quote from the committee's report:

Inflation distorts taxable corporate profits because corporations depreciate capital on the basis of historical rather than replacement costs for tax purposes. During inflationary periods depreciation based on historical costs understates economic depreciation, based on replacement costs, and therefore overstates profits and increases tax liability. Inflation artificially increased corporate profits by about $15 billion at annual rates in 1977 for this reason, resulting in corporate profits tax liability about $6 billion higher than in the absence of inflation.

What the committee report is telling us is that last year firms paid $6 billion in taxes on production costs. That is why rates of return are low and investment is low. With a growing labor force, low investment means low productivity growth, and that means a low growth in real incomes for Americans.

On July 20 Barry Bosworth, Director of the Council on Wage and Price Stability, said that productivity, which increased at a healthy 3 percent annual rate during the 1950's and 1960's, has fallen to about 1.5 percent, half of the former level, in recent years. And this year he said, productivity may not increase at all. He predicted that the productivity growth of the economy "would be awfully close to zero." Mr. Bosworth made it clear that if productivity is not growing, the real income of workers cannot grow either. Mr. Bosworth also pointed out that the lack of productivity growth combined with inflation makes a vicicus circle. Wage increases are eaten up by inflation, which leads to demands for more wage increases, which in the absence of productivity growth are again wiped out by inflation.

In the Budget Committee's report it is stated that the inflation has resulted from supply factors pushing up prices, and the committee report states that since "it accounts for only one-fifth of the gross national product, the Federal Government can neither generate nor eliminate inflation." That is the most fatuous statement I could imagine. The Government is responsible for the deficit and for the overtaxation of savings and investment. It is not possible to discourage investment and to print money to finance our overspending without causing inflation. I ask unanimous consent to have printed in the RECORD a table which vividly demonstrates the harm that the Budget Committee is doing by continually bringing large deficits to the floor in its resolutions. Since 1974 the average output growth rate has been only 3 percent, one-third lower than in the 1960's. Yet the trend growth rate of the money supply has increased 40 to 50 percent. With the money supply growing twice as fast as output, inflation is unavoidable. The resulting high rates of growth in nominal demand mean that a balance-of-payments deficit and a dollar crisis are also unavoidable.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE I.—MONEY SUPPLY AND OUTPUT GROWTH TRENDS

[In percent]

Period	Output growth rate	Money supply growth rate			
		M_1	M_2	M_3	Monetary base
1960–68	4.5	4.3	7.4	8.0	5.6
1974–78	3.0	6.3	9.5	11.4	8.3
Change	−33.0	+47.5	+28.3	+42.5	+48.2

Source: Task Force on Economic Policy, House Republican Conference Research Committee.

Mr. HATCH. This is the kind of situation that it is easy to get into but hard to get out of. We go merrily along running up one huge deficit after another, building our spending constituencies, enlarging transfers and entitlements that create more and larger claims to income on the part of people who do nothing to produce income. All the while we are undermining the growth process that creates income. The difference between a dynamic economy and a static economy is found in the growth of capital relative to labor. The growth of capital requires savings. Yet, budget deficits are the antitheses of savings. That we have a $42 billion deficit after 3 years of economic recovery is a clear indication that this Congress has an inordinate appetite for spending. We cannot get away with the argument that we need this $42 billion deficit for the purpose of economic stimulus. If stimulus was all the Congress was after, this $42 billion deficit could represent a tax cut. But it does not. It represents primarily a spending increase.

Why should we be handing out $31 billion in foreign economic assistance when our budget deficits are forcing our corporations to pay taxes on costs? These budget deficits are at the expense of the living standards of American workers. Although some Members of the Congress may-fancy that they are representatives of some kind of internationalism, they in fact are not. Nobody in this Congress is elected by the Third World. Everyone of us is elected by Americans. How is it then that we can justify $31 billion for citizens of other countries and nothing for the American taxpayer?

The best way we can benefit the international economy is to get our own house in order. The dollar is an international reserve currency. It is a medium of exchange for international transactions. Foreign interests hold about $600 billion in dollar claims in obligations of the U.S. Treasury and in Euro-dollars. Their willingness to hold dollars is not independent of the rate at which we produce new ones. This year the dollar has dropped about 20 percent in terms of gold, Swiss francs, West German marks, and Japanese yen. The international community is nervous about its dollar holdings.

At a time when foreigners are trying to reduce their dollar holdings, thus driving down the dollar's price in terms of gold and hard currencies, we should not risk making them more nervous by dumping even more dollars onto the $600 billion stock they already have. The deficit in our balance of trade is not independent of our Government budget deficit. When we try to consume more than we produce through budget deficits, the result is an increase in imports. We can expect this $42 billion deficit in this budget resolution to add about $25 billion to foreign holdings. That is an 8-percent increase at a time when the dollar is already slipping badly. The United States is no longer able to legislate domestic budget deficits with no thought to the consequences for the international monetary system. We must face the fact that flight from the dollar will be the result of our inability to curb our spending appetite.

Six hundred billion dollars in liquid dollar holdings abroad is quite a massive external dollar overhang. The potential exists for the rapid unloading of dollars on international currency markets in response to anticipated adverse trends in U.S. economic performance, balance-of-payments position, and the dollar's exchange value.

The administration claims that the problem with the dollar results from our oil imports, not from our domestic deficits. If the administration was right, Germany and Japan would be in even worse condition than we. The fact of the matter is that relative to the size of the economy, the United States has the lowest oil import dependence of any major industrial nation. I ask unanimous consent to have printed in the RECORD at this point a table which shows that U.S. oil imports account for only 24 percent of total

domestic energy consumption, compared to 50 percent for Germany, and nearly 70 percent for Japan.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE II.—RELATIVE OIL IMPORT BURDENS IN 1977 UNITED STATES, WEST GERMANY, AND JAPAN

[In percent]

	United States	West Germany	Japan
Oil imports as a percent of domestic energy consumption	24.3	49.9	69.9
Oil import bill as a percent of GNP	2.35	2.61	3.37

Source: Task Force on Economic Policy, House Republican Conference Research Committee.

Mr. HATCH. In addition, the drain on national income to finance these imports is far greater in the case of Germany and Japan. Japan's oil import bill relative to the size of its economy is one and one-half times larger than ours. Yet both Japan and Germany have appreciating currencies and balance-of-payments surpluses.

In trying to blame oil imports for the falling dollars, the administration also overlooks that OPEC oil prices were quadrupled in January 1974. The U.S. balance of payments did not shift into a deficit position until the third quarter of 1976, 2½ years later. Furthermore, the volume of U.S oil imports has remained constant since mid-1976, but our balance of payments and the exchange value of the dollar have continued to plummet.

I ask unanimous consent to have printed in the RECORD a table which shows the modest role that increased oil import costs have played in the U.S. balance-of-payments deterioration since mid-1976. During a 20-month period in which the U.S. payments position shifted from a manageable deficit to one of crisis proportions, the rise in oil import costs is responsible for only 17 percent of the increase in imports. The large domestic deficits during this 20-month period meant that we were consuming more than we were producing, the result being that 83 percent of our trade deficit resulted from an increase in nonoil imports.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE III.—ROLE OF OIL IMPORTS IN THE DETERIORATION OF THE U.S. PAYMENTS POSITION SINCE MID-1976

[All figures in billions of dollars at annualized rates]

Period	Change in import levels			Shift in payments balance	
	Oil	Nonoil	Total	Merchandise	Current
1976:3	36.4	90.8	127.2	−11.3	−4.2
1978:1	42.4	119.8	162.2	−44.8	−27.8
Change	+6.0	+29.0	+35.0	−33.5	−23.6

Source: Task Force on Economic Policy, House Republican Conference Research Committee.

Mr. HATCH. The fall in the value of the dollar both at home and abroad and the rapid deterioration in our balance of payments all have their root cause in the large deficits in the Government's budget that the Budget Committee brings to the Senate floor time after time. These budget deficits are the source of our troubles. What we must do is to cut back on future spending by holding budget authority for fiscal year 1979 to $540 billion, as Senator PROXMIRE suggests, and we must hold spending or outlays to $475 billion, as Senator PROXMIRE suggests in the 1978 report of the Joint Economic Committee.

With spending under control, we must provide a real tax cut in order to increase rates of return. We must have higher rates of return in order to increase our capital stock and productivity and in order to attract foreign investment to help offset our trade deficit during the period it takes for the responsible and beneficial economic policies we need to have effect.

I ask unanimous consent to have printed in the RECORD an article by Alan Reynolds titled "Curbing the Federal Spending Spree."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CURBING THE FEDERAL SPENDING SPREE

(By Alan Reynolds)

There is a good deal of justified alarm about the size of the federal deficit, which now looms at $61.4 billion for fiscal 1979, counting off-budget items. Financing it by borrowing from the private sector will drain funds from housing and business investment; printing money will fuel inflation. At the same time, the nationwide clamor for tax relief must be heeded, since the effects of inflation in raising effective tax rates are depriving the private economy of the resources and incentives needed to sustain expansion. The harsh arithmetic suggests that the only effective way to cut both taxes and the deficit is to greatly and promptly reduce federal spending, which is otherwise due to climb by 23 percent in just two years.

Few federal spending programs, to be sure, are entirely without merit. But, in reducing planned expenditures, the question is not whether that spending does somebody some good, but whether it justifies the higher taxes or added borrowing needed to pay for it. Every program should be examined to see whether or not there are more effective ways of accomplishing its intended results, and whether or not those results might not be better accomplished by returning the responsibilities to lower levels of government, or to the voluntary private sector.

If five basic rules of budgetary restraint were applied to the Carter Administration's proposed budget for fiscal 1979, it would be possible to save far more money than most Washington politicians realize or care to admit. The charts on pages 80 and 81 list some $51.4 billion of spending programs that could be sharply curtailed or eliminated with little harm to basic services—and this by no means exhausts the budget-cutting possibilities. The five rules are:

1. Eliminate or reduce subsidies. There is no obvious reason for having taxpayers throughout the nation subsidize services that may not even be available in their own localities. For example, taxpayers in areas not even served by rail finance certain uneconomic passenger and freight services of Amtrak and Conrail through the huge subsidies those corporations receive. And there is ample evidence that using federal money to build hospitals has resulted in excess capacity that has raised hospital costs and fostered uneconomic practices. If a government subsidy is the only way to keep certain cultural activities from shutting down, it should come from state or local governments whose taxpayers actually benefit from them. Consumers pay for farm subsidies in both higher taxes and higher prices, and the higher prices hurt farm exports. There is considerable evidence (including a 1971 Brookings Institution study by Charles Schultze, now chairman of the Council of Economic Advisers) that the benefits accrue to the largest farms and tend to drive up the price of farmland.

2. Eliminate "temporary" programs that no longer serve their purpose. Programs instituted to deal with recession, or other temporary problems, should be terminated within a reasonable period of time. This rule would apply to such items as Emergency School Aid, which became available in 1972 to help finance school integration. There seems to be little justification at this late date for sending money to school districts that are still not in compliance with the Civil Rights Act of 1964. The 725,000 "public service jobs" financed under the Comprehensive Employment and Training Act (CETA) are another example of a permanent emergency measure that favors only a tiny portion of the unemployed. Originally due to expire this year, CETA will apparently be greatly enlarged instead. The temporary jobs are sometimes frivolous, sometimes a source of political patronage, and frequently offered to the least needy of the unemployed. Financing CETA jobs—through taxes, or printing money—tends to displace other public and private employment.

3. Eliminate unnecessary aid to state and local governments. On the general principle that the federal government should not be sending borrowed or printed money to state houses and city halls, the largest single area for potential budget trimming is the $85 billion Washington proposes to distribute in the 1979 budget. General revenue sharing, a major item totaling $6.9 billion, is now a misnomer because Uncle Sam obviously has no surplus revenue to share. Reducing this and other aid would permit a reduction in federal taxing and borrowing, thus making it easier for states and localities to do their own taxing and borrowing.

Among the questionable specific grants to state and local governments is the $4.7-billion aid package to help states and localities construct sewage-treatment facilities. Other grants for the same purpose are available from the departments of Commerce, Agriculture, and Housing and Urban Development. Why should local government compliance with federal water-pollution standards (unlike private compliance) be so generously funded at the federal level?

The matching-grant program for virtually anything that might be called a "social service" got completely out of hand until Congress put a $2.5-billion ceiling on such outlays. That limited abuses but presumably did not end them, nor did it give the program any clearer focus. Community service grants for "innovative" projects are equally vague.

The bills are still coming in for a few notoriously wasteful HUD programs that were wisely discontinued a few years ago. These include "Model Cities," and urban renewal. But the replacement for these programs—community planning and development grants to state and local governments—will devote $2.9 billion to equally nebulous purposes. Consolidating and renaming ineffective programs is not the way to save money.

Federal aid to urban mass transit has fostered some extremely costly and inefficient systems that typically benefit only a few relatively affluent suburbanites. The Bay Area Rapid Transit system in San Francisco and the Washington, D.C., Metro stand as monuments to the waste of such funds. Far more cost-effective solutions to transit prob-

lems include the use of exclusive bus lanes and the easing of local restrictions on taxis and jitneys.

4. Eliminate unnecessary educational programs. Many federal educational programs are just plain redundant or of questionable value. Social Security educational benefits are a good example. Widows receive cash payments to help support sons and daughters up to twenty-two years of age, provided they are enrolled in college; otherwise such payments cease when the children reach eighteen. This kind of educational support is no longer needed, since the government provides many other grants and loans to college students on a more evenhanded basis.

Aid to "impacted" areas, supposedly adversely affected by the presence of federal activities, is another superfluous program; it has long been misused to keep property taxes down in such affluent areas as the suburbs of Washington, D.C. The same is true of the portion of the school-lunch program that aids students who are not poor. We could also do without supplemental opportunity grants to college students, which duplicate basic opportunity grants with less control.

Many studies indicate that the Head Start program of preschool education does not provide lasting improvement in reading achievement. And there are strong reasons for phasing out grants to medical and dental students. Physicians and dentists should finance their own valuable credentials, and loans are available.

5. Eliminate other programs that are dubious in their purposes or effects. Food for Peace has dumped our farm surpluses on developing nations, thus discouraging them from improving their own agricultural productivity. The special supplemental food program is an unnecessary duplication of food stamps; the aid is unevenly available, and over a fifth of the cost is absorbed by administrative expenses. Most Peace Corps and VISTA programs are of questionable value, despite their new name, which is ACTION. The Legal Services Corporation has mainly fostered fanciful class-action crusades.

The agricultural conservation program (REAP) provides small subsidies for loosely defined purposes; the program has been abused (e.g., used to improve the gardens of rural estates) and duplicates others. The WIN program, which trains welfare mothers for jobs, has long been plagued with a very high dropout rate and few lasting placements. Programs such as those of the Economic Development Administration or New Communities Administration that aid development in certain areas must necessarily do so at the expense of other areas that bear the related tax burden. This is a divisive and improper abuse of the federal treasury that permeates many other varieties of federal "aid."

Suppose that only half of the spending in the five tables could be eliminated. The resulting $35.7-billion reduction in the deficit would still permit enough tax relief and easing of financial pressures to improve the economic outlook greatly. Still other savings are possible, however. Indeed, no federal program should be considered sacred or beyond examination.

One example of a program that seems, at first glance, beyond reproach by any humane American is federal spending on the disabled. The federal government alone plans to spend $35.6 billion on various disability benefits in fiscal 1979. Yet the soaring number of recipients of disability payments, and the shrinking percentage who ever recover, suggests that the definition of disability (including such conditions as chronic stiffness, back pain, and drug addiction) may have become too loose.

A promising area for budgetary pruning is the profusion of regulatory agencies and advisory commissions. The price-control activities alone of the $10.1-billion Federal Energy Department, for example, will cost at least $100 million to administer. Decontrolling domestic energy prices would make many other energy outlays unnecessary. The Occupational Safety and Health Administration costs $150 million, and there is no evidence that it has had any favorable effect on job safety or health. There are also numerous apparently superfluous commissions, including the National Center for Productivity and Quality of Working Life ($3 million), the National Institute of Education ($90 million), the Office of Technology Assessment ($10 million), the Advisory Council on Historical Preservation ($1 million), and the myriad regional-development commissions ($3 million).

Another way to save manpower and money is to eliminate duplication and overlap. Do we need an Environmental Protection Agency, a Council on Environmental Quality, and a Temporary Commission on Air Quality? Dumping the latter two could save $7 million. Do we need both a Voice of America and a Radio Liberty? Getting rid of the latter would save $79 million. Antitrust activities of the Federal Trade Commission duplicate those of the Justice Department. And the Council on Wage and Price Stability ($2 million) has apparently become just another agency to blame inflation on fate and private greed, and we already have the Council of Economic Advisers to do that.

The most remarkable thing about these lists of expendable spending is not their size, but the large areas of the budget left untouched. These include such favorite topics of popular ridicule as moviemaking, exotic social-science research projects, and the agencies' self-congratulatory magazines and other public-relations activities. Two enormous programs, making up 47 percent of the budget, emerge completely unscathed in this analysis. These are $119 billion in benefits for the aged and $118 billion for defense. Defense has been left out not because it is untouchable, but because it involves complex technical and strategic considerations that merit another whole article. The Carter defense budget already contains some sensible cuts that Congress has rejected in the past: for instance, reducing active military forces by 25,000, trimming the Naval Reserve, and contracting some housekeeping jobs out to private firms. Efforts to reduce the generosity of military pensions would also be in order, but, like equally necessary reforms of Social Security and civil-service pensions, would not save much money until the 1980's.

Any effort to slow down the increase in federal spending takes considerable political courage. Every dollar spent by the government is, after all, received by someone. Those who benefit from some spending program are easily organized into a political pressure group dedicated to continuing and expanding the program. On the other hand, those who pay the bills—the public at large—remain dispersed and relatively less informed about where their money is going and why.

Spending is out of control because politicians, mainly in Congress, no longer give equal weight to defending the public purse and to accommodating the pressure groups. The main hope of restoring balance—and in steeling the politicians' courage—rests in the the tax revolt now spreading across the country. It also rests in more scrutiny of the budget by independent observers, as has been attempted here.

Cuttable subsidies

Spending proposed in fiscal 1979 budget, in millions of dollars:

	Million
Amtrak	$660
ConRail	424
U.S. Postal Service	1,764
Maritime subsidies	505
Hospital construction	739
Airline subsidies	69
Public power marketing administrations	163
Farm price supports	4,276
National Foundation on Arts and Humanities	238
Grants to museums and public libraries	65
Total	8,903
Interminable "temporary" programs	
Emergency school aid	$305
Comprehensive Employment and Training Act	11,356
Antirecession financial assistance	1,050
Local public-works program	2,001
Cuban-refugee assistance	52
Total	14,764
Questionable grants to State and local governments	
General revenue sharing	$6,852
Sewage-treatment facilities	4,660
Social services	2,842
Community services	558
Community planning and development	2,864
Urban mass transit	2,161
Total	19,937
Questionable education programs	
Social security education benefits	$1,505
Aid to federally impacted areas	781
School lunches for nonpoor students	907
Supplemental opportunity grants	270
Head Start	680
Grants to medical and dental students	604
Total	4,747
Other low-priority programs	
Food for peace (Public Law 480)	$1,069
Special supplement food program	526
ACTION (formerly Peace Corps and VISTA)	222
Legal Services Corporation	243
Agricultural conservation program (REAP)	182
Work Incentive program (WIN)	365
New Communities Administration	52
Economic development assistance	399
Total	3,058

The grand total is $51.4 billion.

The PRESIDING OFFICER. The Senator's 15 minutes have expired.

Mr. HATCH. I ask unanimous consent to proceed for 30 seconds to complete my statement.

Mr. BELLMON. Before I yield any more time to the Senator, I yield myself 5 minutes to ask the Senator a question.

Mr. HATCH. Very well. Let me just ask unanimous consent that the remainder of my speech be printed in the RECORD as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. The U.S. Congress can no longer conduct its domestic spending spree in total disregard of the effects it has on the international monetary system and the exchange value of the dollar. These effects are now too large to be ignored. The spending sprees have definitely weakened the dollar and with it the international monetary system. There is no room in international money markets for any more dollars. The large

depreciation in the dollar that we have already suffered is not going to help our exports, because our domestic prices are continuing to rise. Our trade deficit is not a result of a fall in our exports, but a rise in our imports caused by budget deficits.

Mr. BELLMON. Does the Senator believe that the defense function should be further curtailed?

Mr. HATCH. I disagree with that. I think there are areas in the budget that can be cut. However, I do believe that of the $9.3 billion in reductions in this budget resolution below the figures in the first budget resolution, one-third of that reduction, if I recall correctly, about $3.2 billion, was taken out of defense.

Mr. BELLMON. Does the Senator wish to cut defense further?

Mr. HATCH. I do not know, but I think——

Mr. BELLMON. We have to be specific.

Mr. HATCH. Let me be specific, then.

Mr. BELLMON. How large a cut?

Mr. HATCH. Could I answer the question?

Mr. BELLMON. I wish the Senator would. How large a cut in defense?

Mr. HATCH. I would put it this way: I think there are many areas we can cut as strongly as you have cut defense.

Mr. BELLMON. Let us talk about specifics. We are dealing with a budget resolution in dollars and cents. How large a cut is the Senator recommending in the defense function?

Mr. HATCH. I believe we can cut defense 1 percent.

Mr. BELLMON. That would be $1.2 billion.

Mr. HATCH. That is probably so. But I would want to go into that very specifically.

Mr. BELLMON. Let us get to some other functions.

Mr. HATCH. Let me answer the question.

Mr. BELLMON. The Senator has answered. He wants to cut 1 percent.

Mr. HATCH. No, I have not answered. Let me say what I mean by my answer. I do not mean that defense cuts should be such that we would demoralize our country, but I think that in any huge budgetary expenditure we can find areas not properly administered. I cited with particularity what happened last year when the Budget Committee said, "You cannot cut the budget one ounce," and then Joseph Califano comes out and says there are $7 billion in waste in HEW.

Mr. BELLMON. I want to ask the Senator a question. The $1.2 billion is after the Budget Committee has already recommended a cut of over $2 billion. In social security how large a cut would the Senator recommend?

Mr. HATCH. Let me——

Mr. BELLMON. Let us have some specifics. How large a cut in social security?

Mr. HATCH. I think it is up to the Budget Committee to make the cuts.

Mr. BELLMON. We understand that. We have done our work. How large a cut would the Senator recommend in social security?

Mr. HATCH. I think it is up to the Budget Committee.

Mr. BELLMON. I understand, but I want the Senator's opinion. How large a cut in social security?

Mr. HATCH. I made a suggestion. I have put an article into the RECORD today——

Mr. BELLMON. Let us have the dollars and cents.

Mr. HATCH. I am going to give them. The article is entitled "Curbing the Federal Spending Spree," by Alan Reynolds. He lists a variety of cuts that can be made.

Mr. BELLMON. How large a cut in social security?

Mr. HATCH. I would not cut it a dime.

Mr. BELLMON. How about interest on the Federal debt? How large a cut there?

Mr. HATCH. On the Federal debt?

Mr. BELLMON. The interest on the Federal debt.

Mr. HATCH. That is not going to go down unless we cut the Federal debt.

Mr. BELLMON. So that is zero. That means that of those functions that total $281.9 billion, the Senator has recommended a $1.2 billion cut in defense. This means we have to cut the rest of the budget by $16.5 billion, and there is only $275.8 billion from which to get those cuts. How about energy? There is one that is not an entitlement program. How large a cut would the Senator recommend in energy? The amount there is $8.9 billion. If we took a proportionate cut it would be about $600 million. Does that seem like a reasonable cut to the Senator?

Mr. HATCH. Let me just answer this way: With all due respect to my distinguished friend and colleague from Oklahoma, I will be happy to list the cutable items.

Mr. BELLMON. That is what I am asking.

Mr. HATCH. Then let me list them.

Mr. BELLMON. Let us go through them——

Mr. HATCH. Wait a minute. It is the Senator's job to cut and not mine.

Mr. BELLMON. We have done our job.

Mr. HATCH. No, the Senator has not. You have added 9.3 percent to the actual outlays. You have added to the budget; you have not cut it a dime. Maybe you have cut it from a 15- or 20-percent increase to a 10-percent increase but it is certainly not a cut over last year, so I do not think we should use the term cut. I will be happy to recommend a whole series of cuts if you would like.

Mr. BELLMON. Then let us do that. How much do you recommend in energy? What is the Senator's recommendation in energy?

Mr. HATCH. I would suggest that the Senator read what I have put into the RECORD. I think he can find the information within this article by Alan Reynolds, entitled "Curbing the Federal Spending Spree," in Fortune magazine. He suggests considerably more cuts than Senator PROXMIRE has, and I think we can find within those cuts, within that particular area, enough room to make room for Senator PROXMIRE's reduction.

Mr. BELLMON. I will read the gentleman's article in due time. How large a cut does the Senator recommend in——

Mr. HATCH. To start with HEW, I will recommend $7 billion.

Mr. BELLMON. I will ask the question. How much does the Senator recommend cutting from energy?

Mr. HATCH. I will not play that game. Here is——

Mr. BELLMON. I will not argue further with the Senator, Mr. President, if he does not care to answer the question. The point is that the Budget Committee has to deal with dollars and cents. We cannot deal with theories. We have the entitlement programs, for instance in Agriculture, which we cannot cut any further unless the law is changed.

Mr. HATCH. Can I respond to the Senator?

Mr. BELLMON. The same thing is true in medicare and medicaid, where the law requires that certain entitlements be met. We budgeted $51.9 billion on this. In order to meet the Senator's requirement, we would have to cut $3.3 billion from that.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BELLMON. I yield myself another 5 minutes. If the Senator would care to respond, for instance, in natural resources, the Senator is a westerner as I am, and represents a State where natural resource development is supported. If we took the 6.4-percent cut across the board for natural resources, that would mean a cut of almost $1 billion. Would the Senator recommend such a cut in that area?

Mr. HATCH. Well, I would say this: The Senator has a 9.3-percent increase in outlays and an 11.5-percent increase in budget authority. That is over last year. Are you telling me that you cannot cut that any further?

Mr. BELLMON. I am telling the Senator if we are going to cut we have to get specific, and I am asking for specifics.

Mr. HATCH. I am not on the Budget Committee. I am saying you added almost 10 percent to last year's actual outlays and 11.5 percent to authorizations.

Mr. BELLMON. How much shall we take from natural resources?

Mr. HATCH. That is up to the Natural Resources Committee, but I presume they will be able to find some areas where they can cut waste. I think Senator PROXMIRE made that quite clear.

Mr. BELLMON. Mr. President, we simply cannot go into this process all over again, after having done what we consider to be the very best possible job, and come up with the kind of money, about $17.7 billion, that this amendment would call for. I consider the amendment to be totally without merit, and I am certain when the votes are cast others will reflect that feeling.

Mr. HATCH. Will the Senator be kind enough to yield me an additional 5 minutes on the bill?

Mr. BELLMON. I have already yielded 15 minutes to the Senator from California, Mr. President.

Mr. HATCH. Will the Senator from California yield 5 minutes to me?

Mr. HAYAKAWA. I am happy to yield 3 minutes to the Senator from Utah.

Mr. HATCH. That will be plenty.

Mr. President, I ask unanimous con-

sent on this particular matter that I may have printed in the RECORD a Wall Street Journal editorial dated July 25, 1978. As I recall, we got into this kind of an approach last year, and I think this particular Wall Street Journal editorial brings out the fallacies that were brought up last year.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BORN AGAIN BUDGET BALANCERS

With pressure mounting in Congress for a tax cut, we are suddenly finding a lot of born again budget balancers.

Treasury Secretary Blumenthal, who earlier this year defended the $60 billion budget deficit, is now busy trying to whip up inflationary concerns about the Steiger amendment by asserting that it would "add $2 billion to the federal budget deficit." To add $60 billion for spending purposes is helpful to the economy, but to add $2 billion for a tax cut is inflationary.

Similarly in the Congress. The Second Budget Resolution for FY 1978 brought to the floor by Sens. Muskie and Bellmon contained a 12.2% increase in federal spending. The $64 billion deficit resulting from this large spending increase was defended as a necessary stimulus to the economy. In the same breath the same Senators spoke in fiscally responsible tones against Sen. Roth's proposal to amend the budget to provide an $11.4 billion tax cut.

Although "every member of Congress desires relief for the American taxpayer," intoned Sen. Bellmon, "we are equally desirous of balancing the budget and bringing our deficit under control." Down to defeat went the Roth amendment. Sen. Hayakawa then offered an amendment to cut taxes and spending by $11.4 billion. Objections were made to his menu of spending cuts. Down the Hayakawa amendment. Sen. Hatch then offered an $11.4 billion tax cut to be paid for by holding the spending increase to 9.4%. This required only a 2½% cut in the proposed budget and surely, said Hatch as he pleaded for the taxpayer, "there is 2½% waste in every spending program." Not so, said Bellmon. Down the Hatch amendment.

(Shortly after, the Inspector General of HEW reported that HEW alone had "lost" $7 billion in waste, fraud and mismanagement—over 4% of its budget and 61% of the proposed tax cut.)

We get the uneasy feeling from all this that some people become fiscally responsible only when it is time to cut taxes. We wish we could believe that the big spenders, who are increasing government spending at a faster clip than the growth in GNP, have been born again. Such a mass conversion to the ranks of the fiscally sane by so many sinners at once would be nothing short of miraculous. Somehow, though, it doesn't ring true that big spenders are jumping on a fiscal responsibility bandwagon. The Republican efforts to make fiscal soundness a political issue have been unsuccessful for so long that a balanced budget is like a legend from the past. During a period of time corresponding to the median age of the population, Congress has produced $452.4 billion in deficits and $17.2 billion in surpluses. There can only be a few politicians in Washington who can remember the days of the balanced budget. The several generations who have been born into the deficit state must simply take them for granted. After all, they are nothing new.

So why are deficits suddenly alarming to big spenders? We believe the answer lies in the momentum of the Kemp-Roth-Steiger tax rate reductions. Just as conservatives pointed the deficit finger at the growth in spending programs, now that there is a different momentum the big spenders are pointing a deficit finger at the looming tax cuts. What is at issue is not the deficit itself but political power.

A tax cut would reduce the size of government relative to the private sector. It would be an inroad on the power that has been concentrated in Washington, and the prospect of a decline in political clout is not universally cherished. The political careers of many liberals depend on government action replacing private action. Besides, if the tax cut proponents are right and the economy booms, there would no longer be a sluggish economy as one excuse for expanding government.

We would not turn away the truly born again, but before we welcome big spenders to the ranks of the budget balancers we will wait to see if their new-found devotion to smaller deficits applies to restraining spending, or just to preventing tax cuts.

Mr. HATCH. Mr. President, let me say this: It is not my function as a nonmember of the Budget Committee to go down specific items and outline what should be cut.

Mr. BELLMON. Will the Senator yield?

Mr. HATCH. No; I will not yield at this time because I only have 2 minutes remaining. If the Senator wants to yield me some time, I will be happy to yield for any questions he wants to ask. Will the Senator yield 5 minutes?

Mr. BELLMON. I have yielded time to the Senator from California. When he is finished, I will be glad to yield.

Mr. HATCH. Let me finish my statement and I will be glad to answer questions on your time.

Mr. President, I do not think it is my job but the Budget Committee's job. When the Budget Committee comes in and says they have cut taxes when in fact they have increased spending outlays by 9.3 percent and authorizations by 11.5 percent, I do not consider that a tax cut. I think it is up to them to come up with the figures we should cut. Year after year after year we have these deficits. You cannot tell me there is not at least the waste in Government today that Senator PROXMIRE has suggested by his 3-percent cut. I thank the distinguished Senator from California for yielding to me.

Mr. HAYAKAWA. Mr. President, I would also like to speak in favor of the Proxmire amendment. If there is one lesson we should have learned from our constituents in the past few months, it is that they are tired of skyrocketing Government spending.

The committee made some attempt to reflect this attitude by the modest cuts they made from the spending levels in the first concurrent resolution. But they just scraped the surface.

The American people, through the passage of proposition 13 in my State and through tax limitation and spending limitation drives in other States, are telling us that they are ready for massive cuts in Government spending. And I was truly amazed, Mr. President, after all the past rhetoric we have heard about "tight budgets," at the ease and painlessness with which $11.2 billion in budget authority and $9.3 billion in outlays was cut from the levels set in the first concurrent resolution. I think we can cut a lot more before anyone feels any pain.

But, Mr. President, like my colleague from Utah (Mr. HATCH), I am also concerned with the effect the $42.3 billion deficit recommended in this second concurrent resolution will have on the international monetary situation.

(Mr. SPARKMAN assumed the chair).

Mr. HAYAKAWA. In the past, the choices have predominantly been between reducing the burden on our taxpayers versus satisfying the powerful spending constituencies. That is an important choice, and I have not always been satisfied with our decisions. But we have now reached a much more serious point. We must now choose between satisfying the spending constituencies and the stability of the entire world monetary system. We spend billions of foreign economic assistance. But what will happen to the developing countries if the dollar and consequently the international monetary system collapses?

We are all aware of the recent collapse of the U.S. dollar in the foreign currency markets. Compared to other currencies, the dollar has fallen nearly 20 percent over the last year. This has pushed up prices of raw materials, traded goods of all types, goods in competition with traded goods, and through cost-of-living adjustments, the cost of labor throughout the economy. Much of the increase in the rate of inflation in the last 6 months can be traced to the falling dollar. These spill-over price effects are going to continue to worsen in the months ahead.

The rest of the increased inflation of recent months is due to the expansive rate of money creation of last year brought on by political pressure on the Federal Reserve Board to fund a record peacetime Federal deficit.

Here is the point, Mr. President: These budget deficits, including the one we are going to vote on today, contribute directly to this country's enormous trade deficit, inflation, and the falling dollar.

The United States, as a whole, is running a budget deficit. All of us, as a group—consumers, investors, and Government—are together spending more than the gross domestic product—our total production. And that excess spending creates a balance-of-payments deficit. In other words, we spend more than we earn.

It is not the fault of consumers. Consumers spend only part of their earnings. They save the rest. They save enough to provide $80 billion in investment money each year.

It is not the fault of business. Business saves through retained earnings, and borrows part, but not all, of the money the public saves. Business invests what it borrows to create more production and jobs. In fact, economists of all viewpoints have been disappointed that business could not do more investing in this economic recovery.

The fault lies with the Federal Government. Business and consumers have saved more than they spent and invested. We had a surplus of saving that the Government could borrow and add to taxes to finance Government spending. But the

deficits have been bigger than that. Far bigger. Last year the deficit ate up all of our excess saving and was still $30 billion more, roughly the size of our payments deficit.

When a Government runs a deficit larger than surplus saving, it pushes total national spending ahead of total national production and income. And that means a trade deficit. Only by bringing the Federal deficit under control can we reduce total U.S. demand to levels that match total U.S. income and production.

Last year's deficit was directly responsible for expropriating so much domestic production that it pushed America into a $30 billion trade deficit. To fund that deficit, the Federal Reserve was forced to print money. That lead to inflation.

Foreigners today hold about $600 billion in dollars and dollar bonds. In the same year in which inflation eroded the value of that $600 billion by 6 percent we pushed another $30 billion overseas. With this budget resolution, we will push another $30 billion overseas and erode the value of the more than $600 billion held abroad by 8 to 10 percent with even higher inflation.

As U.S. inflation increases, foreigners find dollars less and less desirable. Not only do they not want an additional $30 billion, they want to reduce their $600 billion present holdings. Thus the run on the dollar.

The magnitude of this problem is much greater than the trade deficit. We now have a full-fledged crisis of confidence. While dollars are flowing out of the United States in the trade deficit, foreigners are also attempting to withdraw capital. However, the accounts must add up to zero. We cannot spend more than we produce without borrowing from other countries. But they have had enough and are calling in even our previous credit. As it is becoming obvious that the United States has surrendered to inflation, the entire $600 billion in dollar assets held by foreigners is losing its value faster than ever, and they are trying to unload it.

Last year, the $30 billion that we added to this amount was absorbed almost entirely by the central banks of Europe and Japan. Their private citizens wanted no part of it. The rest of the capital outflow led to the devaluation of recent months. But instead of humbly accepting this temporary bailout and tightening our belts, we intend this year to continue our profligate ways and hope our friends will bail us out to the tune of another $30 billion. We are becoming the New York City of the world.

How can we handle this problem? Not through currency swaps. They are temporary and have to be repaid. Not through gold sales. We have $55 billion in gold against more than $600 billion in claims. Not with an energy bill that will not produce a drop more oil or gas for at least 5 years when new fields come on line.

The only way to restore confidence in our currency is to fight the deficit in our budget, the deficit in our payments, and the inflation that makes the dollar so unattractive. We can do this with one simple policy step. A vote for this amendment to curb spending and reduce budget deficits can address all of these problems at the same time.

Curbing the growth of spending will help bring the country's total spending into line with its earnings and output. It will fight the trade deficit.

Curbing spending reduces the Federal deficit. This will allow the Federal Reserve to create fewer dollars, while still allowing enough credit for business expansion. This will fight inflation and make the dollar worth holding onto.

A tax cut like the Roth/Kemp bill would also help the situation. By increasing the after-tax rate of return on investment and saving, U.S. investment will become more attractive, reducing the net capital outflow. It would also lead to a greater supply of savings. In fact, the additional saving would exceed any temporary increase in the deficit. The residual would be available to absorb some of the dollars foreigners are trying to shed.

Mr. President, the whole world is watching what we do here today. This is not a routine resolution. And the Proxmire amendment is not just a pro forma protest amendment offered without serious intent. It is in deadly earnest. A vote for this small measure of restraint will reassure our own people and people around the world that we care about the value of the dollar, and that we want economic stability here at home and in world markets. It is a concrete and effective step which gets at the heart of the dollar's problems. It is the only alternative to stopgap measures which the whole world knows to be nothing but a bluff and a device to avoid facing the problem.

Mr. President, I would like to make one final comment about the conventional economic wisdom. The conventional economic thinking of the last few decades is not working. And the American people know it. In California before the vote on proposition 13, all the "economic experts" predicted disaster. The gloomier their predictions, the stronger the support grew for the proposition. It was as if the people were thumbing their noses at the experts. And the people's wisdom is proving to be correct in California today. The real estate market is booming, companies are increasing their expansion plans, predictions for massive job losses are turning into predictions for massive job increases, the projected State surplus is much larger, and the State has found it can help out the localities and still give a $1 billion State income tax cut this year.

I am sure that the conventional thinking would advise against the Proxmire amendment. I say let us keep a good thing going and thumb our noses at the conventional thinking again.

Mr. President, even the administration's economic policymakers are admitting that they cannot understand or forecast the present economic situation. Says Lyle Gramley, a member of the Council of Economic Advisers:

> Our old rules of thumb no longer work, and we haven't been able to develop new ones.

What an admission. Treasury Secretary Blumenthal is quoted in the September 11 issue of Fortune magazine as saying:

> I really think the economics profession is close to bankruptcy in understanding the present situation—before or after the fact.

He admits it. He goes on to say that uncertainties have made the econometric models that policymakers depend on increasingly unreliable:

> I tell the President, when we come to him with predictions about how a certain tax cut will affect unemployment, to listen—then forget it. We can't predict with any certainty what will occur, for the models are as confused as we are about the tradeoffs.

As I have remarked in my minority views on this resolution, the advice of our own CBO has been widely criticized among economists.

Mr. President, it is about time that we throw off the faulty economic thinking of the past. We must accept a new economic wisdom—the economic wisdom of the American people that says we cannot indefinitely spend more than we earn. The day of reckoning has come. We must face up to reality and adopt the Proxmire amendment.

I thank the Chair.

Mr. HARRY F. BYRD, JR. addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Will the Senator from Oklahoma yield the Senator from Virginia 15 minutes on the bill?

Mr. BELLMON. Mr. President, I am happy to yield 15 minutes to the distinguished Senator from Virginia.

Mr. HARRY F. BYRD, JR. I thank the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I support the pending amendment offered by Senator PROXMIRE, of which I am a cosponsor. It would reduce budget authority by $17 billion.

Senate Concurrent Resolution 104, setting forth the recommendations of the Senate Budget Committee for fiscal year 1979, calls for budget authority of $557.7 billion, outlays of $489.5 billion, revenues of $447.2 billion, with a deficit of $42.3 billion.

While I cannot agree that a deficit of $42.3 billion is appropriate for the coming year, I recognize that the Budget Committee has done a good job in reducing the budget authority by $11.2 billion and the proposed outlays by $9.3 billion below the first concurrent resolution. Furthermore, the committee's figures are substantially below the recommendations of the President.

I commend the committee for these improvements, but I must say that both the first concurrent resolution and the administration's request were much too high.

I must emphasize again, that the pending budget resolution still provides for huge spending increases.

I remain concerned about the size of the budget authority figure. The aggregate total of $557.7 billion is 11.5 percent higher than the level for 1978, the current year. This is more than double the

rate of increase in pay recommended for Federal workers by President Carter, which he called an example.

Interestingly, the President's own mid-session budget recommendations provide for $571.4 billion in budget authority, or 14.3 percent over 1978. They also call for outlays of $496.6 billion, or 10.8 percent over this year. So it seems that the "example" in the Federal Government is to be set only by Federal workers, and does not apply to spending programs.

The rate of increase in spending recommended by the administration is half again as high as its forecast of inflation.

Certainly the Budget Committee has taken a more responsible approach than the administration. But in my view, the 11.5-percent boost in budget authority which it recommends will result in ever-higher spending and more inflation, not just in the year ahead but farther down the road.

For some time, the Budget Committee has been inviting the attention of the Senate to its 5-year projections. Looking at the 5-year estimates in the report of the committee on the pending resolution, I think we can see quite clearly the path down which Senate Concurrent Resolution 104 would lead us.

In budget authority, the level of $500 billion for the current year would rise to $558 billion next year, for an increase of 11.5 percent. In each of the next 3 years, the year-over-year increase would be more than 8 percent.

In outlays, the 1979-over-1978 increase is 9.4 percent. It would be the same for 1980 over 1979, then would dip to 7.3 percent in 1981 and rise again to 8.3 percent in 1982.

In 1983, both budget authority and outlays would go up an additional 7.4 percent over 1982.

Mr. BELLMON. If the Senator will yield for a question, is the Senator using the chart that appears on page 29 of the report; page 29, table 3?

Mr. HARRY F. BYRD, JR. Well, in regard to budget authority.

Mr. BELLMON. And outlays?

Mr. HARRY F. BYRD, JR. And outlays, yes.

Mr. BELLMON. That is the chart the Senator is referring to?

Mr. HARRY F. BYRD, JR. That is the overall chart.

The result of this is that budget authority from 1978 to 1983 would increase by $268 billion, or more than 50 percent.

In outlays, the total would rise from $448 to $669 billion, or just short of 50 percent.

In other words, the course indicated by this resolution will make the Federal Government half again as expensive 5 years from now as it is today.

Nor is this increase entirely due to inflation, in the committee's projections. The average annual increase in the Consumer Price Index, under the committee's analysis, is just over 6 percent, while Government spending increases at an average annual rate of 8.4 percent.

Thus, instead of combating inflation, this budgetary policy would lead the way for it.

I understand all the limitations of the kind of forecasting involved in the committee's long-range projections. I have no intention of holding the committee to its forecasts.

It is the philosophy of these projections to which I want to address myself. In my view, these projections represent tired, outworn, and discredited economic ideas.

When it comes to cost-benefit analysis of Government spending, I think the people are far ahead of Congress.

While the people of California are voting to cut taxes, because they know they are not getting their money's worth for what they are paying, and while the movement to cut taxes and spending is gathering steam all over the country, officials in Washington are slumbering on in the belief that the same old tax-and-spend policies of the last four decades are still appropriate and popular.

In the field of Government finance, the people are far ahead of their representatives in Washington. It is time for Congress and the administration to catch up.

The second concurrent budget resolution calls for a deficit of $42.3 billion. Perhaps more significantly, the report on the resolution projects an even higher deficit—$44 billion—for the following year, fiscal year 1980, and another $30 billion of red ink in 1981.

Thus, the cumulative deficit for the next 3 years would be over $116 billion.

If these projections are correct—and I believe they are, if anything, overly optimistic—the national debt could easily approach a trillion dollars in 1981.

That year—1981—with its projected $30 billion deficit and its possible trillion-dollar Federal debt, was the year that candidate Jimmy Carter promised to balance the budget.

The committee tells us that if all goes well, with no serious recession, we can balance the budget by 1983.

To that I respond: If we pursue the course indicated in this resolution, and follow the same policies in the ensuing years, we shall have high inflation and after that, a very serious recession.

As Senator CHILES stated in his additional views to the committee report on the pending resolution:

> I find it unacceptable to run a deficit in 1980 that is greater than the deficit for 1979. In the fourth year of economic recovery, the deficit ought to be going down—not up. I find it unacceptable to show tax reduction or spending increases of $39 billion in 1982 with a deficit of $13 billion. The Committee expects just to slide down to a balanced budget by 1983 as economic conditions improve.

I do not think we will "slide" toward a balanced budget, or toward a sound economy. If we let matters slide, we shall slide toward disaster.

What we need to do is to stop sliding and start climbing toward fiscal responsibility.

Our hopes for a balanced budget and a strong economy must not be permitted to remain always "somewhere over the rainbow."

We can put our hopes on a sound basis now, if we put the Government's financial house in order.

I was interested to note that the Senator from California (Mr. HAYAKAWA), in his comments a few moments ago, said that the United States is fast becoming the New York City of the world.

For these reasons, I shall support the amendment offered by the distinguished Senator from Wisconsin (Mr. PROXMIRE), of which I am a cosponsor.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. HARRY F. BYRD, JR. I yield back the remainder of my time.

Mr. BELLMON. I yield myself 2 minutes.

Mr. President, the Senator from Utah is not in the Chamber, nor is the Senator from California, but I think an explanation is in order as to where the principal areas of growth are and some of the reasons of those large growths.

For example, in agriculture, as has been pointed out, there is a very large growth in budget authority. This large growth is provided in order to give the Commodity Credit Corporation the borrowing authority it needs to conduct properly the price support program of the farm bill. The experience is that every bit of this money, while it has to be loaned out to farmers on their commodities, ultimately will be returned to the Treasury. These are good, solid loans, made on commodities which farmers later will sell, and the money then will return to the Treasury.

So this is not, in effect, a Government expenditure. It simply is a way of operating a program to insure a stable farm economy.

In the education bill, the explanation for the 42-percent growth is that we started with an artificially low base. We had forward funded some of the programs in 1978, so that we had a very low base for that year, and now we are coming back to the more normal level of funding of fiscal 1979. So what looks like a very large growth in budget authority is, in effect, a very moderate growth of about 10 percent.

The health function, where there is a growth of 12 percent, is due to the fact that this is an entitlement program; and unless the law is changed, there is nothing the budget process can do about it. The same is so with respect to the 11-percent growth in the veterans function.

In the area of international affairs, the same practice was followed as was the case with transportation and agriculture. We put the entire function on budget, and $1.8 billion of it was provided to set up the one-time funding for the Witteveen Facility of the International Monetary Fund. There was a recommendation that this be left off budget, but the Budget Committee felt that it was more responsible to put it on budget, and that is why we show that growth.

The point of this explanation is that we feel that the Budget Committee has done the responsible thing by putting all the cards on the table. We could have had a much more attractive resolution if we followed the previous patterns and left some of the items off budget; but the committee is of the opinion—and I endorse it—that we are better off to put the whole Federal spending on budget,

so that we can see where the money is going and make adjustments accordingly.

Mr. President, I reserve the remainder of my time.

Mr. MUSKIE. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 15 minutes on the amendment.

Mr. MUSKIE. Mr. President, in responding to the distinguished Senator from Wisconsin earlier, I suggested that if it seemed to be the attitude around here that the Budget Committee should administer this across-the-board cut, even though the Budget Committee has done a satisfactory job in what it has dealt with up to this point, we should have some specifics.

I ask unanimous consent to have printed in the RECORD an amendment, which I am not going to offer, but which suggests to Senators where these cuts could be made, function by function. It is a straight 3-percent cut across the board.

Since the approach of this amendment is just that, across the board, without any specifics as to distribution, I think the first attempt the budget resolution should make to implement such a cut, if it is approved by the Senate, is reflected in this amendment.

Therefore, I ask unanimous consent that this proposed amendment be printed in the RECORD, so that members will understand what guidance we would take from such action by the Senate. It would represent a $4 billion cut in defense, and so on. I include it in the RECORD for such guidance as it may be to the Senate.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

On page , line , insert the following: In lieu of the language proposed by the Senator from Wisconsin, insert the following:

"$40,000,000,000.

The 17.7 billion dollar cut provided for in this amendment is to be made in the following categories and amounts:

050: National defense	BA	123.0
150: International affairs	BA	123.0
250: General science, space, and technology	BA	5.0
270: Energy	BA	8.6
300: Natural resources and environment	BA	13.2
350: Agriculture	BA	11.8
370: Commerce and housing credit	BA	5.3
400: Transportation	BA	18.9
450: Community and regional development	BA	8.6
500: Education, training, employment, and social services	BA	30.6
550: Health	BA	50.3
600: Income security	BA	185.6
700: Veterans benefits and services	BA	20.3
750: Administration of justice	BA	4.3
800: General government	BA	4.0
850: General purpose fiscal assistance	BA	8.6
900: Interest	BA	46.6
920: Allowances	BA	0.5
950: Undistributed offsetting receipts	BA	−17.3
Total	BA	540.0

Mr. MUSKIE. The Senator from Utah referred to the fact that this year's budget authority outlay numbers in the resolution are higher than last year's. He expressed complete amazement that that should be the case.

I do not understand his amazement since he made the argument that the big problem was inflation. Inflation has its budgetary impacts. The $41.5 billion increase in outlays between 1978 and 1979 reflects the impact of inflation and of demographics.

Let me explain that briefly. If you were to eliminate the increase, I say to the Senator from Utah, the increase which the Senator criticized earlier today, this is where you would have to cut this budget resolution in outlays in order to eliminate the increase. It would be necessary to cut national defense by $8.5 billion, because that is the amount by which national defense in the 1979 fiscal budget is above that in the 1978 fiscal budget. You would have to cut retirement and disability insurance, which is primarily social security, by $11.2 billion, because it was by that amount that the 1979 budget with respect to those programs exceeds the 1978 budget. You would have to cut health care services, primarily medicare and medicaid, by $4.5 billion for the same reason. You would have to cut interest on the Federal debt by $4.7 billion for the same reason. You would have to cut veterans' programs by $3.4 billion for the same reason. You would have to cut veterans' programs by $1.5 billion for the same reason.

Mr. President, I ask unanimous consent that a table including all programs that would have to be cut in order to reduce outlays in 1979 to the same figure that was established in the 1978 budget be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

EXPLANATION OF $41.5 BILLION INCREASE IN OUTLAYS BETWEEN FISCAL YEAR 1978 AND FISCAL YEAR 1979

($ Billions)

	Outlays
Estimated fiscal year 1978 outlays	448.0
National defense	+8.5
Retirement and disability insurance (primarily social security)	+11.2
Health care services (primarily medicare and medicaid)	+4.5
Interest	+4.7
Energy programs	+3.4
Veterans programs	+1.5
Public service jobs, youth employment, and other employment and training programs	+1.0
Transportation programs	+2.1
Education programs	+1.6
Natural resources and environment programs	+0.9
Farm income stabilization	−1.0
All other programs, net	+3.1
Recommended fiscal year 1979 outlays	489.5

Mr. MUSKIE. So, if there is real objection to these increases, then an amendment proposing to reduce these programs by the amounts I have suggested would restore the outlay numbers to the level of the 1978 budget resolution. That amendment would ignore the impact of inflation on old people. It would ignore the impact of inflation on national defense. It would ignore the impact of inflation on interest as well as the contractual obligation that is involved. It would ignore the importance we have all attached to expanding and increasing energy programs.

But apparently all those reasons which to me are very obvious were not obvious to the Senator from Utah and he finds no justification for the fact that in the 1979 fiscal year budget outlays are $41.5 million more than they were in 1978. The table I put in the RECORD explains it. I suggest that if the Senator from Utah is truly concerned about it he might propose an amendment offering to strike $8.5 billion from national defense, $11.2 billion from retirement and disability insurance, and down through the list, and that would get outlays down to what they were in fiscal year 1978.

As a matter of fact, two-thirds of the increase is due to inflation and if we can find a way to eliminate inflation by simply passing a law, adopting an amendment, maybe we will have found a magic answer to the inflation that is plaguing all Americans. We simply eliminate it by an act of Congress which says inflation shall no longer exist subsequent to the passage of this legislation.

In light of the fact we have not been able to find an answer to inflation, we cannot help but reflect its impact on the Federal budget and on the programs to which I have referred, and the Budget Committee has recognized that fact. But if the rest of the Senate feels the Budget Committee has been unrealistic, unwise, or imprudent, in recognizing on a selective basis, and it has been a selective basis, the impact of inflation, why of course, that is the prerogative of the Senate.

But that is the explanation of the difference between outlays between the 2 fiscal years. It is also an explanation for the bulk of the difference in the budget authority figures for the 2 fiscal years. It is a difference that the Budget Committee was unable to ignore and did its best to minimize, but nevertheless, as is the case with every household budget in the country, inflation has had its impact and we see it in this budget resolution.

We express regret about that, but we just accepted the fact that to not recognize the impact of inflation on these programs would impose hardships that Congress would not wish to impose on senior citizens, on the Defense Department, on veterans programs, energy programs, health care programs, transportation programs, education programs, natural resources and environment programs, and so on.

If the Senator thinks we were wrong, then an appropriate amendment could very easily be drafted to strike those differences and to restore the outlay figure to what it was in fiscal year 1978. I could draft such an amendment myself if I believed in it, but I do not. But I am happy to pass that advice along to those who think that budget making is a simple proposition.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. MELCHER). The Senator has 3 minutes remaining.

Mr. MUSKIE. I reserve the remainder of my time, or I am ready to yield back my time.

● Mr. DECONCINI. Mr. President, I wish to associate myself with the remarks of my able and distinguished colleague from Wisconsin. His analysis of the issues posed by this budget resolution is dead on the mark. What we are deciding today as we vote on this resolution is the framework of national macroeconomic policy. The outcome will set the parameters within which the details of the Government's economic policy will be implemented. It, therefore, behooves us to take a very close look at what we are being asked to approve in the light of both the current state and major tendencies of our economic system.

The committee is to be commended for its obviously conscientious effort to find responsible ways to hold down increase in Federal spending. Yet, the aggregates recommended, while below both the first concurrent resolution and below those proposed by the President, nevertheless envision additional budget authority over current levels of almost $20 billion. Let us be clear on this point. The second concurrent budget would add almost $20 billion in new spending initiatives to existing policy. To be sure, proposed outlays would be $489.5 billion, almost $3 billion less than current services. However, outlay aggregates are to a large extent a function of spendout estimates. This apparent reduction is thus somewhat deceptive because it means that the additional budget authority included in this resolution will not be manifested until later fiscal years.

I do not believe, Mr. President, that the reductions suggested by my friends on the Budget Committee are sufficiently responsive to emerging economic realities. It is becoming more and more obvious with every passing week that the inflationary forces at work in our economic order, are much more serious and deeply embedded than many, including professional prognosticators, had supposed. Earlier this year, we were hearing reports of a real or underlying rate of around 6 percent. This was certainly no cause for complacency. But just this last week, the Federal Reserve announced the results of a new study which put the underlying rate at over 8 percent. Moreover, the so-called "necessities index"—food, medical care, et cetera—is already well into double digits. The destabilizing effects of inflationary pressures of this magnitude are too well known to bear repetition here. Suffice it to say that the decline of the dollar in world markets. The disappointingly sluggish performance of the capital sector in the current recovery, the relatively modest and declining rate of real economic growth, and the persistence of unacceptably high levels of unemployment can, I believe, all be traced to this perplexing and, apparently, intractable disequilibrium in the price system.

In short, Mr. President, objective economic conditions argue for tougher fiscal restraint than the resolution before us demands. The realities are, unpleasant as it may be to acknowledge them, that we simply cannot afford to sustain new programatic initiatives, unless we are willing to trim back existing programs to make room for them. This is the course I intend to pursue and I want to compliment my distinguished friend for proposing this amendment.●

Mr. PROXMIRE. Mr. President, I am ready to yield back my time.

I understand I have only 2 minutes remaining.

The PRESIDING OFFICER. The Senator is correct.

Mr. PROXMIRE. Let me simply say I do think this is a modest amendment. It does not go back to last year's authorization level. It goes $39 billion above last year. It is 7 percent above last year. It provides for the full amount of inflation on the assumption that inflation is about 7 percent. That is just about what it is.

So, as I say, this is an amendment which I think is modest and reasonable. It is not extreme, and it is an amendment which in view of the overwhelming importance of inflation and the fact that reducing Federal spending is the clearest kind of practical signal we could send the American people, I do hope that the Senate will approve the amendment.

Mr. President, I am ready to yield back the remainder of my time.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MUSKIE. Mr. President, I yield back the remainder of my time.

Mr. PROXMIRE. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Delaware (Mr. BIDEN), the Senator from North Dakota (Mr. BURDICK), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from Montana (Mr. HATFIELD), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from North Carolina (Mr. MORGAN), the Senator from New York (Mr. MOYNIHAN), the Senator from Maryland (Mr. SARBANES), the Senator from Tennessee (Mr. SASSER), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I also announce that the Senator from Massachusetts (Mr. KENNEDY) is absent on official business.

I further announce that the Senator from Rhode Island (Mr. PELL) is absent because of illness.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN), the Senator from Colorado (Mr. HASKELL), and the Senator from Rhode Island (Mr. PELL) would each vote "yea."

Mr. HANSEN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Massachusetts (Mr. BROOKE), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Nebraska (Mr. CURTIS), the Senator from Oregon (Mr. HATFIELD), the Senator from North Carolina (Mr. HELMS), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The result was announced—yeas 25, nays 44, as follows:

[Rollcall Vote No. 369 Leg.]

YEAS—25

Bentsen	Hatch	Roth
Byrd, Harry F., Jr.	Hayakawa	Schweiker
Danforth	Huddleston	Scott
DeConcini	Lugar	Stone
Ford	McGovern	Talmadge
Garn	Metzenbaum	Thurmond
Griffin	Nelson	Wallop
Hansen	Nunn	Zorinsky
	Proxmire	

NAYS—44

Bartlett	Glenn	Melcher
Bayh	Goldwater	Muskie
Bellmon	Hart	Packwood
Bumpers	Hathaway	Pearson
Byrd, Robert C.	Heinz	Percy
Cannon	Hodges	Randolph
Case	Hollings	Ribicoff
Chiles	Inouye	Riegle
Clark	Jackson	Schmitt
Cranston	Javits	Sparkman
Culver	Leahy	Stennis
Dole	Long	Weicker
Domenici	Magnuson	Williams
Durkin	Mathias	Young
Eagleton	Matsunaga	

NOT VOTING—31

Abourezk	Gravel	McClure
Allen	Haskell	McIntyre
Anderson	Hatfield, Mark O.	Morgan
Baker	Hatfield, Paul G.	Moynihan
Biden	Humphrey	Pell
Brooke	Johnston	Sarbanes
Burdick	Kennedy	Sasser
Chafee	Laxalt	Stafford
Church	Long	Stevens
Curtis	Mansfield	Stevenson
Eastland	McGovern	Tower

So the amendment (UP No. 1813) was rejected.

Mr. ROTH. Mr. President, I would like to engage in a colloquy with the distinguished Senator from Oklahoma, who is the ranking member of the Budget Committee, if he would be willing to yield me time.

Mr. BELLMON. Mr. President, I am happy to yield to the distinguished Senator from Delaware. I yield 10 minutes.

Mr. CRANSTON. Will the Senator yield for a unanimous-consent request?

Mr. ROTH. I am happy to yield.

Mr. CRANSTON. I thank my friend for yielding.

I ask unanimous consent that Karen Mandan and Harold Gross may have privileges of the floor throughout all stages of consideration of the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Will the Senator yield for a unanimous-consent request?

Mr. ROTH. I yield.

Mr. MELCHER. I ask unanimous consent that Wayne Mehl, of my staff, be granted the privileges of the floor during the debate and votes on the pending matter.

The PRESIDING OFFICER (Mr. RIEGLE). Without objection, it is so ordered.

Mr. BELLMON. I ask unanimous consent that Lewis Shuster, of the Senate Budget Committee staff, be granted the same privileges.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. If the Senator will yield, I ask unanimous consent that John Brooks, of my staff, be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. I ask unanimous consent that Rick Brandon of my staff, be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Delaware has the floor.

Mr. MUSKIE. Will the Senator yield for a unanimous-consent request?

Mr. ROTH. I yield.

Mr. MUSKIE. I ask unanimous consent that Tom Dougherty of Senator GLENN's staff be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, the second budget resolution reported by the Senate Budget Committee provides for a revenue reduction in fiscal 1979 of $23.4 billion. This figure assumes an $8.2 billion reduction to accommodate an extension of existing tax cuts, $14 billion in additional tax cuts and $1.2 billion in miscellaneous tax cuts.

I think it is important to emphasize that the revenue levels envisioned in the second budget resolution will not provide a tax cut for the American people. The $8.2 billion extension of the temporary tax cuts merely avoids an $8.2 billion tax increase. And the $15.2 billion in additional tax cuts will not offset the pending social security and inflation-induced tax increases.

I believe we need a tax cut which provides real tax relief to the American people and I intend to push for the adoption of the Roth-Kemp tax cut in the Finance Committee markup this week.

It is important for the Senate to realize that the Budget Committee revenue recommendation for fiscal 1979 does not preclude the consideration of Roth-Kemp. The $15.2 billion revenue recommendation is slightly smaller than the $17.4 billion first-year cost of Roth-Kemp, as estimated by the Congressional Budget Office. However, there is a wide difference of opinion among economists as to the amount of revenue reflows there will be as a result of across-the-board tax rate cuts. CBO predicts a relatively small reflow of approximately 20 percent in the first year of Roth-Kemp. Other economists such as Chase Econometrics, predict reflows of at least 40 percent in the first year. I believe the reflow from Roth-Kemp would be greater than estimated by CBO, so I do not believe the revenue figures in this second budget resolution preclude enactment of Roth-Kemp.

However, even if we are forced to rely on the CBO figures, the Senate can enact Roth-Kemp by phasing it in more slowly in fiscal 1979 and then more rapidly in fiscal year 1980 and 1981.

Substantial tax cuts are needed now to offset the massive new tax increases the American people are facing over the next 5 years.

According to the Joint Committee on Taxation, the social security and inflation-induced tax increases will amount to at least $283 billion over the next 5 years. Chase Econometrics has estimated these tax increases will total $346 billion over the same 5 years.

According to the Congressional Budget Office, the net revenue impact of Roth-Kemp would be $286 billion over the next 5 years. This is hardly a radical amount when compared to the massive new tax increases we face.

In fact, the 5-year revenue projections in the Budget Committee report provide conclusive proof that the tax reductions of the magnitude I am proposing are needed.

According to the Budget Committee report, significant fiscal policy changes—tax reductions or expenditure increases beyond those reflected in the committee's fiscal year 1979 decisions—will almost surely be required to maintain economic growth through fiscal year 1983.

The committee report also states that "a significant portion of the fiscal policy changes required in later years for continued growth should take the form of tax reductions," not Federal spending increases.

Under this budget resolution, the committee is recommending tax cuts of $14 billion in fiscal 1979, $22 billion in fiscal 1980, $25 billion in fiscal 1981, $29 billion in fiscal 1982, and $33 billion in fiscal 1983.

However, the committee report states that, in order to maintain moderate economic growth, additional tax cuts will be required. These new tax cuts projected by the Budget Committee are $8 billion in fiscal year 1980, $27 billion in fiscal 1981, $39 billion in fiscal 1982, and $54 billion in fiscal 1983.

These tax reductions which the Budget Committee report states are necessary to maintain moderate economic growth are of a comparable magnitude of the Roth-Kemp tax cuts. And according to the Budget Committee's projections, these tax cuts can be enacted and the Federal budget can be balanced by fiscal 1983.

Mr. President, I think that is sufficiently important to repeat: And according to the Budget Committee's projections, these tax cuts can be enacted and the Federal budget can be balanced by fiscal 1983.

Mr. President, I ask unanimous consent that a table comparing the Budget Committee's 5-year revenue projections with Roth-Kemp be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

5-YEAR REVENUE PROJECTIONS

[In billions of dollars]

	Fiscal year—					
	1979	1980	1981	1982	1983	Total
Tax cuts in 2d budget resolution	14.0	22	25	29	33	123
Additional tax cuts required to maintain economic growth		8	27	39	54	128
Total tax cuts	14.0	30	52	68	87	151
Roth-Kemp	17.4	41	67	77	84	286

Mr. ROTH. Mr. President, Treasury Secretary Blumenthal has testified before the Finance Committee that additional tax cuts will be necessary in future years. I believe that we must program these tax cuts in advance so that spending programs can be tailored to the available revenues. This process would add the discipline needed to hold down Federal spending and at the same time provide needed tax relief to the American people.

Mr. President, at this time, I would like to ask my distinguished colleague from Oklahoma to clarify the revenue numbers contained in the budget resolution and whether or not these numbers preclude the Finance Committee from considering a multiyear tax cut such as the one embodied in Roth-Kemp?

Mr. BELLMON. Mr. President, I yield myself 10 minutes on the bill to respond to Senator ROTH.

The PRESIDING OFFICER. The Senator is recognized.

Mr. BELLMON. Let me begin by

thanking the Senator from Delaware for his question and congratulating him for having sponsored a tax bill which I consider to be very timely and meritorious.

The committee report on the second budget resolution contemplates a total of $15.2 billion in new revenue reductions below the current law of which approximately $14 billion is foreseen as a general tax cut. This reduction is in addition to the $8.2 billion extension of the temporary tax provisions, as the Senator from Delaware has pointed out. The total revenue reduction below current law is thus $23.4 billion before reflows. Reflows from this reduction are estimated to be about $2.7 billion so the net tax reduction is $20.7 billion and the final revenue floor is $447.2 billion.

The Roth-Kemp Tax Reduction Act of 1978 as presently contemplated is a 10 percent rate reduction for the next 3 years. The gross revenue loss from that reduction for fiscal year 1979 is estimated by the Joint Tax Committee to be $21.1 billion with reflows of $3.7 billion. This is a net tax reduction of $17.4 billion. With provisions for extending the temporary provisions and with other miscellaneous tax provisions, the budget floor in the second budget resolution is thus about $6 billion too tight to permit the fiscal year 1979 first year of the Roth-Kemp proposal.

As I discussed in my additional views in the report and as I talked about this morning in my opening remarks, I feel that a multiyear tax reduction is the appropriate economic policy and that fiscal year 1979 is the appropriate time for its implementation.

I can list many reasons as to why I favor a multiyear approach to a tax cut, somewhat like the Roth-Kemp approach:

First, the economic recovery may be slowing. Recent economic data such as leading economic indicators, manufacturing orders, and balance of trade deficit support this prospect. While the Budget Committee projects a growth rate of real GNP of 4 percent in 1979 the consensus forecast is for a growth rate around 3.1 percent—not fast enough to reduce the unemployment rate below its present level.

In the absence of a multiyear tax cut, like Roth-Kemp, there are likely to be increasing pressures on the financial side of our economy which make the chances of significant economic weakness and rising unemployment much greater. If that economic weakness and rising unemployment occur next year, then the recent fiscal restraint which we have seen will likely dissolve and some form of new short-term spending stimulus will be adopted by Congress. If that occurs, we will reduce the probability of achieving a balanced budget in the immediate future.

Second, real after-tax income will fall due to inflation and other actions. Inflation rates of 6.7 percent for the next 3 years will cause real tax increases of $13 to $14 billion per year because of the progressivity of the individual income tax. Charles Schultze has indicated that the administration now believes the rate of inflation may be closer to 8 percent in 1979, in which case, the drain on incomes would be even greater.

Increases in social security contributions due to increases in the benefit base will amount to $9.8 billion in 1979 and increased payments due to tax rate increases will amount to $3 billion in 1979. The increased burden of corporate taxes due to the overstatement of corporate profits under historic cost depreciation methods will amount to about $4 billion. Economic growth and capital formation are further encumbered by new environmental and safety restrictions, minimum wage laws and other forms of regulation. Large tax cuts will be required to get the taxpayer back toward the average tax burden of the last two decades. The average personal income tax rate in 1964, for example, was 10.5 percent. That burden has risen to an estimated 11 percent in 1978, and will grow to about 15 percent by 1983 unless continuing tax relief is granted.

Third, a multiyear tax cut like Roth-Kemp would help capital formation and thus reduce future inflationary pressure. One of the major problems facing the economy is the lack of a level of capital formation which will provide for future capacity and expand job opportunities. A 3-year tax reduction would stimulate capital formation in the United States. Over the last 10 years, new capital formation in the United States has averaged 2.7 percent annually—the lowest of all industrialized countries. Even Great Britain added new capital at an average annual rate of 3.6 percent over the same period. It is obvious that a large and predictable tax reduction would increase the rate of return on capital.

Fourth, a 3-year tax cut announced now is more effective than three 1-year cuts announced a year at a time. Given the sluggish economy predicted for the next 2 or 3 years by most forecasters, greater economic benefits are derived by enacting a 3-year predictable tax reduction now rather than embarking on an uncertain policy of piecemeal year-by-year tax cutting. In fact, to enact a single-year tax cut in each of the next several years would require a larger overall tax cut than a one-time 3-year cut. Three-year tax cuts, as envisioned by Roth-Kemp, are predictable and consistent with the multiyear budgeting approach introduced by the Senate Budget Committee in its first budget resolution this spring.

Fifth, Roth-Kemp coupled with spending restraint does not have to be inflationary. If one maintains that the current policy level of expenditures shown in the 5-year projections during the budget markup will or should occur, that is, allowing a $200 billion growth in spending over the next 5 years, then and only then, is Roth-Kemp, in combination with that level of spending, inflationary. However, some econometric simulations which couple Roth-Kemp with spending cuts below current policy show that the inflationary effect would be minimal; that is, three-tenths of 1 percent by 1983 in a Chase Econometrics study.

Last, increased savings will help offset any increased deficit occasioned by Roth-Kemp. Because reduced tax rates increase the after tax reward to savings, some additional savings will be generated even in the short run. This will help finance the deficit and, depending upon the amount of induced savings—Chase estimates $69 billion by 1981—will reduce pressures on the monetary authorities to buy Federal debt and subsequently increase the money stock in an inflationary manner. Several studies have shown that an increased rate of return on capital will enlarge the pool of savings available for investment in productive, long-lived assets, and thus increase potential GNP.

A multiyear tax cut like the Roth-Kemp proposal would have us approach fiscal policy decisions in a different way. At present, there is a tendency to set expeditures levels first, and then to look at the possibility of reducing taxes only after those spending decisions have been made. A multiyear tax cut would reverse that procedure. We would start by deciding how much of our national income should be allocated to the government sector and then expenditure levels would be adjusted to conform to that revenue.

By establishing a program of substantial across-the-board tax rate reductions, phased in over several years, some have said that we would be establishing the prior claim of tax cuts over spending increases as a use of future revenues.

Mr. President, I understand that, tomorrow, the Finance Committee will begin markup of the 1978 tax bill. I would hope that they consider a multiyear approach such as that embodied in the Roth-Kemp proposal, for all the reasons I have mentioned. There are a variety of ways in which a multiyear tax bill could fit within the budget resolution floor and I would like to submit the following table as examples of methods by which the multiyear approach could be accommodated.

So, to answer the question that Senator ROTH has raised directly, there are ways in which a multiyear tax cut could fit within the budget resolution, probably not precisely the way Roth-Kemp is presently drawn. But I thank the Senator from Delaware for allowing me to clarify the revenue number contained in the second budget resolution and to express my support for the type of tax cut he and many others have supported for quite some time.

Mr. President, I ask unanimous consent that a table showing the way a phased in Roth-Kemp alternative could be fitted in the budget resolution be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

PHASED-IN ROTH-KEMP ALTERNATIVE I (7%, 7%, 7%, 7%)

	1979	1980	1981	1982	1983	5-yr total
Current policy revenue baseline	467.9	530.7	596.1	669.2	741.8	3,005.7
Minus						
Extension of temporary provisions	8.2	14.0	14.8	15.7	16.6	69.3
	(7% reduction each of 1st 4 yr)					
Minus						
Phased-in tax cut (gross)	14.7	40.6	73.5	128.8	151.2	408.8
Plus						
Reflows	2.6	11.9	26.8	57.3	73.9	172.5
Minus						
Allowance for additional tax reductions (including change in treatment of capital gains)	.4	1.0	4.2	4.4	5.0	15.0
Equals						
Revenue number for phased-in R-K Alternative I	447.2	487.0	530.4	577.6	642.9	2,685.1

PHASED-IN ROTH-KEMP ALTERNATIVE II (7%, 10%, 13%)

	1979	1980	1981	1982	1983	5-yr total
Current policy revenue baseline	467.9	530.7	596.1	669.2	741.8	3,005.7
Minus						
Extension of temporary provisions	8.2	14.0	14.8	15.7	16.6	69.3
	(7%, 10%, 13% respectively in each of 1st 3 yr)					
Phased-in tax cut (gross)	14.7	49.3	105.9	138.3	164.9	473.1
Plus						
Reflows	2.7	14.6	38.6	61.5	80.6	198.0
Minus						
Allowance for additional tax reductions (including change in treatment of capital gains)	.5	1.1	4.3	4.4	5.0	15.3
Equals						
Revenue number for phased-in R-K Alternative II	447.2	480.9	509.7	572.3	635.9	2,646.0

UP AMENDMENT NO. 1814

(Purpose: To reduce the total new budget authority provided in the resolution by $16.4 billion, the total budget outlays provided in the resolution by $10.1 billion, the amount of the deficit in the budget provided in the resolution by $10.1 billion, and the level of the public debt and the amount by which the temporary statutory limit on such debt should be increased provided in the resolution by $10.1 billion)

Mr. ROTH. Mr. President, I send an unprinted amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Delaware (Mr. ROTH), for himself, Mr. HAYAKAWA, Mr. PROXMIRE, and Mr. THURMOND proposes an unprinted amendment No. 1814.

Mr. ROTH. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 1, line 4, strike all after the words "Budget Act of 1974," and insert in lieu thereof the following: "that for the fiscal year beginning on October 1, 1978—

(1) the recommended level of Federal revenues is $447,200,000,000, and the amount by which the aggregate level of Federal revenues should be decreased is $23,400,000,000;

(2) the appropriate level of total new budget authority is $541,300,000,000;

(3) the appropriate level of total budget outlays is $479,400,000,000;

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $32,200,000,000; and

(5) the appropriate level of the public debt is $829,400,000,000, and the amount by which the temporary statutory limit on such debt should accordingly be increased is $31,400,000,000.

SEC. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget act of 1974 that, for the fiscal year beginning on October 1, 1978, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are as follows:

(1) National Defense (050): (A) New budget authority, $127,000,000,000; (B) Outlays, $112,500,000,000.

(2) International Affairs (150): (A) New budget authority, $10,300,000,000; (B) Outlays, $6,300,000,000.

(3) General Science, Space, and Technology (250): (A) New budget authority, $5,100,000,000; (B) Outlays, $5,000,000,000.

(4) Energy (27): (A) New budget authority, $8,900,000,000; (B) Outlays, $8,900,000,000.

(5) Natural Resources and Environment (300): (A) New budget authority, $13,600,000,000; (B) Outlays, $11,600,000,000.

(6) Agriculture (350): (A) New budget authority, $12,200,000,000; (B) Outlays, $7,200,000,000.

(7) Commerce and Housing Credit (370): (A) New budget authority, $5,500,000,000; (B) Outlays, $2,800,000,000.

(8) Transportation (400): (A) New budget authority, $16,200,000,000; (B) Outlays, $16,500,000,000.

(9) Community and Regional Development (450): (A) New Budget authority, $8,900,000,000; (B) Outlays, $9,600,000,000.

(10) Education, Training, Employment, and Social Services (500): (A) New budget authority, $23,800,000,000; (B) Outlays, $28,500,000,000.

(11) Health (550): (A) New budget authority, $49,600,000,000; (B) Outlays, $46,700,000,000.

(12) Income Security (600): (A) New budget authority, $191,500,000,000; (B) Outlays, $156,000,000,000.

(13) Veterans Benefits and Services (700): (A) New budget authority, $20,900,000,000; (B) Outlays, $20,400,000,000.

(14) Administration of Justice (750): (A) New budget authority, $4,100,000,000; (B) Outlays, $4,100,000,000.

(15) General Government (800): (A) New budget authority, $3,900,000,000; (B) Outlays, $3,500,000,000.

(16) General Purpose Fiscal Assistance (850): (A) New budegt authority, $8,800,000,000; (B) Outlays, $8,800,000,000.

(17) Interest (900): (A) New budget authority, $47,800,000,000; (B) Outlays, $47,800,000,000.

(18) Allowances (920): (A) New budget authority, $500,000,000; (B) Outlays, $500,000,000.

(19) Undistributed Offsetting Receipts (950): (A) New budget authority, $17,300,000,000; (B) Outlays, $17,300,000,000.

Mr. ROTH. Mr. President, I have carefully observed the congressional budget process since the enactment of the Congressional Budget and Impoundment Control Act of 1974. My analysis of the process has led me to the conclusion that we need to set limits not only on present spending levels but also on those expenditures which will occur in future years. I had originally decided to offer an amendment to this concurrent resolution which would have effectively set limits on Federal expenditures as a percent of GNP over the next 5 years. Due to questions regarding the germaneness of such an amendment however, I have decided against its introduction. I fully intend to offer, in the near future, an amendment to the Budget Act which will set limits on future spending with appropriate and carefully constructed safety valves which would allow emergency expenditures exceeding congressionally set limits.

In the absence of set budget limits for future expenditures, I am offering an amendment which will reduce fiscal year 1979 budget authority by a total of 3.2 percent and outlays by a total of 2.3 percent.

The amendment I offer today is not, from my prospective, a budget cut. It does, however, slow down the rate of growth in Government spending and it is a real reduction in the growth rate of the budget authority. There are no cuts in the current operating levels of any program. The budget authority provided by my amendment would be sufficient to continue existing programs adjusted for inflation. In contrast, the budget authority recommended in the concurrent resolution is $16.4 billion more than the

amount provided by my amendment, and is 11.3 percent greater than the spending authority granted in fiscal year 1978. Similarly, the committee recommendations contain $10.1 billion more in projected outlays than are contained in my proposal.

Rather than a budget cut, I look upon my amendment as a deficit cut. I believe the lowering of the Federal deficit is a necessity if we are to effectively deal with one of our greatest economic problem today—inflation. My amendment will mean the Federal Government can avoid borrowing an additional $10.1 billion which would be a clear signal to the American people of our commitment to squarely confront the problem of inflation. We simply cannot afford to continue to add deficit on top of deficit and expect our economic problems to be solved. Deficit spending over the last 5 fiscal years will amount to nearly $180 billion and our national debt has nearly doubled since 1970 to an astounding $798 billion. Interest payments on this debt alone are projected to amount to $54.5 billion in fiscal year 1979. And these are costs, I might add, that will be borne by future generations and by all of us in the years ahead.

Mr. President, the American people have made it clear that the burden of paying for the expenses of the Federal Government has become too great. Over 60 percent of them now identify inflation as our Nation's most serious economic problem and they overwhelmingly identify the Federal income tax as being the most burdensome of all the taxes levied in America, even more burdensome than local property taxes. Our Nation's Governors have called on the Federal Government to cut the rate of inflation and reduce the deficit and the leaders of many of our cities have joined them. In short, the American people have demanded that government spending and growth be substantially reduced and they have made it clear that inflation has become a serious problem in their lives.

I believe my amendment will help reduce the rate of inflation by curbing the growth rate of Federal spending and by reducing the size of the deficit. Further reductions in Government spending will occur in programs tied to the Consumer Price Index as the rate of inflation begins to moderate. Programs such as social security, Government retirement and pensions, and numerous Federal contracts and procurement projects will be less costly as inflationary pressures decelerate. The reduced deficit my amendment allows would not only help ease inflationary pressures, it would also lower the amount of credit the Federal Government seeks from private credit markets helping to ease the high interest rates hindering business expansion. Overall, my proposal would stimulate added beneficial side effects in addition to curbing the growth rate of Federal expenditures. And though it may be argued that there has already been a 17-percent cut in the deficit contained in the legislation, and I congratulate the members of the committee for that, I do not believe a deficit of over $42 billion is acceptable when we are in the fourth year of economic recovery, especially considering the fact that the deficit for 1980 is proposed to be even larger than this year's.

Mr. President, I realize the budget committee has reduced the total budget authority by $11 billion compared to the budget authority allowed in the first concurrent resolution. Yet, the total still represents an increase of over 11 percent from the 1978 budget authority granted by Congress. While this increase itself is startling, it pales in comparsion to the tremendous amounts of unused budget authority already existing in the various agencies and departments. According to a recent GAO study, approximately $235 billion of unobligated budget authority is scattered throughout the Federal Government, waiting to be spent at some future date. It is incredible to me that a $57 billion increase in budget authority is necessary in fiscal year 1979 when billions upon billions of dollars of unobligated authority is still available for expenditure from past years. If we are ever going to get a handle on Federal expenditures, over so-called uncontrollable items and over future inflationary spending, we must begin now by reducing budget authority significantly.

My amendment seeks to make such a reduction by cutting total budget authority by 2 percent from the bill's recommended level. Even with the reduction I am proposing, there is still an increase in total budget authority of over 8 percent, an amount which allows for the effects of inflation on Government programs and then some.

The proposal I am offering deals with the deficit problem by cutting outlays for fiscal year 1979 by 2.3 percent from the committee's recommendations. Even with this reduction, outlays will increase by 7 percent over the 1978 figure, an amount greater than the projected rate of inflation. Federal officials themselves say they cannot spend in 1 year the appropriated dollars we give away. Undoubtedly, there will be a shortfall this year as there has been in every year since 1969. According to a recent CBO report, shortfalls recently have averaged nearly $15 billion or 4 percent of projected outlays. It is clear that shortfalls such as these result not from more efficient Government spending practices, but rather from overoptimistic estimates and the upward bias in many agency estimates of requirements and outlays. It is evident to me that with consistently high estimations of outlays and the fraud and inefficiency occurring in many Federal programs, my amendment is appropriate and necessary.

Mr. President, my amendment does not merely cut the total levels of budget authority and outlays contained in the legislation. I have thoroughly analyzed the specific budget levels recommended in each of the functions. Reduced levels of budget authority and outlays are only proposed for those functions in which the committee's recommendations exceed the projected rate of inflation. I have exempted two functions from reductions because of their critical importance to our national security or economic stability.

In the case of agriculture, my amendment exempts that function from any reductions primarily because the outlays provided in the bill are a significant decrease from the fiscal year 1978 figures. I am also aware of the strong Senate support for the price support programs funded under this function and accept the Senate's will in this area.

Mr. President, we must deal with the problem of inflation by cutting back on Government spending. We must begin to gain control of future expenditures and start to deal with inflation on a long-term basis. The American people have shown that they are worried by the twin problems of inflation and Government growth and we must make strong efforts to control both. I believe my amendment is a solid beginning in the difficult struggle we face in both areas.

Mr. President, I will yield.

Mr. BELLMON. Mr. President, I yield myself 5 minutes on the amendment.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 5 minutes.

Mr. BELLMON. Mr. President, to begin with, let me congratulate the Senator from Delaware for his diligence in attempting to bring Federal fiscal policy under control. It is an effort that needs to be made and I certainly commend him for the diligent way he has pursued this objection, even back to helping develop the resolution which set up the budget process.

Mr. President, while it probably will not give the Senate or the country much comfort, I would like to point out that back in 1970, the year the Senator from Delaware cited, the Federal revenues were $192.1 billion, and at that time our Federal debt was $369 billion. Our revenues, thus, were 52 percent of the debt. The revenues were $192 billion; the debt, $309 billion. I think the revenues were about 52 percent of the debt. In 1979, the year we have under consideration at the moment, our revenues are anticipated to be $447.2 billion and the debt is anticipated to go to $839.5 billion. The revenues then will be 53 percent of the debt. So we are just about in the same ratio of revenues to debt in this new budget as we were back in 1970.

Also, the Senator has called attention to the shortfall problem, and this is one which the members of the Budget Committee are greatly concerned about and which we have tried very hard to deal with, with some small degree of success.

I think it is important to know that until we can find the shortfalls and identify them, it is impossible to remove them. As the budget process has gone on, we have been more successful in finding where these spending shortfalls occur. This new budget resolution makes a greater effort than ever before to eliminate the excess funding, so that shortfalls should be reduced in fiscal year 1979. The budget process has made it possible to identify these shortfalls, and I think this is one of the major attributes of the process that Congress established.

Mr. President, I ask unanimous consent to have printed in the RECORD a table showing where the Roth cuts would be made and the size of those cuts.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

CUTS PROPOSED IN ROTH AMEDMENT

[In billions of dollars]

	Budget resolution level	Roth level	Cut
I. Total cuts:			
Budget authority	557.7	541.3	−16.4
Outlays	489.5	479.4	−10.1
II. Cuts in specific functions:			
A. Large cuts:			
Function 150—International affairs:			
Budget authority	12.6	10.3	−2.3
Outlays	7.2	6.3	−.9
Function 400—Transportation:			
Budget authority	19.5	16.2	−3.3
Outlays	17.5	16.5	−1.0
Function 500—Education and jobs:			
Budget authority	31.5	23.8	−7.7
Outlays	30.2	28.5	−1.7
Function 550—Health:			
Budget authority	51.9	49.6	−2.3
Outlays	48.6	46.7	−1.9
Function 600—Income security:			
Budget authority	191.5	191.5	----------
Outlays	159.6	156.0	−3.6
B. Small cuts:			
Function 250—General science:			
Budget authority	5.2	5.1	−.1
Outlays	(1)	(1)	----------
Function 300—Natural resources and Environment:			
Budget authority	(1)	(1)	----------
Outlays	11.7	11.6	−.1
Function 750—Justice:			
Budget authority	4.3	4.1	−.2
Outlays	4.2	4.1	−.1
Function 800—General government:			
Budget authority	4.1	3.9	−.2
Outlays	4.0	3.5	−.5
Function 900—Interest:			
Budget authority	48.1	47.8	−.3
Outlays	48.1	47.8	−.3
C. Functions with no cuts:			
1. Function 050—National defense.			
2. Function 270—Energy.			
3. Function 350—Agriculture.			
4. Function 370—Commerce and housing credit.			
5. Function 450—Community and regional development.			
6. Function 700—Veterans.			
7. Function 850—Revenue sharing.			
8. Function 920—Allowances.			
9. Function 950—Undistributed offsetting receipts.			

[1] No change.

Mr. BELLMON. Mr. President, the table shows that these cuts come primarily in function 500, which is education, in health, and in similar areas where the Budget Committee, in some cases, has attempted to do the thing the Senator from Delaware wants to do. But we have been forestalled, partially by the entitlement program and partially by the fact that, up to now, we simply have not had support for these kinds of cuts when you get down to specifics.

The Senator should know that both Senator MUSKIE and I have worked for similar cuts. But until there is more widespread support for these cuts, we have difficulty getting them put into place.

So, despite the fact that I agree with the objective of the Senator from Delaware, I feel that the Budget Committee already has done a thorough job of examining these programs and has made the cuts as deep as possible at this time. Therefore, I shall reluctantly vote against the Roth amendment.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, I do not intend to extend the debate indefinitely. However, I wish to make a few observations.

First of all, I congratulate the Budget Committee and the distinguished Senator from Oklahoma and the chairman for what I consider some very real progress being made in our budgetary processes.

I was particularly pleased to see on page 136 of the concurrent resolution on the budget the fact that by 1983 it is the goal of the Budget Committee to have spending or outlays reach 19.9 percent of the GNP. I hope we can stay on that schedule. That was the reason I made some reference earlier to the fact that I intended at one time to offer an amendment, if it had been germane, to help move us along in this direction.

Mr. President, no cut is easy, and we recognize that. What I am trying to say on the Senate floor, and what I hope the Senate will do, is to recognize the extraordinarily difficult situation this country is in.

I know it is difficult to ask the various agencies to hold down the rate of growth sometimes, in view of the actions taken by Congress, but I point out that the same difficulty is faced by the average American farmer. With inflation moving in the direction of double digit—at least, according to some economists—American workers, families, and housewives are finding it extraordinarily difficult to make ends meet. They find no growth whatsoever in their income, as we find here in the Federal budget. Instead, they find that they are, in fact, faced with much less purchasing power, and in many cases they have to lead a reduced standard of living because of what we have done in Washington.

It is my point of view that we should take stringent steps and use restraint in holding down the spending, and I believe that my proposal is responsible. It would hold down, basically, the rate of growth of inflation. We have made no cuts where the departments already have realized that goal. We have made certain exceptions in those areas where there seems to be a critical need, including national defense and energy.

In the case of agriculture, even though I did not support some of these programs, we recognize that Congress has spoken in that area.

So I hope that the Senate will give the signal to the people back home that a very tough effort is being made to hold down the rate of growth in Federal spending.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MUSKIE. I yield myself 2 minutes.

Mr. President, I think my good friend, Senator BELLMON, has covered adequately the issues raised by Senator ROTH.

I simply make the point that the functions chosen by Senator ROTH, in large part, were very tough battlegrounds within the Budget Committee for getting outlays and budget authority down.

There are four major items on Senator ROTH's list. One is function 400, transportation, where he proposes cuts of $3.3 billion in budget authority and $1 billion in outlays, as I understand it.

I would like to point out that the House Public Works Committee has much higher figures than the Senate Committee on Environment and Public Works. We undertook to protect the Senate Committee on Environment and Public Works in its determination to conform to the budget, but we anticipate a very difficult and prolonged conference between the two committees before the issue is finally resolved, because the difference between the House and Senate figures is very great.

So, I think the numbers we included in the budget resolution, in terms of that conference and the problems it will face, are conservative and supportive of the Senate Committee on Environment and Public Works. We doubt that we could cut another $3.3 billion in budget authority from that function.

Mr. BELLMON. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield.

Mr. BELLMON. Mr. President, the function 400 total BA is $44.7 billion and the highway trust fund is $8.4 billion, which leaves $11.1 billion in that function. So if we undertook to cut by $3.3 billion, this would be a 33-percent cut in that one function, which I think the Senator would agree is unrealistically drastic.

Mr. MUSKIE. The Senator is correct.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MUSKIE. I yield myself 5 minutes, to relieve the time pressure a little.

With respect to function 500—the education, training, employment, and social services function—the Budget Committee had a long, drawn-out discussion and several votes on this function, centering largely around CETA, but also including education, the administration's program of tuition assistance, the refundable tax credits related to the tuition tax credit proposal, and so forth.

The numbers we finally agreed to again, were pretty rockbottom figures, in an attempt to accommodate the diver-

gent views within the Budget Committee on what the total numbers for the function should be.

In my view, a further reduction of $7.7 billion in budget authority in that function would be very difficult to do, depending upon whose order of priorities has to be implemented. It is difficult to accommodate those differences.

Function 550, the health function, is also cut significantly in the Roth proposal: $2.3 billion in budget authority and $1.9 billion in outlays; and we have problems there.

I will say this about the Roth amendment. He has undertaken to be specific with respect to the functions in which he would seek to reduce spending. But these are not going to be easy to reconcile, and I suspect that if we were to try to enforce the numbers reflected in the Roth amendment when the appropriations bills hit the floor we would probably lose some, if not all, of those battles.

I simply make those points of observation to the Senate and to my good friend, Senator ROTH, who is one of the authors of the Budget Act.

I think the Budget Committee, which is always faced with the problem of trying to reconcile divergent and even conflicting views on priorities, did a reasonably balanced job, even though we might individually quarrel with some of the priorities reflected in the final numbers. I simply make those observations.

I think it would be very difficult to get those numbers down much further, and I would not find myself unsympathetic to some of the proposals of Senator ROTH.

I make this final observation. We have undertaken constantly since we discovered the shortfall phenomena in budget work to get the budget resolutions to anticipate more carefully and more precisely possible shortfalls. We are beginning to get some handle on it and, of course, the second resolution reflects the identification of shortfalls in spending. For instance, I think the savings in the second resolution over the first resolution represented by shortfalls is about $5.1 billion.

I emphasize to Senator ROTH that the second resolutions set binding ceilings on spending. They are not a mandate to spend up to those ceilings. I think we are fortunate that Senator MAGNUSON has taken a hard line on appropriations bills and has taken pride in bills which fall below the targets established in the first resolution.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MUSKIE. I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator is recognized for 2 additional minutes.

Mr. MUSKIE. I think we should be careful not to try to anticipate shortfalls to the point where we get our priorities distorted. In other words, we might well be able to save a major portion of the dollars the Senator's amendment addresses itself to but not necessarily in the places and in the priorities that he suggests.

We must keep in mind the fact that we are setting ceilings; we are not mandating spending up to those ceilings. The whole thrust, I think, of the budget appropriations process now is to spend below ceilings and targets, and I think that these amendments on the floor exert very useful pressure. But I think, given the different views about priorities within the committee and given the differences on priorities within the Senate as a whole, the resolution brought to the floor is pretty realistic. It represents a clear signal that we intend to exert budgetary restraints. I think that when the year is over, if the present mood in the country, the Senate, and Congress prevails we will find actual spending in 1979 will prove to be below the ceilings that are stated in the pending budget resolution.

I say that honoring Senator ROTH for his sense of budgetary restraint, but with the feeling that we should not cut any closer to the line at this point, given the fact that we are dealing with ceilings and not mandated spending.

Mr. ROTH. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Chair advises that the Senator from Delaware has 15 minutes remaining.

Mr. ROTH. Mr. President, I yield 2 minutes to myself.

The PRESIDING OFFICER. The Senator is recognized.

Mr. ROTH. Mr. President, one observation I wish to make to the distinguished chairman that has concerned me has not so much to do really with the budgetary process as with the fact that many people back home are confused about the difference between authorizations and appropriations or, in the case of a budget authority and budget outlays.

It seems to mislead many of our people back home, whether they are in education or other fields, that Congress is duplicatious or at least not consistent in what it is doing. It is hard for them in the case of education, for example, to understand why authorizations are much higher than what we appropriate.

One thing that I do think that in the future would be very helpful is if the Senate began to become more realistic in some of these areas so that we do not mislead our people back home into expecting more than they actually secure.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. ROTH. I am happy to yield.

Mr. MUSKIE. What the Senator says is valid comment. Outlays, of course, are not controllable except as we control budget authority. It is budget authority that is actual appropriations. But since budget authority does not all spend out at the same rate—it can vary from spend out in 1 year or spend out in 10 years or spend out in even more years than that, 40 years in the case of housing, for example—it is not possible to equate budget authority and outlays.

I think another factor or another difference between Federal budgets and other budgets that people do not focus on is that the Federal budget excludes capital expenditures. By definition capital expenditures spend out over time. If you had a straight operating budget at the Federal level as we do in our personal lives or in our private businesses, then I think the difference between budget authority and outlays would not be as great and people might have an easier time understanding them.

But the Senator's point is very valid. Earlier I put in the RECORD a table explaining the increase in outlays between fiscal 1978 and fiscal 1979. I now wish to put in a composite table which shows the difference in outlays between fiscal 1978 and fiscal 1979 and budget authority in 1978 and 1979, so that people can get an explanation of where the increases took place.

The increases, of course, are about two-thirds attributable to inflation and in some cases—the national defense, for example—there were real increases dictated by our current view of our national security needs. In other cases, as in social security, demographics produced increases, and I think that a breakdown as between programs may help people to understand why both budget authority and outlays for 1979 are larger than 1978.

Mr. President, I ask unanimous consent that the table be printed in the RECORD. I think it tends to be responsive to the observations that the Senator from Delaware has been making.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

EXPLANATION OF BUDGET INCREASE BETWEEN FISCAL YEAR 1978 AND FISCAL YEAR 1979

[In billions of dollars]

	Budget authority	Outlays
Estimated fiscal year 1978 spending levels	500.0	448.0
National defense	+8.9	+8.5
Retirement and disability insurance (primarily social security)	+13.1	+11.2
Health care services (primarily medicare and medicaid)	+5.4	+4.5
Interest	+4.7	+4.7
Energy programs	+.8	+3.4
Veterans programs	+2.1	+1.5
Public service jobs, youth employment, and other employment and training programs	+6.6	+1.0
Transportation programs	+4.4	+2.1
Education programs	+1.7	+1.6
Natural resources and environment programs	+.5	+.9
Farm income stabilization	+11.0	−1.0
All other programs, net	−1.5	+3.1
Recommended fiscal year 1979 spending levels	557.7	489.5

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ROTH. Mr. President, I yield myself 1 additional minute.

The PRESIDING OFFICER. The Senator is recognized.

Mr. ROTH. Mr. President, I express my appreciation for the comments of the chairman of the Budget Committee. I also say that I recognize the difficulties that that committee has in making accommodations between the priorities that different Members of this Senate feel very

strongly about. It is just my feeling that these are extraordinarily difficult times. They call for great restraint, and I hope that Congress will show that kind of restraint in an effort to once again get our economy moving upward.

I am ready to yield back the remainder of my time.

Mr. BELLMON. Mr. President, before the Senator yields back his time, will the Senator yield me 2 minutes?

Mr. MUSKIE. Yes.

The PRESIDING OFFICER. The Senator is recognized for 2 minutes.

Mr. BELLMON. Mr. President, I join in complimenting the distinguished Senator from Delaware for having the courage and also for having the insight to be specific in this amendment.

It certainly improves the quality of the debate and makes it possible for the Members to cast their votes on specifics rather than on the general principle of having an across-the-board cut in outlays and in budget authority.

Certainly this is the way we should approach the budget process, and I commend the Senator from Delaware for having taken this approach.

Mr. President, to go a little further in discussing some of the specifics in function 600, CBO's outlays estimates which the Budget Committee uses are consistently below those of the executive branch, which means we are using a more conservative approach than the executive branch uses on these programs.

The proposed $3.6 billion cut in outlays which Senator ROTH suggests would override the judgment of the technical experts at CBO in what these programs will actually cost.

Also, Mr. President, in the health function, function 550, a $2.3 billion cut in budget authority would provide for a 7 percent increase over fiscal year 1978; however, this is less than the health inflation costs, which have averaged about 12 percent over the 4 years. So this means that unless some action is taken to put on a cap or some other similar approach by the authorizing committees we would simply wind up underfunding this program and have to increase the budget later in the year through a possible third budget resolution. I have long been opposed to reopening the budget after Congress completes action each fall on the binding totals in the second budget resolution.

Also the $1.9 billion cut in outlays would provide for an increase of only about 6.8 percent over fiscal year 1978 in the same function. This is also less than the health inflation rate we have experienced in past years which, apparently, we are going to experience in fiscal year 1979.

These cuts recommended in Senator ROTH's amendment would not allow for the necessary inflationary adjustments in these programs.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, I would just point out that I recognize, No. 1, the effort to slow down the rate of growth is difficult in many cases. I would, however, point out that there have been a number of these areas, such as HEW, where there has been admitted fraud and waste.

One of my concerns in Government in contrast to the private sector is that there is never any real pressure to improve efficiency. In the case of the private sector when times are difficult, money is not coming in, they are forced to sometimes take very stiff corrective action. We here in Congress, sometimes for good reasons, increase Federal spending when there is a recession, so that we never really do ask the agencies to try to provide services for less. That, in a sense, is what I am trying to propose here.

I am ready to yield back the remainder of my time if the managers of the resolution are willing to yield back their time.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? The Chair is advised that there is not a sufficient second.

Mr. MUSKIE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, I would propose two perfecting changes. In function 500 the budget authority should be $29.5 billion, and we should change the total budget authority figure to $547 billion.

The PRESIDING OFFICER. Since the Senate has not yet acted on the Senator's amendment, the request for those changes is in order. Is there objection? The Chair hears none, and the modifications are made.

The amendment, as modified, is as follows:

Beginning on page 7, line 4, strike all after the words "Budget Act of 1974," and insert in lieu thereof the following: "that for the fiscal year beginning on October 1, 1978—

(1) the recommended level of Federal revenues is $447,200,000,000, and the amount by which the aggregate level of Federal revenues should be decreased is 23,400,000,000;

(2) the appropriate level of total new budget authority is 547,000,000,000.

(3) the appropriate level of total budget outlays is $479,400,000,000;

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $32,200,000,000; and

(5) the appropriate level of the public debt is $829,400,000,000, and the amount by which the temporary statutory limit on such debt should accordingly be increased is $31,400,000,000.

SEC. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1978, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are as follows:

(1) National Defense (050): (A) New budget authority, $127,000,000,000; (B) Outlays, $112,500,000,000.

(2) International Affairs (150): (A) New budget authority, $10,300,000,000; (B) Outlays, $6,300,000,000.

(3) General Science, Space, and Technology (250): (A) New budget authority, $5,100,000,000; (B) Outlays, $5,000,000,000.

(4) Energy (270): (A) New budget authority, $8,900,000,000; (B) Outlays, $8,900,000,000.

(5) Natural Resources and Environment (300): (A) New budget authority, $13,600,000,000; (B) Outlays, $11,600,000,000.

(6) Agriculture (350): (A) New budget authority, $12,200,000,000; (B) Outlays, $7,200,000,000.

(7) Commerce and Housing Credit (370): (A) New budget authority, $5,500,000,000; (B) Outlays, $2,800,000,000.

(8) Transportation (400): (A) New budget authority, $16,200,000,000; (B) Outlays, $16,500,000,000.

(9) Community and Regional Development (450); (A) New Budget authority, $8,900,000,000; (B) Outlays, $9,600,000,000.

(10) Education, Training, Employment, and Social Services (500): (A) New budget authority, $29,500,000,000; (B) Outlays; $28,500,000,000.

(11) Health (550): (A) New budget authority, $49,600,000,000; (B) Outlays, $46,700,000,000.

(12) Income Security (600): (A) New budget authority, $191,500,000,000; (B) Outlays, $156,000,000,000.

(13) Veterans Benefits and Services (700): (A) New budget authority, $20,900,000,000; (B) Outlays, $20,400,000,000.

(14) Administration of Justice (750): (A) New budget authority, $4,100,000,000; (B) Outlays, $4,100,000,000.

(15) General Government (800): (A) New budget authority, $3,900,000,000; (B) Outlays, $3,500,000,000.

(16) General Purpose Fiscal Assistance (850): (A) New budget authority, $8,800,000,000; (B) Outlays, $8,800,000,000.

(17) Interest (900): (A) New budget authority, $47,800,000,000; (B) Outlays, $47,800,000,000.

(18) Allowances (920): (A) New budget authority, $500,000,000; (B) Outlays, $500,000,000.

(19) Undistributed Offsetting Receipts (950): (A) New budget authority, $17,300,000,000; (B) Outlays, $17,300,000,000.

Mr. ROTH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BELLMON. Mr. President, if the Senator will yield, I ask unanimous consent that Mr. Ed Twilley of Senator THURMOND's staff, and Mr. Mark Edelman of Senator DANFORTH's staff have the privileges of the floor during the debate and votes on the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. I yield back the remainder of my time.

Mr. MUSKIE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the yeas and nays having been ordered, the question is on agreeing to the amendment, as

modified, of the Senator from Delaware. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from North Dakota (Mr. BURDICK), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from Montana (Mr. HATFIELD), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from New York (Mr. MOYNIHAN), the Senator from Tennessee (Mr. SASSER), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I further announce that the Senator from Massachusetts (Mr. KENNEDY) is absent on official business.

I also announce that the Senator from Rhode Island (Mr. PELL) is absent because of illness.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "nay."

Mr. CURTIS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Massachusetts (Mr. BROOKE), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Oregon (Mr. HATFIELD), the Senator from North Carolina (Mr. HELMS), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

(Mr. SARBANES assumed the chair.)

The result was announced—yeas 35, nays 38, as follows:

[Rollcall Vote No. 370 Leg.]

YEAS—35

Allen	Garn	Packwood
Bartlett	Goldwater	Proxmire
Bentsen	Griffin	Roth
Biden	Hansen	Schmitt
Byrd, Harry F., Jr.	Hatch	Schweiker
Curtis	Hayakawa	Scott
Danforth	Huddleston	Stone
DeConcini	Lugar	Talmadge
Dole	Magnuson	Thurmond
Domenici	Morgan	Wallop
Ford	Nelson	Young
	Nunn	Zorinsky

NAYS—38

Bayh	Hart	Metzenbaum
Bellmon	Hathaway	Muskie
Bumpers	Heinz	Pearson
Byrd, Robert C.	Hodges	Percy
Cannon	Hollings	Randolph
Case	Inouye	Ribicoff
Chiles	Jackson	Riegle
Clark	Javits	Sarbanes
Cranston	Leahy	Sparkman
Culver	Long	Stennis
Durkin	Mathias	Weicker
Eagleton	Matsunaga	Williams
Glenn	Melcher	

NOT VOTING—27

Abourezk	Chafee	Hatfield, Mark O.
Anderson	Church	Hatfield, Paul G.
Baker	Eastland	Helms
Brooke	Gravel	
Burdick	Haskell	
Humphrey	McGovern	Sasser
Johnston	McIntyre	Stafford
Kennedy	Moynihan	Stevens
Laxalt	Stevenson	Tower
McClure	Pell	

So the amendment (UP No. 1814, as modified) was rejected.

Mr. HARRY F. BYRD, JR., obtained the floor.

Mr. JAVITS. Will the Senator yield to me for 3 minutes for a colloquy without losing his right to the floor?

Mr. HARRY F. BYRD, JR. I yield.

Mr. JAVITS. I thank my colleague very much.

Mr. President, I want to address three questions to the managers of the bill. One relates to the CETA program and the other relates to the elementary and secondary education. The CETA issue involves the following: There is a certain amount of reduction—I believe $1.1 billion in budget authority and $1 billion in outlays—in the amount of the CETA program, as compared with the first budget resolution. I understand that some $500 million of this amount relates to a reduction in the countercyclical public service employment program. All that I want to nail down is whether or not the reduction is attributable to dissatisfaction with the way the program is operating, or is it attributable to the Budget Committee's appraisal as to the prospects for unemployment?

Mr. MUSKIE. May I say to the Senator it is the latter. What the suggested ceiling assumes is a $500 million reduction in funding for countercyclical public service jobs for an average reduction of 60,000 jobs in fiscal 1979, and an actual reduction in countercyclical jobs from 375,000 in the first quarter of fiscal 1979 to 255,000 jobs in the last quarter of that same year. This reduction was assumed in light of improved economic conditions, as we have experienced them. But may I say that while all CETA reauthorization proposals presume a phasedown in light of economic conditions, the Senate bill provides no specific phasedown mechanism, leaving appropriate reductions to the budget and appropriations process. So it is the second answer suggested by the Senator from New York.

Mr. JAVITS. I thank my colleague very much.

The other question related to education where there is in function 500 a very large global figure of over $30 billion. The question is whether or not the reduction in that figure had anything to do with the action which we are taking in the pending education legislation in respect of concentration grants. That is a new approach in the ESEAI program for disadvantaged children. It relates to the high concentration of poor children within a given area. My question is whether or not the calculations for function 500 include the full funding for concentration grants as requested by the President at the $400 million level for fiscal year 1979?

Mr. MUSKIE. We provide for full funding for the President's title I concentration grants.

Mr. JAVITS. I greatly appreciate that response.

Mr. President, in the last week before the Labor Day recess, the Senate passed H.R. 15, the Education Amendments of 1978. Both the House and Senate passed versions containing new provisions to focus ESEA I funds on high concentrations of disadvantaged children. It is very important that the pending budget resolution consider this new aspect of title I. The Human Resources Committee was unanimous in adopting this proposal, which was authored by the administration. During the Senate deliberation of the Education Amendments, Senator MAGNUSON requested the deletion of a trigger which would give a priority to concentration grants. Senator MUSKIE and Senator BELLMON, along with many other Budget Committee members, supported this amendment. The managers of the bill accepted the Magnuson amendment based on his statement at the time that he supports these programs, and that his objection was only to so-called mandatory funding requirements. I ask unanimous consent that this portion of the debate from August 23 be reprinted as it appeared in the CONGRESSIONAL RECORD.

There being no objection, the debate was ordered to be printed in the RECORD, as follows:

UP AMENDMENT NO. 1741

(Purpose: To strike out provisions relating to reservation of funds for section 116 relating to special incentive grants in States having compensatory education programs and section 117 relating to grants for local educational agencies in counties with especially high concentrations of children from low-income families)

The PRESIDING OFFICER (Mr. MOYNIHAN). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. MAGNUSON) proposes an unprinted amendment numbered 1741, for himself and Mr. MUSKIE, Mr. PROXMIRE, Mr. HOLLINGS, Mr. CHILES, Mr. BURDICK, Mr. BELLMON, Mr. DOMENICI, Mr. YOUNG, Mr. STEVENS, Mr. SASSER, Mr. ABOUREZK, Mr. SCHMITT, Mr. JACKSON, Mr. MORGAN, Mr. DECONCINI, Mr. HANSEN, Mr. BARTLETT, Mr. HUDDLESTON, Mr. ZORINSKY, Mr. STENNIS, Mr. PAUL G. HATFIELD, Mr. MELCHER, Mr. BUMPERS, Mr. HODGES, Mr. BAYH, and Mrs. ALLEN.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 107, strike out lines 5 through 13.

On page 15, in the Table of Contents, strike out item "Sec. 194.".

Mr. MAGNUSON. Mr. President, I have a series of amendments I would like to call up at this time.

The first amendment would delete section 194 of the bill. Section 194 reserves the first $400 million appropriated for title I, education of the disadvantaged, for concentration grants, and requires that State compensatory education programs, once funded, must continue to be funded at least at the preceding year's level. It makes it mandatory, regardless of whether these programs are good or bad. I have no objection to these new program components. In fact, I support them. I have supported them in the Appropriations Committee over the past few years.

I do believe that the mandatory funding

requirements would create problems for the Appropriations Committee. If this section stays in the bill, it would mandate an additional appropriation of at least $400 million for title I in fiscal 1979.

I hope the amendment will be accepted by the managers of the bill.

Mr. JAVITS. Mr. President, I am going to accept the amendment offered by the Senator from Washington (Mr. MAGNUSON), but I do wish to make one thing clear.

First, Senator MAGNUSON has stated that he approves of the concept which went into the committee's amendment, and his action represents the desire of the Appropriations Committee's freedom of action, with which we cannot disagree.

I believe it is important that the Senate be fully apprised of the committee's thinking when inserting section 194. The new concentration grants were designed to repair a very difficult problem in the title I program. Oversight and testimony in the Human Resources Committee demonstrated that the greatest single difficulty with title I was the fact that high concentrations of children in rural areas and children in urban areas were not receiving sufficient funds to make the title I program work effectively. The concentration factor is an attempt to compensate for the severe difficulties of title I children in areas where they are literally "concentrated" in large number. It is a proposal of relatively modest cost to compensate for the fact that title I remains several billion dollars below its full authorization.

The Human Resources Committee has experienced a mixture of success and disappointment in the results of spending decisions by the Congress. Some programs have done quite well while other meritorious programs are significantly underfunded. We recognize the difficulties facing any committee in dealing with spending decisions, and I appreciate greatly the tremendous workload and difficulties which the Appropriations Committee faces each year. They do a remarkable job.

I point out that the administration has requested the concentration grants and the State incentive program and has requested in fiscal 1979 the very $400 million appropriation to fully fund the concentration grants which the bill contains. So we endeavored to insure that these moneys would be given high priority.

I understand that Senator MAGNUSON, the chairman of the Appropriations Committee, as well as several senior members of the Budget Committee, are strongly inclined to favor the full $400 million spending in fiscal year 1979, and make appropriate allowances in the next supplemental appropriation and in the second concurrent budget resolution. This achieves the desire of the Human Resources Committee expressed in section 194 of S. 1753, that the new concentration grants would receive favorable treatment. We believe that section 194 does not force any appropriations. Rather, it simply puts a priority on the concentration grants. This is not an appropriation forcing device, rather it is simply a statement of Human Resources Committee views as to the principal importance of beginning the concentration grants program in 1979.

Based on the assurances of support from Senator MAGNUSON and others, I am comfortable in accepting his amendment to strike 194 from this bill.

Mr. MAGNUSON. I appreciate that. They do have high priority in the Appropriations Committee.

Mr. JAVITS. A third matter I wish to raise concerns the adequacy of new budget authority to fund the employment and training programs enacted under the Youth Employment and Demonstration Projects Act (P.L. 95–93) last year. We in the Human Resources Committee contemplated an annual program level of $1.5 billion per year for these programs.

I have become deeply concerned by recent indications that YEDPA programs may be restrained from reaching and maintaining the $1.5 billion level. I refer particularly to the recent Labor Department field memorandum, No. 327–78, which directed prime sponsors to adjust program operations so as to expand only 73 percent of fiscal year 1978 dollar levels provided.

I wish to know from the distinguished managers of the bill whether the function 500 ceiling for budget authority contained in the resolution before us today is sufficient to permit outlays of $1.5 billion in fiscal year 1979 for the YEDPA programs? And, further, is $1.5 billion per year the program level the Budget Committee assumes for YEDPA?

Mr. BELLMON. We have maintained the policy of $1.5 billion per year available for youth programs.

The reduction of $100 million in BA and outlays is just an adjustment, because we had more carryover than had been projected at the time of the first resolution.

If the $1.5 billion is spent, prime sponsors will have to double activity levels over this year.

Mr. JAVITS I thank my colleague very much. I thank the Senator from Virginia very much for his courtesy.

UP AMENDMENT NO. 1815

(Purpose: To reduce budget authority by $3.4 billion)

Mr. HARRY F. BYRD, JR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Virginia (Mr. HARRY F. BYRD, JR.) proposes an unprinted amendment numbered 1815:

On page 1, line 11, strike "$557,700,000,000" and insert in lieu thereof "$555,300,000,000".

On page 2, line 23, strike "$12,600,000,000" and insert in lieu thereof $10,200,000,000".

Mr. HARRY F. BYRD, JR. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. HARRY F. BYRD, JR. Mr. President, I cosponsored with Senator PROXMIRE an amendment to Senate Concurrent Resolution 104 which would have reduced aggregate budget authority by $17.5 billion. I also supported the amendment offered by the Senator from Delaware (Mr. ROTH), which would have reduced aggregate budget authority by approximately $16 billion.

I had another amendment somewhat similar to that of the Senator from Wisconsin, although it was more specific, and somewhat similar to the amendment offered by the Senator from Delaware, although it was not as broad. Both of those amendments, one by Senator ROTH and one by Senator PROXMIRE, were voted down by the Senate.

This amendment deals with a single budget function; namely, function 150, international affairs.

First, let me say this: I realize, of course, it is the aggregate budget authority in the budget resolution that is the key figure, because it is binding, unlike the totals for the individual functions, and because it affects spending not only in the current year, but in years to come.

The proposed amendment, the one before the Senate now, would reduce the total budget authority by $2.4 billion in the current resolution and would, simultaneously, reduce function 150 by $2.4 billion.

I focused upon the international affairs function, because I think it is singularly inappropriate to approve the large increase in foreign assistance embodied in the Budget Committee's recommendation.

The committee proposes an increase of $3 billion in international affairs, from $9.6 billion in the current fiscal year to $12.6 billion for fiscal 1979.

Mr. President, this represents an increase of 31.2 percent.

This rate of increase is almost triple the rate of increase for the budget as a whole. It is more than five times the rate of increase in pay for Federal workers which President Carter is recommending; namely, 5.5 percent—and which he calls an example to the Nation. I submit that such an increase as 31.2 percent in spending for international affairs—foreign aid, if you will—cannot be justified.

My amendment now before the Senate would reduce budget authority for international affairs by $3.2 billion. There would still be an increase in that function, however, an increase of 6.2 percent over 1978. I feel it is way out of line to vote an almost one-third increase in the international affairs function at a time of huge deficits and high inflation. I hope that the Senate will adopt the proposed amendment.

Mr. HANSEN. Mr. President, will the Senator from Virginia yield?

Mr. HARRY F. BYRD, JR. I yield to the able Senator from Wyoming.

Mr. HANSEN. Mr. President, it seems to me that the Senator from Virginia has made a very responsible and reasonable proposal to the Senate. I think his comparisons that illustrate the percentage of budget increase in this year's budget in this specific area as compared with the overall budget, certainly call attention to the reasons for and the good sense in the proposal that the Senator from Virginia has offered. I hope very much that it might be adopted. I intend to support it.

Mr. HARRY F. BYRD, JR. I am very grateful to my friend from Wyoming for his comments.

I think another important aspect of this is that the unobligated economic aid, namely, funds appropriated to the President and unobligated at the end of this fiscal year, will equal $11.3 billion. That is, funds already appropriated. They are in the pipeline, unobligated funds. They

will equal $11.3 billion and the proposal before the Senate today is to add another $12.6 billion.

I reserve the remainder of my time.

Mr. MUSKIE. Mr. President, the Senator from Maine thinks this exercise is becoming a semiannual one between the distinguished Senator from Virginia and myself. First of all, let me address the percentage figures that the Senator has yielded. The increase in budget authority from 1978 to 1979 was $9.6 to $12.6 billion, which is $3 billion. Percentagewise, that is a large increase. Curiously, the bulk of that increase is related to a mandate of the Budget Act: To put proposed spending on budget where it can be controlled by the appropriations process.

The major part of that $3 billion increase is $1.8 billion for the Witteveen Facility to support countries having balance-of-payments problems related to costs of energy and energy imports. It is a facility which we agreed to create with other industrialized countries and with the OPEC countries. At the time, it was pretty widely hailed as a reasonable and wise reaction to the balance-of-payments problems generated for relatively small countries, particularly, who are in no position to fund the increases in energy costs. The struggle all year long has been between those in the administration who would prefer to have this facility off budget and thus outside the control of the appropriations process, rather than on budget and subject to the appropriations process; and those of us who are responsible for administering the budget process in Congress. We were determined that this Witteveen Facility would go on budget and, being on budget, it adds to the total by the amount that the Senator from Virginia finds unacceptable.

We cannot have it both ways: Enforce the budget process in accordance with its explicit terms and thus reveal the amount of money that is involved in the budget; or ignore the budget process and let the administration have its way by going off budget and creating another one of those problems that we have all come to find distasteful. If you take the $1.8 billion out of the three, that leaves $1.2 billion, which is roughly a 12-percent increase.

Mr. President, may I suggest the absence of a quorum?

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I am happy to yield to my good friend from Oklahoma.

Mr. BARTLETT. I thank my distinguished friend from Maine.

Mr. President, I ask unanimous consent that Mike Roush of my staff be granted privilege of the floor during voting and the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Will the Senator yield?

I hate to break the continuity of this, but I need to go to another place and I have three questions to ask, if I may.

Mr. MUSKIE. I am happy to yield. I am awaiting some further information. In any case, it will be a respite and I yield to the Senator.

Mr. BUMPERS. Fine.

In looking over the information, the summary of the second budget resolution I find on my desk, I see that the Budget Committee has in the second concurrent budget resolution projected now a deficit of $42.3 billion, or 30 percent less than the President's original estimate, which I believe was $60 billion.

Is that correct?

Mr. MUSKIE. That is correct.

Mr. BUMPERS. The committee has also taken into consideration, in arriving at the $42 billion deficit, a $23.4 billion tax cut?

Mr. MUSKIE. The Senator is correct. That includes continuation of the temporary tax cut, to continue each year now for 3 or 4 years, $8.2 billion.

Mr. BUMPERS. In addition, this is a $23-some billion cut in addition to the temporary tax cut?

Mr. MUSKIE. No. It includes the $8.2 billion.

Mr. BUMPERS. Very well. My question is, if we left the present temporary tax cut in effect and did nothing toward enacting the House bill, for example, that figure would be roughly $15 billion in savings.

Is that correct?

Mr. MUSKIE. Fourteen billion dollars plus $1.2 billion in structural tax changes that we anticipate.

Mr. BUMPERS. Right.

Mr. MUSKIE. For a total of $15.2 billion.

Mr. BUMPERS. So if we left everything status quo, and I realize there is some variation, because economic activity might be reduced or stimulated, one way or the other, but, just on the face of it, if we did not pass the tax proposal the House already passed and we did nothing except leave the present temporary tax cut in effect, we could trim another, roughly, $15 billion off the $42.3 billion.

Is that correct?

Mr. MUSKIE. It would be something below that. I will try to get the figure.

The net gain, may I say to the Senator, would be on the order of $11 to $12 billion.

Mr. BUMPERS. Is that because of the reduction in economic activity as a result of not enacting the tax cut?

Mr. MUSKIE. The Senator is correct.

Mr. BUMPERS. That is very good, because that answers the question.

Finally, I take it that the present resolution has not taken into consideration the possible sustaining of the President's cut of $1.9 billion for the aircraft carrier?

Mr. MUSKIE. The President vetoed the authorization bill. The aircraft carrier, as I understand it, is included in the Defense Subcommittee's markup of the defense appropriation bill, which has not yet been reported in the Senate. The subcommittee's recommendation does not violate either the targets set in the first budget resolution or the ceilings established in the second budget resolution. That, of course, raises some of the issues the President used as reasons for vetoing the authorization bill. In other words, the carrier was funded, or is proposed to be funded, by the Appropriations Committee.

Mr. BUMPERS. In the authorization?

Mr. MUSKIE. As a substitute for other defense expenditures in the appropriation request that the President thinks are more clearly related to our present defense requirements than the carrier.

The defense appropriations bill that the Appropriations Committee is considering will implement many of the items in the authorization bill. It will be within the budget, even though it includes funding for the nuclear carrier.

I want the Senator to understand that the full amount of budget authority for the carrier would be in this year's budget, but that first year outlays associated with the budget authority would be minimal.

Mr. BUMPERS. The budget authority was $1.9 billion. I suppose the appropriation will probably be $300 million to $400 million, I am not sure, in fiscal year 1979.

In any event, the Budget Committee has taken into consideration the authorization which, as the Senator says, did not violate the first concurrent resolution.

Mr. MUSKIE. The Senator is correct.

Mr. BUMPERS. I thank the Senator very much.

Mr. MUSKIE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, let me make these further observations with respect to the Byrd amendment.

In the first place, the second budget resolution as reported by the Budget Committee already has cut $200 million from the level of the first budget resolution.

The second point I would make is that the second budget resolution actually cuts $1 billion from the President's request for foreign economic assistance and financial programs.

Third, the amount in the resolution is, roughly, the amount already appropriated by the House of Representatives. It represents only a slight increase.

Further reductions in these programs would threaten to end effective U.S. participation in multilateral development banks which we have come to encourage

in recent years as a wise substitute for unilateral aid, whenever possible. These banks generate $3 from other donor countries for every $1 provided by the United States.

Now, with respect to the $3 billion increase to which the Byrd amendment addresses itself, let me give the Senate the details of that $3 billion.

One billion eight hundred million dollars is for the Witteveen Facility, which I have already explained, and the Senate has spoken on that explicitly with respect to approving on-budget rather than off-budget treatment of that facility.

Six hundred million dollars is for the foreign military sales trust fund, reflecting increased sales to Saudi Arabia, Iran, and other countries.

Four hundred million is both for partial funding of our arrearages in multilateral banks out of a total of $800 million in arrearages which we now owe, and for real growth in our bilateral aid programs. Two hundred million dollars is for inflation and pay raises.

Those are the details, Mr. President, of the amounts that the Byrd amendment would strike from this function. I think it would represent a serious blow to the Witteveen Facility and the concept of on-budget treatment.

The foreign military sales program has been of great importance to us in maintaining our presence and influence in the Middle East with countries such as Iran and Saudi Arabia.

The arrearages which we owe the multilateral banks have been the subject of extensive discussion in the past on this floor between the distinguished Senator from Virginia and myself, and I do not think that subject needs further amplification at this point.

The other two items are not as large, but they are equally important.

That is the sum and substance of it, Mr. President. There has been an effort, as I emphasized to the committee, to cut this function below the President's request, below the first concurrent resolution, and I think the Budget Committee was satisfied with the figures finally approved.

So I urge the rejection of the Byrd amendment.

Mr. HARRY F. BYRD, JR. I yield myself 5 minutes.

First, Mr. President, the Senator from West Virginia (Mr. RANDOLPH) has requested that his name be added as a cosponsor of the pending amendment, and I ask unanimous consent that that be done.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I think what the Senate needs to decide is whether it is wise to increase foreign aid spending by $3 billion. There are many Senators, of course, who think it is wise. The Senator from Virginia happens to disagree. I do not believe that it is reasonable at this time, when our Nation as a whole is being asked to respond affirmatively to measures designed to hold down inflation, that Congress should increase foreign aid spending by $3 billion. I point out that the total foreign aid spending under the concurrent resolution will be $12.6 billion.

In regard to the Witteveen Facility, that is a new program. It is not now in effect. It is an entirely new program. It has been neither off budget or on budget. It is an additional, new program costing $1.8 billion, and that is piled on top of all the other foreign aid programs.

Another point needs to be emphasized, Mr. President: There is in the pipeline now, available to the President, an unobligated balance of $11.3 billion for foreign economic aid. This concurrent resolution would provide for an additional $12.6 billion. The amendment now before the Senate would seek to reduce this substantial increase by $2.4 billion. I think it is reasonable and is something that the American people would feel is reasonable.

How are we ever going to get Government spending under control if in this year of 1978, this year of high inflation, we adopt a budget resolution in the Senate providing for a 31-percent increase in foreign aid?

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. I am delighted to yield to my colleague from Virginia.

Mr. SCOTT. Mr. President, I appreciate the Senator yielding, and I associate myself with the remarks my distinguished colleague from Virginia has made.

It is often said with respect to foreign aid that the recipients of Federal funds have no constituency. Oftentimes, we vote on matters in which the people we represent have a direct interest, but that is not true of foreign aid.

I have taken polls during the 12 years I have been in Congress to see how the people of Virginia felt with regard to foreign aid. I posed the question whether they felt that foreign economic aid should be eliminated or reduced. In each instance, 90 percent or more have indicated that they felt that the foreign aid either should be eliminated or reduced.

So I think the distinguished Senator is representing the will of the people of Virginia and, in my judgment, the will of the people of the entire Nation, with the amendment he has offered.

We know about proposition 13. People want to pay less taxes. How do you pay less taxes unless you reduce spending? If you are going to increase spending and not increase taxes, you are going to have a larger deficit, and you are going to have more inflation, and the money that the people have will be worth less.

So I commend the distinguished Senator, and I associate myself with his remarks. I mentioned to him a few minutes ago, privately, that it is only $2.4 billion and that perhaps it should be $4.8 billion. I do not know what the amount should be. But I feel that the people of the country want less foreign economic aid, and I believe that the distinguished Senator is on very solid ground in the amendment he offers. I hope it will be approved. Certainly, I will vote to support it.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HARRY F. BYRD, JR. I yield myself 5 additional minutes.

Mr. President, I thank my friend from Virginia.

I invite the attention of the Senate to page 75, "Special Analysis C," of the 1979 budget. It shows that as of September 30 of this year, the President will have available to him, for economic aid, funds appropriated but not obligated in the amount of $11.3 billion. Yet, this proposal is to add another $12.6 billion.

Mr. MUSKIE. Mr. President, first of all, let me make clear to my good friends from Virginia that they are no more aware than I am that there is no constituency, not any votes, in this country in the foreign aid function. That is largely because most people—I will speak of my State, and the Senators can speak of theirs—have no exposure to the human conditions or to the national security problems which influence our responsibilities as a world leader. Most people have no exposure to the circumstances of those foreign problems that we have or that the President has or that our representatives overseas have.

To most citizens, foreign aid means that we are just handing out to individuals in other countries, who do not appreciate it, gifts of dollars. That is a very common impression. Of course, there are no votes in it.

I recall that when I first campaigned for the Senate, campaigning extensively on the importance of the United States using its role as leader in the world to try to influence the affairs of mankind for the better, by using the resources available to us, I won a rather overwhelming victory. That is not to say that I sold foreign aid as such.

It is an easy whipping boy, an easy scapegoat, and I am fully aware that I do not gain a vote by standing here and opposing the amendment of the distinguished Senator from Virginia.

But since Senators keep making the point, I thought they should understand that I am in full agreement with them on the lack of popular support for foreign aid.

Second, the $11 billion to which Senator BYRD refers is mostly callable capital, in the form of guarantees, and the multilateral banks involved have never called for a single dollar of that money. It has never been expended. It is on the Treasury books, and it is not available to the President, by and large, for the purposes to which I have referred in my response to the amendment of Senator HARRY BYRD. It is not available for the Witteveen facility, not available for the foreign military sales trust fund, not available for the bilateral program, and not available for salary increases to meet the cost of inflation. The $11 billion is simply not available for those purposes.

It is mostly callable capital. It will remain as callable capital which has never been called by the banks.

We should at least understand the distinction between callable capital and the unobligated amounts Senator HARRY F. BYRD, Jr., is talking about.

To imply that the unobligated money could be used for these purposes is not an accurate statement of the facts.

Senators may be opposed to both the callable capital and these purposes. That is understandable. But to suggest that you can finance this $2.4 billion that the Harry F. Byrd, Jr., amendment would strike from the close to $11 billion in callable capital that now exists is simply not an accurate statement of the facts.

Another point about this budget function is that this is the first year that foreign military sales have been included in this function. Previously, they have been included in the defense function, and I never heard any amendments offered then to strike military sales, especially by those who have a special interest in the defense of our country, our national security interests, and our allies and partners overseas. Now that it is in the international affairs function, it becomes fair game as foreign aid.

They are sales. They are by and large cash sales, and they are included as budget authority, because the United States becomes obligated to the transfer of funds out of the Treasury.

Senator BYRD's amendment would, in effect, strike $600 million of foreign military sales included in the $3 billion.

(Mr. CHILES assumed the Chair.)

Mr. HARRY F. BYRD, JR. Mr. President, if the Senator will yield, the amendment does not strike $600 million. It would reduce the total of $12.6 billion by $2.4 billion.

Mr. MUSKIE. That is correct, but the Senator justifies his amendment removing most of a $3 billion increase over 1978 and that $3 billion increase includes $600 million in foreign military sales.

If the Senator proposed to cut something out of the $9.6 billion, it seems to me the Senator owes it to the Senate to tell us what he is going to cut in place of the $600 million in foreign military sales. I can only address myelf to the premise upon which his amendment is based.

I agree that there are no votes in foreign aid. I make two final points:

First, the Witteveen facility is not foreign aid. It is a new facility created by the industrialized countries and the OPEC countries to help the world adjust—the poor nations, the industrial nations, the intermediate nations—to the enormous balance-of-payments problems that were created by the quadrupling of energy prices and the flow of capital from the industrialized countries to the OPEC oil producing countries. That is a world problem. That is not an American problem. It is a world problem. And this country has similar problems. We are in a better position to deal with our domestic problems, but we find ourselves overwhelmed by them.

How about these poor countries that have no way of supporting their balance-of-payments deficits attributable to the higher cost of energy except with the help of the industrialized world and the countries whose increase in prices made the problem come into existence? The United States, as part of an enlightened program by the industrialized countries, was able to persuade the OPEC countries to come into the plan to create the Witteveen facility.

The facility simply helps these countries through their adjustment period. I do not call that a foreign aid program. I call that an international program designed to help the world international economic structure which, includes poor as well as rich nations, respond to the quadrupling of energy prices.

It seems to me that, as the world's most powerful Nation, we have some responsibility. Or are we to take the position: "Let every other country participate in this, but let us stand on the sidelines. Let us sit on the sidelines. We cannot afford it."?

I tell Senators that if this international energy problem, and the balance-of-payments deficits which it has created, is not part of our world responsibilities, then by what right do we take our balance-of-payments problems to the rest of the world? We go to the OPEC countries and we ask them to restrain their price increases, because if they do not, they will destabilize our country, destabilize the international economic situation, and create economic chaos. So we, the world's most powerful Nation, are dependent on the OPEC countries to help contain this balance-of-payments problem that has been created by the quadrupling of energy prices. But when we are asked to participate modestly in a facility designed to help poorer countries get the same kind of relief that we are asking for ourselves, do we say we cannot afford it?

The Senator from Virginia praised me this spring for putting the Witteveen Facility on budget. Now he criticizes the committee, because of its cost.

How many ways can you ask to have a proposition?

I yield to my good friend from Maryland.

Mr. SARBANES. Mr. President, I wish to underscore the limited nature of the American contribution to the Witteveen Facility in comparison with that to be made by other countries. The American contribution will account for approximately 17 percent of the facility. Saudi Arabia, for one, will exceed our contribution significantly and OPEC countries, taken together, are contributing about one-half of the resources for the Witteveen Facility. It is the first time that they have been drawn into the international balance-of-payments system to provide resources to help to meet the problem created by developments in the energy field, in this instance with request to the lesser developed countries.

This is an American investment that is a wise one especially when one compares the terms of the American role here with most other things we go into.

I am very frank to say to the Senator from Virginia I would expect to find him praising the Witteveen Facility in terms of marking a new departure in the limited American contribution and in the assumption of responsibility by the OPEC countries and by the other advanced industrialized nations in percentages that far exceed what has heretofore been the case.

In other words, we ought not lose the opportunity of placing the Witteveen Facility on line, because it establishes a very important precedent in terms of the contribution which other countries, either the other advanced industrial countries or the OPEC countries, are expected to make to this problem in comparison with the U.S. contribution. It shifts us away from the heretofore prevailing assumption that the United States alone is going to carry these international burdens—burdens which more appropriately should be shared by other countries and will be in this instance by their underwriting the Witteveen Facility.

Mr. MUSKIE. I thank my friend from Maryland for putting that point in perspective.

I will close with a second and final point: Function 150, the total amount provided is 2.3 percent of the budget. It is six-tenths of 1 percent of gross national product. What does this very minor percentage of our resources represent? It represents this Witteveen Facility which has just been described by the distinguished Senator from Maryland as a sharing of responsibility, with other industrial countries and the oil-producing countries, for the balance-of-payments problem that has been created by the quadrupling of energy prices; second, it represents the sale of arms under the foreign military sales trust fund to countries like Iran, Saudi Arabia, Israel, and other countries with which we have entered into agreements for that purpose to help meet their defense needs.

We have concluded that such sales help these countries meet their defense needs and also meet our national security needs.

This small percentage represents our sharing responsibility in these development banks for providing economic assistance to countries which seek to achieve economic viability. If they succeed, of course, they serve our economic interests overseas as they become trading partners and consumers of American goods.

This 2.3 percent of the budget, six-tenths of 1 percent of GNP, represent our contribution to world leadership through our economic resources. Now, is that excessive? Is that beyond the call and the responsibility of our role in the world? Is that more than we can afford to try to influence events around the world in directions we think beneficent and consistent with our own national interest, or is it too much?

Well, because there is no constituency for it, because there are no votes for it, it is easy to say we cannot afford it and that in this one function alone we are going to balance the budget.

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. I yield.

Mr. SCOTT. I appreciate the Senator's yielding to me.

You know when an amendment like this is offered, I believe we have to reflect back after World War II when we had the Marshall plan submitted, and we had to think about the happenings since that time in the field of foreign aid.

I remember H. R. Gross on the House side used to refer to this as the foreign giveaway program. Perhaps this was a misnomer to call it that, but the people of the country do not favor the way in which Congress has been providing assistance, broad-brush assistance, throughout the world.

When we talk about no constituency, I believe that we, as representatives of the people of the country, do need to reflect upon the desire of the people for less Government spending. There is no doubt in my mind at all that the people of the country want our budget reduced. They want less taxes. Every time they have an opportunity to express themselves directly on this, they indicate that they want less taxes. Whether it is at the local level, the State level, or the Federal level, the only way we can cut is to cut and to vote "no" on some of these giveaway programs.

Again I commend my colleague from Virginia in what he is attempting to do. He is attempting to do what the people of Virginia and the people of the country want done. To me we are here to carry out the will of the people of the country, and voting in favor of this amendment is what the people would have us do, in my own personal judgment.

I appreciate the Senator's yielding.

Mr. HARRY F. BYRD, JR. Mr. President, I thank the Senator from Virginia. I shall take only a minute or two and then I will be glad to yield back the remainder of my time.

I think the basic question to decide is whether the Senate feels it is justified in increasing foreign aid by $3 billion in the upcoming budget.

I frankly do not think so. If we need to go into a new program like the Witteveen Facility, and it has, as the Senator from Maryland pointed out, some advantages over some of the current programs, it is, however, a new program; but if we are going into that, then I say let us reduce some of the existing programs, and let the funds come from that source.

The facts are that this concurrent resolution provides for a $3 billion increase, or a 31 percent increase, in foreign aid spending. I contend that is too much of an increase. I feel that increase ought to be reduced, and this proposal would do that.

I realize there is a difference of viewpoints. The able Senator from Maine has made a strong statement in behalf of his way of thinking just as the able Senator from Maryland has, but in my judgment the Congress is not justified in adding $3 billion to the foreign aid program, which represents an increase of 31 percent.

Mr. MUSKIE. Mr. President, I thought as a little personal footnote I should indicate that when passage of the Witteveen Facility bill was before the Senate the Senator from Virginia is recorded as voting "Yea" and the Senator from Maine is recorded as not voting. [Laughter]

Mr. HARRY F. BYRD, JR. That was a part, the Witteveen Facility was a part, of another larger bill, if the Senator will recall, it was not voted in alone.

Mr. MUSKIE. I also think the Senator was voting to put the Witteveen Facility on budget where it would become a more tempting target.

Mr. HARRY F. BYRD, JR. I think it is very desirable, and I have in the past, and do now, commend the Senator from Maine and the Budget Committee for putting this new foreign aid spending program in the budget process rather than having it as an off-budget item. If we are going to have this new program, most certainly it should be incorporated in the budget, as the Senator from Maine has advocated and as the Budget Committee has proposed to the Senate. That is the way to handle it.

My contention is if we are going to go into this new program, then we should reduce the other programs accordingly, because I just think it is too large an increase for the American taxpayer to increase foreign aid spending by $3 billion, or 31 percent.

Mr. MUSKIE. At least we have found some area of agreement.

Mr. HARRY F. BYRD, JR. We have many areas of agreement.

Mr. CHILES. Mr. President. will the Senator from Maine yield just temporarily?

Mr. MUSKIE. I yield.

Mr. CHILES. How much money is in the bill for the Witteveen Facility?

Mr. MUSKIE. $1.8 billion.

Mr. CHILES. $1.8 billion. If we had not put the facility on record, the authority was there, was it not, to spend that $1.8 billion off record?

Mr. MUSKIE. Yes, the Senator is correct.

Mr. CHILES. So of the $3 billion increase we are talking about in this number, $1.8 billion of that could have been spent off budget, still would have been a spending, and it would just have been off record?

Mr. MUSKIE. That is correct.

Mr. CHILES. So we are really then talking about an increase of $1.2 billion?

Mr. MUSKIE. The Senator is correct. That was the point I was trying to make earlier.

Mr. CHILES. The other could have been done through the back door.

Mr. MUSKIE. The Senator is absolutely correct.

Mr. CHILES. I thank the Senator.

Mr. MUSKIE. I am ready to yield back my time.

Mr. HARRY F. BYRD, JR. I yield back my time.

Mr. MUSKIE. I yield back the time and I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. HUDDLESTON). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is all time yielded back? Does the Senator from Virginia yield back his time?

Mr. MUSKIE. I think he has used his time. I yield back my time.

The PRESIDING OFFICER. All time being yielded back, the question is on agreeing to the amendment of the Senator from Virginia. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from North Dakota (Mr. BURDICK), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Montana (Mr. HATFIELD), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Tennessee (Mr. SASSER), and the Senator from Illinois (Mr. STEVENSON), are necessarily absent.

I further announce that the Senator from Massachusetts (Mr. KENNEDY) is absent on official business.

I also announce that the Senator from Rhode Island (Mr. PELL) is absent because of illness.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL), would vote "nay."

Mr. CURTIS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Massachusetts (Mr. BROOKE), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Oregon (Mr. HATFIELD), the Senator from North Carolina (Mr. HELMS), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), and the Senator from Texas (Mr. TOWER), are necessarily absent.

The result was announced—yeas 32, nays 44, as follows:

[Rollcall Vote No. 371 Leg.]

YEAS—32

Allen	Griffin	Randolph
Bartlett	Hansen	Roth
Byrd, Harry F., Jr.	Hatch	Schmitt
Curtis	Hayakawa	Scott
DeConcini	Huddleston	Stennis
Dole	Long	Stone
Domenici	Magnuson	Talmadge
Ford	Melcher	Thurmond
Garn	Morgan	Wallop
Goldwater	Nunn	Young
	Proxmire	Zorinsky

NAYS—44

Bayh	Glenn	Metzenbaum
Bellmon	Gravel	Moynihan
Bentsen	Hart	Muskie
Biden	Hathaway	Nelson
Bumpers	Heinz	Packwood
Byrd, Robert C.	Hodges	Pearson
Cannon	Hollings	Percy
Case	Inouye	Ribicoff
Chiles	Jackson	Riegle
Clark	Javits	Sarbanes
Cranston	Leahy	Schweiker
Culver	Lugar	Sparkman
Danforth	Mathias	Weicker
Durkin	Matsunaga	Williams
Eagleton	McGovern	

NOT VOTING—24

Abourezk	Hatfield, Mark O.	McClure
Anderson	Hatfield, Paul G.	McIntyre
Baker	Helms	Pell
Brooke	Humphrey	Sasser
Burdick	Johnston	Stafford
Chafee	Kennedy	Stevens
Church	Laxalt	Stevenson
Eastland		Tower
Haskell		

So the amendment (UP No. 1815) was rejected.

The PRESIDING OFFICER. The resolution is open to further amendment.

UP AMENDMENT NO. 1816

Mr. CHILES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Florida (Mr. CHILES) proposes an unprinted amendment numbered 1816.

Mr. CHILES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.).

Without objection, it is so ordered.

The amendment is as follows:

Page 4, after line 26, add:

(A) In order to achieve a balanced budget at the soonest possible date, total budget outlays shall not exceed $531 billion for fiscal year 1980, $570 billion for fiscal year 1981 or $615 billion for fiscal year 1982. Total Federal revenues for those years shal not be less than $500 billion in fiscal year 1980, $559 billion in fiscal year 1981, and $615 billion in fiscal year 1982.

(B) Total outlays shall only exceed these amounts to the extent that revenues are increased; Federal revenues shall only be reduced to the extent that outlays are reduced for the corresponding period.

(C) Federal deficits larger than those implied by the foregoing limitations shall only be permissible for a fiscal year in which the annual average unemployment rate is estimated to exceed 6.0 percent. The unemployment rate estimate applicable for this section shall be the most recent Congressional Budget Office forecast for the fiscal year for which a Concurrent Resolution on the Budget is being considered.

Mr. MAGNUSON. Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Florida.

Mr. CHILES. Mr. President, I ask unanimous consent that Senator NUNN, of Georgia, be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, I am offering this amendment to the concurrent budget resolution in order to produce a firm congressional commitment to balance the budget at the earliest possible date. The Budget Committee report sets out a path of spending and revenue projections based on the 1979 policies in this resolution, which would not produce a balanced budget until 1985.

My amendment would restrain spending and tax cuts in order to balance the budget by not later than 1982.

I would like to see us even move faster to a balanced budget, but the best economic advice that we can get seems to show that perhaps that may not be possible.

If we drastically cut spending or raise tax rates, the effect would be to increase unemployment, and that could drive up the cost of unemployment compensation and, therefore, reduce the number of taxpayers. The result would be a bigger deficit.

Mr. President, this is basically the line of economic reasoning that we have been following in incurring big deficits to bring the country out of a recession. However, that reasoning cannot be applied forever. We have recovered from the recession; unemployment has come down from over 9 percent to less than 6 percent. We should now be significantly reducing the size of the Federal deficit. That is what my amendment would do.

The Budget Committee report projects that the deficit of $42.3 billion that we reported for 1979 would increase to $44 billion in 1980 before declining to $30 billion in 1981 and $13 billion in 1982. It then projects that we would have a balance by 1983. I find these deficits unacceptable and I think they are unacceptable to the American people.

Mr. President, I ask unanimous consent that a table comparing my recommendations to the committee projections be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

CHILES PROPOSAL TO BALANCE THE BUDGET BY 1982 THROUGH RESTRAINING FEDERAL SPENDING AND TAX CUTS

[Dollars in billions]

	Fiscal year—				
	1979	1980	1981	1982	1983
Federal outlays:					
Current policy (1978 laws)	494	542	584	633	679
Committee recommendation	490	536	575	623	669
	(−4)	(−6)	(−9)	(−10)	(−10)
Chiles proposal	488	531	570	615	659
	(−6)	(−11)	(−14)	(−18)	(−20)
Federal deficit:					
Committee recommendation	−42	−44	−30	−13	+3
Chiles proposal	−40	−31	−11	0	0
Federal tax reduction (cumulative after 1979):					
Committee recommendation	(23)	8	27	39	54
Chiles proposal	(23)		19	34	67
Federal outlays as a percent of GNP:					
Committee recommendation	21.7	21.5	20.9	20.5	19.9
Chiles proposa	21.5	21.4	20.7	20.2	19.5

Mr. CHILES. Mr. President, I have therefore proposed levels of spending and revenues that would bring the deficit down to $31 billion in 1980, which is $13 billion less than the committee report; to $11 billion in 1981, which is $19 billion less than the committee report; and then achieve a zero deficit in 1982, which would be $13 billion less than the committee figure. To achieve these lower deficits will require a responsible level of restraint by the Congress. It would not require a wholesale cutting of existing programs; rather, real growth over inflation would have to be held below 2 percent a year. Spending would have to be cut from current policy levels by $6 billion in 1979 and $18 billion in 1982.

In addition, we would have to defer some of the tax cuts projected by the committee. I happen to believe that the American people want tax relief, but I do not think they want it at the expense of deficit spending. I think they want tax relief by reducing spending rather than having the same high level of spending and running a deficit.

The plan that I am offering does not prevent tax relief. In fact, by 1983, I believe that the plan I offer would allow a $67 billion tax cut compared to $54 billion projected by the committee. The main reason that my plan would allow that bigger tax cut, is that it is based on a firm commitment to reduce spending and to start that reduction right away. That is the only way that we can responsibly cut taxes. I think we would also be cutting inflation right away because we were reducing spending.

Mr. President, the committee report projects an $8 billion tax cut in 1980, with a deficit that increases by $2 million over the deficit in 1979. That just does not make sense to me, that we are going to have an additional $8 billion tax cut, at the same time increasing the deficit $2 billion.

I can understand why we lack the confidence of the people in economic policy if they see us taking action like that.

My proposal would also produce a steady drop in Federal outlays from 21.5 percent of the gross national product in 1979 to 19.5 percent in 1983. That would take us well below the 20 percent of GNP that we reached just before the recession.

I think that would go a long way toward satisfying the popular demand for a smaller Federal Government. I think that is a real figure that the public can look at, not something that is done by mirrors. Some proposals would balance the budget by allowing inflation to make people's taxes go up, but not cut spending. Another kind of proposal that seems to be very popular, like the Roth-Kemp proposal, says that we are going to reduce taxes $30 billion a year over a period of time, but doing nothing about that deficit. If we can show people that the actual percentage of the GNP of this country that we are spending for the Federal sector is going down, then they are going to know that we are reducing the incursion of the Federal Government.

Mr. President, I am pleased that in reporting the second budget resolution that sets binding ceilings for fiscal year 1979, the Budget Committee has been able to reduce the ceiling for next year's level of Federal outlays by $9.3 billion; $4.2 billion of this represents real program reductions. The remainder of the reduction is due to lower estimates of spendout for current programs. But, more importantly, we have reduced the budget authority by $10.4 billion, which shows some real impact that our cuts will have over 3 or 4 years from now.

In committee, I proposed an additional reduction of $5 billion, to be followed by further reductions in future years, in order to bring us more rapidly to a balanced budget. Many of the recommendations accepted by the committee were items which I had suggested deleting in the first budget resolution. I am gratified to see that the committee is exercising greater restraint at this time.

As I was dissatisfied with the high level of spending after the committee's initial deliberations, I proposed a second round of additional cuts. The package I offered would have trimmed back 13 different functions of the budget to achieve savings of $3.6 billion in budget authority and cut $1.85 billion in 1979 outlays. We had a spirited discussion on each of these items. The committee accepted reductions of $900 million in budget authority and $500 million in outlays. These cuts required painful choices among competing demands for expenditures, but I think it is just this kind of painful choice that we have to make over the next 2 or 3 years if we are really going to keep spending within our means.

While the committee's reductions represent an important change from recent trends, and I am delighted to see that change, I believe that the committee could have done better and that we should have done better. Even the reduced outlay ceiling is a 9.2-percent growth over the 1978 level. That is 2.2-percent real growth after taking inflation into account. Since some of our current spending represents temporary costs due to the recession, the real growth is more like 3 percent.

The American people have made it clear that they want to see a reduction in Government spending, not growth. While not all of the reductions that I proposed were accepted, those that were will give us a good start. If we can make a further $5 million reduction next year, we could be on the path to a balanced budget by 1982.

The American people want tax relief, but not at the price of higher deficits. It would certainly be necessary to reduce taxes to offset the built-in increases due to inflation driving people into higher tax brackets. Tax reductions beyond such offsets should be only achieved, I think, by reducing spending. Once we have balanced people up to where inflation is not making them pay a higher tax, then I think we should not give a tax cut unless we can show we have reduced spending by that amount. There is no reason why we have to give all programs a full compensation for inflation every year.

I think that we could eliminate some unproductive or low-priority programs to pay for those new needs that are bound to come along and that we see coming along.

Mr. President, I have seen a new mood in Congress over last year. The public has shifted its primary concern from short-term stimulation of employment to the longer term economic stability and, mainly, to combating inflation. Congress is getting that message and cutting back on spending.

We have recovered from the recession down to 6-percent unemployment. That means we have just 1 percent to go before reaching the theoretical full-employment level. That 5 percent that would remain is so-called "frictional unemployment." It measures the fact that we have considerable turnover and attrition in the labor force. It takes people time to find jobs and they voluntarily quit jobs to move and look for better opportunities.

I do not believe we can close that final 1-percent gap by fine tuning with small across-the-board tax cuts.

To come that last step of the way, I think we need to do two things. First, we need to improve the confidence of businessmen and consumers that we really are doing something about inflation. The weakest point of our economic recovery has been business investment and the biggest obstacle to that investment is uncertainty. If businessmen are afraid we are going back to double-digit inflation, they will hold back on expanding production capacity and that is going to mean fewer jobs.

Businessmen simply do not believe we can control inflation while running larger and larger Federal deficits. That is why I am asking the Senate to commit itself to a 5-year schedule of restraint.

If we do this, I think we can show the business community and consumers what to expect, and then I think their confidence would cause additional economic growth.

The second thing we need to close that last 1 percent in unemployment is to target our effort to those persons who need help most. For that reason, I supported renewal of the Comprehensive Employment and Training Act with a major redirection toward the hardcore unemployed. Continued massive spending or general tax cuts is not going to produce jobs for this last 1 percent. It will only produce inflation.

Mr. President, Congress has been presented with several well-intentioned proposals to mandate a balanced budget under a constitutional amendment or tax surcharge. I have not supported those proposals because I do not believe there is any magic mechanical formula that can replace those hard choices necessary to reduce Federal spending.

Economic conditions vary from year to year and Congress should have the flexibility to examine the exact composition of proposals for spending and tax increases or decreases to determine their impact on the economy.

If a balanced budget is constitutionally required, many Members of Congress would find it easier to let inflation drive taxes up to meet spending levels than to cut spending.

During a recession, a Federal deficit, I think we all know, is unavoidable. When we are at high unemployment, a balanced budget is certainly obtainable, and it should be achieved. It is a matter of congressional will and public pressure. It cannot occur automatically. I think the amendment I am proposing today would commit us to a program of reducing growth of the Federal sector and achieving both a balanced budget and a lower rate of taxation.

Mr. President, therefore, I urge support of this amendment.

Mr. MAGNUSON. Will the Senator from Florida yield?

Mr. CHILES. I yield.

Mr. MAGNUSON. I think the Senator from Florida has made an excellent statement on long-term policies. I want to add that he is one of the distinguished members of the Appropriations Committee.

Even though this budget resolution passes, I think the Appropriations Committee will cut it even more. He has been a party with me to do that.

I think one of our problems is that we give everything to expenditures and we do not do too much about bringing more money into the Treasury. Receipts are what count. We could balance all the budgets if we had enough receipts.

So what we are trying to do is stimulate the economy to the point where the receipts become better, and they are becoming better. They are better this year than last year.

I do not know if the Senator will agree with me, that maybe, if we want to balance the budget, we just put in a simple resolution that we cannot spend any money that is not in the till.

Mr. CHILES. I would agree with the distinguished chairman of the Appropriations Committee——

Mr. MAGNUSON. And that is very simple. It is probably too simple to work. This is the problem.

But I think we are coming to that point. I hope the Finance Committee will heed this advice. Instead of talking so much about where the burden is going to be, I think we ought to spend a little more time getting more money into the till. When we do, then we will have a balanced budget. That is what causes the difference.

We keep books like nobody else. We would drive a CPA up the wall.

We will go down there now at midnight on September 30 and open the till. If there are some IOU's in there, that is the deficit. If there is some money in there, that is the surplus. Then we close the till and go back about our business. We do not consider loans, we do not consider anything else.

I suppose the SEC would put us in jail if we were a corporation, if we kept applying the rules of corporate financing.

What the Senator is saying is that if we cannot bring these things closer together, and that is, I know, not too long a range, a couple or 3 years, we can help the Appropriations Committee by voting for this amendment.

Mr. CHILES. I thank the distinguished chairman of the Appropriations Committee who is exerting his leadership in trying to bring a restraint into the appropriations process. I see him day after day in many areas trying to see that the Appropriations Committee does come in lower than the figures of the budget resolution. I think that is certainly commendable.

I think there was a time when we were in the recession where we knew we had unused plant capacity, where we knew we had high unemployment, and that we, therefore, could stimulate without adding to demand inflation at that time, because of that unused capacity. But now the economy has geared itself up, we realize how difficult it is to stop some programs we started then. Accelerated public works, soft public works, any of the programs we were trying to stimulate.

Mr. MAGNUSON. And CETA.

Mr. CHILES. And CETA.

Mr. MAGNUSON. And our job, I think, is to work CETA out of business, and that is what we will try to do.

Mr. CHILES. In the new bill we passed, while the authorization levels

are very high, as I know the chairman of the Appropriations Committee commented at the time it was passed, it does change the structure to allow now to try to go and help the structurally unemployed. I think it will be up to the Appropriations Committee in how it funds that new CETA authorization to see that we try to put the money, with restraint, where it will do some good, into the structurally unemployed, and not look on it as a broad revenue-sharing program of just giving some money back to counties and local government so they can take people off their payrolls and transfer them onto the Federal payroll, as we found was happening much of the time during CETA.

Mr. NUNN. Will the Senator yield for a brief comment?

Mr. CHILES. I yield.

Mr. NUNN. I commend the Senator from Florida for this very fine amendment which will move us in the right direction. I also commend the chairman of the Appropriations Committee for his excellent remarks. I certainly concur in those comments. I am proud to support this amendment and to be a cosponsor of it.

Mr. CHILES. I thank the distinguished Senator from Georgia, who was a member of the Budget Committee in its initial stages, and during that time was always trying to hold down spending in the Budget Committee. He has continued to do that on the floor of the Senate. He does great work in that regard in trying to see we get the most money in needed programs, especially in the armed services program where he works so diligently on those budgets, but he also works to see us avoid excess spending in programs where the need is not so great.

Mr. MOYNIHAN. Mr. President, will the Senator from Florida yield for a comment?

Mr. CHILES. I am glad to yield to the distinguished Senator from New York.

Mr. MOYNIHAN. Mr. President, I commend the Senator from Florida for what he has said. I look to the chairman of the committee and the ranking minority member for advice on how to vote, but I do appreciate the Senator's emphasis on considering the proportion of gross national product which the budget should comprise.

I suggest that perhaps what is most relevant is the fraction of GNP which is spent on the whole public sector, not just on the Federal Government. I think the Senator will find that it is hovering currently around 35 percent—a much higher proportion than we have heretofore supposed.

A great deal of the increase in State and local shares has been the result of the Federal mandate in sharing programs.

Back in 1946, an ecbnomist named Colin Clark wrote a book in which he put forth the proposition that any economy in which the public sector GNP went beyond 25 percent would have to live with uncontrollable inflation. This seemed such a remote possibility at the time that no one paid attention to Clark. I am not saying that he has proven or disproved his case, but we have gone well beyond 25 percent, and we are now in a condition of seemingly permanent inflation.

It seems to me that the expansive fiscal policies of the Federal Government are very usefully conceived in terms of what proportion of our total gross national product we are putting in the public sector. The idea of a limitation, or, if you will, a general average limit, is a practical idea, and I thank the Senator for bringing it to the floor, even though I would be for flexibility from one fiscal year to the next. In any event, I will be guided by our appointed watchdogs, the Senator from Maine and the Senator from Oklahoma.

Mr. CHILES. I thank the distinguished Senator from New York—I think. [Laughter.]

I do thank the Senator for his kind remarks. I think the point he raises, of the total spending, is very relevant and important; because that is really what affects the taxpayer ultimately, and that is what becomes the drag on the economy ultimately.

It happens that we can only influence a portion of that, and that is what my amendment is doing.

Many times we like to sit here and say that the growth over the last few years has been at the State and local level. What we have failed to say is that we stimulated that growth, because we set up those programs for the State, saying we will share the cost with them if the States match. Because we have failed to say that, right now about 25 percent of that State and local spending is directly coming from the Federal budget and I am sure we are influencing a great deal more of that because of the way we set up matching grant programs.

Mr. MAGNUSON. It is 26 percent.

Mr. CHILES. Those items add to it, too.

Because we cannot affect all those does not mean we should not try to do something in the area we can affect. That is why I think we need to take some kind of step.

Mr. STONE. Mr. President, will the Senator yield?

Mr. CHILES. I yield.

Mr. STONE. Mr. President, I commend my senior colleague from Florida on the careful work that has gone into this spending path and ceiling amendment.

Most people—certainly, most of our colleagues—repeatedly have felt and expressed the desire to get to a balanced budget. All of us are willing, I think, to vote for resolutions or constitutional amendments or statements or even bills that say that.

What the Senator is doing for us is mapping a practical way, in line with the Budget Committee's approach anyway, of a multiyear plan, but fine tuning that with some decisionmaking along the way as to how we get there.

I think that if the Senator's amendment is adopted—and I intend to vote for it—it will assist the overall, full Budget Committee in their necessary efforts to get the Senate and the entire Congress and the entire Federal Government to the point of a balanced budget in a reasonable period of time. I do not think there is a domestic issue of priority as high as that. I commend the Senator for his efforts in putting together such a practical and sound proposal.

Mr. CHILES. I thank my distinguished colleague from Florida. I have found at all times that he has tried to support and work toward those measures that would allow us to balance the budget and to reduce Federal spending.

Mr. BELLMON. Mr. President, will the Senator yield?

Mr. CHILES. I yield.

Mr. BELLMON. Mr. President, I compliment the distinguished Senator from Florida for the work he has done in this proposal.

I agree with the goal of balancing the budget as soon as possible. I believe, as does the distinguished Senator from Florida, that we can achieve a balanced budget, perhaps at an earlier date than the report would indicate. To do this, we certainly will need to reduce Federal spending as a percentage of GNP and reduce the rate of growth in spending each year over the next several years. I think that, as members of the Senate Budget Committee, we can assure this body that we will be working to do that.

As I mentioned in my opening statement this morning, I believe the only way we can get to a balanced budget is to exercise disciplined spending restraint next year and in future years. We must carefully examine new spending proposals and determine how necessary they are likely to be, in light of the short and long-run costs and effects. Indeed, only by resisting the temptation to enact additional costly programs can we finally reestablish the historic norms for the size and scope of the Federal Government and bring the budget into conformity with the wishes of the American people.

Although this resolution does not go as far as we would like, it does point us in that direction. I believe we should accept it and continue to exercise prudent judgment in the next year, so that we can accomplish a balanced budget at the earliest possible date.

Mr. President, there is a question of germaneness in this matter, since the resolution relates to the out years. Perhaps the chairman will discuss that. That question exists, even though on its merits it is a very fine suggestion.

Mr. CHILES. I thank the distinguished ranking minority member of the committee.

Mr. MAGNUSON. Mr. President, I do not have the figure, but I think 23 States already have passed resolutions calling for a constitutional convention to propose a balanced budget amendment to the U.S. Constitution, and the movement is spreading. This is what we do not want to happen, because we think we have some responsibility.

I ask unanimous consent to put in the RECORD at this point the number of States that have now acted upon and passed laws about the balancing of the Federal budget.

The PRESIDING OFFICER. Without objection, it is so ordered.

The list follows:

Oregon, Wyoming, Colorado, New Mexico, Arizona, Texas, Oklahoma, Kansas, Nebraska, North Dakota, Louisiana, Mississippi, Alabama, Georgia, South Carolina, Florida, Tennessee, Illinois, Indiana, Virginia, Maryland, Delaware, and Pennsylvania.

The PRESIDING OFFICER. All the time of the Senator from Florida has expired.

Mr. MUSKIE. Mr. President, I hesitate to put myself in the position of being critical of any proposal offered by the distinguished Senator from Florida. Really, what I have to say is not criticism but will result in my raising a point of order, which I will try to explain before I raise the point of order.

First, let me emphasize that I count the distinguished Senator from Florida (Mr. CHILES) as one of the most valuable members of the Budget Committee and have so valued him from the beginning of the budget process. He is one of the original members of the Budget Committee, along with the distinguished Senator from Georgia (Mr. NUNN). He is always constructive. He is ingenious; he is innovative; and, perhaps the most important quality of all, he is persistent in pursuing his ideas and the goal of a balanced budget.

So, I repeat, I am always hesitant to find myself in disagreement with him on a particular course of action.

Before I discuss the point of order, I would like to refer to the 5-year projections contained in the Senate Budget Committee report. It is upon those projections that Senator CHILES draws for analogies to support his proposal.

Let me make it clear that the 5-year projections in the Senate Budget Committee report are not forecasts at all, nor are they mandated spending totals.

They are simply an attempt to put in a 5-year context the consequences of the spending decisions we make with respect to fiscal year 1979. In making those projections, the Budget Committee does not say we should not have a balanced budget before 1983 at all. Every member of the committee would like to see a balanced budget in 1982, or 1981, or 1980, or even 1979.

But what we are able to achieve in that respect depends upon assumptions as to what the private sector of our economy will achieve and how it will perform over that 5-year period.

The assumption made in the 5-year projections contained in the Budget Committee report are moderate in their assumptions about the performance of the private sector over the next 5 years. They are moderate and yet, at the same time, if those moderate assumptions are realized, that realization would represent an unprecedented economic recovery.

We are now in the fourth year of economic recovery. If the recovery were to continue through 1983, it would represent a period of sustained economic recovery without precedent, and it is on that unprecedented assumption that we projected a balanced budget by 1983.

So, we think that that was a moderate kind of a projection, and we made it not to encourage deficits or to encourage spending, but to impose restraint upon spending.

It was our feeling that, if Members of Congress could see the consequences of today's spending decisions in a 5-year context and at the same time understand the prospect of new spending initiatives coming down the road, the effect may be restraint upon the inclination of Congresses and legislatures to spend.

So that is the reason we went into the 5-year projections.

What in effect Senator CHILES proposed is that we aim for a balanced budget 1 year earlier than 1983 by mandating now the ceilings on outlays and budget authority—I think it covered both outlays and budget authority—for each of the years covered by his amendment.

Mr. CHILES. Just the outlays.

Mr. MUSKIE. Just outlays.

Now, there are a couple of problems with that. As Senator CHILES knows as well, if not better than any of the rest of us, outlays are driven by budget authority. You cannot control deficits or spending by controlling outlays. Outlays are simply the result of appropriations in the form of budget authority. So if you mandate a certain level of outlays, that may or may not be a realistic reflection of the spending momentum that is underway to build weapons systems or to fund social security benefits, or whatever, across the whole range of the budget process.

(Mr. GLENN assumed the chair.)

Mr. MUSKIE. Second, if the underlying economic assumptions prove wrong, the mandated ceilings on outlays may prove to be very inflexible and unrealistic measures of the Federal Government's responsibilities or priorities in the economic circumstances in which we find ourselves.

I cannot help but remember that the Budget Committee was created in the fall of 1974 and within 6 months of that time we found ourselves plunged into a recession, the magnitude of which no one had anticipated or predicted at the time the budget committees were created. We were talking at the time we were created of a balanced budget in the fiscal year following. Instead we found ourselves with a deficit of $50 billion in less than 6 months.

In December 1974 the bottom fell out of the economy. So we found it impossible to predict the performance of the private sector for a 6-month period from the time that we were created.

Now it is proposed that we set mandatory ceilings for a period of years. I simply do not think that is a realistic thing for us to do, and if it were workable and achievable, there would be no need for the budget process. You simply write your ceilings into law 5 years in advance, 3 years in advance, and then live with them.

If the budget process does not exist to adjust Federal fiscal policy to the economic circumstances in which we find ourselves or which we try to predict with the best advice available to us, then it serves no purpose. We do not exist simply to set arbitrary ceilings or targets. We exist to adjust fiscal policy to the best of our ability to the economic circumstances and needs of the country, and these mandatory ceilings would simply deprive us of that flexibility because it would tell us in advance the maximum that we could spend.

It might have one other unfortunate consequence. It might actually encourage spending which would be excessive to our needs. Ceilings tend to be floors to a lot of people who vote on appropriations bills.

And if we have these and they are all going to be higher spending ceilings than in the current resolution, there is a temptation to spend up to those ceilings whether or not they are needed.

I raise these questions and suggest these problems not to denigrate Senator CHILES' objectives at all because in reality the objectives of the projections contained in the Budget Committee report and of Senator CHILES' amendment are the same.

We are both trying to find a more effective way to move the Federal budget toward balance, and we are seeking to do it by suggesting what the performance in the future should be.

So I do not criticize him at all. I simply have doubts as to the viability of mandated ceilings years in advance.

I will raise the point of order.

Mr. CHILES. Mr. President, will the Senator yield before he raises that point?

Mr. MUSKIE. I would be happy to yield to my good friend, if he will first let me describe the point of order. I will not raise it until the Senator is satisfied that there has been a sufficient dialog.

Mr. CHILES. All right.

Mr. MUSKIE. I would like to describe the point of order so that Senators will understand what it is. I have no desire to push aside the debate, and Senator CHILES should have a chance to respond or raise questions.

Section 305 of the Budget Act prohibits nongermane amendments to budget resolutions in order to prevent the resolutions from becoming vehicles for legislation within the jurisdiction of other committees and for matters not contained in the resolution.

The Chiles amendment provides spending ceilings and revenue floors for fiscal years 1980 to 1982, inclusive, fiscal years not addressed in Senate Concurrent Resolution 104, the second budget resolution to fiscal year 1979.

The amendment thus introduces new matter to the budget resolution as reported from the Budget Committee and is not germane within the meaning of section 305.

In addition, under section 306 of the Budget Act, this amendment would also be out of order, as it provides aggregate spending ceilings and revenue levels for fiscal years 1980 to 1982, matters within the jurisdiction of the Budget Committee.

Section 306 provides:

> That no bill, resolution, or amendment thereto which deals with legislative matters within the jurisdiction of the Budget Committee should be considered by the Senate unless the bill or resolution has been reported from the Budget Committee with such subject matter.

Since the Chiles amendment introduces new matter which is within the jurisdiction of the Budget Committee, which was not reported from the Budget

Committee, it is out of order under section 306.

The proviso of section 301(6) that additional matters may be included does not apply here for two reasons: First. This proviso applies to the jurisdiction of the committee alone. Once reported, the resolution is limited to its contents. Second. Section 301(a) applies to the first resolution.

That is the basis of the point of order which I will raise when Senator CHILES is satisfied that there has been sufficient discussion.

I am willing to yield at this time or yield time to the Senator from Florida to further discuss the matter or to address myself to any questions he may wish to put.

Mr. CHILES. I thank the distinguished chairman. If he would yield to me——

Mr. MUSKIE. I yield such time to the Senator as he may need.

Mr. CHILES. I just wanted to make a couple of brief points and then make a comment on the point of order the Senator has indicated he intends to raise.

First, I will say that I think the distinguished chairman of the Budget Committee—and I compliment him for the long and arduous task that he works on in regard to the committee, and I know how dedicated he is to trying to get us on a path of fiscal restraint and toward a balanced budget—but I would like to comment on the point that he makes which, I think, is a valid point on binding the Congress, binding the Budget Committee, in future years and, perhaps, taking away the flexibility that we need.

I worried about this myself in thinking about an amendment like this. I tried to build some flexibility into my amendment which, I think, I have been able to do. Section (b) of that amendment states that "Total outlays shall only exceed those amounts to the extent that revenues are increased." So that allows the flexibility, if you can get some increased revenues, and we in the Budget Committee have often talked about this, and often to not much avail—that would be an opportunity. Second, in section (c), that Federal deficits larger than those allowed by the foregoing limitations should only be permissible for a fiscal year in which the annual average unemployment is estimated to exceed 6 percent.

So if you had a change in economic conditions, if the path of recovery turns around, that would be reflected in an unemployment rate above 6 percent, and we get those reliable estimates. So I am again trying to build flexibility in that way. In addition, we can point out that any Congress can, upon a drastic change of conditions, change this schedule of fiscal policy.

But it seems to the Senator from Florida that we need more than pass the simple resolutions. I am delighted to see those passed, but we had a heavy vote in this Chamber for a balanced budget by 1981.

But really that resolution is worth just about the paper it is written on, because it is only a sense of the Senate resolution. But if it is worth that much it would seem to me that we need to bind ourselves a little firmer than that, and to commit ourselves to a path of restraint.

I do not think what we have now in the committee report does that at all, that is, a provision that says this is what we think will happen if you go along with the 1979 budget. It is our best guess, it is our best estimate, of a projection going into play if you went along with this budget and if you went along with this course of action we lay out. So it lays out a path, but no one commits to that path. No one, by voting for this resolution, says "I commit myself to restraint."

The other thing that I see happening in the Budget Committee itself is we go in and because we are a committee pretty evenly balanced, representing the constituencies that come into this Chamber, I am willing to cut into one area but I want to make sure there is enough money for defense, for example. That happens to be something that I worry about. I do not worry as much about some of the other areas.

There are other people who worry more in the health field than they worry about defense. So what happens is before we get through, in order to make sure that we get my adequate figure on defense, we have to take my friend's adequate figure on health, and we come out with a figure that is more than either one of us went in there wanting to spend. But that is the process, and that is the process that really worked in here without the Budget Committee restraint to the extent that we found ourselves overspending every year, good times or bad.

So the purpose of the Budget Committee was to try to bring a restraint by coming in with a spending resolution and saying, "We are only going to spend so much, we are going to set a ceiling." But now we in the Budget Committee tried to come out with that resolution, which is debated on this floor, and every Senator has a chance to amend or agree, and we set that spending ceiling. But I find we need some kind of restraint on ourselves going into that Budget Committee because then if we had a restraint and saying that this year we have got x number of dollars, how are we going to divide that within the priorities, I think we would match those priorities up to those dollars.

I think the level I am talking about as to spending is responsible as far as the total figure and that we can match the priorities within that. If we put enough restraint on ourselves to know that when we go in the room we have got to come out with a total resolution that stays within that figure, then I might not get exactly what I wanted for defense and he might not get exactly what he wanted for health. But I think the people would be better served because they would get something within the means of what we have, the dollars that are in the store, and that we would cut the cloth to fit the pattern.

That is the reason why I feel that a restraint like this is going to be necessary if we are ever going to balance the budget. We have to lay out some plan to the American people that shows our coming to a balance, even over a period of years, so that they might have some confidence in our processes.

Now if I might just discuss briefly the point of order. Section 301(a)(6) provides that the first concurrent budget resolution shall set forth, and I quote, "such other matters related to the budget as may be appropriate to carry out the purposes of the act."

It seems that a 5-year economic policy is certainly a purpose of the act. Section 301(a) states that the second budget resolution shall reaffirm or revise the first budget resolution.

So, therefore, the point I would make is if the 5-year totals are germane to the first resolution then they should be germane to the second resolution. I feel that they certainly would be germane to the first resolution and, therefore, should be in order to the second concurrent resolution.

Mr. MUSKIE. Mr. President, I do not think there is anything I can add to the point I have already tried to make with respect to the Chiles amendment. So if there is no further discussion I would raise the point of order as I have described it.

The PRESIDING OFFICER. Under the Budget Act, amendments to concurrent resolutions on the budget must be germane. Senate Concurrent Resolution 104 contains no matter dealing with a 5-year projection, or with other fiscal years. By attempting to deal with fiscal years not covered by this resolution, this amendment introduces new subject matter and, therefore, under the precedents the amendment is not germane. The point of order is well taken.

Mr. MUSKIE. May I make a few suggestions to my good friend from Florida? I will not take more than 1 or 2 minutes. I know the Senator from New York has a suggestion he wanted to discuss.

No. 1, I think the Senator from Florida has given the kind of thought and consideration to his proposal that deserves further consideration. The Senator knows how we struggled with and the doubts we had about our own projections as contained in the committee report. When we adopted those, we all felt, I think, that we were just beginning an evolutionary process that hopefully would produce something more specific, more disciplinary in its impact, and more influential in bringing Federal spending under control.

So I would urge the Senator to consider preparing legislation, maybe even an amendment to the Budget Act, and I would be happy to cooperate with the committee staff or in any other way that I can to try to develop his idea further, to the point where it might well serve as a useful instrument for budget policy.

Second, the Senator from New York, in his comments on the Senator's proposal, had some suggestions that I think are worth further study in connection with the proposal of the Senator from Florida. But I hope the Senator will not interpret my action today as throwing cold water on his idea. In fact, I would like to see him persist in trying to develop it and bring it to fuller fruition, and I will use the word maturity.

Mr. CHILES. I thank the distinguished chairman, and I will honor the kind compliment he gave me by saying that I will persist in it.

UP AMENDMENT NO 1817

(Purpose: To continue in the second congressional budget resolution for 1979 the allowance for fiscal relief for State and local welfare costs which was assumed in the first budget resolution)

Mr. MOYNIHAN. Mr. President, I send to the desk an unprinted amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) proposes an unprinted amendment numbered 1817:

On page 1, line 11, strike out—

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, line 11, strike out "$557,700,000,000" and insert in lieu thereof "$558,100,000,000";

On page 2, line 2, strike out "$489,500,000,000" and insert in lieu thereof "$489,900,000,000";

On page 2, line 5, strike out "$42,300,000,000" and insert in lieu thereof "$42,700,000,000";

On page 2, line 7, strike out "$839,500,000,000" and insert in lieu therof "$839,900,000,000";

On page 2, line 9, strike out "$41,500,000,000" and insert in lieu thereof "$41,900,000,000";

On page 4, line 4, strike out "$191,500,000,000" and insert in lieu thereof "$191,900,000,000"; and

On page 4, line 5, strike out "$159,600,000,000" and insert in lieu thereof "$160,000,000,000".

Mr. MOYNIHAN. Mr. President, I rise today to offer an amendment to the second concurrent resolution on the budget to allow for the expenditure of $400 million for fiscal relief to assist States and localities with the cost of the Aid to Families with Dependent Children program. I seek to restore the funds which clearly were set aside for fiscal relief in the first concurrent budget resolution, and which the Finance Committee specifically endorsed in its recommendations to the Budget Committee on the second concurrent resolution.

The Senate Budget Committee chose to remove those funds, with the explicit instruction in its committee report that:

The Committee recommendation does not assume funding in FY 1979 for fiscal relief to States to offset public assistance costs.

This amendment, I hope, will correct what I regard as a serious omission.

I would make, at the outset, simply two points. The first is that the Senate has overwhelmingly indicated its basic support for interim fiscal relief. When we adopted the social security amendments last summer, we provided $384 million. This was agreed to in part by the House conferees; the other half was to be included in the legislation now before us. There was no dissenting vote on the floor of the Senate. The understanding was that we would have a series of annually increasing direct fiscal relief measures, leading up to that time when the President's welfare reform legislation would take effect—fiscal year 1981. The understanding was that we would pass a fiscal relief measure for fiscal years 1978, 1979, and 1980.

The second point I would like to make is that this does not represent an increasing expenditure in terms of the public sector of the GNP; this is the matter I touched upon in my colloquy with the distinguished Senator from Florida. These measures aim to provide tax relief, and, in many States, property tax relief of the kind which has been much in the news in recent months. The Senate Finance Committee first agreed to such a measure in November 1977, when it was understood that the situation with respect to the cost of welfare made it necessary. We have done so over and over again, and I will not burden the chairman and his colleague on the minority side with the details; they know the details.

What I would trouble them to hear, though, is my concern—and it is a concern that I know is theirs also, otherwise I would hesitate to raise it—that we should never have the impression that the Budget Committee, much less the staff of the Budget Committe, is imposing its own political choices and priorities upon the substantive committees of the Senate. This was a natural apprehension when the committee was established, and no one took greater pains to dispel any such concern than the distinguished chairman of the committee, the man who created it. Yet it is difficult for us not to sense in the persistence with which our concern here is singled out for rejection more than a penumbra of disapproval of a programmatical kind, rather than the macrobudgetary concerns of the committee itself.

So I would like to ask some questions of the chairman and his distinguished colleague, the Senator from Oklahoma.

It appears that the second budget resolution as it comes back from conference will provide some significant allowance for new legislation in the income security category, inasmuch as both the House resolution and the resolution recommended by the Senate Budget Committee included such an allowance.

Obviously, in recommending such an allowance, the Senate and House Committees have in mind certain program changes that it would accommodate. Nonetheless, I believe it is correct—and I would ask the chairman of the Budget Committee to confirm this—that the Budget process does not specify which programs should be accepted. That is a decision to be made in the course of subsequent action or subsequent legislation.

In other words, if the second budget resolution leaves room for a certain amount of additional spending in the income security category, the Finance Committee can, in full compliance with the letter and spirit of the budget process, recommend the use of that allowance for any income security program or programs over which it has jurisdiction. I would ask the chairman if that is not correct.

Mr. MUSKIE. The Senator's first question requires a somewhat lengthy reply, in order to have a complete record.

Mr. MOYNIHAN. It was a rather lengthy question. I am sorry for that.

Mr. MUSKIE. In order to put a complete record before the Senate, first let me read from the committee report. I am reading from page 99:

The Committee recommendation assumes savings from increased targeting of public service jobs on low-income people, from the standardization of the allowance provided to AFDC recipients for work-related expenses in determining their benefit levels, and from the liberalization of veterans pension benefits recently passed by the Senate. Additional funding is assumed for an expanded earned income tax credit, the refundable portion of which is included as spending in this function. The Committee recommendation does not assume funding in FY 1979 for fiscal relief to States to offset public assistance costs. The 5-year recommendations assume the costs of additional welfare reform initiatives in future years.

The exclusion of funds for fiscal relief was a rather specific decision. The reasons for the committee's decision to exclude funds for welfare fiscal relief were as follows:

One, the fiscal relief should be provided only in the context of overall welfare reform. The provision of additional funding to States should "buy" much needed reform of the welfare system.

Two, this type of block grant should be addressed during consideration of general revenue sharing legislation.

Three, the immediacy of States' need for fiscal, relief is open to question: a. States and localities already received a block grant to offset welfare costs of $187 million in fiscal year 1978; b. States are showing budget surpluses; c. the AFDC program has experienced a reduction in participation in recent years and benefit costs have risen by less than the rate of inflation; d. the second budget resolution provides considerable additional funding for welfare related programs: title XX, social services, $200 million; expansion of the earned income tax credit, $500 million.

Those are the reasons for the decision taken.

Let me add this comment: Funds for fiscal relief could be taken from the above two program increases as both these programs are in the jurisdiction of the Finance Committee. Otherwise, they could be provided only by achieving cost reductions in existing programs.

It should be stressed that under no condition can fiscal relief be provided in addition to the increases shown above unless substantial savings are made in existing programs within the Finance Committee's jurisdiction.

I think that answer covers it.

Mr. MOYNIHAN. I think that answers my question almost entirely. In the spirit of that, in a moment I will move to withdraw my amendment. But I would like to make a point because it is in the interest of the chairman that when this committee acts, the people watch it, because the tendency will be to insert value judgments about program priorities. That is inevitable. One has to pick and choose before things are added up, and there are myriad choices implicit in that process.

The notion that the committee said fiscal relief should be offered only in the context of overall welfare reform constitutes a statement of what overall welfare reform represents.

I could make a perfectly good argument that fiscal relief is the welfare reform we need. I would not do that, but I could make that argument.

Secondly, as a point of fact, it was precisely in the context of overall welfare reform that we sought and succeeded in persuading the President that there ought to be a series of gradually increasing increments of fiscal relief to get the State and local governments interested in a bill which otherwise would not have any effect until fiscal year 1981.

Our persuasions, our blandishments, were perhaps not altogether disingenuous because we did not succeed—the bill did not pass the House. Still, fiscal relief is an integral aspect of welfare reform and it may be the only one we will get in the immediate future.

Of course, we are always interested in views. We must look upon them as obiter dicta.

Mr. MUSKIE. Let me add two observations. One is I simply gave the Budget Committee's rationale and conclusion, realizing that the Budget Committee's rationale is not binding.

Mr. MOYNIHAN. Yes, I understand that.

To sum up, I will ask for the chairman's judgment. It is my understanding from the chairman's very generous response that the Finance Committee would be free within the letter and the spirit of the budget process to recommend that any allowance for new legislation in the income security area be used for one or the other, or some combination of earned income tax credits and fiscal relief, as long as we remain within the budgetary limits assigned us by the Budget Committee.

Mr. MUSKIE. That is correct.

The Senator, of course, understands how difficult it would be to fit all the pieces of that puzzle together, because I understand he himself is a cosponsor of a plan to expand the earned income credit effective in 1979 at a cost of $700 million, which would use up all of the additional cost items which are provided in function 600. But the Senator has demonstrated in his career in the Senate an ingenuity that should stand him in good stead as he contemplates this puzzle. I certainly would not want to chill his right to pursue his objective.

Mr. MOYNIHAN. I take that to be a form in which the chairman wishes me good luck. I accept that observation. The Senator, as time passes, understands less and less, but he does understand that welfare reform is a complicated matter.

Mr. MUSKIE. And the Senator from New York has demonstrated an expertise and an understanding in this field which I do not believe is surpassed by any other Member of this body. I respect his wisdom and insight which he provides us in this field. I certainly do not challenge the validity of his observations. Welfare reform generally, as I am sure he understands it, involves popular as well as unpopular revisions of the system. States like the aspects of welfare reform which provide fiscal relief. Some may not like other aspects of welfare reform.

Fiscal relief alone, without other changes, would give the States the sweet without the sour. That is really what the Budget Committee is concerned about.

Mr. MOYNIHAN. The chairman is exactly correct in that respect, and I think the Senator from Oklahoma probably shares that view with an even greater degree of concern.

Mr. BELLMON. If the Senator will yield, I would like to join my chairman in agreeing that the adoption of this resolution will not preclude the Senate from voting later to grant fiscal relief to State and local governments for part of their welfare costs. The Finance Committee could choose different priorities than those recommended by the Budget Committee. But I would like to make clear that I personally feel very strongly that, if a choice has to be made between fiscal relief and improvement of the earned income tax credit, I would prefer to see us do the latter. Expansion of the earned income tax credit has been proposed in a number of welfare reform bills introduced this year, including the one that I introduced along with several of my colleagues, S. 2777. I believe Senator MOYNIHAN has also endorsed expansion of the earned income tax credit.

In presenting its recommendations on the second budget resolution, the Budget Committee provided room for expansion of the earned income tax credit but did not make specific room for fiscal relief, and I hope that this choice of priorities will ultimately be upheld by the full Senate—in other words, I hope the Senate will agree with the position we took.

The Budget Committee did not endorse fiscal relief for these reasons: There is no real urgent need for fiscal relief since States and local governments are generally in better financial shape than the Federal Government; welfare rolls have been dropping as the economy has improved over recent months; costs are growing more slowly than in past years, and this reduces the pressures on State and local government budgets. But the main reason, I feel, is that while there are valid reasons for the Federal Government to fund a larger share of welfare costs, this should be resolved as part of constructive changes in welfare programs. Providing fiscal relief as a first step undermines the drive for real welfare reform. This is the point that Senator MUSKIE was just making.

I am in favor of fiscal relief, but I think, as has been said, that States ought to take a little bitter with the sweet. I am afraid if we give them the sweet first, that is all we shall get.

Mr. MOYNIHAN. I thank the Senator from Oklahoma. I assume he is speaking in his own right as a distinguished Member of this body and a former Governor of his great State, and not as a member of the Committee on the Budget per se.

Mr. BELLMON. If the Senator will allow me, I am not sure you can separate the two, but I was speaking in my own right as a Member of this body.

Mr. MOYNIHAN. I am new to this Chamber, but I am already jealous of the prerogatives of my committee and alarmed at the imperial ambitions of all other committees.

I thank the distinguished chairman and his distinguished colleague for this opportunity. I thank the Chair.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. Do Senators yield back the time on the amendment?

Mr. MOYNIHAN. Mr. President, in the circumstances, I withdraw my amendment.

The PRESIDING OFFICER. The Senator has the right to withdraw his amendment.

The amendment was withdrawn.

Mr. DOMENICI. Mr. President, I wonder if the Senator from Maine might yield 10 minutes on the bill to the Senator from New Mexico.

Mr. MUSKIE. Of course.

Mr. DOMENICI. I thank the distinguished chairman.

I want to acknowledge that there are several improvements in the second concurrent budget resolution when compared to the President's original budget request and the first concurrent budget resolution. I also want to commend our distinguished chairman, Senator MUSKIE, and our distinguished ranking minority member, Senator BELLMON, for their diligence and dedication to constant improvements in the budget process and its products.

Specifically, it is worthy of note, as several of our colleagues have done earlier today, that the second concurrent resolution reduces new budget authority by $11.4 billion below the President's budget request and $11.15 below the first concurrent resolution. Similarly, outlays are reduced in the resolution by $11.5 billion when compared to the budget request and $9.3 billion compared to the first resolution. As a result of these outlay reductions and the committee's recommendations on revenues, the deficit projected by this resolution is $18.2 billion less than contained in the President's budget request and $8.6 billion less than projected by the first concurrent budget resolution.

Regarding revenues, it is worthy of note that this resolution makes room for an additional tax cut of $15.2 billion, $1.2 billion of which is intended for a variety of smaller items, and $14 billion of which has been designated for a general tax cut, with an effective date of January 1, 1979. While I would have preferred an even larger reduction in the revenue floor to accommodate greater tax cuts, I am pleased that tax reductions of the kind and amount contemplated by the Roth-Kemp proposal can be accommodated, with slight modification, so that a permanent reduction of individual tax rates can be put in place. This is something the economy of the country so badly needs and I particularly commend my distinguished colleague, the ranking minority member of the Budget Committee, Senator HENRY BELLMON, for his excellent presentation of this issue in his "additional views" printed in the report accompanying this budget resolution.

This resolution is a significant improvement over the first resolution and

it does indicate that the congressional budget process can be effectively utilized to better control and limit Government spending and more effectively utilize the fiscal policy tools available to the Government. In addition it demonstrates that responsible, sensible action can be taken to reduce the tax burden on individuals and businesses while maintaining due regard for the annual deficit and the public debt.

Still, I feel that further improvements in the budget process are possible and should be pursued. Acting on that conviction, I introduced S. 3200 on June 13 of this year. That bill would have amended the Budget Act to limit total outlays provided in any budget resolution to 20 percent of the estimated GNP. To date, there has been no action on that bill.

Mr. President, I should like to have printed in the RECORD a letter of July 24, 1978, which I received from the Board of Governors of the Federal Reserve System, from William Miller, chairman.

This letter, I say to my friends from the Budget Committee and to the Senators on the floor, basically was addressing the question of whether or not, since he had been talking about inflation very, very strongly, in the last 8 or 10 weeks, he thought it might be a prudent approach to set a percent of GNP as a procedural and substantive part of the budget process in the U.S. Congress. Without going into too much detail, let me say that, generally, the letter concurs with that and suggests that it might be a very good mechanism. I ask unanimous consent, for further details as to his views, that the letter itself be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FEDERAL RESERVE SYSTEM,
Washington, D.C., July 24, 1978.

Hon. PETE V. DOMENICI,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DOMENICI: Thank you for your recent letter concerning the reduction of Federal spending as a share of GNP.

Many observers agree that a decline in the share of Federal spending over the next few years can assist in bringing about a much needed expansion of business capital accumulation. I am not aware, however, of an economic analysis that tries to specify precisely the level of Federal spending, relative to GNP, that would be optimal. Economists appear to have contributed only general ideas on this subject, by discussing why and how the share of the public sector has tended to change over time.

My own recommendation to reduce the percentage of GNP accounted for by Federal expenditures to 20 percent by 1982, represents a pragmatic, interim target. The proposed moderation of the Federal spending share is achievable, for example, if existing Federal spending programs were continued at current levels. This implies that new initiatives should be added only to the extent that savings can be made in other programs. Thus the President's FY 1979 budget projects a 20 percent Federal spending share in FY 1982, on the assumption of no additional spending initiatives beyond those listed in the 1979 budget.

Between the mid-50's and the mid-60's, when inflation rates were moderate, the Federal spending share ranged from 17 to 19½ percent. Since mid-1965 much higher levels have been reached, and lately the Federal share of total GNP has been over 22 percent. A return toward a more moderate Federal spending share would help to reduce the Federal deficit, thus relieving inflationary pressures. At the same time, the reduced budget demands on resources and credit would free resources and funds for capital investment and export development. This shift is needed to restore healthy productivity growth and to reduce the large deficits in our balance of trade.

I hope that these remarks are helpful. It was a pleasure to hear from you.

Sincerely,

BILL.

Mr. DOMENICI. Mr. President, let me say that there is a great deal of talk these days about inflation, about the excessive tax burdens that the American people are bearing, and about deficit spending. Those are all culminating, these days, in the very, very widespread and, I believe, appropriate discussions that the most significant problem in America today is inflation. I do commend our chairman (Mr. MUSKIE) and our ranking member (Mr. BELLMON) for their continuing concern throughout this process about the issue of inflation and what it does to the American people, whether they are on fixed income or producing men and women, or whether they are small businessmen. I commend them for their concern.

It appears to me that one thing is missing today when we speak about whether or not the House tax cut of $16 billion is correct, whether or not the Roth-Kemp approach is correct, or whether or not we need a capital gains change in our country. The thing that is missing is that we are not telling the American people how we intend to control the outlays, the annual expenditures of the Federal Government.

The budget process has obviously, for its short term of existence, been doing a rather good job of analyzing that and analyzing the economics of our country and trying desperately to bring that ever-expanding budget within control. I had intended today to offer an amendment that basically would—I intended to offer two. I shall discuss the first one quickly.

The first one would have asked the President of the United States to submit, next year and for the following 3 years, budgets to us as optional budgets that, in each year, would reduce the percentage of GNP that that budget represented until we got to 1982, when that budget would be no more than 20 percent of the GNP.

My second amendment, that I had intended to offer, was actually an amendment to the Budget Act which would set, as a part of our process, that next year and for the following 3 years, we would bring in an outlay budget annually that was, in each year, a diminishing percentage of the GNP from where it is now so that we got to 20 percent in 1982. That would have been part of the substantive law of our land. At that point, if we ever wanted to exceed that, it would require a two-third vote of each body to spend more annually than 20 percent of the gross national product.

We all know that if we do not do something like that, there is a move afoot in the country, coming right up from the grassroots, to impose these kinds of restrictions, by constitutional amendment or otherwise. I personally believe that 20 percent of GNP or thereabouts is an appropriate annual expenditure by the Federal Government, and that anything that exceeds that for any substantial period of time has such a debilitating effect on the basic economic growth and the basic system that produces growth that, sooner or later, we are going to arrive at this kind of conclusion. I thought that it would be best to do it now rather than to wait until later.

I clearly understand that both of these amendments, if offered to the second concurrent budget resolution, would have been subject to a point of order under the Budget Act itself, because, as a matter of fact, they are not contemplated as being part of the second concurrent resolution as the Budget Act is drawn.

I am correct, am I not, I ask the chairman and the ranking minority member, that had I submitted them, a point of order would have been raised against them?

Mr. MUSKIE. I believe so, Mr. President. I have not discussed it with the Parliamentarian, but I understand it has been discussed at the staff level and the same problem that arose with respect to the Chiles amendment would have plagued the Senator's amendment at this time.

Mr. DOMENICI. Mr. President, without offering these amendments as amendments, but merely as part of this discussion, I ask unanimous consent that the two amendments be printed in the RECORD as part of this dialog, without ever calling them up or submitting them as amendments.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

On page 4, after line 26, add the following:

"SEC. 3. Notwithstanding any other provision of this Resolution, unless waived by a two-thirds vote in each House of Congress, the President is required to submit to Congress a budget for fiscal year 1980 in which outlays shall not exceed 21.5 percent of the gross national product of the United States as estimated for that fiscal year by the Office of Management and Budget; to submit to Congress a budget for fiscal year 1981 in which outlays shall not exceed 21 percent of the gross national product of the United States as estimated for that fiscal year by the Office of Management and Budget; to submit to Congress a budget for fiscal year 1982 and in every fiscal year thereafter a budget in which outlays shall not exceed 20 percent of the gross national product of the United States as estimated for that fiscal year by the Office of Management and Budget."

On page 4, after line 26, add the following:

"SEC. 3. Notwithstanding any other provision of this Resolution, unless waived by a two-thirds vote in each House of Congress, the level of total budget outlays in any Concurrent Resolution passed in accordance with this Act shall not in fiscal year 1979 exceed 22 percent of the gross national product of the United States as estimated for that fiscal year by the Congressional Budget Office; shall not in fiscal year 1980 exceed 21.5 percent of the gross national product of the United

States as estimated for that fiscal year by the Congressional Budget Office; shall not in fiscal year 1981 exceed 21 percent of the gross national product of the United States as estimated for that fiscal year by the Congressional Budget Office; and shall not in fiscal year 1982 or in any fiscal year thereafter exceed 20 percent of the gross national product of the United States as estimated for the fiscal year by the Congressional Budget Office."

Mr. DOMENICI. I ask our distinguished chairman of the committee (Mr. MUSKIE) and ranking representative (Mr. BELLMON) if, early next year, as part of hearings on the Budget Act itself—we are in a position, as I understand it, where the Budget Committee has jurisdiction to recommend changes to the Budget Act, and in this case, with this kind of amendment, we would have concurrent jurisdiction with the Committee on Governmental Affairs. Might I ask my two good friends from the Budget Committee whether they believe this approach deserves some hearing next year to see whether or not the Budget Committee would be amenable to recommending changes of this type to the Senate of the United States?

Mr. MUSKIE. I would, of course. The Senator may remember the hearings this winter on the first budget resolution. We were taking testimony from some of the distinguished economists of the country and I asked them whether or not there was a limit to which the government share—by that I meant all three levels of government—some limit above which the government's share of GNP ought not to rise if we were to maintain a viable private sector. At that time, I think the figure they used was 34 percent as a measure of the share of all levels of government in GNP. The Federal Government's share was about 22 percent at that time.

Mr. DOMENICI. Correct.

Mr. MUSKIE. They really had not—at least the witnesses we had that morning had not addressed themselves to that question. I think we ought to.

I think we ought to form some judgments about that.

With respect to the Federal Government's share, our present objective in our 5-year projections, as the Senator knows, is to get the Federal Government share of GNP below 20 percent. I think that is a valid projection and that we ought to seek to pursue it.

That will pose for this Congress and for future Congresses even more serious hard choices as to the role of the Federal Government with respect to some problems we can see lying ahead that we will be asked to do something about. The national health insurance is one of them, and there are others covered in that report.

So the Senator's amendments address themseves to some very valid questions. I am delighted that he has expressed his interest in those questions in this way on the floor of the Senate.

I assure him, if we can get enough members of the Budget Committee to share his concern and mine as to these questions, we will surely have hearings so that we may explore them.

What we will do with the results of those hearings or with the conclusions we may draw from those hearings is something we will have to consider later.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. MUSKIE. I yield the Senator another 5 minutes.

Mr. DOMENICI. I thank the Senator.

Mr. MUSKIE. But I would agree with him that we would need to think in terms of the role the people of this country would like the Federal Government to play in providing services, in influencing the state of the economy, in impacting upon their lives.

These are fundamental questions that are visible all across the political landscape from coast to coast and from border to border in this country.

We ought to address those questions in very specific terms: What would a limit to the Federal Government's role be, what an expansion of that role would mean, what the drain of the resources from the economy would mean in terms of the private sector.

These are all relevant questions that I do not think have been addressed adequately or comprehensively enough and, certainly, not sufficiently so that the average citizen in this country can focus on it and make a contribution to our thinking.

I think they are fundamental questions. I congratulate the Senator.

Mr. DOMENICI. I want to say to my good friend from Maine, as to the discussion we are having and the amendments that I was going to introduce and that I have instead made a part of the RECORD, I consider this to be a part of the maturing process of the Budget Act and budgeting.

As we well know, this, in and of itself, to come up with a first and second concurrent resolution, and the functions, and look at every one of them to see how much they are growing and going through all the torture we have been going through, and matching that up with macroeconomic policies has, indeed, been arduous.

I think after the few years we have been at it, for us to now be looking at this very fundamental issue, that is, can we have an enterprise system with private initiative, private investment, and its productivity which puts most of our people to work and does most of that which we want done in terms of growth and energizing in the country, have we arrived at a point in history when we must say that the Federal Government's share of it can be only a certain percent? I personally believe we have.

I am delighted the Senator has commented as he has and that that point is one we will consider very seriously next year and, specifically, in terms of whether or not we ought to make it part of the substantive budgetary process of this land.

I thank the Senator for his kind words.

Mr. MUSKIE. I thank my good friend from New Mexico.

Mr. BELLMON. Will the Senator yield 3 minutes?

Mr. MUSKIE. Yes, I yield.

Mr. BELLMON. Mr. President, I would like to respond briefly to the comments made by the distinguished Senator from New Mexico, who is one of the most valuable members of the Budget Committee and who probably works as hard at the budget process as any other Member.

In 1978, the budget sets out 22.2 percent of GNP as the spending goal. In 1979, we are down to 21.7 percent of the GNP, which is a slight move in the right direction.

When we look at the report of the Budget Committee, we project GNP at $3.444 billion by 1983 and outlays of $669 billion, which is 19.9 percent of GNP.

So we are moving, if we can follow our plan, in the right direction.

I note that about $54 billion of tax reduction or spending increase is required to meet the economic projections on which these out-year numbers were based. If all of that $54 billion margin went to spending, outlays would amount to 21.2 percent of GNP by 1983.

So we have to make a choice between tax cuts or more spending.

I am certainly in favor of holding down on the spending. We will have to hold the line on new spending programs to meet the 2-percent goal, as the out-year budget shows. But this challenge can be met.

Rather than to mandate the change, however, I fear that such a rule might actually encourage spending under certain circumstances. I am not certain that 20 percent, 19 percent, or even 15 percent is the appropriate percentage of GNP to pursue. I also fear that such a rule will unduly encourage off-budget financing and other ingenious budgetary schemes.

I think we have to build safeguards against this.

I have great sympathy for the intent of the Senator from New Mexico. I feel that, clearly, when we undertake to look at the Budget Act as it has been working, this is one matter that deserves top consideration.

I join our chairman in agreeing it should be examined in appropriate hearings. I would certainly like to work with the Senator from New Mexico to see that this idea gets full consideration.

Mr. DOMENICI. I thank my good friend from Oklahoma.

Mr. President, I ask for an additional moment. I just want to say to my good friend from Oklahoma, I wholeheartedly agree with the remarks he has made and with the projections and predictions he has discussed. I hope they become a reality without a limitation.

On the other hand, I think he would agree with me, there are many "ifs" in getting to the 19.5 percent of GNP that is hoped for as found on page 27 of our concurrent resolution and the report today.

I think we have a choice to make as to whether or not mandating it will make it easier for us to discipline ourselves and whether it is realistic in terms of economics in our country, or whether we are apt to get there by just having it as a goal. I hope it becomes a full debate.

I do not know whether 20 percent is right, or 19 percent is right. But I do

know it must continue to come down from where it is if we do want a vibrant private sector that can permit our country to grow enough to do all the things requested of the Budget Committee and the authorizing committees every year.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MUSKIE. Mr. President, I know of only two requests to address the budget, one from the distinguished Senator from Maryland (Mr. MATHIAS), and I know Senator BYRD would like some time just before the vote.

I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I yield such time as he desires to the distinguished Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, the committee report on the second concurrent resolution on the budget for fiscal year 1979 is a comprehensive report, and I think it is a very good report. Many facts and figures and much information have been made available to the Senate through this report, and I believe that is very important.

On page 29 of the report is a very significant table. I will read one sentence from the committee report on page 29:

The table below presents the recommendations of the committee by mission and function for fiscal year 1979 and illustrates the impact of these decisions through fiscal year 1983.

I think it is very important that the Senate have that information, and I commend the committee for developing the facts which are being presented by this report.

This table on page 29 shows that the cost of Government will increase 50 percent during the next 5 years. For the current year, fiscal 1978, the budget authority is $500 billion. By fiscal year 1983, according to the report, budget authority will have increased to $767 billion.

Outlays for the current fiscal year—namely, fiscal year 1978—are $448 billion. By 1983, the outlays are projected to go to $669 billion.

So it is readily seen that the cost of Government during the 5-year period ending in 1983 will increase by 50 percent, according to the committee projections.

Mr. President, I ask unanimous consent to have this table on page 29 printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

5-year spending totals

[In billions of dollars]

	Fiscal year					
	1979	1980	1981	1982	1983	Total 1979–83
Budget authority	557.7	607.0	660.4	715.1	767.9	3,308.3
Outlays	489.5	536.4	575.4	622.7	669.2	2,893.2

Mr. MUSKIE. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays at this time on the House concurrent resolution.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MUSKIE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PERCY. Mr. President, I am pleased to support the fiscal 1979 budget resolution, and I commend the Budget Committee for tapering the Federal budget to fit the changed economic circumstances we now find ourselves in.

At the time we passed the first budget resolution on April 26, the economy was in a far different position. Unemployment was dropping and fell to 6 percent that month, the lowest in 3½ years. Inflation, on the other hand, began to worsen after passage of the budget resolution and it is now possible we will finish out the year with double digit levels of inflation. George Meany, the president of the AFL-CIO, acknowledged in mid-May that inflation had replaced unemployment as the country's chief economic concern. Subsequent polls indicated that the majority of the American people share this concern.

The second resolution on the budget which we vote on today takes account of these changes. Federal spending has been reduced by $9.3 billion and the deficit by $8.6 billion, or 17 percent. What is more, the resolution cuts future Federal growth by $11.1 billion by triming budget authority—the real measure of Federal spending. This will certainly serve as a signal to Wall Street and our trading partners that we are sincere about reducing inflation and that the U.S. Senate is prepared to restrain the Federal budget to do so.

On the other side of the coin—revenues—the budget resolution permits the same size tax cut as the April resolution did. This is important because the economy is in great need of the invigorating tax cuts that will spur investment and give our middle income taxpayers a break. We all know that the tax code penalizes Americans whose wages keep up with inflation for it bucks them into higher tax brackets, thereby reducing their actual buying power. The Finance Committee is just now beginning its discussions of the 1978 tax bill and I will be working for investment incentives and individual tax cuts when that bill comes to the floor for consideration. Our budget resolution should leave room for these essential tax reductions.

Mr. President, I noted that several of my colleagues who serve on the Budget Committee have expressed concern that we could actually make the hard spending cuts that need to be made in the next several years. I agree with this sentiment and feel that there is no easy mechanism for our reconsideration of Federal programs and regulations. We need to pass a sunset law this year before we adjourn because it will give us the mechanism that will permit the timely consideration of Federal programs and the modification or elimination of those that are not functioning well.

I would also like to take this opportunity to urge my colleagues to support the legislation I have introduced to make our evaluation of Federal programs more frequent. Together with Representative WILLIAM STEIGER, who is the House sponsor, I have introduced the Government Accountability Act. Our bill requires the President to submit a biannual report to Congress on the management of all the programs administered by the executive branch. The President would rank Federal programs as to their effectiveness within each department, in effect issuing a "report card." This ranking would be based on the clarity of the program's statutory objectives, its design, and the quality of its management.

Our bill will also require the Director of the Office of Management and Budget—OMB—to identify programs that have seemingly contradictory aims or inconsistencies. Those programs that cannot measure up will bear the full weight of congressional scrutiny and may be modified or scrapped.

Mr. President, the Government Accountability Act would not directly affect the budget process, but, like the Budget Act, it would move the Federal Government toward a more manageable and responsive role. It is the type of Government the American people want and deserve. Just as the budget resolution we vote on today shows that Congress and the Federal Government can modify spending in light of new economic conditions, the biannual management report of the President will give us the tools to affect long-range changes in Federal spending.

Both Representative STEIGER and I are indebted to former Ambassador Laurence H. Silberman who first suggested this good idea.

Mr. President, I ask unanimous consent to have printed in the RECORD an article published in the Washington Star on August 30, explaining more fully the concept behind our bill.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LET'S RANK GOVERNMENT EFFECTIVENESS

(By Michael Novak)

I wish Democrats had thought of this idea first: a shrewd technique to make big government accountable. "Rank the bastards!" might be its battle cry.

My colleague at the American Enterprise Institute, former Ambassador Laurence H. Silberman, spelled out the idea in the new Republican intellectual journal Commonsense (310 First St. N.E., Washington, D.C. 20003). Each year the president of the United States would be required to report to Congress on the rank of every program in each department of the executive branch according to its effectiveness. Then the Congress—and the people—would get an idea of the least effective programs in each department.

Every single program would be ranked. Each would be rated in comparison to other programs within its own department. Good programs would get due notice. So would poor ones. Silberman proposes three mandatory criteria for distinguishing them: (a) coherence of statutory objectives; (b) design of the program; (c) quality of management. The ranking system would give government programs something like the major-league baseball standing: a mandatory finish line with clear winners and losers each year.

The director of the Office of Management and Budget would be required to identify programs within the government that have contradictory aims (i.e., encouraging tobacco growers but discouraging smokers). The OMB director would be entitled to propose to Congress the elimination of ineffective programs. Good managers might welcome that opportunity.

Would this particular presidential report be buried from sight? Both journalists and the public would love it. Would budget-wise administrators place the most popular programs at the lowest ranking, to protect them? Lobbies for popular programs would almost certainly begin fighting for a high ranking months before the report was due.

Some ineffective but popular programs would always be at the bottom and some of the worst would be sure to be among them. Besides, the president would have to supply a rationale for each ranking. He would not want to appear to be naive.

Some administrators might try to hide poor programs within larger categories. But astute administrators would have an incentive to break programs down into smaller measurable units. In order to keep their empires as large as possible, some would sacrifice only smaller units at the bottom. Year by year, the worst of these could be pruned away.

Actually, Silberman notes, good managers of federal departments have been doing something like this for years. Faced with tighter budgets, they informally rank their programs when they allocate scarce resources. A new law would force them to make these rankings formal, analytically precise and public.

How can one compare apples and oranges? When you have a limited amount of money for fruit, you have to. A Government Accountability Act would force managers to compare real programs with real programs, on the basis of clear technical analysis. Over the years, evaluative techniques will become sharper. For the only way to diminish controversy will be to develop clear, objective, communicable criteria.

Recall that when students in college used to be ranked, each single one received a relative position. Nowadays, when students are not ranked, "grade inflation" occurs; the bottom half moves upward in an anonymous mass. In the old days, even if all passed, each knew where he stood. Ranking improves techniques of evaluation.

Most subcabinet officers today stay in one position less than two years. To make a name for themselves, some find an incentive to launch a "new" program. No one notices or rewards tough managerial skills (which usually provoke internal dissension).

Under a ranking system, new appointees would face the threat of seeing their program slip lower, compared to previous years, and some would hit bottom. Standards of excellence would change, as incentives changed.

In the private sector, competition helps. A ranking system will make the public sector competitive.

Leaders in the House and Senate have recently proposed a Government Accountability Act based on Ambassador Silberman's shrewd techniques. Democrats, who favor good government as well as big government, should favor this act for the best of populist reasons.

It restores a piece of invisible government to visibility. It will help presidents to get a handle on the monster they manage.

Mr. LONG. Mr. President, a little over a month ago, the chairman of the Senate Budget Committee wrote me a letter asking for the advice of the Finance Committee on those aspects of the second budget resolution which affect Finance Committee jurisdiction. After discussing this request with the committee, I appeared before the Budget Committee and also wrote a letter to Chairman MUSKIE. I am pleased to see that, in setting its recommended revenue levels in the second budget resolution, the Budget Committee has come quite close to meeting the recommendations of the Finance Committee. We had recommended maintaining the allowance in the first resolution for tax cuts totaling $24.7 billion in the upcoming fiscal year. The Budget Committee has recommended an allowance for tax cuts totaling $23.4 billion.

I am, however, concerned over the fact that a much smaller total has been allowed for in the House-passed version of the second budget resolution. The House resolution would permit total tax cuts of only $19.9 billion—nearly $5 billion less than was allowed for in the first budget resolution adopted less than 4 months ago. I believe that first resolution represents a commitment on the part of Congress to provide taxpayers a degree of relief which compensates at least for this year's inflation plus the increases which are necessary in social security taxes. That commitment can be accomplished within the revenue totals recommended by the Senate Budget Committee. I am concerned whether that commitment can be met if the conference on the second budget resolution provides for a smaller tax cut than the Senate Budget Committee has recommended.

The judgment of Congress as expressed in the first resolution was that revenues should be reduced $24.7 billion in legislation this year. The Senate Budget Committee now recommends a tax reduction of $23.4 billion. The much lower total included in the House version of the second budget resolution is based on the tax cuts provided in the House-passed tax bill. I am certain that the Senate will suggest ways of improving on the House bill. That bill is inadequate. For many taxpayers at virtually all income levels, it does not even offset the impact of 1 year's inflation and the increases which are taking place in social security taxes.

For these reasons, I believe the revenue loss recommended by the Senate Budget Committee's proposed second resolution is a minimal one. I strongly urge that the Senate conferees resist any further reduction in the recommended tax cuts.

● Mr. MAGNUSON. Mr. President, I submit for the RECORD an editorial entitled "Budget Balancing Made Easy," which was published in the Wall Street Journal of Friday, September 1, 1978.

The editorial follows:

BUDGET BALANCING MADE EASY

When you ask around Washington why Congress doesn't stop inflation by cutting federal spending, you are apt to hear a lot of defeatist talk about "uncontrollable" items and the like.

This, of course, is utter nonsense. Every dollar of the $500 billion the federal government spends is controllable. Indeed, Congress is charged explicitly by the Constitution with controlling the budget. What people really mean when they say "uncontrollable" is what Congress has made promises to a lot of people and finds it politically inconvenient to withdraw them.

Hence, we have chronic high inflation, public confidence in Congress is at a dangerously low ebb, and there is a strong grassroots movement to take matters out of the hands of Congressmen. In 22 states, the legislatures have passed resolutions calling for a constitutional convention for the purpose of making a balanced federal budget a constitutional requirement. If 34 states so vote, the Constitution requires Congress to call such a convention.

We're not saying that such a historic event will happen, but if it should it would be a colossal vote of no confidence in the United States Congress. The people would be saying that they have finally decided that Congress can't be trusted with money.

To avoid such disgrace, we would urge Congress to adopt its own version of zero-based budgeting. Instead of asking where to cut spending, it should start asking what federal spending is of any value to the nation. It's surprising how simple the problem then becomes.

Of major federal activities, national defense and foreign policy seem to us to be the only truly essential ones. The private sector or state and local government could do others, in many cases far more economically. Indeed, before Washington became the great expansionary colossus it is today, most such activities—welfare, education, transportation, etc.—were so conducted, with generally favorable results.

For the sake of argument, however, we will add several other things the federal government can perhaps justify, even if it doesn't always do them well. Social Security in its simplest form, as an income transfer to the aged and before it became an uncontrollable grab bag, had merit. The federal government also has had good success in supporting broad research—in agriculture, medicine, nuclear development, space exploration and the like. It probably would be imprudent to tinker with that.

We would also not deny Washington the task of gathering national statistics. And a case can be made for a Federal Reserve System, although England fared quite nicely for centuries with a private central bank.

Beyond that, the marginal utility of Washington drops sharply. With a few exceptions,

such as food inspection and the air safety operations of the Federal Aviation Administration, we doubt that the public would notice the demise of most federal regulatory agencies, except through price declines and an abundance of lawyers looking for jobs. There would be a sharp and sudden tax saving from shutting down the Department of Agriculture and transferring any useful research they do to some department for general research that would also take in NASA, etc.

At the Department of Transportation, Amtrak and Conrail should be auctioned to the highest bidders, who would then retain only those parts that have genuine usefulness. There would be huge tax savings. Urban transit should be left up to the cities, where it belongs, forcing them to find efficient means of moving commuters. Similarly, public housing can be safely left to the cities and states, which are in a better position than Washington to measure true needs.

With the cuts we have in mind, we could imagine a federal budget somewhere close to half the size of the present budget. That would leave room for a sharp cut in taxes, some of which would make room for states to finance a loss of grants from Washington. There would also be room in that budget cut to reduce the federal debt, all of which would lower inflation and interest rates generally and certainly reverse the alarming rise in interest costs the federal government pays.

What we've sketched here will be regarded in Washington as an end-of-summer's dream ignorant of the political realities of the Potomac, where the combined lobbies of special interests protect all the domains we have so casually demolished. We would not deny it. Similarly, the possibility of that constitutional convention looks pretty remote too, at the moment. But strange things are happening. A few years ago, who would have dreamed that a curmudgeon named Howard Jarvis would turn the whole state of California on its ear? We're simply offering our advice early, in case it's needed in a hurry.●

● Mr. JAVITS. Mr. President, although the conferees have not yet convened on the education amendments, H.R. 15, both the House- and Senate-passed versions include concentration grants beginning in fiscal year 1979. The anticipated enactment of H.R. 15 within the next 2 months would mean that the first fiscal year 1979 supplemental appropriation could include the $400 million for concentration grants, as requested by the President. For this reason, it is important that this authority be included in the budget resolution.

I am grateful that the Budget Committee has decided to support this program.

Mr. President, in the same mission, No. 501, I am concerned that the amounts available for the regular ESEA I and impact aid programs are insufficient. I have examined the actions of the House and the Senate Appropriations Committee on H.R. 12929, the HEW—Labor Appropriations bill for fiscal year 1979. This bill deals with title I and impact aid in their present form, because it covers present law only and not the new provisions like concentration grants.

Let us look first at the title I regular program. The President requested $2,978.8 million; and the House passed level increases this amount by $100 million to $3,078.8 million. The Senate Appropriations Committee recommends only $2,889.8 million, a reduction of $189 million from the House level and $89 million from the President's request.

In impact aid, the President requested $811.4 million for the Public Law 874 program. This represents full funding for tier two. This request was to maintain the present program for fiscal year 1979, and was made in the hope that authorizing bill changes would be made effective in 1980 to reduce these levels. The House level is the same amount as the President's request. However, the Senate Appropriations Committee has recommended a reduction of $54.3 million from the impact aid program. After staff consultation with the Budget Committee, I am informed that function 500 includes a $100 million cut for impact aid, and allows only $711.4 million.

In summary, the elementary and secondary education mission includes a reduction of $189 million from the President's budget request; which is $289 million below the House passed appropriations bill and $54.3 million below the Senate Appropriations Committee recommendation.

Mr. President, I do not know what the action the Senate will take when it considers H.R. 12929. But I would be opposed to a budget resolution which reduces the President's request for education by almost $200 million without adequate discussion and justification. If previous experience is a guide, the final version of H.R. 12929 will be approximately midway between the House and Senate levels. In this case, mission 501 may be understated by over $100 million. As the budget resolution is stated in billions, even this huge amount is only calculated by a 0.1 difference. Therefore, I do not intend to offer an amendment to the budget resolution, because I believe that the overall size of function 500 and its many programs will allow flexibility to take care of this situation. The proposed function 500 ceiling of $31.5 billion budget authority and $30.2 billion outlays for fiscal year 1979 should provide room for the needs of elementary and secondary education.

Mr. President, my purpose in rising is to point out that these assumptions used by the Budget Committee may prove incorrect. The Budget Committee has chosen to base its calculations on the levels in the Senate Appropriations Committee recommended version of H.R. 12929. I have no quarrel with this procedure because some such assumption must be made in order to construct a budget resolution. And if these assumptions are not correct, we should not attribute any "budget busting" to elementary and secondary education. It is certain that the Senate strongly supports these programs. On August 24, the Senate voted 85 to 7 on final passage of the Education Amendments of 1978 which reauthorize them. I want my colleagues to be aware of the spending implications of the second budget resolution for these vital programs in support of elementary and secondary education.●

Mr. MUSKIE. Mr. President, so far as I know, there are no other amendments or requests for time.

I yield back the remainder of my time.

Mr. BELLMON. I yield back the remainder of my time.

Mr. MUSKIE. Mr. President, I ask that the Committee on the Budget be discharged from further consideration of House Concurrent Resolution 683 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution will be stated by title.

The second assistant legislative clerk read as follows:

A concurrent resolution (House Concurrent Resolution 683) revising the congressional budget for the U.S. Government for the fiscal year 1979.

Mr. MUSKIE. Mr. President, I ask unanimous consent to strike all after the resolving clause and insert in lieu thereof the language of Senate Concurrent Resolution 104, as reported.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is all time yielded back on House Concurrent Resolution 683?

Mr. MUSKIE. I yield back my time.

Mr. BELLMON. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota Mr. ANDERSON), the Senator from North Dakota (Mr. BURDICK), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Montana (Mr. HATFIELD), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Tennessee (Mr. SASSER), the Senator from Illinois (Mr. STEVENSON) and the Senator from Alabama (Mrs. ALLEN) are necessarily absent.

I further announce that the Senator from Massachusetts (Mr. KENNEDY) is absent on official business.

I also announce that the Senator from Rhode Island (Mr. PELL) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mrs. HUMPHREY) and the Senator from Rhode Island (Mr. PELL) would each vote "yea."

Mr. CURTIS. I announce that the Senator from Tennessee (Mr BAKER), the Senator from Massachusetts (Mr. BROOKE), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Wyoming (Mr. HANSEN), the Senator from Oregon (Mr. HATFIELD), the Senator from North Carolina (Mr. HELMS), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Vermont (Mr. STAFFORD),

the Senator from Alaska (Mr. STEVENS) and the Senator from Texas (Mr. TOWER) are necessarily absent.

The result was announced—yeas 56, nays 18, as follows:

[Rollcall Vote No. 372 Leg.]

YEAS—56

Bayh	Gravel	Morgan
Bellmon	Hart	Moynihan
Bentsen	Hathaway	Muskie
Biden	Heinz	Nelson
Bumpers	Hodges	Packwood
Byrd, Robert C.	Hollings	Percy
Cannon	Huddleston	Randolph
Case	Inouye	Ribicoff
Chiles	Jackson	Riegle
Church	Javits	Sarbanes
Clark	Leahy	Schmitt
Cranston	Long	Schweiker
Culver	Lugar	Sparkman
Dole	Magnuson	Stennis
Durkin	Mathias	Stone
Eagleton	Matsunaga	Weicker
Ford	McGovern	Williams
Glenn	Melcher	Young
Goldwater	Metzenbaum	

NAYS—18

Bartlett	Garn	Scott
Byrd, Harry F., Jr.	Griffin	Talmadge
Curtis	Hatch	Thurmond
Danforth	Hayakawa	Wallop
DeConcini	Nunn	Zorinsky
Domenici	Proxmire	
	Roth	

NOT VOTING—26

Abourezk	Hatfield, Mark O.	McIntyre
Allen	Hatfield, Paul G.	Pearson
Anderson	Helms	Pell
Baker	Humphrey	Sasser
Brooke	Johnston	Stafford
Burdick	Kennedy	Stevens
Chafee	Laxalt	Stevenson
Eastland	McClure	Tower
Hansen		
Haskell		

So the concurrent resolution (H. Con. Res. 683), as amended, was agreed to.

Mr. MUSKIE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BELLMON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MUSKIE. Mr. President, I ask unanimous consent that Senate Concurrent Resolution 104 be indefinitely postponed.

The PRESIDING OFFICER (Mr. WILLIAMS). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes today.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business with statements limited therein to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXPULSION OF AMERICAN NEWSMAN DANIEL DROOZ FROM SOUTH AFRICA

Mr. ROTH. Mr. President, on August 31, the Government of South Africa ordered an American newsman, Daniel Drooz, out of South Africa. Mr. Drooz, a constituent of mine from Wilmington, had been reprinting as a special correspondent for the Chicago Sun-Times from Johannesburg for the past 2 years.

The South African action came despite appeals from the Delaware delegation, Department of State, and the Chicago Sun-Times for reconsideration. During the past several weeks, I have spoken and corresponded with the South African Ambassador and responsible State Department officials in an effort to allow Mr. Drooz to be permitted to remain in South Africa. The State Department interceded in Pretoria and with the South African Embassy here in Washington on Mr. Drooz' behalf.

I am deeply disappointed that the South African Government chose to ignore our warnings about the very harmful effects the expulsion order would have on United States-South African relations. The South African Government clearly does not understand the great importance the American people attach to the free flow of information.

Unlike the United States, South Africa does not have a strong tradition of freedom of the press. It was only very recently, I understand, that foreign newspaper correspondents were permitted to reside in South Africa, but the South African Government has attempted to maintain a tight leash on our correspondents by requiring very frequent renewal of work and residency permits, with the clear implication that renewal would not be forthcoming for those whose articles were disliked by the Government.

While a similar threat was made earlier this year against another American correspondent and Mr. Drooz was threatened with expulsion last year, Mr. Drooz' expulsion last week marks the first time in this decade that this sanction has actually been used against an American correspondent. As such, it represents a very important and dangerous precedent and should be vigorously protested.

I personally have little doubt that American correspondents in South Africa will continue to write the news as they see it, regardless of Government threats or harassment. Nevertheless, I believe we should make our displeasure abundantly clear to South Africa. Certainly, the expulsion of Mr. Drooz does nothing to enhance South Africa's image in the United States.

Mr. President, I ask unanimous consent that articles from the Wilmington Morning News and Chicago Sun-Times regarding Mr. Drooz be printed at this point in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wilmington Morning News, Aug. 31, 1978]

REPORTER, EX-DELAWAREAN, IS EXPELLED FROM S. AFRICA

The first American newsman to be expelled from South Africa since the early 1960s was expected to arrive today at his parents' home in Greenville.

Daniel B. Drooz, 33, son of Rabbi and Mrs. Herbert E. Drooz of Greenville, had been working as a special correspondent for the Chicago Sun-Times in Johannesburg until his expulsion this week.

The South African government told Sen. William V. Roth Jr., R-Del., that Drooz was being kicked out because the Argus Africa News Service had offered him a job and "this would deprive a South African of employment," Drooz wrote in his last dispatch.

Drooz, who charged the South African government with harassing him for more than a year, called the government's reasoning "semantic gibberish."

He said the job offer would not have deprived a South African of work because "their passports are not valid in most of black Africa."

Drooz's father, who is rabbi of Temple Beth Emeth, said yesterday, "I'm very proud of our son because he has been reporting the news as he saw it.

"He's coming home . . . with his wife, our stepgrandson and four dogs," he added.

He said that when his son was getting ready to be married in South Africa last summer, he had already received notice to leave the country. The expulsion order was delayed, however.

The elder Drooz also said Roth and Sen. Joseph R. Biden Jr., D-Del., had tried in vain to dissuade the South African government. "They were wonderful, Mr. Roth and Mr. Biden, but they could not do anything," he said.

The Sun-Times protested to South African officials that the expulsion "will be widely viewed as repressive action to reduce access to information about South Africa."

Daniel Drooz began his South African assignment in September 1976, first with the Chicago Daily News and then, after that paper folded, with the Sun-Times.

He is a graduate of P. S. du Pont High School, where he was one of the state's top orators in 1962. He went on to Antioch College and the University of Michigan, where he received a master's degree in journalism.

In 1977, as a correspondent for the Toronto Star, he won the National Newspaper Award of Canada for his coverage of the Israeli raid on Entebee, Uganda.

Drooz has reported extensively from Israel and covered wars in Israel and Cyprus. He was wounded by shell fragments in 1974 while covering the Turkish-Greek war in Cyprus for the London Daily Times.

[From the Chicago Sun-Times, Aug. 30, 1978]

S. AFRICA EXPELS REPORTER FOR SUN-TIMES

Daniel B. Drooz, special correspondent for The Sun-Times in South Africa, has been expelled from that country despite repeated protests by Sun-Times editors. Drooz left South Africa Wednesday.

The protests and requests for reconsideration of the expulsion order were made in recent weeks by Editor in Chief James Hoge and Editor Ralph Otwell.

But South African authorities have remained unyielding.

Otwell, in an Aug. 16 cable to South African Foreign Minister Roelof F. Botha in Pretoria, said:

"The Chicago Sun-Times urges prompt reconsideration of the nonrenewal of the work permit for its correspondent, Daniel Drooz. As we have conveyed earlier in messages to Ambassador (Donald B.) Sole and Minister of Information (Connie) Mulder, the notice to Mr. Drooz to leave South Africa by Sept. 1 will be widely viewed as repressive action to reduce access to information about South Africa. Further, we believe expulsion of Mr. Drooz is inimical to interests of your country and to relations with the U.S.A. Prompt action to reverse the ouster decision is essential to all."

Sun-Times editors also alerted the U.S. State Department to the implications of the expulsion order.

In his last dispatch from Johannesburg, Drooz wrote that the reason given by the South African government for his expulsion—the first of an American correspondent since the early 1960s—was "a distortion of reality."

The writer said U.S. Sen. William V. Roth Jr. (R-Del.) was officially notified by the South African government that Drooz was being kicked out because the Argus Africa News Service of South Africa had offered him a job as a reporter traveling in black Africa and "that this would deprive a South African of employment."

As a result, the government said through Ambassador Sole, Drooz' work permit for The Sun-Times was not being renewed.

Drooz wrote that, in fact, no South African would have been deprived of a job if he had taken the position with Argus because no South African could have held the post. "Their passports are not valid in most of black Africa," the correspondent noted. Drooz quoted a South African attorney as calling the government's reasoning in the matter "semantic gibberish."

The newsman said further that his problems with official South Africa dated to a year ago, when he received an expulsion order from former Information Sec. Eschel Rhoodie, who had accused him of being a spy.

"He wouldn't say for whom," Drooz wrote. "But he said it, and one of his aides said it in front of several witnesses, including reporters for the Christian Science Monitor, the New York Times and the British Broadcasting Corp.

"When confronted with his remarks," the newsman continued, "Rhoodie, who subsequently was 'retired' for maladministration, wrote that it was all malicious lies."

That original expulsion order was withdrawn, but his problems with the South African government continued. Along with correspondents for Newsweek magazine and the West German news magazine Der Spiegel, Drooz was denied accreditation as a correspondent, "kept on three-month extensions of work permits for the next year and harassed every time they came up for renewal."

Drooz said he had reason to believe his mail and telephone were under official surveillance before the decision was made to throw him out of the country.

Drooz, 33, has reported from South Africa for The Sun-Times as a special correspondent since March and earlier served in the same capacity for The Chicago Daily News since September, 1976.

A seasoned foreign correspondent, he has reported extensively from Israel and has covered wars in both Israel and Cyprus. He was wounded by shell fragments in 1974 while covering the Cyprus action for the London Daily Times.

Drooz is a native of Wilmington, Del., the son of Reform Rabbi Herbert Drooz.

Reporter Drooz is a graduate of Antioch College, Yellow Springs, Ohio, and holds a master's degree in communications from the University of Michigan. His earlier journalistic background includes assignments with the Associated Press in New York and the Voice of America in Washington.

NATIONAL HISPANIC HERITAGE WEEK

Mr. PERCY. Mr. President, President Carter has declared the week of September 10–16 as National Hispanic Heritage Week. Hearings will be conducted across the Nation by executive branch officials to hear the views of Hispanic people on problems faced within their communities.

I am very pleased that one of these hearings is scheduled to be held in Chicago on September 12 at the Latino Institute. I intend to review the testimony presented at this hearing and also to cooperate with the administration in every way possible to alleviate the serious problems of unemployment, housing, health, and discrimination, which currently confront the Hispanic community.

National Hispanic Heritage Week is an important step in beginning to understand and help the Hispanic community. I commend President Carter in this effort. However, as of today, he has yet to appoint a Hispanic Commissioner to the Equal Employment Opportunity Commission. I urge the President, as I have in the past, to fill this important position promptly. What better way to honor National Hispanic Heritage Week than to appoint a Hispanic Commissioner to the EEOC.

MESSAGES FROM THE PRESIDENT RECEIVED DURING THE RECESS

Under authority of the order of the Senate of August 25, 1978, the Secretary of the Senate, on August 28 and September 1, 1978, received messages from the President of the United States.

EXECUTIVE MESSAGES REFERRED

Under authority of the order of the Senate of August 25, 1978, messages from the President of the United States submitting sundry nominations, received on August 28 and September 1, 1978, were referred to the appropriate committees.

(For nominations received on August 28 and September 1, 1978, see the end of Senate proceedings for today.)

FEDERAL PAY COMPARABILITY ALTERNATIVE PLAN—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE RECESS—PM 213

Under authority of the order of the Senate of August 25, 1978, the Secretary of the Senate on August 31, 1978, received the following message from the President of the United States, which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

Under the Pay Comparability Act of 1970, an adjustment in Federal white collar pay will be required on October 1.

I have reviewed the report of my Pay Agent and the recommendations of the Advisory Committee on Federal Pay relative to a pay adjustment. Their findings indicate that an average 8.4 percent increase, at a cost of $4.5 billion, will be required to achieve comparability with the private sector.

I support comparability in pay between the Federal Government and the private sector. It is essential to ensure that the Federal Government continues to attract and retain qualified and dedicated employees. The Federal Government's civilian and military personnel have given the country loyal and competent service, and I would normally have no hesitancy in ordering a pay raise achieving comparability. However, pay comparability must be viewed in the light of the overall economic situation now facing our country. For that reason, my decision about pay comparability this year is especially difficult.

Today the greatest single threat to our national economic growth and the jobs and prosperity of our people is inflation. It persists because all of us—business and labor, farmers and consumers—are caught on a treadmill that none of us can stop alone. Each group desires to raise its income to meet rising costs; eventually we all lose the inflation battle together.

To curb the wage and price spiral, I proposed last spring that in each industry and sector of the economy, wage increases this year be held significantly below the average increases for the two preceding years. The Federal Government should set an example in this effort. A Federal white collar civilian and military increase of 5.5 percent would be consistent with this guideline.

The pay act gives me the authority to propose an alternate pay adjustment which I consider appropriate in the light of, "economic conditions affecting the general welfare." Therefore I am submitting to the Congress an alternative plan for a 5.5 percent pay increase. This will allow the Federal Government to set an example for labor and industry and lead the fight against inflation by example, and not just words alone.

Accordingly, I strongly urge the Congress to support the alternative recommendation which is attached.

JIMMY CARTER.

THE WHITE HOUSE, *August 31, 1978.*

REPORT ON PROGRESS MADE TOWARD A NEGOTIATED SETTLEMENT ON CYPRUS—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE RECESS—PM 214

Under authority of the order of the Senate of August 25, 1978, the Secretary of the Senate on September 1, 1978, received the following message from the President of the United States, which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

As required by Public Law 94–104, this report describes the progress that has been made towards a negotiated settlement on Cyprus in the past sixty days.

The last report described proposals submitted by the Turkish Cypriots on April 13, and noted several expressions of flexibility subsequently made by the Turkish side. In July there were further encouraging signs. Both the Government of Cyprus and the Turkish Cypriot leadership put forward fresh and promising proposals for the resettlement of the important commercial and resort city of Varosha (New Famagusta). Varosha has

been deserted and under Turkish control since the 1974 fighting. Significantly, both sides foresee that progress on this issue will lead to a resumption of the intercommunal negotiations.

We have urged the two Cypriot parties to give these proposals careful consideration, and plan to continue to encourage a satisfactory compromise on Varosha, one we hope will lead them to reconvene the intercommunal negotiations under the aegis of the Secretary General of the United Nations.

Both the Congress and the Administration feel that the United States 1) should continue to play an active role in seeking a just and lasting Cyprus settlement, and 2) should continue to support the efforts of Secretary General Waldheim. On August 14, the conference committee on the Security Assistance Bill approved the language to end the Turkish Arms Embargo. I consider this action appropriate and necessary to our continuing impartial and constructive role.

JIMMY CARTER.

THE WHITE HOUSE, *September 1, 1978.*

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVALS

A message from the President of the United States reported that on August 28, 1978, he had approved and signed the following acts:

S. 405. An act for the relief of Chong Cha Williams; and

S. 1335. An act for the relief of Shin Myong Yo Purdom, also known as Myong Yo Sin.

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 1:01 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 9. An act to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes;

S. 1633. An act to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes;

S. 2543. An act to amend title 39 of the United States Code to provide better enforcement procedures for preventing fraudulent solicitations through the mails;

H.R. 185. An act to amend section 2632 of title 10, United States Code, to provide the Secretary of the department in which the Coast Guard is operating with the authority to transport Coast Guard employees to and from certain places of employment;

H.R. 2931. An act to amend chapter 89 of title 5, United States Code, to establish uniformity in Federal employee health benefits and coverage by preempting certain State and local laws which are inconsistent with such contracts, and for other purposes;

H.R. 2952. An act for the relief of M/S. William E. Boone, U.S. Army, retired;

H.R. 3532. An act to amend chapter 639 of title 10, United States Code, to enable the Secretary of the Navy to change the name of a publication of the Naval Observatory providing data for navigators and astronomers;

H.R. 7161. An act to amend title 10, United States Code, to allow nationals, as well as citizens, of the United States to participate in the Junior Reserve Officers' Training Corps program;

H.R. 7162. An act for the relief of Stephanie Johnson;

H.R. 8342. An act to amend title 5, United States Code, to provide for the application of local withholding taxes to Federal employees who are residents of such locality;

H.R. 8397. An act to provide that a certain tract of land in Pinal County, Ariz., held in trust by the United States for the Papago Indian Tribe, be declared a part of the Papago Indian Reservation;

H.R. 8471. An act to authorize the Governor of the State of Wyoming to exhibit the nameplate, ship's bell, and silver service of the U.S. Ship *Wyoming* without restriction as to the place of such exhibition;

H.R. 10878. An act to extend until October 1, 1981, the voluntary insurance program provided by section 7 of the Fishermen's Protective Act of 1967, and for other purposes;

H.R. 10899. An act to provide for Federal regulation of participation by foreign banks in domestic financial markets;

H.R. 12106. An act to amend the Independent Safety Board Act of 1974 to authorize additional appropriations;

H.R. 12240. An act to authorize appropriations for fiscal year 1979 for intelligence and intelligence-related activities of the U.S. Government, the intelligence community staff, the Central Intelligence Agency retirement and disability system, and for other purposes;

H.R. 12602. An act to authorize certain construction at military installations for fiscal year 1979, and for other purposes;

H.R. 12927. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes;

H.R. 13235. An act for the relief of James Thomas Lantz, Jr., David D. Bulkley, and Arthur J. Abshire;

H.R. 13467. An act making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes;

H.R. 13468. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1979, and for other purposes;

H.J. Res. 773. A joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the 7 calendar days beginning September 17, 1978, as "National Port Week"; and

H.J. Res. 1014. A joint resolution designating April 28 and 29 of 1979 as "Days of Remembrance of Victims of the Holocaust."

The enrolled bills and joint resolutions were subsequently signed by the Acting President pro tempore (Mr. HODGES).

At 5:28 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to H.R. 15, an act to extend and amend expiring elementary and secondary education programs, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. PERKINS, Mr. FORD of Michigan, Mr. ANDREWS of North Carolina, Mr. BLOUIN, Mr. SIMON, Mr. ZEFERETTI, Mr. MOTTL, Mr. MURPHY of PENNSYLVANIA, Mr. LE FANTE, Mr. WEISS, Mr. HEFTEL, Mr. CORRADA, Mr. KILDEE, Mr. MILLER of California, Mr. QUIE, Mr. BUCHANAN, Mr. GOODLING, Mr. PURSELL, Mr. ERLENBORN, and Mr. JEFFORDS were appointed managers of the conference on the part of the House.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 103. A concurrent resolution to correct the enrollment of H.R. 6669.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, September 6, 1978, he presented to the President of the United States the following enrolled bills:

S. 9. An act to establish a policy for the management of oil and natural gas in the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes;

S. 1633. An act to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes; and

S. 2543. An act to amend title 39 of the United States Code to provide better enforcement procedures for preventing fraudulent solicitations through the mails.

REPORTS OF COMMITTEES SUBMITTED DURING RECESS

Under the authority of the order of Friday, August 25, 1978, the following reports of committees were submitted on August 31, 1978, during the recess of the Senate:

By Mr. LONG, from the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works, jointly, with amendments:

S. 2995. A bill to facilitate the implementation of section 703 of the Railroad Revitalization and Regulatory Reform Act of 1976, to provide for the conversion of a part of the National Visitor Center to railroad passenger service, and for other purposes (Rept. No. 95-1172).

By Mr. CULVER, from the Committee on Environment and Public Works, with amendments:

S. 691. A bill to provide for the preservation and enhancement of critical habitat for migratory waterfowl and other wetlands-dependent migratory birds of the Pacific flyway in the grasslands area of the San Joaquin Valley, California (Rept. No. 95-1173); and

H.R. 8394. An act to provide for payments to local governments based upon the acreage of the National Wildlife Refuge System which is within their boundaries (together with additional views) (Rept. No. 95-1174).

By Mr. CULVER, from the Committee on Environment and Public Works, without amendment:

H.R. 2329. An act to improve the administration of fish and wildlife programs, and for other purposes (Rept. No. 95-1175).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. RIBICOFF, from the Committee on Governmental Affairs, without amendment:

H.R. 13087. An act to authorize the issuance of substitute Treasury checks without undertakings of indemnity, except as the Secretary of the Treasury may require (Rept. No. 95-1176).

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, without amendment:

S. Res. 551. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2995. Referred to the Committee on the Budget.

By Mr. NELSON, from the Committee on Human Resources and (for Mr. PROXMIRE) from the Committee on Banking, Housing, and Urban Affairs, each with an amendment:

S. 50. A bill to establish and translate into practical reality the right of all adult Americans able, willing, and seeking to work to full opportunity for useful paid employment at fair rates of compensation; to combine full employment, production, and purchasing power goals with proper attention to balanced growth and national priorities; to mandate such national economic policies and programs as are necessary to achieve full employment, production, and purchasing power; to restrain inflation; and to provide explicit machinery for the development and implementation of such economic policies and programs, and for other purposes (together with additional views) (Rept. No. 95-1177).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HUDDLESTON:

S. 3482. A bill to assure fair practices in agricultural bargaining; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HATHAWAY:

S. 3483. A bill to amend the Fishery Conservation and Management Act of 1976 in order to assist and protect the domestic fishing industry; to the Committee on Commerce, Science, and Transportation.

By Mr. CRANSTON (for himself and Mr. HAYAKAWA):

S. 3484. A bill to provide for the conveyance of certain public lands in San Bernardino County, Calif., to the town of Red Mountain, and for other purposes; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HUDDLESTON:

S. 3482. A bill to assure fair practices in agricultural bargaining; to the Committee on Agriculture, Nutrition, and Forestry.

NATIONAL AGRICULTURAL BARGAINING ACT OF 1978

● Mr. HUDDLESTON. Mr. President, important changes have taken place in the food and fiber production, processing, and distribution industries in recent years There is little question that traditional methods are rapidly giving way to new technology.

Changes in market structure have accompanied changes in technology. Firms throughout the food and fiber industries are becoming fewer, larger, and more specialized and are requiring larger amounts of capital. The traditional terminal and auction markets are giving way to direct buying, vertical integration, forward contracts, and other coordinating arrangements.

Processors and retailers are more specific in their requirements for products regarding quantity, quality, and delivery terms, thus setting a trend toward tighter coordination of production and marketing activities similar to that of the more complex industrial operation.

Integration of production-market functions by processors has had a great impact on market structure. Individual farmers are at a competitive disadvantage in such an economic climate. Their position is continuing to weaken, as fewer and larger buyers negotiate for the farmers' products. Present trends indicate that large-scale marketing agencies will push integration further to even greater control over product supply, time and condition of delivery, and product quality and appearance.

To help cope with these changes, growers in various commodity areas have formed bargaining associations as one way of securing what is commonly referred to as bargaining power, muscle in the marketplace, or countervailing power. Many new bargaining groups have been formed, including groups which bargain for milk, fruits, vegetables, and other specialized commodities.

The ultimate success of these associations may depend on legislative clarification and sanction for their bargaining activities.

Mr. President, the National Agricultural Bargaining Act of 1978, which I am introducing today, establishes standards of fair practices that shall be observed by handlers and associations of producers in their dealings in agricultural products, provide standards for accreditation of coperative associations of producers of agricultural products for the purpose of bargaining, defines the mutual obligations of handlers and associations of producers to bargain with respect to the production, sale and marketing of agricultural products and provides for the enforcement of such obligations. Under this act, associations of farmers can petition the Secretary of Agriculture, who will be the program administrator, stipulating the conditions of the proposed bargaining unit. These items will include such things as the commodity and handlers involved in such other information that the Secretary may request.

This measure stipulates that the association requesting accreditation, first, must be owned and controlled by producers; second, must have contracts, which are binding under State laws, with its members empowering the association to sell or negotiate terms of sale for the products of its members; third, must represent a sufficient number of producers for a product to enable it to function as an effective agent for producers in bargaining with the designated handler; and fourth, must have negotiations with handlers as one of its principal functions.

Mr. President, this act does not require that either party must come to an agreement. It does prescribe the mutual obligation of a handler and an accredited association to meet at reasonable times and for reasonable periods of time for the purpose of negotiating in good faith with respect to the price, terms of sale, compensation for products produced under contract, or other provisions relating to the products that are marketed within the bargaining unit. This bill provides guidelines for mediation and arbitration services if requested by the accredited association or handler or if, in the Secretary's judgment, an impasse in bargaining has occurred. The measure repeals the Agriculture Fair Practices Act of 1967 and replaces the unfair practices described in the 1967 act with an expanded list of unfair practices for not only handlers, but also for the first time for accredited associations.

Many feel the need for this new authority is becoming more acute due to the continuing decline in the number of auction and central markets which have provided the source of price information and an alternative market outlet for many producers. More and more production is being sold directly to handlers under forward contracts. Organized marketing and bargaining provides an alternative to increased reliance on the Federal Treasury for farm income subsidy payments with minimal Government intervention.

It has been suggested that producers of all farm commodities would be more apt to invest capital and commit farm produce to existing or newly created bargaining associations if they had assurance that handlers would not be able to circumvent or sabotage the bargaining process. Passage and implementation of marketing and bargaining procedures will improve the capability of farmers to enhance their net farm income and standard of living.

Numerous associations already exist for specialty crops, and new ones would likely be formed by producers of other commodities sold under forward contracts, such as cattle and hogs. These associations will be able to improve farm prices and the conditions and terms of sale, which are now prescribed by handlers with individual producers or associations having little clout to counter or

reject the contract offered by the handler or processor.

Mr. President, the Nation's general farm organizations, in a statement issued April 14, 1978, announced they have united in support of the National Agricultural Bargaining Act of 1978. The list of organizations supporting this measure is impressive and includes the American Farm Bureau Federation, the National Council of Farmer Cooperatives, the National Farmers Union, and the National Grange. I urge my colleagues to join me in support of this measure.

Mr. President, I ask unanimous consent that S. 3482 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3482

Be it enacted by the Senate and House of the United States of America in Congress assembled, That this act may be cited as the "National Agricultural Bargaining Act of 1978".

CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

SEC. 2. Agricultural products are produced in the United States by many individual farmers and ranchers throughout the Nation. Such products in fresh or processed form move in the channels of interstate and foreign commerce, or directly burden or affect interstate commerce. The efficient production and marketing of agricultural products by farmers and ranchers is of vital importance to their welfare, and to the general welfare. Because agricultural products are produced by numerous individual farmers, their ability to market and to bargain effectively for fair prices and terms of sale for their products is adversely affected unless they are free to join together in cooperative associations of producers as authorized by law. Interference with this right, or the failure of any handler of agricultural products to bargain in good faith with a cooperative association of producers as the representative and agent of such producers is contrary to the public interest and adversely affects the free and orderly flow of goods in interstate and foreign commerce.

Therefore, it is declared to be the policy of Congress and the purpose of this Act to establish standards of fair practices that shall be observed by handlers and associations of producers in their dealings in agricultural products, to provide standards for the accreditation of cooperative associations of producers of agricultural products for the purpose of bargaining, to define the mutual obligations of handlers and associations of producers to bargain with respect to the production, sale, and marketing of agricultural products, and to provide for the enforcement of such obligations.

DEFINITIONS

SEC. 3. When used in this act—

(a) "Associated association" means an association of producers accredited in accordance with section 6 of this Act.

(b) "Association" means any association of producers of agricultural products engaged in the marketing of such products, including marketing, selling, bargaining, shipping, or processing as defined in section 15(a) of the Agricultural Marketing Act of 1929, as amended (49 Stat. 317; 12 U.S.C. 1141(a)), or in section 1 of the Act entitled "An Act to authorize association of agricultural producers" approved February 18, 1922 (42 Stat. 388, 7 U.S.C. 291).

(c) "Handler" means any person, other than an association, engaged in the business or practice of (1) acquiring agricultural products from producers or associations for processing or sale; (2) grading, packaging, handling, storing, or processing agricultural products received from producers or associations; (3) contracting or negotiating contracts or other arrangements, written or oral, with producers or associations with respect to the production or marketing of any agricultural product; or (4) acting as an agent or broker for a handler in the performance of any function or act specified in clauses (1), (2), or (3) of this subsection.

(d) "Person" means one or more individuals, partnerships, corporations and associations.

(e) "Producer" means a person engaged in the production of agricultural products as a farmer, planter, rancher, poultryman, dairyman, fruit, vegetable, or nut grower, including a grower or farmer furnishing labor, production management, or facilities for the growing or raising of agricultural products.

(f) "Secretary" means the Secretary of Agriculture.

UNFAIR PRACTICES

SEC. 4. (a) It shall be unlawful for any handler to engage, or to permit an employee or agent to engage, in any of the following practices:

(1) To coerce a producer in the exercise of the producer's right to contract with, join, or maintain membership in, or to refrain from contracting with, joining, or maintaining membership in an association or to refuse to deal with a producer because of the exercise of the producer's right to contract with, join, or maintain membership in an association.

(2) To discriminate against a producer with respect to price, quantity, quality or other terms of purchase, acquisition, or other handling of agricultural products because of the producer's membership in contract with an association.

(3) To coerce or intimidate a producer to breach, cancel, or terminate a membership agreement or marketing contract with an association or a contract with a handler.

(4) To offer to pay or loan money or anything of value, or to offer or give any other inducement or reward to a producer for refusing to join or to cease to maintain membership in an association.

(5) To make or circulate false reports about the finances, management, or activities of an association or a handler.

(6) To refuse to bargain in good faith with an association accredited to represent producers, if the handler is designated pursuant to section 6 of this Act.

(7) To conspire, combine, agree, or arrange with any other person to do or aid or abet the doing of any practice that is in violation of this Act.

(b) It shall be unlawful for any association to engage or to permit an employee or agent to engage in any of the following practices:

(1) To refuse to bargain in good faith with a handler designated pursuant to section 6 of this Act.

(2) To coerce or intimidate a handler to breach, cancel, or terminate a marketing contract with an association or a contract with a member of an association.

(3) To make or circulate false reports about the finances, management, or activities of an association or a handler.

(4) To coerce or intimidate a producer to breach, cancel, or terminate a membership agreement or marketing contract with an association.

(5) To conspire, combine, agree, or arrange with any other person to do or aid or abet the doing of any practice that is in violation of this Act.

BARGAINING IN GOOD FAITH

SEC. 5. (a) "Bargaining" is the performance of the mutual obligation of a handler and an accredited association to meet at reasonable times and for reasonable periods of time for the purpose of negotiating in good faith with respect to the price, terms of sale, compensation for products produced under contract, or other provisions relating to the products that are marketed by the members of such accredited association or by the association as their agent. Such obligation on the part of any handler shall extend only to accredited associations and the products with respect to which such associations are accredited to bargain. Such obligation does not require either party to agree to a proposal or to make a concession.

(b) If a handler purchases a product from producers under terms more favorable to such producers than the terms negotiated with an accredited association for such product, the handler shall offer the same terms to the accredited association. In comparing such terms, there shall be taken into consideration, in addition to the stipulated purchase price, any bonuses, premiums, transportation or loading allowances, reimbursement of expenses, or payment for special services of any character that may be paid by the handler, and any sums paid or agreed to be paid by the handler for any purpose other than payment of the purchase price.

ACCREDITATION OF ASSOCIATIONS OF PRODUCERS

SEC. 6. (a) An association seeking accreditation to bargain for producers of agricultural products shall submit to the Secretary a petition for accreditation. The petition shall (1) specify the agricultural product or products for the producers of which the association seeks accreditation to bargain; (2) designate the handlers, individually, by production or marketing area, or by some other appropriate classification, with whom the association shall be accredited to bargain; and (3) contain such other information and documentation as the Secretary may require.

(b) The Secretary shall accredit such association if, based upon the evidence submitted by the association and obtained by the Secretary's own investigations, the Secretary finds:

(1) that under the charter documents or bylaws of the association, it is owned and controlled by producers;

(2) that the association has contracts with its members empowering the association to sell or to negotiate terms of sale of the products of its members that are binding under State law;

(3) that the association represents a sufficient number of producers or that its members produce a sufficient quantity of agricultural products to enable it to function as an effective agent for producers in bargaining with the designated handlers. In making this finding, the Secretary shall exclude any quantity of the agricultural products contracted by producers with producer owned and controlled processing cooperatives and any quantity of such products produced by handlers; and

(4) that the association has as one of its functions acting as principal or agent for its members in negotiations with handlers for prices and other terms of trade with respect to the production, sale, and marketing of their products.

(c) The Secretary shall give notice of such accreditation to all handlers so designated and to all other associations that have been accredited to bargain with respect to the product or products with any of the designated handlers.

(d) Each accredited association shall submit an annual report to the Secretary in such form and including such information as the Secretary may by regulation require

to enable him to determine whether the association continues to meet the standards for accreditation.

(e) If the Secretary believes that an accredited association has ceased to meet the standards for accreditation set forth in subsection (b) of this section, the Secretary shall notify the association of the basis for that belief and allow the association a reasonable period of time to respond to the allegations or to correct the deficiencies cited in the allegations. Thereafter, if the Secretary is not satisfied with the association's response to the allegations of if the agency fails to correct the deficiencies cited in the allegations, the Secretary shall notify the association and hold a hearing to consider the revocation of the association's accreditation. If, based upon the evidence submitted at the hearing, the Secretary finds that the association has ceased to maintain the standards for accreditation, he shall revoke the accreditation of such association.

(f) The Secretary may, upon his own motion or the petition of an accredited association or a designated handler, amend his order of accreditation with respect to the product or products specified therein. The Secretary shall give notice of any proposed amendment and the reasons therefor to all accredited associations and handlers that would be directly affected thereby and shall provide an opportunity for a public hearing. Thereafter, the Secretary may amend the order if he finds such amendment will be conducive to more effective bargaining and orderly marketing by the accredited association of the product or products of its members.

ASSIGNMENT OF ASSOCIATION DUES, FEES OR RETAINS

SEC. 7. If a producer of a farm product voluntarily executes, either as a clause in a sales contract or other instrument in writing, an assignment of dues or fees to, or the deduction of a sum to be retained by, an association authorized by contract to represent such producer, by which the handler is directed to deduct a sum from the amount to be paid for such product, or for the services of such producer under a growing contract, and on behalf of the producer to pay the same to such association as dues or fees or funds to be retained by the association, and causes notice of such assignment to be delivered to a handler, such handler shall deduct the amount authorized from the amount paid for any farm product being sold by any such producer or for any services under any growing contract. Upon payment to producers for such farm product or services, the handler shall pay said amount over to the association or its assignee.

MEDIATION AND ARBITRATION

SEC. 8. (a) The Secretary may provide mediation services if (1) requested either by an accredited association or by a designated handler engaged in bargaining with an accredited association and (2) in the Secretary's judgment an impasse in bargaining has occurred.

(b) The Secretary shall provide assistance in proposing and implementing arbitration agreements between accredited associations and designated handlers.

(c) The Secretary may establish a procedure for compulsory and binding arbitration if he finds that an impasse in bargaining exists and such impasse will result in a serious interruption in the flow of products to consumers or will cause substantial economic hardship to producers or handlers involved in the bargaining.

ADMINISTRATION

SEC. 9. (a)(1) Whenever it is charged that an accredited association or handler has violated or is violating section 4(a)(6) or 4(b)(1) of this Act, the Secretary shall issue and cause to be served upon the person charged a complaint stating the charges. The complaint shall summon the named person to a hearing before the Secretary at the time and place therein fixed.

(2) Whenever it is charged that an association or handler has violated or is violating any provision of this Act, other than section 4(a)(6) or 4(b)(1), the Secretary shall investigate such charges. If, upon such investigation, the Secretary has reasonable cause to believe that the person charged has violated such provision, he shall issue and cause to be served upon the person so charged a complaint stating the charges. The complaint shall summon the named person to a hearing before the Secretary at the time and place therein fixed.

(b) A person served a complaint under subsection (a) of this section shall have the right to file an answer to the original complaint and any amended complaint and to appear in person or otherwise and give testimony. The person who filed the charge that is the basis for a complaint issued under subsection (a) of this section shall also have the right to appear in person or otherwise and give testimony.

(c) If, upon preponderance of the evidence, the Secretary is of the opinion that the person complained of has violated any provision of this Act, the Secretary shall state the findings of fact in the case and shall issue and cause to be served on such person an order requiring such person to cease and desist from such violation, and shall order such further affirmative action, including an award of damages to the person filing the charge, as the Secretary determines will effectuate the policies of this title.

(d) The Secretary (1) may issue such rules, regulations, and orders as may be necessary to implement the provisions of this Act, and may cooperate with any department or agency of the Federal Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person; and (2) shall have the power to appoint, remove, and fix the compensation of such officers and employees not in conflict with existing law, and make such expenditures for rent outside the District of Columbia, printing, binding, telegrams, telephones, law books, books of reference, publications, furniture, stationery, office equipment, travel, and other supplies and expenses, including reporting services, as shall be necessary to the administration of this Act in the District of Columbia and elsewhere, and as may be appropriated for by Congress. There is hereby authorized to be appropriated such sums as may be necessary to implement the provisions of this subsection.

INDEPENDENT ENFORCEMENT AUTHORITY

SEC. 10. The Secretary may at any time institute an inquiry on the Secretary's own motion, in any case and as to any matter for which a charge is authorized to be made to or before the Secretary under section 9 of this Act. The Secretary shall have the same power and authority to proceed with any inquiry instituted under this section as the Secretary has for complaints filed under section 9 of this Act, including the power to make and enforce any order.

JUDICIAL REVIEW

SEC. 11. (a) Any person aggrieved by a final order of the Secretary issued under section 9 of this Act may obtain review of such order in the United States Court of Appeals for the District of Columbia Circuit by submitting to such court, within 30 days from the date of such order, a written petition praying that such order be modified or set aside.

(b) The findings of the Secretary with respect to questions of fact, if supported by substantial evidence on the record, shall be conclusive.

(c) Orders of the Secretary with respect to which review could have been obtained under subsection (a) of this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

(d) If no petition for review, as provided in paragraph (a) of this section, is filed within thirty days after service of the Secretary's order, the Secretary's findings of fact and order shall be conclusive in connection with any petition for enforcement that is filed by the Secretary after the expiration of such thirty-day period. In any such case, the clerk of the court, unless otherwise ordered by the court, shall forthwith enter a decree enforcing the order and shall transmit a copy of such decree to the Secretary and the person named in the complaint.

(e) The commencement of proceedings under this section shall not, unless specifically ordered by the court, operate as a stay of the Secretary's order.

FEDERAL ENFORCEMENT

SEC. 12. (a) Whenever on the basis of any available information the Secretary finds that any person is in violation of section 4 of this Act or in violation of any order of the Secretary issued under this Act, the Secretary shall bring a civil action in accordance with subsection (b) of this section.

(b) The Secretary is authorized to commence a civil action for appropriate relief, including a permanent or temporary injunction. Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides or transacts business, and such court shall have jurisdiction to restrain such violation and to require compliance.

(c) Any person who violates section 4 of this Act or any order of the Secretary issued under sections 9 or 10 of this Act shall be subject to a civil penalty not to exceed $500 per day of each such violation.

(d) Any person who willfully violates section 4 of this Act, or any order of the Secretary under sections 9 or 10 of this title, shall be punished by a fine of not less than $500 nor more than $1,000 per day of each such violation or by imprisonment for not more than one year, or both.

CIVIL REMEDIES

SEC. 13. (a) Except as provided in subsection (b) of this section, any person may commence a civil action on his own behalf:

(1) against any person who is alleged to be in violation of section 4 of this Act or of any order issued by the Secretary under sections 9 or 10 of this Act; or

(2) against the Secretary when there is alleged a failure of the Secretary to perform any act or duty under this Act that is not discretionary with the Secretary.

The district courts of the United States shall have the jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such section or order (including the issuance of a permanent or temporary injunction or restraining order), or to order the Secretary to perform such act or duty as the case may be, and to assess any appropriate civil penalties under section 12 of this Act.

(b) No action may be commenced:

(1) Under paragraph (a)(1) of this section

(A) prior to 60 days after the plaintiff has given notice of the alleged violation to the Secretary and to the alleged violator, or

(B) if the Secretary has commenced and is diligently prosecuting a civil or criminal action in a court of the United States to require compliance with such section or order, but in any such action any person may intervene as a matter of right.

(2) Under paragraph (a)(2) of this section prior to 60 days after the plaintiff has given notice of such action to the Secretary.

(c) Any person injured in his business or property by reason of any violation of, or combination or conspiracy to violate any provision of section 4 of this Act may bring an action in the appropriate district court of the United States without respect to the amount of the controversy, and shall recover damages therefor. Any action to enforce any cause of action under this subsection shall be forever barred unless commenced within two years after the cause of action arose.

(d) The district courts of the United States, in issuing any final order in any action brought under subsections (a) or (c) of this section, may award costs of litigation (including reasonable attorney fees) to any party, whenever the court determines such award is appropriate.

(e) The district courts of the United States shall have jurisdiction of proceedings instituted under this section and shall exercise the same without regard to whether the aggrieved party shall have exhausted any administrative or other remedies that may be provided by law, except as provided in subsection (b) of this section.

INVESTIGATIVE POWERS OF SECRETARY

SEC. 14. (a) Whenever required to carry out the objectives of this Act, including the conduct of any investigations or hearings,

(1) the Secretary shall require any person to (i) establish and maintain such records, (ii) make such reports, and (iii) provide such other information as the Secretary may reasonably require; and

(2) the Secretary or his authorized representative, upon presentation of his credentials—

(i) shall have a right of entry to, upon or through any premises in which any records required to be maintained under paragraph (a)(1) of this section are located, and

(ii) may at reasonable times have access to and copy any records that any person is required to maintain or that relate to any matter under investigation or in question.

(b) Any records, reports or information obtained under this section shall be available to the public, except that upon a showing satisfactory to the Secretary that such records, reports or information, if made public, would divulge confidential business information, the Secretary shall consider such record, report or information or particular portion thereof confidential in accordance with section 1905 of title 18, United States Code, except that such record, report or information may be disclosed to other officers, employees or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act.

(c)(1) In making inspections and investigations under this title, the Secretary may require the attendance and testimony of witnesses and the production of evidence under oath.

(2) The Secretary, upon application of any party to a hearing held under sections 9 or 10 of this Act, shall forthwith issue to such party subpoenas requiring the attendance and testimony of witnesses or the production of evidence requested in such application. Within five days after the service of a subpoena on any person requiring the production of any evidence in the possession or under the control of a person, such person may petition the Secretary to revoke such subpoena. The Secretary shall revoke such subpoena if in the Secretary's opinion the evidence whose production is required does not relate to any matter in question, or if such subpoena does not describe with sufficient particularity the evidence whose production is required.

(d) The Secretary, or any officer or employee designated by the Secretary for such purpose, shall be empowered to administer oaths, sign and issue subpoenas, examine witnesses, and receive evidence. Witnesses shall be paid the same fees and mileage allowance as are paid witnesses in the courts of the United States.

(e) In the case of any failure or refusal of any person to obey a subpoena or order of the Secretary under this section, any district court of the United States or the United States Courts of any territory or possession, within the jurisdiction of which such person is found or resides or transacts business, upon the application by the Secretary shall have jurisdiction to issue an order requiring such person to appear to produce evidence relating to the matter under investigation or in question. Any failure to obey such order of the Court may be punished by said court as a contempt thereof.

STATE AUTHORITY

SEC. 15. This Act shall not invalidate the provisions of any existing State legislation dealing with the same subjects of this Act, nor shall this Act prevent any State from enacting legislation similar to existing state legislation, except that such similar legislation may not permit any action that is prohibited under this Act.

REPEAL OF AGRICULTURAL FAIR PRACTICES ACT OF 1967

SEC. 16. The Agricultural Fair Practices Act of 1967 (P.L. 90-288, 7 U.S.C. 2301 *et seq.*) is hereby repealed on the effective Act of this Act; *Provided*, That such repeal shall not affect any act done or any right accruing or accrued, or any act or proceeding had or commenced in any civil cause, before such repeal.

EFFECTIVE DATE

SEC. 17. The provisions of this Act shall become effective October 1, 1978.●

By Mr. HATHAWAY:

S. 3483. A bill to amend the Fishery Conservation and Management Act of 1976 in order to assist and protect the domestic fishing industry; to the Committee on Commerce, Science, and Transportation.

FISHERY CONSERVATION AMENDMENTS OF 1978

● Mr. HATHAWAY. Mr. President, in 1976 the 200-mile fishing limit promised the dawn of a new day for our domestic fishermen, the end to the unfair competition waged against them by subsidized foreign fleets. Nowhere was the 200-mile limit needed more than in the waters off New England, where two decades of foreign fishing on Georges Bank had decimated the fishery resource and prevented the growth of the New England fishing industry.

The 200-mile limit had been supported and fought for through several years. In 1972, while a Member of the House, I cosponsored a bill to extend the fishing limits out to the Outer Continental Shelf. International considerations held sway for many years, however, and many looked to the Law of the Seas Conference to resolve this issue. Only when it became obvious that the fishermen could not wait another year for settlement of the international issues and after several other countries had extended their own boundaries, did the United States act in the interests of its own fishermen.

Fought for by the fishermen, the 200-mile limit has, however, brought new problems. For with the limit has come fishery management, and the first experiences with Federal, State and regional government. In New England the years of overfishing, the revival of interest in fishing and the complications of the Canadian competition have made the management problems of the law particularly acute.

The problems in the New England groundfishery—cod, haddock, and yellowtail flounder—have been so intense that some fishermen have said they would prefer to see the 200-mile limit repealed.

I do not believe that is the answer. Foreign fishing has been reduced considerably, even on Georges Bank. New England fishermen, and Maine fishermen, have benefited from the law, as is obvious from the growing interest in entering the fisheries. The law, and its implementation by the Commerce Department, has, however, proven too frequently to be inflexible, and to fail to take into account the very real problems which management regimes based only on fishery conservation can pose for the fishermen.

For that reason, I am introducing legislation today to increase the act's flexibility, to strictly limit the use of outright fishing bans as a management tool, and to increase the authority of the regional fishery management councils over the management plans. In addition, these amendments make explicit the purpose of the law to promote the domestic fishing industry, and the need to draw upon many varied sources of data, including the years of experience of the fishermen, to determine the appropriate level of fishing for stocks which have been overfished.

In regard to the council's management role, when the law was passed, it was assumed that the regional councils would serve as both an intergovernmental and industry body which could coordinate the often conflicting priorities of these groups. The Commerce Department was to play only an oversight role insuring that certain national standards were met by the council's plans.

As it has worked out, the Department's oversight role has too often stifled the function of the councils in implementing management plans efficiently and reasonably. A oversight role should work after the fact, to make sure plans concur with the broader standards. The presumption should be that they do, until the Commerce Department finds otherwise.

My amendments, then, would make that presumption for the council's plans, and their amendments to plans, and limit the role of the Commerce Department to that of oversight. This approach is in accord with what I feel was the original intention of the act, and ultimately works to the benefit of both the Commerce Department, the regional councils, and the fishing industry.

Second, the bill makes one of the specific purposes of the act the development of the fishing industry, and promotion of the conversion of the industry from overutilized species to underutilized stock.

Finally, and most importantly, the bill limits the use of a total ban on fishing as a tool of last resort only, so that such a ban could be implemented only upon a finding by both the regional council and the Commerce Department that there is an imminent threat to a fishery resource without such a ban. A fishing ban will be a management tool of last resort only.

There have been three fishing bans in the New England groundfishery since last December. These bans have affected fishermen in the various States differently, and in most instances have affected the Gulf of Maine fishermen most severely. Maine has the smaller fleet, and the fish arrive in Maine waters later, by which time the quotas may have been reached. The bans have been inflexible; they do not permit sufficient incidental catch and fishermen end up throwing dead fish overboard. They serve neither the fishing industry nor fishery conservation.

This first year and a half has been fraught with crises for New England fishermen. The 200-mile limit has brought fishermen less foreign competition but new and equally foreign government forms and regulations. The law is still in its infancy but it is not too young for modification. I hope that the amendments I am introducing today will encourage Commerce to speed up its own processes and to be more flexible in its management approach.

Mr. President, at this time I ask unanimous consent that a section-by-section analysis of the "Fishery Conservation Amendments of 1978," my recent correspondence with the Commerce Department, and the text of the bill be printed in the RECORD.

There being no objection, the material and bill were ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

(A bill to amend the Fishery Conservation and Management Act of 1976 in order to assist and protect the domestic fishing industry)

Section 2. Amends the purposes and policy of the Act to ensure that the Act's implementation:

(1) Promotes the development of the domestic fishing industry.

(2) Takes into account the economic impact of management plans upon the fishing industry, and particularly upon fishermen.

(3) Uses scientific data from a variety of sources, including the fishermen, the industry, and state, local and academic sources.

(4) Considers the development of the domestic fishing industry in determining any permitted levels of foreign fishing.

Section 3. Amends the definition of "conservation and management" to ensure that the needs of commercial fishermen are taken into account and that adverse economic impacts are minimised to the extent possible.

Section 4. Amends the national standards to do the following:

(1) Include consideration of economic impact on the industry in management plans.

(2) Restrict the use of fishing bans as a management tool. A ban could be put into effect only if both the Regional council and the Commerce Department agreed that there was an imminent threat to a fishery resources without such a ban. It would be a "tool of last resort" only.

(3) Make the Regional council's management plans, and amendments to them, effective immediately upon adoption by the council. The Commerce Department's role would be limited to an after the fact oversight review of the plans for compliance with national standards.

(4) Require Commerce to coordinate its data gathering and fishery research with other state, local, academic or industry sponsored programs.

WASHINGTON, D.C.,
August 7, 1978.

Hon. JUANITA M. KREPS,
Secretary, Department of Commerce, Washington, D.C.

DEAR JUANITA: The Department of Commerce has announced today the closing of the cod fishery in the Gulf of Maine to all vessel classes, supplementing the closing which went into effect this past weekend. That closing is to take place midnight, August 15, and as the NOAA press release puts it, is "for the rest of 1978".

I understand that you have now received a Memorandum from the New England Regional Fisheries Council on the goals and principles of the New England groundfishery management plan. In addition, they earlier proposed amendments to the groundfish FMP, all of which appear to be certain of the Commerce Department's approval.

One remaining question is that of restarting the year for purposes of determining when the quotas would be effective. If the year is retroactively started other than in January, then fishing can be resumed for this calendar year. Approval both of a new starting date for the quota, and what that date should be are crucial to permitting some continued groundfishing in the Gulf of Maine this year.

You are, I think, well aware of the confusion and hostility which these continued closings of the fishery have caused for Maine and New England fishermen. I hope that the Department will make every effort to approve the Council's recommended changes to the FMP, including the change in the year's starting date. Further, please expedite that decision as rapidly as possible in order to avoid the economic disruption and widescale non-compliance which is the likely result of this total closing.

I am sure that you agree that this type of enforcement mechanism, i.e. closing of fisheries, is unsatisfactory both from the point of view of the interest in fishery conservation, and from the economic viewpoint of New England fishermen. The Council's proposals have emphasized greater flexibility and have reflected the realities of New England fishermen's needs. Both of these are essential elements of any successful fishery management plan.

Please make every effort to expedite and approve the Council's amendments to the management plan.

With best wishes.

Sincerely,

WILLIAM D. HATHAWAY,
U.S. Senator.

S. 3483

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Fishery Conservation Amendments of 1978".

SEC. 2. (a) Section 2(a)(6) of the Fishery Conservation and Management Act of 1976 is amended to read as follows:

"(6) A national program for the conservation and management of the fishery resources of the United States is necessary to prevent irreversible overfishing, to rebuild overfished stocks, to promote the development of the domestic fishing industry and to realize the full potential of the Nation's fishery resources.".

(b) Section 2(b)(5) of such Act is amended by striking out "and" before "(E)" and by inserting before the semicolon at the end thereof the following: "and (C) which take into account the impact of such plans on the economic needs of the fishermen in the region affected by the plans".

(c) Section 2(e) of such Act is amended by striking out clauses (3) and (4) and inserting in lieu thereof the following:

"(3) to assure that the national fishery conservation and management program utilizes the best scientific information available, including input from State and local agencies and academic facilities, and from the fishing industry itself; involves, and is responsive to the needs of, interested and affected States, the fishing industry, and citizens, promotes efficiency; draws upon Federal, State, industry, and academic capabilities in carrying out research, administration, management, and enforcement; and is workable and effective;

"(4) to permit foreign fishing consistent with the provisions of this Act, including the need to develop the domestic fishing industry and to encourage the domestic industry to utilize species now underutilized; and".

SEC. 3. (a) Section 3(2) of the Fishery Conservation and Management Act of 1976 is amended by redesignating clauses (ii) and (iii) as (iii) and (iv), respectively, and by inserting before such clauses the following:

"(ii) the needs of commercial fishermen are taken into account and any adverse impacts on commercial fishing are minimized to the extent possible by any needed conservation or management measures;".

(b) Secton 3(18) of such Act is amended by striking out clauses (A) and (B) and inserting in lieu thereof the following:

"(A) which will provide the greatest overall benefit to the Nation, with particular reference to food production, promotion of the domestic fishing industry, and recreational opportunities; and

"(B) which is prescribed as such on the basis of the maximum sustainable yield from such fishery, as modified by any relevant economic, social or ecological factor, including the impact of any catch limitations on the affected domestic fishing industry and the need to minimize any adverse economic impacts on both a regional and State level in order to further the promotion of the domestic fishing industry.".

SEC. 4. (a) Section 301(a) of the Fishery Management and Conservation Act of 1976 is amended by inserting at the end thereof the following:

"(8) Conservation and management measures shall take into account their economic impact on the fishing industry in the region where they apply, and to the extent practicable, shall be implemented in such a way as to minimize any such adverse economic impact.

"(9) Conservation and management measures shall be implemented in such a manner as to permit the continued fishing for a species within the confines of the optimum yield, and a total closing of a species to fishing shall be permitted as an enforcement measure only upon a finding by the Secretary, with the concurrence of the appropriate regional council, that there is an imminent threat to a fishery resource without such prohibition on all fishing for that species.".

(b) Section 303(b)(2) of such Act is amended by inserting after "shall not be permitted," the following: "subject to the limitation in section 301(a)(9),".

SEC. 5. (a) Section 304 of the Fishery Management and Conservation Act of 1976 is amended by redesignating subsections (c) through (f) as subsections (d) through (e), respectively, and by inserting before such subsections the following:

"(c) Such plan, or any amendment to any

such plan, shall become effective immediately upon approval by such Council pending the Secretary's review for compliance with the national standards. The Secretary shall disapprove such plan in whole or in part only upon a finding that it is not in compliance with the national standards, and such plan or amendment shall be in effect until such finding is made.".

(b) Section 304(e) of such Act is amended by inserting after the period at the end thereof the following: "Further, the Secretary shall coordinate such program of fishery research with an relevant State, local, academic, or industry sponsored program, and to the extent practicable, within existing authorizations, shall support such other efforts.".●

By Mr. CRANSTON (for himself and Mr. HAYAKAWA):

S. 3484. A bill to provide for the conveyance of certain public lands in San Bernardino County, Calif., to the town of Red Mountain, and for other purposes; to the Committee on Energy and Natural Resources.

SALE OF PUBLIC LANDS TO RED MOUNTAIN, CALIF.

● Mr. CRANSTON. Mr. President, today I introduce for appropriate referral a bill to provide for the conveyance of approximately 160 acres of public lands to the residents of the unincorporated town of Red Mountain in San Bernardino County, Calif. This measure is identical to H.R. 11168 as reported by the House Interior and Insular Affairs Committee on July 26.

The small community of Red Mountain was founded in the early 1900's as a mining camp. About 200 residents, many of whom are elderly and retired on fixed incomes, live in homes on Bureau of Land Management land. In the late 1960's, a Red Mountain townsite committee completed the necessary paperwork to apply for a townsite designation for this unincorporated entity under the Federal Trustee Townsite Act. The committee arranged for a local judge to act as a trustee and file a townsite application with the Bureau of Land Management. However, the California Highway Commission was surveying for a proposed freeway in the area and asked the BLM to delay processing the application. Unbeknownst to the committee, the judge agreed to the BLM's request not to file the application.

It was not until 1973 that the residents learned that their application had not been submitted to the BLM. New documentation was prepared and another judge agreed to act as trustee. But, on filing, they learned that the Townsite Act had been repealed by the Federal Land Policy and Management Act of 1976.

Under the newly enacted Federal Land Policy and Management Act, the BLM must require the residents to pay the fair market value for the land on which their homes are located. Estimates place the value of an average Red Mountain lot at roughly $1,000. For many of these homeowners living on social security or limited savings, producing this sum would be an overwhelming financial burden. Under the circumstances, I believe the Federal Government has an obligation to assist these homeowners to acquire this quarter section of desert land.

Mr. President, the House Interior and Insular Affairs Committee has produced a bill which permits the Federal Government to convey this property to the residents of Red Mountain without setting a precedent that would upset the land conveyance procedures established by the FLMPA. The legislation also provides a just solution to this problem for both the Red Mountain residents who tried vainly for years to acquire title under the Townsite Act, and for the Federal Government, which does not need this acreage for recreation, rights-of-way, or other public purposes.

The bill approved by the House committee, which I am introducing, directs the Secretary of Interior to establish specifications for an association to be set up by the residents of Red Mountain. The association would designate a trustee to submit an application to the Bureau requesting conveyance of the land. The application would include a land survey, an accounting of improvements to the property, a list of homeowners, an indication of all unoccupied lots, a general land use plan for the proposed townsite, and any other information the Secretary may require.

Upon application approval, the Secretary will convey any vacant land to the trustee. Any proceeds from the disposal of vacant lots are to be transferred to county or town officials for public purposes within Red Mountain. Improved lots will be conveyed to the homeowners directly or to the trustee for reconveyance without cost to the owner except that all surveying, administrative, and recording costs will be borne by the association or the homeowners as the case may be. Finally, the conveyance will be made subject to valid existing rights, with the United States reserving all mineral rights.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3484

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

(a) That notwithstanding the provisions of the Federal Land Policy and Management Act of 1976, the Secretary of the Interior (hereafter referred to as the "Secretary") within 90 days after the date of enactment of this Act, shall establish specifications for an association of the residents of Red Mountain, San Bernardino County, California hereafter referred to as the "association" which may through such trustee as they may designate, make application for the conveyance of such lands as are located within the area described in paragraph (b) of this section. Such application shall include, *inter alia*, a complete internal survey of the area; shall indicate the extent and character of any improvements on any lot and the name or names of the owners (hereinafter referred to as "owner") thereof; shall indicate all unoccupied lots and lands; and shall include a general land use plan for such area.

(b) The lands subject to conveyance pursuant to the provisions of this Act are described as follows:

T. 30 S., R. 41 E.,

SEC. 6; SW¼SE¼NE¼NE¼, SW¼NE¼NE¼, S½NW¼NE¼NE¼, SE¼NW¼NE¼, E½SW¼NE¼, W½SE¼NE¼, NW¼NE¼SE¼NE¼, NW¼NW¼NE¼SE¼, E½NW¼SE¼, E½SW¼NW¼SE¼, E½SW¼SE¼, E½NW¼SW¼SE¼, E½SW¼SW¼SE¼.

SEC. 7; N½NE¼NW¼NE¼, N½NW¼NW¼NE¼, Mount Diablo Meridian, California.

SEC. 2. Within 180 days after receipt of such application from the association, the Secretary shall determine if it complies with the specifications established pursuant to section 1 of this Act. If he determines that additional information is required, he shall so notify the association, through such trustee as it may designate, in order to allow it to supplement or correct such application. The Secretary shall require the association to verify, under oath or otherwise, that the owner is, at the time of the enactment of this Act and was, on or before February 27, 1978, in fact, the true owner of improvements located within the area and the association shall certify such verifications to the Secretary as a supplement to its application.

SEC. 3. As soon as reasonably practicable, but not later than two years after receipt of an application, or corrected application, complying with the specifications which he established, the Secretary shall convey to the association or its trustee, as he deems appropriate, all unoccupied lots or lands and all lands presently used for public purposes, and shall convey to the owner verified pursuant to section 2 of this Act title to the lot (which shall comply as nearly as possible with the established boundaries of the area now occupied but shall not exceed one-half of an acre) upon which the improvement of such owner is located. The Secretary may in his discretion, convey title to all improved lots to the trustee for reconveyance to the appropriate owners in order to minimize administrative costs. Each such deed of conveyance by the Secretary or reconveyance by the trustee (i) shall convey the land without cost to the owner, except for payment of the respective administrative and recording costs which shall be paid by said association or owner as the case may be; (ii) shall be subject to any valid existing rights arising under the laws of the United States unless relinquished by the holder thereof; (iii) shall reserve to the United States all minerals in the lands, together with the right to prospect for, mine and remove minerals under applicable laws and such regulations as the Secretary may prescribe; and (iv) shall contain such covenants, mutually enforceable between the landowners, as the Secretary has determined to be appropriate to assure compliance with the land use plan submitted pursuant to section 1 of this Act. In conveying title to any unoccupied lands to the association, or its trustee, the Secretary may impose such restrictions or reserve such interests as he deems reasonable and appropriate to assure compliance with the general land use plan and may permit the association or its trustee to reconvene any or all of such lands: *Provided*, That the proceeds derived from such conveyance shall be transferred to the appropriate county or town officials to be used for public purposes within the Town of Red Mountain.

SEC. 4. Unless an application for conveyance of the lands described in section 1 of this Act is received by the Secretary within 5 years after the date of enactment, the provisions of this Act shall expire and such application shall then be made only pursuant to the provisions of the Federal Land Policy and Management Act of 1976.●

ADDITIONAL COSPONSORS

S. 2128

At the request of Mr. INOUYE, the Senator from Idaho (Mr. CHURCH) was removed as a cosponsor of S. 2128, a bill to provide increased tax credits for the elderly.

S. 3049

At the request of Mr. CULVER, the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of S. 3049, a bill to amend the Internal Revenue Code of 1954 to provide for a deduction for certain amounts paid to a reserve for product liability losses and expenses.

S. 3248

At the request of Mr. MORGAN, the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from Wyoming (Mr. WALLOP) were added as cosponsors of S. 3248, a bill to create a National Agricultural Cost of Production Board.

S. 3263

At the request of Mr. BENTSEN, the Senator from Louisiana (Mr. LONG), was added as a cosponsor of S. 3263, a bill to reduce duplicative and conflicting Federal, State, and local rules and regulations.

S. 3288

At the request of Mr. DOLE, the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 3288, to amend the Internal Revenue Code to allow a retirement savings deduction for persons covered by certain pension plans.

S. 3404

At the request of Mr. BENTSEN, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 3404, a bill to provide rapid depreciation for certain expenditures required by mandatory OSHA health and safety standards.

S. 3419

At the request of Mr. CULVER, the Senator from Texas (Mr. TOWER) was added as a cosponsor of S. 3419, a bill to amend the Internal Revenue Code of 1954 to exclude from gross income a portion of payments made under certain Federal and State cost-sharing programs the primary purpose of which is conservation of soil and water resources, environmental protection or restoration, forest enhancement, or the provision of wildlife habitat.

SENATE JOINT RESOLUTION 151

At the request of Mr. HEINZ, the Senator from Washington (Mr. JACKSON), the Senator from North Dakota (Mr. BURDICK), the Senator from Colorado (Mr. HART), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Connecticut (Mr. RIBICOFF), the Senator from New York (Mr. MOYNIHAN), the Senator from Maine (Mr. HATHAWAY), the Senator from Wisconsin (Mr. NELSON), and the Senator from Delaware (Mr. ROTH) were added as cosponsors of Senate Joint Resolution 151, authorizing and requesting the President to designate November 11 through 17, 1978, as "Vietnam Veterans Week."

SENATE JOINT RESOLUTION 153

At the request of Mr. DECONCINI, on behalf of Mr. ANDERSON, the Senator from Maine (Mr. HATHAWAY), the Senator from Rhode Island (Mr. PELL), the Senator from Nevada (Mr. LAXALT), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Kentucky (Mr. FORD), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Arizona (Mr. DECONCINI) were added as cosponsors of Senate Joint Resolution 153, to authorize the President to proclaim the third week in June, 1979, as "National Veterans' Hospital Week."

SENATE CONCURRENT RESOLUTION 68

At the request of Mr. CURTIS, the Senator from Illinois (Mr. PERCY) was added as a cosponsor of Senate Concurrent Resolution 68, expressing the sense of the Congress on the Baltic States question.

SENATE RESOLUTION 551—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. CANNON, from the Committee on Commerce, Science, and Transportation, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 551

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2995. Such waiver is necessary because the bill authorizes $60,000,000 for fiscal year 1979 and was reported after May 15, 1978. In addition, construction funds for an intercity bus terminal at Union Station are not available from any other source, to coincide with construction schedules that begin on January 1, 1979 on the visitor center and rail facility. The amendment to S. 2995, which in turn amends the Amtrak Improvement Act of 1974, provides for a $30,000,000 authorization in fiscal year 1979 for a model, intermodal demonstration facility, first contemplated 4 years ago when the Congress authorized the Secretary of Transportation to design, plan, and coordinate the construction of a model, intermodal transportation facility at Union Station.

When construction begins next year on the renovation of the main building, the transfer of rail facilities into the concourse, where bus ticketing and baggage facilities are to be found, and on the ramp and parking garage to the north of the main building. It is essential that work proceed simultaneously on the bus terminal facilities.

SENATE RESOLUTION 552—SUBMISSION OF A RESOLUTION RELATING TO REDUCING FEDERAL EXPENDITURES

Mr. STONE submitted the following resolution, which was referred to the Committee on the Budget and the Committee on Governmental Affairs, provided that either committee is discharged after 30 days of continuous session following the report of the first committee, pursuant to order of August 4, 1977:

S. RES. 552

Resolved, That (a) in reporting any concurrent resolution on the budget under title III of the Congressional Budget Act of 1974 for the fiscal years ending September 30, 1980, September 30, 1981, and September 30, 1982, the Committee on the Budget of the Senate shall not include an appropriate level of total budget outlays or of new budget authority which is greater than the following percentages of the adjusted amount of the appropriate level of total budget outlays or total new budget authority, respectively, set forth in the final concurrent resolution on the budget for the fiscal year ending September 30, 1979:

(1) 98 percent, in the case of the fiscal year ending September 30, 1980,

(2) 98 percent, in the case of the fiscal year ending September 30, 1981, and

(3) 98 percent, in the case of the fiscal year ending September 30, 1982.

(b) For purposes of Subsection (a), the adjusted amount of the appropriate level of total budget outlays or total new budget authority set forth in the final concurrent resolution on the budget for the fiscal year ending September 30, 1979, is the amount set forth increased or decreased, as of any date, by the same percentage by which the Consumer Price Index (published by the Bureau of Labor Statistics) on such date has increased or decreased over the Consumer Price Index on September 30, 1979.

Mr. STONE. Mr. President, I rise to submit a resolution calling for the Senate Budget Committee to lead the way in the difficult task of reducing Federal expenditures.

Before submitting this resolution I want to commend the Budget Committee for reducing the budget authority for fiscal year 1979 by more than $11 billion and thereby reducing the projected Federal deficit. I appreciate how difficult it is to reduce the budget and I want to extend my congratulations to the committee for its work this year and especially to its able chairman, Senator MUSKIE and the ranking minority member, Senator BELLMON.

The committee's recommendations show continued progress toward a balanced budget by fiscal year 1983. My proposal would contribute to that goal specifically by directing the Senate Budget Committee to report to the Senate a budget resolution incorporating at least a 2-percent reduction each year in Federal spending outlays and authorization for the next 3 fiscal years, beginning in fiscal year 1980.

The resolution allows for an inflation adjustment in computing the actual amount of the reduction from year to year in order to allow for increases in the cost of delivering the same Government services. However, I believe that overall this measure will help bring down the rate of inflation.

The proposal is not an abandonment of our commitment to necessary social programs. Rather, I believe that it will put authorizing committees and Federal agencies on notice of Congress determination to "trim the fat." It, thereby, provides lead time over 3 years to make the appropriate administrative and budgetary adjustments.

The measure would demonstrate our commitment to continue moderate reductions in Federal spending until annual outlays no longer exceed annual revenues. This gradual reduction in budget authority, combined with a thorough examination of all programs, will enable Congress to work more realistically toward the goal of a balanced budget.

If this resolution is enacted, the Senate serves notice to all Federal agencies that we are sincere in our commitment to balance the budget. This will help prod agencies into taking a closer look

at their own budgets with an eye toward cutting unnecessary expenditures. In my own State of Florida, the Fort Lauderdale News prints a daily column entitled "Your Tax Dollars in Action." Its author, Duncin Mackenzie, regularly chronicles unnecessary grants and contracts, and let me assure you, he does not suffer from a lack of material. We all agree that waste exists and that we must work harder to reduce it. That entails making tough budgetary decisions.

Several weeks ago, I joined with a number of my colleagues in an effort to cut each 1979 appropriations bill by 2 percent across-the-board. I was encouraged by our initiatives because they forced us to take a hard look at Federal spending programs and reexamine priorities. But I feel we can do better, and this resolution demonstrates that desire. It is time to plan ahead, and this resolution does just that. It sets moderate 3-year goals, moving us beyond the year-to-year system now employed.

In a few days, the Senate will be considering a proposal submitted by President Carter to reduce the taxes of our overburdened citizens. The object of the modest tax reduction is to put more money into the hands of working people. However, if we provide tax relief without an accompanying reduction in Federal spending, the budget deficit will increase and the additional money in the taxpayer's pocket will be spent trying to keep up with inflation.

Mr. President, if we are to enact responsive and responsible legislation for the American people, then we should begin looking ahead and setting moderate goals. If we continue to lower Federal spending gradually, we can look forward to the day when our economy is free from the enormous Federal debt and inflation is under better control.

AMENDMENTS SUBMITTED FOR PRINTING

UNIFORM BANKRUPTCY LAW—S. 2266

AMENDMENT NO 3573

(Ordered to be printed and to lie on the table.)

Mr. BARTLETT submitted an amendment intended to be proposed by him to S. 2266, a bill to establish a uniform law on the subject of bankruptcies.

AGRICULTURAL EXPORT TRADE EXPANSION ACT OF 1978

AMENDMENTS NOS. 3574 AND 3580

(Ordered to be printed and to lie on the table.)

Mr. MORGAN submitted two amendments intended to be proposed by him to S. 3447, a bill to strengthen the economy of the United States through increased sales abroad of American agricultural products.

NOTICES OF HEARINGS

COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Mississippi (Mr. EASTLAND), and for the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Thursday, September 14, 1978, at 9:30 a.m., in room 2228, Dirksen Senate Office Building, on the following nomination:

Bruce S. Jenkins, of Utah, to be U.S. district judge for the district of Utah, vice Willis W. Ritter, deceased.

Any persons desiring to offer testimony in regard to this nomination shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Judiciary Committee.

SUBCOMMITTEE ON PUBLIC LANDS AND RESOURCES

● Mr. JACKSON. Mr. President, the Subcommittee on Public Lands and Resources will hold a hearing on Friday, September 8, 1978, at 10 a.m. in room 3110 Dirksen Building to hear testimony on the following bills: S. 2489, S. 2254, S. 1634, S. 3445, S. 3245, S. 3175, H.R. 11168, H.R. 11451, H.R. 10029, H.R. 7588, H.R. 4243, H.R. 7971, H.R. 6997, H.R. 12772, H.R. 10160, and H.R. 3121.

Testimony will be presented by the Department of the Interior and the Department of Agriculture. Anyone having questions concerning the hearing should contract R. D. Folsom of the subcommittee staff at 224-0611. Those wishing to testify or to submit a written statement for the hearing record should write to the Public Lands and Resources Subcommittee, room 3106 Dirksen Senate Office Building, Washington, D.C. 20510.●

SUBCOMMITTEE ON ADMINISTRATIVE PRACTICE AND PROCEDURE

● Mr. ABOUREZK. Mr. President, I wish to announce that the Subcommittee on Administrative Practice and Procedure of the Committee on the Judiciary, will hold hearings on September 12, 13, and 20, 1978, concerning the legislative veto and regulatory reform, S. 2011. The hearings will begin each day at 9 a.m., in the Dirksen Building, room 2228.●

PUBLIC LANDS AND RESOURCES SUBCOMMITTEE

● Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Public Lands and Resources Subcommittee of the Energy and Natural Resources Committee.

The hearing is scheduled for September 8, 1978, beginning at 9 a.m., in room 3110 of the Dirksen Senate Office Building. Testimony is invited regarding S. 876, a bill to authorize the Secretary of the Interior to amend the contract for the construction, operation, and maintenance of the Vermejo reclamation project between the Vermejo Conservancy District, located in the State of New Mexico, and the United States.

For further information regarding the hearing, you may wish to contact Mr. Russell Brown of the subcommittee staff on extension 224-2366. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Public Lands and Resources Subcommittee, room 3106, Dirksen Senate Office Building, Washington, D.C. 20510.●

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, I wish to announce that the Select Committee on Small Business will continue its hearings on Capital Formation Problems of Small Business on September 21 and 28. The sessions will begin at 9:30 a.m., on each of these days in 424 Russell Senate Office Building.

At that time, we will address the effect of the securities regulations and laws on the ability of smaller and independent enterprises to raise capital. A witness list will be published as soon as it is completed.

The earlier hearings of February 8 and 10 in Washington, D.C., and May 15 at the American Stock Exchange in New York City, are now in print and may be obtained from the committee.

All those wishing to participate in the September hearings may contact the committee offices (202/224-5175).●

SUBCOMMITTEE ON ADMINISTRATIVE PRACTICE AND PROCEDURE

● Mr. CULVER. Mr. President, I wish to announce that the Subcommittee on Administrative Practice and Procedure of the Committee on the Judiciary will hold a markup session on S. 1974, the Regulatory Flexibility Act, at 9:45 a.m., tomorrow, September 7, 1978, in room S-146 in the Capitol.●

ADDITIONAL STATEMENTS

THE SIGNIFICANCE OF SALT—AN ARTICLE BY SENATOR FULBRIGHT

● Mr. SPARKMAN. Mr. President, our former colleague, Bill Fulbright, has written an excellent article on the SALT negotiations which I wish to bring to the attention of the Senate and all persons interested in United States-Soviet relations.

His article, which appears in the current issue of the American Enterprise Institute Defense Review, is a thoughtful survey of the significance of the current SALT negotiations. He puts the effort to reach an arms limitation agreement in a broad perspective and examines with fresh insight some of the current issues troubling United States-Soviet relations.

He concludes by citing his view of the obligations to the world of the two superpowers:

Because of their power, and the responsibility it confers, the superpowers do not have the freedom to quarrel that smaller and less potentially dangerous nations have, or that great powers themselves may have had in an age when weapons were less destructive. The superpowers are therefore under an obligation—to themselves, to the rest of the world, and to posterity—to resolve their differences insofar as they can, and to set aside those which they cannot resolve. As the greater threats to world peace, the United States and the Soviet Union also have the greatest responsibility for protecting it. That is the real meaning of détente: it is not, fundamentally, an option but a compelling obligation.

I commend this excellent article to my colleagues and ask that it be printed in the RECORD.

The article follows:

THE SIGNIFICANCE OF SALT

(By J. William Fulbright)

With the United States and the Soviet Union reported to be within reach of a second Strategic Arms Limitation treaty, there is increasing concern in this country over prospects for Senate approval of the accord. Soviet and Cuban activity in Africa, together with the recent trials of Soviet dissidents, has served to focus attention on the fundamental issue that, more perhaps than the technicalities of weapons systems, will determine the success or failure of SALT. That issue, still unresolved for Americans after more than thirty years of constant interaction, is the nature of the Soviet system and what is to be expected of Soviet power. How Americans view the Soviet Union and the motivations of its political leaders will have much to do with determining the chances for accommodation on outstanding issues, and for the identification of shared interests between the two countries. The problem of perception is, of course, a mutual one: how each superpower perceives the intentions of the other will largely determine the future of détente and peace in the world.

While there is today little disagreement in the United States over the fact that Soviet military power is approximately equivalent to our own, there is no consensus on the uses to which Soviet power is likely to be applied. The proposed SALT II agreement, if approved, will reaffirm the principle that has guided American and Soviet leaders since the SALT talks first convened in November 1969: that, in a world in which the superpowers possess over 13,000 strategic nuclear warheads aimed at each other, neither country can accept the risks of thermonuclear war in pursuit of ideological or geopolitical objectives.

SALT will not eliminate the competitive aspects of U.S.-Soviet relations nor all the risks that competition entails. Given disparate historical experiences, cultures, and world views, and the enormous destructive power in the hands of each country's political leadership, the danger to mankind's continued existence inherent in nuclear weapons cannot be expected to disappear merely because of SALT. The best we can hope for is a lessening of that danger and a dampening of the competition that has dominated the history of this planet for the last thirty-three years.

In recent months it has become increasingly clear that the main battleground for SALT, and for the contending attitudes toward the Soviet Union that will fuel the debate over the treaty's ratification, will be the Senate of the United States. Among the questions that senators will have to answer are: (1) whether it is in the interests of the United States to begin reducing the total number of strategic nuclear delivery vehicles it and the Soviet Union can deploy; and (2) whether the two countries should try to limit the competition in the qualitative aspects of nuclear arms that has characterized the arms race for the past decade. In order to answer these questions, the Senate might also wish to consider the broader potential benefits of ratification, including the extension of détente into areas now beyond its scope, as well as the adverse consequences of defeating SALT—for instance, a new, more costly, and destabilizing round in the arms race, together with a break in the admittedly uneven pattern of cooperation that the two countries have developed in recent years.

No one in the Senate, to my knowledge, wishes to continue the arms race and increase the risk of war. Those who will oppose SALT will do so not because they wish to perpetuate a senseless expansion of nuclear arsenals, but because of a deep-seated fear that the Soviet Union cannot be trusted to act in its own true self-interest. The opponents of détente and SALT still adhere to beliefs and attitudes derived from events of the cold war period, events that led them to believe that Kremlin leaders would sacrifice the achievements of the Russian Revolution and subsequent struggles in order to perpetuate, at almost any cost or risk, the ideology to which they adhere. For reasons to be developed below, I believe this fear, though genuine, to be based in large part on misperceptions.

Much of the discussion in committee hearings and on the floor of the Senate will center on esoteric technical details of the SALT II treaty and protocol and the contending theologies of nuclear strategists. Pertinent though these may be, the more fundamental and decisive question is that of our attitudes toward the Soviet Union, and of our ability to distinguish between those which are solidly rooted in facts and experience and those which are the product of myth and unwarranted fear. It is important to discern the historical bases of deeply held convictions, critically and analytically, with open minds, respect for ascertainable evidence, and a solid commitment to the broader national interest.

ATTITUDES TO THE SOVIET UNION

In foreign as in personal relations our inferences are shaped as much by how we look at a person or situation as by what we actually see. There are few foreign countries about which we do not have certain preconceptions as to their good or ill intensions, and these exert a powerful influence on our evaluation of their specific acts or policies. "What struck me most in the United States," Alexis de Tocqueville wrote in the 1830s, "was the difficulty experienced in getting an idea, once conceived, out of the head of the majority. . . . Neither writings nor speeches can have much success in that; only experience can do it, and that too must sometimes be repeated."[1] I do not know whether the tendency to stereotype is a distinctly American trait; perhaps I am attracted to that idea as a ready excuse for my own limited success in swaying majorities, over the years, through writings and speeches.

Be that as it may, there seems little doubt that our attitude toward the other superpower has been importantly influenced by preconceptions, mostly unfavorable, about its motives and ambitions. For a brief period during World War II, we came to view the Russians not only as stalwart allies but also as fellow crusaders for a world regime of peace through law. That image gave way quickly after the war—and by no means entirely without reason—to the previously held and more predominant view of the Soviet Union as an aspirant world conqueror, the agent of world revolution Lenin had proclaimed it to be. Stalin, whom Roosevelt had supposed he could charm into responsible world citizenship and whom Truman once characterized as "good old Joe," was recognized instead—and more realistically—as the "crafty giant" of Churchill's description, a despot of extraordinary cruelty and ambition. With much encouragement from the American leaders of the early postwar era, this image of Stalin was implanted in American minds as the true picture of the Soviet Union itself, and was then transferred, only somewhat diluted, to Stalin's successors—to the earthy and supple Khrushchev, and then to the prudent and conservative Breshnev. Because of the tenacity of our preconceptions, the great changes that have taken place in the Soviet Union since Stalin's time have been less than fully recognized, and even when we seek to cooperate with the Russians, as in the current Strategic Arms Limitation Talks, we retain some of our ironclad suppositions—that we are for stability and they for disruption, that we are peacemakers and they troublemakers, that we, in short, are good people and they bad people.

What, indeed, are the Russians really like? Can we conceive that they share with us a common human nature despite differences of culture and political tradition? Is it possible that their motives, like our own, are often ambiguous and obscure, to themselves as well as to others? Are they really still the world revolutionaries they professed to be in Lenin's time? Is it true—or still true—as Dean Acheson told the Senate Foreign Relations Committee in 1947, that "you cannot sit down with them," that indeed "it is a mistake to believe that you can, at any time, sit down with the Russians and solve questions"?[2] Or is it possible that their revolutionary zeal has abated, that power and experience have made them cautious and even responsible? A historian of revolutions has written that "there is no eternal fanaticism or, at any rate, there has not yet been an eternal fanaticism."[3] Is it conceivable then that Chairman Khrushchev meant it when he spoke of "goulash communism," to signify his commitment to a better life for his people? Or that Mr. Breshnev was telling the truth when he told members of Congress, during his visit to this country in June 1973, that in seeking trade and investment he came here to consolidate good things, not to quarrel?

COLD WAR OR DÉTENTE

After thirty years of almost constant interaction we have still not made up our minds what the Russians are really like. During these decades two schools of thought have competed for the allegiance of public and congressional opinion. The more prevalent—at least in Congress—has been the cold war school, which remains wedded to the belief that the Soviet Union is driven by ideological zealotry, that its internal practices are incorrigibly repressive except when outside pressure is applied, and that, despite tactical concessions from time to time, the Soviet Union can never be anything but an inveterate antagonist to the United States in world affairs. The other school of thought—the détente school—basing its observations on Soviet *behavior* rather than doctrine, contends that, at least since Stalin's time, Soviet foreign policy has been pragmatic rather than messianic, opportunistic but not predatory, and that on the basis of its actual performance the Soviet Union has shown itself to be a reliable collaborator with the United States in honoring the terms of existing arms control agreements, keeping the lid on regional conflicts, and paying its commercial debts. As to the Soviet Union's internal practices, the détente school holds that these are for the most part beyond the reach of foreign influence, but in any case more amenable to influence through improved relations than by pressure.

THE COLD WARRIORS

The cold war school achieved the upper hand in this protracted national debate soon after World War II. At that time, when the Soviet Union was imposing subservient Communist regimes in Eastern Europe and encouraging subversion in the recently liberated, war-wracked nations of Western Europe, Soviet policy and Communist doctrine largely coincided. The mistake made by American policy makers was in assuming that because doctrine and practice coincided

Footnotes at end of article.

at a particular time in particular places, they must always coincide, which would mean that we would no longer need to examine Soviet actions in specific terms but could read them always as part of a grand design. Our policy makers' mistake after World War II was not in what they *did*—which was to respond strongly to Soviet provocations through aid to Greece and Turkey, the Marshall Plan, and the formation of the NATO alliance—but in their *interpretation* of these policies and the *explanations* of them given to the American people. Thus, instead of explaining our aid to Greece and Turkey in 1947 as a sound measure against a particular Soviet provocation, as Secretary of State Marshall proposed to do, President Truman encased it in the grandiose ideological terms of what came to be known as the Truman Doctrine. In his famous address on March 12, 1947, the President declared that at that moment in world history, "nearly every nation must choose between alternative ways of life," the one based on democratic institutions like our own, the other based on "terror and oppression." [5]

Couched in those terms, the choice would have seemed easy and obvious, but our postwar policy makers perceived the Soviet Union as possessing a diabolical magnetism for its prospective victims. During the heyday of McCarthyism in the late 1940s and early 1950s, the Russians were credited with an uncanny ability to subvert free societies, including our own, through the manipulation of gullible idealists. As the hysteria mounted, the category of gullible idealist was broadened to include—and besmirch—almost any public person who thought it possible, and worthwhile, to try to cooperate with the Soviet Union in specific areas of our relations. In 1950 State and Defense Department officials prepared a document, known as "NSC-68," which became a kind of full-fledged charter of American cold war policy. Postered by Secretary of State Dean Acheson, the paper was prepared under the direction of the head of the State Department's Policy Planning Staff, Paul Nitze, who is now prominent in a group known as the "Committee on the Present Danger." "The Soviet Union," said NSC-68, "unlike previous aspirants to hegemony, is animated by a new fanatic faith, antithetical to our own, and seeks to impose its authority over the rest of the world." [6] Modified and altered in detail from time to time, this basic view of Soviet intentions dominated American foreign policy during the 1950s and had much to do with our subsequent involvement in the war in Vietnam, which was perceived not as a local civil war but as part of the Soviet, or Sino-Soviet, design for world domination.

DÉTENTE

The philosophy of the Truman Doctrine and NSC-68 exerts a profound influence over our policy to the present day, although it gave way to the détente school of thought at several crucial junctures over the years: under President Eisenhower, when hesitant efforts were made to reach an understanding with Chairman Khrushchev; under President Kennedy, when the nuclear test ban treaty was concluded; and, most significantly, under President Nixon and Secretary of State Kissinger. In 1972, which stands as the high point to date of Soviet-American détente, the ABM Treaty, restricting antiballistic missile sites, and the Interim Agreement, limiting strategic offensive arms, were concluded; a definitive agreement was reached on access to Berlin; and a seemingly propitious trade agreement was signed. In 1973 numerous other agreements were concluded, such as one on the prevention of nuclear war, and others for cooperation in oceanography, transportation, airline service between the two countries, expanded cultural exchange, and other areas. For three successive years President Nixon and General Secretary Brezhnev exchanged visits. On the eve of his last visit to Moscow, President Nixon, in a speech at Annapolis on June 5, 1974, recalled the agreements that had been reached and said that "upon these bridges we are erecting a series of tangible economic and cultural exchanges that will bind us more closely together." An enduring "structure of peace," said the President, "must be cemented by the shared goals of coexistence and the shared practice of accommodation." [7]

Mr. Nixon's vision, though promising, was premature. As on all previous occasions when the nation seemed to be on the track of steadily improving relations with the Soviet Union, the cold warriors rallied their considerable forces, and advocates of détente encountered once again the difficulty, noted by Tocqueville, of "getting an idea, once conceived, out of the head of the majority." Just as President Eisenhower's initiative was aborted by the U-2 affair in 1960 and President Kennedy's efforts were overwhelmed by the Vietnam War, the Nixon-Kissinger détente began to come unstuck when the administration's authority was undetermined and finally destroyed by Watergate. Under renewed cold war pressures since 1974, the two superpowers have failed to reach a new SALT agreement, while the strategic arms race proceeds unabated; the trade agreement has been denounced by the Soviet Union because of the Jackson amendment, connecting it with emigration; and the two countries find themselves at odds in Africa and the Middle East, and over human rights within the Soviet Union.

Overshadowed though it has been, and despite certain solid elements of accuracy in the cold war view of Soviet-American relations, the détente school of thought still provides a more accurate—and surely a more promising—perspective for the future development of Soviet-American relations. Evaluating Soviet intentions on the basis of performance rather than doctrine, and of realistic probability rather than the "worst-case" scenarios so beloved of our strategic planners, advocates of détente look to both the past and the future. In the past they see that, since the early postwar years when the Russians established their domination over Eastern Europe, the Soviet Union has not engaged directly in overt military aggression beyond the sphere of domination it had established, although it has competed with us—with more failure than success—in seeking to establish its influence with various client regimes in the Third World. All but the most unreconstructed cold warriors will recognize now that the Vietnam War was not part of a Soviet world design but was essentially a civil war in which the Soviet Union supported one faction while we, on an incomparably greater scale, supported the other. Still looking to the past, advocates of détente note that the Russians have shown a continuing interest in strategic arms limitations and in trade, and that when agreements have been reached they have honored them.

Looking to the future, advocates of détente do not foresee perfect harmony or an end to all competition between the superpowers. They see instead, as Daniel Yergin puts it in his fine book "Shattered Peace", a broad understanding encompassing "a somewhat more explicit agreement on the rules of competition; a certain number of cooperative projects, of which arms control, based on the purported acceptance of parity, is the most important; increasing communication and contacts on many levels; and a reduction in the state of permanent alarm on both sides." [8]

Whether such a broad understanding is feasible depends upon which school of thought—cold war or détente—is more accurate in its reading of the motives and aims of the Soviet leadership. I am, I believe, in authoritative company in my belief that the Soviet leaders, though far from idealistic and by no means willing to give up their competition with the United States in seeking influence throughout the world, are on the whole reliable partners in the most important single activity of world politics—the prevention of nuclear war. They are reliable for this purpose, as George Kennan has pointed out, because, far from being "monsters" who would run almost any risk and extract any sacrifice from their people to destroy us or gain world domination, they are in fact "quite ordinary men," shaped more by their experience and responsibility as leaders of a great country than by ideology. They are properly understood, Kennan suggests, as "highly conservative men, perhaps the most conservative ruling group to be found anywhere in the world, markedly advanced in age, approaching the end of their tenure, and given to everything else but rash adventure." Furthermore, Kennan suggests, the Soviet leaders "share the horror of major war that dominates most of the Soviet people," and "have no desire to experience another military conflagration and no intention to launch one." [9]

FUTURE DIRECTIVES

We stand at present, once again, at a crucial juncture in Soviet-American relations, and the auguries for the future are less than promising. The SALT talks have made progress, we are told, but there are still obstacles to be overcome, and domestic opposition to a new agreement is rising. We are at odds with the Russians over Africa, the Middle East, and human rights, and cold warriors at home are demanding that we punish the Russians for what they are doing in these areas by holding up a SALT agreement. The professionals call this approach "linkage"; an anonymous observer, noting our own vital interest in SALT, said it is more like shooting yourself in the foot.

President Carter himself has denied any intent to practice linkage. Indeed, when he inaugurated his human rights campaign in 1977 he expressed confidence that it would not interfere with an arms accord. Nonetheless, in a speech at Wake Forest University on March 17, 1978, the President warned—or threatened—the Russians with the erosion of popular support for cooperation "toward common social, scientific and economic goals" if they "fail to demonstrate restraint in missile programs and other force levels and in the projection of Soviet or proxy forces into other lands and continents." He also warned against the Soviet buildup of conventional arms and sea power and, in rather strident terms, declared that we must never allow the Soviet Union to be in a position to use its nuclear power to coerce or blackmail us or our friends. He warned, too, that a Soviet first strike, though a "remote" threat, would be "national suicide" for the Soviet Union.[9]

It seemed probable at the time that the President was directing his remarks less to the Russians than to our domestic cold warriors, especially the Senate "hawks" who might scuttle a SALT treaty. Unfortunately, there is no way of trying to appease Senator Jackson and his associates without antagonizing the Russians, and that is exactly what happened. The official Soviet press agency, Tass, responded immediately and sharply to

Footnotes at end of article.

the Wake Forest speech, accusing President Carter of abandoning détente and resorting "to a course of threats and a buildup of tension." [10] The Russians, it seems, were reacting to the *tone* and *attitude* of President Carter's remarks. His references to Soviet coercion and blackmail and to the threat of a first strike, even though hypothetical, must convey to the Russians that these are what we think they have in mind; these are the motives and intentions we attribute to them.

Just as we have never been quite able to make up our minds about the Russians, they show uncertainty about our intentions. In an authoritative article in *Pravda* on March 28, 1978, the Soviet leadership described the Carter administration as torn between two schools of thought within the United States, one for "building up tension," the other for détente. Emphasizing the delay in reaching a SALT agreement, the article, written by Georgi A. Arbatov, adviser to the Politburo on American affairs, said that a time of "truly crucial decisions" was at hand, and the issue was not only whether there was to be a SALT agreement. "The question is actually about selecting the road for years to come." [11]

With a view—so it was announced—to clarifying the confusion over American policy toward the Soviet Union, President Carter made another speech on the subject at the United States Naval Academy in Annapolis on June 7, 1978. He reiterated his belief in the fundamental importance of a SALT agreement; pledged his administration's continuing efforts to achieve an agreement, noting that "the risks of nuclear war alone propel us in this direction"; and assured his listeners that the prospects for a SALT II agreement were good. He went on, however, to castigate the Soviet Union for its actions in Africa, its military buildup, and its violations of human rights. Then—in somewhat patronizing terms—the President took note of the shortcomings of the Soviet economy and Soviet agriculture and reminded the Russians that their standard of living was lower than those of some other countries.[12] Since these failings are well known to the Russians, it is not clear what purpose is advanced by trumpeting them, other than to provoke or give offense, or—as seems likely—to try to appease anti-Soviet sentiment in the Congress, an unpromising undertaking as likely to encourage as to dampen cold war attitudes.

The President's speech at Annapolis apparently failed to clarify American policy to the Russians. The Soviet news agency Tass found the President's remarks "strange, to say the least," while earlier *Pravda* had accused the Carter administration of "constant zigzags and inconsistency" and said it was difficult to tell "who in Washington expresses the true policy of the Administration." [13] The Russians, it would seem, were not alone in their confusion. The *New York Times* in an editorial declared the President's Annapolis speech "essentially conciliatory," while its front page news article, on the same day, carried the subhead, "Toughest Stand Yet." [14]

As we examine the outstanding issues between the two superpowers and attempt to resolve the ambivalance and contradictions of our policy, our decisions, I have no doubt, will be based only in part on the facts and merits of special problems, such as SALT, Africa and the Middle East, and human rights. Our decisions will be shaped at least as much—and I suspect more—by the attitudes that we and the Russians bring to our continuing interaction. If each side remains basically convinced that the true objective of the other is to dominate or destroy, there will be no worthwhile SALT agreement, because almost any weapons system is potentially aggressive; there will be no cooperation for peace in the Middle East or Africa, because any bid for influence can be read as part of a global design; there will be no increase in trade, because almost any commodity, even food, can contribute to a nation's war making capacity; and there will surely be no improvement in human rights, because relaxing controls, from the Soviet standpoint, would open the gates to Western subversion.

If, on the other hand, we approach outstanding problems with attitudes of cautious trust, with the desire to cooperate, and with some appreciation of the other party's fears and anxieties—with a measure, that is, of empathy—we might well find ourselves able to develop a different, positive kind of "linkage" in our relations with the Soviet Union. As currently practiced, linkage involves retaliation, or the threat of it, in one area for the failure of agreement in another. Its effect is to exacerbate disagreement—threatening SALT, for example, because we do not like what the Russians are doing in Africa. Were we instead to pursue a SALT agreement independently of other issues, and without excruciating bargaining over every last technical detail, we might then find ourselves in an improved position—on a new psychological plateau, so to speak—for enlisting Soviet cooperation for a settlement in the Middle East. And were we to do that, instead of trying to exclude the Russians from the Middle East, we might, conceivably, find them easier to deal with in regard to Ethiopia or Rhodesia. Should all this come to pass, and if we were also willing (as we promised back in 1972) to trade with the Soviet Union on nondiscriminatory terms, I would venture a guess—maybe even a prediction—that there would be some easing of restrictions on human rights within the Soviet Union.

LINKAGES, POSITIVE AND NEGATIVE

The centerpiece of détente—if there is to be détente—is strategic arms control. Its importance, though obvious to ordinary people, sometimes seems to escape the experts, and therefore bears repeating: arms control is important because the leaders of the Soviet Union and the United States have the means at their disposal at any time to destroy each other's cities and much or most of each other's populations. It is theoretically possible to prevent war by maintaining a strategic balance in an uncontrolled arms race, and it is even possible, theoretically, to limit the arms race by voluntary, unilateral restraints on the development of superfluous weapons systems. Recent experience suggests, however, that to the arms experts there is no such thing as a superfluous weapons system, and all history—from antiquity to the world wars of the twentieth century—shows that peace cannot survive indefinitely on the basis of fear alone. It is an accepted principle of psychology that fear shapes behavior; our prophecies tend to be self-fulfilling, so that if we live in the constant expectation of war, we will probably, in due course, get it.

CARTER AND SALT

The Carter administration has been ambivalent in its approach to SALT, as it has in its entire approach to détente. At times the President has seemed to share the view held by advocates of détente that the Russians are probably no more enthusiastic about being incinerated in a nuclear war than we are. In his address to the 32nd United Nations General Assembly in the fall of 1977, President Carter pointed to the "awesome and special responsibility" of the superpowers in an age in which standards of "victory" and "defeat" have become archaic.[15] More recently, as in the President's speeches at Wake Forest and at Annapolis, the Carter administration has been reinforcing cold war attitudes of fear and mistrust of Soviet intentions. The intent may well be to try to appease cold war pressures at home; the probable effect is to reinforce these pressures while puzzling and angering the Russians.

The status of the SALT talks is by no means clear. On the one side we are told that significant progress has been made and that the agreement is about 95 percent complete. A compromise seems to have been reached on the long-stalemated issue of the American cruise missiles, limiting their deployment, and it is also reported that the United States will be prepared to accept Soviet assurances that the so-called Backfire bomber—another controversial issue—will not be deployed in a manner enabling it to fly strategic missions against the United States. To the layman much of the argument over restrictions on nuclear overkill seems stupefyingly technical and, overall, irrelevant, since there is virtually no possibility that either side can make itself immune to shattering attack by either first or second strike.

The rewards of a SALT agreement are not in the realm of physical security, since that has already been lost irretrievably in this age of nuclear weapons and ballistic missiles—to us, to the Russians, to all peoples. The real rewards of SALT are twofold. First, arms control can save a great deal of money: a Senate Budget Committee report in the spring of 1978 warned senators that if SALT failed, additional defense spending over the next fifteen years could increase up to $100 billion—for cruise missiles, Trident submarines, and the fantastically expensive projected M-X missile, which could be deployed in a mobile mode.[16] The second, and greater, reward of a SALT agreement will be in its psychological effects: in its encouragement of a measure of mutual trust between the superpowers, and, as a precedent for cooperation on other issues, as a step toward the development of a habit of cooperation. This approach, which might be called positive linkage, may well be dismissed by experts and professional Kremlinologists as naive. I put it forth nonetheless because the approach commended by the self-styled, hard-nosed "realists" has been tried and found wanting. It has brought us only recurrent crisis and the dangerous and costly arms race; there is no "realism" in an approach that does not work. It would seem timely to try something new.

HUMAN RIGHTS AND TRADE

One area in which only the truest of true believers would contest the need of a new approach is that of human rights and the related problem of trade. Here there is the distinct risk of a conflict of American ideals, of the possibility, as sociologist David Riesman has put it, "that the proclaimed goal of human rights may inadvertently risk the human prospects of survival itself." [17] Americans naturally and properly deplore the mistreatment of individuals in totalitarian societies, and the inclination is strong to apply pressure or sanctions—that is, linkage—against states that deny basic human rights to their own citizens. The trouble with our human rights campaign against the Soviet Union is surely not in its motivations but in its effects: it simply does not work. Just as the arms race has failed to win security, the human rights campaign has failed to win freedom for its intended beneficiaries. On the contrary, it has provoked a hardening of the Soviet position against dissidents and, although it has not yet done so, may goad the Soviet leaders into a tougher stand on SALT and other issues, through a linkage policy of their own.

Footnotes at end of article.

There is incontestable evidence of the futility and mischievousness of an aggressive human rights campaign in the fiasco of the Jackson-Vanik amendment. Jewish emigration from the Soviet Union was mounting steadily—from about 15,000 in 1971 to 30,000 in 1972 and a peak of 35,000 in 1973—until the debate on and adoption in 1974 of Senator Jackson's amendment making equal trade treatment contingent on the dropping of emigration controls. The Russians responded by dropping instead the Soviet-American trade agreement of 1972 and by sharply restricting Jewish emigration, which fell to 15,000 in 1975, the same in 1976, and then to its current rate of about 13,000 a year. By contrast, Chancellor Schmidt of West Germany, practicing a quiet, discreet diplomacy, obtained in 1976 the repatriation from the Soviet bloc of some 70,000 ethnic Germans.

Aside from its drastic effects upon Jewish emigration from the Soviet Union, the principal result of the Jackson-Vanik amendment, and the related Stevenson amendment that restricted Export-Import Bank credits to the Soviet Union, has been a boon to the trade of other countries. Except for some large agricultural shipments to the Soviet Union, Soviet-American trade has stagnated since 1974, while Soviet trade with Western Europe and Japan has expanded considerably. The potential market for American trade and investment in the Soviet Union remains very large. With their under-developed civilian economy, the Russians have need not only of agricultural commodities but also of high-technology products that the United States can provide, such as fertilizer plants, petroleum and natural gas facilities, power-generating plants, transport and distribution systems, and managerial know-how. To gain access to this potentially profitable market, which could provide jobs for American workers while reducing our huge foreign trade deficit, we would have to repeal the Jackson and Stevenson amendments, allowing the Russians equal trade status and access to Export-Import Bank credits on the same terms we grant to other trading partners. Whether we are willing to take these steps depends ultimately, as does our approach to SALT, on our basic attitude toward the other superpower: Is it to be regarded as a permanent antagonist resolved to do us in, or as another great power with which, through effort, we can hope to build reasonably normal relations?

One might have expected the fiasco of the Jackson amendment to have produced a measure of modesty, if not chagrin, among the Soviet-baiting cold warriors. Such, however, has not been the case. Although the President himself has backed away from the human rights sermons with which he infuriated the Russians during his first months in office, American representatives, led by Arthur Goldberg, wound up in March 1978 eight months of futile polemics and moralizing at the Belgrade conference on European security and cooperation, which was convened to review the Helsinki accords of 1975. Although our representatives lectured the Russians eloquently and at length on their transgressions in the field of human rights, not one of more than 100 proposals submitted to the conference was approved, and the final report made no reference to human rights because the Russians threatened to veto the report if human rights were mentioned. The only agreements reached at Belgrade were decisions to hold certain other meetings, including another review conference in 1980 in Madrid.

Following upon this triumph of human rights diplomacy, the administration and its congressional supporters seemed to shift their attention to the prospective Scharansky trial. Mr. Scharansky is a young Soviet dissident accused of working for the CIA, for whom President Carter, early in his term, spoke out publicly, denying any CIA connection. The result was to put the President's prestige on the line and to elevate an individual question of Soviet justice to the status of a cold war issue. In an interview broadcast over the Voice of America on April 3, 1978, the American ambassador to the Soviet Union, Malcolm Toon, bluntly invoked linkage, warning that the trial of Scharansky "will have a very negative effect on our relations and it will make it very difficult indeed for us to do the sorts of things which I think both of us feel are essential to peace and stability in the world." [10]

There is nothing to be said in defense or excuse for the sometimes brutal treatment of Soviet citizens by their leaders—including, for another example, the banishment in March 1978 of the distinguished musician Mstislav Rostropovich. Experience demonstrates, however, that it is usually futile and often destructive and dangerous to intervene in the internal affairs of other countries, especially a great power like the Soviet Union. As we discovered in Vietnam, outsiders are seldom wise enough, or powerful enough, to elevate the morality of a society not their own. The Russian people, moreover, have lived under dictatorship throughout their history, under the tsars and under the Communists, and it is not within the scope of our resources, moral or material, to lift that burden of oppression by external pressure.

The authors of the human rights campaign argue that there must be a "moral dimension" to our foreign policy, and in that they are absolutely correct. The question, however, is not whether or not there is to be morality in our policy but, as David Riesman observed, what choice we will make when ideals seem to conflict. My own strong conviction is that there is no more compelling moral purpose to be advanced through our foreign relations than the prevention of nuclear war, and this objective requires, above everything else, the development of a peaceful and reasonably cooperative relationship between the two nations that have it within their power virtually to shatter human life upon the earth. I also believe—and in this I am in the company of leading students of Soviet affairs, such as Secretary Vance's principal adviser on the Soviet Union, Marshall Shulman—that there is no ultimate conflict between the policy of détente and human rights. As Professor Shulman has noted, we cannot predict the evolution of the Soviet system, but "it seems reasonable to believe that easing of repression is more likely to result from evolutionary forces within the society under prolonged conditions of reduced international tension than from external demands for change and the siege mentality they would reinforce." [12]

The most promising route to greater freedom within the Soviet sphere, it would seem, is detente itself—the gradual lessening of tensions and pressures through the normalization of relations.

THE THIRD WORLD

Looking further at the possibilities of positive linkage, it would seem worthwhile to examine the possibilities of Soviet-American cooperation in the Middle East and Africa, and to do so in such a way that progress in one region can be built upon for progress in the other. I am by no means certain that this can be done. The Russians may be unmovable in ideological commitment to the advancement of the "class struggle" in the Third World. In that event we are not without resources for resisting them if they threaten our interests or otherwise act in violation of the United Nations Charter, and we can do so without jeopardizing the strategic arms limitations that are of such great importance to both of us. There is also a possibility—an untested and, I rather suspect, a good one—that if we were to enlist, rather than resist, Soviet participation in the search for peace in the Middle East, we might find them in turn more amenable to our preferences with respect to Ethiopia, Rhodesia, or Angola.

Somewhat unexpectedly, in the fall of 1977, the Carter administration departed from the established American policy of excluding the Russians, so far as possible, from Middle East diplomacy. On October 1, 1977, the United States and the Soviet Union issued a joint statement in their capacity as cochairmen of the Geneva Peace Conference on the Middle East, in which they called for a comprehensive settlement based on Israeli withdrawal from occupied Arab territory, ensuring the "legitimate rights" of the Palestinian people, termination of the state of war and the establishment of normal relations between Israel and the Arabs, and international guarantees of the entire settlement in which the Soviet Union and the United States would participate.

One would have thought this declaration, in which the Soviet Union took a position consistent with that of the United States, would have been welcomed as promising both for peace in the Middle East and for superpower detente. Instead there arose a fearful hue and cry about "letting the Russians back into the Middle East." The *New York Times* proclaimed itself perplexed by this "tortured piece of prose." [20] The Jewish community was portrayed as "absolutely horrified," [21] and one overwrought columnist fulminated against the joint statement as an "infamous" design by President Carter for turning the West Bank into a "Soviet staging area" against Israel.[22]

Under this barrage of Zionist and anti-Soviet criticism, the administration beat a prudent but unfortunate retreat from the approach of the joint statement. Little if anything has been said since then about Soviet-American cooperation for peace in the Middle East, even though—and the point bears all possible emphasis—the Soviet position on an Arab-Israeli settlement is substantially similar to our own: they, like we, favor Israeli withdrawal from most occupied territories; they, like we, support the survival and security of Israel—a position, indeed, held by the Soviet Union since the creation of Israel in 1948; and they, like we, now say that they are prepared to join in guaranteeing a settlement along these lines. Furthermore, the Russians exert an influence on Syria and on the Palestine Liberation Organization, an influence that could be used to advance the cause of an equitable overall settlement.

If the United States is reluctant to cooperate with the Soviet Union in the Middle East, where their basic position is compatible with our own, it would seem something less than astonishing that the Russians are not now hastening to do our bidding in Africa. In the wake of the successful Soviet-Cuban intervention in Ethiopia, which enabled that country to expel Somali invaders from its territory, and the alleged Cuban support of the Katangan exile raid into Zaire, the United States has important, legitimate concerns. Will the Russians now restrain their Cuban allies from further large-scale military involvement in Africa, or will they encourage them in "wars of national liberation"? Will the Russians now practice restraint in the difficult transition to majority rule in Southern Africa, or will they support and incite the militant Patriotic Front against a moderate settlement in Rhodesia? These are matters that might be brought to satisfactory, or at least tolerable, resolution in the context of a broader

Soviet-American détente—which is to say, we might be better able to influence the Russians on these issues if there were a habit of consultation between us, on all major issues and in other regions as well as Africa.

Of late we have been advising the Soviet Union that it cannot have a selective détente; it cannot intervene in Africa and still hope for a forthcoming American attitude on SALT. Some members of Congress have called for suspension of the SALT talks until the Russians terminate their "adventurism" in Africa, and Mr. Brzezinski, the President's national security adviser, is widely thought to be a proponent of one form or another of linkage of this kind. It is worth recalling in this respect that there never would have been a SALT I agreement if the Russians had insisted upon linkage; Mr. Breshnev signed that agreement with President Nixon in Moscow in 1972 at a time when the United States was intensifying its bombing of North Vietnam and had just mined the North Vietnamese ports.

It is also worth noting that the Soviet role in Ethiopia thus far does not qualify as "aggression," in law or in fact. By contrast with Angola, where the Russians and Cubans intervened in a civil war in violation of the United Nations Charter, their intervention in Ethiopia, whatever its motivation was in support of an invaded nation, and was therefore consistent with the United Nations Charter. Were there a *habit* of détente between the superpowers—of cooperation, that is, on all major issues—it might have been possible for the United States, as a signatory to the United Nations Charter, to *endorse* the Soviet effort insofar as it consisted of support for a victim of aggression, and then to express our "confidence" that the Russians would not go beyond this commendable purpose.

CONCLUSIONS

Linkage, in short, is a two-way street, and is far more likely to work as a positive incentive than as a negative sanction. If the United States could send half a billion men to Vietnam, cut the Russians out of the Middle East, and subvert an elected Marxist government in Chile, while still expecting the Russians to cooperate on arms control, they may find it puzzling when we threaten to disrupt SALT because of their involvements in Africa. We would be on much stronger ground in calling on the Russians to practice general rather than selective détente if we would practice what we preach: by pursuing SALT on its own terms, by inviting rather than resisting Soviet cooperation in the Middle East, by permitting trade on nondiscriminatory terms, and by abstaining from futile meddling in the internal affairs of the Soviet Union.

Powerful though they are, the Soviet Union and the United States are under certain constraints that do not necessarily apply to other nations. They alone have the power—and with it the responsibility—to maintain a semblance of order in our turbulent world. Many other nations, large and small, have acquired the means to fight wars, trouble their neighbors, and disrupt their regions, if these are their inclinations. In this respect we live in an increasingly pluralistic world. But in another, perhaps more important, respect, the paramount role of the superpowers is increasing rather than decreasing. They alone have the power, through collaboration, to put limits on the world's turbulence, to prevent great conflicts and contain small ones, to curb the excesses of nationalism and ambition, including their own, and by so doing to make the world as safe as it can be made in the thermonuclear age. Because of their power, and the responsibility it confers, the superpowers do not have the freedom to quarrel that smaller and less potentially dangerous nations have, or that great powers themselves may have had in an age when weapons were less destructive. The superpowers are therefore under an obligation—to themselves, to the rest of the world, and to posterity—to resolve their differences insofar as they can, and to set aside those which they cannot resolve. As the greatest threats to world peace, the United States and the Soviet Union also have the greatest responsibility for protecting it. That is the real meaning of détente: it is not, fundamentally, an option but a compelling obligation.

Lasting peace must be built on two foundations, fear and affiliation. Modern weapons provide an adequate basis for fear, and that fear, which Churchill called the "balance of terror," is the principal basis of peace in the world today. By itself, however, it is insufficient, too slender a reed on which to base the future of the human race. We must try, therefore, by the means at our disposal—arms control and political cooperation, trade, and educational exchange—to build the second, often fragile, but ultimately more reliable, foundation of peace, which is the capacity of human beings for affiliation and cooperation. As Sigmund Freud wrote to Albert Einstein in 1932, "All that produces ties of sentiment between man and man must serve us as war's antidote." [23]

FOOTNOTES

[1] Alexis de Tocqueville, *Democracy in America*, J. P. Mayer and Max Lerner, eds. (New York: Harper and Row, 1966), vol. 2, part 3, chapter 21, p. 615.

[2] Quoted in Daniel Yergin, *Shattered Peace* (Boston: Houghton Mifflin, 1977), p. 296.

[3] Crane Brinton, *The Anatomy of Revolution* (New York: Vintage, 1965), p. 234.

[4] *Public Papers of the Presidents of the U.S.: Harry S. Truman, 1947* (Washington, D.C.: Government Printing Office, 1963), p. 178.

[5] NSC-68," a Report to the National Security Council (Washington, D.C.: National Security Council, 1950), p. 4.

[6] *Public Papers of the Presidents of the U.S.: Richard Nixon, 1974* (Washington, D.C.: Government Printing Office, 1975), p. 472.

[7] Yergin, *Shattered Peace*, p. 409.

[8] Remarks at a Meeting of the Council on Foreign Relations," Washington, D.C., November 22, 1977.

[9] "Remarks of President Carter at Wake Forest University," Winston-Salem, North Carolina, March 17, 1978. Office of the White House Press Secretary.

[10] David K. Shipler, "Moscow Charges President Is Using Threat, Distortion," *New York Times*, March 1, 1978.

[11] Quoted by Murrey Marder in "Soviets Say Detente at Crossroads," *Washington Post*, March 29, 1978.

[12] "President's Speech on Soviet-American Relations at the United States Naval Academy," *New York Times*, June 8, 1978.

[13] Quoted by Craig R. Whitney in "Soviet Calls Attitude of Carter 'Strange,' Reaffirms Detente," *New York Times*, June 8, 1978.

[14] *New York Times*, June 8, 1978.

[15] "President Carter's Address to the United Nations General Assembly, October 4, 1977," in *New York Times*, October 5, 1977.

[16] "Study Warns of Arms Costs if U.S.-Soviet Pact Fails," *New York Times*, April 4, 1978.

[17] David Riesman, "The Danger of the Human Rights Campaign," in *Common Sense in U.S.-Soviet Relations* (Washington, D.C.: American Committee on East-West Accord, 1978), p. 49.

[18] Quoted by Peter Osnos in "Toon Warns Soviets on Scharansky," *Washington Post*, April 4, 1978.

[19] Marshall Shulman, "On Learning to Live with Authoritarian Regimes," *Foreign Affairs*, vol. 55, no. 2 (January 1977), p. 234.

[20] "The Geneva Express (via Moscow)," *New York Times*, October 4, 1977.

[21] "Carter's Stance on Palestinians Turns Off Jewish Contributors," *Washington Post*, October 6, 1977.

[22] William Safire, "Selling Out Israel," *New York Times*, October 6, 1977.

[23] Quoted in U.S. Congress, Senate, Committee on Foreign Relations, "Psychological Aspects of International Relations," 89th Cong., 2nd sess., May 25, 1966, p. 7.●

ILLEGAL ASPECTS OF NORMALIZING RELATIONS WITH RED CHINA

● Mr. GOLDWATER. Mr. President, it is well-known that one of the essential conditions demanded by Communist China for the establishment of diplomatic relations with the United States is termination of the Mutual Defense Treaty of 1954 with the Republic of China. Some proponents of switching embassies from Taipei to Peking argue the novel concept that the President has power to unilaterally break the defense treaty or to determine that it has lapsed upon recognition of Red China.

The leading spokesman for this unique theory is Prof. Jerome Cohen of Harvard Law School, who published his opinion in the July issue of the American Bar Association Journal.

Mr. President, I believe the proposition argued by Professor Cohen is a dangerous innovation in American constitutional law and practice.

I believe Professor Cohen has failed to recognize that there is not a single precedent in American history for the abrogation of a defense treaty by the unilateral action of the President.

Nor is there any example of the President ever having decided that a defense treaty would lapse following a change in diplomatic relations between governments.

To the contrary, it has become increasingly clear in international law that nonrecognition of a state or government does not by itself impede the latter's capacity to carry out bilateral treaties. Existing treaties with the unrecognized state or government remain in force, subject to the principle of reciprocity.

As Prof. Victor Li, professor of international legal studies at Stanford University, testified at hearings before the House Subcommittee on Asian and Pacific Affairs on September 21, 1977:

> International law does not require that prior treaties entered into with a once-recognized government, the terms of which are limited to the territory actually controlled by that government, must automatically lapse after that government loses de jure recognition while still exerting de facto control . . . Hence, the choice of what to do with the defense treaty is a political, more than legal matter.

Mr. President, the real question is a political one, not a legal technicality as Professor Cohen would have it. The question that must be asked is whether the President can act alone under our political system.

According to James Madison and Thomas Jefferson, the answer is in the negative.

Madison wrote that he saw "the same authority, precisely, being exercised in annuling as in making a treaty." As we all know, the treatymaking authority is the President acting together with the advice and consent of two-thirds of the Senate.

Jefferson, in his Manual of Rules of the Senate, wrote:

> Treaties being declared, equally with the laws of the United States, to be the supreme law of the land, it is understood that an act of the legislature alone can declare them infringed and rescinded.

Madison and Jefferson are supported by the text of the Constitution, which specifies that a treaty is part of "the supreme Law of the Land." And, since the President is obligated by another provision of the Constitution to "take care that the laws be faithfully executed," it is clear the President is under a duty to carry out treaties, just the opposite of an authority to repeal them.

The history of the ratification of the Constitution contains persuasive evidence that the framers meant to make it difficult for the United States to terminate a treaty. Madison, Hamilton, and C. C. Pinckney, each of whom signed the Constitution, wrote that the unfaithful adherence to treaties by the new nation was one of the defects of the Articles of Confederation intended to be remedied by the Constitution. Similarly, James Wilson hoped that by remaining faithful to its treaties, the new government would gain the respect of other nations. These statements contradict Cohen's opinion that the framers meant for treaties to be easily broken by Presidential decision alone.

With all the emphasis the framers put on a balance of powers and accountability, it is difficult to conceive, as Cohen does, that the framers would have tossed these principles aside by vesting a totally unchecked power in the President to break the faith of the Nation as expressed in its treaty commitments.

Cohen's appeal to the President's removal power as a precedent for the termination of treaties is astounding. From the bare fact that high Government officers are appointed by the President with the advice and consent of the Senate, but can be removed by the President at his discretion, Cohen believes the President can terminate a treaty by his independent initiative.

In my opinion, the fact that advocates of extreme Presidential power must resort to such an absurd argument of this kind reveals the weakness of their concept. The status of the President vis-a-vis other sovereign nations cannot be equated to his relationship with subordinate officers of his own administration.

The power of removing officials who serve under his direction aids in the efficient exercise of the President's duty to execute the laws. But the treaty power is not, as Cohen implies, a tool for more effectively operating the mechanics of Government. A treaty pledges the solemn word of our people and is elevated to the same constitutional rank as a law. By breaking a formal compact with another nation, which he is bound to uphold as law, the President would not carry out the law, he would break it.

In his article, Professor Cohen also misconceives the significance of a provision in the defense treaty with Taiwan which allows withdrawal by either party following 1 year's notice. The term "party" does not mean "the President," but refers to the government of the state concerned. Thus, the provision requires a reference to the constitutional processes of the government ratifying the treaty to determine what authority in that government shall make the decision to give notice under the treaty. This brings us back to the fact that under the Constitution the decision to terminate a treaty is a joint one shared by the President and Senate or Congress.

Mr. President, it must be remembered that the defense treaty with Taiwan does not stand alone. Nearly every bilateral and multilateral treaty the United States has with other governments contains a provision similar to the duration article of the defense treaty. For example, NATO, the Test Ban Treaty, the Biological Weapons Convention, and the Outer Space Treaty, each contain provisions authorizing termination after 1 year's or less notice thereof.

If the language in the defense treaty with Taiwan were construed as allowing the President alone to provide notice of its termination, each of the above treaties would equally be hostage to his sole discretion. I am certain that this news would come as a great surprise to the Senate, which had advised and consented to those various international agreements without any such understanding or warning.

Mr. President, I conclude my remarks by issuing a word of caution to those persons who are advising the President to unilaterally concede to Red China's demand for the termination of our defense treaty with Taiwan. I would remind persons who are so advising the President that we in the Senate unanimously declared our sentiment that the Constitution requires "prior consultation between the Senate and the executive branch" on any proposed policy changes which may affect the continuation in force of the Mutual Defense Treaty of 1954. This statement by the Senate, which was contained in the Dole-Stone amendment to the International Security Assistance Act, was designed specifically to correct any misconception that the treaty would automatically lapse if the administration recognizes Peking. The vote on that amendment was 94 to 0.

If the President should, contrary to all precedent and in violation of the unanimous declaration by the Senate, attempt to terminate the defense treaty with Taiwan, it would subject the country to a severe constitutional crisis. Not only would the subject matter present a "case or controversy," to which the judicial power extends, but I am confident that Members of the Senate would have standing to come into the courts for a judicial determination of the constitutionality of the President's action.

Also, there are other remedies available to the Senate or Congress, including the possibility of impeachment proceedings. This is not a threat or prediction of what might happen, but it is something any President's adviser should be aware of before any action is taken which would put the President in a serious conflict with the legislative branch over an abuse of power issue.●

PROPOSED ARMS SALES

● Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD the notifications I have just received.

The notifications follows:

WASHINGTON, D.C.,
August 29, 1978.

In reply refer to: I-7052/78ct.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78-96, concerning the Department of the Air Force's proposed Letter of Offer to Korea for other than major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $60 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, U.S.A., Defense Security Assistance Agency.

[Transmittal No. 78-96]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Korea.
(ii) Total Estimated Value:
Major Defense Equipment,* $0.0 million.

Other, $60.0 million.
Total, $60.0 million.

(iii) Description of Articles or Services Offered:

Cooperative Logistics Supply Support Arrangement (CLSSA), requisition case (FMSO II) for follow-on spares and supplies for support of aircraft of U.S. origin (F-4, F-5, A-37, and C-123 aircraft).

(iv) Military Department: Air Force.
(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(vi) Date Report Delivered to Congress: August 30, 1978.●

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

● Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that such a notification was received on August 30, 1978.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, room S-116 in the Capitol.

The notification follows:

WASHINGTON, D.C.,
August 29, 1978.

In reply refer to: I-8035/78.

Dr. HANS BINNENDIJK,
Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Southeast Asian country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA, Director, Defense Security Assistance Agency.●

(By request of Mr. PEARSON for Mr. HELMS the following statement is printed in today's RECORD:)

NATIONAL HOSIERY WEEK

● Mr. HELMS. Mr. President, small business is the backbone of America's economy and our free enterprise system. I can think of few industries in which small, family-owned businesses make up the greater part than the hosiery industry. I am proud of the thousands of dedicated people who have made this vital and growing industry, and I salute the hosiery industry during National Hosiery Week.

Mr. President, the eighth annual National Hosiery Week will be held September 10-16 of this year and I am delighted to have the opportunity to recognize and congratulate the National Association of Hosiery Manufacturers and its member companies for their outstanding contributions to American industry and the economy.

The hosiery industry of America produces $3.4 billion in retail sales, and as such is a vital part of our total economy.

The hosiery industry provides employment for nearly 75,000 people in 444 plants scattered all across the country. The average number of employees per plant is about 170. The hosiery industry provides jobs for many other individuals supplying raw materials, as well as for those who distribute and retail the many and varied hosiery products. In North Carolina alone, some 35,000 people are employed by the hosiery industry.

The majority of the hosiery industry is comprised of small, family-owned, independent companies, working hard to earn a profit while providing needed jobs and boosting the economies of a number of small towns and cities. There are 330 companies manufacturing hosiery. There are very few large corporations involved in its production.

Mr. President, I am proud to state that over 90 percent of the total hosiery production is concentrated in the South, with my own state of North Carolina accounting for over 55 percent of the total production in the United States.

National Hosiery Week has been designated as a week to educate the consumer about hosiery and hosiery production and to acquaint the public with the wide variety of hosiery products available to meet his or her needs.

Companies involved in the production of hosiery face the same challenges as do most other American industries—they need an adequate supply of energy, they need to be able to compete internationally, and they must be able to depend on a sound economy for their security.

Mr. President, I applaud the National Association of Hosiery Manufacturers, which sponsors National Hosiery Week. The hosiery industry is an important and viable industry which serves as an integral part of our economy. The week of September 10 through 16 should help remind us of the opportunities and contributions American enterprises provide and we should all join in the celebration of National Hosiery Week.●

THE CLOSE UP PROGRAM

● Mr. BENTSEN. Mr. President, I rise today to bring your attention to the fine work that several extraordinary educators in my State are doing to encourage students to take a greater interest in their community and their local government.

These nine teachers and administrators have been participants in the national close up program. Through that program, which I have supported, they were able to see their students take a more active interest in government—an interest they wanted to see preserved upon their return to Texas.

In order to encourage continued interest in government at all levels, they formed a steering committee, planned and conducted a mammoth program which involved over 1,000 students and teachers from the Houston area in a close up look at local government and some of the key issues facing us in Texas.

In a day when studies show a declining interest in politics at all levels, I think these dedicated Texans deserve special recognition for the work they have done to stimulate our young people to "get involved."

I know, Mr. President, that you and my colleagues in the Senate will join me in paying a special tribute to co-chairpersons Dr. Judy Morris and Mr. David Adams of the Greater Houston Close Up Steering Committee and their committee:

Mr. Jim Lyons, Mr. Bob Wells, Ms. Gayle Fallon, Mr. Erskine Morehead, Ms. Carolyn Jones, Ms. Linda Wise, and Mr. Dale Glover.●

NATIONAL HEALTH INSURANCE

● Mr. CURTIS. Mr. President, I should like to call to the attention of the Members an excellent column appearing recently in the Omaha World-Herald which underscores, in clear and unequivocal terms, why national health insurance is neither desirable nor necessary in this country. The columnist in this instance, a resident of Bellevue, Nebr., points out that "apathy toward national health care insurance legislation will lead us into the most devastating financial fiasco in our Nation's history," and she proceeds to refute, point by point, the premises behind the President's 10 "principles" released in July. Mrs. Ruse's analysis of each is excellent, and I commend her column to the entire membership as to why national health insurance is not needed and is an idea whose time is past.

I request that the column be printed in its entirety in the RECORD.

The column follows:

[From the Omaha World-Herald, Aug. 16, 1978]

NATIONAL INSURANCE FOR HEALTH NOT NEEDED

(By Margie L. Ruse)

(NOTE.—The author, who lives in Bellevue, Neb., writes: "My husband and I fall into the much-abused middle-income bracket. We have raised and helped to educate three boys. Secretarial positions in both the insurance field and the medical field have given me some insight into this issue, but primarily, I feel that 35 years of tax burden to support an unrealistic structure have made me acutely aware of the urgent need to halt its continuance.")

Apathy toward national health care insurance legislation will lead us into the most devastating financial fiasco in our nation's history. Proponents of this legislation are promising services already available through private enterprise and tax supported welfare programs. Under the guise of better health care at less cost, they are trying to buy votes and gain control of additional tax dollars. The advantages lie totally on the side of the politicians and the insurance companies and the proposals must not be allowed to prosper and come into being.

Let's examine President Carter's proposals, as outlined in the July 30 World-Herald:

1. The plan wishes to insure all Americans comprehensive health care coverage. We have that now! Most Americans have coverage through employee benefit plans or private

policies. The underprivileged are covered under various federally funded programs. The argument that these programs are inadequate simply is not true. Existing programs, prudently administered, would be more than adequate. It is unthinkable that we should be asked to subsidize another give-away program. Politicians have demonstrated time after time that they are totally incapable of successful administration of tax supported programs, and unable to avoid corruption in the welfare system. Remember the term "federally funded" means tax supported and that means you and I are already providing care for the underprivileged as well as for ourselves.

2. Quality health care should be given to all. We have that now! Government intervention will absolutely not improve the quality of care; quite the contrary. Physician's offices and medical facilities will be so overcrowded with free-loaders seeking unneeded attention that the medics will be forced to reduce patient care to a bare minimum. Some years ago a prominent Kansas City physician told me that if he was ever forced to start treating diseases instead of people he would stop practicing. I wonder if other qualified physicians might feel the same way.

3. Freedom to choose our health care services. We have that now! Medicare, Medicaid and Social Security disability claimants are choosing their doctors and medical facilities just the same as people insured through private enterprise. If inefficiency in the government agencies prohibits the use of preferred medical services, remove the abuse and waste and grant assistance only to those in need. There will, then, be enough care for everyone.

4. Eliminate unnecessary health care spending. That one is a laugh! The administration admits to gross waste and abuse in existing tax supported programs, and exhibits total inability to rectify this situation. We must demand responsible use of our tax dollars before we subsidize another proposal designed to gain control of a greater percentage of our income.

5. Additional private and public expenditures can be offset by greater efficiency. Another laugh! When did any government program operate with greater efficiency than private enterprise? It just doesn't happen. Private enterprise must provide the greatest service at the least cost, show a profit and meet competition in order to stay in business. Tax supported programs do not have to show a profit or meet competition. When misuse of government funds causes a program to falter, a tax increase puts it back in business. We, the taxpayers suffer the consequences and we are responsible if we continue to elect irresponsible officials. Politicians instituting tax supported give-aways have brought our country to a state of economic chaos and we have allowed it. If the United States is to return to economic stability, we must deny support to every politician whose philosophies advocate such give-aways. My friends, we are the majority and we have the vote.

6. The plan will be gradually phased in with no additional government expenditures until 1983. Then what? If the politicians can't fulfill their obligations, as historically has been the case, you and I will be stuck without recourse, with the dictates and costs of an insurance program over which we have no control. A very dangerous position.

7. The plan will be financed through government funding and contributions from both employers and employees. Remember, the "government" is you and I. That means we will pay two ways—through our tax dollars and through private contributions. We do that now! However now, at least, we have the prerogative of selecting our own insurance carrier, or changing to another if we choose. A government controlled program would rob us of that choice, but we would still have to pay.

8. Private insurance companies would play a significant role. Precisely. This is probably the most dangerous by-product of the whole proposal. The coverage would be "farmed out" proportionately to various insurance companies. This would provide an already top-powerful industry carte blanche to write into their declarations any provisions that would best serve them. True, the administration will feign a system of regulations under which they should operate, but the insurance industry is already too large and powerful to be effectively regulated or controlled. Again, we would be saddled with a program over which we had no control, either from the standpoint of cost or coverage. If the plan were devised solely for the purpose of providing better care at reduced costs, it would be a threat to the insurance industry and they'd be screaming bloody murder. Do you notice how strangely silent they are?

To a great extent, insurance rates are determined by the percentage of revenue that is paid out in claims. Can you envision what the rates will do when free-loaders and graft paralyze the government controlled insurance program?

9. Attract personnel to underserved areas. We have that now! Federally subsidized programs already exist to build, equip and staff medical facilities in underserved areas. If those areas are not now adequately served, one can only assume such programs are unsuccessful and should be discontinued, certainly not escalated. "Ambulatory and preventive" services would be a bonanza for the unscrupulous who need only one "iffy" category under which to operate.

10. Assure consumer representation. We have that now! Most assuredly it will be sacrificed under a national health care insurance program. What voice do we now have in the Social Security program? None. We are compelled to support it and compelled to participate, but we absolutely have no voice in its administration. Do we want the same kind of insurance program?

We do have another form of representation and that is our right to vote. Consider what irresponsible use of your tax dollars has already done to the economy and weigh very carefully the consequences of further political control.

Insurance is a consumer product just as much as the groceries. You would not want the politicians choosing your groceries. Surely a product as important to your well-being as health care insurance should not be entrusted to the free spending, vote-buying politicians. The more control we relinquish to any administration, the less control we retain for ourselves. Vote out any politician who backs this legislation.

Compare the cost of expressing your views to the increased tax burden you will sustain as the result of a national health care insurance program, then write immediately to your elected representatives. Your local library can provide any addresses you may need. We literally cannot afford to sit idly by and allow this program to become a reality. The time to stop it is now.●

ERA EXTENSION

● Mr. GARN. Mr. President, House Joint Resolution 638, extending the time for the ratification of the equal rights amendment, may soon be before us. I think it is fair to say that rarely, if ever, has this body been faced with a single piece of paper that poses so many obvious and potential constitutional problems.

I say "piece of paper" advisedly, Mr. President, because that is what we will have before us. It is not a bill, for we will not send it to the President when we are through with it. It is not a treaty. It is not a part of the Constitution, and will never become a part of the Constitution, for we will not send it to the States for ratification. It purports to be an amendment to House Joint Resolution 208, but it cannot be that, because House Joint Resolution 208 is no longer before us.

In short, Mr. President, what we are being asked to pass is not anything at all.

This point has been made in some detail in the minority views of Congressman CHARLES WIGGINS, published in the House committee report. To quote him directly, what we are trying to do "cannot be done. If it could be done, it would not be wise to do it. If it were wise to do it, House Joint Resolution 638 is not the proper way to do it."

Mr. President, this is wisdom. I beg my colleagues to consider the constitutional chaos we will be inviting if we pass this resolution, and urge them to forgo the exercise. Irrespective of the merits of the ERA, we should proceed with restraint and fairness. While I oppose the ERA, I would make precisely the same arguments if the amendment under consideration were one of my own.

In the next week or two, I will be pointing out to my colleagues some of the legal and constitutional risks we will be running by pushing this extension resolution through the Congress. I sincerely hope that Senators will listen to these points, and join me in an effort to proceed fairly to all parties concerned.

To begin with, Mr. President, I ask that Congressman WIGGINS' minority views be printed in the RECORD.

The material follows:

MINORITY VIEWS OF MR. WIGGINS

It cannot be done. If it could be done, it would not be wise to do it. If it were wise to do it, House Joint Resolution 638 is not the proper way to do it. If House Joint Resolution 638 were the proper way to do it, it is nevertheless patently and intentionally discriminatory.

The Committee agonized over House Joint Resolution 638 for 1 entire day. Many questions were raised. Few were answered. Although House Joint Resolution 638 is hereby reported to the House, the majority of 19 Members who voted for it cannot know what it is. Needless to say, neither can the 15 Members who voted against it know what it is. Most of the proponents appear to believe that they have concocted a new form of legislation unprecedented in the history of the Republic and this House—a joint resolution that neither proposes a constitutional amendment by a two-thirds vote of both Houses nor needs a Presidential signature to take binding effect. However, as the Committee debates makes clear, not all the proponents believe that such a joint resolution can be passed. I encourage my colleagues to read the appendix following these views recounting the committee's unsuccessful struggle to find out what it is doing.

We don't know what we did. We won't say what we did. Why? Because we cannot do what we did.

FIRST

Congress does not have the power to amend conditions previously imposed on a proposed constitutional amendment.

As our Government was conceived, Congress has only those powers conferred on it by the Constitution. Article VI of that Constitution makes clear that there are only three ways by which Congress can create a legal obligation—treaties, laws, and constitutional amendments. True to our system of checks and balances, in none of these ways may Congress act alone. In all three of these ways, Congress must receive the concurrence of another institution of government. In making treaties, the Senate serves as a check on executive authority. In making laws, the executive serves as a check on the Congress. And in proposing constitutional amendments, the States serve as the check.

Heretofore, that was our constitutional system. But now the political exigencies and emotions of the day urge rejection of these checks and balances. Proponents do not like the States as a check, for 14 States—one more than constitutionally necessary—have voted rejection of the pending constitutional amendment. Thus they suggest an unprecedented power to create legal obligation in a manner nowhere found in the Constitution. They suggest that Congress by majority vote and without executive approval can change the conditions on which a prior Congress submitted a proposed constitutional amendment to the States. What an anomalous result it would be that our system requires a "law" to appropriate a penny but allows Congress—unchecked—to alter the amendment process during the pendency of a proposed constitutional amendment.

In view of the fact that Congress does not have the power to create new methods of legal obligation and in view of the fact that House Joint Resolution 638 is not an exercise of any recognized method, some proponents tried in vain to convince the Chairman of the Subcommittee managing the bill to adopt a traditional legislative rationale for House Joint Resolution 638 (see appendix). However, the chairman knew full well that such a rationale was unavailable here. The framers never intended that the President play a role in the amendment process. And in *Hollingsworth* v. *Virginia* (3 Dall. 378 (1798)), the Supreme Court confirmed that fact. To adopt a legislative rationale would require submission to the President; the power to veto would involve the executive in a most fundamental way, with a process intended to operate completely apart from executive intervention.

The Constitution, of course, was proposed by the States assembled "in convention" and ratified by the States through separate State conventions. In drafting article V, the framers built upon the above article VII model. Originally, it was agreed that the States in convention would propose amendments to the Constitution and that the States would ratify them either through their legislatures or by convention. However, the accurate skeptical insights of the framers led them to believe that if the States alone could propose amendments there might never be proposals to strengthen the national government. Thus, *after* the legislative process had been written into the Constitution, it was thought that Congress should have an equal role in proposing amendments. The check on Congress was, of course, the ratification process and not the executive veto. That is the lesson of *Hollingsworth*.

It would have been unusual for the framers to have envisioned article V (adoption of amendments) and article VII (adoption of the Constitution) as anything but parallel provisions, each treating with the fundamental law of the land. If one accepts that, it should be clear that the legislative process is quite separate and unrelated. It would not have been possible for Congress to alter the ground rules for ratification of the Constitution inasmuch as it was not yet in existence.

Suppose that the framers had attached a 7-year limitation in proposing the Constitution. Would an alteration of that condition have required a majority or two-thirds vote of the Congress? Would such a change have required Presidential signature? The reason why those questions do not make sense is that Congress had no such power at all. The reason why our committee could not make sense out of similar questions raised by House Joint Resolution 638 is the very same: Congress has no such power to alter the conditions attached to the pending proposal.

Proponents suggest that the power to extend the time for ratification is found in two Supreme Court cases, *Dillon* v. *Gloss* (256 U.S. 368 (1921)), and *Coleman* v. *Miller* (307 U.S. 433 (1939)). In *Dillon*, the Court held that Congress could condition a proposed constitutional amendment by fixing a reasonable time for ratification. Proponents suggest that it logically follows from *Dillon* that Congress can change the condition. Not at all. For in the facts before the Court in *Dillon*, Congress had placed the 7-year condition in the text of the proposed amendment. It is agreed by all that Congress does not have the power to alter any part of the text. Thus *Dillon* hardly supports the proposition that Congress can amend a condition previously imposed.

In *Coleman*, the Court divided on a 4-to-3-to-2 basis. Consequently, Dean Griswold suggests that it is a "case" and not a "decision." Nonetheless, *Coleman* is cited by proponents for the proposition that where Congress fails to place any time condition on an amendment, Congress may, when the constitutional number of States have apparently ratified, take a vote on whether a reasonable time has elapsed. Of course, Congress could do that. We can do it now. We can express our opinion on anything. But the important point in *Coleman* is the suggestion that the Court would not review the validity of such a Congressional decision. That aspect of *Coleman* is today very much in doubt since *Coleman* appears to be a departure from previous decisions of the Court and has not been followed by the Court in recent decisions, notably, *Baker* v. *Carr* (369 U.S. 186 (1962)); *Powell* v. *McCormick* (395 U.S. 486 (1969)); and *United States* v. *Nixon* (418 U.S. 683 (1974)).

What the proponents are suggesting in relying on Coleman is that the absence of judicial review creates the power for Congress to change the time condition. But in a system of law, that cannot be. As one proponent said in committee debate on another issue, the lack of judicial review means that we must exercise "greater care not greater license." We must obey the Constitution whether or not our actions will later be judged in court.

Article VI governs our actions whether or not there will be judicial review. Read in the light of article VI, neither Dillon nor Coleman support House Joint Resolution 638. Neither suggest a fourth way to create legal obligation. Dillon holds that Congress may condition a proposed constitutional amendment, and article VI does not suggest otherwise. Coleman suggests that Congress may render its judgment that the time condition by Dillon in every proposed amendment has, or has not, been fulfilled. But that is a vastly different exercise from that suggested by House Joint Resolution 638. House Joint Resolution 638 attempts to state a law—a new law—governing decision. If we assume for the sake of argument that Coleman is good law, the Court has merely said that Congress can render its interpretation of the Constitution whether a proposed amendment has been ratified in compliance with article V. And nothing in article VI prohibits Congress from stating its view.

In sum, nothing in Dillon or Coleman gives to Congress a fourth way to create legal obligation. Nothing in Dillon or Coleman suggests that Congress can change the 7-year condition previously imposed.

In order to see this more clearly, suppose that Congress had passed a statute proposing equal rights regardless of sex but conditioned the effectiveness of the statute with a proviso that such statute shall not take effect unless, within 7 years, 38 States pass resolutions of concurrence. If in 6½ years, 35 States have concurred, Congress could adopt a concurrent resolution, like that suggested by Coleman, expressing its opinion whether the conditions of the proviso have been met. But whether or not there is judicial review, can Congress "interpret" the facts and declare in a concurrent resolution that 38 States have in fact concurred or that only 4 years have passed and that there still remains 3 years? If Congress wished to change the effective date, it would—in a system of law—have to do more than merely render a judgment by concurrent resolution. It would have to write a new statute. It would have to begin again.

That is likewise true here. Unless Congress wishes to act lawlessly in the hope that no court will review, its only course—the only way permitted by article VI—is to begin anew by resubmitting a new constitutional amendment on whatever favorable conditions it believes appropriate.

If Dillon is correct that Congress may fix a 7-year condition, then Coleman is no authority that Congress may ignore that specific condition and even less authority that Congress may change that specific condition. The fact that Dillon allows Congress to fix a time limitation on ratification in packaging a proposal for submission to the States does not suggest that Congress can alter the package once it is submitted. The asserted power to amend follows neither from Dillon, as noted before, nor from congressional practice and precedents. Congress can, in practice, only amend measures of which it has possession. Once those measures leave our halls, change can occur only through a newly processed measure of equal weight. In view of Hollingsworth the only path open under article VI is to resubmit the text to the States on more favorable terms.

SECOND

If Congress had the power to extend, it would not be wise to exercise it. I offer two arguments to support this proposition. First, it is agreed by all that when Congress changed its practice of placing time limitations in the text to one of placing them in the proposing clause, the sole purpose was to unclutter the Constitution and not to create the possibility of extending the time. Proponents hasten to point out innumerable instances where the intention of Congress was one thing and the legal effect another.

That is true. The intention of Congress is often thwarted by the courts, by Presidents, and by bureaucrats. We are always busy with new measures—from legislation to overturn court decisions that have clearly ignored congressional intent to legislation to impose the legislative veto on regulations of one agency after another.

But let's wait a minute, here. The fact that congressional intent is so often ignored is not a cause for rejoicing, inside or outside our halls. Indeed, our many legislative responses indicate that a large majority of Members frown when congressional intent is ignored. The fact that we are thwarted so often should hardly be offered to us as a reason why we should ignore our own intention in placing the time limitation in the proposing clause. And that intention we all

know. It was to bind on the same basis as a condition in the text itself but not to clutter up the Constitution.

If Congress will not defend the intent of Congress, who will?

The second argument pertains to the facts of this particular ratification process. If Congress had the power to extend the time, I would think that Congress would want to exercise its power in an evenhanded, neutral manner to further the ends of the ratification process and not merely grant or refuse extensions on the basis of current opinion of the merits of the pending amendment.

On that basis, there is no "article V" need to extend the time. In the first year or so after submission of the amendment, 30 States ratified. Since that time five States have ratified while four have rescinded. More important, of the 15 States that have not ratified, 14 States have voted no. Under article V, it takes only 13 no votes to defeat an amendment on a rollcall of the 50 States. In only one State has the amendment been "bottled up" in committee. That State is Mississippi.

Therefore, it seems clear to me that the pending amendment has lost momentum. It has not gained in ratifications in recent months. And, in fact, it has been rejected in the requisite States necessary to defeat the amendment.

Moreover, the last 6 years have been a time of rapid change in women's rights. New rights have been created by Federal and State laws and new rights have been declared by the courts. Although proponents believe there is still more progress to be made, that is the question for the States under the ratification process. In view of the advances made legislatively and judicially in the last 6 years, early-ratifying States may have come to regret their decision yet feel bound by law. They may have then thought they had to go all the way and ratify in order to achieve the recent advances. That may explain why States appear to be increasingly reluctant to ratify.

This rapid change leads me to believe that a ratification in 1972 means something a lot of different—something a lot less radical—than a ratification in 1979 or 1982. Thus it would appear unfair to hold the ratifying States to their decision for any extended time. In view of the many recent changes in the area of women's rights, a 7-year period has proved to be a relatively long period of time. The extension of such a period causes me to doubt that a possible ratification in 1982 could be "contemporaneous" with those in 1972.

Nor are we faced here with a situation where those who have to decide want more time to decide. In fact, some States have urged defeat of House Joint Resolution 638 because they do not want any more time.

The amendment has been debated. The votes are in. It has been defeated. Any State that wanted to reconsider had plenty of time and still has time. In view of the rapid changes of the past 6 years, it is highly inappropriate on any objective standard to extend the time for 3 additional years.

Every amendment to the Constitution has been ratified within 4 years. In these modern times, a 7-year period would seem more than sufficient.

Finally, the Members should well understand the political strategy behind the drive for extension. The purpose is to lock in the 35 States that have ratified (while conveniently ignoring the four rescissions) so that proponents may focus their attention (and economic boycott) on the 15 nonratifying States. The reason why this approach is attractive to proponents and worth the risk of this unsettled course is the whispered fear that the amendment, if reintroduced today, might not receive the two-thirds vote of both Houses or receive the 35 ratifications it now claims.

In other words, the purpose of the extension is to "fool" article V by creating the false impression that there is a unity of the required number of States in favor of the proposed amendment. Consequently, even if we had the power to extend the time, it would be most unwise to do so.

THIRD

If Congress had the power and if it were wise to exercise the power, House Joint Resolution 638 is an improper exercise of that power. On its face, House Joint Resolution 638 appears to require only a simple majority for passage. It should require two-thirds of each House.

A reading of House Joint Resolution 638 indicates that it purports to amend House Joint Resolution 208 of the 92nd Congress. House Joint Resolution 208 passed both Houses by the required two-thirds majority and was submitted to the States.

It is well-established that amendments to a resolution proposing a constitutional amendment, when offered in the regular course of affairs before the House votes on adoption, require only a majority vote. Thereafter, the House votes on the resolution as amended. At that time, a two-thirds vote is required for passage. Thus every amendment to such a resolution must pass two hurdles—a majority vote and then a two-thirds vote.

It would appear that "parliamentary regularity," as Professor Weschler testified before the Subcommittee, would require that any amendment to the resolution occurring after the two-thirds vote in the House must itself receive a two-thirds vote for adoption. The reason is that any amendments made "after the fact" might unravel the two-thirds coalition required for passage.

Thus if the House passes a resolution proposing a constitutional amendment with no time limitation and if the Senate passes the same resolution but with one amendment imposing a seven-year limitation, House concurrence in the amendment requires a two-thirds majority. That, too, is very well established precedent. House Rules Manual, Section 192.

Now, I doubt that the House can amend the resolution at all once it has left the halls of Congress. But if it has the power, the requirement for a two-thirds vote would not appear to be diminished simply by the passage of 6 years.

If House Joint Resolution 638 would have required a two-thirds vote in the 92nd Congress once the House had passed House Joint Resolution 208, it would appear that as a matter of law the same two-thirds vote is required in the 95th Congress. The policy behind the rule is that one cannot guess why Members voted as they did. The Supreme Court raised this policy to a rule of law in *Powell v. McCormick* (395 U.S. 486 (1969)), in holding that it was impermissible to speculate why Members voted for a proposition. That policy is particularly appropriate here. For in the 92nd Congress, the chief sponsor of the proposed constitutional amendment testified at page 41 of the hearings on House Joint Resolution 208:

> In an effort to gain united support for the amendment, however, three minor technical changes have been incorporated into House Joint Resolution 208. The time allowed to the states to ratify the amendment has been limited to an ample 7 years * * *.

In view of that statement it seems procedurally improper to speculate that the constitutionally required two-thirds majority would have been achieved regardless of the time limtation. The 7-year limitation was part of the package all wrapped into one sentence and passed by a two-thirds majority. If the coalition is to be renegotiated, it requires the same two-thirds majority as a matter of law and as a matter of policy.

Nevertheless, proponents argue that a simple majority would suffice. They allude to all types of simple-majority situations and find them analogous. But they never refer to what they are, in fact, doing, namely, amending House Joint Resolution 208.

Proponents read Coleman to authorize Congress to declare by concurrent resolution, in cases where no time limitation has been set, whether so long a time has passed that a contemporaneous consensus no longer exists. If Congress can make that decision by majority vote, proponents reason that Congress can in this instance likewise decide what is a reasonable time by majority vote.

But whatever discretion Congress may have in such a situation to declare whether too long a time has elapsed is completely eliminated where Congress has fixed a specific time as a condition of its proposal. If it were otherwise, time limitations would be meaningless and, in fact, proponents would not be suggesting the need for passage of House Joint Resolution 638. The claimed discretion being eliminated by the time limitation, the question then becomes how may Congress legally change the limitation. And that takes us back to the very beginning of these views; it cannot be done. If we wish to assume it can be done, we are still faced with the fact that the limitation is placed in a joint resolution requiring two-thirds vote for passage, and any subsequent amendments must themselves receive a similar approval, as previously explained.

Proponents argue that Congress did not have to adopt the time limitation in a resolution requiring two-thirds vote. They suggest that Congress could have proposed the text in one resolution by a two-thirds vote and could have in another resolution chosen the mode of ratification and fixed a time limitation by majority vote. Thus, they say, any vote on these issues above a simple majority was superfluous, and Congress may presently extend a time by majority vote.

Again this somewhat remote procedure is not all the situation before us. Powell prevents us from mentally refashioning House Joint Resolution 208 as two resolutions and then speculating whether they would have passed by their required votes. Thus even if this two-resolution approach were originally available, it would now be necessary that both resolutions be resubmitted to the House. We cannot speculate that the resolution containing the text would have passed without any time condition, particularly when the two-thirds coalition necessary for passage was admittedly formulated by the inclusion of a specific 7-year condition.

Whatever this novel theory, in whose support there is neither law nor precedent, tells us about some alternate method whereby Congress could assertedly pass a separate resolution choosing the mode of ratification and conditioning the two-thirds resolution's efficacy by imposing a time limitation, the fact that cannot be overlooked is that no such resolution was passed. It does not exist. Hence, it cannot be amended.

The validity of the theory itself is doubtful. I note that the Justice Department, on whose opinion proponents rely, repeatedly states in its testimony that the power to impose conditions on a proposal is a function of proposing the text, as opposed to choosing the mode of ratification. The reason may be common sense or it may be strategy. Certainly, the Department is well aware that article V expressly limits Congress to but one exercise of its power to establish the mode of ratification. That power having already once been exercised, one can see why proponents might wish to find some other power to impose time conditions.

Taken to its ultimate logic, the theory runs into a dead end. If Congress has the power to fix time conditions in a separate mode of ratification resolution, what happens when a national convention called pursuant to direction from two-thirds of the States itself proposes a new constitutional amendment, the text of which includes a provision to limit the time for ratification? Since the asserted theory would appear to make article V unworkable, its validity must be doubted.

In sum, the argument is both doubtful and inapplicable. What Congress did was to pass House Joint Resolution 208. That limits the time for ratification. If House Joint Resolution 208 can now be amended, it must be by a two-thirds vote.

FOURTH

House Joint Resolution 638 is patently and intentionally unfair. We all know that it is. Its purpose is to hold 35 State ratifications frozen while heat is applied to the other 15 States.

House Joint Resolution 638 is, in effect, a motion to reconsider the vote rejecting the pending constitutional amendment. If agreed to, however, it is intended that the rollcall on reconsideration be selective. Only the States that have voted no will be allowed to change their votes. States that have voted aye will not be allowed to change their votes. And that is grossly unfair. Even worse, that is exactly the purpose that the majority has in mind.

In committee, Mr. Railsback offered an amendment to permit the names of all the States to be called on reconsideration. The committee rejected his proposal by a vote of 21 to 13. The majority simply would not tolerate equal treatment. You see, if States were free to ratify or reject during the extension, the "right side" might not win. And the object here is not to be procedurally fair but to use whatever means are necessary so that the "right" might triumph over the forces that proponents deem "unfair".

For months we have been hearing that the debate on the pending amendment is far from over and that it is unfair to cut it off at 7 years. But "debate," I suggest, means discussion by both sides. It is useful as an aid to voting for or against. But House Joint Resolution 638 is not intended to permit a free choice to be made in any of 35 States. If proponents believe what they say, they should permit true debate to continue in all 50 States.

I recognize that the ratification process is not a game. But neither is the legislative process. And when reconsideration is agreed to in the legislative process, the entire roll is called and not merely those who voted the "wrong" way.

For the reasons stated above, House Joint Resolution 638 should be rejected. It is unconstitutional, unwise, unparliamentary, and unfair.

CHARLES E. WIGGINS.●

SAVING THE DUNES

● Mr. BAYH. Mr. President, earlier this year, my colleague from Indiana, Senator LUGAR, and I introduced S. 2560, a bill to expand the Indiana Dunes National Lakeshore. The legislation would add three additional parcels of land to the National Lakeshore and is the final phase of a battle which has been waged for decades to preserve the beautiful and unique dunes along the southern tip of Lake Michigan.

Recently, editorials regarding the Dunes appeared in the Detroit Free Press and the Wichita Eagle. I think these editorials demonstrate the importance of the Dunes, not only to Hoosiers, but also to people throughout the Midwest. They also underline the urgency of congressional action on the expansion bill which is now pending before the Committee on Energy and Natural Resources. I hope my colleagues will take note of these editorials and support our efforts to protect our State's valuable and fragile resources.

Mr. President, I ask that the articles be printed in the RECORD.

The articles follows:

[From the Detroit Free Press, Aug. 13, 1978]

DUNES: IN INDIANA, TWO SMALL LAND PARCELS THREATEN A NATIONAL LAKESHORE

The Indiana dunes, some 12,000 acres of forested bluffs and wind-scoured beaches at the southern end of Lake Michigan, are a source of pleasure and recreation for the entire Midwest. Their preservation is as important to Michigan as to Indiana, especially as the drive to save our own shifting dunes and white beaches picks up momentum.

Within the boundaries of the Indiana National Lakeshore there currently lie 800 unprotected acres, where undesirable uses threaten to affect lands well within the park. The largest parcels are a 1½-mile strip along U.S.-12 and 650 acres within the community of Beverly Shores, where current zoning permits multi-family, high-rise, commercial and industrial development that would destroy wooded ravines and wetlands and affect adjacent national lakeshore areas. Another 90-acre greenbelt separating the park from an Indiana utility company could, if unprotected, become a dumping ground for fly ash, affecting the quality of water and vegetation in the park.

A National Park Service study reports that uncontrolled private uses in the 800 acres could impair visitors' access to the dunes and their enjoyment of the lakeshore. Accordingly, a bill now in the U.S. House and Senate national park subcommittees would absorb those areas into the lakeshore.

The parcels involved are relatively small, but they are important to the integrity of the lakeshore; dunes that took 15,000 years to form could be seriously eroded or damaged in a few years by wrongful use. The Indiana dunes are a regional resource, all the more precious for lying in the middle of a highly urbanized, industrialized area; the fight to preserve them deserves the support of Michigan residents and representatives, too.

[From the Wichita Eagle, Aug. 27, 1978]

PROTECTING A MIDWESTERN GEM

"It wouldn't be spring in Washington without a hearing on an Indiana Dunes bill" is the way some Capitol observers have put the 12-year-long struggle to preserve the best of what's left of the storm-pounded beaches and forested sand hills that ring the southern toe of Lake Michigan.

Rep. Keith Sebelius, R-Kan., and other midwestern members of Congress who realize the value of the Indiana Dunes to the entire region have fought hard to complete the job of protecting the dunes that Congress started in 1966.

That was the year that the Indiana Dunes National Lakeshore was established—a 8,818-acre paradise existing cheek-by-jowl with some of the heaviest industrial development in the entire country.

But it soon became evident that there were problems in paradise. Encroaching slag heaps from the area's steel mills, the dumping of poisonous wastes by utilities, and the leveling of pristine dunes for homesites made it imperative that Congress add 3,062 acres in 1976.

It also designated three key tracts for National Park Service study. Constituting less than 800 acres all told, the areas long had been considered vital to the completion and adequate protection of the Indiana Dunes.

The Park Service essentially agreed, and Congressman Sebelius and other friends of the Dunes went to work to secure passage this year of H.R. 11110 in the House and S. 2560 in the Senate.

Mr. Sebelius is confident the House Interior Committee, on which he serves, could report the bill out this session. But there has been no similar movement on the Senate side, and time quickly is running out.

We hope Kansas Sens. James B. Pearson and Bob Dole will help convince their Senate colleagues on the Energy and Natural Resources Committee to take action on the legislation so a bill may be enacted by the full Congress before adjournment.

Otherwise, there really will be another spring in Washington with more hearings on the Indiana Dunes. People in the Midwest—10 million of whom live within easy driving distance of the national lakeshore—deserve to have this gem of the National Park System completed, and preserved for all time.

Further delay cheats us all of a natural heritage that has hung on, barely, all these years, and needs our help now to survive.●

PRODUCT LIABILITY INSURANCE

● Mr. HEINZ. Mr. President, recently I had the pleasure of meeting with a group of Pennsylvania businessmen and women to discuss an urgent problem. Their problem concerns product liability insurance.

Over the past few years, premium costs for this insurance have been skyrocketing, increasing as much as 400 to 500 percent in 1 year alone. These costs have placed an especially harsh burden on our small businesses who can least afford it. The result is that many firms have decided to forego product liability insurance entirely. This situation is serious, for the health and viability of our innovative small businesses, and for consumers.

Under present law, a manufacturer is ultimately liable for damages caused by defects in the goods he produces. Therefore, there is a risk associated with each product he manufacturers: that it is defective, that it will injure a consumer, and that the injured consumer will claim an indemnity from the manufacturer. The cost of that risk must therefore be borne by someone—who is ultimately the consumer.

Some manufacturers purchase product liability insurance to pass the risk off to a third party. The cost of that insurance is necessarily passed in turn along to all the consumers of the company's products. As the cost of that insurance increases, the prices paid by consumers also increase.

Some manufacturers, unable to obtain or afford such insurance, insure themselves. But rarely do these self-insurers have sufficient resources, after taxes, to set up reserves to pay for product liability claims. The result is that one suit can bankrupt a firm and the consumer is again left holding the bag. The injured party does not receive appropriate compensation which may be justly due him.

This is not idle speculation, Mr. President. Cases of such situations are well documented. The critical problem of product liability insurance is well illustrated in the following cases:

Hankison Corp., Canonsburg, Pa., manufacturers of refrigerated air dryers for 30 years, has felt the crunch of soaring insurance premiums. From 1974 to 1978, their insurance rates have increased 670 percent. Hankinson's record of claims, is one, in 1963, and it was settled for $3,000.

James Austin Co., an old firm established in 1889, manufactures bleach products and stated that in 1975 the premium on $500,000 worth of product liability insurance was in the neighborhood of $15.000. This doubled to $30,000 in 1976 and this figure again doubled in 1977 to $60,000. During those years, they also had a million dollar umbrella policy to support the liability coverage and this cost approximately $2,400 per year. This, effective April 1, 1977, was increased to $19,000 so that they have seen liability costs increase from $32,400 to $79,000 in the past year, and over the past 2 years, $94,000. The most their carrier ever paid out in total payments was less than $8,000 in any given year.

CBM Industries & Laurel Stone, Inc., in Oakmont, Pa., report their product liability premium in 1976 was $33,400 and in 1977, $79,400, an increase of $46,000 in a 12-month period. Their maximum annual settlement over the last 20 years was $6,800.

Something has to be done to alleviate this problem; and it must be done now. I believe S. 3049, the Product Liability Self-insurance Act of 1978 is a step in the right direction. Today, I have joined with my colleagues the distinguished Senators from Iowa (Mr. CULVER) and Wisconsin (Mr. NELSON) in cosponsoring this bill.

Under the tax code, a company is allowed to deduct the cost of product liability insurance as a business expense. But if a small manufacturer desires to self-insure, he must do so with after-tax dollars. I do not believe that businessman should be penalized just because he cannot obtain or afford the cost of insurance.

This bill will provide a mechanism whereby the small manufacturer can insure himself against the risk of a product liability claim at reasonable rates. It also provides the small manufacturer some relief from exposure to unjustified huge price increases in insurance. If he cannot afford the premium cost, he will have the option, under this bill, of self-insuring at no economic loss which presently would be imposed by our tax code.

But this is only part of the answer, Mr. President. It is only a safety valve. It is not the comprehensive solution this problem requires. When one looks behind the problems of product liability insurance for the root cause, one has to see the tremendous uncertainty inherent in our tort laws.

An insurance company bases its premium rates on the amount of risk it is accepting, the probability of paying claims, and the expected dollar outlay for each claim paid. If these factors are known with reasonable certainty, the insurance company can set a premium which provides sufficient funds to pay all expected claims and insure the company a fair profit. As the uncertainty surrounding these factors increases, however, the natural tendency of an insurance company is to increase its premiums as a hedge against paying the highest claims that may be expected.

Since the early 1960's, the body of case law that constitutes our tort laws has been significantly liberalized. From a manufacturers product liability based upon its negligence to provide a safe product, the law has moved to strict liability. That latter concept implies that a manufacturer is liable for any damages caused by any defect in its products regardless of fault. Some companies are predicting, even, that liability will eventually become absolute—that is, a company is liable for any injury regardless of any defect.

Absolute liability has the effect of unlimited liability. In the face of potential limitless claims, then, insurance companies protect themselves through exhorbitant premiums.

It is clear that some reform of the tort laws is needed if we want to solve the product liability insurance crisis. Reasonable limits to a manufacturers liability must be established if we want to insure that insurance companies are able to set reasonable premiums and that consumers injured by unsafe products have a reasonable prospect of being compensated.

There are a number of proposals for reforming the tort laws. Some have been introduced here and in the House of Representatives. Nineteen State legislatures have also taken on the incredibly complex task of changing the tort laws and have succeeded. I do not plan at this time to debate the merits of any of these proposals, however.

Tort law is not one law but 50. Each State has evolved its own brand of rights and remedies based on its own unique circumstances. If tort reform is to be accomplished, it should be within each State's legal context.

Too often in the last 50 years the Federal Government has taken upon itself the responsibility of solving all problems. But today I think we are finding out just what the limits of the Federal Government are. It cannot be all things to all people. Tort law has always been the prerogative of the States. If there is a problem with tort law, we shall look to the States to solve it, not the Federal Government.

I am not unsympathetic to the problem of product liability insurance. I believe it is real and that it is becoming ever more critical. I believe there are solutions and they should be explored. But I look to the States to do the job and have faith that the remaining 31 States will follow the lead of the 19 that have already enacted tort reform.●

THE NEW JERSEY PINE BARRENS

● Mr. WILLIAMS. Mr. President, a recent front-page article in the Wall Street Journal describes a vast area in New Jersey which is remarkable for its pristine quality and its proximity to the most urbanized corridor in the Nation. The New Jersey Pine Barrens contain thousands of acres of unbroken pine and oak forests, free-flowing streams, and rare wildlife and plant species. The unique ecology of the area is supported by an enoromus aquifer which lies just beneath the porous, sandy soil. Human activities, including cranberry and blueberry growing, forestry, and recreation, and a number of small communities, have not disturbed significantly the natural processes of life in the pines.

But this will not always be so. The sprawling residential and commercial development of the surrounding region has started to make inroads into the Pine Barrens. Unless steps are taken soon to plan and protect the area, its pure water, its thriving agriculture, its recreational value, and its serene way of life will be gone forever.

The State of New Jersey and some of the local governments are already involved in efforts to save the Pine Barrens. A year ago, the Governor appointed a Pinelands Review Committee to review State actions in the area and to recommend means of protecting it. The State Department of Environmental Protection has developed new water quality standards for the central Pine Barrens, which will help to control undesirable development there. At the local level, Burlington County has launched a program to buy conservation easements on farms and other open space lands.

Mr. President, these State and local actions reflect the deep interest which the people of New Jersey have in preserving the pinelands. The Federal Government should have a role in supporting and assisting these efforts. A number of Federal studies have recognized that the Pine Barrens are of national significance. In fact, the unique ecology of the area would qualify it for inclusion in the national park system. However, acquisition and management as a national park would be inappropriate for the pinelands. Not only would this be far too expensive, but it would also needlessly eliminate the towns, the farms, and the other diverse private activities that are an integral part of the life there.

We need to find a means for protecting this area which combines the resources and capabilities of the local,

State, and Federal governments and the private sector, and which utilizes the full range of land and water conservation techniques.

To this end, Senator CASE and I plan to propose a pinelands provision for inclusion in the Senate omnibus parks bill. Our proposal would designate approximately 1 million acres in New Jersey as the "Pinelands National Reserve." It would authorize up to $3 million for the Federal share of developing a plan for the pinelands, and $23 million for the acquisition of critical land that is threatened by adverse development. The Federal share of planning and acquisition would be 75 percent, with the State providing the other 25 percent.

The comprehensive plan for conserving the area would be drawn up by a joint Federal-State-local body, and would detail the application of various means of managing land and compensating landowners and local governments, such as fee acquisition, conservation easements, zoning, air and water quality standards, and payments in lieu of taxes. The plan would be submitted to the Secretary of Interior within 18 months, and after his approval, would be reviewed by Congress for a period of 90 days prior to implementation.

During the planning period, certain federally assisted new development in critical areas of the Pine Barrens would be subject to review by the Secretary and, once the plan was approved, all Federal actions would have to be consistent with it.

Mr. President, I am sure that many of my colleagues will be interested in this important but little-known national resource. I ask that the Wall Street Journal article, "Rustic Pine Barrens in Urban New Jersey Attracts Developers" be printed in the RECORD.

The article follows:

ENDANGERED EDEN—RUSTIC PINE BARRENS IN URBAN NEW JERSEY ATTRACTS DEVELOPERS

(By Daniel Machalaba)

WOODMANSIE, N.J.—William Wasowich doesn't like suburban living. He keeps his distance from it by living alone, the sole resident of this ghost town deep in a vast forest of pine trees. "When you're in the Pine Barrens, you could just as well be in the Amazon jungle," he says.

But the Pine Barrens happens to be in New Jersey, the nation's most urbanized and densely populated state. Besides being only 30 miles east of Philadelphia and 60 miles south of New York City, the area is directly in the path of future real estate development stemming from the oil exploration off the Jersey coast and the gambling craze in Atlantic City, less than an hour's drive away.

If developers have their way, large tracts of this nearly unbroken wilderness, about the size of Rhode Island, may be carved up for houses, retirement villages, trailer camps and gravel pits. "If someone doesn't stop them soon, the game will be up for these pines," Mr. Wasowich says.

CRANBERRIES AND BLUEBERRIES

Such a happening would be a disaster, environmentalists say. The sparsely settled forest extends for almost 1,500 square miles, with pine trees, cedar swamps, meandering streams, cranberry bogs, blueberry fields and a variety of rare plants and animals.

Underlying it all, beneath the sandy, acidic soil is a vast untapped reservoir of pure water, estimated to hold over 17 trillion gallons—an amount that would take New York City 34 years to consume. Yet the porous sands that make the Pine Barrens a water-holding area also make it highly vulnerable to pollution. "We're worried that a development, large or small, could screw things up for all time," says David Moore of the New Jersey Conservation Foundation, a private group.

Rescue efforts, currently afoot in Congress, the New Jersey legislature and the courts, are bringing into sharp focus the special problems of protecting endangered landscapes that, like the Pine Barrens, are too expensive and complex to be bought for a national park.

Several pending bills would provide federal funding for the purchase of Pine Barrens acreage. The wide-ranging omnibus parks bill, which has cleared the House and awaits action in the Senate, includes $25 million for Pine Barrens land purchases. But, says Margaret Maguire, a staff official of the Interior Department, "we can't afford to spend billions of dollars to buy all the Pine Barrens," which is classified by Interior as the "largest undeveloped stretch of land on the Eastern Seaboard."

Instead, the federal government is considering new land-preservation methods. The idea would be to use federal funds to buy only a small amount of an endangered landscape, while surrounding areas would remain privately owned though controlled by conservation easements, subsidies to Pine Barrens farmers and state-managed zoning laws. The Interior Department already has proposed a somewhat similar approach for the embattled Santa Monica Mountains near Los Angeles. If the plan takes hold, it someday may be applied to other endangered areas, including marshland near New Orleans and the Potomac River Valley near Washington, D.C.

Meanwhile, New Jersey is planning to spend $10 million to buy some Pine Barrens land and to set up a commission to manage the area's private land through tough zoning laws. Water-quality standards recently established by the state for the Pine Barrens have at least temporarily stopped some projects, including a 5,000-person retirement center proposed by Crestwood Village Inc.

MIXED RESPONSE

Conservationist efforts to seal off the Pine Barrens from development are meeting a mixed response from the inhabitants of the area—"pineys" they call themselves—many of whom earn their livelihoods largely by harvesting cranberries and blueberries or by picking pine cones and a highly absorbent moss that they sell to ornament makers and florists.

Not all of them are as resistant to new development as Mr. Wasowich in his remote one-man village. For instance, Albertus Pepper Jr., who owns 60 acres in Chatsworth, a hamlet of 300 persons that has sometimes been called the "capital of the pines," says, "I've babysat this place for 33 years, and if there's any money to be made, I'd like to have a share of it." To protect their rights, he says, the pineys are "going to lay some lawsuits on the state and the environmentalists."

Local political leaders also are concerned about the efforts to limit the area's development. "If the state gets its way, all we'll be able to do with our land is pay taxes on it," says Earle Hill, mayor of 107-square-mile Washington Township in the heart of the Pine Barrens. "What the state is doing is confiscating our land through regulation," he adds.

John Bowker, the mayor of Woodland Township, is bitterly resentful of environmentalists for opposing the Crestwood Village project, which he says would have cut local residents' property taxes in half.

Some locals regard the state schemes to control the Pine Barrens as a plot to seize the water for more populated sections of New Jersey, John Broomes, who owns the general store in Chatsworth, has sold dozens of lapel buttons with the words "No Piney Water for City Slickers."

Adding fuel to the fire is the sharp rise in local land prices. Floyd West, mayor of Bass River Township, figures that real estate values in even the most remote sections of the Pine Barrens have tripled in the last six years to around $750 an acre. Some more accessible land is selling as high as $4,000 and $5,000 an acre. This is still cheap, though, compared to the $20,000 to $30,000 an acre prices on land just west of the Pine Barrens, toward Philadelphia. An added attraction is the flatness of the Pine Barrens land, which makes it easy and cheap to build on. "We have big plans for the Pine Barrens," says Robert H. Williamson, executive vice president of the New Jersey Shore Builders Association.

Local realtor Herbert Lahn is buoyant over a projection he has heard that Atlantic City's casinos and offshore oil drilling will generate demand for 50,000 houses. There's also talk that oil pipelines will need to be built across the region to connect future offshore wells to refineries in Philadelphia.

What makes the Pine Barrens vulnerable to such pressure is that only one fifth of it lies in public hands. Most is owned by berry farmers or by big outside speculators, such as Canada's Olympia & York Developments Ltd. and New York-based Citibank, which holds 7,000 acres on behalf of 13 corporate pension funds.

A STATE OF CHAOS

The Pine Barrens wasn't always so highly regarded. During the Depression thousands of lots were given away as premiums for newspaper subscriptions or to purchasers of encyclopedias. Because of abandonment, fraud and sloppy record-keeping, land titles are in a state of chaos, and there are thousands of acres where "no one knows who owns anything," one local authority says.

Farmers dubbed the region the "Barrens" because its sandy, infertile soil was unfit for most crops. Others were repelled by its predominant foliage of pitch pines, which are scraggly and asymmetrical. Because the pine trees are highly flammable and the sands dry quickly, fire is a constant menace; some 250 forest fires occur every year. The fires may account for a 15,000-acre forest of full mature but shoulder-high dwarf trees in what is known as the Pine Barrens Plains. "We think fire has genetically altered these trees, but we still don't know for sure," says Jack McCormick, an environmental specialist.

The harsh conditions of fire, sandy soil and acidic water have blocked out many common plant species such as chestnuts, apple trees, sugar maples, sycamores, dogwood—and poison ivy. In fact, one botanist has estimated there are only 800 plant species here, barely a third the number to be found only a few miles farther inland.

What's left, though, is a great wealth of unusual plants—the rare curly grass fern, which scientists say is a remnant of primitive vegetation, sundews and pitcher plants, which trap and digest insects for nutrients

they can't get from the soil, to say nothing of more than two dozen varieties of orchids that grow wild.

HIKERS AND MOONSHINERS

From the top of the fire tower on Apple Pie Hill, pitch pine extends to the horizon in every direction, broken only by a distant cranberry bog and in one spot, dark green cedars whose steeple-like tops jut above the shorter pines. In parts of the area there are only a few roads and most of these are mere tracks in the sand; Floyd West, the Bass River mayor, keeps a shovel in his car to use when he gets stuck. Hikers have gotten lost for hours, and in the old days moonshiners used to set up stills here, says Alan Harris, a New Jersey forest ranger.

Over the years, ecologists have been able to fight off many threats to the central Pine Barrens. In the middle 1960s they helped shoot down a huge jetport proposed for the dwarf forest, and in the early 1970s they killed a developer's plans for a city of 80,000 people near the banks of the Wading River in Bass River Township. But they haven't been nearly as successful rallying public support against single-family-house building that is "nibbling away the Pine Barrens gradually," according to Annie Carter, naturalist at Batsto Village in Wharton State Forest.

Ecologists fear that the heavy doses of lime and fertilizer needed to grow grass for housing developments in the sandy soil could disturb the region's naturally acidic, sterile waters on which the present plant systems depend. However, J. Garfield DeMarco, a big berry farmer and chairman of the Burlington County Republican Party, points to the development that has already taken place on the fringes of the area and declares, "The argument that the Pine Barrens is so fragile doesn't hold water."

About 210,000 acres of the Pine Barrens already are in state forests and reservations, but conservationists, in challenging Mr. DeMarco's contention, make the point that most of the area's major streams—the Wading River, Bass River and Rancocas Creek—have their headwaters in threatened private land. For more complete ecological preservation, the state hopes to safeguard 130,000 acres of private land nearby through acquisitions or strict zoning laws.

Around this "wilderness zone" the state is proposing that another 400,000 acres of Pine Barrens land be placed in a "protection zone" that will be "much more sensitive to economic forces," according to Richard Biretsky, executive secretary of the New Jersey Pinelands Review Committee. Such a zone wouldn't allow helter-skelter development and would veto any project that failed to protect local ecology.

TROUBLE AT MEDFORD LAKES

The foes of development point to the experience of Medford Lakes, just west of the Pine Barrens as an example of what could happen. There, the pure water in a series of man-made lakes was transformed by slimy algae when sewage discharges changed the water quality.

As the controversy goes on, there have been changes in the day-to-day existence of the few thousand pineys who still inhabit the woods. (In the 500 square miles at the center of the Pine Barrens, population density is only 30 people per square mile, compared to New Jersey's statewide average of 1,000 per square mile.) "The pineys' days are numbered," says Allen Golin, president of Allyn Manufacturing Co., a Whiting, N.J., decorations maker that operates a gas kiln for heating open pine cones; the cones are then painted for Christmas wreaths.

"There are enough pine cones in the woods to keep us busy for a hundred years. But the pineys are trying to upgrade themselves" by seeking out less arduous, better paying jobs, Mr. Golin says. He has turned to importing pine cones because the number of local pickers has fallen to 40, compared to 150 a dozen years ago.

But if Mr. Golin's prediction comes true, Mr. Wasowich is likely to be one of the last holdouts. He is still perfectly content living by himself in the one-time sawmill town of Woodmansie and says the $4,000 a year he makes from picking cones and raking up moss is enough for his needs. He pays no rent to live in his abandoned six-room shack. And he doesn't mind the back-breaking labor of collecting the dripping wet sphagnum moss, which holds four times its weight in water and is thus in demand with florists who use it to keep plant roots moist.

Lately, however, 38-year-old Mr. Wasowich has started to notice unwelcome signs of change. Many of the sand roads he drives down to reach the swamps have been blocked off by developers. "If things keep going this way, the Pine Barrens is going to be a suburban place, and the people of the pines will be nothing," he says.●

THE COMPASSION AND BRAVERY OF HOMER KEANU

● Mr. INOUYE. Mr. President, much has been said in this Chamber about the problem of crime in our communities. Statistics and charts are amassed to convey to us the urgency of this problem. But sometimes lost in these stark displays is the cost in emotional terms of crime to its victims and perpetrators, and the enormous risks we ask our officers of the law to take in their daily work.

I wish to bring to the attention of the Senate a recent article in the Honolulu Star-Bulletin which describes how, when police weaponry seemed helpless to avoid a tragic incident, a lone unarmed human being succeeded in bringing about a peaceful result to a tense and dangerous situation.

Not once, but twice, did a courageous Honolulu recreation worker named Homer Keanu succeed in disarming an emotionally distraught young man who seemed bent on harming himself and four relatives.

Mr. Keanu talked the young man into surrendering a knife, with which he threatened to slash himself. Several hours later, Mr. Keanu furnished bail money and took the man into his own home for food and shelter.

The next day, unfortunately, the young man took four of his relatives hostage and, armed with a rifle, threatened to shoot both them and surrounding police officers.

The police were helpless. Mr. Keanu was summoned by police and, ignoring rifle shots aimed above his head, walked unarmed into the house and talked to the gunman for 4 hours until he and Police Officer Bruce Ishimoto were able to take the rifle away.

These acts of outstanding compassion and bravery should be given proper recognition. I ask permission to have this article printed in the RECORD.

The article follows:

PREVENTING A BLOODBATH

(By Donald H. Moore)

(Moore is executive director of the Hawaii Council on Crime and Delinquency. On Aug. 17 the Council and the Dillingham Corp. presented a $500 check to Homer Keanu, the subject of this story:)

Almost weekly, somewhere in the United States an individual arms and barricades himself in a house, an office or a university tower and takes on a world which seems allied against him. Police arrive and frequently resolve the problem in the manner for which they alone are specially prepared—with firepower. Sometimes there seems to be no alternative.

Last year on Oahu's North Shore there was such an occurrence. But an alternative came from the community, and a bloodbath was averted. The community came, in this case, in the person of Homer L. Keanu.

Keanu, 32, is a resident of Hauula. For seven years he has worked with the youth of the area as an employee of the City Department of Parks and Recreation. Frequently he is to be found at the Waialua Recreation Center. At other times he is checking his kids' school attendance. Homer is quiet, but he is an imposing figure—a weightlifter whom tough youngsters can admire.

One day early last year, a young Haleiwa man, too burdened by finances and marriage, both beyond control, seized a knife with deadly intent. Powerful and the student of an arcane Filipino martial art specializing in knives, he held police at bay. An officer at the scene who knew that Keanu and the distraught man were acquainted asked Homer to come and help.

That he did. But, after helping police disarm the man, Homer asked officers not to handcuff him and offered instead to walk him to a police car himself. Homer figured the man was upset enough without that. Homer is a man from whom, once he has you, you do not escape. Police accepted this act of compassion.

That, however, was not all. Homer drove from Haleiwa to town and a few hours later laid down his own money to bail out the man, who, a short time earlier, would have cut him to ribbons. Returning to his own home, Homer offered him a meal and a shower before he had to go to work. As he left, he suggested that the man come by the recreation center for a talk.

The man did not. He got a rifle, went to the home of his in-laws and took four people hostage. His face was painted like that of a Cheyenne on the warpath. He would kill those inside. He would kill himself. He would charge the police and die in a hail of gunfire.

Mayhem was in the air, and the police who surrounded this sad place on the North Shore knew it. Recalling his effectiveness of the previous day, the police again summoned Homer Keanu.

When Homer arrived, the blue lights on the police cars were being used for target practice, and the policemen behind their cruisers were cursing the fortune which brought them duty on this shift. With faith in his God and the feeling that he could do no less, Homer Keanu walked past the police cars, up the path to an angry man and a fate that he could not control. Once, twice the gunman fired at him. Homer shuddered but walked on to where he stood.

There, with Honolulu Police Officer Bruce Ishimoto, Homer Keanu began to talk and, more importantly, to listen. The anguished man took the barrel of the rifle in his mouth and caressed the trigger. He threatened. And he poured out his pain for four tense hours. Then, as his guard dropped, Keanu and Ishimoto sprang and seized man and gun.

No one died in Haleiwa that day, although many might have. Charged with reckless endangering, the suspect was taken to the Halawa Correctional Facility and later the State Hospital, Kaneohe. He has been back in the community for some time now. They say

he has resolved the problems which overwhelmed him a year and a half ago or, at least, learned to accept them. Homer says he often sees the man playing tennis. They wave to each other.

Many things helped prevent that tragedy in Haleiwa. Police restraint was admirable.

Most remarkable, however, was the community's response to its own problems as embodied in Homer Keanu, who believes that he cannot leave the anger, frustration and failure of those around him to the impersonal ministrations of bureaucracy. For Homer, the power and responsibility of affiliation, of belonging, is as legitimate as the law.●

PROPOSED ARMS SALE

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulated that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD the notification I have just received. A portion of the notification, which is classified information, has been deleted for publication, but is available to Senators in the office of the Foreign Relations Committee, room S-116 in the Capitol.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 5, 1978.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding under separate cover, Transmittal No. 78-74, concerning the Department of the Navy's proposed Letter of Offer to Australia for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, U.S.A., Director.

TRANSMITTAL NO. 78-74: NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Australia.

(ii) Total Estimated Value: Major Defense Equipment* [deleted]. Other [deleted]. Total [deleted].

(iii) Description of Articles or Services Offered: [Deleted].

(iv) Military Department: Navy.

(v) Sales Commission, Fee, etc., Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: September 5, 1978.

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

S. 2128—TAX CREDITS FOR THE ELDERLY

● Mr. INOUYE. Mr. President, I ask that Senator CHURCH's name be removed as a cosponsor of S. 2128, the bill I introduced last year to provide increased tax credits for the elderly.

I understand that Senator CHURCH intended to cosponsor an amended version of the bill. Since the amendments were not incorporated in a separate bill but were added at my suggestion in the Senate Finance Committee, technical considerations make such cosponsorship impossible.

As chairman of the Senate Special Committee on Aging, Senator CHURCH has great familiarity with the problems my bill attempts to correct. While I regret we do not have the benefit of his formal cosponsorship, I am most pleased to know he does in fact support the bill as adopted in the Finance Committee. For more information about the bill and Senator CHURCH's position on it, I would refer my colleague's to his statement on page 26695 of the August 17, 1978, CONGRESSIONAL RECORD.●

AUTHORIZATION TO FILE REPORT ON S. 50

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Human Resources may have until midnight tonight to file their report on S. 50.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs may have until midnight tonight to file a report on S. 50.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—S. 3447

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No. 1061, S. 3447, the Foreign Export Agricultural Act, is called up and made the pending business, that there be a time agreement as follows: 1 hour to be equally divided between Mr. STONE and Mr. DOLE; 30 minutes on any amendment; 15 minutes on any debatable motion, appeal or point of order, if such is submitted to the Senate; and that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That when the Senate proceeds to the consideration of S. 3447 to increase sales of American agricultural products debate on any amendment shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill; and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 15 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 1 hour to be divided equally between the Senators from Florida (Mr. STONE) and Kansas (Mr. DOLE): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

TIME—LIMITATION AGREEMENT—S. 1423

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as calendar order No. 957, S. 1423, the judicial tenure bill is called up and made the pending business before the Senate, that there be a time agreement on it as follows: 6 hours on the bill to be equally divided between Mr. DECONCINI and Mr. THURMOND; 1 hour on any amendment in the first degree; and 30 minutes on any amendment in the second degree, with 20 minutes on any debatable motion, appeal, or point of order if such is submitted to the Senate; and that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That when the Senate proceeds to the consideration of S. 1423, to establish Council on Judicial Tenure, debate on any amendment in the first degree shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill; debate on any amendment in the second degree shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill; and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: Provided, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: Provided further, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 6 hours equally divided between the Senators from Arizona (Mr. DECONCINI) and South Carolina (Mr. THURMOND) *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senators during the consideration of any amendment, debatable motion, appeal, or point of order.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there are six measures on the Consent Calendar which have been cleared all around. I ask unanimous consent that the Senate now proceed to the consideration of the following Calendar Orders: Calendar Orders Nos. 1050, 1051, 1077, 1078, 1087, and 1088.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUEBLO OF ZIA LAND TRANSFER

The Senate proceeded to consider the bill (S. 2358) to declare that the United States holds in trust for the Pueblo of Zia certain public domain lands, which had been reported from the Select Committee on Indian Affairs with an amendment.

On page 7, beginning with line 5, insert the following:

SEC. 9. (a) Notwithstanding any other provision of this Act, during the three years following enactment of this Act, the Secretary may, after giving the tribe 30 days written notice and after consulting with the tribe, enter on the lands described in the first section of this Act to identify, investigate, examine, and remove any paleontological resources from such lands: *Provided*, That no explorations, surveys or excavations shall be authorized within a 200-yard radius of the following shrines or religious sites:

(1) Eagle Peak, Eagle Rock, or Eagle Point (Tiam);

(2) Cherry Spring (Hu-nah-kah-kah-Warish);

(3) Grandma (Pah-Pah);

(4) Mudhead (Ku-Mah-Yah-Wish);

(5) Punays; and

(6) White Points (Grash-Yeh-Tey-Sham).

Such resources so removed are the property of the United States and shall be administered under laws applicable to federally owned resources. Paleontological resources on such lands that are not removed from the lands pursuant to this section shall be managed in a manner that will permit the greatest possible public benefit, use and study of the resources, consistent with tribal law and practices.

(b) Any lands excavated pursuant to this section shall be reclaimed and restored to their original condition by the Secretary, as nearly as he determines may be practicable.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all right, title, and interest of the United States in the following lands situated within Sandoval County in the State of New Mexico are hereby declared to be held by the United States in trust for the benefit and use of the Pueblo of Zia:

NEW MEXICO PRINCIPAL MERIDIAN

Township 14 North, Range 1 East Section 3:
Lots 2, 3, 4,
Southwest quarter of northeast quarter,
West half of southeast quarter,
Southwest quarter,
Southeast quarter of southeast quarter,
South half of northwest quarter,
Township 15 North, Range 1 East.
Section 10: Lot 4,
Section 11: South half of south half,
Section 13:
Southeast quarter,
West half,
Section 14: All,
Section 15:
Lots, 1, 2, 3, 4,
Southwest quarter,
West half of southeast quarter,
Section 22: All,
Section 23:
West half of northeast quarter,
Northeast quarter of northeast quarter,
Southeast quarter,
West half,
Section 24: North half of north half,
Section 26: North half of northwest quarter,
Section 27: All,
Section 34:
Southwest quarter,
Northwest quarter,
Northeast quarter,
Containing 4,848.13 acres, more or less.

SEC. 2. The Secretary of the Interior shall publish in the Federal Register the boundaries and descriptions of the lands declared to be held in trust by this Act.

SEC. 3. All of the right, title, and interest of the United States in all minerals, including gas and oil, underlying the lands hereby declared to be held in trust for the Pueblo of Zia, are hereby declared to be held by the United States in trust for the benefit and use of the Pueblo of Zia.

SEC. 4. (a) Nothing in this Act shall deprive any person of any valid existing right of use, possession, contract right, interest, or title which that person may have in any of the trust lands within the purview of this Act, or of any existing right of access to public domain lands over and across such trust lands, as determined by the Secretary of the Interior. All existing mineral leases involved lands declared to be held in trust by this Act, including oil and gas leases, which may have been issued or approved pursuant to Federal law, prior to enactment of this Act, shall remain in force and effect in accordance with the provisions thereof. Notwithstanding any other provisions of law, all applications for mineral leases involving such lands, including oil and gas leases, pending on the date of enactment of this Act shall be rejected and the advance rental payments returned to the applicants.

(b) Subject to the provisions of subsection (a) of this section, the property declared to be held in trust by this Act for the benefit and use of the Pueblo of Zia shall hereafter be administered in accordance with the laws and regulations applicable to other property held in trust by the United States for the Indian tribe of such pueblo.

SEC. 5. All gross receipts (including, but not limited to, bonuses, rents, and royalties) hereafter derived by the United States from any contract, permit, or lease which relates to the property declared to be in trust by this Act received subsequent to the enactment of this Act shall be administered in accordance with the laws and regulations applicable to receipts from property held in trust by the United States for Indian tribes.

SEC. 6. All property declared to be held in trust for the benefit and use of the Pueblo of Zia pursuant to this Act, and all the receipts therefrom referred to in section 5 of this Act, shall be exempt from Federal, State, and local taxation so long as such property is held in trust by the United States. Any distribution of such receipts to tribal members shall neither be considered as income or resources of such members for purposes of any such taxation nor as income or resources or otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such member or his household would otherwise be entitled to under the Social Security Act or any other Federal or federally assisted program.

SEC. 7. (a) The Secretary may execute any title documents necessary to effect conveyance authorized by this Act.

(b) Title to all lands acquired under the provisions of this Act shall be taken in the name of the United States in trust for the Pueblo of Zia.

SEC. 8. The transfer and conveyance of title shall be subject to the following roadway right-of-way to be for the use and benefit of adjacent private landowners, the Bureau of Land Management, its permittees, lessees, successors, and assigns:

(1) Access road through Zia Allotment: A road right-of-way 50 feet wide over that portion in southeast quarter section 13, north half section 24, southeast quarter section 23, north half section 26, and north half section 27, all in township 15 north, range 1 east, New Mexico principal meridian.

Beginning at intersection of State Road 44, thence southwesterly 1,600 feet to a point of curve, thence westerly 2,100 feet to a point of curve, thence southerly 1,100 to a point of curve, thence southwesterly 2,400 feet to a point of curve, thence southerly 2,640 feet to a point of curve near the west section line of section 27, road being 3.5 miles long (approx.). Distances to a curve are scaled distances (approx.) from U.S.G.S. quadrangle sheet, Sky Village northeast quadrangle, and San Ysidro quadrangle.

The description was compiled from U.S.G.S. quadrangle maps dated November 1960, and this is only a paper survey.

(2) Gypsum Mine access road: A road right-of-way 50 feet wide, over that portion in southeast quadrant of section 13, northeast quadrant section 24, westerly quadrant section 13, and northeast quadrant section 14, all in township 15 north, range 1 east, New Mexico principal meridian.

Beginning at the intersection of Gypsum mine access road and access road through lands known as Zia Allotment being 500 feet southwesterly from State Road 44, thence northwesterly 5,400 feet near the east line of section 14. Distances to the termination of road are scaled distances (approx.) from U.S.G.S. quadrangle sheet, San Ysidro quadrangle.

This description was compiled from U.S.G.S. quadrangle map dated November 1960, and this is only a paper survey.

SEC. 9. (a) Notwithstanding any other provision of this Act, during the three years following enactment of this Act, the Secretary may, after giving the tribe 30 days written notice and after consulting with the tribe, enter on the lands described in the first section of this Act to identify, investigate, examine, and remove any paleontological resources from such lands: *Provided*, That no explorations, surveys or excavations shall be authorized within a 200-yard radius of the following shrines or religious sites:

(1) Eagle Peak, Eagle Rock, or Eagle Point (Tiam);

(2) Cherry Spring (Hu-nah-kah-kah-Warish);

(3) Grandma (Pah-Pah);

(4) Mudhead (Ku-Mah-Yah-Wish);

(5) Punays; and

(6) White Points (Grash-Yeh-Tey-Sham).

Such resources so removed are the property of the United States and shall be administered under laws applicable to federally owned resources. Paleontological resources on such lands that are not removed from the lands pursuant to this section shall be managed in a manner that will permit the greatest possible public benefit, use and study of the resources, consistent with tribal law and practices.

(b) Any lands excavated pursuant to this section shall be reclaimed and restored to their original condition by the Secretary, as nearly as he determines may be practicable.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WALLOP. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1131), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE MEASURE

The purpose of S. 2358 is to restore to the pueblo of Zia approximately 4,848 acres of land, situated in Sandoval County, in the

State of New Mexico. These lands, referred to as the Zia community allotment, have belonged to the tribe since time immemorial and have been permitted to the tribe for the past 40 years by grazing permits. Enactment of this legislation would simplify the administration of the land for both the Bureau of Land Management and the Bureau of Indian Affairs as well as provide protection to the Zia within the acreage transferred into trust by this bill.

BACKGROUND

All of the land transferred into trust by this legislation has been occupied and used by the pueblo of Zia since time immemorial. The land was used exclusively by the pueblo for grazing purposes until 1936 when the Bureau of Land Management took over the land and fenced it in.

The estimated surface value of the land is $38 per acre for a total value of $184,000. There are no known mineral leases in the area. The pueblo of Zia plans to continue using the land for grazing and religious purposes.

LEGISLATIVE HISTORY

S. 2358 was introduced by Senators Domenici and Schmitt on December 15, 1977. A hearing was held on the proposed measure before the Senate Select Committee on Indian Affairs on April 26, 1978. Testimony was received from the Department of the Interior and several tribal witnesses, all of whom supported enactment of S. 2358.

A similar measure, H.R. 10240, was introduced by Congressman Lujan on December 6, 1977. A hearing was held before the House Interior Subcommittee on Indian Affairs and Public Lands on April 27, 1978. At that hearing, representatives from the Department of the Interior testified in favor of the bill.

PUEBLO OF SANTA ANA LAND TRANSFER

The Senate proceeded to consider the bill (S. 2588) to declare that the United States holds in trust for the Pueblo of Santa Ana certain public domain lands, which had been reported from the Select Committee on Indian Affairs with amendments as follows:

On page 1, beginning with line 8, strike through and including page 8, line 11, and insert in lieu thereof the following:

NEW MEXICO PRINCIPAL MERIDIAN

Township 13 Noth, Range 3 East
Section 1:
Lots 1, 8, 9, 10, South half north half, South half,
Section 3:
Lots 9, 10, 11, 12,
South half north half.
South half,
Section 4:
Lots 9, 10, 11, 12,
South half north half,
South half,
Section 5: All of that portion lying east of the west boundary of the right-of-way of New Mexico Highway 44,
Section 9:
East half west half,
East half,
Section 10: All,
Section 11: All,
Section 12: All,
Section 13: All,
Section 14: All,
Section 15: North half northwest quarter, southeast quarter northwest quarter, northeast quarter southwest quarter northwest quarter, north half northwest quarter southwest quarter northwest quarter, southeast quarter northwest quarter southwest quarter northwest quarter, north half northwest quarter southeast quarter southwest quarter northwest quarter, northeast quarter southeast quarter southwest quarter northeast quarter, north half northeast quarter southeast quarter southwest quarter northeast quarter, northeast quarter southwest quarter northwest quarter, north half northeast quarter northwest quarter, southeast quarter northeast quarter southwest quarter, northeast quarter southeast quarter northeast quarter, north half northeast quarter southeast quarter northeast quarter, southeast quarter southeast quarter northeast quarter southeast quarter, northeast quarter southeast quarter northeast quarter, north half northeast quarter southeast quarter northeast quarter, northeast quarter southeast quarter northeast quarter, northeast quarter northwest quarter north

nection with the Jemez Canyon Dam and Reservoir Project", issued by the Secretary of the Interior on November 14, 1952, until such lands, or any portion thereof, are determined by the Secretary of the Army to be no longer needed for the purpose for which the lands were reserved under such order. The Secretary of the Army shall publish notice of any such determination in the Federal Register.

(2) The lands described in subsection (a) of this section which are subject to Public Land Order 873 are the following lands:

NEW MEXICO PRINCIPAL MERIDIAN

Township 13 North, Range 3 East

Section 1:
Lots 1, 8, 9, 10,
South half northeast quarter,
Southeast quarter northwest quarter,
Northeast quarter southwest quarter,
Section 5:
Lots 1, 2, 3, 4,
Northwest quarter northwest quarter,
Lots 1, 2, 3, Northeast quarter, East half northwest quarter, Northeast
South half northwest quarter,
Southwest quarter,
West half southeast quarter,
Lot 5, that part lying north of the east-west quarter section line,
Section 6:
Lots 1, 2, 3,
Northeast quarter,
East half northwest quarter,
Northeast quarter southwest quarter,
North half southeast quarter,
Southeast quarter southeast quarter,
Section 8:
Lots 3, 4, 5,
West half northeast quarter,
Northwest quarter,
North half southwest quarter,
Northwest quarter southeast quarter,
Section 17:
Lots 10 and 11,
Lot 12, that part lying east of the north-south quarter section line,

Township 14 North, Range 4 East

Section 31:
Southwest quarter northeast quarter,
Northwest quarter northwest quarter,
South half northwest quarter,
South half.

On page 18, beginning with line 9, strike through and including line 14, and insert in lieu thereof the following:

(b) Those persons holding grazing permits from the United States Bureau of Land Management in the grazing unit known as the Bernalillo Community Allotment (Number 551), Sandoval County, New Mexico as of the date of enactment of this Act are hereby granted the right to continue those grazing rights, subject to all otherwise applicable terms, conditions, rules and regulations of the Bureau of Land Management governing such grazing rights, for a period of not to exceed ten years. Such grazing rights shall be administered by the Bureau of Land Management in accordance with applicable rules and regulations governing such rights on the Federal public domain, and may be canceled by the Bureau of Land Management in accordance with its regulations for failure to meet the terms and conditions of the existing permits, or failure to abide by applicable rules and regulations. Grazing fees shall be payable by the permittees to the Bureau of Land Management at prevailing rates, which fees shall be remitted by said Bureau to the Pueblo of Santa Ana within 30 days of receipt. Such grazing rights shall be nontransferable, except that they may be relinquished at any time to the Pueblo of Santa Ana.

In the event of cancellation or relinquishment of said grazing rights as provided above, such rights shall not be renewed, nor shall any new permits be issued: *Provided, however*, That no grazing fees shall be payable by the said existing permittees for the first five years following enactment of this Act.

(c) Subject to subsections (a) and (b) of this section, any property held in trust under this Act for the Pueblo of Santa Ana shall be administered in accordance with the laws and regulations applicable to other property held in trust by the United States for the Indian tribe of such pueblo.

On page 21, line 6, strike "exchange, or condemnation," and insert "or exchange,";

On page 22, beginning with line 1, insert the following:

SEC. 8. (a) Notwithstanding any other provision of this Act, during the three years following enactment of this Act, the Secretary may, after giving the tribe 30 days written notice and after consulting with the tribe, enter on the lands described in the first section of this Act to identify, investigate, examine, and remove any paleontological resources from such lands: *Provided*, That no explorations, surveys or excavations shall be authorized within a 200-yard radius of the following shrines or religious sites:

(1) Santiyaku 'Ke Kura (Santiago's Corral);
(2) Santiyaku Ka'me (Santiago's Home);
(3) Santiyaki 'Kaisru (Santiago's Field);
(4) 'Tsitai Sruwii (Water Snake Head);
(5) Tuyauna (Snake Head Shrine—Canjilon Hill);
(6) Shayeka Kauwatseeruma (Hunter Shrine)
(7) 'Kuyau 'Kapesru (Old Lady Sits Shrine);
(8) Huchaniitse (White House Shrine);
(9) Dya'dyu Tsinautani (Bobcat Point);
(10) 'Kasreri 'Kumiyelaruma (Clown Point);
(11) Chapiyu 'Ka'kuyanisru (Chapiyu's Trail);
(12) Shawiti'tsuyu (Parrot Point);
(13) Hane 'Kai (Sacred Clown Society Shrine); and
(14) Yuskuma (Corn Cob Shrine).

Such resources so removed as the property of the United States and shall be administered under laws applicable to federally owned resources. Paleontological resources on such lands that are not removed from the lands pursuant to this section shall be managed in a manner that will permit the greatest possible public benefit, use and study of the resources, consistent with tribal law and practices.

(b) Any lands excavated pursuant to this section shall be reclaimed and restored to its original condition by the Secretary, as near as he determines may be practicable.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all right, title, and interest of the United States in the following lands situated within Sandoval County in the State of New Mexico are hereby declared to be held by the United States in trust for the benefit and use of the Pueblo of Santa Ana:

NEW MEXICO PRINCIPAL MERIDIAN

Township 13 North, Range 3 East

Section 1:
Lots 1, 8, 9, 10, South half north half, South half,
Section 3:
Lots 9, 10, 11, 12,
South half north half.
South half,
Section 4:
Lots 9, 10, 11, 12,
South half north half,
South half,
Section 5: All of that portion lying east of the west boundary of the right-of-way of New Mexico Highway 44,
Section 9:
East half west half,
East half,
Section 10: All,
Section 11: All,
Section 12: All,
Section 13: All,
Section 14: All,
Section 15: North half northwest quarter, southeast quarter northwest quarter, northeast quarter southwest quarter northwest quarter, north half northwest quarter southwest quarter northwest quarter, north half northwest quarter northwest quarter southwest quarter northwest quarter, north half northwest quarter southeast quarter southwest quarter northwest quarter, southeast quarter southeast quarter, southwest quarter northwest quarter, northeast quarter, north half northeast quarter southwest quarter northeast quarter northwest quarter southwest quarter, north half northeast quarter northwest quarter southwest quarter, north half southwest quarter northeast quarter southwest quarter, southeast quarter northeast quarter northeast quarter southwest quarter, north half southeast quarter, north half northwest quarter southeast quarter, southeast quarter northwest quarter southeast quarter, northeast quarter southeast quarter southwest quarter northeast quarter, northeast quarter southeast quarter southwest quarter northeast quarter southeast quarter, north half northwest quarter southeast quarter southwest quarter northeast quarter southeast quarter, north half southeast quarter southeast quarter southwest quarter northeast quarter southeast quarter, northeast quarter southeast quarter southeast quarter southeast quarter southeast quarter, north half northwest quarter southeast quarter southwest quarter northeast quarter southeast quarter, north half northeast quarter southeast quarter northeast quarter southeast quarter southeast quarter, north half southeast quarter southeast quarter southeast quarter southeast quarter southeast quarter southeast quarter southeast quarter; excluding existing rights-of-way.

Section 23: Northeast quarter northwest quarter northwest quarter, northeast quarter northwest quarter northwest quarter northwest quarter, north half northwest quarter northwest quarter northwest quarter northwest quarter, north half northeast quarter southeast quarter northwest quarter northwest quarter, north half northeast quarter northwest quarter, southeast quarter northeast quarter, north half southwest quarter northeast quarter northwest quarter, southeast quarter southwest quarter northeast quarter northwest quarter, northeast quarter northeast quarter southeast quarter northwest quarter, north half northwest quarter northeast quarter southeast quarter northwest quarter, southeast quarter northeast quarter, north half southwest quarter northeast quarter, northeast quarter, north half southwest quarter northeast quarter, north half southeast quarter northeast quarter, southeast quarter southeast quarter southwest quarter northeast quarter, southeast quarter northeast quarter, north half southwest quarter southeast quarter southwest quarter northeast quarter, north half northeast quarter southwest quarter southwest quarter northeast quarter, northeast quarter northeast quarter southeast quarter, northeast quarter northwest quarter northeast quarter, north half northwest quarter northeast quarter southeast quarter, north half northwest quarter northwest quarter northeast quarter southeast quarter, north half southeast quarter northwest quarter northeast quarter southeast quarter, north half northeast quarter southeast quarter northeast quarter southeast quarter; excluding Rec. PP CL 10/10/16 and existing rights-of-way,

Section 24: North half, southeast quarter, northeast quarter southwest quarter, north half northwest quarter southwest quarter,

southeast quarter northwest quarter southwest quarter, north half southwest quarter northwest quarter southwest quarter, southeast quarter southwest quarter northwest quarter southwest quarter, north half southwest quarter southwest quarter northwest quarter southwest quarter, north half northeast quarter southwest quarter southwest quarter, north half southeast quarter northeast quarter southwest quarter, north half southeast quarter southwest quarter, southeast quarter southeast quarter southwest quarter, northeast quarter southwest quarter southeast quarter southwest quarter; excluding existing rights-of-way,

Section 25: North half northeast quarter northeast quarter northeast quarter northwest quarter, northeast quarter northeast quarter, northeast quarter northwest quarter, north half northwest quarter northwest quarter northeast quarter, southeast quarter northwest quarter northwest quarter northeast quarter, north half southwest quarter northwest quarter northwest quarter northeast quarter north half northeast quarter southwest quarter northwest quarter northeast quarter, north half southwest quarter northwest quarter northeast quarter southeast quarter northeast quarter southeast quarter southwest quarter,

Section 26:
Northwest quarter,
South half,
Section 29: All,
Section 30: East half east half,
Section 31:
East half northeast quarter,
Southwest quarter northeast quarter,
Northwest quarter northwest quarter,
South half northwest quarter,
South half,
and bed of Jemez River,
Section 33: All,
Section 34:
South half northeast quarter,
Northwest quarter,
South half,
Section 35:
Lot 9,
West half southwest quarter,

Containing 16,249.98 acres more or less.

(b)(1) The lands described in paragraph (2) of this subsection consisting of approximately 2,240.14 acres shall continue to be subject to Public Land Order 873, entitled "An Order Withdrawing Public Lands for Use of the Department of the Army in Connection with the Jemez Canyon Dam and Reservoir Project", issued by the Secretary of the Interior on November 14, 1952, until such lands, or any portion thereof, are determined by the Secretary of the Army to be no longer needed for the purpose for which the lands were reserved under such order. The Secretary of the Army shall publish notice of any such determination in the Federal Register.

(2) The lands described in subsection (a) of this section which are subject to Public Land Order 873 are the following lands:

NEW MEXICO PRINCIPAL MERIDIAN

Township 13 North, Range 3 East

Section 1:
Lots 1, 8, 9, 10,
South half northeast quarter,
Southeast quarter northwest quarter,
Northeast quarter southwest quarter,
Section 5:
Lots 1, 2, 3, 4,
Northwest quarter northwest quarter,
Lots 1, 2, 3, Northeast quarter East half northwest quarter, Northeast,
South half northwest quarter,
Southwest quarter,
West half southeast quarter,
Lot 5, that part lying north of the east-west quarter section line,
Section 6:
Lots 1, 2, 3,
Northeast quarter,
East half northwest quarter,
Northeast quarter southwest quarter,
North half southeast quarter,
Southeast quarter southeast quarter,
Section 8:
Lots 3, 4, 5,
West half northeast quarter,
Northwest quarter,
North half southwest quarter,
Northwest quarter southeast quarter,
Section 17:
Lots 10 and 11,
Lot 12, that part lying east of the north-south quarter section line,

Township 14 North, Range 4 East

Section 31:
Southwest quarter northeast quarter,
Northwest quarter northwest quarter,
South half northwest quarter,
South half.

SEC. 2. The Secretary of the Interior shall publish in the Federal Register the boundaries and descriptions of the lands declared to be held in trust by this Act.

SEC. 3. All of the right, title, and interest of the United States in all minerals, including gas and oil, underlying the lands hereby declared to be held in trust for the Pueblo of Santa Ana, are hereby declared to be held by the United States in trust for the benefit and use of the Pueblo of Santa Ana.

SEC. 4. (a) Nothing in this Act shall deprive any person of any valid existing right of use, possession, contract right, interest, or title which that person may have in any of the trust lands within the purview of this Act, or of any existing right of access to public domain lands over and across such trust lands, as determined by the Secretary of the Interior. All existing mineral leases involving lands declared to be held in trust by this Act, including oil and gas leases, which may have been issued or approved pursuant to Federal law, prior to enactment of this Act, shall remain in force and effect in accordance with the provisions thereof. Notwithstanding any other provisions of law, all applications for mineral leases involving such lands, including oil and gas leases, pending on the date of enactment of this Act shall be rejected and the advance rental payments returned to the applicants.

(b) Those persons holding grazing permits from the United States Bureau of Land Management in the grazing unit known as the Bernalillo Community Allotment (Number 551), Sandoval County, New Mexico as of the date of enactment of this Act are hereby granted the right to continue those grazing rights, subject to all otherwise applicable terms, conditions, rules and regulations of the Bureau of Land Management governing such grazing rights, for a period of not to exceed ten years. Such grazing rights shall be administered by the Bureau of Land Management in accordance with applicable rules and regulations governing such rights on the Federal public domain, and may be canceled by the Bureau of Land Management in accordance with its regulations for failure to meet the terms and conditions of the existing permits, or failure to abide by applicable rules and regulations. Grazing fees shall be payable by the permittees to the Bureau of Land Management at prevailing rates, which fees shall be remitted by said Bureau to the Pueblo of Santa Ana within 30 days of receipt. Such grazing rights shall be nontransferable, except that they may be relinquished at any time to the Pueblo of Santa Ana.

In the event of cancellation or relinquishment of said grazing rights as provided above, such rights shall not be renewed, nor shall any new permits be issued: Provided, however, That no grazing fees shall be payable by the said existing permittees for the first five years following enactment of this Act.

(c) Subject to subsections (a) and (b) of this section, any property held in trust under this Act for the Pueblo of Santa Ana shall be administered in accordance with the laws and regulations applicable to other property held in trust by the United States for the Indian tribe of such pueblo.

SEC. 5. (a) Any and all gross receipts derived from, or which relate to, the property declared to be held in trust by this Act which were received by the United States subsequent to the acquisition by the United States of such property and prior to the date of the enactment of this Act (including State school lands referred to in section 7), from whatever source and for whatever purpose, shall, as of the date of enactment of this Act, be deposited to the credit of the Pueblo of Santa Ana and may be expended by such tribe for such beneficial programs as the tribal governing body may determine.

(b) All gross receipts (including, but not limited to, bonuses, rents, and royalties) hereafter derived by the United States from any contract, permit, or lease referred to in section 4(a) of this Act, shall be administered in accordance with the laws and regulations applicable to receipts from property held in trust by the United States for Indian tribes.

SEC. 6. All property declared to be held in trust for the benefit and use of the Pueblo of Santa Ana pursuant to this Act, and all the receipts therefrom referred to in section 5 of this Act, shall be exempt from Federal, State, and local taxation so long as such property is held in trust by the United States. Any distribution of such receipts to tribal members shall neither be considered as income or resources of such members for purposes of any such taxation nor as income or resources or otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such member or his household would otherwise be entitled

to under the Social Security Act or any other Federal or federally assisted program.

SEC. 7. (a) For the purpose of improving the land tenure pattern and consolidating Santa Ana Pueblo lands, the Secretary of the Interior is authorized and directed to acquire, by purchase, or exchange, under such regulations as he may prescribe, all State school lands in township 13 north, range 3 east, sections 2 and 16; township 14 north, range 3 east, section 36; and township 14 north, range 4 east, section 32, State of New Mexico, containing 2004.05 acres, more or less; and interests therein, including improvements, mineral rights, and water rights. In exercising his authority to acquire such lands by exchange, the Secretary is authorized to utilize unappropriated public lands in the State of New Mexico. The properties so exchanged shall be of approximately equal value, and the Secretary may accept cash from or pay cash to the State of New Mexico in such an exchange in order to equalize the values of the properties exchanged.

(b) The Secretary may execute any title documents necessary to effect the exchanges authorized by this section.

(c) Title to all lands acquired under the provisions of this section shall be taken in the name of the United States in trust for Santa Ana Pueblo.

SEC. 8. (a) Notwithstanding any other provision of this Act, during the three years following enactment of this Act, the Secretary may, after giving the tribe 30 days written notice and after consulting with the tribe, enter on the lands described in the first section of this Act to identify, investigate, examine, and remove any paleontological resources from such lands: *Provided*, That no explorations, surveys or excavations shall be authorized within a 200-yard radius of the following shrines or religious sites:

(1) Santiyaku 'Ke Kura (Santiago's Corral);

(2) Santiyaku Ka'me (Santiago's Home);

(3) Santiyaki 'Kaisru (Santiago's Field);

(4) 'Tsitsi Sruwii (Water Snake Head);

(5) Tuyuuna (Snake Head Shrine—Canjilon Hill);

(6) Shayeka Kauwatsesruma (Hunter Shrine);

(7) 'Kuyau 'Kapesru (Old Lady Sits Shrine);

(8) Huchaniitse (White House Shrine);

(9) Dya'dyu Tsinautani (Bobcat Point);

(10) 'Kasreri 'Kumiyeisruma (Clown Point);

(11) Chapiyu 'Ka'kuyanisru (Chapiyu's Trail);

(12) Shawiti'tsuyu (Parrot Point);

(13) Hane 'Kai (Sacred Clown Society Shrine); and

(14) Yusrkuma (Corn Cob Shrine).

Such resources so removed are the property of the United States and shall be administered under laws applicable to federally owned resources. Paleontological resources on such lands that are not removed from the lands pursuant to this section shall be managed in a manner that will permit the greatest possible public benefit, use and study of the resources, consistent with tribal law and practices.

(b) Any lands excavated pursuant to this section shall be reclaimed and restored to its original condition by the Secretary, as near as he determines may be practicable.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WALLOP. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1132), explaining the purpose of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE MEASURE

The purpose of S. 2588 is to restore to the pueblo of Santa Ana approximately 14,000 acres of public domain land; and also to authorize and direct the Secretary of the Interior to acquire through exchange or purchase an additional 2,000 acres of State-owned school lands for the tribe. These lands would be transferred into trust and held for the benefit of the pueblo.

The act would serve to connect and consolidate the two separated Santa Ana Reservations. It would also enhance the economic posture of the pueblo by providing additional grazing lands and allowing for development of the proposed Jemez Lake Park and Santa Ana recreation areas.

BACKGROUND AND NEED

The land affected by this legislation was occupied, controlled and used for subsistence, economic and religious purposes by the Pueblo of Santa Ana prior to the arrival of the Spanish in the 17th and 18th centuries. These aboriginal lands extended from the Rio Puerco River on the west, through the town of Bernalillo and across the Rio Grande River to the vicinity of Placitas, N. Mex.

This land was originally used for hunting and fishing and subsequently became grazing land for the tribe's livestock herds. The old Santa Ana Pueblo, Ta-Ma-Ya, is still maintained today as a small ceremonial village and used periodically for religious ceremonies.

The history of land control in the Santa Ana Pueblo area is checkered, with the tribe losing and regaining, claiming and reclaiming, selling and repurchasing portions of their aboriginal lands to the Spanish, Mexican, and American Governments, as well as local nonIndian residents.

In 1937, pursuant to the Taylor Grazing Act of 1934, a regional grazing committee asserted jurisdiction over the lands involved in this legislation under the assumption that they were public domain lands and subject to the act.

The Bureau of Indian Affairs chose to acquiesce in the designation of the lands as public domain, and, instead of asserting and defending the pueblo's aboriginal title, submitted an application to the committee on behalf of the tribe for a grazing permit. The application included all of the lands encompassed by this legislation, but was denied on the basis that "the land applied for is needed for qualified native applicants." These "qualified native applicants" were local non-Indian ranchers.

A subsequent application was accepted and granted the tribe permission to use approximately 8,500 acres for grazing, and this area became the Santa Ana grazing allotment. The balance of approximately 7,500 acres was permitted to local non-Indians and became the Bernalillo community allotment.

For approximately 25 years, an informal agreement between the pueblo and other permittees recognized the tribe's aboriginal grazing rights and the tribe used the lands jointly with other permittees.

In 1961, however, the Bureau of Land Management, citing an over-grazing problem, fenced in the Bernalillo community allotment and restricted its use to the local non-Indian permittees.

The current Santa Ana Pueblo consists of two physically separated reservations encompassing approximately 44,000 acres with a total population of approximately 625 people. Approximately one-half of this land (22,976 acres) was transferred to the pueblo in trust by the act of September 14, 1961, Public Law 87–231. This transfer was initiated by the Bureau of Land Management to reduce the burden of BLM administration in the complicated tribal land pattern that existed in the area after it had been determined that the area had been used exclusively by the pueblo for over 20 years. This legislation would close the existing physical gap between the reservations by transferring the area separating them into trust for the pueblo

The land to be transferred into trust by S. 2588 can be considered as three adjacent and related parcels; the Santa Ana grazing allotment area, the Jemez Lake Park Recreation Area, and the Bernalillo community allotment. A brief description of each parcel follows.

1. The Santa Ana grazing allotment area consists of 6,576.92 acres and has been exclusively and continuously used by the Santa Ana Pueblo for grazing purposes for at least 300 years. The area is an isolated, lava-capped plateau, accessible only from current pueblo land holdings. It will continue to be used primarily for grazing.

2. The Jemez Lake Park Recreation Area comprises 762.27 acres adjacent to the Jemez Canyon Dam. In 1931, the Army Corps of Engineers constructed the dam for flood control in the area. However, it has only been utilized twice in the past 25 years to contain Jemez River floodwaters.

The pueblo proposes to establish a permanent pool behind the dam, and develop the adjacent land into a major recreation area serving Metropolitan Albuquerque. The recreation area will include a visitor's center, marine, restaurant, plus picnicking and camping areas. The pueblo has also developed a plan to store water purchased by Albuquerque from the San Juan Chama diversion project which is now released into the Rio Grande River when not utilized. The city would obtain both water storage areas and recreational facilities

3. The Bernalillo community allotment, also designated as the Santa Ana recreation area, includes 6,729.93 acres in a rolling sandy area accessible by paved roads from the south and east. The land is presently used for grazing, but the tribe plans to develop the area by establishing cabin and lodge rental facilities, dude ranches and an all-terrain-vehicle use area. The pueblo will also be able to create a buffer zone between this recreation area and their ancient ceremonial village, Ta-Ma-Ya, which is currently being desecrated by dune-buggy enthusiasts and curious sightseers. Vehicle use will be limited to specific areas and access to Ta-Ma-Ya will also be easier to control and limit.

Contained within the parcels described above are some 2,000 acres of State school lands which are also to be acquired for the tribe through exchange or purchase from the State of New Mexico by the Secretary of the Interior. Also contained within the area described above is approximately 2,200 acres of land withdrawn subject to Public Land Order 873, entitled "An Order Withdrawing Public Lands for Use of the Department of the Army in connection with the Jemez Dam and Reservoir Project," issued by the Secretary of the Interior on November 14, 1952. The Secretary of the Interior is authorized by the legislation to revoke or terminate this withdrawal order after a determination by the Secretary of the Army that the lands are no longer needed for the purpose for which they were withdrawn.

Transfer of the lands described above into trust for the benefit of the Pueblo of Santa Ana will serve to bridge the gap between the physically separated reservations and also provide job opportunities and other economic advantages under proposed development plans.

LEGISLATIVE HISTORY

S. 2588 was introduced by Senators Domenici and Schmitt on February 24, 1978. A hearing was held on the proposed measure before the Senate Committee on Indian Affairs on April 26, 1978. Favorable testimony was received at that hearing from representatives of the Interior Department and the tribe.

A similar measure, H.R. 3924, was introduced by Congressman Lujan on February 23, 1977. A hearing was held before the House Interior Subcommittee on Indian Affairs and Public Lands on April 27, 1978. At that hearing, representatives from the Interior Department testified in favor of the bill.

On May 3, 1978, the House Interior Committee favorably reported H.R. 3924 out of committee in the form of a substitute bill.

"COLONIZATION OF THE WEST BANK TERRITORIES BY ISRAEL"

The resolution (S. Res. 538) authorizing the reprinting of the committee print entitled "Colonization of the West Bank Territories by Israel," was considered and agreed to, as follows:

Resolved, That there be reprinted, with illustrations, for the use of the Committee on the Judiciary five hundred copies of its committee print of December 1977, entitled "Colonization of the West Bank Territories by Israel," a report to the committee by Senator James Abourezk.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. WALLOP. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1155), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Resolution 538 would authorize the reprinting, with illustrations, for the use of the Committee on the Judiciary, of 500 copies of its committee print of December 1977, entitled "Colonization of the West Bank Territories by Israel," a report to the committee by Senator James Abourezk.

The printing-cost estimate, supplied by the Public Printer, is as follows:

Printing cost estimate

Back to press, 500 copies $395.92

VALERIE E. KAIT, MARGUERITE E. GILL, AND GEORGE E. GILL

The resolution (S. Res. 548) to pay a gratuity to Valerie E. Kait, Marguerite E. Gill, and George E. Gill was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Valerie E. Kait and Marguerite E. Gill, daughters, and George E. Gill, son, of Helen Gill, an employee of the Senate at the time of her death, a sum to each equal to one-third of seven months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. WALLOP. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COPAN DAM AND THE LAKE OF THE DELAWARES

The joint resolution (S.J. Res. 131) to change the name of Copan Dam and Lake in the States of Oklahoma and Kansas to Copan Dam and the Lake of the Delawares was considered, ordered to be engrossed for a third reading, read the third time, and passed as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Copan Dam and Lake on the Little Caney River in the States of Oklahoma and Kansas shall be known as the Copan Dam and the Lake of the Delawares in honor of the Delaware Indians. Any law, regulation, document, or record of the United States in which such project is referred to by any other name shall be held and considered to refer to such project by the name of Copan Dam and the Lake of the Delawares.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. WALLOP. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1164), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of Senate Joint Resolution 131, as reported, is to change the name of Copan Dam and Lake to Copan Dam and the Lake of the Delawares in honor of the Delaware Indians.

GENERAL STATEMENT

The Copan Lake project, under construction, is expected to be completed in 1980. The dam will be located on Little Caney River in Washington County, about 2 miles west of Copan and 9 miles north of Bartlesville, Okla. The lake will extend into Chautauqua County, Kans. The project will provide flood control, water supply, water quality control, recreation, and fish and wildlife enhancement.

For 103 years the main body of the Delaware Indian Tribe has resided in the geographic area in which the Copan project will be located. The Delaware Tribe came to Oklahoma under the 1866 treaty with the U.S. Government and 1867 treaty with the Cherokee Nation. Because of the many years the Delawares have resided upon the land surrounding the proposed Copan project, it is fitting and proper that the Copan Lake should bear their name.

GATHRIGHT DAM AND LAKE MOOMAW

The Senate proceeded to consider the bill (H.R. 12112) designating Gathright Lake on the Jackson River, Va., as Lake Moomaw, which had been reported from the Committee on Environment and Public Works with amendment as follows:

On page 1, line 6, strike "Lake Moomaw" and insert "Gathright Dam and Lake Moomaw";

On page 2, line 2, strike "Lake Moomaw" and insert "Gathright Dam and Lake Moomaw".

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read:

An act designating Gathright Lake on the Jackson River, Virginia, as Gathright Dam and Lake Moomaw.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WALLOP. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1165), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of H.R. 12112, as reported, is to name the Gathright Lake on the Jackson River, Va., Lake Moomaw for Mr. Benjamin C. Moomaw, Jr.

GENERAL STATEMENT

Gathright Lake project is presently being constructed. The dam will be located on the Jackson River, a tributary of the James River, about 19 miles upstream of the city of Covington, Va. The lake will be located in Alleghany and Bath Counties, Va. The project, when completed, will provide flood control, water quality control, and recreation.

Mr. Benjamin C. Moomaw, Jr., who died on March 12, 1978, at the age of 88, was instrumental in obtaining the construction of the Gathright Lake project. For some 30 years, he and other concerned citizens devoted time and effort to secure the authorization and construction of the project. Unfortunately "Mr. Ben," as he is known throughout the area, did not live to see the completion of the project. It is a fitting tribute that the lake created by the Gathright Dam be named for Ben Moomaw.

To also retain the original identification of the project, the committee believes that the project should now be known as the Gathright Dam and Lake Moomaw.

THE UKRAINIAN GENOCIDE UNDERSCORES THE NEED FOR THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, between the years of 1931 and 1933, 5 million Ukrainian peasants perished, victims of the government of the U.S.S.R. under the leadership of Joseph Stalin. Five million people, annihilated by mass starvation, by deportation, and merciless political terror.

How could any government commit this grisly act? Why did the rest of the world sit by, turning their heads away from the slaughter? And why, Mr. President, why do we hear so little of this

atrocity, certainty one of the most horrendous in human history?

Mr. President, the Ukrainians are a courageous, freedom-loving people. When the Communist government sought to collectivise agriculture, stripping peasants of their land and livestock, their houses and tools, Ukrainians resisted. They sabotaged the collective farms, took back their possessions, and began to hold back grain from the government.

The response of the Communist party was swift and brutal. In his book, "Genocide of the Ukrainian People," Prof. Vasyl Plyushch wrote:

> The Central Committee of the Russian Communist Party ordered an acceleration of collectivization and its conclusion in one or two years' time. At the same time "the kulaks as a class" should be liquidated. Inasmuch as not only rich or well-to-do Ukrainian peasants were considered to be "kulaks," but all those who resisted collectivization, this was an order calling for the extermination of all Ukrainian peasants, that is, an order of conscious genocide.

The extermination of the Ukrainian peasantry was carried out with unrelenting savagery. The government confiscated all but a meager portion of the food produced by the Ukraine, and allocated most of the small quantity remaining to the cities. In this way, the Communist government created an artificial famine calculated to wipe out the rebellious peasants or starve them into submission. That policy succeeded, and with a vengence.

Millions died. Millions more were deported. And the Ukrainian resistance quickly collapsed.

And what was the response of the world to these actions?

Essentially, Mr. President, the nations of the world ignored the Ukrainian slaughter. To be fair, some charitable organizations did attempt to relieve the famine, but their efforts were rebuffed by the government. As Stalin later admitted to Winston Churchill, the "kulaks had to be dealt with."

Professor Plyushch puts the matter plainly:

> These were the years which covered with eternal shame not only those who arranged the famine and terror . . . but also the heads of governments of Western Europe, North America and the intellectual elite of the whole world, who viewed these horrors in silence.

While the Ukrainian people endured this agony, we remained silent. We must never, never remain silent again.

Mr. President, the United States has a chance to raise its voice, to join with a chorus of 83 nations that have declared genocide an international crime, one that must be punished. The Convention for the Prevention and Punishment of the Crime of Genocide is a noble document that deserves the ratification of the Senate. We cannot allow the events that occurred half a century ago in the Ukraine to repeat themselves. We cannot allow genocide.

CETA AND FIGHTING THE WRONG FIGHT

Mr. PROXMIRE. Mr. President, on Friday, August 25 the Senate overwhelmingly passed the Comprehensive Employment and Training Act reauthorization bill. I was one of the few who voted against the final passage of this bill. Why did I vote as I did?

FINE ATTEMPT TO IMPROVE TROUBLED PROGRAMS

First of all, I would like to commend my colleague from Wisconsin, Senator NELSON, and the other members of the Human Resources Committee for their fine efforts to find remedies for the all too well-known problems of waste, abuse, and scandal within the numerous programs of CETA, particularly public service jobs.

Hopefully, the new provisions provided for in the Senate bill will result in a significant improvement in the operation of these troubled programs. However, it remains to be seen, if in fact, these legislative medicines will even make healthier, let alone cure the sick CETA patients.

ECONOMY STRONG AND EMPLOYMENT GROWING

Mr. President, it is clear to me that inflation and not unemployment is the number one economic problem facing our Nation. Unemployment has fallen sharply during the present strong economic recovery. Unemployment was running close to 9 percent during the second quarter of 1975. It is now less than 6 percent. Over the last year alone, total employment has grown by more than 3.5 million. The proportion of the population that is employed is close to an alltime high.

So, Mr. President, our economy is generating jobs at a prodigious rate and this has resulted in a brightening of the job picture for virtually every category of worker.

DOUBLE DIGIT INFLATION RETURNS

Now what of inflation? During the first half of this year, consumer prices were increasing at a double digit rate. And inflation is having a devastating effect on many of the economically weakest groups of Americans, the poor, the old, and the young. It is very clear to me that we will continue to lose the fight against inflation until the Congress moves quickly and decisively to hold down and even reduce Federal spending.

NEED TO PHASE DOWN COSTLY CETA PROGRAMS

Now the Congressional Budget Office says that the cost of this CETA bill could run as much as $46.3 billion over the life of the authorization. That is a rate of spending of over $11 billion per year. With unemployment dropping, we should be phasing down public service jobs and other CETA programs but there are no phase downs or job slot reductions in this bill. Rather than place a ceiling and a phase down mechanism in the bill, the committee continued to commit us to the sky is the limit approach to budgeting by authorizing "such sums as may be necessary". That phrase "such sums as may be necessary" is an open invitation for budget busting by the powerful lobbyists who favor these types of programs.

Mr. President, I believe our Nation must provide training and public service job opportunities to its citizens, but the Federal Government is spending six times more on CETA programs today than it was spending for them just 4 years ago. No wonder there are serious management problems with these programs. Clearly, we have moved too fast in this area.

With strong growth of the economy, the giant Federal deficit of almost $50 billion and double digit inflation back upon us, it is time to slow down and reverse the growth of CETA programs. Because the Comprehensive Employment and Training Act Amendments of 1978 did not do this, I felt compelled to vote against it.

ORDER THAT HOUSE JOINT RESOLUTION 1088 BE HELD AT THE DESK

Mr. PROXMIRE. Mr. President, House Joint Resolution 1088, which is the New York City fiscal measure which we debated at some length, has passed the House of Representatives. It needs appropriation action, however, to make it effective. I have discussed this very briefly with Senator MAGNUSON, Senator MOYNIHAN, and other interested people, but unfortunately I have not had an opportunity to discuss it with the Senator from North Dakota (Mr. YOUNG), who is the ranking minority member of the Appropriations Committee.

I ask unanimous consent that when received that bill be held at the desk pending further disposition. If anyone objects to the request, it will go to the Appropriations Committee. It is, however, a matter that should be acted on promptly. It was debated at great length, as I say, in the authorization process. The authorization and appropriation measures are almost identical, and this request would simply permit us to determine whether or not any Senator would object to having it taken up directly. If so, as I say, it would go to the committee.

Mr. ROBERT C. BYRD. Will the Senator revise that request to provide that it be held at the desk for 24 hours pending further disposition?

Mr. PROXMIRE. Mr. President, I make that request; I ask unanimous consent that the bill be held at the desk for 24 hours pending other disposition in the meantime.

Mr. WALLOP. Mr. President, may I inquire, is it the Senator's intention, or should someone else notify Senator YOUNG?

Mr. PROXMIRE. Yes, it is my intention to notify Senator YOUNG and get his permission. In the event he objects, it would go to the Appropriations Committee. We will make sure that he has an opportunity to register an objection before we act on it.

Mr. WALLOP. Very well, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 a.m. tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow morning after the two leaders are recognized that there be a brief period for the transaction of routine morning business not to extend beyond 10 minutes, with statements limited therein to 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONFERENCE REPORT ON NATURAL GAS BILL

Mr. ROBERT C. BYRD. Mr. President, it is anticipated that the conference report on natural gas may be called up tomorrow morning. It is hoped that an agreement can be entered into whereby a definite date and hour could be set for a vote on the motion to recommit the conference report.

It is also hoped that included in that agreement can be a provision that no tabling motion with respect to the conference report will be in order and that this will allow Senators then to debate the conference report beginning tomorrow and through such hour on next Wednesday as agreed upon for the vote on the motion to recommit.

It would also be hoped that it might be possible to operate on a double track at some point between now and next Wednesday if such an agreement is entered into, provided no Senator sought the floor to speak on the natural gas conference report.

So that is what is possibly in the offing tomorrow. It is not assured, but in talking with various principals on both sides of the aisle and on both sides of the issue there seems to be a willingness to enter into that kind of agreement. But the agreement will not be presented today. It will not be presented until in the morning at 10 o'clock.

RECESS UNTIL 10 A.M. TOMORROW

Mr. PROXMIRE. Mr. President, I move, under the previous order, that the Senate stand in recess until 10 a.m. tomorrow.

The motion was agreed to; and 6:35 p.m. the Senate recessed until tomorrow, Thursday, September 7, 1978, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate August 28, 1978, under authority of the order of the Senate of August 25, 1978:

FEDERAL RESERVE SYSTEM

Nancy Hays Teeters, of Indiana, to be a member of the board of governors of the Federal Reserve System for the unexpired term of 14 years from February 1, 1970, vice Arthur F. Burns, resigned.

THE JUDICIARY

Bruce S. Jenkins, of Utah, to be U.S. district judge for the district of Utah, vice Willis W. Ritter, deceased.

Executive nomination received by the Senate September 1, 1978, under authority of the order of the Senate of August 25, 1978.

SECURITIES INVESTOR PROTECTION CORPORATION

Adolph Philip Schuman, of California, to be a director of the Securities Investor Protection Corporation for a term expiring December 31, 1978, vice Jerome W. Van Gorkom, term expired.

Adolph Philip Schuman, of California, to be a director of the Securities Investor Protection Corporation for a term expiring December 31, 1981 (reappointment).

Executive nominations received by the Senate September 6, 1978:

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Subject to qualifications provided by law, the following for permanent appointment to the grades indicated in the National Oceanic and Atmospheric Administration:

To be lieutenant (junior grade)

Joseph C. Talbott

To be ensigns

David S. Goldenberg
John W. Humphrey, Jr.
Fredric R. Plotkin
V. Dale Ross
Diane E. Strayer
William R. Bergmann
Michael Mallette
James M. Sherwood

IN THE ARMY

The following Army National Guard of the United States officer for appointment in the Adjutant General's Corps, Reserve of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3392:

To be major general

Brig. Gen. Edward Clarence Binder, 507-12-1808.

The following-named Army Medical Department officer for temporary appointment in the Army of the United States, to the grade indicated, under the provisions of title 10, United States Code, sections 3442 and 3447.

To be brigadier general, Medical Corps

Col. Andre John Ognibene, 061-28-5018, Medical Corps, U.S. Army.

The following-named Army National Guard of the United States officer for appointment to the grade of brigadier general as a reserve commissioned officer of the Army and to the grade of brigadier general, Army of the United States, under the provision of title 10, United States Code, sections 593a, 3385, 3442, and 3447:

To be brigadier general

Col. Herbert R. Temple, Jr., 557-32-7721.
Col. Junior Henry Burkhead, 482-26-9725.

for appointment to the grade of brigadier general in the Adjutant General's Corps, Army National Guard of the United States, under the provisions of title 10, United States Code, sections 593(a) and 3392.

IN THE AIR FORCE

The following-named officers for promotion as a Reserve of the Air Force, under the appropriate provisions of chapter 35 and 837, title 10, United States Code:

LINE OF THE AIR FORCE

Major to lieutenant colonel

Abizaid, John G., 015-26-7331.
Albers, Everett H., 478-38-5911.
Alexander, Robert H., 186-28-8701.
Allen, Harlan G., Jr., 020-26-8883.
Anderson, Gerald R., 485-34-4844.
Arant, Carl P., Jr., 267-50-4087.
Armstrong, James E., 075-34-5536.
Arnold, Kathryn S., 381-32-5213.
Arthur, Guy B., III, 115-30-6899.
Artman, Thomas G., 276-30-0962.
Asseoguerra, Casimiro, 582-46-5320.
Astafan, Nora A., 417-48-4540.
Auger, Robert C., 344-24-6619.
Backes, Clarence M., 395-34-9814.
Bacon, William R., 483-38-0446.
Baczynski, John L., 336-24-9756.
Baker, Gerald C., 392-32-7012.
Barber, Howard C., 241-48-3739.
Barber, Lawrence E., 505-32-5884.
Barner, Robert M., 426-44-4107.
Barnett, Bobby G., 426-78-5708.
Barr, Sammie, 465-50-6712.
Barry, Joseph G., 331-28-8962.
Bates, Larrie C., 515-36-2405.
Bauwens, Joseph E., 347-20-9237.
Beall, Thomas W., 259-26-7640.
Beason, John P., 248-52-5115.
Beavers, Roy K., 254-62-4030.
Belk, Marvin L., 138-22-0573.
Bell, Elvin C., 560-48-0594.
Bell, James H., 254-50-3432.
Bensch, Harold P., 501-32-8555.
Beshara, Thomas M., 008-30-4127.
Beucher, Terence E., 514-30-5464.
Bishop, Pledger M., Jr., 249-46-1205.
Bitzow, Roy L., 275-24-9506.
Blackmon, Zeb, Jr., 417-48-6383.
Boab, Patrick S., 186-26-2044.
Boone, Nicholas D., 260-34-0641.
Bortness, Leroy M., 504-40-0525.
Boston, Leo S., 523-42-4123.
Bovingdon, George G., 581-32-6192.
Bowman, Hal K., 311-34-9527.
Brackett, William R., Jr., 028-28-4664.
Brainerd, Peter T., 040-28-0265.
Branch, Edward A., 229-44-0642.
Brandenburg, Lowell E., 403-36-6275.
Brothers, Willis E., 150-34-0704.
Brown, Alan B., 004-36-2974.
Brown, Charles V., 577-46-1446.
Bruggeman, Norbert A., 503-26-4343.
Buchols, Theodore C., 341-26-7468.
Buoni, William G., 163-38-9725.
Burch, George A., 577-44-4950.
Burch, Ronald K., 549-42-0309.
Burk, Bill E., 414-38-7782.
Calland, Richard A., 457-56-7291.
Campbell, Joe L., 465-60-9266.
Cantrell, George F., 461-38-4995.
Carlson, Lyle R., 501-46-3786.
Carter, Walter C., Jr., 458-40-4499.
Cary, Bryan S., 384-40-9196.
Cates, Robert E., 529-26-1578.
Chancellor, Mason T., 449-44-8500.
Chatham, Charles C., 440-34-1861.
Chavez, Jose R., 525-46-1574.
Chiacchieri, Peter P., 026-34-0494.
Chrisman, Albert E., 492-38-9612.
Cisar, Thomas E., 150-36-1652.
Clark, Kenneth W., II, 579-48-2044.
Clark, Robert M., 431-64-0497.
Clayton, Robert F., 256-52-7022.
Coban, Donald C., 474-34-5896.
Cobb, James B., 434-48-5991.
Colaw, Larry W., 204-28-1300.
Colbert, Robert M., 001-28-7433.
Collier, John W., 463-44-6962.
Collins, Frank A., 258-44-4579.
Conner, Timothy J., 217-28-1796.
Cornelio, Emelio M., 041-22-9700.
Courtright, Leroy E., 528-44-9993.
Cover, James D., 486-40-5926.
Cramer, Francis D., 308-30-3141.
Creech, Robert L., 451-54-6877.
Cresto, Peter C., 522-28-1772.
Crews, Wade H., Jr., 265-46-3865.
Curd, John R., 401-40-0128.
Cuthrell, Robert E., 459-54-4439.
Dahlin, David R., 385-34-7809.
Dalton, Thomas J., 485-32-1909.
Damschen, Floyd H., Jr., 569-44-7499.
Davidson, Ricky R., 547-44-9284.
Davis, Esker K., 234-54-4514.
Davison, Donald E., 531-34-0491.
Day, Arthur M., Jr., 529-48-1519.
Dean, Donald E., 023-28-1372.
Debussy, Robert P., 208-28-7770.
Delapp, Robert A., 306-38-3219.
Delaurenti, John L., 357-34-0409.
Delawter, Wayne E., 310-40-8775.
Demody, James M., 009-30-2246.
Deruytter, Dennis C., 504-36-2360.
Desormeaux, Maurice F., 384-34-3557.
Dicke, James L., 254-56-6692.
Dishner, Jimmy G., 049-38-1954.
Doherty, James B., 053-26-163.
Draut, Arthur W., Jr., 269-34-V5473.
Druck, Harry E., Jr., 161-30-5630.
Duger, Donald H., 101-28-7020.
Dunlevy, J. P., 402-34-3801.
Dyer, Ralph L., 210-28-6872.
Eagles, Sidney S., Jr., 242-66-1725.
Easterling, Allen M., 421-40-6554.
Eckard, Roy C., 449-46-9662.
Edel, William F., Jr., 537-38-6338.

Edmundson, Donald A., 503-28-3513.
Edwards, William W., Jr., 138-26-2503.
Eggerman, Donald R., 432-56-9355.
Ellis, Russell G., 110-26-2320.
Elmer, Robert G., 540-38-2761.
Entriken, Joan B., 162-28-2115.
Evans, Charles W., 467-52-6551.
Fagen, Michael W., 463-56-5097.
Fenner, Richard G., 466-38-2034.
Fernandez, Ralph E., 460-40-1574.
Feuerpfeil, Karl F., 393-30-1793.
Files, Early L., 170-24-7407.
Fisher, Earl M., 232-56-7994.
Fisher, Reginald J., Jr., 218-26-7131.
Fisher, Thomas M., 437-50-0817.
Foley, James J., 478-34-3201.
Franklin, Kenneth L., 431-34-9108.
Frederick, Richard E., 578-48-1684.
Freeman, Daniel H., 565-36-2796.
Freeman, Donald H., 044-26-7038.
Freimer, Albert L., 287-32-2213.
Furlough, Jennings B., 239-48-7051.
Galias, Donald T., 107-30-7515.
Garlinger, Edward D., 559-40-8460.
Gartrell, James W., Jr., 455-58-9580.
Geistweidt, Daniel C. H., 457-54-3196.
George, Richard E., 524-40-7048.
Gifford, Stanley I., 472-26-1116.
Gingold, Lawrence H., 086-30-2471.
Goldey, Howard F., 265-42-7720.
Gomes, Daniel, 449-36-6177.
Gordon, Earl S., 478-32-8439.
Gottlieb, Allen S., 291-22-3286.
Graham, John R., 442-34-8240.
Graham, William A., III, 239-50-5017.
Graybash, Peter J., Jr., 168-26-3012.
Grimaldi, Richard J., 288-28-8185.
Groark, David H., 173-28-3154.
Groskortenhaus, Frederic J., 110-26-5341.
Grotte, Roland M., 502-24-3876.
Grover, William A., 013-20-5750.
Gruno, Charles D., 120-28-8240.
Guernsey, Richard D., 176-24-4518.
Gullion, Edwin A., 316-40-6865.
Gunn, Robert L., 451-54-5595.
Hall, Harold R., 564-38-3473.
Hansen, Arthur H., III, 450-52-1229.
Harrington, Jack R., 305-36-5904.
Harris, Robert W., 569-48-8706.
Hart, William E., 424-30-7223.
Hawke, Wesley J., 571-48-1436.
Hayes, John L., 021-28-5546.
Hayes, Kirk M., 482-38-6113.
Henderson, Ray C., 054-32-8238.
Hennig, William J., 293-26-6261.
Herndon, William K., 135-30-6270.
Herold, Bruce G., 129-28-6106.
Hess, Rohald J., 560-44-7845.
Hibsman, Dimitri E., 191-26-4462.
Hickey, Owen W., 053-26-2523.
Higgins, Bernard J., 176-32-1594.
Hime, William F., 485-28-4701.
Hintzke, Edward S., 349-32-4566.
Hladek, Joseph S., Jr., 454-48-4574.
Holen Darryl A., 474-34-7224.
Holt, Landon B., Jr., 577-46-2656.
Hoop, Charles C., 302-24-9467.
Houseworth, Donald E., 383-32-6309.
Howell, Donald L., 509-28-7756.
Hubbard, John S., Jr., 249-40-0607.
Hughes Jimmy W., 566-40-7446.
Huisjen, John H., 385-40-7059.
Hunt, John E., 413-40-0276.
Hutchins, Paul S., 262-50-5866.
Hyland, Gerald W., 031-24-7345.
Iovinelli, John C., 318-30-4145.
Ivey, Walter L., 426-48-1570.
James, Ronald E., 272-32-3591.
Jamieson, Malcolm, 539-26-3757.
Jennings, Walter G., 548-46-0630.
Jerro, Ronald E., 066-30-7530.
Johnson, George C., III, 284-26-6006.
Johnson Harry G., 063-26-5522.
Johnson, James H., 483-34-9074.
Johnson, Michael M., 076-34-6130.
Johnson, Peter M., 494-30-4263.
Johnson, Robert Z., 182-22-5578.
Johnson, William L., 263-44-7768.
Jones, Douglas L., 538-30-8823.
Jones, David V., 372-30-4566.
Jones, Marvin V., 445-32-0345.
Jones, Orion A., 233-58-7689.
Jones, Ross L., 457-48-0271.
Kantor, Falk, 191-28-8908.
Kasson, Bruce N., 501-30-1451.
Kayser, Thomac C., 350-28-4511.
Kearns, Joseph T., Jr., 158-26-0101.
Kellenberg, Conrad L., 126-22-7925.
Kelly, Thomas P., Jr., 457-56-0570.
Kerbel, Waldemar K., 454-56-7656.
Kershaw, Bryant K., 465-52-3575.
King, Walter H., Jr., 046-24-2935.
Kirkham, Fred C., 414-46-7519.
Kleopfer, Duane L., 509-30-3848.
Kline, Robert L., 130-28-8937.
Klinkowitz, Richard P., 383-30-9741.
Kobza, John S., 398-21-3670.
Konishi, Robert N., 576-30-5881.
Koporc, Edwin A., 293-28-2934.
Krall, John T., 536-32-3665.
Lafollette, Harvey W., 197-28-0683.
Lakutis, Melvin R., 019-28-0344.
Lambiris, Antonio, 001-24-5899.
Lamphron, David L., 070-30-4694.
Lanahan, Joseph W., 171-26-5352.
Landguth, Charles B., 504-34-0582.
Lathrop, Thomas C., 390-30-2718.
Lawall, Gerald W., 125-28-7850.
Leblanc, Joseph U., 433-52-5712.
Lemanowicz, Thomas F., 154-24-8949.
Lemp, John, Jr., 218-34-5732.
Lewis, Robert V., 554-42-6491.
Lewis, Ray C., Jr., 492-32-8642.
Lifsey, James D., 254-46-3072.
Lisella, Franklin J., 156-24-8019.
Little, Glenn T., 413-54-0250.
Lowe, James M., 406-46-5210.
Ludford, Joseph F., 046-28-5808.
Maker, Robert E., 501-42-6387.
Mangum, Charles T., 459-58-2138.
Manocchio, Nicholas A., Jr., 083-24-7883.
Mara, Peter, 527-30-1575.
Marlatt, Jeryl L., 291-22-2420.
Matthews, William A., 250-44-7833.
Max, Robert H., 206-28-1145.
Maxwell, Frank M. III, 465-50-4347.
Maypole, Donald E., 518-36-2318.
McAleer, George R., Jr., 141-28-4206.
McAuliffe, Jerome J., 357-22-6181.
McCall Gladys G., 550-46-3333.
McDaniel, Ray E., 260-46-6484.
McFadden, William B., 197-22-9198.
McGovern, Edwin C., 114-26-7296.
McGuire, Thomas W., 245-46-7286.
McKnew, Thomas I., 435-46-0954.
Mecham, Glenn J., 529-44-0297.
Melvin, James A. III, 243-44-6141.
Mendenhall, Edward D., 157-26-4106.
Meredith, Harvey L., 509-30-6527.
Miles, Joan C., 262-62-1690.
Miller, Neil F., 525-82-1363.
Millhouse, Jerome R., 287-32-8006.
Mitchell, Davis C., 452-50-3666.
Montagano, Frank A., 094-22-8606.
Moore, Walter G., 534-28-6581.
Morrow, Homer E., 251-30-1660.
Moss, Basil D., 036-20-3967.
Moynihan, John B., 143-26-8708.
Muldrew, Robert W., 062-28-1060.
Munnelly, John C., 072-28-5053.
Muscarello, Andrea A., 323-26-4779.
Nail, John D., Jr., 442-28-3320.
Nelson, Ronald E., 322-30-6523.
Nichols, David C., 414-48-5882.
Noland, Ronald G., 437-48-1896.
Nute, Eugene W., 001-26-6400.
Oakley, Harry D., 481-32-2087.
O'Brien, Patrick J., 573-20-9364.
O'Brien, Thomas L., 411-42-3448.
O'Bryan, Victor J., 087-28-3246.
Odegard, Harland D., 474-36-0264.
Offield, James D., 463-52-3003.
Olander, Clark D., 349-28-3935.
Ormon, Gerald. 082-28-4778.
Oschwald, Paul C., 182-24-5145.
Parker, Robert L., 214-28-8378.
Paxton, Jay V., 403-44-6826.
Pemberton, Donald R., 522-38-7908.
Penick, Thomas E., Jr., 265-54-5684.
Perrey, Dorothy A., 073-28-1852.
Perryman, Marvin L., Jr., 455-32-3554.
Phillips, Bryce C., Jr., 563-42-1831.
Phillips, Francis M., 481-32-0518.
Phillips, Rex A., 241-52-5752.
Pickens, William B., 527-36-9699.
Pohlen, Michael J., 481-40-5105.
Porter, Budd T., 261-52-1579.
Porter, William H., 541-36-2499.
Potter, Raymond P., Jr., 167-30-8183.
Potter, Stuart G., Jr., 001-28-2785.
Pounds, Dwight R., 461-52-2300.
Proctor, Lois J., 472-36-8968.
Raab, John C., 144-26-4468.
Raboin, Edward J., 468-34-5038.
Radeke, Ronald R., 480-38-6652.
Ramsdale, Charles R., 200-26-7702.
Rattenborg, William M., 482-30-9802.
Ray, James A. 243-38-4170.
Raymond, Lawrence A., Jr., 283-26-6896.
Reardon, Joseph F., Jr., 163-28-7159.
Reed, Gayle E., 507-40-5603.
Reese, Theron H., 249-26-6367.
Reilly, Johne 002-30-7163.
Renick, Larry L., 446-36-1694.
Rindal, Robert J., 473-36-0811.
Risley, Robert L., 554-42-1085.
Roberts, Conway H., 458-36-5347.
Roberts, Donald W., 198-22-2623.
Robertson, Rufe L., Jr., 430-50-0239.
Roddey, John G. R., 251-54-5985.
Roeckel, Edward J., 116-26-3633.
Roesch, Jerauld J., 504-18-8483.
Rucker, Dean A., 358-28-9475.
Salsbury, Robert E., Jr., 103-24-7327.
Salter, John S., 311-30-1254.
Sanborn, Gordon E., 289-28-9738.
Sanches, Alex A., 525-82-2909.
Schlechte, Howard N., 323-26-6706.
Schmarje, David P., 478-38-9163.
Schmidt, Albert O., 517-34-7887.
Schmidt, John W., 524-46-8653.
Schneider, Joseph T., 265-50-6308.
Schneider, Wayne K., 326-26-2716.
Schrandt, John A., 483-40-1897.
Schulz, Charles E., 390-30-4354.
Schuls, John H., 565-44-3025.
Schulze, Richard G., 060-30-5160.
Scott, Craige I., 396-38-1039.
Scott, Ronald L., 012-26-8701.
Sellius, Edward J., 019-20-5711.
Shane, William H., 518-32-7947.
Sharp, Richard E., 487-38-2960.
Shearin, Patrick V., 089-20-8738.
Sidney, Gilbert E., 452-46-7037.
Siegel, David H., 213-32-9393.
Simcox, Ronald L., 532-32-8916.
Sjoberg, Oscar F., Jr., 468-38-7300.
Sloan, Ralph S., Jr., 248-54-7435.
Smith, Richard A., 467-48-8940.
Smith, Steven M., 512-30-7729.
Smith, Thomas M., 309-36-8831.
Smith, Wayne D., 404-40-6069.
Snow, Malcolm J., 003-26-5325.
Snyder, Warren D., 520-38-9129.
Solwold, Donald B., 471-32-9359.
Spillman, Harry L., 422-40-2181.
Spinney, Frank D., 001-24-3681.
Staight, Michael W., 563-38-1771.
Stammer, Norman L., 507-26-9677.
Stanton, Gloyd R., 529-30-5338.
Starrett, Charles O., Jr., 262-36-6070.
Stelter, Robert A., 395-24-0350.
Stephens, Franklin L., 283-30-3019.
Stephens, James C., 410-50-1802.
Stewart, Hardid E., 440-30-4530.
Stewart, Robert A. J., 290-28-7115.
Storey, James R., 260-44-0692.
Stuart, Ned R., Jr., 242-50-5842.
Suber, Walter, S., Jr., 248-58-8305.
Super, Roy D., 456-42-7298.
Swanson, Joel D., 534-30-6118.
Sweeney, Robert D., 500-30-6758.
Swofford, Frank W., 273-34-634.
Syverson, John O., 474-44-7597.
Taft, Joe H., 410-58-3515.
Taylor, Ronald W., 217-28-5268.
Terrell, Linton E., Jr., 278-28-5931.
Tewinkle, Wesley, 393-26-6756.
Theiss, Alvin R., 544-36-6381.
Thompson, John D., 492-34-8968.
Thompson, Robert E., 264-48-4362.
Thorndal, John L., 469-38-5561.
Tibbits, Harwood J., Jr., 536-32-3988.
Tiemann, Jerome J., Jr., 233-52-2810.
Tollison, Benjamin H., 247-68-7780.

Torres, Julio L., 581-68-6402.
Townsend, Carl F., 443-32-2427.
Turner, Howard C., 577-50-1803.
Turner, James P., 231-44-9046.
Tusing, Junior L., 216-38-5095.
Tyler, Ivan W., 526-44-3356.
Underwood, Thomas W., 409-38-6445.
Valeri, James, 174-28-1354.
Vanblois, John P., 364-36-8636.
Vannederveen, Gilles K., 549-48-2280.
Vanpelt, Richard W., 538-30-2487.
Vonbargen, Robert F., 115-26-8497.
Wagner, Frederick J., Jr., 132-28-8057.
Wahl, William A., 219-28-5049.
Walker, Kenneth W., 407-44-4711.
Ward, James C., 162-34-6632.
Warner, Robert L., 524-44-7571.
Wehn, George, Jr., 183-24-9409.
Weidkamp, Larry L., 534-36-4363.
Weidman, Charles H., Jr., 196-26-8089.
Weir, John F., Jr., 465-50-4674.
Weiss, Wayne A., 355-28-9586.
Welch, Ben J., Jr., 414-52-0015.
Welch, Gary R., 508-36-4661.
Wells, Ernest S., 516-28-1988.
Wessinger, Walter Y., 248-66-2097.
West, Raleigh L., 441-32-6071.
Westerberg, Richard H., 193-28-3999.
White, Jerry D., 448-32-9158.
Whitnell, Terry G., 486-40-5031.
Whitsett, Charles J., 450-60-1724.
Whittington, William, 571-42-8996.
Wiese, Carl W., 400-42-0227.
Wiester, Charles W., 285-26-9465.
Williams, Emil F., 342-24-4369.
Williams, Howard K., 293-30-3398.
Williams, Marshall L., 011-28-5971.
Williams, Nathaniel C., Jr., 228-32-8240.
Wingerter, James H., 366-36-4784.
Winner, Robert J., 216-40-3113.
Winsett, Byron B., Jr., 415-48-0183.
Witherspoon, Gayland B., 429-58-2086.
Wolaver, John H., 444-32-2719.
Wolk, Stuart R., 084-30-2722.
Wood, Richard J., 084-30-6114.
Woodfin, Scott D., 458-50-8206.
Woodrow, Samuel G., 076-30-4439.
Wooten, Franklin E., 164-26-9580.
Wycoff, Edgar B., III, 263-46-0540.
Wylie, Bruce A., 366-32-2621.
Yoakam, Donald E., 280-30-4341.
Young, James D., 431-56-1458.
Zigelhofer, George N., 498-34-3299.
Zordan, Aldo, 339-22-5127.

CHAPLAIN CORPS

Chancellor, Gerald R., 450-48-1651.
Gallagher, John G., 100-24-5028.
Harder, Jon G., 531-38-8040.
Henschel, Kenneth W., 391-28-9899.
Kollin, Gilbert, 052-28-0876.
Lewis, Leo T., 500-34-98666.
Lynn, Robert C., 535-24-6643.
McCarty, Harvey D., 462-42-6195.
McCosh, Earl C., 408-44-5646.
Rockenstein, James E., Jr., 573-32-8178.
Romano, Michael, 150-14-4336.
White Douglas B., 531-34-3191.
Williams, John H., 420-16-3891.
Yablonsky, Gabriel F., 283-24-0723.

DENTAL CORPS

Abbott, James H., 509-36-6293.
Bourquin, Neil J., 572-28-8428.
Byers, Samuel S., 194-22-9011.
Herd, Jacke T., 555-36-9017.
Larsen, Harold D., 516-28-6514.
Mehlhose, David G., 380-34-2143.
Parisi, Renaldo, 570-44-6280.
Pierce, Harold E., Jr., 441-24-4395.
Soldanels, Anton P., Jr., 496-34-3948.
Tarnowski, Edward A., Jr., 475-36-1488.
Urdock, Joseph, Jr., 271-28-6726.
Young, Robert L., 408-44-3215.

MEDICAL CORPS

Crates, Gordon C., 316-28-8536.
Dear, Steven R., 559-48-9007.
Delaney, John F., Jr., 159-32-1479.
Farkas, Mary E. L., 388-22-3189.
Forrester, James S., 238-50-1293.
Herrington, Alan G., 522-38-7277.
Horman, Elmer C., 336-28-9854.
Johnson, Warren E., 027-26-9717.
Jones, Warner E., 003-28-8080.
Kendall, Tommy E., 449-36-5620.
Kercher, Delores F., 267-24-5407.
Kershaw, Charles H., III, 036-24-9608.
Long, Paul D., 367-36-8590.
Onglingswan, William T., 010-46-5259.
Perezrodriguez, Felipe, 580-44-7281.
Peters, John W., 357-26-5145.
Pruett, George A., 432-74-3570.
Yonkers, Anthony J., 364-38-9777.
Young, Walter K. W., 575-32-2773.

NURSE CORPS

Alexander, Charles R., 049-28-9685.
Armstrong, Helen V., 421-38-8742.
Baker, Darline J., 550-46-6533.
Brom, Janice L., 484-42-9418.
Butz, Lois M., 191-26-5318.
Cheever, Zona M., 311-28-0046.
Conley, Shirley M., 413-52-2361.
Cousiin, Ann P., 162-26-0062.
Culver, Clara J., 443-30-9725.
Dunn, Patricia M., 023-28-5797.
Dyches, Beverly R., 369-36-6237.
Friel, Lois A., 281-32-9256.
Garriga, Mary L., 368-36-1243.
Gorman, Bernice C., 493-34-1021.
Greenstreet, Helen E., 525-68-4451.
Guzik, Lois D., 483-30-7050.
Hartnett, Joan T., 031-24-1969.
Hewson, Judith A., 378-42-6380.
Howe, Doris R., 191-28-5763.
Howell, Janice I., 555-46-3339.
Jenkins, Jennie M., 429-62-4336.
Johnson, Bonnie J., 429-52-2513.
Macko, Ollie M., 246-38-7063.
Marcin, Mary B., 185-24-7882.
McBride, Mary L., 267-48-3891.
Meier, Joanne C., 479-50-4744.
Merrill, Marjorie C., 313-32-9501.
Miller, William J., 202-28-6815.
Moore, Katherine A., 001-28-2312.
Nowland, Betty J., 318-24-0750.
Pearson, Nanette, 129-24-5653.
Pratt, Dorothy O., 062-30-1852.
Punk, Helen I., 185-28-1069.
Ritter, Mary A., 074-28-6187.
Rizzo, Patricia A., 021-28-3439.
Rogers, Suzanna J., 546-34-3574.
Rupert, Colleen J., 009-20-3118.
Slaughter, Patricia L., 400-40-1913.
Smith, Sallie L., 213-32-0172.
Spencer, Rosalyn V., 459-40-5711.
Spooner, Norma J., 561-48-0157.
Spurlin, Anne R., 261-50-7760.
Swazo, Josefita, 180-30-2969.
Turner, Betty Jane, 043-26-6158.
Warner, Luella, 242-52-5686.
Waters, Wanda S., 238-44-4468.
Wert, Barbara J., 184-26-5431.
Wright, Joyce J., 411-46-5348.

MEDICAL SERVICE CORPS

Baatrup, Gunner D., 503-30-8272.
Dixon, Clarence C., 226-38-0600.
Haberle, Joe E., 308-28-1355.
Kittell, Charles J., 517-20-2635.
Kusumoto, Kenneth S., 575-32-1061.
Madigan, John E., 352-22-6965.
O'Connell, James J., 017-30-0148.
Vega, Nicio, Jr., 261-52-5168.
Whitaker, Robert B., 529-36-7066.

VETERINARY CORPS

Loken, Keith I., 473-34-0496.

BIOMEDICAL SCIENCE

Cook, Raymond L., 500-32-5704.
Poksay, Robert A., 150-28-0727.

IN THE AIR FORCE

The following Air National Guard of the United States officers for promotion in the Reserve of the Air Force under the provisions of section 593(a) title 10 of the United States Code, as amended:

LINE OF THE AIR FORCE

To be lieutenant colonel

Maj. James B. Alford, 522-40-3226.
Maj. Walter B. Bauer, 293-34-2743.
Maj. Ted L. Beam, 526-36-3413.
Maj. Rocco A. Belfiore, 054-22-8293.
Maj. Dennis W. Bloomer, 155-26-5867.
Maj. Robert P. Bones, 541-38-8538.
Maj. Cecil G. Brendle, 419-40-3470.
Maj. Lewis M. Caswell, 248-52-5135.
Maj. Robert G. Chrisjohn, 478-50-3723.
Maj. Paul G. Cohen, 053-32-2230.
Maj. John G. Colpitts, 023-28-8089.
Maj. Thomas J. Costello, 132-28-1478.
Maj. Joseph W. Douglass, 462-56-1055.
Maj. William A. Forkhamer, 118-26-5427.
Maj. John A. Harlow, 042-28-7513.
Maj. Stacey L. Hayward, 006-30-5301.
Maj. Thomas J. Holland, 254-38-8697.
Maj. James J. Hourin, 081-30-1198.
Maj. Jan P. Johnson, 582-94-4064.
Maj. Thomas D. Jones, 482-60-9130.
Maj. Neil D. Kennedy, 164-28-5421.
Maj. James P. Key, 412-60-0622.
Maj. Joseph L. Kottak, 403-54-4062.
Maj. Peter J. Macek, 026-28-9457.
Maj. Bernard G. Malone, 104-28-8139.
Maj. Richard W. Maslowski, 296-34-5446.
Maj. Martin H. O'Leary, 098-26-1598.
Maj. Paul A. Redmond, 539-32-9624.
Maj. Ernest A. Sandberg, 516-38-2584.
Maj. Thomas M. Spencer III, 445-32-1784.
Maj. Albert L. Stanton, 414-50-0169.
Maj. Stephen S. Stickney, 468-34-4420.
Maj. Edward E. Svetlik, Jr., 122-28-7636.
Maj. Gary R. Walston, 485-42-3736.
Maj. Neal F. Weber, 270-32-7618.
Maj. Donald J. Wise, 302-28-6880.

JUDGE ADVOCATE

Maj. Donald A. Campbell, 381-30-2057.
Maj. David W. Johnston, 475-50-5906.

CHAPLAIN

Maj. Ronald G. Mills, 417-46-2053.

PHYSICIAN

Maj. Frank C. Koranda, 333-36-4574.
Maj. Joseph H. Kwan, 547-42-0407.
Maj. James E. Laughlin, 497-42-9567.
Maj. George E. Stavros, 482-34-5814.

IN THE AIR FORCE

The following-named officers for promotion in the Regular Air Force, under the appropriate provisions of chapter 835, title 10, United States Code, as amended. All officers are subject to physical examination required by law:

LINE OF THE AIR FORCE

Captain to major

Aarni, John C., Jr., 526-66-5063.
Abbott, Frank D., Jr., 023-32-7867.
Abbott, Robert A., 373-46-8777.
Abbott, Wayne R., 134-32-9003.
Abela, Alexander A., 051-36-6232.
Abraham, Quentin D., 350-34-3476.
Abrams, Fredric L., 497-44-1853.
Abrams, Kenneth H., Jr., 145-30-3873.
Adams, Harold Q., Jr., 306-38-8394.
Adams, John W., 337-36-0740.
Adams, Louis J., 137-34-1084.
Adams, Robert A., 261-64-8854.
Adams, Thomas L., 250-72-3268.
Adams, Walton F., Jr., 231-54-7295.
Adamson, Daniel P., Jr., 456-54-6023.
Addison, John M., 251-62-7388.
Adkins, John B., 283-40-4984.
Adler, John W., 310-44-9700.
Adubato, Barry T., 135-34-1187.
Aitken, Douglas B., 172-36-3737.
Ajygin, Victor E., 184-32-5564.
Alau, Henry D. K., 576-40-9292.
Aldrian, Fredric L., 569-56-0139.
Alexander, Jon R., 508-40-8823.
Alexander, Joseph R., 546-52-6565.
Alexander, Thomas W., 421-52-1705.
Alison, Thomas M., 517-44-0083.
Allan, Douglas B., 516-46-2414.
Allen, Charles C., 564-62-7702.
Allen, David A., Jr., 272-36-0865.
Allen, Edward S., 309-42-4400.
Allen, James D., 431-74-4425.
Allen, Mervin B., 528-54-9284.
Allen, Robert E., 572-62-9822.
Allyn, George S., Jr., 055-36-1800.
Almaguer, Mario, Jr., 449-54-0923.
Almquist, Tommy B., 410-68-3567.
Alsobrook, James E., Jr., 265-62-0102.

Alton, Stuart L., 301-38-6597.
Alverson, Don L., 422-52-6425.
Amdor, Stephen L., 332-36-8575.
Amodeo, James M., 485-46-3131.
Andersen, Richard D., 524-52-1605.
Anderson David S. J., 149-32-1664.
Anderson, Howard C., 541-48-2606.
Anderson, James C., 260-64-4607.
Anderson, Michael E., 474-46-7630.
Anderson, Robert M., 522-52-6110.
Andre, Jerome P., 541-42-8655.
Andrews, John W., III, 267-56-6376.
Andrlik, Jerry E., 342-34-7122.
Angell, John E., Jr., 036-28-8199.
Angstadt, Howard J., Jr., 565-62-0783.
Ankeney, Lawrence A., 165-34-4248.
Arceneaux, Ronald J., 435-60-0321.
Archey, Walter J., Jr., 577-58-0083.
Archibald, Harold A., 423-52-4588.
Arefi, Patrick A., 070-32-4633.
Armstrong, Edwin L., 495-46-3651.
Arnholt, Terry J., 350-32-8887.
Arrington, Donald R., 252-62-6609.
Arrison, John R., 158-32-9363.
Aschenbrenner, Gerald A., 562-56-0217.
Ash, Robert K., Jr., 040-32-8016.
Aston, Walter D., Jr., 044-32-6959.
Astor, Wally G., 474-36-3995.
Atkins, William D., Jr., 464-56-6890.
Atkinson, Lynn A., 307-44-9231.
Atwell, Donald C., 452-68-5514.
Atwood, Argyle F., Jr., 256-66-6548.
Aubey, James A., 127-32-1724.
Aulbach, Albert E., 497-46-5565.
Austin, Charles D., 043-32-8023.
Auton, Mary J., 185-34-4825.
Ayoub, Fred M., 465-62-0857.
Baarstad, Roger A., 538-40-9839.
Baasel, Richard W., 511-44-8846.
Babbitt Clayton M., Jr., 557-48-8313.
Babbitt, George T., Jr., 539-38-3032.
Badgett, William R., 496-34-3805.
Badgwell, Don H., 461-72-9557.
Bail, Philip G., Jr., 315-40-7319.
Bailey, John W., 382-42-5101.
Baker, Steven M., 310-42-3456.
Baldwin, David L., 307-44-5738.
Baldwin, Ronald L., 511-42-1829.
Ball, David C., 567-58-7378.
Ball, James A., 162-34-4094.
Bancale, Michael A., 291-34-3790.
Bandy, John L., 348-32-9580.
Bandy, John W., 332-34-3087.
Bangert, Robert W., Jr., 329-34-5567.
Banks. William M., Jr., 415-68-5005.
Barbara, Johnny L., 447-40-2630.
Barbeau. Jack W., 514-34-1778.
Barber, William D., 506-54-8306.
Barcus, Robert G., 395-40-7184.
Bardal Eugene A., 477-48-8685.
Barger, Edward L., 388-42-7330.
Barker, John K., 262-66-3663.
Barnes, Albert M., 425-66-8889.
Barnes, Burdette J., Jr., 563-48-7386.
Barnes, Peter A., 103-32-3409.
Barnett, Francis V., Jr., 434-58-8596.
Barr, Gene H., 369-40-8689.
Barrera, Arturo, 464-72-1642.
Barsaloux, Robert E., 473-44-0750.
Bartels, Richard L., 080-32-1648.
Bartholomew, Raymond J., 196-34-0339.
Barton, Charles D., 248-68-7628.
Barton, James B., 474-46-2250.
Barton, Richard, Jr.. 189-32-4627.
Bash, James C., 223-60-8350.
Bass, Davy M., 440-58-0715.
Batt, William P., 261-64-3508.
Battista Robert B., 457-76-5716.
Bauer, George R., 151-34-0711.
Baumgardner, Kenneth. Jr., 549-62-8126.
Bean, John E., 402-52-3476.
Bean, Richard D., 436-54-4222.
Beard. Donaldson E., 431-68-7811.
Bearry, Tommy B. 558-48-4913.
Beasley John T., 063-34-4255.
Beavers, James L., III, 525-96-7546.
Beavers, William W., 560-62-6324.
Becherer, Paul O., 361-34-4748.
Beckcom, Edwin A.. III, 455-68-4530.
Becker, Lynn H., 387-42-1731.
Beckstrand, Paul H., 528-50-3095.
Beeler, Larry L., 541-42-7132.
Beggs, Paul L., 420-52-4440.
Behl, John H., III, 188-34-2864.
Bell, Harvey B., 266-62-0902.
Bell, Jack D., 525-98-2100.
Bender, Thomas G., 559-54-0940.
Bender, William C., 577-56-9819.
Bennett, Carl E., 466-62-2249.
Benson, David E., 517-44-0639.
Benson, John D., 361-34-7389.
Berberek, Edward, Jr., 329-34-3897.
Bergeman, Gerald M., 524-44-3054.
Bergeson, Micheal B., 528-58-0249.
Bermudez, John M., 104-26-4589.
Bernardi, Richard A., 356-34-3125.
Berning, William V., 308-44-6891.
Berrier, David L., Jr., 267-56-5649.
Berry, Donald R., 434-58-7718.
Berry, Terry M., 467-58-6046.
Best, Donald L., 219-40-1363.
Betchel, Robert C., 478-40-1702.
Bettis, Jerry D., 441-40-9643.
Bettis, Jerry R., 440-42-2038.
Beu, Norman J., 325-34-6425.
Bexfield, James N., 521-60-8625.
Biehle, Allen L., 508-42-7481.
Bilbrey, George R., 408-70-0013.
Billones, Louis R., 565-56-8197.
Binford, Eugene E., 399-38-8157.
Binkowski, Richard D., 280-32-5015.
Binzer, Kenneth J., 284-38-0414.
Bishop, Donald W., 416-48-3275.
Bivens, George W., 526-62-5673.
Bjorn, Larry N., 538-38-8712.
Black, Marion, Jr., 406-52-7647.
Black, William C., Jr., 069-34-6999.
Blackman, Barry A., 507-52-3762.
Blaha, John E., 423-50-0594.
Blair, Robert L., 512-40-9107.
Blankenship, James E., 409-74-2345.
Bleymaier, Joseph S., Jr., 556-58-6887.
Bliemel, Jeffrey J. 093-34-0837.
Blockhus, David E., 478-52-9049.
Bloom, Leonard O., 235-66-6930.
Bluford, Guion S., Jr., 182-34-9877.
Blum, David J., 263-56-9193.
Bodkin, Thomas B., 369-40-6099.
Bogard, Lonnie P., 438-58-5142.
Boggan, William J., 428-90-2561.
Bogue, Donald M., 417-56-9470.
Boles, James D., 458-70-6260.
Boll, Fred C., 277-38-3532.
Bolz, Larry F., 539-36-8722.
Bond, David A., 506-52-3359.
Bondaruk, Henry A., Jr., 378-38-3863.
Bongartz, Theodore R., 216-40-1419.
Bonham, Frank A., 417-56-8796.
Boniface, George B., Jr., 578-50-4699.
Bonnot, Mark M., 489-48-0800.
Boozer, Gordon L., 543-46-2824.
Borgiet, Barry L., 184-34-4761.
Borries, Jerry L., 265-62-1917.
Boston, William E., III 343-34-5889.
Bottomley, James A., 484-50-7816.
Boudreaux, Lionel A.. 436-58-0923.
Bouma, Eugene F., 167-34-5642.
Bounds, Michael S., 576-42-4339.
Bourque, George M., 006-42-5980.
Bower, Robert C., 525-98-7315.
Bowers, William T. M., 417-56-6063.
Bowse. John R., 026-30-7684.
Boyce, Joseph B., Jr., 239-70-4812.
Boyd, George V., III, 238-64-4363.
Boyde, Edward R., 106-34-5288.
Boylan, Joseph F.. 053-32-5297.
Bozeman, Jerald D., 250-70-5056.
Bracci, Peter G., 018-32-9763.
Bradburn, William J., 493-42-2099.
Bradley, Roger C., 486-46-0868.
Bragaw. Paul H., 579-54-2903.
Bragg, James J., 220-38-2563.
Branch, Robert C., III, 241-64-6883.
Brands, David H., 266-68-9067.
Brannan, Jack F., III, 268-40-9667.
Brauer, Richard F., Jr., 020-32-3800.
Bream, Joseph R., 139-34-0763.
Brecht, Robert D., 485-46-8662.
Breedlove, Phillip G., 253-66-4405.
Bremer, John R., 390-42-0490.
Brennan, Martin J., Jr., 160-34-2960.
Brenneman, Richard C., 304-44-1125.
Brewer, Michael F., 432-70-9838.
Bridges, Roy D., Jr., 258-64-9055.
Brinker, Jack A., 509-42-4231.
Bristol, Charles E., 322-38-9717.
Bristow, Vincent L., 503-50-9311.
Britan, Joseph K., 305-44-1698.
Brittingham, James H., 229-52-4576.
Britton, Richard D., 413-62-6335.
Broers, Wesley H., 324-38-5919.
Brook, Gary W., 543-40-7366.
Brooks, Charles H., 313-38-9336.
Brooks, George W., Jr., 424-52-6320.
Brooks, John H., 573-52-8892.
Browder, Thomas M., Jr., 227-58-4250.
Brown, Daniel F., III, 414-66-2832.
Brown, Donald E., 482-52-3010.
Brown, Durward D., 493-50-0275.
Brown, Edward F., 216-38-3157.
Brown, Herbert D., 248-70-7933.
Brown, James H., 415-70-9827.
Brown, James S., 062-34-9253.
Brown, Kenneth N., Jr., 217-40-9276.
Brown, Marion L., Jr., 255-62-5371.
Brown, Nelson C., 226-56-2787.
Brown, Raymond G., 449-64-0825.
Brown, Richard D., 560-62-8255.
Brown, Robert H., 239-68-1920.
Brown, Wayne D., 277-38-1860.
Brown, Wayne G., 051-34-0365.
Brown, Wayne G., 533-38-8693.
Brown, Wilbur N., Jr., 228-50-1793.
Brown, William J., 258-68-9284.
Brown, William R., 440-44-0062.
Brumble, Michael R., 542-44-4140.
Brunson, Roy E., 180-34-9404.
Buchfinck, Lloyd L., Jr., 507-50-4133.
Buck, Donald L., 456-66-1148.
Buckellew, William R., 456-66-7580.
Bukauskas, Louis J., Jr., 338-32-4261.
Bulen, Douglas W., 477-46-6451.
Bump, David G., 007-38-3754.
Bunce, Charles N., 449-64-5913.
Burchfield, Daniel R., 310-44-1941.
Burchfield, Edward L., 302-36-0680.
Burk, Thomas T., 524-54-0284.
Burke, Donald L., 259-66-3266.
Burnett, Robert W., 263-64-0143.
Burnette, Joseph R., 244-66-8016.
Burns, Melvin W., 447-42-5664.
Burns, Nicholas J., 535-40-3123.
Burr, Hiram B., Jr., 451-68-0445.
Burrow, Jerry G., 247-52-6932.
Burrows, William E., 453-64-7551.
Busek, Joseph R., Jr., 502-44-2128.
Bussey, Robert M., Jr., 564-58-1946.
Butler, Norman D., 440-44-1155.
Buttross, David A., 425-80-6375.
Buzzell, Robert L., 264-56-6986.
Cable, Hobart S., II, 287-38-9774.
Caffo, John A., 578-56-6356.
Cagle, Donald R., 239-64-5424.
Cahill, Lawrence J., Jr., 226-56-8837.
Calabrese, Louis, 208-32-0169.
Caldwell, James A., 542-44-4136.
Callens, Pierre A., 438-58-9771.
Camburn, Gilbert L., 426-86-9280.
Canavan, Gregory H., 463-70-1476.
Cantrell, Ronald L., 328-36-7591.
Cantwell, John L., 312-42-1161.
Capps, Thomas E., 241-64-6761.
Cardes, George C., 146-34-5655.
Cardwell, Thomas A., III, 456-68-8949.
Carl, Joseph W., 142-32-5661.
Carlburg, Richard E., 515-34-2220.
Carney, James F., Jr., 268-40-3042.
Carothers, Harry H., III, 143-34-5683.
Carpenter, Michael F., 474-46-5847.
Carpenter, Newton I., Jr., 579-56-8390.
Carriger, Henry N., 354-32-5942.
Carson, Douglas M., 554-52-2962.
Carter, Thomas W., 227-52-3933.
Casey, Jerome C., 393-36-6106.
Cashman, Patrick J., 481-48-0187.
Caskey, Billie R., 403-52-0593.
Caso, John, 186-28-8572.
Castell, Harold L., 441-42-1883.
Castro, Benjamin H., 559-56-8522.
Castruccio, James F., 526-54-8430.

Cates, Robert L., 455-58-9268.
Catherwood, Michael I., 143-34-7168.
Cathey, William H., 467-68-4981.
Cauley, Robert F., 035-28-3887.
Cavanaugh, Michael E., 545-50-5053.
Caviness, Jesse C., Jr., 411-66-2331.
Cecchini, Maurice J., 579-54-2179.
Ceffalo, George M., 531-38-8308.
Cejka, George J., 508-54-2208.
Cermele, Michael J., 154-32-1025.
Cesarotti, William L., 339-36-9314.
Chambers, John F., Jr., 463-68-8169.
Chaplin, Wallace H., Jr., 022-32-5401.
Chapman, Buddy W., 461-52-6886.
Chapman, Jerry D., 465-56-6486.
Chapman, John E., 335-36-1263.
Charlton, Hugh J., 521-56-8049.
Chatham, Charles W., 439-58-8207.
Chepolis, William M., 145-30-9688.
Cherney, Thomas J., 470-46-5377.
Cherry, Charles E., 223-56-1592.
Chinn, Alvin F., 549-54-1588.
Choate, James W., 461-62-5919.
Chojnacki, Raymond, 046-32-6836.
Choplin, Larry E., 245-66-6620.
Chorvat, Michael F., 534-40-8821.
Christian, James W., 571-56-2909.
Christman, Noel J., 551-58-9499.
Christy, Robert R., 204-32-7768.
Chronister, Richard D., Jr., 445-40-1153.
Chumbley, George W., 555-50-0218.
Cirino, Alan B., 557-62-5251.
Clair, William J., 465-70-7091.
Clamon, James A., 449-62-7849.
Clark, Albert P., Jr., 465-60-0518.
Clark, David D., 390-42-8279.
Clark, Howard A., 539-34-0495.
Clark, James C., 419-54-9973.
Clark James I., 571-56-5684.
Clark, John D., 535-40-0498.
Clark, Kenneth H., II, 436-64-9273.
Clark, Richard D., 312-42-2418.
Clark, Robert L., 462-62-5674.
Clark, Walter B., 219-38-7898.
Clark, Walter F., 274-34-0589.
Clark, William E., Jr., 228-56-4629.
Clarke, Sidney H., 533-40-7742.
Clawson, George D., 282-38-5244.
Claxon, Lynn R., 407-56-4184.
Cleland, Thomas E., Jr., 029-32-3967.
Clippinger, William C., Jr.. 494-46-2686.
Cliver, Jeffrey G., 147-34-8598.
Clonch, Herbert L., 282-36-5255.
Cloninger, David R., 519-44-2360.
Clouse, Gary E., 534-40-0939.
Coakley, Wayne C., 225-52-9821.
Coan, Stuart W., 228-52-9478.
Cockerham, Warren E., 437-56-6341.
Codling, James G., 551-54-5260.
Codron, Barry J., 426-86-0210.
Cogburn, Thomas M., 460-72-3126.
Coghill, Albert B., 535-38-7221.
Coglitore, Sebastian F., 147-32-3403.
Cohen, Richard, 563-56-5080.
Colburn, Eugene J., III, 022-32-2652.
Cole, Alvin J., III, 496-42-4878.
Cole, Richard T., 365-42-9813.
Coleman, Charles B., III, 564-58-5386.
Coleman, William L., 412-66-2155.
Collins, Sumner R., 224-46-1695.
Collins, William E., 027-32-8818.
Combs, Ronald H., 215-38-1670.
Cone, Wallis D., Jr., 249-68-5881.
Coney, Joel T., 261-64-7817.
Conklin, David A., 036-28-7097.
Conklin, Donald A., 105-34-1245.
Conn, John C., Jr., 400-60-4204.
Conn, Richard D., 286-36-1448.
Connor, Michael A., 523-50-3762.
Conques, Duane L., 223-56-9077.
Contreras, Raymond T., 262-72-6895.
Cook, Gordon L., 296-38-3010.
Cookson, Gerard D., 084-34-8559.
Coombs, Dennis C., 267-62-9334.
Cooper, David R., 459-66-9267.
Cooper, Wallace E., Jr., 495-44-2676.
Cope, Robert S., 239-72-1117.
Corbett, James D., 520-44-4350.
Corbin, Wayne W., 316-46-6563.
Cordon, Shelby N., 527-46-7206.
Cork, Larry D., 370-40-2598.
Corley, William D., Jr., 524-50-9513.
Cortez, Robert, 569-36-4087.
Cozzowski, Walter J., Jr., 373-42-2050.
Cossa, Anthony J., Jr., 188-34-4995.
Couch, Ronald C., 516-44-0235.
Coullahan, Richard, 146-34-0146.
Courington, Felix W., 441-38-5654.
Courtney, Marion W., 247-72-7155.
Cowan, George M., 462-62-9188.
Cox, Edward L., Jr., 523-50-1219.
Cox, Jackie L., 306-42-7534.
Crabtree, William H., 225-50-6221.
Craig, Lamar P., 278-40-9288.
Craig, William E., 005-40-7821.
Crane, Alfred C., Jr., 152-34-7236.
Crawford, Daniel C., Jr., 257-58-6468.
Creamer, Max A., 524-52-4099.
Crew, James A., 178-32-0780.
Crimmins, Francis T., 027-32-4227.
Crosby, Paul S., 513-44-4263.
Cross, Allan J., 106-34-1940.
Cross, Jack P., 457-66-5971.
Crowell, Lorenzo M., Jr., 034-32-2137.
Crump, Ronald S., 260-60-2324.
Crumpler, Walter M., 238-62-4815.
Culpepper, Julius L., 435-54-1334.
Cummings, Allan V., 209-32-7147.
Cummings, James A., 427-86-7341.
Cunniff, Robert E., 024-32-5945.
Currie, Christopher C., 042-34-0613.
Curtin, Gary L., 214-42-7307.
Cusano, Jack D., 126-34-6621.
Daday, John E., 523-54-9873.
Daly, Peter F., 521-56-1868.
Damiano, Michael R., 224-54-1639.
Dampman, William A., 462-64-2685.
Dangelo, George A., 181-34-5250.
Daniel, Harold L., 416-54-9787.
Danner, Carl E., 317-38-1748.
Darden, Russell B. G., 410-70-0806.
Daschbach, Thomas M., 493-48-1689.
Davids, John H., 074-34-1137.
Davies, John O., 187-34-8776.
Davies, Robert R., 561-62-7132.
Davis, Curtis L., 430-64-2893.
Davis, Earl E., Jr., 171-34-3456.
Davis, Larry L., 311-38-6841.
Davis, Larry R., 486-46-6266.
Davis, Marcus M., Jr., 475-38-2748.
Davis, Paul R., 420-56-0568.
Davison, Geoffrey R., 033-30-9938.
Day, David A., 106-32-3171.
Dayton, Douglas K., 151-30-2649.
Dean, William C., 230-50-8093.
Dean, Willie J., Jr., 418-54-8470.
Deatherage, Fred S., 282-40-3874.
Deberg, Oak H., 464-70-2742.
Decker, Donald C., 341-34-0474.
Decker, Ronald C., 171-34-8200.
Deerr, Milton C.. 479-50-6220.
Degroot, Frederick J., 391-40-1459.
Deisher, Christian F., 212-40-3687.
Dejonckheere, Eric T., Jr., 068-36-8663.
Dekay, Kenneth B., Jr., 224-56-6503.
Delahoussaye, Jean P., 435-56-1340.
Dalaney, James T., 378-40-9870.
Delia, Michael D., 050-36-6696.
Dellermann, Frank J., 124-34-3547.
Delong, Leslie G., Jr., 564-58-2170.
Dement, Larry D., 458-66-0561.
Demmon, John L., 552-56-7016.
Democko, Gerald P. J., 340-36-9274.
Demuth, Stephen H., 279-38-2354.
Dent, Harvey L., Jr., 229-54-8959.
Denton, James C., 533-40-3143.
Desantis, Dom A., Jr., 162-34-7487.
Desbrisay, Thomas D., 543-48-9698.
Dettwiler, Ronald H., 346-32-3452.
Dewing, Richard M., 517-46-5294.
Deyoung, Lance G., 531-38-6797.
Diamond, Thomas E., 517-46-5772.
Dick, David A., 429-62-0450.
Dielman, Terry L., 272-38-2407.
Dimaria, Rosario R., 117-30-9149.
Dimity, Charles F., 295-36-0488.
Dingman, Steven K., 540-48-0912.
Divingnzzo, Sam M., 530-26-7891.
Dix, Louis O., 189-34-4024.
Dixon, John K., Jr., 422-56-5310.
Dixon, Wesley B., 538-40-7533.
Dodrill, Reginald M., 558-48-2911.
Donald, Myron L., 127-34-6618.
Donnelly, John J., 127-32-7208.
Donohoe, William F., 150-32-6949.
Doornbos, James S., 513-44-5031.
Dormer, Edward J. Jr., 261-72-9165.
Dose, Daniel C., 351-32-1108.
Doss, Glen P., 458-58-3098.
Dostaler, Dion J., 568-52-3064.
Dotson, William P., Jr., 579-56-4857.
Dougan, John W., 184-32-9056.
Doughty, Glenn R., Jr., 454-68-6385.
Douglas, Donald M., 320-36-3405.
Douglas, Kenneth W., 408-72-8228.
Drew, Ernest R., III, 366-42-0969.
Driskill, Charles R., 441-42-6319.
Drolet, Normand E., 265-56-5530.
Drum, Louis M., 505-50-1376.
Duers, James W., 106-34-0942.
Duff, Edward A., 188-34-9518.
Dugan, Hugh, 527-58-5487.
Dumbroski, John R., 201-34-4173.
Dumville, James C., 125-34-5307.
Duncan, Stewart S., 396-38-8195.
Dunkelberg, George H., Jr., 249-70-2189.
Dunn, Douglas M., 220-40-3138.
Durgee, Ronald M., 262-68-7343.
Durocher, Edmond N., 365-42-3609.
Dwyer, John P., 506-52-9035.
Dwyer, John L., 013-32-9250.
Dye, John M., 250-70-5065.
Eagle, Henry, III, 141-34-1124.
East, Willie J., 424-56-8590.
Eastman, Herbert C., Jr., 264-62-7115.
Eaton, Jay E., 399-38-6190.
Eavenson, Thomas J., Jr., 437-62-4603.
Ebbert, Ronald, 265-52-4421.
Ebeling, Charles E., Jr., 210-34-5786.
Ebert, Gary R., 552-60-2339.
Ecker, Leroy G., 372-42-2337.
Eddy, Frederick J., 141-34-1027.
Edmiston, Ronald L., 185-30-4175.
Edmondson, Hobdy J., 267-64-8701.
Edwards, James C., 567-58-6794.
Edwards, Kenneth C., 419-56-5342.
Edwards, Michael D., 490-44-5118.
Edwards, Robert M., 252-62-6706.
Edwards, William W., 285-38-2062.
Effinger, George W., III, 579-52-5632.
Ehrhardt, Donald R., 526-58-5511.
Ehrlich, Rolph I., 355-32-1931.
Eichenseer, John C., Jr., 493-44-8810.
Eiff, Arthur D., 348-32-6436.
Eikerenkotter, Thomas H., 564-56-2416.
Elder, Jerry L., 486-42-9584.
Elder, William E., Jr., 110-34-7697.
Eller, Johnnie R., 228-50-3592.
Elliott, Alton L., 248-64-7866.
Ellis, Leon F., Jr., 255-66-1342.
Ellsworth, Roger W., 574-14-1765.
Embert, Paul S., Jr., 041-28-2351.
Emborsky, Thomas E., 098-34-0401.
Emerson, Robert H., 219-38-1931.
Emmons, Richard D., 273-38-1900.
Engebretson, William R., 475-46-9762.
Engelke. Roy M., 471-38-5293.
Engle, William M., 459-64-2324.
Engler, Guy G., 360-34-0448.
English, James T., 537-38-1824.
Ennis, Carl A., 049-32-9630.
Enos, Zimri A., 511-42-0433.
Epperson, William L., 361-32-5868.
Erwin, David W., 250-62-9404.
Erwin, Roy W., Jr., 585-01-2749.
Esterby. Brian E., 522-52-3410.
Estes, Hestil D., 446-42-2606.
Estes, Howell M., III, 578-56-5497.
Eszenyi, Steven A., 230-42-2811.
Etheridge, William R., 267-62-7950.
Eto, Marshall A., 575-40-9066.
Evans, James W., III, 219-40-3958.
Evans, Richard T., 524-42-9744.
Evans, Ronald G., 514-42-0621.
Evans, Thomas D., 276-36-4836.
Evers, William A., 517-46-5693.
Eversmann, Joseph J., 261-64-6857.
Fager, Harry G., Jr., 033-32-1363.
Fairbourn, Lee R., 529-56-9572.
Fairchild, Gerald G., 410-68-9040.
Faith, Larry E., 417-58-1132.
Faletto, Richard J., 531-36-7913.

Panthorpe, Robert J., 354-34-3780.
Pardin, Robert W., 552-48-7936.
Parley, Daniel P., 086-34-3122.
Parmer, Vivian J., 247-72-8863.
Parrell, Edward P., 048-32-2825.
Parrell, Lawrence P., Jr., 461-62-7344.
Parrell, William T., 039-26-8040.
Parrow, Willie L., 416-58-3117.
Pauske, James H., 478-50-9366.
Pazio, Peter P., 343-34-8912.
Peddes, Robert G., 516-52-7287.
Pegter, Gerald L., 505-52-3530.
Peigert, David J., 542-44-2293.
Peingold, Robert S., 310-44-6270.
Peldt, William E., 485-38-8688.
Pelta, Mary F., 317-40-2766.
Pennelly, Norman P., 146-36-8237.
Perguson, Jackson R., Jr., 462-64-3472.
Perguson, James E., 568-48-6224.
Perguson, John E., 412-68-0423.
Pernandez, Manuel, Jr., 449-58-1236.
Perry, James D. G., 263-64-0463.
Pesmire, Thomas A., 169-34-2514.
Petzer, Daniel K., 209-32-2116.
Piebig, Robert R., Jr., 322-36-9114.
Piegel, John L., 460-70-2605.
Pields, William J., 218-40-4335.
Pields, Willie L., Jr., 416-52-3277.
Pierro, Charles D., 132-32-2770.
Pigel, Walter, Jr., 137-32-0513.
Pillare, Joseph P., 140-32-2844.
Pillion, Milton E., Jr., 025-32-0689.
Pindley, Keith G., 226-56-4113.
Pinley, Thomas C., 578-46-5124.
Pisher, Douglas A., 372-44-7501.
Pitzgerald, Thomas J., 057-30-6805.
Plentje, John M., 391-36-7939.
Pletcher, John E., 361-34-4578.
Plock, George, 506-50-8713.
Plood, John D., 287-38-9537.
Plourney, Daniel B., Jr., 416-54-5899.
Floyd, Thomas W., 422-56-4391.
Flynn, John D., 083-34-7506.
Poerster, Robert Y., 418-56-2647.
Poley, Jack O., 414-68-4170.
Porbes, James A., 190-32-8075.
Pord, Donald H., 429-78-2165.
Pord, Patrick V., 409-58-9664.
Pord, Richard E., 311-48-1092.
Pord, Rodney D., 501-50-4536.
Pord, Ronald H., 553-58-1622.
Pord, Walter D., 455-66-6579.
Porker, Alan M., 479-52-3545.
Porkner, Rodney J., 542-46-8484.
Posbey, Jack R., 290-34-3243.
Poth, James R., 515-40-8832.
Pountain, William L., Jr., 426-82-8076.
Powler, Henry P., Jr., 218-38-7129.
Powler, William H., 112-34-0650.
Pox, Paul M., 035-28-7811.
Prady, Jerry P., 253-58-8781.
Praker, Paul J., 522-54-0191.
Pramberger, James P., 390-38-5595.
Pranklin, Carl E., 458-58-3551.
Pranklin, Eldon G., 513-44-4097.
Prazier, John D., 303-36-2384.
Preeman, Porrest N., Jr., 490-48-4424.
Preeman, William B., Jr., 415-62-6578.
Preewald, Robert C., 480-46-4766.
Preiburger, Charles P., 261-66-3502.
Prensel, Michael J., 437-60-4869.
Prerking, Stanley P., 489-46-9060.
Preshwater, Kent W., 285-36-1427.
Prey, Kenneth A., 270-38-2359.
Priedauer, Emil M., 306-42-9267.
Priess, Ronald W., 487-48-6351.
Priski, Michael P., 230-52-8354.
Proeschner, Paul H., 495-44-7969.
Prost, John J., 348-34-4108.
Prutchey, Irvin W., Jr., 263-68-2787.
Pugate, Edward, 279-38-6043.
Pulaytar, Gerald W., 303-44-9386.
Pulton, Donald P., 073-32-0012.
Punk, William G., 315-38-1868.
Gagnon, Donald J., 509-42-7408.
Gaines, Lewis B., 400-62-1814.
Gaines, Robert S., 437-56-8120.
Gainey, John P., 247-70-6239.
Gallardo, Edward, 527-52-5506.
Galletta, Patrick M., 527-62-1706.
Gallice, Joseph L., 166-32-4761.
Galusha, Brian W., 083-34-5906.
Gamble, Billy R., 463-62-2281.
Gardner, Dennis L., 567-58-9164.
Gardner, Gregory L., 513-40-3086.
Garing, John J., 468-46-3672.
Garland, Hugh A., 261-66-9687.
Garner, John T., 435-60-1836.
Garrett, Perris O., Jr., 214-42-4780.
Garrido, Manuel W., 142-34-3454.
Garrison, Chester P., 145-34-8498.
Garrison, David W., 155-34-7682.
Garvin, Edward M., 501-42-0044.
Garza, Frank D., 454-58-3600.
Gay, Eugene P., 065-36-2284.
Gehlhaar, Gert U., 525-92-6443.
Geib, George E., 308-48-3707.
Geib, Lanny R., 300-36-9557.
Geiger, Keith W., 086-34-2722.
Geil, Earl H., 223-50-7489.
Generosa, John L., 094-26-9444.
Genez, Victor L., 219-40-1359.
Genoni, Thomas C., 552-62-6152.
German, John D., Jr., 335-36-1239.
Giberson, Kenneth L., 510-30-3989.
Gibney, Jimmy C., 441-38-9224.
Gibson, Richard L., 401-56-1550.
Giffen, Robert B., 256-62-4979.
Giffin, Barry M., 413-58-3251.
Giffin, Darrell D., 299-38-7830.
Giglio, Donald P., 063-34-1576.
Gilbert, Boyd W., 180-34-8814.
Giles, Benjamin J., 423-44-7151.
Gill, Daniel E., 360-26-5174.
Gill, Luke J., 172-32-3307.
Gillespie, Richard W., 333-32-5534.
Gillespie, William U., III, 209-32-3807.
Gilliland, Roy A., Jr., 171-36-0751.
Giordano, Thomas J., 183-34-1402.
Giusti, Peter C., 033-32-5109.
Gleason, Bruce A., 374-42-0948.
Gledhill, James H., 307-42-1838.
Glosson, Buster C., 240-64-4340.
Gluntz, Thomas A., 098-34-5785.
Gnuse, James R., 200-34-3820.
Gobien, Jurgen O., 144-34-2437.
Goddard, David M., 243-64-4545.
Goddard, William W., 273-38-3713.
Godesky, Robert F., Jr., 098-30-7777.
Goebel, Richard H., 251-58-9740.
Gogosha, Orest R., 124-34-5974.
Golden, Robert F., 072-34-5547.
Golling, Robert V., 543-44-3451.
Gonser, Edward R., 257-48-3203.
Goodrich, William R., 267-52-6812.
Gordon, Clarence L., II, 447-40-4620.
Gordon, Richard E., 310-36-9579.
Gorecki, Joseph D., 444-42-7654.
Gorges, Thomas W., 514-44-7802.
Gould, Douglas R., 027-32-9157.
Gower, William N., 483-48-9958.
Grace, Ellis E., 372-36-3771.
Grace, Paul J., 013-32-7390.
Graham, Alan C., Jr., 106-34-1676.
Graham, Oliver E., III, 238-60-3994.
Gram, Arthur M., 366-42-3079.
Gramm, Robert W., 359-34-4981.
Granrud, Garth P., 494-42-8225.
Grant, Robert R., 267-60-0970.
Gratton, John J., 132-28-7153.
Graves, Don F., 077-30-3685.
Graves, Samuel B., 049-32-5843.
Graves, Timothy J., 370-44-0366.
Gray, David F., Jr., 465-68-6492.
Gray, Jerry W., 240-72-0365.
Grayson, John C., 478-50-1383.
Grazier, Victor W., 572-46-1733.
Greece, Michael N., 015-32-3020.
Greene, Louis E., Jr., 490-44-9897.
Gregory, David C., 151-32-2739.
Gregory, Harry L., Jr., 248-74-4709.
Gregory, Leo T., 264-64-2548.
Gregory, Leroy J., Jr., 239-66-8133.
Grems, Bradford C., III, 555-62-0338.
Grieshaber, Alfred W., Jr., 469-46-7105.
Griffin, John B., Jr., 577-56-5104.
Griffith, Charles R., 277-32-4234.
Grignot, Paul J., Jr., 175-34-1741.
Gross, Bernard K., 214-34-1701.
Gross, John B., 501-44-4574.
Grossetta, Bruce D., 526-66-3478.
Grosvenor, Willard, 106-34-1537.
Gruender, Joseph J., Jr., 510-44-0295.
Guinn, Jerry R., 257-54-8092.
Gunderman, Ronald G., 276-34-1351.
Gunderson, Edwin G., 390-42-1376.
Guran, Claude P., 381-38-7777.
Guwang, William C., Jr., 176-36-0753.
Haakenson, Terrence E., 502-42-3427.
Haas, Charles D., 376-42-2984.
Haas, John J., III, 152-32-0973.
Hachmann, Grant S., 482-52-3909.
Hackard, Charles N., 354-34-5323.
Haddad, Frederick F., Jr., 288-38-9784.
Haffa, Robert P., Jr., 158-32-4266.
Hale, Robert B., 504-46-4810.
Halford, Harold D., 451-62-9804.
Halfpap, Ingward R., 326-32-8438.
Hall, Gary W., 516-44-7488.
Hall, Hershall D., 260-58-7936.
Hall, James T., 067-34-0738.
Hall, Leonard R., 450-54-4490.
Hall, Marilon D., 463-68-5665.
Hall, Robert J., 336-34-9716.
Hall, Ronald K., 501-46-5113.
Halsey, Gregory A., 135-32-4525.
Hamby, Henry G., III, 051-36-0805.
Hamilton, Albert T., 234-64-0140.
Hamilton, Charles D., 014-34-1966.
Hamilton, Linn E., 279-38-2983.
Hammitt, Charles E., 298-34-1735.
Hammond, Donald H., 266-56-0434.
Hammond, George R., II, 519-42-7079.
Hammons, Willard, 406-46-0929.
Hamner, John W., 420-54-6222.
Hanchey, Jerry L., 430-78-5572.
Handy, Walter R., Jr., 229-54-0602.
Hane, James L., 306-44-7392.
Hanley, Robert L., 307-42-5041.
Hannibal, Alexander R., 554-56-0789.
Hansen, Terrell W., 719-16-9421.
Hanson, Don R., 535-42-4941.
Hanson, Hans E., 471-46-1745.
Hanson, Raymond M., 561-56-9461.
Harbison, Paul W., Jr., 202-32-1463.
Harbolt, John A., 309-38-3051.
Harborth, Nelson L., 456-72-4214.
Harden, Michael A., 258-66-7115.
Harms, Thomas E., 216-42-3548.
Harper, Robert B., III, 531-42-6705.
Harper, Steven V., 264-76-1150.
Harr, James E., Jr., 489-46-2082.
Harrell, Larry J., 411-62-5547.
Harrier, Lamar C., 251-66-8326.
Harrigan, David S., 022-26-2389.
Harriman, Roy E., 043-34-3056.
Harrington, Jeffrey M., 482-50-6962.
Harris, Richard P., 040-34-6087.
Harrison, Harry C., 569-56-5407.
Hart, Thomas E., 515-28-2525.
Hartman, John W., 171-34-3630.
Hartwick, Peter J., 135-34-9474.
Harwood, William R., Jr., 046-32-2426.
Hatch, Everette A., III, 223-54-8411.
Hatch, Timothy H., 506-52-0290.
Hatlelid, Carl M., 442-44-2937.
Haviland, Richard L., Jr., 043-34-0167.
Hawes, Gary T., 518-38-9401.
Hawkins, Grady H., 241-66-3317.
Hawkins, John E., 431-76-7576.
Hawkins, Lowell F., 272-38-7206.
Hawley, Charles H., 529-38-4894.
Hayden, Robert D., 445-40-7881.
Hayes, William A., Jr., 025-30-8556.
Hayhurst, Edward V., Jr., 543-44-5491.
Hays, Philip V., 316-44-4267.
Hazard, Christopher W., 302-36-4429.
Healy, Michael J., 087-28-0480.
Heath, Dale E., 062-34-8458.
Heck, Walter R., 233-66-5089.
Hedgecock, William T., 547-58-0595.
Hedin, Vance A., 519-42-8759.
Heffner, Charles W., 239-62-6007.
Hefty, Raymond S., 575-38-9764.
Heideman, David A., 346-32-2965.
Heinke, Wayne R., 305-46-8605.
Heinze, Dieter H., 058-34-3163.
Heinzman, Richard R., 328-34-6663.
Heitz, John M., 316-32-6037.
Helfeidt, Carl W., 051-34-3774.
Helsel, Ronald W., 561-50-9990.
Helt, Harold C., Jr., 159-36-4549.
Helwig, Larry G., 165-38-4056.

Henderson, Joe C., 464-64-8296.
Henderson, Joseph M., Jr., 410-68-7841.
Henderson, Thomas E., 351-34-1770.
Hendrickson, James L., 513-42-3125.
Hendrickson, James L., 302-36-3077.
Henkelmann, James P., 395-40-2887.
Henn, Neil F., 501-42-7635.
Hennessy, Robert D., 226-56-3569.
Henning, Jerry A., 219-40-6683.
Henry, Jack C., 449-56-9178.
Henton, Larry D., 451-66-4106.
Hermerding, Dennis C., 411-58-8209.
Herre, Frederick P., 527-60-3694.
Herrick, William C., 263-64-3864.
Herzog, Raymond L., Jr., 410-68-2812.
Hesford, Peter D., 535-40-8193.
Hess, Leon E., 185-34-8370.
Hester, Ira L., 249-70-8252.
Heuer, Gerald R. J., 374-44-0841.
Hewett, Gary W., 503-50-1377.
Hickok, Philip A., Jr., 216-38-6077.
Hicks, Eddie J., 263-50-1431.
Higgins, Charles C., 326-36-3154.
Highfill, Larry G., 449-42-4520.
Highley, Robert W., Jr., 174-34-3471.
Highsmith, Marshall W., 344-34-9195.
Hill, Howard J., 525-90-8409.
Hill, James M., 348-34-6998.
Hill, Walter W., 238-64-6341.
Hillhouse, Jon S., 259-60-7293.
Hillstrom, Douglas V., 517-44-2207.
Hindman, Steven E., 414-68-5658.
Hinneburg, Patricia A., 185-28-9083.
Hintz, Peter B., 542-46-7070.
Hipps, Robert L., 410-70-0309.
Hitztaler, William J., 147-34-7909.
Hix, Jerry C., 258-66-8204.
Hnetynka, Martin J., 348-34-4138.
Hobgood, Henry M., 243-72-9213.
Hobson, James L., Jr., 419-52-7508.
Hodge, Paul F., 266-62-9363.
Hodge, Russell L., 340-34-8041.
Hodges, Joseph L., III, 235-54-4012.
Hodges, Roy L., 443-42-1284.
Hoffman, Stephen D., 503-44-7749.
Hoffson, Arthur T., 462-62-5269.
Hogan, Bart C., 529-62-1470.
Hogan, James F., Jr., 224-48-6737.
Hogwood, John C., 224-54-4551.
Hoke, Eric O., 232-58-1864.
Holladay, Cecil A., 263-66-9475.
Hollars, Dennis R., 408-72-2681.
Hollender, Arthur H., 331-36-0752.
Hollers, Arthur D., 450-60-6868.
Holliker, Charles D., 526-60-4204.
Holmes, Michael J., 465-64-9280.
Holmes, William T., Jr., 262-66-6802.
Holoviak, Daniel R. J., 221-28-4474.
Holsinger, Mitchell W., 228-54-3022.
Holsman, Darol V., 470-46-1860.
Holt, Joseph H., Jr., 238-68-8789.
Holycross, Thomas W., Jr., 280-38-6631.
Homoki, Stephen W., 146-32-8987.
Honodel, David R., 164-34-1732.
Hood, Ralph T., 542-42-8989.
Hooghkirk, William G., 056-36-9624.
Hooten, Joseph B., 231-54-4123.
Hoover, Ronald C., 514-42-7222.
Hoover, Thomas R., Jr., 511-42-1103.
Hopper, Earl P., Jr., 526-60-4263.
Horan, Robert A., 110-30-3677.
Horiuchi, Gerald T., 562-56-5930.
Horner, Merwin H., Jr., 135-34-5460.
Hoss, James B., 518-44-6255.
Hough, Claude F., III, 542-44-7075.
Houghton, Robert W., 523-50-7435.
Houser, Lewis M., Jr., 442-40-9766.
Hovastak, Michael W., 157-32-7543.
Howard, Danny D., 538-36-2121.
Howard, Dara L., 123-32-9166.
Howard, Jerome R., 447-38-4765.
Howard, John R., 484-52-3143.
Howard, Rogers W., 211-32-6080.
Howard, Thomas J., 503-46-8808.
Howder, John D., 417-56-9211.
Howell, Stephen D., 572-52-7360.
Hoybach, John P., 226-54-0655.
Hoyer, Gustave R., 421-52-8457.
Hruskocy, Thomas C., 310-42-9914.
Hubbard, James W., 543-52-6838.
Huber, Paul E., 526-54-7604.
Huckaby, George L., Jr., 162-34-4636.
Hudson, Brian D., 542-48-5168.
Hudson, Edwin J., Jr., 552-58-1169.
Hudyma, Michael G., 164-36-6722.
Huebner, Carl R., III, 143-32-7895.
Huff, Byron L., 526-50-6509.
Huff, Gerald D., 574-14-0081.
Huff, William E., 408-66-1831.
Huffman, Melvin E., 232-70-9210.
Huggins, Lawrence A., 534-40-6332.
Hughes, John D., 525-96-9772.
Hughes, Lloyd E., 441-42-1291.
Hughes, Richard S., 230-52-6035.
Hull, George D., 412-64-0241.
Hulla, Gregory G., 516-48-2842.
Humbert, Steven B., 240-68-1939.
Humes, Fredrick E., 248-66-7801.
Humphreys, Harris E., Jr., 411-66-2847.
Huneke, Bruce V., 568-48-9427.
Hunsader, Thomas J., 394-42-7783.
Hunt, Stephen M., 273-38-0404.
Hunter, Stephen A., 571-50-1578.
Hupp, Howard T., 269-40-2035.
Hurd, Joseph E., 409-72-5386.
Hurley, James M., 465-70-1803.
Husemann, Richard C., 288-38-1403.
Hussey, Gary L., 551-58-0871.
Hutchings, Michael W., 512-40-5225.
Hutt, Melvyn D., 064-34-2577.
Huttenlocker, Donald J., 103-32-3434.
Icardi, Steven E., 566-52-7004.
Imle, Robert M., 440-42-8975.
Ingalsbe, Gerald E., 528-56-8149.
Inzana, Anthony L., 151-34-7129.
Irizarry, Francisco J., 580-36-1779.
Iverson, Ronald W., 518-46-6582.
Ivy, James E., 428-84-0065.
Izbicki, Donald J., 049-26-9910.
Jackson, Andrew R., Jr., 245-60-9999.
Jackson, Harold W., Jr., 460-60-1585.
Jackson, Lynn H., 293-36-2230.
Jacobs, Edward M., 415-66-8098.
Jacobs, James W., Jr., 307-44-9119.
Jacobs, Neil A., 394-40-6812.
Jaeger, Richard L., 307-44-4956.
James, Norman E., 302-34-8475.
Jannarone, Jack M., 053-34-0867.
Jardine, Randy B., 529-48-9750.
Jardon, James E., II, 261-66-8455.
Jarvinen, Phillip L., 393-42-3557.
Jaynes, Jay J., 019-34-8140.
Jefferies, Chris L., 569-50-0899.
Jefferies, Ronald D., 511-44-4646.
Jeffus, Robert E., 092-32-8251.
Jenkins, Gordon L., 435-62-0650.
Jenkins, James B., 526-60-8908.
Jenkins, William A., III, 238-66-5219.
Jenks, Peter M., 027-32-5033.
Jensen, Mark, 528-56-4421.
Jensen, Phillip E., 365-44-4496.
Joachim, Timothy K., 506-42-6494.
Jobe, Robert F., 432-64-6785.
Johnson, Charles F., 453-72-9038.
Johnson, Charles F., 377-42-7582.
Johnson, Franklyn R., 395-40-8741.
Johnson, Jon R., 336-26-8295.
Johnson, Kay L., 344-34-0842.
Johnson, Keith A., 479-44-3733.
Johnson, Lionel P., 501-44-4851.
Johnson, Randall S., 230-54-6695.
Johnson, Thomas A., 448-34-1555.
Johnson, Thomas H., 058-36-8684.
Johnson, William H., Jr., 418-56-4586.
Johnston, Richard F., 475-44-7464.
Jolly, Charles F., 265-62-3365.
Jonas, Richard E., 266-58-1640.
Jones, Donald S., 554-56-3267.
Jones, Gary L., 251-72-8205.
Jones, James M., Jr., 253-64-8404.
Jones, James R., 223-56-2657.
Jones, James T., Jr., 253-64-1980.
Jones, Johnny M., 246-64-2367.
Jones, Lloyd D., 443-32-4841.
Jones, Michael F., 437-60-8716.
Jones, Richard L., 310-40-6323.
Jones, William E., 412-68-4430.
Jones, William T., Jr., 213-44-4428.
Jordan, Marcellite C., 457-72-9847.
Jorgensen, Lynn C., 239-60-0691.
Joyner, Donald R., 245-64-8810.
Judd, John A., 304-44-8589.
Justice, John A., 523-56-3048.
Kabler, Paul W., 405-56-4489.
Kadei, Daniel D., 481-46-2356.
Kalervo, Kaarlo A., 110-34-4922.
Kamolz, Edward E., 468-46-9850.
Kampe, Arnold J., 462-64-4696.
Kantzer, Gerald E., 380-40-7063.
Katsuki, Paul, 411-74-4868.
Katz, Martin E., Jr., 163-36-8822.
Keck, Kenneth R., 519-36-4808.
Keefe, Michael J., 483-50-0112.
Keegan, John J., Jr., 579-56-3868.
Keese, Henry B., 231-52-6340.
Keezer, Daryl B., 382-40-2683.
Kegel, Arthur C., 194-32-8943.
Kellner, Henry K., 048-30-0043.
Kelly, John J., Jr., 074-34-5187.
Kelly, Thomas J., 393-38-3284.
Kemmerer, Robert G., III, 203-34-0666.
Kemp, William H., 417-60-4584.
Kendrick, Glen A., 416-52-0701.
Kennard, Richard D., 518-44-4277.
Kennedy, William J., 261-68-9038.
Kephart, Francis M., 479-50-7696.
Kerr, Donald A., 146-32-3936.
Kersey, Lesley L., 450-68-5572.
Kersis, Alexander J., Jr., 140-34-5002.
Keyser, Gerald L., Jr., 213-40-5863.
Kiechlin, Kevin P., 149-36-0223.
Kierbow, Weyman R., 253-64-0201.
Kiesling, John G., 314-44-1302.
Kilgore, Roy R., 525-88-4909.
Kilpatrick, Ross D., 221-32-5066.
Kimball, Robert L., 142-34-2748.
Kindle, James T., 151-32-4783.
King, Ira E., 526-64-5565.
King, Jackie D., 525-72-8840.
King, John B., 451-60-2211.
King, Wilburn, Jr., 329-36-9582.
Kingsmore, Kenneth H., 250-68-2395.
Kinkaid, Jo H., 342-30-5743.
Kinton, David W., 285-38-8110.
Kipp, Eugene W. J., 493-44-8376.
Kirschbaum, Klaus R. K., 040-34-6326.
Kirwan, Maurice J., 497-46-2000.
Kiselyk, John, 228-56-2699.
Kitchen, Rosemary, 266-72-8649.
Klatt, Robert E., 324-94-2348.
Klaurens, Rex L., 512-44-5930.
Klause, Klaus J., 209-32-5236.
Klauser, Joseph S., 108-34-1267.
Kleid, Steven, 266-46-8323.
Klein, Bruce O., 502-44-4681.
Klein, James R., 478-50-7282.
Klinger, Robert S., 466-62-7423.
Klinko, Jerry G., 547-64-5675.
Klusman, James E., 501-42-0318.
Klutz, William L., Jr., 457-70-9539.
Knebel, Frederick L., 249-68-3871.
Knitter, Leonard G., 391-40-4209.
Knoll, Rickell D., 032-32-6018.
Knowles, Boyd K., 219-40-2241.
Knowles, Joseph, 267-54-4104.
Knowling, Edgar C., 227-56-6585.
Knutson, Gordon R., 482-42-6511.
Kobriger, James C., 504-48-3709.
Koch, Edwin A., 053-34-9565.
Koch, Richard A., 517-44-2353.
Koenig, Joseph A., 442-44-7328.
Kolek, Joseph R., Jr., 204-32-6261.
Koletty, John W., 230-52-9532.
Kollar, Stephen F., 577-58-3707.
Kolton, Adrian J., 045-32-1010.
Kometa, Arik K., 012-32-2168.
Komnick, Norman L., 351-34-1666.
Kondratowicz, Paul J., 013-32-7505.
Koontz, Gerard F., 217-40-7678.
Kopp, Robert A., 222-36-5343.
Korich, Dick G., 279-36-9361.
Korose, Robert J., 456-74-9409.
Korotky, Eugene, 061-34-6636.
Koscheski, Ted A., 444-42-7094.
Kosciusko, Joseph P., 027-32-3544.
Koss, Thomas E., 173-34-1049.
Kotzun, John J., 142-34-0109.
Kosma, Ronald F., 077-34-6385.
Krause, Kenneth E., 374-40-5955.
Krause, Kenneth L., 520-48-0764.
Krausse, Daniel A., 445-42-4236.
Kravitz, Nicholas J., 542-44-4267.

Krog, Donald E., 503-48-9052.
Kruckeberg, Roger P., 524-46-4913.
Kruczynski, Leonard R., 019-34-0151.
Krueger, David D., 390-44-3188.
Kuhnell, Charles R., 436-60-6384.
Kumashiro, Thomas Y., 576-42-2617.
Kurinec, Ronald G., 182-34-1509.
Kurtz, Donald E., 502-34-5332.
Kwist, Garry R., 032-28-9163.
Kyle, Arthur C., 455-78-3803.
Kyle, James D., Jr., 467-68-2700.
Lacelle, Gareth P., 518-44-7018.
Ladd, Jerry H., 445-42-8235.
Lafever, William D., 304-44-5454.
Lafors, Kary R., 534-38-3781.
Lafoy, Joe C., Jr., 456-68-8398.
Laird, Edward P., 149-32-5874.
Lakin, Earle R., Jr., 003-30-8269.
Lambert, Richard L., 039-26-4581.
Lambert, Robert G., 531-40-9561.
Lambert, Robert L., 039-26-4580.
Land, Thomas E., 436-60-0767.
Landolt, John F., Jr., 497-46-5540.
Lands, Richard T., 054-36-3118.
Lane, Dennis M., 261-38-0601.
Lane, John D., Jr., 019-34-4640.
Laney, James E., Jr., 258-64-5317.
Lange, Sammy D., 460-58-9792.
Langlas, Ronald D., 479-52-8270.
Langley, Robert W., 424-54-8904.
Lanier, James V., 238-36-9903.
Lanum, Thomas R., 463-66-0912.
Lapierre, Raymond G., 023-32-7003.
Larkin, John A., 166-34-3810.
Larkin, Patrick J., 081-32-5869.
Larkin, Walter J., 012-32-1762.
Larsen, Robert A., 476-46-5398.
Larson, Evert F., Jr., 342-32-1035.
LaRue, Charles T., Jr., 411-70-0466.
Latch, John L., 214-42-2056.
LaTourrette, Robert W., 460-66-6663.
Lau, Earl S. C., 576-38-9700.
Lavender, Elmer C., II, 248-66-3104.
Lawrence, Gerald J. R., 047-32-9455.
Lawrence, Stephen H., 458-66-3150.
Lawrence, Winston G., 214-42-8966.
Leach, Ronald S., 201-34-3696.
Leachman, Arnold T., 422-46-9511.
Leachman, Joe H., Jr., 401-56-8046.
Leahy, James T., 067-34-6930.
Leary, Richard A., 068-36-6391.
Leavenworth, William H., 384-42-4450.
Lebak, Michael O., 156-34-8257.
Lebaron, Ronald F., 520-32-9748.
Lebert, Ronald M., 503-46-6655.
Lee, John C., 484-50-6343.
Lee, John E., 248-66-0903.
Lee, John L., 461-58-2299.
Lees, Lawrence E., 150-32-0212.
Leete, Edward M., 008-30-6232.
Leftwich, George E., III, 223-54-4493.
Lemire, Joseph A., 010-32-8982.
Lengyel, William A., Jr., 172-34-6817.
Lennox, John E., 144-32-3202.
Lentz, David H., 280-38-6476.
Lentz, James E., 431-72-2854.
Leonard, Bruce G., Jr., 261-66-4289.
Leonhard, William E., Jr., 563-58-6979.
Lepage, David A., 315-42-1944.
Lerda, John A., 215-40-2076.
Lerner, Irwin S., 045-34-5608.
Lesavage, Frederick G., 474-44-4303.
Lesselg, James C., 440-42-4811.
Lester, Larry C., 312-44-1668.
Leverett, Hubbert L., 343-34-0861.
Lewis, John P., 433-56-2234.
Lewis, Kenneth W., 430-56-3438.
Lewis, Michael D., 285-36-6492.
Licari, Charles J., 223-56-6900.
Lieberman, Edward, 265-62-3255.
Liesch, Dale R., 397-38-4548.
Lillard, Mark H., III, 285-38-4756.
Lilly, Robert C., 100-34-5443.
Lindemann, Eric L., 312-44-4263.
Lindsay, Joe E., 465-66-1077.
Lindsay, William E., Jr., 183-34-9739.
Lindstrom, John A., 474-46-3413.
Linn, Gerald R., 543-46-2745.
Lipcsey, Michael J., 272-36-7384.
Lippencott, George E., 226-56-4094.
Lipsitt, Joel, 026-26-1195.
Lisembee, William A., 317-44-7627.
Litherland, David D., 314-42-8097.
Little, Lawrence E., 426-90-5014.
Lithwhiler, Daniel W., Jr., 267-62-7492.
Livings, Harold E., 102-36-9216.
Livingston, Robert D., 230-54-9301.
Lock, Michael A., 462-62-7075.
Lockwood, James F., 049-30-6369.
Lockwood, John R., 507-50-8919.
Lodge, Charles H., Jr., 180-34-4330.
Lohse, David L., 310-42-2082.
Lojacono, James F., 216-40-5428.
Lombardi, Richard A., 151-36-2521.
Long, Gordon A., 565-58-2438.
Loomis, James L., 301-38-9758.
Loper, Marvin R., 381-42-0779.
Lopez, Gerald J., 265-64-4898.
Lorrigan, Monte T., 532-34-8048.
Lortz, Kendal N., 556-52-0501.
Lott, Stephen M., 550-52-9556.
Love, John J., III, 460-68-2456.
Lowenthal, Philip V., 578-56-5144.
Lowery, Robert G., 498-48-6849.
Lowry, John S., III, 526-58-0514.
Lucas, Dennis M., 534-40-7235.
Luckinbill, Thomas A., 443-40-8007.
Luebke, Lynwood H., 372-44-4940.
Lukens, Robert P., 184-34-4066.
Lund, Eugene H., 470-44-4699.
Lundy, John, 518-50-3040.
Lunsford, George F., Jr., 265-66-2492.
Luper, Connard A., 448-42-2933.
Lusk, Larry L., 233-68-4977.
Lutz, Otis P., 249-76-7838.
Luxich, Lionel H., Jr., 420-54-6403.
Lyday, Carl V., 070-34-8949.
Lynch, Martin J., 502-44-9547.
Lynch, Michael J., 374-44-0999.
Lynn, Richard A., 159-30-4856.
Lynn, Theodore J., Jr., 079-34-8454.
Lyon, Lawrence M., Jr., 263-70-8634.
Mabry, Everett L., 256-64-7541.
Macaluso, Donald L., 532-38-6762.
Macdonald, Timothy F., 044-32-2293.
Macdonald, William J., 014-32-0939.
Macdowell, Paul D., 100-34-9934.
Machorek, William C., Jr., 137-32-7394.
Macibobb, William G., 100-34-4140.
Mack, William B., 173-34-5867.
Mackenzie, John J., 127-34-6542.
Mackintosh, Donald F., II, 123-30-9433.
Macpherson, William R., 402-60-2299.
Macqueen, Henry C., Jr., 572-56-6107.
Madia, John A., 232-68-9535.
Madison, Henry C., Jr., 465-68-7890.
Magaw, Milton A., 135-34-3251.
Magnusson, Gary J., 084-34-8221.
Magoon, Wayne A., 034-32-0769.
Majkowski, Vincent, 145-34-2046.
Makal, Thomas J., Jr., 533-44-2619.
Maki, Richard L., 571-54-5174.
Malchow, Stephen B., 468-50-2940.
Malerba, William E., 040-34-3269.
Maley, Frederick J., 263-68-4267.
Mallett, William F., Jr., 100-34-8375.
Malone, Keith D., 368-42-9585.
Malone, Thomas M., 304-42-3608.
Maloney, Sally L., 375-40-6620.
Mancarella, Owen, 044-34-7681.
Mank, Russell W., Jr., 501-36-9888.
Mann, Greg A., 230-54-4512.
Mannen, James T., 578-54-1945.
Mansmann, William V., 521-54-3880.
Manville, Mahlon F., III, 452-64-1111.
Marburger, Donald T., 466-72-7028.
Marcan, Robert C., 539-38-4223.
Marchiando, Peter J., Jr., 325-34-5868.
Marcinik, Roger L., 159-30-5972.
Marcroft, Kenneth M., 541-40-7629.
Mardis, James V., 561-58-7827.
Marenka, Stephen, Jr., 215-36-2678.
Markle, Terry A., 215-42-6363.
Markline, Charles K., 218-40-0069.
Marlin, Paul R., 541-42-0190.
Marosko, Max M., Jr., 455-66-6455.
Marshall, Thomas C., 410-68-8683.
Marsico, Leonard M., 278-36-5770.
Martin, Charles D., 410-66-8629.
Martin, Harold E., Jr., 314-48-9305.
Martin, Phil S., 541-44-8648.
Martin, William M., Jr., 112-30-3762.
Masilko, Gary E., 506-52-0765.
Mason, Michael J., 490-44-4070.
Mason, Richard P., 482-50-4569.
Massie, Jerry N., 347-32-1502.
Masten, William A., Jr., 238-66-8855.
Mastropieri, Mario J., 172-34-9139.
Mathews, Kenneth W., 132-32-6638.
Mathis, Jasper L., 421-60-8028.
Mathis, Joseph F., 259-58-4044.
Matsuyama, Garey T., 575-40-0542.
Matthews, Charles H., 541-48-5835.
Matus, Jerome F., 466-58-7168.
Matuska, Daniel A., 469-34-1640.
Maxey, Eugene B., 227-56-4581.
May, Richard M., Jr., 046-34-5411.
Mayer, Joseph F., 033-26-9948.
Mayo, Billy C., 453-62-8943.
Mayton, James E., Jr., 579-54-2316.
Mazzarella, Leslie R., 285-36-0694.
McAdam, Paul A., 029-30-2623.
McAlear, Kenneth E., 494-44-4746.
McCardle, James E., Jr., 395-40-5114.
McAuliffe, Michael A., 509-40-9446.
McBarron, Robert J., 404-48-2698.
McBride, Kenneth L., 466-66-6984.
McBride, Ronald T., 287-38-7395.
McBride, William G., 440-32-0232.
McCafferty, Robert J., 507-40-9214.
McCann, Francis X., 016-30-6517.
McCann, Thomas E., 459-60-4999.
McCay, Thomas W., 266-68-7763.
McClain, Roger A., 251-68-3537.
McClanahan, Harry R., 511-32-7278.
McClenny, John W., 238-60-7260.
McClintic, James M., 535-40-2213.
McClintock, William D., 461-66-2573.
McCluskey, Ronald W., 353-36-0045.
McCollough, Robert B., 457-72-6180.
McComb, Craig E., 486-48-7000.
McConnell, Bernd, 413-68-8838.
McConnell, Robert P., Jr., 228-56-0701.
McConnell, Timothy F., 054-30-4828.
McCormick, George G., Jr., 569-56-4055.
McCormick, James H., 503-48-6225.
McCormick, Richard M., 227-54-4771.
McCoy, Charles L., 257-66-4192.
McCoy, Frederic E., II, 066-34-8388.
McCoy, John D., 355-42-8783.
McCoy, Neil R., 473-50-7244.
McCracken, Lawrence L., 150-34-5469.
McCrea, Van A., 258-74-8347.
McCulley, George G., II, 263-68-5772.
McDermott, William E., 421-58-2958.
McDonald, Roland, J., Jr., 369-46-9871.
McDonnell, Rhett M., 520-44-5609.
McDonough, Larry G., 390-40-8832.
McElveen, Richard P., 253-52-3518.
McFadden, William R., 405-56-1550.
McGinty, Michael D., 472-44-7356.
McGorry, James P., 051-36-8667.
McGowan, Samuel M., 469-42-8260.
McGregor, Lorne L., Jr., 368-36-5281.
McGuire, Edward K., 467-64-2283.
McKenzie, Terry M., 448-42-2528.
McKinney, Craig L., 230-54-5222.
McKinney, George H., Jr., 419-54-0758.
McLawhorn, David W., 239-66-0226.
McLean, Terrence M., 274-38-1845.
McLeod, William C., II, 545-60-0157.
McMahon, Gary C., 463-64-3316.
McNamara, Wayne J., 470-46-7427.
McQuage, Neil D., 247-62-7106.
McReynolds, Robert B., 425-80-3099.
McVay, Lawrence T., Jr., 024-32-1478.
McWhorter, Robert M., 245-60-7744.
Meck, Richard G., 044-32-8787.
Medlyn, Ralph W., Jr., 385-42-9865.
Meehan, Robert P., 016-30-4634.
Melendez, Kenneth, 525-92-7386.
Melson, Douglas M., 065-34-7236.
Merchent, Kenneth N., 428-62-1909.
Merritt, Ray L., Jr., 412-68-5745.
Meschko, Edward T., 400-56-6116.
Messenger, Darrell F., 232-66-9939.
Messenger, James D., 442-46-4667.
Messett, Thomas M., 549-52-3444.
Messick, Kenneth E., 523-54-3890.
Metzger, Richard P., 267-32-8418.
Meyer, Andre B., 359-28-6810.

Meylink, Larry J., 254-58-4075.
Micek, Raphael J., 506-52-9615.
Milakovich, Marko, 535-40-2267.
Milam, James R., 456-66-4696.
Milensky, Chester F., 031-32-6808.
Milich, Predrag, 286-36-3068.
Millar, Ralph M., 250-60-3475.
Miller, Barry A., 417-60-8739.
Miller, David L., 008-28-0469.
Miller, David L., 518-58-4075.
Miller, Jerrold A., 276-38-1502.
Miller, Larry R., 533-40-6904.
Miller, Robert A., 577-56-4096.
Miller, Robert C., Jr., 524-48-7396.
Miller, Ronald D., 524-58-2590.
Miller, Warren E., 516-52-9577.
Millhollon, John B., 459-60-5426.
Mills, David P., 048-32-7850.
Mills, Harold W., Jr., 231-52-5081.
Mills, James E., Jr., 239-66-0632.
Milne, Robert J., 372-44-2807.
Milstead, Jay D., 527-56-2211.
Mims, Joe Jr., 428-88-0318.
Minardi, Franklin J., 232-66-3425.
Miner, Peter S., 001-34-0249.
Mingle, Norman A., 092-34-8114.
Mitchell, David E., 224-52-9477.
Mitchell, James H., 497-42-4595.
Mitchell, James U., Jr., 248-70-8380.
Mitchell, John P., 313-44-2927.
Mitchell, McMorris, 439-58-8817.
Mitchell, Thomas J., 093-34-3916.
Mitchell, William A., 467-54-0321.
Mitchell, William B., 409-68-5421.
Mock, Leroy, 201-34-7869.
Moe, Thomas N., 226-56-3622.
Moeller, George H., 479-38-4579.
Moelmann, John B., 368-40-7755.
Monroe, Earle S., 124-34-8672.
Monsees, James H., 550-58-8194.
Moody, Donald J., 436-62-3983.
Moomjian, Vasken W., 043-34-8354.
Mooney, Robert W., 023-32-8140.
Moore, Edwin H., 275-36-6955.
Moore, Evans W. Jr., 070-34-1605.
Moore, John L., 455-58-2716.
Moore, Kenney E., 443-42-7811.
Moore, Patrick C., 440-42-6833.
Moore, Roland H., 281-38-1253.
Moquin, Douglas L., 398-36-4547.
Moran, William E., III, 444-42-7799.
Morgan, Earl H., Jr., 269-36-5099.
Morgan, Frederick W., 537-40-1436.
Moriarty, Thomas E., 049-32-6992.
Morris, John H., 107-34-2255.
Morris, Maynard B., 553-50-2469.
Morris, Norman W., 441-44-0432.
Morrison, John R., Jr., 120-32-8920.
Morrison, Meredith A., 050-34-3439.
Morrissey, Donald E., 012-34-7036.
Morrow, Paul E., 533-38-8707.
Morrow, Ronnie K., 449-68-0260.
Mortensen, Roger W., 568-52-3428.
Morton, David D., 431-70-3955.
Morton, Noble E., 426-84-7628.
Mosbey, James S., 255-70-9123.
Moseley, Wendell F., Jr., 458-74-8879.
Mosley, Charles W., 515-38-5734.
Moss, David J., 443-44-8238.
Moss, Randy P., 251-68-1093.
Mostovoj, Vitali, 157-32-9949.
Mott, David P., 474-44-6096.
Mott, Garry E., 516-48-6812.
Mottern, Michael M., 244-70-8136.
Mras, Anthony E., 139-32-4664.
Mueggenborg, Thomas E., 442-44-3630.
Muehe, Lawrence W., Jr., 453-58-3342.
Muggill, Michael N., 567-54-4362.
Muir, John J., 364-44-8792.
Muldoon, Michael D., 060-32-9001.
Muldoon, Patrick W., 518-46-7430.
Mulready, Michael J., 550-58-7787.
Murawaki, Thomas A., 054-34-4509.
Murchison, Alexander H., III, 522-50-6008.
Murphy, Alan C., 162-34-3986.
Murphy, Clarence Jr., 249-66-7741.
Murphy, Dennis P., 274-40-7841.
Murphy, Jimmie N., 455-68-2667.
Murphy, Justin J., 053-34-1243.
Murphy, Terrence M., 273-32-3825.
Murray, Calvin M., Jr., 509-26-9119.

CXXIV——1765—Part 21

Murray, Clark A., 463-68-0380.
Murray, Douglas J., 156-34-5907.
Murray, James T., 002-32-3403.
Myers, Glenn L., 159-32-1395.
Myers, Larry A., 323-28-6981.
Myers, Richard A., 219-38-6555.
Myers, Richard B., 50-42-7092.
Mynar, James D., 538-40-2186.
Naehring, David L., 297-38-0198.
Nafziger, Paul A., 330-32-1621.
Nagy, Peter J., 541-44-7412.
Najaka, Robert S., 047-32-2751.
Nakagawa, Herbert W., Jr., 576-36-5239.
Nance, James P., 460-56-3816.
Nardino, Joseph A., 157-32-3870.
Navarra, Arthur C., 207-28-4525.
Navarra, James C., 121-34-5667.
Nebb, Peter J., 536-38-9229.
Neel, Richard O., 243-62-4755.
Neireiter, Donald E., 313-42-6701.
Nelson, Curtis D., 518-48-7160.
Nelson, Daniel R., 261-56-6737.
Nelson, Terence M., 474-46-1775.
Nelson, Terry A., 523-42-7280.
Nestlerode, Howard E., III, 574-14-2640.
Newell, Don J., Jr., 420-46-8082.
Newell, Donald L., 486-46-3964.
Nicholas, James G., 150-32-3485.
Nichols, Matthew A., 226-58-7345.
Nicholson, Robert W., Jr., 188-34-8983.
Nicola, David M., 437-66-4923.
Niece, George W., 151-32-4525.
Nielsen, William C., Jr., 275-40-0474.
Niggemeyer, Charles M., 270-38-6753.
Nix, Paul W., 410-66-8967.
Nocito, Kenneth S., 074-34-9530.
Nolan, Michael P., 292-36-0506.
Noland, Oliver M., Jr., 524-54-5412.
Nolte, Laurence H., Jr., 203-34-7676.
Nolting, David L., 511-42-1214.
Normand, Stephen B., 380-38-7003.
Northington, James T., 419-58-6348.
Nunn, Robert N., 292-36-0987.
Nyary, Norman B., 262-62-0960.
Nystrom, Ronald E., 520-44-7391.
Nystrom, Thomas L., 424-50-5514.
Oberender, Ronald W., 484-46-4834.
Oberle, Joseph L., 414-62-3850.
Oberlin, William C., 308-46-1332.
O'Connell, Thomas W., 163-34-8701.
O'Connor, William F., 230-54-3587.
Odle, Wilbur P., 415-64-1406.
O'Donnell, Joseph G., 173-34-2007.
Odum, Paul R., 260-64-7619.
Oelstrom, Tad J., 394-38-3287.
Offley, Ronald D., 374-42-5864.
O'Hara, Joseph, III, 194-32-4573.
Okikawa, Harold T., 576-36-5768.
Olchvary, Paul S., 152-34-9022.
Olinger, Preston R., 154-30-8826.
Oliver, Richard C., 573-56-8086.
Olsen, Richard E., 471-48-8014.
Ondrasek, Michael J., 268-38-6051.
O'Neal, Jerry J., 520-46-4681.
O'Neal, Maston E., III, 258-62-3677.
O'Neill, Joseph H., 193-34-1473.
Orlowsky, Andrew, Jr., 091-34-2752.
Orsolino, John, 109-34-0003.
Osborn, Allan C., 452-60-2667.
Osborn, James R., 301-38-2539.
Osborne, Louis L., Jr., 463-62-4199.
Osborne, Vincent H., 523-54-4542.
Osterhout, Robert C., 018-32-9106.
Otis, Amos L., 424-42-8940.
Overcast, David A., 517-46-3189.
Owen, Stanley S., 425-82-6604.
Owen, Walter L., 526-46-3448.
Owens, Thomas A., 332-34-7690.
Pasach, Richard W., 517-44-1863.
Pagano, Vito J., 101-36-1899.
Page, Roland J., 005-38-1986.
Pahls, George A., 182-34-3209.
Paldino, Nicholas A., 193-28-0649.
Palmer, James O., 389-46-9267.
Panza, Joseph A., Jr., 573-50-9090.
Papp, Francis R., 157-32-9443.
Parkell, William V., 180-32-0385.
Parker, James R., 243-72-2921.
Parker, John M., Jr., 231-48-2151.
Parker, Philip M., Jr., 131-34-1879.
Parker, William R., 455-64-9576.
Parks, James C., 537-38-1410.
Parks, Wesley E., 530-28-1411.
Parnell, Danny J., 496-46-8734.
Parrish, Richard L., 535-40-2967.
Parrott, Robert H., 425-62-6320.
Partridge, Jerry L., 458-64-6061.
Paschall, Richard C., Jr., 240-66-3403.
Pasquet, Henry L., 228-54-5792.
Patry, James, Jr., 449-50-8208.
Patterson, David E., II, 421-70-7506.
Patterson, Jock P., 524-54-5414.
Patton, Paul G., 183-32-1781.
Pawlow, Thomas A., 499-46-7848.
Peacock, Mark D., 014-32-5823.
Peacock, Steven S., 462-56-2307.
Peacock, Walter R., Jr., 252-66-3703.
Pearsall, Charles E., Jr., 238-66-0182.
Pedersen, David D., 399-42-7808.
Peele, Donald D., 237-72-3188.
Pence, Gary W., 532-40-0798.
Penney, Robert M., 480-48-5417.
Pennington, Johnnie L., 446-34-4261.
Perry Wilbert D., 326-36-2568.
Persin, Kenneth F., 163-34-2327.
Peschier, John, Jr., 017-34-9447.
Peter, Edwin L., 309-46-0580.
Peter, William M., 550-60-1833.
Peterman, Clarence R., 446-40-8700.
Peters, David M., 533-40-0706.
Peteradorf, Paul K., 531-44-7981.
Petersen, Stephen V., 386-40-0090.
Peterson, David C., 357-30-8078.
Peterson, Dwight G., 115-36-1949.
Peterson, Henry R., 380-36-3896.
Peterson, Joel G., 364-44-3404.
Peterson, William R., Jr., 406-60-0570.
Pettigrew, Thomas P., Jr., 223-54-1163.
Pettit, David K., 058-34-8337.
Pfeiffer, Johann W., 523-54-4193.
Pfister, John J., 262-64-9135.
Phillips, George D., 251-68-5799.
Phillips, James M., 503-44-6943.
Phillips, Leon D., 506-52-9768.
Phillips, Michael A., 426-98-8576.
Phillips, Richard F., 014-32-9991.
Pickard, Donald S., 239-62-8108.
Pickering, Herbert T., Jr., 547-52-1192.
Pike, Charles L., 013-32-6439.
Piker, John T., 163-30-3319.
Pillittere, Leonard F., Jr., 437-54-6239.
Pilonetti, Dennis M., 453-60-7253.
Pilsch, Thomas D., 215-42-1689.
Pine, William S., 573-54-5867.
Pinkerton, James, Jr., 138-36-4697.
Plagman, Harold L., 482-50-1260.
Plank, Thomas H., 180-34-4173.
Platt, James H., 540-48-9801.
Plescha, Frank, 197-32-7452.
Plummer, William W., Jr., 264-68-8308.
Poast, John E., II, 226-56-9986.
Podzimek, Robert G., 503-52-8514.
Pohl, Robert W., 472-46-1549.
Poier, James A., 539-40-5882.
Poll, David R., 267-62-3453.
Politi, John J., 134-34-1390.
Pollack, Melvin, 085-34-2003.
Pollock, Edward J., 195-34-6771.
Poole, Luther A., 249-64-8073.
Pope, Larry E., 507-54-0825.
Poppe, Paul A., 533-38-3258.
Porinchak, John M., 210-34-6195.
Post, Richard E., 181-34-8840.
Post, Robert G., 102-34-2872.
Potter, Larry S., 537-40-0442.
Potterton, William H., 026-28-5836.
Poulton, Marvin M., 518-42-1533.
Powell, George M., IV, 234-70-5472.
Prahler, David C., 098-34-0187.
Pratt, David J., 450-72-6570.
Press, Michael C., 567-58-8388.
Prevost, Sterett R., III, 140-34-6278.
Price, Don R., 434-68-1652.
Price, Robert H., Jr., 515-44-0073.
Price, Simon G., 266-54-1072.
Prokuski, Bronislaw P., Jr., 003-32-8439.
Prose, Larry N., 509-42-8868.
Provines, Robert W., 446-36-7089.
Pruett, Travis F., 259-60-7277.
Puffer, Joseph M., Jr., 003-32-1217.
Pugh, Lorenzo, 415-68-3144.
Puhl, Gene T., 469-44-2942.

Pulis, Darrell R., 442-42-2619.
Purcell, David E., 022-32-9421.
Puster, John S., 465-62-3175.
Putnam, John C., 423-54-1694.
Putz, Victor B., 266-58-3424.
Pyrz, Anthony P., 319-36-7961.
Quarles, Charles E., Jr., 212-42-2595.
Queal, William N., III, 040-34-7938.
Quine, Dennis H., 542-42-8306.
Quinn, Patrick M., 129-32-3673.
Rabeni, John J., Jr., 029-32-5210.
Raby, John M., 249-72-2042.
Racz, James M., 135-34-3033.
Rademacher, John T., 068-34-4850.
Rader, William K., 461-70-4664.
Ragsdale, Bernard G., Jr., 253-66-8662.
Rajczi, Louis J., 378-42-8882.
Ralph, Harlan D., 514-42-1127.
Ralston, Joseph W., 270-40-9172.
Ralston, Lynn B., 313-44-9517.
Ramage, Richard H., 464-72-5959.
Ramlo, Orvin H., Jr., 554-58-6447.
Rand, James E., 376-42-3620.
Rankin, Thomas S., 272-40-4614.
Rash, Richard A., II, 217-42-1326.
Raspotnik, William B., 162-34-9453.
Ratcliffe, Stephen J., 182-38-3296.
Ratledge, John R., 245-64-2143.
Raub, Eugene L., 585-01-6229.
Raudenbush, Donald G., 196-28-7728.
Ray, Lawrence L., 560-62-4098.
Ray, Manly A., Jr., 245-56-9151.
Reagin, Robert E., 257-62-0042.
Reamer, Richard E., 292-36-6092.
Reavey, Michael F., 036-28-8314.
Redman, Theodore C., 531-42-3989.
Reed, Charles E., 434-54-1916.
Reed, Clyde S., III, 230-50-8889.
Reed, Douglas S., 266-64-0005.
Reed, Perry A., Jr., 292-38-1233.
Regal, Thomas E., Jr., 016-32-7551.
Reichart, John R., 281-36-2726.
Reid, John F., 546-50-8354.
Reighn, Oliver C., Jr., 528-56-2210.
Reilly, James P., 174-34-0321.
Reiner, Errol G., 482-46-0146.
Reinhard, Ralph R., 356-32-8204.
Reinholt Jerome J., 309-46-0789.
Reitenbaugh, Howard T. 207-34-1617.
Reitinger, John P., 209-32-7718.
Renouf, Ronald R., 133-30-8910.
Repasy, George A., 552-58-0330.
Reser, Thomas G., 532-38-9558.
Reyna, Antonio, 457-68-5321.
Reynolds, Charles L., 164-34-7614.
Reynolds, Duane B., 019-32-9611.
Reynolds, James E., 441-40-0406.
Rhode, Raymond H., Jr., 439-60-1074.
Rhode, Storm C., III, 029-32-2861.
Rhoden, Harold H., 432-74-7692.
Rhodes, Ronald M., 289-36-7381.
Rhoton, Bert V., 526-34-7462.
Rice, David C., 230-50-9508.
Rice, Robert J., Jr., 242-66-6711
Richardson, John E., II, 043-34-5189.
Richardson, Phillip A., 309-42-8963
Richey, David M., 510-44-4639.
Richmond, George M., II, 026-32-1278.
Riddell, Matthew A., 007-40-1241.
Riddick, Richard R., 587-40-6889.
Ridenour, Jim L., 305-42-6534.
Rideout, Donald L., 526-72-2664.
Rider, Edwin W., 267-64-4454.
Ridgway, James J., 177-32-7017.
Ridnouer, Dennis M., 485-50-0454.
Rierson, Donald C., 525-98-8450.
Riggar, Larry E. 273-36-0687.
Riggs, John W., 518-34-2399.
Riley, Michael J., 517-48-0961.
Rinkel, Richard L., 337-36-1218.
Riske, Robert M., 450-66-1894.
Riesmiller, Thomas J., 144-34-4021.
Ritchard, Leonard H., Jr., 377-44-0431.
Rivera, Angel M., 084-32-0765.
Rivette, Ted A., 439-58-4095.
Roach, Douglas C., 379-40-8565.
Robbins, Richard J., 555-62-7960.
Robbins, Robert R., 106-32-7538.
Roberts, Ross M., 460-70-6555.
Robertson, Clinton B., 452-68-6447.
Robinson, James R., Jr., 527-56-5924.
Robison, Gary E., 444-40-9697.
Robison, Raymond R., 464-60-0435.
Robson, David K., Jr., 198-34-2989.
Rochelle, Jack P., 409-70-8084.
Rockett, Richard L., 524-52-4614.
Rodman, Harry E., Jr., 108-32-8592.
Roehrkasse, Robert C., 361-34-2985.
Rogers, Charles W., 099-32-6905.
Rogers, Donald W., 462-62-8951.
Rogers, James M., 462-62-6887.
Rogers, Jeptha S., Jr., 226-54-0808.
Rogers, Larry P., 413-64-2560.
Rogers, Peter B., 265-62-2226.
Rogers, Wayne R., 446-42-9986.
Rogers, William V., 289-38-2396.
Rogowski, Kenneth G., 387-42-1695.
Rohde, William G., 252-60-1190.
Rohrer, Stephen K., 308-40-1403.
Rooch, Melvin R., 268-32-4706.
Rooks, Joseph L. R., 502-32-2127.
Rose, George A., 431-74-4449.
Rose, Howard C., Jr., 585-07-1757.
Rose, John D., 232-66-6422.
Rose, Richard G., 563-58-8123.
Rosenberg, Maury, 570-56-7137.
Rosenmeier, Harvey O., 303-44-5485.
Roskell, Robert T., 142-30-4517.
Ross, Gary C., 028-32-9362.
Ross, John W., 422-56-5496.
Ross, Keith C., 022-32-0695.
Ross, Raymond M., 214-42-6592.
Rourke, Thomas M., 433-62-7707.
Rowe, A. Allen, 449-68-2995.
Rowland, Howard C., 251-74-1873.
Rowland, Robert L., 461-56-1564.
Rowlison, Raymond L., 263-62-1558.
Ruchalski, Brian A., 349-34-5859.
Ruddell, William J., 306-44-7520.
Ruest, James W., 023-32-8206.
Ruiz, Philip E., 565-60-3565.
Rupp, Roger H., 494-42-4753.
Rush, William E., 271-36-2097.
Russell, Charles A., 230-56-3357.
Russell, Frederick E., 512-44-4234.
Russell, James A., 018-32-3524.
Russell, Ronald R., 270-38-3446.
Russo, Christopher F., 138-34-9313.
Rust, Harold L., 528-54-6514.
Rutter, John S., 376-42-2075.
Rutyna, Aldis P., 195-32-0531.
Ryan, Michael E., 505-54-9889.
Ryerson, Charles W., 572-54-0359.
Sabin, Marc L., 079-34-0836.
Saboski, Arthur, 242-64-5540.
Sackett, James W., 265-60-2148.
Sallee, Sherman K., 543-40-5846.
Salmon, Roy F., 070-32-2315.
Samuels, Lyle A., 059-36-0273.
Sanborn, Larry K., 511-40-8228.
Sander, Wayne R., 318-36-0688.
Sanders, Fred R., Jr., 458-62-4876.
Sanders, Van C., Jr., 425-74-4411.
Sandmann, Alfred G., Jr., 092-34-6469.
Santacroce, Marc A., 579-54-7240.
Santoki, Paul H., 575-42-2802.
Saulsberry, Thomas L., 410-68-2399.
Sauter, Albert H., II, 130-34-0089.
Savage, William C. G., Jr., 200-34-9865.
Saxer, Charles P., 526-52-5290.
Scarborough, Dennis G., 520-44-2313.
Scarborough, Otis F., Jr., 570-40-5620.
Schaefer, Marlin J., 313-42-7870.
Schafer, John D., 216-42-2622.
Scharf, Richard L., 501-46-3128.
Schattner, Elisabeth, 120-26-6460.
Schaumburg, Glenn R., 507-50-9339.
Schauss, Roger H., 285-38-2420.
Scheibel, Robert L., 520-46-8595.
Scheiding, David O., 481-52-1752.
Schell, Chris A., 504-44-5225.
Schellhammer, Richard J., 077-32-3674.
Schill, Peter L., 155-34-2524.
Schilling, David C., Jr., 441-42-9857.
Schimmel, Robert E., 278-40-1956.
Schlachter, David C., 270-38-9312.
Schleher, Jeffrey S., 094-34-2641.
Schmid, Michael E., 207-32-0552.
Schmidt, Bruce W., 328-34-8880.
Schneider, Joe G., 505-58-4587.
Schneider, Kenneth F., 357-32-4385.
Schneider, Lloyd F., 535-40-1723.
Schor, Frederick D., 261-60-5194.
Schreiber, Donald R., 534-38-3673.
Schroeder, Leroy B., 564-58-3520.
Schwaninger, Arthur E., 500-46-3939.
Schwenke, Richard T., 279-36-7230.
Scobee, Francis R., 534-36-1267.
Scott, Byron W., 521-54-0964.
Scott, James D., 519-44-7665.
Scott, Norman A., 543-40-8286.
Scott, Randolph C., 241-66-6919.
Scott, Rolland A., 053-34-1552.
Sears, Hayden A., Jr., 144-34-0020.
Seaux Junior G., 438-58-1937.
Segars, Robert J., 316-42-3801.
Seiler, Paul J., 477-46-0930.
Sekimoto, Stanley S., 575-38-8047.
Sellers, John G., 508-52-7853.
Sellman, Joseph W., 496-46-7597.
Selzer, John M., Jr., 489-46-0260.
Seniawski, Charle D., 067-34-4036.
Setlow, Robert E., 534-40-6603.
Severson, Terrance E., 501-44-8566.
Sewell, Gary W., 426-78-9729.
Seymour, Gary L., 568-58-0207.
Shaffer, Ronald L., 511-42-4806.
Shallenberger, Edward L., 522-50-2314.
Shapiro, Michael N., 025-32-3155.
Shatto, Dwight A., 448-40-6697.
Shaughnessy, John E., Jr., 433-62-0812.
Shaw, William F., 365-42-1027.
Shean, Robert P., 218-44-9582.
Sheehan, Stephen D., 402-58-8289.
Sheetz, Roy D., 419-50-9660.
Sheffield, Vernon L., Jr., 270-38-4941.
Shehi, Phillip C., 510-42-0314.
Shelton, Harvey W. C., III, 430-78-1807.
Shepard, Jary D., 564-58-7125.
Sherman, Frank V., 317-42-7477.
Sherman, Todd H., 014-32-9053.
Shickel, David O., 106-34-1592.
Shirley, Jerry D., 424-56-4314.
Shoop, Donald E., 549-52-3873.
Shorb, Brian H., 279-38-0316.
Short, Michael C., 522-58-9016.
Shriver, Arthur D., 585-03-0264.
Shuck, Gary W., 400-58-6324.
Shuey, Richard W., 569-60-9757.
Sidor, John, Jr., 297-36-1841.
Siedlarz, John E., 145-32-9916.
Siefert, Mark C., 193-34-0442.
Silence, Gary H., 490-46-6989.
Silha, Carlen W., 518-44-3785.
Silliman, Jeffrey D., 286-38-3923.
Silva, Albert M., 043-34-0914.
Simmons, Jack A., 249-54-5701.
Simmons, Richard E., 518-48-9927.
Simmons, Ross L., Jr., 519-40-8612.
Simpson, Richard T., 250-66-2660.
Simpson, Terry A., 462-72-3120.
Sindt, Linda K., 543-48-0596.
Siner, Richard E., 050-32-7967.
Singleton, Barry A., 490-44-1503.
Singleton, Stephen N., 036-26-1692.
Skrainy, Walter, Jr., 173-36-8595.
Silivinski, Stephen D., 537-40-2727.
Sloan, James R., 575-44-5377.
Small, Dennis E., 007-36-2162.
Smith, Carl J., 299-38-5570.
Smith, Claude D., Jr., 184-32-2268.
Smith, Dee R., 412-50-4974.
Smith, Dennis A., 557-58-5782.
Smith, Douglas D. C., 228-54-5455.
Smith, Dwight D., 441-42-5227.
Smith, E. C., 462-70-3433.
Smith, Ellis V., 451-66-2671.
Smith, James R., 462-72-6966.
Smith, Jimmie, 431-62-7089.
Smith, Joseph C H., 229-54-9514.
Smith, Lawrence E., 513-40-9220.
Smith, Leslie L., 567-48-1930.
Smith, Louis M., Jr., 256-72-0532.
Smith, Michael W., 479-44-8588.
Smith, Richard P., 360-34-3896.
Smith, Robert D., 421-38-7078.
Smith, Robert D., III, 453-60-0225.
Smith, Ross L., 458-66-2892.
Smith, Stanley J., 447-40-6811.
Smith, Stephen A., 562-58-7944.
Smith, Steve R., 527-56-9534.
Smith, William E., 314-36-3504.

Snedker, Harold C., 513-40-8904.
Snoy, Joseph A., 530-28-0511.
Snyder, Donald L., 403-52-4279.
Snyder, John D., 139-34-2895.
Snyder, Richard A., 307-36-3130.
Soden, James P., 429-76-3753.
Somers, Christopher A., 064-32-8852.
Sonick, Robert L., 205-32-2979.
Sonnenfeld, Robert E., 142-32-2295.
Sonoda, Howard K., 575-42-1389.
Sosalla, Phillip M., 478-50-8368.
Southerland, Grover R., 417-48-7302.
Squza, George, 575-42-3517.
Squza, Manuel A., Jr., 526-50-6358.
Spalt, Allen E., 337-36-0799.
Specht, Charles W., 270-38-2254.
Spehar, Michael A., 295-36-8689.
Spelius, Wayne C., 327-36-8646.
Spencer, Clayton W., 431-76-3211.
Spencer, David T., 572-34-7721.
Spinelli, Leo V., 062-34-9488.
Spinks, Robert I., 235-64-8121.
Spitzmesser, Richard L., 303-44-0477.
Spory, Robert E., 204-34-5455.
Sroga, James J., 472-46-1593.
Stafford, Harry A., III, 483-48-5406.
Stanfield, Harry T., 252-62-9599.
Stanfill, William E., 406-56-1816.
Stankosky, John A., 195-30-5926.
Starke, Bruce F., 489-46-9003.
Starr, Richard P., Jr., 103-30-1366.
Stauder, Peter G., 080-32-6855.
Stead, Richard P., 188-32-0966.
Stecklein, Bernard, 509-50-8743.
Steele, Stephen B., 118-34-0294.
Steen, Waldo S., 492-36-8696.
Steere, George C., 483-56-8593.
Stegeman, William M., 535-38-7208.
Stegenga, Stuart, 024-32-2526.
Steger, Clifford, 409-58-9537.
Steidl, Robert A., 291-38-2590.
Stephenson, Bobby C., 412-48-3001.
Stephenson, John R., 198-32-2315.
Stetz, George A., 558-62-9191.
Stevens, Henry A., III, 034-30-0499.
Stevens, Richard L., 533-40-9986.
Stewart, Charles F., Jr., 064-32-1206.
Stewart, Dorothy L., 523-52-7917.
Stewart, James M., 220-42-9025.
Stine, Harry A., 158-28-2251.
Stockreiser, Emile J., 103-34-0174.
Stojak, Anthony R., 197-36-4458.
Stokes, David R., 363-42-2656.
Stoll, Tibor G., 329-34-3456.
Stone, Lawrence A., 468-48-7914.
Stone, Neil H., 273-38-9457.
Stouffer, James A., 186-34-1007.
Stout, Charles R., 367-44-0059.
Stovall, George W., Jr., 427-84-2300.
Stringfellow, Michael F., 524-48-5543.
Strock, Vibert L., Jr., 256-66-5742.
Strunk, Richard R., 530-26-3396.
Stultz, Richard M., 521-52-3133.
Suares, Robert M., 128-32-3973.
Suban, David N., 077-34-9262.
Sublett, Kenny W., 401-60-3089.
Suchy, Russell J., 284-38-0305.
Sullivan, James W., 486-40-7763.
Sullivan, Joseph M. P., 128-34-9369.
Summerville, Rett S., 350-34-9169.
Supp, Peter L., 173-34-0920.
Sushinsky, Barry M., 339-34-2140.
Sutherland, Robert D., 517-44-2404.
Sutter, David L., 332-34-8179.
Swanson, Leslie R., 376-42-8653.
Sweeny, Allan R., 031-32-4968.
Swenka, Ronald A., 480-52-1804.
Swick, William A., III, 574-14-9189.
Swinney, David M., 333-36-5825.
Sykes, Ronald D., 191-34-3605.
Szwarc, Joseph R., 181-34-9347.
Tabler, Michael W., 301-42-7009.
Tafares, Robert E., 053-34-3181.
Taffet, Morris R., 137-34-1910.
Tait, John C., 265-66-4913.
Talbot, Ferrell L., 424-54-4649.
Talley, John S., 223-56-8068.
Tallon, Thomas J., 291-38-2131.
Tamashunas, William A., 162-36-7058.
Tannehill, James, II, 533-34-5571.
Tantalo, Francis P., 067-34-2859.
Tate, Jillian D., 052-32-4262.
Tattini, Eugene L., 226-54-3329.
Tatum, Charles T., 450-66-7386.
Taylor, Bruce C., 382-40-3997.
Taylor, Frank J., Jr., 437-56-8095.
Taylor, Jerry A., 241-68-1236.
Taylor, Robert D., 335-36-1407.
Taylor, Roger C., 453-66-2818.
Taylor, Terry N., 551-56-9059.
Teague, Frederick W., 538-38-5916.
Tedesco, Michael F., 119-30-2409.
Teigiser, John A., 302-36-9332.
Teipe, Myrna R., 553-58-1929.
Tepfer, Daniel, 317-42-5576.
Tesar, George K., 444-44-7029.
Thacker, James D., 525-90-0096.
Theunissen, Julo C., 438-62-7626.
Thiem, Gary R., 473-46-9961.
Thomas, Austin K., Jr., 220-40-0759.
Thomas, Charles A., 213-42-6273.
Thomas, James L., 214-42-4786.
Thomas, William F., 358-34-9934.
Thompson, Charles A., 458-66-9115.
Thompson, Howard C., 534-38-4949.
Thompson, Jack E., 301-36-4254.
Thompson, James D., 223-56-4114.
Thompson, James E., 439-64-0777.
Thompson, Robert W., 241-64-3684.
Thompson, Scottie S., 422-50-4876.
Thompson, Thomas N., 210-32-3622.
Thomsen, Gary B., 563-58-7990.
Thornburg, John W., 281-36-1407.
Thornton, Robert E., 462-64-7391.
Ticktin, Thomas L., 247-74-5321.
Tiley, Paul L., 430-76-5324.
Tilley, Robert T., Jr., 569-60-8125.
Tindall, Robert R., 416-58-5420.
Titmas, Gary W., 271-34-8168.
Titus, Timothy L., 447-40-6030.
Todd, Franklin D., 420-54-1302.
Tompkins, Bruce C., 069-34-7123.
Tompkins, Leslie R., 508-52-9480.
Tongue, Wayne A., 387-34-9310.
Tonjes, Earl A., 275-38-3904.
Torres, Dennis C., 482-46-7845.
Toumbacaris, G. B., Jr., 425-92-7355.
Trbovich, Daniel E., 516-46-2831.
Trefry, David A., 527-50-0012.
Tribble, Alford P., 410-68-2934.
Trimble, Jerry E., 508-40-1281.
Tripp, Alfred D., Jr., 579-54-2253.
Tripp, Roger C., 522-52-5618.
Trodden, Michael J., 035-26-1661.
Trost, James E., 543-48-7145.
Troutman, Vance G., 506-52-9428.
Trull, Benjamin F., Jr., 015-32-9795.
Trullinger, Park R., III, 199-34-9373.
Tucker, Jackie R., 247-70-1297.
Tucker, Ronald R., 486-46-3999.
Tucker, Theo M., 429-70-7546.
Turinetti, James D., III, 358-34-2105.
Turk, Randall L., 315-44-7366.
Turner, Charles P., III, 156-34-3777.
Turner, Melvin L., 537-40-3580.
Ulrich, Charles C., 388-40-4738.
Utley, James P., 432-64-1762.
Uzzle, James L., 285-38-9001.
Valente, George A., Jr., 138-34-2698.
Valentine, Jeffrey H., 155-34-8181.
Vandevender, Leonard G., 428-74-6817.
Vanderventer, Arthur D., 521-56-0637.
Vandrey, Roger, W., 482-50-7493.
Vanhook, Jeffrey, 003-32-5576.
Vanlare, James, 055-36-3516.
Vanvalkenburgh, Nicholas, 546-58-7156.
Venglar, Patrick W., 466-60-1276.
Ventress, John D., 347-32-7436.
Vercher, Paul E., 525-98-0405.
Verdery, Donald A., 152-32-0058.
Vergauwen, Richard L., 392-36-9827.
Vernlund, Robert N., 504-48-5052.
Vick, James L., 231-56-0164.
Vickery, John M., 011-34-5833.
Vining, Gordon G., 518-50-9529.
Vining, Thomas J., 435-60-9234.
Visceglia, Frank T., 155-34-7933.
Vise, Carrell D., 448-42-8099.
Vivian, David J., 047-34-0142.
ViViano, Joseph L., Jr., 433-60-9498.
Vogel, Glenn H., 498-46-4044.
Vogl, David J., 549-60-7368.
Vonboeckman, James L., 323-32-7204.
Vosika, Richard J., 470-44-6067.
Voss, Charles B., 393-38-4197.
Vrettos, John D., 320-36-7015.
Vriezelaar, Donald W., 262-70-1857.
Wade, James T., 265-64-7886.
Wages, Brian E., 571-56-4690.
Waggle, Arthur W., 541-42-3786.
Wagner, James C., 230-52-8248.
Wagner, Thomas M., 481-48-7172.
Wagoner, Richard R., 314-36-2489.
Walker, Duncan E., 585-01-3777.
Walker, Van Dyke A., 578-56-6239.
Wall, David K., 448-42-0203.
Wall, Steven E., 447-36-9812.
Wallace, Bruce A., 150-34-8758.
Wallace, James R., Jr., 210-32-8812.
Wallace, Ronald G., 420-56-2625.
Wallace, Stephen L., 549-54-9787.
Walling, Bruce C., 270-40-1906.
Wallrapp, Michael F., 113-34-5906.
Wally, William M., 469-46-9376.
Walsh, Richard N., 390-42-2958.
Walsh, Robert E., 016-32-5323.
Walter, Don B., 476-38-5868.
Walter, Louis P., 411-66-4002.
Walter, Warren E., 218-38-3249.
Walters, Brian L., 379-38-9880.
Walton, Robert L., 462-70-9092.
Walton, William H., 426-80-6046.
Wammer, David H., 475-46-5618.
Ward, George H., 381-40-8811.
Ward, James B., 236-66-0144.
Ward, John P., 238-66-0157.
Ward, Sam T., Jr., 254-58-8506.
Warden, John A., III, 208-34-7352.
Wardlaw, John W., Jr., 238-62-8082.
Ware, Gary R., 261-56-5612.
Warner, David A., 183-32-6507.
Warren, Joe B., Jr., 242-62-5896.
Washburn, Richard S., Jr., 498-44-1761.
Waters, Dudley F., 284-36-2910.
Waterstraat, Craig K., 101-34-2946.
Watkins, Robert H., 462-56-4458.
Watson, Ronald R., 166-36-3303.
Watt, George W., 528-62-2370.
Watts, Barry D. 562-62-0515.
Way, Dennis M., 046-32-5827.
Wayman, Ira L., 440-40-7757.
Wayne, Stephen A., 314-44-5450.
Wayne, William T., 522-58-7660.
Weathers, Morris E., 540-38-6007.
Weaver, Paul R., 301-38-6076.
Weaver, Robert D., 464-62-1704.
Webb, Michael S., 230-48-7722.
Webb, Thomas A., Jr., 455-66-6523.
Weber, Michael F., 327-36-1520.
Weddle, Dennis R., 483-48-1905.
Wege, Robert W., 399-34-3371.
Weida, William J., 518-46-8922.
Weinrich, Joseph A., 248-70-2053.
Weiss, Theodore J., 523-50-1721.
Weissensee, Alfred A., 098-36-5687.
Weitzel, Eilert R., II, 463-68-8021.
Welsh, Paul S., 266-64-1253.
Wenger, Robert K., 048-34-2538.
Wenninger, Michael E., 265-66-0466.
Weppner, Michael P., 278-38-6701.
West, Sherman E., 169-38-8057.
Westerman, Thomas J., 242-68-0962.
Weston, Dale E., 268-38-4434.
Weyrauch, Arthur H., 474-46-5972.
Whaylen, Donald G., 444-42-2328.
White, Anthony N., 446-42-4559.
White, David A., 018-32-3641.
White, David B., Jr., 273-36-3979.
White, Henry A., Jr., 513-44-2223.
White, James R., 544-48-9333.
White, John F., 010-34-6519.
White, Michael B., 218-40-6126.
White, Robert A. M., 301-36-6304.
White, Robert C., 226-50-9437.
White, Wayne A., 420-44-5167.
Whitehorn, Michael A., 464-68-1913.
Whiteman, William S., 433-54-3462.
Whitman, Philip E., 418-54-7187.
Whitted, Edward I., III, 458-58-9475.
Wick, James R., 537-38-8048.
Wiegand, David P., 103-32-1403.
Wiggins, Ellsworth E., 577-50-6928.

Wigness, Douglas A., 502-42-9932.
Wilcox, Jerry D., 528-44-4193.
Wilcoxon, James F., 277-38-8226.
Wilde, Robert R., 360-30-0647.
Wilder, Michael C., 217-42-0412.
Wilder, Ward R., 509-40-4785.
Wiles, John C., Jr., 233-68-5914.
Wiley, Harold G., 578-56-4082.
Wilk, Stanley A., 013-30-8496.
Wilke, Paul L., 469-50-3741.
Wilkowski, Jerome S., 095-34-8512.
Williams, Andrew, 252-64-6221.
Williams, Brooks M., 236-64-9294.
Williams, Charles E., 314-40-8745.
Williams, Charles H., 520-44-5054.
Williams, Frederick M., 344-34-0469.
Williams, Gilbert L., 571-60-0028.
Williams, John H., 395-40-9165.
Williams, Richard M., 060-32-9220.
Williams, Richard M., 524-58-4159.
Williams, Ronald W., 223-54-9744.
Williams, Tereld T., 167-30-1647.
Willis, Albert H., 523-52-4446.
Willmann, Robert L., 452-66-0538.
Willoughby, David J., 484-52-2604.
Willoughby, James S., 517-50-7297.
Wilson, Bennie J., III, 565-60-5541.
Wilson, Calvin J., 471-46-7931.
Wilson, Hal K., III, 112-30-4927.
Wilson, Theron C., Jr., 255-66-8245.
Wilson, Walter F., Jr., 409-60-3059.
Winchester, Robert C., 498-40-3747.
Winkelmann, James D., 507-52-9895.
Winsor, Richard J., 321-34-4815.
Winter, James W., 425-74-8838.
Winters, Henry, Jr., 572-50-3606.
Wisniewski, Martin N., 053-34-0868.
Witte, Jerome M., 355-30-0204.
Witty, Bruce A., 460-70-6561.
Wodarczyk, Ronald S., 335-34-2521.
Wodstrchill, Daniel L., 479-52-8723.
Wohlnick, Charles T., 156-32-1354.
Woidtke, Roger W., 285-38-0213.
Wolfe, George F., 128-30-6156.
Wolfe, Peter J., 560-52-8819.
Wong, Clyde M. H., 576-40-2790.
Wood, Dennis D., 446-38-7436.
Wood, James H., Sr., 241-60-6527.
Wood, Wendell B., 443-38-7491.
Wood, William C., Jr., 424-54-9041.
Woods, Lee M., 441-42-1479.
Woodward, William V., 017-34-2157.
Woodworth, Donald A., Jr., 047-34-2020.
Woody, John W., 245-58-8374.
Wortham, George E., 446-42-7015.
Wright, David R., 569-56-1146.
Wright, James R., 519-44-9994.
Wright, Michael J., 473-46-6829.
Wyrzs, Edward M., Jr., 560-62-1601.
Wyspianski, Stanley A., 146-32-4716.
Yabui, Alan E., 576-36-8004.
Yadouga, Joseph R., 288-38-8715.
Yahn, David R., 108-34-5184.
Yatsko, Emil G., Jr., 233-66-6535.
Yaunches, George J., 180-32-9266.
Ybarra, Dennis B., 561-58-9499.
Yeager, Rodney A., 488-48-4806.
Yeaple, Stephen E., 110-34-9409.
Yochem, Daniel R., 281-38-6981.
Yonke, Gary L., 380-38-9916.
Yonker, Dale B., 524-56-2529.
York, Alan D., 261-78-2463.
York, James H., 570-50-1578.
Young, George O., III., 511-42-5218.
Young, Ronald E., 526-62-4132.
Yuhas, Joseph R., 157-34-4538.
Zabka, Edward H., 297-34-1036.
Zadareky, Joseph T., II, 155-30-5636.
Zaleski, Andrew A., II, 236-64-2433.
Zalocusky, Michael N., 426-36-2431.
Zartman, James L., 545-50-7902.
Zella, Kenneth B., 369-42-4816.
Zielinski, Stanley J., Jr., 030-34-0943.
Zisch, Waldemar C., 013-32-8102.
Zucker, Richard A., 079-34-0041.

CHAPLAIN CORPS

Bauer, Jack A., 506-42-1500.
Bilderback, Carl E., 465-48-9004.
Browne, Robert H., 241-54-6042.
Callier, Samuel H., 463-60-1233.
Carney, Robert E., 411-56-7503.
Carter, Wilton C., 426-68-7625.
Cathy, Richard J., 256-52-0954.
Clayton, Bennie H., 565-48-0264.
Engler, David E., 371-36-6842.
Farrugia, William C., 103-28-7798.
Golden, Joseph E., Jr., 259-48-1562.
Hockaday, Albert A. L., 243-50-4630.
Horton, Carl E., 573-42-8489.
Jensen, Harold M., 023-30-3207.
Kinney, James W., 239-52-5398.
Matthews, Joseph C., III, 243-46-3454.
McCulloh, Ralph E., 213-34-7929.
O'Rourke, Thomas J., 548-68-6244.
O'Toole, James P., 206-28-9518.
Predoehl, Theodore G., 503-36-1680.
Quandt, Walter H., 505-52-4605.
Ramsey, Kenneth C., 262-48-4300.
Reynolds, Marion S., Jr., 404-48-2575.
Ryan, Timothy K., 257-76-1219.
Sikes, William G., Jr., 420-44-7572.
Simmons, Harold W., 412-54-0347.
Sumpter, Ronald K., 361-28-7007.
Sweeney, Leo T., 154-30-5549.
Thomas, Arthur S., 477-26-9715.
Wawrzynski, Edward A., 204-26-2684.

DENTAL CORPS

Abrahamsen, Thomas C., 356-36-0671.
Albright, Bruce W., 510-46-9095.
Appeldoorn, Ronald E., 476-46-1661.
Bergman, Dennis W., 174-34-4802.
Biddle, Harold H., 295-38-5474.
Brennan, Mark E., 067-34-2951.
Buchanan, William E., Jr., 498-46-0667.
Buikema, Donald J., 379-44-5611.
Eshelman, Enos G., Jr., 104-36-2879.
Eyman, Russell G., 262-80-9776.
Finelli, Jerry L., 147-34-5476.
Finkbeiner, Richard L., 267-64-8783.
France, Richard A., 337-36-3045.
Goupil, Michael T., 382-42-9481.
Hallmon, William W., 421-58-8045.
Hebda, Thomas W., 361-36-0645.
Hickory, John E., Jr., 049-32-0518.
Killian, William F., 219-42-6534.
Kreig, Louis T., Jr., 433-68-6106.
Kuhar, James R., 331-361-1148.
Landers, Sam R., 462-66-9296.
Lauder, Keith F., 025-32-9788.
Lee, Spencer, Jr., 408-52-4293.
Leifeste, Ronald E., 463-70-6986.
Lubow, Richard M., 145-34-3590.
Maki, Karl A., 537-36-4962.
Nemcic, Steven D., 280-40-1802.
Read, Gill, 569-56-8432.
Regent, Howard S., 105-34-7860.
Robison, Stephen F., 142-34-6455.
Rudisill, John W., III, 450-68-7221.
Samuelson, John A., 522-54-6029.
Staab, Robert G., 211-32-9750.
Steegstra, David A., 018-34-3558.
Stevens, Fredric D., 297-36-8461.
Stewart, Edward A., 216-40-4491.
Thompson, Larry D., 449-70-3092.
Voss, James E., 393-42-5471.
Williams, Howard J., 293-38-5989.

JUDGE ADVOCATE

Allen, Shelby L., III, 450-66-4529.
Anderson, Tim G., 347-34-4292.
Brancato, John R., 209-32-1281.
Brock, Richard W., 063-34-1402.
Brunke, Loren D., 507-50-7204.
Concannon, Milburn K., Jr., 487-44-1961.
Debey A. B., 513-40-8311.
Denton, William J., 459-70-1709.
Edwards, Carl E., Jr., 238-64-4256.
Egeland, Andrew M., Jr., 231-56-1475.
Farr, Richard L., 125-32-3689.
Finley, Gordon B., Jr., 407-60-1450.
Frederick, Ronald A., 483-50-7923.
Hoppe, Allen B., 478-50-5571.
Humphreys, Warren P., 022-32-9208.
Hurd, Elisha B., Jr., 509-46-5029.
Kuhn, Fredolin W., 113-32-5246.
Laedlein, Charles E., III, 230-56-3208.
Lahendro, Albert L., 224-54-4774.
Miller, James E., 541-50-3585.
Petherick, Michael J., 542-46-6720.
Puett, Jimmy D., 456-64-9120.
Schlechter, Alvin E., 263-80-8325.
Shea, Gerald C., 041-34-0966.
Shockley, Larry G., 490-48-5970.
Silliman, Scott L., 015-36-4741.
Stewart, Robert B., 503-50-9055.
Stouck, Vinson P., 164-34-2252.
Sweeney, Patrick C., 517-46-8124.
Waldrop, Olan G., Jr., 417-60-9065.
Whitney, Richard F., 131-32-8253.
Wolfe, Norman K., 281-38-6328.
Worley, William H., Jr., 343-34-3096.

MEDICAL CORPS

Archer, Stanley B., 445-44-6111.
Bates, Gaylon M., 413-60-7956.
Blumberg, Lawrence B., 559-62-4194.
Broadwell, Russell M., 296-36-2426.
Burner, William L., III., 226-56-2871.
Buscher, John R., 143-34-0342.
Delp, Glenn R., 224-52-9401.
Douglas, Glen A., 429-78-6463.
Douglas, William G., 442-34-8496.
Greene, Jerry W., 239-62-9969.
Heimburger, Steven L., 335-36-5343.
Henderson, Richard A., III, 459-64-0396.
Johnson, Thomas A., 023-30-8758.
Kane, Daniel D., 391-40-3502.
Knauf, Daniel G., 463-76-5967.
Learned, David K., 510-42-4373.
Maffet, Charles K., 400-56-6977.
McCullough, James A., 520-30-2195.
Moll, Jacob T., 231-58-8250.
Morrow, Robert L., Jr., 437-62-9654.
Perschau, Richard A., 474-48-0799.
Rettig, Kenneth R., 188-34-4984.
Richardson, Howard M., 442-44-6003.
Richmond, David R., 220-42-6570.
Risser, Christian F., 526-56-7557.
Rutland, Andrew, 262-66-2225.
Schuknecht, Lowell A., Jr., 224-58-4165.
Szpak, Michael W., 287-36-1380.
Toon, Lee, 054-38-5931.
Trent, William G., 414-66-5904.
Wardinsky, Terrance D., 517-48-1167.
Wolfe, William H., 224-58-5795.

NURSE CORPS

Andino, Maria T., 581-90-1962.
Berkheiser, Jean L., 192-30-6732.
Blouch, Sandra K., 195-34-9953.
Campbell, Gertrude M., 023-28-6454.
Carner, Antoinette, 313-38-9433.
Chabot, Michelle M. J., 364-42-2992.
Chamberlain, Jacqueline F., 007-34-9015.
Darrell, Chester A., Jr., 059-36-4625.
Davis, Barbara M., 528-48-8238.
Davis, Bettye H., 205-28-5236.
Degnan, Patricia A., 041-36-3191.
Dinsmore, Cardie A., 207-32-4436.
Erickson, Georgia A., 225-48-1915.
Fletcher, Mary K., 245-62-0367.
Forsyth, Joan R., 183-32-9827
Fournier, Deborah E., 005-40-7094.
Gentile, Margaret A., 165-26-4062.
Harrison, Connie E., 256-74-7090.
Hinze, Elizabeth A., 432-74-5796.
Hoskin, Diane J., 289-38-9850.
Hull, Kathleen V., 067-34-1969.
Jason, Marie E., 012-32-8275.
Kucinkas, Chris M., 045-32-4856.
Leffel, Mary S., 230-50-3036.
Lyons, Geraldine E., 378-40-4908.
Maroon, Hana J., 486-46-5095.
Matas, Irene M., 204-28-5615.
McCormack, Ethel M., 114-34-9738.
Nagy, Helen B., 463-62-9733.
Paup, Sonja M., 309-42-9738.
Piccone, Joseph S., 046-30-0438.
Porter, Patricia A., 090-36-0714.
Rogers, Bonnie P., 252-62-8709
Rosenbery, Nancy J., 273-36-8640.
Schafer, Leah L., 229-54-0253.
Schenk, Jacquelyn P., 509-36-6274.
Swint, Kathleen A., 301-34-8783.
Trugillo, Lee E., Jr., 461-66-5629.
Turner, Sue E., 337-34-0605.
Yanno, Richard G., 093-32-2232.

MEDICAL SERVICE CORPS

Andrews, Edwin J., Jr., 225-38-5629.
Armstrong, Robert C., 205-32-0293.

Avants, Mervin T., Jr., 023-32-7584.
Bateman, Val J., 528-56-0950.
Bates, Thomas G., 527-60-6694.
Beaty, John R., 256-54-1664.
Blansett, Randy S., 449-68-0720.
Boyd, Thomas O., 413-44-3006.
Bristow, Charles L., 442-40-2535.
Bruce, John M., Jr., 258-52-0008.
Burke, Roger L., 480-50-9563.
Ciminelli, Lawrence W., 072-30-5924.
Cox, Jan G., 518-46-2543.
Dick, William W., 537-40-5773.
Dotson, Terrence J., 514-34-5601.
Drummond, Robert D., 491-40-5944.
Emigh, John L., 512-42-8838.
Fincher, James C., Jr., 067-34-3891.
Forister, Thomas C., 520-46-2860.
Hamako, Herbert M., 557-50-0070.
Hardy, Charles R., 001-32-4030.
Jacobson, Philip E., Jr., 470-44-9186.
Langenberg, Stephen L., 540-44-8723.
Melves, Lawrence T., 489-46-8281.
Meyer, Alvin F., III, 505-54-6825.
Mitchell, Robert B., 529-58-8643.
Nelson, Steven P., 106-32-9402.
Nugent, Jerry., 512-38-8766.
Poston, Thomas D., 305-34-9702.
Proctor, Richard D., 529-50-1106.
Renn, Benjamin C., 548-54-7959.
Rodriguez, Albert D., 465-38-1975.
Schumann, Thomas R., 271-36-4641.
Smith, Collins E., Jr., 422-50-2762.
Solesbee, Billy R., 247-72-3725.
Squires, Darrell R., 113-24-5578.
Templeton, David W., 525-64-1724.
Weishaar, Gary L., 498-46-0016.
Welbes, Earl J., 484-34-5969.
Wylie, John V., 376-42-2303.

VETERINARY CORPS

Adkins, Terry O., 404-58-3087.
Bauer, John W., 315-44-3802.
Dale, James E., 511-42-2788.
Dean, Marvin L., 463-72-3672.
Harwood, Baxter, 551-46-8315.
Leftwich, Marion W., Jr., 466-70-2805.
Little, Herbert E., 573-58-7792.
Schaad, Lawrence E., 332-36-8065.
Shafer, Richard L., 448-44-2440.
Stokes, Mark H., 132-30-2214.
Wansky, Michael A., 293-36-0123.

BIOMEDICAL SCIENCES CORPS

Adams, Ernest D., Jr., 423-50-2979.
Anderson, Gary D., 218-38-5316.
Banner, Edwin C., III, 225-54-7648.
Chambers, Mildred J., 539-36-4514.
Clark, Mary F., 401-50-3259.
Ellis, Sharon L., 505-46-1716.
Garrett, Hershel A., 573-50-3607.
Hagan, Jarrell R., 312-32-2295.
Hammond, John M., 267-60-1669.
Kaylin, Bernice M., 149-32-2112.
Kilian, John P., 512-34-5251.
Krimm, Bernard F., 223-54-2598.
Maclean, Douglas M., 442-44-7422.
Malloney, Ronald H., 543-36-7976.
Marshall, Ann M., 052-32-6266.
McLean, Jerry A., 524-46-7163.
Mikeal, Judith M., 554-52-8207.
Murray, Joseph D., 321-30-1637.
Nelson, Dean D., 546-50-0906.
Norton, Francis E., Jr., 015-32-9476.
Novak, John E., 163-30-3888.
Schumacher, Patricia, 535-34-5312.
Swanson, John W., 419-52-5286.
Thelen, Terry J., 479-46-5190.
Turner, Ronald W., 214-38-5145.

IN THE AIR FORCE

The following officers for appointment in the Regular Air Force, in the grade indicated, under the provisions of section 8284, title 10, United States Code, with date of rank to be determined by the Secretary of the Air Force:

To be captain

Aitken, George G., 036-28-0972.
Allen, Robert A., Jr., 232-66-3354.
Arnold, Daniel E., 218-44-3622.
Becker, Gary L., 512-42-6894.
Boudreaux, Whitney J., Jr., 456-78-0341.
Brass, Edward W., 285-42-4648.
Burke, Robert W., 516-48-3177.
Cochran, Curtis D., 405-60-2274.
Cooke, Edwin B., 127-32-3044.
Davis, Walter R., 268-38-1108.
Etbauer, Wilbur J., 504-46-3519.
Fraas, G. Richard, 072-36-4436.
Giannoni, John M., 130-34-9260.
Hackman, Jeffrey R., 237-68-1961.
Hatfield, Samuel F., Jr., 505-64-9605.
Hughes, Thomas R., 396-40-0350.
Huner, David C., 269-38-1687.
Johnson, Duane K., 247-78-0786.
Johnson, Herbert W., 517-46-2771.
Karbowsky, William F., 382-38-4737.
Keys, James H., 530-28-3852
Kullberg, Kenneth N., 547-60-8342.
Lind, Lauren A., 503-50-4716.
Longren, Paul A., 511-46-3245.
Marsh, Charles W., 068-38-7621.
McDaniel, Harry R., 267-74-4970.
McDaniel, Larry D., 267-74-4968.
Meinke, George H., 264-40-4947.
Naddra, George T., 288-40-5654.
Neary, Michael J., 497-46-7386.
Okawa, Earl K., 575-44-1360.
Patton, William N., 522-52-1823.
Price, David L., 533-42-9692.
Randle, John P., 408-76-4206.
Robinson, Roger D., 239-72-1467.
Schuman, John W., Jr., 214-44-0492.
Shaffer, William A., 167-34-6462.
Shiroyama, Brian Y., 572-54-9146.
Smith, Arthur B., 049-34-0491.
Sniteman, Stephen B., 228-56-1807.
Spicher, Charles R., 585-07-1664.
Steiner, Axel, 456-72-5179.
Stenger, James T., 511-42-7331.
Stinnett Melvin L., 408-74-6226.
Sullivan, Thomas B., 225-52-7676
Sweeney, Robert N., 408-72-6486.
Ulrich, Roger K., 110-34-1419.
Welch, Paul T., 120-34-7688.
Wiseman, Jerry A., 228-56-1729.
Wood, Frederick W., II, 463-66-8653.
Wright, Wayne H., 376-44-2005.

The following officers for appointment in the Regular Air Force, in the grades indicated, under the provisions of section 8284, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated, and with dates of rank to be determined by the Secretary of the Air Force:

JUDGE ADVOCATE

To be captain

Dekat, Kenneth A., 510-48-8468.
Massey, Harmon O., Jr., 426-78-9020.
Nolte, Donald A., 165-36-5370.

NURSE CORPS

To be captain

Adams, Janet Sue, 499-46-5362.
Armstrong, Frances P., 230-54-9337.
Boyd, Terri J., 212-44-8382.
Kunz, Charles A., 494-48-5695.
Massey, Sarah J., 541-44-4477.
McAndrew, Elizabeth A., 206-34-7304.
Morey, Ann M., 367-50-5040.
Stone, Jeanne N., 513-42-0805.
Stubblefield, Virginia M., 398-42-6051.
Wurster, Doris M., 561-60-3836.

MEDICAL SERVICE CORPS

To be captain

Sorrells, John S., 216-42-6485.
Young, Chester L., 575-42-0190.

BIOMEDICAL SCIENCES CORPS

To be captain

Gold, Dennis N., 210-32-0258.
Kobernus, Carroll A., 460-70-1911.
Larison, James R., 529-60-2145.
Majors, James S., 356-30-6378.
Nelson, Robert C., 515-44-2249.
Olfenbuttel, Robert F., 123-32-1686.
Taylor, William L., 461-76-9703.
Washeleski, Michael C., 140-36-4293.
Wilson, James L., 414-70-6372.

IN THE NAVY

The following-named ensigns of the U.S. Navy for temporary promotion to the grade of lieutenant (junior grade) in the line, pursuant to title 10, United States Code, sections 5764 and 5791, subject to qualification therefor as provided by law:

Blinka, Harold S.
Blomshield, Richard J.
Brinker, Jeffrey R.
Brothers, Michael H.
Brunell, Lee H.
Chimahusky, Edward V.
Dougherty, John R.
Dyson, Michael E.
Dziama, Frank R.
Feldman, Donald S.
Herring, Fred M.
Howze, Sidney S., Jr.
Klein, Mark J.
Laubenthal, Neil D.
Lensen, Peter A.
Macina, Ronald M.
Munden, Paul M.
Pieringer, Paul A.
Pullins, Steven W.
Reiver, Jon A.
Reynolds, Charles M.
Scukanec, Daniel
Sherwood, Gary R.
Sutton, John R.
Talley, Douglas G.
Tearpock, Thomas V.
Telthorst, Paul J.
Woodley, Paul R.

IN THE NAVY

The following-named enlisted candidates to be appointed permanent ensigns in the Medical Service Corps, in the U.S. Navy, subject to the qualifications therefor as provided by law:

Patricia A. Daly.
Patricia R. Day.

The following-named enlisted candidates to be appointed ensigns in the Medical Service Corps, in the U.S. Navy, for temporary service, subject to the qualifications therefor as provided by law:

Ronald W. D'Heron
Danny J. Fahler
James S. Hogerson
Dann W. Nielsen
Robert E. Ritz
Craig R. Scott
Richard C. Setzer
Mark A. Walker

IN THE MARINE CORPS

The following-named officers of the Marine Corps Reserve for permanent appointment to the grade of colonel under the provisions of title 10, U.S. Code, section 5911:

Harry F. Barnes
Herbert F. Chabysek, Jr.
Nova E. Demoney, Jr.
Sheldon C. Downes
Anthony J. Dunleavy
Howard C. Gentile
Gordon E. Johnson, III
William N. Lofroos
Theodore L. Gey, Jr.
David P. Karcher
Robert W. Mackey
Daniel V. McLaughlin
Robert E. Neumann
Clemens M. Plattner
Leonard E. Porter
Thomas M. Reis
John P. Roos
Norman J. Smith
Warren D. Smith
Rodney L. Stone
Foster G. Ulrich, Jr.
Wilbur D. Wheaton

The following-named officers of the Marine Corps for permanent appointment to the grade of lieutenant colonel under the provisions of title 10, U.S. Code, section 5780:

Andrew B. Adams
Louis P. Andrews
Fred W. Anthes
Carl R. Ariola
Elie M. Asanovich
Henry W. Austin
Thomas R. Baisley
Joseph R. Balthis
Gordon D. Batcheller
Frank A. Bendrick
Alfred R. Bergstrom, Jr.
Thomas R. Betz
Wesley H. Birt
Richard P. Bland L.
Norman H. Bomkamp
John F. Borders
William T. Bosserman
Rodney W. Botelho
Gene W. Bowers
Wilburn R. Bowers
Howard J. Bowden
Martin L. Brandtner
Marx H. Branum
John P. Brickley
David B. Brown
Richard L. Brown
Robert T. Bruner
Martin C. Brush
Richard S. Burgess
George W. Burkley
Jerry M. Byrd
George R. Callison
John M. Campanelli
David A. Carter
Conwill R. Casey
David J. Cassady
Frank G. Castillo
Bernard J. Cauley
John P. Caynak
William F. Cerny
Francis X. Chambers, Jr.
James M. Chance
Jack A. Chapman
Robert G. Clapp
Roger L. Clawson
Vincent S. Coll
Raymond L. Collins, Jr.
Edward M. Condra, III
James, J. Coolican
Gary J. Cooper
David C. Corbett
Lyle P. Creadick
John C. Cregan

Lowell R. Cushman
Paul G. Davenport
James M. Davis
Howard L. Decastro
Roy E. Deforest
Gerald Dejong
John D. Dempsey
David V. Denton
Michael P. Downs
J. R. Duckworth
Stephen C. Durrant
Joseph J. Dzielski
Tod A. Eikenbery
Donald G. Eirich
Thomas L. Elser
Berlis F. Ennis
Harold A. Erwin
Walter M. Esser
John G. Fitzgerald
Jon T. Flint
Howard A. Frans
David M. Gallegos
Dayne G. Gardner
Theodore L. Gatchel
George E. Gaumont, Jr.
Gerald L. Gill
Floyd S. Giordani
Thomas E. Gnibus
Richard L. Goodlake
David B. Gregory
James R. Griffin
Ronald J. Gruenberg
John W. Guy
Lynn M. Haines
William A. Hall
Myron C. Harrington, Jr.
Phillip L. Harrington
Richard I. Harris
Terry E. Harris
Charles B. Hartzell
Edward M. Healey
Marlin L. Hefti
Thomas E. Hemingway
David G. Henderson
Nelson P. Hendricks
James B. Hicks, Jr.
Donnal E. Hilthrunner
Kenneth D. Holland
Carl J. Horn
Melvin Horowitz
Charles T. Hucklebery
Gerald F. Huml
William F. Hurley
Wilton E. Hyde, Jr.
Leo R. Jamieson
Harry W. Jenkins, Jr.
Thomas F. Jessen
Gerald M. Johnson
Herbert C. Johnson
Kenneth D. Johnson
Richard F. Johnson
Robert B. Johnston
Raymond W. Kalm, Jr.
Richard S. Kaye
Edmund M. Keefe, Jr.
Alan B. Kehn
Glenn D. Kelly, Jr.
William M. Keys
Joe J. Kirkpatrick
Watt J. Kiser
Grover C. Knowles
William G. Kogerman
Robert C. Korman
Philip R. Kruse
Rene F. Larriva
Otto J. Lehrack, III
Robert Leiker
James W. Lent, Jr.
Martin J. Lessini
Otto G. Linden
Robert E. Lorch
Thomas J. Lyman
Robert P. Machado
Frederick J. Mahady, Jr.
William D. Major
John S. Martin
James H. Marshall
John T. Marshall
James E. May, Jr.
William R. McAdams
William J. McCallum
James D. McGowan, Jr.
James P. McHenry
Charles L. Meadows
Richard H. Meydag
David C. Mills
Charles H. Mitchell, Jr.
Robert L. Mitchell
Gerry M. Mizer
Robert W. Molyneux, Jr.
Lawrence R. Moran
Harmon S. Morgan, Jr
Patrick J. Morga
Raymond R. Moore
John D. Morris
Michael P. Mulqueen
Barry J. Murphy
Donald J. Myers
Herbert T. Nance, Jr.
Ives W. Neely, Jr.
Bobby J. Newsom
Kenneth E. Noland
Robert J. O'Brien
Larry R. Ogle
William W. Ogle
John H. Olin, Jr.
James J. O'Meara
Raymond A. O'Neill
Robert R. O'Neill
Alan L. Orr
Joseph R. Paquette
Robert L. Patenaude
Rabun N. Patrick, Jr.
Alva E. Peet, Jr.
Joel N. Peterson
Lawrence E. Peterson
Joseph R. Phaneuf
Albert H. Phillips
Richard L. Phillips
Ronald E. Pfrimmer
Herbert E. Pierpan
Roger P. Pilcher
Joseph W. Pinson
Raymond G. Pinson
Kenneth W. Pipes
John Pipta
Raymond L. Pollard, Jr.
Reginald G. Ponsford, III
Raymond E. Porter
George S. Prescott
Russell C. Prouty
James E. Quill
Henry J. Radcliffe M.
John W. Raymond
John M. Reardon
John E. Regal
John P. Reilly
Owen B. Renfro
Edward O. Reusse, Jr.
James E. Rickmon
John D. Riley
Karl Rippelmeyer
Morris R. Roberts
William E. Russell
Lawrence R. Salmon
Herbert M. Sanches
Donald E. Santo
Ronald W. Schmid
Adolfo P. Sgambelluri
Paul T. Shaffer
Louis E. Shaw
Charles H. Shelton
Kenneth E. Shelton
Troy T. Shirley
William D. Shuman
Jerry I. Simpson
John H. Slater
Robert W. Sloan
Frank M. Slovik
Paul J. Smith, Jr.
Robert W. Smith
Joseph A. Sole
Richard G. Sousa
John A. Speicher
Billy J. Speights
Louis M. Spevetz
Norbert J. Spitzer
Bayliss L. Spivey, Jr.
James L. Steele
Marion F. Stone
John H. Strasser
William C. Stroup
Francis X. Sullivan
Thomas C. Sullivan
Michael L. Sweeney
William T. Sweeney
Warren E. Sweetser, III
Andrew P. Taylor, Jr.
Jack L. Throckmorton
William F. Tremper
Robert C. Trumpfheller
Lonnie S. Underhill
Luke J. Urban
Igor R. Valentine
Rocco F. Valluzzi

The following-named officers of the Marine Corps Reserve for permanent appointment to the grade of lieutenant colonel under the provisions of title 10, U.S. Code, section 5911:

Olen S. Akers
David M. Alfredson
John P. Arms
David H. Askey
Richard F. Baker
Charles S. Barrett, III
Thomas W. Baxter
Victor E. Bianchini
James H. Bowman
James J. Brady
Paul P. Brutch
Arthur B. Burke, Jr.
John M. Burke
Richard J. Burke
Cole J. Buxton
Thomas J. Campbell
Harry G. Carpenter, Jr.
Robert F. Christie
Arthur L. Clark
James J. Cleary
William A. Coil
John D. Councilman
John F. Cronin
Leonard D. Culp
Harold R. Curtis
Robert C. Detweiler
Michael G. Dickerson
Ralph S. Dilullo
Richard D. Dowling
Lawrence L. Downey
Bobby G. Dowling
Brooks C. Dyer
John S. Elekes
Donald R. Farias
Frank E. Farmer
Darrell S. Fitts, Jr.
Paul B. Fraser, Jr.
Phillip C. Frey
Neil D. Frumkin
John J. Gannon
Michael R. Gardner
Winston W. Gardner, Jr.
James T. Golden, Jr.
David Hallett
John P. Halvorsen
George F. Hanker
George E. Harper
Albert C. Harvey, Jr.
James P. Heffernan
Enrique Hernandez
James H. Jeffries, III
Alvin W. Jennings
John E. Jordan
Gardner S. Kendrick
Frank P. Kolbe, Jr.
Donald G. Kravitz
Walter J. Lawson
Cecil P. Lewis
Donald T. Lund
Robert D. Mahoney
Michael W. Manzer
Leonard W. Martin
Ralph T. McLean
Andrew J. Mehalick
David L. Menzdorf
Lowry J. Miller
Ronald G. Miller
W. S. Miller
Phillip M. Mitchell
George E. Mosakowski
Frederick G. Muesegaes
Fred E. Nichols
Frank Ottinger, Jr.
Robert E. Peterson
Charles R. Petty
Clarence D. Powell
Ronald K. Price
James L. Riggs, Jr.
John F. Rivers
Charles S. Robb, II
Milton B. Rogers
Brian W. Rolfe
Gordon Rule
Charles W. Sampson
Albert J. Sattler, Jr.,
Gary S. Schroeder
Todd M. Sloan
John B. Snowden, III
Samuel A. Staples, III
Cecil I. Stell, Jr.
Gene P. Taylor
John F. Thompson
James R. Vogel
Terry P. Wallace
Scott J. Wilcott
Raymond E. Wilder
George C. Wilkinson, Jr.
Edd K. Wright

The following named officers of the Marine Corps for permanent appointment to the grade of captain under the provisions of title 10, U.S. Code, section 5780:

Frederick M. Abbott, Jr.
Richard D. Allen
Kenneth C. Allison, Jr.
James F. Amos
Charles L. Armstrong
Ronald J. Armstrong
Gerald D. Badinger
Calvin D. Baker, Jr.
Robert E. Ball
Richard W. Bates
Thomas W. Battaglia
Philip B. Baysden
Jonthan M. Beall
Peter R. Beavins
George G. Berg
Dan T. Bergstrom
Michael S. Bermensolo
Albert H. Bickmore
Jerome F. Bierly
Douglas M. Black
Robert R. Blackman, Jr.
Thomas E. Bouse
Charles E. Boyer, III
James G. Boyett
John Boyle, IV
Floyd D. Braaten
Clement W. Bradley
Brooks J. Breece
Andrew J. Broadstone, III
William F. Broderick
Clifton R. Brooks, Jr.
Thomas A. Browne
Paul V. Bruckner
Bruce E. Brunn
Johnny Bruntlett
Jeffrey D. Buchanan
Gerald Buckley
Thomas W. Bull, II
Thaddeus H. Burak, Jr.
Richard D. Burkett
George C. Caldwell, Jr.
Thomas J. Callan, Jr.
Kenneth D. Cameron
Martin D. Carpenter
James G. Casler
Barry L. Cassidy
Geary L. Chancey
Norman A. Chandler, II
Jimmy H. Church
Robert M. Churchill
Anthony J. Ciotti, Jr.
Jay M. Cluelow
James K. Cobb
James T. Conway
Leroy J. Cook
Bruce P. Couturier
Joseph R. Crockett, Jr.
Philip L. Croteau, Jr.
Eugene P. Cuccaro
John D. Curd, Jr.
Mark L. Danin
John B. Danuser
James W. Dartt
Charles E. Davis, Jr.
John W. Davis
Joseph J. Day
Marshall B. Deforrest, Jr.
William W. Dehart, Jr.
Glenn C. Demunck
Robert J. Depass
Kurt M. Dieterle
Alphonso B. Diggs, Jr.
Paul R. Dippolito
Will L. Dryer, Jr.
Christian F. Dubla, Jr.
Russell V. Dudley
Charles O. Duff, Jr.
Marc W. Durham
Richard G. Duvall
James B. Egan
Paul E. Ehlers
Robert P. Eichorn
John M. Elder
Arthur F. Elzy
Roger L. Emch
Richard A. Engel
William J. Esmann
Phillip F. Fargotstein
Jim Farlee, Jr.
Jon W. Farmer
Brian L. Faunce
Paul M. Felix
Donald A. Ferguson
Ord J. Fink, Jr.
Vincent L. Fischer, Jr.
John S. Flack
Jan P. Fladeboe
Gary W. Florence
Marshall B. Foore
Timothy J. Foreman
Robert A. Forrester
Ronald W. Forrester
Percy E. Foster, Jr.
Alan S. Frederick
Charles K. Freeman
Joseph B. Freeman
Peter R. Freeman
Richard B. French
Roland V. Funk
Edward A. Gabarra, Jr.
Timothy M. Gahan
John M. Galeski
Dennis O. Garcia
Lewis J. Gebhard
Vito F. Gentile
William J. Gibbons
Charles F. Glassmire
George G. Goodwin III
Phillip M. Gordon
Daniel G. Greathouse
Thomas K. Griffin
William C. Grubb, Jr.
Thomas C. Guerinot
Donald E. Guldin, Jr.
Rembert S. Gunter, Jr.
Earl W. Hacker
William M. Hale
Stephen D. Haley
John B. Hall
Robert J. Halliday
James C. Hardee
Martin D. Hargas
Richard L. Harmon
Roger F. Harris
Ki L. Harvey
Michael J. Havrilla
James M. Hawkins
Werner Hellmer, Jr.
David H. Henderson, Jr.
Leon F. Henley, Jr.
John P. Hertel
John P. Hickman
Richard V. Hildebrandt
Robert L. Hill
Kenneth W. Hillman, Jr.
John D. Holdstein
Louis S. Hollier, IV
William D. Hollister
James E. Hollopeter
Ben E. Hoover
Timothy L. Holt
Richard D. Hoyle
Thomas W. Hoysa
Philip E. Hughes
Gary H. Hughey
Timothy J. Ireland
Gordon R. Jackson
Joseph D. Jeffares
Sigurd L. Jensen, III
Edward L. Johnston
Brian T. Johnson
Robert L. Jones
Larry J. Jurica
Kenneth M. Jurjevich
Jerry W. Kahler
Terry R. Kane
Johnny R. Keckler
Gerard P. Kelly
Michael J. Kennedy
Michael M. Kephart
George H. Kerr
Robert J. Kimble, Jr.
John C. Kirk
Michael A. Kirkpatrick
Herbert W. Klein, Jr.
Clifford J. Kolson, II
Gregory C. Koons
Jeffrey C. Kotora
Raymond M. Kruse
Gregg C. Kubu
Mitchell A. Kudla
William P. Kyle
Paul A. Lambert
Harry J. Landau
Charles E. Landry, Jr.
John Langdon, II
Ronald L. Lard
Michael W. Leach
David J. Lee

Dean J. Legidakes
Joseph R. Lehman
Gregory G. Lemmer
Valentino L. Lendaro
James F. Leonard
Richard C. Lepley
Leonard W. Lewis
Terry N. Lewis
John J. Lienert
Herbert B. Long, II
Michael E. Lowe
John F. Lucas
Edmund A. Lucke
John K. Lynn
James W. MacMurray, Jr.
Don B. MacNamee
Thomas A. Manfredi
Esmond W. Marks
Terry L. Martin
Harold Mashburn Jr.
William L. Maxey
Thomas R. Maxfield
Robert P. McAleer
Jerry C. McAbee
Robert F. McCarthy
William W. McCombs
Boyd S. McCord
David S. McLean
Billy D. McMillin.
Robert Mell
Robert G. Mellon
Richard D. Metcalf
Charles D. Melson
Robert S. Melton
John J. Melville
Peter T. Meyer
Daniel R. Miller
Gene A. Milleson
Thomas P. Milne
Raymond B. Moffatt
Donald J. Monroe
Michael H. Monroe
James E. Moorehead
Bruce H. Moran
Terrence C. Morgan
John J. Moyer
Louis R. Moyzan
Richard S. Mullen
Robert S. Mutchler
John W. Muth III
William N. Myers
Neal M. Nadler
James H. Napier
Gregory S. Newbold
Paul S. Nickolaus
Ignatias J. Niemczyk
Gary O. Norris
Phillip D. Norton
William R. Norton III
Bernard J. Nownes
Raymond L. Nymeyer
Willard D. Oates
Ward C. Ogle
David M. Oleksy
Steven R. Oliver
Steven E. Olmstead
John C. Osborne
Paul R. Ottinger
John R. Page
Robert G. Page, Jr.
Michael D. Pannek
John T. Paparone
Charles A. Parlier, II
Clarence P. Patten, III
William W. Pattison, II
Terry L. Paul
Reuben B. Payne, III
Wiley H. Pearson
Frederick C. Peck
Ronald E. Pipkens
Paul D. Pitman
Carl O. Plath, Jr.
Richard A. Poggemeyer
Allan J. Polachowski
Raymond L. Polak
James J. Porter, Jr.
Gregory M. Potter
Ronald G. Powell
David A. Proffitt
Henry A. Pyzdrowski, Jr.
John R. Quattlebaum
Brett D. Rayman
John H. Reynolds
Harold P. Rhodes
Larry J. Richardson
Dwight G. Rickman
James W. Rinschler
Robert D. Roach
Edward J. Robeson, IV
Robert S. Robichaud
David P. Robinson
James R. Robinson, II
Frank Rocker, Jr.
Earl W. Rogers
Jeffrey A. Rogers
Richard D. Rollins
Paul F. Roques, Jr.
Winston E. Rorabaugh
James M. Rosen
Michael C. Rowse
Robert M. Rudolf
Roger A. Sager
David W. Sanasack
Edward J. Sandrick
Jeffrey E. Scheferman
David K. Schmidt
Warren, C. E. Schmitt
Glen H. Schneiter
Ronald R. Seaman
James, E. L. Seay
Robert M. Shea
Steven A. Shepherd
Charles R. Sherrill
Robert H. Sherwell
Philip G. Short
Thomas J. Short
Michael A. Siepert
Mark R. Sinclair
Ronnie E. Sirmans
Thomas J. Skubisz
Kenneth A. Sloan
James L. Smee
Jon W. Smythe
Craig E. Sooy
Robert E. Sonnenberg, Jr.
Stephen A. Spaulding
Donald R. Speacht, Jr.
Frederic M. Stankovich
Wayne A. Stanley
Denis K. Staver
David L. Steele
Jon O. Steiner
Thorys J. Stensrud
Thomas G. Stephen
Bruce M. Stevens
Ronald L. Stevens
David A. Stockwell
Kenneth E Stutely
Gerald L. Stuts
Tim J. Sukow
Alan P. Sullivan
Leonard M. Supko
David T. Swan
John R. Switzer
Aloysius Sypniewski
Theodore Z. Szymanski, Jr.
Michael T. Tallent
Gordon F. Taylor
Rex N. Taylor
Coulter D Tillett
David G. Titus
Aaron C. Toepfer
Richard W. Treanor
Robert F. Turbyfill
Craig J. Turner
Douglas D. Tyler
Richard B. Vanantwerp
Martin R. Vanderbrook
Guy M. Vanderlinden
David Vanesselstyn
Steven M. Walsh
Lawrence C. Walt
James G. Ware
Michael P. Wayne
William S. Weismann
Steven G. Western
Robert G. White
Robert A. Whitten
Hensley C. Williams
Leo V. Williams III
Michael E. Williams
Robert L. Williams, Jr.
James H. Williamson
Clarence E. Willis, Sr.

The following-named officers of the Marine Corps for permanent appointment to the grade of first lieutenant under the provisions of title 10, U.S. Code, section 5788:

Alton L. Abaher, Jr
Stephen P. Agrati
Dirk R. Ahle
Michael C. Albano
Patrick L. Alderson
Joseph A. Alexander, Jr.
Frederick C. Alke
Christopher D. Allemand
Stephen I. Allen
Frances C. Andersen
Robert M. Andrews
Stephen W. Andriko
Gregory J. Arabie
Christopher C. Arenas
Johnny E. Arline, Jr.
Charles W. Arnold
Michael C. Arola
Steve L. Ash
Henry Attanasio
Sidney E. Atwater
Dennis S. Augspurger
Cozy E. Bailey
William C. Baker, Jr.
Paul Balash III
Douglas D. Ballard
Philip M. Bambrick
Constance A. Barber
Thomas D. Barker
James F. Barnes
Richard K. Barnes
Charles R. Barnette
Robert L. Barry
Charles H. Beale, III
Doyle H. Beam
Donald F. Beck
Christopher L. Becker
Charles R. Bell
Gordon M. Bell, Jr.
Guy M. Belleman
Johnie W. Benefield
William A. Bennett, Jr.
William H. Bennett, Jr.
Larry W. Berquist
Betty A. Berling P.
Robert J. Biggs
Timothy P. Biggs
Mark A. Blahnik
John E. Blair
Edward W. Blankenship
Cleve R. Blouch
Ernest M. Boling, III
James A. Bollengier
Donald J. Borje
Timothy B. Born
Daniel J. Bourassa
Charles J. Bowser
Gaylen F. Brady
William J. Brechtell, Jr.
Francis P. Brennan
Emmitt D. Brewington
Randy W. Brickell
Steven P. Brierty
Randolph R. Bridgeman
Bruce E. Bronars
Eugene M. Brown
John D. Brown
John R. Brown
Douglas G. Wilson
Thomas E. Wilson
Stephen K. Wind
James M. Wire
Max D. Withrow
Thomas S. Wolfe
Gary J. Wright
Douglas D. Wyatt
Randall H. Young
Thomas H. Young
Charles E. Zinger
Anthony G. Zographos
Rodney K. Brown
Stephen S. Brown
John C. Bruno, Jr.
Bruce A. Buckiewicz
Mark A. Buechler
Joe C. Burgin, III
James B. Burke
Ronald K. Burns
Paul J. Cahill
Richard W. Caldwell
Stewart D. Cameron
Andrew H. Campbell,
Raymond Cannata
Michael G. Capott
Frank J. Cappiello
William A. Card
Patrick L. Carey
James Carlsen
James C. Carnahan
Steven C. Carpenter
Robert T. Carrese
John K. Carroll, Jr.
Robert M. Carroll
Carlton W. Carter
Morrison G. Carter, Jr.
Herman W. Carver, Jr.
Daniel D. Casad
Mark W. Casey
Alan T. Cassidy
Benjamin L. Cassidy
Claude C. Castaing, Jr.
Anthony H. Catanach, Jr.
Thomas S. Ceci
Roy T. Centner
Robert W. Cerney
Lynn M. Champagne
Donald P. Chappell
Gregory J. Chartier
Leroy Chevis
Courtney D. Chinn
Michael G. Chlebik
George A. Clark, Jr.
James R. Clark, Jr.
Robert B. Clark
Robert A. Clarke
Steven R. Clarke
Billy J. Clarkson
Stephen W. Clayton
Donald A. Cleary
Francis B. Clements
Steele C. Coddington, Jr.
John T. Coggin
Barbara J. Cole
Eugene J. Cole
Jeffrey U. Cole
Ronald S. Coleman
Raymond S. Collins, Jr.
Mark E. Condra
William D. Conklin
Patrick D. Connally
Daniel A. Conway
Michael W. Cook
Susan L. Cook
William H. Cook, Jr.
Charles E. Cooke
Cleveland E. Cooper
Donald K. Cooper
Joseph F. Cramer
Ronald D. Crawford
James J. Cuff, Jr.
Marsha L. Culver
Richard L. Culver, Jr.
Larry E. Cumberland
Scott E. Cunningham
Brian E. Curdy
George L. Cutchall
David L. Darbyshire
Jennings M. Davenport Jr.
Richard W. Davenport
Frank W. Davey
Bryan M. Davis, Jr.
James W. Davis, Jr.
Jeremiah C. Day
Donald S. Debragga
David A. Debruyne
Frank C. Deen, Jr.
Richard J. Delacour
Thomas L. Dempsey
Russell E. Denman, III
Albert J. Diehl, III
Thomas M. DiGregorio
Wayne E. Dillingham
Darrel W. Dillon
George D. Diltz
Kenneth W. Dixon
William H. Dixon, Jr.
Robert K. Dobson, Jr.
Thomas E. Dolan
William J. Donahue
Brian C. Dorris
Bruce M. Doucette
James V. Doyle
Charles P. Dublin
Leslie F. Duer
William K. Duncan
Kenneth D. Dunn
Richard C. Dunn
Timothy A. Dusenbury
Daniel A. Driscoll, Jr.
Daniel M. Dykstra
Roger R. Earley
Arnoldo R. Easterly
Candace G. Eastman
George A. Eberhart, Jr.
Gary M. Eberling
Paul S. Edwards
Stephen B. Edwards
Ronald D. Eggleston
Daniel P. Ellis
John M. Ellsworth
John P. Elwell
Stephen F. Embler
Carl J. Ericson, Jr.
Jimmie E. Ervin
Jeffrey P. Estep
Rex A. Estilow
James E. Etter, Jr.
Willis M. Everett
Phillip A. Faigley
John H. Felly
Allie C. Felder III
George P. Fenton
Fletcher W. Ferguson, Jr.
Michael R. Ferlet
Robert R. Ferris
Robert M. Finer
George M. Finnerty
Donald K. Fisher
Richard D. Fitzgerald, Jr.
William R. Fletcher
James F. Flock
George J. Flynn, Jr.
Robert W. Foltyn
Barry M. Ford
James R. Forgy
William M. Forman
Marielien Fortman
Walter H. Freed
Marc E. Freitas
Kenneth M. Fritts
Douglas A. Fullaway
Steven J. Gaffney
Dennis P. Gallaher
Robert D. Galloway
William M. Garrabrants
Donald M. Garrett
Richard S. Garretson
Walter E. Gaskin, Sr.
Bradley M. Gates
Cecil C. Gatlin, Jr.
William S. Gerichten II
Norman C. Gillette III
Mark D. Gilliland
David L. Gilmer
John J. Girt, Jr.
Robert J. Giuda W.
Thomas C. Glover
William E. Goldmon
Christ G. Gologanoff
Johnie Gombo
Daniel B. Gonda
Richard W. Goodale Jr.
Michael R. Gorbell
Kevin L. Gordon
Steven E. Graebner
Charles A. Gram
William W. Graves, Jr
Ronald G. Greene
Barney A. Grimes III
James T. Grimshaw
Leo J. Grogan
John J. Guevremont
Christopher J. Gunther
Paul R. Gustin, Jr.
Daniel K. Hagood
Gerald M. Hale
Mark K. Hall
Willard D. Hall, Jr.
Edward J. Hamilton
Thomas X. Hammes
Myron L. Hampton
Terry R. Harding
Michael P. Hardwick
Eugene P. Hardy
Mark S. Hardy
Nelson V. Hare
Gloria J. Harmon
William W. Harney
John S. Harrel
William M. Harris
Kevin P. Hart
George S. Hartley
Mark Hartzell
Charles W. Harvey III
Daniel P. Hayes
Jana S. Hayes
George J. Hayn, Jr.
Stanley M. Hebert
Charles W. Hehl
Dennis R. Heinle
Robert E. Heinz
William E. Heinzman, II
Dennis J. Hejlik
John D. Henderson
Doyle W. Hensley II
Patrick H. Herd
Steve H. Herrington
Gail M. Herstead
Kim O Hetler
Mark A. Hickey
Mary L. Hicks
James E. Hiett
James R. Hildreth
Howard E. Hill
Robert W. Hillery
John R. Hiner
Norman E. Hitchcock
Stanley E. Hitchcock
Chris D. Hobbs
Ernest Hodge
Carl W. Hoffman, Jr.
John P. Hogan
Carlos R. Hollifield
Richard D. Holmes
Francis G. Horne, Jr
James C. Hosmer, Jr.
William J. Howey
Robert J. Hubert
Carolyn A. Hudson
Daniel R. Hudson
David C. Hug
Jack L. Hughes
Michael K. Hughes
James A. Humenik
Bernard S. Hummel

Robert L. Humphrey
David W. Hurley
Clifford G. Hurst
Charles W Hutcherson, Jr.
Christopher J. Iaquinto
Michael D. Ince
Jonathan D. Ingham
Richard J. Ingold
Edward A. Isajewicz, Jr.
David T. Israel
Gilda A. Jackson
Michael D. Jacobs
David L. Jacobson
Mary V. Jacocks
Neal L. Jackman
Kenneth D. Jackson
Michael J. Jinnett
Floyd J. Johnson III
Mark K. Johnson
Richard T. Johnson
Thomas V. Johnson
Timothy A. Johnson
William D. Johnson
Peter L. Jones
Thomas G. Kane
Donald J. Kappel
Allen A. Katzberg
Christopher C. Kauffmann
James C. Keffer
Rodney O. Kelly
Stephen C. Kepher
Charles E. Kerr
Gregory S. King
James M. Kinnaman
Christian P. Klinefelter
Robert L. Knight, Jr.
Raymond M. Knox, Jr.
Glenn F. Koch
Larry D. Koenig
Mark R. Koenig
Richard W. Kokko
Paul J. Koper
Stephen Kozick III
James R. Kramer
Jeffrey N. Kramer
Michele D. Krause
Jean W. Kremer
David E. Krugler
Terry W. Krummel
Theodore A. Kuhlmeier
Linda S. Lakin
Bevill F. Lambert, Jr.
Victor D. Lance
Paul J. Landry
Richard K. Lane
Jimmy D. Langley
David G. Langness
Jack D. Lape, Jr.
Robert D. Larson
Granville D. Lasseter II
Thomas C. Latako
Grant E. Lattin
Larry L. Laughlin
James M. Laverick
Dennis L. Lawrence
Henderson Lawson, Jr.
Thomas G. Leahy
Thomas H. Lee
Roderick W. Leitch
Scott E. Leitch
Charles A. LeMay
Gary C. Leupold
Garry W. Lewis
Frederick W. Ley
Richard J. Lies
Ritchie M. Lilly
Joel G. Lindemann
Scott A. Lindsey
Eric J. Linn
David G. Linnebur
Bruce L. Linscheid
Denis M. Lipka
Frank M. Lochocki
Henry C. Loeffler, Jr.
Arlene A. Lomax
Paul H. Lord
Michael J. Lores
James M. Lovely
Robert D. Luginbill
Gary A. Lundeen
Michael E. Lundy
Constantine W. Lynard
Steven J. Lynn
Adam F. MacAdam II
James V. MacCarone
Kenneth A. MacGowan III
Ronnie R. Madrid
Edward J. Maguire
Henry E. Maher
Ronald S. Makuta
Robert R. Maldonado
William H. Malone
Curtis W. Marsh
William T. Marsh
Samuel A. Marshall II
Bobbie J. Martin, Jr.
Steven D. Martin
William J. Martin
Nicholas V. Martino, Jr.
Shauna E. Masterpool
Walter Maximuck, Jr.
William J. McCann
Thomas G. McCarthy
Nathaniel T. McCleskey
Francis M. McComb
Joseph M. McDonnell
Richard F. McDonough
John T. McGaughey, Jr.
Charles H. McGohey
Thomas W. McGowan
Allan P. McGuinness
Luther B. McIntyre, Jr.
Douglas M. McKay
Patrick J. McKay
Paul S. McKee
Richard S. McKenzie
Albert W. McKeown, Jr.
Charles A. McLaurine
Joseph J. McMenamin
Paul P. McNamara
James M. McNeal
Thomas O. McQuerry
Timothy W. McReynolds
Mark S. McTague
Michael D. Meier
Paul G. Merchant, Jr.
William Merrell
John M. Metterie
Philip G. Meyer
Gary L. Miller
John H. Miller, Jr.
Richard C. Miller
William A. Miller
Mark A. Milligan
Anthony A. Minichini
Thomas E. Minor
John W. Mitchell, Jr.
Robert B. Monnie
Richard Monreal
Marvin Montez
Mark D. Montgomery
William J. Montgomery
Mark E. Mooney
Charles Moore
Jacques J. Moore, Jr.
Roger E. Moore
Donavan D. Moorman
John C. Mordue
Arthur G. Morrell
Charles W. Morris
Martin T. Morris
William L. Morris
Richard T. Morrow
Michael J. Motes
William T. Motley
Melinda S. Muerdler
Charles A. Mulligan
Brian T. Murphy
Gary E. Murphy
Richard J. Murphy
Cornelius W. Murray
John D. Murray
William R. Murray
Daniel J. Muthler
Karl B. Nebbia
Robert B. Neller
James D. Nelson
David H. Neundorfer
Mark A. Newbold
Thomas L. Newcomb
Elias A. Nesar
Ronald C. Nicholas
Thomas E. Nicoll
Eric P. Nielsen
Thomas J. Nielsen
Melvin P. Noack
Bruce H. Norton
Rex C. Nowlan
Lawton R. Nuss
Emmet A. O'Donnell
Fulton P. O'Donnell
Mark F. O'Connor
Thomas M. O'Leary
Courtenay L. Olney
Stanley A. Ordone
Pierre J. Orsiz, Jr.
Douglas P. Page
Steven M. Palmer
Rodney P. Panter
John S. Pate
Gregory A. Patterson
John T. Paul
Thomas A. Peabody
Mark R. Pesse
Robert U. Peck
Darus G. Peifrey
Eugene D. Pellecchia
Alan C. Pendleton
David N. Penman
Melvin L. Peoples
James J. Pettengill
Anthony F. Phelps
David A. Phillips
James A. Phillips
Maxie W. Phillips
Matthew H. Phillippe
Timothy L. Phillips
John P. Pickett II
Steven R. Pietrzak
Alan J. Pingree
Alexander Plechash
Gregory J. Plush
Mark L. Potocki
Dennis D. Poulos
Earl W. Powers
James S. Powers
Jessica L. Powers
Danny R. Praytor
Gary M. Price
Joseph E. Price
John R. Priddy
Steven L. Preut
Dale H. Pugh
Kenneth C. Rains
Timothy N. Ranville
Douglas C. Rape
Daniel E. Rapp
David P. Rain
Robert S. Rea
Robert M. Reed
Michael J. Regan
Robert S. Richardson
James S. Richter
James D. Riemer
Stephen C. Robb
Blake J. Robertson
Charles Robinson
James W. Robinson, Jr.
Richard L. Rodecker
Daniel W. Roepke
John S. Rogers III
James, T. Ronaghan, Jr.
Quentin R. Roos
Richard C. Roten
Christopher Rowan
John R. Ruckriegel
James L. Rucks
Kathleen Ryan
Thomas P. Ryan
Richard A. Rybolt
Glen R. Sachtleben
Peter J. Samsel
Kevin M. Sandkuhler
Michael E. Satran
Paul M. Sauer
Ross A. Schmidt
Alan K. Schuler
Karen H. Schultz
Chester W. Schwartz
Richard M. Scott
John F. Seal
William R. Seale
Reginald M. Sealey
Harvey F. Seegers, Jr.
William E. Seibel
Scott G. Seney
John W. Sergeant
Kenneth A. Sharer
Mark D. Sherry
Stephen D. Shigley
Robert J. Shipley
James L. Shirk
John A. Shookster
Francis R. Short
Richard J. Shows
Daniel L. Sickinger
Luciano S. Silva
David Simon
Gerald G. Skinner
John W. Slider
Todd H. Slingsby
Duane A. Smith
Ellett M. Smith
Floyd R. Smith, Jr.
Gail A. Smith
Robert F. Smith
William L. Smith
Wesley F. Snyder
Daniel G. Somers
John W. Sondermann
Robert L. Songer
Leland F. Sorrels, Jr.
Hubert E. Sowell, Jr.
Frederick L. Spaethe
George T. Sparkman, Jr.
Harry C. Spies
Samuel H. Spragins III
Gary D. Stack
Richard J. Stacy
Konrad E. Stapler
Ricky L. Starks
James M. Stata
Robert E. Steffensen
Bradley A. Stephan
Richard D. Stephens
Robert L. Stephens, Jr.
Michael H. Stevens
Robert A. Stevens
Craig P. Stevison
Jeb E. Stewart B.
Paul D. Stinnett
Scott C. Smith
Paul C. Stock
James R. Stoller
Robert W. Strahan
Jerrell N. Strawn
Clyde N. Sturgeon
Robert J. Sullivan
Ann M. Summerlin
Carroll B. Sumrall, III
Margaret A. Surratt
John D. Swain
John L. Sweeney, Jr.
John F. Sweet
James S. Swift
Terry M. Symens
William D. Talbot, Jr.
Lisa A. Talmage
John R. Taxeras
John M. Taylor
Charles J. Temple
Arlan D. Tenkley
Timmy J. Terrebonne
Bruce A. Thake
John D. Theeuwen, Jr.
Frederick L. Thielke
Duane D. Thiessen
James P. Thomas
John H. Thompson
Gary D. Thrash
Michael W. Thumm
Robert Tiberg
James A. Tipple
Michael A. Toepfer
Thomas J. Toft
Steven J. Tomisek
Alexander M. Torrance
Bohdan A. Toth
Rowan M. Torrey
Craig W. Towsey
George J. Trautman, III
William K. Tritchler
Michael J. Trout
Liandro P. Trujillo
Richard T. Tryon
John A. Turley
John H. Turner
John R. Turner
Stephen A. Turner
Bert B. Tussing
Douglas W. Ullmann
Elizabeth A. Updegrove
Steven L. Vandergeeten
Jeffrey B. Vandyke
Richard E. Vannieter
George K. Vanness
Thomas G. Vaughn
Jonathan N. Vizina
James D. Vorderstrasse
Michael J. Vrabel
Joel M. Wade
John P. Wagemann
Lawrence E. Waggoner
Donald J. Wagner
Michael W. Wagner
David G. Walick
Andrew D. Walker
John J. Walsh, Jr.
John T. Walsh
Robert J. Walters
Stephen C. Wampler
John E. Wangsgard
Dayton F. Warfie
Edward J. Wargo
William Waters, Jr.
Frances S. Watkins
Paul H. Watson
Stephen P. Watson
Thomas R. Watson
Bruce L. Way
Ross L. Webster
Daniel A. Wehrle
Donald L. Weiss
Dean E. Wells
Robert M. Welter
Carl D. Westfall
William M. Wetherell
Kevin M. Wheeler
Bruce A. Whomsley
Walter J. Wierzbicki
Robert G. Wilcox
Christopher A. Wilk
Charles D. Wilkins
Array T. Williams
Michael T. Williams
Timothy L. Williams
Robert E. Wilson, Jr.
David E. Wirsig
Michael Wisloski, Jr.
Frederick B. Witesman II
Robert S. Wolfe
Larry J. Wolf
David B. Wood
Robert O. Work
Douglas T. Wray
James M. Wright
Charles S. Wuest
Gregory W. Wulf
John R. York
John K. Young
Julius L. Young, Jr.
Robert E. Younger
Michael J. Zak
Robert G. Zakula
Michael A. Zarate
Mark J. Zehfus
Mark E. Zeitvogel
Mark D. Ziobro

The following-named officers of the Marine Corps for temporary appointment to the grade of first lieutenant under the provisions of Title 10, U.S. Code, Section 5784:

Raymand Adamiec
James E. Adams
David R. Aday
Daniel Aguilar
Mark E. Alfers
Donald B. Allegro
John R. Allen
James C. Andrus
Lawrence W. Astyk
Richard A. Atkisson
Leroy Auston
Brian J. Bach
Frank A. Baleskie
Terry L. Barger
Steven F. Barilich
Dennis J. Barr
John A. Bass
Ralph G. Bass
Robert H. Bauman
Dan O. Bausch
Ronald D. Bean
Maynard P. Bearse
James C. Beck
James E. Beckle
Patrick J. Behnke
Paul L. Benedict
Richard D. Benjamin
Francis X. Bergmeister
John W. Berkley
Raymond L. Betros
Brent J. Beverly
Eddie Bickham
John C. Bickings
Mark W. Bircher
Leonard A. Blasick
Raymond H. Blumel, Jr.
Patrick S. Bole
Kent R. Bolin
Steven C. Bott
Charlie C. Boyd, Jr.
Calvin C. Boykin III
Bruce F. Brady
Jan D. Brameyer, Jr.
Richard C. Branch
Thomas I. Branch
Edward A. Brandt
Steven P. Brierty
George S. Brock
Larry K. Brown, Jr.
Terrence D. Brown
William D. Brown
Jeffrey L. Budimier
Geoffrey J. Bulllung
Joseph F. Buranosky
Robert A. Burkes
Paul A. Burkholder
Baxter D. Burton
Steven Busch
James M. Bushee
Roy R. Byrd
Robert I. Campbell
William O. Campbell, III
Mario V. Carmo
Andrew J. Carrabus
David W. Case
Mark E. Casey
Michael W. Caslin
Aron K. Champion

Frankie D. Chappell
Daniel F. Chwallisz
Louis J. Cipriana, Jr.
Barry H. Clark
Bradley S. Clark
Steven E. Clark
Scott W. Clarke
Charles F. Clements
Charles F. Cliggett
Henry J. Coble
Harry L. Cole, Jr.
Thomas V. Colella
Gary C. Conary
William R. Conaway
Christopher J. Conlan
James T. Connacher
William L. Core
Jeffrey A. Cory
Robert L. Countryman
Leonard A. Courson
Robert J. Craig
Constant P. Craig
Ralph D. Craig
James M. Crites
Donald G. Croom
Clyde V. Crowsell, Jr.
Gary R. Cullop
Frederick H. Curlin, Jr.
Stuart D. Currier, III
John P. Curry
Robert F. D. Curtis
Roger T. Cuva
Dean L. Cuveller
Michael N. Daily
Michael L. Dammer
Richard A. Daprato, Jr
Robert G. David, Jr.
Thomas A. Davidson
James M. Davis
Lester B. Davis
Thomas M. Davis
Michael T. Daw
Frederick H. Dear
Richard A. Dechaineau
Robert L. Deen
Alvis W. Denning
James I. Dennis, III
Gordon B. Denny
Vincent G. Depierre
Bruce D. Devers
Ralph J. Diaz
Joe W. Dickerson, Jr.
Dennis J. Dilucente
Dale S. Dimitroff
Charles L. Dirienzo, Jr.
Stephen C. Dorsett
Doyle G. Douglas
Michael L. Drennan
David G. Driegert
Richard H. Dunnivan
Dale A. Dykhuizen
James D. Eastman
Richard J. Eisloeffel
Alfred W. Ellis III
Ronald L. Ellis
Stephen D. Ewers
Philip J. Exner
Guadalupe, Felan
Kerry K. Feldman
Kevin P. Fennell
Barry R. Fetzer
Donald K. Fisher
Douglas A. Fisher
Larry G. Flores
David S. Foster
Preston H. Foster
Roylance J. Frank, Jr.
William F. Fredericks
Lee W. Freund
Steve A. Fris
Edwin G. Fulkerson
Myles W. Furlong
Richard M. Galvez, Jr.
Alfred A. Gambone, Jr.
Leslie C. Garrison
Mark J. Gibson
Bruce A. Giron
Michael J. Giagola
Donald E. Goddard, Jr.
Timothy R. Golike
Joe D. Goodall
Kenneth B. Goodrow
Robert W. Gose
Eric J. Green
Edwin W. Groff
Kenneth R. Groover
Leon D. Guenzler
Ramon L. Guerrero
Charles M. Gurganus
Mark W. Haas
Michael D. Halloran
Larry K. Hamilton
Richard F. Hamme
Robert S. Hansel
Jack R. Harkins, Jr.
Edward A. Harper
William L. Harraman
Charles R. Harris
Timothy B. Harris
Willis J. Harris
Donald S. Hartman, Jr.
Michael S. Haskell
Stephen C. Hastings
Robert L. Haugland
Roy W. Heidicker
Raymond B. Held
John F. Hemleben
Mark L. Hendricks
Timothy J. Hesketh
James M. Higgins
Clayton F. Hill
Conrad C. Hilsdorf
Alden E. Hingle, Jr.
Jonathon J. Hirtle
Mitchell S. Hoffman
William M. Hoffman
Jay W. H mmer
Edward Hopkins
Donald C. House, Jr.
Donald G. Housman
Michael J. Hughes
Paul M. Hurt
Vince L. H.ston
Phillip R. Hutcherson
Maurice B. Hutchinson
John A. Hutchison
Otis J. Jackson, Jr.
David L. Janowski
Richard C. Janssen
Luther B. Jenkins
David W. Jennings
Harold L. Jennings, Jr.
Edward A. Jeter
Bobby R. Johnson
Gary Johnson
Ross A. Johnson, Jr.
Terrie B. Johnson
William L. Johnson, III
Jere J. Johnston
Ritchie K. Jones
William I. Jones
David J. Kaessner
Thomas M. Kait
Steven A. Kapitan
Stephen R. Kappes
Donald M. Keithly
William F. Keller, Jr.
Ricki A. Kellish
Charles E. M. Kelly, Jr.
John F. Kelly
Michael T. Kelly
David T. Kerrick
Joseph D. Kinney
John J. Kirk, Jr.
David G. Knittig
Philip E. Knobel
Gary R. Koslusky
John E. Kramer
Mark L. Krigbaum
John E. Kruse, Jr.
Robert F. Kuhlow
Philip B. Kumpis
John C. Ladd
Robert A. Lane, Jr
William R. Langford
Guy R. Langley
Randall W. Larsen
Richard L. Larson
Ivan W. Lassiter
Harrison C. Laut, II
Marc D. Lederman
Galo I. Leguellou
Scott M. Lehman
Marcus L. Lenderman
Frank J. Lengel
James E. Lindsey
William R. Linville, Jr.
Jerome C. Liscomb
Gary A. Littlejohn
Bert Londo, Jr.
Joseph N. Lott
Michael T. Lovejoy
James M. Lowe
Steven M. Lowery
Robert E. Lund
James R. MacDonald
David W. Maffett
Michael A. Malachowsky
John D. Mann
Jeffrey L. Marrin
Michael A. Marriott
Bobbie J. Martin, Jr.
Richard J. Matteson
Paul J. Matthews
David W. Mauldin
Robert T. McCarty
Charles B. McClain
Michael P. McCloskey
Gary M. McConnell
Harry F. McDole, Jr.
Chester H. McFarland
Charles H. McGohey
Joseph V. McIlhinney, Jr.
Keith D. McKain
Edgar L. McKinnie
Michael D. McMillan
Joseph V. Medina
William L. Meeks
Charles J. Mehalic
Kim Mehalko
Curtis D. Mertz
David C. Mickelson
David A. Miles, IV
John R. Miles
Blaise P. Miller
Edward L. Miller
Mark C. Miller
Michael B. Minnehan
John M. Misiewicz
Bruce E. Mitchell
Charles R. Mize, Jr.
Chester C. Moeller, II
Kenneth C. Mogray, Jr.
Leonard M. Mokan
Richard S. Moore
Gerald H. Moors
Richard D. Morgan
Michael T. Moriarty
Phillip A. Morris
Lloyd W. Moss
Way P. Moy
George E. Mueller, Jr.
Warren F. Muldrow
Curtis A. Munson
Robert J. Murawski, Jr.
Gene B. Murphy
Robert B. Murray
John D. Myers
Arthur L. Nalls, Jr.
Clayton F. Nans
Roderic S. Navarre
Robert B. Nelson
Kenneth E. Neu, Jr.
Jeffrey A. Neufeld
Phillip L. Newman
Edward A. Norman
David B. Norris
Robert A. Nuzum
John P. O'Connor
Lawren E. J. O'Donnell, Jr.
Allen E. Oliver
Michael C. O'Neal
Gordon C. O'Neill
Craig E. Opel
Roy P. Page
Robert H. Paine
Lawrence F. Palazzolo
Menelaos P. Palios
Robert D. Papak
Mark W. Papineau
Robert S. Paris
Robert R. Parker, Jr.
Randall D. Parman
Craig T. Patranc
Osland Paulding
Martin D. Peatross
Frank D. Pelli
Edward J. Perkins, III
Michael F. Perry
Ronald C. Perry
Charles A. Person
David L. Peterson
Michael R. Peterson
Bruce K. Petit
Walter E. Pfandl
Gary V. Phillips
John R. Philp
Lawrence J. Piano
Bruce G. Pike
Greg P. Pistochini
Frank B. Plumlee
Harold E. Poole
Roger R. Poole
Richard J. Poppe
Tony L. Porter
Dennis Cole Pratt
Charles R. Price
Randall R. Pritchett
Harold T. Pruessner, Jr.
Mario T. Rabusin
John G. Radcl
William A. Radtke III
Lawrence J Reccoppa
George E. Rector, Jr.
Paul D. Defing
John E. Reiss
Louis F. Repucci, Jr.
Steven A. Reynolds
Paul J. Riding
John A. Roberts
Mastin M. Robeson
David J. Robinson
Lewis W. Rollins
Glenn C. Rcundy
James M. Rueter
Brendan P. Ryan
Peter L. Rybacki
Jonathan T. Ryberg
Dan R. Sadberry
Berry E. Sage
David A. Salzman
Kevin G. Sandri
Michael W. Sarnes
John M. Scepurek
Duane R. Schattle
Federick A. Schenk
Nancy J. Schenk
Richard J. Schmitt
Charles Schmucker
Paul A. Schneider
Robert B. Schnepp
Michael H. Schoelwer
Mark A. Schon
Daniel C. Schultz
Benjamin L Scofield
James E. Scroggs
William T. Sears
Thomas M. Seifert
Thomas R. Serrin
Sylvan J. Sewell
Curtis J. Shaffer
Carl H. Sharperson, Jr.
Joseph L. Sheppard, Jr.
Karim Shihata
Patrick K. Shy
Thomas A. Sieg
Walter W. Simmons
Dan Simons
Thomas L. Simpson
Neil E. Sizemore
Marvin E. Sleppy
Ellett M. Smith
Gregory L. Smith
Jordan B. Smith, Jr.
Michael L. Smith
Robert W. Smith
Stephen K. Smith
Thomas M. Smith
Vincent L. Smith
Craig C. Snee
Robert E. Snyder
Paul F. Souza
Jack K. Sparks
Jake L. Sparks, II
John E. Sparks, Jr.
James L. Spears
Melvin G. Spiese
Louis P. Sposato, Jr.
Paul T. Stanley
Michael J. St. Clair
Randall L. Stegner
Mark A. Steinmann
Glenn D. Stoker
Dempsey Stowers
George E. Stratmann, Jr.
Richard K. Stutler
John R. Suter
William S. Sweeney
Cecil E. Swift
Bradford L. Tammaro
George J. Taylor
Jonathan M. Taylor
Robert C. Tekampe
David E. Ternes
Kenneth W. Terry
Victor J. Thombs
Dennis C. Thompson
Theodore R. Timmerman
Peter B. Todsen, II
Jeffrey J. Tomlin
Randall G. Torres
Charles E. Tower, Jr.
Lynn E. Trenda
Dennis F. Tretter
Danny K. Trout
Robert P. Troy, Jr.
Scot W. Tschirgi

The following-named officers of the Marine Corps for appointment to the grade of chief warrant officer, W-4 under the provisions of title 10, U.S. Code, section 563:

Ronald Achten
David S. Aldrich
James L. Allingham
Robert E. Allinger, Jr.
Constantine G. Ambrose
Joseph N. Anderson
Russell P. Armstrong
James B. Ash
Welles D. Bacon
Wayne D. Bahr
Claude R. Baldwin, Jr.
Charles H. Barton, Jr.
Charles S. Bennett
Neal S. Bezoenik
Robert L. Blake
Gerald J. Bolick
Robert W. Bostwick
Frank E. Box
Donald B. Braun
Victor E. Browning, Jr
Murray W. Bryant
Thomas R. Burnham
Allen F. Burton
William G. Byrne, Jr.
Billy R. Campbell
Donald L. Caroway
Francis J. Carr
Ray A. Casterline
John D. Cauble, Jr.
Robert J. Caulfield
Barbara J. Chovanec
Hershel G. Chronister
Owen D. Clark
Michael J. Clarke
Rayborn S. Clifton, Jr.
Jose T. Coccovaldez
James E. Collette
Jose N. Corderotorres, Jr.
Garnet E. Cope
William B. Corley, Jr.
James A. Cothron
William H. Cox
Hilton Craig, Jr.
Oscar E. Creech, Jr.
Douglas J. Danley
Jesse A. Dobson
Howard G. Dodd
Steven J. Draper
Samuel E. Driggers
Robert D. Embest
Riley S. Ethington
Jack H. Evans
Michael D. Fazio
Harold D. Ferguson
Charles L. Ferko
Nelson R. Fincher
Joe M. Floyd
Ronald R. Fraiser
Donald L. Galvin
William C. George
Robert L. Goller
Ellwood D. Gordon
Pedro Gutierres
Arnold S. Hageman
Gerald E. Hanscom
Donald L. Hanson
James E. Haskins
Joseph B. Hatfield
John D. Henry
Herbert O. Hicks, Jr.
William A. Higgs, Jr.
Paul R. Hoffman
Julius B. Hopkins
Bobby E. Humeston
Frederick L. Tuggle
Alan A. Turk
Bradley E. Turner
Robert L. Urban
Janice M. Vancamp
Jackson M. Vanderburg
James L. Vanfossan
Noe Vera
Jeffery D. Vick
Austin K. Vincent
William F. Volcoun
Blair E. Vorgang
Kenneth A. Waage
Lawrence G. Walker
Joseph A. Wallace
James H. Warren
Raymond F. Waters III
Dennis E. Watts
Dolph N. Watts
Paul W. Watson
Richard E. Weiss
Karl D. Wells
Michael D. Weltzch
James G. Westberg
George M. Wheeler
John D. Whitaker
Jonathan C. White
Steve E. White
Steven B. White
Timothy R. White
Daniel E. Whiteside
Michael W. Whitted
George K. Wilcutt
John E. Williams II
Kevin H. Winters
Benjamin G. Wyatt
Francis J. Wysocki
Thomas M. Yackley
Gary W. Yagielio
Stephen A. Yates
James M. Yeager
Stanley J. Yelito
Wade Yoffee
Raymond H. Young
Anthony Zesso II

Holland C. Hutchinson
Barton E. Immings
Lowell B. Jackson
Arthur L. Johnson
Ronald L. Jones
Harold A. Keith
Joseph E. Kelly
Michael B. Kennedy
Carl E. King
Thomas P. King, Jr.
Ray E. Kittilstved
Joseph Kochuba
Leroy A. Kramvik
George D. Krebs
Raymond L. Kunkle
William A. Kuykendall
Aurel E. Lafreniere
Donald A. Lane
Thomas L. Laws
Juan M. Lem
Babre Lewis
Jose Magallan
Paul L. Malone
John R. Marcucci
William T. Maroney II
Aove E. Mattox
Bryan M. McGill
James R. McRae, Jr.
William D. Meadors II
Louis Myers
Daniel E. Miller
Robert M. Miller
Earl F. Morris, Jr.
Thomas W. Morris
James Muschette, Jr.
Ronald C. Newman
William G. Nickels
Sam G. Ochoco
Jerry W. Odell
Joseph N. Parisi
Roger B. Peterson
Ronald J. Peterson
Jesse P. Pullin
Paul F. Quinn
Virgil G. Rhoads
Gordon A. Rice
Joseph F. Rizzo
Dorsey Robinson, Jr.
Charles R. Roden
Paul A. Rossano
James F. Ryan
Stephan C. Salamack
Dale F. Saunders
Peter B. Sawin
Eileen R. Scanlon
Frederick W. Schaffer
Walter R. Schuette
Thomas R. Sellers
Jimmie R. Shafer
Michael L. Shanklin
Edwin P. Simpson III
Theron Simpson, Jr.
Thomas L. Slaughter
Francis C. Slavin, Jr.
Herbert B. Stafford
Patrick L. Stevens
John F. Stewart
Robert L. Strawser
Richard C. Stricklin
Robert R. Stutler
Bobby G. Taylor
Gary G. Thomas
James M. Thomas
Terry N. Tracy
James A. Turner
Larry F. Vance
Robert L. Vincent
Ronald E. Webb
Willis D. White
Wayne D. Wildgrube
George E. Williams
Leroy Williams
Bruce M. Windsor, Jr.
Stanley G. Woinoski
James Y. Yantorn
Richard L. Yoerk

The following-named officers of the Marine Corps for appointment to the grade of chief warrant officer, W-3 under the provisions of title 10, U.S. Code, section 563:

Garland G. Aaron
Duff E. Alger
George R. Allen
Daniel L. Amoroso
Alfred M. Bancroft
Joseph F. Beard
Henry Bookhardt
Thomas J. Borowitz
Roger L. Bouffard
Joseph S. Boyd
Harold M. Brown, Jr.
Lemuel F. Brown
Joseph B. Burroughs, Jr.
David A. Carver
Virgil S. Cieplowski
George N. Class
Paul L. Cline
Michael L. Collier
Willie L. Combs
James R. Conner
Truman W. Crawford
Joseph H. Creech
Stephen H. Czaikoski
Ronald J. Czosnyka
Walter W. Damewood, Jr.
John W. Davenport
Mickey L. Deberry
Donald F. Deline
Donald L. Doggett
Donald D. Douglas
Stephen A. Epley
William C. Farley
Robert D. Farmer
Paul T. Filia
Robert W. Flanagan
Frederick J. Flihan
Michael W. Gaston
George V. Gaulin
Richard L. Geiger
Alfonso N. Giglia
David L. Goolden
Robert E. Groesnickle
Elias Gutierrez
Michael D. Hamm
Michael R. Hannappel
Peter Heelem
Tony A. Helms
Marvin W. Henry
Raymond F. Hopton
Mark C. Hunt
Martin L. Hunter
Douglas M. Hurst
Richard E. James
James E. Jewell
James I. Johnson
Martin B. Johnson
Charles L. Jones
Joseph M. Jones
Kenneth J. Jungwirth
Helmut J. Kalman
Alexander K. Kaonohi, Jr.
Linda A. Klepetka
Paul J. Klepper II
Chester E. Knight
Robert J. Leiston
Stuart A. Livensparger
Jerome E. Livingston
James R. Lloyd
Morgan J. Lofton
John E. Long
Paul E. Long, Jr.
Homero R. Lopez
Merle E. Mackie, Sr.
Joseph A. Masser
Gary L. McGrath
Francis W. McKinney
Bruce A. McMahon
Edwin D. Miller
Robert H. Moore
Robert E. Moorehead
Thomas W. Mosman
Daniel S. Mullins
Clarence E. Myers
Melvin P. Neu
John B. Noel
Daniel J. O'Connell
Bradley P. Patch
Ralph A. Pineda
Geronimo Polanco, Jr.
Howard W. Randler
Ralph J. Ricker
Lloyd A. Robinson
Marvin C. Rodney
Castell S. Rolle, Jr.
Charles R. Romero
Ronald P. Rock
Louis L. Rosanelli
John W. Rothwell, Jr.
David T. Rowe
Bob A. Rowinsky
Robert E. Sandlin, Jr.
Thomas H. Sanford
Javier Santacruz, Jr.
Donald L. Scanlon, Jr.
Fred J. Shane
William H. Shepard
Charles K. Sherry, Jr.
Gary G. Simmons
Charlie F. Smith
Lyle W. Smith
Paul Sofranac
Clinton D. Stannard
Thomas S. Sterling
Joseph E. Strickland
Steven E. Sunn
Doyle W. Tampleton
James C. Thomas
Wesley L. Thomas
Charles E. Thompson
Garvin O. Tootle
Felipe Torres
Wayne G. Twilliger
David Venegas
William D. Vickers
Francis R. Walker
James T. Walsh
Gerald L. White
Lawrence J. White, Jr.
William E. Whittaker, Jr.
Donald E. Wiggins
Leonard D. Wilson
John D. Winchester
John C. Wing
Jerrold A. Wohlfarth
W. L. Wolf
David R. Wood
Billie Young

The following-named officers of the Marine Corps for appointment to the grade of chief warrant officer, W-2 under the provisions of title 10, U.S. Code, section 563:

William D. Adkins
James M. Ainsworth
William J. Aldrich
Ronald H. Allbritton
Patrick S. Allen
Richard Amano
George W. Artis
Michael D. Ash
Johnnie E. Ashe
Everett R. Atwell
William S. Ayers
Anthony Azzaretto
Robert R. Back
Timmy A. Bahr
Wesley W. Bailey
James D. Baker
Richard J. Ballentine, Jr.
Robert A. Bath
Bobbie L. Best, Jr.
James R. Blakley
James M. Blaschak
Frederick S. Bobo
Burl D. Bolton
Anthony Bonaro
John W. Bowden III
Donald H. Bowen
James E. Brevell
John E. Brown
Michael G. Canterbury
Dandridge S. Carter
Michael D. Carter
Dennis Carver
Daniel D. Cary
Douglas L. Case
Robert Castro, Jr.
Arlene J. Chandler
John W. Chandler
Jose C. Chavez, Jr.
Donald G. Cirelli
Donald P. Cone
Joseph C. Cook, Jr.
Patrick L. Crabtree
Douglas B. Craig
Dwight D. Craig
Kevin R. Crooks
Daniel F. Crowl
Michael K. Cummings
Anthony R. Damiano, Jr.
Richard C. Daniels
Ronald J. Davidson
Edgar Davis
Gunnar F. Davis
Joseph R. Davis
Michael R. Davis
Rickey D. Davis
Joseph W. Deanes
Roger D. Denoncourt
David L. Dorssom
Rodney R. Downie
Gerald W. Earnest
Terry W. Earnest
Robert C. Edelbrock, Jr.
James R. Edwards
Ernie L. Ellis
James L. Ewadinger
Michael J. Farmer
Claudie Farrior, Jr.
Gordon R. Finklea
Gary D. Fraley
Clarence N. France
Edward D. Freeman
Douglas Frierson
Frederick G. Fryer
William J. Gaerttner
Daniel Gallo
Michael J. Ganey
Jan D. Garber
Jose T. Garcia
Robert M. Garner
Charles B. Garrette
Robert C. Georgeson
Dennis E. Giddings
Sam H. Gingles, Jr.
Mario A. Gomez
Frederick H. Grant
Kenneth R. Green
Melvin D. Green
William T. Greer
Rose Guido
Charles S. Guthrie, Jr.
George M. Haase
David W. Hambrick
Peter B. Hamilton, Jr.
David E. Hamm
William K. Hart
Boyette S. Hasty
James W. Hazelwood, Jr.
Richard E. Herbert
Michael P. Hester
Terry L. Heumann
Benjamin F. Hill, III
Shari L. Hodson
Leonard J. Houghtaling
James L. Hughes
Gary L. Hullopeter
Robert C. Jamieson
Mark A. Johnson
Michael D. Johnson
Robert W. Johnston
Paul J. Jolicoeur
Claud R. Jones
Wayne D. Jones
Paul M. Jungel
Kenneth E. Karlson
Ralph E. Karras
John J. Kassay, Jr.
David L. Kidwell
Stanley F. King, Jr.
Marvin Kiser
Franklin T. Knight
Bruce W. Knippel
Leon G. Kobe
William M. Kosar
Robert D. Kreps
Christian Kroener III
Robert M. Labrousse
Gilbert J. Ladrini, Jr.
Dawaine H. Lake
Michael A. Landenberger
James D. Langford
Herman C. Larkin
Frank R. Lawson
Walter S. Lawson
Paul F. Lease
Jimmy P. Ledbetter
Joung O. Lee
Charles H. Legeyt III
Richard G. Lemasters
John M. Leonardi
Kevin H. Lindgren
Stephen A. Loconto
Benjamin Lovato, Jr.
William D. Lowery
Brian R. Martin
Raymond I. Martin, Jr.
Nicholas E. Massal
Charles S. McConnell III
Patrick J. McGrath
William C. McKee
Gerald L. McNutt
Charles A. McWilliams
Dannie A. Miller
David K. Miller III
Joseph A. Miller
Stanley H. Miller
Steven C. Miller
Howard D. Midgley
Dwight W. Mitchell
Nathaniel Moon
Stephen J. Moore
David L. Moser
Ralph N. Moslener
Cleve L. Mullins
Richard L. Myers
Mark A. Nall
Frank A. Nesbitt
William W. Newton
James A. Nix
Charles P. O'Donnell
Roy F. Oehler III
Dennis K. Oermann
Benjamin P. Oseguera
Andy G. Owens
Jerry D. Parrish
James F. Parslow
Wayne I. Paulson
David T. Penn
Domingo Perez
Bruno F. Perry
Willie J. Peterson
Thomas J. Pfaffenberger
Johnny W. Phipps
Clarence G. Pierre, Jr.
Thomas I. Pitt
Winnis G. Preece
Michael A. Puhr
Mark C. Radeleff
Terry A. Rademann
Floyd A. Rauch, Jr.
Marcus T. Reed
Alec W. Reese
Michael T. Riley
Charles E. Ripley
Steven G. Ritacco
Michael L. Robinson
Robert R. Ross, Jr.
Joseph A. Rowan, Jr.
Frank L. Runs, Jr.
Edwin Santiago
Jerome F. Schelle
John T. Severson
Daniel P. Shea
James M. Sheffer
George S. Sherwood
Douglas G. Slock
Dennis G. Smarsty
Jerry W. Smith
Thomas F. Smith
William J. Smith
Karl P. Snipes
Robert A. Softekouw
Larry M. Starnes
Johnny J. Stiltner
Dale W. Stone
Charles W. Taff
Robert P. Tate
James V. Thames, Jr.
James F. Thompson
John M. Thornton
Russell R. Thurman
James D. Tomerlin
John L. Tucke
Michael P. Tucker
Charles L. Turbyfill
Alan G. Vanaken
Jerry M. Vickers
Timothy A. Walker
Jack L. Warford
William S. Watkins
Terrence M. Westerman
David J. Wherry
Wesley Wieckowski
Henry Willis
James R. Willmon
Joe L. Winbush
Jeffrey P. Woicik
Roger L. Woodruff
Richard F. Wyatt
Douglas F. Wyss
Charles W. Yates, Jr
Raymond P. Yinger, III
Allen F. Young
John R. Zimmerman

The following-named Naval Reserve Officer Training Corps graduates for permanent appointment to the grade of second lieutenant in the Marine Corps, pursuant to title 10, U.S. Code, section 2107, subject to the qualifications therefor as provided by law:

David B. Garvey
Mark E. Geary
Gary M. Schroeder
Eva G. Spelter

Executive nominations received by the Senate September 6, 1978:

NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS

The following-named persons to be members of the board of directors of the National Corporation for Housing Partnerships for the terms indicated:

Patricia K. Ritter, of Connecticut, for the term expiring October 27, 1980, vice Henry F. Trione, term expired.

Kennon V. Rothchild, of Minnesota, for the term expiring October 27, 1979, vice Raymond Alexander Harris, term expired.

Herman J. Russell, of Georgia, for the remainder of the term expiring October 27, 1978, vice Charles J. Urstadt, resigned.

Herman J. Russell, of Georgia, for the term expiring October 27, 1981 (reappointment).

IN THE NAVY

The following-named officers of the U.S. Navy for permanent promotion to the grade of rear admiral, pursuant to title 10, United States Code, section 5781.

MEDICAL CORPS

Almon C. Wilson
J. William Cox

SUPPLY CORPS

Shirley D. Frost
Gerald J. Thompson

CIVIL ENGINEER CORPS

William M. Zobel

DENTAL CORPS

John B. Holmes

HOUSE OF REPRESENTATIVES—*Wednesday, September 6, 1978*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Thus saith the Lord God; in returning and rest shall you be saved; in quietness and in confidence shall be your strength.—Isaiah 30: 15.

Almighty God, our Father, returning from a busy work period we turn to Thee praying that we may feel the touch of Thy spirit upon us as we begin the work of a busy month. As we labor day by day grant unto us wisdom for the decisions we have to make, courage to carry out our decisions for the benefit of our people, and good will to motivate us in our endeavors.

Guide our President and the leaders of Egypt and Israel as they seek to find a way to live together in peace, with justice and for good will. In so doing may they strengthen the causes of freedom and peace in our world.

We pray for Pope John Paul I. May he lead his followers and all people in the ways of truth and love. God bless him as he assumes his place of leadership in his church and in the hearts of all good people; for Thy glory and the benefit of the human race. Amen.

CALL OF THE HOUSE

Mr. ASHBROOK. Mr. Speaker, under clause 1, rule I, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Without objection, a call of the House is ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 724]

Abdnor
Alexander
Ambro
Ammerman
Armstrong
Beard, R.I.
Bellenson
Bevill
Boggs
Bonker
Breckinridge
Buchanan
Burke, Calif.
Burke, Fla.
Burleson, Tex.
Burton, Phillip
Byron
Chappell
Chisholm
Clawson, Del
Cochran
Conyers
Cornwell
Coughlin
Dent
Devine
Dickinson
Diggs
Dodd
Dornan
Drinan
Duncan, Oreg.
Edgar
Edwards, Okla.
English
Erlenborn
Evans, Ind.
Fary
Fithian
Flippo
Flood
Flowers
Ford, Mich.
Ford, Tenn.
Forsythe
Fraser
Frey
Fuqua
Garcia
Gibbons
Goldwater
Hall
Hansen
Harkin
Harrington
Harsha
Hillis
Hollenbeck
Huckaby
Hyde
Johnson, Colo.
Jones, Tenn.
Kasten
Krueger
Lagomarsino
Lehman
Lent
Lloyd, Tenn.
McCormack
McDonald
McEwen
McKinney
Mann
Mikva
Milford
Miller, Calif.
Myers, Gary
Nichols
O'Brien
Oakar
Pattison
Pettis
Poage
Pressler
Preyer
Quie
Quillen
Rahall
Richmond
Roberts
Rodino
Rostenkowski
Sarasin
Sawyer
Scheuer
Shipley
Sisk
Skubitz
Spellman
Steiger
Stokes
Stump
Symms
Taylor
Teague
Thone
Traxler
Tsongas
Tucker
Udall
Wiggins
Wilson, Tex.
Wirth
Wright
Wydler
Young, Alaska
Young, Tex.

The SPEAKER. On this rollcall 315 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 15. An act to extend and amend expiring elementary and secondary education programs, and for other purposes;

H.R. 112. An act to amend the Internal Revenue Code of 1954 to reduce the excise tax on the investment income of private foundations from 4 percent to 2 percent;

H.R. 1337. An act to amend the Internal Revenue Code of 1954 with respect to excise tax on certain trucks, buses, tractors et cetera;

H.R. 1920. An act to amend section 5064 of the Internal Revenue Code of 1954 to provide for refund of tax on distilled spirits, wines, rectified products, and beer lost or rendered unmarketable due to fire, flood, casualty, or other disaster, or to breakage, destruction, or other damage (excluding theft) resulting from vandalism or malicious mischief while held for sale;

H.R. 3702. An act to amend title 10, United States Code, to make certain changes in the Retired Serviceman's Family Protection Plan and the Survivor Benefit Plan as authorized by chapter 73 of that title, and for other purposes;

H.R. 4319. An act to amend subchapter III of chapter 83 of title 5, United States Code, to provide that employees who retire after 5 years of service, in certain instances, may be eligible to retain their life and health insurance benefits, and for other purposes;

H.R. 4320. An act to amend chapter 83 of title 5, United States Code, to discontinue civil service annuity payments for periods of employment as a justice or judge of the United States, and for other purposes;

H.R. 6536. An act to establish an actuarially sound basis for financing retirement benefits for policemen, firemen, teachers, and judges of the District of Columbia and to make certain changes in such benefits;

H.R. 7320. An act to revise miscellaneous timing requirements of the revenue laws, and for other purposes;

H.R. 7819. An act to complement the Vienna Convention on Diplomatic Relations;

H.R. 8811. An act to amend section 7447 of the Internal Revenue Code of 1954 with respect to the revocation of an election to receive retired pay as a judge of the Tax Court;

H.R. 9471. An act to amend title 5, United States Code, to provide that Japanese-Americans shall be allowed civil service retirement credit for time spent in World War II internment camps;

H.R. 10126. An act to amend title 5, United States Code, to establish a program to increase part-time career employment within the civil service;

H.R. 10161. An act for the relief of Eastern Telephone Supply & Manufacturing, Inc.;

H.R. 12232. An act to amend the Unemployment Compensation Amendments of 1976 with respect to the National Commission on Unemployment Compensation, and for other purposes; and

H.R. 12380. An act to amend the Federal-State Extended Unemployment Compensation Act of 1970 with respect to an individual's eligibility period for benefits under such Act.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8149) entitled "An act to provide customs procedural reform, and for other purposes."

The message also announced that the Vice President, pursuant to Public Law 95–45, appointed Mr. STAFFORD (chairman), in lieu of Mr. SPARKMAN, resigned; and Mr. SCOTT to attend, on the part of the Senate, the 65th Interparliamentary Union Conference to be held in Bonn, Germany, September 2 to 14, 1978.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 15) entitled "An act to extend and amend expiring elementary and secondary education programs, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PELL, Mr. RANDOLPH, Mr. KENNEDY, Mr. EAGLETON, Mr. WILLIAMS, Mr. STAFFORD, Mr. SCHWEIKER, Mr. HAYAKAWA, and Mr. JAVITS to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

which the concurrence of the House is requested:

S. 408. An act to amend title 5, United States Code, to extend certain benefits to former employees of county committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, and for other purposes;

S. 1274. An act to provide the Attorney General of the United States with authority to contract with State and local authorities for the safekeeping, care, and subsistence of all Federal prisoners;

S. 2366. An act for the relief of Keum Sun Lee;

S. 2670. An act to amend the Comprehensive Employment and Training Act of 1973 to provide improved employment and training services, to extend the authorization, and for other purposes;

S. 2640. An act to reform the civil service laws;

S. 3036. An act to amend the Coinage Act of 1965 to change the size, weight, and design of the one-dollar coin, and for other purposes;

S. 3184. An act to designate the Indian Health Facility in Ada, Okla., the "Carl Albert Indian Health Facility";

S. 3274. An act to designate the United States Department of Agriculture's Bee Research Laboratory in Tucson, Arizona, as the "Carl Hayden Bee Research Center";

S. 3336. An act to enable the Department of Justice and the Administrative Office of the United States Courts to provide services and special supervision to drug dependent Federal offenders in an efficient and effective manner;

S. 3373. An act to amend title 10, United States Code, to authorize the Secretary of Defense to provide transportation to the Girl Scouts of the United States of America in connection with International World Friendship Events or Troops on Foreign Soil meetings, and for other purposes;

S. 3375. An act to amend title 28 of the United States Code to make certain changes in the places of holding Federal district courts, in the divisions within judicial districts, and in judicial district dividing lines;

S. 3446. An act to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Ben Abruzzo, Maxie Anderson, and Larry Newman; and

S. Con. Res. 105. Concurrent resolution authorizing the printing of additional copies of the final report and of volume II of the executive session hearings on the Korean influence inquiry.

COMMUNICATIONS FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communications from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
August 18, 1978.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the permission granted on August 17, 1978, the Clerk has received this date the following messages from the Secretary of the Senate:

That the Senate agree to the amendments of the House of Representatives to the amendments of the Senate numbered 1, 5, 19, 20, and 33 to H.R. 13468; and

That the Senate agree to the Report of the Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill H.R. 12602.

With kind regards, I am,
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

WASHINGTON, D.C.
August 21, 1978.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the permission granted on August 17, 1978, the Clerk has received this date the following message from the Secretary of the Senate:

That the Senate passed without amendment H.R. 8342, An Act to amend title 5, United States Code, to provide for the application of local withholding taxes to Federal employees who are residents of such locality.

With kind regards, I am,
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.
By W. RAYMOND COLLEY,
Deputy Clerk.

WASHINGTON, D.C.,
August 23, 1978.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the permission granted on August 17, 1978, the Clerk has received this date the following messages from the Secretary of the Senate:

That the Senate passed without amendment H.R. 185, Coast Guard employees and H.J. Res. 554, D.C. representation;

That the Senate agree to the Report of the Committee of Conference on the disagreeing votes of the two Houses on the amendment of the House of Representatives to the bill S. 9;

That the Senate agree to the Report of the Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill H.R. 12240; and

That the Senate agree to the Report of the Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill H.R. 12927.

With kind regards, I am,
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

Washington, D.C.,
August 28, 1978.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the permission granted on August 17, 1978, the Clerk has received this date the following messages from the Secretary of the Senate:

That the Senate passed without amendment H.R. 2952, H.R. 3532, H.R. 7161, H.R. 7162, H.R. 8397, H.R. 8471, and H.R. 13235;

That the Senate passed without amendment H.J. Res. 773 and H.J. Res. 1014;

That the Senate agree to the amendments of the House of Representatives to the amendments of the Senate numbered 3 and 4, and that the Senate agree to the amendment of the House of Representatives to the amendment of the Senate to the title of the bill H.R. 2931;

That the Senate agree to the Report of the Committee of the Conference on the disagreeing votes of the two Houses on the amendment of the House of Representatives to the bill S. 1633; and

That the Senate agree to the Report of the Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill H.R. 13467.

With kind regards, I am,
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
August 18, 1978.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 6:20 p.m. on Thursday, August 17, 1978, and said to contain "H.R. 10929, An Act to authorize appropriations for fiscal year 1979 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes," and a veto message thereon.

With kind regards, I am,
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

DEPARTMENT OF DEFENSE APPROPRIATION AUTHORIZATION ACT, 1979—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95–377)

The SPEAKER laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning without my approval H.R. 10929, the "Department of Defense Appropriation Authorization Act, 1979." I am doing so because I cannot, consistently with my constitutional responsibilities, sign into law a bill that in my view would weaken our national security in certain critical areas and wastes scarce defense dollars. The Congress' inclusion in this bill of a number of lower priority programs would force out of our defense budget certain central elements of our program, items needed now to modernize and bolster our military forces.

I believe that the defense of the United States needs to be strengthened. An adequate defense is the single most important concern I have as President. Accordingly, I submitted to the Congress in January of this year a budget request for the Department of Defense which would if enacted provide the defense we need. It requested $126.0 billion for the Department of Defense for Fiscal Year 1979. That amount was judged by me and by the Secretary of Defense to be adequate to provide for the military security of this country in Fiscal Year 1979, provided it was wisely spent.

The bill I am returning does not spend wisely. Instead, it actually would lead to less defense capability than I have requested. It does this by eliminating funds for high priority defense requirements and adding funds for purposes which do not meet our defense needs. Most notably, it would take nearly $2 billion from the total and set it aside

for purchase of a nuclear-powered aircraft carrier—a ship which in the end would cost at least $2.4 billion, plus additional billions for its aircraft and the additional ships needed to defend and escort it.

We need more immediate improvements in our defense forces. A new nuclear-powered aircraft carrier would not be commissioned until 1987.

To spend $2 billion in defense dollars in that way would ignore much more serious and immediate defense needs. Other programs have been cut, during the appropriation process as well, to stay within Congressional budget limits. The effect would thus be to take away funds urgently needed by the Army, Navy, Air Force and Marine Corps for high priority programs—and to use those funds to build the most expensive ship in history. The result would be to weaken our military security in several critical areas, particularly during the next two years, at a time when we should be strengthening it. Within the $126.0 billion allocated for defense, we cannot have both an adequately balanced defense program and the luxury of an unneeded nuclear-powered aircraft carrier.

In pushing a nuclear-powered aircraft carrier into a $126.0 billion defense budget, H.R. 10929 would result in reduction or elimination of these essential programs, and a consequent weakening of our defense posture:

—*Weapons and equipment for the Army.* I requested a $1 billion increase to strengthen our ground forces, particularly our NATO-oriented forces, by providing more helicopters, combat vehicles and ammunition for our front-line forces. Adding the nuclear-powered aircraft carrier means eliminating $800 million of that increase.

—*Weapons and equipment for the Air Force.* I requested more funds for airlift, electronic warfare equipment and electronically guided ordnance. Adding the nuclear-powered aircraft carrier means eliminating $200 million of this increase.

—*Readiness funds.* It makes no sense to have military forces if their equipment is not in condition to fight. I requested an increase of $1 billion for items which are not glamorous, but which provide the immediate fighting capability of our forces—funds (requiring appropriation but not prior authorization) for repairs of weapons, spare parts for vehicles and aircraft, ship overhauls, training of personnel, communications, and logistical suppport to move equipment to where it is needed. Adding the nuclear-powered aircraft carrier means eliminating half of that increase in fighting capability—some $500 million.

—*Research and development.* To sustain our position of excellence in a world of weapons increasingly dependent on technology, I requested a 3% real growth in defense research and development. Adding the nuclear-powered aircraft carrier leads to an actual reduction in research and development. The bill also shifts some R&D funds from high priority programs to less important ones.

Our Navy has for a decade been moving in the direction of larger and larger, more-and-more-costly ships, and fewer of them. As a consequence our fleet today is smaller than at any time since 1940. We need a fleet that includes more vessels that can perform our Navy's mission but that are not, as this one would be, so designed as to be prohibitively expensive to build. The Navy does not need a fifth nuclear-powered aircraft carrier. It can maintain a twelve-carrier fleet and maintain the fighting capability it needs from a conventionally powered carrier, which I shall request in my budget for next year, at a saving of $1 billion for that single ship. Without this kind of discipline and control of the cost of ships, our Navy will not long be able to carry out its missions.

For these reasons, I must withhold my approval from H.R. 10929. I adhere firmly to my request that the Congress provide $126.0 billion for defense in Fiscal Year 1979. But I ask that the Congress delete the authorization for the nuclear-powered aircraft carrier, and use that essential $2 billion of that $126.0 billion instead for as many of our programs as possible from the following critical areas:

$1 billion for Army and Air Force equipment—For helicopters, transport aircraft, combat vehicles, electronic equipment, ammunition and ordnance and other weapons and equipment.

$500 million for improving readiness in all the armed services—For a wide variety of items, ranging from repair of weapons to spare parts stockage to improved training and logistical support.

Up to $500 million for research and development—For programs proposed in my FY 79 budget but deleted by one or another Congressional action.

Naval Ships—It is crucial to maintain an appropriate overall annual level of ship construction. The Congress should return all of the general purpose ships requested in our budget.

These are the ways in which our defense dollars need to be spent. These are the ways in which they will add to our military security, by obtaining the greatest military capability for each dollar and by focusing the effort where more effort is needed.

In light of the continuing Soviet buildup, we must not reduce our own real defense capability, either by cutting the budget amount I have requested, or by substituting for high priority defense requirements programs which are less urgent or less effective.

If we do not spend our defense dollars wisely, we do not provide adequately for the security of our country. I know that the Congress and I share common goals. I ask the Congress to cooperate with me to help our armed forces use their funds in ways which produce the greatest fighting power, and to provide the men and women of our armed forces with the kinds of weapons, equipment and other items of support which they need to do their jobs.

JIMMY CARTER.

THE WHITE HOUSE, *August 17, 1978.*

The SPEAKER. The objections of the President will be spread at large upon the Journal, and the message and bill will be printed as a House document.

Pursuant to the order of the House of August 17, 1978, further proceedings on the veto message will be postponed until Thursday, September 7, 1978.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
August 21, 1978.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, U.S. House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 12:52 p.m. on Monday, August 21, 1978, and said to contain a message from the President wherein he transmits the report on international transfers of technology required by section 24(c) of Public Law 95–92, the International Security Assistance Act of 1977.

With kind regards, I am,
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.
By W. RAYMOND COLLEY,
Deputy Clerk.

REPORT ON INTERNATIONAL TRANSFERS OF TECHNOLOGY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on International Relations:

To the Congress of the United States:

I transmit herewith the report on international transfers of technology required by section 24(c) of Public Law 95–92, the International Security Assistance Act of 1977.

JIMMY CARTER.

THE WHITE HOUSE, *August 21, 1978.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
August 31, 1978.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 2:35 p.m. on Thursday, August 31, 1978, and said to contain a message from the President wherein he transmits a Federal Pay Comparability Alternative Plan.

With kind regards, I am,
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives
By W. RAYMOND COLLEY,
Deputy Clerk.

FEDERAL PAY COMPARABILITY ALTERNATIVE PLAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95–378)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Post Office and Civil Service and ordered to be printed:

To the Congress of the United States:

Under the Pay Comparability Act of 1970, an adjustment in Federal white collar pay will be required on October 1.

I have reviewed the report of my Pay Agent and the recommendations of the Advisory Committee on Federal Pay relative to a pay adjustment. Their findings indicate that an average 8.4 percent increase, at a cost of $4.5 billion, will be required to achieve comparability with the private sector.

I support comparability in pay between the Federal Government and the private sector. It is essential to ensure that the Federal Government continues to attract and retain qualified and dedicated employees. The Federal Government's civilian and military personnel have given the country loyal and competent service, and I would normally have no hesitancy in ordering a pay raise achieving comparability. However, pay comparability must be viewed in the light of the overall economic situation now facing our country. For that reason, my decision about pay comparability this year is especially difficult.

Today the greatest single threat to our national economic growth and the jobs and prosperity of our people is inflation. It persists because all of us—business and labor, farmers and consumers—are caught on a treadmill that none of us stop alone. Each group desires to raise its income to meet rising costs; eventually we all lose the inflation battle together.

To curb the wage and price spiral, I proposed last spring that in each industry and sector of the economy, wage increases this year be held significantly below the average increases for the two preceding years. The Federal Government should set an example in this effort. A Federal white collar civilian and military increase of 5.5 percent would be consistent with this guideline.

The pay act gives me the authority to propose an alternative pay adjustment which I consider appropriate in the light of, "economic conditions affecting the general welfare." Therefore I am submitting to the Congress an alternative plan for a 5.5 percent pay increase. This will allow the Federal Government to set an example for labor and industry and lead the fight against inflation by example, and not just words alone.

Accordingly, I strongly urge the Congress to support the alternative recommendation which is attached.

JIMMY CARTER.

THE WHITE HOUSE, *August 31, 1978.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
September 1, 1978.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 3:20 p.m. on Friday, September 1, 1978, and said to contain a message from the President wherein he transmits a report on progress made towards a negotiated settlement on Cyprus.

With kind regards, I am,

Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.
By W. RAYMOND COLLEY,
Deputy Clerk.

REPORT ON PROGRESS MADE TOWARD A NEGOTIATED SETTLEMENT ON CYPRUS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95–379)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

As required by Public Law 94–104, this report describes the progress that has been made towards a negotiated settlement on Cyprus in the past sixty days.

The last report described proposals submitted by the Turkish Cypriots on April 13, and noted several expressions of flexibility subsequently made by the Turkish side. In July there were further encouraging signs. Both the Government of Cyprus and the Turkish Cypriot leadership put forward fresh and promising proposals for the resettlement of the important commercial and resort city of Varosha (New Famagusta). Varosha has been deserted and under Turkish control since the 1974 fighting. Significantly, both sides foresee that progress on this issue will lead to a resumption of the intercommunal negotiations.

We have urged the two Cypriot parties to give these proposals careful consideration, and plan to continue to encourage a satisfactory compromise on Varosha, one we hope will lead them to reconvene the intercommunal negotiations under the aegis of the Secretary General of the United Nations.

Both the Congress and the Administration feel that the United States 1) should continue to play an active role in seeking a just and lasting Cyprus settlement, and 2) should continue to support the efforts of Secretary General Waldheim. On August 14, the conference committee on the Security Assistance Bill approved the language to end the Turkish Arms Embargo. I consider this action appropriate and necessary to our continuing impartial and constructive role.

JIMMY CARTER.

THE WHITE HOUSE, *September 1, 1978.*

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to the authority granted him on Thursday, August 17, 1978, he did on Friday, August 25, 1978, sign the following enrolled joint resolution:

House Joint Resolution 554, joint resolution proposing an amendment to the Constitution to provide for representation of the District of Columbia in the Congress.

ARE YOU SAFE IN AN AUTOMOBILE?

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute).

Mr. COLLINS of Texas. Mr. Speaker, the Oversight Committee of Commerce has just completed an extensive study on car safety. This survey concentrated specifically on Firestone 500 automobile tires.

The basis of the survey was that over the past 5 years 34 people were killed in cars that had Firestone 500 tires. It was not shown conclusively that the tires themselves were the cause of any of these accidents as high speed and improper tire care were also contributing factors. But automobile safety data bears out that during this same 5-year period, about 106,000 people were killed in auto accidents involving the use of alcohol.

Yet the NHTSA has never come up with any study to solve DWI. Why not concentrate on our major automobile safety concern—drunk drivers.

Instead of worrying about 106,000, they concentrate on 34 cases. About 15 years ago, steel radial tires were introduced into the market on a large scale.

Just like the Model T Ford they started slowly and developed research and improved tires. When steel radial tires first came out, I left them alone, as I wanted to wait until they were fully developed.

Steel radial tires have successfully established many proved achievements. Steel radials get twice the mileage of regular tires. They provide 15 percent smoother ride on the highway. Steel radials get 15 percent better traction for safety on wet, slippery roads. Steel radials get 10 percent better gas mileage.

Yet we held hearings where some witnesses claimed that Firestone 500 tires had blown out under pressure. As the facts came out many cars were going at excessive speeds with some over 80 miles per hour. Also the facts indicated that many had low tire pressure. Many times the tires had been on rough and hot roads.

If the tires get twice the mileage, ride smoother, save gasoline and provide better traction on slippery roads, that is a good record. The few tires with blowouts seemed to have the serious problem of a DWI driver, high speed or low air pressure.

I think this new Firestone 721 is as good as any tire on the road. After the hearings I had my two cars fully equipped with the Firestone 721.

Let's get on with something important. Let's find out how to get the DWI's off of the highway.

INTRODUCTION OF CLARIFYING LEGISLATION TO GIVE TAX CREDIT TO HOG FARMERS

(Mr. GRASSLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRASSLEY. Mr. Speaker, in 1971, during consideration of the Revenue Act passed in that year, the Senate Finance Committee stated specifically that the investment credit was to be allowed for "a unitary system for raising hogs which includes automatic feed systems, special airflow units, slatted flooring, pens and partitions." The committee noted further,

> There is no other practical use for the structure and it can, therefore, be expected to be used only so long as the equipment it houses is used.

Despite this crystal clear language, the IRS continues to disallow the credit for such facilities. Despite a specific tax court decision pertaining to a similar type of facility for poultry, in which the position of the IRS was overruled, the IRS continues to frustrate the efforts of farmers in need of the investment credit. Just this morning, the Wall Street Journal printed a story noting how hog supplies simply cannot grow adequately, in part due to the substantial investments that must now be made in hog facilities.

I have been in touch with the IRS on this matter on several occasions and, though in a recent letter the agency indicated its intent to publish a revenue ruling dealing specifically with hog facilities, it appears that we in Congress must act to get the IRS to recognize Congress' original intent. Thus, I have today introduced legislation to specifically clarify that intent as expressed in the 1971 Senate report, and to provide retroactively the credit many farmers should have received since that year, for investments in hog facilities.

THE DETERIORATING SITUATION IN NICARAGUA

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and include extraneous matter.)

Mr. RUDD. Mr. Speaker, the situation in Central America is deplorable and is gradually deteriorating. The deteriorating situation in Nicaragua has been caused by the arguments on the floor of this House to withdraw support from that nation's Government and by the deplorable, vacillating foreign policy of President Jimmy Carter's administration. President Carter bases his nonsupport of the friendly, duly elected Nicaraguan Government on violations of human rights. In contradiction, he apparently supports human rights violators—our enemies, such as Fidel Castro in Cuba.

The withdrawal of support for the Government of the country of Nicaragua portends the taking away of freedoms of a freely elected government and the establishment of a Marxist government in that country, creating another Communist disaster for our own country and for the Western Hemisphere, causing problems for us for generations to come.

Mr. Speaker, this is as predictable as what happened in Fidel Castro's bloody takeover in Cuba.

THE CARTER ADMINISTRATION'S FOREIGN POLICY BUNGLING IN LATIN AMERICA

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RUDD. Mr. Speaker, certain State Department officials are conducting a calculated campaign of deceit and propaganda against our allied anti-Communist friends throughout Latin America.

A column by Rowland Evans and Robert Novak in this morning's Washington Post details the outrageous misinformation and lies about Argentina that have been stated in testimony before Congress by Assistant Secretary of State Patricia Derian.

Similar propaganda and behind-the-scenes action by other U.S. officials, which have all the appearances of left-wing zealotry against anti-Communist governments, has been targeted against Nicaragua.

Under the banner of human rights, Assistant Secretary Derian and other Carter appointees in the State Department have mounted a concerted assault on Latin American military governments that, because of the ever-present Communist guerrilla revolutionary activity in these countries, must maintain stability and freedom by implementing certain restrictions that are not acceptable in our own country.

Either the administration's officials in the State Department are hopelessly naive and misinformed about the true situation in Latin America, or they are ideologically alined with the revolutionary elements that seek to overthrow the legitimate governments of our allies. This is a situation that cannot be tolerated, and such officials should be dismissed.

I would like to include the Evans and Novak column at this point in the RECORD, along with two well-informed reports from Nicaragua by Arizona Republic Latin Affairs editor Harold Milks, which show that our allies are relying on astute Members of Congress to help maintain our friendships and stability in this important region of our hemisphere:

[From the Washington Post, Sept. 6, 1978]

"UNDIPLOMATIC" INCIDENT

(By Rowland Evans and Robert Novak)

A thrice-repeated but unsubstantiated indictment of Argentina by Assistant Secretary of State Patricia Derian testifying publicly before Congress reveals the shattering impact on U.S. foreign policy of human-rights crusading.

Under questioning Aug. 9 by the House Inter-American affairs subcommittee, human-rights chief Derian responded with language seldom used by one friendly power to another, accusing the Argentine regime of killings, kidnappings and torture. So harsh was her language that the State Department tried to expunge it from the record. But apart from being undiplomatic, there is considerable doubt of accuracy.

The impact could prove tragic for U.S.–Argentine relations and perhaps for Argentina itself. Moderate and pro-U.S. elements within the Argentine junta have been weakened; deterioration of the U.S. position in the strategic southern corner of South America has been accelerated.

This cannot be dismissed as merely unfortunate ardor by an idealist unfamiliar with diplomacy. Deterioration of U.S. relations with Brazil, Chile and now Argentina too closely follows the scenario of Latin American specialists in the Carter administration who privately predicted the human-rights crusade would foster the left in the Western Hemisphere.

Concern that the human-rights tail is wagging the foreign-policy dog is spreading in both the administration and Congress. On Capitol Hill, growing attention is paid to the imminent loss of up to $1.4 billion in sales to Argentina—including $620 million in Export-Import Bank transactions.

So, when Derian testified Aug. 9, she was asked by subcommittee chairman Gus Yatron (D-Pa.) why her human-rights office recommended against the Export-Import Bank loans. Even Derian's own aides were taken aback by her answer.

"The reason for our advice was the continuing violation of basic human rights by Argentina. The systematic use of torture, summary execution of political dissidents, the disappearance and the imprisonment of thousands of individuals without charge, including mothers, churchmen, nuns, labor leaders, journalists, professors and members of human-rights organizations."

Moments later, Derian repeated her indictment, adding "kidnappings" and "unwarranted killings" this time. In her soft Mississippi accent, she read the litany a third time, concluding, "We see nothing to indicate that there is a genuine trend toward human rights."

Horrified officials in the State Department's Inter-American Bureau crossed out Derian's indictment in the transcript, but it was too late. Wood had gone to Argentina, where Pat Derian has become a household word. The U.S. ambassador in Buenos Aires was called in for a stiff protest; the Argentine ambassador in Washington was called home.

The tragedy is that Derian's outburst may well weaken the junta's relatively moderate elements headed by the president, Gen. Jorge Rafael Videla, and strengthen the extreme right. While President Carter's human rights admonitions probably have improved condi-

tions in Argentina, the point of diminishing returns has been reached.

Apart from undiplomatic ravages, was Derian telling the truth? Her office insists the Argentine junta has "executed 3,000 persons since seizing power in 1976 and at least another 5,000 persons are missing. But those figures come from private sources of dubious reliability. U.S. government bureaus with vastly more experience than Derian's say the figures cannot be verified and seem inflated.

Actually, the junta, in confronting bloody far-left revolt in 1976, used an iron fist to prevent a communist takeover. But many killings and kidnappings are traceable to rightist paramilitary groups not under government control and should not be counted as government "executions." Moreover, objective observers agree that Argentina's human-rights record has improved markedly in the past year.

Those nuances are disregarded by Derian's office. While unable to draw distinctions between moderates and extremists inside the junta, the human-rights crusaders claim that military rule in Argentina cannot last much longer and that the United States should disengage from the junta. Such a prospect is rejected by Latin American experts, whatever their ideology.

But behind the naivete, a pattern emerges. Before Carter took office, a prediction was made by Brady Tyson, now with the U.S. mission to the United Nations, that human rights would be used to support revolutionary forces in the hemisphere. An identical prediction was made privately last year by Robert Pastor of the National Security Council staff. Derian's undiplomatic incident could help fulfill those prophecies.

[From the Arizona Republic, Sept. 4, 1978]

NICARAGUA CHIEF "FED UP" WITH CARTER, BUSINESS PARTNER SAYS

(By Harold K. Milks)

MANAGUA, NICARAGUA.—President Anastasio Somoza has had it "up to here"—his neck—with the Carter administration but still depends on his friends in the U.S. Congress to maintain friendly relations, a Somoza confidant and business partner said Sunday.

Raymond Molino, a survivor of the Bay of Pigs invasion in Cuba and a bitter anticommunist, described Somoza's unhappiness with what Molino called the continued unfair treatment the Nicaraguan strongman has received at the hands of the Carter government.

A pro-Somoza newspaper, Novadades, published an interview Sunday in which Somoza reportedly said the Carter government "is in the hands of leftists and communists and shares with Russia the direction of a worldwide campaign against Nicaragua in an effort to oust Somoza from the presidency."

The comments by Molino, an unofficial spokesman for Somoza who said he was speaking as director of the Nicaraguan American Development Council, came in an interview during a weekend lull in a campaign by the leftist Sandinista guerrillas to end by force the 40-year-old Somoza family rule of this Central American nation.

"The Carter government is never satisfied with what Somoza does," said Molino. "In the name of human rights it makes demands and when these demands are met new demands are forthcoming which end with requests that Somoza resign."

Molino said this was the first time Somoza has spoken out so bluntly against what Molino described as "the leftist influences in Washington which have been harassing Nicaragua's leader."

Relations between Managua and Washington have been strained for some months over accusations that Nicaragua lacks human rights and Somoza's responses that the Carter administration has given strong moral support to procommunist forces opposing him in Nicaragua.

There were no reports of new anti-Somoza violence as Molino spoke to newsmen in the Managua Intercontinental Hotel near the "bunker," Somoza's home and headquarters within a military strongpoint in the heart of Managua.

A nationwide work stoppage aimed at forcing Somoza's resignation continued with government and anti-government sources disputing its effectiveness. There were reports that gasoline supplies were growing short in some areas of the capital. Officials said Somoza likely would order the national guard—Nicaragua's only armed force—to intervene if necessary to assure fuel for both public transport and private use.

While Nicaraguan officials hailed as a Somoza victory Venezuela's failure this weekend to persuade the U.N. Security Council to take action against alleged human rights violations here, Molino detailed what he called a Venezualan and Panamanian plot to help the Sandinian rebels in their campaign.

"They have a plan to help the Sandinian front to seize and hold at least one Nicaraguan city by force of arms," he said. "Then the two would recognize the rebels as a new government and would give them military, financial and political assistance in their campaign to unseat Somoza.

"This is similar to the plan the United States had at the time of the ill-fated Bay of Pigs (invasion) against Castro Cuba, to seize a portion of the country and set up a rival government which could be recognized by nations opposed to communism."

Sources here said such a plan would not be successful as long as Nicaragua's 7,500-man national guard, well trained and well armed, remains loyal to Somoza.

Molino, who lives in Florida, denied a report that Somoza had flown to Miami Sunday. He said the president was "somewhere in Nicaragua."

Military experts have noted that the Sandinista rebels who have been fighting the Somoza family for decades recently had shifted from rural to urban assaults.

They said there were three main rebel commands: one in the south led by a Costa Rican named Plutarco Hernandez, whose father is a communist member of the Costa Rican National Assembly; one in the north headed by Victor Tirado Lopez, a Mexican leftist guerrilla; and underground urban rebels responsible for numerous bomb and gun attacks against the Somoza regime.

These sources said the Somoza armed forces have identified 36 Sandinista guerrillas trained by the Palestine Liberation Organization, 18 trained in Russia and at least 36 trained in Cuba "where they maintained continuous contacts."

Several Sandinista commanders are not Nicaraguan nationals, these sources said, and at least 25 percent of the leftist activists are women.

[From the Arizona Republic, Sept. 5, 1978]

"SOMOZA OR COMMUNISM," NICARAGUA LEADER WARNS

(By Harold K. Milks)

MANAGUA, NICARAGUA.—President Anastasio Somoza said in an exclusive interview Monday that the only choice for Nicaragua "is either Somoza or communism."

Rejecting any possibility that a so-called national government could rule this strife-torn country successfully before his own term ended in 1981, he added:

"I will not resign and turn Nicaragua over to certain domination by the communists. I do offer my people a good government ending in 1981 with free elections and a stable economic future."

The Nicaraguan strong man, target of criticism from such widely varying areas as the White House in Washington, the Castro government of Cuba and both Panama and Venezuela whose liberal rulers want him out, said his opposition "is on the run and cannot win."

"If the leftists take over Nicaragua a similar fate is in store for the rest of Central America," he said.

In an hour-long interview in his heavily guarded office, Somoza said such a takeover "is not going to happen."

As he spoke, his national guard troops were engaged in a massive roundup of political and business leaders responsible for a national work stoppage aimed at his removal from office.

Troops were also searching for terrorists who have been throwing bombs and building barricades in Nicaraguan streets since the strike began 11 days ago.

Conservative (opposition) Party spokesmen said at least 600 Nicaraguans have been arrested since Saturday including at least 40 political and business leaders.

"These people arrested will be charged with attempting to overthrow the government by force," Somoza said.

Lists of those arrested in Managua included a vice president of the National Institute of Development, an organization of businessmen and industrialists largely opposed to Somoza.

The institute vice president was seized Monday while en route to a news conference for foreign newsmen.

Others were Adolfo Calero, manager of the Coca-Cola bottling franchise in Managua, and Dr. Pedro Queintanilla, secretary general of a political group splintered from the Somoza party.

Friends said Dr. Noel Rivas, president of the Nicaraguan Chamber of Commerce which joined other groups in calling for the work stoppage against Somoza escaped immediate arrest when guardsmen searched his home while he was absent.

Somoza said the arrests followed days of investigation and "determination to keep the peace at any price."

"We were patient and gave the people of Nicaragua time to see the kind of people who are trying to force me out of office. But if they push we are going to push back and this is the result," he said.

The president said he has the loyalty of the national guard, Nicaragua's only armed force, "down to the last officer and soldier."

"And when my term ends and we hold a national election they will be just as loyal to the man who wins," he said.

Under Nicaragua's constitution, a president cannot succeed himself.

He attempted to soften previous reports that he had called the Carter administration leftist and communist.

"I have nothing against President Carter," he said softly. "Indeed, I am grateful that he attempted to get the president of Venezuela to moderate his actions against Nicaragua," he said.

"Our relations with the U.S. government and with the embassy here are normal and workable. But there are certain people in Washington who were against me and who were cooperating with the communists and they have since joined his (Carter's) government and they continue to work against me," Somoza said.

He said he was not prepared to name the men "at this time."

"But I do want the administration and my friends in the United States to know that they continue to work for my removal," he said.

Other Nicaraguan sources said the attacks on Somoza from Washington began two days after the Carter inauguration and were keyed to Carter's human rights campaign.

A dispute continued Monday over the effectiveness of the national work stoppage in Nicaragua.

Both Somoza and Roberto Incer Barquero, president of the Nicaraguan national bank, said the strike was about the same as it was Saturday. They estimated that about 25 percent of the large businesses and factories were closed.

Opposition leaders placed the figure at near 80 percent.

Somoza, who spoke repeatedly on the telephone with his field commanders and twice with persons in the United States during the interview, indicated he was ready to use whatever force was necessary to end the nationwide strike, the second this year.

A statement issued by the National Institution for Development denied that Nicaragua must choose between Somoza or communism.

"There is a third, democratic alternative," the statement said. "This implies social, political and economic reforms oriented toward improved living conditions for the Nicaraguan people."

There appeared little or no room for negotiation between the Somoza stand and that of his opponents.

Somoza said that if he should step down today the pro-communist rebels could move in unopposed.

Somoza's police measures have not completely eliminated those who would continue the tensions of an armed rebellion.

CONSTITUTIONAL AUTHORITY OF COMMANDER IN CHIEF ON DEFENSE QUESTIONED

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, aside from President Carter's apparent confusion between the defense authorization bill and the defense appropriation bill, and aside from the erroneous contentions embodied in his veto message, the White House should be reminded that our Constitution specifically vests primary responsibility for the nature and size of our national defense in the Congress—not in the President, either as Chief Executive or as Commander in Chief.

When Stuart Eizenstat, Assistant to the President, appeared on television last week the question arose as to why the President would go to the extreme of vetoing a national defense bill, particularly when the Pentagon had concurred in most of its provisions. He responded that the President is also Commander in Chief, implying that as such he has the right to say what kind of defense we should have.

The fact is the Commander in Chief has no such constitutional authority, expressed or implied. The fact is that clauses 12, 13, and 14 of section 8, article 1, of our Constitution stipulates that—

The Congress shall have the power: To raise and support Armies * * *; To provide and maintain a Navy; To make Rules for the Government and Regulation of the land and naval forces.

The role of the Commander in Chief is solely to administer and utilize to the best possible security advantage whatever we as representatives of the people provide.

In other words, just as the Constitution vests primary responsibility for the conduct of foreign relations with the President, the Constitution vests primary responsibility for the kind of national defense we shall have in the Congress.

We can take pride in the fact that the Congress has not allowed politics to enter into our foreign policy considerations but regret the President has allowed political considerations to enter into his veto of our defense bill.

CIVIL RIGHTS COMMISSION ACT OF 1978

Mr. EDWARDS of California. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 12432) to extend the Commission on Civil Rights for 5 years, to authorize appropriations for the Commission, to effect certain technical changes to comply with changes in the law, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentlemen from California (Mr. EDWARDS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 12432, with Mr. DE LA GARZA in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Friday, July 28, 1978, the bill had been considered as having been read and open to amendment at any point.

Are there any further amendments to the bill at this time?

Mr. BUTLER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, during the district work period, some rather disconcerting news was reported on page 1 of the Washington Star. The Star learned that several employees of the Civil Rights Commission were involved in an alleged scheme to falsify time and attendance reports over a 6- or 7-month period. These discrepancies in pay purportedly involved the Commission paying overtime to full-time employees for work which was never performed.

Mr. Chairman, what is troubling in this instance is that the Commission never mentioned these abuses to the Subcommittee on Civil and Constitutional Rights, which is charged with overseeing the work of the Commission.

It may occur to some that it is not necessarily appropriate for the Commission to report these incidences to the Congress. I do not agree. The Subcommittee on Civil and Constitutional Rights held 4 days of hearings on this legislation, which not only extends the life of the Commission but authorizes appropriations for the next 2 fiscal years. Both the Commission and OMB testified on the Commission's budget request during these hearings. When we are specifically examining an agency's budgetary needs, we should be informed of any such discrepancies. It is entirely appropriate for the oversight subcommittee to be aware of how the Commission manages its money when we are deciding how much it should have.

The Star also indicates that as many as 10 employees are under investigation. In an agency of less than 300 employees this is, in my opinion, a serious matter. If an agency as small as this one could permit violations of overtime practices for as long as a 6- or 7-month period, this certainly is a matter about which our subcommittee should have been informed.

I cannot help but wonder whether we have given the Commission so much money that it feels it does not have to keep accurate records of its payroll and overtime allowances. With its expanded jurisdiction now reaching into the domain of the aged and the handicapped, the Commission will have additional employees and more money to monitor.

The most distressing factor in this unhappy set of circumstances are the charges raised by some Civil Rights Commission employees accusing the Staff Director and Commissioners of "covering up" allegations of embezzlement until the extension of the Commission's existence was whisked through Congress.

It is the obligation of the Judiciary Committee to learn whether these allegations are true. I urge the subcommittee to determine the scope of the overtime and pay discrepancies and to learn why we were not informed during one of our many hearings on this bill.

Mr. Chairman, I am inserting in the RECORD at this point a chart detailing the amount of overtime hours worked by employees in various pay grades during the first 10 months of fiscal year 1978.

Number of employees, grade, and total overtime

3; GS-2; 42 hours.
4; GS-3; 121 hours.
9; GS-4; 313 hours.
32; GS-5; 798 hours.
26; GS-6; 1,445 hours.
27; GS-7; 1,069 hours.
3; GS-8; 77 hours.
18; GS-9; 526 hours.
1; GS-10; 83 hours.
14; GS-11; 270 hours.
14; GS-12; 159 hours.
4; GS-13; 118 hours.
1; GS-14; 12 hours.
1; GS-15; 8 hours.

Apparently, employees over grade GS-10 have the option of being paid for overtime work or receiving compensatory time on an hour-by-hour basis. It would be interesting to learn from the Commission how much compensatory time was allotted for those in grades 11 and above and how much of this was for actual time spent at work.

Mr. Chairman, I am also inserting in the RECORD the article which appeared in the August 22, 1978, edition of the Washington Star:

RIGHTS UNIT EMPLOYEES INVESTIGATED

(BY BAILEY MORRIS)

The Justice Department is investigating allegation of embezzlement of Government funds by U.S. Civil Rights Commission employees, according to sources.

The scheme allegedly involved six to ten employees who were notified several weeks

ago by the U.S. attorney's office here that they had been placed under investigation, the sources said.

The Civil Rights Commission case is similar to one involving allegations of the doctoring of time and attendance by U.S. Forest Service employees who allegedly embezzled up to $100,000 over a two-year period. That case is in the hands of the U.S. attorney in Alexandria.

According to the sources, the Civil Rights Commission case involves the falsification of time and attendance reports by employees who put in for overtime payment ranging from $700 a person to $5,000 a person over a seven-month period.

The discrepancies, first discovered during an internal commission investigation and later confirmed by the FBI were charted only for a six- or seven-month period, sources said.

Results of the internal investigation conducted last April "were kept very quiet," sources said, because the commission's reauthorization for another 10 years was and still is pending before Congress.

Rep. Gladys Spellman, D-Md., said yesterday she planned to ask "the appropriate congressional committee to conduct an investigation to see whether the practice (embezzling funds by falsifying records) is widespread among government agencies."

Joan Kelly, spokesperson for the Civil Rights Commission, confirmed that an internal investigation had occurred and said administrative action involving three employees is pending.

One employee has resigned and another "was terminated," Kelly said. Still another employee was suspended for two months and is now back on the job, she said.

The administrative action could result in "suspensions or firings," Kelly said, and will be completed when the acting staff director, Louis Nunes, returns from vacation.

Some Civil Rights Commission employees have accused Nunes and others in management of trying to cover up the allegations of embezzlement for political reasons, sources said.

They claim that Nunes, a Nixon administration appointee who converted to career Civil Service status at the end of the Ford administration, did not want the matter made public until after the commission's extension is passed by Congress.

But Kelly disputed this view, saying the matter was handled as expeditiously as possible by the commission, which conducted its own investigation and then called in the FBI.

When the irregularities were confirmed, she said, the "Justice Department was notified, the U.S. attorney was called in and that is where it is now."

Mr. EDWARDS of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the news article that the gentleman from Virginia describes is factually defective in several respects, as to the number of employees involved, the amount of overpayment, the period of review, and the number of employees.

The news report strongly suggests a coverup by Commission officials in that they failed to notify the Congressional Oversight Committees in an effort to protect their Commission authorization request. Immediately upon reading the article, I requested the Commission explain the situation. The facts of the case show that after a Commission review of discrepancies in overtime payment versus actual overtime hours, the Commission itself found wrongful and possible criminal action on the part of seven Commission employees resulting in overtime payment of approximately $11,000 over an 18-month period.

After its preliminary investigation, the Commission itself notified the Department of Justice, and both administrative and criminal investigations are still pending. Mr. Chairman, I suggest that the Star characterization of this matter as a "coverup" is grossly unfair and inaccurate. In the Commission's own words, and I quote the Commission's own words, they say:

It did not notify Senate and House Oversight Committees earlier since the nature of the overtime problem encompassed internal investigation, criminal investigations and employee disciplinary actions. In deference to the rights of employees, and for the protection of the criminal investigation, the Commission has moved cautiously but expeditiously to resolve the problem.

Mr. Chairman, I regret that the Commission did not notify this subcommittee earlier, but I am satisfied that the Commission officials acted in a straightforward, lawful, and proper manner.

Mr. BUTLER. Mr. Chairman, will the gentleman yield for just one question?

Mr. EDWARDS of California. Yes, I yield.

Mr. BUTLER. Mr. Chairman, the gentleman will agree that should a similar occurrence be determined to exist hereafter by the Commission, it would be its responsibility to inform and to advise the subcommittee and its staff promptly of any developments of this nature?

Mr. EDWARDS of California. I am not at all sure that "at all times" is the proper way to describe it. Appropriate action should be, certainly, that the subcommittees of the Senate and House should be appropriately advised, and the Commission should certainly not be required to report to us about everything that they might suspect, with all sorts of problems of due process. I think they have used good judgment in this matter. Certainly, they have turned the matter over to the Justice Department at the appropriate time, and although perhaps it would have been more convenient for us to have known about it in advance, I will repeat that I am certain that the Commission officials have acted in a straightforward and honest manner.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding. What concerns me is that our Judiciary Committee serves as an Oversight Committee. The fact that we get information of wrongdoing, of criminal investigation of perhaps overpayment or wrongful payment through a newspaper article and not directly from the Commission is really an affront to our committee.

Would the gentleman not agree that it would be highly preferable for the Commission to have come clean and been straightforward with us with respect to the allegations and the fact that an investigation was on going, rather than to have this information come to us through newspaper articles, and then having to get the facts, the straight facts, as the gentleman reports he is now revealing them, from the Commission?

Mr. EDWARDS of California. I am not at all certain that I would agree 100 percent with the gentleman. The subcommittee also has legislative and oversight jurisdiction over the Federal Bureau of Investigation.

When some of their employees have disciplinary problems and perhaps even have engaged in what might be described as "criminal activity," we do not expect the Director to rush to the subcommittee and to tell us in advance about what they suspect and what kind of investigations they are making. At the appropriate time then we certainly expect to be advised by the Federal Bureau of Investigation and indeed by any agency over which we have a certain amount of jurisdiction. But I do not think the problem is as simple as that.

The CHAIRMAN. The time of the gentleman from California (Mr. EDWARDS) has expired.

(On request of Mr. McCLORY, and by unanimous consent, Mr. EDWARDS of California was allowed to proceed for 2 additional minutes.)

Mr. McCLORY. Mr. Chairman, will the gentleman yield for a further question?

Mr. EDWARDS of California. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, then the only question in my mind is whether it is not preferable for the committee to get its information directly from the Commission rather than from a newspaper article?

Mr. EDWARDS of California. Yes, it would have been preferable. Yes.

Mr. McCLORY. I thank the gentleman.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I entirely agree that the protection of individuals would require that the agency not reveal to the committee the names of any who might have been suspected of wrongdoing. I think that would be outrageous unless the investigation is completed. But there is something that needs improvement in all our programs, whether CETA or any number of other programs. Perhaps, the FBI is a little different because of the necessity for secrecy, but it would help if all of the other agencies with which Congress has to deal would tell us whether the legislation needs correction or clarification or strengthening, so that we do not learn about wrongdoing from the newspapers.

I cannot tell you all that the newspapers are revealing to us in New Jersey about the CETA program. I have never heard anybody on this floor, and I do not know whether members of this Judiciary Committee, of which I am not a member, have known about what is going on. How can we draw up proper legislation, I ask my colleagues, unless we know where the possibilities for abuse lie, to say nothing of the actuality of abuse?

Mr. EDWARDS of California. I certainly agree with the gentlewoman that in all practical cases the oversight committees and subcommittees should be advised as to what is going on. However in this particular case, while it would have been better for us to have learned it directly, I want to reemphasize that after our examination or study of what the Commission on Civil Rights did, we feel that they acted appropriately.

Mrs. FENWICK. I am sure they did, if the gentleman says so.

The CHAIRMAN. The time of the gentleman from California (Mr. EDWARDS) has again expired.

(On request of Mrs. FENWICK, and by unanimous consent, Mr. EDWARDS of California was allowed to proceed for 30 additional seconds.)

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I wish we could send out to all agencies through the chairman and ranking members of the subcommittees a request that they advise us as to where the weaknesses in the legislation are, and where the possibilities of fraud and mismanagement might lie, so we do not have to learn about these scandals from some newspaper article.

Mr. EDWARDS of California. Yes, I appreciate what the gentlewoman has said.

AMENDMENT OFFERED BY MR. TREEN

Mr. TREEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TREEN: Page 3, strike out the quotation marks on line 5, and after line 5 insert the following:

"(f) Nothing in this or any other Act shall be construed as authorizing the Commission, its Advisory Committees, or any person under its supervision or control to appraise, or to study and collect information about, laws and policies of the Federal Government, or any other governmental authority in the United States, with respect to abortion.".

Mr. TREEN. Mr. Chairman, I am proud to join my colleague TOM HAGEDORN in proposing this amendment.

Our amendment is not designed to hamper the work of the Civil Rights Commission. Our purpose is to focus the Commission's attention on the issues for which it was created—denials of equal protection because of race, color, religion, sex, or national origin. Our colleagues in the minority of the Judiciary Committee have pointed out that the Commission has not issued one report on discrimination based in religion and national origin since 1970. We would encourage the Commission to spend more of its resources in those areas and less on promoting the cause of abortion.

I first became interested in this subject when the Commission issued a report in April 1975, entitled "Constitutional Aspects of the Right to Limit Childbearing." I reviewed the statute establishing the Commission, because I could not believe that Congress had granted the Commission authority to issue reports on abortion. Antiabortion measures, such as the Hyde amendment, did not seem to constitute a denial of equal protection of the laws on the basis of race, color, religion, sex, or national origin. I asked GAO to review the Commission's authority to issue such a report.

The Comptroller General requested the Commission's justification of its actions. To quote GAO:

Since minority women are disproportionately represented among the poor, it is the Commission's judgment that the abortion issue directly affects the rights of minority women to equal protection. In its report to us on this matter the Commission states that there is a widely recognized connection between race, ethnicity, and poverty and that it was in this context that poverty was discussed in the Report.

The Comptroller goes on to cite an opinion of the Commission's General Counsel that—

There is a substantial issue whether the criminal abortion laws embody an unjustified, unequal burden on women.

Mr. Chairman, no one denies that, unfortunately, minorities are disproportionately represented among the poor. But that analysis surely does not authorize the Commission to appraise every law or policy of the United States or one of its States that may impact poor persons. There are those in the executive branch who contend that the tax bill now before Congress benefits middle and upper income taxpayers more than lower income taxpayers. Is it then the responsibility of the Civil Rights Commission to advise Congress that enacting H.R. 13511 would amount to discrimination against poor women, among whom racial and ethnic minority women are disproportionately represented?

The Civil Rights Commission surely does not have the mission of advising Congress that it must spend public funds on services of one sort or another for the poor, because not to do so denies "equal protection" to racial and ethnic minorities.

If we accept the reasoning that led the Commission to enter the field of Federal and State abortion policy, there is no limit to the scope of Commission activities. Let me cite the comments of the late David W. Louisell, professor of law at the University of California at Berkeley in a letter inserted in the RECORD by Congressman KINDNESS on the Hyde amendment controversy:

There are many instances where a person has a constitutional right to do something, but no right to have the public pay for it. For example, one has a constitutional right to possess pornography, but no right to have the public pay for it, or to have it put on public library shelves. One has a constitutional right to freely travel in interstate commerce, but no right to governmental air plane tickets. One has the constitutional right to send his or her child to private school, but no right to have the school supported from public funds . . . To attempt to make a constitutional equal protection argument . . . is preposterous.

We are not concerned with whether a Government policy is wise or not. We have congressional committees, and offices for policy development in most agencies, to consider the wisdom of our policies. The role of the Commission is to evaluate those policies in terms of the Constitution of the United States, particularly in light of the equal protection clauses of the 14th amendment which our courts have found applicable to both State and Federal Governments.

The Commission has raised equal protection questions about abortion in the past. It raised them most directly in a communication of July 18, 1977—sent without being requested—to the conferees on the Labor-HEW appropriations measure in 1977. Chairman Arthur Fleming told the conferees:

The prohibitions sought to be imposed by the House and the restrictions voted by the Senate are punitive and racially and economically discriminatory.

The 1975 report was previewed in correspondence between Chairman Fleming and Senator BAYH in 1975 in which Fleming said the Commission specifically urged the defeat of the Bartlett amendment, a variation on the Hyde amendment.

The 1975 report, "Constitutional Aspects of the Right to Limit Childbearing," sent to every Member of Congress, predicted "in all likelihood" restrictions on the use of public funds to pay for abortions would be declared unconstitutional by the Supreme Court and counseled Members that in passing such amendments they were only forcing the poor to undertake the legal expense of challenging patently unconstitutional laws. I do not doubt some of my colleagues voted against the Hyde amendment because of constitutional doubts made more compelling by the views of the Civil Rights Commission.

The Commission's analysis was erroneous. The U.S. Supreme Court in Maher against Roe found that the lower court had erred in holding that Connecticut's restrictions on use of public funds violated the Equal Protection Clause of the 14th amendment. To quote the court:

This case involves no discrimination against a suspect class. An indigent woman desiring an abortion does not come within the limited category of disadvantaged classes so recognized by our cases. Nor does the fact that the impact of the regulation falls upon those who cannot pay lead to a different conclusion. In a sense, every denial of welfare to an indigent creates a wealth classification as compared to nonindigents who are able to pay for the desired goods or services. But this Court has never held that financial need alone identified a suspect class for purposes of equal protection analysis . . . The District Court read our decisions in *Roe* v. *Wade*, supra, and the subsequent cases applying it as establishing a fundamental right to abortion and therefore concluded that nothing less than a compelling state interest would justify Connecticut's different treatment of abortion and childbirth. We think the District Court misconceived the nature and scope of the fundamental right recognized in Roe . . . were we to accept appellee's argument, an indigent parent could challenge the state policy of favoring public rather than private schools, or of preferring instruction in English rather than German, on grounds identical to those advanced here . . .

Finally, let me note that the Supreme Court decisions which were considered in the Commission's 1975 report were decided on due process grounds, not on grounds of "equal protection." In fact, the court in Doe against Bolton specifically stated that the equal protection ar-

gument advanced by plaintiffs "collapsed in all significant aspects" because of the court's other holdings.

I have a copy of the Commission's 1975 report "Constitutional Aspects of the Right to Limit Childbearing" if anyone would like to examine how responsible the Commission has been in appraising policies in this area in the past. I think that all of you will agree that it does not represent the best example of constitutional analysis available. Not only does it erroneously state that only two-thirds of the States are needed to ratify a constitutional amendment, but the report describes State laws requiring the consent of both parents before an abortion as violating the 13th amendment proscription of involuntary servitude. It finds that our colleague BILL WHITEHURST can have no "rational" purpose in proposing a States' rights abortion amendment to the Constitution except a desire to breed litigation. Why, the Commission even goes so far as to claim the Whitehurst amendment would authorize States to compel persons with a requisite number of children to undergo abortions in subsequent pregnancies.

This type of "appraisal" we do not need. It only serves to erode the credibility of the Civil Rights Commission on other subjects. I urge your support of the Hagedorn-Treen amendment.

Mr. HAGEDORN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, the purpose of this amendment is to insure that the Commission does a better job in promoting legitimate civil rights objectives by making clear to it that it does not enjoy a roving commission to involve itself in whatever issue happens to momentarily attract its fancy.

In recent years, the Commission has made pronouncements, or issued weighty reports, on such issues as school busing, affirmative action, immigration, tuition tax credits, sterilization laws, insurance policies, and sex "stereotyping" on television. Although I personally question the propriety of the Commission asserting jurisdiction over much of this, I suppose that the creative and innovative legal counsels at the Commission can come up with some clever statutory justification.

I do not, however, read anything in the charter of the Commission which can justify its somewhat strident participation in the abortion controversy. This amendment would prohibit the Commission from further assertion of jurisdiction with respect to abortion.

In 1973, the General Counsel for the Commission, John H. Powell, Jr., expressed his opinion, in response to an inquiry from a Notre Dame law professor, that abortion was outside the ambit of Commission authority.

Shortly thereafter, with no change in statutory authority, and with no further direction from Congress or the appropriate committees, the Commission reversed this course. Its 1975 report on "The Constitutional Aspects of the Right to Limit Childbearing" concluded that virtually everything that Congress or the States wanted to do to limit the incidence of abortion, or the extent of public encouragement of abortion, was unconstitutional. The Commission even came to the remarkable conclusion that proposed amendments to the Constitution to limit abortions violated the 1st amendment of the Constitution.

The Commission managed to refute the antiabortion argument within the space of two sentences on page 74 of its analysis.

Since then, it has been active in lobbying Members of Congress in opposition to the Hyde amendment and similar measures. Its position can be summarized by its recommendations in its letter last year to conferees on the Labor-HEW appropriations bill:

> Congress should reject anti-abortion legislation and amendments and repeal those which have been enacted.

Mr. Chairman, I do not begrudge anyone their opinion on abortion. It is an issue that has heatedly separated this body on many occasions. But, whatever one's views on the substantive abortion issue, I think that most of us can agree that Federal agencies should not act on matters outside the purview of their legitimate authority. The issue of abortion, in itself, is a critical one—but, it is not a civil rights matter.

The Commission's statutory authority expressed in section 1975c(3) of the 1957 Civil Rights Act states that it shall appraise laws and policies of the Federal Government "in respect to denials of equal protection of the laws because of race, color, religion, sex, or national origin." Neither the Supreme Court decision in *Roe* v. *Wade* (410 U.S. 113), nor that in *Doe* v. *Bolton* (410 U.S. 179) was based upon a finding that State laws prohibiting abortion constituted denials of equal protection of the law.

In Doe against Bolton, the Court concluded that:

> The discrimination argument collapses in all significant aspects.

In both cases, State laws against abortion were struck down as violative of the due process clause of the 14th amendment which protected against State action what the Court referred to as the "right of privacy," including the "right" to terminate pregnancies.

Again in *Maher* v. *Roe* (432 U.S. 464), the Court held that abortion could not be justified on "equal protection" grounds finding that this provision did not require States participating in the medicaid program to pay nontherapeutic abortion expenses.

If both opponents of the Supreme Court decisions and the Supreme Court itself, as well apparently as a majority of this body, are in agreement that the abortion issue is not basically an "equal protection" issue, it seems rather presumptious of the Commission to act contrary to this. Whether the Commission likes it or not, their authority is limited. It has been limited by Congress to laws and policies which deny "equal protection of the laws of the Constitution."

To argue, as does the Commission that its involvement is on behalf of "equal protection of the poor" is quite simply to exceed its authority. It is, further, an argument on behalf of a Commission with few, if any, limits on its authority since there are few matters of economic policy that do not impact differently upon people based upon their wealth. In a sense, as noted by the Court in *Maher*, every denial of welfare benefits to an indigent creates a wealth classification as compared to nonindigents who are able to pay for such goods and services.

I strongly urge this body to pass this amendment so that the limited resources available to the Commission can be used in a manner in which they were intended.

[*Washington* v. *Davis* (426 U.S. 229): The disproportionate impact of a law, neutral on its face, does not warrant a conclusion of discrimination . . . A law is not unconstitutional solely because it has a racially disproportionate impact.]

Mr. EDWARDS of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, this is a most troubling amendment, and I hope that it is soundly defeated by the committee. It has aspects of book burning about it. Here we established an agency to report to us and to report to the American people and then we say that the agency cannot report to us. What are we afraid of? Have we not learned that restraints on free speech and on free inquiry are self-defeating?

The "Dear Colleague" letter of July 10 sent to us by the distinguished proponents of this amendment says that abortion is not a civil rights matter. I suggest that the authors of the amendment ask the distinguished gentlemen from Illinois (Mr. HYDE) the author of the Hyde amendment, who on April 5, 1976, in the CONGRESSIONAL RECORD at page 9414 states:

> The right to life is the most precious of all civil rights.

Or they should ask those who disagree with the gentleman from Illinois (Mr. HYDE) and who support free choice. They say that the right of privacy as enunciated by the Supreme Court protects women in their decision to choose an abortion. So both sides of this problem agree that the issue is one of civil rights.

The "Dear Colleague" letter also alleges that the General Counsel of the Commission stated that abortion is not within the scope of the Commission's authority. That statement is unsupportable. In 1971, yes, the General Counsel did say that there was no authority to examine "the effect of abortion on the rights of the unborn." This is still true. However, the "Dear Colleague" letter conveniently ignores the fact that in 1972 Congress expanded the Commission's jurisdiction to include discrimination on the basis of sex, and the General Counsel, Mr. Powell, concluded that this congressional action clearly gives the Commission authority to review abortion.

Mr. Chairman, the Commission has published over 250 reports since 1957. How many on abortion? One, and that was entitled, "The Constitutional Aspects of the Right To Limit Childbearing." Incidentally, this report does not advocate

abortions. There have also, between October 1977 and June 1978, been 112 congressional requests. How many have been requests on abortion? Only a few. The Commission by law must respond to congressional requests. One certainly cannot describe this as excessive.

Mr. Chairman, the Supreme Court has interpreted the Constitution in Roe against Wade and Doe against Bolton and has concluded that the law of the land is that the Constitution guarantees, with certain limitations, the woman's right to privacy in the decision as to whether or not to seek an abortion, and for Congress to rule with this amendment that we do not want to know more about this subject, that a publicly financed, factfinding agency may not study or report on this key issue seems to me to be timid, smacking of censorship, and totally not in keeping with a society whose very life depends on the free flow of information and ideas.

The Civil Rights Commission is an independent factfinding agency. It is bipartisan. It cannot be dominated by any political party. It has no enforcement power. Yes, from time to time it has suggested change. Sometimes we disagree with the suggestions that the Civil Rights Commission makes. It does not mean that we should indulge in congressional censorship. I certainly urge a no vote on the amendment.

Mr. DRINAN. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Massachusetts.

Mr. DRINAN. Mr. Chairman, I am happy to associate myself with the remarks of the chairman of the subcommittee. I concur fully with his judgment and his conclusions, and I hope the amendment is soundly defeated.

Mr. EDWARDS of California. I thank the gentleman from Massachusetts.

Mr. TREEN. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Louisiana.

Mr. TREEN. Mr. Chairman, with regard to the "Dear Colleague" letter the gentleman mentioned in which the gentleman from Minnesota (Mr. HAGEDORN) and I stated that abortion is not a civil rights matter, that sentence taken by itself is subject to the interpretation which the gentleman gave it.

The CHAIRMAN. The time of the gentleman from California (Mr. EDWARDS) has expired.

(On request of Mr. TREEN, and by unanimous consent, Mr. EDWARDS of California was allowed to proceed for 1 additional minute.)

Mr. TREEN. Mr. Chairman, will the gentleman yield further?

Mr. EDWARDS of California. I yield to the gentleman from Louisiana.

Mr. TREEN. Mr. Chairman, if I may proceed, in the context of our Dear Colleague letter, and as I tried to say in my remarks about my amendment, while abortion may be a civil rights issue, the Civil Rights Commission statute directs the Commission to study denials of equal protection of the laws under the Constitution. It does not grant jurisdiction over all so-called civil rights. There are a lot of rights, such as the right to counsel, the right to a speedy trial, and the right to travel from one State to another, but these certainly are not rights to which the Commission has been directed by the statute.

So we are not really saying that the abortion question is not a civil rights question in the broad sense of that term. But it is not an issue of discrimination based upon race, sex, or religion. Further, I reject the idea that an antiabortion provision amounts to discrimination based upon sex, although only women may have children. That would not be a gender-related discrimination. Such would apply to all persons who, of course, may have the capacity for childbearing.

Mr. BAUMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, when this bill was last debated on the floor on July 28, the gentleman from California (Mr. EDWARDS) and I engaged in a brief discussion of the amendment which was then pending, offered by the gentleman from Virginia (Mr. BUTLER) which would have outlawed lobbying by the Commission. That amendment was ultimately adopted.

At that time the gentleman from Maryland recalled to the gentleman from California (Mr. EDWARDS) the extreme and amazing coincidence last year when the Civil Rights Commission suddenly issued a report at the request of a Member of Congress—one of two such requests, I now learn from the remarks of the gentleman—asking for the opinion of this August Commission on the issue of abortion. The Commission report, which was lengthy and specific, citing the Constitution, the civil rights laws, and various other arguments, all in favor of abortion, appeared on the floor of this House, in the press, and in the media coincidental with a legislative battle on the so-called Hyde amendment at that time.

Since then the Commission report has been used repeatedly, as an argument in favor of Federal funding for abortions and indeed for abortion upon demand by the proponents of these odious views—at least many people hold them to be so.

It appears to me under the circumstances that the Civil Rights Commission has come down on the wrong side of the civil rights question. The right that we are concerned about is the right to life, a right of human beings that we thought was guaranteed even before the founding of this country. But the Commission has made itself an instrument of proabortion activities by its biased position on this issue, and by so doing it has placed itself as being against the most fundamental of all civil rights, the right to life.

Mr. Chairman, I think this amendment is perfectly in order, and the gentleman from Louisiana (Mr. TREEN) is certainly to be commended for offering it. I hope it is adopted.

● Mr. BUTLER. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Minnesota (Mr. HAGEDORN) and the gentleman from Louisiana (Mr. TREEN).

Mr. Chairman, whatever one's view on the substantive questions concerning abortion in the United States today, this amendment deserves careful consideration.

The duties and responsibilities of this Commission are spelled out quite clearly in its legislative charter. The Commission is charged with appraising laws and policies of the Federal Government with respect to the denials of equal protection of the laws because of race, color, religion, sex, or national origin.

The Commission insists that this is an area over which it has jurisdiction to study. The gentleman from Louisiana questions this.

Regardless of your view of this, Congress undoubtedly has the authority to say where the Commission shall direct its inquiries. I agree with the gentleman from Louisiana that the question of the availability of abortion is one that the Commission should no longer pursue.

This is merely another area in which the Commission has attempted to expand its role unwisely. The Commission is much too busy trying to keep its work in the eye of the public and the media instead of providing the hard facts for the Congress and the executive branch.

As I have noted before during this debate, the Commission has not produced one report since 1970, concerning denials of equal protection of the laws based on religion or national origin. Yet the Commission found time to publish an elaborate and very costly report on abortion.

A concise statement by Congress concerning our desires on the Commission's activities in this area would send a message to the Commission that the Congress is serious when it asked the Commission to study the areas mentioned in its legislative charter.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. TREEN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. M'CLOSKEY

Mr. McCLOSKEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. McCLOSKEY: Page 3, strike out line 10 and insert in lieu thereof the following: "year ending September 30, 1981. The President shall conduct an investigation of the Commission's overall performance, including the study of the Commission's effectiveness in accomplishing its functions and not later than 180 days before the Commission ceases to exist under subsection (d) make public and submit to each House of the Congress a report of the results of that investigation. The committees of the House and Senate having primary oversight responsibility with respect to the Commission shall, not later than 90 days before the Commission ceases to exist under subsection (d), each conduct an inquiry into the performance and effectiveness of the Commission and make public a report of that committee's findings, conclusions, and recommendations".

Mr. McCLOSKEY. Mr. Chairman, I offer this amendment to the Committee, which simply does two things. It extends the life of this Commission for 3 years instead of 5, and it requires that in the last 6 months of the Commission's statutory life that a study be made by the

President, as well as by the committees of jurisdiction of the House and the Senate, as to whether the Commission is doing the job which it is mandated.

Mr. Chairman, I would call to the Committee's attention that there are two fundamental concerns of the House in this connection. We have the very real desire that our civil rights laws be adequate and that they be enforced.

That the laws be adequate is the job of the Congress. We owe the duty to enact proper laws if existing laws are not adequate. And it is the job of the executive branch to enforce the civil rights laws that we enact. In that connection, we in the Congress exercise an oversight function on the executive branch to make sure that they are enforcing the laws, and, if they are not, that we see that they enforce the laws or that we change the laws to make them enforceable.

The sole question with this Commission is whether or not, in addition to the legislative function of the Congress and the executive branch's responsibility to enforce the laws, should there be an appropriate independent agency to monitor enforcement.

I would call the Committee's attention to the language of this statute as it appears in section 42 of the United States Code, title 42. It is called "Duties, Reports and Termination." And when we set up this Commission in 1957, it had a specified life. It was going to pass out of existence in 1960. We have extended this Commission time and time again, 2 years, 2 years. 5 years, and, by this legislation, we would propose to extend it for another 5 years.

Mr. Chairman, what are the duties of the Commission? To study, to report, and recommend. And since 1957, we have stated in the law that the Commission, when it came to an end, would issue a final report.

I would suggest to my colleagues who feel strongly about civil rights, as I do, that we strengthen the enforcement of the civil rights law if we direct this Commission to give us a final report in 3 years instead of in 5 years. We do no service to people who suffer under discrimination, whether it be on race or sex or age or the handicapped, as we have added to this law, by granting a 5-year deadline on a governmental agency to give us a final report.

Running all through this authorizing legislation is the fact that the Commission is asked to render reports and, ultimately, to render a final report. I submit that what we have done, instead, is to have created a Government agency which continues to exist, because as G. Northcote Parkinson, in his book, "Parkinson's Law," pointed out, once a governmental agency is created, it expands its own constituency, and its continuation becomes a matter of governmental inertia.

I think the message to this Congress and to every State legislature, from proposition 13, is the simple complaint of the people of the United States that it is time that legislative bodies look to the termination of government; that we look at agencies and commissions and departments that were created years ago to answer a purpose which in that time was important; that we look at agencies such as the Bureau of Reclamation, created over 80 years ago, the Corps of Engineers' dam building activities, the Law Enforcement Assistance Administration; that perhaps we ought to look at HUD. It may be time to abolish that agency as well. We are looking at the Federal Maritime Commission, wondering whether or not it has outlived its usefulness. This Congress took its first step in 22 years to abolish a Government agency a few months ago when we wiped out the Renegotiation Board.

The CHAIRMAN. The time of the gentleman from California (Mr. McCLOSKEY) has expired.

(By unanimous consent, Mr. McCLOSKEY was allowed to proceed for 1 additional minute.)

Mr. McCLOSKEY. Mr. Chairman, I think we should say to this Commission, which performs a function which admittedly should be the function of the executive and the legislative branches, that in 3 years we would like its final report, and that we say to the executive branch, "Let us try to terminate this agency by requiring its final recommendations to us in 3 years instead of in 5 years." If those recommendations are to strengthen the law or to strengthen the enforcement of the law, that we do it as an act of Congress and that we follow up on our legislative responsibilities.

The existence of this Commission in 1978 presupposes either that our laws are not adequate or that they are not being adequately enforced. The remedy for either problem is not necessarily the continued existence in perpetuity of a governmental agency that was set up originally for only a 2-year life, but which we have now extended to a 20-year life.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from Missouri.

Mr. VOLKMER. I thank the gentleman for yielding.

Mr. Chairman, if the agency does terminate in 3 years and the final report is made, is it the gentleman's position then that the function presently performed by the Civil Rights Commission would also end and there be no Government agency handling civil rights, as far as determining whether or not they are being adequately enforced?

The CHAIRMAN. The time of the gentleman from California has again expired.

(At the request of Mr. VOLKMER and by unanimous consent, Mr. McCLOSKEY was allowed to proceed for 2 additional minutes.)

Mr. McCLOSKEY. That is correct. Studies, recommendations, and reports by an outside agency as to how the law is being enforced or whether the laws are adequate are properly functions of the Justice Department of the United States, and of the Congress. It seems to me that we postpone our responsibility in that respect by delegating it to an outside commission.

Mr. VOLKMER. Then, as far as determining whether or not the civil rights of individuals—and that is what we are talking about—are being protected and being enforced in this country, that would end also at the end of 3 years, is that correct?

Mr. McCLOSKEY. Not at all. We are a nation of laws and not of men, but I do not see the need for an additional agency to monitor the laws or the enforcement of the laws by the Government agencies charged with those responsibilities. What we are saying by extending this year after year after year is that we do not know yet whether our laws are adequate, and we do not believe they are properly enforced.

Mr. VOLKMER. I think the gentleman will find from the reports of the Commission and the testimony before us in the hearings that there are violations still prevalent throughout this country in housing and employment and in other areas.

Mr. McCLOSKEY. And if those violations are occuring, they should be enforced under the law, and we should mandate the appropriate agency to do so. Let me quote the gentleman's question from page 4 of the report:

"Whether the Commission's life should be extended." Yes.

"(a) Has its mandate to investigate and identify possible civil rights violations been achieved?" No.

Why give them 5 years? If they cannot do the job in 3 years, they should not do it at all. We should not put a fraud in the law that we mean to terminate an agency at some future time, and then not terminate it. By extending it, we indicate that they cannot do the job.

Mr. VOLKMER. Can we by law, then, change attitudes of individuals?

Mr. McCLOSKEY. I think enforcement of the law speedily encourages people who are violating it to stop violating it. That is the whole purpose. If one is discriminating based on race, then one ought to go to jail.

Mr. VOLKMER. We have had laws affecting housing, employment, for a good many years, have we not?

Mr. McCLOSKEY. We have, and if those laws are not adequate, it is our duty to change those laws, but we could create a governmental agency for many, many bona fide purposes. What I am questioning is that this committee in its interrogations did not ask the key question: Do civil rights problems today require the assistance of an unusual government organization to do that which the Congress and the executive branch should do?

"Has its mandate to investigate and identify possible civil rights violations been achieved?" No.

Has it been duplicated by other Federal agencies or departments? No. But, should it exist in perpetuity?

Mr. VOLKMER. Not necessarily in perpetuity, but for 5 years.

The CHAIRMAN. The time of the gentleman from California has expired.

(At the request of Mr. SEIBERLING and by unanimous consent, Mr. McCLOSKEY was allowed to proceed for 1 additional minute.)

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield for a question?

Mr. McCLOSKEY. I will be glad to yield to the gentleman from Ohio.

Mr. SEIBERLING. I have a little difficulty understanding what the difference is between 3 years and 5 years in the gentleman's thinking, yet it makes a difference, it seems to me, in terms of the ability of this Commission to really cover this field which, as we know, is a very much bigger field than we thought 22 years ago when this Commission was created. At that time, we were talking about a comparatively narrow range of discrimination, and since that time our consciousness has been raised.

We are now conscious that there is discrimination on the basis of sex, handicaps, Spanish language, et cetera—a whole range of discriminations that we were not consicous of, or most people were not. Why should we not give them an adequate amount of time?

Mr. McCLOSKEY. I might agree, but can the gentleman cite to me any task of Government today, whether it is development of an energy policy or development of a SALT posture or development of a civil rights posture, in which we would permit 5 years to carry out the intention of the law? The mandate of this Commission is clear. It is to study, to report, and to recommend. I know of no single task in Government in which that should not be accomplishable within 3 years.

Mr. EDWARDS of California, Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this proposed amendment disturbs me greatly because it suggests a lack of knowledge and appreciation for the circumstances surrounding the creation of the Commission, its 21-year record and reputation for outstanding scholarly and objective work, and the authorization and oversight activities and responsibilities of the congressional committees and the President.

I can appreciate the need for "strong language" in a "Dear Colleague" to attract the reader's attention but at some point form must give way to substance.

Although the Commission's charter, the Civil Rights Act of 1957, and subsequent congressional action have designated it a temporary agency, we must look back to what was happening in 1957 at the time of its creation. To some, its temporary nature was justified by the hope that the American ideals embodied in the Constitution would be realized by all American citizens. But a realistic assessment of the legislative history surrounding its creation makes clear that regional animosities coupled with persons unwilling to begin the painful but necessary process of equitable change were far from enthusiastically supporting the Commission's establishment.

In retrospect, the Commission should have been established as a permanent agency to be subsequently terminated when the guarantee of equality of rights becomes truly available to all. Its temporary nature was and continues to be the necessary compromise for its creation by the 85th Congress and its continuation by the 95th Congress.

Both congressional oversight committees were mindful of this concern and asked each of the witnesses to address the issues of the length of the extension. Those most competent to respond to this point, representatives of civil rights and civil liberties organizations, unanimously agreed that the Commission's life should be extended for at least an additional 5 years.

In fact, each of the points raised by the gentleman from California have always been raised, addressed, and answered, most recently in our subcommittee and its report, when discussing Commission authorization and/or appropriations.

Let us again go back to the experts—leaders in the civil rights community—that is why we ask them to testify; is it not? They unanimously answered "no" to the allegation that the Commission's work is duplicative of other Federal agency studies.

I feel it is important to quote the statements of two of the witnesses on this issue—Clarence Mitchell, dean of the civil rights leaders and chairman of the Leadership Conference, representing 149 civil rights organizations; and Drew S. Days, Assistant Attorney General of the Civil Rights Division of the Department of Justice and speaking on behalf of the President:

Mr. Days stated in part:

> Commission reports have provided us with a clear concise statement of the problems confronting minorities and women in these areas and some helpful suggestions as to how the Justice Department, among other agencies, could perhaps make a meaningful contribution in dealing with these problems. . . . It is very difficult for any institution, even the most well-meaning and even with people at the head who have a very profound commitment to vindicating civil rights, to do that type of self-analysis and to be adequately critical of one's own performance, to make the types of changes that are necessary.
>
> And certainly, the Civil Rights Commission has not pulled many punches in this regard. They have criticized where criticism is due. And I think we have gained in the Justice Department from that attitude on the part of the Commission.

Mr. Mitchell provided the following cogent views:

> Some studies of the Commission may contain data that is similar to that buried in the archives of other Government agencies. But nowhere else can one find the comprehensive, correctly interpreted, constructively oriented materials that the Commission publishes. As a matter of fact, much of the information circulated by the Commission is dragged from reluctant Government agencies, who realize it could put them in an unfavorable light for not fulfilling their civil rights responsibilities.
>
> If in rare cases there is some duplication, perhaps it would be the wiser course to transfer the authority of the duplicating agency on that particular subject to the Commission.

It is true that the Commission's budget has grown since its inception in 1957. Inflation is but a partial explanation; more importantly, its responsibilities and areas of review have increased. Let me remind my colleague that his years in the Congress have been those very years where there have ben significant and meaningful changes in civil rights legislation, judicial decisions and executive action. Early Commission investigations and reports focused on blacks who were denied their right to vote—as a result of that early work the Congress enacted the Voting Rights Act of 1965. Today, the Commission looks to the problems confronting other racial and ethnic minorities, women, and in a recent special report, the aged.

These reports and recommendations have been and, I hope, will continue to be incorporated into legislative and executive action. The Commission has courageously identified our strengths and weaknesses as we meet the goal of equality of rights.

The allegation that the Commission has come "under increasing fire" for working "outside its congressionally mandated jurisdiction" is simply not supported by the facts. I ask my colleague to consider his understanding of human nature and the propensity of persons to characterize as ultra vires what is really a difference in point of view. Let me suggest that this is at the root of this allegation. Let the opponents come forth with facts and not unsubstantiated allegations.

I strongly disagree with the gentleman's statement that—

> Congressional oversight of the Commission has been limited to routine approval of additional money over and above the limit set by Congress itself 5 years ago.

Our most recent authorization and extension hearings delved deeply into the issues of usefulness of the Commission's work. The hearings in recent years have come to be internal and, on occasion, combative, as serious oversight hearings must be to be effective.

In addition we have had the Commission testify on their reports as well as on civil rights issues of concern to the subcommittee and to the Congress. We are well informed on past and present Commission activities at the national level and, perhaps more importantly, at the grassroots level in the several States. All of these hearings have occurred since the last extension in 1972.

Mr. Chairman, I strongly urge a no vote on this amendment. To leaders in the civil rights community and their constituencies such a provision must appear to be, at its best, a lack of understanding of the problems confronting millions of Americans who are older, nonwhite, poor, women, or handicapped and, at its worst, an effort to turn back the clock on the successes of the civil rights movement or any future civil rights legislation. We must all recognize that the promulgation of civil rights legislation is but the beginning—we are still awaiting the results of effective and lasting enforcement. And, the Commission is critical in the assessment of that enforcement effort.

Clarence Mitchell noted that perhaps at some future date he or other civil rights leaders can testify that the Sun should set on the Commission. He reminded us that he cannot make that

statement now because discrimination is still rampant, despite the significant progress that has been made in suppressing it since passage of the Civil Rights Act of 1957, when the Commission was first established:

It is simply unrealistic to believe that the effects of injustices that have occurred for over 300 years could be discovered and cured in two years, the original term of the Commission, or in the 21 years it has actually been in operation.

Many questions regarding the denial of rights to women, blacks, Chicanos, Puerto Ricans, Native Americans, other minorities, the poor, the aged, and the handicapped remain unanswered.

It is difficult for many of us here to appreciate the magnitude of these concerns but, let us not stifle this most important voice. We must recognize the need for the Commission until the rights guaranteed in the Constitution are rights available to all Americans.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from California (Mr. McCLOSKEY).

Mr. McCLOSKEY. Mr. Chairman, I hope it is not inferred from my offering this amendment that I am questioning the value of the Commission or the value of its services. I have a tremendous respect for its vice chairman, Stephen Horn, who I think has done a superb job.

The question here is should it exist permanently? The chairman has said there may have been reason to commit it to a permanent condition, but if so, we should create a permanent institution and not one under the guise of extending it for 2 years or 5 years, talking about a temporary commission when we really want a permanent one.

My suggestion is that if it is a temporary commission like the Commission on Pornography, the Commission on Marihuana and the Commission on Population, for example, that have all been given a limited time, as was this one apparently at the time when it was created, then we should do so. I certainly agree with the gentleman that until we passed the 1964 Civil Rights Act, and the 1965 Voting Rights Act, it would have been perfectly justified to extend it, but would it not be doing a better job in making its final report, under this statute, if we gave it a 3-year limitation and not a 5-year limitation, as the chairman has suggested?

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Chairman, I thank the gentleman for the observations he has made and for yielding to me.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. EDWARDS of California, and by unanimous consent, Mr. McCLOSKEY was allowed to proceed for 2 additional minutes.)

Mr. EDWARDS of California. Mr. Chairman, if the gentleman will yield still further, let me say that I just wish the gentleman from California (Mr. McCLOSKEY) had picked out a better vehicle for his amendment, because if his amendment goes through, and I certainly hope it does not, it will be a signal to the civil rights leaders, in their communities to their constituencies, and, indeed, the disadvantaged people throughout America, that we have a complete lack of understanding of the problems confronting millions of Americans who are older, who are nonwhite, and who are women, and that it may be viewed as an effort to turn back the clock on the success of the civil rights movements, or for any future civil rights legislation.

Mr. BUTLER. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment offered by the gentleman from California (Mr. McCLOSKEY).

In fact, I am somewhat horrified that the gentleman from California (Mr. EDWARDS) has suggested that should we pass this amendment, it will be a signal to the poor, to the unemployed, to those who are disadvantaged and, indeed, perhaps to the whole world that we do not care. The fact is that all this amendment does is limit the extension to a 3-year period instead of 5 years, and adds a sunset provision.

Not only that, Mr. Chairman, but the Senate has already done so in its version of the legislation. Therefore, the Senate has already sent that signal out, because it adopted an amendment limiting the extension to 3 years.

That is all this amendment would do.

Mr. Chairman, there is considerable evidence to support both a reduction in the Commission's extension and the addition of the sound principle of sunset.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr BUTLER. I yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Chairman, I thank the gentleman for yielding, but I am afraid the gentleman from Virginia (Mr. BUTLER) has misread the amendment. The amendment does more than simply reduce the time to 3 years, it requires the President to conduct an investigation as to the problem and invests the House and Senate with the primary oversight. All of this is already done but, even so, the amendment does require more than the gentleman suggests.

Mr. BUTLER. The gentleman is entirely correct. That is the sunset provision, but there is also a 3-year provision instead of a 5-year provision. That is the real crux of it, reducing the extension from 5 to 3 years and it does have a sunset provision.

The Commission, if the gentleman recalls, was able to operate for under $1 million a year for the first 7 years of its existence. During its first 14 years, the Commission produced several major studies on voting rights, school desegregation, equal employment opportunity, and other civil rights issues of major importance at a cost of no more than $4 million per year. As recently as 1975, the Commission performed its congressionally mandated tasks for less than $7 million. During the last 3 years, however, the agency has received funding increases of close to 30 percent a year.

I am afraid that if we do not invoke sunset and limit the life of this Commission and take a sound look at what it is doing, we will not review their programs again until we are asked for another extension 5 years hence. The last extension was for a 5-year period. The only reason we saw the Commission during the intervening years was because they had to come back to the Congress and request additional money over and above their authorization ceiling. Five years ago Congress set a limitation on the Commission's appropriation at $7 million per year, and last year we approved $10,480,000.

It appears that the oversight we performed has not gotten the Commission back on track.

Not only did we find that their costs were escalating at an exorbitant level, but their work was duplicative of work performed by other Federal agencies.

Moreover, testimony in the subcommittee proved that the Commission is totally ignoring its jurisdiction to study religious and national origin discrimination. Not one report on either subject has been issued since 1970.

The subcommittee also expressed concern that the Commission's projects and reports were clearly on the borderline if not outside congressionally mandated jurisdiction. The subcommittee found that such projects as studying forcible rape against women, domestic violence, and coerced sterilization were duplicative of work performed by other Federal agencies and peripheral to the Commission's functions.

The Subcommittee on Civil and Constitutional Rights must continue to oversee the work of this Commission, and the Congress should have the opportunity to decide whether or not this group should continue beyond fiscal year 1981.

While I do not relish the idea of having to review the work of the Commission during the next 3 years, it is a necessity and our duty.

I believe that governmental units should go out of business when they no longer do the job they were originally established to perform. Sunset provisions are a valuable legislative tool; agencies are forced to do their job the way Congress intended. Congress should decide whether this Commission should stay in business in 3—not 5—years, and we should look to see what they are doing in order to find out whether they are performing their functions properly. That is what sunset provisions are all about.

Mr. Chairman, I commend the gentleman from California (Mr. McCLOSKEY) for his very well-thought-out and carefully drafted amendment.

I support the McCloskey amendment and urge the membership to do likewise.

Mr. SEIBERLING. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I just want to make this comment: I strongly support the concept of "sunset" provisions. I think that is the only way we are going to get a periodic, indepth review of the necessity or justification for the continuance of all of these programs and agencies which we create. Obviously, many of them have fulfilled their original objectives. I do not think we can say, and I do not understand that the gentleman from California is saying, that this Commission has outlived its usefulness. He is saying that at the end of 3 years he thinks it can complete its job. I say, then, let us give it what the subcommittee, after full hearings, decided was needed, namely, 5 years.

I do not see that we are opposing the "sunset" principle here, but let us not start out with the Civil Rights Commission as the first place in which we enforce a truly limiting sunset provision.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from California.

Mr. McCLOSKEY. Mr. Chairman, there really was no intent to single out the civil rights legislation. It just happened to come along.

The first step where we accomplished sunset, if the gentleman will remember, was the consumer bill, which was ultimately defeated. When we created the consumer agency, we agreed that it should terminate at the end of 5 years.

Just a few months ago, in fact, in a vote in July, we abolished the Renegotiation Board.

Mr. SEIBERLING. I voted against abolishing it.

Mr. McCLOSKEY. This is the next agency in line. There is certainly no intent to send a signal to the civil rights movement that we want to weaken it. Actually, if this Commission does its job in 3 years, hopefully, we will strengthen civil rights enforcement.

Mr. SEIBERLING. I think that the gentleman is trying to make a point here which is not a substantive point but a symbolic point, because whether it is 3 years or 5 years is not really a matter of great moment. I think what the gentleman is trying to do is to get us to send a message that we think perhaps the time for this Commission is at an end. I do not think that is so, and I do not think our committee's hearings support any such conclusion.

Mr. McCLOSKEY. If the gentleman will yield further, I want to say I agree with that last statement. It is not an attempt to say that the civil rights problem is at an end. It is an attempt to say if we are going to end it, let us have the recommendations of this committee, act on them in 3 years, instead of 5.

Mr. SEIBERLING. I think a strong case has been made out here for doing what we ought to be doing, and that is support the committee that has done the work and explored the subject in depth, instead of trying to rewrite this bill on the floor.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. McCLOSKEY).

The question was taken; and on a division (demanded by Mr. BUTLER) there were—ayes 14, noes 27.

So the amendment was rejected.

● Mr. GOLDWATER. Mr. Chairman, I intend to vote against the Civil Rights Commission Act of 1978, which is now before the House. I do so for three reasons, and only for these reasons.

First, the bill extends the jurisdiction of the Commission to the areas of age and physical disability. The Department of HEW currently has jurisdiction over these areas. There is no evidence that HEW is improperly or insufficiently executing its responsibilities. There is evidence that the Civil Rights Commission is already overburdened.

Second, I see in this bill the continuation of past congressional habits of expanding the Federal bureaucracy and spending more money in the process. Efficiency in Government must be one of our prime concerns and I do not see that concern reflected in this bill.

Third, the hearings held by the Judiciary Committee clearly reveal that the Civil Rights Commission is not carrying out all of its currently mandated responsibilities, particularly in the areas of discrimination based on religion and national origin.

While I understand the concern and motivation of the authors of this bill, I cannot support its administrative expansion and increased funding level when the current activities of the Commission are clearly indicated to be deficient. The taxpayer rightfully expects efficiency and effectiveness and deserves nothing less.●

● Mr. LEGGETT. Mr. Chairman, in 1957, the Truman Committee established an independent commission to insure that our Nation's civil rights policy served our society's needs. Since that time, the civil rights issue has mushroomed—more inequalities have emerged then have been resolved—and the focus of public attention, which it once singularly occupied, must now be shared with other major national issues. It is my view that now, more than ever, Congress needs the direction in civil rights that only this vital Commission can provide.

The Commission still offers an unbiased continuing appraisal of the status of civil rights, it oversees the usefulness of civil rights programs, and from its unique perspective, it can identify the inconsistencies and fill in the gaps of our civil rights policy. Although the executive agencies enforce our civil rights policy, the Commission, with its 51-State Advisory Committees insuring that programs and legislation are effective on the local level, coordinates the Nation's civil rights policy.

I urge my colleagues to vote in favor of the extension of the Civil Rights Commission. The termination of this one vital agency would mean that the agencies it oversees would not be monitored, would preclude the successful resolution of the emergent civil rights problems, and most seriously, would mean a sporadic treatment of one of this Nation's most chronic ills.

Much of the resources allocated to this Commission finance its role as the objective monitor of both the progress of civil rights agencies and the efficacy of civil rights legislation. What is, perhaps, its greatest contribution to this end is a series of evaluative studies called the Federal Civil Rights Enforcement Effort. In 190 reports to date, the Commission has provided both Congress and the executive branch with detailed information on the extent to which certain departments, for instance Health, Education, and Welfare, Housing and Urban Development, the Veterans' Administration, the Internal Revenue Service, perform their civil rights responsibilities in the areas of housing, education, employment, and revenue sharing.

Congress needs such an objective watchdog for information on the status of civil rights. We are in a sorry position when we must gather information from the various executive agencies who have a bureaucratic stake in making themselves look good. Because the Commission's value is determined, in part, by its success as the watchdog of civil rights reform, it has no interest in misrepresenting progress in the field of civil rights. As long as there are agencies to enforce civil rights policies, the Civil Rights Commission is needed to insure that the conscience of the Nation is accurately reflected in Government activity.

The Commission has a substantial indirect effect on policy information and its enforcement. Its influence in the policy making process is best reflected in the President's Reorganization Act of 1978 which embodies the Commission's recommendation to reform and strengthen the Equal Employment Opportunity Commission. As a result, the EEOC has become the leading agency in fair employment enforcement. The Civil Rights Commission's prominent role in civil rights legislation has also lead to the amendments to the Voting Rights Act, the Equal Opportunity Act, the Civil Rights Attorney's Fees Act, the nondiscriminatory provisions of the State and Local Fiscal Assistance Act, and the Mortgage Loan Disclosure Act. Unfortunately, legislation once passed, is never self-enforcing. The Commission, by virtue of the fact that it looks over the shoulder of such departments as Justice, Health, Education, and Welfare, Housing and Urban Development, plays an essential role in the enforcement of civil rights policies.

Congress relies on the Commission to identify the gaps in our civil rights policies and to determine the corrective measures needed to remedy discriminatory practices. The Commission's investigations of specific complaints of denial of the right to vote have resulted in Congress's extension of the Voting Rights Act of 1975. Their illuminating research in the area of non-English-speaking peoples has led to requirements of bilingual elections, the first definitive study on discrimination against Mexican-American children in the schools, and the expansion of numerous bilingual civil rights

programs. In response to its mandate to study the denial of equal protection of the laws in the administration of justice, the Commission has explored the area of civil rights violations among the administrators of justice which are most often in contact with our constituent—the local police departments.

The bill which is presently under consideration would authorize the Commission to investigate discrimination in a relatively untreated area—civil rights violations against the aged and the handicapped. If Congress expects to advance the cause of civil rights in the area of institutionalized persons, a proposal which we are also considering today, research on those people most often institutionalized, the aged and the handicapped, would be indispensable.

Congress, in view of both the recent and pending decisions in the civil rights area, needs the leadership of the Civil Rights Commission now more than ever. As the Bakke verdict, recently handed down by the Supreme Court, provides no definitive instruction on the enforcement of affirmative action programs, the Commission, through its network of State advisory committees, could provide Congress with the guidance to proceed to implement the decision by identifying those areas where discrimination exists and where the need for affirmative action is most pressing.

When the equal rights amendment is ratified, the Commission's function as a source of information to the public would help guarantee these significant advances in the eradication of sex discrimination will not be turned into unfortunate retreats. Through research and the collection of factual data, the Commission could help to insure that the ERA's broad language is translated into viable legislation.

When an executive agency or commission has accomplished all that it was created to do, when it has solved society's problems and has ceased to be useful, then I am quick to advocate that agency's termination. It is my regret, however, that the termination of the Civil Rights Commission would be premature. I wish that bureaucratic agencies were always responsible, that civil rights legislation was self-enforcing—but better yet, that the civil rights problems affecting this Nation cease to exist. It is my view that the work of the Civil Rights Commission is not yet finished. Unless Congress is prepared to assume the immense task of direct oversight of civil rights operations, to identify and fill the gaps of our civil rights policy, and is willing to proceed blindly in the implementation of nebulous civil rights decisions, I urge my colleagues to vote for the extension of the Civil Rights Commission.●

The CHAIRMAN. Are there further amendments? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. DE LA GARZA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 12432) to extend the Commission on Civil Rights for 5 years, to authorize appropriations for the Commission, to effect certain technical changes to comply with changes in the law, and for other purposes, pursuant to House Resolution 1235, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment?

Mr. BAUMAN. Mr. Speaker, I demand a separate vote on the Treen amendment.

The SPEAKER. Is a separate vote demanded on any other amendments? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment: Page 3, strike out the quotation marks on line 5, and after line 5 insert the following:

"(f) Nothing in this or any other Act shall be construed as authorizing the Commission, its Advisory Committees, or any person under its supervision or control to appraise, or to study and collect information about, laws and policies of the Federal Government, or any other governmental authority in the United States, with respect to abortion.".

The SPEAKER. The question is on the amendment.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 234, nays 131, not voting 67, as follows:

[Roll No. 725]

YEAS—234

Akaka
Ambro
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Aspin
Badham
Bafalis
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Biaggi
Blouin
Boggs
Boland
Bonior
Bowen
Breaux
Broomfield
Brown, Mich.
Brown, Ohio
Burgener
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Caputo
Carney
Carter
Cederberg
Clausen, Don H.
Cohen
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Cornell
Cotter
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Delaney
Dent
Derwinski
Devine
Dingell
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fish
Fithian
Florio
Fountain
Gammage
Gaydos
Gephardt
Ginn
Glickman
Goldwater
Goodling
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hall
Hammer-schmidt
Hanley
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Howard
Hubbard
Hughes
Hyde
Ichord
Ireland
Jacobs
Jenkins
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kindness
Lagomarsino
Latta
Le Fante
Leach
Lederer
Lent
Livingston
Long, La.
Lott
Lujan
Luken
McClory
McDade
McDonald
McEwen
McHugh
McKay
Mahon
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mazzoli
Michel
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Patten
Perkins
Pike
Price
Pursell
Quayle
Rahall
Railsback
Regula
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Rooney
Rousselot
Rudd
Runnels
Russo
Santini
Satterfield
Sawyer
Schulze
Sebelius
Shuster
Sikes
Skelton
Skubitz
Slack
Smith, Nebr.
Snyder
Spence
St Germain
Staggers
Stangeland
Stanton
Steed
Steiger
Stockman
Stratton
Taylor
Traxler
Treen
Trible
Ullman
Vander Jagt
Vento
Volkmer
Waggonner
Walker
Walsh
Wampler
Whalen
White
Whitehurst
Whitley
Whitten
Wilson, Bob
Winn
Wolff
Wright
Wylie
Yatron
Young, Fla.
Young, Mo.
Zab'ocki
Zeferetti

NAYS—131

Addabbo
Anderson, Calif.
Anderson, Ill.
Ashley
AuCoin
Baucus
Bedell
Bingham
Blanchard
Bolling
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm
Clay
Cleveland
Collins, Ill.
Conyers
Corman
Danielson
Dellums
Derrick
Dicks
Diggs
Dodd
Downey
Drinan
Eckhardt
Edgar
Edwards, Calif.
Evans, Colo.
Fascell
Fenwick
Findley
Fisher
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frenzel
Giaimo
Gilman
Gonzalez
Gore
Green
Hamilton
Hannaford
Harkin
Harris
Hawkins
Holtzman
Horton
Jeffords
Jenrette
Johnson, Calif.
Jordan
Kastenmeier
Keys
Kostmayer
Krebs
Leggett
Levitas
Lloyd, Calif.
Long, Md.
Lundine
McCloskey
McCormack
McFall
McKinney
Maguire
Mann
Mattox
Meeds
Metcalfe
Meyner
Mikulski
Mineta
Mitchell, Md.
Moffett
Moorhead, Pa.
Moss
Nedzi
Nix
Ottinger
Panetta
Patterson
Pease
Pepper
Pickle
Preyer
Pritchard
Rangel
Reuss
Rogers
Roncalio
Rose
Rosenthal
Roybal
Ryan
Sarasin
Scheuer
Schroeder
Seiberling
Sharp
Simon
Smith, Iowa
Solarz
Stark
Steers
Stokes
Studds
Thompson
Thornton
Tucker
Udall
Van Deerlin
Vanik
Walgren
Waxman
Weaver
Weiss
Wilson, C. H.
Wilson, Tex.
Yates

NOT VOTING—67

Abdnor
Alexander
Ammerman
Armstrong
Bellenson
Bevill
Bonker
Broyhill
Buchanan
Burke, Calif.
Burke, Fla.
Byron
Chappell
Clawson, Del
Cochran
Cornwell
Dickinson
Dornan
Duncan, Oreg.
Flippo
Flood
Flowers
Flynt
Forsythe
Fraser
Frey
Fuqua
Garcia
Gibbons
Hansen
Harrington
Harsha
Huckaby
Johnson, Colo.
Kasten
Krueger

LaFalce
Lehman
Lloyd, Tenn.
Madigan
Mikva
Milford
Miller, Calif.
Pattison
Pettis
Poage
Pressler
Quie
Quillen
Richmond
Rodino
Rostenkowski
Ruppe
Shipley
Sisk
Spellman
Stump
Symms
Teague
Thone
Tsongas
Watkins
Wiggins
Wirth
Wydler
Young, Alaska
Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Cornwell for, with Mr. Krueger against.

Mr. Kasten for, with Mrs. Burke of California against.

Until further notice:

Mr. Chappell with Mr. Richmond.
Mrs. Lloyd of Tennessee with Mr. Abdnor.
Mr. Bevill with Mr. Cochran of Mississippi.
Mr. Garcia with Mr. Forsythe.
Mr. Fuqua with Mr. Johnson of Colorado.
Mr. Lehman with Mr. Mr. Quillen.
Mr. Mikva with Mr. Pressler.
Mr. Teague with Mr. Quie.
Mr. Rodino with Mr. Armstrong.
Mr. Rostenkowski with Mr. Madigan.
Mr. Shipley with Mr. Dickinson.
Mr. Wirth with Mr. Frey.
Mr. Alexander with Mr. Broyhill.
Mr. Ammerman with Mr. Dornan.
Mr. Bellenson with Mr. Ruppe.
Mr. Byron with Mr. Hansen.
Mr. Flippo with Mr. Buchanan.
Mr. Harrington with Mr. Harsha.
Mr. Bonker with Mr. Burke of Florida.
Mr. Flood with Mr. Del Clawson.
Mr. Duncan of Oregon with Mr. Fraser.
Mr. LaFalce with Mr. Gibbons.
Mr. Miller of California with Mr. Huckaby.
Mr. Pattison of New York with Mr. Milford.
Mrs. Spellman with Mrs. Pettis.
Mr. Stump with Mr. Sisk.
Mr. Watkins with Mr. Young of Alaska.
Mr. Thone with Mr. Wiggins.
Mr. Tsongas with Mr. Wydler.
Mr. Flowers with Mr. Flynt.

Messrs. LEDERER, NOLAN, and MAHON changed their vote from "nay" to "yea."

Mr. GORE changed his vote from "yea" to "nay."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3067) to extend the Commission on Civil Rights for 3 years, to authorize appropriations for the Commission, to effect certain changes to comply with other changes in the law, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3067

An act to extend the Commission on Civil Rights for three years, to authorize appropriations for the Commission, to effect certain changes to comply with other changes in the law, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Rights Commission Act of 1978".

SEC. 2. (a) Section 103(a) of the Civil Rights Act of 1957 (42 U.S.C. 1975b(a)) is amended by striking out "section 5 of the Administrative Expenses Act of 1946, as amended (5 U.S.C. 73b–2; 60 Stat. 808)." and inserting in lieu thereof the following: "section 5703 of title 5 of the United States Code.".

(b) Section 103(b) of the Civil Rights Act of 1957 (42 U.S.C. 1975b(b)) is amended by striking out "the provisions of the Travel Expenses Act of 1949, as amended (5 U.S.C. 835–42; 63 Stat. 166)" and inserting in lieu thereof the following: "subchapter I of chapter 57 of title 5 of the United States Code".

SEC. 3. (a) Section 104 of the Civil Rights Act of 1957 (42 U.S.C. 1975c) is amended—

(1) in each of subsections (a)(1) and (a)(2) by inserting "age, handicap," after "sex,";

(2) in each of subsections (a)(3) and (a)(4), by inserting ", age, handicap," after "sex";

(3) in subsection (a)(2) by inserting "discrimination or" before "a denial";

(4) in each of subsections (a)(3) and (a)(4), by inserting "discrimination or" before "denials";

(5) by redesignating paragraph (6) of subsection (a) as subsection (b);

(6) by redesignating subsections (b) and (c) as (c) and (d), respectively; and

(7) by adding at the end the following:

"(e) As used in this section, the term 'handicap' means, with respect to an individual, a circumstance that would make that individual a handicapped individual as defined in the second sentence of section 7(6) of the Rehabilitation Act of 1973 (29 U.S.C. 76(6)).".

(b) Subsection (b) (which is redesignated as subsection (c) by this Act) of section 14 of the Civil Rights Act of 1957 (42 U.S.C. 1975c(b)) is amended by striking out "fiscal year 1978" and inserting in lieu thereof "the fiscal year ending September 30, 1981".

SEC. 4. Section 105(a) of the Civil Rights Act of 1957 (42 U.S.C. 1975d(a)) is amended by striking out "and who shall receive compensation at a rate, to be fixed by the President, not in excess of $22,500 a year".

SEC. 5. Section 105(c) of the Civil Rights Act of 1957 (42 U.S.C. 1975d(c)) is amended by striking out "composed of citizens of that State and" and inserting in lieu thereof the following: "as it deems advisable but the Commission shall constitute at least one such advisory committee within each State. The Commission".

SEC. 6. Section 105(d) of the Civil Rights Act of 1957 (42 U.S.C. 1975(d)) is amended by striking out "sections 281, 283, 284, 434, and 1914 of title 18 of the United States Code, and section 190 of the Revised Statutes (15 U.S.C. 99)" and inserting in lieu thereof the following: "sections 203, 205, 207, 208, and 209 of title 18 of the United States Code".

SEC. 7. Section 106 of the Civil Rights Act of 1957 (42 U.S.C. 1975e) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 106. There are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act during fiscal year 1979.".

MOTION OFFERED BY MR. EDWARDS OF CALIFORNIA

Mr. EDWARDS of California. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. EDWARDS of California moves to strike out all after the enacting clause of S. 3067, and to insert in lieu thereof the provisions of H.R. 12432, as passed by the House, as follows:

That this Act may be cited as the "Civil Rights Commission Act of 1978".

SEC. 2. (a) Section 103(a) of the Civil Rights Act of 1957 (42 U.S.C. 1975b(a)) is amended by striking out "section 5 of the Administrative Expenses Act of 1946, as amended (5 U.S.C. 73b–2; 60 Stat. 808)." and inserting in lieu thereof the following: "section 5703 of title 5 of the United States Code.".

(b) Section 103(b) of the Civil Rights Act of 1957 (42 U.S.C. 1975b(b)) is amended by striking out "the provisions of the Travel Expenses Act of 1949, as amended (5 U.S.C. 835–42; 63 Stat. 166)" and inserting in lieu thereof the following: "subchapter I of chapter 57 of title 5 of the United States Code".

SEC. 3. (a) Section 104 of the Civil Rights Act of 1957 (42 U.S.C. 1975c) is amended—

(1) in each of subsections (a)(1) and (a)(2), by inserting "age, handicap," after "sex,";

(2) in each of subsections (a)(3) and (a)(4), by inserting ", age, handicap," after "sex";

(3) in subsection (a)(2) by inserting "discrimination or" before "a denial";

(4) in each of subsections (a)(3) and (a)(4), by inserting "discrimination or" before "denials";

(5) by redesignating paragraph (6) of subsection (a) as subsection (b);

(6) by redesignating subsections (b) and (c) as (c) and (d), respectively; and

(7) by adding at the end the following:

"(e) As used in this section, the term 'handicap' means, with respect to an individual, a circumstance that would make that individual a handicapped individual as defined in the second sentence of section 7(6) of the Rehabilitation Act of 1973 (29 U.S.C. 706(6)).

"(f) Nothing in this or any other Act shall be construed as authorizing the Commission, its Advisory Committees, or any person under its supervision or control to appraise, or to study and collect information about, laws and policies of the Federal Government, or any other governmental authority in the United States, with respect to abortion.".

(b) Subsection (b) (which is redesignated as subsection (c) by this Act) of section 104 of the Civil Rights Act of 1957 (42 U.S.C. 1975c(b)) is amended by striking out "fiscal year 1978" and inserting in lieu thereof "the fiscal year ending September 30, 1983".

SEC. 4. Section 105(a) of the Civil Rights Act of 1957 (42 U.S.C. 1975d(a)) is amended by striking out "and who shall receive compensation at a rate, to be fixed by the President, not in excess of $22,500 a year".

SEC. 5. Section 105(c) of the Civil Rights Act of 1957 (42 U.S.C. 1975d(c)) is amended—

(1) by striking out "may constitute such advisory committees within States" and inserting in lieu thereof the following: "shall constitute an advisory committee within each State"; and

(2) by striking out "and may consult" and inserting in lieu thereof the following: ". The Commission may consult".

SEC. 6. Section 105(d) of the Civil Rights Act of 1957 (42 U.S.C. 1975(d)) is amended by striking out "sections 281, 283, 284, 434, and 1914 of title 18 of the United States Code, and section 190 of the Revised Statutes (5 U.S.C. 99)" and inserting in lieu thereof the following: "sections 203, 205, 207, 208, and 209 of title 18 of the United States Code".

SEC. 7. Section 106 of the Civil Rights Act of 1957 (42 U.S.C. 1975e) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 106. (a) There are authorized to be appropriated not to exceed $12,752,000 for the fiscal year ending September 30, 1979, and not to exceed $14,000,000 for the fiscal year end-

ing September 30, 1980, to carry out the provisions of this Act.

"(b) No sums made available to the Commission shall be used at any time, directly or indirectly, to undertake to influence the passage or defeat of any legislation by the Congress of the United States or by any State or local legislative bodies, except when the Commission is requested to give an opinion.".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "An act to extend the Commission on Civil Rights for five years, to authorize appropriations for the Commission, to effect certain technical changes to comply with changes in the law, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 12432) was laid on the table.

GENERAL LEAVE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

NEW YORK CITY LOAN GUARANTEES

Mr. MAHON. Mr. Speaker, pursuant to the order of the House of Wednesday, August 2, 1978, I call up the joint resolution (H.J. Res. 1088) providing financial assistance for the city of New York, and ask for its consideration in the House as in the Committee of the Whole.

The Clerk read the title of the joint resolution.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in connection with consideration of House Joint Resolution 1088.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 1088

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized to guarantee the payment of principal and interest on loans in accordance with the provisions of the New York City Loan Guarantee Act of 1978 in amounts not to exceed $1,650,000,000 in principal outstanding at any time, and there is hereby appropriated effective October 1, 1978, such amounts as may be necessary for payment of principal and interest on loans in default and guaranteed pursuant to the New York City Loan Guarantee Act of 1978, to remain available until September 30, 1998.

Mr. MAHON. Mr. Speaker, I move to strike the last word.

Mr. Speaker, House Joint Resolution 1088 provides for the actual loan guarantee authority for the city of New York and appropriations in the case of any eventual default as authorized and required by Public Law 95–339, of August 8, 1978.

Public Law 95–339 authorizes the Secretary of the Treasury to guarantee loans to the city of New York to such an extent, and in such amounts, as are provided in an appropriation act.

The Committee on Appropriations reported House Joint Resolution 1088 on August 1, 1978, promptly after the authorization had been approved. The resolution was handled in the committee by the HUD-Independent Agency Subcommittee, under the able chairmanship of the distinguished gentleman from Massachusetts (Mr. BOLAND)—and in a few moments I shall yield to the gentleman.

Mr. Speaker, I might say that there are differences of opinion among the Members as to what should be done about the Loan Guarantees Act of 1978 for the city of New York.

I myself voted against the authorization when it was before the House, feeling that New York City had not acted sufficiently to get its fiscal affairs in order. And further, Mr. Speaker, I continue to be dismayed over the manner in which New York City made a shambles of its fiscal affairs in the first place.

However, the House and Senate have spoken, and the President has now approved the authorizing legislation, and so the Federal Government is committed to provide loan guarantees for the city of New York in order to prevent bankruptcy and difficulty otherwise. In view of this I think the only responsible course at this time is to vote for the appropriation measure before the House.

It is true that we have a lot of loan guarantees. We have them in the Veterans' Administration, in the Housing and Urban Development legislation; and we have them in the Farmers Home Administration. In fact, the Federal Government has loan guarantees, as of fiscal year 1979, in the total sum of $360 billion, a rather shocking and impressive figure.

Mr. Speaker, what we have to do now to point out to the Speaker and to the which was passed, and that is to take the necessary steps in the appropriations process so as to make sure that the loan guarantee program for the city of New York is made effective.

Mr. BOLAND. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Massachusetts, the distinguished chairman of the subcommittee.

Mr. BOLAND. Mr. Speaker, as the distinguished chairman of the full Committee on Appropriations has indicated, tion for the deterioration. Our response propriation authorized by the New York City Loan Guarantee Act of 1978. That bill passed the House on June 8 by 92 votes, 247 to 155. It passed the Senate on June 29 by a vote of 53 to 27. The House adopted the conference report on July 25 by a vote of 244 to 157, by 87 votes; and the Senate adopted the conference report on July 27 by a vote of 58 to 35. The President signed the act on August 8 of this year.

This joint resolution, Mr. Speaker, provides financial assistance for the city of New York. Section 111 of the authorization bill, the New York City Loan Guarantee Act of 1978, provides that the authority of the Secretary of the Treasury to guarantee loans for New York City shall be limited to such extent or amounts as provided in advance in appropriation acts. It also authorizes to be appropriated such sums as may be necessary to carry out the act.

We are doing those two things, Mr. Speaker, in this joint resolution. First, we are providing the authority for the Secretary of the Treasury to guarantee the payment of principal and interest on up to $1,650,000,000—the full amount authorized—in loans to city and State employee pension funds. Loans from these funds are the only loans which may be guaranteed under the act by the U.S. Government.

These loan guarantees may be made over the next 4 years, until June 30, 1982; but the loan duration may not exceed 15 years. The $1,650,000,000 in loan guarantees is available in four installments: $750,000,000 in city fiscal year 1979, $250,000,000 in 1980, $325,000,000 in 1981, and $325,000,000 in 1982.

The legislation provides that in 1979 not more than $500,000,000 of long-term guarantees and not more than $325,000,000 of short-term guarantees may be issued; but in no instance may the total exceed $750,000,000 for fiscal year 1979. The short-term proviso is for 1 year only, and those loans, Mr. Speaker, must be repaid by June 30, 1979. The guarantee authority is cumulative and repaid short-term authority is available for long-term guarantees.

Secondly, we are recommending an indefinite appropriation, to be available from October 1, 1978, to September 30, 1998, to cover possible defaults on loans guaranteed. We do not expect that New York City will default on the loans but the appropriation is made available in the event that happens.

Mr. Speaker, I have some reservations about Federal loan guarantees for municipal governments. But I am also firmly committed to providing financial assistance for New York City to avoid the possibility of bankruptcy. I hope that this assistance will not only enable New York City to avert bankruptcy, but also will give the city an entree to the credit markets. I believe we need to remind ourselves, however, that the solution to New York City's problems rests not with Washington, but with New York City.

When the authorization bill was before the House on June 7 the indication

was that unless further financial assistance was given to New York City by the beginning of July, insolvency and perhaps bankruptcy would soon follow. A loan of $565,000,000 from city pension funds and over $200,000,000 in unanticipated real estate taxes have put off that date. Representatives of the city of New York and the Department of the Treasury now state that final action on the appropriation measure is required by mid-September.

That, Mr. Speaker, in substance, is what is carried in this resolution, and I urge its adoption.

Mr. COUGHLIN. Mr. Speaker, to the extent I could hear the distinguished chairman of the committee, he stated the case, indeed, very well.

I think there are three very important facts that are involved here. First, this is a loan guarantee program, a loan guarantee program with a limitation, which will result in Federal outlays only in the event of a default on the bonds guaranteed.

Second, the legislative bill provides some very substantial safeguards for these guarantees. The Secretary of the Treasury can make the guarantees only if there is a reasonable prospect for repayment.

Finally, even if there were to be a default on one of these loans, the U.S. Government would have the recourse to withhold any payment from the Federal Government to the city or State which may be or may become due pursuant to any law, so that it is really a no-lose proposition, as far as the Federal Government is concerned, and I urge support of this resolution.

Mr. CHARLES H. WILSON of California. Mr. Speaker, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. I thank the gentleman for yielding.

I wonder if the gentleman can respond. I was interested in the closing remarks of the gentleman from Massachusetts (Mr. BOLAND) where he says up to 1998 in the event of defaults. Does that mean there could be direct payments from the Treasury in the event of defaults on any of these loans?

Mr. COUGHLIN. That means that there is an appropriation of as much money as might be necessary for default, but the Federal Government would have recourse then against other payments that it makes to the city of New York to cover those defaults.

Mr. CHARLES H. WILSON of California. There are no other cities or States where the Government would have anything comparable to this?

Mr. COUGHLIN. There is nothing directly comparable to this loan guarantee program for the city of New York.

Mr. BAUMAN. Mr. Speaker, I move to strike the last word.

Mr. Speaker, the gentleman from Massachusetts (Mr. BOLAND) referred to the previous acts of the House and the other body on the authorizing legislation, and the appropriation is now before us for still more aid to New York City. I assume that whenever either body of the Congress acts and the facts are subsequently changed in a substantial manner that the Members might want to know about that before they vote again. It may have escaped some of the membership's attention that there is a group called the Citizens' Budget Commission, made up of both civic and business leaders in New York City which has been in existence since 1932. The commission's purpose is to monitor New York City's finances and operations. That group reported a few weeks ago, after both Houses had acted, that the entire premise on which this package, the legislation and the appropriation, was presented to this Congress is not only faulty but, to use the commission's term, "full of gimmicks." They predicted that there is no way that the city of New York can live up to the commitments that the mayor and the other officials made to the Congress and on which basis some of you voted to pass this legislation. They predicted that this $1.65 billion on which we are now about to vote is only another installment payment in the sense that it will require possibly a half billion to a billion dollars more because of the recent labor settlement with the unions in New York City.

The commission also pointed out that the entire premise of this aid was riddled with unspecified city economies which will never take place and is based on Federal funds which are anticipated but in no way guaranteed to the tune of possibly $1.2 billion, creating an enormous gap between what we are appropriating today and what will eventually be needed. They went on to say that the only way the city will be able to avoid bankruptcy in a year or two, as some of us have predicted, is to come back for still more new guarantees and new loans.

Mr. Speaker, none of that may be of any interest to this House, but I think it is interesting to the taxpayers back home. Maybe some of the Members went on junkets recently and did not go back and talk to their people. But this is what the people of America are saying and here is the first chance for us to save some money for the people back home and at the same time force fiscal responsibility on the city of New York. I urge a "no" vote.

Mr. KELLY. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I would like to point out to the Speaker and to the Members of the House that an awful lot of what we do here in Congress does not make any sense. I think that is something we have gotten used to, but I would like to make the proposition that it does not really have to be this way.

One of the things that we are doing right now is trying to refurbish many of our cities that are dying. The reason these cities are dying is because they are being mismanaged and the business base and the private sector cannot survive there.

The congressional response is to build more buildings, rather than find a solution for the deterioration. Our response is to build more buildings so that there will be a target for civil insurrection.

The problem of New York hits right in the middle of this. What we need to do to help New York and what New York needs in the way of help is to quit spending so much money. They do not need to have new financing of the existing mismanagement. They already have too much financing of their mismanagement. What they need to do is to have a little good management and to quit spending so much money. We should not pass up an opportunity to help them get what they need.

That is one proposition. Another "proposition" is one called 13, and that is from the people in California.

Mr. Speaker, my really delightful remarks are so intermingled with the confusion here that I cannot tell which is the most confusing. Could the Speaker help me with getting some order in the Chamber?

The SPEAKER. The House will be in order.

Mr. KELLY. I thank the Speaker. That is infinitely better.

Back to this proposition 13, what the people in California clearly indicated for themselves and the rest of us was that they were tired of growing government. There was also indicated something that is tragic and dangerous, and that is that the people were not able to get the government they wanted from their duly elected officials. So the result was they had to go to volunteers like Jarvis because the people they elected through the constitutional process would not do what the people wanted.

Clearly, the people in New York are much more burdened with taxes than the people in California. The people in New York are not more tolerant of high taxes. What is going on in New York is that the subtlety of tax collection is more sophisticated in New York, because they are collecting their taxes through the withholding method, the same fine method we have established on the Federal level. They are also doing it with one of the highest sales taxes in the United States. Neither of which is as obvious as property taxes paid once or twice a year in a lump sum. As a matter of fact they even pay property taxes in quarterly installments in New York.

So, Mr. Speaker, what we need to do is to help the people of New York, because we are the elected officials of this country. We need to help them get the government that the people want. This nonsense about financing continuing mismanagement is going to bring the same kind of decay to the whole Nation that it has brought to New York and to many of our cities.

Mr. Speaker, it is entirely possible that we can go on for a few more years like we have been going.

Mr. Speaker, are we having a problem with the order in the House? Mr. Speaker, I make the point of order that the House is not in order.

The SPEAKER. The House will be in order.

Mr. KELLY. Mr. Speaker, if my colleagues would pay close attention, they might find that down in amongst all these verbal brambles I might say something intelligent. [Laughter.] Well, I am from Zephryhills, and that is a leg up.

But this is a serious matter when the people have to look elsewhere for the kind of government that they clearly want.

Mr. Speaker, New York is the prime example of everything that is bad in the mismanagement of this country, and we all know it. That is why they are bankrupt. New York is the richest city in America. They are bankrupt. The policies that have bankrupted them are the same policies we are using to bankrupt the United States.

So this is just an opportunity to give the people what they want as their elected officials. Let us not pass it up. Let us vote against more spending in New York.

Mr. Speaker, the following remarks appeared in a recent publication, and these remarks should be considered by my colleagues in Congress:

THE FLAWS IN NEW YORK'S RECOVERY PLAN

President Carter, surrounded by smiling politicians, sat in front of New York City's 19th-century city hall on Aug. 8 and signed the hard-won law providing federal loan guarantees to the city. A week later, Sidney Schwartz, the special state deputy comptroller who monitors the city's financial performance, charged that its current budget—which city officials say is in legal balance—actually contains a potential deficit of some $280 million.

Schwartz' audit, one of several recent reports questioning elements of the city's present and future budgets, comes as a rude reminder that the Big Apple's financial problems are not over. In the eyes of Felix G. Rohatyn, chairman of the Municipal Assistance Corp. of New York, the city has been wrestling with two problems: one of financing, which was relatively unpolitical and readily solvable; the other of budgetary control, which is highly political and may even defy solution. The federal legislation signed by Carter goes a long way toward ending the financial problem and the frequent cash crises that have bedeviled the city over the past three years. But Mayor Edward I. Koch has been understandably slow in trying to tackle the politically explosive problem of making cuts in the budget. Every cut angers some city constituency.

The new federal aid provides no new money. It provides loan guarantees that enable the city to put into effect its own four-year financial plan—a plan that aims at achieving a truly balanced budget by fiscal 1982, at reopening the credit markets to the city, and at starting on an essential, long-delayed program of capital improvements. To do this, city officials must hold down spending.

Donald D. Kummerfeld, executive director of the Emergency Financial Control Board (EFCB), the state agency that must oversee and approve city budgets, says flatly: "The struggle to reduce budget expenses is not over. There will be pain and outcries. But the city has no choice."

Spending cuts. Already doubts are being heard over whether city politicians are ready to start cutting. Says one official closely involved with city finances, "The mayor should be doing more now to cut spending." Adds another expert: "He is delaying essential cuts. He doesn't want to take any unpopular actions."

Eliminating jobs, of course, is especially unpopular, yet the four-year plan calls for a 10-percent reduction in the city's work force through attrition. But the way the mayor is doing this, says a recent EFCB report, "appears to be backloaded." Initially, he proposed to cut 4 percent in the current fiscal year, then 3 percent, 2 percent, and 1 percent. Instead, the new plan calls for a 1-percent cut this fiscal year, with 3 percent in each suceeding year. The EFCB report points out that this approach deprives the city of considerable savings. Postponing attrition, the report concludes, "not only compounds the problem for future years but raises serious questions about the achievability of the entire plan."

What stirs such early concern is the riskiness of the city's plan. Basically, it is a series of revenue and expense estimates for fiscal 1979 through fiscal 1982. These projections produce annual deficits rising to $702 million in the final year. To close these gaps, the plan specifies savings the city expects to make in its expenses and the new revenues it expects to receive, mainly from federal and state aid programs.

Reducing the work force is a major test of the city administration's willingness to carry out its plan. The current reversal of the attrition schedule strengthens the conviction that Mayor Koch is simply delaying these and other cuts in hopes that new federal help will spare him from taking painful actions.

FUTURE RISKS

The danger to the city, though, is that such tactics will impose the need for even heavier cuts later should other parts of the plan slip badly. Studies by the EFCB and Comptroller Schwartz, as well as by the private watchdog Citizens Budget Commission Inc (CBC), make plain that the plan is shot through with risky assumptions.

The EFBC questions, for example, the city's hopes for holding down spending on payments and supplies and for savings from "as yet unspecified" management improvements. Other items, such as rising hospital costs, could exceed projections. Most significant, though, are unplanned-for labor costs and too-heavy reliance on uncertain federal programs that, says one man, "may be just optimistic speculation."

In a stinging report, the CBC says that because the city sacrificed cost-saving and productivity requirements in cost-of-living agreements, the true costs of recent labor settlements could run to more than $1 billion. To finance some of these costs, it charges, the city has resorted to "gimmicks" and "one-shot revenues." Deputy Mayor Philip L. Toia says the report is filled with "mischief and naivete." But the EFBC adds that city projections do not "include any provisions for wage increases" that new agreements in mid-1980 may bring.

The EFBC report also says "the major revenue uncertainties" of the past three years of the plan center on federal and state help. The city counts heavily on countercyclical revenue-sharing, a program now stalled in Congress, and on Community Employment Training Assistance. In fiscal 1979, in fact, the total city work force will increase, rather than decrease as planned, because the city is adding more CETA-funded workers than it cuts from the city payrolls.

The city and its watchdogs arrive at different budget deficits depending on how they assess the risks. But variations in the numbers count for less today than the fact that all estimates are large, and few experts doubt that the city eventually will have to cut back harshly, even more than it is now planning. The issue, say the experts, is no longer how the city can raise money to do all it wants to do but how it can push down spending. Says Herbert J. Ranschburg, research director of the CBC, "The real issue is not financing the city, it's how to get the city back on an even keel so that it doesn't damage the private economy."

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I rise to support House Joint Resolution 1088. This appropriations legislation is necessary to enable the Secretary of the Treasury to begin implementation of the New York City Loan Guarantee Act of 1978, which we passed in this House in early June by a nearly 2 to 1 margin, and again 2 weeks ago, by a similar vote when we approved the conference report.

New York City is now in the second month of its fiscal 1979 year, the first year of its 4-year financial program to get back into the credit market. The Federal guarantees are an integral part of the 4-year financial plan. The city needs to borrow $4.5 billion over the next 4 years. This amount will enable New York, if it adheres to the program it has set for itself, to bring its budget into true balance and stand on its own financial feet by 1982. The $1.65 billion of Federally guaranteed borrowings from the city and State employee pension funds will provide an assured base on which the lenders for the ungaranteed portion of the $4.5 billion can depend.

The Appropriations Committee is wisely proposing granting the Secretary of the Treasury authority for the full amount of this guarantee authority. I support this proposal because it will represent the measure of assurance which those unguaranteed lenders need that, subject to the very specific conditions of the enabling legislation, the guarantee authority is in place.

Mr. Speaker, the conditions and other provisions of the enabling legislation will serve as the standards by which the Secretary may issue the guarantees. Before obtaining Federal guarantees New York City must, among other things, do the following:

Adopt and adhere to stringent budget-balancing requirements starting in this fiscal year, and running out through the entire period the guarantees are in effect;

Be under the supervision of an independent fiscal monitor for the entire period of the guarantees;

Set aside a reserve fund to cover possible defaults and begin to retire the guaranteed securities as soon as it is back in and credit markets;

Attempt to market its own notes and bonds beginning in 1980;

Suffer the withholding of city and State Federal transfer payments in the event of default; and

Secure commitments for the unguaranteed portion of its financial needs.

In addition, there are restraints on the authority of the Secretary of the Treasury to issue the guarantees. Annual amounts are specified in the act, and in 1980 and 1981, these could be vetoed by either House of Congress. The 1982 portion is subject to the city's having adopted a budget balanced in accordance with generally accepted accounting principles.

Mr. Speaker, the Congress has enacted a bill containing a set of requirements which will both help New York get back on its financial feet and provide the greatest protection for the Federal liability which will be involved. I urge my colleagues to vote for this appropriation measure so the New York City Loan Guarantee Act may be implemented. ●

Mr. MAHON. Mr. Speaker, I move the previous question on the joint resolution to final passage.

The previous question was ordered.

The SPEAKER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the joint resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 233, nays 132, not voting 67, as follows:

[Roll No. 726]

YEAS—233

Addabbo, Akaka, Ambro, Anderson, Calif., Andrews, N.C., Annunzio, Applegate, Ashley, Aspin, Baldus, Barnard, Beard, R.I., Bedell, Benjamin, Biaggi, Bingham, Blanchard, Blouin, Bogga, Boland, Bolling, Bonior, Brademas, Brodhead, Brown, Calif., Brown, Mich., Brown, Ohio, Burke, Mass., Burlison, Mo., Burton, John, Burton, Phillip, Caputo, Carney, Carr, Cavanaugh, Chisholm, Clay, Collins, Ill., Conable, Conte, Conyers, Corman, Cornell, Cotter, Coughlin, Danielson, Delaney, Dellums, Dent, Dicks, Diggs, Dingell, Dodd, Downey, Drinan, Early, Eckhardt, Edgar, Edwards, Calif., Ertel, Evans, Colo., Evans, Ga., Fary, Fascell, Fenwick, Fish, Fisher, Fithian, Florio, Foley, Ford, Mich., Ford, Tenn., Gaydos, Gephardt, Giaimo, Gilman, Glickman, Gonzalez, Gore, Green, Guyer, Hamilton, Hanley, Hannaford, Harkin, Harris, Hawkins, Heckler, Hefner, Heftel, Hillis, Holland, Hollenbeck, Holtzman, Horton, Howard, Hubbard, Hughes, Hyde, Jeffords, Jenrette, Johnson, Calif., Jones, N.C., Jones, Tenn., Jordan, Kastenmeier, Kemp, Keys, Kildee, Kostmayer, Krebs, LaFalce, Le Fante, Lederer, Leggett, Lent, Lloyd, Calif., Long, La., Long, Md., Lundine, McCloskey, McDade, McEwen, McFall, McHugh, McKay, McKinney, Madigan, Maguire, Mahon, Mann, Markey, Marks, Martin, Mathis, Mazzoli, Meeds, Metcalfe, Meyner, Michel, Mikulski, Mineta, Minish, Mitchell, Md., Mitchell, N.Y., Moakley, Moffett, Mollohan, Moorhead, Pa., Moss, Murphy, Ill., Murphy, N.Y., Murtha, Myers, Michael, Natcher, Neal, Nedzi, Nix, Nolan, Nowak, O'Brien, Oakar, Oberstar, Obey, Ottinger, Panetta, Patten, Patterson, Pease, Pepper, Perkins, Pike, Preyer, Pritchard, Pursell, Rahall, Rangel, Reuss, Rhodes, Rinaldo, Risenhoover, Roe, Rogers, Roncalio, Rooney, Rose, Rosenthal, Roybal, Russo, Ryan, Santini, Sarasin, Scheuer, Sharp, Sikes, Simon, Skubitz, Slack, Smith, Iowa, Solarz, Spellman, St Germain, Staggers, Stanton, Stark, Steed, Steers, Stokes, Stratton, Studds, Thompson, Thornton, Udall, Ullman, Van Deerlin, Vander Jagt, Vanik, Vento, Volkmer, Walgren, Walsh, Waxman, Weaver, Weiss, Whalen, Whitten, Wilson, Tex., Wolff, Wright, Yates, Young, Mo., Zablocki, Zeferetti

NAYS—132

Andrews, N. Dak., Archer, Ashbrook, AuCoin, Badham, Bafalis, Bauman, Beard, Tenn., Bennett, Bowen, Breaux, Breckinridge, Brinkley, Brooks, Broomfield, Broyhill, Burgener, Burleson, Tex., Butler, Carter, Cederberg, Clausen, Don H., Cleveland, Cohen, Coleman, Collins, Tex., Corcoran, Crane, Cunningham, D'Amours, Daniel, Dan, Daniel, R. W., Davis, de la Garza, Derrick, Derwinski, Devine, Duncan, Tenn., Edwards, Ala., Edwards, Okla., Emery, English, Erlenborn, Evans, Del., Evans, Ind., Findley, Flynt, Fountain, Frenzel, Gammage, Ginn, Goldwater, Goodling, Gradison, Grassley, Gudger, Hagedorn, Hall, Hammer-schmidt, Hightower, Holt, Ichord, Ireland, Jacobs, Jenkins, Jones, Okla., Kazen, Kelly, Kindness, Lagomarsino, Latta, Leach, Levitas, Livingston, Lloyd, Tenn., Lott, Lujan, Luken, McClory, McCormack, McDonald, Marlenee, Marriott, Mattox, Miller, Ohio, Montgomery, Moore, Moorhead, Calif., Moss, Murphy, Pa., Myers, Gary, Myers, John, Nichols, Pickle, Quayle, Railsback, Regula, Roberts, Robinson, Rousselot, Rudd, Runnels, Satterfield, Sawyer, Schroeder, Schulze, Sebelius, Shuster, Skelton, Smith, Nebr., Snyder, Spence, Stangeland, Stockman, Taylor, Traxler, Treen, Trible, Tucker, Waggonner, Walker, Wampler, Watkins, White, Whitehurst, Whitley, Wilson, Bob, Wilson, C. H., Winn, Wylie, Yatron, Young, Fla.

NOT VOTING—67

Abdnor, Alexander, Ammerman, Anderson, Ill., Armstrong, Baucus, Bellenson, Bevill, Bonker, Buchanan, Burke, Calif., Burke, Fla., Byron, Chappell, Clawson, Del, Cochran, Cornwell, Dickinson, Dornan, Duncan, Oreg., Eilberg, Flippo, Flood, Flowers, Forsythe, Fowler, Fraser, Frey, Fuqua, Garcia, Gibbons, Hansen, Harrington, Harsha, Huckaby, Johnson, Colo., Kasten, Krueger, Lehman, Mikva, Milford, Miller, Calif., Pattison, Pettis, Poage, Pressler, Price, Quie, Quillen, Richmond, Rodino, Rostenkowski, Ruppe, Seiberling, Shipley, Sisk, Steiger, Stump, Symms, Teague, Thone, Tsongas, Wiggins, Wirth, Wydler, Young, Alaska, Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Richmond for, with Mr. Krueger against.

Mr. Pattison of New York for, with Mr. Ammerman against.

Until further notice:

Mr. Garcia with Mr. Pressler.
Mr. Alexander with Mr. Wydler.
Mr. Harrington with Mr. Symms.
Mr. Shipley with Mr. Johnson of Colorado.
Mr. Rodino with Mr. Abdnor.
Mr. Price with Mr. Forsythe.
Mr. Baucus with Mr. Hansen.
Mr. Lehman with Mr. Thone.
Mr. Cornwell with Mr. Wiggins.
Mr. Chappell with Mr. Buchanan.
Mrs. Burke of California with Mrs. Pettis.
Mr. Bevill with Mr. Dornan.
Mr. Bellenson with Mr. Del Clawson.
Mr. Mikva with Mr. Kasten.
Mr. Fuqua with Mr. Milford.
Mr. Flood with Mr. Steiger.
Mr. Eilberg with Mr. Seiberling.
Mr. Byron with Mr. Ruppe.
Mr. Miller of California with Mr. Quillen.
Mr. Flippo with Mr. Harsha.
Mr. Bonker with Mr. Cochran of Mississippi.
Mr. Fowler with Mr. Burke of Florida.
Mr. Sisk with Mr. Armstrong.
Mr. Teague with Mr. Anderson of Illinois.
Mr. Wirth with Mr. Young of Alaska.
Mr. Tsongas with Mr. Dickinson.
Mr. Flowers with Mr. Fraser.
Mr. Duncan of Oregon with Mr. Stump.
Mr. Rostenkowski with Mr. Gibbons.

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 15, EDUCATION AMENDMENTS OF 1978

Mr. PERKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill, H.R. 15, to extend and amend expiring elementary and secondary education programs, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky? The Chair hears none, and appoints the following conferees: Messrs. PERKINS, FORD of Michigan, ANDREWS of North Carolina, BLOUIN, SIMON, ZEFERETTI, MOTTL, MURPHY of Pennsylvania, LE FANTE, WEISS, HEFTEL, CORRADA, KILDEE, MILLER of California, QUIE, BUCHANAN, GOODLING, PURSELL, ERLENBORN, and JEFFORDS.

CONFERENCE REPORT ON H.R. 12598, FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 1979

Mr. FASCELL submitted the following conference report and statement on the bill (H.R. 12598) to authorize appropriations for fiscal year 1979 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, to make changes in the laws relating to those agencies, to make changes in the Foreign Service personnel system, to establish policies and responsibilities with respect to science, technology, and American diplomacy, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 95-1535)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12598) to authorize appropriations for fiscal year 1979 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, to make changes in the laws relating to those agencies, to make changes in the Foreign Service personnel system, to establish policies and responsibilities with respect to science, technology, and American diplomacy, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Foreign Relations Authorization Act, Fiscal Year 1979".

TITLE I—DEPARTMENT OF STATE

AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1979

SEC. 101. (a) There are authorized to be appropriated for the Department of State for the fiscal year 1979 to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States, including trade negotiations, and other purposes authorized by law, the following amounts:

(1) For "Administration of Foreign Affairs", $849,118,000.

(2) For "International Organizations and Conferences", $412,826,000.

(3) For "International Commissions", $20,773,000.

(4) For "Migration and Refugee Assistance", $116,536,000.

(5) For increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs, such amounts as may be necessary.

(b) Amounts appropriated under this section are authorized to remain available until expended.

(c) Funds authorized to be appropriated for the fiscal year 1979 by paragraphs (1) through (4) of subsection (a) may be appropriated for the fiscal year 1979 for a purpose for which appropriations are authorized by any other of those paragraphs, except that the total amount appropriated for a purpose described in any of those paragraphs may not exceed by more than 10 percent the amount specifically authorized for that purpose by subsection (a).

SUPPLEMENTAL AUTHORIZATION FOR FISCAL YEAR 1978 FOR INTERNATIONAL ORGANIZATIONS AND CONFERENCES

SEC. 102. Section 101(a)(2) of the Foreign Relations Authorization Act, Fiscal Year 1978, is amended by striking out "$389,412,000" and inserting in lieu thereof "$426,687,000".

UNITED NATIONS CONFERENCE ON SCIENCE AND TECHNOLOGY FOR DEVELOPMENT

SEC. 103. (a) The Congress finds that—

(1) science and technology are keys to eradicating hunger and poverty in developing countries;

(2) the ability of the developing countries to achieve self-sustaining growth has been hindered by the lack of an indigenous scientific and technological base;

(3) this scientific and technological base is vital to the emergence of developing countries as full and equal partners in the international system;

(4) expanded cooperation with respect to science and technology can significantly contribute to an improved North-South relationship; and

(5) the United Nations Conference on Science and Technology for Development offers a valuable forum for the analysis of problems of development that might be alleviated or solved with the aid of scientific and technical expertise.

(b) It is therefore the sense of the Congress that the United States should strongly support the purpose of the United Nations Conference on Science and Technology for Development and that the United States delegation to this conference should actively develop and offer proposals which would facilitate an expansion of mutually beneficial cooperation among developed and developing countries with respect to science and technology, including joint education and research and development programs.

(c) In addition to amounts otherwise available for such purpose, $945,000 of the amount authorized to be appropriated by section 101(a)(1) of this Act shall be available only for expenses incurred by the Department of State in connection with the United Nations Conference on Science and Technology for Development, including expenses for preparatory conferences and seminars held in the United States.

MEMORIAL STATUE OF GENERAL MARSHALL

SEC. 104. (a) The Secretary of State is authorized to acquire on behalf of the United States a memorial statue or bust of General George C. Marshall (hereafter in this section referred to as the "memorial") to be placed in an appropriate location within the Department of State.

(b)(1) To assist the Secretary of State in carrying out the provisions of subsection (a), there is established a Commission to be composed of seven members as follows:

(A) The Secretary, who shall be the chairman of the Commission.

(B) Two members appointed by the Secretary.

(C) Two members appointed by the chairman of the Committee on Foreign Relations of the Senate.

(D) Two members appointed by the chairman of the Committee on International Relations of the House of Representatives.

Members of the Commission shall serve without compensation.

(2) The Commission shall operate under the direction of the Secretary of State and, subject to final approval by the Secretary, shall select the sculptor for the memorial and select its size, style, design, and material.

(3) The Commission shall cease to exist upon completion of its functions under this section, as determined by the Secretary.

(c)(1) Of the funds authorized to be appropriated by section 101(a)(1) of this Act, not more than $10,000 may be used for payment of costs incurred in carrying out subsection (a) of this section.

(2) All other costs incurred in carrying out subsection (a) shall be paid by the Secretary of State with funds contributed to the United States for such purpose.

(d) The Secretary of State shall be responsible for maintenance and care of the memorial.

FOREIGN MISSION SOLAR ENERGY DEMONSTRATION

SEC. 105. (a) It is the purpose of this section to provide for the demonstration of solar energy and other renewable energy technologies in foreign countries through the use of such energy in buildings acquired under subsection (a) of the first section of the Foreign Service Buildings Act, 1926 (22 U.S.C. 292(a)), in order that—

(1) countries in which such buildings are located may be given visible incentives to develop and use local solar energy or other renewable energy resources to reduce dependence upon petroleum and petroleum products;

(2) markets may be developed for American solar energy systems and components in order to stimulate investment in such systems and components and to reduce the costs of such systems and components to reasonable levels;

(3) in furtherance of the purpose of section 119 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151q), cooperation may be developed between the United States and other countries in an effort to develop solar energy or other renewable energy systems within a short period of time; and

(4) equipment which is vital to the operation of sensitive systems within United States missions abroad may be made more reliable and less dependent upon interruptible local energy supplies.

(b)(1) The Secretary of State shall implement projects for the application of solar energy or other forms of renewable energy in buildings acquired under subsection (a) of the first section of the Foreign Service Buildings Act, 1926.

(2) The Secretary of State shall select projects under paragraph (1) in consultation with the Secretary of Energy. Such projects shall apply available solar energy and other renewable energy technologies, including those for—

(A) the heating and cooling of buildings;

(B) solar thermal electric systems;

(C) solar photovoltaic conversion systems;

(D) wind energy systems; and

(E) systems for developing fuels from biomass.

The Secretary of Energy shall inform the Secretary of State of all such technologies which are feasible for such projects, taking into account the resources and environmental conditions of the countries in which such projects are to be implemented. Upon the request of the Secretary of State, the Secretary of Energy shall provide to the Secretary of State any technical information or other technical assistance which the Secretary of State considers necessary with respect to any such project. Any project selected under this section should be similar to projects which have been demonstrated by the Department of Energy (or any of its predecessor agencies) to be reliable, maintainable, and technically feasible.

(3) Any project selected under this section shall be adaptable to the local resources, climatic conditions, and economic circumstances of the country in which such project is implemented in order that such country will be more likely to implement similar projects.

(4) The Secretary of State shall insure that any project selected under this section is demonstrated to, and available for inspection by, officials and other citizens of the country in which such project is implemented.

(5) In selecting projects under this section, the Secretary of State shall give priority to projects to be implemented in developing countries.

(c) Whenever any building is constructed under the authority contained in the first section of the Foreign Service Buildings Act, 1926, the Secretary of State shall insure that the planning for such construction takes into account those renewable energy systems which are available in the country in which the building is to be constructed.

(d) In addition to amounts otherwise available for such purposes, $4,000,000 of the amount authorized to be appropriated by section 101(a)(1) of this Act shall be available only to carry out the purposes of this section.

ASSISTANCE FOR REFUGEE SETTLING IN ISRAEL

SEC. 106. Of the amount authorized to be appropriated by section 101(a)(4) of this Act, $25,000,000 shall be available only for assistance for the resettlement in Israel of refugees from the Union of Soviet Socialist Republics and from Communist countries in Eastern Europe.

ASSISTANCE FOR REFUGEES IN AFRICA

SEC. 107. In addition to amounts otherwise available for such purpose, $5,000,000 of the amount authorized to be appropriated by section 101(a)(4) of this Act shall be available only for assistance for refugees in Africa.

AID TO DESTITUTE AMERICANS ABROAD

SEC. 108. (a) Section 3(j) of the Act entitled "An Act to provide certain basic authority for the Department of State", approved August 1, 1956 (22 U.S.C. 2670(j)), is amended by inserting "or destitute United States citizens abroad" immediately after "incarcerated abroad".

(b) The amendment made by this section shall take effect on October 1, 1978.

WORKING CAPITAL FUND

SEC. 109. (a) Section 13 of the Act entitled "An Act to provide certain basic authority for the Department of State", approved August 1, 1956 (22 U.S.C. 2684), is amended—

(1) by striking out "supply" in clause (2) in the first sentence;

(2) by striking out ", and" at the end of clause (2) in the first sentence and inserting in lieu thereof a semicolon;

(3) by inserting immediately before the period at the end of the first sentence "; and (4) medical and health care services";

(4) by striking out the third sentence; and

(5) by inserting "(a)" immediately after "SEC. 13." and by adding the following new subsection at the end of the section:

"(b) The current value of supplies returned to the working capital fund by a post, activity, or agency may be charged to the fund. The proceeds thereof shall, if otherwise authorized, be credited to current applicable appropriations and shall remain available for expenditures for the same purposes for which those appropriations are available. Credits may not be made to appropriations under this subsection as the result of capitalization of inventories.".

(b) The amendments made by this section shall take effect on October 1, 1978.

REPRESENTATION EXPENSES OF THE INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA

SEC. 110. (a) Section 19 of the Act entitled "An Act to provide certain basic authority for the Department of State", approved August 1, 1956 (22 U.S.C. 2689), is amended by striking out "not to exceed $1,500 of the".

(b) The amendment made by this section shall take effect on October 1, 1978.

CONSOLIDATION OF ADMINISTRATIVE SERVICES

SEC. 111. (a) The Act entitled "An Act to provide certain basic authority for the Department of State", approved August 1, 1956, is amended by adding at the end thereof the following new section:

"SEC. 23. Whenever the head of any Federal agency performing any foreign affairs functions (including, but not limited to, the Department of State, the International Communication Agency, the Agency for International Development, and the Arms Control and Disarmament Agency) determines that administrative services performed in common by the Department of State and one or more other such agencies may be performed more advantageously and more economically, on a consolidated basis, the Secretary of State and the heads of the other agencies concerned may, subject to the approval of the Director of the Office of Management and Budget, conclude an agreement which provides for the transfer to and consolidation within the Department or within one of the other agencies concerned of so much of the functions, personnel, property, records, and funds of the Department and of the other agencies concerned as may be necessary to enable the performance of those administrative services on a consolidated basis for the benefit of all agencies concerned. Agreements for consolidation of administrative services under this section shall provide for reimbursement or advances of funds from the agency receiving the service to the agency performing the service in amounts which will approximate the expense of providing administrative services for the serviced agency.".

(b) The amendment made by this section shall take effect on October 1, 1978.

POST EMPLOYEE SERVICES

SEC. 112. (a) Part C of title IX of the Foreign Service Act of 1946 (22 U.S.C. 1139) is amended—

(1) by striking out "Commissary Service" in the heading for that part and inserting in lieu thereof "Post Employee Services"; and

(2) by amending subsections (b) and (c) of section 921 to read as follows:

"(b) The Secretary, under such regulations as he may prescribe, may authorize and assist in the establishment, maintenance, and operation by officers and employees of the Service of non-Government-operated services and facilities at posts abroad, including the furnishing of space, utilities, and properties owned or leased by the United States for use by its diplomatic and consular missions. The provisions of the Foreign Service Buildings Act, 1926 (22 U.S.C. 292–300), and section 13 of the Act entitled 'An Act to provide certain basic authority for the Department of State', approved August 1, 1956 (22 U.S.C. 2684), may be utilized by the Secretary in providing such assistance. Services and facilities established under this subsection shall be made available, insofar as practicable, to officers and employees of other Government agencies and their dependents who are stationed abroad. Such services and facilities shall not be established in localities where another United States agency operates similar services or facilities unless the Secretary determines that such additional services or facilities are necessary.

"(c) Charges at any post abroad for a service or facility authorized or assisted under this section shall be at the same rate for all civilian personnel of the Government serviced thereby, and all charges for supplies furnished to such a service or facility abroad by any Government agency shall be at the same rate as that charged by the furnishing agency to its comparable civilian services and facilities.".

(b) The amendments made by this section shall take effect on October 1, 1978.

FURNISHING MEDICAL SERVICES ABROAD

SEC. 113. (a) Part E of title IX of the Foreign Service Act of 1946 is amended—

(1) in section 942 (22 U.S.C. 1167) by striking out "(a)" and by striking out subsection (b); and

(2) by adding at the end of that part the following new section:

"FURNISHING MEDICAL SERVICES ABROAD

"SEC. 945. The Secretary may establish medical treatment and health care facilities and provide for the services of physicians, nurses, or other medical or health care personnel at a post at which, in the opinion of the Secretary, sufficient personnel are employed to warrant such facilities or services.".

(b) The amendments made by this section shall take effect on October 1, 1978.

UNDER SECRETARY OF STATE FOR MANAGEMENT

SEC. 114. (a)(1) The first section of the Act entitled "An Act to strengthen and improve the organization and administration of the Department of State, and for other purposes", approved May 26, 1949 (22 U.S.C. 2652), is amended by striking out "a Deputy Under Secretary of State" and inserting in lieu thereof "an Under Secretary of State for Management".

(2) The individual holding the office of Deputy Under Secretary of State on the effective date of this section shall assume the duties of Under Secretary of State for Management and shall not be required to be reappointed by reason of the enactment of this section.

(b)(1) Paragraph (9) of section 5314 of title 5, United States Code, is amended by inserting "and Under Secretary of State for Management" immediately after "Programs".

(2) Paragraph (10) of section 5315 of such title is repealed.

(c) The amendments made by this section shall take effect on October 1, 1978.

ASSISTANT SECRETARY OF STATE FOR INTERNATIONAL NARCOTICS MATTERS

SEC. 115. (a) There is established in the Department of State, in addition to the positions provided under the first section of the Act of May 26, 1949 (22 U.S.C. 2652), an Assistant Secretary of State for International Narcotics Matters, who shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant Secretary shall be responsible for the overall coordination of the role of the Department of State in the international aspects of narcotics problems.

(b)(1) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(122) Assistant Secretary for International Narcotics Matters, Department of State.".

(2) The amendment made by paragraph (1) of this subsection shall take effect on October 1, 1978.

DEFINITION OF CHIEF OF MISSION

SEC. 116. Paragraph (9) of section 121 of the Foreign Service Act of 1946 (22 U.S.C. 802(9)) is amended by striking out "or diplomatic agent" and inserting in lieu thereof "diplomatic agent, or the head of a United States office abroad which is designated by the Secretary as having a purpose diplomatic in nature".

RESPONSIBILITIES OF A CHIEF OF MISSION

SEC. 117. Section 16 of the Act entitled "An Act to provide certain basic authority for the Department of State", approved August 1, 1956 (22 U.S.C. 2680a), is amended—

(1) in paragraph (1) by striking out "Ambassador to" and inserting in lieu thereof "chief of mission (as defined in section 121 (9) of the Foreign Service Act of 1946) in";

(2) in paragraph (2) by striking out "Ambassador" and inserting in lieu thereof "chief of mission"; and

(3) in paragraph (3)—

(A) by striking out "Ambassador to" and inserting in lieu thereof "chief of mission in"; and

(B) by striking out "the Ambassador" and inserting in lieu thereof "the chief of mission".

DETAILING OF STATE DEPARTMENT PERSONNEL

SEC. 118. Section 11(a) of the Department of State Appropriations Authorization Act of 1973 (22 U.S.C. 2685(a)) is amended—

(1) by striking out "ninety days" and inserting in lieu thereof "one year"; and

(2) by adding at the end thereof the following new sentence: "Officers and employees of the Department of State who are detailed, assigned, or otherwise made available to another Executive agency for a period of not to exceed one year shall not be counted toward any personnel ceiling for the Department of State established by the Director of the Office of Management and Budget.".

EXCLUSION OF CERTAIN ALIENS FROM THE UNITED STATES

SEC. 119. Section 21 of the Act entitled "An Act to provide certain basic authority for the Department of State", approved August 1, 1956 (22 U.S.C. 2691), is amended by adding at the end thereof the following new sentence: "Nothing in this section may be construed as authorizing or requiring the admission to the United States of any alien who is excludible for reasons other than membership in or affiliation with a proscribed organization.".

PUBLICATION OF HISTORICAL DOCUMENTS BY THE DEPARTMENT OF STATE

SEC. 120. (a) The Congress finds that the Department of State publication "Foreign Relations of the United States" plays an important role in making the documentary record of United States foreign relations available to the Congress and the American public.

(b) The Secretary of State shall therefore insure that publication of the "Foreign Re-

lations of the United States" volumes is continued in such a manner as will maintain the high standard of comprehensive documentation already established by past volumes.

ASSISTANCE TO BEREAVED UNITED STATES FAMILIES

SEC. 121. (a) The Congress finds that the Department of State should, in the performance of its consular duties, render all reasonable administrative assistance to a United States citizen who is making necessary arrangements following the death of another United States citizen abroad.

(b) The Secretary of State shall—

(1) analyze alternative procedures by which the Department of State could, where necessary and appropriate, provide loans or other forms of assistance to facilitate such arrangements; and

(2) not later than January 20, 1979, transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report describing fully and completely such alternate procedures, including associated costs, and presenting his views and recommendations with respect to such procedures.

SEC. 122. (a) The Congress finds that—

(1) international political, economic, and other studies prepared systematically by analysts of the Department of State as needed background information for executive branch policymakers could be similarly valuable to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate in fulfilling their responsibilities; and

(2) a formal information-sharing arrangement between the Department of State and such congressional committees could therefore serve the national interest, provided that controls on dissemination are established which insure that neither the process of analysis nor necessary confidentiality is jeopardized.

(b) Not later than January 20, 1979, the Secretary of State shall transmit to the chairman of the Committee on International Relations of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate recommendations with respect to the establishment of such an information-sharing arrangement.

ASSISTING MINORITY ENTERPRISE

SEC. 123. (a) The Congress finds that the Inter-Agency Council for Minority Enterprise has been created to assist minority owned and operated businesses in establishing broader markets, including markets with respect to procurement by the United States Government.

(b) It is the sense of the Congress that the Secretary of State, in cooperation with such Council, should—

(1) broaden minority business participation in the provision of goods and services for the Department of State; and

(2) establish and expand export markets for minority businesses.

LIMITATION ON GEOGRAPHICAL TRAVEL RESTRICTIONS IN UNITED STATES PASSPORTS

SEC. 124. For the purpose of achieving greater United States compliance with the provisions of the Final Act of the Conference on Security and Cooperation in Europe (signed at Helsinki on August 1, 1975) and for the purpose of encouraging other countries which are signatories to the Final Act to comply with those provisions, the first section of the Act entitled "An Act to regulate the issue and validity of passports, and for other purposes", approved July 3, 1926 (22 U.S.C. 211a), is amended by adding at the end thereof the following: "Unless authorized by law, a passport may not be designated as restricted for travel to or for use in any country other than a country with which the United States is at war, where armed hostilities are in progress, or where there is imminent danger to the public health or the physical safety of United States travellers.".

DIPLOMATIC AND OFFICIAL PASSPORTS

SEC. 125. It is the sense of the Congress that a diplomatic or official United States passport should be issued only to, and used only by, a person who holds a diplomatic or other official position in the United States Government or who is otherwise eligible for such a passport under conditions specifically authorized by law.

TRAVEL RESTRICTIONS ON FOREIGN CITIZENS

SEC. 126. (a) For the purpose of implementing general principles of the Final Act of the Conference on Security and Cooperation in Europe (signed at Helsinki on August 1, 1975) emphasizing the lowering of international barriers to the free movement of people and ideas and in accordance with provisions of the Vienna Convention on Diplomatic Relations establishing the legal principles of nondiscrimination and reciprocity, it shall be the general policy of the United States to impose restrictions on travel within the United States by citizens of another country only when the government of that country imposes restrictions on travel by United States citizens within that country.

(b) The Secretary of State shall

(1) insure that this policy is clearly conveyed to any foreign government imposing travel restrictions on United States citizens; and

(2) seek the elimination, on a mutual and reciprocal basis, of travel restrictions imposed by such government and by the Government of the United States on each other's citizens.

(c) Not later than January 20, 1979, and at intervals of one year thereafter for a period of three years, the Secretary of State shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report describing—

(1) domestic travel restrictions then being imposed by the United States Government on citizens of other countries and by foreign governments on United States citizens; and

(2) the progress of efforts undertaken pursuant to subsection

(b) to achieve the elimination of such restrictions.

(d) Subsection (a) may not be construed as limiting any restrictions on travel within the United States which are imposed by the United States Government, on a reciprocal basis, with respect to the officials of particular foreign governments.

TITLE II—INTERNATIONAL COMMUNICATION AGENCY

AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1979

SEC. 201. (a) There is authorized to be appropriated for the International Communication Agency for fiscal year 1979 to carry out international communication, educational, cultural, and exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, and Reorganization Plan Numbered 2 of 1977, and other purposes authorized by law, $420,577,000, and such additional amounts as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary cost.

(b) Amounts appropriated under this section are authorized to remain available until expended.

MISSION OF THE INTERNATIONAL COMMUNICATION AGENCY

SEC. 202. The mission of the International Communication Agency shall be to further the national interest by improving United States relations with other countries and peoples through the broadest possible sharing of ideas, information, and educational and cultural activities. In carrying out this mission, the International Communication Agency shall, among other activities—

(1) conduct Government-sponsored information, educational, and cultural activities designed—

(A) to provide other peoples with a better understanding of the policies, values, institutions, and culture of the United States; and

(B) within the statutory limits governing domestic activities of the Agency, to enhance understanding on the part of the Government and people of the United States of the history, culture, attitudes, perceptions, and aspirations of others;

(2) encourage private institutions in the United States to develop their own exchange activities, and provide assistance for those exchange activities which are in the broadest national interest;

(3) coordinate international informational, educational, or cultural activities conducted or planned by departments and agencies of the United States Government;

(4) assist in the development of a comprehensive national policy on international communications; and

(5) promote United States participation in international events relevant to the mission of the Agency.

EXPANDED EXCHANGE ACTIVITIES

SEC. 203. The President shall, by a process of gradual expansion during the four-year period beginning October 1, 1979, increase significantly the financial resources expended annually by the International Communication Agency for exchange-of-persons activities. The President shall prepare at an early date a general plan for the accomplishment of this goal and shall adjust that plan annually, as he finds appropriate, in consultation with the Congress.

TECHNICAL AND CLARIFYING AMENDMENTS ON PERSONNEL AND OTHER MATTERS

SEC. 204. (a) Section 104(e)(1) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2454(e)(1)) is amended by striking out "President" and inserting in lieu thereof "Director of the International Communication Agency".

(b)(1) The Act entitled "An Act to promote the foreign policy of the United States by strengthening and improving the Foreign Service personnel system of the United States Information Agency through establishment of a Foreign Service Information Officer Corps", approved August 20, 1968, is amended in the first section, section 2, and section 12 (22 U.S.C. 1221, 1222, and 1232) by striking out "United States Information" and inserting in lieu thereof "International Communication".

(2) Section 4 of that Act (22 U.S.C. 1224) is amended to read as follows:

"AUTHORITY OF THE DIRECTOR

"SEC. 4. Foreign Service information officers, Foreign Service Reserve officers, Foreign Service staff officers and employees, and alien clerks and employees of the Agency shall be under the direction and authority of the Director. Authority available to the Secretary of State with respect to Foreign Service officers, Foreign Service Reserve officers, Foreign Service staff officers and employees, or alien clerks and employees of the Department of State shall be available on the same basis to the Director with respect to Foreign Service information officers, Foreign Service Reserve officers, Foreign Service staff officers and employees, and alien clerks and employees of the Agency, except as provided in section 11 of this Act.".

(3) Section 10 of that Act (22 U.S.C. 1230) is amended to read as follows:

"OTHER APPLICABLE PROVISIONS OF LAW

"SEC. 10. All provisions of the Foreign Service Act of 1946 or of any other law, which apply to Foreign Service officers, Foreign Service Reserve officers, Foreign Service staff officers and employees, or alien clerks and employees of the Department of State and which are not referred to in sections 6 through 9 of this Act, shall be applicable to Foreign Service information officers, Foreign Service Reserve officers, Foreign Service staff officers and employees, or alien clerks and employees, as the case may be, of the Agency.".

(4) Section 11 of that Act (22 U.S.C. 1231) is amended to read as follows:

"COMMISSIONING AND ASSIGNMENT AS DIPLOMATIC AND CONSULAR OFFICERS

"SEC. 11. (a) The Secretary of State may, upon request of the Director, recommend to the President that Foreign Service information officers or Foreign Service Reserve officers of the Agency be commissioned as diplomatic or consular officers, or both, in accordance with section 512 or 524 of the Foreign Service Act of 1946.

"(b) The Secretary of State may, upon request of the Director, assign Foreign Service information officers or Foreign Service Reserve officers of the Agency, commissioned as diplomatic or consular officers, to serve under such commissions in accordance with sections 512 and 514 or section 524 of the Foreign Service Act of 1946.".

(5)(A) The title of the Act of August 20, 1968, is amended to read as follows: "An Act to promote the foreign policy of the United States by strengthening and improving the Foreign Service personnel system of the International Communication Agency through establishment of a Foreign Service Information Officer Corps.".

(B) Effective October 1, 1978, clause (xv) of paragraph (2) of section 5541 of title 5 of the United States Code, as added by section 412(a)(1)(C) of the Foreign Relations Authorization Act, Fiscal Year 1978, is amended by striking out "United States Information" and inserting in lieu thereof "International Communication".

(6) Paragraph (3) of section 522 of the Foreign Service Act of 1946 (22 U.S.C. 922(3)) is amended by striking out "United States Information" and inserting in lieu thereof "International Communication".

(7) Section 803(a)(4) of that Act (22 U.S.C. 1063(a)(4)) is amended by striking "United States Information" and inserting in lieu thereof "International Communication".

(c) Title VIII of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1471–1475a) is amended by adding at the end thereof the following new section:

"SEAL OF THE INTERNATIONAL COMMUNICATION AGENCY

"SEC. 807. The seal of the International Communication Agency shall be the arms and crest of the United States, encircled by the words 'International Communication Agency'. Judicial notice shall be taken of the seal.".

FUNCTIONS RELATING TO THE NATIONAL GALLERY OF ART

SEC. 205. The Secretary of State may delegate to the Director of the International Communication Agency, with the consent of the Director, the functions vested in the Secretary by section 2(a) of the joint resolution entitled "Joint Resolution providing for the construction and maintenance of a National Gallery of Art", approved March 24, 1937 (20 U.S.C. 72(a)).

FUNCTIONS RELATING TO THE WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SEC. 206. (a) Subsection (b) of section 3 of the Woodrow Wilson Memorial Act of 1968 (20 U.S.C. 80f(b)) is amended—

(1) in the text preceding paragraph (1) by striking out "fifteen" in inserting in lieu thereof "sixteen";

(2) by redesignating paragraphs (2) through (8) as paragraphs (3) through (9), respectively; and

(3) by striking out paragraph (1) and inserting in lieu thereof the following new paragraphs:

"(1) the Secretary of State;

"(2) the Director of the International Communication Agency;".

(b)(1) Subsection (c) of that section (20 U.S.C. 80f(c)) is amended by striking out "(7)" and inserting in lieu thereof "(8)".

(2) Subsection (d) of that section (20 U.S.C. 80f(d)) is amended by striking out "(8)" and inserting in lieu thereof "(9)".

DISTRIBUTION WITHIN THE UNITED STATES OF AN INTERNATIONAL COMMUNICATION AGENCY FILM ON ROY WILKINS

SEC. 207. Notwithstanding the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461), the Director of the International Communication Agency shall, upon receipt of reimbursement for any expenses involved, make available to the Administrator of General Services, for deposit in the National Archives of the United States, a master copy of the film entitled "The Right to Dignity", and the Administrator shall make copies of such film available for purchase and public viewing in the United States.

TITLE III—BOARD FOR INTERNATIONAL BROADCASTING

AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1979

SEC. 301. (a) Section 8(a) of the Board for International Broadcasting Act of 1973 (22 U.S.C. 2877(a)) is amended—

(1) in the text preceding paragraph (1) by striking out "1978" and inserting in lieu thereof "1979"; and

(2) in paragraph (1), as amended by section 302 of this Act, by striking out "$79,448,000" and "$8,500,000" and inserting in lieu thereof "$88,180,000" and "$5,000,000", respectively.

(b) The amendments made by subsection (a) of this section shall take effect on October 1, 1978.

SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1978

SEC. 302. Section 8(a)(1) of the Board for International Broadcasting Act of 1973 (22 U.S.C. 2877(a)(1)) is amended by striking out "$68,980,000" and "$5,000,000" and inserting in lieu thereof "$79,448,000" and "$8,500,000", respectively.

COMPOSITION OF BOARD

SEC. 303. Section 3(b) of the Board for International Broadcasting Act of 1973 (22 U.S.C. 2872(b)) is amended—

(1) in paragraph (1)—

(A) by amending the first sentence to read as follows: "The Board shall consist of seven members, two of whom shall be ex officio members."; and

(B) by striking out "of RFE/RL, Incorporated, shall be an ex officio member" in the last sentence and inserting in lieu thereof "and the chairman of the Board of Directors of RFE/RL, Incorporated, shall be ex officio members"; and

(2) by amending paragraph (4) to read as follows:

(4) TERM OF OFFICE OF EX OFFICIO MEMBERS.—An ex officio member of the Board shall serve on the Board during his or her term of service as chief operating executive or as chairman of the Board of Directors of RFE/RL, Incorporated, as the case may be.".

REPRESENTATIONAL EXPENSES

SEC. 304. (a) Section 4(a) of the Board for International Broadcasting Act of 1973 (22 U.S.C. 2873(a)) is amended—

(1) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively; and

(2) by inserting the following new paragraph (8) immediately after paragraph (7):

"(8) to make available for its own use or for the use of RFE/RL, Incorporated, for official reception and representational expenses not to exceed $65,000 of the funds made available to carry out this Act each fiscal year;".

(b) The amendment made by subsection (a)(2) of this section does not apply with respect to funds appropriated before the date of enactment of this Act.

DISCLOSURE OF CONTRIBUTIONS

SEC. 305. Section 5(c) of the Board for International Broadcasting Act of 1973 (22 U.S.C. 2874(c)) is amended by inserting "(including a contribution made to any corporation or other entity having a principal purpose of receiving private contributions on behalf of RFE/RL, Incorporated)" immediately after "a contribution to RFE/RL, Incorporated,".

TECHNICAL AMENDMENTS

SEC. 306. (a) Section 8(a)(1) of the Board for International Broadcasting Act of 1973 (22 U.S.C. 2877(a)(1)) is amended by striking out "Radio Free Europe and Radio Liberty" and inserting in lieu thereof "RFE/RL, Incorporated."

(b) Section 8(b) of such Act (22 U.S.C. 2877(b)) is amended by striking out "Radio Free Europe and Radio Liberty" and inserting in lieu thereof "RFE/RL, Incorporated".

USE OF BROADCASTING FACILITIES BY COMMUNIST COUNTRIES

SEC. 307. The Board for International Broadcasting Act of 1973 (22 U.S.C. 2871–2877) is amended by adding at the end thereof the following new section:

"USE OF BROADCASTING FACILITIES BY COMMUNIST COUNTRIES

"SEC. 9. No funds or other assistance may be provided by the Board under this Act to RFE/RL, Incorporated, if RFE/RL, Incorporated, permits any Communist country (within the meaning of section 620(f) of the Foreign Assistance Act of 1961) to use its broadcasting facilities unless that Communist country permits RFE/RL, Incorporated, to use that country's broadcasting facilities on a comparable basis.".

TITLE IV—FOREIGN SERVICE AND OTHER PERSONNEL

EMPLOYMENT OF FAMILY MEMBERS OVERSEAS

SEC. 401. (a) In order to expand employment opportunities for family members of United States Government personnel assigned abroad, the President shall—

(1) seek to conclude such bilateral and multilateral agreements as will facilitate the employment of such family members in foreign economies; and

(2) direct that at any United States post abroad where a qualified family member is available to be hired, consideration shall be given, when continuity over a long term is not a significant consideration, to converting a vacant alien position to an American position for staffing by that family member.

(b)(1) The section heading of section 444 of the Foreign Service Act of 1946 (22 U.S.C. 889) is amended to read as follows: "LOCAL COMPENSATION PLANS".

(2) Subsection (a)(1) of such section is amended to read as follows:

"(a)(1) The Secretary shall, in accordance with such regulations as he may prescribe, establish compensation plans for alien employees of the Service and for United States citizens employed by the Department abroad who are family members of Government personnel serving in the same country. Such compensation plans shall be based upon prevailing wage rates and compensation practices for corresponding types of positions in the locality, to the extent consist-

ent with the public interest. Compensation plans established pursuant to this section may include provision for leave of absence with pay for alien employees in accordance with prevailing law and employment practices in the locality of employment, without regard to section 6310 of title 5, United States Code.".

(3) Subsection (b) of such section is amended by striking out "alien employee programs" and inserting in lieu thereof "employment programs for aliens, and for family members of Government personnel serving abroad;".

(4) Such section is further amended by adding at the end thereof the following new subsection:

"(d) The Secretary of State shall prescribe regulations authorizing the employment abroad, and providing for the compensation, of family members of Government personnel.".

(c) Not later than January 20, 1979, the Secretary of State shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report describing fully and completely the actions taken by the Department of State pursuant to this section and section 413 of the Foreign Relations Authorization Act, Fiscal Year 1978.

SPECIAL ALLOWANCES

SEC. 402. (a) Title IV of the Foreign Service Act of 1946 (22 U.S.C. 861–890) is amended by adding at the end thereof the following new part:

"PART F—ADDITIONAL COMPENSATION

"SPECIAL ALLOWANCES

"SEC. 451. If he finds it to be in the best interests of the Service, the Secretary may, under such conditions as he may determine, pay special allowances, in addition to compensation otherwise authorized, to Foreign Service officers who are required because of the nature of their assignments to perform additional work on a regular basis in substantial excess of normal requirements.".

(b) The amendment made by this section shall take effect on October 1, 1978.

ASSIGNMENTS TO PUBLIC OR PRIVATE NONPROFIT ORGANIZATIONS

SEC. 403. (a) Section 576 of the Foreign Service Act of 1946 (22 U.S.C. 966) is amended—

(1) in the section heading by inserting "OR PRIVATE NONPROFIT" immediately after "PUBLIC";

(2) in subsection (a)(1)—

(A) by striking out "before their fifteenth year of service as such officers" and inserting in lieu thereof "after their seventh year of service (counting service as a Foreign Service officer and prior service as a Foreign Service Reserve officer)"; and

(B) by inserting "or private nonprofit" immediately after "or other public";

(3) at the end of subsection (a)(2) by inserting the following: "Reimbursement for an assignment to a Member or office of the Senate shall be made at the rate of one-half of the current salary of the Foreign Service officer (who shall continue to be paid his or her full salary by the Department of State).."; and

(4) by striking out subsection (f) and inserting in lieu thereof the following new subsection:

"(f) The Secretary may reimburse a Foreign Service officer for relocation expenses incident to household moves necessitated by an assignment under this section for which the officer is not entitled to be reimbursed under any other provision of law. For purposes of such reimbursement, regulations issued pursuant to section 572a(a)(3) of title 5, United States Code, shall apply to the same extent as if the officer were entitled to be reimbursed for travel and transportation expenses under section 5724(a) of that title.".

(b) Section 576(f) of the Foreign Service Act of 1946, as added by subsection (a)(4) of this section, shall take effect on October 1, 1978, but shall apply with respect to relocation expenses incurred after the date of enactment of this Act.

FACILITATING VOLUNTARY RETIREMENTS

SEC. 404. Part D of title VI of the Foreign Service Act of 1946 (22 U.S.C. 1001–1008) is amended by adding at the end thereof the following new section:

"FACILITATING VOLUNTARY RETIREMENTS

"SEC. 639. In order to facilitate their transition from the Service, the Secretary may provide professional career counseling, advice, and placement assistance, by contract or otherwise (subject to the availability of appropriations), to officers and employees of the Service, other than those separated for cause.".

ORIENTATION AND LANGUAGE TRAINING FOR FAMILY MEMBERS

SEC. 405 (a)(1) Title VII of the Foreign Service Act of 1946 (22 U.S.C. 1041–1047) is amended by adding at the end thereof the following new section:

"ORIENTATION AND LANGUAGE TRAINING FOR FAMILY MEMBERS

"SEC. 708. (a) To facilitate orientation and language training provided to members of families of officers and employees of the Government pursuant to section 701, the Secretary may make grants to family members attending language and orientation programs of study of the Institute. No such grant may exceed the amount actually expended for necessary costs incurred in conjunction with such attendance, and in no event may any such grant exceed $300 per month per individual. No individual may receive such a grant for more than six months in connection with any one assignment.

"(b) If a member of the family of an officer or employee of the Government who is assigned abroad is unable to participate in language training provided by the Department at the Institute or elsewhere, the Secretary may partially compensate that family member for language training, related to the assignment abroad, which is undertaken at a public or private institution.".

(2) The amendment made by paragraph (1) of this subsection shall take effect on October 1, 1978.

(b) Not later than January 1, 1980, the Secretary of State shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report on the programs authorized by the amendment made by this section. The Secretary shall include in this report a recommendation with regard to whether these programs should remain in effect, be modified, or be terminated.

SPECIAL COMPUTATION OF ANNUITIES

SEC. 406. Notwithstanding the first sentence of section 821(a) of the Foreign Service Act of 1946 (22 U.S.C. 1076(a)), the annuity of any participant in the Foreign Service Retirement and Disability System whose salary was or is limited by the provisions of section 5308 of title 5, United States Code, and who retires during the period beginning October 1, 1978, and ending December 31, 1979, shall be equal to 2 per centum of his or her basic salary for the highest year of service for which contributions have been made to the Foreign Service Retirement and Disability Fund multiplied by the number of years, not exceeding thirty-five, of service credit obtained in accordance with the provisions of sections 851 and 853 of the Foreign Service Act of 1946 (22 U.S.C. 1091 and 1093).

REST AND RECUPERATION TRAVEL

SEC. 407. (a) Section 911(9) of the Foreign Service Act of 1946 (22 U.S.C. 1136(9)) is amended by inserting "or to the United States" immediately after "serving" the second place it appears.

(b) The amendment made by subsection (a) shall take effect on October 1, 1978.

REDUCING FAMILY SEPARATIONS DURING TEMPORARY ASSIGNMENTS

SEC. 408. (a) Section 911(10) of the Foreign Service Act of 1946 (22 U.S.C. 1136(10)) is amended by striking out "his" and inserting in lieu thereof "or from a".

(b) The amendment made by subsection (a) shall take effect on October 1, 1978.

PER DIEM AND SUBSISTENCE ALLOWANCES

SEC. 409. (a) Section 911 of the Foreign Service Act of 1946 (22 U.S.C. 1136) is amended—

(1) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and"; and

(2) by adding at the end thereof the following new paragraph:

"(12) without regard to rates provided under the authority of section 5702 of title 5, United States Code, the travel expenses of employees of the Department on protective security missions within the United States, its territories and possessions, the Commonwealth of Puerto Rico, and the Canal Zone, at not to exceed the cost of lodging plus $24 per day.".

(b) The amendments made by subsection (a) shall take effect on October 1, 1978.

COMPENSATION FOR JUNIOR FOREIGN SERVICE OFFICERS

SEC. 410. Section 412(b) of the Foreign Relations Authorization Act, Fiscal Year 1978, is repealed.

COMPENSATORY TIME OFF AT CERTAIN POSTS IN FOREIGN AREAS

SEC. 411. (a) Subchapter III of chapter 59 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 5926. Compensatory time off at certain posts in foreign areas

"(a) Under regulations prescribed pursuant to this subchapter, and notwithstanding subchapter V of chapter 55 of this title or any other law, the head of an agency may, on request of an employee serving in a foreign area—

"(1) at an isolated post performing functions required to be maintained on a substantially continuous basis, grant the employee compensatory time off for an equal amount of time spent in regularly scheduled overtime work; or

"(2) at a point in a locality that customarily observes irregular hours of work or where other special conditions are present, in order to cope with those special circumstances, grant the employee compensatory time off for an equal amount of time spent in regularly scheduled overtime work for use during the pay period in which it is earned. Credit for compensatory time off earned under paragraph (2) shall not form the basis for any additional compensation.

"(b) Compensatory time earned under this section shall be for use only while the employee is assigned to the post where it is earned. Any such compensatory time not used at the time the employee is reassigned to another post shall be forfeited.".

(b) The section analysis for such chapter is amended by inserting the following new item immediately after the item relating to section 5925:

"5926. Compensatory time off at certain posts in foreign areas.".

TECHNICAL AMENDMENTS CORRECTING PRINTING ERRORS

SEC. 412. (a) Section 444(c)(1)(B) of the Foreign Service Act of 1946 (22 U.S.C. 889(c)(1)(B)) is amended by striking out "chapter 8" and inserting in lieu thereof "chapter 81".

(b) Section 411(a) of the Foreign Relations Act, Fiscal Year 1978, is amended by striking out "section 824" and inserting in lieu thereof "section 821".

(c) The amendments made by this section shall be effective as of August 17, 1977.

REVIEW OF FOREIGN SERVICE PERSONNEL REQUIREMENTS AND COMPENSATION

SEC. 413. (a) The Congress finds that—

(1) since 1960, the United States has expanded its diplomatic representation abroad from approximately eighty countries to approximately one hundred and thirty countries;

(2) despite such expanded responsibilities, and despite a significantly increased consular workload in all countries in which the United States is represented, the total number of personnel of the Department of State has remained approximately the same; and

(3) although the responsibilities and necessary qualifications for individual Foreign Service positions continue to change, compensation for Foreign Service personnel continues to be linked to compensation for General Schedule employees at a level established years ago.

(b) It is therefore the sense of the Congress that the Secretary of State should conduct a thorough review of the personnel needs of the Foreign Service and of the suitability of the current compensation system.

(c) Not later than January 20, 1979, the Secretary of State shall transmit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a report setting forth fully and completely—

(1) the results of such review; and

(2) such recommendations as the Secretary finds appropriate.

TITLE V—SCIENCE, TECHNOLOGY, AND AMERICAN DIPLOMACY

FINDINGS

SEC. 501. The Congress finds that—

(1) the consequences of modern scientific and technological advances are of such major significance in United States foreign policy that understanding and appropriate knowledge of modern science and technology by officers and employees of the United States Government are essential in the conduct of modern diplomacy;

(2) many problems and opportunities for development in modern diplomacy lie in scientific and technological fields;

(3) in the formulation, implementation, and evaluation of the technological aspects of United States foreign policy, the United States Government should seek out and consult with both public and private industrial academic, and research institutions concerned with modern technology; and

(4) the effective use of science and technology in international relations for the mutual benefit of all countries requires the development and use of the skills and methods of long-range planning.

DECLARATION OF POLICY

SEC. 502. In order to maximize the benefits and to minimize the adverse consequences of science and technology in the conduct of foreign policy, the Congress declares the following to be the policy of the United States:

(1) Technological opportunities, impacts, changes, and threats should be anticipated and assessed, and appropriate measures should be implemented to influence such technological developments in ways beneficial to the United States and other countries.

(2) The mutually beneficial applications of technology in bilateral and multilateral agreements and activities the United States and foreign countries or international organizations should be recognized and supported as an important element of United States foreign policy.

(3) The United States Government should implement appropriate measures to insure that individuals are trained in the use of science and technology as an instrument in international relations and that officers and employees of the United States Government engaged in formal and informal exchanges of scientific and technical information, personnel, and hardware are knowledgeable in international affairs.

(4) In recognition of the environmental and technological factors that change relations among countries and in recognition of the growing interdependence between the domestic and foreign policies and programs of the United States, United States foreign policy should be continually reviewed by the executive and legislative branches of the Government to insure appropriate and timely application of science and technology to the conduct of United States foreign policy.

RESPONSIBILITIES OF THE PRESIDENT

SEC. 503. (a) The President, in consultation with the Director of the Office of Science and Technology Policy and other officials whom the President considers appropriate, shall—

(1) notwithstanding any other provision of law, insure that the Secretary of State is informed and consulted before any agency of the United States Government takes any major action, primarily involving science or technology, with respect to any foreign government or international organization;

(2) identify and evaluate elements of major domestic science and technology programs and activities of the United States Government with significant international implications;

(3) identify and evaluate international scientific or technological developments with significant implications for domestic programs and activities of the United States Government; and

(4) assess and initiate appropriate international scientific and technological activities which are based upon domestic scientific and technological activities of the United States Government and which are beneficial to the United States and foreign countries.

(b) The President shall study and not later than January 31, 1980, and not later than January 31 of each year thereafter, shall transmit to the Congress a report containing recommendations with respect to—

(1) personnel requirements, and standards and training for service of officers and employees of the United States Government, with respect to assignments in any Federal agency which involve foreign relations and science or technology; and

(2) the continuation of existing bilateral and multilateral activities and agreements primarily involving science and technology, including (A) an analysis of the foreign policy implications and the scientific and technological benefits of such activities or agreements for the United States and other parties, (B) the adequacy of the funding for and administration of such activities and agreements, and (C) plans for future evaluation of such activities and agreements on a routine basis.

(c) Except as otherwise provided by law, nothing in this section shall be construed as requiring the public disclosure of sensitive information relating to intelligence sources or methods or to persons engaged in monitoring scientific or technological developments for intelligence purposes.

RESPONSIBILITIES OF THE SECRETARY OF STATE

SEC. 504. (a) In order to implement the policy set forth in section 502 of this title, the Secretary of State (hereafter in this section referred to as the "Secretary") shall have primary responsibility for coordination and oversight with respect to all major science or science and technology agreements and activities between the United States and foreign countries, international organizations, or commissions of which the United States and one or more foreign countries are members.

(b) The Secretary shall, to such extent or in such amounts as are provided in appropriation Acts, enter into long-term contracts, including contracts for the services of consultants, and shall make grants and take other appropriate measures in order to obtain studies, analyses, and recommendations from knowledgeable persons and organizations with respect to the application of science or technology to problems of foreign policy.

(c) The Secretary shall, to such extent or in such amounts as are provided in appropriation Acts, enter into short-term and long-term contracts, including contracts for the services of consultants, and shall make grants and take other appropriate measures in order to obtain assistance from knowledgeable persons and organizations in training officers and employees of the United States Government, at all levels of the Foreign Service and Civil Service—

(1) in the application of science and technology to problems of United States foreign policy and international relations generally; and

(2) in the skills of long-range planning and analysis with respect to the scientific and technological aspects of United States foreign policy.

(d) In obtaining assistance pursuant to subsection (c) in training personnel who are officers or employees of the Department of State, the Secretary may provide for detached service for graduate study at accredited colleges and universities.

(e) Not later than January 20, 1979, the Secretary shall transmit to the Committee on Appropriations and the Committee on International Relations of the House of Representatives, and to the Committee on Appropriations and the Committee on Foreign Relations of the Senate, a report on the implementation of the responsibilities of the Secretary under this title. Such report shall include the following information: an assessment of the personnel required in order to carry out such responsibilities; existing and planned programs for research and analysis to support long-range planning for the application of science and technology to foreign policy; existing and planned programs for training officers and employees of the United States Government pursuant to subsection (c) of this section; and existing and planned programs to enter into long-term contracts with academic and other organizations for assistance in training and in obtaining studies, analyses, and recommendations with respect to the application of science or technology to problems of foreign policy.

TITLE VI—POLICY PROVISIONS

INTERNATIONAL COMMUNICATIONS POLICY

SEC. 601. (a) The Congress finds that—

(1) a series of multilateral meetings scheduled to convene in 1978 and 1979 (including the twentieth General Conference of the United Nations Educational, Scientific, and Cultural Organization; the Thirty-second United Nations General Assembly; the United Nations Conference on Science and Technology for Development; and the World Administrative Radio Conference of the International Telecommunications Union) will address a complex variety of international communications and information issues and will likely, through the promulgation of binding agreements relating to such issues, have a significant and lasting effect on the free flow of information and ideas among the countries of the world; and

(2) since the United States is the leading user of communications channels and information in the world, the United States Government should have a comprehensive policy regarding the various communications and

information issues that have entered international discussions and should establish an effective mechanism by which to develop and coordinate United States policy on such issues.

(b) Not later than January 20, 1979, the President shall transmit to the Speaker of the House of Representatives, and to the chairman of the Committee on Foreign Relations and the chairman of the Committee on Commerce, Science, and Transportation of the Senate, a report describing fully and completely—

(1) procedures the President has established by which to develop and maintain a comprehensive United States policy regarding international communications and information issues; and

(2) goals and positions of the United States with regard to anticipated international meetings which will address communications and information issues.

The President shall transmit supplementary reports to the Congress as modifications, if any, occur in such goals and positions.

ACTION CONCERNING MARINE RESOURCES

SEC. 603. It is the sense of the Congress that the President should convey to all countries having an interest in cetacean sea life the serious concern of the Congress regarding the continuing destruction of these marine mammals (highlighted by the recent slaughter of dolphins in the Sea of Japan by Japanese fishermen) and should encourage such countries—

(1) to join in international discussions with other such countries in order to adavnce general understanding of catacean life and thereby facilitate an effective use of the living marine resources of the world which does not jeopardize the natural balance of the aquatic environment;

(2) to participate in an exchange of information with tne National Marine Fisheries Service of the United States Department of Commerce, including cooperation in studies of—

(A) the impact of cetaceans on ecologically related human foodstuffs. and

(B) alternative methods of dealing with cetacean problems as they occur;

(3) to cooperate in establiahnig an international cetacean commission to advance understanding of cetacean life and to insure the effective conservation and protection of cetaceans on a global scale; and

(4) to adopt comprehensive marine mammal protection legislation.

INTERNATIONAL JOURNALISTIC FREEDOM

SEC. 603. (a) The Congress finds that—

(1) news disseminations and the free flow of information across national boundaries are vital to international understanding and to healthy relations among countries; and

(2) recurring and reliable reports strongly indicate that in many countries foreign news correspondents are subject to governmental harassment and restriction, including the denial of access to legitimate news sources, the imposition of censorship, and detention, incarceration, and expulsion.

(b) It is therefore the sense of the Congress that the President should—

(1) advise the appropriate officials of any foreign government which subjects foreign news correspondents to harassment and restrictions that the United States considers such mistreatment a significant and potentially damaging factor in overall relations of the United States with such country; and

(2) raise in appropriate international forums the issue of the treatment of foreign news correspondents, with a view toward gaining multilateral support for the legitimate rights of such correspondents.

(c) Not later than January 2, 1979, the President shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report describing fully and completely actions taken pursuant to subsection (b).

INTERNATIONAL FOOD RESERVE

SEC. 604. (a) The Congress finds that—

(1) half a billion people suffer regularly from malnutrition or undernutrition;

(2) even very modest shortfalls in crop production can result in greatly increased human suffering, and undercut the benefits of bilateral and multilateral assistance programs, in poor developing countries with chronic food deficits;

(3) increasing variability in world food production and trade presents a serious threat not only to consumers but also to producers;

(4) the World Food Conference recognized the urgent need for an international undertaking to achieve a system of world food security based largely upon strategic food reserves;

(5) the Congress through legislation has repeatedly urged the President to negotiate with other nations to establish such a system of reserves;

(6) although the nations of the world have agreed to begin discussions on a system of grain reserves to regulate food availability, agreement on a global network of nationally held reserves still eludes the international community;

(7) while some progress has taken place in the United States in creating domestic farmer held reserves, the scale of such reserves does not insure adequate protection against fluctuations in world production and price; and

(8) the United States, as the world's leading producer of foodstuffs, remains in a unique position to provide the leadership necessary to make world food security a reality.

(b) It is therefore the sense of the Congress that the President should continue his efforts directed toward achievement of an agreement establishing an international network of nationally held grain reserves which provides for supply assurance to consumers and income security to producers.

SPANISH DEMOCRACY

SEC. 605. (a) The Congress finds that—

(1) the Senate, in rendering its advice and consent to ratification of the Treaty of Friendship and Cooperation between the United States and Spain (signed on January 24, 1976), declared its hope and intent that the Treaty would serve to support and foster Spain's progress toward free institutions;

(2) this declaration reflected the strong desire of the United States Government and the American people to see a restoration of democracy in Spain and an expansion of mutually beneficial relations between Spain and the democracies of America and Europe; and

(3) political developments in Spain during the past two years constitute a major step toward the construction of a stable and lasting Spanish democracy.

(b) The Congress finds further that—

(1) the masterpiece "Guernica", painted by Pablo Picasso, has for four decades been a powerful and poignant symbol of the horror of war;

(2) this treasured painting, while universal in its significance, holds special meaning for the people of Spain by its representation of the tragic civil war which destroyed Spanish democracy;

(3) Pablo Picasso, having painted "Guernica" for the Spanish Republican Government and concerned for Spain's future when that government fell, stipulated that the painting should remain in the custody of the Museum of Modern Art in New York until Spanish democracy had been restored; and

(4) the United States and Spain, in a Supplementary Agreement entered into with the Treaty of Friendship and Cooperation, have committed themselves to expand their cooperation in the fields of education and culture.

(c) It is therefore the sense of the Congress, anticipating the continuance of recent promising developments in Spanish political life, that "Guernica" should, at some point in the near future and through appropriate legal procedures, be transferred to the people and Government of a democratic Spain.

(d) It is further the sense of the Congress that the American people, having long benefited from this treasure and admiring Spain's achievement, would wish, as an expression of appreciation and congratulation upon the transfer of "Guernica" to Spain, to assist in the preparation of facilities for the permanent display of the painting, if such assistance is found to be appropriate by the elected leaders of Spain.

DISCRIMINATORY TRADE PRACTICES AFFECTING UNITED STATES FOREIGN RELATIONS

SEC. 606. (a) The Congress finds that those provisions of United States statutes which authorize or require suspension of or discrimination with respect to all trade between the United States and a particular foreign country and which affect, directly and significantly, the conduct of the United States foreign relations should be periodically reevaluated by the President and the Congress.

(b) Therefore, not later than January 20, 1979, the President shall transmit to the Speaker of the House of Representatives, and to the chairman of the Committee on Foreign Relations and the chairmen of other appropriate committees of the Senate, a report which—

(1) identifies all statutory provisions which provide for such discriminatory trade practices;

(2) evaluates each such practice; and

(3) recommends, in the form of draft legislation, such amendments to those provisions as the President certifies would in his judgment advance United States foreign policy interests.

CONDUCT OF DIPLOMATIC RELATIONS

SEC. 607. The Congress finds that the conduct of diplomatic relations with a foreign government has as its principal purpose the discussion and negotiation with that government of outstanding issues and, like the recognition of a foreign government, does not in itself imply approval of that government or of the political-economic system it represents.

NUCLEAR-POWERED SATELLITES

SEC. 608. (a) The Congress finds that—

(1) no international regime governs the use of nuclear-powered satellites in space;

(2) the unregulated use of such technology poses the possibility of catastrophic damage to human life and the global environment; and

(3) this danger has been evidenced by mishaps encountered, despite certain precautions, by nuclear-powered satellites of both the United States and the Soviet Union.

(b) It is therefore the sense of the Congress that the United States should take the initiative immediately in seeking a multilateral agreement governing the use of nuclear-powered satellites in space.

(c) Not later than January 20, 1979, the Secretary of State shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report on actions taken by the United States Government pursuant to subsection (b).

WORLD ALTERNATE ENERGY CONFERENCE

SEC. 609. (a) The Congress finds that—

(1) increasing global dependence on fossil fuels, particularly oil and natural gas, when existing supplies are rapidly being depleted, is costly to developed and developing countries both environmentally and economically;

(2) the uncontrolled spread of nuclear power carries serious dangers due to waste pollution and the possibility of accidents or material diversion;

(3) expanded development and use of alternate, nonconventional, or renewable sources of energy (including solar energy, wind, biomass waste materials, and alcohol fuels) could assist all countries in satisfying rising energy demands, while reducing environmental and economic risk;

(4) no international agency exists at present which assists countries in exchanging information and technical assistance concerning energy-related problems or which promotes the development and use of alternate energy sources; and

(5) an international agency performing these functions could be of benefit to all countries and could be particularly effective in assisting developing countries to become more self-sufficient and thereby to increase their standard of living.

(b) It is therefore the sense of the Congress that the United States should encourage the United Nations to convene a World Alternate Energy Conference in 1981 for the purpose of considering ways to meet the energy needs of the world through the development and use of alternate energy sources. Among proposals considered at such a conference should be the establishment, under United Nations auspices, of an International Alternate Energy Commission to encourage the worldwide use of alternate energy sources by assisting in the dissemination of information and by other appropriate means.

(c) Not later than January 20, 1980, the Secretary of State shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report on actions taken pursuant to subsection (b).

ATROCITIES IN CAMBODIA AND UGANDA

SEC. 610. (a) The Congress finds that reliable reports of events in Cambodia and Uganda attest to the existence of governmental practices in those countries of such systematic and extensive brutality as to require special notice and continuing condemnation by outside observers.

(b) Recognizing the limited direct influence of the United States in Cambodia and Uganda, the Congress urges the President to move aggressively to support multilateral action by the United Nations and other international organizations, and to encourage bilateral action by countries having more extensive relations with Cambodia and Uganda, to bring an end to the brutal and inhumane practices of the government of those two countries.

(c) Not later than January 20, 1979, the Secretary of State shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report describing fully and completely actions taken pursuant to subsection (b).

(d) It is the sense of the Congress that the President should—

(1) prohibit the export of military, paramilitary, and police equipment to Uganda;

(2) direct that the visa application of any official or employee of the Government of Uganda seeking to enter the United States for the purpose of military, paramilitary, or police training, may be approved by a consular officer only after the appropriate official of the Department of State in Washington has reviewed the application and has determined that the Government of Uganda has demonstrated a proper respect for the rule of law and for internationally recognized human rights; and

(3) instruct the Permanent Representative of the United States to the United Nations to submit to the Security Council of the United Nations for its consideration a resolution imposing a mandatory arms embargo on Uganda by all members of the United Nations.

EQUITABLE TREATMENT OF UNITED STATES CITIZENS LIVING ABROAD

SEC. 611. (a) The Congress finds that—

(1) United States citizens living abroad should be provided fair and equitable treatment by the United States Government with regard to taxation, citizenship of progency, veterans' benefits, voting rights, Social Security benefits, and other obligations, rights, and benefits; and

(2) such fair and equitable treatment would be facilitated by a periodic review of statutes and regulations affecting Americans living abroad.

(b) Not later than January 20, 1979, the President shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report which—

(1) identifies all United States statutes and regulations which discriminate against United States citizens living abroad;

(2) evaluates each such discriminatory practice; and

(3) recommends legislation and any other remedial action the President finds appropriate to eliminate unfair or inequitable treatment of Americans living abroad.

UNITED STATES-CANADIAN NEGOTIATIONS ON AIR QUALITY

SEC. 612. (a) The Congress finds that—

(1) the United States and Canada share a common environment along a 5,500 mile border;

(2) the United States and Canada are both becoming increasingly concerned about the effects of pollution, particularly that resulting from power generation facilities, since the facilities of each country affect the environment of the other;

(3) the United States and Canada have subscribed to international conventions; have joined in the environmental work of the United Nations, the Organization for Economic Cooperation and Development, and other international environmental forums; and have entered into and implemented effectively the provisions of the historic Boundary Waters Treaty of 1909; and

(4) the United States and Canada have a tradition of cooperative resolution of issues of mutual concern which is nowhere more evident than in the environmental area.

(b) It is the sense of the Congress that the President should make every effort to negotiate a cooperative agreement with the Government of Canada aimed at preserving the mutual airshed of the United States and Canada so as to protect and enhance air resources and insure the attainment and maintenance of air quality protective of public health and welfare.

(c) It is further the sense of the Congress that the President, through the Secretary of State working in concert with interested Federal agencies and the affected States, should take whatever diplomatic actions appear necessary to reduce or eliminate any undesirable impact upon the United States and Canada resulting from air pollution from any source.

CUBAN PRESENCE IN AFRICA

SEC. 613. (a) The Congress finds that—

(1) the President authorized the exchange of notes of May 30, 1977, between the Governments of the United States and Cuba which established an Interests Section for the United States in the Embassy of Switzerland in Havana and an Interests Section for Cuba in the Embassy of Czechoslovakia in Washington;

(2) the President has the authority under the Export Administration Act of 1969 to limit trade with Cuba being conducted by subsidiaries of American firms operating in third countries;

(3) the President has the power to sever all diplomatic and economic relations with Cuba; and

(4) there has been a sharp increase in the number of Cuban military personnel serving in Africa in the past year.

(b) It is therefore the sense of the Congress that the President should—

(1) undertake a comprehensive review of United States diplomatic and economic relations with Cuba; and

(2) not later than January 20, 1979, transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report based on such review.

PALESTINIAN RIGHTS UNITS

SEC. 614. (a) The Congress, noting United Nations General Assembly Resolution 3376 (XXX) which established the Committee on the Exercise of the Inalienable Rights of the Palestinian People and noting United Nations General Assembly Resolutions 32/40/A and 32/40/B which continued the mandate of that Committee and requested that the Secretary General establish within the Secretariat of the United Nations a Special Unit on Palestinian Rights, declares that—

(1) the continuation of the Committee on the Exercise of the Inalienable Rights of the Palestinian People and the creation of the Special Unit on Palestinian Rights are wasteful expenditures of limited United Nations resources at a time when the United Nations is experiencing severe financial difficulties and when the United Nations is under close scrutiny from contributing members;

(2) the work of the Committee on the Exercise of the Inalienable Rights of the Palestinian People does not contribute to the process of peacemaking underway at present in the Middle East; and

(3) the United States Ambassador to the United Nations should be instructed to continue to oppose extensions of the mandate of that Committee as well as extensions of the Special Unit on Palestinian Rights.

(b) It is the sense of the Congress that the President should direct the Permanent Representative of the United States to the United Nations to use all means at his disposal to obtain action by the General Assembly terminating the Committee on the Exercise of the Inalienable Rights of the Palestinian People and the Special Unit on Palestinian Rights.

TITLE VII—MISCELLANEOUS PROVISIONS

ANNUAL REPORT OF THE GORGAS MEMORIAL INSTITUTE

SEC. 701. (a) Section 3 of the Act entitled "An Act to authorize a permanent annual appropriation for the maintenance and operation of the Gorgas Memorial Laboratory", approved May 7, 1928 (22 U.S.C. 278a), is amended in the first sentence—

(1) by striking out "annually, on the first Monday in December" and inserting in lieu thereof ", on April 1 of each year"; and

(2) by striking out "up to the first of November next preceding" and inserting in lieu thereof "during the fiscal year ending the preceding September 30".

(b) Title I of the Departments of State, Justice, and Commerce Appropriation Act, 1945, is amended in the first paragraph under the heading "INTERNATIONAL ORGANIZATIONS" by striking out ": *Provided*," and all that follows through "each such session" (22 U.S.C. 278b).

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SEC. 702. (a) Section 7(a) of the Act entitled "An Act to establish a Commission on Security and Cooperation in Europe", approved June 3, 1976 (22 U.S.C. 3007(a)), is amended by striking out "$350,000" and inserting in lieu thereof "$550,000".

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

SEC. 703. (a) Section 6 of the Japan-United States Friendship Act (22 U.S.C. 2905) is amended—

(1) by striking out "and" at the end of paragraph (9);

(2) by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (10) the following new paragraph:

"(11) transmit its official mail as penalty mail in the same manner and upon the same conditions as an officer of the United States other than a Member of Congress is permitted to transmit official mail as penalty mail under section 3202 of title 39 of the United States Code.".

(b) The amendments made by this section shall take effect on October 1, 1978.

CONTRIBUTION TO THE INTERNATIONAL TIN COUNCIL

SEC. 704. Effective October 1, 1978, there is authorized to be appropriated to the President $60,000,000 for the purpose of acquiring tin metal to contribute to the buffer stock of the International Tin Council established under the Fifth International Tin Agreement.

PROHIBITION ON AID OR REPARATIONS TO VIETNAM

SEC. 705. (a) None of the funds authorized to be appropriated in this Act may be used for the purpose of reparations, aid, or any other form of payment to the Socialist Republic of Vietnam.

(b) The President shall continue to take all possible steps to obtain a final accounting of all Americans missing in action in Vietnam.

USE OF FOREIGN AIR CARRIERS

SEC. 706. Notwithstanding the limitations established by section 1117 of the Federal Aviation Act of 1958 (49 U.S.C. 1517), funds appropriated after the date of enactment of this Act to the Department of State, the International Communication Agency, the Agency for International Development (or any successor agency), and the Arms Control and Disarmament Agency may be used to pay for the transportation, between two places both of which are outside the United States, of officers and employees of those agencies, their dependents, and accompanying baggage, aboard air carriers which do not hold certificates under section 401 of that Act.

TRAVEL DOCUMENTATION OF ALIENS AND CITIZENS

SEC. 707. (a) Subsection (a) of section 215 of the Immigration and Nationality Act (8 U.S.C. 1185) is amended by striking out "When the United States" and all that follows through "be unlawful" and inserting in lieu thereof "Unless otherwise ordered by the President, it shall be unlawful".

(b) Subsection (b) of such section is amended to read as follows:

"(b) Except as otherwise provided by the President and subject to such limitations and exceptions as the President may authorize and prescribe, it shall be unlawful for any citizen of the United States to depart from or enter, or attempt to depart from or enter, the United States unless he bears a valid passport.".

(c) Subsection (f) of such section is amended by striking out "proclamation," both places it appears.

(d) Such section is further amended by striking out subsection (c) and redesignating subsections (d), (e), (f), and (g) as subsections (c), (d), (e), and (f), respectively.

(e) The heading of such section is amended to read as follows: "TRAVEL DOCUMENTATION OF ALIENS AND CITIZENS".

(f) The item relating to section 215 in the table of contents of the Immigration and Nationality Act is amended to read as follows: "Sec. 215. Travel documentation of aliens and citizens.".

REPORTING AND COORDINATION OF INTERNATIONAL AGREEMENTS

SEC. 708. Section 112b of title 1, United Code, is amended—

(1) by inserting "(including the text of any oral international agreement, which agreement shall be reduced to writing)" immediately after "international agreement" in the first sentence;

(2) by inserting "(a)" immediately before the first sentence; and

(3) by adding at the end thereof the following new subsections:

"(b) Not later than March 1, 1979, and at yearly intervals thereafter, the President shall, under his own signature, transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report with respect to each international agreement which, during the preceding year, was transmitted to the Congress after the expiration of the 60-day period referred to in the first sentence of subsection (a), describing fully and completely the reasons for the late transmittal.

"(c) Notwithstanding any other provision of law, an international agreement may not be signed or otherwise concluded on behalf of the United States without prior consultation with the Secretary of State. Such consultation may encompass a class of agreements rather than a particular agreement.

"(d) The Secretary of State shall determine for and within the executive branch whether an arrangement constitutes an international agreement within the meaning of this section.

"(e) The President shall, through the Secretary of State, promulgate such rules and regulations as may be necessary to carry out this section.".

PANAMA CANAL TREATIES

SEC. 709. None of the funds authorized to be appropriated by this Act may be used directly or indirectly to effect implementation of the Panama Canal Treaty or the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, each signed on September 7, 1977, unless authorized by the Constitution or by Act of Congress.

INTERPARLIAMENTARY UNION

SEC. 710. The first section of the Act entitled "An Act to authorize participation by the United States in the Interparliamentary Union", approved June 28, 1935 (22 U.S.C. 276), is amended by striking out "$45,000" in paragraph (2) and inserting in lieu thereof "$90,000".

COMMISSION ON HUNGER AND MALNUTRITION

SEC. 711. There are authorized to be appropriated $1,500,000 for the fiscal year 1979 and $1,500,000 for the fiscal year 1980 for a commission on global hunger and malnutrition to be created by Executive order by the President. This commission shall (1) assess the policies, organization, and structure of current Federal programs which have an impact on hunger and malnutrition; (2) coordinate, sponsor, and oversee such projects, studies, events, and other activities as the commission deems necessary or desirable, making maximum use of past and ongoing related efforts; (3) conduct such studies, inquiries, meetings, and hearings as the commission deems necessary; and (4) make recommendations to the President and the Congress on policies to increase the capacity of the United States to reduce hunger and malnutrition. Funds authorized to be appropriated by this section shall be expended under the direction of the chairman of the commission.

FOREIGN GIFTS AND DECORATIONS RECEIVED BY SENATORS AND SENATE EMPLOYEES

SEC. 712. (a) Section 7342(a)(5) of title 5, United States Code, is amended—

(1) by striking out "(e)" in subparagraph (A) and inserting in lieu thereof "(e)(1)"; and

(2) by inserting before the semicolon at the end of subparagraph (B) the following: ", except that those responsibilities (other than responsibilities involving approval of the employing agency) specified in subsections (c)(2), (d), and (g)(2)(B) shall be carried out by the Secretary of the Senate".

(b)(1) The last sentence of section 7342(c)(2) of such title is amended by striking out "subsection (e)" and inserting in lieu thereof "subsection (e)(1) or provide for its disposal in accordance with subsection (e)(2)".

(2) The last sentence of section 7342(d) of such title is amended—

(A) by striking out "or" and inserting in lieu thereof ", for"; and

(B) by striking out "subsection (e)" and inserting in lieu thereof "subsection (e)(1), or for disposal in accordance with subsection (e)(2)".

(c) Section 7342(e) of such title is amended—

(1) by striking out "Gifts" and inserting in lieu thereof "(1) Except as provided in paragraph (2), gifts";

(2) by striking out "(1)" and "(2)" and inserting in lieu thereof "(A)" and "(B)", respectively; and

(3) by adding at the end thereof the following new paragraph:

"(2) Gifts and decorations received by a Senator or an employee of the Senate that are deposited with the Secretary of the Senate for disposal, or are deposited for an official use which has terminated, shall be disposed of by the Commission on Arts and Antiquities of the United States Senate. Any such gift or decoration may be returned by the Commission to the donor or may be transferred or donated by the Commission, subject to such terms and conditions as it may prescribe, (A) to an agency or instrumentality of (i) the United States, (ii) a State, territory, or possession of the United States, or a political subdivision of the foregoing, or (iii) the District of Columbia, or (B) to an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from taxation under section 501(a) of such Code. Any such gift or decoration not disposed of as provided in the preceding sentence shall be forwarded to the Administrator of General Services for disposal in accordance with paragraph (1). If the Administrator does not dispose of such gift or decoration within one year, he shall, at the request of the Commission, return it to the Commission and the Commission may dispose of such gift or decoration in such manner as it considers proper, except that such gift or decoration may be sold only with the approval of the Secretary of State upon a determination that the sale will not adversely affect the foreign relations of the United States.".

(d) In the event that the space and facilities available to the Secretary of the Senate for carrying out his responsibilities in storing and safeguarding property in his custody under section 7342 of title 5, United States Code, are insufficient for such purpose, he may, with the approval of the Committee on Rules and Administration of the Senate, lease such space and facilities as may be necessary for such purpose. Rental

payments under any such lease and expenses incurred in connection therewith shall be paid from the contingent fund of the Senate upon vouchers approved by the Secretary of the Senate.

And the Senate agree to the same.

CLEMENT J. ZABLOCKI,
DANTE B. FASCELL,
CHARLES C. DIGGS, Jr.,
LESTER L. WOLFF,
LEO J. RYAN,
HELEN S. MEYNER,
GEORGE E. DANIELSON,
WM. S. BROOMFIELD,
JOHN BUCHANAN,
J. HERBERT BURKE,
Managers on the Part of the House.

JOHN SPARKMAN,
CLIFFORD P. CASE,
GEORGE MCGOVERN,
JOE BIDEN,
CLAIBORNE PELL,
CHARLES H. PERCY,
HOWARD H. BAKER, Jr.,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12598) to authorize appropriations for fiscal year 1979 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, to make changes in the laws relating to those agencies, to make changes in the Foreign Service personnel system, to establish policies and responsibilities with respect to science, technology, and American diplomacy, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached in the committee of conference, and minor drafting and clarifying changes.

AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1979

The conference substitute contains authorizations for fiscal year 1979 appropriations of $1,969,710,000 for the Department of State, the International Communication Agency, the Board for International Broadcasting, and other programs and activities. The amount authorized to be appropriated in the conference substitute is $27,030,000 less than the total Senate authorization, $29,974,000 more than the total House authorization, and $57,470,000 more than the executive branch request.

The amounts contained in the conference substitute compared to the amounts requested by the executive branch and recommended by the House and Senate follow:

EXECUTIVE BRANCH REQUEST, THE PROVISIONS OF THE HOUSE BILL, THE SENATE AMENDMENT, AND THE CONFERENCE SUBSTITUTE, WITH RESPECT TO THE AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1979

[In thousands of dollars]

	Executive branch request	House bill	Senate amendment	Conference substitute
Department of State:				
Administration of Foreign Affairs	830,143	849,139	835,143	[1] 849,118
International Organizations and Conferences	412,781	412,781	[2] 450,261	[3] 412,826
International Commissions	19,973	20,773	20,773	20,773
Migration and Refugee Assistance	90,836	91,336	116,536	[4] 116,536
Subtotal, Department of State	1,353,733	1,374,029	1,422,713	1,339,253
International Communication Agency	413,327	417,327	423,577	[5] 420,577
Board for International Broadcasting	85,180	88,180	88,180	[6] 88,180
Commission on Security and Cooperation in Europe	0	200	0	200
International Tin Agreement	60,000	60,000	60,000	60,000
Commission on Hunger and Malnutrition	0	0	1,500	1,500
Return of the "Guernica" to Spain	0	0	500	0
Total	1,912,240	1,939,736	1,996,470	1,969,710

[1] In addition to the executive branch request for administration of foreign affairs, the conference substitute earmarks $945,000 for the U.N. Conference on Science and Technology for Development and provides $1,000,000 for the undocumented alien program, $30,000 for strengthening the legal staff of the Consular Affairs Bureau, $1,300,000 for increased language training, $6,300,000 for increased property acquisitions, $400,000 for regularizing the employment status of seasonal employees of the Passport Office, and $1,000,000 for increased costs of rest and recuperation for Foreign Service employees.

[2] The Senate amendment included an authorization of $37,275,000 for the payment of United States arrearages to the United Nations Educational and Cultural Organization (UNESCO). The same amount was included in the House bill as a supplemental fiscal year 1978 authorization as requested by the executive branch. The conference substitute is the same as the House provisions.

[3] In addition to the executive branch request for International Organizations and Conferences, the conference substitute authorizes an increase of $45,000 in the annual funding level for U.S. participation in the Interparliamentary Union.

[4] In addition to the original executive branch request for migration and refugee assistance, the conference substitute earmarks $25,000,000 for Soviet and Eastern European refugees resettling in Israel, $5,000,000 for refugees in Africa, and provides $30,000,000 assistance for Indochina refugees (pursuant to a subsequent executive branch request of $34,500,000 for Indochina refugees) and $200,000 for an increased U.S. contribution to the International Red Cross.

[5] In addition to the executive branch request for the International Communication Agency (ICA), the conference substitute provides $7,000,000 for increased exchange of persons activities and $250,000 for an increase in rest and recuperation costs for ICA employees serving at hardship posts abroad.

[6] In addition to the fiscal year 1979 authorization for the Board for International Broadcasting, the conference substitute also contains a fiscal year 1979 supplemental authorization of $10,468,000 for that agency pursuant to an executive branch request. Both the House bill and the Senate amendment contained the supplemental authorization.

SUPPLEMENTAL AUTHORIZATION FOR UNESCO

The House bill authorized the appropriation of $37,275,000 for fiscal year 1978 to pay U.S. arrearages to United Nations Educational, Scientific and Cultural Organization.

The Senate amendment increased the authorization in this bill for the "International Organizations and Conferences" account by $37,275,000 to pay these arrearages in fiscal year 1979.

The conference substitute is identical to the House provision.

STRENGTHENING VISA PROCESSING

The House bill earmarked $1.25 million to strengthen visa processing in connection with the President's undocumented alien program.

The Senate amendment did not contain a comparable provision.

The conference substitute contains no provision on this issue. The committee of conference, however, agreed to include, in the total amount authorized for the "Administration of Foreign Affairs" account, $1 million to be used to strengthen the Department of State's ability to carry out effectively its responsibilities for the issuance of visas.

CLARIFICATION OF INFORMATION REPORTING REQUIREMENT

The Senate amendment sought to clarify existing law which requires that "any Federal department, agency, or independent establishment shall furnish any information requested by either" the House International Relations Committee or the Senate Foreign Relations Committee "relating to any activity or responsibility" within the jurisdiction of these committees by adding, after "any information", the following: (notwithstanding the department, agency, or independent establishment of origin)." The amendment thus was intended to make clear that such requests cannot be refused simply because the information requested was originally derived from a different agency.

The House bill did not contain a comparable provision.

The conference substitute contains no provision on this issue. The committee of conference agreed that the amendment proposed by the Senate is unnecessary in view of the existing legal requirement that "any" information be furnished and that "any" information includes information derived from another agency. The committee of conference stresses that the so-called "third agency rule" may not, therefore, be used as an impediment to the timely furnishing of information requested by these congressional committees. The executive branch has assured the Congress that the rule will be used as intended and not as a tool to thwart intentionally congressional inquiry or otherwise delay such requests. Specifically, the committee of conference understands that, in the event any of the information requested from a particular department, agency or independent establishment was supplied by another such entity, the department, agency or independent establishment receiving the request shall (1) immediately inform the originating entity and request that entity's permission to release such information; and (2) immediately inform the requesting committee that the originating entity has been asked for permission to release such information to the requesting committee. If the originating entity denies permission to such department, agency or independent establishment, for the release of such items of information, the originating entity shall so inform the requesting committee, describing the items of information whose release has been denied.

The committee of conference intends that the procedure described above constitute the advice sought by Secretary of State Vance on August 2, 1978, regarding a means of resolving difficulties confronted by the foreign relations committees with respect to the "third agency rule."

U.N. CONFERENCE ON SCIENCE AND TECHNOLOGY

The House bill earmarked $945,000 for State Department expenses in conjunction with the U.N. Conference on Science and Technology for Development.

The Senate amendment contained findings on the importance of science and technology for development and expresed the sense of Congress that the United States should strongly support the purpose of the U.N. Conference and develop proposals for same. No funds were earmarked.

The conference substitute incorporates both the earmarking of $945,000 contained in the House provision and the findings and policy statement contained in the Senate amendment.

ASSISTANCE FOR REFUGEES IN AFRICA

The House bill earmarked $10 million of the amount authorized for the "Migration and Refugee Assistance" account for refugees in Africa.

The Senate amendment did not contain a comparable provision.

The conference substitute includes an earmarking for refugees in Africa, but reduces the amount to $5 million. In the total amount authorized to be appropriated for migration and refugee assistance, in addition to the executive branch request, the conference substitute includes $5 million for African refugees. The committee of conference agreed that emerging refugee problems in Africa may well require even more funds than are included in the total amount authorized by this bill. It is the expectation of the committee of conference that additional requirements for refugees in Africa or elsewhere during fiscal year 1979 will be funded under the authorization provided for appropriations to the U.S. Emergency Refugee and Migration Assistance Fund If requirements for appropriations for refugee purposes exceed existing authorizations for appropriations, the Congress would expect the executive branch to submit a request for supplemental authorization legislation.

DISADVANTAGED CHILDREN IN THAILAND

The Senate amendment contained an earmarking of $500,000 of the funds authorized for the "Migration and Refugee Assistance" account for children in Thailand born of American fathers and Asian mothers.

The House bill did not contain a comparable provision.

The conference substitute contains no provision on this issue. The committee of conference agreed on the need to provide assistance to disadvantaged children in Thailand and agreed that funds should be used for this purpose under the authority of the International Development and Food Assistance Act of 1978 (H.R. 12222).

CONSOLIDATION OF ADMINISTRATIVE SERVICES

The House bill provided authority for the consolidation of administrative services performed in common by the Department of State and other Federal agencies performing foreign affairs functions.

The Senate amendment did not contain a comparable provision.

The conference substitute is similar to the House provision with minor changes which were adopted in order to insure that each of the foreign affairs agencies would be on equal footing with the State Department with respect to consolidation of administrative services.

FOREIGN MISSION SOLAR ENERGY DEMONSTRATION

The House bill established a policy of using solar energy and other renewable energy technologies in buildings acquired under authority of the Foreign Service Buildings Act of 1926 and earmarked $4 million for this purpose. The House provision also required that the Secretary of State select the projects in consultation with the Secretary of Energy and otherwise called for involvement by the Department of Energy.

The Senate amendment was similar to the House provision, but contained no consultation requirement on the selection of projects and in general did not require as much involvement of the Department of Energy.

The conference substitute is the same as the House provision.

PALESTINIAN RIGHTS UNITS

The House bill expressed the sense of Congress that the U.N. Committee on the Exercise of the Inalienable Rights of the Palestinian People and the U.N. Special Unit on Palestinian Rights ought to be terminated and that the permanent U.S. representative to the United Nations should use all means at his disposal to obtain such termination.

The Senate amendment provided for a reduction in the 1979 U.S. contribution to the United Nations equal to the amount of our 1978 U.N. contribution which was used for these two units.

The conference substitute is the same as the House provision.

ASSISTANT SECRETARY OF STATE FOR NARCOTICS MATTERS

The House bill authorized an additional Assistant Secretary in the Department of State with the title of Assistant Secretary of State for International Narcotics Matters who would be responsible for the overall coordination of the role of the Department of State in the international aspects of narcotics problems.

The Senate amendment contained a similar provision, but provided that the Assistant Secretary was to be responsible to the Secretary of State for all matters pertaining to narcotics in the conduct of foreign policy and international narcotics control programs funded under section 482 of the Foreign Assistance Act of 1961 and was to assume the full duties and responsibilities currently carried out by the senior adviser to the Secretary of State for International Narcotics Control. In addition to establishing the position of Assistant Secretary for International Narcotics Matters, the Senate amendment required the Secretary of State to submit, within 6 months of enactment of this legislation, a comprehensive report on the Office of the Assistant Secretary for International Narcotics Matters, including its mandate and operations, the mandate and operations of its predecessor office, and proposals and recommendations to strengthen international narcotics control.

The conference substitute is the same as the House provision. The committee of conference, however, agreed that a report on the implementation of this provision would be useful. The Secretary of State is therefore requested to submit to the Committee on International Relations of the House of Representatives and to the Committee on Foreign Relations of the Senate, within 6 months of enactment of this legislation, a comprehensive report on the Office of the Assistant Secretary of State for International Narcotics Matters, containing the information specified in the Senate amendment.

WORLD ALTERNATE ENERGY CONFERENCE

The House bill expressed the sense of Congress that the United States ought to encourage the United Nations to hold a World Alternate Energy Conference in 1981, a main purpose of which should be consideration of the establishment of an international alternative energy organization.

The Senate amendment expressed a similar sense of Congress, but set the date for the conference as 1980, included five findings concerning world energy supplies and usages, provided that establishment of an International Alternate Energy Commission should be one of the proposals considered, and required a report by January 20, 1979, on actions taken by the United States to promote such a conference.

The conference substitute is the same as the Senate provision except that the target date for the conference was changed to 1981 and the date of the report required to be submitted to Congress was changed to January 20, 1980.

TRAVEL DOCUMENTATION OF ALIENS AND CITIZENS

The House bill made permanent the authority of the President to regulate the entry of aliens into the United States and to require American citizens to bear valid passports when entering or leaving the United States. This authority, which is now exercised on an "emergency" basis, would otherwise lapse in September 1978, pursuant to the National Emergencies Act enacted in 1976. The House bill also repealed the criminal penalties for violations of these travel controls.

The Senate amendment did not contain a comparable provision.

The conference substitute is the same as the House provision.

EXCLUSION OF CERTAIN ALIENS FROM THE UNITED STATES

The Senate amendment stated that the Secretary of State "shall" make a favorable recommendation for admission to the United States in any case where a prospective visitor is excludable only for reasons of organizational affiliation. Existing law says he "should" make such a recommendation. The Senate amendment also contained a provision emphasizing that other reasons for exclusion retain their force.

The House bill contained no comparable provision.

The conference substitute incorporates a provision emphasizing that reasons other than membership in a proscribed organization continue to be grounds for denying admission to the United States, but does not include the other change proposed by the Senate.

DIPLOMATIC AND OFFICIAL PASSPORTS

The Senate amendment expressed the sense of Congress that diplomatic or official passports should be issued only to, and used only by, persons holding U.S. Government diplomatic or other official positions or persons otherwise eligible for such passports under conditions specifically authorized under law. The Senate amendment further directed the Secretary of State to transmit to Congress, no later than January 20, 1979, proposed legislation specifying those categories of persons eligible for such passports and the Secretary's certification that U.S. passport procedures insure that such passport will not be used by persons whose eligibility is terminated.

The House bill did not contain a comparable provision.

The conference substitute expresses the sense of Congress that diplomatic or official passports should be issued only to, and used only by, persons holding U.S. Government diplomatic or other official positions or who are otherwise eligible for such passports under conditions specifically authorized under law.

TRAVEL RESTRICTIONS ON FOREIGN CITIZENS

The Senate amendment stated that, in accordance with the general principles of the Helsinki Final Act and the Vienna Convention on Diplomatic Relations, it shall be the general policy of the United States to impose restrictions on travel within the United States by foreign citizens only when their governments impose travel restrictions on U.S. citizens. The Senate amendment further required the Secretary of State to convey this policy to foreign governments imposing travel restrictions on U.S. citizens and to seek, on a reciprocal basis, the elimination of such restrictions. Finally, the Senate amendment directed the Secretary of State to transmit to Congress, not later than January 20, 1979, and annually thereafter for 3 years, a report describing existing travel restrictions imposed by the United States and foreign governments and the progress toward eliminating such restrictions.

The House bill did not contain a comparable provision.

LIMITATION ON GEOGRAPHICAL TRAVEL RESTRICTIONS

The Senate amendment prohibited restrictions on the use of U.S. passports for travel to any nation unless that nation is at war with the United States or armed hostilities are in progress.

The House bill did not contain a comparable provision.

The conference substitute is similar to the Senate provision except that it would add to the specified exceptions allowed in the Senate amendment nations where conditions threaten the public health or the physical safety of U.S. citizens.

USE OF FOREIGN AIR CARRIERS

The Senate amendment provided authority for U.S. foreign affairs agencies to use foreign air carriers for transportation of personnel and accompanying baggage between two points outside of the United States.

The House bill did not contain a comparable provision.

The conference substitute is similar to the Senate amendment except that it restricts the authority to use foreign air carriers to employees of the Department of State, the International Communication Agency, the Agency for International Development, and the Arms Control and Disarmament Agency, their dependents and accompanying baggage. In granting this authority, the committee of conference recognizes that existing law has created substantial hardships for U.S. Government personnel required to travel overseas to carry out their official duties and has frequently resulted in increased costs to the U.S. Government. The committee of conference, however, does not intend that this authority be implemented in a broad and sweeping manner. Therefore, it is fully expected that this authority will be implemented in a manner which will continue to encourage U.S. Government employees to use U.S. air carriers to the maximum practical extent. In establishing regulations to implement this new authority, the heads of affected agencies are expected to take into account both the continuing policy of Congress that U.S. airlines be used to the greatest practical extent and also any significant adverse economic impact which use of this authority may have on the revenues of any U.S. certificated air carrier. The heads of agencies affected by this provision are requested to provide to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives, not later than 14 months after enactment of this legislation, a comprehensive report on implementation of this provision.

The conference substitute is similar to the Senate provision but makes clear that this provision is not intended to limit any restrictions on travel within the United States which are imposed by the United States Government, on a reciprocal basis, with respect to the officials of particular foreign governments.

INTERNATIONAL JOINT COMMISSION REPRESENTATION EXPENSES

The Senate amendment removed the current limitation of $1,500 on annual representation and official entertainment expenses by the American section of the International Joint Commission, United States and Canada.

The House bill did not contain a comparable provision.

The conference substiutte is the same as the Senate amendment.

IMPROVING FUNDING OF INTERNATIONAL JOINT COMMISSION

The Senate amendment earmarked $800,000 of the funds authorized to be appropriated to the Department of State each year for the purpose of providing for studies requested by the U.S. Government to be carried out by the International Joint Commission. It also required the Secretary of State to conduct a study of possible measures to improve the budgetary procedures of the United States with respect to support for the International Joint Commission. The results of the study were to be submitted to Congress by January 20, 1979.

The House bill did not contain a comparable provision although it did include $800,000 for a similar purpose in the funds authorized to be appropriated to the Department of State for fiscal year 1979 for the "International Commissions" account.

The conference substitute contains no provision on this issue. The committee of conference, however, did agree to the inclusion of an additional $800,000 in funds authorized to be appropriated to the Department of State for fiscal year 1979 for the "International Commissions" account in order to permit the International Joint Commission, United States and Canada, to strengthen its staff and to permit it to more promptly initiate studies requested by the two Governments as recommended by the General Accounting Office. The Secretary of State is requested, no later than January 20, 1979, to submit to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House a report on ways to improve budgetary procedures governing U.S. participation in the activities of the International Joint Commission. This report should take into account the recommendations of the General Accounting Office, contained in its report on "How the United States Can and Should Improve its Funding of International Joint Commission Activities," dated February 8, 1978.

MEMORIAL STATUE OF GEN. GEORGE C. MARSHALL

The Senate amendment contained a provision authorizing acquisition by the Department of State a memorial statue or bust of Gen. George C. Marshall to be placed within the Department of State.

The House bill did not contain a comparable provision. The House of Representatives, however, passed a bill, H.R. 9165, essentially the same as this provision on January 23, 1978.

The conference substitute is the same as the Senate provision.

HISTORICAL PUBLICATION OF THE STATE DEPARTMENT

The Senate amendment contained a provision to prevent a shift from letterpress to microfilm in the production of the State Department historical publication "Foreign Relations of the United States," by stipulating a minimum number of pages for these volumes (i.e., two-thirds of the number of pages in the volumes for 1947–49).

The House bill did not contain a comparable provision.

The conference substitute contains a congressional finding on the important role this publication plays in establishing the documentary record of U.S. foreign relations and directs the Secretary of State to insure that publication of volumes in the series is continued in a way which maintains the high standards of comprehensive documentation established by previous volumes. The State Department's "Foreign Relations" series is an immensely valuable research tool for understanding the history of American foreign policy, and the series should therefore continue to make available the comprehensive information which has made this publication useful to scholars and the public. To insure that the publication retains its utility and that the series is readily accessible to the public, the committee of conference expects the Department of State to consult fully with scholars in diplomacy and other fields, university and other libraries, and interested members of the public about the most appropriate method of publishing the series in the future. Before making any major changes either in the standards affecting what is included in volumes of the series or in the method of publication or distribution of the series, the Department of State is expected to consult formally with the House Committee on International Relations and the Senate Committee on Foreign Relations.

ASSISTING MINORITY ENTERPRISE

The Senate amendment directed the Secretary of State to cooperate with the Inter-Agency Council for Minority Enterprise to assist minority-owned and operated businesses to establish broader export markets and broaden minority business participation in State Department procurement.

The House bill did not contain a comparable provision.

The conference substitute is essentially the same as the Senate provision except that the wording was slightly modified in recognition of advances already made in this area by the Department of State.

INTERNATIONAL COMMUNICATION AGENCY (ICA) FILM

The Senate amendment allowed an exception to the general prohibition against the domestic dissemination of International Communication Agency materials, so as to allow American groups to purchase from the General Services Administration an ICA film on National Association for the Advancement of Colored People leader Roy Wilkins.

The House bill did not contain a comparable provision.

The conference substitute is essentially the same as the Senate provision.

TECHNICAL AMENDMENTS RELATING TO THE INTERNATIONAL COMMUNICATION AGENCY

Per diem

The House bill gave the Director of the International Communication Agency authority to prescribe per diem rates. (Under existing law the President has this authority.)

The Senate amendment did not contain a comparable provision.

The conference substitute is identical to the House provision.

Administrative services for Japan-United States Friendship Commission

The House bill amended the Japan-United States Friendship Act to specify that the Japan-United States Friendship Commission may obtain such administrative support, services, and personnel as the Commission deems necessary and appropriate "from the Director of the International Communication Agency, on a reimbursable basis."

The Senate amendment did not contain a comparable provision.

The conference substitute contains no provision on this issue.

MISSION OF THE INTERNATIONAL COMMUNICATION AGENCY

The Senate amendment provided a statutory mandate for the International Communication Agency.

The House bill did not contain a comparable provision.

The conference substitute is identical to the Senate provision.

NAME CHANGE FOR THE INTERNATIONAL COMMUNICATION AGENCY

The Senate amendment provided for the name of the International Communication Agency (ICA) to be changed to the "United States Agency for Information and Cultural Exchange" by January 1, 1979.

The House bill did not contain a comparable provision.

The conference substitute contains no provision on this issue.

VOICE OF AMERICA (VOA) BROADCASTS

The Senate amendment stated the sense of the Senate that the provisions of section 503 of the Information and Educational Exchange Act of 1948 shall apply to all broadcasts of the Voice of America without regard to any policies of distorting the truth, including censorship, of governments of countries to which the Voice of America broadcasts. (Section 503 states that "VOA will serve as a consistently reliable and authoritative source of news. VOA news will be accurate, objective, and comprehensive.")

The House bill did not contain a comparable provision.

The conference substitute contains no provision on this issue.

The committee of conference judged that, since the essence of the Senate provision is in existing law, the provision would have been redundant.

COMPOSITION OF THE BOARD FOR INTERNATIONAL BROADCASTING (BIB)

The House bill amended the Board for International Broadcasting Act of 1973 to make the Chairman of the Board of Directors of RFE/RL, Inc. (Radio Free Europe and Radio Liberty), instead of the chief operating officer of the radios, an ex-officio, nonvoting member of the Board.

The Senate amendment did not contain a comparable provision.

The conference substitute amends the Board for International Broadcasting Act of 1973 to make both the Chairman of the Board of Directors of RFE/RL, Inc., and the chief operating officer of the radios ex-officio, nonvoting members of the Board for International Broadcasting.

BIB REPRESENTATIONAL EXPENSES

The House bill amended the Board for International Broadcasting Act of 1973 to clarify the authority of the Board directly or for RFE/RL, Inc., to use appropriated funds for representational expenses, but limited the use of such funds for this purpose to $65,000 each fiscal year.

The Senate amendment did not contain a comparable provision.

The conference substitute is essentially the same as the Senate provision.

DISCLOSURE OF CONTRIBUTIONS TO BIB

The Senate amendment amended the Board for International Broadcasting Act of 1973 to make clear that the requirement of full and timely disclosure of contributions applies not only to contributions to RFE/RL, Inc., itself, but also to any fund or foundation expressly created to solicit or receive contributions on behalf of RFE/RL, Inc.

The House bill did not contain a comparable provision.

The conference substitute is essentially the same as the Senate provision.

DEFINITION OF CHIEF OF MISSION

The House bill contained a provision which expanded the definition of "Chief of Mission" to include the head of any U.S. office abroad which is diplomatic in nature, in order to clarify the authority of any individual heading a diplomatic post of the United States, whether or not that person is an Ambassador.

The Senate amendment did not contain a comparable provision.

The conference substitute is identical to the House provision.

EMPLOYMENT OF FAMILY MEMBERS OVERSEAS

The Senate amendment required the Secretary of State to establish compensation plans for family members of U.S. Government employees serving overseas and required a report on actions taken to increase opportunities for employment of family members overseas. In addition, the Senate amendment directed the Secretary of State to (1) seek to create bilateral and multilateral agreements which will facilitate the employment of family members of Foreign Service personnel in foreign countries and (2) give consideration to converting vacant alien positions to American positions for staffing by qualified family members when long-term continuity is not a significant consideration.

The House bill did not contain a comparable provision.

The conference substitute is essentially the same as the Senate provision except for technical amendments to make clear that the provision applies to family members of all U.S. Government personnel abroad. The committee of conference intends that this provision be applicable to family members of U.S. military personnel abroad as well as to family members of civilian employees.

ASSIGNMENTS TO PUBLIC OR PRIVATE NONPROFIT ORGANIZATIONS

The House bill provided for expansion of the so-called Pearson program which provides for assignments of Foreign Service officers to the Congress, State, and local government agencies, and other public organizations. The House provision permitted officers who have served at least 7 years (existing law allows assignment only of officers in their 10th to 15th year) to be assigned to duty with private nonprofit and public organizations (existing law does not allow assignment to private organizations).

The Senate amendment was similar to the House provision, but prohibited officers from being assigned under the Pearson program after their 22d year of service, and provided for a gradual increase over 5 years in the number of officers taking part in the program so that by fiscal year 1984 at least 50 officers would participate each year. The Senate amendment additionally provided that any reimbursement to the Department for assignments to a Member or office of the Congress was to be made at the rate of one-half the current salary of the Foreign Service officer.

The conference substitute is similar to the House provision with an amendment to require reimbursement of one-half the salary of Pearson program personnel assigned to the Senate. It is the intent of the Congress that the Secretary of State make every effort to increase the number of Foreign Service officers assigned under the Pearson program. Significant benefits accrue to the Department of State and the Congress or other recipient organizations from vigorous use of this program, with the result that the recipient organization receives the benefit of trained Foreign Service officers while the Department acquires Foreign Service officers with a greater understanding of the recipient organization. Therefore, as soon as practicable, the Secretary should strive for a minimum level of 50 officers taking part in the program.

CAREER COUNSELING

The House bill authorized career counseling for Foreign Service officers and employees "in order to facilitate their transition from the Foreign Service."

The Senate amendment was similar, but authorized such counseling "for the purpose of maintaining an appropriate distribution of officers and employees among the various ranks" during the periods when the Secretary judges it necessary to encourage voluntary retirements.

The conference substitute incorporates the House provision.

REST AND RECUPERATION TRAVEL

The Senate amendment contained a provision to permit employees of the foreign affairs agencies and their dependents who are eligible for "rest and recuperation" leave to elect to have their round-trip transportation paid to the United States, or to "other locations abroad" rather than just the latter, as is the case under present law.

The House bill did not contain a comparable provision.

The conference substitute retains the Senate provision with a modification in wording which makes clear that rest and recuperation leave will continue to be governed by regulations promulgated by the Secretary of State. It is the intent of the committee of conference to establish the option for Foreign Service officers and their dependents to return to the United States whenever eligibility for rest and recuperation leave is attained, pursuant to regulations promulgated by the Secretary. The Senate amendment provided, for the State Department and for the ICA, additional funds calculated to meet the extra costs attendant to providing this opportunity; and the committee of conference approved these amounts in the expectation that the regulations promulgated by the Secretary will provide for the "return-to-the-U.S. option" to be available except in unusual circumstances. The committee of conference emphasizes that air transport for such rest and recuperation should be procured, whenever possible, from U.S. carriers and at economy fares. In establishing the regulations to govern this provision, the Secretary should give appropriate consideration to the benefits to employee morale to be derived from this provision as well as to the budgetary impact the provision may have on other agency programs and activities.

RETIREMENT BENEFITS FOR BINATIONAL CENTER GRANTEES

The Senate amendment provided for participation in the Foreign Service retirement system by any person who served as a Binational Center grantee and who has 5 years of creditable service.

The House bill did not contain a comparable provision.

The conference substitute does not contain a provision on this issue. In deleting the Senate provision, the Congress is acting without prejudice regarding the possible merits of the claim by certain former grantees of Binational Centers that they are entitled to participation in a U.S. Government retirement program.

ORIENTATION AND LANGUAGE TRAINING FOR FAMILY MEMBERS

The House bill provided authority to the Secretary of State to make grants, not to exceed $300 per month per individual, to family members of Foreign Service officer and employees to offset expenses associated with attendance at language and orientation programs of the Foreign Service Institute (FSI). The House bill also required a report evaluating the grant program to be submitted to the Congress no later than January 1, 1980.

The Senate amendment provided for partial compensation for language training for

dependents of Foreign Service officers outside the FSI, specified no great amount, but required certification that the dependent is unable to participate in the departmental training program.

The conference substitute incorporates both the House and Senate provisions. In an effort to provide the best and most comprehensive orientation and language training for Foreign Service family members, the Congress intends to provide flexibility to the Department of State to provide this training both at the Foreign Service Institute and at locations outside FSI. The provisions, however, require that training may take place outside the Institute only when the family member is unable to participate in training at the Institute. The Secretary of State is also provided authority to make grants to individuals taking part in FSI or outside training to offset costs incurred in conjunction with this training. No grant may exceed the actual costs associated with attendance and a limitation of $300 per months for no more than 6 months is placed on the grant authority for FSI training. The committee of conference does not consider the $300-per-month grant authority to be a precedent for use elsewhere in Government. The justification for this authority is that it will make it possible for additional dependents (primarily spouses) to attend orientation and language training prior to departure for a foreign assignment. Lack of such training now leads to a number of broken assignments because of the failure of the family to adjust to the foreign culture. The $300-per-month grant is a small price to pay to reduce the number of such costly broken assignments. This provision is not to be interpreted as a limitation on the authority in section 701 of the Foreign Service Act of 1946.

SPECIAL COMPUTATION OF ANNUITIES

The House bill provided a special computation of retirement annuities for certain Foreign Service officers and other participants in the Foreign Service Retirement System who retire between October 1, 1978, and December 31, 1979, equal to 2 percent of the basic salary for the highest single year of service (rather than the highest 3 years of service as under existing law) multiplied by the number of years of service credit obtained.

The Senate amendment did not contain a comparable provision.

The conference substitute is identical to the House provision.

This provision applies only to the Foreign Service (indeed only to a relatively small number of Foreign Service employees) for a specific and limited period of months. It is included in this act because of the serious personnel surplus in senior Foreign Service ranks. It is not to be construed as a precedent for broadening other Government retirement inducement authorities now or in the future. Both the House International Relations Committee and the House Post Office and Civil Service Committee Chairmen have agreed that enacting this provision will not constitute a precedent for other U.S. Government personnel systems.

The civil service system has authority for both reduction-in-force and early retirement inducements to handle similar personnel problems. Temporary and specific retirement inducements are used in civil service-staffed agencies when such agencies face difficult personnel problems such as that now confronting the Foreign Service.

This section is necessitated by the separate personnel system of the Foreign Service which has neither reduction-in-force nor special retirement inducement authority. It would also assist in resolving the central current Foreign Service management problem which is caused by the lack of senior retirements as described in the committee reports on this authorization bill.

The committee of conference finds that this provision will save money and will result in some reduction in the number of senior Foreign Service employees as well as in the average grade of Foreign Service employees of officer rank. Both the House Committee on International Relations and the Senate Committee on Foreign Relations plan to follow the implementation of this provision to insure that these results are realized.

REDUCING FAMILY SEPARATIONS DURING TEMPORARY ASSIGNMENTS

The Senate amendment provided authority for the Secretary of State to pay travel expenses of family members of an officer or employee who is assigned to temporary duty. (Under existing law, these travel expenses may be paid only if the officer is assigned to temporary duty while en route to his post assignment.)

The House bill did not contain a comparable provision.

The conference substitute is similar to the Senate amendment with a change which restricts application of the provision to temporary duty ordered in connection with a change in assignment. This will insure that the provision applies only to temporary duty ordered in connection with transfers involving family travel, and does not include temporary duty where the employee simply travels to another city to perform the duty and then returns home.

SPECIAL ALLOWANCES

The House bill provided authority to the Secretary of State to pay compensation for extra duty required of certain Foreign Service officers.

The Senate amendment did not contain a comparable provision.

The conference substitute is the same as the House provision except for a technical amendment to make clear that any payments provided under authority of this provision are taxable as compensation under the Internal Revenue Code. The committee of conference agreed (a) that in appyling this new authority, the Secretary of State should insure that no officer working in the immediate office of a Principal Officer (i.e., persons paid at Executive Levels I, II, or III) of the Department of State, the International Communication Agency, and the Agency for International Development, would benefit from the special allowance; and (b) that the grades of the positions eligible for consideration for the special allowance should be limited to Foreign Service officers in classes 3 through 4.

REPORTING TO A CHIEF OF MISSION

The Senate amendment reaffirmed existing law, which requires all employees of the U.S. Government stationed abroad, regardless of agency, to keep the Chief of Mission fully informed as to their activities. The amendment did so by adding to existing law the phrase "notwithstanding any other provision of law."

The House bill did not contain a comparable provision.

The conference substitute contains no provision on this issue. The committee of conference decided to delete the Senate provision in light of the administration's agreement that the "Authority of Ambassador" provision in existing law "means that disclosure of intelligence information to Ambassadors is authorized within the meaning of the National Security Act of 1947." The principal purpose of the Senate amendment was to make that clear.

DETAILING OF STATE DEPARTMENT PERSONNEL

The House bill extended from 90 days to 1 year the maximum period an officer or employee of the Department of State can be detailed to another executive agency without reimbursement to the Department. It also required that these detailed officers and employees not be counted toward any personnel ceiling imposed on the Department.

The Senate amendment did not contain a comparable provision.

The conference substitute is identical to the House provision. In approving this provision, the committee of conference wishes to make clear its intent that the number of employees detailed under this authority continue to be limited, that the personnel ceiling of the Department administratively imposed by the Office of Mangement and Budget not be reduced by reason of this provision, and that any nonreimbursable assignments under this authority not made pursuant to an exchange agreement with another executive agency and which exceed 90 days be reported to the Committees on Foreign Relations and International Relations.

PERSONNEL REQUIREMENTS AND COMPENSATION

The Senate amendment stated the finding of Congress that despite the steady expansion of U.S. diplomatic representation abroad, the total number of State Department personnel has not increased and although the responsibilities and necessary qualifications for Foreign Service positions continue to change, compensation for such personnel remains linked to that of the General Schedule employees. The Senate amendment further expressed the sense of Congress that the Secretary of State should conduct a review of the personnel and compensation needs of the Foreign Service and required that he report the results and recommendations of the review to Congress not later than January 20, 1979.

The House bill did not contain a comparable provision.

The conference substitute is identical to the Senate provision.

PREMIUM PAY

The House bill repealed section 412 of the Foreign Relations Authorization Act, Fiscal Year 1978, which would prohibit premium pay to all Foreign Service officers and Foreign Service information officers for overtime, night, holiday and Sunday work after September 30, 1978, but would grant Foreign Service officers in classes 5 through 8 a one-time $250 per year increase in salary.

The Senate amendment did not contain a comparable provision.

The conference substitute repeals the requirement that Foreign Service officers in classes 5 through 8 be paid an additional $250 per year in lieu of premium pay, but allows the prohibition of premium pay to take effect on October 1, 1978.

SCIENCE, TECHNOLOGY, AND AMERICAN DIPLOMACY

Findings

The House bill contained four findings of the Congress on the importance of science and technology to American foreign policy: the consequences of science and technology require appropriate knowledge and understanding of these fields in order to conduct effective diplomacy; many opportunities in diplomacy lie in scientific and technological fields; individuals and organizations concerned with technology should be consulted in the formulation, implementation, and evaluation of foreign policy; and effective application of science and technology to problems of international relations requires the development and use of long-range planning.

The Senate amendment did not contain a comparable provision.

The conference substitute is identical to the House provision.

Declaration of policy and diplomacy

The House bill enunciated a policy on the application of science and technology to foreign policy. Four elements of policy were stated: technological developments should be anticipated and assessed and ap-

propriate measures implemented to influence

international scientific and technological as-

1978 without a specific authorization of

propriate measures implemented to influence such developments in ways beneficial to the United States and other nations; the mutually beneficial applications of science and technology evidenced by U.S. participation in international agreements should be supported as important elements of U.S. foreign policy; employees and officers of the United States should be trained in the application of science and technology to foreign policy and in the international implications of scientific and technological developments; and U.S. foreign policy should be continually reviewed to insure appropriate and timely application of science and technology to foreign policy.

The Senate amendment did not contain a comparable provision.

The conference substitute is identical to the House provision.

Responsibilities of the President

The House bill required the President, through the Secretary of State, the Director of the Office of Science and Technology Policy, and other officials the President may designate, to implement the policy set forth above.

The Senate amendment did not contain a comparable provision.

The conference substitute incorporates the House provision with the following amendments:

The conference subetitute deletes the requirement that the President carry out his responsibilities under this provision through the Secretary of State. While the committee of conference intends that the Secretary of State be a principal assistant to the President in implementing this section, it was agreed that the deleted requirement would unnecessarily impinge on the authority of the President to fulfill his responsibilities under this provision.

Further, the conference substitute deletes the word, "fully," which modified the phrase, "informed and consulted," in order to simplify interagency coordination and to eliminate confusion over interpretation of the provision.

The conference substitute also substitutes the phrase "take any major action primarily involving science and technology" for the phrase "take any initiative involving science and technology." This change clarifies the scope of the legislation by focusing the coordination and oversight activities of the Department of State on major international actions of the U.S. Government primarily involving science and technology, rather than on all international discussions and actions which may in some manner touch upon or involve science and technology. The committee of conference intends that intelligence collection activities be excluded from the scope of this provision.

Finally, the conference substitute adds the word "major" to modify the phrase "domestic science and technology programs" in order to make clear that the President should identify and evaluate the international implications of important, but not all, domestic science and technology programs and activities of the U.S. Government.

Authority of the Secretary of State

The House bill established the authority and responsibilities of the Secretary of State for implementing the policy enunciated above and for undertaking actions to improve the ability of the Department of State to apply science and technology to problems of diplomacy and international relations.

The Senate amendment did not contain a comparable provision.

The conference substitute retains the House provision but adds the word "major" to modify the phrase "science or science and technology agreements and activities." This amendment clarifies the role of the State Department in coordinating and overseeing international scientific and technological activities of the U.S. Government to insure consistency with overall foreign policy. It directs the attention of the State Department to those international agreements and activities of greatest importance. The amendment makes clear that the State Department need not coordinate and oversee all international scientific or technological activities undertaken to implement international agreements on which State was previously informed and consulted if such implementing activities are not deemed to be "major" activities.

Earmarking of funds

The House bill earmarked $4,071,000 of the total amount authorized to be appropriated by this legislation for administration of foreign affairs for the Department of State for the purpose of carrying out during fiscal year 1979 the responsibilities given the Department under the provisions described above.

The Senate amendment did not contain a comparable provision.

The conference substitute does not include an earmarking. The committee of conference expects the Department of State to expend at least $4 million of the sums authorized to be appropriated for the administration of foreign affairs for fiscal year 1979 on activities relating to the application of science and technology to American diplomacy in addition to the activities of the Department already programed in such areas as oceans, international environmental affairs, international scientific affairs, international energy matters, preparations for the United Nations Conference on Science and Technology for Development, and external research. The committee of conference intends that the $4 million be expended on the following new activities: The establishment of long-term research and training relationships with nongovernmental and academic institutions on the application of science and technology to international problems; the augmentation of programed external research; the augmentation of course offerings at the Foreign Service Institute; the development of a cadre of officers sensitive to the international implications of scientific and technological developments; the development of a government-wide management information system to facilitate executive branch coordination and oversight of international scientific and technological activities of the U.S. Government and State Department implementation of specific scientific and technological cooperation agreements where personnel, budgetary, and other resources of the Department permit.

GORGAS MEMORIAL INSTITUTE

The House bill contained a series of technical amendments which change the date for submission of the Institute's annual report to Congress from January to April.

The Senate amendment did not contain a comparable provision.

The conference substitute is identical to the House provision.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

The House bill provided an increase of $200,000 in the annual authorization of appropriations for the Commission on Security and Cooperation in Europe.

The Senate amendment did not contain a comparable provision.

The conference substitute is identical to the House provision.

PANAMA CANAL TREATIES

The House bill provided that none of the funds authorized in the bill shall be used directly or indirectly to effect implementation of the Panama Canal Treaties of 1978 without a specific act of Congress authorizing such implementation.

The Senate amendment did not contain a comparable provision.

The conference substitute provides that none of the funds authorized in the bill may be used directly or indirectly to effect implementation of the Panama Canal Treaties unless authorized by the Constitution or by act of Congress.

INTERPARLIAMENTARY UNION

The Senate amendment increased the annual authorization for expenses of U.S. participation in the Interparliamentary Union (IPU) from $45,000 to $100,000.

The House bill did not contain a comparable provision.

The conference substitute increases the authorization to $90,000. In order to improve the accounting of expenses, the committee of conference expects that henceforth, in the reports required by applicable U.S. statutes, the U.S. delegation to the IPU will provide a full detailed accounting of all expenses, including transportation costs borne by the Department of Defense, and that such information will be provided by and made available to both the House and Senate.

UNITED STATES-EUROPEAN COMMUNITY INTERPARLIAMENTARY GROUP

The Senate amendment established a statutory base for a "United States-European Community Interparliamentary Group." The language was similar to the statutes underlying the North Atlantic Assembly, the Interparliamentary Union, the Mexico-United States Interparliamentary Group and the Canada-United States Interparliamentary Group. An annual authorization of $50,000 was provided.

The House bill did not contain a comparable provision.

The conference substitute contains no provision on this issue.

EXPANDED EXCHANGE ACTIVITIES

The Senate amendment mandated a gradual increase, over 5 years, in the real resources devoted to exchange-of-persons activities conducted by the ICA. Specifically, the Senate amendment (1) recognized the importance of the exchange-of-persons program; (2) directed the President to prepare a 5-year plan for the achievement of a significant increase in exchange-of-persons activities; (3) provided that such plan would be submitted to Congress in January 1979 and then be adjusted annually by the President and the Congress; and (4) directed the President to include necessary funds for the plan in his annual budget submission to Congress.

The House bill did not contain a comparable provision.

The conference substitute provides that the President shall, through a gradual expansion during the 4-year period beginning October 1, 1979, significantly increase the financial resources annually expended by the ICA for exchange-of-persons activities. The conference substitute further provides that the President shall prepare a general plan for such expansion and shall adjust such plan annually if necessary in consultation with the Congress. This plan should be submitted to the House Committee on International Relations and the Senate Committee on Foreign Relations not later than January 20, 1979. In such submission, the committee of conference also requests that the President provide the two committees an analysis of the executive branch's past efforts in this area including an accounting of individual recipients for the past 10 years.

INTERNATIONAL COMMUNICATIONS POLICY

The Senate amendment stated the finding of Congress that (1) certain forthcoming international conferences will have a significant impact on the free flow of information and ideas among the nations of the world; and (2) although the United States is the leading user of communications channels and information, the U.S. Government does not have a comprehensive policy regarding international communications issues or an effective mechanism for developing and coordinating such a policy. It directed the President to transmit to the Congress by January 20, 1979, a report detailing the policymaking mechanism which has been developed for this purpose, and the goals and positions of the United States with regard to anticipated international meetings which will address communications and information issues. Supplemental reports were required if any modification of these goals or positions occur.

The House bill did not contain a comparable provision.

The conference substitute is essentially the same as the Senate amendment. Minor revisions in language were made in recognition of executive branch efforts to formulate a comprehensive international communications policy.

NEEDED ACTION CONCERNING MARINE RESOURCES

The Senate amendment stated the sense of Congress that the Secretary of State should convey to all nations having an interest in cetacean sea life the serious concern of the Congress regarding the continuing destruction of such marine mammals and should encourage such nations to (1) join in the international discussions on this subject at the June 1978 International Whaling Commission meeting; (2) participate in an exchange of information with the National Marine Fisheries Service of the U.S. Department of Commerce; (3) cooperate in establishing an international cetacean commission; and (4) adopt comprehensive marine mammal protection legislation.

The House bill did not contain a comparable provision.

The conference substitute is essentially the same as the Senate provision.

ACTION TO SUPPORT INTERNATIONAL JOURNALISTIC FREEDOM

The Senate amendment stated the finding of the Congress that news dissemination and the free flow of information across international boundaries are vital to good relations among nations and that there are strong indications that in many countries foreign journalists are subject to governmental harassment and restrictions. The Senate amendment also stated the sense of the Congress that the President should advise foreign governments engaging in such harassment and restrictions of journalists that the United States regards such actions as a significant and potentially damaging factor in U.S. relations with such country and that the President should raise the issue of the treatment of foreign journalists in appropriate international forums and directed the President to report to the Congress by January 20, 1979, on actions taken pursuant to this section. Further, the Senate amendment condemned the action taken by Soviet authorities in the detention of Craig Whitney of the New York Times and Harold Piper of the Baltimore Sun.

The House bill did not contain a comparable provision.

The conference substitute incorporates the Senate provision with the exception of the reference to the Soviet authorities' detention of certain specified journalists.

INTERNATIONAL FOOD RESERVE

The Senate amendment stated several findings of the Congress with respect to the world food situation and expressed the sense of Congress that the President should sustain a major initiative directed toward reaching an agreement to establish an international network of nationally held grain reserves and directed the President to report to the Congress not later than January 20, 1979, on actions taken toward achieving such a goal.

The House bill did not contain a comparable provision.

The conference substitute is essentially the same as the Senate provision with the exception of the requirement for a report to Congress.

CONSOLIDATION OF FOREIGN RELATIONS LAW

The Senate amendment stated the finding of Congress that the clarity of statutes governing the conduct of U.S. foreign relations could be improved through consolidation and directed the Secretary of State, the Directors of the International Communication Agency and the Arms Control and Disarmament Agency, and the Chairman of the Board for International Broadcasting to prepare draft legislation to consolidate such statutes for transmittal to the Congress not later than January 20, 1979.

The House bill did not contain a comparable provision.

The conference substitute contains no provision on this issue.

SYSTEMATIC INFORMATION-SHARING

The Senate amendment stated the finding of Congress that State Department international political, economic, and other studies could be valuable to the two foreign relations committees of the Congress and that a formal information-sharing arrangement between the State Department and the two committees could serve the national interest provided that controls are established to protect necessary confidentiality. The Senate amendment directed the Secretary of State to transmit to the Congress, not later than January 20, 1979, recommendations for establishing such an information-sharing arrangement.

The House bill did not contain a comparable provision.

The conference substitute is the same as the Senate provision.

EQUITABLE TREATMENT OF U.S. CITIZENS LIVING ABROAD

The Senate amendment stated the finding of Congress that American citizens living abroad should be treated fairly and equitably by the U.S. Government with respect to taxation and other rights and benefits and that such treatment would be facilitated by a periodic review of laws and regulations affecting Americans living abroad. The Senate amendment directed the President to transmit to Congress, no later than January 20, 1979, a report which identifies and evaluates all laws and regulations which discriminate against Americans living abroad and recommended legislation to eliminate unfair and inequitable treatment.

The House bill did not contain a comparable provision.

The conference subsititute is the same as the Senate provision.

SPANISH DEMOCRACY

The Senate amendment set forth certain findings of Congress with respect to (a) Spain's progress toward the construction of a stable and lasting democracy, and (b) the symbolic importance of the Picasso painting "Guernica." The Senate amendment further expressed the sense of Congress that "Guernica" should be transferred to Spain and that "the American people, having long benefited from this treasure and admiring Spain's achievement today, would wish, as an expression of appreciation and congratulation, to contribute to the preparation of any special facilities as may be suitable for the painting's permanent display." The amendment authorized an appropriation of up to $500,000 for such a contribution if it were to be "found appropriate by the elected leaders of Spain."

The House bill did not contain a comparable provision.

The conference substitute is essentially the same as the Senate provision except that the authorization of $500,000 is removed. While the committee of conference agreed to include language affirming the desirability of American assistance in the preparation of the painting's permanent display, if such assistance is found appropriate by the elected leaders of Spain, the authorization of an appropriation for this purpose was found to be premature and was therefore deleted without prejudice to future consideration.

ASSISTANCE TO BEREAVED U.S. FAMILIES

The Senate amendment stated the finding of Congress that the Department of State should render all reasonable administrative assistance to any U.S. citizen who is making arrangements following the death of another U.S. citizen abroad; directed the Secretary of State to examine alternative procedures by which the Department could, where needed and appropriate, provide loan assistance or other assistance to facilitate such arrangements; and required a report to the Congress not later than January 20, 1979, on such alternative procedures including associated costs.

The House bill did not contain a comparable provision; however, the report of the Committee on International Relations on this bill contained a statement requesting a State Department study on this problem to be completed and submitted to the Committee by December 1, 1978.

The conference substitute is the same as the Senate provision.

REVIEWING DISCRIMINATORY TRADE PRACTICES

The Senate amendment stated the finding of Congress that all U.S. statutes and regulations requiring discrimination with respect to all trade between the United States and any foreign country were enacted for reasons relating solely to the conduct of U.S. foreign policy and that such statutes and regulations should be periodically reevaluated by the President and the Congress. The Senate amendment directed the President to transmit to Congress not later than January 20, 1979, a report that (1) identifies all such statutes and regulations, (2) evaluates each, and (3) recommends amendments which would in his judgment advance U.S. foreign policy interests.

The House bill did not contain a comparable provision.

The conference substitute expresses the finding of Congress that:

"United States statutes which authorize or require suspension or discrimination with respect to all trade between the United States and a particular foreign country, and which affect, directly and significantly, the conduct of United States foreign relations, should be periodically reevaluated by the President and the Congress."

The conference substitute retains the reporting requirement contained in the Senate amendment, with a technical amendment making clear that all appropriate congressional committees are to receive a copy of such report.

NORMAL DIPLOMATIC RELATIONS

The Senate amendment stated the finding of Congress that a principal purpose of the conduct of diplomatic relations with a foreign government is the discussion and negotiation of outstanding issues and that such relations do not imply approval of such government. The Senate amendment further stated the finding of Congress that achievement of the President's goal of establishing normal diplomatic relations with all nations would serve long-term U.S. interests provided that such diplomatic relationships are conducted on a reciprocal basis and are consistent with existing U.S. commitments to other nations. Finally, the Senate amendment directed the Secretary of State to transmit to Congress, not later than January 20, 1979, a report identifying those countries with which

the United States does not maintain normal diplomatic relations and setting forth the reasons therefor.

The House bill did not contain a comparable provision.

The conference substitute retains only the finding with respect to the purpose and significance of diplomatic relations with a foreign government. The committee of conference requests that the Secretary of State transmit to the House Committee on International Relations and the Senate Committee on Foreign Relations, not later than January 20, 1979, a report identifying those countries with which the United States does not maintain normal diplomatic relations and setting forth the reasons therefor.

NUCLEAR-POWERED SATELLITES

The Senate amendment stated findings of Congress with respect to the dangers posed by the unregulated use of nuclear-powered satellites and expressed the sense of Congress that the United States should take the lead in seeking a multilateral agreement governing the use of such satellites. The Senate amendment further directed the Secretary of State to transmit to the Congress, not later than January 20, 1979, a report on efforts to reach such an agreement.

The House bill did not contain a comparable provision.

The conference substitute is the same as the Senate provision.

ATROCITIES IN CAMBODIA AND UGANDA

The Senate amendment stated the finding of Congress that reliable reports attest to the existence of atrocities in Cambodia and Uganda which require special notice and condemnation. The Senate amendment further urged the President to support multilateral action and bilateral action by countries having extensive relations with the two countries to bring about a lessening of inhumane practices and directed the Secretary of State to transmit to Congress, not later than January 20, 1979, a report on actions taken to that end. The Senate amendment also stated that the President should (1) prohibit the export of military and related equipment to Uganda; (2) prohibit the issuance of a visa to any Ugandan offcial for the purpose of military, paramilitary, or police training in the United States unless the Department of State determines that Uganda has demonstrated proper respect for the rule of law and human rights; and (3) instruct the U.S. permanent representative at the United Nations to submit a resolution imposing a mandatory arms embargo on Uganda.

The House provision did not contain a comparable provision.

The conference substitute is essentially the same as the Senate provision.

REPORTING AND COORDINATION OF INTERNATIONAL AGREEMENTS

The Senate amendment amended the Case-Zablocki Act (1 U.S.C. 112b), by (1) requiring that oral international agreements be reduced to writing and submitted to Congress; (2) requiring a written report signed by the President with respect to all agreements transmitted after the 60-day period stipulated in the Case-Zablocki Act; (3) forbidding the signing or conclusion of any international agreement without the prior approval of the Secretary of State or the President; (4) stipulating that the Secretary of State shall determine, for the executive branch, whether an arrangement constitutes an international agreement within the meaning of the Case-Zablocki Act; and (5) requiring the President, through the Secretary of State, to promulgate such rules and regulations as may be necessary to carry out the provisions of the Case-Zablocki Act.

The House bill did not contain a comparable provision.

The conference substitute is essentially the same as the Senate amendment except that item (3) was modified to provide for "prior consultation with" rather than "prior approval of" the Secretary of State or the President; such consultation may encompass a class of agreements. As regards item No. 1, relating to the transmission of oral agreements, it is the understanding of the committee of conference that the current administrative practice is to reduce oral international agreements of consequence to writing; thus the amendment merely codifies existing procedure.

It is the understanding of the committee that intelligence liaison agreements between U.S. intelligence agencies and foreign governments are also subject to the oversight of the intelligence committees of the House and Senate. Therefore, those committees, in addition to the House Committee on International Relations and the Senate Committee on Foreign Relations, will continue to examine such agreements within the context of their respective jurisdictions.

TREATIES AND INTERNATIONAL AGREEMENTS

The Senate amendment expressed the sense of the Senate that the President should have prior consultations with the Senate Foreign Relations Committee as to whether particular agreements between the United States and other countries should be a treaty or an Executive agreement.

The House bill did not contain a comparable provision.

The conference substitute contains no provision on this issue.

FREEDOM OF COMMUNICATION

The Senate amendment stated that no directive may be issued which inhibits any State Department, International Communication Agency, Arms Control and Disarmament Agency, Board for International Broadcasting, or Agency for International Development employee from communicating with Members and employees of Congress.

The House bill did not contain a comparable provision.

The conference substitute deletes the Senate provision in view of the fact that a comparable provision is contained in existing law (5 U.S.C. 7102).

COMMISSION ON HUNGER AND MALNUTRITION

The Senate amendment authorized an appropriation of $1.5 million for each of the fiscal years 1979 and 1980 for a Commission on Global Hunger and Malnutrition which would (1) assess current Federal programs which have an impact on hunger and malnutrition; (2) sponsor and oversee relevant activities; and (3) make recommendations to the President and Congress on policies to increase the capacity of the United States to reduce hunger and malnutrition.

The House bill did not contain a comparable provision.

FOREIGN GIFTS AND DECORATIONS RECEIVED BY SENATORS AND SENATE EMPLOYEES

The Senate amendment amended the Foreign Gifts and Decorations Act (5 U.S.C. 7342) by setting forth certain procedures for the disposal of foreign gifts and decorations received by Senators and Senate employees.

The House bill did not contain a comparable provision.

The conference substitute is the same as the Senate provision. A similar provision with respect to Members and employees of the House included in the Foreign Relations Authorization Act of 1977.

RHODESIA

The Senate amendment expressed the sense of the Congress with respect to U.S. policy toward Rhodesia.

The House bill did not contain a comparable provision.

The conference substitute deletes the Senate provision.

NEGOTIATIONS ON AIR QUALITY

The Senate amendment stated the finding of Congress with respect to certain environmental problems shared by the United States and Canada and stated the sense of Congress that the Secretary of State should try to negotiate a cooperative agreement with Canada to protect and preserve the two countries' mutual airshed and to enhance air quality. The Senate amendment further expressed the sense of Congress that the Secretary of State should, in concert with other interested Federal agencies and affected states, take appropriate diplomatic actions to reduce or eliminate air pollution from any source, which affects both countries. Finally, the Senate amendment expressed the sense of Congress that the United States should negotiate with Canada to develop an agreement on air quality standards to be regulated by the International Joint Commission, United States and Canada, and that the American section of the IJC monitor air quality along the border if it will facilitate negotiations. The Secretary of State was directed to report to Congress not later than January 20, 1979, on the status of such negotiations.

The House bill did not contain a comparable provision.

The conference substitute states the findings of Congress with respect to joint United States and Canadian concerns about protection of the environment and expresses the sense of Congress that the President should try to negotiate a cooperative agreement with Canada to protect and preserve air quality. The conference substitute also expresses the sense of Congress that the Secretary of State should, in concert with other Federal agencies, and affected States, take appropriate diplomatic actions to reduce or eliminate any undesirable impact upon both countries resulting from air pollution.

DIPLOMATIC RELATIONS WITH ANGOLA

The Senate amendment prohibited the use of funds under this legislation to establish diplomatic relations with Angola as long as Cuban military forces are there unless the President certifies that the establishment of diplomatic relations would serve U.S. national interests.

The House bill did not contain a comparable provision.

The conference substitute contains no provision on this issue.

CUBAN PRESENCE IN AFRICA

The Senate amendment contained certain findings concerning Cuban involvement in Africa and U.S. relations with Cuba and expressed the sense of Congress that the President should sever existing diplomatic and economic relations with Cuba until Cuba removes its military forces from Africa.

The House bill did not contain a comparable provision.

The conference substitute states the finding of Congress that Cuban personnel serving in Africa have sharply increased in the past year and expresses the sense of Congress that the President should undertake a comprehensive review of U.S. diplomatic and economic relations with Cuba and transmit a report of such review to the Speaker of the House and the Senate Committee on Foreign Relations not later than January 20, 1979.

EFFECTIVE DATES

The House bill included in various provisions an effective date of October 1, 1978, in order to comply with House rules regarding appropriations of funds and with the requirements of the Congressional Budget Act.

The Senate amendment did not contain a comparable provision.

The conference substitute includes the October 1, 1978 effective dates.

CLEMENT J. ZABLOCKI,
DANTE B. FASCELL,
CHARLES C. DIGGS, Jr.,
LESTER L. WOLFF,
LEO J. RYAN,
HELEN S. MEYNER,
GEORGE E. DANIELSON,
WM. S. BROOMFIELD,
JOHN BUCHANAN,
J. HERBERT BURKE,
Managers on the Part of the House.

JOHN SPARKMAN,
CLIFFORD P. CASE,
GEORGE MCGOVERN,
JOE BIDEN,
CLAIBORNE PELL,
CHARLES H. PERCY,
HOWARD H. BAKER, Jr.,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 6669, NATIONAL CLIMATE PROGRAM ACT

Mr. BROWN of California. Mr. Speaker, I call up the conference report on the bill (H.R. 6669) to establish a national climate program, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of August 14, 1978.)

Mr. BROWN of California (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER. The gentleman from California (Mr. BROWN) will be recognized for 30 minutes, and the gentleman from Pennsylvania (Mr. WALKER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 6669, the National Climate Program Act. This bill would establish a comprehensive national climate program to enable the Nation to understand and respond to natural and man-induced climate processes and their implications. I want to explain very briefly the background, significance and provisions of this bill, and I think that will make it very clear as to why the House should quickly adopt this conference report.

After hearings in both this Congress and the previous one, the bill was ordered reported by the Committee on Science and Technology on May 6, 1977. The report accompanying the bill, House Report 95-266, gave extensive background on the need for the bill and fully explained our intentions, which have been maintained in this conference report. On September 9, 1977, the House passed the bill by a vote of 282 to 60.

After hearings in the Senate Committee on Commerce, Science and Transportation, the Senate passed their version of the bill on April 24, 1978, by a voice vote. The two bills were different in structure but very similar in their intent.

The administration, demonstrating its support for the bill and the program, has taken steps toward implementing the national climate program. They were able to do this effectively because the bills are so similar in intent. The joint explanatory statement of the managers accompanying the conference report explains in several places how the common intent of the two Houses is expressed in the compromise language which the conferees agreed upon.

Now let me discuss what benefits we expect from this legislation. Put very simply, I feel that by increasing our understanding of climate and how and why it changes we can make our society and our economy much more adaptable to changes in the weather. There have been a great many comments that as we become a more and more tightly integrated society, more and more of a mass society, that we are thereby losing our resiliency, our ability to adapt. This bill would certainly increase our national ability to adapt to changes in climate and climate-induced events.

For example, let me ask you to remember the ferocious winter of 1976–77, and the shortages of heating fuel that occurred when that cold wave gripped the Nation. We had plenty of heating fuel, but it was in the wrong place at the wrong time. This was most poignantly exemplified when barges loaded with desperately needed fuel oil were frozen in place on the Ohio River. It was very clear that if we had been able to anticipate such cold weather the barges could have gotten through the river long before it froze.

We expect similar benefits from the application of climatic knowledge and information to agriculture, fisheries, transportation and energy policy decisions, among other things. In this legislation, we have provided mechanisms to assure that the needed information will be developed and applied to pressing climate-related problems that we face. The bill does this by assuring the board involvement of many disciplines, groups and agencies in the program. For example, we expect the Department of Agriculture to be the principal agent in carrying out assessments of the impact of climate or climate change on our crops and crop yields. Very importantly, the bill also provides for the active participation of users of climate information in planning and directing the program. By users we do not mean merely other climatologists, but rather those people who need information to plan their activities—for example, people who are interested in the impact of climate on agriculture or people who need to know about anticipated weather in order to schedule construction projects. Thus, this bill does not provide for a program which would generate information in the hope that it might be used, but rather provides for users to make input to the program to assure that the information they need is in fact developed.

I want to mention that both the House bill and the conference report provide for a unique program planning process in which there will be broad participation by representatives from all involved areas and disciplines with major emphasis on participation by users of climate information.

The conference report also calls for international cooperation. For those less-developed nations that have marginal, subsistence economies, better climatic information would be extremely valuable. I want to point out that sharing an understanding of the causes of climate change and the ability to predict those changes could be a very inexpensive and very effective form of foreign aid. The reason for this is that in order to make useful predictions with regard to the climate in the United States, we need global information and global climate models because of the scale of climate phenomena. Thus, to a significant extent, the understanding, the information and the models developed for use in this country can also be applied to other nations.

At this point, I would like to say just a few words about several salient points which are more fully explained in the printed joint statement of the conferees accompanying the conference report.

The bill establishes a national climate program which is to be strongly multiagency in its operation. As implemented, the program will consist of the coordinated climate-related efforts of the various agencies.

In addition, the intergovernmental program described in section 6 of the bill must be an integral part of the national program. (That section refers to climate activities to be carried out by the States or groups of States and funded up to 50 percent by Federal grants under this act.) The intergovernmental program is especially important in that it will help bring the Federal involvement down to the local level and also provide a channel for information from local users back into the program. The bill provides that the Department of Commerce will be the principal entity responsible for administering the program.

Based on actions already taken by the administration, it appears that this will be done by a National Climate Program Office in the National Oceanic and Atmospheric Administration of the Department of Commerce. To successfully carry out the intent of this bill, the program office must act so as to stimulate cooperation and coordination between the vari-

cus Federal and intergovernmental climate activities.

The NOAA office cannot attempt in any way to operate as a "Climate Czar" because the various agencies and departments have perfectly legitimate missions which are impacted in one way or another by climate considerations. Some of these missions involve the development of climate information, while others involve the use of climate information. The purpose of this legislation is to bring together the various climate activities in a programmatic sense to make a stronger whole without organization change. To help accomplish this, the bill provides for: First, a unified budget request—to be prepared by the Office of Management and Budget and to include climate-related budgets from all the agencies; and second, a comprehensive 5-year plan covering all Federal climate activities to be prepared in consultation between all the pertinent agencies. Thus, the role of the program office must be to take actions to coordinate, strengthen, and supplement the various climate activities of the mission agencies. This should in no way result in any jurisdictional disputes between agencies or struggles over agency missions. There is no language anywhere in this bill that would take away from any agency any of its legitimate, traditional missions. Rather, the purpose and the intent is to encourage cooperation between the agencies in climate-related matters.

As a specific example, we do not expect the lead agency, the Department of Commerce, to control all program funding. For example, some program funds will continue to be sought directly by the mission agencies under their existing authorities. Of course, any such budgeted funds would be included in the unified budget of the climate program, and the activities should be included in the 5-year plan. Further, we expect that the Department of Commerce will conduct a planned passthrough program by which, as lead agency, it will support with passthrough funds, certain program activities in the appropriate mission agencies.

Mr. Speaker, I think you can see that we have put a great deal of thought and work into this bill and that it is addressing in a unique way a major national need. For this reason, and for all the reasons enumerated above, I urge adoption of this conference report.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. BROWN of California. I will be happy to yield to the gentleman from Pennsylvania whose participation and support has contributed greatly to the development of this legislation.

Mr. WALKER. Mr. Speaker, I have a question about section 5(e)(1) of the bill, which provides for an advisory committee. I support the idea that the Secretary should seek advice on the conduct of the program from outside the Federal Government, and that she should specifically look to users of climate data, information and services in securing this advice. However, Mr. Speaker, I do have a question about the permissive authority for the Secretary to compensate members of the committee at the daily rate for GS-16 of the general schedule for each day in which they are engaged in the actual performance of their committee duties. I understand that this compensation would be in addition to the travel expenses and per diem in lieu of subsistence. I raise this question in part because similar language was stricken by amendment in the Science Committee and I want to insure that the intention of the House has not been lost on this point. I also raise this question because I believe in general that it is broadly significant to advisory committees throughout Government.

First, I note that the authority given the Secretary is permissive.

Mr. BROWN of California. That is correct. The Secretary is under no obligation to provide this compensation to members of the committee.

Mr. WALKER. Then I take it that this compensation is only to be paid in cases when a particular individual is not able to participate without such pay and when such an individual would stand to lose personal income by participating in committee activities.

In other words, if I understand you correctly, you feel that there are some individuals—or there might be some individuals—who would be only able to participate in this program and participate on the Advisory Committee if the Secretary could provide additional incentive in the form of payment to secure their participation?

Mr. BROWN of California. Yes; that is our intention.

We did consider the position of the House that compensation should not be paid at all. As you remember, the language that was stricken in the Science Committee would have called for mandatory payment of compensation by the Secretary. That would not have been right. However, because we are seeking broad involvement in this advisory committee, specifically the involvement of representatives of users of climate information, we thought that the Secretary should have the authority to make such payments in order to secure participation of people whose advice would make for a stronger program and who would suffer financial hardship in participation without pay.

Mr. WALKER. Mr. Speaker, we have established that the authority is strictly permissive, but I would like to inquire as to the frequency with which you anticipate it will be exercised?

Mr. BROWN of California. I anticipate that this authority will be used infrequently—only in rare and extraordinary circumstances.

I would expect that almost everyone whose advice would be sought on this advisory committee would be able to participate without this compensation. Most would find that their employer would be happy to pay their salary while they were participating on such an important committee. Indeed, some individuals might be willing to participate at their own expense just because of the honor of serving on such a committee. For this reason, I would expect that the authority would be used only in rare and extraordinary circumstances.

Further, I am prepared to send a letter to Secretary Kreps explaining the points that have been made and requesting that she keep us fully and currently informed on this matter. I would specifically request that she inform us whenever some individual declines to serve on the committee because he is not going to be paid for his services. I will include the letter in the RECORD.

Mr. WALKER. Thank you very much, Mr. Speaker.

Mr. BROWN of California. Mr. Speaker, I include the following material:

COMMITTEE ON SCIENCE AND TECHNOLOGY, HOUSE OF REPRESENTATIVES,
Washington, D.C.

Hon. JUANITA KREPS,
Secretary, Department of Commerce, Washington, D.C.

DEAR SECRETARY KREPS: As Chairman of the Subcommittee on the Environment and the Atmosphere I have been deeply involved in the evolution of the Climate Act, H.R. 6669, which has just been reported by a Committee of Conference. As one of the House Conferees on this legislation I want to ensure that there is no confusion as to the Congressional intent of Section 5(e)(1) of the Act.

Included in Section 5(e)(1) is permissive authority for the Secretary of Commerce to provide compensation at the daily rate for GS-16 of the General Schedule for members of the Advisory Committee for each day engaged in the actual performance of their duties. Similar language, which was mandatory in nature, was included in the first draft of this legislation and was removed by the Committee on Science and Technology at the time the Committee considered the bill. That position was later sustained when the bill was passed by the House of Representatives.

It is the intention of the House Conferees that this permissive authority is provided for use only in rare and extraordinary circumstances. We realize that there may be occasions in which the participation of particular individuals may be highly advantageous to achieving the goals of the Act and that these particular individuals would suffer financial hardship if they accepted appointment without compensation. However, we expect that such circumstances would be few and far between.

The Subcommittee on the Environment and the Atmosphere requests that you notify the Chairman and the Ranking Minority Member of any utilization of this permissive authority and the circumstances which justify such use. A number of Members of the Subcommittee have expressed the opinion that they believe that most citizens are willing to contribute their time and talent to national advisory committees and that they consider the public honor of being invited to participate sufficient to compensate them for their time. Therefore, we also request that you provide us with the particulars concerning any prospective member of this advisory committee who indicates that he is unwilling to accept appointment based solely on the lack of daily compensation.

For the Committee I want to express my deep appreciation for your cooperation.

Sincerely,

GEORGE E. BROWN, Jr.,
Chairman, Subcommittee on the Environment and the Atmosphere.

Mr. BROWN of California. Mr. Speaker, I have no further requests for time, and I yield back the remainder of my time.

The SPEAKER. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PROVIDING FOR CORRECTION IN THE ENROLLMENT OF H.R. 6669, NATIONAL CLIMATE PROGRAM

Mr. BROWN of California. Mr. Speaker, I call up the Senate concurrent resolution (S. Con. Res. 103) to correct the enrollment of H.R. 6669 and ask unanimous consent for its immediate consideration.

The Clerk read the Senate concurrent resolution as follows:

S. CON. RES. 103

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (H.R. 6669), to establish a national climate program, and for other purposes, the Clerk of the House of Representatives shall make the following correction:

In section 5(b)(1), strike "(8)" and insert in lieu thereof "(9)".

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 13471, FINANCIAL INSTITUTIONS REGULATORY ACT OF 1978

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 95-1536) on the resolution (H. Res. 1333) providing for consideration of the bill (H.R. 13471) to strengthen the supervisory authority of Federal agencies which regulate depository institutions, to prohibit interlocking management and director relationships between financial institutions, to amend the Federal Deposit Insurance Act, to restrict conflicts of interest involving officials of financial supervisory agencies, to control the sale of insured financial institutions, to regulate the use of correspondence accounts, to establish a Federal Bank Examination Council, and for other purposes, which was referred to the House Calendar and ordered to be printed.

FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1266 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1266

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7308) to amend title 18, United States Code, to authorize applications for a court order approving the use of electronic surveillance to obtain foreign intelligence information. After general debate, which shall be confined to the bill and shall continue not to exceed three hours, one and one-half hours to be equally divided and controlled by the chairman and ranking minority member of the Permanent Select Committee on Intelligence and one and one-half hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Permanent Select Committee on Intelligence now printed in the bill as an original bill for the purpose of amendment, said substitute shall be read for amendment by titles instead of by sections, and all points of order against said substitute for failure to comply with the provisions of clause 5, rule XXI are hereby waived. No amendment to said substitute shall be in order except germane amendments printed in the Congressional Record at least three legislative days before their consideration, pro forma amendments for the purpose of debate, and amendments recommended by the Permanent Select Committee on Intelligence. It shall be in order to consider en bloc amendments to said substitute printed in the Congressional Record of July 17 by Representative McClory of Illinois. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After passage of H.R. 7308, the Committee on the Judiciary shall be discharged from the further consideration of the bill S. 1566; and it shall then be in order in the House to move to strike out all after enacting clause of said Senate bill and insert in lieu thereof the text of H.R. 7308 as passed by the House.

The SPEAKER pro tempore (Mr. BROWN of California). The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA), and pending that I yield myself such time as I may consume.

Mr. Speaker, those Members who listened to the reading of the rule will know that this rule provides for 3 hours of general debate, 1½ hours to be equally divided and controlled by the chairman and ranking minority member of the Permanent Select Committee on Intelligence and 1½ hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. The committee amendment in the nature of a substitute will be read by titles for the purpose of amendment.

The only amendments to be allowed are committee amendments and those amendments which have been printed in the RECORD at least 3 days in advance of their offering. The so-called McClory amendments which appear in the July 17 RECORD may be considered en bloc. A motion to recommit, with or without instructions, is in order, and then the matter will be sent to conference with the Senate bill.

Mr. Speaker, I know there is controversy over the matter that will be brought up by this rule, but I do not have the feeling that there is opposition as such to the rule. Therefore, I reserve the balance of my time.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to point out to the House that this is a very, very important piece of legislation, because it deals with foreign intelligence matters, and the security of this Nation might at some time in the future be jeopardized by what we may or may not do here.

As a matter of fact, when the matter was before the Committee on Rules, I raised the question as to whether or not there was any provision in this legislation which would allow the President of the United States to authorize warrantless electronic surveillance during times of war, and I found out that there was not, and that the President would, the way this legislation is written, have to come back to the Congress to have an amendment drafted along those lines.

So thinking into the future, I have discussed the matter with the gentleman from Illinois (Mr. MCCLORY), who has had a considerable amount to do with this legislation and who is to be commended for his efforts, and we have drafted an amendment which I will propose, which would allow the President to authorize warrantless electronic surveillance for periods of up to 1 year during times of war or national emergency. Hopefully, when this matter is being debated under the 5-minute rule, we will see fit to give the President and the Nation this particular safeguard.

Mr. Speaker, this rule provides 3 hours of general debate for the consideration of H.R. 7308, the Foreign Intelligence Surveillance Act of 1978. The time will be equally divided between the Permanent Select Committee on Intelligence and the Committee on the Judiciary.

The rule makes in order an amendment in the nature of a substitute recommended by the Permanent Select Committee on Intelligence. In order to preserve the normal amending process, the substitute is made in order as an original for the purpose of amendment.

Points of order are waived against the substitute for failure to comply with clause 5 of rule XXI, which prohibits appropriations on a legislative bill. The bill provides that funds appropriated for the Department of Justice may be used for the operation of the special court and the special court of appeals set up by this legislation. Technically this constitutes an appropriation on legislation, and therefore the waiver is required.

The rule does contain limitations on the offering of amendments. No amend-

ments will be in order except, first, germane amendments printed in the CONGRESSIONAL RECORD at least 3 legislative days before their consideration; second, committee amendments; and third, pro forma amendments for the purpose of debate.

The rule also makes it in order to consider en bloc amendments to be offered by the gentleman from Illinois (Mr. MCCLORY).

Finally in order to expedite a conference, after passage of the House-passed bill, it will be in order to insert the House-passed language in the Senate bill number.

Mr. MCCLORY. Mr. Speaker, will the gentleman yield to me?

Mr. LATTA. I am happy to yield to the gentleman from Illinois.

Mr. MCCLORY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise not in opposition to the rule, but only to explain that the rule does limit and does restrict the Members with regard to offering amendments to this extremely controversial and complex legislation. In other words, Members who have not drafted amendments and had them placed in the RECORD and printed for at least 3 days prior to this date are going to be excluded from offering amendments.

To that extent I think this is a very unfair rule. It is not an open rule. It is a rule subject to that kind of limitation and restriction. On this very complex legislation which was brought before the Committee on the Judiciary and the Permanent Select Committee on Intelligence, it seems to me that it is extremely unfair and unfortunate that we have this kind of a situation.

As a matter of fact, one of the reasons why the Committee on the Judiciary did not take up this subject was because members of the Committee on the Judiciary represented that we would not mark up the bill before the committee because we would have an opportunity when the bill came up on the floor of the House of Representatives to mark it up at that time. We heard that same kind of argument when we were in the Permanent Select Committee on Intelligence in the markup stage. The members said that this would all be done by action on the floor.

We are now in a situation where, if we have not already put our amendments in the RECORD and they have not been printed, we are not going to have an opportunity to offer amendments to this bill.

I think it is important for the Members at this stage to realize that the extent of this legislation is very far reaching. This legislation is unprecedented. It is unprecedented in our entire legislative and judicial history. There has never been an instance of a special court provided which would be able to pass upon the exercise of executive authority with regard to national security or foreign affairs matters.

As a matter of fact, it goes precisely against the constitutional authority which is reposed in the President. If this measure passes, the President will not hereafter be authorized to exercise his Executive authority with respect to securing national security intelligence information. And I am talking now about information. I am not talking about espionage, or anything else. I am talking just about intelligence information gathering. And the President would not be authorized to secure this information unless it is approved by the judge, a member of a special court that is established by this legislation.

This special court itself is unprecedented. The secret hearings are unprecedented. The secret record is unprecedented. This is all part of what is called a very carefully crafted piece of legislation. I think the word "crafted" may be a very apropos word, because it may be craftily put together. In fact, the Members will find that there is a tremendous input here, not only on the part of the Intelligence Committee, the Department of Justice, and others, but a very substantial input insofar as the American Civil Liberties Union is concerned, as far as other agencies are concerned, whose interests are not our national security, but whose interests are entirely something else.

So I think it is well for the Members to have in mind that there is a compromise made with regard to our national security intelligence-gathering capability in this legislation, a compromise made with the ACLU, a compromise made with Morton Halperin, a compromise made with those who are looking out not for the intelligence-gathering capability but who, in many instances, would like to have this capability eliminated entirely. There are a great many who feel that we should have no intelligence capability with regard to clandestine or secret or private investigations or activities. And with regard to those persons, why, of course, this would be entirely satisfactory. But insofar as providing support for our intelligence agencies, the Members will find that all of the former intelligence officers, the entire organization, is opposed to this legislation, and many others who are knowledgeable on the subject. It is legislation which has not been considered at the markup stage by the Committee on the Judiciary, has not come before the full Committee on the Judiciary, although it was assigned and referred to the Committee on the Judiciary, and it has not received the consideration with respect to constitutional issues that are concerned, legal issues that are concerned, or, in my opinion, many of the practical subjects that are concerned with regard to this legislation.

Let me say that the Intelligence Committee did accept one amendment. It accepted one substantial amendment. So in this respect, the measure is substantially different from the measure which was passed over in the Senate. It is not the same bill. When people say that they support the bill that was passed in the Senate by a wide margin, they are not talking about the same bill. This is a different bill. I think this bill should be considered on its own merits, and I think that each and every amendment offered should be considered—and there will be a great many amendments offered.

Mr. BOLAND. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Massachusetts.

Mr. BOLAND. I thank the gentleman for yielding.

Mr. Speaker, I was wondering whether or not the gentleman from Illinois (Mr. MCCLORY), who has worked long and hard on this bill—as a matter of fact, I would even go so far as to say that this is "Bob McClory Day," because the gentleman has done a good job on the bill—I am wondering whether or not, if we presented the Senate bill, would the gentleman vote for the Senate bill, if we presented the bill here today.

Mr. MCCLORY. No. I would say the Senate bill is worse than the bill we have today. We have made a substantial improvement over the Senate bill. We have made many, many additional improvements. I think it is unfortunate, and it must be embarrassing to the other body that passed a bill 95 to 1 that this committee on both sides of the aisle rejected, in the sense that we adopted a substantial amendment in the committee which is now a part of the bill. And I commend the committee for that amendment.

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the gentleman from Kentucky (Mr. MAZZOLI).

Mr. MAZZOLI. Mr. Speaker, I rise in support of H.R. 7308, and particularly I rise to commend my distinguished colleague, the gentleman from Wisconsin (Mr. KASTENMEIER).

Mr. KASTENMEIER was responsible, in my judgment, for the way the distinguished House Committee on the Judiciary, and particularly his Subcommittee on Courts, Civil Liberties, and Administration of Justice, has handled this bill. I am a member of the House Intelligence Committee, as well as the Judiciary Committee, although not a member of Mr. KASTENMEIER's own subcommittee.

Mr. KASTENMEIER was kind enough, however, to allow me to sit in with his subcommittee during the hearings on H.R. 7308. Having sat with his subcommittee and having appeared before it as a witness, I can state with assurance that the 3 days of hearings which Mr. KASTENMEIER's committee held on H.R. 7308 were comprehensive and complete. The subcommittee heard a full range of views in the subject of foreign intelligence surveillance. Also, the subcommittee drew upon past-year hearings and on the extensive record compiled by the House Intelligence Committee.

While some members of the subcommittee had reservations about H.R. 7308, and I think no thoughtful person can have other than some reservations about certain provisions, the subcommittee decided, following careful study, that H.R. 7308 was worthy of being discussed, debated, and voted upon by the full House.

The subcommittee acted in recognition, also, of the little time remaining in this session of the Congress. Further delays awaiting full Judiciary Committee action have led to the demise of the bill.

Mr. KASTENMEIER. Mr. Speaker, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Speaker, the gentleman from Kentucky accurately states the situation, and I want to express my thanks to him for making that explanation. We were very pleased to have his testimony and have him sit with the subcommittee, along with our colleague from Illinois (Mr. MCCLORY), who was also not only present and testified before my subcommittee, but was able to suggest witnesses for us as we deliberated this question.

Mr. Speaker, again I want to express my appreciation for the gentleman's statements.

Mr. MAZZOLI. Mr. Speaker, let me first say that I think the gentleman from Wisconsin, in his truly modest way, never gives himself full credit. It was a very difficult situation; it was a very difficult parliamentary situation; it was a very difficult tactical situation, and I thought the gentleman handled it with real aplomb and gave full and complete hearings to the matters, and I think he has produced a good bill.

Mr. MCCLORY. Mr. Speaker, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Illinois.

Mr. MCCLORY. Mr. Speaker, I just want to acknowledge that there were some hearings, and the gentleman in the well and I did testify. However, I would also like to emphasize that there was no markup session by either the subcommittee or by the full committee; so that this was, in a way, window dressing. This was a concession to me, I guess, because I had requested hearings, but when the subcommittee moved to table and the motion to table succeeded, then in effect the subcommittee decided that the bill would remain in the Judiciary Committee without being considered by that committee.

So, it is not appropriate to bring this bill to the floor with any suggestion or representation that it has received full Judiciary Committee consideration, because it has received none insofar as the markup stage is concerned.

Mr. MAZZOLI. I would like to state to the gentleman, having sat with the subcommittee as I did, and having heard the gentleman himself as a witness, and having heard some of his witnesses testify to the defects as they perceived them in the bill, having listened to the debate and the colloquies that raged in that committee room for 3 days, I would have to say that the committee record which the gentleman has on the table is complete and contains information supporting the gentleman's position that certain changes should be made in the bill.

So, while there may not have been technically the kind of markup that a committee usually conducts where amendments are offered and argued, certain assertions were made during the committee hearing chaired by the gentleman from Wisconsin, which will be referred to by the gentleman from Illinois in support of his position that H.R. 7308 needs to be amended.

Mr. Speaker, the subcommittee's action—and I think this is important to note—the subcommittee that is headed by the gentleman from Wisconsin (Mr. KASTENMEIER), its action on H.R. 7308 in no way waives the Judiciary Committee's right of jurisdiction over foreign intelligence electronic surveillance or any other related subject matters, so, what is done today waives in no way or in no sense preempts the Judiciary Committee from taking action on this type of bill or any other kind of bill in the future.

And while the Judiciary Committee in this instance, Mr. Speaker, graciously agreed to let the full House work its will on this bill, the committee in the years ahead will play a vital and vigorous role in overseeing the provisions of H.R. 7308. I urge therefore that the House pass the bill, a measure to regulate foreign intelligence electronic surveillances, and again let me commend the gentleman from Wisconsin (Mr. KASTENMEIER).

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Illinois (Mr. MURPHY).

(Mr. MURPHY of Illinois asked and was given permission to revise and extend his remarks.)

Mr. MURPHY of Illinois. Mr. Speaker, with regard to the rule today, the gentleman from Illinois, my colleague on the committee states that this is an unfair rule. Let me tell my colleagues that this rule was issued on July 12. The gentleman said there was not enough opportunity for amendments to be offered. Let me tell my colleagues there are over 50 pending amendments to this piece of legislation, so anybody who feels he has been short changed has not been reading the RECORD. My colleague, the gentleman from Illinois, has been lobbying almost every Member on both sides of the aisle with regard to this bill and his opposition to this bill. He has had two opportunities before the House Select Committee on Intelligence where he was given every chance to bring witnesses supporting his point of view. He cross-examined every head of every intelligence agency of the United States. He was given the same opportunity, and the same witnesses appeared, before the House Judiciary Committee.

I would like to read to my colleagues today a letter I received from Attorney General Griffin B. Bell:

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., September 6, 1978.

Hon. MORGAN F. MURPHY,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN MURPHY: The President today issued the enclosed statement in support of the passage of the Foreign Intelligence Surveillance Act (H.R. 7308). I join the President in his belief that this bipartisan effort of the Executive Branch and Congress will strengthen the capability of our intelligence agencies to deal with foreign espionage and international terrorism while also safeguarding the privacy rights of Americans.

The bill is scheduled for a vote in the House of Representatives this week. The Director of Central Intelligence, the Secretary of Defense, the Director of NSA and the Director of the FBI join me in strongly supporting this legislation.

Yours sincerely,

GRIFFIN B. BELL,
Attorney General.

Mr. Speaker, I would like also to read the President's message, issued today:

STATEMENT BY THE PRESIDENT

The House of Representatives is scheduled to vote this week on the Foreign Intelligence Surveillance Act, one of the most significant legislative initiatives involving our intelligence agencies in the last three decades.

This Act will establish the nation's first legislative controls over foreign intelligence surveillance conducted by the United States Government. Most importantly, those controls will be established so as to protect both the strength of our nation's intelligence agencies and the privacy rights of our citizens.

American citizens will be assured that the intelligence agencies so vital to protecting our security will be able to perform their tasks fully and effectively. The bill also assures intelligence officers who serve our country that their proper activities in this field will be authorized by statute.

By providing clear statutory standards, this legislation will help strengthen the ability of our intelligence agencies to deal with foreign espionage and international terrorism. The strong support of this legislation by every intelligence agency clearly reflects this fact.

The passage of this legislation is also a major step toward eliminating the potential for abuse of electronic surveillance by the Federal Government. Americans will now be afforded the safeguards of a judicial warrant procedure for any electronic surveillance which might affect their rights.

This legislation has been carefully developed over several years, by Executive and Congressional leaders of both parties. The kind of bipartisan cooperation needed to develop legislation in the intelligence area, which is so important to the defense of our nation, was demonstrated earlier this year by the overwhelming Senate vote, 95–1, passing the bill.

I urge the Members of the House to vote for passage of this legislation, so that we can promptly begin to implement this well-balanced, long-overdue initiative.

Mr. Speaker, I urge my colleagues to vote for the passage of this rule.

Mr. LATTA. Mr. Speaker, I yield 5 minutes to the gentleman from Arizona (Mr. RUDD).

Mr. RUDD. Mr. Speaker, as a Member of this body who served for 20 years as a special agent for the Federal Bureau of Investigation, with many years in the area of foreign intelligence, I will tell you that this proposed legislation is fatally flawed.

It will have the effect of seriously weakening any effective intelligence-gathering capability by our Government.

Such effective intelligence-gathering is entirely dependent upon speed and confidentiality of sensitive sources. Both of these factors would be severely compromised by the warrant provisions, and the involvement of the judicial branch, in the area of authorizing electronic surveillance.

First, let me say that legislation just because it contains a warrant provision will not provide a special shield against prosecution for the loyal FBI agent or other Government official who is instructed to conduct electronic surveillance.

Any law which would guarantee immunity from criminal prosecution or

civil suit to a Government officer or employee conducting such surveillance authorized by the Attorney General would provide such a shield.

In fact, the warrant provision will destroy the FBI's ability to collect intelligence on the movement and plans of known terrorists in an emergency situaiton, as one major example of this bill's defects.

As a result of the Kearney case, and the current indictment of three other major FBI officials who were involved in the surveillance of people under authority of the Attorney General, in order to locate and apprehend fugitive members of the Weather Underground terrorist organization, a chilling effect has already been imposed upon the legitimate intelligence function of the FBI and other agencies.

The destructive nature of the Kearney case and what has followed will be severely compounded if a warrant requirement is imposed for foreign intelligence purposes that do not necessarily involve an American person in a crime.

Here we have a situation where the current administration has set a precedent that loyal FBI subordinates may be prosecuted and, if convicted, imprisoned for carrying out instructions of their superiors, authorized by the Attorney General and even the President himself, if those instructions are later considered to be wrong.

So what happens in an emergency situation under this bill, if the FBI is informed by border officials at the Canada-Vermont border that a suspected member of the German terrorist Baader-Meinhof Gang has just passed into the United States? Such a circumstance occurred just last month.

There is no firm evidence that the foreign citizen, who has a passport and a visa is a member of this terrorist group. But the possibility is strong, and some very valuable intelligence information could be gained by having this person followed and electronically surveilled at any stopping point, even including the home of some collaborator or contact within the United States along the way.

In this situation, time is of the essence. Even minutes lost could mean that a dangerous terrorist would be on the loose among our own people, and that valuable intelligence about that person's objectives or domestic contacts and sources of support would remain unknown to our Government.

Under this proposed legislation, what do our intelligence officials—what does the FBI do?

Right now, there is no question about what would be done. The Attorney General would be alerted. He could instruct the FBI to follow the individual and to conduct electronic and other surveillance at every possible point, in order to collect intelligence that is essential to the Government for the protection of our people.

If any criminal activity is indicated, a warrant would be sought for further authority to collect evidence by electronic surveillance and other means.

But under this bill, before any criminal activity is evidenced and an investigation for that purpose can be started, nothing could be done to collect vital intelligence information, maybe leading to prevention of harm to the public.

The warrant provision for foreign intelligence purposes is the reason that nothing would probably be done in the precious few minutes and hours at the outset, when the most valuable intelligence could be obtained.

Yes, there is a supposed 24-hour emergency grace period under this bill, where electronic surveillance can be conducted while a warrant is being sought for such surveillance.

But what FBI special agent will be willing to conduct this surveillance during the 24-hour period without a warrant, once a warrant is required, under the risk that the judge may not approve the warrant?

Under the Kearney precedent, the loyal FBI agent would be out on the end of the proverbial tree limb, after the judge has sawed it off.

The good information and good judgment of this FBI agent's superiors, and even the Attorney General himself, will not save the FBI subordinate from the specter of prosecution in such a case—and most certainly from the probability of civil suit if the parties involved become aware of what has happened, which they will under this bill.

And so this bill—despite its supposed 24-hour warrantless foreign intelligence electronic surveillance—will prevent the possibility that any FBI agent or other official can prudently, in his own best interests, conduct such surveillance and remain protected from later possible recriminations.

For the public, this means that hundreds, maybe thousands of situations such as the one involving alleged members of the terrorist Baader-Meinhof Gang coming into the United States to meet up with comrades in the United States will go by the boards in their initial stages, where the most valuable intelligence work against foreign threats must be done.

Let us make no mistake about the time that will be lost in such a situation. Under current procedures, top-level authority for electronic surveillance within the executive branch must already be obtained.

This includes authority from the Attorney General himself and maybe at the Presidential level as well, which can be obtained immediately.

Under this bill, in addition to these procedures, a Federal judge must give his approval. This will involve additional administrative preparation, time lost locating and appearing before the judge and in obtaining his decision. Here we are only talking about the problems confronting our intelligence community in an emergency situation. This does not even consider the serious mistake of involving the judicial branch in the executive's foreign intelligence-gathering function in the first place.

Mr. Speaker, under this bill a warrant would be required to conduct wiretaps to collect foreign intelligence in every instance. Even surveillance of the Soviet and other Communist government embassies would require a warrant.

It is inevitable that American citizens and resident aliens will call such embassies. Even with minimization procedures required by this bill, such surveillance to determine domestic contacts and supporters of Communist government goals and activities in the United States would require a warrant. And under the Freedom of Information Act and through other means, this information provided to the court to obtain necessary warrants would inevitably wind up in the hand of the wrong people.

Take the case of Orlando Letelier, who was Chile's Ambassador to the United States during the Marxist regime of Salvadore Allende. Letelier made contacts and friends among leftists in our own country—even in the Congress. Letelier was a close friend and comrade of Fidel Castro and his allies.

When the Allende regime ended, Letelier sought and obtained asylum in the United States and worked full time until his death in pro-Communist causes in our country.

Evidence obtained from his briefcase when he died showed that Letelier was receiving financial support from the Castro government through Allende's daughter, who was living in Cuba. This evidence also showed that Letelier used these funds to pay for his lobbying and intelligence-gathering activities in the United States. He developed extensive contacts with U.S. Government and congressional officials.

Under this bill, in order for our intelligence officials to follow up on such evidence, and to inform the President and other Government officials of the relationship and support between American citizens and hostile foreign governments, judicial warrants will be required.

Sensitive information such as that I have described involving Letelier and highly placed officials will then, by law, be required to be made part of the court record.

These records, either legally under the Freedom of Information Act, or through litigation, or as the result of leaks to the news media and other illegal methods, will inevitably be publicized and compromised through disclosure.

The only way to prevent disclosure of sensitive intelligence information is to severely restrict access to it. Under this bill, it will be required that such sensitive information and documentation be turned over to a special new court—maybe two courts—involving 17 judges, their clerks, reporters, bailiffs, and so forth. It is inevitable that our most sensitive, highly classified, and explosive intelligence information will be compromised and disclosed publicly under such an unreasonable arrangement.

If for no other reason than the highly important news value of such court files to our energetic, probing news media, who of necessity are always digging for the best story, this intelligence information will be perpetual game for leaking and publication.

We cannot afford to allow such a thing to happen. We cannot allow a law to be passed that will destroy the speed, the sureness, and the confidentiality of our intelligence-gathering capability

that is so essential to the President's responsibility as our Commander in Chief and top foreign policy officer.

I implore my colleagues to defeat H.R. 7308. If legislation is needed in this area, the McClory substitute is certainly the only prudent way to accomplish that objective.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. MURPHY of Illinois. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7308) to amend title 18, United States Code, to authorize applications for a court order approving the use of electronic surveillance to obtain foreign intelligence information.

The SPEAKER pro tempore (Mr. BROWN of California). The question is on the motion offered by the gentleman from Illinois (Mr. MURPHY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 7308, with Mr. YATES in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Illinois (Mr. MURPHY) will be recognized for 45 minutes, the gentleman from Illinois (Mr. MCCLORY) will be recognized for 45 minutes, the gentleman from Wisconsin (Mr. KASTENMEIER) will be recognized for 45 minutes, and the gentleman from Virgina (Mr. BUTLER) will be recognized for 45 minutes.

The Chair now recognizes the gentleman from Illinois (Mr. MURPHY).

Mr. MURPHY of Illinois. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 7308, as reported by the permanent Select Committee on Intelligence, is the culmination of over 4 years of detailed inquiry by two administrations and six congressional committees into the unique area of foreign intelligence electronic surveillance. It has, with its predecessor from the Ford administration been the subject of hearings on seven different occasions over 3 years, and of five different markups and five committee reports.

This inquiry was conducted against the backdrop of both the abuses revealed by the Church and Pike committees and the recognition that an efficient intelligence collection capability is vital to the national interest.

Two basic conclusions have been reached:

First. Electronic surveillance is a necessary and proper means of collecting foreign intelligence information; and

Second. The rights of our citizens can best be protected by requiring a judicial warrant for such surveillance undertaken in the United States.

H.R. 7308 is based on these conclusions and will insure that both legitimate intelligence activities and the privacy interests of our people are furthered. H.R. 7308, as amended, would enact a new law entitled the "Foreign Intelligence Surveillance Act of 1978." The purpose of the bill is to provide a statutory procedure authorizing the use of electronic surveillance in the United States for foreign intelligence purposes. The procedures in the bill would be the exclusive means by which electronic surveillance, as defined, could be used for foreign intelligence purposes. The following techniques of electronic surveillance would fall within the bill's prescriptions:

First. The acquisition of a wire or radio communication sent to or from the United States by intentionally targeting a known U.S. person in the United States under circumstances in which the person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes;

Second. A wiretap in the United States to intercept a wire communication, such as a telephone or telegram communication;

Third. The acquisition of private radio transmissions where all of the communicants are located within the United States; or

Fourth. The use in the United States of any electronic, mechanical, or other surveillance device to acquire information other than from a wire communication or radio communication under circumstances in which the person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes.

H.R. 7308, as amended, creates a special court in Washington, D.C., composed of at least one judge designated by the Chief Justice from each of the judicial circuits and a special court of appeals composed of six judges designated by the Chief Justice from the Greater Washington, D.C., area.

The bill would require a prior judicial warrant for all electronic surveillance for foreign intelligence purposes with three limited exceptions. First, where certain types of electronic surveillance are targeted against certain types of foreign powers, under circumstances where it is extremely unlikely that a U.S. person's communication would be intercepted, no warrant is required. Instead, Attorney General approval is required. Parenthetically, I would note that this exception to the warrant requirement was suggested by my colleague from Illinois (Mr. MCCLORY). It was agreed to by the Intelligence Committee in a spirit of compromise. I and a majority of my colleagues on the committee made a good faith effort to obtain the support of the gentleman for the bill. Obviously, we have not succeeded.

Second, emergency surveillance without a warrant would be permitted in limited circumstances, but a warrant would have to be obtained within 24 hours of the initiation of the surveillance.

Third, surveillance solely for the purposes of testing equipment, training personnel, or "sweeps" to discover unlawful electronic surveillance are authorized without a warrant under rigorous controls to insure that no information concerning U.S. persons is improperly used, retained, or disseminated.

The bill would authorize the Attorney General to make applications to the special court for a court order approving the use of electronic surveillance. Approval of an application under the bill would require a finding by a judge that the target of the surveillance is either a "foreign power" or an "agent of a foreign power," terms defined in the bill, and that the facilities or places at which the surveillance is directed are being used or are about to be used by a foreign power or agent of a foreign power. Where official foreign powers are the target of a surveillance, the standards for obtaining a warrant are less strict than for other surveillances, and both the amount of information provided the judge and the findings he must make are reduced.

A "foreign power" may include a foreign government, a faction of a foreign government, a group engaged in international terrorism, a foreign-based political organization, or an entity directed and controlled by a foreign government or governments. An "agent of a foreign power" includes nonresident aliens who act in the United States as officers, members, or employees of foreign powers or who act on behalf of foreign powers which engage in clandestine intelligence activities in the United States contrary to the interests of this country. U.S. persons meet the "agent of a foreign power" criteria if they engage in certain activities on behalf of a foreign power which involve or may involve criminal acts.

The court would also be required to find that procedures proposed in the application adequately minimize the acquisition, retention, and dissemination of information concerning U.S. persons consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information.

Every application for an order must contain a certification or certifications made by the Assistant to the President for National Security Affairs or an executive branch official or officials designated by the President from among those executive officers with responsibilities for national security or defense who are appointed by the President with the advice and consent of the Senate. Those officials would be required to certify that any information sought by the surveillance relates to, and if concerning a U.S. person is necessary to, the national defense or the conduct of foreign affairs of the United States or the ability of the United States to protect against grave hostile acts or the terrorist, sabotage, or clandestine intelligence activities of a foreign power. The court would be required to review each certification for surveillance of a U.S. person and to determine that the certification is not clearly erroneous.

The court could approve electronic surveillance for foreign intelligence pur-

poses for a period of 90 days or, in the case of surveillance of a foreign government, faction, or entity openly controlled by a foreign government, for a period of up to 1 year. Any extension of the surveillance beyond that period would require a reapplication to the court and new findings as required for the original order.

H.R. 7308 requires annual reports to the Administrative Office of the U.S. Courts and to the Congress of statistics regarding applications and orders for electronic surveillance. The Attorney General is also required, on a semiannual basis, to inform the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence fully concerning all electronic surveillance under the bill; and nothing in the bill restricts the authority of those committees to obtain further information related to their congressional oversight responsibilities.

This, admittedly, is a short outline of a very complex and detailed piece of legislation. Its very complexity, however, is evidence of the attention the Intelligence Committee has given to the important national security and civil liberties issues involved.

As introduced, H.R. 7308 was fully supported by the administration and, to a lesser extent, supported by the intelligence community. The bill was opposed by civil liberties groups. The Intelligence Committee worked hard on the bill, involving in discussion both civil liberties groups and officials of the intelligence community. The result is a better bill from the perspectives of both civil libertarians and intelligence officials. It is a good bill, albeit a very complex and confusing one, because it assures that the abuses of the past cannot be repeated, while at the same time preserving, and in certain respects, improving, the necessary collection of foreign intelligence important to this Nation's security.

This is not to say that it is a bill about which reasonable men and women may not differ. Some believe on the basis of moral principle that electronic surveillance simply is wrong and can never be justified, except perhaps if it were essential to the continued existence of our country. Others believe, again on the basis of moral principle, that judges should never be involved in the approval process for foreign intelligence electronic surveillances. Obviously, the bill is not responsive to either of these positions.

Rather, the majority of the House Intelligence Committee was convinced on the one hand that the electronic surveillances which would be regulated by H.R. 7308 can be, and often are, important to the national security. On the other hand, the majority of the committee was equally convinced that these important surveillances could be conducted in a manner which would fully protect the legitimate privacy rights of Americans. The bill as reported by the committee, I believe, authorizes and facilitates those important surveillances, while protecting the rights of those involved, and prohibits those illegitimate surveillances which were the abuses of the past.

A red, white, and blue herring that has been raised is a so-called threat to the national security. No intelligence community witness before the House Intelligence Committee suggested that H.R. 7308, as introduced or as reported, threatened the national security. No intelligence community witness has expressed any reservation about the bill, as reported, impeding legitimate intelligence collection. No intelligence community witness suggested that the bill's procedures would threaten whatever speed is necessary for foreign intelligence surveillances. Only two witnesses expressed a reservation concerning risks of disclosure with respect to the bill as introduced. Those witnesses were Admiral Murphy of the Defense Department and Admiral Inman of NSA. Today, both Admirals Murphy and Inman support H.R. 7308, as reported, without reservation.

It is alleged that reams of classified material will be given to large numbers of judges and court personnel. This is nonsense. An application is made to one judge, not many, and the bill explicitly allows for executive branch personnel to serve as any necessary court support.

Another herring that is dragged across the trail is that judges are unequipped to make subtle political and operational decisions necessary in the foreign intelligence field. The bill recognizes this fact full well and does not allow judges to make such decisions. Much of the bill's complexity arises from the need to specify exactly what the judges' duties and powers are under the bill. Those duties and powers are of the same nature as currently exercised under the law regulating law enforcement surveillances; that is, applying facts to a statutory standard.

The vehicle that keeps judges from second-guessing the executive's political judgments is the certification which must accompany each application for a warrant. That certification must be signed by a high executive branch official with responsibility for intelligence or foreign affairs matters. It will contain statements by that official that the object and the purpose of the surveillance is to obtain a particular type of "foreign intelligence" as defined, that this foreign intelligence cannot be otherwise obtained and it will provide the basis for the official's belief that such information will result from the surveillance. Such a certification can only be questioned if these statements are clearly erroneous on their face.

The so-called criminal standard is also a herring to the extent that anyone suggests that it will impede legitimate intelligence collection. The presence of the criminal standard does not mean that the purpose of the surveillance is prosecution, or only to gather evidence of a crime, and there is certainly no limitation in the bill that would so restrict such surveillances. Nor was the so-called criminal standard adopted because of any belief that the Constitution required it. Rather, it was adopted as a matter of policy and principle, that this Government should not target electronic surveillance against individual Americans absent probable cause to believe that they at least may be involved in a violation of law. If this principle had any negative impact on the collection of necessary intelligence, a debate over this criminal standard might be called for, but the Director of the FBI has indicated in the strongest possible terms that the criminal standard in H.R. 7308, as reported, will not impede the FBI's intelligence collection by means of electronic surveillance.

Finally, it has been suggested that congressional oversight is a more proper check on the executive than a judicial warrant. But, it is clear to me at least that congressional committees are simply not equipped to conduct oversight of the day-to-day operation of electronic surveillance, and it is also clear to me that the executive will not provide us the information to do the job even if we were in a position to do it. Such uncertain, after-the-fact oversight is no substitute for prior approval of these surveillances.

The benefits of H.R. 7308, as reported, and its improvements over current practice both from national security and civil liberty viewpoints are substantial.

It is not a bill designed to punish the intelligence community.

It is not a bill that was hastily written in response to media pressure.

And, it is not a bill that will hamstring the intelligence agencies now or in the future.

Rather, it is a much needed piece of legislation that will remove the existing uncertainties as to what are proper intelligence activities while protecting the rights of our citizens.

It will enable the dedicated and patriotic men and women of our intelligence agencies to go about their important business secure in the knowledge that their endeavors are supported by the Congress and the people and that their actions will not subject them to public scorn and ridicule * * *.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of Illinois. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. I thank the gentleman for yielding, and I want to commend him, and particularly, the chairman of the full committee, the gentleman from Massachusetts (Mr. BOLAND), and the entire Intelligence Committee for the work they have done on H.R. 7308.

I know, from having grappled with this vexatious issue in my own committee, how difficult it is. One of the difficulties in the bill, perhaps not a major one, but nonetheless one I would like to ask the gentleman from Illinois about, is as follows:

I notice that the directive language contained in section 102(a)(3)(A) and in section 105(b)(2)(B) of H.R. 7308 provides that common carriers shall furnish information, facilities, or technical assistance necessary to accomplish the electronic surveillance, and here are the important words, "in such a manner as will protect its secrecy". That language is different from the directive language of title III of the Omnibus Crime Control Act of 1968 where common carriers

are required to provide information, facilities, and technical assistance "necessary to accomplish interception unobtrusively". My question is this, What is the difference between "in such a manner as will protect its secrecy" and "unobtrusively" in the two statutes? Is it the intent of the drafters of the language that the Government is authorized to request different or more information, facilities or technical assistance under H.R. 7308 than is authorized under title III and if such is intended, what is the nature of that additional or different cooperation which may be required?

Mr. MURPHY of Illinois. Let me say to the gentleman that he is correct in that a court order or an Attorney General's order obtained under this bill may direct an officer, employee, or agent of a communications common carrier to provide certain assistance to Government agents implementing those orders.

The nature and scope of such assistance is intended to be identical to that which is authorized by section 2518(4)(e) of chapter 119 of title 18 of United States Code, commonly referred to as title III of the Omnibus Crime Control Act of 1968, as amended. The reason that the language of H.R. 7308 in the sections to which the gentleman refers is different than the language of title III is because the drafters and the committee wished to make very clear that these electronic surveillances which seek to collect foreign intelligence information in this country are extremely sensitive in nature and must be protected from disclosure in the strictest possible fashion.

These electronic surveillances are different from wiretaps authorized by title III where the law requires that notice eventually be given to the subjects of those wiretaps. H.R. 7308 makes clear that no notice will be given the subjects of electronic surveillance as defined under the bill because of the important national security interests to be protected. Accordingly, the language of the statute reads "in such a manner as will protect its secrecy."

This does not seek to authorize in some indirect fashion a different kind of cooperation than is currently authorized to be requested under title III, but simply to create a statutory obligation to keep such surveillances as secure from disclosure as is humanly possible.

In other words, if an application is made to the special court and an order is issued approving the application, and the surveillance is then undertaken, the agents in the field go out to the common carrier and ask for their cooperation, and that common carrier, as it would have to under title III of the Omnibus Crime Control and Safe Streets Act, might, if asked, notify the subject of the surveillance that his wire is being tapped.

To protect the secrecy of these surveillances, we are not requiring that. The reason for that is simple. It is because if we went out and told a Russian spy that the FBI's Counterintelligence Division, which conducts these surveillances for our national security, was tapping his wire, I do not have to tell the gentleman what would happen. Whatever system that spy was using, he would adopt a different method or he would leave the country, leave the jurisdiction. That is the reason for it.

Mr. KASTENMEIER. I thank my colleague for his explanation.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of Illinois. I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman for yielding to me.

Mr. Chairman, I just want to say that I commend the gentleman for his administration of our subcommittee, and I do not have any complaints as far as the opportunity to present evidence there is concerned. The evidence presented by a former deputy attorney, Laurence Silberman, I thought was rather persuasive, and we had other testimony as well.

However, the gentleman states that Admiral Inman, who originally objected to the bill, now no longer has any objection. I understand that we have exempted his operation from the coverage of this legislation.

However, Admiral Murphy—no relation to the gentleman in the well—who testified, I think, in January of this year before our committee, said that there was a very high risk and very limited benefit for the rights of Americans were we to require a warrant with regard to the targeting of foreign agents and foreign powers.

What if anything did we do in this bill in order to get him to change his mind about this legislation?

Mr. MURPHY of Illinois. I think it was the gentleman's amendment, the amendment offered by the gentleman from Illinois (Mr. McCLORY), which satisfied both Admiral Inman and Admiral Murphy. As the gentleman will recall, there were members of the committee who objected to his amendment, but as chairman of the Subcommittee on Legislation I supported his amendment, as did Mr. BOLAND, chairman of the full committee, and other Democrats.

In a spirit of cooperation I thought we would be able to bring this bill to the floor, as the Senate did, in a bipartisan manner. The Senate passed it by a vote of 95 to 1. Senators on both sides of the political continuum, both political philosophies—I will not mention their names because we are not supposed to do that—but both spectrums were covered fully, and they passed this bill in an hour after years of debates and hearings.

I thought when the gentleman offered his amendment and we adopted it, then we would come to the floor to our colleagues with the same bipartisan effort.

Admiral Inman and Admiral Murphy both have written me, and say that not only do they support the legislation, but I am sure they would not have used the words "enthusiastically support it" if they had any qualms at all. Admiral Inman, as the gentleman knows, has called Members of Congress asking them to pass this legislation. He is the man in charge of probably the most sensitive of all the operations taking place today in the area of electronic surveillance.

Mr. McCLORY. If the gentleman will yield further, I can understand Admiral Inman's enthusiasm because we have eliminated, we have exempted, his operation from the scope of this legislation. But, I question that we have done anything with respect to Admiral Murphy. I do not think we have affected his operations in any way.

Mr. MURPHY of Illinois. We have exempted Admiral Inman in one specific operation that we are prohibited from talking about in public, and the gentleman is fully aware of it, but it is not his whole operation.

Every operation of the NSA which falls under the definition of electronic surveillance, as defined in the bill, is covered by the bill.

It was suggested to the committee in the testimony of representatives from the Department of Defense and from the National Security Agency that some very sensitive activities need not require a judicial warrant under the bill, because they would not involve the interception of communications of U.S. persons.

The committee considered this approach very carefully and eventually agreed to an amendment offered by the gentleman from Illinois (Mr. McCLORY) the effect of which was to exempt from the warrant requirement, but not from the other provisions of the bill, and certainly not from Attorney General approval, those operations which would by definition not involve U.S. persons.

Members will understand why I am reluctant to discuss the particulars of the very sensitive surveillances that are involved.

However, it certainly can be said that those operations which constitute electronic surveillance but which are handled under section 102(a) of the bill, that section which permits Attorney General authorization of these particular surveillances are of a segregable class about which it can be said with certainty that U.S. persons will not be intercepted.

The committee felt that adopting the amendment offered by the gentleman from Illinois did no violence to the principles which underlie H.R. 7308.

It was felt that this legislation was introduced and has received the support that it has because it did not attempt to in any way dismember or destroy intelligence operations.

However, it does attempt, and I think does a very good job at it, to protect U.S. persons whenever they become inadvertently involved in electronic surveillances in this country that seek to collect foreign intelligence information.

Therefore, the different treatment provided under the bill for surveillances which do not involve U.S. persons is attuned to the fundamental principle of the legislation to protect innocent U.S. persons.

The committee found a happy marriage between security concerns and protection of U.S. persons and stands by its judgment in adopting that amendment.

This is not to say, however, that the NSA is in any way exempt from this bill.

NSA operations remain covered by its provisions, although different treatment may be given to different types of operations.

This, however, is fully consistent with the legitimate interests which have driven the drafting and consideration of this legislation in its present form.

Mr. McCLORY. If the gentleman will yield for this further comment, I do not want there to be any misunderstanding as far as the amendment I offered in the committee. The amendment I proposed to offer in the committee, would have been an amendment which would, if accepted, have provided an opportunity to bring this measure to the floor under an agreement. That amendment would have exempted from the warrant requirements all foreign powers and agents. I do not believe we should be required to have a judicial warrant to have electronic surveillance over foreign powers and agents.

Mr. MURPHY of Illinois. The gentleman is aware that if a U.S. citizen calls an embassy and requests information about some foreign event in the United States, that his conversation will not be used politically against him. The Church committee and the Pike committee uncovered clear evidence that past Executive practices have intercepted Americans' conversations with foreign embassies, which have been disclosed and used politically against these citizens.

Mr. McCLORY. If the gentleman will yield further, that is the purpose of the minimization procedure which I would offer.

Mr. MURPHY of Illinois. The minimization procedures would not have come into being had there been warrant procedures; and they would not have been abused as they have been in the past had there been a warrant procedure.

Mr. McCLORY. Mr. Chairman, I yield 7 minutes to the ranking minority member of the Intelligence Committee, the gentleman from California (Mr. BOB WILSON).

Mr. BOB WILSON. Mr. Chairman, the permanent Select Committee on Intelligence has the responsibility to carry out the mandate of the House expressed in House Resolution 658. This responsibility is particularly heavy at this time, as the committee brings to the House the first substantive policy bill to emerge from our examination of the intelligence community. This bill—the Foreign Intelligence Surveillance Act of 1978—will, in whatever form it takes, impact our intelligence organizations now and in the future with respect to their ability to further the national security interests of this country and its citizenry.

The work of this committee, and particularly the Subcommittee on Legislation, has been difficult. We are dealing in a complex matter, with very sensitive subjects. The issues have centered on the balance between our country's national security requirements, and the individual rights and liberties of our citizens. Our hearings, the testimony we have received, and the debates which have occurred in committee, have not provided clear, unequivocal guidelines upon which we could all agree. Throughout this long and difficult period, the committee chairman, the distinguished gentleman from Massachusetts (Mr. BOLAND) has guided our efforts to insure this most serious matter was not examined as a partisan issue, nor an issue between liberals and conservatives, but rather as an important matter of genuine, general concern. I would especially like to express my warmest appreciation for his even-handed and fair treatment of controversial areas and issues, and particularly for his very fair treatment and unfailing courtesy to those of us on the minority side.

The bill before the House today is important for, first, the subject matter is important, because the evidence has been overwhelming that electronic surveillance within the United States for foreign intelligence collection is vital to the national security interests of the United States, and to the continued freedom and well-being of our citizens.

This bill is important, because it will establish a precedent for other deliberations of this body as we undertake our responsibilities to oversee the intelligence and intelligence-related activities of the U.S. Government.

I am confident that responsible Americans understand the importance of obtaining foreign intelligence information, both abroad and at home, against those foreign powers whose interests and ambitions are inimical to our continued freedom. We are aware that the needs for accurate, timely foreign intelligence information have expanded rapidly in recent years, both in categories of information required, and in the sources of this information. A common thread that runs throughout foreign intelligence deals with communications. To control agents; to task these agents against targets within the United States; and to acquire the information gathered: All require communications networks. Thus, it is evident that electronic surveillance within the United States for foreign intelligence collection is as necessary today as it was when the practice was instituted during the Roosevelt administration. In fact, it has become indispensable to the viability of our intelligence organizations.

The first subject which I would like to address is the need for any legislation. Testimony to the Congress over the past several years has revealed several facts about domestic use of electronic surveillance for foreign intelligence collection. First, each administration since F.D.R. has determined that such surveillance was essential to the national security of the United States. Second, each administration from President Roosevelt through President Nixon handled the matter of domestic electronic surveillance in great secrecy. Third, in each administration, to varying degrees, rights of Americans were violated in the name of national security when no national security interest was evident. In other words, each administration engaged in electronic surveillance in the interest of national security; events and activities were handled in secret, few checks and balances existed, and some abuses occurred.

Starting with the Ford administration, and continuing through the current administration, domestic electronic surveillance for foreign intelligence collection has been conducted under the strict provisions of widely publicized Executive orders. For example, President Carter's Executive Order 12036 contains the following provisions for domestic electronic surveillance for foreign intelligence collection. First, these activities can only be undertaken as permitted by the Executive order, under procedures established by the agency head and approved by the Attorney General. Second, these procedures shall, first, protect constitutional rights and privacy; second, insure that information is gathered by the least intrusive means possible; and third, limit the use of information gathered to lawful Government purposes. Further, electronic surveillance shall not be conducted against a U.S. person without a judicial warrant, unless the President has authorized the type of activity involved, and unless the Attorney General has both approved the particular activity and determined there is probable cause to believe the U.S. person is an agent of a foreign power.

The net effect of Executive Order 12036, and its predecessor, Executive Order 11095, according to all evidence received in committee, has been a responsive intelligence collection program which has not impinged on the rights or liberties of U.S. persons. What then is the rationale for legislation? Much emphasis is placed on the fact that, even though intelligence operations have not been unduly constrained, and the rights of our citizens have been protected, Executive orders can be changed, and that future administrations might engage in domestic electronic surveillance in the name of national security to the detriment of the American people. I do not find this a compelling argument. First, I believe in the power of accountability. Executive Order 12036 clearly defines what is permitted, under what circumstances, and establishes a chain of accountability to officials elected by the people of the United States.

A second argument presented by some witnesses concerned the apparent uncertainty, and uneasiness of our Executive department officials, about the legality of these operations, particularly as courts hear more cases in which foreign intelligence electronic surveillance is involved. But this ignores the fact that the courts have ruled overwhelmingly that the President has the constitutional authority to authorize domestic electronic surveillance for national security purposes.

Nevertheless, I do believe that there is a need to pass legislation to regulate the use of electronic surveillance for foreign intelligence in the United States.

What type of legislation is required? The efforts of the permanent Select Committee on Intelligence have centered on one major area—the involvement of the judiciary. But, I believe an aspect other than involvement of the judiciary has not received sufficient attention. That aspect concerns the focus of our efforts. We should not be drafting legislation which hobbles the collection capabilities of our intelligence organizations. During the past 20 years, the world has grown smaller, the number of potential adversaries has increased, greater areas of the Earth are of vital concern to the United States. Our potential enemies are more active in this country. More sophisticated techniques are available to foreign agents and technology has greatly diminished time and distance factors. Further, the Nation is involved more frequently in crises, in various parts of the world, crises which develop and change rapidly. Therefore, as our needs for intelligence increase and become more urgent, opportunities to collect this vital information also increase. At this time, successful performance by our intelligence organizations becomes highly dependent on their ability to react positively and quickly to collection opportunities. At this time, our national security interests become paramount, and legislation must provide for an effective, efficient, legal way for our intelligence organizations to operate.

Therefore, the legislation which should be adopted by this distinguished body should be balanced, and have the following characteristics. It should:

First. Be supportive of our vital intelligence organizations, and conducive to enhancing our national security interests.

Second. Be flexible enough to provide responsiveness in times of crisis and war.

Third. Be protective of individual rights and liberties of U.S. persons.

Fourth. Provide for effective congressional oversight.

This legislation should not:

First. Restrict the legitimate functions and responsibilities of the intelligence services.

Second. Overreact to abuses which admittedly are not taking place now or to grant to foreign intelligence agents the rights enjoyed by the American people.

Third. And finally, should not transfer constitutional responsibilities for national security and foreign policy from the President and the Congress to the judiciary on matters so essential to our well-being.

I would hope then, following our consideration of H.R. 7308 and the amendments which will be offered, the resultant legislation will serve our national security interests well, protect the rights of U.S. citizens, and that this legislation will serve as an effective precedent for future legislation in providing our intelligence organizations a sound, legal basis for their continued contribution to our national security and the freedom of all our people.

Mr. McCLORY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I appreciate the very generous remarks which have been made here regarding "McClory Day before the House of Representatives." However, I would like to say that, in my view, this is a day in which we want to consider very carefully the national security interests of our Nation, particularly the activities of our various intelligence agencies.

Mr. Chairman, I merely want to indicate my interest in this subject in behalf of what I believe are the best interests of our Nation in this area; and I have no personal or individual interest in this legislation other than to undertake to do what I think is in the best interests of our Nation.

Mr. Chairman, although I am controlling one-quarter of the time for general debate, as ranking member of the Committee on the Judiciary, I would like to switch hats for a moment to thank the chairman of the other committee on which I sit, and I might say that I am controlling the time for the Select Committee on Intelligence, and say that the distinguished gentleman from Massachusetts must be commended for both his outstanding ability and for his sincere interest in this and other legislation and in the other activities of our committee.

Also, as I said before, I want to commend the gentleman from Illinois (Mr. MURPHY), with whom I worked in this subcommittee. Both of these men have devoted a great deal of time to the consideration of this very complex issue or the number of issues which are encompassed in this legislation. While we have different opinions, I am sure we are all looking toward the same end in what we are doing here.

Mr. Chairman, in my view, what we should undertake to do is to repose responsibility and accountability in the executive branch of Government and not permit that responsibility or accountability to be transferred to the Judiciary.

H.R. 7308 would prevent our intelligence agencies, operating on the President's constitutional mandate to protect our national security, from taking timely and direct action to obtain vital foreign intelligence information. The bill would require the President, on the other hand, to abstain from securing this information or exercising his responsibility in this area until after he first secured a warrant from a newly established special court. It is true that there is a 24-hour leeway there, which is authorized in cases of emergency. However, what if during the 24-hour period the President should decide he wants to have this authority exercised, and at the end of that 24-hour period the court says, "No, you cannot exercise that authority!" Then what happens? It all of a sudden comes to a stop; and of course, the President has been doing something which the court says he never should have been authorized to do in the first place.

Mr. Chairman, this business of reposing all this authority in a special court is an extreme overreaction to the so-called Watergate period and to the abuses which occurred during a period of some 2, 3, or 4 years ago, and perhaps during a long period of time prior to that.

As a matter of fact, in recent years, the intelligence agencies have been operating under Executive order, an Executive order first issued by President Ford and subsequently an Executive order issued by President Carter. There is no evidence, no evidence whatsoever, in the testimony before the Committee on the Judiciary or before the Intelligence Committee which would indicate any violation of any individual rights or any abuses by any of the intelligence agencies during this period.

Therefore, what is it which we are trying to correct through this legislation? It is not abuses which are now occurring. I defy anyone to suggest that there are such abuses occurring now. What we are trying to correct apparently are some abuses which have occurred some time ago and which have been corrected by the Executive orders which are being complied with.

This whole area of foreign intelligence information securing and the entire field of foreign affairs is not appropriately vested in the judiciary in any sense.

Mr. Chairman, as Justice Jackson said in the Chicago Southern versus Waterman Steamship C. case—

> Issues involving the national security are delicate and complex and involve large elements of proficiency. They are and should be undertaken only by those directly responsible to the people whose welfare they advance or imperil.

Mr. Chairman, the persons referred to by Justice Jackson are the elected officials of the people, the President of the United States and the Members of Congress, that is, those of us in this Chamber and in the other body and down on Pennsylvania Avenue in the White House. The persons referred to by Justice Jackson are not members of the judicial branch of Government, who are not elected by the people.

Let us take, for instance, the question of the abuse of authority by the judiciary in this area. Who takes care of that kind of abuse? No one. There is no discipline, no discipline in this legislation or anywhere, with respect to the judiciary.

Mr. DRINAN. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Massachusetts.

Mr. DRINAN. Mr. Chairman, I want to commend the gentleman from Illinois (Mr. McCLORY) on that statement and I agree with him, perhaps for somewhat different reasons than those which the gentleman from Illinois has expressed.

I wonder if the gentleman would speculate on this. Assuming that this bill passes and becomes law and then we have reason to feel that some Federal judges are too lax in giving out the judicial warrant, does the gentleman feel that there is any way by which we as a legislative branch could even question these judges?

Mr. McCLORY. I do not know of any existing machinery by which we could take any disciplinary action against the court. I might say one of the reasons given for vesting this kind of authority in the judiciary is, that while we have had the warrant requirement with regard to so-called title III provisions of the omnibus crime bill, with regard to domestic security, and with regard to organized crime, and the charge is made, or the statement is made, well, the courts have given warrants in all except three cases. What that indicates to me is that maybe those who are in support of this special court feel that the court is going to be some kind of a patsy for the Executive who might in the abuse of

authority be able to fall back on the judicial imprimatur and say, "Well, I have abused my authority, but it is OK because the judge said it is OK."

Mr. DRINAN. If the gentleman would yield further, under the bill it is provided that Federal judges may hire people from the executive branch. People from the CIA, in other words, will present the case, and people who will even be law clerks, so to speak. Does the gentleman think under this bill they could resist any questioning by the Congress, saying that "We are actually court officers. After all, we are paid for by the executive branch"?

Does the gentleman think that is a further barrier to adequate oversight by the Congress of what the courts will do?

Mr. McCLORY. From the gentleman's statement, of course, it demonstrates that we are venturing forth in an entirely unexplored area. We are establishing for the first time in our history a body of secret law. Some people have referred to this kind of secret court proceeding as a star chamber proceeding. I would not want to characterize it in that way, but I would say it is unprecedented that the personnel in the court, if they are going to be part of the judiciary, are going to pose additional risks. If they are not part of the judiciary, then we are implanting in the judiciary another branch of Government in a sort of hybrid system that I say is unprecedented, and for which I say there is no constitutional authority.

Mr. DRINAN. I agree with the gentleman from Illinois. We are doing something totally unprecedented in the whole history of Anglo-Saxon jurisprudence.

Mr. McCLORY. I just want to say to conclude my remarks that I do not see the role that I or others who are objecting to this legislation have as engaging in any flag waving or being superpatriots here today. It seems to me that what we are doing is trying to respect the judgment of those who are the most experienced in this field. When I speak as I do, I speak in the interest of a statement which the chairman of the subcommittee, the gentleman from Wisconsin (Mr. KASTENMEIER) has received from a former Director of the CIA, William Colby, who says that this warrant requirement should not be extended to include foreign powers and foreign agents, but should be limited to American citizens, and I will be offering an amendment in that regard. I likewise am referring to the support for my position on this legislation which has been expressed by John S. Warner, former General Counsel, Central Intelligence Agency; John M. Maury, former Legislative Counsel, Central Intelligence Agency and former Assistant Secretary of Defense for Legislative Affairs; Lawrence R. Houston, former General Counsel, Central Intelligence Agency; Walter L. Pforzheimer, former Legislative Counsel, Central Intelligence Agency; Ray S. Cline—a well known individual—former Deputy Director of Intelligence, Central Intelligence Agency; and Daniel O. Graham—Gen. Daniel O. Graham, retired—former Director of the Defense Intelligence Agency. All of those persons have expressed themselves forcefully in opposition to this legislation and in support of the position I am advancing.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I ask my colleagues to join with me in opposition to H.R. 7308, Foreign Intelligence Surveillance Act of 1978, and in support of the McClory amendment.

On June 25 of this year, the New York Times carried a story entitled "CIA Refuses Foreign Bids For Anti-Terrorist Help." The article goes on to relate that out of fear of violating legal prohibitions against engaging in covert activities abroad, the CIA refused a request from the Italian Government for a psychiatrist trained in terrorist matters, and for sophisticated eavesdropping equipment to help deal with the Red Brigade's kidnaping of Aldo Moro. I submit that this timorous attitude has been generated by harsh and unrelenting domestic criticism of the Agency, which apparently is made without considering the effect such criticism has on the Agency's ability to function. Now it seems that the effectiveness of the CIA is severely impaired. And in this context, the result of this proposed legislation might well be to administer a coup de grace to the CIA.

It is difficult to think of a more inappropriate and misguided policy to adopt toward our Nation's intelligence agencies than that embodied in this bill, which would impose judicial processes and standards on the surveillance of the activities of foreign agents operating in this country. The measure of sound policy is that the principles which are choosen to govern action should be suited to the particular circumstances in question. A recent example of the inappropriate application of principles to circumstances, was the debate over Cuban involvement in the invasion of Zaire's Shaba Province. Critics of the administration's evidence of Cuban involvement were not persuaded because the administration's evidence was largely circumstantial. But is that not all one can reasonably expect given the difficulties of acquiring information about covert activities conducted in a faraway land? Did the critics believe we could have issued subpenas, and given the rebels court appointed counsel?

Thus we can see that the surveillance of foreign agents operating in this country, by its nature requires secrecy and speed of execution—characteristics of the executive branch of government. As Justice Robert Jackson wrote in the Court's decision in Chicago & Southern Air Lines, Inc. against Waterman Steamship Corp., the judiciary is not equipped to deal with matters concerning foreign intelligence:

> The President, both as Commander-in-Chief and as the nation's organ for foreign affairs, has available intelligence services whose reports are not and ought not to be published to the world. It would be intolerable that courts, without the relevant information, should review and perhaps nullify actions of the Executive taken on information properly held secret. Nor can courts sit in camera in order to be taken into executive confidences. But even if courts could require full disclosure, the very nature of executive decisions as to foreign policy is political, not judicial. Such decisions are wholly confined by our Constitution to the political departments of the government, Executive and Legislative. They are delicate, complex, and involve large elements of prophecy. They are and should be undertaken only by those directly responsible to the people whose welfare they advance or imperil. They are decisions of a kind for which the Judiciary has neither the aptitude, facilities nor responsibility and which has long been held to belong in the domain of political power not subject to judicial intrusion or inquiry.

Furthermore, as Justice Jackson's opinion implies, not only is this legislation inappropriate and unwise, but that it may well be unconstitutional to involve the judicial branch in matters left by the Constitution to the executive and legislative branches.

Primarily as a result of the machinations of those minions of the Kremlin, the KGB, international politics largely resembles the state of nature described by Thomas Hobbes as the "war of all against all," in which life is "nasty, brutish, and short." Faced with such an inexorable and grim necessity, prudence dictates that we resort to whatever measures are necessary to insure our own existence. The means which would be shackled by H.R. 7308 are merely defensive in nature, and thus constitute the necessary, but by no means, sufficient conditions of national survival. Is it really necessary for this Nation to unilaterally disarm its intelligence agencies? What possible principle can justify the extension of the protections of the Bill of Rights to cover the KGB?

I urge the support of the McClory amendment.

Mr. McCLORY. Mr. Chairman, I agree with the statement of the gentleman from California (Mr. LAGOMARSINO).

Mr. Chairman, I might just add that if we do involve the judiciary in this area, what we are doing is involving all three branches of Government in national security and intelligence matters, because we already have the two committees of the House and the Senate exercising extensive oversight, plus the executive. And now to involve the judiciary means that we have all branches of Government in this one area.

I want to emphasize that opposition to this legislation is certainly not in any way a partisan effort. There is strong bipartisan opposition to this legislation, as many of the Members know who have received "Dear Colleague" letters. I think one was signed by 21 Democratic Members of the House and 16 Republican Members of the House. There are strong objections to this legislation on both sides of the aisles, and there are amendments that will be offered by Members on both sides of the aisle.

One gentleman who has raised objections and made very strong statements

in the printed report of the Committee on the Judiciary and who questions some of this legislation is the gentleman from Pennsylvania (Mr. ERTEL), and I now yield to the gentleman from Pennsylvania.

Mr. ERTEL. Mr. Chairman, I thank the gentleman from Illinois (Mr. McCLORY) for yielding.

Mr. Chairman, I would like to direct a couple of questions to the gentleman.

In relation to the comments offered by the gentleman from Massachusetts (Mr. DRINAN), I note he asked: What do we do if they issue warrants lackadaisically or without purpose and easily? If warrants are issued, how do we know whether or not the courts are in fact issuing these warrants on a rather regular and routine basis without really examining them? How would we ever know that if this is a secret court.

Mr. Chairman, could the gentleman answer that question?

Mr. McCLORY. Mr. Chairman, the only way I could answer that is to say that we will continue to have our House and Senate Intelligence Committees operating, and we will continue to exercise oversight. But with respect to information that is supplied to the court, I question that we would be able to delve into the secret proceedings of the court. I think the court would have to control that, so in a way our Intelligence Committee would be further limited in oversight by whatever the court decided.

Mr. ERTEL. Mr. Chairman, would we in fact be able to go back and try to determine whether there was in fact justification based upon the written reports by the Executive to the judiciary?

Mr. McCLORY. I doubt that we could do that. However, the measure provides for the retention of records, and I assume this means the retention of records by the judge or by the court, for 10 years. That again suggests that there is very apt to be extensive litigation following the enactment of this legislation, if it ever gets enacted, because those records could be made available to a person who might suspect that he was the subject of an electronic surveillance.

As we know and as the Attorney General now knows, a judge who wants information can subject a person to all kinds of proceedings. I might say that the city of Chicago is now under a very serious attack because of an action by the ACLU to delve into the records of the intelligence activities carried on 10 years ago.

Mr. Chairman, if seems to me that getting this information into the courts' jurisdictions suggests all kinds of horrendous involvements.

Mr. MURPHY of Illinois. Mr. Chairman, will the gentleman yield on that point?

Mr. McCLORY. I yield to the gentleman from Illinois.

Mr. MURPHY of Illinois. Mr. Chairman, the gentleman from Illinois (Mr. McCLORY) is on the Committee on the Judiciary in the House, and he is perfectly conversant with the Freedom of Information Act. If this were left exclusively with the executive, anyone could under the Freedom of Information Act petition for every file and every wiretapping conducted today. That is what is being done.

Furthermore, there have been suits brought against agents who conducted these surveillances, and we cannot get our counterintelligence agents to conduct surveillances today because they have no statutory protection as exists in this proposed bill.

Mr. McCLORY. I am certainly not opposed to any statutory language which would supplement the existing guidelines. As the gentleman knows, I have offered that kind of legislation, which would be as full and complete protection as would be these judicial procedures with all its faults.

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. I thank the gentleman for yielding.

If in fact a warrant is issued for a person's communications, or there is an electronic bug placed in his home and no useful national security information comes out of it in any way, shape or form, and there is no threat to national security, is there any provision in this law, as it is being proposed, to advise that individual that he has been tapped, that he has been investigated, and there may have been an entry into his residence, even after they have determined there is absolutely unwarranted invasion of his privacy?

Mr. McCLORY. Mr. Chairman, I would answer the gentleman from Pennsylvania by saying no. I know the gentleman has an amendment that he proposes to offer along that line, and I guess I would consider that subject at that time.

Mr. KASTENMEIER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from Illinois (Mr. MURPHY), and others, have discussed the provisions of this bill quite ably. I would, however, like to put the matter in some historical context, particularly insofar as the Committee on the Judiciary is concerned.

The Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice began studying the issue of national security wiretapping over 4 years ago, in April 1974, when we held hearings on several bills, including a proposal to require a court order prior to any interception of oral or wire communications in national security cases.

At that time, the Assistant Attorney General, Henry Petersen, speaking for the administration, stated to the subcommittee, "Let me be very brief. We oppose these bills. That is it." During the subsequent 2-year period, Mr. Petersen and his successors, as well as intervening attorneys general, consistently opposed the concept of legislation imposing judicial restraints on national security wiretapping.

However, in 1976, President Ford announced a change in policy. He indicated a willingness to work with Congress to develop a system of court supervision of national security wiretapping. In fact, in response to his invitation for congressional input, the gentleman from Illinois (Mr. RAILSBACK), a member of my subcommittee, and myself, wrote to the President offering our cooperation and included draft language for a bill on national security surveillance. Indeed, following consultation with Members of Congress, a draft bill was introduced in the House by the gentleman from New Jersey, Chairman PETER RODINO, as H.R. 12750, the Foreign Intelligence Surveillance Act of 1976.

An identical bill was introduced in the Senate. While these bills represented a distinct departure from the former administration's long opposition to any statutory controls on foreign intelligence wiretapping, they were considerably more limited in scope than bills which earlier had been considered by our subcommittee. A broad coalition of civil liberties groups, in fact, argued that the bill simply constituted a disguised method of legitimatizing the questionable practices which had in the past been represented by warrantless wiretapping. These groups, led by the American Civil Liberties Union, pointed out that the bill did not require a showing of criminal probable cause, did not permit judicial evaluation of the facts supporting a wiretap application, and failed to eliminate all exceptions to the warrant requirement.

While our subcommittee held 3 days of hearings on H.R. 12750 in the 94th Congress, it failed to move to markup on the measure for the reason that the Senate, with which the administration had collaborated originally in developing the legislation, failed to act.

With the convening of the 95th Congress, those of us who in the past had been involved with the issue, had an opportunity to reexamine the whole question of national security wiretapping with a fresh perspective, and after consultations with the administration and Members of Congress, legislation was introduced as H.R. 7308 in the House and S. 1566 in the Senate.

In the House, a new Permanent Select Committee on Intelligence was created for the sole purpose of focusing on the legislative and oversight responsibilities necessary to assure the effective and ethical operation of our Nation's intelligence system. That committee and its legislation subcommittee, under the leadership of the gentleman from Illinois (Mr. MURPHY), immediately began consideration of H.R. 7308 and related bills on the subject of foreign intelligence surveillance.

The Subcommittee on Legislation conducted eight hearings and markup sessions, followed by additional markup, of course, in the full Intelligence Committee. In discharging its newly assigned responsibilities, the permanent Subcommittee on Intelligence did not work within a vacuum. The select committee built upon the experience of three other legislative committees, including the Judiciary Committee, all spanning a period of three Congresses. Since the Senate

committees had already completed their consideration of the legislation prior to subcommittee markup in the House, the Select Committee on Intelligence was able to begin its deliberations with an already highly developed bill, and one which, as was reported, passed the Senate by an overwhelming bipartisan vote of 95 to 1.

Furthermore, two of the three members of the Legislative Subcommittee which drafted the bulk of H.R. 7308 as it is to be considered by the House today, also serve on the House Judiciary Committee. Therefore, the special expertise which the Judiciary Committee might have brought to the legislative process was clearly utilized in the processing of this legislation by the permanent Select Committee on Intelligence.

Following the favorable report on the bill by the Intelligence Committee, our Judiciary Subcommittee began separate consideration of the measure, conducting 3 days of hearings. We heard from a number of witnesses, including Attorney General Bell, former CIA Director William Colby, former Solicitor General Robert Bork, Senator EDWARD KENNEDY of the other body; our colleagues, the gentleman from Illinois (Mr. MCCLORY), the gentleman from Illinois (Mr. MURPHY), the gentleman from Kentucky (Mr. MAZZOLI), as well as Mr. Shattuck and Mr. Jerry Berman of the American Civil Liberties Union; Dr. Morton Halperin, representing both the ACLU and the National Security Study Center.

Upon conclusion of the hearings, the subcommittee met to discuss the best course of action to take with respect to the bill, and voted to table the bill. The purpose of the tabling motion was to permit the consideration of the legislation by the Rules Committee, in essence truly freeing up the bill for possible consideration even at this late date in September, 1978, by the Committee of the Whole on the House floor.

Given the fact that the committee had already spent three sessions of Congress considering similar legislation; the further fact that the Intelligence Committee product represented, I believe, a fragile but broadly based consensus of the intelligence agencies, two Presidential administrations, and the U.S. Senate, we concluded that we would do a great disservice to our colleagues if, by further delay, we prevented early consideration of an already well-defined bill by the House. To subject the measure to full Judiciary Committee markup would be, in a large sense, duplicative and would threaten to delay the opportunity we have today for its consideration.

Clearly, H.R. 7308 as reported by the House Committee on Intelligence is meritorious legislation, and I believe deserves passage without further amendment by the House. The bill is supported, as I have indicated, by a broad coalition of individuals, legislators, Government agencies, and public interest groups. Witnesses before our committee, from the Attorney General on one side to the ACLU on the other side, favored passage of the measure, although I should say that the American Civil Liberties Union does have traditional reservations about any measure that authorizes wiretapping. But, I think even they must realize that the failure to pass this bill would literally thrust us back into the Dark Ages when we were ruled in this field by the Executive in utter secrecy.

Indeed Dr. Morton Halperin, who himself was the subject of illegal foreign intelligence wiretaps for 18 months, testified in favor of the bill as reported by the Intelligence Committee and stated at that time in testimony that:

> Efforts to regulate the activities of the Executive branch and to require a warrant, seem to me to be imperative. In my view the standards in this bill would prevent most, if not all, of the abuses which have come to light.

Of course, Dr. Halperin was speaking for the civil liberties community.

However, the Nation's intelligence community also supports the legislation and endorses the procedures recommended in the bill by the Intelligence Committee. In a letter to me dated June 22 of this year, Adm. Stansfield Turner, Director of the Central Intelligence Agency wrote:

> I support the bill because I believe it strikes a fair balance between intelligence needs and privacy interests, both of which are vitally important. In my view the legislation will place the activities with which it deals on a solid and reliable legal footing and help to build public confidence in the national intelligence collection effort and in the agencies of the Government principally engaged in that effort . . . for these reasons I strongly urge that this legislation be enacted as soon as possible.

It has now been over 6 years since the Supreme Court in the famous Keith case cast a cloud over warrantless wiretapping procedures and in that landmark decision Mr. Justice Powell, writing for the Court, specifically invited the Congress:

> . . . to consider protective standards . . . which differ from those already prescribed for specified crimes in title III . . . Different standards may be compatible with the Fourth Amendment if they are reasonable both in relation to the legitimate need of government for intelligence and the protected rights of our citizens.

Finally, after years of work by four congressional committees and two administrations, a bill has been developed which is supported by a unique historical consensus. I believe it is imperative that this consensus not be allowed to disintegrate. Therefore, I invite my colleagues not to vote against the bill. Any shift, I believe, in the delicate balance of interests represented in this measure would jeopardize its passage, and even if an amended bill were passed, its effective implementation would undoubtedly be resisted in the courts by dissatisfied individuals and interest groups.

Mr. Chairman, very few bills come to the floor of this House with the history of thoughtful and careful scrutiny and legislative drafting as is represented by this bill. I urge all Members to support it without amendment.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. Mr. Chairman, I rise in support of this legislation, although I would have preferred that a provision had been added requiring an adversary procedure whenever application is made for a warrant. It seems clear to me that the judge would do a much better job were there a third party, someone in the nature of a public defender, whose duty it would be to represent the interests of the unknowing, absent person whose conversations were about to be listened to by the Government.

However, realistically such an amendment would have little chance of acceptance, and so I am prepared to vote for the bill as submitted.

As chairman of the Judiciary Subcommittee on Civil and Constitutional Rights I have had a duty to be uniquely aware of possible and actual encroachments of the privacy rights of American citizens. My subcommittee has reviewed the occasionally distressing history of the Federal Bureau of Investigation in this regard, and I have come to the firm conviction that all too often the Federal Government has been in the business of spying on the Nation's citizens and visitors with little or no legitimate purpose. As we are now seeing in Federal courts, these practices have apparently led to excesses that are criminal in extent. This documented history of abuse and a respect for the Constitution's sensitivity to privacy rights have led me to oppose all wiretapping as a law enforcement device and intelligence gathering tool. I am committed to a constant scrutiny of these techniques so that we may more accurately judge their effectiveness and legal justification. In the end, I suspect that the evidence will support my view that this inevitably intrusive surveillance technique is not necessary or wise.

However, I am well aware that neither the administration nor this Congress is prepared today to prohibit wiretapping for either law enforcement or intelligence gathering purposes. On the contrary, the bill which has been brought to the floor today has reached this point only after painstaking debate and compromise between the intelligence and civil liberties communities. Therefore, in a spirit of pragmatism and hope that we can make realistic, although modest, improvements in the state of the law, I support this legislation for the following reasons:

For the first time, the executive branch will be bound by statutory restrictions; no longer will a claim of inherent executive authority to conduct national security wiretapping be recognized. The rule of law will be brought to this practice.

For the first time, the law will require that a criminal standard for U.S. persons be met prior to approval of a national security wiretap on them.

For the first time, an objective third party, a Federal judge, will be required to review and approve applications for these taps, using explicit statutory standards.

For the first time, the law will require extensive minimization procedures for national security wiretaps, thus requiring that extraneous information which may be gathered incidental to a tap is destroyed.

For the first time Congressional oversight of national security wiretapping procedures will be provided by law. I can personally attest to the difficulty congressional committees and subcommittees have had in getting accurate, detailed information on the activities of the intelligence community. This requirement will be an important, substantative safeguard against the blatant abuses that have occurred in the past.

Lastly, this legislation will provide an important precedent for the crucial FBI charter legislation which my subcommittee and the Intelligence Committee will be considering next year. I consider the bill before us today to be part of an ongoing effort to return the rule of law and the resultant public respect to the Nation's intelligence community. I urge my colleagues to join me in supporting this bill.

Mr. EDWARDS of California. Mr. Chairman, I would like to ask several questions of the gentleman from Wisconsin, the distinguished chairman of the subcommittee.

Mr. Chairman, is it clear that this bill eliminates the "inherent power" of the President to electronically surveil U.S. citizens without a warrant?

Mr. KASTENMEIER. In answer to the question of my colleague, the gentleman from California (Mr. EDWARDS), I would say yes. It is very explicit in the language of the bill itself in that it repeals section 2511, subsection 3 of title 18, United States Code, which under present law constitutes that reservation.

Furthermore, the Attorney General was quite clear that he agreed with the committee report on such language. In testimony before my subcommittee, in response to this question: Does the President intend to act only pursuant to the authority granted by this legislation should it become law? the Attorney General answered, and I quote:

> He made that pledge.
>
> We agreed to take out the provision in the bill in the last Congress. The President was not waiving his inherent power to that effect. We took that out in the Senate. The President agreed to go only on the statute.

Mr. EDWARDS of California. I thank the chairman of the subcommittee.

Is it clear that this bill establishes a criminal probable cause standard for all electronic surveillance of American citizens and permanent resident aliens in the United States for foreign intelligence purposes?

Mr. KASTENMEIER. Mr. Chairman, in answer to the gentleman's question, I would say yes. Section 101(b)(2), which sets forth the definition of a foreign agent who is a U.S. person, specifically requires in addition to a showing that the individual knowingly engages in intelligence gathering on behalf of a foreign power, that he is also engaged in activities "which * * * involve or may involve a violation of the criminal statutes of the United States."

Mr. EDWARDS of California. Mr. Chairman, I thank the gentleman for his response.

Is it clear that this bill places an affirmative obligation on the attorney general to adopt procedures designed to minimize the incidental collection of information not relevant to foreign intelligence?

Mr. KASTENMEIER. Yes. Section 101 (h) defining minimization procedures specifically requires the attorney general to adopt such procedures.

Mr. EDWARDS of California. Again I thank the gentleman.

My last question:

Is it clear that this bill gives the Committee on the Judiciary, as well as the Permanent Select Committee on Intelligence oversight responsibility for the conduct of electronic surveillance within the United States?

Mr. KASTENMEIER. I am pleased the gentleman asked that question.

The answer is: Yes. For the record and on behalf of the Committee on the Judiciary, let me state that the committee does and will maintain its responsibility for oversight of foreign intelligence surveillance activities and I will state personally that this is a responsibility that is taken quite seriously by the members of the committee. The Judiciary Committee has a unique expertise in this somewhat complicated legal area and we intend to continue to use that expertise, taking note of the fact that section 109 provides for a special requirement that there be a report to the Select Committee on Intelligence biannually, notwithstanding that the Committee on the Judiciary has that.

Mr. EDWARDS of California. I thank the gentleman.

Mr. MCCLORY. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Illinois.

Mr. MCCLORY. Mr. Chairman, I would just like to make this comment with reference to the suggestion by the gentleman from California (Mr. EDWARDS) that he would prefer to have an adversary proceeding. That suggests that when we seek to gather intelligence by electronic means, primarily against a foreign agent or a foreign power, that somehow or other the foreign agent or the foreign power should be represented by counsel in court, and it would be a case or a proceeding such as you have in a contested proceeding. I just believe it is completely unthinkable that we would want to adopt that kind of system in this or any other legislation.

I have two questions with respect to the colloquy that just went on.

First, it is the gentleman's feeling that a constitutional power that is delegated or mandated to the President in the Constitution can be delegated to another branch of the Government, and that this inherent power of the President, which he has with respect to national security, can, somehow or other, by one President, be renounced and sent to another branch of the Government, such as is attempted in this case?

Mr. KASTENMEIER. In response to the inquiry of the gentleman from Illinois, first of all, let me comment and say, notwithstanding the fact that I share the idealistic views of my friend the gentleman from California (Mr. EDWARDS) that somehow the target ought to be represented in an adversary proceeding; that, obviously, the Intelligence Committee was not able to so formulate that. I know it was a matter of very considerable debate, and that does not appear in the bill.

I do not know that it would be possible to accommodate that desired end. We are not able, clearly, to do it in this bill. I think that is well understood.

On the second point the gentleman raised with regard to the President's inherent constitutional powers:

We cannot ever prevent a President from claiming an inherent constitutional authority to do something. Very often Congress has provided statutory endorsement for that type of enterprise. We have specifically declined to do that here, and we have the policy announcement that the President does not intend to exercise any inherent constitutional authority to wiretap beyond the contours or limitations of this bill.

Mr. MCCLORY. If the gentleman will yield further, we could implement the constitutional authority by statute, but we could not abrogate the constitutional authority by statute.

May I just ask a question with regard to one other point, and that is the requirement for a criminal standard with regard to intelligence gathering where a United States person is involved. Is it not true that most intelligence gathering has nothing at all to do with the commission of a Federal crime; and if we are going to be limited in intelligence gathering to an allegation that a Federal crime has been committed—and I think the bill provides that a Federal crime is about to be committed or may be committed—are we not restricting about 95 percent of the intelligence gathering information which is unrelated to the commission of any Federal crime but is just information which we feel is important to our national security?

Mr. KASTENMEIER. I think it might have the effect of curtailing some rather arbitrary intelligence gathering exercises against individuals or I should say American citizens; but as the gentleman knows, many of the targets are not U.S. citizens, but are foreign powers, agencies of foreign powers, and others who are not so protected within this bill. Those, I would suggest to the gentleman, are likely to be the principal targets, and U.S. citizens would less likely be the targets by virtue of this standard.

Mr. MURPHY of Illinois. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Illinois.

Mr. MURPHY of Illinois. Mr. Chairman, I would like to state that that particular standard was the suggestion of the FBI, the Federal Bureau of Investigation. It was they whom we consulted when we drafted this provision, and they were positively satisfied with it.

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. Mr. Chairman, I would like to ask the gentleman from Wisconsin (Mr. KASTENMEIER) a couple of questions. I know he is a distinguished lawyer and also a constitutional lawyer, but, under this bill, since we have a secret court, and there does not seem to be any provision here for transferring an opinion from one phase of that court to another, nor is there a written opinion required or it does not appear from this bill that there should be or will be, therefore, there is no stare decisis, so I ask the gentleman whether he would agree that they will just issue orders; there is no written opinion, no stare decisis, no case law developed within this court; is that correct?

Mr. KASTENMEIER. I am inclined to agree with the gentleman's observations.

Mr. ERTEL. Then I would ask the gentleman, and this is not, obviously, the Judiciary's report, but in a statement of need, under section 2 of the Intelligence Committee's report, one of the basic needs they outline is the need for consistent case law to be developed. How do we answer that need when, in fact, the legislation prevents the development of case law? There is no report, no decision; there is no stare decisis; but yet the report states that one of the needs of this legislation is to have consistency. This is a catch 22 situation, it seems.

Mr. KASTENMEIER. I cannot answer fully for the Committee on Intelligence. In that respect I assume that what is meant is rather than relying on printed decisions, which do not exist here, that the control of the consistency occurs, in fact, because we have a special court and a special court of appeals. Therefore, we do have an interrelationship between these bodies as far as trying to establish some uniformity with respect to decisionmaking as to warrant applications is concerned; and certainly this will, I think, very practically evolve. Also, the existence of a clear statute will eliminate much of the current legal debate.

Furthermore, the special court and the special court of appeals created by this legislation will have to arrive at their own rules and procedures in connection with many of the practices that they are going to have to follow which are not specifically provided for in the legislation and, indeed, I would suggest ought not to be provided.

Mr. ERTEL. If I may follow a bit further on that, if they are going to try to develop case law, and the exact thrust of this is not to develop case law, I think it is a Catch 22. But if I may make one other point, I would like to read a section on page 21 of the committee report and then I want to ask the gentleman a question, if I might.

> Finally, the decision as to the standards governing when and how foreign intelligence electronic surveillances should be conducted is and should be a political decision, in the best sense of the term, because it involves the weighing of important public policy concerns—civil liberties and the national security. Such a political decision is one properly made by the political branches of Government together, not adopted by one branch on its own and with no regard for the other.

It seems to me that is the exact antithesis of our form of government. We have three separate and distinct branches of Government. The judiciary is separate and distinct and should not be involved in the political decisions. Does that kind of statement, that kind of language, square with our constitutional form of government?

Mr. KASTENMEIER. If I may answer the gentleman, I think the term "political" as used by the committee in its report is not meant in that fashion. The context in which it is used refers to the sort of policy exercised by the courts that it traditionally has been, whether one uses the word "political" or anything else with respect to policy. I must honestly say that I think the bill does appropriately involve all three branches of our Government. This involvement recognizes that in fact we do face and have faced a crisis in confidence in our intelligence agencies. We do provide here a significant role for the Congress, both in the writing of this legislation and in the oversight which will follow. We are no longer relying on the secret operations of the executive branch in and of itself. We are not relying on them for policing themselves. This is where the committee and all the others who have recommended this legislation essentially differ from the gentleman from Illinois (Mr. MCCLORY) who conscientiously believes that the executive branch ought to itself police its own abuses. This bill suggests a wider sharing of responsibility for that. As I understand the subcommittee's language in broad context, it is appropriate for that purpose.

Mr. ERTEL. If the gentleman would yield further, is the gentleman assuring me this is constitutional, the way it is drafted, inasmuch as the court has the obligation under the bill to modify any order, by requiring the court to establish the minimization proceedings, does the court not wind up with the Executive negotiating with the Judiciary on the order? Do we want to do this? In the minimization proceedings which the court must consider and may change, does not the court get into a negotiating position with the Executive is without any adversary, and does not have a case or controversy under the Constitution? This is a negotiating proceeding. I suggest we should not do it in this manner. Are we not making the courts draft the guidelines how the surveillance is going to be conducted? Are they not then the experts in foreign policy? Does that not give the gentleman concern as to the implications for our judicial system.

Mr. KASTENMEIER. If I may respond further to my friend, that, may I say, reflects a general concern we have with the courts, in fact, and we feel they ought not be engaging in "negotiations."

I would not accept that word as describing the role of the courts in considering applications made. It seems to me the proper role of the court is to deny applications when they are inappropriate or when the procedures are inadequate, and then it is up to the executive branch to make a reapplication. This is the sort of thing that takes place all the time.

We had a bill here on the floor, as the gentleman knows, because he and I both worked on it—and that is H.R. 9400—where we have the Federal courts involved in issuing extensive orders to public institutions in America which have been guilty of abuses. That is a far greater involvement of the Federal judiciary in the affairs of our country than is proposed here. Such orders are more than negotiations, and the courts in those instances are actually said to be running institutions. I would not describe those acts as negotiations.

It is true that the courts will require standards, and the applications and procedures will have to meet those standards. Otherwise the special courts here will reject them. I would not consider that "negotiations." The gentleman may, of course, so construe it in that fashion if he wishes.

Mr. MCCLORY. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Illinois.

Mr. MCCLORY. Mr. Chairman, the gentleman made reference to the fact that my perception of this operation is that the Executive should police his own abuses, and I want to emphasize or reemphasize my strong support of the House and Senate Intelligence Committees and their exercise of oversight.

I do feel that the Executive should have accountability, and I question that accountability will be as strict or as sure as it should be if we repose authority in the judiciary or in this special court to pass upon applications which provide very, very limited information, because it seems to me we will be eliminating a high percentage of accountability from the Executive by providing an excuse for abuses that otherwise the Executive would be held accountable for.

The gentleman made one other mention, and that was with respect to the retention, as I understood it, of a certain inherent constitutional power in the President regardless of the enactment of statutory authority for the judiciary to grant warrants with regard to foreign intelligence surveillance. I would like to call the gentleman's attention to the fact that on page 67 of the bill we are now considering, it is stated specifically that the procedures of title III of the 1968 act and of the Foreign Intelligence Surveillance Act of 1978, "shall be the exclusive means by which electronic surveillance, as defined in section 101 of such act, and the interception of domestic wire and oral communications may be conducted."

In other words, what the legislation provides is that the President is deprived of his inherent constitutional authority. Instead, that authority is reposed exclusively under this legislation in the judiciary with regard to the decisionmaking on whether or not electronic surveillance should or should not be undertaken.

Mr. KASTENMEIER. Mr. Chairman, the gentleman from Illinois (Mr. MCCLORY) is correct. In the first instance, I accept his characterization of his own plan.

I must say that congressional oversight alone, which has been exercised for many, many years, is not, I think, sufficient totally for the reestablishment of confidence in our intelligence gathering.

As a matter of fact, the question I asked the Attorney General was predicated on a quotation of the subcommittee's language, with which the President and the Attorney General agreed, and as far as any expression in law is concerned, this bill will be the sole repository of authority to conduct intelligence surveillance of this character.

Subsequently, some President may state that he has inherent constitutional authority to do otherwise, but that President will have to assert so, and that President will probably have to be tested in the highest courts as to whether he indeed did exercise an inherent constitutional power. The Congress will not by virtue of this statute have yielded that power to him, and that is what is involved here.

Mr. MCCLORY. Mr. Chairman, will the gentleman yield further?

Mr. KASTENMEIER. Yes, I yield to the gentleman from Illinois.

Mr. MCCLORY. Mr. Chairman, may I ask, would it not be preferable to put language like that in the bill by way of amendment? For instance, would it not be well to insert language in the bill stating that there would be an exemption from this judicial warrant requirement in case of war or something of that nature?

Mr. KASTENMEIER. In answer to the gentleman's question, I would say, absolutely not. That is the whole purpose of this. The purpose of this bill is to set up a procedure where all this country, its citizens, its intelligence community, and its President know what the rules of the game are.

And to do anything else I think would be a mistake. I support the subcommittee entirely in this connection.

Mr. BUTLER. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. ASHBROOK), a member of the full committee.

Mr. ASHBROOK. Mr. Chairman, first, I would like to say that we have had several unique arguments here.

Page 101 of the report indicates that section 201(c) would repeal 18 United States Code, section 2511(3), which states that nothing in chapter 119 or section 605 of the Communications Act of 1934 shall limit the constitutional power of the President to gather necessary intelligence to protect the national security.

This report goes on to say that the Keith case held that the Congress was not really taking anything from or adding anything to the President's power, just "merely provided that it shall not be interpreted to limit or disturb such power as the President may have under the Constitution. In short, Congress simply left Presidential powers where it found them."

Judging from the last colloquy, there are a number of Members of this body who think that we can take that constitutional power of the President, the inherent power of the President, and alter or limit it by a statute. Clearly what we are doing, as was pointed out by my colleague, the gentleman from Illinois (Mr. MCCLORY), is to delete the statement of the Congress in the 1968 Omnibus Crime Act, by language on page 67 which cleverly states that exclusive means for electronic surveillance shall be those that are in this particular statute. This effectively removes the language in section 2511(c).

I do not think we can take away the inherent power of the President. If President Carter wants to say, for his short time in office, that he is not going to use the powers, that is fine. But I do not think President Carter can limit what a future President does under the proper constitutional prerogatives of that future President. To try to end run this issue is, I think, not only bad policy, but may very well be unconstitutional.

Every Federal judicial circuit which has had cause to rule on the issue has held that the President has constitutional power to order warrantless electronic surveillance to gather foreign intelligence information. That is, the third, fifth, and ninth circuits. This was also recognized in the recent Humphrey-Truong spy case.

Before Judge Bell became Politician Bell, this is what he said, as a judge on the Fifth Circuit Court of Appeals:

> Because of the President's constitutional duty to act for the United States in the field of foreign relations, and his inherent power to protect national security in the context of foreign affairs . . . The President may constitutionally authorize warrantless wiretaps for the purpose of gathering foreign intelligence information. Restrictions upon the President's power which are appropriate in cases of domestic security become artificial in the context of the international sphere.

As I said, that was before Judge Bell became Politician Bell.

The second thing I would like to point out is that my friend and colleague, the gentleman from Wisconsin, indicated there was a unique coalition here. Well, I think it is a unique coalition. The only thing unique about it is the way you define "coalition." It reminds me of the columnist, Dorothy Thompson, who, some 30 years ago, referring to a lover of a great writer—I will not mention his name—and indicated that his emotions ran the alphabetical gambit from A to C. That is about the way this coalition runs. It is a coalition running the alphabetical spectrum from A to C. Mr. Halperin's group, and groups of that type, run the philosophical gambit from about A to C. Where are the other 23 letters of the alphabet? We have not heard anybody mention the American Legion, American Security Council, Veterans of Foreign Wars, broad-based groups which have millions of members. Oh, no. You take a little narrow group, which has worked together on this bill, and say that they represent a broad consensus. Unique maybe, a consensus, no.

Well, the thing that is unique is to call it a consensus, because they started out in the same place and ended up in the same place. So, there really was not any consensus. Nobody has talked about the former FBI agents. The Society of Former FBI Agents is opposed to the overreach of this legislation. The Association of Former Intelligence Officers—CIA—opposes this bill. The only people who are for this bill are the administration people who, as in most administrations, are under the iron heel of administration policy. They dutifully come forward and say, "Yes, we support this legislation."

No former director of the CIA supports it. None of the down in the ranks officers who have worked in the field—and I have talked to hundreds of them—support it. I know of not one FBI agent who supports it.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. BUTLER. Mr. Chairman, I yield 3 additional minutes to the gentleman from Ohio.

Mr. ASHBROOK. No former FBI agent supports it; no former CIA agent who had the responsibility out in the field, who came before our committee, who wrote or communicated to many of us, said, "I favor this legislation."

So, when we are talking about a unique coalition, a unique consensus, we are not really talking about that. We are talking about a unique definition of coalition and consensus because it is basically outside of this Congress—I do not point the finger at Members of this Congress—but my main complaint is that H.R. 7308 has largely been written by people outside this Congress, and largely by the anti-intelligence clique which is a part of this so-called unique consensus.

These are many amendments which should be offered. I will offer a number myself. I will support the amendments offered by my colleague, the hardworking and able gentleman from Illinois (Mr. MCCLORY). I would hope that we could amend this bill so, that it would be something that would help rather than hinder the intelligence gathering operations of this country.

The bill before us today is the product of considerable work and effort by a large number of people in and out of government. These range from administration officials and former intelligence officers to spokesmen for anti-intelligence groups that wish to dismantle our intelligence gathering ability. The House Permanent Select Committee on Intelligence and its dedicated staff have taken all of the views into consideration in reporting out this bill.

The basic issue in H.R. 7308 is to what extent it limits intelligence gathering, and to what extent it authorizes it. My concern is that too much attention has been paid to those who would limit our intelligence gathering ability. While protecting the rights of Americans, we should not confer these rights on foreign agents. Even Vice President MONDALE when he was in the Senate, said:

> As far as I am concerned, foreign spies in this country should have no rights. Probably that is a little crudely put, but a KGB agent and so on—I shouldn't say it—I could care less how we proceed to get information from them or influence their behavior while they are in this country. What I am worried about is the application of these activities and their effect on American citizens. That is what I

am talking about. (Testimony before the Senate Intelligence Committee, June 29, 1976, p. 60.)

I have a number of concerns about this bill. One of the main issues is the introduction of the courts into the intelligence gathering process. There is clearly some security risk as a result of more people having access to the information, despite the support given to the bill by the leadership of the intelligence community. Some of those leaders, who support the bill, have indicated that they do so as part of the administration team or that they can "live with the bill." On the other hand, working level members of the intelligence community have major problems with H.R. 7308.

H.R. 13442 introduced by the gentleman from Illinois (Mr. McCLORY) would solve the problem of the courts. This is a major constitutional problem. Although the congressional proponents of the bill argue that it takes no position on whether the President has the inherent power to conduct national security wiretaps. Common Cause, an active supporter of H.R. 7308 argues that the bill—

Eliminates once and for all the doctrine that the Executive Branch has inherent power to conduct national security wiretaps. (Letter to all Members of Congress, August 7, 1978.)

There are other problems as well. For example, the bill would provide criminal penalties for FBI agents who violate the minimization procedures. Certainly, an administrative punishment would be sufficient. What a contradiction. The anti-intelligence extremists want to be able to jail FBI agents while those who collaborate with hostile foreign governments could not even be surveilled. We must make sure that this bill does not accommodate either of these desires. It should instead set standards for the intelligence gathering so vital to our national security.

This legislation has been referred to as a bellweather for future restrictions on the intelligence community. A bill proposed by the ACLU and other extremist groups such as the Committee for Public Justice and the Center for National Security Studies would require warrants for informants and undercover agents. The proposed bill is aptly titled "A Law to Control the FBI." A warrant for informants and undercover agents is the ridiculous but logical continuation of a requirement for a warrant to electronically surveil a foreign embassy or agent.

Let us take a real case, and see what this bill would do. On July 16, 1978, Kristina Berster, a member of the Baader-Meinhof terrorist gang, was apprehended trying to cross the U.S. border from Canada. She was in possession of a stolen and altered Iranian passport.

Investigation revealed that she had been in close association with three other people while in Canada. These people all claimed to be U.S. persons. They are now under indictment.

Under this bill, neither the individuals nor the groups could have been electronically surveilled even with a warrant. The Attorney General would have had to prove to a judge that each of these persons, "knowingly engages in sabotage or international terrorism, or activities that are in preparation therefor, for or on behalf of a foreign power." The group could have been targeted as "a faction of a foreign nation" only if it was "not substantially composed of United States persons"—something difficult if not impossible to prove.

The purpose of the surveillance would have been to determine if these people were involved with the Baader-Meinhof terrorist, Kristina Berster in planned terrorism in the United States. Under H.R. 7308 they could not have been electronically surveilled to obtain this information.

I have amendments to propose to this bill, and I will support amendments that will be introduced by some of our colleagues.

The House Permanent Select Committee on Intelligence has already amended this bill. A significant amendment which was passed by voice vote by the committee was one which I had proposed. This amendment added the word "member" to the definition of agent of a foreign power. Just as some "foreign powers" have employees, others such as terrorist groups or foreign based political organizations have members. Of course not every foreigner who falls under this definition would be surveilled, but it would be possible to do so if necessary.

It will be a difficult job, but this Congress should pass a bill that will authorize intelligence gathering against hostile foreign powers and terrorists, without violating the rights of the American people. That is the kind of bill that I could support. I ask my colleagues to join with me in amending H.R. 7308 so that it is consistent with the needs of this country and its people. The first duty of the Congress is to provide for the safety and security of the American people against their enemies, both foreign and domestic. A bill that does less than that does not deserve our support.

Mr. MURPHY of Illinois. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Illinois.

Mr. MURPHY of Illinois. Mr. Chairman, I would just like to indicate one organization which supports this bill, the American Bar Association. Will the gentleman concede that it is a broad-based organization?

Mr. ASHBROOK. It is at least broad.

Mr. MURPHY of Illinois. As a member of the Pike committee, I had before me at that time former members of the CIA. When we asked them why the abuses occurred they said, "We had nobody to go to. There was no statutory standard by which we could refuse an executive who was requesting and ordering us to engage in improper activities."

Mr. ASHBROOK. I agree with the gentleman 100 percent. I agree that they need a charter. I must observe that the charter should be enacted before we come along with this bill, but I doubt if my colleague, who is a very honest and very able colleague, could say that they supported the provisions in this bill.

Mr. MURPHY of Illinois. The gentleman was also present in our hearings when we discussed the FBI, and the Attorney General said that agents were hesitant to go into the field today and conduct needed intelligence surveillances because they were being sued all over the United States, including himself, the Attorney General. They needed some statutory protection in this matter, and this is what this bill gives them.

Mr. ASHBROOK. This bill gives them that and a lot more.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I would say that certainly we should provide the FBI with statutory protection, but to create a new special court to divest the executive of responsibility and accountability in this area in order to protect FBI agents seems to me to be an overreaction. What we should do is provide further protection through legislation. We do provide it in the substitute bill I have offered, but not through this mechanism.

The CHAIRMAN. The time of the gentleman from Ohio has again expired.

Mr. BUTLER. Mr. Chairman, I yield 1 additional minute to the gentleman from Ohio.

Mr. McCLORY. I would like to point out that I saw this letter from the president of the American Bar Association. I do not know what kind of survey of the members of the American Bar Association was made. I will say that this bill before us now is substantially different from the bill that was over in the Senate. It is a far reach from the legislation just considered in the subcommittee headed by Mr. KASTENMEIER 2 or 3 years ago, at which time they considered mass coverage and all kinds of other subjects; so that it seems to me that that kind of a statement must be a statement which is not based on knowledge of what this legislation undertakes to do, or what it provides.

Mr. ASHBROOK. I thank my colleague, and I agree with him completely.

Mr. BUTLER. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I think the points which I would have made in my formal statement have been covered very well by the gentleman from Ohio (Mr. ASHBROOK) and the gentleman from Illinois (Mr. McCLORY), as well as the other Members who have spoken. So, at the risk of repeating myself or repeating what has been said, I will not return to those points except to say that I share the reservations about the constitutionality of what we are about to undertake.

But one thing that has not been touched on is a matter which I would like to mention, because it did come up in the Senate debate.

H.R. 7308 represents a bill that may well prove unconstitutional, while at the same time severely undermine and endanger the Nation's security. Moreover, the bill, in light of recent events, is unnecessary and a prime example of congressional overkill.

My principal concern is that the bill raises serious constitutional questions, in that it may violate article II of the Constitution. H.R. 7308 denies the existence of any inherent authority on the part of the Executive to conduct warrantless electronic surveillance by vesting Federal courts with the jurisdiction to authorize—or to refuse to authorize, through a warrant procedure, foreign intelligence gathering activities. In Presidential power to conduct foreign intelligence surveillance arises under the President's article II powers as Commander in Chief of the Armed Forces of this country and as the officer primarily responsible for the conduct of our foreign affairs. This Executive power to conduct warrantless electronic surveillance for foreign intelligence purposes has been asserted by every President at least since Franklin D. Roosevelt.

The judicial warrant approach in the administration's bill is premised on the proposition that the fourth amendment to the Constitution presumptively requires a warrant for every search. The underlying reasoning for this assertion is the Supreme Court's holding in the Keith case, where it ruled that a warrant is required for electronic surveillance employed for domestic security purposes. However, the warrant requirement in the Keith case was limited to domestic security cases, as the Court made it clear that they were in no way addressing the issues involved in foreign intelligence electronic surveillance. By the same token, the circuit courts that have considered the issue of the inherent constitutional right of the President to authorize warrantless electronic surveillance have held that such power does exist.

Coupled with the judicial recognition of the inherent power of the President to authorize warrantless electronic surveillance, is the fact that there is no existing case authority for vesting the Federal courts with jurisdiction to authorize or refuse to authorize foreign intelligence gathering activities as proposed in H.R. 7308. The U.S. Supreme Court rejects such authority in *Chicago & Southern Air Lines Inc.* v. *Waterman Steamship Corp.*, 333 U.S. 103, 111 (1948) holding:

. . . It would be intolerable that courts, without the relevant information should review and perhaps nullify actions of the Executive taken on information properly held secret. Nor can courts sit in camera in order to be taken into executive confidences. But even if courts could require full disclosure, the very nature of executive decisions as to foreign policy is political, not judicial. Such decisions are wholly confided by our Constitution to the political departments of the Government, Executive and Legislative. They are delicate, complex, and involve large elements of prophecy. They are and should be undertaken only by those directly responsible to the people whose welfare they advance or imperil. They are decisions of a kind for which the Judiciary has neither aptitude, facilities nor responsibility and which has long been held to belong in the domain of political power not subject to judicial intrusion or inquiry.

The constitutionally questionable provisions of HR. 7308 culminate for the express purpose of protecting the privacy of Americans against their own intelligence agencies. This bill comes at a time when the Soviet Union and other hostile foreign governments are enjoying increased opportunities for espionage in this country. During the Senate debate of S. 1566, Senator MOYNIHAN stated that—

I would not be surprised if upwards of one million American citizens were, at this moment, having their telephone calls listened to by the KGB, the committee of state security of the Soviet Union. They are overheard by receivers on the top of the Soviet Embassy here in Washington.

A new Soviet Embassy soon to be built on a hill in Washington will, for this purpose no doubt, be even better situated for the interception of the telephone calls of anyone on this floor, or in the gallery, or who will read this Record. . . .

Given this present state of events, I believe the proper focus of legislation should be in the direction of protecting the American people and our country from the espionage activities of foreign governments. Instead, we will be unduly restricting our foreign intelligence capabilities by this bill, and as a result, needlessly subjecting the American people to the increasing espionage activities of foreign intelligence agencies.

Closely alined with the fact that we should be legislating to protect the American people from foreign intelligence operations, is the fact that H.R. 7308 ignores the experience of the past few years under Executive orders issued by Presidents Ford and Carter.

The guidelines contained in the Executive orders have, according to all the evidence, rendered the gathering of foreign intelligence by U.S officials abuse-free. This given situation further illustrates that there is no need for H.R. 7308. Accordingly, I urge my colleagues to reject H.R. 7308.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. Mr. Chairman, I would point out I think it is important that we have legislation which spells out in statutory form the very explicit and very appropriate guidelines that are contained in the Executive orders of former President Ford and now President Carter, and that this kind of control is extremely important and we should retain congressional oversight, as we do retain substantial congressional oversight in the Senate and House Intelligence Committees.

But by establishing a special court and involving the Judiciary is unique. As a matter of fact, it is unique in the world. There is no other nation in the world that imposes a restriction on the Executive such that there is here of transferring to the Judiciary the decision as to whether or not electronic surveillance should or should not take place.

So it seems to me what we are proposing to do here, we are doing not only to ourselves but also with respect to our surveillance of foreign agents and foreign powers in our country, something that no other country imposes on itself with respect to its own citizens or with respect to the electronic surveillance of others.

Mr. MURPHY of Illinois. Mr. Chairman, I yield 5 minutes to the gentleman from Kentucky (Mr. MAZZOLI).

Mr. MAZZOLI. Mr. Chairman, I thank my chairman, the gentleman from Illinois (Mr. MURPHY), for yielding me this time.

Mr. Chairman, first of all I would like to bring to the attention of the committee the fact that in this morning's paper, the Washington Post, there was, I think, a very appropriate and solid editorial in behalf of passage of the bill before this body, and I would like to read the last paragraph, because I think it succinctly states the case:

The proposed legislation—

Which, of course, is the legislation that is now before us, H.R. 7308—

would put a stop to abuses—

And that refers to abuses of electronic surveillance—

of that kind without hampering legitimate national security investigations. It would simply put an impartial arbitrator—in the person of a judge—between every citizen's privacy and the desire of the government to penetrate it. That would not be a new role for Federal judges; they serve constantly as buffers between the government and the individual. But it would provide a new kind of protection that events of the recent past have shown is sorely needed.

I think that is an important editorial.

Also, Mr. Chairman, I would like to mention that on June 29, the New York Times—which was still publishing then—had an editorial in behalf of H.R. 7308 which was, at that time, before the subcommittee chaired by the gentleman from Wisconsin (Mr. KASTENMEIER). In the Times editorial it was stated that this bill, notwithstanding its problems, was still an important bill which should pass. The case is succinctly stated in the final paragraph of that editorial:

The Foreign Intelligence Surveillance Act is a wise solution to a problem that for years looked politically impossible to solve. To lose it now would turn a potential model of legislation into a travesty of the legislative process.

Mr. Chairman, I would like to make one comment. It was discussed earlier in the debate between the gentleman from Illinois (Mr. McCLORY), the gentleman from Wisconsin (Mr. KASTENMEIER), and the gentleman from Pennsylvania (Mr. ERTEL) that the President does possess a unique power, an inherent power to conduct foreign intelligence wiretapping, and that there is no way that the Congress can limit this constitutional power.

I think that the gentleman from Wisconsin (Mr. KASTENMEIER) in his discussion with the gentleman from California (Mr. EDWARDS) described the reason why Congress can, indeed, circumscribe that power.

But I think that the Committee on Intelligence, in its report on page 18, and the pages which ensue, is also worth reading. It shows that no holding of the Supreme Court has confirmed that the President has this inherent power to wiretap. The Keith case just simply

passed on that point and left the final determination to another day and another court. And so, without a specific holding, I think this is certainly an opportune time to legislate on the issue of a President's inherent right to electronically surveil.

And as the gentleman from Wisconsin (Mr. KASTENMEIER) said, if there is a future President who orders a wiretap without a specific court order, that President would be walking in the face of what this Congress will have said is the proper mode of conduct. This certainly guarantees that there will be a challenge taken to the highest court in the land.

So, Mr. Chairman, I think it would serve the Members well to read pages 18, 19, and 20 of the Intelligence Committee's report. I think they are very instructive on this point.

Mr. Chairman, I would like to also mention something that I believe the gentleman from Pennsylvania (Mr. ERTEL) brought up.

Let me say first that the gentleman from Pennsylvania (Mr. ERTEL) has been a valuable member of the House Committee on the Judiciary, in his first term, and was also a contributing member in the subcommittee during its deliberations on this bill.

The gentleman from Pennsylvania (Mr. ERTEL) brought up the fact that the special courts would not be writing any decisions and, therefore, there would be nothing for this House nor for these two Intelligence Committees to be looking into to evaluate the actions of the warrant procedure.

But, if the gentleman would refer to pages 95 and 96 of the Intelligence Committee report, which discusses section 108 of the bill, the gentleman would be reasonably satisfied the Intelligence Committee, the committee chaired by my friend the gentleman from Massachusetts (Mr. BOLAND) has unequivocably stated its intention and, indeed, its determination, to play a very intimate role in the future unfolding actions of the special courts.

I would especially, as a matter of fact refer to page 95 of the committee report.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MURPHY of Illinois. Mr. Chairman, I yield 1 additional minute to the gentleman from Kentucky (Mr. MAZZOLI).

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman for yielding.

I think the second full paragraph on page 96, is important. It states:

> As interpreted by the committee, the word "fully" means—

And that "fully" refers, of course, to full information—

> that the committee must be given enough information to understand the activities of—

And then, with some words deleted—

> of all electronic surveillances. To preserve the Intelligence Committee's right to seek further information, when necessary, section 108 makes clear that nothing in this title shall be deemed to limit the authority of those committees to obtain such additional information as they may need to carry out their respective functions and duties.

Mr. Chairman, I would like to assure the gentleman from Pennsylvania (Mr. ERTEL) that if the gentleman from Kentucky remains on the Committee on Intelligence, I certainly would be determined to seek from these special courts the kind of full information which would give us a chance to develop exactly how they are functioning under the law.

Mr. ERTEL. Mr. Chairman, if the gentleman will recall the colloquy, there is no written opinion by a court; there are no opinions which are recorded for the next court to consider the next case. There is no stare decisis.

Does the gentleman suggest that there are going to be written opinions to provide for stare decisis?

The CHAIRMAN. The time of the gentleman from Kentucky (Mr. MAZZOLI) has expired.

Mr. MURPHY of Illinois. Mr. Chairman, I yield 1 additional minute to the gentleman from Kentucky (Mr. MAZZOLI).

Mr. FOWLER. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Georgia.

Mr. FOWLER. In response to the continued questions of the gentleman from Pennsylvania (Mr. ERTEL), under the special court provision of this legislation, section 103 on pages 41 and 42 of the bill, may I read specifically subsection (e), beginning on line 21, as follows:

> Proceedings under this title shall be conducted as expeditiously as possible. If any application to the Special Court is denied, the court shall record the reasons for that denial, and the reasons for that denial shall, upon the motion of the party to whom the application was denied, be transmitted under seal to the Special Court of Appeals.

And then subsection (f) says the following:

> Decisions of the Special Court of Appeals shall be subject to review by the Supreme Court of the United States in the same manner as a judgment of a United States court of appeals as provided in section 1254 of title 28, United States Code, except that the Supreme Court may adopt special procedures with respect to security appropriate to the case.

The CHAIRMAN. The time of the gentleman from Kentucky (Mr. MAZZOLI) has again expired.

Mr. MURPHY of Illinois. Mr. Chairman, I yield 1 additional minute to the gentleman from Kentucky (Mr. MAZZOLI).

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. Mr. Chairman, that provision only applies to a denial of an application. If there is a granting of the application, there is no written opinion stating why there is a granting of an order. There is no setting out of the standards which apply.

It only says, "I deny this because, one, I do not find that there is a sufficient evidence, period." That is it.

When an order is granted, the court says, "Here it is," and the reasoning and the standards are not set out.

The bill does not provide for that in any way, shape, or form.

Mr. MAZZOLI. I think the gentleman is going to find that the actual practice will be what the gentleman from Georgia (Mr. FOWLER) has suggested. The gentleman from Kentucky and the gentleman from Georgia, to the extent we remain on the Intelligence Committee, we will attempt to see that this special court does not become either a rubber stamp or an impediment.

Mr. ERTEL. Is the gentleman suggesting that he can demand from the court written opinions be provided to a legislative committee, thereby interfering with the Judiciary?

The CHAIRMAN. The time of the gentleman from Kentucky (Mr. MAZZOLI) has again expired.

Mr. MURPHY of Illinois. Mr. Chairman, I yield 1 additional minute to the gentleman from Kentucky (Mr. MAZZOLI).

Mr. MAZZOLI. Mr. Chairman, I again say that I support H.R. 7308, the Foreign Intelligence Surveillance Act of 1978.

This uniquely important—and much needed—legislation was first proposed by President Gerald Ford and Attorney General Levi in 1975. It is supported with equal vigor by President Jimmy Carter and Attorney General Bell.

It has been the subject of lengthy hearings and careful study by several Senate and House committees, including two committees on which I am honored to serve—the House Intelligence and Judiciary Committees.

Drawing on this detailed record, the House Intelligence Committee, ably led by Chairman BOLAND and Chairman MURPHY, spent many hours subjecting each of the bill's provisions to searching scrutiny. Our committee heard from all interested parties.

This is as it should be. There are no issues of more basic importance to our country than those involving the national security and individual civil liberties.

The bill before you, then, is, in my opinion, a product of mature reflection and reasoned deliberation.

As reported by the Intelligence Committee, H.R. 7308—except in three narrowly defined circumstances, not likely to involve U.S. persons—would require a judicial warrant for all electronic surveillance conducted in the United States for foreign intelligence purposes.

Under H.R. 7308, surveillance could be undertaken only to collect foreign intelligence information and could be targeted only against foreign powers or agents of a foreign power. Both "foreign power" and "agent of a foreign power" are terms carefully defined in the bill.

A U.S. person—a term also carefully defined in H.R. 7308—can be considered an agent of a foreign power only if he engages in certain activities on behalf of a foreign power which involve or may involve criminal acts.

To further protect U.S. persons, the bill requires a judge to approve procedures to minimize the acquisition, retention, and dissemination of information about a U.S. person which is collected as incidental result of foreign intelligence surveillance.

H.R. 7308 establishes a national policy that a judicial warrant authorizing foreign intelligence electronic surveillance is the proper means to insure that the rights of all persons involved are protected while, at the same time, legitimate foreign intelligence activities are not impeded.

Over the years, foreign intelligence electronic surveillances have been conducted at the discretion of executive branch officials. As this House is all too aware, this arrangement has not prevented serious abuse from occurring.

It has been argued that all of these abuses, though unfortunate and indefensible, are now past history. It is further argued that the current guidelines imposed by former Attorney General Levi and refined by Attorney General Bell effectively preclude any recurrence of past abuses.

And so, this argument goes, there is no need to establish a procedure calling for issuance of a judicial warrant before a foreign intelligence electronic surveillance can take place.

The short answer here—in behalf of the warrant approach—is that administrations come, and administrations go. Guidelines are written and they are revoked. The Department of Justice may not always be led by men and women of character and integrity who are dedicated to the preservation of fourth amendment rights.

The American people—for good reason—have over the years been skeptical about the commitment of the executive branch of Government to honor their individual liberties and personal rights. By contrast, the people have demonstrated a strong faith in the ability and willingness of the judicial branch to protect these cherished rights.

The American people, in my judgment, will more readily support a national program or foreign intelligence electronic surveillance if they know that no surveillance can take place unless a neutral, detached magistrate has studied the case and found that the detailed statutory standards for a surveillance have been met.

H.R. 7308 does not protect non-U.S. persons and foreign agents from intelligence surveillances conducted in the United States. Nor does this warrant protection impede necessary intelligence gathering activities.

H.R. 7308 carefully distinguishes between surveillances. It requires that the judge make fewer specific findings and receive less information from those officials requesting the warrant in the former case than in the later cases.

Others of our colleagues, Mr. Chairman, have argued against the warrant requirement saying it would lead to a wholesale intrusion of the judiciary into the day-to-day operation of the intelligence agencies.

With all due respect, this is simply not the case.

As H.R. 7308 and the committee report accompanying it make abundantly clear, the judges of the special court established to hear applications for foreign intelligence electronic surveillance warrants will be engaged in a traditional judicial function: Examining a set of facts against a statutory framework and then deciding whether the law allows or disallows the action sought.

No special expertise in intelligence matters is expected or required of the special court. Furthermore, no lawful intelligence activities will be endangered by leaks under H.R. 7308.

Some of our colleagues, in opposing H.R. 7308, profess to favor a warrant requirement where a U.S. citizen is the subject of an electronic surveillance, but to oppose such a warrant where non-American citizens, diplomats, foreign embassies, and the like are targeted for a foreign intelligence surveillance.

Mr. Chairman, I suggest that these colleagues read the report of the Church committee. This report is replete with instances where U.S. Presidents—of both party affiliations—have used embassy surveillances as a pretext to acquire political and personal information about U.S. citizens.

The judicial warrant requirement established in H.R. 7308 insures that any future foreign embassy surveillance will be only for the purpose of obtaining foreign intelligence information necessary to the security of our Nation.

Furthermore, the judge, before issuing the warrant authorizing a surveillance, has to review and approve proposed minimization procedures. These are procedures designed to minimize the likelihood that conversations of U.S. persons will be intercepted. If they are intercepted, the minimization procedures assure that such information will be utilized for no other purpose than for its foreign intelligence mission.

Under H.R. 7308, individual intelligence agents will know to the letter what is required of them. They will know that what they do pursuant to a warrant is lawful. And, they will be protected in the future against criminal prosecutions and civil suits arising from the surveillance as long as they do not exceed their lawful authority.

Another objection raised against the warrant provision is that it poses harm to the national security.

The harm, it is argued, could result in two ways: Intelligence activities could be impeded because of redtape and court delays; and, the court procedures established under H.R. 7308 could result in unintentional disclosure of sensitive intelligence information.

The House Intelligence Committee subjected both of these concerns to lengthy and detailed inquiry.

The committee concluded on the basis of testimony of members of the intelligence community that H.R. 7308 will not impede or unduly complicate foreign intelligence gathering. There will be no excessive redtape.

As to the second situation—the danger of disclosure and leaks of sensitive information—most of the intelligence community's concerns have been received by the committee's decision to exempt from the warrant requirement two particular sensitive types of surveillance.

However, it cannot be denied that under H.R. 7308 a judge will be involved in the surveillance process where none is today. There is risk here, but is the risk manageable?

First, an application for a warrant to surveil is made to but one judge. At the time the application is made, a large number of executive branch personnel will necessarily already know the details of the proposed surveillance.

Information to but one additional person seems an acceptable risk in view of the protection the warrant process offers to the American people and to the intelligence field agent.

Second, judges are constantly exposed to sensitive and volatile information. They have not, as a class, abused the trust placed in them. I doubt they would show themselves unworthy to handle sensitive intelligence information.

Also, the bill directs the special court to adopt security procedures for handling the sensitive information provided to it under H.R. 7308. These procedures will be instituted in consultation with the Attorney General and the Director of Central Intelligence.

The bill also makes clear that such security procedures may include the use of executive branch personnel—already cleared to handle secret material—to perform clerical duties for the court. This would minimize the danger of leaks of sensitive material.

Also, it is contemplated that sensitive intelligence material will be stored for the court in facilities maintained by cleared executive branch personnel.

Furthermore, the Attorney General, the Director of Central Intelligence, the Director of the National Security Agency, and the Director of the Federal Bureau of Investigation have all actively participated in the drafting of H.R. 7308. They all urge that it be passed.

These officials—charged with the singularly important mission of protecting the security of the country—would not support H.R. 7308 if they felt its warrant procedure would jeopardize national security.

In summary, Mr. Chairman, H.R. 7308 is good legislation.

It protects the constitutional rights of American citizens and the legitimate rights of all individuals. It does not obstruct or impede necessary foreign intelligence collection activities.

It will enhance the effectiveness of the intelligence field agent, who, in most cases, under H.R. 7308, will have a court order to guide the agent's actions which today is not available.

And, it should restore the public's confidence in the intelligence community since no U.S. person can be subjected to foreign intelligence electronic surveillance unless a judge has previously found probable cause that the individual is involved—or may be involved—in a criminal activity.

Admittedly, H.R. 7308 is a compromise bill. Any legislation that can bring together two administrations of differing political philosophies, three congressional committees, the intelligence com-

munity and most of its critics must be the product of compromise and adjustment. Thus, not every provision will be supported with equal vigor by each interested party.

As my supplemental views to the committee report note, I voted against the amendment adopted by the committee which exempted certain intelligence activities from the judicial warrant process.

I remain convinced of the necessity and realism of an across-the-board warrant in foreign intelligence electronic surveillance.

But, I am equally convinced that H.R. 7308 should not be opposed because it is imperfect by my standard. It is still a bill which deserves the House's strong support.

In closing, Mr. Chairman, let me quote briefly two strong supporters of the judicial warrant procedure for authorizing foreign intelligence electronic surveillance.

Senator BIRCH BAYH, chairman of the Senate Intelligence Committee, said on the Senate floor when H.R. 7308's counterpart, S. 1566, was adopted by a vote of 95 to 1:

> The bill before the Senate today . . . is the first major intelligence reform measure to be considered by the Congress. It will bring an end to the practice of electronic surveillance by the executive branch without a court order in the United States. It establishes standards for issuing court orders that reconcile the interests of personal privacy and national security in a way that is fully consistent with the fundamental principles of the fourth amendment and due process of law.

Senator JAKE GARN was quoted on the same occasion:

> Some have wondered what a conservative Senator such as myself was doing co-sponsoring what they thought was a liberal bill. The answer is quite simple. This is not a liberal bill. It is neither a Democratic nor a Republican bill. The tasks of balancing cherished constitutional liberties with increasingly threatened national security needs is too important to be left to partisanship.

Mr. KASTENMEIER. Mr. Chairman, I yield such time as he may consume to the distinguished chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Chairman, as the sponsor of H.R. 7308 I strongly urge its enactment. The bill was officially reported by the permanent Select Committee on Intelligence. And it reflects the thinking of a great many individuals other than the membership of that committee. It is important that we pass it now.

To begin with H.R. 7308 in its present form is largely a product of the previous administration. I originally introduced the bill during the 94th Congress following a request from the Ford administration to do so. Since that original introduction the legislation has been further scrutinized and refined. Not one change was made in either the Senate, which has already passed the bill by a vote of 95 to 1, or by the House Intelligence Committee without consultation and approval by the FBI, the CIA, and the NSA. Furthermore, the American Civil Liberties Union has endorsed the bill.

The measure is also supported by working agents in the field. I have received a letter of endorsement from the association of Federal investigators which attests to this fact. Perhaps one reason such divergent groups have united in strong common support of this bill is because its enactment is necessary to the continued security of our Nation. This legislation will remove the mist of uncertainty which envelops so much of our intelligence collection activity today and provide to intelligence professionals the guidelines they need to do their job properly. In addition, it will assure Americans generally that we in Congress have acted to assure that the resources of the Nation's intelligence agencies will be used ethically and in a manner which will not threaten their basic liberties. The bill was closely scrutinized by the Kastenmeier subcommittee. Given the sensitive and complex nature of the subject matter of H.R. 7308, I honestly believe that it would not be appropriate to amend it on the floor. When amendments are considered, I hope they will be resisted and the bill will be passed as reported.

Mr. McCLORY. Mr. Chairman, will the gentleman yield to me?

Mr. RODINO. I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman for yielding.

As the ranking minority member on the gentleman's committee, I joined and applauded the gentleman when he communicated with the Speaker advising that it was inappropriate to bypass the Committee on the Judiciary with regard to important legislation. I notice that this bill of which the gentleman is the principal sponsor was referred to our committee, and yet it was never considered by our committee in formal session. With the very serious constitutional and legal questions that are involved, and the many implications that are involved, the court decisions upon which various provisions of the bill depend, it seems to me so entirely inconsistent with the gentleman's position upholding the prerogatives of our committee that he would not have wanted a markup session by our committee on this legislation, and does not want the bill to be amended now on the floor of the House.

Mr. RODINO. I would respond to the gentleman by reminding him that this legislation had been under study by the subcommittee, chaired by the gentleman from Wisconsin (Mr. KASTENMEIER) for a period of time, and that when the legislation was referred to the Committee on the Judiciary, we considered it because of the urgency of the matter, and we considered it important to get the bill to the floor because we felt that the matter had been studied very carefully. We consulted with the gentleman who is now on his feet speaking. There were hearings at the time, and by a vote of 4 to 3 the subcommittee decided to table any further requests for hearings or for any action that would prevent the expedition of the legislation. We decided by that vote to come to the floor with the work which had been the handiwork and fine work of the Intelligence Committee. I believe that this is what we have now.

Mr. McCLORY. If the gentleman will yield further, I do acknowledge that there were hearings, but there was no consideration given by the committee. It was not reviewed in a markup session.

Mr. RODINO. I believe the subcommittee vote speaks for itself—the subcommittee of the Judiciary Committee—by a vote of 4 to 3 to table any further action.

Mr. McCLORY. If the gentleman will yield further, those who supported the motion to table the bill expressed themselves in strong opposition to the bill, so the bill does rest in the committee right now.

Mr. RODINO. Mr. Chairman, I might say to the gentleman that had those Members decided that they wanted to review the matter any further, they would have voted otherwise.

We must remember that the Committee on the Judiciary does retain its oversight responsibility, and, therefore, we will be able to continue to do what is necessary in order to insure the best interests of our country. But I just wanted to point out that had those Members had any special concern, they would have voted otherwise.

Mr. McCLORY. Mr. Chairman, if the gentleman will yield, let me ask, is there any provision in the bill that says the Committee on the Judiciary shall have oversight?

Mr. RODINO. Mr. Chairman, the Attorney General, when he appeared before the committee, stated expressly and succinctly that the responsibility for oversight would still be with the Committee on the Judiciary.

Mr. McCLORY. Mr. Chairman, if the gentleman will yield further, the report does not include any provisions as to reporting to the Committee on the Judiciary.

Mr. RODINO. Mr. Chairman, I would also add that in view of the inherent jurisdiction of the Committee on the Judiciary, we are protected by the Rules of the House, and we will retain our oversight and legislative responsibility under rule X.

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from Nevada.

Mr. SANTINI. Mr. Chairman, with reference to the gentleman's expressed concern about the disposition of the subcommittee, I think the gentleman's question is a valid one. It is a question I asked myself before making the decision on the subcommittee to support the position of the chairman, and if we had not done that at that time, I think the gentleman well appreciates that this legislation to all rational intents and purposes would be dead.

If the objective is to kill the legislation, we could then have protected its consideration in the full committee. The full committee consideration would have, I

think, by any reasonable assessment killed the bill. There simply is not the legislative time remaining in order to get this bill through the full Committee on the Judiciary and to the House floor for consideration.

Mr. Chairman, if the gentleman will yield further, at that juncture I made a particular point of phoning representatives of the FBI and asking them this question:

> We are now postured at this juncture of either killing the bill or, as an alternative, passing over full consideration by the Committee on the Judiciary and getting it to the House floor for consideration. What is your preference as a representative of the entity which is going to be most emphatically and dramatically impacted by the legislation?

The answer to my question was, emphatically, to "get that bill to the House floor as rapidly as you can. We need this bill as an investigative entity."

They are in a no man's land—excuse me, I should say, no person's land—and they do not know which way to turn or how to get there. The critical issues of national intelligence are being abandoned through the emasculation of inaction and the situation they are placed in.

The answer I got was this: "We have to have that legislation if we are to act and aggressively do the job that is assigned to us."

Mr. RODINO. Mr. Chairman, I want to thank the gentleman for his remarks. The gentleman serves on the committee, and I believe he has made a valuable contribution. He has stated the case clearly, and I think there is nothing more I can add.

Mr. Chairman, I yeld back the balance of my time.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. KASTENMEIER) has expired.

Mr. McCLORY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I take this time merely for the purpose of making this statement: It was more than 6 weeks ago that this matter was before the Committee on the Judiciary of the House.

There was ample time for the Committee on the Judiciary to consider this legislation, to consider all these complex legal and constitutional questions, and to bring a measure to the floor which would not be in this kind of a confused state as we now find this legislation in.

As a matter of fact, it was represented to us that if the measure was brought to the floor, we would be able to amend it on the floor; yet the chairman of the full Committee on the Judiciary now states he wants this measure passed without amendment. So we are not only denying ourselves the opportunity in the Subcommittee of the Committee on the Judiciary and in the full committee of providing amendments to this legislation, but now we are denying ourselves the opportunity on the floor of the House to entertain amendments. It seems to me that is a tremendous disservice to our committee and to the Members of the House.

Mr. Chairman, I now yield 5 minutes to the gentleman from Massachusetts (Mr. DRINAN).

Mr. DRINAN. Mr. Chairman, I rise very diffidently and feeling very much alone in opposition to this bill. I share the misgivings just expressed by the gentleman from Illinois (Mr. McCLORY) that this is being pushed through without having thought the thing through. In fact, the pressure is almost unbelievable, because people think that we have to do something about the abuses.

But everybody here is very uneasy. Mr. Chairman, I have listened very carefully; everyone is suspicious that this is not the way to go about it. And I think that they suspect, as I know, that this is a capitulation to things that we really should not be doing.

The basic assumption, today is that wiretapping yields information indispensable to the protection of our national security.

I have served on the committee chaired by the gentleman from Wisconsin (Mr. KASTENMEIER) for 7 years and I have relentlessly asked people to give information that would prove that assumption. But that is the unproven assumption today.

This bill will legalize useless wiretapping. It will erode the fourth amendment. It will institutionalize the Nation's worst xenophobic prejudices. The CIA can now get a warrant if there is any probable cause of crime. But in view of the determination of the CIA and the FBI and the intelligence community to go on with their warrantless surveillances, somehow people have come to the conclusion that we will offer them an unorthodox warrant. It is called a "funny" warrant. It is not really a warrant. It is not a "case or controversy." It is an abuse of the Constitution. We pretend that this is going to bring control. The warrant that judges cannot refuse will not clean up surveillances that we cannot control.

H.R. 7308 does three bad things. It imposes duties on Federal courts totally at variance with anything that we know as a "case or controversy." This is an alteration of something very fundamental. Likewise, we will have something that is very foreign to our courts; namely, secret decisions.

Second, H.R. 7308 contains no requirement that Americans whose conversations are unavoidably recorded need be informed of that massive invasion of their privacy.

Third, H.R. 7308 violates the Vienna treaty, solemnly ratified by the Senate. That treaty guarantees that diplomatic offices are to be "inviolable."

Mr. Chairman, I will offer some amendments at the appropriate time, one on behalf of the telephone industry that does not want to have its agents or any Americans compelled to deal in the clandestine wiretapping that under the bill they will be required to do.

I will also propose a sunset provision of 5 years so that when we understand that what this frightening experiment on our civil liberties really will do, we will have the opportunity, in fact we will be required, to put into effect this sunset provision.

Even if those two amendments and other amendments are adopted, Mr. Chairman, I feel very strongly that this bill will be a self-inflicted wound and a capitulation to the imperious and unjustified demands of the CIA and the intelligence community.

H.R. 7308 has a number of serious defects and is far from the "model wiretap bill" as the New York Times asserted in its editorial of June 29. It permits surveillance of Americans, in certain circumstances, without a court order. It does not contain adequate safeguards to minimize the acquisition of the conversations of innocent people. It requires telephone company employees, custodians, landlords, and others to assist, against their wills, the CIA, the FBI, and other agencies which are engaging in electronic surveillance. And it gives no notice to persons who are overheard that their conversations have been recorded.

Since 1968, many observers have studied the matter of electronic surveillance very carefully. Among others, the Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice has conducted numerous hearings over the past several years. Indeed this subcommittee has successively examined the predecessors to H.R. 7308, beginning in 1976 with the Ford administration bill. We received testimony which was quite critical of the various proposals which have been before us. While proponents sought to discount such adverse comment, they have failed, in my judgment, to carry the burden of persuading us that this bill is needed. When the rights of Americans under the Fourth Amendment are at stake, the Congress should not readily agree to invade them without evidence of the most compelling nature. The advocates of this bill have not adduced testimony anywhere near that level. Based on that hearing record, as well as my experience as a teacher of constitutional law, I would, if given the opportunity, seek to amend H.R. 7308 to effectuate fully the protections of the fourth amendment.

(1) THE NEED FOR H.R. 7308

It is critical that the House not assume as correct any of the premises which undergird this bill. Each of the assumptions must be examined thoroughly and without any preconceived notions about the need for employing electronic surveillance to gather so-called foreign intelligence information. In testimony before the Judiciary Subcommittee, the Ford administration provided very little hard evidence of the necessity for this measure. Official representations, both in public and executive sessions, amounted to little more than generalities couched in terms of protecting the Nation from foreign attack. That is not a sufficient basis upon which to authorize the broad

powers sought by the executive branch. The national experience and disclosures of the recent past show all too clearly that Presidents and Attorneys General have used national security as a pretext for snooping into the lawful activities of political opponents or persons perceived to pose a threat to their political security.

The House must weigh the value of and the need for intelligence information gathered from electronic surveillance against the intrusions into constitutionally protected rights, such as privacy, association, and speech. I continue to believe that any electronic surveillance, whether approved by a court or not, violates the Constitution because such interceptions of private conversations can never satisfy the particularity requirement of the fourth amendment. It should be recalled that, to obtain a warrant under the fourth amendment, the applicant must submit a sworn statement, "particularly describing the place to be searched, and the person and things to be seized." Invariably an application for a bug or a tap cannot be that specific; it cannot describe with particularity all the persons to be overheard and all the conversations to be recorded.

This is the real evil of electronic surveillance; it is indiscriminate. It brings within its scope conversations of the innocent as well as the allegedly guilty. It is this indiscriminate quality of electronic surveillance that is most to be feared. Even physical surveillance, which some find offensive, is a much more targeted intelligence gathering technique than electronic surveillance. At least physical observation is more or less restricted to the person who is the object of the Government's interest. Electronic surveillance does not have these inherent limitations. Minimization provisions, which attempt to reduce the unnecessary intrusions into privacy, are generally inadequate.

H.R. 7308 does not uniformly require a criminal standard of probable cause in order to obtain a surveillance authorization. That is its major deficiency, as many witnesses have testified. Indeed the Intelligence Committee frankly concedes that the purpose of the bill is to obtain intelligence information which is not of a criminal nature.

> Although there may be cases in which information acquired from a foreign intelligence surveillance will be used as evidence of a crime, there cases are expected to be relatively few in number, unlike chapter 119 interceptions [title III of the 1968 act], the very purpose of which is to obtain evidence of criminal activity. Committee Report at 60.

With that purpose clearly stated, it should come as no surprise that the fourth amendment probable cause standard is not applied to all cases under this bill. What should come as a surprise, though, is the major break with fourth amendment doctrine that H.R. 7308 would effect.

Indeed, in some respects, H.R. 7308, as reported by the Intelligence Committee, is less restrictive than the earlier bills. For example, the earlier version defined "agent of a foreign power" to include, among others:

> • • • any person who knowingly engages in clandestine intelligence activities for or on behalf of a foreign power, which activities involve or will involve a violation of the criminal statutes of the United States.

The bill, as amended by the Intelligence Committee, would insert the word "gathering" between "intelligence" and "activities," and would substitute the word "may" for "will." Insertion of the word "gathering" arguably narrows the scope of the section, but replacing "will" with "may" arguably broadens it.

There are, to be sure, other objections to H.R. 7308. The definitions of "foreign intelligence information" and "foreign power" are much too broad. For example, "foreign intelligence information" includes any "information with respect to a foreign power or foreign territory that relates to and, if concerning a United States person, is necessary to . . . the conduct of the foreign affairs of the United States." Section 101e(2)(B). That definition has virtually no limits. There are many topics of conversation which every Secretary of State would determine "relates" or is "necessary" to the conduct of foreign policy.

The definition of "foreign power" is also overly broad. It includes, among others, foreign governments, factions of foreign governments, foreign political parties, and foreign military forces. This means that a conversation between an American citizen and an officer or employee of a foreign political party is potentially a subject for surveillance. The reach of that section is far too expansive. The definition, in fact, raises the question whether the bill could be used to engage in surveillance involving so-called third country disputes which spill over into the United States. As I read the bill, the Attorney General could obtain a court order to overhear conversations of persons belonging to "a faction of a foreign nation" even though the subject matter only marginally related to the direct interests of the United States. In short, the critical definitions are too broad to be meaningful restrictions on the Attorney General's authority, either with or without a warrant, to engage in electronic surveillance.

Furthermore H.R. 7308 does not appear to require any criminal standard for agents of foreign governments who are not U.S. citizens or resident aliens. The bill would impose a criminal standard in some circumstances, but it would not impose one across-the-board. Consequently my criticism of earlier bills that they authorized surveillance without probable cause relating to criminal activity is equally applicable to H.R. 7308.

It should be noted in passing that the distinction drawn in H.R. 7308 between citizens and resident aliens on the one hand, and all other persons within the United States on the other has little constitutional support of which I am aware. The protections of the fourth and fifth amendments, for example, extend to all persons, not merely citizens and resident aliens. See *Abel* v. *United States*, 362 U.S. 217 (1960). Many people in the United States are neither citizens, nor resident aliens, nor spies. Tourists, lecturers, business people, scholars, and many others regularly visit this country for purposes unrelated to clandestine activity. As I understand the bill they would not receive the special protection which the proposal appears to give to citizens and resident aliens ("United States persons"). The committee report makes that very clear with respect to the minimization provisions, for example. It states that "only information concerning a United States person need be minimized." *Id.* at 57. This double standard is constitutionally unacceptable and represents the xenophobia of a by-gone day. In testimony before the Judiciary Subcommittee on May 22, 1975, former Secretary of State Dean Rusk attempted to draw a distinction between diplomatic personnel, who are immune from criminal prosecution, and all other U.S. residents. Although I reject that distinction also, it does have some greater logic than the distinctions drawn in H.R. 7308 between citizens and resident aliens and all other persons in the United States.

H.R. 7308 does not limit the use of overhead conversations which are unrelated to the purpose of the surveillance. In fact the bill expressly permits the use of such acquired information in a criminal prosecution regardless of the remoteness of the crime from the surveillance. Section 101(h)(3) of the bill authorizes

> • • • procedures that allow for the retention and dissemination of information that is evidence of a crime which has been, is being, or is about to be committed and that is to be retained or disseminated for the purpose of preventing the crime or enforcing the criminal law.

Thus evidence of crime, obtained accidentally through a foreign intelligence tap, may now be used to prosecute the hapless victim of the surveillance, even though she or he may not even have been the "target" of the surveillance.

When Government agents obtain incriminating evidence through electronic surveillance which is not intended for that purpose, and which may be totally unrelated to the alleged criminal activity, they should not be allowed to use it for prosecutorial purposes. Such "fruit of the forbidden tree" should not be available to prosecute the party for conduct which may not be even remotely connected to the object of the surveillance. This is especially true when it is considered that the criminal standard, where it does appear in these bills, is not uniformly required for obtaining a surveillance warrant in the first instance.

In this same vein, H.R. 7308 makes no provision for notifying innocent persons whose conversations have been recorded or overheard merely because, for example, they called the embassy of a foreign country for travel information. Any time these "foreign intelligence" taps result in the interception of conversation unrelated to the subject of the surveillance, the innocent victim should be notified, or the records destroyed, or both. The minimization provisions of H.R. 7308, as noted earlier, are not strong enough to insure the destruction of data or recordings which are worthless or unrelated to the purpose of the surveillance.

In this context, the bill should provide for a public advocate to protect the rights

of innocent parties. Since H.R. 7308 authorizes ex parte applications to a special court and permits ex parte extensions of existing bugs or taps, some mechanism is necessary to protect the rights of third parties who are unwittingly caught in the Government's dragnet surveillance. If such an office were established, I would have greater confidence that the privacy of persons within the United States would be more fully secured.

A provision for a public advocate takes on added importance when the "renewal" features of H.R. 7308 are examined. The Government may seek an unlimited number of 90-day extensions for any surveillance authorized under the bill. Thus the intrusion into the privacy of persons in the United States could go on for years, without anyone knowing about it. In addition the bill also authorizes the Attorney General to approve emergency surveillance when a court order cannot be obtained in the needed period of time. The Attorney General must then submit the normal application to the judge within 24 hours. If the judge denies the application, the bill gives the court the discretion to notify the innocent victims of the initial 24-hour surveillance, but the Government, again at an ex parte proceeding, may request that such notice be postponed for 90 days (the original Levi bill had a 30-day provision). Thereafter, once more through an ex parte proceeding, the court is prohibited from serving notice if the Government has made a further showing of "good cause." This exception makes a mockery of the limited notice rule in emergency surveillance situations, and further supports the need for a public advocate to be present at all these ex parte hearings.

H.R. 7308 has been criticized because it assigns duties to the judiciary which are not within the traditional definition of "judicial power." The argument proceeds from the settled doctrine that article III of the Constitution restricts the exercise of judicial authority to "cases or controversies." The Supreme Court has explained that limitation as being based, in part, on the need "to assure that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends for illumination of difficult constitutional questions." *Baker* v. *Carr*, 369 U.S. 186, 204 (1962). If the application for a warrant is conducted in secret and without the presence of any opposing party, as is the case under H.R. 7308, how can this constitute a "case or controversy" within the meaning of the Constitution?

Proponents of this legislation contend that the warrant procedure under this bill is no different than the warrant procedure under title III of the 1968 act. Thus, they reason, that since the 1968 act is constitutional, so is H.R. 7308. First, it should be observed that, to my knowledge, the warrant procedures of the 1968 act have never been challenged on the ground that they do not present a case or controversy within the judicial power of the United States. Second, the warrant procedures in the 1968 act are different in critical aspects from the procedures in H.R. 7308.

The warrant process under title III is viewed as ancillary to another proceeding, the investigation and prosecution of crime. If the information obtained through the surveillance leads to a prosecution, the defendant will have the opportunity to challenge, in an adversarial context, the legality of the tap or bug. If the information does not lead to a criminal prosecution, the person who is the subject of the surveillance is notified and given the opportunity to contest the validity of the surveillance in a civil suit. In either case, the initial application for a warrant may be viewed as a part of the case or controversy, either civil or criminal, which ordinarily follows the granting of the surveillance authorization. This is not the case under H.R. 7308.

First, as noted earlier, H.R. 7308 is not designed to procure information in connection with any criminal proceeding. As the committee report notes:

> Although there may be cases in which information acquired from a foreign intelligence surveillance will be used as evidence of a crime, these cases are expected to be relatively few in number . . . *Id.* at 60.

Thus the person whose conversations have been overheard will not have the opportunity to contest the lawfulness of the surveillance in any criminal proceeding.

Second, the bill does not provide any notification to such persons, as title III of the 1968 act does. Thus the victim of unlawful surveillance under the bill may never know of the illegality. Even a blind request by a suspecting individual under the Freedom of Information Act will not determine whether the requesting person has been the subject of a foreign intelligence surveillance. Both the FOIA and the Privacy Act contain exemptions for records ordered by the executive branch "to be kept secret in the interest of national defense or foreign policy." 5 U.S.C. 552(b)(1). The Privacy Act contains a general exemption for the records of the CIA. As I read this bill, there is no way for an American citizen or any other person who has been the subject of an unlawful surveillance to find out about the illegality. The only barrier standing between the victim of illegal wiretapping or bugging and a warrant is the special courts created by H.R. 7308. And there is no subsequent check on the behavior of the courts or the Executive under this bill. In the absence of the procedures, contained in title III of the 1968 act, which ordinarily lead to a case or controversy. I think the argument that this bill raises serious questions under article III is substantial.

Apart from the constitutional contentions against the warrant procedures contained in this bill, I do not understand why the judges assigned to these special courts would not take offense at the duties and limitations imposed upon them. They are not free to examine all the evidence presented by the Attorney General as they are in the ordinary warrant application process under title III. Certain critical determinations of the Executive are reviewable only on a "clearly erroneous" standard. See section 105(a)(5) of H.R. 7308. All the materials submitted for their examinations, as well as the proceeding itself, are wrapped in a great shroud of secrecy. It appears that even the court clerks, reporters, and other necessary support personnel will be executive branch employees with security clearances. Such procedures, I should have thought, would be a tremendous affront to the independence of the judiciary, which is a hallmark of our system of democratic government. I would hope that the judges would reject the commission imposed upon them under this bill, just as their brethren did in the first days of the Republic when Congress sought to foist upon the judiciary duties not within the "judicial power of the United States." See *Hayburn's Case*, 2 U.S. (2 Dall.) 409 (1792).

It is said that the bill establishes legal standards for foreign intelligence surveillance which are better than current law. That is hardly persuasive, in part, for the same reason that we did not glorify Mussolini because he made the trains run on time. Improvement is fine, but at what price? When the myriad infirmities of H.R. 7308 are added together, what real advances have we made in protecting fourth amendment values? None, in my judgment. I fear the bill leaves us with a secret judicial proceeding conducted under the most secret circumstances to sanction current executive practices to engage in electronic surveillance to gather foreign intelligence information. Only the self-restraint of the special judges, who should be offended by this imposition of nonjudicial duties, stands between the potential victim and unbridled administrative discretion. And the victim will, under this bill, never know that she or he has been the subject of this extraordinary proceeding to authorize Government agents to overhear conversations or intercept nonverbal communications. And that, it is said, is better than current law.

The administration claims to support this bill with all its heart and soul, including those of the intelligence community. One has to question the sincerity of that commitment when current executive branch practices regarding surveilance are examined. If the Carter administration is four-square behind this bill, why has it not adopted each and every provision of it on an administrative basis? Surely it could have administratively adhered to the strictures of the bill without Congress enacting any legislation. That, at least, would have demonstrated the good faith of the executive branch's support for this bill. I suspect the administration has not done so simply because it thought Congress might begin at that point and impose greater restrictions. When one starts at such a low level of protection for privacy, which is the present state of executive branch practice, it is quite easy to make the case that H.R. 7308 is better than current law. But that hardly meets the argument that current practice is unauthorized and unconstitutional, and that the bill contains similar deficiencies. In urging Congress to enact this law, the administration really seeks to have us approve its dubious practices involving foreign intelligence surveillance.

H.R. 7308 does more to sanction current practice than it does to impose new and sufficient protections for all persons within the jurisdiction of the United States against unwarranted intrusions into privacy and doubtfully legal use of electronic surveillance.

Finally I should add that unsupported appeals to "national security" should not determine whether H.R. 7308 or any other bill becomes public law. Our national security is adequately safeguarded through the use of other, less intrusive methods of gathering foreign intelligence information. After all, our country did survive prior to President Roosevelt's authorization of limited electronic surveillance for national security purposes. It should be remembered too that the liberty of the people is at least as important as the marginal increment in intelligence information which we acquire through the inherently indiscriminate method of electronic surveillance. As the District Judge in the Pentagon Papers case cogently observed:

> The security of the Nation is not at the ramparts alone. Security also lies in the value of our free institutions. 328 F. Supp. at 331.

An integral part of our free institutions is the security of the people from unwarranted intrusions by Government agents in their privacy, intrusions which H.R. 7308 would unnecessarily authorize. I will oppose enactment of H.R. 7308 and the unprecedented, unwarranted violations of our most cherished rights which it sanctions.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. DRINAN. I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman on the position he has taken. I do want to say, with regard to the intelligence activities that are taking place currently, they are in accordance with strict Presidential guidelines. We are not dealing in any no-man's land or no-person's land. If the suggestion of the gentleman is that intelligence activities or electronic surveillance are being withheld until we get this legislation through and from then on we are going to have open field day for unlimited electronic surveillance, I think it is a more horrendous experience that we are going through here today than if we had no legislation whatever. So I just think the arguments in support of this legislation just do not hold water at all.

Mr. DRINAN. Mr. Chairman, I agree with the gentleman.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. DRINAN. I yield to the gentleman from Illinois.

Mr. RAILSBACK. I thank the gentleman for yielding.

Mr. Chairman, what bothers me, in the absence of some statute, is that I am not at all convinced that what happened back in the later years of the Nixon administration, when there were certain wiretaps executed that were warrantless would be corrected.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. DRINAN) has expired.

Mr. McCLORY. Mr. Chairman, I yield 1 additional minute to the gentleman from Massachusetts (Mr. DRINAN).

Mr. RAILSBACK. If the gentleman will yield further, what really bothers me is that I am afraid that I do not know of any court decision that would rule it mandatory that there be a warrant in case of a wiretap where even an American citizen is engaged in foreign intelligence gathering. I think the gentleman in the well will agree with me that that in itself is bad. There is a need, at least to an extent, to correct what happened not too long ago.

Mr. DRINAN. I agree with the gentleman that reform is necessary. But this is not the way to bring about reform.

Mr. MURPHY of Illinois. Mr. Chairman, will the gentleman yield?

Mr. DRINAN. I yield to the gentleman from Illinois.

Mr. MURPHY of Illinois. Mr. Chairman, just to answer the gentleman's question, if he remembers, the Supreme Court in the Keith case clearly indicated that Congress could provide for warrant applications for intelligence purposes in domestic surveillance, and that is all we are doing here.

Mr. McCLORY. Mr. Chairman, if the gentleman would yield further, we are not involved here today in domestic surveillance. What the Court said in the KEITH case is that they were not passing on the subject of foreign intelligence surveillance, which is what we are considering in this legislation.

Mr. DRINAN. Mr. Chairman, I yield back the balance of my time.

Mr. McCLORY. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Chairman and members of the committee, I can understand why there is a great deal of controversy surrounding H.R. 7308, and I think it is very understandable. On this point I do want to make it very clear in pointing out that this is not this administration's particular initiative.

I remember when Attorney General Levi summoned us to the White House for a meeting with President Ford preparatory to introducing a bill that really was very similar to the legislation that we are considering. There are two major differences between the Ford-Levi bill and H.R. 7308. The Ford-Levi bill appeared to recognize the constitutionally inherent power of the President to authorize warrantless electronic surveillance under circumstances not contemplated by the bill.

A second difference between the two bills is that the standard for surveillance under H.R. 7308 utilizes kind of a quasi-criminal standard, while the Ford-Levi bill did not. But, a letter has been sent and received from the former president, Gerald Ford, that in effect endorsed H.R. 7308 in that it has the thrust of what the Ford administration endorsed.

In all likelihood, I will end up supporting the bill reported out by the Intelligence Committee, but at the same time I do want to voice my objection to the manner in which the bill was handled. Beginning in 1976 with the Ford administration bill, the Subcommittee on Courts, Civil Liberties, and the Administration of Justice, of which I am a member, has successfully considered the predecessors to this particular bill. Most recently, on June 22, 1978, the subcommittee began a series of three hearings on the current bill.

It is clear that the subcommittee has carefully studied the issue of foreign intelligence surveillance. However, rather than utilizing their developed expertise, the subcommittee on June 29 voted by a margin of 4 to 3 to table H.R. 7308, and I happen to believe that that was a mistake. Inasmuch as that action was taken, I must disagree with the comments of the chairman of the full Committee on the Judiciary when he indicated that he thought there ought not to be any amendments considered on the floor of the House. I feel that way particularly because the subcommittee of the Judiciary Committee never marked up the bill, nor did we have a chance to introduce any amendments.

My feeling is that even though I may end up supporting this bill, even with some amendments, I think that the full House ought to have an opportunity to consider amendments that may be offered, and particularly those offered by members of the Judiciary Committee who have not had an opportunity in the committee this year to offer amendments.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. I did not say—I think the record bears me out—that the House ought not to consider these amendments.

Mr. RAILSBACK. I was talking about the comments of the chairman of the full committee, Chairman RODINO. As I understood Chairman RODINO, his position was that no amendments should be considered.

Maybe he said no amendments should be adopted, but in any event inasmuch as we precluded Judiciary Committee action, I would hope that on the floor Judiciary would have the opportunity to amend the bill.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. RAILSBACK) has expired.

Mr. KASTENMEIER. Mr. Chairman, would the gentleman from Illinois (Mr. McCLORY) yield additional time, perhaps 1 minute to the gentleman from Illinois (Mr. RAILSBACK)?

Mr. McCLORY. I yield 1 additional minute to the gentleman from Illinois (Mr. RAILSBACK).

Mr. KASTENMEIER. I asked the gentleman to yield the further time, because the gentleman was with me I believe when we went to the Rules Committee, and of course we contemplated an open rule and we contemplated the

amendments being considered on the floor, and of course that is appropriate. I do not believe that I or the chairman of the full committee should be characterized as believing no amendments should be considered. We may believe that no amendments should be adopted, but certainly not that they should not be considered.

Mr. RAILSBACK. I understand what the chairman of the subcommittee was saying and I was not referring to the gentleman but rather to remarks I had heard earlier.

Let me express my hope that this does not become some kind of partisan issue. As has been pointed out, this at one time was a Republican initiative, although there have been some changes. But I hope all of us consider the bill on its merits and do not make it into any kind of partisan issue.

Mr. McCLORY. The gentleman does not want it to become a partisan issue.

Mr. RAILSBACK. Yes. I do not want it to become a partisan issue and I hope that we should consider it to be a bipartisan issue.

Mr. McCLORY. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania (Mr. ERTEL).

Mr. ERTEL. Mr. Chairman, the basic concept of a civilized nation is the rule of law. This country is a civilized nation and we do believe in the rule of law.

The Judiciary Committee has honored that principle and has continued to work for the establishment of a viable court system in this Nation. It is obvious that the intelligence agencies have abused their privileges and their rights in accordance with the Constitution and they need to be corrected, but I do not believe that this bill as written will correct the abuses which we have seen in the intelligence community before.

What we are doing here is compromising what is basically the rule of law as established in this country for 200 years. We are compromising our Constitution. In this bill for the first time in the history of our Nation we are setting up a secret body of law which no person in this Nation will know about other than a very select few. Decisions will be made in secret and they will continue to be made in secret. There will be no exposure to the public, no way to review them. No one will know what has happened or how it took place.

In fact, in this bill we do not have substantive guidelines as to whether or not intelligence agencies can tap lines or enter houses or establish electronic bugs. All we have is a procedure, how they go to a secret court and get a warrant. We do not tell the court what basic standards they should apply. We say: "You make the decision based on the totality of circumstances," and we set out no guidelines when they shall issue the amount. We set out no standards whatsoever. But yet we are saying to the courts: "You issue an order allowing a tap or an intrusion into somebody's privacy," and we do not tell them what standards to apply.

In fact we say to the court: "You can modify an application." So what does a court have to do? The court at that point becomes the manager of our foreign intelligence operation because they have to know what our intelligence people are seeking, they have to look at it, they can consider it, and they can modify what they are doing through the minimization procedures. They become the managers of our foreign intelligence operations. They are not making judicial decisions.

I suggest to the Members that it is a compromise of our judiciary and our constitutional form of government. We have the obligation to set out the substantive guidelines—not the courts—and we have not done that.

Let us assume for the moment that one judge just issues all the orders that the intelligence community asks for and another may deny them. There are no set guidelines under which they perform. They do not write out why they grant a warrant. They do not set out any standards. They do not say why they allow them to be tapped.

What we have done, we have just established a procedure where we have sanctioned the activities of the intelligence community with a court order without any particular reason being given by the courts.

It seems to me we have compromised our judiciary, we have compromised our rule of law and in addition to that we have compromised the intelligence agency because we are setting up a special court, itself, in Washington, that is located in one spot. All of this information must be funneled through that court. If somebody wants to find out what our counterintelligence agency's efforts are, all they have to do is to penetrate that one court and they will then know our entire counterintelligence efforts in this country. If they can get one person inside that court then our entire counterintelligence efforts are compromised.

No one can be seriously content that to centralize all of our counterintelligence collecting information at one point is a sound policy—it is a bad policy.

It seems to me we would be better off in setting up statutory guidelines for an intelligence community when we allow intrusion into the affairs of American citizens, or anyone else, and that the executive can present it for oversight to our committee of the House instead of having the judiciary involved.

I thank the gentleman for yielding me this time.

Mr. McCLORY. Mr. Chairman, I yield 5 minutes to the gentleman from Florida (Mr. SIKES).

Mr. SIKES. Mr. Chairman, in Congress, we speak often about too much government, about overlapping Federal agencies, about additional layers of bureaucracy, about redtape, regulations, and form filling. We say we are opposed to all of them and just about every day we pass new legislation that adds to each of these things we call objectionable.

I think that is exactly what will happen if H.R. 7308 is passed today. A surprising amount of pressure has been brought on Congress in support of this bill from the administration. I am puzzled by this situation. To me, the bill, beyond question, weakens America's intelligence gathering capabilities. It would dilute and slow down the process of using electronic means to gather, in the United States foreign intelligence information vital to our foreign policy and security interests. It would take away Presidential prerogative, based on sound constitutional principles, and establish a "special court." This special court would be made up of people of no particular training and background for deciding on foreign intelligence questions. Apparently, the judges would alternate in making decisions to authorize or refuse to authorize foreign intelligence electronic surveillance. We could have as many approaches and as many different viewpoints on propriety as there are judges.

Instead of this confusing approach, it would appear to me that abuses in the present system can be regulated by a set of strict guidelines mandating written authorization on the most senior members of the executive branch plus meaningful congressional oversight. Without question, there could be abuses through the operation of a special court just as readily, even more readily, than the abuses that are charged today.

This subject needs sensitive treatment, for we are dealing with important intelligence and counterintelligence activities which are vital to our foreign policy and security interests. The unprecedented injection of the courts is unnecessary and unwise, and it could very well unduly burden the legitimate activities of our intelligence agencies.

Under the guise of reform, this bill is an overreaction. In our zeal in today's world to overregulate, we would create a new agency and, in my opinion, the new procedure would further weaken intelligence gathering processes. They have already been seriously damaged by the drive to reveal every phase of intelligence operations in our country, to open all of our secrets to the press, and to make it more difficult for foreign nations to cooperate with the United States for fear that their own intelligence gathering operations would be compromised.

There is no other country which requires such judicial intervention before engaging in national security electronic surveillance. Our country does not need it.

In summary, as I understand the bill: It solves no known problems and corrects no known abuses; diminishes the effectiveness of intelligence; creates substantial new security hazards; does not establish new safeguards for the rights of Americans; injects the judiciary into foreign intelligence in a manner inconsistent with the Constitution as interpreted by the judiciary for over 100 years; establishes a special court which may be unconstitutional and requires a judicial warrant be based on a criminal standard when the purpose is to collect foreign intelligence.

Mr. McCLORY. Mr. Chairman, I yield 2 minutes to the gentleman from Massa-

chusetts (Mr. BOLAND), the chairman of the Permanent Select Committee on Intelligence.

Mr. MURPHY of Illinois. Mr. Chairman, I yield an additional 3 minutes to the gentleman from Massachusetts (Mr. BOLAND).

The CHAIRMAN. The gentleman from Massachusetts (Mr. BOLAND) is recognized for 5 minutes.

Mr. BOLAND. Mr. Chairman, first of all I want to offer my congratulations to the distinguished gentleman from Illinois (Mr. MURPHY), the chairman of the legislative subcommittee of the Permanent Select Committee on Intelligence, and to the gentleman from Kentucky (Mr. MAZZOLI), who is another member of that subcommittee. I also wish to offer my congratulations to the gentleman from Illinois (Mr. MCCLORY), who is the ranking Republican member on that subcommittee, and, in fact, to all of the Members on both sides of the aisle who are on the Intelligence Subcommittee for the work they have been putting in, not alone on this bill, but on so many, many other matters that have come to the attention of that subcommittee, the many, many hours of briefing, the many, many hours of information which has been given to this committee, the many, many hours that all of the Members, all 13 Members, have spent in the Committee on Intelligence to insure that the kind of oversight which the Congress demands in this day and age is being obtained by the Congress. I think that is so. Therefore, I am grateful to all of the Members who have served here on this committee.

I know that none of the members of this committee and assuredly, the chairman of the subcommittee did not assume the task of chairing this committee lightly. I know that the members who served with me did not assume this task for the purpose of diluting the ability of our intelligence community to gather the kind of intelligence necessary to protect this Nation in the very difficult world in which we live. It is a difficult world. If we had a real world in which we were all angels, I imagine one could say that this particular piece of legislation would not be necessary.

Others have talked about the history of the legislation. It has been before the Congress now for a couple of years. The bill itself was finally offered in the Senate and the House after a ceremony at the White House which I attended along with a lot of other members of committees on both sides of the Capitol.

Mr. Chairman, I must say that my friend, the gentleman from Illinois, is perhaps the most consistent and the most persistent opponent of this bill of which we are aware, and that is good. I think he has brought to the attention not alone of the Permanent Select Committee on Intelligence, but of the House generally some of the problems that he sees in the bill itself.

Mr. Chairman, we have had a rather healthy discussion within the committee, and the gentleman from Illinois has had some very healthy discussions within the Committee on the Judiciary with respect to the matters that are being talked about today.

I am grateful for the contribution that the distinguished gentleman from Nevada (Mr SANTINI) makes on what happened with respect to action within the Committee on the Judiciary itself. I think he is absolutely right. We never would have had this bill this year. It would have been death by delay; there is no doubt about it. The Senate has moved on this bill. The Senate passed it 95 to 1, and the only Member of the Senate to vote against it was the junior Senator from Virginia. So there is a broad consensus of support for the bill itself.

As my friend, the gentleman from Ohio (Mr. ASHBROOK) has indicated, I guess there is a broad consensus of opposition to it, too. He named some of the organizations that are opposed to it. He named an organization—I guess it is known as the Former Intelligence Officials. But, I think we have to look at that opposition to this bill vis-a-vis: Those who are now serving as our current intelligence officials, those who really have the burden today, those who really have the job today of insuring that the kind of intelligence we collect will serve the best interests of the United States. I think they are the people we have to depend upon—their judgment of what this bill does or does not do.

Let me call to the attention of the members of this committee that this bill is supported—again, it has been said many times and I will say it again; it deserves repetition—by the Department of Justice, by the Attorney General of the United States. It is supported by the Director of the Federal Bureau of Investigation, Judge William Webster. It is supported by the Director of the Central Intelligence Agency, Admiral Turner. It has the complete support of perhaps the one official who is most involved in the collection of foreign intelligence, and that is the Director of the National Security Agency, Adm. Bobby Inman. Those are all the people who are concerned with the collection of foreign intelligence, and they are the people who support this bill.

I know my friend, the gentleman from Massachusetts, my colleague, opposes the bill, but he opposes electronic surveillance in any respect, so I do not agree that we have a strange collection of bedfellows here. All I am saying is that people who oppose the bill oppose it for different philosophical reasons.

The gentleman from Illinois (Mr. MCCLORY) opposes the bill because he does not want the judiciary in on determining whether or not warrants ought to be issued in these particular cases where we establish special courts to do it—11 judges picked from the 11 judicial districts throughout the United States who will be sitting here in Washington, who will be appointed by the Chief Justice of the United States and also the 6 members of the appeals court.

The gentleman from Illinois (Mr. MCCLORY) makes the point that no other nation in the world—no other nation in the world—has a special court to consider this kind of a matter and this kind of a problem. May I just put an addendum to that by saying I do not know of any other nation in the world that has a bill of rights either. So we have the obligation here to protect not only the national security of the Nation itself; we have the obligation here of protecting the constitutional rights of the people who live within our borders, U.S. citizens and permanent resident aliens, and nobody could disagree with that.

Why is the bill here? It is here because it was supported by the Ford administration. President Ford supports this bill. It is supported by the Carter administration, supported by everyone who is connected with intelligence, at least on the part of Government officials who have anything to do with intelligence. All of the intelligence collectors who are now doing the job believe that the bill does not impact upon their ability and might very well insure the ability of those particular agencies to better collect intelligence because there will be offered to those who collect intelligence freedom from the fear that in collecting that intelligence where they do not have a warrant they will be subjected to lawsuits.

Mr. MCCLORY. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. I will yield to the gentleman in a minute.

Mr. Chairman, I do not claim that this legislation satisfies every concern. I only claim that it is an exceedingly reasonable attempt to legitimize operations that have come under fire, to shield those who perform them, and to protect those who are innocently intercepted in the process. I believe that Senator JAKE GARN of Utah put it best when he spoke on the Senate floor on the day this bill's counterpart was passed in the Senate. If I may, I will quote his words.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. BOLAND) has expired.

Mr. MCCLORY. Mr. Chairman, I yield 2 additional minutes to the gentleman from Massachusetts (Mr. BOLAND), and later I will ask him to yield to me.

Mr. BOLAND. Mr. Chairman, I will yield to the gentleman if he will just let me finish this first.

Here is what Senator GARN said:

> Some have wondered what a conservative Senator such as myself was doing cosponsoring what they thought was a liberal bill. The answer is quite simple. This is not a liberal bill, it is not a conservative bill, it is neither a Democratic nor a Republican bill.

And this, Mr. Chairman, I think, is the crux of his statement:

> The task of balancing cherished constitutional liberties with increasingly threatened national security needs is too important to be left to partisanship.

Mr. Chairman, I am glad at this time to yield to my friend, the gentleman from Illinois (Mr. MCCLORY), who has done such a magnificent job in opposing this bill. I am delighted to yield to him.

Mr. MCCLORY. Mr. Chairman, I thank the gentleman for yielding, and I appreciate the constitutional points he is making.

However, the fourth amendment, with regard to unreasonable searches and seizures, does not apply to foreign powers or foreign agents, and yet what the gentleman is suggesting in supporting this bill is that in regard to foreign agents and foreign powers, in order for us to engage in electronic eavesdropping in regard to those entities, we would require a judicial warrant.

It seems to me that what we are doing is we are providing something which is not constitutionally required and which is, I think, something that is constitutionally inimical to the citizens of the United States under our great Constitution and our great Bill of Rights.

Mr. BOLAND. Mr. Chairman, the gentleman is stating his opinion on the matter. That is not the opinion of a lot of others, including constitutional lawyers, in this Nation, but the gentleman has a right to state his opinion.

I might also state that when we were considering this bill in the markup—and it was not an easy task, as all the members of that subcommittee would agree—we did come to some agreement on what we ought to do with reference to changes that would be made in the Senate bill. The gentleman from Illinois (Mr. MCCLORY) knows that he sat down with me and chatted with me, and one of the important amendments that we offered was one which would not require warrants to target foreign powers.

So, Mr. Chairman, this bill is in essence a better bill than the Senate bill, and I ask for its support by the members of this committee.

Mr. Chairman, much has been said about what this bill does and does not do. It is important to put this legislation in historical context.

President Ford first sponsored legislation which required a judicial warrant to perform foreign intelligence surveillances in 1976. His Attorney General, Edward Levi, worked closely with both House and Senate in drafting a bill which sought to balance national security concerns with protection for the civil liberties of Americans. Both the Senate Intelligence and Judiciary Committees favorably reported the Ford/Levi bill but the 94th Congress ended before it could be considered by the full Senate.

In the 95th Congress both committees again reported out the legislation and the Senate did act. It passed S. 1566, the companion bill to H.R. 7308, by a margin of 95 to 1. In the House, the Permanent Select Committee on Intelligence held 5 days of hearings of H.R. 7308. It went through an extended markup of the bill that included a briefing from Attorney General Bell, Admiral Turner, Director of Central Intelligence, Admiral Inman, Director of the National Security Agency, and Director Webster of the Federal Bureau of Investigation. Based on this briefing, the committee proceeded to final markup of H.R. 7308. The bill, as amended, is preferred by the administration over the Senate bill.

What does this bill do? Very simply, it authorizes the use of electronic surveillance in this country to collect foreign intelligence information. In all those cases where U.S. persons—that is, American citizens or permanent resident aliens—would be a communicant, a warrant is required. That approach is a simple and a straightforward one. It involves a basic policy choice—whether a judge or some executive branch official will authorize such surveillances. H.R. 7308 opts in favor of a disinterested third party using a process traditional to searches, and particularly intrusive electronic searches—that of a judicial warrant.

Nonetheless, the legislative package before us today is a complex one. The complexity results from trying to insure that the role judges play is limited to making findings of fact under statutory standards. Judges are insulated from foreign policy or political decisions. Further, the operation of the special court which will hear these warrant applications will be controlled under strict security procedures agreed upon by the Attorney General and the Director of Central Intelligence.

The bill's draftsmen, therefore, have gone to great lengths to provide a statutory basis for foreign intelligence electronic surveillance. Why is it necessary? There are two different and in some ways conflicting purposes that underlie H.R. 7308. The first grew out of the reports of the Church committee. The committee detailed the misuse of foreign intelligence surveillance in three areas. Between the period of 1967–1972, 1,200 Americans were targeted by NSA "watchlisting" activities. Regular biweekly reports, on the political opinions and activities of hundreds of prominent Americans—including Members of Congress—from FBI embassy wiretaps were provided to the President of the United States. Finally, dozens of FBI wiretaps were targeted at individual Americans, under the guise of national security, but for purely political or personal reasons. This record left a strong feeling in the country—and in this House—that legitimate foreign intelligence collection activities ought not to be prostituted like that again.

Since that time, as we all know, there has been an increased scrutiny of intelligence agencies and their activities. Civil suits and prosecutions have resulted. Agents are afraid—and rightly so in my view—to accept orders which they never would have questioned years ago. This hesitancy has reached the highest offices of this land and so today intelligence that perhaps should be collected is not. Even the Attorney General has been sued. Citizens are less willing to cooperate with their Government for the same reason.

All of these facts argue for legislation authorizing foreign intelligence surveillance. The committee agreed with the Carter administration—and the Ford administration—that a warrant ought to be required—because it would offer an impartial finder of fact, because it has been traditionally used in criminal electronic surveillance and the Government thus felt comfortable with it but principally because it was felt, that a judicial warrant would provide appropriate reassurance to Americans that their Government would not spy on them indiscriminately as it had in the past.

The choice of a judicial warrant has provoked the opposition of the gentleman from Illinois (Mr. MCCLORY). He is opposed to any involvement of the judiciary in foreign intelligence collection. His numerous amendments will make that point in many ways. He is joined in his opposition by others who oppose electronic surveillance of any kind, for whatever purpose. This combination of strange bedfellows, who oppose the bill for entirely opposite reasons, points out the difficult task that the committee has faced in considering H.R. 7308. It has sought in every case that middle ground where the interests of the national security ran parallel with those of individual privacy.

I do not claim that this legislation satisfies every concern. I only claim that it is an exceedingly reasonable attempt to legitimize operations that have come under fire, shield those who perform them and protect those who are innocently intercepted in the process.

I believe Senator JAKE GARN of Utah put it best when he spoke on the Senate floor the day this bill's counterpart was passed by the Senate 95 to 1. Here are his words:

> Some have wondered what a conservative Senator such as myself was doing cosponsoring what they thought was a liberal bill. The answer is quite simple. This is not a liberal bill. It is not a conservative bill. It is neither a Democratic nor a Republican bill. The tasks of balancing cherished constitutional liberties with increasingly threatened national security needs is too important to be left to partisanship.

Senator BIRCH BAYH, chairman of the Senate Intelligence Committee, also chose some appropriate words. He quoted James Madison in the Federalist Papers thusly:

> If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which must be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself. A dependence on the people is, no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions.

Mr. Chairman, this legislation offers a reasonable, carefully considered approach to authorizing an essential intelligence gathering technique under conditions which help guarantee that it is properly used to gather foreign intelligence information and nothing else. I appeal to the commonsense of the members of this House to appreciate it for that and not any of the horrors that its opponents have conjured up for us.

Mr. MCCLORY. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Chairman, I asked for this time although I had already spoken because the name of the former President of the United States has been brought up. I could not help but wonder which "Gerald Ford" they

were referring to. I thought possibly somebody in that unique coalition got hold of his signature, because when I read that letter, I found it did not really square with what he had been saying before.

As a matter of fact, on Law Day at the University of South Carolina the President made this statement, and I think that anybody who knows much about it has to figure that when we make a speech, we come a lot closer to what we think than we do when somebody asks, "Will you send a letter supporting the bill?" and you say, "Yes." Here is what the former President of the United States said in a speech on March 17, 1978, when he was talking about this precise bill:

> The current proposals to deal with national security wiretaps and other forms of electronic surveillance dealing with foreign threats is an excellent example.

There he is talking about judicial overkill.

> The Carter Administration has asked the Congress to pass much of that responsibility to the courts. The conduct of foreign policy is not a judicial function. Moreover, after this responsibility is split, it will no longer be possible for the American people to hold the President, his political appointees, and any involved Members of Congress responsible for misdeeds in this area.

Mr. Chairman, I saw the letter that was referred to, and I know my colleague, the gentleman from Illinois, drafted a letter which I signed, to the President asking him in effect if he was somewhat taking leave of his senses. I just read what he originally said, and this is his original speech. Where the letter came from, I do not know.

We have also had Admiral Turner mentioned. I have been around a long time, and I know that Republican administrations sometimes put the heat on you, and I know that sometimes Democratic administrations put the heat on you. I know when someone under these pressures sends out signals. I believe Admiral Turner and Admiral Murphy both sent out signals to us.

Admiral Turner was saying he was for the bill, but let us listen to the signals he sent out. Here is what he said before our committee:

> I have said before that there are certain risks associated with the statutory approaches in these two bills.

Those were the risks he was talking about and the signals he was sending.

> The proliferation of sensitive information always involves risks—

And that is the point the gentleman from Pennsylvania was making—

> and the statutory procedures will unquestionably lead to such a proliferation.

That was Signal 1 he was sending to us.

> But on balance, I believe that the risks can be accepted.

That is another signal.

> While compliance will be somewhat onerous—

That was a third signal he was sending—

> I cannot say that any proper or necessary governmental purposes will be frustrated by these statutes or that vital intelligence having such value as to justify electronic surveillance as a method of collection will be lost.

He could not say the opposite so he put his positive statement in a negative stance. We all know what that illustrates.

That is about as much a signal as a person can send when he is under the restraint of a policy of his administration.

He told the Senate the same thing:

> I cannot say to you flatly that there will not be such costs. It is possible, for example, that the bill's definitions of foreign intelligence information will prove to be too narrow—

There is a signal—

> or will be too narrowly construed, to permit the acquisition of genuinely significant communications. It is likewise possible that justified warrant applications will be denied, or that the application papers will be mishandled and compromised. Those possibilities are difficult to measure, but they are risks. In the end, however, I think they are risks worth taking.

Mr. Chairman, let me point out again that is about as close to getting minimum support for a bill as you can get.

I am not being partisan. If Gerald Ford were in the White House and Mr. Levi were the Attorney General, we would be getting precisely the same kind of general talk.

They are sending signals that they really are not that much behind this legislation. Compromise, yes. Parts of the H.R. 7308 needed? Yes. The whole package? No.

Mr. MURPHY of Illinois. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. FOWLER).

Mr. FOWLER. Mr. Chairman, I rise today in strong support of H.R. 7308, the Foreign Intelligence Surveillance Act of 1978.

H.R. 7308 establishes statutory procedures to govern the use of electronic surveillance in the United States for foreign intelligence purposes. The bill contains specific and precise language detailing who may be monitored and under what circumstances, and sets forth long overdue procedures by which surveillances are to be authorized, approved and implemented.

This landmark legislation is the product of over 3 years of research, debate and refinement and has involved the criticism and cooperation of individuals representing a remarkable diversity of outlook and political philosophy, and including Presidents Ford and Carter, Attorneys General Levi and Bell, our intelligence agencies, and the American Civil Liberties Union.

This is as it should be, for the matters addressed by H.R. 7308 involve two of the most fundamental purposes of our Republic: to "provide for the common defense," and to "secure the blessings of liberty to ourselves and our posterity."

The fourth amendment to the Constitution clearly states that—

> The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated.

In his dissent in the 1928 Olmstead case, Justice Brandeis termed this provision "the right to be let alone—the most comprehensive of rights and the right most valued by civilized man." We now know that this precious right has been infringed upon for almost 50 years by 9 different administrations, through the practice of domestic national security surveillances. The courts and the Congress have over the past 10 years moved to correct these abuses. In 1967, the Supreme Court ruled in the Katz case that the Fourth Amendment did apply to electronic surveillance, although the Court did not extend this finding to national security cases. In 1968, the Congress passed the Omnibus Crime Control and Safe Streets Act, which included a requirement for judicial authorization of elecrtonic monitoring for criminal investigations. Then, in the Keith case of 1972 the Supreme Court found that a warrant is required in domestic security surveillance cases.

H.R. 7308 represents continuation of this effort to bring electronic spying under the rule of law by requiring a judicial warrant for all electronic surveillance conducted in the United States for foreign intelligence purposes, when aliens are likely to be involved. It will insure that the constitutional rights of American citizens will not be swept aside, and disregarded, in the name of national security.

However, in addition to protecting individual rights, this legislation is also aimed at clearing up the legal uncertainty and ambiguity that has hampered U.S. intelligence gathering over the past few years. The bill provides, for the first time, legislative authorization and regulation of foreign intelligence electronic surveillance conducted within the United States. Ideally such intrusions into the lives of individuals would never be necessary, but we live in an imperfect world and we need a strong intelligence gathering capability in order to protect our country and our society against forces that seek to destroy them. Therefore, it is extremely significant that the directors of all U.S. intelligence agencies have vigorously supported H.R. 7308.

Thus, the Foreign Intelligence Surveillance Act of 1978 is designed to strike a balance between individual rights and liberties on the one hand and legitimate national security needs on the other. This legislation is necessarily the product of compromise and few people will be completely satisfied with its provisions; but, I am firmly convinced that it is sound legislation and that it well serves our national interests.

The two key principles of the bill are that a prior judicial warrant is required for all foreign intelligence surveillance in the United States, with narrow exceptions, and that a criminal standard is required in the issuance of warrants directed against U.S. citizens or permanent resident aliens.

The warrant requirement is waived only in three cases. First, the President, through the Attorney General, may authorize warrantless electronic surveillance when the surveillance is solely directed at—

> (i) communications exclusively between or among foreign powers. . . ; or (ii) the acquisition of technical intelligence from property or premises under the open and exclusive control of a foreign power. . . .

Second, the Attorney General may authorize the emergency employment of electronic surveillance under certain circumstances, but must obtain a warrant within 24 hours after the surveillance has begun. Finally, no warrant is required when the surveillance is to be undertaken to test equipment, train personnel, or detect unlawful electronic surveillance. In this case, the agency performing the warrantless surveillance must adhere to stringent rules to insure that no information concerning U.S. citizens or permanent resident aliens is improperly disseminated, used, or retained.

These limited exceptions were meant to provide the broadest possible protection of civil liberties without unduly damaging the ability of our intelligence agencies to obtain information vital to our national defense. In commenting on H.R. 7308, Admiral Turner of the CIA states:

> I cannot say that any proper or necessary governmental purposes will be frustrated by the bill or that vital intelligence information, having such value as to justify electronic surveillance as a method of collection, will be lost. For these reasons I strongly urge that this legislation be enacted as soon as possible.

The criminal standard for surveillance of U.S. persons is perhaps the most controversial, and most important, of the provisions of H.R. 7308. Without it, the bill's attempt to protect the constitutional rights of Americans is largely meaningless. As the committee report states:

> A citizen in the United States should be able to know that his government cannot invade his privacy with the most intrusive techniques if he conducts himself lawfully.

Yet this provision was not drawn up in a vacuum divorced from the real world. Foreign spies, be they American nationals or not, employ sophisticated techniques to avoid discovery and, therefore, it would be most difficult to meet an ordinary criminal standard in this area.

To resolve this difficulty, H.R. 7308 establishes a lesser standard for criminal conduct than the customary "probable cause that a crime is being committed." In order to fall under this revised criminal standard, a U.S. citizen or permanent resident alien would have to knowingly engage in: first, clandestine intelligence-gathering activities which do or may violate U.S. law; second, other clandestine intelligence activities which do or will violate U.S. law; third, sabotage or international terrorism; or fourth, aiding and abetting, or conspiring, with any other person engaged in such activities.

H.R. 7308 also establishes the methods for authorizing, approving and implementing foreign intelligence surveillance.

In all cases, other than the limited exceptions noted earlier, the Attorney General must make applications to a special court for a court order approving the use of electronic surveillance. Each application must include: the identity of the Federal officer making the application; Presidential authorization and Attorney General approval of the application; the identity of the target of the surveillance; a statement by the applicant of the factual and circumstantial basis for the belief that the target is a foreign power or agent of a foreign power and that the location to be monitored is being used by a foreign power or agent of a foreign power; the proposed time period for the surveillance; information concerning previous surveillance applications that involve the same persons, facilities, or places; and certification by a high-level executive branch official that the purpose of the surveillance is to obtain foreign intelligence information and that this information cannot be obtained by normal investigative techniques. Also, the application must contain a statement of the proposed procedures for minimizing the acquisition, retention and dissemination of information concerning U.S. persons consistent with our country's need for foreign intelligence information. Lastly, additional information is required concerning surveillance techniques and the communications to be monitored, with the extent of the information required dependent on the type of target to be surveilled.

To review and approve these applications, H.R. 7308 creates a special court in Washington, D.C., made up of at least one judge from each of the Federal judicial circuits and a special court of appeals composed of six Federal judges from the Washington, D.C., area.

One of the primary criticisms of this legislation is directed at the involvement of the judiciary in the field of foreign intelligence. However, the judicial role established by H.R. 7308 is the same as is alrady the case in criminal and domestic security warrant procedures. In approving any kind of surveillance, the court does not make substantive judgments or policy decisions as to the propriety or need for that surveillance. What the court does do is to decide whether the facts contained in a warrant application meet the statutory criteria required for the particular type of surveillance.

Enactment of H.R. 7308 would establish congressional standards for foreign intelligence surveillance defining what targets may be surveilled, what information requirements justify a surveillance, and what controls must be applied to the information obtained. Specifically, under this bill a judge may only rule on—

Whether probable cause exists that the target is a foreign power or foreign agent, as defined in the bill, and that the location to be monitored is being used by a foreign power or foreign agent;

Whether the proposals for minimizing the retention or distribution of information satisfy the statutory standards; and

In the case of U.S. persons, whether the executive branch certification that the information sought is foreign intelligence information is "clearly erroneous" or not.

Thus, the judiciary will be operating within well-defined legislative limits under the provisions of H.R. 7308. However, if those limits prove to be inadequate, the Congress has the right, and the duty, to enact stronger and even more precise statutory standards.

Some observers have commented that the safeguards concerning foreign intelligence surveillance that have recently been established within the executive branch render this legislation unnecessary. I would certainly acknowledge that these new procedures have substantially reduced the chances for abuse, but I would also point out that both the current administration and its predecessor have strongly endorsed legislative safeguards in this area. What is done by executive order can be undone by Executive order and we in the Congress have a responsibility, not only to ourselves as an institution but also to the people who sent us here, to fulfill our constitutional duty and to legislate national policy.

I urge the Members of this House to give H.R. 7308 a strong, and bipartisan, endorsement.

Mr. MURPHY of Illinois. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina (Mr. ROSE).

Mr. ROSE. Mr. Chairman, from all of the debate that we have heard here today, it might appear to some that we are about to require the intelligence community to go to this special court for the gathering of all its intelligence. That simply is not so. There is a great body of electronic intelligence information that is gathered constanty that will not come anywhere close to this legislation. And while I sincerely appreciate the concerns that have been expressed by those who oppose this legislation, I believe that the very strong arguments that have been made here today in support of what those charged with the responsibility of gathering this intelligence say they must have far outweighs the fears that some may have that this procedure may be cumbersome.

Mr. Chairman, I urge my colleagues to look at the fact that this bill is not the bill that passed the Senate 95 to 1.

With the great help of many of us on the committee, Mr. MCCLORY—and I at his side—we passed this bill with an amendment exempting, as the Senate did not do, the activities of the National Security Agency. Congressman MCCLORY alluded to that in his opening remarks here today. I wish we could describe in this place what has been excluded by that action. We cannot. I urge my colleagues to vote for this important legislation.

Mr. MURPHY of Illinois. Mr. Chairman, I yield 2 minutes to the gentleman from Nevada (Mr. SANTINI).

Mr. SANTINI. Mr. Chairman, I wish to speak briefly, since that is the inherent limitation of 120 seconds. I'll address the specific observations of the very able advocate from Ohio, Mr. ASHBROOK. He indicated that "signals" were being sent out. I can tell you that I have

been on the receiving end of some of those signals. The signal is, "SOS." The signal is, "Help." And the signal is coming from the Director of the FBI.

They need this bill. They need this help. That is the signal that ultimately I think anyone, on balance, would find persuasive in responding to the concerns that have been so well expressed by some of those in opposition to this legislation.

I will quote now from the written SOS that was sent to me from William H. Webster, Director of the FBI.

The letter follows:

WASHINGTON, D.C.,
August 9, 1978.

HON. JAMES SANTINI,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN SANTINI: This will confirm your conversation yesterday with Inspector John B. Hotis, concerning my position on H.R. 7308, the Foreign Intelligence Surveillance Act.

I would like you to know that I support the bill as reported by the Permanent Select Committee on Intelligence. I so testified in closed session before that Committee having personally studied the bill in-depth. The Agents of this Bureau involved in foreign intelligence activities deserve and need this legislation in order that they can be assured that both Congress and the courts have sanctioned the legality and propriety of their actions. I believe this bill represents a careful and workable balance between the vital interests of protecting the national security and civil liberties.

For your further information, I have attached a copy of a fact sheet prepared by the Department of Justice which outlines the purposes and general provisions of the bill. Should you have any questions about the bill as it affects the FBI, I or a member of my staff would welcome the opportunity to discuss the matter further.

Sincerely yours,

WILLIAM H. WEBSTER,
Director.

Now, it is my hope that we in this body will not find ourselves caught up in the understandable preoccupation with the nuances and ignore the tremendous nuisance that is present, because of the existing impaired climate, of investigation for the FBI and the CIA.

I pursued this question personally with Inspector John B. Hotis on the phone. I asked the question that has been raised here, "Are you simply responding to internal administrative heat that is generated within the executive departments day in and day out?"

He said:

I am not. I am responding personally to a very critical national need that the FBI must respond to in this country, our national security.

He urged:

I hope Congressman Santini will support this bill. Again, he stated this is both my personal conviction and the official position of the FBI.

Mr. RUDD. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I am happy to yield to the gentleman from Arizona, who I know distinguished himself in employment in this very agency in former times.

Mr. RUDD. I thank my very distinguished barrister from Nevada for yielding me this time.

Let me ask him this, if I may: In this bill, is it really thrusting a responsibility on the courts again? Are we abdicating our responsibilities to allow the courts to judge whether or not we should issue a warrant to assure the security of our Nation? And if that is a possibility—and I think it is true—if it is a possibility, does this then act as a buffer for the President of the United States, the Attorney General of the United States, who can then point their fingers at the court if something goes wrong, because the court did not have all the facts or was not schooled in intelligence? Is it to give them the responsibility for having something go wrong where otherwise that responsibility should really rest with the President and the Attorney General of the United States?

The CHAIRMAN. The time of the gentleman from Nevada has expired.

Mr. McCLORY. Mr. Chairman, I yield 1 additional minute to the gentleman from Nevada.

Mr. SANTINI. The gentleman's question is a fair one. No one on this House floor at any time can answer that question unequivocally one way or the other. I would suggest that in this context I am willing to rest my hope and expectation and judgment in those who have the practical responsibility of implementing the national security needs of our Nation, the FBI, and CIA. They have the practical experience and the legislative duty to protect our Nation. In response to the gentleman's question, our investigation agencies need help. They are compelled to fulfill their duties in a confused and hazy legal environment. The Director of the FBI has turned to the Senate and the House with the plea, "Please help us," and I think this legislation is that help.

Mr. McCLORY. Mr. Chairman, I yield myself 3 minutes.

I take this time because some very significant statements have been made particularly by the gentleman from South Carolina, who made reference to the fact that this bill is substantially different from that which was passed over in the Senate, and yet we are making statements here today that this is a desirable bill because it passed overwhelmingly and with only one negative vote, and yet the bill was so bad we undertook to amend it by agreement on both sides of the aisle, and I laud the majority for their support of this very extremely significant amendment.

The question I ask myself is this: Why if this exemption is so important to one of the intelligence agencies, why is this exemption not important to the other intelligence agencies? I think that is a very difficult question to answer, particularly when we are targeting in on a foreign power or foreign agent, whether it is by the FBI or CIA or NSA, or any other of the intelligence agencies. It seems to me an important question to ask if we are desiring to secure the national security through intelligence information—and most of it is information. Then it seems to me that the other intelligence agencies should have the same exemption as the exemption we accorded to this one agency.

Let me say this: We have heard reference to the Post editorial this morning, and I think there is a great deal of misunderstanding about this. The Post editorial says this would enable 11 Federal judges to intervene before we begin any eavesdropping or wiretapping of American citizens in connection with national security. If that were the impact, if that were what this legislation were doing, I do not think I would be here opposing it.

What this legislation does is not to merely require a judicial warrant with respect to an American citizen. This bill requires a judicial warrant with respect to a foreign power, foreign entities, and foreign agents.

It seems to me if we want to provide for the protection of American citizens or U.S. persons—and that will be the subject of an amendment—then we will have the opportunity to protect U.S. persons against any electronic surveillance unless there is a warrant obtained.

But then I ask the question: Well, why do we need this new unprecedented special court arrangement? Do we need 11 judges gathered from all around the country in order to sit here in Washington, D.C., if we are only going to seek electronic surveillance intervention of a court with respect to U.S. persons?

It seems to me we should do the same as we do under title III and use the district court. There is nothing wrong with that. We do not need a special court. We can provide for protection of U.S. persons without the presence of this improvised court mechanism. Therefore, it seems to me the arguments made in support of this legislation just do not hold water insofar as U.S. persons or U.S. citizens are concerned.

Mr. MURPHY of Illinois. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. MINETA).

Mr. MINETA. Mr. Chairman, I rise to voice my full support for H.R. 7308, as reported by the House Permanent Select Committee on Intelligence, and to commend the chairman of the full committee, the chairman of the subcommittee, and my colleagues on the committee for their dedicated and statesmenlike work in crafting this importing legislation.

Though the legislative foundation for this bill was ably laid by the Subcommittee on Legislation, I and the other members of the full committee would have been remiss in our duty to the House and the country if we had not also subjected this bill to searching scrutiny.

In so doing, we conducted several days of markup over the period of a month. We heard from the heads of the intelligence agencies several times both in closed and open session. We were briefed by other interested parties.

As a result, we were able to perfect the already solid piece of legislation reported to us by the subcommittee.

The product of our efforts is now before us and it is deserving of our support.

Those officials charged with conducting our intelligence activities—Attorney General Bell, Admiral Turner, Admiral Murphy, Admiral Inman, Director Webster—say that the bill would help them conduct legitimate and necessary intelligence activities and poses no threat of harm to the national security. I take them at their word.

Of equal importance, the bill will protect the civil liberties of our citizens and prevent the recurrence of past abuses.

Before any American citizen or permanent resident alien can be subjected to electronic surveillance for national security reasons, a judge must find probable cause to believe that he is an agent of a foreign power engaged in clandestine intelligence activities, sabotage, or terrorism and that his activities are connected with a violation of the criminal statutes.

Before any information concerning an American citizen or permanent resident alien, derived from any foreign intelligence electronic surveillance, can be disseminated within or without the Government, or used for any purpose, such dissemination or use must be in conformity with procedures approved by a judge.

No longer will it be possible for 17 newsmen and Government employees to be wiretapped at the whim of executive officials.

No longer will the Executive be able to use an embassy surveillance as a pretext to collect political or personal information on Americans who communicate with an embassy.

And no longer will Americans find themselves on a hit list that insures that their international communications will be intercepted solely because they are engaging in antiwar activities.

Some may argue that, yes, these abuses did occur, and it is regrettable; but they are not occurring now, so, do we need any legislation?

To this, I would reply that the times and political climate will change again. That change may not come tomorrow, or next year, but it will come. It is to that time, 5, 10, 15 years from now, or whenever it might ever come, to which we must also address ourselves. There must be a check on the unbridled exercise of executive branch discretion—and the best check is a neutral and impartial magistrate applying congressionally enacted standards to executive requests for electronic surveillance orders.

The bill, of course, also addresses itself to the present time, and to the capability of the intelligence agencies to carry out their important functions.

At the present time, there is a considerable amount of needed intelligence not being collected.

It is not being collected because of the uncertainties of current law and the vagaries of the political climate. Intelligence officials and agents are constantly subjected to civil suits and held up to public scorn. What was legal one day is considered unconscionable the next. In such a climate, any sensible person would be chary of performing his duties aggressively.

Thus, it is time to settle that law relating to foreign intelligence electronic surveillance once and for all.

It is time to enact legislation that will state clearly what can be done and what cannot be done.

It is time to provide both our people and our intelligence agents with the protections a judicial warrant will afford them.

In conclusion, Mr. Chairman, I would say to my colleagues that the bill before the House today provides us with a unique opportunity to protect and further both our civil liberties and our national security.

The civil liberties groups support it. The administration supports it. The intelligence agencies enthusiastically support it. Such a consensus is rare in these times. This opportunity to enact good legislation should not be lost because of the unsupported claims of a few well-meaning individuals who seem to suggest that their knowledge and grasp of our intelligence collection activities exceed that of those intelligence community officials whose daily task it is to protect the security of our country.

I urge that H.R. 7308, as reported by the Select Committee on Intelligence, be passed.

Mr. McCLORY. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I have yielded myself this time because I want to respond to another charge that was made and that is that the FBI and the FBI agents need this legislation in order to protect themselves. Let me say we have pending before the Judiciary Committee the Federal Tort Claims Act Amendments which are intended to protect FBI agents and all intelligence agents, all intelligence officers, all law enforcement officers of the Federal Government, against actions that are brought against them where they are acting in good faith and within the scope of their authority. That is desirable legislation. As a matter of fact, that is inherent in the substitute bill that I have, as well, because it is true that we do need to translate the existing executive order guidelines into appropriate legislation.

Mr. Chairman, I would like to point out that when the Attorney General testified before our committee on January 10, 1978, he stated with respect to my substitute bill:

I have nothing against Congressman McCLORY's bill. That would be an improvement over the present system. The question is do we want to bring the Judiciary in?

That is indeed the question, do we want to bring the Judiciary in, do we want to have the Judiciary act as interceptors between the authority that the executive has, in my view, the inherent power to exercise, and the exercise of that authority? Do we want to put that ultimate decisionmaking authority in the Judiciary and not in the executive where it has traditionally been?

I can assure the Members that the bill I am supporting, the substitute bill, would impose that responsibility on the executive. It would provide the kind of protection that we want, so that they can carry out these important intelligence activities.

The CHAIRMAN. The time of the gentleman has expired.

Mr. McCLORY. I yield myself 1 additional minute.

Mr. Chairman, I have yielded myself this additional time because I noticed that the gentleman from Virginia (Mr. ROBINSON) left the floor and did not have an opportunity to express himself in support of this legislation. However, I also want to point out that, as a member of the Committee on Intelligence, the gentleman from Virginia (Mr. ROBINSON) is in strong support of this legislation and, if present, he would be expressing himself, in his own way, in support of the measure and in opposition to the committee bill and in support of the substitute.

The CHAIRMAN. The time of the gentleman has again expired.

● Mr. WEISS. Mr. Chairman, for the benefit of our colleagues in their deliberations on H.R. 7308, the Foreign Intelligence Surveillance Act, I would like to share with them an article authored by our distinguished colleague, the gentleman from Massachusetts (Mr. DRINAN), which was printed in the September 1 Boston Globe.

The article follows:

[From the Boston Globe, Sept. 1, 1978]

WIRETAP BILL AN ATTACK ON FOREIGNERS

(By Robert F. Drinan)

On Thursday the US House of Representatives is expected to pass the Foreign Intelligence Surveillance Act (HR-7308). This bill will allow the CIA and the FBI to wiretap any agent of a foreign power with a warrant obtained from a federal judge on the contention that information from the wiretap would be helpful in formulating US foreign policy.

This measure, already passed by the Senate, is billed as a "reform" of the existing CIA practice of clandestinely wiretapping the Washington embassies of hostile nations. The introduction of the warrant requirement is deemed to be an improvement in a system of intelligence gathering alleged to be essential to national security.

The dismaying fact is, however, that the passage of HR-7308 will be a calamity. It will legalize largely useless wiretaps, erode the Fourth Amendment regulating the right of search and seizure and institutionalize the nation's worst xenophobic prejudices.

Proponents of the bill rely upon the unproven assumption that wiretapping yields information indispensable to the protection of our national security. No evidence has ever been offered to support this position in the extended hearings conducted over a period of three years by a House Judiciary subcommittee. When pressed for specifics, intelligence agents assert the sacredness of their secrets.

Confronted with this series of closed circles, those who want to control the appalling abuses of the intelligence agencies conclude that the agencies are determined to continue their surveillance and that therefore even an unorthodox warrant from a court offers some control of the frightening invasions of privacy which are now in place.

Even the American Civil Liberties Union, foe of all wiretapping before and after it was legalized for suspected criminals by Congress in 1968, has acquiesced in the specious and erroneous reasoning that somehow the establishment of secret court proceedings will control clandestine eavesdropping. And yet the grim fact is that the requirement of a meaningless judicial warrant for a wiretap will allow the CIA to deepen its refusal to

talk by transferring the responsibility to the courts. At the same time the courts will cite the Draconian penalties in HR-7308 for judges who mention anything about their secret dealings with intelligence agents in their chambers.

Most civil libertarians in the Congress have capitulated to the delusion that warrants that judges cannot refuse will clean up surveillances we cannot control, and ironically most of the opposition to the very bad idea of involving a small number of federal judges in the legalization of tapping foreigners' phones comes from members of Congress who feel that the President, the National Security Council and the CIA have inherent constitutional power to maintain our national security and that this power should not be limited by judicial restrictions.

The clamor for "reform" of the intelligence agencies has reached such a point of hysteria that most people do not recognize that HR-7308:

Imposes duties on federal courts totally at variance with the "case or controversy" always hitherto required for judicial intervention.

Contains no requirement that Americans whose conversations are unavoidably or inadvertently recorded be informed of the invasion of their privacy.

Violates the Vienna Treaty ratified by the Senate in which this nation pledged that diplomatic missions in this country would be "inviolable."

I will offer amendments to HR-7308 on the House floor. One amendment will support the request of the telephone industry for the deletion of a provision compelling communications employees to participate in arranging a clandestine wiretap. Another will propose a sunset provision so that this frightening experiment on our innermost thoughts will terminate after five years. As a House-Senate conferee. I will seek other ways to improve this bill.

Even if these amendments and improvements prevail, HR-7308 will still be a perversion of the Fourth Amendment, a radical decearture from any established norm in American jurisprudence and an abject sellout by Congress and the Administration to the imperious and unjustifiable demands of the CIA and the FBI.●

● Mr. SEIBERLING. Mr. Chairman, I support the Intelligence Committee's bill and I commend the chairman (Mr. BOLAND) for developing an excellent compromise bill which protects individual rights without jeopardizing our legitimate national security interests in any way.

Just 2 years ago, I had the honor of serving as a member of the National Wiretap Commission. Several other members of the Commission and I tried in vain to get the Commission to review national security wiretap practices and procedures. The Intelligence Committee has now conducted just such a review and its conclusions support the views expressed in the National Wiretap Commission report by Mr. KASTENMEIER, Senator ABOUREZK, and me, along with Commissioner Alan F. Westin, who is perhaps the Nation's leading expert in the right of privacy. We made the following statement, which explains my support for the Intelligence Committee's bill:

"Security is like liberty," Supreme Court Justice Robert H. Jackson once wrote, "in that many crimes are committed in its name."

"National Security" wiretapping is probably the most easily abused area of electronic surveillance. The public record is replete with abuses during the period 1968–1974. . . .

Warrantless electronic surveillance cannot be constitutionally justified by a mere assertion of the magic words "national security," a vague phrase subject to differing interpretations. . . .

The record developed by the House Judiciary Committee during the impeachment proceedings is filled with evidence of abuses involving "national security" wiretaps against newsmen, against past and present employees of the National Security Council and against employees of the White House without access to NSC information. . . .

We support a warrant procedure for all electronic surveillance, including security wiretaps. We are not ready to say absolutely that the specific procedures to be followed should be the same in national security cases as in criminal investigations. But we do feel very strongly that there must be some system of accountability, with proper checks and balances. As long as the President and his designees have absolute, unreviewable discretion in this area, there will remain an unreasonable likelihood of abuse. Such a claim of unbridled power is inconsistent with the Constitution and the public interest.

Finally, we believe that national security wiretaps may be necessary in certain circumstances. We believe that the concept of national security, however, has been so abused by recent presidents that the public has little confidence when a President claims an action—whether foreign or domestic—is based upon national security grounds. The best place to begin restoring public confidence, we believe, is in the area of electronic surveillance for national security purposes. Judicial security of national security wiretaps is, in our opinion, necessary from a constitutional standpoint and an appropriate way to restore public confidence in our governmental institutions.●

Mr. MURPHY of Illinois. Mr. Chairman, I have no additional requests for time.

The CHAIRMAN. Does the gentleman yield back the balance of his time?

Mr. MURPHY of Illinois. I do, Mr. Chairman.

The CHAIRMAN. Does the gentleman from Illinois (Mr. MCCLORY) yield back the balance of his time?

Mr. MCCLORY. Yes, Mr. Chairman, I have no further requests for time.

The CHAIRMAN. All time has expired.

Pursuant to the rule, the Clerk will now read, by title, the substitute committee amendment recommended by the Permanent Select Committee on Intelligence now printed in the bill as an original bill for the purpose of amendment; said substitute shall be read for amendment by titles instead of by sections. No amendment to said substitute shall be in order except germane amendments printed in the CONGRESSIONAL RECORD at least 3 legislative days before their consideration, pro forma amendments for the purpose of debate, and amendments recommended by the Permanent Select Committee on Intelligence. It shall be in order to consider en bloc amendments to said substitute printed in the CONGRESSIONAL RECORD of July 17 by Representative MCCLORY of Illinois.

The Clerk will read.

H.R. 7308

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Intelligence Surveillance Act of 1978".

TABLE OF CONTENTS

TITLE I—ELECTRONIC SURVEILLANCE WITHIN THE UNITED STATES FOR FOREIGN INTELLIGENCE PURPOSES

Sec. 101. Definitions.
Sec. 102. Authorization for electronic surveillance for foreign intelligence purposes.
Sec. 103. Special courts.
Sec. 104. Application for an order.
Sec. 105. Issuance of an order.
Sec. 106. Use of information.
Sec. 107. Report of electronic surveillance.
Sec. 108. Congressional oversight.
Sec. 109. Penalties.
Sec. 110. Civil liability.

TITLE II—CONFORMING AMENDMENTS

Sec. 201. Amendments to chapter 119 of title 18, United States Code.

TITLE III—EFFECTIVE DATE

Sec. 301. Effective date.

TITLE I—ELECTRONIC SURVEILLANCE WITHIN THE UNITED STATES FOR FOREIGN INTELLIGENCE PURPOSES

DEFINITIONS

Sec. 101. As used in this title:

(a) "Foreign power" means—

(1) a foreign government or any component thereof, whether or not recognized by the United States;

(2) a faction of a foreign nation or nations, not substantially composed of United States persons;

(3) an entity that is openly acknowledged by a foreign government or governments to be directed and controlled by such foreign government or governments;

(4) a group engaged in international terrorism or activities in preparation therefor;

(5) a foreign-based political organization, not substantially composed of United States persons; or

(6) an entity that is directed and controlled by a foreign government or governments.

(b) "Agent of a foreign power" means—

(1) any person other than a United States person, who—

(A) acts in the United States as an officer, member, or employee of a foreign power; or

(B) acts for or on behalf of a foreign power which engages in clandestine intelligence activities in the United States contrary to the interests of the United States, when the circumstances of such person's presence in the United States indicate that such person may engage in such activities in the United States, or when such person knowingly aids or abets any person in the conduct of such activities or knowingly conspires with any person to engage in such activities; or

(2) any person who—

(A) knowingly engages in clandestine intelligence gathering activities for or on behalf of a foreign power, which activities involve or may involve a violation of the criminal statutes of the United States;

(B) pursuant to the direction of an intelligence service or network of a foreign power, knowingly engages in any other clandestine intelligence activities for or on behalf of such foreign power, which activities involve or are about to involve a violation of the criminal statutes of the United States;

(C) knowingly engages in sabotage or international terrorism, or activities that are in preparation therefor, for or on behalf of a foreign power; or

(D) knowingly aids or abets any person in the conduct of activities described in subparagraph (A), (B), or (C) or knowingly conspires with any person to engage in activities described in subparagraph (A), (B), or (C).

(c) "International terrorism" means activities that—

(1) involve violent acts or acts dangerous to human life that are or may be a violation of the criminal laws of the United States or of any State, or that might involve a criminal violation if committed within the jurisdiction of the United States or any State;

(2) appear to be intended—

(A) to intimidate or coerce a civilian population;

(B) to influence the policy of a government by intimidation or coercion; or

(C) to affect the conduct of a government by assassination or kidnapping; and

(3) occur totally outside the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to coerce or intimidate, or the locale in which their perpetrators operate or seek asylum.

(d) "Sabotage" means activities that involve or may involve a violation of chapter 105 of title 18, United States Code, or that might involve such a violation if committed against the United States.

(e) "Foreign intelligence information" means—

(1) information that relates to and, if concerning a United States person, is necessary to the ability of the United States to protect against—

(A) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

(B) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

(C) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or

(2) information with respect to a foreign power or foreign territory that relates to and, if concerning a United States person, is necessary to—

(A) the national defense or the security of the United States; or

(B) the conduct of the foreign affairs of the United States.

(f) "Electronic surveillance" means—

(1) the acquisition by an electronic, mechanical, or other surveillance device of the contents of any wire or radio communication sent by or intended to be received by a particular, known United States person who is in the United States, if the contents are acquired by intentionally targeting that United States person, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes;

(2) the acquisition by an electronic, mechanical, or other surveillance device of the contents of any wire communication to or from a person in the United States, without the consent of any party thereto, if such acquisition occurs in the United States;

(3) the intentional acquisition by an electronic, mechanical, or other surveillance device of the contents of any radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes, and if both the sender and all intended recipients are located within the United States; or

(4) the installation or use of an electronic, mechanical, or other surveillance device in the United States for monitoring to acquire information, other than from a wire or radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes.

(g) "Attorney General" means the Attorney General of the United States (or Acting Attorney General) or the Deputy Attorney General.

(h) "Minimization procedures", with respect to electronic surveillance, means—

(1) specific procedures, which shall be adopted by the Attorney General, that are reasonably designed in light of the purpose and technique of the particular surveillance, to minimize the acquisition, retention, and dissemination of nonpublicly available information concerning unconsenting United States persons consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information;

(2) procedures that require that nonpublicly available information, which is not foreign intelligence information, as defined in subsection (e)(1), shall not be disseminated in a manner that identifies any individual United States person, without such person's consent, unless such person's identity is necessary to understand foreign intelligence information or assess its importance;

(3) notwithstanding paragraphs (1) and (2), procedures that allow for the retention and dissemination of information that is evidence of a crime which has been, is being, or is about to be committed and that is to be retained or disseminated for the purpose of preventing the crime or enforcing the criminal law; and

(4) notwithstanding paragraphs (1), (2), and (3), with respect to any electronic surveillance approved pursuant to section 102(a), procedures that require that no contents of any communication to which a United States person is a party shall be disclosed, disseminated, or used for any purpose or retained for longer than twenty-four hours unless a court order under section 105 is obtained or unless the Attorney General determines that the information may indicate a threat of death or serious bodily harm to any person.

(i) "United States person" means a citizen of the United States, an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act), an unincorporated association a substantial number of members of which are citizens of the United States or aliens lawfully admitted for permanent residence, or a corporation which is incorporated in the United States, but does not include a corporation or an association which is a foreign power, as defined in subsection (a)(1), (2), or (3).

(j) "United States", when used in a geographic sense, means all areas under the territorial sovereignty of the United States and the Trust Territory of the Pacific Islands.

(k) "Aggrieved person" means a person who is the target of an electronic surveillance or any other person whose communications or activities were subject to electronic surveillance.

(l) "Wire communication" means any communication while it is being carried by a wire, cable, or other like connection furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the transmission of interstate or foreign communications.

(m) "Person" means any individual, including any officer or employee of the Federal Government, or any group, entity, association, corporation, or foreign power.

(n) "Contents", when used with respect to a communication, includes any information concerning the identity of the parties to such communication or the existence, substance, purport, or meaning of that communication.

AUTHORIZATION FOR ELECTRONIC SURVEILLANCE FOR FOREIGN INTELLIGENCE PURPOSES

Sec. 102. (a)(1) Notwithstanding any other law, the President, through the Attorney General, may authorize electronic surveillance without a court order under this title to acquire foreign intelligence information for periods of up to one year if the Attorney General certifies in writing under oath that—

(A) the electronic surveillance is solely directed at—

(i) communications exclusively between or among foreign powers, as defined in section 101(a)(1), (2), or (3); or

(ii) the acquisition of technical intelligence from property or premises under the open and exclusive control of a foreign power, as defined in section 101(a)(1), (2), or (3); and

(B) the proposed minimization procedures with respect to such surveillance meet the definition of minimization procedures under section 101(h); and

if the Attorney General shall report such minimization procedures and any changes thereto to the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence at least thirty days prior to their effective date, unless the Attorney General determines immediate action is required and notifies the committees immediately of such minimization procedures and the reason for their becoming effective immediately.

(2) An electronic surveillance authorized by this subsection may be conducted only in accordance with the Attorney General's certification and the minimization procedures adopted by him.

(3) With respect to electronic surveillance authorized by this subsection, the Attorney General may direct a specified communication common carrier to—

(A) furnish all information, facilities, or technical assistance necessary to accomplish the electronic surveillance in such a manner as will protect its secrecy and produce a minimum of interference with the services that such carrier is providing its customers; and

(B) maintain under security procedures approved by the Attorney General and the Director of Central Intelligence any records concerning the surveillance or the aid furnished which such carrier wishes to retain. The Government shall compensate, at the prevailing rate, such carrier for furnishing such aid.

(b) Applications for a court order under this title are authorized if the President has, by written authorization, empowered the Attorney General to approve applications to the Special Court having jurisdiction under section 103, and a judge to whom an application is made may, notwithstanding any other law, grant an order, in conformity with section 105, approving electronic surveillance of a foreign power or an agent of a foreign power for the purpose of obtaining foreign intelligence information, except that the Special Court shall not have jurisdiction to grant any order approving electronic surveillance directed solely as described in paragraph (1)(A) of subsection (a) unless such surveillance may involve the acquisition of communications of any United States person.

SPECIAL COURTS

Sec. 103. (a) There is established a Special Court of the United States with jurisdiction throughout the United States to carry out the judicial duties of this title. The Chief Justice of the United States shall publicly designate at least one judge from each of the judicial circuits, nominated by the chief judges of the respective circuits, who shall be members of the Special Court and one of whom the Chief Justice shall publicly designate as the chief judge. The Special Court shall sit continuously in the District of Columbia.

(b) There is established a Special Court of Appeals with jurisdiction to hear appeals from decisions of the Special Court and any other matter assigned to it by this title. The Chief Justice shall publicly designate six judges, one of whom shall be publicly designated as the chief judge, from among judges nominated by the chief judges of the district courts of the District of Columbia, the Eastern District of Virginia and the District of Maryland, and the United States Court of Appeals for the District of Columbia, any three of whom shall constitute a panel for purposes of carrying out its duties under this title.

(c) The judges of the Special Court and the Special Court of Appeals shall be designated for six-year terms, except that the Chief Justice shall stagger the terms of the members originally chosen. No judge may serve more than two full terms.

(d) The chief judges of the Special Court and the Special Court of Appeals shall, in consultation with the Attorney General and the Director of Central Intelligence, establish such document, physical, personnel, or communications security measures as are necessary to protect information submitted to or produced by the Special Court or Special Court of Appeals from unauthorized disclosure.

(e) Proceedings under this title shall be conducted as expeditiously as possible. If any application to the Special Court is denied, the court shall record the reasons for that denial, and the reasons for that denial shall, upon the motion of the party to whom the application was denied, be transmitted under seal to the Special Court of Appeals.

(f) Decisions of the Special Court of Appeals shall be subject to review by the Supreme Court of the United States in the same manner as a judgment of a United States court of appeals as provided in section 1254 of title 28, United States Code, except that the Supreme Court may adopt special procedures with respect to security appropriate to the case.

(g) The Chief Judges of the Special Court and the Special Court of Appeals may, in consultation with the Attorney General and Director of Central Intelligence and consistent with subsection (d)—

(1) designate such officers or employees of the Government, as may be necessary, to serve as employees of the Special Court and Special Court of Appeals; and

(2) promulgate such rules or administrative procedures as may be necessary to the efficient functioning of the Special Court and Special Court of Appeals.

Any funds necessary to the operation of the Special Court and the Special Court of Appeals may be drawn from appropriations for the Department of Justice. The Department of Justice shall provide such fiscal and administrative services as may be necessary for the Special Court and Special Court of Appeals.

APPLICATION FOR AN ORDER

SEC. 104. (a) Each application for an order approving electronic surveillance under this title shall be made by a Federal officer in writing upon oath or affirmation to a judge having jurisdiction under section 103. Each application shall require the approval of the Attorney General based upon his finding that it satisfies the criteria and requirements of such application as set forth in this title. It shall include—

(1) the identity of the Federal officer making the application;

(2) the authority conferred on the Attorney General by the President of the United States and the approval of the Attorney General to make the application;

(3) the identity, if known, or a description of the target of the electronic surveillance;

(4) a statement of the facts and circumstances relied upon by the applicant to justify his belief that—

(A) the target of the electronic surveillance is a foreign power or an agent of a foreign power; and

(B) each of the facilities or places at which the electronic surveillance is directed is being used, or is about to be used, by a foreign power or an agent of a foreign power;

(5) a statement of the proposed minimization procedures;

(6) a detailed description of the nature of the information sought and the type of communications or activities to be subjected to the surveillance;

(7) a certification or certifications by the Assistant to the President for National Security Affairs or an executive branch official or officials designated by the President from among those executive officers employed in the area of national security or defense and appointed by the President with the advice and consent of the Senate—

(A) that the certifying official deems the information sought to be foreign intelligence information;

(B) that the purpose of the surveillance is to obtain foreign intelligence information;

(C) that such information cannot reasonably be obtained by normal investigative techniques;

(D) that designates the type of foreign intelligence information being sought according to the categories described in section 101(e); and

(E) including a statement of the basis for the certification that—

(i) the information sought is the type of foreign intelligence information designated; and

(ii) such information cannot reasonably be obtained by normal investigative techniques;

(8) a statement of the means by which the surveillance will be affected;

(9) a statement of the facts concerning all previous applications that have been made to any judge under this title involving any of the persons, facilities, or places specified in the application, and the action taken on each previous application;

(10) a statement of the period of time for which the electronic surveillance is required to be maintained, and if the nature of the intelligence gathering is such that the approval of the use of electronic surveillance under this title should not automatically terminate when the described type of information has first been obtained, a description of facts supporting the belief that additional information of the same type will be obtained thereafter; and

(11) whenever more than one electronic, mechanical or other surveillance device is to be used with respect to a particular proposed electronic surveillance, the coverage of the devices involved and what minimization procedures apply to information acquired by each device.

(b) Whenever the target of the electronic surveillance is a foreign power, as defined in 101(a) (1), (2), or (3), and each of the facilities or places at which the surveillance is directed is owned, leased, or exclusively used by that foreign power, the application need not contain the information required by paragraphs (6), (7)(E), (8), and (11) of subsection (a), but shall contain such information about the surveillance techniques and communications or other information concerning United States persons likely to be obtained as may be necessary to assess the proposed minimization procedures.

(c) The Attorney General may require any other affidavit or certification from any other officer in connection with the application.

(d) The judge may require the applicant to furnish such other information as may be necessary to make the determination required by section 105.

ISSUANCE OF AN ORDER

SEC. 105. (a) Upon an application made pursuant to section 104, the judge shall enter an ex parte order as requested or as modified approving the electronic surveillance if he finds that—

(1) the President has authorized the Attorney General to approve applicants for electronic surveillance for foreign intelligence information;

(2) the application has been made by a Federal officer and approved by the Attorney General;

(3) on the basis of the facts submitted by the applicant there is probable cause to believe that—

(A) the target of the electronic surveillance is a foreign power or an agent of a foreign power: Provided, That no United States person may be considered a foreign power or an agent of a foreign power solely upon the basis of activities protected by the first amendment to the Constitution of the United States; and

(B) each of the facilities or places at which the electronic surveillance is directed is being used, or is about to be used, by a foreign power or an agent of a foreign power;

(4) the proposed minimization procedures meet the definition of minimization procedures under section 101(h); and

(5) the application which has been filed contains all statements and certifications required by section 104 and, if the target is a United States person, the certification or certifications are not clearly erroneous on the basis of the statement made under section 104(a)(7)(E) and any other information furnished under section 104(d).

(b) An order approving an electronic surveillance under this section shall—

(1) specify—

(A) the identity, if known, or a description of the target of the electronic surveillance;

(B) the nature and location of each of the facilities or places at which the electronic surveillance will be directed;

(C) the type of information sought to be acquired and the type of communications or activities to be subjected to the surveillance;

(D) the means by which the electronic surveillance will be effected;

(E) the period of time during which the electronic surveillance is approved; and

(F) whenever more than one electronic, mechanical, or other surveillance device is to be used under the order, the authorized coverage of the devices involved and what minimization procedures shall apply to information subject to acquisition by each device; and

(2) direct—

(A) that the minimization procedures be followed;

(B) that, upon the request of the applicant, a specified communication or other common carrier, landlord, custodian, or other specified person furnish the applicant forthwith any and all information, facilities, or technical assistance necessary to accomplish the electronic surveillance in such manner as will protect its secrecy and produce a minimum of interference with the services that such carrier, landlord, custodian, or other person is providing that target of electronic surveillance;

(C) that such carrier, landlord, custodian, or other person maintain under security procedures approved by the Attorney General and the Director of Central Intelligence any records concerning the surveillance or the aid furnished that such person wishes to retain; and

(D) that the applicant compensate, at the prevailing rate, such carrier, landlord, custodian, or other person for furnishing such aid.

(c) Whenever the target of the electronic surveillance is a foreign power, as defined in section 101(a) (1), (2), or (3), and each of the facilities or places at which the surveillance is directed is owned, leased, or exclusively used by that foreign power, the order need not contain the information required by subparagraphs (C), (D), and (F) of subsection (b)(1), but shall generally describe the information sought, the communications or activities to be subjected to the surveillance, and the type of electronic surveillance involved, including whether physical entry is required.

(d)(1) An order issued under this section may approve an electronic surveillance for the period necessary to achieve its purpose,

or for ninety days, whichever is less, except that an order under this section shall approve an electronic surveillance targeted against a foreign power, as defined in section 101(a)(1), (2), or (3), for the period specified in the application or for one year, whichever is less.

Extensions of an order issued under this title may be granted on the same basis as an original order upon an application for an extension and new findings made in the same manner as required for an original order, except that an extension of an order under this chapter for a surveillance targeted against a foreign power, as defined in section 101 (a)(4), (5), or (6), may be for a period not to exceed one year if the judge finds probable cause to believe that no communication of any individual United States person will be acquired during the period.

(3) At the end of the period of time for which electronic surveillance is approved by an order or an extension, the judge may assess compliance with the minimization procedures by reviewing the circumstances under which information concerning United States persons was acquired, retained, or disseminated.

(e) Notwithstanding any other provision of this title, when the Attorney General reasonably determines that—

(1) an emergency situation exists with respect to the employment of electronic surveillance to obtain foreign intelligence information before an order authorizing such surveillance can with due diligence be obtained; and

(2) the factual basis for issuance of an order under this title to approve such surveillance exists;

he may authorize the emergency employment of electronic surveillance if a judge designated pursuant to section 103 is informed by the Attorney General or his designee at the time of such authorization that the decision has been made to employ emergency electronic surveillance and if an application in accordance with this title is made to that judge as soon as practicable, but not more than twenty-four hours after the Attorney General authorizes such surveillance. If the Attorney General authorizes such emergency employment of electronic surveillance, he shall require that the minimization procedures required by this title for the issuance of a judicial order be followed. In the absence of a judicial order approving such electronic surveillance, the surveillance shall terminate when the information sought is obtained, when the application for the order is denied, or after the expiration of twenty-four hours from the time of authorization by the Attorney General, whichever is earliest. In the event that such application for approval is denied, or in any other case where the electronic surveillance is terminated and no order is issued approving the surveillance, no information obtained or evidence derived from such surveillance shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such surveillance shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information may indicate a threat of death or serious bodily harm to any person. A denial of the application made under this subsection may be reviewed as provided in section 103.

(f) Notwithstanding any other provision of this title, officers, employees, or agents of the United States are authorized in the normal course of their official duties to conduct electronic surveillance not targeted against the communications of any particular person or persons, under procedures approved by the Attorney General, solely to—

(1) test the capability of electronic equipment, if—

(A) it is not reasonable to obtain the consent of the persons incidentally subjected to the surveillance;

(B) the test is limited in extent and duration to that necessary to determine the capability of the equipment; and

(C) the contents of any communication acquired are retained and used only for the purpose of determining the capability of the equipment, are disclosed only to test personnel, and are destroyed before or immediately upon completion of the test;

(2) determine the existence and capability of electronic surveillance equipment being used by persons not authorized to conduct electronic surveillance, if—

(A) it is not reasonable to obtain the consent of persons incidentally subjected to the surveillance;

(B) such electronic surveillance is limited in extent and duration to that necessary to determine the existence and capability of such equipment; and

(C) any information acquired by such surveillance is used only to enforce chapter 119 of title 18, United States Code, or section 605 of the Communications Act of 1934, or to protect information from unauthorized surveillance; or

(3) train intelligence personnel in the use of electronic surveillance equipment, if—

(A) it is not reasonable to—

(i) obtain the consent of the persons incidentally subjected to the surveillance;

(ii) train persons in the course of surveillances otherwise authorized by this title; or

(iii) train persons in the use of such equipment without engaging in electronic surveillance;

(B) such electronic surveillance is limited in extent and duration to that necessary to train the personnel in the use of the equipment; and

(C) no contents of any communication acquired are retained or disseminated for any purpose, but are destroyed as soon as reasonably possible.

(g) Certifications made by the Attorney General pursuant to section 102(a) and applications made and orders granted under this title shall be retained in accordance with the security procedures established pursuant to section 103 for a period of at least ten years from the date of the application.

USE OF INFORMATION

SEC. 106. (a) Information acquired from an electronic surveillance conducted pursuant to this title concerning any United States person may be used and disclosed by Federal officers and employees without the consent of the United States person only in accordance with the minimization procedures required by this title. No otherwise privileged communication obtained in accordance with, or in violation of, the provisions of this title shall lose its privileged character. No information acquired from an electronic surveillance pursuant to this title may be used or disclosed by Federal officers or employees except for lawful purposes.

(b) No information acquired pursuant to this title shall be disclosed for law enforcement purposes unless such disclosure is accompanied by a statement that such information, or any information derived therefrom, may only be used in a criminal proceeding with the advance authorization of the Attorney General.

(c) Whenever the Government intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, against an aggrieved person, any information obtained or derived from an electronic surveillance of that aggrieved person pursuant to the authority of this title, the Government shall, prior to the trial, hearing, or other proceeding or at a reasonable time prior to an effort to so disclose or so use that information or submit it in evidence, notify the aggrieved person and the court or other authority in which the information is to disclosed or used that the Government intends to so disclose or so use such information.

(d) Whenever any State or political subdivision thereof intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of a State or a political subdivision thereof, against an aggrieved person any information obtained or derived from an electronic surveillance of that aggrieved person pursuant to the authority of this title, the State or political subdivision thereof shall notify the aggrieved person, the court or other authority in which the information is to be disclosed or used, and the Attorney General that the State or political subdivision thereof intends to so disclose or so use such information.

(e) Any person against whom evidence obtained or derived from an electronic surveillance to which he is an aggrieved person is to be, or has been, introduced or otherwise used or disclosed in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, a State, or a political subdivision thereof, may move to suppress the evidence obtained or derived from such electronic surveillance on the grounds that—

(1) the information was unlawfully acquired; or

(2) the surveillance was not made in conformity with an order of authorization or approval.

Such a motion shall be made before the trial, hearing, or other proceeding unless there was no opportunity to make such a motion or the person was not aware of the grounds of the motion.

(f) Whenever a court or other authority is notified pursuant to subsection (c) or (d), or whenever a motion is made pursuant to subsection (e) and the Government concedes that information obtained or derived from an electronic surveillance pursuant to the authority of this title as to which the moving party is an aggrieved person is to be, or has been, introduced or otherwise used or disclosed in any trial, hearing, or other proceeding, the Government may make a motion before the Special Court to determine the lawfulness of the electronic surveillance. Unless all the judges of the Special Court are so disqualified, the motion may not be heard by a judge who granted or denied an order or extension involving the surveillance at issue. Such motion shall stay any action in any court or authority to determine the lawfulness of the surveillance. In determining the lawfulness of the surveillance, the Special Court shall, notwithstanding any other law, if the Attorney General files an affidavit under oath with the Special Court that disclosure would harm the national security of the United States or compromise foreign intelligence sources and methods, review in camera the application, order, and such other materials relating to the surveillance as may be necessary to determine whether the surveillance of the aggrieved person was lawfully authorized and conducted. In making this determination, the Special Court may disclose to the aggrieved person, under appropriate security procedures and protective orders, portions of the application, order, or other materials if there is a reasonable question as to the legality of the sur-

veillance and if disclosure would likely promote a more accurate determination of such legality, or if such disclosure would not harm the national security.

(g) Except as provided in subsection (f), whenever any motion or request is made pursuant to any statute or rule of the United States or any State before any court or other authority of the United States or any State to discover or obtain applications or orders or other materials relating to surveillance pursuant to the authority of this title or to discover, obtain, or suppress any information obtained from electronic surveillance pursuant to the authority of this title, and the court or other authority determines that the moving party is an aggrieved person, if the Attorney General files with the Special Court of Appeals an affidavit under oath than an adversary hearing would harm the national security or compromise foreign intelligence sources and methods and that no information obtained or derived from an electronic surveillance pursuant to the authority of this title has been or is about to be used by the Government in the case before the court or other authority, the Special Court of Appeals shall, notwithstanding any other law, stay the proceeding before the other court or authority and review in camera and ex parte the application, order, and such other materials as may be necessary to determine whether the surveillance of the aggrieved person was lawfully authorized and conducted. In making this determination, the Special Court of Appeals shall disclose, under appropriate security procedures and protective orders, to the aggrieved person or his attorney portions of the application, order, or other materials relating to the surveillance only if necessary to afford due process to the aggrieved person.

(h) If the Special Court pursuant to subsection (f) or the Special Court of Appeals pursuant to subsection (g) determines the surveillance was not lawfully authorized and conducted, it shall, in accordance with the requirements of the law, suppress the evidence which was unlawfully obtained or derived from electronic surveillance of the aggrieved person or otherwise grant the motion of the aggrieved person. If the Special Court pursuant to subsection (f) or the Special Court of Appeals pursuant to subsection (g) determines the surveillance was lawfully authorized and conducted, it shall deny the motion of the aggrieved person except to the extent that due process requires discovery or disclosure.

(i) Orders granting or denying motions or requests under subsection (h), decisions under this section as to the lawfulness of electronic surveillance, and, absent a finding of unlawfulness, orders of the Special Court or Special Court of Appeals granting or denying disclosure of applications, orders, or other materials relating to a surveillance shall be final orders and binding upon all courts of the United States and the several States except the Special Court of Appeals and the Supreme Court.

(j) In circumstances involving the unintentional acquisition by an electronic, mechanical, or other surveillance device of the contents of any radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes, and if both the sender and all intended recipients are located within the United States, such contents shall be destroyed upon recognition, unless the Attorney General determines that the contents may indicate a threat of death or serious bodily harm to any person.

(k) If an emergency employment of electronic surveillance is authorized under section 105(e) and a subsequent order approving the surveillance is not obtained, the judge shall cause to be served on any United States person named in the application and on such other United States persons subject to electronic surveillance as the judge may determine in his discretion it is in the interest of justice to serve, notice of—

(1) the fact of the application;

(2) the period of surveillance; and

(3) the fact that during the period information was or was not obtained.

On an ex parte showing of good cause to the judge the serving of the notice required by this subsection may be postponed or suspended for a period not to exceed ninety days. Thereafter, on a further ex parte showing of good cause, the court shall forego ordering the serving of the notice required under this subsection.

REPORT OF ELECTRONIC SURVEILLANCE

SEC. 107. In April of each year, the Attorney General shall transmit to the Administrative Office of the United States Courts and to Congress a report setting forth with respect to the preceding calendar year—

(a) the total number of applications made for orders and extensions of orders approving electronic surveillance under this title; and

(b) the total number of such orders and extensions either granted, modified, or denied.

CONGRESSIONAL OVERSIGHT

SEC. 108. On a semiannual basis the Attorney General shall fully inform the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence concerning all electronic surveillance under this title. Nothing in this title shall be deemed to limit the authority and responsibility of those committees to obtain such additional information as they may need to carry out their respective functions and duties.

PENALTIES

SEC. 109. (a) OFFENSE.—A person is guilty of an offense if he intentionally—

(1) engages in electronic surveillance under color of law except as authorized by statute; or

(2) violates section 102(a)(2), 105(e), 105(f), 105(g), 106(a), 106(b), or 106(j) or any court order issued pursuant to this title, knowing his conduct violates such an order or this title.

(b) DEFENSE.—(1) It is a defense to a prosecution under subsection (a)(1) that the defendant was a law enforcement or investigative officer engaged in the course of his official duties and the electronic surveillance was authorized by and conducted pursuant to a search warrant or court order of a court of competent jurisdiction.

(2) It is a defense to a prosecution under subsection (a)(2) that the defendant acted in a good faith belief that his actions did not violate any provision of this title or any court order issued pursuant to this title, under circumstances where that belief was reasonable.

(c) PENALTY.—An offense described in this section is punishable by a fine of not more than $10,000 or imprisonment for not more than five years, or both.

(d) JURISDICTION.—There is Federal jurisdiction over an offense under this section if the person committing the offense was an officer or employee of the United States at the time the offense was committed.

CIVIL LIABILITY

SEC. 110. CIVIL ACTION.—An aggrieved person, other than a foreign power or an agent of a foreign power, as defined in section 101(a) or (b)(1)(A), respectively, who has been subjected to an electronic surveillance or whose communication has been disseminated or used in violation of section 109 shall have a cause of action against any person who committed such violation and shall be entitled to recover—

(a) actual damages, but not less than liquidated damages of $1,000 or $100 per day for each day of violation, whichever is greater;

(b) punitive damages; and

(c) reasonable attorney's fees and other investigation and litigation costs reasonably incurred.

Mr. McCLORY (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AMENDMENTS OFFERED BY MR. MCCLORY

Mr. McCLORY. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. McCLORY:

Page 39, strike out line 1 and all that follows down through line 12 on page 41 and insert in lieu thereof the following:

AUTHORIZATION FOR ELECTRONIC SURVEILLANCE FOR FOREIGN INTELLIGENCE PURPOSES

SEC. 102. (a) An application for a court order under this title is authorized if the President has, in writing, authorized the Attorney General to approve applications to the Special Court having jurisdiction under section 103. A judge to whom such an application is made may, notwithstanding any other law, grant an order in accordance with section 105 approving electronic surveillance of a United States person who is a foreign power or an agent of a foreign power for the purpose of obtaining foreign intelligence information.

(b)(1) If the target of electronic surveillance for the purpose of obtaining foreign intelligence information is not a United States person, such electronic surveillance may be authorized by the issuance of a surveillance certificate in accordance with subsection (c).

(2) Electronic surveillance authorized under this subsection may be authorized for the period necessary to achieve its purpose, except that—

(A) if the target of the surveillance is not a foreign power, the period of the surveillance may not exceed ninety days; and

(B) if the target of the surveillance is a foreign power, the period of the surveillance may not exceed one year.

(3) Electronic surveillance authorized under this subsection may be reauthorized in the same manner as an original authorization, but all statements required to be made under subsection (c) for the initial issuance of a surveillance certificate shall be based on new findings.

(4)(A) Upon the issuance of a surveillance certificate under this subsection, the Attorney General may direct a specified communication common carrier—

(i) to furnish any information, facility, or technical assistance necessary to accomplish the electronic surveillance in such a manner as will protect the secrecy of such surveillance and will produce a minimum of interference with the services that such common carrier provides its customers; and

(ii) to maintain any records concerning such surveillance or the assistance furnished by such common carrier that such common carrier wishes to retain under security procedures approved by the Attorney General and the Director of Central Intelligence.

(B) Any such direction by the Attorney General shall be in writing.

(C) The Government shall compensate any communication common carrier at the prevailing rate for assistance furnished by such common carrier pursuant to a direction of the Attorney General under this paragraph.

(c) A surveillance certificate issued under subsection (b)(1) shall be issued in writing and under oath by the Attorney General and an executive branch official or officials designated by the President from among those officials employed in the area of national security or national defense who were appointed by the President by and with the advice and consent of the Senate, and shall include—

(1) a statement—

(A) identifying or describing the target of the electronic surveillance, including a certification of whether or not the target is a foreign power or an agent of a foreign power; and

(B) certifying that each of the facilities or places at which the surveillance is directed is being used or may be used by a foreign power or an agent of a foreign power;

(2) a statement of the basis for the certification under paragraph (1)—

(A) that the target of the surveillance is a foreign power or an agent of a foreign power; and

(B) that each of the facilities or places at which the surveillance is directed is being or may be used by a foreign power or an agent of a foreign power;

(3) a statement of the proposed minimization procedures;

(4) a statement that the information sought is foreign intelligence information;

(5) a statement that the purpose of the surveillance is to obtain foreign intelligence information;

(6) if the target of the surveillance is not a foreign power, a statement of the basis for the certification under paragraph (4) that the information sought is foreign intelligence information;

(7) a statement of the period of time for which the surveillance is required to be maintained;

(8) a statement of the means by which the surveillance will be effected;

(9) if the nature of the intelligence gathering is such that the approval of electronic surveillance under subsecion (b) should not automatically terminate when the described type of information has first been obtained, a statement of the facts indicating that additional information of the same type will be obtained thereafter;

(10) a statement indicating whether or not an emergency authorization was made under section 105(e); and

(11) if more than one electronic, mechanical, or other surveillance device is to be involved with respect to such surveillance, a statement specifying the types of devices involved, their coverage, and the minimization procedures that will apply to information acquired by each type of device.

Page 47, strike out lines 4 through 14 and redesignate the succeeding subsections accordingly.

Page 48, line 24, strike out ", if the target is a United States person,".

Page 52, strike out lines 11 and 12 and insert in lieu thereof the following:

(2) the factual basis exists for the authorization of such electronic surveillance;

Page 52, beginning on line 14, strike out "if a judge" and all that follows through the period on line 20 and insert in lieu thereof the following: "if the otherwise applicable procedures of this title are followed as soon as practicable, but not more than twenty-four hours after the Attorney General authorizes such surveillance. In addition, if the target of such electronic surveillance is a United States person, the Attorney General or his designee shall at the time of such authorization inform a judge designated pursuant to section 103 that the decision has been made to employ emergency electronic surveillance.".

Page 52, beginning on line 23, strike out "for the issuance of a judicial order".

Page 53, line 5, insert "or a surveillance insert in lieu thereof "an".

Page 52, line 24, insert "or surveillance

Page 53, line 5, strike out "such" and certificate" after "a judicial order".

Page 53, line 6, insert "or surveillance cercertificate is not issued" after "approval is denied".

Page 59, line 3, strike out "application, order," and insert in lieu thereof "application tificate" after "order".

and order or the surveillance certificate".

Page 59, line 18, strike out "applications or orders" and insert in lieu thereof "applications, orders, or surveillance certificates".

Page 60, line 8, strike out "application, order," and insert in lieu thereof "application and order or surveillance certificate".

Page 60, line 14, insert "surveillance certificate," after "order,".

Page 68, line 12, insert "or surveillance certificate" after "order".

Mr. McCLORY (during the reading). Mr. Chairman, I ask unanimous consent that the amendments, with specific reference to amendment No. 2, be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. McCLORY. Mr. Chairman, this, it seems to me, is a very key amendment. Further, it should provide an opportunity for this chamber and for the committee to really get at the crux of this legislation.

My amendment would modify the virtual across-the-board warrant requirement, which is the measure which was passed in the Senate and which some Members do support. Assuming for the moment the need to protect the rights of U.S. persons, as indicated in my colloquy with the gentleman from Massachusetts (Mr. BOLAND), the chairman of the committee, I have serious concern over the provision of the bill which extends a judicial warrant requirement beyond situations where U.S. persons are targeted.

While the argument has been made that warrants are needed in all situations in which U.S. persons are targeted or might be incidentally intercepted, I believe that the provisions in the bill which strictly regulate the use of incidentally acquired information about U.S. persons adequately protect the privacy interests of U.S. persons. Furthermore, the balance struck by requiring a warrant only for U.S. persons better recognizes the role of the executive to protect our country from foreign aggression without undue entanglement involving another branch of Government, that is, the judiciary.

My belief is that the warrant requirement should not be extended to electronic surveillance directed at foreigners, and this is based on two alternative grounds:

First, the fourth amendment does not apply to foreigners.

Second, assuming for purposes of argument, that the fourth amendment does apply to foreigners, it is constitutionally reasonable to engage in electronic surveillance of foreigners without a judicial warrant or without judicial approval.

The fourth amendment to the U.S. Constitution provides—

> The right of the people to be secure . . . against unreasonable searches and seizures shall not be violated.

Therefore, in addressing the issue of warrantless surveillances of foreigners, one must resolve who "the people" are.

The concept of "the people" is used several times in the Constitution. It is used in the Preamble—"We, the people of the United States"—and in several parts of the Bill of Rights.

Long ago, the Supreme Court declared in the Civil Rights Cases that "The words 'people of the United States' and 'citizens' meant the same thing, both describing the political body who, according to our republican institutions, form the sovereign people and a constituent member of this sovereignty."

First, since the rights afforded by the Bill of Rights do not protect the States as States, as held in South Carolina against Katzenbach, such are surely not available to foreign nations as foreign nations.

This view is shared by the Department of Justice. While some of the lower courts appear to feel that the amendment applies to aliens as individuals, the Supreme Court has not only not repudiated its earlier statements, but it seems to have gone out of its way to avoid declaring the amendment applicable to aliens. Note that in United States against United States District Court, the Keith case, the terminal case in this area, the Supreme Court stated:

> Different standards may be compatible with the Fourth Amendment if they are reasonable both in relation to the legitimate need of government for intelligence information and the protected rights of our citizens. For the warrant application may vary according to the government interest to be enforced and the nature of citizen rights deserving protection.

In those cases where the fourth amendment applies, its single consistent demand is that Government searches and seizures be reasonable. In some cases it will demand compliance with the warrant clause. However, in other cases the legality of a particular search or seizure can be established without reference to the warrant clause—the true test is reasonableness.

As Mr. Justice Black noted in Collidge against New Hampshire:

> The fourth amendment does not require that every search be made pursuant to a warrant. It prohibits only "unreasonable search and seizures." The relevant test is not the reasonableness of the opportunity to procure a warrant, but the reasonableness of the seizure under all the circumstances. The test of reasonableness cannot be fixed by per se rules; each case must be decided on its own facts.

We know of many instances of border crossings, and even in some investigative cases, of concerns where we have administrative bodies handling them that there is no requirement to secure a warrant in order to search or seize. So it seems to me that with regard to collecting electronic surveillance, whether it is by radio or television or whatever other means, there should be no requirement to go to a court and secure a warrant. So in effect all that this amendment does, is to exclude from the warrant requirement electronic surveillance authority with respect to foreign agents

and foreign powers. If we wanted to authorize surveillance of a foreign embassy, a foreign trade mission, or a foreign agent, a foreign spy—whoever the foreign element happens to be in this country—it seems to me that for an intelligence agency to be required to go to a judicial body and to get a warrant before such an electronic surveillance could take place is so absurd as to not even require our serious consideration here today.

I am hopeful that we will have overwhelming and resounding support for this amendment.

Mr. MURPHY of Illinois. Mr. Chairman, I rise in opposition to the amendments.

Mr. Chairman, I strongly oppose the gentleman's amendments.

No administration or intelligence agency official has requested it, nor do any of them support it.

Its adoption would not only eliminate most of the protections afforded the privacy rights of our citizens, it would also deal a severe blow to one of the bill's primary purposes, which is to provide needed assurances to intelligence field agents. The Intelligence Committee has already cut back on the warrant requirement; to reduce it any further would be counterproductive.

The arguments raised against eliminating the warrant requirement altogether are equally compelling here. Neither myself, nor the Intelligence Committee, nor the Senate, nor the administration wishes to protect foreign spies, diplomats, governments, or what have you.

We all do wish to protect those whom are entitled to protection: Americans, permanent resident aliens, and intelligence agents trying to do their job.

The best way to insure their protection is with H.R. 7308's warrant process. They deserve the best protection.

Americans and permanent resident aliens are in constant contact with foreign businessmen, tourists, and athletes, and with foreign embassies, trade missions, corporations, and political organizations. The warrant requirement will insure that surveillance of the foreign person or entity is for the proper purpose of obtaining foreign intelligence information and not an attempt to acquire personal or political information about Americans.

The warrant requirement will also insure that information lawfully acquired about Americans will only be disseminated for foreign intelligence purposes. The warrant requirement will further insure that agents performing a surveillance will not be later held up to scorn and ridicule or worse and will be able to perform their duties effectively and aggressively. It should be noted that the plaintiffs in the current suit against the Attorney General and FBI personnel, arising out of the Truong/Humphrey case, are not those who were the targets of the surveillance; rather, they are American citizens whose communications were incidentally overheard pursuant to the targeting of Truong and Humphrey.

According to the intelligence agencies officials, all of these things can be done, all the protections and assurances provided, without endangering our security or impeding intelligence collection activity.

I, for one, agree with these officials. There is no reason whatsoever to doubt their judgment—or their word. They are concerned about today's intelligence collection, not last year's or that of 5 years ago.

They are concerned about the problems facing today's field agents, not with how easy things were 5 years ago.

They must also look to the future, and prepare for it with the insights today's vision provides, not with yesterday's slogans.

These officials, unlike some of those whose letters we have recently read, bear the present responsibility for protecting our security. Retirement does afford the opportunity to spout slogans and holler half-truths. But that opportunity has not come yet for those with today's responsibilities.

In short, those intelligence officials presently running our intelligence agencies support the warrant requirement of H.R. 7308.

They and I oppose the gentleman's amendment.

Mr. STRATTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the McClory amendment. It seems like a very good amendment to me.

The amendment simply says that we do not have to go through this elaborate court procedure if the target of the surveillance happens to be a foreigner or some foreign installation in the United States.

Some of us on our Armed Services Committee had the occasion to visit the Soviet Union at Eastertime. We were told there were bugs in the telephone and there were bugs in the ceiling lights. We were told to be very careful about what we said; but nobody told us that the Soviet KGB had to go to a court in order to get permission to listen in on the casual conversations of even visiting Members of the U.S. Congress.

So it would seem to me that this very simple amendment ought to be adopted.

In fact, I must say I find some of the debate on this bill, and in fact on the whole subject, suggestive of a kind of never never land. I have served for some 34 years as a Naval Reserve intelligence officer. I have long been concerned with intelligence. I think we all recognize the fact that intelligence is our first line of defense.

If one does not have the muscles to stand up against a bigger guy, he has got to have faster reflexes. He has got to make sure his eyes are good and that he can move quickly.

We have tried to maintain a minimum defense in this country in recent years, and so we are going to have to have the very best intelligence in the world. We should be aware of the fact that intelligence can do a number of important things.

We even had intelligence that the Japanese were going to be attacking us at the time of Pearl Harbor, although we messed up on that one. If it had not been for intelligence, we would not have won the battle of Midway. And the British would probably not have won the battle of Britain if it had not been for the ultra intelligence gained from listening in on what the enemy was saying. That intelligence saved the lives of a number of Britons, and indeed it saved the British Empire.

Some Members might have read the book "A Man Called Intrepid," which deals with intelligence activities in the United States prior to the outbreak of World War II and tells how President Roosevelt cooperated with the British Secret Service to protect our country, although he is reported to have said to the "Man Called Intrepid":

> If the American people knew what I was doing, I probably would be impeached.

But he helped to beat back the Nazi threat.

These are the advantages of intelligence. When we are in a wartime situation, or even a cold war situation, we have to take some unusual measures to insure our survival.

The bill we have before us today, however, is based essentially on the concept that intelligence is something bad, and that the major concern of Congress should be to prevent all those evil things that intelligence entails from happening. We went through a period recently when we were completely preoccupied with the abuses of intelligence. But let us not forget the lessons of "A Man Called Intrepid," and of "Ultra Secret."

For us to be concentrating primarily on trying to put limitations on intelligence, instead of trying to make sure that we have the best and most effective intelligence service in the world is, I think, about as sensible as putting a governor on a firetruck. Of course, if the firetruck goes too fast, it could conceivably run into somebody and have an accident.

But the purpose of a firetruck, after all, is to get to a fire in a hurry, and you cannot have an effective firetruck and at the same time put a governor on it that prevents it from going over 25 miles an hour. Yet that is precisely what we are doing here in this legislation.

To include the judiciary in the very delicate questions involved in intelligence is going to damage our intelligence performance, is going to jeopardize it. That is why a very substantial number of retired intelligence agents have come out against this bill.

Oh, they would not have spoken out if they were on active duty, just as the admirals over in the Pentagon have been told not to come out in opposition to the recent veto of the defense authorization bill. The intelligence professionals who are now in the CIA, or elsewhere, know that they cannot speak out against this bill.

The CHAIRMAN. The time of the gentleman from New York (Mr. STRATTON) has expired.

(By unanimous consent, Mr. STRATTON was allowed to proceed for 2 additional minutes.)

Mr. STRATTON. But Mr. Chairman, these intelligence professionals, active or retired, know perfectly well that to put limitations of this kind on intelligence operations and to be required to disclose everything to a court of law, is certainly going to damage intelligence production. Considering the competition we are up against, I certainly don't think we ought to be taking those risks with our intelligence.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from New York.

Mr. KEMP. I thank the gentleman for yielding.

Mr. Chairman, I want to congratulate my friend for his statement, and certainly I agree with his conclusion. I do not consider the McClory amendment anything near extreme. I think it is a very sound and responsible amendment, and I certainly support it. While we are taking steps to protect Americans from domestic intelligence sources, it seems to me, as the gentleman I know is fully aware, while the Soviets are engaging in eavesdropping on American citizens, we ought to be equally concerned about protecting American privacy from Soviet eavesdropping.

Would my friend from New York not agree with that?

Mr. STRATTON. I would certainly agree with the gentleman. I think the McClory amendment is a very definite step in the right direction. I myself would not favor this whole idea of judicial review. I think it is contrary to the whole idea that intelligence is an executive responsibility. I do not see how the British could have won their war if they would have had to go through these procedures in World War II.

Mr. KEMP. If the gentleman will yield further, would the gentleman agree it is incumbent upon us to take steps to protect American citizens from Soviet eavesdropping?

Mr. STRATTON. I certainly do think it is incumbent upon us to do that.

Mr. MAZZOLI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the McClory amendment.

It is my privilege to serve on the Committee on the Judiciary and also my further privilege to serve on the Select Committee on Intelligence and on the subcommittee headed by the gentleman from Illinois (Mr. MURPHY), the chairman of the subcommittee which produced this piece of legislation. During its very laborious and, indeed, painstaking proceedings, our committee went over this bill with a fine-tooth comb. We discussed a number of amendments proposed in good faith by the gentleman from Illinois (Mr. MCCLORY), including this particular amendment.

I would ask my chairman, the gentleman from Illinois (Mr. MURPHY), to respond to this question.

Mr. Chairman, is it not the case that the Senate bill, which, if my memory is correct, was passed 95 to 1 by the Senate, contains a warrant procedure, a warrant requirement, covering the very kinds of cases that the gentleman from Illinois (Mr. MCCLORY) would seek to exempt?

Mr. MURPHY of Illinois. That is correct.

Mr. MAZZOLI. And is my statement correct, Mr. Chairman, that that bill passed the Senate 95 to 1?

Mr. MURPHY of Illinois. The gentleman is correct.

Mr. MAZZOLI. Would that vote indicate that the Senate, which is a very important deliberative body, was satisfied that the warrant requirement which the gentleman from Illinois (Mr. MCCLORY) seeks to exempt would not cause any danger to national security?

Mr. MURPHY of Illinois. That is correct. It covers every political philosophy in the Congress.

Mr. MAZZOLI. Let me ask the chairman this further question: Is it not true that if this exemption were to be ordered by the committee that this would mean that there would be situations where American citizens would be surveilled without protection of the warrant which currently is afforded American citizens under the present bill, H.R. 7308?

Mr. MURPHY of Illinois. That is right. Not only that, but the Pike and Church committees uncovered abuses which could still occur under the very exception Mr. MCCLORY is trying to make in this amendment. For instance, an American citizen talking to an embassy; a permanent resident alien talking to a foreigner within the domestic borders of this country could be surveilled without the protection of a warrant. That is why Mr. STRATTON's reference to those two books, "Ultrasecret" and "A Man Called Intrepid" has no application to this amendment whatsoever.

This bill is confined directly to U.S. borders. What happens overseas, NSA counterintelligence or the CIA, as Mr. ROSE aptly pointed out earlier, it is open season and anything can be done.

Mr. MAZZOLI. So we are dealing only with electronic surveillance.

Mr. MURPHY of Illinois. Foreign intelligence electronic surveillance within the borders of the United States.

Mr. MAZZOLI. I thank the gentleman. I think that is an important point to make.

Let me make this further point: If we go along with the McClory proposed exemption, this does in a sense remove the protection which we seek to afford to American citizens. The protection is the existence of a warrant before that person's conversations or activities can be surveilled. That would be removed if the gentleman's amendment prevails.

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. Mr. Chairman, I was curious about the gentleman's comments that this passed the Senate by a vote of 95 to 1, and by the implementation that since the Senate passed it by 95 to 1, then obviously this House ought to follow the Senate's proposal.

Mr. MAZZOLI. I think the gentleman misunderstands me.

Mr. ERTEL. What did the Gulf of Tonkin resolution pass the Congress by?

Mr. MAZZOLI. My point in asking that question of the chairman of our committee was that when the Senate passed its wiretap bill by 95 to 1, and the Senate bill has across-the-board warrants for foreign intelligence surveillance the Senate must have felt that warrants pose no potential harm to the national security. The House is supposed to pass our own bill, but I am just saying that the other body clearly indicated that they had no qualms with warrants.

Mr. ERTEL. I suggest that the Senate has been wrong before, and by how many votes did the Gulf of Tonkin resolution pass? I would suggest that was wrong also.

Mr. MAZZOLI. I think the Gulf of Tonkin resolution is not apposite to what we are doing today.

Mr. MCCLORY. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Illinois.

Mr. MCCLORY. Mr. Chairman, I would like to point out that the 95-to-1 vote in the Senate included the material we have already excluded from this bill.

The CHAIRMAN pro tempore (Mr. EVANS of Colorado). The time of the gentleman from Kentucky has expired.

(At the request of Mr. MCCLORY and by unanimous consent, Mr. MAZZOLI was allowed to proceed for 2 additional minutes.)

Mr. MCCLORY. If the gentleman will yield further, as the gentleman from North Carolina (Mr. ROSE) pointed out, we have excluded a substantial part of the intelligence-gathering activities under the amendment which both sides have agreed upon, but which was contained in the bill which the Senate passed by a 95-to-1 vote. In other words, we are rejecting what the Senate has done because we find it inconsistent with our best national security interests. Let me also point out that this amendment we are now discussing was before our subcommittee, and it lost on a 6-to-6 tie vote—the precise amendment I am offering now.

Mr. MAZZOLI. If I could reclaim my time momentarily, I think the gentleman is also aware that after the amendment was more fully explained—there was some early lack of complete appreciation of the significance of the gentleman's amendment—I think the vote was different.

Mr. MCCLORY. I think there may have been some other pressures applied, but I know that in the course of our hearings we had Mr. Morton Halperin in the room, and I said, "This amendment would only apply if we were targeting in on, for instance, the Soviet Embassy."

But then he said, "Yes, but what if I am telephoning the Soviet Embassy?"

I said, "I am very sorry about that, Mr. Halperin, but I would like to point out that we still, in this amendment, minimize prosecution so that if somebody makes an unrelated call to the Soviet Embassy, that is minimized even if we adopt the amendment."

Mr. MAZZOLI. I am not so sure as the

gentleman, because how would it be minimized? There is no minimization procedure.

Mr. McCLORY. Oh, yes. I would just say there are minimization procedures and they would be required and they would be imposed. As far as the "Man Called Intrepid" is concerned, the headquarters was right in the RCA Building in New York City, N.Y.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I would like to know how under the bill the warrant process works.

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

(On request of Mr. VOLKMER, and by unanimous consent, Mr. MAZZOLI was allowed to proceed for 2 additional minutes.)

Mr. VOLKMER. Mr. Chairman, if the gentleman will yield further, how, under the warrant process, will my telephone call be protected to a foreign embassy that is being electronically surveiled?

Mr. MAZZOLI. That will be protected ab initio, because when the Chief Executive or the delegate of the Chief Executive, the Attorney General, goes to court to seek the warrant, in the first place he or she has to make a listing of exactly what information is to be gathered and what minimization procedure will be followed. This is all done before the tap is ever installed, before the warrant is ever issued.

Mr. VOLKMER. But wait a minute. My telephone call is going to be picked up. They will not shut it off as soon as I call. So how will it be protected?

Mr. MAZZOLI. If the court is satisfied that the kind of tap which is asked for would routinely pick up American citizen calls those conversations could be minimized away sufficiently.

Mr. VOLKMER. The gentleman is saying the court probably would not permit a wiretap by telephone on a foreign embassy? Is that what the gentleman is saying?

Mr. MAZZOLI. No.

Mr. VOLKMER. That is the case with any embassy.

Mr. MAZZOLI. I am not so sure, because when we have such an embassy as the Soviet Embassy which has trade missions and economic missions and education missions they would have all kinds of calls.

Mr. VOLKMER. Take South Yemen, for instance.

Mr. MAZZOLI. But it would all come to the judges ahead of time for their determination.

Mr. VOLKMER. Does it say the judges will take that into consideration? In what section?

Mr. MAZZOLI. I am not sure what section, but it has a full series.

The CHAIRMAN. The time of the gentleman from Kentucky (Mr. MAZZOLI) has again expired.

(By unanimous consent, Mr. MAZZOLI was allowed to proceed for 2 additional minutes.)

Mr. MAZZOLI. I will yield to the gentleman from Arizona in a moment if I may finish my point to the gentleman from Missouri.

There is a whole series of material and data which have to be submitted on the application for the warrant.

Mr. VOLKMER. But I do not find anything in there which would say if the electronic surveillance would pick up any number or amount or percentage of U.S. persons' conversations, that it should be denied. I do not find that in there.

Mr. MAZZOLI. No.

Mr. MURPHY of Illinois. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Illinois.

Mr. MURPHY of Illinois. Mr. Chairman, the situation the gentleman refers to, if he calls an embassy and he asks when is their ballet or circus coming to town, and it has nothing to do with foreign intelligence, there are provisions in this bill that provide that telephone call, that this conversation will be struck.

Mr. VOLKMER. That is not in the gentleman's amendment, I believe. I believe the gentleman has the same minimization procedure.

Mr. MAZZOLI. Mr. Chairman, let me reclaim my time and I yield to the gentleman from Arizona (Mr. RUDD).

Mr. RUDD. Mr. Chairman, I thank the gentleman for yielding, but I think the point we are trying to make is whether or not a U.S. citizen's rights would be infringed on, and I would like to put an example. Supposing a U.S. citizen does call the Soviet Embassy, or whatever embassy, and he has a legitimate request. No one wants to infringe on his rights and obviously this would be taken care of because the person would be identified and interviewed and if he said he wanted a visa, it would be dropped. But on the other hand, let us take a person who has been in deep cover for 15 years and he has not been activated and he has been wondering why he has not been contacted by the embassy espionage network, then the only way for him to go is to the principal, the Soviet Embassy to be activated.

The CHAIRMAN. The time of the gentleman has again expired.

(By unanimous consent, Mr. MAZZOLI was allowed to proceed for 1 additional minute.)

Mr. RUDD. Mr. Chairman, if the gentleman will continue to yield, let me say that in that way there would be identification of a network of Soviet spying activities.

Mr. MAZZOLI. Let me try to answer the gentleman's question.

Mr. RUDD. This does not infringe on the rights of citizens, all it does is secure the Nation in a time of grave circumstances.

Mr. MAZZOLI. I would like to answer the gentleman in two ways. One is that I do not think that people who call up the Russian Embassy to ask about the Bolshoi ballet will be picked up for interviewing. Such a call would be routinely expunged from the record and would never be brought to anyone's attention.

Second, any bill Congress would pass is going to be imperfect. You cannot cover every hypothetical concern. Although I did not support the gentleman from Illinois' amendment, the committee accepted it in order to craft the best possible bill and the most passable bill. Anything like this is imperfect. But I do think, all things considered, we have written a very good bill which deserves the support of the committee.

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendments.

Mr. Chairman, I want to quote from a very knowledgable expert in this field.

Admiral Murphy spoke very directly to this bill, and I will read specifically from his testimony. Like Admiral Turner, he said, "I am in favor of H.R. 7308," and then you start getting the "buts" and the "ifs." Here is the statement, which I am going to read:

> In the comments set out below, the department outlines a number of significant problems . . .

And I am going to read it:

> . . . with the bill not to indicate a lack of support, but to demonstrate to the committee that the compromise represented by H.R. 7308 has been reached at substantial risk to the department's intelligence operations.

I spoke a little bit earlier in the debate about witnesses sending me a telegram. That is about as great a telegram as you can get. He said in effect that there was a compromise reached by people outside of the Defense Department. He said in effect that the Defense Department is constrained to support H.R. 7308, but we think you ought to know that it has been reached at substantial risk to the Department's intelligence operations. That is what he is clearly saying.

Let me go on and quote his testimony to you:

> This overall approach has two distinct weaknesses. First, the extension of coverage beyond American citizens, corporations and associations adds substantially to the risks of compromise of important intelligence sources and methods without any concomitant benefit for Americans. It is important that Americans have the assurance that when intelligence agencies seek information through electronic surveillance of Americans, there will be a judgment made by someone outside the Intelligence Community as to the importance, relevance and necessity of that surveillance to foreign intelligence purposes. However, when the intellignece agencies seek information through electronic surveillance of foreigners who are agents of foreign intelligence services or foreign entities that are directed and controlled by foreign intelligence services, there is no benefit to Americans from requiring such a judgment from someone outside the Intelligence Community.

That is the key. He is distinguishing between Americans and foreign entities, foreign sources, something which the gentleman from Illinois (Mr. McCLORY) is trying to do in his amendment.

He went on to say this, and this is all one quote:

> In many cases, the means of communication used by these foreigners and foreign entities are totally devoted to their intelligence work against the United States and Americans would have no access to them in any case.
>
> The primary reason for extending coverage beyond American citizens and corporations to reach these foreign intelligence agents and the totally foreign organizations to which they belong or which they use is an attempt to provide an alternative to the use of the President's inherent power under the Constitution to conduct electronic surveillance without a warrant. If the bill covered only Americans, the President could exercise his inherent power, as consistent with the bill, with respect to foreigners. But by covering foreigners as well, the bill creates an alternative with a high risk and a very limited benefit for the rights of Americans.
>
> Extension of the bill to cover foreigners carries with it very substantial risks of compromise of important and highly productive intelligence sources and methods.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. ASHBROOK) has expired.

(By unanimous consent, Mr. ASHBROOK was allowed to proceed for 1 additional minute.)

Mr. ASHBROOK. Mr. Chairman, that is probably a statement from the most knowledgeable official working in the field, Adm. Daniel J. Murphy.

Mr. MURPHY of Illinois. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Illinois.

Mr. MURPHY of Illinois. Mr. Chairman, I would like to read to the gentleman an additional statement from the most knowledgeable admiral in the field. The statement to which the gentleman referred was given when the subcommittee was considering the bill. Since then, we amended it; we adopted the McClory amendment.

Here is the admiral's language after the adoption of the McClory amendment, from the "Most Knowledgeable Man in the Field," to use the gentleman's own words:

> When I appeared before the Legislation Subcommittee of your Committee, I testified that the Department of Defense supported H.R. 7308, as introduced. I also expressed our reservations about particular provisions which, in my view, posed risks to security which were not outweighed by the potential benefits to civil liberties that might be provided by those provisions.
>
> In the course of your Committee's consideration of H.R. 7308 changes were made not only to the provisions I mentioned in my testimony but also to others. These changes minimize risks to security and effect important improvements in the system under which the Department of Defense would be required to operate. I have reviewed the bill reported by your Committee and wholeheartedly support its passage. The bill would directly facilitate certain intelligence activities of the Department of Defense while at the same time protecting the privacy rights of United States citizens.
>
> Sincerely,
>
> DANIEL J. MURPHY,
> *Admiral, USN (Ret.)*

Mr. ASHBROOK. Admiral Murphy, I would say to my colleague from Illinois, was opposing it on January 10.

Mr. MURPHY of Illinois. He was speaking, in the instance cited by the gentleman from Ohio, before we adopted the McClory amendment.

Mr. ASHBROOK. Before the wagon circled.

Mr. MURPHY of Illinois. Now it is before the wagons circled. However, before the gentleman said that the admiral was the most knowledgeable man in the field.

Mr. ASHBROOK. He is still the most knowledgeable, but the most knowledgeable man in the field is constrained by policy, and administration policy very clearly is involved in this bill. His original statement is very clearly in favor of the McClory amendment. The gentleman is right. Once the wagons circled, he took that stand. In his letter, he retracted nothing, of his January 10 statement. It still stands. The amendment we adopted in committee only went part way.

Mr. MURPHY of Illinois. We adopted the McClory amendment in committee, and this is Admiral Murphy's subsequent statement. In the gentleman's own words, he is the last word on this subject.

Mr. ASHBROOK. I still think he is the most knowledgeable man in the field.

Mr. MURPHY of Illinois. If the gentleman is going to talk about the full circle, include his final letter on it.

Mr. ASHBROOK. I think that is only fair. That is right. What the admiral is saying, however, is that only a part of that gap was closed. If he had his way, he would not have warrants for surveillance of foreigners in this country. He was not satisfied before, and I think his statement stands. This is what the admiral says, as I say, before the circle was formed on the wagons.

Mr. FISH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment, offered by the gentleman from Illinois (Mr. McCLORY), to limit court issued warrants to U.S. persons.

I share the reservations expressed by my colleagues today with regard to H.R. 7308 and disagree with the administration's belief, in the words of the Attorney General, that H.R. 7308:

> Will strengthen the capability of our intelligence agencies dealing with foreign espionage.

On the contrary, Mr. Chairman, I believe that this measure as written will dangerously impede the progress of our foreign intelligence activities.

In the deliberations of the Republican Policy Committee, it was determined that the intrusion of the judicial system in the intelligence community is totally inappropriate. This is particularly true with respect to foreign spies. The provision in H.R. 7308, calling for a special Federal court to exercise primary oversight of the use of electronic surveillance, is a radical departure from the constitutional and legal precedents which have governed our intelligence activities up to now. There is no evidence of case law empowering the Federal courts to authorize or reject foreign intelligence gathering activities as proposed by the committee bill. The security of sensitive material would be seriously threatened by this unprecedented move and the resultant unnecessary delay and, more importantly, the unnecessary disclosure of sensitive information are problems which need not plague our intelligence activities.

In my judgment, the President is mistaken when he states that H.R. 7308 will establish the Nation's first legislative controls over foreign intelligence surveillance. It will establish artificial and unprecedented judicial controls over politically sensitive decisions related to intelligence gathering.

The totality of this amendment which will be offered by the gentleman from Illinois is a responsible and effective approach to foreign surveillance reform. The amendments recognize and respect the constitutional authority of the executive branch in its responsibility to protect our nation from foreign aggression. It also recognizes the appropriate congressional role in oversight by providing for the inspection of records by the House and Senate Intelligence Committees.

Deterrents to abuse are an integral part of this amendment which calls for surveillance approval in writing from the Attorney General and executive branch officials where a non-U.S. person is the target of an investigation. The McClory amendments assure responsible action on the part of those empowered to authorize foreign intelligence electronic surveillance.

Mr. RUDD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to support this important amendment.

I agree with our colleague from Illinois (Mr. McCLORY) that intelligence-gathering involving only foreign citizens associated with a foreign government should not be tied to a judicial warrant requirement.

The minimization procedures involving U.S. persons are more than adequate to protect the privacy and the rights of our own people.

It makes absolutely no sense whatsoever for our intelligence personnel to be required to obtain judicial warrants to conduct electronic surveillance against foreigners visiting our country—when those persons might have known or suspected ties to Communist governments or terrorist organizations, and are possibly involved in clandestine activities about which the President must be fully informed on a highly classified basis.

I am sure that most Americans would consider it "unreasonable" to involve the courts in such a sensitive intelligence function with solely foreign policy importance to the President and the executive branch of Government.

I urge adoption of the amendment.

Mr. BOB WILSON. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, let's face it, from its very inception H.R. 7308 was never intended to facilitate the legitimate activities of the intelligence community. In the words of one witness who testified in favor of the bill he summarized its purpose by saying:

> The basic intention underlying H.R. 7308 is to minimize, not encourage electronic surveillance.

The purpose for this Foreign Intelligence Surveillance Act was and is to protect the rights of U.S. persons against future abuses. It is only recently that the advocates have realined their priorities to now argue that the underlying purpose is to help the intelligence agencies by eliminating doubts about legality.

Mr. Chairman, the truth is we could all support H.R. 7308 if it had limited itself to providing protection for U.S. persons, those who had allegedly been abused by illegal wiretaps. But no—the bill has been broadened with onerous judicial procedures to provide extraordinary protection for foreigners, spies, embassies, trade missions, travelers, et cetera. Incidentally the kind of protection that our Government agencies and citizens do not enjoy when in foreign countries.

Mr. Chairman, there is absolutely no justifiable reason to extend the judicial warrant requirement beyond situations where U.S. persons are targeted. To quote from the official position of the Department of Defense submitted to the committee on this matter:

> The extension of coverage beyond American citizens, corporations and associations adds substantially to the risks of compromise of important intelligence sources and methods without any concomitant benefit for Americans.
>
> If the bill covered only Americans, the President could exercise his inherent power with respect to foreigners.

Accordingly, I ask your support of the gentleman's amendment.

Mr. BOLAND. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the administration opposes this amendment. I know of no one in the intelligence-collecting agencies of the Government who favors the amendment. This amendment was considered in the committee, and it was defeated.

What this amendment would do would be to delete the warrant requirements for all targets except—except U.S. persons. It sounds great; does it not? Most of the abuses, or a great number of the abuses, which occurred some years ago—and there is no sense in rehashing those years and that period, as I am sure all of us are familiar with it—a number of those abuses occurred, because it was possible to survey embassies, foreign embassies without warrants, pick up the names of American citizens, pick up information on them when they were communicating with these foreign powers and foreign embassies.

History shows and the record proves that oftentimes the information which was collected under the guise of surveilling foreign powers, foreign embassies, and consulates was used against American citizens. That is the reason why we have an across-the-board warrant in this bill. That is one of the reasons why it has been asked for not alone by the Carter administration but by the Ford administration. That is the reason why it is contained in the Senate bill, and that is the reason why the distinguished chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. RODINO) came in here under a lot of personal pressure to voice his opinion and his support of this bill.

That is the reason why they support this bill, to protect the constitutional rights of American citizens and so that the pretext of gathering information without warrants could not be used in the future.

I would think that those of us who recall history and who are familiar with what happened in the past ought to remember, and so, Mr. Chairman, on that basis I think this committee ought to reject the amendment offered by the gentleman from Illinois (Mr. MCCLORY).

The amendment has been gone over thoroughly by this committee. It has been studied by the subcommittee chaired by the distinguished and able gentleman from Wisconsin (Mr. KASTENMEIER), and it has been gone over carefully by many others, including those who are in the intelligence-collection business of our Government itself and who are interested in gathering the best intelligence to protect our national security and who are concerned with our national interests. They do not favor this amendment. Does that not say something to us? It says something to me.

Mr. MCCLORY. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. Of course, I will yield to the gentleman from Illinois.

Mr. MCCLORY. Mr. Chairman, I thank the gentleman for yielding.

I do not know of any abuses that have occurred with respect to U.S. citizens in the last couple of years. I think the references the gentleman makes are to Joseph Kraft and Mortimer Halpern, and those were not cases in which we were eavesdropping on foreign powers or foreign agents. They were indeed violations of existing guidelines at that time; they were abuses.

But we always hark back to the wiretaps in the cases of Joseph Kraft and Mortimer Halpern and one or two others that occurred more than 2 or 3 years ago but which are wholly unrelated to the subject of my amendment at this time.

Mr. BOLAND. Mr. Chairman, in response to my friend, the gentleman from Illinois (Mr. MCCLORY), let me say I am not aware of any abuses which occurres over the last couple of years. I think people have learned something from history.

But I am sure that gentleman is familiar with the abuses that have occurred, not over the last couple of years, but maybe over the last 10 or 12 years or so, all of which have been emphatically delineated by the Church committee and by the Pike committee, and all of those involved matters in this area. Certainly the gentleman is familiar with those abuses. A lot of those abuses came as a result of tapping or surveilling foreign embassies or consulates of foreign powers.

Mr. MCCLORY. Mr. Chairman, if the gentleman will yield further, it is possible that information might come with respect to intercepting communications from foreign powers which are exempted here.

Mr. BOLAND. That is what we are trying to do, I will say to the gentleman from Illinois (Mr. MCCLORY). The very fact is that when we are surveilling foreign powers or foreign embassies or foreign consulates or what-have-you, and some American citizens are involved and their names are brought out, they are caught in the trap, they are caught in the sweep of the surveillance, and they ought to be protected. This bill protects them.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. BOLAND) has expired.

(On request of Mr. STRATTON, and by unanimous consent, Mr. BOLAND was allowed to proceed for 3 additional minutes.)

Mr. STRATTON. Mr. Chairman, if the gentleman will yield, the gentleman's own committee is providing oversight and I have no quarrel to make with the committee's performance in that connection.

But the gentleman said a moment ago that some of the active intelligence officers were in support of this bill. I recall having the opportunity at the gentleman's invitation to sit in on the meetings, and when we had the heads of these intelligence agencies up in the gentleman's secure quarters discussing this bill, frankly, the impression I got was not one of enthusiasm.

What they said, the situation we are in now is chaotic because anytime anybody goes out to try to nail some foreign agent he gets arrested and has to go to court for violating some law.

Mr. BOLAND. We do not need a better argument than you are making here for the warrant. The FBI wants this.

Mr. STRATTON. If the gentleman will yield further, certainly this situation is better than what they are faced with now. But I think we need the best possible intelligence, and I do not think we will get it under this kind of an arrangement.

Mr. BOLAND. What we are trying to do is correct the situation with which we are faced now. We are losing, I think, some important intelligence, because we do not have this kind of legislation. And all of the intelligence community leaders agree with that.

Mr. STRATTON. We are trying to prevent the evils of the past, but we are forgetting about the problems of the future.

Mr. BOLAND. Let us correct the evils

of the past, because they might very well be the evils of the future.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. I yield to the gentleman from Missouri.

Mr. VOLKMER. I thank the gentleman for yielding.

Mr. Chairman, is the gentleman saying that, under the provisions of the bill, the conversation that an American citizen may have with a foreign national, whether it be a consul, embassy, or wherever, will not be recorded by whatever type of electronic device is being used, because there is a warrant being used, they are not going to be recorded, is that what the gentleman is saying?

Mr. BOLAND. Oh, yes, they are picked up and they will be recorded.

Mr. VOLKMER. They will be recorded, wherever that occurs.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. BOLAND) has expired.

(On request of Mr. VOLKMER and by unanimous consent, Mr. BOLAND was allowed to proceed for 2 additional minutes.)

Mr. VOLKMER. Then the protection that we are talking about is not preventing the recording of them?

Mr. BOLAND. That is right.

Mr. VOLKMER. Or the hearing of them by some agent at a later time. We are talking about the use of them, the dissemination and the destruction of them.

Mr. BOLAND. That is right.

Mr. VOLKMER. The difference between the two the gentleman really objects to is the fact that the McClory amendment does not provide for that destruction or the nonuse thereafter, not the actual recording?

Mr. BOLAND. The gentleman had discussions with the gentleman from Kentucky.

Mr. VOLKMER. Yes. I agree with that. The difference is that that is exactly the minimization by the court. There is a difference. And that is basically the problem the gentleman sees with the McClory amendment; is that right?

Mr. BOLAND. That is right.

Mr. VOLKMER. The question then is that if the McClory amendment provided for a certification like he has, but a minimization procedure like the gentleman has, then the gentleman would have no objection to it; is that correct?

Mr. BOLAND. Oh, no. I object to the McClory amendment because, as I have indicated, he would delete the warrant requirement for all targets except U.S. persons. He would require a warrant which would surveil U.S. persons. He would eliminate a warrant requirement for the surveillance of aliens, foreign powers, foreign embassies, consulates, or what have you. But the real problem occurs when information concerning U.S. persons is picked up. If it is a sweeping surveillance of foreign powers, foreign agencies, that is where the information with respect to U.S. persons is picked up, and that is where the damage is done.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. BOLAND) has again expired.

(On request of Mr. VOLKMER and by unanimous consent, Mr. BOLAND was allowed to proceed for 2 additional minutes.)

Mr. VOLKMER. Is the gentleman saying, then, that warrants will not be permitted in areas where U.S. citizens' conversations are involved—because 50 percent of them will be by U.S. citizens or foreign nationals here as permanent resident aliens—is the gentleman now saying that those warrants will not be issued? That is what I got from the gentleman from Kentucky, if he were the judge. I am afraid a wiretap on the telephone where there are quite a few conversations, or, let us say, a bugging device, transmitting device, is put in the reception room in the embassy where they had a lot of traffic of U.S. citizens, if he were the judge the gentleman from Kentucky would say no warrant under this policy.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

Mr. Chairman, what the gentleman from Kentucky was endeavoring to say, perhaps lamely, from the floor a moment ago, was the fact that if the judge, having received the warrant application, finds there is going to be a succession of American citizens' calls or surveillances which occur, in a sense, incidental to the issuance of the main warrant, then I think the judge would have to sit down and say, "Well, you are really actually targeting American citizens under the guise of targeting a third party, so you better come back and tell me why you do not target American citizens directly and tell me how you intend to minimize these surveillances and what information you are looking for."

I think there is an essential difference here as to the gentleman from Illinois' amendment. There, I believe any minimization to be at the sufferance of the Attorney General. Here, we are talking about court approval for minimization, which means that if the court does sense that if there is a ruse being perpetrated it can expose that ruse.

Mr. MCCLORY. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. I yield to the gentleman from Illinois.

Mr. MCCLORY. I think it should be pointed out that the minimization applies whether the McClory amendment is adopted or not. The minimization is established and is put in place by the executive. It does, under the warrant requirement, require approval by the judge. In other words, a judge is going to decide whether or not minimization procedures are adequate. If he decides they are not adequate, they could go back and maybe reprogram the whole system with regard to minimization. This seems to be an absurd position.

Mr. ERTEL. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

I would like to make a couple of points for clarification, and perhaps Mr. MCCLORY could clarify these for me.

As I understand the bill, if we are targeting foreign nationals such as a foreign embassy, a trade mission, or an agent of a foreign government, we must have a warrant which is not based on probable cause, but on some other slippery sort of concept where the court would authorize a wiretap or bug or electronic surveillance of that embassy or foreign mission. In that procedure we would have minimization so that if an American citizen were encountered as a participant in a phone conversation or in a room of a trade mission, it would be minimized as far as the extent of knowledge of his activities were concerned, and there would be a destruction order and it could not be used. Is that correct?

Mr. MCCLORY. Exactly. If it is unrelated that would apply, whether they have a warrant or do not have a warrant.

Mr. ERTEL. Under the gentleman's amendment, as I understand it, his amendment says that instead of going to the court to get a warrant which is based on a concept we are not really sure of because the bill does not set it out, that the Attorney General will actually issue a surveillance certificate saying they can surveil that foreign trade mission or embassy, or a building a foreign government owns, and he will set out in that surveillance certificate minimization procedures. He will also destroy information from American citizens; is that correct?

Mr. MCCLORY. Yes; the Attorney General is an executive officer who is required to be confirmed by the Senate.

Mr. ERTEL. The only question then is, practically everything is basically the same, except that you need a warrant when you are targeting foreign citizens under the committee bill?

Mr. MCCLORY. Exactly.

Mr. ERTEL. What we are doing then is giving the foreign embassies, the foreign trade missions, the foreign citizens, rights under our Constitution which our citizens may not, and in fact in most countries in the world, do not enjoy in those countries.

Mr. MCCLORY. The gentleman is precisely right. What we are doing under this legislation, unless my amendment is adopted, is requiring a judicial warrant to issue before we could engage in any kind of electronic surveillance. This could be by telephone, by radio, by microwave, or by telephone interception. We would require the executive department, specifically the Attorney General, to ask a judge to decide whether or not such electronic surveillance should take place.

Mr. ERTEL. Can the gentleman tell me anyplace in the world where there are American citizens receiving this kind of protection from the interception of their communications when they are in a foreign country?

Mr. McCLORY. There is no such comparable situation throughout the rest of the world. I might say that foreign powers in this country will not be subjected to this kind of restriction. We will have Americans subjected to surveillance by foreign agencies in this country, even though the Americans will not be enabled to engage in electronic surveillance of foreign agents of foreign powers without judicial approval.

We will be in a completely absurd situation unless we adopt the McClory amendment which would exclude foreign powers and foreign agents from this warrant requirement.

Mr. ERTEL. I ask one further question, if the gentleman will be good enough to respond. Under the procedure set out by the Executive order today, do we not have basically the same thing, rights with respect to the American citizens? We have to as provided in your amendment for foreign citizens have certification of the Attorney General to surveil American citizens do we not?

Mr. McCLORY. Yes; we do have that.

Mr. ERTEL. So what we are doing by this legislation is giving foreign nationals, if we do not adopt this amendment, the rights American citizens have today. We are really protecting foreign nationals, foreign people in the United States, contrary to the exclusion of rights the American people have in foreign countries?

Mr. McCLORY. We are according by statutes to the foreign nationals rights which they constitutionally do not have, and we are giving rights to foreign agents and foreign powers which are superior to the rights of U.S. persons.

Mr. ERTEL. In other words, what we are doing today is expanding the fourth amendment type protection of the American Constitution, as interpreted by the circuit courts, and extending it to protect foreign nationals.

Mr. McCLORY. Exactly.

Mr. ERTEL. I support the gentleman's amendment. I think it makes sense not to extend those protections to foreign citizens which may work to the detriment of the American people.

Mr. MURPHY of Illinois. Mr. Chairman, I rise in opposition to the amendment and I move to strike the last word.

The CHAIRMAN. Without objection the gentleman from Illinois is recognized for 5 minutes.

There was no objection.

Mr. MURPHY of Illinois. I cannot, Mr. Chairman, let that statement go by, that the fourth amendment only applies to American citizens. The Justice Department and the Attorney General in a number of instances have stated that the fourth amendment applies to everybody within the borders of the United States.

Mr. BOLAND. If the gentleman will yield, in fact the Supreme Court has said that very thing, that the fourth amendment does apply to people in the United States, to foreign visitors, teachers, athletes, and everybody else.

Mr. ERTEL. Does it apply to foreign embassies in the United States?

Mr. MURPHY of Illinois. To every person within the borders of the United States.

Mr. ERTEL. The foreign embassies I do not believe are considered to be American property.

Mr. LIVINGSTON. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendments.

Mr. Chairman, I only want to point out at this time that I am just appalled by this discussion and amazed that this matter is before the floor, such as it is.

I sincerely support the amendment offered by the gentleman from Illinois.

Being a lawyer, and a former prosecutor with about 6 years experience and having also worked as a defense attorney in several cases, I think one of the most important things that faces the future of this country is certainly our national security. What we have before us right now is a bill that would threaten that security.

We can talk about it all we want, but essentially we are saying the United States will play by the Queensberry rules when our opponents will have all the weapons available to them that they might want to throw at us. I think that flies in the face of all reason and commonsense, and I think this amendment would rectify that problem.

Mr. RHODES. Mr. Chairman, will the gentleman yield?

Mr. LIVINGSTON. I yield to the gentleman from Arizona.

Mr. RHODES. Mr. Chairman, I share the gentleman's amazement that this bill was even brought to the floor. I do not know any other nation in the world that has legislation like this to protect foreign nationals.

I might ask the gentleman from Illinois, if he will respond to the question: Is there any other nation in the world that has legislation whereby the foreign agents in that nation are protected by the laws of that nation?

Mr. McCLORY. Mr. Chairman, if the gentleman will yield, let me say there is a great deal of concern about the privacy and the protection of individuals. This is also a concern of a number of other nations, especially in Western Europe. Through our laws at the present time we have provided for the protection of the interests of privacy and provided for minimization of any incidental interception which applies with respect to U.S. persons. But there is no nation in the world which requires the Executive to go to a special court or anything resembling that in order to exercise what is an executive function. The gentleman is exactly right.

Mr. LIVINGSTON. Mr. Chairman, if I might recapture my time, might I ask the gentleman from Illinois: Is there anything in this amendment which would detract from the rights of a person under the Constitution of the United States, the fourth amendment, or any other amendment of the Constitution of the United States?

Mr. McCLORY. No. My amendment only applies to foreign agents or foreign powers. Even if that provision is retained in the bill, a warrant will be required when there is a desire to engage in electronic surveillance of a U.S. person.

Mr. LIVINGSTON. And certainly the exclusionary rule of evidence would apply to a U.S. citizen, would it not?

Mr. McCLORY. It would, yes.

Mr. ZABLOCKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of H.R. 7308, as reported by the Intelligence Committee.

H.R. 7308 as pointed out by the chairman is a complex piece of legislation carefully designed to deal with an ever more complex problem. The members of the Intelligence Committee and the Judiciary Committee and all those who had a hand in its drafting deserve our commendation and thanks. The bill as reported deals with perhaps the most important task facing this Congress—how to reconcile the often competing interests of civil liberties and national security.

Mr. Chairman, H.R. 7308 is a bill that accomplishes both objectives. Furthermore it is a bill that legitimizes much needed but often maligned intelligence collection activities while being responsive to the privacy interests of the American people. I have come to this conclusion, although at one time, as our colleague, the gentleman from Illinois (Mr. McCLORY), I had some reservations about the legislation.

Mr. Chairman, H.R. 7308 is also a bill that has drawn the support of the White House, the Justice Department, and the U.S. intelligence agencies, the American Bar Association, Common Cause, the American Civil Liberties Union, the New York Times, the Washington Post, and the Chicago Tribune.

If nothing else, this broad-based support from such divergent groups demonstrates the deliberate care taken in drafting this legislation.

Because such care was taken, we now have before us a bill that in my opinion strikes precisely the right balance in furthering both privacy interests and security interests.

Though it is the proper balance, it is a delicate balance, and any tampering with it could result in the collapse of the whole structure. The bill's opponents should know this. They also know that as we rush toward adjournment, the time of the House is precious. We are thus faced with approximately 50 proposed amendments to a bill that has already been subjected to several years of detailed study by the Congress.

No more than a handful of these amendments contain any substance, and even these few, if passed, would impair the balance—without contributing to the national security.

I would implore the committee to keep this fact in mind when debating and amending this bill. Let us not throw away this chance to pass good legislation. Let us not tell American people that this

House cannot resolve the crucial issues facing it.

This is not a partisan bill. It is a good bill that will strengthen our intelligence collection capabilities. It is worthy of our support and I urge my colleagues to reject crippling amendments and vote aye on H.R. 7308.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I thank the gentleman from Wisconsin (Mr. ZABLOCKI) for yielding to me. I appreciate the statement the gentleman has made. I might say that the precise amendment that I am offering now is an amendment for which the gentleman voted favorably in the committee. I just wondered what has transpired to change the gentleman's mind so that he now finds himself in opposition to the amendment?

Mr. ZABLOCKI. Yes, I voted for the gentleman's amendment. I am sure the gentleman will agree with me that consistency is the hobgoblin of little minds. It is not necessarily a virtue to stand fast and hold to a position and not to be pliant and change one's views or one's mind. After further study and consideration of the effect of the gentleman's amendment I changed my mind.

Mr. BOLAND. Mr. Chairman, if the gentleman will yield, before we put this particular amendment to bed I would just like to remind the members of the committee who are here that the warrant requirement for foreign embassies, or for trade missions, consulates or for whatever, that requirement which is in this bill—and I hope the members of the committee do not lose sight of this fact—is for the protection of American citizens too. I repeat, it is for the protection of American citizens.

Someone here asked whether there is any other country on the face of the globe that makes this sort of requirement? Probably not. Is there any other country on the face of the globe that has a Bill of Rights? England does not have one. They do not even have a Constitution, and a lot of the other countries do not.

I think we ought to keep our minds on the fact that the legislation requires a warrant for embassies and foreign powers where there is a likelihood that Americans will be involved, because they ought to have the protection that a warrant offers. So I hope we keep our eye on the ball.

That is precisely the reason that this bill requires a warrant for foreign embassies or trade missions or foreign powers where the likelihood of an American citizen's interests being involved is not present.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Illinois (Mr. McCLORY).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 178, noes 176, not voting 78, as follows:

[Roll No. 727]

AYES—178

Alexander
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Bennett
Blanchard
Bowen
Breaux
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burleson, Tex.
Butler
Carter
Cederberg
Clausen, Don H.
Cleveland
Cohen
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Derwinski
Devine
Dingell
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fish
Flynt
Fountain
Frenzel
Fuqua
Gephardt
Gilman
Glickman
Goldwater
Goodling
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hammer-schmidt
Heckler
Heftel
Hightower
Hillis
Holt
Horton
Hubbard
Ichord
Jenkins
Jenrette
Jones, N.C.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Lagomarsino
Latta
Leach
Lent
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Lott
Lujan
Luken
McClory
McCormack
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Mann
Marlenee
Marriott
Martin
Mathis
Michel
Milford
Miller, Ohio
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Motti
Murphy, Pa.
Myers, Gary
Myers, John
Nedzi
O'Brien
Poage
Pritchard
Quayle
Rahall
Regula
Rhodes
Risenhoover
Robinson
Rousselot
Rudd
Runnels
Ruppe
Sarasin
Satterfield
Sawyer
Schulze
Sebelius
Shuster
Sikes
Skelton
Slack
Smith, Nebr.
Snyder
Spence
Staggers
Stangeland
Stanton
Steed
Stockman
Stratton
Taylor
Thornton
Treen
Trible
Vander Jagt
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
White
Whitehurst
Whitley
Whitten
Wilson, Bob
Wilson, Tex.
Winn
Wolff
Wylie
Yatron
Young, Fla.
Young, Mo.

NOES—176

Addabbo
Akaka
Anderson, Calif.
Annunzio
Aspin
AuCoin
Baldus
Barnard
Baucus
Beard, R.I.
Bedell
Benjamin
Biaggi
Bingham
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Brademas
Breckinridge
Brodhead
Brooks
Brown, Calif.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Carr
Cavanaugh
Collins, Ill.
Conyers
Corman
Cornell
Cotter
Danielson
Delaney
Dellums
Dent
Derrick
Dicks
Dodd
Downey
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Fary
Fenwick
Findley
Fisher
Fithian
Florio
Foley
Ford, Tenn.
Fowler
Gammage
Gaydos
Giaimo
Ginn
Gonzalez
Gore
Green
Hall
Hamilton
Hanley
Hannaford
Harkin
Harris
Hefner
Holland
Hollenbeck
Holtzman
Howard
Hughes
Jacobs
Johnson, Calif.
Jones, Okla.
Jordan
Kastenmeier
Keys
Kildee
Kostmayer
Krebs
LaFalce
Le Fante
Lederer
Levitas
Long, La.
Long, Md.
Lundine
McCloskey
McFall
McHugh
Maguire
Mahon
Markey
Marks
Matsox
Mazzoli
Meeds
Metcalfe
Meyner
Mikulski
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Murphy, Ill.
Murtha
Myers, Michael
Natcher
Neal
Nix
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Perkins
Pickle
Pike
Preyer
Price
Pursell
Railsback
Rangel
Reuss
Rinaldo
Rodino
Roe
Rogers
Roncalio
Rose
Rosenthal
Roybal
Russo
Ryan
Santini
Scheuer
Schroeder
Seiberling
Sharp
Simon
Solarz
Spellman
St Germain
Stark
Steers
Stokes
Studds
Thompson
Traxler
Tucker
Udall
Van Deerlin
Vanik
Vento
Waxman
Weaver
Weiss
Whalen
Wright
Yates
Zablocki
Zeferetti

NOT VOTING—78

Abdnor
Ammerman
Armstrong
Ashley
Bellenson
Bevill
Burke, Calif.
Burke, Fla.
Burke, Mass.
Byron
Caputo
Chappell
Chisholm
Clawson, Del
Clay
Cochran
Cornwell
Dickinson
Diggs
Dornan
Duncan, Oreg.
Erlenborn
Evans, Colo.
Fascell
Flippo
Flood
Flowers
Ford, Mich.
Forsythe
Ashley
Fraser
Frey
Garcia
Gibbons
Hansen
Harrington
Harsha
Hawkins
Huckaby
Hyde
Ireland
Jeffords
Johnson, Colo.
Kasten
Krueger
Leggett
Lehman
Mikva
Miller, Calif.
Moss
Murphy, N.Y.
Nichols
Pattison
Pepper
Pettis
Pressler
Quie
Quillen
Richmond
Roberts
Rooney
Rostenkowski
Shipley
Sisk
Skubitz
Smith, Iowa
Steiger
Stump
Symms
Teague
Thone
Tsongas
Ullman
Wiggins
Wilson, C. H.
Wirth
Wydler
Young, Alaska
Young, Tex.

Messrs. BREAUX, DINGELL, and BRINKLEY changed their vote from "no" to "aye."

So the amendments were agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MURPHY OF ILLINOIS

Mr. MURPHY of Illinois. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MURPHY of Illinois: On page 38, after line 24 add the following:

(o) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and any territory or possession of the United States.

Mr. MURPHY of Illinois. Mr. Chairman, this is essentially a technical amendment intended to correct an omission in the language of the committee reported bill.

The bill contains several references to "state", but the term was nowhere defined therein. A definition is necessary

since the District of Columbia, Puerto Rico, and territories and possessions are not usually encompassed by the word "State".

It is my understanding that the gentleman from Illinois (Mr. McCLORY) does not oppose this amendment.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of Illinois. I yield to my colleague from Illinois.

Mr. McCLORY. Mr. Chairman, we have examined the amendment. It is a technical amendment, as the gentleman states, and there is no objection to the amendment.

Mr. MURPHY of Illinois. I appreciate the gentleman's remarks.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. MURPHY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. M'CLORY

Mr. McCLORY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLORY: Page 32, strike out lines 4 through 25 and insert in lieu thereof the following:

(2) any person who—

(A) knowingly engages in clandestine intelligence activities for or. on behalf of a foreign power under circumstances which indicate such activities are or may be contrary to the foreign policy or security interests of the United States;

(B) knowingly engages in sabotage or international terrorism, or activities in preparation therefor, for or on behalf of a foreign power; or

(C) conspires with or knowingly aids or abets any person to engage in any activity described in subparagraph (A) or (B).

Mr. McCLORY. Mr. Chairman, what this amendment does is to eliminate the criminal standard with respect to intelligence-gathering activities, and to substitute language which provides that where a person is engaged in clandestine intelligence activities, whether he is a U.S. person or not, under circumstances which would indicate that his activities would be contrary to the foreign policy or security interests of the United States, that nevertheless he can be subjected to electronic surveillance.

This amendment, is important not only because it strikes from the bill wording which could negatively impact on our intelligence agencies' abilities to gather foreign intelligence information, but also because it would modify the tone of the bill so that it would be in keeping with its purpose—that is not to enforce Federal criminal statutes, but rather to regulate the use of electronic surveillance to gather foreign intelligence information.

Just as with the warrant procedure, the need for a criminal standard is nowhere to be found in the Constitution when the Government seeks to gather foreign intelligence information. The Supreme Court has recognized as recently as this past term in a case involving OSHA searches—Marshall against Barlows, Inc.—that the fourth amendment's probable cause provision does not require that all warrants be based on a finding of probable criminal activity.

Therefore, if a warrant is not required for this type of electronic surveillance—as the proponents of H.R. 7308 apparently admit—and if, as the Supreme Court has recognized—and as Attorney General Bell has testified—a warrant without a criminal standard can comport with the fourth amendment, then including in this bill a warrant requirement with a criminal standard is simply piling one overprotection and unnecessary requirement on top of another.

One very puzzling aspect of the genesis of the criminal standard in this bill is that when the other body was considering this bill's companion—S. 1566—in its Judiciary Committee Attorney General Bell testified that he opposed the criminal standard and posited six hypothetical situations in which it was the position of the Justice Department that a criminal standard would preclude the otherwise legitimate use of foreign intelligence electronic surveillance.

Judge Bell also testified against the criminal standard before the other body's Intelligence Committee:

When a United States person furtively, clandestinely collects or transmits information or material to a foreign intelligence service pursuant to the direction of a foreign intelligence service and where the circumstances surrounding this activity indicate that the transmission of the material or information would be harmful to our security or that the failure of the government to be able to monitor such activity would be harmful to the security of the United States, then I believe that whether or not that activity is today a violation of our criminal statutes, the Government has a duty to monitor that activity to safeguard the security and welfare of the Nation. There is a certain danger in extending the criminal law, the purpose of which is to prosecute, convict and normally incarcerate the perpetrator, merely to satisfy the priniciple that electronic surveillance should not be undertaken absent a criminal violation.

Apparently the Justice Department now supports a criminal standard though I am unaware of any public statement made by the Department that its past statements were in error.

If a criminal standard was unwise then because it precluded under certain circumstances the legitimate use of foreign intelligence electronic surveillance, then it seems to me that it is still unwise.

Now, it is clear to those who understand intelligence activities and capabilities that most intelligence relates not to criminal activities, but solely to the subject of gathering information which may be useful to our Nation. This kind of information may relate to the condition of the crop year or the harvest in some foreign country. It may relate to the development of some kind of a foreign aircraft or a new type of arms.

It does not necessarily relate to any criminal activity. Consequently, all that this amendment does is to eliminate the criminal standard with respect to electronic surveillance. It seems to me this is essential for the conduct of our intelligence activities, and that this is an amendment that should be adopted by the committee.

I know that the subject of a criminal standard is one that is sought by some of the civil liberties groups. They feel that no intelligence activity should be carried on unless a crime has been committed or is about to be committed. If we defer all intelligence gathering until somebody is about ready to commit a crime, we are going to be left without information which we need for our own national protection. It seems to me this is a vital amendment, which will make this a much better bill.

I might say the amendment we have already adopted enables this legislation to coincide with the recommendations of the former Director of the CIA, Bill Colby, and many others who have given attention to this subject. The fact that we will not require a warrant with regard to the targeting of foreign embassies and foreign powers is an intelligent decision for this body to make, and it would likewise be intelligent for us to decide not to require a criminal standard in order to gather intelligence information which might be useful to our own protection.

Mr. MANN. Mr. Chairman, I rise in opposition to the gentleman's amendment. The so-called criminal standard contained in H.R. 7308 represents a reasonable and proper solution to a complex problem, a problem which at one time seemed insoluble.

As introduced both in the Senate and the House, this legislation would have authorized a judge to approve the wiretapping of American citizens and permanent resident aliens even though no connection whatsoever with possible criminal activity had been demonstrated. This provision was adamantly opposed, and rightly so, by those who either felt that it was unconstitutional or felt as a matter of principle that there should be a higher standard for searching American citizens and permanent resident aliens.

On the other hand, both Attorney General Levi and Attorney General Bell, as well as many Members of Congress, were just as adamant, and again rightly so, in their belief that a rigid criminal standard would prevent the FBI from conducting much of the investigatory work which is so essential in counterintelligence activity.

This issue came to a head just as the House and Senate Intelligence Committees were preparing to begin markup on this legislation. After several weeks and many hours of discussion among the Attorney General, the FBI, the House and Senate Intelligence and Judiciary Committees, and civil liberties groups, consensus agreement was reached, one that in my judgment strikes that elusive and delicate balance between protecting individual liberties and giving our intelligence agencies the tools they need to protect our country. That agreement is reflected in the committee reported language. It is language which is acceptable to civil liberties groups and which is preferred by the FBI.

The provision contains two sections. The first section deals with U.S. persons who are engaged in "clandestine intelligence gathering activities," meaning espionage. As the Intelligence Committee report notes:

Probably the most critical term in this provision is "clandestine intelligence gathering activities." It is anticipated that most clandestine intelligence gathering activities will constitute a violation of the various Federal criminal laws aimed at espionage either directly or by failure to register. . . . The term "clandestine intelligence gathering activities" is intended to have the same meaning as the word espionage in normal parlance, rather than as a legal term denoting a particular criminal offense. The term also includes those activities directly supportive of espionage such as maintaining a "safehouse," servicing "letter drops," running an "accommodation address," laundering funds, recruiting new agents, infiltrating or exfiltrating agents under cover, creating false documents for an agent's "cover," or utilizing a radio to receive or transmit instructions or information by "burst transmission."

To authorize the wiretapping of U.S. persons suspected of engaging in such activity, the judge must find probable cause to believe that the activity "may involve" a criminal violation. This is a great deal less than the probable cause required to obtain a law enforcement search warrant. There is no requirement that the person be actively engaged in the commission of a crime, or even that he is about to be so engaged.

What type of criminal might be encompassed in this standard?

This is what led Senator GARN to note the following during Senate floor debate on S. 1566, and I quote:

Mr. President, many of us have been concerned that the adoption of a criminal standard would make it impossible for the FBI to get a court order for surveillance of people obviously engaged in traditional spying activity. For example the FBI might observe someone making "drops," and then known Soviet intelligence agents coming along and picking up what was dropped. This is traditional spying tradecraft, but the FBI cannot determine what information is being secretly transmitted to the intelligence agents. That is the kind of case where a judge might not find probable cause that a specific crime is about to be, or will be, committed. However, the standard requiring probable cause that the activity may involve a crime would allow surveillance in such cases. Therefore, I support the new standard because it provides enough flexibility to deal with the real problem faced in counterintelligence investigations. I agree with my colleagues that the standard is intended to deal with what we traditionally call spying activities.

This point is further elaborated in the language of the report of the House Intelligence Committee, and again, I quote:

This "may involve" standard replaces the previous noncriminal standard which appeared in H.R. 7308, as introduced. Both the former provision, and the "may involve" standard, address the same problem. The committee has concluded that it is necessary in order to permit the Government to investigate adequately in cases such as those where Federal agents have witnessed "meets" or "drops" between a hostile foreign intelligence officer and a citizen who might have access to highly classified or similarly sensitive information; information is being passed, but the Federal agents have been unable to determine precisely what information is being transmitted. Such a lack of knowledge would of course disable the Government from establishing that a crime was involved or what specific crime was being committed. Nevertheless, the Committee believes that the circumstances might be such as to indicate that the activity may involve a crime. The crime involved might be one of several violations depending, for example, upon the nature of the information being gathered.

In addition to the espionage and the foreign agent registration laws, other criminal laws whose possible connection to the U.S. person's activities would justify a wiretap under the "may" standard are the interstate transportation of stolen property statute and the Export Administration Act. Thus, those engaged in collecting industrial or technological information which, if disclosed to a foreign power, might present a threat to the national security, could be wiretapped.

The second section of the "criminal standard" deals with U.S. persons engaged in "other clandestine intelligence activities," that is, activity other than those connected with spying or espionage. As has been pointed out, these other activities are meant to include covert actions, propaganda, lobbying, and other actions designed to influence events in this country. As was noted by former Director Colby in his testimony before the Judiciary Committee, this is a gray area where it is sometimes difficult to distinguish between legitimate activity protected by the first amendment and unprotected intelligence operators. For this reason, the standard here is higher, and the judge must find probable cause that the actions of the U.S. person "involve or are about to involve" a criminal violation.

Obviously, this standard would be more difficult to meet. However, the FBI has repeatedly stated that it has no objection to this provision. The Bureau is almost totally concerned with intelligence gathering and the lower standard of "may involve" is thus applicable to the area of greatest need for counterespionage coverage.

In summary, I believe that the criminal standard as reported by the Intelligence Committee, as does the whole bill, fully protects both our civil liberties and our national security, and I oppose any attempt to change it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. McCLORY).

The amendment was rejected.

AMENDMENT OFFERED BY MR. DRINAN

Mr. DRINAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DRINAN: Page 40, strike out lines 9 through 23 and insert in lieu thereof the following:

(3)(A) The Attorney General may not require any communication common carrier to provide the Government with any information, facilities, or technical assistance with respect to any electronic surveillance authorized under this subsection.

(B) Any communication common carrier voluntarily providing any such information, facilities, or technical assistance—

(i) shall maintain any records concerning the surveillance or any such assistance which such common carrier wishes to retain under security procedures approved by the Attorney General and the Director of Central Intelligence; and

(ii) shall be compensated for providing such information, facilities, or technical assistance by the Government at the prevailing rate.

Page 50, strike out lines 3 through 21 and insert in lieu thereof the following:

(B) that any communication common carrier, supplier of communications facilities or devices, landlord, custodian, or other person voluntarily providing to the Government any information, facilities, technical assistance, or access to premises with respect to the electronic surveillance shall maintain any records concerning the surveillance or any such assistance which such person wishes to retain under security procedures approved by the Attorney General and the Director of Central Intelligence; and

(C) that any such communication common carrier, supplier of communications facilities or devices, landlord, custodian, or other person voluntarily providing to the Government any information, facilities, technical assistance, or access to premises with respect to the electronic surveillance shall be compensated therefor by the Government at the prevailing rate.

Page 55, after line 22, insert the following new subsection:

(h) An order under this section authorizing electronic surveillance may not require any communication common carrier, supplier of communications facilities or devices, landlord, custodian, or other person to provide the Government with any information, facilities, technical assistance, or access to premises to accomplish the authorized surveillance.

Mr. DRINAN. Mr. Chairman, this amendment removes those provisions of H.R. 7308 which grant to the Government the unprecedented authority to compel private citizens and corporations to provide unlimited assistance to intelligence agencies in all electronic surveillance related to foreign intelligence.

This amendment is commonly referred to as a "conscience clause," as it will permit any individual or corporation to follow its conscience and refuse to provide assistance to the Government in its surveillance activities. While every citizen owes some degree of loyalty to the U.S. Government, it is inconceivable that this loyalty extends so far as to embrace all matters related to electronic surveillance. The Government may spy if it must, but it does not have the right to force private citizens to help.

The Bell Telephone System strongly objects to this open-ended Government authority to force private individuals and corporations to provide assistance in surveillance activities. The Bell System has stated:

Certain language in the pending Senate and House bills could be interpreted to require greater telephone company involve-

ment such as: the placing of all cross connections; the furnishing of monitoring equipment; the use of telephone company identification cards to gain access to customer premises; or even the use of telephone company personnel. We feel that such a direct role in electronic surveillance is in drastic conflict with our responsibility for safeguarding the privacy of our customers.

As presently worded, section 102 of H.R. 7308 gives the intelligence agencies a blank check with which they can elicit any kind of assistance they desire from private citizens. This is in contrast with the kind of authority which the Government possesses in its domestic electronic surveillance. There, the Government can require the provision of information as to cables and terminals and, when requested by the Government, a private line channel from the terminal serving the telephone line under investigation to a terminal serving the listening post used by law enforcement personnel. The same standard applies to foreign intelligence surveillance, based upon authorizations by the Attorney General.

Section 102 would give the intelligence agencies the power to compel telephone company personnel, private security officers, or others to actually install, connect, and operate the electronic listening devices. The Bell Telephone Co. clearly does not wish to become an active partner with the intelligence agencies. Their objections to the language of section 102 of H.R. 7308 cannot be discounted.

In a more general sense, there is serious doubt as to the need for the broad authority to compel assistance from private citizens which H.R. 7308 provides to the Government. An individual or corporation which objects on moral or other grounds to a request by the Government for aid in the establishment or operation of a wiretap should, if at all possible, be able to refuse. In most instances, the Government could find another individual to provide the needed assistance. The only exception which comes to mind is the telephone company, which has already demonstrated its willingness to help in the provision of access to cables and terminals. Removal of the compulsory nature of section 102 would not seriously jeopardize the ability of the Government to conduct surveillance, but it would remove a potentially dangerous capability to force citizens to aid in wiretapping.

Mr. Chairman, we are all familiar with the very strong feeling by the American people that Government has become too large and too intrusive into their lives. If we are really serious about limiting unnecessary intrusions by the Federal Government, we will adopt this amendment and remove the very objectionable and intrusive power which H.R. 7308 grants the intelligence agencies.

Mr. MURPHY of Illinois. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it is no secret the gentleman who offers this amendment considers electronic surveillance of any kind to be "dirty business." He has said this on many occasions. His position is well known. He now offers what he calls a conscience clause to this legislation.

In effect, he has put the decision as to whether or not foreign intelligence information will be collected not with the President, not with the judge, but with private telephone companies or landlords or other people who have been ordered to cooperate with the Government. It should be self-evident that if common carriers or other persons cannot be compelled to help the Government in conducting lawful foreign intelligence surveillances, such needed intelligence will not be collected in this country. That result is not in the interest of the Government nor of the individuals which this amendment purports to protect nor of the protection of civil liberties.

Taking the last point first, the Government cannot be assured of the cooperation of common carriers and others under this amendment. The result will be many more inadvertent interceptions as agents search for the right wire. That is exactly what the gentleman seeks to avoid, among other things.

Mr. Chairman, the telephone company and others have not asked for this amendment. They are willing to cooperate with the Government on the basis of a statutory warrant. The bill gives them immunity if they cooperate under the terms of a court order or Attorney General's order. If, however, they are given the opportunity to determine whether they will cooperate or not, can it be said that they retain their immunity since they cooperate, if at all, under their own volition? Further, this amendment removes any directive language from an order under the bill. Yet, the immunity clause is tied to the order. It just does not make sense.

Mr. Chairman, this amendment also eliminates the requirement that surveillances under this bill be accomplished in such a manner as to protect their secrecy. I am sure that there is no doubt in the minds of Members that these surveillances involve very sensitive national security matters which must be safeguarded from compromise. Eliminating this language puts in doubt whether or not they will remain secret and must be opposed.

Mr. Chairman, the effect of this amendment is not to significantly improve any rights or privileges for U.S. citizens. On the contrary, what it really does is make it possible that inadvertent surveillances of U.S. persons will occur and that important foreign intelligence information will not be collected. That combination is a very objectionable one, and on those grounds, I urge its defeat.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of Illinois. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

I would just like to commend the gentleman on his statement. I think he made a series of very important points in opposition to the gentleman's proposal. I think one of the most important is the immunity which is granted to these individuals, the landlords, and the telephone people. It might be well for the gentleman to emphasize to the House that these people, if they follow the instructions in the warrant, Mr. Chairman, are exempt from any liability; am I correct?

Mr. MURPHY of Illinois. If they perform their duties in good faith pursuant to the warrant, they are protected under the bill.

Mr. MAZZOLI. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. DRINAN).

The question was taken; and on a division (demanded by Mr. DRINAN) there were—ayes 6, noes 35.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer my amendment No. 4 which appeared in the RECORD on August 2, 1978.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: Page 33, line 3, insert "or property" after "life".

Mr. ASHBROOK. Mr. Chairman, my amendment would expand the definition of "international terrorism" by describing it in terms of "acts dangerous to human life and property." The definition, as presently written, only refers to acts "dangerous to human life."

Terrorism is a violent act against noncombatants for a political purpose. However, it does not have to be against a person. Terrorism can also involve violent acts directed toward property. For instance, if a terrorist group threatened to blow up the Washington Monument unless certain actions were taken by the U.S. Government, this activity should be considered under the definition as "terrorism." In addition, the group that bombs an empty building today, could bomb an inhabited one tomorrow. The intelligence agencies should not be prevented from electronic surveillance because no one has been killed yet.

Mr. MURPHY of Illinois. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the committee has examined this amendment. We have been in consultation with members of the Committee on the Judiciary and members of the Permanent Select Committee on Intelligence, and we neither support nor oppose the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment entitled "amendment No. 1," which also appeared in the August 2, 1978, CONGRESSIONAL RECORD.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: Page 31, line 17, strike out "or".

Page 32, after line 3, insert the following new subparagraph:

"(C) There is a reason to believe has information which relates to the foreign policy or security interests of the United States; or".

Mr. ASHBROOK. Mr. Chairman, the purpose of this amendment is to enable our intelligence services to gather information from foreigners who may have information that relates to the foreign policy or security interests of the United States.

There is no expectation by most foreigners that their electronic communications are secure in their own countries, let alone this one. Positive intelligence gathering is a common practice all over the world. There is no reason that our country should be denied this valuable tool.

I am not suggesting in any of my amendments that the intelligence agencies must target everyone who falls into a particular category. Only that they have the opportunity where necessary. I want to make sure that we do not lose vital intelligence because the person holding it falls through the cracks in this legislation. Under this bill those activities not specifically permitted are forbidden. Therefore, the authorization should be broad enough to cover any eventual need for intelligence purposes.

Mr. MAZZOLI. Mr. Chairman, I rise in opposition to the amendment.

H.R. 7308 contains two standards authorizing surveillance of agents of foreign powers who are not U.S. persons, neither of which requires a nexus with criminal activity.

Section 101(b)(1)(A)—page 31, lines 16 and 17—defines an agent of a foreign power as any non-U.S. person who acts in the United States as an officer, member, or employee of a foreign power. All the court does is determine if the person is in this status.

Section 101(b)(1)(B)—page 31, lines 18 to 25; page 32, lines 1 to 3—authorizes surveillance of a foreign visitor if the country for which the visitor acts engages in clandestine intelligence activity in the United States, and the foreign visitor is in a class that in the past has engaged in intelligence activities in the United States, or other circumstantial or direct evidence can show that the foreign visitor may engage in such activities in the United States. No specific showing has to be made about the activities of the particular foreign visitor to be surveilled. Thus, for example, a Soviet seaman entering one of the many U.S. ports open to him could be surveilled upon no other showing than that he is a Soviet seaman.

The gentleman's amendment would go further and allow surveillance by electronic means of any foreigner visiting the United States upon no other showing than someone's "reasonable belief" that the visitor has information relating to the foreign policy of the United States.

This is no standard at all. What, in today's world, does not relate to the foreign policy of the United States? Does not every conversation a Member of Congress has with a prominent foreign visitor relate to the foreign policy of the United States?

I oppose the gentleman's amendment.

In the first place, the existing executive branch guidelines, authored by Attorney General Levi, do not permit such indiscriminate surveillance of foreign visitors. The FBI does not now engage in such indiscriminate surveillances, has not for a long time, and does not now wish to do so. It has not asked for this amendment. In fact, the existing language was inserted at the insistence of the Bureau.

Second, such surveillances are largely nonproductive and not worth the expense and manpower involved. Any useful information that the nongovernment related foreign visitor may possess can better be obtained by means other than electronic surveillance conducted in the United States.

Third, there is the basic policy issue of whether the United States wishes to announce to all nations that any of their citizens visiting our shores, for whatever purpose, will be subjected to indiscriminate electronic surveillance. To answer that the Russians do it is to beg the questions, and it suggests our willingness to suspend those attributes of our democracy that in fact distinguish us from the Russians.

Fourth, to lower the bill's standards to authorize a surveillance of any foreign visitor "reasonably believed" to possess information relating to the national security or foreign relations of the United States is to suggest no standard at all, and would undermine a basic purpose of the legislation—to establish objective legislative standards to guide the actions of both executive officials and judges.

The amendment is not necessary.

It runs counter to bill's purpose to help restore integrity to actions of intelligence agencies.

Finally, as was the case in the Senate, the existing provision was written in direct response to FBI testimony.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. I thank the gentleman for yielding, and I asked the gentleman to yield so that I could ask him a question, actually, because, tracking the Ashbrook amendment with the recently adopted McClory amendment, the recently adopted McClory amendment takes non-U.S. persons out of foreign protection, throws them in this category, in any event, and I suspect that this is a totally meaningless, useless addition to the language of the bill.

Mr. MAZZOLI. Mr. Chairman, I think that is an interesting point which the gentleman brings up. I think it makes a further case. To sum up my time, Mr. Chairman, we have tried—and the gentleman from Ohio was there—to draft a bill which would leave the judges in the special court in a position where they had severe and understandable and focused guidelines to which they could refer in determining the status of an individual, foreign power, U.S. person, visitor, what have you. I think the gentleman would expand that to sort of a subjective situation rather than the objective situation which we attempted to draft in our bill. We place the judge in the position of trying to crawl inside his head to find out what he is in America for, and I think it makes it much more difficult for the judge on the special court to do his job.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding because I particularly wanted to respond to what my very learned colleague, the gentleman from Wisconsin (Mr. KASTENMEIER), has stated. There is only one problem with his argument.

The CHAIRMAN. The time of the gentleman from Kentucky (Mr. MAZZOLI) has expired.

(By unanimous consent, Mr. MAZZOLI was allowed to proceed for 2 additional minutes.)

Mr. MAZZOLI. Mr. Chairman, I yield further to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Chairman, there are two tracks to the bill, one relating to warrants and one relating to purposes for which there could be surveillance.

The McClory amendment changed the portion which related to warrants, but you still have standing those individuals or entities who can be surveilled, and that is why I am adding this. So it certainly is not meaningless. Without this amendment, as I read the bill, you would not be entitled to surveil them because they do not come under the area where you are authorized. That is the thing that bothers me most about this legislation. Anything which is not specifically authorized is prohibited. My amendment would authorize the surveillance of foreign nationals where the intelligence-gathering agency has reason to believe that they have information which relates to our security interests or which relate to espionage.

Mr. MAZZOLI. Mr. Chairman, without predetermining what the gentleman from Wisconsin might say in rebuttal, I would say that the amendment of the gentleman from Ohio might be understandable to him, and I am sure it could, if he were on the special court or in charge of these, be quite easy to apply subjectively.

But, it does seem to me that there is some very broad language in this amendment which is subjective and which require value judgments on the part of the individual who would be in charge of the warrant process or the surveillance. I think that is all we endeavored to avoid. I think we attempted to avoid that in the way we drew the bill, so that there would be very few opportunities to have subjective judgments, but there would be a referral to the guidelines.

Mr. ASHBROOK. What my colleague has said is absolutely correct. I think the only problem, looking at it from the intelligence gathering operations viewpoint, is that we cannot possibly put them in a position of having to know what they are going to get before they

get it. Intelligence quite often is something that comes about piece by piece, and I do not think we can require that they absolutely know.

Mr. McCLORY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I think one of the most significant statements that has been made and one of the most important efforts which has been undertaken, at least as expressed by the majority of the committee, is that this a carefully crafted and a very carefully worked out piece of legislation. It seems to me the amendment offered now by the gentleman from Ohio really fills an obvious defect, an omission in the bill which on careful consideration should be included at this time.

This was brought out very forcefully to the subcommittee chaired by the gentleman from Wisconsin (Mr. KASTENMEIER) when the former Director of the CIA, Mr. Colby, appeared before the committee. He pointed out, as the gentleman from Ohio has pointed out, that if this is to be the legislation authorizing electronic surveillance of foreign agents and foreign powers, as the bill is now amended, then of course we should include these individuals, these officers, and these other persons who otherwise are excluded from the legislation. Mr. Colby stated in his testimony before the Judiciary Committee, as follows:

> The principal responsibility of our intelligence services is to learn and understand the political, strategic, economic, and sociological forces, factions and dynamics in the world around us . . . large numbers of citizens of such nations visit the United States and have information of this type in their minds. To the extent that these secrets are not available openly, I believe it only wise and prudent to endeavor to obtain such information from them clandestinely here in America rather than going abroad to search for it.

It is important to note that a change in the definition of "agent of a foreign power" to allow positive intelligence gathering does not mean that every friendly foreign tourist or businessman would be subject to electronic surveillance in the United States. Information about free and open countries can be collected through perfectly normal means of inquiry, through publications and otherwise, but it is only when these nations engage in secreting their information that we have to indulge in electronic surveillance.

So, that is why it is extremely important to our intelligence agencies that the definition of foreign agents be enlarged, as the amendment offered by the gentleman from Ohio would do, so that this legislation may truly assist our intelligence agencies.

It is certainly not going to adversely affect any interest whatever of any American citizen or any U.S. person. It is only directed at foreign agents, and it seems to me to limit the definition to the extent that we might be limited from engaging in legitimate electronic surveillance, especially with regard to important information we should have. I would hope that the amendment would be accepted by the majority.

Mr. Chairman, a serious flaw exists in the definition of "agent of a foreign power" in that officers and employees of a foreign power not so acting in the United States are excluded from the definition. In the Intelligence Committee's report on the definition, it is clearly spelled out that this omission is deliberate, as noted on page 34:

> The definition excludes persons who serve as officers or employees or are members of a foreign power in their home country but do not act in that capacity in the United States * * * It is not intended to encompass such foreign visitors as professors, lecturers, exchange students, performers or athletes * * * The term "member" means an active knowing member of the group or organization which is a foreign power. It does not include mere sympathizers, fellow travelers, or persons may have merely attended meetings of the group or organization.

This exclusion precludes executive officials from collecting valuable positive foreign intelligence in the United States from foreign scientists, professors and businessmen, and so forth. There is no evidence that any other foreign country so limits its intelligence capabilities, and, in fact, we do not so limit out capabilities abroad.

Former CIA Director, William Colby, in testimony before the Subcommittee on Courts, Civil Liberties, and the Administration of Justice, pointed out that intelligence has the important function of collecting positive information through the fortuitous presence here of foreigners. As Mr. Colby stated:

> The principal responsibility of our intelligence services is to learn and understand the political, strategic, economic, and sociological forces, factions and dynamics in the world around us * * * large numbers of citizens of such nations visit the United States and have information of this type in their minds. To the extent that these secrets are not available openly, I believe it only wise and prudent to endeavor to obtain such information from them clandestinely here in America rather than going abroad to search for it.

It is important to note that a change in the definition of "agent of a foreign power" to allow positive intelligence gathering does not mean that every friendly foreign tourist or businessman would be subject to electronic surveillance in the United States. Information about free and open countries can be collected through perfectly normal inquiry and assembly of publications, involving no clandestine effort whatsoever. Thus electronic surveillance would only be needed with respect to countries in which such material is held in secret.

It is clear that the exclusion of officers and employees from the definition of "agent of a foreign power" does nothing to protect the rights of American citizens, while it does, in fact, severely handcuff the Nation's foreign intelligence gathering capabilities. I, therefore, urge my colleagues to support the amendment that would allow positive intelligence gathering by the United States.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I appreciate the gentleman yielding, and I appreciate the sincere efforts he has been making over these past few months at trying to write a bill, but would the gentleman not agree virtually any foreign visitor to the United States from any foreign land whatever would under the terms of the gentleman's amendment be subject to surveillance?

Mr. McCLORY. I would say only to the specific extent the definition is enlarged. It seems to me we do want to include those individuals and engage in surveillance of them. It expands the definition and enlarges the scope for the intelligence agencies, as former Director Colby called to our attention we should do.

Mr. MAZZOLI. If the gentleman will yield further, with all due regard to Director Colby, that is his profession, and I would think any intelligence officer would want to include anybody in the universe that he could.

Mr. McCLORY. Let me point out that Mr. Colby is not in support of my substitute bill. He would support the amendment that the House has adopted but he would support this as well.

Mr. MURPHY of Illinois. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the existing Attorney General's guidelines do not permit the indiscriminate surveillance of foreign visitors that would be authorized by the Ashbrook amendment. A 1976 Justice Department memorandum states that the current policy of the Attorney General is to authorize warrantless electronic surveillance only when it is shown the subjects are the active conscious agents of foreign powers. This was the policy of former Attorney General Levi and it is the policy of the present Attorney General Bell.

I oppose the amendment.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of Illinois. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I am sure my colleague did not mean to say the amendment would allow indiscriminate surveillance. It is only when there is reason to believe, and those administering the laws believe, and our intelligence agencies believe. I certainly hope the gentleman would not think it would allow indiscriminate surveillance.

Mr. MURPHY of Illinois. We are afraid that this is a door we would be opening, and the FBI does not want this. We specifically brought this up to them. I think the gentleman was there. They do not want this amendment.

Mr. ASHBROOK. Mr. Webster indicated he does not want this amendment?

Mr. MURPHY of Illinois. Definitely, on a number of occasions in discussing it with us in the committee and subcommittee.

Mr. ASHBROOK. I thank my colleague.

As I say, I hope the gentleman does not believe this would permit indiscriminate surveillance.

Mr. McCLORY. Mr. Chairman, I do not believe this amendment was offered in the committee. This was offered in the subcommittee during the testimony of former Director Colby when he pointed out a defect in the bill, and that is why the amendment was put together and why it is being offered. That is my understanding.

Mr. BOLAND. Mr. Chairman, if the gentleman will yield, would the gentleman from Ohio and the gentleman from Illinois agree that the existing provision which is now in this bill was written in direct response to the testimony of the Federal Bureau of Investigation?

Mr. McCLORY. Mr. Chairman, I do not know who wrote the provision. I know we had a lot of input as far as the language is concerned.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The amendment was rejected.

AMENDMENTS OFFERED BY MR. ERTEL

Mr. ERTEL. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendment offered by Mr. ERTEL:

Page 41, line 2, strike out "the Special Court having jurisdiction under section 103" and insert in lieu thereof "a United States district court".

Page 41, line 8, strike out "Special Court" and insert in lieu thereof "court".

Page 41, strike out line 13 and all that follows down through line 2 on page 44 and insert in lieu thereof the following:

JURISDICTION

SEC. 103. (a) The United States district courts shall have jurisdiction to receive applications for court orders under this title and to issue orders under section 105 of this title.

(b) Proceedings under this title shall be conducted as expeditiously as possible. If any application to the United States district court is denied, the court shall record the reasons for that denial, and the reasons for that denial shall, upon the motion of the party to whom the application was denied, be transmitted under seal to the United States court of appeals.

Page 52, line 14, strike out "a judge designated pursuant to section 103" and insert in lieu thereof "a judge having jurisdiction under section 103".

Page 55, beginning on line 19, strike out "shall be retained" and all that follows down through line 22 and insert in lieu thereof "shall be retained for a period of at least ten years from the date of the application and shall be stored at the direction of the Attorney General under security procedures approved by the Director of Central Intelligence.".

Page 58, line 16, strike out "Special Court" and insert in lieu thereof "court".

Page 58, beginning on line 17, strike out "Unless all the judges of the Special Court are so disqualified, the" and insert in lieu thereof "The".

Page 58, line 23, strike out "Special Court" and insert in lieu thereof "court".

Page 58, line 25, strike out "Special Court" and insert in lieu thereof "court".

Page 59, line 7, strike out "Special Court" and insert in lieu thereof "court".

Page 59, line 24, strike out "Special Court of Appeals" and insert in lieu thereof "United States court of appeals".

Page 60, line 11, strike out "Special Court of Appeals" and insert in lieu thereof "court of appeals".

Page 60, line 17, strike out "Special Court" and insert in lieu thereof "court".

Page 60, line 18, strike out "Special Court of Appeals" and insert in lieu thereof "court of appeals".

Page 60, line 24, strike out "Special Court" and insert in lieu thereof "court".

Page 60, line 25, strike out "Special Court of Appeals" and insert in lieu thereof "court of appeals".

Page 61, beginning on line 7, strike out "Special Court or Special Court of Appeals" and insert in lieu thereof "district court or court of appeals".

Page 61, line 11, strike out "Special Court of Appeals" and insert in lieu thereof "court of appeals".

Mr. ERTEL. Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. ERTEL. Mr. Chairman, I ask unanimous consent that I present this second amendment inasmuch as it crosses jurisdictional lines. On page 5 of the typed amendment it goes into title III as well, in one section.

The CHAIRMAN. Is the gentleman asking that the amendments be considered en bloc?

Mr. ERTEL. That is correct, Mr. Chairman.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. The Clerk will report the remaining amendment.

The Clerk read as follows:

Amendment offered by Mr. ERTEL: Page 68, beginning on line 14, strike out "the designation of the chief judges pursuant to section 103 of this Act" and insert in lieu thereof "such date of enactment".

Mr. ERTEL (during the reading). Mr. Chairman, I ask unanimous consent that the remaining amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

(Mr. ERTEL asked and was given permission to revise and extend his remarks.)

Mr. ERTEL. Mr. Chairman, I would like to explain so the Members will understand what has happened and that is that the first four pages of the amendment, as offered, go to title I, and page 5 of the typed amendment, inasmuch as the operational date of the bill depends on the establishment of the court, it would strike the section relating to that and make it effective upon enactment. That is why I made the unanimous consent request. So that there are really two different provisions, one is title I, one is title III.

The amendment basically is to strike from the bill the provision providing for the special courts under the bill. We will be establishing a special court to sit in the District of Columbia. Each chief judge of each circuit will designate a person who will sit here on the special court and will be here on a rotating basis and will decide on applications for surveillance or wiretapping warrants. Inasmuch as the amendment offered by the gentleman from Illinois (Mr. McCLORY) has been agreed to, which eliminates the need for the warrants for foreign nationals and foreign embassies and foreign trade missions, there is no reason to have this special court sit.

As I understand it, within the past few years there have only been two wiretaps on American citizens. So, for the few events, we are creating a special court to sit here in the District of Columbia, having a judge here at all times who may be designated from California, Oregon, or some other place, requiring this 11-man court to be impaneled at all time requiring a separate court of appeals, and then for having separate appeals to the Supreme Court. It is to have a special court for this limited purpose.

But, that is not my major objection to this special court, my major objection to this special court, assuming it were used, on a regular basis, then this special court concentrates in one point all of our counterintelligence activities as far as the collection of information concerning what is happening and what has happened in the past, thus all warrants would have to pass through this court. If this particular court were penetrated by any other intelligence operation in the world they would have complete knowledge of our entire counterintelligence operations.

So, Mr. Chairman, it would seem to me that one of the fundamentals of intelligence collection is not to concentrate this information but to disperse it so that the other counterintelligence people do not know where to concentrate their own efforts. Under this bill the information would be all concentrated in this court, and anyone who penetrated it would know all of our intelligence operations.

What my amendment would do is say, look, we have a court system, let us use it. You go to the district judge, he puts it under seal. He handles it secretly and the appeals lie with the circuit court of appeals in that district, going right on up the line.

I am not particularly wild about this warrant procedure that has been set up in the bill, but if we are going to have it, then it seems to me we should disperse it across the Nation.

Mr. DRINAN. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. I yield to the gentleman from Massachusetts.

Mr. DRINAN. Mr. Chairman, I commend the insight of the gentleman, now that the McClory amendment has been agreed to there will be very little for this court to do. But now it is not needed, under the changed procedure, we do not need these courts, as the gentleman from Pennsylvania pointed out, for foreign intelligence or foreign powers, so, how many Americans are going to be subject to the CIA and the FBI only for intelligence reasons? I would add an additional reason for abolishing the courts is because they will have very little to do for the courts under the bill as it has been amended.

Mr. ERTEL. I agree with the gentleman and thank him for his comments.

Mr. MURPHY of Illinois. Mr. Chairman, I rise in opposition to the amendments.

Mr. Chairman, the special court is better than using existing district courts for reasons of both security and civil liberties.

By restricting the number of judges who are exposed to this material, it reduces risks. By centralizing the court in Washington, it enables cleared executive personnel to be present to assist the court in clerical functions, and it enables one secure repository for records, rather than using the insecure facilities of ordinary district courts and clerks around the country. It also insures that where speed is of the essence, a judge is immediately available, rather than perhaps 3,000 miles away.

From a civil liberties point of view, the court minimizes the ability of the executive to go judge shopping. Also, because these judges—who are existing Federal judges, not new ones—will have some experience with these applications, they are not as likely to be bowled over by the executive waving the banner of national security in a questionable case as a judge who has never dealt with such an application before.

Furthermore, there is ample precedent for such a special court. The temporary Emergency Court of Appeals was set up in 1970 by the Economic Stabilization Act to hear appeals from wage and price decisions. It is still in existence, hearing appeals from certain Department of Energy decisions.

Mr. Chairman, this special court is composed of Federal judges designated by the Chief Justice.

Finally, as the committee report notes, the establishment of a special court was said to be necessary by the General Counsel of the Administrative Office of the U.S. Courts for jurisdictional reasons.

Mr. Chairman, the FBI, the CIA, the National Security Council, and the Administrative Office of the U.S. Courts are the ones who requested the special court. The idea was to minimize any leaks that may occur if an official from the executive department had to travel to any outlying districts in the United States, in which case we would have the question of personnel not being cleared for security reasons. We would have the question of filing of papers in a clerk's office where there was no security for the papers or for the application for the order.

The bill would provide one court here in Washington where we could set up secure files in a safe and where only certain personnel could have access to those files. We would have one judge at one time sitting in Washington on an emergency basis.

Mr. Chairman, it has been suggested that with the adoption of the McClory amendment, we will not have much business here in Washington for this special court. This may be the case, but we will have a judge at all times.

For instance, if the FBI's Counterintelligence Department gets information from the NSA or the CIA that a Russian spy is meeting in some spot in the United States, under the bill they are allowed to install a surveillance for 24 hours. However, after that 24 hours, they have to apply to the special court if it involves an American citizen.

All we are providing for with this special court in Washington is the accessibility to that Federal judge to cleared personnel to assist him in handling the application and any secret, sensitive material that is presented to the court.

By dispersing this setup throughout the land, the very thing which the gentleman from Illinois (Mr. McCLORY), the gentleman from New York (Mr. STRATTON), and others have argued here today about security risks in bringing these matters before judges who are unsophisticated in intelligence affairs will be doubled or amplified tenfold.

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of Illinois. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. Mr. Chairman, may I ask the gentleman this question: Is it not true that under the existing law, the Official Secrets Act of 1968, I believe, we, in fact, do issue warrants in domestic criminal cases which remain secret and undisclosed except when required under that particular statute?

Mr. MURPHY of Illinois. That is correct.

Mr. ERTEL. Does the gentleman know of any compromise of that system which existed in the United States since the enactment of that law?

Mr. MURPHY of Illinois. No, but it was the FBI, the CIA, the National Security Council, and officials in the FBI who requested this setup. They had security concerns about these matters.

Mr. ERTEL. Does the gentleman know of any specifically?

Mr. MURPHY of Illinois. I know of none specifically. I am just quoting their testimony to us.

Mr. ERTEL. In fact, do they not go to the judge and meet with him and get the order? And is it not a fact that one of the doctrines of intelligence gathering is to try and disperse your information; do not keep your eggs all in one basket so that you do not lose everything if you get that one basket penetrated?

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. MAZZOLI, and by unanimous consent, Mr. MURPHY of Illinois was allowed to proceed for 2 additional minutes.)

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of Illinois. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

I would just like to make a point. I was listening to the discussion of the gentleman from Pennsylvania (Mr. ERTEL) in which he was saying that apparently the court processes work very well in domestic warrant procedures, and on the other hand he says let us get rid of the courts because they will not work in the other case. In one case he is saying we have great confidence: there have been no leaks and no problems in dispersing it. On the other hand, he says get rid of the courts. I think the gentleman cannot have it both ways.

It seems to me we are saying that if the gentleman from Illinois and I on our side carry the day, we are saying that the court procedure is a great guarantee, the best one we could think of to guarantee the rights of the American citizens and at the same time not put any unnecessary impediment into the path of intelligence-gatherers. That is all we are saying.

Mr. MURPHY of Illinois. There is no question that security and protection for the intelligence community is the reason that this provision is in the bill.

Mr. ERTEL. Mr. Chairman, will the gentleman yield, since my name was mentioned?

Mr. MURPHY of Illinois. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. I thank the gentleman for yielding.

I would like to clarify, since the gentleman stated my position, quite frankly we do have a security risk if all of our information is in one court. Why? Because they attempt to penetrate that court. If it is spread over the entire Nation, our security risk is less because they do not know where to go. That is the problem they would have.

Secondly, you know, we have got pretty good security in all our district courts because we have not had a compromise, but if we concentrate it and give them the target—and that would be this court here in Washington, D.C.—then they will concentrate on trying to penetrate it. So I think to put it back into the district courts is an excellent point.

Secondly, with all the district court judges, is the gentleman trying to say that we cannot find a secure district court judge in these United States? I think we can.

Mr. MURPHY of Illinois. I am not trying to say that at all. I appreciate and respect the gentleman's viewpoint, but I respectfully disagree.

Mr. KASTENMEIER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment. I do so mindful that both the gentleman from Pennsylvania (Mr. ERTEL) and the gentleman from Massachusetts (Mr. DRINAN) are esteemed members of my Subcommittee on Courts, Civil Liberties, and the Administration of Justice. I believe that the Select Committee on Intelligence has worked out a necessary formula for the court structure to handle these applications, and I am aware of the fact that they have come to learn that one of their witnesses, Carl Imlay, General Counsel of the Administrative Office of the U.S. Courts, stated that constitutional problems existed with respect to granting nationwide jurisdiction to individual judges. Drawing on the example of the temporary Emergency Court of Appeals, it is suggested that a special court be created and vested with the jurisdiction in Federal judges assigned to it, and that is what they have done.

It also should be pointed out that in the Keith case it is not just contemplated by the committee itself. The Supreme

Court said that a warrant in intelligence cases need not be based on the same type of standards and procedures required for law enforcement. In doing so the Court stated the request for prior court authorization could in sensitive cases be made to any member of a specially designated court. That is what has been provided here. But the question of forum shopping, finding a secure U.S. District court judge throughout the United States of 4 or 500—and after the judgeship bill there will be far more than 500 of them—may be possible, but if we are concerned about the people affected by this, such forum shopping would be the last thing on the Earth that we would want done in terms of the Government.

On the other hand, the Government has an interest in a secure court. This court can be provided in the District of Columbia. Just as the White House itself and the CIA are secure presumably, so this court will be made secure.

I think the formula provided bv the bill is a reasonable one and should be supported. This is one of the particular ways in which the House committee bill is much better than that of the Senate.

Mr. ECKHARDT. Mr. Chairman, I move to strike the last word, and I rise in support of the amendments.

Mr. Chairman, I am not persuaded that we need a special court because our existing courts are not adequate to make the decisions here involved. I think that one of the bulwarks of our system in this country rests on tradition of judicial process, and I think that the reason that tradition of judicial process works is because cases are brought before judges experienced in trying all types of cases.

I understand that a special court would be nominated in each of the circuits, and that the ultimate selection then would be by the Chief Justice of the Supreme Court. I see no reason why the Government could not find at least one secure and dependable judge within a district of the United States. If need be, one could be appointed in each of those circuits for the purpose, but to appoint a new court, a group of persons who may try one case within a period of a year or two and then try no more, men who are not experienced in the general judicial process, it seems to me, would be a dangerous process.

I do not like special courts. Special courts throughout history have been courts which are amenable to tvranny. The thing that protects our Nation from tyranny, it seems to me, is the custom, the practice, and the experience of judges to operate within due process of law. A special court appointed for a special purpose is simply not as dependable in enforcing that kind of process as are judges who are sitting for general purposes.

Mr. KASTENMEIER. Mr. Chairman, would the gentleman yield on that point?

Mr. ECKHARDT. Surely, I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Chairman, I wish to make this point, because I think there is a misapprehension as to what the bill provides.

These judges to be appointed for the special court are indeed district judges of general jurisdiction who are temporarily assigned for this purpose. They are rotated, and when they are rotated, they go back to their circuits. But they are not special for this purpose in any permanent sense. They are temporary, and they are assigned to the special courts ordinarily through general competence.

Mr. ECKHARDT. Mr. Chairman, may I reply and ask this: How long do they serve once they have been appointed, and how frequently do they rotate?

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, my understanding is that they could serve for only 6 years, and they could only serve two terms. They could serve no more than two terms.

Mr. ECKHARDT. Mr. Chairman, after 12 years, that makes a man pretty much a person of a special court.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, the gentleman's argument is very sound, and the gentleman's argument is entirely consistent with the constitutional structure under which our courts are established.

The gentleman from Wisconsin (Mr. KASTENMEIER) has a misapprehension of what this bill provides, because originally there was provision for the appointment of special judges, and the administrator of the Federal court system advised the committee that we could not have special judges. Consequently, they changed the concept from a special judge to a special court, with this kind of unprecedented type of procedure for appointing these 11 judges from the 11 circuits through the operation of the judicial conferences in these cases which, as I understand it, have no authority whatever to designate any special members of a special court.

I do not know whether this is a title I or a title III court. Nobody could explain. It is provided in legislation which is related to the whole subject of national security, and it seems to me that this is the other part of the bill which should be eliminated because, as I might state further, since it was testified earlier in the year that there were no Americans who were subject to electronic surveillance, and later the Attorney General did notify our committee that one American had been subjected to electronic surveillance.

The CHAIRMAN. The time of the gentleman from Texas (Mr. ECKHARDT) has expired.

(On request of Mr. McCLORY and by unanimous consent, Mr. ECKHARDT was allowed to proceed for 1 additional minute.)

Mr. McCLORY. But certainly this case, or any case, for that matter, involving a U.S. person, can be adequately and competently taken care of, just as title III cases for warrants for domestic surveillance are taken care of at the present time by the district courts.

Mr. ECKHARDT. Do I understand, in order to clarify the terms of the bill and some of the questions that were asked me, that the selection may be a total of 6 years, during which time the judges engage in this activity alone?

Mr. McCLORY. That is correct.

Mr. KASTENMEIER. Mr. Chairman, if the gentleman will yield, that is not the understanding as I have been informed. You have 11 judges, one selected from each circuit, and one of them at a time serves in the District of Columbia on these cases. There are not that many cases. And that judge may serve temporarily for a period of 2 months, 4 months, and he is rotated out and another judge comes in. So when we are talking about a special court we should understand what is contemplated in terms of service of a judge. This is a judge of general jurisdiction, a U.S. district judge from each of the 11 circuits.

Mr. ECKHARDT. For how long a period of time is he assigned to a court? That is what I am trying to get at.

Mr. KASTENMEIER. He is assigned for a period of 6 years, but during that 6-year period he will sit in Washington by himself for a short period of time, perhaps 2 months, 4 months, and then be rotated off, and one of the other 10 colleagues would serve.

Mr. ECKHARDT. But he will be the exclusive judge for this purpose?

Mr. KASTENMEIER. That is correct; for that period of time.

Mr. ECKHARDT. During the period of 6 or 12 years. I still think that is unnecessary.

Mr. McCLORY. Mr. Chairman, I move to strike the requisite number of words, and I rise in strong support of the amendment.

Mr. Chairman, this strikes me as being a very important amendment for the Committee to adopt, because if there is a part of the bill which, it seems to me, is not only unprecedented but undesirable, it is this section which provides for the establishment of the special court.

As I indicated, there was an attempt, first of all, to assign special judges and, presumably, it was thought that if we had some special judge somehow or other they could be relied upon to provide approval for electronic surveillance such as the intelligence agencies might request. But then when the committee was informed that there was no authority for special judges in the Federal court system, this concept of a special court arose. There have been a number of variations of this provision proposed.

Mr. DRINAN. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Massachusetts.

Mr. DRINAN. Mr. Chairman, I am happy to concur in the gentleman's judgment. I voted against the McClory amendment, but I think the gentleman from Illinois (Mr. McCLORY) is right on target now. This would be a total alteration of the structure of the Federal courts. I think it would be a misuse.

Mr. Chairman, I concur in the statement made by the gentleman from Texas (Mr. ECKHARDT).

Mr. BOB WILSON. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from California.

Mr. BOB WILSON. Mr. Chairman, did I really hear correctly the colloquy a few minutes ago in which it was stated that a special court would be set up here in the District of Columbia and judges would be brought here in rotation every month or two?

I suppose they would have to be brought every month or two, because they would go stir crazy because they have had nothing to do. They have only had one case in the last year or 2 years to even consider, so this is a ridiculous situation. I am fully in support of the amendment.

Mr. McCLORY. No one has any idea how long or how short a time they would sit here.

Mr. BOB WILSON. Or how expensive it would be.

Mr. McCLORY. This is a completely new concept. There is nothing constitutionally which authorizes a special court. As the gentleman from Texas (Mr. ECKHARDT) pointed out, we should be wary of special courts which have special prerogatives. It seems to me that when we designate by the Constitution a district judge, we empower that district judge to hear and entertain all types of cases, and to say that the rest of the judiciary cannot hear applications for warrants to engage in electronic surveillance of U.S. persons—except these special judges who may be considered patsies for some executive, it would seem to me to be a miscarriage of justice.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I wish to read the language in section 103, which is the only language in the bill having to do with this question of special judges and their tenure:

There is established a Special Court of the United States with jurisdiction throughout the United States to carry out the judicial duties of this title. The Chief Justice of the United States shall publicly designate at least one judge from each of the judicial circuits, nominated by the chief judges of the respective circuits, who shall be members of the Special Court and one of whom the Chief Justice shall publicly designate as the chief judge. The Special Court shall sit continuously in the District of Columbia.

Now, there is nothing in that language that says that these judges will continue with their duties elsewhere. I recognize that there is some language to that effect in the committee report, but it seems to me that we are setting afoot at least the possibility of a court which deals in only this subject matter. I think that is extremely dangerous.

Mr. McCLORY. The gentleman is correct. Let me say that if an application for electronic surveillance was made to a court in some other area of the country, because it was desired there, nevertheless it would be necessary to come to Washington, D.C., in order to have that application acted upon.

Mr. BOB WILSON. Mr. Chairman, if the gentleman will yield further, does the gentleman know whether any testimony was submitted from the administrator of the courts as to the costs of this special court? How many personnel would be there to justify the court?

Mr. McCLORY. It would be entirely speculation on that. Nobody knows how long or when such a special court might sit. That would depend entirely upon how many applications for warrants were provided for. Apparently, if the bill is only going to apply to U.S. persons, there are going to be virtually none.

Mr. MURPHY of Illinois. Mr. Chairman, I rise in opposition to the amendments.

The CHAIRMAN. The gentleman has already spoken.

Mr. MURPHY of Illinois. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman from Illinois (Mr. MURPHY) will be recognized for 5 minutes.

There was no objection.

Mr. MURPHY of Illinois. Mr. Chairman, I refer the gentleman from Texas to the language of the bill itself. It says that the court will sit continuously, not the judge. I think that is an important distinction. The court will be in existence; the judges are rotated.

That was the testimony before the committee, that they envision the judges sitting about a month or 2 months, and we asked what kind of court this would be. Would this require more than one? The response was that in the last year or two there have only been two cases, so I think this is a lot to do about nothing. The court will sit continuously; there will be rotating judges, the remaining judges will be hearing cases continuously back in their districts.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of Illinois. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. My recollection is a little dim, but it seems to me that at some point in our hearings we propounded these questions to our witnesses, who suggested that the judges should come to the District of Columbia to sit on the special court, which meets continuously, and could also hear other cases. They are competent for the jurisdiction, and they could be asked to sit in on the District of Columbia Appellate Court.

Mr. MURPHY of Illinois. The gentleman is correct.

Mr. MAZZOLI. That means—and it might answer the charge raised by the gentleman from California (Mr. BOB WILSON)—the cost will be minimal, because these jurists will be doing other work in addition to this.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Pennsylvania (Mr. ERTEL).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 74, noes 33.

RECORDED VOTE

Mr. MAZZOLI. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 224, noes 103, not voting 105, as follows:

[Roll No. 728]

AYES—224

Akaka	Gaydos	Myers, Gary
Ambro	Gilman	Myers, John
Anderson, Calif.	Goldwater	Natcher
Andrews, N. Dak.	Gonzalez	Neal
Applegate	Goodling	Nedzi
Archer	Gore	Nowak
Ashbrook	Gradison	Oakar
AuCoin	Grassley	Oberstar
Badham	Gudger	Ottinger
Bafalis	Guyer	Panetta
Baucus	Hagedorn	Pease
Bauman	Hall	Perkins
Beard, R.I.	Hammer-schmidt	Pickle
Bedell	Hanley	Poage
Benjamin	Hannaford	Preyer
Bennett	Heftel	Pritchard
Bevill	Hillis	Pursell
Bonker	Holland	Rahall
Breaux	Hollenbeck	Regula
Brown, Mich.	Holt	Rinaldo
Brown, Ohio	Holtzman	Risenhoover
Broyhill	Horton	Roberts
Buchanan	Hubbard	Robinson
Burgener	Ichord	Roe
Butler	Jacobs	Rousselot
Carney	Jeffrette	Roybal
Carter	Johnson, Calif.	Rudd
Cavanaugh	Jones, N.C.	Runnels
Cederberg	Jones, Okla.	Ruppe
Chappell	Jones, Tenn.	Sarasin
Clausen, Don H.	Jordan	Satterfield
Cleveland	Kazen	Sawyer
Cohen	Kelly	Schroeder
Coleman	Kildee	Schulze
Collins, Ill.	Koastmayer	Sebelius
Collins, Tex.	Krebs	Seiberling
Conable	Lagomarsino	Shuster
Conyers	Latta	Simon
Corcoran	Le Fante	Skelton
Coughlin	Leach	Smith, Nebr.
Crane	Lederer	Snyder
Cunningham	Lent	Spence
D'Amours	Livingston	St Germain
Daniel, Dan	Lloyd, Tenn.	Staggers
Daniel, R. W.	Lott	Stangeland
Davis	Lujan	Steed
de la Garza	Luken	Stratton
Delaney	McClory	Taylor
Dent	McCormack	Thornton
Devine	McDonald	Treen
Dicks	McEwen	Trible
Dingell	McFall	Udall
Drinan	McHugh	Vander Jagt
Duncan, Tenn.	McKay	Vento
Eckhardt	McKinney	Waggonner
Edgar	Madigan	Walgren
Edwards, Ala.	Maguire	Walker
Edwards, Okla.	Mahon	Walsh
Emery	Marlenee	Wampler
English	Marriott	Watkins
Ertel	Martin	Weaver
Evans, Del.	Mathis	Weiss
Evans, Ga.	Michel	White
Evans, Ind.	Mikulski	Whitehurst
Findley	Mikva	Whitley
Flippo	Milford	Whitten
Flood	Miller, Ohio	Wilson, Bob
Flynt	Mitchell, Md.	Wilson, Tex.
Foley	Mitchell, N.Y.	Winn
Ford, Tenn.	Mollohan	Wolff
Fountain	Montgomery	Wylie
Frenzel	Moore	Yatron
Fuqua	Moorhead, Calif.	Young, Fla.
Gammage	Murphy, Pa.	Young, Mo.
	Murtha	Zeferetti

NOES—103

Addabbo	Clay	Fowler
Alexander	Conte	Gephardt
Annunzio	Corman	Giaimo
Aspin	Cornell	Ginn
Baldus	Cotter	Glickman
Biaggi	Danielson	Green
Bingham	Dellums	Hamilton
Blanchard	Derrick	Harkin
Blouin	Derwinski	Harris
Boland	Dodd	Heckler
Bolling	Downey	Howard
Bonior	Early	Hughes
Brademas	Edwards, Calif.	Jenkins
Breckinridge	Eilberg	Kastenmeier
Brinkley	Fascell	Keys
Brodhead	Fenwick	LaFalce
Brown, Calif.	Fisher	Leggett
Burlison, Mo.	Fithian	Levitas
Burton, John	Florio	Lloyd, Calif.
Carr	Ford, Mich.	Long, La.

Long, Md.	Patten	Spellman
Lundine	Patterson	Steers
McDade	Pike	Stokes
Mann	Price	Studds
Markey	Rangel	Thompson
Marks	Reuss	Tucker
Mattox	Rodino	Vanik
Mazzoli	Roncalio	Volkmer
Metcalfe	Rose	Waxman
Mineta	Rosenthal	Whalen
Moorhead, Pa.	Russo	Wright
Murphy, Ill.	Santini	Yates
Myers, Michael	Scheuer	Zablocki
Nolan	Sharp	
Obey	Solarz	

NOT VOTING—105

Abdnor	Frey	Pressler
Ammerman	Garcia	Quayle
Anderson, Ill.	Gibbons	Quie
Andrews, N.C.	Hansen	Quillen
Armstrong	Harrington	Railsback
Ashley	Harsha	Rhodes
Barnard	Hawkins	Richmond
Beard, Tenn.	Hefner	Rogers
Bellenson	Hightower	Rooney
Boggs	Huckaby	Rostenkowski
Bowen	Hyde	Ryan
Brooks	Ireland	Shipley
Broomfield	Jeffords	Sikes
Burke, Calif.	Johnson, Colo.	Sisk
Burke, Fla.	Kasten	Skubitz
Burke, Mass.	Kemp	Slack
Burleson, Tex.	Kindness	Smith, Iowa
Burton, Phillip	Krueger	Stanton
Byron	Lehman	Stark
Caputo	McCloskey	Steiger
Chisholm	Meeds	Stockman
Clawson, Del	Meyner	Stump
Cochran	Mikva	Symms
Cornwell	Miller, Calif.	Teague
Dickinson	Mitchell, Md.	Thone
Diggs	Moakley	Traxler
Dornan	Moffett	Tsongas
Duncan, Oreg.	Moss	Ullman
Erlenborn	Murphy, N.Y.	Van Deerlin
Evans, Colo.	Nichols	Wiggins
Fary	Nix	Wilson, C. H.
Fish	O'Brien	Wirth
Flowers	Pattison	Wydler
Forsythe	Pepper	Young, Alaska
Fraser	Pettis	Young, Tex.

Mr. OTTINGER and Mr. WOLFF changed their vote from "no" to "aye."

So the amendments were agreed to.

The result of the vote was announced as above recorded.

Mr. MURPHY of Illinois. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT), having assumed the chair, Mr. YATES, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7308) to amend title 18, United States Code, to authorize applications for a court order approving the use of electronic surveillance to obtain foreign intelligence information, had come to no resolution thereon.

GENERAL LEAVE

Mr. MURPHY of Illinois. Mr. Speaker, I ask unanimous consent that all Members may be permitted to revise and extend their remarks, and include extraneous matter, on H.R. 7308, the bill just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO HAVE UNTIL MIDNIGHT, MONDAY, SEPTEMBER 11, 1978, TO FILE REPORT, ALONG WITH ANY SEPARATE OR MINORITY VIEWS, ON H.R. 13750, SUGAR STABILIZATION ACT OF 1978

Mr. VANIK. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means may have until midnight, Monday, September 11, 1978, to file a report, along with any separate or minority views, on the bill (H.R. 13750) to implement the International Sugar Agreement between the United States and foreign countries; to protect the welfare of consumers of sugar and those engaged in the domestic sugar-producing industry; to promote the export trade of the United States; and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

SALT PACT ILLUSTRATES NEED FOR BRICKER AMENDMENT

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute.)

Mr. ASHBROOK. Mr. Speaker, the upcoming debate on the SALT agreement once again illustrates the need for swift enactment of the Bricker amendment. This important amendment which I am sponsoring would put constitutional safeguards on the use of executive agreements in conducting foreign policy.

As you may have read, the Carter administration is considering the possibility of submitting the SALT accord as an executive agreement requiring only a simple majority vote in Congress. This would get around the two-thirds vote needed for passage of a treaty. The goal, of course, would be to avoid a difficult battle for ratification such as occurred during the recent Panama Canal debate.

That the Carter administration would even consider this tactic is incredible. It is a thinly disguised attempt to evade the normal treatymaking process.

Call it what you will, the SALT agreement should require a two-thirds vote for ratification. It is too important an issue to be handled in a cavalier manner by President Carter.

We should call a halt to this game of words. Congress must not abdicate its responsibility on a matter as crucial as the security of our Nation.

The Bricker amendment which I have introduced for the past several Congresses would erect a safeguard for this type of problem. An executive agreement would be handled like a treaty. The name, whether the President calls it a treaty or an executive agreement, would not change the necessity of receiving a two-thirds vote.

The Bricker amendment would prevent unnecessary delegation of power by Congress to the President. It would help restore a proper congressional role in foreign affairs. It is time that this important amendment was added to our Constitution.

THE LAST CLEAR CHANCE TO AVOID A COMMUNIST TAKEOVER IN RHODESIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. SIKES) is recognized for 30 minutes.

● Mr. SIKES. Mr. Speaker, the free world is confronted with its last clear chance to avert a bloodbath and a Communist takeover in Rhodesia. I am convinced of this following recent talks in that country with officials of several ministries and the U.S. Government.

Only the United States and Britain in the Western World now seem concerned. This interest still is directed more to bringing guerrilla leaders into the coalition than to helping the coalition establish an impressive record. Confidence in the government has deteriorated and it now appears necessary to bring one or both of the so-called patriotic front movements into the government to prevent a civil war which experts say could not be won by government forces.

Obviously it is important that we devote stronger efforts to shoring up the coalition while negotiations continue with guerrilla leaders. Nothing would have been more painful than recognition and an exchange of ambassadors. Apparently this is not being considered.

The entire situation is much too reminiscent of the Vietnam experience which Americans sadly remember.

The guerrilla leaders Mugabe, based in Mozambique, and Nkomo, in Zambia, have conducted terrorist raids in Rhodesia for many months. Now they are training larger forces for invasion when the time is ripe. Both are heavily supplied with Russian weapons. Cuban advisers and Russian experts have been identified as aiding them. At one time the Chinese were involved. This is no longer certain.

The guerrillas now have infiltrated most of Rhodesia and out of fear many local residents are quietly supporting them.

Rhodesian troops are effective but they cannot be everywhere at once and terrorist raids are becoming more effective, killing, and burning. At present the coalition government is not reaching the black populace, who want more evidence of change to black control. The people are becoming more and more resigned to a take-over by Nkomo or Mugabe supporters. Rhodesian officials feel strongly that British and United States are to blame for their country's problems. Some of them still hold the view that they can win despite today's gloomy prospects and delay a take-over by the foreign based blacks.

Nkomo and Mugabe are gaining converts rapidly. Support is falling away from the coalition. The government says it is through fear of reprisal—others say it is because of lack of action by Rhodesian Government following the establishment of a coalition. Probably both are contributing factors.

There is the possibility the civil war will find the forces of Nkomo and Mu-

gabe pitted against each other as well as against the Rhodesian Government forces. Such a development would leave the country almost totally destroyed and the white population killed or driven out.

The black nations which fear the spread of Communism are reluctant to speak out against the establishment of another black government, regardless of its leanings.

An election to establish a new government has been promised in December but there has been talk of postponement. To postpone the election would add fuel to the cause of Nkomo and Mugabe. Delay in writing a new constitution and submitting it to a vote will have a similar effect.

Unless there is an early move to meet black aspirations there will be an explosion which quickly can be destructive to an industrious and progressive country. Many of the whites are reluctant to accept the inevitability of change and are unwilling to share power.

The irony of the situation is that neither Nkomo nor Mugabe would offer the one man, one vote ideal of the West, which the West has been seeking to bring about in Rhodesia. Neither has indicated he would provide a true majority government.

In summary, Rhodesia is harassed from within by increasing terrorist attacks, threatened by civil war, and pressured by economic sanctions by the United States and other nations. We helped to create the situation and the Russians are taking advantage of it.

We should portray the Russian involvement in its true colors as another attempt to seize territory and control the lives of people. There is no excuse for U.S. ineptitude in dealing with Communist aggression. It has been demonstrated in Rhodesia. Time is running out for our interests. Only an immediate and vigorous and more meaningful effort will prevent Communist control there.●

THE MOOD OF THE 20TH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GOLDWATER) is recognized for 5 minutes.

● Mr. GOLDWATER. Mr. Speaker, I am always gratified to return to my district during a recess of the Congress to discuss the concerns of my constituents. During the past 2 weeks I have had the opportunity to talk with the people of the 20th Congressional District in California about their priorities for Congress in these closing weeks of our term.

We have been given a tall order, Mr. Speaker. For some time there have been rumors that mail will not be delivered because of a threatened strike by postal workers. With a recently released Gallup poll showing decided disapproval of strikes by public service employees, Congress cannot stand idly by with such action by labor hanging over our heads.

A Harris poll which was also taken during the recess indicates that 3 out of 4 Americans believe that prices are rising faster now than a year ago. When this poll was taken in 1977, less than half of those questioned were of the opinion that the cost of goods and services at the marketplace were higher than in the previous year. With all the talk of pay raises for the American worker, it is interesting to note that better than 2 out of 3 union members would be willing to lower their pay hikes if there were some assurance that government was keeping the spiraling cost of living under control. But inflation simply wipes out any increase in the size of the worker's paycheck.

With the results of these polls in mind, and after talking with the residents of my district, I certainly plan to do my best as a Member of the House to make certain that every bill we consider is consistent with a sound fiscal policy. Already, 22 States have passed resolutions calling for a constitutional convention to mandate a balanced Federal budget as a constitutional requirement. As a Wall Street Journal editorial put it so eloquently last Friday, what these States are saying essentially, is that "Congress cannot be trusted with money." I take no sense of pride in this attitude toward the Congress. The only way we can shake this reputation is demonstrate our commitment to a sensible plan for Government spending.

Then too, there is the issue of ethics in Government. I thought our experience with Watergate a few years ago was an example of how not to behave in public office. But the recent disclosures of widespread corruption in the General Services Administration are infuriating the taxpayers in my district, and making many wonder when all of this will stop. I even saw one report just the other day of a worker who managed to get unemployment compensation by using his dog's name. For the Government to be unable to detect these illegal activities in its own house is a crime in itself.

It is no wonder that a Los Angeles Times poll conducted while I was in my district, revealed that at least as many people who voted for proposition 13 last June, are favorably impressed with its results. By the same token, nearly 70 percent of the people feel that their elected officials are not "making an honest effort" to carry out the provisions of the initiative.

So there is much to do as we prepare for adjournment. The mood of the 20th Congressional District in California reflects the impatience of its citizens. I think, Mr. Speaker, their mood is the mood of the Nation.●

SELLING EFT SERVICES, NOT ACRONYMS

Th SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, what do Ginny the Green Machine, the Wizard of Ease, Homefolk's Honey, Goldie your Golden Teller, Girl Friday, and 24-hour Jill have in common?

These names all represent efforts by the banking industry to humanize the rapidly growing system of electronic fund transfers (EFT's)—the so-called "cashless, checkless society of the future."

The realities of this future society have fallen far short of the banking industry's original predictions. For banking by computer to be profitable to the industry necessitates a wide-scale acceptance of the systems. But, consumers remain wary of electronic banking and despite the conveniences, many consumers prefer to stick with a system they understand and trust, such as banking by check.

So, massive advertising campaigns have been launched and millions of dollars have been spent in an attempt to gain consumer trust. But, the industry is discovering that catchy names can only go so far in assuring consumers that their life savings are safe in electronic banking.

And, now, the banking industry is realizing that one of the most effective advertisements for EFT's is exactly what they have fought tooth and nail against for the past year—comprehensive legislation that guarantees proper consumer safeguards in EFT transactions.

This switch in policy is clearly seen in a recent editorial in the American Banker. The editorial admits the need for legislation in order to win over consumers to the systems. And ironically, the editorial appeared on August 11, the very day the House passed H.R. 13007, the Electronic Fund Transfer Act, by a overwhelming 314–2 margin.

The editorial goes as far as admitting that Wisconsin bankers are satisfied with an even stricter State law than the Federal legislation which passed the House last month. Wisconsin is the only State which allows reversibility in EFT transactions, and all reports are that the law is working for consumers and bankers alike.

The right to reversibility allows a consumer to stop payment on a EFT transaction within 3 days. This is a basic and accepted right of banking by check in purchasing goods and services. It protects a consumer who purchased faulty merchandise by allowing him the right to stop payment.

But, in committee markup, the lobbying against this section was tremendous. Tremendous enough to convince a majority of the Banking Committee members to delete the section of H.R. 13007 which allowed consumers the right of reversibility.

However, I am proud of the bill we reported and that passed the House. Despite the lack of a reversibility section, the bill protects consumers in other vital areas—such as limiting consumer liability to $50 and prohibiting the issuance of unsolicited, validated cards. But, without question, a percentage of consumers, however small, will not accept electronic banking because of a lack of a reversibility right.

The Electronic Fund Transfer Act still faces a tough battle in the Senate. Several amendments which substantially weaken the act have already been offered. These amendments could only further discourage consumers from trusting a system that lacks essential rights and protections.

Mr. Speaker, I submit the American Banker editorial in its entirety for the RECORD.

SELLING EFT SERVICES, NOT ACRONYMS

In the beginning of EFT, and that goes back only a handful of years, the task of winning consumer acceptance of electronic banking seemed almost impossible. Bankers uncautiously made it sound like they were selling acronyms instead of convenience, systems instead of services. The more visionary thinkers in the industry were talking in terms of a "cashless" or "checkless" society, and it rapidly became clear that the public was uneasy about losing its proven payment mechanism.

Consumer advocates, patterned in the image of Ralph Nader, reveled in the financial industry's openness to criticism. They saw banks trying to wrest financial power from the individual, to invade personal privacy, and to force consumers to use EFT or face second-class citizenship.

To their credit, most consumerists have come around to more responsible and thoughtful positions. Their attitudes on EFT now more accurately reflect public opinion: they are sometimes right, sometimes wrong, but always to be reckoned with. After all, the future of a more convenient and efficient payment system is uncertain as long as the population is wary.

Ever conscious of public opinion, some members of Congress were eager to legislate consumer protection regulations to govern EFT systems. The House and Senate versions of EFT bills which have made the most progress since the National Commission on EFT completed its work last winter attempt to define the rights, responsibilities and protections of consumers, financial institutions and third parties in an electronic transaction.

The consumer orientation of the original versions of the bills sponsored by Rep. Frank Annunzio, D., Ill., and Sen. Donald W. Riegle Jr., D., Mich., was unmistakable. But they helped create a series of additions to the banking lexicon which are now firmly ensconced with the acronyms that helped arouse consumer wrath in the first place.

The new terms include liability limitation, descriptive statements, error resolution, unsolicited debit cards, and reversibility. They are slightly more descriptive than three-letter acronyms like ATM or RSU, but one senses that to the uninitiated, they would be just as meaningless.

As an example, look at reversibility. It is simple enough to understand. It replaces the concept of stop payment which is a guaranteed right when a paper check is used for purchasing goods or services. In an EFT system where funds are transferred instantaneously, stop payment is impossible.

Both the Riegle and Annunzio bills contained reversibility provisions. Major banking industry lobbyists opposed them and prevailed after a fair amount of muscle-flexing. The American Bankers National Retail Merchants Association found themselves in rare agreement on this issue, and consumer advocates have not been satisfied by the outcome.

It is, in fact, academic what consumer advocates think. The more relevant question is, will the American consumer utilize EFT if he or she feels that rights existing in the older-generation payment system are being eliminated? Wisconsin bankers, the only ones in the country who have had to contend with a reversibility requirement, believe the answer is no.

Following enactment of the Wisconsin EFT law in 1976, state regulators wrote additions to the administrative code which embodied the wishes of one of the most activist consumer populations in the nation. The bankers and consumer advocates compromised on reversibility: transactions of $50 or more, effected electronically, can be reversed by the bank upon written notice from the consumer within three business days of the transaction. This is similar to what the original Riegle bill called for.

All parties are said to be satisfied. The $50 threshhold was adopted to emulate the current system, since irreversible cash is the usual means of payment for lesser amounts. Bankers and consumers clashed on the time limit and reached agreement on three days. Consumers wanted more.

J. Frederick Ruf, president of Wisconsin's TYME network to which more than 200 financial institutions belong, credits the consumer group participation with forestalling the public criticism faced elsewhere. "If a system is to succeed, it must satisfy the customers," he has said in support of reversibility, which places him at odds with the ABA.

Furthermore, Mr. Ruf says, after more than two million TYME system transactions in two years, there has not been a documented request for a reversed transaction. Inevitably, disputes arise, but they are being resolved between merchant and consumer without a bank interceding.

Lack of reversibility requests in Wisconsin is powerful testimony to the public acceptance of EFT. If major financial trade groups soften their line, as have consumerists, the dreams of visionaries may become reality.●

AGING COMMITTEE RESOLUTIONS ADOPTED ON MENTAL HEALTH, GOVERNMENT REORGANIZATION AND MANDATORY RETIREMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 10 minutes.

● Mr. PEPPER. Mr. Speaker, I am pleased to present to my colleagues the background and text of three important resolutions overwhelmingly adopted by the House Select Committee on Aging, which I have the privilege to chair. These resolutions relate to the mental health care of the aging, the reorganization of Federal programs affecting the elderly, and an amicus curiae brief on a mandatory retirement case in the U.S. Supreme Court.

The resolutions' background statements and the resolutions themselves follow:

SELECT COMMITTEE ON AGING RESOLUTION ON PRESIDENTIAL REORGANIZATION OF FEDERAL PROGRAMS FOR THE ELDERLY

(Approved 24–2 Aug. 28, 1978)

BACKGROUND

The need for Reorganization of federal programs for the elderly has long been a concern of the Select Committee on Aging. Even before its first formal hearing on the subject in April 1977, the Committee and its staff had assisted the Carter transition team in setting out options for dealing with the confusing fragmented nature of federal efforts to assist older Americans.

In July 1977 a number of Committee members touched on the need for dealing with this problem during their meeting at the White House with President Carter. In September, the Chairman compiled a number of possible recommendations that grew out of the hearings and informal inquiries and transmitted them to the President's Reorganization Project (PRP). In January 1978, a bipartisan group of Committee staff members met with PRP officials and discussed these and other options.

The President's Reorganization Project task force working on services for the elderly is circulating a "working paper" describing options it may recommend to the President in early 1979. Initial review of the document indicates a very limited range of options is being considered.

If meaningful improvements are to be made anytime soon, it is imperative that a much broader attack on the problem of fragmentation in federal programs serving the elderly at least be among the options considered by the President.

RESOLUTION

Be it resolved, That the Select Committee on Aging—believes that the problem of fragmentation and lack of coordination among federal programs serving the elderly continues to be a serious one, and that a full range of options should be considered by the President in deciding what organizational, regulatory or statutory changes he recommends to Congress.

Be it further resolved, That the Committee—urges favorable consideration of a measure, such as the draft accompanying this resolution, expressing the sense of the House on this timely and important topic.

H. RES. —

Whereas, older persons are eligible to participate in hundreds of programs funded by federal, state and local governments and private organizations; and

Whereas, these programs conflict in eligibility criteria, administrative requirements and geographical coverage, and are not well coordinated with each other; and

Whereas older persons often find it impossible to come to grips with this bewildering maze of programs; and

Whereas the House Select Committee on Aging and other Congressional committees have recommended that the federal government take strong, positive steps to reorganize federal programs serving the elderly along more rational lines; and

Whereas the President's Reorganization Project, within the Office of Management and Budget, will be making recommendations to the President on how to restructure federal efforts to serve our older citizens; and

Whereas official comments on the general need for better coordination from the Office of Management and Budget and the Department of Health, Education, and Welfare call into question how well those agencies perceive the need for timely, meaningful restructuring of programs to serve the elderly;

Now, therefore, be it resolved by the House of Representatives that the Office of Management and Budget is urged to recommend changes in statutes, regulations and program structure commensurate with the sweeping need for reorganization among federal programs serving the elderly documented by the House Select Committee on Aging and other arms of Congress; and

Be it further resolved—that such recommendations address at least the following options or problem areas:

(1) swift development of common application and referral form to be available for use by all major programs serving the elderly;

(2) restructuring of those now fragmented programs providing home health or other in-home services to older Americans, perhaps as part of a system of community-based long-term care centers offering a wide range of services;

(3) transfer of aging-related programs to the Administration on Aging;

(4) personal approval by the President of all inter-agency agreements designed to promote better coordination among such programs; and

(5) designation of a high-level official in the Departments of Transportation, Labor, and Housing and Urban Development, with specific responsibility to assure the needs of the elderly in their respective agencies are

considered, and to foster better inter-agency coordination.

SELECT COMMITTEE ON AGING RESOLUTION ON MENTAL HEALTH CARE

(Approved 20–6 August 28, 1978)

BACKGROUND

Older Americans are among those in greatest need of treatment for mental illness. Although constituting only 11% of the total population, persons over 65 account for 25% of all suicides. Some 15–25% of older people have significant mental health problems, yet they make up less than 2% of those cared for in private psychiatric settings, and less than 2% of those seen in public outpatient clinics. Anywhere from 20–30% of older people labeled "senile" have specific conditions that can be diagnosed, treated and often reversed.

Current Medicare law severely restricts mental health coverage. The program offers only $250 annually for outpatient care costs, requires 50–50 copayments, and limits psychiatric hospital coverage to only 190 days in a person's lifetime. Moreover, clinical psychologists cannot deliver care unless a medical doctor has first prescribed it, a requirement that adds measurably to the cost of the service.

Congressman Pepper has introduced legislation, H.R. 13460, which addresses these shortcomings. It would (1) equalize mental health coverage under Medicare with that for physical illness, (2) permit direct reimbursement for clinical psychologists where they are licensed by their state, and (3) help states develop and enforce standards governing the discharge of mental patients and the adequacy of living conditions of SSI recipients in nursing and boarding homes.

Federal policy may also be contributing to widespread "dumping" of elderly mental hospital patients into community settings, so that states can shift the cost burden of supporting these persons to the federally funded Supplemental Security Income (SSI) program. A survey by the Select Committee on Aging revealed a 62% reduction in mental hospital patients from 1969 to 1977. The President's Commission on Mental Health, chaired by First Lady Rosalynn Carter, noted this situation and concluded, "Nowhere are the deficiencies of the Medicare program more apparent than in the area of financing mental health care."

RESOLUTION

Be it resolved, That in view of the results of the Select Committee on Aging's hearings and survey on the subject, and the findings of the President's Commission on Mental Health chaired by the First Lady, the Committee expresses its strong support for legislation such as H.R. 13460 to establish parity between physical and mental health services under Medicare, and to counter any incentives in current law to discharge older patients prematurely from state hospitals.

SELECT COMMITTEE ON AGING RESOLUTION ON AMICUS CURIAE BRIEF IN SUPREME COURT ON MANDATORY RETIREMENT

(Approved 20–5 August 28, 1978)

BACKGROUND

As part of the Age Discrimination in Employment Act (ADEA) Amendments of 1978, Congress repealed the mandatory retirement age of 70 for most federal employees.

Partly in order to avoid referral to other committees and the attendant delay, managers and sponsors of the bill agreed to accept an amendment which allowed statutes setting various mandatory retirement ages for other groups of federal employees, including the mandatory retirement age of 60 for most Foreign Service Officers, to remain intact. Another factor in the decision not to contest deletion of the Foreign Service Officers age was the recognition that a three-judge panel of the U.S. District Court in the District of Columbia had unanimously declared the retirement age an unconstitutional denial of equal protection under the Fifth Amendment. The case was *Bradley vs. Vance*.

Acting on the request of the State Department, the Solicitor General appealed the decision, the Supreme Court noted probable jurisdiction, and the case (now *Vance vs. Bradley*) has been set for argument in the upcoming fall term of the Court.

Among other arguments in the Government's brief to the Supreme Court is the contention that Congress, in enacting the 1978 ADEA amendments, reaffirmed the intent to keep the mandatory retirement age for Foreign Service Officers at 60 years.

Attorneys for the plaintiffs—ten employees of the Foreign Service, the U.S. Information Agency and the Agency for International Development—have asked Chairman Pepper to file a brief as *amicus curiae*, or friend of the court, to address this and other arguments arising in the case from his unique perspective.

The only costs attributable to such effort would be $300–500 for printing of the briefs; payable out of the contingent fund of the House after approval by the Committee on House Administration.

RESOLUTION

Be it resolved, That the Select Committee on Aging—authorizes and directs the Chairman to take appropriate steps to file an *amicus curiae* brief in behalf of the appellants in the case of *Vance vs. Bradley*, for himself and such other Members of Congress as desire to join in the brief.●

"CLEVER SCHEME" TO PAY FOR QUIETER PLANES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. COTTER) is recognized for 10 minutes.

● Mr. COTTER. Mr. Speaker, last spring, when the House Ways and Means Committee approved legislation for an airport trust fund, I stated my opposition to the bill in the committee report. At the time, I expressed a fear that such a fund could start a dangerous precedent of big businesses dipping into Federal dollars to meet regulatory requirements.

Mr. Hobart Rowen, a renowned columnist for the Washington Post, recently wrote the following article on the airport trust fund bill, detailing the opposition arguments. I would like to bring this excellent column to the attention of my colleagues so that they will keep it in mind when the bill comes up for final passage.

"CLEVER SCHEME" TO PAY FOR QUIETER PLANES

(By Hobart Rowen)

If the airlines have their way, every time you buy a ticket for a flight in this country 25 percent of the taxes you pay would go directly to them to buy $3.3 billion worth of new aircraft and equipment. And every time you go abroad, $10 would go from your pocket to the airlines' treasuries—it wouldn't even go first to Uncle Sam—to finance their new equipment.

This rip-off is part of a clever scheme concocted by the airlines to have the public pay for the less noisy planes they are supposed to acquire. It is a lovely make-work project for the aircraft manufacturers. And among the more interesting aspects is that airline fares could be reduced by the amount of this bonanza to the industry if administration officials and congressional leaders have the guts to oppose the scheme.

Wage-price watchdog Barry Bosworth wrote a private internal memorandum to the Office of Management and Budget on Sept. 18, 1977, exposing the plan. But he has not been allowed to go public with it. The details of the proposed "Treasury raid" were first publicized by Rep. Gene Snyder (R-Ky.).

Here's what has happened: The airlines now collect, to pay for air-safety measures, an 8 percent tax on domestic tickets, 5 percent on domestic air freight, and a fixed $3 fee on each foreign departure.

Those monies go into a trust fund financing airport safety measures, including the salaries of personnel and the detection equipment used in the pre-boarding routines. But the money collected is said to be more than needed, suggesting that the 8 percent tax ought to be lowered to about 6 percent and the other charges accordingly. Wouldn't a 25 percent reduction in airline taxes be a nice anti-inflationary gesture?

But no. The airlines, required by a 1976 Federal Aviation Administration regulation to use less noisy aircraft after 1984, saw an opportunity to make the public pick up the check. Instead of lowering the tax bill by about $3.3 billion, the airlines' lobby has had two measures (H.R. 8729 and H.R. 11986) introduced in Congress.

They would divert 2 points of the 8 percent passenger tax (25 percent) and 2 points of the 5 percent freight charge (that's 40 percent) into a kitty to finance new planes. The $3 departure tax would be upped to $10, with all of it going to the airlines. And a brand-new 5 percent surcharge would be placed on international cargo—all going to the carriers.

So far, these measures appear to be moving with little opposition through the House Public Works and Ways and Means committees.

In 1976, the FAA estimated that the airlines could modify their planes to conform to anti-noise requirements for a total cost of $950 million. "Retro-fitting" a Boeing 727 by installing sound-absorbent material costs only about $225,000. A new plane can run to $12 million.

But if the airlines can squeeze $3.3 billion out of an unsuspecting public, they will have acquired all new equipment, by putting up barely over half of the total cost, estimated at $7 billion. You and I will pay for the rest.

If the airlines get away with this bad precedent, then the public should expect to be the victim—through taxes—of the cost of meeting any environmental standard.

But the devious nature of this particular proposal is extraordinary. The tax is sneaky, because it is already on the books for another purpose. Without publicity, the "raid" would have taken place, and no one would be the wiser.

This gift to the airlines ought to be vigorously contested by the Carter administration. Instead, it is keeping quiet, in the hopes that it will get some congressional votes as a trade-off for an airline regulation reform bill.

Privately, Carter aides hope to get the House bills weakened in the Senate. But if the White House really wants to control inflation, and be convincing in denials that it has muzzled Bosworth (whose jawboning has offended George Meany), it can do so easily. It can unleash Bosworth and others for an active role in whipping an inexcusable handout to the airline industry at the taxpayers' expense.●

PANAMA CANAL: BISHOPS TRY TO COOL PANAMANIAN MARXISTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

● Mr. FLOOD. Mr. Speaker, on February 24, 1975, the administrative board of the National Conference of Catholic Bishops, with the best intentions, issued a press release urging the giving of full control over the U.S.-owned Canal Zone and Panama Canal to the Republic of Panama as a "matter of elemental justice."

That release was not overlooked by competent students of Isthmian Canal policy questions. One of them, Maj. Gen. Thomas A. Lane, a distinguished Catholic layman who had had Army engineering experience in the Canal Zone, analyzed the statement and in a thoughtful article, published in the highly respected Catholic paper, the Wanderer, disclosed some of its fallacies. I quoted his article in an address to the House of Representatives (CONGRESSIONAL RECORD, April 22, 1975, p. 11303).

It was, therefore, gratifying to learn recently that the bishops of Panama, headed by Archbishop Marcos G. McGrath, issued a pastoral letter on "The Situation of the Country" exposing the realities of the problem facing Panama. This letter was described at length in the July 30, 1978, issue of the San Diego, Calif., Union in a Hemispheric Report by William Giandoni of the Copley News Service.

Because the indicated report is quite revealing and should help correct some current misinformation, I quote it as part of my remarks and urge that it be read by all Members of the Congress:

HEMISPHERE REPORT—BISHOPS TRY TO COOL PANAMANIAN MARXISTS

(By William Giandoni)

Marxists are trying to take control of Gen. Omar Torrijos' dictatorship in Panama.

But prominent Panamanians, friends and foes alike of Torrijos, are girding for action to keep Panama and the strategic Panama Canal from falling into enemy hands.

The lates, and certainly the most respected, voices to be raised against the Marxist threat in the isthmian republic are those of Panama's nine Catholic bishops, headed by Archbishop Marcos G. McGrath of Panama City.

In a pastoral letter on "The Situation of the Country," the Catholic prelates objected to "the fact that certain Marxist cadres pretend to set themselves up as political spokesmen not only of the government but of the whole nation as well, imposing their opinions with all the authoritarian force they can muster."

The bishops went on to say that in some government offices jobs and opportunities "are handed out almost exclusively to those of one and the same ideological line."

The bishops did not name names or cite specific instances of the Marxist infiltration of the dictatorship. But, nevertheless, their protest had considerable impact in Panama and, presumably, will have elsewhere. The pastoral letter was not only read at all masses on Sunday, July 9, but was airmailed to other countries.

All of the bishops, from Archbishop McGrath, who is a native of Panama, on down, had appeared to support the Torrijos regime, particularly during the negotiations with the United States on a new canal treaty.

To some extent, it was the vocal backing of men of their caliber that calmed fears in Panama and abroad that Torrijos might turn out to be a hidden communist, as did Cuban dictator Fidel Castro, or that he might not be strong enough to hold his Marxist advisers in check. Now, it appears, they have come around to that point of view.

The situation that the bishops mentioned should not constitute any immediate threat to the Panama Canal. The presence of an estimated 15,000 U.S. troops within the 10-mile wide, 50-mile long Canal Zone should be enough to guarantee the security of the inter-oceanic waterway.

The bishops' warning against Marxist infiltration of the government brought a denial of sorts from Torrijos.

"I do not like that pastoral letter, the views of five (sic) respectable bishops before whom I bow my head with a respectful religious attitude, their attitude of insinuating that this nation is taking the course of communism," Torrijos said in a speech that was broadcast throughout the country.

"All we have been doing has been precisely so that the nation will not fall into or be involved in foreign schemes, in foreign-oriented or enslaving schemes," Torrijos said.

The bishops' criticism of the situation in Panama was not limited just to the signs of Marxist infiltration.

They complained of the great needs of the Panamanian people, "of the lack of jobs, of housing, of the basic guarantees of life." They voiced their concern over "the slight participation of the people, especially the poorest, in the efforts and decisions that affect their own development." They protested the recent violence in the university and elsewhere.

But the "serious defects in the current political structure" in Panama were what led the bishops to their protest against Marxist activities.

The first defect was "the lack of a clear and proper separation among the three branches of the government." That was a reference to the fact that the current Panamanian constitution grants Gen. Torrijos, as chief of government, virtually dictatorial powers.

Then the bishops "noted a lack of efficiency in public administration because of the duplication of functions, personalism and improvisation."

Next came "the lack of controls over the budgeting, investment and handling of public funds."

Finally, "the lack of representation in the system for election of (local) representatives" to the National Assembly was mentioned. The pastoral letter noted that "a recent study, based on official electoral statistics, reveals the possibility that five percent of the electoral population of the country could determine the election of the future president of the republic," under the current arrangement.

In truth, nothing the bishops said had not been said before, although probably it was expressed in more inflammatory language.

Since Torrijos relaxed restrictions on press, radio and television last year, since he authorized the return of political exiles, and since the opposition political parties regained the voices they lost in 1968 when the National Guard ousted President Arnulfo Arias, highly partisan critics of the Torrijos regime have been saying much the same.

However, as such charges were voiced by professional politicians who had been displaced by the military and who presumably were willing to go to extremes to get back into power, many Panamanians tended not to take them seriously.

That is not the case with Archbishop McGrath and Bishops Jose Carrizo, Carlos Lewis, Jesus Serano, Daniel Nunes, Jose Agustin Ganuza, Jose Dimas Cedeno, Martin Legarra and Marcos Zuluaga, all of whom signed the pastoral letter.

They are not suspected of having political ambitions.

Theirs are voices most Panamanians hear and heed.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. WHITE) is recognized for 5 minutes.

● Mr. WHITE. Mr. Speaker, I missed rollcall No. 723 on August 17 as I had to leave Washington to attend to official business in the 16th Congressional District of Texas. Had I been present for the vote on passage of the bill to authorize appropriations for the U.S. Railway Association for fiscal year 1979 (H.R. 10898), I would have voted "nay." ●

CONGRESSIONAL MISSION TO VIETNAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BINGHAM) is recognized for 10 minutes.

● Mr. BINGHAM. Mr. Speaker, the congressional study mission that traveled to Vietnam during the recent congressional recess under the leadership of our distinguished colleague from Mississippi (Mr. MONTGOMERY) has performed a great service to the Congress, to the American people, and particularly to American MIA families, and I rise today to commend that group for its very productive effort.

Not only, Mr. Speaker, did the study mission obtain from Vietnamese officials the remains of another 11 Americans who died in Vietnam, it also continued a constructive dialog with Vietnamese officials that will hopefully one day result in concrete improvement in our relations with that country and further healing of the wounds on both sides of the tragic war we fought there.

Several members of the study mission, Mr. Speaker, have commented to the press that the Vietnamese are now ready to establish diplomatic relations with the United States. It would seem, from these statements and other sources, that the Vietnamese are now prepared to drop their demands for war reparations from the United States as a precondition to diplomatic relations.

As chairman of the House subcommittee with legislative jurisdiction over U.S. economic embargoes, including the current embargo of Vietnam, I look forward to reviewing in detail the study mission's report. Administration officials have reconfirmed to me very recently that President Carter's earlier policy statements with respect to Vietnam still stand—that the only precondition from the U.S. point of view to a lifting of our embargo is the establishment of diplomatic relations, and that the embargo will be lifted simultaneously with the opening of such relations.

Technically, Mr. Speaker, the embargo

of Vietnam could expire on September 14, 1978, unless the President determines that it is in the national interest to continue it. I presume he will make that determination. While I have long been in favor of terminating the embargo, I can understand why the President might want to extend it now, at least for the time being. The administration's linkage between diplomatic relations and a lifting of the embargo is certainly not unreasonable. Even assuming that both sides are now ready for diplomatic relations, it will take some negotiating to work out the details of those relations, particularly in view of the hostility that has so long separated us. Negotiation of the details of diplomatic relations cannot possible be accomplished before September 14, so I think it is only realistic to expect the embargo to be continued for a while longer.

I sincerely hope, however, that the administration will take the initiative very soon to resume talks with the Vietnamese to reach agreement on diplomatic relations and a lifting of the embargo. The Congress is clearly on record against any agreement for reparations or financial aid to Vietnam at this time. But that negative view does not necessarily extend to diplomatic relations and basic commercial trade relations with Vietnam. The apparent removal of reparations and aid from the list of Vietnamese preconditions would seem to remove the last obstacle to such progress and the main basis for congressional opposition.

Obviously, Mr. Speaker, improved U.S. relations with Vietnam has implications for other nations, particularly the Soviet Union, the People's Republic of China, and Japan. I believe we should consult with each of those governments before reestablishing diplomatic relations and permitting commercial trade.

Between now and the time when further negotiations might produce agreement on diplomatic relations, I believe it is important that we avoid provocative actions toward Vietnam that might make it difficult for that government to carry through with its apparent decision to seek improved relations with us. On the contrary, in view of the actions the Vietnamese have taken, particularly in returning the remains of MIA's and demonstrating their willingness to search for those still missing, it would be most appropriate for us to reciprocate. In particular, I think it would be appropriate for the State and Treasury Departments to increase the volume of exceptions to the embargo and allow certain transactions to go forward on a case-by-case basis. There are, for example, transactions that were frozen by the embargo involving goods that the previous Government of Vietnam had already purchased from American companies before the embargo went into effect. These goods, in some cases, had already been shipped from the United States before the embargo, but could not be delivered and have had to be stored at great expense since. I believe it would be most appropriate immediately to allow those transactions to be completed as reasonable exceptions to the embargo.

Again, Mr. Speaker, I commend the distinguished gentleman from Mississippi (Mr. MONTGOMERY) and all the Members of his congressional party on the constructive contribution to our foreign policy they have made, and I urge all Members of the House to study their recommendations seriously and sympathetically.●

MILITARY AND FEDERAL PAY CAP UNFAIR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. HARRIS) is recognized for 5 minutes.

Mr. HARRIS. Mr. Speaker, today I am introducing into the House a resolution to disapprove President Carter's recommended 5.5 percent cap on military and Federal pay.

In seeking to impose an arbitrary pay cap on military and Federal employees below levels his own advisers have proposed, the President is placing an unfair burden on one segment of the work force, and circumventing the intent of Public Law 92–210, the Federal Pay Comparability Act of 1970. By adopting my resolution of disapproval, Congress can make the Pay Act work as it was intended, reaffirm its earlier vote this session against the pay cap in the budget resolution, live up to America's contract with her fighting men and women and public service employees, and avoid even bigger outlays for military and Federal pay next year.

ARBITRARY WAGE CONTROLS ON MILITARY AND FEDERAL PERSONNEL

A pay cap is an arbitrary wage control on one segment of our economy—America's 2 million men and women in the armed service and 1.5 million Federal civil servants, their spouses, and dependents. The administration argues that by artificially capping military and civil service pay, we can set an example for private industry. This argument is unacceptable. In the last year, private sector workers have far outpaced military and civil service workers in wage settlements and pay increases. The Bureau of Labor Statistics "Employment Cost Index" figures for last year indicate that pay increases for all private, nonfarm workers has risen 7.8 percent. Professional and technical workers' salaries in the private sector rose 6.6 percent; sales workers' pay went up 11.8 percent; and industrial and manufacturing employees got an additional 7.8-percent increase.

To say that holding military and Federal pay at 5.5 percent will serve as an example is fallacious. Singling out one group of employees is unfair.

TAKING POLITICS OUT OF FEDERAL PAY: AND MAKING THE PAY ACT WORK

Under the Comparability Pay Act of 1970, Congress moved to take Federal and military pay increases out of the annual political squabbles between Congress and the President over Federal pay. Pay increases under this act are not cost-of-living increases. They are "catch-up-with-industry" adjustments in Federal salaries, designed to keep military and civil service personnel comparable with workers in private industry.

Each year, the Bureau of Labor Statistics surveys private industry rates of pay for positions comparable to Federal Government positions. The President receives a comparability recommendation from the Civil Service Commission and OMB after consultation with public employee groups. This provision is designed to get these salaries they have coming to them, and to enable the military and civil service to recruit and retain high quality employees.

Mr. Speaker, we have a comparability system established so that these employees can catch up with private industry. We have only an opportunity to accept the counsel of the President's advisers on Federal pay who recommended an 8.4-percent increase, or to substitute his arbitrary pay cap of 5.5 percent.

Now, if the President wants to change the way comparability pay is computed, let him come forward with a plan to alter it. It is unfair, in the meantime, to deny comparability to those who have been promised it.

REAFFIRMING HOUSE VOTE: AND AVOIDING BIGGER INCREASES IN 1980

When this resolution of disapproval comes up for a vote in the House later this month, we will have an opportunity to reaffirm the position the House took earlier this year in defeating an effort to impose the cap in the first concurrent budget resolution. The House rejected a 5.5-percent pay cap on rollcall No. 280, May 3, 1978, by a vote of 172 to 210.

A pay cap is deceptive since the comparability pay system is a "catch-up" system, an arbitrary 5.5-percent cap at this point will cause an even bigger adjustment next year, with an additional 2.9 percent added to the amount otherwise needed at that time. We are not fooling anybody by delaying comparability pay adjustments—nobody, that is, except the military and Federal employees who have been promised comparability.

STATEMENT OF SENATOR STENNIS REGARDING PRESIDENT'S VETO OF DOD AUTHORIZATION BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. MONTGOMERY) is recognized for 5 minutes.

● Mr. MONTGOMERY. Mr. Speaker, I wish to call to the attention of my colleagues the following statement made today by Senator JOHN C. STENNIS, of Mississippi, regarding the President's veto of the Department of Defense authorization bill on which the House will vote tomorrow:

Senator JOHN C. STENNIS (D-Miss.) today strongly supported efforts by Members of the House of Representatives to override President Carter's veto of the Department of Defense authorization bill. "The crucial vote is in the House since the House must act first on overriding this veto. If the House votes to override, it will provide an opportunity, as well as momentum for getting a similar vote to override the veto in the Senate," STENNIS said.

"This veto was of the wrong bill, at the wrong time, and under the wrong circumstances. It seems apparent that the veto was based on false facts as they relate to the Defense budget and our military strength," STENNIS commented.

"If this veto is not overridden, a major initiative on building a Navy for the future might be lost," STENNIS said. The bill that was vetoed included a carefully constructed package developed and agreed to by the House and Senate which laid the groundwork for a future fleet of smaller, less costly and lighter aircraft carriers equipped with vertical takeoff aircraft. It also included development funds for several new types of smaller, less costly ships and submarines.

"The Navy cannot have a fleet of smaller, less costly ships in the future if development is not begun now. This bill makes a strong start on that development. Therefore, it goes further than any legislation proposed or enacted to insure a strong naval fleet of this type for the future. Should this veto be sustained this forward move for light carriers, new V/STOL aircraft and other new types of Navy ships would be impaired and possibly stopped," STENNIS said.●

SENATE ACTION ON VETERANS PREFERENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. ROBERTS) is recognized for 5 minutes.

● Mr. ROBERTS. Mr. Speaker, on Thursday, August 24, the Senate passed S. 2640, the civil service reform bill. It should be noted that the other body not only rejected the administration's proposed plan to terminate veterans' preference for millions of Vietnam veterans, it adopted several amendments offered by the distinguished chairman of the Senate Committee on Veterans' Affairs, the Honorable ALAN CRANSTON, that would substantially strengthen the preference for disabled veterans.

It is important to note the action by the other body since the House will be considering the civil service reform legislation tomorrow.

I would urge my colleagues to read the debate in the CONGRESSIONAL RECORD in reference to the Senate action on the veterans' preference issue. Rather than terminate the preference for millions of Vietnam veterans before having an opportunity to use the benefit, the Senate has confirmed our commitment to Vietnam veterans by keeping the 5-point preference as a lifetime benefit. This is consistent with the Hanley amendment. I hope my colleagues will support the Hanley amendment when it is offered tomorrow. In adopting Mr. HANLEY's amendment, the House will stand with the Senate in rejecting the administration's plan to limit the preference for those who served in Vietnam.

Everyone is aware that the American Legion, AMVETS, the Disabled American Veterans, the Veterans of Foreign Wars and other veterans organizations support the Hanley amendment; however, some administration officials have suggested that the National Association of Concerned Veterans, whose membership is composed mostly of Vietnam veterans, supports the administration's proposal. This organization does not support the proposed change in the current law. So there will be no mistake about this organization's views on this issue, there follows a copy of a letter recently sent to the Honorable JAMES HANLEY explaining the position of the organization:

AUGUST 15, 1978.

Hon. JAMES HANLEY,
Cannon House Office Building,
Washington, D.C.

DEAR CONGRESSMAN HANLEY: On behalf of the National Association of Concerned Veterans, I request that you make the position of the NACV clear to the members of Congress concerning the "Schroeder Amendment" to the Civil Service Reform Legislation pertaining to Veterans' preference in civil service.

Initially, I should restate the NACV's position that it does not support the veterans' preference provisions of the administration's proposed legislation, and is in fact, vehemently opposed to that portion of the legislation. The reasons for our opposition are outlined in our testimony to the Senate Committee on Governmental Affairs and to the House Committee on the Post Office and Civil Service. The NACV is also opposed to the veterans' preference provisions contained in the "Schroeder Amendment." The specific provisions that we object to are the fifteen year delimiting date and reduction-in-force (RIF) provisions.

The NACV accepts and supports the administration's argument that Vietnam veterans have not had significant access to federal employment. Furthermore, we believe that some preliminary support (albeit inconclusive) exists for the contention that the current veterans' preference law tends to inhibit Vietnam Veterans' access to federal employment. We must conclude, however, that the fifteen year delimiting date provided by the "Schroeder Amendment" will adversely and discriminatorily affect Vietnam veterans. It, in fact, totally contradicts the above-stated administrative arguments which have been used to support it.

Consider the case of a Vietnam veteran discharged in 1968. Accepting the administration's argument that current veterans' preference provisions deny effective access for Vietnam veterans to federal employment, under the "Schroeder Amendment" a Vietnam veteran discharged in 1968 will not have effective veterans' preference until 1990 and will lose it in 1983. This veteran will have a three year delimiting date as opposed to a Vietnam veteran discharged in 1980 who will have a fifteen year delimiting date. Considerably worse off is the Vietnam veteran discharged in 1965 who will have no effective veterans' preference at all.

The RIF provisions of the "Schroeder Amendment" also appear to be an unjust disadvantage to Vietnam veterans. The administration acknowledged "the many difficult and unfair adjustments" endured by Vietnam veterans have suffered prolonged periods of unemployment through no fault of their own. Because of this, we believe Vietnam veterans should receive more protection in RIF's than is offered by the "Schroeder Amendment." We believe that this protection should be in the form of additional years to Vietnam veterans' seniority for RIF purposes.

Additionally, the NACV notes that the administration's rhetoric conspicuously avoids any sort of affirmative action plan for Vietnam veterans. While we acknowledge that the administration supports the Senate's proposal to extend the VRA to nearly all Vietnam veterans until 1981, we must also note the past failure of this program. We attribute this failure to a lack of commitment from this administration and its two predecessors. Without such an affirmative action plan to support one of the alleged purposes of this legislation (greater access to federal employment for Vietnam veterans), we regard the alleged purpose to be a sham. It appears to be another instance of people within the government using Vietnam veterans to achieve their own desired ends.

Mr. Hanley, the NACV is not opposed to government reform. Neither is it entirely satisfied nor entirely dissatisfied with the Veterans' Preference Act of 1944. Moreover, we point out that much of the information that the administration is using to support its case was provided in our previously alluded to testimony. What the NACV does object to is legislation which harms Vietnam veterans, as is the case with the "Schroeder Amendment" and the original Civil Service Reform Legislation proposed by the administration. Perhaps even more importantly, as citizens, we object to any legislation which undermines its alleged purpose and which is supported by only the most piecemeal and conclusory evidence.

Thank you for your attention and cooperation in this matter.

Sincerely yours,
OTTO LUKERT,
Vice President,
The National Association of Concerned Veterans.●

PRIVACY OF MEDICAL RECORDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 5 minutes.

● Mr. PREYER. Mr. Speaker, I am today introducing the Privacy of Medical Records Act, a bill to protect the privacy of personally identifiable medical records maintained by medical care facilities. The bill incorporates many of the features of the medical records legislation recommended by the Privacy Protection Study Commission, as well as some of the ideas of the Department of Health, Education and Welfare. The Department testified on this subject last May before the Subcommittee on Government Information and Individual Rights, which I chair.

I think this bill strikes a fair balance among the competing interests involved. But let me stress that my proposal is not meant to be the final word. Rather, it is intended to be a starting point for discussion.

Under my proposal, medical care facilities such as hospitals, skilled nursing facilities, and intermediate care facilities would be subject to restrictions on the use and disclosure of medical records. Compliance with those restrictions would be a requirement of participation in medicare and medicaid. Federal medical care facilities would be covered by the bill, but would be exempted from conflicting provisions of the Privacy Act of 1974. Private physicians would not be affected.

A patient at a facility covered by the

bill would be guaranteed the right to see and copy all of the medical records containing information about himself or herself. In addition, the individual could request correction of erroneous information contained in those files. However, if access to the information would likely cause harm to the patient, then another person could be designated by the patient to examine the records on his or her behalf.

Restrictions on the disclosure of this sensitive personal data are the most significant part of the bill, of course. The measure provides that medical information concerning an individual can only be released to others when the individual has given written consent, or when the individual has received advance notification by the institution of anticipated disclosure to categories of users specified in the bill.

The individual's authorization to disclose must be obtained in writing. It must be dated, signed, and specific as to the nature of the medical data to be released and the recipient of that data.

Where advance notification rather than specific consent is relied on as the authority for release, the individual must have been informed in writing of the kinds of disclosures contemplated. In general, these disclosures can only be made to the extent necessary to accomplish the purpose for which the disclosure is made, and can only be made for the following purposes: First, use by facility employees with a "need to know" for the performance of their duties; second, consultation with health professionals about the treatment of the patient; third, compelling circumstances affecting the health or safety of any person; fourth, biomedical, epidemiological, or health services research projects, if the projects are sufficiently important to justify the disclosure, and an institutional review board has made such a determination; fifth, Government audit and evaluation; sixth, non-Government audit and evaluation; seventh, public health reporting required by law; eighth, law enforcement, if the disclosure is required by statute; ninth, information concerning the patient's admission and health status; and tenth, when required under administrative or judicial subpena.

Obtaining medical records under false pretenses is made a crime punishable by fine or imprisonment. A person aggrieved by a violation of any part of the bill is authorized to bring a civil suit for damages for injunctive relief.

Again, this bill does not represent my final position on medical record confidentiality issues. There are many different ways to deal with the issues, and I have an open mind about the structure, content, and need for Federal legislation. By introducing this bill, I hope to advance the discussion about medical record confidentiality beyond consideration of general principles and to begin debate about specific details of actual legislation.

While I had hoped that the administration would have offered a proposal of its own by now, I am confident that this legislation will serve as a talking point for future discussions on the subject. I invite all of those with an interest in this important matter to examine the bill I have introduced and to bring your comments to the attention of the Government Information and Individual Rights Subcommittee.●

SYRACUSE PLANT OF GENERAL MOTORS WINS AWARD FOR QUALITY WORKMANSHIP

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD.)

● Mr. HANLEY. Mr. Speaker, it is with great pride that I rise today to bring to the attention of my colleagues the outstanding efforts of a group of workers in my home community of Syracuse, N.Y.

For the second year in a row, the Fisher Body Syracuse plant has won top honors in its division's annual competition for quality workmanship. It is my understanding that this achievement is without precedent.

Several years ago, General Motors established a numerical scoring system to determine the quality of its products. The objective of that system was to rate products for customer satisfaction. Auditors select components at random in the plants, and gage them for everything from appearance to engineering specifications. The Syracuse team out performed all others this year as well as last.

On August 31, Paul D. Pender, Fisher Body Division general manager and a General Motors vice president, presented a 3-foot silver and walnut trophy to the plant's 1,500 hourly and salaried employees, family members, friends and Fisher Body General Office personnel attended the ceremonies held outside the plant under cover of a tent set up especially for the presentation.

The Syracuse plant is GM's largest plastic injection molding operation. The plant's payroll last year amounted to over $29 million.

I know that my colleagues join me in extending our heartiest congratulations to the men and women of the Fisher Body Syracuse plant for their dedication and hard work. Certainly, the example they have set should be the goal for all American industry.●

CHAIRMAN PRICE'S LETTER TO THE PRESIDENT ON THE VETO OF THE DEFENSE BILL

(Mr. WHITE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. WHITE. Mr. Speaker, I am inserting in the RECORD a letter from Chairman MELVIN PRICE of the Armed Services Committee to the President concerning the President's veto of the fiscal year 1979 defense authorization bill.

This letter articulates the serious concerns which the President's veto of this bill has raised regarding the Congress role in defense policymaking.

I urge all Members who have not read this letter to take this opportunity to do so.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., August 31, 1978.

THE PRESIDENT,
The White House,
Washington, D.C.

MY DEAR MR. PRESIDENT: I have considered long and carefully your veto message to the Congress on H.R. 10929, the Department of Defense Appropriation Authorization Act for fiscal year 1979. I must tell you that I am disturbed by the substance and the tone of that message, and I am compelled also to express my deep concern about the impression of uncertain leadership in national defense that this veto and related decisions may unintentionally project.

Your message repeatedly makes reference to dollar figures of programs which are, in fact, not in the bill that you vetoed. For example, the message refers to an $800 million reduction in weapons and equipment for the Army and a $200 million reduction in weapons and equipment for the Air Force. The authorization bill that you vetoed, H.R. 10929, makes reductions of only $188.7 million in weapons and equipment for the Army and actually provides an addition of $80.2 million for the Air Force.

It has been assumed by some people, therefore, that the intent of your message is to indicate that corresponding reductions have to be made in the Defense appropriation bill to provide for the funding of the *Nimitz*-class nuclear aircraft carrier (CVN) that was authorized in H.R. 10929. Such, however, still fails to explain statistics used in your message. For example, your message refers to "up to $500 million for research and development—for programs proposed in my FY 1979 budget but deleted by one or another congressional action." The authorization bill sent to you, H.R. 10929, reduced research and development (R&D) only $209.5 million. This is a reduction of only 1.7 percent from the amount you requested and the authorization remaining, $12.3 billion, is an 8 percent increase over the amount provided last year.

The explanation of your statement would seem to be that the reference to "one or another Congressional action" includes appropriation action as well. However, the only appropriation action completed at the time of your veto message was the House passage of the Defense appropriation bill. An examination shows that total R&D reduction from the authorization and appropriation process as of the date of your message is less than $400 million. We have no explanation of your reference to a $500 million reduction.

Similarly, your statement makes reference to elimination of $500 million in readiness funds. Most of the readiness items to which you refer—such as repair of weapons, ship overhauls, communications and logistics support—are provided for in operation and maintenance funds which are not subject to annual authorization. At the same time, however, your message fails to acknowledge specific actions taken by Congress in H.R. 10929 in personnel authorizations to improve the readiness of our forces, including increases to provide more training time, additional civilian manpower for aircraft maintenance activities, and steps to improve the readiness of the Ready Reserve forces.

I understand that you are opposed to a nuclear aircraft carrier, but here again the position and the statistics of the Administration are confusing.

The veto message states your opposition to a nuclear aircraft carrier and that, therefore, 2 billion could have been saved by following your Administration's recommendations.

I would remind you, however, that subsequent to the submission of your budget, but prior to House floor consideration of H.R. 10929, I received a letter from the Secretary of the Navy supporting the inclusion of a conventional aircraft carrier (CVV) costing $1.575 million in this year's authorization. The difference between the Administration position and the committee position at that point, therefore, was not $2 billion, but rather the difference between a CVN and a CVV.

Can we not assume that the Secretary of the Navy speaks for your Administration on matters affecting the Navy?

Your veto message makes no mention of the Secretary's letter, but indicates that a conventionally-powered carrier would be requested in the budget next year "at a saving of $1 billion for that single ship."

The authorization bill provides $1.930 billion for a *Nimitz*-class CVN.

The cost of the CVN includes approximately 13 years of nuclear fuel. The $1.575 million estimate for the CVV is a current estimate for a ship which has not yet been designed. The estimate is surely conservative at this point. The estimate does not include the cost of 13 years of fuel.

On a one-to-one comparison, therefore, I don't know how your Administration can state that building one CVV instead of one CVN would save $1 billion.

If only one more large carrier, is to be built, the cost comparison, I believe, would be very close. The operational advantages of the CVN over the CVV are well-known and acknowledged on both sides, and I believe Members of Congress can make their own comparison and determine whether the nuclear capability is worthwhile at a slight additional cost.

Let me call to your attention that Senator Hart of Colorado, a Democrat and one of the most vigorous spokesmen in Congress for going to smaller carriers has vigorously supported H.R. 10929 as a vehicle for moving to a small carrier strategy in the future, has stated that the single CVN would cost only $355 million more than the CVV even if the latter "does not experience large cost overruns common with a new ship design," and has asked his colleagues to override your veto.

Statements repeatedly emanate from your Administration that three large conventional carriers could be built for the price of two nuclear carriers. If indeed that statement is correct, it is only pertinent if we are planning to build there or more large carriers. However, the fact is we are planning to build only one.

All of the witnesses for your Administration, including the most vigorous proponents of going to smaller carriers in the future, concurred that we should have 12 large carriers deployed. All of your Defense Department witnesses made clear that to have 12 carriers deployed, 13 are required since one carrier is always in the shipyard undergoing overhaul.

The question, therefore, is if we are building one more large carrier, should it be nuclear or conventional?

On each occasion this year when the House of Representatives was faced with the question of whether or not to build a nuclear carrier, a substantial majority supported the CVN. Equally substantial support has been voiced in the Senate. To veto a bill after this expression of Congressional intent suggests an unwillingness to accept the Congressional role in the defense decision-making process.

I am disturbed also, Mr. President, because even if the dollar amounts referred to in your message could be verified, the allegation that reductions made by the Congress mean simply a cut in combat capability, evidences a failure to understand the dynamics of the authorization and appropriation process.

Subsequent to the submission of the budget, reductions are made with the concurrence of, or even at the request of the Department of Defense because of program cancellations, program delays, or contract modifications which were not anticipated at the time the budget was drawn. In H.R. 10929, in the area of procurement alone, more than $1 billion can be identified which was eliminated for these reasons. In other words, the funds could not responsibly be obligated now even if authorized and appropriated.

Examples are the Navy Trident submarine, where a $911.9 million reduction was made because of a program delay; the Mark 46 torpedo, where a reduction of $26.7 million was made because the Navy informed us of a cost-saving in the program; and the Army XM-1 tank program, where the Army informed us that $127.4 million originally requested was not needed as a result of contract modifications.

So the implication throughout the message that funding a $2 billion carrier necessarily means $2 billion cut in needed programs elsewhere is simply not correct.

Your message further states that reductions were made "to stay within Congressional budget limits." This statement fails to recognize the simple fact that Congress has not completed action on the Second Budget Resolution. Therefore, the final "Congressional budget limits" on national defense have not yet been established.

I can only conclude, Mr. President, that you have been ill-advised on the process of Congressional authorization and appropriation.

I am concerned that your message may lead to other statements by Administration officials which are incorrect. In a speech to the American Legion Convention on August 22, the Secretary of Defense stated, "spending money on spare parts, unit training, and field exercises may not grab the headlines. But . . . this is the right way at the right time to neutralize the Soviet buildup. That is what the President had in mind, as I said earlier, when he sent the Defense authorization bill back to the Congress last week. . . ." H.R. 10929 did not make any significant reductions in the authorization requested for initial spare parts, it provided more manpower authorization than requested in order to increase the amount of training, and it did not address any requests for funds for field exercises. The latter are provided through operation and maintenance appropriations not subject to annual authorization. Certainly, such misleading public statements should be avoided.

In the time since your veto message was received, no further explanation has been submitted by the Administration and, in fact, the military departments indicate they have been directed not to respond to Congressional inquiries on the message.

I must ask you, therefore, Mr. President, to direct your advisors to submit an explanation of the basis for the estimates used in your veto message, together with a list of specific additions and deletions opposed by your Administration.

I state to you categorically that none of the additions or deletions made in H.R. 10929 by my committee were inspired by a desire to find funding for a nuclear aircraft carrier. Each of the programs in the bill was considered independently on its merits. The assumption that reductions were sought in advance to provide funding for the nuclear carrier fails to appreciate the months and months of hearings and analyses by Congressional committees.

Indeed, Mr. President, perhaps my principal concern with your message is the tone with which the actions of the Congress are addressed. Nowhere do I find any recognition that the Congress is capable of making an independent contribution to the weapon development process. Implicit throughout your message is the charge that Members of Congress, in order to support a particular weapon system, knowingly voted for a bill that weakens our national defense.

This charge is most grievous to me.

I have served in public office for more than 40 years and in all of more than 32 years in the House of Representatives I have had special responsibilities in the areas of national defense and nuclear energy policy. In these areas I have worked with every President since Harry Truman. At no time have I supported any particular system or any special interest at the price of our overall national defense. I have always worked to strengthen our national defense and I think H.R. 10929 would do that. While the Congress made a number of changes in the bill, both additions and deletions, they are not inconsistent with the number of changes we have made annually in such legislation.

I have the utmost respect for the present Secretary of Defense as I have had for most of his predecessors, but I have failed to observe any conclusive evidence of infallibility in the Department of Defense.

The burden of your message is that Congress does not have a place in defense policymaking except insofar as it is prepared to "rubber stamp" recommendations of the Executive Branch. I reject that philosophy.

I believe the Congress deserves to be treated as a partner in defense decision-making, not as a poor relation.

Finally, Mr. President, I must express to you my deep concern about the picture we are presenting to the world of our willingness to provide necessary leadership. I am concerned about what appears to be a propensity to forgo those military capabilities that we do well.

You may recall that I wrote to you a year ago expressing my concern about the impact on national defense capability of a series of decisions which include the cancellation of the B-1, the cancellation of the short range attack missile (SRAM), the termination of production of the Minuteman III missile, and the slowdown of development funding for the MX missile system. At that time, I expressed the hope that the Congress could work with the Administration to provide necessary defense systems. Since that time, we have had the cancellation of production of the enhanced radiation weapon, the indecision in response to the demonstrated need to protect the vulnerability of our land-based ICBMs, the proposed withdrawal of forces from Korea, and now the veto of a Defense authorization bill and a determined effort to stop another large aircraft carrier.

I am deeply concerned as to the cumulative effect of all of these actions on our defense capability and equally concerned as to their effect on the perception of potential adversaries as to our willingness to meet our national security commitments.

For all of the above reasons, Mr. President, I must reluctantly tell you that I cannot accept the reasoning in your veto message and on September 7 I shall ask the House of Representatives to vote to override your veto of H.R. 10929.

Respectfully yours,

MELVIN PRICE,
Chairman, Committee on Armed Services.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. LEHMAN (at the request of Mr. WRIGHT), for September 6 through 14, on account of official business.

Mr. YOUNG of Alaska (at the request of Mr. RHODES), for September 6, 7, and 8, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. SIKES, for 30 minutes, today; and for 30 minutes September 7, 1978; and for 30 minutes, on September 13, 1978, to revise and extend his remarks and to include extraneous matter.

(The following Members (at the request of Mr. GREEN) to revise and extend their remarks and include extraneous material:)

Mr. GOLDWATER, for 5 minutes, today.

(The following Members (at the request of Mr. WATKINS) to revise and extend their remarks and to include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. PEPPER, for 10 minutes, today.
Mr. COTTER, for 10 minutes, today.
Mr. FLOOD, for 5 minutes, today.
Mr. TEAGUE, for 5 minutes, today.
Mr. WHITE, for 5 minutes, today.
Mr. BINGHAM, for 10 minutes, today.
Mr. HARRIS, for 5 minutes, today.
Mr. MONTGOMERY, for 5 minutes, today.
Mr. ROBERTS, for 5 minutes, today.
Mr. PREYER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BUTLER, to include extraneous material during consideration of H.R. 12432 in the Committee of the Whole today.

Mr. BUTLER, to extend his remarks preceding the vote on the Treen amendment to H.R. 12432 in the Committee of the Whole today.

(The following Members (at the request of Mr. GREEN) and to include extraneous material:)

Mr. FINDLEY in three instances.
Mr. JOHN T. MYERS.
Mr. BOB WILSON in two instances.
Mr. COLLINS of Texas in three instances.
Mr. RUDD.
Mr. FRENZEL in three instances.
Mr. MOORHEAD of California.
Mr. MCCLOSKEY.
Mrs. HOLT.
Mr. LEACH.
Mr. DERWINSKI in two instances.
Mr. GILMAN.
Mr. GRASSLEY.
Mr. STEERS in two instances.
Mr. WHITEHURST.

(The following Members (at the request of Mr. WATKINS) and to include extraneous matter:)

Mr. PICKLE in 10 instances.
Mr. BYRON in 10 instances.
Mr. ROSENTHAL in 10 instances.
Mr. SISK in two instances.
Mrs. LLOYD of Tennessee in five instances.
Mr. ANNUNZIO in six instances.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. BROWN of California in 10 instances.
Mr. HAMILTON in 10 instances.
Mr. LAFALCE in two instances.
Mr. UDALL in two instances.
Mr. EDWARDS of California.
Mr. PEPPER.
Mr. HOLLAND in five instances.
Mr. EILBERG in 10 instances.
Mr. SIMON in three instances.
Mr. MITCHELL of Maryland.
Mr. APPLEGATE.
Mr. MCDONALD in five instances.
Mr. MILLER of California.
Mr. VANIK in two instances.
Mr. BONIOR.
Mr. PHILLIP BURTON.
Mr. AMBRO.
Mr. BENNETT.
Mr. JACOBS.
Mr. JOHNSON of California.
Mr. MAHON.
Mr. ROGERS in five instances.
Mr. BLANCHARD.
Mr. EDGAR.

SENATE BILLS AND CONCURRENT RESOLUTION REFERRED

Bills and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 408. An act to amend title 5, United States Code, to extend certain benefits to former employees of county committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, and for other purposes; to the Committee on Post Office and Civil Service;

S. 1274. An act to provide the Attorney General of the United States with authority to contract with State and local authorities for the safekeeping, care, and subsistence of all Federal prisoners; to the Committee on the Judiciary;

S. 2366. An act for the relief of Keum Sun Lee; to the Committee on the Judiciary;

S. 3036. An act to amend the Coinage Act of 1965 to change the size, weight, and design of the one-dollar coin, and for other purposes; to the Committee on Banking, Finance and Urban Affairs;

S. 3184. An act to designate the Indian Health Facility in Ada, Okla., the "Carl Albert Indian Health Facility"; to the Committee on Interior and Insular Affairs;

S. 3274. An act to designate the U.S. Department of Agriculture's Bee Research Laboratory in Tucson, Ariz., as the "Carl Hayden Bee Research Center"; to the Committee on Agriculture;

S. 3336. An act to enable the Department of Justice and the Administrative Office of the U.S. Courts to provide services and special supervision to drug dependent Federal offenders in an efficient and effective manner; to the Committee on the Judiciary;

S. 3373. An act to amend title 10, United States Code, to authorize the Secretary of Defense to provide transportation to the Girl Scouts of the United States of America in connection with International World Friendship Events or Troops on Foreign Soil meetings, and for other purposes; to the Committee on Armed Services;

S. 3375. An act to amend title 28 of the United States Code to make certain changes in the places of holding Federal district courts, in the divisions within judicial districts, and in judicial idstrict dividing lines; to the Committee on the Judiciary;

S. 3446. An act to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Ben Abruzzo, Maxie Anderson, and Larry Newman; to the Committee on Banking, Finance and Urban Affairs; and

S. Con. Res. 105. Concurrent resolution authorizing the printing of additional copies of the final report and of volume II of the executive session hearings on the Korean influence inquiry; to the Committee on House Administration.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 9. An act to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes;

S. 1633. An act to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes; and

S. 2543. An act to amend title 39 of the United States Code to provide better enforcement procedures for preventing fraudulent solicitations through the mails.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 185. An act to amend section 2632 of title 10, United States Code, to provide the Secretary of the department in which the Coast Guard is operating with the authority to transport Coast Guard employees to and from certain places of employment;

H.R. 2931. An act to amend chapter 89 of title 5, United States Code, to establish uniformity in Federal employee health benefits and coverage by preempting certain State or local laws which are inconsistent with such contracts, and for other purposes;

H.R. 2952. An act for the relief of M/Sgt. William E. Boone, U.S. Army, retired;

H.R. 3532. An act to amend chapter 639 of title 10, United States Code, to enable the Secretary of the Navy to change the name of a publication of the Naval Observatory providing data for navigators and astronomers;

H.R. 7161. An act to amend title 10, United States Code, to allow nationals, as well as citizens, of the United States to participate in the Junior Reserve Officers' Training Corps program;

H.R. 7162. An act for the relief of Staphanie Johnson;

H.R. 8342. An act to amend title 5, United States Code, to provide for the application of local withholding taxes to Federal employees who are residents of such locality;

H.R. 8397. An act to provide that a certain tract of land in Pinal County, Ariz., held in trust by the United States for the Papago Indian Tribe, be declared a part of the Papago Indian Reservation;

H.R. 8471. An act to authorize the Governor of the State of Wyoming to exhibit the nameplate, ship's bell, and silver service of the U.S.S. *Wyoming* without restriction as to the place of such exhibition;

H.R. 10878. An act to extend until October 1, 1981, the voluntary insurance program provided by section 7 of the Fishermen's Protective Act of 1967, and for other purposes;

H.R. 10899. An act to provide for Federal regulation of participation by foreign banks in domestic financial markets;

H.R. 12106. An act to amend the Independent Safety Board Act of 1974 to authorize additional appropriations;

H.R. 12240. An act to authorize appropriations for fiscal year 1979 for intelligence and intelligence-related activities of the U.S. Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes;

H.R. 12602. An act to authorize certain construction at military installations for fiscal year 1979, and for other purposes;

H.R. 12927. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes;

H.R. 13235. An act for the relief of James Thomas Lantz, Jr., David D. Bulkley, and Arthur J. Abshire;

H.R. 13467. An act making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes;

H.R. 13468. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1979, and for other purposes;

H.J. Res. 554. Joint resolution proposing an amendment to the Constitution to provide for representation of the District of Columbia in the Congress;

H.J. Res. 773. Joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the seven calendar days beginning September 17, 1978, as "National Port Week"; and

H.J. Res. 1014. Joint resolution designating April 28 and 29 of 1979 as "Days of Remembrance of Victims of the Holocaust."

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on August 17, 1978, present to the President, for his approval, a bill of the House of the following title:

H.R. 11579. To designate the Veterans' Administration center located at 1901 South First Street, Temple, Tex., as the "Olin E. Teague Veterans' Center"; and for other purposes.

ADJOURNMENT

Mr. WATKINS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 25 minutes p.m.), the House adjourned until tomorrow, Thursday, September 7, 1978, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4844. A letter from the Assistant Secretary of Defense (Comptroller), transmitting a report on the value of property, supplies, and commodities provided by the Berlin Magistrate, and under the German Offset Agreement for the quarter ended June 30, 1978, pursuant to section 819 of Public Law 95-111; to the Committee on Appropriations.

4845. A letter from the Commander, Naval Sea Systems Command, Department of the Navy, transmitting a report that a claim against the United States exceeding $5 million by the Boland Marine and Manufacturing Co., Inc., New Orleans, La., has been thoroughly examined and evaluated by officials of the Department of Defense responsible for determining such claims, and has been found to be valid, pursuant to section 747 of Public Law 94-419; to the Committee on Appropriations.

4846. A letter from the Chairman, Federal Election Commission, transmitting the Commission's fiscal year 1980 appropriation request, pursuant to section 310(d)(1) of the Federal Election Campaign Act, as amended; to the Committee on Appropriations.

4847. A letter from the Acting Secretary of the Navy, transmitting a draft of proposed legislation to amend title 10, United States Code, to remove the statutory restrictions on the strength and distribution in grade of officers designated for limited duty on the active lists of the Navy and the Marine Corps; to the Committee on Armed Services.

4848. A letter from the Acting Secretary of the Navy, transmitting a draft of a proposed joint resolution authorizing the Secretary of the Navy to receive for instruction at the U.S. Naval Academy 10 citizens and subjects of the Kingdom of Saudi Arabia; to the Committtee on Armed Services.

4849. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various construction projects proposed to be undertaken by the Air National Guard, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

4850. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing); transmitting notice of the location, nature, and estimated cost of a construction project proposed to be undertaken by the Naval and Marine Corps Reserve, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

4851. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Navy's proposed sale of certain military equipment to Iran (transmittal No. 78-53), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

4852. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Navy's proposed sale of military equipment to Australia (transmittal No. 78-74), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

4853. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Navy's proposed sale of certain military equipment to Iran (transmittal No. 78-91), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

4854. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Air Force's proposed sale of defense equipment to Korea (transmittal No. 78-96), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

4855. A letter from the Acting Assistant Secretary of State for Congressional Relations, transmitting a copy of Presidential Determination No. 78-17, finding that it is in the national interest of the United States for the Export-Import Bank to facilitate the extension of credit to Hungary, pursuant to section 2(b)(2) of the Export-Import Bank Act of 1945, as amended; to the Committee on Banking, Finance and Urban Affairs.

4856. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on loan, guarantee and insurance transactions supported by Eximbank during July 1978 to Communist countries; to the Committee on Banking, Finance and Urban Affairs.

4857. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2-259, to order the closing of Eye Street, NW. between 23d and 24th Streets, NW. (S.O. 75-34), pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4858. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2-260, to amend the Condominium Act of 1976, District of Columbia Law 1-89, pursuant to section 602 (c) of Public Law 93-198; to the Committee on the District of Columbia.

4859. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2-261, to order the closing of a public alley and the dedication of certain other land for public alley purposes, pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4860. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2-262, to order the closing of part of an east-west public alley and the dedication of certain other land for public alley purposes, pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4861. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2-263, to create employment opportunities for blind and other severely handicapped individuals by assuring a market for products and services provided by them, and for other purposes, pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4862. A letter from the District of Columbia Auditor, transmitting copies of various reports recently released by his office, pursuant to section 455 of Public Law 93-198; to the Committee on the District of Columbia.

4863. A letter from the Chairman, National Advisory Council on Adult Education, transmitting the Council's annual report for fiscal year 1978, pursuant to section 311(d) of the Adult Education Act, as amended; to the Committee on Education and Labor.

4864. A letter from the Chairman, National Council on Educational Research, National Institute of Education, Department of Health, Education, and Welfare, transmitting the fourth annual report of the Council, pursuant to section 405(c)(3) of the General Education Provisions Act, as amended (86 Stat. 330); to the Committee on Education and Labor.

4865. A letter from the General Counsel of the Department of Housing and Urban Develoement, transmitting a revision to the Department's 1977 annual report on activities under the Freedom of Information Act, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

4866. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of proposed changes in the Department's system of records, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4867. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of a proposed new records system for the Department of the Army, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4868. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of a proposed new records system for the Air Force, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4869. A letter from the Assistant Attorney General for Administration, transmitting notice of proposed changes in the Department's

system of records, pursuant to 5 U.S.C. 552a (o); to the Committee on Government Operations.

4870. A letter from the Deputy Assistant Secretary of the Interior for Policy, Budget and Administration, transmitting notice of a proposed change in an existing records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4871. A letter from the Assistant Secretary of Housing and Urban Development for Administration, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4872. A letter from the Assistant Secretary of Transportation for Administration, transmitting notice of a proposed change in an existing Coast Guard records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4873. A letter from the Deputy Secretary of Energy, transmitting notice of a proposed new records system for the Department, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4874. A letter from the Assistant to the Deputy Administrator, National Aeronautics and Space Administration, transmitting notice of proposed changes in the Department's system of records, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4875. A letter from the Chairman and the General Counsel, National Labor Relations Board, transmitting notice of proposed changes in the Board's system of records, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4876. A letter from the Administrator of Veterans' Affairs, transmitting notice of a new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4877. A letter from the Comptroller General of the United States, transmitting the annual report on progress and results of the continuing program to improve the usefulness of fiscal, budgetary, and program-related information to Congress (PAD-78-78, August 29, 1978, pursuant to section 202(e) of the Legislative Reorganization Act of 1970, as amended; to the Committee on Government Operations.

4878. A letter from the Comotroller General of the United States, transmitting a list of reports issued or released by the General Accounting Office during July 1978, pursuant to section 234 of the Legislative Reorganization Act of 1970; to the Committee on Government Operations.

4879. A letter from the Secretary of the Interior and the Secretary of Agriculture, transmitting the 12th and 13th annual reports on the status of the National Wilderness Preservation System, covering calendar years 1975 and 1976, pursuant to section 7 of the Wilderness Act; to the Committee on Interior and Insular Affairs.

4880. A letter from the Acting Secretary of the Interior, transmitting a report on the organization of leasing operations of the Federal Government, pursuant to section 658 of Public Law 95-91; to the Committee on Interior and Insular Affairs.

4881. A letter from the Acting Secretary of the Interior, transmitting notice of the proposed refund of $15,000 in rental payments to the Mesa Petroleum Co., pursuant to section X 10(b) of the Outer Continental Shelf Lands Act; to the Committee on Interior and Insular Affairs.

4882. A letter from the Vice Chairman, Indian Claims Commission, transmitting the Commission's final determination in docket No. 59, *Saginaw Chippewa Indian Tribe of Michigan, et al.*, plaintiffs v. *The United States of America*, defendant, docket No. 29-E, *Hannahville Indian Community, et al.*, plaintiffs, v. *Potawatomi Indians of Indiana and Michigan, Inc., Prairie Band of Pottawatomie Indians, et al., Citizen Band Potawatomi Indians of Oklahoma, et al.*, intervenors, v. *The United States of America*, defendant, and docket No. 133-B, *The Ottawa Tribe and Guy Jennison, et al., as representatives of the Ottawa Tribe*, plaintiffs, v. *The United States of America*, pursuant to section 21 of the Indian Claims Commission Act; to the Committee on Interior and Insular Affairs.

4883. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a quarterly report on the programing and obligation of International Narcotics Control funds as of June 30, 1978, pursuant to section 481(b)(1) of the Foreign Assistance Act of 1961, as amended (87 Stat. 719); to the Committee on International Relations.

4884. A letter from the Acting Assistant Secretary of State for Congressional Relations, transmitting notice of the intention of the Department of State to consent to a request by the Government of Belgium for permission to transfer U.S.-origin military equipment to the Government of Australia, pursuant to section 3(a) of the Arms Export Control Act, as amended; to the Committee on International Relations.

4885. A letter from the Acting Assistant Secretary of State for Congressional Relations, transmitting a copy of Presidential Determination No. 78-16, and the justification therefor, finding that the financing under the Arms Export Control Act of the sale to Tunisia of certain sophisticated weapons is important to the national security of the United States, pursuant to section 4 of the act; to the Committee on International Relations.

4886. A letter from the Acting Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by U.S. Chief of Protocol-designate Edith J. Dobelle, and by members of her family, pursuant to section 6 of Public Law 93-126; to the Committee on International Relations.

4887. A letter from the Acting Assistant Secretary of State for Congressional Relations, transmitting reports on political contributions made by William H. Luers and Marilyn P. Johnson, Ambassadors-designate to Venezuela and Togo, respectively, and by members of their families, pursuant to section 6 of Public Law 93-126; to the Committee on International Relations.

4888. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the proposed issuance of licenses for the export of major defense equipment sold commercially to the Republic of China (MC-13-78), pursuant to section 36(c) of the Arms Export Control Act; to the Committee on International Relations.

4889. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the proposed issuance of licenses for the export of major defense equipment sold commercially to the Philippines (MC-34-78), pursuant to section 36(c) of the Arms Export Control Act; to the Committee on International Relations.

4890. A letter from the Acting Assistant Secretary of State for Congressional Relations, transmitting notice of the proposed issuance of licenses for the export of major defense equipment sold commercially to Argentina (MC-35-78), pursuant to section 36(c) of the Arms Export Control Act; to the Committee on International Relations.

4891. A letter from the Under Secretary of State for Security Assistance, Science and Technology, transmitting the annual report for fiscal year 1977 on exports of arms, ammunition and implements of war, pursuant to section 657(a) of the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

4892. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting notice of a proposed increase in the funding level of the Agency's fiscal year 1978 Caribbean Regional program, pursuant to section 653(b) of the Foreign Assistance Act of 1961, as amended (88 Stat. 1801); to the Committee on International Relations.

4893. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting notice of a proposed increase in the funding level of the Agency's fiscal year 1978 program in Chile, pursuant to section 653(b) of the Foreign Assistance Act of 1961, as amended (88 Stat. 1801); to the Committee on International Relations.

4894. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting notice of a proposed increase in the funding level of the Agency's fiscal year 1978 program in Guyana, pursuant to section 653(b) of the Foreign Assistance Act of 1961, as amended (88 Stat. 1801); to the Committee on International Relations.

4895. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting notice of a proposed increase in the funding level of the Agency's fiscal year 1978 program in Kenya, pursuant to section 653(b) of the Foreign Assistance Act of 1961, as amended (88 Stat. 1801); to the Committee on International Relations.

4896. A letter from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

4897. A letter from the Acting Assistant Legal Adviser for Treaty Affairs, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

4898. A letter from the Assistant Secretary of the Treasury for Legislative Affairs, transmitting project performance audit reports prepared by the International Bank for Reconstruction and Development, pursuant to section 301(e)(3) of the Foreign Assistance Act of 1961, as amended (87 Stat. 718); to the Committee on International Relations.

4899. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment to Iran (transmittal No. 78-53), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4900. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment to Australia (transmittal No. 78-74), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4901. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense articles to Iran (transmittal No. 78-91), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4902. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense articles to Saudi Arabia (transmittal No. 78-94), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4903. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer

to sell certain defense equipment to Korea (transmittal No. 78-96), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4904. A letter from the Secretary of Health, Education, and Welfare, transmitting a report on the status of health professions personnel in the United States, pursuant to section 708(d) of the Public Health Service Act, as amended; to the Committee on Interstate and Foreign Commerce.

4905. A letter from the Secretary of Health, Education, and Welfare, transmitting a report on State compliance with medicaid utilization control requirements, covering the quarter ended December 31; 1977, pursuant to section 1903(g)(6) of the Social Security Act, as amended (91 Stat. 1205); to the Committee on Interstate and Foreign Commerce.

4906. A letter from the General Counsel, Department of Energy, transmitting notice of various meetings relating to the International Energy Program to be held September 12, 13, and 14, in London, England; to the Committee on Interstate and Foreign Commerce.

4907. A letter from the Chairman, National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, transmitting the Commission's report and recommendations on institutional review boards, pursuant to section 204(d) of Public Law 93-348; to the Committee on Interstate and Foreign Commerce

4908. A letter from the Assistant Secretary of Energy for Policy and Evaluation, transmitting notice of a delay in preparation of the annual report on the economic impact of energy actions required by section 18(d) of the Federal Energy Administration Act, as amended (90 Stat. 1130); to the Committee on Interstate and Foreign Commerce.

4909. A letter from the Acting Chairman, Interstate Commerce Commission, transmitting amendments to certain route statistics in an appendix to the Commission's previously submitted annual report on Amtrak (Executive Communication No. 3590); to the Committee on Interstate and Foreign Commerce.

4910. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth perference classification, pursuant to section 204 (d) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

4911. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in the cases of certain aliens found admissible to the United States, pursuant to section 212(a)(28)(I)(ii) of the Immigration and Nationality Act; to the Committee on the Judiciary.

4912. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders suspending deportation under the authority of section 244(a)(1) of the Immigration and Nationality Act, together with a list of the persons involved, pursuant to section 244(c) of the act; to the Committee on the Judiciary.

4913. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting the first in a series of quarterly reports on the Agency's efforts at regulatory reform; to the Committee on the Judiciary.

4914. A letter from the Deputy Comptroller General of the United States, transmitting a report and recommendation concerning claims for relief from liability to the United States of 17 employees of the Long Beach Naval Shipyard, Calif., pursuant to the act of April 10, 1928 (45 Stat. 413, 31 U.S.C. 236); to the Committee on the Judiciary.

4915. A letter from the Administrator of General Services, transmitting the 1977 status report on public buildings projects authorized for construction, alteration and lease in accordance with the Public Buildings Act of 1959, pursuant to section 11(a) of the act; to the Committee on Public Works and Transportation.

4916. A letter from the Secretary of Energy, transmitting performance standards for the first electric and hybrid vehicles to be purchased or leased under the Electric and Hybrid Vehicle Research, Development, and Demonstration Project, pursuant to section 7(b)(4) of Public Law 94-413, as amended (92 Stat. 91); to the Committee on Science and Technology.

4917. A letter from the Under Secretary of Energy, transmitting a preliminary report on the study of options available to the Federal Government to provide for the adequate growth of the solar photovoltaics industry, pursuant to section 208(a)(2) of Public Law 95-238; to the Committee on Science and Technology.

4918. A letter from the Administrator, U.S. Small Business Administration, transmitting the administration's views on the House and Senate versions of H.R. 11445, a bill to amend the Small Business Act and the Small Business Investment Act of 1958; to the Committee on Small Business.

4919. A letter from the Acting Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend title II of the Social Security Act to make the monthly retirement test available in limited circumstances in the case of certain beneficiaries, to amend the technical requirements for entitlement to medicare, and for other purposes; to the Committee on Ways and Means.

4920. A letter from the Chairman, Agricultural Technical Advisory Committee for Trade Negotiations on Dairy, transmitting the committee's report on the Agreement on Trade Matters Between the United States of America and the United Mexican States, signed December 2, 1977, pursuant to section 135(e)(1) of the Trade Act of 1974; to the Committee on Ways and Means.

4921. A letter from the Acting Comptroller General of the United States, transmitting a report on the Air Force's GBU-15 short and long range air-to-ground glide weapons program (PSAD-78-49, August 24, 1978); jointly, to the Committees on Government Operations and Armed Services.

4922. A letter from the Comptroller General of the United States, transmitting a report on Defense Department pricing policies and practices in certain foreign military sales (FGMSD-78-51, August 25, 1978); jointly, to the Committees on Government Operations, Armed Services, and International Relations.

4923. A letter from the Comptroller General of the United States, transmitting a report on the Army's ballistic missile defense program and related aspects of strategic offensive weapons (PSAD-78-109, September 1, 1978); jointly, to the Committees on Government Operations and Armed Services.

4924. A letter from the Comptroller General of the United States, transmitting a report on the problems and outlook of small private liberal arts colleges (HRD-78-91, August 25, 1978); jointly, to the Committees on Government Operations and Education and Labor.

4925. A letter from the Comptroller General of the United States, transmitting a report on U.S. economic assistance for Israel (ID-78-31, August 18, 1978); jointly, to the Committees on Government Operations and International Relations.

4926. A letter from the Comptroller General of the United States, transmitting a report on the impact of U.S.-based multinational corporations on the conduct of our foreign relations (PAD-78-58, August 23, 1978); jointly, to the Committees on Government Operations and International Relations.

4927. A letter from the Comptroller General of the United States, transmitting a report on the geographic distribution of physicians and needed improvements in Federal programs designed to improve availability of physician services in underserved areas (HRD-77-135, August 22, 1978); jointly, to the Committees on Government Operations, Interstate and Foreign Commerce, and Ways and Means.

4928. A letter from the Comptroller General of the United States, transmitting a report on reducing the Federal law enforcement role in bank robberies (GGD-78-67, August 18, 1978); jointly, to the Committees on Government Operations and the Judiciary.

4929. A letter from the Comptroller General of the United States, transmitting a report on the Government's efforts to regulate post-Federal employment and what can be done to improve executive branch administration of existing post-Federal employment laws and regulations (FPCD-78-38, August 28, 1978); jointly, to the Committees on Govenment Operations, the Judiciary, and Post Office and Civil Service.

4930. A letter from the Comptroller General of the United States, transmitting a report on improvements needed in collection, accounting, and cash management of import duties and taxes (FGMSD-78-50, August 21, 1978); jointly, to the Committees on Government Operations and Ways and Means.

4931. A letter from the Comptroller General of the United States, transmitting a report on the replacement of missing supplemental security income checks (HRD-78-28, August 22, 1978); jointly, to the Committees on Government Operations and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows

[*Pursuant to the order of the House on Aug. 16, 1978, the following reports were filed on Aug. 18, 1978*]

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 13372. A bill to increase the price of migratory-bird hunting and conservation stamps and to suspend the hunting of migratory birds in any State in which there has been a failure to approve an acquisition of wetlands; with amendment (Rept. No. 95-1518). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 13745. A bill to authorize appropriations to carry out conservation programs on military reservations and public lands during fiscal years 1979, 1980, and 1981 (Rept. No. 95-1519). Referred to the Committee of the Whole House on the State of the Union.

[*Pursuant to the order of the House on Aug. 17, 1978, the following reports were filed on Aug. 21, 1978*]

Mr. BROOKS: Committee on Government Operations. Report on Justice Department internal investigation policies. (Rept. No. 95-1520). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on search warrants and the effects of the Stanford Daily decision (Rept. No. 95-1521). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. S. 1265. An act to amend chapter

21 of title 44, United States Code, to include

21 of title 44, United States Code, to include new provisions relating to the acceptance and use of records transferred to the custody of the Administrator of General Services (Rept. No. 95–1522). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. House Resolution 1242. Resolution to disapprove Reorganization Plan No. 3 transmitted by the President on June 19, 1978 (Rept. No. 95–1523). Referred to the Committee of the Whole House on the State of the Union.

[*Pursuant to the order of the House on Aug. 15, 1978, the following reports were filed on Aug. 25, 1978*]

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries H.R. 11861. A bill to establish a Navy-Maritime Advisory Board; with amendment (Rept. No. 95–1524). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 12959. A bill to amend the definition of the term "qualified vessel" under a Capital Construction Fund; with amendment (Rept. No. 95–1525). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 12603. A bill to amend the Great Lakes Pilotage Act of 1960 in order to relieve the restrictive qualification standards for U.S. registered pilots on the Great Lakes; with amendment (Rept. No. 95–1526). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 13392. A bill to amend the Anadromous Fish Conservation Act to include fish in Lake Champlain that ascend streams to spawn; with amendment (Rept. No. 95–1527). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 11658. A bill to amend title XI of the Merchant Marine Act, 1936, to permit the guarantee of obligations for financing Great Lakes vessels in an amount not exceeding 87½ percent of the actual or depreciated actual cost of each vessel; with amendment (Rept. No. 95–1528). Referred to the Committee of the Whole House on the State of the Union.

[*Pursuant to the order of the House on Aug. 17, 1978, the following reports were filed Aug. 25, 1978*]

Mr. BROOKS: Committee on Government Operations. H.R. 13767. A bill to amend the Federal Property and Administrative Services Act of 1949 to permit the recovery of replacement cost of motor vehicles and other related equipment and supplies; (Rept. No. 95–1529). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. H.R. 13688. A bill to authorize the permanent establishment of a system of Federal Information Centers; with amendment (Rept. No. 95–1530). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. H.R. 13778. A bill to establish a Department of Education, and for other purposes; with amendment (Rept. No. 95–1531). Referred to the Committee of the Whole House on the State of the Union.

[*Pursuant to the order of the House on Aug. 17, 1978, the following report was filed on Aug. 30, 1978*]

Mr. ULLMAN: Committee on Ways and Means. H.R. 11545. A bill to modify the method of determining quantitative limitations on the importation of certain articles of meat and meat products, to apply quantitative limitations on the importation of certain additional articles of meat, meat products, and livestock, and for other purposes; with amendment (Rept. No. 95–1532). Referred to the Committee of the Whole House on the State of the Union.

Aug. 17, 1978, the following reports were [*Pursuant to the order of the House on filed on Aug. 31, 1978*]

Mr. ULLMAN: Committee on Ways and Means. H.R. 13097. A bill to amend certain provisions of title XVIII of the Social Security Act as they relate to the medicare program established by part A of such title; with amendment (Rept. No. 95–1533). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 13817. A bill to amend the Social Security Act with respect to the health programs authorized under it and for other purposes; with amendment (Rept. No. 95–1534). Referred to the Committee of the Whole House on the State of the Union.

[*Submitted Sept. 6, 1978*]

Mr. FASCELL: Committee of conference. Conference report on H.R. 12598 (Rept. No. 95–1535). Ordered to be printed.

Mr. BOLLING: Committee on Rules. House Resolution 1333. Resolution providing for the consideration of H.R. 13471. A bill to strengthen the supervisory authority of Federal agencies which regulate depository institutions, to prohibit interlocking management and director relationships between financial institutions, to amend the Federal Deposit Insurance Act, to restrict conflicts of interest involving officials of financial supervisory agencies, to control the sale of insured financial institutions, to regulate the use of correspondent accounts, to establish a Federal Bank Examination Council, and for other purposes. (Rept. No. 95–1536). Referred to the House Calendar.

Mr. ULLMAN: Committee on Ways and Means. H.R. 6877. A bill to amend the Internal Revenue Code of 1954 with respect to the tax treatment of small business investment companies electing to be taxed as regulated investment companies; with amendment (Rept. No. 95–1537). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 9192. A bill to amend the Internal Revenue Code of 1954 to include the banks for cooperatives among the other financial institutions subject to the provisions of subsection 582(c)(1) and section 595(a) of such code; with amendment (Rept. No. 95–1538). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 10653. A bill to amend the Internal Revenue Code of 1954 with respect to the redemption of United States Railway Association certificates of value issued to railroads in reorganization; with amendment (Rept. No. 95–1539). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 12200. A bill to amend section 422 of the Internal Revenue Code of 1954; with amendment (Rept. No. 95–1540). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 12606. A bill to provide that annuity contracts purchased by the Uniformed Services University of the Health Sciences shall be entitled to the benefits of section 403(b) of the Internal Revenue Code of 1954. (Rept. No. 95–1541). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 9333. A bill to authorize the Secretary of the Interior to construct hydroelectric powerplants and various existing water projects, and for other purposes; with amendment (Rept. No. 95–1542). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 13069. A bill to prohibit discrimination in rates charged by the Southwestern Power Administration; with amendment (Rept. No. 95–1543). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1829. An act to provide for the establishment of the Jean Lafitte National Historical Park and Preserve in the State of Louisiana, and for other purposes; with amendment (Rept. No. 95–1544). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BLANCHARD (for himself, Mr. CONTE, Mr. FITHIAN, Mr. GRADISON, Mr. BAUCUS, Mr. BONIOR, Mr. GLICKMAN, Mr. HUBBARD, Mr. LLOYD of California, Mr. OBERSTAR, Mr. PATTERSON of California, Mr. RAHALL, Mr. RUSSO, Mr. VENTO, and Mr. WIRTH):

H.R. 13975. A bill to require authorization of new budget authority for Government programs every 10 years, and for other purposes; jointly, to the Committees on Rules and Government Operations.

By Mr. CORMAN (for himself and Mr. FISHER):

H.R. 13976. A bill to amend the Internal Revenue Code of 1954 to allow certain individuals whose employers make contributions to pension plans a deduction for their contributions to certain individual retirement savings plans; to the Committee on Ways and Means.

By Mr. COTTER:

H.R. 13977. A bill to amend section 216 of the Internal Revenue Code; to the Committee on Ways and Means.

By Mr. DUNCAN of Tennessee:

H.R. 13978. A bill to amend the Internal Revenue Code of 1954 to make certain changes in the rules used in determining whether corporations are members of a controlled group; to the Committee on Ways and Means.

By Mr. EILBERG:

H.R. 13979. A bill to amend the Internal Revenue Code of 1954 to allow individuals a credit against income tax for qualified fire detector expenses; to the Committee on Ways and Means.

By Mrs. FENWICK (for herself, Mr. BONIOR, Mr. BUTLER, Mrs. COLLINS of Illinois, Mr. DOWNEY, Mr. DUNCAN of Oregon, Mr. EDGAR, Mr. EDWARDS of California, Mr. EILBERG, Mr. FARY, Mr. FORSYTHE, Mr. GARCIA, Mr. GUYER, Ms. HOLTZMAN, Mr. HUGHES, Mrs. LLOYD of Tennessee, Mr. MCKAY, Mr. MITCHELL of Maryland, Mr. MURPHY of Illinois, Mr. OTTINGER, Mr. PATTERSON of California, Mr. PRESSLER, Mr. PREYER, Mr. RODINO, and Mr. ROE):

H.R. 13980. A bill to increase alternatives to institutionalization for senior citizens; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

By Mrs. FENWICK (for herself, Mr. CORCORAN of Illinois, Mr. DANIELSON, Mr. EVANS of Delaware, Mr. GRASSLEY, Mr. MINISH, Mr. SAWYER, Mrs. SCHROEDER, Mrs. SPELLMAN, Mr. STEERS, Mr. TSONGAS, Mr. VENTO, Mr. ZABLOCKI, and Mr. GREEN):

H.R. 13981. A bill to increase alternatives to institutionalization for senior citizens; jointly, to the Committees on Interstate and Foreign Commerce and Ways and Means.

By Mr. GRASSLEY:

H.R. 13982. A bill to amend the Internal Revenue Code of 1954 to clarify the eligibility for the investment tax credit of structures used for housing, raising, or feeding hogs; to the Committee on Ways and Means.

By Mr. LUKEN:

H.R. 13983. A bill to amend title XX of the Social Security Act to insure the equitable distribution of services among political subdivisions within each State; to the Committee on Ways and Means.

By Mr. MATHIS (for himself and Mr. WAMPLER):

H.R. 13984. A bill to prohibit the Secretary of Agriculture from prohibiting the use of nitrites as a food preservative on the basis of any carcinogenic effect nitrites may be represented to have until a satisfactory substitute preservative is commercially available; to the Committee on Agriculture.

H.R. 13985. A bill to prohibit the Secretary of Agriculture and the Secretary of Health, Education, and Welfare from prohibiting the use of nitrites as a food preservative on the basis of any carcinogenic effect nitrites may be represented to have until the development of a satisfactory alternative food preservative; jointly, to the Committees on Agriculture, and Interstate and Foreign Commerce.

By Mr. PEPPER:

H.R. 13986. A bill to amend title XVIII of the Social Security Act to reduce certain deductibles and coinsurance under the medicare program and to fund such reductions from general revenues; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. PERKINS:

H.R. 13987. A bill to amend the Internal Revenue Code of 1954 to insure that the deduction for contributions to a black lung benefit trust be allowed for any such contributions which are made for the purpose of satisfying unfunded future liability, and for other purposes; to the Committee on Ways and Means.

By Mr. PRICE (for himself and Mr. BOB WILSON) (by request):

H.R. 13988. A bill to amend sections 3031(d) and 8031(d) of title 10, United States Code, to limit their application to general officers assigned or detailed to duty in the executive part of the Department of the Army and the Department of the Air Force, and for other purposes; to the Committee on Armed Services.

By Mr. DE LA GARZA:

H.R. 13989. A bill to amend section 1445(b) of the Food and Agriculture Act of 1977 to modify the formula for distribution of funds authorized thereunder for agricultural research; to the Committee on Agriculture.

By Mr. HILLIS:

H.R. 13990. A bill to amend the Trade Act of 1974; to the Committee on Ways and Means.

By Mr. JOHNSON of California:

H.R. 13991. A bill to provide for the United States to hold in trust for the Susanville Indian Rancheria of Lassen County, Calif., approximately 120 acres of land; to the Committee on Interior and Insular Affairs.

By Mr. KEMP:

H.R. 13992. A bill to amend the Internal Revenue Code of 1954 to allow alimony to be used in determining the limit on the deduction for retirement savings; to the Committee on Ways and Means.

By Mr. LEDERER:

H.R. 13993. A bill to amend the Federal-State Extended Unemployment Compensation Act of 1970 to provide for the use of unemployment rates in the determination of extended benefit periods; to the Committee on Ways and Means.

By Mr. PREYER:

H.R. 13994. A bill to amend title XI of the Social Security Act and section 522a of title 5, United States Code, to protect the privacy of medical records maintained by medical care facilities, and for other purposes; jointly, to the Committees on Government Operations, Interstate and Foreign Commerce, and Ways and Means.

By Mr. ST GERMAIN:

H.R. 13995. A bill to amend title 10, United States Code, to change the method of computing retired pay of certain enlisted members of the Army, Navy, Air Force, or Marine Corps; to the Committee on Armed Services.

By Mr. BRINKLEY:

H.J. Res. 1129. Joint resolution designating the square dance as the national folk dance of the United States of America; to the Committee on Post Office and Civil Service.

By Mr. SIKES:

H.J. Res. 1130. Joint resolution raising the price support levels for milk, wheat, corn, soybeans, and cotton to 90 percent of the respective parity prices therefor, and for other purposes; to the Committee on Agriculture.

By Mr. GIAIMO:

H. Res. 1334. Resolution expressing the sense of the House that the Reverend Sun Myung Moon appear before the Subcommittee on International Organizations investigating Korean-American relations; to the Committee on International Relations.

By Mr. GLICKMAN:

H. Res. 1335. Resolution to amend the Rules of the House of Representatives; to the Committee on Rules.

By Mr. HARRIS (for himself, Mrs. SPELLMAN, Mr. WON PAT, and Mr. OTTINGER):

H. Res. 1336. Resolution disapproving the Federal pay comparability alternative plan proposed by the President; to the Committee on Post Office and Civil Service.

By Mr. TEAGUE:

H. Res. 1337. Resolution expressing the sense of the House of Representatives with respect to actions which should be taken by Members of the House upon being charged with certain crimes, and for other purposes; to the Committee on Standards of Official Conduct.

By Mr. BROOKS:

H. Res. 1338. Resolution providing for the printing of the report entitled "Freedom of Information Requests for Business Data and Reverse-FOIA Lawsuits"; to the Committee on House Administration.

By Mr. CAVANAUGH:

H. Res. 1339. Resolution relating to distribution of Federal funds to State and local governments for cooperative projects; to the Committee on Government Operations.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

467. By the SPEAKER: Memorial of the Legislature of the State of California, relative to agricultural commodities; to the Committee on Ways and Means.

468. Also, memorial of the Assembly of the State of California, relative to aircraft noise reduction through a strong national policy and national funding source; jointly, to the Committees on Public Works and Transportation and Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DELLUMS:

H.R. 13996. A bill for the relief of Paul Sakwa; to the Committee on the Judiciary.

By Mr. FOUNTAIN:

H.R. 13997. A bill for the relief of Rosario M. Stancil; to the Committee on the Judiciary.

By Mr. KRUEGER (by request):

H.R. 13998. A bill for the relief of Col. Neal R. Walker; to the Committee on the Judiciary.

By Mr. STANTON:

H.R. 13999. A bill for the relief on Helga M. Mathena; to the Committee on the Judiciary.

By Mr. BOB WILSON:

H.R. 14000. A bill for the relief of Welita F. Sebastian; to the Committee on the Judiciary.

H.R. 14001. A bill for the relief of Maria Estela Sims; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

530. By the SPEAKER: Petition of the city council, Dallas, Tex., relative to its opposition to a proposed LEAA grant to the Bois d'Arc Patriots; to the Committee on the Judiciary.

531. Also, petition of the city council, Kansas City, Mo., relative to public transit facilities for the handicapped; to the Committee on Public Works and Transportation.

532. Also, petition of the city council, Burbank, Calif., relative to providing assistance to airport and aircraft operators in complying with Federal noise requirements; to the Committee on Public Works and Transportation.

533. Also, petition of Pheidas Paraskevaides, president, Pancyprian Committee of Refugees, Cyprus, relative to the return of Cypriot refugees to their homes; to the Committee on International Relations.

534. Also, petition of the National Water Supply Improvement Association, Fountain Valley, Calif., relative to the Federal desalination program; jointly, to the Committees on Interior and Insular Affairs and Appropriations.

535. Also, petition of the Michigan Aeronautics Commission, Detroit, Mich., relative to maximizing the use of the Airport and Airways Trust Fund to eliminate the backlog in airport development; jointly, to the Committee on Public Works and Transportation and Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 7308

By Mr. GONZALEZ:

—Amend section 107 to read as follows:

REPORT OF ELECTRONIC SURVEILLANCE

SEC. 107. (a) In April of each year, the Attorney General shall transmit to the Administrative Office of the United States Courts and to Congress a report setting forth with respect to the preceding calendar year—

(1) the total number of applications made for orders and extensions of orders approving electronic surveillance under this title; and

(2) the total number of such orders and extensions either granted, modified, or denied.

(b) And in April of each year the Attorney General shall transmit a report to the appropriate Member of Congress or Congressional Committee on any information gathered regarding any foreign government's attempt to influence Congress, suborn individual Members or to threaten a Member.

H.R. 7308

By Mr. RUDD:

—Page 62, after line 15, insert the following new section and redesignate succeeding sections:

PROTECTION FOR SURVEILLANCE OFFICERS

SEC. 107. Notwithstanding any other provision of this act, no law enforcement, investigative, or intelligence officer or other person engaged in the course of his official duties in conducting electronic surveillance authorized by the Attorney General, or in the use or disclosure of information derived from such surveillance, shall be prosecuted or otherwise held liable for such action under criminal or civil law: *Provided*, That such person acted in a good faith belief that his actions did not violate any provision of this title, under circumstances where that belief was reasonable.

(Amendment offered to the amendment in the nature of a substitute.)

—After section 103, insert the following new section and redesignate succeeding sections:

PROTECTION FOR SURVEILLANCE OFFICERS

SEC. 104. Notwithstanding any other provision of this act, no law enforcement, investigative, or intelligence officer or other person engaged in the course of his official duties in conducting electronic surveillance authorized by the Attorney General, or in the use or disclosure of information derived from such surveillance, shall be prosecuted or otherwise held liable for such action under criminal or civil law: *Provided*, That such person acted in a good faith belief that his actions did not violate any provision of this title, under circumstances where that belief was reasonable.

—(Amendment offered to the amendment in the nature of a substitute.) After section 106, insert the following new section and redesignate succeeding sections:

PROTECTION FOR SURVEILLANCE OFFICERS

SEC. 107. Notwithstanding any other provision of this act, no law enforcement, investigative, or intelligence officer or other person engaged in the course of his official duties in conducting electronic surveillance authorized by the Attorney General, or in the use or disclosure of information derived from such surveillance, shall be prosecuted or otherwise held liable for such action under criminal or civil law: *Provided*, That such person acted in a good faith belief that his actions did not violate any provision of this title, under circumstances where that belief was reasonable.

H.R. 11280

By Mr. CLAY:

—On page 138, after line 5, insert a new section as follows:

"(C) on the basis of sex, as prohibited by the Equal Pay Act of 1963, 29 U.S.C. 206(d);".

And redesignate the subsequent section accordingly.

—On page 142, after line 14, add a new section as follows:

"(3) under the Equal Pay Act of 1963 (29 U.S.C. 206(d)), prohibiting discrimination on the basis of sex;", and renumber the subsequent sections accordingly.

—Page 144, line 20, after "Senate." insert the following: "The term of office of the Director shall be 4 years and shall be coterminous with the term of office of the President.".

—Page 152, line 20, strike out the period and insert in lieu thereof the following: ", and in addition the authority to hear appeals with respect to examination ratings.".

—Page 166, after subsection (d), insert the following:

CATEGORY RATING SYSTEM

SEC. 203. (a) Section 3304 of title 5, United States Code, is amended by inserting at the end thereof the following new subsection:

"(e)(1) Subject to the provisions of this title (other than section 3318(a)), in cases in which the qualifications of applicants are being determined without the use of written examinations, the Office may provide that individuals shall be evaluated in accordance with a category rating system established by the Office which divides the qualified applicants into three or more categories. The appointing or nominating authority may select any individual within the highest category, or, if at least three candidates have not received such a rating, any individual in the next highest category or categories if necessary to provide the appointing or nominating authority with at least three applicants from which to choose.

"(2) For the purpose of applying section 3318(b) of this title in cases to which paragraph (1) of this subsection applies, an individual shall not be passed over unless a selection is made from a category which is lower than the category for which that individual qualified.

Page 166, line 16, strike out "203," and insert in lieu thereof "204.".

Page 174, line 9, strike out "204." and insert in lieu thereof "205.".

Page 182, line 16, strike out "205." and insert in lieu thereof 206.".

Conform the table of contents accordingly.

—Page 168, beginning on line 17, strike out "appraisals of job performance of employees;" and insert in lieu thereof "appraisals of the total job performance of each employee in the agency".

Page 169, line 8, insert "total" before "job performance".

—Page 169, after line 3, insert the following: Under any performance appraisal system developed under this section, the agency may establish or modify any performance standard provided for under subsection (b) of this section to the extent necessary to meet the particular needs of the agency.

—Page 175, strike out line 11 and all that follows down through line 21 and insert in lieu thereof the following:

"(b) An employee against whom an action is proposed to be taken is entitled to—

"(1) written notice of the proposed action which shall state the specific reasons for the action and which shall be provided a reasonable period in advance of the opportunity for hearing;

"(2) a hearing;

"(3) be represented by an attorney or other representative; and

"(4) a written decision after the hearing (or opportunity therefor) which states the specific reasons for such decision and which is provided at least 90 days before such action takes effect.

Page 175, strike out line 22 and all that follows down through line 24.

Page 176, line 1, strike out "(d)" and insert in lieu thereof "(c)".

Page 179, strike out line 12 and all that follows down through line 2 on page 180 and insert in lieu thereof the following:

"(b) An employee against whom an action is proposed to be taken is entitled to—

"(1) written notice of the proposed action which shall state the specific reasons for the action and which shall be provided a reasonable period in advance of the opportunity for hearing;

"(2) a hearing;

"(3) be represented by an attorney or other representative; and

"(4) a written decision after the hearing (or opportunity therefor) which states the specific reasons for such decision and which is provided at least 90 days before such action takes effect.

Page 180, line 6, strike out "(d)" and insert follows down through line 5.

Page 180, line 6, strike out "(d)" and insert in lieu thereof "(c)".

Page 180, line 9, strike out "(e)" and insert in lieu thereof "(d)".

Page 184, line 3, strike out "(3)".

Page 184, line 6, strike out "(A) or party to the appeal or the Director of the Office of Personnel Management petitions" and insert in lieu thereof "(1) a party to the appeal petitions".

Page 184, line 9, strike out "(B)" and insert "(2)" in lieu thereof.

Page 184, strike out paragraph (2), beginning on line 10 and ending on line 23.

—On page 186, line 7, insert the following after "(42 U.S.C. 2000e-16),": "the Equal Pay Act of 1963 (29 U.S.C. 206(d)),".

—On page 187, strike lines 7 through 13, and insert the following in lieu thereof:

" "(b) A petition to review a final order or decision of the Board shall be filed in the Court of Claims or a United States district court as provided in chapters 91 and 85, respectively, of title 28 except that cases of discrimination shall be filed under section 717(c) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16(c), under section 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(c)), section 16(b) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 216 and 217), as applicable. Notwithstanding any other provision of law, any petition for review must be filed within 30 days after the date the petitioner received notice of the final order or decision of the Board.".

—On page 187, line 17, insert after the word "followed" the following: ", except that in a case of discrimination brought under 42 U.S.C. 2000e-16(c), 29 U.S.C. 633a(c), or 29 U.S.C. 216 and 217, the proceeding shall be de novo.".

—Page 209, after line 13, insert the following:

CATEGORY RATING SYSTEM

SEC. 313. (a) Section 3304 of title 5, United States Code, is amended by inserting at the end thereof the following new subsection:

"(e)(1) Subject to the provisions of this title (other than section 3318(a)), in cases in which the qualifications of applicants are being determined without the use of written examinations, the Office may provide that individuals shall be evaluated in accordance with a category rating system established by the Office which divides the qualified applicants into three or more categories. The appointing or nominating authority may select any individual within the highest category, or, if at least three candidates have not received such a rating, any individual in the next highest category or categories if necessary to provide the appointing or nominating authority with at least three applicants from which to choose.

"(2) For the purpose of applying section 3318(b) of this title in cases to which paragraph (1) of this subsection applies, an individual shall not be considered to be passed over unless a selection is made from a category which is lower than the category for which that individual qualified.

—Page 209, line 14, strike out "313." and insert in lieu thereof "314.".

Conform the table of contents accordingly.

—Page 265, line 12, after "(C)" insert the following "except as provided in paragraph (5) of this subsection.".

—Page 266, after line 9, insert the following:

"(5) Any employee who is denied a pay increase under this subsection is entitled to appeal the action to the Merit Systems Protection Board under section 7701 of this title.".

—Page 361, after line 19, insert the following:

TITLE IX—POLITICAL ACTIVITIES

FEDERAL EMPLOYEES' POLITICAL ACTIVITIES

SEC. 901. (a) Subchapter III of chapter 73 of title 5, United States Code, is amended to read as follows:

"Subchapter III—Political Activities

"§ 7321. Political participation

"It is the policy of the Congress that employees should be encouraged to fully exercise, freely and without fear of penalty or reprisal, and to the extent not expressly prohibited by law—

"(1) their rights to participate or to refrain from participating in the political processes of our Nation, and

"(2) their rights to form, join, or assist, or to refrain from forming, joining, or assisting, any organization, political party, committee, association, or other group which advocates or encourages political activities, and that employees should be protected in the exercise of these rights.

"§ 7322. Definitions

"For the purpose of this subchapter—

"(1) 'employee' means any individual, other than the President and the Vice President, employed or holding office in—

"(A) an Executive agency;

"(B) a position within the competitive service, or within the Senior Executive Service as a career appointee (as defined in section 3132(a)(4) of this title), which is not in an entity referred to in subparagraphs (A) through (B);

but does not include a member of the uniformed services;

"(2) 'candidate' means any individual who seeks nomination for election, or election, to any elective office, whether or not such individual is elected, and, for the purpose of this paragraph, an individual shall be considered to seek nomination for election, or election, to an elective office, if such individual has—

"(A) taken the action required to qualify for nomination for election, or election; or

"(B) received political contributions or made expenditures, or has given consent for any other person to receive political contributions or make expenditures, with a view to bringing about such individual's nomination for election, or election, to such office;

"(3) 'political contribution'—

"(A) means a gift, subscription, loan, advance, or deposit of money or anything of value, made for any political purpose;

"(B) includes a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a political contribution for any political purpose;

"(C) includes the payment by any person, other than a candidate or a political party or affiliated organization, of compensation for the personal services of another person which are rendered to such candidate or political party or affiliated organization without charge for any political purpose; and

"(D) includes the provision of personal services for any political purpose;

"(4) 'superior' means an employee who exercises supervision of, or control or administrative direction over, another employee;

"(5) 'elective office' means any elective public office and any elective office of any political party or affiliated organization;

"(6) 'State' means each of the several States and the District of Columbia;

"(7) 'person' means any individual, corporation, trust, association, any State, local, or foreign government, any territory or possession of the United States, or any agency or instrumentality of any of the foregoing; and

"(8) 'restricted position' means any position with respect to which there is in effect a determination by the Office of Personnel Management, by regulation, that—

"(A) the duties and responsibilities of such position require such employee—

"(i) as a substantial part of his official activities, to engage in foreign intelligence activities relating to national security;

"(ii) in the normal course of carrying out such duties and responsibilities—

"(I) to make decisions binding on employees with respect to whom he is a superior with regard to who shall be the subject of any action which is to be taken by any such employee in connection with the enforcement of any civil or criminal law (including any inspection or audit under any such law);

"(II) to actually carry out any such action; or

"(III) to make a final determination with respect to any such action; or

"(iii) in the normal course of carrying out such duties and responsibilities—

"(I) to make binding decisions on who shall be awarded contracts which are for the procurement of goods or services for the Government and which have substantial monetary value, or who shall be awarded licenses, grants, subsidies, or other benefits, which involve funds or other interests having a substantial monetary value; or

"(II) to supervise individuals engaged in the awarding, administering, or monitoring of such contracts, licenses, grants, subsidies, or benefits; and

"(B) the restrictions on political activity imposed on such employee in such position are justified in order to insure the integrity of the Government or the public's confidence in the integrity of the Government.

"§ 7323. Use of official influence or official information; prohibition

"(a) An employee may not directly or indirectly use or attempt to use the official authority or influence of such employee for the purposes of—

"(1) interfering with or affecting the result of any election; or

"(2) intimidating, threatening, coercing, commanding, influencing, or attempting to intimidate, threaten, coerce, command, or influence—

"(A) any individual for the purpose of interfering with the right of any individual to vote as such individual may choose, or of causing any individual to vote, or not to vote, for any candidate or measure in any election;

"(B) any person to give or withhold any political contribution; or

"(C) any person to engage, or not to engage, in any form of political activity whether or not such activity is prohibited by law.

"(b) An employee may not directly or indirectly use or attempt to use, or permit the use of, any official information obtained through or in connection with his employment for any political purpose, unless such official information is available to the general public.

"(c) For the purpose of subsection (a) of this section, 'use of official authority or influence' includes—

"(1) promising to confer or conferring any benefit (such as any compensation, grant, contract, license, or ruling) or effecting or threatening to effect any reprisal (such as deprivation of any compensation, grant, contract, license, or ruling); or

"(2) taking, directing others to take, recommending, processing, or approving any personnel action (as defined in section 2302(a)(2)(A) of this title).

"§ 7324. Solicitation; prohibition

"(a) An employee may not—

"(1) give or offer to give a political contribution to any individual either to vote or refrain from voting, or to vote for or against any candidate or measure, in any election;

"(2) solicit, accept, or receive a political contribution to vote or refrain from voting, or to vote for or against any candidate or measure, in any election;

"(3) knowingly give or hand over a political contribution to a superior of such employee; or

"(4) knowingly solicit, accept, or receive, or be in any manner concerned with soliciting, accepting, or receiving, a political contribution—

"(A) from another employee (or a member of another employee's immediate family) with respect to whom such employee is a superior; or

"(B) in any room or building occupied in the discharge of official duties by—

"(i) an individual employed or holding office in the Government of the United States, in the government of the District of Columbia, or in any agency or instrumentality of the foregoing; or

"(ii) an individual receiving any salary or compensation for services from money derived from the Treasury of the United States.

"(b) In addition to the prohibitions of subsection (a) of this section, an employee holding a restricted position may not solicit, accept, or receive a political contribution from, or give a political contribution to, any individual who is an employee, a Member of Congress (or a candidate for such office), or a member of a uniformed service, or any agent of any such individual. The preceding sentence shall not be construed to prohibit an employee from giving a political contribution to a political committee.

"(c)(1) In addition to the prohibitions of subsection (a) of this section, an employee may not solicit, accept, or receive a political contribution from, or give a political contribution to, any person who—

"(A) has, or is seeking to obtain, contractual or other business or financial relations with the agency in which the employee is employed;

"(B) conducts operations or activities which are regulated by such agency; or

"(C) has interests which may be substantially affected by the performance or nonperformance of such employee's official duties.

"(2) The Office of Personnel Management shall prescribe regulations which exempt an employee from the application of paragraph (1) of this subsection with respect to any political contribution to or from an individual who has a family or personal relationship with the employee if the employee complies with such requirements as the Office shall so prescribe which relate to the disqualification of such employee from engaging in any official activity involving such individual.

"(3) The Office of Personnel Management shall prescribe regulations which exempt the application of paragraph (1) of this subsection with respect to any political contribution from a person in situations in which the facts and circumstances indicate there would not be any adverse effect on the integrity of the Government or the public's confidence in the integrity of the Government.

"§7325. Political activities on duty, etc.; prohibition

"(a) An employee may not engage in political activity—

"(1) while such employee is on duty;

"(2) in any room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States, in the government of the District of Columbia, or in any agency or instrumentality of the foregoing; or

"(3) while wearing a uniform or official insignia identifying the office or position of such employee.

"(b) The provisions of subsection (a) of this section shall not apply to—

"(1) an employee—

"(A) paid from the appropriation for the White House Office;

"(B) paid from funds to enable the Vice President to provide assistance to the President; or

"(C) on special assignment to the White House Office;

"(2) the Mayor of the District of Columbia, the Chairman or a member of the Council of the District of Columbia; or

"(3) any activity of an employee which is not otherwise prohibited by or under law and which is part of such individual's official duties.

"(c) Nothing in this section shall be construed to authorize an employee designated in subsection (b) of this section to engage in political activity otherwise prohibited by or under law.

"(d)(1) In addition to the prohibitions of subsection (a) of this section, an employee holding a restricted position may not take an active part in political management or political campaigns unless such part—

"(A) is in connection with—

"(i) an election and preceding campaign if none of the candidates is to be nominated or elected at that election as representing a party any of whose candidates for Presidential elector received votes in the last preceding election at which Presidential electors were selected; or

"(ii) a question which is not specifically identified with a National or State political party or political party of a territory or possession of the United States; or

"(B) is permitted by regulations prescribed by the Office of Personnel Management and involves the municipality or political subdivision in which such employee resides, when—

"(i) the municipality or political subdivision is in Maryland or Virginia and in the immediate vicinity of the District of Columbia or is a municipality in which a majority of voters are employed by the Government of the United States; and

"(ii) the Office determines that because of special or unusual circumstances which exist in the municipality or political subdivision it is in the domestic interest of the employees to permit political participation.

"(2) For the purpose of this subsection, 'an active part in political management or in political campaigns' means those acts of political management or political campaigning which were prohibited on the part of employees in the competitive service before July 19, 1940, by the determinations of the Civil Service Commission under the rules prescribed by the President.

"§ 7326. Candidates for elective office; leave, notification by employees

"(a) An employee shall promptly notify the agency in which he is employed upon becoming a candidate for elective office and upon the termination of such candidacy.

"(b) An employee who is a candidate for elective office shall, upon the request of such employee, be granted leave without pay for the purpose of allowing such employee to engage in activities relating to such candidacy.

"(c) Notwithstanding section 6302(d) of this title, an employee who is a candidate for elective office shall, upon the request of such employee, be granted accrued annual leave for the purpose of allowing such employee to engage in activities relating to such candidacy. Such leave shall be in addition to leave without pay to which such employee may be entitled under subsection (b) of this section.

"(d) The foregoing provisions of this section shall not apply in the case of an individual who is an employee by reason of holding an elective public office.

"§ 7327. Penalties

"(a) An employee who is found by the Merit Systems Protection Board under section 1207 of this title to have violated any provision of—

"(1) section 7323 of this title shall, upon a final order of the Board, be suspended without pay from such employee's position for a period of not less than 30 days, or shall be removed in which event that employee may not thereafter hold any position (other than an elected position) as an employee (as defined in section 7322(1) of this title);

"(2) section 7324 or 7325 of this title shall, upon a final order of the Board, be—

"(A) removed from such employee's position, in which event that employee may not thereafter hold any position (other than an elected position) as an employee (as defined in section 7322(1) of this title) for such period as the Board may prescribe;

"(B) suspended without pay from such employee's position for such period as the Board may prescribe; or

"(C) disciplined in such other manner as the Board shall deem appropriate.

"(b) The Merit Systems Protection Board shall notify the Special Counsel, the employee, and the employing agency of any penalty imposed under this section. The employing agency shall certify to the Board the measures undertaken to implement the penalty.

"§ 7328. Regulations

"(a) The Office of Personnel Management and the Merit Systems Protection Board shall prescribe rules and regulations to carry out their respective responsibilities under this subchapter.

"(b) The regulations referred to in section 7322(8) of this title shall be prescribed not later than 90 days after the effective date of such section. Thereafter any revision of such regulations shall be prescribed not later than March 1 of the calendar year in which such revision is to take effect. Any employee holding any position with respect to which any such regulation is prescribed may institute an action for judicial review of such regulation by filing a petition in the United States Court of Appeals for the District of Columbia Circuit, or in the United States court of appeals for the judicial circuit in which such employee resides or is employed, except that no such action may be instituted more than 30 days after the effective date of such regulation.".

(b)(1) Section 3302(2) of title 5, United States Code, is amended by striking out "7321, and 7322" and inserting "and" before "7203" (as added in section 703(d)(2) of this Act).

(2) Section 1308(a) of title 5, United States Code, is amended—

(A) by inserting "and" at the end of paragraph (2);

(B) by striking out paragraph (3); and

(C) by redesignating paragraph (4) as paragraph (3).

(3) The second sentence of section 8332(k)(1) of title 5, United States Code, is amended by striking out "second" and inserting "last" in lieu thereof.

(4) The section analysis for subchapter III of chapter 73 of title 5, United States Code, is amended to read as follows:

"Subchapter III—Political Activities

"7321. Political participation.
"7322. Definitions.
"7323. Use of official influence or official information; prohibition.
"7324. Solicitation; prohibition.
"7325. Political activities on duty, etc.; prohibition.
"7326. Candidates for elective office; leave, notification by employees.
"7327. Penalties.
"7328. Regulations.".

(c) Sections 602 and 607 of title 18, United States Code, relating to solicitations and making of political contributions, are each amended by adding at the end thereof the following new sentence: "This section does not apply to any activity of an employee, as defined in section 7322(1) of title 5, unless such activity is prohibited by section 7324 of that title.".

(d) Section 6 of the Voting Rights Act of 1965 (42 U.S.C. 1973d) is amended by striking out "the provisions of section 9 of the Act of August 2, 1939, as amended (5 U.S.C. 1181), prohibiting partisan political activity" and by inserting in lieu thereof "the provisions of subchapter VII of chapter 73 of title 5, United States Code, relating to political activities, as enforced under sections 1206 and 1207 of such title.".

(e) Sections 103(a)(4)(D) and 203(a)(4)(D) of the District of Columbia Public Education Act are each amended by striking out "sections 7324 through 7327 of title 5" and inserting in lieu thereof "section 7325 of title 5".

(f) Sections 8332(k)(1), 8706(e), and 8906(e)(2) of title 5, United States Code, are each amended by inserting immediately after "who enters on" the following: "leave without pay granted under section 7326(b) of this title, or who enters on".

EFFECTIVE DATE

SEC. 902. (a) The amendments made by this title shall take effect 120 days after the date of the enactment of this Act, except that the authority to prescribe regulations granted under section 7328 of title 5, United States Code (as added by section 901 of this title), shall take effect on the date of the enactment of this Act.

(b) Any repeal or amendment made by this title of any provision of law shall not release or extinguish any penalty, forfeiture, or liability incurred under such provision, and such provision shall be treated as remaining in force for the purpose of sustaining any proper proceeding or action for the enforcement of such penalty, forfeiture, or liability.

(c) No provision of this title shall affect any proceedings with respect to which the charges were filed on or before the effective date of the amendments made by this title. Orders shall be issued in such proceedings and appeals shall be taken therefrom as if this title had not been enacted.

(d) If—

(1) subchapter III of chapter 73 of title 5, United States Code, applied to any category of individuals employed by any Federal agency or instrumentality immediately before the effective date of the amendments made by this title; and

(2) Such subchapter, as amended by this title, does not apply to such category of individuals;

then such subchapter, as in effect immediately before the effective date of the amendments made by this title, shall continue to apply to such category of individuals, notwithstanding section 901(a) or any other provision of law.

STUDY CONCERNING POLITICAL PARTICIPATION BY FEDERAL EMPLOYEES

SEC. 903. The Office of Personnel Management shall study and review the effects of the amendments made by this title on—

(1) the level of participation by Federal employees in activities relating to Federal, State, and local elections;

(2) the merit system particularly the hiring, termination, or advancement of Federal employees; and

(3) matters generally affecting and contributing to the improper use of official influence or official information by Federal employees as prohibited under subchapter III of chapter 73 of title 5, United States Code (as amended by this title).

The Office shall report to the Congress not later that March 31, 1980, and March 31, 1982, the results of such study and review any findings therefrom together with such legislative or administrative recommendations as the Office considers appropriate.

Conform the table of contents accordingly.

H.R. 11280

By Mr. ERLENBORN:

—Page 288, strike line 12 and all that follows thereafter through line 12 on page 348.

—Page 292, line 18, strike the words "in while or in part" and line 19, strike the words "and pay dues".

—Page 293, strike the "or" on line 6, insert an "or" after "agency;" on line 7, and after line 7 insert the following new subparagraph (D):

"(D) an organization which assists, or participates in the conduct of a strike against the Government of the United States or any agency thereof or imposes a duty or obligation to conduct, assist, or participate in such a strike.

—Page 293, line 8, strike the words "dues, fees, and assessments" and substitute therefore "periodic dues and initiation fees uniformly required."

—On page 298, after line 20, amend section 7103 by adding a new subsection (c) as follows:

"(c) Employees of the Federal Election Commission engaged in the administration, interpretation and enforcement of the Federal Election Campaign Act of 1971, as amended, shall not be represented by any labor organization which maintains a political action committee or which is affiliated, associated or connected with an organization which maintains a political action committee; nor shall such employees be represented by a labor organization which expressly advocates the election or defeat of any candidate for Federal office.".

—Page 298, after line 20, amend section 7103 by adding a new subsection (c) as follows:

"(c) Employees engaged in administering a labor-management relations law who are otherwise authorized by this chapter to be represented by a labor organization shall not be represented by a labor organization which also represents other employees covered by such law or which is affiliated directly or indirectly with an organization which represents such employees."

—Page 300, line 7, insert before the period the following: "only upon notice and hearing and only for misconduct, inefficiency, neglect of duty, or malfeasance in office.".

—Page 301, line 25, strike "(1)"; page 302, insert "(1)" for "(A)" on line 1, "(2)" for "(B)" on line 3, "(3)" for "(C)" on line 5, and "(4)" for "(D)" on line 7; strike all of line 9 through line 13; and strike "or administrative law judge" on line 15.

On page 324, line 24, insert before the second period "and filed with the Authority"; on page 325, strike the parenthesis and all within on lines 3 to 5; on page 325 lines 9 to 11, strike "individual or individual conducting the hearing shall state in writing their" and substitute therefore: "Authority shall state in writing its"; and on page 326, strike lines 8 through 14, and substitute therefore: "(7) If the Authority determines that the preponderance of the evidence received fails to demonstrate that the agency or labor organization named in the complaint has engaged in or is engaging in any such unfair labor practice, the Authority shall state in writing its findings of fact and shall issue an order discussing the complaint."

—Page 304, strike "(1)" on line 20; Page 305 strike "Except as provided under subsection (e) of this section," on lines 14 and 15, and change "if" to "If" on line 15, and strike "subject to paragraph (2) of this subsection," on lines 17 and 18, and strike all on line 24, page 305, through line 22 on page 306.

—Page 305, line 14, strike all after the period through the comma on line 15; change "If" to "If"on line 15; and page 308, strike all of subsection "(e)" from line 3 through line 23 and redesignate the subsequent subsections accordingly.

—Page 312, strike line 19 and all thereafter through line 3 on page 314.

—Page 317, strike all of line 1 through line 18.

—On page 317, strike subsection "(C)", line 1 through line 18.

—Page 320, line 2, insert after "slowdown," the following:

"or to picket an agency in a labor-management dispute,".

—On page 320, after line 5, insert the following new subsection (c) and redesignate the subsequent subsections accordingly:

"(c) The expression of any personal views, argument, opinion or the making of any statement shall not (1) constitute or be evidence of an unfair labor practice under any of the provisions of this chapter or (2) constitute grounds for, or evidence justifying, setting aside the results of any election conducted under any provisions of this chapter, if such expression contains no threats of reprisal or force or promise of benefit.".

H.R. 11280

By Mr. FISHER:

—Page 142, line 24, insert "(a)" before "If".

Page 143, after line 6, insert the following new subsection:

"(b) The General Accounting Office shall prepare and submit an annual report to the President and the Congress on the activities of the Merit Systems Protection Board and the Office of Personnel Management. Such report shall include a description of—

"(1) significant actions taken by the Board to carry out its functions under this title; and

"(2) significant actions of the Office of Personnel Management, including an analysis of whether or not the actions of the Office of Personnel Management are in accord with merit system principles and free from prohibited personnel practices.

—Page 152, insert after line 17 the following:

"(d)(1) At any time after the effective date of any rule or regulation issued by the Office of Personnel Management in carrying out its functions under section 1103 of this title, the Board shall review any provision of such rule or regulation—

"(A) on its own motion;

"(B) on the granting by the Board, in its sole discretion, of any petition for such review filed with the Board by any interested person, after consideration of the petition by the Board; or

"(C) on the filing of a written complaint by the Special Counsel requesting such review.

"(2) In reviewing any provision of any rule or regulation pursuant to this subsection the Board shall declare such provision—

"(A) invalid on its face, if the Board determines that such provision would, if implemented by any agency, on its face—

"(i) require any employee to violate section 2302(b) of this title; or

"(ii) is contrary to any merit system principle; or

"(B) invalidly implemented by any agency, if the Board determines that such provision, as it has been implemented by the agency through any personnel action taken by the agency or through any policy adopted by the agency in conformity with such provision—

"(i) has required any employee to violate section 2302(b) of this title; or

"(ii) has been contrary to any merit system principle.

"(3)(A) The Director of the Office of Personnel Management, and any agency implementing any provision of any rule or regulation under review pursuant to this subsection, shall have the right to participate in such review.

"(B) Any review conducted by the Board pursuant to this paragraph shall be limited to determining—

"(i) the validity on its face of the provision under review; and

"(ii) whether the provision under review has been validly implemented.

"(C) The Board shall require any agency—

"(i) to cease compliance with any provision of any rule or regulation which the Board declares under this subsection to be invalid on its face; and

"(ii) to correct any invalid implementation by the agency of any provision of any rule or regulation which the Board declares under this subsection to have been so invalidly implemented by the agency.

Page 152, line 18, strike out "(d)" and insert in lieu thereof "(e)".

—Page 221, line 25, insert "the preceding sections of" after "purpose of".

Page 221, insert after line 25 the following:

"§ 3137. Annual report by the General Accounting Office

"The General Accounting Office shall submit to each House of the Congress on or before March 1 of each year a report on the Senior Executive Service which shall contain, based on audits and reviews which shall be conducted by the Office during the year covered by the report, an assessment of—

"(1) the extent to which the laws, rules, and regulations governing employment in the Senior Executive Service have been complied with; and

"(2) the effectiveness and soundness of management by senior executives.

Page 220, line 12, insert "by the Office of Personnel Management" after "report".

Page 222, in the matter following line 15, strike out the items relating to sections 3135 and 3136 and insert in lieu thereof the following:

"3135. Biennial report by the Office of Personnel Management.
"3136. Regulations.
"3137. Annual report by the General Accounting Office.".

—Page 225, strike out line 15 and all that follows down through line 24 and insert in lieu thereof the following:

"(c)(1) The Office of Personnel Management shall establish one or more qualifications review boards, as appropriate, the members of which shall be appointed on the basis of their knowledge of public management and other appropriate occupational fields. It is the function of the boards to certify the managerial qualifications of candidates for entry as career appointees into the Senior Executive Service in accordance with regulations prescribed by the Office of Personnel Management. Of the members of each board—

"(A) one-half shall be appointed from among career appointees; and

"(B) the other one-half shall be appointed from outside the civil service, not more than half of whom shall be adherents of the same political party.

—Page 237, line 23, strike out "If the Office of Personnel Management" and insert in lieu thereof the following: "The Office of Personnel Management shall review each performance appraisal system established under subsection (a) of this section promptly after it is established and from time to time thereafter and determine whether the performance appraisal system meets the requirements of this subchapter. If the Office".

—Page 238, after line 3, insert the following new subsection:

"(c) The Comptroller General shall, from time to time, review performance appraisal systems established under this section to determine the extent to which such systems meet the requirements of this subchapter, and shall periodically report its findings to the Office of Personnel Management and to the Congress.

—Page 270, beginning on line 1, strike out "January 1, 1982, a report on the operation" and insert in lieu thereof the following: "January 1, 1986, and biennially thereafter, a report on the operation during the preceeding 2 fiscal years".

—Page 272, strike out lines 19 through 24 and insert in lieu thereof the following:

EFFECTIVE DATE; EXPERIMENTAL APPLICATION

SEC. 503. (a) Except as provided in subsection (b) of this section, the amendments made by this title shall take effect on the first day of the first applicable pay period which begins on or after October 1, 1981.

(b)(1) Not later than 60 days after the date of the enactment of this title, the Director of the Office of Personnel Management shall prescribe regulations providing for an initial, experimental application of the amendments made by this title, which shall begin on the first day of the first applicable pay period which begins on or after October 1, 1981. Such regulations shall provide that the merit pay system and the cash

award program will apply with respect to positions only in 3 Executive departments designated by the Director.

(2) Within 30 days after the end of each of the first two fiscal years to which such amendments apply, the Director shall prepare and transmit to each House of the Congress a report on the merit pay system and the cash award program, including an evaluation of their effectiveness and the manner in which they are administered. The second such report shall include proposed regulations which would provide for adjustments which would be appropriate in the event such system or such program does not continue by reason of paragraph (3).

(3) The provisions of the regulations under paragraph (1) providing for an initial, limited experimental application with respect to the merit pay system and the cash award program shall cease to have effect and the amendments made by this title relating to such system and such program shall have full effect (without regard to the limitations under paragraph (1)) beginning on the 90th day of continuous session of Congress following the date on which the second annual report is transmitted to the Congress under paragraph (2), unless the Congress before such day adopts a concurrent resolution which states that the Congress does not favor the continuance of such system and such program. If such a resolution is adopted with respect to such system and such program before such date, then the provisions of such regulations and such amendments relating to such system and such program shall cease to have effect on such 90th day (or, if later, 30 days after the date of the adoption of such resolution).

(4) For purposes of paragraph (3), the continuity of a session of Congress shall be considered to be broken only by an adjournment of the Congress sine die, and the days on which either House of the Congress is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 90-day period under such paragraph.

H.R. 11280

By Mr. GILMAN:

—Page 145, line 13, strike out "Director." and insert in lieu thereof "Director, a majority of whom shall have served in the competitive service before appointment as Associate Directors.".

—Page 145, line 18, insert ", subject to section 1104(a) of this title," after "or".

Page 147, line 5, strike out "service." and insert in lieu thereof "service:".

Page 147, after line 5, insert the following: "except that the Director may not delegate open competitive examination authority with respect to positions whose requirements are common to agencies in the Federal Government, other than in exceptional cases in which the interests of economy and efficiency require such delegation and in which such delegation will not weaken the application of the merit system principles."

—Page 146, line 18, strike out "(a) Notwithstanding" and insert in lieu thereof "(a)(1) Subject to subsection (b)(3) of this section and notwithstanding".

Page 147, insert after line 14 the following:

"(3) Nothing in subsection (a) of this section shall be construed as affecting the responsibility of the Director to ensure compliance with the civil service laws and regulations.

—Page 152, insert after line 17 the following:

"(d) The Board shall conduct, from time to time, special studies relating to the civil service and to other merit systems in the executive branch, and report to the President and to the Congress as to whether the public interest in a civil service free of prohibited personnel practices is being adequately protected.

Page 152, line 18, strike out "(d)" and insert in lieu thereof "(e)".

—Page 195, insert after line 9 the following:

(g) Section 3318(b) of title 5, United States Code, is amended by striking out ", on request, is entitled to a copy of" and inserting in lieu thereof "is entitled to receive, on or before the 15th day after the day on which he is passed over, a copy of".

Page 195, line 10, strike out "(g)" and insert in lieu thereof "(h)".

Page 196, line 11, strike out "(j)" and insert in lieu thereof "(i)".

Page 196, line 18, strike out "(k)" and insert in lieu thereof "(j)".

Page 196, line 24, strike out "(l)" and insert in lieu thereof "(k)".

—Page 212, beginning on line 14, strike out "free of improper political interference" and insert in lieu thereof "which ensures career appointees and, to the greatest extent possible, noncareer appointees, protection from prohibited personnel practices".

Page 212, line 21, strike out "and".

Page 212, line 23, strike out "executives." and insert in lieu there "executives; and".

Page 212, insert after line 23 the following:

"(12) provide for a professional management system which is guided by the public interest and free from improper political interference.

—Page 212, line 21, strike out "and".

Page 212, line 23, strike out "executives." and insert in lieu thereof "executives; and".

Page 212, insert after line 23 the following:

"(12) ensure that, notwithstanding the provisions of section 3134 of this title authorizing up to 10 percent of Senior Executive Service positions to be filled by noncareer appointees, political appointments to such positions are minimized to the maximum extent possible.".

—Page 215, strike out lines 4 through 11 and insert in lieu thereof the following:

"(8) 'career reserved position' means a Senior Executive Service position which is designated under subsection (b) of this section as a position to which a career appointee may be appointed;

"(9) 'general position' means any Senior Executive Service position which is not a career reserved position.

Page 215, beginning on line 15, strike out "career reserved positions." and all that follows down through "Government," beginning on line 19, and insert in lieu thereof "Senior Executive Service positions to which career appointees may be appointed.".

Page 215, line 21, strike out "career reserved" and insert in lieu thereof "such".

Page 215, line 24, insert after "appointee." the following: "Any other Senior Executive Service position may be filled only by a noncareer appointee, limited term appointee, or limited emergency appointee.".

Page 219, line 4, strike out "noncareer appointments" and insert in lieu thereof "general positions".

Page 219, beginning on line 6, strike out "employment of noncareer appointees" and insert in lieu thereof "general positions".

Page 219, beginning on line 11, strike out "authority to employ a specific number of noncareer appointees" and insert in lieu thereof "a specific number of general positions".

Page 219, strike out lines 13 through 18 and insert in lieu thereof the following:

"(b) The number of general positions in each agency will be determined annually by the Office of Personnel Management on the basis of demonstrated need of the agency for such positions, except that the total number of general position in all agencies may not exceed 10 percent of the total number of Senior Executive Service positions in all agencies.

Page 219, strike out "Senior Executive Service" on line 19 and all that follows down through "appointees" on line 20 and insert in lieu thereof "general positions".

Page 222, in the matter following line 15, strike out "noncareer appointments" in the item relating to section 3134 and insert in lieu thereof "general positions".

Page 223, line 9, insert "'career reserved position'," before "and 'general position'".

Page 227, beginning on line 4, strike out "Senior Executive Service position" and insert in lieu thereof "career reserved position".

Page 227, beginning on line 7, strike out "Senior Executive Service position" and insert in lieu thereof "career reserved position".

Page 227, line 12, strike out "Senior Executive Service position" and insert in lieu thereof "general position".

Page 227, line 18, stike out "Senior Executive Service position" and insert in lieu thereof "general position".

Page 254, line 25, strike out "title)." and insert in lieu thereof "title), and such position shall be considered a career reserved position.".

Page 256, line 7, strike out "position." and insert in lieu thereof "position, and such position shall be considered a career reserved position.".

Page 256, line 19, strike out "appointment;" and insert in lieu thereof "appointment, and such position shall be considered a general position.".

—Page 215, line 13, insert after "section," the following: "and except as provided in paragraph (5) of this subsection,".

Page 216, insert after line 8 the following:

"(5) In order to insure impartiality in, and the public's confidence in the impartiality of, the Federal Government, any position—

"(A) in the Office of the Assistant Secretary for Personnel Administration of the Department of Health, Education, and Welfare which is filled by an employee in the competitive service on August 1, 1978; or

"(B) in a succesor unit of the unit described in subparagraph (A) of this paragraph the primary responsibilities of which—

"(i) are similar to a position described in subparagraph (A) of this paragraph; or

"(ii) were, before the creation of the successor unit, performed by an employee in the competitive service;

which is designated a Senior Executive Service position shall be designated a career reserved position.

—Page 215, line 13, insert after "section," the following: "and except as provided in paragraph (5) of this subsection,".

—Page 216, insert after line 8 the following:

"(5) In order to insure impartiality in, and the public's confidence in the impartiality of, the Federal Government, any position—

"(A) in the Office of the Assistant Secretary, for Health of the Department of Health, Education, and Welfare which is filled by an employee in the competitive service on August 1, 1978; or

"(B) in a succesor unit of the unit described in subparagraph (A) of this paragraph the primary responsibilities of which—

"(i) are similar to a position described in subparagraph (A) of this paragraph; or

"(ii) were, before the creation of the successor unit, performed by an employee in the competitive service;

which is designated a Senior Executive Service position shall be designated a career reserved position.

—Page 215, line 13, insert after "section," the following: "and except as provided in paragraph (5) of this subsection,".

—Page 216, insert after line 8 the following:

"(5) In order to insure impartiality in, and the public's confidence in the impartiality of, the Federal Government, any position—

"(A) in the Office of the Assistant Secretary for Manpower of the Department of Defense which is filled by an employee in the competitive service on August 1, 1978; or

"(B) in a successor unit of the unit described in subparagraph (A) of this paragraph the primary responsibilities of which—

"(i) are similar to a position described in subparagraph (A) of this paragraph; or

"(ii) were, before the creation of the successor unit, performed by an employee in the competitive service;

which is designated a Senior Executive Service position shall be designated a career reserved position.

—Page 215, line 13, insert after "section," the following: "and except as provided in paragraph (5) of this subsection,".

—Page 216, insert after line 8 the following:

"(5) In order to insure impartiality in, and

the public's confidence in the impartiality of, the Federal Government, any position—

"(A) in the Office of the Assistant Secretary for Management and Budget of the Department of Health, Education, and Welfare which is filled by an employee in the competitive service on August 1, 1978; or

"(B) in a succesor unit of the unit described in subparagraph (A) of this paragraph the primary responsibilities of which—

"(i) are similar to a position described in subparagraph (A) of this paragraph; or

"(ii) were, before the creation of the successor unit, performed by an employee in the competitive service;

which is designated a Senior Executive Service position shall be designated a career reserved position.

—Page 215, line 13, insert: after "section," the following: "and except as provided in paragraph (5) of this subsection,".

—Page 216, insert after line 8 the following:

"(5) In order to insure impartiality in, and the public's confidence in the impartiality of, the Federal Government, any position—

"(A) in the Office of the Assistant Secretary, for Health of the Department of Health, Education, and Welfare which is filled by an employee in the competitive service on August 1, 1978; or

"(B) in a succesor unit of the unit described in subparagraph (A) of this paragraph the primary responsibilities of which—

"(i) are similar to a position described in subparagraph (A) of this paragraph; or

"(ii) were, before the creation of the successor unit, performed by an employee in the competitive service;

which is designated a Senior Executive Service position shall be designated a career reserved position.

—Page 215, line 13, insert after "section," the following: "and except as provided in paragraph (5) of this subsection,".

—Page 216, insert after line 8 the following:

"(5) In order to insure impartiality in, and the public's confidence in the impartiality of, the Federal Government, any position—

"(A) in the National Institutes of Health of the Department of Health, Education, and Welfare which is filled by an employee in the competitive service on August 1, 1978; or

"(B) in a successor unit of the unit described in subparagraph (A) of this paragraph the primary responsibilities of which—

"(i) are similar to a position described in subparagraph (A) of this paragraph; or

"(ii) were, before the creation of the successor unit, performed by an employee in the competitive services;

which is designated a Senior Executive Service position shall be designated a career reserved position.

—Page 215, line 13, insert after "section," the following: "and except as provided in paragraph (5) of this subsection,".

Page 216, insert after line 8 the following:

"(5) In order to insure impartiality in, and the public's confidence in the impartiality of, the Federal Government, any position—

"(A) in the Food and Drug Administration of the Department of Health, Education, and Welfare which is filled by an employee in the competitive service on August 1, 1978; or

"(B) in a successor unit of the unit described in subparagraph (A) of this paragraph the primary responsibilities of which—

"(i) are similar to a position described in subparagraph (A) of this paragraph; or

"(ii) were, before the creation of the successor unit, performed by an employee in the competitive service;

which is designated a Senior Executive Service position shall be designated a career reserved position.

—Page 215, line 13, insert after "section," the following: "and except as provided in paragraph (5) of this subsection,".

Page 216, insert after line 8 the following:

"(5) In order to insure impartiality in, and the public's confidence in the impartiality of, the Federal Government, any position—

"(A) in the Office of the Assistant Secretary for Planning and Evaluation of the Department of Health, Education, and Welfare which is filled by an employee in the competitive service on August 1, 1978; or

"(B) in a successor unit of the unit described in subparagraph (A) of this paragraph the primary responsibilities of which—

"(i) are similar to a position described in subparagraph (A) of this paragraph; or

"(ii) were, before the creation of the successor unit, performed by an employee in the competitive service;

which is designated a Senior Executive Service position shall be designated a career reserved position.

—Page 215, line 13, insert after "section," the following: "and except as provided in paragraph (5) of this subsection,".

Page 216, insert after line 8 the following:

"(5) In order to insure impartiality in, and the public's confidence in the impartiality of, the Federal Government, any position—

"(A) in the Office of the Inspector General of the Department of Health, Education, and Welfare which is filled by an employee in the competitive service on August 1, 1978; or

"(B) in a successor unit of the unit described in subparagraph (A) of this paragraph the primary responsibilities of which—

"(i) are similar to a position described in subparagraph (A) of this paragraph; or

"(ii) were, before the creation of the successor unit, performed by an employee in the competitive service;

which is designated a Senior Executive Service position shall be designated a career reserved position.

—Page 215, line 13, insert after "section," the following: "and except as provided in paragraph (5) of this subsection,".

Page 216, insert after line 8 the following:

"(5) In order to insure impartiality in, and the public's confidence in the impartiality of, the Federal Government, any position—

"(A) in the Office of Assistant Secretary Comptroller of the Department of Defense which is filled by an employee in the competitive service on August 1, 1978; or

"(B) in a successor unit of the unit described in subparagraph (A) of this paragraph the primary responsibilities of which—

"(1) are similar to a position described in subparagraph (A) of this paragraph; or

"(ii) were, before the creation of the successor unit, performed by an employee in the competitive service;

which is designated a Senior Executive Service position shall be designated a career reserved position.

—Page 215, line 13, insert after "section," the following: "and except as provided in paragraph (5) of this subsection,".

Page 216, insert after line 8 the following:

"(5) In order to insure impartiality in, and the public's confidence in the impartiality of, the Federal Government, any position—

"(A) in the Alcohol, Drug Abuse, and Mental Health Administration of the Department of Health, Education and Welfare which is filled by an employee in the competitive service on August 1, 1978; or

"(B) in a successor unit of the unit described in subparagraph (A) of this paragraph the primary responsibilities of which—

"(1) are similar to a position described in subparagraph (A) of this paragraph; or

"(ii) were, before the creation of the successor unit, performed by an employee in the competitive services;

which is designated a Senior Executive Service position shall be designated a career reserved position.

—Page 215, line 13, insert after "section," the following: "and except as provided in paragraph 5 of this subsection,".

Page 216, insert after line 8 the following:

"(5) In order to insure impartiality in, and the public's confidence in the impartiality of, the Federal Government, any position—

"(A) in the Department of the Army which is filled by an employee in the competitive service on August 1, 1978; or

"(B) in a successor unit of the unit described in subparagraph (A) of this paragraph the primary responsibilities of which—

"(1) are similar to a position described in subparagraph (A) of this paragraph; or

"(ii) were, before the creation of the successor unit, performed by an employee in the competitive service;

which is designated a Senior Executive Service position shall be designated a career reserved position.

—Page 215, line 13, insert after "section," the following: "and except as provided in paragraph (5) of this subsection,".

Page 216, insert after line 8 the following:

"(5) In order to insure impartiality in, and the public's confidence in the impartiality of, the Federal Government, any position—

"(A) in the Office of Assistant Secretary for Program Analysis and Evaluation of the Department of Defense which is filled by an

employee in the competitive service on August 1, 1978; or

"(B) in a successor unit of the unit described in subparagraph (A) of this paragraph the primary responsibilities of which—

"(i) are similar to a position described in subparagraph (A) of this paragraph; or

"(ii) were, before the creation of the successor unit, performed by an employee in the competitive service;

which is designated a Senior Executive Service position shall be designated a career reserved position.

—Page 215, line 13, insert after "section," the following: "and except as provided in paragraph (5) of this subsection,".

Page 216, insert after line 8 the following:

"(5) In order to insure impartiality in, and the public's confidence in the impartiality of, the Federal Government, any position—

"(A) in the Defense Audit Service of the Department of Defense which is filled by an employee in the competitive service on August 1, 1978; or

"(B) in a successor unit of the unit described in subparagraph (A) of this paragraph the primary responsibilities of which—

"(i) are similar to a position described in subparagraph (A) of this paragraph; or

"(ii) were, before the creation of the successor unit, performed by an employee in the competitive service;

which is designated a Senior Executive Service position shall be designated a career reserved position.

—Page 215, line 13, insert after "section," the following: "and except as provided in paragraph (5) of this subsection,".

Page 216, insert after line 8 the following:

"(5) In order to insure impartiality in, and the public's confidence in the impartiality of, the Federal Government, any position—

"(A) in the Defense Logistics Agency of the Department of Defense which is filled by an employee in the competitive service on August 1, 1978; or

"(B) in a successor unit of the unit described in subparagraph (A) of this paragraph the primary responsibilities of which—

"(i) are similar to a position described in subparagraph (A) of this paragraph; or

"(ii) were, before the creation of the successor unit, performed by an employee in the competitive service;

which is designated a Senior Executive Service position shall be designated a career reserved position.

—Page 215, line 13, insert after "section," the following: "and except as provided in paragraph (5) of this subsection,".

Page 216, insert after line 8 the following:

"(5) In order to insure impartiality in, and the public's confidence in the impartiality of, the Federal Government, any position—

"(A) in the Health Care Financing Administration of the Department of Health, Education, and Welfare which is filled by an employee in the competitive service on August 1, 1978; or

"(B) in a successor unit of the unit described in subparagraph (A) of this paragraph the primary responsibilities of which—

"(i) are similar to a position described in subparagraph (A) of this paragraph; or

"(ii) were, before the creation of the successor unit, performed by an employee in the competitive service;

which is designated a Senior Executive Service position shall be designated a career reserved position.

—Page 215, line 13, insert after "section," the following: "and except as provided in paragraph (5) of this subsection,".

Page 216, insert after line 8 the following:

"(5) In order to insure impartiality in, and the public's confidence in the impartiality of, the Federal Government, any position—

"(A) in the Defense Investigative Service of the Department of Defense which is filled by an employee in the competitive service on August 1, 1978; or

"(B) in a successor unit of the unit described in subparagraph (A) of this paragraph the primary responsibilities of which—

"(i) are similar to a position described in subparagraph (A) of this paragraph; or

"(ii) were, before the creation of the successor unit, performed by an employee in the competitive service;

which is designated a Senior Executive Service position shall be designated a career reserved position.

—Page 215, line 13, insert after "section," the following: "and except as provided in paragraph (5) of this subsection,".

Page 216, insert after line 8 the following:

"(5) In order to insure impartiality in, and the public's confidence in the impartiality of, the Federal Government, any position—

"(A) in the Defense Advanced Research Projects Agency of the Department of Defense which is filled by an employee in the competitive service on August 1, 1978; or

"(B) in a successor unit of the unit described in subparagraph (A) of this paragraph the primary responsibilities of which—

"(i) are similar to a position described in subparagraph (A) of this paragraph; or

"(ii) were, before the creation of the successor unit, performed by an employee in the competitive service;

which is designated a Senior Executive Service position shall be designated a career reserved position.

—Page 218, line 15, insert after "agency." the following: "The total number of Senior Executive Service positions authorized under this subsection for all agencies in any fiscal year shall not exceed 9,500.".

—Page 227, line 3, insert "(1)" after "(a)".

Page 227, line 4, strike out "(1)" and insert in lieu thereof "(A)" and insert ", subject to paragraph (2) of this subsection," after "may".

Page 227, line 7, strike out "(2)" and insert in lieu thereof "(B)".

Page 227, after line 10, insert the following:

"(2) A career appointee may be reassigned to any Senior Executive Service position of less responsibility under paragraph (1)(A) of this subsection only—

"(A) for such cause as will promote the efficiency of the service; and

"(B) after 15 days' advance written notice to such appointee, containing a complete statement of all the reasons for such reassignment.".

Any career appointee who is reassigned in violation of this paragraph may appeal such reassignment to the Merit Systems Protection Board.

—Page 228, strike out lines 10 through 12 and insert in lieu thereof the following:

"(e)(1) Except as provided in paragraph (2) of this subsection, a career appointee in an agency may not be involuntarily reassigned—

"(A) within 120 days after an appointment of the head of such agency; or

"(B) within 120 days after the appointment in such agency of such career appointee's most immediate supervisor who—

"(i) is a noncareer appointee; and

"(ii) has the authority to reassign such career appointee.

"(2) Paragraph (1) of this subsection does not apply with respect to any reassignment under section 4314(b)(3) of this title.

Page 232, line 12, strike out "A career appointee" and insert in lieu thereof "Except as provided in subsection (b) of this section, a career appointee".

Page 232, after line 19, insert the following:

"(b)(1) Except as provided in paragraph (2) of this subsection, a career appointee in an agency may not be involuntarily removed—

"(A) within 120 days after an appointment of the head of such agency; or

"(B) within 120 days after the appointment in such agency of such career appointee's most immediate supervisor who—

"(i) is a noncareer appointee; and

"(ii) has the authority to remove such career appointee.

"(2) Paragraph (1) of this subsection does not apply with respect to any removal under section 4314(b)(3) of this title.

Page 232, line 20, strike out "(b)" and insert in lieu thereof "(c)".

—Page 228, insert after the line 16 the following:

"(e) Except in cases where a reassignment is the result of an action initiated under section 4313(b)(3) of this title, a career appointee may be reassigned under subsection (a)(1) only if—

"(1) he consents to the reassignment; and

"(2) the reassignment is part of a program designed to enlarge the responsibilities of the career appointee and to advance his career in the Senior Executive Service.

No adverse personnel action shall be taken against a career appointee who exercises his right under this subsection to not consent to such a reassignment.

—Page 232, insert after line 19 the following:

Any career appointee removed under paragraph (2) of this subsection shall be entitled to appeal such removal to the Merit System Protection Board under section 7701 of this title.

—Page 237, insert after line 22 the following:

"(c) The Comptroller General of the United States shall review each performance appraisal system established under this section to determine if it meets the requirements of this subchapter and is consistent with the merit system principles established under chapter 23 of this title. The Comptroller General shall report the results of each such review to the Office of Personnel Management to assist the Office in carrying out its responsibilities under subsection (d) of this section.

Page 237, line 23, strike out "(c)" and insert in lieu thereof "(d)".

Page 237, beginning on line 25, strike out "or regulations under this subchapter," and insert in lieu theerof ", regulations under this subchapter, or the merit system principles established under chapter 23 of this title,".

—Page 245, after line 15, insert the following:

"(d) The rate of basic pay for any career appointee may be reduced from any rate of basic pay to any lower rate of basic pay only—

"(1) for such cause as will promote the efficiency of the service; and

"(2) after 15 days' advance written notice to such appointee, containing a complete statement of all the reasons for such reduction.

Any career appointee whose rate of pay is reduced in violation of this subsection may appeal such reduction to the Merit Systems Protection Board.

H.R. 11280

By Mr. HARRIS:

—Page 382, after line 9, insert the following new section:

BASIC WORKWEEK OF FIREFIGHTERS

SEC. 1101. (a) Chapter 61 of title 5, United States Code, relating to hours of work, is amended by inserting after section 6101 the following new section:

"§ 6102. Basic workweek of firefighters

"(a) The regularly scheduled administrative workweek of each firefighter shall be an average of 56 hours per week, computed on the basis of a period of 21 consecutive days. The duration and frequency of work-shifts occurring within such period shall be determined under regulations prescribed by the Office of Personnel Management.

"(b) For the purpose of this section, 'firefighter' means an employee in an Executive agency, the duties of whose position are primarily to perform or to supervise work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment. Such term does not include any employee who has a regularly scheduled administrative workweek of 40 hours which is established under section 6101(a)(2)(A) of this title."

(b)(1) Section 5545 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(e)(1) Each firefighter with a regularly scheduled administrative workweek established under section 6102(a) of this title shall be entitled, in lieu of premium pay provided by other provisions of this subchapter (other than premium pay provided in paragraph (2) of this subsection), to premium pay equal to 25 percent of so much of his annual rate of basic pay as does not exceed the minimum rate of basic pay for GS-10.

"(2) Hours of work officially ordered or approved in excess of the regularly scheduled administrative workweek established under section 6102(a) of this title are overtime work and shall be paid for in accordance with the rates specified in section 5542 of this title.

"(3) For the purpose of this subsection, 'firefighter' has the meaning set forth in section 6102(b) of this title.".

(2) Section 5545(c)(1) of title 5, United States Code, is amended by inserting ", unless subject to subsection (e) of this section," after "shall receive".

(3) Section 5547 of title 5, United States Code, is amended by striking out "sections 5542, 5545(a)–(c), and 5546 (a), (b)" and inserting in lieu thereof "sections 5542, 5545 (a)–(c) and (e), and 5546 (a) and (b)".

(4) Sections 5595(c), 6114(e), 8331(3)(C), and 8704(c) of title 5, United States Code, are each amended by striking out "section 5545 (c)(1)" and inserting in lieu thereof "section 5545(c)(1) and (c)(1)".

(c) The analysis of chapter 61 of title 5, United States Code, is amended by inserting after the item relating to section 6101 the following new item:

"6102. Basic workweek of firefighters.".

(d) The amendments made by this section shall take effect at the beginning of the first applicable pay period which begins at least 60 days after the date of the enactment of this Act.

Redesignate the following sections (and references thereto) accordingly.

H.R. 11280

By Mr. MITCHELL of Maryland:

—Page 292, line 22, insert after "organization" the following: "(other than an exclusive representative as defined in paragraph (16)(B) of this section)".

—Page 315, line 7, strike out "any appeal action" and all that follows down through "chapter." on line 8 and insert in lieu thereof the following: "any grievance procedure or appeal action.".

—Page 332, strike out line 14 and all that follows down through line 7 on page 333 and insert in lieu thereof the following:

"(d) The processing of any grievance of any employee under the procedure negotiated under this chapter shall not preclude the employee from pursuing any right provided to him by or under any other provision of law.

H.R. 11280

By Mr. RUDD:

—Page 291, line 21, strike the word "or" immediately after the semicolon; page 292, line 2, insert the word "or" immediately after the semicolon, and after line 2 insert the following new paragraph:

"(v) any person who participates in a strike in violation of 5 U.S.C. 7311;".

Page 293, line 6, strike the word "or" immediately after the semicolon; page 293, line 7, insert the word "or" immediately after the semicolon, and after line 7 insert the following new paragraph:

"(D) an organization which assists or participates in a strike against the Government of the United States or any Agency thereof, or which imposes a duty or obligation on any person or other organization to conduct, assist, or participate in such a strike;".

Page 320, strike lines 1 through 3 inclusive, and insert in lieu thereof the following:

"(7) to condone any strike, work stoppage, slowdown by failing to take action to prevent or stop such activity;".

H.R. 11280

By Mr. STEERS:

—Page 144 strike out line 16 and all that follows down through line 19 on page 145 and insert in lieu thereof the following:

"§ 1102. Appointment of members of the Office of Personnel Management

"The Office of Personnel Management is composed of three Commissioners appointed by the President, by and with the advice and consent of the Senate, not more than two of whom may be adherents of the same political party. No Commissioner of the Office of Personnel Management may hold another office or position in the Government of the United States.

"§ 1103. Term of office; filling vacancies; removal; quorum

"(a) The term of office of each Commissioner of the Office of Personnel Management is four years.

"(b) Any Commissioner appointed to fill a vacancy occurring before the end of a term of office of his predecessor serves for the remainder of that term.

"(c) Any Commissioner appointed for a four-year term may be re-appointed to any following term.

"(d) Any Commissioner may be removed by the President only upon notice and hearing and only for misconduct, inefficiency, neglect of duty, or malfeasance in office.

"(e) Except as otherwise provided in this title, the Office of Personnel Management shall act upon majority vote of those members present, and any two members present shall constitute a quorum for the transaction of business of the Board.

"§ 1104. Chairman; Vice Chairman

"(a) The President shall from time to time designate one of the Commissioners of the Office of Personnel Management as the Chairman of the Office of Personnel Management. The Chairman is the chief executive and administrative officer of the Office of Personnel Management.

"(b) The President shall from time to time designate one of the members of the Office of Personnel Management as Vice Chairman of the Office of Personnel Management. During the absence or disability of the Chairman, or when the office of Chairman is vacant, the Vice Chairman shall perform the functions vested in the Chairman.

"§ 1105. Functions of the Office.

"The following functions are vested in the Commissioners of the Office of Personnel Management, and shall be performed by the Commissioners, or by such employees of the Office of the Commissioners designate:"

Page 146, lines 23, 24, and 25; page 147, line 25; and page 148, line 1 strike out "Director" and insert in lieu thereof "Commissioner".

Redesignate the following provision (and references thereto) accordingly.

—Page 148 strike out lines 12 through 24 and insert in lieu thereof the following:

(b)(1) Section 5314 of title 5, United States Code, is amended by inserting at the end thereof the following new paragraph:

"(67) Director of the Office of Personnel Management".

(2) Section 5315 of such title is amended by inserting at the end thereof the following new paragraph:

"(122) Deputy Director of the Office of Personnel Management."

(3) Section 5316 of such title is amended by inserting at the end thereof the following new paragraph:

"(144) Associate Directors of the Office of Personnel Management (5).".

Page 165 strike out line 24 and all that follows down through line 12 on page 166 and insert the following:

(C)(1) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(123) Chairman of the Merit Systems Protection Board".

(2) Section 5316 of such title is amended by adding at the end thereof the following new paragraphs:

"(145) Members, Merit Systems Protection Board.

"(146) Special Counsel of the Merit Systems Protection Board."

(3)(A) Paragraph (17) of section 5314 of such title is hereby repealed.

(B) Paragraph (66) of section 5315 of such title is hereby repealed.

(C) Paragraph (99) of section 5316 of such title is hereby repealed.

Page 300, line 6, strike out "Senate" and insert in lieu thereof the following: "Senate, and shall be paid at an annual rate of basic pay equal to the maximum annual rate of basic pay currently paid, from time to time, under the General Schedule,".

Page 347, strike out lines 5 through 8 and insert in lieu thereof the following:

(e) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(147) Members, Federal Labor Relations Authority (2).".

—Page 200, line 13, after "308." insert "(a)".

Page 200, after line 20, insert the following new subsection:

(b)(1) Section 8339(d) of title 5, United States Code, is amended by inserting "(1)" after "(d)" and by adding at the end thereof the following new paragraph:

"(2) The annuity of an employee retiring under this subchapter with less than 20 years, but at least 5 years of service as a law enforcement officer or firefighter, or any combination thereof, is computed under subsection (a) of this section, except that the annuity of such employee is computed with

respect to the service of such employee as a law enforcement officer or firefighter, or any combination thereof, by multiplying 2½ percent of his average pay by the years of that service.".

(2) The amendments made by this section shall apply with respect to individuals who become entitled to receive an annuity on or after the effective date of this Act.

—Page 200, line 13, after "308." insert "(a)".

Page 200, after line 20, insert the following new subsection:

(b)(1) Section 8339(d) of title 5, United States Code, is amended by inserting "(1)" after "(d)" and by adding at the end thereof the following new paragraph:

"(2) The annuity of an employee retiring under this subchapter with less than 20 years, but at least 5 years of service as a law enforcement officer or firefighter, or any combination thereof, is computed under subsection (a) of this section, except that the annuity of such employee is computed with respect to the service of such employee as a law enforcement officer or firefighter, or any combination thereof, by multiplying 2½ percent of his average pay by the years of that service.".

(2) Section 8339(h) of such title is amended by striking out "section 8336(d)" and inserting "section 8336(d)(1).".

(3) The amendments made by this section shall apply with respect to individuals who become entitled to receive an annuity on or after the effective date of this Act.

H.R. 11280

By Mr. TRIBLE:

—Page 209, line 14, insert "(a)" before "The amendments".

Page 209, insert after line 20 the following new subsection:

(b) In the case of any individual who, immediately before the date of the enactment of this Act, was a preference eligible (as defined in section 2108(3) of title 5, United States Code) employed in the civil service (as defined in section 2101(1) of title 5, United States Code)—

(1) the amendments made in section 305 of this Act shall not apply; and

(2) such individual shall be subject to the same requirements and restrictions as are provided in the provisions so amended (as in effect immediately before the date of the enactment of this Act) in the same manner and to the same extent as if this title had not been enacted;

except that references in such provisions (as in effect immediately before the date of the enactment of this Act) to the Civil Service Commission shall be construed to be references to the Office of Personnel Management.

—Page 390, insert after line 18 the following:

PREVAILING RATE EMPLOYEES; NIGHT DIFFERENTIAL

SEC. 1107. (a) Section 5334 of title 5, United States Code, is amended by adding at the end thereof the following:

"(g) A prevailing rate employee, as defined in section 5342(a)(2) of this title, who together with his position is brought within the purview of this subchapter and chapter 51 of this title at any time on or after January 1, 1966, and who within one year before, but not at the time of, such personnel action was receiving night differential on a regular night shift tour worked on a rotational basis or at regularly scheduled intervals or on an irregular basis shall be entitled to inclusion at the time of such personnel action of such night differential as a part of his basic pay, as a result of conversion to the General Schedule, to the same extent as if he was receiving such night differential on a regularly scheduled night shift at the time of such conversion.".

(b) The amendment made by this section shall apply with respect to pay periods beginning before, on, or after the effective date of this section. Any sums to which an individual is entitled under this section for pay periods ending before the effective date of this section and which have not been paid to such individual shall be paid to such individual in a lump sum.

Revise the table of contents accordingly.

H.R. 11280

By Mr. UDALL:

—Strike out title VII (beginning on line 12 of page 288 and ending on line 12 of page 348) and insert in lieu thereof the following:

TITLE VII—FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS

FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS

SEC. 701. So much of subpart F of part III of title 5, United States Code, as precedes subchapter II of chapter 71 thereof is amended to read as follows:

"Subpart F—Labor-Management and Employee Relations

"Chapter 71—LABOR-MANAGEMENT RELATIONS

"SUBCHAPTER I—GENERAL PROVISIONS

"Sec.
"7101. Findings and purpose.
"7102. Employees' rights.
"7103. Definitions; application.
"7104. Federal Labor Relations Authority.
"7105. Powers and duties of the Authority.
"7106. Management rights.

"SUBCHAPTER II—RIGHTS AND DUTIES OF AGENCIES AND LABOR ORGANIZATIONS

"Sec.
"7111. Exclusive recognition of labor organizations.
"7112. Determination of appropriate units for labor organization representation.
"7113. National consultation rights.
"7114. Representation rights and duties.
"7115. Allotments to representatives.
"7116. Unfair labor practices.
"7117. Duty to bargain in good faith; compelling need; duty to consult.
"7118. Prevention of unfair labor practices.
"7119. Negotiation impasses; Federal Service Impasses Panel.
"7120. Standards of conduct for labor organizations.

"SUBCHAPTER III—GRIEVANCES, APPEALS, AND REVIEW

"Sec.
"7121. Grievance procedures.
"7122. Exceptions to arbitral awards.
"7123. Judicial review; enforcement.

"SUBCHAPTER IV—ADMINISTRATIVE AND OTHER PROVISIONS

"Sec.
"7131. Reporting requirements for standards of conduct.
"7132. Official time.
"7133. Subpenas.
"7134. Compilation and publication of data.
"7135. Regulations.
"7136. Continuation of existing laws, recognitions, agreements, and procedures.

"SUBCHAPTER I—GENERAL PROVISIONS

"§ 7101. Findings and purpose

"(a) The Congress finds that experience in both private and public employment indicates that the statutory protection of the right of employees to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them safeguards the public interest and contributes to the effective conduct of public business. Such protection facilities and encourages the amicable settlement of disputes between employees and their employers involving conditions of employment. Therefore, labor organizations and collective bargaining in the civil service are in the public interest.

"(b) It is the purpose of this chapter to prescribe certain rights and obligations of the employees of the Federal Government and to establish procedures which are designed to meet the special requirements and needs of the Federal Government.

"§ 7102. Employees' rights

"Each employee shall have the right to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such right. Except as otherwise provided under this chapter, such right includes the right—

"(1) to act for a labor organization in the capacity of a representative and the right, in such capacity, to present the views of the labor organization to heads of agencies and other officials of the executive branch of the Government, the Congress, or other appropriate authorities,

"(2) to engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under this chapter, and

"(3) to engage in other lawful activities for the purpose of establishing, maintaining, and improving conditions of employment.

"§ 7103. Definitions; application

"(a) For the purpose of this chapter—

"(1) 'person' means an individual, labor organization, or agency;

"(2) 'employee' means an individual—

"(A) employed in an agency; or

"(B) whose employment in an agency has ceased because of any unfair labor practice under section 7116 of this title and who has not obtained any other regular and substantially equivalent employment, as determined under regulations prescribed by the Federal Labor Relations Authority;

but does not include—

"(i) an alien or noncitizen of the United States who occupies a position outside the United States;

"(ii) a member of the uniformed services;

"(iii) a supervisor or a management official; or

"(iv) an officer or employee in the Foreign Service of the United States employed in the Department of State, the Agency for International Development, or the International Communication Agency;

"(3) 'agency' means an Executive agency (including a nonappropriated fund instrumentality described in section 2105(c) of this title and the Veterans' Canteen Service, Veterans' Administration), the Library of Congress, and the Government Printing Office, but does not include—

"(A) the General Accounting Office;

"(B) the Federal Bureau of Investigation;

"(C) the Central Intelligence Agency;

"(D) the National Security Agency;

"(E) the Tennessee Valley Authority;

"(F) the Federal Labor Relations Authority; or

"(G) the Federal Service Impasses Panel;

"(4) 'labor organization' means an organization composed in whole or in part of employees, in which employees participate and pay dues, and which has as a purpose the dealing with an agency concerning grievances and conditions of employment, but does not include—

"(A) an organization whose basic purpose is entirely social, fraternal, or limited to special interest objectives which are only

incidentally related to conditions of employment;

"(B) an organization which, by its constitution, bylaws, tacit agreement among its members, or otherwise, denies membership because of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition; or

"(C) an organization sponsored by an agency;

"(5) 'dues' means dues, fees, and assessments;

"(6) 'Authority' means the Federal Labor Relations Authority described in section 7104(a) of this title;

"(7) 'Panel' means the Federal Service Impasses Panel described in section 7119(c) of this title;

"(8) 'collective bargaining agreement' means an agreement entered into as a result of collective bargaining pursuant to the provisions of this chapter;

"(9) 'grievance' means any complaint—

"(A) by any employee concerning any matter relating to the employment of the employee;

"(B) by any labor organization concerning any matter relating to the employment of any employee; or

"(C) by any employee, labor organization, or agency concerning—

"(i) the effect or interpretation, or a claim of breach, of a collective bargaining agreement; or

"(ii) any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment;

"(10) 'supervisor' means an individual employed by an agency having authority in the interest of the agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment, except that, with respect to any unit which includes firefighters or nurses, the term 'supervisor' includes only those individuals who devote a preponderance of their employment time to exercising such authority;

"(11) 'management official' means an individual employed by an agency in a position the duties and responsibilities of which require or authorize the individual to formulate, determine, or influence the policies of the agency;

"(12) 'collective bargaining' means the performance of the mutual obligation of the representative of an agency and the exclusive representative of employees in an appropriate unit in the agency to meet at reasonable times and to confer, consult, and bargain in a good-faith effort to reach agreement with respect to the conditions of employment affecting such employees and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but the obligation referred to in this paragraph does not compel either party to agree to a proposal or to make a concession;

"(13) 'confidential employee' means an employee who acts in a confidential capacity with respect to an individual who formulates or effectuates management policies in the field of labor-management relations;

"(14) 'conditions of employment' means personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, affecting working conditions, except that such term does not include policies, practices, and matters—

"(A) relating to discrimination in employment on the basis of race, color, religion, sex, age, national origin, or handicapping condition, within an agency subject to the jurisdiction of the Equal Employment Opportunity Commission;

"(B) relating to political activities prohibited under subchapter III of chapter 73 of this title;

"(C) relating to the classification of any position; or

"(D) to the extent such matters are specifically provided for by Federal statute;

"(15) 'professional employee' means—

"(A) an employee engaged in the performance of work—

"(i) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital (as distinguished from knowledge acquired by a general academic education, or from an apprenticeship, or from training in the performance of routine mental, manual, mechanical, or physical activities);

"(ii) requiring the consistent exercise of discretion and judgment in its performance;

"(iii) which is predominantly intellectual and varied in character (as distinguished from routine mental, manual, mechanical, or physical work); and

"(iv) which is of such character that the output produced or the result accomplished by such work cannot be standardized in relation to a given period of time; or

"(B) an employee who has completed the courses of specialized intellectual instruction and study described in subparagraph (A)(i) of this paragraph and is performing related work under appropriate direction or guidance to qualify the employee as a professional employee described in subparagraph (A) of this paragraph;

"(16) 'exclusive representative' means any labor organization which—

"(A) is certified as the exclusive representative of employees in an appropriate unit pursuant to section 7111 of this title; or

"(B) was recognized by an agency immediately before the effective date of this chapter as the exclusive representative of employees in an appropriate unit—

"(i) on the basis of an election, or

"(ii) on any basis other than an election, and continues to be so recognized in accordance with the provisions of this chapter;

"(17) 'firefighter' means any employee engaged in the performance of work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment; and

"(18) 'United States' means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and any territory or possession of the United States.

"(b) The President may issue an order excluding any agency or subdivision thereof from coverage under this chapter if the President determines that—

"(1) the agency or subdivision has as a primary function intelligence, counterintelligence, investigative, or security work, and

"(2) the provisions of this chapter cannot be applied to that agency or subdivision in a manner consistent with national security requirements and considerations.

§ 7104. Federal Labor Relations Authority

"(a) The Federal Labor Relations Authority is composed of three members, not more than two of whom may be adherents of the same political party. No member shall engage in any other business or employment or hold another office or position in the Government of the United States except as otherwise provided by law.

"(b) Members of the Authority shall be appointed by the President by and with the advice and consent of the Senate, and may be removed by the President only upon notice and hearing and only for misconduct, inefficiency, neglect of duty, of malfeasance in office. The President shall designate one member to serve as Chairman of the Authority.

"(c)(1) One of the original members of the Authority shall be appointed for a term of 1 year, one for a term of 3 years, and the Chairman for a term of 5 years. Thereafter, each member shall be appointed for a term of 5 years.

"(2) Notwithstanding paragraph (1) of this subsection, the term of any member shall not expire before the earlier of—

"(A) the date on which the member's successor takes office, or

"(B) the last day of the Congress beginning after the date on which the member's term of office would (but for this subparagraph) expire.

An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

"(d) A vacancy in the Authority shall not impair the right of the remaining members to exercise all of the powers of the Authority.

"(e) The Authority shall make an annual report to the President for transmittal to the Congress which shall include information as to the cases it has heard and the decisions it has rendered.

"(f)(1) The General Counsel of the Authority shall be appointed by the President, by and with the advice and consent of the Senate, for a term of 5 years. The General Counsel may be removed by the President.

"(2) The General Counsel may—

"(A) investigate alleged violations of this chapter,

"(B) file and prosecute complaints under this chapter,

"(C) intervene before the Authority in proceedings brought under section 7118 of this title, and

"(D) exercise such other powers of the Authority as the Authority may prescribe.

"(3) The General Counsel shall have direct authority over, and responsibility for, all employees in the office of General Counsel, including employees of the General Counsel in the regional offices of the Authority.

"(4) If a vacancy occurs in the office of General Counsel, the President shall promptly designate an Acting General Counsel and shall submit a nomination for General Counsel to the Senate within 40 days after the vacancy occurs, unless the Congress adjourns sine die before the expiration of the 40-day period, in which case the President shall submit the nomination to the Senate not later than 10 days after the Congress reconvenes.

"§ 7105. Powers and duties of the authority

"(a) The Authority shall provide leadership in establishing policies and guidance relating to matters under this chapter, and, except as otherwise provided, shall be responsible for carrying out the purpose of this chapter.

"(b) The Authority shall adopt an official seal which shall be judicially noticed.

"(c) The principal office of the Authority shall be in or about the District of Columbia, but the Authority may meet and exercise any or all of its powers at any time or place. Except as otherwise expressly provided by law, the Authority may, by one or more of its members or by such agents as it may designate, make any appropriate inquiry necessary to carry out its duties wherever per-

sons subject to this chapter are located. Any member who participates in the inquiry shall not be disqualified from later participating in a decision of the Authority in any case relating to the inquiry.

"(d) The Authority shall appoint an Executive Director and such regional directors, administrative law judges under section 3105 of this title, and other individuals as it may from time to time find necessary for the proper performance of its functions.

"(e)(1) The Authority may delegate to any regional director its authority under this chapter—

"(A) to determine whether a group of employees is an appropriate unit;

"(B) to conduct investigations and to provide for hearings;

"(C) to determine whether a question of representation exists and to direct an election; and

"(D) to conduct secret ballot elections and certify the results thereof.

"(2) The Authority may delegate to any administrative law judge appointed under subsection (d) of this section its authority under section 7118 of this title to determine whether any person has engaged in or is engaging in an unfair labor practice.

"(f) If the Authority delegates any authority to any regional director or administrative law judge to take any action pursuant to subsection (e) of this section, the Authority may, upon application by any interested person filed within 60 days after the date of the action, review such action, but the review shall not, unless specifically ordered by the Authority, operate as a stay of the action. The Authority may affirm, modify, or reverse any action reviewed under this subsection. If the Authority does not undertake to grant review of the action under this subsection within 60 days after the later of—

"(1) the date of the action; or

"(2) the date of the filing of any application under this subsection for review of the action;

the action shall become the action of the Authority at the end of such 60-day period.

"(g) In order to carry out its functions under this chapter, the Authority may—

"(1) hold hearings; and

"(2) administer oaths, take the testimony or deposition of any person under oath, and issue subpenas as provided in section 7133 of this title.

"(h) The Authority shall, by regulation, establish standards which shall be applied in determining the amount and circumstances in which reasonable attorney fees and reasonable costs and expenses of litigation may be awarded under section 7188(a)(6)(C) or 5596(b)(1)(B) of this title in connection with any unfair labor practice or any grievance processed under a procedure negotiated in accordance with this chapter.

"(i) Except as provided in section 518 of title 28, relating to litigation before the Supreme Court, attorneys designated by the Authority may appear for the Authority and represent the Authority in any civil action brought in connection with any function carried out by the Authority pursuant to this title or as otherwise authorized by law.

"§ 7206. Management rights

"(a) Subject to subsection (b) of this section, nothing in this chapter shall affect the authority of any management official of any agency—

"(1) to determine the mission, budget, organization, number of employees, and internal security practices of the agency; and

"(2) in accordance with applicable laws—

"(A) to hire, assign, direct, layoff, and retain employees in the agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;

"(B) to assign work, to make determinations with respect to contracting out, and to determine the personnel by which agency operations shall be conducted;

"(C) with respect to filling positions, to make selections for appointments from—

"(i) among properly ranked and certified candidates for promotion; or

"(ii) any other appropriate source; and

"(D) to take whatever actions may be necessary to carry out the agency mission during emergencies.

"(b) Nothing in this section shall preclude any agency and any labor organization from negotiating—

"(1) at the election of the agency, on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work;

"(2) procedures which management officials of the agency will observe in exercising any authority under this section; or

"(3) appropriate arrangements for employees adversely affected by the exercise of any authority under this section by such management officials.

"SUBCHAPTER II—RIGHTS AND DUTIES OF AGENCIES AND LABOR ORGANIZATIONS

"§ 7111. Exclusive recognition of labor organizations

"(a) Exclusive recognition shall be accorded to a labor organization which has been selected by a majority of employees in an appropriate unit who participate in an election in conformity with the requirements of this chapter.

"(b)(1) If a petition is filed with the Authority—

"(A) by any person alleging—

"(i) in the case of an appropriate unit for which there is no exclusive representative that 30 percent of the employees in the appropriate unit wish to be represented for the purpose of collective bargaining by an exclusive representative, or

"(ii) in the case of an appropriate unit for which there is an exclusive representative that 30 percent of the employees in the unit allege that the exclusive representative is no longer the representative of the majority of the employees in the unit; or

"(B) by any person seeking clarification of, or an amendment to, a certification then in effect or a matter relating to representation;

the Authority shall investigate the petition, and if it has reasonable cause to believe that a question of representation exists, it shall provide an opportunity for a hearing (for which a transcript shall be kept) after reasonable notice. Except as provided under subsection (c) of this section, if the Authority finds on the record of the hearing that a question of representation exists, the Authority shall conduct an election on the question by secret ballot and shall subject to paragraph (2) of this subsection certify the results thereof. An election under this subsection shall not be conducted in any appropriate unit or in any subdivision thereof within which, in the preceding 12 calendar months, a valid election under this subsection has been held.

"(2)(A) If, after the 60-day period beginning on the date on which the petition is filed pursuant to paragraph (1) of this subsection, unresolved issues exist concerning—

"(i) the appropriateness of the unit in accordance with section 7112 of this title;

"(ii) the eligibility of one or more employees to vote in the proposed election; or

"(iii) other matters determined by the Authority to be relevant to the election;

the authority shall direct an election by secret ballot in the unit specified in the petition and announce the results thereof.

"(B) After conducting an election under subparagraph (A) of this paragraph, the Authority shall expedite the resolution of any disputed issues described in subparagraph (A) of this paragraph. If the Authority determines that matters raised by the disputed issues did not affect the outcome of the election, the Authority shall certify the results of the election. If the Authority determines that the matters affected the outcome of the election, it shall conduct a new election by secret ballot in accordance with such requirements as are appropriate on the basis of its determination, and shall certify the results thereof.

"(c) A labor organization which—

"(1) has been designated by at least 10 percent of the employees in the unit specified in any petition filed pursuant to subsection (b) of this section;

"(2) has submitted a valid copy of a current or recently expired collective bargaining agreement for the unit; or

"(3) has submitted other evidence that it is the exclusive representative of the employees involved;

may intervene with respect to a petition filed pursuant to subsection (b) of this section and shall be placed on the ballot of any election under such subsection (b) with respect to the petition.

"(d) The Authority shall determine who is eligible to vote in any election under this section and shall establish rules governing any such election, which shall include rules allowing employees eligible to vote the opportunity to choose—

"(1) from labor organizations on the ballot, that labor organization which the employees wish to have represent them; or

"(2) not to be represented by a labor organization. In any election in which no choice on the ballot receives a majority of the votes cast, a runoff election shall be conducted between the two choices receiving the highest number of votes. A labor organization which receives the majority of the votes cast in an election shall be certified by the Authority as the exclusive representative.

"(e) The Authority may, on the petition of a labor organization, certify the labor organization as an exclusive representative—

"(1) if, after investigation, the Authority determines that the conditions for a free and untrammeled election under this section cannot be established because the agency involved has engaged in or is engaging in an unfair labor practice described in section 7116 (a) of this title; or

"(2) if, after investigation, the Authority determines that—

"(A) the labor organization represents a majority of employees in an appropriate unit;

"(B) the majority status was achieved without the benefit of any unfair labor practice described in section 7116 of this title;

"(C) no other person has filed a petition for recognition under subsection (b) of this section or a request for intervention under subsection (c) of this section; and

"(D) no other question of representation exists in the appropriate unit.

"(f) Any labor organization described in section 7103 (a)(36)(B)(ii) of this title may petition for an election for the determination of that labor organization as the exclusive representative of an appropriate unit.

"(g) A labor organization seeking exclusive recognition shall submit to the Authority and the agency involved a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives.

"(h) Exclusive recognition shall not be accorded to a labor organization—

"(1) if the Authority determines that the labor organization is subject to corrupt influences or influences opposed to democratic principles;

"(2) in the case of a petition filed pursuant to subsection (b)(1)(A) of this section, if there is not credible evidence that at least 30 percent of the employees in the unit specified in the petition wish to be represented for the purpose of collective bargaining by the labor organization seeking exclusive recognition;

"(3) if there is then in effect a lawful written collective bargaining agreement between the agency involved and an exclusive representative (other than the labor organization seeking exclusive recognition) covering any employees included in the unit specified in the petition, unless—

"(A) the collective bargaining agreement has been in effect for more than 3 years, or

"(B) the petition for exclusive recognition is filed not more than 120 days and not less than 60 days before the expiration date of the collective bargaining agreement; or

"(4) if the Authority has, within the previous 12 calendar months, conducted a secret ballot election for the unit described in any petition under this section and in such election a majority of the employees voting chose a labor organization for certification as the unit's exclusive representative.

"(i) Nothing in this section shall be construed to prohibit the waiving of hearings by stipulation for the purpose of a consent election in conformity with regulations and rules or decisions of the Authority.

"§ 7112. Determination of appropriate units for labor organization representation

"(a)(1) The Authority shall determine the appropriateness of any unit. The Authority shall determine in each case whether, in order to ensure employees the fullest freedom in exercising the rights guaranteed under this chapter, the appropriate unit should be established on an agency, plant, installation, functional, or other basis and shall determine any unit to be an appropriate unit only if the determination will ensure a clear and identifiable community of interest among the employees in the unit and will promote effective dealings with, and efficiency of the operations of, the agency involved.

"(b) A unit shall not be determined to be appropriate under this section solely on the basis of the extent to which employees in the proposed unit have organized, nor shall a unit be determined to be appropriate if it includes—

"(1) except as provided under section 7136 (a)(2) of this title, any management official or supervisor, except that, with respect to a unit a majority of which is composed of firefighters or nurses, a unit which includes both supervisors and employees may be considered appropriate;

"(2) a confidential employee;

"(3) an employee engaged in personnel work in other than a purely clerical capacity;

"(4) an employee engaged in administering the provisions of this chapter;

"(5) both professional employees and other employees, unless a majority of the professional employees vote for inclusion in the unit;

"(6) any employee engaged in intelligence, counter-intelligence, investigative, or security work which directly affects national security; or

"(7) any employee primarily engaged in investigation or audit functions relating to the work of individuals employed by an agency whose duties directly affect the internal security of the agency but only if the functions are undertaken to ensure that the duties are discharged honestly and with integrity.

"(c) Any employee who is engaged in administering any provision of law relating to labor-management relations may not be represented by a labor organization—

"(1) which represents other individuals to whom such provision applies; or

"(2) which is affiliated directly or indirectly with an organization which represents other individuals to whom such provision applies.

"(d) Two or more units which are in an agency and for which a labor organization is the exclusive representative may, upon petition by the agency or labor organization, be consolidated with or without an election into a single larger unit if the Authority considers the larger unit to be appropriate. The Authority shall certify the labor organization as the exclusive representative of the new larger unit.

"(e) In the case of the reorganization of one or more units for which, before reorganization, a labor organization was the exclusive representative of any such unit, the labor organization shall continue to be the exclusive representative for each such unit until new elections are held or a period of 45 days has elapsed, whichever first occurs.

"§ 7113. National consultation rights

"(a)(1) If, in connection with any agency, no labor organization has been accorded exclusive recognition on an agency basis, a labor organization which is the exclusive representative of a substantial number of the employees of the agency, as determined in accordance with criteria prescribed by the Authority, shall be granted national consultation rights by the agency. National consultation rights shall terminate when the labor organization no longer meets the criteria prescribed by the Authority. Any issue relating to any labor organization's eligibility for, or continuation of, national consultation rights shall be subject to determination by the Authority.

"(b)(1) Any labor organization having national consultation rights in connection with any agency under subsection (a) of this section shall—

"(A) be informed of any substantive change in conditions of employment proposed by the agency, and

"(B) be permitted reasonable time to present its views and recommendations regarding the changes.

"(2) If any views or recommendations are presented under paragraph (1) of this subsection to an agency by any labor organization—

"(A) the agency shall consider the views or recommendations before taking final action on any matter with respect to which the views or recommendations are presented; and

"(B) the agency shall provide the labor organization a written statement of the reasons for taking the final action.

"(c) Nothing in this section shall be construed to limit the right of any agency or exclusive representative to engage in collective bargaining.

"§ 7114. Representation rights and duties

"(a)(1) A labor organization which has been accorded exclusive recognition is the exclusive representative of the employees in the unit it represents and is entitled to act for, and negotiate collective bargaining agreements covering, all employees in the unit. An exclusive representative is responsible for representing the interests of all employees in the unit it represents without discrimination and without regard to labor organization membership.

"(2) Before any representative of an agency commences any investigatory interview of an employee in a unit concerning misconduct which could reasonably lead to suspension, reduction in grade or pay, or removal, the employee shall be informed of that employee's right under paragraph (3)(B) of this subsection to be represented by an exclusive representative.

"(3) An exclusive representative of an appropriate unit in an agency shall be given the opportunity to be represented at—

"(A) any formal discussion between one or more representatives of the agency and one or more employees in the unit or their representatives concerning any grievance or any personnel policy or practice or other general condition of employment; or

"(B) any investigatory interview of an employee in the unit by a representative of the agency if—

"(i) the employee reasonably believes that such interview may result in disciplinary action against the employee; and

"(ii) the employee requests such representation. Any agency and any exclusive representative of any appropriate unit in the agency, through appropriate representatives, shall meet and negotiate in good faith for the purpose of arriving at a collective bargaining agreement. The rights of an exclusive representative under the preceding provisions of this subsection shall not be construed to preclude an employee from being represented by an attorney or other representative, other than the exclusive representative, of the employee's own choosing in any appeal action under procedures other than procedures negotiated pursuant to this chapter.

"(b) The duty of an agency and an exclusive representative to negotiate in good faith under subsection (a) of this section shall include the obligation—

"(1) to approach the negotiations with a sincere resolve to reach a collective bargaining agreement;

"(2) to be represented at the negotiations by duly authorized representatives prepared to discuss and negotiate on any conditions of employment;

"(3) to meet at reasonable times and convenient places as frequently as may be necessary, and to avoid unnecessary delays;

"(4) in the case of an agency, to furnish to the exclusive representative involved, or its authorized representative, upon request and, to the extent not prohibited by law, data—

"(A) which is normally maintained by the agency in the regular course of business;

"(B) which is reasonably available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining; and

"(C) which does not constitute guidance, advice, counsel, or training provided for management officials or supervisors, relating to collective bargaining; and

"(5) if agreement is reached, to execute on the request of any party to the negotiation a written document embodying the agreed terms, and to take such steps as are necessary to implement such agreement.

"§ 7115. Allotments to representatives

"(a) If an agency has received from an employee in an appropriate unit a written assignment which authorizes the agency to deduct from the pay of the employee amounts for the payment of regular and periodic dues of the exclusive representative of the unit, the agency shall honor the assignment and make an appropriate allotment pursuant to the assignment. Any such allotment shall be made at no cost to the exclusive representative or the employee. Except as provided under subsection (b) of this section, any such assignment may not be revoked for a period of 1 year.

"(b) An allotment under subsection (a) of this section for the deduction of dues with respect to any employee shall terminate when—

"(1) the agreement between the agency and the exclusive representative involved ceases to be applicable to the employee; or

"(2) the employee is suspended or expelled from membership in the exclusive representative.

"(c)(1) Subject to paragraph (2) of this

subsection, if a petition has been filed with the Authority by a labor organization alleging that 10 percent of the employees in an appropriate unit in an agency have membership in the labor organization, the Authority shall investigate the petition to determine its validity. Upon certification by the Authority of the validity of the petition, the agency shall have a duty to negotiate with the labor organization solely concerning the deduction of dues of the labor organization from the pay of the members of the labor organization who are employees in the unit and who make a voluntary allotment for such purpose.

"(2)(A) The provisions of paragraph (1) of this subsection shall not apply in the case of any appropriate unit for which there is an exclusive representative.

"(B) Any agreement under paragraph (1) of this subsection between a lobar organization and an agency with respect to an appropriate uniti shall be null and void upon the certification of an exclusive representative of the unit.

"§ 7116. Unfair labor practices.

"(a) For the purpose of this chapter, it shall be an unfair labor practice for an agency—

"(1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;

"(2) to encourage or discourage membership in any labor organization by discrimination in connection with hiring, tenure, promotion, or other conditions of employment;

"(3) to sponsor, control, or otherwise assist any labor organization, other than to furnish, upon request, customary and routine services and facilities if the services and facilities are also furnished on an impartial basis to other labor organizations having equivalent status;

"(4) to discipline or discriminate against an employee because the employee has filed a complaint, affidavit, or petition, or has given any information or testimony under this chapter;

"(5) to refuse to consult, confer, or negotiate in good faith with a labor organization as required by this chapter;

"(6) to fail or refuse to cooperate in impasse procedures and impasse decisions as required by this chapter;

"(7) to prescribe any rule or regulation which restricts the scope of collective bargaining permitted by this chapter or which is in conflict with any applicable collective bargaining agreement; or

(8) to otherwise fail or refuse to comply with any provision of this chapter.

"(b) For the purpose of this chapter, it shall be an unfair labor practice for a labor organization—

"(1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;

"(2) to cause or attempt to cause an agency to discriminate against any employee in the exercise by the employee of any right under this chapter;

"(3) to coerce, discipline, fine, or attempt to coerce a member of the labor organization as punishment, reprisal, or for the purpose of hindering or impeding the member's work performance or productivity as an employee or the discharge of the member's duties as an employee;

"(4) to discriminate against an employee with regard to the terms or conditions of membership in the labor organization on the basis of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition;

"(5) to refuse to consult, confer, or negotiate in good faith with an agency as required by this chapter;

"(6) to fail or refuse to cooperate in impasse procedures and impasse decisions as required by this chapter;

"(7)(A) to call, or participate in, a strike, work stoppage, or slowdown, or picketing of an agency in a labor-management dispute if such picketing interferes with an agency's operations, or

"(B) to condone any activity described in subparagraph (A) of this paragraph by failing to take action to prevent or stop such activity; or

"(8) to otherwise fail or refuse to comply with any provision of this chapter.

Nothing in paragraph (7) shall result in any informational picketing which does not interfere with an agency's operations being considered as an unfair labor practice.

"(c) For the purpose of this chapter it shall be an unfair labor practice for an exclusive representative to deny membership to any employee in the appropriate unit represented by such exclusive representative except for failure—

(1) to meet reasonable occupational standards uniformly required for admission, or

(2) to tender dues uniformly required as a condition of acquiring and retaining membership.

This subsection does not preclude any labor organization from enforcing discipline in accordance with procedures under its constitution or bylaws to the extent consistent with the provisions of this chapter.

"(d) Issues which may properly be raised under—

"(1) an appeals procedure prescribed by or pursuant to law, or

"(2) any grievance procedure negotiated pursuant to section 7121 of this title;

may, at the election of the aggrieved party, be raised either—

(A) under such appeals procedure or such grievance procedure, as appropriate; or

(B) if applicable, under the procedure for resolving complaints of unfair labor practices under section 7118 of this title.

An election under the preceding sentence shall be made at such time and in such manner as the Authority shall prescribe. Any decision under subparagraph (B) of this subsection on any such issue shall not be construed to be a determination of an unfair labor practice under this chapter or a precedent for any such determination.

"§ 7117. Duty to bargain in good faith; compelling needs; duty to consent

"(a)(1) Subject to paragraph (2) of this subsection, the duty to bargain in good faith shall, to the extent not inconsistent with any Federal law or any Government-wide rule or regulation, extend to matters which are the subject of any rule or regulation only if the rule or regulation is not a Government-wide rule or regulation.

"(2) The duty to bargain in good faith shall, to the extent not inconsistent with Federal law or any Government-wide or regulation, extend to matters which are the subject of any agency rule or regulation referred to in paragraph (3) of this subsection only if the Authority has determined under subsection (b) of this section that no compelling need (as determined under regulations prescribed by the Authority) exists for the rule or regulation.

"(3) Paragraph (2) of this subsection applies to any rule or regulation issued by any agency or issued by any primary national subdivision of such agency, unless an exclusive representative represents an appropriate unit including not less than a majority of the employees in the issuing agency or primary national subdivision, as the case may be, to whom the rule or regulation is applicable.

"(b)(1) In any case of collective bargaining in which an exclusive representative alleges that no compelling need exists for any rule or regulation referred to in subsection (a)(3) of this section which is then in effect and which governs any matter at issue in such collective bargaining, the Authority shall determine under paragraph (2) of this subsection, in accordance with regulations prescribed by the Authority, whether such a compelling need exists.

"(2) For the purpose of this section, a compelling need shall be determined not to exist for any rule or regulation only if—

"(A) the agency, or primary national subdivision, as the case may be, which issued the rule or regulation informs the Authority in writing that a compelling need for the rule or regulation does not exist; or

"(B) the Authority determines, after a hearing under this subsection, that a compelling need for the rule or regulation does not exist.

"(3) Any hearing under this subsection shall be expedited to the extent practicable and shall not include the General Counsel as a party.

"(4) The agency, or primary national subdivision, as the case may be, which issued the rule or regulation shall be a necessary party at any hearing under this subsection.

"(c)(1) Except in any case to which subsection (b) of this section applies, if an agency involved in collective bargaining with an exclusive representative alleges that the duty to bargain in good faith does not extend to any matter, the exclusive representative may appeal the allegation to the Authority in accordance with the provisions of this subsection.

"(2) The exclusive representative may, on or before the 15th day after the date on which the agency first makes the allegation referred to in paragraph (1) of this subsection, institute an appeal under this subsection by—

"(A) filing a petition with the Authority; and

"(B) furnishing a copy of the petition to the head of the agency.

"(3) On or before the 15th day after the date of the receipt by the head of the agency of the copy of the petition under paragraph (2)(B) of this subsection, the agency shall—

"(A) file with the Authority a statement—

"(i) withdrawing the allegation; or

"(ii) setting forth in full its reasons supporting the allegation; and

"(B) furnish a copy of such statement to the exclusive representative.

"(4) On or before the 15th day after the date of the receipt by the exclusive representative of a copy of a statement under paragraph (3)(B) of this subsection, the exclusive representative shall file with the Authority its response to the statement.

"(5) The Authority shall expedite proceedings under this subsection to the extent practicable and shall issue to the exclusive representative and to the agency a written decision on the allegation and specific reasons therefor at the earliest practicable date.

"(d)(1) A labor organization which is the exclusive representative of a substantial number of employees, determined in accordance with criteria prescribed by the Authority, shall be granted consultation rights by any agency with respect to any Government-wide rule or regulation issued by the agency effecting any substantive change in any condition of employment. Such consultation rights shall terminate when the labor organization no longer meets the criteria prescribed by the Authority. Any issue relating to a labor organization's eligibility for, or continuation of, such consultation rights shall be subject to determination by the Authority.

"(2) A labor organization having consultation rights under paragraph (1) of this subsection shall—

"(A) be informed of any substantive change in conditions of employment proposed by the agency, and

"(B) shall be permitted reasonable time to present its views and recommendations regarding the changes.

"(3) If any views or recommendations are presented under paragraph (2) of this subsection to an agency by any labor organization—

"(A) the agency shall consider the views or recommendations before taking final action on any matter with respect to which the views or recommendations are presented; and

"(B) the agency shall provide the labor organization a written statement of the reasons for taking the final action.

"§ 7118. Prevention of unfair labor practices

"(a)(1) If an agency or labor organization is charged by any person with having engaged in or engaging in an unfair labor practice, the General Counsel shall investigate the charge and may issue and cause to be served upon the agency or labor organization a complaint. In any case in which the General Counsel does not issue a complaint because the charge fails to state an unfair labor practice, the General Counsel shall provide the person making the charge a written statement of the reasons for not issuing a complaint.

"(2) Any complaint under paragraph (1) of this subsection shall contain a notice—

"(A) of the charge;

"(B) that a hearing will be held before the Authority (or any member thereof or before an individual employed by the Authority and designated for such purpose); and

"(C) of the time and place fixed for the hearing.

"(3) The labor organization or agency involved shall have the right to file an answer to the original and any amended complaint and to appear in person or otherwise and give testimony at the time and place fixed in the complaint for the hearing.

"(4)(A) Except as provided in subparagraph (B) of this paragraph, no complaint shall be issued based on any alleged unfair labor practice which occurred more than 6 months before the filing of the charge with the Authority.

"(B) If the General Counsel determines that the person filing any charge was prevented from filing the charge during the 6-month period referred to in subparagraph (A) of this paragraph by reason of—

"(i) any failure of the agency or labor organization against which the charge is made to perform a duty owed to the person, or

"(ii) any concealment which prevented discovery of the alleged unfair labor practice during the 6-month period,

the General Counsel may issue a complaint based on the charge if the charge was filed during the 6-month period beginning on the day of the discovery by the person of the alleged unfair labor practice.

"(5) The Authority (or any member thereof or any individual employed by the Authority and designated for such purpose) shall conduct a hearing on the complaint not earlier than 5 days after the date on which the complaint is served. In the discretion of the individual or individuals conducting the hearing, any person involved may be allowed to intervene in the hearing and to present testimony. Any such hearing shall, to the extent practicable, be conducted in accordance with the provisions of subchapter II of chapter 5 of this title, except that the parties shall not be bound by rules of evidence, whether statutory, common law, or adopted by a court. A transcript shall be kept of the hearing. After such a hearing the Authority, in its discretion, may upon notice receive further evidence or hear argument.

"(6) If the Authority (or any member thereof or any individual employed by the Authority and designated for such purpose) determines after any hearing on a complaint under paragraph (5) of this subsection that the preponderance of the evidence received demonstrates that the agency or labor organization named in the complaint has engaged in or is engaging in an unfair labor practice, then the individual or individuals conducting the hearing shall state in writing their findings of fact and shall issue and cause to be served on the agency or labor organization an order—

"(A) to cease and desist from any such unfair labor practice in which the agency or labor organization is engaged;

"(B) directing that a collective bargaining agreement be amended and that the amendments be given retroactive effect;

"(C) requiring an award of reasonable attorney fees;

"(D) requiring reinstatement of an employee with backpay in accordance with section 5596 of this title; or

"(E) including any combination of the actions described in subparagraphs (A) through (D) of this paragraph or such other action as will carry out the purpose of this chapter.

If any such order requires reinstatement of an employee with backpay, backpay may be required of the agency (as provided in section 5596 of this title) or of the labor organization, as the case may be, which is found to have engaged in the unfair labor practice involved.

"(7) If the individual or individuals conducting the hearing determine that the preponderance of the evidence received fails to demonstrate that the agency or labor organization named in the complaint has engaged in or is engaging in an unfair labor practice, the individual or individuals shall state in writing their findings of fact and shall issue an order dismissing the complaint.

"(b) In connection with any matter before the Authority in any proceeding under this section, the Authority may request from the Director of the Office of Personnel Management an opinion concerning the proper interpretation of rules, regulations, or other policy directives issued by the Office of Personnel Management. Any interpretation under the preceding sentence shall be advisory in nature and shall not be binding on the Authority.

"§ 7119. Negotiation impasses; Federal Service Impasses Panel

"(a) The Federal Mediation and Conciliation Service shall provide services and assistance to agencies and exclusive representatives in the resolution of negotiation impasses. The Service shall determine under what circumstances and in what manner it shall provide services and assistance.

"(b) If voluntary arrangements, including the services of the Federal Mediation and Conciliation Service or any other third-party mediation, fail to resolve a negotiation impasse—

"(1) either party may request the Federal Service Impasses Panel to consider the matter, or

"(2) the parties may agree to adopt a procedure for binding arbitration of the negotiation impasse, but only if the procedure is approved by the Panel.

"(c)(1) The Federal Service Impasse Panel is an entity within the Authority, the function of which is to provide assistance in resolving negotiation impasses between agencies and exclusive representatives.

"(2) The Panel shall be composed of a Chairman and at least six other members, who shall be appointed by the President, solely on the basis of fitness to perform the duties and functions involved, from among individuals who are familiar with Government operations and knowledgeable in labor-management relations.

"(3) Of the original members of the Panel 2 members shall be appointed for a term of 1 year, 2 members shall be appointed for a term of 3 years, and the Chairman and the remaining members shall be appointed for a term of 5 years. Thereafter each member shall be appointed for a term of 5 years, except that an individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced. Any member of the Panel may be removed by the President.

"(4) The Panel may appoint an Executive Director and any other individuals it may from time to time find necessary for the proper performance of its duties. Each member of the Panel who is not an employee (as defined in section 2105 of this title) is entitled to pay at a rate equal to the daily equivalent of the maximum annual rate of basic pay then currently paid under the General Schedule for each day he is engaged in the performance of official business of the Panel, including travel time, and is entitled to travel expenses as provided under section 5703 of this title.

"(5)(A) The Panel or its designee shall promptly investigate any impasse presented to it under subsection (b) of this section. The Panel shall consider the impasse and shall either—

"(i) recommend to the parties procedures for the resolution of the impasse; or

"(ii) assist the parties in resolving through whatever methods and procedures, including factfinding and recommendations, it may consider appropriate to accomplish the purpose of this section.

"(B) If the parties do not arrive at a settlement after assistance by the Panel under subparagraph (A) of this paragraph, the Panel may—

"(i) hold hearings;

"(ii) administer oaths, take the testimony or deposition of any person under oath, and issue subpenas as provided in section 7133 of this title; and

"(iii) take whatever action is necessary and not inconsistent with this chapter to resolve the impasse.

"(C) Notice of any final action of the Panel under this section shall be promptly served upon the parties, and the action shall be binding on such parties during the term of the agreement, unless the parties agree otherwise.

"§ 7120. Standards of conduct for labor organizations.

"(a) A labor organization representing or seeking to represent employees pursuant to this chapter shall adopt, maintain, and enforce governing requirements containing explicit and detailed provisions to which it shall subscribe, which include provisions for—

"(1) the maintenance of democratic procedures and practices, including—

"(A) provisions for periodic elections to be conducted subject to recognized safeguards, and

"(B) provisions defining and securing the right of individual members to—

"(i) participate in the affairs of the labor organization,

"(ii) fair and equal treatment under the governing rules of the organization, and

"(iii) fair process in disciplinary proceedings;

"(2) the prohibition of business or financial interests on the part of labor organization officers and agents which conflict with their duty to the organization and its members; and

"(3) the maintenance of fiscal integrity in the conduct of the affairs of the labor organi-

nation, including provisions for accounting and financial controls and regular financial reports or summaries to be made available to its members.

"(b) This chapter does not authorize participation in the management of a labor organization or acting as a representative of a labor organization by a management official or a supervisor, except as specifically provided in this chapter, or by an employee if the participation or activity would result in a conflict or apparent conflict of interest or would otherwise be incompatible with law or with the official duties of the employee.

"SUBCHAPTER III—GRIEVANCES

"§ 7121. Grievance procedures

"(a) Any collective bargaining agreement shall provide procedures for the settlement of grievances, including questions of arbitrability. Any employee who has a grievance and who is covered by a collective bargaining agreement may elect to have the grievance processed under a procedure negotiated in accordance with this chapter.

"(b) Any negotiated grievance procedure referred to in subsection (a) of this section shall—

"(1) be fair and simple,

"(2) provide for expeditious processing, and

"(3) include procedures that—

"(A) assure an exclusive representative the right, in its own behalf or on behalf of any employee in the unit represented by the exclusive representative, to present and process grievances;

"(B) assure such an employee the right to present a grievance on the employee's own behalf, and assure the exclusive representative the right to be present during the grievance proceeding; and

"(C) provide that any grievance not satisfactorily settled under the negotiated grievance procedure shall be subject to binding arbitration which may be invoked by either the exclusive representative or the agency.

"(c) Any party to a collective bargaining agreement aggrieved by the failure, neglect, or refusal of the other party to proceed to arbitration pursuant to the negotiated grievance procedure provided in the agreement may file a petition in the appropriate United States district court requesting an order directing that arbitration proceed pursuant to the procedures provided therefore in the agreement. The court shall hear the matter without jury, expedite the hearing to the maximum extent practicable, and issue any order it determines appropriate.

"(d) The preceding subsections of this section shall not apply with respect to any grievance concerning—

"(1) any claimed violation of subchapter III of chapter 73 of this title (relating to prohibited political activities);

"(2) retirement, life insurance, or health insurance;

"(3) a suspension or removal under section 7532 of this title;

"(4) an examination, certification, or appointment; or

"(5) the classification of any position which does not result in the reduction in grade or pay of an employee.

"(e) The processing of a grievance under a procedure negotiated under this chapter shall not limit the right of an aggrieved employee to request the Equal Employment Opportunity Commission to review a final decision under the procedure—

"(1) pursuant to section 3 of Reorganization Plan Numbered 1 of 1978; or

"(2) where applicable, in such manner as shall otherwise be prescribed by regulation by the Equal Employment Opportunity Commission.

"§ 7122. Exceptions to arbitral awards

"(a) Either party to arbitration under this chapter may file with the Authority an exception to any arbitrator's award pursuant to the arbitration. If upon review the Authority finds that the award is deficient because—

"(1) it is contrary to any law, rule, or regulation;

"(2) it was obtained by corruption, fraud, or other misconduct;

"(3) the arbitrator exercised partiality in making the award; or

"(4) the arbitrator exceeded powers granted to the arbitrator;

the Authority may take such action and make such recommendations concerning the award as it considers necessary, consist with applicable laws, rules, or regulations.

"(b) If no exception to an arbitrator's award is filed under subsection (a) of this section during the 60-day period beginning on the date of such award, the award shall be final and binding. An agency shall take the actions required by an arbitrator's final award. The award may include the payment of backpay (as provided in section 5596 of this title).

"§ 7123. Judicial review; enforcement

"(a) Any person aggrieved by a final order of the Authority under—

"(1) section 7118 of this title (involving an unfair labor practice);

"(2) section 7122 of this title (involving an award by an arbitrator); or

"(3) section 7112 of this title (involving an appropriate unit determination),

may, during the 60-day period beginning on the date on which the order was issued, institute an action for judicial review of the Authority's order in the United States court of appeals in the circuit in which the person resides or transacts business or in the United States Court of Appeals for the District of Columbia.

"(b) The Authority may petition any appropriate United States court of appeals for the enforcement of any order of the Authority and for appropriate temporary relief or restraining order.

"(c) Upon the filing of a petition under subsection (a) of this section for judicial review or under subsection (b) of this section for enforcement, the Authority shall file in the court the record in the proceedings, as provided in section 2112 of title 28. Upon the filing of the petition, the court shall cause notice thereof to be served to the parties involved, and thereupon shall have jurisdiction of the proceeding and of the question determined therein and may grant any temporary relief (including a temporary restraining order) it considers just and proper, and may make and enter a decree affirming and enforcing, modifying and enforcing as so modified, or setting aside in whole or in part the order of the Authority. The filing of a petition under subsection (a) or (b) of this section shall not operate as a stay of the Authority's order unless the court specifically orders the stay. Review of the Authority's order shall be on the record in accordance with section 706 of this title. No objection that has not been urged before the Authority, or its designee, shall be considered by the court, unless the failure or neglect to urge the objection is excused because of extraordinary circumstances. The findings of the Authority with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any person applies to the court for leave to adduce additions' evidence and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the failure to adduce the evidence in the hearing before the Authority, or its designee, the court may order the additional evidence to be taken before the Authority, or its designee, and to be made a part of the record. The Authority may modify its findings as to the facts, or make new findings by reason of additional evidence so taken and filed. The Authority shall file its modified or new findings, which, with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The Authority shall file its recommendations, if any, for the modification or setting aside of its original order. Upon the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the judgment and decree shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28.

"(d) The Authority may, upon issuance of a complaint as provided in section 7118 of this title charging that any person has engaged in or is engaging in an unfair labor practice, petition any United States district court within any district in which the unfair labor practice in question is alleged to have occurred or in which such person resides or transacts business for appropriate temporary relief or restraining order. Upon the filing of the petition, the court shall cause notice thereof to be served upon the person, and thereupon shall have jurisdiction to grant any temporary relief (including a temporary restraining order) it considers just and proper.

"SUBCHAPTER IV—ADMINISTRATIVE AND OTHER PROVISIONS

"§ 7131. Reporting requirements for standards of conduct

"The provisions of subchapter III of chapter 11 of title 29 shall be applicable to labor organizations which have been or are seeking to be certified as exclusive representatives under this chapter, and to the organizations' officers, agents, shop stewards, other representatives, and members to the extent to which the provisions would be applicable if the agency were an employer under section 402 of title 29. In addition to the authority conferred on him under section 438 of title 29, the Secretary of Labor shall prescribe regulations, with the written concurrence of the Authority, providing for simplified reports for any such labor organization. The Secretary of Labor may revoke the provision for simplified reports of any such labor organization if the Secretary determines, after any investigation the Secretary considers proper and after reasonable notice and opportunity for a hearing, that the purpose of this chapter and of chapter 11 of title 29 would be served thereby.

§ 7132. Official time

"(a) Any employee representing an exclusive representative in the negotiation of a collective bargaining agreement under this chapter shall be authorized official time for such purposes, including attendance at impasse proceeding, during the time the employee otherwise would be in a duty status. The number of employees for whom official time is authorized under this subsection shall not exceed the number of individuals designated as representing the agency for such purposes.

"(b) Any activities performed by any employee relating to the internal business of a labor organization (including the solicitation of membership, elections of labor organization officials, and collection of dues) shall be performed during the time the employee is in a nonduty status.

"(c) Except as provided in subsection (a) of this section, the Authority shall determine whether any employee participating for, or on behalf of, a labor organization in any phase of proceedings before the Authority shall be authorized official time for such purpose during the time the employee otherwise would be in a duty status.

"(d) Except as provided in the preceding subsections of this section—

"(1) any employee representing an exclusive representative, or

"(2) in connection with any other matter covered by this chapter, any employee in an appropriate unit represented by an exclusive representative,

shall be granted official time in any amount the agency and the exclusive representative

involved agree to be reasonable, necessary, and in the public interest.

"§ 7133. Subpenas

"(a) Any member of the Authority, the General Counsel, or the Panel, any administrative law judge appointed by the Authority under section 3105 of this title, and any employee of the Authority designated by the Authority may—

"(1) issue subpenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States; and

"(2) administer oaths, take or order the taking of depositions, order responses to written interrogatories, examine witnesses, and receive evidence.

"(b) In the case of contumacy or failure to obey a subpena issued under subsection (a)(1) of this section, the United States district court for the judicial district in which the person to whom the subpena is addressed resides or is served may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(c) Witnesses (whether appearing voluntarily or under subpena) shall be paid the same fee and mileage allowances which are paid subpenaed witnesses in the courts of the United States.

"§ 7134. Compilation and publication of data

"(a) The Authority shall maintain a file of its proceedings and copies of all available agreements and arbitration decisions, and shall publish the texts of its decisions and the actions taken by the Panel under section 7119 of this title.

"(b) All files maintained under subsection (a) of this section shall be open to inspection and reproduction in accordance with the provisions of sections 552 and 552a of this title.

"§ 7135. Regulations

"The Authority, the Federal Mediation and Conciliation Service, and the Panel shall each prescribe rules and regulations to carry out the provisions of this chapter applicable to each of them, respectively. The provisions of subchapter II of chapter 5 of this title shall be applicable to the issuance, revision, or repeal of any such rule or regulation.

"§ 7136. Continuation of existing laws, recognitions, agreements, and procedures

"(a) Nothing contained in this chapter shall preclude—

"(1) the renewal or continuation of an exclusive recognition, certification of an exclusive representative, or a lawful agreement between an agency and an exclusive representative of its employees, which is entered into before the effective date of this chapter; or

"(2) the renewal, continuation, or initial according of recognition for units of management officials or supervisors represented by labor organizations which historically or traditionally represent management officials or supervisors in private industry and which hold exclusive recognition for units of such officials or supervisors in any agency on the effective date of this chapter.

"(b) Policies, regulations, and procedures established under and decisions issued under Executive Orders 11491, 11616, 11636, 11787, and 11838, or under any other Executive order, as in effect on the effective date of this chapter, shall remain in full force and effect until revised or revoked by the President, or unless superseded by specific provisions of this chapter or by regulations or decisions issued pursuant to this chapter.".

BACKPAY IN CASE OF UNFAIR LABOR PRACTICES AND GRIEVANCES

SEC. 702. Section 5596(b) of title 5, United States Code, is amended to read as follows:

"(b) An employee of an agency who, on the basis of a timely appeal or an administrative determination (including a decision relating to an unfair labor practice or a grievance) is found by appropriate authority under applicable law, rule, regulation, or collective bargaining agreement, to have been affected by an unjustified or unwarranted personnel action which has resulted in the withdrawal or reduction or all or a part of the pay, allowances, or differentials of the employee—

"(1) is entitled, on correction of the personnel action, to receive for the period for which the personnel action was in effect—

"(A) an amount equal to all or any part of the pay, allowances, or differentials, as applicable, which the employee normally would have earned or received during the period if the personnel action had not occurred, plus 5 percent, less any amounts earned by the employee through other employment during that period; and

"(B) reasonable attorney fees and reasonable costs and expenses of litigation related to the personnel action which, with respect to any decision relating to an unfair labor practice or a grievance processed under a procedure negotiated in accordance with chapter 71 of this title, shall be awarded in accordance with standards established under section 7105(h) of this title; and

"(2) for all purposes, is deemed to have performed service for the agency during that period, except that—

"(A) annual leave restored under this paragraph which is in excess of the maximum leave accumulation permitted by law shall be credited to a separate leave account for the employee and shall be available for use by the employee within the time limits prescribed by regulations of the Office of Personnel Management, and

"(B) annual leave credited under subparagraph (A) of this paragraph but unused and still available to the employee under regulations prescribed by the Office shall be included in the lumpsum payment under section 5551 or 5552(1) of this title but may not be retained to the credit of the employee under section 5552(2) of this title. "For the purpose of this subsection, 'grievance' and 'collective bargaining agreement' have the meanings set forth in section 7103 of this title, 'unfair labor practice' means an unfair labor practice described in section 7116 of this title, and 'personnel action' includes the omission or failure to take an action or confer a benefit.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 703. (a) Subchapter II of chapter 71 of title 5, United States Code, is amended—

(1) by redesignating sections 7151 (as amended by section 312 of this Act), 7152, 7153, and 7154 as sections 7201, 7202, 7203, and 7204, respectively;

(2) by striking out the subchapter heading and inserting in lieu thereof the following:

"Chapter 72—ANTIDISCRIMINATION; RIGHT TO PETITION CONGRESS

"SUBCHAPTER I—ANTIDISCRIMINATION IN EMPLOYMENT

"Sec.
"7201. Antidiscrimination policy; minority recruitment program.
"7202. Marital status.
"7203. Handicapping condition.
"7204. Other prohibitions.

"SUBCHAPTER II—EMPLOYEES' RIGHT TO PETITION CONGRESS

"7211. Employees' right to petition Congress.";

and

(3) by adding at the end thereof the following new subchapter:

"SUBCHAPTER II—EMPLOYEES' RIGHT TO PETITION CONGRESS

"§ 7211. Employees' right to petition Congress

"The right of employees, individual or collectively, to petition Congress or a Member of Congress, or to furnish information to either House of Congress, or to a committee or Member thereof, may not be interfered with or denied.".

(b) The analysis for part III of title 5, United States Code, is amended by striking out—

"Subpart F—Employee Relations

"71. Policies ..... 7101",

and inserting in lieu thereof

"Subpart F—Labor-Management and Employee Relations

"71. Labor-Management Relations 7101
"72. Antidiscrimination; Right to Petition Congress ..... 7201".

(c)(1) Section 2105(c)(1) of title 5, United States Code, is amended by striking out "and 7154" and inserting in lieu thereof "and 7204".

(2) Section 3302(2) of title 5, United States Code, is amended by striking out "7152, 7153" and inserting in lieu thereof "7202, 7203".

(3) Sections 4540(c), 7212(a), and 9540(c) of title 10, United States Code, are each amended by striking out "7154 of title 5" and inserting in lieu thereof "7204 of title 5".

(4) Section 410(b)(1) of title 39, United States Code, is amended by striking out "chapters 71 (employee policies)" and inserting in lieu thereof the following: "chapters 72 (antidiscrimination; right to petition Congress)".

(5) Section 1002(g) of title 39, United States Code, is amended by striking out "section 7102 of title 5" and inserting in lieu thereof "section 7211 of title 5".

(d) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following clause:

"(124) Chairman, Federal Labor Relations Authority.".

(e) Section 5316 of such title is amended by adding at the end thereof the following clause:

"(145) Members, Federal Labor Relations Authority (2), and its General Counsel.".

MISCELLANEOUS PROVISIONS

SEC. 704. (a) Except as provided in subsection (b) of this section, the amendments made by this title shall take effect on the first day of the first calendar month beginning more than 90 days after the date of the enactment of this title.

(b) Sections 7104, 7105, and 7136 of title 5, United States Code, as added by section 701 of this title, shall take effect on the date of the enactment of this title.

(c) The regulation required under section 7105(h) of this title shall be prescribed and made effective by the Authority not later than 90 days after the date of the enactment of this Act.

(d)(1) The wages, terms, and conditions of employment, and other employment benefits with respect to Government prevailing rate employees to whom section 9(b) of Public Law 92-392 applies shall be negotiated in accordance with prevailing rates and practices without regard to any provision of—

(A) chapter 71 of title 5, United States Code (as amended by this title);

(2) No provision of chapter 71 of title 5, United States Code; or

(C) any other law, rule, regulation, decision, or order relating to rate of pay or pay practices with respect to Federal employees.

(2) provision of chapter 71 of title 5, United States Code (as amended by this title), shall be considered to limit—

(A) any rights or remedies of employees referred to in paragraph (1) of this subsection under any other provision of law or before any court or other tribunal; or

(B) any benefits otherwise available to such employees under any other provision of law.

EXTENSIONS OF REMARKS

THE TAX CUT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for August 30, 1978, into the CONGRESSIONAL RECORD:

THE TAX CUT

The multibillion dollar tax cut bill now halfway through Congress is remarkable in two respects: it shows an unmistakable new emphasis and it rejects an attractive but unsound tax reduction of massive proportions.

The congressional mood on taxes has changed markedly since the talk of tax reform in the 1976 election campaign. The shift has been away from widespread tax reforms and toward tax breaks for middle-income wage earners. The change in the bill just passed by the House is a reaction to the protest of middle-income taxpayers who have felt the pinch of inflation. It reflects the perception—which most of us share—that middle-income families are overtaxed. The new emphasis is expected to be sharpened by the Senate.

Since Congress has enacted five tax cuts in the past ten years, a reduction in taxes is nothing new. But the provisions of the House-passed bill are significant. They include:

RELIEF FOR THE MIDDLE- AND UPPER-INCOME TAXPAYER

The major departure from tradition in the bill is a tax cut that would go primarily to persons in the $15,000 to $50,000 bracket rather than to those earning less than $15,000. Tax cuts since the mid-1960s have been slanted in favor of lower-income taxpayers at the expense of those better off.

BREAKS FOR BUSINESS

Corporate taxes would be trimmed by $3.8 billion, with reduced corporate tax rates, graduated rates for small businessmen and a liberalization and extension of the investment tax credit.

HELP FOR INVESTORS

Taxes on profits from the sale of stock and other property would be lowered, with the maximum rate falling from 49 percent to 35 percent.

AID TO HOMEOWNERS

Homeowners would be freed on a once-in-a-lifetime basis from the capital gains tax on profits up to $100,000 from the sale of a home.

INDEXATION

Taxpayers would be insulated from one type of taxation on capital gains—that produced by inflation. Inflationary increases would be automatically counterbalanced by a reduction in the tax at the annual rate of inflation.

The House also defeated a much larger tax cut proposal (Kemp-Roth) that would have slashed income taxes by 30 percent over the next three years. Kemp-Roth would begin with a tax cut of $30 billion in 1979 and would build to a $120-billion reduction in 1981. Its proponents argue that the huge tax cut would generate an economic boom of such scale that in a few years the government would recoop all the revenues that were lost, and then some. They believe that the huge tax cut would increase the incentive to work, save and invest, thereby resulting in greater economic growth, lower prices, more jobs and higher government revenues. Supporters of Kemp-Roth claim that the tax cuts could be made without increasing the federal deficit and without any drop in spending.

The House voted down Kemp-Roth, believing it would overheat the economy and lead to catastrophic deficits and runaway inflation. It is almost certain that Kemp-Roth supporters have overestimated the benefits of the proposal and seriously underestimated its inflationary potential. The "free lunch" rationale of Kemp-Roth just does not hold up under scrutiny and has been rejected by economists of all persuasions. Without offsetting reductions in government spending—which Kemp-Roth does not provide—such tax reductions would bring on enormous deficits, estimated to be $90 billion in 1980. There might be a formidable surge in spending that would lead to either a dangerous acceleration of inflation or a crippling credit crunch. Economists agree that a tax cut would increase total demand and national income and would thus partly compensate for the initial revenue loss. But to make up for the effect of the lower tax rates called for by Kemp-Roth, total income in the country would have to rise by some four or five times the original amount of the cut. The evidence is simply overwhelming that no cut in taxes could generate a rise in spending and income of that size.

Kemp-Roth advocates point to the 1964 Kennedy tax cut as historical proof of their claims. After that tax cut unemployment dropped and the gross national product rose. However, the Kennedy tax cut and the economic activity during that period differ greatly from Kemp-Roth and the current economic situation. First, the Kennedy cut was nowhere near the magnitude of the Kemp-Roth cut. Second, the inflation rate was running at slightly less than 2 percent per year in 1964 and there was no great concern, as there is now, about the inflationary impact of a large tax cut. Third, the federal deficit has grown immensely since 1964, posing a whole set of complex problems. Finally, the claim that the Kennedy measure was solely responsible for the economic recovery and the increase in revenues in the 1960s is plainly false. In 1964 the economy was already on the upswing because of the effects of the Vietnam War.

Nothing I have said about the dangers of a massive tax cut in 1979–1980 applies to a moderate tax cut of $15 billion to $20 billion. Since joblessness is still high and the economy is still operating well below its potential—and with payroll tax boosts and inflation adding to the taxpayer's burden—it is desirable to enact a tax cut to neutralize these factors and to supply some stimulus for an economy that would otherwise slow down.●

PERSONAL EXPLANATION

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. BONIOR. Mr. Speaker, on August 12, the House of Representatives considered the Dornan amendment to the defense appropriations bill. In the RECORD of that date, I was listed as paired against the amendment (rollcall No. 644). Due to an error which I have already pointed out to the pairing clerk, I should have been listed as voting for the amendment. I would like the following statement placed in the next available RECORD:

"Mr. Speaker, on August 12, the House considered the Dornan amendment to the defense appropriations bill. That amendment prohibited the use of Department of Defense funds for elective abortions except where the life of the mother was endangered. In the RECORD of that date, I was incorrectly paired against the amendment. I would have voted in favor of the Dornan amendment.

"I believe that it is Government's primary responsibility to protect the lives of its people. I believe that it is inconsistent with that principle to have Government, through the expenditure of public dollars, sanction the taking of life. For these reasons, I oppose the expenditure of public funds for elective abortions except in those cases where the life of the mother is endangered."

CONGRESSIONAL CONDUCT

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. TEAGUE. Mr. Speaker, I have today introduced a resolution which would address a most serious problem that relates to the perception of this body in the public mind.

The resolution would express the sense of the House that any Member of the House who is the chairman of a permanent, select, special or joint committee of the Congress or any subcommittee thereof should refrain from exercising the function of that office when he has been indicted for an offense for which he could be sentenced to 2 or more years imprisonment. The resolution would not affect voting rights in either the committee or the House. That subject is already provided for in clause 10 of House rule XLIII, in the event a conviction follows from such indictment.

The resolution would also provide machinery for temporary restoration of suspended chairmanships if the Committee on Standards of Official Conduct, on which I serve, determined that such restoration is warranted.

Mr. Speaker, I am aware some constitutional purists will oppose this resolution but I am persuaded that being only a sense of the House expression, it is constitutionally sound.

I am also aware that some will oppose it on the grounds that it offends the innocent-until-proven-guilty doctrine. But, Mr. Speaker, it is a fact that the Federal criminal justice system in this country is so filled with prior safeguards for the accused that of the indictments which finally evolve an overwhelming number ends in convictions.

With these odds do we dare to be in fact, as well as appear to be, indifferent to such situations? No one argues with the proposition that committee chairmen have a disproportionate impact on the legislative functions of this body. I know, I have chaired two permanent and one select committees and numerous subcommittees in the House.

The problem is simply one of the balancing of interests. On the one hand shall we have the most important functions of this body managed by men under a cloud, with all the wear and tear on the fabric of public confidence such a situation brings about, or on the other hand shall we express ourselves that we too are concerned about this and feel that it is far better to let others not under any cloud perform these functions until the matter is finally resolved?●

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

TERAMANA AMERICAN LEGION POST OHIO BASEBALL CHAMPIONS

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. APPLEGATE. Mr. Speaker, with the close of summer comes the end to many summer activities. I wish to take this opportunity to bring to the attention of my colleagues in the House of Representatives an event of which we in Ohio and its 18th Congressional District are extremely proud.

As we all know, summertime baseball has long been a tradition in America. But, perhaps the most skillful leagues at the amateur level are the American Legion league teams that play across this land. It is a highly competitive league and one that possesses much talent. I am privileged to announce today that the Ohio State champion for 1978 is the Teramana American Legion Post 33 of Steubenville, Ohio. They have proven beyond a shadow of a doubt that they are the champions that they have been proclaimed.

Following their State championship title in Athens, Ohio, the team went to the Great Lakes Regional Tournament, where they missed advancing to the American Legion World Series by only two runs of the final game, certainly not a performance to be ashamed of in any way.

Throughout this past and all previous seasons, Post 33 has displayed the meaning of teamwork. All team members and personnel have had a hand in achieving the State championship. Members of the 1978 playing team include: Terry Romey; Jimmy Joe DeFrank; Mark Chetock; Tim Cutri; Larry Whetstone; Bill Mason; John Maltese; Dave Morelli; Vince Lamatrice; Mike Montgomery; Tim Werkin; Paul Simpson; Ron Sismondo, named pitcher of the year; Lance Coulter, named player of the year; Mike Judy and Ken Peterson. Carmen Barbetta is the team statistician and Johnny Binkiewicz is the batboy.

While these young men have provided the talent on the playing field, they have been directed by an outstanding coaching staff. The staff includes: Jake Hollowood; Chuck Watt; Red Coulter and head coach Ang Vaccaro, who has taken teams to the State finals 27 times.

The entire State of Ohio should be proud of this team for carrying the State banner so far and so well. And on behalf of the 18th Congressional District, in particular, I extend my sincerest congratulations on a job well done.●

MARIHUANA

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. COLLINS of Texas. Mr. Speaker, we have all heard the liberal cliche about drug use being among a category of "victim-less crimes." Marihuana, particularly, inspires its devotees to the use of this hackneyed cliche because its effects upon the health of the user have, until only very recently, been among the least studied of all dangerous drugs. Beginning with the building bombers on our college campuses during the 1960's and continuing today with the advocates of legalization, both in and out of the Carter White House, marihuana has become the "drug of choice" of chic liberals.

Tragically, their choice may be influencing millions of younger Americans to pursue a form of slow suicide. That appears to be the major conclusion of a new report issued by the Education and Research Institute (ERI) of Washington, D.C. This important new report summarizes all available study evidence regarding the effect of marihuana upon the human body and provides some disturbing conclusions about marihuana usage which should be of concern to every American.

Marihuana usage has reached epidemic proportions, particularly among young people. Reliable authorities estimate that some 53 percent of all Americans between the ages of 18 and 25 have at least tried marihuana. The Federal Drug Abuse Council estimates that 15 million young Americans are now steady marihuana users. The effects of this drug upon these young Americans are only now beginning to be quantified scientifically.

The first study included in the ERI report is that of Gabriel Nahas of Columbia University. Dr. Nahas' study indicates that marihuana's active chemical ingredient, delta-9-tetrahydrocannabinal (THC), accumulates in the fatty tissue of the body, including the brain, and is not eliminated with normal rapidity. The substance settles in the liver, brain, bone marrow, and adrenal glands. Due to the body's natural tolerance functions, users find it necessary to increase continually their dosages to achieve the desired euphoric levels.

Citing a study done at the University of California by Prof. Hardin Jones, professor of medical physics, Dr. Nahas contends that since THC accumulates in the fatty tissues of the body, the long term effect of the body's natural adjustment to the chemical's presence is more severe than that associated with alcohol.

The effects of marihuana usage on the brain are also documented in the ERI report. Among the effects upon the mental activities of the brain indicated by studies included in the ERI report are impairment of the memory, an inability to think sequentially, and slurring of words and sentence structures.

More disturbing, however, is the evidence included in the ERI report that marihuana usage of no more than 1 to 3 years can lead to pathological forms of thought, followed, in the case of the continued heavy user, by the development of paranoia.

To mask these effects, one study included in the ERI report noted, many regular users, particularly those in classroom situations, resort to phrase memorization and rambling, disjointed speech. This evidence must be especially frightening to parents whose children seem incapable of speaking without resort to that worn-out rhetorical duo, "like * * * you know."

Damage to the brain from marihuana does not appear to end with the mental processes. Actual measurable physical damage is also documented in the ERI report. Five different studies cited in the report indicate conclusions similar to those of Dr. A. M. G. Campbell of the Royal University Hospital in Bristol, England:

> You can see under the acute effects of marihuana-smoke changes in many sites (of the brain). The amygdala, septal and hippocampus show the most pronounced changes and these are brain areas where activity has been correlated with various specific emotional states. The septal region is the site for pleasure—stimulating it activates pleasure feelings. When its activity is impaired, as it is in schizophrenia, you have a lack of pleasure and a reduction of awareness toward a sleepy, dreamy state.

All the studies conclude that this type of physical damage is irreversible.

Parents whose youngsters seem to be chronically ill may also find the ERI report disturbing because among the effects of marihuana usage it documents is a marked decrease in the user's ability to combat the germs of diseases. Experiments by Dr. Nahas revealed a 40-percent reduction in the body's ability to manufacture white blood cells which attack foreign germs. This particular segment of the Nahas work dealt with light users, averaging but three or four joints a week. It would seem that even the briefest exposure to marihuana can result in harm to the user.

Finally, the ERI report summarizes studies which indicate that continued use of marihuana can lead to sexual impotence among male users. This effect seems to be the result of the accumulation of THC in the testicles and sexual glands which produce sexual differentiation. Yet another study in this particular area indicated that sperm counts among moderate users—at least four joints per week—dropped 44 percent. The sperm count reduction observed in these studies appeared to be proportionate to mari-

huana amounts consumed. Among heavy users, the counts plummeted to almost zero.

Once the reproductive system has been damaged by marihuana use the incidence of birth defects related to the drug must inevitably increase. According to the Staab-Lynch study cited in the ERI report, kidney deformation, runting, and even death were observed at uncommonly high levels among lightly exposed laboratory mice.

Millions of American youth today use or experiment with marihuana. How many of these youths will be permanently harmed because they believed those adults among us today who preach the gospel of legalization, decriminalization or justification of marihuana as a "victim-less" drug? I believe the American public, and particularly the young people suffering, probably unaware, the damage of this drug, deserve to know the truth. For this reason, I commend this fine study by ERI to the attention of this Congress.●

BUFFALO: A SUNNY BUSINESS CLIMATE

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. LAFALCE. Mr. Speaker, Buffalo, N.Y., has been the butt of many jokes, largely because of the monumental blizzard of 1977. Added to that unfortunate event was the widespread perception, even among western New Yorkers, of the Buffalo area as one of inevitable economic decline.

This negative and often self-defeating attitude obscured the underlying reality. Buffalo, having undergone a period of economic stagnation similar to that of many old Northern cities, is now experiencing a cultural, educational, and economic renaissance. Mike McKeating who is the financial editor of the Buffalo News has done an excellent job of setting the record straight in an article entitled "In Buffalo the Joke's on Johnny," which was published by the mid-America Outlook in its summer 1978 issue.

The article follows:

IN BUFFALO THE JOKE'S ON JOHNNY

(By Mike McKeating)

If your view of Buffalo has been polarized by Johnny Carson's jokes about the "Blizzard of '77", then consider this cold fact: In an average year, say local air transportation authorities, the Greater Buffalo International Airport is closed fewer hours from snow than LaGuardia, Kennedy or O'Hare.

Johnny Carson doesn't tell you that. And there are some other things Johnny Carson doesn't tell you that might be a surprise if you haven't visited the Queen City of the Great Lakes lately.

Despite a decline in manufacturing jobs, total employment in the Buffalo metropolitan areas has increased by 14,000 in the past decade due to an employment surge in the service and trade sectors.

The Buffalo metropolitan area is a center of higher education with 11 colleges and three universities. One, the State University of New York at Buffalo, is currently building a new campus in suburban Amherst at a cost of $500 to $650 million which is currently the largest university construction project in the world.

Buffalo is a banking center. Although only the 28th largest city in the U.S., it is headquarters for the nation's 13th largest commercial bank, Marine Midland with deposits of over $10 billion; the eighth largest savings bank, Buffalo Savings Bank with $2 billion in deposits, and the 16th largest savings bank Erie Savings with $1.6 billion in deposits.

The Buffalo Philharmonic Orchestra, conducted by the precocious Michael Tilson Thomas, ranks among the finest and has appeared in major cities across the nation.

The Albright-Knox Art Gallery, home to millions of dollars in art treasure, has a worldwide reputation.

Buffalo remains the largest flour milling center in the world, producing 1.2 million tons of flour a year—or 50 percent more than Kansas City and three times as much as Minneapolis, the nation's other large flour milling centers.

And, finally, those suits with the Johnny Carson label are made in Buffalo at the M. Wile Co., a subsidiary of Hart, Schaffner & Marx.

These are just a few of the facts that comprise the other side of the Buffalo story. But actually, the Buffalo story is more like a prism—with many sides. And like a prism, it reflects light differently, depending on the angle from which you view it.

The Buffalo saga is one of early prominence as an industrial and cultural center, subsequent decline and now a renaissance.

Due to its strategic location as the Eastern terminus of Great Lakes shipping and as the entrance to the Erie Canal, Buffalo quickly became a transportation hub and one of America's earliest industrial centers. By the late 19th and early 20th centuries, it was an important center for the manufacture of steel, other primary metals, machinery, foundry and forge products, and later, autos and aircraft.

Buffalo peaked early, both in population and as an industrial and transportation center. In 1940, Buffalo's population of 575,904 ranked 14th among U.S. cities. By 1960 the population had fallen to 532,759 and the rank to 20th, and in 1970 it had 432,768 people and ranked 28th.

The apparent population decline is misleading, however. The municipal boundaries were fixed in the 19th century, and the city became hemmed in by suburban townships. Under the New York State Constitution, suburban annexation is extremely difficult. Furthermore, in New York there's no such thing as unincorporated land. Every square inch of the state is already incorporated into either a city, township or village.

Therefore, the option of annexing more land, an option followed after World War II by Columbus, Jacksonville, Nashville, Denver, and many other cities, was not open to Buffalo.

The fact is the population of the Buffalo metropolitan area has remained relatively constant—at about 1.5 million—since 1940. There has simply been a large exodus of population from the city itself to its suburbs.

The industrial picture, however, is different. Following World War II, the Buffalo area began to lose industries. There were several reasons.

Buffalo was a city of old industries. Many were proprietary companies, founded in the 19th century by men who were inventors or entrepreneurs. As these companies passed into the hands of the second and third generations, often the heirs either lacked the talent or the desire to run them. Also, estate tax considerations encouraged sale, and one after another of the old-line Buffalo companies were sold to outside companies.

As years went by, these Buffalo plants became obsolete. The new owners lacked personal commitment to the city and to revitalizing their plant. Eventually, the Buffalo plant became the highest cost plant in a multi-plant operation, and was closed or moved.

With the opening of the St. Lawrence Seaway, Buffalo lost its position as the Eastern terminus of the Great Lakes. Ships sailing the Great Lakes could now make a left turn at Pt. Colborne, Ontario, about 30 miles west of Buffalo, and go through the Welland Canal and out the St. Lawrence to the Atlantic.

They no longer needed to stop in Buffalo and transfer their cargos to trains, and this, coupled with the rise of the trucking industry after the war, diminished Buffalo's importance as a railroad center as well.

The net result: Between 1958 and 1974, the Buffalo metropolitan area lost 218 manufacturing plants and 30,974 manufacturing jobs.

The biggest losses have come in the areas of primary metals, which lost 14,000 jobs in the past decade, transportation equipment, which declined 5,000, and chemicals and allied products, which declined by 6,000 jobs.

Probably the biggest single reduction has been suffered by Bethlehem Steel's Lackawanna plant. Although it has some ultra-modern components, in general it is one of the oldest and most obsolete in the Bethlehem system. It peaked at an employment of nearly 20,000 in the boom year of 1967, but has since undergone several downgradings and reductions in capacity, and now employs only 8,500.

That is the Buffalo story viewed through the prism from one angle. But viewed from another angle, simultaneous to the decline in the heavy industry sector, a rebirth was taking place in other areas, including downtown redevelopment, higher education and high-technology industry.

The redevelopment of downtown was initially spurred by the banks in the mid 1960's.

The Manufacturer's and Trader's Trust Company, the nation's 79th largest commercial bank, led off by building a new 20-story headquarters building.

Erie Savings Bank followed with a new 26-story headquarters tower and office building atop a block-long shopping mall across the street.

Finally, Marine Midland, the patriarch of Buffalo's banks, built a 40-story world headquarters building atop a U-shaped 3-story plaza.

The Buffalo Evening News, deposed from its 90-year-old building by the Marine Midland complex, built an ultra-modern 5-story building two blocks away.

Then the government sector became active. Erie County built a new 16-story office building to house county offices, and the Niagara Frontier Transportation Authority erected a 10-story office building attached to a new bus terminal in the heart of downtown.

Erie County and the City of Buffalo teamed to use county bonds and city funds to build a $20 million convention center downtown.

San Francisco architect and developer Clement Chen will begin construction soon on a $17-million, 500-room hotel on Buffalo's waterfront, and has an option to build another hotel on land across the street from the convention center.

The theater district is another example of successful downtown revitalization. Located at the northern end of downtown, it boasts several stately old movie theaters and the Studio Arena Theater, a successful Buffalo professional theater which has hosted world premiers of plays by Edward Albee and others.

The Studio Arena was looking for larger quarters, and a $940,000 grant from the federal Economic Development Administration made possible the purchase and renovation of the Palace Burlesque across the street. At the same time, a non-profit group received a $693,000 EDA grant to renovate the Shea's

Buffalo, an historic legitimate theater seating over 3,000.

But the real jewel of downtown redevelopment will be the $425 million rapid transit system. Federal grants have been approved, and construction will begin this year.

The rapid transit system will be 6.4 miles long initially, and will connect downtown with the State University of New York's Main Street Campus. Plans call for later extensions to the university's new Amherst Campus, and to other northern suburbs. The system will be a subway through the downtown area, then will surface in the theater district and run at grade through most of the rest of the route to the campus.

The State University of New York at Buffalo is a major economic force in the community. Surprising to many, it ranks among the top employers with 7,500 people and an annual payroll of $78 million.

It was the private University of Buffalo until it joined the State University system in 1964, but is still commonly referred to as UB. It is now spread over two campuses.

The Main Street Campus on the northern edge of the city was founded by former President Millard Fillmore in 1848. It now houses the graduate school and the medical school. The new Amherst Campus consists of ultra-modern college complexes surrounding beautifully landscaped lakes, and houses the undergraduate school and the law school.

In addition to the $78 million payroll, the university spends $13 million a year on materials and supplies, and university officials say the 25,000 students spend $41 million a year in the Buffalo community.

UB also spends $2.4 million a year on off-campus leases, and brings into the community $22 million a year in research grants.

While employment has been decreasing in old-line, heavy industries, Buffalo has seen a significant growth in high-technology industries primarily because of the presence of three institutions: UB, Cornell Aeronautical Laboratories (now Calspan Corporation), and Bell Aerosystems. Many fast-growing high-technology companies have been formed by engineers and scientists who got their start at these three institutions. Some examples:

Sierra Research Corporation was founded in 1957 by several engineers from Bell Aerosystems and a handful of employees, some of whom loaned their salaries back to the company to help it grow.

Sierra, which makes sophisticated navigational and radar equipment for aircraft and a line of inventory-control computers for industry, now has 550 employees, a payroll of $7 million and annual sales of $17 million.

Astronics Corporation, founded in 1970 by an ex-Calspan engineer, makes electroluminescent panels with applications as diverse as aircraft panels, subway tunnels and photo darkrooms. It now has 185 employees and sales of $7 million.

Comptek Research, another spinoff of Calspan engineers, designs radar systems for the Navy and also makes a line of word-processing computers for law offices. This fast-growing firm now has 250 employees, about 90 of them added in the past year.

Mennen-Greatbatch Electronics was founded in 1962 by Wilson Greatbatch, a Calspan engineer and the inventor of the heart pacemaker, and Herbert Mennen, a Sierra Research officer. It makes sophisticated medical monitoring equipment for hospitals. It has 450 employees and $14.5 million in annual sales.

These companies and others like them are the vanguard of an industrial renaissance that is underway in Buffalo. And if Buffalo has traded heavy metals industries for high-technology industries it has made a good bargain, for high-technology industries are clean, pollution-free industries with high capitalization, high average salaries and a highly-skilled work force.●

RECOMBINANT DNA—RUNAWAY RESEARCH

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. EDWARDS of California. Mr. Speaker, in our atomic age of potential destruction of humanity, the subject of genetic manipulation and species change is not to be taken lightly. The prospect of curing the human race of birth defects and environmentally caused diseases is a tempting thought. With our current and increasing technological know-how, the possible eradication of impure social elements brings shades of "Dr. Strangelove" close to home. These are results that could evolve from improperly regulated recombinant DNA research.

H.R. 11192 is designed to extend the containment requirements set by the National Institutes of Health (NIH) to all private and public recombinant DNA research institutions. Though this bill appears to be progressive, it is actually a poor alternative to conscientious supervision of this blatantly dangerous field. DNA technology has such enormous potential for ecological disruption that all research, in these initial stages at least, must proceed slowly and carefully under the auspices of public control. Although the bill's primary intent is to efficiently regulate recombinant DNA research, it seriously fails to propose this.

A basic discrepancy is that the bill extends the NIH guidelines for regulation, when this body is also in charge of funding biomedical and DNA research. This inherent inconsistency needs to be resolved and H.R. 11192 does not do it adequately. It gives the Secretary of HEW broad discretion in the regulation process rather than giving more power to the public sector. This is a direct departure from recent congressional efforts to involve the people in our Nation's decision-making.

Another provision in H.R. 11192 which concerns me, is its deviance from recent environmental health legislation. It states that recombinant DNA research cannot be regulated by States or localities unless it is "necessary to protect health or the environment." This restriction is yet another instance of special interests determining the course of scientific research through self-regulation. The people whom these decisions affect do not have a say in what is happening to their lives. This issue is not so complicated that it must elude the public arena.

The biohazard committees set up by H.R. 11192 to protect communities from scientific mistakes, also would not be responsive to public needs. At present, membership on such committees is decided by the research institution itself, and this bill makes no mention of any new makeup, selection processes, or the like. This deficiency is not adequately addressed.

It is essential that recombinant DNA research be subject to public scrutiny. As it stands now, it is not. A proper balance between rapid scientific advancement and thorough consideration of social consequences can and should be attained. H.R. 11192 fails to combine these two issues into a truly responsive piece of legislation. Public input must be given a freer hand in determining the future technological directions this country is taking. Our survival depends on it.●

VETERANS' PREFERENCE

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. UDALL. Mr. Speaker, during the next few days the House will be considering H.R. 11280, the Civil Service Reform Act. An important provision in this legislation is the proposal to modify existing veterans' preference laws.

The following editorial from the Washington Post is an excellent statement on behalf of Vietnam and disabled veterans, who need this legislation in order to receive a fair deal in the Federal labor market.

[From the Washington Post, Aug. 11, 1978]

GIVING VIETNAM VETERANS A BREAK

We return today to a familiar complaint of ours: the injustices still being done to veterans who served in the era of the Vietnam War. We have in mind injustice deriving from, among other things, the lack of job opportunities, the stigma of service in a profoundly controversial conflict, the inadequacy of education benefits, the once-over-lightly approach to the upgrading of "bad-paper discharges"—and, above all, the shameful incapacity of so many members of Congress to stand up to pressures from powerful, old-line veterans organizations heavily weighted in their membership and their priorities to the veterans of earlier wars. We will spare you today a discussion of what may or may not account for the tendency of so many people, in general—and so many public officials, in particular—to turn away from this unfinished business of the Vietnam War. The point is simply that the tendency is there, and it is nicely illustrated by the trouble the Carter administration is having in Congress with a relatively modest provision in its program for civil-service reform that attempts to narrow and refine the present system for awarding sweeping and repeated government job preference to veterans.

The idea, quite simply, is to concentrate job preference on those who need it the most: the 7 million Vietnam-era veterans with no disability, and the 2.2 million disabled veterans of all wars.

Now, it is true this reform would reduce the job preference available to older, able-bodied veterans of, let us say, World War II or the Korean War. It would also severely limit the preference awarded retired veterans who made the armed services their career. Those are the veterans who make up the bulk of the membership of the American Legion, the Veterans of Foreign Wars and the other mainstays of the veterans lobby.

But they are also the veterans who need job preference the least—who have already in many cases used their preference more than once, sometimes to shift from one government job to another. For most of them, the original purpose of job preference—to ease their readjustment to civilian life—has long since been achieved. Some limit on their continued preferential treatment, what is more, would provide more job opportunities

not only for those who served in Vietnam but

not only for those who served in Vietnam but also for a host of non-veterans—women, for example, and minorities—who are also supposed to be entitled to go to the head of the line.

This is, in short, a civil-service reform long overdue. And yet a modified version of the administration proposal was knocked out of the administration's civil service reform bill by a narrow vote of the Senate Governmental Affairs Committee. Its chances of revival on the Senate floor are uncertain, at best, which leaves its fate largely up to what happens in the House. The House Post Office and Civil Service Committee approved the modified administration proposal, and the administration has accepted a refinement sponsored by Rep. David E. Bonior (D-Mich.) that would give veterans who actually served in the Vietnam theater more time to use their preferences. The Bonior amendment is likely to come up for a vote on the House floor today, and it ought to be approved. Also up for a vote, probably today, is an amendment by Rep. James M. Hanley (D-N.Y.) that would substantially undo all the contemplated improvements in veterans preferences and retain most of the injustices of the present law. We need scarcely add that this latest effort to walk away from the unfinished business of Vietnam should be resoundingly rejected.●

THE KOREAN INVESTIGATION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for September 6, 1978, into the CONGRESSIONAL RECORD:

THE KOREAN INVESTIGATION

The public is confused and skeptical about various aspects of the Korean investigation.

For one-and-a-half years the House Committee on Standards of Official Conduct has been investigating alleged South Korean influence-buying on Capitol Hill. From the beginning, the investigation was clouded with doubt that Congress would aggressively and thoroughly investigate charges of wrongdoing by its own members.

Thus far much has been uncovered about the South Korean activities, but much remains to be investigated by the House Committee.

Under the direction of former Watergate prosecutor Leon Jaworski, the Committee's staff gathered mountains of information about the alleged South Korean activities. These facts were presented to the House Committee in October, 1977. The report proved that some sort of influence-buying scheme had existed.

The next phase of the investigation proved to be more difficult, for it involved trying to get sworn testimony from foreign nationals who were not in the United States, and not subject to U.S. law.

After much pressure was put on the South Korean government by the President and Congress to obtain testimony from Mr. Tongsun Park, supposedly an independent South Korean businessman, Park testified before the Committee. He testified that he gave almost a million dollars to present or former members of Congress as campaign contributions. Although he claimed he had no connection with the South Korean government, the established facts strongly suggest he was an agent of that government.

Several specific actions have resulted from that phase of the Korean investigation. Four sitting members of Congress have been charged by the Committee with unethical conduct and notified of possible disciplinary action. Evidence relating to possible criminal activity by others has been sent over to the Justice Department. One former Congressman has pleaded guilty to accepting more than $200,000 from Park. Another former Congressman is under indictment and a third is facing possible charges.

There is evidence that other members of Congress may have taken some money from South Korean agents, but the reliability of the evidence is doubtful. Even if they are guilty of wrongdoing, there is no way of pursuing them without the testimony of Mr. Kim Dong Jo, the former South Korean Ambassador to Washington. There is every reason to believe that Kim Dong Jo had some money to spread around Congress to influence legislation concerning South Korea. Until very recently, the South Korean government had refused all requests for his testimony. Mr. Jaworski left the staff because he felt that this refusal ended any chance to complete the investigation.

Congress made numerous attempts to persuade the Korean government to allow Kim to testify, including a House vote to deny nearly $56 million of aid to Korea and offers to have House members go to Korea to encourage his testimony. On August 3, the Korean government gave assurance that Kim would supply new, concrete evidence to Congress.

So the investigation has taken on new life. As we begin the final phase of our investigation, several thoughts come to mind.

Although charges have been made that the Congress is determined to keep the scandal from being fully revealed, I have seen no evidence to support that charge. Indeed, my experience is just the opposite. Throughout the investigation, the Committee has had the full support of the Speaker of the House and the leadership of both political parties. Not once has a member of Congress come to me and suggested that the investigation be deferred or delayed.

Most certainly, the Congress must take every reasonable step to avoid the charge of a coverup. It will not be easy to do because of the unfortunate charges that 115 or more Congressmen were involved—statements that really had no basis in fact.

I believe a full public Committee report is a critical ingredient to a credible investigation. All the testimony, depositions and other information gathered by the Committee should be made public, and, if at all possible, done so in advance of the November elections. The Committee should also make recommendations to curtail such activities in the future.

One beneficial result of the Korean investigation has already occurred. Congressmen are more careful now about our involvement in any kind of conduct that would be misconstrued, and we are paying more attention to our own codes of conduct.●

PERSONAL EXPLANATION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. McDONALD. Mr. Speaker, due to my absence on August 16 and August 17, I missed certain votes. I requested to be paired on each vote missed, but did not receive a live pair on each vote. Therefore, I would like to explain how I would have voted if I had been present.

*Rollcall No. 707, "yes."
*Rollcall No. 708, "yes."
Rollcall No. 709, "yes."
*Rollcall No. 710, "yes."
*Rollcall No. 711, "yes."
*Rollcall No. 712, "yes."
*Rollcall No. 713, "No."
*Rollcall No. 715, "No."
Rollcall No. 716, "no."
*Rollcall No. 717, "no."
Rollcall No. 718, "yes."
Rollcall No. 719, "no."
Rollcall No. 720, "no."
Rollcall No. 721, "yes."
Rollcall No. 722, "no."
Rollcall No. 723, "no."●

MARRIAGE TAX

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. PICKLE. Mr. Speaker, a problem in our present tax code that has not yet been corrected is the so-called marriage tax, the result that now occurs, where both spouses are working, where they actually pay a higher tax after marriage than they would if they were each filing as a single person. This problem is a particularly difficult one, because as long as we have a progressive tax system, if we try to correct it, it results in injustice to another class of taxpayers. Jane Bryant Quinn has written an excellent article in Newsweek, August 28, 1978, that explains the dilemma. I recommended the article to my colleagues, and it is submitted:

THE "MARRIAGE PENALTY"

(By Jane Bryant Quinn)

Missing from the tax-cut bill now moving through Congress is a solution to the "marriage penalty," that anomaly of the tax law that hits most working couples with higher income taxes after marriage than before. President Carter, in the early days of his Administration, promised to address this problem in his tax-reform package. But today, Treasury spokesmen will say only that they think the tax on marriage is unfair, and something should be done.

Exactly *what*, however, they'd rather not imagine. The marriage penalty is a curiosity of the tax code that defies easy reform. Anything that ends it would create new forms of discrimination against other classes of taxpayers.

An equitable tax system, Harvey S. Rosen of Princeton University observes, is generally expected to meet three tests: (1) the tax should be progressive, taxing a person's first dollar of income at a lower rate than the extra dollars he piles on top; (2) your tax burden shouldn't be changed by marital status; (3) other things being equal, families with the same incomes should pay the same tax. Any two of these goals can be achieved at the same time, Rosen says, but not all three. As long as we accept progressivity, we have to choose either point 2 or point 3, but not both.

CLASH OF PRINCIPLES

This calls for an example. First take point 2, that marital status shouldn't make any difference to your tax. Under this principle, each person's income would be taxed individually, and at the same rate. A person with a $20,000 taxable income would owe the same amount, whether married or single. But look at what this does to family income: a $20,000, single-earner family is in a higher tax bracket than a family where the man makes $15,000 and the wife $5,000. The latter, in turn, pays more than the family where each makes $10,000. That's three different $20,000 families, each paying a different tax. A clear violation of point 3.

Now let's explore point 3, that all families with the same income should pay the same level of tax. Couples with taxable incomes of $20,000 owe the same amount, regardless of who earns what; similarily, single-person households with $20,000 would pay at the same rate as marrieds (although they would normally have fewer exemptions). This contradicts point 2. Working couples would pay less if they stayed single.

Prior to the Tax Reform Act of 1969 there was no marriage penalty. When a working couple married and filed a joint return, their combined tax was generally the same before and after marriage. Point 2 triumphant, but point 3 up the creek. A single person paid up to 41 per cent more than a married person with the same income.

This tremendous inequity was eased by Congress in 1969. The tax advantage of joint filing was reduced, so that the extra tax paid by singles wouldn't rise more than 20 per cent above the married amount. The change in rates created a marriage penalty for working couples—not intentionally, but as an arithmetical by-product of a progressive-tax system.

SPREADING THE GRIEF

The present law is actually fairer than the old one, despite the marriage penalty, because it spreads the grief around. In the old days, only singles paid an excess tax. Today, singles still pay at a higher rate than marrieds, but the differential isn't as high. Working couples pay a marriage penalty. Only traditional, single-earner families (or families where one earner makes very little) come out relatively ahead.

C. Lowell Harriss, consultant to the Tax Foundation, says that much of the problem could be solved by widening tax brackets. The same inequities would persist, but fewer people would be affected by them.

Rep. Millicent Fenwick, a New Jersey Republican, would let a married couple file either jointly or singly, whichever gave them the lower tax (England went this route in 1972). But this re-creates the singles penalty in all its former glory. Would it help if the Fenwick proposal were extended to singles, allowing them to file at the lower, married-couple rate? It would not. The upshot would be yet another marriage penalty.

Me, I'd leave the relative tax rates alone but add a deduction for working couples, because their expenses are higher than those of one-earner families. For politicians, it's a no-win situation. Whatever they do, they're going to make somebody sore.●

* Live pair.

INTERNATIONAL PRO-AM BIKE RACE

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. HUGHES. Mr. Speaker, I am proud to announce that the Third International Pro-Am Bike Race will be held in Wildwood, N.J., on September 23–24, 1978.

This particular race is recognized as one of the major events in international bike racing. The quality of competitors is outstanding, and many of these men and women racers have traveled all the way from Europe to participate in this event.

Several people have worked exceedingly hard to make this competition a very special one by their leadership, support, and enthusiasm. Catherine Cramer of Ventnor, N.J., the president and organizer of the International Pro-Am Bike Race, along with the mayor of Wildwood, Guy Muziani, and Charles Thomas, the president of the Wildwood Chamber of Commerce, have, by their hard work and diligent support of an idea made this competition an example of the success that results from the private and public sectors working together.

I feel that this exciting sporting event will establish New Jersey as one of the world's cycling capitals. The actual competition will be held on the Wildwood Boardwalk, part of which was built with lumber used for President Carter's inaugural platform and bleachers.

I urge my colleagues to take advantage of this opportunity to attend this unique international sporting event.●

LEAGUE OF WOMEN VOTERS AND JAPAN: WHO IS IN WHOSE HIP-POCKET?

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. McDONALD. Mr. Speaker, frequently staff members of the League of Women Voters appear before Congressional committees attesting to their self-assumed right to speak for the consumers of this country.

The League of Women Voters insists, and rightfully, that no one is more concerned about the cost of living than the housewife. I doubt, Lowever, if the staff of the League of Women Voters have very much knowledge of the problems of the average housewife of the Seventh District of Georgia.

I am now thinking of the wives of the textile workers and the machinists whose jobs are each dav threatened by imports and others in public service whose livelihoods have been adversely affected by imports.

At these hearings of our congressional committees, the leadership of the League of Women Voters always insists that we must keep our markets open to the very imports of textiles, clothing, and machinist products which are endangering the livelihood of my constituents and eroding my district's industrial and economic base. Fundamentally, I believe in free trade, but most of what is going on in the world today is neither free nor fair trade.

Within the last few days I have been presented with evidence gleaned from the files of the U.S. Justice Department that leads me to believe that the leaders of the League of Women Voters may not be speaking objectively in behalf of the consumers of America. Instead, it appears they may be speaking in behalf of the interests of Japan, whose largesse they have been enjoying for some time. For so long the League of Women Voters has portrayed itself as an objective nonpartisan voter information organization. However, the evidence I am presenting here today appears to belie that theme.

The evidence of which I am speaking are the following entries filed with the Department of Justice pursuant to the Foreign Agents Registration Act of 1938:

REFERENCE A

Supplemental Statement of the U.S.-Japan Trade Council, an agency of the government of Japan, for the six-month period ending December 31, 1969

(1) Item 15(a) page two: "Occasionally, League of Women Voters, contribution, $1,000.

Question: Had the League of Women Voters rendered any prior service to the Government of Japan to prompt an agency of that government to contribute $1,000 and if so, what was that service?

REFERENCE B

Registration Statement made by the Japan Trade Promotion Office, an agency of the government of Japan, in compliance with a court order issued by the U.S. District Court of the District of Columbia in September, 1976, to truthfully disclose their activities in the United States. The following items under "Statement on Project Expenses for the United States-Japan Trade Council

(1) January 1 to March 31, 1972:
(a) "Women's Project, $7,500.

Question: Was this "Womens Project an anti-Buy America campaign? Did any of these funds go to the League of Women Voters or any of its members? If so, did they register as agents of the government of Japan?

(b) "League of Women Voters, $450.

Question: Was this in payment for services rendered?

(2) April 1 to June 30, 1972: (a) "Goodwill tours, $2,150.

Question: Who were the recipients of these "goodwill tours?"

(3) April 1 to June 30, 1972: (a) "Goodwill tours, $17,150.

Question: Who were the recipients of these "good will tours?

(4) July 1, to September 30, 1972: (a) "Goodwill tours, $5,000.

Question: Who were the recipients of these "goodwill tours"?

(5) January 1 to March 31, 1973: (a) "Charles von Loewenfeldt—Symposia and goodwill, $15,000.

Question: Who were the recipients of this "goodwill"?

(b) "State Buy American, $8,194.60.

Question: For what purpose and how were these funds spent?

(6) January 1 to March 31, 1973: (a) "Symposia and goodwill tours, $7,625.

Question: Who were the recipients of these goodwill tours?

(b) "State Buy American Activities, $6,000.

Question: For what purpose and how were these funds spent?

REFERENCE C

Supplemental Statement of the U.S. Japan Trade Council, an agency of the Japanese government, for the six-month period ending June 30, 1971, filed in September 1976 in response to a court order issued by the U.S. District Court of the District by the U.S. District Court of the District

(1) "On March 2 the Council wrote the

President of the League of Women Voters in Connecticut congratulating her on the League's testimony in opposition to Buy American legislation in the Connecticut legislature."

Question: Did any agency of the Japanese government provide any information that was used by this spokeswoman during the testimony, and did she or the League receive any gifts of payment prior to or after this testimony?

REFERENCE D

Supplemental Statement of the U.S. Japan Trade Council, an agency of the Japanese Government, for the period ending June 30, 1972, filed in September 1976 in response to a court order issued by the U.S. District Court of the District of Columbia

(1) "Similar arrangements were made by Charles von Loewenfeldt for a fact-finding trip to Japan which the League of Women Voters was making under arrangements that the League had made with the government of Japan."

Question: What are the names of these members of the League who made this trip to Japan? Have any of these women used their influence in any way to direct the course of legislation in this country or attempt to do so?

REFERENCE E

U.S. Japan Trade Council Report of January 1–June 30, 1976 filed with the Department of Justice, page 15

(1) Arranged appointments for Rep. Jones and House Ways and Means staffers Loren Cox and John Meager in connection with their trip to Japan.

Arranged appointments for Mr. R. Ryan, Jr., Executive Seminar, State Dept. with Sony, Sanyo and Matsushita's offices in the U.S. Helped plan League of Women Voters trips to Japan with B. Perkins of their International Affairs Dept.

(a) *Question:* Have any of these staffers used their influence in any way to direct the course of tariff or trade legislation or attempted to do so?

REFERENCE F

Supplemental Statement filed by Charles von Lowenfeldt Inc., an agent for the Japanese government, on January 5, 1978

(1) The item under "Advice to the Consulate"

"a. Registrant, at the request of the Consulate, submitted suggestions of several community leaders to be considered to be invited to visit Japan as guests of the Japanese government."

(a) *Question:* Were any of these "community leaders" members of the League of Women Voters?"

REFERENCE G

Supplemental Statement filed by the U.S.-Japan Trade Council, an agency of the government of Japan, for the period ending December 31, 1972, filed in September, 1976 in compliance with a court order issued by the U.S. District Court of the District Court of the District of Columbia

(1) Charles von Loewenfeldt, a registered agent of the Government of Japan, gave "Advice to the Japanese Government" on September 15 and the League of Women Voters Project to Combat Protectionism."

(a) *Question:* Was this project in any way financed by the Japanese government or any of its agencies? How much money did the League or its staff receive?

I am so concerned about what this evidence implies that I have today written the U.S. Department of Justice the following letter:

DEAR MR. ATTORNEY GENERAL: The enclosed evidence gleaned from your Department's registry of foreign agents leads me to believe that certain staff members of the League of Women Voters have engaged in lobbying and other activities in behalf of the government of Japan, for which they, or the League, have been receiving payments in cash or in kind. That as such, they are required to file with your Department a statement as to their activities in behalf of the government of Japan.

I am further wondering if the members of the staff of the League of Women Voters who accepted trips to Japan and other gifts from the Japanese government should not declare these trips as income if these trips should be determined to be "shallowly disguised vacations."

I would like to ask that you investigate this matter and obtain from the Japanese officials and others involved a complete explanation of the entries with reference to the questions posed, as contained in my enclosures.

Your cooperation in this matter will be greatly appreciated.

Sincerely,

/s/ LARRY P. MCDONALD.●

CZECHOSLOVAKIAN EXILES PETITION UNITED NATIONS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. BIAGGI. Mr. Speaker, last month marked the 10th anniversary of the repressive invasion of Czechoslovakia by Soviet troops on August 21, 1968. The spark of freedom and democracy nurtured by the freely elected leaders of that small country was swiftly snuffed out and replaced with the iron hand of authoritarian rule.

Those of Czechoslovakian nationality living outside the homeland are seeking to focus international attention on the plight of the oppressed people of their country. Jan Papanek, formerly Ambassador of Czechoslovakia and Permanent Delegate to the United Nations under the Dubcek government, submitted a Petition '78 to the Secretary-General of the United Nations Kurt Waldheim. Mr. Papanek submitted the petition as president of the American Fund for Czechoslovak Refugees on behalf of more than 6,000 signators and 17 organizations with memberships totaling more than 250,000.

The appeal to the United Nations asks only that the human rights of the people of Czechoslovakia be guaranteed by its own laws and international obligations freely assumed and that the oppressive puppet government now in control of the country with the assistance of Soviet troops be removed. For the edification of my colleagues, I include the full text at this point in the CONGRESSIONAL RECORD:

PETITION '78

The year 1978 has an extraordinary significance for the nations of Czechoslovakia. It marks several important milestones in its most recent history:

60 years ago—in 1918, Czechoslovakia became an independent country, based upon democratic and humanistic ideas of T. G. Masaryk.

30 years ago—in 1948, three years after the end of World War II and the Nazi occupation, the democratic parliamentary order in the country was again destroyed, its peaceful and democratic evolution interrupted to be replaced gradually by Stalinism which sapped the national will, spirit and resources for many years.

10 years ago—in 1968, the armed forces of the Soviet bloc invaded the country to halt the process of regeneration of its national culture, the humanization and democratization of its public life which resulted in a massive violation of fundamental civil and political rights . . .

Remembering these three anniversaries—we the petitioners,

(1) Demand the withdrawal of Soviet troops from Czechoslovakia and restoration of independence, sovereignty and rights of the people of Czechoslovakia to self-determination as according to Articles I, II, III, IV and VII of the Helsinki Final Act of 1975,

(2) Support the Charter '77 in demanding from the Government of the Czechoslovak Socialist Republic to implement the civil and political rights as defined in the said Helsinki Accord, as well as, in Law 120/75 Sb., adopted by the Federal Parliament of the Czechoslovak Socialist Republic on November 11, 1975,

(3) Call upon the Government of the Czechoslovak Socialist Republic to desist from persecuting the Chartists and other citizens who merely demand that the government observes the Czechoslovak Laws and international agreements on civil and political rights it has signed,

(4) Call upon the Government of the Czechoslovak Socialist Republic to remove or reform all laws which either violate or limit the enjoyment of civil and political rights as defined in the Helsinki Final Act,

(5) Call upon the Human Rights Committee of the United Nations to hold the Government of the Czechoslovak Socialist Republic accountable for periodical reports on the measures undertaken to implement the International Covenant on Civil and Political Rights in the country,

(6) Call upon all signatory countries of the Helsinki Final Act to hold the Government of the Czechoslovak Socialist Republic accountable for the full implementation of the Accord and of all related international agreements which the Helsinki Final Act invokes. . .

Dated this 1st Day of January, 1978, New York.

The document Petition '78 has been signed originally by the following individuals:

Jan Babinec. Antonin Bartos, Marie Bartos, Jiri Blaha, Josef Bursik, Jana Bursik, Jiri Corn, Ota Coufalik, Marie Coufalik, Antonin Cech, Stepanka Cech, Jan Dohnalek, Anna Dohnalek, Libuse Drobilkova, Anna Faltus, Miroslav Fic, Richard Fries, Milan Frybort, Eva Hladik, Ota Hora, Lida Hora, Karel Kalenda, Eliska Kalenda, Ota Kobylka, Gita Kobylka, Vladimir Krajina, Marie Krajina, Jiri Krupicka, Ada Krupicka, Vladimir Krivanek, Horty Krivanek, Jan Kuncir, Josef Kucera, Zdenka Kucera, Milos Kunta, Miloslav Malecek, Anna Malecek, Jaroslav Maliska, Rozina Nehasil, Frantisek Novy, Zdenek Otruba, Hana Otruba, Jan Papanek, Betka Papanek, Jozka Pejskar, Anna Pejskar, Zdenek Prazak, Evelyn Prazak, Olga Radimsky, Ota Rambousek, Zdenka Rambousek, Antonin Roubik, Viera Roubik, Lumir Salivar, Milan Schiller, Josef Schneider, Emil Sklenar, Zdenek Slavik, Drahomira Slavik, Antonin Strnad, Josef Skvorecky, Zdenka Skvorecky, Eduard Vondracek, Vera Vondracek, Antonin Votruba, Vlasta Votruba, Jaromir Zastera.

Petition '78 has been sponsored and approved by the following organizations:

Alliance of Czechoslovak Democratic Associations in Australia and New Zealand.

Associations of Czechoslovak Legionnaires.

Association of Free Czechoslovaks—Queensland.

Association of Free Czechoslovak Sportsmen.

Ceske Slovo—Newspaper of the Czechoslovak Exiles.

Council of Free Czechoslovakia.

Czechoslovak Advisory Committee in West Europe.

Czechoslovak Christian Democracy in Exile.

Czechoslovak National Association of Canada.

Czechoslovak National Council of America.

Czechoslovak Orel in Exile.

Czechoslovak Sokol Abroad.

F.C.I. News Agency Ltd.

Naarden Committee—Czechoslovakia.

National Council of Women of Free Czechoslovakia.

The Czechoslovak National Socialist Party in Exile.

The Swedish Socialdemocratic Youth.

With the membership of over 250,000 all over the world.

We, Ota Rambousek and Mike M. Kunta of New York City duly declare that we have received 6,438 signatures, from various individuals and organizations sponsoring and approving Petition '78. August 18, 1978.

I, Jose Cabanas of New York City duly declare, that I know the above named individuals, and that I have seen and recounted the signatures received by them sponsoring and approving Petition '78. August 18, 1978.

On this 18th day of August, 1978, before me personally came Jose Cabanas, Ota Rambousek and Mike M. Kunta to me known to be the individuals described in, who, being by me duly sworn, duly acknowledged they executed the foregoing instrument. August 18, 1978.

ANGEL R. RODRIGUEZ,
Notary Public, State of New York.●

REGENERATION

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. FRENZEL. Mr. Speaker, the following article on regeneration appeared first in the Saturday Review and then was reprinted in the Washington Post.

It was called to my attention by a remarkable Washington-based organization, Paraplegia Cure Research, with which I have worked closely since its founding in 1976. Paraplegia Cure Research's sole mission is to liberate paraplegics from their wheelchairs through central nervous regeneration. As this article points out, research in regeneration has exciting possibilities not only for curing sufferers of central nervous system disorders, but also for eventual regrowth of limbs.

Mr. Speaker, research in regeneration and the efforts of Paraplegia Cure Research deserve the fullest support of the Congress and the public. The eventual payoff in terms of alleviating human suffering is tremendous—both in the United States and through the world.

The article follows:

GROWING NEW LIMBS—SCIENCE'S SEARCH FOR A WAY TO RESTORE LOST ARMS AND LEGS

(By Susan Schiefelbein)

Physicians may one day treat patients who have shattered limbs, crippled joints and injured spines in a way that man never before dared to dream of: regrowing the damaged part—whole, perfect and undiseased.

For centuries, man has watched in wonder as the salamander regenerated its severed limbs, never imaging that complicated human parts could grow back in such a way. The halt and the lame could be made whole, it seemed, only by the healing waters of Bethesda or the touch of a god incarnate. But in recent years, scientists have grown back a frog's leg from elbow to toes and a rat's leg from shoulder to the top half of the elbow, with cartilage and bone, muscle, nerves and veins, all in awesome anatomical precision.

One of the pioneers in the field, Dr. Robert Becker, chief of orthopedic surgery at the Veterans Administration Hospital in Syracuse, N.Y., has already applied the newly found healing mechanism to broken human bones, successfully knitting fractures that previously had failed to heal even after extensive surgical procedures. He and his colleagues have now reached the point where they can confidently predict that a regeneration of human parts can and will be achieved, possibly in the next few decades.

A brave new world? Not a bit. The magic of regeneration has been with us all along, hidden in the wondrous complexity of every organism's bodyworks. These scientists are not performing miracles; they are witnessing them.

Their challenge, then, has been not so much to recreate a limb as to discover how some animals do so naturally. The chronicle of their quest reads like a detective story; for clue by clue, Becker and his colleagues have been unraveling a medical mystery that began with creation.

The tale begins with a few known biological principles about regeneration that were to serve as the departure point for their search. The way regenerative healing works has been observed, if not explained, for hundreds of years; the process still seems so magical that even the most clinical of researchers must shake his head in amazement as he watches the microscopic metamorphosis unfold.

The body of every animal, from the flatworm on up the evolutionary scale, possesses primitive, undifferentiated cells that could best be described as being like raw clay. When a creature which can regenerate loses a limb, these cells migrate to the injury, forming a mass called a blastema. Some of the mature, specialized cells at the site of the injury dedifferentiate, reverting to primitive form, and add further to the blastema. The blastema then respecializes, transforming itself into whatever types of cells are needed to replace the missing part—bone cells, cartilage cells and so forth. Somehow, the blastema absorbs information about what to produce along the way, so that at the appropriate moment, it creates an elbow joint or a tibia or a fibula, a left leg or a right one.

TWO IMPORTANT CLUES

The first formal paper on regeneration was written by the great Italian physiologist Luigi Spallanzani and appeared in 1768. Spallanzani's experiments uncovered the first two important clues: The younger the animal, the greater its capacity for regeneration; and the lower an animal is on the evolutionary scale, the greater its capacity for regeneration.

This latter finding was especially interesting, for it provided a clue in itself. The lower orders that regenerate are biologically just as complicated as man; their parts are just as difficult to replace. The main difference is—and this was later to become a significant clue—that animals in the lower orders have comparatively more nerves in their extremities.

A third clue was buried in the writings of the late 1700s. Every time a creature is injured, an electrical charge is generated at the site of the injury. This phenomenon is called the current of injury, and it is proportionate to the severity of the wound.

It was not until some 180 years later that scientists again began to delve into the mystery of regeneration. In 1945, the biologist Meryl Rose (a retired professor of anatomy at Tulane University College of Medicine who is currently affiliated with Woods Hole Marine Biological Laboratories) amputated the forelegs of some frogs below the elbows. Thinking he could perhaps promote growth by preventing the injuries from scarring over, he bathed the stumps of the frogs' limbs in a strong salt solution.

The result was startling. About half of each amputated limb regenerated, developing new bone and muscle and the some cases even showing the beginnings of digital growth. Thus Rose became the first to prove that an animal which cannot regenerate naturally can be made to do so artificially.

The next year, a Russian named Vladimirovic Polezhaev amputated frogs' legs in a similar fashion and then irritated the stumps by repeatedly jabbing them with needles. The result? Astonishingly, he regenerated about the same amount of growth that Rose had with the salt solution. It was possible that the salt not only had prevented scarring but, like the needle punctures, had actually exacerbated the injuries and thereby simulated growth. Now there was another clue: Regeneration may somehow be connected to the severity of injury.

In the early 1950s, Marcus Singer, now a professor of anatomy at Case Western Reserve University in Cleveland, became the next to uncover important evidence. He transferred nerves from a frog's healthy hind legs to the stump of its foreleg; his frog also regenerated about the same amount of growth that Rose's had. Singer's contribution to the collection of clues is an almost mathematical formulation: The nerve tissue required for regeneration must constitute at least 30 percent of the total tissue at the site of the injury.

Then, in 1958, a Russian named A. V. Zhirmunskii discovered that the current of injury is proportionate not just to the severity of the injury but also to the amount of nerve tissue in the area.

Becker's turn at medical detection also came in 1958. He assembled his evidence as a good detective would assemble his suspects: Injury is related to regeneration; nerve tissue is related to regeneration, and both injury and nerve tissue are related to the current of injury. Could the current of injury, Becker reasoned, thus be related to regeneration?

He measured the current of injury in a salamander's regenerating leg and in a frog's scarring stump. Sure enough, his findings seemed to support his hunch. On the day the legs were amputated, both creatures generated the same current of injury—a positive voltage. But there the similarity ended: As the frog's stump scarred over, the current of injury in its leg declined to zero, but the current of injury in the salamander's leg switched from a positive to a negative polarity and only then began to decline, reaching zero when regeneration was complete.

Becker had definitely discovered a connection between the current of injury and regeneration. In a sense, however, his discovery complicated rather than clarified the mystery. The way the current of injury worked in those limbs was simply not concurrent with the way nerves are supposed to produce electricity.

Nerve fibers have traditionaly been thought to respond to stimulation in only one way: Sodium penetrates into the nerve cell and potassium leaks out, creating a chemical reaction that generates a charge called an action potential. Whatever the stimulus—a gentle touch or an injury—the

action potential is exactly the same. Moreover, each nerve fiber can create only one of these potentials at a time. Becker compares the system to that of a digital computer which transmits single impulses in rapid succession.

Herein lay Becker's problem: How could the action potential—a constant—account for the switch from positive to negative polarity that he had seen in the salamander's current of injury? How could the action potential account for the fact that the current of injury lasted many days after the stimulated nerve cells should have either died or repaired themselves and ceased their impulses? How could the action potential, which responds in the same way to every stimulus, account for the fact that creatures feel intensities of pain?

Becker guessed that in addition to its digital-computer impulses, the central nervous system can carry steady currents and potentials—in the way an analog computer can. He further theorized that the body's analog computer system has an input signal—could it be pain?—that triggers an output signal which switches on the healing function.

To verify his theory, Becker measured the electrical potentials of different points on the skin of humans and other animals. He found an electrical field that roughly parallels the nervous system. A disturbance in that field, such as an injury, might stimulate cells to begin repairs.

Becker's theory ran counter even to basic textbook explanations of the nervous system, and medical men let him know it. "That cells are capable of sensing and responding to levels of electrical current is hardly universally accepted," he wrote in one medical journal. But he stuck to his convictions; and today, more than a decade later, doctors are coming to accept his hypothesis. "They no longer march out of my lectures," he says. "The response has changed from complete rejection through amused disbelief to—at present—almost enthusiastic acceptance."

BONE REGENERATION

And no wonder. The experiments that Becker based on his unorthodox vision of the nervous system produced remarkable results. First, in 1964, Becker began to examine the spontaneous regeneration of human bone. Given the fact that bone is not well innervated, the theories about electrical stimulation would not apply—unless bone could generate its own electricity. Becker knew that bone accommodates automatically to mechanical stress. When he measured the currents around a stressed bone, he discovered that it generated a positive charge on the stretched side (which dissolved some bone) and a negative charge on the other side (which built up bone and provided the necessary added support). Then Becker administered a negative charge to a mouse's broken leg bone to see if he could artificially stimulate bone growth. He did.

In 1964, Steven Smith, then a student of Meryl Rose and now an associate professor on the department of anatomy at the University of Kentucky, studied Becker's findings and got the idea of implanting a simple electrode right into the muscle tissue of the stump of a frog's leg. He soldered together a piece of platinum wire, which has a positive charge, and a piece of silver wire, which has a negative charge, and embedded the metal into the animal tissue—with the negative end at the stump—thus improvising a crude battery. It worked. He regenerated about as much growth as the Rose, Polezhaev and Singer experiments had the decade before.

Breakthrough followed breakthrough. Becker examined his healing frog bones under a microscope and saw that the blastema around the regenerating bone was coming from a blood clot that had formed there. (A frog's red blood cells are prime candidates for blastema, for, unlike the red blood cells of mammals, they have nuclei and thus can easily divide and dedifferentiate.)

His next step? He had a student expose frog blood to various levels of electrical current in order to find out exactly how much of a charge is needed to turn blood cells into blastema. Days passed, then months. The student administered smaller and smaller currents to the blood (high ones either did nothing or began to cook the cells), but he saw no evidence of change. Finally, the week before the student was supposed to quit and return to his classes, he found that blood cells revert to blastema at a few billionths of an ampere.

In 1973, armed with the knowledge of how much current produces a blastema, Becker decided to brave the step from regenerating amphibians to regenerating mammals. He amputated a rat's foreleg below the shoulder and implanted the platinum-silver electrode device at the stump. Again, success—this time, the most exciting ever. The animal regenerated nerves and tissue and even formed the humerus, the upper-arm bone, complete with the rounded end that fits into the elbow joint. Other parts of the elbow joint began to take shape, including cartilage and two bony structures that Becker surmised were the forerunners of the radious and ulna bones of the lower leg. Everything about the new growth was precisely as it had been in the original limb. And all this growth took place in just three days.

But then the growth ended; for the electrode remained in the shoulder tissue, while the end of the stump, where regeneration was taking place, had grown beyond the reach of its vital current.

The rat's growth, though incomplete, was nevertheless significant, particularly in one respect: The fact that the rat, whose red blood cells have no nuclei, could form a blastema—probably from bone marrow—indicated that in all probability humans could do so as well.

About this time in London, two newborn infants lost their fingers, and the fingers regenerated naturally. The explanation, in Becker's view, probably lies with Spallanzani's early finding that the younger the creature, the better its ability to regenerate. But what was most significant about the babies' growth was that it indicated that the human body contains within it the capacity for regeneration.

Later in 1973, Smith devised an electrode that would travel with the regenerating stump. Again he amputated a frog's leg below the elbow: With the new device, the frog's entire leg grew back.

The year 1973 marked a third triumph as well: Becker began using his findings about the body's electricity in experiments on human bone. A patient of his who had fractured his ankle two years earlier suffered from a mild diabetic condition that was interfering with the bone's ability to regenerate. The ankle had failed to mend despite two corrective operations; and the bone on both sides of the break had deteriorated.

Under normal circumstances, Becker would have had to amputate the leg. Instead, he implanted an electrode into the fracture and administered the same current that he found had divided the frog's red blood cells. He waited three months, the time an ankle fracture would normally take to heal, and the fracture regenerated. A sample of the new bone showed it to be normal in every respect.

CLUE IN THE NERVES

The next year, during the course of routine experiments, Becker stumbled on another clue that finally shed considerable light on his nervous system theory. With the intention of impeding growth, he and his staff broke the tibia in a rat's leg and then cut the nerve that led to the broken limb, assuming that without a nerve supply the rat's bone would heal poorly, if at all. But the fracture healed well; the only drawback was that it took twice the normal time. Perhaps the severed end of the nerve needed time to degenerate, they thought. So they cut the nerve six days before breaking the bone. To their astonishment, the bone healed in the normal amount of time, as if the nerve had never been cut at all.

What was going on? They opened up the leg, only to discover that the nerve fiber had not healed. What had healed was the nerve's sheath of Schwann cells—one of a dozen types of cells that make up the "perineural group"—traditionally thought to serve no purpose other than the insulation of the nerve fiber. The perineural cells in the brain were known to carry a steady current—for what reason, no one knew. It now seemed apparent that Schwann cells also carry a steady current. This was proof enough for Becker that the analog computer system he had theorized was indeed contained in the perineural cells—cells that sheathe the entire central nervous system.

The perineural discovery is by no means the end of the tale. Experiments must still be conducted to determine if electrical regeneration is entirely safe. Could applications of electricity to the peripheral nervous system, for example, induce some sort of behavioral disorder? Or damage our cognitive powers? Every human body contains dormant cancer cells. Could an implanted electrode shock them into fatal multiplication?

Nevertheless, much of the mystery has been solved. Only the last chapter—the most exciting one— has yet to be written. It may well describe the modern world as a Shangri-La where damaged human parts are simply cut off and grown back properly. Our future may lie not with the bionic man but with the natural man.

The replacement of arthritic hip joints with Teflon parts, for example, is now a costly and not altogether satisfactory operation. The Teflon wears out. If the device is implanted in a young person, it may have to be replaced some four or five times in the course of his life. And with each hip operation, there is the risk of infection, which can be a deadly prospect. The alternative—growing a natural hip—would be safer and cheaper.

We may some day regenerate a damaged heart. Becker has discovered that salamanders replace some 50 percent of their cardiac muscles by regeneration. And Polezhaev has cut away the scar tissue on the hearts of dogs which had suffered severe heart attacks; all of the hearts regenerated and less than 5 percent of the dogs died. We may even replace parts defective at birth, given that damaged genes do not garble the instructions given to the blastema.

Becker himself is hesitant to herald regeneration as an immediate cure for amputees. The replacement of several parts, he says, is still pretty far off. Why not aim for more immediate uses that would be beneficial to greater numbers of people? Severing the spinal cord does not regenerate. Becker, however, thinks that since salamanders regenerate their spinal cords, man's spinal cord could perhaps be electrically stimulated to do the same thing. It would take only a year to see whether electrical stimulation works without complications in a paraplegic dog or monkey. And if such stimulation works safely in them, it could be safely applied to humans.

UNANSWERED QUESTIONS

The outstanding disappointment of the entire regeneration tale is that no one is conducting that experiment with paraplegic animals. Why? Money. Becker's own $100,000 grant from the Veterans Administration just covers staff salaries. Experiments are costly; keeping paraplegic animals in particular is frightfully expensive.

Still, it must not be forgotten that the financial problem—serious though it is—is the only laggard in regeneration's exhilarating face toward the future. It is the promise

of regeneration—not the problems—on which we must focus attention. Hundreds of questions wait to be answered.

Animals that regenerate don't get cancer. If a tumor is implanted in a lizard's body, which does not regenerate, it grows to fatal proportions. But if it is implanted in the tail, which does regenerate, the tumor disappears. If we learn how to turn on regeneration (controlled growth), can we learn to turn off cancer (uncontrolled growth)?

Hormones play an important role in regeneration. A chopped-up adrenal gland when implanted in a frog will generate some growth. Moreover, if the adrenal gland is removed from a lizard, the creature will lose its ability to regenerate its tail. If the hormone prolactin is then injected, the lizard will regain its regenerative potential. It has also been hypothesized that hormones secreted during stress can cause cancer. Prolactin is secreted during stress. Is there a connection? Do carcinogens impose a stress on the body, which then triggers a hormonal release that oversensitizes the body to its own electrical forces, thus sparking wild division of cells?

If a negative charge builds up bone and a positive charge dissolves bone, could positive charges have an effect on malignancies?

If pain is the input signal needed by the brain to trigger healing, does anethesia—the muffling of the pain signal—impede healing?

When power lines are stretched across the sea, the amplifiers are put in at regular points to boost the current along. The body's electrical system may run the same way, equipped with special spots along the anslog nervous system that boost the signals as they are carried to or from the brain. Becker has found that half of the traditional acupuncture points correspond to the spots in the nervous system that seem to be amplifiers of electricity. Could acupuncture simply involve the insertion of a metal needle into one of the amplifiers, short-circuiting the pain signal so that it never reaches the brain?

Does the body's sensitivity to electricity explain why reversals in the earth's magnetic field are related to the extinction of certain animals?

When one electrical field is imposed on another, the currents are altered. When one human being approaches another, do their biological electric systems overlap? Is this a scientific explanation for the "psychic" mystery of ESP?

The characteristics of the analog nervous system are such that it should be influenced by external electrical fields. Becker has already found experimental evidence that would indicate that electrical fields such as those produced by power transmission lines produce stress in animals—with consequent physical effects that are shocking indeed to the layman. What is the relation between this unseen electrical pollution and human stress?

The possibilities seem infinite. Each is like a silver key. Which one will open the door to a new world? ●

WHAT IS THE ENERGY PROBLEM?

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. COLLINS of Texas. Mr. Speaker, today, most people complain about energy but very few people understand the cause of the shortage. Just what is the energy problem?

My wife suggested I read an interesting report she received in The Key Reporter which is the news bulletin of Phi Beta Kappa. This paper had a long story on energy by Dr. Charles J. Hitch who is president of Resources for the Future. It was a comprehensive four-page report but I want to quote some of of its key sections about the energy problem.

ENERGY IN OUR FUTURE

(By Charles J. Hitch)

Public opinion polls consistently reveal that about half of the American people do not know that this country imports any oil from abroad, when in fact our imports constitute close to fifty percent of our current petroleum consumption.

Energy is a problem of national security and foreign policy, stemming from our dependence on foreign sources of oil.

In 1973–74 this combination resulted in an oil embargo, long lines at gas pumps, a fourfold price rise, inflation, recession, and prolonged economic disruption. We are even more vulnerable now for our oil imports are higher and the proportion of total imports that come from the Middle East is also higher.

Oil is a comparatively recent part of human society—its major use really has been confined to this century—but we have structured our whole society around it.

Over the long run, the domestic economic problem centers on making a smooth transition from fossil fuels to renewable or inexhaustible sources.

Energy is a balance of payments problem. Last year this nation's bill for imported oil came to $45 billion, a sum about fifty percent greater than our entire trade deficit. We are the world's number one agricultural exporter, but it now takes two years' worth of agricultural exports to pay for one year of imported oil. The shaky value of the dollar abroad is directly related to our astronomical oil bill and the transfers of wealth it represents. And the situation will get worse: projections for the mid-1980's are for the $45 billion tab to double or more.

Our main reliance must be placed on prices and markets. The market is now giving decidedly the wrong signals. They say that energy as a whole is cheaper than it really is, and that certain sources of energy are relatively cheaper than their alternatives, when that isn't true either. The result is that we are subsidizing imported oil, penalizing domestic production, and discouraging both conservation and fuel switching by industrial and final consumers.

Let us take several examples of what I mean by "wrong signals" in the case of natural gas which is kept at artificially low prices in the interstate market by federal regulation: Most gas furnaces are very inefficient, but since wasting gas doesn't waste much money, there is little incentive to improve efficiency.

There is resistance to expensive shipments of gas and liquefied natural gas from Mexico and Alaska but these are overpriced only when compared to controlled prices of domestic natural gas. They are cheap when compared with imported oil. Similarly, so-called unconventional sources of gas, such as the geopressurized brines in the Gulf of Mexico, are neglected because they are much more expensive than controlled-price conventional sources. Finally, it is nearly impossible for solar water and space heating to compete with gas. This is particularly unfortunate because it reverses the priorities: gas, with its cheap, efficient storage, is the perfect backup for solar. Controlled prices have similar effects in the case of oil.

In general, we can say that pricing a unit of energy below the cost of providing another unit is the chief obstacle to substantial conservation and to the development of new, benign sources such as solar. It is ironic that we impose price controls on the one product—energy—which we most want to conserve and to develop new sources for.

Because of price controls, the market is confusing both producers and consumers, and we are compelled to cope with the problem by all sorts of devices which aren't working well, such as exhortation and detailed regulation.

Further, when compared with prices of two decades ago, 1956, gasoline is up only 4 percent, fuel oil up 31 percent, gas service up 5 percent, and electricity down 37 percent.

This reliance on prices and taxes is an historic turnaround, for the nearly instinctive response heretofore has been to create a complete set of regulations, along with a new bureaucracy to try to enforce them. This approach hase been as ineffective as it has been ubiquitous.●

SAVING THE ENVIRONMENT IS NOT INFLATIONARY

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. BROWN of California. Mr. Speaker, as we attempt to discover the various causes for our unacceptable rate of inflation, we are bound to reach some wrong conclusions. An excellent example of this is the assertion by some economists that environmental regulations are a major cause of inflation. It is easy to see how a superficial analysis could lead to this conclusion, but it is discouraging to see the acceptance of this assertion by responsible individuals.

Our economic indicators measure money flows. They do not measure nonmonetary values. They do not generally measure second-order effects, and seldom have any relationship to the quality of life, in contrast to their ability to measure the dollar costs of goods and services. Despite these well known limitations economic indicators are frequently misused to imply that they measure qualities that they do not.

It hardly needs to be noted that environmental regulations that improve the health of individuals or at least prevent the deterioration of health have economic benefits. The GNP might be adversely affected if health care costs decreased, but the economic benefit to the individual, not to mention the noneconomic benefits, are indisputable. Similarly, laws that improve the quality of air and water have real economic benefits to property values, recreational values, agricultural production, and health. The point of all this is that our economic indicators are not devised to measure the general welfare, which our Constitution calls on us to promote.

Even in conventional terms, environmental regulations do not cause a significant amount of inflation. This fact has been well documented by those who have examined inflation in our society.

Mr. Speaker, at this time I insert excerpts from a recent speech on this subject by Gus Speth, a member of the President's Council on Environmental

Quality which appeared in the August 18 issue of the Christian Science Monitor.

The article follows:

SAVING THE ENVIRONMENT IS NOT INFLATIONARY

(By Gus Speth)

Five years ago, when the OPEC nations suddenly hiked the price of crude oil, the U.S. began looking for ways to resolve the energy crisis. As any well-informed observer might have predicted, environmental regulations immediately came in for a close look—and schemes were quickly hatched to speed the development of new energy sources by revising or outflanking laws.

Then, as unemployment inched upward, environmental regulations were attacked again—this time, as a barrier to creating jobs. Critics of environmental regulation did, indeed, have some numbers on their side: according to the Environmental Protection Agency's analyses, the costs of pollution control by 1976 had forced the closing of plants employing about 20,000 people. But the defenders of such regulation came back with another set of numbers that deserved attention: air and water pollution control investments forced by local, state, and federal regulation had also *created* more than 600,000 jobs—roughly 30 new jobs for every one they had destroyed.

Today environmental, including health and safety, regulations—having weathered, at least temporarily, the energy crisis arguments and the unemployment arguments—are being criticized on a new ground: as contributing substantially to inflation.

How much do our present environmental protection laws cost us?.

To date, only one really comprehensive analysis of the inflationary impact of pollution control regulations has been done. It was performed by Chase Econometrics at the behest of the Council on Environmental Quality. Thus there might be a certain suspicion here of the contractor coming up with answers that the client liked. But Chase Econometrics has its own reputation to protect; more to the point, the Chase findings have been published, widely disseminated, and they have never been refuted.

Chase's study indicates that, for the period 1970–1983, federal pollution-control requirements would cause an average annual increase in the Consumer Price Index (CPI) of between 0.3 percent and 0.4 percent with the 1978 figure estimated at 0.5 percent. This is in line with figures from the Council on Wage and Price Stability. COWPS estimates that the inflationary impact of all federal regulatory efforts adds seven-tenths of one percent to the CPI.

The first point to note is that, even by standard economic measures, any conceivable modification of federal environmental and health regulations would produce no significant reduction in the overall CPI. If the inflationary impact of these requirements could be reduced by 20 percent—a substantial relaxation—the CPI's increase would be restrained 0.1 percent: the net effect of even draconian measures could be the difference between a 10 percent and a 10.1 percent increase in the CPI. Further, even if we were to order modifications in our federal environmental and health regulations tomorrow morning, the economic effects would not be noticeable for some years . . . and we do not know what the inflationary pressures will be at that time.

Moreover, we must recognize that the CPI, like the GNP, is a very limited measuring stick. It gauges inflation by measuring the price increases of a typical market basket of goods. Expenditures to improve the environment can and do greatly increase consumer welfare—I have in mind improvements in public health, reduced property damage, increased agricultural and resource yields, and enhanced recreation and enjoyment of leisure time—but these benefits to consumers are poorly reflected in the CPI. Moreover, while it is true that enhancing environmental quality leads to price increases for some goods, it is quite likely that consumers will change their consumption patterns, switching away from the goods whose relative prices have increased. To the extent that such substitution takes place, the CPI will overstate the effect of these price changes since it is computed on the presumption that the "typical" market basket remains the same.

For both these reasons, the CPI is not a satisfactory measure of the inflationary impacts of federal environmental regulations: a measured increase in the CPI does not mean that such requirements, on balance, cause inflation. Inflation is best understood as an increase in price without a corresponding increase in value. It follows that as long as the full benefits of environmental regulations exceed the full costs—and I believe that this is clearly the case today—these regulations cannot be considered truly inflationary. The Council of Economic Advisers made a similar point in its 1978 economic report to the President when it noted that insofar as federal regulatory efforts "result in improvements in public well-being, we may simply have taken part of our productivity gains in forms that are not measured in GNP."

Occasionally some unusual incident brings the limits of our economic measures to our attention. In 1952, London experienced a five-day episode of extreme air pollution. Annual pollution damages to health and property resulting from that incident were estimated at $700 million—and there is, of course, no method for quantifying the value of a human life in terms that make sense to anyone but an insurance company.

We have had plenty of analogous incidents more recently, ranging from the Kepone disaster in Hopewell, Virginia, to the destruction of the Amoco Cadiz off the coast of Brittany. Such dramatic events help us gauge the costs of environmental disaster or weak regulation. Perhaps even more important, they suggest the unmeasured but nonetheless real benefits of property drawn and properly enforced environmental statutes that prevent damage. Our economics counts up the money we have spent; it is not beginning to take account of the money that we did not have to spend to repair the consequences of our carelessness.

I believe that we must make every effort to ensure that environmental and health regulations are not unnecessarily expensive and are set after due consideration of economic impacts—and I want to stress that this is required by almost all federal environmental laws and is an integral part of the program of the Environmental Protection Agency and other agencies—but we must look elsewhere than environmental regulations for the underlying sources of inflation and the appropriate targets for our anti-inflation efforts.

MILLIONS OF DOLLARS FOR HANOI

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. BOB WILSON. Mr. Speaker, I would like to share with my colleagues the following article from the Air Force Times of August 4, 1978:

MILLIONS OF DOLLARS FOR HANOI

(By Ira C. Eaker)

The World Bank and associated agencies have promised $90 million to Hanoi, $60 million as a 50-year, no-interest loan, $30 million as a three-percent interest, 25-year loan. Ostensibly this is provided to repair war-damaged Vietnam rice production, now 15 percent short of need.

Red sympathizers in this country pointed out that the Marshall Plan helped Germany and Japan to recover with mutual benefit to their conquerors.

There are some obvious errors in this slanted sophistry:

Hanoi did not lose the Vietnam War; we did, because of Hanoi's callous repudiation of the Paris Peace Treaty.

The Marshall Plan did not aid Germany and Japan until each had installed democratic, non-tyrannical governments allied with the free world.

It was the vast, forced urbanization program, post-war, which decreased rice production. Millions of people were thrown out of the cities to starve. Other millions were thrown into concentration camps for "reeducation." It was this convulsion that drastically reduced the food supply.

The volume of human suffering and tragedy which has occurred in Southeast Asia as a result of the Red tyranny exceeds that caused by either Hitler or Stalin, as a percentage of population. Hitler's holocaust accounted for some six million dead out of a half-billion conquered peoples. Stalin killed 10 million farmers who opposed his collectivization program, out of 180 million people.

The World Bank gets 98 percent of its funds from the free-world nations. Why should communist-dominated nations get most of its gifts or loans? Are there no needy, worthy recipients in the free world? What about the brave "boat people," the 150,000 refugees who have fled from the hell of Red-controlled Vietnam, Laos and Cambodia? This $90 million could be of great help to the 150,000 escapees now living in poverty in refugee camps in Thailand and elsewhere.

This unconscionable gift to Hanoi could not have come at a more inappropriate time. It makes a mockery of President Carter's campaign for human rights, when the most flagrant violators of human rights in this century are thus rewarded for their tyranny.

There are other astounding international implications. It rewards a Soviet ally; it helps Russia to achieve world domination. For example, the vast naval base at Cam Ranh Bay, which we built, is now available to the Russian fleet, greatly aiding its threat to free-world oil routes, including those to the Philippines and Japan.

It also trumps our "China card." At the very time Red China is withdrawing its support from the Vietnamese tyrants, the World Bank rushes in with aid.

The tragic consequences of this error are redoubled since the World Bank head is an American. I can already hear the worldwide Red propaganda machine grinding into gear for endless repetition of the condemnation, "The U.S. now admits its war crimes in Vietnam."

Two excellent articles, by eminent authorities on Southeast Asia appearing in the 1978 summer issue of *Strategic Review*, completely confirm the fallacy of these World Bank gifts and loans.

It is irrational to take money earned from the free enterprise system and use it to aid the always-faltering economies in communist countries.

The Carter administration and Congress must stop this outrage.

The writer, an air power pioneer, is a retired three-star AF officer.●

DISPLACED HOMEMAKERS: A COMPREHENSIVE APPROACH

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. LaFALCE. Mr. Speaker, the problems faced by that segment of our society known as displaced homemakers are receiving necessary and warranted attention. As important as the role of the Federal Government is in providing funds for pilot projects for displaced homemaker job placement and counseling centers, the equal importance of community involvement cannot be overlooked.

In the Buffalo, N.Y., area, we are fortunate to have displaced homemaker centers providing excellent programs for widows and separated or divorced spouses in need of counseling for entry into the job force. In addition to these centers, we have active community involvement on behalf of widows, whose emotional adjustment is sometimes greater than, or at least equal to, the financial adjustment following the loss of their husbands.

I would like to share with my colleagues a program initiated by Dr. and Mrs. Andre Toth who organized, through Sisters Hospital in Buffalo, N.Y., free group counseling sessions for widows. I believe this kind of community program, which helps widows realize that their feelings of identity loss, fear, frustration, guilt, and loneliness are shared by others, is an excellent example of the comprehensive approach which must accompany career planning for displaced homemakers. A summary of the Toth's program follows:

ABSTRACT

It describes a group therapy approach designed to help the widow deal less painfully with her situation. This is done by focusing on questions relevant to this population, by individual catharsis and by reinforcement of behaviors which would otherwise be thought as "abnormal". It also tries to find some common denominators so that others may use the information and start similar groups.

GROUP WORK WITH WIDOWS

STATISTICS

In 1976, of the 12.6 million widowed individuals in this country, 10.7 million were widows. Further: "the chances that the marriage of today's typical bride of 20 and groom of 23 will eventually be broken by the death of the husband are 70 in 100." Lastly, "one out of every eight women 14 years or older is widowed." Even the cold and detached aseptic quality of numbers cannot hide the pretty grim reality that there must be a whole lot of lonely women out there.

PLANNING

It was partially in response to these numbers that in March of this year, we began thinking about, and planning for a group therapy program for widows. As another group program we had been running for three and one half years for post myocardial infarction patients and their spouses, it was also to be sponsored and housed by our employer, Sisters of Charity Hospital of Buffalo, New York. In some ways, both of these programs have been an attempt to fulfill roles that go beyond those traditionally associated with hospitals.

In any event, even though we had experience running groups of different types, we had none with widows; a search of the literature found a relative abundance of books written by widows for widows, but nowhere could we locate a formally organized group therapy program for this particular population.

As we continued reading, we found that the death of one's husband provided such a strong common denominator that our initial question concerning the composition of the group was indirectly answered and we felt that we could try to mix women of different socio-economic background and ages without jeopardizing the quality of the therapeutic experience; it turned out that we were right.

We decided that we would conduct six sessions, and that we would limit the group size to a maximum of 12. We selected a number of issues we had learned to be significant to widows, but we also left plenty of time for the clients to express individual concerns. Should this require a couple of additional sessions, we would add them, but we did not want to keep meeting indefinitely as we did not care to foster dependence and repetitiveness.

To find our widows, we went through our medical records and located a number of women whose husbands had died in our hospital. We selected women who had been widowed for no less than six months and no more than fourteen. These, we realized, were in some ways arbitrary decisions, for if it is true that the first three or four months, identified as the shock stage (4), will not allow the individual to be therapeutically receptive, it is also true that it is a highly individualized process that hinges on a long list of variables. We tentatively excluded individuals at the other end of this period because we felt that probably, the most difficult time would be in the eight to ten months following the inital shock, and since we would only have one group of ten to twelve individuals at the time, we wanted to reach those whom we felt needed it most.

We also tried not to include women whose present status did seem to indicate psychological problems that went beyond grief and whose presence in the group, we felt, may be distracting or disruptive of the group process. In so doing, we realize that these individuals too should get help, but we could not provide it. As it turned out, some of the individuals that were not included were already receiving active phychiatric support.

PURPOSE

Our program would allow individual widows to share with each other, in a protected environment, the meaning of the widowhood experience. We, as therapists, would provide this environment, prop up emotional casualties and prevent the development of pathology. Our hope was that the catharsis and the sense of group identity would help our clients develop insight that would help them to deal more effectively with their situation.

CATHARSIS AND IDENTITY

The first session found us with twelve women who had never seen each other before and whose only link was their widowhood. After a brief introduction to the program and a statement concerning confidentiality, we asked that each widow narrate the events that lead to the death of the spouse: length and type of illness, location of death, memories of the last days or weeks, or in lengthy illnesses, months, the funeral, the first few days following it, and anything they felt signicant to the event. This was perhaps the most dramatic portion of any session: as every widow narrated her story, interrupted by her tears at recollecting those very painful moments, those listening nodded their heads each time they heard facts and feelings they themselves could identify with. As this process of identification began, some of the pain lessened. As one of these widows told us later: "After listening to each lady tell her sad story, it suddenly became clear that I wasn't alone anymore. I really found a place I belonged. I am a widow and so are all the other ladies."

At the end of our first session, something rather significant happened: where we had one and one half hours earlier 12 total strangers, we now had a group. So strong was the bond of widowhood that their behavior was that of old friends who had gotten together after a long separation. The occasion was obviously not a happy one, but the feeling that the group exuded, somehow, lacked the earlier depressing pall; we would characterize the atmosphere as one of nervous exuberance—nervous, yes, but nonetheless exuberant.

DEPRESSION: SLEEPLESSNESS, ACHES, AND PAINS

Following the first few weeks after the death of the spouse, most of our clients began experiencing all kinds of somatic complaints. Sleeplessness was regularly experienced by all group members. Headaches, backaches, and a general feeling of malaise were also experienced by most participants, even by those who had had no such problems prior to their husband's death. There was no change that group attendance produced in terms of these various aches and pains, however few members reported on our second session, that on the night following the group, they had had the first good sleep in weeks. Obviously, we do not know if there was a connection, but we were nonetheless pleased. At the end of the sixth session, several members were sleeping better, but not regularly so. Others still experienced troublesome insomnia. One of the women whose insomnia continued, however, stated to the group that, "Now when I can't sleep, I know other women who are going through the same thing and somehow it helps."

Another symptom of depression everyone in the group felt to varying degrees was a general feeling of aimlessness, a felt difficulty in making decisions, an inability to get going, especially in the morning. As in many other grief caused situations, we let the group express these thoughts, we then threw the question back at them, but the responses were of an intellectual nature and we were at an impasse. Since that first group, we have learnt that there are no formulas to deal with this type of situational depression, but that the understanding on the part of the client that what she is experiencing is a part of a normal and healthy grieving process helps her to deal with it somewhat better.

THE SOCIAL CONTEXT: FRIENDS AND RELATIVES

Realizing the supporting role that friends and relatives can play, we asked the group to share their experiences in this area; what we heard was another proof that no matter how much we, in the field, think that death and dying have become overly popularized and have saturated the field of human services, we have apparently reached a very small minority: the fact of the matter is that most people feel uncomfortable with the subject of death and act clumsily at best, in these supportive roles.

It was the consensus of the group that there seemed to be a conspiracy of silence among many of their friends and relatives. In social situations, the name of the deceased was carefully avoided, as was any reference to anything, however remotely connected with him. In the words of one of the widows: "It was as if he had never existed. I kept on bringing his name up and they kept on changing the subject. I felt a tremendous resentment against them all, even though I realized that it was because they wanted to spare my feelings."

One of the sources of strength for the wid-

ow is the realization that her husband has not been forgotten by all those who loved him while he was living. Hearing people reminisce about positive experiences they may have had with him, humorous episodes, anything good linked with him, will provide the widow with temporary, but nonetheless, significant coping ability.

Additionally, we found another example of people's discomfort with death. This manifests itself in wishfully expecting the widow to exhibit a stiff upper lip attitude, not caring to witness any display of emotions, and generally handling the whole situation with as many platitudes as available at the time. This Hallmark Greetings mentality is one additional piece of evidence in the case of lack of understanding vs comforting the bereaved. "People were asking me, how are you, and you know darn well that the only answer they wanted to hear was "fine", commented one widow. Another said, "Everyone was telling me how great I was doing and how fine I looked. All I wanted to tell them was, 'What do you want me to do, crawl and writhe on the floor? Paint my face black?' "

IDENTITY

"When I walk alone into a room full of people, I feel terribly uncomfortable." "When confronted, even with the simplest situation, I have a very hard time." "Ever since he died, I have had these overwhelming attacks of insecurity. Where do you think they are coming from?"

These, and other similar comments, have reinforced for us, at a very practical level, the cultural notion that thinking of women as spouses, mothers, and perhaps lastly, as individuals will accentuate the trauma of widowhood. Having been known for 20–30 years as "John's wife", it should not come as a surprise that on his death, she should have tremendous identity problems. "Now that my husband is gone, who am I?", one of our clients cried very pointedly.

When one's children grow up and leave the household, a similar identity question emerges, especially for the woman whose primary concept of the self was derived from motherhood. The difference of course, is that growing up is a gradual and timely process; the death of one's spouse, is not.

We handled this topic by finding its intellectual explanation, and by first encouraging each participant to gradually begin the rediscovery of the self as unique individuals, slowly disassociating themselves from labels that had become painful.

We realized that the search for identity is a task so complex that it cannot be handled in such a cursory fashion, however, we felt that implanting the intellectual awareness was at least a necessary, if not sufficient condition for change.

GUILT

Although not always at a conscious level, guilt seems to be a feeling that many widows have; when it is not conscious, it may bring havoc to the resolution of grief. The obvious advantage that group interaction creates, is that those who are able to verbalize it, may allow others to bring this vague, uneasy feeling to a level of consciousness where it can be dealt with intellectually at first, and hopefully, emotionally later on.

For the widow, guilt seems to originate, in many instances, from the sorrow at not having been able to do more to prevent the death. "Had I just taken him to one more doctor, had we tried some different drugs" was an often voiced regret. There also is a tendency to remember episodes where the widow, either rightfully so or not, perceives her behavior as unacceptable, as during arguments for instance, and wishes she could take her words back. Even when unable to pinpoint the specific origins of these feelings of guilt, it was obvious that they existed nonetheless and were based on feelings of failure; that his death was a direct reflection on her inability to care for him adequately, that somehow, had she been a better person, this would not have happened. Positive feedback was a natural way to handle these situations in our group and it was provided by both the other clients, and by us. It is our impression that these feedbacks provided the beginning of insight that would, in most instances, lead to a healthy resolution of this problem.

ANGER

Anger, as it pertains to the widow, is a rather puzzling response, and it too will cause the widow to feel guilty.

One of the new behaviors is that of the widow talking to the deceased. This will take many forms: it may simply be an exclamation at the widow's inability to find a missing document, it may be when she experiences car troubles of the type that he used to fix, it may be during a particularly painful moment of loneliness, when she may say: "Oh John, why did you leave me?" First of all, one of the immediate results of the widows' ability to share these one way conversations was that, where as before they were beginning to experience doubts about their sanity they now knew that others did the same thing and that it was perfectly acceptable and normal behavior; this and the wearing of his favorite robe, sweater, or the keeping of a particularly significant item.

Secondly, and just as significant, we began to explore the feelings connected with some of the things the widows were saying.

"I remember getting badly stuck in a snowbank at the end of my driveway and saying, "Where are you John now that I need you," and yes, there was some anger in me; a few seconds later I felt so terrible for feeling this way. How could I possibly feel angry with him, as obviously, he didn't die by choice."

As we explored similar episodes, we found that one of the commonly shared feelings was that of abandonment. Intellectually, they all knew that their husbands did not choose to die. Emotionally, they felt abandoned; their anger was perhaps abstractly directed against circumstances; on a more concrete level, with all of its frightening implications, it was directed towards those who had done the abandoning.

Although, not all members of our groups identified with all this, those who did, received some therapeutic benefits when they realized that what they were feeling was a normal stage in the grieving process and that they were not experiencing it alone.

We are now at the point where we have finished six sessions each, with three groups of widows. A follow up will take place at three, six, and twelve month intervals. Many of the participants confirmed to us what we had already suspected: that the experience had been a worth while one.

In the words of one of the group members: "The group did so much for me; to be able to talk it all out, all the sorrow, guilt, abandonment, and hurt from friends. There was so much inside of me that I couldn't express to relatives or friends, but with the group, I could say it all." ●

THE NEW POPE AND THE PRESIDENT

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. AMBRO. Mr. Speaker, his brother said: "Don't be misled, behind that charming smile, he is like a diamond—brilliant, strong. What more can one ask of a leader?" And so, not only 700 million Catholics, but the world rejoiced at the selection of a new Pope.

Some knew of his deeds, but no one really knew the man. As a parish pastor, he sold his church's gold to help the poor. He voted for the pill as a birth control device, but silently accepted Paul VI's rejection of it. His father was a migrant bricklayer. He himself was outgoing and learned, but not a world traveler. The media enthusiastically delivered these tidbits providing the hint of a vignette, yet no clear picture emerged.

But this man—now a direct descendant of Peter—imbued with the inner strength of Jesus Christ—assumes the burdens of an office that are staggering; and the world rejoices even over one hardly any mortal really knows.

It may be that this very limited knowledge of the man raises so many expectations. Surely, mystery can be magic for it can turn out many ways. Consider Pope John, an unknown cardinal who ascended Peter's throne. No Pope in the memory of living man did so much to transform the church, while projecting the image of a jovial and benign grandfather—a pious Santa Claus. Did not Albino Cardinal Luciani unabashedly take as one of his papal names that of his universally loved predecessor? That, in itself, we are assured by all and sundry, has great symbolic meaning.

This planet's masses for a brief moment are riding on the high tide of hopeful euphoria. Just as they were when John Kennedy became the 35th President of the United States, and just as they were on January 20, 1977, when a little known former Governor with an enchanting smile became the Chief Executive of this great Nation.

John XXIII proved to be mortal; John Fitzgerald Kennedy was the victim of a mindless atrocious act. They both died in the same year.

Jimmy Carter is still with us. Many are still mystified by this President who, as with the new Pontiff, inherited problems that the less courageous and less compassionate of his predecessors refused to address.

John Paul I comes to his pontificate at a time when his church is in a period of transition and questioning. The two, Pope and President, will eventually meet as did John F. Kennedy and John XXIII. The two will recognize in each other deep similarities in their even deeper disparities. And maybe they will come to know that fate placed them in tandem to do the deeds that others would not dare for surely they know, as does the world, that God works in mysterious ways.●

NCSL SUPPORT FOR CIVIL SERVICE REFORM ACT

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. UDALL. Mr. Speaker, I would like to share with my colleagues a letter of support from the National Conference of State Legislatures for the Civil Service

Reform Act. The letter expresses the belief of the conference that the Civil Service Reform Act will substantially improve the effectiveness of the Federal departments and agencies and thereby improve Federal-State relationships. The letter follows:

NATIONAL CONFERENCE
OF STATE LEGISLATURES,
Washington, D.C., August 11, 1978.

Hon. MORRIS UDALL,
Chairman, Committee on Interior and Insular Affairs, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The National Conference of State Legislatures wishes to express its full support for HR 11280, the Civil Service Reform Act, as reported by the House Committee on Post Office and Civil Service. Our association of legislatures is deeply committed to making government employees at all-levels more responsive to the citizens and more efficient in carrying out their public duties. HR 11280 incorporates many of the goals established by state legislatures in their civil service reform laws and would also serve as a model for effective personnel management at the state and local levels of government.

We believe that the Civil Service Reform Act will substantially improve the effectiveness of the federal departments and agencies, thereby improving federal-state relationships which depend upon responsive and experienced civil servants. Toward this end, we would support an amendment to HR 11280 which would expand the Senior Executive Service to make it a government-wide improvement immediately rather than an isolated pilot project.

We would appreciate it, Congressman Udall, if you would please convey our support to the full House during the floor debate on HR 11280. Legislatures at every level of government in our federal system have a fundamental and continuing responsibility to review and improve our personnel management systems to insure an effective and efficient government for the benefit of our common constituents. Concurrently, we legislators must be sensitive to the reasonable expectations of our partners in governance, the professional civil servants. Our organization, representing all 50 State Legislatures, believes that your Committee bill satisfies these demands and merits the support of your House colleagues.

Sincerely,

STANLEY STEINGUT,
Chairman,
NCSL State-Federal Assembly.●

FOREIGN INTELLIGENCE SURVEILLANCE ACT WOULD DAMAGE U.S. INTELLIGENCE EFFORTS

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. RUDD. Mr. Speaker, the House will today start consideration of H.R. 7308, the Foreign Intelligence Surveillance Act, which I can say with assurance after a full career as a special agent for the Federal Bureau of Investigation would severely damage and weaken our Nation's security.

Serious flaws in the bill, as reported to the full House by the Permanent Select Committee on Intelligence, would be remedied by a substitute bill to be offered by our colleague, ROBERT MCCLORY, of Illinois. I strongly urge adoption of this substitute.

Other good amendments to improve H.R. 7308 will be offered by Congressman JOHN ASHBROOK and others, for which I also urge support by all our colleagues. Without them, the bill should be defeated.

A good article spelling out the flaws and weaknesses of the Foreign Intelligence Surveillance Act was published in the current issue of Human Events, a weekly Washington newspaper.

I would like to include that article at this point in the RECORD:

[From Human Events, Sept. 9, 1978]

CARTER-BACKED BILL WOULD DAMAGE INTELLIGENCE EFFORTS

The Carter Administration is helping to push through the Congress another measure to weaken this nation's security. Called the Foreign Intelligence Surveillance Act of 1978 and also heavily championed by Sen. Edward Kennedy (D.-Mass.), it has overwhelmingly passed the Senate and this week may be taken up by the House.

In essence, the bill (which, ironically, has the support of the new FBI director and the American Civil Liberties Union) would require a judicial warrant before our intelligence agencies could use electronic surveillance to gather foreign intelligence information in this country. Currently, the executive branch has the power to use wiretaps and bugs to obtain foreign intelligence without having to seek prior approval from the judiciary.

Despite some prestigious backing, the bill, as Rep. Robert McClory (R.-Ill.), a key member of the House intelligence panel, has noted, is seriously flawed. For the first time, a single judge will have the authority to block surveillance of foreign spies and potential saboteurs. Moreover, the Judiciary has neither the expertise nor the background to determine when surveillance is needed.

As Federal Judge Albert V. Bryan said in the recent opinion in the Humphrey/Truong espionage case: "It is not at all certain that a judicial officer, even an extremely well-informed one, would be in a position to evaluate the threat posed by certain actions undertaken on behalf of or in collaboration with a foreign state. . . . The Court is persuaded that an initial warrant requirement [for foreign intelligence electronic surveillance] would frustrate the President's ability to conduct foreign affairs in a manner that best protects the security of our government."

Aside from giving a special panel of 17 judges the power to "frustrate" the President's current ability to employ electronic surveillance against foreign enemies, the measure would also jeopardize our most sensitive secrets by greatly expanding the number of people who would be privy to them.

As McClory points out, the bill requires that a steady stream of highly sensitive written information flow to at least 17 judges, their clerks, reporters and bailiffs, none of whom is trained in the proper security procedures needed to protect this material. Clearly, the more people who become familiar with these intelligence activities, the greater the risk of disclosure.

As the Director of Central Intelligence Adm. Stansfield Turner has said: "Minimizing the number of people who have access to this information is a basic security principle."

Judges would not only receive briefings as to why a tap should be placed, but, should they issue a warrant for such surveillance, they would then be allowed to gain access to all the information obtained by the intelligence agency to see that it was not misused or improperly received. Thus the courts, as a repository for top secret information, would themselves become key—and highly vulnerable—targets for espionage.

Yet the judicial warrant requirement is only a small part of what's wrong with this legislation. The wording of this measure is so restrictive that the U.S. Government would be severely hamstrung in its ability to engage in electronic surveillance for the most reasonable of purposes. For instance:

Even if a domestic terrorist group is suspected of acting in concert with a foreign power (or a foreign organization), that domestic group could not be tapped if the government couldn't prove to a judge's satisfaction that the group was receiving both substantial "direction and control" from a foreign power.

If a domestic terrorist group is largely subsidized by a foreign power, this group could still not be surveilled unless the government could show that the money went to the group's illegal—rather than legal—activities.

If it is known that someone is setting up a large, anti-American propaganda compaign in behalf of a foreign power, the U.S. government could still not tap that person unless it could be shown that the campaign was "about to" go into effect, and that when it did it would unquestionably violate the law.

An American citizen engaged in espionage for a foreign country could not be placed under surveillance if the judge believed that the information sought was not "necessary" to U.S. security or foreign policy interests.

Under this bill, U.S. intelligence agents in this country would not be able to use electronic surveillance to target the head of a non-government sponsored foreign trade mission; an intimate of a foreign leader who does not serve in an "official" capacity for his government or a junior minister of a foreign nation who is visiting friends in this country.

In testifying against this bill, the Association of Former Intelligence Officers (AFIO), whose members include such prominent figures as ex-CIA director William Colby and the ex-chief of the Defense Intelligence Agency, Gen. Daniel O. Graham, pointed out that there are hundreds of thousands of foreigners in the United States at any given time, and to limit intelligence collection efforts only to employes of foreign powers and to those who may engage in clandestine activities is far too restrictive.

"Why," ask AFIO, "should our policymakers be denied valuable positive foreign intelligence by barring collection from a visiting scientist, businessman or any other foreigner in the United States known to possess information of value to the United States? We know of no other country that so limits its intelligence capabilities. . ."

Indeed, even though U.S. intelligence officials, because of clear Administration pressures to approve, okayed the proposed restrictions, it is equally clear that they recognize the risks involved. Adm. Turner, for example, asknowledged there would be "risks" and said it was possible that the definitions will prove "too narrow . . . to permit the acquisition of genuinely significant communications. It is likewise possible that justified warrant applications will be denisd or that application papers will be mishandled and compromised." The proliferation of information, he also stated, always involves risks, and the "statutory procedures will unquestionably lead to such a proliferation." Compliance, he added, will also "be somewhat onerous." Nevertheless, Turner says he now wants to share the surveillance power with the "courts."

This legislation is zipping through the Congress because of supposed abuses of foreign intelligence surveillance by the executive in days gone by, but just what those abuses were is not quite clear. Furthermore,

even the supposed abuses have been corrected in that warrantless electronic surveillance in the field of foreign intelligence can only be implemented pursuant to very strict procedures—some would say too strict—laid down by the attorney general.

In short, the legislation is not only not needed, but will dangerously hamper our efforts to gather critical information. Nevertheless, unless Rep. McClory and Rep. John Ashbrook (R.-Ohio), who are expected to lead the fight against the legislation's most injurious provisions, receive strong support from their colleagues, another blow will have been struck at our government's rapidly declining capacity to collect information vital to American security.●

HOG BOOK NO "PIG IN A POKE"

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. FINDLEY. Mr. Speaker, today I want to bring to your attention a recent publication that has tickled my fancy entitled "The Hog Book," written by William Hedgepeth and published by Doubleday.

For years I have worn a "Hogs are Beautiful" pin—sometimes even on the floor of the House. I speak with special pride today, because my hometown, Pittsfield, Ill., has earned the title, "Hog Capital of the World" and proclaims that honor with a marker in the town square. Pittsfield is the county seat of Pike County, which has the prestigious and enviable record of producing over 100 million pounds of pork annually. Most of that good ham is shipped nationwide, and occasionaly one even comes to Washington. Which brings me back to Mr. Hedgepeth's delightful book that should be recognized from now on as the "Webster's of Hog Insight"—what it does not tell you about hogs is not worth knowing, or is not funny.

Mr. Hedgepeth delves into such areas as the ancestry of the swine world, how to tell a hog from various other four-footed creatures of the Earth, how hogs broke into show business, and even some of his favorite selections of hog poetry to wit:

You can't put a hog in a zoo—
There's no telling what he will do.
He may get loud
And charge at the crowd
Or just lie there not looking at you.

As Mr. Hedgepeth says:

The attainable possibilities for developing hogs of pleasure are virtually infinite. It is just a matter of breaking through the public's resistance to unfamiliar concepts; yet the fact remains of the hog's emerging potential for greater freedom and fresh manifestations of soul. The barriers exist only in the minds of men. But improbable enterprises are often sustained by faith. And there is ample reason for faith in the creature, for it has long been realized that "the hog may be on to something."

A chapter on Hoglore, placing the porcine creature in its rightful place in Greek mythology, is perhaps the most enthralling of all. Hedgepeth relates various cultural ties with the hog and reminds us that a consistently recurring figure in the earliest myths of ancient folk is that of an Earth-Mother goddess who is associated with the soil, planting, fertility, and with human sacrifice, and who—more often than not—is represented in porcine form.

The importance of hogs to American politics is not overlooked, either Harry S. Truman, while on a campaign trip around the country, once stepped into a hog lot and declared, "No man should be allowed to be President who does not understand hogs, or has not been around a manure pile." Hedgepeth would no doubt heartily agree. The "Hog Book" seems to point out the inevitable fact, we are becoming pig-aware people.

For the most, of course, the hog is still admired in the form of refrigerated meat or in the shape of a football on lazy Sunday afternoons, rather than a bona fide animal come into its own. However, the fact remains, the hog is an animal of unique beauty. It has made a tremendous contribution to man for more than 9,000 years and William Hedgepeth is right on target with his perception of a country united with hogs. Hedgepeth suggests we embark on a series of consciousness-raising activities in the name of the hog and get people tapping into the hog current. From here the possibilities are endless. Noteworthy citizens could hold gala hog expositions, there could be multimedia displays, pig exhibit halls, and Broadway plays based on the lively hoofer.

I am proud to mention that in my hometown of Pittsfield one such awareness session, "Pig Day," is already an annual event. The happy occasion was on July 7–8 this year, and included such hog-honoring events as choosing the Pig Day Queen and Little Miss Piglet (chosen by the length of her pigtails), a huge sidewalk sale, roast pork sandwiches, games, and just plain fun for the hundreds of pig-enthusiasts who attend yearly.

The hog has been a misunderstood creature of circumstance for too long. I congratulate Mr. Hedgepeth and the "Hog Book" for joining the evergrowing ranks of pig lovers everywhere. The future can only hold more glorious tributes for this porcine animal as the world catches up on 9,000 years of delayed thanks to swinedom. And, as Mr. Hedgepeth speculates, perhaps someday there will be the formation of hog clubs around the country—not the existing breed associations but urban organizations whose members devote themselves to the pure esthetics of fine swine, pig poetry reading, and fine cuisine. I would proudly join, as even now I think of myself as a "pork scout" at heart.●

A SOUND INVESTMENT

HON. JOHN T. MYERS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. JOHN T. MYERS. Mr. Speaker, the recording industry is a major employer in my district with several thousand jobs directly related to the production and marketing of sound recordings. We are proud to have Columbia House in Terre Haute and know how important the recording industry is to our area.

Over the years, I have read and heard much about the pleasures of listening to sound recordings. The following article, which appeared in the New York Times, should be read by all who enjoy recordings.

As author Hans Fantel puts it:

High-quality music reproduction in the home has advantages no concert hall can match. . . .

Besides, the disk never has an off night. It is never indisposed, or simply bored. The moment of inspiration can be recaptured. It no longer perishes with its own sound.

The article follows:

[From the New York Times, July 20, 1978]

SOUND—PHONOGRAPH CONVEYS MORE THAN ONE HEARS IN THE CONCERT HALL

(By Hans Fantel)

On a buggy but otherwise balmy evening in the Berkshires last week, we were listening to some Haydn on the porch, looking out on the darkening hills. Music and landscape conjoined and gave rise to a feeling of surpassing serenity, such as probably would not have been induced by the same performance in a concert hall. Afterward, my wife remarked that we were the first generation in the millennial history of music for whom such an experience was possible. For, thanks to electronics, music has become independent of time and space.

To hear music at the time and place of our choice seems to have been an ancient desire. Princes and potentates (to use the ringing phrase of the Founding Fathers) would take their private musicians to their chambers or on trips. King Saul, according to reliable sources, had a young harpist named David. Goldberg, for whom Bach wrote his famous variations, would lull his Saxon master's insomniac nights. And the mostly scandalous annals of the Congress of Vienna took awestruck note of the fact that Talleyrand traveled with his own pianist to play for him wherever he went.

But such privilege belonged to the few, and their enjoyment of the music may have been colored by the fact that the artists were their servants. Besides, the repertory was necessarily limited to what could be performed under portable conditions, while we enjoy the effortless electronic transport of entire orchestras into our homes or even our automobiles.

Our conversation naturally ambled toward musical settings—concert hall contrasted to living room, and the astounding fact that in this electronic age most music is no longer heard in the presence of the performer.

Today's sound equipment, as the ads relentlessly tell you, aims to give the listener the virtual equivalent of a concert. I think the ads, for all their flamboyance, understate the case. The fact is that, due to sophisticated multichannel recording techniques, the phonograph today conveys more of the music than you are likely to hear from the average seat in the concert hall.

Still, no amount of technical finesse can replace the actual concert. The physical presence of the artists adds an extra dimension that still eludes even the best phonograph—the rapport between the performers and the audience. In this respect, a concert is a unique experience, as personal as a handshake. And even at its best, reproduced music cannot convey the excitement and the festive mood of a gala occasion.

Conversely, high-quality music reproduction in the home has advantages no concert hall can match. By delivering music directly into the living room, electronics opens up a wholly new range of musical experience. It forms a direct bridge between the music and the listener. No matter where or when the music was played, modern sound equipment always puts it in the present, always on the spot. No concert organization in the world could match the range of repertory or the impressive roster of artists we command with the flick of a switch.

Besides, the disk never has an off night. It is never indisposed, or simply bored. The moment of inspiration can be recaptured. It no longer perishes with its own sound.

Finally, there's the matter of your own mood. After a frantic rush to get ready, a hectic drive to the concert hall and a desperate search for parking space; you may strive in vain for the frame of mind that lets you abandon yourself fully to the music. And concert hall seats, invariably designed for very proper people who like to sit up straight in the presence of the muse, aren't much help when it comes to relaxing. As one critic observed apropos Wagner, "The mind will absorb no more than the seat of the pants will endure."

By contrast, you can attend your home concerts comfortably recumbent, with no neighbors to rattle their programs, dive for pralines or snap their handbags. And with the help of a snifter of brandy you may find yourself far more responsive to the music than in the formally restrained atmosphere of the concert hall.

And, of course, you can always revise the program. If you don't quite feel up to the sublimities of the B-minor Mass, you can unceremoniously switch to a casual Mozart Cassation or maybe some Scott Joplin. You're your own impresario, in complete control of the musical proceedings. You pick the program, the time, and the artist—an inestimable advantage over the concert hall, where you have to take your music as, and with whom, it comes. In effect, a sound system is like a permanent house party with the world's best musicians as your guests. Paradoxically, their physical absence may be an added boon—a contribution to the kind of privacy that opens the doors of imagination.

That evening last week with Haydn in the Berkshires, I remembered briefly how I first became aware of the phonograph's uncanny ability to transcend time, place, and circumstance. It was long ago in Africa, where I had gone as a very young man to get away from the Gestapo. In the parlor of a dingy Tunisian "pension," I discovered a wind-up Victrola with a few records of Schubert songs and a couple of arias from "Aida." Even the wheery sound of that ramshackle machine had the power to banish the war for a life-sustaining moment and take me back to the home I had left. In doing so, that old phonograph transformed a dark time and somehow kindled hope for the future.●

AMENDMENTS TO CIVIL SERVICE REFORM ACT

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. MITCHELL of Maryland. Mr. Speaker, I have introduced into the RECORD three proposed amendments on H.R. 11280.

Mr. Speaker, the first amendment which I have introduced to H.R. 11280, the Civil Service Reform Act, establishes that employees should not waive statutory rights by pursuing negotiated procedure rights.

I have submitted this particular amendment because I believe that the intent of the Congress in defining "conditions of employment" in section 7103 (A)(14) is unclear.

Since we have all studied the bill, or at least I suppose I can safely presume so, we know that section 7103(A)(14), page 315, defines "conditions of employment" as meaning personnel policies, practices, and other matters whether established by rule, regulation, or otherwise; however, policies, practices, and matters relating to discrimination, prohibited political activities, and policies specifically provided for by Federal statute are excluded from the concept of conditions of employment.

It is obvious that this definition is intended to exclude certain matters from the negotiated provisions. However, inasmuch as precedent under the National Labor Relations Act will be important in determining how chapter VII will be interpreted, it is submitted that providing exceptions to the definition of "conditions of employment" simply leaves a gaping hole in the intent of Congress.

It is generally recognized that there are three types of bargaining subjects; namely, mandatory subjects, prohibited or illegal subjects, and permissive subjects. By defining "conditions of employment" to eliminate racial discrimination, political activities, and matters specifically provided for by Federal statute, Congress has not prohibited a labor organization and an agency from bargaining concerning such subjects. In other words, they would be permissive subjects and thus it would not be unlawful for an agency and a labor organization to negotiate with respect to a clause pertaining to them.

With the negotiation, an issue would arise concerning whether or not employees must follow the negotiated grievance procedure in resolving their complaints regarding this clause, or whether they would be free to use the statutory procedures. I am not so concerned that the employees would have rights in both areas. That is quite clear. However, it is not clear that they would have remedies in both areas. While it is suggested that at least in the area of title VII discrimination, employees have remedies in both areas, with respect to political activities and matters specifically provided for in Federal statute, dual remedies are not so guaranteed.

My amendment is specifically designed to hopefully prevent the possibility that the courts will misinterpret the intent of the Congress in this matter. It should be clearly stated that employees will have the right to pursue remedies other than remedies provided in the negotiated procedure in any instance where there is an overlap between the negotiated procedures and those provided by Federal statute. Further, it should be provided that employees will have the right to pursue their statutory remedy and their negotiated procedures remedy in all cases. To impose exceptions would be to defeat the purpose of the intent.

There may be a question that such an amendment as the one which I have proposed would result in duplication. To that, let me respond by saying that such duplication is not uncommon where dual rights are provided by Congress. For example, in many cases, employees who claim racial discrimination must pursue their administrative remedies through a hearing, and these same employees get a full blown trial in court if they lose at the agency level.

In this vital matter, it is of the utmost importance that we in Congress make our intent very clear. We must undoubtedly show that in all cases, the employee will have a right to utilize both the statutory and negotiated procedures.

Mr. Speaker, my second amendment to H.R. 11280, the Civil Service Reform Act, is a genuine reflection of my belief that the right of an employee to select a representative of his own choosing should be protected in all respects.

If we refer to section 7114(A)(2) of the bill, dealing with representation rights and duties, we will note that the following appears:

The rights of an exclusive representative under the preceding provisions of this subsection shall not be construed to preclude an employee from being represented by an attorney or other representative, other than exclusive representative, of the employee's own choosing in any appeal action under procedures other than procedures negotiated pursuant to this chapter.

This section is indicative of the fact that in view of the proposed expanded scope of bargaining, an exclusive representative would be able to negotiate with respect to virtually every aspect of the employee's working conditions mandatory negotiated procedures required to be followed in resolving claims of violation, thus placing the employee in a position where his total rights as a Federal employee would be contingent upon the good faith with which the exclusive representative handled his claim. It is my fear that this would place many employees, particularly minority group employees, in a position where the exclusive representative would control their fate.

As you all probably know, in January 1977, I sponsored H.R. 2722, a bill relating to collective bargaining representation of postal employees. If I may, I would like to briefly touch on a few of my findings while working with this legislation.

The experience with what happened in the Postal Service raises serious doubts as to whether or not minorities are being protected by the predominately white exclusive representative where all procedures must be handled through the negotiated grievance procedure. Thus, prior to the Postal Reorganization Act minorities composed approximately 19 percent of the working force in the post office. In a recent survey, it was cited that this number has dwindled to 16 percent with a special note that this statistic is based upon an expanded definition of minorities which includes many individuals who are not black. Let me further state that in addition, in the mailhandlers craft of the Postal Service the minorities have lost in excess of 8,000

jobs since the enactment of the Postal Reorganization Act.

It is quite clear that this pattern of systematically removing minorities from gainful employment in the Postal Service came about when the so-called craft unions were given the power by the courts pursuant to language provided by Congress, to be the "exclusive union" of postal employees. Consequently, it is sad but true that the interests of the blacks and minorities in the Postal Service simply has not been protected by the so-called craft unions.

It is my concern that this very same thing could easily occur in the Federal service unless there is adequate language to protect the right of the employee to select a representative who will protect his interest and not allow the agency to further the cause of "institutional racism."

As originally envisioned by President Kennedy the Federal employee occupied a position substantially different from that of the private sector employee. Thus, President Kennedy gave to Federal employees the right to be represented in every respect of his or her employment relationship, even under negotiated procedures, by a representative of his own choosing so that the Federal employee when adversely acted upon by an agency would not be able to claim that he did not have the representation that was best for him or her as opposed to the best for the Federal service or best for a particular organization.

I believe that my amendment which on page 332, would strike out line 14 and all that follows down through line 7 on page 333, and insert "(d) The processing of any grievance of any employee under a procedure negotiated under this chapter shall not preclude the employee from pursuing any right provided to him by or under any other provision of law," would be appropriate to protect employees against weak, corrupt, ineffective, biased, or otherwise unsatisfactory representation.

Mr. Speaker, the third amendment I have introduced to H.R. 11280, the Civil Service Reform Act, will hope lend greater clarity to the meaning of a "labor organization" as it is defined in section 7101(4)(A) of the bill. Of course I realize that we are going to have organizations that do not fit into this definition. These types are very clearly cited in that section of the bill which I seek to amend. However, although I do not believe that the definition of a "labor organization" in H.R. 11280 is intended to exclude "exclusive representatives," this cautious step certainly cannot hurt.

My amendment, which simply inserts on page 292, line 22, after "organization," the following: "(other than an exclusive representative as defined in paragraph (16)(B) of this section)," is strictly a technical one to assure that none of our Nation's 86 labor organizations holding exclusive recognitions will be adversely affected by the definition of a "labor organization" as has been cited in H.R. 11280.

It is imperative that the language in section 7103(4)(A) be amended in order to eliminate any question that may be raised with concern for whether or not the large number of labor organizations which are smaller than the giants are organizations "limited to special interest objectives." By amending this language we can remove all doubts that organizations such as the National Alliance of Postal and Federal Workers which were founded out of the discriminatory practices of several white controlled unions would not be regarded as organizations "limited to special interest objectives" merely because they are gravely concerned with the fight against racial and other discrimination.

With regard to the connotation of a "special interest objective," let me just briefly add that because of the absence of a clear definition in this area, the enactment of the Civil Service Reform Act, would leave the courts and the Federal Labor Relations Authority with the task of determining which organization is and which is not a chapter VII labor organization. Thus, it is entirely possible that by simply indicating that an establishment is a "special interest" organization, the Federal Labor Relations Authority could eliminate the structure.

Let me reiterate that I do not believe that the intent of the Civil Service Reform Act's definition of a "labor organization" is to exclude exclusive representatives. However, I do believe that at this point, it is feasible to be cautious in this area so that by no means of interpretation can these structures be placed outside the realms of labor organization status.●

SHORTSIGHTED VIETNAM POLICY SHOULD CHANGE

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. SIMON. Mr. Speaker, our policy toward Vietnam is a shortsighted one.

Other nations now recognize that Vietnam is trying to build a course of international political independence and economic independence, and so other countries are establishing ties, both diplomatic and economic, with Vietnam.

I learned recently that Japan is providing assistance to Vietnam. For fiscal year 1978, Japan has provided 10 billion yen of credit, which will be used for commodity aid.

They gave the Vietnamese the following list of items from which they could choose their commodity assistance:

(A) Equipments and General Merchandise (5,500 million yen)

1—1.400 million yen: Electric fittings; magnetic wire; electric cable and electric spare parts (including materials for manufacturing of electric fans).

2—700 million yen: Fine chemicals (for hides and leathers), electric bulbs; welding rods; printing ink, phosphoric acid.

3—460 million yen: Dye-stuffs.

4—1,300 million yen: Paper of different varieties; packing paper board; printing paper, and cigarette paper.

5—30 million yen: PVC for artificial leather.

6—920 million yen: Metal of various kinds; steel strips, steel wires, non-ferrous-metal, etc.

7—650 million yen: Woolen acrylic yarns, satin.

8—40 million yen: Diamond powder.

(B) Machinery and Parts (2,500 million yen)

Motor for water pumps—230 million yen; electric motors—200 million yen; ball bearings—230 million yen: tools (sawing blades, milling nipper, precision tools)—460 million yen; tyres and tubes, spare parts for trucks HB3-120—115 million yen; machines and spare parts for soda, electric power, freezing, fiber-cement, paper, spinning, thermos bottle, gourment, power plant—1,265 million yen.

Mr. Speaker, what Japan is doing in the process is, first of all, helping Vietnam, but they are doing much more than that.

They are establishing ties of friendship with Vietnam that help to nurture political and enormous independence on the part of the Vietnamese.

In addition, the items which they are providing will provide jobs for people in Japan.

And, third, and by no means insignificant, the Vietnamese become accustomed to using the Japanese products and, presumably, will buy the Japanese products as their economy improves.

I am aware that our colleague, Congressman SONNY MONTGOMERY, has lead a delegation to Vietnam and Laos, and I hope that delegation will keep in mind the Japanese example.●

CONTINUING CRISIS IN FOSTER CARE

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. MILLER of California. Mr. Speaker, in a front page story today, the Wall Street Journal calls attention to the continuing crisis in foster care and adoption in the United States today. The facts and figures recited by the Journal in this very fine story are all too familiar to the Congress: Thousands of children kept in inappropriate foster placements for years, at great cost to taxpayers; inadequate reviews and placement procedures; insufficient attention to preventive and reunification services; funding priorities favoring long-term placement over permanency for these children.

The story does not mention that the House has recognized these serious problems, and has addressed them in comprehensive legislation passed last year. H.R. 7200, in the House version, includes many of the recommendations proposed by foster care and child welfare experts in the Journal's story. In fact, many of these same experts testified before House and Senate committees in 1975, 1976, and 1977, and were active in the preparation of the legislation which has become H.R. 7200. These proposals, which have the widespread support of nearly every child welfare organization in the country, of many States and local program officials, of the Carter administration, and many others knowledgeable in the field, would not only better protect the

rights and interests of natural and foster parents, and the children, but would substantially reduce costs by emphasizing cost effectiveness, accountability, and prevention.

The House, in passing H.R. 7200 by an overwhelming margin in June 1977, spoke out for reform of the foster care program. The legislation, unfortunately and unnecessarily, has been stalled in the Senate Finance Committee where it has not only been weakened, but also burdened down with wholly irrelevant welfare amendments. In the year since this measure could have been enacted, and should have been enacted, tens of thousands of children have unnecessarily entered, or remained within, the foster care system. The cost to those children, and to the taxpayers who pay for unnecessary and inappropriate care, will continue to grow so long as we delay implementing needed, broadly supported change.

The House has spoken, and the experts are in support of the child welfare provisions of H.R. 7200. The Journal's story forces us again to confront this issue, to turn to the Senate and ask, when will the Senate, too, indicate its concern for these children and their families, and pass the child welfare provisions of H.R. 7200?

The story follows:

NOBODY'S KIDS—FOSTER-CARE SYSTEM IS ACCUSED BY CRITICS OF HARMING CHILDREN

(By Jonathan Kwitny)

Seven-year-old Bobby lives in foster care.

He was born in San Francisco, the fourth child of a woman with a decade-long record of arrests for prostitution and heroin possession (Bobby himself became addicted in the womb). He went immediately into foster care.

In 1975, some foster parents sought to adopt him. Bobby liked the idea, and so did the social worker who had his case. But a judge refused to free him from his biological mother (the father was long gone). After two years of investigations and hearings, the mother moved to Los Angeles. So the judge ended Bobby's adoption hearings in San Francisco and sent him to a Los Angeles judge, who ordered him to live with his biological mother (she had kidnapped two of her other children from their foster home, and so they also lived with her). Two weeks later, she was arrested again, and Bobby and his siblings, now under Los Angeles jurisdiction, went on to new homes and new social workers there.

CASE CALLED TYPICAL

Bobby's current social worker says he is typical of the cases she handles. Indeed, he seems typical of the nearly 200,000 American children believed to be in long-term foster care (nobody keeps an accurate count). Under the current system, these children spend their formative years bouncing from one foster home to another, deprived of roots, unsure of the future, calloused in outlook and, authorities say, much more likely than the average youth to wind up an unemployed adult living off welfare and crime.

Yet, according to numerous adoption workers, there doesn't seem to be any shortage of families eager to adopt most of these children. Critics say many children are kept in foster care only by outmoded laws and by the self-preservation instincts of a social-service industry that would shrink drastically if foster children were put into permanent homes.

Stories like Bobby's have sparked a growing movement to encourage adoption and to put the foster-care industry under federal regulation. Critics already have the Carter administration's ear and think they can win over Congress next year. Peter Forsyth, a leading critic, says, "My guess is we spend in this (foster-care) system about $2 billion a year, of which $1 billion could be eliminated. And the kids would be much better off."

MANY STUDIES

Mr. Forsyth, a former chief of the Michigan Department of Social Services, moved to New York in 1973 to head a foster care project being started by the Edna McConnell Clark Foundation. Many of his complaints about foster care are echoed in a 1975 congressional report, a 1977 General Accounting Office report and a 1977 audit of New York City's foster care agencies by the city's comptroller, Harrison Goldin, as well as by social service workers across the country. The Clark Foundation also financed creation of the National Commission for Children in Need of Parents which has been holding hearings for the past 10 months and is expected to recommend federal regulation in a report this month.

Defenders of the foster-care system term much of the criticism unfair and express doubts that adoption really is a panacea, although even they concede that some changes in the relevant laws might be desirable.

What opened the door for reformers was the revolutionary impact of legalized abortion on the once-booming adoption market, because of a shortage of healthy, young, adoptable children, hundreds of thousands of qualified childless couples are being turned away by adoption agencies. Demand has jumped even for older, problem and handicapped children, who previously had nearly always been consigned to foster care. Yet most of these children haven't benefitted from the strong demand. Critics of the system pin much of the blame on two kinds of laws, which are fairly consistent from state to state with certain exceptions.

One set of laws tends to preserve the rights of biological parents to prevent adoption of their children by other people, even when the children have been removed from home because of beatings and other abuse and even when parents haven't tried to see their children for years. So the children stay as Bobby did, in foster care.

AID CUT OFF

The other laws tend to cut off government financial aid for foster children as soon as they are adopted, or shortly afterwards. Thus foster parents lose their expense allowance—perhaps $200 a month—if they adopt the children and give them permanent homes, as many want to do. And because the children typically need expensive medical, educational or counseling help that the government will pay for only in foster care, adoption often is simply impossible.

The cutoff in support funds after adoption also creates a conflict of interest for professionals in the field. More than half of the nearly $2 billion a year paid by taxpayers to support foster children goes for salaries of social workers and their bureaucracies, authorities say; by encouraging adoptions, social-service agencies would be putting themselves out of business—a threat that they naturally resist even though they are nonprofit.

That, at least, was the gist of the Harrison Goldin study of 35,000 foster children in New York City. The study found that they had been in foster care an average of 6.7 years and that only one in seven was either returned home or adopted in 1976, the year of the study. The report found that the agencies had failed to plan a future for nearly a third of the children and that most other children weren't benefiting from supposed plans for their return home or adoption. The report concluded: "The discrepancy between the number of children who the agencies say should be adopted and those actually adopted last year is so enormous that it leads one to question the agencies' seriousness of purpose."

The privately run agencies attacked in the Goldin study are represented by the Council of Voluntary Child Care Agencies (COVCCA—pronounced "Kafka"). Its members—many with religious affiliations—get more than 90 percent of their income from per diem foster-care stipends from governmental bodies. COVCCA contends that the Goldin report is "full of holes," that the "emphasis on adoption" is "relatively recent" and that the desirability of adoption is "still open to some doubt."

Similarly dubious about adoption is the National Association of Homes for Children, an organization of 400 agencies housing 30,000 children in group foster homes. A leader of the association says that he can't estimate how heavily his members depend on government funds, but that he is sure the children are where they belong.

Even COVCCA and the National Association of Homes for Children say they support the major specific suggestions being made for change in the laws relating to foster care and adoption. But their arguments come out with a different emphasis. Says Joseph B. Gavrin, executive director of COVCCA, for example, "In general, we're in favor of measures to make it easier to terminate parental rights. We also want to make sure that kids aren't snatched from their natural parents until they (the parents) have had a chance to rehabilitate themselves. We want to make sure that when parents place a child into foster care, they aren't ceding all rights to get that child back again."

Mr. Gavrin says he agrees with suggestions that a judge should tell biological parents at the outset of a child-care case exactly what they will have to do to prevent termination of rights, and should give them a date for compliance. But Mr. Gavrin emphasizes that the conditions and the date shouldn't be "unrealistic."

"I HAD A TOUGH MOTHER"

Says a spokesman for the National Association of Homes for Children, defending institutional care, "I don't know how your childhood was, but I had a tough mother and I've paid for it over the years. I don't think family life is always best."

Nevertheless, Mr. Goldin says another audit, to be released this month, will show that nearly half of the foster children confined to institutional care in New York—largely with COVCCA members—could be put in private homes and would be better off there. And the most extensive indictment of the foster-care industry across the country is expected this month as the result of the study by the National Commission for Children in Need of Parents.

In thousands of pages of testimony before the commission, the foster-care system is depicted as rife with inefficiency, waste and downright cruelty. State officials have confessed that they don't even know how many foster children are under their supervision, or the children's ages. Interagency squabbles have kept qualified couples from adopting handicapped children in other cities. Turnover among caseworkers has run so high—100 percent a year in some places—that real supervision is impossible.

SUPPORT FOR CHANGE

Although the social-work industry is severely criticized by the commission staff, some of the strongest support for change comes from within the industry itself. Many social workers are truly dedicated people. Unlike coworkers who have become so frustrated by the conditions that they do little more than go through the motions, the dedicated ones still toil in the slums and

the courts trying to help children, often despite staggering caseloads.

Occasionally, they contend with real horror stories. In Chicago, for example, judges continued to send six-year-old Johnny Lindquist back to his biological parents despite repeated evidence that they beat him. Then, in 1972, the parents killed him. Both went to jail, but continued to claim parental rights to their other four children until last year, when Mrs. Lindquist, out on parole, finally agreed after heavy newspaper publicity to free the children for adoption (as had her husband shortly before).

While such extreme cases get heavy publicity, the sad stories such as Bobby's are perhaps more important because apparently they occur day after day without any publicity at all. They are routine, not unusual. Social workers and agency chiefs interviewed in various parts of the country complain of an almost-identical list of problems.

SOME CASES CITED

One such critic is John F. Boyne, director of Spaulding for Children in Orange, N.J. (one of five Spaulding centers operating independently in different states and specializing in adoption for children with serious emotional or physical handicaps). Mr. Boyne tells of a mentally retarded, heart-damaged infant girl in Saratoga County, N.Y., for whom he found a qualified adoptive family in New Jersey. He offers copies of correspondence in which the Saratoga County Department of Social Services refused to give up the child because, the department said, it would lose federal supplements paid on behalf of the infant and also because the department didn't want to pay Spaulding's $750 placement fee.

The department suggested that the infant be sent to the family as a foster child so that Saratoga County could continue to get the federal money, of which $7 a day would be sent to New Jersey for expenses. Mr. Boyne, a believer in adoption, declined. The infant remained in foster care in New York, and the New Jersey family later adopted another retarded child. Mr. Boyne says that only the blatant candor of the Saratoga County department's letter distinguishes this case from many others.

Joseph Gemmiti, Saratoga County Commissioner of Social Services, whose name is typed at the bottom of the letter to Spaulding, says he won't comment unless he is told the child's name. He agrees, however, that Mr. Boyne can't ethically disclose it. So there isn't any comment.

New York State law at least theoretically provides for continued subsidies to children adopted in, say, New Jersey. But many states refuse to pay medical and other expenses for children who leave, or do so only after much foot-dragging. Mr. Boyne says that he twice found adoptive homes for the same retarded boy from Washington County, Md., but that both arrangements were scotched by the county's refusal to pay Spaulding's $750 fee (which the agency says it needs in order to survive). Richard Bateman, Maryland's Director of Social Services, says that this might have happened a year ago, but that under a new state law such payments and other subsidies now are permitted and that a deserving adoption wouldn't be prevented again.

DUNNED BY HOSPITALS

In another case, Kenneth and Beth Larson of Succasunna, N.J., have adopted three children with spina bifida, a severe birth defect. They say that Massachusetts, from which two of the children came, balked at paying the heavy medical bills (one child has had 17 operations) as it had promised. So the thanks that the Larsons got for giving the children a home was harassment from hospitals. "They were trying to take our house away," Mrs. Larson says. She adds that the office of New Jersey Sen. Harrison Williams, after contacting the office of Massachusetts Sen. Edward Kennedy, eventually persuaded Massachusetts to accept responsibility, although nearly $20,000 of bills still haven't been paid.

Social workers complain that it's useless even to try to bring in children from many states, particularly if the youngster is severely handicapped and adoption would saddle a family with staggering medical bills. Some states discontinue benefits after adoption even within the state, although the taxpayers pay the medical expenses anyway, plus much more, if the child stays in foster care.

Some states' rules have peculiar—and regrettable—effects. California, for example, puts a five-year limit on benefits; as a result, children often can't be adopted until age 13 (five years later, at 18, the children would lose foster-care benefits anyway, and at the age of majority can apply for state assistance regardless of their adoptive parents' income). Mr. Boyne comments, "No way is a kid with cystic fibrosis going to get cured in five years."

The courts also are a major source of complaint. Social workers say that many judges, inexperienced in child problems, are unpredictable at best. One of Chicago's two adoption courts has been presided over by six different judges in two years; two were reassigned to other duties after Chicago Tribune editorials blasted them for returning children to unfit parents. "Judges don't want the assignment," says Carol Amadio, attorney for the Illinois Department of Child and Family Services. "You make decisions where children end up dying a lot of the time."

In Los Angeles, Janet Ter Veen, the social worker assigned this year to supervise Bobby, gripes that although state law allows a child to be freed for adoption if his biological parents have either abused or neglected him, judges usually won't act unless there is both abuse and neglect. She explains that charges of abuse usually are plea-bargained away when the child is first taken from home. To avoid a lengthy court fight and to get the child out of an unsafe home quickly, the state agrees to drop charges of abuse, which can bring criminal penalties; in exchange, the parents agree to put the child in foster care on grounds of mere neglect. Years later, when another social worker brings the child up for adoption, the record doesn't contain evidence of abuse, and so the judge refuses to free the child from his biological parents.

Moreover, many courts don't consider a child legally abandoned even if his parents haven't tried to see him in years, adds Marilyn Wright, an attorney for the Los Angeles Department of Adoptions. A social worker—who may have scores of cases—must find the parents (often living in different cities), notify them where and when they can see the child and provide them with transportation and even such services as job help or drug rehabilitation. Only if the parents still don't want to see the child has "abandonment" taken place.

Judge John Mendoza of Las Vegas, vice president of the National Council of Juvenile and Family Court Judges, acknowledges "some partial validity" to social workers' complaints that judges are more interested in parents' rights than in children's. But he and other judges prefer to blame the lackadaisical attitudes of social-work agencies.

SOME RECOMMENDATIONS

Judge Mendoza, whose council recently reviewed foster-care case files in 23 courts, recommends a federal law requiring agencies getting federal foster-care funds to make plans for each child's removal, if possible, from foster care. He also wants frequent judicial reviews of such plans to be required.

In a similar stand, the staff of the National Commission for Children in Need of Parents, urges mandatory reviews, by a court or other outside authority, of every agency's plans for every child every 60 days.

Other recommendations currently being studied by commission members include a full federal takeover of the system or a federal law withholding money from states whose own laws don't meet certain guidelines; clear standards for terminating parental rights; defining adoption as a service to children, not parents, so that the child's medical bills would be paid for regardless of the adopting parents' income; federal funds to pay for services, such as day care, that might prevent children from being removed from homes disrupted by hospitalization or other problems; federal or state licensing of tax-aided foster-care agencies, plus standards for social workers' qualifications, maximum caseloads, etc.; and a national exchange to register children needing homes and to facilitate placement.●

WHERE ARE THE CARRIERS?

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. BENNETT. Mr. Speaker, in the latest issue of Horizons, is an article based on conversations with the naval expert Norman Polmar. The title of the article is taken from the conclusion of the article:

It's no wonder that whenever trouble flares up around the world, one of the first responses by our leaders in the White House, State Department, Pentagon and Congress: "Where are the carriers?"

I insert entire article at this point in the RECORD.

WHERE ARE THE CARRIERS?

(NOTE.—In their 56-year history, U.S. aircraft carriers have been active in more than 50 wars and lesser crises. Among the more memorable: the Korean conflict, early 1950s; Lebanon uprisings in 1958 and 1976; Cuban missile crisis, 1962; Dominican Republic civil war, 1965; Southeast Asian combat and evacuations, 1960s and 1970s; Jordan uprising, 1970; India-Pakistan war, 1971; Arab-Israeli war, 1973; and the Mayaguez "rescue," 1975. Clearly, when the United States wants to shake its fist, carrier aviation provides the muscle—ready for any degree of response.)

If you were to fly over Truk lagoon in an Air Micronesia airliner today, you would see a scattering of masts poking mournfully from the sparkling waters—tombstones for some 30 ships silenced three decades ago by U.S. aircraft carriers. These are the visible remains of thousands of tons of naval and merchant shipping sunk or disabled at the Pacific atoll, largely by Hellcats and Avengers from the fast carriers *Bunker Hill, Enterprise, Essex, Intrepid,* and *Yorktown.*

The striking power and extreme mobility of American aircraft carrier task groups revolutionized naval warfare. The carriers could destroy the enemy's fleets and his air power, preventing interference with our amphibious assaults. And they highlighted a basic flaw in Japan's island chain of "unsinkable carriers": the islands, like Truk, couldn't be moved to safety. But the aircraft carrier, truly a floating island, was able to elude its attackers while moving to and from the scene of action.

CARRIER IS MORE SURVIVABLE THAN LAND BASE

Despite the advent of advanced weapons, the aircraft carrier is more survivable than any land base. One big reason, Norman Polmar says, is that the ship cannot be pre-

targeted. An aerial or satellite photo of a land base, even if several months old, permits pinpointing of the target—firmly anchored in concrete—right down to the nearest foot. In contrast, the carrier could probably move more than 15 miles in any direction during an ICBM's time of flight. Although the enemy might know the ship's position precisely at a given time, the carrier could be anywhere within a 25,000-square-mile circle just three hours later.

FLEET'S BEST DEFENSE AGAINST CRUISE MISSILES

Today the carrier is the fleet's best defense against cruise missiles because its aircraft can attack most launching platforms—ships, aircraft, or submarines—before they are within missile-firing range. And, with proper warning, carrier-based Grumman F-14 fighters can shoot down some anti-ship missiles in flight with their long-range Phoenix missiles.

In fact, carriers proved highly survivable against guided missiles in World War II. More than 2,300 kamikaze attacks were made against U.S. ships, with carriers the principal targets. Although these suicide aircraft were controlled by the most sophisticated guidance system known—the human brain—they failed to sink a single fast carrier. Kamikazes did damage several American fast carriers, some rather severely. However, those were "thin-skinned" ships when compared to their British contemporaries which had armored flight decks, as do modern carriers. When, on several occasions, British flattops were hit by kamikazes, they were usually back in full operation as soon as the debris could be pushed off the flight deck.

No U.S. carriers designed in World War II or later have been sunk, despite their active role in many of more than 50 wars and lesser crises. Land bases have not fared as well. For example, all the jet-capable air bases in South Korea were overrun by enemy ground forces, not once but twice. In South Vietnam, more than 400 planes were destroyed on the ground and some 3,000 more damaged by enemy attacks. Also, not one of the dozens of major air bases that were built in the past 28 years on the Asian mainland remains available to U.S. forces today.

Similarly, most of the U.S. air bases that once ringed the Mediterranean—in Morocco, Greece, France, and Spain—are effectively gone. We spent some $10 billion to build or lease bases in France, Libya, and Morocco. But they've all been "repossessed," something that has never happened to any of our aircraft carriers.

CARRIER IS TOUGHEST SHIP TO SINK

Today's large carrier, with armored flight deck, improved torpedo protection, and internal damage-limiting features, is the toughest ship in the world to sink. When nine large bombs with the explosive force of a half-dozen Soviet cruise missiles accidentally detonated on the flight deck of the nuclear-powered Enterprise, the ship was judged to be capable of resuming air operations within one hour of the accident, had the need arisen.

And, despite its size, a fast, large-deck carrier is not easy to track. An enemy planner who knows where the ship is today cannot automatically order her attacked tomorrow because his shadowing forces may lose contact or the carrier may move out of range of his land- or sea-based attack forces.

It's not that hard for even the world's largest warship, the nuclear-powered *Nimitz,* to "get lost." The ship can sail off at night in a silent EMCON (electronic emission control) mode, with a Grumman Hawkeye early-warning radar plane overhead to provide undetectable eyes, ears, and communications functions. Even a ship's infrared signature can be suppressed. Decoy merchant ships fitted with radar reflectors could also spoof enemy trackers, and it could take until daylight the next day for the enemy to figure out exactly who is where.

LARGE-DECK CARRIERS ARE BEST PROTECTED

The carrier's escorts—surface ships and submarines—also have warning and attack capabilities to defend the carrier. Of course, the principal defensive weapons of the carrier are her high-performance fighters and attack aircraft. The latter, augmented by ASW planes and helicopters, are equipped to destroy hostile surface ships and submarines before they can attack the carrier. But vulnerability must be a secondary consideration in evaluating aircraft carriers. As Admiral Elmo Zumwalt stated in 1971, when he was Chief of Naval Operations:

"We do not buy ships because they are invulnerable, but because they are useful despite their vulnerability, and then we work hard to minimize the vulnerability . . . The *Nimitz* class carriers . . . will be the best protected and least vulnerable carriers ever designed."

The only way the U.S. can maintain forward deployment in the world is to station large aircraft carriers and their air wings on the vast oceans that cover more than 70% of our planet. Today, two such carrier task groups are deployed in the Mediterranean (the Sixth Fleet), two in the Western Pacific (the Seventh Fleet), with one more normally operating out of Hawaii (the Third Fleet), and one along the Atlantic Coast and in the Gulf of Mexico (the Second Fleet).

To maintain four carriers forward in peacetime requires eight others in local operations, training, overhaul, and modernization. This seemingly inefficient two-back-for-one-forward deployment schedule is based mainly on the current personnel situation. In today's all-volunteer environment, the Navy must compete in the United States for skilled personnel to man its ships. Trained sailors are always in short supply. Even when not deployed, a flattop is often at sea for trials, training, and actual operations.

Generally, a carrier sailor spends half or more of his time at sea. In periods of international crisis or conflict, the percentage of carrier force forward-deployed climbs dramatically. During the Vietnam War, for example, well over half the total number of carriers were maintained in the combat zone, a ratio of about one-for-one.

The Navy now has 13 carriers in commission: eight post-World-War-II *Forrestal* types, the nuclear-powered *Enterprise,* the two nuclear *Nimitz*-class ships, and the wartime-built *Midway.* The 13th—the wartime-built *Coral Sea*—is a non-deploying ship, soon to be used only for pilot and reserve training. Another *Nimitz*-class ship—the *Vinson*—is scheduled to be completed in the early 1980s. Thus, in theory, the Navy will sail into the next decade with 12 modern carriers.

However, the oldest of the *Forrestal*-class carriers were commissioned in the mid-1950s. These ships must undergo an extensive modernization, known as Service Life Extensive Program (SLEP), to gain a service life of some 40–45 years. While one carrier is in the yard for SLEP, she must have a replacement in order to keep the force at 12 operational carriers. The *Midway* will permit operation of the 12th deployable carrier as well as the training ship into the 1980s.

But the *Midway* (completed in 1945 and modernized in the late '60s) and *Coral Sea* (1947) simply will not last beyond the mid-1980s. Then, in order to have 12 deployable flattops while "SLEPing" one *Forrestal* at a time, another "large-deck" carrier must be built.

BETTER TO BUY ONE CVN THAN ONE CVV

The Navy and Department of Defense are considering two large-deck designs, a 60,000-ton, oil-fired CVV and another 95,000-ton, improved nuclear-propelled *Nimitz* CVN. "I am convinced," says Polmar, "that Congress will fund only one more large-deck carrier in the next 5 to 10 years. In that case, I would rather have one more *Nimitz*-class CVN than just one CVV. The nuclear-powered carrier has a number of operational advantages over the CVV, including, of course, virtually unlimited high-speed endurance.

"If I were guaranteed two more CVVs," he adds, "then I would start considering that option. If guaranteed three or more CVVs, I'd jump at it."

Current cost estimates are $2.3 billion for the next *Nimitz* CVN and up to $1.75 billion for the first CVV. Some analysts immediately cite the comparative life-cycle fuel costs of the two ships to further demonstrate that the nuclear carrier is a better option; however, says Polmar, considering the additional costs for the CVN and certain other factors, it makes more sense to compare the ship construction costs. Put more simply, the additional $550 million for a CVN provides a much greater combat capability because it carries nearly double the number of aircraft on a CVV, plus twice the ammunition and almost three times the aircraft fuel storage, and twice as many catapults, elevators, and propellers.

It's important to note, also, that the higher CVN cost includes the initial set of two reactor cores which will provide at least 13 years of operation. This is the equivalent of some 11 million barrels of fuel oil which would cost about $360 million to buy, store, and deliver at *today's* prices.

NEED MORE THAN 12 CARRIERS

Actually in Polmar's view, the debate over holding to a 12-carrier force makes little sense, budgetary arguments notwithstanding. We actually need more than 12 large-deck carriers to meet our worldwide roles and commitments. The crucial need is for more air power—on land and sea—to offset the disparity between U.S. strength and that of our potential adversaries.

The trends have been made clear . . . and they are most disturbing. Polmar lists them as follows:

Decline of the U.S. Navy from more than 5,700 ships at the end of World War II, to just over 800 active ships before Vietnam, to less than 460 today.

The increasing capabilities and operations of the Soviet Navy.

The arming of several Third-World nations with modern aircraft and cruise missiles.

The demise of British carrier aviation.*

Increased Western reliance on African and Middle Eastern resources.

All of these developments point to the need for an increase in U.S. tactical air power for use at sea worldwide. And, some of this can *only* come about through an increase in carriers.

V/STOL technology, once it matures, will surely provide a way of increasing the amount of air power we can deploy at sea. But it does not rule out the need for the conventional type of aircraft carrier. The latter will still be the most efficient way of concentrating air power—whether it be vertical or conventional takeoff and landing.

V/STOL CARRIERS NO SUBSTITUTE FOR LARGE-DECKS

Within the next few years, Polmar figures, advanced fixed-wing V/STOL aircraft (as distinct from helicopters) should prove themselves suited to shipboard use. There already has been, he notes, a significant degree of success with use of the Marine Corps AV-8A Harrier jet at sea. Even further advanced V/STOLs will offer the extremely important opportunity of putting more fixed-wing aircraft to sea—on aircraft carriers and, possibly, on cruisers, destroyers, and amphibious vessels as well.

Such new V/STOL planes will permit us to

---

*The last remaining conventional British carrier, HMS Ark Royal, is scheduled for decommissioning within a year. Then the Royal Navy will retain only a limited carrier capability with helicopters and V/STOL aircraft at sea.

build considerably smaller carriers of a new class, the V/STOL Support Ship (VSS), which should weigh-in at about 25,000 tons. The VSS carrier would be deployed not as a substitute for, but rather in addition to, our 12 or 13 large-deck carriers. And there is every reason to predict, says Polmar, that V/STOL aircraft will eventually share space on the large-decks with F-14s, A-6Es, and other carrier-based aircraft, especially in antisubmarine warfare (ASW) and airborne early warning (AEW) roles.

The VSS would, in Polmar's view, embark perhaps a dozen V/STOL aircraft plus a similar number of helicopters. The V-planes would perform limited strike, reconnaissance, air intercept, and other tactical missions in areas where we might not, for economic reasons, be able to deploy a large-deck carrier or where the potential threat was limited.

Thus, the VSS would bring fixed-wing air power to bear in areas and situations that do not warrant use of the more extensive and powerful capabilities of the large-deck carrier air wing. In particular, the smaller carrier would conduct anti-submarine warfare operations in mid-ocean areas where the size of the larger carrier and its fighter/attack aircraft would be superfluous. In addition to ASW, the VSS would use fixed-wing V/STOL aircraft and helicopters for AEW, radar jamming of missile attacks against convoys, interception of enemy reconnaissance planes, and mine counter-measures.

The same V/STOL aircraft would also be operated in smaller numbers from cruisers and possibly destroyers, for reconnaissance, over-the-horizon targeting for ship-launched cruise missiles, and even for long-range ASW against contacts located with the ship's long-range passive sonar arrays (TACTASS). Of course, the Type "A" V/STOL concepts being studied by the U.S. Navy for ASW and AEW would also be available in a troop-carrying variant for amphibious assault, either from specialized amphibious ships or, on an emergency basis, from the VSS.

CARRIER AIRCRAFT FIGURE IN FUTURE USE OF THE SEAS

Inevitably, Polmar asserts, the future of the large-deck carrier—and all other possible variants for that matter—figures preeminently in the future of the U.S. Navy, despite the debate and controversy that currently obscure it. Based on his grasp of naval history and close analyses of probable future conflict scenarios, Polmar feels it is safe to conclude that manned carrier-based aircraft will remain a dominant factor in the future use of the seas by the United States.

Land-based aircraft such as the Navy's P-3 Orion long-range patrol plane and even "navalized" B-52 bombers could doubtlessly undertake many naval missions. However, for the foreseeable future, such high-performance aircraft as the F-14 Tomcat fighter, A-6E Intruder all-weather/night attack plane, and other specialized types, embarked on forward-deployed carriers, will be vital to the United States, if this nation is to continue to derive political, economic, and military benefits from use of the seas.

While noting that sea-based air can play a particularly valuable role in Third World areas, Polmar tends to downplay the need for carrier-based action in possible NATO-Warsaw Pact conflicts. Of all potential tinderbox areas in the world, he feels the Central European front is the least likely to flare up first. The fact that the U.S. and its NATO allies have faced Soviet-led forces for so long—armed, trained, in place, and psyched-up for any of dozens of well-rehearsed eventualities—diminishes, in his view, the chances of actual conflict.

"Were the Soviets to move against NATO," says Polmar, "I believe it would be more likely to be against the northern or southern flanks. Here, again, the U.S. aircraft carriers in the eastern Mediterranean could be exceedingly valuable in view of the limited availability and relative vulnerability of the relatively few land bases for air responses to protect NATO's flanks."

CARRIER AIR COVERS MIDDLE EAST OIL

The carriers in the eastern Mediterranean or in the northwest Indian Ocean also represent the only effective U.S. tactical airpower in the Middle East—the region that supplies vital oil resources to the West. And, notes Polmar, most of the region is within range of long-range *Backfire* bombers based in the Soviet homeland which are closer to the vital oil routes than any existing air bases in the U.S. or possible ones in the NATO countries. "Aggravating the threat to our interests in the Middle East," he adds, "is the possibility that the Soviets may strengthen their own tactical air capabilities in the region by sending their *Kiev*-class V/STOL carriers into the Indian Ocean."

Reflecting the lesson of the impermanency of U.S. bases in foreign countries, airfields have become somewhat questionable alternatives for U.S. leaders to consider when evaluating our military or political options in the Middle East or many other troubled areas. The October 1973 "Yom Kippur War" showed how precarious even the NATO bases were in support of U.S. national interests.

CARRIERS WERE READY OFF LEBANON

Then, too, there was the recent crisis in Lebanon. Our cariers were first on the scene to cover the evacuation of U.S. nationals and conducted tactical air patrols off the Lebanese coast for 52 days before being relieved by Air Force units. On a typical day during that crisis, the *Nimitz* carrier task force was in position south of Crete ready to back up the *America* task force which, in turn, was deployed south of Cyprus in position to support the U.S. Marine Corps amphibious ready group on station 25 miles off Lebanon. At the same time, a further option was provided by the F-14s and A-6Es of another carrier task force operating in the Indian Ocean within three hours' flying time of the crisis area.

"The point I want to get across here," declares Polmar, "is that the flexibility and striking power of those three carrier task forces were many times greater than the U.S. land-based tactical air power available in that part of the world . . . or any other forces for that matter.

"It's no wonder that whenever trouble flares up around the world, one of the first responses by our leaders in the White House, State Department, Pentagon, and Congress is: "Where are the carriers?" "●

STARTING TO FARM ISN'T IMPOSSIBLE

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. FINDLEY. Mr. Speaker, Keith Wilkey, farm editor of Quincy Herald-Whig, Quincy, Ill., is one of those agricultural journalists who not only covers the day-to-day news but who has a keen feeling for perspective, putting the past into focus with the present, which goes meaningfully beyond a simple nostalgic approach.

This is evidenced by the following column, "Starting To Farm Isn't Impossible," which appeared in the August 22 issue of the Herald-Whig. We commend it to your reading and to those in your constituencies who may have that same hopeful yearning to become farmers.

STARTING TO FARM ISN'T IMPOSSIBLE

(By Keith Wilkey)

The farmer who had been sitting in the porch swing rose to greet the young man who had walked up the front walk. "Hi, Jim. Come on up and sit down a while; take the weight off your feet."

The two men made small talk for a while. The farmer was in his mid-sixties, while Jim was approaching his 27th birthday. Presently Jim's tone took a different note.

"Mr. Johnston," he said. "I would like to get started farming, but I can't see any way. Everyone tells me that it is virtually impossible for a young man to start farming today, and I'm beginning to believe it."

The older man didn't answer right away; he seemed to be gathering words and thoughts. "Son," he said slowly, "there are some things that are impossible all right. Starting in farming is certainly one of them . . . for some. But not for everyone."

Jim started to speak, but Mr. Johnson continued; "I don't want to bore you Jim, but listen a minute. My grandfather came to this country during the German immigration of the 1850's. When he got off the ship he had less than $10 in his pockets; didn't know a soul and couldn't speak a word of English. When he died he had owned this 240-acre farm for 30 years. So be careful what you call impossible."

The young man answered, "Yes, but costs weren't so high in those days. You didn't have to have all this expensive machinery and land could be bought for a low figure. It was easier to do in those days."

Again the elderly man paused. "Remember, son, he didn't get started immediately. His first job was being a handy man around a wagon factory. But he wanted to be a farmer and become a land owner.

"He worked as a farm hand for nine years; that's a long time to work virtually as a common day laborer—nine years. Finally he could rent a small patch and he farmed that for the next six years. That was 15 years and he still hadn't made what we could call much of a start today."

"Fifteen years!" ejaculated the young man "If I'd do that today I would be 42 years old before I could buy a farm . . . practically an old man!"

The wisdom and tolerance that come with years restrained the farmer's answer. "Son, today it is really easier, and you know it isn't going to come over night. You have a pretty good job in town, don't you?" The young man said he did. "What time do you get off in the afternoon . . . 4 o'clock?"

"3:30."

"That 2:30 God's time. You could just about get in a good half day. I'll tell you what I'll do . . . I'll help you and we will see if we can't find some farmer about ready to retire, or a man who wants to give full-time to a city job. Then we'll try and find a little patch where you can raise some hogs. You can buy a tractor for $400 or $500 and comparable machinery. You are mechanically-minded, and can keep it running.

"When you've made a start, you can get an operating loan (OL) from Farmers Home Administration. When the situation is right, you can apply for an FmHA farm ownership loan. But you can't do all this in a few weeks. And it will take hard work, discouragement, disappointment and perseverance.

"Not everyone has these qualities, plus good judgment. But you do. You'll make it."

A silence fell between the two men. Then the old man spoke again;

"You see, son, you have it easier than grandpa did."●

TRIAL OF ALI BHUTTO

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. McCLOSKEY. Mr. Speaker, judicial proceedings against heads-of-state and former heads-of-state are occurring with increasing regularity.

The case of former Pakistani Prime Minister Zulfikar A. Bhutto has been recently described in an article in The Nation by former Attorney General Ramsey Clark, following a visit to Pakistan.

The impeachment proceedings against former President Richard M. Nixon furnish a standard of comparison, as do the proceedings against India's former Prime Minister Indira Ghandi.

In the continuing battle to prove to our young people that the systems of justice of the Western World merit our continued resistance to communism and a continued adherence to Anglo-Saxon standards of fairness, I am hopeful that the Pakistani Supreme Court will shortly bend over backwards to remove all sense of political influence or vengeance from their nation's judicial procedures in Mr. Bhutto's case.

I am attaching Ramsey Clark's observations on the subject for the review of our colleagues:

THE TRIAL OF ALI BHUTTO AND THE FUTURE OF PAKISTAN

(By Ramsey Clark)

(NOTE.—Ramsey Clark, Attorney General of the United States from 1967 to 1969, recently returned from Pakistan where he went as a private citizen to observe the legal proceedings in the case involving the former President, Zulfikar Ali Bhutto, now under sentence of death for murder. He was present for the opening arguments in Pakistan's Supreme Court in Bhutto's appeal and while he was there he met with General Zia ul-Haq, leader of the coup that ousted Bhutto in 1977, with Law Minister A. K. Brohi and with other government officials. He also conferred with lawyers, judges, labor leaders, politicians and students and met with the U.S. Ambassador and his senior political adviser.)

Rarely has a criminal proceeding held such potential to alter history as does the trial of Zulfikar Ali Bhutto. Its impact can reach beyond the fate of a man and the unity of a nation to affect fundamentally economic, political and military power worldwide. The Supreme Court of Pakistan is now considering an appeal from his conviction for murder and the sentence of death. Its decision is expected in the very near future. Executions are carried out immediately following final judgment in Pakistan.

The idea of Pakistan, nurtured by a poet, Allama Iqbal, and consummated by a statesman, Mohammed Ali Jinnah, was fragile from conception. To bind a political union of widely differing, proud and often warring people by a single tie, the religion of Islam, was a unique experiment. The dream of Pan Islam fitted neatly with desires of the Islamic populations of British India to be independent of the majority Hindu population when "freedom came at midnight" to the subcontinent of Asia. The result was a new nation of East and West Pakistan divided by 1,000 miles of land mass.

The West contained four distinct regions with diverse and sometimes hostile populations: the dominant Punjab, the North West Frontier Province, the Sind and Baluchistan. The traumatic separation from India in 1947 split both Punjab in the west and Bengal in the east between India and Pakistan, resulting in waves of migrating millions and recurring massacres. Pakistan, cantaining the poorest areas of the former colony, was cut off from markets, industry and the continuity of government administration, all primarily located in India.

Movements for political separation were powerful forces throughout the new nation from its birth. A bloody civil war began in East Pakistan in March 1971. Four months after the India-USSR treaty of August 1971, Indian invaded East Pakistan and in two weeks crushed West Pakistan forces, ending the war. East Pakistan seceded and became Bangladesh. It contained the majority of the population of the former nation and an even greater majority of its poverty and problems. Henry Kissinger's "tilt" to Pakistan at that time probably deterred India from invading and partitioning the West.

Separatist movements were not limited to tensions between East and West. Within the West there were, among others, a Baluchistan Liberation Movement sometimes based in Iraq and a Pakhtoonistan movement involving both Baluchistan and the North West Frontier—giving rise to the possibility of a new nation in the event of the breakup of Pakistan, a nation that would include Afghanistan and most of Pakistan west of the Indus, excluding the Sind and Punjab, forming a corridor hundreds of miles wide from the Soviet Union to the Arabian Sea. The movements have involved guerrilla warfare countered by martial law and military casualties that may exceed those of the war in the East.

Bhutto came from a wealthy land-owning family in the very poor Sind. Graduated from the University of California at Berkeley and with a law degree from Oxford, he was Minister of Commerce for Pakistan at 30 and Foreign Minister when 33. He resigned as Foreign Minister in protest against military government policies in 1966, having established good relations for his country with China. He was imprisoned briefly in 1968 by President Ayub Khan for criticizing the government.

Founding the grass-roots Pakistan Peoples Party, Bhutto became the dominant political figure in the West by 1970. After the war in which East Pakistan was lost, he became President in 1972 (the first civilian chief of state in more than twenty years) and then in 1973, the first elected Prime Minister. Presenting himself as a democrat, a Socialist, a Populist and reformer, he initiated programs for land reform, economic development, social services, family planning, a strong Pakistan Peoples Party, internal security, Moslem leadership and international prominence based on nonalignment.

It is conceded by friend and foe alike that Bhutto is keenly intelligent, popular and charismatic. On the international scene he was called on to mediate in Cyprus, Korea and elsewhere. He assisted in preliminary contacts that led to President Nixon's visit to China. He negotiated difficult prisoner exchanges with India and Bangladesh, restored relations with Bangladesh, and eased tensions with India.

The United States expressed its strong disapproval of his role in calling for a Third World Summit, fearing concerted action by poor countries. President Carter urged Bhutto to abandon plans for a nuclear reprocessing plant France agreed to build in Pakistan. (India has had the bomb since 1974.)

Within the nation, he helped bring about the adoption of a new written Constitution in 1973 which some saw as a foundation for democratic government protecting human rights and securing economic justice. Economic policies stimulated growth despite difficult international problems including rising energy costs. Agriculture, health, education and housing were major concerns for his government and some progress was made.

But his years in power were in most ways the worst of times. He assumed office in the aftermaths of a humiliating military defeat, the severing of the nation, loss of most of its population to Bangladesh and the psychological and physical impairment of the dominant power in the society—the Army. Floods (including those of 1973 which were called the worst natural disaster in the area's history), earthquakes and other calamities befell the people during those years.

And above all there was the random violence, gun-running, guerrilla skirmishing, constant tension and high risk of revolution or invasion caused by political, tribal, cultural and international ambitions for power and dominance in surviving Pakistan and its very different parts. The Shah of Iran strongly supported Bhutto's efforts to contain the separatist movements. The Shah has no interest in seeing another state arise capable of dominating the strategic Persian Gulf, particularly a Baluch state that could lay claim to the loyalty of Iran's own sizable Baluch population. (Within Iran live one-third of the Baluch people.) World powers, principally the United States, the USSR and China are also keenly interested in Pakistan.

Growing instability was addressed with tough military and police measures. While parliamentary government endured, there were political arrests and detentions numbering in the thousands, martial law for whole cities and provinces at times, and a growing Federal Security Force not greatly concerned for life and liberty. Amnesty International, among others, protested human rights violations in a well-documented 1976 report.

The first six months of 1977 were difficult. Bhutto's popular appeal seemed to slip badly with the turbulence and the harsh government reaction to it. He called elections which were held in March and the surprisingly strong showing of his party brought immediate outcries of vote fraud by other parties. Hundreds of protests and demonstrations, including some by women and children, led to violence and deaths and brief periods of martial law in major cities. Conditions were reminiscent of Chile before the golpe in 1973. Though most observers concede Bhutto candidates actually received a clear majority, probably 60 percent of the votes, a settlement among the parties that might have restored relative calm had not been reached by July, and new elections were planned for October.

On July 5, 1977 there was a bloodless military coup. General Zia ul-Haq, who had attended advanced command courses in the United States and the United Kingdom between 1972 and 1975, assumed government power as Chief Martial Law Administrator. The stated purpose was to stop the "drift toward political chaos." But drastic police measures were taken which created doubt as to General Zia's purpose. Severe penalties were immediately promulgated by fiat. Martial Law Order 12 provided for preventive detention and it was used liberally. Martial Law Regulation 11 of July 5 declared simply: "No one shall, either directly or indirectly, participate in any political activity. Maximum punishment 5 years Rigorous Imprisonment, fine and/and or whipping not exceeding 10 stripes." Martial Law Regulation 13 provided the same punishment for any form of communication critical of the Armed Forces or "calculated to create alarm or despondency amongst the public."

Public executions and floggings were authorized and carried out. The amputation of a hand was made legal punishment. General Zia says, "It is the humiliative rather than the punitive aspect of flogging which is important." He tells one that the death penalty and life imprisonment were not deterrents to criminal conduct but the threat

of flogging was. His new Law Minister A. K. Brohi says floggings are necessary to control the people and asks what do you do with a "mad dog." He defends stoning women to death for adultery and is the principal government spokesman justifying these cruel, inhuman and degrading puunishments as being ordained by the law of Islam.

Bhutto was arrested on the night of the coup and held for several weeks. Most of the high officials in his administration have been confined. Leaders of the Pakistan Peoples Party were also arrested. Many are still in prison, joined this year by leaders of other parties. Bhutto, released to campaign for the October elections, was greeted by enormous crowds. In early September he was arrested and charged with ordering the murder of a minor political figure in November 1974. General Zia publicly spoke of documentary evidence establishing Bhutto's guilt. Released on *habeas corpus* by a court, he was promptly rearrested under both military and civil process and has been detained virtually incommunicado since September 17, 1977.

While he was originally to be tried by a military court, it was decided he should be tried before five members of the High Court in Lahore. The two justices who had granted his writ of *habeas corpus* were excluded. The presiding judge was acting Chief Justice by appointment of General Zia; he was also an old enemy who had heard Bhutto's case when he was arrested in 1968. He should have been disqualified.

The murder charge, if believed, takes the case out of politics. Officials in the Zia government assure you this is a routine murder case. (Ferdinand Marcos of the Philippines, a master at authoritarian deceit, has used an ordinary murder charge to convict and condemn Benigno Aquino, a major political opponent, to death.)

This murder charge, while the most serious that can be made, was not taken seriously at first. The allegations themselves are so inherently improbable. The murder rate in Pakistan is high enough to make Houston seem peaceful. This assault was said to have been an attempt to kill a man named Ahmad Raza Kasuri, a dissident in the Pakistan Peoples Party. On June 3, 1974 Bhutto had become irritated with Mr. Kasuri on the floor of Parliament and expressed his feelings sharply, but not threateningly. This incident is the prosecution's case for a motive. Others had spoken far more sharply. Even threateningly, including Kasuri himself who said of another group, "Time had come for their being killed."

Kasuri's father was apparently killed by automatic gunfire which hit a moving car occupied, according to the evidence by Kasuri, his father, mother and an aunt, near Lahore shortly after midnight on November 12, 1974. Kasuri, who had no way of knowing who fired or ordered the shooting, immediately blamed Bhutto and used the charge politically. In 1972 he had claimed nine attempts had been made on his life for which he had blamed another politician. He claimed three attempts were made on his life in 1974. An investigation of the death of Kasuri's father was closed in 1975 without charges being brought. From 1975 through June 1977 Kasuri sought through intermediaries to establish friendly relations with Bhutto, obtained a meeting with the Prime Minister and returned to the party.

Shortly after the coup, two members of the Federal Security Force were arrested, questioned and confessed to the shooting. Masood Mahmud, Director General of the FSF, was taken into protective custody on July 5, 1977, and on August 14 wrote General Zia making "a clean breast of the misdeeds of the Federal Security Force under the orders of Bhutto." He later confessed to ordering the assault on instructions from Bhutto. His testimony is the only evidence directly linking the Prime Minister to the murder. It is more than suspect. He says Bhutto threatened him and made him personally responsible for "taking care" of Kasuri, commanding him to instruct a subordinate, Mian Muhammed Abbas, to "produce the dead body of Ahmad Raza Kasuri or his body bandaged all over." The body was never produced, of course. Abbas confessed, and then retracted, then on July 10, 1978 his lawyer again filed a confession before the Supreme Court.

The trial was not fair. The acting Chief Justice's conduct would make Judge Julius Hoffman in the Chicago 7 trial a model of decorum. He publicly commented on Bhutto's "guilt" outside the courtroom before conviction. His prejudice is spread through his 145-page decision. Even there he could not restrain himself from characterizing Bhutto, who did not present a defense, as a "compulsive liar," "unruly," "hurling threats as well as insults on us."

As one illustration, before the defense abandoned the case, Bhutto's lawyers had cross-examined Masood Mahmud, the prosecutions second witness. He was asked whether he had caused police to hold a Mrs. Ibrat while "rats were let loose in her *shalwar* and its ends tied." The purpose obviously was to examine the credibility and character of the witness. The acting Chief Justice, in referring to this cross-examination, wrote: "It appears that these questions were put to prove that P.W. 2 (Mahmud) was well-qualified from the point of view of the principal accused (Bhutto) to be appointed as Director General of the Federal Security Force."

The evidence presented against Bhutto, even if believed, would not support a verdict of guilt. The prosecution case was based entirely on several witnesses who were detained until they confessed, who changed and expanded their confessions and testimony with each reiteration, who contradicted themselves and each other, who, except for Masood Mahmud, were relating what others said, whose testimony led to four different theories of what happened, who were contradicted by ballistics and other physical evidence and who were absolutely uncorroborated by an eyewitness, direct evidence, or physical evidence. There were records showing that one of the FSF officers who allegedly fired the shots was in Karachi at the time, but no defense evidence was presented on this. Each of these witnesses had an urgent motive to inculpate the Prime Minister, each alleged that he resisted and protested but was forced by threat and command to participate in the shooting. That Kasuri remained alive in spite of the alleged fury of the Prime Minister did not seem to affect belief that his murder was ordered. Kasuri himself was shown to be a highly erratic, untruthful and opportunistic politician of no standing who sought favor from Bhutto until his overthrow.

Critical stages of the trial were conducted in camera. Comments and rulings by the court and conflicts between counsel and the court caused Bhutto to discharge his attorneys and boycott the trial before the prosecution completed its case. The remaining prosecution witnesses were not cross-examined, no defense case was presented and Mr. Bhutto was unrepresented during the concluding, critical phases of the trial.

All five defendants—Bhutto, the two FSF officers who allegedly fired the shots and their two superiors who were charged with participating in carrying out the order allegedly communicated by Masood Mahmud—were sentenced to hang, Mahmud, who alone testified that Bhutto ordered the acts, was pardoned. Efforts of the other four defendants to involve Bhutto and justify their conduct did not save them, at least not yet.

The decision of the High Court is full of errors of fact and law. Its characterizations of evidence show its bias. There was no objective effort to determine fact.

The case is now on appeal in the Supreme Court of Pakistan at Rawalpindi. There from Saturday through Wednesday each week, the nine justices engage in a meticulous review of the trial record. They are impressive men, learned in the law and skillful in their examination of the trial transcript, counsel and each other. The Chief Justice Anwar ul-Haq questions most frequently, but all participate in a lively manner.

The Court has maintained some judicial power. In an important decision in Bhutto's wife Nusrat's application for a writ of *habeas corpus*, the Court boldly declared that precedents suspending judicial power under similar circumstances through the law or necessity were in error. But no writ was issued and Mrs. Bhutto remains incommunicado in custody, though not charged with any crime.

The Supreme Court of Pakistan is not in an easy position. The Chief Justice was selected by General Zia who had removed his predecessor. Four of his associates were appointed by General Zia. Everyone is looking for political motivation. Each justice has the rule of law in Pakistan, his professional reputation, his personal future, perhaps his own freedom and life before him in this case. The decision will be historic. It is due within weeks now.

We shall see whether the world sits quietly by and watches if Ali Bhutto is executed. Just 51 years old, he moved impressively on the international stage for nearly two decades. Many viewed him as a "scholar statesman," a phrase used by Kasuri in 1976. Political vengeance can be dressed up as a pure criminal trial. Such a method defames former leaders and dissipates support for them. It is not a happy or humane precedent. Even a commutation of the death sentence by the Supreme Court or by General Zia will only diminish the personal tragedy and perhaps temper political significance of this method of destroying democratic institutions.

For Pakistan and Islam, the execution of Bhutto would have devastating effects. If an election were held today, most concede that Bhutto would win overwhelmingly He is the one leader with broadly based popular support in Pakistan His prosecution and his mistreatment in prison, where no foreign observer has been permitted to see him or examine conditions of his confinement, have created new and greater public sympathy for him. Even some soldiers have openly expressed their view that the charges were fabricated

Martial law does not sit easy on the people. Public lashings of members of the press (more than eighty have been arrested) and of many poor people has caused a bad reaction, so that General Zia was quick to observe in mid-July that there had been no lashings for four months. Still, even government-controlled daily papers report sentences of imprisonment and lashing by military courts presided over by a major or a colonel. The Law Minister, who believes in the law of the lash and says both Islam and the people demand it, doesn't seem to hear even supporters of General Zia say that the floggings, executions and threatened amputations are causing greater unrest and alienation. Both at home and abroad the Draconian punishments have greatly damaged the nation and its religion.

The execution of Bhutto would be extremely destabilizing. Rioting, even civil war, is a possibility. The military is not of a single mind. Eighty percent of the soldiers are from Punjab, which creates hostility in Sind, Baluchistan and the North West Frontier. A foreign power with a suitcase full of money might easily establish another General.

Poor Pakistan with its staggering human problems, hunger, violence, illiteracy, illness, population growth, underdeveloped economy, fragile confederation of dissimilar and warring people needs help. A haunting part of the planet running from the Arabian Sea coast to Nanga Parbat in the Himalayas, most of its more than 70 million people live in staggering want.

But foreign interest in Pakistan may prove its greatest problem and peril. It is the wrong country, in the wrong place, at the wrong time. And it will not be left alone.

Afghanistan it is tempting because it contains many people of common tribe and culture in the Frontier and Baluchistan. It also offers access to the sea, the chance to realize a greater Afghanistan and a vast increase in power. To Iran it presents a threat on a long border with a large common population of Baluchs and the threat of encirclement by hostile forces from the Arabian Sea to the Turkish border, along with the possibility of strategic domination by the USSR of the Persian Gulf, the Arabian Sea, the Middle East. To India the prospect of the disintegration of Pakistan offers the chance to consolidate Punjab, to return to British India's borders geographically, along with the elimination of an enemy, control over a wide buffer to the Soviet Union. These are historical and regional concerns.

To China, the Soviet Union and the United States, Pakistan is of the greatest strategic importance. From the days of the wars with the Ottoman Empire, Czarist Russia sought warm-water ports. Pakistan has hundreds of coastal miles on the Arabian Sea, dominating, with Oman, the entrance to the Persian Gulf. Control of Pakistan would directly increase Soviet power over Middle East oil, magnify its influence with India, give it access to the Indian Ocean and to East Africa and greatly contribute to the encirclement of China. With the new, stronger Soviet influence in Afghanistan, destabilization in Pakistan holds enormous meaning.

China, with a common border and open highway from Sinkiang to Karachi, may see Pakistan as a key to containing Soviet influence and holding a protected position throughout the subcontinent and Southeast Asia. With Pakistan controlled by the Soviets, China would be cut off on the west, and India, Burma and Thailand would be more vulnerable to influence by the USSR.

The United States may see in the balance the Middle East and its vast oil reserves, along with greatly altered influence in southern Asia and eastern Africa. People in Pakistan speak of CIA activity in establishing Zia. They name names. It is believable to many. After all, is not Iran—"we helped restore the Shah to his throne," William Colby says—the CIA's proudest achievement?

Whatever the cause, the United States is again in the position of supporting a military dictatorship, harsher in its public pronouncements than any, even claiming religious authority for its harsh rule.

General Zia may have greater difficulty maintaining himself in power than Marcos or General Pinochet or Park or the neighboring Shah. He is unknown. He is inexperienced. He has not been judged effective by international observers. He presides over historic dissension and contemporary turbulence. He rules by the threat of the lash with absolute authority. He postpones elections.

And he may execute Ali Bhutto.

The role of the United States should be clear by now. We cannot live other nations' lives for them. We can only live by our own principles and believe that right may make might.

We should stand for life and implore with all our moral suasion a commutation of the death sentence. We should stand for justice and urge freedom, or—if the facts warrant prosecution, which I have not seen—a new and fair trial for Ali Bhutto. We should stand for democracy and urge popular elections in Pakistan at the earliest date by which all parties and candidates can be fairly presented and voting honestly monitored. We should urge an immediate end to martial law and cruel, inhuman and degrading punishments. We should stand for humanity and send massive economic aid, assuring delivery to those in greatest need—offering food, independence in food production, health care, education, an expanding, independent economy, decent housing and human digity for all the people of Pakistan. It is to these issues that our imagination, energy and foreign policy should be addressed.●

AN OBSERVATION ON CAPITOL DEVELOPMENT PLANS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. BROWN of California. Mr. Speaker, the recent attention paid to future plans by the Architect of the Capitol for the U.S. Congress has given each of us cause to ponder the future of this immediate area.

A similar controversy to that in Washington existed in California's capitol area when Jerry Brown became Governor. A recent column by Neal Peirce accurately describes the innovative steps the California State architect, Sim Van der Ryn, took to humanize Sacramento's plans.

I commend this article to all my colleagues:

[From the Los Angeles Times, Sept. 3, 1978]

SACRAMENTO BUILDS, WASHINGTON EMBELLISHES

(By Neal R. Peirce)

SACRAMENTO.—The truly frightening plans of the architect of the U.S. Capitol to construct as many as 16 grandiose new marble mausoleums, otherwise known as Senate and House office buildings, find a refreshing counterpoint in California's capital city.

The Washington plans—so far just alternative proposals—are massive aggrandizing, and likely to cost several billion dollars. Sacramento is looking instead to low-rise, energy-efficient, human-scale buildings, interspersed with housing, restaurants and shops in what its designers hope will be a 24-hour-a-day living environment.

The total cost of Sacramento's proposed six buildings is expected to be $80 million to $100 million, most or all of it recouped by terminating expensive leases for government offices in privately owned buildings around Sacramento. California is building at a cost of $60 a square foot; the heavily marbled Hart Senate Office Building, now under construction in Washington, is costing $101 a square foot, a figure critics say could rise to $185. (The future of the Hart Building is currently in some doubt because the House recently voted to deny $54.8 million to cover its cost overruns.)

The full scope of the federal architect's edifice ambitions was recently brought to light by the National Journal's Richard Cohen. He pierced through the obfuscatory jargon of an official report to reveal building plans that would consume most of the placid grassland between the existing Senate office buildings and Union Station, send a new group of House office buildings sprawling to the south of the Capitol complex and devour part of the Capitol Hill Historic District. That area of charming townhouses was described in Capitol Architect George White's report as "an unacceptable neighbor to new House office buildings." He said the townhouses "should be rehabilitated"—a phrase reminiscent of the military's approach to troublesome villages during the Vietnam war.

The architect even would force the U.S. Supreme Court to evacuate Capitol Hill entirely, though he generously noted the Court "probably should be in Washington." The present Court building, it was proposed could become an adjunct of Congress or the Library of Congress. The plan also expansively proposes adding close to 8,000 new congressional parking spaces—presumably free, like the existing 7,676 Capitol Hill spaces, even though public downtown parking costs $3 to $4 daily.

Until the 1960s, the Senate and House made do with a total of three office buildings. Now there are five, with the sixth under construction—all necesary, architect White claims, because of national population growth. Sen. John H. Chafee (R-R.I.), a chief critic of Capitol Hill's "Mussolini-style" new structures, calls White's claim hogwash. Chafee notes that the congressional staff has expanded 300% in 20 years (latest total: 18,370), while total U.S. population has grown only 25%.

California state payrolls, like those on Capitol Hill, grew topsy-turvy in the '60s and '70s. But even before Proposition 13, the state had done an about-face on its capital plan. In the early '60s, the state bought and razed structures in 50 square blocks south of the Capitol. Gov. Jerry Brown told me the plan amounted "to kicking out all the people, putting up huge, tall government buildings, creating a bureaucratic monoculture"—even though the proposal emerged from the administration of Gov. Edmund G. (Pat) Brown, his father.

Then came Ronald Regan, with his free-enterprise bias. He decided to lease needed new office space, rather than build and so cleared acres became a desert of parking lots.

Jerry Brown, taking office in 1975, moved to create an entirely new capital area plan by appointing a broadly representative advisory committee of government officials, businessmen and neighborhood spokesmen. And he picked a highly unconventional state architect, Sim Van der Ryn, a UC Berkeley professor, counterculture ecologist and founder of the communal Farralones Institute.

Van der Ryn says the new plan is intended to be "sensibly scaled to people, to include a lively diversity of uses, and to work with the environment" of the Sacramento Valley by using lower buildings, and courtyards, trees and narrow spaces to create shade. In between the government structures will be 2,400 units of new housing, as well as restaurants and shops, built and operated by the private sector under long-term leases.

One major street will become a pedestrian mall; use of private autos will be discouraged and reliance on mass transit and bicycles encouraged. The few remaining old structures will be rehabilitated and recycled and efforts will be made to retain housing for low-income people along with newer units for the more affluent. The entire complex will be within 10 minutes' walking time of the Capitol, now undergoing repair to make it earthquake-proof.

The energy-saving theme is illustrated by the first new office building, a climate-sensitive four-story structure to be completed by spring of 1980. Designed by Van der Ryn and a team of young architects and ecologists, it will have an exposed concrete structure acting as a thermal mass, hidden bedrock and a spacious central atrium topped by skylights—all especially designed to store, exchange and distribute heat in winter and cool air in summer. To ward off the summer sun (temperatures here often reach 100 degrees), the plan includes automatically controlled canvas

sunshades along the exterior walls. Backup air conditioning and heating units should rarely be needed. Van der Ryn claims that the $17 million building—compared to standard structures of the same size—will use 40% less energy and thus save $28 million over 50 years.

The contrast to the new congressional office buildings, energy gluttons all, could scarcely be more striking.

For a second building, Van der Ryn's office sponsored a competition for energy-efficient designs. He received a startling 41 submissions, many of them highly imaginative—seeming proof of growing interest among architects in active and passive solar systems. The winning design wasn't done by some small, ecology-minded firm, but rather by Benham Blair and Associates, one of the country's largest architectural-engineering conglomerates. It involves two buildings. One will be buried under a landscaped park providing thermal "earth insulation." Thirteen small apartment houses, to be built by a private developer, will dot the same park. The second building will be above ground, hidden behind a giant solar "slab" set at a 45-degree angle.

The sensitive, imaginative impulses of the Sacramento plan may spread in the coming years—expressions of a new ethos in the design of civic buildings and their relation to their physical and human environments. "To the extent our capital plan succeeds," says Gov. Brown, "we will send out a message . . . that urban living makes sense." Architect of the U.S. Capitol: Please note.●

REPRESENTATIVE CONYERS NOTES ARMS CONTROL NEEDS

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. SIMON. Mr. Speaker, a few weeks ago, our colleague from Michigan, Congressman JOHN CONYERS, sent around a letter to some of us, and I am taking the liberty of placing a portion of that in the RECORD.

JOHN CONYERS has testified several times before the Budget Committee on the warped priorities that we as a nation have and of the calamity that awaits us if there is not a shift in priorities.

I believe my colleagues will be interested in reading his letter:

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 27, 1978.

I want to share with you and other concerned colleagues a few thoughts about the Special United Nations Session on Disarmament that concluded a month ago in New York.

Chuck Whalen's weekly newsletters on the Session were extremely helpful in furthering understanding of the issues. Paul Simon's excellent analysis of the conference's results provided an important outline of the problems and obstacles that stand in the way of significant break-throughs in halting the arms race. We were well-represented at this first international disarmament conference in 46 years, and Chuck is to be commended for his leadership.

It is difficult, however, not to be left with the sinking feeling that the nations and citizens of the world are headed for catastrophe unless far greater attention is brought to the issue of the arms race and far greater will is summoned to take the actions necessary to reverse it.

A few benchmarks indicate the sweeping changes in the military and technological structure of the world that ought to compel us to deal more urgently and fundamentally with arms control and disarmament.

The United States and the Soviet Union possess more than 50,000 strategic and tactical nuclear weapons twice the number that existed only 8 years ago;

7 nations already possess nuclear weapons; 20 or so will have the capability in another decade;

Third World Nations now spend more than $70 billion annually on weapons, a 700 percent increase in 20 years;

More than 18 tons of plutonium now exist as the byproduct of nuclear processes (a speck of which is lethal), and an estimated 450 tons will exist by 1990, which we know of no way to dispose of;

The nations of the world currently spend $400 billion annually on armaments, double the amount of only 8 years ago, and equivalent to the annual income of an estimated 1.8 billion people in the 36 poorest countries.

Two ongoing developments further aggravate, if such is possible, these worldwide trends. One reflects the technological imperative that the distinguished social philosopher Erich Fromm has pointed out numerous times has made man captive to the powerful machines he has built. Newspapers are filled daily with fascinating, almost worshipful, accounts of the new weapons being planned and developed, among them the laser and particle beam weapons that can direct explosive energy at the speed of light to any object on earth, including missiles on the ground and in the air.

The second development involves the attempt on the past of military planners and other officials to win acceptance of the remarkable notion that the new miniaturized nuclear and neutron weapons are the only things that stand in the way of all-out, global nuclear war. Is there any doubt that the contrary is the case, namely, that each new round of weaponry is far more lethal, costly, and destabilizing than the last? Yet we permit ourselves to entertain this notion that our salvation and that of the world rests with the stepped-up and uninterrupted development of every manner of nuclear weapon. With the announcement a few weeks ago that there now exists the capability to convert conventional battlefield weapons into nuclear ones, we have not only crossed the threshold to nuclear war but of equal importance trivialized it to the point that it is ever more likely to be countenanced and implemented.

What explains the incredible discrepancy between the knowledge we now possess of the arms race and the failure of our understanding of its enormous costs and ruinous consequences? In the few days I had the opportunity to spend at the Disarmament Session, it was painfully clear that the discussion taking place within the U.N. chambers was substantially lost on the rest of the world. The meaning of the arms race and nuclear proliferation has not sunk into public consciousness. To be sure, these matters are not easy ones to comprehend, let alone deal with. They involve unthinkable thoughts about a level and scale of devastation for which mankind has no precedends. The glaring inattention of the mass media further contributes to the current state of ignorance and the sense of helplessness.

The effort to educate the public and its leaders, needless to say, cannot slacken. Ways have to be found to communicate effectively to the public the meaning of armaments and nuclear war. Permit me to make a few proposals for further action. Would not a presidential commission or select congressional committee devoted to the examination of the arms race and the monitoring of its costs generate much-needed attention? Would not a regular MCPL seminar series that brings Members together with leaders from other nations as well as students of disarmament be a useful addition to forums that already exist? We have already witnessed the international concern and, hopefully, we can find ways to internationalize our discussions.●

THE 85TH ANNIVERSARY OF FRIENDSHIP BAPTIST CHURCH, PASADENA, CALIF.

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. MOORHEAD of California. Mr. Speaker, I would like to take this opportunity to commend the Friendship Baptist Church of Pasadena, Calif., on its 85th anniversary.

While it is clear that in the chronicles of history's major events, occasions such as this are seldom given the attention they deserve, it is equally true that the collective impact of church groups like the Friendship Baptist Church play a fundamental and vital role in shaping the direction of our country and our society by influencing our thoughts and behavior patterns.

In this manner then, it is also clear that the shape and definition of history is influenced. This impact, I believe, becomes even more pronounced in the case of the Friendship Baptist Church when one considers the graciousness and longevity of its own history.

The Friendship Baptist Church survived its formative years. It grew from infancy into a group possessing venerability and the wisdom of maturity. It is appropriate here to give a brief accounting of that growth.

The church was founded on September 2, 1893, in a hall at 12 Kansas Street, which later became known as Green Street. The founding fathers were the Reverends C. H. Anderson and J. M. Fowler. The church's first congregation was a small but determined nine.

Shortly thereafter, under the direction of the Reverend J. H. Kelly, the Friendship Baptist Church purchased land on South Vernon Street for the grand price of $400, on which they constructed a building for $850.

In 1925, the congregation, growing rapidly, moved to its new grounds at Dayton and DeLacey Avenues. The cost of the new complex was $125,000. It is a credit to the deacons of the church, who guided the organization through this expansion period with care and flair, that the Friendship Baptist Church has been designated a historical landmark by the city of Pasadena.

With sincerity, I offer my congratulations to the leaders and members of the church on this very special birthday. I am especially grateful to the pastor, the Reverend S. W. Lewis, for his faith, for his stewardship to his parishioners, and for his outstanding service to this community.

Mr. Speaker, I salute the Friendship Baptist Church for providing 85 years of spiritual guidance and fellowship to its congregation, for giving 85 years of

service to the community of Pasadena, and, most of all, for providing 85 years of loving labor and devotion to God.●

CONSUMER PRODUCT SAFETY COMMISSION

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. COLLINS of Texas. Mr. Speaker, I have long been concerned over the excessive costs, both direct and indirect, that the Consumer Product Safety Commission presents annually to each and every American. Over the past few months, I have undertaken an extensive study of this situation, and have found some very startling figures—and reached some very important conclusions.

In annual appropriations for the Commission alone, the CPSC has cost the American taxpayer over $200 million over the past 5 years. In addition to this, the Department of Justice has spent over $650,000 in litigating suits which have arisen out of CPSC-promulgated regulations.

These direct costs, however, are truly minimal when compared with the billions of dollars spent each year by the American consumer in increased costs of goods and services subject to CPSC regulations. Take, for instance, the example of one small firm, the Columbia Match Co. of Cleveland, Ohio. Columbia Match is a small company with only 60 employees. Yet the cost to this small, private firm of complying with recently-promulgated CPSC regulations is estimated at $98,000.

The purpose of the matchbook regulations? It was CPSC's idea to get all striking plates on matchbooks moved from the front of the matchbook cover to the back. The agency thus unilaterally ruled that all matchbook manufacturers would have to redesign their entire system of production in order to achieve this change. Unfortunately, the agency did not see fit to consider the massive cost of the changeover to the match industry, hundreds of thousands of dollars which, of course, was paid out in increased prices by the very consumers the CPSC is supposed to be protecting.

A cross-section of CPSC-incurred costs more of the same. Other match companies report similar costs—$73,000 to D. D. Bean of New Hampshire and an incredible $190,000 to the Ohio Match Co. In the bicycle industry, America's largest bicycle manufacturer, the Schwinn Co., reports that they have spent $728,200 in complying with CPSC standards. The Bicycle Manufacturers' Association of America estimates that CPSC alone adds 10 percent to the price of every bicycle sold in the United States today.

In the miniature Christmas-tree light industry, the National Ornament and Electric Light (NOEL) Association assessed costs to the industry over the 2-year period before any changes were made in compliance with newly promulgated CPSC standards at $122,000. In this case, the CPSC used as its basis for new regulations 20 indepth investigations of Christmas-tree light accidents. Of the 20, only 2 of the light sets had been purchased within a year of the incident in question. No age, condition, use or abuse information is contained in any of these reports. Once again, the CPSC acted blindly and unilaterally to regulate an entire industry—at incredible cost the consumer—without any serious study or knowledge of the situation at hand.

The Stanford Research Institute estimates that proposed regulation of the lawnmower industry by CPSC would increase the average price of a lawnmower by up to 35 percent, depending upon the model in question. The institute's study also notes that such regulation, had it been instituted in the 1976 model year, would have cost the American consumer $470 milion in price increases.

A frightening example of the cost of overregulation by the CPSC can be found in the case of Marlin Toy Products, Inc., a small toy firm in Horicon, Wis. This single firm spent a staggering $1,126, 801 in order to comply with CPSC regulations. In addition, the president of Marlin Toy informed my staff that two FBI agents spent a week at his plant investigating the company's "Flutter Ball" and "Birdie Ball" toys.

In the crib manufacture industry, Childcraft Co. reports that the price of their least expensive crib has increased by approximately 46 percent due to CPSC regulations. As the head of one firm told me in a letter, "The most ridiculous aspect of the problem is the mattress flammability standard—the whole thing is based on a lighted cigarette igniting the mattress—I am sure you will agree that very few infants smoke in bed."

These few examples give one pause to reflect upon and reassess the role of the CPSC, to compare the benefits provided in light of the sobering costs incurred. The creation of the Commission was predicated on the theory that the American people are not intelligent enough to distinguish between a product that presents a severe danger and one that is safe. Thus, the whole idea of the agency from the start was to place further limits on our freedom of choice, and to put into practice the notion that a bureaucratic elite knows better than we how to run our own lives.

Mr. Speaker, the House will soon be asked to extend authorization for CPSC appropriations in the amount of $55 million, $60 million, and $65 million for fiscal years 1979, 1980, and 1981, respectively. The average of these figures represents a quantum leap of 50 percent in the cost of maintaining this harmful agency. Will this increase in appropriations mean that the American people will be treated to a 50-percent increase in regulation—and the billions of dollars in price increases and hundreds of thousands of lost jobs that will most assuredly follows?

I urge my colleagues, Mr. Speaker, to take a hard look at what the CPSC is really costing the consumers of our Nation. If we really want to whip inflation, cut the cost of Government, keep our relatively low unemployment rate, and increase the amount of economic freedom to be had in this country; commencing an in-depth reappraisal of the activities of the Consumer Product and Safety Commission is a perfect place to start.●

GAO REPORTS ON COST OF SUGAR PRODUCTION AND PROFITS

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. VANIK. Mr. Speaker, attached is a letter from the GAO in response to my questions concerning the cost of production of sugar and profits in the sugar industry in recent years.

The letter points out that—

The diversity of (cost of production) estimates raises questions as to what is the cost of production in any area;

Some sugar producers have "rebuffed" efforts by the U.S. Department of Agriculture to determine costs of production;

Many studies and reports on the cost of production of sugar indicate costs below the 16¢ price objective level set in the sugar bill reported by the House Agriculture Committee; and

While many producers complain now of losses from the production of sugar, they fail to mention the extraordinary windfall profits which occurred throughout the industry in 1974 and 1975.

The GAO data shows that sugar production involves the risk of high and low price cycles. We are now in a low price cycle—a period of lean years. What the industry does not tell us is that just 3 years ago, they were making incredibly fat windfall profits. According to the GAO, the profits of the Hawaii producers amounted to $428 million in 1974 alone. The profits of the whole industry, according to the U.S. International Trade Commission, were over $1.5 billion in 1974.

The consumer was given no relief during those sweet days for the producers; now, that production has temporarily turned sour, the taxpayer and consumer are being asked to be sugar daddy for the industry.

The GAO data provides important new information against the Church/de la Garza sugar bills and in support of the bill proposed by the Ways and Means Committee.

The letter follows:

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., September 1, 1978.

Hon. CHARLES A. VANIK,
Chairman, Subcommittee on Trade, Committee on Ways and Means, House of Representatives.

DEAR MR. VANIK: This is in response to your letter of August 29, 1978, requesting information on sugar production costs for any domestic sugar producing areas. In the course of our work, we have obtained information from a variety of sources including the U.S. Department of Agriculture (USDA), published sources, and data provided by firms and industry groups.

The cost of producing sugar in Hawaii is estimated at 13.16 cents per pound, raw value, in 1978 based on industry data. This

may be an understatement of cost, however, due to the absence of imputed land values; inadequate depreciation and other factors. Adding an estimate for imputed land costs and for capital investment not covered by depreciation would yield an estimated production cost of 14.3 cents per pound, raw value.

Industry data on production costs in Florida and Louisiana were not available to us. USDA officials told us they had approached Florida and Louisiana producers several years ago about doing a cost study and were rebuffed. We did identify university studies on production costs in each state. A University of Florida researcher, D. L. Brooke, estimates production costs of 15.79 cents per pound, raw value, in Florida for 1977 on a net cash rent for land basis and 16.54 cents on a current market value of land basis. These figures contrast sharply with USDA's estimate of 1977 Florida production costs of 14.202 cents per pound, raw value. A Louisiana State University researcher, Joe R. Campbell, estimates a break-even cost of 14.8 cents per pound, raw value, in Louisiana in 1977. Dr. Campbell has advised us that the Louisiana cost estimate is based on a 500 acre operation, which would maximize use of a mechanical harvester, and would represent the production cost of a reasonably efficient farm. USDA data indicate that only about 14 percent of Louisiana sugarcane farms are 500 acres or more but that they produce about 65 percent of the State's sugar. The Louisiana State figure of 14.8 cents contrasts sharply with USDA's estimate of 1977 Louisiana production costs of 17.913 cents per pound, raw value.

We are aware of no 1978 estimates for Florida and Louisiana other than those made by USDA, which are contained on pages 30–31 of your Subcommittee print on sugar dated August 14, 1978. It is important to note that all the figures are estimates. The University of Florida, Louisiana State University, and USDA estimates are based on projections of data developed in earlier studies, with a variety of base years. USDA notes on page 14 of the August 14 Subcommittee print that differences in cost concepts, computational methodology, and yield assumptions for sugar and other crops are frequent sources of differences in cost estimates. The diversity of estimates raises questions as to what is the cost of production in any area.

USDA has recently conducted a study of the cost of growing sugarbeets. They advised us that they do not have recent data on the cost of processing sugarbeets. Based on the USDA study, industry supplied data and our computations based on these data, we estimate the cost of producing refined sugar from sugarbeets to be 17.81 cents per pound in 1977/78. This does not include marketing costs estimated by USDA to be about 2.5 cents. These data are based on actual 1977 production costs obtained from sugarbeet processors and USDA estimates of 1978 sugarbeet growing costs. Since sugarbeets are processed directly into refined sugar in the United States, there is no raw sugar stage. There is no accepted method to estimate the equivalent cost of raw beet sugar.

Subsequent to the receipt of your letter, your office requested information on profitability in any of the sugar producing areas. We have very limited data in this regard.

A spokesman for most of the beet sugar companies recently testified on their serious financial problem before the House Committee on Agriculture. The spokesman stated:

* * * each and every one of the nation's beet sugar processing firms for whom I speak is in serious financial straits—indeed jeopardy * * *".

The spokesman pointed out that one company had lost $6.1 million on revenue of $152.9 million during its most recent fiscal year and a cooperative failed by $14 million to meet its contractual obligations with its grower-owners for the 1976 crop. In a case we identified, a recently established cooperative with a relatively new plant has been unable to pay interest on its debt for 2 years, while another processor told us his company has reported financial losses for the last 4 quarters.

In 1974 and 1975, the Hawaiian sugar industry realized sizable profits when prices were at historically high levels. Since then prices have fallen markedly. The 1977 crop would have resulted in losses except for Federal direct support payments.

We have developed estimates on the returns over cost of the Hawaiian sugar industry based on industry supplied cost data and USDA reported data on the value of production. We have also added government payments.

HAWAIIAN SUGAR INDUSTRY RETURNS OVER (UNDER) COST

[In millions of dollars]

Year	Net cost of raw sugar production	Value of production	Returns over (under) cost	Government payments	Returns over (under) cost after Government payments
1972	$172.3	$176.6	$4.3	$9.7	$14.0
1973	170.5	203.8	33.3	9.5	42.8
1974	239.4	659.2	419.8	8.6	428.4
1975	271.2	354.6	83.4	0	83.4
1976	263.6	245.5	(18.1)	0	(18.1)
1977	259.5	219.1	(40.4)	48.7	8.3

The U.S. International Trade Commission (ITC), in its March 1977 report to the President stated that:

"All segments of the sugar industry—growing, milling, processing and refining—enjoyed a dramatic increase in net sales during 1972–74. Net sales for most segments of the industry declined, however, in 1975—a period of declining sugar prices. With the exception of proprietary cane sugar refining, the sugar industry also enjoyed an increase in profits for proprietary firms and an increase in payments to members of cooperatives during 1972–74. Profits and payments like net sales, declined in 1975 for most segments of the industry."

The report went on to state that:

"The period 1972–75 was, overall, an era of prosperity for growers, grower-millers, and nongrower-millers of sugar cane situated in Florida, Louisiana, Texas, and Hawaii. The year 1974 was exceptionally prosperous. The forecast for the sugar cane industry for the 1976/77 crop year, however, appears bleak. It appears that declining sugar prices, coupled with increasing farming and milling costs, will turn numerous farm and mill operations into marginal or unprofitable operations."

Appendix I is Table 19 from the ITC report, which contains data on profits supplied to the ITC by various elements of the sugar industry for the accounting years 1972–76.

We trust that this information satisfies your request.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

APPENDIX I

TABLE 19.—SUGAR: NET PROFIT OR (LOSS) BEFORE INCOME TAXES OR NET PROCEEDS PAID OR PAYABLE TO COOPERATIVE MEMBERS FOR U.S. GROWERS, PROCESSORS, MILLERS AND REFINERS ON THEIR SUGAR OPERATIONS, ACCOUNTING YEARS 1972–76

[In thousands of dollars]

Item	1972	1973	1974	1975	To Sept. 30 [1]— 1975	To Sept. 30 [1]— 1976
Sugar beet growers and beet sugar processors:						
27 growers (total farm)	(2)	(2)	(2)	(2)	(2)	(2)
10 processors	45,534	108,229	395,402	234,419	[3] 111,117	[3] 37,987
Total	45,534	108,229	395,402	234,419	111,117	37,987
Sugarcane growers:						
19 Florida growers						
23 Louisiana growers						
14 Hawaiian growers						
Total	7,342	20,533	72,996	75,945	(4)	(4)
Sugarcane millers:						
6 Florida millers						
26 Louisiana millers						
1 Texas miller						
14 Hawaiian millers						
Total	55,187	121,613	641,553	357,405	40,887	16,267
Cane sugar refiners:						
8 refiners						
1 Florida cooperative refiner						
California & Hawaiian Sugar Co.						
Total	169,757	202,535	438,851	367,150	225,943	193,977
Grand total	277,820	452,910	1,548,802	1,034,919	377,947	248,231

[1] The interim 1975 and 1976 accounting periods for each of the reporting concerns range from 1 mo to 12 mo and end no later than Sept. 30.
[2] Data are insignificant of the total for all U.S. sugar beet growers.
[3] Data are for 7 processors.
[4] Not available.
[5] The 14 Hawaiian growers are also millers. Their sugarcane is transferred to their mill at cost.
[6] Commenced operation on Dec. 8, 1973.
[7] Data are for 6 refiners.

Source: Compiled from data submitted to the U.S. International Trade Commission by U.S. growers, processors, millers, and refiners.

ANOTHER LOOK AT GUN CONTROL

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. GRASSLEY. Mr. Speaker, there are approximately 5 weeks remaining before the Congress of the United States adjourns for the year. It is obvious that neither the House of Representatives nor the Senate will take up Federal gun control legislation prior to adjournment. Nonetheless, I would like to share with my colleagues an article which was published in the August 27, 1978, Washington Post. The writer's discussion and analysis of this most controversial issue warrant review by my colleagues and other devotees of the CONGRESSIONAL RECORD.

The article follows:

BANNING GUNS DOESN'T WORK

(By Don B. Kates Jr.)

Despite almost 100 years of often bitter debate, federal policy and the policies of 44 states continue to allow handguns to any sane adult who has not been convicted of a felony. Over the past 20 years, as some of our progressive citizens have embraced the notion that handgun confiscation would reduce violent crime, the idea of closely restricting handgun possession to police and those with police permits has been stereotyped as "liberal." Yet when the notion of sharply restricting pistol ownership first gained popularity, in the late 19th century, it was under distinctly conservative auspices.

In 1902, South Carolina banned all pistol purchases, the first and only state ever to do so. (This was nine years before New York began requiring what was then an easily acquired police permit.) Tennessee had already enacted the first ban on "Saturday night specials," disarming blacks and the laboring poor while leaving weapons for the Ku Klux Klan and company goons.

In 1906, Mississippi enacted the first mandatory registration law for all firearms. In short order, permit requirements were enacted in North Carolina, Missouri, Michigan and Hawaii.

In 1922, a national campaign of conservative business interests for handgun confiscation was endorsed by the (then) arch-conservative American Bar Association.

Liberals at that time were not necessarily opposed in principle to a ban on handguns, but they considered such a move irrelevant and distracting from a more important issue—the prohibition of alcohol. To Jane Addams, William Jennings Bryan and Eleanor Roosevelt (herself a pistol carrier), liquor was the cause of violent crime. (Before dismissing this out of hand, remember that homicide studies uniformly find liquor a more prevalent factor than handguns in killings.)

Besides, liberals were not likely to support the argument advanced by conservatives for gun confiscation: that certain racial and immigrant groups were so congenitally criminal (and/or politically dangerous) that they could not be trusted with arms. But when liberalism finally embraced handgun confiscation, it was by applying this conservative viewpoint to the entire populace. Now it is all Americans (not just Italians, Jews or blacks) who must be considered so innately violent and unstable that they cannot be trusted with arms. For, we are told, it is not robbers or burglars who commit most murders, but average citizens killing relatives or friends.

It is certainly true that only a little more than 30 percent of murders are committed by robbers, rapists or burglars, while 45 percent are committed among relatives or between lovers. (The rest are a miscellany of contract killings, drug wars and "circumstances unknown.") But it is highly misleading to conclude from this that the murderer is, in any sense, an average gun owner.

For the most part, murderers are disturbed, aberrant individuals with long records of criminal violence that often include several felony convictions. In terms of endangering his fellow citizen, the irresponsible drinker is far more representative of all drinkers than is the irresponsible handgunner of all handgunners. It is not my intention to defend the character of the average American handgun owner against, say, that of the average Swiss whose government not only allows, but requires, him to keep a machine gun at home. Rather, it is to show how unrealistic it is to think that we could radically decrease homicide by radically reducing the number of civilian firearms.

Study after study has shown that even if the average gun owner complied with a ban, the one handgun owner out of 3,000 who murders (much less the one in 500 who steals) is not going to give up his guns. Nor would taking guns away from the murderer make much difference in murder rates, since a sociopath with a long history of murderous assault is not too squeamish to kill with a butcher knife, ice pick, razor or bottle. As for the extraordinary murderers—assassins, terrorists, hit men—proponents of gun bans themselves concede that the law cannot disarm such people any more than it can disarm professional robbers.

THE CASE OF BRITAIN

The repeated appearance of these facts in studies of violent crime has eroded liberal and intellectual support for banning handguns. There is a growing consensus among even the most liberal students of criminal law and criminology that handgun confiscation is just another plausible theory that doesn't work when tried. An article written in 1968 by Mark K. Benenson, longtime American chairman of Amnesty International, concludes that the arguments for gun bans are based upon selective misleading statistics, simple-minded non sequiturs and basic misconceptions about the nature of murder as well as of other violent crimes.

A 1971 study at England's Cambridge University confounds one of the most widely believed non sequiturs: "Banning handguns must work, because England does and look at its crime rate!" (It is difficult to see how those who believe this can resist the equally simple-minded pro-gun argument that gun possession deters crime: "Everybody ought to have a machine gun in his house because the Swiss and the Israelis do, and look how low their crime rates are!")

The Cambridge report concludes that social and cultural factors (not gun control) account for Britain's low violence rates. It points out that "the use of firearms in crime was very much less" before 1920 when Britain had "no controls of any sort." Corroborating this is the comment of a former head of Scotland Yard that in the mid-1950s there were enough illegal handguns to supply any British criminal who wanted one. But, he continued, the social milieu was such that if a criminal killed anyone, particularly a policemen, his own confederates would turn him in.

When this violence-dampening social milieu began to dissipate between 1960 and 1975, the British homicide rate doubled (as did the American rate), while British robbery rates accelerated even faster than those in America. As the report notes, the vaunted handgun ban proved completely ineffective against rising violence in Britain, although the government frantically intensified enforcement and extended controls to long guns as well.

Thus, the Cambridge study—the only in-depth study done of English gun laws—recommends "abolishing or substantially reducing controls" because their administration involves an immense, unproductive expense and diverts police resources from programs that might reduce violent crime.

The latest American study of gun controls was conducted with federal funding at the University of Wisconsin. Advanced computerized techniques allowed a comprehensive analysis of the effect of every form of state handgun restriction, including complete prohibition, on violence in America. Published in 1975, it concludes that "gun-control laws have no individuals or collective effect in reducing the rate of violent crime."

Many previous studies reaching the same conclusion had been discounted by proponents of a federal ban, who argued that existing state bans cannot be effective because handguns are illegally imported from free-sale states. The Wisconsin study compared rates of handgun ownership with rates of violence in various localities, but it could find no correlation. If areas where handgun ownership rates are high have no higher per capita rates of homicide and other violence than areas where such rates are low, the utility of laws designed to lower the rates of handgun ownership seems dubious.

Again, the problem is not the "proliferation of handguns" among the law-abiding citizenry, it is the existence of a tiny fraction of irresponsible and criminal owners whom the law cannot possibly disarm of these or other weapons.

Far from refuting the Wisconsin study, the sheer unenforceability of handgun bans is the main reason why most experts regard them as not worth thinking about. Even in Britain, a country that, before handguns were banned, had less than 1 percent of the per capita handgun ownership we have in the United States, the Cambridge study reports that "50 years of very strict controls has left a vast pool of illegal weapons."

It should be emphasized that liberal defectors from gun confiscation are no more urging people to arm themselves than are those who oppose banning pot or liquor necessarily urging people to indulge in them. They are only saying that national handgun confiscation would bring the federal government into a confrontation with millions of responsible citizens in order to enforce a program that would have no effect upon violence, except the negative one of diverting resources that otherwise might be utilized to some effective purpose. While many criminologists have doubts about the wisdom of citizens trying to defend themselves with handguns, the lack of evidence to justify confiscation requires that this remain a matter of individual choice rather than government fiat.

Nor can advocates of gun bans duck the evidence adverse to their position by posing such questions as: Why should people have handguns; what good do they do; why shouldn't we ban them? In a free country, the burden is not upon the people to show why they should have freedom of choice. It is upon those who wish to restrict that freedom to show good reason for doing so. And when the freedom is as deeply valued by as many as is handgun ownership, the evidence for infringing upon it must be very strong indeed.

OTHER COSTS IGNORED

If the likely benefits of handgun confiscation have been greatly exaggerated, the financial and constitutional costs have been largely ignored. Consider the various costs of any attempt to enforce confiscation upon a citizenry that believes (whether rightly or not) that they urgently need handguns for

self-defense and that the right to keep them is constitutionally guaranteed. Most confiscationists have never gotten beyond the idea that banning handguns will make them magically disappear somehow.

Because they loathe handguns and consider them useless, the prohibitionists assume that those who disagree will readily turn in their guns once a national confiscation law is passed. But the leaders of the national handgun prohibition movement have become more realistic. They recognize that defiance will, if anything, exceed the defiance of Prohibition and marijuana laws. After all, not even those who viewed drinking or pot smoking as a blow against tyranny thought, as many gun owners do, that violating the law is necessary to the protection of themselves and their families.

Moreover, fear of detection is a lot more likely to keep citizens from constant purchases of liquor or pot than from a single purchase of a handgun, which, properly maintained, will last years.

To counter the expected defiance, the leaders of the national confiscation drive propose that handgun ownership be punished by a nonsuspendable mandatory year in prison. The mandatory feature is necessary, for otherwise prosecutors would not prosecute, and judges would not punish, gun ownership with sufficient severity.

The judge of a special Chicago court trying only gun violations recently explained why he generally levied only small fines: The overwhelming majority of the "criminals" who come before him are respectable, decent citizens who illegally carry guns because the police can't protect them and they have no other way of protecting themselves. He does not even impose probation because this would prevent the defendants, whose guns have been confiscated, from buying new ones, which, the judge believes, they need to live and work where they do.

These views are shared by judges and prosecutors nationwide; studies find that gun-carrying charges are among the most sympathetically dealt with of all felonies. To understand why, consider a typical case which would have come before this Chicago court if the district attorney had not dropped charges. An intruder raped a woman and threw her out of a 15th-floor window. Police arrived too late to arrest him, so they got the victim's roommate for carrying the gun with which she scared him off when he attacked her.

Maybe it is not a good idea for this woman to keep a handgun for self-defense. But do we really want to send her to federal prison for doing so? And is a mandatory year in prison reasonable or just for an ordinary citizen who has done nothing more hurtful than keeping a gun to defend herself—when the minimum mandatory sentence for murder is only seven years and most murderers serve little more?

Moreover, the kind of nationwide resistance movement that a federal handgun ban would provoke could not be broken by imprisoning a few impecunious women in Chicago. Only by severely punishing a large number of respectable citizens of every race and social class would resisters eventually be made to fear the law more than the prospect of living without handguns in a violent society.

At a very conservative estimate, at least half of our present handgun owners would be expected to defy a federal ban. To imprison just 1 percent of these 25 million people would require several times as many cells as the entire federal prison system now has. The combined federal, state, and local jail systems could barely manage. Of course, so massive an enforcement campaign would also require doubling expenditure for police, prosecutors, courts and all the other sectors of criminal justice administration.

The Wisconsin study closes with the pertinent query: "Are we willing to make sociological and economic investments of such a tremendous nature in a social experiment for which there is no empirical support?"

CAN IT BE JUSTIFIED?

The argument against a federal handgun ban is much like the argument against marijuana bans. It is by no means clear that marijuana is the harmless substance that its proponents claim. But it would take evidence far stronger than we now have to justify the enormous financial, human, institutional and constitutional costs of continuing to ferret out, try and imprison even a small percentage of the otherwise law-abiding citizens who insist on having pot.

Sophisticated analysis of the criminalization decision takes into account not only the harms alleged to result from public possession of things like pot or guns, but the capacity of the criminal law to reduce those harms and the costs of trying to do so. Unfortunately most of the gun-control debate never gets beyond the abstract merits of guns—a subject on which those who view them with undifferentiated loathing are no more rational than those who love them.

The position of all too many gun-banning liberals is indistinguishable from Archie Bunker's views on legalizing pot and homosexuality: "I don't like it and I don't like those who do—so it ought to be illegal."

The emotionalism with which many liberals (and conservatives as well) react against the handgun reflects not its reality but its symbolism to people who are largely ignorant of that reality. A 1975 national survey found a direct correlation between support for more stringent controls and the inability to answer simple questions about present federal gun laws. In other words, the less the respondent knew about the subject, the more likely he was to support national confiscation.

Liberals advocate severely punishing those who will defy confiscation only because the liberal image of a gun owner is a criminal or right-wing fanatic rather than a poor woman in Chicago defending herself against a rapist or a murderer.

Contrary to this stereotype, most "gun nuts" are peaceful hobbyists whose violence is exclusively of the Walter Mitty type. Gun owners' views are all too often expressed in right-wing terms (which does nothing for the rationality of the debate) because 20 years of liberal vilification has given them nowhere else to look for support. If only liberals knew it, handgun ownership is disproportionately high among the underprivileged for whom liberals traditionally have had most sympathy. As the most recent (1975) national demographic survey reports: "The top subgroups who own a gun only for self-defense include blacks (almost half own one for this reason alone), lowest income group, senior citizens."

The average liberal has no understanding of why people have guns because he has no idea what it is like to live in a ghetto where police have given up on crime control. Minority and disadvantaged citizens are not about to give up their families' protection because middle-class white liberals living and working in high-security buildings and/or well-policed suburbs tell them it's safer that way.

A final cost of national gun confiscation would be the vast accretion of enforcement powers to the police at the expense of individual liberty. The Police Foundation, which ardently endorses confiscation, recently suggested that federal agencies and local police look to how drug laws are enforced as a model of how to enforce firearms laws. Coincidentally, the chief topic of conversation at the 1977 national conference of supporters of federal confiscation was enforcement through house searches of everyone who sales records indicate may ever have owned a handgun.

In fact, indiscriminate search, complemented by electronic surveillance and vast armies of snoopers and informers, is how handgun restrictions are enforced in countries like Holland and Jamaica, and in states like Missouri and Michigan.

Even in England, as the Cambridge report notes, each new Firearms Act has been accompanied by new, unheard-of powers of search and arrest for the police.

These, then, are the costs of banning handguns: Even attempting an effective ban would involve enormous expenditures (roughly equal to the present cost of enforcing all our other criminal laws combined) to ferret out and jail hundreds of thousands of decent, responsible citizens who believe that they vitally need handguns to protect their families.

If this does not terrorize the rest of the responsible handgun owners into compliance, the effort will have to be expanded until millions are jailed and the annual gun-banning budget closely seconds defense spending. And all of this could be accomplished only by abandoning many restraints our Constitution places upon police activity.

What would we have to show for all this in terms of crime reduction? Terrorists, hit men and other hardened criminals who are not deterred by the penalties for murder, robbery, rape, burglary, etc. are not about to be terrified by the penalties for gun ownership—nor is the more ordinary murderer, the disturbed, aberrant individual who kills out of rage rather than cupidity.

What we should have learned from our experience of Prohibition, and England's with gun banning, is that violence can be radically reduced only through long-term fundamental change in the institutions and mores that produce so many violent people in our society.

It is much easier to use as scapegoats a commonly vilified group (drinkers or gun owners) and convince ourselves that legislation against them is an easy short-term answer. But violence will never be contained or reduced until we give up the gimmicky programs, the scapegoating, the hypocritical hand-wringing, and frankly ask ourselves whether we are willing to make the painful, disturbing, far-reaching institutional and cultural changes that are necessary.●

THE 200TH MEETING OF THE NATIONAL SCIENCE BOARD

HON. GEORGE H. MAHON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. MAHON. Mr. Speaker, I think it appropriate to take note of the 200th meeting of the National Science Board, the policymaking body of the National Science Foundation, which was held on last August 18.

The chairman and vice chairman are elected by the Board from among its members for 2-year terms. The present chairman is Dr. Norman Hackerman, president, Rice University. The vice chairman is my close friend, Dr. Grover E. Murray, university professor and former president of Texas Tech University Complex, Lubbock, Tex., in the congressional district which I represent.

The National Science Board plays a very vital role in the well-being of our Nation and I want to salute it as it continues its important work.●

CONFERENCE REPORT ON H.R. 6669 NATIONAL CLIMATE PROGRAM ACT

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. WALKER. Mr. Speaker, the conference committee on H.R. 6669, the National Climate Program Act, has completed its work and reported this bill back to the House of Representatives for final passage.

As a member of the conference committee and as a resident of an agricultural area, I am well aware of the importance of predictable climate patterns to our economy. We hope that this bill will allow us to develop the knowledge and ability to predict long term climate trends.

This bill was the subject of hearings before the Committee on Science and Technology early in the 1st session of the 95th Congress, and was reported by that committee on May 6, 1977. Almost a year ago today, September 9, 1977, the House overwhelmingly passed the bill by a vote of 282–60.

Following hearings in the Senate Committee on Commerce, Science, and Transportation, the Senate passed a differing version of the bill on April 24, 1978. The two bills were substantially different in form, but closely allied in intent.

Mr. Speaker, I do not want to duplicate the remarks of my distinguished chairman, Mr. BROWN of California, but I would like to emphasize the fact that we have high hopes for the national climate program. One of the most persuasive arguments for this type of program was brought out in our hearings. We all remember the problems of last winter and the shortages of heating fuels in the Northeast portion of our Nation.

Testimony before our subcommittee indicated that it is scientifically possible to predict such long term climate trends as particularly harsh winters, and that with such a prediction it would have been possible to have stockpiled exceptionally large fuel supplies in the Northeast in advance. Such an action would have substantially reduced the adverse effects of the winter of 1977–78.

In my own section of the country such long term climate predictions might easily lead to substantial changes in the planting schedule of farmers in answer to anticipated climate abnormalities.

One point which I would like to stress is that the Congress has designed the national climate program to be user oriented. We expect that the product of this program will be targeted where it is most needed, the farmer, the contractor, and all those other Americans who are dependent on climate in their livelihoods.

While we have established the Department of Commerce as the lead Federal agency for this program, there is no intention to centralize all Federal activities relating to climate within the Department of Commerce. It is the intent of the Congress that the various mission agencies shall continue existing programs, but that budgeting and planning be comprehensive. We have no intention to reinvent the wheel, we just want to make sure that there are not a number of wheels spinning uselessly.

Mr. Speaker, now that the gentleman from California has assured me that there is no confusion over the permissive authority the bill contains for payments to members of the advisory committee, I urge my colleagues to join me in voting to adopt this conference report.●

MORE AMERICAN FLIERS THAT THE U.S.S.R. HAS NOT ACCOUNTED FOR

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. McDONALD. Mr. Speaker, there have been many incidents since World War II, in which U.S.S.R. planes have made unprovoked attacks on American planes. What finally happened to the pilots and crews of these planes has been a matter of dispute in many cases. In most instances, however, none of the Americans have returned to tell the tale. The passengers in the South Korean plane were very fortunate recently, in that the world knew what had happened. Some recently declassified State Department messages have shed some new light on an incident that took place over the sea of Japan in 1953. In this incident there were survivors and information was received that Soviet ships picked up additional survivors. The Soviets denied that such ever happened. However, for some years now there have been stories circulating that the Soviets have a special camp in the Far East near Vladivostok where foreigners, Americans included, are held. These messages raise the possibility that some of these men may still be alive. The text of the messages follows:

Department has now received confirmation that US RB-50 aircraft was shot down by one or more Soviet Migs over Sea of Japan on July 29. Soviet vessels were sighted in immediate area of incident where survivors were also seen on life rafts. It appears almost certain that Soviets now have in custody some survivors. US vessel has rescued co-pilot of plane who was found approximately 40 miles off Soviet coast south of Mys Povortny, which is southeast of Vladivostok.

You are requested seek immediate appointment with Vyshinski or other available Foreign Ministry official and to convey to him following:

First, that you have been instructed by your government to protest in strongest terms against shooting down by Soviet aircraft on July 29 of a US Air Force RB-50 plane which was on a routine navigational training mission over Sea of Japan;

Second, that co-pilot of plane, who was rescued by US vessel approximately 40 miles off Soviet coast south of Mys Povortny, has confirmed that his plane with crew of 17 was attacked by one or more Soviet Mig-15 aircraft which brought about crash of plane through shooting its engines and setting aircraft afire;

Third, that information has also been received that other survivors have been picked up by Soviet vessels in vicinity of crash;

Fourth, that you have also been instructed by your Government to request immediate report from Soviet authorities RE condition of these survivors and what arrangements are being made for their early repatriation.

Please report outcome your demarche urgently. Department withholding publicity pending receipt your report.

From: Moscow
To: Secretary of State

I have been instructed by my government to protest in the strongest terms against the shooting down by Soviet aircraft on July 29, of a United States Air Force RB-50 airplane which was on a routine navigational training mission over the Sea of Japan.

The co-pilot of the American airplane, who was rescued by a United States vessel approximately 40 miles off the Soviet coast south of Cape Povorotny, has confirmed that his plane with a crew of 17 was attacked by one or more Soviet MIG-15 aircraft which brought about the crash of the American plane by shooting into its engines and setting the plane afire.

Information has also been received that other survivors have been picked up by Soviet vessels in the vicinity of the crash. My government has instructed me to request an immediate report from the Soviet authorities regarding the condition of these survivors and what arrangements are being made for their early repatriation.

BOHLEN.

From: Moscow
To: Secretary of State

Molotov received me in his old office at Kremlin and I took up with him question of survivors of B-50 along lines set forth in DEPTEL 74. Molotov did not attempt to argue any other aspect of B-50 incident but listened carefully to my outline of the additional information in possession of US Government which led us to believe that there were survivors other than co-pilot and then inquired whether Embassy had not yet received that second Soviet note on the plane which dealt with this question. (When I said no, he said it was on the way. He repeated the statement that Soviet Government had no information whatsoever concerning plane or any member of its crew and that according to verified information plane was last seen headed out to sea.

I told Molotov we understood that such was the preliminary report received by Soviet Government but that I was making a serious request from U.S. Government that in circumstances a further investigation in light information I had given him was justified. I repeatedly requested him to have further investigation made. With equal persistence Molotov maintained his position that a thorough investigation had been made and that there was no basis for conducting a further search. He repeated each time that had Soviet Government had any information concerning that plane or (repeat or) survivors it would "of course" have immediately communicated this to U.S. Government.

I outlined at some length possibility that some of these survivors were picked up by Soviet trawler or perhaps had been able to swim to shore and that therefore a further investigation in simple interests of humanity was justified. Molotov refused to commit himself to any such investigation but in the end said that "if any further information should be received by Soviet Government it would of course be transmitted to U.S. Government".

I don't however take this to mean any implied commitment on his part since it was in

reply to a question from me as to possibility further information being received by Soviet Government from local authorities.

At one point Molotov made a reference to the "surprise" of Soviet Government when in regard to another plane incident, the IL-12, U.S. Government stated it was shot down in Korea whereas Soviet Government found wreckage of plane, bodies of passengers and crew in Chinese territory at point indicated Soviet note. He added that they had photographs of the wreckage. He however did not pursue the subject when I told him that that was another subject and that I was only dealing with possibility of survivors of B-50.

I left with Molotov memorandum setting forth information I had given him orally with request for further investigation. I did this primarily to see if he was willing to accept document which he did without objection.

Throughout interview Molotov struck me as being very much on defensive in this matter and refrained from any disagreeable or provocative comments concerning this incident which he once described as "an encounter". At one point in discussion he quoted Russian proverb re unreliability of "eye-witnesses" which may reveal Soviet concern over evidence of rescued co-pilot.

In view of position he took consistently that complete and thorough investigation had already been made and there were no grounds for further search, it is not probable we will receive any satisfaction from Soviet Government on survivors. However, on outside chance intervention of Molotov might somehow produce results on this question, I believe we might, if possible, withhold publicity on fact of this personal call and confine publicity to formal exchange of notes. Press correspondents here are not aware of fact of my visit and unless Soviets break it there is no reason why it cannot be held secret from this end. If because of public interest in this matter it is necessary to release fact of visit, would appreciate guidance from Department as to how it is to be handled.

Will cable note referred to by Molotov as soon as received.

BOHLEN.●

TAWES AWARD FOR A CLEAN ENVIRONMENT

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mrs. HOLT. Mr. Speaker, the congressional district I represent is one in which environmental concerns are of extreme importance. The Chesapeake Bay and the network of rivers and streams are critical to the quality of life enjoyed by our people.

We have many private organizations that devote much time, energy, and money to environmental interests, and we should never cease to applaud and encourage their efforts. Environmental protection should be a concern of every citizen.

However, we sometimes fail to note the superb work being done by Maryland public agencies and public employees for the protection of our marine environment. Fortunately, this oversight has been remedied by the creation of the annual "Tawes Award for a Clean Environment" for government workers who make unique or substantial contributions to the health of the State's marine environment.

The first awards were recently presented by former Gov. J. Millard Tawes, who was the first secretary of the Maryland Department of Natural Resources before he entered retirement several years ago. Sponsoring the awards program are the Department and private organizations such as the Maryland Petroleum Association and the Maryland Oil Jobbers Council.

The top award was presented to Robert F. Connor, of Baltimore, an employee of the Maryland Port Administration. The runner-up awards were presented to:

Paul G. Bingham, Jr., of Arnold, Department of Natural Resources;

William S. Burgess, of Annapolis, Department of Natural Resources;

Thomas A. Cooksey, of the Prince Georges County Bureau of Fire Prevention;

George L. Herlth, Jr., of Queenstown, Department of Natural Resources;

Richard D. Klein, of Forest Hill, Department of Natural Resources, and

John J. Sniechowski, of Crownsville, Department of Natural Resources.●

INSULIN PRODUCTION THROUGH RECOMBINANT DNA RESEARCH

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. ROGERS. Mr. Speaker, I was informed today by Eli Lily & Co. an Indianapolis, Ind., based pharmaceutical manufacturer, that a team of scientists from Genentech, Inc., and City of Hope National Medical Center in California has successfully produced human insulin from bacteria in a laboratory experiment. Lilly, a pioneer in the development of the first commercial insulin following its discovery in the 1920's by two University of Toronto scientists, has entered into an agreement with Genentech to begin long-range development aimed at the eventual commercial production of human insulin. Although this research achievement is extremely significant, there still needs to be extensive development of technology, long-term studies in animals and humans, and regulatory approval before this insulin will be commercially available.

At present, insulin is produced by extracting the hormone from the pancreas glands of cattle and swine. Genentech's process reportedly involves the insertion of synthetic genes into a microorganism called E. coli, which is then grown in a fermentation process. The foundation for this work was laid by the early studies of researchers in the field of recombinant DNA at the University of California–San Francisco. Insulin production by this process is believed to have a chemical structure identical to human insulin. This achievement represents an important potential potential clinical application of recombinant DNA research.

I was delighted to learn of this particular scientific achievement. The potential medical benefit to those millions of Americans and countless other diabetics around the world is great indeed. While it will be several years before this research breakthrough can be translated into a marketable product, the critical first step has been taken. This achievement is just one further example of the pioneering research typical of American science and industry. I know my colleagues join me in saluting all those responsible for this milestone scientific and humanitarian accomplishment.●

NEED TO GALVANIZE ARMS CONTROL SUPPORT

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. SIMON. Mr. Speaker, Dr. Homer A. Jack, the Secretary-General of the World Conference on Religion and Peace, delivered a sermon recently at the Community Church of New York on the U.N. Special Session on Disarmament.

Among other questions, he touches on the need for creating the political will in the United States to move ahead on arms control and the difficulties of structuring and galvanizing that will.

I hope my colleagues will take the time to read his observations.

INSIDE THE U.N. SPECIAL SESSION ON DISARMAMENT: SURVIVING BEYOND 1984

(By Homer A. Jack)

The world has witnessed, and the U.N. has just finished—yesterday morning at 2:30 a.m—what U.N. Secretary-General Kurt Waldheim early predicted would be the "largest, most representative gathering ever convened to consider the question of disarmament." The Special Session was also one of the largest, best-kept secrets. The chances are that many of you never heard of this event, so vital to your future, occurring during the past six weeks in our New York backyard, here at U.N. Headquarters along the East River.

As a non-governmental observer from the World Conference on Religion and Peace and as Chairman of the Non-Governmental Organization Committee on Disarmament, I had the privilege of participating in this Special Session. In the sermon this morning I will take you inside this world event which so much will affect your future, and mine, as well as the lives and future of your children and grandchildren. The U.N. session affirmed: "Removing the threat of a world war—a nuclear war—is the most acute and urgent task of the present day. Mankind is confronted with a choice: we must halt the arms race and proceed to disarmament or face annihilation."

I will begin by discussing why the U.N. convened a Special Session devoted to disarmament. Then I will describe the Special Session itself. I will also evaluate the success of the Special Session for our very future. Finally, I must discuss the posture of the U.S. Government toward the Special Session and what this posture means for us who are, I hope, concerned American citizens. This will not be a sermon devoted solely to religion, theology, philosophy, psychology, science, or politics, yet disarmament is a universal subject encompassing these and other disciplines. You who are not part of this morning's congregation here in Community Church can easily flick the dial from WQXR, but your very existence to the year 1979 or 1984 or even 2000 is vitally involved. We human beings have the choice to deny unpleasant possibilities, but we as responsible citizens also have the opportunity to try to turn unpleasant possibilities into creative probabilities. We are not captives of fate—even in the nuclear arms race.

WHY AND HOW?

In 1969 the U.N. General Assembly decided to call the decade of the 1970s the Disarmament Decade in an effort to prod the world community toward "effective measures relating to the cessation of the nuclear arms race at an early date and to nuclear disarmament." Several very limited disarmament agreements were reached in the late 1960s and early 1970s, but "effective" nuclear measures continued to elude the grasp of the world community.

In 1971 the Soviet Union urged that a World Disarmament Conference be convened, and a majority of nations agreed. However, 1971 was the year that Peking took a seat in the U.N. China bitterly fought this Soviet proposal, as did the U.S. less strongly. As a result the proposal to convene a World Disarmament Conference was deferred annually, since it was agreed that there could be no conference without the active participation of all five nuclear weapons States.

Not willing to accept easily the escalating nuclear arms race, the Non-Aligned States at the U.N.—some 84 which are not military allies of either the U.S. or the U.S.S.R.—devised the clever scheme of convening a Special Session of the U.N. General Assembly devoted to disarmament instead of a World Disarmament Conference. Since both China and the U.S. are members of the General Assembly, they would attend a Special Session. The Non-Aligned initiative resulted in December 1976 in the adoption by consensus of a resolution of the General Assembly convening a Special Session in mid-1978.

The purposes of the Special Session became multiple: to curb the arms race, to bring France and China into the disarmament dialogue and negotiations, to make the world more aware of the arms race and the need for disarmament, to exert sustained pressure on the super-powers for drastic nuclear disarmament, to break the blockade in disarmament negotiations, and to make the U.N. more central in disarmament affairs and thus give the Non-Aligned and other non-nuclear States a greater role in disarmament affairs.

Early in 1977 a group of 54 nations was appointed to the Preparatory Committee for the Special Session. It met here in New York during five sessions over 18 months. The Preparatory Committee carefully considered the political parameters of this world event, producing about 2,000 pages of documents. The Special Session on disarmament in 1978 was to be the capstone of other U.N. conferences on global issues during the 1970s, beginning with the Environment Conference at Stockholm in 1972 and including world meetings on population, food, women's rights, habitat, and the new international economic order.

MAY 23–JULY 1

The Special Session began on 23 May under the presidency of a distinguished Yugoslav diplomat, Lazar Mojsov, who was also president of the 32nd regular session of the U.N. General Assembly last autumn and two additional special sessions on financing the U.N. force in Lebanon and on Namibia earlier in 1978. The first three weeks of the Session were devoted to what is called the general debate. A total of 126 nations spoke on disarmament issues before the plenary. Heads of State or Government from such nations as the U.K., France, Germany, and India assessed the international situation, tried to pinpoint reasons for past disarmament failures, and made specific and often new disarmament proposals. The general debate was followed by speakers from 25 Non-Governmental Organizations and six research institutes. This was a breakthrough in the U.N. system, at least in the field of disarmament. In the end, Einstein, Schweitzer, and Gandhi did not appear—despite the reading earlier in this church service—although several Nobel Peace Laureates did attend, including Philip Noel Baker of London and Sean MacBride of Dublin.

Beginning on June first, the Ad Hoc Committee of the Special Session began to complete what is called the final document. This was initially drafted during two sessions of the Preparatory Committee beginning in January. It was presented to the Special Session with what were called a "forest of square brackets"—meaning words or sentences proposed but not accepted because of political reservations—in the form of brackets—from one or more countries. The task of the Ad Hoc Committee was to produce a meaningful final document free of brackets and with consensus—no objections. Any one country, however large or small, could in effect exert a veto on any word, phrase, sentence, or paragraph.

The art of bracketmanship—taking out brackets, not putting them in—was supervised by the Chairman of the Ad Hoc Committee, Ambassador Carlos Ortiz de Rozas of Argentina. He was aided substantially by another Latin American diplomat, Ambassador Alfonso Garcia Robles of Mexico. Meeting in working groups, drafting committees, contact groups, and other circles, at the end often 20 hours a day, the Committee accomplished a miracle and submitted a document without brackets in the early morning hours last Tuesday—after the plenary allowed the Session to close up to 48 hours late.

The final document in 129 paragraphs contains a short preamble and four major sections: introduction, declaration on disarmament, program of action on disarmament, and machinery. The preamble contains several clauses. The first expresses alarm "by the threat to the very survival of mankind posed by the existence of nuclear weapons and the continuing arms race." A second clause expressed the conviction that "disarmament and arms limitation, particularly in the nuclear field, are essential for the prevention of the danger of nuclear war." This is not the subjective rhetoric of some itinerant peacenik, but the considered, unanimous judgment of the entire world community of nations.

The first major section of the final document is the declaration on disarmament. This contains a review and appraisal of the present situation. There is much rhetoric, but also much common sense, which is not necessarily conventional wisdom in the pentagons in Washington or Moscow. For example, there is the phrase: "enduring international peace and security cannot be built on the accumulation of weaponry by military alliances nor be sustained by a precarious balance of deterrence of doctrines of strategic superiority." Again, this was unanimously supported.

A second sub-section of the declaration discusses goals and priorities. Highest priority is given to "effective measures of nuclear disarmament and the prevention of nuclear war." A third and final sub-section of the declaration consists of a list of fundamental principles for disarmament negotiations. Many are too technical to repeat here. A new principle suggests "unilateral measures of arms limitation or reduction."

The heart of the final document is a long program of action. This repeats the long-time goal of the world community for general and complete disarmament. It then gives four categories of priorities in disarmament negotiations: nuclear weapons, other weapons of mass destruction, conventional weapons including those with indiscriminate effects, and reductions of armed forces. Again, the detailed paragraphs and items are too long, and complex, to repeat here. It is, however, a comprehensive catalogue of disarmament. Some more controversial items—such as the Soviet insistence on the abolition of the neutron bomb—were omitted. The effort of the Non-Aligned, and especially India, to stop nuclear weapons testing, pending the completion of a comprehensive test-ban treaty, was only faintly reflected in this consensus affirmation: "various views were expressed by non-nuclear-weapon States that, pending the conclusion of this (comprehensive test-ban) treaty, the world community would be encouraged if all the nuclear-weapon States refrained from testing nuclear weapons. In this connection, some nuclear-weapon States expressed different views." We understand that these "different views" included the Soviet Union and France. However, the U.S. in the closing hours of the session told why it was opposed to a moratorium on testing and China is known also to be opposed to the elimination at this time of nuclear testing. This demonstrates the complexity of inserting even the smallest specific disarmament step into the program of action.

The final section of the final document deals with machinery for disarmament deliberations, meaning the involvement of all nations, and disarmament negotiations, the latter implying a smaller but representative group of nations actually making treaties. The Special Session revived the U.N. Disarmament Commission, as a new deliberative body composed of all Member States of the U.N. The Session also created a new negotiating forum, the Committee on Disarmament. This will be the successor to the Committee of the Conference on Disarmament (CCD) which has been meeting at Geneva since 1962. The new body, to meet no later than January, will contain up to 40 Member States, including seats available for all five nuclear powers.

SUCCESS?

Was the Special Session a success? One could list many positive aspects of this world event. The Special Session was a success simply because it was held. It was indeed the fulfillment of the prediction of the Secretary-General as "the largest, most representative gathering ever convened to consider the question of disarmament." The Special Session produced a unanimous document—and for 149 Member States to produce anything by consensus is in itself a successful political feat. The document contained an excellent declaration on disarmament, not a lowest common denominator full of ambiguities. The document also contained an adequate—if not excellent—program of action, which can be a guide for world disarmament action for at least the next decade. The Special Session established a new disarmament negotiating forum, the Committee on Disarmament at Geneva, in which France will inevitably take a seat no later than January and which will be ready for China, any time the latter wishes to participate. The Special Session established new or firmer linkages between disarmament and other global issues, each with its own governmental and public constituencies: development, environment, and international security. The Special Session enhanced the formal role of NGOs in disarmament affairs. The Special Session produced a bundle of new disarmament proposals, most of which were too new for immediate acceptance but will be carefully examined in the immediate period ahead. The Special Session demonstrated the continued utility and indeed indispensability of the U.N. system. The Special Session authorized several new studies on disarmament which could

lead to action. The Special Session agreed to convene a Second Special Session on disarmament, probably in 1981.

There were two further achievements, less obvious, but more far-reaching in their potential. The Special Session put the U.N. more central in disarmament affairs. One result of this was to question, if not yet to eliminate, the monopoly—the Chinese call it hegemony—of the U.S. and the U.S.S.R. in disarmament affairs. Also the Special Session more than any recent international event, underlined the absolute necessity for stronger national disarmament movements and an international disarmament movement.

With this string of more than a dozen successes, were there any disappointments? The deepest is that, despite the Special Session, the quantitative and qualitative nuclear arms race continues unabated, and the several arms races involving conventional weapons also continue. Thus the threshold of hypocrisy was great: high rhetoric, modest performance. Nobody predicted that a disarmament treaty would be negotiated or even initialed at the Special Session. But many observers, including myself, 18 months ago thought that the Special Session would somehow lessen the arms race. This was not to occur. Indeed, few changes were perceived, or registered, in the basic disarmament positions of all 149 Member States of the U.N., although some new ratifications of treaties were announced.

No treaty banning underground nuclear tests (CTB) or limiting strategic arms (SALT II) was announced by the superpowers, despite rather bright hopes of six months ago. Little sustained pressure was engendered during the Session on the superpowers by the non-nuclear States for immediate and drastic cuts in their strategic nuclear stockpiles. Indeed, because of the method of consensus, the program of action contained no pressure on the super-powers, such as contained in some recent U.N. disarmament resolutions—where voting was allowed—demanding, for example, a moratorium of nuclear testing. Little evidence was demonstrated that the Third World wants to lessen its conventional arms; it is content to point a finger, perhaps justifiably, at the so-called Second and First worlds to lessen their nuclear stockpiles. No new disarmament caucus or bloc was established at the U.N. during the First Special Session as the Group of 77 on economic issues was formed during the First U.N. Conference on Trade and Development (UNCTAD). The Special Session produced no sustained interest of much of the world's media; despite the presence of 20 Heads of State or Government, the event hardly remained in the headlines. Only war or violence catch the sustained attention of even the most responsible of the media. Nobody got hurt or killed at the Special Session; it was a media non-event, yet the Special Session tried to head off the extinction of the totality of mankind.

The final determination of the success or failure of the Special Session is difficult and complex as the subject of disarmament is difficult and complex. One political litmus test is to compare the original purposes of the Special Session with the results. The Special Session did not curb the arms race, as some of us expected. The Special Session did not exert sustained pressure on the super-powers for drastic nuclear disarmament. The Special Session did not break the blockade in disarmament negotiations. However, it did bring France and China into disarmament affairs. The Special Session did make the world more aware of both the arms race and the need for disarmament. It did make the U.N. more central in disarmament affairs and is giving the non-nuclear States a greater role in this field.

Was the Special Session a success, a failure, or what? The Special Session was neither a huge success nor a dismal failure. The Special Session is a beginning, the start of a long process. The Special Session represents hopes deferred in the U.N. system, while the arms race accelerates in the world outside.

Those who worked hard on the Special Session feel now that it was a success; they were haunted with the possibility of failure. Those on the outside who looked to the Special Session to save the world from the scourge of nuclear war, they must still be hounded with possible failure.

THE U.S. DIMENSION

Let us, finally, turn to the relation of the Special Session to the U.S. Government. We U.S. citizens watching the Special Session were saddened by the clumsy performance of the Carter Administration. Of the major military powers, only the U.S. and China made no policy proposals during the 18 months of the Preparatory Committee. The Administration ineptly tried to prepare American opinion for the Special Session. A proposal for a Citizens' Advisory Committee, endorsed by Hubert Humphrey on his deathbed, never was approved. The President in a surprise move did not deliver the U.S. speech in the general debate, but managed in the same period to speak both to the NATO Summit and the U.S. Naval Academy. Few U.S. initiatives were proposed during the six-week session at the very time that the U.S. was escalating its over-reactions to the Soviet and Cuban presence in Africa. About the only wise action taken by the Administration was to put together a broad, able, versatile delegation to the Special Session, including not only such lawmakers as Senator George McGovern and Congressman Paul Simon, but public members, such as Paul Newman, Marjorie Benton, Harold Willens, Josephine Pomerance, Katherine Camp, and George Kistiakowsky.

The disenchanted American observer could easily blame the Carter Administration, the Pentagon, or the military-industrial-labor-science complex for this inadequate U.S. stance—one sadly but carefully observed by the Non-Aligned States. The major blame for U.S. action and inaction probably rests on the shoulders of us American citizens. There is no active American constituency for disarmament today. President Carter's actions accurately reflect this tragic truth, although he has done little if anything to alter this situation, except to place his hopes on a whirlwind SALT II ratification campaign at the appropriate political moment.

One of the most important lessons of the Special Session for some of us who were privileged to observe the historic event is to begin to help build an American disarmament movement as part of a world disarmament movement.

No American movement can easily be constructed. The U.S. so far appears to have been favored by God and history and thus appropriate movements have descended upon the American people when the time was ripe and the problem serious. However, we cannot automatically expect to be so favored again, especially on this international issue. We must try, however, to look backwards and examine at least three successful U.S. social movements in our time: the stopping of atmospheric nuclear tests in the early 1960s, the civil rights movement later in the 1960s, and that against the Vietnam War. We remember organizational cooperation and some chaos, charismatic leadership and petty jealousy, legislative action and grass-roots organizing, high-level negotiations and street action. We recall an implicit specialization of organizational functions. We recollect a pluralism of strategy, if not tight coordination, and—above all—efforts to reach "new publics."

While the civil rights and even the Vietnam War movements were basically domestic, all three had an international dimension. Especially with disarmament, there must be an effective international disarmament movement. One does not exist today which has balance and no ideological domination.

The U.N. Special Session on disarmament was a fragile beginning, a respite. There are lessons from the Special Session for each one of us. The arms race, deterrence, the $120 billion Pentagon budget—these can only end in war, sooner than later. War might come by calculation or miscalculation, by accident or terrorism in 1979, by George Orwell's magic year of 1984, certainly by the end of our century. We can only prevent war by significant disarmament. Yet resistance to curbing the arms race is multiple, formidable.

We Americans, especially attentive Americans who have tried to participate in social movements in the recent past, must begin to gear into an incipient American disarmament movement. We must begin where we are—church, synagogue, temple, labor union, PTA, League of Women Voters. We must insist on talking about the Pentagon budget, about a new Proposition 14 devoted to limiting federal taxes for the Pentagon, about economic conversion of war industries, about the largely artificial threats of Cuba or the Soviet Union or any other power to our American security. We must insist the stockpiles of weapons, outside Washington or Moscow or Peking—these are the threats to our security as human beings. We must show that the decay of our cities—all cities everywhere—is a result of the use of scarce funds for weapons, not for buildings or roads. We must show that inflation in our society is the result of the waste of resources—as is unemployment. We must take disarmament from the diplomats to the people—and then place it in the hands of the diplomats again, but with new political will. That is the lesson of the U.N. Special Section to some of us Americans.●

SOVIET DISSIDENT IZRAIL ZALMANSON FREED

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. EDGAR. Mr. Speaker, yesterday I was very much heartened by the news that Izrail Zalmanson, an imprisoned Soviet dissident and my "adopted prisoner of conscience," has been released by the Soviet Government and allowed to join his sister in Israel. This week, Mr. Zalmanson will be visiting the Philadelphia area under the auspices of the Jewish Community Relations Council of Philadelphia.

I am sure that all of the Members of the Congress join me in welcoming Mr. Zalmanson to the United States. And I especially want to commend the Jewish Community Relations Council for its tireless devotion to the cause of human freedom and its attention to the plight of Soviet Jewry.

The nations of the world voluntarily have agreed to the human rights provisions of the United Nations Charter and have signed the Universal Declaration of Human Rights. In addition, many of the nations of Europe—including the Soviet Union—are a party to the Helsinki accords and thereby have pledged to maintain freedom of emigration. During the past few years it has become increasingly apparent to the American people that the Soviet Government is not adhering to the spirit of these international documents. This has resulted in understandable scepticism about our entering into new agreements with the Soviet Government. What good is an agreement that is not lived up to?

Let us hope that the release of Izrail Zalmanson is a good sign. By adhering to the spirit of the human rights declarations it signed, the Soviet Government will pave the way for new agreements with the United States on issues of the highest mutual interest. Global problems like hunger and arms proliferation demand the joint attention of the world's two greatest powers, but in meeting these problems the United States must never lose sight of the human element of our foreign policy, and we must never compromise on the fundamental issue of human dignity.●

TRIBUTE TO MICHAEL J. "MIKE" ROYER

HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. JOHNSON of California. Mr. Speaker, the city of Roseville and all of northern California lost one of its finest citizens last month when Michael J. "Mike" Royer passed away. During his lifetime, he gave fully and freely of his time and energies for the betterment of his community and its individual citizens. He was always full of exuberance and good will. He worked hard and diligently not only on his business enterprises, but also on his many community projects.

Mike belonged to several citizens and fraternal organizations and helped to guide them in their efforts to be of service to the community. Much of what has been accomplished in Roseville in recent years has been assisted by the efforts of Mike Royer.

As a native of his community, Mike knew it well. He was not born to fame, but through diligence and personality soon became well known. The love which he shared with his friends and fellow citizens was returned many times over. His recognition as a leader of the community came through unselfish devotion and tireless efforts toward improving life in Roseville. He was at his peak when he was tragically stricken.

Mr. Speaker, we shall miss Mike Royer in Roseville. We want his wife Kay to know that the words and deeds of Mike will long serve as an outstanding example to us all. He will not soon be forgotten.

So that my colleagues in the House can get a better understanding of how highly respected Mike was in his community, I am pleased to place in the RECORD at this point a very fine editorial from our hometown paper, the Roseville Press-Tribune:

COMMUNITY CONCERN ROYER TRADEMARK

Michael J. "Mike" Royer Jr. was a man of integrity, responsibility and concern for his community.

A native of Roseville, he had moved to Grass Valley in 1939 and returned to Roseville in 1953 to enter business and later pursue his elaborate banking career, which included the presidency of Citizens Bank for nearly six years.

During his life and business career he also found time to dedicate himself to people and his community.

During his 14 years on the Roseville Hospital board of directors he helped the medical facility expand to its present 222 beds.

He served six years on the Roseville Planning Commission to help formulate the future growth of the city.

"Mike" was an original member of the city's off-street parking commission which helped establish Roseville's current policies on parking requirements for new construction.

He helped the business community expand through his membership eight years on the Roseville Area Chamber of Commerce board of directors.

He participated in community functions as a past president and member of the Roseville (Host) Lions Club, the Elks, Masonic Temple and Shrine Club.

"Mike" loved the people of his city, and they loved him. He will always be remembered that way by those who knew him.●

DANGER OF "RECREATIONAL" DRUGS

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. WHITEHURST. Mr. Speaker, recently I received a letter from one of my constituents, a former student of mine at Old Dominion University. With his permission, I am taking this opportunity of sharing his comments with my colleagues; I think that the concerns which he has expressed are shared by many people.

604 BALFOUR COURT,
Virginia Beach, Va., July 31, 1978.

Hon. G. WILLIAM WHITEHURST,
281 Independence Boulevard,
Virginia Beach, Va.

With all of the problems that we are faced with in this great Nation, why is it that we have to put up with the horrible examples that are being set in our Nation's Capital?

How are we to trust the decisions being made by our leaders when many of them come from minds that are unnaturally distorted by so called "recreational drugs?"

How long are we expected to stand for the ever increasing effect of taxation when we find that our tax dollars are going to pay the salaries of coke sniffers and pot heads?

How are we to expect our children to obey laws that they may not agree with when the examples of our leaders nullify any of the examples that we try to set?

I ask these questions of myself and I know the answers. . . . I cannot. I ask these questions of you and would like to hear your answers. I have watched this situation grow like a cancer in our neighborhoods, in our schools, and now in our government and can no longer stand by silently saying "to each his own."

I can identify with the pressures that are involved with high level jobs, but I cannot buy the use of drugs, legal or illegal, as a means of coping. Nature has provided too many ways to find relief from these pressures. They are there, they are easy to find, and they are mostly for free. Drugs are a cop-out. If our leaders cannot cope with the pressures then they do not belong where they are.

If I am in the majority in the way I feel then I hope that others will express themselves and that we can work together to reverse this trend. If I am in the minority, then I am afraid.

E. RICK BOWLER, III.●

THE MIRACLE OF REGENERATION

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. JACOBS. Mr. Speaker, the following article speaks for itself.

THE MIRACLE OF REGENERATION: CAN HUMAN LIMBS GROW BACK?

(By Susan Schiefelbein)

Physicians may one day treat patients who have shattered limbs, crippled joints, and injured spines in a way that man never before dared to dream of: regrowing the damaged part—whole, perfect, and undiseased.

For centuries, man has watched in wonder as the salamander regenerated its severed limbs, never imagining that complicated human parts could grow back in such a way. The halt and the lame could be made whole, it seemed, only by the healing waters of Bethesda or the touch of a god incarnate. But in recent years, scientists have grown back a frog's leg from elbow to toes and a rat's leg from shoulder to the top half of the elbow—with cartilage and bone, muscle, nerves, and veins, all in awesome anatomical precision. One of the pioneers in the field, Dr. Robert Becker—chief of orthopedic surgery at the Veterans Administration Hospital in Syracuse, New York—has already applied the newly found healing mechanism to broken human bones, successfully knitting fractures that previously had failed to heal even after extensive surgical procedures. He and his colleagues have now reached the point where they can confidently predict that regeneration of human parts can and will be achieved, possibly in the next few decades.

A brave new world? Not a bit. The magic of regeneration has been with us all along, hidden in the wondrous complexity of every organism's bodyworks. These scientists are not performing miracles; they are witnessing them.

Their challenge, then, has been not so much to re-create a limb as to discover how some animals do so naturally. The chronicle of their quest reads like a detective story; for clue by clue, Becker and his colleagues have been unraveling a medical mystery that began with creation.

The tale begins with a few known biological principles about regeneration that were to serve as the departure point for their search. The way regenerative healing works has been observed, if not explained, for hundreds of years; the process still seems so magical that even the most clinical of researchers must shake his head in amazement as he watches the microscopic metamorphosis unfold. The body of every animal, from the flatworm on up the evolutionary scale, possesses primitive, undifferentiated cells that could best be described as being like raw clay. When a creature that can regenerate loses a limb,

these cells migrate to the injury, forming a mass called a blastema. Some of the mature, specialized cells at the site of the injury dedifferentiate, reverting to primitive form, and add further to the blastema. The blastema then respecialize, transforming itself into whatever types of cells are needed to replace the missing part—bone cells, cartilage cells, and so forth. Somehow, the blastema absorbs information about what to produce along the way, so that at the appropriate moment, it creates an elbow joint or a tibia or a fibula, a left leg or a right one.

The first formal paper on regeneration was written by the great Italian physiologist Luigi Spallanzani and appeared in 1768. Spallanzani's experiments uncovered the first two important clues: The younger the animal, the greater its capacity for regeneration; and the lower an animal is on the evolutionary scale, the greater its capacity for regeneration. This latter finding was especially interesting, for it provided a clue in itself. The lower orders that regenerate are biologically just as complicated as man; their parts are just as difficult to replace. The main difference is—and this was later to become a significant clue—that animals in the lower orders have comparatively more nerves in their extremities.

A third clue was buried in the writings of the late 1700s: Every time a creature is injured, an electrical charge is generated at the site of the injury. This phenomenon is called the current of injury, and it is proportionate to the severity of the wound.

It was not until some 180 years later that scientists again began to delve into the mystery of regeneration. In 1945, the biologist Meryl Rose (a retired professor of anatomy at Tulane University College of Medicine who is currently affiliated with Woods Hole Marine Biological Laboratories) amputated the forelegs of some frogs below the elbows. Thinking he could perhaps promote growth by preventing the injuries from scarring over, he bathed the stumps of the frogs' limbs in a strong salt solution. The result was startling: About half of each amputated limb regenerated, developing new bone and muscle and in some cases even showing the beginnings of digital growth. Thus Rose became the first to prove that an animal which cannot regenerate naturally can be made to do so artificially.

The next year, a Russian named Vladimirovic Polezhaev amputated frogs' legs in a similar fashion and then irritated the stumps by repeatedly jabbing them with needles. The result? Astonishingly, he regenerated about the same amount of growth that Rose had with the salt solution. It was possible that the salt not only had prevented scarring but, like the needle punctures, had actually exacerbated the injuries and thereby stimulated growth. Now there was another clue: Regeneration may somehow be connected to the severity of injury.

In the early Fifties, Marcus Singer, presently a professor of anatomy at Case Western Reserve University, in Cleveland, became the next to uncover important evidence. He transferred nerves from a frog's healthy hind legs to the stump of its foreleg; his frog also regenerated about the same amount of growth that Rose's had. Singer's contribution to the collection of clues is an almost mathematical formulation: The nerve tissue required for regeneration must constitute at least 30 percent of the total tissue at the site of the injury.

Then in 1958, a Russian named A. V. Zhirmunskii discovered that the current of injury is proportionate not just to the severity of the injury but also to the amount of nerve tissue in the area.

Becker's turn at medical detection also came in 1958. He assembled his evidence as a good detective would assemble his suspects: Injury is related to regeneration; nerve tissue is related to regeneration; and both injury and nerve tissue are related to the current of injury. Could the current of injury, Becker reasoned, thus be related to regeneration?

He measured the current of injury in a salamander's regenerating leg and in a frog's scarring stump. Sure enough, his findings seemed to support his hunch. On the day the legs were amputated, both creatures generated the same current of injury—a positive voltage. But there the similarity ended: As the frog's stump scarred over, the current of injury in its leg declined to zero; but the current of injury in the salamander's leg switched from a positive to a negative polarity and only then began to decline, reaching zero when regeneration was complete.

Becker had definitely discovered a connection between the current of injury and regeneration. In a sense, however, his discovery complicated rather than clarified the mystery. The way the current of injury worked in those limbs was simply not concurrent with the way nerves are supposed to produce electricity.

Nerve fibers have traditionally been thought to respond to stimulation in only one way: Sodium penetrates into the nerve cell and potassium leaks out, creating a chemical reaction that generates a charge called an action potential. Whatever the stimulus—a gentle touch or an injury—the action potential is exactly the same. Moreover, each nerve fiber can create only one of these potentials at a time. Becker compares the system to that of a digital computer, which transmits single impulses in rapid succession.

Herein lay Becker's problem: How could the action potential—a constant—account for the switch from positive to negative polarity that he had seen in the salamander's current of injury? How could the action potential account for the fact that the current of injury lasted many days after the stimulated nerve cells should have either died or repaired themselves and ceased their impulses? How could the action potential, which responds in the same way to every stimulus, account for the fact that creatures feel intensities of pain?

Becker guessed that in addition to its digital-computer impulses, the central nervous system can carry steady currents and potentials—in the way an analogue computer can. He further theorized that the body's analogue computer system has an input signal—could it be pain?—that triggers an output signal which switches on the healing function.

To verify his theory, Becker measured the electrical potentials of different points on the skin of humans and other animals. He found an electrical field that roughly parallels the nervous system. A disturbance in that field—such as an injury—might stimulate cells to begin repairs.

Becker's theory ran counter even to basic textbook explanations of the nervous system, and medical men let him know it. "That cells are capable of sensing and responding to levels of electrical current is hardly universally accepted," he wrote in one medical journal. But he stuck to his convictions; and today, more than a decade later, doctors are coming to accept his hypothesis. "They no longer march out of my lectures," he says. "The response has changed from complete rejection through amused disbelief to—at present—almost enthusiastic acceptance."

And no wonder. The experiments that Becker based on his unorthodox vision of the nervous system produced remarkable results. First, in 1964, Becker began to examine the spontaneous regeneration of human bone. Given the fact that bone is not well innervated, the theories about electrical stimulation would not apply—unless bone could generate its own electricity. Becker knew that bone accommodates automatically to mechanical stress. When he measured the currents around a stressed bone, he discovered that it generated a positive change on the stretched side (which dissolved some bone) and a negative charge on the other side (which built up bone and provided the necessary added support). Then Becker administered a negative charge to a mouse's broken leg bone to see if he could artificially stimulate bone growth. He did.

In 1964, Steven Smith, then a student of Meryl Rose and now an associate professor in the department of anatomy at the University of Kentucky, studied Becker's findings and got the idea of implanting a simple electrode right into the muscle tissue of the stump of a frog's leg. He soldered together a piece of platinum wire, which has a positive charge, and a piece of silver wire, which has a negative charge, and embedded the metal into the animal tissue—with the negative end at the stump—thus improvising a crude battery. It worked. He regenerated about as much growth as the Rose, Polezhaev, and Singer experiments had the decade before.

Breakthrough followed breakthrough. Becker examined his healing frog bones under a microscope and saw that the blastema around the regenerating bone was coming from a blood clot that had formed there. (A frog's red blood cells are prime candidates for blastema, for—unlike the red blood cells of mammals—they have nuclei and thus can easily divide and redifferentiate.) His next step? He had a student expose frog blood to various levels of electrical current in order to find out exactly how much of a charge is needed to turn blood cells into blastema. Days passed, then months. The student administered smaller and smaller currents to the blood (high ones either did nothing or began to cook the cells), but he saw no evidence of change. Finally, the week before the student was supposed to quit and return to his classes, he found that blood cells revert to blastema at a few billionths of an ampere.

In 1973, armed with the knowledge of how much current produces a blastema, Becker decided to brave the step from regenerating amphibians to regenerating mammals. He amputated a rat's forelegs below the shoulder and implanted the platinum-silver electrode device at the stump. Again, success—this time, the most exciting ever. The animal regenerated nerves and tissue and even formed the humerus, the upper-arm bone, complete with the rounded end that fits into the elbow joint. Other parts of the elbow joint began to take shape, including cartilage and two bony structures that Becker surmised were the forerunners of the radius and ulna bones of the lower leg. Everything about the new growth was precisely as it had been in the original limb. And all this growth took place in just three days.

But then the growth ended; for the electrode remained implanted in the shoulder tissue, while the end of the stump, where regeneration was taking place, had grown beyond the reach of its vital current.

The rat's growth, though incomplete, was nevertheless significant, particularly in one respect. The fact that the rat, whose red blood cells have no nuclei, could form a blastema—probably from bone marrow—indicated that in all probability humans could do so as well.

About this time, in London, two newborn infants lost their fingers, and the fingers regenerated naturally. The explanation, in Becker's view, probably lies with Spallanzani's early finding that the younger the creature, the better its ability to regenerate. But what was most significant about the babies' growth was that it indicated that the human body contains within it the capacity for regeneration.

Later in 1973, Smith devised an electrode that would travel with the regenerating

stump. Again he amputated a frog's leg below the elbow. With the new device, the frog's entire leg grew back.

The year 1973 marked a third triumph as well: Becker began using his findings about the body's electricity in experiments on human bone. A patient of his who had fractured his ankle two years earlier suffered from a mild diabetic condition that was interfering with the bone's ability to regenerate. The ankle had failed to mend despite two corrective operations; and the bone on both sides of the break had deteriorated. Under normal circumstances, Becker would have had to amputate the leg. Instead, he implanted an electrode into the fracture and administered the same current that he found had divided the frog's red blood cells. He waited three months, the time an ankle fracture would normally take to heal, and the fracture regenerated. A sample of the new bone showed it to be normal in every respect.

The next year, during the course of routine experiments, Becker stumbled on another clue that finally shed considerable light on his nervous system theory. With the intention of impeding growth, he and his staff broke the tibia in a rat's leg and then cut the nerve that led to the broken limb, assuming that without a nerve supply the rat's bone would heal poorly, if at all. But the fracture healed well; the only drawback was that it took twice the normal time. Perhaps the severed end of the nerve needed time to degenerate, they thought. So they cut the nerve six days before breaking the bone. To their astonishment, the bone healed in the normal amount of time, as if the nerve had never been cut at all.

What was going on? They opened up the leg, only to discover that the nerve fiber had not healed. What *had* healed was the nerve's sheath of Schwann cells—one of a dozen types of cells that make up the "perineural group"—traditionally thought to serve no purpose other than the insulation of the nerve fiber. The perineural cells in the brain were known to carry a steady current—for what reason, no one knew. It now seemed apparent that Schwann cells also carry a steady current. This was proof enough for Becker that the analogue computer system he had theorized was indeed contained in the perineural cells—cells that sheathe the entire central nervous system.

The perineural discovery is by no means the end of the tale. Experiments must still be conducted to determine if electrical regeneration is entirely safe. Could applications of electricity to the peripheral nervous system, for example, induce some sort of behavioral disorder? Or damage our cognitive powers? Every human body contains dormant cancer cells. Could an implanted electrode shock them into fatal multiplication?

Nevertheless, much of the mystery has been solved. Only the last chapter—the most exciting one—has yet to be written. It may well describe the modern world as a Shangri-La where damaged human parts are simply cut off and grown back properly. Our future may lie not with the bionic man but with the natural man.

The replacement of arthritic hip joints with Teflon parts, for example, is now a costly and not altogether satisfactory operation. The Teflon wears out. If the device is implanted in a young person, it may have to be replaced some four or five times in the course of his life. And with each hip operation, there is the risk of infection, which can be a deadly prospect. The alternative—growing a natural hip—would be safer and cheaper

We may also someday regenerate a damaged heart. Becker has discovered that salamanders replace some 50 percent of their cardiac muscles by regeneration. And Polezhaev has cut away the scar tissue on the hearts of dogs that had suffered severe heart attacks; all of the hearts regenerated and less than 5 percent of the dogs died. We may even replace parts defective at birth, given that damaged genes do not garble the instructions given to the blastema.

Becker himself is hesitant to herald regeneration as an immediate cure for amputees. The replacement of severed parts, he says, is still pretty far off. Why not aim for more immediate uses that would be beneficial to greater numbers of people? Severing the spinal cord in man produces paraplegia because man's spinal cord does not regenerate. Becker, however, thinks that since salamanders regenerate their spinal cords, man's spinal cord could perhaps be electrically stimulated to do the same thing. It would take only a year to see whether electrical stimulation works without complications in a paraplegic dog or monkey. And if such stimulation works safely on them, it could be safely applied to humans.

The outstanding disappointment of the entire regeneration tale is that no one is conducting that experiment with paraplegic animals. Why? Money. Becker's own $100,000 grant, from the Veterans Administration, just covers staff salaries. Experiments are costly; keeping paraplegic animals in particular is frightfully expensive.

Still, it must not be forgotten that the financial problem—serious though it is—is the only laggard in regeneration's exhilarating race toward the future. It is the promise of regeneration—not the problems—on which we must focus attention. Hundreds of questions wait to be answered.

Animals that regenerate don't get cancer. If a tumor is implanted in a lizard's body, which does not regenerate, it grows to fatal proportions. But if it is implanted in the tail, which does regenerate, the tumor disappears. If we learn how to turn on regeneration (controlled growth), can we learn to turn off cancer (uncontrolled growth)?

Hormones play an important role in regeneration. A chopped-up adrenal gland when implanted in a frog will generate some growth. Moreover, if the adrenal gland is removed from a lizard, the creature will lose its ability to regenerate its tail. If the hormone prolactin is then injected, the lizard will regain its regenerative potential. It has also been hypothesized that hormones secreted during stress can cause cancer. Prolactin is secreted during stress. Is there a connection? Do carcinogens impose a stress on the body, which then triggers a hormonal release that oversensitizes the body to its own electrical forces, thus sparking wild division of cells?

If a negative charge builds up bone and a positive charge dissolves bone, could positive charges have an effect on malignancies?

If pain is the input signal needed by the brain to trigger healing, does anesthesia—the muffling of the pain signal—impede healing?

When power lines are stretched across the sea, amplifiers are put in at regular points to boost the current along. The body's electric system may run the same way, equipped with special spots along the analogue nervous system that boost the signals as they are carried to or from the brain. Becker has found that half of the traditional acupuncture points correspond to the spots in the nervous system that seem to be amplifiers of electricity. Could acupuncture simply involve the insertion of a metal needle into one of the amplifiers, short-circuiting the pain signal so that it never reaches the brain?

Does the body's sensitivity to electricity explain why reversals in the earth's magnetic field are related to the extinction of certain animals?

When one electrical field is imposed on another, the currents are altered. When one human being approaches another, do their biological electric systems overlap? Is this a scientific explanation for the "psychic" mystery of ESP?

The characteristics of the analogue nervous system are such that it should be influenced by external electrical fields. Becker has already found experimental evidence that would indicate that electrical fields such as those produced by power transmission lines produce stress in animals—with consequent physical effects that are shocking indeed to the layman. What is the relation between this unseen electrical pollution and human stress?

The possibilities seem infinite. Each is like a silver key. Which one will open the door to a new world? ●

CIVIL SERVICE REFORM ACT

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. STEERS. Mr. Speaker, for the benefit of my colleagues, I am inserting amendments, and accompanying explanations, to the civil service reform bill expected to be considered by the House of Representatives tomorrow.

Expansion of Office of Personnel Management to Three Members

AMENDMENT TO H.R. 11280 OFFERED BY MR. STEERS

Page 144 strike out line 16 and all that follows down through line 19 on page 145 and insert in lieu thereof the following:

"§ 1102. Appointment of members of the Office of Personnel Management

"The Office of Personnel Management is composed of three Commissioners appointed by the President, by and with the advice and consent of the Senate, not more than two of whom may be adherents of the same political party. No Commissioner of the Office of Personnel Management may hold another office or position in the Government of the United States."

"§ 1103. Term of office; filling vacancies; removal; quorum

"(a) The term of office of each Commissioner of the Office of Personnel Management is four years.

"(b) Any Commissioner appointed to fill a vacancy occurring before the end of a term of office of his predecessors serves for the remainder of that term.

"(c) Any Commissioner appointed for a four-year term may be re-appointed to any following term.

"(d) Any Commissioner may be removed by the President only upon notice and hearing and only for misconduct, inefficiency, neglect of duty, or malfeasance in office.

"(e) Except as otherwise provided in this title, the Office of Personnel Management shall act upon majority vote of those members present, and any two members present shall constitute a quorum for the transaction of business of the Board.

"§ 1104. Chairman; Vice Chairman

"(a) The President shall from time to time designate one of the Commissioners of the Office of Personnel Management as the Chairman of the Office of Personnel Management. The Chairman is the chief executive and administrative officer of the Office of Personnel Management.

"(b) The President shall from time to time designate one of the members of the Office of Personnel Management as Vice Chairman of the Office of Personnel Management. During the absence or disability of the

Chairman, or when the office of Chairman is vacant, the Vice Chairman shall perform the functions vested in the Chairman.

"§ 1105. Functions of the office.

"The following functions are vested in the Commissioners of the Office of Personnel Management, and shall be performed by the Commissioners, or by such employees of the Office as the Commissioners designate:"

Page 146, lines 23, 24, and 25; page 147, line 25; and page 148, line 1 strike out "Director" and insert in lieu thereof "Commissioner".

Redesignate the following provision (and references thereto) accordingly.

EXPLANATION

While I believe the Civil Service should be reformed I have serious reservations about whether this measure, H.R. 11280, is the appropriate vehicle.

I am most concerned about the concentration of personnel authority in the hands of one individual, the Director of the Office of Personnel Management. In my opinion this would politicize the Federal service and destroy the merit system which has served the American people well for nearly 100 years.

Placing governmentwide personnel authority in one Director takes the decisionmaking process out of the public's eye. The Director would merely have to make a proposal affecting governmentwide personnel systems to himself, debate it by himself, and make a unilateral decision whether to implement the proposal. Thus, there is no check on arbitrary and capricious actions by a Director.

My amendment would preserve the impartial administration of the Civil Service system. While it would not alter the split of the Civil Service Commission's responsibilities between the Office of Personnel Management and Merit System Protection Board, it would vest the powers of the Office of Personnel Management in three Commissioners. By so doing, it will provide for checks and balances against misuse of authority.

As a Commission, the decisionmaking process will be opened to the public and all decisions would require a majority vote. Moreover, it is a bipartisan Commission, therefore, it will act as a check against an incumbent President using the authority of the Office of Personnel Management for personal political reasons.

While no system is "fail safe," as the Watergate era demonstrated, I believe the public would be better served by an open system which decentralizes authority instead of the system proposed in this bill.

[Computation of Certain Annuities]

AMENDMENTS TO H.R. 11280 AS REPORTED

OFFERED BY MR. STEERS

Page 200, line 73 after "308." insert "(a)".

Page 200, after line 20, insert the following new subsection:

(b)(1) Section 8339(d) of title 5, United States Code, is amended by inserting "(1)" after "(d)" and by adding at the end thereof the following new paragraph:

"(2) The annuity of an employee retiring under this subchapter with less than 20 years, but at least 5 years of service as a law enforcement officer or firefighter, or any combination thereof, is computed under subsection (a) of this section, except that the annuity of such employee is computed with respect to the service of such employee as a law enforcement officer or firefighter, or any combination thereof, by multiplying 2½ percent of his average pay by the years of that service.".

(2) Section 8339(h) of such title is amended by striking out "section 8336(d)" and inserting "section 8336(d)(1).".

(3) The amendments made by this section shall apply with respect to individuals who become entitled to receive an annuity on or after the effective date of this Act.

[Computation of Certain Annuities]

AMENDMENTS TO H.R. 11280 AS REPORTED

OFFERED BY MR. STEERS

Page 200, line 73 after "308." insert "(a)".

Page 200, after line 20, insert the following new subsection:

(b)(1) Section 8339(d) of title 5, United States Code, is amended by inserting "(1)" after "(d)" and by adding at the end thereof the following new paragraph:

"(2) The annuity of an employee retiring under this subchapter with less than 20 years, but at least 5 years of service as a law enforcement officer or firefighter, or any combination thereof, is computed under subsection (a) of this section, except that the annuity of such employee is computed with respect to the service of such employee as a law enforcement officer or firefighter, or any combination thereof, by multiplying 2½ percent of his average pay by the years of that service.".

(2) Section 8339(h) of such title is amended by striking out "section 8336(d)" and inserting "section 8336(d)(1).".

(3) The amendments made by this section shall apply with respect to individuals who become entitled to receive an annuity on or after the effective date of this Act.

[Pay Rates]

Amendment: H.R. 11280

OFFERED BY MR. STEERS

Page 148 strike out lines 12 through 24 and insert in lieu thereof the following:

(b)(1) Section 5314 of title 5, United States Code, is amended by inserting at the end thereof the following new paragraph:

"(67) Director of the Office of Personnel Management".

(2) Section 5315 of such title is amended by inserting at the end thereof the following new paragraph:

"(122) Deputy Director of the Office of Personnel Management."

(3) Section 5316 of such title is amended by inserting at the end thereof the following new paragraph:

"(144) Associate Directors of the Office of Personnel Management (5).".

Page 165 strike out line 24 and all that follows down through line 12 on Page 166 and insert the following:

(C)(1) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(123) Chairman of the Merit Systems Protection Board".

(2) Section 5316 of such title is amended by adding at the end thereof the following new paragraphs:

"(145) Members, Merit Systems Protection Board.

"(146) Special Counsel of the Merit Systems Protection Board."

(3)(A) Paragraph (17) of section 5314 of such title is hereby repealed.

EXPLANATION

The purpose of this amendment is to provide Federal Law enforcement and firefighting personnel with less than 20 years service, but at least five, a special 2½ percent retirement computation formula in recognition of the special hazardous duty service in which they perform. Current Law (P.L. 93-530) already extends this credit to those with 20 or more years of service, but failed to provide similar credit to those who serve less than 20 years.

This amendment would correct this inequity by extending the special, hazardous duty retirement rate to all Federal law enforcement and firefighting personnel who retire with between 5 and 20 years of service. A similar amendment has been accepted by the Senate.

(B) Paragraph (66) of section 5315 of such title is hereby repealed.

(C) Paragraph (99) of section 5316 of such title is hereby repealed.

Page 300, line 6, strike out "Senate" and insert in lieu thereof the following: "Senate, and shall be paid at an annual rate of basic pay equal to the maximum annual rate of basic pay currently paid, from time to time, under the General Schedule,".

Page 347, strike out lines 5 through 8 and insert in lieu thereof the following:

(e) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(147) Members, Federal Labor Relations Authority (2).".

EXPLANATION

The purpose of this amendment is to lower the level of compensation of officers and members of the Office of Personnel Management, Merit System Protection Board and the Federal Labor Relations Authority.

Both H.R. 11280 and Reorganization Plan Number 2 call for the creation of a number of new top-level appointed positions in the civil service system; increasing the number of top level management positions in the system from 3 to 11. Of these positions, the lowest salary level—for those of the five Associate Directors of the MSPB, Vice Chairman of the MSPB, Member of the MSPB, and Special Counsel of the MSPB—is fixed at the rate of compensation of Executive level IV, or $50,000 each. In addition, the Director of the OPM is compensated at the rate of Executive level II, $57,500; both the OPM Deputy Director and the Special Counsel of the MSPB are compensated at Executive level III are, $52,500. These positions will add $417,500 to the salary outlays for top level appointees.

In addition, the creation of the Federal Labor Relations Authority, will add three new highly paid positions: The Chairman, at Executive level II, $52,500 and two Members, at Executive level IV, $50,000.

In light of the President's recent proposal to put a cap on Federal pay, it is appropriate that we follow his suit and reduce the levels of compensation for these new positions.●

NOISY AIRCRAFT BILL: THE OPPOSITION GROWS NOISIER

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. VANIK. Mr. Speaker, as the implications of the Airport and Aircraft Noise Reduction Act become clear to everyone, the opposition to title III, the so-called Noisy Aircraft Revenue and Credit Act, has grown noisier and more outspoken. In an editorial, entitled "Airline Sound and Fury," the New York Times on August 9 lambasted the noisy aircraft provisions as meaningless and setting a dangerous precedent for other "messy" industries. The editorial follows:

AIRLINE SOUND AND FURY

A few months ago it appeared that the quid pro quo for airline deregulation legislation would be Fedeal money to help the airlines meet new aircraft noise standards. Only by supporting noise control subsidies could the Administration muster the votes in the House to open air routes to new competitors and allow carriers to set their own fares. Congressional ardor for noise control funds has, however, cooled somewhat with reports of fat airline profits, and the deregulation effort is now apparently strong enough to stand on its own.

That is welcome. Airline deregulation is a fine first step towards reducing the inflationary role of government in private markets. The connection between deregulation and noise control has always been political, not logical. It is now up to the House to look hard at the dubious case for noise control subsidies. The subsidy program now contemplated would have very little impact on the airlines' ability to finance quiet aircraft. But it would set an unfortunate precedent for other industries to look first to the Federal Government for cash to clean up pollution.

The key provision of the House plan would divert a quarter of the revenues from the current 8 percent domestic ticket tax now going to the airport construction trust fund and use it to pay for quieter aircraft engines. No additional tax would be needed to make up the revenue loss to the trust fund; it now runs a substantial surplus. The airlines say they must have the Federal money because their bill for the new equipment will be enormous in coming years, and their ability to raise private capital will be limited by their large existing debts and poor profit record.

Some critics of the proposals dispute the industry's claims, citing its fine profits in recent months. But there is really no need to decide here who is right, since the program is unlikely to change airline financing for better or worse. Industry opinion notwithstanding, the competitive market in which the airlines operate would prevent them from using the subsidy to increase total revenues. It might temporarily increase revenues. But competition among the carriers—competition informally encouraged by the Government, and soon to be required by law—should insure that passengers get the tax money back. Any excess profits will be returned in the form of somewhat lower fares than could otherwise be expected.

The subsidy, then, is no subsidy at all: The effect would be virtually the same if the ticket tax were simply reduced from 8 percent to 6 percent and competition continued to determine ticket prices. That, ironically, is just what alternative legislation proposed by Congressman Charles Vanik—and bitterly opposed by the airlines—would do.

Since it wouldn't really change anything, cynics argue that Congress might as well make the airlines happy by approving the bill. But this route has its dangers. The program generates the appearance, if not the reality, of a Government bailout for one industry's special environmental program. And, as such, it could pave the way psychologically for special pleadings by other industries. The aircraft noise subsidy program is, in itself, neither good nor bad: It is meaningless. Competition among the carriers should nullify its economic impact. But that is certainly not sufficient reason to commit the Federal Government symbolically to a policy of cleaning up other peoples' messes.

I hope that my colleagues take these arguments into account when the closed rule for title III comes to the floor early next week. I ask you to vote against the previous question on the closed rule so that an open rule may be considered. This would allow amendments that would reduce the airline passenger tax and prevent the airlines from getting an investment tax credit on the Treasury giveaway.

We cannot afford to let a closed rule open the doors of the Treasury so that the airlines can airlift $3 billion from the Federal airport and airway trust fund.●

HOPE TO A DIVIDED LEBANON

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. DERWINSKI. Mr. Speaker, I am pleased to direct the attention of the Members to the question and answer interview in this afternoon's Washington Star, featuring the Honorable Charles Malik, one of the world's most respected statesmen. Dr. Malik, former foreign minister of Lebanon who became the first Arab President of the United Nations General Assembly, expresses his concern with the fate of Lebanon's fragmentation and the threat to its Christian community.

In view of the overwhelming adoption by the House of my amendment to suspend aid to Syria for the fiscal year 1979, and the interest in a similar amendment pending in the other body, I insert the Q. & A., column so that the Members might appreciate the grave problems that beset Lebanon:

EX-LEBANESE AIDE DESCRIBES HOPES FOR HIS DIVIDED LAND

Question: What is the problem in Lebanon that has seen the country's central authority virtually evaporate in the last two years?

Malik: The problem of Lebanon is the breakdown of practically all its institutions: governmental, military, civil, economic, educational and judicial. Lebanon has been undergoing a tremendous upheaval for three years as a result of many internal and external factors. The question, therefore, that faces the Lebanese people today is how to reconstitute themselves in such a manner as to have a stable, strong, effective government and at the same time how to preserve their human rights and fundamental freedoms which they deeply cherish.

Q: How do you explain the fragmentation of the Christian community itself, the feuds within the Christian community and the feuds between the Christian community and the Palestinians?

A. Lebanon is a mosaic of diverse communities and cultures and interests. In a mosaic like this, when the central quality weakens, the difference among the components in the mosaic would naturally become more accentuated, with the result that hitherto hidden or covered up rivalries and competitions and differing ambitions would come to the surface and make themselves more felt. And that is more or less what's happened in Lebanon in recent years. The feuds among the Christians are all internal and a result of rivalries among themselves as to leadership and position in the country. I do not think you'd find any difference among all the feuding Christian factions of Lebanon about whether they would want Lebanon to lose its independence or its freedom or to become enslaved or to become assimilated into any other kind of society than its own proper society.

Q. How have external factors affected the situation?

A: External factors have accentuated the situation: the presence of massive armed Palestinians in the country; the interests of many Middle Eastern countries in Lebanon itself, either to settle old accounts or accounts among themselves on Lebanese soil, and the pouring in of lots of money to help certain elements in the country fight other elements in the country.

Q: Are people like Pierre Gemayel (a leader of the Christian community) looking for an integrated Lebanon? Or are they looking for a feudatory of their own without interference from any external authority, including Lebanese?

A: Your question is clearly a loaded question. The direct answer to it is that the people to whom you refer and by whom you call by certain derogatory names are very honest people. They will accept nothing short of a unified Lebanon. They are not looking for what you call feudatory interests. They are looking only for the interests of the Lebanese people as a whole. They do not accept any diminution in the fundamental freedoms and rights and open character of Lebanese society. It's for the preservation of these fundamental values in Lebanon that they are fighting and for nothing else.

Q: How do you view the work of the Syrian peacekeeping forces so far in Lebanon? Do you think they have helped or hurt the situation?

A: They did a very good job at the beginning. They stopped the carnage of the Lebanese people and especially the Lebanese Christians who were very fond of them and they fraternized with them. Also some of the people, some of the leaders to whom you referred did go to Damascus and see President (Hafez) Assad several times and they always came back and told us they found him a very honorable, understanding, well-intentioned leader who wants only good for Lebanon and who will not tolerate any injustice inflicted upon the Lebanese people. I heard that from these leaders many times and I fully believe them.

Q: Has the situation with Syria changed recently?

A: Something happened about eight or nine months ago which appears to have changed the policy of Syria. I cannot attribute that change to a change in the mind of President Assad because I do not know. Last month the Syrian forces which are the overwhelming majority of the Arab peacekeeping forces, shelled, bombed and virtually destroyed the three or four most important Christian suburbs of Beirut. You hear at times pretexts given for that strange change such as they were provoked into it, they were shot at by others. No conceivable pretext can justify that wholesale bombing, shelling and firing and burning and many incidents of looting. About 300,000 peaceful Christian civilians had to flee to the mountains and live as refugees in their own country.

Q: Let's turn to the Israeli policy on Lebanon, which was characterized by reprisal raids recently, then an invasion and then withdrawal. They maintain a strong position and strong ties to the Christian community in Lebanon. What do you make of Israeli policy as it affects Lebanon, a united Lebanon?

A: So far as I know there have been no Israeli raids except on Palestinian camps. And again as far as I know these raids almost always occur as reprisals for attacks publicly done by Palestinian elements. They did invade a considerable part of south Lebanon. And as far as I know they have withdrawn now completely from that part and United Nations forces, by decision of the Security Council, were sent to the south to replace the Israelis.

Q: Isn't it true that what has taken the place of the Israelis in the south are the armed Christian groups who will not permit a UN peacekeeping force from entering the south?

A: I was not present at the United Nations debate nor did I take any part in behind-the-scenes negotiations. But I read in the papers and heard on the radio that one of the conditions Israel insisted on was that the UN would not allow the Palestinians to go back to the south of Lebanon. I also hear that the United Nations forces have not been able to prevent Palestinians from going into the south of Lebanon. I have some figures that literally thousands of them have gone back and are now going back

with the knowledge of some United Nations forces and are receiving lots of arms.

Q: Obviously the problem in Lebanon inflicts the most pain on the Lebanese people with the chaos and the collapse of society and the danger to life itself. But it's not a problem only for Lebanon, because a weak and divided Lebanon invites foreign involvement and that in turn can lead to a war which can draw in the great powers. In view of that, what do you think should be done by the great powers or by anybody in the area now?

A: My view is that we should first of all have very clear in our minds what kind of values may be destroyed if the problem of Lebanon is allowed to take its own course without proper help, sympathetic help, from outside. First, the free and open and liberal and pluralist society of Lebanon could be destroyed. And this free and plural society is practically the only society of its kind in the whole earth. The second value that is likely to be destroyed is the only remaining free, secure and deeply rooted Christian community, and even more than that, a community whose traditions go back uninterrupted for 2,000 years. This would endanger our being overwhelmed and becoming extinct or at least being reduced to a second-class community. These two fundamental values are the values which are at stake in the agony of Lebanon today.

Q: What do you think specifically a concert of states can do?

A: I think there are very urgent things, intermediate things and long-range things. The most urgent thing is for the international community—including the United States—to use its good offices to make sure that the present lull, the present cease-fire holds for good. The second thing is an honorable withdrawal of the Syrian forces from the Christian area. Third, something must be done to facilitate the return of the 300,000 Christian refugees and make sure their homes are still livable and they can still live a decent life in them. Fourth, some consideration on all kinds of levels should be given to how long the Syrian army could stay in Lebanon. When consideration is given to that aspect of the situation then, of course, arises the problem of what alternative you ought to have to replace the Syrian peacekeeping force if the Lebanese army in the meantime has not been strengthened to take care of the security of the country by itself. I'm not prepared at all to say there's no solution. On the contrary, one may make a number of suggestions about how it may be solved, provided there is initial renewal to solve the problem.

Q: What about the presence of the Palestinians on Lebanese soil?

A: The question of 50,000 or 60,000 heavily armed Palestinians is priority five or six. It is inconceivable that there's going to be peace in Lebanon of any tolerable kind with the presence on Lebanese soil of about 100,000 armed forces, Syrian and Palestinian. That problem has to be faced and we cannot simply put it aside and say that all will go well by sheer good will and rhetoric. Nor will all go well by force, namely by intimidation and all this destruction of the basic freedoms of the Lebanese which they cherish more than life itself.

Q: What other problems need to be solved?

A: You have economic reconstruction. You have communal political reconstruction, you have psychological problems to be faced to heal the rifts between the diverse segments of the population. You have the problem of Lebanon's relations with its neighbors, the Syrians, whom we do not want to be an enemy at all, and with the rest of the Arab world. You have the problem also of the relations of Lebanon with the rest of the world.●

SOVIET INVASION OF CZECHOSLOVAKIA

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 17, 1978

● Mr. PICKLE. Mr. Speaker, the question of freedom is unsolved in many aspects. Man deserves the freedom to live in a free society. Man's material well being is sick without spiritual well being.

No people in our world's history have a greater claim to love of freedom than the Czechs. For in this land, the dynamic forces of free thought, intellectual attainment, and economic development have long flourished. This is so because the Czechs have, as a people, honored freedom and human dignity.

The only fault with the Czechs and Slovaks is they are far too few in number, and occupy a space of our globe too small to command great power.

And since this relatively small number of people lies in the path of one or another great superpower, the superpowers seem to have no qualm about stepping on Czechoslovakia's territory.

This is certainly the case with the infamous Soviet invasion of Czechoslovakia in 1968.

On the 10th anniversary of this tragic turn of events, it is worthwhile to note this Soviet action illustrates the horrors of communism.

Marxism, as practiced by the Soviet Union, at least, means no free speech and no free thoughts. Because it is the nature of Czechs to speak and think freely, Soviet Marxism had to send tanks and soldiers to stamp out, not guns or weapons, but free expression and reform.

We should not forget this.

Mr. Speaker, in my congressional district there are many, many Czechs. They are not refugees from the 1968 horror, or the 1948 horror, nor the 1939 horror, but the uprisings of 1848.

Seeking political freedoms, these 19th century immigrants came into Texas to carve a new life while maintaining their love of freedom. This they have done, and I know that I speak with them in condemning the Soviet "Day of Shame" of 1968.

The Czechs of my district—honorable, hard-working, respected citizens—have a great love for the "old country" of Moravia and Bohemia. They are pained to observe that the present Czechslovakia is under the dominance of the Soviets by armed pressure and force. Today, they still carry on the customs of the old country. They do not want to make matters worse on the present citizens of Czechoslovakia, but they yearn for a return of democracy to their previous country. During all these years, they are quietly and painfully regretful that there is little freedom in the old country. All this was brought on by the invasion of the Soviets. I am convinced there is a deep-rooted resentment over this invasion. Someday it will erupt again. Someday the old democracy will come again. And the sooner the better.●

AIRPORT NOISE AND YOUR HEALTH

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. ANDERSON of California. Mr. Speaker, in recent years, numerous studies have demonstrated the harmful effects of constant exposure to aircraft noise. Investigations in Los Angeles, Japan, and England have linked constant exposure to jet noise to a rise in nervous breakdowns and birth defects.

While in my home district during our just completed recess, the results of a new University of California study were released. It reveals alarming evidence that links exposure to aircraft noise to higher death rates. Prof. William Meecham, the director of the study, compared mortality statistics for two areas similar in population, ethnic makeup and economic levels. The results indicated a death rate 19 percent higher in airport neighborhoods. Professor Meecham stated that the statistical odds against such differences occurring by sheer accident are 1,000 to 1.

As we near consideration of legislation which addresses the growing problem of aircraft noise, the Airport and Aircraft Noise Reduction Act, it seems most appropriate to share with you a recent Los Angeles Times news article which contains the details of Professor Meecham's study:

[From the Los Angeles Times, Aug. 25, 1978]

STUDY LINKS AIRPORT NOISE, INCREASE IN DEATH RATES—MORTALITY FIGURES UP 19 PERCENT FOR THOSE LIVING BENEATH LANDING PATTERNS AT L.A. AIRPORT

(By Richard C. Paddock)

A UCLA study of two communities near Los Angeles International Airport revealed a link between the constant noise of jet aircraft and higher death rates, it was disclosed Thursday.

The study, conducted by William Meecham, a professor of engineering specializing in aeroacoustics, showed that the death rate in neighborhoods directly beneath the landing pattern of jet aircraft and within three miles of the airport was 19 percent higher than among residents six miles from the airport.

"The evidence seems to clearly indicate a substantial increase in mortality rates for areas nearest the airport," Meecham said in a preliminary report on his investigation.

"It lends added weight to the results of earlier studies in Los Angeles, England and Japan linking constant exposure to jet noise to a rise in nervous breakdowns and birth defects," he said.

Another UCLA study released last February showed that children born to parents living under the airport landing pattern are much more likely to suffer birth defects such as harelips, cleft palates, anencephaly (missing brain) and spina bifida (spinal chord defect).

That study showed that in a test area next to Los Angeles International Airport—the same test area of Meecham's study—the rate of abnormal births was 61 percent higher among blacks, and 37 percent higher among whites, than in the rest of Los Angeles County from 1970 to 1972.

F. Nowell Jones, a UCLA psychology professor, and Judy Tauscher of UCLA's school of public health, who conducted that study, speculated that the cause of the higher birth defect rate was stress suffered by pregnant women repeatedly exposed to the noise of jet aircraft. Another study conducted in 1974 showed that noise can produce stress by causing disturbances in sleep patterns.

According to Meecham's two-year study, residents living in 1971 and 1972 within three miles of the Los Angeles airport suffered more deaths due to stroke, heart-disease and cirrhosis of the liver than residents of an area six miles from the airport.

Meecham will present a full report to local citizens groups, aviation industry experts and public officials at a September UCLA extension conference open to the public.

For the study, Meecham and graduate student Neil Shaw compared mortality statistics for two areas similar in population, ethnic makeup and economic levels.

In the area closest to the airport, a section of Lennox and Englewood bounded by Aviation Blvd., Arbor Vitae St., Vermont Ave., and Imperial Highway, the sound level was measured at 90 decibels and higher.

About six miles from the airport, in the Carson-Gardena area bounded by Crenshaw Blvd., Rosecrans Ave., Central Ave., Victoria St., 190th St. and the San Diego Freeway, the noise level ranged from 45 to 50 decibels.

Since decibels are measured on a logarithmic scale, noise of 90 decibels is 10,000 times greater than 50 decibels.

Prolonged exposure to noise of 90 decibels already is considered by experts to be hazardous to mental and physical health, according to Meecham's report.

In the area nearer the airport, the researchers found that 890 residents died during the two-year period compared to 670 in the more distant area. Adjusting for some differences in population, Meecham said, the death rate is 9 percent higher in the area directly under the jet landing pattern.

"By standard statistical measures, the odds against such differences occurring by sheer accident are 1,000 to 1," Meecham said.

Deaths from cirrhosis of the liver—generally linked to alcoholism—were 140 percent greater, in the noisier neighborhood than in the quieter one.

Deaths from stroke and heart disease were 39 percent greater in the area closer to the airport, Meecham said.

On Sept. 21 and 22, Mecham will conduct a conference at UCLA entitled "Aircraft Noise and the Community." Officials from the Federal Aviation Administration, the California Office of Noise Abatement and the Environmental Protection Agency will participate along with representatives from the aviation industry and citizens groups from Santa Monica, Brentwood, and Pacific Palisades.

"Previous conferences have been largely directed toward government agencies and industry experts," Meecham said "This program attempts to bring citizens groups and individuals into the discussion."●

U.S. NEWS & WORLD REPORT OPPOSES CARTER CIVIL SERVICE PROPOSALS

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. STEERS. Mr. Speaker, for the benefit of Members of the House of Representatives, I am providing a copy of an editorial in the August 28, 1978, edition of U.S. News & World Report. The points made by the editorial writer are indeed cogent as we consider H.R. 11280, the bill that would ostensibly "reform" the civil service system. Mr. Marvin Stone, the writer in question, urges that Congress send the President's task force back to the drawing board. I quite agree.

The article follows:

A GOOD TRY—NOT GOOD ENOUGH

(By Marvin Stone)

President Carter's plan to reform the civil service has generated widespread confusion. Administration arguments for the proposal have provided neither clarity nor reassurance.

Expressed the simplest way, the plan is to bring the bureaucracy under tighter rein by splitting the Civil Service Commission into two agencies, one for hiring and one for employee protection; to set up a corps of 9,200 super-executives, and to make it easier to fire people.

The splitting of the Commission is already in law, since Congress did not veto it. The rest requires approval, and it now is on its way through the House and Senate. This vehicle carries hazardous cargo.

Drumming up some support has been easy, because the images of the greedy bureaucrat and the lazy clerk are well established in the public mind. These slackers, be they few or many, have got to shape up or ship out. But does this mean we should accept a remedy that would cost the security of honest and industrious workers and open the way to a politically dominated service? The American people have a right to a civil service that can do its work undisturbed by political campaigns or partisan manipulation.

No one alleges that Jimmy Carter lusts after power. But his reforms would enable any future political dictator to reach down through the levels and take the whole organization captive. Members of the Senior Executive Service would work close to the administration. In turn 72,500 intermediate managers, the GS-13s, 14s and 15s, bereft of automatic raises, would depend largely on SES review for their rewards. And the lower grades, finding appeal more difficult than at present, would have to please the middle managers in whatever shades of political control the managers transmit.

Safeguards are prescribed, indeed. If a lower-echelon employe believed he had been fired through a "prohibited practice," he could take his plea to the Merit Systems Protection Board (appointed by the President), where the handling of his case would be determined to an extent by the special counsel (appointed by the President). There he would have trouble proving, for instance, that a charge of being obstructive or unproductive or hard to work with resulted from a rejection of political pressure. He could appeal further to one or another federal court, where the cost might well be prohibitive.

Members of the House Civil Service Committee moved the burden of proof in appeals from the employe back to the management—an improvement, but not enough to overcome the deficiencies of the proposed system. They knocked out the administration's bid to hire from among the first seven applicants instead of the first three as now, a proposed shift that would have oddly belied the drive for efficiency—but would have made it easier to take care of a politically preferable job seeker.

As for the amendment in the House to weaken the Hatch Act, that's poison.

Finally, the committee adopted Representative Gladys Spellman's amendment to confine the Senior Executive Service to a two-year tryout. Two years might indicate whether the system would work administratively, but could not begin to test creeping corruption.

We agree that civil service must be reformed. As pointed out by Representative Quayle of Indiana, the federal bureaucracy has grown to consume 22 percent of the gross national product. Its numbers have ballooned by 462 percent in the last 48 years, while the population has increased only 71 percent. Anyone who has worked close to this monstrous bureaucracy has seen individuals who loaf the day out, or whole units with nothing to do.

There has got to be a way to stop the outrageous waste, but the current plan is not the answer. It is risky beyond repair. Congress should send the President's task force back to the drawing board.●

THE LAW OF THE SEA CONFERENCE AND DEEP SEABED MINING LEGISLATION

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. GILMAN. Mr. Speaker, as a congressional adviser to the U.S. Delegation to the Law of the Sea Conference, I recently attended the Conference's current resumed seventh session in New York at the United Nations.

This resumed session commenced on August 21, 1978 and is scheduled to conclude on September 15, 1978. During this period the delegations from 150 nations are endeavoring to secure an equitable and comprehensive sea law treaty.

While progress on key issues had been made when the Conference convened in Geneva this past spring, several major topics continue to prove contentious. One such issue is deep seabed mining: the management and recovery of resources found on the sea floor and subsoil thereof, and the coordination of such activities undertaken by an international organization and individual states.

During the current session in New York, on August 28, 1978, both Ambassador Satya N. Nandan of Fiji, chairman of the group of 77, a group of 119 developing countries at the conference, and Ambassador Elliot Richardson, head of the U.S. delegation to the Conference, discussed deep seabed mining within the context of unilateral legislation pertaining to this activity being considered by individual States. The House, on July 26, 1978, passed such legislation, H.R. 3350, while the Senate has not as yet acted on this bill.

So that my colleagues may benefit from the observations of Ambassador Nandan and Ambassador Richardson on the relationship between such legislation and the Conference's efforts to conclude an agreement on seabed mining, I insert the remarks of both Ambassador Nandan and Ambassador Richardson at this point in the RECORD:

STATEMENT BY AMBASSADOR SATYA N. NANDAN

Mr. President, as the Chairman of the Group of 77, a group of 119 developing countries at this Conference, I would like to refer to a matter which though apparently extraneous to the Conference must be of grave concern for all who wish to see this Conference successfully concluded. The matter I wish to refer to is the move for unilateral

legislation relating to the exploitation of the resources of the deep seabed, being enacted or contemplated in several industrialized countries.

Such a move, coming at a time when this Conference has virtually concluded 90 percent of its difficult and intricate work for a global treaty affecting the ocean space as a whole, must be of concern to all who seek to regulate the future relations in the oceans in an orderly and peaceful manner through a universally agreed treaty. Those involved in these negotiations must know that this Conference has been making a steady progress towards a comprehensive treaty which will deal with a broad spectrum of international law of the sea from territorial jurisdiction of States to deep seabed mining beyond national jurisdiction. A task of such magnitude which involves a multitude of national interests and often conflicting national and international interests cannot be negotiated overnight. Nor can the negotiations for a multilateral treaty encompassing such a vast area of international law be compared with the relatively simpler processes of national legislations. If our progress appears to be slow it is to ensure that our agreements are universally respected and durable.

It is in this perspective that I wish to express here the view of the Group of 77 on the question of unilateral legislations affecting the resources in the area of seabed beyond national jurisdiction.

The Group considers such legislation as being contrary to the Declaration of Principles contained in General Assembly Resolution 2749 (XXV) and the declaration for a moratorium on seabed exploration and exploitation contained in General Assembly Resolution 2574 D (XXIV).

In the Declaration of Principles, the international community has solemnly proclaimed the deep seabed area as well as its resources as the Common Heritage of Mankind and as such it is not subject to appropriation or claim or exercise of sovereignty or sovereign rights. It has further declared that—

"All activities regarding the exploration and exploitation of the resources of the area and other related activities shall be governed by the international regime to be established."

The Moratorium Resolution is categorical in its declaration that pending the establishment of the international regime, States are bound to refrain from all activites of exploitation of the resources of the deep seabed and no claim to any part of it or its resources shall be recognised.

It is the position of the Group of 77 that such unilateral legislation relating to the resources beyond national jurisdiction have no validity in international law and activities conducted thereunder cannot be purported to acquire any legal status.

It is incomprehensible that at a time when the Conference is at an advanced stage in negotiating an internationally agreed regime for the exploration and exploitation of the resources of the deep seabed, States engaged in those negotiations should contemplate unilateral actions which would threaten to jeopardize the pursuit of the negotiations and indeed the successful conclusion of the Conference itself. These States must be aware of the consequences of their actions.

Mr. President, there can be no substitute to a universally agreed treaty for a rational and equitable development of the resources of the deep seabed area in the interest of the world community as a whole. Any other solution is not only seifish but short-sighted and may lead to irreparable consequences.

All of us have more important interests at stake at this Conference than only the manganese nodules and we should be careful not to jeopardize the overall agreement through hasty and short-sighted actions.

STATEMENT BY AMBASSADOR ELLIOT L. RICHARDSON

Mr. President:

I have listened with respect to the views expressed by the distinguished representative of Fiji on behalf of the Group of 77, and I do not wish to precipitate a lengthy debate on the subject of the deep seabed mining legislation. However, in my view and in the view of the other countries whose enterprises are now in the process of developing the means of recovering hard minerals from the deep seabed, the concept of the common heritage of mankind, which we supported in 1970 and to which we still subscribe, has never meant that these resources must remain unexploited in the absence of an internationally agreed seabeds regime. I would have thought this point would have been made clear by our concurrent opposition to the moratorium resolution, which was not adopted by consensus.

In our view, states and their nationals have the legal right to use the mineral resources of the deep seabed beyond national jurisdiction. This is a freedom of the high seas which has not been abridged either by any treaty or by customary international law. Although we are all engaged in the process of developing a treaty, this process has proved long and difficult, and its successful conclusion is not yet at hand.

I understand why the Group of 77 would prefer that we agree to defer any mining until an agreed treaty can be concluded, but I trust the Group will also understand why we cannot responsibly do that in face of the world's long-range need for the minerals and the more immediate need to proceed with the research and development that will in turn lead to the beginning of commercial mining. Far from jeopardizing the Conference, seabed mining legislation should facilitate the early conclusion of a generally acceptable Law of the Sea Treaty by dispelling any impression that the governments of the countries preparing to engage in such mining can be induced to acquiesce in an otherwise unacceptable treaty because that is the only way to obtain the minerals.

Mr. President, so far as the US is concerned, the goal of my Government remains the earliest possible conclusion of a generally acceptable Law of the Sea Treaty, and I believe the legislation now before the Congress to be entirely compatible with the principles on which the eventual treaty will be founded:

It recognizes that the resources of the seabed are the common heritage of mankind.

It requires that revenues be set aside for developing countries.

It requires stringent standards for the protection of the marine environment.

It does not assert any right of sovereignty or sovereign rights over seabed mine-sites.

It will be superseded whenever a law of the sea treaty takes effect with regard to the United States.

It does not declare or imply any intention that American seabed mining companies should remain outside the jurisdiction of an International Seabed Authority under such a treaty.

Finally, Mr. President, under the legislation that has just emerged from the Senate Committee on Foreign Relations, no permits for commercial recovery of hard mineral resources could in any case be issued for several years. This will allow ample time for our negotiations to conclude, thus assuring that seabed resources will be developed only under the international regime we are striving to achieve.

Thank you, Mr. President.●

THE DESTRUCTION OF THE MLAWA JEWISH COMMUNITY

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. BLANCHARD. Mr. Speaker, as we all know, World War II was one of the most saddening periods of history for Jewish people around the world. The cruel atrocities committed upon the Jewish people will always remain an unforgettable part of history.

The Jewish people have endured this holocaust and have emerged still a strong and vibrant people. However, there remain many who may not be fully aware of what was actually taking place in countless Jewish villages across Germany and in other nations during World War II.

One such village was a small town called Mlawa. The injustices which took place in this Jewish community are a painful reminder of what was taking place in other Jewish communities across Europe. Mr. Allen A. Warsen, from Oak Park, Mich., is the founder and honorary president of the Jewish Historical Society of Michigan. He is also a book reviewer for the Detroit Jewish News and has reviewed a great deal of holocaust literature. He has translated and published a booklet entitled "The Destruction of the Mlawa Jewish Community," which describes the atrocities that the innocent citizens of Mlawa suffered through during World War II. Mr. Warsen has sent me a copy of this booklet, and I would like to share this account with my colleagues:

THE DESTRUCTION OF THE MLAWA JEWISH COMMUNITY

The town of Mlawa is situated at the former border of Prussia. There, where two cultures came together, generations of Jews were raised.

The enterprising Jews, whose commercial activities reached as far as Konigsberg, and whose life and existence resembled a ship on the great waterways of the world, at home, laid the foundations of Torah learning, and immersed themselves in the practice of Jewish traditions.

Even the ordinary Mlawa Jews, who all week long were busy earning a living, could not be surpassed in their devotion to Queen Sabbath and in the observance of Jewish religious precepts.

As I write these lines, a picture-album titled "The Build-up of the East," published in Munich in 1941, lies before me. In the section on Jews there are a few pictures of Jewish-Polish types. Surprisingly, these are photographs of Mlawa Jews: fathers and grandfathers whose eyes reflect great Jewish hearts.

In the printed text of the album, the perverted Germans promised "to take care of the Polish Jews," but failed to mention that they already "had taken care of them."

It is generally believed that in Mlawa, the Germans carried out the first "Aussiedlung" (evacuation) of Polish Jews. They committed this crime even before Treblinka and Maidanek were created.

Why? For what sins did the Mlawa Jews deserve to be banished from their homes? Was it because they brought enlightenment and knowledge wherever they came? Or was it for the moral force exerted by Joseph Opatoshu, Mlawa's great Jew? Or was it because the Jews developed in Mlawa a worldly

culture at a time the peasants there were still backward and primitive?

The Mlawa Jewish community belonged to the most cultured Jewish communities in Poland. Though small, it produced generations of intellectuals and creative men who strengthened culturally Jewish communities throughout the world.

It is noteworthy that Mlawa produced two great authors: Joseph Opatoshu and Yakir Warshawski. [It was also the birthplace of the world renowned Socialist Victor Alter, martyred with Henryk Ehrlich by the Russian terroristic Bolsheviks.]

This outstanding Jewish community the monstrous Germans destroyed shortly after their invasion of Mlawa.

On December 5th, 1940, the Germans with the assistance of Polish hooligans forcefully ejected from their homes three thousand three hundred Jews and drove them to Dzialdowo, a town near Mlawa.

In Dzialdowo, in a prepared concentration camp, the monsters tested on the kidnapped Jews techniques of torture and degradation that they later applied to all Polish Jews. They built bonfires to try the most efficient method of burning Jews. To accelerate their inhuman experiments, the monsters with whips and sticks rushed their victims into the burning flames and sadistically watched them roast.

While the burning of Jews was still in progress, other monsters murdered their victims by running them over with trucks.

In that manner the aged rabbi of the Mlawa Jewish community met his death. Before the sadists murdered him, they forced him to put on his "tallith" (prayer shawl) and "tepphillin" (phylacteries) and pray for Hitler's health. Afterwards, the criminals crushed him with a truck.

From Dzialdowo officers of the "superior race" came to the camp to display their superior bestial instincts. It is simply impossible to express in human language the refined tortures the sadists inflicted on their victims.

Incomprehensible and indescribable were the sufferings the women endured. They were forced naked with their breasts to roll in human feces. This was not an invention of primitive men, but of high ranking degenerate officers, junkers, and "noblemen of swinish Teutonic blood."

The same perverts forced Jewish girls to perform Lesbian acts and married men to rape married women.

The Walpurga Night lasted without interruption twenty four hours.

As a result of the tormenting experiences, eleven individuals lost their minds. Their madness satisfied the animal urges of the degenerate tormenters.

At night, the mentally ill were subdued by the Nazi prisoners. But one sick person freed himself and ran out of the camp. He was killed by an Arian truck.

Some of the most distressing scenes took place during mealtime. No one was allowed to have a plate or sardine container. The "food" was poured either into the lap of a garment or a shoe. The recipient was forced to run with the food to his assigned place. Otherwise, the savages forced him to spill his portion.

The Dzialdowo inferno lasted eleven days. From there the Nazi victims were transported in freight cars to the so called "Jewish reservation" in Mezritch (Miedzyrzec).

There hell began anew.

Israel Goldstein, a Jew from Ripin, hardened by the brutal treatment he had received, the deportations and experiences in Treblinka, had difficulty relating the horrors to which the Nazi victims were subjected while they were leaving the freight cars and marching to the synagog in Mezritch. The synagog, it should be pointed out, served as the "Jewish reservation."

Shortly after their arrival in Mezritch, a typhus epidemic broke out in the synagog, that claimed tens of victims daily. At night the lice-covered corpses were removed in sacks to prevent the epidemic from spreading. For the same reason, food was delivered to the victims of Nazi oppression through the synagog windows. However, the Black Death permeated through the synagog walls, and the curses and laments of the sick and doomed could be heard far and wide.

Yet, between death and hopelessness, someone composed a primitive song portraying the sufferings and humiliations of the Mlawa Jews.

Where did that man get the strength to create those rhymes and melody? Even God would not know! Since he, too, had abandoned the Mlawa Jews.

The song, Israel Goldstein informed me, became the hymn of suffering and hope of the tortured and sick. It rapidly reached the Mezritch ghetto where young and old sang it hundreds of times.

It is astonishing that in their darkest hours Mlawa Jews, including the sick, refused to despair. In the midst of their most horrifying and humiliating experiences, they did not lose hope that someday a new world would arise and "The time will come We will again be free."

(These are the concluding lines of the song.)

The Mlawa Jews who did not die in the "Jewish reservation" perished together with those of Mezritch in Treblinka. Also the Jews who remained in Mlawa as slave laborers either were exterminated there, or were gassed in the ovens of Chelmno and Oswiecim.

"I imagined," said Israel Goldstein, "If I returned to Mlawa, I'd find there an historic marker memorializing the slaughtered Jewish community. Hadn't the Jews lived there for generations? Hadn't they created there and made Mlawa into a town? Furthermore, hadn't the Poles inherited all Jewish possessions?

To my great sorrow, I encountered there a great tragedy. A shameful act was perpetrated by local Polish hooligans."

Remarkably, the handful of Mlawa Jewish Holocaust survivors returned to Mlawa to erect a monument in memory of the destroyed Jewish community. First, they exhumed the remains of the fallen martyrs. Then, they placed the remains in a common brotherly grave. Lastly, they erected on the grave a tombstone commemorating the destroyed community.

The gravestone remained intact a few weeks. Then one night a gang of murderous Poles crushed it to pieces.

"As I was holding fragments of the crushed gravestone in my hands," related Goldstein, "I felt as if I was holding broken bones of the Treblinka martyrs."

This hideous crime marked the end of the illustrous history of the Jewish Community of Mlawa. ●

ROLLBACK MEDICARE DEDUCTIBLES AND COINSURANCE PAYMENTS

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. PEPPER. Mr. Speaker, there is a story that is told about a man who owned just one pair of boots. He could not afford to buy a pair of boots very often, but owning a pair of boots gave him what he needed. It saved him the embarassment of being seen in public without a pair of boots. When he walked to town, he put on the boots only after he reached the city limits. You see saving wear on those boots meant that he could keep up appearances, and keeping up appearances meant more to him than the protection of his feet.

In this country there are many older people on fixed meager incomes who understand very well why the man who owned just one pair of boots did not put them on until he could be seen in public. They are living their lives as though a denial of poverty were woven into the very fabric of their being. We are told that about 16 percent of those age 65 or over only have income below the threshold of poverty. Yet it is doubtful that half of those at or below the threshold of poverty either admit or feel that they are poor.

Much of what I say is more than just speculation. It is confirmed by what I have heard in hours and hours of testimony as chairman of the Committee on Aging. One of our witnesses, Daphne Krause of the Minneapolis Age & Opportunity Center, in telling us how older people skimp on medical services to keep up appearances, said:

As we do grow older, and if our health deteriorates, and we find that our limited income and resources cannot cover the costs above medicare for medical care we need, we delay getting medical help until our situation is serious, then we painfully draw on our precious savings, knowing they are irreplaceable. Under our "medi-supportive" concept (at the Minneapolis Age & Opportunity Center), which I will explain, we are serving over 8,000 people. We had become aware that many of our clients were not receiving needed medical care. The consequences were sickening, as you will hear. Many ended up in nursing homes too soon or died needlessly. Seniors will go without every time, rather than run up bills they can't pay.

The Abbott nurses and MAO counselors were screening 100 patients a day, having to make the agonizing choice between the sick and the sick, as to who would see a doctor. One client walked in with a handkerchief over a cancerous hole in the cheek; another with an aneurysm as big as a grapefruit. Another had a heart attack 5 days before and decided not to get help until they heard about us.

Ms. Krause is not talking about a time before the coming of medicare. The people she is talking about had medicare. They just could not afford medicare deductibles and coinsurance. As the cost of hospital services soar, the medicare hospital deductible has gone up too. In fact the formula under which the hospital deductible is raised each year is directly related to increases in the inpatient hospital per diem rate. Everyone knows that the rise in medical costs outpace most other consumer items. This means that the rise in the hospital deductible has been more than proportionate to the increase in wages and consumer items.

After being admitted to a hospital, a medicare insured must now pay $144 during the initial stages of hospitalization before medicare takes over. Medicare then pays the reasonable costs of hospitalization through the 60th day. After the 60th day, and up to the 91st day, the medicare insured is required to pay $36 of the cost incurred for each day of hospitalization. After the 90th the medicare insured may elect to draw upon the 60 day lifetime reserve. If this election is made, the medicare insured

must pay $72 of the cost of each day of hospitalization after the 90th day.

Under Part B of medicare—(Supplementary Medical Insurance Benefits)—which covers outpatient services, the insured must pay out of pocket the first $60 of medical items and services, after the $60 deductible has been satisfied, the insured is entitled to reimbursement for 80 percent of the reasonable charges for necessary medical services.

For those of us who are employed, and drawing good wages, these medicare deductibles and coinsurance payments would not be an obstacle to medical treatment. Consider, however, the circumstances of most medicare insureds. Other than their social security retirement benefits, they do not have much income, and for them these deductibles and coinsurance payments all too often mean doing without groceries in order to receive medical treatment.

To bring medicare deductibles and coinsurance payments within the reach of senior citizens again, I introduced a bill today which will, if enacted, lower to $20 the current hospital deductible of $144, rollback to $5 per day the hospitalization coinsurance payment of $36 per day that applies between the 61st and 90th days, and to $10 the daily hospitalization coinsurance payment of $72 per day that applies to the 60 day lifetime reserve.

Rather than taking the additional cost of the proposed amendments from payroll taxes, the bill proposes to pay the cost of lower deductibles and coinsurance payments from general revenues. This method of financing the amendments would avoid any increase in social security payroll taxes which have already been criticized for being too high and too regressive. Financing a part of the medical insurance trust funds from general revenues is not without precedent. About half of the cost of the supplementary medical insurance program is now paid from general revenues.

This country should be willing to commit itself to removing all impediments to providing medical necessities for those age 65 and over. Whenever I think of the testimony of witnesses who came before the Select Committee On Aging, and told us about older people who in quiet desperation were allowing life to slip away because medicare deductibles and coinsurance payments are too high, I know that a rollback in medicare deductibles and coinsurance payments can wait no longer.●

HONORING ELIZABETH AGNES PIGOTT

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 6, 1978

● Mr. PHILLIP BURTON. Mr. Speaker, on Friday, September 22, 1978, the American Irish Alliance of San Francisco will honor one of the truly good and generous women of San Francisco, Mrs. Elizabeth Agnes Pigott. Elizabeth Pigott's life of "good works" has earned for her a special place in the hearts of all who know her and have shared the warmth of her friendship.

Born Elizabeth Agnes O'Hara in Domahaire County Leitrum, Ireland, she immigrated to the United States in 1912. She spent 6 years in Rochester, N.Y., before settling in San Francisco in 1918.

It was in San Francisco that same year that she met and married Patrick James Pigott at St. Peter's Church. They lived at 23d and Kansas Streets in the, then predominantly Irish, Potrero district. In 1933, the Pigotts moved to 2865 Harrison Street, closer to St. Peter's Church where they were very active. The balance of the 57 years of married life which they shared was spent at Harrison Street until Patrick Pigott's death in 1975.

Elizabeth Pigott is a woman who is concerned for others and that concern prompted her to action. Upon her arrival in San Francisco, Elizabeth Pigott joined the Father Yorke Division of the Ancient Order of Hibernians and the Connaught Ladies Auxiliary. With these beginnings, she has developed a reputation of charitable work and espousal of worthy causes which has made her preeminent in San Francisco's American Irish community.

Her name and her Harrison Street address have become household words in St. Peter's Parish and in the Irish community. The basement of her home served as a meeting place for young Irish men and women new to this city. Many of today's San Francisco Irish families had their start with the meetings of these young people at dances held there. For the Harrison Street basement was the scene of many dances and fundraising activities which sponsored the work of Irish priests and nuns working in the foreign missions or which helped local families who were down on their luck or who had sickness in the family. The Harrison Street basement was a little bit of Ireland transplanted to the San Francisco Mission district and from it Elizabeth Pigott ministered to the needs of those about her.

The San Francisco Irish community can claim with great pride that Elizabeth Pigott is their "first lady." For indeed, she is a great and good lady. She is a tireless worker who radiated, by her cheerfulness and happy disposition, the joy of helping and being concerned for others.

The basement on Harrison Street is now quiet but it has been said by leaders in the Irish community that it was the forerunner of the United Irish Cultural Center where she will be honored.

Elizabeth Pigott is one of those rare good people who has enriched the lives of all with whom she had come in contact. I share these thoughts with my colleagues in the House to honor her, knowing full well that her greatest honor and satisfaction comes from knowing that she has lived the Biblical injunction to "feed the hungry, clothe the naked, visit the sick, and comfort the afflicted." ●

SENATE COMMITTEE MEETINGS

Title IV of the Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committees scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, September 7, 1978, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 8

9:00 a.m.
Energy and Natural Resources
Public Lands and Resources Subcommittee
To hold hearings on S. 876, to provide relief to the residents in the Vermejo Conservancy District, New Mexico, and on miscellaneous land conveyance bills.
3110 Dirksen Building

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on S. 2970, proposed Truck Safety Act.
235 Russell Building

10:00 a.m.
Finance
To continue markup of H.R. 13511, to reduce income taxes.
2221 Dirksen Building

Joint Economic
Priorities and Economy in Government Subcommittee
To hold hearings on the economic and budgetary effects of the proposed shipbuilding claims settlements on shipbuilding and Navy procurement.
5302 Dirksen Building

Special on Aging
To resume oversight hearings on the implementation of P.L. 95-256, to increase from 65 to 70 years of age limit for retirement under the Age Discrimination in Employment Act.
5110 Dirksen Building

SEPTEMBER 11

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on the nomination of Nancy Hays Teeters, of Indiana, to be a Member of the Board of Governors of the Federal Reserve System.
5302 Dirksen Building

Finance
To continue markup of H.R. 13511, to reduce income taxes.
2221 Dirksen Building

SEPTEMBER 12

9:00 a.m.
Judiciary
Administrative Practice and Procedures Subcommittee
To hold hearings on S. 2011, proposed Regulatory Reduction and Congressional Control Act.
2228 Dirksen Building

9:30 a.m.
Energy and Natural Resources Business meeting on pending calendar business.
3110 Dirksen Building

10:00 a.m.
Finance
To continue markup of H.R. 13511, to reduce income taxes.
2221 Dirksen Building

Foreign Relations
To hold a business meeting on pending calendar business.
4221 Dirksen Building

Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To hold hearings on S. 3284, to establish a minimum price preference for domestic goods, and to insure that the Federal Government does not purchase unfairly traded goods.
3302 Dirksen Building

11:00 a.m.
Veterans' Affairs
To hold hearings to receive legislative recommendations for FY 79 from representatives of the American Legion.
318 Russell Building

5:00 p.m.
Finance
Public Assistance Subcommittee
To hold hearings on S. 3470, proposed State and Local Welfare Reform and Fiscal Relief Act.
2221 Dirksen Building

SEPTEMBER 13

9:00 a.m.
Judiciary
Administrative Practice and Procedures Subcommittee
To continue hearings on S. 2011, proposed Regulatory Reduction and Congressional Control Act.
2228 Dirksen Building

9:30 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

10:00 a.m.
Finance
To continue markup of H.R. 13511, to reduce income taxes.
2221 Dirksen Building

Government Affairs
Permanent Investigations Subcommittee
To resume hearings with regard to the widespread nature of arson-for-profit, including evidence of the role of organized crime.
3302 Dirksen Building

SEPTEMBER 14

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings on S. 1699, proposed Diesel Fuel and Gasoline Conservation Act.
235 Russell Building

Energy and Natural Resources
To hold hearings on S. 3283, proposed State Energy Management and Planning Act.
3110 Dirksen Building

Finance
To continue markup of H.R. 13511, to reduce income taxes.
2221 Dirksen Building

Governmental Affairs
Permanent Investigations Subcommittee
To continue hearings with regard to the widespread nature of arson-for-profit, including evidence of the role of organized crime.
3302 Dirksen Building

Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on the FBI Charter and its overall policy.
2228 Dirksen Building

1:30 p.m.
Conferees
On H.R. 7577, extending through FY 1981 certain programs administered under the Economic Opportunity Act.
357 Russell Building

SEPTEMBER 15

10:00 a.m.
Finance
To continue mark up of H.R. 13511, to reduce income taxes.
2221 Dirksen Building

SEPTEMBER 18

10:00 a.m.
Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To resume hearings to examine alleged abuses in the GSA's contracting and procurement divisions.
3302 Dirksen Building

SEPTEMBER 19

9:00 a.m.
Judiciary
Constitution Subcommittee
To resume hearings on S. 1845, to prevent unwarranted invasions of privacy by prohibiting the use of polygraph type equipment for certain purposes.
6226 Dirksen Building

9:30 a.m.
Human Resources
Labor Subcommittee
To hold hearings on S. 3060, proposed National Workers' Compensation Standards Act.
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To mark up proposed legislation to provide for the maintenance of reserves for certain financial institutions, to require the imposition of charges for certain services by Federal Reserve banks, and to authorize the payment of interest on reserves held in Federal Reserve banks.
5302 Dirksen Building

Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 3392, to accelerate the use of solar energy as a source of electricity.
3110 Dirksen Building

SEPTEMBER 20

9:00 a.m.
Judiciary
Administrative Practice and Procedures Subcommittee
To resume hearings on S. 2011, proposed Regulatory Reduction and Congressional Control Act.
2228 Dirksen Building

9:30 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Human Resources
Labor Subcommittee
To continue hearings on S 3060, proposed National Workers' Compensation Standards Act.
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue mark up of proposed legislation to provide for the maintenance of reserves for certain financial institutions, to require the impostion of charges for certain services by Federal Reserve banks, and to authorize the payment of interest on reserves held in Federal Reserve banks.
5302 Dirksen Building

SEPTEMBER 21

9:00 a.m.
Judiciary
Constitution Subcommittee
To resume hearings on S. 1845, to prevent unwarranted invasions of privacy by prohibiting the use of polygraph type equipment for certain purposes.
5110 Dirksen Building

9:30 a.m.
Select Small Business
To resume hearings to explore problems concerning capital formation of small independent enterprises.
424 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on the use of export controls and export credits for foreign policy purposes.
5302 Dirksen Building

SEPTEMBER 22

9:30 a.m.
Human Resources
Labor Subcommittee
To resume hearings on S. 3060, proposed National Workers' Compensation Standards Act.
4232 Dirksen Building

Select Small Business
To resume hearings to explore problems concerning capital formation of small independent enterprises.
424 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings on the use of export controls and export credits for foreign policy purposes.
5302 Dirksen Building

SEPTEMBER 26

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on problems of small business defense contractors.
5302 Dirksen Building

Environment and Public Works
Nuclear Regulation Subcommittee
To hold hearings to receive testimony on nuclear reactor safety systems from NRC Chairman Hendrie.
4200 Dirksen Buildiing

Finance
Public Assistance Subcommittee
To hold hearings on H.R. 10648 and H.R. 12972, to modify the disability aspects of the Supplemental Security Income program.
2221 Dirksen Building

SEPTEMBER 27

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on financing of future energy needs.
5302 Dirksen Building

SEPTEMBER 28

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on financing of future energy needs.
5302 Dirksen Building

OCTOBER 3

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the Council on Wage and Price Stability.
5302 Dirksen Building

OCTOBER 4

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the Council on Wage and Price Stability.
5302 Dirksen Building

OCTOBER 5

10:00 a.m.
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To hold oversight hearings on international housing programs.
5302 Dirksen Building

OCTOBER 6

10:00 a.m.
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To continue oversight hearings on international housing programs.
5302 Dirksen Building

SENATE—*Thursday, September 7, 1978*

(Legislative day of Wednesday, August 16, 1978)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. PATRICK J. LEAHY, a Senator from the State of Vermont.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Lord, our God, grant us clean hands and pure hearts to stand unblemished in Thy holy presence. Divest us of all that is mean and ugly and destructive. Invest us with that which is beautiful and good and true.

"Reclothe us in our rightful mind,
In purer lives Thy service find,
In deeper reverence, praise."

May we welcome this new day as a great adventure, with our spirit mastered by Thy spirit, that we may serve this Nation in a manner which sets forward Thy kingdom on Earth. Bless this Nation with wisdom and justice that it may be a blessing to the world.

We pray in the Great Redeemer's name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 7, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PATRICK J. LEAHY, a Senator from the State of Vermont, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. LEAHY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I be recognized following the expiration of time for the two leaders, and again following the expiration of routine morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JACKSON. Will the Senator yield for a unanimous-consent request?

Mr. ROBERT C. BYRD. I yield.

PRIVILEGE OF THE FLOOR—CONFERENCE REPORT ON H.R. 5289

Mr. JACKSON. Mr. President, I ask unanimous consent that the following members of our committee staff be granted the privileges of the floor in connection with the natural gas conference report on H.R. 5289; June Diamond, Dan Dreyfus, Mary Flanagan, Grenville Garside, Mike Harvey, and Betsy Moler.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, may I add to that list the names of Bethany Weidner, Alvin Duskin, Kevin Murray, Mimi Mager, Irene Emsellem, and Glenn Feldman.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Chair, in his capacity as a Senator from the State of Vermont, will add the name of Sue Brannigan to be granted the privileges of the floor.

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished acting minority leader.

Mr. HANSEN. Mr. President, I ask unanimous consent that there be added to the list of persons proposed by the distinguished Senator from Washington (Mr. JACKSON) the names of Danny Boggs, Fred Craft, Carol Sacchi, and Nolan McKean.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Has the Senator finished?

Mr. METZENBAUM. Will the Senator yield for another unanimous-consent request?

Mr. ROBERT C. BYRD. I yield.

Mr. METZENBAUM. Mr. President, I wish to add the additional names of Dan Grady, Barry Diernfeld, Rick Wilson, Rick Sloan, and Roy Meyers, that they be granted the privileges of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I also ask unanimous consent that Howard Shuman of my staff be granted the privileges of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I understand the Senator from Wisconsin would like to have some time.

Mr. PROXMIRE. I would like to have 3 minutes.

Mr. ROBERT C. BYRD. I yield such time as the Senator may require from my time.

CAMBODIA: A CONTINUING REMINDER OF THE NEED FOR THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, it seems that every day we are confronted by new reports from Cambodia, each more shocking than the last. The Cambodian Government has attempted to cut that country off from the world, to keep under wraps their systematic decimation of the Cambodian people and their past.

But word has leaked out. And what has leaked out is, as I said before, utterly shocking.

In a report submitted 2 weeks ago by our Government to the United Nations, interviews with 22 refugees who fled from Cambodia into Thailand tell a gruesome tale. With a frightening lack of respect for life, the soldiers of the Khmer Rouge now resort to the death penalty at the slightest provocation. The most trivial offenses can cost a person their life. The refugees cited lateness to work as the most common offense warranting capital punishment. Complaints over food, work, or other conditions are also liable to this extreme measure.

Mr. President, what can we do? The U.S. Government has been forthright in bringing these atrocities to the attention of the world, but this has so far had little effect on conditions within Cambodia. Senator McGOVERN has raised the question as to whether or not an international military force be formed to put an end to the disregard of human rights in Cambodia.

Mr. President, the situation in Cambodia must be remedied. The world must find the means to put an end to this bloodshed.

The situation in Cambodia, which can properly be called genocide, should remind the Senate of another matter that ought to be set right. The United Nations took action three decades ago to define and outlaw genocide. The treaty the U.N. proposed has awaited Senate ratification since 1949. In the meantime, 83 other nations have signed the treaty, including almost all of our allies.

The Genocide Convention will not stop genocide in Cambodia. Cambodia is not a party to the convention. But in the same way that the Geneva Conventions for the Treatment of Prisoners of War have improved the treatment of captured soldiers, the Genocide Convention can act as a deterrent to the sort of inhumanity we witness in Cambodia today.

However, for the Genocide Convention to have any effect, it must have the support of many nations, particularly the major powers. So long as the United States holds back its full support, the treaty has little chance of actually deterring genocide.

We must not wait for another massacre on the scale of Cambodia's before acting. Lets act now, to prevent and punish the crime of genocide.

WOMEN IN COMBAT: PRO AND CON

Mr. PROXMIRE. Mr. President, in the pro-con forum of the September 1978 American Legion Magazine, Maj. Gen. John K. Singlaub and I debate the question, "Should women be used in military combat?"

On the "pro" side I argue that all soldiers should be assigned to duty based on ability, not gender. Women should serve wherever they are needed, according to their capabilities, just as men are assigned according to need and ability. And many women are capable of fulfilling combat duty, as experience and numerous Defense Department studies have shown.

General Singlaub, with his long experience in the service, feels that many women are incapable of carrying out the physical duties associated with combat and that men tend to be protective of women in dangerous situations, thus weakening combat effectiveness.

Mr. President, I ask unanimous consent that the "pro" and the "con" positions be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SHOULD WOMEN BE USED IN MILITARY COMBAT?

"YES"—BY SENATOR WILLIAM PROXMIRE

The two objections most often heard to using women in combat are 1) concern for the women's safety and 2) doubts that women can carry out combat duties.

Concern for women's safety, while well-intentioned, is misplaced. Women today are inner city police officers, skydivers, race car drivers and firefighters. If a qualified woman wants to volunteer for dangerous duty, she should be free to do so. It's her decision to make, not the government's, which makes far too many of our decisions for us. The establishment of the all-volunteer force makes military service today a matter of choice, and women are waiting in line to serve.

No one wants to send women into combat, but as one woman testified before my subcommittee, "I find it doubtful that mothers or fathers weep more for their daughters than for their sons."

Certain types of combat duty require a level of strength which many women may not possess, and those women should be deployed elsewhere, just like weak men. But if some women are strong enough and qualified in every other way, there is no reason to exclude them.

Women who now serve in combat-support positions have been trained in defensive combat techniques, for their units could well come under enemy attack. Offensive combat is but one step further. The Army now gives the same seven-week basic training to men and women, including grenade throwing and use of a variety of arms.

The performance of women in past wars proves that women can make a tremendous contribution to our war effort. Women's Air Force Service pilots have trained male pilots in strafing, bombing, tracking and anti-aircraft fire, and during WW II a Russian all-woman fighter unit shot down 38 German aircraft.

Interestingly, the General Accounting Office reports that women lose about one-half as much time from duty as men—including time taken for pregnancy.

The discrimination against women by our armed services is an affront to the American sense of fair play and the ideal of equal opportunity, which our government professes to follow. Until recently women were excluded from such "combat" jobs as missile launch crews in the Midwestern United States.

Combat duty is the traditional route upward in all military services, but women now in the service cannot follow that route. Limiting the woman's role is also unfair to the men, who must shoulder all unpleasant duty including very long stretches at sea. Moreover, it is only fair that women be called upon to defend the freedoms they enjoy as U.S. citizens.

We must spare no effort to maintain a strong, lean, efficient and well prepared fighting force. By closing many combat or combat-related positions to women, however, the armed services are weakening our defense effort by refusing to let qualified personnel serve where they are needed.

No less than the Commander of the Marine Training Base at Parris Island, SC has declared that, "there is no reason the female can't fight just like the male." I agree.

"NO"—BY MAJ. GEN. JOHN K. SINGLAUB, USA (RET.)

The primary mission of the United States Army is to preserve the peace by being instantly ready to engage in combat operations any place in the world. The ability to fight and win battles is too important to the security of this nation to permit the Army to be used as an instrument for sociological experimentation. Until such time as there is some evidence that women can withstand the extreme physical, mental and psychological stresses of battle, it is foolhardy, if not dangerous, to run the risk of reducing the combat capability of our Army by including women in units whose primary mission is to engage in actual combat operations.

This does not mean that there is no place for women in the Army. There are many jobs in the Army that can be performed better by women. The nation can ill afford to ignore or under-utilize the great reservoir of brainpower and skills represented in the women of our nation. There are, however, several important reasons why these highly motivated and patriotic female members of the Army should continue to be excluded from combat units.

First of all, the battlefield is a very physical place. The infantryman, cannoneer and tanker are routinely called upon during battle crises to demonstrate great feats of upper body strength to preserve lives and equipment. The tasks of digging for shelter, moving ammunition and changing tank tracks are shared by all members of the unit, including the clerks, cooks and mechanics. All require the muscle structure and exertion normally associated with a defensive tackle on the Denver Broncos' football team. Most physiologists agree that for the foreseeable future far more men than women will be capable of meeting the physical demands of these situations. With women in combat units, the male soldiers would be required to carry an increased share of these critical physical requirements, thereby limiting the units' responsiveness to crisis situations.

In my experience, women in combat have an adverse impact on the male soldiers in the area. Men tend to be protective of women.

During the tree-trimming crisis in Korea in August 1976, many good soldiers were so concerned about their soldier wives or girlfriends or their subordinate women that they left their duty stations to see to their welfare or evacuation to the rear areas. In fact, most of the women soldiers expressed the desire, if not the expectation, to be removed from the potential battle areas.

Another factor which suggests we should not permit our women soldiers to be used in combat is the image that this would project in the minds of our potential enemies.

At one time Russia and Israel used women in combat roles in their military forces, but both have now made it a matter of national policy that women will not be used in combat again. God forbid that we must go to war to learn the same lesson.

Mr. PROXMIRE. Mr. President, I thank the distinguished majority leader for so graciously yielding to me.

Mr. ROBERT C. BYRD. Mr. President, I reserve the remainder of my time.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. Under the previous order, the acting minority leader, the Senator from Wyoming, is recognized.

Mr. HANSEN. Mr. President, I do not believe I have any requests at this time. I thank the Chair.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from West Virginia is recognized.

NATURAL GAS POLICY ACT CONFERENCE REPORT

UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. Mr. President, I have asked for recognition at this time in order to propound a request of the Senate. It would be for the purpose of allowing debate to go forward on the natural gas conference report without any danger of a surprise motion to table that conference report being made, catching Senators on both sides of the aisle, Senators on both sides of the question, out of town. It would be for their protection.

It would also provide for a vote to occur up or down, with no tabling motion in order, on the proposed recommittal motion. I would suggest that the vote occur, say, next Wednesday, at a given hour.

This would alert every Senator on both sides of the aisle, every Senator on both sides of the question, as to the hour and the date when such vote would occur. It will be a critical vote and I am sure every Senator would like to be here and to be recorded. It would give ample time, in the meantime, to debate the issue. All Senators would be on notice. There would be no surprise motion to table. All Senators would be on notice as to the hour and the date for the vote on the motion to recommit.

Of course, I would like to have the agreement specify that if the recommittal motion were to fail, we would immediately vote up or down on the conference report, or vote after another day or so of debate on the conference report. I have discussed that with my colleagues and I have found that that would be objected to.

But there was some indication on the part of some Senators last evening that

they would be willing to enter into an agreement to go as far as providing that there be no surprise tabling motions on the conference report, providing that there be a vote up or down on the motion to recommit next Wednesday at a given hour. There may be someone here who would object to that.

Mr. METZENBAUM. Will the majority leader yield for a question?

Mr. ROBERT C. BYRD. Certainly. I have not propounded the request, but that lays the groundwork for the request I shall make.

Mr. METZENBAUM. Does the majority leader also intend to include in his request that there be an opportunity for a tabling motion with respect to the motion to recommit? Does that count in the discussion of the majority leader?

Mr. ROBERT C. BYRD. I would prefer to leave open the right of Senators to move to table. But I would be willing—it is perfectly agreeable to me to waive that right by unanimous consent of the Senate so that Senators would be guaranteed an up or down vote on the motion to recommit if, in turn, they would guarantee that there be no surprise votes on moves to table the conference report when many Senators might be out of town.

Mr. METZENBAUM. As I indicated to the distinguished majority leader last evening, I personally have no problems with that particular approach, but as I also indicated this morning, I find that there are others who do have a strong interest in this legislation which has been evidenced over a period of many years—far longer than I have been here, for that matter—and who do have a different point of view than I do. They certainly can address themselves to that subject.

Mr. ROBERT C. BYRD. Certainly.

Mr. President, I make the request and Senators may reserve the right to object.

Mr. ABOUREZK. Reserving the right to object.

Mr. HANSEN. Mr. President, will the distinguished majority leader repeat the request?

Mr. ROBERT C. BYRD. Yes.

Mr. President, I ask unanimous consent that when Mr. JACKSON calls up the conference report, a vote occur on a recommittal motion which will be made by Mr. METZENBAUM and others, such vote to occur, up or down, on the motion to recommit next Wednesday at 4 o'clock p.m.; that in the meantime, no motion to table the conference report or recommit the conference report be in order; and that the time between the calling up of the conference report and the vote at 4 o'clock on next Wednesday on the motion to recommit be equally divided between Mr. JACKSON and Mr. HANSEN.

Mr. ABOUREZK. Reserving the right to object.

Mr. THURMOND. Mr. President, reserving the right to object.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota is recognized.

Mr. ABOUREZK. Mr. President, I am not desirous, nor am I in a position to agree to any unanimous-consent agreement with respect to time or time of voting on the natural gas conference report. I say to the distinguished majority leader that we are prepared, if they want to bring the conference report up now, we are happy to debate it. I think it is a very serious, very complicated matter that will require a thorough analysis by the Senate. There have been all kinds of backroom lobbying, we know that, on both sides. But there has been very little light shed on this issue. We were somewhat prevented from doing so during the conference meeting itself, from debating this issue or inquiring into it to find out the impact upon the public of this bill.

I think we are entitled to do that here, on the Senate floor, as I promised during the few times I was able to be recognized to speak on the issue during the conference meetings that I was invited to.

So, while we do not necessarily want to prevent a vote—incidentally, I might say that I spoke to the distinguished chairman of the Committee on Finance (Mr. LONG) this morning by telephone. He said that I was authorized to speak for him in making this particular objection, for the same reasons; and that if we bring it up, we might vote this afternoon, we might vote tomorrow. The vote might come quicker than the leader had anticipated. Therefore, I do not want to set a time agreement or agree to a time agreement on my own.

I, therefore, object to the request.

Mr. ROBERT C. BYRD. Mr. President, before the Senator objects, let me modify the request to provide for a vote, the vote on the recommittal motion up or down on next Wednesday, to be at 3 o'clock p.m. rather than 4 o'clock p.m.

Mr. ABOUREZK. I have the same objection.

Mr. METZENBAUM. Mr. President, I would have to object to that.

The ACTING PRESIDENT pro tempore. Objection is heard from the Senator from South Dakota.

Mr. METZENBAUM. The time is what I would object to. It would have to be later in the afternoon. Certain Senators have an election on Tuesday and would have difficulty getting back.

Mr. ROBERT C. BYRD. The Senator has a good point. The objection has been made, in any event.

Mr. President, I suggest that we now have a period for the transaction of routine morning business.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business of not to exceed 10 minutes, with statements therein limited to 2 minutes each. Under the order entered this morning, the majority leader, the Senator from West Virginia, is recognized.

Mr. ROBERT C. BYRD. Mr. President, I yield my 2 minutes to the Senator from Wisconsin.

(The remarks of Mr. PROXMIRE at this point in connection with the introduction of a bill are printed later in today's RECORD.)

CONCLUSION OF ROUTINE BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If there be none, morning business is closed.

UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. Mr. President, may I have the attention of the distinguished Senator from South Dakota?

Mr. ABOUREZK. Yes, Mr. President.

Mr. ROBERT C. BYRD. I wish to make one further proposal which would allow us to proceed with debate on the conference report. It would be simply this: That no motion to table the conference report or to recommit it be in order prior to next Wednesday at 4 o'clock p.m.

Mr. ABOUREZK. Yes; Mr. President, to object, Mr. President, it is virtually the same request that the leader made before, slightly modified. For the same reasons, I should have to enter an objection, so I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I be recognized following the call of the quorum. The reason I do that is that I think I am going to call up something else, and I want to see what else there is that managers are ready to call up.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NATURAL GAS POLICY ACT CONFERENCE REPORT

UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. Mr. President, I am about to propound another unanimous-consent request.

Mr. President, I would like to see the Senate proceed with debating the conference report on natural gas. It would

certainly not be my plan to offer any cloture motion—if this agreement were to go into effect, it would not be my plan to offer any cloture motion at least until 4 or 5 days of debate have occurred.

It is merely to protect Senators against surprise motions to table the conference report that I make the request. They do not have to be protected against a recommittal motion, because that is a debatable motion.

There are Senators on both sides of the question who need to be protected. There are Senators on both sides of the aisle who need to be protected against a surprise, sudden motion to table the conference report, which is not debatable.

Therefore, in the interest of debating the conference report pro and con, educating Senators and the people as to what is in the conference report, what is involved in the issue, and so on, today and tomorrow, Monday and Tuesday, I ask unanimous consent that, if the conference report is called up, no motion to table the conference report be in order until after a motion to recommit the conference report has been voted on, up or down. This request, as all Senators will note, protects against a sudden tabling motion. And I include the request that this protection run until 6 p.m. next Wednesday.

Mr. ABOUREZK. Reserving the right to object, Mr. President, for the same reasons that I discussed earlier with the distinguished leader, I am very reluctant to give up any rights we have on the natural gas conference report. In my view, agreeing not to offer or not to allow a motion to table a conference report—this conference report, in particular—I think is the yielding of a substantial right on my part, which I do not wish to do at this time.

I will elaborate a little further. Those of us who are opposed to the natural gas conference report do not really have the ability to do the backroom arm twisting that the President and his people have done and are able to do. We find it essential to be able to debate this conference report out in the open, on the record, here in the Senate, and to preserve our rights. I, for one, cannot give up my rights.

For example, Senator LONG asked me to object to any agreements, on his behalf, this morning. He does not want to give up any of his rights. We are not trying to prevent a vote from taking place on the conference report. We are happy just to go along with the rules of the Senate, if we can, and do whatever is necessary. But we do not want to give up the right to make any motions we might be able to make on the conference report.

So, I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. ROBERT C. BYRD. May I say, respectfully, to the distinguished Senator that my proposal would allow for debate, number one. That is why I would like very much for the Senate to accede to the request. It would allow for debate. The only right the Senators would be giving up would be the right to move to table the conference report without due notice to other Senators.

However, in giving up that right, I also would be giving up the right, as other Senators would, to move to table the motion to recommit, when made. So there is a balancing out of the waiving of rights.

Furthermore, there is an election next Tuesday, and a good many Senators on both sides of the aisle are involved in those elections. It was for the purpose of delaying any untoward happening until late Wednesday that we had the election in mind, so that Senators who need to be here to cast a vote would not be out of town.

I hope the Senator will think about it during the day. If he and those who are working with him in his cause could agree on a time and date and a way to protect against a sudden tabling motion, I would be very glad to hear from them, because I would like to have debate today and Friday of this week on this measure.

Mr. METZENBAUM. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. METZENBAUM. Mr. President, there is probably nobody in the Senate with whom I have worked more closely than my distinguished friend from South Dakota. I am not in total agreement in this matter. That does not mean we are not in total agreement——

Mr. ROBERT C. BYRD. Before the Senator from South Dakota leaves, I would like to change the time to Thursday, at 2 p.m.

Mr. ABOUREZK. I object, for the same reasons.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. METZENBAUM. My feeling is—and I said this to the leader yesterday—that I was prepared to debate this matter as of today, bring it to a vote on Tuesday. As a matter of fact, I think I called and made that proposal. Later in the day, I indicated that it was necessary to check with some others who do have a strong interest in this legislation—the distinguished ranking member of the minority on the Energy Committee, my good friend from South Dakota, the chairman of the Finance Committee, and others.

I think the concern that has been expressed with reference to those who are back home campaigning and who cannot be present to vote, in the event there is a motion to table, is a valid concern. So I have indicated to the majority leader that I would be prepared to agree to the unanimous-consent request relative to making no motion to table until at least the motion to recommit has been disposed of, it being implied in the majority leader's request that the specific motion to recommit, about which he is speaking, is the one that the Senator from Wyoming, the Senator from South Dakota, the Senator from Oklahoma, and I intend to offer.

I say to the majority leader that I hope that this matter still can be brought up and debated.

I have indicated to my good friend from South Dakota my own views. I think he properly is speaking for the chairman of the Finance Committee, who has concern about this matter.

I suggest that we at least spend time, not immediately, but provide a period in order that further discussion might be had on the subject. I support this effort to move the matter forward. I think we have the votes, and I think we ought to go.

Mr. ROBERT C. BYRD. I thank the Senator. He has been most cooperative and considerate.

So, for the time being, and hoping that some agreement might yet be reached during the day, I ask unanimous consent that the Senate proceed to the consideration of——

Mr. BARTLETT. Mr. President, will the Senator yield for a very short comment?

Mr. ROBERT C. BYRD. I yield.

Mr. BARTLETT. I thank the distinguished Senator from West Virginia. My comment will be very brief.

I hope we can proceed to the consideration of the conference report. In my opinion, there will be the need for considerable time for debate, because there are at least three points of view to be expressed, and there probably are variations of those by individual Senators.

I think that in order to have a meaningful debate, in which all facets of the different points of view may be clearly outlined, it will take considerable time.

So I hope that the distinguished majority leader will find it possible to bring up this matter as soon as possible, and I and other Senators will be happy to work with him to bring that about.

Mr. ROBERT C. BYRD. I thank the distinguished Senator. I appreciate his sentiments.

I perhaps should state at this time that only 5 weeks remain after this week until Saturday, October 14, the date on which we hope to see Congress achieve a sine die adjournment. I, for one, do not want to return after the election, but it may be necessary, if we do not complete our work. So every day now counts, and the calendar is running, and I hope we all will keep that in mind, because we have to settle this issue, up or down.

We have spent 16 months in this Congress already on this matter, and Senators ought to have made up their minds at this time; or, after a reasonable period for debate, they will have made up their minds one way or the other.

I think we should vote on the matter, up or down, and let it be the will of the Senate, and then go on to other matters. Nothing is going to be served by overly prolonging this debate and a final decision on the conference report.

We still have the defense appropriation bill. We have the HEW appropriation bill. We have the foreign assistance appropriation bill. We have the tax cut bill. We have several expiring authorization measures.

With only 5 weeks to go after this week, Senators can see what we are up against, if we are to entertain even a reasonably fair hope of completing our work by October 14, so that we will not have to come back after the election. My experience has been that post-election sessions are not very productive. Tempers are frayed, and we tie ourselves in knots. We get into wrangles among ourselves and with the other body and create a bad impression back home—or at least worsen the impression that may be created if we do not act in a reasonable period of time on this energy measure.

So, for one, let me enter a plea and a prayer to the good Lord that somehow we will be able to work out this thing and get out of here on October 14 and a plea and a prayer to my colleagues that they give consideration to this also.

I know, Mr. President, that once the election comes there is not a Senator in here who is going to want to come back, not one.

The ACTING PRESIDENT pro tempore. The Chair concurs.

Mr. ROBERT C. BYRD. As of today, September 7, not too many Senators have really drawn target on that sure date that is coming, but when the time comes and we get down to the end of the road—I know in the meantime we do not want to come in on Saturdays and do not want to stay late, we want to get out on October 14 no later than for the election—they are not going to want to come back to the Senate until next year.

They are all going to want to stay away. So if we want to stay away then, now is the time to think about it.

Remember the fable about the grasshopper. The grasshopper spent all of the summer singing his tune, but then came the winter and he had not laid in any harvest for the winter.

The time is coming. The time is coming when after the election Senators will say: "I wish I didn't have to pack my bags and go back to Washington. I just wish we didn't have to go back."

All right. Let us think about that.

JUDICIAL TENURE ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 957, S. 1423.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1423) to establish a Council on Judicial Tenure in the judicial branch of the Government, to establish a procedure in addition to impeachment for the retirement of disabled Justices and judges of the United States, and the removal of Justices and judges whose conduct is or has been inconsistent with the good behavior required by article III, section 1 of the Constitution.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment in the nature of a substitute.

The ACTING PRESIDENT pro tempore. Under the previous order debate is limited to 6 hours equally divided between the Senator from Arizona (Mr. DECONCINI) and the Senator from South Carolina (Mr. THURMOND).

Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I express the hope that we will be able to cut this time down. I do not think it will take anything like the time that is set forth in the agreement. But until the managers, who have not been alerted to the sudden calling up of the bill, can get to the Chamber, I suggest the absence of a quorum and ask unanimous consent that the time be equally charged against both sides on the bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UNIFORM BANKRUPTCY LAW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar order No. 1026.

The ACTING PRESIDENT pro tempore. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 2266) to establish a uniform law on the subject of bankruptcies.

There being no objection, the Senate proceeded to consider the bill to establish a uniform law on the subject of bankruptcies, which had been reported by the Committee on the Judiciary with an amendment in the nature of a substitute, and from the Committee on Finance with amendments to the substitute language.

The ACTING PRESIDENT pro tempore. The time on the bill is limited to 1 hour divided between the Senator from Arizona (Mr. DECONCINI) and the Senator from Wyoming (Mr. WALLOP).

Who yields time?

Mr. BAYH. Mr. President, I ask unanimous consent that Nels Ackerson, Marcia Atcheson, Kevin Faley, and Louise Milone of the staff of the Subcommittee on the Constitution, and Mike Klipper and Joe diGenova of Senator MATHIAS' staff be permitted access to the floor during the debates and voting on the Judicial Tenure Act and the Bankruptcy Act.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. HATCH. Mr. President, I thank the Senator. I ask unanimous consent that Mike Hunter and Tom Perry of my staff be granted the privileges of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business not to extend beyond 15 minutes with statements limited therein to 5 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Who yields time?

Mr. HATCH. I yield myself such time as I may need, and I ask unanimous consent that the time not be charged against the bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me?

Mr. HATCH. I am delighted to yield.

Mr. ROBERT C. BYRD. Mr. President, the Pastore rule requires that Senators speak only on the subject matter before the Senate for the first 3 hours after the pending business is laid down or the unfinished business is laid down. I thank the Senator for yielding, and I ask unanimous consent that his statement not show an interruption in the RECORD, but I ask the Chair not to entertain any requests while I am off the floor that Senators speak on other matters than the matter before the Senate until we can get the managers of this bill seated, so that they can do whatever they like.

The ACTING PRESIDENT pro tempore. The Chair appreciates the comment of the majority leader and will pass on the word to succeeding Presiding Officers.

Mr. HATCH. I just wanted to put these two speeches in the RECORD. I should have asked to waive the Pastore rule.

Mr. ROBERT C. BYRD. The Senator had not asked to waive the rule?

Mr. HATCH. I did not ask to waive the rule.

Mr. ROBERT C. BYRD. The Senator asked that the time not be charged against this measure, and I object to that.

Mr. HATCH. I understand.

Mr. ROBERT C. BYRD. Pardon me for interrupting. I wanted to protect the Senators who are managing this bill, because with that kind of request, a Senator could get the floor and go all day long—all day long—unless someone made a point of order based on the Pastore rule. And once the first 3 hours have gone, that kind of point of order cannot be made.

So I want to protect all Senators. I am

not concerned about the Senator from Utah ever doing something he is not allowed to do under the rules.

Mr. HATCH. I appreciate the distinguished majority leader's comment. Of course, I am going to put these two matters into the RECORD so we will have them there.

I ask unanimous consent that, with regard to my speech on Martin Anderson on welfare reform, it be printed in the RECORD following the bankruptcy bill we are considering today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MARTIN ANDERSON ON WELFARE REFORM

Mr. HATCH. Mr. President, welfare has been a major concern of the people of this country for many years now. It has been declared a mess and reformed on more than one occasion. Yet many believe we have not achieved the goal of significantly reducing the number of poor people in the United States. Should we seek still another reform before we better understand the problem?

Martin Anderson, senior fellow at the Hoover Institution and author of a book entitled "Welfare," provides much insight into the welfare problems which we face. Indeed, his book provides invaluable information without which we can only expect to make further mistakes.

Anderson reveals many misconceptions upon which welfare reforms are advocated. The first and most basic misconception is the belief that the welfare system has failed to reduce the number of poor in this country. We think it has failed because we are misled by statistics gathered by the Bureau of the Census. But, if the total amount of income given to the poor is considered, it is enough to raise every officially poor family 30 percent above its poverty line. How then is it that the Bureau of the Census tells us that between 1974 and 1975 the increase in the number of poor was the largest since 1959? The only rational explanation of the situation is that the Bureau of the Census has grossly overstated the number of poor.

Martin Anderson reveals some facts which account for this overstatement. First to be questioned is the validity of the information gathered. People may not remember exactly how much their total income was for the past year. Some people may deliberately lie about their earnings, and there is no check on what people themselves report. The major bias, however, is not caused by the incomes reported, but by the incomes not reported. The incomes not taken into account are those services such as food stamps, medicaid, and housing. Thus, a substantial amount of money expended each year to relieve the poor is not counted as income for the poor.

Many experts have known about these statistical biases for years, but the people in Government, who create the welfare programs, do not take them into account. As the benefits of the welfare programs expand and as income thresholds for participants in the programs rise, more people are pulled into the programs. Yet the noncash benefits of the programs are not counted as income to the "poor." It would appear that the way the bureaucrats have it set up, the programs will continue to grow—a prospect that some politicians find appealing. After all, welfare dependencies are politically dependent.

The Congressional Budget Office's study on the amount of poverty in the United States in 1977 found 6.4 percent of the population poor while the Census Bureau reported 12 percent for the same year using the same poverty line. This wide discrepancy is explained by the fact that the Congressional Budget Office allowed for the under-reporting of income while the Census Bureau did not. The gap in estimates becomes even more understandable when one realizes that the $40 billion spent in noncash benefits for the poor were not counted as income in the Census Bureau's report, but were in the Congressional Budget Office's study.

Anderson directs our attention to an even more startling report on the amount of poverty by Morton Paglin, professor of economics and urban studies at Portland State University, in October of 1977. Paglin improved the measures of poverty by allocating benefits according to household size. According to these estimates only 3 percent of Americans were poor in 1975.

Although the amount of poverty as reported by the Census Bureau has remained nearly constant, thus denying the effectiveness of welfare programs, the reports done by the Congressional Budget Office and Morton Paglin show that the level of poverty has declined to very low levels, thus revealing the fact that the welfare programs have successfully raised the poor above the poverty line.

Now that two separate studies have been concluded with more reliable results contrary to those of the Census Bureau, why do the policymakers continue to create more welfare reforms which entail even more spending? Why do we continue to appropriate more money? The Census Bureau, in a manner typical of bureaucratic vanity and self-preservation, ignores the results of the Congressional Budget Office's study. In effect, more and more of the taxpayers' dollars are being given to the nonpoor, because the Census Bureau will not admit its mistakes.

Thus, a situation has evolved whereby billions of dollars—more money than World War II cost us—have been poured into welfare aid since 1964, until there are virtually no poor in this country. Some of the people who are, in the best of studies, counted as poverty stricken are, as Anderson says "in no sense poor." People may be unsure of their incomes or purposefully understating them. They may be living off undeclared assets or possess private incomes, but, considering the vast amount of money—$300 billion to be exact—that has been poured into welfare since 1964, it seems impossible that there could be many poor left in the United States.

These $300 billion were not given merely in the form of cash, they were divided between 90-odd social welfare programs. Most people qualify for two, if not more, of these programs. These $300 billion cannot be compared to earned income, because these $300 billion were tax free.

This is more than waste of money—it exposes a terrible misconception concerning the number of poor in our country, and this misconception has caused the lawmakers of this country to create programs which retard the progress of the poor. Because the policymakers have accepted the Census Bureau's inaccurate figures, they have created more and more programs which further reduce the incentive to work for lower income workers.

After reading Martin Anderson's book one becomes aware that people who prefer unemployment are not so much lazy as they are economically astute. The problem is the welfare trap, which the Government has created, that prevents people from earning a living significantly better than welfare provides.

Anderson points out that the effective tax rates on low earned incomes are very high. I think we would all agree that people work primarily for job satisfaction and for money. If a person does not gain satisfaction from his job, then he is apparently working mainly for the money. If his income is only slightly over the poverty level, he can practically maintain the same level by not working.

His incentive to work is based primarily on his need for income. If employment is his only source of income, then he will work. In our system, however, employment is not the only source of income. There are many others of which welfare is the largest for the least wealthy members of our society. A person cannot work and still enjoy the benefits of welfare. As soon as his income rises above the poverty level then his medicaid and food-stamp benefits are severely cut, if not removed altogether. He cannot significantly increase his income by working. Martin Anderson points out some examples found in a December 22, 1972, press release by the Joint Economic Committee's Subcommittee on Fiscal Policy.

In New Jersey an unemployed man with a wife and two children receiving public assistance and food stamps would add only $100 to this net monthly income if he took a full time job paying $500 a month. In addition, he would lose eligibility for medicaid, which pays an average of $52 a month for medical bills of an AFDC family in New Jersey.

A person is unlikely to give up his leisure and work a 40-hour week at an unsatisfying job for only a $48 increase in net monthly income. Thus, the incentive to work has not only been destroyed, it has been reversed and an incentive not to work has been created There is also a strong incentive to under-report income.

The people are caught in a trap created by the Government. The more income

they earn, the more probable that the Government will learn about this income. The more earned income the Government learns about the more it taxes and takes away benefits. The more it discourages work, the poorer the people become. The poorer the people become, the more they need welfare. The more they need welfare the more the Government gives them. It is all perfectly clear up until this point. Now comes the twist: The more the Government gives them the less the number of poor decreases. The Government has created a poverty wall which has entrapped the poorest members of our Nation into what Anderson terms "a new caste: The dependent Americans."

With this thought Anderson reveals that the Government is destroying more than the Nation's economy through its programs. It is destroying a basic American value—work. This destruction is apparent in the amount of money that is repeatedly poured into welfare and the growing welfare dependencies. Democracy is undermined if people are dependent on the Government for their incomes.

President Carter's plan to clean up our welfare system would increase the group of dependent Americans to nearly a third of the entire population. Why should the number of people on welfare, and the cost of welfare, increase so drastically when there are virtually no poor left in this country? Is our Government seeking to make a major part of the population dependent on Government handouts? Whether that is the Government's intention or not, that is exactly what Carter's plan would do if it were ever implemented.

When President Carter first assumed office he laid down 12 goals for this welfare program. One of these goals was that the cost would not increase. Then Secretary of HEW, Joseph A. Califano and Secretary of Labor, Ray Marshall sent him a memorandum telling him that without an increase in cost many of those receiving welfare benefits would be hurt. They wrote:

> The states are our natural allies in welfare reform—most members of congress would still prefer not to deal with the subject at all—and there is virtually no relief in this proposal for governors and mayors. In addition there will be problems in cutting benefits for the aged, the disabled, and the blind, and there will be disputes over our ability to put a significant number of the 3.4 million mothers on welfare to work.

In quoting from this memorandum, Martin Anderson reveals the real reason our welfare system is a mess. Secretary of Labor Marshall and Secretary of HEW Califano ignore the fact that some people now on welfare should not receive aid. Their true concern seems to rest with the plan's popularity with politicians, not its economic and social impact on our country.

There are so many myths surrounding our welfare program that the average American has no way of knowing what policy is good policy. They are under the false impression that reform is necessarily good. They do, however, know what they feel the results should be. The vast majority of Americans feel that the poor should be given aid, but they also believe that spending should be cut. Spending could be cut if those who are not really poor were removed from the welfare rolls, and if there was not such a strong disincentive to work one's way out of welfare dependency.

President Carter promised prompt welfare reform during his campaign. Upon entering office he realized how difficult it was going to be to fulfill his promise, but he managed to unveil his program for better jobs and income on August 6, 1977. Anderson, who was an adviser to both Presidents Nixon and Ford, maintains that Carter's plan was created by essentially the same nucleus of people who were responsible for Nixon's family assistance plan and the income supplementation plan presented to Ford.

The welfare bureaucrats' plans have followed the same vein since Nixon's family assistance plan. They have proposed to turn welfare into a guaranteed income program which would affect many more people and thus cost more money. Welfare dependencies are also political dependencies, and trading votes for handouts undermines democracy. These facts, however, are hidden behind the veneer of reform.

The CBO found that 22 million more Americans would be affected by Carter's program than are now. And these 22 million Americans are people whose incomes do not fall below the poverty line. Some 11.6 million of them are earning $10,000 to $25,000 incomes. These facts form a case in point. The Government is busy extending its welfare dependencies into the middle class.

President Carter's program cannot be introduced next year without changes. However, these changes will be made by the same people who have repeatedly created welfare programs for the nonpoor. Thus, the basic structure of this welfare reform, with all its flaws, would remain the same. Carter's welfare program would reduce the incentive to work for middle income earners and trap them also in economic and social immobility. What we need to do is to destroy the welfare trap. HEW is devoting a large part of our national budget to preventing people from working. Must we spend still more to prevent more people from working?

Instead, we should accurately estimate the number of poor and reject the statistics that the Census Bureau offers us, if they continue to disregard the biases in their estimates. We should eliminate the inefficiencies in the welfare system by tightening its programs, not expanding them.

When experts like Martin Anderson show us the facts, we should demonstrate that it is not politically impossible to recognize and rectify the real problems in our welfare system.

THE VIETNAMESE COMMUNITY CENTER

Mr. HATCH. Mr. President, a little more than 3 years ago, millions of Americans' hearts were touched by the plight of thousands of South Vietnamese refugees who were determined to start a new life in the United States after their homeland had fallen under the control of the Communists. Right here in the metropolitan Washington area, one of the most worthwhile attempts to help our South Vietnamese friends keep in touch with their culture and traditions needs our help if it is going to survive, and that is why I am mentioning it today.

What I am referring to, Mr. President, is the Vietnamese Community Center which was opened last December on the first floor of the Page Elementary School in Arlington, Va. This center is a place where the approximately 15,000 Vietnamese in the Washington area can gather together and conserve their heritage by speaking the language, listening to the music, viewing the artwork, and preparing the food of their native country. The center, the first of its kind in the Washington area, also plans to develop a wide range of services designed to make the refugees' transition to life in the United States easier, ranging from free tax form preparation to translation services to help them in their search for employment.

The Vietnam Refugee Fund, Inc., a nonprofit, tax-exempt organization which receives its funds through donations and fundraising drives, was able to rent the building in which the center operates from the county school board, but its lease expires at the end of this June. According to Mr. Nguyen Ngoc Bich, the president of the Vietnam Refugee Fund, Inc., unless the Fund can obtain adequate private funding, the center may not be able to continue operating.

Mr. President, this center is clearly a fine example of what free individuals working together privately can accomplish. I hope that those who wish to help it continue its efforts will contact Mr. Bich of the Vietnam Refugee Fund, Inc. The address is:

Mr. Nguyen Ngoc Bich
6103 Amherst Avenue
Springfield, Va. 22150

I ask unanimous consent to have printed in the RECORD an article entitled "Center Focuses On Preservation of Vietnamese Culture," written by Seth W. Moskowitz, and published in the Washington Post of Thursday, December 29, 1977.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CENTER FOCUSES ON PRESERVATION OF VIETNAMESE CULTURE

(By Seth W. Moskowitz)

In an effort to preserve their cultural heritage in their new land, members of the Vietnamese community have opened a Vietnamese Community Center at the Page Elementary School in Arlington. It is the first such center in the Washington area.

The event last week drew close to 100 participants, most of them Vietnamese refugees who came to see exhibits by Vietnamese artists, listen to Vietnamese music and eat the food of their home country.

"Everybody hoped to have a Vietnamese Center," said Pham Ngoc Luy, the captain of the last ship to leave Saigon with 4,000 refugees aboard shortly after the city fell to the North Vietnamese.

"I think it's a good start. You have problems with the language; (it's) hard to find jobs. We expect to have a center for all where you can meet each other, you can help each other, and you can keep up the Vietnamese culture.

"This is a place not only where the Vietnamese language will be spoken and understood," Luy said, but also where the "beautiful traditions of the family, society and friendship . . . which have been formed for many thousand years" will be respected and kept alive.

A pamphlet was distributed, outlining some services the center hopes to provide:

A lending library of Vietnamese books and magazines to augment the reading room already in operation.

Spring recreation programs, featuring tennis, volleyball and basketball.

Translation services to help Vietnamese in job searches and other needs.

Free tax form preparation.

A Vietnamese food shop, provided there are no licensing problems.

Classes, exhibits, and social functions.

Nguyen Ngoc Bich, president of the Vietnam Refugee Fund, Inc., estimated that there are approximately 15,000 (about 10 per cent of the U.S. total) Vietnamese in the Washington metropolitan area. Most of these are refugees who arrived in the United States in the spring of 1975, when Saigon fell.

An estimated 7,000–8,000 Vietnamese are Northern Virginia residents, with the largest concentration living in Arlington.

Until now, the only gathering places for the Vietnamese in Northern Virginia have been the churches where they have been segregated by religion, said the Venerable Thich Giac Duc, president of the Buddhist Congregational Church of America.

He estimates that the area's Vietnamese population is 40 per cent Buddhist, 40 per cent Catholic, and 20 per cent Protestant.

"At last we can have a place to get together. Every religion can be together here," Duc said.

"I have no worries about the economic problems of the Vietnamese refugees," said 71-year-old Truong Cam Khai. "I am worried about the cultural problem.

"This center will be useful in two ways," said Khai, a former professor who left Vietnam in 1968. "It will provide an opportunity to teach the young about Vietnamese tradition and moral values, and it will be a place where the Vietnamese will have social activities among themselves. . . . Here there is nothing to divide the Vietnamese among themselves."

The center is allowed the use of the entire first floor of the school at 1501 N. Lincoln St. On this floor there are 15 classrooms, an auditorium, a cafeteria with a large kitchen, a library and some office space.

The Vietnam Refugee Fund is leasing the building from the county school board for $2,000 a month, money which the non-profit, tax-exempt organization receives through donations and fund-raising drives. The lease expires at the end of June, 1978.

Although the Vietnam Refugee Fund Inc. offered substantially less rent than the school board has asked, the fund was the only bidder who found the short term lease acceptable, Bich said.

When the lease expires, Bich said he doesn't know what will happen and doubts that the Refugee Fund will be able to retain use of the building. A school spokesmen said that the board plans to review the use of the building in March or April and will decide then how it will be used in the future.

Dr. Harold Chu, a professor of Japanese language and literature at Georgetown University, presented the center with a plaque from the Arlington Trinity Teacher Corps which says "with our heartfelt support and good wishes." Near the bottom of the plaque it says *chuc mung may man*, Vietnamese for *good luck*.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, will the Senator withhold that?

Mr. HATCH. Certainly.

Mr. ROBERT C. BYRD. I owe the Senator an apology, the Chair an apology, and all Senators an apology. I thought morning business had been closed. I had forgotten renewing morning business, and of course everything I said was without reason, rhyme, or substance, because we were in morning business. So I take it all back, every word of it.

Mr. HATCH. Mr. President, I know the Senator from West Virginia does a beautiful job of conducting the proceedings on this floor, and I have great respect for him. I fully understand, and apologize to the Senator. Let me state that I have not the slightest concern that he will ever have to worry about anything I do on this floor.

Mr. ROBERT C. BYRD. The Senator's apology is appreciated, but unnecessary.

The ACTING PRESIDENT pro tempore. The Chair appreciates the comment of the majority leader. The Chair was beginning to wonder whether it had been mistaken on the rule itself, and appreciates the clarification.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is now closed.

UNIFORM BANKRUPTCY LAW

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate now resumes the consideration of S. 2266. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, the Senator from Wyoming (Mr. WALLOP) is present. I understand he will be managing the bill on his side of the aisle.

I am quite sure it will be agreeable with Mr. DECONCINI if Mr. WALLOP wishes to proceed with his statement. The Senator might consider asking unanimous consent that his statement follow that of Mr. DECONCINI, inasmuch as Mr. DECONCINI is manager of the bill. If he will do that, I am sure there will be no problem, and the Senate could be making some progress.

Mr. WALLOP. Mr. President, in the interest of time, I will be happy to do that, and I so request. I ask unanimous consent that the statement I am about to make, follow, in the RECORD, the opening statement and remarks of the Senator from Arizona (Mr. DECONCINI).

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, I ask unanimous consent that the following members of the Judiciary Committee staff have the privilege of the floor throughout the discussion of both S. 1423 and S. 2266 and any votes thereon: Eric Holtman, Sally Rogers, Richard Velde, Pat Hoff; and that Harry Dixon and Robert Feidler have floor privileges during consideration of the bankruptcy bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I make a similar request for Nathan R. Zahn of the committee staff and Roy Myers of my staff, for both these two bills.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WALLOP. Also, Mr. President, I make the same request for Mr. Tom Carter and Mr. Meredith Preston of Senator HAYAKAWA's staff.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be equally charged against both sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. PRESIDING OFFICER (Mr. SPARKMAN). Without objection, it is so ordered.

Mr. DECONCINI. I ask unanimous consent that Robert Feidler, Romano Romani, and Harry Dixon of the committee staff be granted the privilege of the floor during debate and votes on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, in 1970, Congress created the Commission on the Bankruptcy Laws of the United States to study and recommend changes in bankruptcy laws. The Commission became operational in June 1971 and filed its final report with Congress on July 30, 1973. Its report was in two parts. Part I contained the Commission's findings and recommendations.

Part II contained a draft of a bill to implement those recommendations. Senator QUENTIN BURDICK, chairman of the Subcommittee on Improvements in Judicial Machinery and a member of the Commission, and Senator Marlow Cook, a member of the Commission, introduced that bill in the 93d Congress as S. 4026. No action was taken on the bill during the 93d Congress.

In the 94th Congress, the Commission bill was again introduced by Senator BURDICK as S. 236. Senator BURDICK also introduced an alternative to the Commission bill that had been drafted by representatives of the National Conference of Bankruptcy Judges. The judge's bill, S. 235, differed in several major aspects from the Commission bill.

Hearings on both bills commenced in late February of 1975 and continued through November of 1975. All interested parties were invited to give testimony on the bills. The Subcommittee on Improvements in Judicial Machinery heard from several hundred interested parties and had nearly 80 witnesses personally testify over 24 days of hearings. The hearings covered all aspects of bankruptcy law. Testimony was heard on the structure of the new bankruptcy courts, the relationships of other laws to bankruptcies, tax aspects, consumer bankruptcies, business reorganizations, railroad reorganizations, and the effect and

interaction of the securities laws in bankruptcy cases.

Throughout the remainder of 1975 and all of 1976, the subcommittee continued to gather information and to begin work on a draft bill; however, no bill was reported to the full Judiciary Committee during the 94th Congress. Introduced in the House at this time were parallel bills to S. 235 and S. 236 entitled H.R. 31 and 32, and during the 94th Congress, the House also held extensive hearings on the bankruptcy reform bills. The House culminated its actions with the introduction early in the 95th Congress of H.R. 6, which was amended and reintroduced as H.R. 8200. That bill was passed by the House on February 1, 1978.

S. 2266, an analogous bill to H.R. 8200, was introduced by myself and Senator WALLOP on November 1, 1977. The Subcommittee on Improvements in Judicial Machinery conducted further hearings in late November and early December, receiving testimony from nearly 60 witnesses and again receiving several hundred written statements and comments with regard to the bill. Subcommittee amendments as a result of the hearings, statements, and comments were made to the bill over the next 5 months and these efforts culminated in the reporting by the subcommittee, on May 17, 1978, of a bill in the nature of a substitute. The report of the vote of the subcommittee was 3 in favor, none opposed, and 1 not voting.

The major purpose of this bill is the modernization of the bankruptcy laws. The substantive law of bankruptcy and the current bankruptcy system were designed in 1898, and underwent the last significant overhaul in 1938, nearly 40 years ago. Since that time, there have been vast changes in the law of debtor-creditor relations, including the widespread adoption of the Uniform Commercial Code in the early 1960's and the vast spread of consumer credit. There has been a steady growth in the number of bankruptcies, both consumer and the more complicated business reorganization cases, over the last 20 years, and this steady growth has led to great stresses and strains in the bankruptcy system. The bankruptcy referee has gradually taken over the prime responsibility for the operation of the system from the Federal district judges.

The hearings before the Subcommittee on Improvements in Judicial Machinery confirmed that revision was necessary, and the bill is the attempt to upgrade and modernize our bankruptcy courts and also the law which they must apply in the bankruptcy area.

S. 2266 was reported unanimously from the Committee on the Judiciary on July 12. Following that, the bill was sent on a sequential referral to the Committee on Finance where the tax amendments to the bill were also unanimously ordered to be reported on August 8. I believe the bill pending before the Senate reflects an evenhanded approach to bankruptcy reform and I remain hopeful that a satisfactory compromise can be arrived at on those issues where we differ from the House.

Mr. President, I take this opportunity to thank Senator WALLOP, the ranking member of the Judicial Improvements Subcommittee, for his participation and the assistance of his staff in the consideration of this bill. Without the bipartisan support this measure has received, and the lengthy and time exhausting work of the other members of the subcommittee, Senator ROBERT BYRD and Senator JOSEPH BIDEN, this measure would not be before us today.

In conclusion, I want to make clear that I share Senator WALLOP's concern about the final resolution of the railroad collective bargaining issue in S. 2266, but I am hopeful that, next year, hearings before Senator WILLIAMS' Human Resources Committee will provide a full airing of the matter and lead to reasoned legislation if such a need is shown. I shall direct the staff of the Judicial Improvements Subcommittee to continue to monitor developments in the area and to assist whenever appropriate.

Mr. WALLOP. Mr. President, I want to take this opportunity to recognize the great efforts that Senator DECONCINI and the staff of the Judicial Improvements Subcommittee have made in bringing this bill, S. 2266 to this point in its enactment. I personally appreciate the graciousness Senator DECONCINI has accorded me in presenting my views and those of the other minority Senators. This bill is the culmination of several years of hard work and extensive hearings. There has been widespread agreement of the need for bankruptcy reform but many different approaches have been suggested. It has been the task of the subcommittee to sift through these suggestions and weigh the merits of each. The bill as reported is the result of this long process. I think the bill has become finely turned by these efforts and that its enactment will provide broad based reforms that will more fairly allow debtors and creditors to meet and solve the problems of financial distress.

I am most pleased with the basic concept of this bill in regard to the structure of the new bankruptcy courts. The courts will be conducted by bankruptcy judges, not referees. The jurisdiction of the courts will be broad and pervasive. No longer will needless litigation in several courts be required to determine all the matters involved in a bankruptcy case. The distinction between plenary and summary jurisdiction will be abolished. The new judges will have 12-year terms, twice that of the present referees and will be functionally independent of the Federal district courts. The economy of initial appeals to the district courts will be preserved. The creation of these independent adjunct bankruptcy courts will be at a fraction of the cost of the alternative solution of new article III courts as recently passed by the House in the analogous bill, H.R. 8200.

The present system of private trustees will be retained with some added safeguards to upgrade the quality of trustees and insure that favoritism in appointment is prevented.

Many procedures will be streamlined for the administration of the bankruptcy cases. Cumbersome requirements such as the need for a so-called "act of bankruptcy" for an involuntary case will be deleted.

The current law allowing States to determine the property exemptions that debtors will have for their fresh start after bankruptcy will be retained. The provisions for priority payments of certain kinds of unsecured claims over general unsecured claims will be revised. The priority for wages will be modernized to reflect current wage and benefit agreements.

In liquidation cases the court will continue to preside at the first meeting of creditors. Special provisions will be made for the liquidation of stockbrokerage firms and the bankruptcy of commodity future brokers.

Among the most dramatic changes from current law are the new provisions for corporate reorganizations. Current chapters X, XI, and XII will be combined into a single chapter 11. In most instances the debtor will be able to remain in control and direction of the business during the reorganization period. In the average case, appointment of a trustee will only occur after a finding by the court of necessity. In the very large public company case where there is great public interest and the creditors, stockholders and interested parties may be located throughout the country, a trustee will automatically be appointed to supervise the proceedings. He will be able to retain the current management if he desires but will not be required to do so. A recent example, the Equity Funding case, has demonstrated the wisdom and benefit that the disinterested trustee can bring to these sorts of cases.

The problems of the recent Pine Gate case which has given lenders pause in making real estate loans will be solved by the addition of specific guidelines as to the manner in which real estate loans can be dealt with in reorganization cases and when and how lenders will be able to foreclose properties that are part of the debtor's estate.

The effective date of the bill will be October 1, 1979, and its provisions will apply only to cases commenced after that date.

These comments should not be construed to mean that I agree with all the provisions of the bill. I think on balance it should be passed, but I would like to mention two of my concerns. The Judiciary Committee did not accept the subcommittee's provision on reaffirmations, which would have permitted reaffirmations but allowed for a 30-day cooling off period for rescission. Reaffirmations will be prohibited under this bill. I think that is a mistake.

Similarly, a provision in the railroad reorganization subchapter that would have allowed the trustee to reject the work rules portion of a collective bargaining agreement was dropped by the Judiciary Committee. I understand that Senator WILLIAMS is committed to holding hearings on this question. I hope that the hearing process is not the end of the matter and that further action by the Human Resources Committee and the Senate will follow. The testimony that was heard by the subcommittee on this subject made it clear that antiquated work rules can often frustrate the reorganization process. This is a disservice to employees, the company, and the public alike.

Mr. President, I have been privileged to have had this opportunity to participate in the consideration of this bill and I now urge its passage.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the amendments in the nature of a substitute and the amendments reported from the Committee on Finance be adopted and treated as original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT 1818

(Purpose: To make technical and conforming changes to certain tax-related provisions)

Mr. DECONCINI. Mr. President, on behalf of the distinguished chairman of the Committee on Finance, I send to the desk a series of technical and typographical corrections to the bill.

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI, for Senator LONG) proposes unprinted amendment numbered 1818.

Mr. DECONCINI. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 315, line 19, insert the following immediately before the semicolon: ", including any suspensions of such period occurring on or after the date of the filing of the petition".

On page 315, line 25, insert a comma immediately after "law".

On page 336, line 4, strike out "118" and insert in lieu thereof "18".

On page 345, line 3, insert a comma immediately after "events".

On page 345, line 17, insert a comma immediately after "or".

On page 346, line 11, strike out "interests" and insert in lieu thereof "interest".

On page 351, line 9, strike out "an".

On page 353, line 14, strike out "permitted" and insert in lieu thereof "not restricted".

On page 353, line 14, strike out "tax".

On page 356, strike out lines 5 through 12, and insert in lieu thereof the following:

"(h) Notwithstanding any other provision of this section, the trustee may prosecute an appeal or review of an adjudication by a judicial or administrative".

On page 374, strike out line 7, and insert in lieu thereof the following: "(g), or 502 (h) of this title may be filed".

On page 375, strike out lines 8 and 9, and insert in lieu thereof the following:

"(b) Except as provided in subsections (f), (g), or (h) of this section, if such objection to a claim is".

On page 377, line 15, strike out "and" and insert in lieu thereof "or".

On page 377, strike out line 16, and insert in lieu thereof the following: "thereof was not sent to the trustee, on or before the last date for".

On page 386, line 16, insert a comma immediately after "to".

On page 387, line 7, strike out "a".

On page 387, strike out lines 21 through 25.

On page 388, strike out line 1.

On page 388, strike out line 2, and insert in lieu thereof the following:

"(3) When a determination by".

On page 391, line 13, insert a comma immediately after "or".

On page 391, line 14, insert a comma immediately after "remain".

On page 391, line 20, strike out "the".

On page 391, line 24, strike out "for a prompt audit of such liability".

On page 392, line 24, strike out "such" and insert in lieu thereof "the".

On page 392, line 24, strike out "under".

On page 393, line 1, strike out "paragraph (1)".

On page 397, line 9, strike out "adjustable" and insert in lieu thereof "adjusted".

On page 399, line 2, strike out "taxes" and insert in lieu thereof "tax".

On page 399, line 2, strike out the second comma and insert in lieu thereof a semicolon.

On page 399, line 8, insert immediately before "(iii)" an opening black bracket.

On page 399, line 12, insert a closing black bracket immediately after the semicolon.

On page 399, line 22, strike out "were" and insert in lieu thereof "was".

On page 399, line 25, strike out "taxes" and insert in lieu thereof "tax".

On page 403, line 16, insert "or his delegate" immediately after "Treasury".

On page 403, line 24, strike out "fine, penalty, or addition to tax" and insert in lieu thereof "penalty".

On page 406, line 24, strike out the beginning quotation marks.

On page 407, strike out lines 10 through 24.

On page 408, strike out lines 1 through 6.

On page 409, line 24, strike out "(5)" and insert in lieu thereof "(6)".

On page 410, line 1, insert "or" immediately after the semicolon.

On page 414, line 17, insert "any tax" immediately before the period.

On page 455, line 22, insert "expenses and" immediately before "claims".

On page 456, line 19, strike out "in".

On page 456, line 20, strike out "the same manner as" and insert in lieu thereof "by reference to".

On page 457, line 12, strike out "specified in" the first time it appears.

On page 457, line 12, insert a comma immediately after "order".

On page 539, line 12, insert an opening black bracket immediately before "(d)".

On page 539, line 15, insert a closing black bracket immediately after the period.

On page 543, line 24, strike out "was" and insert in lieu thereof "is".

On page 544, line 4, strike out "taxes" and insert in lieu thereof "tax is".

On page 544, line 19, strike out "[(4)(5)" and insert in lieu thereof "[(4)(5)".

On page 551, line 4, strike out "] (c)".

On page 551, line 14, strike out "] (d)".

On page 551, line 21, insert a closing black bracket immediately after the period.

On page 572, line 14, insert an opening black bracket immediately before "claims".

On page 572, line 15, insert a closing black bracket immediately after "and" and insert the following: "claims which are nondischargeable under section 523 of this title; and".

On page 574, line 4, insert immediately after the period the following new sentence: "Notwithstanding the preceding sentence, a governmental unit to which any tax is owing may accept provisions of the plan providing for payment of the tax over a period longer than four years.".

On page 577, between lines 6 and 7, insert the following:

"(d) Any tax liability provided for in the plan may be assessed against the debtor by the governmental unit, but any such assessment, if not previously made under otherwise applicable law, may not be made until after the plan is confirmed and may be made only within the limits of law otherwise applicable.".

On page 577, line 15, strike out "[or]" and insert in lieu thereof "or".

On page 577, line 17, strike out "; or" and insert in lieu thereof a period.

On page 577, strike out line 18.

On page 580, line 18, insert an opening black bracket immediately before "§ 1331.".

On page 580, strike out line 26.

On page 581, strike out lines 1 through 11.

On page 629, strike out lines 5 through 13 and insert in lieu thereof the following:

SEC. 318. (a) Subsection (b)(2) of section 47 of the Internal Revenue Code of 1954 (relating to certain dispositions, etc., of section 38 property) is amended by striking out "section 381(a)" and inserting in lieu thereof "section 371, 374, or 381(a)".

On page 629, beginning on line 14, strike out "Section 47(d) of the Internal Revenue Code of 1954 (as added by this Act) shall apply" and insert in lieu thereof "Paragraph (2) of section 47(b) of the Internal Revenue Code of 1954, as amended by this Act, shall apply".

On page 629, line 19, strike out "Section 47(d)" and insert in lieu therof "Paragraph (2) of section 47(b)".

On page 629, line 20, strike out "added" and insert in lieu thereof "amended".

On page 630, line 3, insert the following immediately after the dash: "For purposes of any tax to which subsection (a) applies—".

On page 630, line 6, insert "a" immediately after "to".

On page 633, strike out lines 3 through 8, and insert in lieu thereof the following:

(2) by amending subsection (b) to read as follows:

"(b) Claim Filed Despite Pendency of Tax Court Proceedings.—In the case of a tax imposed by subtitle A or B or chapter 41, 42, 43, or 44, claims for the deficiency in interest, additional amounts, and additions to the tax may be presented for adjudication to the court before which a receivership proceeding or a case under title II, United States Code, is pending, despite the pendency of proceedings for the redetermination of the deficiency in pursuance of a petition to the Tax Court; but no petition for any such redetermination shall be filed with the Tax Court after the appointment of the receiver.".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1819

Mr. DECONCINI. Mr. President, I send an amendment to the desk, offered by Senator KENNEDY, and ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI) for Mr. KENNEDY, proposes an unprinted amendment numbered 1819.

Mr. DECONCINI. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 312, line 12, strike the "." (period) and add the following: "except as otherwise provided in Section 766(b) and 770.".

On page 481, immediately following line 10, insert the following:

(15) "forward contract" means a contract requiring the seller to sell and the buyer to purchase a specified quantity of a commodity on a specified date or within a specified time in the future, which contract is effected otherwise than on a contract market or board of trade but which requires delivery of a commodity (or by-product or essentially similar commodity) which is traded on a contract market;

(16) "forward contract merchant" means a person who in the regular course of business purchases and sells forward contracts and who is a member or an affiliate of a member of a clearing organization;

On page 481, line 11, strike "(15)" and insert in lieu thereof "(17)".

On page 481, line 17, strike "(16)" and insert in lieu thereof "(18)".

On page 481, line 20, strike "(17)" and insert in lieu thereof "(19)".

On page 482, line 1, strike "(18)" and insert in lieu thereof "(20)".

On page 482, line 6; strike "(19)" and insert in lie uthereof "(21)".

On page 485, line 17, after "made by," insert "or to."

On page 485, line 18, after "organization," insert "or by or to a forward contract merchant,"

On page 490, line 3, after "broker" insert "or forward contract merchant".

On page 490, line 5, after "contract" insert "or forward contract,".

On page 490, line 6, after "contract" insert "or forward contract,".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. WALLOP. Mr. President, reserving the right to object, I shall not object, but I want to express certain minor reservations about his amendment by Senator KENNEDY. I do not think it does violence to the bill. It came as a little bit of a surprise to me this morning. I have checked it out, but I do want to express certain reservations about it as it moves slightly from the posture that the minority had wanted with regard to commodity brokers in general.

I do not object.

The amendment was agreed to.

UP AMENDMENT NO. 1820

Mr. DECONCINI. Mr. President, I send an amendment to the desk that is meant to correct an ambiguity in the committee report.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI) proposes an unprinted amendment numbered 1820.

Mr. DECONCINI. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 365, delete line 25 through line 3 on page 366 and insert in lieu thereof:

(4) Notwithstanding anything to the contrary contained in this section, the trustee may neither:

A. assume an executory contract to make a loan or deliver equipment to or issue a security of the debtor; nor,

B. prior to assuming an unexpired lease, require a lessor to provide services or supplies incidental to that lease agreement until such time as the trustee has assumed the unexpired lease, or in the alternative, provides the lessor in writing, with adequate assurances that the lessor will be compensated pursuant to the terms of the lease, for any services and supplies provided thereunder, during the transition period.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arizona.

The amendment was agreed to.

Mr. DECONCINI. Mr. President, if there are no further amendments, I ask for third reading of the bill.

Mr. WALLOP. Mr. President, Senator BARTLETT has been sent for. He has an amendment and is on his way over. Therefore, I suggest the absence of a quorum and ask unanimous consent that the time be equally divided. I think it will not be very long.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. WALLOP. How much time does the Senator want?

Mr. THURMOND. About 2 minutes.

Mr. WALLOP. Mr. President, I yield 2 minutes to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in support of the pending legislation, the Bankruptcy Reform Act of 1978. The major purpose of this bill is to reform and modernize the bankruptcy laws of this country.

The substantive bankruptcy law was first created in 1898 and underwent a major overhaul in 1938. Since that time there have been a number of changes in debtor-creditor relations, but the Congress has not acted to make these changes in the bankruptcy laws. S. 2266 seeks to update and reform this important area of law.

In 1970, Congress created the Commission on the Bankruptcy Laws of the United States to study and recommend changes in the bankruptcy laws. The Commission's final report, filed with the Congress on July 30, 1973, is the basis for the pending bill. The legislation has been subjected to extensive hearings in both the 94th and 95th Congress. Numerous witnesses testified on all aspects of the bankruptcy law, including the structure of the new bankruptcy courts, consumer bankruptcies, business reorganizations, railroad reorganizations, and the effect of the bankruptcy laws on the securities laws.

Mr. President, I would like to summarize the major provisions of this legislation. First, chapter 1 contains the general provisions which includes definitions, rules of construction and the basic procedural ground rules for the operation of the bankruptcy system.

Chapter 3 deals with voluntary bankruptcies where cases are commenced by the filing of a petition in the office of a bankruptcy judge. An involuntary case may be filed by three or more creditors having claims aggregating, at least, $5,000 or more. If there are fewer than 12 creditors, 1 creditor holding a claim of at least $5,000 may file.

The test for determining insolvency under this chapter is whether a debtor is generally unable to pay, or has failed to pay a major portion of his debts as such debts become due, or within 90 days before the filing of a petition a custodian has been appointed for the debtor's property. The inability or failure to pay debts is a change from current law which requires "balance sheet" insolvency.

The filing of a petition under this title automatically stays the enforcement of any act against the debtor to recover any claim owed by the debtor. The automatic stay seriously affects the rights of all the debtor's creditors, therefore, a number of limitations have been placed upon the continuance of the stay. The rights of creditors are protected where replacement liens or real property is involved. Moreover, the debtor may use cash collateral during a reorganization, but only after a hearing and finding by the court.

The rights of a trustee in bankruptcy are also protected and a trustee may reject executory contracts and unexpired leases which is now provided for in current law. The rights of a trustee to assume or reject executory contracts does not, however, include the right to assume a loan commitment.

Mr. President, chapter 5 provides procedures for all of the property of the debtor to be included in the bankruptcy proceeding. This also allows the trustee to more easily recover property that may have been transferred by the debtor. In addition, there is a new section requiring secured creditors to file claims, allowing an early evaluation to determine the secured and insecured portion of the claim.

The bill retains current law in the area of exempt property that a debtor may retain after bankruptcy for a fresh start. Thus, the bill takes the approach of current law which adopts the exemption law of the State in which the debtor is located. This method of providing for a fresh start for a debtor is, in my opinion, much better than the approach taken by the House which allows a debtor to choose between State law or Federal exemptions. Unfortunately, this method can lead to the retention of substantial amounts of property, resulting in instant affluence in the face of a bankruptcy proceeding. The fairer way is to allow a fresh start, but on a limited basis.

Mr. President, the bill also retains current law with regard to certain debts, such as those obtained under false pre-

tenses or actual fraud, to be excepted from discharge. In addition, in the area of preferences, the preference section is changed from current law to add a presumption that during the 90 days preceding bankruptcy the debtor will be presumed to have been insolvent. The preference period is reduced from 4 months to 90 days.

Mr. President, one major reform of this bill is the establishment of a new bankruptcy court as an adjunct of the U.S. District Court.

Each circuit court of appeals will appoint bankruptcy judges for its circuit. Compensation will be at the annual rate of $48,500, an income level believed by the committee to be commensurate with the duties of the office.

Qualifications for bankruptcy judges include bar membership in good standing for at least 5 years at the time of appointment and competence as determined by the judicial council of the circuit. Additional qualification standards may be prescribed by the Judicial Conference of the United States.

The appointment of bankruptcy judges by the district court as contributed significantly, first, to a real and apparent dependency on the part of the bankruptcy court and its judges upon the district courts which appoint and review the decisions of bankruptcy judges, and second, to the image of the bankruptcy court as the stepchild of the district court. This bill is designed to eliminate both the real and apparent dependency and subservience of the bankruptcy court, in part by vesting the power to appoint bankruptcy judges in the circuit courts of appeals, rather than in the district courts. The change is further warranted by the need to do away with the unseemly appellate practice whereby the district judge or judges who appoint the bankruptcy judge often rule on appeals from the orders of their own appointees.

There will be a 12-year term of office for bankruptcy judges appointed under new 28 United States Code, section 152. The present 6-year term is insufficient to attract the caliber of individual needed to perform the highly demanding and important functions of the office of bankruptcy judge. By doubling the term of office for future bankruptcy judges it is anticipated that a major goal of this reform legislation, the establishment of a functionally independent bankruptcy court, can be further advanced.

A bankruptcy judge whose term expires is permitted to continue to serve until a successor is appointed and qualifies.

The bill provides grounds upon which and prescribes the procedures by which the removal of a bankruptcy judge may be accomplished. In competence, misconduct, neglect of duty and disability, as determined by the judicial council of the circuit, are the sole grounds for removal. The bankruptcy judge is entitled to be heard on the charges against him.

The Senate bill, Mr. President, does not provide for the elevation of bankruptcy referees to the level of article III judges. I agree with that position, because I believe that the upgrading of bankruptcy referees is unwarranted since there are numerous protections, as well as increased retirement benefits for bankruptcy judges. The reforms of this bill more than compensate for the arguments that may be made to make bankruptcy referees article III judges.

Finally, Mr. President, this bill represents an immense amount of work by the members of the Subcommittee on Improvements in Judicial Machinery and the staff of that subcommittee. I especially want to commend Senator DECONCINI, the chairman of the subcommittee and Senator WALLOP, the ranking minority member. They did a fine job.

This legislation constitutes a monumental reform that is long overdue. The growth of consumer laws and the increased recognition by courts of the rights of consumers has underscored the need for a revision and modernization of our bankruptcy laws.

S. 2266 represents a careful redrafting of the bankruptcy laws of this country. It recognizes the relationship between State laws on bankruptcy on the one hand, and the need for a certain amount of uniformity at the Federal level on the other. The approach taken by this bill is, in my opinion, far superior to the version now being considered by the House.

Mr. President, as the ranking minority member of the Senate Judiciary Committee, I strongly support this legislation and urge its adoption.

The PRESIDING OFFICER. Who yields time?

Mr. WALLOP. Mr. President, is the Senator from Oklahoma ready to proceed with his amendment?

Mr. BARTLETT. I am ready to bring up the amendment.

The PRESIDING OFFICER. The Senator from Oklahoma.

UP AMENDMENT NO. 1821

(Purpose: To allow a bankrupt to rescind any revival or reaffirmation within 30 days of such action)

Mr. BARTLETT. Mr. President, I introduced an amendment yesterday and I have a slight modification which I send to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BARTLETT) for himself, Mr. THURMOND and Mr. HATCH, proposes an unprinted amendment numbered 1821:

On page 421, strike out lines 4–18 and insert in lieu thereof the following:

(b) A debt extinguished by discharge in a case under this title may be revived or reaffirmed by written instrument or be all or part of any bargain creating a new debt except, however, the debtor may rescind his revival or reaffirmation by written notice to all concerned creditors within 30 days of such revival or reaffirmation. Any judgment, whenever obtained, that a debtor is personally liable to pay a debt extinguished by discharge, and not revived or reaffirmed in accordance with this section, is null and void.

On page 421, line 19, strike "(d)" and insert in lieu thereof "(c)".

Mr. BARTLETT. Mr. President, my amendment to S. 2266 reinstates language in the bill that would enable voluntary reaffirmation or revival of debts subject to a rescission right of 30 days. It is identical to language in the bill as reported by the Subcommittee on Judicial Machinery on May 17, 1978, which was amended out of the bill by the full committee.

Although I believe the Judiciary Committee's effort was well intended, the effect of its amendment is to deprive consumers of a right they have always had, that is, of renewing a debt discharged in bankruptcy.

Without this right consumers will be denied the opportunity to protect a cosigner such as wife, a relative, or other family member from liability; or to protect collateral such as an automobile from repossession; or to honor a moral obligation. Even more importantly, the ban on reaffirmation in the committee bill can jeopardize a consumer's ability to save his home from foreclosure.

Rather than adopt an absolute ban on all reaffirmations, as S. 2266 purposes, my amendment provides a compromise adopted by the subcommittee which held hearings and studied the measure.

It is a simple, direct, approach which will protect the legitimate interests of consumers and creditors alike. It would allow, but not require, reaffirmation; it would permit a debtor 30 days to change his mind.

If abuse is a problem it can be limited without adopting an arbitrary prohibition on all reaffirmations. I submit the remedy proposed in S. 2266 exceeds any alleged abuse.

As a practical matter, thousands upon thousands of bankrupts reaffirm or revive debts with creditors each year for amounts totalling many millions of dollars. They do so voluntarily because they know it is to their advantage. I believe consumers should be able to retain that right. I also believe creditors should be able to recoup some of their losses. What is wrong with reaffirmation if it is voluntary?

Under my proposal, the debtor would have 30 days to reconsider his decision and cancel any reaffirmation. With this provision in the bill, any possible coercion or abuse by creditors is effectively avoided.

My amendment would afford the bankrupt more protection than current law and more real protection than the absolute ban now contained in S. 2266.

The record clearly shows that a major percentage of consumer bankruptcies are caused by a single, overwhelming debt such as a medical bill. Debtors may seek relief from such crushing medical expenses but wish to honor other obligations and retain their credit worthiness with those whom they have dealt with in the past—and with whom they wish to deal in the future. The committee bill

denies consumers the right to voluntarily and selectively reaffirm. It denies consumers the right to dispose of their future income as they see fit. There is no justification for this interference. It smacks of paternalism.

Additionally, I am concerned that the action of the Judiciary Committee prohibiting reaffirmations will create severe hardship for consumers in three distinct areas where it may be a benefit for them to renew their obligations. They may not do so because of the prohibitions of section 524 (b) and (c). These two subsections, read together with section 722, would permit property-related reaffirmations only in the event a bankrupt desires to redeem exempt tangible personal property subject to a nonpurchase money security interest. The power to reaffirm a debt only in this narrowly defined circumstance leaves the bankrupt helpless to protect other property which may be of substantial value, such as the following:

First. The bankrupt's home: The bankrupt will be unable to save his residence from foreclosure by the mortgagee. Since the bankrupt cannot revive his debt—section 524(b) makes any such effort "void"—the creditor must look to his security for payment through foreclosure. The bankrupt will not only lose his home, but in most cases any equity he might otherwise have protected through a homestead exemption. Likewise, the bankrupt's right to redeem—available under most State laws—would be lost for lack of power to execute a new obligation.

Second. Non-exempt personal property: Automobile and durable consumer goods of many kinds are usually acquired on credit, the seller retaining a purchase-money security interest in the auto or goods until payment in full is made. Under present law a bankrupt may often keep possession of such property by reaffirming his obligation with the seller. Under section 524 (b) and (c) and section 722 he would be powerless to reaffirm and the creditor would be obliged to repossess.

Third. All intangible property: The bankrupt may have pledged as security intangibles such as a credit union share, a certificate of deposit, stocks or bonds, contract rights or assignment of debt, life insurance policies et cetera. Again, pursuant to the strictures of section 524 (b) and (c) and section 722, he would be unable to prevent liquidation of such properties through an agreement to revive his discharged obligation.

The fresh start concept of the act will actually be thwarted in many cases by the ban on reaffirmations, resulting in substantial harm to consumers. The more flexible consumer-protective limitations on reaffirmation originally proposed and adopted by the subcommittee and now contained in my amendment will cure this disastrous defect in the bill.

I strongly urge the adoption of my amendment.

Mr. President, I reserve the remainder of my time.

Mr. THURMOND. Mr. President, will the distinguished Senator yield?

Mr. BARTLETT. I yield.

Mr. THURMOND. Mr. President, I commend the able Senator from Oklahoma. He and I are members of the Armed Services Committee, and he has done a fine job there. On all his committees, he has done a splendid job. We are proud of him, and I am glad to join him in this amendment. It is a sound amendment and should be adopted.

Mr. BARTLETT. I thank the distinguished Senator from South Carolina.

Mr. WALLOP. Mr. President, will the Senator yield?

Mr. BARTLETT. I yield.

Mr. WALLOP. Mr. President, I find myself in agreement, as I was during my opening remarks, with the posture the Senator has taken.

I ask those who are against this, what is wrong with offering a debtor flexibility as to a particular property or a particular debt?

It seems to me that it is inherently American to offer somebody a protected route to dignity. The 30-day cooling-off period, the opportunity for rescission, provides that protection and yet allows the debtor the option to restore personal confidence and dignity by reaffirmation if he chooses. I support the Senator.

Mr. BARTLETT. I thank the distinguished Senator from Wyoming.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 7 minutes remaining.

Mr. DECONCINI. Mr. President, Senator KENNEDY, the sponsor of the reaffirmation section as reported in the bill from the Judiciary Committee, is unavoidably absent today, but I would like to take this opportunity to defend and lend my support to the Kennedy proviso on reaffirmations.

Under the current Bankruptcy Act, the effect of a discharge has generally been governed by State law. Under most State laws, a discharge is an affirmative defense to any action on the debt discharged. It does not forbid collection of the debt, nor does it erase the debt. The moral obligation to repay the debt remains, and is valid consideration for a new promise to repay. Thus, unsuspecting debtors are led into binding reaffirmations, and the beneficial effects of a bankruptcy discharge are undone. The advantages sophisticated and experienced creditors have our unsophisticated debtors in this area were lessened by the 1970 amendments to the Bankruptcy Act, but some still remain. The unequal bargaining position of debtors and creditors, and the creditors' superior experience in bankruptcy matters still lead to reaffirmations too frequently. To the extent that reaffirmations are enforceable, the fresh start goal of the bankruptcy laws is impaired.

The bill makes void any agreement that contains a reaffirmation of a discharged debt, and prohibits a creditor from entering into such an agreement. The consumer finance industry strongly opposes the provision. It has argued that debtors frequently voluntarily repay debts, and that debtors should not be prohibited from repaying discharged debts, out of a sense of moral obligation or for other reasons. "Voluntary", however, is somewhat euphematic, and often has led to court action to enforce "voluntary" repayments. The bill recognizes the truly voluntary situation and permits legitimately voluntary repayments, but denies creditors court process to enforce a reaffirmation, other than under a nondischargeability or redemotion agreement. H.R. 8200 guarantees that debtors may repay a portion or all of a discharged debt in a voluntary situation, without any fear of reaffirming the whole of the debt and being subject to the same court process that resort to the bankruptcy laws was designed to prevent.

This provision is a significant factor in making bankruptcy relief an effective remedy. It insures that a debtor will not come out of bankruptcy in the same situation as when he went in. It contributes to the debtor's fresh start. The provision prevents creditor experience in handling bankrupt debtors from overwhelming inexperienced debtors that are in a severely disadvantaged bargaining position after bankruptcy.

It was on vote of 10 to 2 that the Judiciary Committee accepted Senator KENNEDY's amendment, and I hope it will be sustained today.

Mr. BARTLETT. Mr. President, at stake here is the human dignity of an individual who does have large debts, does want to put them in order by taking advantage of the bankruptcy laws which have been available to a person in this situation for a long time. This is nothing new at all to a businessman, to a person who has some kind of financial activity and loses his job and has unusually large expenses, or whatever it may be. But he also wants to shout, loud and clear, that he wishes to reaffirm certain of these debts.

I think it is very important for an individual to have this right. I believe it is the most paramount and overriding issue involved with this amendment—that he must have the opportunity to say, if he wishes to say, that he wants to reaffirm certain of these debts. Then, if there is coercion, harassment, or some kind of pressure brought upon this individual, he has 30 days, a quiet period, in which he can think over his reaffirmation, and he can rescind it or alter it.

This provides the protection that the distinguished Senator from Arizona was talking about and that the distinguished Senator from Massachusetts (Mr. KENNEDY), who is absent, had in mind.

But this amendment is a compromise and it definitely provides protection for the individual from any kind of abuse or coercion. I think that it affords him the opportunity, if he wants, to say: "Yes, I reaffirm these debts." To deny an individual his right or deny him possibly the advantage of bankruptcy, which in many cases is the only way a person can go and work his way out and work his way up, I think is virtually almost a criminal act.

So I hope my colleagues will join with those of us who are sponsoring this in order to give every individual the opportunity to stand up and say, if he wants: "Yes, here is a debt or here are debts that I reaffirm."

I am happy to yield to the Senator from Utah.

Mr. HATCH. I thank the distinguished Senator from Oklahoma and I compliment him on his amendment here today.

As I have conferred with my constituents about S. 2266 I have heard a loud clamor about the reaffirmation provision that is presently in the bill. After carefully analyzing the portion of the bill relating to this issue as reported by the Judiciary Committee, I feel that the amendment offered by the Senator from Oklahoma is certainly justified.

I support the amendment, and I am pleased to join my colleagues as a cosponsor.

I am concerned that we in the Judiciary Committee perhaps acted a little hastily in changing the provisions of section 524 that have been proposed by the subcommittee after it held hearings and carefully drafted language based upon its findings. If seems only proper that we not eliminate the long accepted concept of reaffirmation.

I have no doubt in my mind that there has been minimal abuse of reaffirmation by over-zealous creditors. However, I do not think it appropriate to meet that problem by a ban of reaffirmation as we have in the bill now before us.

The amendment we are now considering restores the language suggested by the subcommittee and properly protects the right of reaffirmation as a means for the consumer to restore his credibility in a situation where he has found bankruptcy to be a necessary step.

I might add, as an attorney who represented many people who have had difficulties and have had problems with bankruptcy, I think many of these people would be deprived of a tremendous opportunity to be able to resolve some of the inner conflicts and emotional conflicts which occur when they go into bankruptcy if they do not have a right of reaffirmation.

So I urge my colleagues to join us in supporting this amendment of my good-friend and colleague from Oklahoma.

Mr. BARTLETT. I thank my distinguished friend, the Senator from Utah. I appreciate his remarks and the remarks of the Senator from South Carolina (Mr. THURMOND), and the Senator also who offered this amendment in committee and supports it very strongly and has been very helpful to me, the Senator from Wyoming (Mr. WALLOP).

I am prepared to yield back the remainder of my time or if the Senator from Wyoming wishes additional time I yield.

Mr. WALLOP. Mr. President, the Senator from Wyoming has a unanimous-consent request.

Mr. President, I ask unanimous consent that Miss Beverly Charles, of Senator JAVITS' staff, and Ralph Oman, of Senator MATHIAS' staff, be accorded the privilege of the floor throughout the debate and votes on S. 2266 and S. 1423.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I ask unanimous consent that Mr. Michael Altier be accorded the privilege of the floor on both these bills.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, I make a similar unanimous consent request that Tom Wasinger, of my staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, I am prepared to yield back the remainder of my time.

Mr. DECONCINI. Mr. President, I am going to ask for a rollcall vote. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is not at the present time a sufficient second.

Mr. BARTLETT. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, I yield such time as I have remaining to the Senator from Maryland.

Mr. MATHIAS. Mr. President, I extend my congratulations to our distinguished colleagues, the able floor managers of this major and much-needed modernization of our bankruptcy laws, for their fine work.

I particularly compliment them on their understanding and fair approach to the complex subject contained in subchapter IV of chapter 7 which deals with commodity broker liquidations. The field of statutory commodity law is really quite new—the Commodity Futures Trading Commission was established only 4 years ago—and the law in this area is continually unfolding with new twists and wrinkles.

Our colleagues have taken this quite new area of commodities law and successfully interlaced it with the protections of this major bankruptcy revision. I believe that the thoughtful approach to the law contained in the Senate version of this bill should prevail on the conference—it is an approach that looks more fairly at the nature of commodity transactions while fully and equitably contemplating the problems of the bankrupt. It is my hope that our Senate colleagues will press for this superior version of this section of the bill in conference.

FORWARD CONTRACTING

The proposed amendments to the Bankruptcy Act contained in subchapter IV of chapter 7 of S. 2266 are concerned with commodity firms which are regulated by the Commodity Futures Trading Commission (CFTC) under the Commodity Exchange Act. The amendments do not deal with forward contract merchant firms, which at present are not regulated by the CFTC but which provide much of the backbone and underpinning to organized futures trading in the United States. Note, however, that section 20 of S. 2391, the CFTC reauthorization bill, would authorize the CFTC to monitor the forward contract markets.

Forward contract merchants are commercial trading firms which offer to commercial customers the ability to buy or sell commodities in the physicals market on a forward basis. For example, a precious metals merchant will sell, on a forward basis, silver to a photographic film manufacturer who requires actual delivery of a specified commodity on a future date; the film manufacturer would buy the metal from the forward contract merchant rather than use the facilities of a futures market to effect the forward purchase since the manufacturer requires a specified grade of the metal and requires delivery on a specified date and at a specified place. While futures contracts are quite effective for hedging market risks, they are not necessarily suitable for obtaining required delivery of a specified graded commodity.

In order for a forward contract merchant to provide a regular and efficient forward market, the forward contract merchant must make extensive use of the futures markets. In other words, when the precious metals merchant sells silver on a forward basis to the film manufacturer, the merchant invariably makes an offsetting purchase of the metal for delivery to the merchant at or about the same time.

Usually this offsetting purchase is made through the facilities of a futures exchange. The forward contract merchant does not take the market risk of the commodity which he sells forward; the merchant, however, is able to offer nonstandardized delivery of a nonstandardized product (which is required for industrial or commercial purposes) because the merchant firm can hedge its market risk by use of a standardized futures contract on a futures exchange. Such a hedged position is not speculative but in fact has a stabilizing force on the public markets.

Just as the commodity broker pays margin to the clearing organization to secure the broker's position, the customer of a forward contract merchant may pay margin to the merchant to secure its (the customer's) obligations. In effect, the margin money received from the forward contract merchant's customer is passed through to the clearinghouse as margin on the forward contract merchant's hedged positions in the futures market. Under the committee print of S. 2266 dated May 17, 1978, the payment of margin by the broker to the clearing organization is free from attack but the payment of margin in the physicals market by the film manufacturer is not necessarily protected and leaves a dangerous gap in the protection provided the clearing organization.

If, in the event of the bankruptcy of a sizable customer of a forward contract merchant, margin payments made to the forward contract merchant were required to be returned (or an order obtained restricting use of funds equal to such

margin payments), but the forward contract merchant was unable to retrieve the margin it paid to the clearing organization, the funds so returned must come from the forward contract merchant's own capital. By suffering a significant reduction or restriction of capital, the forward contract merchant would not be able to meet margin calls on its various futures positions on the exchange. This would result in the precipitous liquidation of substantial positions on the exchange. On this point, it is important to note that in many instances a forward contract merchant will hold a substantial position of the outstanding contracts on a futures market. The liquidation of those positions may drastically affect market price to the detriment of everyone else in the market.

Also, just as commodity brokers contract for the right to liquidate futures positions in the event of bankruptcy, forward contracts frequently contain such liquidation rights. Under the committee print contractual rights to liquidate futures positions cannot be stayed; similar protection should also be afforded the forward contract merchants, because the forward contract is inextricably linked with the futures market. Where the positons are sizable, the pressure on the forward contract merchant would jeopardize his entire position with the futures exchanges requiring immediate liquidation of massive futures positions.

In order to protect the clearing organization, it is suggested that forward contract merchants be treated in a fashion similar to commodity brokers with respect to section 766(b) (margin payments) and section 770 (contractual rights to liquidate contracts). Failure to extend those protections would mean that one side of a forward contract merchant's business would be protected (future business) but that the other side (the physical or cash business which, ironically, is the reason and justification for most futures trading) would be exposed. In the end, however, the futures side would be jeopardized by the merchant's capital drain in the event of a major customer failure.

The changes in the Bankruptcy Act suggested in this memorandum are compelled by logic as well as by economic realities. Forward contract merchants are an integral part of the commodities business; generally speaking, the physicals positions of a forward contract merchant are reflected by offsetting positions in the futures market.

The intricate connections between forward contract firms and the clearing organizations are such that a failure of a forward contract merchant could have serious repercussions to clearing organizations and the commodities community. The presently proposed revisions to the Bankruptcy Act should be modified to provide the additional protection suggested here.

The changes proposed are quite limited. They would apply only to forward contract merchants which are themselves clearing members or affiliates of clearing members, and "forward contracts" would be limited to commodities which are traded on future exchanges. These conditions are necessary to limit the proposal to those instances where bankruptcy or liquidation could affect the public futures market. The following textual suggestions are offered:

The following definitions should be added to Section 761:

Commodity forward contract means a contract requiring the seller to sell and the buyer to purchase a specified quantity of a commodity on a specified date or within a specified time in the future, which contract is effected otherwise than on a contract market or board of trade, but which requires delivery of a commodity (or by-product or essentially similar commodity) which is traded on a contract market.

Forward contract merchant means a person who in the regular course of business purchases and sells commodity forward contracts and who is a member or an affiliate of a member of a clearing organization.

Section 770. Contractual Rights to Liquidate or Transfer.—

Nothing in this title or state law shall operate to prevent, stay, or otherwise prohibit a commodity broker or a forward contract merchant from exercising a contractual right to liquidate or transfer a commodity contract or forward contract, or to cause the liquidation or transfer of a commodity contract or forward contract, nor shall any court issue any order preventing, staying, or otherwise prohibiting the exercise of such a contractual right. As used in this section, the term contractual right includes, but is not limited to, a right set forth in a rule, regulation, or bylaw of a clearing organization or contract market or in a resolution of the governing board thereof.

Section 766. Nonvoidable transfers.—

(b) margin payments made by or to a commodity broker, other than clearing organization, or by or to a forward contract merchant, unless (1) the payment was made on or within one year before the date of the filing of the petition; (2) the payor made the payment with actual intent to hinder, delay, or defraud any entity to which such payor was or became indebted on or after the date that such payment occurred; (3) the transferee knowingly participated in the payor's scheme to defraud; and (4) the recovery is from the transferee or a subsequent transferee who had actual knowledge at the time of that subsequent transfer of the payor's scheme to defraud.

Section 766(b) of S. 2266 should be amended to provide that customer margin payments made to a commodity broker will not be considered voidable preferences in a bankruptcy proceeding in the absence of fraud by a bankruot customer and collusion on the part of his transferee broker.

S. 2266, as passed by the Senate Judiciary Committee, provides that margin payments made by a commodity broker (absent participation in a fraud) (section 766(b)) or by or to a clearing organization (section 766(c)) are free from attack as voidable transfers. However, no corresponding protection is provided with respect to margin payments to a commodity broker from the broker's customer. It is submitted that this omission may result in jeopardizing the overall protections sought to be provided in S. 2266 toward preserving the integrity of futures markets, their public participants, and the clearinghouse mechanism. In addition, it would indirectly undermine the commodiy broker regulatory pattern envisioned by the CFTC in its recently promulgated minimum financial requirements.

These problems can best be demonstrated by reviewing the structure and internal mechanisms of the futures markets which provide the orderly, uninterrupted flow of funds through the markets and operate effectively to protect their financial integrity.

A clearing organization deals only with its clearing members and is not in privity with the broker's customers; it looks only to its clearing members for margin. As a practical matter, however, when a margin call is made by the clearing organization to a clearing member, the broker will request its customer (which could be the actual trader or another commodity broker with an omnibus account) to post additional margins. This margin money flows from the ultimate customer, through the broker to the clearinghouse and finally, through another broker to the customer on the other side. This is an unbroken sequence of events which occurs daily on America's futures markets. The brokers involved have no beneficial interest in these moneys. Indeed, the Commodity Exchange Act and regulations of the CFTC require that if at any time the broker has collected more margin money than he is in turn obligated to pay to the clearing organization, this money must be segregated and kept separate from his own funds.

If the broker is unable to retrieve margin paid by it to the clearing organization but is required to return margin funds paid to it by its customers, the funds so returned must come from the broker's own capital. By suffering a reduction of capital, the broker may not be able to meet its other customer obligations to the clearing organization, thereby potentially precipitating liquidation of all the futures positions carried by the broker. As noted earlier, in the ordinary course of its business, the broker acts as a conduit of funds with respect to margin due on customers' positions. However, it must be understood that it often happens that the clearing member must advance funds to the clearing organization prior to its receipt of corresponding margin from its customers; this is one of the reasons why clearing organizations require a substantial net worth for membership. If the broker's capital was to become unavailable because of a customer failure, the broker's position at the clearing organization would be completely exposed and the clearing organization protected against the failure of the broker.

Moreover, over the past 2 years the CFTC has been revising its minimum financial requirements for brokerage firms so as to provide additional protection to the firms' customers. Those proposed rules are carefully drawn to take into account current customer futures positions, deficit customer accounts, outstanding debt of the brokerage firm, and other such factors to assure that the broker is financially sound and that customer positions are safe. However, those proposed rules do not and cannot take into account the possibility that previous

margin payments by a bankrupt customer might have to be returned by the broker as voidable transfers.

If this were to happen and the broker's capital depleted, the CFTC's carefully developed financial requirements would be for nought and the firms' customers would be subjected to the very hazards the CFTC was trying to avoid. (We have enclosed for your information a copy of the CFTC's proposed financial regulations for brokerage firms.)

Finally, there is little justification for permitting margin funds transferred by a commodity broker to its customer on profitable positions (as required by law) to be free from attack, but not funds paid by a customer to a broker. It is submitted that the entire chain of margin payments must be protected from attack as a voidable transfer.

In order to accomplish the suggestion made herein, the words "or to" should be added to section 766(b) as follows:

(b) Margin payments made by or to a commodity broker. . . .

TECHNICAL CONFORMING AMENDMENT TO SECTION 103(d) OF S. 2266

A technical conforming amendment should be made to § 103(d) of S. 2266, as passed by the Senate Judiciary Committee, adding the phrase "except as specifically provided in section 766(b) and section 770 therein" to the end of that section immediately before the period. This change is necessary to conform section 103(d) to subchapter IV of title VII of the bill which relates to "Commodity Broker Liquidation, Transactions With Commodity Brokers, and Related Commodity Matters."

Mr. President, I ask unanimous consent that the Federal Register, April 10, 1978, entitled "Commodity Futures Trading Commission—Minimum Financial Requirements," be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMODITY FUTURES TRADING COMMISSION—MINIMUM FINANCIAL REQUIREMENTS

COMMODITY FUTURES TRADING COMMISSION

[17 CFR Part 1]

MINIMUM FINANCIAL REQUIREMENTS

Proposed Adoption and Monitoring

Agency: Commodity Futures Trading Commission.

Action: Proposed rulemaking.

Summary: The proposed rules would amend the minimum financial and related reporting requirements imposed upon futures commission merchants (FCM's) and would change the computational formula used to determine whether a futures commission merchant meets the minimum financial requirements; establish an early warning system designed principally to give notice of a futures commission merchant's financial deterioration; and require all self-regulatory organizations under the jurisdiction of the Commodity Futures Trading Commission to adopt minimum financial and reporting requirements with respect to their member futures commission merchants. The rules would permit the responsibility for monitoring and auditing any FCM which is a member of more than one self-regulatory organization to be delegated to a single self-regulatory organization. The proposed regulations are intended to accomplish the Commission's goal of industry self-regulation while ensuring adequate customer protection and the integrity of the futures market system, increasing regulatory efficiency, facilitating the reduction of the undue burden of multiple financial monitoring, auditing, and reporting imposed upon FCM's which are members of more than one self-regulatory organization, and facilitating the development of a registered futures association under Section 17 of the Commodity Exchange Act, as amended.

Dates: Comments on the proposed rule should be submitted by June 1, 1978.

Address: Send comments to Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581 Attention: Secretariat.

For further information contact:

John L. Manley, Chief Accountant, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, 202-254-5218.

Supplemental information: The Commission proposed in four parts substantial revisions to its financial regulatory structure now applicable to FCM's and self-regulatory organizations. On October 6, 1976, the Commission proposed extensive revisions in the financial reporting requirements imposed upon FCM's under Commission regulations. 41 FR 45706 (October 15, 1976). On May 17, 1977, the Commission proposed substantial amendments to the minimum financial standards to which FCM's are subject under its regulation 1.17. 42 FR 27166 (May 26, 1977). On June 14, 1977, the Commission proposed an improved early warning system based upon the proposed amendments to its regulation 1.17. 42 FR 31740 (June 22, 1977). On July 27, 1977, the Commission proposed a regulation which would require each self-regulatory organization to adopt minimum financial and related reporting requirements with respect to its member FCM's and would permit the responsibility for monitoring and auditing the financial status of any FCM which is a member of more than one self-regulatory organization to be delegated to a single self-regulatory organization. 42 FR 39036 (August 1, 1977). In October, 1977, the Commission held public hearings on these proposals.[1]

In view of the extent and complexity of these proposed rules and in order to afford maximum opportunity for public comment with respect thereto the Commission is hereby republishing them, as amended, and inviting public comment for an additional sixty days.

THE NEED FOR CHANGE

The Commission's responsibility to protect the integrity of the marketplace and the funds of customers who use that marketplace necessarily encompasses a duty to monitor developments in the commodities futures industry to determine whether the Commission's current regulatory approach is adequate in light of recent and anticipated changes in the industry. The Commission believes that the rapid and substantial increase in the number of registrants, the volume of commodity business that such registrants are doing, and the increased volatility of the futures markets in recent years have combined to produce a situation in which the Commission must shift its regulatory approach from direct regulation, relying primarily on direct auditing, to oversight regulation. In order to establish a structure under which oversight regulation may function effectively, the Commission determined that substantial revisions were necessary in its current regulations. The Commision further believes that to maximize the effectiveness of independent public accountants in this regulatory structure it is necessary to establish uniform computational criteria to determine the FCM's compliance with the Commission's minimum financial regulations.

In reaching the conclusions that this shift in regulatory approach is necessary, the Commission carefully considered a number of recommendations, including the recommendations of the Commission's staff. The Report of the Comptroller General of the United States to Congress on Improvements Needed in Regulation of Commodity Futures Trading (the "GAO Report")[2] recommended that the exchanges be delegated the primary responsibility for audits of FCM's and that the Commission "require FCM's to engage independent public accountants to make the required audits and to furnish reports on the results of these audits to the appropriate exchanges and to the Commission."[3]

Similarly, the Commission's Advisory Committee on Commodity Futures Trading Professionals[4] recommended that the Commission "require that the year end financial statements submitted by FCM's be certified by independent public accountants."[5] In addition, the Commission's Advisory Committee on Definition and Regulation of Market Instruments[6] recommended that any financial reports required of persons dealing in commodity option transactions and leverage transactions in gold or silver be certified annually by an independent public accountant.[7]

The Commission believes that substantial revisions in the minimum financial regulations are necessary for reasons in addition to the need to change to an oversight role in the financial regulation of FCM's. At present the Commission, the Chicago Board of Trade (CBOT) and the Chicago Mercantile Exchange (CME) all have different requirements with respect to financial regulations and related reporting requirements of FCM's, and many FCM's are subject to more than one set of such requirements. In addition, over 50 FCM's, representing approximately fifty percent of all commodity customer business in the futures industry, are also registered with the Securities and Exchange Commission (SEC) as securities broker-dealers and are, therefore, subject to the minimum financial rules of that agency. As a result, many of these FCM's/broker-dealers are subject to as many as three different sets of financial regulations and corresponding audits to enforce these regulations. The Commission believes that these duplicative financial and related reporting requirements impose unnecessary burdens upon FCM's; therefore, it has proposed and is today republishing for comment, revised minimum financial regulations that would establish uniform computational criteria for use in the commodities futures industry.

---

[1] In the matter of: Proposed Minimum Financial and Related Reporting Requirements, October 5, and 6, 1977.

[2] Report of the Comptroller General of the United States to Congress on Improvements Needed in Regulation of Commodity Futures Trading (June 24, 1975).

[3] Id., at 46.

[4] 40 FR 50558 (October 30, 1975).

[5] Report of Commodity Futures Trading Commission Advisory Committee on Commodity Futures Trading Professionals (August 5, 1976).

[6] 40 FR 50557 (October 30, 1975).

[7] Report of the Advisory Committee on the Definition and Regulation of Market Instruments to the Commodity Futures Trading Commission: Recommended Policies on Commodity Option Transactions (July 6, 1976); Report of Advisory Committee on Definition and Regulation of Market Instruments to the Commodity Futures Trading Commission: Recommended Policies on Futures, Forward and Leverage Contracts and Transactions (July 16, 1976).

Another reason for revising the financial regulations is that the Commission's minimum capital rule, which is a part of these regulations, has substantial deficiencies which must be corrected. A major deficiency in the current minimum capital rule is that the computational criteria permits FCM's to finance their operations almost exclusively with non-subordinated, long-term debt; thus, an FCM may actually be insolvent and still satisfy the Commission's present rule. Other deficiencies in the current capital rule include the safety factors on open futures contracts, the definition of proprietary account, and the length of time unsecured deficits are allowed to be outstanding and still be included as current assets. The safety factors for high-dollar value, low volatility, open futures contracts provided in current regulation 1.17, are disproportionately high in terms of the risks involved in trading in such contracts when compared to the safety factors on more volatile, low-dollar value contracts. The definition of the term "proprietary" as it is used in the current minimum financial regulations results in unrealistic additional charges to capital of FCM's in relationship to the actual risk involved to these FCM's. Unsecured deficits may be outstanding up to thirty days and still be included as part of the firm's assets in calculating its capital position.

Finally, the Commission's present rules were not intended to, and do not, provide financial regulations with respect to domestic exchange-traded commodity options. It should be noted, however, that all references in the proposed financial regulations to Part 32 of the Commission's regulations (17 CFR Part 32) concerning commodity options relate to the proposed regulations contained in the October 17, 1977 Federal Register release (42 FR 55538) and those regulations have not been adopted. Therefore, it may be appropriate, in the event the Commission adopts the proposed financial regulations prior to taking action with respect to the proposed options regulations, to delay final action with respect to those financial regulations relating to such options until such time as the proposed options regulations are adopted.

MAJOR DIFFERENCES BETWEEN THE PRESENT PROPOSAL AND PRIOR PROPOSALS

Safety factors. The safety factor computations currently provided in regulations 1.17 (d) and (e) with respect to open commodity futures contracts are based upon the dollar values of such contracts. Therefore, as previously mentioned, the safety factors for high dollar-value, low volatility, open futures contracts are disproportionately high in terms of the risk involved in the trading of such contracts when compared to the safety factors on highly volatile, low dollar-value contracts. In order to relate the safety factors on a particular contract to the risk involved in trading in that contract, the Commission requested comment upon a proposal to adopt a new safety factor computation based upon the volatility rather than the dollar-value of each contract.[8] Specifically, the safety factor would have been based on a percentage of the standard fluctuation of the price of that contract.

While the commentators in general agreed that amendment of the Commission's regulations respecting the safety factor computation was a desirable step, there was strong opposition to the concept of a computation based upon the standard fluctuation concept because of its complexity and because it would be based upon historical data which could only indicate what safety factors might have been appropriate in the past. Many of these commentators believe the contract markets are in the best position to assess current market risks, and favor a safety factor computation based upon contract market margin requirements. The Commission believes that these arguments have merit and further believes that such margin requirements provide flexible indicia of the volatility of the futures contracts, as well as all other market conditions concerning such contracts. Therefore, the Commission is revising its earlier proposal and is proposing to compute the safety factors for customer positions based upon the amount by which any account is undermargined after a specific number of days are allowed for collection. The safety factor for proprietary positions will be a multiple of the margin requirement.

Self-regulatory organization membership. Several commentators criticized the proposals for not recognizing the advantages from the standpoint of regulation, surveillance and customer protection that accrue from an FCM's membership in a self-regulatory organization. Commentators cited such benefits as: (i) the frequency of audits of their member FCM's that self-regulatory organizations conduct or that they will be required to conduct in enforcing the proposed minimum financial regulations; (ii) the daily monitoring of clearing members' positions; (iii) audits of FCM's to determine compliance with margin requirements; and (iv) the speed and flexibility of a self-regulatory organization compared to a federal regulatory agency. The Commission also appreciates that members of self-regulatory organizations, in addition to the cost of their memberships, incur certain expenses in the form of membership fees or dues which, at least in part, are used to pay the costs of auditing, monitoring and other regulatory and surveillance programs of such organizations. Finally, the Commission recognizes that, historically, the losses of customers trading in futures contracts regulated under the Act, as a direct result of member firm failures have been minimal and this has been in past due to the willingness of other member firms to absorb such losses when the failing firm is a member of the same contract market. The Commission believes that these considerations in the context of a properly functioning self-regulatory organization provide a reasonable basis for distinguishing among categories of participants in the futures markets. Accordingly, the revised proposal would (i) establish higher minimum financial requirements and safety factors for non-contract market members than for members and (ii) recognize guarantee deposits and clearing corporation stock as assets in computing net capital.

In adopting any Commission rule or regulation, the Commission is required, pursuant to Section 15 of the Act,[9] to take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives, policies and purposes of the Act. Accordingly, the Commission specifically requests comments as to the possible competitive impacts of making or not making the distinction described above among categories of participants in the futures markets.

Customer-proprietary definitions. The proposed amendments to the financial regulations would not have amended the current definitions of "proprietary account" as defined in § 1.3(y) or "customer" as defined in § 1.3(k). Many commentators felt that the Commission's definition of "proprietary account" is overly broad for application to the minimum financial regulations and that within this context it should be narrowed to include only the firm, subsidiaries, affiliates and certain partner accounts. The Commission has carefully considered these comments and has determined to retain its current definition of "customer", while at the same time narrowing the definition of "proprietary" as it is used in the minimum financial regulations to include only the firm and general partner's account.[10] All those accounts which are neither "customer" nor "proprietary" including the accounts of parents, affiliates, stockholders, officers, limited partners, and employees currently included in the definition of "proprietary" (section 1.3(y)) would be considered "non-customer", and with one exception non-customers would be treated the same as customers in the minimum financial regulations. The one exception would be that less time would be allowed for these non-customers to meet margin calls before a firm must take a capital charge for an undermargined position.

Minimum requirements. The Commission's current regulations require adjusted working capital of $10,000.[11] The prior proposal would have required adjusted net capital of $25,000. Many commentators suggested that the minimum level should be much higher than that of the proposal (some as high as $250,000), and a few of the commentators suggested that the minimum should be lower than the proposed level of $25,000. The Commission has carefully considered each of these comments and has concluded that even though comprehensive computational criteria are provided in the minimum financial regulations, there are many unforeseen risks which cannot be measured properly in a capital rule. Therefore, the Commission proposes to increase the minimum adjusted net capital level required of an FCM to $50,000 for a member of a designated self-regulatory organization and $150,000 for an FCM which is not a member of a designated self-regulatory organization.

A discussion of certain of the comments received by the Commission in response to its four proposals and a section-by-section explanation of certain of the Commission's revisions to its proposal regulations is set forth below.

FINANCIAL REPORTING REQUIREMENTS

Two commentators stated that there is no reason to believe that an audit which accompanies an application for registration as an FCM can be completed within any shorter period than the time required to complete an annual examination; therefore, the commentators suggested that the time within which the certified financial statements that must accompany an application for registration should be consistent with the time allowed for the preparation of annual certified statements required to be filed by registrants, i.e., within sixty days of filing.[12] Another commentator recommended that when filing an FCM application, businesses which are already established be required to provide certified financial statements that are not more than 12 months old and more up-to-date unaudited financial statements. The Commission has taken these comments into consideration and amended proposed regulation 1.10(a)(2) to require an applicant for FCM registration to file with the application either (i) financial statements certified by an independent public accountant as of a date not more than 45 days prior to the date on which such report is filed; or (ii) unaudited financial statements as of a date not more than 45

[8] Proposed regulation 1.17(c)(5)(xi), 42 FR 27175 (May 26, 1977).

[9] 7 U.S.C. 19 (Supp. V, 1975).

[10] The changes in the definition of proprietary apply only as the term is used in regulation 1.17. The segregation and recordkeeping regulations of the Commission will remain unchanged as a result of this proposal.

[11] 17 CFR 1.17.

[12] The Commission initially provided a 45-day period. Proposed Rule 1.10, 41 FR 45711 (October 15, 1976).

days prior to the date on which such report is filed and financial statements certified by an independent public accountant as of the date not more than one year prior to the date on which such report is filed.

The Commission's October 15, 1976, proposal would have required that Form 1–FR be filed on a quarterly basis. Currently such reports are required to be filed semi-annually by the Commission. A number of commentators expressed the view there was no general need for quarterly rather than semi-annual reports, citing the increased costs to FCM's of more frequent reporting. The Commission believes that it must have timely information to monitor effectively the financial responsibility of FCM's, whose business is affected by rapid fluctuations in the futures markets. Moreover, the information which would be required in the new Form 1–FR is essentially that which would ordinarily be prepared in the normal course of business to facilitate management of the firm. The Commission understands that much of this information is being prepared monthly by most firms, although perhaps in a less formal manner than that required on the Form 1–FR. The Commission notes in this regard that over 50 FCM's are registered as broker-dealers with the Securities and Exchange Commission and are accordingly required to file quarterly reports with that agency. In addition, the Chicago Mercantile Exchange requires quarterly financial reports from most of its members, and the CME members together with the broker-dealers, comprise approximately 40 percent of the FCM community which are already filing quarterly financial statements. Thus, while the Commission recognizes that quarterly reporting requirement may increase costs for some FCM's the Commission does not believe it should significantly increase the costs to the industry as a whole. Also, the more frequent reporting will facilitate the Commission's shift from direct regulation through FCM audits to indirect regulation through a review of reports submitted by the FCM's and their independent public accountants. The possible increase in costs for some FCM's, appears to be justified in light of the advantages from a regulatory standpoint of more frequent reporting.

However, the Commission is concerned with the possible impact of quarterly reporting on small FCM's and those FCM's whose brokerage business is incidental to their other business operations. The Commission specifically requests comments on the quarterly reporting concept, including supporting data on increased costs to FCM's and any rationale for distinguishing among FCM's on this matter.

Eleven commentators argued that the thirty day time period allowed for filing quarterly reports was too short, with eight of these commentators specifically suggesting changing the quarterly filing time to forty-five days. Seventeen commentators expressed the view that the proposed sixty day time limit in which to file certified annual reports was too short. In light of these comments and the fact that more frequent financial reporting will be required, the Commission is proposing to revise regulation 1.10(b) by extending the time period for quarterly and annual certified reports to forty-five days and ninety days, respectively.

One commentator suggested that if a registrant is a member of more than one self-regulatory organization and the proposed designation system is implemented an FCM's financial statements should be furnished only to the self-regulatory organization which is designated to monitor the financial condition of the FCM. The commentator further contends that distribution of these statements to all self-regulatory organizations of which the FCM was a member would give rise to unnecessary expense to be borne by the FCM. The Commission agrees with this comment and has changed the proposed regulations to require that the financial statements be submitted only to the designated self-regulatory organization, if any, and the Commission.

Under the current requirements, each Form 1–FR must contain a Statement of Financial Condition, a Statement of Capital Computation of the Minimum Capital Requirements Pursuant to Regulation 1.17, and a Schedule of Segregation Requirements and Funds on Deposit in Segregation. To these, the Commission proposed to add in the October 15, 1976 proposal, Statements of (i) Income (Loss), (ii) Changes in Financial Position (comparative Statements of Income (Loss), and Changes in Financial Positions for the corresponding period of the prior year), (iii) Changes in Ownership Equity, and (iv) Changes in Liabilities Subordinated to the Claims of General Creditors. Many commentators questioned the need for comparative financial statements and argued that the preparation and filing of such statements would entail needless costs to the FCM's. The Commission believes these comments have merit and has, therefore, eliminated the proposed requirement respecting comparative financial statements.

Other commentators asked the Commission to reconsider requiring most or all of the additional statements, especially in the quarterly reports, citing the additional expense and burdens to FCM's. The Commission has carefully considered these comments but believes, nonetheless, that the income statement provides information that is essential to enable the self-regulatory organizations and the Commission to evaluate the financial status of an FCM. Therefore, the Commission is retaining, subject to further comment, its proposal to require quarterly submission of an income statement to the Commission and Self-regulatory organizations. The Commission believes the Statements of Changes in Financial Condition, Changes in Ownership Equity, and Changes in Liabilities Subordinated to the Claims of General Creditors also provide important information but, based upon further consideration and in light of the comments received, has amended its previous proposal that these statements be required on a quarterly basis and is instead proposing to require that these statements be presented only in the annual certified statements submitted to the Commission and the self-regulatory organizations.

One commentator suggested that the oath or affirmation that is required of a corporation in accordance with section 1.10(d)(4) be only required to be signed by the chief executive officer or the chief financial officer, instead of both as was proposed. The Commission has detremined that one signature is adequate.

Section 1.10(f) as previously proposed, stated "An application for extension of time will be deemed denied unless the Commission, within ten days after receipt of the application, notifies the applicant or registrant of the grant of an extension." Eighteen commentators indicated that the Commission should notify the applicant or registrant in writing whether the extension request has been granted or denied. One commentator stated "since the FCM is taking good faith steps to comply with the rules, it is incumbent upon the Commission to respond, whether affirmatively or negatively sometime prior to the required filing date". The Commission has changed proposed regulation 1.10(f) in response to these comments by requiring that the application for extension of time be received by the Commission fifteen days before the filing deadline for the report. The Commission will respond to an application within 10 days after it is received. Proposed regulation 1.16(f) deals with extensions of time for filing audited reports, and it contains language similar to proposed regulation 1.10(f). Since the comments respecting proposed regulation 1.10(f) would be equally applicable to § 1.16(f), it also has been amended to incorporate the changes made in § 1.10(f).

Several commentators argued that the Commission should give confidential treatment to Form 1–FR. The Commission believes, however, that proposed regulation 1.10(g) is consistent with § 145.5(d)(1)(i) of the Commission regulations and the implementation of the Freedom of Information Act. Therefore, the Commission has not proposed that this paragraph be changed.

The previous proposals would have required that the annual certified Statement of Financial Condition, the Computation of Minimum Capital Requirements Pursuant to Section 1.17 and the opinion of the independent public accountant with appropriate footnote disclosures be sent to all of the registrant's customers with open contracts and credit balances. The Commission received approximately 20 comment letters which strongly opposed the sending of any financial information to customers. These commentators emphasized the right of FCM's to privacy. In view of the comments, the Commission now proposes to eliminate these requirements from its proposed financial regulations.

MAINTENANCE OF MINIMUM FINANCIAL REQUIREMENTS BY FCM'S

Several commentators felt that proposed regulation 1.12 would require continuous determination of adjusted net capital. These commentators believe that the early warning system should be triggered only when an FCM knows or should know that the trigger level is reached. The Commission never intended to require continuous determination of adjusted net capital; accordingly, the proposed regulation has been amended to make this clear.

One commentator questioned the requirement of paragraph (e) of proposed regulation 1.12, that "Reports to the Commission by a contract market of an FCM's failure to file a notice pursuant to § 1.12 should result solely from a contract market's normal surveillance." This commentator stated, "No additional burdens should be placed on the contract market by virtue of this new regulation." The Commission did not intend that this regulation impose additional burdens, and contract markets will be required to report only when they know or should have known of a violation of the early warning system.

QUALIFICATIONS AND REPORTS OF ACCOUNTANTS

Proposed regulation 1.16(b)(1) establishes the qualifications which accountants must meet to practice before the Commission. The Commission will recognize only certified public accountants who are duly registered and in good standing under the laws of their place of residence or principal office; and licensed public accountants who were duly licensed on or before December 31, 1970, and in good standing under the laws of their place of residence or principal office. The Commission received two comments on this paragraph. Both pointed out that the proposed regulations are in conformity with the position of the Comptroller General of the United States,[13] and one commentator commended the Commission on its forthright stand on the issue. The other commentator, however, objected to the Commission's adopting the Comptroller General's restriction as to which non-certified public accountants may be considered qualified for the purposes of practicing before the Commission. In view of the Comptroller General's stance, the Commission does not propose to amend its qualification standards.

Proposed regulation 1.16(b)(3) concerns

[13] Report of the Comptroller General of the United States to Congress on Improvements Needed in Regulation of Commodity Futures Trading (June 24, 1975).

the independence standards which accountants must meet to practice before the Commission. One group of commentators in a combined letter stated their belief that it would be inappropriate for the exchanges to be required to oversee the independence of accountants, and stated that the rule requiring independence of accountants in the securities industry is enforced directly by the Securities and Exchange Commission. The Commission wishes to make it clear, in response to this comment, that its regulations will govern the independence of accountants in connection with the audits of FCM's and does not intend to delegate this responsibility to the self-regulatory organizations.

Several commentators recommended that independent auditors should be required to issue supplemental reports describing material weaknesses in internal controls found to have existed since the date of their previous examination instead of including such a report as part of the independent accountant's report on the financial statements. Based on these comments, the Commission is proposing a new section 1.16(c)(5) which would require an independent accountant to issue a separate report on material inadequacies. The Commission is eliminating the requirement that the independent accountant state in his report on the financial statements whether a review was made of the procedures followed for safeguarding customer and firm assets in accordance with the provisions of the Act and the regulations. Several commentators felt that the language in proposed regulation 1.16(d) concerning material inadequacies was too broad and requested that it be narrowed. The Commission has responded to these comments by adding language to § 1.16(d)(2)(iv) limiting violations of the Commission's segregation, recordkeeping, or financial reporting regulations required to be reported to those that could reasonably be expected to result in the conditions prescribed in paragraphs (d)(2)(i), (ii) and (iii) of proposed regulation 1.16.

Regulation 1.16(e) as originally proposed would have required that an auditor who determines, in the course of an audit, that any material inadequacies exist in the internal controls of the FCM, must call such inadequacies to the attention of the FCM who must then inform the Commission and the designated self-regulatory organization of the inadequacies within twenty-four hours. Several commentators feared that twenty-four hours would not be long enough for compliance with this requirement, and suggested that three business days would be more realistic. Proposed regulation 1.16(e) has been amended to allow three business days for notification.

MINIMUM FINANCIAL REQUIREMENTS

General. Several commentators suggested that broker-dealers who are already regulated by the SEC and who are also registered as FCM's should be exempt from the Commission's proposed minimum financial requirements. The Commission does not believe that it can grant such an exemption consistent with its responsibilities under the Commodity Exchange Act (the "Act"). By exempting this category of FCM's from its financial requirements the Commission believes that effective regulatory surveillance for financial responsibility would be precluded. In addition, should the Commission after granting such an exemption suspect that a firm is violating the SEC's requirements, it would be placed in the position of having to rely completely on that Agency to take the necessary action to insure that the firm was brought into compliance with its obligations under the Act, inasmuch as the Commission lacks the authority to enforce SEC regulations. The Commission believes that this situation could foster incongruous results which would be intolerable in light of its own obligations under the Act. As was indicated in the FEDERAL REGISTER notice which accompanied the proposed amendments to section 1.17[14] the Commission's staff and representatives of the SEC have initiated cooperative efforts in connection with their respective financial regulations. In part as a result of such efforts, the Commission is, for example, proposing several amendments to its regulations, including the incorporation by reference of the SEC's safety factors or "haircuts" on securities. In addition, the Commission recommends that the SEC amend its regulations to incorporate by reference the Commission's safety factors on futures. If this step is taken, it will provide the requisite uniformity to permit those FCM's which are also registered with the SEC as securities broker-dealers to comply with the Commission's financial reporting requirements by simply filing copies of the SEC's FOCUS Report[15] with the self-regulatory organizations and the Commission.

Two commentators stated they favored the utilization of a working capital concept rather than a net capital concept for the minimum financial regulations. In determining compliance with the minimum financial regulations a working capital concept would not take long term debt into consideration. The Commission believes, as it has stated previously,[16] that the working capital concept which allows an FCM to finance its business solely through the use of non-subordinated, long-term debt is a major shortcoming of the current financial regulations. The Commission believes that a futures commission merchant must have a permanent capital base for its operations. Any minimum financial regulation which permits an FCM to finance its operations as described above and thus actually be "insolvent" and still comply with those requirements is seriously deficient.

The Commission is aware of the concerns expressed within the industry that the subtraction of long-term debt from current assets in computing adjusted net capital would needlessly exclude a certain class of firms from registration as FCM's, to the detriment of the commodities futures industry. Such firms would be those whose primary business is other than the brokerage business and whose FCM business is merely incidental to their primary business activities. These firms typically make extensive use of long-term debt to finance their primary business activities, and many of their assets acquired through the use of long-term debt would not fall within the definition of "current assets" under proposed regulation 1.17. Therefore, such asset could not offset long-term debt in evaluating the financial status of such firms and this would make it impossible for them to comply with the Commission's proposed minimum financial requirements. The Commission does not believe these concerns are valid because proposed regulation 1.17 would permit an FCM to reduce its long-term liabilities in evaluating its financial status to the extent of the net book value of the plant, property and equipment which is used in the ordinary course of any trade or business for a reportable segment of the firm's business, other than in the commodity futures, commodity option, securities and securities option segments.

Two contract markets commented that it is important for a firm which is experiencing financial difficulties to be able to get any infusion of additional funds without restricting these additional funds to subordinating debt or equity capital. The Commission believes these comments have merit and is therefore adding language to proposed regulation 1.17 which would allow self-regulatory organizations and the Commission at their discretion, to temporarily suspend the subordination requirements of paragraph (h) of proposed regulation 1.17, and permit the substitution of long term debt for subordinated debt for up to 30 days. The temporary suspension of the requirements of proposed regulation 1.17(h) under proposed regulation 1.17(h)(4) may be granted with respect to a particular FCM only once during any twelve month period.[17]

Regulation 1.17(a)(4) as proposed required a registrant to comply with § 1.17 at all times and to be able to demonstrate such compliance to the satisfaction of the Commission and/or any self-regulatory organization of which the registrant is a member. A registrant which did not meet these requirements would immediately have to cease doing business (except trading for liquidating purposes only) as a futures commission merchant until such time as the registrant could demonstrate such compliance. Many commentators questioned the use of the phrase "at all times"; stating that this language would be impossible to comply with and requested clarification.

In part as a result of these comments, proposed paragraph 1.17(a)(4) has been revised and divided into two paragraphs, 1.17(a)(3) and 1.17(a)(4). Proposed regulation 1.17(a)(3) provides that no person applying for registration as a futures commission merchant shall be so registered unless such person affirmatively demonstrates to the satisfaction of the Commission that it complies with the financial requirements of this section 1.17. The paragraph further requires that each registrant be in compliance with proposed regulation 1.17 at all times and to be able to demonstrate such compliance to the satisfaction of the Commission and/or the designated self-regulatory organization at all times.

Proposed regulation 1.17(a)(4) requires a registrant which cannot demonstrate compliance with requirements of section 1.17 immediately to transfer all customer accounts and cease doing business (except transactions for liquidation purposes). However, if such registrant immediately demonstrates to the satisfaction of the Commission or the designated self-regulatory organization the ability to get into compliance, the Commission or the designated self-regulatory organization may allow the registrant up to 10 days in which to do so without having to transfer accounts and cease doing business. This paragraph is intended to provide a specific procedure in the event a registrant fails to comply with the requirement of proposed paragraph (a)(4), and is not intended to limit or preclude action by the Commission or the designated self-regulatory organization for violations of any of the provisions of section 1.17. Thus, for example, the Commission or the designated self-regulatory organization might deem it appropriate to take action against a registrant which has not been in compliance with the requirements of section 1.17 regardless of the fact that such registrant gets into compliance within 10 business days.

One commentator stated that the reference in the proposed regulations to Securities Exchange Act Rule 15c3-1[18] (The SEC's "net capital rule") is inappropriate, because it would require an FCM, as a result of its securities transactions which do not necessitate registration with the SEC and which may, in fact, be inconsequential transactions vis-a-vis the FCM's total business, to be fully aware of every provision of the SEC's net capital rule. The Commission believes that its reference to the SEC's rule is necessary, because with respect to those matters which are peculiar to the securities industry the Commission should rely on the expertise of the SEC. Therefore, if the SEC's rule is relied upon without being incorporated by reference, each amendment of that rule would necessitate a corresponding amendment of the Commission's regulations and this would be an unnecessary duplication of effort. Moreover, FCM's which are not also registrants of the Securities and Exchange Commission will only have to be familiar with only those provisions of the SEC's net capital rule (*eg*, "haircut" regulation for securities) which apply to such FCM's.

Current assets. Regulation 1.17(c)(2(i) as prososed would have excluded from current assets any unsecured commodity futures or option accounts containing a ledger balance and open trades, the combination of which liquidate to a deficit or containing a debit ledger balance. However, the proposed regulation would have permitted such deficits or debit ledger balances which are the subject of calls for margin or other required deposits which are oustanding five business days or less to be included in current assets. Several commentators felt that the financial regulation should allow customers more time to respond to margin calls. Other commentators suggested that no unsecured deficits or customer ledger balances should be included in current assets. These commentators argued that the existence of unsecured deficits or debit ledger balances of customers constituted unwarranted risks to the firm. The Commission agrees with this latter argument and is, therefore, proposing to allow deficits or debit ledger balances only to the extent that they are subject of current calls for margins or other required deposits which are outstanding one business day or less.

Commentators had two major concerns with the Commission's proposed treatment of unsecured trade accounts receivable: (i) the proposed regulation was so narrow that it would eliminate all receivables which are not related to the sale or trading of commodities or commodities futures; and (ii) the time allowed for collection of such receivables were too short. In part in response to these comments, the Commission has amended proposed regulation 1.17(c)(2)(ii)(A) to characterize as current assets receivables resulting from the marketing of all inventories commonly associated with the business activities of the FCM and has extended the time (to seventy-five days from the date they arise) allowed for such receivables to be outstanding and still be included in current assets.

The proposed regulation concerning insurance claims which are allowed as current assets in computing an FCM's capital, received criticism from commentators who are engaged in other business activities besides the brokerage business. These commentators felt that the regulation would not permit a commodity firm to take into account its insurance claims such as a claim based upon losses related to the destruction of a grain elevator. The Commission is therefore proposing regulation 1.17(c)(2)(ii)(E) to provide that insurance claims which arise from a reportable segment of the FCM's business activities, other than the brokerage business, and which are not more than seventy-five days old from the date they are recorded as a receivable may be included in current assets.

Proposed § 1.17 would have excluded unrealized commissions from current assets and a number of commentators suggested that such commissions receivable are legitimate current assets. The Commission agrees; therefore, it has deleted the specific exclusion of unrealized commissions from current assets and proposes to allow the firms to include unrealized commissions as current assets to the extent that the account in respect of which such commissions are earned its properly margined.

Several commentators expressed concern that inventory items such as seeds, fertilizers, fuels and other farm supply products would be excluded as current assets under the proposed regulations. To make it clear that this was not the Commission's intention, a paragraph has been added to the proposed regulation which specifically allows inventories held for resale which are commonly associated with the business activity of the FCM to be included in current assets.

The disallowance of Board of Trade Clearing Corporation stock as an asset was criticized, since this stock can be used as margin. Commentators suggested that the disallowance of the Clearing Corporation's stock and other guarantee deposits at clearing corporations would put clearing members at a severe disadvantage vis-a-vis all other participants in the futures markets. In light of these comments and the Commission's decision to recognize the benefits of contract market membership, language has been added to the proposed regulation which specifically allows as current assets guarantee deposits with, and stock of, clearing organizations to the extent of their margin value.

Secured transactions. The previous proposal would not have amended the definitions of "secured" from the current regulations. One commentator pointed out that the Commission's definition of this term might have potentially devastating effect if applied to securities broker-dealers, because certain items which would not be considered secured under the definition could not be included in current assets. The commentator cited such items as securities which broker-dealers are failing to deliver; securities borrowed in order to effectuate delivery; and customer's bona fide cash positions containing open, unpaid purchases which have decreased in value. Paragraph (b)(1) of proposed regulation 1.17 states "where an asset or liability which is defined in Securities Exchange Act Rule 15c3-1 (17 CFR 240.15c3-1), the inclusion or exclusion of all or part of such assets or liabilities for the computation of adjusted net capital and aggregate indebtedness shall be in accordance with Securities and Exchange Commission rules, unless specifically stated otherwise in § 1.17". The intent of this provision is to treat transactions which relate solely to the securities industry the same under Commission regulations as such transactions would be treated under the SEC's rules. Since the examples described by the commentator relate to transactions which arise solely in the securities industry these items would not be excluded from current assets in computing net capital.

Another commentator questioned the applicability of the "secured" definition in view of the book entry system for U.S. Treasury bills. This comment led the Commission to amend its initial proposal (which required that the collateral which is used to secure the transaction be in the possession *and* control of the FCM) to require that the collateral be in the possession or control of the FCM. Control for the purposes of this section would include U.S. Treasury bills on a book entry system and other securities pledged to secure a loan which are in the possession of the party making such a loan.

Liabilities. The regulation as previously proposed would have excluded from liabilities in computing net capital, liabilities classified as long-term in accordance with generally accepted accounting principles to the extent of the net book value of plant, property, and equipment which is used in the processing, manufacture, storage or shipment of commodities, their products and by-products in a reportable segment of the applicant's or registrant's overall business activities, other than in the brokerage business. Several commentators suggested that the proposed language be broadened to allow long-term debt to be excluded from liabilities in computing net capital to the extent of the net book value of plant, property, and equipment which is used in any trade or business which is a reportable segment of the FCM's overall business activities other than the brokerage business. The Commission believes that this comment has merit and has amended its proposal accordingly.

Safety factors: Several commentators pointed out that the proposed five percent deduction on unsecured trade accounts receivable does not take into account any reserves established for uncollectable receivables. In view of this comment and the fact that the Commission is proposing to allow such receivables to be included as current assets for no longer than seventy-five days from the date that they arise, the Commission has decided to eliminate the five percent charge on these receivables.

Proposed regulation 1.17(c)(5)(ii) has been renumbered as paragraph (c)(5)(i), and the proposed ten percent charge on advances has, in view of the position taken by many commentators that a 10% "haircut" on such advances is inordinately high, been reduced to 5%.

Many commentators criticised the Commission's proposed capital charges on inventories, fixed price contracts, and forward contracts as being inordinately large in relation to the risks assumed. Two commentators suggested that the charges on these positions be based on the net "at risk" cash position. These commentators suggested that the Commission require all cash positions to be marked to their market value and require the safety factor to be based upon the net "at risk" position. The Commission believes that these comments have merit and is accordingly proposing to base the capital charges on all inventory, fixed price commitments and forward contracts upon the net position of the FCM. In addition, the Commission has changed the percentage charges which are applicable to these positions to conform with this new approach.

One commentator suggested that regulation 1.17(c)(5)(v) would permit non-broker-dealer/FCM's to use reduced capital charges applicable to security positions. Security positions of broker-dealers who elect to calculate their adjusted net capital pursuant to SEC Rule 15c3-1(f) are subject to reduced charges under that rule. However, the provisions of that rule have the effect of increasing certain deposit requirements for those broker-dealers. The commentator suggested that non-broker-dealers/FCM's are not subject to the increased deposit requirements and accordingly should not be permitted to take advantage of the reduced capital charges provided in the SEC's regulations. The proposed regulations would permit only securities brokers and dealers to utilize the reduced charges.

As previously discussed in this FEDERAL REGISTER release, the Commission is amending its proposal with respect to safety factors on commodity futures accounts and grantor commodity option accounts. The proposed safety factors, as revised, would be for customer and non-customer positions, based upon the amount by which any account is under-margined (after a specific number of days which would be allowed for collection) and for proprietary positions based upon a

[14] 42 FR 27168 (May 26, 1977).

[15] Financial and Operational Combined Uniform Single Report Under the Securities Exchange Act of 1934.

[16] 42 FR 27167 (May 26, 1977).

[17] Paragraph (h) of proposed regulation 1.17 defines, in detail, satisfactory subordination agreements. The definition is the same as that employed by the SEC except for those FCM's electing to comply with the minimum capital requirements of proposed regulation 1.17(g), (for such FCM's certain specific provisions have been added which relate directly to the requirements to which they are subject) and the proposed amendment described above.

[18] 17 CFR 240.15c3-1.

multiple of the contract market margin requirements. The proposed regulations require a capital charge for undermargined customer commodity futures accounts and grantor commodity options accounts to the extent of the total amount of cash required in each such account to meet the maintenance margin requirements of the board of trade on which the contract that is the subject of the margin requirement is traded, after application of calls for margin, or other required deposits, which are outstanding five business days or less until December 31, 1979, four business days or less until December 31, 1980, and three business days or less thereafter. For under-margined, non-customer and omnibus commodity futures and grantor commodity option accounts, the safety factor would be the amount of cash required in each such account to meet the maintenance margin requirements of the applicable board of trade on which the contract that is the subject of the margin is traded after application of calls for margin or other required deposits which are outstanding two business days or less.

The safety factors on open futures contracts and grantor commodity options held in proprietary accounts carried by the FCM which are not covered (as defined in regulation 1.17(j)) by a position held by the FCM or which are not the result of a "changer trade," shall be: (i) for the positions cleared by a clearing member of an exchange, the margin requirement of the clearing organization; (ii) for an FCM which is a member of any contract market or domestic commodity option exchange 150% of the greater of the maintenance margin requirement of the applicable board of trade or clearing organization; and (iii) for those FCM's who are not members of any contract market or domestic commodity option exchange 200% of the applicable maintenance margin requirement of the applicable board of trade or clearing organization whichever is greater.

Except for the charges respecting undermargined accounts described above, the Commission has deleted from the proposed financial regulations, the safety factors on customer open futures contracts and grantor commodity options.

The proposed regulations require an FCM who is the "taker" of a commodity option to charge the premium to expense and who is the "grantor" of a commodity option to recognize the premium as income in computing adjusted net capital. In addition, there would be a safety factor on commodity options carried long by the FCM which would be the same safety factor required if the FCM were a grantor of a commodity option, but the charge would not exceed the value attributed to such option by the FCM in computing its current assets.

Aggregated Indebtedness. Several commentators criticized the proposed definitions of "aggregate indebtedness" in the proposed regulations, because under its terms an FCM which obtains a loan secured by documents which are eligible for delivery to finance delivery of spot commodities would have been required to include that loan in its aggregate indebtedness if such loan were obtained on behalf of a customer. These commentators stated that when a customer's position is fully hedged, it is virtually certain that the receivable from the customer will be collected, and that the risks assumed by the FCM in these situations are so small that the regulation should not be drafted to require that the loans in respect of such positions be included in aggregate indebtedness. The Commission believes these comments have merit and is proposing regulation 1.17 (c)(6)(ii) which excludes from aggregate indebtedness, indebtedness arising in connection with advances to non-proprietary accounts when such indebtedness is adequately collateralized by spot commodities eligible for delivery on a contract market and when such spot commodities are fully hedged.

One commentator stated that the exclusions from aggregate indebtedness should not be limited to the credit balances in the accounts of general partners but should include all equities in accounts of general partners. It was not the intention of the Commission to limit the exclusion to cash credit balances, and the Commission has, therefore changed the wording of the proposed regulations to make this clear.

Withdrawal of equity capital. Proposed regulation 1.17(e) prohibits certain withdrawals of equity capital, advances, or loans to certain associated persons if, after giving effect to such withdrawals, advances, or loans and to certain debt payments payable during the following six months, adjusted net capital of the FCM would fall below certain minimum requirements. This provision would apply regardless of whether the FCM is currently obligated to permit such withdrawals, advances, or loans. One commentator stated that an exemption from such commitments to take account of current contractual obligations should be incorporated into the regulation, because he believed that if the proposed regulation were adopted, it would affect the ability of FCM's to meet current contractual obligations. The commentator further stated that if the withdrawals, advances, or loans cause an FCM's adjusted net capital to fall below the minimum required levels, all the other provisions in the rule, including the early warning system under proposed regulation 1.12, will remain applicable. The Commission does not believe such situations as the commentator describes will result from the new regulations, but to assure that these and other situations are dealt with effectively, the Commission has added specific language to paragraph (e) of proposed regulation 1.17 which states the Commission may grant relief from this paragraph if the Commission deems such relief to be in the public interest or for the protection of nonproprietary accounts.

Alternative capital requirement. The Commission proposed an alternative to its minimum financial requirement. Specifically the alternative requires a futures commission merchant to maintain adjusted net capital equal to or in excess of the greater of $150,000 ($50,000 for a member of a designated self-regulatory organization) or 4 percent of the funds required to be segregated pursuant to the Act and the regulations thereunder plus, for FCM's which are also securities brokers or dealers, 4 percent of aggregate debit items computed in accordance with the formula for determination of reserve requirements contained in the SEC's Rule 15c-3a (17 CFR 240.15c3-3a).[19]

Several FCM/broker-dealers objected to the proposed addition to their net capital requirements. The Commission believes the SEC's alternative capital requirement does not provide adequate protection for commodity customers of FCM/broker-dealers, especially those whose commodities business is large compared to their securities business. Therefore, the Commission has decided not to change the requirements set forth above. The Commission believes that this proposed alternative requirement would provide adequate protection for the commodity customers of an FCM because of its inter-relationship with the FCM's segregation requirements. Several other commentators agreed with the Commission's proposed approach.

[19] Rule 15c3-3a currently provides that a broker-dealer which has elected to operate pursuant to that agency's alternative minimum net capital requirement must maintain adjusted net capital equal to, or in excess of $100,000 or 4 percent of aggregate debit items computed in accordance with the formula for determination of reserve requirements for brokers and dealers (Exhibit A to SEC Rule 15c3-3a, 17 CFR 240.15c3-3a).

COVER

The Commission amended § 1.3(z) of its regulations effective October 1, 1977. (42 FR 7248). The amendment generally broadened the scope of the definition of bona fide hedging transactions or positions to include current commercial risk-shifting practices in the markets regulated by the Commission. The intended effect of the amendment is to increase commercial utilization of the futures markets for the purposes of hedging by allowing additional exemptions from the Commission's limits on positions and daily trading, and by recognizing a broader range of risk-shifting uses of those markets.

On August 19, 1977, the Commission proposed an amendment to § 1.17 pertaining to minimum financial requirements.[20] This amendment would have changed § 1.17, which currently refers to the definition of bona fide hedging, so that it would include only those provisions of the revised bona fide hedging definition which are substantially the same as those in the previous definition.[21] The purpose and effect of the proposed amendment was to correct an unintentional change in the minimum financial requirements which was brought about by the adoption of the new definition of bona fide hedging.

The proposed amendment to § 1.17 was to become effective on October 1, 1977, simultaneously with the revision of the bona fide hedging definition. In proposing the amendment to § 1.17, the Commission stated that it was necessary that the effective dates of the two amendments coincide in order to avoid "ambiguity or uncertainty in the method by which futures commission merchants are to continue to comply with § 1.17 * * *." However, as a result of the comments which the Commission received and of its own review of the interrelationship between minimum financial requirements and the definition of bona fide hedging, the Commission determined not to adopt the proposed amendment to § 1.17, pending further consideration of the related issues.

The Commission now believes it necessary to develop a separate hedging definition which will be termed "cover", to govern the treatment of risk-shifting devices under the Commission's minimum financial requirements.

The Commission's minimum financial requirements are for the protection of commodity futures and commodity option customer funds and the integrity of the marketplace, and it follows that a central consideration with respect to the appropriate treatment of a proprietary transaction or position is whether the transaction or position operates immediately and continuously to shift risks incidental to commercial operations. Therefore, the Commission believes that conceptually, the definition of cover should not substantially differ from that of bona fide hedging. However, in reexamining the interrelationship between the minimum financial requirements and the bona fide hedging definition, the Commission has identified several difficulties which necessarily would have resulted from a reference to the bona fide hedging definition in the minimum financial requirements, and which the Commission believes are resolved by the development of an alternative concept.

First, the bona fide hedging definition is primarily intended to exempt certain futures transactions from the Commission's speculative limits. As a result, the definition is limited in application to "transactions or positions in a contract for future delivery on [a] contract market," and it principally deals with the classification of those transactions or positions in markets where the Commission has speculative limits. Thus, risk-shifting devices not involving such limits may be excluded from the definition regardless of their characteristics relative to the minimum financial requirements.

[20] 42 FR 42767 (August 24, 1977).

[21] *Id.*

Second, the definition of bona fide hedging is not designed to, and does not, take into account the risk of capital impairment which a particular transaction or position might entail. For example, transactions which are risk-shifting in character may be considered bona fide hedging even though they are entered into for the purposes of offsetting fluctuations in the value of assets which are not owned and identified at the time of entering the transactions. In such cases, adverse market movements may seriously jeopardize capital during the interval between the execution of the risk-shifting transactions and the acquisition of the asset they are to hedge. Inasmuch as the purpose of minimum financial requirements is the protection of commodity futures and commodity option customers, such risks cannot be ignored in determining the treatment that a particular transaction should receive for the purposes of the minimum financial requirements.

Finally, the bona fide hedging definition includes many provisions which relate to the maintenance of orderly markets and which should have no effect on the treatment of a transaction of position under the minimum financial requirements.

Accordingly, the Commission believes that the definition of "cover" should take into account transactions or positions whose purpose and effect are the immediate and continuous shifting of risks incidental to commercial operations and which do not entail a significant risk of capital impairment, regardless of whether the transactions involve the purchase or sale of a futures contract.

Therefore, the Commission is proposing a definition of "cover" which: (i) Includes all contracts for future delivery and commodity options, (ii) excludes anticipatory hedging; and (iii) eliminates the provisions of the bona fide hedging definition which relate solely to the maintenance of orderly markets. In addition, the Commission will consider whether transactions and positions other than those enumerated in paragraph (j)(2) of proposed regulation 1.17 are within its definition of cover, upon specific request. These transactions or positions must at a minimum meet the general definition contained in paragraph (j)(1) of proposed regulation 1.17.

MONTHLY COMPUTATIONS OF ADJUSTED NET CAPITAL

As previously proposed, regulation 1.18 required formal computations of adjusted net capital as of the close of business each month. Such computations would have been required to be completed within ten business days. Sixteen commentators questioned the need for monthly computations and the majority of these writers and another twelve commentators objected to the ten day time frame within which the computation would be required to be completed. Since the Commission believes it is imperative that an early warning system be established in the commodities futures industry and it further believes that the monthly computations provide the basis for the early warning system proposed in §1.12, the Commission does not propose to amend the monthly requirement. The Commission, in response to the comments, proposes to extend to thirty days the time within which the computation would be required to be completed.

THE REQUIREMENT OF SELF-REGULATORY OVERSIGHT

Regulation 1.52 requires that all self-regulatory organizations adopt minimum financial requirements with uniform computational criteria and permits the delegation of responsibility for monitoring the financial status of FCM's to a single self-regulatory organization. Two commentators questioned the Commission's legal authority to compel self-regulatory organizations to adopt minimum financial and related reporting requirements for FCM s. However, the Commission believes its authority is clear, pursuant to sections 4c, 4f, 4g, 5a, 8a, and 17 of the Act[22] to require self-regulatory organizations to adopt specific minimum financial regulations and further believes that this requirement is in keeping with the self-regulatory concept which is plainly envisioned by the Act.

One contract market stated that additional time would be needed for the industry and the exchanges to hire and train the necessary personnel to insure compliance with the new financial regulations. This commentator stated that it would be extremely difficult, if not impossible, on short notice to hire and train the necessary personnel. Another commentator felt strongly the exchanges should not be required to adopt and enforce any financial requirements until the feasibility and legal status of the National Futures Association is determined or until a new joint compliance program can be implemented for the exchanges. The Commission believes sufficient notice has been given to the self-regulatory organizations to hire, and train adequate personnel to cope with these new regulations. In the October 15, 1976 FEDERAL REGISTER release announcing the proposed revisions of financial reporting requirements for FCM's the Commission stated that:

"[I]t is Commission policy to encourage contract market self-regulation. In this regard, the Commission anticipates requiring all contract markets to adopt and to enforce uniform minimum financial and related reporting requirements. Such requirements will be subject to the same active oversight regulation as the other rule enforcement programs of the contract markets. However, because of the common interest of the contract markets in the financial integrity of their member FCM's and because of the uniform applicability of the minimum financial and related reporting requirements envisioned by the Commission, it may be advantageous for contract markets to engage in a joint enforcement or audit program to monitor compliance with such uniform minimum financial and related reporting requirements. Such a joint program or an alternative program through a National Futures Association, as provided for in Title III of the Commodity Futures Trading Commission Act of 1974, 7 U.S.C. 21, could meet the anticipated Commission requirements. 41 FR 45706."

This language was repeated in the FEDERAL REGISTER release which proposed regulation 1.52 42 FR 39036. The Commission stated further in that FEDERAL REGISTER release that "it is the responsibility of the contract markets, as quasi-public institutions, to insure the financial integrity of their member FCM's thereby insuring the integrity of the marketplace itself, as well as protecting the funds of customers who use that marketplace. This belief is in keeping with the self-regulatory responsibility of the commodity futures industry envisioned by the Commodity Exchange Act, as amended 7 U.S.C. 1–22 (Supp. V. 1975)." The Commission therefore, believes that the industry has been given ample notice of its intention to adopt the proposed financial regulations and that the self-regulatory organizations' auditing programs should be fully implemented no later than December 25, 1978.

The previously proposed regulations permitted the self-regulatory organizations to develop their own plans for the delegation of oversight responsibilities for FCM's which are members of more than one self-regulatory organization to a single contract market or other self-regulatory organization. The Commission believes that this approach will reduce the costs to the self-regulatory organizations and avoid unnecessary burdens upon FCM's and that these factors provide significant incentive for the self-regulatory organizations to reach an agreement on plans for delegation of oversight responsibility. Some commentators believe that it is essential to eliminate the undue burden of multiple self-regulatory organizations monitoring of the same FCM and believe the only way to guarantee such elimination is for the Commission to make the required delegation in the event that the self-regulatory organizations do not do so within a specified time period. In view of this comment and the comments of the previous paragraphs, the Commission is amending proposed regulation 1.52 by adding paragraph (k) which would give the Commission authority, after a reasonable amount of time has elapsed, to make such a delegation if the self-regulatory organizations do not.

In consideration of the foregoing, the Commission hereby proposes to amend 17 CFR Part 1 as follows:

1. By amending § 1.3 to include new paragraphs (ee) and (ff) to read as follows:

§ 1.3 Definitions.

* * * * *

(ee) "Self-regulatory organization." This term means a contract market (as defined in § 1.3(h)), a domestic commodity option exchange (as defined in § 32.1), or a registered futures association under section 17 of the Act.

(ff) "Designated self-regulatory organization." This term means a self-regulatory organization of which a futures commission merchant is a member or, if the futures commission merchant is a member of more than one-self-regulatory organization and such futures commission merchant is the subject of an approved plan under § 1.52, then a self-regulatory organization delegated the responsibility by such a plan for monitoring and auditing such futures commission merchant for compliance with the minimum financial and related reporting requirements of the self-regulatory organizations of which the futures commission merchant is a member, and for receiving the financial reports necessitated by such minimum financial and related reporting requirements from such futures commission merchant.

2. By revising § 1.10 to read as follows:

§ 1.10 Application for registration and financial reports of Futures Commission Merchants.

(a) *Application for registration.* (1) Application for registration as a futures commission merchant shall be filed on Form 7–R in accordance with the instructions contained therein. The initial application for registration shall be accompanied by a Form 8–R executed and filed by each sole proprietor and by each natural person who is a general partner, officer, director, or branch office manager of the applicant, or performs similar functions, or is any other controlling person of the applicant; except that an accompanying Form 8–R need not be filed by any individual who is registered as a floor broker or an associated person or has applied for registration as a floor broker or an associated person and such application has not been withdrawn or denied. Any natural person (other than a floor broker or associated person) who subsequently becomes a general partner, officer, director or branch office manager of the registrant or performs similar functions, or becomes any other controlling person of the registrant, shall promptly execute and file a Form 8–R. Each Form 8–R shall be filed in accordance with the instructions contained therein. Individuals who were previously required to submit biographical information on Form 94 or who have filed a Form 8–R as required by this section shall file a current Form 8–R, upon request by the Commission.

[22] 7 U.S.C. 6c, 6f, 6g, 7a, 12a and 21.

(2) Except as provided in paragraph (a)(3) of this section, each person who files an application for registration as a futures commission merchant, and who is not so registered at the time of filing, must, concurrently with the filing of such application file either: (i) A Form 1–FR certified by an independent public accountant in accordance with § 1.16 as of a date not more than 45 days prior to the date on which such report is filed; or, (ii) a Form 1–FR as of a date not more than 45 days prior to the date in which such report is filed and a Form 1–FR certified by an independent public accountant in accordance with § 1.16 as of a date not more than one year prior to the date on which such report is filed. Each such person must include with such financial report a statement describing the source of his current assets and representing that his capital has been contributed for the purpose of operating his business and will continue to be used for such purpose.

(3) The provisions of paragraph (a)(2) of this section do not apply to any person succeeding to and continuing the business of another futures commission merchant. Each such person who files an application for registration as a futures commission merchant who is not so registered at the time of such filing must file a Form 1–FR as of the first month-end following the date on which his registration is approved. Such report must be filed with the Commission and the designated self-regulatory organization, if any, not more than 45 days after the date for which the report is made.

(b) *Filing of financial reports.* (1) Except as provided in paragraph (b)(3) of this section, each person registered as a futures commission merchant must file a Form 1–FR for each fiscal quarter of each fiscal year unless the registrant elects pursuant to paragraph (e)(2) of this section to file a Form 1–FR for each calendar quarter of each calendar year. Each Form 1–FR must be filed no later than 45 days after the date for which the report is made: *Provided, however,* That any Form 1–FR which must be certified by an independent public accountant pursuant to paragraph (b)(2) of this section must be filed no later than 90 days after the close of each registrant's fiscal year. This paragraph (b)(1) will be applicable to all fiscal quarters beginning after (the effective date of this section) but in no event more than 90 days after (such effective date).

(2) The Form 1–FR filed pursuant to paragraph (b)(1) of this section as of the close of the registrant's fiscal year must be certified by an independent public acountant in accordance with § 1.16. A registrant who has elected to file its Forms 1–FR for each calendar quarter of each calendar year pursuant to paragraph (e)(2) of this section, must nonetheless file a Form 1–FR as of the close of such registrant's fiscal year.

(3) The provisions of paragraphs (b)(1) and (b)(2) of this section shall not apply to any person registered as a futures commission merchant who is a member of a designated self-regulatory organization and conforms to minimum financial standards and related reporting requirements set by such designated self-regulatory organization in its bylaws, rules, regulations or resolutions and approved after (the effective date of these regulations) by the Commission pursuant to section 4f(2) of the Act: *Provided, however,* That each such registrant shall promptly file with the Commission a true and exact copy of each financial report which it files with such designated self-regulatory organization.

(4) Upon receiving written notice from any representative of the Commission or any self-regulatory organization of which it is a member, an applicant or registrant must, monthly or at such times as specified, furnish the Commission and the self-regulatory organization, if any, requesting such information with a Form 1–FR and/or such other financial information as requested by the representative of the Commission or the self-regulatory organization. Each such Form 1–FR or such other information must be furnished within the time period specified in the written notice.

(c) *Where to file reports.* The reports provided for in this § 1.10 will be considered filed when received by the regional office of the Commission where the applicant or registrant has its principal place of business and by the designated self-regulatory organization, if any; *Provided, however,* That information required of an applicant or registrant pursuant to paragraph (b)(4) of this section need be furnished only to the Commission and the self-regulatory organization requesting such information.

(d) *Contents of financial reports.* (1) Each Form 1–FR filed pursuant to this § 1.10 which is not required to be certified by an independent public accountant must be completed in accordance with the instructions to the form and contain: (i) a Statement of Financial Condition as of the date for which the report is made; (ii) a Statement of Income (Loss) for the period between the date of the most recent Statement of Financial Condition filed with the Commission (or the beginning of the fiscal quarter immediately following the effective date of this rule) but in no event more than 90 days after (such effective date) and the date for which the report is made; (iii) a Statement of the Computation of the Minimum Capital Requirements Pursuant to § 1.17 and a Schedule of Segregation Requirements and Funds on Deposit in Segregation, as of the date for which the report is made; and (iv) in addition to the information expressly required, such further material information as may be necessary to make the required statements and schedules not misleading.

(2) Each Form 1–FR filed pursuant to this § 1.10 which is required to be certified by an independent public accountant must be completed in accordance with the instructions to the form and contain: (i) a State of Financial Condition as of the date for which the report is made; (ii) Statements of Income (Loss), Changes in Financial Position, Changes in Ownership Equity, and Changes in Liabilities Subordinated to Claims of General Creditors, for the period between the date of the most recent certified Statement of Financial Condition filed with the Commission (or the beginning of the fiscal quarter immediately following (the effective date of this rule) but in no event more than 90 days after (such effective date) and the date for which the report is made, *Provided,* That for an applicant filing pursuant to paragraph (a)(2) of this section the period must be the year ending as of the date of the Statement of Financial Condition; (iii) a Statement of the Computation of the Minimum Capital Requirements Pursuant to § 1.17 and a Schedule of Segregation Requirements and Funds on Deposit in Segregation, as of the date for which the report is made; (iv) appropriate footnote disclosures; and (v) in addition to the information expressly required, such further material information as may be necessary to make the required statements not misleading.

(3) The statements required by paragraphs (d)(2)(i) and (d)(2)(ii) of this section may be presented in accordance with generally accepted accounting principles in the certified reports filed as of the close of the registrant's fiscal year pursuant to paragraph (b)(2) of this section or accompanying the application for registration pursuant to paragraph (a)(2) of this section, rather than in the format specifically prescribed by these regulations: *Provided,* The Statement of Financial Condition is presented in a format as consistent as possible with the Form 1–FR and a reconciliation is provided reconciling such Statement of Financial Condition to the Statement of the Computation of the Minimum Capital Requirements Pursuant to § 1.17. Such reconciliation must be certified by an independent public accountant in accordance with § 1.16.

(4) Attached to each form 1–FR filed pursuant to this § 1.0 must be an oath or affirmation that to the best knowledge and belief of the individual making such oath or affirmation the information contained in the Form 1–FR is true and correct. If the applicant or registrant is a sole proprietorship, then the oath or affirmation must be made by the proprietor; if a partnership, by a general partner; or if a corporation, by the chief executive officer or chief financial officer.

(e) *Election of fiscal year* (1) Any applicant or registrant wishing to establish a fiscal year other than the calendar year may do so by notifying the Commission and the designated self-regulatory organization, if any, of its election of such fiscal year in writing concurrently with the filing of the Form 1–FR pursuant to paragraph (a)(2) of this section or within 90 days of (the effective date of this section), but in no event may such fiscal year end more than one year from the date of the Form 1–FR filed pursuant to paragraph (a)(2) of this section or more than one year from (the effective date of this regulation). An applicant or registrant which does not so notify the Commission and the designated self-regulatory organization, if any, will be deemed to have elected the calendar year as its fiscal year. A registrant must continue to use its elected fiscal year, calendar or otherwise, unless a change in such fiscal year is approved upon written application to the principal office of the Commission in Washington, D.C., and written notice of such change is given to the designated self-regulatory organization, if any.

(2) Any applicant or registrant may elect to file its Form 1–FR for each calendar quarter in lieu of each fiscal quarter by notifying the Commission and the designated self-regulatory organization, if any, of its election, in writing, concurrently with the filing of the Form 1–FR pursuant to paragraph (a)(2) of this section or within 90 days after (the effective date of this section). Any registrant wishing to change such election or to make such election other than concurrently with the filing of the Form 1–FR pursuant to paragraph (a)(2) of this section or within 90 days of (the effective date of this section) may do so only if such change or election is approved by the Commission upon written application to the principal office of the Commission in Washington, D.C., and written notice of such change is given to the designated self-regulatory organization, if any.

(f) *Extension of time form filing reports.* In the event any applicant or registrant finds that it cannot file its report for any period within the time specified in paragraphs (b)(1), or (b)(4) of this section or paragraph (b) of § 1.12 without substantial undue hardship, it may file with the principal office of the Commission in Washington, D.C., an application for an extension of time to a specified date which may not be more than 90 days after the date as of which the financial statements were to have been filed. The application must state the reasons for the requested extension and must contain an agreement to file the report on or before the specified date. The application must be received by the Commission fifteen days before the time specified in paragraphs (b)(1), or (b)(4) of this section or paragraph (b) of § 1.12 for filing the report. Notice of such application must be given to the designated self-regulatory organization, if any, concurrently with the filing of such application with the Commission. An application for extension of time will be responded to by the Commission, within ten days after receipt of the application. (See § 116(f) for extension of the time for filing certified financial statements.)

(g) *Confidentiality of reports.* All of the Forms 1–FR filed pursuant to this section will be public; provided, however, that if the Statement of Financial Condition, the Computation of the Minimum Capital Requirements Pursuant to § 1.17, and the Schedule of Segregation Requirements and Funds on Deposit in Segregation are bound separately from the other financial statements, footnotes disclosures and schedules of Form 1–FR, trade secrets and certain other commercial or financial information on such other statements and schedules will be deemed privileged or confidential. All information on such other statements and schedules will, however, be available for official use by any official or employee of the United States or any state, by any self-regulatory organization of which the person filing such report is a member, and by any other person to whom the Commission believes disclosure of such information is in the public interest. Nothing in this paragraph (g) will limit the authority of any self-regulatory organization to request or receive any information relative to its members' financial condition. The independent accountant's opinion filed pursuant to this § 1.10 will be deemed public information.

3. By adopting a new § 1.12 to read as follows:

§ 1.12 Maintenance of minimum financial requirements by futures commission merchants.

(a) Each person registered as a futures commission merchant, or who files an application for registration as a futures commission merchant, who knows or should have known that its adjusted net capital at any time is less than the minimum required by § 1.17 or by the capital rule of any self-regulatory organization to which such person is subject, if any, must:

(1) Give telegraphic notice as set forth in paragraph (f) of this section that such applicant's or registrant's adjusted net capital is less than is required by section 1.17 or by such other capital rule, identifying the applicable capital rule. This notice must be given within 24 hours after such applicant or registrant knows or should have known that its adjusted net capital is less than required by any of the aforesaid rules to which such applicant or registrant is subject; and

(2) Within 24 hours after giving such notice file a Statement of Financial Condition, a Statement of the Computation of the Minimum Capital Requirements Pursuant to § 1.17 (computed in accordance with the applicable capital rules), and a Schedule of Segregation Requirements and Funds on Deposit in Segregation, all as of the date such violation occurs.

(b) Each person registered as a futures commission merchant, or who files an application for registration as a futures commission merchant, who knows or should have known that its adjusted net capital at any time is less than (i) the greater of 120 percent of the appropriate minimum dollar amount required by § 1.17 or 8½ percent of aggregate indebtedness or (ii) if the applicant or registrant is operating pursuant to § 1.17(g), the greater of 120 percent of the appropriate minimum dollar amount required by § 1.17(g) or 6% of the funds required to be segregated pursuant to section 4(d)(2) of the Act and these regulations, plus, for securities brokers or dealers, 6 percent of aggregate debit items computed in accordance with the Formula for Determination of Reserve Requirements (§ 240.15c3–3a of this title); such applicant or registrant must file written notice to that effect as set forth in paragraph (f) of this section within five (5) business days of such event. Such applicant or registrant must also file a Form 1–FR or such other financial statement designated by the Commission and/or the designated self-regulatory organization, if any, as of the close of business for the month during which such event takes place and as of the close of business for each month thereafter until three (3) successive months have elapsed during which the applicant's or registrant's adjusted net capital is at all times equal to or in excess of the minimums set forth in this paragraph (b) which are applicable to such applicant or registrant. Each financial statement required by this paragraph (b) must be filed within 30 calendar days after the end of the month for which such report is being made.

(c) If an applicant or registrant at any time fails to make or keep current the books and records required by these regulations, such applicant or registrant must, on the same day such event occurs, give telegraphic notice of such fact, specifying the books and records which have not been made or which are not current, and within 5 business days after giving such notice file a written report stating what steps have been made and are being taken to correct the situation.

(d) Whenever any applicant or registrant discovers or is notified by an independent public accountant, pursuant to § 1.16(e)(2) of these regulations, of the existence of any material inadequacy, as specified in §1.16 (d)(2) of these regulations, such applicant or registrant must give telegraphic notice of such material inadequacy within three business days, and within five business days after giving such notice file a written report stating what steps have been and are being taken to correct the material inadequacy.

(e) Whenever any self-regulatory organization learns that a member registrant has failed to file a notice or written report as required by this §1.12, such self-regulatory organization must immediately report such failure as provided in paragraph (f) of this section.

(f) Every notice and written report required to be given or filed by this section must be filed with the regional office of the Commission for the region in which the applicant or registrant has its principal place of business, with the designated self-regulatory organization, if any, and with the Securities and Exchange Commission, if such applicant or registrant is a securities broker or dealer. In addition, every notice required to be given by this section must also be filed with the principal office of the Commission in Washington, D.C. Each Statement of Financial Condition, each Statement of the Computation of the Minimal Capital Requirements Pursuant to §1.17, and each Schedule of Segregation Requirements and Funds on Deposit in Segregation required by this section must be filed in accordance with the provisions of § 1.10(d) of these regulations, unless otherwise indicated.

4. By adding a new § 1.16 as follows:

§ 1.16 Qualifications and reports of accountants.

(a) *Definitions.*—(1) *Accountant's report.* The term "accountant's report," when used in regard to financial statements, means a document in which an independent licensed or certified public accountant indicates the scope of the audit (or examination) which he has made and sets forth his opinion regarding the financial statements taken as a whole or an assertion to the fact that an overall opinion cannot be expressed. When an overall opinion cannot be expressed, the reasons therefore must be stated.

(2) *Audit or Examination.* The terms "audit" and "examination," when used in regard to financial statements, mean an examination of the statements by an accountant in accordance with generally accepted auditing standards for the purposes of expressing an opinion thereon.

(3) *Certified.* The term "certified," when used in regard to financial statements, means audited and reported upon with an opinion expressed by an independent certified public accountant or independent licensed public accountant.

(b) *Qualifications of accounts.* (1) The Commission will recognize any person as a certified public accountant who is duly registered and in good standing as such under the laws of the place of his residence or principal office. The Commission will recognize any person as a licensed public accountant who was duly licensed on or before December 31, 1970, and is in good standing as such under the laws of the place of his residence or principal office.

(2) The Commission will not recognize any certified public accountant or licensed public accountant as independent who is not in fact independent. For example, an accountant will not be considered independent with respect to any applicant or registrant or any parent, subsidiary, or other affiliate of such applicant or registrant (i) in which, during the period of his professional engagement to examine the financial statements being reported on or at the date of his report, he or his firm or a member thereof had, or was committed to acquire, any direct financial interest or any material indirect financial interest, or (ii) with which, during the period of his professional engagement to examine the financial statements being reported on, at the date of his report or during the period covered by the financial statements, he or his firm or a member thereof was connected as a promoter, underwriter, voting trustee, director, officer, or employee, except that a firm will be deemed independent with respect to an applicant or registrant and its affiliates if a former employee or officer of such applicant or registrant or any such affiliate is employed by the firm and such individual has completely disassociated himself from the applicant or registrant and its affiliates and does not participate in auditing financial statements of the applicant or registrant or its affiliates covering any period of his employment by the applicant or registrant of its affiliates. An accountant will not be considered independent if he or his firm or a member thereof performs manual or automated bookkeeping services or assumes responsibility for maintenance of the accounting records, including accounting classification decisions, of such applicant or registrant or any of its affiliates. For the purposes of this section 1.16(b), the term "member" means all partners in the firm and all professional employees participating in the audit or located in the office of the firm participating in a significant portion of the audit.

(3) In determining whether an accountant may in fact not be independent with respect to a particular applicant or registrant, the Commission will give appropriate consideration to all relevant circumstances, including evidence bearing on all relationships between the accountant and that applicant or registrant or any affiliate thereof, and will not confine itself to the relationship existing in connection with the filing of reports with the Commission.

(c) *Accountant's reports.*—(1) *Technical requirements.* The accountant's report (i) must be dated, (ii) must be signed manually, (iii) must indicate the city and state where issued and (iv) must identify without detailed enumeration the financial statements covered by the report.

(2) *Representations as to the audit.* The accountant's report (i) must state whether the audit was made in accordance with generally accepted auditing standards, and (ii) must designate any auditing procedures deemed necessary by the accountant under the circumstances of the particular case which have been omitted and the reasons for their omission. However, nothing in this paragraph (c)(2) shall be construed to imply authority for the omission of any procedure which independent accounts would ordinar-

ily employ in the course of an audit made for the purposes of expressing the opinion required by paragraph (c)(3) of this section.

(3) *Opinion to be expressed.* The accountant's report must state clearly: (i) the opinion of the accountant with respect to the financial statements covered by the report and the accounting principles and practices reflected therein and (ii) the opinion of the accountant as to the consistency of the application of the accounting principles, or as to any changes in such principles which have material effect on the financial statements.

(4) *Exceptions.* Any matters to which the accountant takes exception must be clearly identified, the exceptions thereto specifically and clearly stated, and to the extent practicable, the effect of each such exception on related financial statements given.

(5) *Accountant's report on material inadequacies.* A registrant must file concurrently with the annual audit report a supplemental report by the accountant describing any material inadequacies found to exist or found to have existed since the date of the previous audit. An applicant must file concurrently with the audit report a supplemental report by the accountant describing any material inadequacies found to exist as of the date of the Form 1-FR being filed. The supplemental report must indicate any corrective action taken or proposed by the applicant or registrant in regard thereto. If the audit did not disclose any material inadequacies, the supplemental report must so state.

(d) *Audit objectives.* (1) The audit must be made in accordance with generally accepted auditing standards and must include a review of the accounting system, the internal accounting control, and the procedures for safeguarding customer and firm assets in accordance with the provisions of the Act and the regulations thereunder, including appropriate tests thereof, since the prior examination date. The audit must include all procedures necessary under the circumstances to enable the independent licensed or certified public accountant to express an opinion on the financial statements and schedules. The scope of the audit and review of the accounting system, the internal controls, and procedures for safeguarding customer and firm assets must be sufficient to provide reasonable assurance that any material inadequacies existing at the date of the examination in (i) the accounting system, (ii) the internal accounting controls, and (iii) the procedures for safeguarding customer and firm assets (including the segregation requirements of section 4d(2) of the Act and these regulations) will be discovered. Additionally, as specified objectives the audit must include reviews of the practices and procedures followed by the registrant in making (i) periodic computations of the minimum financial requirements pursuant to section 1.17 and (ii) daily computations of the segregation requirements of section 4d (2) of the Act and these regulations.

(2) A material inadequacy in the accounting system, the internal accounting controls, the procedures for safeguarding customer and firm assets, and the practices and procedures referred to in paragraph (d)(1) of this section which is to be reported in accordance with paragraph (e)(2) of this section includes any conditions which contributed substantially to or, if appropriate corrective action is not taken, could reasonably be expected to:

(i) Inhibit an applicant or registrant from promptly completing transactions or promptly discharging his responsibilities to customers or other creditors;

(ii) Result in material financial loss;

(iii) Result in material misstatement of the applicant's or registrant's financial statements; or

(iv) Result in violations of the Commission's segregation, recordkeeping or financial reporting requirements to the extent that could reasonably be expected to result in the conditions described in paragraphs (d)(2)(i),(ii), or (iii) of this section.

(e) *Extent and timing of audit procedures.* (1) The extent and timing of audit procedures are matters for the independent public accountant to determine on the basis of his review and evaluation of existing internal controls and other audit procedures performed in accordance with generally accepted auditing standards and the audit objectives set forth in paragraph (d) of this section. In determining the extent of testing, consideration must be given to the materiality of an area and to the possible effect on the financial statements and schedules of a material misstatement in a related account.

(2) If during the course of an audit or interim work, the independent public accountant determines that any material inadequacies exist in the accounting system, in the internal accounting control, in the procedures for safeguarding customer or firm assets, or as otherwise defined in paragraph (d) of this section, he must call it to the attention of the applicant or registrant, who has the responsibility to inform the Commission and the designated self-regulatory organization, if any, of such inadequacies in accordance with paragraph (d) of § 1.12. The applicant or registrant must also furnish the accountant with a copy of said notice to the Commission within three business days. If the accountant fails to receive such notice from the applicant or registrant within three business days, or if he disagrees with the statements contained in the notice of the applicant or registrant, the accountant must inform the Commission and the designated self-regulatory organization, if any, by reporting the material inadequacy within three business days thereafter. Such report from the accountant must, if the applicant or registrant failed to file a notice, describe the material inadequacies found to exist. If the applicant or registrant filed a notice, the accountant must file a report detailing the aspects, if any, of the applicant's or registrant's notice with which the accountant does not agree.

(f) *Extension of time for filing audited reports.* (1) In the event any applicant or registrant finds that it cannot file its certified financial statements for any year within the time specified in section 1.10 without substantial undue hardship, it may file with the principal office of the Commission in Washington, D.C., an application for extension of time to a specified date and not more than 90 days after the date as of which the certified financial statements were to have organization, if any. The application must be sent to the designated self-regulatory organization, if any. The application must be made by the applicant or registrant and must: (i) state the reasons for the requested extension; (ii) indicate that the inability to make a timely filing is due to circumstances beyond the control of the applicant or registrant, if such is the case, and describe briefly the nature of such circumstances; (iii) be accompanied by the latest available formal computation of his adjusted net capital and minimum financial requirements computed in accordance with section 1.17; (iv) be accompanied by the latest available computation of required segregation and by a computation of the amount of money, securities, and property segregated on behalf of customers as of the date of the latest available computation; (v) contain an agreement to file the report on or before the date specified by the applicant or registrant in the application; (vi) be received by the principal office of the Commission in Washington, D.C., and by the designated self-regulatory organization, if any, fifteen days prior to the date on which the report is due; and (vii) be accompanied by a letter from the independent public accountant answering the following questions:

A. What specifically are the reasons for the extension request?

B. On the basis of that part of your audit to date, do you have any indication that may cause you to consider commenting on any material inadequacies in the accounting system, internal accounting controls or procedures for safeguarding customer or firm assets?

C. Do you have any indication from the part of your audit completed to date that would lead you to believe that the firm was or is not meeting the minimum capital requirements specified in section 1.17 or the segregation requirements of section 4d(2) of the Act and these regulations, or has any significant financial or recordkeeping problems?

(2) An application for extension of time will be responded to by the Commission within ten days of the receipt of the application.

(3) On the written request of any designated self-regulatory organization, or an applicant or registrant, or on its own motion, the Commission may grant an extension of time or an exemption from any of the certified financial reporting requirements of this chapter either unconditionally or on specified terms and conditions.

(g) *Replacement of accountant.* (1) In the event (i) the independent public accountant who was previously engaged as the principal accountant to audit an applicant's or registrant's financial statements resigns (or indicates he declines to stand for re-election after the completion of the current audit) or is dismissed as the applicant's or registrant's principal accountant, (ii) another independent accountant is engaged as principal accountant, or (iii) an independent accountant on whom the principal accountant expresses reliance in his report regarding a subsidiary resigns (or formally indicates he declines to stand for re-election after completion of the current audit) or is dismissed or another independent public accountant is engaged to audit that subsidiary, the applicant or registrant shall file written notice of such occurrence with the Commission at its principal office in Washington, D.C., and with the designated self-regulatory organization, if any, not more than 15 days after such occurrence.

(2) Such notice must state (i) the date of such resignation (or declination to stand for re-election, dismissal or engagement) and (ii) whether, in connection with the audits of the two most recent fiscal years and any subsequent interim period preceding such resignation, dismissal or engagement there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statements disclosure, auditing scope or procedures, or compliance with the applicable rules of the Commission, which, if not resolved to the satisfaction of the former accountant, would have caused him to make reference in connection with his report to the subject matter of the disagreements (if so, describe such disagreements). The disagreements required to be reported in this paragraph (g)(2) include both those resolved to the former accountant's satisfaction and those not resolved to the former accountant's satisfaction. Disagreements contemplated by this paragraph (g)(2) are those which occur at the decision making level, i.e., between personnel of the registrant responsible for presentation of its financial statement and personnel of the accounting

firm responsible for rendering its report. The notice must also state whether the accountant's report on the financial statements for any of the past two years contained an adverse opinion or a disclaimer of opinion or was qualified as to uncertainties, audit scope, or accounting principles (if so, describe the nature of each such adverse opinion, disclaimer of opinion, or qualification). The applicant or registrant must also request the former accountant to furnish the applicant or registrant with a letter addressed to the Commission stating whether he agrees with the statements contained in the notice of the applicant or registrant and, if not, stating the respects in which he does not agree. Each copy of the notice and accountant's letter must be manually signed by the sole proprietor or a general partner or a duly authorized corporate officer of the applicant or registrant, as appropriate, and by the accountant.

(3) If (i) within the 24 months prior to the date of the most recent audited financial statement, a notice has been filed pursuant to paragraph (g)(1) of this section reporting a change of accountants, (ii) included in such filing there is a reported disagreement on any matters of accounting principles or practices, financial statements disclosure, auditing scope, or noncompliance with the applicable rules of the Commission, (iii) during the fiscal year in which the change in accountants took place or during the subsequent fiscal year, there have been any transactions or events similar to those which involved a reported disagreement, and (iv) such transactions or events are material and were accounted for or disclosed in a manner different from that which the former accountant apparently would have concluded was required, the existence and nature of the disagreements and also the effect on the financial statements must be stated in a written notice to the Commission at its principal office in Washington, D.C., and the designated self-regulatory organization, if any, if the method which the former accountant apparently would have concluded was required had been followed. These disclosures need not be made if the method asserted by the former accountant ceases to be generally accepted because of authoritative standards or interpretations subsequently issued. The notice required by this paragraph (g)(3) must be filed by the applicant or registrant concurrently with the financial statements to which it pertains.

5. By amending § 1.17 to read as follows:

§ 1.17 Minimum financial requirements—futures commission merchants.

(a)(1) Except as provided in paragraph (a)(2) of this section, each person registered as a futures commission merchant must maintain adjusted net capital equal to or in excess of (i) the greater of $150,000 ($50,000 for a member of a designated self-regulatory organization) or 6⅔ percent of aggregate indebtedness, or, (ii) in the case of a registrant electing to operate pursuant to paragraph (g) of this section, the greater of $150,000 ($50,000 for a member of a designated self-regulatory organization) or 4 percent of the funds required to be segregated pursuant to the Act and these regulations plus, for Securities Brokers and Dealers, 4 percent of aggregate debit items computed in accordance with the Formula for Determination of Reserve Requirements (Exhibit A to Rule 15c3-3, 17 CFR 240.15c3-3a).

(2) The requirements of paragraph (a)(1) of this section shall not be applicable if the registrant is a member of a designated self-regulatory organization and conforms to minimum financial standards and related reporting requirements set by such designated self-regulatory organization in its bylaws, rules, regulations or resolutions approved by the Commission pursuant to section 4f(2) of the Act after (the effective date of this regulation).

(3) No person applying for registration as a futures commission merchant shall be so registered unless such person affirmatively demonstrates to the satisfaction of the Commission that it complies with the financial requirements of this section 1.17. Each registrant must be in compliance with this section 1.17 at all times and must be able to demonstrate such compliance to the satisfaction of the Commission and/or the designated self-regulatory organization.

(4) A registrant who is not in compliance with this section 1.17 or unable to demonstrate compliance with this section 1.17 as required by paragraph (a)(3) above, must transfer all customer accounts and immediately cease doing business as a futures commission merchant until such time as the registrant is able to demonstrate such compliance. *Provided, however,* That the registrant may trade for liquidation purposes only unless otherwise directed by the Commission and/or the designated self-regulatory organization. *Provided, further,* That if such registrant immediately demonstrates to the satisfaction of the Commission or the designated self-regulatory organization the ability to get into compliance, the Commission or the designated self-regulatory organization may allow such registrant up to a maximum of 10 business days in which to do so without having to transfer accounts and cease doing business as required above. Nothing in this paragraph (a)(4) shall be construed as preventing the Commission or the designated self-regulatory organization from taking action against a registrant for non-compliance with any of the provisions of this section.

(b) For the purposes of this section: (1) Where the applicant or registrant has an asset or liability which is defined in Securities and Exchange Commission rule § 240.-15c3-1 of this title, the inclusion or exclusion of all or part of such asset or liability for the computation of adjusted net capital and aggregate indebtedness shall be in accordance with § 240.15c3-1 of this title, unless specifically stated otherwise in this section.

(2) "Customer" means customer (as defined in § 1.3(k)) and option customer (as defined in § 32.1(d)).

(3) "Proprietary account" means a commodity futures or options account carried on the books of the applicant or registrant for the applicant or registrant itself, or for general partners.

(4) "Non-customer account" means a commodity futures or option account carried on the books of the applicant or registrant which is not included in the definition of customer (as defined in § 1.17(b)(2)) or proprietary account (as defined in § 1.17 (b)(3)).

(5) "Commodity option", "options customer", "premium", "striking price", "domestic commodity option exchange", and "domestic option customer funds" have the same meaning as in part 32 of these regulations.

(c) Definitions: For the purposes of this section:

(1) "Net capital" means the amount by which current assets exceed liabilities. In determining "net capital":

(i) Unrealized profits shall be added and unrealized losses shall be added and unrealized losses shall be deducted in the accounts of the applicant or registrant, including unrealized profits and losses on fixed price commitments and forward contracts;

(ii) All long and all short positions in listed security options shall be marked to their market value and all long and all short securities and commodities positions shall be marked to their market value;

(iii) The value attributed to any nontransferable commodity option shall be the difference between the option's striking price and the market value for the actual commodity or futures contract which is the subject of the option. In the case of a call commodity option, if the market value for the actual commodity or futures contract which is the subject of the option is less than the striking price of the option, it shall be given no value. In the case of a put commodity option, if the market value for the actual commodity or futures contract which is the subject of the option is more than the striking price of the option, it shall be given no value; and

(iv) The value attributed to any unlisted security option shall be the difference between the option's exercise value or striking value and the market value of the underlying security. In the case of an unlisted call, if the market value of the underlying security is less than the exercise value or striking value of such call, it shall be given no value; and, in the case of an unlisted put, if the market value of the underlying security is more than the exercise value or striking value of the unlisted put, it shall be given no value.

(2) The term "current assets" means cash and other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold during the next 12 months. "Current assets" shall:

(i) Exclude any unsecured commodity futures or option account containing a ledger balance and open trades, the combination of which liquidates to a deficit or containing a debit ledger balance only, provided however, deficits or debit ledger balances in unsecured customers', non-customers' and proprietary accounts, which are the subject of calls for margin or other required deposits which are outstanding one business day or less, may be included in current assets;

(ii) Exclude all unsecured receivables, advances and loans except for:

(A) Receivables resulting from the marketing of inventories commonly associated with the business activities of the applicant or registrant and advances on fixed price purchase commitments; Provided, such receivables or advances are outstanding no longer than seventy-five (75) days from the date that they arise;

(B) Interest receivable, floor brokerage receivable, commissions receivable from other brokers or dealers (other than syndicate profits), mutual fund concessions receivable and management fees receivable from registered investment companies and commodity pools, provided such receivables are outstanding no longer than thirty (30) days from the date they arise; and dividends receivable outstanding no longer than thirty (30) days from the payable date;

(C) Receivables from "clearing organizations," option clearing organizations, foreign clearing organizations, and securities clearing organizations;

(D) Receivables from registered futures commission merchants or brokers, resulting from commodity futures or option transactions, except those specifically excluded under paragraph (c)(2)(i) of this section;

(E) Insurance claims which arise from a reportable segment of the applicant's or registrant's overall business activities, as defined in generally accepted accounting principles, other than in the commodity futures, commodity option, security, and security option segments of the applicant's or registrant's business activities which are not outstanding more than seventy-five (75) days after the date they are recorded as a receivable.

(F) All other insurance claims not subject to paragraph (c)(2)(ii)(E) of this section, which are not older than seven (7) business days from the date the loss giving rise to the claim is discovered; insurance claims which are not older than twenty (20) business days from the date the loss giving

rise to the claim is discovered and which are covered by an opinion of outside counsel that the claim is valid and is covered by insurance policies presently in effect; insurance claims which are older than twenty (20) business days from the date the loss giving rise to the claim is discovered and which are covered by an opinion of outside counsel that the claim is valid and is covered by insurance policies presently in effect and which have been acknowledged in writing by the insurance carrier as due and payable, provided such claims are not outstanding longer than twenty (20) business days from the date they are so acknowledged by the carrier;

(iii) Exclude all prepaid expenses and deferred charges;

(iv) Exclude all inventories except for:

(A) Readily marketable spot commodities; or spot commodities which "adequately collateralize" indebtedness under pargaraph (c)(7) of this section;

(B) Securities which are considered "readily marketable" (as defined in 17 CFR 240.15c3-1(c)(11)) or which "adequately collateralize" indebtedness under paragraph (c)(7) of this section;

(C) Work in process and finished goods at market value which result from the processing of commodities;

(D) Raw materials at market value which will be combined with spot commodities to produce a finished processed commodity; and

(E) Inventories held for resale commonly associated with the business activities of the applicant or registrant;

(v) Include fixed assets and assets which otherwise would be considered non-current to the extent of any indebtedness excluded in accordance with paragraph (c)(6)(v) of this section, provided such liabilities are not excluded from liabilities in the computation of net capital under paragraph (c)(4)(v) of this section;

(vi) Exclude all assets doubtful of collection or realization less any reserves established therefore;

(vii) Include, in the case of future income tax benefits arising as a result of unrealized losses, the amount of such benefits not exceeding the amount of income tax liabilities accrued on the books and records of the applicant or registrant, but only to the extent such benefits could have been applied to reduce accrued tax liabilities on the date of the capital computation, had the related unrealized losses been realized on that date;

(viii) Include guarantee deposits with and to the extent of margin value, stock in clearing organizations;

(ix) Exclude exchange memberships.

(3) A loan or advance or any other form of receivable shall not be considered "secured" for the purposes of paragraph (c)(2) of this section unless the following conditions exist:

(i) The receivable is secured by readily marketable collateral which is otherwise unencumbered and which can be readily converted into cash equal to or in excess of that part of the receivable which is shown in the applicant's or registrant's records as secured; and

(ii) (A) The readily marketable collateral is in the possession or control of the applicant or registrant; or

(B) The applicant or registrant has a legally enforceable, written security agreement, signed by the debtor, and has a perfected security interest in the readily marketable collateral within the meaning of the laws of the state in which the readily marketable collateral is located.

(4) The term "liabilities" means the total money liabilities of an applicant or registrant arising in connection with any transaction whatsoever, including economic obligations of an applicant or registrant that are recognized and measured in conformity with generally accepted accounting principles. "Liabilities" also include certain deferred credits that are no obligations but that are recognized and measured in conformity with generally accepted accounting principles. For the purposes of computing "net capital", the term "liabilities":

(i) Excludes liabilities of an applicant or registrant which are subordinated to the claims of all general creditors of the applicant or registrant pursuant to a satisfactory subordination agreement, as defined in paragraph (h) of this section;

(ii) Excludes the amount of money, securities, and property due to commodity futures or option customers which is held in segregated accounts in compliance with the requirements of the Act and these regulations: *Provided, however*, That such exclusion may be taken only if such money, securities, and property held in segregated accounts have been excluded from current assets in computing net capital;

(iii) Includes, in the case of an applicant or registrant who is a sole proprietor, the excess of liabilities which have not been incurred in the course of business as a futures commission merchant over assets not used in the business;

(iv) Excludes the lesser of any deferred income tax liability related to the items in (A), (B), and (C) below, or the sum of (A), (B), and (C) below:

(A) The aggregate amount resulting from applying to the amount of the deductions computed in accordance with paragraph (c)(5) or paragraph (g) of this section, the appropriate Federal and State tax rate(s) applicable to any unrealized gain on the asset on which the deduction was computed;

(B) Any deferred tax liability related to income accrued which is directly related to an asset otherwise deducted pursuant to this section;

(C) Any deferred tax liability related to unrealized appreciation in value of any asset(s) which has been otherwise excluded from current assets in accordance with the provisions of this section; and

(v) Excludes liabilities which would be classified as long term in accordance with generally accepted accounting principles to the extent of the net book value of plant, property, and equipment which is used in the ordinary course of any trade or business of the applicant or registrant which is a reportable segment of the applicant's or registrant's overall business activities, as defined in generally accepted accounting principles, other than in the commodity futures, commodity option, security, and security option segments of the applicant's or registrant's business activities; *Provided:* That, such plant, property, and equipment is not included in current assets pursuant to paragraph (c)(2)(v) of this section, and *Provided further:* That, the exclusion provided for in this paragraph (c)(4)(v) does not apply when computing aggregate indebtedness pursuant to paragraph (c)(6) of this section.

(5) The term "adjusted net capital" means net capital less:

(i) The amount by which any advances paid by the applicant or registrant on cash commodity contracts and used in computing net capital exceeds 95 percent of the market value of the commodities covered by such contracts;

(ii) In the case of all inventory, fixed price commitments and forward contracts the applicable percentage of the net position specified below:

(A) Inventory which is covered by commodity futures or options—5 percent of the market value.

(B) Inventory which is not covered—20 percent of the market value.

(C) Fixed price commitments (open purchases and sales) and forward contracts which are covered by commodity futures or options.—10 percent of the market value.

(D) Fixed price commitments (open purchases and sales) and forward contracts which are not covered by commodity futures or options—20 percent of the market value.

(iii) (Reserved).

(iv) (Reserved).

(v) In the case of securities and obligations used by the applicant or registrant in computing net capital, and in the case of securities in segregation pursuant to section 4d(2) of the Act and these regulations which were not deposited by customers, the percentages specified in 17 CFR 240.15c3-1(c)(2)(vi) ("Securities Haircuts") and 100 percent of the value of "Non-Marketable Securities" as specified in 17 CFR 240.15c3-1(c)(2)(vii), or where appropriate, for Securities Brokers or Dealers the pecentages specified in 17 CFR 240.15c3-1(f);

(vi) In the case of securities options used by the applicant or registrant in computing net capital, the deductions specified in 17 CFR 240.15c3-1 Appendix A, after effecting certain adjustments to net capital for listed and unlisted options as set forth in such Appendix;

(vii) In the case of an applicant or registrant who has open contractual commitments, as hereinafter defined, the deductions specified in 17 CFR 240.15c3-1(c)(2)(viii);

(viii) For undermargined customer commodity futures and grantor commodity option accounts, the amount of funds required in each such account to meet maintenance margin requirements of the applicable board of trade or if there are no such maintenance margin requirements, clearing organization margin requirements applicable to such positions after application of calls for margin, or other required deposits which are outstanding five business days or less until December 31, 1979, four business days or less until December 31, 1980, and three business days or less thereafter. If there are no such maintenance margin requirements or clearing organization margin requirements on such accounts, then the amount of funds required to provide margin equal to the amount necessary after application of calls for margin, or other required deposits outstanding five days or less until December 31, 1979, four days or less until December 31, 1980, and three days or less thereafter to restore original margin when the initial margin has been depleted by 50 percent or more. Provided, to the extent a deficit is excluded from current assets in accordance with paragraph (c)(2)(i) if this section such amount shall not also be deducted under this paragraph (c)(5)(viii);

(ix) For undermargined non-customer and omnibus commodity futures and grantor commodity option accounts, the amount of funds required in each such account to meet maintenance margin requirements of the applicable board of trade or if there are no such maintenance margin requirements clearing organization margin requirements applicable to such positions after application of calls for margin, or other required deposits which are outstanding two business days or less. If there are not such maintenance margin requirements or clearing organization margin requirements, then the amount of funds required to provide margin equal to the amount necessary after application of calls for margin, or other required deposits outstanding two days or less to restore original margin when the initial margin has been deleted by 50 percent or more. Provided, to the extent a deficit is excluded from current assets in accordance with paragraph (c)(2)(i) if this section such amount shall not also be deducted under this paragraph (c)(5)(ix);

(x) In the case of open futures contracts and grantor commodity options held in proprietary accounts carried by the applicant or registrant which are not covered by a position held by the applicant or registrant or which are not the result of a "changer trade" made in accordance with the rules of a contract market the safety factor shall be:

(A) For an applicant or registrant which is a clearing member of a contract market or domestic commodity option exchange for the positions cleared by such member on such contract market or domestic commodity option exchange, the applicable margin requirement of the applicable clearing organization;

(B) For an applicant or registrant which is a member of a contract market or domestic commodity option exchange 150 percent of the applicable maintenance margin requirement of the applicable board of trade or clearing organization whichever is greater;

(C) For all other applicants or registrants, 200 percent of the applicable maintenance margin requirement of the applicable board of trade or clearing organization whichever is greater, or

(D) For open contracts and commodity options for which there is no applicable maintenance margin requirements, 200 percent of the applicable initial margin requirement.

Provided, the equity in any such proprietary account shall reduce the deduction required by this paragraph (c)(5)(x) if such equity is not otherwise includable in adjusted net capital;

(xi) In the case of an applicant or registrant which is a taker of a commodity option, the safety factor shall be the amount of any commodity option premium which has been used to increase adjusted net capital and in the case of an applicant or registrant which is a grantor of a commodity option, the safety factor may be reduced by the amount of any commodity option premium which has not been previously recognized as income; and

(xii) In the case of a commodity option which is carried long by the applicant or registrant as a taker of a commodity option which has value and such value is used to increase adjusted net capital, the same safety factor as if the applicant or registrant were the grantor of such option in accordance with paragraph (c)(5)(x) of this section, but in no event shall the safety factor be greater than the value attributed to such option.

(xiii) Five percent of all unsecured receivables includable under paragraph (c)(2)(ii)(D) of this section used by the applicant or registrant in computing "net capital" and which are not receivable from (A) a registered futures commission merchant, or (B) a broker or dealer which is registered as such with the Securities and Exchange Commission.

(xiv) For Securities Brokers and Dealers, all other deductions specified in § 240.15c3-1.

(6) The term "aggregate indebtedness" means "liabilities" as defined in paragraph (c)(4) of this section excluding:

(i) Indebtedness adequately collateralized by spot commodities which are carried long by the applicant or registrant and indebtedness adequately collateralized by securities which are carried long by the applicant or registrant and which have not been sold, or by securities which collateralize a secured demand note pursuant to paragraph (h) of this section;

(ii) Indebtedness arising in connection with an advance to a non-proprietary account when such indebtedness is adequately collateralized by spot commodities eligible for delivery on a contract market and when such spot commodities are fully hedged;

(iii) Advances received by the applicant or registrant against bills of lading issued in connection with the shipment of commodities sold by the applicant or registrant;

(iv) Equity balances in the accounts of general partners;

(v) Long-term debt adequately collateralized by assets acquired for use in the ordinary course of the trade or business of an applicant or registrant but no other long-term debt adequately collateralized by assets of the applicant or registrant shall be excluded unless the sole recourse of the creditor for nonpayment of such liability is to such asset;

(vi) Liabilities which are effectively subordinated to the claims of creditors (but which are not subject to a satisfactory subordination agreement as defined in paragraph (h) of this section) by other than customers of the applicant or registrant prior to such subordination, and such subordinations by customers as may be approved by the applicable designated self-regulatory organization or if the applicant or registrant is not a member of a designated self-regulatory organization, then the Commission; and

(vii) Deferred tax liabilities, not already excluded in paragraph (c)(4)(iv) of the section.

(7) "Liabilities" are "adequately collateralized" when, pursuant to a legally enforceably written instrument, such liabilities are secured by identified assets that are otherwise unencumbered and the market value of which exceed the amount of such liabilities.

(8) The term "contractual commitments" shall include underwriting, when issued, when distributed and delayed delivery contracts; the writing or endorsement of security puts and calls and combinations thereof; and commitments in foreign currencies; but shall not include uncleared regular way purchases and sales of securities. As series of contracts of purchase or sale of the same security, conditioned, if at all, only upon issuance, may be treated as an individual commitment.

(d) No applicant or registrant shall permit the total of outstanding principal amounts of its satisfactory subordination agreements (other than such agreements which qualify under this paragraph (d) as equity capital) to exceed 70 percent of its debt-equity total, as hereinafter defined, for a period in excess of 90 days or for such longer period which the Commission may, upon application of the applicant or registrant, grant in the public interest or for the protection of investors. In the case of a corporation, the debt-equity total shall be the sum of its outstanding principal amounts of satisfactory subordination agreements, par or stated value of capital stock, paid in capital in excess of par, retained earnings, unrealized profit and loss and other capital accounts. In the case of a partnership, the debt-equity total shall be the sum of its outstanding principal amounts of satisfactory subordination agreements, capital accounts of partners (exclusive of such partners' commodity and securities accounts) subject to the provisions of paragraph (e) of this section, and unrealized profit and loss. In the case of a sole proprietorship, the debt-equity total shall include the sum of its outstanding principal amounts of satisfactory subordination agreements, capital accounts of the sole proprietorship and unrealized profit and loss. Provided, however, that a satisfactory subordination agreement entered into by a partner or stockholder which has an initial term of at least three years and has a remaining term of not less than 12 months shall be considered equity for the purposes of this paragraph (d) if; (1) it does not have any of the provisions for accelerated maturity provided for by paragraphs (h)(2)(ix)(A), (h)(2)(x)(A), or (h)(2)(x)(B) of this section, and is maintained as capital subject to the provisions restricting the withdrawal thereof required by paragraph (e) of this section, or (2) the partnership agreement provides that capital contributed pursuant to a satisfactory subordination agreement as defined in paragraph (h) of this section shall in all respects be partnership capital subject to the provisions restricting the withdrawal thereof required by paragraph (e) of this section.

(e) No equity capital of the applicant or registrant or a subsidiary's or affiliate's equity capital consolidated pursuant to paragraph (f) of this section, whether in the form of capital contributions by partners (excluding amounts in the commodities and securities accounts of partners and balances in limited partners' capital accounts in excess of their stated capital contributions), par or stated value of capital stock, paid-in capital in excess of par or stated value, retained earnings or other capital accounts, may be withdrawn by action of a stockholder or partner or by redemption or repurchase of shares of stock by any of the consolidated entities or through the payment of dividends or any similar distribution, nor may any unsecured advance or loan be made to a stockholder, partner, sole proprietor, or employee if, after giving effect thereto and to any other such withdrawals, advances, or loans and any payments of payment obligations (as defined in paragraph (h) of this section) under satisfactory subordination agreements and any payments of liabilities excluded pursuant to paragraph (c)(4)(v) of this section which are scheduled to occur within six months following such withdrawal, advance or loan, either adjusted net capital or any of the consolidated entities would be less than 10 percent of aggregate indebtedness or its adjusted net capital would fall to equal 120 per centum of the appropriate minimum dollar amount required or would be less than 7 percent of the amount required to be segregated pursuant to the Act and these regulations plus for Securities Brokers or Dealers, 7 percent of the aggregate debit items computed pursuant to 17 CFR 240.15c3-3, or in the case of any applicant or registrant included within such consolidation, if the total outstanding principal amounts of satisfactory subordination agreements of the applicant or registrant (other than such agreements which qualify as equity under paragraph (d) of this section) would exceed 70 percent of the debt-equity total as defined in paragraph (d). Provided, that this provision shall not preclude an applicant or registrant from making required tax payments or preclude the payment to partners of reasonable compensation. The Commission may, upon application of the applicant or registrant, grant relief from this paragraph (e) if the Commission deems it to be in the public interest or for the protection of non-proprietary accounts.

(f)(1) Every applicant or registrant, in computing its net capital and aggregate indebtedness pursuant to this section must, subject to the provisions of paragraph (f)(2) and (f)(4) of this section, consolidate in a single computation assets and liabilities of any subsidiary or affiliate for which it guarantees, endorses, or assumes directly or indirectly the obligations or indirectly the obligations or liabilities. The assets and liabilities or a subsidiary of affiliate whose liabilities and obligations have not been guaranteed, endorsed, or assumed directly or indirectly by the applicant or registrant may also be so consolidated if an opinion of counsel is obtained as provided for in paragraph (f)(2) of this section.

(2)(i) If the consolidation, provided for in paragraph (f)(1) of this section, of any such subsidiary or affiliate results in the increase of the applicant's or registrant's adjusted net capital and/or increases the applicant's or registrant's percentage of adjusted net capital to aggregate indebtedness or increases the applicant's or registrant's adjusted net capital and/or decreases the minimum adjusted net capital requirement called for by paragraph (g)(1) of this section and an opinion of counsel called for in paragraph (f)(2)(ii) of this section has not been obtained, such benefits shall not be recognized in the applicant's or registrant's computation required by this section.

(ii) Except as provided for in paragraph

(f)(2)(i) of this section, consolidation shall be permitted with respect to any subsidiaries or affiliates which are majority owned and controlled by the applicant or registrant and for which the applicant or registrant can demonstrate to the satisfaction of the Commission, and the designated self-regulatory organization, if any, by an opinion of counsel that the net asset values, or the portion thereof related to the parent's ownership interest in the subsidiary of affiliate, may be caused by the applicant or registrant or an appointed trustee to be distributed to the applicant or registrant within 30 calendar days. Such opinion must also set forth the actions necessary to cause such a distribution to be made, identify the parties having the authority to take such actions, identify and describe the rights of other parties or classes of parties, including but not limited to customers, general creditors, subordinated lenders, minority shareholders, employees, litigants, and governmental or regulatory authorities, who may delay or prevent such a distribution and such other assurances as the Commission or the designated self-regulatory organization by rule or interpretation may require. Such opinion must be current and periodically renewed in connection with the applicant's or registrant's annual audit pursuant to section 1.10 upon any material change in circumstances.

(3) In preparing a consolidated computation of adjusted net capital and/or aggregate indebtedness pursuant to this section, the following minimum and non-exclusive requirements shall be observed:

(i) Consolidated adjusted net capital shall be reduced by the estimated amount of any tax reasonably anticipated to be incurred upon distribution of the assets of the subsidiary or affiliate.

(ii) Liabilities of a consolidated subsidiary or affiliate which are subordinated to the claims of present and future creditors pursuant to a satisfactory subordination agreement shall be deducted from consolidated adjusted net capital unless such subordination extends also the claims of present or future creditors of the parent applicant or registrant and all consolidated subsidiaries.

(iii) Subordinated liabilities of a consolidated subsidiary or affiliate which are consolidated in accordance with paragraph (f)(3)(ii) of this section may not be prepaid, repaid, or accelerated if any of the entities included in such consolidation would otherwise be unable to comply with the provisions of paragraph (h) of this section.

(iv) Each applicant or registrant included within the consolidation shall at all times be in compliance with the adjusted net capital requirement to which it is subject.

(4) No applicant or registrant shall guarantee, endorse, or assume directly or indirectly any obligation or liability of a subsidiary or affiliate unless the obligation or liability is reflected in the computation of adjusted net capital and/or aggregate indebtedness pursuant to this section except as provided in paragraph (f)(2)(i) of this section.

(g) A registrant may elect not to be subject to the limitations of paragraph (a) of this section respecting aggregate indebtedness as defined in paragraph (c)(6) of this section. *Provided*, That in order to qualify to operate under this paragraph (g), such registrant must at all times maintain adjusted net capital equal to the greater of $150,000 ($50,000 for a member of a designated self-regulatory organization) or 4 percent of the funds required to be segregated by the Act and these regulations plus for Securities Brokers or Dealers, 4 percent of the aggregate debit items computed in accordance with the Formula for Determination of Reserve Requirements (Exhibit A to Rule 15c3-3, 17 CFR 240.15c3-3a) and shall notify the designated self-regulatory organization, if any, and the Regional Office of the Commission in which the registrant has its principal place of business, in writing of its election to operate under this provision. Once a registrant has determined to operate pursuant to the provisions of this paragraph (g), he must continue to do so unless a change in such election is approved upon application to the Commission.

(1) A broker or dealer electing to operate pursuant to this paragraph (g) shall be subject to 17 CFR 240.15c3-1(f) in lieu of paragraph (c)(5)(v) of this section.

(2) A broker or dealer who is registered as such with the Securities and Exchange Commission and who is exempt from the provisions of 17 CFR 240.15c3-3 pursuant to paragraph (k)(1) or (k)(2)(i) of that section may not elect to use the alternative contained in this paragraph (g).

(h) The term satisfactory subordination agreement (hereinafter "subordination agreement") means an agreement which contains the minimum and non-exclusive requirements hereinafter set forth.

(1) Certain definitions for purposes of this section: (i) A subordination agreement may be either a subordinated loan agreement or a secured demand note agreement.

(ii) The term "subordinated loan agreement" means the agreement or agreements evidencing or governing a subordinated borrowing of cash.

(iii) The term "collateral value" of any securities pledged to secure a secured demand note means the market value of such securities after giving effect to the percentage deductions specified in paragraph (c) of this section.

(iv) The term "payment obligation" means the obligation of an applicant or registrant in respect to any subordination agreement: (A) to repay cash loaned to the applicant or registrant pursuant to a subordinated loan agreement; or (B) to return a secured demand note contributed to the applicant or registrant or to reduce the unpaid principal amount thereof and to return cash or securities pledged as collateral to secure the secured demand note; and (C) "payment" shall mean the performance by an applicant or registrant of a payment obligation.

(v)(A) The term "secured demand note agreement" means an agreement (including the related secured demand note) evidencing or governing the contribution of a secured demand note to an applicant or registrant and the pledge of securities and/or cash with the applicant or registrant as collateral to secure payment of such secured demand note. The secured demand note agreement may provide that neither the lender, his heirs, executors, administrators, or assigns shall be personally liable on such note nad that in the event of default the applicant or registrant shall look for payment of such note solely to the collateral then pledged to secure the same.

(B) The secured demand note shall be a promissory note executed by the lender and shall be payable on the demand of the applicant or registrant to which it is contributed; *Provided, however*, That the making of such demand may be conditioned upon the occurrence of any of certain events which are acceptable to the designated self-regulatory organization and the Commission.

(C) If such note is not paid upon presentment and demand as provided for therein, the applicant or registrant shall have the right to liquidate all or any part of the securities then pledged as collateral to secure payment of the same and to apply the net proceeds of such liquidation, together with any cash then included in the collateral, in payment of such note. Subject to the prior rights of the applicant or registrant as pledgee, the lender, as defined herein, may retain ownership of the collateral and have the benefit of any increases and bear the risks of any decreases in the value of the collateral and may retain the right to vote securities contained within the collateral and any right to income therefrom or distributions thereon, except the applicant or registrant shall have the right to receive and hold as pledgee all dividends payable in securities and all partial and complete liquidating dividends.

(D) Subject to the prior rights of the applicant or registrant as pledgee, the lender may have the right to direct the sale of any securities included in the collateral, to direct the purchase of securities with any cash included therein, to withdraw excess collateral or to substitute cash or other securities as collateral *Provided*, That the net proceeds of any such sale and the cash so substituted and the securities so purchased or substituted are held by the applicant or registrant as pledgee, and are included within the collateral to secure payment of the secured demand note, and *Provided further*, That no such transaction shall be permitted if, after giving effect thereto, the sum of the amount of any cash, plus the collateral value of the securities, then pledged as collateral to secure the secured demand note would be less than the unpaid principal amount of the secured demand note.

(E) Upon payment by the lender, as distinguished from a reduction by the lender which is provided for in paragraph (h)(2)(vi)(C) of this section or reduction by the applicant or registrant as provided for in paragraph (h)(2)(vii) of this section, of all or any part of the unpaid principal amount of the secured demand note, the applicant or registrant shall issue to the lender a subordinated loan agreement in the amount of such payment (or in the case of an applicant or registrant that is a partnership, credit a capital account of the lender), or issue preferred or common stock of the applicant or registrant in the amount of such payment, or any combination of the foregoing, as provided for in the secured demand note agreement.

(F) The term "lender" means the person who lends cash to an applicant or registrant pursuant to a subordinated loan agreement and the person who contributes a secured demand note to an applicant or registrant pursuant to a secured demand note agreement.

(2) Minimum requirements for subordination agreements: (i) Subject to paragraph (h)(1) of this section, a subordination agreement shall mean a written agreement between the applicant or registrant and the lender, which: (A) has a minimum term of one year, except for temporary subordination agreements provided for in paragraph (h)(3)(v) of this section, and

(B) Is a valid and binding obligation enforceable in accordance with its terms (subject as to enforcement to applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws) against the applicant or registrant and the lender and their respective heirs, executors, administrators, successors and assigns.

(ii) *Specific amount.* All subordination agreements shall be for a specific dollar amount which shall not be reduced for the duration of the agreement except by installments as specifically provided for therein and except as otherwise provided in this paragraph (h)(2) of this section.

(iii) *Effective subordination.* The subordination agreement shall effectively subordinate any right of the lender to receive any payment with respect thereto, together with accrued interest or compensation, to the prior payment or provision for payment in full of all claims of all present and future creditors of the applicant or registrant arising out of any matter occurring prior to the date on which the related payment obligation matures, except for claims which are the subject of subordination agreements which rank on the same priority as or junior to the

claim of the lender under such subordination agreements.

(iv) *Proceeds of subordinated loan agreements.* The subordinated loan agreement shall provide that the cash proceeds thereof shall be used and dealt with by the applicant or registrant as part of its capital and shall be subject to the risks of the business.

(v) *Certain rights of the borrower.* The subordination agreement shall provide that the applicant or registrant shall have the right to: (A) Deposit any cash proceeds of a subordinated loan agreement and any cash pledged as collateral to secure a secured demand note in an account or accounts in its own name in any bank or trust company;

(B) Pledge, repledge, hypothecate and rehypothecate, any or all of the securities pledged as collateral to secure a secured demand note, without notice, separately or in common with other securities or property for the purpose of securing any indebtdeness of the applicant or registrant; and

(C) Lend to itself or others any or all of the securities and cash pledged as collateral to secure a secured demand note.

(vi) *Collateral for secured demand notes.* Only cash and securities which are fully paid for and which may be publicly offered or sold without registration under the Securities Act of 1933, and the offer, sale and transfer of which are not otherwise restricted, may be pledged as collateral to secure a secured demand note. The secured demand note agreement shall provide that if at any time the sum of the amount of any cash, plus the collateral value of any securities, then pledged as collateral to secure the secured demand note is less than the unpaid principal amount of the secured demand note, the applicant or registrant must immediately transmit written notice to that effect to the lender, the designated self-regulatory organization, if applicable, and the Commission. The secured demand note agreement shall also require that following such transmittal:

(A) The lender, prior to noon of the business day next succeeding the transmittal of such notice, may pledge as collateral additional cash or securities sufficient, after giving effect to such pledge, to bring the sum of the amount of any cash plus the collateral value of any securities, then pledged as collateral to secure the secured demand note, up to an amount not less than the unpaid principal amount of the secured demand note; and

(B) Unless additional cash or securities are pledged by the lender as provided in (A) above, the applicant or registrant at noon on the business day next succeeding the transmittal of notice to the lender must commence sale, for the account of the lender, of such of the securities then pledged as collateral to secure the secured demand note and apply so much of the net proceeds thereof, together with such of the cash then pledged as collateral to secure the secured demand note as may be necessary to eliminate the unpaid principal amount of the secured demand note: *Provided, however*, That the unpaid principal amount of the secured demand note need not be reduced below the sum of the amount of any remaining cash, plus the collateral value of the remaining securities, then pledged as collateral to secure the secured demand note. The applicant or registrant may not purchase for its own account any securities subject to such a sale; and

(C) The secured demand note agreement may also provide that, in lieu of the procedures specified in the provisions required by (B) above, the lender with the prior written consent of the applicant or registrant and the designated self-regulatory organization or if the applicant or registrant is not a member of a designated self-regulatory organization, then the Commission, may reduce the unpaid principal amount of the secured demand note, *Provided*, That after giving effect to such reduction the adjusted net capital of the applicant or registrant would not be less than 10 percent of aggregate indebtedness or in the case of an applicant or registrant operating pursuant to paragraph (g) of this section, adjusted net capital would not be less than 7 percent of the funds required to be segregated pursuant to the Act and these regulations plus for Securities Brokers or Dealers, 7 percent of the aggregate debit items computed in accordance with 17 CFR 240.15c3-3a. *Provided, further*, That no single secured demand note shall be permitted to be reduced by more than 15 percent of its original principal amount and after such reduction no excess collateral may be withdrawn. No designated self-regulatory organization shall consent to reduction of the principal amount of a secured demand note if, after giving effect to such reduction, adjusted net capital would be less than 120 percent of the appropriate minimum dollar amount required by this section.

(vii) *Permissive prepayments.* An applicant or registrant at its option but not at the option of the lender, may, if the subordination agreeemnt so provides, make a payment of all or any portion of the payment obligation thereunder prior to the scheduled maturity date of such payment obligation (hereinafter referred to as a "prepayment"), but in no event may any prepayment be made before the expiration of one year from the date such subordination agreement became effective; *Provided, however*, That the foregoing restriction shall not apply to temporary subordination agreements which comply with the provisions of subparagraph (h)(3)(v) of this section. No prepayment shall be made, if, after giving effect thereto (and to all payments of payment obligations under any other subordinated agreements then outstanding the maturity or accelerated maturities of which are scheduled to fall due within six months after the date such prepayment is to occur pursuant to this provision or on or prior to the date on which the payment obligation in respect to such prepayment is scheduled to mature disregarding this provision, whichever date is earlier) without reference to any projected profit or loss of the applicant or registrant, either the adjusted net capital of the applicant or registrant is less than 10 percent of its aggregate indebtedness or in the case of an applicant or registrant operating pursuant to paragraph (g) of this section, its adjusted net capital is less than 7 percent of the funds required to be segregated pursuant to the Act and these regulations plus for Securities Brokers or Dealers, 7 percent of the aggregate debit items computed in accordance with 17 CFR 240.15c3-3a or its adjusted net capital would be less than 120% of the appropriate minimum dollar amount required by this section. Notwithstanding the above, no prepayment shall occur without the prior written approval of the designated self-regulatory organization and the Commission.

(viii) *Suspended repayment.* (A) The payment obligation of the applicant or registrant in respect of any subordination agreement shall be suspended and shall not mature if, after giving effect to payment of such payment obligation (and to all payments of payment obligations of the applicant or registrant under any other subordination agreement(s) then outstanding which are scheduled to mature on or before such payment obligation) either the adjusted net capital of the applicant or registrant would be less than 8½ percent of aggregate indebtedness or in the case of an applicant or registrant operating pursuant to paragraph (g) of this section, adjusted net capital would be less than 6 percent of the funds required to be segregated pursuant to the Act and these regulations plus for Securities Brokers or Dealers, 6 percent of the aggregate debit items computed in accordance with 17 CFR 240.15c3-3a or its adjusted net capital would be less than 120 percent of the minimum dollar amount required by this section; *Provided*, That the subordination agreement may provide that if the payment obligation of the applicant or registrant thereunder does not mature and is suspended as a result of the requirement of this paragraph (h)(2)(viii) of this section for a period of not less than six months the applicant or registrant shall thereupon commence the rapid and orderly liquidation of its business, but the right of the lender to receive payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of this section.

(B) Whenever a subordination agreement provides that an applicant or registrant shall commence a rapid and orderly liquidation, as permitted in paragraph (h)(2)(viii)(A), the date on which the liquidation commences shall be the maturity date for each subordination agreement of the applicant or registrant then outstanding, but the rights of the respective lenders to receive payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of this section.

(ix) *Accelerated maturity.* Obligation to repay to remain subordinate:

(A) Subject to the provisions of paragraph (h)(2)(viii) of this section, a subordination agreement may provide that the lender may, upon prior written notice to the applicant or registrant and the designated self-regulatory organization or if applicant or registrant is not a member of a designated self-regulatory organization, then the Commission, given not earlier than six months after the effective date of such subordination agreement, accelerate the date on which the payment obligation of the borrower, together with accrued interest or compensation, is scheduled to mature to a date not earlier than six months after giving of such notice, but the right of the lender to receive payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of this paragraph (h)(2) or this section.

(B) Notwithstanding the provisions of paragraph (h)(2)(viii) of this section, the payment obligation of the applicant or registrant with respect to a subordination agreement, together with accrued interest and compensation, shall mature in the event of any receivership, insolvency, liquidation pursuant to the Securities Investor Protection Act of 1970 or otherwise, bankruptcy, assignment for the benefit of creditors, reorganization whether or not pursuant to the bankruptcy laws, or any other marshalling of the assets and liabilities of the applicant or registrant but the right of the lender to receive payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of paragraph (h)(2) of this section.

(x) *Accelerated maturity of subordination agreements on event of default and event of acceleration.* Obligation to repay to remain subordinate:

(A) A subordination agreement may provide that the lender may upon prior written notice to the applicant or registrant and the designated self-regulatory organization or if the applicant or registrant is not a member of a designated self-regulatory organization, the Commission, of the occurrence of any event of acceleration (as hereinafter defined) given no sooner than six months after the effective date of such subordination agreement, accelerate the date on which the payment obligation of the applicant or registrant, together with accrued interest or compensation, is scheduled to mature, to the last business day of a calendar month which is not less than six months after notice of acceleration is received by the applicant or registrant and

the designated self-regulatory organization, or if the applicant or registrant is not a member of a designated self-regulatory organization, then the Commission. Any subordination agreement containing such events of acceleration may also provide, that if upon such accelerated maturity date the payment obligation of the applicant or registrant is suspended as required by paragraph (h)(2)(viii) of this section and liquidation of the applicant or registrant has not commenced on or prior to such accelerated maturity date then notwithstanding paragraph (h)(2)(viii) of this section the payment obligation of the applicant or registrant with respect to such subordination agreement shall mature on the day immediately following such accelerated maturity date and in any such event the payment obligations of the applicant or registrant with respect to all other subordination agreements then outstanding shall also mature at the same time but the rights of the respective lenders to receive payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of paragraph (h)(2) of this section. Events of acceleration which may be included in a subordination agreement complying with this paragraph (h)(2)(x) of this section shall be limited to:

(1) Failure to pay interest or any installment of principal on a subordination agreement as scheduled;

(2) Failure to pay when due other money obligations of a specified material amount;

(3) Discovery that any material, specified representation or warranty of the applicant or registrant which is included in the subordination agreement and on which the subordination agreement was based or continued was inaccurate in a material respect at the time made; (4) Any specified and clearly measurable event which is included in the subordination agreement and which the lender and the applicant or registrant agree, (a) is a significant indication that the financial position of the applicant or registrant has changed materially and adversely from agreed upon specified norms; or (b) could materially and adversely affect the ability of the applicant or registrant to conduct its business as conducted on the date the subordination agreement was made; or (c) is a significant change in the senior management of the applicant or registrant or in the general business conducted by the applicant or registrant from that which obtained on the date the subordination agreement became effective;

(5) Any continued failure to perform agreed convenants included in the subordination agreement relating to the conduct of the business of the applicant or registrant or relating to the maintenance and reporting of its financial position; and

(B) Notwithstanding the provisions of paragraph (h)(2)(viii) of this section, a subordination agreement may provide that, if liquidation of the business of the applicant or registrant had not already commenced, the payment obligation of the applicant or registrant shall mature, together with accrued interest or compensation, upon the occurrence of an event of default (as hereinafter defined). Such agreement may also provide that, if liquidation of the business of the applicant or registrant has not already commenced, the rapid and orderly liquidation of the business of the applicant or registrant shall then commence upon the happening of an event of default. Any subordination agreement which so provides for maturity of the payment obligation upon the occurrence of an event of default shall also provide that the date on which such event of default occurs shall, if liquidation of the applicant or registrant has not already commenced, be the date on which the payment obligation of the applicant or registrant with respect to all other subordination agreements then outstanding shall mature but the rights of the respective lenders to receive payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of paragraph (h)(2) of this section. Events of default which may be included in a subordination agreement shall be limited to:

(1) The making of an application by the Securities Investor Protection Corporation for a decree adjudicating that customers of the applicant or registrant are in need of protection under the Securities Investor Protection Act of 1970 and the failure of the applicant or registrant to obtain the dismissal of such application within 30 days;

(2) Failure to meet the minimum capital requirements of the designated self-regulatory organization, or of the Commission, throughout a period of 15 consecutive business days, commencing on the day the borrower first determines and notifies the designated self-regulatory organization, if any, of which he is a member and the Commission; or any self-regulatory organization or the Commission first determines and notifies the applicant or registrant of such fact;

(3) The Commission shall revoke the registration of the applicant or registrant;

(4) The self-regulatory organization shall suspend (and not reinstate within 10 days) or revoke the applicant or registrant's status as a member thereof;

(5) Any receivership, insolvency, liquidation pursuant to the Securities Investor Protection Act of 1970 or otherwise, bankruptcy, assignment for the benefit of creditors, reorganization whether or not pursuant to bankruptcy laws, or any other marshalling of the assets and liabilities of the applicant or registrant. A subordination agreement which contains any of the provisions permitted by this subparagraph (2)(x) shall not contain the provision otherwise permitted by paragraph (h)(2)(ix)(A) of this section.

(3) *Miscellaneous provisions.*—(i) *Prohibited cancellation.* The subordination agreement shall not be subject to cancellation by either party; no payment shall be made with respect thereto and the agreement shall not be terminated, rescinded or modified by mutual consent or otherwise if the effect thereof would be inconsistent with the requirements of paragraph (h) of this section.

(ii) *Notice of maturity or accelerated maturity.* Every applicant or registrant shall immediately notify the designated self-regulatory organization and the Commission if, after giving effect to all payments of payment obligations under subordination agreements then outstanding which are then due or mature within the following six months without reference to any projected profit or loss of the applicant or registrant, either the aggregate indebtedness of the applicant or its adjusted net capital or its adjusted net capital would be less than 120 percent of the minimum dollar amount required by § 1.17 or in the case of an applicant or registrant who is operating pursuant to paragraph (g) of § 1.17, its adjusted net capital would be less than 6 percent of the funds required to be segregated pursuant to the Act and these regulations plus for Securities Brokers or Dealers, 6 percent of the aggregate debit items computed in accordance with 17 CFR 240.15c3-3a.

(iii) *Certain legends.* If all the provisions of a satisfactory subordination agreement do not appear in a single instrument then the debenture of other evidence of indebtedness shall bear on its face an appropriate legend stating that it is issued subject to the provisions of a satisfactory subordination agreement which shall be adequately referred to and incorporated by reference.

(iv) *Legal title to securities.* All securities pledged as collateral to secure a secured demand note must be in bearer form, or registered in the name of the applicant or registrant or the name of its nominee or custodian.

(v) *Temporary subordinations.* For the purpose of enabling an applicant or registrant to participate as an underwriter of securities or other extraordinary activities in compliance with the adjusted net capital requirements of this section, an applicant or registrant shall be permitted, on no more than three occasions in any 12-month period to enter into a subordination agreement on a temporary basis which has a stated term of no more than 45 days from the date of the subordination agreement became effective. *Provided,* That this temporary relief shall not apply to any applicant or registrant if either the adjusted net capital of the applicant or registrant is less than 10 percent of its aggregate indebtedness or in the case of an applicant or registrant operating pursuant to paragraph (g) of this section, adjusted net capital is less than 7 percent of the funds required to be segregated pursuant to the Act and these regulations plus for Securities Brokers or Dealers, 7 percent of the aggregate debit items computed in accordance with 17 CFR 240.15c3-3a or its adjusted capital is less than 120 percent of the appropriate minimum dollar amount required by this section, or the amount of its then outstanding subordination agreements exceeds the limits specified in paragraph (d) of this section. Such temporary subordination agreement shall be subject to all the other provisions of this section.

(iv) *Filing.* Two copies of any proposed subordination agreement (including nonconforming subordination agreements) shall be filed with the Commission at least ten days prior to the proposed execution date of the agreement or at such other time as the Commision for good cause shall accept such filing. Copies of the proposed agrement shall be filed with the designated self-regulatory organization, if any, of which the applicant or registrant is a member in such quantities and at such time as the designated self-regulatory organization may require. The applicant or registrant shall also file with said parties a statement setting forth the name and address of the lender, the business relationship of the lender to the applicant or registrant and whether the applicant or registrant carries funds or securities for the lender at or about the time the proposed agreement was so filed. All agreements shall be examined at the Commission and the designated self-regulatory organization with whom such agreements are required to be filed prior to their becoming effective. No proposed agreement shall be a satisfactory subordination agreement for the purposes of this section unless and until the Commission has found the agreement acceptable and such agreement has become effective in the form found acceptable.

(vii) *Subordination agreements in effect prior to adoption*—Any subordination agreement which has been entered into prior to (date of adoption) and which has been deemed to be satisfactorily subordinated pursuant to this section heretofore in effect or the adjusted net capital rules of a self-regulatory organization shall continue to be deemed a satisfactory subordination agreement until the maturity of such agreement. Provided, that no renewal of an agreement which provides for automatic or optional renewal by the applicant or registrant or lender shall be deemed to be a satisfactory subordination agreement unless such renewed agreement meets the requirements of this section, within six months of (the effective date of this section). *Provided further,* That all subordination agreements must meet the requirements of this rule within five years of (date of adoption).

(4) A designated self-regulatory organization and the Commision may allow debt with a maturity date of one year or more to be treated as meeting the provisions of this paragraph (h) provided:

(i) Such exemption shall only be given when the registrant's adjusted net capital is less than the minimum required by this § 1.17 or by the capital rule of the designated self-regulatory organization to which such registrant is subject;

(ii) Such exemption shall be for a period of thirty days or such lesser period as the designated self-regulatory organization and the Commission may determine;

(iii) Such exemption shall not be allowed more than once in any twelve month period; and

(iv) At all times during such exemption the registrant shall make a good faith effort to comply with the provisions of this § 1.17 or the capital rule of the designated self-regulatory organization to which such registrant is subject exclusive of any benefits derived from this paragraph (h)(4).

(i) [Reserved]

(j) For the purposes of this section "cover" is defined as follows:

(1) *General definition.* Cover shall mean transactions or positions in a contract for future delivery on a board of trade or a commodity option where such transactions or positions normally represent a substitute for transactions to be made or positions to be taken at a later time in a physical marketing channel, and where they are economically appropriate to the reduction of risks in the conduct and management of a commercial enterprise, and where they arise from:

(i) The potential change in the value of assets which a person owns, produces, manufactures, processes, or merchandises or anticipates owning, producing, manufacturing, processing, or merchandising.

(ii) The potential change in the value of liabilities which a person owes or anticipates incurring, or

(iii) The potential change in the value of services which a person provides, purchases or anticipates providing or purchasing. Notwithstanding the foregoing, no transactions or positions shall be classsified as cover for the purposes of this section unless their purpose is to offset price risks incidental to commercial cash or spot operations and such positions are established and liquidated in accordance with sound commercial practices and unless the provisions of paragraphs (j)(2) and (3) of this section have been satisfied.

(2) *Enumerated Cover Transactions.* The definition of covered transactions and positions in paragraph (j)(1) of this section includes, but is not limited to, the following specific transactions and positions:

(i) Ownership or fixed-price purchase of any commodity which does not exceed in quantity the sales of the same commodity for future delivery on a board of trade or the purchase of a put commodity option of the same commodity for which the market value for the actual commodity or futures contract which is the subject of the option is less than the striking price of the option.

(ii) Fixed-price sale of any commodity which does not exceed in quantity the purchase of the same commodity for future delivery on a board of trade or the purchase of a call commodity option of the same commodity for which the market value for the actual commodity or futures contract which is the subject of such option is more than the striking price of the option; and

(iii) Ownership or fixed price contracts of a commodity described in paragraphs (j)(2)(i) and (j)(2)(ii) of this section may also be covered other than by the same quantity of the same cash commodity, provided that the fluctuations in value of the position for future delivery or commodity option are substantially related to the fluctuations in value of the actual cash position.

(3) *Non-Enumerated cases.* Upon specific request, the Commission may recognize transactions and positions other than those enumerated in paragraph (j)(2) of this section as cover in amounts and under the terms and conditions as it may specify. Any applicant or registrant who wishes to avail himself of the provisions of this paragraph (j)(3) must apply to the Commission in writing at its principal office in Washington, D.C. giving full details of the transaction including detailed information which will demonstrate that the transaction is economically appropriate to the reduction of risk exposure attendant to the conduct and management of a commercial enterprise.

6. By revising § 1.18 (b) and (c) to read as follows:

§ 1.18 Records for and relating to financial reporting and monthly computation.

* * * * *

(b) Each applicant or registrant must make and keep as a record in accordance with § 1.31, formal computations of his adjusted net capital and of its minimum financial requirements pursuant to § 1.17 as of the close of business each month. Such computations must be completed and made available for inspection by any representative of the Commission or designated self-regulatory organization, if any, within 30 days after the date for which the computations are made, commencing the first month end after the date the application for registration is filed or the first month end after (the effective date of this section).

(c) [Revoked]

7. By adding a new § 1.52, reading as follows:

§ 1.52 Self-regulatory organization adoption and surveillance of minimum financial requirements.

(a) Each self-regulatory organization must adopt minimum financial and related reporting requirements for all its member futures commission merchants by December 25, 1978. Such requirements must be the same as, or more stringent than, those contained in §§ 1.10 and 1.17 of this part, and the definition of adjusted net capital must be the same as that prescribed in § 1.17(c) of this part.

(b) Any two or more self-regulatory organizations may file with the Commission a plan for delegating to a designated self-regulatory organization, for any futures commission merchant which is a member of more than one such self-regulatory organization, the responsibility of:

(1) Monitoring and auditing for compliance with the minimum financial and related reporting requirements adopted by such self-regulatory organizations in accordance with paragraph (a) of this section; and

(2) Receiving the financial reports necessitated by such minimum financial and related reporting requirements.

Such a plan may also delegate the responsibility of examining the books and records kept by such future commission merchant relating to its business of dealing in: (A) Commodity futures and cash commodities, insofar as such business relates to its dealing on contract markets, as required by § 1.51(a)(3); or (B) commodity options and physical commodities, insofar as such business relates to its dealing on domestic commodity option exchanges, as required by § 32.5(g)(4).

(c) Any plan filed under this § 1.52 may contain provisions for the allocation of expenses reasonably incurred by the designated self-regulatory organization among the self-regulatory organizations participating in such a plan.

(d) A plan's designated self-regulatory organization must report to that plan's other self-regulatory organizations any violation of such other self-regulatory organizations' rules and regulations for which the responsibility to monitor, audit or examine has been delegated to such designated self-regulatory organization under this § 1.52.

(e) The self-regulatory organizations may, among themselves, establish programs to provide access to any necessary financial or related information.

(f) After appropriate notice and opportunity for comment, the Commission may, by written notice, approve such a plan, or any part of the plan, if it finds that the plan, or any part thereof: Is necessary or appropriate to serve the public interest; is for the protection and in the interest of customers; reduces multiple monitoring and auditing for compliance with the minimum financial rules of the self-regulatory organizations submitting the plan for any futures commission merchant which is a member of more than one self-regulatory organization; reduces multiple reporting of the financial information necessitated by such minimum financial and related reporting requirements by any futures commission merchant which is a member of more than one self-regulatory organization; fosters cooperation and coordination among the contract markets; and does not hinder the development of a registered futures association under section 17 of the Act.

(g)(1) Upon the approval of a plan or part thereof under § 1.52(f), a self-regulatory organization which is included in such a plan shall be considered to have met its affirmative action responsibilities under § 1.51 to the extent that such responsibilities have been delegated to a designated self-regulatory organization.

(2) After the Commission has approved a plan or part thereof under § 1.52(f), a self-regulatory organization relieved of responsibility must notify each of its members which is subject to such a plan: (A) Of the limited nature of its responsibility for such a member's compliance with its minimum financial and related reporting requirements; and (B) of the identity of the designated self-regulatory organization which has been delegated responsibility for such a member.

(h) The Commission may at any time, after appropriate notice and opportunity for hearing, withdraw its approval of any plan or part thereof established under this § 1.52, if such plan or part thereof ceases to adequately effectuate the purposes of section 4f(2) of the act or of this § 1.52.

(i)(1) If a futures commission merchant holding membership in a self-regulatory organization ceases to be a member in good standing of that self-regulatory organization, such futures commission merchant must, on the same day that event takes place, give telegraphic notice of that event to the principal office of the Commission in Washington, D.C.

(2) Whenever a futures commission merchant holding membership in a self-regulatory organization ceases to be a member in good standing of that self-regulatory organization, such self-regulatory organization must, on the same day that event takes place, give telegraphic notice of that event to the principal office of the Commission in Washington, D.C., send a copy of that notification to such futures commission merchant, and notify such futures commission merchant of its responsibilities under paragraph (i)(1) of this section.

(j) Nothing in this § 1.52 shall preclude the Commission from examining any futures commission merchant for compliance with the minimum financial and related reporting requirements to which such futures commission merchant is subject.

(k) In the event a plan is not filed and/or approved for each futures commission merchant which is a member of more than one self-regulatory organization, the Commission may design and, after notice and opportunity for comment, approve a plan for those futures commission merchants which are not the subject of an approved plan (under para-

graph (f) of this section) delegating to a designated self-regulatory organization the responsibilities described in paragraph (b) of this section.

(7 U.S.C. 6c, 6f, 6g, 7a, 12a and 17.)

* * * * *

Issued in Washington, D.C., on April 5, 1978, by the Commission.

WILLIAM T. BAGLEY,
Chairman,
Commodity Futures Trading Commission.

[FR Doc 78-9400 Filed 4-7-78; 8:45 am]

Mr. DECONCINI. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Senator from Massachusetts (Mr. KENNEDY).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR EDWARD M. KENNEDY ON THE AMENDMENT TO THE BANKRUPTCY BILL TO ALLOW REAFFIRMATION OF LAWFULLY DISCHARGED DEBTS

The over-600 page bill on each of our desks today is the result of years of efforts to modernize, reform, and make uniform our federal bankruptcy laws. The Senator from New Mexico (Mr. DeConnini) and the Senator from Wyoming (Mr. Wallop) are to be commended for the tremendous amount of time and energy they have put into this undertaking.

The result is an important and impressive piece of legislation. In addition to its attention to the procedures and institutions upon which a fair and effective bankruptcy system must be founded, this bill also attempts to make bankruptcy a more effective remedy for the consumer debtor. The basic principle embodied in the bill is that once a person has gone through bankruptcy, he or she should be given a truly fresh start. But, Mr. President, that is precisely the principle most offended by the amendment to section 524 to allow general reaffirmation of discharged debts.

The efforts by lending firms to reinstate their power to have new life breathed into discharged debts are, to me, unconscionable. The arguments for this amendment are simply devoid of merit. The practice of seeking reaffirmation permits unscrupulous and powerful lenders to force persons to reaffirm lawfully discharged debts through job pressure, deceit, and the temptation of an offer of further credit. It should be of no importance to careful, ethical businesses.

The primary justification for allowing bankruptcy discharges of debt is the fresh start it provides to persons who have become so burdened with debt that they are unable to function energetically and effectively in society. Reaffirmations are totally at war with this objective.

Some lenders have argued that reaffirmations are needed to make it easier for bankrupts to get further credit. The weakness of this position should be obvious. In the first place, permitting finance companies to condition the extension of further credit on the reaffirmation of a debt invites an outrageous evasion of state usury laws. In many instances, the lender will actually obtain what comes to interest in excess of 100% when both the costs of reaffirming the legally discharged debt plus the legal interest rate are considered. Do we really want to encourage individuals who have just put the public and other creditors to the expense of bankruptcy proceeding to assume that sort of obligation?

Secondly, I do not think we should encourage people who have just been through bankruptcy to begin immediately seeking credit with finance companies. We must assume that the inability to resist or to manage debt obligations was the cause of the initial bankruptcy in a large number of cases.

Finally, establishing new credit on the basis of a reaffirmation to one lender obviously puts the discharged bankrupt in a far worse position to assume and satisfy obligations to other businesses.

Generally, creditors work with each other and the debtor by deferring collection attempts and settling claims for less than their full value to help the debtor avoid bankruptcy. The creditors do this, of course, in their own interest because they want to avoid losing their entire claim in bankruptcy. Obviously, however, a firm which has hopes of recovering money through manipulation of reaffirmations has a far less incentive to assist and cooperate with the other creditors. We can safely assume that such lenders are more likely to pursue their individual claim aggressively without regard to whether that effort will eventually cause a declaration of bankruptcy.

Despite absurd claims to the contrary by some lenders, S. 2266, as now amended, would not deny debtors the right to satisfy their conscience by paying off discharged debts. There is nothing in the bill to prohibit a debtor from voluntarily making payments if he chooses or feels a moral obligation to do so.

In my view this issue is non-ideological and non-partisan. It arises only because of the efforts of a small group of creditors to maintain a legal sanction of their efforts to evade the intent of the bankruptcy laws.

I thus strongly oppose any attempt to delete my amendment to section 524.

Mr. BARTLETT. Mr. President, do I have any time remaining?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. BARTLETT. Mr. President, will the distinguished Senator from Maryland advise whether he needs additional time?

Mr. MATHIAS. I thank the Senator very much and I appreciate it, but I do not need additional time.

Mr. DECONCINI. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DECONCINI. Mr. President, I yield back the remainder of my time on the amendment.

Mr. BARTLETT. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Oklahoma.

On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

(Mr. METZENBAUM assumed the chair.)

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mr. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Delaware (Mr. BIDEN), the Senator from North Dakota (Mr. BURDICK), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Montana (Mr. HATFIELD), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I further announce that the Senator from Massachusetts (Mr. KENNEDY) is absent on official business.

I also announce that the Senator from Rhode Island (Mr. PELL) is absent because of illness.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Rhode Island (Mr. PELL) would each vote "yea."

Mr. CURTIS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Massachusetts (Mr. BROOKE), the Senator from New Jersey (Mr. CASE), the Senator from Rhode Island (Mr. CHAFEE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Oregon (Mr. HATFIELD), the Senator from North Carolina (Mr. HELMS), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 51, nays 20, as follows:

[Rollcall Vote No. 373 Leg.]

YEAS—51

Bartlett	Hansen	Riegle
Bellmon	Hatch	Roth
Bumpers	Hayakawa	Sarbanes
Byrd, Harry F., Jr.	Heinz	Sasser
Byrd, Robert C.	Hollings	Schmitt
Cannon	Huddleston	Schweiker
Chiles	Inouye	Scott
Church	Jackson	Sparkman
Curtis	Leahy	Stennis
DeConcini	Lugar	Stone
Dole	Magnuson	Talmadge
Ford	Mathias	Thurmond
Garn	Matsunaga	Wallop
Glenn	Melcher	Weicker
Goldwater	Morgan	Young
Gravel	Moynihan	Zorinsky
Griffin	Nunn	
	Packwood	

NAYS—20

Bayh	Eagleton	Metzenbaum
Bentsen	Hart	Muskie
Clark	Hathaway	Nelson
Cranston	Hodges	Proxmire
Culver	Javits	Ribicoff
Danforth	Long	Williams
Durkin	McGovern	

NOT VOTING—29

Abourezk	Haskell	McIntyre
Allen	Hatfield, Mark O.	Pearson
Anderson	Hatfield, Paul G.	Pell
Baker	Helms	Percy
Biden	Humphrey	Randolph
Brooke	Johnston	Stafford
Burdick	Kennedy	Stevens
Case	Laxalt	Stevenson
Chafee	McClure	Tower
Domenici		
Eastland		

So the amendment (UP No. 1821) was agreed to.

Mr. BARTLETT. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HANSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

● Mr. LONG. Mr. President, S. 2266 provides the first overall revision of the bankruptcy laws since 1938, in light of major changes in debtor-creditor relations during this period. The bill was reported by the Finance Committee on August 10, 1978.

S. 2266 was referred to the Finance Committee for its consideration and recommendations concerning several tax-related sections of the bill. These provisions deal with such subjects as defining the tax claims against the debtor's estate which are entitled to priority and nondischargeability, determining the tax liabilities of a debtor in bankruptcy, and clarifying the jurisdiction of different courts to rule on tax issues. The bill reported by the Finance Committee includes the results of its consideration of these matters, as well as additional technical and conforming amendments.

S. 2266 does not contain amendments to the Internal Revenue Code dealing with substantive tax issues arising in bankruptcy. A separate bill is now pending in the House, H.R. 9973, containing amendments designed to conform the tax rules to the bankruptcy changes we are considering today. H.R. 9973 was introduced on November 3, 1977, by members of the House Judiciary Committee and was referred to the Committee on Ways and Means, which held a hearing on the bill on February 22, 1978. We anticipate that Congress will act on these substantive tax issues early next year. Since the general effective date for S. 2266 is October 1, 1979, we have sufficient time to make the necessary code amendments so that all the new rules will become effective at the same time.

Mr. President, the Departments of the Treasury and of Justice have no objections to S. 2266, as amended by the Finance Committee. I urge its passage.●

Mr. STENNIS. Mr. President, will the Senator from Arizona, for an emergency matter, yield me 5 minutes?

Mr. DECONCINI. Mr. President, I am more than happy to yield 5 minutes to the Senator from Mississippi.

S. 3486—DEPARTMENT OF DEFENSE AUTHORIZATIONS, 1979

Mr. STENNIS. Mr. President, I appreciate the Senator's yielding to me. This is on an extraneous matter. Mr. President, may I have the attention of the Chair?

The PRESIDING OFFICER. The Senate will be in order.

Mr. STENNIS. Mr. President, if I may announce to the Senate, the House of Representatives has just voted on the veto of the military authorization bill which, as Senators know, is the basis for the appropriation bill for the Department of Defense. By a vote of 191 for overriding to 206 against overriding, the veto was sustained. This means that this is the end for that bill; it is null and void, and a new start must be made.

I ask unanimous consent, Mr. President, at this time and out of order, to introduce a bill authorizing the military program for fiscal year 1979. The bill as now drafted will be the bill that has just been vetoed, with the nuclear carrier taken out. I will have a short statement here of explanation. Do I have the unanimous consent to introduce the bill out of order?

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. STENNIS. I thank the Chair.

Mr. President, in view of what has happened, we must now move forward with providing for the common defense. The new fiscal year begins October 1, only 3 full weeks away. We must not delay this authorization bill or the subsequent defense appropriation bill, and thereby force reliance on a continuing resolution for an extended period. That will certainly not benefit the country or any group in it.

I strongly favor the idea of simply taking the nuclear carrier out of the previously agreed to conference report and passing a new bill without further change. Of course, our committee will call on the administration and give them a chance to make recommendations, but I trust that they will limit their requests to actual emergency matters. I will confer, of course, with the members of the full committee. We simply should not hold up authorization and appropriation bills for fiscal year 1979 any longer. Therefore, this is the reason that I have introduced in the Senate today a new fiscal year 1979 defense authorization bill, which, as I have said, is simply the conference report as vetoed, less the nuclear carrier.

Mr. President, it has been generally agreed that the bill that was passed was a balanced bill, that it contained necessary items, largely, and few, if any, unnecessary items. I have no resentment, but we must get to work and pass a bill. The appropriations bill is just suspended in midair, neither fish nor fowl, so far as the authorizations are concerned.

I appreciate this unanimous consent being granted. We can move right along on this bill.

I see the majority leader is here, and I will be glad to yield to him.

Mr. ROBERT C. BYRD. Mr. President, I wish to express my appreciation to the Senator from Mississippi, the chairman of the Armed Services Committee, for the approach he is taking in this matter. He strongly supported the nuclear carrier, and in view of the fact that that seems to have been the main bone of contention that created the veto, and in view of the fact that the House has sustained the veto, I think the distinguished chairman is being very realistic in a number of ways.

First of all, he is introducing a bill promptly. That bill leaves out the carrier, which was the problem. Also, he is suggesting, as I understand it, that we move quickly to act on the bill, not go into all the background, going from the bottom up, starting all over again. I am glad that he takes that viewpoint, because if the Senate is to complete its work and not come back after the election, I would say that mid-October is about the best we can do. That only leaves 5 weeks after this week. That does not give time to go back and thresh out all of the things which have already been very meticulously looked at by the chairman and his committee, and keeping in mind that an appropriations bill does come behind this authorization bill. So we do have to act with deliberate speed here.

The chairman is taking this approach. I commend him for it, and I support him in it.

Mr. STENNIS. I thank the leadership.

I have limited time. I see the Senator from Colorado seeking recognition. I yield 1 minute.

Mr. DECONCINI. I yield 2 minutes to the Senator from Colorado.

Mr. HART. Mr. President, I also commend the chairman for his action and underscore the words of the majority leader. Unfortunately, the Senate does not have the final authority in this matter and must agree with the House on any bill which we pass. The House has already served notice on us in the Senate and in the White House that it may work a good deal of havoc on the bill that we are talking about here. The bill that the President vetoed had a very carefully constructed compromise which addressed and solved the carrier problem once and for all. By vetoing this bill I am afraid the President has committed all of us to a very, very difficult situation. As admirable as the chairman's efforts might be, they may not be met with favor in the House.

I intend to approach our colleagues on the Armed Services Committee with a proposed compromise which I believe will be acceptable to the administration and the House of Representatives. I hope our colleagues in the Senate will pay some attention to this compromise which attempts to accommodate everybody's point of view, although it will not be ideal, probably, to any of the parties.

I am afraid the chairman's efforts will meet with some very difficult times in the House of Representatives.

Mr. STENNIS. I thank the Senator. We have to work out our matters here the best we can. We always meet with the House in the right frame of mind, I believe, and are able to get adjustments to bring back a bill.

Time is of the essence here. I believe we must recognize our goal and our mission. We will have differences, of course, which we hope we can straighten out.

I am disappointed that the President's veto of the Department of Defense fiscal year 1979 authorization bill was not overridden, because I believe it was a sound and balanced bill. The bill contains many new initiatives for each of the military services. All of the items in this bill were gone over carefully for months by the Congress, as well as the executive branch, and all of the items except for the nuclear carrier represent a broad agreement and consensus as to the many, many aspects of our defense program which are contained in this bill.

We must now move forward with providing for the common defense. The new fiscal year begins October 1—only 3 full weeks away. We must not delay this authorization bill or the subsequent defense appropriations bill and thereby force reliance on a continuing resolution for an

extended period. That will not benefit the country or any group in it.

I strongly favor the idea of simply taking the nuclear carrier out of the previously agreed to conference report and passing a new bill without further change. I will, of course, call on the administration and give them a chance to make recommendations, but I trust they will limit their request to actual, urgent emergency matters. I shall confer, of course, with all the members of the full committee. We simply should not hold up the authorization and appropriation bills for fiscal year 1979 any longer.

Therefore, I am introducing in the Senate today a new fiscal year 1979 defense authorization bill which is simply the conference report as passed by the House and Senate with the nuclear carrier taken out. I believe the real choice we have is to follow this simple approach rather than attempt to rewrite this entire, massive bill which may take months, delay the appropriation bill further, and require extensive reliance on unsatisfactory continuing resolutions.

BANKRUPTCY REFORM ACT OF 1978

The Senate continued with the consideration of the bill.

Mr. DECONCINI. Mr. President, I know of no further amendments.

Mr. WALLOP. Mr. President, I know of no further amendments on the minority side.

Mr. DECONCINI. Mr. President, I ask for a third reading.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 8200 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The second assistant legislative clerk read as follows:

A bill (H.R. 8200) to establish a uniform law on the subject of bankruptcies.

The PRESIDING OFFICER. Without objection, the Senate will proceed immediately to the consideration of the bill.

Mr. DECONCINI. Mr. President, I ask that all after the enacting clause of H.R. 8200 be stricken and that the text of S. 2266, as amended, be inserted in lieu thereof.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Arizona.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 8200), as amended, was passed.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WALLOP. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make clerical and technical corrections in the engrossment of the Senate amendments to H.R. 8200.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Senate insist upon its amendments and request a conference with the House and that the appointment of conferees be deferred at the pleasure of the Chair.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. DECONCINI. Mr. President, I would like to take a moment to thank the staff of the Senate subcommittee, Romano Romani and Bob Feidler, for their export work and reaffirm my thanks and appreciation to my colleague (Mr. WALLOP) and Harry Dixon of his staff. I would also like to thank Senator LONG and the Committee on Finance for their expeditious handling of the sequential referral of S. 2266. My thanks also to the staff of the Joint Tax Committee, particularly Dick Bacon and Jim Billinger, for their advice on tax aspects of the bill.

Mr. WALLOP. Mr. President, I would also like to add my thanks and admiration particularly to Romano Romani and Bob Feidler, of Senator DECONCINI's staff; to Harry Dixon, whose work as a consultant to the minority was invaluable to everybody in constructing this bill and, of course, to Pat Hoff, of my own staff, whose help has been most rewarding.

I thank the distinguished Senator from Arizona for all of the courtesies extended to me.

Mr. DECONCINI. Mr. President, I ask unanimous consent that S. 2266 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

JUDICIAL TENURE ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order 957, which was called up earlier this morning but which was set aside.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1423) to establish a Council on Judicial Tenure in the judicial branch of the Government, to establish a procedure in addition to impeachment for the retirement of disabled Justices and judges of the United States, and the removal of Justices and judges whose conduct is or has been inconsistent with the good behavior required by article III, section 1 of the Constitution.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. Who yields time?

Mr. DECONCINI. Mr. President, I yield myself the necessary time.

Mr. President, it is with great pleasure that I initiate discussion of S. 1423, as amended, the proposed Judicial Tenure Act. The bill was introduced on April 29, 1977, by my distinguished colleague from Georgia (Senator SAM NUNN). However, legislation of this type is not new to the Senate. Similar bills were introduced in the 90th and 91st Congresses by Senator Joseph Tydings. Senator NUNN renewed these efforts in the 93rd and 94th Congresses. Since 1965, the Subcommittee on Improvements in Judiciary Machinery has heard from 50 witnesses in approximately 20 days of extensive hearings. Seldom has any proposal received such lengthy and focused attention.

The past decade of struggle for this much-needed improvement in our judicial system culminated this year, as the Senate Judiciary Committee reported S. 1423 with virtually no dissent. I believe time has molded this legislation into a procedure for monitoring the Federal judiciary which is both more practical than existing impeachment powers, and fully supported by the Constitution.

Mr. President, I want to take this opportunity to thank Senators ABOUREZK, KENNEDY, THURMOND, AND WALLOP for their participation and the assistance of their staff in the consideration of this bill. Without the bi-partisan support this measure has received, this proposal would not be before us today.

This bill is demanded by a public who is increasingly skeptical of our political institutions. All branches of Government must account for their actions, but it is especially critical that our Nation's courts be beyond any doubt. Although most Americans have a high regard for the overall integrity of the Federal judiciary, the publicity surrounding the activities of a few U.S. judges has provided ample opportunity for such doubt to arise. We owe constituents an accessible means of protesting judicial conduct that is inconsistent with the behavior required by the Constitution. Conversely, we owe Federal judges an alternative to the stigma attached to impeachment proceedings, in those cases where aberrant behavior is the innocent product of a poor mental or physical condition.

Historically, Congress has been reluctant to use the drastic measure of impeachment. Only eight Federal judges and one Supreme Court Justice have been impeached by the House of Representatives. Of those, only four judges were convicted by the Senate and removed from office. The last conviction took place in 1936. One reason for this reluctance is the fact that impeachment is a complex, slow, and cumbersome process that absorbs an incredible amount of time in both Houses of Congress. For example, Senate impeachment trials have continued for as long as 6 weeks. The average trial lasts 16 days. For many years, lawmakers have been unable to divert their time and attention from legislative work that grows with each session, and the impeachment process has fallen into disuse. Because it is not used, impeachment has ceased to be

a real deterrent to misconduct on the bench.

These developments come at a time when the total number of Federal judges is increasing rapidly. Present law authorizes 525 active judges and justices. However, a significant number of judges have taken senior status while continuing to serve in a judicial capacity. Thus, approximately 660 judges now serve in the judicial system. In addition, there is pending legislation in this Congress to create 152 additional circuit and district judges. The Federal Judicial Center predicts a need for 1,000 district judges and 250 circuit judges by 1990. Clearly, we face a judicial body that will soon be twice its present size. The impeachment process is inadequate now; future reliance upon it as the only viable procedure for inquiry into alleged misconduct is unrealistic.

Under the proposal, any person could file a complaint alleging judicial misconduct or a permanent mental or physical disability. The filed complaint, if not found to be frivolous, would be transmitted to a committee in each circuit or each of the special national courts. Upon completion of its preliminary investigation, the committee will prepare a recommendation to a newly created Commission which is known as the Judicial Conduct and Disability Commission. Depending on the nature of the recommendations, the Commission will either dismiss the case, or, upon its investigation, file a report with a newly created Court on Judicial Conduct and Disability.

The Court on Judicial Conduct and Disability will hold a hearing which conforms to specified due process requirements and either order the removal, censure, involuntary retirement, or dismissal of the case. Due to the uniqueness of the Supreme Court, the Court on Judicial Conduct and Disability can either prepare a report to the House of Representatives recommending that the Justice be impeached or censured or dismiss the case. I believe these proposed procedures will allow a growing judicial branch to better cope with increasing demands of the future.

Nonetheless, questions have arisen regarding the constitutionality of this legislation. Most of the doubts have arisen from the view that impeachment is the only method of investigating and remedying judicial conduct that is expressly authorized under the Constitution. The argument is based on a very literal reading of the Constitution and claims support from the Federalist Papers, as well as the well-established principle of the independence of the judiciary. In analyzing the constitutional arguments, both for and against the bill, however, I have come to the conclusion that the language of the Constitution ultimately lends support to this proposal. The need for the Judicial Tenure Act is reflected in the framer's sanction that Federal judges "shall hold their offices during good behavior." This is the only explicit reference to any standard of conduct expected of Federal judges. I believe the words "good behavior" were not intended to mean simply the absence of impeachable conduct. The "good behavior" requirement describes a condition which must prevail if a judge is to retain his office. Unless a truly viable mechanism exists for removing judges who have not committed an impeachable offense, but have, nevertheless, substantially departed from good behavior, a significant gap exists between the impeachment power as presently exercised and the constitutional prescription for judicial conduct. I believe the framers knew what they wanted and said it. This legislation is in full accord with that view.

In order to insure that we not only implement the apparent wishes of the framers, but also do not impinge upon judicial independence or any other constitutional imperative, such as separation of powers, the Judicial Tenure Act provides that the Federal judiciary itself will be responsible for examining and acting upon filed complaints. Of course, impeachment should remain as an available alternative. However, a reasonable reading of the Constitution does not lead to the conclusion that impeachment is the only means of removing a Federal judge. We should not require that a judge commit "high crimes or misdemeanors" before he or she will be subject to a removal procedure. A Federal judge occupies too important a position of public trust to allow "bad behavior" to go unnoticed. In my view, "high crimes and misdemeanors" represent one special category of "bad behavior." The "good behavior" standard is the criterion by which judges must finally be evaluated.

The doctrine of separation of powers implies the plenary power of each branch of Government to implement its own functions. Only where the Constitution specifically provides otherwise is there an exception to the general principle. Inherent in this doctrine is the power of each branch to remove unfit members of that branch. I recognize that the opponents of this view suggest that if the framers had wished to give each branch power over its members, they would have said so.

The theme of judicial independence really comes in two forms. One is the matter of judicial independence from interference from the other two branches. The other, however, is a broader question, and seems to be the one raised by most laymen, including a recent New York Times editorial.

Independence in the traditional sense is a corporate concept that involves the judiciary as a branch and its relations with the other branches. Prof. Raoul Berger has noted that:

All remarks in the several conventions that bear on judicial independence, as far as I could find, referred to freedom from legislative and executive encroachments. No one suggested that judges must be immune from traditional judicial conduct.

I might add that Professor Berger supports the legislation and finds nothing in it antithetical to any provision of the Constitution.

Our legislation clearly preserves judicial independence in this traditional sense. Because the mechanism we have created lies entirely within the judicial branch itself, there is no reasonable way to argue that it weakens the corporate independence of the judiciary vis-a-vis the legislative or executive branches.

In all fairness, however, I believe that our critics are more concerned with a far broader question—that is, the independence of an individual judge from any pressure whatsoever, be it from his or her peers or anyone else. They argue that judicial independence can only be preserved by condoning all sorts of activities that may bring the bench into disrepute, and tell us that this license and ultimate irresponsibility is the price we must pay to maintain independence. This is a viewpoint that I heartily reject as inconsistent not only with the Constitution, but with the prevailing values of our society.

The only way in which this argument can be made against the Judicial Tenure Act is to assert that the independence of individual judges will be threatened by other judges. In our bill, judges sit in judgment of other judges in much the same way as they do in the appeals process. Of course, in a proceeding under our act, the final outcome can be removal from office, not merely reversal. However, such a decision can only be reached if it is demonstrated by "clear and convincing" evidence that a judge committed a major breach of "good behavior." Ultimately, any action taken against a judge by our Court on Judicial Conduct and Disability is reviewable by the Supreme Court. Throughout the procedure, the greatest care is taken to insure that, even under the "worst case" scenario, there is no chance for abuse. We provide in the act, for example, that "complaints relating to the merits of any decision or procedural ruling of a judge are outside the jurisdiction of the Commission."

Logically, the only fears that these critics could have is that brother judges might wish to influence one of their number who espouses views contrary to their own. How this might be accomplished in the context of the bill is unclear. First, complaints are lodged by individual citizens. Second, they undergo a careful screening process to insure that they fall within the scope of the legislation. A decision must be made to pursue the matter before the Court on Judicial Conduct and Disability by the Commission set up for that purpose and composed of judges representing the eleven circuits and three national courts.

The Court on Judicial Conduct and Disability, also composed of judges, can remove a judge if the complaint is deemed valid in a proceeding where the accused judge is represented by counsel. We were particularly sensitive at every juncture to create a bill that would be above criticism. For example, we specifically did not give the judicial council of each circuit a broader role because of the possibility that we might be criticized for allowing judges who work reasonably closely with one another to adjudicate each other's behavior.

all respects enhance the Federal judicial Tenure Act, and I believe it will in all respects enhance the Federal judiciary and make a positive contribution

to the quality of American justice. I am convinced that there is a need for this legislation, and that it is long, long overdue. I have examined all the possible constitutional arguments and am totally convinced—as are the judicial conference, the ABA, the Justice Department, the American Judicature Society, and many individual judges and lawyers throughout the country—that this legislation is totally within the letter and spirit of the Constitution.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I yield myself such time as I may require.

Mr. President, the bill which we consider today—establishing a procedure in addition to impeachment for involuntary retirement, removal, and censure of members of the Federal judiciary—is a most important one. Since the founding of our country and the drafting of its Constitution, the impeachment process has been the sole means utilized to remove those judges whose conduct was deemed to be inconsistent with constitutional requirements. Several scholars, writing in the first 50 years after ratification of the Constitution, expressed their belief that impeachment was the only method for removal of Federal judges. Many commentators today are of that same opinion.

The continued use of impeachment as a sole means of removing Federal judges, however, presents greater practical difficulties today than in 1789. Impeachment is a cumbersome, time-consuming process. The removal of even a single district court judge could conceivably tie up both Houses of Congress for a significant period of time. Attorney General Bell, in his testimony before the Subcommittee on Improvements in Judicial Machinery on September 14, 1977, stated that:

> Not every judge who perhaps should be impeached can be impeached . . . Congress does not have that much time.

As a result of its cumbersome nature, impeachment does not act as a real deterrent to misconduct on the bench. These time considerations will loom still larger in future years as the legislative load of Congress increases and the number of Federal judges also climbs upward.

Historically, impeachment has been an infrequently utilized process. Eight judges have been impeached and tried, with the resulting convictions of four—the last conviction occurring in 1936. The potential need for legislation such as S. 1423 is demonstrated by the problems and controversy surrounding Judges Chandler and Ritter and the attempted impeachment of Justice Douglas.

Public confidence in the Federal judiciary would be enhanced by a disciplinary system such as that created by S. 1423 which provides standards for evaluating judicial performance and procedures for enforcing them. S. 1423 also provides for public participation in the disciplinary process by allowing anyone to file a complaint with the Commission. This provides a simple mechanism for citizens to express their grievances concerning Federal judges and justices. Any complaints which relate to the merits of a decision or procedural ruling of a judge or justice are, however, beyond the scope of this legislation.

Also beyond the scope of S. 1423 are complaints concerning a condition or any conduct of a judge which is not connected with his office or which does not prejudice the administration of justice by bringing the judicial office into disrepute. S. 1423 provides for a small permanent Commission staff to receive and initially screen all complaints. The experience of the States with similar systems indicates that a large majority of complaints will probably be dismissed at this point in the process. Therefore, members of the Federal judiciary will not be inundated by complaints which pertain to the merits of their decisions and thus are outside the scope of S. 1423.

The vast majority of States, including my own State of South Carolina, have established similar disciplinary systems. New York did so in 1947. The California system, which has served as a model for many other States, was established in 1960. The overwhelming support of such legislation by the States indicates both the practical need for it and, in view of the length of time that some systems have been in operation, the feasibility of it.

The constitutionality of removing Federal judges by means other than impeachment is the most important issue raised by this legislation. Article II, section 4, provides that the President, Vice President, and all "civil officers" shall be removed from office "on Impeachment For, and Conviction of Treason, Bribery, or Other High Crimes or Misdemeanors." Opponents argue that, by virtue of the maxim "expressio cerius exclusion alterius," the Constitution prohibits any other means of removal. The language of article II, section 4, has not, however, been interpreted as exclusive in other contexts.

The first Congress determined that the President had the power to remove "civil officers" within the executive branch. The impracticality of dealing with the misconduct of any of hundreds of civil officers by the impeachment procedure could not be ignored. Also, the Supreme Court held in 1897 that the President could remove a U.S. attorney despite the impeachment clause of article II. If impeachment is not the exclusive means for removing certain civil officers, it would seem illogical to maintain that it is the exclusive means for removing Federal judges. Finally, if the framers had intended impeachment to be the exclusive means, they could easily have so provided.

Perhaps the crux of the argument supporting the constitutionality of S. 1423 is that the language of impeachment is contained in the executive article. Article III, the judicial article, includes no language regarding impeachment or any other means of removal for that matter. It simply provides that "Judges, both of Supreme and Inferior Courts, shall hold their offices during good Behavior." The grounds for impeachment set forth in article II and the good behavior standard prescribed by article III are apparently two distinct standards. At common law, impeachment was a criminal proceeding conducted in Parliament on charges of "treason, high crimes and misdemeanors."

Moreover, this language was regarded as having a technical limited meaning encompassing only very serious offenses. "Good behavior" also had a particular meaning of common law. This type of tenure in office is commonly associated with the Act of Settlement (1700) which granted judges tenure for so long as they conducted themselves well. Thus, "good behavior" was regarded as the broader of the two standards—encompassing a wider range of misbehavior than that included within the terms "Treason, Bribery, and Other High Crimes and Misdemeanors."

Furthermore, removal of officers having "good behavior" tenure was accomplished by a judicial, rather than by a legislative proceeding. The common law writ of scire facias was used to initiate a civil proceeding for the forfeiture of the office in which termination was declared by the judiciary.

Arguably, when the framers utilized a term of art such as "good behavior" without indicating that they were using it in a novel fashion, they assumed that similar procedures to those at common law would be used to remove those judges who violated the "good behavior" standard. The present legislation provides for a means of removal analogous to the common law system for removing violators of the good behavior standard in that S. 1423 establishes a disciplinary system within the judicial branch itself. I believe that S. 1423, in providing a procedure to judicial enforcement of the good behavior standard, is a proper exercise of the "necessary and proper" clause (article I, section 8) of the Constitution.

Mr. President, S. 1423 would afford a fair, efficient alternative to the more cumbersome process of impeachment. This legislation has been endorsed by the Judicial Conference of the United States, the American Bar Association, the Department of Justice, the American Judicature Society, the National Association of Attorneys General, Attorney General Griffin Bell, and other legal scholars and Federal jurists.

I would like to thank Senator DECONCINI, chairman of the Subcommittee on Improvements in Judicial Machinery, and his staff for the fine work which they have done on this legislation. I would also like to offer my appreciation to Senator WALLOP, ranking minority member of the subcommittee, for the commendable job he has done in managing this legislation for the minority. Finally, I ask that my distinguished colleagues support this needed legislation of which I am a cosponsor.

Mr. BAYH addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Who yields time?

Mr. BAYH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAYH. Who is in charge of the time on this side of the issue?

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I do not know how much time the Senator from Maryland has.

Mr. MATHIAS. I do not have any time.

Mr. DECONCINI. The Senator has no time.

I yield whatever time the Senator wants.

Mr. BAYH. That is fine.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAYH. I ask for clarification. What is the time allocation?

The PRESIDING OFFICER. Six hours on the bill, and 1 hour on amendments in the first degree.

Mr. BAYH. I accept the gracious offer of my distinguished friend from Arizona.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. NUNN. Will the Senator yield at some point? I would like to make a statement.

Mr. BAYH. I yield to the Senator from Georgia. I did not see he was prepared.

Mr. NUNN. It is not necessary now. The Senator can go right ahead.

Mr. BAYH. I would just as soon wait. I have a couple more notes to make.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, first of all, I want to thank the chairman of the Subcommittee on Improvements in Judicial Machinery (Mr. DECONCINI) for his yeomanlike efforts in refining this legislation, which I introduced several years ago, and guiding it through the Judiciary Committee.

I also want to commend Senator WALLOP for his great help and assistance as the ranking minority member, as well as Senator THURMOND, who is the ranking minority member of the full committee.

Without the work of Senator DECONCINI, Senator WALLOP, and Senator THURMOND, and also the able assistant of Senator DECONCINI, Mr. Mike Altier, we would not be debating this bill today.

Mr. President, I am extremely pleased that the Senate is today considering what I believe is a very significant judicial reform—the Judicial Tenure Act. At the outset, I would like to take this opportunity to thank the chairman of the Subcommittee on Improvements in Judicial Machinery, Senator DECONCINI, for his yeomanlike efforts in refining this legislation and in guiding it through the Judiciary Committee. Without the work of Senator DECONCINI and his able assistant, Mike Altier, we would not be debating this bill today.

The concept embodied in this bill is not a new one. Serious congressional hearings have been conducted on the subject since the 1930's and a principle similar to that contained in S. 1423 has been before the Senate for over 10 years. While the Judicial Tenure Act does not represent an entirely new concept, it does represent a concept whose time has come.

S. 1423 would establish a procedure, within the Federal judiciary, to investigate allegations that a Federal judge is not conforming to the constitutional standard of good behavior or that a judge is suffering from a permanent mental or physical disability that seriously interferes with the performance of his official duties. This legislation, which has become known as the Judicial Tenure Act, provides for the removal, censure or involuntary retirement of a Federal judge in the event that allegations of that kind prove to be meritorious. I introduced the Judicial Tenure Act in the 93d Congress as S. 4153 and in the 94th Congress as S. 1110 and the legislation which we are discussing today, with a few constructive alterations, is substantially the same as those bills.

Many lessons should be learned from the recent experiences of the Watergate era. We were reminded that power can intoxicate its holders, and be abused by the highest governmental officials in this Nation. We all must recognize the unfortunate fact that public confidence in Government has been eroded over the past few years for many reasons, and it will continue to decline unless affirmative steps are taken, in each branch of Government, to stimulate renewed trust in public officials and institutions.

The daily news reports are replete with accounts of the new disclosure requirements being imposed on Presidential appointees and of the implementation of Members of Congress. It is imperative that all governmental officials act to restore and maintain the public trust. I believe very strongly that in no branch of government is the public confidence and respect more vital than in the Federal judiciary.

It would be exceedingly shortsighted to focus reform efforts on insuring that members of the executive and legislative branches of our Federal Government conform to legal, moral and ethical standards of the highest order and, at the same time, to ignore the conduct and capabilities of members of the branch of Government which possesses the authority to interpret, delay, and discontinue the actions of the other two. As now Attorney General Griffin Bell stated during hearings on S. 1110,

> We are living in a time when our public institutions are under examination and the courts are not exempt. A citizen should be afforded a clear method for complaining against the courts.

Our appointed Federal judges enjoy a high degree of independence; they are not required to answer periodically to the electorate, as are the President and Members of Congress. Although the need for a substantial degree of judicial independence is clear, experience has vividly demonstrated that no one person, or group of people, can be assumed perfect and therefore left completely unchecked. Despite the overall competence and integrity of members of the Federal judiciary, an occasional judge does misbehave or become physically or mentally disabled and yet continues to exercise the authority of his office. This problem has motivated my study of the subject of judicial tenure and discipline and my introduction of this legislation.

Historically, the sole procedure which has been employed to remove a Federal judge who has misbehaved (or is disabled), for one reason or another, has been the impeachment power which is housed in articles I and II of the Constitution. A few selected statutory provisions, which generally provide administrative authority with regard to the operation of the Federal judiciary, have also been suggested as potential sources of additional disciplinary authority.

When America's Founding Fathers, in addition to requiring impeachment for the President and Vice President, provided for the impeachment of "civil officers," a term which has been interpreted to include Federal judges, they envisioned a nation comprised of 13 States with a Federal judiciary and a Congress of commensurate size and responsibility. During the course of the recently completed second session of the 94th Congress, in excess of 870 measures were passed by the U.S. Congress and 700 rollcall votes were cast in the Senate. It is unreasonable, to say the least, to assume that the House and Senate could or should lay aside all legislative business for weeks or months in order to impeach and try an obscure, yet misbehaving judge. Present law authorizes 525 Federal judges with an additional 168 retired or senior judges, a number infinitely larger than originally authorized. As you well know, Mr. President, a substantial increase in this authorization will be enacted in the near future.

The analogy of impeachment to a heavy piece of artillery, which was made by Lord Bryce, is eminently appropriate. The impeachment procedure is cumbersome and ponderous and is only practical in the most serious and flagrant cases of abuse. As a result, indiscretions which should be addressed are regularly ignored. Commonsense requires that a balance be struck between the necessity for institution of impeachment proceedings and the resultant interruption in the important legislative process. There must be a logical relationship between the importance and power of the respondent and the time required by the House to impeach and the Senate to conduct the trial.

History has borne out Thomas Jefferson's characterization of impeachment as an "impractical thing" and a "mere scarecrow." Over the course of our 200 years as a nation, only 54 judges and 1 Justice have been officially investigated. Of these only eight judges and one Justice have been successfully impeached by the House, resulting in the conviction and removal of a mere four judges in two centuries. The last impeachment and conviction occurred in 1936. While I am among the first to appreciate the overall quality of the Federal bench, it seems unreasonable to assert that only four Federal judges in our history have misbehaved or been disabled. On the contrary, the record is filled with substantial allegations levied against judges who continued to serve on the Federal bench.

The facts clearly demonstrate that impeachment has not been utilized to insure compliance with the constitutional standard of "good behavior" imposed on the Federal judiciary by article III. Moreover, except in the most flagrant

and publicized cases, it is questionable whether impeachment is an appropriate means through which to decide the merits of such serious allegations. Examination of the fifth amendment and its due process safeguards raises some interesting questions regarding the propriety, if not the constitutional sufficiency, of a trial where, as former Congressman Hatton Sumners described the scene, "at one time only three Senators (jurors) were present and for 3 weeks we presented evidence to what was practically an empty Chamber."

A point of view which is too often ignored is that of the accused judge. There is no question that society's rights must be protected, but is impeachment, with its attendant public humiliation and loss of pension, a proper remedy to address the problem of a senile or disabled judge who has served well but fails to recognize that the time to step down has arrived?

I believe that a thorough analysis of the impeachment procedure leads one to the inevitable conclusion that, in practical as well as legal terms, impeachment has not insured and cannot effectively insure judicial compliance with the constitutional "good behavior" standard. Woodrow Wilson stated this premise most succinctly as follows:

> Judging by our past experiences, impeachment may be said to be little more than an empty menace.

The fact that repeated efforts have been made by scholars, jurists, and legislators to develop a reasonable alternative to impeachment can be viewed as substantial evidence, in and of itself, that a need for improved judicial accountability has existed throughout our history. The dissatisfaction of Congress with the efficacy of impeachment has been evidenced by legislative efforts originating as early as 1791 when the first constitutional amendment on the subject was proposed. Nine more such amendments were offered between 1807 and 1812 as a result of the impeachment of Justice Chase, and several bills were introduced in the period 1936 to 1950 following the Ritter impeachment. A few statutory provisions have been enacted which have been credited with possessing varying amounts of disciplinary authority.

In particular, these statutory enactments involve the creation of the Judicial Conference of the United States in 1922 and the Administrative Office Act of 1939. Various responsibilities and duties were assigned to several entities by these statutes and the exact amount of disciplinary authority which is available under these laws has been the subject of considerable debate. It is clear that the judicial councils of each circuit, the Administrative Office of the Courts, and the Judicial Conference have been authorized to deal with the administrative details of the Federal court system.

The question remains, however, whether or not any of the statutory language authorizes the disciplining or removal, in fact or in effect, of a judge subject to the jurisdiction of the council or other entity. The courts have avoided directly addressing the question and the only consensus on the issue is that, at the least, whatever disciplinary authority may exist needs legislative clarification.

The logical and unavoidable conclusion at this point is that congressional inaction on the subject of judicial tenure and discipline has resulted in one of the three branches of our Federal Government being virtually unaccountable to anyone, even itself.

As I mentioned earlier, during the early 1800's several constitutional amendments on the subject of judicial discipline and tenure were proposed. It is in the years subsequent to the last impeachment in 1936, however, that this subject has been most clearly and carefully scrutinized.

In the late 1930's two bills were introduced in Congress on the matter of providing an alternative disciplinary and removal procedure. S. 4527, introduced by Senator William McAdoo, proposed the establishment of a special court composed of Federal judges which would have jurisdiction over all Federal judiciary misbehavior cases, except those involving Justices of the Supreme Court. The prosecutorial role was filled by the Department of Justice and the decision could be appealed to the Supreme Court. H.R. 2271 was introduced by the chairman of the House Judiciary Committee, Hatton Summers, and provided that the House of Representatives, by way of resolution addressed to the Chief Justice of the United States, could initiate a hearing into the behavior of an accused district judge. Prosecution was to be conducted by Representatives from the House and appeal to the Supreme Court was provided. Both bills restricted the remedy to removal.

Serious legislative efforts in this regard were somewhat dormant from this period until former Senator Joseph Tydings, of Maryland, introduced the Judicial Reform Act in 1969. S. 1506 represented a novel approach to the subject because its procedures were totally confined within the Federal judiciary. A Commission on Judicial Disabilities and Tenure, composed of five Federal judges, was to act as a factfinding body with regard to any allegations of misbehavior. The Commission had the authority to dismiss a spurious complaint, or, in the event the evidence so warranted, to recommend removal of the accused judge to the Judicial Conference of the United States where a trial-like procedure would be conducted. A removal order from the Judicial Conference could be appealed to the Supreme Court.

The Judicial Tenure Act which I first introduced as S. 4153 in October of 1974 and reintroduced as S. 1110 in March 1975, and as S. 1423 in April 1977, although varying substantially in substance, is patterned in principle after the Judicial Reform Act.

In the spring of 1976, hearings were conducted on the Judicial Tenure Act before the Senate Judiciary Committee's Subcommittee on Improvements in Judicial Machinery. Hearings were again conducted in September of 1977. Several changes have been made in the legislation since its original introduction in order to reflect the constructive suggestions made by witnesses in these hearings, as well as to insure its constitutionality.

The purpose of the Judicial Tenure Act is to provide a mechanism within the judicial branch itself to enforce the "good behavior" standard which is imposed on the Federal judiciary by article III, section I, of the Constitution. A procedure to investigate allegations that Federal judges have failed to exercise "good behavior," or charges that a judge is suffering from permanent physical or mental disability that seriously interferes with the performance of his duties is proposed to be established within the Federal judiciary. Each portion of this proposal has been subjected to scrutiny since the 1930's and language has been incorporated to perfect deficiency was identified. I believe that the Judicial Tenure Act represents comprehensive and reasoned approach which, if enacted, would address many of the insufficiencies in judicial discipline which I have described.

I have examined this issue in some depth and I am convinced along with numerous bona fide constitutional scholars and prominent individuals in the legal community, that the approach adopted by this legislation is entirely consistent with the U.S. Constitution. It is important to keep in mind that the Judicial Tenure Act is proposed as a means in addition to, not in place of impeachment.

Constitutional questions have been continuously raised by those who oppose creation of a procedure which would allow meaningful implementation of the "good behavior" standard. My intention is certainly not to cut off constructive discourse on the subject; however, the time has come to recognize the practicalities of this issue and to examine it in a broad perspective with reason and logic. Opponents rely upon the assertion that impeachment is the solitary means of removal permissible under the Constitution. I believe that it is productive to examine exactly what the Constitution says on this issue—and what it does not say.

The Constitution does say in article I, that the Houses of Congress shall have the sole powers of impeachment and trial of all civil officers. It does not say, however, that Congress shall have the sole power of removal of these officers. As a matter of fact, it was determined early in our Nation's history, that lesser executive branch officials could be removed by order of the President. The Supreme Court ruled in 1897 that the President had the authority to remove a U.S. attorney despite the fact that the impeachment clause provides for the removal of civil officers. How can it reasonably be argued that impeachment is exclusive with regard to some "civil officers," such as judges, and not exclusive with regard to others? Moreover, if the framers had intended impeachment to be the sole method of removal, it would have been a simple matter to employ specific language to that effect.

It is interesting to note that the extreme remedy of impeachment is provided for in article I, the legislative article, and article II, the executive article. No mention of this procedure is made in article III, the judicial article. In view of the fact that the debate by the framers on the subject of impeachment focused almost totally on the President and that the term "civil officers" was included almost as an afterthought, one could easily assume that the framers intended to further address the subject of tenure of Federal judges in the appropriate place, article III.

Our Federal system of government is predicated upon the doctrine of separation of powers. The interrelating system of checks and balances was devised by a group of men concerned by abuses produced through the dominance of one branch of government, the English monarchy, over the remaining two branches. They took great care to provide elaborate safeguards to insure against history repeating itself in the American Government by formalizing the separation of powers doctrine. I believe that impeachment of Federal judges was authorized, not as an exclusive means of disciplining the judiciary, but rather as one of the limited checks by one branch of government on another. Impeachment was not intended to preclude the judiciary from disciplining itself; rather it was intended as a carefully circumscribed exception to the doctrine of separation of powers to be used in extreme cases of abuse or as a safeguard against judicial branch inaction.

If we accept the principle that impeachment of Federal judges is a limited authority granted to the legislative branch as part of the system of checks and balances it seems logical that the framers must have contemplated a disciplinary mechanism that would be available for less than extreme cases of abuse and in the normal course of maintaining the integrity and efficiency of the judiciary branch. This mechanism was contemplated and it was logically placed in article III of the Constitution.

Prof. Raoul Berger, the noted constitutional scholar, who testified on behalf of this legislation during the 94th Congress, has compiled a detailed analysis of the history and precedent on which the "good behavior" clause is based. In his testimony before the Subcommittee on Improvements in Judicial Machinery, Professor Berger documented the technical legal distinction between impeachment and "good behavior" tenure.

His analysis generates the unavoidable conclusion that the grounds for impeachment and the "good behavior" requirement are two distinct standards of conduct and that "good behavior" is a much more stringent standard than a prohibition against bribery, treason or other high crimes and misdemeanors. (That is, not all forms of bad behavior constitute impeachable offenses.) Professor Berger pointed out that impeachment, at common law, was a criminal proceeding brought by the House of Commons in the House of Lords on charges of "treason, bribery, high crimes and misdemeanors." Berger further documented the fact that the terms "high crimes and misdemeanors" had a limited technical meaning which referred serious offenses and did not encompass all forms of misbehavior.

As the House Judiciary Committee wrote in their report on the grounds for impeachment, during the Nixon impeachment deliberations:

> High crimes and misdemeanors has traditionally been considered a term of art . . . The Supreme Court has held that such terms must be construed, not according to modern usage, but according to what the Framers meant when they adopted them.

Although the framers departed from the English model in separating the impeachment proceeding from a criminal proceeding, they intentionally retained the limited technical grounds of "high crimes and misdemeanors." Furthermore, there is no indication that the framers intended the impeachment provisions to be a complete recitation of the causes justifying removal from office.

In contrast to impeachment, removal for breach of "good behavior" was a judicial, not legislative, proceeding. Good behavior tenure was originated in the Act of Settlement in 1700 in an effort to isolate the judiciary from the arbitrary whims of the monarch. Professor Berger points out that the words "good behavior" in all commissions and grants, public and private, imparted an office or estate for the life of the grantee terminable only by his death or breach of good behavior.

This termination was declared by the judiciary in a civil proceeding for forfeiture of the office which was initiated by a writ of scire facias. Its sole objective was to remove the existing officer with no penalties or disqualifications involved. When the framers employed "good behavior," a common law term of ascertainable meaning, with no indication that it was being used in a novel fashion, they must have assumed the inclusion of similar procedures for its implementation. Such an assumption is supported by Madison's explanation to the Virginia Ratification Convention that "where a technical word was used all the incidents belonging to it necessarily attended."

A "gap" between the two standards, "good behavior" and the grounds for impeachment, must therefore exist. To assume otherwise would be to claim that the grounds for impeachment and "good behavior" tenure are the same and thereby render the "good behavior" clause meaningless. The longstanding constitutional principle that no clause in the Constitution is intended to be without effect will not permit this result. Therefore an alternative method to impeachment to accomplish the removal of Federal judges must have been contemplated by the framers to provide for the removal for misbehavior of disability less serious than an impeachable offense but in derogation of the "good behavior" standard. The substance of what constitutes "misbehavior" may be open to interpretation but it is completely clear that procedurally, "good behavior" was a term involving the judicial process.

In light of the evidence, it certainly cannot be logically maintained that the Framers would have rejected a process of judicial removal other than impeachment. It seems apparent that the term "good behavior" was employed with the eminently logical intention of providing a disciplinary means, within the judiciary branch itself, in addition to the power authorized to the legislative branch through impeachment. Simple logic indicates that if an office is conferred during "good behavior" it is relinquished upon bad behavior and some means of enforcing that end must be available.

Some commentators assert that the enactment of legislation of the nature of the Judicial Tenure Act would dramatically dilute the independence of our Federal judiciary. Arguments of this kind are superficial and misleading. Judicial independence, a principle which we all agree is a precondition to an effective system of justice, has historically referred, not to the independence of judges from one another but rather to the independence of the judiciary as an institution from other branches of government.

The intention of the framers was to avoid the experiences of the British which saw the judiciary totally dominated by the King. Professor Berger noted that,

> All the remarks in the several conventions that bear on judicial independence, so far as I could find, referred to freedom from legislative and executive encroachments. No one suggested that judges must be immune from traditional judicial control.

The assertion that a disciplinary mechanism, totally restricted within the judiciary, infringes on judicial independence simply does not make sense.

The time has come to recognize the practicalities of the issue and to examine it in a broad perspective with reason and commonsense. It is clear that impeachment, in practical terms, is not an effective disciplinary mechanism. It is clear that the existing statutory authority is ambiguous and insufficient in this regard. It is clear that substantial authority exists indicating that the procedure proposed by the Judicial Tenure Act is constitutional. No less jurists than Justice Rehnquist, Justice Burger, and Justice Blackum have expressed the opinion that the principle represented by the Judicial Tenure Act is constitutional. Attorney General Bell has stated, with regard to the Judicial Act:

> I am not troubled over the constitutionality of the proposed legislation.

The Judicial Tenure Act has been endorsed, in total or in principle, by the Judicial Conference of the United States, the American Bar Association, the American Judicature Society, and the American Association of Attorneys General. It is clear that Congress possesses the authority to enact legislation in this regard. This authority was described in detail by Professor Berger as follows:

> Since the judicial power to declare a forfeiture on breach of a condition subsequent existed at the adoption of the Constitution, and since a dispute whether the condition was breached constitute a "case or contro-

versy," it falls within the judicial power. Consequently, legislation that would set up a special court within the judiciary branch to adjudicate disputes whether a judge breached the "good behavior" condition would merely entail a grant of fresh subject matter jurisdiction . . . such a grant would constitute action to supplement the "judicial power" under the "necessary and proper" clause or under the power of Congress to regulate the jurisdiction of the interior courts.

Professor Berger's testimony I think is the outstanding constitutional analysis of this particular measure going back in history, and I ask unanimous consent that Professor Bergers' testimony dated February 26, 1976, before the Subcommittee on Improvements in Judicial Machinery of the Judiciary Committee be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT OF RAOUL BERGER BEFORE THE SENATE SUBCOMMITTEE ON IMPROVEMENTS IN JUDICIAL MACHINERY

I thank you for your invitation to express my views on the Nunn Bill, S. 1110. In 1970, I studied the problem of removal of judges by judges in depth and published the results in the Yale Law Journal. It was that study that excited my interest in the questions presented by impeachment.*

You are to be congratulated for taking up a problem that has perennially troubled the Congress. Hatton Sumners, veteran chairman of the House Judiciary Committee, who participated in two impeachments, commented some 40 years ago that the House was reluctant to take the time of the Senate to try a "crooked judge" because it would distract the Senate from "all the other great business of a great nation and make them sit there for days and days." Back in 1936, Senator William McAdoo stated after the impeachment of Judge Halsted Ritter that the difficulties of impeachment made it a 'practical certainty that in a large majority of cases misconduct will never be visited with impeachment," "a standing invitation for judges to abuse their authority with impunity." Few students would disagree. The procedure formulated in the Nunn Bill would relieve Congress of this burden; it would not encroach on the powers of the judiciary but would assist it in performing its own housecleaning.

I

At the outset we need to clarify a number of doctrinal matters and to disabuse ourselves of the notion, voiced by no less a personage than then Congressman Gerald Ford, that the impeachment process can be employed to remove an officer for breach of "good behavior." Impeachment and removal for breach of "good behavior" have altogether different roots; both are common law terms which had an established meaning. It has often been held that when the Framers employed common law terms like habeas corpus, bribery, they adopted the English meaning and practices associated therewith.

At common law impeachment was a criminal proceeding brought by the House of Commons before the House of Lords on charges of "treason, bribery, or other high crimes and misdemeanors" which could result in removal from office and very severe penalties. Impeachment must be regarded as a breach in the separation of powers; it enables the Senate by a two-thirds vote after a formal trial to remove an offending officer. The sole power of Congress to remove a civil officer, it needs to be emphasized, is by impeachment for "treason, bribery, and other high crimes and misdemeanors."

This is underscored by the denial of the power to remove on an Address of both Houses to the President, a power exercised by Parliament and the king, embodied in a number of state constitutions, but deliberately withheld by the federal Constitution. Although the Framers departed from the English model in separating the removal proceeding from a criminal proceeding, they intentionally retained the "limited, technical" meaning of "high crimes and misdemeanors" at common law and although removal for "maladministration" was made a ground for impeachment by some state constitutions, that ground was rejected by the Framers.

Consequently I would differ from Congressman Gerald Ford's view that "high crimes and misdemeanors" means whatever the House and Senate choose them to mean. That view was not followed, I rejoice to say, by the House Judiciary Committee in the impeachment investigation of President Richard Nixon. It would have been a sorry spectacle to throw him to the wolves.

I have stressed these facts to underline that impeachment for "high crimes and misdemeanors" has a limited compass which does not comprehend all misbehavior.

In contrast to impeachment, removal for breach of "good behavior" was not a legislative, but a judicial, proceeding. "Good behavior" tenure, to use familiar legal terms, was an estate on condition subsequent which was forfeited on nonperformance of the condition. It was terminated by a breach of "good behavior," and the termination was declared in a civil proceeding for forfeiture of the office. Its sole object was to remove the misbehaving officer; there were no penalties, no disqualification to hold office in the future.

The Framers patterned the "good behavior" tenure of judges on the then English practice; it was proposed in the Convention at the very outset and was embodied in Article III, Section 1, the Judiciary Article. The provision for impeachment, on the other hand, was placed in the Executive Article, Article III, Section 1, for the simple reason that virtually all of the discussion of impeachment was centered on the President.

Only at the last minute were the words "all civil officers" added, without any discussion whatever of the removal of judges of the inferior courts. One commentator has suggested, therefore, that there may be some question whether the Executive Article was intended to apply to them.

"Good behavior" had its own criteria which may roughly be stated as the faithful and diligent conduct of an office; it might be breached by abuse of office, neglect of duty, nonattendance and the like. You may ask, does not neglect of duty likewise constitute an impeachable offense?

But the nonattendance instanced by Coke as a breach of "good behavior" is far removed from impeachable neglect such as that of an admiral to safeguard the seas or of a Commissioner of the Navy adequately to prepare against a Dutch invasion. "High crimes and misdemeanors" and breach of "good behavior" are like two intersecting circles; there is an enclave where they are coterminous. But while all "high crimes and misdemeanors" might constitute a breach of "good behavior," not all breaches of "good behavior" amount to "high crimes and misdemeanors," as is underscored by the Framers' rejection of "maladministration" as a ground for impeachment.

Congress therefore might be content to leave removal of judges to the judiciary in any case and keep its own impeachment power in reserve in the event that the judiciary failed to remove a serious offender. This was precisely the role envisioned by the First Congress when it recognized the President's power to remove subordinates and stated that if he failed to remove a derelict officer, Congress had the supplementary power to do so.

For Article II, Section 3 does not make impeachment mandatory; it leaves it in the discretion of Congress.

When an office held "during good behavior" is terminated by the officer's misbehavior, there must be an "incident" power "to carry the law into execution," Lord Mansfield held many years ago, if "good behavior" is not to be an impotent formula. English law provided a proceeding to forfeit the office by a writ of scire facias.

Because almost all judicial appointments prior to the Act of Settlement in 1700 were held at the pleasure of the king, there were no cases of removal of judges by scire facias. But the remedy was known, and in two cases prominent, Sir John Walter and John Archer, who had been given "good behavior" tenure, resisted removal by the king except after a trial on scire facias. Chief Justice Holt, Lord Chancellor Erskine, and Sir William Holdsworth recognized the applicability of scire facias to removal of a judge.

Indeed it is captious ribbon-matching to demand a precise case of forfeiture of judicial office when scire facias was available for fortfeiture of office held "during good behavior." The law proceeds by analogy; if scire facias lies for removal of an officer, it may also be employed for removal of a judge.

At worst, no more is involved than extension of a known remedy to judges in order to effectuate the Framers' design that judicial tensure terminate on misbehavior. When they employed the terms "during good behavior" they knew that the tenure terminated on misbehavior and was subject to forfeiture. All that is required is to spell out the mechanics for the forfeiture.

Observe that I do not rely on the Congressional power of impeachment, which is limited, but on the "necessary and proper" clause to provide a remedy for effectuation of the Framers' intention. Congress may and has fashioned new remedies, if scire facias for judges may be regarded as new. Enabling legislation may also be regarded as an additional grant to the courts of subject matter jurisdiction—forfeitures of judicial office, if it be assumed that the existing forfeiture jurisdiction is inadequate.

May I remind you that the existence of an exact precedent is not the test of "Judicial power"; all that is required is a "case or controversy," and that is satisfied when a charge of misbehavior is controverted. Mark too that all that is sought by the Nunn Bill is to supplement existing "Judicial power" as Congress has so often done in the past.

II

The arguments against removal by the Judiciary are three; (1) impeachment was made the exclusive removal process; (2) judges were given absolute independence; and (3) "good behavior" tenure affords judges special insulation.

(1) By Article I, Section 2, the House is given "the sole power of impeachment," and by Article I, Section 3, the Senate is granted "the sole power to try all impeachments." This means that no other body can bring or try impeachments; it does not purport to bar other methods or removal by the other branches. It is argued, however, under the maxim expressio unius exclusio alterius that the provision for impeachment bars all other methods of removal.

That is not an inexorable rule; it is employed where other evidence is lacking to ascertain the intention of the draftsmen, not to thwart it. First, the maxim would in part nullify the provision limiting tenure to "during good behavior," for as I have indicated, impeachment for "high crimes and misdemeanors" reaches only the more serious forms of misbehavior.

Forfeiture of office for misbehavior was an incident of the tenure, and Hamilton refused to regard the maxim as conclusive where it would curtail an existing power. Second, the First Congress, immediately on the heels of the Federal Convention, recognized that the President had an independent power to remove "civil officers" in the Executive branch, testimony that it did not deem the impeachment provision to be exclusive.

Third, Hamilton made an exception for insanity, for which no "formal or express provision was made." Fourth, the Act of 1970 provided for disqualification from office after a criminal trial and conviction of a judge for bribery. Since the impeachment provision contains an express disqualification phrase, this again testifies that the First Congress, the pre-eminent interpreter of the Constitution, did not deem the impeachment provisions to be exclusive.

In the words of Chief Justice Marshall, the implication of expressio unius may serve where it "promotes, not where it defeats the intention." It needs more than a maxim to overthrow the intention to terminate judicial tenure on breach of "good behavior."

(2) A second argument, first advanced by Justices Black and Douglas, is that judges enjoy "absolute" independence. Constitutional history affords no warrant for the claim. "The independence of each power," said James Wilson, "consists in this," it "should be free from the remotest influence" of each of the other two powers. But further than this, the independency of each power ought not to extend. In other words, the judiciary was to be free from encroachments by the legislative and executive branches, no more.

Judges of inferior courts had been subject to attachment by King's Bench for misconduct and oppression, and there is no evidence that this attribute of judicial power was to be curtailed. Jefferson wrote in 1816 that judges were removable "by their own body."

The very fact that judicial tenure was conditioned on good behavior alone indicates that it was not to be "absolute," i.e. unlimited. To my mind the Black-Douglas repugnance to judicial removal is passing strange. The recent Nixon proceedings once more demonstrated how hard it is to banish partisanship from impeachment proceedings. Political passions are far more likely to animate Congress than a court.

With all due respect, I would rather be tried by men trained to sit in judgment, by a court rather than by Congress. Are we to entrust to a court the trial of a man's life and lose confidence when it is a judge's right to remain in office that is to be tried?

(3) It is also argued that the "during good behavior" phrase affords judges special protection except by impeachment. As we have seen, that provision antedated the impeachment provision, which revolved almost entirely around the President. While "good behavior" was designed to protect judicial tenure, that tenure was expressly conditioned on "good behavior."

In employing the term the Framers were aware that the tenure was terminated by breach of "good behavior." They exhibited no intention of continuing a misbehaving judge in office. To insulate him from misbehavior would in part abort the "good behavior" provision. There is no evidence that the Framers meant to insulate a misbehaving judge from removal if he was not reachable by impeachment.

A canon of construction requires that if possible every portion of the Constitution must be given effect. To confine removal to impeachment is to deny effect to the words "during good behavior," for it did not require those words to authorize removal for "high crimes and misdemeanors," to which impeachment alone extends. "Good behavior," I submit, must be regarded not only as a shield for the protection of a judge but as a sword in the hands of his fellow-judges if he violates its demands.

A word about the criteria of good behavior employed in Section 372(b) of the bill (p. 14). Removal for mental or physical disability seems to me well within the requirement of the common law.

An officer who is disabled physically or mentally cannot "diligently conduct" his office. Hamilton, you recall, stated that insanity was an essential ground of disqualification, and to my mind senility or physical incapacity stand on the same ground. "Habitual intemperance" likewise interferes with the "diligent conduct" of an office, and in my opinion it also constitutes a breach of "good behavior." The first federal impeachment, that of Judge Pickering, was for insanity and habitual drunkenness; removal for "misbehavior" is more readily justified.

The caution with which you have approached the definition of lapses from "good behavior" is commendable. As a common law term embodied in the Constitution, "good behavior" is jurisdictional, that is, the power to remove is for such misbehavior as was regarded as a ground at common law. To profit from experience, I would suggest adding removal for corrupt or criminal conduct in office and for abuse of judicial power. It may be that there are also other grounds, for example demonstrated incompetence or ignorance, but these can wait on further experience with the suggested removal process.

In sum, it is open to Congress, and I consider it highly desirable, to enact legislation under its "necessary and proper" power which would give effect to the common law attributes of "good behavior" and confirm and facilitate judicial removal of judges for "misbehavior." At worst, the constitutionality of removal by judges may be open to question, but the last word on such doubts is for the Supreme Court. I would remind you of what Jefferson stated:

"It is not for those who are only to act in a preliminary form to let their own doubts preclude the judgment of the court of ultimate decision."

Enactment of the Nunn Bill will open the door to the Court's examination and determination of the issue.

Mr. NUNN. Mr. President, we could consume days discussing esoteric constitutional theories relating to this bill. It is clear that a substantial degree of expert opinion supports the conclusion that the bill is in fact constitutional. To delay this necessary reform simply to facilitate further academic debate is not only an inappropriate assumption of the responsibility of the judiciary but it is also a disservice to those who would like to see our system of justice improved. Therefore, I am hopeful that my colleague will support passage of S. 1423.

I might say in closing, Mr. President, I know there are those who do not favor this legislation. I know they have come to their conclusions after a great deal of thought and lengthy deliberations. I certainly respect their opinion.

I particularly want to express my appreciation to the Senator from Indiana for his cooperation in seeing that this measure was brought before the Senate. He has not agreed with me on all the principles I have stated here today, but he has cooperated in every way to see that the measure could be brought before the Senate this year. He has in no way held up the legislation, and I am grateful to the Senator from Indiana for his usual courtesies which I certainly appreciate in this case.

Mr. President, I again thank Senator DECONCINI, Senator WALLOP, and Senator THURMOND for their splendid cooperation in moving this bill through the Judiciary Committee as rapidly as possible.

I also thank Senator MATHIAS, from Maryland, for his cooperation and courtesy in allowing this bill to be brought to the full consideration of the Senate today.

Mr. BAYH addressed the Chair.

The PRESIDING OFFICER. (Mr. FORD). The Senator from Indiana is recognized.

Mr. BAYH. Mr. President, I ask the Senator from South Carolina to yield—I understand he has the time in opposition—such time as the Senator from Indiana may need in discussing this particular measure.

Mr. THURMOND. How much time does the Senator want?

Mr. BAYH. Frankly I do not know. I think this is a very serious matter, and I wish not to be proscribed.

Mr. THURMOND. Mr. President, I yield 1 hour to the Senator and will yield additional time if he needs additional time after that.

Mr. BAYH. I think that 1 hour will be adequate.

The PRESIDING OFFICER. Did the Senator say 1 hour?

Mr. THURMOND. One hour. If he needs additional time, we will try to accommodate him.

The PRESIDING OFFICER. The Senator from Indiana has 1 hour and is recognized for 1 hour.

Mr. BAYH. Mr. President, I appreciate the thoughtful remarks of our distinguished colleague, my friend from Georgia. I appreciate the position that he has espoused, and I understand the intensity and sincerity of his position on this issue.

It is not a new position. It is a matter of concern which he has expressed over a long period of time, and I salute him for his perseverance.

Also, I direct myself to the statement that has been given to us by our distinguished colleague, the floor manager of this bill, the subcommittee chairman, our friend and colleague from Arizona, Mr. DECONCINI, who chairs the subcommittee which considered this bill.

I have the greatest affection for him as a fellow member of the Judiciary Committee, and it is a difficult position to be in to be on the opposite side of an issue that he has studied thoroughly and that I have studied thoroughly but reached different conclusions.

I also appreciate the remarks that were made by the Senator from South Carolina, our distinguished ranking minority member of the Judiciary Committee.

But, Mr. President, I concur in what my colleagues have previously said about the problem which exists relative to some judges who are not performing as we would have them perform. I am deeply distressed that the remedy we choose is one which has a great possibility for mischief.

At the time this measure was before

*My statement is drawn from that study, published in revised form in chapters 4 and 5 of my Book, "Impeachment: The Constitutional Problems."

the Judiciary Committee the Senator from Indiana was the only one who expressed opposition. The distinguished Senator from Maryland (Mr. MATHIAS), who was absent on official business at that time, also was equally concerned, and both of us found ourselves in a rather uncomfortable position where we are sort of like voices in the wilderness on this issue.

But it is an important issue and, for that reason, I have asked time to consider it at length so that some of the nuances involved which were not immediately apparent upon casual study of this might be more apparent as the Senate prepares to consider it.

In my judgment, there are two reasons for opposing this legislation: First, there can be little doubt that it exceeds the constitutional authority of both the Congress and the judiciary; and, second, it establishes procedures and sanctions which threaten the independence and character of the Federal judiciary.

I think we are all concerned about the independence of the Federal judiciary. The concern has been expressed by those who propose this as a solution to the problem. But I would like to point out in the strongest terms that I think we have not given enough attention to this matter of maintaining that sacred building block of our freedoms, the independence of the Federal judiciary. We must have judges who have the courage to stand up and say, "This is what the Constitution provides." They cannot be run out of office by a majority of the Congress, they cannot be run out of office by a majority of the judiciary, nor can they be removed by a plebiscite. They can stand until they are subject to the impeachment process, and it is that kind of independence that I want to maintain.

I take a little different view of the severity of this problem than do those who are supporting this legislation. I have no disagreement with the motivation behind this bill. We are all convinced that we need a wise, conscientious, and responsible judiciary. We concur in the necessity of having the ability to remove judges who have seriously betrayed both their oaths to uphold the Constitution and the laws of the United States and their duty to assure the administration of justice with which they are entrusted.

I also concur with the majority in viewing the growth of the Federal judiciary as a mixed blessing, a blessing which I hope we are soon able to realize because we need the additional judges. But it is a mixed blessing in that it provides citizens with means to address their grievances with some degree of dispatch but, at the same time, worries us by its very size and numbers. No longer is the Federal judiciary the select handful of jurists which existed at the beginning of our life as a Nation. By sheer commonsense and the laws of chance we are wary that there will be more bad apples in the lot.

However, I am concerned that with S. 1423, we are moving precipitately toward undefined goals without a clear and consistent view of the grounds which would be sufficient to remove Federal judges.

What judges are we willing to go to such radical means to get rid of? The slothful, the criminal, the unpopular? This bill gives no clear standard of acceptable or unacceptable behavior. Rather I fear with this bill we are creating new machinery of dubious constitutionality to achieve what might well be accomplished by less drastic means well within constitutional grounds: Better, more thorough, selection methods; strengthened interjudicial circuit discipline, and refined preimpeachment procedures by which impeachment could become an effective mechanism when deemed to be necessary.

In short, it seems to me there are other more effective, easily constitutional, means to deal with the very real problem which, I think, most of us here today recognize as existing.

The majority take the position that since the constitutionality of S. 1423 is a question which can ultimately only be decided by the Supreme Court, Congress should not hesitate to pass a law and let the Court make its decisions. Let us take a look at that, if I may say to my colleagues. Certainly the Congress has passed legislation knowing it posed serious constitutional issues. The Voting Rights Act is as good an example as any I can think of, and I supported that enthusiastically as landmark legislation.

However, there is a great difference between legislation which is arguably unconstitutional and that which is very probably unconstitutional. A proposed law which poses serious constitutional issues demands the most careful scrutiny by the legislative branch. If it is very probably unconstitutional it should not be passed. Certainly the constitutional problems with S. 1423 are sufficiently serious to warrant closer examination of the policy questions which are raised.

Without trying to prejudge in advance what the Supreme Court might be prepared to do, I find the arguments for the constitutionality of S. 1423 to be very troubling. We are relatively late in the session, and we do not know whether our brothers and sisters in the House are going to act on this, and I hope they do not. But if, indeed, this matter is brought back again to the Senate, I would hope that because of the serious questions raised that we could give it more thorough consideration.

Without being unnecessarily critical, the only evidence of any study of this at the hearing stage that I can find is contained in the hearing manual which I now have in my hand on the Judicial Tenure Act. It is a relatively short hearing as hearings go.

A year earlier there was a hearing of about a similar volume as far as testimony is concerned. I also have here, I suggest to my colleagues who might care to note, that our former colleague from North Carolina, Senator Ervin, held much more extensive hearings in opposition to this particular proposal back in 1970, and that we really have not had the kind of comprehensive attention to this problem which, I hope, we would give to it in the future.

I do not want to be overly critical because at first blush this matter would appear to be a relatively simple one. Now that certain rather complicated and rather complex questions have been raised and now that we have finally gotten a report from the judicial branch of this Government, which was not contained at the time the measure was considered in the Judiciary Committee, I think we can take into consideration their opinion.

I would also like to point out that subsequent to the hearings on which testimony was taken—I would like to point out there was nobody at the hearings who was opposed to this particular legislation—but even after that there were significant changes made in the content of the bill toward which there has been no hearing directed at all. So, hopefully in the future, we can have a chance, as busy as we all are, to get a broader mix of opinion on this measure before we proceed further.

Let me look at the relevant constitutional issues very briefly and try to summarize them.

Article II of the Constitution expressly provides that all civil officers shall be removed from office by impeachment. Article I states that the Congress shall have the sole power of impeachment. The proponents of this legislation argue that another means of removal exists within the Constitution in the "good behavior" clause of article III, section 1, and they maintain that for 190 years this alternative removal mechanism has been available whenever the Constitution wanted to employ it, but it simply has not been used.

The majority brush over the fact that throughout the country's history the idea that good behavior—the "good behavior" clause, as being intended to provide a way to get rid of Federal judges was not proposed. Even contemporaries of the framers, who felt strongly that it was a mistake to confine removal of judges to the impeachment process, never suggested that article III provided such an alternative. Historical precedents, case law, statutory construction, all sustained the traditional view that the Constitution provided only one means for removing a judge, and that is the impeachment process.

The standards for impeachment under article II, as we all know, are treason, bribery, or other high crimes and misdemeanors.

The proponents of S. 1423 grant that Congress has the exclusive power of removal for commission of the serious misconduct which is impeachable. They contend that a judge whose behavior falls in the gap between "good behavior" and "high crimes and other misdemeanors" is subject to removal by other judges through machinery set up within the judicial branch itself. In other words, a higher standard of conduct is imposed on judges than other civil officers. A different way of removal is provided for judges than for other officials.

I am prepared to deal with the rather significant distinction between the removal of a district attorney, which has been referred to two or three times here, and the removal of a judge, which is the difference in executive branch appoint-

ment. It has been made clear that the district attorney really serves at the pleasure of the President, whether it is Marston or somebody else. Historically, I do not know of any district attorneys who have been given life tenure, which seems to make a rather clear distinction between a district attorney's removal and this proposal for removal of a Federal judge.

To sustain this argument, it seems necessary that three assumptions withstand scrutiny: First, that the Constitution allows the creation of an alternative removal mechanism.

Is impeachment the only mechanism, or does the Constitution provide for an alternative mechanism? The second necessary assumption is that the "good behavior" clause requires a higher standard of conduct in the judiciary than would be imposed by impeachment; and third, that S. 1423's removal standards—"conduct which is or has been inconsistent with the good behavior required by article III"—does not impinge on the exclusive congressional power of removal by impeachment.

Let us look further at what we are talking about here. The proposition that article III's good behavior clause provided an alternate means of removal of judges was first offered in a law review article by Burke Shartel in 1930, and has recently been argued by Prof. Raoul Berger in his work on impeachment.

I ask my colleagues to look back through history, and find out where the seed of this idea was first planted. Has there been an overwhelming landslide proportion of judicial precedents and writings in support of this proposition? I respectfully suggest that there has not. The embryo was planted in 1930, and more recently has been argued by Prof. Raoul Berger in his work on impeachment.

On the other hand, the overwhelming authority in the United States has been consistent, that impeachment was the sole means of removal of Federal judges because of the language of articles I and II that the House and Senate are granted the "sole power" to impeach and convict office holders. Any argument to the contrary must meet the heavy burden created by this express constitutional provision. The majority places its argument primarily on the slender shoulders of the precedent in English common law of the obscure writ of scire facias, an argument derived from Berger and Shartel.

In other words, where did this whole business of a different standard, the good behavior standard, originally come from?

If you look back at where it all started, we are told it started back in the English common law, which was taken by our Founding Fathers and considered when they wrote the Constitution and talked about holding office for good behavior, and that is why judges are subject to a different standard than anybody else.

The Founding Fathers, the proponents say, must have intended an alternative means of removal of judges within the judicial branch itself since scire facias proceedings were available at common law.

Let us look at this, I suggest to my colleagues. The proposition has been closely analyzed by many constitutional authorities and found to be wanting. I invite any of my colleagues who care to look into the matter to look at the "Report on the Removal of Federal Judges Other Than by Impeachment," the work done by the New York City Bar Association, to see how slender if not totally absent a thread this proposition provides to support such a contention.

The theory of scire facias, as the majority report explains, was that a grant of office imparted an office or estate for the life of the grantee terminable by his death or a breach of good behavior.

That is where it all came from. That is what Mr. Berger maintains the common law thrust was. You got the grant of authority for life, or subject to breach of good behavior.

The judiciary was empowered to issue a writ of scire facias to initiate a civil proceeding for the termination or forfeiture of the office. The object of the writ was to remove the officer without penalty. A close examination of the writ does not sustain the conclusion drawn by those who present this proposed legislation to us.

First of all, most authorities cite a lack of historical evidence that the framers of the Constitution even had knowledge of the generally discarded writ of scire facias, which had admittedly never been used to remove a judge. Scire facias was never included in any Revolutionary State constitution, nor was it considered at the Constitutional Convention.

There was no mention at all to give anyone even the scintilla of an idea that our Founding Fathers considered the "good behavior" of scire facias, as it was used in the context of our Constitution.

It is admitted by all the scholars that there is no record of the writ having ever been used to attack a letter patent—granting "good behavior tenure"—in a colonial court.

In other words, this good behavior remedy was not used by our Founding Fathers in any of their colonial courts.

Further, the positions subject to removal by the writ were only of minor court officials, not full-fledged judges. Officials so removed included such obscure officers as filazers, remembrances of the Exchequer, cord recorders, postmen, and auditors.

Now, some of you may ask, what in the world were those offices? That is the same question I asked, and it is almost impossible to find out what some of them were and what they did, because they were so obscure. Yet that was the caliber of office to which this writ was directed, on which this ground for removal, the breach of good behavior, was based.

Further, if we look at the precedents for this, no judge was ever removed by scire facias in England, even though the writ technically survived until 1947. It was not applied in England. The writ was not abolished in America until 1938. By the majority's interpretation, any Federal judge could have removed another judge up until that time under the theory of scire facias simply by concluding that his brother or sister judge in effect breached a condition of his appointment by engaging in something that was not "good behavior." Not one judge has been so removed. Moreover, it is interesting to speculate what would have happened if a Federal judge had ever tried to employ this particular remedy of writ of removal on another Federal judge.

The undocumented precedent of scire facias is far too slender a reed to support such a radical change of practice that could effectively destroy the constitutionally mandated life tenure of Federal judges and give other judges broad new removal powers.

Other evidence argues against the constitutionality of any other means than impeachment for removal of judges.

I would like to call the attention of my colleagues to this, because it seems to me to be very persuasive that the only way to remove a judge is through impeachment. Early drafts of the Constitution gave impeachment powers to the Supreme Court; after long debate, it was decided that the best and most impartial tribunal would be the Senate, not members of the judicial branch.

Is there any better signal of what our Founding Fathers meant on how judges should be removed, when one of the early documents said, "Let the judges remove themselves," and the final document said, "No, we trust that to the Congress, not to the judiciary?"

Further, there is overwhelming evidence that the framers themselves considered impeachment the sole means of removal. If you look and see what Hamilton said in Federalist No. 79, he expressly said so. Jefferson held that opinion. Marshall, Story, and Kent concurred. The eminent constitutional scholar of this day and age, who has been a tremendous help to our subcommittee, Prof. Philip Kurland, has cited as emphatically as he can, "It is pellucidly clear that the intention of the framers was to make impeachment the sole means of removal."

Proponents argue that other branches of government under the Constitution have alternate means of early removal besides impeachment inherent within their own branch.

And it is true, they do, but I suggest with all respect to my distinguished colleagues that distinctions can clearly be drawn between those rights of removal and the way judges are to be treated under the Constitution.

An exception is expressly provided within the Constitution for the legislative branch, article I, section 5. The Supreme Court decided that the President can remove certain Federal officials performing executive duties within the executive branch for the reason that he appointed them. The same obviously cannot be said for the judiciary. The Court further held in Humphrey's case that the President is restricted in removing such officials as Commissioners of the FTC because this responsibility is a quasi-legis-

lative, quasi-judicial role requiring independence from other officials or departments of government in order to function properly.

If the Court has said that about the unconstitutionality of a removal of an FTC Commissioner, who is a quasi-legislative, quasi-judicial officer, what is the Court apt to say about the removal of a judge, where there can be no question of his judicial nature. Let me say this reasoning would hold in respect to the independence of the judge subject to the censure of the judiciary, as well as of the legislature.

It is also worth drawing an analogy to the 25th amendment, which was drafted to continue the consistency of our constitutional pattern. The 25th amendment provides that a President can only be removed for inability to perform his duties upon the judgment of the Congress, not the determination of his own Cabinet. Disagreement between a judge and his fellow judges over his judicial inabilities should likewise be resolved by the House and the Senate through impeachment and not by giving certain judges power over the removal of other judges. The Constitution is clear that judges are protected from members of their own branch as well as the legislative and executive branches.

As the principal author of the 25th amendment, I remember very well the debate on this particular point, when we were debating it right here on the Senate floor. We wanted to be very careful that you could not provide an end run to constitutional protections, that you could not make it possible for a handful of cabinet officials to railroad a President, or make it possible for a majority of Congress to remove a President for inability. The only way you could get rid of him by impeachment was by a two-thirds majority.

I invite my colleagues to look at the basis for that judgment back to the Andrew Johnson impeachment trial. Is there any doubt that had there been a lesser standard for disability for impeachment, Andrew Johnson would have been removed from office on the grounds of inability.

Mr. NUNN. Will the Senator from Indiana yield on that point?

Mr. BAYH. Yes.

Mr. NUNN. I understand what the Senator is saying, but the President has never been subjected to a good behavior clause. It seems to me that that point has nothing to do with the theory on which this bill is based, because there is a good behavior clause in the U.S. Constitution as pertaining to judges. If that good behavior clause is to have any meaning, then it has to be something different from the impeachment clause. The Andrew Johnson case had nothing to do with good behavior.

Mr. BAYH. That is right. I was only using that as an example of the danger if we lower the standard or the test which must be met before we remove an officer. I tried to emphasize the importance of maintaining impeachment as the only way of doing that either for a President or a judge.

The Senator from Georgia raises a good point which I intend to address in just a moment.

In other words, I think it is very legitimate that he and the Senator from South Carolina and the Senator from Arizona think good behavior has a purpose for being in the Constitution. I concur. But I would invite a close examination to what appears to be a logical explanation on the part of the Senator from Indiana, which reaches a different conclusion than that which others have reached.

Since it is conceded by proponents of this legislation that Congress has the sole and exclusive power of removal for the commission of impeachable offenses in order for S. 1423 to be constitutional, it is necessary that it prove that the good behavior clause provides a higher standard of conduct, a different standard of conduct, a different way of treating judges than that required by impeachment.

I frankly do not believe that that proposition can be sustained.

Proponents assert the language of article III of the Constitution, which says that judges shall hold their offices during good behavior, was intended by the writers to establish the fact that judges who did not conform to good behavior should not be able to continue to hold office.

I think that is the proposition on which the Senator from Georgia very strongly argues his case.

These assertions, I suggest with all respect, again go back to the opinions of Professors Shartel and Berger.

You certainly cannot find any case law, you cannot find any precedent in history, to sustain that proposition as being a basis for this decision being made by our constitutional fathers. On the contrary, the great weight of historical research done by other constitutional experts argues that tenure during good behavior was intended to differentiate from tenure at the King's pleasure. It was rebellion against tenure during the King's pleasure which had led to the law in England in 1701.

Mr. President, I think this is a critical question. It was one raised by the Senator from Georgia. It is one that the Senator from Arizona and others have used as a basis for their sincere belief that the Constitution, by saying a judge shall serve for good behavior, in essence meant to establish a different standard of conduct by the use of that term than was used in the impeachment clause, so that thus you could use a different means for removing judges than impeachment.

The only way we can really come to grips with what is meant in that Constitution, it seems to me, is to look at what was happening at that time. What were our Founding Fathers angry about? Why did they bleed and die? Why did they overthrow the King?

When we look at one of the major reasons, it was that the King could, indeed, appoint judges at his pleasure. As I pointed out, one of the major reasons for the Revolution was to remove the right of the King to appoint judges at his pleasure. That led to the Act of Settlement in England in 1701 and it was the monarch's arbitrary power over their judges which led the colonists to include it in their list of grievances against the King in the Declaration of Independence.

I invite attention to what our Founding Fathers said in the Declaration of Independence. I quote, talking about the King, grievances against the King:

> He has made judges dependent on his own will alone, for the tenure of their offices, and the amount and payment of their salaries.

So, when Thomas Jefferson put together that great document, this was one of the grievances, the fact that the King controlled the judges. In other words, to the Founding Fathers, a good behavior grant of tenure meant that the executive was restricted in its powers of removal, not that it was a separate standard of conduct.

In other words, the choice available to our Founding Fathers at the time was the ability to serve as long as a judge was on good behavior as interpreted under the impeachment clause. That was one option which they chose. The other option was the one which they fought a Revolutionary War to get rid of. That was the right of the King to appoint judges and remove them at his pleasure.

Further, although, in our history, we have never definitively established a standard for impeachment, it is generally agreed that it is not so high as an indictable offense and, indeed, many scholars maintain that under 18th century common law, "misdemeanors" was synonymous with "misbehavior." Certainly, our record of impeachments would hold that interpretation.

In other words, are we creating a different standard to get at judges who are not performing than is already there under the use of the term "misdemeanors" in the impeachment clause of the Constitution?

If you look at the records of impeachment of judges that we have actually had, look at the facts again, you find that this is not true. I ask the Senators to look at the impeachment proceedings, back in 1804, of Judge John Pickering. He was impeached and convicted on several charges, including drunkenness and blasphemy. It sounds to me like that is misbehavior.

Judge George English was impeached and subsequently resigned on counts including conduct bringing the administration of justice into contempt and disgrace. I do not know how to define that other than misbehavior.

In 1936, the Congress convicted Judge Halsted Ritter on misbehavior. In other words, these acts which constitute misbehavior have been part and parcel of the proceedings that have traditionally been used in this body to remove judges that are not serving faithfully.

Mr. NUNN. Will the Senator yield on that for a minute?

Mr. BAYH. I am glad to yield.

Mr. NUNN. I am listening very intently to the Senator's argument. I believe he is making a very good historical presentation of his point of view, though I do not agree with him. I am a little puzzled, because the Dear Colleague letter sent out by the Senator from Indiana

and the Senator from Maryland, basically, seems to contradict the argument the Senator was just making about historically, good behavior having been interpreted along with impeachable offense to include things like drunkenness and so forth.

In this dear colleague letter it states:

> S. 1423 would provide for a system whereby Congress would be creating a relatively easy mechanism by which it might rid itself of judges who have been guilty of "bad behavior" falling below the level of impeachable behavior. For the serious misconduct arising to the strictest standards of high crimes and misdemeanors, that is, indictable offenses, the cumbersome mechanism of impeachment remains.

The Senator is citing example after example of where the impeachment process went beyond indictable offenses and included things like drunkenness. In this letter, it is very strongly indicated that the Senator is of the view that only indictable offenses come under the impeachment clause.

I know this is a very hazy area. Historically, the position has been taken by Congress that the impeachment clause takes in a broad concept of other offenses, rather than just indictable offenses.

Mr. BAYH. The point I have been trying to make here from a policy standpoint, as well as a constitutional standpoint, and I am concerned about both, is that the legislation establishes, under the good behavior clause a remedy that is not existing under the impeachment clause. That is, are we really creating a different kind of remedy? When we look at how impeachments have been governed and what standards have been used to impeach judges, we see very clearly that standards which fall, and specifically, in the Ritter case, are charged in the impeachment indictment as lack of good behavior or misbehavior, those are part and parcel of the impeachment proceedings under the impeachment clause of the Constitution.

Mr. NUNN. Then this sentence would not be correct:

> For the serious misconduct arising to the strictest standards of high crimes and misdemeanors, that is, indictable offenses, the cumbersome mechanism of impeachment remains.

Mr. BAYH, No, that is true. The sentence does not say only serious crimes are subject to impeachment.

The sentence says that for serious crimes, one must go the route of impeachment.

Mr. NUNN. That is the point I would like to get to. I should like the Senator from Arizona to correct me if I am in any way wrong. As the author of this bill and having followed it for a long time, it has been my strong view and remains my strong view that good behavior basically encompasses more than high crimes and misdemeanors; but it also encompasses high crimes and misdemeanors. In other words, a high crime or misdemeanor is bad behavior. There are things that are not high crimes and misdemeanors that are bad behavior, but all high crimes and misdemeanors, in the opinion of the Senator from Georgia, would be violations of good behavior standards and, therefore, would be bad behavior.

If the Senator from Arizona disagrees with me, I would like him to say so. It would be my interpretation of this good behavior clause and the legislation we are passing here that this judicial commission and the judicial court would have the authority to remove or to discipline, including censure, a judge who was found by them to have breached the good behavior clause, yes; but, also, a judge would be deemed to have breached the good behavior clause if he had committed an impeachable offense. So good behavior includes all of the above, so to speak.

Mr. BAYH. The Senator worries me—I cannot disagree with what he is saying about what we are doing here, but his interpretation worries me when he says an impeachable offense. You can still use this bill to remove a judge for what he considers to be an impeachable offense.

Mr. NUNN. That is exactly right.

Mr. BAYH. In other words, the whole business of requiring two-thirds of the U.S. Senate in the impeachment process, to have any impact at all on judges, is null and void. The logical sequence of that——

Mr. NUNN. It is a supplement. It could be used. Congress could still impeach a judge.

Mr. BAYH. But why should Congress impeach a judge when it is so much easier to do it by a majority of judges?

Mr. NUNN. The Senator has just made the argument for this bill. It has been a long time since Congress even found it necessary to involve itself in this process. I believe the last time was 1936. How would the Senator from Indiana have us deal with senile judges today? How would the Senator from Indiana have us deal with judges who have a drinking problem today? How would the Senator from Indiana have us deal with judges that are mentally incompetent when that condition does not breach the high crimes and misdemeanors standard?

Mr. BAYH. I suggest to the Senator that if he looks carefully at what has happened here, in the Pickering case, the question of insanity was raised as a defense.

All these things are not new. I pointed out, we removed a judge who was drunken. Another because he swore.

Well, maybe it is a bad thing for a judge to drink and swear, I will not argue that, but we have impeached judges that way. That is the way we have removed them. We have removed them for behavior by impeachment.

Mr. NUNN. I am not disagreeing——

Mr. BAYH. I will answer the question. I have not, and it is a good question, because we do have a problem when we have a judge not performing up to standards.

There have been occasions, not frequent, but occasions when we have judges, who, with the passage of time find their capacity is diminished, and how do we deal with that?

I suggest that the Judicial Conference has a mechanism of dealing with that now that is far short of this measure, which I feel flaunts the Constitution.

If I were to suggest, if it is necessary, after we have had more thorough study of this it is necessary, perhaps it is, to find a way to make the impeachment process more meaningful as far as judges are concerned, then it would seem to me we ought to have this particular panel which has every right, and the judicial conference, of course, has the authority, to police the dispensation of justice and to watch what is happening.

They usually do a pretty good job. It is certainly within the constitutional fabric that we could give them authority to make this kind of determination, that Judge Brown or Judge Jones is not performing his duty, and recommend to the Congress that he or she be impeached.

We could put in there that this would automatically come to the attention of and automatically be a subject of business for the Senate and the House Judiciary Committee, so we would really force Congress to get off the dime and deal with it that way, which I think could be handled under the Constitution.

Mr. NUNN. I just say to my friend from Indiana, as I said in my opening statement, these are close questions. People of great constitutional background do disagree on these subjects.

I do not know that we can resolve these issues today and I am not trying to convince my colleague from Indiana today. But I do think one or the other of the Senator's arguments has to be dropped, because they are inconsistent.

On the one hand, the Senator says we do not need a good behavior enforcement mechanism like we propose here today, because good behavior, basically, has been interpreted in past cases by the Congress as being about the same thing as an impeachable offense, and Pickering was cited in that regard. That is one of the Senator's arguments.

I will not get off on that, because the Senator is probably historically correct on that. But, on the other hand, the letter by the Senator from Indiana and the Senator from Maryland basically says:

> We would also like to point out a clearly anamolous result which would flow from the enactment of S. 1423 and which we believe argues strongly against its enactment. S. 1423 would provide for a system whereby Congress would be creating a relatively easy mechanism by which it might rid itself of judges who have been guilty of "bad behavior" falling below the level of impeachable behavior. For the serious misconduct arising to the strictest standards of high crimes and misdemeanors, that is, indictable offenses, the cumbersome mechanism of impeachment remains. Ironically, S. 1423 would create a system for relatively easy removal of judges for failing to behave properly, but removal of criminals from the bench would be much harder.

All I say to the Senator from Indiana is that one of the two arguments has got to be, from an intellectual point of view, dropped because if the Senator is correct on his historical interpretation of impeachment as it has been applied by Congress, this means the Senator believes historically that impeachment is broad enough to encompass bad behavior.

Mr. BAYH. Yes.

Mr. NUNN. But, on the other hand, if that is true, the second point made here that we are creating a mechanism which would be twofold, one purpose would be

to address high crimes committed by a judge, through impeachment; the other standard, good behavior, would be much easier to enforce by new mechanism proposed in S. 1423. I am saying one or the other of those arguments is wrong, because it is inconsistent.

I do not know whether the Senator follows what I am saying.

Mr. BAYH. I follow what my friend from Georgia says. I would be the last to say I have not on occasion been inconsistent.

I hope I can explain to him that, although he may not agree with my logic, and I do not want to speak for my friend from Maryland, but I assume he concurs in what we are trying to do here, we are really arguing two points.

The first question, as he mentioned a moment ago, on the basis of policy and constitutionality, I think we have to look at both of those. Either we are providing a new remedy under good behavior, or, one, there is no reason to do it; or two, it is going to be unconstitutional because it is already there in that clause.

I would like to point out, historically in this body we have impeached judges for that, that fell in the good behavior category. That is argument one.

Mr. NUNN. I understand that argument. I think historically there is justification for that argument.

Mr. BAYH. Now, let me get back to the purpose for that paragraph in the letter, the alleged anomaly we are referring to.

Generally, in our system of jurisprudence, and there is something, I think, about the gut feeling of equity we have as citizens of this country, that if we look at the equity of the situation it ought to be easier to remove a judge if the crime were serious and not so easy if the crime was not obvious or was not serious, and by this bill, we reverse this.

If this bill is enacted, the Senator is saying, if a person commits just petty larceny, it is going to be relatively easy to get rid of that person. But if it is a serious crime that ought to be obvious and apparent to everyone and the culprit removed quickly and easily, we cannot do that. We have to go the long, tortuous route, to use the Senator's words, and I think the accurate reflection of history, the tortuous route of impeachment.

The Senator may be on a different ground than the majority of the Judiciary Committee. I do not want to put words in their mouths. But, as the Senator from Georgia reflected a while ago, this particular vehicle, this law, if it is enacted, could be used, really, for all sorts of indictments.

Mr. NUNN. Good behavior, under this bill would authorize the removal or censure of people not only for bad behavior, but also for impeachable offenses. This would be an alternative.

I would like to have the Senator from Arizona and the Senator from South Carolina comment on that. That is my very clear interpretation of this bill.

Mr. BAYH. There is one paragraph here, if one reads the majority report on page 7, we point out the emphasis there.

I yield to my friend from Arizona to respond to that question.

Mr. DECONCINI. The Senator is correct.

The good behavior standard would include impeachable offenses, and the court could make determinations regarding impeachable offenses.

Mr. BAYH. I should like to read this paragraph from the majority report. It says:

> A "gap" between the two standards "good behavior" and the grounds for impeachment must therefore exist. To assume otherwise would be to claim that the grounds for impeachment and "good behavior" tenure are the same and thereby render the "good behavior" clauses meaningless. The long-standing constitutional principle that no clause in the Constitution is intended to be without effect will not permit this result. Therefore, an alternative method of impeachment to accomplish the removal of Federal judges must have been contemplated by the framers to provide for the removal for misbehavior or disability that was in violation of the "good behavior" standard but was less serious than an impeachable offense.

Are we changing the rules here?

Mr. DECONCINI. Obviously, an impeachable offense falls within article I, section 3, and article II, section 4 of the Constitution. But good behavior is a broader standard. It specifically is referred to in article III, section 1. This legislation fills the gap between the standards of impeachable offense and good behavior.

Mr. BAYH. I was under the impression, according to the report and everything we discussed in the committee, that this was designed to fill a gap, a gap which the Senator from Arizona feels does not exist and the Senator from Georgia feels does not exist.

Mr. NUNN. I think there is a gap. I believe the Senator from Indiana is not interpreting correctly what I am trying to say.

Let me quote succinctly Professor Berger's testimony in this matter:

> "High crimes and misdemeanors" and breach of "good behavior" are like two intersecting circles; there is an enclave where they are coterminous. But while all "high crimes and misdemeanors" might constitute a breach of "good behavior," not all breaches of "good behavior" amount to "high crimes and misdemeanors" * * *

The Senator from Indiana has been arguing that "high crimes and misdemeanors" historically has been interpreted as encompassing also all the elements of bad behavior. The Senator from Georgia has not disagreed with that historical interpretation because there are inconsistencies in this.

The House Judiciary Committee, though, in setting impeachable offenses so far as the President was concerned, did not interpret it that broadly. They drew a narrow interpretation which would be almost an indictable offense. So there are different precedents here.

What I am saying is that this legislation, as I interpret it, would give this Commission the authority to enforce the good behavior standard; and high crimes and misdemeanors, in all the cases I can think of, would constitute bad behavior. There may be some cases in which misdemeanors would not. It depends on how you define the word "misdemeanor"—whether it is a high misdemeanor or a parking ticket or something of that nature.

The reverse is not true, in my opinion—that is, all good behavior breaches are not high crimes and misdemeanors.

What I am saying to the Senator from Indiana is that when he interprets this paragraph, where the Senator says we are setting up two sets of standards, one for impeachable offenses, which is very difficult, the impeachment route, and the other is good behavior, which this Commission would deal with, the Senator is incorrect in that interpretation of this legislation. The power given to the Commission is much broader than that. If they found an impeachable offense, they could determine that is bad behavior, and they would be entitled to take the remedies prescribed in this legislation.

That may mean the Senator is more opposed to it than originally, so I am not trying to influence the Senator. All I am saying is that paragraph 2 of the Senator's letter is not a correct interpretation of this bill, and I believe that everybody who is connected with this bill on the pro side would agree that that is a misinterpretation of the bill.

Mr. BAYH. The Senator was only relying on the report of the majority, which is the best document I have seen supporting the reasoning behind this legislation.

Unless we are prepared here, as a body, to accept the constitutional premise that by statute, by mere law, you can negate the provisions of the Constitution so far as the impeachment clause is concerned, I do not know how in the world any of us can believe that by passing a statute under the good behavior clause, to remove a judge by good behavior, we also can include indictable offenses under the impeachment clause. If that is not clearly unconstitutional, I do not know what is.

Mr. NUNN. Does the Senator mean that he believes that an indictable offense is not bad weather? Is that what the Senator is trying to argue? Is he saying that if a judge commits murder and could be indicted for that murder, that does not constitute bad behavior?

Mr. BAYH. That certainly is bad behavior.

Mr. NUNN. That is what we are saying. We are in agreement. That is an impeachable offense. It is also bad behavior.

Mr. BAYH. Yes. But if you are to say it is an impeachable offense and you are going to let it be decided by a handful of judges, you are making a mockery of the impeachment proceedings of the Constitution of the United States, which says that you cannot remove officials that way.

Mr. NUNN. The Senator from Indiana is saying that he interprets this legislation as basically giving the judges and this Commission only the right to deal with matters that are nonimpeachable offenses.

Mr. BAYH. That is right.

Mr. NUNN. The Senator is totally incorrect in his interpretation of this legislation. We are on totally different

wavelengths about this legislation, because that is not the correct interpretation of it.

The House Judiciary Committee studied impeachment for months. Every impeachment proceeding has resulted in difficulty in defining what a "misdemeanor" is.

If the Senator from Indiana has interpreted this legislation that narrowly, that it deals only with things that are not necessarily impeachable offenses, then I say that the interpretation of the Senator from Georgia and the interpretation of the Senator from Indiana are different.

Mr. DECONCINI. This legislation is authorizing the judiciary to implement the good behavior clause, while still maintaining the separation of powers. The Constitution does not prohibit this. The bill fills the gap that the Senator refers to on page 7, the gap the Senator from Georgia has attempted to explain.

I will not try to convince the Senator from Indiana to withdraw his opposition to this. I understand his philosophical and his constitutional approach. His arguments are well thought out. But I believe the good behavior clause can be implemented, and that is what the majority of the Judiciary Committee believed when it reported this bill.

Mr. NUNN. There are two points here, and we should try to separate them.

One is the question of the severity of the offense, whether it is a breach of good behavior or an impeachable offense or it is in that gray area between.

The other question the Senator from Arizona has pointed out—the question of who removes. As I read the Constitution of the United States and the history of it, the question of who removes a judge was much more important to the framers of the Constitution than the precise offense for which the judge could be removed.

I think the argument of the Senator from Indiana has dealt mainly with the substance of the particular offense, but the framers of the Constitution were dealing mainly with the question of who could remove a judge by setting forth limited ways a judge could be removed by the executive branch and the legislative branch. They basically are saying in this impeachable offense category that a great deal of care must be taken in separating the three branches of Government.

So we are dealing with two questions here. One is the substance of the offense, whether it is a good behavior breach or whether it is an impeachable offense—high crimes and misdemeanors. That is one question.

The other question is, what branch of Government can do the removing? Of course, both those questions are important, but the question of who can do the removing is really the basis of this legislation.

The PRESIDING OFFICER. The time of the Senator from Indiana has expired.

Mr. BAYH. May I have another 30 minutes?

Mr. THURMOND. I yield 30 minutes to the Senator.

Mr. BAYH. I apologize for taking so long. I think this is the kind of debate that is very enlightening. It probes our innermost thinking.

Mr. MATHIAS. Mr. President, will the Senator yield at this point, so that I can ask a question of the manager of the bill?

Mr. BAYH. I yield.

Mr. MATHIAS. It seems to me sort of ridiculous that we bring a bill to the floor and have this kind of disagreement about how it works. I am wondering how many witnesses were called in opposition to the bill and whether this point was explored by any of the witnesses in opposition.

Mr. DECONCINI. I do not have a breakdown of how many witnesses appeared in opposition to this proposal. Fifty witnesses were called during the history of this legislation, and there were 20 days of hearings.

Mr. MATHIAS. This year?

Mr. DECONCINI. This year we held 1 day of hearings.

Mr. MATHIAS. Were there any witnesses in opposition?

Mr. DECONCINI. None appeared, but several were invited. They were district judges.

Mr. MATHIAS. How about our former colleague, Sam Ervin, for example, who was so immersed in this subject? Was he invited?

Mr. DECONCINI. No; I believe he was tied up with the ERA. He had testified in prior hearings and his testimony has been recited and considered.

Mr. MATHIAS. I think the record has to be deficient if there was not a single witness in opposition who was called.

Mr. NUNN. Frankly, I say to the Senator from Maryland, the number of people in opposition has gone down substantially over a period of time. We have the Judicial Conference of the United States endorsing this general concept. We have the American Bar Association. We have the Department of Justice, and we have the American Judicature Society. I say the number of opponents is diminishing. There are people who continue to argue the constitutional grounds. There is no doubt about that.

Mr. MATHIAS. Dr. Kurland, I do not think has changed his views. He is available. He has been a consultant to the Judiciary Committee, as for one example.

Mr. NUNN. Of course, this legislation has been around for a long number of years, and there is a whole record replete with people who are opposed to the legislation. No one is contending there are not people who think this legislation is not constitutional.

The main point I am making to the Senator from Indiana is that the Framers of the Constitution of the United States were concerned about the separation of powers. That was the main concern.

This bill addresses that concern. There is nothing in here that expands the power of the legislative branch or the executive branch to remove a judge. It is a question of the judicial branch being able to implement the good behavior standard.

I think certainly the separation of powers question is the essence of the constitutional premise on which this is based.

Mr. BAYH. If I just might point out for the record, I think we should say that the Judicial Conference's endorsement of this was with reservations about the constitutionality of it, and the report was sent forward from the Judiciary Committee before the study of the position of the Federal judges of the country was before us. I do not fault the subcommittee chairman for that because they were late. We just received it 2 weeks ago. But we find 76 percent of the Federal judges expressing extreme concerns about this, and I want to put some of their concerns in the RECORD because one might say, "Well, you would expect the Federal judges not to want to have someone investigated."

Frankly I feel that if we look at some of the reasoning contained in this letter we will see it is based on a much stronger constitutional and policy question than one of self-preservation.

Mr. NUNN. As I understand it, the reservation on the constitutionality of this legislation as expressed by the Judicial Conference was on the point of including the Supreme Court. As the original legislation was presented it would have included the Supreme Court. As the legislation has evolved from the Judiciary Committee it basically leaves the question of removal of Supreme Court Justices up to Congress after a recommendation pursuant to the process. The Judicial Conference basically endorsed the concept of this legislation.

Mr. DECONCINI. Mr. President, will the Senator from Indiana yield for a moment?

Mr. BAYH. I yield.

Mr. DECONCINI. Senator BAYH states in his analysis that 74 Federal judges responded to the Judicial Conference questionnaire. That is slightly over 10 percent of the total number of Federal judges, including senior status judges. I do not think this number is a significant basis for a decision on the Judicial Conference after they met and approved the resolution.

Mr. BAYH. I respectfully say to my friend from Arizona they were given less than a month to respond.

Mr. DECONCINI. Are Federal judges so busy they cannot respond to a question as simple as that presented here?

Mr. BAYH. I suggest if the Senator will look at a matter of some 20 days to respond to something like this that is hardly time. If he is going to talk about the time being a reason, should he not consider the fact that three-fourths of them did respond who were against it? Then it seems to me the Senator has to look at the time given to them to respond.

Mr. DECONCINI. If there were an overwhelming amount of opposition among the Federal judges I think far greater than 10 percent or 11 percent of them would have responded to the questionnaire.

Mr. BAYH. It is going to be interesting to see what not only the Federal judges but constitutional scholars have to say after they have a chance to look

at this dialog here which, it seems to me, makes a shambles of the impeachment clause as far as judges are concerned.

Mr. NUNN. I might say to the Senator from Indiana on that point everyone who read this bill would have to come to the conclusion that under the good behavior standard basically an impeachable offense is bad behavior. I do not think anyone would conclude otherwise, and the Senator agrees with that also. The Senator has just said that he interprets an impeachable offense as being bad behavior. If that is the interpretation and this bill is giving the judiciary itself the power to enforce the good behavior standard, no one could have come to the conclusion that good behavior as defined in this bill did not include impeachable offenses.

Mr. BAYH. The Senator does consider, I assume, the impeachment clause of the Constitution does apply to judges as well as other branches of the Government, does it not?

Mr. NUNN. The impeachment clause of the Constitution, the Senator is correct, does. It has been interpreted to apply as well to other branches. But the Senator himself has made an argument that is so inconsistent that I cannot reconcile it. The Senator is saying in answer to my question that he believes a judge who commits an impeachable offense has also committed bad behavior or breached the good behavior standard and yet the Senator is also saying he is surprised by the fact this legislation, which has been set forth for years does not include impeachable offenses. People will be surprised to find that conclusion in the record.

Mr. BAYH. I will suggest that anyone who reads this document right here, that came out of the committee and went across the country saying what it does will see that it says that it is to fill a gap.

Mr. NUNN. It is to fill a gap, a huge gap.

Mr. BAYH. So we have a clear distinction here, if you have a judge out here who accepts bribes for deciding on a case or does something that is very clearly a major felony, for example, murders the foreman of a jury in righteous indignation when the jury brings in the wrong decision, something that may sound ridiculous but something that is obvious, it seems to me, to be a major crime, is the Senator suggesting that that should be handled under the impeachment clause or could it be handled by this?

Mr. NUNN. It could be handled——

Mr. DECONCINI. Mr. President, if the Senator will yield. That could be handled by the impeachment clause. If it were not handled by the impeachment clause, it could be handled by this procedure.

Mr. BAYH. I understand where the Senator is on this. But it seems to me that does great damage to what our Founding Fathers really meant.

I have tried to show—and I am not suggesting that any of my immediate friends here involved in this debate are going to be persuaded by this—is if you look at what is said in the Declaration of Independence, if you look at one of the major reasons we revolted against the King, it was to change the way judges were to be appointed and to do away with the at-the-pleasure-of-the-King method of appointing them and instead to exchange that for a good behavior appointment. That is a matter of style in the Constitution and as to the removal process, the only place you deal with removal any place, with exception made for the legislative branch, is in the impeachment clause which applies to everyone.

So it seems to me that good behavior did not, with all respect to my friends, suggest that this go out here and implement another way of doing it, but this was to point out that the King could no longer appoint a judge at his pleasure but rather it should be under the "good behavior" clause, leaving aside the impeachment clause.

Mr. NUNN. May I say to the Senator——

Mr. BAYH. Let me just add one other point, if I might.

Mr. NUNN. All right.

Mr. BAYH. I do not know how much additional proof we need for what our Founding Fathers meant. We can, of course, change that by amending the Constitution. We tried to do a little of that, and my friend from Georgia knows that is not too easy. But we can change that. But if we look at what our Founding Fathers meant one of the first drafts of the Constitution was to give judges the right to remove judges.

Mr. DECONCINI. Mr. President, will the Senator yield?

Mr. BAYH. Yes.

Mr. DECONCINI. There is nothing in the Constitution that specifically says one branch of the Government cannot discipline itself within its own branch. This is what this legislation proposes as a means of implementing the "good behavior" clause, leaving aside the impeachment clause for the moment.

Mr. BAYH. I think we have to look at what "good behavior" means. The Senator is making an Empire State Building out of two words. What does "good behavior" really mean? What did it mean when the Founding Fathers put it in there? Did they really mean to give leeway under the terminology of "good behavior" to judges to remove judges? The Senator from Arizona says that is what they meant. But when they were deciding that matter in the Constitutional Convention, and when the issue was put plainly before them and a draft of the Constitution gave judges the right to remove judges, the Founding Fathers considered it, and said they did not want any part of it, and included impeachment in the hands of the Congress of the United States, not in the hands of the judges.

Mr. DECONCINI. Nevertheless, the framers did not include a prohibition of such a disciplinary mechanism in the Constitution.

Mr. BAYH. Why should they?

Mr. DECONCINI. If it was their intention that the judicial branch should not be able to exercise some measure of self-discipline, I would think they would have said so. They did not.

Mr. BAYH. Does it specifically say in the Constitution what the President should not do as far as disciplining members of the executive branch is concerned?

Mr. NUNN. The Senator has a great point there, too. The King and the President could remove members of the executive branch. That does not violate the separation of powers.

Mr. BAYH. Because he appointed them. Judges are not appointed by judges.

Mr. NUNN. The Senator just made that as a statement. The Constitution does not say anything about that. The Constitution does not say anything about that, but we all know that the President can remove someone in the executive branch without that person being impeached. That is the same thing we are trying to accomplish here for the judicial branch of Government.

I might say the term "good behavior" goes back to the common law which was used in connection with judges forfeiting their office on a condition subsequent, forfeiting their office by not comporting with good behavior, and being removable, by not maintaining good behavior, by the judiciary itself.

I might say to the Senator there is nothing in this legislation that would give the executive branch of this Government, that being the President, the right to do anything it cannot do today.

Mr. BAYH. As I said earlier, and I will not repeat that language, if the Senator is going to base the use of "good behavior" in this legislation on that common law precedent, then I would like to have a list of judges who were removed from office under the common law on that basis, because I have not been able to find any. I have not been able to find a single judge removed on that basis.

Mr. NUNN. This would have to go back to the English common law.

Mr. BAYH. That is right. In English common law the "good behavior" writ, scire facias writ, was directed at the lower echelon, recorders, bailiffs, and this kind of thing.

Mr. NUNN. I say to the Senator from Indiana perhaps there were not any judges because the King was doing all the removing. The judiciary itself had very little time to do the removing because the King was doing the removing, and that is why the Founding Fathers did not want the President of the United States and the executive branch to be able to remove judges.

Mr. BAYH. It seems to me if the Senator is going to use a common law writ to support language in the Constitution, as we interpret it here in 1978, he ought to at least be able to give me an example of a judge or two who were removed back during the common law or during that period of time in which much of the law in the United States was common law.

I mean if you look at all of the colonial courts, if you look at all of the judicial decisions and the judges, then you cannot find any of them removed on this antequated writ. I just cannot. I have looked, and I hope the Senator will look, and maybe he will find one.

Mr. NUNN. What is the Senator's point? Let us assume there were none removed. So what? The writ was there.

It was a right. It was a legal procedure. It was known to the framers of the Constitution of the United States, and it was embodied in the words "good behavior". So the question of whether the power was ever used or not is not relevant to the question of whether or not it was there. It is not relevant to the question of whether the framers of the Constitution of the United States had that in mind when they put the words "good behavior" in.

If you follow the Senator from Indiana's argument to its logical conclusion, the Senator from Indiana is saying that the framers had nothing in mind when they put that in.

Mr. BAYH. That is not what the Senator from Indiana said. I said in the context of the Constitution, what Jefferson and what early scholars and early judges said, "good behavior" was meant to be an appointment for life not subject to removal at the pleasure of the King, which was the way things were done before the Declaration of Independence. That is what "good behavior" means.

Mr. NUNN. Why was it put in there if the appointment was for life?

If you are appointed for life, provided you have good behavior, then what happens if you have bad behavior under that argument?

Mr. BAYH. Then you are impeached under the same impeachment clause which is considered elsewhere. If the Founding Fathers meant to give judges the right to do something absent good behavior, why did they not put it in there at the time they were defining the rights under the judicial system of the United States?

Mr. NUNN. Normal constitutional interpretation is that words in the Constitution do have meaning, and the Senator is saying that the words "good behavior" are completely superfluous because they have no meaning in addition to the impeachment clause.

Mr. BAYH. I will say to my friend that is a couple or three times where although we may disagree, that is not what the Senator is saying. I am saying it did have meaning and it was not used to try to distinguish between the way the King was doing it, appointing judges at his pleasure, and the way the colonists wanted it done on good behavior, life tenure subject only to the impeachment powers which were very carefully enunciated. I mean, that was a very critical matter considered by our Founding Fathers, because they were tired of people being cut, hung, and dried by the King. If you dared to incur the displeasure of the King, you ended up with your head on a chopping block someplace.

Mr. NUNN. The Senator is not saying this legislation will do that.

Mr. BAYH. Not quite. No, I am not saying that.

Mr. NUNN. The Senator is not thinking of a case where the executive branch can do anything under this legislation that they cannot do now?

Mr. BAYH. The Senator is again getting back to why our Founding Fathers used "good behavior." All I can say to my friend from Georgia is look at what was happening at the time. The King was appointing, the King was removing. I mean the King had arbitrary power, so that is why they used the words "good behavior." They distinguished between that, and went to great care in enunciating with great particularity how you removed officers, not only judges but Congressmen and Senators and the President himself, because they were sensitive of the fact that the arbitrary power of the King underlay all the grievances that led to the Revolution, and it is unbelievable to me that being as sensitive as they were about that unlimited, unfettered power of the King, that they would not have included any removal power for judges that they considered to be applicable only to judges. They put this all in the Constitution under the impeachment clause.

Mr. NUNN. Why did they put "good behavior" in the judicial article if it was a limitation on the executive branch?

Mr. BAYH. Well, as I said before, to distinguish the good behavior, life tenure appointment from the appointment at the pleasure of the King.

Mr. NUNN. You do not have to put "good behavior" in the Constitution in order to give life tenure. "Good behavior" is a limitation on life tenure. "Good behavior" is not a reinforcement of life tenure, it is a limitation on life tenure.

Mr. BAYH. It would have been totally inconsistent within the confines of the Constitution to say in one article you had life tenure, you could not be out of there until you died, and in another article you could be impeached. "Good behavior" were words of art to imply you could serve for life as long as you had good behavior, the cessation of which was to be determined under the impeachment clause.

Mr. NUNN. Why did they not say "serve for life unless removed under the provisions of article II?"

Mr. BAYH. I guess they were——

Mr. NUNN. That would have been so much clearer.

Mr. BAYH. I guess they were expecting us——

Mr. NUNN. To give us something to debate.

Mr. BAYH (continuing). To have a clearer view of what they were doing than you and I are now able to have.

Let me ask my friend from Georgia is he at all concerned or is his logic troubled at all if we are trying to—you and I really could not put our hands on a Bible and say for sure we know what our Founding Fathers meant——

Mr. NUNN. I agree with the Senator.

Mr. BAYH. We are trying to find out what they meant, so we try to look at certain actions they undertook. One of the things which has been very persuasive to me in determining what the Founding Fathers really meant by "good behavior" and what they really meant as far as how judges should be removed is to see how they looked at the words of the Constitution or the various drafts presented to them. One of the early drafts permitted judges to be removed by judges.

It said it right out there in so many words. They struck that. They struck it out, so that the only language applicable to removing judges or impeaching officials is contained in the impeachment clause, where they give Congress the right.

Mr. NUNN. Of course, Thomas Jefferson wrote in 1816 that judges were removable by their own body. And of course Thomas Jefferson had a lot to do with the Constitution.

But if the Senator will yield, I think we can argue a long time about what the Founding Fathers meant by good behavior, and I am not going to convince the Senator from Indiana, and he is not going to convince me, today anyway. I think only the Supreme Court of the United States can make this final determination.

The problem is that we have no practical way of dealing with judges who may be senile, who may be drunkards. We have no way of dealing with those kinds of people on the bench. We well may look at the matter, from our lofty position up here, and say, "Why should the Congress of the United States take up its time with some obscure judge in Georgia or Indiana or California?"

But to the people who have to deal with him, that judge is more powerful in certain matters than even the President of the United States. We are talking about leaving people in office for a lifetime virtually untouched by Congress. The Senator from Indiana, I know, would agree that we are not going to take the time of the U.S. Senate and the House of Representatives to impeach a judge for being drunk on the bench. We have 200 years of precedent, and about 40 years in the last four decades, where there have been many instances of abuse of judicial power by people who were either drunkards, senile, or for other reasons disqualified, and the Congress of the United States has not done one single thing. The question really is whether we are going to deal with this issue or be caught up in a constitutional argument that none of us can solve.

Only the Supreme Court of the United States can tell us, in the final analysis, what good behavior means. Only the Supreme Court of the United States can tell us, in the final analysis, what the Founding Fathers may have meant. I may not agree with their conclusion and the Senator from Indiana may not agree with it, but they are the ones who are going to have to tell us.

In the meantime, do we stand around another 40 years and do absolutely nothing about a very grave abuse of the constitutional processes of our country? There is no remedy; there is no practical remedy for a judge who is not capable of being on the bench. Who is going to sit in judgment on a judge who is 83 years old, or 78 years old, and senile? Are we going to drag him up here and impeach him before the House of Representatives, and try him in the U.S. Senate? Everybody knows we are not going to do that. It has not been done in 40 years, and it will not be done in the next 40 years. Every day that goes by, it is less likely that we will employ the impeachment clause of the U.S. Constitution regarding judges.

I respect and appreciate the views of

the Senator from Indiana, and I will say to the Senator it is a close question. I cannot say to my colleagues that I am absolutely certain that this is a constitutional bill. I cannot say that truthfully, and I do not believe the Senator from Indiana can say he is absolutely convinced that it is unconstitutional.

As I say, I appreciate the Senator's views. I know of no one in the Senate in recent years who has studied the Constitution more thoroughly than the Senator from Indiana.

But the question is, are we going on and on and on with the abuse of power that can vitally affect the lives of the people of this country?

I think the vast majority of Federal judges are absolutely honest and above reproach, and of sound mind. Most of them are sober, and have views which reflect favorably on the Federal Government. But when you get a Federal judge, appointed for a lifetime, who has a mental problem or a physical disability that prevents him from performing his duties, and he is appointed for a lifetime, and the Congress of the United States can do nothing about it, it is a terrible disillusionment for the people of this country.

I do not think the Senate of the United States is today going to decide the constitutionality of this issue. What we will decide is whether the Senate of the United States is going on record as at least trying to seek a solution to a problem which has existed for many years, but is getting worse and worse.

I thank my colleague from Indiana for his statement and his time.

Mr. BAYH. Mr. President, I appreciate the courtesy and the real dedication of the Senator from Georgia in trying to resolve this problem. As I said earlier, it is a real problem. It is real, I guess, more in its isolation, because, as the Senator points out, there are not many judges who do not have exemplary standards of conduct. You may disagree with how they decide an issue, just as we disagree with other Members of this body. Most of them are doing their job, so the number of people involved is not very great.

But in that particular instance, inasmuch as that Federal judge is indeed the king, the man who has life and death power over others at a particular moment, it is important for us to deal with it.

The question for us to decide is, is this the way? We would like for it to be the way, but does the Constitution permit us to do it this way?

I do not like to be out here on the frontier like the Lone Ranger, a lonesome voice. Many are concerned about this issue, but there are not very many of us who have tried to alert the Senate to the possible constitutional question and the possible policy question.

I would just like to ask my friend from Georgia—I do not know what is going to happen to this legislation. I would doubt, the timing being what it is, that it is going to pass, which would mean that if it does not, and I know the Senator hopes it does, having tenaciously pursued it, but if it does not, then we have a chance to reflect and see if there is not another way that perhaps is on stronger constitutional grounds and does not involve some of the real policy concerns that really trouble the Senator from Indiana.

It has been said, and indeed rightly so, by my friend from Georgia, the Senator from Arizona, and the Senator from South Carolina, that impeachment is a time-consuming process. It is a troublesome process, and it is one that the Senate is not going to involve itself in over something so minuscule or obscure as the removal of a Federal court judge who ought to be removed. We all agree, whether for bad behavior or lack of good behavior, or for high crimes and misdemeanors, that this is a serious step, an important step, to be taken if the circumstances merit it, but not a step to be taken lightly.

I know, from listening to my colleagues from Arizona and Georgia discuss this matter, that they do not anticipate this as a step to be taken lightly. I think we concur on that point.

I would much prefer, and I will say in more detail why I am concerned from a policy standpoint in just a moment, but the Senator asked what alternatives I propose, and I have one, to which I am not wedded, but which I feel would emphasize the importance of dealing more expeditiously with this question.

We cannot say that the impeachment process has not been used on Federal judges, because it has. It has not been used frequently. Perhaps it should not be used frequently. We have just had an example, with all respect to the spirit of the gentleman in question, that illustrated there should have been a way to see that the people of that given part of our country were given better service by the Federal judiciary.

I think the best approach to the matter is to consider beefing up the enforcement powers of the Judicial Council, and giving them some marching orders that "under these circumstances you shall act."

I have no objection—I am not wedded to it, but I have no objection—to the composition of this panel, either that kind of a structured panel or another kind of panel, being given marching orders. The law would mandate that given certain circumstances, they would hold hearings, they would see that the judge is given due process, and then they would recommend to the Congress of the United States that certain action be taken, and then we would mandate that we in Congress got off the seats of our pants and did something about it.

We would mandate that this matter go immediately to the Judiciary Committees of the House and the Senate, and within x number of days they were to hold hearings and have a report forthcoming.

Mr. NUNN. Will the Senator yield?

Mr. BAYH. Yes.

Mr. NUNN. I would say that would be much better than what we have today. But on the same case that the Senator just mentioned, and I will not go into details on that, there was not a single member of the House Judiciary Committee who had not been alerted at all to what was going on in that part of the country, who was not acquainted with those facts. There was no need to have a commission go out and find facts and lay them on the table. There was no fact-finding need there. It was a question of inability to act.

We know the House Judiciary Committee, for instance, would be tied up as soon as they take up the criminal procedure code for literally months and months and months. They were tied up for a period of time during the Nixon impeachment question for months and months and months.

Even if a commission reported that there was a judge who had a chronic problem, drinking or some other problem, and laid the report right on the doorstep of the House Judiciary Committee and put it there for days afterwards, I do not think anybody will contend that the House Judiciary Committee would interrupt the criminal procedure code or any other issue of great urgency to the whole country, and take up this impeachment.

I do not believe anybody would contend that the Senate this year, with the Panama Canal debate, the labor reform debate, the forthcoming natural gas debate, the debate on the forthcoming tax package would interrupt the procedures which affect not only this country but the world and have a trial of a judge from some State deemed by the House of Representatives or by a judicial panel as being unfit for the bench.

It is just not in the world of reality. It is not going to happen. In the case of the Supreme Court, I think that would be a little different. I believe the committee has come to an approach here which is not only judicious but also has a lot of commonsense. I like it better than the approach I originally drafted. I think the Congress would deal with a Supreme Court judge in those cases, but I do not think it will ever happen with a district judge.

What I am saying is that, though I can understand the Senator's constitutional approach, the Senator's remedy would virtually leave us where we are today. We might be moving 1 inch or 1 foot, but we would not be moving a yard.

Mr. BAYH. Let me say to my friend from Georgia it is rather clear that some members of the House Judiciary Committee were aware of the problem which existed out West. Perhaps some of us in this body were aware of it. It is also clear that members of the Judicial Conference were more painfully aware than we were. But there was no procedure which mandated that certain action be taken.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BAYH. Will the Senator yield additional time?

Mr. THURMOND. I yield 2 additional minutes.

Mr. BAYH. I am sorry to have taken so long. I do want to hear from my fellow colleagues on this.

The PRESIDING OFFICER. How much time has been extended to the Senator?

Mr. THURMOND. How much time remains on each side?

Mr. NUNN. If it will help, I will pledge not to interrupt the Senator any longer. I have taken a lot of his time.

The PRESIDING OFFICER. The Senator from Arizona has 149 minutes remaining and the Senator from South Carolina has 76 minutes remaining.

Mr. THURMOND. The distinguished Senator from Maryland needs 1 hour so I cannot yield too much more to the distinguished Senator from Indiana. Can he finish in 10 minutes?

Mr. BAYH. Much of the time of the Senator from Indiana has been involved in——

Mr. DECONCINI. If the Senator will yield, I will yield 30 minutes.

Mr. BAYH. I hope not to take another 30 minutes. I did not mean to take the last 30 minutes.

Mr. NUNN. I promise not to interrupt the Senator further.

Mr. BAYH. No, I believe this is all in the interruption category. We are both trying to pursue the same goal, though we are following different vehicles. We have similar concerns but we feel they apply a little differently.

This is a serious matter. Although the matter is not as expeditiously taken care of under the proposal I have just made on an informal basis with my friend from Georgia as would be the case under the proposal which he is pursuing, I think it could be handled that way. This is not the first time we have put time limits on Congress to act and time limits on the President to act. If this matter is serious enough that we are going to remove a sitting Federal judge, it seems to me it is serious enough to say, "You are going to make this decision yes or no." Let me not deal further on that alternative because there might be a better one. Let me deal just quickly, in summing up, with the concerns that I have about this particular proposal from a policy standpoint.

I recognize that it is not necessarily a popular position to get oneself on the side of defending a recalcitrant Federal judge, someone who may not only be drunk, unfaithful, and disorderly, but may have voted on the wrong side of a whole slew of very sensitive, emotional issues. He may be a very unpopular character.

I want to say that I hope nobody on either side of this issue looks at good behavior as it is used in the Constitution and interprets that with a little asterisk down at the bottom of the page that this also means "unpopular"; that if you are on the wrong side of the busing question or the wrong side of an abortion question or the wrong side of a prayer in school question, the wrong side of carrying a sign against the U.S. Senate question or the President of the United States question, "You are not up to the standard of good behavior so we are just going to sort of get rid of you and put a judge in there who will decide these cases the way they ought to be decided." That is what concerns the Senator from Indiana.

We are told that for the Congress to go through the impeachment process is time consuming. It is. We are told that Congress is not going to inconvenience itself, that it is too busy to worry about the future of an obscure Federal judge or, more importantly, the judicial district which is the jurisdiction of that Federal judge and the hundreds of thousands, the millions, of people who must look to that Federal judge for justice.

That may be true, I say to my colleagues. Maybe we are too busy. Maybe that is too insignificant a role for Congress to undertake. But if it is, it is an indictment of the Congress of the United States. If we are not willing to examine the way a judge is conducting his business once he is in office, then we ought to forfeit our right to advise and consent to affirm the appointment of that judge in the first place.

Congress is not too busy for an obscure Federal judge nomination to come before it, and there have been times when obscure Federal judges have been turned down because Congress has been indignant and has felt that those judges did not meet the standard they should meet under the Constitution.

Congress exercised its authority under the Constitution to advise and consent under Article II, where we are all very much aware of the authority, the responsibility, we have. The good behavior clause, the distinction between that and the appointment at the will of the King, all of this was designed by our Founding Fathers to give the representatives of the people in the Congress of the United States a voice in determining who Federal judges are and who they should not be; how they are appointed, when they are appointed, and when they are removed.

The people's representatives were involved in this very important decision of who was going to hold the life-and-death powers of the people of this country under the Federal judiciary.

Is this too obscure an issue? I invite my colleagues to go down through some of the issues that "we" have spent time on. We are worried about poppy seeds right now; the disposition of poppy seeds is on the calendar of this Congress. I sat here and voted on chicken feathers. The list is long of things that only involve a handful of people in this country, yet Congress takes time to consider. If we can consider those matters, it seems to me we should not be too busy to discuss and decide and dispose of the matter of a Federal judge who is not doing his job right.

I remind my colleagues, and I doubt if there are really very many of us who need more than a very quick reminder and I do not want to be presumptuous in doing so, that at this stage of a legislative session, when we are trying to explain to our wives or our constituents why we are not going to be able to join them at dinner at night because we are going to be working on the floor of the Senate, and we know we have so much work here that we do not know whether we are going to take care of it all, it is awfully easy to equate things under a yardstick of efficiency; what is the quickest way to get something done? That is only a normal tendency, but I suggest that to apply that yardstick to the Constitution of the United States is a very dangerous rule. The very democracy that was structured under that Constitution has in it a number of protections that go to protect individual citizens and to create a very inefficient way of doing things. One of the prices of individual liberty is some inconvenience and some inefficiency. If you want to see an efficient government, you ought to see how it is being done in Nicaragua right now.

They dispense justice pretty quickly down there and they get it done just like that. I do not think we want justice dispensed that way in this country.

I am not suggesting that the passage of this legislation is going to do that at all. I am suggesting that when the time comes that the Congress of the United States can look for a way to circumvent its responsibility of testing judges, of advising and consenting to their appointment and in having a voice in their removal, when the time comes that, for the sake of convenience, we bring in some time and motion study fellow to say how we are going to judge what our constitutional responsibilities are, it is going to be a dark day for our country in a broad variety of ways.

As I said a moment ago, it is not necessarily a popular position to espouse, to be standing here, taking the time of my colleagues, risking the wrath of people in my constituency and elsewhere who may not be concerned about the independence of the Federal judiciary, who may be angry at a judge because he has ruled one way or the other. But I want to suggest to you that to our Founding Fathers, and you can look at the history from the standpoint of the Revolution until this time, it is abundantly clear why it was important to guarantee the independence of the judicial system of this country.

I want a Federal judge who feels he has the capacity to stand up and say "no" on an issue and not worry about how his fellow judges are going to look on him.

I do not want a panel of judges, who may be concerned that one of their own is a source of some embarrassment—maybe he drinks too much; maybe he stays out too late; maybe, God forbid, he wears a beard, and thus has evidenced instability—and that he ought to be taken off the Federal court.

Maybe he decided on the wrong side of the issues that confront judges day in and day out. Maybe his judgment of the Constitution is different from that of a majority of his peers. I say, in concluding, the test of a good judge is not that he is a judge who can win a popularity contest. We purposely do not want judges to be elected, because they have to make some tough decisions and the Constitution of the United States, the Bill of Rights of this country, should not be subjected to a majority vote. It should not be subjected to a majority vote of Congress; that takes two-thirds to change it. It should not be subjected to a majority vote of the people; and it certainly should not be subjected to a majority vote of a panel of judges, none of whom is responsible to a constituency

that can remove them by popular vote themselves.

Mr. President, at this point I would like to place my entire dissenting views to the Judiciary Committee report on S. 1423 into the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ADDITIONAL VIEWS OF SENATOR BIRCH BAYH ON S. 1423, AS AMENDED, THE JUDICIAL TENURE BILL

Although I appreciate the considerations which have led the majority of the members of the Judiciary Committee to approve S. 1423, I cannot agree with their decision. Because this bill is in my opinion one of the most drastic and far-reaching pieces of legislation on which the committee will exercise its judgment, I feel it is important to express my concerns.

There are two reasons for my dissent on this legislation: first there can be very little doubt that it exceeds the constitutional authority of both the Congress and the Judiciary; and second, it establishes procedures and sanctions which threaten the independence and character of the federal judiciary.

I have no disagreement with the motivation behind this bill. We are all convinced of the need for a wise, conscientious and responsible judiciary. We concur in the necessity of having the ability to remove judges who have seriously betrayed both their oaths to uphold the constitution and laws of the United States and their duty to assure the administration of justice with which they are entrusted.

I also concur with the majority in viewing the growth of the federal judiciary as a mixed blessing, in that it provides citizens with the means to address their grievances with some degree of dispatch, but at the same time worries us by its very size and numbers. No longer is the federal bench the select handful of jurists which existed at the beginning of our life as a nation. By sheer common sense and the laws of chance we are wary that there will be more bad apples in the lot. However, I am concerned that with S. 1423 we are moving precipitously toward undefined goals, without a clear and consistent view of the grounds which should be sufficient to remove federal judges. What judges are we really willing to go to such radical means to be rid of? The slothful, the criminal, the unpopular? This bill gives no clear standard of acceptable or unacceptable behavior. Further, I fear that with this bill we are crating new machinery, of dubious constitutionality, to achieve what might well be accomplished by less drastic means well within constitutional bounds: better, more thorough selection methods, strengthened inter-judicial circuit discipline, and refined pre-impeachment procedures by which impeachment could become an effective mechanism when deemed to be necessary.

S. 1423 IS UNCONSTITUTIONAL

The majority report takes the position that since the constitutionality of S. 1423 is a question which can ultimately only be decided by the Supreme Court, Congress should not hesitate to pass the law and let the Court make its decision. Certainly, the Congress has passed legislation knowing that it posed serious constitutional issues. The Voting Rights Act is as good an example as any. However, there is a great difference between legislation which is arguably unconstitutional and that which is very probably unconstitutional. A proposed law which poses serious constitutional issues demands the most careful scrutiny by the legislative branch. If it is very probably unconstitutional, it should not be passed. Certainly the constitutional problems with S. 1423 are sufficiently serious to warrant close examination of the policy questions which are raised. With no prescience of what a decision by the Supreme Court might be, I find the arguments for the constitutionality of S. 1423 to be very troubling.

THE GOOD BEHAVIOR CLAUSE IS NOT A CONSTITUTIONAL BASIF FOR THE REMOVAL OF FEDERAL JUDGES

To summarize the relevant constitutional issues briefly, Article II of the Constitution expressly provides that all civil officers shall be removed from office by impeachment; Article I states that the Congress shall have the sole power of impeachment. The majority believes, however, that another means of removal exists within the Constitution in the good behavior clause of Article III, § 1, and maintains that for 190 years this alternate removal mechanism has been available whenever the Congress wanted to employ it, but has simply never been used. The majority brushes over the fact that throughout the country's history, the idea that the "good behavior" clause was intended to provide a way to get rid of federal judges was not proposed. Even contemporaries of the Framers who felt strongly that it was a mistake to confine removal of judges to the impeachment process never suggested that article III provided such an alternative. Historical precedent, caselaw, and statutory construction all sustain the traditional view that the Constitution provides only one means for removing a judge, the impeachment process.

The standard for impeachment under article II is treason, bribery, or other high crimes and misdemeanors. The proponents of S. 1423 grant that Congress has the exclusive power of removal for commission of the serious misconduct which is impeachable. They contend that a judge whose behavior falls in the gap between "good behavior" and "high crimes and other misdemeanors" is subject to removal by other judges through machinery set up within the judicial branch itself. In other words, a higher standard of conduct is imposed on judges than other civil officers.

To sustain this argument, it seems necessary that three assumptions withstand scrutiny: first, that the Constitution allows the creation of an alternative removal mechanism; second, that the "good behavior" clause requires a higher standard of conduct in the judiciary than would be imposed by impeachment; and third, that S. 1423's removal standards ("conduct which is or has been inconsistent with the good behavior required by article III") does not impinge on the exclusive congressional power of removal by impeachment.

IMPEACHMENT IS THE SOLE MEANS OF REMOVAL OF JUDGES

The proposition that Article III's good behavior clause provided an alternate means of removal of judges was first offered in a law review article by Burke Shartel in 1930, and has recently been argued by Professor Raoul Berger in his work on impeachment. Authority in the United States has been consistent, however, that impeachment was the sole means of removal of federal judges because of the language of Articles I and II that the House and Senate are granted the "sole power" to impeach and convict office holders. Any argument to the contrary must meet the heavy burden created by this express constitutional provision. The majority places its argument primarily on the slender shoulders of the precedent in English common law of the obscure writ of *scire facias*, an argument derived from Berger and Shartel.

The Founding Fathers, the proponents say, must have intended an alternative means of removal of judges within the judicial branch itself since *scire facias* proceedings were available at common law. This proposition has been closely analyzed by many constitutional authorities and found to be wanting. Their work is summarized in "The Report on The Removal of Federal Judges Other Than By Impeachment by the New York Bar Association."

The theory of *scire facias*, as the majority report explains, was that a grant of office imparted an office or estate for the life of the grantee terminable by his death or a breach of good behavior. The judiciary was empowered to issue a writ of *scire facias* to initiate a civil proceeding for the termination or forfeiture of the office. The object of the writ was to remove the officer without penalty. A close examination of the writ does not sustain the conclusion drawn by the majority.

First of all, most authorities cite a lack of historical evidence that the framers of the Constitution even had knowledge of the generally discarded write of *scire facias*, which had admittedly never been used to remove a judge. *Scire facias* was never included in any Revolutionary state constitution, nor was it considered at the Constitutional Convention.

It is admitted by all the scholars that there is no record of the writ having ever been used to attack a letter patent (granting "good behavior tenure") in a Colonial court. Further, the positions subject to removal by the writ were only of minor court officials, not full-fledged judges. Officials so removed included such obscure officers as filazers, remembrancers of the Exchequer, cord recorders, postmen and auditors. No judge was ever removed by *seire facias* in England, even though the writ technically survived until 1947. The writ was not abolished in America until 1938. By the majority's interpretation, any federal judge could have removed another judge up until that time under the theory of *scire facias* simply by concluding that his brother or sister judge in effect breached a condition of his appointment by engaging in something that was not "good behavior." Not one judge has been so removed. Moreover, it is interesting to speculate what would have happened if a federal judge had ever tried to employ *scire facias* on another.

The undocumented precedent of *scire facias* is far too slender a reed to support such a radical change of practice that could effectively destroy the constitutionally mandated life tenure of federal judges and give other judges broad new removal powers.

Other evidence argues against the constitutionality of any other means than impeachment for removal of judges. Early drafts of the Constitution gave impeachement powers to the Supreme Court; after long debate, it was decided that the best and most impartial tribunal would be the Senate, not members of the judicial branch. Further, there is overwhelming evidence that the Framers themselves considered impeachment the sole means of removal. Hamilton, in the Federalist No. 79 expressly said so. Jefferson also held that opinion. Justices Marshall, Story and Kent concurred. As the eminent constitutional student, Phillip Kurland, has said, it is "pellucidly clear . . . that the intention of the Framers was to make impeachment the sole means of removal."

The majority argues that other branches of government under the Constitution have alternate means of removal besides impeachment inherent within their own branch. Distinctions can clearly be drawn, however. An exception is expressly provided within the Constitution for the legislative branch (Art. 1, § 5). The Supreme Court decided that the President can remove certain federal officers performing executive duties within the executive branch for the reason that he appointed them. *Myers* v. *U.S.*, 272 U.S. 52 (1926). The same obviously cannot be said for the judiciary. The Court further held in *Humphrey's Executor* v. *U.S.*, 295 U.S. 602 (1935) that the President is restricted in removing such an official as a commissioner of the FTC because his is a quasi-legislative, quasi-judicial role requiring independence from other officials or departments of government in order to function properly. The same might well be said in respect to the independence of a judge subject to the censure of the judiciary, as well as of the legislature.

It is also worth drawing an analogy to the 25th Amendment, which was drafted to continue the consistency of our constitutional pattern. The 25th Amendment provides that a President may only be removed for inability to perform his duties upon the judgment of the Congress and not the determination of his own cabinet. A disagreement between a judge and his fellow judges over his judicial inabilities should likewise be resolved by the House and Senate, i.e. impeachment, and not by giving certain judges powers over the removal of their peers.

The Constitution is clear that judges are protected from members of their own branch, as well as the legislative and executive.

THE GOOD BEHAVIOR CLAUSE DOES NOT IMPOSE A HIGHER STANDARD OF CONDUCT

Since it is conceded by the majority that Congress has the sole and exclusive power of removal for the commission of impeachable offenses, in order for S. 1423 to be constitutional, it is necessary that it prove that the "good behavior" clause provides a higher standard of conduct for judges than that required by impeachment. I do not believe this proof can be sustained.

The majority asserts that the language of Art. III of the Constitution which says that "the judges . . . shall hold their offices during good behavior" was intended by the writers to establish that judges who did not conform to good behavior should not be able to continue to hold office. These assertions again rest squarely on the scholarly opinions of Shartel and Berger. The great weight of historical research done by other constitutional experts, however, argues that tenure during good behavior was intended to differentiate from tenure "at the King's pleasure." It was rebellion against tenure "during the King's pleasure" which had led to the Act of Settlement in England in 1701, and it was the monarchy's arbitrary power over their judges which led the Colonists to include in their list of grievance against the King in the Declaration of Independence, "He has made Judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries." In other words, to the Founding Fathers, a good behavior grant of tenure meant that the executive was restricted in its powers of removal, not that it was a separate standard of conduct.

Further, although in our history we have never definitely established the standard for impeachment, it is generally agreed that it is not so high as an indictable offense, and indeed many scholars maintain that under 18th Century common law, "misdemeanors" was synonomous with "misbehavior." Certainly our record of impeachments would uphold that interpretation. In 1804, Judge John Pickering was impeached and convicted on several charges, including drunkenness and blasphemy. Judge George English was impeached, and subsequently resigned, on counts including conduct bringing the administration of justice into "contempt and disgrace." In 1936, the Senate convicted Judge Halsted Ritter on a count of misbehavior.

If a judge can be impeached for misbehavior then the good behavior clause creates no separate or higher standard of conduct. Where, then, is the constitutionality of S. 1423?

The majority also contends that the good behavior clause would allow removal for disability. Its authority is in Mr. Berger's analysis that involuntary absence from office caused by mental or physical illness was historically grounds for forfeiture of a good behavior office if not for impeachment. Other scholars, including Shartel himself, have taken issue with this interpretation, however, and argued that a good behavior tenure office was not forfeited by disability. It is clear that at the time of the Constitutional Convention it was thought that good behavior tenure excluded removal for disability. For example, a critic of Art. III, Sec. 1 complained in The Antifederalist Papers, "there is no authority that can remove them from office for any errors or want of capacity." Perhaps as strong a proof as any that insanity, for instance, was not regarded as a cause for removal is in the fact that in the first impeachment proceeding (Judge Pickering in 1804) insanity was raised as a defense by the judge's defenders. No one thought to prosecute for insanity.

It is important to remind the majority in conclusion, however, that many of the problems of judicial disability are already addressed by statute without provision for removal, and therefore no questionable unconstitutional removal mechanism for disability is necessary. 28 U.S.C. 372(b) allows the Judicial Conference to certify to the President that a judge is unable to discharge his duties because of a permanent disability, and the President may then appoint another judge to take over his duties.

THE REMOVAL STANDARDS OF S. 1423 ARE AN INFRINGEMENT ON THE CONGRESSIONAL POWER OF REMOVAL

If S. 1423 is not intended by its supporters to provide a removal mechanism which will operate for the same misconduct as will the impeachment process, serious questions arise about its removal standards, even if we assume, wrongly I believe, that a gap exists between good behavior and impeachable offenses. In other words, if the bill is to be constitutional, the majority must be able to show that the standards for removal by the judicial branch in S. 1423 do not infringe on the congressional power of removal by impeachment.

The general standard of the bill, "conduct which is or has been inconsistent with the good behavior required by Art. III" is at best vague. The further guidelines for bad behavior in Sect. 388 of the bill are based on terms which state supreme courts have employed in cases involving state judges. As observed above "habitual intemperance" and "conduct prejudicial to the administration of justice" are grounds which have already been applied for impeachment and conviction. What lower standard could reasonably be applied to define the bounds to good behavior as something less than an impeachable offense?

In a disturbing provision, Section 385(c)(6) of S. 1423 authorizes removal of judges convicted of a felony, or a crime involving moral turpitude. This is in clear conflict with and infringes on the standard for impeachment, "high crimes and misdemeanors", since by definition criminal behavior is the subject of the impeachment process. The opinion of Berger himself seems to contribute to confusion along this line. In 1976 he testified on S. 1110, the predecessor to this bill, that the purpose of the legislation is to catch "little crooks". It appears then that at least some of the standards embodied in S. 1423 are overinclusive.

If we were willing to concede however, that a gap does exist between good behavior and impeachable behavior to which the provisions of S. 1423 might validly apply, an ironic incongruity is the final result. With S. 1423 Congress would be creating a relatively easy mechanism by which it might rid itself of judges who have been guilty of "bad behavior" falling below the level of impeachable behavior. For the serious misconduct arising to the strictest standards of high crimes and misdemeanors, that is, indictable offenses, the cumbersome mechanism of impeachment remains. So S. 1423 would create a system for relatively easy removal of judges for failing to behave properly, but removal of criminals from the bench would be much harder.

S. 1423 AND SUPREME COURT JUSTICES

S. 1423 was amended in subcommittee in response to objections raised by the Judicial Conference and others to allow for different proceedings in the case of a Supreme Court Justice. It now provides for a recommendation for impeachment to be made to the House following a trial by the judicial court. As a final constitutional question, I would ask if this recommendation would not amount to an advisory opinion from an article III court, proscribed since *Hayburn's* Case 2 U.S. (2 Dall.) 409, 410 n. (a) (1792).

POLICY CONCERNS DO NOT JUSTIFY THIS LEGISLATION

The question which continues to trouble me after study of S. 1423 is what judges we want to be able to get rid of by this legislation and for what reasons. Since as has been argued in the preceding sections, there is small reason to believe that S. 1423 offers any new ground on which removal may be based, the question might well be, Do we simply want new ease of removal, and not necessarily removal for different kinds of misconduct? Or is it rather, that because of our frequent disaffection with unpopular opinions by the judiciary we want to be provided with new justifications for their removal? If any case, as in any major change in the way in which our constitutional system has functioned, the burden rests on the proponents of S. 1423 to prove that the relative ease of removal offered by this bill is worth the possible threat to judicial independence, independence, I have tried to argue, which the Constitution has provided should be protected from invasion by more powerful members of the judicial branch as well as by the legislative and executive branches. I would therefore hope that the Senate would fully address these issues of policy before it decides to approve or disapprove S. 1423.

First of all, the Senate must be convinced that there exists a problem among the Federal judiciary which demands a radical, new situation. Although I initially assumed such was the case, I have heard little of such proof in the Judiciary Committee. I am aware that some 36 States now have disciplinary commissions but the analogies between the State courts and the Federal bench are not strong. Interestingly, 26 of these commissions were established by constitutional amendments, presumably because mere legislation, such as S. 1423, was believed to be unconstitutional. Furthermore, the record on the bill discloses very little evaluation of these State policing systems, and in fact they have not been immune from criticism.

I cannot help but be aware of the dissatisfaction with which some judges, as authors of unpopular opinions, are held by our constituents, but the merits of opinions and judicial procedures are not, of course, intended to be legitimate subjects for complaint under this legislation. The press now and again presents a case against Federal judges, but what strikes me from these accounts is, first, that they are rare and isolated, and second, that in most instances the problems have been taken care of without the apparent need for legislation of this kind. Are the current means of handling the problems which will inevitably arise from time to time sufficient, or could they be strengthened at different points to make them adequate without establishing this radical, new system?

At the present time, the chief judge han-

dles most of the troublesome incidents as they arise in his district on an informal basis. The judicial council of the circuit has authority under 28 U.S.C. 332 to "make all necessary orders for the effective and expeditious administration of the business of the courts within its circuits." In addition, the Judicial Conference is empowered under 28 U.S.C. 372(b) to certify to the President the disability of any judge to fulfill his duties. And finally, there is the impeachment process. Improvement of these methods of control, along with greater care and investigation at the appointment of Federal judges might be sufficient solutions to the problems which exist.

It is not irrelevant at this point to take a look at the record on impeachment. The process may not have been as ineffective a means of discipline as it has been accused of being. Only four judges have been impeached and convicted but 55 have been charged on the floor of the House, an average of one every 3 or 4 years. Thirty-three have been charged with treason, bribery, or other high crimes and misdemeanors. Twenty-two have resigned rather than face Senate trial and public exposure. In all, one judge has left the Federal judiciary under pressure from impeachment approximately every 7 years.

Circuit Court Judge Clifford Wallace has proposed alternative legislation which would create greater disciplinary powers within the judicial circuits, with a final report from the Judicial Conference transmitted to the House in a case of serious misconduct. This proposal is among several seeking to improve the present system which I would hope could be the subject of hearings before the Senate decides on more drastic solutions provided by S. 1423. Certainly, also, the Congress should face its responsibilities under the Constitution and study methods by which impeachment will continue to be workable in the modern world.

The second question which the Senate should ask itself before it approves legislation such as S. 1423, is whether such a solution will create its own problems. There is, first of all, the obvious question which is presented upon the creation and vesting of power in any new bureaucracy: Will it abuse its power?

The striking thing about the structure of the bureaucracy created by S. 1423 is that its new and awesome power to remove fellow judges can be closely concentrated. The layers of the new bureaucracy are to be manned potentially by a small, tightly knit group. The 12-man Commission will represent only a few States. It will report its findings to the seven-member court, all of whom are to be chosen from the membership of the Judicial Conference by the presiding officer He himself is selected from within the Conference. The Commission, through its Director (also chosen by the Judicial Conference) will initially screen complaints, a crucial step in the procedure, since an unscreened complaint is then sent back to the circuit of origin where investigation will be opened against the complained of judge. A hired staff which does not winnow out frivilous or ill-conceived complaints at this stage will be performing serious harm against the judge who has wrongly been accused of misbehavior. The Commission will conduct its own, in-depth investigation after receiving the report of the circuit committee and if it in turn recommends trial by the court, the Commission will become the prosecutor. Obviously, there is a danger of a close-knit overzealous bureaucracy seeking to justify its own existence by finding transgressions in all manner of judicial action, perhaps even in the nature of decisions and opinions.

By far the greatest damage which could result from an alternate removal mechanism of judges judging judges would be the chilling effect it could have on the individuals on the bench. Philip Kurland has remarked that disciplinary systems in the States operate as "polite blackmail" by other judges and the bar.

I shudder to think how early the Federal courts might have been deprived of the services of Judge Learned Hand under such a discipline system as California's, for politeness to counsel and a willingness to tolerate fools gladly were not among his virtues, and it is only such virtues as regular attendance at the courthouse that the policing system seem capable of evoking from timid judges.

Justices Black and Douglas protested surveillance by other judges in the strongest terms in their well-known dissent to the *Chandler* case *Chandler* v. *Judicial Council*, 398 U.S. 74 (1970). *Chandler* did not go to the merits of the constitutional question of whether judges sitting on the judicial council were empowered to suspend the individual activities of a fellow judge. It did, however, serve to give a modern day forum to Black and Douglas to reiterate the fears of loss of independence voiced by leading jurists dating back to Chief Justice Marshall. A survey taken by Senator Sam Ervin in 1970 illustrated this fear sharply when fewer than 1 percent of the Federal judges supported the concept of the Tydings bill, predecessor to S. 1423. A like survey ordered by the Judicial Conference in March of this year has not yet been completed, but I believe the Senate should watch for its results carefully to evaluate the views of those who could judge and be judged.

In a very real way, removal within the judicial branch could have a profound effect on the Federal bench. The caliber of the men and women attracted to the judiciary might well change if they knew that while in the performance of their duties they could be subject to a barrage of public complaints and to open public scrutiny. The confidentiality provisions of S. 1423 to the contrary, the recent case, *Landmark Communications, Inc.* v. *Virginia* 46 U.S.L.W. 4389 (May 1, 1978) holds that the first amendment does not allow criminal punishment of the press for divulging or publishing information of confidential proceedings. At the farthest extreme, we would all suffer if subtle pressures from fellow judges or the bar were brought to bear on those whose judicial opinions on Federal statutory or constitutional issues were "unpopular." The leadership taken by the courts on matters of individual rights are too important to run any risks of being jeopardized in the name of responsiveness to public opinion.

The final question to be answered about S. 1423 is what is "bad behavior"? The majority of the Judiciary Committee tells us it is not crimes or even serious misconduct, for these must be handled by impeachment (although as noted above section 385 of S. 1423 provides that removal may be automatic upon final conviction). It has nothing to do with the merits of a decision nor with procedures at trial. The guidelines of section 388 say it is willful misconduct, willful failure to perform duties, habitual intemperance, or conduct prejudicial to the administration of justice. These are broad, vague terms at best. If the misconduct is not serious enough to be impeachable, does it merely rise to the level of triviality?

Examples furnished us in the majority report leave me with a certain amount of skepticism. Is it for vulgar horseplay and obscene conversations with clerks (*Geiler* v. *Commission on Judicial Qualifications*, 515 P. 2d, (California 1973) that we are erecting this elaborate mechanism? Surely there is a less drastic method of controlling such situations. It is cases like this which make Kurland's assessment of Learned Hand's vulnerability under such a system seem very possible. Such examples also make us realize how easily censure and even removal of judges who consistently write unpopular opinions could be accomplished. Raoul Berger in his 1970 testimony expressed his opinion that judges could be removed for "ignorance." Finally, we are again stuck with the irony of being able to remove a judge guilty of obscene conversations with relative ease, but being able to get rid of a judge who has committed murder or treason or accepted bribes only through impeachment.

I firmly believe that it is the responsibility of the Congress to help insure that we have an effective and responsible Federal judiciary. In that wise, it is the duty of the Senate to play its role in the selection process well, especially since the number of judges will increase rapidly. It is the duty of both Houses to see that the impeachment and trial process work. Certainly much can be done in that area. Congress should be taking a look at other means by which the disciplinary process could be strengthened. S. 1423, however, appears to create a solution worse than the problem. Of dubious constitutionality, the implications of its policy are far reaching and dangerous. There has been only 1 day of hearings on S. 1423, and none since the bill was amended extensively in subcommittee. Our Federal judiciary deserves more from the Senate than precipitous action on this important matter. So in fact does the general public.

As Philip Kurland has reminded us:

"The provisions securing the independence of the judiciary were not created for the benefit of the judges, but for the benefit of the judged. It is not in the keeping of the judges to surrender this independence under pressure or voluntarily to give it away. Judicial independence is held in trust for the people. * * *"

(Mr. MOYNIHAN assumed the chair.)

Mr. HATCH. Will the Senator yield for a question?

Mr. BAYH. Yes.

Mr. HATCH. I am sorry to interrupt the Senator's very eloquent statement.

Mr. BAYH. If the Senator will give me just one other sentence or two, I shall be glad to yield.

Mr. HATCH. I am delighted to.

Mr. BAYH. I do not want what I have said to be misinterpreted. As the Senator from Georgia (Mr. NUNN) very honestly and accurately pointed out, most judges are not in need of this particular kind of sanction. Most of them are good judges. We are talking about isolated instances. But I suggest that our Constitution is as strong and provides as much protection for one individual citizen or one judge, as far as the rights guaranteed in that Constitution, as it does for the multitude. That is one of the real and really important distinctions of our form of Government compared to most others on the face of this earth. The individual and individual rights, whether it is an individual citizen or an individual judge, must be held sacrosanct under our Constitution, or our whole system changes. My concern, in closing, is about the creation of this panel, and to let a majority of this panel assume the responsibility which I feel very strongly was given to the Senate of the United States and the Congress of the United States, where our Founding Fathers said it is serious enough to require a two-thirds majority for impeachment. Instead, we are taking it away under this bill and we are permitting impeachment of judges by a majority vote of a panel of judges.

I do not believe judges are immune from the normal frailties that afflict all human beings from time to time, and I

am concerned that circumstances of the moment, some distant moment, whether it is because of a judge's personal habits or a judge's philosophical position on an issue, might be considered as a source of embarrassment to a majority of that panel of judges and they would use the vehicle which we are now considering to remove a judge—not because he is failing to perform his constitutional function under the Constitution of this country, but because he does not meet the standard they believe is important.

I am glad to yield to the Senator from Utah. I unfortunately had the floor for a limited amount of time.

(Mr. HODGES assumed the chair.)

Mr. DE CONCINI. Mr. President, I ask the Senator from Utah to yield 2 minutes to the Senator from Georgia for other business.

Mr. HATCH. Certainly.

Mr. TALMADGE. I thank my distinguished friend.

Mr. President, I am very pleased to rise in support of S. 1423, the Judicial Tenure Act, of which I am a cosponsor.

This is a measure to which my distinguished colleague (Senator NUNN) has devoted many long and hard hours of research and legislative effort in order to bring it before the Senate for consideration.

In this day of widespread public cries for accountability of all public officials in the executive, judicial, and legislative branches, the Congress has attempted to respond fully to the comments and criticisms concerning the executive and legislative branches. Until today, however, it has not addressed problems in the judicial branch.

S. 1423 provides an apparatus by which the judicial branch of the Federal Government can keep its own house in order in the form of a Judicial Conduct and Disability Committee. S. 1423 establishes procedures, in addition to the existing cumbersome process of impeachment, for the retirement of disabled justices or judges of the United States. It also provides for the removal of justices or judges whose conduct is or has been inconsistent with the good behavior requirement of the U.S. Constitution.

Impeachment has not insured, and cannot insure, compliance with the constitutional good behavior requirements with the size of today's Federal judiciary and the multiplicity and complexity of issues that are adjudicated. It is simply impossible in today's world for Congress to fulfill this role alone. Specifically, an additional mechanism is necessary because of the increases in the total number of Federal judges mandated by the judicial business of the Nation. Specifically, an additional mechanism is necessary because of the litigation trend which has given rise to predictions that there will be a need for over 1,000 district judges and over 250 circuit judges by the year 1990.

Also, specifically, an additional mechanism is necessary because of the rapidly increasing workload of Congress which has, as a practical matter, created an atmosphere in which consideration of any single issue for an extended length of time on the floor can threaten the passage of other vital legislation that is essential to the very lifeblood of the Federal Government. An impeachment must, therefore, compete with pressing national legislative priorities for the time of the House of Representatives and the Senate. To those of us who so strongly desire a sound judicial branch free from criticisms of failures of competence and integrity, this is simply not acceptable.

If I had my way, we would have much less Federal Government, Federal laws, Federal rules, Federal regulations, and, therefore, resulting Federal litigation. However, even this would not return us to the early days of our Nation where the impeachment process was sufficient to keep the judicial branch of our Government in proper working order.

Mr. President, I hope that the Senate will move to expeditiously act on S. 1423, and I once again commend Senator NUNN for his able efforts in this regard.

Mr. President, I yield the floor and I thank my distinguished colleague from Arizona for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. DECONCINI addressed the Chair.

Mr. THURMOND. Mr. President, I yield 1 hour to the distinguished Senator from Maryland.

Mr. DECONCINI. Mr. President, I have the floor, I believe.

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. DECONCINI. Mr. President, I had agreed to yield 15 minutes to the Senator from Utah.

Mr. MATHIAS. I have been waiting.

Mr. HATCH. I will make my remarks very short to accommodate the Senator.

Mr. MATHIAS. I have been here since 12 o'clock.

Mr. HATCH. I have been here since 10 o'clock on all these bills, so I will make my remarks short.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona yields 15 minutes to the Senator from Utah.

The Senator from Utah has the floor.

Mr. HATCH. Mr. President, in deference to the distinguished Senator from Maryland, I will try to cut my remarks down, but I have been on the floor since 10 o'clock this morning, although on and off the floor, waiting to speak on some of these issues.

Mr. President, let me say I enjoyed the remarks of the distinguished Senator from Indiana and his eloquence on this subject. I think he has raised a number of important issues which deserve great consideration.

Mr. President, as a trial lawyer who has, literally, been involved in thousands of cases in front of Federal and State courts, I rise in support of the efforts of Senators NUNN, DECONCINI, THURMOND, and others. I support this judicial tenure bill. I think it is long overdue. It is something that this country needs and I believe it will be constitutionally upheld in spite of the objections raised by not only the distinguished Senator from Indiana, but also by my friend from Maryland. I think this bill is an intelligent approach to judicial tenure.

In spite of all that the distinguished Senator from Indiana has said, I do believe that many illustrations he has brought up, in fact, most of them, will not suffer from the applicability of the provisions of this bill.

The bill is designed to provide a means to remove those unwarranted restraints that appear in the law presently; so that we can, literally, handle some of the problems that exist in the judiciary today.

As a trial lawyer who has tried innumerable jury trials, all kinds of nonjury trials, in almost all courts in at least two States, I have found a lot of abuses in the judiciary that nobody does anything about.

I tried a number of cases in one of the courts most criticized by Judiciary Committees in both the House and the Senate, and I must say there were some redeeming qualities in our late chief judge in Utah. I liked him personally and considered him a friend. He always treated me with courtesy in his courtroom. Nevertheless, I saw and observed many things which should have been corrected and which were allowed to exist because there is nothing available in the present law that would have prevented or corrected those kind of abuses.

In my legal practice, I have seen certain Federal judges controlled or influenced by large corporations. I have seen control of certain Federal judges by large law firms and I have seen it on more than one occasion. I have also seen Federal judges who were controlled by special interests.

I have seen Federal judges become arbitrary, capricious, exhibit all kinds of partiality, and I have seen an abuse of the legislative processes by what has been referred to as "Government by judiciary."

I have seen judicial intemperateness and I have seen judges continually intervening in the trial of cases, even when there were competent trial lawyers trying the cases, because the judges took sides early in the trials instead of being impartial as judges should be.

I have seen repeated abuses of the trial process. I have seen judges who did not put the time in on the bench, who would not work hard, who, literally, would not do the things they should.

I have seen judges drunk on the bench. Federal judges, if you will, appointed for lifetime tenure, judges who should know better and, who should be examples, impeccable examples to the people of this country.

It is not any wonder to me that we have problems, even with all the good Federal judges on the bench, and I can say from experience that the vast majority of them are fine people, exceptional judges, and a credit to the Federal bar. But there are some who should never have been appointed to begin with, who have been a disgrace to the bench and continue to be a disgrace even today. There are those who literally ought to be thrown right off the bench because they are breaching every code of conduct that should be imposed on judges in our society.

I should say this, sometimes our selection of judges in this country deserves a little more consideration. I have been led to believe that of the judicial appointments since this administration has taken over, only one has been Republican—I have to admit the Republican Party is the minority party, but I do think more than one Republican is qualified in all the judges appointed by this adminstration.

The President of our country has repeatedly indicated he believes in judicial merit selection. Only the best should be on the bench in the United States.

As I have sat on the Judiciary Committee, I have seen some of the best who have been nominated and appointed, but I have seen some who probably should not have been appointed.

They cannot tell me that, in these United States, we cannot find better, more qualified people to sit on the Federal bench and work in the Federal Judiciary than some of the people we appoint right here in Washington.

I am aware of a matter in which a judge took the fifth amendment, a Federal judge took the fifth amendment himself, and continued to serve on the bench until he retired from the bench in what appeared to be political dealing.

I saw a case where some people actually went out and, as they always did, cut down Christmas trees on Federal land, which they have done for 30 years, and they were sentenced to 5 and 10 years imprisonment by a Federal judge for "theft" of a few dollars worth of Christmas trees.

I have seen cases where judges who knew better deliberately wrote opinions they hoped, it seemed to me that they hoped, would be reversed on appeal because they knew their opinions were wrong. I think those judges were influenced, or at least there is good evidence they were influenced, by special interest forces and special interests themselves.

The point I am making is that, in spite of the fact that the vast majority of our Federal judges are competent, decent, honorable, ethical people of integrity, there are those occasions when you have powerful Federal judges, appointed for life, who literally abuse their office, and nothing can be done about it because the remedy basically has been confined to impeachment.

I think this bill may be criticized by some because, under its provisions, we are relying on judges to judge other judges, and people never are going to believe that other judges are going to come down fairly against their peers. But I believe they will.

I have been shocked by the criticisms I have heard about certain judges in this country who have abused their offices, who have abused the attorneys, who have abused the parties, who have abused the citizens and the States in which they have sat, and who certainly have not lived up to the mandates of the Federal Government in taking the positions to begin with. These people literally should have to face responsibility for items listed in the report of the committee: willful misconduct in office, willful and persistent failure to perform duties of the office—you can go right down the line—habitual intemperance, and other conduct prejudicial to the administration of justice that brings the judicial office into disrepute. Their fellow judges may be a lot tougher on abuses of that nature than perhaps any of us in Congress would be.

I think the Senator from Georgia and others who are sponsoring this legislation are doing the country a great service, because if there is anything for which we should have respect, it is the judiciary of this country.

I have to admit that I have seen attorneys deprecate the Federal judiciary; I have seen the public deprecate them; I have seen the individual parties deprecate them; I have seen other leaders deprecate them. In all honesty, even though some of those deprecations were absolutely right, nothing could be done about it.

I do not believe that the Constitution forecloses getting rid of judges who have consistently acted improperly on the bench. I cannot conceive of any particular commission or committee throwing judges off the bench for innocent mistakes that could be made by any judge sitting on the bench.

However, we are talking about a lifetime tenure job the minute you put a Federal judge in; it seems to me you have made him a millionaire because, for the rest of his life, if he stays there 10 years, he has his full salary on that bench and can stay there as long as he wishes, basically, under present law, with impunity, and be just as vicious and violent as he wants to be. Again, fortunately, the vast majority of our Federal judges are not of this type.

This bill has merit. I support it. I support an upgrading of our judicial system. I support merit selection where judicial selection is taken out of politics. Unfortunately, I do not think we have any aspect of that today in our society.

I commend those who are managing the bill and those who have worked hard to have the Judicial Tenure Act come up and be considered by the Senate.

I also pay tribute to Senator BAYH and Senator MATHIAS, because I know their sincerity and the arguments they are making and have made. I disagree with those arguments. I believe that these officious problems that exist in the Federal judiciary have to be stopped. We have to solve them, and we have to do something to upgrade our judiciary so that it is, without question, the greatest system of justice in the world today. This legislation, I believe, will help us do that, without being abusive to judges who sit on the bench.

I share some of the concerns Senator BAYH has raised. I commend him for raising them. But, in balance, I cannot conceive of any panel of judges, any commission, deciding against a judge unless there is ample evidence that that decision should be made against him.

Mr. President, I thank the distinguished Senator from Arizona for this time, and I again thank the distinguished Senator from Maryland for his patience.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I yield 1 hour to the distinguished Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland is recognized for not to exceed 1 hour.

Mr. MATHIAS. Mr. President, I express my thanks to the distinguished Senator from South Carolina for making this time available for me. It seems a lot of time after so much discussion, but this is a very important subject and one that deserves careful scrutiny. It is that kind of thoughtful consideration which the Senator from South Carolina and the Senator from Arizona give to this subject. I think this scrutiny indicates the importance they attach to it and indicates why they are willing to make arrangements for the kind of thorough review of this whole topic which it really deserves and demands.

I think we were all helped in our understanding of the bill by the participation in this debate of the author of the bill, the Senator from Georgia (Mr. NUNN). I believe we will have a better understanding of what are trying to do and what we should do—and perhaps, more important, what we should not do—because this whole debate really weighs the question of whether judicial control is worth the sacrifice of judicial independence.

As we weigh that question, we have to do it against the background of the very serious challenges that are before the courts today. We have to recognize that these are challenges which affect not only the Federal courts but also the State courts. We have to appreciate the enormous volume of judicial business which is generated not only by our population of more than 200 million Americans but also by an affluent society. Our populace finds more reasons to go to court, brings more causes of action than ever before, has higher degrees of civic awareness which have tended to be litigious at times, and is beset by social problems which we urge people to take it to the courts instead of to the streets.

All this has put pressure on the court system, and all this is involved in bringing this bill and this issue to the Senate today.

However, I believe this: The changes in the system of the administration of justice have to be approached with very great care. Tampering with judges is as dangerous as tampering with the courts themselves. I do not have to enlarge upon these apparent and obvious dangers.

However, when we look at a bill such as this, which provides for a rather radical remedy, we should reflect that, notwithstanding the unhappy experiences of the Senator from Utah, by and large, over the years, such unhappy experiences in the Federal courts are very rare. The Federal judiciary in almost every State is an ornament—an ornament to the bar, to the bench, and to our system of constitutional government.

Mr. HATCH. Mr. President, will the Senator yield for one comment on that? I do not mean to interrupt the Senator.

Mr. MATHIAS. I yield.

Mr. HATCH. I did not want to give

the wrong impression. My experience in the Federal bar and in cases before the Federal courts has been pleasant, for the most part, and extremely satisfying. But I have seen these isolated judges' actions which have been oft repeated, as I have mentioned, and those are only some I have heard of.

Again, I reiterate that I think—as does the distinguished Senator from Maryland—that the vast majority of the members of the Federal bench are extremely competent and dignified and decent men and good judges. My experience typically has been a very good experience.

The reason I asked for the Senator's kindness in interrupting is because if I indicated otherwise I certainly would not want the record to read that way. But in the many case experiences that I have had there have been more than a few unsatisfactory situations.

Mr. MATHIAS. I thank the Senator from Utah. I think he makes the point which is important. As he says, I think I use his word, which was "isolated" cases.

Mr. HATCH. That is right.

Mr. MATHIAS. The very fact that the cases are rare and the fact that they are isolated is the reason that they get a lot of attention.

But what I think we have to remind ourselves here today is that we do not want to be misled by the attention which some unique situations get to the point that we are saying to the American people that the whole system is archaic or outmoded or of very little further use.

I think that is the danger in allowing this to get out of the proper perspective.

The basic reason that I cannot support this bill is because of the radical and violent change that it would work on the architecture of the Constitution. Perhaps it is that I am just too conservative, and not only too conservative, too much of a strict constructionist of the Constitution. I think we are dealing here with a principle, and, Mr. President, it is a principle worth preserving. It is not a new principle. It is an ancient principle. It is a principle which goes back into the history of mankind long before the Constitution of the United States was written, long before Columbus arrived in America.

Herodotus, the Greek historian, writing the history of ancient Persia, tells us in that history:

> The royal judges are men chosen from among Persians, *who continue in office until they die*, or are convicted of some injustice. They determine causes between the Persians, and are the interpreters of the ancient constitutions and all questions referred to them.

So this principle of judicial independence is not 200 years old, but we have here the positive record that it is more than 2,000 years old.

And the founders of this country were wonderful men. They were citizens of the world. They were scholars. They read carefully the history of the classical world and they knew about Herodotus. They knew that in establishing the independence of Federal judges they were not creating any new experiment in government. They were in fact embodying the wisdom of the ages in the Constitution of the United States. They gleaned from the experience of other peoples the lessons to be learned from history; and they wrote those lessons into the organic law of this country. In this bill we today are tempted to tamper with that organic law.

The framers of the Constitution dealt at great length with this subject. They came back to it again and again and again during the Constitutional Convention.

On Monday, August 27, 1787, they came to it when Mr. Dickinson moved an amendment to article XI, section 2. After the words "good behavior" he would add the words "provided that they may be removed by the executive on the application by the Senate and House of Representatives."

Mr. Gerry, known to history for being the author of gerrymander, perhaps more notably than this particular occasion, seconded the motion. "Gouverneur Morris thought it a contradiction in terms during good behavior, and yet being removable without a trial. Besides it was fundamentally wrong to subject judges to so arbitrary an authority."

I am skipping down in the journal for that day:

> Mr. Randolph opposed the motion as weakening too much the independence of the judges. Mr. Dickinson was not apprehensive that the Legislature composed of different branches constructed on such different principles would improperly unite for the purpose of displacing a judge.
>
> On the question for agreeing to Mr. Dickinson's motion it was negative. Connecticut, aye, and all the other States present, no.

That was the vote. No. Every State except Connecticut.

What they were trying to do there was to provide for the embodiment of the ancient principle of the independence of the judiciary in the new Constitution.

The Senator from Georgia in his colloquy with the Senator from Indiana made the point that it was hard to impeach Federal judges, that it had not been done for 40 years. I agree with that. It is hard to impeach anyone under the procedures which we follow in this country and which have been imported or inherited almost directly from the British Constitution. But it ought to be hard to impeach a Federal judge. It ought to be very hard to impeach a Federal judge. And that is the way the Founders intended it; and that is the way they wrote it, and that is the way it is.

It does not mean that it cannot be done. But it is hard because they intended it to be hard, and it ought to stay hard.

There are a lot of things that citizens could do. People who do not feel that a judge is acting right can exercise their constitutional right to petition the House of Representatives for a bill of impeachment at any time. Any citizen, any group of citizens, any bar association, can do that any time.

But the impeachment process is and ought to be hard.

The Senator from Georgia raised the question of the views of Thomas Jefferson on this subject. Of course, Jefferson was serving in another capacity during the Constitutional Convention. He was on the other side of the Atlantic as our representative in France. But he has left us some evidence of his views about judges, one of which was quoted in a letter to Senator DECONCINI from Judge James L. Oakes, a judge in the U.S. Court of Appeals for the Second Circuit.

In that he quoted a letter from Thomas Jefferson, whom Judge Oakes characterized as no lover of the judicial branch, a letter from Thomas Jefferson to James Madison in which Jefferson said:

> In the arguments in favor of a declaration of rights you omit one which has great weight with me, the legal check which it puts into the hands of the judiciary. This is a body, which if rendered independent, and kept strictly to their own department merits great confidence for their learning and integrity.

Now, as Judge Oakes points out in his letter, the stress that Jefferson puts on the word "independent" is pertinent and important to our discussion here today.

I must say that I was taken by surprise by the colloquy between the Senator from Arizona and the Senator from Georgia on their interpretation of this bill as being a bill which was so comprehensive that it would really eliminate the necessity for further impeachment procedures in the Congress.

I had depended on that language on page 7 of the report in which it says, and I quote:

> Therefore, an alternative method of impeachment to accomplish the removal of Federal judges must have been contemplated by the framers to provide for the removal for misbehavior or disability that was in violation of the "good behavior" standard but was less serious than an impeachable offense. The substance of what constitutes "misbehavior" may be open to interpretation; but it is completely clear that procedurally, "good behavior" was a term involving the judicial process.

But we have made a considerable amount of legislative history here today. I am not sure what use it will be put to in the future; but I think that courts or other bodies that may have to interpret this bill at some time are going to find a good deal of difficulty with this particular portion of the bill.

I feel, however, if there is to be judicial interpretation of the legislative history we are making here, that we ought to refer to the report on the removal of Federal judges other than by impeachment which was rendered by the Committee on Federal Legislation of the Association of the Bar of the city of New York on April 1, 1977. In that report the city bar said this:

> We also do not believe that any gap exists between the "good behavior" and "impeachment" clauses. The grant of good behavior tenure is, in our view, simply a grant of life tenure subject to removal by impeachment. The impeachment process allows removal for misconduct which is criminal, and some which is not explicitly criminal, but stops short of the all-inclusive basis for removal suggested by the vague phrase "bad behavior." We believe a constitutional convention which rejected impeachment for mal-

administration because the term was unclear and overly broad, would not have provided for removal under so ill-defined a standard as failure to maintain good behavior.

We do not believe that framers, interested in defining and circumscribing power, would place such unlimited power in the hands of any group, even the judiciary.

I think that that certainly ought to be part of the legislative history of this particular provision.

George Mason, that great member of the Constitutional Convention from Virginia, suggested the addition of "maladministration," and his fellow Virginian, James Madison, objected "that so vague a term will be equivalent to a tenure during pleasure of the Senate." It was at that point that George Mason withdrew the word "maladministration" in favor of the phrase "other high crimes and misdeameanors," a phrase which was familiar to colonial lawyers and lawyers of the early Republic because that was a phrase carried on the title page of the reports of State crimes with which they were all familiar.

I think we do have some responsibility to deal with both the constitutionality of this bill and with the policy involved in it. I must take issue with my good friend from Georgia when he said that only the Supreme Court can interpret the Constitution, only the Supreme Court can decide the constitutionality of a bill.

I just have to say that I think we have a responsibility which we cannot avoid. We can be wrong, we can be in error, just as I think the Court is sometimes in error, but we have taken an oath to discharge the duties of Senators in accordance with the Constitution. I do not believe we can undertake to perform those duties without undertaking the responsibility to come to some conclusion as to whether what we are doing is constitutional and to interpret the Constitution in light of legislation that we are passing.

As Chief Justice Burger has reminded us:

In the performance of assigned constitutional duties, each branch of the Government must initially interpret the Constitution, and the interpretation of its powers by any branch is due great respect from the others. *United States* v. *Nixon*, 418 US 683,704 (1974).

I think that states very succinctly that we have the duty to make a judgment on this bill, and I have to come down on the point that the bill is not constitutional.

I think we can only encourage the denigration of that respect that we should have of the courts by saying, in effect, "Well, we don't know about the constitutionality of this, so let us just pass it and let the courts decide on it."

That is one of the reasons why the courts are in trouble these days. There are a lot of legislative acts that have been passed with that kind of disregard for the legal sculpting that ought to be done by legislators. If the laws were more carefully drawn, there perhaps would not have to be quite as much burden on the courts as there is.

In coming to my own conclusion that this bill is unconstitutional I feel fortified by the kinds of judgments that have been placed on the record by distinguished legal scholars and the judges around the country. I am happy to cite as an example one of the letters that was written to Mr. William James Weller of the Administrative Office of Courts on this subject by Judge Alexander Harvey of the U.S. District Court for the District of Maryland. Judge Harvey is one of the distinguished jurists not only in Maryland but in the entire country.

He says:

In my opinion, S. 1423 has serious constitutional defects and, in any event, is inadvisable legislation. I am therefore strongly opposed to the passage of this bill.

First, I do not believe that the proposed statute is constitutional. I do not think that a federal judge can, under he United States Constitution, be removed from office and his salary and retirement benefits terminated except through the impeachment process. Merely because such a process is unwieldy and time consuming does not mean that the Constitution can be interpreted in a manner not intended by its framers.

Mr. President, I ask unanimous consent that Judge Harvey's letter be printed in the RECORD in its entirety at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MATHIAS. But there is also, of course, a question of policy here, as well as a question of constitutionality, and that question of policy is addressed in a similar letter written to Mr. Weller by Judge J. Joseph Smith. In that letter, Judge Smith said:

We can survive the abrasiveness of a Judge Chandler or a Judge Willis Ritter. We could not survive the loss of independent minds which would result from outside monitoring—including monitoring by other judges applying discipline to their fellows.

And that, of course, gets us to this very difficult question of policy.

Mr. President, I ask unanimous consent that Judge Smith's letter also appear in the RECORD in its entirety at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. MATHIAS. I asked earlier whether we had invited our former colleague Senator Ervin to testify, because I have such vivid recollections of his forceful leadership and his eloquent expression of views when the subject of judicial tenure has been before the Judiciary Committee in past years. I regret that he was not here this year to speak again, but even though he has not been here in person, his words are here, and they are available to us. I think they are worthy of being repeated in this debate.

Sam Ervin said:

The separation of powers concept, as understood by the Founding Fathers, assumed the existence of a judicial system free from outside influence of whatever kind and from whatever source, and further assumed that each individual judge would be free from coercion, even from his own brethren.

Maybe those of us who have not been judges do not understand the full import of that phrase: "Free from coercion even from his own brethren." But judges understand that. Hugo Black, the distinguished Senator from Alabama who went to the Supreme Court for a long period of service, said in the case of *Chandler* v. *Judicial Council*, 398 U.S. 74 (1970):

The wise authors of our Constitution provided for judicial independence because they were familiar with history; they knew that judges of the past—good, patriotic judges—had occasionally lost not only their offices but had also sometimes lost their freedom and their heads because of the actions and decrees of other judges. They were determined that no such things should happen here. But it appears that the language they used and the protections they thought they had created are not sufficient to protect our judges from the contrived intricacies used by the judges of the Tenth Circuit and this Court to uphold what has happened to Judge Chandler in this case.

So Justice Black understood what judges could do to each other, and so did Justice Douglas. Justice Douglas, in the same case, said:

It is time that an end be put to these efforts of federal judges to ride herd on other federal judges. This is a form of "hazing" having no place under the Constitution. Federal judges are entitled, like other people, to the full freedom of the First Amendment. If they break a law, they can be prosecuted. If they become corrupt or sit in cases in which they have a personal or family stake, they can be impeached by Congress. But I search the Constitution in vain for any power of surveillance that other federal judges have over those aberrations. Some of the idiosyncrasies may be displeasing to those who walk in more measured, conservative steps. But those idiosyncrasies can be of no possible constitutional concern to other federal judges.

It is time we put an end to the monstrous practices that seem about to overtake us, by vacating the orders of the Judicial Council that brand Judge Chandler as unfit to sit in oncoming cases. Only Congress can take action, unless the Constitution is amended to allow judges to censor, police, or impeach their fellow judges.

That, Mr. President, I think sums up very succinctly what needs to be said both on the question of constitutionality and on the question of policy.

One of the great judges of this century was Justice Frankfurter. He offered a thought which is perhaps useful at this time, when we are finding new powers and new authority within the Constitution to deal with Federal judges; powers that were rejected by the Constitutional Convention itself; powers which have been considered from time to time and always considered to be lacking.

So this new discovery of power to deal with the removal of judges is, I think, akin to new powers that Justice Frankfurter referred to in a totally different context, in which he said:

The history of archeology is replete with the unearthing of riches buried for centuries. Our legal history does not, however, offer a single acheological discovery of new, revolutionary meaning in reading an old judiciary enactment. The presumption is powerful that such a far-reaching, dislocating construction as petitioner would now have us find in the act of 1875 was not uncovered by judges, lawyers or scholars for 75 years because it is not there.

I think that is really the case we are dealing with today. The reason why people have not found, with all of the legal archeological work that has gone on over the years, a way to get rid of unpopular judges, is because it is not there. And there have been plenty of unpopular

judges, and there has been great popular heat against some good judges.

I do not think we can find one today; and with all due respect to my good friend from Arizona and my good friend from Georgia, I do not think we can find these new powers within the four corners of this bill.

EXHIBIT 1

U.S. DISTRICT COURT FOR THE DISTRICT OF MARYLAND,
Baltimore, Md., April 5, 1978.

Re The Judicial Tenure Act—S. 1423, 95th Congress.

Mr. WILLIAM JAMES WELLER,
Legislative Liaison Officer, Administrative Office of the U.S. Courts, Washington, D.C.

DEAR MR. WELLER: Receipt is acknowledged of your memorandum of March 15, 1978, with enclosures. As requested by the Judicial Conference, I am setting forth herein my views concerning S. 1423.

In my opinion, S. 1423 has serious constitutional defects and, in any event, is inadvisable legislation. I am therefore strongly opposed to the passage of this bill.

First, I do not believe that the proposed statute is constitutional. I do not think that a federal judge can, under the United States Constitution, be removed from office and his salary and retirement benefits terminated except through the impeachment process. Merely because such a process is unwieldy and time consuming does not mean that the Constitution can be interpreted in a manner not intended by its framers.

But besides these constitutional infirmities, I believe that this legislation is wrong for policy reasons and would have a serious inhibiting effect on decision making by federal judges. One of the keystones of our federal judicial system is the absolute and unfettered independence of each member of the judiciary. Unlike judges appointed or elected in many states, a federal judge, appointed for life, is beholden to no one. He is therefore absolutely free to decide each case before him on the basis of the facts and the applicable law. His decision need not be affected by the fear of personal consequences or by the desire to please some governmental commission.

I think it makes little difference whether such a commission exists within the executive or the judicial branch of government. A federal judge under present law need not be concerned with the views or predilections of other federal judges. Of course, if he errs in a ruling, appeal procedures are available to correct the error. The superstructure of a Judicial Conduct and Disability Commission with power to look over a judge's shoulder at all times can only result in having a serious inhibiting effect on every federal judge in his decision making.

Finally, I do not believe that the few instances in recent years of a lack of "good behavior" or of inability to perform judicial functions justify the procedures mandated by the statute. The problem instances in recent years have been very few. However, the unfortunate inhibiting effects on all judges will be substantial and certainly not commensurate with the perceived harm.

If further comment concerning my views in this regard are desired, please let me know.

Sincerely yours,

ALEXANDER HARVEY, II,
U.S. District Judge.

EXHIBIT 2

HARTFORD, CONN., *April 20, 1978.*

Hon. IRVING R. KAUFMAN,
Chief Judge,
U.S. Court of Appeals, U.S. Courthouse,
New York, N.Y.

DEAR IRVING: I agree with the tenor of Judge Brieant's letter of April 6, 1978. Impeachment is a cumbersome process. I can recall the time, effort and heavy weight of responsibility on members of the House in determining to present to the Senate articles of impeachment of a sitting judge. As a result minor and some not so minor faults of judges go uncorrected. Where actual corruption exists, impeachment can be and has been used. But no lesser machinery has been devised, or could be, that would place anyone in a position to monitor the day-to-day work of the judges without creating a danger to the judges' necessary independence of thought and action. Pride and peer pressure, as Judge Brieant points out, have kept the system functioning well, with relatively few problems. We can survive the abrasiveness of a Judge Chandler or a Judge Willis Ritter. We could not survive the loss of independent minds which would result from outside monitoring—including monitoring by other judges applying discipline to their fellows.

Our best judges are least swayed by passing changes in public moods, notably in times of crisis. To be sure, some of the best have not gladly suffered incompetence of counsel before them and may have reacted too strongly on occasion. They would be targets of any "disciplinary" system.

"Discipline" for such matters can too easily mask opposition to substantive rulings. That minor faults may be ignored is a small price to pay for the preservation of the fundamental integrity of the judiciary. In my view any "disciplinary" body poses too great a danger of use actually to control the decision making of the judges.

The architects of our system chose independence over control and rightly made removal no easy matter.

The title of S. 1423 is enough to condemn it. "Judicial Tenure" is a constitutional, not legislative, subject.

Sincerely,

J. JOSEPH SMITH.

Mr. BAYH. Will the Senator yield?

Mr. MATHIAS. I am happy to yield to the Senator.

Mr. BAYH. Mr. President, I want to express my deep appreciation to my friend and colleague, my coworker in the vineyards on previous constitutional matters, for his succinct and interesting dissertation. I particularly concur in the way in which he stresses the critical constitutional question, which it seems to me is the fundamental question we have to resolve the best we can, and having resolved that one way or the other to go on to the second point which he also emphasized, the policy question.

I concur with him. I think this legislation fails on both grounds. I do not see how in the world we can take the phrase "good behavior" which was clearly in the context as used by our Founding Fathers to be "good behavior, appointment for life," on one side, and appointment at the pleasure of the King on the other side, and use that as a reason to totally subvert the impeachment clause.

I would like to point out to my good friend from Maryland, if he will indulge me, matters that I did not have at my fingertips when the Senator from Georgia and I were discussing this earlier, a matter which the Senator from Maryland is very clear about.

As will be recalled, the Senator from Indiana asked the Senator from Georgia why the Founding Fathers did not give some more instructions to us other than just the use of the words good behavior as a suggestion that further implementing legislation was to be expected.

I would suggest to my good friend from Maryland that when we look at the specific degrees of particularity that are contained in the Constitution as far as how you remove House Members, as the Senator will recall in section 5, in article I, it goes into some detail about how the House shall govern itself. It sets its own rules.

Mr. MATHIAS. The Senator is exactly right. The Constitution provides that Congressmen can remove Congressmen, Representatives are removed by Representatives, Senators are removed by Senators, but it does not say that judges are removed by judges. That is a very significant difference.

Mr. BAYH. The only place it talks about removal being applicable to judges is in the impeachment clause. I concur with the sense of my good friend that this legislation does not pass muster on the constitutional merits, and it does not pass muster on policy merits.

If we can think for a moment in terms of Judge Frankfurter, instead of using the term bad judge, to use the term unpopular judge, that being a better phraseology in today's terminology, can the Senator imagine the kind of pressure that can be put on the panel of judges who wanted to maintain the dignity and the acceptance of the judicial branch as they bore in on some judge because of his position on some of the sensitive issues of abortion, of prayer, of busing, some of these things that cause all of us nightmares? I want a judge to feel he or she can stand up and say to any other judge that he is right until proven wrong by the Supreme Court of the United States, or until two-thirds of this body convicts him according to the impeachment clause of the Constitution.

I thank my friend. I am glad to be with him on this point.

Mr. MATHIAS. I thank the Senator from Indiana not only for this intervention but also for carrying so much of the burden of this side of the debate throughout the day. He has demonstrated his wonderful knowledge of the Constitution.

I might say to him, because he remembers sitting for many hours over a period of many years in the Judiciary Committee with Sam Ervin, that perhaps a good place for me to pause is to quote again Senator Ervin, who tried to sum up in the same eloquent way as the Senator from Indiana has just done not only the constitutional questions, the technical questions, but the human questions.

He used these words to do it. He said:

The Founding Fathers knew that the form of Government they established would not create a judiciary composed of judicial angels who could do no wrong. They knew the activities of a few judges might handicap the operation of the system. But at the same time, they realized that individual liberty is best protected by an independent judiciary composed of judges who were subject to the Constitution alone. They had learned the lesson of history, and attempted to build safeguards into our system which would prevent its repetition. We must not

reject their wisdom and destroy our own freedoms by regarding the Constitution they drafted as a piece of ancient parchment which can be folded and rearranged to suit the whims of individual men.

That expresses, I think very beautifully, that whole range of history which stretches into great art from Herodotus through the millennium down through the Constitutional Convention and to this very debate today.

I would hope that the Senate would read the lessons of history, would learn from the lessons of history, and would avoid a repetition of the problems that history tells us about. In order to do that, I think we have to reject this bill.

Mr. President, may I inquire how much time I have remaining?

The PRESIDING OFFICER. The Senator has 18 minutes remaining.

Mr. MATHIAS. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DECONCINI. Mr. President, how much time does the Senator from New Mexico want?

Mr. SCHMITT. I would like 5 minutes on the bill.

Mr. DECONCINI. I yield 5 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico may proceed for 5 minutes.

Mr. SCHMITT. Mr. President, on a variety of other occasions since entering the Senate, and I am sure on a variety of other occasions in the future, I have opposed what probably on many occasions will be called unnecessary tampering with the Constitution. I think whenever possible we should not tamper with the Constitution. I am afraid that S. 1423, the Judicial Tenure Act which is under consideration at this time, is an example of such unnecessary tampering.

On its face, with some particularly glaring cases having been in the public view recently, this bill may appear reasonable. It would establish within our judicial branch of Government a system for investigating and resolving allegations regarding the conditions or conduct of members of our heretofore independent Federal judiciary, conditions or conduct which may be inconsistent with the good behavior requirement of article III, section 1 of the Constitution of the United States.

That article and section reads as follows:

> The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their offices during good Behavior, and shall, at stated Times, receive for their Services a Compensation which shall not be diminished during their Continuance in Office.

Article II, section 4, however, of that same Constitution, sets the standards for removal of the President, Vice President, and all civil officers of the United States, that is, officers such as those in the judiciary. For purposes of the Constitution, Federal judges are civil officers. That section, article II, section 4, reads as follows:

> The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other High Crimes and Misdemeanors.

Mr. President, what this bill would do is to remove from the legislative branch, the Congress, the sole constitutional right to remove Federal judges from office. Furthermore, it would lessen the standards for removal as they apply to our Federal judges. Instead of treason, bribery or other high crimes and misdemeanors, our Federal judges could under this bill, be removed from office for "lack of good behavior," whatever that means, or may be deemed to mean with changing times. They could be removed not by the elected Congress but by a small group of men not responsible to the Congress or to the people, for the most part.

Mr. President, this bill represents a most dangerous threat to our independent Federal judiciary, the judicious interpretation of our Federal laws, and our freedoms in general. Unnecessary tampering with the Constitution almost invariably will, in one way or another, affect at least the future freedom of our citizens. One of the reasons why our country has prospered is, in large measure, due to the structure, the designated structure and independence of the Federal judiciary. Because we have judges who are not afraid to render unpopular decisions if they are required, because we have judges who are protected from the temporary furor of those same unpopular decisions, there is, I believe, no better or fairer judicial system in the world today or, in fact, in history, at least a system that oversees the judicial problems of a country of the size and complexity of the United States of America.

The proponents of this measure claim that the actions of a few bad judges require this change that the experience of 190 years is inadequate. They claim that the fact that in our country's history, only eight judges and one Justice have been impeached and only four of those convicted makes this legislation necessary, because it shows how difficult it is to remove bad judges. Well, I look at the same record but interpret it differently. It should not be easy to remove Federal judges from their office. And the fact that it has been deemed necessary to try only nine times in 190 years is some indication of how well the system has worked.

Our Founding Fathers, the drafters of our Constitution, wisely made it very difficult to remove such judges. They had the foresight to realize that an independent Federal judiciary was absolutely essential if the rights of the citizenry were to be fully protected, not only in the present, but in the future. S. 1423 would dangerously erode the protection designed by our Founding Fathers. I am afraid.

To those Senators who are undecided on this issue, I commend for reading the excellent additional views of Senators BAYH and Senator MATHIAS. In those views, our distinguished colleagues clearly rebut the arguments of the proponents of this legislation.

If we want to avoid the situation of Federal judges not conforming to the requirements of "good behavior"—again, whatever that term is supposed to mean—then let us take more care in whom we place on the Federal bench. In my home State of New Mexico, I am happy to say, my senior colleague (Mr. DOMENICI), the New Mexico Bar, and I have established a New Mexico Federal Judicial Selection Commission to make recommendations as to those who should sit on the Federal bench, and for those recommendations to be made solely on merit. This process has already been activated for the appointment of one Federal judge and for the appointment of a Federal attorney. Hopefully, by using the highest standards for selection to the Federal bench, later problems with Federal judges can be avoided, but if not, there are other ways to address these problems. If the offense is that which is outlined in article II, section 4 of the Constitution, then impeachment is the proper step to be taken.

If a Federal judge's alleged offenses did not fall within the scope of article II, section 4, but rather was a failure to maintain the standards of good behavior, if they can be judged as standards, then there are measures which can be taken and have been taken by a higher judicial authority. For example, no cases would be assigned to that particular judge.

History has shown that our independent often courageous Federal judiciary, designed by our ever-seemingly-wise Founding Fathers who knew the dangers of the passions of the moment, has been the greatest bulwark for our freedoms. Passage of this bill would be a monumental blow against that independent branch of Government.

Finally, Mr. President, I shall again, as I am sure has been done before, quote Plato, who in the Republic wrote:

> Mankind censures injustice, fearing they may be victims of it and not because they shrink from committing it—

"It" being injustice.

This bill should be defeated and I commend my colleague from Indiana and my colleague from Maryland for their stalwart defense of the judiciary.

Mr. BAYH. Mr. President will the Senator yield for just a moment?

Mr. SCHMITT. I should be happy to yield, but I am afraid my time has expired.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BAYH. I want to thank the Senator for presenting a very fine statement.

Mr. THURMOND. Mr. President, I yield 5 minutes to the Senator from New York.

(Mr. NUNN assumed the chair.)

Mr. JAVITS. Mr. President, I have been a lawyer all my life, in addition to other careers, and I am deeply disquieted by this bill, though I admire the ingenuity and the craftsmanship which Senator NUNN has put into it. I should like to consider whether this is the best way. I realize there is a problem.

There is a problem, and it has been very adequately described, of whether impeachment and trial by the Senate are

simply not too difficult a course to deal with judges who may be inadequate to the task for very profound reasons. But the Federal judiciary has been such a bulwark of justice and selflessness, as far as anybody can be selfless, as a group in this country for 200 years, that I am very reluctant to see judges judged by judges. Senator NUNN has crafted a plan which is essentially the State plan. Many States have this kind of procedure. The Federal courts have been a unique body precisely because of life tenure and I think, on the whole, we have paid very little for this remarkable precaution.

I am deeply moved, because I, perhaps, had some of the most important times in my own career in the Senate, by the experience of Judge Johnson, of Alabama, who, because he believed in enforcing the Constitution, might easily have been removed by panels of judges from his own region, still suffering under what was then called the social order of that particular region.

When we consider one such case as compared with others where judges might have been drunk or irritated or otherwise irresponsible and the modern ability to strip them of their functions and of their cases as a way of dealing with that kind of situation, I am very deeply disturbed, still, by the fact that, in the Federal courts, we would establish a system by which judges could be removed by other judges.

I thought of, because it did not have a constitutional problem, the possibility of giving the right to Congress, by concurrent action of both bodies, to sustain or overturn a determination of removal by this council. That may be a way. I do not say it is or it is not, but it would require deliberation and consideration.

I deeply believe that the present occupant of the chair has been responsible for a historic breakthrough in trying to think this through and prescribe a remedy. I am not prepared to endorse that remedy here and now, because I believe it is so portentous for the history of our country. I understand there is not a bill in the House; there may not be. So this may go nowhere right now.

I wish that it were possible for all of us, paying due tribute to the Senator from Georgia, to hold it over until next year and to again consider it.

I emphasize my respect and admiration for the professional craftmanship which went into this bill, but at this time, because I have to vote yea or nay, I do not feel that I can support it.

But I am deeply interested. I may be able to support this or a variant next year. But I feel we all ought to deliberate on it very critically and seriously and that a good deal more exploration needs to be made, not inordinate in time, but that we should, and I have no doubt we will, come to a decision on this particular matter in the year 1979.

I hope very much we will have that span of time in which to do it, do it intelligently and do it responsibly.

I thank my colleague for the time.

The PRESIDING OFFICER. Who yields time?

Mr. BAYH. Will the Senator yield me just 1 minute?

Mr. THURMOND. I yield 1 minute.

Mr. BAYH. I want to say to my distinguished colleague from New York, who has had long legislative experience and a wealth of legal experience before coming to this body, that I think his contribution to this discussion is very rewarding.

I think we share common concerns with our distinguished colleague from Georgia that there is a problem that needs to be resolved, but that there is a better vehicle to be utilized, rather than this one which flies in the face of the Constitution on the one hand, and the good policy of independent judiciary on the other.

I just wanted to express my appreciation to my friend and colleague from New York.

Mr. JAVITS. I thank my colleague.

Mr. THURMOND. Mr. President, I yield 2 minutes to the distinguished Senator from Wyoming.

Mr. WALLOP. Mr. President, I rise in support of S. 1423, the Judicial Tenure Act. This legislation is designed to build public confidence in our Federal courts by establishing a new procedure for involuntarily retiring, censuring or removing Federal judges from the bench for conduct which falls short of the good behavior standard set forth in article III, section 1 of the Constitution.

In recent years, there has been tremendous demand for accountability of all public officials in the executive, legislative, and judicial branches of government. The American public deserves honest and scrupulous service from its elected and nonelected public officials, including its judges. This legislation is intended to provide greater accountability within the Federal judiciary. S. 1423 accomplishes this by establishing an alternative to the time-consuming and impractical impeachment procedure provided for in the Constitution for the removal of Federal judges for conduct inconsistent with article III's good behavior standard.

Over the history of this country, impeachment has proved to be an ineffective mechanism for disciplining or removing Federal judges whose conduct casts a cloud on the judiciary. Only eight Federal judges and one justice have been impeached and of that number, only four judges where convicted and removed from office. The last impeachment and conviction of a Federal judge occurred in 1936. It is apparent, then, that while the impeachment procedure is available for removing unsuitable Federal judges whose conduct does not conform to the good behavior standard of the Constitution, it has not provided an effective vehicle for disciplining members of the Federal judiciary. As a result, public confidence in the Federal courts has suffered.

Mr. President, S. 1423 provides a needed alternative to this cumbersome and infrequently used impeachment process. It establishes within the judicial branch a method for investigating and resolving complaints against Federal judges who are alleged to have acted inconsistently with the good behavior standard of article III, section 1, which reads as follows:

> The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. *The judges, both in the supreme and inferior courts, shall hold their Offices during good behavior*, and shall, at stated times, receive for their Services, a Compensation, which shall not be diminished during their continuance in office.\(Italics added.)

It is significant that S. 1423 envisions a disciplinary system for Federal judges which rests within the judicial branch of Government. The circuit committees, the Judicial Conduct and Disability Commission and the Court of Judicial Conduct and Disability established by this legislation consist of Federal judges who render decisions on the merits of the complaints filed with them. By placing the responsibility for disciplining, by involuntary retirement, censure or removal, those Federal judges whose conduct is inconsistent with the good behavior standard within the judicial branch, S. 1423 protects the independence and integrity fundamental and essential to the functioning of our Federal courts. This also preserves the separation of powers concept fundamental to our Constitution. To further insulate the members of the Federal judiciary from political, personal or philosophical assaults, S. 1423 provides for the dismissal of complaints which relate "to the merits of any decision or procedural ruling of a judge, and complaints relating to the condition or conduct of a judge which is not connected with his judicial office or which does not prejudice the administration of justice by bringing the judicial office into disrepute" (section 383).

Mr. President, the time is ripe to enact implementing legislation for the good behavior clause in article III of the Constitution. It is in keeping with efforts of this Congress to improve the Federal judiciary and its service to the public. Congress is on the verge of adding 152 new Federal judgeships to the judiciary. The Improvements in Judiciary Machinery Subcommittee and the Judiciary Committee have devoted their energies and attentions to providing more meaningful and greater access for this country's citizens to the Federal courts. S. 1423 will establish for the first time a disciplinary system within the judicial branch which will enhance the reputation, integrity and thereby, the effectiveness of our Federal courts. It would be ironic indeed if we achieve greater access to the courts only to find incompetency in the bench.

It would be shortsighted not to briefly discuss the principal objection argued by opponents to S. 1423, that is, that impeachment is the sole and exclusive constitutional means for removing Federal judges from the bench. It is the opinion of this Senator and of the Judiciary Committee which considered this legislation that S. 1423 will withstand constitutional challenge. While article I, section 2 of the Constitution provides that "the House of Representatives shall have the sole Power of Impeachment," it does not expressly bar other methods of disciplining or removing Federal judges. The committee report explores the constitutional and legal bases for

this legislation which I would incorporate by reference into my statement. I am persuaded by the arguments in support of the constitutionality of S. 1423 advanced by the distinguished constitutional law expert from Harvard Law School, Raoul Berger, whose views are referred to in both the hearing record and report on S. 1423. Having considered arguments to the contrary, I am persuaded that S. 1423 will pass constitutional muster and survive even the most rigid scrutiny of the Supreme Court.

It is noteworthy that support for the legislation comes from groups who have a strong interest in preserving the independence and strength of the judiciary and who are well versed in constitutional law. These organizations include the Judicial Conference of the United States, the American Judicature Society, the American Bar Association as well as the Department of Justice. In addition, the very distinguished jurists, Chief Justice Burger, Mr. Justice Rehnquist, and Mr. Justice Blackmun, have in extrajudicial statements indicated that they did not see a threat to judicial independence in predecessor measures to S. 1423.

Mr. President, before closing, I would commend my colleague and chairman of the Improvements in Judiciary Machinery Subcommittee, Mr. DECONCINI, for his efforts in bringing this important legislation before the Senate. Compliments are also in order for the diligence of the subcommittee staff in producing the excellent piece of legislation before us now.

Mr. President, I have heard the arguments on both sides and I remain convinced that this is a needed change to promote publice confidence in the judiciary. I endorse S. 1423 and encourage my colleagues to do the same.

I thank the Chair.

Mr. THURMOND. Mr. President, I yield 5 minutes to the distinguished Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. SCOTT. Mr. President, I appreciate the Senator yielding.

I believe that this proposal before us, the effort to provide tenure for our Federal judges, is a very fine thing. I feel that we should, that every official elected and appointed should from time to time have to account for his stewardship.

We in the Senate are elected for periods of 6 years and Members of the House of Representatives for 2 years.

So far as I know, all public officials from time to time have to account for their stewardship. Yet we find in the Constitution in article III the judicial power is vested in the Supreme Court and such inferior courts as the Congress may from time to time ordain and establish, and it provides that the judges, both of the Supreme and inferior courts, shall hold their offices during good behavior.

During good behavior, I believe, is the fly in the ointment insofar as this bill is concerned.

In my judgment, the bill is contrary to the Constitution. I think it is an act of futility for us to pass this measure, because I believe the only way that we can remove a Federal judge is through the impeachment process, and that is provided for. The House of Representatives impeaches, the Senate tries anyone that has been impeached by the House and has the power to remove that person from office. I feel that when we attempt to short circuit the regular procedure as is provided in the Constitution that we are attempting an unconstitutional act.

I know in some of our State courts we do have similar procedures, but in the State courts the judges hold their offices for terms.

In my own State of Virginia, a trial judge is elected by the General Assembly for a period of 8 years. A judge of our State Supreme Court is elected by the General Assembly for a period of 12 years. We have a procedure somewhat akin to what is provided for in this bill, but it is a different situation.

During good behavior, that is lifetime tenure unless removed by the Senate after the House has impeached.

I have offered a measure that would provide for tenure whereby we would amend the Constitution to provide that for the reconsideration of a judge every 10 years he could be renominated, the Senate would have the opportunity to reconfirm. To me, this is the proper procedure to follow and not the procedure that is provided in this bill. A good effort being made, but going at it in the wrong manner.

I hope this bill will be defeated, because I do not believe the Senate should pass an unconstitutional act, knowing it to be contrary to the Constitution, or having a reasonable doubt as to its constitutionality, and passing that burden on to the Supreme Court.

Did my colleague from Maryland want me to yield?

Mr. MATHIAS. I just wanted to have a moment to thank the Senator for his participation here and to say that I agree with him absolutely on both points he made, that if the change is to be made, the Senator from Virginia is exactly right, it has to be made through the amending process.

Mr. SCOTT. We had this matter up during the 94th Congress. The distinguished occupant of the chair, the junior Senator from Georgia, appeared before the subcommittee. We had others that appeared before the subcommittee. No action was taken by our subcommittee at that time and for the primary reason that we were of the opinion that this proposal was contrary to the Constitution.

Now it has been changed in that it has added the Justices of the Supreme Court, but the Justices of the Supreme Court would be handled in a different manner.

It would be recommended to the House that impeachment proceedings be brought against a Justice of the Supreme Court if he did not behave in the proper manner, if he were found to be guilty of wrong behavior, and perhaps that phase of it might be constitutional, where a recommendation would be made and the House and the Senate would act in a constitutional manner. But the bill, in my judgment, is contrary to the Constitution.

Does the Senator from Florida desire to speak?

Mr. CHILES. I desire to speak a moment on the bill, if I may.

Mr. SCOTT. The Senator from South Carolina yielded 5 minutes, and if time remains, I yield it to the Senator from Florida.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. THURMOND. Does the Senator wish to speak for or against the bill?

Mr. CHILES. For the bill.

Mr. THURMOND. The Senator from Arizona has time.

Mr. DECONCINI. I yield 5 minutes to the Senator from Florida.

Mr. CHILES. Mr. President, I welcome the opportunity to say a word for this bill.

If there is any concern by the distinguished Senator from Virginia, I say to him that I worked for this bill, and I consider it to be constitutional. I want to relieve any concern he might have.

All of us are constitutional experts, by virtue of being in the Senate. I suppose that is one of the things that go with us. I just want to say that I hereby pronounce it constitutionally sound, and I think it will stand the stamp of time in that regard.

We have a provision such as this, and we have a constitutional provision that virtually follows the U.S. Constitution in regard to the way we are set up to provide for impeachment.

Mr. MATHIAS. Mr. President, will the Senator yield?

Mr. CHILES. I yield.

Mr. MATHIAS. I think the Senator is exactly right in saying that we have a duty to make that constitutional decision. I believe he has made the decision all wrong, but he has accepted the responsibility that we have to make that decision.

Mr. CHILES. I am delighted to accept it. I accept it for the distinguished Senator from Maryland, too, if he would like me to.

Mr. MATHIAS. The only problem is that the Senator from Florida has only 1-percent shot.

Mr. CHILES. Constitutional tests have been made on this in Florida. We have a constitution that is very similar. We copied the U.S. Constitution in setting up our provisions for the judiciary.

We found that we were in a situation in which we had impeachment processes, and I happened to sit in on the impeachment of a judge. The trial lasted days in the House. The House voted for impeachment. It went to the Senate, where the trial lasted for a period of weeks—2 or 3 weeks at least.

At that time, there were not sufficient votes, because I think it required a two-thirds vote of the Senate, and a tremendous expense was incurred. I am sure that made many people feel there is no reason to try to bring a judge up on charges. The legislature cannot afford it, the people cannot afford it, nothing is going to happen, and there is not going to be discipline.

That went on for a period of time, until we changed our procedure, and we provided that we could discipline judges, and that has worked very satisfactorily in our State.

I believe this is something we should try to do. The court certainly will rule on the question, if the matter is brought before it, and it will have occasion to instruct us as to its final ruling, as it does on every act we pass.

The committee has had a chance to look at this. It comes before us from the committee. A lot of work has gone into this. It seems to me that this is a pressing problem that we have in the country today.

We see the feelings of the people with regard to their respect for the courts, knowing that there is no way that we in the Senate can act properly in our role to try to serve with respect to impeachment, and knowing there are many times when we should not be impeaching but simply discipline a judge, to see that we are going to be able to have the proper judiciary.

I support this bill, and I commend the distinguished Senator from Georgia, who has been working long and hard to pass it. He has had support in this matter from many distinguished members of the judiciary who know this has to be done. They are outstanding leaders of the bar who know that we have long needed this kind of legislation. I support the bill.

Mr. BAYH. Mr. President will the Senator from South Carolina yield me a minute, so that I may ask a question of the distinguished Senator from Florida?

Mr. THURMOND. I yield 1 minute to the Senator.

Mr. BAYH. I appreciate the concern of the Senator from Florida and his sharing the Florida experience.

In dealing with this problem, did Florida amend the State constitution?

Mr. CHILES. I think we did it two ways. We had a procedure that was set up statutorily. We later changed it and had a judicial article changed, too.

Mr. BAYH. I bring this up, because 16 States do have this kind of mechanism, all of which felt that this was important enough that they should amend their constitution. It is a concern some of us have here, that we are getting into an area, when we go this route, of violating the Constitution.

I salute the Senator from Florida for recognizing the problem, although I do not agree with the remedy.

Mr. SCOTT. Mr. President, will the distinguished Senator from South Carolina yield me 30 seconds on the bill?

Mr. THURMOND. I yield a half minute to the Senator.

Mr. SCOTT. Mr. President, I have looked for authority with respect to this bill, and the only time the Supreme Court has addressed itself to this question, it was done by Mr. Justice Black and Mr. Justice Douglas. These were opinions in the case of Chandler against Judicial Council.

They were dissenting opinions, but they were not dissenting as to the fact that Federal judges, under our system, can be removed only through the impeachment process.

When we know that a bill is unconstitutional or have reason to believe it is, I believe we have a responsibility, as Senators, not to pass legislation, if we have reason to believe it is contrary to the Constitution.

I thank the Senator for yielding.

Mr. THURMOND. Mr. President, I yield myself 5 minutes.

Mr. BAYH. Mr. President, may I ask the Senator from South Carolina to give us a breakdown of the time remaining?

Mr. THURMOND. Will the Chair announce the time situation?

The PRESIDING OFFICER. The Senator from South Carolina has 19 minutes. The Senator from Arizona has 98 minutes.

Mr. DECONCINI. I yield the Senator whatever time he wishes.

Mr. THURMOND. Mr. President, although I am in control of time for those opposed to the bill and the distinguished Senator from Arizona is in control of time for those in favor of the bill, he is yielding me such time as I may require to speak in favor of the bill.

Mr. President, I already have spoken on this bill, and I shall say only a few words more. I agree with the distinguished Senator from Virginia that a Member of this body should support only legislation which he feels is constitutional.

In fact, when I came to the Senate, I resolved that I would ask myself three questions when I voted on a piece of legislation:

First, is it constitutional?

Second, is it wise?

And, third, can we afford it?

So I heartily agree with the able Senator from Virginia that no Senator should vote for this bill unless he feels it is constitutional.

I presume no one knows for sure that this bill is constitutional. There is no decision of the Supreme Court on this question. There is no precedent for us to go by. But I want to say this:

There is nothing in the Constitution that I know that would prohibit Congress from passing this legislation.

Article II, section 4, of the Constitution reads this way:

> The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

Mr. President, that says that if the President or the Vice President or civil officer is guilty of those things, on impeachment and conviction of those things, he shall be removed. He has to be removed if he is found guilty. But it does not say that this is the only way that they can be removed and it does not say that this is exclusive. Because it does not say exclusive, it seems to me Congress will have the right to pass this legislation.

Under this bill, also, judges may be better off than if they are impeached and tried because under this bill there is other action that can be taken. There can be involuntary retirement for a judge unable to discharge his duties efficiently because of permanent mental or physical disability, or a judge can be removed or censured for conduct inconsistent with the good behavior standard in article III. So this gives flexibility to the court that would act on this matter to determine whether a judge should be tried for impeachment or whether he should be tried for lesser conduct of misbehavior and maybe censure him or give him lesser punishment.

Mr. President, I realize, as has been stated, that Senators here on both sides are thoroughly conscientious and there is ground to take on either side that the bill is constitutional or unconstitutional, but those are merely opinions. There is nothing definite and no one can get up and say that this bill is unconstitutional or even say that it is constitutional. We can merely express an opinion.

I think it is constitutional; therefore, I support it. I think it has advantages. I think we need this flexibility. I think it will be a procedure where a judge will be considered by his peers and that might be better than to be considered by the House of Representatives and the Senate with a long drawnout trial. It seems to me that this will promote better administration of justice than just relying on impeachment alone. That being the case, I am supporting the bill and I hope it will pass.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. Mr. President, I ask the Senator from South Carolina—the Senator from Arizona is not here—how does this bill affect senior judges? We have a system now with Federal judges when they reach the age of 70 they technically retire but they still come in and try cases. Does it affect them just the same as the full-time judges?

Mr. THURMOND. Mr. President, in reply, I will say they will not be affected on that.

Mr. MAGNUSON. No; I hope not. They are merely called in to help a crowded calendar.

Mr. THURMOND. That is right.

Mr. President, this merely provides in the case of misbehavior what would be done.

Mr. MAGNUSON. All right. I just wanted to know that.

Mr. BAYH. Mr. President, will the Senator yield me 4 or 5 minutes, please?

Mr. THURMOND. Mr. President, I yield 5 minutes to the distinguished Senator from Indiana.

Mr. BAYH. I might not want to use it all.

I only wish to say to my friend from Washington that under normal circumstances the response that he received would be accurate, but in the event that a majority of the judges on this panel thought that when you got beyond age 70 you were no longer competent performing the duties of a judge, they could drag you off of there the same as otherwise would be the case.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. BAYH. I am glad to yield.

Mr. MAGNUSON. What happens is that the presiding judge in, say, the

western district of any area, calls upon these people to come in and help him with a case.

Mr. DECONCINI. That is right.

Mr. MAGNUSON. So his peers have acted upon him in a sense if they think he is capable of trying the case.

Mr. DECONCINI. That is right.

Mr. MAGNUSON. They do that when they assign the case to him. Is that not correct?

Mr. DECONCINI. That is right.

Mr. BAYH. That is accurate. But if a majority of the panel disagreed with the judge who was asking for help, in my judgment they would have every opportunity to exercise the same removal power.

Mr. DECONCINI. If the Senator will yield, that is correct, but that would be a frivolous complaint. It has to be something of substance. A complaint would have to be filed. The fact he is 72 years old would not be enough and would be considered frivolous and dismissed.

Mr. BAYH. Of course, the complaint would not be based on the fact he was 72 years old or 66 years old, or whatever it was, but because he was unable to operate. It is the same kind of situation we have when we are trying to deal with a fellow who was sitting there and just was not working. Something has gone haywire and he was not functioning properly.

I cannot see how you can say you are going to give this panel an opportunity to remove the full-time judge without at the same time saying they are going to have the power to deny a part-time judge of having the opportunity to serve.

Mr. DECONCINI. The Senator has interpreted it incorrectly. You have to file some reason for the removal with your complaint. The Commission then sends it back to the local districts to be reviewed, and they are going to make some determination. They cannot dismiss that. They then forward it back with their recommendation. They can recommend that it is a frivolous complaint; that is only done because they do not think he is popular or they think he is too old.

Mr. BAYH. The Senator from Indiana has not stated the case well, and I apologize.

Let us take whatever the criteria is that the Senator from Arizona feels is sufficient to let this panel remove a judge, whether it is, drunkenness, adultery, blasphemy, playing golf, and going fishing instead of sitting and hearing cases, whatever it might be for which you are going to be removed. Let us accept that that case is going to qualify and the majority is going to vote to remove that judge. Suppose you can make the same case, with all of the same ingredients, about a part-time judge who is asked to serve. Is it not fair to suggest that the power to remove a full-time judge and prohibit him from serving is also there as far as removing a part-time judge?

Mr. DECONCINI. Yes; that is correct. But if the Senator is trying to leave the impression that it would be subject to abuse in the fact that it would be filed because a certain case was designated to a senior status judge, I do not think that is realistic.

Mr. BAYH. The Senator did not say that.

Mr. DECONCINI. What objection does the Senator have?

Mr. BAYH. The Senator suggested that he cannot categorically state, as my friend from Arizona said, this would not apply to part-time judges who are asked to serve. That is not what the Senator meant but is what the Senator said.

The fact is the same criteria would apply to part-time judges as are applied to full-time judges. If the majority of the judicial panel said, "You are not qualified to serve," out you go in either case.

Mr. DECONCINI. But the Senator from Indiana said the panel could take them off because they were senior panel judges.

Mr. MAGNUSON. He does not ask to serve particularly; he merely says he is available for service, and the presiding judge—they have meetings—and he picks up Judge A who says "Here is a big case and the calendar is full," and he is willing to take on the case, and that is what happens. He does not ask to be put on.

Mr. BAYH. I do not know who has time, but I would like to pursue this for just a bit.

The PRESIDING OFFICER. Does the Senator yield time?

Mr. DECONCINI. Yes.

Mr. BAYH. This is really the kind of thing that worries the Senator from Indiana. If you have a clear-cut case of negligence, malfeasance or misfeasance and the judge is not qualified to serve, then I am not worried about what the panel is going to do. They are going to make the right decision.

I am concerned about the marginal question of whether he is qualified or is not qualified, and then in that instance the fact that the fellow is older might have the kind of an impact on the mind of those judges sitting there who want to see the judicial system turned over and old people purged and young people brought in. That is the kind of thing that could enter their minds, and that is the kind of thing that really concerns me about this legislation.

Mr. DECONCINI. But the Senator is using "qualified" as the standard. The standard is good behavior. That is the difference as to whether he qualifies. If he did not qualify he should not be on there in the first place. He should be there on good behavior.

Let us take the Senator's situation that he cited where someone files a complaint that is questionable, and the court decides to hear it. The judge at that time is able to have counsel and is entitled to full due process to present his side of the story in opposition to the complaint. Every protection is there.

Then after that it is subject to Supreme Court review. I do not know what more protection you can grant except, as the Senator suggested earlier eloquently, not to have this.

Mr. MAGNUSON. What bothers me a little is the question of is he qualified or not qualified for the particular case they ask him to come in on or is he not qualified to handle any case.

Mr. DECONCINI. That would not be subject to this bill at all.

Mr. MAGNUSON. What about a lawyer on one side or the other, the calendar is full, the regular judges are just rolling, so here is a retired judge—they call them senior judges—who says he would be willing to hear the case. Can a lawyer file a complaint against him on the basis that he is not qualified because of age? Could that happen?

Mr. DECONCINI. If a lawyer files a complaint based on that set of circumstances it would be dismissed because it would be considered frivolous. It is outside the jurisdiction of the Commission.

Mr. MAGNUSON. The judges would not ask him unless they thought he was qualified, I would assume——

Mr. DECONCINI. That is right.

Mr. MAGNUSON (continuing)—To handle this particular case, I am talking about the senior judge.

Mr. DECONCINI. Mr. President, I ask for the yeas and nays.

Mr. BAYH. Mr. President, will the Senator yield to permit me to ask him a question? In discussing this with the Senator from New York and the Senator from Maryland we do not want to be put in a position where by opposing the bill, opposing the efforts that the Senator from Georgia and the Senator from Arizona have embarked upon, that we give the impression that we do not recognize that there is a problem.

What I would like to do at the proper time and, frankly, you probably will beat us—I do not know where the votes are on this—but I would like to have this matter recommitted to the committee for further study without instructions. But I think that is what we want to do, not to say we are against this effort but we think this matter needs more thorough discussion, and I say that right now.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAYH. Is the proper time to make that request when all time is yielded back?

The PRESIDING OFFICER. The Senator can make that request now with a time limit of 20 minutes under the present order.

Mr. BAYH. Let me make that request. I move, Mr. President, that the bill be recommitted to the Judiciary Committee for further consideration. I will ask for the yeas and nays and will say, unless someone else desires to do this, that I do not want to prolong it unnecessarily, so, it would seem to me, there would be no need to have a rollcall on passage on this, but to just have one vote on the measure.

Mr. THURMOND. Mr. President, if the Senator has made the motion, I move to table the motion.

The PRESIDING OFFICER. There are 20 minutes on this particular motion. Until that time is yielded back, the motion to table would not be in order. There are 20 minutes.

Mr. THURMOND. Is the Senator ready to yield back the time?

Mr. BAYH. I think we have heard all that we possibly can.

Mr. SCOTT. Mr. President, will the Senator yield briefly? As I understand it, we did not have a rollcall vote on reporting this bill. In fact, I do not even remember when we passed it out from the Committee on the Judiciary. I do not doubt for a moment that we did this, but apparently it was without a rollcall vote, and on a matter of this importance certainly the Committee on the Judiciary should have a rollcall vote, so I support the motion the distinguished Senator from Indiana proposes that it be recommitted to the Commitee on the Judiciary.

Mr. BAYH. I appreciate the remarks of the Senator from Virginia.

Mr. THURMOND. Mr. President, from what I understand, both sides are ready to yield back the time. There will be a motion by the distinguished Senator from Indiana to recommit the bill, and at that time I will move to table that motion.

The PRESIDING OFFICER (Mr. TALMADGE). The motion to recommit has already been made. The question is on yielding back the 20 minutes.

Mr. BAYH. I would just like to make a 1-minute observation.

The thrust of this motion is very much in line with what we have been trying to say. There is a problem on occasion with judges who are not qualified to serve and that this matter should be handled in a way in which the Judicial Conference is given additional power, they make strong recommendations, and we can legislate, the Congress being required to act upon receiving certain kinds of recommendations.

We do not take away the right of Congress to impeach judges and give it to a panel of judges, this kind of unheard of authority. That is what we are trying to do. I would hope we could put it back in committee and come up with a solution to the problem.

Mr. NUNN. Mr. President, will the Senator yield on his 10 minutes just for a brief comment? I have no objection to proceed to a motion to table a motion to recommit, and certainly if that motion fails, of going ahead with a motion to recommit. I hope that will be defeated. But I would hope after years and years of debate on this particular issue, considering the importance of the issue, we ought to have a rollcall vote if the motion to recommit is defeated.

I would like to have a rollcall vote on passage of this legislation. If the sense of the Senate is such that we have a majority or very close vote on this, it is obvious it probably is not going to get very far in the House, but I think we ought to know this. This has been worked on for some 35 or 40 years, and some will say 100 years, and I think we ought to find out the sentiments of the Senate about whether we are going to do anything about some of the abuses that have taken place and continue to take place on the Federal bench.

Mr. THURMOND. Mr. President, if we are ready to yield back our time——

Mr. ROBERT C. BYRD. Mr. President, I hope the Senators will not yield back their time so that we can get the word out that there is going to be a vote, if the Senators can avoid yielding back their time for the present.

Mr. NUNN. Mr. President, will the Senator yield?

Does anyone object to going ahead if the motion to recommit does not prevail, of going ahead with a final vote on this bill? Does the Senator from Indiana have any objection to moving on to a vote if his motion fails?

Mr. BAYH. I think my friend from Georgia very thoughtfully mentioned in his remarks that the Senator from Indiana has tried in every way to cooperate with everyone who is for this legislation.

Mr. NUNN. And I commend him for it.

Mr. BAYH. I just felt compelled to point out we are on some very dangerous constitutional policy grounds, and I feel what we are really after is to recommit this bill and get a better solution; not to take a position that makes it look as if we do not recognize the problem.

Mr. NUNN. I understand the Senator from Indiana's position and I commend him for making a very erudite statement here on the floor. I do not happen to agree with his conclusions, but I do know there are two sides to the question. It is not an easy question. It is a close question, as I said earlier. I do not believe anybody can stand here and guarantee that the bill is constitutional. On the other hand, I do not think anyone can guarantee it is not constitutional, and I am persuaded that it is. But I would like to get a rollcall vote if the motion to recommit is not agreed to by the Senate, and I think the majority leader might want to notify Senators, if there is no disagreement on this, that we would have the likelihood of two rollcall votes, after which this bill will be concluded one way or the other.

Mr. ROBERT C. BYRD. I wonder if we can get consent that if the motion to table—am I to assume that there will be a motion to table the motion to recommit—if the motion to table the motion to recommit fails that the vote then occur immediately on the motion to recommit, and if it fails, that the vote occur immediately on the passage of the bill. Could we get that agreement?

Mr. NUNN. I certainly have no objection.

Mr. ROBERT C. BYRD. All right; then I modify my request as follows: Mr. President, I ask unanimous consent that if the motion to table fails, I take it the motion to recommit will occur immediately, because time will have expired, and if the motion to recommit fails, there will be 10 minutes for debate before final passage, that it be divided equally between Mr. DECONCINI and Mr. THURMOND, and that a vote then occur on passage.

The PRESIDING OFFICER. The committee substitute would have to be acted on first.

Mr. ROBERT C. BYRD. Yes; I ask unanimous consent that after the 10 minutes of debate, the committee substitute be acted upon without further debate or motion, and that upon the adoption of the committee substitute, a vote then occur upon the bill.

Mr. NUNN. Mr. President, does the majority leader's request include a request that if the motion to table the motion to recommit is agreed to by the Senate, we would go to final passage of the bill? Is that the request?

Mr. ROBERT C. BYRD. If the motion to table the motion to recommit——

Mr. NUNN. Passes.

Mr. ROBERT C. BYRD. Carries, then would Senators not want 10 minutes for debate?

Mr. NUNN. I think we have debated it pretty thoroughly. I think we could go on to final passage.

Mr. ROBERT C. BYRD. Then, in that event, there would be no further debate; but if the motion to table the motion to recommit fails, and the motion to recommit fails, would Senators then want 10 minutes of debate before the vote on passage?

Mr. BAYH. May I say to the majority leader I think we have discussed this up one side and down the other, but giving us 10 minutes, I think, gives us a safety valve, and it is not necessary to take the 10 minutes.

Mr. ROBERT C. BYRD. I agree with that, that Senators have 10 minutes which they may yield back.

Mr. NUNN. Mr. President, before concluding the debate, I would like again to commend the Senator from Indiana and the Senator from Maryland. I know they have strong views on this subject. I just want to say if the motion to recommit of the Senator from Indiana passes, I pledge my support in looking for another solution. I believe this is the best solution we can come up with, but I think the Senator from Indiana has shown a very constructive attitude, and if his motion is agreed to, I pledge my support in a search for another solution.

Mr. BAYH. Would the Senator from Georgia like to have another minute or two to proceed in that same vein?

Mr. NUNN. No, because I really do not want anyone to believe that I think the Senate would buy the Senator from Indiana's argument.

Mr. MAGNUSON. Let's go. Let's vote.

Mr. MATHIAS. Mr. President, if the Senator from Indiana will yield for a moment, I believe the pledge the Senator from Georgia has made to devote his astute mind and his erudite legal talents to this matter will make the passage of the motion to recommit virtually certain.

Mr. NUNN. Unfortunately there have not been enough Senators here to hear that argument and be persuaded.

Mr. MAGNUSON. Vote!

Mr. ROBERT C. BYRD. Mr. President, I would hope we could have just a very few more minutes before voting.

The PRESIDING OFFICER. Who yields time?

Mr. DECONCINI. Mr. President, I ask unanimous consent to proceed for 2 minutes on the motion.

The PRESIDING OFFICER. The Chair did not understand the Senator's request.

Mr. DECONCINI. Two minutes on the motion to recommit.

Mr. BAYH. The Senator has 10 minutes on the motion.

Mr. DECONCINI. All right; I yield myself, from the 10 minutes on the motion, such time as I may require.

Mr. President, I think we have had a good day of discussion, and we have gone over the matter with a fine-toothed comb.

I would like to remind the Senator from Indiana, the Senator from Maryland, the Senator from New Mexico, and the Senator from Georgia that a great deal of time and effort has been put into this proposal. It is not a piece of legislation that just came sipping out of the Judiciary Committee this year. It has had a history of constant hearings, with some 50 witnesses. It has been going on since 1968, in the 90th Congress.

Such outstanding Senators as Senators Tydings, EAGLETON, Goodell, HATFIELD of Oregon, MAGNUSON, MONDALE, MUSKIE, SCOTT, STEVENS, and Yarborough have served as cosponsors of this legislation, the Judicial Reform Act. The 92d Congress took it up, the 93d Congress took it up, the 94th, and the 95th. Thanks to the distinguished Senator from Georgia we were able to again bring this matter to the Judiciary Committee and thus hold hearings this year.

The constitutional question that we have hashed over very thoroughly today, I think, is one no one can be sure of, and that is the risk of being a legislator: You are passing on laws and passing judgment, and we all have to make the judgments for ourselves.

But it is interesting to note, as has been called to the attention of this body, that some very fine groups intimately involved in the law and in constitutional matters, such as the American Bar Association, the American Judicature Society, the Department of Justice, and the American Association of Attorneys General have all endorsed this measure, along with many scholars of constitutional law. This measure has wide support in the Senate, and I think it merits passage.

I am not standing here to say this is going to satisfy all of the problems of misbehaving judges, but it certainly will provide the American people, for the first time, some hope that judges are as responsible as anyone else is. The idea that we cannot alter the Constitution under article III, section 1, in interpreting the good behavior clause, does not make good sense to me. Article I, section 8, the necessary and proper clause, certainly gives the legislative branch, the House and the Senate, the right to do what we are doing today, and I sincerely hope that the Senate will join in supporting Senator THURMOND's motion to lay on the table the motion to recommit.

Mr. ROBERT C. BYRD. Mr. President, before Senators yield back their time, will they yield me some time?

Mr. THURMOND. Mr. President, I yield back the time on this side.

The PRESIDING OFFICER. Who yields time to the Senator from West Virginia?

Mr. DECONCINI. I yield to the Senator from West Virginia.

THE NATURAL GAS CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, both Mr. ABOUREZK and Mr. METZENBAUM are here, and both Mr. BARTLETT and Mr. HANSEN are here——

Mr. METZENBAUM. If the Senator will yield, I do believe Senator LONG——

Mr. ROBERT C. BYRD. We tried to reach him and could not find him. But I believe there are Senators here to represent Senator LONG's point of view.

We have attempted, during the afternoon, to reach an agreement which would permit the Senate to proceed with debate on the conference report on natural gas tomorrow, the rest of the day today and tomorrow, and Monday and Tuesday and Wednesday, and which would protect all Senators who are away from town in the meantime from any surprise motion to table the conference report. Such a motion would, of course, be nondebatable, and there would be no way to protect Senators who are out of town. There are Senators on both sides of the aisle and Senators on both sides of the question who need to be protected.

Those of us who support the conference report are willing to enter into an agreement to protect Senators against a motion to table the conference report. We are willing to enter into an agreement to vote up or down on a motion to recommit the conference report, and set a date and an hour next week at which time that vote would occur. We are also willing to agree to set a date and an hour as to when the vote would occur up or down on the conference report itself.

The matter has been debated pro and con in the Senate now for 16 months. It has been debated in conference during that 16 months, certainly for 8 or 10 months. It is a lengthy report, and certainly is worthy of a reasonable amount of time and consideration. So I am not pressing for a vote on the conference report tomorrow or the next day or next Monday or Tuesday or Wednesday.

I would like for the Senate to begin debating the conference report, however, with an equal division of time, so that neither side will take all the time, and with the built-in protection for those Senators who are not in town against a surprise motion to table the conference report, which would be nondebatable.

I do not believe we have been able to be successful. Some of the participants on both sides of the question are willing to enter into such an agreement, but I think I ought to make one final effort to see if such an agreement could be reached.

While I say I would prefer an agreement that would see the Senate complete action on the conference up or down at a given date and hour, I am not asking for that now because I know that would be futile.

Therefore, in the interest of getting the measure up for debate, having equal time on both sides of the question, and to fully protect Senators on both sides of the question, on both sides of the aisle, who are out of town against a surprise nondebatable motion to table, I make the following request:

I ask unanimous consent that if the conference report is called up today or tomorrow, no tabling motion, no motion to table the conference report, will be in order prior to a vote up or down on a recommittal motion, neither of which votes will be in order before next Wednesday at 6 p.m.

The PRESIDING OFFICER (Mr. NUNN). Is there objection?

Mr. ABOUREZK. Reserving the right to object——

Mr. ROBERT C. BYRD. And that the time in the meantime be equally divided between Mr. JACKSON and Mr. HANSEN.

Mr. ABOUREZK. Mr. President, I want to yield to the Senator from Vermont but I want to ask a question of the leader before I do yield.

The prefatory remarks that the leader made to his unanimous-consent request indicated somehow that he philosophically or technically or procedurally could not call up the conference report without this agreement. I just want to ask the leader, is there anybody here preventing the chairman of the Energy Committee or the leader from calling up the conference report? We are all for it. That is what I am trying to say. He can call it up any time he wants to and we are ready to go. I have planned the last year of my life around that conference report and I am waiting.

Mr. ROBERT C. BYRD. Mr. President, I have the floor. I do not lose the floor while making my unanimous-consent request. I will answer the question.

Those of us who support the conference report are ready to enter into an agreement to vote on a motion to recommit at a certain date, on a certain hour. That is for the protection of Senators who are out of town. We want to protect Senators who are out of town against any surprise motion to lay on the table this conference report, a motion which is not debatable.

The answer to the Senator's question is no, there is nothing to prevent the Senator from Washington from calling up the conference report right now except—except—the desire of the majority leader to protect Senators on both sides of the aisle. I want to protect him. I want to protect Senators on both sides of the question, and my colleagues on want to protect Senators on both sides of the aisle. Most of them want to afford the same protection against a surprise motion to table this conference report. That is all that is keeping the Senator from Washington——

Mr. ABOUREZK. Mr. President, I was recognized.

Mr. ROBERT C. BYRD. No, the Senator from West Virginia——

The PRESIDING OFFICER. The majority leader asked for unanimous consent and the Chair asked if there were any objections.

SEVERAL SENATORS. Reserving the right to object.

Mr. ROBERT C. BYRD. Mr. President, in making the request——

Mr. ABOUREZK. Who has the floor, Mr. President?

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. A Senator does not lose the floor when he makes a unanimous-consent request, but other Senators can reserve the right to object. I would like to yield for a moment to the Senator from Vermont (Mr. LEAHY).

Mr. LEAHY. I thank the majority leader. I will be very brief. I reserve the right to object, though I will not object. I can truthfully say, Mr. President, that I am one of what I think is a fairly significant number of Senators who really have not made up their minds on this matter. Of course, a filibuster could occur, obviously. I might say, if I was leaning any way, I would be leaning against the conference report, but I will make up my mind based on what I hear in debate on the floor of the Senate, not from the lobbyists or anybody else. Quite frankly, I would hope that an agreement can be worked out on specific times and that during that time we can have full, significant debate on both sides of the issue for the benefit of those of us who have not been able to make up our minds, and for those of us who would like to be able to make up our minds in the way the Senate is designed. That is through debate.

I would really hope that nobody would object to a unanimous-consent request that would allow specific times set out for specific debate where we can plan our schedules, knowing when we can come in and hear the pros and cons of this matter.

Mr. ROBERT C. BYRD. Mr. President, that is the whole point I am making. That would give all Senators a date and an hour on which they could expect to be here, to know that the votes would occur on this very critical issue on which I am sure all Senators feel they want to be recorded.

Mr. JACKSON. Reserving the right to object——

Mr. ABOUREZK. Mr. President, may I be recognized?

Mr. JACKSON. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from West Virginia has the floor. The Senator has a pending unanimous-consent request.

Is there objection?

Mr. ABOUREZK. Mr. President, reserving the right to object.

Mr. BARTLETT. Mr. President, reserving the right to object.

Mr. ROBERT C. BYRD. May I yield to the Senator from Washington?

Mr. BARTLETT. I will reserve the right to object, but I think some of us would also like to participate in this discussion, and I am one of those.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may have the floor for 10 minutes while Senators may reserve the right to object. Mr. BARTLETT, Mr. HANSEN, Mr. ABOUREZK, and Mr. METZENBAUM may have the 10 minutes equally divided, 2 minutes each.

The PRESIDING OFFICER. Is there objection to that unanimous-consent request? Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, the first thing I would like to address to the distinguished majority leader is this: We have no intention of surprising anybody with any motion to table or motion to recommit. What we are willing to do is that if we do decide to make a motion to table or a motion to recommit, we will give adequate notice for that, although we do not want to agree to a time agreement.

Now, if, as the majority leader has said, he is interested in protecting the rights of absent Senators, and I am not here to try to tell the leader how to do his business of scheduling the Senate, I might just offer a suggestion: Call up the bill after you have given notice. Do not call it up today and make us sit here for 5 days after everybody leaves town and goes and campaigns knowing there will not be a vote until next week, with HOWARD METZENBAUM and I sitting here talking to each other about the natural gas conference report, trying to convince SCOOP JACKSON.

Mr. ROBERT C. BYRD. Is the Senator willing to agree that no motion to table the conference report will be made?

Mr. ABOUREZK. No; I cannot do that, as I stated this morning. It has the very same effect of running everybody out of town so they can campaign. They will know they are safe. When we debate the natural gas bill we believe it is of such significance that we ought to have a shot at getting Senators on the floor. We know they are not going to come over, all of them. We know that even if they are in town they are not going to come over. But if they are out of town, we do not even have a shot at them and I do not think that is fair, Mr. President. I think it is unfair to us.

We do not have the ability, Mr. President, to go down here and offer nuclear aircraft carriers or deep water ports in the Missouri River in South Dakota or nuclear breeder reactors or judgeships, or whatever else they have been promising at the White House. We have to depend upon debate in the open light of day in the Senate Chamber. That is the only thing we have.

We have to be able to do that. We have to have a shot at getting Senators over here to listen to what this natural gas bill is all about.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. ABOUREZK. HOWARD wants to yield me 1 minute.

Mr. METZENBAUM. I yield 1 minute.

Mr. ABOUREZK. This natural gas conference report, Mr. President, was fashioned in secret. We never had a chance to debate this conference report in the conference committee. There are many of us who are members of the committee who did not get invited to the meetings. They were held in secret, barred from the press, from the public, from many Senators who were, in fact, members of the conference committee. I do not think it is too much to ask that we have a chance for full participation of the Senate in debating this natural gas conference report.

I thank the Senator for yielding.

Mr. BARTLETT. Mr. President, I want to comment on the remarks made by the distinguished Senator from Vermont. He and I had a conversation privately, similar to this. I should like to say to him that I know he is very serious and sincere about participating and asking questions and listening to the debate that would take place. But I think he is the exception. I think that there will be some interested in the debate, but the debate is actually taking place right now, outside of this Chamber, with people explaining the conference report, others explaining the motion to recommit with instructions and what that does.

I should like to see us enter into a debate on the floor, but I do agree that if we enter into a restriction, then we are not going to have any audience outside of this Chamber, or in it, to talk to and explain our position and our side. I agree with him that there are many undecided voters. There are many people who are very confused, and I think rightfully so, because I think this is an extremely confusing bill.

A number of people have read it recently and they are very confused; they do not understand it. I think it is very important that we have a chance to explain our side and, certainly, the administration and Senator JACKSON, my chairman, will have an equal or even a better chance to explain their side, which is also important. We are both doing this at the present time and I think this will continue until the decision is made to bring the bill up. Then I guess that whichever side, at some time, decides it has the votes, will act. Right now, my own opinion is that neither side does.

I think we need to move as quickly as we can to have the bill brought up without any restrictions on the debate.

Mr. JACKSON. Mr. President, this is not just another bill. Without a doubt, I think it is the most important piece of domestic legislation that has been brought up in this Congress. As the majority leader has mentioned, the bill has been before the House and Senate for over a year. A lot of hard work has gone into it, day and night.

I think, Mr. President, that the distinguished Senator from Vermont (Mr. LEAHY) summed it up very well, that he would like to know when critical votes are going to occur. I can only say, Mr. President, that the decent thing to do, in the closing hours of this Congress, is to let our colleagues know when a critical vote—not just another vote—is going to occur. That, to me, is a test of decency.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. JACKSON. Yes, I yield.

Mr. ROBERT C. BYRD. There are 29 of them absent today. If a motion to table that conference report were to be made right now, 29 of our colleagues would be caught short.

Mr. JACKSON. I just want to point out that a motion to table could occur at any moment under those circumstances and how would this body look, with 29 absentees, voting on a critical matter such as the key part of the President's energy program?

I hope that the suggestion made by the distinguished Senator from Vermont, who is uncommitted and, he has indicated, may be leaning against the conference report—his recommendation makes a lot of sense, because it is the right thing to do in light of all the circumstances. I hope, Mr. President, that we can have a vote in which all Mem-

bers of the Senate will be able to vote on this, the most important domestic piece of legislation we have in this Congress.

Mr. HANSEN. Mr. President, let us recall what the history is. I hold few people in higher esteem than my good friend, the Senator from Washington (Mr. JACKSON), but if I recall correctly, it was he who spoke about legislation in the sunshine. Speaking as a member of the old Interior Committee and, more recently, the Energy and Natural Resources Committee, we held legislation in the sunshine. We held hearings, we held markups, we did not have any secret sessions.

Then what happened last spring? It is all well and good to say that 29 or 27 Senators are not here. The fact is that a very select, handpicked group sat down together for several months. I was not there; the Senator from Ohio was not there; the Senator from Oklahoma was not there; the Senator from Connecticut was not there, nor was the Senator from Nevada. I could go on and on.

We do not know what is in this bill and most Senators, I say categorically, do not know what is in this bill. After it had been seemingly brought into agreement and the thing fell apart here a few weeks ago, there were changes made on 119 pages; 119 pages were changed. I did not know what was being changed, nor did any other Member of the Senate, other than those who were participants in the secret session. That is exactly what we are talking about.

I have been around here not as long as many, but more than some, and I am aware of this fact: If you want to insure that very few people will be here to understand this bill as, indeed, we should understand it, let us agree to this unanimous-consent request and there will not be many people around until next Wednesday.

On the other hand, and this is precisely the crux of the matter, I think, the reason—and I can understand why my good friend, the majority leader, the Senator from West Virginia (Mr. ROBERT C. BYRD) and the Senator from Washington, do not want to bring up the bill now. It is not so much that we may come up with a surprise motion to table.

I guess my time is up.

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senator have 30 seconds. I want to hear what he is going to say about the majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. The concern is that no one knows exactly how this vote may come out. But obviously, the leadership does not have sufficient confidence to run the risk of bringing it up now. We are not going to surprise them by saying, "We'll table in the next 15 minutes." We shall give them adequate notice. But they are on notice that, under the rules of the Senate, that motion is in order and it is not debatable.

Mr. ROBERT C. BYRD. That is right.

Mr. HANSEN. I say there is nothing wrong with that, and if you want to assure that there is an understanding by all Members of the Senate, proceed under those rules, because everyone then is on notice that that motion is in order.

If we want to have them all, let us bring it up Monday. That is fine with me. But let us not go through the charade of trying to lay it down now and letting people scatter to the four winds and not return until Wednesday. I want the Senator from Vermont and every other Senator to know what is in that bill. I am persuaded that if they know what is in this bill, this compromise will not fly.

Mr. ROBERT C. BYRD. I ask unanimous consent now that I may have 1 minute to respond to the Senator, who mentioned my name.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, the Senator just might be surprised. He could be surprised.

Mr. HANSEN. I have been many times.

Mr. ROBERT C. BYRD. He has been many times, and undoubtedly he could be again.

Do not bank, just do not bet on the reason that the Senator has just stated as being the reason why the majority leader does not want to call up this measure right now. The majority leader has contacted, I daresay, more Senators, face to face, person to person, on this one issue than anybody else in the administration, outside the administration, in this Senate, or outside the Senate. I have the talley sheets here. I only take a man's word on this issue when I hear him say it with his own lips.

So it is not that I am afraid to call it up now, not that I am afraid to call it up now. We can beat you on a tabling motion today. We can beat you on a tabling motion. I would be willing to call it up right now, move to table myself and vote against the tabling motion, and show you we can beat you.

Mr. HANSEN. We are all ready.

Mr. ROBERT C. BYRD. We can beat you. But I do not want to catch Members on your side of the aisle, who are running for elections, out of town with that kind of surprise, low-blow motion.

But do not say that we are afraid we do not have the votes to beat a tabling motion. We can beat a tabling motion today. But I want a time that all Senators may know that they can come and vote on a motion to recommit, which I understand will be proposed. I think it is only fair to them and fair to the Senators who are here to know when that critical vote is going to take place.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Ohio has 1 minute.

Mr. METZENBAUM. Mr. President, I ask unanimous consent to have 3 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I agree with the majority leader that a motion to table, I think, could be defeated at the moment. I am prepared to say to the majority leader that I would support that motion today or at any other day because I do not want to defeat the Natural Gas Pricing Act and that is what we are talking about. We are talking about an alternative. We are talking about a bill. We are not talking about defeating the bill, and the issue has been totally confused.

I do not want to kill a bill and neither do many of these other persons who have stood with us on the motion to commit. But I have said to the majority leader Tuesday and on Wednesday, I was prepared personally to bring up the bill and with a time limit because I feel confident of our position, and if we cannot prevail, so be it.

But I have been persuaded by the logic of the position and the arguments that have been made, I have been persuaded by the fact that if the Senator says we are going to vote next Thursday, or next Wednesday, or next Tuesday, nobody is going to be on the floor. Everybody is going to run for home. and, if I did not have to protect the floor, I would be one of those running for home, as well.

I think the bill ought to be brought up because I do not think there is any chance this conference committee report can be tabled.

I say that because I am prepared to work the floor and try to urge people not to vote for a motion to table the conference committee report, and I do not think anybody is going to offer a motion to table the conference committee report. I think my friend from Wyoming would probably be in the same position. Nobody wants to kill the bill.

Mr. HANSEN. Will the Senator yield 15 minutes?

Mr. METZENBAUM. 15 seconds.

Mr. HANSEN. I mean 15 seconds.

He and I are cosponsors of a Dear Colleague letter which says precisely what we want to do. We are not going to try to table this bill. My good friend from West Virginia knows that.

Mr. ROBERT C. BYRD. I do not know it. I do not know it. If the Senators are willing to say they are not going to do that, let us enter into the unanimous consent agreement.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senate will be in order. The Senator from Ohio's 3 minutes have expired.

Mr. METZENBAUM. One second more.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ABOUREZK. I ask unanimous consent for 1 minute.

Mr. JACKSON. 1 minute.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. I cannot say what other people will do, but what I will encourage them to do, and I will work against a motion to table, I can say I, personally, will not offer a motion to table. But as far as the unanimous consent, there are others in this body who have a view as well and, as we know, it takes unanimity.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. METZENBAUM. I certainly will.

Mr. ROBERT C. BYRD. I can assure the Senator, if talk lapses, we can put some other bills into the gaps and there will be votes to keep Senators in town.

Mr. METZENBAUM. I say to the Senator that I truly do not believe anybody will offer a motion to table. I do not believe that.

Mr. ROBERT C. BYRD. I think the Senator is very sincere in saying that, but I think we have to guarantee to our absent colleagues that a surprise motion will not be made.

Mr. ABOUREZK. Mr. President, I ask unanimous consent for 2 minutes on this issue.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, I think it is important, I think the Senator from Ohio brought up a very important point. I do not know that anybody in the coalition that is opposing the natural gas bill wants to do away with emergency allocation, and that happens to be in the substitute that we intend to offer when this thing does come up for debate.

I think the real issue of this is, do we want to debate at a time when we can have people's attention, at least those willing to come over to the floor to listen to the debate. That is the issue.

The attempt on the part of the chairman of the Energy Committee and the majority leader to paint this as coming within our control is an attempt that is not valid, Mr. President. What it amounts to is this, the control——

Mr. ROBERT C. BYRD. Will the Senator agree to my request, then?

Mr. ABOUREZK. Pardon me.

The control of the conference papers are within the control of the chairman of the Energy Committee (Mr. JACKSON). He can call up the conference report at any time he wants to.

We have told him that we are here now to protect against losing our rights under a unanimous-consent request.

He can bring that conference report up now and we are willing to go into debate with him and the majority leader when he discusses this matter, and, apparently, for some reason, do not want to call it up, and it goes beyond that. It goes beyond that then not wanting to call it up. They want to lay it off on us as though we had control. We do not have any control. We are here just waiting at their mercy.

We asked Senator JACKSON for the papers and said we would call it up. He said, "You can't have them. I've got them in my pocket," or wherever he keeps them. I think they are too bulky for his pocket. But he has got them and he will not give them up and we are willing to go anytime he wants to offer the report.

Mr. JACKSON. A big dark secret. It is part of that secret meeting we had.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent I may proceed for 1 minute.

The PRESIDING OFFICER. Is there objection?

Mr. SCOTT. Mr. President, reserving the right to object, and I shall not object, this is going on and on. I have told my staff I would be back over there to sign my mail. There should come a time when this terminates.

Mr. ROBERT C. BYRD. I agree, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, let me simply say, the Senator from South Dakota has said that the majority leader and the manager of the conference report have it all under their control. That is not quite correct.

Any single Senator who wishes to move to table the moment we bring it up has it under his control to bring about an immediate vote.

Mr. ABOUREZK. The Senator said he can beat us.

Mr. ROBERT C. BYRD. But who wants to do this with 29 Senators out of town?

Mr. ABOUREZK. I do not want that.

Mr. ROBERT C. BYRD. And they will pick the time to move to table.

Mr. ABOUREZK. That is better than the Senator picking the time.

Mr. ROBERT C. BYRD. All right.

Mr. President, I ask the Chair to put my request.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. I object.

Mr. HANSEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I make one further request, I ask unanimous consent the conference report may be called up with no tabling motion of the conference report to be in order today or tomorrow.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. Reserving the right to object, the Senator is talking about the natural gas conference report?

Mr. ROBERT C. BYRD. I agree.

Mr. ABOUREZK. And the Senator is trying to limit our rights to offer any kind of tabling motion, or something else, at any time?

Mr. ROBERT C. BYRD. Today or tomorrow. No tabling motion today or tomorrow.

Mr. ABOUREZK. Mr. President, regretfully, I once again have to object.

The PRESIDING OFFICER. Objection is heard.

Mr. LEAHY. Will the Senator withhold that, reserving the right to object?

Mr. ABOUREZK. I will reserve my right.

Mr. LEAHY. As I understand that, Mr. President, all that means is that today and tomorrow there would be no motion to table and everything is fair game Monday, Tuesday, Wednesday, Thursday, or Friday?

Mr. ROBERT C. BYRD. Right, exactly.

Mr. LEAHY. Unless a unanimous-consent request is entered into.

I ask my good friend from South Dakota how that really differs, with the exception of a few hours remaining today and whatever time we are in tomorrow, how that differs from simply bringing up the conference committee report anyway and going forward? It involves only a few hours today, whatever hours we are in tomorrow, and then it is fair game from Monday on.

Mr. ABOUREZK. I ask the Senator from Vermont, if that request were agreed to, how many Senators does he think would stay in town between now and Monday, when it might be fair game?

Mr. LEAHY. If it is any help, I will stay here until late tomorrow afternoon, then I will go to Vermont.

Mr. ABOUREZK. Aside from the Senator from Vermont.

Mr. LEAHY. I do not know. Perhaps no more——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LEAHY. Reserving the right to object to the unanimous-consent request, perhaps——

The PRESIDING OFFICER. There is no more time remaining.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator from Vermont may have 1 minute.

The PRESIDING OFFICER. Is there objection?

Mr. BARTLETT. Mr. President, reserving the right to object, I would like to hear the question the Senator is stating.

Mr. LEAHY. I ask for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Perhaps not very many, but probably no more than if it were brought up anyway.

Mr. ABOUREZK. Mr. President, I object to the request.

The PRESIDING OFFICER. Objection is heard.

JUDICIAL TENURE ACT

The Senate continued with the consideration of the bill.

Mr. ROBERT C. BYRD. Vote.

The PRESIDING OFFICER. The question recurs on the motion to recommit S. 1423.

Mr. LEAHY. Mr. President, I ask unanimous consent that Susan Brannigan, of my office, have the privilege of the floor throughout the remainder of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I ask unanimous consent——

The PRESIDING OFFICER. The Chair has not recognized any Senator yet.

We are now on the pending business, which is the recommittal of S. 1423, and the vote is to occur.

Mr. DECONCINI. I move to table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the motion to recommit. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from New Hampshire (Mr. DURKIN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Montana (Mr. HATFIELD), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from New Hampshire

(Mr. McINTYRE), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I further announce that the Senator from Massachusetts (Mr. KENNEDY) is absent on official business.

I also announce that the Senator from Rhode Island (Mr. PELL) is absent because of illness.

Mr. CURTIS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Massachusetts (Mr. BROOKE), the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Oregon (Mr. HATFIELD), the Senator from North Carolina (Mr. HELMS), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. McCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The result was announced—yeas 43, nays 33, as follows:

[Rollcall Vote No. 374 Leg.]

YEAS—43

Bartlett	Glenn	Packwood
Bentsen	Goldwater	Ribicoff
Biden	Gravel	Riegle
Bumpers	Hansen	Roth
Burdick	Hatch	Sasser
Byrd, Harry F., Jr.	Hayakawa	Schweiker
Byrd, Robert C.	Hodges	Sparkman
Cannon	Huddleston	Stennis
Chiles	Jackson	Stone
Clark	Leahy	Talmadge
Culver	Long	Thurmond
Danforth	Magnuson	Wallop
DeConcini	Morgan	Young
Garn	Nelson	Zorinsky
	Nunn	

NAYS—33

Abourezk	Hart	Metzenbaum
Bayh	Hathaway	Moynihan
Bellmon	Heinz	Muskie
Case	Hollings	Pearson
Chafee	Inouye	Proxmire
Church	Javits	Randolph
Cranston	Lugar	Sarbanes
Curtis	Mathias	Schmitt
Eagleton	Matsunaga	Scott
Ford	McGovern	Weicker
Griffin	Meicher	Williams

NOT VOTING—24

Allen	Hatfield, Mark O.	McClure
Anderson	Hatfield, Paul G.	McIntyre
Baker	Helms	Pell
Brooke	Humphrey	Percy
Dole	Johnston	Stafford
Domenici	Kennedy	Stevens
Durkin	Laxalt	Stevenson
Eastland		Tower
Haskell		

So the motion to table the motion to recommit was agreed to.

The PRESIDING OFFICER. There will now be 10 minutes debate on the bill.

Mr. DeCONCINI. Mr. President, I understood that the unanimous-consent agreement only asked for debate if the motion to table did not carry. Am I correct?

The PRESIDING OFFICER. No. There will be a period now for 10 minutes of debate unless Senators yield the time back.

Mr. DeCONCINI. I am ready to yield back.

The PRESIDING OFFICER. Time is yielded back.

Mr. DeCONCINI. Time is yielded back.

The PRESIDING OFFICER. The question then occurs on agreeing to the committee amendment in the nature of a substitute.

Mr. DeCONCINI. That is right.

Mr. President, I ask unanimous consent that the amendment in the nature of a substitute reported by the Committee on the Judiciary be adopted and the bill as thus amended be considered original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill is open to further amendment.

UP AMENDMENT NO. 1822

Mr. DeCONCINI. Mr. President, I send to the desk an amendment composed of technical corrections to the bill and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. DeCONCINI) proposes unprinted amendment No. 1822.

Mr. DeCONCINI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

TECHNICAL AMENDMENTS TO S. 1423

1. On page 18, the 8th unmarked line, immediately after the word "Conference" insert the words "of the United States".

2. On page 49, line 21, strike "January 1, 1979" and insert in lieu thereof "October 1, 1979".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arizona.

The amendment was agreed to.

Mr. CRANSTON subsequently said: Mr. President, I was opposed to S. 1423, and was seeking recognition, though I did not make any great effort to obtain recognition, before the vote. However, I ask unanimous consent that a statement of mine on that bill appear in the RECORD before the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I oppose S. 1423, the Judicial Tenure Act, because I believe it to be unwise legislation which would invite subtle and direct pressures against the independent Federal judiciary, perhaps under circumstances which we cannot foresee today.

We must keep in mind that a Federal judge often sits alone, in the midst of a hostile community, upholding the Constitution and laws of the United States against angry local sentiments. That judge could be subject to strong pressures brought to bear through the mechanisms provided in S. 1423. The committee report merely hints at "letters from constituents, disgruntled litigants, and from attorneys containing various allegations concerning Federal judges" which could be referred to a "body that has the means and ability to investigate well-founded complaints."

It is fair to imagine what could happen. At the very least Federal judges who render unpopular local decisions will be harassed with a deluge of "complaints" and the possibility of some sort of investigation into his or her continued fitness to sit on the bench.

I do not think that the Founding Fathers' concept of an independent Federal judiciary serving on good behavior included a review of every complaint about some unpopular Federal judge. A reading of Federalist Paper No. 78 suggests instead that the authors of the Constitution believed that Federal judges should be insulated from local sentiments running contrary to their decisions and actions.

I recognize that my own State of California has used effectively machinery similar to that in S. 1423. But what is right for the individual States is not necessarily right for the Federal Government. The Founding Fathers recognized that the States differed among themselves on methods of appointment of judges and term of office. They accepted these vital differences and our Constitution accommodates them.

The guiding principles which ought to settle this matter for the Senate are provided for us by Hamilton in the 78th Federalist Paper. There he writes:

> Liberty can have nothing to fear from the judiciary alone, but would have everything to fear from its union with either of the other departments. . . . The complete independence of the courts of justice is peculiarly essential in a limited Constitution. By a limited Constitution, I understand one which contains certain specified exceptions to the legislative authority; such for instance, as that it shall pass no bills of attainder, no ex post facto laws, and the like. Limitations of this kind can be preserved in practice no other way than through the medium of courts of justice, whose duty it must be to declare all acts contrary to the manifest tenor of the Constitution void. Without this, all reservations of particular rights or privileges would amount to nothing.

Hamilton said further that judges are to serve on good behavior. Enforcement of the standard of good behavior is provided by the Constitution in the impeachment power of Congress. There, in Hamilton's view, is where the matter should rest.

S. 1423 joins the legislative branch with the proposed Council on Judicial Tenure in the Judicial Branch in direct ways. The Council itself will be staffed by civil servants who will be beholden to Congress for appropriations, pay increases, benefits, amenities, and operating budget.

There already are numerous involvements of the judiciary with the legislative and executive without adding a new entanglement which more directly than any of the others threatens the independence of the Federal judiciary so essential to the protection of the Constitution.

In summary, S. 1423 changes fundamentally the original Constitution intent to establish an independent Federal judiciary serving on good behavior. If Congress arguably has the power to enact the Judicial Tenure Act, to do so, in my opinion would permanently and seriously alter the balance of Constitutional powers among the three branches of Government.

There are adequate ways of dealing with the legitimate concerns of S. 1423. And if time must be the final cure to specific problems I do not think that is too high a price to pay for preserving the independence of the Federal judiciary.

On these grounds I recommend rejection of S. 1423.

Mr. DeCONCINI. Mr. President, there are no further amendments. I ask for third reading and passage of the bill.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for third reading and was read the third time.

Mr. DeCONCINI. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the bill pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from New Hampshire (Mr. DURKIN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Montana (Mr. HATFIELD), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from New Hampshire (Mr. McINTYRE), and the Senator from Illinois (Mr. STEVENSON), are necessarily absent.

I further announce that the Senator from Massachusetts (Mr. KENNEDY) is absent on official business.

I also announce that the Senator from Rhode Island (Mr. PELL) is absent because of illness.

Mr. CURTIS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Massachusetts (Mr. BROOKE), the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Oregon (Mr. HATFIELD), the Senator from North Carolina (Mr. HELMS), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. McCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) and the Senator from North Carolina (Mr. HELMS) would each vote "yea."

The result was announced—yeas 43, nays 32, as follows:

[Rollcall Vote No. 375 Leg.]

YEAS—43

Bartlett	Garn	Packwood
Bentsen	Glenn	Ribicoff
Biden	Goldwater	Riegle
Bumpers	Gravel	Roth
Burdick	Hansen	Sasser
Byrd, Harry F., Jr.	Hatch	Schweiker
Byrd, Robert C.	Hayakawa	Sparkman
Cannon	Jackson	Stennis
Chiles	Leahy	Stone
Clark	Long	Talmadge
Culver	Magnuson	Thurmond
Curtis	Metzenbaum	Wallop
Danforth	Morgan	Young
DeConcini	Nelson	Zorinsky
	Nunn	

NAYS—32

Abourezk	Hathaway	Moynihan
Bayh	Heinz	Muskie
Bellmon	Hodges	Pearson
Case	Hollings	Proxmire
Chafee	Huddleston	Randolph
Church	Inouye	Sarbanes
Cranston	Lugar	Schmitt
Eagleton	Mathias	Scott
Ford	Matsunaga	Weicker
Griffin	McGovern	Williams
Hart	Meicher	

NOT VOTING—25

Allen	Hatfield, Paul G.	Percy
Anderson	Helms	Stafford
Baker	Humphrey	Stevens
Brooke	Javits	Stevenson
Dole	Johnston	Tower
Domenici	Kennedy	
Durkin	Laxalt	
Eastland	McClure	
Haskell	McIntyre	
Hatfield, Mark O.	Pell	

So the bill (S. 1423) was passed.

Mr. DeCONCINI. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CORRECTION OF VOTE—S. 1423

(On September 11, 1978, the following proceeding occurred. The foregoing rollcall vote has been corrected to reflect the order of the Senate.)

Mr. McGOVERN. Mr. President, on September 7, on final passage of the Judicial Tenure Act, S. 1423, I was recorded as not voting. I was here and cast a "nay" vote. Indeed, my vote was so recorded by the unofficial recorder, Mr. Patrick Hynes, but was missed by the official recording the vote.

I ask unanimous consent, under those circumstances, that my vote be recorded as I voted. I pointed out that this change will not affect the outcome of the vote.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, this matter was brought to my attention this afternoon. While it is an extraordinary thing to change a roll call vote, I thing it also would be extraordinary not to accept the representations just made by the Senator from South Dakota. Since it does not change the result, since he was kind enough to bring it to our attention before making the request, and since he was in the Chamber and did vote, we have no objection to the RECORD being changed in accordance with the request made by the distinguished Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, I thank the distinguished minority leader.

Mr. DeCONCINI. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 1423, as amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DeCONCINI. Mr. President, I again wish to thank Senator THURMOND, the ranking Republican member of the Judiciary Committee, Senator EASTLAND, the chairman of the committee, the staff, particularly Mike Altier and Romano Romani, and the ranking Republican member, Mr. WALLOP, and the members of his staff, who gave a great deal of time and effort.

Needless to say, Senator NUNN, the author of this bill, deserves a great deal of credit for the fact that we have had an opportunity to pass it today.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. DeCONCINI. I yield to the Senator from South Carolina.

The PRESIDING OFFICER. The Senate will be in order. The Chair is now ruling that, without objection, the title amendment is agreed to.

The title amendment is as follows:

> A bill to establish a procedure in addition to impeachment for the retirement of disabled members of the Judiciary of the United States and the removal of those whose conduct is or has been inconsistent with the good behavior required by article III, section 1 of the Constitution, and for other purposes.

Mr. NUNN. Mr. President, I simply want to thank again the Senator from South Carolina (Mr. THURMOND), the Senator from Arizona (Mr. DeCONCINI), and the able staffs for all the work they have done. I would add the Senator from Wyoming (Mr. WALLOP), and Gordon Griffin, my able legislative assistant, who has worked on this measure long and hard for about 4 years. I think he has done a tremendous job.

The PRESIDING OFFICER. Who seeks recognition?

Mr. THURMOND. The Senator from Arizona yielded to me.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. DeCONCINI. Mr. President, I yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I want to commend the able and distinguished Senator from Arizona for the great amount of work he has done on this bill. I think it is a fine accomplishment, and I think it will be a great asset to the administration of justice.

I also commend the able Senator from Georgia for sponsoring this measure as its chief sponsor. I feel that his work on this bill has been most valuable.

Mr. NUNN and Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia. Does the Senator

from Georgia yield to the majority leader?

Mr. ROBERT C. BYRD. Mr. President, there is nothing before the Senate, is there?

The PRESIDING OFFICER. There is no business before the Senate.

Mr. ROBERT C. BYRD. So any Senator could speak.

The PRESIDING OFFICER. The Senator is correct.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. I merely seek recognition to ask unanimous consent that there now be a period for the transaction of routine morning business of not to exceed 30 minutes, with Senators permitted to make statements therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 11:24 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the bill (S. 3067) to extend the Commission on Civil Rights for 3 years, to authorize appropriations for the Commission, to effect certain changes to comply with other changes in the law, and for other purposes, with amendments in which it requests the concurrence of the Senate.

The message also announced that the House has passed House Joint Resolution 1088, providing financial assistance for the city of New York, in which it requests the concurrence of the Senate.

At 2:57 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to H.R. 6699, an act to establish a national climate program, and for other purposes.

The message also announced that the House, having proceeded to reconsider H.R. 10929, an act to authorize appropriations for fiscal year 1979 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes, returned by the President of the United States with his objections, was not passed.

ENROLLED BILL SIGNED

The message further announced that the Speaker has signed the following enrolled bill:

H.R. 6669. An act to establish a comprehensive and coordinated national climate policy and program, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. LEAHY).

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC-4241. A communication from the Acting Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Navy's proposed Letter of Offer to Iran for Defense Articles estimated to cost in excses of $25 million; to the Committee on Armed Services.

EC-4242. A confidential communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Navy's proposed Letter of Offer to Australia for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-4243. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Air Force's proposed Letter of Offer to Korea for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-4244. A communication from the Acting Assistant Secretary for Congressional Relations, Department of State, reporting, pursuant to law, that the President has determined that it is in the national interest for the Export-Import Bank of the United States to support transactions involving the purchase or lease of products or services by, for use in, or for sale or lease to, the Hungarian People's Republic; to the Committee on Banking, Housing, and Urban Affairs.

EC-4245. A communication from the President and Chairman, Export-Import Bank of the United States, reporting, pursuant to law, on loan, guarantee and insurance transactions supported by Eximbank during July 1978 to Communist Countries (as defined in section 620(f) of the Foreign Assistance Act of 1961, as amended); to the Committee on Banking, Housing, and Urban Affairs.

EC-4246. A communication from the Acting Secretary, Interstate Commerce Commission, reporting, pursuant to law, that the Commission is unable to render a final decision in Docket No. 36810, Rail-Water Rates, Sea-Land Service, January 1978, within the initially-specified seven-month period; to the Committee on Commerce, Science, and Transportation.

EC-4247. A communication from the Acting Secretary, Interstate Commerce Commission, reporting, pursuant to law, that the Commission is unable to render a final decision in Docket No. 36810, Rail-Water Rates, Sea-Land Service, January 1978, within the initially-specified seven-month period; to the Committee on Commerce, Science, and Transportation.

EC-4248. A communication from the Acting Chairman, Interstate Commerce Commission, transmitting, for the information of the Senate, an updated copy of Appendix M, "Operating Results by Route," of the ICC's March 15, 1978, Amtrak Report; to the Committee on Commerce, Science, and Transportation.

EC-4249. A communication from the Acting Secretary of the Interior, reporting, pursuant to law, that the Mesa Petroleum Company has submitted an application to the Department for repayment of one year's rental totalling $15,000 for lease OCS-G 2291, South Marsh Island Block 171, offshore Louisiana; to the Committee on Energy and Natural Resources.

EC-4250. A communication from the Assistant Secretary for Policy and Evaluation, Department of Energy, reporting, pursuant to law, of a delay in submission of the annual report on the Economic Impact of Energy Actions; to the Committee on Energy and Natural Resources.

EC-4251. A communication from the Under Secretary, Department of Energy, transmitting, pursuant to law, a report on Photovoltaic Incentives Options, August 1978; to the Committee on Energy and Natural Resources.

EC-4252. A communication from the Secretary of the Interior and the Secretary of Agriculture, transmitting, at the request of the President, the Twelfth and Thirteenth Annual Reports on the status of the National Wilderness Preservation System; to the Committee on Energy and Natural Resources.

EC-4253. A communication from the Secretary of Transportation, reporting, for the information of the Senate, on the recent determination by the Department of the Interior that there are technical and program constraints on the use of funds from the Abandoned Mine Reclamation Fund for projects to improve roads that serve active coal mines; to the Committee on Energy and Natural Resources.

EC-4254. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, the 1977 Status Report of the GSA covering public buildings projects authorized for construction, alteration and lease in accordance with the Public Buildings Act of 1959; to the Committee on Environment and Public Works.

EC-4255. A communication from the Assistant Administrator for legislative Affairs, Agency for International Development, Department of State, transmitting, pursuant to law, justification of an increase in the funding level of the proposed FY 1978 program in Chile; to the Committee on Foreign Relations.

EC-4256. A communication from the Chairman, Board of Directors, Washington Metropolitan Area Transit Authority, transmitting, pursuant to law, a long-range financial plan to cover funding of all remaining segments of the full Metro system, to provide for federal/state/local cooperative action to service principal and interest on Metro revenue bonds, and to establish more equitable and politically realistic means for paying annual Metrobus/Metrorail operating subsidies; to the Committee on Governmental Affairs.

EC-4257. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "What Rules Should Apply to Post-Federal Employment and How Should They Be Enforced?" August 28, 1978; to the Committee on Governmental Affairs.

EC-4258. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Progress in Improving Program and Budget Information for Congressional Use," August 29, 1978; to the Committee on Governmental Affairs.

EC-4259. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Department of Defense Continues to Improperly Subsidize Foreign Military Sales," August 25, 1978; to the Committee on Governmental Affairs.

EC-4260. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Problems and Outlook of Small Private Liberal Arts Colleges," August 25, 1978; to the Committee on Governmental Affairs.

EC-4261. A communication from the District of Columbia Auditor, transmitting, pursuant to law, (1) a report entitled "The City Should Consider Whether an Exemption From Deed Recordation Tax Which Benefits Developers Should Be Restricted"; (2) a letter to Council Chairman Sterling Tucker re Job Corps Centers at Junior Village and Maple Glen; (3) a letter report to Mayor and Council re Elimination of GS-2 Positions

from Workforce; (4) a letter to Councilmember Marion Barry re various aspects of the District's Supplemental Food Program; (5) a report entitled "Preference of Police Officers for Police District Assignment and Stationhouse Duty Has Created a Racially and Sexually Imbalanced Work Force"; (6) a letter to Councilmember David Clarke re assumptions used by the Department of Finance and Revenue in estimating revenue loss; (7) a report entitled "Management of Contracts for Services to Public Housing Projects"; (8) a letter report to Mayor and Council re reprogramming of funds at budget category level; (9) a letter report to Mayor and Council re safety and health inspections of food vendors; and (10) a letter to Councilmember David Clarke re overtime records of the Metropolitan Police Department; to the Committee on Governmental Affairs.

EC-4262. A communication from the Acting Secretary of the Interior, transmitting, pursuant to law, a report on the organization of leasing operations of the Federal Government; to the Committee on Governmental Affairs.

EC-4263. A communication from the Assistant Secretary for Administration, Department of Transportation, transmitting, pursuant to law, a modification to an existing system of records; to the Committee on Governmental Affairs.

EC-4264. A communication from the Administrator, Veterans Administration, transmitting, pursuant to law, a report on the new system for the VA Fee Basis Medical and Pharmacy Program; to the Committee on Governmental Affairs.

EC-4265. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on July 25, 1978, which would amend the Condominium Act of 1976, D.C. Law 1-89 (Act 2-260); to the Committee on Governmental Affairs.

EC-4266. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on July 25, 1978, which would order the closing of a public alley and the dedication of certain other land for public alley purposes (Act 20261); to the Committee on Governmental Affairs.

EC-4267. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on July 25, 1978, which would order the closing of part of an east-west public alley and the dedication of certain other land for public alley purposes (Act 2-262); to the Committee on Governmental Affairs.

EC-4268. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on July 25, 1978, which would create employment opportunities for blind and other severely handicapped individuals by assuring a market for products and services provided by them, and for other purposes (Act 2-263); to the Committee on Governmental Affairs.

EC-4269. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on July 25, 1978, which would order the closing of Eye Street, N.W., between 23rd and 24th Streets, N.W. (S.O. 75-34) (Act 2-259); to the Committee on Governmental Affairs.

EC-4270. A secret communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the major issues of the Army's ballistic missile defense program and related aspects of strategic offensive weapons; to the Committee on Governmental Affairs.

EC-4271. A communication from the Chairman and General Counsel, National Labor Relations Board, transmitting, pursuant to law, the Board's report for a proposed new system of records; to the Committee on Governmental Affairs.

EC-4272. A communication from the Deputy Secretary, Department of Energy, transmitting, pursuant to law, a report for a proposed new system of records; to the Committee on Governmental Affairs.

EC-4273. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a report for a proposed new system of records; to the Committee on Governmental Affairs.

EC-4274. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a report for a proposed new system of records; to the Committee on Governmental Affairs.

EC-4275. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the first annual report of the Director of the National Institute of Arthritis, Metabolism, and Digestive Diseases on arthritis activities under the Arthritis Plan; to the Committee on Human Resources.

EC-4276. A communication from the the Chairman, National Institute of Education, Department of Health, Education, and Welfare, transmitting, pursuant to law, the fourth annual report of the National Council on Educational Research, Reflections and Recommendations; to the Committee on Human Resources.

EC-4277. A communication from the Chairman, National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, transmitting, pursuant to law, a report entitled "Report and Recommendations: Institutional Review Boards"; to the Committee on Human Resources.

EC-4278. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders in cases of certain aliens who have been found admissible to the United States under the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-4279. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, 431 reports covering the period July 31 through August 14, 1978, concerning visa petitions which the Service has approved according the beneficiaries of such petitions third and sixth preference classification under the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

EC-4280. A communication from the Deputy Comptroller General of the United States, transmitting, pursuant to law, a report and recommendation concerning the claims for relief from liability to the United States of 17 employees of the Long Beach Naval Shipyard, Department of the Navy, Long Beach, California, whose names appear in the report; to the Committee on the Judiciary.

EC-4281. A communication from the Certified Public Accountants, Future Farmers of America, transmitting, pursuant to law, a financial report as of June 30, 1978 and 1977, and the related statements of income and retained income and changes in financial positions; to the Committee on the Judiciary.

EC-4282. A communication from the Chairman, Federal Election Commission, transmitting the Commission's fiscal year 1980 appropriation request; to the Committee on Rules and Administration.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM-780. A resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation:

HOUSE RESOLUTION No. 66

"Whereas, Aircraft noise is a major problem affecting the present viability and future growth of this country's air transportation system; and

"Whereas, Over 6 million Americans and 900,000 acres of land are impacted by aircraft noise; and

"Whereas, Airport proprietors have expended over $200 million to acquire noise impacted land around airports; and

"Whereas, Potential noise liability suits may measure in the billions of dollars; and

"Whereas, Future airport development and expansion face long delays; and

"Whereas, Aircraft noise is present in every state in the Union which makes this a national rather than a local problem; and

"Whereas, A strong national policy and national funding source are necessary; and

"Whereas, The United States House of Representatives has before it for floor action the week of August 7 HR 8729 and the United States Senate Finance Committee is holding S 3279 pending a vote by the house on HR 8729; and

"Whereas, Title I of the bills is aimed at making compatible those lands adjacent to airports; and

"Whereas, Title II increases airport grant levels of the Airport and Airways Development Act of 1970; and

"Whereas, Title III of HR 11986 and S 3279 provide the funding to re-engine and replace noisy aircraft; now, therefore, be it

"Resolved by the Assembly of the State of California, That the Congress of the United States is hereby requested to favorably act on HR 8729, HR 11986, and S 3279; and be it further.

"Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to each Senator and Representative from California in the Congress of the United States."

POM-781. A concurrent resolution adopted by the legislature of the State of Iowa; to the Committee on Commerce, Science, and Transportation:

HOUSE CONCURRENT RESOLUTION 112

"Whereas, the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (Milwaukee Road) provides rail transportation service to many Iowa counties and directly serves many Iowa communities and population centers; and

"Whereas, the Milwaukee Road rail system is an essential portion of Iowa's grain and industrial transportation system; and

"Whereas, this rail transportation system is essential to Iowa's ability to participate in the international grain and industrial market; and

"Whereas, sales of Iowa grain and industrial exports help to substantially reduce the United States' deficit balance of payments; and

"Whereas, many of Iowa's farms and industries are directly dependent on the Milwaukee Road and will incur substantial financial hardship if the Milwaukee Road ceases or suspends operation; and

"Whereas, there are over 13,000 employees on the Milwaukee Road whose employment will be adversely affected even to the point of furlough or termination, if the Milwaukee Road were to cease or suspend operation; and

"Whereas, the existing and anticipated long range energy shortage requires that energy efficient means of hauling bulk goods for long distances be preserved and protected; and

"Whereas, the calculated shortage of boxcars and jumbo hopper cars the week of

February 6, 1978, was 3,000 in Iowa and 7,000 in the Midwest; and

"Whereas, the Milwaukee Road's financial problems have been grievously aggravated by the intolerable delays of the Interstate Commerce Commission in dealing with merger requests of the Milwaukee Railroad and other railroad companies; and

"Whereas, the delays by the Federal Railroad Administration in processing and approving loan and grant applications have further weakened the Milwaukee Road; and

"Whereas, federal aid and regulatory responsiveness is essential for the Milwaukee Road to continue to provide transportation services and employment and pay property and corporate taxes in Iowa and elsewhere; Now therefore,

"Be it resolved by the House of Representatives, the Senate concurring, That the President of the United States, the Secretary of Transportation and the Federal Railroad Administration act quickly in providing the necessary loans and grants to the Milwaukee Road; and

"Be it further resolved, That the President of the United States, the Secretary of Transportation, the Interstate Commerce Commission, the Federal Railroad Administration and Congress consider and act on a permanent solution to the midwest rail crisis; and

"Be it further resolved, That copies of this Resolution shall be transmitted to the President of the United States, the President of the Senate of the United States, the Speaker of the House of Representatives of the United States, the Secretary of Transportation, the administrator of the Federal Railroad Administration, and the Iowa Representatives and Senators in Congress.

"We, Dale M. Cochran, Speaker of the House and Arthur A. Neu, President of the Senate, and David L. Wray, Chief Clerk of the House and Kevin P. Light, Secretary of the Senate hereby certify that the above and foregoing Resolution was adopted by the House of Representatives and the Senate of the Sixty-seventh General Assembly, Second Regular Session."

POM-782. A resolution adopted by the National Water Supply Improvement Association, relating to reauthorization of the Federal Desalination program; to the Committee on Environment and Public Works.

POM-783. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance;

"ASSEMBLY JOINT RESOLUTION No. 92

"Whereas, California's unique environment and its enterprising farmers have combined for a total agricultural production in excess of nine billion dollars; and

"Whereas, California produces over 200 agricultural commodities and is unique among the states in the diversity of its agricultural production; and

"Whereas, Exports of California's agricultural products generate over 80,000 jobs and provide a favorable balance of trade surplus; and

"Whereas, Agriculture is California's number one industry, and there is a worldwide demand for the agricultural products produced in California; and

"Whereas, Despite the demand for these commodities, some nations unfairly penalize California agricultural exports through illegal quotas, discriminatory duties and other nontariff barriers; and

"Whereas, The removal of these trade barriers would permit the expansion of California's agricultural exports resulting in expanded job opportunities and in improvement in the nation's balance of payments; and

"Whereas, Negotiators from the Office of the Special Trade Representative, the International Trade Commission, and the Department of Agriculture are presently involved in negotiations aimed at reducing these illegal trade barriers; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes both the Congress and the President of the United States to vigorously negotiate the reduction of unfair barriers to free trade which currently exist and, thereby, expand the international commerce in agricultural products, including the agricultural commodities produced in California; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ABOUREZK, from the Select Committee on Indian Affairs, with amendments:

S. 2502. A bill to authorize the States and the Indian tribes to enter into mutual agreements and compacts respecting jurisdiction and governmental operations in Indian country (Rept. No. 95-1178).

By Mr. LONG, from the Committee on Finance, with an amendment and an amendment to the title:

H.R. 2852. An act to amend the Internal Revenue Code of 1954 to provide that refunds of the taxes on gasoline and special fuels shall be made to aerial applicators in certain cases (Rept. No. 95-1179).

By Mr. LONG, from the Committee on Finance, without amendment:

S. Res. 583. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 2852. Referred to the Committee on the Budget.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. PROXMIRE:

S. 3485. A bill to amend the Federal Reserve Act to provide for maintenance of reserves in order to facilitate the implementation of monetary policy, to promote competitive equality among depository institutions, to require the imposition of service charges for services by Federal Reserve banks, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. STENNIS:

S. 3486. A bill to authorize appropriations for fiscal year 1979 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes; to the Committee on Armed Services.

By Mr. BELLMON (for himself and Mr. BARTLETT):

S. 3487. A bill to change the name of Clayton Lake in the State of Oklahoma to Sardis Lake; to the Committee on Environment and Public Works.

By Mr. CASE:

S. 3488. A bill for the relief of Yaroslav L. Tiajoloff; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PROXMIRE:

S. 3485. A bill to amend the Federal Reserve Act to provide for maintenance of reserves in order to facilitate the implementation of monetary policy, to promote competitive equality among depository institutions, to require the imposition of service charges for services by Federal Reserve banks, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

MONETARY POLICY IMPROVEMENT ACT OF 1978

Mr. PROXMIRE. Mr. President, I am today introducing the Monetary Policy Improvement Act of 1978. The legislation is designed to deal with the problems associated with the erosion of membership in the Federal Reserve System. The objectives of the bill are to:

First, strengthen the ability of the Federal Reserve Board to conduct monetary policy;

Second, promote greater competitive equality between financial institutions;

Third, enhance the safety and soundness of the banking system;

Fourth, improve the efficiency of the Federal Reserve payments system; and

Fifth, minimize any loss in Treasury revenues.

I am introducing this bill primarily for discussion purposes and in an effort to provide the Senate Banking Committee with a lower cost alternative to the various membership proposals that have been advanced. These include the original Fed proposal, S. 3304, which I introduced by request, S. 3461 introduced by Senator BROOKE, and H.R. 13847 introduced by Congressman REUSS together with the changes to that bill recommended by the Federal Reserve Board and by the staff of the House Banking Committee.

The House Banking Committee is meeting on September 7 to begin discussing the Fed membership issue and the Senate Banking Committee has scheduled a corresponding mark-up on September 19 and 20. While I am reasonably flexible on the details of any membership proposal, I am concerned about the cost to the Treasury. Accordingly, if the Congress does act on the Fed membership issue, I do believe the cost to the Treasury, and ultimately the American taxpayer should be held to a minimum. The legislation I am introducing would result in an annual net, after-tax revenue loss to the Treasury of only $41 million. This is about what the Treasury will lose anyway, without legislation if Federal Reserve membership continues to decline at current rates.

SUMMARY OF MAIN FEATURES

The principal features of the bill are as follows:

First. Universal reserve requirements: All federally insured depository institutions with deposits above a specified amount would be required to maintain reserves against those deposits in accordance with the reserve ratios prescribed by law. The Federal Reserve Board is authorized to vary those ratios within a limited range for monetary policy reasons.

Federally insured commercial banks would be required to maintain reserves against their combined demand and savings deposits in excess of $40 million and against their time deposits in excess of $40 million. A savings deposit is defined as a deposit with a maturity of 30 days or less and a time deposit is defined as one with a maturity of more than 30 days.

All other federally insured depository institutions or members of the Federal Home Loan Bank System including mutual savings banks, savings and loan associations, and credit unions would be required to maintain reserves against their transaction accounts in excess of $40 million. A transaction account is defined to include a demand deposit, a NOW account, a share draft account, or other account from which payments may be made to third parties.

Second. Simplified reserve requirements: Under the present hodge podge system, the Federal Reserve Board has prescribed 12 separate reserve ratios depending upon the type of deposit, its maturity, and the size of the bank. The proposed legislation would substantially simplify this complex structure by prescribing just three reserve ratios for all commercial banks subject to reserve requirements:

(i) 9 percent against demand and savings deposits;

(ii) 4 percent against shorter term time deposits with initial maturities of less than 180 days; and

(iii) 1 percent against longer term time deposits with initial maturities of 180 days or more.

Other depository institutions subject to reserve requirements would be required to maintain a 9-percent reserve against their transaction balances.

Third. Reporting requirements: The Federal Reserve Board is authorized to require periodic financial reports from all depository institutions in order to perform its monetary policy responsibilities. Institutions not subject to reserve requirements can provide these reports to their respective supervisory agencies.

Fourth. Access to discount window and other Fed services: All depository institutions required to maintain reserves and who are not members of the Federal Reserve System would be automatically entitled to all of the privileges of membership including access to the discount window. In addition, all nonmember banks who, because of their size are not subject to reserve requirements, would be given access to the discount window upon a certification of solvency from the FDIC.

Fifth. Pricing of Fed services: The Federal Reserve Board is required to publish a schedule of fees for its services to commercial banks by July 1, 1979, and to begin charging for these services by July 1, 1980. All depository institutions would be able to purchase these services on the same terms and conditions as member banks. The fees would take into account an allowance for taxes and the cost of capital.

EFFECT OF THE PROPOSAL

First. Effect on financial institutions: The system of universal reserve requirements together with the $40 million exemptions as proposed in the legislation would halt the decline in the percentage of bank deposits subject to reserve requirements, while at the same time relieving most banks from the burden of maintaining reserves. The bill would subject only 1,723 banks to reserve requirements compared to a present total of 5,664. Moreover, because the bill authorizes banks to count their vault cash against their reserve requirements, only 1,117 banks would have to keep reserves at a Federal Reserve bank. This includes 762 banks that are presently members of the Federal Reserve System and 355 nonmember banks. Some of these nonmember banks covered by reserve requirements would be covered anyway by the International Banking Act recently passed by the Congress.

Of the 5,664 current member banks, 4,523 would be relieved by reserve requirements entirely; 379 would be able to meet all of their reserve requirements with their present amount of vault cash; 706 would have their present reserve requirements reduced; and 56 would have their present reserve requirements increased. The bill provides that any increase in reserve requirements would be phased in gradually over 4 years for any member bank facing higher reserve requirements and for any nonmember bank subject to reserve requirements.

The bill also would apply reserve requirements to nonbank depository institutions offering transaction accounts that are equivalent to demand deposits. However, because of the $40 million exclusion, and because many thrift institutions still lack the legal authority to offer transaction accounts, and because of the ability to satisfy reserve requirements with vault cash, less than 10 nonbank institutions would actually be required to maintain reserves with the Fed, according to estimates supplied by the Federal Reserve staff. Thus, the application of reserve requirements to all depository institutions offering checking-type accounts would have virtually no financial impact on the thrift industry; but it would foreclose a potential source of erosion in monetary control if, in the future, Congress and the States were to provide thrift institutions with additional powers to offer checking or similar type accounts. It also insures a greater degree of competitive equality between bank and thrift institutions in competing for the public's checking account business.

Second. Effect on monetary policy: The legislation would strengthen in a number of ways the ability of the Federal Reserve Board to perform its monetary policy responsibilities.

First, the bill would halt the decline in the portion of total bank deposits subject to reserve requirements. The erosion in the Federal Reserve's membership has reduced the percentage of total deposits at banks subject to reserve requirements from approximately 84 percent in 1961 to less than 73 percent today. Unless action is taken to halt this decline, a further erosion in Fed membership could begin to weaken the ability of the Federal Reserve to control the Nation's money supply. The system of universal reserve requirements proposed in the bill together with the $40 million exclusions would cover 71.6 percent of total bank deposits. Thus, the Fed's ability to control the monetary aggregates would be stabilized.

Second, the simplified structure of reserve requirements proposed in the bill would make it far easier for the Fed to predict and control future changes in the money supply. Under the present system, if a consumer transfers funds from his checking account to his savings account at his bank, the bank's reserve requirement against those funds could decline from 16¼ to 3 percent. These freed-up reserves could produce a multiple expansion in the money supply unless offset by the Federal Reserve. Similar complications arise when funds are transferred from a checking account into a NOW account or from a checking account in a large member bank to a checking account in a medium or similar sized member bank. In theory, the Fed can predict these transfers and take them into account when formulating monetary policy. However, innovations in funds transfer technology have made it far easier for consumers and businesses to shift funds between their accounts, thus complicating the Fed's monetary projections.

Many of these problems would be alleviated under the proposed legislation. The bill would apply the same reserve requirement against demand deposits, savings accounts, and NOW accounts. Thus, deposit shifts between these types of accounts would have no monetary significance. Also, the uniform 9 percent reserve requirement against demand deposits would reduce the complications arising from shifts in demand deposits between different size banks which, under the present system, have reserve requirements ranging from 7 to 16¼ percent.

Monetary policy would be further strengthened by authorizing the Fed to require timely financial reports from non-member financial institutions. The lack of timely data from these institutions has, in the past, caused the Fed to make monetary policy judgments on the basis of incomplete and inadequate information. In order to minimize reporting burdens, the bill further provides that these reports may be provided through an institution's regular supervisory agency.

Finally, monetary policy would be strengthened and the safety and soundness of the banking system would be enhanced by permitting all banks to meet their liquidity needs through the Federal Reserve's discount window. Under the current system, a sizable portion of the banking industry is excluded from the discount window except under severe emergency conditions. This exclusion can dilute the aggressiveness of the Federal Reserve Board in pursuing a restrictive monetary policy. There are times when the Board may hesitate to impose the degree of restraint called for by economic conditions in order to avoid the

potential liquidity strains that could be visited upon non-member banks. Guaranteeing all nonmember banks access to the discount window will allow the Board a great degree of freedom in conducting monetary policy.

Third. Effect on competitive equality: On balance, the legislation would provide more competitive equality between different classes of financial institutions. Our present system creates numerous imbalances in the competition for deposits, since reserve requirements are not applied uniformly. A 1 percentage point reserve requirement raises the effective cost of funds by as much as 10 basis points. This extra cost can place member banks at a substantial disadvantage compared to nonmember banks and thrift institutions.

Under the proposed bill, the system of universal reserve requirements will place member and nonmember banks on a more equal footing. All banks would be subject to the same reserve requirements regardless of membership status.

The bill also helps to equalize competition between commercial banks and thrift institutions in the market for certificates of deposits (CD's). Under the present system, a member bank is required to maintain a reserve of 6 percent against its short term CD's in excess of $5 million with initial maturities of less than 180 days. Under the proposed bill, this reserve requirement would be reduced to 4 percent. The bill further helps to restore competitive parity in the longer term CD market where, under the present system, member banks are required to maintain a reserve of 2½ percent against CD's in excess of $5 million that are between 179 days and 4 years in maturity. This would be reduced to 1 percent under the proposed bill.

The bill would also provide further competitive equality between banks by guaranteeing that all nonmember banks shall have access to the discount window. This access would be automatic in the case of the 355 nonmember banks required to keep reserves at the Federal Reserve. However, the remaining 8,374 nonmember banks would also be given ready access to the discount window upon a certification of solvency from the FDIC. Under current Federal Reserve Board interpretations of the Federal Reserve Act, nonmember banks cannot be given access to the discount window except under severe emergency conditions.

Access to the Fed's discount window can enhance the long-term viability of our smaller, locally controlled banks. By providing them with an alternative source of credit for liquidity needs, it also reduces their dependence on their larger correspondent banks. This in turn should strengthen the ability of smaller banks to compete more equally with their big city rivals.

Finally, the bill promotes competitive equality by requiring that all depository institutions be able to purchase Federal Reserve services on the same terms and conditions that apply to member banks. This will insure that the Federal Reserve pricing proposals do not discriminate against nonmember institutions.

On the negative side, the bill would raise the reserve requirement on savings deposits from 3 to 9 percent, thus affecting the ability of the larger banks to compete for these deposits with thrift institutions and with smaller banks. However, it should be noted that these requirements apply only to 1,117 banks. For 4,902 smaller member banks, the present 3 percent reserve requirement against savings deposits would be eliminated, thereby strengthening the ability of these banks to compete more equally with thrift institutions.

Fifth. Effect on Treasury revenues: This legislation would affect the revenues of the Federal Reserve banks and ultimately the Treasury in a number of ways:

First, the revised reserve requirements together with the $40 million exemptions would cost the Treasury $682 million in pre-tax revenues.

Second, the application of reserve requirements to the larger, nonmember banks will result in a $140 million revenue increase to the Treasury before taxes.

Third, the mandate to begin charging for Federal Reserve services would produce an additional $451 million in pre-tax revenues to the Treasury. This assumes the Federal Reserve's estimate of the cost of these services—$410 million—would be increased by 10 percent to reflect the cost of capital and taxes that would be incurred by a private firm providing similar services.

The combined effect of these changes would result in a pre-tax revenue loss of $91 million. However, these net losses in revenue to the Treasury would also constitute a corresponding net gain in income to the banking system or its customers. This additional income would be subject to taxation. Assuming a marginal tax rate of 55 percent, the net after tax revenue loss to the Treasury would be approximately $41 million.

While $41 million a year is a substantial amount, it is far less than the cost of other Fed membership proposals that have been advanced. Moreover, according to estimates by the Federal Reserve, the Treasury will lose about this much revenue anyway if the decline in Fed membership continues at the same rate that has occurred over the last several years. Finally, the reserve loss must be evaluated in terms of the corresponding benefits. It is clearly worth something to strengthen the ability of the Federal Reserve to conduct monetary policy. Also, the efficiency of the banking and payments system will be enhanced through pricing of Fed services and through the greater degree of competitive equality that will result from the legislation. These benefits will accrue to the public generally in the form of lower prices for banking services.

Mr. President, I ask unanimous consent that a section-by-section analysis of the bill be printed in the RECORD.

There being no objection, the analysis ordered to be printed in the RECORD, is as follows:

MONETARY POLICY IMPROVEMENTS ACT OF 1978

SECTION-BY-SECTION ANALYSIS

Section 1. Title. This section indicates that the title of the Act is the "Monetary Policy Improvements Act of 1978."

Section 2. Definitions. This section defines "depository institution" as any insured bank, mutual savings bank, savings bank, insured credit union, and savings and loan association. It also indicates that for the purposes of collection of checks, drafts, or maturing notes and bills by Federal Reserve Banks any association which consists of depository institutions will itself be considered a depository institution.

This section also defines "transaction account" as a deposit or account on which the holder of the account is allowed to make withdrawals by any type of negotiable or transferable instrument for the purpose of making payments to third persons. Transaction accounts include demand deposits, negotiable order of withdrawal (NOW) accounts, and share draft accounts.

Section 3. Transaction Accounts. This section indicates that the Federal Reserve Board, in consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration, may determine on account or deposit to be a transaction account where such accounts may be used to make payment or transfer funds to a third person.

Section 4. Reporting requirements. In this section the Federal Reserve Board is authorized to collect reports from any depository institution of the institution's liabilities and assets as may be necessary or desirable to enable the Board to discharge its responsibility to conduct monetary policy. In cases where the depository institution is subject to reserve requirements set by the Board, such reports would be made directly to the Federal Reserve. For all other depository institutions the reports would be made to the appropriate Federal regulatory agency, or to a state officer or agency, and through such agency to the Board. This section indicates that the Board shall endeavor to avoid unnecessary reporting burdens. Different reporting requirements may be made in different classes of depository institutions.

Section 5. Reserve requirements. This section indicates the basic framework for reserve requirements against deposits held by depository institutions. Reserve requirements would be set by the Federal Reserve Board and would be applicable to deposits held by insured banks and to transaction accounts at other depository institutions. Reserve requirements would apply to the total of demand and savings deposits in excess of $40,000,000 and to time deposits in excess of $40,000,000 at insured banks. Banks may apply the $40,000,000 exemption for time deposits against such deposits with initial maturities of 179 days or less first and other time deposits second. For nonbank depository institutions reserves would apply to transaction accounts which in the aggregate exceed $40,000,000.

Reserve requirements would be uniform for all institutions regardless of size. The initial reserve requirement and the range within which the Federal Reserve Bank may set the reserve requirement by regulation (solely for the purpose of implementing monetary policy) are as follows: (1) total of net demand deposits and savings deposits at banks and transaction accounts at other depository institutions, 9 percent within a range of 8 to 10 percent; (2) time deposits with initial maturities of 179 days or less, 4 percent within a range of 2 to 6 percent; and (3) time deposits with initial maturities of 180 days or more, 1 percent within a range of ½ of 1 percent to 2 percent.

This section also provides that in extraordinary circumstances the Federal Reserve Board may impose reserve requirements outside the limits prescribed for a period not exceeding 30 days, which may be extended for an additional 30 days. Exercise of this authority requires the Board to promptly transmit to Congress the reasons for its use of this authority.

For banks subject to reserve requirements, the Board is also permitted to impose reserve requirements against net balances owed by domestic offices of banks in the United States to their related foreign offices and to nonrelated foreign banks and against their borrowings based on loans to United States residents made by overseas offices of banks with offices in the United States and assets held by foreign offices of banks in the United States acquired from their domestic banks, if such action is necessary to the implemention of monetary policy.

Reserve requirements for any depository institution not a member bank on August 30, 1978 would be phased in over a period of four years. During the first year required reserves would be reduced by 75 percent, during the second year by 50 percent, and during the third year by 25 percent.

For any member bank which would have its reserve requirements increased by this legislation, the additional reserve requirement would be phased in over a four year period in a similar manner.

This section also indicates that in the case of affiliated banks and affiliated nonbank depository institutions, the total deposit liabilities exempted from reserve requirements shall not exceed in the aggregate the product resulting from multiplying the number of institutions in such affiliated group on August 1, 1978 by $40,000,000 for each such exemption. For each such exemption, no more than $40,000,000 shall be exempted at any individual bank or nonbank depository institution.

The new reserve requirement structure in this section would result in a reduction in reserve requirements for many member banks and for the banking system as a whole. In order to provide for an orderly transition period, the Board may implement the new reserve requirements on a gradual basis over a period of 24 months.

Any depository institution maintaining reserves as required by the Federal Reserve Board would be entitled to all the privileges of membership in the Federal Reserve System, except the holding of stock in, or voting for any director of, a Federal Reserve Bank.

Nonmember banks not maintaining reserves would be entitled to access the Federal Reserve discount window. The Federal Reserve Board may as a condition of access require certification of solvency of such bank from the Federal Deposit Insurance Corporation.

Section 6. Form of reserves. Reserves held to meet the reserve requirement set by the Board may be in the form of (1) balances in a Federal Reserve bank at which the depository institution is a member or at which it maintains an account; (2) balances maintained by a nonmember depository institution in a bank that maintains required reserve balances at a Federal Reserve bank, in a Federal Home Loan Bank, or in a central liquidity facility that may be established for credit unions, provided that such funds are then passed-through to a Federal Reserve bank; or (3) in the form of vault cash. The proportion of vault cash that may be counted to satisfy reserve requirements must be identical for all depository institutions. Balances received by a bank from another depository institution that are used to satisfy reserve requirements on such depository institution would not be subject to reserve requirements imposed on the receiving bank or to assessment imposed on such bank pursuant to the Federal Deposit Insurance Act.

Section 7. Pricing of services. This section requires the Federal Reserve Board to price services provided by the Federal Reserve System at a market cost and to provide access to such services to all depository institutions on the same terms and conditions. Such services are currently provided by banks without charge. The Board would be required to publish for comment a set of pricing principles and a proposed schedule of fees for Federal Reserve services by July 1, 1979, and to institute pricing of its services by July 1, 1980.

The pricing principles would be required to take into account the taxes that would be paid and the capital costs that would be incurred if privately owned organizations provided similar services. Due regard would be given to competitive factors and to the provision of an adequate level of services nationwide.

Section 8. Committee on money substitutes. This section would require that the Federal Reserve Board establish a committee to examine questions related to the imposition of reserve requirements against bank and nonbank liabilities that are substitutes for demand deposits. The Committee would be composed of five members to be appointed by the Broad and the individuals would have broad backgrounds on monetary affairs, economic policy, or finance. The appointees could not be United States Government employees, or employees, officers, or directors of a Federal Reserve bank.

The committee would conduct a thorough study and investigation of (1) the need for legal reserve requirements against short-term liabilities such as nonbank "federal funds", security repurchase agreements, Eurodollars, security dealer repurchase agreements, liquid asset mutual funds, cash management services, and travelers checks; (2) the appropriate level of reserve requirements against each type of money substitute; and (3) the need for the Federal Reserve Board to have flexibility to change such reserve requirements.

The committee would be required to include in its report to the Board recommendations for administrative actions and legislation.

Section 9. Authority of State bank supervisors. This section indicates that nothing in this Act or in amendments made by this Act shall be construed as derogation of the authority of any state bank supervisor over any institution it supervises by state law.

Section 10. Effective date. The new reserve requirements included in Section 5 and 6 shall take effect on the first day of the sixth calendar month after enactment. All other sections take effect on the date of enactment.

By Mr. STENNIS:

S. 3486. A bill to authorize appropriations for fiscal year 1979 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes; to the Committee on Armed Services.

(The remarks of Mr. STENNIS when he introduced the bill appear elsewhere in today's proceedings.)

By Mr. BELLMON (for himself and Mr. BARTLETT):

S. 3487. A bill to change the name of Clayton Lake in the State of Oklahoma to Sardis Lake; to the Committee on Environment and Public Works.

● Mr. BELLMON. Mr. President, I am introducing a bill today for myself and my colleague, Senator BARTLETT to correct a situation that occurred inadvertently due to the Flood Control Act of 1962. This act provided for a new reservoir to be constructed in Pushmataha County, Oklahoma.

This reservoir, presently under construction, was named Clayton Lake in the legislation. Less than ten miles from the site of the new lake is an existing Clayton Lake. Many Oklahomans have contacted my office pointing out the confusion that would result from two lakes of the same name in the same county.

The bill, which I am introducing today, will rename the lake, Sardis Lake, after the town of Sardis which will be partially inundated by the new reservoir. The name Sardis was chosen by the resident of Pushmataha County during a public meeting.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3487

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the lake known as Clayton Lake, which is being constructed as part of the project for the Clayton and Tuskahoma Reservoirs, Kiamichi River, Oklahoma, authorized in the Flood Control Act of 1962, shall hereafter be known as Sardis Lake, and any law, regulation, document, or record of the United States in which such lake is designated or referred to shall be held to refer to such lake under and by the name Sardis Lake.●

ADDITIONAL COSPONSORS

S. 3248

At the request of Mr. MORGAN, the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of S. 3248, to create a National Agricultural Cost of Production Board.

S. 3280

At the request of Mr. BAYH, the Senator from South Dakota (Mr. ABOUREZK) was added as a cosponsor of S. 3280, to establish a National Institute of Justice.

S. 3320

At the request of Mr. HATHAWAY, the Senator from New Hampshire (Mr. DURKIN) was added as a cosponsor of S. 3320, a bill to provide tax breaks for investments in stock of small businesses.

S. 3425

At the request of Mr. HATHAWAY, the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 3425, the Community Mental Health Assistance Act of 1978.

S. 3447

At the request of Mr. STONE, the Senator from North Carolina (Mr. MORGAN), and the Senator from Iowa (Mr. CLARK) were added as cosponsors of S. 3447, the Agricultural Export Trade Expansion Act of 1978.

SENATE RESOLUTION 553—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. LONG, from the Committee on Finance, reported the following original

resolution, which was referred to the Committee on the Budget:

S. RES. 553

Resolved, That (a) pursuant to section 402 (c) of the Congressional Budget Act of 1974, section 402(a) of such Act shall not apply with respect to the consideration in the Senate of the bill (H.R. 2852) to amend the Internal Revenue Code of 1954 to provide that refunds of the taxes on gasoline and special fuels shall be made to aerial applicators in certain cases; and

(b) That waiver of this section is necessary in order to enable the Senate to consider legislation which will extend and modify the program of antirecession fiscal assistance established by the Public Works Employment Act of 1976; and further

(c) That it was infeasible to complete action on this legislation within the usual time limits prescribed by this section because of the uncertain legislative status of the program in the House and because this program is so particularly related to economic conditions as to make it highly desirable to delay action beyond the usual deadline in order to obtain as accurate a view of present economic trends as possible.

NOTICES OF HEARINGS

SUBCOMMITTEE ON FEDERAL SPENDING PRACTICES AND OPEN GOVERNMENT

● Mr. HEINZ. Mr. President, the Subcommittee on Federal Spending Practices and Open Government is announcing a hearing on S. 3284, the Free and Fair Trade in Procurement Act of 1978, to be held Tuesday, September 12, at 10:00 a.m., in 3302 Dirksen Office Building.

Any inquiries regarding the hearing should be directed to Mr. Joseph Robinson, subcommittee professional staff (224-6740.)●

SUBCOMMITTEE ON LABOR

● Mr. WILLIAMS. Mr. President, the Subcommittee on Labor will have hearings on the Administration and Enforcement of the Occupational Safety and Health Act of 1970 on Tuesday, Wednesday, and Thursday, October 3, 4, and 5, 1978. The hearings will be held in room 4232 of the Dirksen Building, and will commence, on each day, at 9:30 a.m.

Those wishing additional information, or wishing to testify at these hearings should contact Mike Goldberg of the committee staff, at room G-237 of the Dirksen Senate Office Building, Washington, D.C. 20510, telephone (202) 224-3674.●

COMMITTEE ON VETERANS' AFFAIRS

● Mr. CRANSTON. Mr. President, I would like to announce for the information of the Senate and the public that the Committee on Veterans' Affairs will conduct a hearing to receive the legislative recommendations for fiscal year 1979 from the national commander of the American Legion, John M. "Jack" Carey, on Tuesday, September 12, 11 a.m., in room 318 of the Russell Building.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate today to hold an oversight hearing on motor carrier safety.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE LOBBYING CAMPAIGN ON HOSPITAL COST CONTAINMENT LEGISLATION

● Mr. CURTIS. Mr. President, the National Conference on State Legislatures apparently has undertaken a massive lobbying campaign on behalf of the amendment introduced by my colleague on the Committee on Finance, the Senator from Wisconsin (Mr. NELSON). On August 17, they wrote all of the chairmen and members of the respective State legislative health committees, urging that they contact their senatorial delegation in support of the Nelson amendment to H.R. 5285, the hospital cost containment legislation recently reported by the committee.

State Senator Richard A. Snyder, a distinguished member of the Pennsylvania State Senate and ranking minority member of the Public Health and Welfare Committee, does not at all share NCSL's enthusiasm for the Nelson amendment. I request that his response, forwarded to Senator HEINZ, be printed in its entirety in the RECORD.

The material follows:

SENATE OF PENNSYLVANIA,
August 22, 1978.

Hon. H. JOHN HEINZ, III
U.S. Senate, Dirksen Building, Washington, D.C.

DEAR SENATOR HEINZ: This is response to the Honorable Irving Stolberg's communication of August 17 requesting my views on legislation which is presently before the Congress. Representative Stolberg is Chairman of NCSL's Committee on Human Resources.

I regret that I cannot support the Nelson amendment to HR 5285. Interestingly, such an effort in Pennsylvania's medical assistance program was declared unconstitutional several weeks ago.

While the hospital increases exceed inflation figures in other areas of our economy, it is encouraging to note that the Voluntary Effort program by the nation's hospitals has succeeded in lowering the rate of inflation in the past year. It would seem only fair to permit the hospitals to monitor their own industry for at least another few years, offering incentives for more efficient management rather than the threat of government control.

Government does not belong in the private hospital business as suggested by the Nelson amendment. We already have too much government control, and perhaps it is time for government to examine the proliferation of inspections and paper work with which hospitals must comply rather than to take a broad step that will only lead to additional government intervention.

I do share the concern of Congress for the high rate of inflation in medical charges by hospitals. I also must express my concern for the high costs of public assistance and other government programs. If Congress is truly attuned to reducing overall costs of medical charges, it is time to review eligibility criteria and waste and fraud in these areas. Penalizing those who provide needed care to the indigent will not correct the problem.

Cordially,

RICHARD A. SNYDER.●

CURRENT U.S. POPULATION

● Mr. PACKWOOD. Mr. President, I wish to report that, according to U.S. Census Bureau approximations, the total population of the United States as of September 1, 1978 is 219,294,521. In spite of widely publicized reductions in our fertility levels, this represents an increase of 1,677,708 since September 1 of last year. It also represents an increase of 183,637 since August 1, 1978, that is, in just the last month.

Over the past year, therefore, we have added more than enough people to fill the city of Houston, Texas. In the last month, we have added more than enough people to fill the city of Syracuse, N.Y.●

DEEP SEABED MINING AND THE LAW OF THE SEA CONFERENCE

● Mr. JACKSON. Mr. President, the Senate will soon be considering S. 2053, the Deep Seabed Mineral Resources Act. Similar legislation has already been passed by the House of Representatives (H.R. 3350).

This legislation has a significant relationship to the current negotiations in the Third United Nations Law of the Sea Conference. I have been concerned about the potential impact of any Law of the Sea Treaty on the ability of American industry to recover minerals from the deep ocean floor.

On August 7, I put into the RECORD (page 24670) a copy of a letter to Ambassador Richardson from Senator HANSEN and me expressing our concerns about the current version of the treaty. I have just received an encouraging response from Ambassador Richardson which, I believe, will be of interest to all Senators. I ask that Ambassador Richardson's response together with the letter which Senator HANSEN and I sent him be printed in the RECORD.

The letters follow:

COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, D.C., August 2, 1978.

Hon. ELLIOT RICHARDSON,
Ambassador at Large, Department of State, Washington, D.C.

DEAR MR. AMBASSADOR: S. 2053, the Deep Seabed Mineral Resources Act, has been ordered reported by the Senate Energy and Natural Resources Committee and is now pending before the Senate Commerce, Science, and Transportation Committee. The House of Representatives recently passed a similar bill. Since it is likely the Senate will consider this legislation sometime this summer, we have been keenly interested in the progress of negotiations in the Third United Nations Law of the Sea Conference, particularly those in Committee. One bearing on formulation of a new legal regime for the deep seabed.

We fully appreciate the complexity of your assignment. Defining the national interest relating to UNCLOS negotiations is in itself an extraordinarily difficult exercise, quite apart from the problems inherent in carrying forward discussions with over 150 delegations each with its own constellation of national

interests in maritime law. We can understand the need to balance and weigh these many considerations in arriving at the United States position on any given issue. The U.S. delegation under your leadership has achieved impressive gains in some areas. For these achievements you are to be congratulated.

However, the trend in Committee One negotiations appears less than promising. Last September you testified before Congress that there were a number of key features of the Informal Comprehensive Negotiating Text (ICNT) produced at the Sixth UNCLOS Session which were "fundamentally unacceptable" to the United States and you itemized those unacceptable provisions. Unfortunately, the Seventh UNCLOS Session held at Geneva appears to have yielded little progress in satisfactorily modifying these unacceptable provisions of the ICNT. Spokesmen for the U.S. ocean mining industry have voiced serious doubts about the ability to proceed to commercial recovery of manganese nodules under terms and conditions of the ICNT. After the Geneva Session, a joint statement representing the views of Belgian, British, Canadian, Dutch, French, German, Japanese and United States ocean mining companies said that "the draft treaty texts resulting from the Seventh Session did not significantly improve the previous draft treaty proposal (ICNT) which was considered to be 'fundamentally unacceptable'—in some cases the new texts were worse."

As we understand it, the ICNT would (among other things) impose what amounts to the mandatory transfer of technology from private firms who have invested many millions of dollars in development, to a competing international seabed authority; would unduly limit the production of minerals with no comparable restraint upon production by the authority; would severely restrict the number of available mine sites for U.S. ocean mining firms; would allow no meaningful review of authority decisions denying contracts to U.S. ocean mining firms; and would establish a 20-year termination process which would inhibit entry by new U.S. firms into ocean mining activity.

We are deeply concerned that our legitimate seabed mining rights are being traded away in the treaty negotiations. We understand you have stated in more than one forum that (in effect) the United Nations Moratorium Resolution of 1969 (G.A. Res. 2574D XXIX) declaring the resources of the deep seabed to be the Common Heritage of Mankind and off-limits to exploitation has all but nullified the traditional high seas freedoms under which U.S. ocean mining firms have always assumed their right in international law to engage in the commercial recovery of manganese nodules. To illustrate this point, you are said to have compared the current United States position in Committee One with a hypothetical multinational corporation dickering with the Government of Indonesia for off-shore drilling rights. It seems to us in so doing you are implicitly acknowledging ownership and control of the deep seabed by an international community dominated by a Third World majority which is unfriendly to U.S. ocean mining rights and interests.

The implications of this position are most disquieting. There are several reasons for our uneasiness. First, the United States has never, either formally or informally, recognized the U.N. Moratorium Resolution as carrying the force and effect of international law. In fact, in May, 1970, the President said "I do not believe it either necessary or desirable to try to halt exploration and exploitation of the seabed beyond a depth of 200 meters during the (treaty) negotiating process." U.S. negotiators have consistently adopted this attitude ever since that time.

Second, deep seabed mining legislation now moving through Congress (as well as similar bills introduced in prior Congresses) strongly asserts the right of U.S. ocean mining firms to proceed to commercial development under existing high seas freedoms, pending completion of UNCLOS negotiations and ratification of a law of the sea treaty by the Senate.

Third, until such time as the term Common Heritage of Mankind has been given legal definition by a treaty ratified by the United States Senate, its legal application to U.S. citizens is inevitably subject to conflicting and ambiguous interpretation. Fourth, in our view the moratorium on seabed mining contained in the U.N. Resolution of 1969 cannot prevent seabed development unless control of the seabed has been acquired by an international seabed authority under terms of a duly ratified law of the sea treaty. Fifth, we detect an inconsistency between the United States delegation's forthright—and so far successful—defense of high seas freedoms of navigation for vessels in the Exclusive Economic Zone and your apparent relinquishment of high seas freedoms for ocean mining activities.

Sixth, we can see no evidence of a United States negotiating "bottom line" in Committee One: what you cited as being fundamentally unacceptable to the United States in the ICNT before the Geneva Session would now appear to be acceptable through changes in the text which lack substance. Nor are we aware of any straight-forward response to the point-by-point criticisms of the U.S. negotiating position which have been submitted by the ocean mining industry and other more neutral observers.

Last October, when you appeared before the combined hearing of the Senate Energy and Commerce Committees to report on the unacceptable terms of the ICNT, you accurately set forth what is essentially our own view of the position the United States should adopt in Committee One negotiations. We believe the statements you made then is worth repeating:

"What is involved here is the establishing of a regime for half the Earth's surface. While today's technology points only to manganese nodules, there is no telling what lies ahead in the future. We simply cannot agree to a regime which would unnecessarily inhibit, and perhaps even prevent, deep seabed development. To do so would make a mockery of the Common Heritage of Mankind and reduce to a pitiful trickle the benefits that could otherwise accrue—not only to the entrepreneurs who will risk their capital, but also to mankind as a whole, in particular the developing countries."

In light of this statement, and in light of our considered opinion that high seas freedoms for U.S. ocean industries are not impaired by United Nations actions short of a duly ratified law of the sea treaty, we would respectfully suggest a reassessment of the direction and tenor of the United States negotiating posture. Moreover, we would suggest a careful examination of whether or not the United States Senate is prepared to ratify a law of the sea treaty containing terms and conditions such as those in the ICNT which would inhibit and prevent deep seabed development by U.S. firms. We are inclined to believe the Senate would not ratify such a treaty.

Would it be possible to provide the Senate, prior to the reconvening of the Law of the Sea Conference in New York, with a report on the "bottomline" United States negotiating position in Committee One? This could be done either in the form of a letter or, if you prefer, through your appearance before a hearing of the Senate Committee on Energy and Natural Resources.

We look forward to your response.

Very truly yours,

HENRY M. JACKSON,
Chairman.

CLIFFORD P. HANSEN,
Ranking Minority Member.

AMBASSADOR AT LARGE,
Washington, D.C., August 28, 1978.

Hon. HENRY M. JACKSON,
U.S. Senate

DEAR MR. CHAIRMAN: Thank you for your letter of August 2. As you may know, I have only recently returned from a trip to Latin America. I regret that my absence from Washington prevented an earlier response to your letter.

Your letter raises several very important issues. I would begin by examining three assumptions upon which your arguments appear to be based. The first of these is that the "trend in Committee I negotiations appears less than promising." Certainly, no one could safely predict a quick and satisfactory resolution of Committee I issues, but if we are patient, the trend is in our direction.

The session in Geneva this past spring may have marked a turning point in the Conference. The posturing and rhetorical excess that had marked previous sessions was absent in Geneva. It was replaced by a genuine willingness upon the part of all delegations to seek a workable compromise embodied in a "parallel system of access" to seabed resources.

This is not to say that the substance of the negotiations improved at the same pace as the atmosphere, for the issues dealt with were among the most difficult. Though there was some improvement in texts at Geneva, we are still far from agreement that fairly accommodates the interests of the U.S. and other industrialized countries.

This brings me to the second assumption: that the ICNT seabed texts are regarded by the U.S. delegation as acceptable or nearly acceptable. This assumption has underlain much of the criticism directed toward the delegation since the end of the Geneva session. Putting it bluntly, it is a "red herring."

I share many of the criticisms that have been directed toward the ICNT by the industry and other observers, and have so stated publicly on many occasions. Enclosed is a copy of a statement made last week by my deputy, Ambassador Aldrich, in Negotiating Group I to ensure that there can be no misunderstanding of our position in the Conference.

Clearly, an acceptable seabed text will have to contain significant improvements over the ICNT. We are engaged in what could well be a long process of seeking these improvements. Our objective is to negotiate a text that provides assured access to seabed resources for state-sponsored miners.

The means we have chosen to achieve that objective is to create a parallel system that is and is perceived to be viable on both sides—the "private" (state-sponsored) side and the "Enterprise" side.

Several elements must be combined into a package to form a viable parallel system. These include a structure and voting system of the governing institutions which protect the important economic interests at stake, financial arrangements which place reasonable burdens on private miners, and procedures for obtaining contracts that provide reasonable assurance of access.

In addition, ways must be found to provide reasonable assurance that the Enterprise will be able to get into business promptly. This part of the package includes financing the Enterprise and providing it as-

surance that it can purchase the necessary technology during the start-up period.

Because we are negotiating a package, it is not possible to define a single "bottom-line" position in terms of each separate element. If we could, it would make our task far easier. It is necessary, rather, to assess the package in its entirety to determine whether it satisfies our basic requirement of assured access. Following the close of the Seventh Session, we shall examine the seabed package as it then stands with a view to formulating Administration policy for subsequent negotiations.

The third assumption is to me the most troubling. It is the idea that we have fallen back from the position that seabed mining is a freedom of the high seas. We continue to hold this position just as firmly as ever. I have pointed out that others disagree with our view. I have described their arguments.

But my description of their positions and analysis of the possible consequences of a legal and political conflict over this issue should not be mistaken for adoption on my part of those arguments nor for a lack of willingness on the part of the Administration to face up to the consequences of such a conflict. Also enclosed is a copy of a statement I made on August 28 in the General Committee of the Conference defending the legality and the wisdom of our legislation on seabed mining.

I am also disturbed by the implication that we have not taken into account the views and suggestions of the industry and other observers. Our relationship has been one of constant cooperation and interchange of ideas. Industry representatives have been most helpful to us in preparing for the current negotiations in New York where we continue to consult closely with them.

You asked that I consider ". . . whether or not the U.S. Senate is prepared to ratify a Law of the Sea Treaty containing terms and conditions such as those in the ICNT . . ." Such an examination would be necessary only if I were willing to recommend to the President that he submit such a treaty to the Senate. I am not so willing. When and if a treaty is submitted to the Senate, I intend that it be a treaty that protects U.S. interests in seabed mining.

I have explained above why it is impossible to provide the Energy and Natural Resources Committee a "bottom-line" seabeds negotiating position. I would be more than happy, however, to meet with the Committee following the conclusion of the current session to explain in greater detail our positions on various issues and to provide you my assessment on future prospects.

With best regards,

Sincerely,

ELLIOT L. RICHARDSON.

STATEMENT MADE IN NG-1 BY THE REPRESENTATIVE OF THE UNITED STATES

AUGUST 24, 1978

MR. CHAIRMAN: I want to support your proposal that we not go back over the texts produced in Geneva, but move ahead to work on other elements of the system of exploitation, in particular, Annex II. I think the most important thing is that the texts produced in Geneva have moved us closer to consensus and will form the basis for further negotiations.

Even more significant than the production of these new texts is the fact that the negotiation proceeded in a heartening atmosphere of cooperation. Virtually all delegations have accepted a common challenge—how to make the parallel system of exploitation workable, and our efforts have been directed to this common task.

I would not, however, want to leave the impression that our future work will be easy. Far from it; many seemingly intractable issues lie ahead. The texts produced in Geneva reveal our failures as well as our accomplishments. My delegation's belief that we should now proceed to other issues should not be misunderstood as implying our satisfaction with or acceptance of the Geneva texts. These texts need significant further improvements, both in detail (which I would not wish to discuss here) and with respect to major issues, Ambassador Richardson has asked that I make clear our concerns with respect to these issues.

Among the major defects of these texts is the review clause, which remains unsatisfactory, although it is clearly an improvement over the comparable provisions in the ICNT. The minerals from the seabeds will be more needed by the world's economy in the next century than they are now; clearly we could not be expected to agree that our access to them might be denied at that time. The common heritage of mankind is not something that can be hidden away and hoarded. On the contrary, it must be available for use by all states as needed.

Similarly, some of the provisions on transfer of technology continue to cause us deep concern. While they use an acceptable standard, fair and reasonable commercial terms and conditions, we were disturbed to find that our willingness to contemplate the imposition upon contractors of extraordinary and unprecedented obligations in order to assure the Enterprise that it will be able to acquire the technology it needs has encountered further demands that these obligations continue indefinitely, long beyond the time they are needed, and that the same obligations be undertaken for the benefit of developing countries which may want to engage in seabed mining on their own.

These provisions are not needed to make the parallel system of exploitation workable, and pressure for them would imperil acceptance of obligations designed to put the Enterprise in business. Moreover, I think it is generally recognized that the texts produced in Geneva need improvement with respect to arbitration, the award of damages, and the availability of other sanctions to avoid any implication that contracts can be annulled as a result of inevitable disagreements over the terms on which technology will be sold.

The production control contained in Article 150 bis is clearly an improvement over that contained in the ICNT. Like all compromises, it confronts both producers and consumers with painful decisions. My government has not yet decided whether it is acceptable, and we can understand that others may also wish to examine it in the context of a fully developed parallel system of exploitation.

Article 150 bis needs to be revised to make clear that the Authority can become a party to any commodity agreement only if all major producers and consumers of the commodity in question also become parties. This is necessary to protect the interests of both producers and consumers. We should not overlook the fact that many other elements of the system of exploitation require much further work, clarification and improvement before my government, or, I would expect, the governments of most states represented here would be in a position to pass judgment on the acceptability of the system as a whole. This will be one of our principal tasks at this renewed session.

Also, we shall have to ensure that the Enterprise is a responsible competitor—that it bears substantially the same burdens as state and private companies. This consideration impels me to suggest that we begin our work this year with the question of whether part or all of Annex II applies to the Enterprise. It is impossible to deal intelligibly with the question of the selection of applicants without including the whole question of the approval of plans of work for the Enterprise as well as for state and private contractors.

STATEMENT BY AMBASSADOR ELLIOT L. RICHARDSON ON NATIONAL SEABED MINING LEGISLATION AT THE GENERAL COMMITTEE OF THE LAW OF THE SEA CONFERENCE

AUGUST 28, 1978

MR. PRESIDENT, I have listened with respect to the views expressed by the distinguished representative of Fiji on behalf of the Group of 77, and I do not wish to precipitate a lengthy debate on the subject of the deep seabed mining legislation. However, in my view and in the view of the other countries whose enterprises are now in the process of developing the means of recovering hard minerals from the deep seabed, the concept of the common heritage of mankind, which we supported in 1970 and to which we still subscribe, has never meant that these resources must remain unexploited in the absence of an internationally agreed seabeds regime. I would have thought this point would have been made clear by our concurrent opposition to the moratorium resolution, which was not adopted by consensus.

In our view, states and their nationals have the legal right to use the mineral resources of the deep seabed beyond national jurisdiction. This is a freedom of the high seas which has not been abridged either by any treaty or by customary international law. Although we are all engaged in the process of developing a treaty, this process has proved long and difficult, and its successful conclusion is not yet at hand.

I understand why the Group of 77 would prefer that we agree to defer any mining until an agreed treaty can be concluded, but I trust the Group will also understand why we cannot responsibly do that in face of the world's long-range need for the minerals and the more immediate need to proceed with the research and development that will in turn lead to the beginning of commercial mining. Far from jeopardizing the Conference, seabed mining legislation should facilitate the early conclusion of a generally acceptable Law of the Sea Treaty by dispelling any impression that the governments of the countries preparing to engage in such mining can be induced to acquiesce in an otherwise unacceptable treaty because that is the only way to obtain the minerals.

Mr. President, so far as the US is concerned, the goal of my Government remains the earliest possible conclusion of a generally acceptable Law of the Sea Treaty, and I believe the legislation now before the Congress to be entirely compatible with the principles on which the eventual treaty will be founded;

It recognizes that the resources of the seabed are the common heritage of mankind.

It requires that revenues be set aside for developing countries.

It requires stringent standards for the protection of the marine environment.

It does not assert any right of sovereignty or sovereign rights over seabed mine-sites.

It will be superseded whenever a law of the sea treaty takes effect with regard to the United States.

It does not declare or imply any intention that American seabed mining companies should remain outside the jurisdiction of an International Seabed Authority under such a treaty.

Finally, Mr. President, under the legislation that has just emerged from the Senate Committee on Foreign Relations, no permits for commercial recovery of hard mineral resources could in any case be issued for several years. This will allow ample time for our negotiations to conclude, thus assuring that seabed resources will be developed only under the international regime we are striving to achieve.

Thank you, Mr. President●

SHIRLEY CUSICK CROWNED WINNER OF MISS INDIANA WHEELCHAIR PAGEANT

● Mr. LUGAR. Mr. President, in July of this year Shirley Cusick of Terre Haute, Ind., was crowned as the winner of the 2d Annual Miss Indiana Wheelchair Pageant. Her life is one of triumph over the odds and victory over a handicap which might have defeated individuals of lesser determination and commitment. I draw her story to the attention of my colleagues as an example of the tenacity of the human spirit and as a source of inspiration to us all.

Shirley Cusick enjoyed an active childhood and loved the outdoors. She played softball, baseball, basketball, and participated in water sports of all kinds. Throughout her high school years and the first few years of her marriage, she was a member of countless organizations, often serving as the chairman or officer of a committee. Her secure childhood and early adult life were temporarily shattered on August 10, 1968, when an automobile accident left her totally paralyzed. In time and with extensive rehabilitation, Shirley regained the use of her body but learned that she would have to use a wheelchair for the remainder of her life.

Accustomed to an active life, the adjustment to a wheelchair could not have been an easy one for Shirley Cusick. As the mother of two small children, she knew that the accident which forced her into a wheelchair could not retire her from a demanding schedule. She set about to pick up the pieces of her life and decided to enter college. Six years later, Shirley is a college graduate who fully operates her own home and cares for her children. She has worked as a Girl Scout leader, a volunteer in the physical therapy department, and as a member of various groups formed to increase the public's awareness of the special needs of handicapped persons.

Shirley Cusick is continually tackling a new challenge and is presently learning to drive a van. She intends to continue her education and her work on behalf of the handicapped. For Shirley Cusick the future is a promising one filled with unlimited opportunities for service. I salute her courage and willingness to share her life so abundantly with her family, friends, and community.●

THE INVESTIGATION OF GENERAL SERVICES ADMINISTRATION

● Mr. CHILES. Mr. President, as you know, last March I directed the Federal Spending Practices Subcommittee to begin an investigation into the substantial scandals which, 6 months later, appear to be engulfing the General Services Administration (GSA). While investigative hearings have been held in June, and will continue on September 18, one matter has become so pressing as to require immediate action and public knowledge that the problem exists.

Accordingly, I want to advise the Senate that I have contacted Mr. Ben Civiletti, head of the Criminal Division of the Department of Justice, and Mr. Vincent Alto, Acting Inspector General of GSA, and requested them to meet with me early next week.

The topic of our discussion is painfully familiar to them, and to many persons in the law enforcement community who are involved in the current GSA investigations.

Once again, it appears, the internecine warfare between competing bureaucracies has begun. As public interest in the GSA scandals rises, the race for glory becomes more intense.

Unfortunately, this race is working to the detriment of the investigation itself. My investigators report that several rapidly progressing and very promising investigations have become bogged down in a three sided name calling contest among Federal Bureau of Investigations agents, GSA investigators, and Justice Department personnel.

Out on the street, various charges of ineptitude and incompetence are traded among the investigatory staffs involved. Too much time is still being spent arguing about who dropped the ball back in 1975 when Mr. Bob Lowry first went to the authorities.

As a consequence, I regret to report that we will probably hear at our September 18 hearing that the reforms promised at the June hearings have not happened yet. The indictments would not be in, and the crooks will not have been fired. Some perhaps, but not in anywhere near the numbers necessary to overcome the waves of criminal activity GSA has suffered for years.

I realize that Mr. Civiletti and Mr. Alto have met several times on their own initiatives in an attempt to solve this problem. But, while I compliment them for their foresight, it is now plainly evident that the word has not trickled down to their squabbling subordinates.

Consequently, I propose to extract an operating protocol from these gentlemen and then hold them to it. If the squabbling and time wasting continues, then I shall be forced to consider making public the names and ranks and specifics of each instance we are aware of where Federal officers have spent more time fighting among themselves than conducting criminal investigations. I would, of course, only do this as a last resort. But I think this constitutes fair warning to the obstructionists that the Congress is not going to stand aside and accept the possibility that the GSA investigations are going to go down the drain again.●

COLUMBUS, IND.

● Mr. BAYH. Mr. President, the September issue of National Geographic magazine contains an article on Columbus, Ind., which I would like to share with my colleagues. I have long recognized the outstanding qualities of Columbus and am pleased that a magazine such as the National Geographic has focused national attention on this extraordinary city.

A combination of talented people, generous businesses, and remarkable architecture make Columbus a unique community. The article aptly captures the spirit, history, and lifestyle of Columbus and reinforces my pride and honor in representing such a fine community.

I request that the article be printed in the RECORD.

The article follows:

A MOST UNCOMMON TOWN: COLUMBUS, IND.

As civic decoration, it's not your typical cannon on the courthouse lawn—"Chaos I" (left), a clanking tangle made of old Indiana machinery by Swiss sculptor Jean Tinguely. But it's in Columbus, and that's not your typical midwestern county seat, either.

This day schoolchildren have come to The Commons, an enclosed public space designed by architect Cesar Pelli, to draw their impressions of the kinetic sculpture. People on their way to the adjoining shopping mall stop to look and to listen. Some regard the sculpture with heads cocked in puzzlement. Some scowl while others smile. Few ignore it.

At one end of The Commons older men gather in small groups to solve the world's problems and bemoan the price of fertilizer. Maybe some parts from their old combines, threshers, and augers—serious machines for serious work—have become, well, *art*. That's a good one.

In a way Columbus is like that, a town without any apologies for hard work, solid and industrious, yet one alive to and filled with art, especially contemporary architecture of national significance.

Roughly 40,000 people yearly come to look around this town of 32,000. Some just wander about on their own. Many go to the Visitors Center for guidance. So it's commonplace for a bus loaded with architecture students on tour to stop at The Commons. Children there won't pay them any mind, busy as they are exploring the universe of their fancies in a Playtank (right) while their parents run errands.

For townspeople the forty-plus buildings designed by modern masters of architecture do not make a spectator sport. They are places to learn in, pray in, read, in have fun in, work in, bank in, have the daily life of the community written and printed in. Small town in scale, they fit in like slightly eccentric neighbors, adding variety, provoking debate, and stimulating a taste for the unconventional.

Turning on at the City Power House, the Senior Citizens Kitchen Band, with Clara Wilds on her kazoosahose-funnelphone, practices in the former utility plant renovated for senior activities. The band goes "everywhere we're asked," getting raves at the State Fair and such requests as the one from a man in the convalescent home who asked for "a good old Methodist hymn—'Barney Google.'"

Over at City Hall, there's a brief break from the necessary but mundane concerns of streets, utilities, and budgets. Mayor Max Andress (facing page), former schoolteacher and football coach, beams as he concludes a wedding ceremony for a couple who had come down from Indianapolis because they like the lively spirit of building and rebuilding in Columbus.

Morning lights the rectangular planes of the First Christian Church (below), built in 1942 to Eliel Saarinen's design as the town's pioneer modern building.

Now that towns and small cities across the United States are enjoying a renaissance, Columbus stands among them as something of a Florence, with its Medici of the corporate variety.

Responsibility to the town was well established as a policy of the Cummins Engine

Company when J. Irwin Miller (above, with his wife, Xenia) became its chief executive. Founder Cleesie Cummins was the chauffeur to a local banker, W. G. Irwin, and persuaded him to finance improvements to the diesel engine. But the profits, Irwin insisted, were not to be the sole purpose of the venture. They were also the means to provide jobs and personal and moral growth for the community. The jobs now total about 11,000 locally. The firm's philanthropy continues.

Most visible during Miller's tenure was a program that began with the schools. Cummins would pay the design fees if the school board picked from a given list of top architects. That was all; otherwise, the schools had complete control. Since 1957, 11 schools and several other public buildings have been so designed.

Setting its own example, Cummins built a new plant (right) into the landscape, with parking tucked away on top, and ah outside view for all 2,000 employees.

From A to Z, the schools designed under the architects fee-paid program have, over 20 years, mirrored changing trends in educational philosophy. The most recent, Fodrea Community School, nestles into a neighborhood of modest, well-kept houses. Planned with the active participation of students, parents, and teachers, it features learning centers that occupy open, flexible space, where team teaching may be used to best advantage. As plans develop and funds permit, the school should become a center for the activities of all ages.

Sometimes the town gets its back up a bit. The building committee for the new library decided it wanted to choose its architect directly. So it went out and hired the renowned I. M. Pei on its own. It then turned around and asked Cummins for a building gift—and got $800,000.

A sampler of Columbus architecture might begin anywhere and run a gamut of public, private, and commercial structures done by such prominent architects as Harry Weese, John M. Johansen, Eero Saarinen, and Skidmore, Owings & Merrill. A spacious glass arcade connects two downtown bank buildings. The bell tower of the First Baptist Church crowns a house of worship whose aura is both post-modern and pre-Gothic. Eero Saarinen thought his North Christian Church might be the work that would most commend him to St. Peter.

Others are less reverent, calling Saarinen's church the "oilcan" and grumbling about company-town charity. Hoosier disdain for paternalism goes back a long way. In 1821 Gen. John Tipton gave 30 acres to found a town named Tiptona in his honor. The town promptly changed the name to Columbus. The general left in a huff and never came back.

Clowning around on the Fourth of July, children mug it up as some 40,000 Cummins employees and families converge on their own recreation complex, the 345-acre Ceraland, which offers everything from camping to concerts.

All on "The Family," a granite schoolyard sculpture by Harris Barron, join in on a chopper launch.

Art for its own sake enjoys widespread support and participation. When the Hartford Ballet came to town, it not only gave performances but also offered workshops in dance. Corporate and private sources help finance the arts, but their vitality depends on volunteers. That is what all the musicians in the Columbus Symphony Orchestra are. As commercial and cultural center for a seven-county area, Columbus has it both ways: enough people, talent, and enthusiasm to support city amenities, yet preserve a smaller town atmosphere.

For six generations the same family has watched sunsets go down beside the original farmhouse as additions to it went up. With a thousand acres in wheat, soybeans, corn, and tobacco, Ray and Lou Marr expect to see "at least one more generation in farming." Lou is active in historic preservation, and here enthusiasm is widely shared by others as concerned for the best of the old as for the best of the new.

At Zaharako's turn-of-the-century ice-cream parlor downtown, a satisfied customer thinks the cut glass, onyx, and polished brass are OK, but the cherry phosphates—wow!

Retired from big crops, a farmer and his wife expertly tend their small, intown yard and garden.

Little details can make life more livable. Add some paint and imagination, and a handball court becomes a poster. Multiply the details, large and small, all over town, and life becomes that much more pleasant. Made a part of corporate philosophy by such large local concerns as Cummins, Arvin Industries, and Cosco, Inc., the amenities become strong points in recruiting executive talent that might more naturally head for the big cities.

"We're really mountain and ocean people." That's how Dianne and Ron Hoge felt six years ago when they came to town with a two-year commitment to midwestern life. In their cedar and glass home designed by architect Scott Mitchell, they admit to having "been won over by Columbus," where in day-to-day living they learned to enjoy an improved quality of life away from the "urban hassle."

With the nation's growth now shifting to more rural areas, Columbus can only hope that hassle doesn't end up moving to town.●

U.S. PIONEERS IN INSULIN RESEARCH ACHIEVE BREAKTHROUGH FOR DIABETICS

● Mr. SCHWEIKER. Mr. President, yesterday afternoon a team of researchers in California announced an extremely significant breakthrough in medical research. In the laboratory, they have succeeded in producing human insulin using new recombinant DNA techniques.

As reported by the group of scientists at the City of Hope National Medical Center and at Genentech, Inc., the process used involves the insertion of a synthetic gene into a bacterium known as E. coli. The gene can "order" the bacterium to produce insulin. The bacteria, complete with the new gene, are then grown in a fermentation process. As the bacteria reproduce, the offspring also contain the synthetic gene. In other words, the scientists are able to restructure the genetic material, or DNA, of the E. coli to incorporate an insulin-producing trait, which can then be triggered by the scientists.

The implications of this research breakthrough are enormous. There are over 1 million diabetics in the United States alone who must depend on daily insulin injections, and the number is steadily increasing as the prevalance of diabetes rises. The insulin now used is extracted from the pancreas glands of cattle and swine, so it is obvious there are definite limits to the total supply. A recent report from the National Diabetes Advisory Board indicates that some day, the demand for insulin in this country could exceed the amount available from beef and pork glands, although no shortage can be predicted for at least the next two decades. The possibility that bacteria can be used to produce insulin at the bidding of scientists could help alleviate any supply problem far into the future, guaranteeing diabetics in the United States and throughout the world that the life-sustaining insulin they need will always be available. They will no longer be dependent on the vagaries of beef and pork production. The price of insulin may also come down, as insulin manufacturers will no longer have to depend on costly extraction from animal glands.

The production of human insulin holds out other important benefits. Although the insulin we have today is undoubtedly life-giving, insulin produced in animal pancreas glands is not a perfect match for human insulin. Many diabetics, perhaps as many as 10 percent at one time or another develop an allergic reaction to the animal insulin they are now using. Obviously, this presents a very serious medical problem. If diabetics are able to receive insulin, produced by bacteria but identical to that produced in the human body, these allergic reactions may significantly decrease.

Yesterday's news also pointed out the importance of cooperation between the scientific community and American industry. Simultaneously with the scientists' announcement of this exciting breakthrough in insulin research, the U.S. largest manufacturer of insulin, Eli Lilly and Co., announced an agreement with the researchers to begin long-range development aimed at eventual commercial production. According to Lilly's research officials, much more work needs to be done before we can know for certain that mass commercial production of human insulin using this technique is feasible, and it is still too early to predict when animal and human testing can begin. American industry is excited about the potential application of the scientists' discovery and is eager to pursue it.

The foundation for the achievement reported yesterday lies in the groundbreaking work of other U.S. scientists in developing recombinant DNA technology, many of whom have been supported by our National Institutes of Health. The first success of experimenters in producing human insulin represents an application that grew out of years of painstaking basic research into the understanding of the workings of DNA; we are now beginning to see how this research can be of important practical benefit. The end result may help millions of people throughout the world who suffer from diabetes. I know my colleagues join with me in congratulating all those responsible for this breakthrough, which stands as a clear reminder of the pioneering greatness of American science and industry.●

CETA REAUTHORIZATION

● Mr. BAYH. Mr. President, as the senior Senator from the State of Indiana, a State that overwhelmingly supports the reauthorization of the Comprehensive Employment and Training Act (CETA), I voted in favor of this legislation.

It is my strong feeling that a comprehensive job and jobs training program such as CETA is necessary if we are going to effectively fight unemployment among our youth and disadvantaged citizens. The plight of our country's unemployed has always been one of my major concerns. Over the years I have struggled with this problem. Therefore, it is pleasing to me to know that so many of my colleagues, as is reflected in the vote, also share my concern.

But it is important that we not stop now in our constant battle with unemployment. We must turn our attention to the Humphrey-Hawkins legislation as another tool in our efforts to reduce unemployment. With the reauthorization of CETA and with the eventual passage of Humphrey-Hawkins, the Senate can stand proud in its accomplishments on behalf of our unemployed.

Specifically, I feel that the Senate version of the CETA reauthorization legislation reflects the President's and Congress intent to eradicate the abuses the program suffered during its first 5 years. Such provisions in title I as the limits on the length of time an individual can be enrolled in a CETA program and the maximum wage provision should cut back on the amount of substitution practiced by local prime sponsors. The establishment of an office of compliance and investigation should serve as an effective mechanism by which to combat fraud and abuse.

The title II provision limiting expenditures for public service employment wages to not more than 50 percent of the title II allotment will assure that at least half those funds be used for manpower services like on-the-job training, manpower training projects, work experience and other support services needed to enable people to obtain unsubsidized employment.

I am pleased to note that the Senate version of this legislation has retained the President's request for 725,000 title VI job slots. As you know the House cut 125,000 jobs from the title VI provision. Such cuts can only hurt the overall intent of this legislation, which is to reduce the unemployment ranks. The reason given for the House action was that antirecession jobs are not necessary in an improving economy.

However, it seems to me that the improvement in the economy may be as a result of such public service jobs. To cut back while unemployment still exceeds 6 percent is comparable to cutting off medication before the patient is well simply because he shows signs of improvement. Even though we all must be conscious of the need to cut back on unnecessary programs, we cannot afford to do so to the detriment of those most in need of such assistance.

Another key component of the legislation is the private sector initiative program. This program is designed to encourage prime sponsors to work more closely with local private employers, organized labor, community based organizations, and educational agencies and to experiment with a variety of approaches which ultimately will place disadvantaged persons in private employment. It is my understanding that Indianapolis has already established a Private Industry Council, consisting of a wide range of businessmen, local prime sponsors, and key citizen organizations for the purpose of coordinating the private sector initiative program. I will watch with great interest the progress of this program in the largest city in my home State. Hopefully in the future such councils can be established throughout the State of Indiana. For it is ultimately within the private sector that the problem of unemployment will be solved.

And finally, I am pleased to see the provision under the CETA bill for displaced homemakers. I have indicated over the years, my strong concern for the plight of those women, who through no fault of their own, find themselves without any economic assistance. In the last two Congresses, I have introduced legislation which would provide employment opportunities, training and counseling services to homemakers who are considered displaced from their family support through death of a spouse, divorce, or other loss of family income. The provisions of this bill are the first step in our country's dedicated effort to protect American homemakers, who often times find themselves in extremely vulnerable positions.

So again let me reiterate my firm support for the CETA reauthorization and further urge that this Congress continue to push legislation designed to eradicate poverty and unemployment in this the richest and greatest Nation in the world.●

PROVIDING FOR SOCIAL SECURITY

● Mr. HAYAKAWA. Mr. President, although the Social Security Amendments of 1977 did several things to alleviate ever-increasing troubles, the social security system remains significantly underfinanced.

Under the new law, the tax rate and the wage base have been increased and will continue to be for several years. However, if we are to pay all of the benefits we promise, these levels will have to be increased again and again. The rising cost of social security, along with various other retirement systems, is becoming an unbearable burden on today's working population. This burden is bound to grow heavier.

Yesterday's Wall Street Journal carried an interesting article on this subject, written by A. Haeworth Robertson, chief actuary of the Social Security Administration from 1975–1978. Mr. Robertson states that we need to change our views on old age and retirement. He speaks of training persons for second, third, and even fourth careers, an idea I agree with profoundly.

I think Mr. Robertson presents some excellent ideas and I wish to share them with my colleagues. I ask that this article, entitled "Providing for Social Security," be printed in the RECORD.

The article follows:

PROVIDING FOR SOCIAL SECURITY

(By A. Haeworth Robertson)

The Social Security Amendments of 1977 made important revisions in the Social Security program. These amendments are generally considered to be the most significant social security legislation since 1972, and possibly since 1950.

Under the old law future generations of workers would have received progressively higher levels of retirement benefits, relative to their preretirement earnings, than today's generation receives. The amendments revised the method of determining benefits so this would no longer be true. In fact, benefits will be about 5 percent to 10 percent less generous for the majority of future recipients than for today's recipients. There will be an even greater reduction in the case of death and disability benefits payable with respect to relatively young insured persons. Of course, these changes reduced the future cost of the program.

The amendments provided for extraordinary increases in the maximum amount of earnings used for computing benefits and assessing taxes during the period 1979–81. Thus, in 1981 and later approximately 91 percent of the total payroll of persons in covered employment will be subjected to tax and recognized in determining benefits (compared with 85 percent at present). This change increased the income more than it increased the benefit payments.

INCREASES ALL AROUND

The amendments increased the tax rates themselves as well as the earnings which are taxable. The tax rate for both employes and employers under the Old-Age Survivors, Disability, and Hospital Insurance programs combined is 6.05 percent in 1978. The new law provides for a gradual increase in this tax rate, beginning in 1979, to an ultimate level of 7.65 percent in 1990 and later. Tax rates for the self-employed are scheduled to increase from 8.10 percent in 1978 to 10.75 percent in 1990 and later.

But even after all these changes, the Social Security program is still significantly underfinanced. To pay for the benefits which have been promised, taxes paid by the employe and the employer must continue increasing beyond the level of 7.65 percent in 1990. The tax rate must increase to approximately 8 percent by the year 2000 and 12 percent by the year 2025. The ultimate tax rate for the self-employed must become about 16 percent.

These future tax rates are based on the "intermediate" assumptions utilized by the trustees of the Social Security program. Actual future tax rates will be different from these estimates but it seems more likely that they will be higher than the estimates than that they will be lower.

The Social Security program, however, is only one component of the myriad of employe benefit systems which have grown up over the years in an attempt to satisfy the needs generated by an individual's illness, disability, old age or death. There are numerous other employe fringe benefit and income maintenance programs: worker's compensation, unemployment insurance, private retirement systems, group life and medical insurance plans, sickness benefit plans, among others.

The steadily growing cost of these systems may well be developing into an unsustainable burden. If this is true, the only conclusion is that the problem itself must be changed. Some way must be found to reverse the present trend whereby the inactive population is growing at a faster rate than the active working population. It seems highly unlikely that the active working population, already chafing under the yoke of today's burden, will be able and willing to assume the heavier burden projected for tomorrow.

In seeking ways to change the dimensions of the problem, the nation's concept of work, education, leisure and retirement should be reviewed carefully. It should be presumed that an individual will engage in gainful employment suitable to his physical and mental condition until an age well beyond age 60 or 65, perhaps even until the end of his life.

Such a trend may be a natural development as health and life expectancy improve

and as the growth in the work force slows because of the low fertility rates now being experienced and expected to continue in the future. Still, significant changes will be required in existing social and economic arrangements.

The nation must take appropriate action to provide an environment in which the capabilities of each individual can be utilized effectively, an environment which fosters meaningful activity, not empty idleness. Both the incentive and the opportunity should exist to enable every individual to work and produce throughout his lifetime in a series of endeavers compatible with his changing physical and mental abilities. Governmental policies should be directed toward these goals and not toward the removal from the active work force of able-bodied persons who must then be supported by the remaining active workers.

Jobs must be structured so they are more meaningful and satisfying to the individual. Persons must undergo training and retraining to enable them to have not just second careers, but third and fourth careers. In some instances jobs must be designed to fit the capabilities of the human resources available. For older persons as well as disabled persons, less strenuous jobs and part-time employment must be made available.

Significant advances will be required in our ability to match persons with jobs. Sometimes this can be achieved with one employer, but in some cases it will involve many different employers and may require geographical relocation as well.

These changes must begin to take place during the next 10 years, and they must be well under way by the turn of the century when the children of the post-World War II baby boom begin to reach their 40s and 50s. Bringing about these changes will be a slow process which will require the cooperation of many institutions, not just Social Security.

The first step in this process of change was the recent action by Congress prohibiting an employer from imposing mandatory retirement at an age lower than age 70 (with certain exceptions). This action was coincidental and was just another step in the direction of eliminating job discrimination altogether. Nevertheless it fits in well with the eventual need for a more complete utilization of the nation's human resources. As time goes by and health of the elderly improves, further increases in the mandatory retirement age may be advisable.

But the Social Security program effectively dictates the retirement policy of the nation and, since the program itself fosters a policy of relatively early retirement, Social Security must be revised. The mere existence of the Social Security program in its present form sets a standard and thus creates an expectation, which then fosters a presumption of entitlement, for retirement in a person's early to mid-sixties, regardless of the condition of his health and his ability to continue as a productive and useful member of society. The Social Security program thus creates some of the needs it purportedly exists to serve.

JUST 28 YEARS FROM NOW

To some observers, major changes in the Social Security program are out of the question because of the size and scope of the program and because it is so firmly established. On the other had, 53 percent of the present population consists of those born after World War II, persons who are now under age 33. These young persons will begin reaching their 60s just 28 years from now in the year 2006.

It is today that a general framework should be constructed regarding the retirement of this generation—the type and level of benefits to be provided, the source of benefits and the approximate age at which benefits will commence. In making these choices the nation must not be influenced unduly by decisions made in the past by and for different generations of people living under different circumstances.

It will not be easy for the nation to move in the direction of full utilization of its human resources and thus bring under control the rising cost of supporting the inactive population. The alternative, however, will be even more difficult: continued high unemployment and underemployment, an ever increasing pool of idle "disabled persons" and "aged persons," and a total cost to society which will become destructive.●

VETO OF DEFENSE AUTHORIZATION BILL

● Mr. BAYH. Mr. President, I am pleased that the House of Representatives has sustained President Carter's veto of the Department of Defense Authorization bill for fiscal year 1979. After a review of the issue involved, I believe that the President has acted correctly and that our national defense will be strengthened if we forego construction of a fifth nuclear-powered aircraft carrier and redistribute those funds to the more unglamorous but essential programs aimed at improving the readiness of our forces in being. Those programs involve funding more armored combat vehicles, cargo helicopters, surface-to-air missiles for field army air defense and additional tanks for our front line forces in NATO. They include more money for operations, maintenance, and logistics purposes to make sure supplies are available to our troops when they need it. They will support a real increase in our excellent research and development efforts in all phases of defense policy in order that we retain our qualitative edge over the Soviet Union which is in our supreme national interest. By rejecting authorization of a $2.4 billion nuclear-powered aircraft carrier, we will also free up funds in the appropriation process so we can purchase more of the right kinds of combat aircraft to help deter a Soviet armored challenge in Europe and immediately bolster our national security across the board without "busting" the budget.

Like the B–1 strategic bomber program which was cancelled before it, the fifth nuclear-powered carrier (CVN–71) would have been an impressive addition to our Nation's military arsenal. Anyone who has ever stood overlooking the flight deck of a large aircraft carrier cannot help but be impressed by the sheer size a vessel over 1,000 feet long, weighing more than 80,000 tons and equipped with the most sophisticated weaponry known. Nor should the importance of the carrier task force in a dangerous and unpredictable world be discounted. Its ability to control the seas by projecting power shore to secure, or exert control over critical terrain (such as Norway's North Cape or the Dardanelles) remains crucial to our security. In addition, there is perhaps no more visible and compelling symbol of American power and purpose than the sight of a task force steaming off the coast of a world trouble spot. Another nuclear-powered carrier would, however, be an expensive symbol which could impair our efforts to control the sea lanes.

Despite the important "traditional" missions of the carrier task force, the advent of the Soviet antiship cruise missile threat has forced some naval planners to rethink just how effective such a force could be operating close to the Soviet Union or on the open sea if the Soviet Union chose to challenge our fleet. This situation has been recognized by John Collins who is the senior specialist in national defense at the Library of Congress. In his analysis of American and Soviet Military Trends Since the Cuban Missile Crisis, he points out that:

U.S. sea control tactics traditionally try to destroy enemy weapons before they endanger our ships. Surprise first strikes by Soviet cruise missiles, launched at close range, could make this approach obsolete. . . . Successful defense likely will depend on SAM's and interceptor aircraft systems in combination with ECM. strategy, tactics and doctrine. An appropriate package is not yet available.

The absence of such a package concerns me greatly. For this and other reasons I supported additional funding for work to put the Navy on course in developing antisubmarine warfare platforms and the kinds of aircraft and helicopters to go on them to defeat the Soviet submarine launched cruise missile threat. I believe more resources would be available for this task if we did not fund another nuclear-powered carrier.

In addition to the diversion of resources from this vital task and subsequent delay of such an antiship cruise missile defense package, the $2.4 billion for construction of the CVN–71 could adversely affect the other services as well. This is so because the true cost of another nuclear-powered carrier is $40 billion not $2.4 billion or the $1.9 billion suggested by the Armed Services Committee; $40 billion is the total estimated cost of the carrier plus escort ships (17), complement of aircraft (88) and operations and maintenance expenses of the world's most expensive ship for its 30 year life cycle. And even if we do procure the CVN–71, she will not be ready to sail until 1987. In the meantime, $40 billion could purchase the following for the Army, Navy, and Air Force:

ARMY

1. 3 Armored Divisions with new equipment.
2. 5,000 infantry fighting vehicles.
3. 2,300 new Main Battle Tanks—XM–1's.
4. 1,000 Black Hawk Helicopters.
5. 550 Advanced Attack Helicopters.

NAVY

1. At least one Trident Ballistic Missile Submarine with full complement of 24 missiles.
2. Naval Battle Group less Aircraft Carrier but with underway replenishment.
3. 12 Guided Missile Frigates.
4. 6 nuclear attack submarines.
5. 3 Spruance Class destroyers.

AIR FORCE

1. 130 F–15 "Eagle" Interceptors.
2. 350 F–16 fighter-bombers.
3. 480 A–10 anti-tank close support aircraft.
4. Enough Air Launched Cruise Missiles to equip 105 B–52's (7 squadrons).

Mr. President, perhaps the money saved by not purchasing another carrier task force could buy even more hardware. The items listed above serve to illustrate just what a defense commitment of $40 billion can mean. I think even the most stalwart supporter of another nuclear-powered carrier task force would agree that the defense items listed above provide us with a better overall balance for our defense forces than the commitment of those same dollars to construct a CVN–71 and all that must go with it.

When viewed in this light, the CVN–71 program appears to be a sea-going B–1. Both programs were glamorous and exciting. The potency of each was truly impressive. Yet each can only be seen as a luxury when matched against the military realities of the times and the availability of more cost-effective alternatives.

As such, I am persuaded that another nuclear-powered aircraft carrier can only impair our national defense. Unfortunately, the Congress did not suitably grasp this aspect of the issue and defeated attempts to take the CVN–71 out of the fiscal year 1979 defense program. The President has wisely used his constitutional prerogative of the veto at the proper time to assure that our resources for defense are spent wisely and in a manner which will guarantee our security now and in the future.●

OSHA

● Mr. WILLIAMS. Mr. President, the Occupational Safety and Health Act of 1970 represented the promise by this Government to millions upon millions of American working men and women, a promise that the greatest industrial nation in the history of the world could maintain productivity while assuring workers a safe and healthful working environment.

That law has been in effect for more than 6 years and while the initial administrative and enforcement efforts of the Occupational Safety and Health Administration left much to be desired, during the past 20 months, under the stewardship of Secretary of Labor Marshall and Assistant Secretary for Occupational Safety and Health Bingham, great improvements have been made. Under their leadership, OSHA has vastly reduced burdensome recordkeeping, it has reduced the amounts of penalties assessed for violations, and has redirected its regulatory and enforcement thrust so that the vast bulk of its efforts are now directed toward the most serious workplace hazards.

Despite this progress, the OSHA program has generated more than its share of controversy. Employers, both large and small, see OSHA as a bureaucratic monster, which interferes with the operation of business enterprises. And, we in the Congress have reacted by imposing restrictions on the enforcement of many parts of the program. With increasing, and distressing frequency, the Congress is being called upon to make major and substantive changes in the Occupational Safety and Health program, without the benefit of hearings or a full appreciation of the nature of the problem and the effects of the offered solutions.

It is therefore my intention to conduct oversight hearings on the Occupational Safety and Health program on October 3, 4, and 5, 1978. In my mind, a number of factors warrant such oversight.

First, it is necessary for the Congress to measure the progress made by Secretary of Labor Marshall and Assistant Secretary Bingham in streamlining the enforcement of the act.

Second, there have been several significant court decisions bearing on the OSHA program, including the Supreme Court's decision in Barlow's against Marshall, the effects of which must be clearly understood in terms of the overall statutory program.

Third, the interagency task force on workplace safety will have issued its first report on the overall OSHA program, and the work of this group deserves careful congressional scrutiny.

Finally, it is the responsibility of the Human Resources Committee to investigate the allegations by small and sometimes even large businesses, that the OSHA program constitutes a harassment of business far out of proportion to the benefits which it ultimately provides to workers, and to understand how we can best protect workers in a manner which least interferes with the operation of American business.

These hearings are intended to examine and evaluate the broad range of OSHA programs.

They must be held now, so that if the need for legislative reform is demonstrated, the Committee on Human Resources will be able to propose legislative solutions early in the 96th Congress.

Piecemeal limitations of the OSHA program in the long run serve neither workers nor small business. If, in fact, the charges currently being levied against the OSHA program are justified, comprehensive permanent legislative solutions are in order. These solutions can only be brought about after careful review and appropriate consideration by the Committee on Human Resources. These hearings are the first step in determining our future actions.

America's workers and the American public deserve the best, the most efficient and the most effective program to control workplace hazards. At the same time, the legitimate businessman must not be overburdened with costly bureaucratic overregulation which serves no useful purpose.

These hearings are to be the first step in insuring that both of these objectives are accomplished in a just and equitable manner.●

ACHIEVEMENTS OF PRESIDENT CARTER

● Mr. BAYH. Mr. President, last weekend I attended a meeting of the Indiana Democratic Editors Association and was privileged to hear my colleague in the House of Representatives, the Honorable LEE HAMILTON, give a speech on the accomplishments and high quality of the first 20 months of the Carter administration.

It has become fashionable for many to criticize the President and his administration, and, as a result, President Carter's great successes have been overlooked far too often. I think LEE HAMILTON accurately brought to our attention the many achievements of Presdient Carter on a variety of issues facing this country today.

I commend him for his speech and ask that it be printed in the RECORD.

The speech by Mr. HAMILTON follows:

SPEECH OF LEE HAMILTON

I have the high privilege this evening to speak for eight Democratic members of the United States House of Representatives from Indiana: Adam Benjamin, Floyd Fithian, John Brademas, Dave Evans, Dave Cornwell, Phil Sharp, Andy Jacobs, and myself.

At the risk of being immodest, may I say to you what the Speaker of the House has said to me on several occasions: the Indiana House Democratic delegation stands second to none in the United States Congress for the quality and effectiveness of its representation.

My colleagues from Indiana asked me to convey their warm wishes to each of you. They also asked me to convey several comments to you.

First, we are grateful to you, as the leaders of the Democratic party in Indiana, for making it possible for us to serve in the Congress. We know that without you we would not have that opportunity.

Second, we are proud to endorse and run with Rex Carpenter, Pat Byrd, John Ruby and Billy McCullough and we pledge our best efforts to elect each of them and the entire state and county Democratic ticket.

Third, it is time, in our judgment, to speak up for the Carter Administration.

President Carter's polls may be down, but they were down for Harry Truman, too. Recent history tells us that no matter what an American President does, his popularity declines. It is one thing to be down in polls that measure the President against someone's standard of excellence, but quote another to run against a real live Republican.

When measured against the like of Richard Nixon and Jerry Ford, Jimmy Carter stands tall. Besides, nothing is more dangerous for a President than to live in the tempermental atmosphere of the public opinion polls. He has only one duty, only one safe course, and that is to try to be right and to do and say what he believes to be right.

Mr. Carter, more than any other President, has been measured against expectations. There is no doubt that he raised high hopes and great expectations during his campaign. Neither he nor we need apologize for that.

Mr. Carter expressed his dream with the fervor of an evangelist. He built the hope of a fresh, new administration that would be clean, honest, efficient and capable of producing change. He talked about economic stability, balanced budgets, and an end to political favoritism. He talked about fair tax laws, cutting down the bureaucracy, and a new era of fairness and competence.

We Democrats have to acknowledge that all these things have not been accomplished. There has not been a great leap forward from the day Mr. Carter became President. We are a long way from achieving all of these things. But it is a plain fact that if these goals had not been expressed, people today would have relatively little to criticise.

It is always better to aim higher than you hit.

We may not have rung in a millenium. We may not have hit all of our targets. But one thing is quite clear: Mr. Carter's Administration is by no means as clearly disastrous as the years of Nixon and Ford.

Criticisms of President Carter as ineffective come with ill-grace from our Republican friends. It was they who gave us 9 percent unemployment, double-digit inflation,

the largest and deepest recession in the postwar period, and government by veto—to say nothing of Richard Nixon, Bob Haldeman, John Erhlichman, and John Mitchell. The President inherited a sticky and messy economic and political situation with a lot of economic damage done. It takes time to turn that around.

It is still true, as Will Rogers observed, that the only way to keep the Republican party respectable is to keep it out of office.

We all believe in the two-party system and we believe in a Republican party that is strong, vigorous, alert—and small.

I believe Jimmy Carter will be a two-term President. He stands low in the polls principally because he has had the fortitude to tackle the tough issues, like energy, the Panama Canal, Social Security and Civil Service Reform, in his first months in office.

Let's take a closer look at the Carter record.

In foreign affairs he has had major victories with

The passage of the Panama Canal Treaties;

The vote to lift the Turkish Arms Embargo; and

The vote to approve the Middle East Arm Sales.

He has won for the United States new acceptance and new respect in Africa. He has strengthened NATO's combined forces in Europe. He has brought human rights to the consciousness of every world leader. He continues to work to keep the Middle East at peace. Our prayers go out to him in these days as he prepares for the historic and unprecedented Camp David Summit meeting.

And most important of all: This country is at peace today.

On the domestic side, the accomplishments are also impressive.

Foremost is the substantial drop in unemployment. It stood at 8 percent when Mr. Carter took office. It has dropped in 18 months by almost 2 percentage points. His administration has seen a net total of 6.1 million jobs added to the economy, and that is a record.

Business recovery has continued for 4 years, the longest peacetime recovery since World War II.

When President Carter took office, the social security system faced bankruptcy. He submitted proposals to the Congress. Congress approved them and the system is now fiscally sound until after the year 2000.

The budget deficit has been reduced from about $60 billion dollars a year in fiscal year 1977 to somewhere in the $40 billion range or below for fiscal 1979—and it will drop further in 1980.

A comprehensive effort is now underway to reorganize the government:

A new Department of Energy has been created;

The Executive Office of the President has been streamlined;

Consolidations have occurred in other areas;

A major civil service reform proposal is pending before the Congress, and

A new tone, civil and compassionate, has come into government.

Already his Administration has seen: Dramatic decreases in airline fares; a reduction of "perks and frills" at the White House; the termination of nearly 500 advisory commissions; tougher financial disclosure requirements for the executive branch; and record numbers of blacks, hispanics, and women in government service.

The President has made the American Presidency an open one. He is more accessible to the press and public than any other modern President.

I think this President is a good man. I do not know anyone who has occupied the Office of President who has tried harder and with more ability than Jimmy Carter.

He does not have an ego problem. He admits mistakes. He does not have a mean streak in him. I am impressed by a man trying to do his absolute best—trying to do what he thinks is right.

If I have a criticism, it is that he should let up on those 18 hour days in Washington and get into the country to see the people more. He should come to Indiana.

So, my friends, the President is presiding over the country during a period of remarkable stability. He may not have worked heroic changes, but times are pretty good.

It is time for you and me to stand up and be counted for Jimmy Carter and for the Democratic Party.●

A RESPONSE ON THE BHUTTO TRIAL

● Mr. McGOVERN. Mr. President, on August 21, I inserted in the RECORD an article by former Attorney General Ramsey Clark containing his osbervations on the trial of former Prime Minister Bhutto of Pakistan.

The Embassy of Pakistan, through Press Counsellor Khalid Ali, has submitted a response to the Nation magazine in which that article appeared.

To permit my colleagues to examine both sides of this issue, I request that the response be printed in the RECORD.

The letter follows:

AUGUST 31, 1978.

THE EDITOR,
The Nation,
New York, N.Y.

DEAR SIR: The article by Mr. Ramsey Clark, in your issue of August 19, is full of erroneous statements calculated to cast aspersions on the judicial process in Pakistan, prejudge a case which is before the Supreme Court and interfere in the internal affairs of Pakistan.

The peaceful takeover on July 5, in contrast to brutal violence and killings of overthrown personalities in other countries, and the rejection of a quick summary trial of those involved in the murder case shows that the Government is not interested in the elimination of personalities but the dispensation of justice. The murder conviction of Mr. Benigno Aquino in the Philippines, to which Mr. Clark referred bears no comparison to the present case. Mr. Aquino was tried by a military court while Mr. Bhutto is being tried under the normal law in the civil courts.

The question is: Should political leaders accused of murder not be tried under the law of the land? If no man is above law, if life has a sanctity, who else but the courts of that country can make the final determination of the guilt or innocence of the accused.

The appeal in this criminal case is being heard in an open court and by judges who were serving in the Supreme Court or the High Courts under the regime headed by Mr. Bhutto. It is not a trial under martial law or even a specially constituted tribunal. The accused have been given full facilities of legal defense and Mr. Bhutto's lawyers presented the case for 57 days which was fully reported in the press. The Supreme Court accepted Mr. Bhutto's plea for the presentation of the in-camera statements recorded in the lower court. These statements now form part of the record of the Supreme Court and were reported in extenso in the media. Even Mr. Bhutto's lawyer has acknowledged the fairness of the proceedings and has thanked the Supreme Court for "its exceptional kindness, consideration and a very patient hearing." Mr. Ramsey Clark also acknowledges that "the nine judges engage in a meticulous review of the record. They are impressive men, learned in the law and skillful in their examination of the trial transcript."

Yet, instead of letting these "impressive and learned men" decide the case, Mr. Ramsey Clark has arrogated to himself the role of defence, prosecution and judge. Mr. Clark has said that the Chief Justice of Lahore High Court, which sentenced the accused to death was "an old enemy who had heard Bhutto's case when he was arrested in 1968." He should therefore have been disqualified. The fact is that in 1968 the High Court, of which this judge was a member, came to the rescue of Mr. Bhutto and his associates. In December 1968, the Court ordered the release of one of Mr. Bhutto's associates, Mr. Khar. Sensing the trend of the Court, the then Government released Mr. Bhutto. This evoked expressions of satisfaction from the Court of which the now Chief Justice of Lahore High Court was a member. In any case the Supreme Court which is seized of this and many other points and whose members have been extolled by international jurists, can be expected to make a fair and honest determination of this as well as other aspects of the case. The Supreme Court is fully competent to uphold, set aside or to commute the sentence awarded by the High Court.

The doomsday scenario drawn up by Mr Ramsey Clark is a futile exercise in speculation. There is peace in the country. The Government of Pakistan has announced that election would be held by October 1979 and power would be transferred to civilian hands. The future of States or indeed of democracy does not depend upon the fate of single individuals. The judicial process and rule of law cannot imperil the future of States.

Yours sincerely,

KHALID ALI,
Press Counsellor.●

SENATE SEATS FOR WASHINGTON, D.C.?

Mr. SCOTT. Mr. President, I have before me a copy of an editorial published in the September 11 U.S. News & World Report, entitled "Senate Seats for Washington, D.C.?" It is a very timely article. It suggests that the States, in their ratification process, take their time and consider very carefully the proposal for full voting rights for the District of Columbia.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SENATE SEATS FOR WASHHINGTON, D.C.?

(By Marvin Stone)

"No taxation without representation." That was a stirring battle cry in the American Revolution. Now it is being used again—this time as an argument for giving the District of Columbia voting representation in Congress.

States are being asked to ratify a constitutional amendment that would let residents of the nation's capital elect two U.S. senators and at least one, perhaps two, members of the House of Representatives.

On its face, that seems only fair. The District, which is actually the city of Washington, has a population of nearly 700,000. Seven states with smaller populations have the same kind of voice in Congress that Washington wants.

The issue is not a simple one, however. And because backers of the amendment have seven years to procure the required approval of three fourths of the state legislatures—38 in all—the individual states should take time to give it cautious study.

Admittedly, politicians face problems in voting on this amendment. D.C.'s population is 75 percent black. In local and presidential elections, it has voted overwhelmingly Democratic and liberal. Its selections for Congress

would almost surely be black, liberal Democrats. So anyone opposing the D.C. amendment risks being accused of racism and Republican partisanship. Those who support it can count on winning votes among blacks.

Issues raised by the amendment, however, are too important to be decided by such considerations. Some of the arguments deserve critical examination.

Take that cry of "taxation without representation." In Senate debate on the amendment, it was pointed out that the District gets back from the federal government $1 for every 29 cents it pays in federal taxes. "That is not taxation without representation," argued one senator.

D.C. is not entirely unrepresented in Congress. It has a delegate in the House of Representatives. Though he can't vote on the floor, he can in committees. And he can argue for his constituents on the floor.

Washingtonians are not the only American citizens who have no direct representation in Congress. Puerto Rico, with more than 3 million U.S. citizens, has the same nonvoting representation. So do the territories of Guam, American Samoa and the Virgin Islands. Will they be next to demand votes in Congress?

The question boils down to this: Should a single city be given the same kind of representation in Congress as an entire state?

Washington has an area of only 67 square miles, and lacks many of the attributes of even a thinly populated state. Without farms, mines, forests, small towns or much industry, its interests are narrow. Almost half its people make their living off the government—federal or local. As one senator said: "What we are doing here is giving the federal bureaucracy itself voting representation in Congress."

That obviously is not what the authors of the Constitution intended. They set up the District of Columbia as a separate, nonpolitical enclave, belonging to citizens of all the states, and immune to local pressures. Would giving it votes in Congress inevitably lead to the kinds of pressures that the framers of the Constitution wanted to avoid?

It was frequently predicted, in Senate debate, that the D.C. amendment will fail to win ratification by the states. Its passage by Congress, sending it on its way to the states for further action, was described by some lawmakers as a "political charade" to woo black votes back home.

That's probably an unfair characterization. Undeniably, there are appealing arguments for giving D.C. residents a voting voice in Congress. But there are also good reasons why states should weigh both sides carefully before voting on such a fundamental change in Washington's constitutional role.

ORDER THAT S. 2640 BE PRINTED AS PASSED

Mr. RIBICOFF. Mr. President, I ask unanimous consent that S. 2640, the Civil Service Reform Act of 1978, be printed as passed by the Senate and that 300 additional copies be printed for use by the Committee on Governmental Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. CRANSTON. I ask unanimous consent that Hal Gross and Karen Manden may have the privilege of the floor throughout the consideration of the natural gas conference report when it comes before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUSTAINING THE VETO OF THE MILITARY PROCUREMENT BILL A SETBACK TO OUR NATIONAL DEFENSE POSTURE

Mr. THURMOND. Mr. President, the national defense posture of this Nation in real terms and in the eyes of our friends and enemies abroad suffered a severe setback today when the veto by President Carter of the military procurement bill was upheld in the House.

President Carter's veto action was not one of strength but one of weakness. His position on defense matters is so out of tune with the people of this Nation and the Congress itself that he has resorted to the veto, an action needing only one-third support in either House to be sustained.

Besides killing the B-1 program and delaying the mobile missile development, he has cut Navy shipbuilding by one-half for the next 5 years and today axed a badly needed nuclear aircraft carrier for the Navy. This action will not only weaken us in real terms, but will confuse our allies and encourage our enemies.

Mr. President, I shall continue to fight for ships for our Navy, including an aircraft carrier. When the military bill once again comes before our committee it should be strengthened, not weakened. This veto makes absolutely no sense. It was apparently the work of President Carter's advisers who oppose naval superiority on the grounds it is inimical to the United States-Soviet strategic balance.

Mr. President, in my judgment today was a watershed in the internal efforts to beat down our defense programs under the whip of the veto. Although this Congress is one of the President's own party by a sizable margin, his weak and misguided defense policies have to depend on the veto to be sustained. By sustaining this veto, those who favor parity with the Soviets have been handed a new weapon which they will continue to use in order to whip the Congress into line. This is a sad day in this Nation's national defense history.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following calendar orders, all of which have been cleared on the minority side: Calendar Orders Nos. 1063, 1067, and 1075.

The PRESIDING OFFICER (Mr. BAYH). Without objection, it is so ordered.

AIR FORCE GRADE EXTENSION AND EXTENSIONS OF CERTAIN OTHER CURRENT MILITARY PERSONNEL PRACTICES

The PRESIDING OFFICER. The first bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 3454) to amend the Act of August 29, 1974 (88 Stat. 795; 10 U.S.C. 8202 note), relating to the authorized numbers for grades of lieutenant colonel and colonel in the Air Force and to authorize the President to suspend certain provisions of law when he determines that the needs of the Armed Forces so require, and for other purposes.

The Senate proceeded to consider the bill.

UP AMENDMENT NO. 1823

(Purpose: To change an incorrect section reference and to make other technical changes)

Mr. ROBERT C. BYRD. Mr. President, I send an amendment to the desk on behalf of Mr. NUNN and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) on behalf of Mr. NUNN, proposes an unprinted amendment numbered 1823.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 3, strike out "provision" and insert in lieu thereof "provisions".

On page 2, line 5, strike out "5705 (c)" and insert in lieu thereof "5707 (c)".

On page 3, line 25, insert "incurred in line of duty" before "during the period".

On page 6, line 22, strike out "5787d." and insert in lieu thereof "5787d".

On page 7, strike out lines 5, 6, and 7 and insert in lieu thereof the following:

"(1) A board to recommend brigadier generals for promotion to the grade of major general, consisting of nine officers serving in the grade of major general or above.".

On page 7, line 11, insert "(a)" after "Sec. 11.".

On page 7, line 15, strike out "promotions" and insert in lieu thereof "promotion".

On page 7, after line 23, add the following:

(b) The table of sections at the beginning of chapter 545 of such title is amended by striking out the item relating to section 5787c and inserting in lieu thereof:

"5787c. Navy and Marine Corps; warrant officers and officers designated for limited duty: temporary promotion.".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3454

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of August 29, 1974 (88 Stat. 795; 10 U.S.C. 8202 note), is amended by striking out "through September 30, 1978" and inserting in lieu thereof "through September 30, 1979".

SEC. 2. (a) For the period beginning on September 15, 1978, and ending on September 30, 1979, the President is authorized to suspend application of the following provisions of title 10, United States Code:

(1) Section 5707(c).

(2) Section 5751 (a), (b), and (e).

(3) Section 5770.

(b) No suspension invoked by the Presi-

dent under authority of subsection (a) shall be effective after September 30, 1979.

SEC. 3. Effective only for the period beginning September 15, 1978, and ending September 30, 1979—

(1) Section 1201(3) of title 10, United States Code, is amended as follows:

(A) striking out the word "or" at the end of subclause (B)(ii);

(B) striking out the period at the end of subclause (B)(iii) and inserting in lieu thereof a semicolon and the word "or"; and

(C) adding at the end of subclause (B) a new item as follows.

"(iv) the disability was incurred in line of duty during the period beginning on September 15, 1978, and ending on September 30, 1979, except that the condition provided for in this item shall not be effective during such period unless the President determines that such condition should be effective during such period and issues an Executive order to that effect.".

(2) Section 1203(4)(A) of such title is amended by—

(A) striking out the word "or" at the end of item (i);

(B) striking out the semicolon at the end of item (ii) and inserting in lieu thereof a comma and the following: "or (iii) incurred in line of duty during the period beginning on September 15, 1978, and ending on September 30, 1979, except that the condition provided for in this item shall not be effective during such period unless the President determines that such condition should be effective during such period and issues an Executive order to that effect;".

(3) Section 1203(4)(C) of such title is amended by striking out "the proximate result of performing active duty nor incurred in line of duty in time of war or national emergency" and inserting in lieu thereof "(i) the proximate result of performing active duty, (ii) incurred in line of duty in time of war or national emergency, nor (iii) incurred in line of duty during the period beginning on September 15, 1978, and ending on September 30, 1979, except that the condition provided for in this item shall not be effective during such period unless the President determines that such condition should be effective during such period and issues an Executive order to that effect".

SEC. 4. (a) Chapter 545 of title 10, United States Code, is amended by inserting after section 5787c a new section as follows:

"§ 5787d. Navy lieutenants: temporray promotion.

"(a) Line officers not restricted in the performance of duty in the grade of lieutenant, possessing skills in a critical shortage and serving in lieutenant commander billets requiring such skills, may be temporarily promoted to lieutenant commander under such regulations as the Secretary of the Navy may prescribe. Temporary appointment under this section shall be made by the President alone.

"(b) Temporary appointments under this section do not change the permanent, probationary, or acting status of members so appointed, prejudice them in regard to other promotions or appointments, or abridge their rights or benefits.

"(c) Temporary promotions under this section may be made only upon the recommendation of a board of officers convened for that purpose. In addition to recommending officers for promotion, a board so convened shall make the report required by section 638[4] of this title.

"(d) Each temporary appointment under this section, unless expressly declined, is, without formal acceptance, regarded as accepted on the date made, and the member so appointed is entitled to the pay and allowances of the grade to which promoted from that date.

"(e) Temporary appointments under this section will terminate upon an officer's detachment from a qualifying billet so designated by the Secretary of the Navy. When an officer, whose name is on a promotion list as a result of selection to lieutenant commander other than under this section, is detached, an appointment will be issued to include the interim period between the subject officer's detachment from the qualifying billet and the date of promotion as a result of selection board action.

"(f) When his temporary appointment under this section is terminated or expires, each member of the naval service on active duty shall have the grade he would hold if he had not received any such appointment.

"(g) No appointments may be made under this section after September 30, 1979.".

(b) The table of sections at the beginning of chapter 545 of such title is amended by inserting

"5787d. Navy lieutenants; temporary promotion."

below

"5787c. Navy and Marine Corps, warrant officers: temporary promotion.".

SEC. 5. Section 5504(d) of title 10, United States Code, is amended by inserting "or 5787d" after "5787".

SEC. 6. (a) Section 5786(c) of title 10, United States Code, is amended by inserting "or 5787d" after "5787".

(b) Section 5791(a) of such title is amended by inserting "and 5787d" after "5787".

SEC. 7. Section 6325(b) of title 10, United States Code, is amended by inserting "or 5787d" after "5787".

SEC. 8. (a) Section 6384(a) of title 10, United States Code, is amended by inserting "and each board of officers convened under section 5787d" after "under chapter 543".

(b) Section 6385 of such title is amended by striking out "or 5787" and inserting in lieu thereof "5787, or 5787d".

(c) The catchline of such section is amended by striking out "and 5787" and inserting in lieu thereof "5787, or 5787d".

(d) The table of sections at the beginning of chapter 573 of such title is amended by striking out "and 5787" in the item relating to section 6385 and inserting in lieu thereof "5787, or 5787d".

SEC. 9. Section 905(h) of title 37, United States Code, is amended by inserting "or 5787d" after "5787".

SEC. 10. (a) Section 5703(a)(1) of title 10, United States Code, is amended to read as follows:

"(1) A board to recommend brigadier generals for promotion to the grade of major general, consisting of nine officers serving in the grade of major general or above.".

(b) The amendment made by subsection (a) shall be effective only for the period beginning on September 15, 1978, and ending on September 30, 1979.

SEC. 11. (a) Section 5787c of title 10, United States Code, is amended to read as follows:

"§ 5787c. Navy and Marine Corps; warrant officers and officers designated for limited duty: temporary promotion.

"(a) Warrant officers may be temporarily promoted to higher warrant officer grades under such regulations as the Secretary of the Navy may prescribe.

"(b)(1) Officers designated for limited duty may be temporarily promoted to a higher grade under such regulations as the Secretary may prescribe.

"(2) No promotion may be made under this subsection after September 30, 1979.".

(b) The table of sections at the beginning of chapter 545 of such title is amended by striking out the item relating to section 5787c and inserting in lieu thereof:

"5787c. Navy and Marine Corps; warrant officers and officers designated for limited duty: temporary promotion.".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GOLDWATER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1144), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

FORM OF COMMITTEE ACTION

The administration has submitted several legislative proposals related to the extension of authorized grades for the Air Force and relating to several current personnel practices that would lapse under the provisions of the National Emergencies Act of 1976 (Public Law 94–412). Many of these personnel procedures and many other provisions not involving these procedures are included in another bill, H.R. 5503, on which hearings were held but on which action has not been completed. These circumstances made it desirable to report an original bill.

COMMITTEE BILL

The bill provides for the following:

1. Extending the authorizaiton of an increase for 1 year in the number of Air Force colonels and lieutenant colonels provided under 10 U.S.C. 8202(a). This would be effected by extending for 1 year, Public Law 93–397, which expires on September 30, 1978.

2. Authority for the President to suspend the application of certain provisions in law through September 30, 1979, when he determines that the needs of the Armed Forces so require. The application of these provisions is now suspended. Suspending these provisions of law for another year would maintain current personnel practices for the military in these areas.

3. Extending authority for 1 year to allow spot promotions of certain Navy lieutenants, below the zone promotion for Navy limited duty officers, and to allow temporary Marine Corps major generals to sit on Major General Selection Boards.

AIR FORCE GRADE EXTENSION

The bill would provide authority for 1 more year for the number of Air Force colonels and lieutenant colonels currently authorized by Public Law 93–397 which expires on September 30, 1978. Public Law 93–397 authorizes an increase in the number of colonels and lieutenant colonels serving on active duty in the Air Force above the permanent authorization of 10 U.S.C. 8202. The number of authorized colonels and lieutenant colonels is based on the total officer strength of the Air Force.

The temporary extension of this authority should allow the Air Force to adequately man its officer force and to maintain predictable promotion patterns for commissioned officers pending enactment of permanent legislation. Failure to enact legislation extending this authority would mean that the number of officers allowed to serve in the field grades would be based upon the table established in permanent law by the Officer Grade Limitation Act (OGLA) of 1954, substantially below current strengths.

The extension of the authority will permit the Air Force to promote officers for the next year to the grade of major, lieutenant colonel, and colonel at about the same career points and with approximately the same percentage of promotion opportunity as has been the case in the recent past and as is comparable to the Army and Navy.

BACKGROUND ON THE AIR FORCE FIELD GRADE OFFICER PROBLEM

The original Officer Grade Limitation Act (OGLA), which placed limits on the number of field grade officers in the Armed Services, was passed in 1954. At that time, the

Air Force was a comparatively younger branch of the Armed Services and thus needed fewer grade authorizations to provide adequate career progression. Aware of this fact, Congress provided substantially fewer field grades for the Air Force than for the Army and Navy, but it also realized that the Air Force would need to seek relief in the form of additional authorizations as the force matured. The Congress has provided this additional authorization on eight previous occasions. The most recent authority was provided by Public Law 93–367 which expires September 30, 1978.

THE PROPOSED DEFENSE OFFICER PERSONNEL MANAGEMENT SYSTEM

The Defense Officer Personnel Management System (DOPMS) proposed by the Department of Defense, is far-reaching, complicated legislation to provide permanent and more uniform promotion systems among the Services and new field grade authorization tables. It would include new grade authorization tables for the Air Force, and thus obviate the need for temporary grade relief legislation. While the DOD proposal would overhaul or eliminate more than 300 sections of current law, it would not make a major shift from the present officer management system.

The Subcommitee on Manpower and Personnel has studied the DOPMS proposal in detail but has not completed action on the proposal. The Committee therefore finds it prudent to act on the needed Air Force grade relief extension pending action on the broader DOPMS proposal.

NATIONAL EMERGENCIES ACT RELATED PERSONNEL ITEMS

The National Emergencies Act of 1976 terminates the current reliance by the executive branch on national emergency power to suspend provisions of law. The effect of this act is to revoke, effective September 15, 1978, suspensions of provision in law which depend upon the declaration of a national emergency for the suspension. There are several military personnel items that are affected. Most, but not all of these, would have been repealed or changed under the proposed Defense Officer Personnel Management Act. For these items the committee bill will have the effect of allowing the military to maintain current practices by providing new authority for the President to suspend through September 30, 1979 the application of appropriate provisions of law when he determines the needs of the Armed Forces so require. The committee intends to review each of these items again in detail when the proposed Defense Officer Personnel Management Act is considered.

REQUIREMENT FOR SEA OR FOREIGN SERVICE FOR REGULAR OFFICERS OF THE NAVY

Prior to 1917, the promotion of Navy officers was solely a function of seniority. In the Naval Appropriations Act for fiscal year 1917, the 64th Congress provided for promotion through a selection process. The sea service requirement was included to insure that officers performed at sea prior to promotion.

In 1964, Executive Orders 11151 suspended section 5770. The National Emergencies Act (Public Law 94–412) will, in effect, vacate the suspension as of September 15, 1978.

The 1964 suspension was necessitated by developing technology which resulted in the skill requirements for Naval officers being considerably different than they were in 1917. The increased complexity of weapons, engineering and management systems required that unrestricted line officers receive concentrated scientific training in discrete technological areas. This training, in many cases, precluded the opportunity for sea duty for extended periods. The Navy believes that this rationale for the suspension remains valid and will continue to obtain for the foreseeable future.

The committee bill would authorize the President to suspend section 570 of title 10, United States Code, relating to the requirement of sea or foreign service to certain officers of the Regular Navy when he determines the needs of the Armed Forces so required.

LIMITS ON BELOW THE ZONE SELECTION AUTHORIZATION FOR REGULAR OFFICERS

Current law authorizes below the zone selection for promotion for most Navy and Marine Corps officers on active duty. Permanent regular officers who may receive accelerated selection are limited to 5 percent of the total number that a selection board is authorized to select. By way of comparison the Army and the Air Force do not have a legal restraint on the number of below the zone selections.

In order to provide for accelerated promotion of exceptional officers who have demonstrated that they can progress rapidly to positions of greater responsibility, Executive Order 11554 in 1970 suspended the operation of the provisions of section 5707(c) of title 10, United States Code. Pursuant to the authority provided by the Executive Order, increased below zone selections have been selectively utilized and have never exceeded 15 percent. The suspension of section 5707(c) will expire September 30, 1978. An extension will be precluded by the effect of the National Emergencies Act. The 5 percent limited on below zone selection for permanent regular officers would then be reinstated.

The committee bill would provide authority to the President to suspend Section 5707(c) of title 10, United States Code, which now limits below the zone selection of permanent regular officers to 5% of total number of officers authorized to be recommended for promotion, when he determines that the needs of the Armed Forces so require.

SERVICE IN GRADE ELIGIBILITY REQUIREMENTS FOR CONSIDERATION BY SELECTION BOARDS FOR PROMOTION OF ACTIVE DUTY NAVY MALE LINE OFFICERS AND TO ACTIVE DUTY MARINE CORPS OFFICERS

Initial time in grade eligibility requirements were established by the Officer Personnel Act (OPA) of 1947. Sections 5751 (a) and (b) of title 10, United States Code, provide that an active duty male officer of the line of the Navy, or of the Marine Corps is eligible for consideration for promotion to the next higher grade by a selection board that is convened in the fiscal year in which he completes the specified number of years of service in the grade in which he is serving.

In the years since passage of OPA, continued adherence to the above minimum time in grade eligibility requirements became increasingly difficult. Since 1947, promotion flow points for certain grades, have been accelerated to meet vacancy requirements. As a result, in these cases, increasingly younger officers have been made eligible for consideration. The time in grade laws were originally designed to operate in a stable strength environment with normal promotion flow occurring at specified points during a 30-year career. During the period 1954 through 1967, various portions of sections 5751 (a) and (b) were suspended by Executive orders.

Vacation of the President's suspension of sections 5751 (a) and (b), effective September 15, 1978, would mean a return to the 1947 time in grade eligibility requirements which, in certain cases, could severely limit the number of officers eligible for selection to fill vacancies in higher grades.

The committee bill would provide authority for the President to suspend sections 5751(a) and 5751(b) relating to service and grade eligibility requirements for consideration of selection boards for promotion of certain Navy and Marine Corps officers when he determines that the needs of the Armed Forces so requires.

PHYSICAL DISABILITY RETIREMENTS

Since December 16, 1950, when President Harry S. Truman proclaimed the existence of a state of national emergency (Proclamation 2914), any member of the Armed Forces who is unfit for service because of physical disability incurred while on active duty for more than 30 days who is disabled in line of duty while entitled to basic pay has been entitled to retirement or separation (depending on the extent of disability) with pay. The National Emergencies Act terminates the authority in law possessed as a result of a declaration of national emergency. As a result a member with less than 8 years' service would be entitled to retirement or separation under existing criteria only if the disability were the proximate result of performing active duty; if it were not, he would be entitled only to separation pay and then only if the disability exceeded 30 percent under Veterans' Administration standards.

Those who would be affected by this change are the junior members of the Armed Forces without extensive service for pay purposes.

The committee bill would add a provision to 10 U.S.C. 1201 and 1203 allowing the President to continue current practice through September 30, 1979, if he determines that the needs of the Armed Forces so require.

SPECIFIC AUTHORIZATIONS FOR PROMOTION PROCEDURES

In some cases current promotion procedures in the Navy and Marine Corps rely upon specific authority given to the President in time of war or national emergency. The committee bill would allow these practices to continue through September 30, 1979 by providing new authorization not related to a declaration of war or national emergency. The committee will review each of these provisions as part of its consideration of the proposed Defense Officer Personnel Management Act.

TEMPORARY PROMOTION OF NAVY LIEUTENANTS

The committee bill provides authority for unrestricted line officers in grade of lieutenant possessing skills in a critical shortage and serving in lieutenant commander billets, to be temporarily promoted to lieutenant commander for the period through September 30, 1979. This authority is referred to as spot promotion authority.

The spot promotion authority currently in effect is authorized by 10 U.S.C. 5787 and is applicable only in time of war or during a national emergency declared by the President. Current spot promotion authority will terminate in September 1978, due to the effects of the National Emergency Act.

The Secretary of the Navy is currently using his authority under 10 U.S.C. 5787 to spot promote line officers in the grade of lieutenant possessing skills in a critical shortage and serving in lieutenant commander billets as engineer officers, engineering department principal assistants, material officers in afloat units and other staff engineering billets which directly support fleet engineering readiness. Fleet engineering readiness is impeded by the shortage of middle grade officers with skills in this area.

Under the current provisions prescribed by the Secretary of the Navy, there are about 386 spot promotion qualifying billets. Due to the shortage of available middle grade qualified engineers, significant numbers of lieutenants are being assigned to fill these designated lieutenant commander engineering billets. In the nuclear submarine community, there are currently only 91 qualified lieutenant commanders available to fill 189 engineering department head billets. This shortfall is further evidenced by the fact that 104 of 166 nuclear submarine Engineer Officer billets are currently being filled by spot promoted lieutenant commanders. The surface warfare community is faced with a similar situation. Only about 75 lieutenant

commanders with prior engineering experience are available to fill 130 engineering department head billets.

SELECTION BOARDS TO RECOMMEND BRIGADIER GENERALS FOR PROMOTION AND FOR CONTINUATION ON THE ACTIVE LIST IN THE MARINE CORPS

The National Emergencies Act will terminate the Secretary's authority pursuant to 10 U.S.C. section 5448(a) to prescribe a number of permanent major generals and brigadier generals in excess of 36 on the active list. Currently, the Marine Corps has a total of 66 general officers on the active list, all in the permanent grades of major general and brigadier general, 33 in each grade. The National Emergencies Act will not affect the total number of general officers (66) that may be on active duty in the Marine Corps, nor their distribution in temporary grades; however, it will reduce to 36 the number who may hold permanent appointments.

The need for a change in law is related to the legal requirements of promotion board membership. Section 5703(a)(1), title 10, U.S.C. specifies that at least once each year the Secretary of the Navy will convene a selection board to recommend brigadier generals for promotion and for continuation on the active list. The section further specifies that the board will consist of nine officers holding permanent appointments in the grade of major general or above. In addition, section 5703(e) specifies that no officer may be a member of two successive boards for the consideration of officers for promotion to the same grade.

When the National Emergencies Act becomes effective September 15, 1978, the number of permanent major generals will be limited to 18, and the Marine Corps could not meet the requirements of section 5703, of title 10, United States Code without every permanent major general on active duty serving on a major general selection board every other year.

The committee bill provides authorization through September 30, 1979 for permanent and temporary major generals to sit on selection boards convened to select brigadier generals to the grade of major general.

PROMOTION OF LIMITED DUTY OFFICERS

Present law does not specifically provide for below zone selection for limited duty officers. The limited duty officer program is unique to the Navy and Marine Corps and provides an avenue for technically oriented enlisted members to obtain officer appointments and participate as a separate group in the promotion process through the grade of commander in the Navy and lieutenant colonel in the Marine Corps. These officers are assigned to duty in their respective specialties and enable the Navy Department to meet the requirements for specialized technical management at a higher level than provided by warrant officers. The authority contained in section 5787 of title 10, United States Code has been used to provide for limited duty officer below zone selections in concert with those provided other officers. This authority will terminate September 14, 1978 under the National Emergencies Act.

The committee bill would allow the President to suspend through September 30, 1979 the operation of section 5751(c) of title 10, which prevents normal below zone selection of limited duty officers. The bill also amends 5787(c) to provide for temporary promotion of limited duty officers for the period through September 30, 1979 similar to the present authority for warrant officer temporary promotions. This provision is necessary to prevent grade revision for limited duty officers who have been previously selected and promoted under section 5787 of title 10.

INTERNATIONAL PETROLEUM EXPOSITION

The joint resolution (S.J. Res. 154) authorizing the President to invite the States of the Union and foreign nations to participate in the International Petroleum Exposition to be held at Tulsa, Okla., from September 10, 1979, through September 13, 1979, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to invite by proclamation, or in such other manner as he may deem proper, the States of the Union and foreign nations to participate in the International Petroleum Exposition to be held at Tulsa, Oklahoma, from September 10, 1979, through September 13, 1979 for the purpose of exhibiting machinery, equipment, supplies, and other products used in the production and marketing of oil and gas, and bringing together buyers and sellers for the promotion of foreign and domestic trade and commerce in such products.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. CRANSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1145), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE RESOLUTION

The joint resolution calls for the President to invite, by proclamation or in any other appropriate manner, foreign nations and the individual States of the United States of America to participate in the 1979 International Petroleum Exposition to be held in Tulsa, Okla.

BACKGROUND

The International Petroleum Exposition is sponsored by a nonprofit organization composed of major oil companies, petroleum and gas trade associations, and trade publications. For over 50 years it has periodically held trade fairs to exhibit products used in the production and marketing of oil and gas, and to bring together buyers and sellers of such supplies. Its purpose is to stimulate both the domestic and international sale of these products.

In 1975, the Congress acted favorably on a similar joint resolution which requested the President to extend invitations to the 1976 trade fair in Tulsa. Over 37,000 participants representing every State of the Union and 63 foreign nations attended that exposition. Inasmuch as the 1979 International Petroleum Exposition will feature enhanced recovery techniques, the organizers anticipate even larger attendance. Furthermore, as the United States is the largest producer of oil and gas drilling, transporting, refining and distribution materials, and the furthest ahead in petroleum technology, the organizers believe the fair will stimulate exports, thereby promoting the domestic economy and improving the Nation's balance of payments.

W. R. "BOB" POAGE PECAN FIELD STATION AND THE ROMAN L. HRUSKA MEAT ANIMAL RESEARCH CENTER

The Senate proceeded to consider the bill (S. 3467) to designate the U.S. Department of Agriculture Pecan Field Station in Brownwood, Tex., as the "W. R. 'Bob' Poage Pecan Field Station," and to designate the U.S. Department of Agriculture Meat Animal Research Center located near Clay Center, Nebr., as the "Roman L. Hruska Meat Animal Research Center."

Mr. HATCH. Mr. President, I ask unanimous consent that a statement by Senator TOWER be printed at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR TOWER

The Congress of the United States has few more appropriate occasions to honor its members than at those times when official names for public buildings are under consideration. Memorials to the great men who have served in the Congress, who have won the hard-earned respect and admiration of their colleagues and their constituents seems a small price to pay for the service they have given.

A bill we are considering today would provide permanent public tribute to one most deserving of the honor. I speak of my colleague and good friend from Texas' eleventh congressional district, Bob Poage. He is codean of the House, having served Texans in his district since the 75th congress, and the unquestioned "dean of good sense" in that fine body. He has been a voice of reason and studied eloquence in the legislative process for lo these many years. As a member of the House Committee on Agriculture since the beginning of the 77th Congress, and its chairman from 1967–74, in addition to other leadership roles, Bob Poage has helped shape every piece of agricultural legislation for nearly 4 decades. Such a record indeed speaks of a dedicated public official . . . one worthy of the public's lasting recognition.

S. 3467 would designate the U.S. Department of Agriculture Pecan Field Station in Brownwood, Texas, the "W. R. Poage Pecan Field Station." It is a tribute richly deserved. Bob Poage will be retiring at the end of this Congress. We could provide no more fitting recognition for such dedicated public service than to ascribe Bob Poage's name to this USDA facility. I urge my colleagues to join me in passing this measure.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3467

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

W. R. "BOB" POAGE PECAN FIELD STATION

SEC. 1. The United States Department of Agriculture Pecan Field Station in Brownwood, Texas, is designated as the "W. R. 'Bob' Poage Pecan Field Station". Any reference to such pecan field station in any law, regulation, map, or other record of the United States shall be held and considered to be a reference to the W. R. "Bob" Poage Pecan Field Station.

ROMAN L. HRUSKA MEAT ANIMAL RESEARCH CENTER

SEC. 2. The United States Department of Agriculture Meat Animal Research Center located near Clay Center, Nebraska, is designated as the "Roman L. Hruska Meat Animal Research Center". Any reference to such meat animal research center in any law, regulation, or other record of the United States shall be held and considered to be a reference to the Roman L. Hruska Meat Animal Research Center.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. CRANSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1153), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

SHORT EXPLANATION

The bill would authorize the naming of Federal facilities in honor of Congressman W. R. "Bob" Poage of Texas, and former Senator Roman L. Hruska of Nebraska, for their outstanding contributions to American agriculture.

BACKGROUND AND NEED

I.

The Pecan Field Station in Brownwood, Tex., would be renamed the W. R. "Bob" Page Pecan Field Station in honor of Congressman Poage. Mr. Poage has served in the House of Representatives since 1937.

In 1941, Mr. Poage was appointed to the House Committee on Agriculture, whereupon he left all other committees to serve solely on Agriculture. He was the committee's vice chairman from the 82d through the 89th Congresses and during the 94th and 95th Congresses. He served as chairman of the Agriculture Committee during the 90th through 93d Congresses.

Mr. Poage's reputation as an expert on virtually all aspects of agriculture is well established. Of great importance to Mr. Poage was the establishment of the Department of Agriculture Pecan Field Station near Brownwood, Tex. Although raising pecans is considered by some to be merely an avocation, in many areas of the country it is a large commercial business with significant impact on local populations. Mr. Poage is aware of the importance of this industry and was instrumental in the establishment of the field station, although it was not in his district at the time it was created. Through the years, he has been an avid supporter of the field station and as a result of his efforts, the station has had a significant impact on the industry and has been of particular benefit to the many small pecan farmers who use this as a cash crop.

The research station occupies 160 acres of land near Brownwood, Tex., and employs 12 persons. The station was established for the purpose of conducting breeding and culture studies on pecans with emphasis on the development of new varieties, the development of superior root stocks, studies of high density planting, and method of controlling pecan insects. The field station is also in the process of establishing a pecan germplasm repository. This will involve the collection and preservation of superior native and wild pecan seedlings that will be made available to pecan breeders for the development of superior future varieties.

II.

Roman L. Hruska began his service in the House of Representatives in 1953. After serving one term, he was elected to fill the vacancy caused by the death of Senator Hugh Butler. Born and raised in rural Nebraska, Roman Hruska kept his respect for, and belief in, American agriculture when he came to the Congress. He filled out the remainder of the unexpired term to which he was first elected to the Senate, and on his reelection in 1958, he began his first full term as a member of the Senate Committee on Appropriations.

In 1959, he began his service as ranking member of the Subcommittee on Agricultural Appropriations, and served on it continuously until his retirement from Congress in 1976. In that position, Roman Hruska represented the interests and concerns of agriculture and rural America. It was from this vantage point that he was to play the single most important role in the development and establishment of the U.S. Meat Animal Research Center.

While serving on the Senate Appropriations Subcommittee for Agriculture, Roman Hruska was quick to realize the problems and shortcomings of the Department of Agriculture in the field of livestock research and production improvements. Senator Hruska sponsored and supported efforts by the Department of Agriculture to centralize its research activities in livestock. His encouragement and interest in working with the Agricultural Research Service to establish a claim on Federal lands near Clay Center were instrumental in securing approval by the Secretary of Agriculture for the location of the facility in Nebraska. His dedication to the need for livestock research was rewarded, in 1964, by the passage of legislation to establish the Meat Animal Research Center in Nebraska.

The first appropriations for acquisition of lands and initial construction of the Center were provided in fiscal year 1966. Today, it occupies 35,000 acres of land in central Nebraska. It is now serving as the central location for Government research, development, and study of increased efficiency in livestock production, quality, and feeding; in disease control in livestock; and in virtually all other areas of concern in the production of livestock.

Animal scientists and veterinarians working at and through the Meat Animal Research Center study and test ways to develop superior strains of livestock; to control diseases and parasites affecting these animals; and to improve feeding and management practices that provide efficient production while avoiding or minimizing pollution due to animal wastes. Because of the longstanding efforts of Senator Hruska for the establishment of the U.S. Meat Animal Research Center, it is appropriate that the Congress rename this facility the Roman L. Hruska Meat Animal Research Center.

III.

The Nation has profited greatly from Congressman Poage's and Senator Hruska's dedication to agriculture. To name the pecan field station and the animal research center after these men would be an appropriate way to show appreciation for their tireless efforts. The committee members, as well as other Members of Congress, realize the outstanding contributions made by Congressman Poage and Senator Hruska to agriculture.

The committee is aware of the U.S. Department of Agriculture's general policy of not singling out individuals for recognition in view of the contributions others have made to a research facility. However, the accomplishments of men like Congressman Poage and Senator Hruska should not go unnoticed. Worthy individuals should be recognized for their services to agriculture and the Nation, and to have Federal facilities bear the names of such individuals is an acknowledgement of their contributions. This bill gives the Federal Government and its people an opportunity to honor these men.

INTERNATIONAL INVESTMENT SURVEY AUTHORIZATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2928.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 292) entitled "An Act to amend the International Investment Survey Act of 1976, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That section 9 of the International Investment Survey Act of 1976 (90 Stat. 2059) is amended to read as follows:

"SEC. 9. To carry out this Act, there is authorized to be appropriated $4,000,000 for the fiscal year ending September 30, 1979.".

SEC. 2. Section 4(d) of the International Investment Survey Act of 1976 is amended by striking out "his findings and conclusions" and all that follows through the end of the subsection and inserting in lieu thereof the following: "to the Congress an interim report of his findings and conclusions not later than two years after the date of enactment of this Act and a final report of such findings and conclusions not later than three years after such date of enactment.".

SEC. 3. Section 8(b) of the International Investment Survey Act of 1976 is amended—

(1) by striking out "It shall be the responsibility of the Council on International Economic Policy to" and inserting in lieu thereof "The President shall"; and

(2) by striking out "Council's" and inserting in lieu thereof "President's".

SEC. 4. The amendment made by the first section of this Act shall take effect on October 1, 1978.

Amend the title so as to read: "An Act to authorize appropriations for the fiscal year 1979 under the International Investment Survey Act of 1976, and for other purposes.".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate agree to the amendments en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments were agreed to en bloc.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendments were agreed to en bloc.

Mr. CRANSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR CONSIDERATION OF S. 3447 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow after the two leaders or their designees have been recognized under the standing order, the Senate proceed to the consideration of Calendar Order No. 1061,

S. 3447, a bill to strengthen the economy of the United States through increased sales abroad of American agricultural products.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. May I ask if that has been cleared with the minority?

Mr. HATCH. It has not been cleared yet. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MATSUNAGA). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized on tomorrow, the Senate proceed to the consideration of Calendar Order No. 1061, S. 3447, a bill to strengthen the economy of the United States through increased sales abroad of American agricultural products.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS FROM TOMORROW UNTIL 11 A.M. MONDAY, SEPTEMBER 11, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow, since the Senate will not be in session on Saturday, it stand in recess until the hour of 11 o'clock a.m. on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the Senator for yielding.

ORDER FOR RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered that the Senate stand in recess until 9:30 a.m. tomorrow.

The motion was agreed to; and at 6:16 p.m. the Senate recessed until Friday, September 8, 1978, at 9:30 a.m.

HOUSE OF REPRESENTATIVES—*Thursday, September 7, 1978*

The House met at 10 a.m.

The Reverend James E. Casey, St. Michael's Roman Catholic Church, Brandywine, Md., offered the following prayer:

Almighty God, we thank You for the gift of a new day. Help us to use this day for Your honor and glory. Make our thoughts, words, and actions pleasing to you. Give all Members the grace to act wisely as they use the gift of leadership for the common good. Holy Scripture states You are interested in justice, mercy, and compassion more than You are in holocausts and sacrifices, may these virtues be exercised in all deliberations of this body. You remind us that "unless the Lord builds the house they labor in vain who build it." Remove all vanity and grant grace as Members strive diligently to carry out the legislative responsibilities placed upon them. Oh, God grant these blessings so that "treasure may be stored in heaven where thief does not steal and moth does not destroy." We ask in the name of Jesus Christ our Lord. Amen.

CALL OF THE HOUSE

Mr. BAUMAN. Mr. Speaker, under rule I, clause 1, of the rules of the House, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Without objection, a call of the House is ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 729]

Abdnor	Bingham	Conable
Ammerman	Bolling	Conyers
Anderson, Ill.	Brodhead	Crane
Andrews, N.C.	Brown, Calif.	Davis
Archer	Buchanan	Delaney
Armstrong	Burke, Calif.	Dellums
Ashley	Burke, Fla.	Diggs
Beard, R.I.	Byron	Dingell
Beard, Tenn.	Chisholm	Dodd
Bellenson	Clawson, Del	Downey
Drinan	Krueger	Risenhoover
Duncan, Oreg.	Leggett	Roe
Edwards, Okla.	Lehman	Rosenthal
English	Lundine	Santini
Erlenborn	McCloskey	Sarasin
Fary	McDonald	Scheuer
Forsythe	McFall	Selberling
Fraser	McKinney	Shipley
Frey	Martin	Sisk
Garcia	Meeds	Symms
Gaydos	Metcalfe	Teague
Gibbons	Mikva	Thone
Goldwater	Milford	Thornton
Hansen	Miller, Calif.	Tsongas
Harris	Murphy, N.Y.	Tucker
Harsha	O'Brien	Udall
Hawkins	Pepper	Vander Jagt
Heckler	Pettis	Waxman
Heftel	Pike	Wiggins
Huckaby	Pressler	Wilson, Bob
Ireland	Preyer	Wilson, Tex.
Johnson, Colo.	Quie	Young, Alaska
Kasten	Quillen	Young, Tex.
Kemp	Richmond	

The SPEAKER. On this rollcall 331 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a concurrent resolution of the House of the following title:

H. Con. Res. 683. Concurrent resolution revising the congressional budget for the U.S. Government for the fiscal year 1979.

REV. JAMES E. CASEY

(Mr. STAGGERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STAGGERS. Mr. Speaker, I rise this morning to say a few words about our visiting chaplain, the Reverend James E. Casey.

Jim Casey's life is a modern-day Horatio Alger story. He is now pastor of St. Michael's Church at Brandywine, Md., but he was born and raised in my hometown of Keyser, W. Va. During the time of the depression, after he graduated from high school, his father died. Jim Casey had to start to work in order to help support the family. During World War II, he joined the Navy, and the Navy put him to work as an inspector at the Glenn L. Martin Airplane Co. As an aircraft inspector, he rose to one of the high positions with the Martin Co. While working in Baltimore, Jim attended Johns Hopkins University and earned a degree. Continuing his service with the Navy, Jim applied for, was accepted, and attended law school at night.

After receiving his law degree, Father Casey was requested to serve at the Pentagon, with the National Security Agency, in a high-level position. During his assignment with that agency, Jim Casey realized that "fame and fortune" were not his ultimate goals in life. He felt the highest calling one could have and the best job he might be able to do would be to serve his God through serving his fellow man. Jim realized in order to do this he would have to begin again—and he did just that. He accepted that great call; attended a seminary in Boston, and after 4 years was ordained as a full-fledged priest of the Gospel.

Mr. Speaker, today the Reverend James Casey is with us to deliver our morning invocation. I am very proud to have known him throughout the years and doubly proud because I had the privilege of marrying his younger sister.

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

DEPARTMENT OF DEFENSE APPROPRIATION AUTHORIZATION ACT, 1979—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95–377)

The SPEAKER. The unfinished business is the further consideration of the veto message of the President on the bill H.R. 10929, to authorize appropriations for fiscal year 1979 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes.

The question is: Will the House on reconsideration pass the bill, the objections of the President to the contrary notwithstanding?

The gentleman from Illinois (Mr. PRICE) is recognized for 1 hour.

Mr. PRICE. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, I shall try to say that which I have to say as succinctly as possible.

Following my remarks I shall yield to the ranking minority member of the Committee on Armed Services, Mr. WILSON, for his statement. Then I shall yield to Members on both sides to the extent time is available. Under the rules there is a limited amount of time, and a number of Members wish to speak. Therefore, I can only yield a brief allotment of time to each speaker; and in fairness to all, I shall have to oppose the yielding of any additional time to any one Member.

I wish to be fair to those who seek time to speak in support of the veto. But in that regard I shall have to yield first to members of the committee: Mr. DELLUMS, Mrs. SCHROEDER, Mr. CARR, and others who seek recognition

Mr. Speaker, it is with great reluctance that I oppose the President and find it necessary to ask the House to pass a bill over the President's objections. My reasons for doing this are spelled out in my letter to the President, which has been made available to all Members of the House.

As I stated in that letter to the President, my principal concern is with the failure of the administration to recognize the place of Congress as a partner in determining defense policy.

Nowhere does the veto message recognize any worthwhile contribution by the Congress to a strong defense. Nowhere does the veto message recognize any of the positive additions in H.R. 10929. Nor does it acknowledge that Congress identified over $1.5 billion of unneeded funds in the President's original request. These are programs where the funds could not be spent in fiscal year 1979 if authorized and appropriated because of program changes or contract modifications.

The veto message uses cost figures which are sometimes questionable, sometimes demonstrably incorrect, and are almost always confusing.

On the aircraft carrier, the administration position has vacillated between support of a conventional carrier this year, opposition to any carrier, and support of a conventional carrier next year.

The administration loosely makes statements that a conventional carrier can be built for $1 billion less than a nuclear carrier. The administration is publicly stating a cost estimate for the conventional carrier although it does not have a design or even a single blueprint for such a carrier. Yet somehow the cost estimate stated by the Pentagon for the conventional carrier in the last 2 weeks is $95 million less than what was stated to the committee several months ago.

Such statements cast grave doubt upon the credibility of administration spokesmen and the amount of substantive review accorded the bill by the White House.

I think it hurts the administration's credibility to have the Pentagon publicists writing letters to newspapers charging the Congress with billion-dollar mistakes.

I think the President is mistaken about the aircraft carrier.

If only one more large carrier is to be built, the nuclear carrier is clearly preferable.

If only one more large carrier is to be built, the cost of a custom-made conventional carrier would be close to that of the present nuclear carrier.

I think the President was ill-advised about the bill. H.R. 10929 does improve our defense capability.

I think it is wrong to say that the congressional action hurt NATO. No one has been able to point out where the bill would weaken NATO.

Between the House and Senate there were $280 million in reductions of certain development items related to NATO that were reclaimed by the Secretary of Defense. The conference restored all but $50 million of those items.

It is wrong to say the bill cut needed equipment for the Army and Air Force. When pressed for specific cases, the administration cited a $30 million cut in obsolete armored personnel carriers for war reserve stocks as one of its highest priorities for restoration.

The veto message is wrong in saying that this bill hurts military readiness.

Have you read any statement by the Joint Chiefs of Staff supporting this veto? Has anybody heard from the Secretary of the Navy on this veto?

No.

We are hearing mostly from young civilian staffers and publicists who became experts in the legislative process yesterday.

It will be said now by administration apologists that the only issue is the aircraft carriers. Now they want to limit consideration to the carrier. I suspect the President's advisers are experiencing a bit of procedural sorrow because of the confusing advice and incorrect information they gave to the President. So they want to narrow the discussion to the aircraft carrier.

But the veto message does not say that. That is not the message that was beamed to millions of Americans on their TV screens or that is being served up at Pentagon press briefings.

The message that the public saw and heard was that Congress cannot do anything right on defense; that Congress took steps to weaken defense.

The message the American people received was that Congress voted to hurt readiness, to hurt NATO, and to cripple our R. & D. program.

I say to you that Congress did not do that.

I state emphatically that at no time during committee hearings or conference did we discuss deliberately cutting programs to make money available for an aircraft carrier.

This bill will not in any way result in a reduction in combat capability. This bill does not cut muscle out of our national defense.

If we sustain this veto can we create a better bill? I do not believe that we can. I do not think we would produce as good a bill in the next few weeks as we produced in H.R. 10929 after months and months of hard work.

If you vote to sustain the veto, you will be telling the American people that they can believe the message they heard from their TV's. You will be telling them that Congress was ready to cut the muscle of defense; that Congress cannot be trusted as a partner in determining defense policy.

Finally, I would like it understood that what we are considering here is the proper course of action on a particular bill, and Congress place in the defense policy process.

I do not believe a vote to override would cause any permanent difficulties for the President or weaken him in his dealings in other areas. Many Presidents have had vetos overridden but have gone on to be effective Presidents and to get reelected.

But I do think a vote to override the veto will be a message to the world that the United States is not prepared to let its defense capabilities be reduced and that our potential adversaries cannot afford the misconception of doubting our willingness to meet our national security commitments.

I have served in public office for more than 40 years, and in this House for more than 32 years. Through all of my years in this House it has been my lot to have special responsibilities regarding national security. I have always worked to strengthen our national security, and I have worked in this area with every President since Harry Truman. It is not pleasant for me to have to oppose a President now.

If this veto is overidden, as I hope it will be, I will greet the result not with any sense of joy, but only with the belief that we in the House have performed our duty.

Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. BOB WILSON).

Mr. BOB WILSON. Mr. Speaker, I thank the distinguished chairman for sharing time on this very important measure.

I yield 3 minutes to the gentleman from Virginia (Mr. WHITEHURST).

Mr. WHITEHURST. Mr. Speaker, I would like to begin this morning by recalling to this House the words of Winston Churchill uttered in the House of Commons over 40 years ago. In this moment of high drama he said:

> Listen—listen carefully. I think I hear something. Don't you hear it? It is the sound of marching men, the tramp of 2 million Germans and 1 million Italians crunching the gravel of parade grounds, splashing through rain-soaked fields.

Mr. Speaker, in this House this morning, we could paraphrase that and say:

> Listen carefully. Do you hear the sound of bosun's whistles, nautical commands, in a language that until recent times has never been heard of on the seven seas?

What is really at stake here is whether or not we are going to succeed in projecting American naval power abroad.

Yes, the heart of this veto, the heart of this veto, I say, is the *Nimitz*-class carrier that this House voted to include in this Defense budget. Some of us have said, "Well, it is too much money."

For the price of this ship, for the price of this vessel, you cannot acquire three modern destroyers. You cannot acquire four modern attack submarines; so the point is that if you think you are going to get some cheap ships by knocking out this money, then you are just being led down the primrose path. Nothing so projects American power in the world as this warship. There is no platform that has the firepower on it as this carrier does.

This administration has pledged this House first 30 ships a year, then 15. We gave them everything they wanted in this budget and we added this ship. I think that the American people who want us to remain strong will endorse the earlier action of this House in preserving this vessel in the budget and will endorse it this morning in overriding this veto.

Mr. PRICE. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. CARR).

Mr. CARR. Mr. Speaker, what we have here today is what seems to be a semiannual event in the Congress. It is the semiannual armed services "death dance."

The Committee on Armed Services, continuing out of step with the Congress of the United States, has once again managed to slip by the Congress a nuclear carrier which this House, has voted against on two occasions in this Congress.

It is true that the record is unclear. It is true that on other occasions the House has voted for the carrier, but I contend to my colleagues that this House has never taken the firm, unequivocal kind of position on a nuclear carrier that the proponents of override and the advocates on the Committee on Armed Services Committee are proposing to us today.

This is not a constitutional crisis. The vocates of override will tell us that the President is slapping the Congress in the face, that the Congress no longer has any role in military policy. Nothing could be further from the truth. The Congress is a constitutional partner in the formulation of military policy, but what the advocates of the override fail to tell us is that there is another portion of the Constitution which says that the President of the United States is a partner in the legislative process, and he cast his vote, through the veto, "no," because of the nuclear carrier. We simply are not the rubber stamp of the administration, but the administration is not the rubber stamp of the Congress.

So here we are today, and the issue is the nuclear carrier, not constitutional confrontation. Administrations, beginning with President Ford and his Secretaries of Defense and continuing to the administration today and the Secretary of Defense, have all been opposed to the nuclear carrier.

Also there is the issue of carrier vulnerability.

Mr. Speaker, I hear the veto opponents claiming you cannot count the $200 million vulnerability reduction cost against the large carrier, because the conference turned that down. That is OK if that is the kind of carrier you want, although the Secretary of the Navy says if he has to take a CVN he would rather have the survivable one. But then I also hear the veto opponents claiming the CVV is more vulnerable than the CVN.

You cannot have it both ways. The Navy vulnerability study shows that in almost every case the CVV is much less vulnerable than the unimproved CVN. Under a typical threat wherein the CVV has a 10 or 20 percent chance of being taken out of action, the unimproved CVN has an 80 or 90 percent chance, and I have all the vulnerability curves here for anyone to look at. So you are proposing to spend more money for a more vulnerable ship.

Do not make the mistake of regarding this carrier as the only one in our future fleet. We are going to have four large nuclear carriers no matter what we do in this bill. Never in history has there been a requirement for an aircraft carrier to exercise its unique capability to steam for thousands of miles and then engage in battle without resupply. We have never needed a carrier to do this in the past, and I am willing to bet we never will in the future. But if the occasion does arise, we will have four carriers which can fill this bill. You do not need to have every ship capable of every mission, particularly when the mission is both the most expensive and the most improbable imaginable.

Mr. BOB WILSON. Mr. Speaker, I yield 3 minutes to the gentleman from Tennessee (Mr. BEARD).

Mr. BEARD of Tennessee. Mr. Speaker, I rise in support of overriding this veto.

I must say that it comes somewhat as a surprise to me, as I think to the rest of the Members of this body, that we have received the President's veto on this particular part of the defense authorization bill. The President had many opportunities to let this body and also the Senate know that he would veto this particular piece of legislation if the nuclear carrier were included.

I must say I was extremely offended when one of his Deputy Secretaries appeared on television in my district saying that Congress acted irresponsibly by putting $1.9 billion into this budget for a nuclear carrier when it should have been used to strengthen our forces in NATO and other areas of importance. What the administration fails to say to the American people, though, is that they plan on spending $1.7 billion for a conventional carrier, even after a 1-year study which concluded the nuclear carrier was much more cost effective and twice as strategically valuable as the oil powered, conventional carrier.

If there is any question at all about the administration's intention to replace this nuclear carrier with a conventional carrier—and I have not heard any of the proponents of sustaining the veto mention this—I would like to refer to a memo from the Chief of Naval Operations, Admiral Hayward, who states that we have got to have a replacement for the *Midway* carrier immediately, and that the replacement must be at least as capable as the ship replaced. Then he goes on in his interdepartmental memo as follows:

> The President remains committed to a replacement carrier in the fiscal year 1980 budget. I see little likelihood that there will be any wavering on this issue, and the Secretary of Defense has reiterated the President's commitment to a fiscal year 1980 carrier in the wake of the veto action.

What they say is that we need the $1.9 billion for NATO and for strengthening forces in other critical areas, but they do not tell the American people that the administration has committed to spend $1.7 billion for a conventional carrier. And that estimate is unstable as far as the price goes, because the conventional carrier is not even on the drawing board.

It would be past 1980 before they could even start construction of a conventional carrier. We do not know when we could even start construction. The fact of the matter is that the *Midway* is 40 years old. We need a carrier to replace it immediately, and we have the plans and the design for the nuclear carrier.

I think it is irresponsible for us to sit back and say, "Let us study it; let us continue on and develop new plans."

Mr. Speaker, I think the President and this administration have been extremely misrepresentative of the facts in trying to say that the Congress acted in an irresponsible way by taking $1.9 billion and spending it on a carrier versus spending it on other needed items when the President plans to support, and also has assured the Chief of Naval Operations that he will support, the building of a $1.7 billion conventional carrier. This administration has once again committed the ultimate in hypocrisy.

Mr. PRICE. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. BENNETT).

Mr. BENNETT. Mr. Speaker, this carrier is needed. The President, and everybody, agrees that we must have 12 carriers and that there will be a need to replace one of them before the year 2000 because one carrier—the *Midway*—will soon be too old to use safely. The question is: What is the best kind of carrier to get?

The gentleman from Michigan said there was some vacillation on the part of Congress. Actually, there is very little vacillation on the part of Congress. Last year there was a dispute and a deferral. That was resolved by a law which provided for a Navy study to see what kind of carrier we should build. The study came in this year from the Navy and said that the nuclear carrier was the most cost effective, the most combat effective, would save the most lives, and would be the best for the dollar that we could put in for our national defense.

The kind of carrier is really at issue. The President has said that there should be another carrier to replace the *Midway*. Everybody agrees there should be this one replacement carrier. All of the defense studies show that this replacement carrier should be a nuclear carrier. The studies of the National Security Council, the studies of the Joint Chiefs of Staff, the view of the Chairman of Naval Operations, Admiral Holloway, all give top priority to the nuclear carrier. If we are going to have a carrier, it ought to be the nuclear carrier.

There was a recent speech at Annapolis by the Secretary General of NATO saying that one of the things that worried him most in NATO was the vacillation and weakness about just such issues as this. He mentioned the nuclear carrier specifically. I had a hard time getting a copy of that speech, but I finally did, and it certainly justifies the belief that NATO is very much concerned about having adequate carriers on the flanks of NATO.

The President in his speech said we need more flexibility and that Congress should return the ships requested in the budget. We did not cut a single ship. We gave him every ship he asked for and indeed added the nuclear carrier. He obtained more flexibility, not less, by the bill we passed. I urge that the President's veto be overridden.

Mr. BOB WILSON. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. HILLIS).

Mr. HILLIS. Mr. Speaker, unfortunately, in the heat of the debate, the time perhaps is not apt to discuss the issue here; but certainly I think that my colleagues who have preceded me in the well on both sides of the aisle have made a very strong case for the need for this carrier. I would say what we are voting on here today is whether America is going to maintain and still remain a first-class naval power in the world in the future. The building of ships—and I am not a technical expert on these matters—as I understand it, is not something you turn on and turn off on short notice. This is a very important decision we are making here, and we are not voting for this year's budget, for this year's Navy; we are voting for the size of the Navy up to the year 2000 and whether it is going to be comprised of 12 effective carriers or not. For that reason I think this vote is something that should not be taken lightly. It is something that cannot be reversed and easily put off until the next year or the year after. I can tell the Members that if it is put off, it is going to cost more. If we are going to remain a first-class naval power, in light of the growing naval strength of the U.S.S.R., we are going to be spending this money some day. The question is how much are we going to spend. Are we going to face up to reality today, when the shipyards are intact, when the workers are there? Or are we going to buy some of the never-never land and say that we will do this some day and we will put it all back together when we need it? And when we do that, if we can do it, it will cost a great deal more than if we do it now.

I want to analyze for the Members for just a second some statements which I found unfortunate in the President's veto message. He gave the idea to the American public, certainly, that we are not doing enough for NATO. I think this is misinformation, and I do not use that word lightly because I think those who advise the President know better. Certainly the truth is that one of the facts is that we cut back eight helicopters, which eliminated $45 million for these helicopters.

The truth is we did cut back these helicopters, but they had been requested for the Korean forces and they had nothing to do with NATO. The only thing that was done was that better models would be purchased at a later time. The bill did cut $170 million from the XM-1 program. This was requested by the Department of the Army, due solely to renegotiations with primary and subcontractors. That was not needed right now because of these negotiations.

The fact of the matter is that the committee, after holding hearings, added other types of combat vehicles to be used by our NATO forces, and they were included in the bill even when they were not requested, and were turned down.

In summary, Mr. Speaker, the President's veto statement was highly inaccurate. The committee worked long and hard on this bill and certainly considered each separate procurement item on its own merits. There were no trade offs. Therefore this veto should be overridden.

Mr. PRICE. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent to reserve my time.

The SPEAKER. Does the gentleman from California (Mr. DELLUMS) realize that it is at the discretion of the chairman of the committee?

Mr. DELLUMS. That is why I made the request.

Mr. PRICE. Mr. Speaker, I think it would be a little difficult to operate under that basis, of reserving time during a limitation.

Mr. DELLUMS. Mr. Speaker, I withdraw my request, and I will accept the time.

The SPEAKER. The gentleman from California (Mr. DELLUMS) is recognized for 2 minutes.

Mr. DELLUMS. Mr. Speaker, Members of the House, 2 minutes is not adequate time to discuss this matter. One hour is not adequate time to discuss this matter. The gentleman from California has spoken many times against this nuclear aircraft carrier. All of us know that it is a sitting duck, a $2 billion turkey.

The President exercised his wisdom and judgment and has vetoed this bill in an appropriate fashion. It is simply my hope that a majority of the House will sustain the veto. I take it that some Members are proposed to overriding a veto and support the position of the President. It is my hope that this group is sufficient to do so. All of the statements that have been made by the President are not statements that I subscribe to. Some of them I think are unfortunate in certain areas, even to me.

This committee has tried diligently in some areas to make cutbacks, but I cannot go along with a $2 billion turkey in the atmosphere of saving the people's money. Why do we not save $2 billion? I do not see why this is going to add anything to our arsenal or beat back communism or face up to the world. It seems to me that we ought to be redirecting the money into the real problems of the American people rather than having another carrier floating around the high seas to maintain the so-called political presence of the United States.

Mr. BOB WILSON. Mr. Speaker, I yield 3 minutes to the gentleman from Alabama (Mr. EDWARDS).

Mr. EDWARDS of Alabama. Mr. Speaker, I rise in support of the veto, and I urge my colleagues to sustain the veto. We have debated this issue at some length on a number of occasions. Putting my position very briefly, I think there are better places to spend $2.5 to $3 billion of the taxpayers' money.

We talk about this carrier as if it is the only carrier we have got. We have got four nuclear carriers by the time the last one comes off the ways. We will have 8 nonnuclear carriers, and we will have 12 out there on the high seas. I think that in view of that, we need to be building other ships and we need to be putting more money into readiness.

What we have done basically, in round numbers, is to take some $1.2 or $1.3 billion out of the Army and Air Force and put $1.2 or $1.3 billion in the Navy budget so that we can find the money for this carrier. I think that is the wrong way to go.

I know why the committee is so frustrated and why the Congress is so frustrated, and I share that frustration because the truth is that we have not had any direction whatsoever from the White House. We are only talking about 15 ships

this year when we ought to be talking about 30. If this veto is sustained, I hope the committee goes back and puts some other ships in the bill that we can use. I do not think we can best use our money by building this one ship. In that connection I would like to submit for the RECORD various combinations of ships that can be built for the price of one nuclear carrier:

Combinations of Ships Which Could Be Bought for $2.5 Billion:

(1) 1 CGN–42 cruiser (Aegis).
 1 SSN–688 submarine.
 4 FFG–7s frigates.
(2) 1 FFG–7 frigate.
 1 DDG–2 destroyer conversion.
 1 DDG–47 destroyer (Aegis).
 1 aircraft carrier slep (service life program).
 1 DD–963 destroyer.
 1 SSN–688 submarine.
(3) 1 DDG–47 destroyer (Aegis).
 1 DD–963 destroyer.
 7 FFG–7 frigates.
(4) 4 FFG–7 frigates.
 1 DDG–47 destroyer (Aegis).
 1 DD–963 destroyer.
 1 SSN–688 submarine.
(5) 13 FFG–7 frigates.
(6) 3 DDG–47 destroyers (Aegis).
(7) 8 DD–963 destroyers.

This carrier question has been equated with the President's decision on the B–1 bomber and equated with the President's decision on the neutron weapons. I think the President was dead wrong on the B–1 and the President has been dead wrong on the neutron weapons, but we need the B–1 because the old B–52 is about to fall apart. We need the neutron weapons because we do not have any in our arsenal like that, and it is a good weapons system that will do a good job.

But, we have got 12 carriers—we have got 12 carriers, 4 of which are nuclear, and this world is not going to rise or fall today or next year on whether we provide one more carrier at this time. Let us take that $2.5 or $3 billion and let us put it into good military hardware that will get our readiness up and get more ships in the oceans of the world. If we do that, we will have a better military posture as we face the Russians or anybody else in this world.

Mr. Speaker, the question today is not whether we will have a nuclear carrier or a conventional carrier. The question is whether we need another carrier in view of our many other defense needs. We are told that next year, if this veto is sustained, the President will include a conventional carrier in his budget. In truth we do not know much about that smaller carrier. Certainly I want to know much more about that carrier before I will commit to support it.

Mr. Speaker, for these reasons I will vote to sustain the President's veto.

Mr. PRICE. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Speaker, I am pleased to follow the distinguished gentleman from Alabama, who is my minority counterpart on the Subcommittee on Defense Appropriations, and I agree with the philosophy which he has expressed.

The carrier is really the issue before the House. There are a lot of collateral matters, but it is just the matter of the carrier that we are concerned with principally. The question is: Shall we in 7 or 8 years have another nuclear carrier? It will take that much time in which to construct the carrier. I would say that this is not a life or death decision at this time.

I would say something else: That this issue is not something that is novel or recently raised. In the full Appropriations Committee we had a vote on eliminating the carrier from the Defense Appropriation bill, and the vote to eliminate it was 26 to 26. So this is a question on which there is a division of opinion in the Appropriation Committee and in the Congress.

It has been said that the President vetoed the wrong bill. I am glad to see some attention given to authorization bills and that attention should be extended to all areas of Government spending. We cannot realistically hope to hold the line on spending, move toward a balanced budget, and combat inflation if we are not constantly aware of the dynamics of the entire authorization and appropriations process. The authorization bills represent the starting point in the legislative process and are often the genesis of spending momentum.

The real issue here is the carrier and this is the bill in which to address the matter.

Mr. Speaker, we can have only one President at a time. I have not always agreed with Presidents but I have never wanted to tear them down. Democrats and Republicans do not wish to destroy the effectiveness of the President of the United States while he sits in the shadow of the Summit Conference on the Middle East. We are spending more than $2 billion a year in the Middle East, $1.5 billion goes to Israel. I would hate to see this House repudiate the President and bring him to his knees at a time when he needs all of his strength if he is to make a maximum contribution to the cause of settling the issues in the Middle East.

So it seems to me that is is a day when we should support the President rather than destroy further the influence which he should yield as the President of this Nation.

Further, I would hope that we would not take steps to generate additional inflation which is causing so much hardship and disharmony in the Nation and in the world. We need to resist the impulse to spend the taxpayers' money on nonessential programs.

I would hope that we would recognize that building this carrier and finishing it up in about 7 or 8 years from now is not vitally related to our national security. If war comes with the Soviet Union, whether we have 12 or 13 carriers will not make the difference. The carrier will not be that important in a war with the Soviet Union. In a conflict which does not involve the Soviet Union, we already have a sufficient number of carriers.

I rise in support of the President's veto and urge the House to sustain the veto.

Mr. BOB WILSON. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. TRIBLE).

Mr. TRIBLE. Mr. Speaker, I rise in support of the motion to override the President's veto of the Defense Authorization Act of 1979. President Carter has intruded into defense planning in an unpredictable and arbitrary way and threatens to destroy a very carefully crafted bill which satisfies the immediate defense requirements of the United States.

This veto is a reminiscent of the President's decision to terminate the B–1 bomber, defer the development of the neutron bomb, withdraw troops from South Korea, transfer control of the Panama Canal, and reduce naval shipbuilding by 50 percent over the next 5 years. Aside from the very strong national security arguments that can be advanced against each of these decisions, I am concerned that the pattern of these decisions has convinced the world that the United States is retreating from its worldwide commitments. That impression invites only Soviet initiatives and causes instability and turmoil in the world.

This morning, I would suggest that it is necessary to keep in mind one simple fact. While President Carter objects to the congressional decision to spend $2 billion on a nuclear aircraft carrier, his administration has already announced plans to include a nonnuclear carrier in its next budget request. The whole issue is, merely, this year or next year, and conventional or nuclear?

Everyone agrees that the nuclear carrier is a more capable fighting ship and is more survivable than the nonnuclear carrier. Also, the nuclear carrier is more cost effective. A $2 billion new nuclear carrier takes about one sixty-third of the defense budget. It would be built to the proven pattern of three sister ships. The smaller oil-burning carrier which the President promises would not be. Inflation and cost overruns would make it as costly to procure as the nuclear carrier, taking no account of the significant oil costs that must be added to propel this ship.

It is important that we procure a carrier in fiscal year 1979. If we delay the procurement of this ship we will risk losing the skilled manpower and shipyard capacity necessary to build a carrier and this will only dramatically increase the cost of any carrier built in the future.

Moreover the procurement of the carrier in fiscal year 1980—as suggested by President Carter—will force a jump of more than 20 percent ($7.2 billion) in the fiscal year 1980 budget for weapons procurement and research and development.

Construction delays in the Trident program and flexibility in expanding production of new weapon systems have made it possible for the Congress to authorize the construction of a new carrier this year without adversely affecting other programs or adding substantially

to defense spending. However, the circumstances will be different next year. Procurement cannot be delayed further for F–16's for NATO, new missile and weapons systems to modernize the Air Force and Army, and—with the elimination of the construction backlog—an additional $1.2 billion Trident submarine.

I seriously doubt whether our economy could absorb a $7.2 billion boost in weapons spending without significantly increasing the rate of inflation. Yet, that is exactly what we will be doing if we defer buying an aircraft carrier until next year. Alternatively, failure to override the veto will force cuts next year in domestic programs and delays in buying other weapons systems such as the MX missile. I hope you will agree with me: We cannot have guns and butter next year if we do not buy a carrier this year.

For these reasons and for the many other reasons advanced by my colleagues here today, I urge the House to override the President's veto.

Mr. PRICE. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. LLOYD).

Mr. LLOYD of California. Mr. Speaker, I rise to support the veto override, which comes, as I am sure, as no surprise to most of the Members here. But I would like to say that, as bad as it may be, clearly I am the person who has had the most experience as far as those of you who are on this floor with respect to carrier aviation and carrier operations. Which does not mean to tell you that I am a paragon of carrier knowledge or that I am the only knowledgeable speaker because that is simply not so. There are a lot of good men who have worked on carriers, and who are certainly better prepared and have a better understanding of a carrier's capabilities than I was, but the fact remains that we are not dealing with the issue of just a carrier, we are dealing with an issue of national defense. It is not my fault that the President chose this time to veto this bill when he faces the problem of a summit meeting and when he faces an energy problem. I did not mandate that timetable, he did. Now, if he cannot handle it, that is his problem, and I would add that I am for him, I support the President, but I think he is dead wrong and for the wrong reason with regard to this issue. The issue is our national defense. If you are going to cut here, where are you going to stop? We have gotten rid of the B–1, we have gotten rid of the neutron bomb, we have gotten rid of this and that, and each time we want to do it next year, and next year, and next year. I want you to know something, Members, and that is that next year is here, now. The time to talk about national defense is now. I am saying that on the basis of my background and experience as a person who has operated on and with carriers. A nuclear carrier is the right kind of carrier and the right time to do it is now. Now is the time.

Therefore, Mr. Speaker, I think we should go forward and override this veto.

Mr. HAMMERSCHMIDT. Mr. Speaker, will the gentleman yield?

Mr. LLOYD of California. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Speaker, I wish to associate myself with the remarks of the gentleman in the well, Mr. LLOYD. I know of his personal knowledge and experience with our naval aircraft carrier system. At this time I wish to call to the attention of my colleagues a well-written article from today's Wall Street Journal. It calls attention to the "trick mirror maneuver" used by the White House in vetoing H.R. 10929.

ADMIRAL RAFSHOON

"It's not just talk, Congress cut muscle for another layer of fat." So Gerald Rafshoon, Atlanta adman and student of the defense budget, instructs John Stennis, Melvin Price and other greenhorns who don't understand President Carter's veto of the defense procurement bill.

Admiral Rafshoon's military career has been the most meteoric since Gilbert and Sullivan's Ruler of the Queen's Navie, and he should be duly rewarded with the Order of the Cardigan and the title Lord Get Tough for helping to engineer a supposedly image-enhancing veto. But as Congress votes on the move to override, something is shaping up beyond cosmetic politics. If the veto is sustained, it will be largely through the votes of Congress's scrap-the-Pentagon bloc.

Critics of the veto in Congress include not only Armed Services Chairmen Stennis and Price, but Sen. Gary Hart, the chief apostle of a more-but-smaller-ships navy. Some who oppose nuclear carriers don't think the veto was procedurally wise, since it will reignite congressional debate on the bill's compromises and slow all military improvements. The President can count on the support of partisan loyalists like Speaker O'Neill, on votes for sale for dams or breeder reactors, and on the bloc that thinks slowing military improvements is a good thing. But among Congressmen sensitive to the merits of the issue, the administration has lost the debate.

This is scarcely surprising, considering the quality of the argument the administration has been advancing. We have already remarked on how in announcing the bill the President assailed Congress by confusing authorization bills and appropriation bills. He also remraked, "I have not had a single adviser who told me that we ought to go ahead with the nuclear aircraft carrier." We wonder if the President ever met his just-retired Chief of Naval Operations, James Holloway, who publicly testified in favor of another Nimitz-class boat last April.

Then there is the administration's persistent claim that the nuclear carrier would cost $1 billion more than the oil-powered version it wants. Some $268 million has already been spent buying the nuclear components for a new ship, and Congress figures it could finish the job for another $1,930 million. The oil-powered ship is estimated at $1,575 million. The nuclear ship comes with a 13-year fuel supply, worth $330 million in oil at current prices. Treating sunk costs as sunk, and adjusting for fuel included in one purchase price but not the other, the vastly more capable nuclear ship costs only $25 million more.

How this becomes $1 billion was explained in a letter last week from Thomas B. Ross, Assistant Secretary of Defense for Public Affairs (and, in a former incarnation, co-author of "The Invisible Government," one of the first sensationalist assaults on the CIA): The nuclear components will be stored in case one of the present nuclear carriers breaks down, so add the sunk costs back into the nuclear purchase price. Forget fuel costs, because there are also the operating costs. Add in $200 million to put certain equipment contemplated for the conventional ship on the nuclear one as well. When you have done all this, $268 million plus $330 million plus $200 million plus the original $25 million, you get $823 million. Close enough for government work, call it $1 billion.

Now, there have been detailed life-cycle cost studies of the two carriers, most conveniently summarized in Admiral Rickover's April testimony. Including all operating costs and aircraft, the nuclear option costs 1.38 times as much as the conventional one over their respective lifetimes but the nuclear ship provides 1.45 times as many aircraft. Per plane, nuclear is 5 percent cheaper. And the nuclear ship is faster, freer of a logistical tail, more able to defend itself, and more able to sustain combat damage.

All of these calculations, further, are likely to be dwarfed by a simple industrial fact. Plans, facilities and construction crews are primed to build a follow-on Nimitz-class boat as soon as the one now under construction is launched. The design of the oil-powered option is not even complete; in the end its estimated $1,575 million cost is altogether likely to work its way above the $1,930 million for the nuclear version.

The administration's contentions are simply unsustainable on the merits, which explains why it chose the essentially unprecedented route of vetoing the whole defense procurement bill. It could have asked for a simple recision without upsetting the rest of the bill, a course it took last year. But to get a recision it needs a majority in both houses, while it can sustain a veto with a third in either. And a third is an easy target because, despite much healing of the Vietnam trauma, there are still a significant number of Congressmen prepared to vote against anything military.

In pursuit of Mr. Rafshoon's "tough" image, the administration is striking an alliance with the antimilitary faction in Congress. Meanwhile, it charges that Sen. Stennis and the rest are soft on defense. By now it should be clear that the electorate wants not cosmetics but a stronger defense, and Congressmen who lend themselves to the administration's trick-mirror maneuver should be called to account in November.

The article of course, speaks for itself. Mr. Speaker, I shall vote to overide the veto.

Mr. BOB WILSON. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I rise in opposition to the Presidential veto of H.R. 10929, the Defense Department authorization bill for fiscal year 1979 and urge my colleagues to support the construction of the nuclear carrier. It is economical, it is cost effective when we compare the cost of construction and add the fuel cost, the two carriers are virtually equal.

Among the important authorizations contained in this measure is approximately $2 billion targeted for a *Nimitz*-class nuclear aircraft carrier (CVN). The President's veto would cancel this much-needed carrier.

It is a veto which undercuts the strength of our Nation's defense preparedness and is not, as the President would have us believe, a cost-effective

measure which would save defense dollars.

After carefully reviewing the arguments both for and against the proposed nuclear carrier, I can only conclude that the overwhelming weight of the evidence supports—in the name of both a strong Navy and cost-effectiveness—construction of this nuclear carrier.

While the administration has launched an attack on the nuclear carrier as too costly and unnecessary, it still supports construction of a conventional carrier (CVV) claiming the economy and effectiveness of such a move as opposed to building a nuclear-powered vessel.

The President's claims, however, do not stand up to close and careful scrutiny. The initial comparison of construction costs, $2 billion for the nuclear carrier and $1.575 billion for a conventional carrier, scratches only the surface of a cost analysis of both ships. The costs of the CVN include sums for approximately 13 years of nuclear fuel. The price tag for the CVV does not include fuel costs; however, estimates for 13 years worth of fuel would add approximately another $330 million to the cost of the conventional ship.

Moreover, the administration supported vessel has not yet been designed. By the time such design is complete and submitted, and the Newport News shipyards, where such ships are built, shifts gears for such construction, delays and prohibitive cost overruns will be unavoidable. On the other hand, as the Wall Street Journal points out in an August 28, 1978, article, Newport News is currently completing the *Vinson*, a nuclear carrier such as the one in the measure before us, and thus, construction of the nuclear vessel would not meet those construction delays awaiting the Carter-supported conventional carrier.

Furthermore, although the administration first proposed inclusion of the conventional carrier in the current—fiscal year 1979—it then revealed its support for inclusion of such a carrier in next year's—fiscal year 1980—budget. Yet, with no official proposal and thus no design available, inflation would certainly increase the original estimate of $1,575 billion by the time construction got underway.

Beyond these important cost considerations' the CVN is far superior to the CVV in terms of hitting power and dependibility. Compared with the 95 planes the larger vessel can hold—(including our newer and larger fighter planes)—the conventional vessel could accomodate only 64 aircraft. The larger carrier is less vulnerable to foul weather, with operation in the North Atlantic, for example, being forced to shut down only about 12 percent of the time, as opposed to about 21 percent of the time for the CVV. The larger carrier would not need the frequent fuel replenishments required by a conventional ship. The CVN also is capable of carrying up to three times the stocks of aircraft fuel and munitions its conventional counterpart can handle.

Writing in the August 27th, 1978, Washington Post, Pulitzer Prize winning columnist, George F. Will stated:

> Exhaustive studies demonstrate that large carriers are more survivable than the small carriers the administration favors.

Moreover, Will asserts that the utility of carriers was underscored when the United States lost all Korean bases in the first 5 days of that war.

There is a clear need for carriers to help maintain adequate force levels in the Southern Pacific, especially if the administration succeeds in reducing U.S. ground strengths in South Korea, and to buttress NATO strength levels in the Mediterranean area so that both friend and foe clearly recognize the U.S. commitment to necessary defense obligations.

The President has also stated that by providing $2 billion for the nuclear carrier, Congress has cut needed muscle in other areas of the defense budget. Unfortunately such statements are inaccurate. Claiming the bill contains an $800 million reduction in weapons and equipment for the Army and a $200 million cut in weapons and equipment for the Air Force is clearly at odds with the facts that this legislation cuts only $188.7 million in such funds for the Army—over $127.4 million being saved in the Army XM-1 tank program; the Army having informed Congress that this sum was not necessary as a result of contract modifications—and actually increased Air Force funds in this area by $80.2 million.

Mr. Speaker, for these reasons I believe that the President has unjustifiably vetoed an important and well-balanced, defense budget. Accordingly, I urge my colleagues to support the vote to override this veto.

Mr. BOB WILSON. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. MITCHELL).

Mr. MITCHELL of New York. Mr. Speaker, I rise in support of the motion to override the veto.

Mr. Speaker, the Congress, our Nation and the nations of the world are confused by the Carter defense policy. The rhetoric is not consistent with the deed. During a period of détente the President talks tough to the Russians as if we were in a cold war situation. He said, "We will not allow any other nation to gain military superiority over us." He said this after scuttling the B-1 bomber, the M-X missile, the Minuteman III production line and announcing a troop withdrawal from South Korea.

Next the President states we will have a Navy second to none as he cuts back the shipbuilding program severely—from 30 ships to 15 ships. But the greatest confusion to date arose when the President apparently vetoed the wrong bill. It is as though his advisers did not know the difference between an authorization and an appropriation.

For example if we were debating H.R. 4 on the floor and someone pointed out that a different bill, say H.R. 13, was scheduled on the calendar, a point of order would be revised. The debaters would be laughed off the floor. I am not sufficiently aware of legislative history to know how many Presidents have vetoed the wrong bills, or precisely what our rules provide for such a situation. Suffice it to say we are debating a veto message that has little to do with the bill before us. Armed Services Chairman PRICE has specified 8 or 10 substantive differences between the veto message and the authorization bill.

Let me address those of you who are concerned about the size of defense budget or carriers.

At the very least this technnical difficulty should provide a sound reason for voting to override regardless of one's position on defense generally or carriers specifically.

Due to the constraints of time I will allude to the specifics of the veto override and the carrier debate at the close of my remarks.

Mr. Carter's strongest objection was levied at the congressional decision to spend $2 billion on a nuclear carrier while his administration has already announced plans to include a large oil burning carrier in the next budget request. It has not been established that an oil-powered carrier would save money. Supposedly it would be cheaper to build.

But this is questionable because the CVV has not even been designed. No one knows what it will cost. With the CVV we are buying a pig in a poke. It also would be more expensive to fuel over the long haul—if fossil fuel is available.

In the long run it would appear the overall costs would be similar. But with the extra punch of the CVN, its earlier availability and its additional survivability, it is clearly a bigger bang for the buck.

If we are to have one more carrier, and the Congress and the President agree we should, let us minimize one aspect of the confusion by opting for the best, rather than second best.

The President has stated that Congress cut $800 million in Army weapons and equipment when the actual figure is $188.7 million. He stated that the Congress cut $200 million in Air Force weapons and equipment when the facts are that the Congress increased this program by $80.2 million. He went on to say the Congress cut $500 million in readiness when in actuality the defense authorization package does not address O. & M. readiness at all. This item is a provision of the defense appropriations bill. President Carter said the Congress made heavy cuts in R. & D. The actual reduction was $209.5 million or a 1.7-percent cut from the President's request. Finally, Mr. Carter said that Congress weakened the Navy by funding fewer ships that are more costly. The facts are that the President had 15 ships at $4.7 billion in his budget. With CVV, which the President intends to request in the next budget, he has 16 ships at $6.3 billion. In the authorization measure, Congress has 16 ships at $6.2 billion.

I urge my colleagues to vote to override the President's veto.

Mr. PRICE. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Speaker, I rise in support of the President's veto. I think my position on the procurement of another nuclear aircraft carrier is well known and I do not want to belabor the point I believe the President's veto was justified.

Spending another $2 plus billion on a fifth nuclear carrier is a gross misuse of our defense dollars. Proponents of another nuclear carrier have unfortunately argued for it strictly in terms of its individual capabilities. What we should be examining is how such a carrier fits into our force structure and what our carrier requirements should be. A fifth nuclear carrier would add only incrementally to our existing capabilities. Nuclear power has its advantages but they are highly situation specific. Admiral Zumwalt, a former chief of naval operations, has clearly pointed this out in a letter he has sent to Members of Congress. He says:

> The direct and hidden costs of CVN's provided significant benefits in naval capability in the case of the first nuclear carrier. Worthwhile but decreasing benefits were achieved with each subsequent investment in the second, third, and fourth nuclear carriers.
>
> With two nuclear carriers soon to be available to provide their incremental advantages in mobility and versatility in each ocean, the benefit, at the margin, for the fifth nuclear carrier in the 1979 authorization would clearly not be worth the money that could be saved provided that the money is invested, in the 1979 authorizaton process, to achieve optimum naval capability.

Clearly there are higher priorities within the Navy and the other services. At the end of the last fiscal year, for instance, the Navy still had 42 ships backlogged for overhaul to bring their material readiness up to par. As to aircraft readiness Admiral Holloway testified this year in his posture statement that.

> Fleet aircraft material readiness underwent a steady decline from fiscal year 1972 through fiscal year 1976, reaching an all-time low during the later fiscal year.

Although the Admiral noted that in fiscal years 1977 and 1978 this trend was reversed, "the fiscal year 1979 aircraft material readiness will decrease with the annual average being equivalent to that achieved in fiscal year 1977." These are the types of unglamorous activities that suffer the burden of wasteful expenditures elsewhere in the budget.

There is also increasing evidence that the missions of the carrier can be performed less expensively and more effectively by substitutes such as land-based air. Our goal shoud be to provide the greatest capability for the least cost, but we have lost sight of that goal.

I support the President on his action and I urge the House to do likewise.

Mr. ADDABBO. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from New York.

Mr. ADDABBO. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, we are talking or seem to be talking about a carrier that will be built and in service in the next year. The carrier we are speaking about cannot be started for another 2 years. The only shipyard which can build the carrier is presently way behind delivery date in building the EVN 70.

Mr. Speaker, the President has said that in the next budget he will be bringing up the question of a carrier. At that time we can wage a fight on whether it should be a conventional or a nuclear carrier.

What we are going to do today if we do not sustain the President's veto is to give the Navy $2 billion to put in their bank since they cannot spend it now. What the President is saying is, "Let us talk about it in next year's budget. Give me that $2 billion now to reinforce our forces where that reinforcement is needed today. Let us spend the tax dollars, the defense dollars, on today's defenses, not on 1990's. We can make that decision next year, but the decision must now be made to buy the weapons we need now, to spend those defense dollars now. They are needed now by our NATO forces in Europe. They need them now, not 10 years from now."

That money should not be given to the Navy to be put into the bank and held for when they can spend it in the year 1980 and beyond. So that is the question today. This carrier cannot be built, cannot be started for another 2 years, so we must, if we really want to work on our defenses and build our defenses, give the Department of Defense the dollars they can spend today for our defenses today. I support the President's veto and ask my colleagues to support the veto.

The SPEAKER. The time of the gentleman has expired.

Mr. BOB WILSON. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. ROBERT W. DANIEL, JR.).

Mr. ROBERT W. DANIEL, JR. Mr. Speaker, I think that what I may term a couple of red herrings ought to be laid to rest here. I have got to take issue with the remarks of the gentleman from New York (Mr. ADDABBO) that it would be 2 years before construction work would begin on this carrier. According to Ralph Cousins, who is the president of the Newport News Shipbuilding Co., such work could begin immediately. The beginning of construction on a ship is not the keel laying, but it is a beginning of preliminary work without which beginning Mr. Cousins has said the capability of the shipyard to build this ship eventually would be diminished anyway.

A second point: We have been told that the President exercised wisdom in vetoing this bill, so there would be no carrier at all that would be built. That is not so. The choice is between a capable carrier and a less capable carrier. In fact, in a letter from the Secretary of the Navy, of which I have a copy, in May of this year the Secretary informed us that the administration was willing to support the carrier in an earlier fiscal year than the one being considered. The choice is between a less capable ship, the CVV, which Admiral Moorer, former Chief of Naval Operations, has described as incapable and a ship roughly of the same cost which would be truly capable of doing the job.

There is something I would point out. When you reduce the size of a carrier, you must reduce its air wing, but it requires the same number of fighters to defend a carrier of any size. So what you reduce is the muscle, the attack component of the wing.

We hear about the $2 billion cost, which would be about the same for the less capable CVV. If we look back into history and see what preceding carriers cost, we see that this is about the same in terms of gross national product percentage, about the same in relationship to the cost of an escorting destroyer. Such margin as we enjoy over the Soviet Union at sea exists now because of carriers. We need this ship. Without carriers, in the words of Admiral Moorer, the U.S. surface Navy would be little more than a high-mix Coast Guard. We must support this ship to preserve this edge we have, and I urge the overriding of the President's veto.

Mr. PRICE. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. SIKES).

Mr. SIKES. Mr. Speaker, let us look beyond today. This vote may be the final important action in the gradual surrender of America's leadership of the free world. We need a new carrier and I doubt there will be another opportunity. If the House votes today against the carrier, a weapon that is essential if we are to continue to carry out America's global commitments to peace, we will, in essence, continue to relinquish the power required for those commitments. We know the Communists are ahead of us in military power. We know they are moving steadily to increase that superiority in every area. We know they are out maneuvering us and expanding world communism to new areas and new nations.

We are retreating in Africa, in Asia, in the Far East. Our influence is shaky in the Western Hemisphere. Other than through NATO in Europe, only in the Middle East are we aggressively seeking a stable balance, but even there, the Communist influence is felt in as many nations as ours.

Military power is essential if we are to continue to exercise any effective measure of world leadership.

Now let us take a careful look at the things America has done in recent months in the development of weapons to help regain equivalency, not superiority, equivalency in military power.

Canceled the development of the B-1 bomber.

Slowed the development of the cruise missile.

Shelved research and development on the neutron bomb.

Delayed production of the MX mobile missile.

And we have continued to cut our military and civilian forces in the Department of Defense.

If we do not build this carrier, it is doubtful there will ever be another. We will continue to slide down a continuing road of retrenchment and the world will look more and more to leadership somewhere else.

Last year the Congress was persuaded to drop a carrier which had been approved and for which funds were being expended. We were told—"Drop the big carrier. Next year, the administration will ask for two smaller carriers with a new type of aircraft." We were also told there would be 30 new combat or support ships. That was last year. When the budget reached us, we found no new carriers, no design for a new aircraft, and only 15 combat and support ships. Now we hear that next year, next year, we will have a request for one small carrier. If that request comes, it will be a completely new design, it will probably cost as much as the big nuclear carrier, and its lifetime operating cost will be a great deal more. That is not a very good record to stand on.

The Congress has approved the authorization of a new nuclear carrier to insure a measure of modernization in a carrier fleet which is getting old. The House has voted to fund it. The Senate was prepared to do likewise. Now the procurement bill has been vetoed with a message which admits some half billion dollars in additional procurement in other areas is needed. Of course additional procurement is needed and should be provided. That is no excuse for killing the carrier. Killing the carrier may also help to kill America's hope for a non-Communist world in the years ahead.

Mr. BOB WILSON. Mr. Speaker, I yield 2 minutes to the distinguished minority leader, the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Speaker, this veto should be overridden. It is an action which, in my opinion, unless we override it, will leave our Armed Forces less strong than they should be in a very serious time in our history.

I recognize the logic of those Members of the House, and in the Armed Services, who are counting ships. I know that there are many who feel that our Navy is slipping behind because it does not have as many ships as it should. On the other side of the coin are those of us who feel that the quality of the ships of the Navy is more important than the quantity of ships in the Navy.

I have been convinced that we should go with a nuclear fleet ever since the days when I served on the Defense Subcommittee of the Appropriations Committee. I went out in the Mediterranean on the U.S.S. *America*, which is a very fine conventional carrier. I was there when she had to refuel. I could not help but feel, during those hours in which that huge ship was being refueled, and was cruising at a very slow speed, that she would have been a sitting duck for any potential aggressor. I said then that I was more convinced than ever that we needed to go to nuclear carriers and a nuclear fleet. I am still of that conviction.

I think we should also understand that if we make a decision not to build this new ship, we are making a decision to build a nonnuclear carrier, a conventional carrier. We do not have a carrier as big as this is going to be, able to launch the F-14. We have nothing on the drawing boards and we would have to start from scratch to design such a ship; so we will be losing time and losing money.

I hope that the people of the country on November 7 will elect a Congress that will stop inflation. I do not know whether that will happen or not, but nevertheless, it is necessary we go ahead with this nuclear carrier and override the veto.

Mr. PRICE. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Speaker, this vote is really not a vote on the nuclear carrier. We have been through the nuclear carrier issue many times, as the gentleman from Michigan (Mr. CARR) has said, and almost every time it has come up the House has strongly supported it. What we are voting on today is the veto of the entire defense authorization bill. This is a bill that passed the House by 319 to 67, if I recall.

Do we support that bill that came from Congress or do we want to throw away the work of 8 months and go back and write another bill?

This is also today a question of whether Congress is going to make an important decision like this on inaccurate information. I have never seen a more inaccurate document than the veto message the President sent up to Congress. Even the Washington Post this morning talks about the "funny figures" which President Carter used.

The issue this morning is simply this: A direct challenge to the integrity of the Congress.

If the President did not like the carrier, the proper method would have been a rescission. He could have sent up a rescission next year. That is the way it should have been done. That is the way, in fact, the Defense Department recommended that he do it. But he knew a rescission would lose and he wanted a direct confrontation with the Congress anyway.

Before we vote, we ought to recognize that if this veto is not overridden, we probably will not have a defense appropriation bill, a defense appropriation act, at the beginning of fiscal 1979, on October 1.

That is just about 3 weeks away, and if this committee and this House have to go back and go over this entire bill again and then go back into another session with the Senate, with all the compromises we made, I think we are going to have to operate under a continuing resolution and then come back after the election to write a final bill. That means that in the meantime there will be no new starts and no increases in pay in any defense installations that any of you may have, and no incentives for the Reserves or the National Guard.

Mr. BOB WILSON. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. SPENCE).

Mr. SPENCE. Mr. Speaker, it seems to me that the Presidential veto has very neatly side-stepped what the real needs are for maintaining a strong defense, and particularly a strong and capable naval force.

The one ship which provides the edge of superiority over the growing Soviet naval force is the carrier. I suspect that there must be rejoicing in Moscow over the prospect that the Congress may sustain the veto and eliminate the carrier, or provide for a less capable ship sometime in the future.

The President and the Secretary of Defense have consistently reiterated the theme that they wish to reverse the trend toward a Navy of "fewer and fewer, more-and-more expensive ships." I agree that we need to reverse the trend toward fewer and fewer ships, but the point needs to be made that all ships are expensive. A price tag cannot be put on the Nation's defense and security. If the weapons systems do their assigned missions, then peace is maintained and we get what we paid for.

The Congress certainly has not overlooked the fact that the Navy is at its lowest level of ships in recent history. We have clearly demonstrated our concern and voiced our strong belief that a meaningful and steady growth pattern must emerge to increase the number of ships in the Navy. The authorization bill this year provides for the beginning of new initiatives in naval shipbuilding. But a Navy has to be built with some purpose in mind, not just building ships by the numbers for the sake of numbers.

The carriers are the nucleus of the fleet. It was with that fundamental thought in mind that the Armed Services Committees opted not to wait until next year and lose another year to inflation, but to start to build the replacement carrier for *Midway* as soon as possible. With the funding for the carrier settled, it becomes more plausible to think in terms of smaller and a greater number of purposefully selected ships for next year, and into the future. The carrier takes a long time to build. Smaller ships can be built much faster, so the urgency to get them off the drawing boards and into the shipyard is not as great as that of a large ship.

In his veto message the President said of naval ships:

> It is crucial to maintain an appropriate overall annual level of ship construction. The Congress should return all of the general purpose ships requested in our budget.

The President is not being candid with us or the American people in this statement. We did not take away any general purpose ships in the authorization bill. In fact we added ships. With all due respect to his high office, the President's statement does not make sense. In "down home talk" that the President understands, "the words don't match the deeds."

Let me ask what the administration is doing to establish "an appropriate level of ship construction." I will tell you in a nutshell. It cut Navy shipbuilding in fiscal year 1979 from around 30 to 15 ships. Then the administration sent us a 5-year plan which showed a nogrowth pattern of 14 to 15 ships per year.

That pattern certainly does not conform to the promises for a trend toward a larger Navy. Rather, the pattern to which the Congress has been subjected over the past 2 years from this administration has been one of promising, promising and reneging.

At this point I want to conclude with some general observations over the frustrations we on the Armed Services Committee have faced over the years on the carrier issue.

Opponents of aircraft carriers in general keep calling for more studies; more studies to search for alternative systems. We have studied this issue to death. Every study I know of in the past 10 years has concluded that the carrier is the foundation of our naval arsenal. There is no need for more studies.

Some people who oppose inclusion of the carrier in the fiscal year 1979 defense authorization bill, who parrot administration rhetoric for more navy ships, are the same individuals who year after year consistently vote against more ships, and in fact the entire defense bill.

The majority in the Congress has been on the right track this year in the fiscal year 1979 defense authorization bill. There is no legitimate reason for us to change the growth pattern we have established for a promise from the administration of what is to come.

The veto must be overridden.

Mr. PRICE. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. ASPIN).

Mr. ASPIN. Mr. Speaker, let me make a couple of comments in response to the points made by the gentleman from New York (Mr. STRATTON).

What we are really seeing here is the latest skirmish in the battle for the soul of the Navy. I am, for one, happy that President Carter is assuming some leadership on this issue and showing us what direction he wants to go. We have been fooling around with this issue for many years, whether we should go to smaller ships or whether we should go to larger ships, and I am glad the President is deciding to move out in the direction he is taking. The people who control the next couple of defense budgets are going to say which direction the U.S. Navy is going.

If this means we are going to have to go back and redo this defense budget, I think it is well worth the cost, because it is time we had some consistency as to the direction the U.S. Navy should go. Too often in recent years we have had these deadlocks between Congress and the administration about which direction we are going.

The gentleman from New York (Mr. STRATTON) is talking about further deadlocks and saying that if we support the veto we are not going to have a defense bill. If that is the case, that would be extremely irresponsible. We can take out this nuclear carrier and substitute other things very quickly. We can do that quickly enough to have a defense bill within a month if we want to do it.

But if we want a deadlock, if we want to get stubborn when the veto is sustained, and we want to deadlock the whole thing, we can do that, too. That, I think, would be very shortsighted, and that really would hurt the defense of this country.

It is time that we come together behind a single direction for the U.S. Navy. Some of us would like to go to nuclear carriers and larger ships; others would like to go to smaller ships and more numerous ships. I think the direction we go is less important than the fact that we finally decide on a direction.

If the President has finally decided on the direction he would like to go, I would urge the Congress to get behind him, and let us all move in that direction together. At least if we move in that direction together, we can have a stronger Navy, and stop this continuing deadlock and this continual business of carriers being put in and carriers being taken out, which is what we have had in the past.

Mr. BOB WILSON. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. DICKINSON. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Alabama.

Mr. DICKINSON. I thank the gentleman for yielding.

Mr. Speaker, I want to rise and say that I do oppose the veto. I do support the committee position.

Mr. Speaker, I rise in support of the motion of the distinguished chairman of the House Armed Services Committee, the gentleman from Illinois (Mr. PRICE), to override the President's veto of H.R. 10929.

Many of us who carry responsibilities for our national security view the President's veto of this bill with alarm. Why is this veto so alarming? There are several reasons.

First, no President has vetoed a defense authorization bill in recent times. Such an action sends the wrong signal to both our friends and enemies. Our friends may think we have lost our resolve—and we could gradually find ourselves isolated. Our enemies could read it the same way—as a growing weakness—and they could become more aggressive and test us and our friends as they are already doing in Africa. The President's action does not represent the consensus of our people. That consensus was expressed through the Congress which passed the defense bill by a large majority.

Secondly, the word around Washington is that this is only the first "get tough with Congress" veto that the President will exercise. Apparently, his advisers have concluded that he is presently the image of a weak leader and they feel a few vetos will be good public relations. The tragedy is that they so casually selected for the first "public relations veto," a measure that is so important to the security of our country.

This action is only another hint of apparent White House willingness to take chances with our security and follows other noteworthy Presidential decisions such as, pardoning the deserters and draft dodgers, withdrawal of U.S. troops from South Korea, allowing the Vietnamese Communists in the United Nations, giveaway of the Panama Canal, and cancellation of the B-1 bomber and other vital weapon systems.

And finally, it was a bad veto because the President wants to kill construction of a fifth nuclear aircraft carrier. This would be the only such carrier to be built during the remainder of this century and it would be used to replace a World War II carrier which is becoming obsolete.

The President has agreed and has indicated he will eventually request one more large deck carrier to maintain a fleet of 12 active duty carriers. The President has also said that this will be the last large deck carrier we will build during the 20th century. If this indeed is the case—that is, we need one and only one more large deck carrier—then there are a number of factors that favor a CVN over a CVV.

First. A CVN is clearly more operationally capable than a CVV. On this issue there is no disagreement.

Second. We have never constructed, or for that matter have we yet to design a CVV, whereas our shipyards are set up to build a fourth and final CVN. No retooling or new training of shipyard personnel is required.

Third. A CVV will be a one of a kind ship with all of the problems, both construction and operational, that entails. After the inevitable cost overruns, inflation, and oil price increases have taken their toll on this one of a kind ship, it will surely cost more than one CVN.

The President claims that as a result of Congress adding the carrier to this year's budget, many high priority programs were deferred to accommodate it. To the extent that this is true, the problem will surely be exacerbated in next year's budget if the President requests a CVV. The Army's procurement bow wave problem is worsening year by year. The Navy will continue to require large sums of money if the fleet is to be rebuilt and the Air Force will likewise require increased research, development and procurement funds if our strategic deterrent forces are to be modernized.

In my view, if the President's veto of this year's authorization bill is sustained, it is highly doubtful that Congress will shift the carrier funds to other parts of the budget. In fact, it is entirely conceivable that this Congress will report a new bill that is identical in every way to the present bill minus funds for the carrier. To whatever degree the carrier has impacted funds for other programs in this year's budget, it will surely have a similar, if not a more drastic, effect on next year's budget. It would seem to me that a successful veto of this bill simply inflicts a "double whammy" on defense.

I believe it is important for our Nation's long-term security that we override this veto.

Mr. FRENZEL. Mr. Speaker, the President's veto of H.R. 10929, the defense authorization bill remains incomprehensible only so long as we assume he vetoed the right bill. It is pretty clear from reading the veto message and other administration statements that the President should have vetoed the defense appropriation bill. For the first time in my memory most of the arguments marshaled in support of a veto do not apply to the vetoed bill.

With Congress not having completed action on the defense appropriations bill, the President apparently chose to put the

authorizing legislation on the chopping block instead.

It is also important to appreciate what this veto does not seek to do. This is not an attempt to reduce Federal spending. Any funds that would be freed up by deletion of the $1.93 billion nuclear carrier will be applied to other defense programs.

Furthermore, the veto does not mean the President opposes procurement of another large carrier. Earlier this year the Secretary of the Navy indicated the administration favored inclusion of a conventional aircraft carrier (CVV) costing an estimated $1.6 billion in this year's authorization bill. When Congress opted instead to build another nuclear carrier (CVN), the President reassessed his position and decided we should defer authorizing another carrier until next year. Both Congress and the President want to build one more large carrier. The dispute centers on when to authorize construction and the type of propulsion.

The President further muddled the issue by charging that Congress crippled several high priority defense programs to make room in this year's budget for the nuclear carrier. The distinguished chairmen of both the House and Senate Armed Services Committees have carefully research these charges and shown them to be either false or misleading. This is not to suggest that Congress simply rubber-stamped the administration's request. As is usually the case, adjustments were made at the margins of some programs. It is difficult to understand why these sorts of routine adjustments should have precipitated the first veto of a defense bill in over a century.

There is room for honest disagreement as to the cost differential between a *Nimitz*-class nuclear carrier and the proposed one-of-a-kind conventional oil-burning carrier. The administration claims the CVV can be built for $1 billion less than the CVN. Others including the shipyards themselves argue the conventional carrier could end up costing more than the nuclear carrier, given the potential for cost overruns on a new design ship. There is no disagreement that the nuclear carrier is a far more capable fighting ship.

If it comes down to a choice between a proven nuclear carrier and a less effective, more vulnerable nonnuclear carrier that has yet to be designed, my clear preference would be to go with the more capable weapons system.

When the Defense authorization bill was considered earlier this year I opposed funding for either carrier in the light of our acute economic situation. Now, however, a vote to sustain this clumsy veto will more than likely lock us into building the costly but vastly inferior oil-burning carrier which the President wants. Given these options, the President's veto should be overridden.

Many observers have suggested that the President cast his veto at least partly out of a desire to look "decisive." Whether that is true or not, it is a fact that the veto message and the Secretary of Defense's statement do not make sense.

It is also a fact that the veto, if sustained, is likely to cost us more and give us less defense. A continuing resolution is a poor way to start the year, and the Armed Services Committee is sure to come up with a costlier bill.

A bitter alternaive is to override the veto.

Mr. PRICE. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. WHITE).

Mr. WHITE. Mr. Speaker, it is readily apparent that the advisers who recommended to the President that he veto H.R. 10929 did not understand the difference between the authorization and appropriation processes in Congress. The veto message actually referred to the wrong bill. The message claimed that Congress had cut $800 million in Army weapons and equipment, but the authorization bill only cut $189 million. It claimed that Congress had cut $200 million in Air Force weapons and equipment, but the bill actually added $80 million. It claimed that Congress had weakened the Navy by authorizing fewer ships, but the bill actually authorized more. It claimed that Congress had heavily cut research and development but the bill had reduced R. & D. by only 1.7 percent. The message also claimed that Congress had cut $500 million in readiness. Readiness is not even addressed by the authorization bill.

One further example is the President's assertion that training of personnel was damaged by H.R. 10929. The facts are as follows:

I requested an increase of $1 billion for items which are not glamorous, but which provide the immediate fighting capability of our forces—funds (requiring appropriation but not prior authorization) for repairs of weapons, spare parts for vehicles and aircraft, ship overhauls, *training of personnel*, communications, and logistical support to move equipment to where it is needed. Adding the nuclear-powered aircraft carrier means eliminating half of that increase in fighting capability—some $500 million. (The President's veto message.)

President's Budget

Reduced training manpower from FY 1978 level

Army

minus 6,800 military personnel
minus 1,300 civilians

Navy

minus 10,500 military personnel
minus 800 civilians

Congress/H.R. 10929

Added to President's request for training activities

Army

plus 2,100 military personnel

Navy

plus 1,850 military personnel

ACTIONS IN PERSONNEL AREA NOT MENTIONED BY THE PRESIDENT RELATED TO READINESS IN WHICH CONGRESS AND THE PRESIDENT DIFFERED

President's Budget

Reserves

Reduced Naval Reserve from FY 1978 level minus 35,600

Congress/H.R. 10929

Restored proposed reduction plus 35,600

(Recruiting incentives)

(50,000 short of authorized and 130,000 short of peacetime manning goal)

President's Budget

Asked for $0.5 million to continue current test of reenlistment bonus

Congress/H.R. 10929

Authorized $25 million to assist enlistment and reenlistment

Shortages in the Individual Ready Reserve (−320,000)

President's Budget

IRR shortages

No action

Civilians

Reduced aircraft maintenance facility manning
−1,100 in Naval Air Rework facility manning
−400 in Air Force aircraft maintenance facilities

Training loads

Congress/H.R. 10929

IRR shortages

Included provision to halt transfers from IRR manpower pool to standby reserve. Will add 50,000 to IRR manpower pool when fully in effect

Civilians

Added
+1,100
+400
to improve operational readiness rates for aircraft

Training loads

Increased President's request for the Army by 424 (324 for more One Station Unit Training and 100 for physicians' assistants training)

Congress did not reduce the President's request in the area of manpower at all, except for a reduction of 2,000 civilian personnel out of the total of 1 million. This reduction is specifically directed at white collar civilian employees in the Washington, D.C. area. It will be difficult for the case to be made that this reduction will impact on efficiency, let alone readiness.

It appears that the reason for the veto was the inclusion of the nuclear-powered aircraft carrier. One wonders if the nuclear-powered aircraft carrier is the reason or is this one item in an overall plan to drastically alter the defense posture of the country. Strategic air power has been adversely affected by the elimination of the B-1 bomber and failure to pursue the MX missile. Land power has been adversely affected by failure to pursue the enhanced radiation weapon. Now seapower is being adversely affected by this attempt to restrict the successful deployment at sea of tactical aviation, a capability in which our Navy enjoys its only advantage over the Soviets, and at a time when our seapower may be called upon to defend sea lanes at greater distances from home than ever before.

Let us examine one more time the carrier issue which the presidential advisers, whoever they may be, are so opposed to.

The large carrier can operate in heavy seas; a small carrier cannot. The large carrier can carry more aircraft, more ordnance, more fuel, is faster, has greater range, can operate its aircraft more efficiently, is safer in flight operations, and is more survivable. The addition of nuclear rather than conventional power improves these advantages markedly and pays for itself. The cost of nuclear fuel is included in ship construction costs and latest information indicates that nuclear fuel will last significantly longer than 13 years—close to 20 years.

The issue is not whether or not a carrier is needed. We have already agreed that it is needed. Nuclear power is not the issue. We have already agreed that nuclear is needed. I have here a hand-

written memorandum from the Secretary of the Navy to Mr. Frank Sullivan, Staff Director of the Senate Armed Services Committee indicating that as late as July 13, 1978, the Secretary and Deputy Secretary of Defense were in agreement that the House authorization of $2.129 billion for a CVN including survivability features should be supported.

There are no design plans for a smaller ship. Cost estimates have been based on multiple smaller carriers but none are included in long range ship construction plans. The administration speaks to inclusion of some kind of carrier in the fiscal year 1980 proposal—delaying any ship by another year and increasing costs regardless of which design is selected.

Commonsense dictates that if we are to build only one carrier and if the costs are essentially the same—we should build the most effective ship which can be built. We should build the nuclear powered aircraft carrier.

The authorization bill presented to the President represents months of complex study and review by the Congress and is considered to be a balanced effort to begin to redress deficiencies in our national defense posture.

Anything less than this effort would be inimical to the safety and best interests of the United States. As the Congress is responsible under article I of the Constitution for the raising, provisioning for, and maintenance of our Armed Forces, I strongly recommend that we move to override this veto.

Mr. BOB WILSON. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, my text for today is taken from the Wall Street Journal of this morning, which has a very good editorial which I hope some of the Members have read. It is entitled "Admiral Rafshoon." It says, in the first paragraph:

"It's not just talk, Congress cut muscle for another layer of fat." So Gerald Rafshoon, Atlanta adman and student of the defense budget, instructs John Stennis, Melvin Price and other greenhorns who don't understand Presidet Carter's veto of the defense pocurement bill.

Admiral Rafshoon's military career has been the most meteoric since Gilbert and Sullivan's Ruler of the Queen's Navie, and he should be duly rewarded with the Order of the Cardigan and the title Lord Get Tough for helping to engineer a supposedly image-enhancing veto.

In the last paragraph of the article it says:

In pursuit of Mr. Rafshoon's "tough" image, the administration is striking an alliance with the antimilitary faction in Congress. Meanwhile, it charges that Sen. Stennis and the rest are soft on defense. By now it should be clear that the electorate wants not cosmetics but a stronger defense, and Congressmen who lend themselves to the administration's trick-mirror maneuver should be called to account in November.

Mr. BADHAM. Mr. Speaker, will the gentleman yield?

Mr. BOB WILSON. I yield to the gentleman from California.

Mr. BADHAM. Mr. Speaker, I rise in strong support of this action to override the ill-conceived Presidential veto of the military procurement authorization bill.

The situation is really not very complicated, and I will not dwell on the issues already covered: Namely whether the President vetoed the right bill or not, whether or not the Armed Services Committee, of which I am a member, deleted other items to make room for a carrier—which it did not—whether or not the President reneged on his promise of 30 ships and 2 carriers—he did renege because this year he asked for 15 ships and no carriers—or whether or not we need another carrier—the President and the Congress have already agreed that we do. Rather I will deal with the sole issue of cost which seems to be the President's bottom line.

First of all, to put it in proper perspective, CVV started out a few years ago as a textbook weekend exercise in economic studies at the Pentagon when the economic duty section was asked to come up with rough description of an aircraft carrier that would cost in the neighborhood of $1.2 billion. I stress that this was not to be based on design for a carrier and a carrier mission, but strictly based on what kind of carrier you can build for $1.2 billion. The economic team started with America's most modern carrier, the *Nimitz* class, and then removed costly items one by one until the cost was down to the desired level. I stress that this had nothing to do with mission, vulnerability, fightability, survivability, or anything else remotely related to a real ship. Catapults were removed; elevators were removed; clear vertical space on the hangar deck was removed; the nuclear powerplant was removed. When all was said and done, the result was a gutted *Nimitz* class carrier that cost $1.2 billion in then year dollars. Clearly as a class of carrier such an animal would be less costly. Now, however, we are faced with the President's proposal to build one.

The slippage has now caused with inflation the $1.2 billion economic exercise to become a $1.5 billion CVV. Since, however, there are no plans, no test models, and no design work even commenced for their economic exercise, we must assume that if planning, design, and drawing were commenced on October 1 of this year, it would be approximately four years before the keel could be laid. Now I do not suppose it is going to be any great secret to the Members of this House that 4 years from now the inflation factor will have probably added about 35 percent to the $1.5 billion economic exercise. Despite the fact that the President and Dr. Brown tell us that if commenced in fiscal year 1980 a CVV could be operating before a CVN could be operating if started today, we must face the real facts, and that is you still have to add 3 more years slippage for planning and design.

A *Nimitz*-class carrier todav if the keel were laid would cost $2 billion, so the bottom line is for the same amount of money and a slight time delay, we could have a CVV that is less sustainable, less fightable, more vulnerable, and smaller than the CVN.

In addition, the projected economic exercise (CVV) assumed the building of more than one—possibly five or six carriers—to reduce the unit costs. The President and the Secretary of Defense, however, have said we need only one more carrier. How can we therefore justify the design, testing, and planning of only one new carrier which by virtue of the fact of its "oneness" will be a custom-made ship?

Throwing all other arguments aside, such as fuel cycle, fuel replenishment vessels, number of aircraft carried; the simple fact remains: If we need another carrier—and we do—all fiscal, military, time, and energy logic dictates that it be nuclear.

Mr. BOB WILSON. I thank the gentleman.

Mr. Speaker, let me just say something about image making. For 26 years I have hidden the fact that I am also an image maker. I am an advertising man. I hope I have successfully created a better image than what I am, but I do know something about image making. The image maker who has been hired by the President is trying to do one of two things. Either he is trying to make him into something that he is not, or else he is trying to hide what he is, one of the two. That is what you hire an image maker for, and that is why the taxpayers are paying $50,000 per year for Admiral Rafshoon's work.

Mr. PRICE. Mr. Speaker, I yield 1 minute to the gentleman from Virginia (Mr. DAN DANIEL).

Mr. DAN DANIEL. Mr. Speaker, I rise in opposition to the President's veto of the 1979 Defense Authorization Act.

Many of my colleagues will discuss the role of Congress in establishing defense policy, and the need to authorize a nuclear carrier. I will limit my remarks to clarifying one point—that is, the legislation sent to the President does not adversely impact our NATO commitments.

Whatever the outcome today, there is a message which must be clearly conveyed to the American people, our allies and our adversaries. The message is that the House Armed Services Committee, does not trade off major defense mission areas, either intentionally or inadvertently.

Let there be no misunderstanding, neither the committee nor the Congress intended to fund the nuclear carrier at the expense of our NATO needs or any other defense requirements. Every defense program action, whether it was an approval, reduction or termination, was based on the testimony of Defense witnesses or the best supporting data that is available.

Setting aside questions of how the 1979 defense budget which includes a nuclear carrier was structured, I want to highlight a consideration for the 1980 budget that must be seriously deliberated before we cast our votes.

Both the Congress and the President have declared their commitment to an active 12-carrier fleet. In order to provide such a fleet, another large-deck carrier must be built.

The Congress believes that carrier should be funded this year and the President believes it should be funded next year. The President's proposal will have a heavy impact on our Army, since next year the Army procurement requirements will balloon in order to fund needed mod-

ernization programs in the wake of the expenditures made for the Vietnam war. The Army's planned procurement increase for next year is approximately 30 percent. Therefore, to include an aircraft carrier in next year's budget request will obviously affect our Army modernization programs. If I am to believe the testimony we have received, then, this will hinder improvement of our NATO capabilities.

We need the Army programs and the Navy programs when considering NATO readiness and can afford both. On many occasions we have been asked to identify that part of the defense budget which is NATO related. The answer is the entire defense budget is related to NATO, for it is our total military capability which deters aggression and it must be measured in an overall context. In fact, we must look at not only our coventional capability, but also our strategic capability. Therefore, the total defense budget must be considered in order to determine if there is an adverse impact on NATO.

I have supported the Armed Services Committee's actions on the defense budget, those actions taken by the House of Representatives and those taken by the conference committee on the Defense Authorization Act because I firmly believe that the act sent to the President provides authorization for necessary defense appropriations with correctly ordered priorities. This is a properly structured Defense Authorization Act and provides for our defense requirements including NATO.

It is for these reasons, and others that have been mentioned, that I will vote to override the veto and urge my fellow Members to do likewise.

Mr. BOB WILSON. Mr. Speaker, I yield the balance of my time to the gentleman from New York (Mr. KEMP).

Mr. KEMP. Mr. Speaker, we are living according to the well-known Yugoslav writer Milovan Djilas, in one of the most crucial moments in history since World War II. Djilas, according to Richard Whalen, in his outstanding book, "Taking Sides," is one of the best informed sources available to the West on the workings of the Soviet mind. A Communist revolutionary before World War II and a frequent wartime emissary to Stalin, he became Vice President of Yugoslavia under Marshal Tito.

The Soviet invasion of Czechoslovakia in August 1968, Djilas wrote the following year, was not the end of a policy, but the beginning of a new Soviet policy, a policy of aggression, not only by economic and political subversion, but by raw, naked military force. Djilas, who personally knows many members of the Soviet ruling elite, offers this urgent advice to the West:

> The West must rid itself of any lingering illusion that the present Soviet leaders are sophisticated men who eventually will come to their senses.

He says, "If peace is to be preserved in the world, the world must insure that it possesses overwhelming military superiority."

He says that the margin must be so great that "even the Soviet bureaucracy can understand it."

Mr. Speaker, the American people do not want any doubt in the world as to who is superior, militarily speaking. Mr. Speaker, the first line of defense of this Nation is our credibility and that of our President. I share the belief of our friend from California (Mr. LLOYD) that we pray for peace and wish the President well at Camp David but certainly, the military superiority of the United States is in doubt and the credibility of our defense in question.

The purpose of defense spending and of a nuclear carrier is not just to replace the *Midway* but to help defend peace. There is no debate in this Chamber as to whether or not we are going to have a carrier, or another carrier. The only question is whether it is going to be nuclear or conventional, this year or next year. The purpose of this nuclear carrier is to help prevent war and preserve the peace of the world and I would suggest that in the western Pacific, Mediterranean, and Indian Oceans carriers have had a tremendous record of extending U.S. power in such a way as to help minimize war. All studies show the CVN-71 to be the most cost effective and most combat effective vis-a-vis conventional carriers. To stop the production of the B-1 bomber, limit the range of cruise missile, stop the enhanced radiation warhead, cut the shipbuilding program and the MX program and now this is to threaten the credibility and the defense of the West.

Mr. PRICE. Mr. Speaker, I yield 1 minute to the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Speaker, I rise in support of the President's veto, and urge the Members of this body to sustain the veto. I think the essential thing to consider here is that each year we have a limited number of dollars for defense purposes. This year, we have approximately $127 billion, and it behooves us to make certain that those scarce moneys are put into the areas that will give us the greatest defense.

It is not clear whether a new additional nuclear carrier will give us the greater defense. It is clear, however, that we have other immediate military needs. We have immediate needs for readiness programs, for ammunition programs and for materiel for our Army and for our Air Force.

These needs should not be deferred. This $2 billion can very well be expended in these areas, and I suggest that is what the President is trying to do. In later years, we will have time to decide on the carrier and to make a decision as to whether the new carrier should be nuclear powered or conventional. We do not have to decide that issue in the 1979 fiscal year budget.

Mr. PRICE. Mr. Speaker, I yield 1 minute to the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. Mr. Speaker, I have given careful consideration to the President's veto message of August 17 on H.R. 10929, and I am appalled by the misinformation that this message conveys to the Congress and the American public. In the entire message, there is only one sentence with which I agree and that is the President's assessment, and I quote, "I believe that the defense of the United States needs to be strengthened."

I would like to join those of you here today who recognize that key administration officials, after 21 months in office, still fail to recognize the difference between an authorization bill and an appropriations bill, and have advised the President—perhaps ill-advised is a better term—to veto the wrong bill. To complicate the situation, he vetoed the wrong bill on the basis of incorrect information. Even the Washington Post, which advocates the lightweight carrier, agreed in this morning's edition that the figures provided to the President in support of the veto went the way of a "meringue in a blast furnance."

Mr. Speaker, I want to set the record straight here today. As chairman of the Research and Development Subcommittee, I, along with 12 other Members of this Congress, held some 40 hearings in reviewing the administration's research and development program proposal. To the best of my recollection, the subcommittee never once discussed the issue of an aircraft carrier. We made 150 program changes—additions and deletions, by carefully examining each program in the President's budget request, and deciding on the basis of the merit of each program, whether or not it would contribute to our national security.

I want to state categorically that we did not displace any program because of the requirement to find money to develop an aircraft carrier, be it nuclear or conventionally powered, with a large or small deck. To cite a few examples, the administration requested $105 million for continued development of the B-1 bomber. May I remind each and every one of you here that the administration and this Congress have already decided against the production of this aircraft. As a result, we reduced this program request by $50 million, $20 million of which the administration fully concurs with. The resulting $55 million authorization will enable the Department of Defense to complete some valuable electronic countermeasure experiments with the fourth B-1 aircraft. So on this particular program, we save the taxpayers $50 million.

A second example is the light airborne multipurpose system, frequently called the LAMPS submarine-hunting helicopter. It was obvious to me and my colleagues that after reviewing this program there was some $400 million in fat. The program was poorly managed and was literally running amuck. My subcommittee and the Armed Services Committee has taken action on this program that will result in a direct saving to the American taxpayers of $400 million. In the September 6 edition of the Wall Street Journal, Assistant Navy Secretary David Mann was quoted as saying—

> The early phase of the program just wasn't well run, and we admit it. . . . As a result, the program schedule slipped by about fifteen months and costs rose. We wear our hair short in public on this.

Mr. Speaker, I resent the allegations

that the Armed Services Committees of the House and Senate, and in fact this entire Congress, have weakened our national defense by the passage of H.R. 10929. I wish to point out that the administration offered no objection to nearly $100 million of reductions in research and development. This concurrence makes it difficult at best to convince me that we cut muscle, and not just plain, ordinary, down-home fat.

I am greatly concerned about the defensive capability of this Nation when the nuclear carrier will come into being. Why am I concerned? Why am I worried? It is because our defensive efforts for the past several years have been characterized by "Start! Stop! and Delay!" "Start! Stop! and Delay!" We start on the B-1 bomber and stop. We start on the M-X system and enhanced radiation device and delay. If we fail to override this veto a majority of the Congress will have started a nuclear carrier and have stopped again.

I urge you to override this veto and give this country the kind of defense that is really needed to not only defend ourselves, but to convince our allies of our firm commitment to preserve world freedom.

Mr. PRICE. Mr. Speaker, I yield 1 minute to the gentleman from Missouri (Mr. BURLISON).

Mr. BURLISON of Missouri. Mr. Speaker, I rise in support of the President's veto. The principal point I would like to emphasize deals with the increased costs of a nuclear carrier task force over that of a conventionally powered task force. The gentlemen who have preceded me here in the well have established the fact that, clearly, there is about a $1 billion difference between the procurement of the CVN 71 and a conventionally powered CVV. There does not seem to be much argument about that.

But most arguments have overlooked the fact that we also need nuclear escorts to go with each of the nuclear carriers to make up a nuclear task force. Nuclear propulsion is expensive, not only for the CVN under discussion, but in the procurement of nuclear-powered escorts that are critical to attaining full effectiveness in operating the CVN. Without these nuclear escorts the CVN is held back by operating limitations of the conventionally powered ships.

There have been differences of opinion as to the number of escorts needed for the all-nuclear-powered carrier task force. But one point is clear; a minimum of two and possibly four nuclear powered cruisers are needed depending on the composition of the individual escort force.

The following escort requirements for each of the four all-nuclear-powered carrier task forces have been variously described:

Case 1. Two nuclear-powered Aegis-equipped cruisers per task force group; for a force level of eight Aegis-equipped CGN's.

Case 2. Three nuclear-powered cruisers (one Aegis equipped) per task group; for a force level of 12 CGN's (including 4 Aegis equipped CGN's).

Case 3. Four nuclear-powered cruisers—one Aegis equipped—per task group; for a force level of 16 CGN's (including 4 Aegis equipped CGN's).

The estimated cost per nuclear Aegis escort is $1.5 to $2 billion per copy while the cost of each DDG 47 conventionally powered Aegis destroyer is about $760 million. The difference in buying conventional escorts vs. nuclear escorts for this one ship is well about $2 billion.

So the issue really comes down to whether we have a carrier force of four nuclear and eight conventional carriers or whether it is five nuclear and seven conventional. As it now stands we do not have enough nuclear escorts for the four nuclear carriers already funded and the Congress has not funded a new nuclear escort since 1974. With the commissioning of the U.S.S. *Arkansas* (CGN-41) in 1980 the Navy will have nine operational nuclear-powered cruisers. The chief of naval operations has testified that an all-nuclear-powered aircraft carrier task group should have three nuclear-power guided-missile cruiser (CGN) escorts, one of which would be Aegis-equipped. On this basis, the navy needs 12 CGN's just to meet current requirements. If Congress funds this CVN that requirement increases to 15 CGN's. The estimated cost of 6 nuclear-powered escorts to fulfill this shortfall is roughly $6 billion.

So, what we are talking about here is the overall costs of procuring nuclear powered carrier task forces versus conventionally powered carrier task forces. If we override the President and approve the CVN 71 we are committing ourselves to an additional expense of $1 billion for the CVN itself and at least another $1 billion in nuclear escort costs. (and this allows for the procurement of the necessary conventional escorts for the new conventional carrier). If we vote to sustain the veto we are taking a big step toward being able to provide more ships for the Navy at a time when its most pressing problem is numbers. It is clear to me that the only way to provide ships in the numbers needed is to get away from nuclear powered surface ships.

I urge my colleagues to support the President on this crucial issue.

Mr. PRICE. Mr. Speaker, I yield 1 minute to the gentleman from Arkansas (Mr. ALEXANDER).

Mr. ALEXANDER. Mr. Speaker, like all Americans I deplore the rising cost of defense whether we measure it in today's or yesterday's dollar values and state it as a percentage of the GNP or the Federal budget—and I regret the necessity to keep this Nation armed to the teeth. But I think a strong defense is just that, a necessity.

We are debating today what I consider to be the third devastating blow to our defense posture. Airpower has been altered by canceling the B-1 bomber and delaying the MX missile. Landpower was adversely affected by deciding not to develop the neutron bomb. Seapower is now altered by vetoing the nuclear-powered carrier.

All of this is occurring at a time when I see no lessening of the need to provide a stabilizing influence in many situations throughout the world. The nuclear carrier is one of the least vulnerable and most effective ways to do this.

I cannot support any defense policy which will result in a second-rate Navy for the United States. In my view, if we are going to have a carrier—and that does not seem to be the question here—we ought to have the best one available in terms of cost and capability.

Mr. SPEAKER. Members, from the confusion generated by the debate on this issue, it is no wonder that the American people are divided on defense.

The administration has implied, and Members have said, that the building of this carrier means a $2 billion cut for needed programs elsewhere. The distinguished chairman of the Armed Services Committee and other members have demonstrated that this is simply not so.

As a Member, not serving on the Armed Services Committee, I have tried to judge this issue on the basis of the facts as I perceive them.

There is no persuasive argument that an oil-burning carrier is significantly cheaper than a nuclear-powered carrier (CVN) if we consider R. & D. for the carrier and increasing fuel oil costs.

There is conclusive evidence that the inferiority of the conventional carrier's fighting capability would make the saving dubious.

A nuclear carrier would carry 50 percent more aircraft, almost three times the aviation fuel, and twice the aircraft munitions and double the accessories and would carry heavier armor. And it will steam faster for 13 years without refueling.

It has greater capability to defend itself and to project a U.S. presence in remote corners of the globe without the necessity for uncertain fuel supplies or foreign land-base support.

I think we cannot continue to weaken our defense posture and decrease the flexibility of our military response without dire consequences to ourselves and our allies. Accordingly, I support the effort to override the President's veto.

Mr. PRICE. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. CHAPPELL).

Mr. CHAPPELL. Mr. Speaker, undoubtedly the Soviets want a "no" vote today on this defense authorization bill. They want a "no" vote, because they know perhaps better than we that sea power today is dependent upon air power, and air power is dependent upon the carriers to project it. The only way to get that air power to where it is needed is through the use of the aircraft carrier. That is the reason they are going toward the development and use of the aircraft carrier rather than away from it. The Soviets want a "no" vote, because they know, perhaps better than we that our failure to replace our retiring carriers reduces our carrier air power by one-

thirteenth. They know how vital it is today to us when we cannot get land bases across the world to do the job we have to do. They want a "no" vote, because they know perhaps better than we that we must fight ships with airplanes, not with ships. You fight ships with airplanes.

If we want to retain that power, we will have to override this veto, the objections of the President to the contrary notwithstanding.

Mr. Speaker, the editorial page of this morning's edition of the Washington Post carried a statement by former Chief of Naval Operations, retired Adm. Elmo R. Zumwalt, in which the admiral seemingly applauds the President's decision to delete a fifth nuclear carrier from the fiscal year 1979 budget. Zumwalt comments that "the direct cost of the nuclear carrier is much greater than the fossil-fueled carrier * * *" and goes further, to say that the better choice would have been a fossil-fueled CVV.

Undoubtedly, most of us read the admiral's statement before coming to the House Chamber this morning to vote on the subject of the President's recent veto.

However, I would like to emphasize what I consider to be the most important point about Admiral Zumwalt's position, Mr. Speaker. Even in the article in this morning's Post, the former CNO indicates the crucial need for a carrier in the fiscal year 1979 budget. Certainly, this represents a difference of opinion between Zumwalt and the President.

There is, moreover, another side of the story—as told by the same person. In January of this year, the Center for Strategic and International Studies, at Washington's Georgetown University, published a study entitled "Aircraft Carriers: The Real Choices." The author was John Lehman. Contributing the foreword was former CNO, Adm. Elmo R. Zumwalt. As with the other admirals who have held the Navy's top job, Zumwalt acknowledges the vital need for an effective carrier fleet, and recalls that when he was CNO, he fought hard for 12 to 16 large carriers.

As most of us know, the admiral is a small-carrier advocate, but his professional experience comes to the fore in recognizing the need to defer no longer on our carrier building program.

In fact, Zumwalt emphasized exactly that need in discusions last week with the author of "The Real Choices" study. Specifically, he told John Lehman that if the fiscal year 1979 budget failed to include funding for some kind of carrier, Congress would be best advised to override the President's veto.

Mr. Speaker, the comments written by Admiral Zumwalt in January are, in my belief, the more relevant, and I submit his foreword for the RECORD. I call the attention of my colleagues specifically to the admiral's last paragraph:

> Through national indecision we have drifted without a settled building policy for carriers. Their numbers have dwindled to 12 and no new carriers, large or small, has been authorized since 1971. Further indecision cannot fail to bring serious damage.

I hope that we in the Chamber will today help bring an end to that indecision—and proceed with the previously authorized construction of the nuclear carrier we so desperately need.

The article follows:

FOREWORD

In each of the four major international crises that took place during my watch as Chief of Naval Operations—Jordan, September 1970; Indo-Pakistan, December 1971; Mining of Haiphong, May 1972; and the Yom Kippur War, October 1973—carrier aviation was the primary military tool available to the President for the management of the crisis.

Successful crisis management requires the capability to deploy armed strength in timely and sufficient measure in areas of the world where American interests are involved. The objective of such deployments, in concert with diplomatic and other measures, is to influence favorably the actions of one or more states or groups. Such deployment may be coercive, to compel a nation that threatens our interest, or inducive, to encourage, reinforce, or protect an ally under external or internal threat. For a very large area of the world, carrier aviation is easily the most effective means for deploying armed strength, and in many areas, the only means available to a President.

In addition to this role of protecting Western interests and influence and countering the intrusion of hostile interests, carrier aviation must serve also the requirements of deterring full-scale war with the Soviet Union. Here again carrier aviation provides a capability available from no other means of armed force. In the NATO area, it is carrier task groups that provide the essential security of the Scandinavian flank in the North and the Italian-Greek-Turkish flank in the South. In such a war, carrier aviation must also provide the security for the vital energy sources in the Middle East and Persian Gulf, and simultaneously in the Pacific ensure that Japan survives as our ally and the PRC remains hostile to the Soviets.

These two broad requirements for carrier aviation—peacetime presence/crisis management, and deterrence of full-scale war with the Soviet Union—do not necessarily demand the same configuration, numbers or size of our carrier force. That force, of necessity, must be a compromise between the two missions. On my watch I argued for a high-low mix of 12–16 large carriers and more numerous small "sea-control" carriers. Others have advocated different sizes, different numbers, and different aircraft.

John Lehman is uniquely suited to examine this issue with a rare combination of academic credentials, service in the highest levels of national security decision-making, and operational flying experience. In this small book he has reduced the carrier issue to its essential elements. Why do we need them, how many, how big, how vulnerable, and what kind of aircraft. It is an excellent handbook for a serious examination of this issue.

Through national indecision we have drifted without a settled building policy for carriers. Their numbers have dwindled to 12 and no new carrier, large or small, has been authorized since 1971. Further indecision cannot fail to bring serious damage.—Adm. E. R. Zumwalt, Jr. (ret.)

● Mr. WON PAT. Mr. Speaker, as a member of the Armed Services Committee, I strongly urge my colleagues to vote to override the Presidential veto of H.R. 10929, the fiscal year 1979 defense authorization bill.

There is much room for honest disagreement in the calculations and implications of the funding for various portions of this bill. I will leave it to others to debate the validity of these figures.

However, there is one aspect which is not ambiguous to me, and that is the fallacy of the principal reason presented for this veto: that the United States should not construct another large nuclear-powered aircraft carrier.

What is very clear is that a strong Navy is a vital requirement for the defense of our Nation and that our naval force is being allowed to dissipate. Each year more ships are deactivated and long-range plans for replacements are reduced.

The present thrust of the administration is to strengthen our European defense posture. This is certainly vitally important. However, in doing so it is incumbent upon us to make certain, imbalances in our overall force structure do not develop. Unfortunately, this is also happening, to the detriment of our naval forces.

Our national defense commitments are worldwide. Meeting these farflung needs requires a large and capable Navy. We are not meeting this important requirement and present trends would make this bad situation much worse in the near future.

Immediate corrective action is necessary but has not been forthcoming from the administration. The responsibility for correcting this serious deficiency has fallen on Congress and the bill vetoed by the President provides some of the means of doing so. More particularly, the aircraft carrier objected to by the President is one important program which we in the Congress determined should be built to strengthen our Navy.

Personally, I have some reservations about building expensive giant nuclear carriers. They would be vulnerable to nuclear attack. On the other hand, carriers of any size, and all land bases, would also be vulnerable in the event of nuclear war.

As imperfect as a nuclear carrier might be, it is the best system immediately available to meet defense needs which cannot be deferred. The United States no longer has land bases in most of the world. Our only access is by sea and the best naval system is the aircraft carrier. The most capable carrier is the one proposed by Congress.

Defense Department officials have allowed an unacceptable deficiency to develop and do not propose corrective actions. It has fallen to Congress to do this.

These same administration officials object to another nuclear carrier, but do not propose a viable alternative. The best option presented to date is a smaller oil-fueled carrier, as yet undesigned, on which to base aircraft of a type not yet developed, to be constructed at some indefinite future date.

Our naval needs are now and this bill, carefully crafted after many months of intensive study and consideration in Congress, provides the best available means of providing for these needs.

Our defense responsibilities throughout most of the world can not be met by

nebulous concepts which have not even reached the drawing boards.

There are widespread concerns that a preoccupation with improving European land forces are resulting in a further emasculation of our naval forces. I share this fear, and the conviction of most of our colleagues and many military experts that it should not be allowed to happen.

Administration officials contend this is not the case, but the evidence is otherwise. While proposing increased dependence on oil-fueled carriers, plans to construct the large tanker ships that would be necessary have also been deleted from shipbuilding programs.

I would also point out that the very high costs of constructing, operating and protecting these tankers for many years should also be calculated in comparing the relative costs of the two carrier concepts but generally are not. It has been mentioned that this floating fuel lifeline could be provided by civilian ships but the fact is our merchant marine does not have this capability either.

As a resident and congressional representative of Guam, far in the Western Pacific, I am very conscious of the concerns of officials in allied countries of the Far East about U.S. defense intentions. There is correct recognition that a strong capable U.S. Navy is necessary to protect our interests and theirs in the Pacific and Indian oceans and for meeting requirements short of nuclear war in that huge area of the world between Hawaii and Africa. They, and I, not with dismay and fear, the gradual, but continual, diminution of our naval capabilities.

We must not allow a preoccupation with one aspect of our global defense posture cause neglect and imbalance in another equally vital area. The oceans and seas around Europe comprise but a small part of the world. We can not allow our national defense posture to consider only these limited areas.

Further deterioration of our Navy must be halted, and immediately. Instead it must be strengthened, and as quickly as possible. With its imperfections, the nuclear aircraft carrier is the best available means of doing this.

Mr. Speaker, I urge our colleagues to recognize this fact today and vote to override this veto of the fiscal year 1979 defense authorization bill. To not do so would allow continuation of the aimless drift of our defense program, increased imbalances in our global defense posture and serious dangers to our Nation.●

● Mr. LEGGETT. Mr. Speaker, this debate on the future of a nuclear powered aircraft carrier touches some of the most sensitive issues the 95th Congress has to deal with—national defense and Federal spending. I believe we have a rare opportunity to be on the right side of both questions with a single vote—to sustain the President's veto of the ill-advised action to build a nuclear-powered carrier and reduce Federal obligations by $2 billion or more.

The carrier question has been debated up, down and sideways in the press, in committees, in telephone calls, and in the blizzard of dear colleague letters you all have received this week. The bottom line issue comes down to this: If you believe that there is no limit to the amount of money we should spend on armaments, vote to override the veto; if you believe that there is a limit to what we can spend on guns, ships and planes and that the money must be squeezed for every bit of value it has, the nuclear powered carrier is not the best option and the veto should be sustained.

Simply put, a conventionally powered carrier could serve virtually all of the reasonable purposes we have in mind for a carrier just as well as a nuclear-powered one will with fewer personnel, fewer planes, less necessity for resupply, and at substantially lower costs. I would point out that with the heavily documented difficulties the Armed Forces are having retaining trained personnel, and naval officers qualified in nuclear propulsion constitute one of the major problem areas, it is not reasonable to increase our manpower requirements unnecessarily.

I should also point out that for the Navy to buy this ship now is analagous to the two-car family whose cars both require overhauls but who, instead, choose to buy a new Mercedes-Benz. They really cannot afford the new car, and the old cars have been neglected so long that they barely run. Many of our Navy ships are frankly in similar condition to those old cars. It is true that we are on track to fixing our sadly neglected fleet, but it is going to take time and money—money which would be soaked up by this seagoing behemoth.

Many knowledgeable people, both in and out of Congress, have constructive ideas about what the Navy should be doing about new hardware—surface effect ships, VSTOL aircraft, antisubmarine warfare advances, and the like. All these ideas have one common denominator; they all cost a basketload of money. To concentrate so many of our resources in one area leaves many other fields uncovered and, in fact, increase our vulnerability in key areas we ought to be defending. This is just not good policy.

As chairman of the Task Force on National Security and International Affairs of the Budget Committee, I have participated not only in a detailed review of our defense posture, but also in the Budget Committee's deliberations on the economic well-being of our country—itself a major security concern. I and many of my colleagues believe that we just do not have $2 billion to spend on the marginal increase in military might that a new nuclear-powered carrier represents. In fact, a fully equipped nuclear-powered carrier task group could cost up to $11 billion in the long range—a staggering sum by any standard.

No carrier, conventional or nuclear-powered, is going to survive in a major nuclear war for very long. To think otherwise is to ignore the realities of advances in weaponry in 1978. If you doubt this at all, I would simply invite your attention to what has happened to tank warfare in the last 10 years. The same principles which developed one-shot, one-kill weapons for bridges and tanks have, for all practical purposes, doomed the carrier in a major conflict as surely as the carrier, in its turn, doomed the dreadnought battleships of a previous era.

At the time we passed the second concurrent budget resolution I said in my additional views:

> The budget process has been helpful to all of us in understanding our dilemma, but has yet to be very effective in helping us to solve our problems. This is going to have to change, but the motor for change will have to be the will of the Congress.

This is one of the hard choices I had in mind at that time. Does the Congress have the will, even with the President's help, to separate scare rhetoric from statements of the country's true needs and resist the kind of needless spending that this ship represents? I hope so.

None of what I have said is a particularly new or startling revelation. It is all on the record for anyone who chooses to make a serious study of the question. The final link in the chain is to decide, in light of what we know, whether to spend the tremendous amounts of money involved in this question to acquire something we can get for much less; and in that light, a decision to build a nuclear-powered carrier is not supportable with the facts at hand. It is true that emotional arguments and jingoistic judgments could be substituted for rational analysis, and such an expenditure would then be defensible. I do not believe that we should make decisions on those bases. The President has reached a proper conclusion and has acted with the courage of his convictions; it is time for the House to act with equal courage and conviction to sustain the veto.●

● Mr. SEIBERLING. Mr. Speaker, I strongly oppose this motion to override the President's veto.

The American people, I believe, are pleased by the restoration of the constitutional balance on foreign policy issues which has been established in the last several years. They do not want Congress to sit meekly by, deferring without hesitation to Presidential discretion in foreign policy and defense issues. The era of the imperial Presidency is gone, and with it the passive congressional role which enabled the imperial Presidency to lead us into Vietnam and into disaster.

The President's veto is not an attempt to restore the old days. Just as Congress has the right to make changes in the President's budget, so too does the President reserve the right to veto those changes. The issue here is substantive, not constitutional. The substantive issue is whether a nuclear aircraft carrier should be procured in this fiscal year.

The nuclear carrier was not requested by the President and was not planned for by the Navy in its shipbuilding and conversion program for fiscal year 1979. This veto can be sustained—and the carrier removed—without any adverse impact on our national security. But if the veto is overridden, it will cost us dearly in wasted funds, outmoded strategy and less capable military forces.

There is a growing consensus that the future Navy should have larger numbers of small ships rather than smaller numbers of large ships. But the exact shape and missions of this new type of Navy force structure are still being worked out.

Only last year we voted to delete the nuclear carrier in order to give administration planners an opportunity to develop their plan. I see nothing in the international situation which now should cause us to substitute haste for prudence. The 12 carriers we have now are enough to meet any foreseeable contingency.

There is a real likelihood of huge cost overruns with this ship. The previous three *Nimitz*-class carriers have averaged 42 percent cost overrun of their final cost compared to their estimated cost when first budgeted. The *Nimitz* had a cost overrun of 56 percent. The *Eisenhower* had an overrun of 42 percent. The *Vinson*, now being constructed, is at a 37-percent overrun by current estimates. This means a probable cost closer to $3 billion than the present estimate of $2 billion. And all were or will be delivered late. So when we get down to the practicalities of actual ship construction, there have been real problems. Waste in Government should not be tolerated. It should not be tolerated at the welfare office, and it should not be tolerated at the shipyard either.

There are also strategic considerations. As the widespread support for moving toward a Navy of numerous smaller ships rather than fewer large ships has to do with the development of new, precision-guided defense munitions, such as antiship cruise missiles, which make the carrier more vulnerable now than several years ago. There is also the development of new missions for the Navy, such as sea control, which require a naval presence over larger areas of the ocean than in previous planning.

In the past, one mission of carriers was to engage in strategic nuclear retaliation against the Soviet Union. However, intercontinental ballistic missiles and intercontinental bombers have rendered this mission obsolete. The same holds for projecting conventional power against the Soviet Union. The Soviet coastline is heavily defended, and the carrier would have to deploy a great deal of its weaponry just to protect itself, leaving a relatively small amount of military force available against Soviet targets. This no longer makes sense, in view of various available alternatives, such as land-based aircraft.

For example, there is the possibility of using land-based air to perform the sea control mission in the North Atlantic. Land-based air, complementing a number of smaller, light ships, could perform this mission without the need of any supercarrier, either nuclear or conventional. There is the possibility of homeporting an additional carrier in Subic Bay or in Japan, which would allow the Navy to maintain its current forward deployment of four carriers, but at a lower overall carrier level.

In the past decade, the carrier's major role has been to project conventional power against Third World countries, such as Vietnam and the Dominican Republic in 1965. As we move away from this type of intervention, we should also reexamine whether we can safely reduce the force structure which grew up around interventionist goals. For example, we could safely reduce our military presence in the Pacific both because our post-Vietnam commitments are fewer and because our relationship with the People's Republic of China no longer requires a "containment" policy in Asia.

Another consideration is the $4.5 billion price tag for the nuclear-powered escorts to accompany the carrier. These escorts cost as much as $1.5 billion each, and three are needed for each nuclear carrier. If the nuclear carrier does not have these nuclear escorts, then much of its alleged superiority is wasted. Escorts for a conventional carrier cost roughly half as much—$760 million for the AEGIS destroyer (DDG–47). Since there is already a shortfall of three nuclear escorts for the already-funded four nuclear carriers in the force, it is not good military policy to rush ahead with another nuclear carrier.

Finally, the nuclear carrier could well be obsolete before it is launched, because of the promising development of vertical short-takeoff and landing (the V/STOL), as well as other technologies which are expected to make it possible to use smaller carriers, if they are needed.

These are the considerations which lead me to support the President's veto on the substantive issue of the carrier.●

● Mr. GOLDWATER. Mr. Speaker, I rise to announce my intention to vote for an override of the President's veto of the Defense Department authorization bill. I am going to follow the recommendation of the House Armed Services Committee, and keep the congressionally mandated bill intact.

I have studied this matter carefully, Mr. Speaker, trying to concur with the President on his objections that proceeding with plans for a nuclear-powered aircraft carrier would "eliminate funds for high priority defense requirements," as he points out in his veto message. In giving the President every benefit of the doubt that his reasoning is sound, I remain unconvinced that a new *Nimitz* carrier is not in the best interest of our national security. My good friend and respected colleague, CHARLES BENNETT of Florida has informed us that the Navy, in accord with the Joint Chiefs of Staff, have given this project top priority for our military operations on the high seas.

The President's alternative proposal that a conventionally powered carrier be constructed instead, disregards the need for a technologically sound addition to our carrier fleet. The nuclear carrier is the most cost effective we could possibly build. It is capable for combat, and safe for its personnel.

There is something else connected with this veto which distresses me. It deals with the clumsy way in which he handled this veto. It deals with the entire defense policy of this administration. It deals with the political motivation of President Carter on a highly sensitive public matter.

All of us are familiar with the misrepresentations and inaccuracies in the President's veto message. It shows the ineptness of the President and his staff in coming to this Congress, exercising the power of veto, and presenting himself in a most unprofessional manner, unbefitting of a President of the United States.

For a number of years we have been carrying out negotiations with the Soviet Union on strategic arms limitation. We have yet to reach a final resolution in these talks, but all the while we have seen this White House compromise our bargaining position by refusing to support the B–1 bomber, backing down on deployment of the neutron bomb, and now this veto of the Navy carrier.

What incenses most about this veto, however, are the political overtones associated with it. We are all aware of the plummeting popularity of this President in the public opinion polls, the widespread criticism of him, because he "is not getting tough." So a special adviser has been brought in to redress the President's image, to get him to take the bull by the horns, wrestle him to the ground, and come out of a good fight flexing his muscles. Mr. Speaker, we are dealing with a weapons system involving billions of dollars for the defense of our country. It is clear to me that the President's action is not only undesirable for our Nation's interest, but does not speak well for the motives and tactics of this administration. I am voting to override this veto, and believe the House will use its good judgment, and prevail in its intention to enact this legislation into law.●

● Mr. BRINKLEY. Mr. Speaker, for the record, it would seem to me that the interest of the country could have been served better by accepting the President's veto in committee. Instead of a head-on clash or confrontation over an issue perceived to be that of an aircraft carrier, we could have at our Armed Services Committee meeting yesterday, made one simple change toward working together with the administration and which would have been an invitation to the administration to take one simple step in working with us. Precedent for this procedure may be found in President Johnson's veto of the military construction bill in 1965 during the 89th Congress, action thereon, and Chairman Rivers' immediate presentation of an alternative bill.

In a new authorization bill, we could have deleted the nuclear carrier and provided for an oil carrier that is less than what we wanted and earlier than the President had wanted, since his wishes are for that authorization to be provided in fiscal year 1980.

That approach would provide for the wisdom and strength from coequal branches of Government flowing to each other as contemplated by the Founding Fathers.

Because I believe in that partnership approach, which is within the boundary of conviction and within the boundary of strong national defense goals, my vote in the Armed Services Committee yesterday was against bringing the veto up for an override attempt today.●

● Mr. WIRTH. Mr. Speaker, I think that the Members of the House should be very exact in their understanding of what this debate is about. We are not discussing the merits of spending either more or less money on defense. The President has not vetoed the defense appropriations bill. He vetoed instead the authorization bill—the bill which determines how these defense funds will be

allocated. By now this should be clear to all of us. The White House and Congress agree on what should be spent. The difference lies in the nature of that spending, and Mr. Speaker, that is a very significant difference indeed.

What then is the President's objection to the allocation arrived at by the Armed Services Committees? The answer is fairly simple: The President contends that the $2 billion allocation for another nuclear-powered aircraft carrier weakens the overall defense capabilities of NATO. Furthermore he claims that the development and construction of this mammoth vessel will directly disadvantage us in one of the most crucial defense areas—research.

And that is exactly what happened. The Armed Service Committees slashed our spending on research and development of new weapons in order to build this carrier. Let me point out that while $200 million buys very little in the way of an aircraft carrier, it buys a great deal of research. Our advantage over the Soviet Union lies in the fact that we have more advanced and sophisticated weapons. That advantage will not remain in effect long if we continue to shortchange the research budget so we can make room for these massive projects.

The President is quite correct in objecting to this threat to our future defense. At present, work is being carried out on a number of highly advanced weapons. These employ sophisticated electronic techniques which we have, but which the Soviets do not. The development of these weapons can go a long way toward redressing the balance of power in Europe. These weapons cannot be delayed just so we can have another nuclear aircraft carrier.

Another area that must be examined is that of the overall position of the Navy in our total defense strategy. At present over 40 percent of our defense spending goes to the Navy. This, despite the fact that in terms of both total tonnage and number of major combatants our Navy is far larger than that of the U.S.S.R. On the other hand, our overall ground and air forces are inferior. Furthermore, the aggregate naval forces of the NATO allies far exceeds the Soviet forces outside Asia.

However, the fact still remains that the West is outnumbered in the other defense areas. Compared to the Warsaw Pact countries we are down by a half in numbers of tanks and heavy artillery. To me this suggests that we should begin to redress the imbalance; to catch up where we are behind; to make sure that we do not put all the eggs in one basket.

Let us take another look at what this aircraft carrier would have done to the allocations:

Army helicopter procurement funds would be cut by 5 percent, even though antitank helicopters are seen as a key to meeting the Soviet armored advantage.

Missile funds for the Army are also cut by 5 percent.

Tracked combat vehicle purchases were reduced by $120 million.

Even Air Force missile funds were slashed by $50 million.

We should also note that these cuts were to occur in a budget $1.5 billion higher than the President originally requested. If this extra money is to be spent there are much better places for it to go.

Here again the President's alternatives show a great deal of merit. In restoring the cuts which armed services made, we would see an increase in the size of our European ammunition depots. As a point of reference, the 1973 Mideast war showed that these depots were too small to sustain a modern conventional war. We would also build shelters for our airfields in order to protect ourselves from a disabling attack. All these plans stand to strengthen our defense position far more than the addition of a new aircraft carrier.

The Armed Services Committee would have us believe that the Navy needs a small number of very large ships. The argument is, I think, very shaky. What we need is a larger number of medium-sized vessels. At present, most of the offensive capability of the Navy is concentrated on the carrier fleet. The other ships cannot attack enemy positions. If the flight deck of a carrier is destroyed by an enemy missile, launched from a surface boat or submarine, then the American task force might as well head for port.

This clearly illustrates that we need to spread our offensive capability around. Eventually the Harpoon missile will be deployed in other surface ships. However, the Navy consigns that to a late eventuality, and it is certainly a low priority when compared to the construction of other carriers.

Priorities clearly must be reversed. For the price of one carrier and its aircraft, we can build 40 missile frigates, equip them with radar controlled guns, antiship, antisubmarine, and antiaircraft missiles. These would be a far better buy, enabling us to deploy our ships in a much wider range at any given moment. It would also provide more flexibility in enabling us to respond to emergency situations with something smaller than a carrier fleet.

Times have changed for the aircraft carrier. Times changed for the battleship between the two World Wars. Because of increasingly sophisticated missiles which can be launched by relatively small, inexpensive ships, the carrier has become more vulnerable. The need for it has also decreased. During WW II land-based aircraft could not patrol the entire Atlantic against submarines. Since then aircraft ranges have increased, and carriers are no longer needed to fill in the "black hole."

By sustaining the President's veto, and moving farther away from our dependency on the carrier we do a number of vital things. We counter any possible Soviet threats, we reduce the vulnerability of the Navy's offensive power, and we help to redress other military imbalances. Good reasons all. The President's veto should stand, and we should have a better authorization bill.●

● Mr. KEMP. Mr. Speaker, I wish to make several remarks in closing.

President Carter has chosen, for the first time since 1843, to veto a defense bill. The President did not veto the bill because of "breaking the budget"—the bill provided for expenditure below that which the President had requested for fiscal year 1979.

The ostensible grounds for the veto was the fact that the Congress included $1.9 billion for a fifth nuclear powered aircraft carrier, the CVN–71 in opposition to the President's expressed wish to fund only a single nonnuclear powered aircraft carrier, the CVV. But it should be remembered that the White House advised the chairman of the Committee on Appropriations during its debate over the defense appropriation bill that it was willing to accept the CVV in the fiscal year 1979 bill, a proposition which, if all other Presidential spending recommendations had been accepted, would have broken the budget

However, as the debate over the details of the proposed new carrier versus the CVN–71 versus the nonnuclear carrier were spelled out on the floor, it became clear that money was not the issue. The administration acknowledges that the cost of the CVV is estimated now to be $1.5 billion—up from $900 million a year ago. The administration further acknowledges that the cost of 13 years of fuel for the CVV—fuel that is included in the capital cost of the CVN—is $300 million, and the cost of storing and delivering that oil to the fleet is an additional $350 million. This calculation, does not include the additional escort vessels required to protect the fleet oilers which would have to deliver the oil to the carrier beyond the modest level required to deliver ammunition and aviation fuel. Thus, it will cost at least $2.15 billion to buy an aircraft carrier, the CVV, which has only two-thirds the number of aircraft of the CVN and hence less ability to protect its carrier task force; would be unable to launch its aircraft twice as often in heavy seas as the CVN, and can carry far less in the way of munitions and aviation fuel reducing the length of time it can operate without replenishment.

The President has suggested that he was opposed to the large carrier because he wanted to buy a greater number of smaller surface ships. We now know this argument to be false now that the President has submitted his shipbuilding plan to the Congress. The Carter administration proposes to cut the Nation's shipbuilding program in half from that proposed by President Ford—from 30 to 15 ships. Deprived of the air protection afforded by the carrier, it is unlikely that any of the new ships will be able to operate in a hostile environment.

Thus, from the evidence the President has provided to the Congress, we can say with confidence that cost was not a factor in the veto of the defense bill, the effectiveness of the nuclear carrier was not an issue since it is both cheaper and more effective than the nonnuclear

carrier, and we know that the President is not proposing to build a greater number of smaller ships in place of the carrier.

One must look beyond the narrow issue of the carrier controversy to perceive what this administration is doing to the American defense posture. To do so, it is useful to review some recent history.

First. Upon taking office, President Carter slashed a total of $32 billion off the 5-year defense program proposed by President Ford and approved by the Congress with the fiscal year 1977 defense budget.

Second. President Carter's proposed fiscal year 1978 defense budget was $8 billion below that proposed by President Ford.

Third. Despite advice to the contrary from our allies, the Department of Energy, the Secretary of Defense, and the Joint Chiefs of Staff, the President deferred indefinitely—a euphemism for "killed" the neutron warhead for the Lance missile.

Fourth. The President blocked the initiation of full-scale development of the MX advanced ICBM in fiscal year 1978, fiscal year 1979, and preliminary budget documents indicate he will do so in fiscal year 1980 as well. This is done despite the manifest threat to land-based U.S. ICBMs which will emerge in the mid-1980s. The earliest the MX could be produced according to Carter spokesman is fiscal year 1987.

Fifth. Despite advice from every responsible element of the national defense bureaucracy, the President has proposed a total ban on nuclear tests despite the fact that the terms of the President's proposal would allow the Soviet Union to continue to conduct nuclear tests without fear of detection, while the United States could not test its nuclear weapons.

Sixth. The President stopped production of the B-1 bomber without so much as a single suggestion to the Soviets that they should restrain in any way, any of their most threatening new strategic systems.

Seventh. President Carter has reversed the SALT policy of the previous administration of insisting on an agreement where Soviet compliance with the terms of an agreement could be verified; the Carter administration is now willing to advance unverifiable proposals at SALT in an effort to win early agreement.

This frightening litany is 2 years of work by Carter administration officials. What emerges from a review of the efforts of the Carter administration is nothing less than a systematic effort of unilateral restraints that will, I think, reduce the ability of the United States to defend itself in the future. To be sure, the Carter administration takes a much more relaxed view of the Soviet military threat than does the Congress, but the administration has never made a presentation of why it does not share the view of either the Congress or the previous administration of the character of the Soviet military threat our forces are supposed to address. Instead, the President has chosen to cut America's defense capability.

The whole of the President's cuts in America's defense capability is, in this instance, greater than the sum of its parts. By simultaneously making cuts in all areas of the American defense posture—strategic and conventional, nuclear and nonnuclear forces, naval forces, and advanced research, coupled with an "Alice-in-Wonderland" arms control posture, the President reveals himself as one who is decoupled from the stark reality of our age, Soviet military power.

The President's veto of the defense authorization bill has crystallized the posture of this administration; it is opposed to maintaining the resolute defense posture earlier Presidents of both political parties have defended, because the group of academic arms control enthusiasts have captured both the President's imagination and the decisionmaking apparatus of the executive branch of Government. It is no accident that no President has vetoed a defense bill for more than a century; it is the first time in modern memory that the individual charged with the constitutional responsibility for initiative in national security matters has been so grossly derilict in his responsibility to the security of the current and future generation of Americans.

The veto of the defense authorization bill provides the Congress with an opportunity to revitalize the American defense posture. Issues held at abeyance in fiscal year 1979 can now be reopened. Programs deferred in the fiscal year 1979 budget can now be reopened. In short, it is now up to the Congress to step in where the President has defaulted on his constitutional responsibilities, and provide for a defense posture that will address the military threat we face. The cumulative effect of the President's defense policy since he assumed office provides the basis for a reconsideration of earlier Presidential decisions in which the Congress has acquiesced.

First, America's strategic nuclear posture demands early attention to mitigate the damage inflicted upon it by several unwise administration decisions. There is no longer any reason to believe that the President has in mind some new "mix" of forces different in significant ways from our current posture to offset the growth in Soviet strategic nuclear power. The President's policy is to stop the development of most major new strategic nuclear programs in the forlorn hope that the Soviets will respond with an unprecedented gesture of altruism, and disarm themselves. The dangerous statistics of the Soviet buildup since January, 1977 dismiss any residual hope of Soviet altruism in strategic arms. Therefore, the United States should take steps to restore a climate of "equal security" with the Soviets which makes arms control negotiations and strategic stability possible.

Full scale development on the MX ICBM should begin at the earliest possible date.

The possibility of an expedient interim system which could be deployed quickly during the period when the MX is being developed, if the IOC—initial operating capability—of MX cannot be advanced of FL 85 or earlier.

Development—and subsequent deployment—of the most capable heavy-payload ICBM we can develop should be included; a common MX/D-5 will not provide sufficient payload and performance characteristics to meet U.S. land-based ICBM requirements against the most plausible Soviet threat in the late 1980's.

Initial low rate B-1 bomber production should be initiated in fiscal year 1979 in conjunction with accelerated development of the cruise missile. In retrospect, Congress erred in acquiescing in the termination of the B-1 production line because the President's SALT posture severely limits the usefulness of cruise missiles without a modern penetrating aircraft and the slowpace of ICBM and SLBM modernization requires the expeditious deployment of the B-1.

Moreover, the cost overruns, delays, and technical risk that has become apparent in a posture which places sole reliance on the cruise missile is simply too much of a gamble.

REOPENING THE ISSUE OF THE ADEQUACY OF THE ADMINISTRATION'S SHIPBUILDING PROGRAM

Second, no less than our strategic nuclear posture, when the Congress considers the defense authorization bill again, it will be appropriate to reopen the issue of the adequacy of the administration's request for naval shipbuilding. When the Defense subcommittee of the Committee on Appropriations took testimony from the Navy, the administration's decision on the drastic cuts in naval shipbuilding were not known. Now that the President has decided to cut new naval shipbuilding in half, this recommendation should be reviewed in detail, and in my view, rejected.

Funds to execute the shipbuilding program which the Congress reviewed in connection with the fiscal year 1977 Defense budget and 5-year defense program should be provided.

The present capability of the U.S. Navy to project American power to the western Pacific, Persian/Arabian Gulf, and eastern Mediterranean are unduly constrained by the limited number of long-endurance aircraft carriers.

In the administration's presentation of its fiscal year 1978 and fiscal year 1979 defense budget requests, it suggested that large-deck aircraft carriers were obsolete, and could be replaced in the 1980's with small vertical/short takeoff and landing (V/STOL) aircraft. This assertion has subsequently been shown to be a sham; high performance V/STOL development has been pushed off into the early years of the next century, a point recognized by the administration when they cut funds in fiscal year 1979 for the development of V/STOL aircraft. Therefore, funds should be provided for the long-leadtime components of a sixth large-deck nuclear-powered aircraft carrier if the Congress should be required to review the fiscal year 1979 authorization bill again. Only with sufficient naval offensive power—provided only by tactical aircraft—can the United States be sure of being able to

stand athwart the Soviet Navy in a future conflict in the Middle East and elsewhere in the world now beyond the reach of American power due to understrength naval forces.

The administration made a host of recommendations for reductions in research and development programs which cut deeply into the ability of the United States to respond to future threats. The Congress accepted many of these recommendations in the expectation that the President would be willing to deploy sufficient forces to meet current threats. Since the President is not disposed to support the deployment of any of the major strategic and naval modernization programs, save the Trident program—even here, he has not yet requested funds for the D-5 missile to be deployed on the Trident II submarine, the Congress must provide for the kind of long term military security the American people insist upon.

In short, the President's veto of the Department of Defense authorization bill has provided an opportunity for a review of the adequacy of the U.S. defense posture to meet our defense requirements. If the President's budget requests were adequate when they were formulated in late 1977—and I do not believe they were—they are certainly inadequate today in light of the new evidence on the character of the Soviet threat.

If the veto is sustained, then I urge the Committee on Armed Services to initiate a brief series of hearings on the character of the Soviet threat, and the adequacy of U.S. strategic and general purpose forces to meet that threat. A new bill could then be reported to the Congress which would provide for a level of budgetary support to our defense objectives that will meet the security needs of this Nation and its allies.●

The SPEAKER. The gentleman from Illinois (Mr. PRICE) has 1 minute remaining.

Mr. PRICE. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, let me repeat as I said in my opening statement, I do not believe that a vote to override would cause any permanent difficulties for the President or would weaken him in his dealings in other areas. Many Presidents have had vetoes overridden but have gone on to be effective Presidents, great Presidents, and have gone on to be reelected. But, Mr. Speaker, I do think a vote to override the veto will be a message to the world that the United States is not prepared to let its defense capabilities be reduced and that our potential adversaries cannot afford the misconception of doubting our willingness to meet our national security commitments.

Therefore, Mr. Speaker, I ask for a vote to override the veto.

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 191, nays 206, not voting 35, as follows:

[Roll No. 730]

YEAS—191

Alexander
Ambro
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bennett
Bevill
Boggs
Bowen
Breaux
Breckinridge
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burleson, Tex.
Butler
Byron
Caputo
Carter
Cederberg
Chappell
Clausen, Don H.
Cleveland
Cochran
Coleman
Collins, Tex.
Corcoran
Coughlin
Crane
Cunningham
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Dent
Derrick
Derwinski
Devine
Dickinson
Dicks
Dornan
Downey
Duncan, Tenn.
Edwards, Okla.
Emery
English
Evans, Del.
Evans, Ind.
Findley
Fish
Flynt
Fountain
Frenzel
Fuqua
Gammage
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hall
Hammer-schmidt
Hanley
Hannaford
Harsha
Hightower
Hillis
Holt
Horton
Hyde
Ichord
Ireland
Jeffords
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Lagomarsino
Latta
Lent
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
McClory
McCormack
McDade
McDonald
Mann
Marlenee
Marriott
Martin
Mathis
Michel
Miller, Ohio
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murtha
Myers, Gary
Myers, John
Nichols
O'Brien
Oakar
Pepper
Pike
Poage
Price
Pursell
Quayle
Railsback
Regula
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Rousselot
Rudd
Runnels
Santini
Sarasin
Satterfield
Sawyer
Schulze
Sebelius
Shuster
Sikes
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Spence
Staggers
Stangeland
Stanton
Steed
Stratton
Stump
Taylor
Treen
Trible
Vander Jagt
Waggonner
Walker
Walsh
Wampler
Watkins
White
Whitehurst
Whitley
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wolff
Wydler
Yatron
Young, Fla.
Zablocki
Zeferetti

NAYS—206

Addabbo
Akaka
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Applegate
Ashley
Aspin
AuCoin
Baldus
Baucus
Beard, R.I.
Bedell
Benjamin
Biaggi
Bingham
Blanchard
Blouin
Boland
Bolling
Bonior
Bonker
Brademas
Brinkley
Brodhead
Brooks
Brown, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Carr
Cavanaugh
Chisholm
Clay
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Cornell
Cornwell
Cotter
D'Amours
Danielson
Delaney
Dellums
Diggs
Dingell
Dodd
Drinan
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Ertel
Evans, Colo.
Evans, Ga.
Fascell
Fenwick
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Garcia
Gaydos
Gephardt
Giaimo
Green
Hamilton
Harkin
Harrington
Heftel
Holland
Harris
Hefner
Hollenbeck
Holtzman
Howard
Hubbard
Hughes
Jacobs
Jenkins
Jenrette
Jordan
Kastenmeier
Keys
Kildee
Kostmayer
Krebs
LaFalce
Le Fante
Leach
Lederer
Leggett
Levitas
Lundine
McCloskey
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Markey
Marks
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Mikulski
Milford
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Moss
Murphy, Ill.
Murphy, Pa.
Myers, Michael
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Perkins
Pickle
Preyer
Pritchard
Rahall
Rangel
Reuss
Richmond
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Ruppe
Russo
Ryan
Scheuer
Schroeder
Selberling
Sharp
Simon
Skubitz
Solarz
Spellman
St Germain
Stark
Steers
Steiger
Stockman
Stokes
Studds
Thompson
Thornton
Traxler
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
Whalen
Wirth
Wright
Wylie
Yates
Young, Mo.

NOT VOTING—35

Abdnor
Ammerman
Bellenson
Burke, Calif.
Burke, Fla.
Clawson, Del
Duncan, Oreg.
Erlenborn
Fary
Fraser
Frey
Gibbons
Hansen
Hawkins
Heckler
Huckaby
Kasten
Krueger
Lehman
Mikva
Miller, Calif.
Murphy, N.Y.
Pettis
Pressler
Quie
Quillen
Shipley
Sisk
Symms
Teague
Thone
Tsongas
Wiggins
Young, Alaska
Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Fary and Mr. Teague for, with Mr. Ammerman against.

Mr. Krueger and Mr. Shipley for, with Mr. Mikva against.

Mr. Abdnor and Mr. Kasten for, with Mrs. Burke of California against.

Mrs. Pettis and Mr. Young of Alaska for, with Mr. Bellenson against.

Mr. Hansen and Mr. Thone for, with Mr. Lehman against.

Mr. Symms and Mr. Frey for, with Mr. Tsongas against.

Mr. Quillen and Mr. Burke of Florida for, with Mr. Hawkins against.

Mr. Huckaby and Mr. Del Clawson for, with Mr. Erlenborn against.

Until further notice:

Mrs. Heckler with Mr. Miller of California.
Mr. Quie with Mr. Sisk.
Mr. Murphy of New York with Mr. Wiggins.
Mr. Fraser with Mr. Gibbons.
Mr. Duncan of Oregon with Mr. Pressler.

Mr. PATTERSON of California changed his vote from "yea" to "nay."

Mr. COUGHLIN changed his vote from "nay" to "yea."

So, two-thirds not having voted in favor thereof, the veto of the President was sustained, and the bill was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The message and the bill, together with the accompanying papers, are referred to the Committee on Armed Services.

The Clerk will notify the Senate of the action of the House.

GENERAL LEAVE

Mr. PRICE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just voted on.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

MOTION TO INSTRUCT CONFEREES ON H.R. 12930, TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATION ACT, 1979

Mr. STEED. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 12930) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1979, and for other purposes, with Senate amendments therefor, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

MOTION OFFERED BY MR. BROWN OF OHIO

Mr. BROWN of Ohio. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BROWN of Ohio moves that the managers on the part of the House, at the conference on the disagreeing votes of the two Houses on the bill, H.R. 12930, the "Treasury, Postal Service, and General Government Appropriations, 1979," be instructed to agree to the amendment of the Senate numbered 7.

The SPEAKER. Under the rules, the gentleman from Ohio (Mr. BROWN) is recognized for one hour.

For what purpose does the gentleman from Ohio (Mr. VANIK) rise?

Mr. VANIK. Mr. Speaker, I desire to be heard in oppostion to the motion.

The SPEAKER. The Chair will state that the time is under the control of the gentleman from Ohio (Mr. BROWN).

The gentleman from Ohio (Mr. BROWN) is recognized for one hour.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have offered this motion because of the continuing threat by the administration to impose oil import fees. A prohibition to such an import fee has already been approved by the Senate on a vote of 39 to 49 on a motion to table in the form of an amendment offered by Senator ROBERT DOLE of Kansas to the Senate's version of the Treasury, Postal Service, and general government appropriations bill.

Unfortunately, no similar prohibition was in the House version of that legislation when it passed our body because the threat of the administration to impose import fees did not at that time appear to exist. Thus, the only way the House can assure that the President does not unilaterally exercise the authority he has under section 232 of the Trade Expansion Act of 1962 to impose import fees on oil is to instruct its conferees on this issue.

Mr. Speaker, as the Members know, I found the President's original energy proposal totally unsatisfactory, because his proposal failed to adequately encourage domestic energy production to replace and force out of our domestic use expensive foreign oil.

While the President proposes the so-called crude oil equalization tax to encourage domestic conservation by bringing prices to consumers of domestically produced and federally price-controlled energy up to world price levels, I have supported gradual removal of all Federal price controls on energy so that the same price increase to consumers that encourages conservation will also encourage more domestically produced energy.

In light of proposition 13, COET (the crude oil equalization tax) is politically dead and will not be adopted by the energy conference. Somehow, the administration does not understand this and believes that it can coerce the conferees into adopting COET by the threat of imposing the $5 import fee if COET is not adopted.

This persistent threat that the administration may undertake an even more illogical tax approach to punish American consumers into conservation is, I think, incredible. I do not think such action should be taken, and in no case should it be taken without Congress having a chance to vote on it.

The imposition of a $5 import fee on crude oil would be nothing short of disastrous and it would have almost no effect on decreasing our import levels.

Using the Department of Energy's own models, it is estimated that a $5 import fee would decrease oil imports by only 200,000 to 300,000 barrels of oil per day. And, unlike decontrol, which would provide incentives to produce additional domestic oil, no additional domestic oil will be produced as a result of import fees.

Several studies have indicated that the import fee will cost U.S. consumers $3 billion per year, or 0.3 percent in inflation increase for every $1 of import fees. And if we look at the $5 import fee per barrel proposed, that would amount to $15 billion.

This $15 billion would result in the same economic impact as the social security tax which this Congress passed last December. My motion to instruct conferees gives the House a chance to vote against such a new tax.

In addition, the Congressional Budget Office says "imposition of a crude oil import fee would have no more than a minor effect on the U.S. balance of payments."

CBO also estimates that unemployment would rise by as much as 400,000 jobs if the $5 import fee were imposed.

Perhaps, more significantly, if the administration imposes a $5 import fee on oil, it will be a clear signal to the OPEC cartel that the American economy is willing and able to bear the additional costs of imported oil. Try to put yourself in the position of an OPEC oil minister who sees the U.S. Government asking its consumers to pay $5 a barrel more than he is getting for his OPEC oil. Logically, the OPEC countries will ask: "Why should the U.S. Treasury be getting an extra $12 to $15 billion a year, when the money could go to our own treasuries?"

Do we really want to show OPEC that the American system is capable of getting along with a price hike of $5 more per barrel that would go to our Treasury but not to encourage the production of oil?

Finally, imposition of such fees would have a severe regional economic impact on the Northeastern United States, where in effect there are no energy alternatives to the importation of oil. The result will be that they will experience the most severe impact, although the impact will be spread across the rest of the country as well because of the entitlements program that spreads the cost of higher priced imported oil throughout the country.

Therefore, Mr. Speaker, I urge you and the rest of my colleagues to support this motion to instruct the conferees to accept the Dole amendment to prohibit the import fees. It is an important vote for the consumers of the United States, and I think an important vote on our future as a society.

Mr. LATTA. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to my colleague from Ohio for the purpose of debate only.

Mr. LATTA. Mr. Speaker, I want to congratulate the gentleman for bringing this to the attention of the House, and for his motion to instruct these conferees.

In terms of gallonage cost to the average motorists, how much are we talking about?

Mr. BROWN of Ohio. The $5 per barrel import fee probably equates to about 5 cents per gallon of gasoline, so that in effect what we are doing is putting a tax on the workingman to drive to work every day by imposing this $5 a barrel import fee if the President chooses to do that, and he said he would if we do not pass COET.

Mr. LATTA. I think this is most important, that the American people know what this Congress is about to do, or not do, because they do not relate to a $5 increase in the cost of a barrel of oil but they do relate to a 5-cent increase in their gasoline at the pump. I do not think many Members of this Congress want to go home just before election and say that they voted against the gentleman's motion to instruct the conferees to save the 5 cents on a gallon of gasoline.

Mr. BROWN of Ohio. Let me just say to the gentleman that in addition it would have the impact of the same total cost to the workingman as the social security tax increase that the Congress passed last December. Many of us who did not vote for that social security tax

increase now find that we are sustained by Secretary of the Treasury Blumenthal and Mr. Miller of the Federal Reserve, with the suggestion that that tax ought to be repealed. To add another $15 billion onto the taxpayer, it seems to me, makes a little bit of a mockery of what we did not very long ago in this body by reducing taxes.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Arizona.

Mr. RHODES. Mr. Speaker, I congratulate the gentleman from Ohio on his initiative in offering this motion, and I hope the motion will be adopted. It seems to me that what the gentleman from Ohio is doing is trying to keep the administration from compounding the error which the administration made in submitting the energy proposal to begin with.

The crownpiece, the centerpiece of the energy proposal was COET, and the Congress of the United States has not seen fit—and it will not see fit—to enact COET. So, it seems to me that what the gentleman from Ohio is doing is quite proper, in that he is telling the administration that they must not impose under another law a tax which the Congress will not allow them to impose under the energy plan.

I think the effects of the two taxes would be quite similar. Each one of them would signal to the OPEC countries the fact that—although it is not a fact, but it would indicate the fact that the economy of the United States could get along with a higher price of imported oil. Of course, if we were to have a higher price of imported oil it would be inflationary. If there was to be a tax which would be imposed on imported oil, it would be inflationary. It would increase the cost of living to everybody, and actually it would be exactly the wrong thing to do at this particular time.

Mr. Speaker, I hope the gentleman's motion is agreed to.

Mr. MOORE. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. Mr. Speaker, I too would like to praise the gentleman from Ohio for offering this motion. I rise in very strong support of it.

It seems to me when we consider the anticipated action of putting an import fee on imported oil, we have to ask the question: Why is this being done? It is coming at a time when we already have rising inflation, and obviously when we artificially raise the price of something and we get no more of it for that price, we are bringing on inflation. As has just been pointed out by the distinguished minority leader, we are probably going to be facing an OPEC increase in price because of the decrease in the value of the dollar and because we get an increase in price this time of every year anyway. We are going to be inflicting a Government-imposed increase in price on a basic commodity which everybody in this country uses and we will be forcing that on the people for no particular benefit.

So we ask the question: Why would the administration do this? They do it in the name of conservation. Their whole energy policy is based on no growth, no more energy, no more expansion of the economy, but conserving what we have even if it hurts the workingman, even if it hurts the retired people, and even if it means there will be no more new jobs. Do not use any more energy. That is a no growth, shortsighted energy policy.

What the President is saying is: "I am going to raise the price of oil by imposing import fees until it hurts people to use it." The fallacy of that is that the people have to use it. They will have to drive to work and they will have to heat their homes.

The inconsistency is that not only would we get no more increased conservation for this increased price, but the people of this country would get nothing more for their money except one more increase in taxes at a time when we ought to be getting the economy rolling and putting more money into the pockets of our people by cutting taxes.

Even if we just decontrol, as the gentleman from Ohio (Mr. BROWN) pointed out on this House floor, even if we decontrol our price of gas and oil, there would be an increase in cost but for that increase the people would get more oil, more jobs and more of an economic stimulus.

So the question is do we want to choose the route of hurting the people and putting more money in the tax coffers or do we want to solve the energy crisis?

So when we ask the question, why is the administration doing this, we have the answer that the administration is wrong, and only this motion to instruct the conferees on this amendment would prevent this wrong solution.

Mr. BROWN of Ohio. Mr. Speaker, I yield to the gentleman from New York (Mr. KEMP), who is well known for his efforts in this field.

Mr. KEMP. Mr. Speaker, I appreciate the gentleman yielding.

I also support the Dole amendment, and I believe, as the gentleman from Ohio has pointed out and as my friend, the gentleman from Louisiana has, that this effort to impose here a crude oil equalization tax or import fee is nothing but an attempt by the administration to hold down consumption at the expense of production, which is what the gentleman pointed out earlier.

What we ought to be doing is encouraging production of new energy, encouraging economic growth. The equalization tax and the import quotas are anticonsumer and antigrowth and predicated upon the idea that there is a fixed or finite supply of energy in our country and that what we ought to be doing is slowing down the use of it and ultimately rationing as a result of the policies such as this, and that it is basically Malthusian, to the extent that our population has outgrown the resources, so the only thing is to hold down the use of those resources rather than to encourage production of new resources, of alternate resources, as well as to stimulate production.

I appreciate what the gentleman has done. I will strongly support the amendment.

I also agree with his analogy between this approach and that used by the administration and some of our friends to try to help social security by raising taxes on payrolls. The idea that we can help employment by raising taxes on employment is absolutely fallacious and counterproductive, and the idea that we can encourage new sources of energy by raising taxes is not only counterrational but also counterproductive. I am sure the House will support the motion to instruct the conferees.

Mr. BROWN of Ohio. Mr. Speaker, I yield to the gentleman from Ohio (Mr. VANIK), for the purpose of debate only.

Mr. VANIK. Mr. Speaker, I want to thank my colleague, the gentleman from Ohio (Mr. BROWN) for yielding although I wish to rise in opposition to this motion which has been made by our distingushed colleague, the gentleman from Ohio (Mr. BROWN).

I want to point out, Mr. Speaker, that this issue is something that should be debated in the Committee on Ways and Means where we could have an orderly discussion as to where this action can take us.

To take this quick, preemptory action on the floor right now treads on the likelihood of disaster. This issue is something that should have been debated thoroughly in the energy bill but it certainly should not be done quickly and rashly on the floor of this House.

Do you know what could happen today if we would adopt this motion? The dollar could go through its most serious plunge in all of the recent months.

The President went to Bonn, Germany, in order to preserve world confidence in the dollar. He had to promise we were going to do something about energy. He had to suggest that the American people intend to do something about our escalating consumption of energy. It was because of his statements in Bonn that the dollar continues today to be on probation. The dollar is on probation with all of our trading partners in the world.

If you want to eliminate the dollar today as the trading currency for the purchase of oil, then this action will do it.

This is a very dangerous thing to be considering in this Chamber on a short debate in which all of the time is controlled by those who are offering the motion. I want to thank my colleague, the gentleman from Ohio (Mr. BROWN) for giving me the opportunity to oppose it. But I say to you that the dollar is in terrible peril. It is humiliated in the world markets today. It is losing its value, and if this action is taken today, it would indicate that the President has no power to deal with the oil import issue. I think we are heading for serious trouble indeed.

I want to point out one other thing. The President has not exercised this power. He said he would, or that he might, but there are other things he can do with this power. For example, with the powers he has under this section

of the law, he can pick and choose among those countries from whom we purchase oil. I would hope that, in his good judgment, he would decide that the oil purchases should be made from those OPEC, oil producing countries which have favorable trade balances with the United States. We should buy oil from those countries who buy from us.

Today we are losing fiscal credibility as a nation. We are suffering a depleting credibility of the dollar as a currency because we are paying $50 billion for foreign oil. The countries from whom we buy this oil are making their purchases in other countries, in third countries. This is a most serious and solemn action.

I would urge my colleagues to study the effect of the proposal of the gentleman from Ohio (Mr. BROWN) with deep care. It is indeed something that should be pondered over. After proper deliberation, we might come to this decision. But let us do it in an orderly process by having this debate take place in the Committee on Ways and Means. Let the evidence be presented as to what the effect their action will have on the American people and on the American dollar. If we rashly adopt the proposal that is made by my distinguished colleague, the gentleman from Ohio (Mr. BROWN), we are exposing our Nation to a dangerous risk. I certainly hope the motion is defeated.

Mr. BROWN of Ohio. Mr. Speaker, may I say to the gentleman from Ohio (Mr. VANIK), my friend and colleague, who takes the position that this should be done in the Committee on Ways and Means at this juncture, that if I really thought it would be done before the end of this Congress, I might be more sympathetic to his viewpoint. But this is the only vehicle we have for doing this. This is done for only 1 year because it is done for only as long as the appropriation calls for, so it lasts for fiscal year 1979.

Let me make one further point, if I may. The very day that the President returned from Bonn, the leadership took off this floor the bill to which the gentleman from Texas (Mr. WRIGHT) was going to offer an amendment to allow the price of deep stripper oil to go up, to try to accomplish in a domestic production way what the President of the United States said he was going to do when he was in Bonn.

In other words, he would let the price of domestic oil start edging up so it would get up there by 1980. The Congress will have the opportunity in May of 1979 to say to the administration that we will not extend the EPCA legislation which keeps the price level lid on old oil. That will accomplish what the President wants to do by 1980, and I will support him in that effort. However, for now, I do not think it is desirable to do it by a tax method because if we do it through the tax method, it does not do anything to encourage domestic production, and we do not force out any foreign oil. What we do is add to the cost without producing one more drop of oil.

Mr. JOHN T. MYERS. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Indiana.

Mr. JOHN T. MYERS. Mr. Speaker, I thank the gentleman for yielding.

In the event the gentleman's motion does fail today and the President should impose these taxes, what could we expect the consumers' oil bills, heating bills, and gasoline bills would be? How much would they go up?

Mr. BROWN of Ohio. Mr. Speaker, I say to the gentleman from Indiana that the Congressional Budget Office estimates that the average home heating bill in Boston—I do not happen to have the figure for Indiana——

Mr. JOHN T. MYERS. It would be similar for Boston, I assume.

Mr. BROWN of Ohio. The average home heating bill in Boston would increase from $122 to $231 per year.

Mr. JOHN T. MYERS. Per year?

Mr. BROWN of Ohio. Per year, on the basis of a $5 a barrel import fee increase. That is a pretty impressive increase.

Mr. JOHN T. MYERS. That is heating bills only?

Mr. BROWN of Ohio. That is the heating bill. It is not the gasoline bill. It is just heating the home.

Mr. JOHN T. MYERS. I congratulate the gentleman from Ohio for his motion to help prevent an unnecessary increase to utility, oil, and heating bills for the poor people of this country.

Mr. BROWN of Ohio. Just let me suggest one other bit of information. I used the conservative figure in my former remarks of three-tenths of 1 percent inflation for each dollar. That comes out to a 1½-percent increase in inflation if this tax is imposed by the President. That is what we are trying to prevent. That is the CBO estimate. The Congressional Research Service estimates that it would be 2.6 percent, if we impose the $5 import fee per barrel, of additional inflation.

Mr. JOHN T. MYERS. Mr. Speaker, I thank the gentleman for his figures. I hope everyone will vote for the motion.

Mr. BROWN of Ohio. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. STOCKMAN), for purposes of debate only.

Mr. STOCKMAN. Mr. Speaker, the gentleman has brought up a very important point.

It seems to me that we spent the entire summer in a big battle in the House and Senate over the east coast entitlements, which are a measure of relief that east coast petroleum users are seeking.

It seems to me that if this import fee is adopted, it will force the situation to the point where that entire entitlement they are getting now in the proposed increase will be entirely wiped out, and the effort made over the last couple of months by those who represent east coast constituencies will be completely nullified. The reason for it is simply that there is so much spare capacity in the Caribbean and in western European refineries today that we are getting foreign products into this country for the same price as that at which the products are being produced by our domestic refiners, as a result of which the oil cost is $2 or $3 a barrel lower. If we raise the price on our domestic refiners by $5 for the oil they import, we are going to create a situation in which our domestic refiners cannot compete, or else we will have to impose a fee on other products as well as a crude oil import fee. That fee would have to be about $2 a barrel to keep everything even and not to give an advantage to foreign refineries.

If we do that, the $2 a barrel wipes out everything which those Members from the east coast have been trying to achieve over the last year by way of entitlement improvement for their residual and other products.

I might also say that I listened to the gentleman from Ohio very carefully. He was talking about the dollar and how it is essential for the dollar to take this action.

It seems to me that one of the worst pieces of mythology we have going today is that our crude oil imports are causing the dollar to decline and that there is a primary source of the monetary difficulty and the balance-of-payments difficulty we have. That cannot be true. If oil imports, per se, had a direct effect on the balance of payments and on the exchange value of the dollar, then we should be in clover today because the U.S. economy is less dependent on imported oil and has less of an imported oil burden than any other major industrial economy in the Western world.

It is less of a burden on our economy. We import 24 percent of our energy. West Germany imports 50 percent of their energy. Japan imports 70 percent of their energy. Our import bill only amounts to 2.3 percent of our GNP. In Japan it is almost four percent almost twice as large a burden on their economy. That is where their balance of payments is today.

The oil import is not the basic cause of our dollar problem. The basic cause is that our inflation rate is going up and theirs is going down, and the international currency markets are merely reflecting that by discounting the value of the dollar. If we want to rescue the dollar, and I share that goal wholeheartedly with the gentleman from Ohio, then let us get our domestic inflation rate under control, bring it back into line with what they have in Japan and West Germany. Then I think we could do something about the dollar. But if we impose an import fee, we are going to exacerbate our inflation problem and are going to make our dollar problem worse.

Mr. VANIK. Mr. Speaker, will the gentleman yield for just a moment?

Mr. BROWN of Ohio. I yield to the gentleman from Ohio.

Mr. VANIK. I thank the gentleman for yielding.

I would like to say in response to that that I have not heard a careful response to the effect of this action on the dollar. Suppose we have to buy the oil with Swiss francs? Suppose we have to buy the oil with Japanese yen or German marks? Suppose another currency is selected? That is immediately going to increase the cost of oil imported into the United States by 8 to 10 percent.

I want to point out to the gentleman from Michigan (Mr. STOCKMAN) that our trade deficit does indeed result from our

oil import purchases. I want to refer to the gentleman a statement I placed in the CONGRESSIONAL RECORD on July 17 of this year, a complete report of the trade imbalance which indicates that imported oil is the culprit. In manufacturing goods, for example, we have a balance with many nations. We buy a great deal—but we sell almost as much. It is the $50 billion purchase of foreign oil which has taken the dollar down, and if this legislation is enacted, it will be a warning to all of our trading partners and to the OPEC nations that the President does not have the power to deal with the crumbling dollar. If we want to let the dollar plummet to hell, this is the way to do it.

Mr. GREEN. Mr. Speaker, will the gentleman yield?

Mr. STOCKMAN. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. If I could yield to the other gentlemen who have been waiting, then I will come back to the gentleman from Michigan (Mr. STOCKMAN). I yield to the gentleman from New York for purposes of debate only.

Mr. GREEN. I would like to ask the gentleman in the well a question. It appeared to me that, at the time of the OPEC oil price increases in 1973, those price increases were felt with the greatest severity in the northeastern section of the country because of the fact that the Northeast is much more dependent on imported oil from the OPEC countries than are other parts of the Nation. If we have an increase on the scale of $5 a barrel on imported oil imposed by the President, is it not reasonable to expect that that increase, too, although it is going to hurt the country as a whole, is going to fall with particular severity on the Northeast just as did the oil price increase in 1973?

Mr. BROWN of Ohio. The gentleman from New York is perceptive as he always is. That is exactly correct. It will fall on the Northeast to the greatest extent possible. But as he has noted, because of the entitlements burden, it will be spread also all over the rest of the country, but not quite as severely. So I have to say that maybe my 5-cent figure for gasoline is appropriate somewhere about the Pennsylvania-Ohio border. Maybe it is a little less—4 cents a gallon out in Indiana or Illinois, but it may be up as high as 6 cents or 7 cents in New England.

Mr. GREEN. I thank the gentleman. It seems to me very clear that the Northeast should not be held hostage by the President in his vain effort to get the wellhead tax approved. I, therefore, intend to support the motion of the gentleman in the well.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Massachusetts for purposes of debate only.

Mr. CONTE. Mr. Speaker, I want to take this opportunity to commend the gentleman in the well (Mr. BROWN of Ohio). I join with him in supporting his motion now before the House, a motion aimed at prohibiting the President from imposing oil import fees on oil. It is needed to insure that this administration does not take a step which would cause widespread harm throughout the country, and particularly in the Northeast.

By adopting this motion, the House would be instructing its conferees on the Treasury and Post Office appropriations bill, H.R. 12930, to follow the Senate passed Dole amendment. Under the provisions of the Dole amendment, the President is precluded from using appropriations included in this bill for the purpose of implementing oil import fees.

Mr. Speaker, the President has not yet stated that he will be imposing oil tariffs on the country. Yet top officials in the administration have sounded warnings that an import fee might be thrust on the American public if certain portions of the President's energy program are not passed by the Congress. Energy Secretary James Schlesinger has made this threat, as has Treasury Secretary Michael Blumenthal.

These administration officials may be well intentioned in declaring that the President would resort to oil import fees if necessary, but I say that these threats approach blackmail for those of us who come from oil dependent regions. For oil import fees would not be evenly applied throughout the country. Rather, they would strike most harshly at those consumers who are unfortunate enough to live in areas where oil is the dominant energy source.

In this country oil comprises 47 percent of our energy needs. But in my own region, New England, we are 80 percent dependent on oil. Of that amount, we import 79 percent of our petroleum supplies, leaving New England 63 percent dependent on imported oil. This is a staggering figure, especially when one considers that the country as a whole imports only 18 percent of its petroleum supplies.

These figures show why New England would be so unfairly discriminated against if the President resorted to an oil tariff. By imposing a fee of $3 to $5 on each barrel of imported oil, the cost to consumers in the Northeast would be astronomical. As a matter of fact, in a study prepared by the New England Economic Research Office in April of this year, it was conservatively figured that such a tariff would cost New England more than $2.6 billion over a 5-year period.

The Economic Research Office based its figures on asumptions widely made in the administration, that if an import fee were imposed, it would amount to $1.50 in the first year, $3 in the second year, and $5 during the third year and thereafter. Even with the benefit of the entitlements program to spread the cost of the fee over all barrels of domestic oil consumption, New England would suffer the burden of $188 million in fees the first year, $417 million in the second, and $667 million in the third year.

Mr. Speaker, I submit that the whole notion of oil import fees must be rejected as arbitrary and inequitable. I agree with the President that our country's energy situation is serious and demands action. But actions that are taken must balance the costs so that one region of the country is not sacrificed in the process.

For these reasons, I strongly support the motion offered by the gentleman from Ohio. He has correctly seen the economic devastation which could be caused through the President's imposition of an oil tariff, and along with the Senator from Kansas, has taken a leadership role in opposing the tariff. I congratulate him for this effort, and I urge my colleagues to support the gentleman's motion.

Mr. BROWN of Ohio. Mr. Speaker, I appreciate that, particularly from a member of the Committee on Appropriations and I would like to say to the gentleman from Massachusetts that it is through the courtesy of the gentleman from Ohio (Mr. MILLER) and friends of the gentleman on that committee, the ranking member of the Subcommittee on Postal Service of the Committee on Appropriations, that I had this opportunity to make this instruction effort today.

I appreciate the support of those members on the Committee on Appropriations who share my views.

Mr. CONTE. Mr. Speaker, if the gentleman will yield further, I also commend the gentleman from Ohio (Mr. MILLER) for giving us this opportunity.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I am happy to yield for purposes of debate to the distinguished majority leader.

Mr. WRIGHT. Mr. Speaker, the gentleman from Ohio (Mr. BROWN) made reference earlier to an effort which he and I both support to try to encourage more production from the deep stripper wells in this country. He and I both want to maximize the life expectancy of those wells as one means of increasing our domestic supply. I think that is a very valid goal to pursue; but I believe the gentleman errs when he feels that in order to achieve that goal we must tie the President's hands and remove from him the last resort that current trade law permits him in the event that the Congress should fail to act to provide the energy supplies necessary for this country.

I believe there is a fundamental mistake in the apprehension of the gentleman from Massachusetts (Mr. CONTE) who refers to imposition of import fees as a Presidential proposal. The President has not said that he intends to do this. He has indicated very clearly that he hopes not to have to do it; that he does not want to do it. None of us want to see import fees established. That is not the question. The question is whether we strip from the President of the United States the one remaining recourse that he would have to deal with this critical international problem in the event the Congress of the United States should fail to act.

I was appalled when the gentleman from Michigan earlier suggested that it was not really a very big problem that

we are importing all this oil. He seems to feel that it has little to do with the real problems of this country.

Not a big problem? Let us just stop and realize from the standpoint of the growth of imports and our shameful reliance on foreign sources over only the past 4 or 5 years. We shall see clearly how big a problem it truly is. In 1973 when the Arab oil embargo should have shocked us out of our lethargy and into action, this country imported $7 billion worth of foreign petroleum. We thought that was pretty bad, $7 billion. Four years later, last year in 1977, we imported $45 billion worth of foreign petroleum, more than six times the dollar drain. This year the figure is expected to exceed $50 billion. The financial hemorrhaging has multiplied sevenfold in the 5 short years!

Now, when we stack that $45 billion import figure of last year up against the $26 billion deficit in our balance of payments, does it not become crystal clear that had it not been for our increasing reliance on foreign oil, we would have had a very healthy trade surplus and the value of the dollar would have continued to rise and not fall on world markets?

The gentleman from Michigan suggested further that really what we need to do is to get inflation under control. Get inflation under control when he blanches not at the fact that we are importing $50 billion worth of oil this year from foreign sources? How can the gentleman say those two in the same breath?

Obviously, one of the principal causes for the inflation and the decline in the value of the dollar abroad, brought about by our import of foreign oil, is the high cost of foreign petroleum. One of the principal causes for the domestic inflation is the cost of all those things whose production is affected by the cost of that expensive foreign oil. And when the dollar declines in value on world markets, it makes us pay more dollars for everything we import. That, too, increases the cost of living for every American.

Surely, the gentleman realizes that the Dole amendment—and it is a nongermane amendment by House standards—when offered on the floor of the Senate, was clearly offered in an effort to embarrass the President and to weaken his leadership. That is the one thing we cannot afford to do at this critical point in world history.

In the last year I have not met a single visiting leader from any foreign country who did not, among the first three questions that arose—and usually it was the first question—ask this question: "What are you going to do about energy?"

If this Congress fails to produce a comprehensive energy bill this year and also strips the President of his only recourse, we shall be saying to the world that we lack the self-discipline, we lack the will, and we lack the ability to come to grips with this, our most central economic problem. I think that question lurks hauntingly in the minds of many people throughout this world today.

Shall we say to them today that we do not have any confidence in our President? Shall we say to them by our action today that we want to weaken the President? Shall we say to the world: No, we have not produced an energy bill, although we have labored over it for 2 full years, and we will not let the President retain even the minimal authority he possesses under present law to cope with the level of imports?

If we do this, then we shall be saying to the world that we simply do not care, that we are content to keep coasting along, fat, dumb, and happy, until we spend ourselves poor on foreign oil and waste it and run out of it, and then we shall just depend upon Divine Providence to protect us.

Mr. Speaker, I do not think that is what we want to say. I do not think that is the message we want to give to the world, and I hope my colleagues will by all means vote against this pernicious motion.

Mr. BROWN of Ohio. Mr. Speaker, the gentleman from Texas (Mr. WRIGHT) has been very eloquent, and I admire his eloquence. I must say, however, that he is somewhat inaccurate in part of what he has had to say, and I refer to the statement that this is the only choice the President has had.

The President has had the authority under the EPCA legislation to raise the price of domestic oil if he wishes, which would encourage the production of oil in the United States as the producers reinvest the additional money received in the exploration and development of new wells.

Under the controls that were put on by this Congress a few years ago, our production of oil in the United States has gone steadily downward. The President can take other steps, as I am sure the gentleman from Texas (Mr. WRIGHT) knows, if he would, and the Secretary of Energy could take other steps if he would. They have from time to time promised that they would be happy to support such a price increase if the industry would support COET taxes.

I do not think it is up to the President to make that decision. That decision has to be made in the Congress, and I for one will not support taxes as a means of trying to solve our energy problem or as a means of conservation or production of oil.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. STEED. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I will yield to the gentleman from Ohio (Mr. SEIBERLING) briefly, and then I will yield to the distinguished chairman of the subcommittee, the gentleman from Oklahoma (Mr. STEED), under whose leadership this bill was brought to the floor.

Mr. SEIBERLING. Mr. Speaker, I distinctly recall that when President Ford imposed an oil import tariff, I did not hear any great outcry from the minority side of the aisle. So I just wondered what has changed that has caused the gentleman from Ohio (Mr. BROWN) and his associates to become such strong opponents of such a tax. Is it because there is a different occupant of the White House? Is it because the oil companies prefer an end to controls on domestic oil prices, which will swell their profits, instead of a tariff, which will only help reduce the Federal deficit?

Mr. BROWN of Ohio. Mr. Speaker, I will be glad to try to explain to the gentleman what has changed, if I may.

First, President Ford put a $1-a-barrel tax on, and he put it on immediately or soon after—in fact it followed quite closely—the OPEC nations price increases, so it was unlikely that it would encourage price increases.

In addition, the previous vote on import fees occurred in February 1975, less than a year after the Arab oil embargo ended. The worldwide petroleum and economic picture was different at that time than it is today. In 1975 the United States was in a recession, and the oil supply picture was tenuous at best. Now the United States does not have the same recessionary problem, and there is a glut of oil supply on the world market.

Mr. STEED. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the chairman of the subcommittee.

Mr. STEED. Mr. Speaker, one of the reasons I asked for recognition as chairman of the subcommittee is, of course, because we are always faced with charges by legislative committees that we invade their province. This Senate amendment is, of course, an out-and-out invasion of the prerogatives of the Committee on Ways and Means, and for that reason I oppose this motion to instruct the House conferees to adopt the Senate action.

In addition, let me say that I also know that it is dangerous to instruct us now and to tie our hands to some extent when we go to weigh the issues with the other body, because we have several other very difficult Senate amendments to deal with in this bill. I would like to go to conference as freely as I can to represent the House.

I would like to say also—and I think I can speak for our subcommittee—that the fact that the House does not instruct us today does not mean that the Dole amendment will not have its full day in court in the conference that we will have with the other body.

At this point, Mr. Speaker, in order to keep the administration's position clear on this issue, I am inserting the following letter which was delivered to me today from the Secretary of the Treasury, Mr. Blumenthal, which reiterates the statements already made by the majority leader, and spells out the administration's position clearly on this issue:

THE SECRETARY OF THE TREASURY,
Washington, D.C., September 7, 1978.

Hon. TOM STEED,
Chairman, Subcommittee on Treasury, Postal Service, General Government, House Committee on Appropriations, Washington, D.C.

DEAR MR. CHAIRMAN: The Senate by floor action has added to the Appropriations Bill for the Treasury Department and other agencies (H.R. 12930) an amendment (the so-called "Dole Amendment") purporting to withdraw funding under these appropriations to carry out a program adjusting imports of petroleum or petroleum products under the Trade Expansion Act of 1962.

We are writing to express the strong opposition of the Administration to this amendment.

The Trade Expansion Act authorizes the President to adjust imports that threaten to

impair the national security. The Congress has recognized in legislation for many years that the country needs this capacity for prompt action in the event such a threat arises.

The Senate amendment would remove the capacity for prompt action with respect to petroleum imports. This would be a dangerous step, creating international doubts about our willingness and ability to act swiftly when our security interests are challenged.

Our allies and adversaries alike are well aware that we now import almost one half of our petroleum needs. In the 1973 oil embargo, it became clear that access to those supplies can be manipulated in an attempt to influence our foreign policy. More recently, our oil import bill has contributed to large trade deficits that have impaired the stability of the international monetary and trading systems and of the U.S. leadership role in world economic affairs.

Proponents of the Senate amendment say that they oppose Presidential adjustment of oil imports at the present time. But that is not the issue. At the Economic Summit in Bonn, the President made clear that he himself has not yet made any decision about the advisability of adjusting oil imports. And no such decision would ever be made without thorough consultations with the Congress and the most sober assessment of the national security considerations. The real issue raised by the Senate amendment is whether now to preclude the nation from taking prompt action under the standards of the Trade Expansion Act to adjust oil imports, regardless of national security threats that may arise. Constraining the nation's options in this fashion would expose our economy, our military posture, and our foreign policy to a new and unnecessary risk.

Simple prudence counsels that the nation retain the capacity for swift action to meet national security risks that may develop.

The Senate amendment is misguided in its aims and contrary to the national interest. We strongly urge you to make every effort to delete the amendment in Conference.

Sincerely,

W. MICHAEL BLUMENTHAL.

Mr. MAHON. Mr. Speaker, will the gentleman yield

Mr. BROWN of Ohio. Mr. Speaker, I yield for the purpose of debate only to the gentleman from Texas (Mr. MAHON), the distinguished chairman of the Committee on Appropriations.

Mr. MAHON. Mr. Speaker, I want to associate myself with the remarks of the gentleman from Oklahoma (Mr. STEED). In addition, I want to say to my friend, the gentleman from Ohio (Mr. BROWN), who has devoted a great deal of energy and time to these issues involving petroleum, that I think it would be ill-advised for the Committee on Appropriations to be instructed at this stage.

This is an issue that involves us all. We are all concerned about it. But, if this legislation is to be considered, it should be considered in the appropriate committee, which would be the Committee on Ways and Means.

In the interest of orderly procedure, I have risen to request that Members seriously consider not instructing the Committee on Appropriations on this very important matter.

Mr. STEIGER. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield for the purpose of debate to the gentleman from Wisconsin.

Mr. STEIGER. I appreciate very much my colleague's yielding to me.

Mr. Speaker, I find myself, I must admit, somewhat lonely on this side of the aisle in opposing the motion offered by my friend, the gentleman from Ohio (Mr. BROWN).

I listened with interest to the distinguished majority leader, and I must admit that he doggone near convinced me that I ought to favor the motion to instruct the conferees. But I will set that aside and simply ask that my colleagues on both sides of the aisle think somewhat more carefully than I think we might at this point be doing about the implications of this vote.

It does go beyond this Chamber. It does go beyond the politics that are obviously a part of both those who oppose and those who favor. And, yes, I admit I have never voted to instruct conferees, and I do not intend today to vote to instruct conferees, because I do not think it is the appropriate thing to do in a legislative body.

But may I suggest to my distinguished friend, the gentleman from Texas, the majority leader, and those on this side, that our problem is not quite so simple as that which was outlined. It is not just a problem of economic policy of the President of the United States, which is wrong and which creates the kind of uncertainty and the kind of problems with which he is faced in the decline of the dollar, and it is not, as my friend, the gentleman from Texas, the majority leader, indicated, a matter of simply importing oil. It does seem to me that we are faced at this point in our history and at this time in our country with something that overrides any of those issues, including economics and oil, and that is psychology in conference.

I would simply say to my friend in the well that to adopt this motion today to instruct the conferees to take the Dole amendment undermines further the ability of the President of the United States, despite my difference with him, despite my opposition to crude oil taxes, and despite my opposition to the economic policies of the administration, and imposing an import fee, it would not be the right time and the right place to take this action. I think we would make a serious mistake, both politically and economically, to do so; and I urge my colleagues to vote down the motion to instruct.

Mr. MOFFETT. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Connecticut.

Mr. MOFFETT. I thank the gentleman for yielding.

Mr. Speaker, the gentleman from Ohio (Mr. BROWN) and I have had the pleasure of working, over the last few months, in opposition to the natural gas compromise which the President is so vigorously supporting. I think it is fair to say that we believe it would be an administrative nightmare, it is not going to produce new gas, and it would be inflationary.

The gentleman has taken during that period of time the attitude very clearly that we ought to do something. He has favored the passage of conservation legislation, the utility rate reform, coal conversion, and so forth, which is a very positive attitude. If the gentleman from Ohio and I, and others, have our way, our image in this Congress and in this country will not be one of doing nothing on energy when we go home in October, but it will be one of taking the first step and rejecting what we think is a bad natural gas plan. But it certainly would not be an attitude of a do-nothing Congress and a do-nothing Government and doing nothing for this country.

By contrast, the motion of the gentleman, I think, is damaging, in that it can give the image that we are really bound on a do-nothing course.

While I know that the gentleman has no intention of trying to embarrass the President of the United States, the result will certainly be to embarrass the President and to embarrass all of us, I think, and the country in terms of worldwide perception. I think there is a choice here between leaving the door open for import fees—and in my region that is not too popular, as the gentleman from Massachusetts has indicated—but at least taxes go back to the taxpayers. At least they go to the Treasury.

The other choice will come along about next March, when the price controls on oil expire. Then, the President will have the option of having those controls go off. I would much prefer to leave the door open to an import tax, because I believe that this President would administer it fairly. He has shown that much sensitivity toward the Northeast thus far.

I would rather go in that direction than lean toward decontrol, which would really bring devastation in economic terms in the Northeastern part of the country.

So, with all due respect, I oppose the motion.

Mr. BROWN of Ohio. Mr. Speaker, let me say to my friend and colleague from Connecticut that I appreciate his kind remarks about our position not being a do-nothing position. Indeed, that is correct in my case and in his, I am sure. There are certain things we would like to see done, but one consistent position I have had in this area of energy and in several other areas is that I am not in favor of new and additional taxes.

I want to re-emphasize that if this motion fails, we permit the President an option he has under present law to impose taxes which—and I must say that I have some confusion because I am clearly of the impression that the President has suggested that failing COET taxes, and I think there is no chance for COET taxes during this Congress—will be $15 billion more on top of the social security tax increases of last year. That is just more than I am willing to see imposed on the citizens of our country, and the consumers.

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from California (Mr. DON H. CLAUSEN) for the purpose of debate only.

Mr. DON H. CLAUSEN. Mr. Speaker, I want to commend the gentleman in the

well, Mr. BROWN of Ohio, for taking this means of putting in perspective the import of foreign oil issue.

To add to what you have said, I submit that we, the United States are totally lacking in a coherent and coordinated import-export policy relating to oil.

To further explain, I want to bring to the attention of my colleagues a brief overview of the recent hearings conducted in San Francisco, Calif., by the Interior Subcommittee on Investigations chaired by our colleague from New Mexico (Mr. RUNNELS).

The purpose of the hearings was to gather data on the surplus of oil on the west coast coming from Alaska. There is a glut of oil from our own State of Alaska. The preliminary findings reveal a potential yield capacity of 2,000,000 barrels a day that could be delivered to the lower 48 States as initially intended when Congress enacted the Trans-Alaska Pipeline System Act.

While 60 percent of the oil transshipped through the Panama Canal is coming from Alaska, it is costing the American consumer an additional $2 per barrel.

The hearings revealed further that we are seriously lacking in the development of an adequate west-to-east pipeline system.

So in describing the Alaskan oil surplus problem, I suggest it is more of a transportation deficit. We have a totally inadequate distribution network which in my view, drastically curtails our mobilization capability.

Additionally, the refining capacity in California and the west coast is incapable of handling the Alaskan "sour" crude because it is unusually high in sulfur content. Out of the total capacity of 2.9 million barrels a day, only 700,000 barrels a day can be refined.

In order to handle this type of crude, the refineries would have to be retrofitted at a cost of some $50 million per refinery, plus the leadtime required.

The most efficient and readily available west-to-east pipeline distribution system is the SOHIO project from Long Beach, Calif., to Midland, Tex., where the advanced technology refining capacity now exists and could accommodate this Alaskan type crude. However, it will take 2 years to modify this existing line to handle the oil.

Meanwhile, there has been a considerable amount of discussion within the administration, indicating a possible export of Alaskan oil through an exchange arrangement with Japan. which runs counter to the mandate of Congress.

I felt it incumbent on me, as the ranking minority member of the Interior Subcommittee, to relate this information to the Members during the course of this discussion, in the hope it will add to our overall oil import-export perspective.

To add more comprehensive information to this debate, I would like to read the full text of my opening statement made at the San Francisco hearings:

Mr. Chairman, I have a statement I would like to present to the subcommittee:

Someone once said that the time to fix the roof is when the sun shines. Well, the time for the United States to build a system to better transport our domestic crude oil is now. I might add at the moment that the sky has a few stormclouds—that being the oil glut on the West Coast of California.

We're here today and tomorrow to disperse these clouds. We're here to review the available transportation alternatives to disperse the Alaskan crude on the West Coast. As I have said before, this is a temporary problem, although a serious one. It is one part of a greater concern, the proper distribution and use of the Alaskan crude, one of our most valuable national resources. Through these hearings we hope to gain the persepective and information to resolve the temporary oil glut on the West Coast. And if we do our job well, we can go a long way toward correcting the larger problem, the more effective use of Alaskan crude throughout the entire country.

The term "oil glut" is in many ways a misnomer. As I view it, it is essentially a transportation deficit. As of now, the Alaskan crude isn't getting to the parts of the country that actually need it, and can use it. Instead of moving large quantities of oil from Valdez directly to the Gulf Coast and the Eastern refineries capable of handling the high sulfur content oil, it has been accumulating off California. And our California refineries have a limitation on the capacity for accommodating that oil. The ultimate solution to this temporary oil glut is an improved transportation system.

The problem is temporary since an integral part of an improved transportation system is anticipated within three to four years. I am referring to the Sohio pipeline project from Long Beach in Southern California, to Midland, Texas, where the refining capacity exists to accommodate this kind of oil. Once operational it can transport up to some 500,000 barrels a day, of this Alaskan crude to the Central United States. The pipeline will effectively relieve the West Coast of its locally unrefinable oil, and supply the rest of the country with needed energy. In this way we have fulfilled our duty under the Trans-Alaska Pipeline Act enacted by the Congress to equitably supply all the lower 48 states with Alaskan oil.

Negotiations for the Sohio project are progressing, and one of the factors delaying construction has been the concern of many Californians over the environment impact of the proposed terminal in Long Beach. I was a part of the Congressional delegation from California that was involved in the Clean Air Act amending process that permitted California to have higher than the national standards because of the uniqueness of the existing meteorological conditions in the Long Beach area and the entire Los Angeles Basin. In recent days we've read of the agreements that have been reached between the Sohio and the Southern California Edison companies on pollution tradeoffs, and hopefully we'll hear more today from the State of California with regard to the progress of the Air Resources Board and evaluation of that progress, and ultimately the voters in the Long Beach Area. It's my understanding they have a referendum in November that would have to approve of this agreement.

However, until the Sohio pipeline is sending oil eastward we must devise an interim distribution system. To do this we need to know the answers to a variety of issues. Only then can we pursue any one solution. Foremost in our minds throughout this inquiry should be, what are the best available means of transporting Alaskan oil to all of the regions of the country? After all, there is no doubt that we can use every drop of the 1.2 million barrels a day that is currently available from Alaskan oil, and ultimately the full capacity of the two million barrels a day. The basic question is how can we most economically distribute the crude for refining?

A recently advanced proposed solution to the so-called oil glut is an exchange of our Alaskan crude with the lower sulfur, that is, so-called sweet crude obtained from the Japanese from their Mideast and Indonesian sources. The theory is that our high sulfur or sour crude be swapped with Japan for the sweet crude our California refineries can absorb productively. On the surface, this would seem to rectify the immediate problem of too much unrefinable oil off the coast of California.

We're here in San Francisco to study this alternative. I have some honest doubts about whether it is a thorough response to the problem. I'm not sure we can do it without paying the piper. If we dance to the export tune, will the American consumer have to pay the piper in windfall profits? If we dance to the export tune, will the American maritime industry have to pay the piper in lost jobs, as well as idle ships? If we dance to the export tune, will the American taxpayer have to pay the piper in deficits of the Canal Company, as our new Panama Canal Treaties would require?

I'm keeping an open mind on this proposal, trusting these hearings will furnish the information base for the considered decision. As of now, there remain a number of uncertainties about this suggestion which need to be cleared up. For example, the advocates suggest that an exchange can result in a transportation savings of 54 cents a barrel or more. How is this calculated? If there will be a transportation savings, will it accrue to the benefit of the oil companies, or will it be passed on back through to the consumers?

Are these suggested transportation savings actually the result of shipping on foreign vessels? All of the oil being shipped now travels on American vessels because the Jones Act requires it. But this protection does not extend to the international shipments. The transport of Alaskan crude is crucial to the American maritime industry. It is the largest single employment area for the United States flag vessels. Thousands of jobs and millions invested in new vessels, are potentially at stake.

The Maritime Administration has studied the availability of American tankers and has concluded that we have the capacity to ship Alaskan oil on American bottoms. We may find that exporting Alaskan crude is the best over-all solution, but we should be aware of all the ramifications before we decide on a particular course.

While we examine this proposed major change in the use of Alaskan oil, we must also study alternatives to maximize our current transportation system. At the present time we ship some of the Alaskan oil through the Panama Canal to the Gulf and East Coast refineries. Perhaps one method of resolving the oil glut in California would be to increase shipments through the Canal. We need to know how economic a solution this might be, and what its impact would be on the consumers of America.

I am aware that the tolls and other fees collected on the oil tankers are a significant, some say even an essential source of revene for the Canal Company. And Alaskan crude is 60 percent of all of the oil shipped through the Panama Canal. What will happen to the Canal Company's solvency, buttresed by tanker revenue at this time, if we export our oil, and withdraw these shipments? The Canal Company will most probably suffer multimillion dollar deficits. Most importantly, under the recently ratified treaties, the American taxpayer will have to make up these losses.

My main point is that the temporary oil glut in California isn't the only variable involved. We ought to approach a solution to this temporary problem without jeopardizing the larger question of the equitable distribution of Alaskan oil throughout our nation. It may be that the American people would prefer we use the Alaskan supply here, if we can economically do so. We must remind ourselves of the basic fact, that the Congress, in 1973, when they passed the Trans-Alaska Pipeline System Act, gave full assurance to all of the American people that Alaskan oil would be available to them to address our domestic energy requirements.

As we examine the possible export of Alaskan crude, I hope we keep these greater concerns in mind. An effective national energy distribution system, including pipelines and tankers, is a vital part of our overall energy programs, the security of our nation, as well as the economic well-being of the entire United States.

The more completely we design our distribution system, the more efficient our use of energy. And that, in turn, is one avenue to energy independence, an urgent national need.

Mr. MOORE. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Louisiana (Mr. MOORE) for the purpose of debate only.

Mr. MOORE. Mr. Speaker, I appreciate the gentleman again yielding to me. I have listened to the remarks by those in opposition to the gentleman's motion. I disagree, obviously, and I take some offsense at some of those remarks.

First, let me say that if it were true that the defeat of this motion and the imposition of these fees would make a stronger America, stop us from using foreign oil, and would make the President a world leader, then I would agree with them.

But that is not the case. We know this fee is not going to do all those things. What this fee is simply going to do and it is a consumer issue and the consumer ought to be listening, is cost them $15 billion for no more oil, it is going to cause inflation of 1.5 percent for no more oil, and it is not because they are fat, dumb, and happy—which I take offense to—as the majority leader called the American people a moment ago.

When one has to drive to work, he is not fat, dumb, and happy. When one has to heat his home in the cold Northeast Corridor, he is not fat, dumb, and happy.

If the American people happen to be misled about the oil prices, it is this administration and the Congresses in the past that have misled them by keeping oil and natural gas artificially depressed at an artificial price instead of letting it go to the world price to provide more oil and gas to meet their needs.

So I say this motion needs to be passed in order to bring home to the American people that we cannot pass off this 1.5-percent inflation, $15 billion item saying that it will save energy.

Those things were caused by the very people and the prior administrations that say we should not do this, that it will hamstring us and prevent conservation. That is untrue. This is not going to produce one more barrel of oil. The Department of Energy is telling us we are saving quite a bit now so existing conservation is working.

We will save quite a bit more in the future as the prices get higher and the consumers get convinced that they have to save and that we do have an energy problem. But when we impose another tax on them, this is a cruel hoax as it will hurt them without any benefit.

Mr. OTTINGER. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Speaker, like my friend, the gentleman from Connecticut, I side with the gentleman from Ohio on the energy bill, and I am privileged to serve with both of them on the Energy and Power Subcommittee. When it comes to being concerned about the provisions of the Energy Act, I agree that it would be costly and contribute to inflation.

I am opposed to the motion offered by the gentleman from Ohio because it unduly ties the President's hands, even though I am leery about import fees. But the gentleman from Louisiana and the gentleman from Ohio are strong advocates of decontrol. They are willing to impose on the American people an oil price increase that would cost at least a hundred billion dollars a year and the proceeds would go to the oil companies rather than to the taxpayers.

The President has discussed a tax which would be refunded to the people. I would much rather see a tax than see money taken from the public in increased oil prices and go to the oil companies; they will walk away with the money and I do not believe they will give us any more production for that either.

So I would not like to see the President's hands tied. I think we have a terrible problem with respect to imported oil, and indeed, I think this is the No. 1 problem we face, underlying the sinking value of the dollar, over huge trade and balance of payments deficit, and our inflation. In addition, our dependence on imported oil poses a grave national security risk. Under these circumstances, discretion to address our import problem by imposing import fees should be left to the President. If he chooses to impose some kind of fee, I am sure he would have an entitlements program and, although it would be difficult to administer, he could take action to spread the burdens of such a tax equitably around the country; but I would rather see quotas imposed and allocations as a fairer means of dealing with our dependence on oil imports. However, I would not want to see this instrument deprived to the President. I would not want to see us limited to the avenue the gentleman from Louisiana and the gentleman from Ohio advocate, of just handing huge windfalls to the oil companies.

Mr. BROWN of Ohio. But the difference is very simple. The President proposes to tax the consumer $15 billion, 5 cents a gallon on gasoline or 2.6-percent inflation rate, take that money for the Federal Government and do with it what he will. But the distinction is that if we let the free market work—and I realize that is anathema to some Members of the Congress—then the money in the marketplace goes back into the economy and we have an increase of supply of the commodity, and an increase in jobs, and the increase in supply tends to pull the price down. But that does not happen with taxes. With taxes we multiply the price impact.

An example of this is what has happened already in the intrastate gas, where during the time of the shortage the price of natural gas in the free market intrastate system surged, but after the shortage and now the price of the free market gas is lower than the price of gas controlled by the Federal Government. To me that demonstrates one thing and one thing only, and that is that the market works better and quicker than all these bureaucrats we have in Washington and even better and quicker than the U.S. Congress.

Mr. OTTINGER. If the gentleman would yield further, the President as he discussed this is talking about using an import fee as he proposed for the COET tax, refunding the proceeds to the taxpayer. The idea is to make the price of oil higher to people so they would conserve it, but return the taxes to the people so as not to have depressing effect on the economy as we would have with deregulation.

Mr. BROWN of Ohio. Mr. Speaker, I must say I am a little confused about what the President wants to do because I just heard the majority leader, the gentleman from Texas (Mr. WRIGHT) say that he did not hear the President say that, and I am inclined to think that may not be totally the case. I think the President may have changed his mind. You know, he does that occasionally in the energy area, so I do not know what the President's position actually is, but I know that he said something about placing a $5-a-barrel import fee if we do not pass the COET tax.

Mr. WIRTH. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Colorado.

Mr. WIRTH. Mr. Speaker, let me just say that I, unhappily, oppose the gentleman's motion for the reasons that were most eloquently presented by the gentleman from Wisconsin (Mr. STEIGER). But I would like, if I might, ask a question of the gentleman relating to this issue.

It seems to me the issue we are looking at is again the problem we face of conservation and production together. So that the question that you raise through your motion also raises for the Congress a very interesting potential for legislation in the next session of the Congress on the pricing of oil, and the necessity of raising the price. It seems to me we do have the opportunity here to, in the Congress, focus on something akin to a COET tax, crude oil equalization tax, to get the price of oil up to the level of the OPEC prices and help get rid of the regulatory program but, at the same time, provide within that formula an incentive for production.

I would hope that in the next Congress we might be able to resolve this

dilemma through a piece of legislation that might accomplish both the purposes that the gentleman seeks in terms of the pricing structure and incentive.

Is that something the gentleman could see coming down the line whether or not this motion is adopted?

Mr. BROWN of Ohio. Mr. Speaker, in response to the inquiry of the gentleman from Colorado (Mr. WIRTH) let me say that in this area I take one step at a time. The first step I am interested in is that I am trying to avoid the imposition of import fees at this point.

Now, Mr. Speaker, I must take the last couple of minutes to summarize my position on this matter, and I urge my colleagues to vote for the motion to instruct the conferees.

This is a very important matter. If a $5 import fee per barrel were imposed, this would result in a $15 billion tax increase on the consumers.

According to the CBO estimates this $5 import fee would increase the average home heating bill in Boston from $122 per year to $231 per year.

The CBO estimates that an additional 400,000 jobs would be lost.

The impact on inflation would be, according to the CBO, a rise by 1.5 percent, and, according to the Congressional Research Service, a rise by 2.6 percent.

Further, the DOE estimates that at most imports would be reduced something in excess of 300,000 barrels a day.

The cost of the average gallon of gas across the country would be 5 cents a gallon greater. I do not think the President unilaterally ought to be able to do that in the oil area. I do not think my constituents or the consumers of the country want him to do it.

I would assume that if you wish for the President to do this, then you will vote against my motion to instruct the conferees. If you do not want him to do it, you will send the message to the President very clearly and emphatically that you do not believe that he should be permitted to raise our taxes by $15 billion and that we ought not to sock the consumers with higher home heating bills and gasoline bills as the average consumer tries to get along with the other inflation costs that he has to face.

● Mr. BROYHILL. Mr. Speaker, H.R. 11567 contains authorizations of appropriations for the Securities and Exchange Commission for fiscal years 1979 and 1980 in the amount of $69 and $79 million, respectively. The House-passed version of this legislation contained authorization of appropriations through fiscal year 1981 at slightly higher figures than were included in the Senate-passed bill. However, I am positive that the SEC can easily live within these slightly lower figures.

I supported a 3-year authorization for the Commission so that it could plan its long-range programs with more certainty. However, I am confident that the 2-year authorization agreed to by the Senate will give the Commission the flexibility that it needs to develop its programs for the next 2 fiscal years.

Although the authorization levels in this bill are not as high as we originally passed, they do represent an increase over past years. An increase in the authorization level for the Commission, I believe is justified. Over the last two Congresses, we have significantly increased the responsibilities of the Securities and Exchange Commission. For example, in the 94th Congress, we passed extensive revisions to the securities laws. In the present Congress, we passed the Foreign Corrupt Practices Act which greatly increases the Commission's role in prosecuting improper conduct by American companies operating abroad. Because of these and other new enforcement and regulatory duties, I do believe that it is appropriate to authorize the Commission the amounts specified in the bill before us today.

The Senate-passed bill also contains a provision not found in the House-passed version which, I believe, is worthy of adoption by this body. The Senate bill would amend section 3(b) of the Securities Act of 1933 to increase from $1.5 to $2 million the amount of securities which may be offered before that offering is required to be registered with the SEC. In recent years much concern has developed regarding the inability of smaller companies to raise the capital vitally needed for operations and growth. One of the reasons small concerns have been negatively impacted recently is because this statutory ceiling found in this 1933 Securities Act is at a level which is too low to provide the needed capital without going through the expenses inherent in a larger offering. Consequently, small concerns are today turning to foreign sources of capital, selling out to public corporations, or, even worse, not growing at all. Because of this artificially low ceiling, there has been a dramatic drop off in the use of this limited offering exemption. For example, according to the SEC, in 1973 there were 817 filings under this exemption raising $298.6 million. However, for 1977—first 11 months—there were only 215 filings raising only $71.1 million.

Although the limited offering ceiling was recently raised to $1.5 million, knowledgeable individuals in the industry do not feel that this is sufficient. A task force, chaired by former SEC Chairman William Casey, recently recommended raising the ceiling to $3 million. This is the recommended minimum which is supported by small business concerns as well as securities brokers. The reason for the higher ceiling is to accommodate increased costs of public offerings and to provide underwriters compensation commensurate with their own risks.

Raising this limited offer exemption ceiling is a noncontroversial issue and is supported by the Securities and Exchange Commission. It is a move which will be in the best interest of the business and financial communities, public investors, and the U.S. economy as a whole. Consequently, I urge that this portion of H.R. 11567 also be approved by this body.●

● Mr. ECKHARDT. Mr. Speaker, H.R. 11567 was originally passed by the House on April 4 under suspension of the rules. It provided a 3-year authorization for the Securities and Exchange Commission beginning fiscal 1979 of $70, $80, and $91 million, respectively. The bill before us today as amended by the Senate provides for a 2- rather than a 3-year authorization and decreases by $1 million—or approximately 1½ percent—the authorization amounts. These changes are acceptable to the Securities and Exchange Commission. I am persuaded that the changes are not sufficiently substantive as to create any difficulties in the functioning of the agency.

The Senate has added an additional provision, which amends section 3(b) of the Securities Act of 1933, to permit the Commission to exempt public offering not exceeding $2.5 million from the registration provisions of the act. The present level for the exemption is $1.5 million. This provision is designed to provide a vehicle for the Commission to alleviate substantially the costs and other burdens upon small companies in their attempts to raise capital. During the first session of this Congress, there was considerable testimony before Chairman LAFALCE's Subcommittee on Capital, Investment, and Business Opportunities of the Committee on Small Business than an increase in the section 3(b) ceiling to even a higher figure was an important adjunct to certain changes in our tax structure, some of which have already been passed by the House, to provide small businesses access to equity and venture capital. In addition, this measure is supported by the Commission.

My colleague from California, Mr. Moss, has expressed strenuously his concern that raising the section 3(b) exemption to $2.5 million would eliminate many of the important public investor protections which full registration provides. Although I have the greatest respect for that distinguished gentleman and his advocacy of investor protection, I do not agree that this amendment places those protections in jeopardy. The amendment to section 3(b) merely permits the Commission, when appropriate, and with such safeguards as may be necessary in the public interest, to relieve small issuers of the burden and expense of filing a full registration statement. The amendment does not mandate that the Commission issue an exemption for the full $2.5 million. Indeed, I have been advised that earlier today the Commission considered and approved a lesser figure of $1.5 million. But an increased ceiling would provide the Commission with desirable flexibility to adjust the exemption to inflation and other economic considerations. Given the traditional concern of the Commission for the protection of the public investors, Congress may feel comfortable that in establishing conditions for an exemption under section 3(b), the Commission will give appropriate observance to investor protection. However, in deference to those concerns expressed by the gentleman from California, I am proposing an amendment to the Senate amendment establishing a $2 million ceiling, thereby splitting the difference between the existing figure and that proposed by the Senate.●

● Mr. STAGGERS. Mr. Speaker, H.R.

11567 as passed by the House authorized appropriations for the Securities and Exchange Commission in the amounts of $70, $80, and $91 million for fiscal years 1979, 1980, and 1981 respectively. As amended by the Senate, the bill authorizes appropriations for the Commission in the amounts of $69 and $79 million for fiscal years 1979 and 1980 respectively. Additionally, the bill now amends section 3(b) of the Securities Act of 1933 to increase the maximum aggregate amount of securities which can be issued pursuant to the exemption provided by that section to $2.5 million. This provision would enable small businesses to raise and attract investment capital at reasonable cost without undue paperwork.

The amendment just offered would change this maximum aggregate amount to $2 million. Earlier this session the Congress adopted a $1.5 million ceiling for this exemption in Public Law 95–283. The $2 million figure represents a compromise.

This ceiling should provide the SEC with sufficient flexibility to use its discretionary authority to adjust the level of the small business exemption based upon experience with inflation and the actual costs of raising capital.●

The SPEAKER pro tempore (Mr. BOLLING). All time has expired.

Without objection, the previous question is ordered on the motion.

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. BROWN).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. BROWN of Ohio. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 194, nays 201, not voting 37, as follows:

[Roll No. 731]

YEAS—194

Addabbo
Ambro
Anderson, Ill.
Andrews, N. Dak.
Applegate
Archer
Armstrong
Ashbrook
Badham
Bafalis
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Biaggi
Bowen
Breaux
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Mass.
Burleson, Tex.
Butler
Caputo
Carter
Cederberg
Chappell
Chisholm
Clausen, Don H.
Cleveland
Cohen
Coleman
Collins, Tex.
Conte
Corcoran
Cotter
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
de la Garza
Derwinski
Devine
Dickinson
Dornan
Drinan
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Okla.
Eilberg
Emery
English
Ertel
Evans, Del.
Evans, Ind.
Fenwick
Findley
Fish
Flowers
Flynt
Forsythe
Frenzel
Fuqua
Gammage
Gilman
Goldwater
Gonzalez
Goodling
Grassley
Green
Guyer
Hagedorn
Hall
Hammer-schmidt
Hanley
Harris
Harsha
Heckler
Hightower
Hillis
Hollenbeck
Holt
Holtzman
Horton
Hyde
Ichord
Jacobs
Jeffords
Johnson, Colo.
Jones, Tenn.
Kazen
Kelly
Kemp
Keys
Kindness
Kostmayer
LaFalce
Lagomarsino
Latta
Leach
Lent
Livingston
Lloyd, Tenn.
Lott
Lujan
McClory
McCormack
McDade
McDonald
McEwen
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Michel
Miller, Ohio
Minish
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Moss
Mottl
Myers, Gary
Myers, John
Myers, Michael
Neal
Nichols
O'Brien
Poage
Pritchard
Purseil
Quayle
Rallsback
Regula
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Rose
Rousselot
Rudd
Runnels
Ruppe
Santini
Sarasin
Satterfield
Sawyer
Schulze
Sebelius
Shuster
Skubitz
Smith, Nebr.
Snyder
Spence
Staggers
Stangeland
Stanton
Stockman
Studds
Stump
Taylor
Treen
Tribie
Tsongas
Vander Jagt
Walker
Walsh
Wampler
Watkins
White
Whitehurst
Wilson, Bob
Winn
Wolff
Wydler
Wylie
Yatron
Young, Fla.
Zeferetti

NAYS—201

Akaka
Alexander
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
Baldus
Barnard
Baucus
Bedell
Bennett
Bevill
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Cavanaugh
Clay
Collins, Ill.
Conable
Conyers
Corman
Cornell
Cornwell
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Dicks
Diggs
Dingell
Dodd
Downey
Edgar
Edwards, Calif.
Evans, Colo.
Fascell
Fisher
Fithian
Flippo
Flood
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilckman
Gore
Gradison
Gudger
Hamilton
Hannaford
Harkin
Harrington
Hefner
Heftel
Holland
Howard
Hubbard
Hughes
Ire'and
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jordan
Kastenmeier
Kildee
Krebs
Le Fante
Lederer
Leggett
Levitas
Lloyd, Calif.
Long, La.
Long, Md.
Luken
Lundine
McCloskey
McFall
McKay
Mahon
Mann
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Mikulski
Milford
Mineta
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Natcher
Nedzi
Nix
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pickle
Pike
Preyer
Price
Rahall
Rangel
Reuss
Richmond
Rodino
Rogers
Roncalio
Rooney
Rosenthal
Rostenkowski
Roybal
Russo
Ryan
Scheuer
Schroeder
Selberling
Sharp
Sikes
Simon
Skelton
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Stark
Steed
Steers
Steiger
Stokes
Stratton
Thompson
Thornton
Traxler
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Waggonner
Walgren
Weaver
Weiss
Whalen
Whitley
Whitten
Wilson, C. H.
Wilson, Tex.
Wirth
Wright
Yates
Young, Mo.
Zablocki

NOT VOTING—37

Abdnor
Ammerman
AuCoin
Bellenson
Burke, Calif.
Burke, Fla.
Clawson, Del
Cochran
Duncan, Oreg.
Erlenborn
Evans, Ga.
Fary
Florio
Fraser
Frey
Gibbons
Hansen
Hawkins
Huckaby
Kasten
Krueger
Lehman
Mikva
Miller, Calif.
Pettis
Pressler
Quie
Quillen
Shipley
Sisk
Symms
Teague
Thone
Waxman
Wiggins
Young, Alaska
Young, Tex.

The Clerk announced the following pairs:

Mr. Fary with Mr. Abdnor.
Mr. Florio with Mrs. Pettis.
Mr. Ammerman with Mr. Young of Alaska.
Mr. AuCoin with Mr. Wiggins.
Mr. Hawkins with Mr. Kasten.
Mr. Shipley with Mr. Hansen.
Mr. Teague with Mr. Frey.
Mr. Gibbons with Mr. Cochran of Mississippi.
Mrs. Burke of California with Mr. Erlenborn.
Mr. Bellenson with Mr. Del Clawson.
Mr. Duncan of Oregon with Mr. Burke of Florida.
Mr. Huckaby with Mr. Quie.
Mr. Sisk with Mr. Symms.
Mr. Waxman with Mr. Quillen.
Mr. Miller of California with Mr. Thone.
Mr. Mikva with Mr. Pressler.
Mr. Lehman with Mr. Krueger.
Mr. Evans of Georgia with Mr. Fraser.

Messrs. ECKHARDT, APPLEGATE, MINISH, and WOLFF changed their vote from "nay" to "yea."

Messrs. BOLAND, BAUCUS, and JOHN L. BURTON changed their vote from "yea" to "nay."

So the motion was rejected.

The result of the vote was announced as above recorded.

APPOINTMENT OF CONFEREES ON H.R. 12930

The SPEAKER pro tempore (Mr. SIMON). Without objection, the Chair appoints the following conferees: Messrs. STEED, ADDABBO, ROYBAL, PATTEN, BOLAND, SLACK, MAHON, MILLER of Ohio, MCEWEN, and CEDERBERG.

There was no objection.

CONFERENCE REPORT ON H.R. 12222, INTERNATIONAL DEVELOPMENT AND FOOD ASSISTANCE ACT OF 1978

Mr. ZABLOCKI submitted the following conference report and statement on the bill (H.R. 12222) to amend the Foreign Assistance Act of 1961 to authorize development and economic assistance programs for fiscal year 1979, to make certain changes in the authorities of that Act and the Agricultural Trade Development and Assistance Act of 1954, to improve the coordination and administration of United States development-related policies and programs, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 95–1545)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12222) to amend the Foreign Assistance Act of 1961 to authorize development and economic assistance programs for fiscal year 1979, to make certain changes in the authorities of that Act and the Agricultural Trade Development and Assistance Act of 1954, to

improve the coordination and administration of United States development-related policies and programs, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "International Development and Food Assistance Act of 1978".

TITLE I—DEVELOPMENT ASSISTANCE

DEVELOPMENT ASSISTANCE POLICY

SEC. 101. Chapter 1 of part I of the Foreign Assistance Act of 1961 is amended by striking out section 102 and inserting in lieu thereof the following new sections:

"SEC. 101. GENERAL POLICY.—(a) The Congress finds that fundamental political, economic, and technological changes have resulted in the interdependence of nations. The Congress declares that the individual liberties, economic prosperity, and security of the people of the United States are best sustained and enhanced in a community of nations which respect individual civil and economic rights and freedoms and which work together to use wisely the world's limited resources in an open and equitable international economic system. Furthermore, the Congress reaffirms the traditional humanitarian ideals of the American people and renews its commitment to assist people in developing countries to eliminate hunger, poverty, illness, and ignorance.

"Therefore, the Congress declares that a principal objective of the foreign policy of the United States is the encouragement and sustained support of the people of developing countries in their efforts to acquire the knowledge and resources essential to development and to build the economic, political, and social institutions which will improve the quality of their lives.

"United States development cooperation policy should emphasize four principal goals:

"(1) the alleviation of the worst physical manifestations of poverty among the world's poor majority;

"(2) the promotion of conditions enabling developing countries to achieve self-sustaining economic growth with equitable distribution of benefits;

"(3) the encouragement of development processes in which individual civil and economic rights are respected and enhanced; and

"(4) the integration of the developing countries into an open and equitable international economic system.

"The Congress declares that pursuit of these goals requires that development concerns be fully reflected in United States foreign policy and that United States development resources be effectively and efficiently utilized.

"(b) Under the policy guidance of the Secretary of State, the agency primarily responsible for administering this part should have the responsibility for coordinating all United States development-related activities.

"SEC. 102. DEVELOPMENT ASSISTANCE POLICY.—(a) The Congress finds that the efforts of developing countries to build and maintain the social and economic institutions necessary to achieve self-sustaining growth and to provide opportunities to improve the quality of life for their people depend primarily upon successfully marshalling their own economic and human resources. The Congress recognizes that the magnitude of these efforts exceeds the resources of developing countries and therefore accepts that there will be a long-term need for wealthy countries to contribute additional resources for development purposes. The United States should take the lead in concert with other nations to mobilize such resources from public and private sources.

"Provision of development resources must be adapted to the needs and capabilities of specific developing countries. United States assistance to countries with low per capita incomes which have limited access to private external resources should primarily be provided on concessional terms. Assistance to other developing countries should generally consist of programs which facilitate their access to private capital markets, investment, and technical skills, whether directly through guarantee or reimbursable programs by the United States Government or indirectly through callable capital provided to the international financial institutions.

"Bilateral assistance and United States participation in multilateral institutions shall emphasize programs in support of countries which pursue development strategies designed to meet basic human needs and achieve self-sustaining growth with equity.

"The Congress declares that the principal purpose of United States bilateral development assistance is to help the poor majority of people in developing countries to participate in a process of equitable growth through productive work and to influence decisions that shape their lives, with the goal of increasing their incomes and their access to public services which will enable them to satisfy their basic needs and lead lives of decency, dignity, and hope. Activities shall be emphasized that effectively involve the poor in development by expanding their access to the economy through services and institutions at the local level, increasing their participation in the making of decisions that affect their lives, increasing labor-intensive production and the use of appropriate technology, expanding productive investment and services out from major cities to small towns and rural areas, and otherwise providing opportunities for the poor to improve their lives through their own efforts. Participation of the United States in multilateral institutions shall also place appropriate emphasis on these principles.

"(b) Assistance under this chapter should be used not only for the purpose of transferring financial resources to developing countries, but also to help countries solve development problems in accordance with a strategy that aims to insure wide participation of the poor in the benefits of development on a sustained basis. Moreover, assistance shall be provided in a prompt and effective manner, using appropriate United States institutions for carrying out this strategy. In order to achieve these objectives and the broad objectives set forth in section 101 and in subsection (a) of this section, bilateral development assistance authorized by this Act shall be carried out in accordance with the following principles:

"(1) Development is primarily the responsibility of the people of the developing countries themselves. Assistance from the United States shall be used in support of, rather than substitution for, the self-help efforts that are essential to successful development programs and shall be concentrated in those countries that take positive steps to help themselves. Maximum effort shall be made, in the administration of this part, to stimulate the involvement of the people in the development process through the encouragement of democratic participation in private and local governmental activities and institution building appropriate to the requirements of the recipient countries.

"(2) Development planning must be the responsibility of each sovereign country. United States assistance should be administered in a collaborative style to support the development goals chosen by each country receiving assistance.

"(3) United States bilateral development assistance should give high priority to undertakings submitted by host governments which directly improve the lives of the poorest of their people and their capacity to participate in the development of their countries, while also helping such governments enhance their planning, technical, and administrative capabilities needed to insure the success of such undertakings.

"(4) Development assistance provided under this chapter shall be concentrated in countries which will make the most effective use of such assistance to help satisfy basic human needs of poor people through equitable growth, especially in those countries having the greatest need for outside assistance. In order to make possible consistent and informed judgments in this respect, the President shall assess the commitment and progress of countries in moving toward the objectives and purposes of this chapter by utilizing criteria, including but not limited to the following:

"(A) increase in agricultural productivity per unit of land through small-farm, labor-intensive agriculture;

"(B) reduction of infant mortality;

"(C) control of population growth;

"(D) promotion of greater equality of income distribution, including measures such as more progressive taxation and more equitable returns to small farmers;

"(E) reduction of rates of unemployment and underemployment; and

"(F) increase in literacy.

"(5) United States development assistance should focus on critical problems in those functional sectors which affect the lives of the majority of the people in the developing countries; food production and nutrition; rural development and generation of gainful employment; population planning and health; evironment and natural resources; and education, development administration, and human resource development.

"(6) United States assistance shall encourage and promote the participation of women in the national economies of developing countries and the improvement of women's status as an important means of promoting the total development effort.

"(7) United States bilateral assistance shall recognize that the prosperity of developing countries and effective development efforts require the adoption of an overall strategy that promotes efficient utilization of energy and, therefore, consideration shall be given to the full implications of such assistance on the price, availability, and consumption of energy in recipient countries.

"(8) United States cooperation in development should be carried out to the maximum extent possible through the private sector, including those institutions which already have ties in the developing areas, such as educational institutions, cooperatives, credit unions, free labor unions, and private and voluntary agencies.

"(9) To the maximum extent practicable, United States private investment should be encouraged in economic and social development programs to which the United States lends support.

"(10) Assistance shall be planned and utilized to encourage regional cooperation by developing countries in the solution of common problems and the development of shared resources.

"(11) Assistance efforts of the United States shall be planned and furnished to the maximum extent practicable in coordination and cooperation with assistance efforts of other countries, including the planning and implementation of programs and projects on a multilateral and multidonor basis.

"(12) United States bilateral development assistance should be concentrated on projects

which do not involve large-scale capital transfers. However, to the extent that such assistance does involve large-scale capital transfers, it should be furnished in association with contributions from other countries working together in a multilateral framework.

"(c) The Congress, recognizing the desirability of overcoming the worst aspects of absolute poverty by the end of this century by, among other measures, substantially lowering infant mortality and birth rates, and increasing life expectancy, food production, literacy, and employment, encourages the President to explore with other countries, through all appropriate channels, the feasibility of a worldwide cooperative effort to overcome the worst aspects of absolute poverty and to assure self-reliant growth in the developing countries by the year 2000.".

DEVELOPMENT ASSISTANCE AUTHORITIES

SEC. 102. (a) Chapter 1 of part I of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following:

"SEC. 122. GENERAL AUTHORITIES.—(a) In order to carry out the purposes of this chapter, the President is authorized to furnish assistance, on such terms and conditions as he may determine, to countries and areas through programs of grant and loan assistance, bilaterally or through regional, multilateral, or private entities.".

(b)(1) Part I of such Act is further amended—

(A) by striking out "less developed friendly" in the first sentence in subsection (b) of section 201;

(B) by striking out everything after the first sentence in subsection (b) of section 201 through "herein) be loaned" in subsection (d) of such section and inserting in lieu thereof the following: "The President shall determine the interest payable on any loan. In making loans under this chapter, the President shall consider the economic circumstances of the borrower and other relevant factors, including the capacity of the recipient country to repay the loan at a reasonable rate of interest, except that loans may not be made"; and

(C) by inserting subsection (b) of section 201, as amended by subparagraphs (A) and (B) of this paragraph, immediately after section 122(a), as added by subsection (a) of this section.

(2)(A) Section 301(a) of such Act is amended by striking out "201(d)" and inserting in lieu thereof "122(b)".

(B) Section 103(b) of the Agricultural Trade Development and Assistance Act of 1954 is amended by striking out "201" and inserting in lieu thereof "122".

(C) Section 106(a) of the Agricultural Trade Development and Assistance Act of 1954 is amended in the second sentence by striking out "201" and inserting in lieu thereof "122(b)".

(c)(1) Section 122 of the Foreign Assistance Act of 1961, as added by subsection (a) of this section and as amended by subsection (b)(1) of this section, is amended by adding at the end thereof the following new subsections:

"(c) Dollar receipts paid during any fiscal year from loans made under this part or from loans made under predecessor foreign assistance legislation shall be deposited in the Treasury as miscellaneous receipts.

"(d) Not to exceed $10,000,000 of the funds made available each fiscal year for the purposes of this chapter may be used for assistance, on such terms and conditions as the President may determine, to research and educational institutions in the United States for the purpose of strengthening their capacity to develop and carry out programs concerned with the economic and social development of developing countries.".

(2) Section 299(a) of such Act is amended by striking "110(b), 211(a), and 211(d)" and inserting in lieu thereof "110(b) and 122(d)".

(d) Part I of such Act is further amended—

(1) in section 204—

(A) by striking out "SEC. 204. DEVELOPMENT LOAN COMMITTEE.—" and inserting in lieu thereof "(e)"; and

(B) by striking out "titled" and inserting in lieu thereof "chapter"; and

(2) by inserting such section, as so redesignated and amended, at the end of section 122, as added and amended by subsections (a) through (c) of this section.

(e) Chapter 1 of part I of such Act, as amended by subsections (a) through (d) of this section, is further amended by adding at the end thereof the following new section:

"SEC. 123. PRIVATE AND VOLUNTARY ORGANIZATIONS AND COOPERATIVES IN OVERSEAS DEVELOPMENT.—(a) The Congress finds that the participation of rural and urban poor people in their countries' development can be assisted and accelerated in an effective manner through an increase in activities planned and carried out by private and voluntary organizations and cooperatives. Such organizations and cooperatives, embodying the American spirit of self-help and assistance to others to improve their lives and incomes, constitute an important means of mobilizing private American financial and human resources to benefit poor people in developing countries. The Congress declares that it is in the interest of the United States that such organizations and cooperatives expand their overseas development efforts without compromising their private and independent nature. The Congress further declares that the financial resources of such organizations and cooperatives should be supplemented by the contribution of public funds for the purpose of undertaking development activities in accordance with the principles set forth in section 102. The Congress urges the Administrator of the agency primarily responsible for administering this part, in implementing programs authorized under this part, to draw on the resource of private and voluntary organizations and cooperatives to plan and carry out development activities.

"(b) In order to further the efficient use of United States voluntary contributions for development, relief, and rehabilitation of friendly peoples, the President is authorized to use funds made available for the purposes of this chapter to pay transportation charges on shipments by the American National Red Cross and by United States voluntary agencies registered with the Advisory Committee on Voluntary Foreign Aid.

"(c) Reimbursement under this section may be provided for transportation charges on shipments from United States ports, or in the case of excess or surplus property supplied by the United States from foreign ports, to ports of entry abroad or to points of entry abroad in cases (1) of landlocked countries, (2) where ports cannot be used effectively because of natural or other disturbances, (3) where carriers to a specified country are unavailable, or (4) where a substantial savings in costs or time can be effected by the utilization of points of entry other than ports.

"(d) Where practicable, the President shall make arrangements with the receiving country for free entry of such shipments and for the making available by the country of local currencies for the purpose of defraying the transportation costs of such shipments from the port or point of entry of the receiving country to the designated shipping point of the consignee.".

(f) Section 115 of such Act is repealed.

(g)(1) Chapter 2 of part I of such Act, as amended by this section, is further amended—

(A) by repealing title I (except sections 206 and 209), title II (except sections 214 and 219), title VI, title VII, and title VIII;

(B) by amending the chapter heading to read as follows: "CHAPTER 2—OTHER PROGRAMS";

(C) by inserting the following new title heading immediately before section 206: "TITLE I—MULTILATERAL AND REGIONAL DEVELOPMENT PROGRAMS"; and

(D) by inserting the following new title heading immediately before section 214: "TITLE II—AMERICAN SCHOOLS AND HOSPITALS ABROAD; PROTOTYPE DESALTING PLANT".

(2)(A) Section 281 of such Act is amended by inserting "and chapter 1" immediately after "this chapter" each of the four places it appears.

(B) Section 601(b)(5) of such Act is amended by striking out "201" and inserting in lieu thereof "122".

(C) Section 608(a) of such Act is amended by striking out "section 212" and inserting in lieu thereof "chapter 1 of part I".

(D) Section 611(a) of such Act is amended by striking out "titles I, II, and VI of chapter 2 and chapter 4 of part I" and inserting in lieu thereof "chapter 1 of part I, title II of chapter 2 of part I, or chapter 4 of part II".

(E) Section 611(e) of such Act is amended by striking out "titles I, II, or VI of chapter 2 or chapter 4 of part I of this Act" and inserting in lieu thereof "chapter 1 of part I, title II of chapter 2 of part I, or chapter 4 of part II".

(F) Section 620(d) of such Act is amended by striking out "under section 201" and inserting in lieu thereof "on a loan basis under chapter 1 of part II".

(G) Section 635(h) of such Act is amended by striking out "titles II, V, and VI (except development loans)" and inserting in lieu thereof "chapter 1 (except development loans) and title II".

(H) Section 636(c) of such Act is amended by striking out "(other than title I of chapter 2 of part I)" both places it appears.

(I) Section 636 (d) and (e) of such Act are each amended by striking out "(other than title I of chapter 2 of part I)".

(J) Section 636(f) of such Act is amended—

(i) by striking out "section 212" and inserting in lieu thereof "chapter 1 of part I"; and

(ii) by striking out "title I of chapter 2" and inserting in lieu thereof "chapter 1".

(K)(i) Section 108 of such Act is repealed.

(ii) Section 109 of such Act is amended by striking out "Notwithstanding section 108 of this Act whenever" and inserting in lieu thereof "Whenever".

AGRICULTURE, RURAL DEVELOPMENT, AND NUTRITION

SEC. 103. (a) Section 103 of the Foreign Assistance Act of 1961 is amended to read as follows:

"SEC. 103. AGRICULTURE, RURAL DEVELOPMENT, AND NUTRITION.—(a)(1) In recognition of the fact that the great majority of the people of developing countries live in rural areas and are dependent on agriculture and agricultural-related pursuits for their livelihood, the President is authorized to furnish assistance, on such terms and conditions as he may determine, for agriculture, rural develoement, and nutrition—

"(A) to alleviate starvation, hunger, and malnutrition;

"(B) to expand significantly the provision of basic services to rural poor people to enhance their capacity for self-help; and

"(C) to help create productive farm and off-farm employment in rural areas to provide a more viable economic base and enhance opportunities for improved incomes, living standards, and contributions by rural poor people to the economic and social development of their countries.

"(2) There is authorized to be appropriated to the President for purposes of this section, in addition to funds otherwise available for such purposes, $665,231,000 for the fiscal year 1979. Amounts appropriated un-

der this section are authorized to remain available until expended.

"(b)(1) Assistance provided under this section shall be used primarily for activities which are specifically designed to increase the productivity and income of the rural poor, through such means as creation and strengthening of local institutions linked to the regional and national levels; organization of a system of financial institutions which provide both savings and credit services to the poor; stimulation of small, labor-intensive enterprises in rural towns; improvement of marketing facilities and systems; expansion of rural infrastructure and utilities such as farm-to-market roads, water management systems, land improvement, energy, and storage facilities; establishment of more equitable and more secure land tenure arrangements; and creation and strengthening of systems to provide other services and supplies needed by farmers, such as extension, research, training, fertilizer, water, forestry, soil conservation, and improved seed, in ways which assure access to them by small farmers.

"(2) In circumstances where development of major infrastructure is necessary to achieve the objectives set forth in this section, assistance for that purpose should be furnished under this chapter in association with significant contributions from other countries working together in a multilateral framework. Infrastructure projects so assisted should be complemented by other measures to ensure that the benefits of the infrastructure reach the poor.

"(c) The Congress finds that the greatest potential for significantly expanding availability of food for people in rural areas and augmenting world food production at relatively low cost lies in increasing the productivity of small farmers who constitute a majority of the agricultural producers in developing countries. Increasing the emphasis on rural development and expanded food production in the poorest nations of the developing world is a matter of social justice and a principal element contributing to broadly based economic growth, as well as an important factor in alleviating inflation in the industrialized countries. In the allocation of funds under this section, special attention shall be given to increasing agricultural production in countries which have been designated as 'least developed' by the United Nations General Assembly.

"(d) Assistance provided under this section shall also be used in coordination with programs carried out under section 104 to help improve nutrition of the people of developing countries through encouragement of increased production of crops with greater nutritional value; improvement of planning, research, and education with respect to nutrition, particularly with reference to improvement and expanded use of indigenously produced foodstuffs; and the undertaking of pilot or demonstration programs explicitly addressing the problem of malnutrition of poor and vulnerable people. In particular, the President is encouraged—

"(1) to devise and carry out in partnership with developing countries a strategy for programs of nutrition and health improvement for mothers and children, including breast feeding; and

"(2) to provide technical, financial, and material support to individuals or groups at the local level for such programs.

"(e) Local currency proceeds from sales of commodities provided under the Agricultural Trade Development and Assistance Act of 1954 which are owned by foreign governments shall be used whenever practicable to carry out the provisions of this section.".

(b) Section 644 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following:

"(o) 'Agriculture' includes aquaculture and fisheries.

"(p) 'Farmers' includes fishermen and other persons employed in cultivating and harvesting food resources from salt and fresh waters.".

(c) Sections 117 and 296 (f) and (g) of such Act are repealed.

(d) Section 103A of such Act is amended by inserting "environmental," immediately after "social," in clause (2) of the first sentence.

POPULATION AND HEALTH

SEC. 104. (a) Section 104 of the Foreign Assistance Act of 1961 is amended to read as follows:

"SEC. 104. POPULATION AND HEALTH.—(a) FINDINGS.—The Congress recognizes that poor health conditions and uncontrolled population growth can vitiate otherwise successful development efforts.

"Large families in developing countries are the result of complex social and economic factors which change relatively slowly among the poor majority least affected by economic progress, as well as the result of a lack of effective birth control. Therefore, effective family planning depends upon economic and social change as well as the delivery of services and is often a matter of political and religious sensitivity. While every country has the right to determine its own policies with respect to population growth, voluntary population planning programs can make a substantial contribution to economic development, higher living standards, and improved health and nutrition.

"Good health conditions are a principal element in improved quality of life and contribute to the individual's capacity to participate in the development process, while poor health and debilitating disease can limit productivity.

"(b) ASSISTANCE FOR POPULATION PLANNING.—In order to increase the opportunities and motivation for family planning and to reduce the rate of population growth, the President is authorized to furnish assistance, on such terms and conditions as he may determine, for voluntary population planning. In addition to the provision of family planning information and services and the conduct of directly relevant demographic research, population planning programs shall emphasize motivation for small families.

"(c) ASSISTANCE FOR HEALTH AND DISEASE PREVENTION.—In order to contribute to improvements in the health of the greatest number of poor people in developing countries, the President is authorized to furnish assistance, on such terms and conditions as he may determine, for health programs. Assistance under this subsection shall be used primarily for basic integrated health services, safe water and sanitation, disease prevention and control and related health planning and research. This assistance shall emphasize self-sustaining community-based health programs by means such as training of health auxiliary and other appropriate personnel, support for the establishment and evaluation of projects that can be replicated on a broader scale, measures to improve management of health programs, and other services and supplies to support health and disease prevention programs.

"(d) INTEGRATION OF ASSISTANCE PROGRAMS.—(1) Assistance under this chapter shall be administered so as to give particular attention to the interrelationship between (A) population growth and (B) development and overall improvement in living standards in developing countries, and to the impact of all programs, projects, and activities on population growth. All appropriate activities proposed for financing under this chapter shall be designed to build motivation for smaller families through modification of economic and social conditions supportive of the desire for large families, in programs such as education in and out of school, nutrition, disease control, maternal and child health services, improvements in the status and employment of women, agricultural production, rural development, and assistance to the urban poor. Population planning programs shall be coordinated with other programs aimed at reducing the infant mortality rate, providing better nutrition for pregnant women and infants, and raising the standard of living of the poor.

"(2) Since the problems of malnutrition, disease, and rapid population growth are closely related, planning for assistance to be provided under sections (b) and (c) of this section and under section 103 shall be coordinated to the maximum extent practicable.

"(3) Assistance provided under this section shall emphasize low-cost integrated delivery systems for health, nutrition, and family planning for the poorest people, with particular attention to the needs of mothers and young children, using paramedical and auxiliary medical personnel, clinics and health posts, commercial distribution systems, and other modes of community outreach.

"(e) RESEARCH AND ANALYSIS.—(1) Health and population research and analysis carried out under this Act shall—

"(A) be undertaken to the maximum extent practicable in developing countries by developing country personnel, linked as appropriate with private and governmental biomedical research facilities within the United States;

"(B) take account of the special needs of the poor people of developing countries in the determination of research priorities; and

"(C) make extensive use of field testing to adapt basic research to local conditions.

"(2) The President is authorized to study the complex factors affecting population growth in developing countries and to identify factors which might motivate people to plan family size or to space their children.

"(f) PROHIBITION ON USE OF FUNDS FOR ABORTIONS AND INVOLUNTARY STERILIZATIONS.—(1) None of the funds made available to carry out this part may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions.

"(2) None of the funds made available to carry out this part may be used to pay for the performance of involuntary sterilizations as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the President, in addition to funds otherwise available for such purposes—

"(1) $224,745,000 for the fiscal year 1979 to carry out subsection (b) of this section; and

"(2) $148,494,000 for the fiscal year 1979 to carry out subsection (c) of this section. Funds appropriated under this subsection are authorized to remain available until expended.".

(b) Section 114 and title X of chapter 2 of part I of such Act are repealed.

EDUCATION AND HUMAN RESOURCES DEVELOPMENT

SEC. 105. Section 105(a) of the Foreign Assistance Act of 1961 is amended in the second sentence by striking out "$101,800,000 for the fiscal year 1977 and $84,900,000 for the fiscal year 1978, which amounts are" and inserting in lieu thereof "$109,036,000 for the fiscal year 1979, which amount is".

TECHNICAL ASSISTANCE, ENERGY, RESEARCH, RECONSTRUCTION, AND SELECTED DEVELOPMENT PROBLEMS

SEC. 106. Section 106(b) of the Foreign Assistance Act of 1961 is amended in the first sentence by striking out "$104,500,000 for the fiscal year 1977 and $105,000,000 for the fiscal year 1978, which amounts are" and

inserting in lieu thereof $126,244,000 for the fiscal year 1979, which amount is".

APPROPRIATE TECHNOLOGY

SEC. 107. Section 107 of the Foreign Assistance Act of 1961 is amended to read as follows:

"SEC. 107. APPROPRIATE TECHNOLOGY.—(a) In carrying out activities under this chapter, the President shall place special emphasis on the use of relatively smaller, cost-saving, labor-using technologies that are generally most appropriate for the small farms, small businesses, and small incomes of the poor.

"(b) Funds made available to carry out this chapter should be used to the extent practicable for activities in the field of appropriate technology, including support of an expanded and coordinated private effort to promote the development and dissemination of appropriate technology in developing countries.".

WOMEN IN DEVELOPMENT

SEC. 108. Section 113 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

"(d)(1) Up to $10,000,000 of the funds made available each fiscal year under this chapter shall be used, in addition to funds otherwise available for such purposes, for assistance on such terms and conditions as the President may determine to encourage and promote the participation and integration of women as equal partners in the development process in the developing countries. These funds shall be used primarily to support activities which will increase the economic productivity and income earning capacity of women.

"(2) Nothing in this section shall be construed to authorize the establishment of a separate development assistance program for women.".

HUMAN RIGHTS ACTIVITIES

SEC. 109. Section 116(e) of the Foreign Assistance Act of 1961 is amended in the first sentence—

(1) by striking out "Of" and inserting in lieu thereof "The President is authorized and encouraged to use not less than $1,500,000 of"; and

(2) by striking out "1978, not less than $750,000 may be used only" and inserting in lieu thereof "1979".

ENVIRONMENT AND NATURAL RESOURCES

SEC. 110. Section 118 of the Foreign Assistance Act of 1961 is amended—

(1) by inserting "(a)" immediately after the section caption; and

(2) by adding at the end thereof the following new subsections:

"(b) In carrying out programs under this chapter, the President shall take into consideration the environmental consequences of development actions.

"(c) In furtherance of the purposes of this section, the President shall carry out studies to identify the major environment and natural resource problems, and the institutional capabilities to solve those problems, which exist in developing countries. The results of these studies shall be reported to the Congress by March 1, 1979.".

RENEWABLE AND UNCONVENTIONAL ENERGY TECHNOLOGIES

SEC. 111. Section 119 of the Foreign Assistance Act of 1961 is amended to read as follows:

"SEC. 119. RENEWABLE AND UNCONVENTIONAL ENERGY TECHNOLOGIES.—(a) The President is authorized to furnish assistance under this chapter for cooperative programs with developing countries in energy production and conservation, with particular emphasis on programs in research and development, and use of small-scale, decentralized, renewable energy sources for rural areas carried out as integral parts of rural development efforts in accordance with section 103 of this Act. Such programs shall also be directed toward the earliest practicable development and use of energy technologies which are environmentally acceptable, require minimum capital investment, are most acceptable to and affordable by the people using them, are simple and inexpensive to use and maintain, and are transferable from one region of the world to another.

"(b) The agency primarily responsible for administering this part shall coordinate with the Department of Energy, to the maximum extent possible, the planning and implementation of energy programs authorized under this chapter, including section 107, and shall consult with the Department of Energy on such planning and implementation.".

RELATIVELY LEAST DEVELOPED COUNTRIES

SEC. 112. (a)(1) Chapter 1 of part I of the Foreign Assistance Act of 1961, as amended by section 102 of this Act, is further amended by inserting the following new section 124 immediately after section 123:

"SEC. 124. RELATIVELY LEAST DEVELOPED COUNTRIES.—(a) Relatively least developed countries (as determined on the basis of criteria comparable to those used for the United Nations General Assembly list of 'least developed countries') are characterized by extreme poverty, very limited infrastructure, and limited administrative capacity to implement basic human needs growth strategies. In such countries special measures may be necessary to insure the full effectiveness of assistance furnished under this part.

"(b) For the purpose of promoting economic growth in these countries, the President is authorized and encouraged to make assistance under this chapter available on a grant basis to the maximum extent that is consistent with the attainment of United States development objectives.

"(c)(1) The Congress recognizes that the relatively least developed countries have virtually no access to private international capital markets. Insofar as possible, prior assistance terms should be consistent with present grant assistance terms for relatively least developed countries. Therefore, notwithstanding section 620(r) of this Act and section 321 of the International Development and Food Assistance Act of 1975 but subject to paragraph (2) of this subsection, the President on a case-by-case basis, taking into account the needs of the country for financial resources and the commitment of the country to the development objectives set forth in sections 101 and 102—

"(A) may permit a relatively least developed country to place amounts, which would otherwise be paid to the United States as payments on principal or interest on liability incurred by that country under this part (or any predecessor legislation) into local currency accounts (in equivalent amounts of local currencies as determined by the official exchange rate for United States dollars) for use by the relatively least developed country, with the concurrence of the Administrator of the agency primarily responsible for administering this part, for activities which are consistent with section 102; and

"(B) may waive interest payments on liability incurred by a relatively least developed country under this part (or any predecessor legislation) if the President determines that that country would be unable to use for development purposes the equivalent amounts of local currencies which could be made available under subparagraph (A).

"(2) The aggregate amount of interest and principal paid into local currency accounts under this subsection in any fiscal year may not exceed the amount approved for such purpose in an Act appropriating funds to carry out this chapter for that fiscal year, which amount may not exceed the amount authorized to be so approved by the annual authorizing legislation for development assistance programs.

"(3) In exercising the authority granted by this subsection, the President should act in concert with other creditor countries.

"(d) The President may on a case-by-case basis waive the requirement of section 110(a) for financial or 'in kind' contributions in the case of programs, projects, or activities in relatively least developed countries.

"(e) Section 110(b) shall not apply with respect to grants to relatively least developed countries.".

(2) The authority granted by section 124 (c) of the Foreign Assistance Act of 1961 shall not become effective until October 1, 1979.

(b)(1) Section 110(a) of such Act is amended by striking out "and except that" and all that follows through the end of the sentence and inserting in lieu thereof a period.

(2) Section 110(b) of such Act is amended by striking out "Except" and all that follows through "no" and inserting in lieu thereof "No".

PROJECT AND PROGRAM EVALUATION

SEC. 113. Chapter 1 of part I of the Foreign Assistance Act, as amended by sections 102 and 112 of this Act, is further amended by inserting the following new section 125 immediately after section 124:

"SEC. 125. PROJECT AND PROGRAM EVALUATION.—(a) The Administrator of the agency primarily responsible for administering this part is directed to improve the assessment and evaluation of the programs and projects carried out by that agency under this chapter. The Administrator shall consult with the appropriate committees of the Congress in establishing standards for such evaluations.

"(b) The President shall report on actions taken by the international financial institutions and the United Nations Development Program to improve the evaluation of projects and programs conducted by those institutions. The report required by this subsection shall be submitted as a part of the report required by section 634.".

AMERICAN SCHOOLS AND HOSPITALS ABROAD

SEC. 114. Section 214 of the Foreign Assistance Act of 1961 is amended—

(1) in subsection (c) by striking out "for the fiscal year 1977, $25,000,000, and for the fiscal year 1978, $25,000,000, which amounts are" and inserting in lieu thereof "$25,000,000 for the fiscal year 1979, which amount is"; and

(2) by striking out subsection (d) and (e) and by redesignating subsection (f) as subsection (d).

HOUSING AND OTHER CREDIT GUARANTY PROGRAMS

SEC. 115. (a) Sections 221 and 222 of the Foreign Assistance Act of 1961 are amended to read as follows:

"SEC. 221. HOUSING GUARANTEES.—The Congress recognizes that shelter requirements are among the most fundamental of human needs. Shelter for most people in the developing countries consists largely of domestic materials assembled by local labor. While recognizing that most financing for such housing must come from domestic resources, the Congress finds that carefully designed programs involving United States capital and expertise can increase the availability of domestic financing for improved housing and related services for low-income people by demonstrating to local entrepreneurs and institutions that providing low-cost housing can be financially viable. The Congress reaffirms, therefore, that the United States should continue to assist developing countries in marshalling resources for low-cost housing. Particular attention should be given to programs which will support pilot projects for low-cost shelter or which will have a maximum demonstration impact on local institutions and national

policy. The Congress declares that the long run goal of all such programs should be to develop domestic construction capabilities and to stimulate local credit institutions to make available domestic capital and other management and technological resources required for effective low-cost shelter programs and policies.

"SEC. 222. AUTHORIZATION.—(a) To carry out the policy of section 221, the President is authorized to issue guaranties to eligible investors (as defined in section 238(c)) assuring against losses incurred in connection with loans made for projects meeting the criteria set forth in section 221. The total principal amount of guaranties issued under this title or heretofore issued under prior housing guaranty authorities, which are outstanding at any one time, shall not exceed $1,180,000,000. The authority of this section shall continue until September 30, 1980. The President may issue regulations from time to time with regard to the terms and conditions upon which such guaranties shall be issued and the eligibility of lenders.

"(b) Activities carried out under this section shall emphasize—

"(1) projects which provide improved home sites to poor families on which to build shelter, and related services;

"(2) projects comprised of expandable core shelter units on serviced sites;

"(3) slum upgrading projects designed to conserve and improve existing shelter;

"(4) shelter projects for low income people designed for demonstration or institution building purposes; and

"(5) community facilities and services in support of projects authorized under this section to improve the shelter occupied by the poor.

"(c) In issuing guaranties under this section with respect to projects in a country which require the use or conservation of energy, the President shall give consideration to the use of solar energy technologies, where such technologies are economically and technically feasible. Technologies which may be used include solar hot water systems, solar heating and cooling, passive solar heating, biomass conversion, photovoltaic and wind applications, and community-scale solar thermal applications.".

(b) Section 222A(h) of such Act is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1979".

(c) Section 223(a) of such Act is amended by striking out "221, 222," and inserting in lieu thereof "222".

(d) Section 223(b) of such Act is amended in the first sentence—

(1) by striking out "221 or" the first place it appears;

(2) by striking out "221 and section 222 and of" and inserting in lieu thereof "222 and administering housing guaranties heretofore authorized under this title and under";

(3) by striking out "section 221 or" the second place it appears; and

(4) by inserting "this title or" immediately after "heretofore pursuant to".

(e) Section 223(c) of such Act is amended by striking out "section 221 or" and by inserting "under this title or" immediately after "heretofore".

(f) Section 223(d) of such Act is amended—

(1) by striking out "221, 222, 222A," and inserting in lieu thereof "222 or 222A"; and

(2) by inserting "under this title or" immediately after "heretofore".

(g) Section 223(f) of such Act is amended in the first sentence by striking out "section 221 or".

(h) Section 223(g) of such Act is amended by inserting "heretofore under this title or" immediately after "outstanding".

(i) Section 223(i) of such Act is repealed.

(j) Section 223(j) of such Act is amended by striking out "sections 221 and" in the first sentence and inserting in lieu thereof "section".

(k) Section 620(l) of such Act is amended by striking out "221(b)(1)" both places it appears and inserting in lieu thereof "234(a)(1)".

ASSISTANCE FOR CERTAIN DISADVANTAGED CHILDREN IN ASIA

SEC. 116. Chapter 2 of part I of the Foreign Assistance Act of 1961 is amended by striking out the title heading for title V and inserting in lieu thereof the following:

"TITLE V—DISADVANTAGED CHILDREN IN ASIA

"SEC. 281. ASSISTANCE TO CERTAIN DISADVANTAGED CHILDREN IN ASIA.—(a) The Congress recognizes the humanitarian needs of disadvantaged children in Asian countries where there has been or continues to be a heavy presence of United States military and related personnel in recent years. Moreover, the Congress finds that inadequate provision has been made for the care and welfare of such disadvantaged children, particularly those fathered by United States citizens.

"(b) Accordingly, the President is authorized to expend up to $2,000,000 of funds made available under chapter 1 of this part, in addition to funds otherwise available for such purposes, to help meet the needs of these disadvantaged children in Asia by assisting in the expansion and improvement of orphanages, hostels, day care centers, school feeding programs, and health, education, and welfare programs. Assistance provided under this section shall be furnished under the auspices of and by international organizations or private voluntary agencies operating within, and in cooperation with, the countries of Asia where these disadvantaged children reside.".

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 117. (a) Section 302(a)(1) of the Foreign Assistance Act of 1961 is amended in the first sentence by striking out "for the fiscal year 1977, $219,900,000 and for the fiscal year 1978, $252,000,000" and inserting in lieu thereof "$285,450,000 for the fiscal year 1979 of which not to exceed $300,000 shall be available for contribution to the United Nations Trust Fund on South Africa".

(b)(1) Section 302(a)(1) of such Act is further amended—

(A) by striking out "$42,500,000" in the third sentence and inserting in lieu thereof "$52,000,000"; and

(B) by inserting immediately after the third sentence the following: "Of the funds authorized to be appropriated under this subsection for the fiscal year 1979, not to exceed $52,000,000 shall be available for voluntary contributions to the United Nations Relief and Works Agency for Palestine Refugees, except that not more than $42,500,000 of this amount may be obligated unless the President certifies to the Congress that any contributions above this level have been matched by equivalent contributions by members of the Organization of Petroleum Exporting Countries.".

(2) Not later than January 31, 1979, the Secretary of State shall provide the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives with a full and detailed report on the progress made by the Commissioner-General of the United Nations Relief and Works Agency to improve the ration distribution system so that food to Palestine refugees can be more equitably distributed on the basis of need, rather than entitlement.

(c) Section 302(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) None of the funds made available under this subsection for the fiscal year 1979 may be used for the United Nations Institute for Namibia unless the President determines that such funds will not be used to support the military or paramilitary activities of the Southwest African Peoples Organization.".

(d) Section 301 of such Act is amended by adding at the end thereof the following new subsection:

"(g) It is the sense of the Congress that the President should instruct the appropriate representatives of the United States to the United Nations to encourage the specialized agencies of the United Nations to transfer the funding of technical assistance programs carried out by such agencies to the United Nations Development Program.".

(e) In addition to amounts otherwise available for such purpose, there are authorized to be appropriated to the President not to exceed $1,000,000 for contributions to the World Assembly on Aging to be convened under the auspices of the United Nations, except that the amount so contributed may not exceed 25 percent of the expenditures of such Assembly. Amounts appropriated under this subsection are authorized to remain available until expended.

INTERNATIONAL DISASTER ASSISTANCE

SEC. 118. (a) Section 491(b) of the Foreign Assistance Act of 1961 is amended by striking "or international organization" and inserting in lieu thereof ", international organization, or private voluntary organization.".

(b) Section 492 of such Act is amended—

(1) in the first sentence by striking out "each of the fiscal years 1977 and 1978" and inserting in lieu thereof "the fiscal year 1979"; and

(2) by striking out the third sentence.

ASSISTANCE FOR AFRICAN REFUGEES

SEC. 119. Chapter 9 of part I of the Foreign Assistance Act of 1961 is amended—

(1) by redesignating section 495D, as added by section 121 of the International Development and Food Assistance Act of 1977, as section 495E; and

(2) by adding at the end thereof the following new section:

"SEC. 495F. ASSISTANCE TO AFRICAN REFUGEES.—The President is authorized to furnish assistance, on such terms and conditions as he may determine, exclusively for the relief and rehabilitation of African refugees and other needy people located in Africa. There is authorized to be appropriated for the fiscal year 1979 for purposes of this section, in addition to amounts otherwise available for such purposes, $15,000,000, which amount is authorized to remain available until expended. Assistance under this section shall be provided in accordance with the policies and general authorities contained in section 491.".

LOCUST PLAGUES CONTROL IN AFRICA

SEC. 120. In order to assist in attempts to control locust plagues in Africa, especially in the Horn of Africa, there is authorized to be appropriated to the President, in addition to amounts otherwise authorized for disaster relief purposes, $2,000,000, which amount is authorized to remain available until expended.

REIMBURSABLE DEVELOPMENT PROGRAMS

SEC. 121. Section 661 of the Foreign Assistance Act of 1961 is amended by striking out "$2,000,000" the first place it appears and all that follows through "1978," and inserting in lieu thereof "$3,000,000 of the funds made available for the purposes of this Act for the fiscal year 1979".

AFRICAN DEVELOPMENT FOUNDATION

SEC. 122. (a) The Congress declares that the United States should place higher priority on the formulation and implementation of policies and programs to enable the people of African nations to develop their potential, fulfill their aspirations, and enjoy better, more productive lives. In furtherance of these objectives, the Congress finds that additional support is needed for community-based self-help activities in Africa and that an African Development Foundation, organized to further the purposes set forth in section 123 of the Foreign Assistance Act of 1961, can complement current United States development programs in Africa.

(b) The Congress therefore requests that the President report to the Congress not later than February 1, 1979, on steps he has taken to review proposals for an African Development Foundation.

TITLE II—FOOD FOR PEACE

EFFECTIVENESS OF FOOD ASSISTANCE IN MEETING BASIC FOOD NEEDS

SEC. 201. The Congress finds that food assistance provided by the United States to developing countries under title I of the Agricultural Trade Development and Assistance Act of 1954 often is distributed within those countries in ways which do not significantly alleviate hunger and malnutrition in those countries. In order to determine how United States food assistance can be more effectively used to meet the food needs of the poor in developing countries, the President shall submit to the Congress not later than February 1, 1979, a report (1) explaining why food assistance provided to developing countries under title I of the Agricultural Trade Development and Assistance Act of 1954 is not more successful in meeting the food needs of those suffering from hunger and malnutrition, and (2) recommending steps which could be taken (including increasing the proportion of food assistance which is furnished under titles II and III of that Act) to increase the effectiveness of food assistance under that Act in meeting those needs.

TRANSPORTATION COSTS FOR FOOD FOR DEVELOPMENT PROGRAMS

Sec. 202. Section 304 of the Agricultural Trade Development and Assistance Act of 1954 is amended by adding at the end thereof the following new subsection:

"(d) The Commodity Credit Corporation may pay, with respect to commodities made available under this title to a country on the United Nations Conference on Trade and Development list of relatively least developed countries, freight charges from United States ports to designated ports of entry abroad or to designated points of entry abroad in the case of landlocked countries.".

APPLICATION OF FOOD FOR DEVELOPMENT PROCEEDS TO REPAYMENT OBLIGATIONS

SEC. 203. Section 305 of the Agricultural Trade Development and Assistance Act of 1954 is amended—

(1) by inserting "(a)" immediately after "SEC. 305."; and

(2) by adding at the end thereof the following new subsection:

"(b) Such disbursements shall be deemed to be payments with respect to the credit furnished pursuant to the agreement or if, in the case of a country on the United Nations Conference on Trade and Development list of relatively least developed countries, the disbursements in a fiscal year are greater than the amount of the annual repayment obligation which that country would have to meet for that fiscal year under the agreement but for the disbursements in accordance with the Food for Development Program, then the disbursements which are in excess of the amount of that annual repayment obligation may, to the extent provided in the agreement, be considered as payments with respect to the annual repayment obligations of that country for that fiscal year under other financing agreements under this Act.".

TITLE III—COORDINATION AND ADMINISTRATION OF THE DEVELOPMENT-RELATED PROGRAMS AND POLICIES OF THE UNITED STATES

DECLARATION OF OBJECTIVES

SEC. 301. The Congress declares that the United States Government should place higher priority, in the formulation and implementation of governmental policies, on efforts to help meet the legitimate needs of poor countries for improving the quality of the lives of their populations. The Congress also declares that greater effectiveness and efficiency of United States assistance to such countries can be achieved through improved coordination and administrative consolidation.

IMPLEMENTATION OF OBJECTIVES

SEC. 302. In furtherance of the objectives set forth in section 301, the Congress directs the President to institute a strengthened system of coordination of all United States economic policies which impact on the developing countries of the world, including but not limited to policies concerning international trade, commodity agreements, investment, debt, international financial institutions, international and multilateral development agencies and programs, and concessional and grant food assistance, in addition to policies concerning United States bilateral economic development assistance.

REPORT

SEC. 303. The President shall report to the Congress not later than February 1, 1979, on the steps he has taken to implement this title and on any further legislation which may be needed to achieve the objectives of this title.

TITLE IV—UNIFIED PERSONNEL SYSTEM

ESTABLISHMENT OF A UNIFIED PERSONNEL SYSTEM

SEC. 401. (a) Not later than March 15, 1979, the President shall submit to the Congress, and publish in the Federal Register, regulations establishing a unified personnel system for all employees of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961. In preparing such regulations, the President shall keep the appropriate committees of the Congress fully and currently informed, and shall consult with them on a regular basis, concerning the nature of the unified personnel system to be established.

(b) The regulations submitted to the Congress pursuant to subsection (a)—

(1) may not become effective until after the end of the 90-day period beginning on the date of such submission in order to provide the appropriate committees of the Congress an opportunity to review them; and

(2) shall not become effective then if, during such 90-day period, either House of Congress adopts a resolution stating in substance that it disapproves the personnel system proposed to be established by the regulations.

(c) Regulations which take effect pursuant to this section shall have the force and effect of law and shall apply with respect to the personnel of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961, notwithstanding any inconsistent provision of law unless that provision of law specifically states that it supersedes regulations issued under this section.

TITLE V—ADMINISTRATIVE PROVISIONS

USE OF COMPETITIVE SELECTION PROCEDURES

SEC. 501. Section 601 of the Foreign Assistance Act of 1961 is amended by adding the following new subsection at the end thereof:

"(e)(1) The Congress finds that significantly greater effort must be made in carrying out programs under part I of this Act to award contracts on the basis of competitive selection procedures. All such contracts should be let on the basis of competitive selection procedures except in those limited cases in which the procurement regulations governing the agency primarily responsible for administering part I of this Act allow noncompetitive procedures to be used.

"(2) In order to provide the Congress with information to assist it in assessing the efforts of the agency primarily responsible for administering part I of this Act to make the maximum possible use of competitive selection procedures, the Administrator of that agency—

"(A) when submitting the congressional presentation materials for development assistance for fiscal year 1980, shall also submit to the Congress a report identifying and describing each contract in an amount in excess of $100,000 which the agency entered into without competitive selection procedures during the period April 1, 1978, to September 30, 1978, and explaining why each such contract was not the subject of competitive selection procedures; and

"(B) when submitting the congressional presentation materials for development assistance for fiscal year 1981, shall also submit to the Congress a report identifying and describing each contract in an amount in excess of $100,000 which the agency entered into without competitive selection procedures during the fiscal year 1979 and explaining why each such contract was not the subject of competitive selection procedures.".

ANNUAL FOREIGN ASSISTANCE REPORT

SEC. 502. (a) Chapter 2 of part III of the Foreign Assistance Act of 1961 is amended—

(1) by striking out "(c)" in section 634(c) and inserting in lieu thereof "SEC. 633A. "FURNISHING INFORMATION.—" and by inserting such redesignated section immediately after section 633; and

(2) by striking out the remaining provisions of section 634 and inserting in lieu thereof the following:

"SEC. 634. ANNUAL REPORT.—(a) In order that the Congress and the American people may be better and more currently informed regarding United States development policy, including the amounts and effectiveness of assistance provided by the United States Government to developing countries and international organizations, the Chairman of the Development Coordination Committee shall transmit to the Congress not later than February 1 of each year a report on foreign assistance for the fiscal year ending the previous September 30. The report shall include—

"(1)(A) a comprehensive and coordinated review of all United States policies and programs having a major impact on the development of developing countries, including but not limited to bilateral and multilateral assistance, trade, debt, employment, food, energy, technology population, oceans, environment, human settlements, natural resources, and participation in international agencies concerned with development;

"(B) an assessment of the impact of such policies and programs on the well-being of the poor majority in developing countries in accordance with the policy objectives of chapter 1 of part I, including the progress developing countries are making toward achieving those objectives which are indicative of improved well-being of the poor majority, which objectives shall include but not be limited to increasing life expectancy and literacy, lowering infant mortality and birth rates, and increasing food production and employment; and

"(C) an assessment of the impact of such policies and programs on economic conditions in the United States, including but not limited to employment, wages, and working conditions;

"(2) the dollar value of all foreign assistance and guaranties by category and by country provided or made by the United States Government by any means to all foreign countries and international organizations—

"(A) from 1946 to the fiscal year immediately preceding the fiscal year for which the report is required;

"(B) as presented to Congress for the immediate preceding fiscal year;

"(C) as obligated during the immediately preceding fiscal year;

"(D) as planned for the fiscal year in which the report is presented; and

"(E) as proposed for the fiscal year following the year in which the report is presented;

"(3) a summary of repayments, by country, to the United States from previous foreign assistance loans;

"(4) the status of each loan and each contract of guaranty or insurance theretofore made under this Act, predecessor Acts, or any Act authorizing international security assistance, with respect to which there remains outstanding any unpaid obligation or potential liability; the status of each extension of credit for the procurement of defense articles or defense services, and of each contract of guarantee in connection with any such procurement, theretofore made under the Arms Export Control Act with respect to which their remains outstanding any unpaid obligation or potential liability; the status of each sale of agricultural commodities on credit terms, theretofore made under the Agricultural Trade Development and Assistance Act of 1954 with respect to which there remains outstanding any unpaid obligation; and the status of each transaction with respect to which a loan, contract or guarantee of insurance, or extension of credit (or participation therein) was theretofore made under the Export-Import Bank Act of 1945 with respect to which there remains outstanding any unpaid obligation or potential liability; except that such report shall include individually only any loan, contract, sale, extension of credit, or other transaction listed in this paragraph which is in excess of $1,000,000;

"(5)(A) the status of the debt servicing capacity of each country receiving assistance under this Act;

"(B) all forms of debt relief granted by the United States with respect to such countries, together with a detailed statement of the specific debt relief granted with respect to each such country and the purpose for which it was granted; and

"(C) a summary of the net aid flow from the United States to such countries, taking into consideration the debt relief granted by the United States; and

"(6) such other matters relating to foreign assistance provided by the United States Government under part I as the Chairman of the Development Coordination Committee considers appropriate.

"(b) For purposes of this section—

"(1) 'foreign assistance' means any tangible or intangible item provided by the United States Government to a foreign country or international organization under this or any other Act, including but not limited to any training, service, or technical advice, any item of real, personal, or mixed property, any agricultural commodity, United States dollars, and any currencies of any foreign country which are owned by the United States Government; and

"(2) 'provided by the United States Government' includes, but is not limited to, foreign assistance provided by means of gift, loan, sale, credit, or guaranty.".

(b) Part III of the Foreign Assistance Act of 1961 is amended by redesignating section 671 as section 634A and by inserting such redesignated section immediately after section 634.

(c) Part III of such Act, as amended by subsection (b) of this section, is further amended by adding the following new section immediately after new section 634A:

"SEC. 634B. CLASSIFICATION OF REPORTS.—All information contained in any report transmitted under this Act shall be public information. However, in the case of any item of information to be included in any such report that the President, on an extraordinary basis, determines is clearly detrimental to the security of the United States, he shall explain in a supplemental report why publication of each specific item would be detrimental to the security of the United States. A supplemental report shall be transmitted to the Congress at the time the report is transmitted.".

(d)(1) Title XI of chapter 2 of part I and sections 120(d), 222A(j), 495C(e), 620(w), 621A(c), 640B(d), and 657 of the Foreign Assistance Act of 1961 are repealed.

(2) Section 640B(g) of such Act is amended by striking out "subsection (d), the President" and inserting in lieu thereof "section 634, the Chairman of the Committee".

REIMBURSABLE TECHNICAL ASSISTANCE

SEC. 503. Section 607 of the Foreign Assistance Act of 1961 is amended by redesignating subsection (b) as subsection (c) and by inserting the following new subsection (b) immediately after subsection (a):

"(b) When any agency of the United States Government provides services on an advance-of-funds or reimbursable basis under this section, such agency may contract with individuals for personal service abroad or in the United States to perform such services or to replace officers or employees of the United States Government who are assigned by the agency to provide such services. Such individuals shall not be regarded as employees of the United States Government for the purpose of any law administered by the Civil Service Commission.".

AUDITOR GENERAL

SEC. 504. Section 624 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

"(g)(1) In addition to the officers provided for in subsection (a) of this section, there shall be an Auditor General who shall be appointed by the Administrator of the agency primarily responsible for administering part I of this Act. The Auditor General shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code.

"(2) The Auditor General shall report to and be under the direct supervision of the Administrator.

"(3) The Auditor General shall, with respect to the duties and responsibilities of the agency primarily responsible for administering part I of this Act and subject to the authority of the Administrator of such agency, supervise, direct, and control all audit and investigative activities relating to the programs and operations of the agency.

"(4) The Auditor General shall submit an annual report to the Administrator. This report shall be provided to the Congress without further clearance or approval as part of the annual report required by section 634 of this Act.

"(5) In the execution of the responsibilities and duties assigned in paragraph (3) of this subsection, the Auditor General shall have (A) access to all records, reports, papers, and documents of the agency and its administrative subdivisions, and (B) authority to request such information or assistance as necessary for carrying out the duties set forth in this subsection from any Federal, State, or local governmental agency or unit thereof, and from contractors, grantees, and loan recipients of the agency.".

MOTOR VEHICLES

SEC. 505. Section 636(a)(5) of the Foreign Assistance Act of 1961 is amended by striking "$3,500" and inserting in lieu thereof "the current market price in the United States of a mid-sized sedan or station wagon meeting the requirements established by the General Services Administration for a Class III vehicle of United States manufacture (or, if the replacement vehicle is a right-hand drive vehicle, 120 percent of that price)".

OPERATING EXPENSES

SEC. 506. Section 667(a) of the Foreign Assistance Act of 1961 is amended—

(1) in the text preceding paragraph (1) by striking out "1978" and inserting in lieu thereof "1979"; and

(2) in paragraph (1) by striking out "$220,200,000" and inserting in lieu thereof "$261,000,000".

TITLE VI—MISCELLANEOUS PROVISIONS

REDUCTION OF AUTHORIZATION

SEC. 601. The total funds authorized to be appropriated in this Act (excluding funds authorized to be appropriated to carry out section 214 of the Foreign Assistance Act of 1961) shall be reduced by 5 percent.

PROHIBITIONS ON ASSISTANCE TO VIETNAM, CAMBODIA, UGANDA, AND CUBA

SEC. 602. Notwithstanding any other provision of law or of this Act, funds authorized to be appropriated in this Act shall not be used for any form of aid, either by monetary payment or by the sale or transfer of any goods of any nature, to the Socialist Republic of Vietnam, Cambodia, Uganda, or Cuba.

REPORTS TO CONGRESS ON DEBT RELIEF AGREEMENTS

SEC. 603. (a)(1) The Secretary of State shall keep the Committee on Foreign Relations of the Senate, the Committee on International Relations of the House of Representatives, and the Committee on Appropriations of each House of the Congress fully and currently informed of any negotiations with any foreign government with respect to any cancellation, renegotiation, rescheduling, compromise, or other form of debt relief (including any modification of the terms, conditions, or manner of repayment), with regard to any debt owed to the United States by such foreign government.

(2) The Secretary of State shall transmit to such committees a copy of the text of any agreement with any foreign government which would result in any such debt relief no less than thirty days prior to its entry into force, together with a detailed justification of the interest of the United States in the proposed debt relief. The requirements of this paragraph shall not apply with respect to an agreement if a statutory requirement exists that the amount of the debt relief provided by the agreement may not exceed the amount approved for such purposes in advance in an appropriation Act.

(b) Section 4 of the Foreign Disaster Assistance Act of 1974 is repealed.

MISCELLANEOUS REPEALS

SEC. 604. Sections 302(d), 302(e), 302(f), 302(g), 302(h), 304, 494A, 495A, 618, 619, 637(a), 649, 651, 655, 656, 658, and 665, and chapters 6 and 7 of part I, of the Foreign Assistance Act of 1961 are repealed.

EFFECTIVE DATE

SEC. 605. The amendments made by this Act shall take effect on October 1, 1978.

And the Senate agree to the same.

CLEMENT J. ZABLOCKI,
DANTE B. FASCELL,
CHARLES C. DIGGS, Jr.,
LEE H. HAMILTON,
JONATHAN B. BINGHAM,
MICHAEL HARRINGTON,
STEPHEN J. SOLARZ,
WM. BROOMFIELD,
PAUL FINDLEY,
LARRY WINN, Jr.,
Managers on the Part of the House.

JOHN SPARKMAN,
FRANK CHURCH,
DICK CLARK,
J. R. BIDEN,
CLIFFORD P. CASE,
JACOB K. JAVITS,
CHARLES H. PERCY,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12222) to amend the Foreign Assistance Act of 1961 to authorize development and economic assistance programs for fiscal year 1979, to make certain changes in the authorities of that act and the Agricultural Trade Development and Assistance Act of 1954, to improve the coordination and administration of U.S. development-related policies and programs, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1979

The conference substitute contains authorizations for fiscal year 1979 appropriations of $1,795 million for bilateral economic assistance programs. The amount authorized to be appropriated in the conference substitute is $38.1 million less than the total House authorization, $49.4 million more than the total Senate authorization, and $43.5 million less than the original executive branch request.

The amount contained in the conference substitute compared to the amounts requested by the executive branch and recommended by the House and Senate follow:

AUTHORIZATION OF APPROPRIATION FOR FISCAL YEAR 1979

[In millions of dollars]

Program	Executive branch request for fiscal year 1979	House bill	Senate amendment	Conference substitute
Bilateral development assistance:				
Agriculture, rural development, and nutrition	673.2	673.2	665.2	665.2
Population planning	205.4	225.4	224.8	224.8
Health	148.5	148.5	144.0	148.5
Education and human resources development	109.0	109.0	98.2	109.0
Technical assistance, energy, research reconstruction, and selected development problems	126.2	126.2	126.2	126.2
American schools and hospitals abroad	8.0	25.0	25.0	25.0
International organizations and programs	282.2	283.5	290.1	285.5
World assembly on aging	0	1.0	1.0	1.0
International disaster assistance	25.0	25.0	(1)	25.0
Locust control	0	0	2.0	2.0
Assistance to African refugees	0	15.0	0	15.0
Operation expenses (AID)	261.0	261.0	261.0	261.0
Subtotal	1,838.5	[2] 1,892.8	1,837.5	1,888.2
Reductions	0	[3] 59.7	[4] 91.9	[5] 93.0
Total	1,838.5	1,833.1	1,745.6	1,795.0

[1] Senate amendment authorized "such amounts as may be necessary."

[2] House bill also included $1,855,000,000 for the economic support fund for fiscal year 1979, but the fund was included in the conference on S. 3075, the International Security Assistance Act of 1978.

[3] 5-percent cut, to be applied to each sum except for agriculture, rural development and nutrition and American schools and hospitals abroad.

[4] 5-percent cut, to be applied against the total funds authorized.

[5] 5-percent overall cut as required under the Senate amendment, except for the exemption for American schools and hospitals abroad provided in the House bill.

SHORT TITLE

The House bill cited the act as the "International Development and Food Assistance Act of 1978."

The Senate amendment cited the act as the "International Development Assistance Act of 1978."

The conference substitute is the same as the House provision.

DEVELOPMENT ASSISTANCE POLICY STATEMENTS

Efficient utilization of energy

The Senate amendment included as one of the principles to guide bilateral development assistance the statement that U.S. assistance shall recognize that the prosperity of developing countries and effective development efforts require the adoption of an overall strategy that promotes efficient utilization of energy and that U.S. assistance shall consider the full implications of such assistance on the price, availability, and consumption of energy in recipient countries.

The House bill did not contain a comparable provision.

The conference substitute is the same as the Senate provision.

Use of private sector "free labor unions"

The House bill provided that, to the maximum extent possible, U.S. development efforts should be carried out through the private sector, including those institutions which already have ties in developing areas.

The Senate amendment stated the same policy and added "free labor unions" to the illustrative list of private sector institutions.

The conference substitute is the same as the Senate provision.

Private investment

The House bill stated that the development programs to which the United States lends support should reflect, to the maximum extent possible, the role of U.S. private investment.

The Senate amendment stated that, to the maximum extent practicable, U.S. private investment should be encouraged in development programs to which the United States lends support.

The conference substitute is the same as the Senate provision.

Large-scale capital transfers

The House bill stated that U.S. bilateral assistance should be concentrated on projects which do not involve large-scale capital transfers, but if such transfers are involved, they should be in a multilateral framework.

The Senate amendment did not contain a comparable provision.

The conference substitute is the same as the House provision.

Absolute poverty

The House bill encourages the President to explore with other countries the feasibility of a worldwide cooperative effort to overcome the worst aspects of absolute poverty and to assure self-reliant growth in the developing countries by the end of the century.

The Senate amendment did not contain a comparable provision.

Th conference substitute is the same as the House provision.

PRIVATE AND VOLUNTARY ORGANIZATIONS AND COOPERATIVES

The Senate amendment included a statement of policy (1) favoring an increase in development assistance activities by private and voluntary organizations and cooperatives without compromising their private and independent nature; (2) declaring the desirability of supplementing their resources with public funding for development activities; and (3) urging the Agency for International Development to draw on the resources of private voluntary organizations and cooperatives.

The House bill did not contain a comparable provision.

The conference substitute is the same as the Senate provision.

REPEAL OF PROHIBITION ON ECONOMIC SUPPORT (ESF) RECIPIENTS RECEIVING DEVELOPMENT ASSISTANCE

The House bill repealed section 115 of the Foreign Assistance Act of 1961, which prohibits, without express congressional approval, the use of both development and ESF funds in the same country in the same fiscal year.

The Senate amendment did not contain a comparable provision.

The conference substitute is the same as the House provision.

The committee of conference expects that development assistance and economic support funds will be provided to the same country in the same fiscal year only in exceptional circumstances. The committee further expects that any development assistance funds used in countries receiving economic support funds will be fully justified in congressional presentation materials and will meet all criteria established in the Foreign Assistance Act for development assistance projects and programs. In repealing section 115, the committee of conference noted that under the prior notification procedures of section 671 of the Foreign Assistance Act of 1961 (which becomes section 634A under this bill), the House Committee on International Relations and the Senate Committee on Foreign Relations are to be notified of any proposal to modify programs justified to Congress in the annual presentation materials, including proposals that would result in the provision of development assistance and economic support funds to the same country in the same fiscal year.

FORESTRY AND SOIL CONSERVATION

The Senate amendment amended section 103(b)(1) of the Foreign Assistance Act of 1961, relating to assistance for agriculture, rural development, and nutrition, to include forestry and soil conservation in the exam-

ples of services and supplies needed by farmers.

The House bill did not contain a comparable provision.

The conference substitute is the same as the Senate provision.

AGRICULTURAL RESEARCH

The Senate amendment amended section 103A(2) of the Foreign Assistance Act of 1961, relating to agricultural research, to add "environmental" factors to the list of factors affecting small farmers which shall be subjects for research carried out under that act.

The House bill did not contain a comparable provision.

The conference substitute is the same as the Senate provision.

POPULATION AND HEALTH

Contribution to World Health Organization's special program of research, development, and research training in human reproduction

The Senate amendment earmarked $4.5 million for fiscal year 1979 to support the World Health Organization's special program of research, development, and research training in human reproduction.

The House bill did not contain a comparable earmark. The House International Relations Committee, however, recommended in its report on this bill that the Agency for International Development make a direct contribution of $4.5 million from the population account to the World Health Organization.

The conference substitute is the same as the House position. The committee of conference reiterates the directive contained in both the House report and the Senate amendment to the effect that the Agency for International Development contribute $4.5 million from the population account to the World Health Organization's special program of research, development, and research training in human reproduction.

Prohibition on funding for abortions and involuntary sterilizations

The House bill transferred the prohibitions now in section 114 of the Foreign Assistance Act of 1961 to section 104. In doing so, it made a grammatical change, substituting "None of the funds * * * may be used" for "None of the funds * * * shall be used" in two instances. This change does not alter the meaning of the prohibitions. The House bill also changed the prohibition on the use of funds as a financial incentive to "practice sterilization" to a prohibition on the use of funds as a financial incentive to "undergo sterilization."

The Senate amendment retained section 114 of the Foreign Assistance Act of 1961 without change.

The conference substitute is the same as the House provisions.

Health assistance authorization

The House bill authorized assistance under section 104(e) of the Foreign Assistance Act of 1961 for health, health education, disease prevention, and environmental sanitation.

The Senate amendment created a separate subsection for assistance for health and disease prevention activities.

The conference substitute is a compromise provision which maintains health and population authorizations in the same section. The provision authorizes assistance for health programs, to be used primarily for basic integrated health services, safe water and sanitation, disease prevention and control, and related health planning and research. It also requires that planning for health and population assistance programs be coordinated with appropriate food and nutrition programs and states that to the maximum extent practicable research be carried out in developing countries.

The committee of conference noted that the new statement of health policy is intended to emphasize the continuing role and responsibility of the Agency for International Development as the primary source of U.S. health assistance to developing countries.

WOMEN IN DEVELOPMENT

The House bill directed that up to $10 million be used for assistance to promote the participation of women in the economies of developing countries, with emphasis on programs which increase income and economic productivity and which strengthen the capacity of women and women's organizations to participate in development activities.

The Senate amendment was similar to the House provision, without specific reference to providing net increases in income or strengthening women's organizations.

The conference substitute is the same as the Senate provision. The committee of conference intends that the $10 million funding provided in this section be used to further programs to involve women in the development process, including technical support to Agency for International Development missions to help them implement this section, assistance where appropriate to indigenous women's organizations in developing countries, and dissemination of relevant research findings and data.

HUMAN RIGHTS

The House bill authorized and encouraged the President to use not less than $1.5 million of development assistance funds in fiscal year 1979 for programs and activities to encourage or promote increased adherence to civil and political rights, as set forth in the Universal Declaration of Human Rights.

The Senate amendment did not contain a comparable provision.

The conference substitute is the same as the House provision.

ENVIRONMENT AND NATURAL RESOURCES

The House bill directed the President to carry out studies to identify the major environment and natural resource problems, and the institutional capabilities to solve those problems, which exist in developing countries. The results of these studies were to be reported to Congress.

The Senate amendment included the same directive. In addition, it required that the studies indicate what the Agency for International Development is doing to assist developing nations to create environmental protection institutions, and that no less than $1.5 million would be used for the studies.

The conference substitute is the same as the House provision.

ENERGY TECHNOLOGIES

Relationship to other agencies and programs

The Senate amendment revised section 119 of the Foreign Assistance Act of 1961 relating to renewable and unconventional energy technologies, to provide that the Agency for International Development shall coordinate with the Department of Energy, to the maximum extent possible, the planning and implementation of energy programs authorized under chapter 1, part 1, of the Foreign Assistance Act including section 107, and shall consult with the Department of Energy on such planning and implementation.

The House bill did not contain a comparable provision.

The conference substitute is the same as the Senate provision.

Increasing awareness of energy programs

The Senate amendment directed the Agency for International Development to insure that each country mission be aware of the programs available under section 119 and, to the extent practicable, that at least one officer at each mission be properly trained on how to identify energy needs and to develop, in conjunction with experts, energy programs.

The House bill did not contain a comparable provision.

The conference substitute is the same as the House position. The committee of conference urges the Agency for International Development to insure that each of its missions has personnel who are knowledgeable about the Agency's energy program and are capable of identifying energy needs and of developing energy programs in conjunction with experts.

RELATIVELY LEAST DEVELOPED COUNTRIES

The Senate amendment established a new section of the Foreign Assistance Act of 1961 setting forth special policies to guide assistance to the relatively least developed countries. The new section:

(1) Contained a statement that relatively least developed countries (RLDC's), as determined on the basis of criteria comparable to those used for the U.N. General Assembly list of least developed countries, are characterized by extreme poverty, very limited infrastructure, and limited administrative capacity which may require special measures to insure the full effectiveness of development assistance.

(2) Provided that assistance to RLDC's should be on a grant basis (similar to existing section 102(e) of the Foreign Assistance Act).

(3) Provided that prior assistance to RLDC's should be made consistent with present grant assistance and, therefore, authorized the President, on a case-by-case basis, (*a*) to permit payments on principal or interest of development assistance loans to be used for development activities, and (*b*) to waive interest payments on these loans if the President determined the country would be unable to use the funds for developmental purposes. The Senate amendment provided that amounts waived or paid into local currency accounts must be authorized and appropriated annually; that this authority should be used in concert with other creditor countries; and that this new authority would not become effective until fiscal year 1980.

(4) Provided that the President may, on a case-by-case basis, waive the requirement of section 110(a) for financial or "in kind" contributions by a recipient RLDC government (similar to the RLDC exemption in section 110(a) of the Foreign Assistance Act).

(5) Shifted language of section 110(b) of the Foreign Assistance Act, which exempts RLDC's from the 36-month limitation on grant project assistance, to this new section.

The House bill did not contain a comparable provision.

The conference substitute is the same as the Senate provision.

PROJECT AND PROGRAM EVALUATION

The Senate amendment directed the Administrator of the Agency for International Development to improve the Agency's assessment and evaluation procedures. The amendment also required the President to report to Congress on the evaluation procedures of the international financial institutions and the United Nations Development Program.

The House bill did not contain a comparable provision.

The conference substitute is the same as the Senate provision.

AMERICAN SCHOOLS AND HOSPITALS ABROAD

The House bill provided that assistance under the American schools and hospitals abroad program not be furnished in any fiscal year to more than four institutions in the same country, only one of which may be a hospital and one a university, excluding any institution receiving such assistance as of September 30, 1978.

The Senate amendment did not contain a comparable provision.

The conference substitute is the same as the Senate position. The committee of conference feels that the programs carried out under section 214 of the Foreign Assistance Act of 1961, authorizing the American schools and hospitals abroad program, have proliferated beyond what the Congress intended when it first authorized the program in 1959. As a result, the authority to assist schools and hospitals abroad has been administratively expanded and the original legislative goal of supporting institutions of excellence which can be clearly identified as American institutions is not always being achieved in practice.

Although the committee of conference did not accept the House provision limiting assistance under this program to a certain number of institutions in any one country in a given year, it is intended that any new programs be restricted to those institutions which serve as demonstration centers for American ideas and practices in education and health.

The committee of conference noted with approval recent steps the Agency for International Development has taken toward this end. In particular, the committee of conference supported the concept of establishing criteria for project selection for the American schools and hospitals abroad program. The Agency for International Development should continue its efforts to define these criteria and complete such work seasonably in the coming fiscal year.

During the coming fiscal year, the Committee on International Relations and the Committee on Foreign Relations will pay particular attention to Agency actions to insure that the standards set forth are applied in project selection. To insure that this program encourages the spread of American ideas and practices on a worldwide basis, special consideration should be given to programs meeting established criteria of excellence which also increase the geographic distribution of the program.

SOLAR ENERGY FOR HOUSING GUARANTY PROGRAM

The House bill directed consideration to be given in housing guaranty projects to solar energy. The provision covered not just the use but also the conservation of energy and stated that such consideration should be given where the technologies are economically and technically feasible.

The Senate amendment directed consideration to be given to the use of solar energy in housing guaranty projects which require the use of an energy source.

The conference substitute is the same as the House provision.

ASSISTANCE TO DISADVANTAGED CHILDREN AND ORPHANS

The Senate amendment authorized up to $2 million in development assistance funds for assistance to disadvantaged children in Asia, particularly those fathered by American citizens in countries where there has been, or continues to be, a large U.S. military presence. This assistance is to be furnished through international organizations and private voluntary agencies.

The House bill did not contain a comparable provision.

The conference substitute is the same as the Senate provision. The committee of conference intends that up to $150,000 of the funds made available under this provision be used for the verification of birth records of children in Thailand born of American fathers and Asian mothers.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

U.N. Trust Fund on South Africa

The House bill earmarked $300,000 of the funds authorized for section 302(a) of the Foreign Assistance Act of 1961, which authorizes appropriations for voluntary contributions to international organization and programs, for a contribution to the United Nations Trust Fund on South Africa.

The Senate amendment did not contain a comparable provision.

The conference substitute is the same as the House provision.

UN Institute for Namibia

The House bill provided that none of the funds available under section 302(a) of the Foreign Assistance Act of 1961 for fiscal year 1979 may be used for the United Nations Institute for Namibia unless the President determines that funds contributed will not be used to support the activities of the South-West African People's Organization (SWAPO)

The Senate amendment did not contain a comparable provision

The conference substitute incorporates the House provision with an amendment to require a Presidential determination that funds contributed to the U.N. Institute for Namibia will not be used to support the military or paramilitary activities of SWAPO.

U.N. University

The Senate amendment provided that none of the funds authorized to be appropriated under section 302(a) of the Foreign Assistance Act of 1961 be expended for contribution to the United Nations University.

The House bill did not contain a comparable provision.

The conference substitute is the same as the House position.

Relief and Works Agency for Palestine Refugees (UNRWA)

The Senate amendment (*a*) increased the ceiling on the fiscal year 1978 U.S. contribution UNRWA by $9.5 million; (*b*) put a $52 million ceiling on a fiscal year 1979 U.S. contribution to UNRWA, with contributions above $42 million to be made available only upon Presidential determination of matching contributions from members of the Organization of Petroleum Exporting Countries; and (*c*) required a report from the Secretary of State by January 31, 1979, on improvements in the UNRWA ration distribution system.

The House bill did not contain comparable provisions.

The conference substitute is the same as the Senate provisions.

U.N. Development Program Disaster Preparedness and Prevention Trust Fund

The Senate amendment earmarked not to exceed $5 million for a Disaster Preparedness and Prevention Trust Fund to be administered by the United Nations Development Program.

The House bill did not contain a comparable provision.

The conference substitute is the same as the House position.

The committee of conference agreed not to provide the funds for this purpose pending completion of a United Nations study of the scope and magnitude of assistance required by the world's most disaster-prone nations. The committee of conference noted the urgent need to improve the capability of governments of poor, disaster-prone nations to manage international disaster assistance efforts and to develop their capacity to prevent disasters from affecting the lives and property of their people. If a U.N.-sponsored Disaster Preparedness and Prevention Trust Fund is agreed upon, the committee of conference urges the President to give careful consideration to requesting authorization of appropriations of funds for a U.S. contribution to the Fund. The committee of conference believes that such an international program would be complementary to international disaster preparedness efforts now being undertaken by the United States and would enlist other nations in sharing the burden.

U.N. Development Program Technical Assistance

The Senate amendment stated the sense of Congress that U.S. representatives to the United Nations encourage the U.N. specialized agencies to transfer funding of their technical assistance programs to the United Nations Development Program.

The House bill did not contain a similar provision.

The conference substitute is the same as the House provision.

INTERNATIONAL DISASTER ASSISTANCE

General policy

The Senate amendment added to present policy language on international disaster assistance in the Foreign Assistance Act of 1961, a statement that disaster assistance symbolizes U.S. humanitarian concern for those in need abroad and constitutes an important element in U.S. foreign relations and aid.

The House bill did not contain a comparable provision.

The conference substitute is the same as the House position.

Assistance for reconstruction

The Senate amendment added reconstruction to the existing purposes (relief and rehabilitation) of the disaster assistance program.

The House bill did not contain a comparable provision.

The conference substitute is the same as the House position.

Private voluntary organization

The Senate amendment added "private voluntary agency" as a vehicle for distributing assistance to the existing authorities for disaster assistance to foreign countries and international organizations.

The House bill did not contain a comparable provision.

The conference substitute is essentially the same as the Senate provisions.

Funding

The House bill authorized an appropriation of $25 million for fiscal year 1979.

The Senate amendment established an International Disaster Assistance Fund with permanent authorization for appropriations of "such amounts as may be necessary."

The conference substitute is the same as the House provision.

RELIEF AND REHABILITATION ASSISTANCE FOR TURKEY

The Senate amendment amended section 495D of the Foreign Assistance Act of 1961, to allow use of funds made available for disaster assistance for Turkey to be used for disaster-related scientific equipment.

The House bill did not contain a comparable provision.

The conference substitute is the same as the House position. However, the committee of conference recognizes the desirability of using international disaster assistance funds for disaster preparedness and prediction and contingency planning for natural disasters abroad such as earthquakes and other calamities, as well as for relief and rehabilitation after a disaster has occurred.

ASSISTANCE TO AFRICAN REFUGEES

The House bill authorized $15 million in disaster assistance funds for relief and rehabilitation of refugees and other needy people in Africa.

The Senate amendment did not contain a comparable provision.

The conference substitute is the same as the House provision.

LOCUST CONTROL IN AFRICA

The Senate amendment authorized $2 million, in addition to amounts otherwise authorized for disaster relief purposes, for assistance in efforts to control locust plagues in Africa, especially in the Horn of Africa.

The House bill contained no comparable provision.

The conference substitute is the same as the Senate provision.

AFRICAN DEVELOPMENT FOUNDATION

The Senate amendment directed the President to report to Congress by February 1, 1979, on steps taken to review proposals for establishing an African Development Foundation, and to submit thereafter legislation to establish such a foundation.

The House bill did not contain a comparable provision.

The conference substitute requests the President to report by February 1, 1979, on the steps he has taken to review proposals for an African Development Foundation.

REPORTS ON EXCHANGES OF MATERIALS

The House bill required the President to report by February 1 of each year on steps taken to implement section 663 of the Foreign Assistance Act of 1961, which provides for the furnishing of foreign assistance in return for receipt of raw materials.

The Senate amendment did not contain a comparable provision.

The conference substitute is the same as the Senate position.

IMPROVED COORDINATION AND ADMINISTRATIVE CONSOLIDATION

The House bill included a provision calling for improved coordination and administrative consolidation of U.S. development assistance programs. The provision declared that the U.S. Government should place higher priority on helping to meet the needs of poor countries and on greater effectiveness and efficiency through improved coordination and administrative consolidation of U.S. development assistance programs.

The House bill directed the President to institute a strengthened system of coordinating U.S. economic policies impacting on developing nations and to establish an International Development Cooperation Administration (IDCA) with primary responsibility for coordinating international development activities. The maximum range of such programs was to be placed under IDCA.

The House bill also required a Presidential report on implementation of these provisions by February 1, 1979.

The Senate amendment did not contain a comparable provision.

The conference substitute declares that the U.S. Government should place higher priority on helping to meet the needs of poor countries and on greater effectiveness and efficiency through improved coordination and administrative consolidation of U.S. development assistance programs. It directs the President to institute a strengthened system of coordination of U.S. economic policies which impact on developing nations and requires that he submit a report on implementation of these provisions by February 1, 1979.

The committee of conference urges the President to consider establishing an International Development Cooperation Administration, to supersede the Agency for International Development, which would have, subject to the foreign policy guidance of the Secretary of State, primary responsibility within the U.S. Government for coordination of international development-related activities and which would have within its organizational framework the maximum possible range of U.S. Government agencies and programs related to international development.

UNIFIED PERSONNEL SYSTEM

The House bill required the President to submit by February 1, 1979, regulations establishing a unified personnel system for the Agency for International Development, and in preparing such regulations, to keep the appropriate congressional committees informed. The regulations would not become effective until 30 days after they are submitted to Congress and could be vetoed by either House.

The Senate amendment did not contain a comparable provision.

The conference substitute incorporates the House provision with amendments to (*a*) set March 15, 1979, as the date by which the new personnel plan shall be submitted to Congress; (*b*) provide 90 days for congressional review; and (*c*) removes the provision allowing the Executive to alter the new regulations after they are issued.

The committee of conference declares that the new unified personnel system should be consistent with the President's civil service reform program. In general, it should be based primarily on existing provisions of law governing the Foreign Service personnel system (or where appropriate, with civil service authorities), and should be designed to meet the particular requirements of the Agency for International Development (or its successor agency), which include the need to have its personnel serve overseas and meet language and technical skill requirements.

USE OF COMPETITIVE SELECTION PROCEDURES

The House bill encouraged the Agency for International Development to make greater use of competitive procurement practices in the Agency's procurement process and required a report in the fiscal year 1980 and fiscal year 1981 congressional presentation documents.

The Senate amendment did not contain a comparable provision.

The conference substitute is the same as the House provision.

HUMAN RIGHTS REPORTS

Submission of report

The House bill retained section 116(d) of the Foreign Assistance Act of 1961 which directs the Secretary of State to make a separate annual report on human rights conditions in countries receiving development assistance.

The Senate amendment replaced the reporting requirements in section 116(d) of the Foreign Assistance Act with the requirement that the Chairman of the Development Coordination Committee include in his annual consolidated report to Congress the status of human rights in countries receiving development assistance.

The conference substitute is the same as the House provision.

Countries covered by reports

The House bill amended section 116(d)(1) of the Foreign Assistance Act of 1961 to include in the annual human rights report on recipients of development assistance those countries currently eligible for development assistance or that might become eligible if the requirements for eligibility were modified.

The Senate amendment did not contain a comparable provision.

The conference substitute is the same as the Senate position.

REPORTING ON AGRICULTURAL DISINCENTIVES

The House bill required a description in the annual consolidated report of the governmental policies of each country receiving assistance which are disincentives to increasing such country's agricultural production and a description and evaluation of each country's efforts toward eliminating such governmental policies.

The Senate amendment did not contain a comparable provision.

The conference substitute is the same as the Senate position. A separate report on this matter in addition to those already required would cause unnecessary and to some extent repetitive paperwork. However, it is the intent of the committee of conference that the substance of the information required by the House provision be included in the material which is submitted pursuant to section 634(a)(1)(B) of the Foreign Assistance Act of 1961 as part of the annual consolidated report to the Congress.

COMPETITIVE IMPACT REPORT

The Senate amendment required the Secretary to give full consideration, before extending aid with funds authorized to be appropriated by this legislation, to the extent of the likely adverse impact of such aid on U.S. industries and employment either by reducing demand for U.S. goods or increasing imports into the United States. The U.S. International Trade Commission would be required to report annually on the impact of such aid on U.S. industries and employment and make recommendations in the report concerning areas of aid which adversely affect domestic U.S. industries and employment.

The House bill did not contain a comparable provision.

The conference substitute is the same as the House position.

A similar report will be required by section 634 of the Foreign Assistance Act, as amended by this legislation.

REIMBURSABLE TECHNICAL ASSISTANCE

The House bill exempted from agency personnel ceilings those persons hired temporarily to perform services or to replace employees performing services under a reimbursable technical assistance program.

The Senate amendment did not contain a comparable provision.

The conference substitute is the same as the House provision.

AUDITOR GENERAL

The Senate amendment established a statutory position of Auditor General for the Agency for International Development (AID) who would:

(1) Be appointed by the AID Administrator and compensated at Executive Level V;

(2) Report directly to the AID Administrator;

(3) Supervise, direct, and control all audit and investigative activities relating to the programs and operations of the Agency;

(4) Submit an annual report to the Administrator, which report would be provided to the Congress without further clearance or approval as part of the annual report required by section 634 of the Foreign Assistance Act of 1961; and

(5) In the execution of the responsibilities and duties described in paragraph (3) above, have access to all records, reports, papers, and documents of the Agency and its administrative subdivisions, as well as the authority to request such information or assistance as necessary for carrying out his duties from any Federal, State, or local governmental agency or unit thereof, and from contractors, grantees, and loan recipients of AID.

The House bill did not contain a comparable provision.

The conference substitute is the same as the Senate provision.

5-PERCENT REDUCTION

The House bill provided for a 5-percent reduction of each sum in the bill, with the exception of sections 103 (agriculture, rural development, and nutrition) and 111 (American schools and hospitals abroad) in title I.

The Senate amendment provided for a 5-percent reduction in the total funds authorized in the bill.

The conference substitute provides for a 5-percent reduction in total funds authorized in this bill, excluding funds for the American schools and hospitals abroad program.

PROHIBITION ON AID TO VIETNAM, CAMBODIA, UGANDA, OR CUBA

The House bill contained a provision prohibiting the use of funds authorized to be appropriated in this act for any form of aid or trade, directly or indirectly, to Vietnam, Cambodia, Uganda, or Cuba.

The Senate amendment contained a similar provision but it did not mention trade or specify that assistance either "directly or indirectly" to the four countries be prohibited.

The conference substitute is the same as the Senate provision. The committee of conference intends that the prohibition not apply to assistance to students from Uganda now completing their studies at U.S. institutions.

PRIOR REVIEW OF DEBT MODIFICATION AGREEMENTS

The Senate amendment required the Secretary of State to transmit to the Senate Foreign Relations Committee, the House International Relations Committee, and the Committee on Appropriations of each House of the Congress a copy of any proposed agreement with any foreign government that would modify the terms, conditions, or manner of repayment of any foreign governmental debt owed to the United States, together with a detailed justification of the U.S. interest in the proposed modification, at least 30 days prior to the date of its entry into force. Exempt from this provision were any proposed agreements subject to a statutory requirement that the amount of the debt so canceled, rescheduled, or otherwise modified could not exceed the amount approved in advance in an appropriation act. The Senate amendment also repealed section 4 of the Foreign Disaster Assistance Act of 1974 which deals with debt relief or submission of agreements prior to execution.

The House bill did not contain a comparable provision.

The conference substitute incorporates the Senate provision, with an amendment requiring the Secretary of State to keep the Senate Foreign Relations Committee, the House International Relations Committee, and the Appropriation Committees informed of such debt negotiations.

REPEALS OF OUTDATED SECTIONS OF THE FOREIGN ASSISTANCE ACT OF 1961

Section 302(h)

The House bill repealed section 302(h) of the Foreign Assistance Act of 1961 requiring certification that the United Nations Education, Scientific, and Cultural Organization (UNESCO) has taken steps to correct certain policies (the certification has been received).

The Senate amendment did not contain a comparable provision.

The conference substitute is the same as the House provision.

Section 494A

The House bill repealed section 494A of the Foreign Assistance Act of 1961, requiring a report on solutions to problems of famine in the Sahel (the report has been received).

The Senate amendment did not contain a comparable provision.

The conference substitute is the same as the House provision.

Section 495A

The House bill repealed section 495A of the Foreign Assistance Act of 1961, requiring reports on programing of funds for Guatemala relief. (The funds have been obligated and the reports received.)

The Senate amendment did not contain a comparable provision.

The conference substitute is the same as the House provision.

Section 651

The Senate amendment repealed section 651 of the Foreign Assistance Act of 1961, urging the sale of supersonic planes to Israel following the 1967 Middle East war (the planes were sold to Israel).

The House bill did not contain a comparable provision.

The conference substitute is the same as the Senate provision.

ANTITERRORISM

The Senate amendment prohibited the use of funds authorized to be appropriated by this legislation for aid to any nation which supports or harbors any terrorist groups or fails to take appropriate measures to prevent such groups from incursions into the territories of others.

The House bill did not contain a campparable provision.

The conference substitute is the same as the House position.

The committee of conference notes that the Foreign Assistance Act of 1961 already contains a similar provision, section 620A, which provides that,

* * * the President shall terminate all assistance under this act to any government which aids or abets, by granting sanctuary from prosecution, to any individual or group which has committed an act of international terrorism and the President may not thereafter furnish assistance to such government until the end of the 1-year period * * *.

The committee of conference also notes that S. 2236, an act to combat international terrorism, which includes the imposition of sanctions against states which support terrorism, is on the Senate calendar.

ECONOMIC SUPPORT FUND

The House bill amended the Foreign Assistance Act of 1961 to include a new chapter 11 in part I (relating to economic assistance). The amendment established an Economic Support Fund (ESF) program as a successor to the current security supporting assistance program which is in chapter 4 of part II (relating to security assistance) of that act, and authorized appropriation of $1,855 million (less 5 percent) for ESF in fiscal year 1979.

The Senate amendment did not contain a comparable provision. However, the Senate amended chapter 4 of part II of the Foreign Assistance Act for the same purposes in a separate bill, S. 3075, the International Security Act of 1978.

The conference substitute is the same as the Senate position, in that ESF is not included in H.R. 12222. The committee agreed that for fiscal year 1979, ESF should be included in the conference report on S. 3075. At the same time, the House conferees continued to believe that, for substantive reasons as expressed in House Report 95–1087 (pp. 13 and 36–37) and elsewhere in the legislative history of H.R. 12222, the ESF in the future should be contained in foreign economic assistance authorizing legislation and should be transferred to part I of the Foreign Assistance Act. The Senate conferees stated that they will consider the House position again next year.

CLEMENT J. ZABLOCKI,
DANTE B. FASCELL,
CHARLES C. DIGGS, Jr.,
LEE H. HAMILTON,
JONATHAN B. BINGHAM,
MICHAEL HARRINGTON,
STEPHEN J. SOLARZ,
WM. BROOMFIELD,
PAUL FINDLEY,
LARRY WINN, Jr.,
Managers on the Part of the House.

JOHN SPARKMAN,
FRANK CHURCH,
DICK CLARK,
J. R. BIDEN,
CLIFFORD P. CASE,
JACOB K. JAVITS,
CHARLES H. PERCY,
Managers on the Part of the Senate.

CONFERENCE REPORT ON S. 3075, INTERNATIONAL SECURITY ASSISTANCE ACT OF 1978

Mr. ZABLOCKI submitted the following conference report and statement on the Senate bill (S. 3075) to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 95–1546)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3075) to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "International Security Assistance Act of 1978".

CONTINGENCY FUND

SEC. 2. Section 451(a) of the Foreign Assistance Act of 1961 is amended by striking out "fiscal year 1978 not to exceed $5,000,000" and inserting in lieu thereof "fiscal year 1979 not to exceed $5,000,000".

INVOLVEMENT OF UNITED STATES PERSONNEL IN NARCOTICS CONTROL ENFORCEMENT ACTIVITIES ABROAD

SEC. 3. Section 481(c)(1) of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new sentences: "No such officer or employee may interrogate or be present during the interrogation of any United States person arrested in any foreign country with respect to narcotics control efforts without the written consent of such person. The provisions of this paragraph shall not apply to the activities of the United States Armed Services in carrying out their responsibilities under applicable Status of Forces arrangements.".

USE OF HERBICIDES TO ERADICATE MARIHUANA

SEC. 4. Section 481 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

"(d)(1) Assistance authorized by this chapter may not be made available or used for any program involving the spraying of a herbicide to eradicate marihuana plants if the use of that herbicide is likely to cause serious harm to the health of persons who may use or consume the sprayed marihuana. This prohibition shall not apply if the herbicide is used in conjunction with another substance that will clearly and readily warn potential users and consumers of the sprayed marihuana that a herbicide has been used on it.

"(2) The Secretary of State shall inform the Secretary of Health, Education, and Welfare of the use or intended use by any country or international organization of any herbicide to eradicate marihuana in a program receiving assistance under this chapter. The Secretary of Health, Education, and Welfare, on the basis of scientific information and testing and after receiving comments from the Secretary of Agriculture and the Administrator of the Environmental Protection Agency, shall promptly advise the Secretary of State if the use of that herbicide is likely to cause serious harm to the health of persons who may use or consume marihuana sprayed with that herbicide. If the Secretary of State is so advised with respect to any herbicide, the prohibition contained

in paragraph (1) shall apply with respect to the use of that herbicide.

"(3) The Secretary of State shall submit a comprehensive report to the Congress not later than January 1 of each year explicitly detailing all efforts he has taken to ensure compliance with the requirements of this subsection and to prevent the spraying of marihuana with herbicides that are likely to cause serious harm to human health.".

INTERNATIONAL NARCOTICS CONTROL

SEC. 5. (a) Section 482 of the Foreign Assistance Act of 1961 is amended by striking out "$39,000,000 for the fiscal year 1978" and inserting in lieu thereof "$40,000,000 for the fiscal year 1979".

(b) Such section is further amended—

(1) by inserting "(a)" immediately before "To carry out"; and

(2) by adding at the end of the section the following new subsection:

"(b) Funds authorized to be appropriated by this section shall not be made available for the procurement of weapons or ammunition under this chapter.".

HUMAN RIGHTS

SEC. 6. (a) Paragraph (1) of section 502B (a) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(1) The United States shall, in accordance with its international obligations as set forth in the Charter of the United Nations and in keeping with the constitutional heritage and traditions of the United States, promote and encourage increased respect for human rights and fundamental freedoms throughout the world without distinction as to race, sex, language, or religion. Accordingly, a principal goal of the foreign policy of the United States shall be to promote the increased observance of internationally recognized human rights by all countries.".

(b) Paragraph (2) of such section is amended by striking out "It is further the policy of the United States that, except" and inserting in lieu thereof "Except".

(c) Paragraph (3) of such section is amended by striking out "the foregoing policy" and inserting in lieu thereof "paragraphs (1) and (2),".

(d)(1) Paragraph (2) of such section is amended by adding at the end thereof the following new sentence: "Security assistance may not be provided to the police, domestic intelligence, or similar law enforcement forces of a country, and licenses may not be issued under the Export Administration Act of 1969 for the export of crime control and detection instruments and equipment to a country, the government of which engages in a consistent pattern of gross violations of internationally recognized human rights unless the President certifies in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that extraordinary circumstances exist warranting provision of such assistance and issuance of such licenses.".

(2) Section 4 of the Export Administration Act of 1969 is amended by adding at the end thereof the following new subsection:

"(m)(1) Crime control and detection instruments and equipment shall be approved for export by the Secretary of Commerce only pursuant to a validated export license.

"(2) The provisions of this subsection shall not apply with respect to exports to countries which are members of the North Atlantic Treaty Organization or to Japan, Australia, or New Zealand.".

(e) Section 502B(a)(2) of the Foreign Assistance Act of 1961, as amended by subsection (d)(1) of this section, is further amended by adding at the end thereof the following new sentence: "Assistance may not be provided under chapter 5 of this part to a country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights unless the President certifies in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that extraordinary circumstances exist warranting provision of such assistance.".

MILITARY ASSISTANCE

SEC. 7. (a) Subsection (a)(1) of section 504 of the Foreign Assistance Act of 1961 is amended to read as follows:

"(a)(1) There is authorized to be appropriated to the President to carry out the purposes of this chapter not to exceed $133,500,000 for the fiscal year 1979. Not more than the following amounts of funds available to carry out this chapter may be allocated and made available for assistance to each of the following countries for the fiscal year 1979:

"Portugal	$27,900,000
"Spain	41,000,000
"Jordan	45,000,000
"Philippines	17,100,000
"Greece	35,000,000

The amount specified in this paragraph for military assistance to any such country for the fiscal year 1979 may be increased by not more than 10 percent of such amount if the President deems such increase necessary for the purposes of this chapter.".

(b) Section 516(a) of such Act is amended by inserting immediately before the period at the end thereof ", and until September 30, 1981, to the extent necessary to carry out obligations incurred under this chapter during the fiscal year 1978 with respect to Indonesia and Thailand".

STOCKPILING OF DEFENSE ARTICLES FOR FOREIGN COUNTRIES

SEC. 8. Section 514(b)(2) of the Foreign Assistance Act of 1961 is amended by striking out "$270,000,000 for the fiscal year 1978" and inserting in lieu thereof "$90,000,000 for the fiscal year 1979".

INTERNATIONAL MILITARY ASSISTANCE AND SALES PROGRAM MANAGEMENT

SEC. 9. (a) Section 515 of the Foreign Assistance Act of 1961 is amended in the first sentence of subsection (b)(1)—

(1) by striking out "fiscal year 1978" and inserting in lieu thereof "fiscal year 1979"; and

(2) by striking out "Brazil" and inserting in lieu thereof "Turkey, Indonesia, Thailand".

(b) Such section is amended in subsection (d) by striking out "may not exceed 865 for the fiscal year 1978" and inserting in lieu thereof ", including any such members serving on a reimbursable basis pursuant to subsection (b)(3), may not exceed 790 for the fiscal year 1979".

(c) Such section is amended in subsection (f) by striking out "1976" in the last sentence and inserting in lieu thereof "1977, except that the President may assign an aggregate total of not to exceed eight additional defense attachés to such countries in order to perform overseas management functions under this subsection".

(d) Such section is amended in subsection (g) by inserting "for fixed" immediately before "periods of time" in the second sentence.

(e) Such section is amended by adding at the end thereof the following new subsection:

"(h) The President shall continue to instruct United States diplomatic and military personnel in United States missions abroad that they should not encourage, promote, or influence the purchase by any foreign country of United States-made military equipment, unless they are specifically instructed to do so by an appropriate official of the executive branch.".

ECONOMIC SUPPORT FUND

SEC. 10. (a) Chapter 4 of part II of the Foreign Assistance Act of 1961 is amended to read as follows:

"CHAPTER 4—ECONOMIC SUPPORT FUND

"SEC. 531. AUTHORITY.—(a)(1) The Congress recognizes that under special economic, political, or security conditions the national interests of the United States may require economic support for countries or in amounts which could not be justified solely under chapter 1 of part I. In such cases, the President is authorized to furnish assistance to countries and organizations, on such terms and conditions as he may determine, in order to promote economic or political stability. In planning assistance intended for economic development under this chapter, the President shall take into account, to the maximum extent feasible, the policy directions of section 102.

"(2) The Secretary of State shall be responsible for policy decisions and justifications for economic support programs under this chapter, including determinations of whether there will be an economic support program for a country and the amount of the program for each country. The Secretary shall exercise this responsibility in cooperation with the Administrator of the agency primarily responsible for administering part I.

"(b)(1) There are authorized to be appropriated to the President to carry out the purposes of this chapter for the fiscal year 1979, $1,902,000,000.

"(2) Amounts appropriated to carry out this chapter are authorized to remain available until expended.

"(c) Amounts appropriated to carry out this chapter shall be available for economic programs only and may not be used for military or paramilitary purposes.

"SEC. 532. MIDDLE EAST PROGRAM.—(a) The Congress recognizes that a peaceful and lasting resolution of the divisive issues that have contributed to tension and conflict between countries in the Middle East is essential to the security of the United States and the cause of world peace. The Congress declares and finds that the United States can and should play a constructive role in securing a just and durable peace in the Middle East by facilitating increased understanding between the Arab countries and Israel and by assisting the countries in the region in their efforts to achieve economic progress and political stability, which are the essential foundations for peace. It is the sense of the Congress that United States assistance programs in the Middle East should be designed to promote mutual respect and security among the countries in the region and to foster a climate conducive to increased economic development, thereby contributing to a community of free, secure, and prospering countries in the Middle East.

"(b)(1) Of the amount authorized to be appropriated to carry out this chapter for the fiscal year 1979, not less than $785,000,000 shall be available only for Israel, not less than $750,000,000 shall be available only for Egypt, and not less than $93,000,000 shall be available only for Jordan.

"(2) The total amount of funds allocated for Israel under this chapter for the fiscal year 1979 may be made available as a cash transfer. In exercising the authority of this paragraph, the President shall ensure that the level of cash transfers made to Israel does not cause an adverse impact on the total amount of nonmilitary exports from the United States to Israel.

"(3) Not less than two-thirds of the assistance furnished to Israel, and not less

than two-thirds of the assistance furnished to Egypt, under this chapter for the fiscal year 1979 shall be provided on a grant basis.

"(4) The President is requested to provide that at least $65,000,000 of the funds allocated for Egypt under this chapter for the fiscal year 1979 shall be available for the development and encouragement of private enterprise in Egypt. Programs financed under this paragraph shall be developed in close consultation with the Overseas Private Investment Corporation. It is the intent of the Congress that the funds made available under this paragraph should be used, to the maximum extent feasible, to encourage other donors, especially the Arab countries that are members of the Organization of Petroleum Exporting Countries, to participate in private enterprise development in Egypt. Funds made available under this paragraph may be used, among other things, for lending to Egyptian private business enterprise, to provide necessary surveys, services, and programs to encourage and support private enterprise development, and to contract for personnel to assist such programs.

"(5) It is the sense of the Congress that programs which stress regional development or regional scientific and technical cooperation between Israel and its Arab neighbors can contribute in an important way to the mutual understanding that must serve as the basis for permanent peace in the Middle East. Of the amount authorized to be appropriated to carry out this chapter for the fiscal year 1979, not less than $5,000,000 shall be available only to fund regional programs which stress development or scientific and technical cooperation between Israel and its Arab neighbors or programs which would be used for Arab-Israeli cooperation once normalization of relations between Israel and the Arab nations occurs.

"(6)(A) Funds appropriated to carry out this chapter for the fiscal year 1979 may not be expended for construction of the proposed potash production facility in Jordan until the President has determined, and has reported his determination to the Congress, that Jordan has obtained firm commitments from other sources for the financing, in addition to the proposed United States contribution, which will be required for that project.

"(B) Funds appropriated to carry out this chapter for the fiscal year 1979 may not be expended for construction of the proposed Maqarin Dam and Jordan Valley Irrigation System until the President has determined, and has reported his determination to the Congress, that Jordan has obtained firm commitments from other sources for the financing, in addition to the proposed United States contribution, which will be required for that project.

"SEC. 533. SOUTHERN AFRICA PROGRAM.—(a) Of the amount authorized to be appropriated to carry out this chapter for the fiscal year 1979, $60,000,000 shall be available only for the countries of southern Africa to address the problems caused by the economic dislocation resulting from the conflict in that region and for education and job training assistance. Such funds may be used to provide humanitarian assistance to African refugees and persons displaced by war and internal strife in southern Africa, to improve transportation links, interrupted or jeopardized by regional political conflicts, and to provide economic support to countries in the region.

"(b) No assistance may be furnished under this section to Mozambique, Angola, Tanzania, or Zambia, except that the President may waive this prohibition with respect to any such country if he determines, and so reports to the Congress, that furnishing such assistance to such country would further the foreign policy interests of the United States.

"SEC. 534. TURKEY AND CYPRUS PROGRAMS.—(a) Of the amount authorized to be appropriated to carry out this chapter for the fiscal year 1979, not less than $15,000,000 shall be available only for refugee relief and reconstruction on Cyprus.

"(b) Of the amount authorized to be appropriated to carry out this chapter for the fiscal year 1979, not less than $50,000,000 shall be available only for Turkey.".

(b)(1) Section 502B(d)(2)(A) of the Foreign Assistance Act of 1961 is amended by striking out "security supporting assistance" and inserting in lieu thereof "economic support fund".

(2) The second sentence of section 610(b) of such Act is repealed.

(3) Section 653(b) of such Act is amended by striking out "security supporting assistance" each of the three places it appears and inserting in lieu thereof "assistance under chapter 4 of part II of this Act".

(4) Sections 669(a) and 670(a) of such Act are each amended by inserting "(including assistance under chapter 4 of part II)" immediately after "economic assistance" and by striking out "or security supporting".

(5) Section 406(a) of the International Security Assistance and Arms Export Control Act of 1976 is amended by striking out "or security supporting assistance" and inserting in lieu thereof "assistance, no assistance under chapter 4 of part II,".

(6) After September 30, 1978, any reference in any law to security supporting assistance shall be deemed to be a reference to assistance under chapter 4 of part II of the Foreign Assistance Act of 1961.

INTERNATIONAL MILITARY EDUCATION AND TRAINING

SEC. 11. (a) Section 542 of the Foreign Assistance Act of 1961 is amended by striking out "$31,000,000 for the fiscal year 1978" and inserting in lieu thereof "$31,800,000 for the fiscal year 1979".

(b) Section 543 of such Act is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new paragraph:

"(3) to increase the awareness of nationals of foreign countries participating in such activities of basic issues involving internationally recognized human rights.".

ASSISTANCE FOR PEACEKEEPING OPERATIONS

SEC. 12. (a) Part II of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new chapter:

"CHAPTER 6—PEACEKEEPING OPERATIONS

"SEC. 551. GENERAL AUTHORITY.—The President is authorized to furnish assistance to friendly countries and international organizations, on such terms and conditions as he may determine, for peacekeeping operations and other programs carried out in furtherance of the national security interests of the United States.

"SEC. 552. AUTHORIZATION OF APPROPRIATIONS.—(a) There is authorized to be appropriated to the President to carry out the purposes of this chapter, in addition to amounts otherwise available for such purposes, $30,900,000 for the fiscal year 1979.

"(b) Amounts appropriated under this section are authorized to remain available until expended.

"SEC. 553. MIDDLE EAST SPECIAL REQUIREMENTS FUND.—(a) Of the amount authorized to be appropriated to carry out this chapter for the fiscal year 1979, $3,500,000 may be used only for special requirements related to international peacekeeping in the Middle East.

"(b) The President may obligate or expend funds under this section for a foreign country or international organization only if—

"(1) he has transmitted to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations and the chairman of the Committee on Appropriations of the Senate a report setting forth—

"(A) the name of such country or organization;

"(B) the amount of such funds to be made available to such country or organization;

"(C) the purpose for which such funds are to be made available to such country or organization; and

"(D) the reasons why it is in the national interest to use funds under this section for such purpose rather than—

"(i) using other available funds; or

"(ii) if no other funds are available for such purpose, awaiting the enactment of legislation making funds specifically available for such purpose;

"(2) a period of 30 calendar days has elapsed since the Congress received such report; and

"(3) the Congress did not adopt, during such 30-day period, a concurrent resolution stating in substance that the Congress does not approve the proposed use of funds described in such report.

"SEC. 554. ADMINISTRATIVE AUTHORITIES.—Except where expressly provided to the contrary, any reference in any law to part I of this Act shall be deemed to include reference to this chapter and any reference in any law to part II of this Act shall be deemed to include reference to this chapter.".

(b) Section 502B(d)(2)(A) of such Act is amended—

(1) by inserting "or chapter 6 (peacekeeping operations)" immediately after "and training)"; and

(2) by striking out "or part UI (assistance to the Middle East) of this Act".

(c)(1) Section 620B of such Act is amended in paragraph (1) by striking out "or 5" and inserting in lieu thereof "5, or 6".

(2) Section 653(b) of such Act is amended—

(A) by striking out "part V" both places it appears and inserting in lieu thereof "chapter 6 of part II"; and

(B) by inserting immediately before the comma in paragraph (2) "or assistance under chapter 6 of part II".

(3) Section 669(a) and 670(a) of such Act are each amended by inserting "providing assistance under chapter 6 of part II," immediately after "training,".

(4) Part VI of such Act is repealed.

(5) Section 406(a)(1) of the International Security Assistance and Arms Export Control Act of 1976 is amended by inserting "no assistance under chapter 6 of part II," immediately before "and no military" in the first sentence.

UNITED STATES POLICY REGARDING THE EASTERN MEDITERRANEAN

SEC. 13. (a) Section 620(x) of the Foreign Assistance Act of 1961 shall be of no further force and effect upon the President's determination and certification to the Congress that the resumption of full military cooperation with Turkey is in the national interest of the United States and in the interest of the North Atlantic Treaty Organization and that the Government of Turkey is acting in good faith to achieve a just and peaceful settlement of the Cyprus problem, the early peaceable return of refugees to their homes and properties, and continued removal of Turkish military troops from Cyprus in the context of a solution to the Cyprus problem, and the early serious resumption of intercommunal talks aimed at a just, negotiated settlement.

(b) The Foreign Assistance Act of 1961 is

amended by inserting immediately after section 620B the following new section:

"SEC. 620C. UNITED STATES POLICY REGARDING THE EASTERN MEDITERRANEAN.—(a) The Congress declares that the achievement of a just and lasting Cyprus settlement is and will remain a central objective of United States foreign policy. The Congress further declares that any action of the United States with respect to section 620(x) of this Act shall not signify a lessening of the United States commitment to a just solution to the conflict on Cyprus but is authorized in the expectation that this action will be conducive to achievement of a Cyprus solution and a general improvement in relations among Greece, Turkey, and Cyprus and between those countries and the United States. The Congress finds that—

"(1) a just settlement on Cyprus must involve the establishment of a free and independent government on Cyprus and must guarantee that the human rights of all of the people of Cyprus are fully protected;

"(2) a just settlement on Cyprus must include the withdrawal of Turkish military forces from Cyprus;

"(3) the guidelines for inter-communal talks agreed to in Nicosia in February 1977 and the United Nations resolutions regarding Cyprus provide a sound basis for negotiation of a just settlement on Cyprus;

"(4) serious negotiations, under United Nations auspices, will be necessary to achieve agreement on, and implementation of, constitutional and territorial terms within such guidelines; and

"(5) the recent proposals by both Cypriot communities regarding the return of the refugees to the city of New Famagusta (Varosha) constitute a positive step and the United States should actively support the efforts of the Secretary General of the United Nations with respect to this issue.

"(b) United States policy regarding Cyprus, Greece, and Turkey shall be directed toward the restoration of a stable and peaceful atmosphere in the Eastern Mediterranean region and shall therefore be governed by the following principles:

"(1) The United States shall actively support the resolution of differences through negotiations and internationally established peaceful procedures, shall encourage all parties to avoid provocative actions, and shall strongly oppose any attempt to resolve disputes through force or threat of force.

"(2) The United States will accord full support and high priority to efforts, particularly those of the United Nations, to bring about a prompt, peaceful settlement on Cyprus.

"(3) All defense articles furnished by the United States to countries in the Eastern Mediterranean region will be used only in accordance with the requirements of this Act, the Arms Export Control Act, and the agreements under which those defense articles were furnished.

"(4) The United States will furnish security assistance for Greece and Turkey only when furnishing that assistance is intended solely for defensive purposes, including when necessary to enable the recipient country to fulfill its responsibilities as a member of the North Atlantic Treaty Organization, and shall be designed to ensure that the present balance of military strength among countries of the region, including between Greece and Turkey, is preserved. Nothing in this paragraph shall be construed to prohibit the transfer of defense articles to Greece or Turkey for legitimate self defense or to enable Greece or Turkey to fulfill their North Atlantic Treaty Organization obligations.

"(5) The United States shall use its influence to ensure the continuation of the ceasefire on Cyprus until an equitable negotiated settlement is reached.

"(6) The United States shall use its influence to achieve the withdrawal of Turkish military forces from Cyprus in the context of a solution to the Cyprus problem.

"(c) Because progress toward a Cyprus settlement is a high priority of United States policy in the Eastern Mediterranean, the President and the Congress shall continually review that progress and shall determine United States policy in the region accordingly. To facilitate such a review the President shall, within 60 days after the date of enactment of this section and at the end of each succeeding 60-day period, transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report on progress made toward the conclusion of a negotiated solution of the Cyprus problem. Such transmissions shall include any relevant reports prepared by the Secretary General of the United Nations for the Security Council.

"(d) In order to ensure that United States assistance is furnished consistent with the policies established in this section, the President shall, whenever requesting any funds for security assistance under this Act or the Arms Export Control Act for Greece and Turkey, transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate his certification, with a full explanation thereof, that the furnishing of such assistance will be consistent with the principles set forth in subsection (b). The President shall also submit such a certification with any notification to the Congress, pursuant to section 36(b) of the Arms Export Control Act, of a proposed sale of defense articles or services to Greece or Turkey.".

ANNUAL MILITARY ASSISTANCE REPORT

SEC. 14. Chapter 3 of part III of the Foreign Assistance Act of 1961, as amended by the International Development and Food Assistance Act of 1978, is amended by inserting immediately after section 654 the following new section:

"SEC. 657. ANNUAL REPORT ON MILITARY ASSISTANCE AND MILITARY EXPORTS.—Not later than February 1 of each year, the President shall transmit to the Congress an annual report for the fiscal year ending the previous September 30, showing the aggregate dollar value and quantity of defense articles and defense services, and of military education and training, furnished by the United States to each foreign country and international organization, by category, specifying whether they were furnished by grant under chapter 2 or chapter 5 of part II of this Act, by sale under chapter 2 of the Arms Export Control Act, by commercial sale licensed under section 38 of that Act, or by other authority.".

ARMS TRANSFER POLICY

SEC. 15. (a) Section 1 of the Arms Export Control Act is amended by adding at the end thereof the following new paragraph:

"It is the sense of the Congress that the President maintain adherence to a policy of restraint in conventional arms transfers and that, in implementing this policy worldwide, a balanced approach should be taken and full regard given to the security interests of the United States in all regions of the world and that particular attention should be paid to controlling the flow of conventional arms to the nations of the developing world. To this end, the President is encouraged to continue discussions with other arms suppliers in order to restrain the flow of conventional arms to less developed countries.".

(b) Not later than December 31, 1979, the President shall transmit to the Congress a detailed report assessing the results and commenting on the implications of the multilateral discussions referred to in the amendment made by subsection (a).

SALES FROM STOCK

SEC. 16. Section 21(e)(1) of the Arms Export Control Act is amended—

(1) by striking out "and" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new subparagraph:

"(D) the recovery of ordinary inventory losses associated with the sale from stock of defense articles that are being stored at the expense of the purchaser of such articles.".

RENEGOTIATION ACT OF 1951

SEC. 17. Section 22 of the Arms Export Control Act is amended by adding at the end thereof the following new subsection:

"(c) The provisions of the Renegotiation Act of 1951 do not apply to contracts for the procurement of defense articles and defense services heretofore or hereafter entered into under this section or predecessor provisions of law.".

ANNUAL ARMS SALES PROPOSAL

SEC. 18. (a) Section 25 of the Arms Export Control Act is amended by adding at the end thereof the following new subsection:

"(d) On or before November 15 of each year, the President shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate the Arms Sales Proposal covering all sales under this Act (other than sales to members of the North Atlantic Treaty Organization, Japan, Australia, and New Zealand) of major defense equipment for $7,000,000 or more, or of any other defense articles or defense services for $25,000,000 or more, which are considered eligible for approval during the fiscal year beginning on October 1 of such year.".

(b) Subsection (c) of such section is amended by striking out "this section" and inserting in lieu thereof "subsection (a) or (b)".

DEFENSE REQUIREMENT SURVEY

SEC. 19. Chapter 2 of the Arms Export Control Act is amended by adding at the end thereof the following new section:

"SEC. 26. DEFENSE REQUIREMENT SURVEYS.—(a) The Congress finds that defense requirement surveys prepared by the United States for foreign countries have had a significant impact on subsequent military procurement decisions of those countries. It is the policy of the United States that the results of defense requirement surveys conducted by the United States clearly do not represent a commitment by the United States to provide any military equipment to any foreign country. Further, recommendations in such surveys should be consistent with the arms export control policy provided for in this Act.

"(b) As part of the quarterly report required by section 36(a) of this Act, the President shall include a list of all defense equipment surveys authorized during the preceding calendar quarter, specifying the country with respect to which the survey was or will be conducted, the purpose of the survey, and the number of United States Government personnel who participated or will participate in the survey.

"(c) Upon a request of the chairman of the Committee on International Relations of the House of Representatives or the chairman of the Committee on Foreign Relations of the Senate, the President shall grant that committee access to defense requirement surveys conducted by United States Government personnel.".

FOREIGN MILITARY SALES AUTHORIZATION AND AGGREGATE CEILING

SEC. 20. (a) Section 31(a) of the Arms Export Control Act is amended by striking out "$677,000,000 for fiscal year 1978" and inserting in lieu thereof "$682,000,000 for the fiscal year 1978 and $674,500,000 for the fiscal year 1979".

(b) Section 31(b) of such Act is amended

by striking out "$2,102,350,000 for the fiscal year 1978, of which" and inserting in lieu thereof "$2,152,350,000 for the fiscal year 1978 and $2,085,500,000 for the fiscal year 1979, of which amount for each such year".

(c) Section 31(c) of such Act is amended by striking out "fiscal year 1978" and inserting in lieu thereof "fiscal year 1979".

(d) Section 31(d) of such Act is amended by striking out "$100,000,000" and inserting in lieu thereof "$150,000,000".

FULL DISCLOSURE REPORTS

SEC. 21. Section 36(b)(1) of the Arms Export Control Act is amended—(1) by amending subparagraph (D) to read as follows:

"(D) an evaluation, prepared by the Director of the Arms Control and Disarmament Agency in consultation with the Secretary of State and the Secretary of Defense, of the manner, if any, in which the proposed sale would—

"(i) contribute to an arms race;

"(ii) increase the possibility of an outbreak or escalation of conflict;

"(iii) prejudice the negotiation of any arms controls; or

"(iv) adversely affect the arms control policy of the United States;";

(2) by striking out "and" at the end of subparagraph (L);

(3) by striking out the period at the end of subparagraph (M) and inserting in lieu thereof a semicolon; and

(4) by inserting immediately after subparagraph (M) the following new subparagraphs:

"(N) the projected delivery dates of the defense articles to be offered;

"(O) a detailed description of weapons and levels of munitions that may be required as support for the proposed sale; and

"(P) an analysis of the relationship of the proposed sale to projected procurements of the same item.".

USE OF FOREIGN CURRENCY

SEC. 22. (a) Section 502(b) of the Mutual Security Act of 1954 is amended to read as follows:

"(b)(1)(A) Notwithstanding section 1415 of the Supplemental Appropriation Act, 1953, or any other provision of law—

"(i) local currencies owned by the United States which are in excess of the amounts reserved under section 612(a) of the Foreign Assistance Act of 1961 and of the requirements of the United States Government in payment of its obligations outside of the United States, as such requirements may be determined from time to time by the President; and

"(ii) any other local currencies owned by the United States in amounts not to exceed the equivalent of $75 per day per person or the maximum per diem allowance established under the authority of subchapter I of chapter 57 of title 5 of the United States Code for employees of the United States Government while traveling in a foreign country, whichever is greater, exclusive of the actual cost of transportation;

shall be made available to Members and employees of the Congress for their local currency expenses when authorized as provided in subpapagraph (B).

"(B) The authorization required for purposes of subparagraph (A) may be provided—

"(i) by the Speaker of the House of Representatives in the case of a Member or employee of the House;

"(ii) by the chairman of a standing or select committee of the House of Representatives in the case of a member or employee of that committee;

"(iii) by the President of the Senate, the President pro tempore of the Senate, the Majority Leader of the Senate, or the Minority Leader of the Senate, in the case of a Member or employee of the Senate;

"(iv) by the chairman of a standing, select, or special committee of the Senate in the case of a member or employee of that committee or of an employee of a member of that committee; and

"(v) by the chairman of a joint committee of the Congress in the case of a member or employee of that committee.

"(C) Whenever local currencies owned by the United States are not otherwise available for purposes of this subsection, the Secretary of the Treasury shall purchase such local currencies as may be necessary for such purposes, using any funds in the Treasury not otherwise appropriated.

"(2) On a quarterly basis, the chairman of each committee of the House of Representatives or the Senate and of each joint committee of the Congress (A) shall prepare a consolidated report (i) which itemizes the amounts and dollar equivalent values of each foreign currency expended and the amounts of dollar expenditures from appropriated funds in connection with travel outside the United States, stating the purposes of the expenditures including per diem (lodging and meals), transportation, and other purposes, and (ii) which shows the total itemized expenditures, by such committee and by each member or employee of such committee (including in the case of a committee of the Senate, each employee of a member of the committee who received an authorization under paragraph (1) from the chairman of the committee); and (B) shall forward such consolidated report to the Clerk of the House of Representatives (if the committee is a committee of the House of Representatives or a joint committee whose funds are disbursed by the Clerk of the House) or to the Secretary of the Senate (if the committee is a committee of the Senate or a joint committee whose funds are disbursed by the Secretary of the Senate). Each such consolidated report shall be open to public inspection and shall be published in the Congressional Record within ten legislative days after the report is forwarded pursuant to this paragraph. In the case of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives, such consolidated report may, in the discretion of the chairman of the committee, omit such information as would identify the foreign countries in which members and employees of that committee traveled.

"(3)(A) Each Member or employee who receives an authorization under paragraph (1) from the Speaker of the House of Representatives, the President of the Senate, the President pro tempore of the Senate, the Majority Leader of the Senate, or the Minority Leader of the Senate, shall within thirty days after the completion of the travel involved, submit a report setting forth the information specified in paragraph (2), to the extent applicable, to the Clerk of the House of Representatives (in the case of a Member of the House or an employee whose salary is disbursed by the Clerk of the House) or the Secretary of the Senate (in the case of a Member of the Senate or an employee whose salary is disbursed by the Secretary of the Senate). In the case of an authorization for a group of Members or employees, such reports shall be submitted for all Members of the group by its chairman, or if there is no designated chairman, by the ranking Member or if the group does not include a Member, by the senior employee in the group. Each report submitted pursuant to this subparagraph shall be open to public inspection.

"(B) On a quarterly basis, the Clerk of the House of Representatives and the Secretary of the Senate shall each prepare a consolidation of the reports received by them under this paragraph with respect to expenditures during the preceding quarter by each Member and employee or by each group in the case of expenditures made on behalf of a group which are not allocable to individual members of the group. Each such consolidation shall be open to public inspection and shall be published in the Congressional Record within ten legislative days after its completion.".

(b) Notwithstanding section 30 of this Act, the amendment made by subsection (a) of this section shall take effect on the date of enactment of this Act.

SPECIAL SECURITY ASSISTANCE PROGRAM FOR THE MODERNIZATION OF THE ARMED FORCES OF THE REPUBLIC OF KOREA

SEC. 23. (a)(1) The President is authorized until December 31, 1982—

(A) to transfer, without reimbursement, to the Republic of Korea, only in conjunction with the withdrawal of the 2d Infantry Division and support forces from Korea, such United States Government-owned defense articles as he may determine which are located in Korea in the custody of units of the United States Army scheduled to depart from Korea; and

(B) to furnish to the Republic of Korea, without reimbursement, defense services (including technical and operational training) in Korea directly related to the United States Government-owned defense articles transferred to the Republic of Korea under this subsection.

(2) Any transfer under the authority of this section shall be made in accordance with all the terms and conditions of the Foreign Assistance Act of 1961 applicable to the furnishing of defense articles and defense services under chapter 2 of part II of that Act, except that no funds heretofore or hereafter appropriated under that Act shall be available to reimburse any agency of the United States Government for any such transfer or related services.

(b) In order that transfers of defense articles under subsection (a) will not cause significant adverse impact on the readiness of the Armed Forces of the United States, the President is authorized, in lieu of such transfers, to transfer additional defense articles from the stocks of the Department of Defense, wherever located, to the Republic of Korea to compensate for the military capability of defense articles withdrawn from Korea in any case where he determines that—

(1) the transfer of specific defense articles located in Korea would have a significant adverse impact on the readiness of the United States Armed Forces;

(2) the defense capability provided by those defense articles is needed by the Armed Forces of the Republic of Korea in order to maintain the military balance on the Korean peninsula; and

(3) a comparable defense capability could be provided by less advanced defense articles in the stocks of the Department of Defense which could be transferred without significant adverse impact on the readiness of the United States Armed Forces.

The President shall report to the Congress each determination made under this subsection prior to the transfer of the defense articles described in such determination.

(c) The President shall transmit to the Congress together with the presentation materials for security assistance programs proposed for each fiscal year through and including the fiscal year 1983, a report describing the types, quantities, and value of defense articles furnished or intended to be furnished to the Republic of Korea under this section.

(d) The President should also transmit to the Congress, 120 days prior to each phase of troop withdrawal, a report on the viability of the withdrawal. This report should include assessments of the military balance on the Korean peninsula, the impact of with-

drawal on the military balance, the adequacy of United States military assistance to the Republic of Korea, the impact of withdrawal on the United Nations and the Republic of Korea command structure, Republic of Korea defensive fortifications and defense industry developments, the United States reinforcement capability, and the progress of diplomatic efforts to reduce tensions in the area.

(e) (1) It is the sense of the Congress that further withdrawal of ground forces of the United States from the Republic of Korea may seriously risk upsetting the military balance in that region and requires full advance consultation with the Congress.

(2) Prior to any further withdrawal, the President shall report to the Congress on the effect of any proposed withdrawal plan on preserving deterrence in Korea, the reaction anticipated fom North Korea, the effect of the plan on increasing incentives for the Republic of Korea to develop an independent nuclear deterrent, the effect of any withdrawal on our long-term military and economic partnership with Japan, the effect of any proposed withdrawal on the United States-Chinese and United States-Soviet military balance, and the possible implications of any proposed withdrawal on the Soviet-Chinese military situation.

UNITED STATES RELATIONS WITH THE SOVIET UNION

SEC. 24. (a) The Congress finds and declares that a sound and stable relationship with the Soviet Union will help achieve the objectives of the Foreign Assistance Act of 1961 and the Arms Export Control Act, strengthen the security of the United States, and improve the prospects for world peace.

(b) Therefore, it is the sense of the Congress that the President, in cooperation with the Congress and knowledgeable members of the public, should make a full review of United States policy toward the Soviet Union. This review should cover, but not be limited to—

(1) an overall reevaluation of the objectives and priorities of the United States in its relations with the Soviet Union;

(2) the evolution of and sources of all bargaining power of the United States with respect to the Soviet Union and how that bargaining power might be enhanced;

(3) what linkages do exist and what linkages should or should not exist between various elements of United States-Soviet relations such as arms control negotiations, human rights issues, and economic and cultural exchanges;

(4) the policies of the United States toward human rights condtions in the Soviet Union and how improved Soviet respect for human rights might be more effectively achieved;

(5) the current status of strategic arms limitations talks and whether such talks should be continued in their present framework or terminated and renewed in some other forum;

(6) the current status of other arms control negotiations between the United States and the Soviet Union;

(7) the challenges posed by Soviet and Cuban involvement in developing countries and a study of appropriate policy responses and instruments to meet those challenges more effectively;

(8) the impact of our relations with the People's Republic of China on our relations with the Soviet Union;

(9) the impact of strategic parity on relations between the United States and the Soviet Union and on the ability of the United States to meet its obligations under the North Atlantic Treaty;

(10) United States economic, technological, scientific, and cultural relations with the Soviet Union and whether those relations are desirable and should be continued, expanded, restricted, or linked to other aspects of relations between the United States and the Soviet Union;

(11) the evolution of Soviet domestic politics and the relationship between Soviet domestic politics and its foreign policy behavior, especially towards the United States; and

(12) what improvements should be made in the institutions and procedures of United States foreign policy in order to ensure a coherent and effective policy towards the Soviet Union.

(c) The President should report the results of the review called for by subsection (b) to the Congress not later than December 31, 1978.

REPORT ON REVIEW OF ARMS SALES CONTROLS ON NON-LETHAL ITEMS

SEC. 25. The President shall, within 120 days after the enactment of this Act, report in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate the results of the review conducted pursuant to section 27 of the International Security Assistance Act of 1977.

UNITED STATES-REPUBLIC OF CHINA MUTUAL DEFENSE TREATY

SEC. 26. (a) The Congress finds that—

(1) the continued security and stability of East Asia is a matter of major strategic interest to the United States;

(2) the United States and the Republic of China have for a period of twenty-four years been linked together by the Mutual Defense Treaty of 1954;

(3) the Republic of China has during that twenty-four-year period faithfully and continually carried out its duties and obligations under that treaty; and

(4) it is the responsibility of the Senate to give its advice and consent to treaties entered into by the United States.

(b) It is the sense of the Congress that there should be prior consultation between the Congress and the executive branch on any proposed policy changes affecting the continuation in force of the Mutual Defense Treaty of 1954.

RHODESIA EMBARGO

SEC. 27. In furtherance of the foreign policy interests of the United States, the Government of the United States shall not enforce sanctions against Rhodesia after December 31, 1978, provided that the President determines that—

(1) the Government of Rhodesia has demonstrated its willingness to negotiate in good faith at an all-parties conference, held under international auspices, on all relevant issues; and

(2) a government has been installed, chosen by free elections in which all political and population groups have been allowed to participate freely, with observation by impartial, internationally-recognized observers.

NEGOTIATIONS BETWEEN ISRAEL AND EGYPT

SEC. 28. (a) The Congress finds that—

(1) a lasting settlement of the Arab-Israel conflict is vital to United States national interests as well as to the interests of the countries of the region;

(2) support for a strong and secure Israel and the maintenance for this purpose of Israel's effective defense capabilities as essential to peace remains a fundamental tenet of United States foreign policy;

(3) direct, face-to-face negotiations between Israel and Egypt without preconditions is an historic opening for peace, and the support of such negotiations by other moderate Arab countries, can best promote a peace settlement based on mutual concessions and accommodation;

(4) the establishment of secure, recognized, and defensible borders between Israel and its neighbors will discourage hostilities; and

(5) full, normalized relations between Israel and its Arab neighbors, including trade, travel, tourism, communications, and diplomatic relations are vital for peace.

(b) It is the sense of the Congress that the Government of the United States should continue to promote direct negotiations between Israel and Egypt and to encourage other Arab countries to enter into negotiations leading to peace treaties with Israel.

(c) It is further the sense of the Congress that the United States should be responsive to Israel's economic needs and defense requirements, including the provision of additional advanced aircraft, in order to maintain Israel's defense capability which is essential to peace.

REPORTS TO CONGRESS

SEC. 29. (a) Section 8(d) of the Act entitled "An Act to amend the Foreign Military Sales Act, and for other purposes", approved January 12, 1971, is amended in the second sentence by striking out "Additionally, the President shall also submit a quarterly report to the Congress" and inserting in lieu thereof "The annual presentation materials for security assistance programs shall include a table".

(b) Section 409(b) of the International Security Assistance and Arms Export Control Act of 1976 is amended by striking out "(1)" and by repealing paragraph (2).

(c) (1) The International Security Assistance and Arms Export Control Act of 1976 is amended—

(A) in section 202, by striking out "(a)" immediately after "SEC. 202." and by repealing subsection (b);

(B) by repealing section 217;

(C) by repealing section 218; and

(D) in section 407, by striking out "(a)" and by repealing subsection (b).

(2) The International Security Assistance Act of 1977 is amended—

(A) in section 9—

(i) by striking out "REVIEW OF" in the section heading;

(ii) by striking out "(a)" immediately after "SEC. 9."; and

(iii) by repealing subsections (b) through (e); and

(B) by repealing section 23.

(3) Section 5 of the Emergency Security Assistance Act of 1973 is repealed.

(4) Section 17 of the Foreign Assistance Act of 1974 is repealed.

SAVINGS PROVISION

SEC. 30. Enactment of this Act shall not affect the authorizations of appropriations and limitations of authority applicable to the fiscal year 1978 which are contained in provisions of law amended by this Act (other than sections 31(d), (b), and (d) of the Arms Export and Control Act).

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same.

CLEMENT J. ZABLOCKI,
DANTE B. FASCELL,
BENJAMIN S. ROSENTHAL,
LESTER L. WOLFF,
LEE H. HAMILTON,
JONATHAN B. BINGHAM,
STEPHEN J. SOLARZ,
DONALD J. PEASE,
GERRY E. STUDDS,
WM. S. BROOMFIELD,
EDWARD J. DERWINSKI,
PAUL FINDLEY,
LARRY WINN, Jr.,
Managers on the Part of the House.

JOHN SPARKMAN,
FRANK CHURCH,
DICK CLARK,
JOE BIDEN,
GEORGE MCGOVERN,
CLIFFORD P. CASE,
JACOB K. JAVITS,
CHARLES H. PERCY,
HOWARD H. BAKER,
Managers on the Part of the Senate.

JOINT EXPLANATION STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3075) to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act, and for other purposes, submit the following joint statement to the House and to the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the committee of conference, and minor drafting and clarifying changes.

AUTHORIZATION OF APPROPRIATIONS

The conference substitute contains authorizations for appropriations for international security assistance and other assistance programs for fiscal year 1979 of $2,817,500,000 which represents a reduction of $22,500,000 in the Senate figure, an increase of $1,818,200,000 in the House figure, and an increase of $28,200,000 in the amount requested by the executive branch. Including the Economic Support Fund, funds for which the House authorized in the International Development and Food Assistance Act of 1978 (H.R. 12222), the total authorization represents a reduction of $36,800,000 from the amounts authorized by the House.

The amounts approved by the committee of conference compared to the amounts requested by the executive branch and recommended by the House and Senate follow:

[In millions of dollars]

	Executive request	Senate recommendation	House recommendation	Conference agreement
Grant military assistance	133.5	133.5	163.5	133.5
Grant international military education and training	32.1	31.8	32.1	31.8
Foreign military sales (FMS) credits	674.3	677.8	674.3	674.3
FMS aggregate ceiling[1]	[1] (2,085.5)	[1] (2,120.2)	[1] (2,085.5)	[1] (2,085.5)
Subtotal, military assistance and sales program	838.9	843.1	869.9	839.6
Peacekeeping operations	[2] 32.4		29.4	30.9
Middle East Special Requirements Fund	[2] (5.0)	6.0	[3] (2.0)	[4] (3.5)
Sinai Support Mission	[2] (11.7)	11.7	[3] (11.7)	[3] (11.7)
U.N. Forces in Cyprus	[2] (8.7)	8.7	[3] (8.7)	[3] (8.7)
Spain	[2] (7.0)	7.0	[3] (7.0)	[3] (7.0)
Subtotal, peacekeeping operations	[2] 32.4	32.4	29.4	30.9
Economic support fund	[2] 1,872.0	1,932.0	[5] 50.0	1,902.0
Contingency fund	5.0	2.5	10.0	5.0
International Narcotics Control	40.0	40.0	40.0	40.0
Total	2,789.3	2,850.0	999.3 [6] (2,854.3)	2,817.5

[1] The FMS aggregate ceiling represents the total program which could be funded under FMS credit authorization. The aggregate ceiling is not an authorization of funds for appropriation.
[2] Requested under the Security Supporting Assistance account.
[3] Included in the general peacekeeping operation assistance authorization, but no line item authorization made.
[4] Earmarked under the Peacekeeping Operations account.
[5] Only $50,000,000 (for Turkey) of the Economic Support Fund was authorized in the House amendment. An additional $1,855,000,000 was authorized in the International Development and Food Assistance Act of 1978 (H.R. 12222).
[6] Total including $1,855,000,000 authorized for an Economic Support Fund in H.R. 12222.

The conference substitute includes an authorization of $133,500,000 in new appropriations for the grant military assistance program in fiscal year 1979. The committee of conference adopted this figure in light of the usual practice of reappropriating unobligated balances in the annual foreign assistance appropriations legislation. New appropriations in the amount authorized by the conference report, together with the reappropriation of unobligated balances, will enable the President to carry out the fiscal year 1979 military assistance program provided for in this bill.

Under grant military assistance, both the Senate and the House provided that not more than the following amounts may be used in fiscal year 1979 for the following countries: Portugal, $27.9 million; Spain, $41 million; Jordan, $45 million. For the Philippines, the Senate authorized $18.1 million while the House authorized $13.1 million; for Greece, the Senate authorized nothing while the House authorized $35 million.

The committee of conference agreed to accept a reduction below the executive branch request of $1 million in grant military assistance for the Philippines because of continued failure by the Philippine Government to show significant progress in improving human rights practices as well as its refusal to lift martial law and restore democratic government.

The $35 million earmarked for grant military assistance for Greece is intended to maintain a proportional balance in total security assistance for Greece and Turkey pending implementation of defense cooperation agreements with both countries. In addition to grant military assistance, Greece will be eligible for FMS credits of $140 million. Turkey will be eligible for FMS credits of $175 million.

The committee of conference adopted the Senate position on authorization of grant military education and training funding and included a reduction of $300,000 below the executive branch request which equals the amount programed for Nicaragua and Paraguay.

The committee of conference adopted the House position on authorization of FMS credits. Therefore, it did not add to $140 million programed for Greece the $35 million provided in the Senate bill. Instead, $35 million is provided to Greece in grant military assistance.

The committee of conference adopted the House FMS ceiling. Adoption of the House authorization, however, is not intended to signify approval of the FMS program for Paraguay, funding for which was eliminated by the aggregate ceiling authorized in the Senate bill.

The committee of conference adopted the Senate position on authorization of funds for the Economic Support Fund with two exceptions: (1) Authorization for Southern African programs was set at $60 million; and (2) authorization for Middle East regional cooperation programs was set at $5 million.

The committee of conference believes that efforts should be made in Turkey to prevent or reduce the damage to persons and property resulting from earthquakes and other natural disasters. The committee of conferences believes the executive branch should encourage the use of a portion of the Economic Support Fund or any other available monies in Turkey for research, analysis, and equipment necessary to prepare for a more effective life and property saving response to such national disasters. Further, we believe such an effort could be of substantial benefit to other countries which suffer frequent, severe natural disasters.

INTERNATIONAL NARCOTICS CONTROL

Involvement of U.S. personnel in narcotics control enforcement activities abroad

The Senate bill amended section 481(c)(1) of the Foreign Assistance Act of 1961 to limit activities of U.S. employees abroad with respect to narcotics control efforts, by not allowing them to interrogate or be present during interrogation of any U.S. person arrested in a foreign country without the written consent of such person. It also exempted U.S. Armed Forces personnel carrying out their responsibilities under applicable status of forces arrangements.

The House amendment did not contain a comparable provision.

The committee of conference adopted the Senate provision.

Use of herbicides

The Senate bill amended section 481 of the Foreign Assistance Act of 1961 to prohibit the use of foreign assistance funds directly or indirectly for spraying herbicides on marijuana plants if such herbicides are likely to be harmful to health. The Secretary of State was required to inform the Secretary of Health, Education, and Welfare of the use or intended use of any herbicide in a marijuana eradication program receiving foreign assistance funds. In turn, the Secretary of Health, Education, and Welfare was to advise the Secretary of State if the herbicide was likely to be harmful. The Secretary of State was required to report to Congress each January on compliance with these requirements.

The House amendment amended section 482 of the Foreign Assistance Act of 1961 to prohibit the use of fiscal year 1979 international narcotics control funds for the eradication of marihuana through the use of paraquat unless paraquat was used in conjunction with another substance or agent that would warn potential users that paraquat had been used.

The committee of conference adopted the Senate provision with two amendments: (1) to delete the words "directly or indirectly," and (2) to incorporate the essence of the House amendment, with the addition of the following language after the prohibition on herbicide use: this prohibition shall not apply if the herbicide is used in conjunction with another substance that will clearly and readily warn potential users and consumers of the sprayed marijuana that a herbicide has been used on it."

This language closely follows the House amendment. The use of the words "clearly and readily" is intended to emphasize that potential users should be warned of the pres-

ence of a herbicide by an ineradicable means without resorting to laboratory analysis or the use of costly, specialized equipment.

It is not the intent of the committee of conference to jeopardize programs for poppy eradication with this provision.

Procurement of weapons

The Senate bill amended section 482 of the Foreign Assistance Act of 1961 to prohibit the use of international narcotics control funds for the procurement of weapons or ammunition.

The House amendment did not contain a comparable provision.

The committee of conference adopted the Senate provision.

HUMAN RIGHTS

General policy statement

The House amendment amended section 502B(a)(1) of the Foreign Assistance Act of 1961 to clarify current ambiguous language without changing the thrust of current policy pertaining to U.S. foreign policy and human rights.

The Senate bill did not contain a comparable provision.

The committee of conference adopted the House provision.

Human rights and security assistance

The House amendment amended section 502B(a)(2) of the Foreign Assistance Act of 1961 to delete the introductory words "It is further the policy of the United States" and to substitute "except under extraordinary circumstances which necessitate a continuation of security assistance," for "except under circumstances specified in this section" in the prohibition on security assistance to any country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights.

The Senate bill did not contain a comparable provision.

The conference substitute deletes "it is the policy of the United States" but otherwise makes no change in section 502B(a)(2).

In so doing, the committee of conference adhered as much as possible to the language in existing law in order to avoid further complications in this provision. However, the intended effect of this amendment is to substitute for the current policy statement a legal requirement to deny security assistance to any country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights, unless in accordance with the procedures of section 502B(c)(1), (1) the Secretary of State finds that extraordinary circumstances exist which necessitate a continuation of security assistance for such country, and, (2) that on all the facts it is in the national interest of the United States to provide such assistance.

The conference amendment to section 502B is not intended to require the executive branch to publicly identify those countries which it considers to be consistent violators of human rights. Rather it is the intent of the committee of conference to place renewed emphasis on human rights as a major factor that must, as a matter of law, be taken into account in making security assistance decisions.

ASSISTANCE TO POLICE AND OTHER LAW ENFORCEMENT FORCES

Licensing of exports of crime control equipment

The Senate bill amended section 4 of the Export Administration Act of 1969, to require that exports of crime control and detection instruments and equipment be approved by the Secretary of Commerce only pursuant to a validated export license. Exports to NATO countries, Japan, Australia, and New Zealand were exempted from this requirement.

The House amendment amended section 38(a) of the Arms Export Control Act to direct the President to include on the U.S. Munitions List crime control and detection instruments and equipment currently regulated by the Commerce Department pursuant to the Export Administration Act.

The committee of conference adopted the Senate provision. Given the sensitive nature of such exports, it is the expectation of the committee of conference that the State Department will participate in a review process with the Secretary of Commerce concerning exports of crime control and detection instruments and equipment. It should be noted that, in accordance with another provision of the conference substitute based on essentially identical provisions of the Senate bill and the House amendment, the issuance of export licenses for crime control and detection instruments and equipment is prohibited to countries which engage in a consistent pattern of gross violations of internationally recognized human rights, unless the President certifies in writing to the Congress that "extraordinary" circumstances exist warranting provision of such assistance.

In imposing a statutory requirement for validated licenses for crime control and detection instruments and equipment, the committee of conference believes it would be appropriate for the Department of Commerce to review the current listing of items classified as crime control and detection instruments and equipment in order to determine whether those classifications need to be revised. Such revision should be conducted with a view toward removing from the category of crime control equipment those items whose subjection to a validated license procedure is unnecessary to carry out the purpose of this legislation. These would include items currently listed as crime control and detection instruments and equipment which are not exported to law enforcement agencies; e.g., sporting shotguns which, by virtue of their special characteristics, are unsuitable for police and military use. Unlike riot shotguns, it is inappropriate to subject sporting shotguns to validated license requirements.

It is not the intention of the committee of conference that the Commerce Department in its revision exempt particular destinations from controls, with the exception of those destinations specifically exempted by the provision.

Reports on exports to law enforcement agencies

The House amendment amended section 36(a) of the Arms Export Control Act to require quarterly reports on Government sales and commercial exports of defense articles and services (including crime control equipment) sold for more than $100,000 to or for foreign government forces which perform law enforcement functions.

The Senate bill did not contain a comparable provision.

The committee of conference adopted the Senate position. However, it is expected that the Senate Foreign Relations Committee and the House International Relations Committee will have ready access to data concerning the export licenses issued (1) for the export of crime control and detection equipment and instruments pursuant to the Export Administration Act, and (2) for the export of defense articles or services sold to or for forces performing law enforcement functions pursuant to the Arms Export Control Act.

The committee of conference expects that semiannual reports to Congress already required from the Commerce Department in accordance with section 10 of the Export Administration Act will include full reports on exports of crime control and detection instruments and equipment.

INTERNATIONAL MILITARY ASSISTANCE AND SALES PROGRAM MANAGEMENT

Justification of continuation of military assistance advisory groups (MAAG's)

The Senate bill amended section 515(a) of the Foreign Assistance Act of 1961 to express the sense of Congress that continuation of military assistance advisory groups is contingent upon executive branch justification that continuation is esiential to U.S. foreign policy or national security interests.

The House amendment did not contain a comparable provision.

The committee of conference adopted the House position with the understanding that similar justifications are made annually by the executive branch in the Congressional Presentation Documents.

Personnel serving on a reimbursable basis

The Senate bill amended section 515(b)(3) of the Foreign Assistance Act of 1961 to specify that personnel serving on a reimbursable basis must be counted under the annual ceiling for MAAG's.

The House amendment did not contain a comparable provision.

The committee of conference adopted the Senate provision.

Ceiling on personnel

The Senate bill amended section 515(d) of the Foreign Assistance Act of 1961 to set a ceiling of 775 military personnel assigned overseas to perform security assistance management functions during fiscal year 1979.

The House amendment amended the same section to set the ceiling at 800.

The committee of conference adopted the Senate provision with amendment to set the ceiling at 790. The committee of conference supports the continued phaseout of military assistance advisory groups and expects the executive branch to thoroughly review the need for such groups in fiscal year 1980.

Assignment of additional defense attachés

The House amendment amended section 515(f) of the Foreign Assistance Act of 1961 to allow the President to assign an aggregate worldwide total of up to eight additional defense attachés to perform security assistance management functions in countries to which defense attachés were authorized to be assigned on December 31, 1977.

The Senate bill did not contain a comparable provision.

The committee of conference adopted the House provision.

Exemption for temporary assignments

The Senate bill amended section 515(g) of the Foreign Assistance Act of 1961 by adding "for fixed" before "periods of time." Section 515(g) provides exemptions from assignment prohibitions and numerical limitations for personnel performing services for specific purposes and periods of time on a fully reimbursable basis.

The House amendment did not contain a comparable provision.

The committee of conference adopted the Senate provision.

By adding the words "for fixed" the committee of conference intends to make clear that temporary reimbursable groups should not be in existence for extended or indefinite periods of time.

Promotional activity

The Senate bill amended section 515 by adding a new subsection that requires the President to continue to instruct U.S. missions abroad that their actions should not encourage, promote, or influence foreign country purchase of U.S. military equipment.

The House amendment did not contain a comparable provision.

The committee of conference adopted the Senate provision.

RHODESIA EMBARGO

The Senate bill prohibited the enforcement of sanctions against Rhodesia before fiscal year 1980 provided the President determines that (1) Rhodesia has committed itself to participate in, and negotiate at, an all-parties conference under international auspices; and (2) a government has been installed chosen by free elections in which all population groups have been allowed to participate freely, with international observation.

The House amendment prohibited the enforcement of sanctions against Rhodesia after calendar year 1978 unless the President determined that a government had not been installed chosen by free elections in which all political groups had been allowed to participate freely.

The committee of conference adopted a compromise version which provides that the United States shall not enforce sanctions against Rhodesia after December 31, 1978, provided that the President determines (1) that the Government of Rhodesia has demonstrated its willingness to negotiate in good faith at an all-parties conference held under international auspices on all relevent issues; and (2) that a government has been installed chosen by free elections in which all political and population groups have been allowed to participate freely, with observation by impartial, internationally recognized observers.

In adopting the compromise version, it is the intent of the committee of conference that—

(*a*) the phrase "has demonstrated its willingness to negotiate in good faith at an all-parties conference" be interpreted to mean that the Rhodesian Government has committed itself to attend and participate in such a conference, if held, and that it is not necessary that the conference convene by December 31, 1978.

(*b*) the Presidential determination is obligatory and shall be made upon fulfillment of the conditions set forth in paragraphs (1) and (2).

(*c*) in making his determination on whether or not free elections were held, the President consider, among other factors, the extent of public participation in the elections. The committee further intends that any disruptions in the election process due to guerrilla activities shall not unduly prejudice an affirmative Presidential determination regarding participation in elections. By the same token, however, the possibility that many people may express their opposition to the internal settlement by voluntarily refraining from voting in the elections shall be taken into account in considering a negative Presidential determination.

(*d*) the phrase "all political and population groups" means that all the people of Rhodesia as well as all organized political groups have been given a fair opportunity to participate fully in the election without regard to their ethnic identity or political affiliation.

(*e*) "all relevant issues" to be considered at an all-parties conference include, among other things, the terms of majority rule, the protection of minority rights, the Anglo-American plan, and the terms of the Salisbury Agreement.

INTERNATIONAL MILITARY EDUCATION AND TRAINING (IMET)

Nicaragua and Paraguay

The Senate bill amended section 542 of the Foreign Assistance Act of 1961 to prohibit the use of fiscal year 1979 international military education and training funds for Nicaragua and Paraguay.

The House amendment did not contain a comparable provision.

The committee of conference adopted the House position.

The committee of conference agreed (1) to avoid naming specific countries in the statute, and (2) to cut the international military and education and training account by $300,000—the exact amount which had been programmed for both Nicaragua and Paraguay.

The elimination of references to specific countries should not be interpreted as approval of the human rights practices in either Nicaragua or Paraguay. This bill already contains a clear and concise prohibition on grant military training to any country which engages in a consistent pattern of gross violations of internationally recognized human rights.

Human rights and international military education and training programs

The Senate bill amended section 543 of the Foreign Assistance Act of 1961 to add to the purposes of training that of increasing the awareness of participants on human rights issues.

The House amendment amended chapter 5 of part II of the Foreign Assistance Act of 1961 to add a new section 554 to require a course on human rights as a prerequisite for completion of all other courses. The provision would have taken effect at the beginning of fiscal year 1980.

The committee of conference adopted the Senate provision.

PEACEKEEPING OPERATIONS

General authority

The Senate bill amended part II of the Foreign Assistance Act of 1961 by adding a new section 551 stating that under special circumstances U.N. and other peacekeeping forces can provide a measure of stability and promote the cause of world peace and authorizing assistance for such forces.

The House amendment amended part II of the Foreign Assistance Act of 1961 by adding a new section 551 establishing general authority for assistance for peacekeeping operations and other programs carried out in furtherance of U.S. national security interests.

The committee of conference adopted the House provision. The committee of conference notes that sections 551, 552, and 553 of the Senate bill contained specific authorizations for the same programs authorized generally in section 551 of the House amendment.

Base rights

The Senate bill amended the Foreign Assistance Act of 1961 by adding a new section 552(a) which states the sense of Congress that multiyear assistance authorizations should not be used to obtain base rights agreements.

The House amendment did not contain a comparable provision.

The committee of conference adopted the House position.

Spain

The Senate bill amended the Foreign Assistance Act of 1961 by adding a new section 552(b) which states that money authorized for Spain is to carry out programs of nonmilitary cooperation with the United States in certain fields pursuant to the 1976 treaty with Spain.

The House amendment did not contain a comparable provision.

The committee of conference adopted the House position. The committee of conference notes that this authorization for Spain is included in section 551 of the House amendment.

Middle East Special Requirements Fund

The Senate bill amended the Foreign Assistance Act of 1961 by adding a new section 553 which (1) authorizes a Middle East Special Requirements Fund, (2) requires a Presidential report on the Fund prior to obligation or expenditure of authorized funds, and (3) provides for a congressional veto by concurrent resolution. Both the Senate and the House provisions establishing the Economic Support Fund repeal part VI of the Foreign Assistance Act which previously contained the Special Requirements Fund.

The House amendment did not contain a comparable provision and hence would repeal the Middle East Special Requirements Fund.

The committee of conference adopted the Senate provision.

Emergency assistance

The House amendment added a new section 553 to the Foreign Assistance Act of 1961 which would have authorized the President in emergencies to transfer and consolidate with peacekeeping funds an amount not to exceed 10 percent of economic support funds without regard to the 20-percent limit on transfers into an account which is contained in section 610(a) of the Foreign Assistance Act of 1931.

The Senate bill did not contain a comparable provision.

The committee of conference adopted the Senate position.

Administrative authorities

The House amendment added a new section 554 to the Foreign Assistance Act of 1961 which would make peacekeeping operations assistance subject to administrative authorities of part I of the act. The House amendment also made such assistance subject to the human rights policy, restrictions, and reporting requirements of section 502B; and made various conforming changes relating to prohibitions and limitations. The purpose of the provisions was to make the legal authorities and limitations which now apply to security supporting assistance apply to peacekeeping operations.

The Senate bill did not contain comparable provisions.

The committee of conference adopted the House provisions.

KOREA EQUIPMENT TRANSFER

Transfer in conjunction with troop withdrawal

The Senate bill amended the Foreign Assistance Act of 1961 by adding a new section 561 to grant the President the authority to transfer defense articles and services to Korea without expressly requiring the transfer to be in conjunction with withdrawals of U.S. Armed Forces.

The House amendment added a provision which granted the President authority to transfer defense articles and services to Korea in conjunction with the withdrawal of the 2d Infantry Division and support forces.

The committee of conference adopted the House provision with an amendment adding the word "only" before "in conjunction with." By adding the word "only," the committee of conference intends that the rate and proportion of the defense articles transferred shall correspond to the rate and proportion of the troop withdrawals and that equipment shall not be transferred to Republic of Korea at a rate faster than the withdrawal of troops.

The committee of conference intends that nothing in the language of subsections (a) and (b) of section 23 of the conference substitute shall be interpreted to mean that Congress either approves or disapproves the policy of withdrawing all U.S. ground forces from Korea. However, the committee of conference intends that the authorization of this equipment transfer in no way diminishes the expression of serious concern about the troop withdrawal contained in subsection (e) of section 23.

Policy statement on troop withdrawal

The Senate bill contained a policy statement on troop withdrawal, and a requirement that the President "should" report to Congress on the effect of any proposed withdrawal plan prior to further withdrawal.

The House amendment contained the same policy statement but required a mandatory report.

The committee of conference adopted the House position.

The committee of conference expects that the President will consult fully with Congress in advance of further troop withdrawals from Korea.

$800 million ceiling

The House amendment authorized the transfer of U.S. defense articles and defense services to the Republic of Korea but placed a ceiling of $800 million on the value of defense articles that can be transferred to Korea in connection with the withdrawal of U.S. forces. This authority would be terminated on December 31, 1982.

The Senate bill did not contain a comparable provision.

The committee of conference adopted the Senate position.

The committee of conference intends that under no circumstances should the President transfer to the Republic of Korea, pursuant to this authorization, defense articles which cost more than the replacement value minus a standard depreciation of the defense articles now in possession of the 2d Division and support forces. The committee of conference notes that the authorization for the equipment transfer includes a requirement that the annual congressional presentation documents must contain a description and statement of the value of the equipment to be transferred during the period covered by the congressional presentation documents.

Report on assessments

The Senate bill amended the Foreign Assistance Act of 1961 to require assessments on the viability of withdrawal in a report 120 days prior to each phase of withdrawal.

The House amendment listed a series of assessments that must be included in an annual report on the equipment transfer to be included in the congressional presentation documents (CPD).

The conference substitute is essentially the same as the Senate provision.

Placement of equipment transfer authority

The Senate bill added the Korea transfer authority as a new chapter in part II of the Foreign Assistance Act of 1961.

The House amendment established this authority outside the Foreign Assistance Act of 1961.

The committee of conference adopted the House provision.

TURKEY ARMS EMBARGO

The Senate bill repealed section 620(x) of the Foreign Assistance Act of 1961. It further made policy statements regarding Cyprus, Greece, and Turkey. Finally, it required that any request for economic or military assistance for Greece, Cyprus, or Turkey must include a Presidential certification that the goals specified in the policy statements had been substantially achieved or that such assistance would contribute to their achievement.

The House amendment provided that section 620(x) would be of no further force and effect if the President determined and certified to Congress that resumption of military coperation with Turkey was in U.S. national and NATO interests and that Turkey was acting in good faith to achieve a just and peaceful settlement of the Cyprus problem, the early peaceable return of refugees to their homes and properties, continued removal of Turkish military troops from Cyprus, and the early serious resumption of intercommunal talks aimed at a just negotiated settlement. The House amendment also made policy statements different from those of the Senate bill. Finally, the House amendment required that a Presidential certification accompany any request for security assistance for Greece and Turkey stating that such assistance is intended solely for defensive purposes, including the fulfillment of their NATO responsibilities, and that furnishing security assistance is not inconsistent with the objectives of a peaceful settlement among all concerned parties to the Cyprus problem.

The committee of conference adopted the House provision with an amendment. This action clearly constitutes a de facto repeal of section 620(x) of the Foreign Assistance Act of 1961 although it is the intention of the committee of conference that removal of the prohibitions be contingent upon a Presidential determination and certification to the Congress that resumption of full military cooperation with Turkey is in the national interest of the United States and in the interest of the North Atlantic Treaty Organization and that the Government of Turkey is acting in good faith to achieve a just and peaceful settlement of the Cyprus problem.

The committee of conference recognizes the extreme volatility of the situation in the Eastern Mediterranean. In recognizing the need to maintain close relationships with two key NATO allies, Turkey and Greece, the committee of conference nevertheless regrets the lack of progress toward a Cyprus settlement. In the course of ensuing deliberations over these issues, the Congress will continue to assess and examine how it can best promote political and military stability in the Eastern Mediterranean, reduce tensions between Greece and Turkey, and help promote progress toward a Cyprus settlement while at the same time trying to bolster U.S. relations with all states in the region.

With regard to the fiscal year 1978 authorization of $48 million in grant military assistance to Turkey, it is the understanding of the committee of conference that the executive branch does not intend to obligate those funds for that purpose. It is the intention of the committee of conference that no new grant military assistance program be authorized for Turkey in fiscal year 1978.

ARMS SALES POLICIES

Arms sales principles

The Senate bill amended chapter 1 of the Arms Export Control Act by adding 10 arms sales principles which the executive branch would be directed to consider in making arms sales decisions affecting developing countries. The principles are as follows:

(1) Arms sales should be approved only if they clearly and demonstrably enhance United States national security interests and are consistent with United States foreign policy interests. Arms sales should be used only as an exceptional foreign policy implement. In determining the national security impact of an arms sale, account should be taken of the impact of the sale on United States defense readiness; and the sale of advanced weapons should not be approved unless the weapons system is operationally deployed by United States forces.

(2) Arms sales should not substitute for diplomacy in bringing stability to areas experiencing regional strife. No arms sale should be approved for a region if such arms are likely to disrupt ongoing diplomatic efforts to achieve regional stability.

(3) The United States should not be the first supplier to introduce into a region newly developed, advanced weapons systems which would create a new or significantly higher combat capability.

(4) The sale of advanced weapons should not be approved if less advanced existing weapons systems are available which have roughly comparable capabilities. In addition, development of advanced weapons systems solely for export should not be permitted unless such systems can substitute for a more advanced system.

(5) In general, weapons systems should be sold only if they can be utilized effectively by indigenous forces without large and long-term commitments of United States personnel in training, advisory, or maintenance capacities.

(6) If a weapons system being considered for sale includes highly sophisticated technology which could damage United States national security interests when acquired by unfriendly states, the sale should be approved only after special arrangements are made to guard against espionage, theft of equipment, and defection of key personnel. Similiar precautions should be taken for weapons that are especially useful to international terrorists.

(7) Coproduction agreements for significant weapons, equipment, and major components should be approved only if the coproduced items are solely for the coproducer's own security requirements.

(8) The sale of expensive weapons systems or related services should not be approved for less-developed countries if the impact of such sale would cause serious harm to such country's economic development prospects, unless such sales are vital for that country to deter a significant threat of external attack.

(9) The human rights situation in recipient countries should be taken into account in all arms sales decisions.

(10) Arms sales should not be approved simply because other arms suppliers might make the sale, unless it is determined that the sale of United States weapons is necessary for United States national security or foreign policy reasons.

The House amendment did not contain a comparable provision.

The committee of conference adopted the House position. The committee of conference strongly urges that the executive branch give consideration to the aforementioned principles in making decisions on potential arms sales. However, it is the understanding of the committee of conference that these principles need not apply in cases where extraordinary circumstances necessitate a Presidential exception or where countries friendly to the United States must depend on advanced weaponry to offset quantitative and other disadvantages in order to maintain a regional balance.

Arms transfer policies

The Senate bill added a new section 7 to the Arms Export Control Act containing a policy statement on multilateral conventional arms transfer restraint and requiring a Presidential report by December 31, 1979, which assessed the results of the multilateral approach and commented on its implications for U.S. arms export policy.

The House amendment amended section 1 of the Arms Export Control Act, adding a provision expressing the sense of Congress relating to the implementation of U.S. policy on conventional arms transfers. It stated that (1) U.S. arms sales should be balanced, (2) full regard should be given to U.S. security interests in all regions of the world, and (3) particular attention should be given to the flow of arms to the developing world.

The committee of conference adopted the House provision with two amendments: (1) To add after the word "Congress" the phrase "that the President maintain adherence to a policy of restraint in conventional arms transfers and"; and (2) to add a subsection: (b) Not later than December 31, 1979, the President shall transmit to the Congress a detailed report assessing the results and commenting on the implications of the multilateral discussions with other arms suppliers.

SALES FROM STOCK

The Senate bill amended section 21(e)(1) of the Arms Export Control Act to require that appropriate charges for inventory losses be included in the price of defense articles sold to foreign governments.

The House amendment did not contain a comparable provision.

The committee of conference adopted the Senate provision.

ANNUAL ARMS SALES PROPOSAL AND SURVEY REPORTS

Annual arms sales proposal

The Senate bill amended section 25 of the Arms Export Control Act to revise the requirements in existing law for an annual arms sales estimate and justification to require greater detail in the annual estimate and to focus it more on weapons and weapons related sales. With the amendment, section 25 would require a report early each year containing the President's security assistance and arms transfer plan proposed for the following fiscal year for countries other than NATO, Japan, Australia, and New Zealand. The report would include the following new information: (1) the estimated dollar value of all weapons and weapons related sales intended to be made under sections 21 and 22 of the Arms Export Control Act; (2) an estimate of the amount of all weapons and weapons related credits and guaranties requested for authorization; (3) a detailed country-by-country list setting forth a best estimate of the identity and value of each weapons or weapons related major defense equipment sale, credit, or guaranty to be made to each country; (4) a detailed statement explaining the foreign policy and U.S. national security considerations involved in determining each country's sales credit or guaranty level and weapons or weapons related major defense equipment list and how such sales would promote world peace; and (5) the best estimate of the number of U.S. Armed Forces and civilian personnel required to be stationed in each such country in connection with such sale, credit, or guaranty for training or any other purpose.

In addition, with respect to any sales which exceed the estimated aggregate country total or which involve the sale of any major defense equipment not identified in the estimate, the Senate bill would have required (1) a Presidential determination that the information: (1) The estimated dollar value (2) compliance with the normal congressional review procedures of section 36(b) of the Arms Export Control Act.

The House amendment made no change in section 25 of the Arms Export Control Act.

The committee of conference accepted a compromise provision that amends section 25 of the Arms Export Control Act to require the transmittal to Congress by November 15 sale is in the national security interest; and of each year a document known as the Arms Sales Proposal, setting forth the arms sales proposal of the executive branch which will cover all defense articles and services for $25 million or more and of major defense equipment for $7 million or more which are considered eligible for approval during that fiscal year to countries other than NATO, Japan, Australia, and New Zealand.

The Arms Sales Proposal is expected to be an authoritative projection of all sales the executive branch contemplates as being eligible for approval during the fiscal year.

After the November 15 report, it is expected that notification and that regular consultations will occur with the Senate Foreign Relations and House International Relations Committees on any changes which might be made in the Arms Sales Proposal. It is also expected, however, that the report received on November 15 contain the most accurate and up-to-date information on potential arms sales that is then available to the executive branch.

Reporting to Congress under this provision does not affect nor does it fulfill the notification requirements under section 36(b) of the Arms Export Control Act. This provision also will not alter in any way current procedures which provide for a prenotification of intent to issue a letter of offer 20 days before the formal 30 day notification period under section 36(b) of the Arms Export Control Act.

Given the highly sensitive nature of the assessments that will be made, it is expected that the report will be controlled under appropriate classification procedures.

Policy statement on defense requirement surveys

The Senate bill added a new section 26(a) to the Arms Export Control Act containing a policy statement that military surveys in no way represent a U.S. commitment to provide military equipment and that survey recommendations should be consistent with arms export control policy.

The House amendment did not contain a comparable provision.

The committee of conference adopted the Senate provision.

Survey reports

The Senate bill provided for a quarterly listing of defense requirement surveys proposed for the following quarter and that the Senate Foreign Relations Committee and the House International Relations Committee be provided with a complete copy of any foreign military surveys upon request.

The House amendment required a quarterly Presidential report on security assistance surveys authorized during the preceding calendar quarter and provided for Senate Foreign Relations Committee and House International Relations Committee access to the results of such surveys.

The committee of conference adopted the House amendment with two amendments: (1) to strike all references to "security assistance surveys" and insert in lieu thereof "defense requirement surveys"; and (2) to strike "the results of." In adopting the latter amendment it is the intent of the committee of conference that upon the request of the chairman of either the Senate Foreign Relations or House International Relations Committee a complete copy of the survey will be provided to such committee.

INFORMATION ON SECTION 36(b) ARMS SALES

The Senate bill amended section 36(b)(1) of the Arms Export Control Act to require the President to provide to the Senate Foreign Relations and House International Relations Committees, on request, additional information in connection with certifications of major proposed arms sales transmitted under section 36(b). The additional information includes an arms control impact evaluation prepared by the Arms Control and Disarmament Agency in consultation with the Departments of State and Defense.

The House amendment did not contain a comparable provision.

The committee of conference adopted the Senate provision.

EXTENDED REVIEW PERIOD

The Senate bill amended section 36(b)(1) of the Arms Export Control Act to permit two-thirds of the members of either the Senate Foreign Relations or the House International Relations Committee to extend for an additional 30 calendar days the period for congressional review and disapproval of proposed arms sales.

The House amendment did not contain a comparable provision.

The committee of conference adopted the House position. The executive branch has cooperated with the Congress recently in providing for advance notification of proposed sales, and is urged to continue this practice. Further it is the expectation of the committee of conference that the executive branch will consider acceding to appropriate congressional requests for additional time for congressional review of specific arms sales.

ANNUAL SECURITY ASSISTANCE REPORT

The Senate bill contained a provision that requires an annual report on military assistance and sales and commercial exports of military items.

The House amendment did not contain a comparable provision.

The committee of conference adopted the Senate provision. The provision retains a reporting requirement of section 657 of the Foreign Assistance Act of 1961 that will be deleted upon enactment of the International Development and Food Assistance Act of 1978 (H.R. 12222).

UNITED STATES-CHINA MUTUAL DEFENSE TREATY

The Senate bill provided that it is the sense of the Senate that proposed policy changes affecting the Mutual Defense Treaty with China shall be a matter for prior consultation with the Senate.

The House amendment did not contain a comparable provision.

The committee of conference adopted the Senate provision with an amendment to change all references to "Senate" to "Congress," with the exception of the reference to "Senate" which will remain in paragraph (a)(4) concerning advice and consent to treaties. The purpose of this change is to make clear that the House of Representatives is to be included in this consultation process.

NONIMMIGRANT VISAS

The Senate bill repealed section 21 of "An act to provide certain basic authority for the Department of State" which states that the Secretary of State should recommend to the Attorney General a waiver permitting the admission to the United States of any prospective visitor who is excludable under the immigration laws only for reason of organizational affiliation.

The House amendment did not contain a comparable provision.

The committee of conference adopted the House position. The committee of conference agreed that the continued implementation of procedures under section 212(d)(3) of the Immigration and Nationality Act which provides for the waiver of visa ineligibility because of membership in proscribed organizations shall not be construed as implying that Soviet citizens who visit the United States as labor representatives are actually trade unionists as the term is understood in the United States.

EXPORTS WITH POLITICAL/MILITARY IMPLICATIONS

The Senate bill amended section 4 of the Export Administration Act of 1969 by adding a new subsection which provided that exports regulated by the Commerce Department which could have direct military application may be exported to countries engaged in activities detrimental to important U.S. political/military interests only pursuant to a validated export license. The State Department would have 30 days to review such a license. Exports to NATO countries and Japan, Australia, and New Zealand were exempted.

The House amendment did not contain a comparable provision.

The committee of conference adopted the House position with the understanding that the Senate Subcommittee on International Finance and the House Subcommittee on International Economic Policy and Trade will give serious study to this matter and will review the need for such legislation in connection with their consideration next year of

the extension of the Export Administration Act of 1969.

UNITED STATES-SOVIET RELATIONS

The Senate bill contained a provision that expressed the sense of Congress that the President should review U.S. policy toward the Soviet Union and should report to the Congress.

The House amendment contained a comparable provision which provided it is the sense of the Congress that the President "shall", rather than "should", review U.S. policy toward the Soviet Union and which required a report on the results of the review not later than 90 days after the date of enactment of this Act.

The committee of conference adopted the Senate provision with an amendment to provide that the President should report to the Congress by December 31, 1978, on the results of the review.

USE OF FOREIGN CURRENCIES

The Senate bill amended section 502(b) of the Mutual Security Act of 1954 which authorizes the use of foreign currencies to defray expenses incurred by Members of Congress and eligible staff when on official business abroad. The Senate bill designated the Speaker of the House, the President pro tempore of the Senate, the majority leader of the Senate, the minority leader of the Senate or the chairman of any committee of the House of Representatives or the Senate or of any joint committee of the Congress as those authorized to approve the use of foreign currencies. It also contained a permanent authorization for the Secretary of the Treasury to purchase local currencies whenever local currencies owned by the United States are not otherwise available to defray official congressional travel expenses. The bill contained two reporting requirements: The first retained the annual consolidated reporting requirement of existing law itemizing the amounts and dollar equivalent values of each foreign currency expended and the amount of dollar expenditures from appropriated funds in connection with official foreign travel. Such reports were to be submitted to the Committee on House Administration or to the Secretary of the Senate, to be open to public inspection and to be published in the CONGRESSIONAL RECORD.

The Senate bill also required that each Member, staffperson, or group authorized to travel on official business submit a report to the Clerk of the House of Representatives or to the Secretary of the Senate setting forth the same information required for the annual reports, within 30 days after completion of such travel.

The House amendment, which also amended section 502(b) of the Mutual Security Act, differed from the Senate bill in several respects. First, it would have allowed committee chairmen to authorize travel only for members and staff of their respective committees. Second, it provided annual authority for the Secretary of the Treasury to acquire local currencies needed to defray official travel expenses. Third, it required quarterly consolidated reports itemizing the amount and dollar equivalent value of each foreign currency expended and the amounts of dollar expenditures from appropriated funds in connection with travel outside the United States.

The committee of conference adopted the House amendment with an amendment to provide for permanent authority for the Secretary of the Treasury to acquire currencies needed to defray expenses incurred by Members of Congress and eligible staff when on official business outside the United States out of foreign currencies as available or from a permanent appropriation to the Treasury Department for such purposes. The amendment also provides that the chairman of each committee of the Senate may authorize travel for members of that committee, staff persons of members of that committee and staff of that committee.

The committee of conference recognizes that congressional study missions and other official travel abroad is an essential and fundamental responsibility in a world of increasing interdependency. This amendment will provide the funds to defray official congressional expenses on a rational, manageable, and economic basis. The 30-day and quarterly reporting requirements, providing information subject to public inspection, are designed not only to promote businesslike and accountable financing procedures with regard to congressional travel but also to help increase understanding of the need for and purposes of congressional missions abroad.

ISRAEL AND EGYPT

The Senate bill contained a provision that stated congressional findings concerning Israeli-Egyptian negotiations and expressed the sense of Congress that the United States should continue to promote negotiations and encourage other Arab States to enter into negotiations. The Senate bill also stated the sense of Congress that the United States should be responsive to Israel's economic needs and defense requirements including the provision of additional advanced aircraft to maintain Israel's defense capability which is essential to peace.

The House amendment contained no comparable provision regarding negotiations but stated the sense of Congress that the United States should be responsive to the defensive requirements of Israel and sell Israel additional advance aircraft in order to maintain Israel's defense capability which is essential to peace.

The committee of conference adopted the Senate provision.

REPORTS TO CONGRESS

The House amendment (1) amended section 8(d) of "An act to amend the Foreign Military Sales Act," approved January 12, 1971, by changing a quarterly reporting requirement to an annual reporting requirement and (2) repealed several provisions relating to reports which have already been submitted to Congress.

The Senate bill did not contain a comparable provision.

The committee of conference adopted the House provision.

SAVINGS PROVISION

The Senate bill provided that, with specified exceptions, amendments made by the bill shall take effect on October 1, 1978.

The House amendment provided that with specified exceptions, enactment of the amendments made by the bill will not affect fiscal year 1978 authorizations and limitations.

The committee of conference adopted the House provision.

ECONOMIC SUPPORT FUND

The Senate bill amended part II of the Foreign Assistance Act of 1961 by deleting the current chapter 4 (security supporting assistance) and replacing it with a new chapter 4 (Economic Support Fund). The bill—

—states that under special economic, political or security conditions the national interests of the United States may require support for countries or in amounts that could not be justified under the development assistance accounts.

—assigns to the Secretary of State responsibility for policy decisions and program justifications for the Economic Support Fund (ESF), this responsibility to be exercised in cooperation with the Administrator of the Agency for International Development (AID).

—authorizes the appropriation of $1,932 million for the ESF for fiscal year 1979.

—continues existing authority for funds appropriated under this section to remain available until expended.

—stipulates that amounts authorized under the ESF shall be used for economic programs only and may not be used for military or paramilitary purposes.

—provides authority for an ESF program in the Middle East and earmarks not less than the following amounts for the following countries:

Israel	$785,000,000
Egypt	750,000,000
Jordan	93,000,000

—provides that the total amount of the funds earmarked for Israel may be made available as a cash transfer, provided that the President shall insure that the level of cash transfers does not cause an adverse impact on U.S. nonmilitary exports to Israel.

—provides that not less than 67 percent of the assistance to Israel and Egypt shall be provided on a grant basis.

—requests the President to provide at least $65 million of the funds authorized for Egypt for the development and encouragement of private enterprise.

—earmarks $25 million of the funds authorized for the Middle East to be used to fund regional programs which stress development or scientific and technical cooperation between Israel and neighboring Arab countries, or programs which could be used for Arab-Israeli cooperation once normalization of relations occurs.

—provides that before proceeding with further U.S. participation in the potash production facility in Jordan and the Maqarin Dam and Jordan Valley Irrigation System the President shall determine and report to the Congress that Jordan has obtained firm commitments from other sources for the balance of the financing of the projects.

—earmarks $70 million of the funds authorized under this chapter for the countries of southern Africa to address problems caused by the economic dislocation resulting from regional conflict and for education and job training assistance. These funds may be used to provide humanitarian assistance to African refugees and displaced persons, to improve transportation links disrupted or jeopardized by regional conflicts, and to provide economic support to the countries in the region. Of the funds authorized, $10 million is earmarked for humanitarian assistance to the people of Rhodesia and $10 million is earmarked for educational and vocational training programs for Rhodesia.

—prohibits assistance under the southern Africa program to Mozambique, Angola, Tanzania, or Zambia unless the President determines that furnishing such assistance would further the foreign policy interests of the United States.

—earmarks not less than $50 million of the funds authorized under this chapter for economic assistance to Turkey, and $15 million for refugee relief and reconstruction on Cyprus.

The House amendment did not contain a comparable provision. The House, however, did provide for an Economic Support Fund in the International Development and Food Assistance Act of 1978 (H.R. 12222). While H.R. 12222 was not before the committee of conference, House conferees urged the adoption of the Economic Support Fund provisions of H.R. 12222 to the extent that such provisions were within the scope of the conference.

Many provisions relating to ESF as contained in H.R. 12222 were essentially identical to ESF provisions in S. 3075. In such cases the committee of conference adopted the Senate provision. Those provisions where the House had no comparable provision or a dissimilar position was taken in H.R. 12222 are discussed on the following pages.

The committee of conference adopted the Senate provision for a new chapter 4 in part II of the Foreign Assistance Act, establishing an Economic Support Fund to succeed Security Supporting Assistance. The name change more accurately reflects the actual purpose of these funds: to provide economic support to countries of special importance to United States foreign policy. It is the intent of the committee of conference that insofar as is possible development assistance criteria as set forth in part I of the Act be followed in the development and funding of economic supporting assistance programs.

Type of assistance authorized under the Economic Support Fund

The Senate bill amended section 531 of the Foreign Assistance Act of 1961 to add language emphasizing the economic nature of the program.

The House amendment did not contain a comparable provision.

The committee of conference adopted the Senate provision with an amendment to add the word "economic" before the word "support" in the Senate provision. In H.R. 12222 the House included the word "economic" to emphasize the type support intended.

Middle East Program—Earmarkings

The Senate bill earmarked the following amounts for the following countries in the Middle East:

	Million
Israel	$785
Egypt	750
Jordan	93

The House amendment did not contain a comparable provision.

The committee of conference adopted the Senate provision with the intent that funds will also be provided for the following Middle East programs and in the following amounts:

	Million
Syria	$90
Maqarin Dam project	50
Private voluntary organization development projects	3

H.R. 12222 earmarked the above country and program amounts.

Cash transfer to Israel

The Senate bill provided that the total amount of funds earmarked for Israel may be available as a cash transfer if the President insures that it does not have an adverse impact on U.S. nonmilitary exports to Israel.

The House amendment did not contain a comparable provision.

The committee of conference adopted the Senate provision. H.R. 12222 contained a similar provision but earmarked the cash transfer at not less than $560 million.

Grant assistance to Israel and Egypt

The Senate bill provided that 67 percent of the assistance to Israel and Egypt be provided on a grant basis.

The House amendment did not contain a comparable provision.

The committee of conference adopted the Senate provision with an amendment providing that two-thirds of the assistance to Israel and Egypt be provided on a grant basis. The amendment is similar to a provision contained in H.R. 12222.

Private enterprise in Egypt

The Senate bill requested the President to provide at least $65 million of the $750 million authorized for Egypt to be used for the development and encouragement of private enterprise.

The House amendment did not contain a comparable provision.

The committee of conference adopted the Senate provision.

Promotion of regional cooperation and development

The Senate bill earmarked $25 million for regional programs which stress development or scientific and technical cooperation between Israel and neighboring Arab countries.

The House amendment did not contain a comparable provision. H.R. 12222 earmarked $3 million for the promotion of regional cooperation and development.

The committee of conference adopted the Senate provision with an amendment:

(1) That not less than $5 million shall be available only for regional programs which stress development or scientific or technical cooperation.

(2) Substituting the word "nations" for the word "nation" where the Senate provision refers to future normalization of relations to indicate that the reference is to normalization between Israel and its Arab neighbors rather than to its relations with the entire Arab nation.

The committee of conference noted that the executive branch supports the encouragement of activities which might lay the base for programs of regional significance in the Middle East in suport of the peace process and that it currently has underway studies of possible regional projects and cooperation. The committee requests that the executive branch report to the Congress not later than February 1, 1979, on the results of its studies. The committee also requests that the executive branch include in its studies those programs which stress economic development and scientific or technical cooperation.

Assistance for Southern Africa—Use of funds

The Senate bill earmarked $70 million for economic programs in Southern Africa, with $20 million of the $70 million to be used as follows: $10 million for humanitarian assistance to the people of Rhodesia and $10 million for the establishment of or support for educational and vocational training programs for Rhodesia.

The House amendment did not contain a comparable provision. H.R. 12222 earmarked $65 million for southern African countries.

The committee of conference agreed to earmark $60 million for Southern Africa, and adopted the House position with regard to Rhodesia with the understanding that $10 million of the funds provided for southern African countries will be used to provide humanitarian assistance to refugees from or in Rhodesia, such assistance to be provided promptly as needed through appropriate international organizations. Education and training assistance under this section may be used for, but is not limited to, such assistance for Africans from Namibia and Zimbabwe.

Authorization for Cyprus

The Senate bill earmarked not less than $15 million for refugee relief and reconstruction for Cyprus.

The House amendment did not contain a comparable provision.

The committee of conference adopted the Senate provision.

H.R. 1222 earmarked $15 million for economic support for Cyprus.

CLEMENT J. ZABLOCKI,
DANTE B. FASCELL,
BENJAMIN S. ROSENTHAL,
LESTER L. WOLFF,
LEE H. HAMILTON,
JONATHAN B. BINGHAM,
STEPHEN J. SOLARZ,
DONALD J. PEASE,
GERRY E. STUDDS,
WM. S. BROOMFIELD,
EDWARD J. DERWINSKI,
PAUL FINDLEY,
LARRY WINN, JR.,
Managers on the Part of the House.

JOHN SPARKMAN,
FRANK CHURCH,
DICK CLARK,
JOE BIDEN,
GEORGE MCGOVERN,
CLIFFORD P. CASE,
JACOB K. JAVITS,
CHARLES H. PERCY,
HOWARD H. BAKER,
Managers on the Part of the Senate.

SECURITIES AND EXCHANGE AUTHORIZATION, FISCAL YEARS 1979–81

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 11567) to amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal years 1979–81 and for other purposes, with Senate amendments thereto, and concur in the Senate amendments with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert:

That section of the Securities Exchange Act of 1934 (15 U.S.C. 78kk) is amended—

(1) by striking out "and" after "September 30, 1977," in the first sentence;

(2) by inserting before the period at the end of the first sentence a comma and the following: "$69,000,000 for the fiscal year ending September 30, 1979, and $79,000,000 for the fiscal year ending September 30, 1980"; and

(3) by striking out "fiscal year 1978" in the last sentence and inserting in lieu thereof "fiscal year 1980".

SEC. 2. Section 3(b) of the Securities Act of 1933 (15 U.S.C. 77c(b)) is amended by striking out "$1,500,000" and inserting in lieu thereof "$2,500,000".

Amend the title so as to read: "An Act to amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal years 1979 and 1980, and for other purposes.".

The SPEAKER. The Clerk will report the House amendment to the Senate amendments.

The Clerk read the House amendment to the Senate amendments, as follows:

Page 2 of the Senate engrossed amendments, strike out "$2,500,000" on line 3 and insert in lieu thereof "$2,000,000".

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

A motion to reconsider was laid on the table.

FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978

Mr. MURPHY of Illinois. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7308) to amend title 18, United States Code, to authorize applications for a court order approving the use of electronic surveillance to obtain foreign intelligence information.

The SPEAKER. The question is on the motion offered by the gentleman from Illinois (Mr. MURPHY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 7308, with Mr. MURTHA (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee rose on Wednesday, September 6, 1978, the Clerk had read through line 25 on page 64.

Are there any further amendments to title I?

AMENDMENT OFFERED BY MR. BUTLER

Mr. BUTLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BUTLER: Page 64, after line 25, add the following new section:

CONSTITUTIONAL POWER OF THE PRESIDENT

SEC. 111. Nothing contained in chapter 119 of Title 18, United States Code, section 605 of the Communications Act of 1934, or this Act shall be deemed to affect the power vested by the Constitution in the President to acquire foreign intelligence information by means of an electronic, mechanical, or other surveillance device.

Mr. BUTLER. Mr. Chairman, H.R. 7308 denies the existence of any inherent authority on the part of the executive to conduct warrantless electronic surveillance by vesting Federal courts with the jurisdiction to authorise—or to refuse to authorize—through a warrant procedure, foreign intelligence gathering activities. The judicial warrant approach in the administration's bill is premised on the proposition that the fourth amendment to the Constitution presumptively requires a warrant for every search.

The underlying reasoning for this assertion is the Supreme Court's holding in the Keith case, where they ruled that a warrant is required for electronic surveillance employed for domestic security purposes. However, the warrant requirement in the Keith case was limited to domestic security cases, as the courts made it clear that they were in no way addressing the issues involved in foreign intelligence electronic surveillance.

Not only is there no existing case authority for vesting the Federal courts with jurisdiction to authorize or refuse to authorize foreign intelligence gathering activities as proposed in H.R. 7308, but the U.S. Supreme Court has explicitly rejected such authority in *Chicago & Southern Air Lines Inc.* v. *Waterman Steamship Corp.*, 333 U.S. 103, 111 (1948) holding:

. . . It would be intolerable that courts, without the relevant information, should review and perhaps nullify actions of the Executive taken on information properly held secret. Nor can courts sit in camera in order to be taken into executive confidences. But even if courts could require full disclosure, the very nature of executive decisions as to foreign policy is political, not judicial. Such decisions are wholly confided by our Constitution to the political departments of the government, Executive and Legislative. They are delicate, complex, and involve large elements of prophecy. They are and should be undertaken only by those directly responsible to the people whose welfare they advance or imperil. They are decisions of a kind for which the Judiciary has neither aptitude, facilities nor responsibility and which has long been held to belong in the domain of political power not subject to judicial intrusion or inquiry.

Even the most recent espionage case *United States* v. *Humphrey & Troung*, Crim. No. 78-25-A, E. D. Va., May 19, 1978, stated:

It is not at all certain that a judicial officer, even an extremely well-informed one, would be in a position to evaluate the threat posed by certain actions undertaken on behalf of or in collaboration with a foreign state. . . . The Court is persuaded that an initial warrant requirement (for foreign intelligence electronic surveillance) would frustrate the President's ability to conduct foreign affairs in a manner that best protects the security of our government.

All the Federal judicial circuits which have considered the issue of the inherent constitutional right of the President to authorize warrantless electronic surveillance have held that such power does exist. (Third, fifth, and ninth circuits.)

In accordance with established case law, I believe not only that the President has the power under article II of the Constitution to authorize warrantless electronic surveillance, but that we would be in violation of article II by transferring this executive power to the judiciary under H.R. 7308. I, therefore, urge my colleagues to support the amendment that would continue to recognize the constitutionally inherent power of the Executive to authorize warrantless electronic surveillance in the area of foreign intelligence, a power which has been asserted by every President at least since Franklin D. Roosevelt.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding to me. I want to commend the gentleman on offering this amendment.

I am sure that the gentleman would agree that this amendment complies with article II of the Constitution, which vests in the President responsibility and authority with regard to our national security and our foreign affairs. It would be quite improper on our part to endeavor to undercut or deprive the President of his inherent constitutional power in this legislation. Do I accurately understand the gentleman's position on this point?

Mr. BUTLER. The gentleman is correct. That is a fair statement. We cannot do legislative damage to the Constitution. We have questions and problems which should not exist, and therefore I think we ought to make it perfectly clear with regard to the existence of the President's inherent power in this area.

The CHAIRMAN pro tempore. The time of the gentleman from Virginia (Mr. BUTLER) has expired.

(On request of Mr. McCLORY, and by unanimous consent, Mr. BUTLER was allowed to proceed for 1 additional minute.)

Mr. McCLORY. Mr. Chairman, will the gentleman yield further?

Mr. BUTLER. I yield further to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, would the gentleman not agree that it would be improper, if not unconstitutional, for the Congress to transfer this authority which constitutionally belongs to the President to the judiciary as far as the decisionmaking is concerned?

Mr. BUTLER. The gentleman is correct. I appreciate his contribution.

Mr. MURPHY of Illinois. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the immediate result of passage of this amendment would be to make the Congress look foolish and to announce to the country that we have wasted 3 years on this legislation.

The amendment negates the rest of the bill's provisions. It eliminates the standards the other provisions set up to authorize and control electronic surveillance and returns us, once again, to the thrilling days of the pre-Watergate era. Even the McClory substitute affects the so-called inherent power of the President by legislating how foreign intelligence information is collected.

The amendment says to the President—any President—"here's a statute that we have considered carefully for 3 years. It's the first piece of legislation intended to deal with the problems facing our intelligence operations. We hope you like it. If you don't, no sweat, just ignore it."

Make no mistake about it—that is precisely what the amendment says.

This amendment can be read two ways. Either the President has no inherent power to collect foreign intelligence information, or this bill and all its provisions are abrogated entirely.

Presuming the approach of the amendment to be the latter, it eliminates all standards of any kind in the use of electronic surveillance. It throws us right back into the pre-Watergate era.

Voting for this amendment is to ignore the need for legislation to settle the law and collect needed intelligence. It is to

ignore the plight of individual intelligence agents.

Even the McClory bill affects the so-called inherent power of the President by legislating how foreign intelligence information is collected.

This amendment is dilatory. "Death by delay," is what the New York Times called this approach.

Again, voting for this amendment is to ignore the need for legislation to settle the law and to collect needed intelligence. It is to ignore the plight of the individual intelligence agents.

I ask my colleagues to reject this amendment.

Mr. McCLORY. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I recognize that there has been a long period of time that has elapsed since the first hearings were conducted by the Subcommittee on the Judiciary with respect to the whole subject of requiring warrants for conducting electronic surveillance in the field of foreign affairs, but I think that the debates on the floor here yesterday and today indicate that there is a great deal more work that needs to be done and there are many, many issues that need to be carefully considered and extensively debated and ultimately resolved by this Chamber and by the other body. And to suggest that the mere fact that there has been a lapse of time since this subject originally began and that therefore it comes here in some sort of perfect form or with an aura of perfection around it is I think to misconceive what the situation is at the present time.

As I understand this amendment, this amendment is in existing law. It is not only in existing law but earlier Congresses have recognized that they could not restrict themselves from writing this into the existing law because it is in the basic law of our Nation, it is in the fundamental law of our country, it is in the Constitution. And if the President has that inherent power we cannot by any legislation in this bill or any other bill deprive the President of that authority. So that it seems to me that if we omit putting this into the legislation, while we establish purportedly "exclusive" requirements with respect to electronic surveillance, we are ignoring our responsibility to adhere to the Constitution.

Mr. FOWLER. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Georgia.

Mr. FOWLER. May I ask the distinguished gentleman from Illinois whether or not the gentleman's substitute bill would affect this so-called inherent power of the President by setting standards?

Mr. McCLORY. I would answer that by saying no, it does not. Actually what my substitute bill does in effect is to translate the Executive orders, the Executive authority, into statutory form to confirm in the President the inherent powers which he constitutionally has. So that it really reconfirms what the Constitution says, which I understand and believe it means. So that really the adoption of this amendment is entirely consistent with that concept of what our appropriate role here should be.

Mr. MAZZOLI. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I discussed yesterday, with my friend the gentleman from Virginia (Mr. BUTLER) the author of the amendment, this matter. I told him I would think about it very carefully to see if I could find it possible to support it.

The gentleman brings a thoughtful approach to all legislation in our committee, but, however, having thought about it overnight and having read it thoroughly, I am constrained to oppose the gentleman's amendment.

I would like to ask the gentleman this particular question. I think the gentleman's amendment boils down to a value judgment that we must make as to whether or not specifically writing this section into the bill would give a declaration, or would send a signal or would issue notice that Congress suggests that the President has almost plenary power in this area anyway and Congress is just passing a bill for show but, in reality, by adopting this amendment we are maintaining the status quo.

I wonder if the gentleman could advise me: a person who looks at this bill with this language, were it to be adopted, could such a person look at it and say really, Congress is trying to expand the President's power rather than limit it?

Mr. BUTLER. Mr. Chairman, if the gentleman will yield, I appreciate the question very much, because I think the gentleman has put his finger on it. The Constitution of the United States is the preeminent law of the United States and that the Congress must not pass legislation that does not conform with the Constitution.

What we are trying to do here in this legislation—we say the exclusive means by which electronic surveillance is engaged in shall be under this standard. What concerns me is we are saying to the President of the United States: If you want to do what the Constitution tells you to do—and that is that you are the Commander in Chief of the Armed Forces and you have got the responsibility for protecting your country—if you want to exercise your constitutional authority, you do it at your peril.

I think that is a signal this legislation sends, that my amendment would say no, Mr. President, you have got the job, and you have got the responsibility, and if a crisis arises, you do not have to spend all of your time rushing up to the courts or asking the current Attorney General with his current opinion how he feels about it. What you have to do is to recognize that you have this responsibility and the Congress of the United States recognizes you have it.

What about war? If we had a war under this bill the President has to go through all this process.

Mr. MAZZOLI. Mr. Chairman, if I may reclaim my time. I certainly think the gentleman's observations are illustrative of his concerns. The gentleman, by his amendment, does not seek simply to restate the obvious. That is, Congress is not taking any powers from the President and his residual powers remain in his hands.

What the gentleman is basically trying to say, is that powers to surveill would be conferred upon the Chief Executive himself and he can take certain actions in connection with what he determines to be essential needs of foreign intelligence.

Is that a fairly correct analysis of the gentleman's feelings on this matter?

Mr. BUTLER. The gentleman's statement is somewhat correct; but, of course, we have an expression from the Congress here as to the areas in which we want the President to be cautious. Of course, we have had some experience with that area. We have "impeached" a few people who have trespassed on constitutional rights, so we have systematically, over the years—which is the American system—defined just how far the President can go.

However, all of a sudden, we come along with a bill and say that the Constitution does not really mean anything because we are saying that we have a higher authority. That is not right. I do not want our President, who is charged with the responsibility of protecting our country, to have to worry about just exactly what the law says as opposed to what the Judiciary says. That is not what the Constitution wants him to do.

Mr. MAZZOLI. As always, the gentleman from Virginia makes an important point. I share his concern about what happens in the event of an emergency which can, on its own terms, be clearly determined to any thoughtful and any alert person as an emergency.

My problem is, if I read the gentleman's language correctly, that he suggests that certain powers are vested by the Constitution in the President, yet the courts have not spoken to such an extent and with such particularity on the issue of what constitutes an emergency to which the President must respond. Therefore, I am not really aware of the precise situation at this point. If the gentleman is, I would appreciate his instruction.

The CHAIRMAN pro tempore (Mr. MURTHA). The time of the gentleman from Kentucky (Mr. MAZZOLI) has expired.

(By unanimous consent, Mr. MAZZOLI was allowed to proceed for 2 additional minutes.)

Mr. MAZZOLI. Mr. Chairman, I would ask the gentleman whether he can instruct me as to what are the particular powers or what is the defined area of powers which is retained or held by the Chief Executive. The gentleman from Kentucky only knows of the Keith case, in which the court avoided the question and put off for a later time the question of the existence and extent of the inherent power of the Chief Executive in foreign intelligence matters.

Mr. BUTLER. If the gentleman will yield further, Mr. Chairman, that is a very good question.

Of course, I cannot define that with particularity. I might say to the gentleman one of the reasons I might have a little difficulty in responding to the question is that the Committee on the Judiciary was not allowed an opportunity to go into this bill. The subcommittee denied us this privilege; I am not sure they did it wisely. But to the extent that we have not explored all the details of this matter, I do not think that is important at this moment.

What we are saying now is that the Constitution of the United States charges the President with these responsibilities, and he has to exercise them. He is guided somewhat by experience and precedent, so it is not all case law. It is not all the Keith case. Part is the impeachment case. Part of it is previous circumstances; but whatever it is, all this amendment really says is that the President of the United States has the constitutional responsibility. He still has it, and we cannot take it away from him.

Mr. MAZZOLI. I think the gentleman has said it very clearly. That is the reason I am constrained to oppose the gentleman's amendment. Putting this language in H.R. 7308, I think, would at best muddy up the waters as to where the line of demarcation is between Presidential powers retains and Presidential powers limited.

At worst, I think the language would suggest to any reader of the statute that basically what Congress had in mind is this: "Mr. President, you are pretty much on your own. We are saying a few things is H.R. 7308, basically if you want to do something in foreign intelligence, the law is not going to challenge you."

The CHAIRMAN pro tempore. The time of the gentleman from Kentucky (Mr. MAZZOLI) has again expired.

(On request of Mr. BUTLER and by unanimous consent, Mr. MAZZOLI was allowed to proceed for 2 additional minutes.)

Mr. BUTLER. Mr. Chairman, will the gentleman yield further?

Mr. MAZZOLI. I am happy to yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Chairman, I thank the gentleman for yielding.

On this point with respect to exactly where the line is drawn, we had a very learned colloquy yesterday between the gentleman from Wisconsin (Mr. KASTENMEIER) and the gentleman from California (Mr. EDWARDS). Unfortunately, it was not printed in the RECORD this morning, and I have not had a chance to pull it out. Therefore, I am drawing somewhat on my memory.

However, basically what the gentleman from California (Mr. EDWARDS) asked the gentleman from Wisconsin was that he make it perfectly clear that the President of the United States has no authority, under any circumstance, to authorize electronic surveillance. The gentleman from Wisconsin (Mr. KASTENMEIER) said absolutely yes, and then he cited a section on page 67, one which says that this legislation shall be the exclusive means by which electronic surveillance is carried out.

That does not leave a hazy line, does it, because what that says is that the President has no authority. How can we—and I ask the gentleman this question—arrogate to ourselves the authority to say to the President of the United States, this is the exclusive means we have for you to exercise your constitutional responsibility to see that the laws are enforced, to be Commander in Chief of our Armed Forces, and to protect our country. How can we arrogate that?

The CHAIRMAN. The time of the gentleman has expired.

Mr. KASTENMEIER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment. I regret that the colloquy referred to by the gentleman from Virginia did not appear in the RECORD. I trust that it will appear in the later RECORD, and I do not know the explanation for its failure to be there this morning.

This, I think, is a very dangerous amendment. What it tends to do is invite the President to exercise "constitutional powers" outside of this bill, outside of what we, the Congress, are doing. We might as well not do anything at all if we are to concede to this amendment and to grant affirmatively constitutional rights to the President to conduct this type of operation in this country. That is what the 3 years of work is all about.

Let me go back in time, if I may. I do not at this point yield to the gentleman from Illinois because I do want to make my point. The Committee on the Judiciary perhaps 10 years ago or so had a question of whether or not in title II of the Internal Security Act to terminate the authorization for the detention camps in America. Some people thought of these as concentration camps. Overwhelmingly the Congress decided against further authorization of those camps, and President Nixon signed it into law. But before that happened there was a very interesting circumstance. The Assistant Attorney General, Mr. Mardian, wanted a statutory recognition of a constitutional authority for the President to set up these so-called concentration camps, if needed, and thought that we should have a similar amendment in connection with it. But we, the Congress, decided no, that no person in this country would be detained except pursuant to the laws of the United States. Whether or not the situation would ever arise in which the President might round up Americans and put them in detention camps, nonetheless, he could not draw on the statutes we enacted with reference thereto, and so by analogy we ought not here give the Executive a statutory declaration of constitutional authority to conduct national security wiretaps. If he possesses such a power, he must assert it independent of the statute because we have provided the only authorized, the statutory way of dealing with this question. So it ought to remain, Mr. Chairman, and the gentleman's amendment ought to be rejected.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Virginia.

Mr. BUTLER. I thank the gentleman for yielding.

We are handicapped on our side of the aisle because we are so young and inexperienced in the Congress. I have not been here for 10 years, but my recollection, having talked to staff, is that the detention camp legislation was an amendment to existing legislation. But the detention camps existed under statutory authority and not under constitutional authority. I pass that on as a second-hand suggestion.

Mr. KASTENMEIER. I appreciate that, and I would only comment that the question, nonetheless, arose: Does the President have constitutional authority, and should we state a statutory disclaimer in recognition of such authority? We declined to do so, and we ought not, indeed, assert such authority here for the President with regard to these wiretaps.

Mr. McCLORY. Mr. Chairman, will the gentleman yield to me for an observation?

Mr. KASTENMEIER. I yield to the gentleman.

Mr. McCLORY. I thank the gentleman for yielding.

The gentleman suggests that this legislation would provide that the President may not conduct foreign intelligence electronic surveillance. That is a misconception of what this bill is intended to do, as I understand it.

I think that we do not have the right or authority to deprive the Executive of the power to conduct electronic surveillance. Now, what we are doing here is saying that he conducts it, but he has to have another branch, the judicial branch, to pass on this. We are attempting to pass the Executive authority to the judiciary.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. KASTENMEIER) has expired.

(By unanimous consent, Mr. KASTENMEIER was allowed to proceed for 1 additional minute.)

Mr. KASTENMEIER. Mr. Chairman, I appreciate the gentleman's comments. We here give the President authority to conduct foreign intelligence surveillance pursuant to this statute. Now, if, in fact, the President has constitutional authority in some other capacity to conduct wire tapping or surveillance on his own, then he must find it and assert it. We have given him the sole statutory authority in this bill to open that sort of thing.

Mr. McCLORY. Mr. Chairman, if the gentleman will yield further, I think what the legislation demonstrates is that we do not have the authority to deprive the President of his constitutional authority.

Mr. KASTENMEIER. May I say to the gentleman we do not affirmatively assert that the President has no constitutional authority. What we have is a situation in which the extant President has said to us gratuitously that he will not, indeed, assert such power beyond the authority within this bill.

Mr. HYDE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just want to comment on this amendment and briefly on the entire legislation.

I do think it is deplorable, and I am sure there were reasons adequate to those who exercised them, that this bill did not get a full hearing by the Committee on the Judiciary. If we have been dealing with this for 3 years, we could have found 3 weeks or 3 days or 3 hours for the full Committee on the Judiciary, a committee, on which I am proud to serve and which has a distinguished record for being punctilious in protecting civil rights and the human rights and the constitutional rights of everybody concerned; so I think, No. 1, we are making a serious mistake by not letting the Committee on the Judiciary deal with this bill completely.

No. 2, it is, of course, true that we cannot divest the President of any constitutional authority that the Constitution has given him. It is there and there is nothing this body can do to take it away; but, of course, we can put the President in a position of confrontation with this body if we are requiring him to exercise his judgment that, notwithstanding the strictures of this legislation, he is going to act under his inherent constitutional power. That is something we ought to do with great reluctance.

Third, you know, we are a coequal branch of Government, the President, the Congress, and the courts. This Congress in overreacting to the Watergate scandals insists on conferring on the Judiciary more and more authority to make them the supreme authority in this country in terms of running our school districts, running our jails, running our hospitals, and now they are going to run the intelligence services of this country.

Now, I have great respect for each and every Federal judge. I know how they are appointed and how they are confirmed; but I do not think their wisdom, individually or collectively, is superior to the wisdom of the Executive, with the checks and balances that are inherent in his office and in the press and in this body.

I think we are depriving the President of a necessary flexibility to face situations in terms of the national security of this country, and he may need that flexibility on short notice. He may need to act immediately on the best advice available.

We are not defending Richard Nixon. We are defending an institution, and we have so stripped away its powers and its constitutional authorities—we have attempted to anyway—that I think the vital interests of this country are being damaged.

This amendment is certainly innocuous. All it says is that we read the Constitution, too, and nothing we do here is designed or intended to deprive the President of his constitutional authority. I think it is a statement of sanity. I think it is a statement that recognizes that we know the Constitution has given the President some power that we cannot deprive him of.

I trust the President. I trust every President, and I trust the self-cleansing mechanisms of the executive department, the judiciary, and this Congress to see that the abuses, when they occur, will be swiftly discovered and swiftly punished.

But, Mr. Chairman, I just deplore further encroachments on the powers of Congress and the powers of the Executive by the judiciary, and I especially deplore our helping that process along.

Mr. MURPHY of Illinois. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Illinois.

Mr. MURPHY of Illinois. Mr. Chairman, I thank my colleague, the gentleman from Illinois, for yielding, and I will say that I respect his viewpoint very much.

I would like to say, however, that I note the gentleman refers to busing, the medical profession, and other things in which the Federal courts have intervened.

Mr. HYDE. And we could include school districts and jails.

Mr. MURPHY of Illinois. Yes, including school districts and jails. And I share the gentleman's apprehensions about an overactive judiciary. What we are asking in this particular piece of legislation is this: We are asking that a neutral arbitrator, a Federal judge, be appointed as a protection between U.S. citizens and their fourth amendment rights and a government that in the past has violated those fourth amendment rights.

We are not alone in asking this. We have had two Presidents send up this message and the philosophy underlying this bill: President Ford and now President Carter. I can say to the gentleman that I cannot imagine President Ford or President Carter trading away or exchanging their inherent executive rights to defend this country.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. HYDE) has expired.

(On request of Mr. MURPHY of Illinois, and by unanimous consent, Mr. HYDE was allowed to proceed for 3 additional minutes.)

Mr. MURPHY of Illinois. Mr. Chairman, will the gentleman yield further?

Mr. HYDE. Yes, I will yield, but let me just comment first on what has been said thus far.

President Ford was reacting to a deplorable situation in which he found himself following Watergate. As far as President Carter is concerned, I am really at a loss to understand his action except that he campaigned against the White House and against the "imperial Presidency." I am certainly not defending the "imperial Presidency," but I am defending the institution. I think the President has constitutional duties that we ought not to take away from him.

Mr. MURPHY of Illinois. Mr. Chairman, if the gentleman will yield, we are not taking the President's inherent constitutional powers away from him. We are extending the statutory standard or criteria by which we will judge the Executive Department as a coequal branch, to use the gentleman's own words, and it is a standard under which his actions are judged. We are not taking his powers away.

We are dealing with a domestic scene. Within the borders of the United States, when we are dealing with foreign intelligence wiretapping, we are concerned with American citizens' fourth amendment rights.

When the President deals with foreign countries off the shores of the United States, what he does with national security, as it relates to the Marines, the Army, the Navy, and the Air Force, is his business. This is not affected at all.

All we are saying is that "here is a statutory criteria, and when you go to tap or interfere with the fourth amendment rights of American citizens, you must follow these statutory standards."

Mr. HYDE. Mr. Chairman, if I may reclaim my time, I suggest to the gentleman that nothing we do is going to impinge on the President's constitutional authority, but we do put an obstacle in his way and we do restrain his free and flexible exercise of that authority at a very difficult time when he may not know if the person concerned is a citizen.

How does one determine whether a person is a citizen or not if one needs to make a tap immediately, today or tonight?

Mr. MURPHY of Illinois. Mr. Chairman, if the gentleman will yield, the gentleman knows that he can apply for a 24-hour emergency tap without a warrant. The gentleman was here yesterday, and he knows that.

Mr. HYDE. I understand that, but the gentleman assumes that he can get that emergency tap in 24 hours.

Mr. MURPHY of Illinois. That is not a consideration if he is a foreigner, a representative of a foreign government or foreign embassy.

Mr. HYDE. I am simply saying this amendment is a statement of constitutional fact that we ought not to eliminate from the bill.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I thank the gentlemann for yielding.

The gentleman from Illinois (Mr. HYDE), for whom I have high respect, is a member of our Judiciary Committee, and I wish to ask the gentleman this question:

If it is the gentleman's feeling that there is no way the Congress can impinge or limit or circumscribe the President's constitutional power, then I wonder why we should insert this language at all if we are simply stating again what the gentleman feels is already the essence of the bill.

Mr. HYDE. Mr. Chairman, my answer to that question is that we put ourselves in a position of confrontation with the President, because without this in the law, the President may feel that he is breaking the law that we have passed, even though that part of it is constitutional. I just say that we ought to at least state that we know he is the President and he has some inherent authority.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. HYDE) has again expired.

(On request of Mr. BUTLER, and by unanimous consent, Mr. HYDE was allowed to proceed for 2 additional minutes.)

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Chairman, I thank the gentleman for yielding, and I appreciate his contribution very much.

The gentleman is, of course, entirely correct in saying that what we are doing by this legislation, without the amendment I offered is, telling the President of the United States, "You assert your constitutional prerogatives and responsibilities at your peril." And that is wrong.

The real language of this legislation puts it in this context; that is, shall be the exclusive means, and "exclusive" is the key word in this legislation.

I do not think there can be any doubt in the gentleman's mind about what the people who wrote this bill had in mind, and I do not think there could be any doubt in the gentleman's mind, after the colloquy we had yesterday between the gentleman from Wisconsin (Mr. KASTENMEIER) and others, about what the people who wrote the bill and the intelligence community had in mind. What is meant here is that the President of the United States has no constitutional authority, and if he does have any, by God, he has to prove it. That is a heck of a position to put the President of the United States in.

If the gentleman will yield further, I am very much distressed that the impression is being left that this requirement of exclusive legislative authority was in President Ford's bill. There was no such thing at all. President Ford's bill expressly included language substantially in the language which I offer here today, which was a recognition of the President's inherent constitutional authority.

I quote from the Ford bill:

Nothing contained in this chapter shall limit the constitutional power of the President to order electronic surveillance for the reasons stated in section 2511(3) . . .

I insist that what we are doing here is what was done in the Ford bill, and it is very clearly indicated in these circumstances.

Mr. HYDE. Mr. Chairman, I just do not know what that hearing is going to consist of when you go before the judge and say, "I have a feeling in this case, and will Your Honor give us a warrant." It is a charade and it is designed to sanctify something that is essentially meaningless.

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I have listened to this debate, and go back to what we said yesterday. We continually hear the assertion—and it is an incorrect assertion, I believe—that we are really not trying to go very far and we are really not trying to impinge on the power of the President in this legislation.

The truth of the matter is that what we are trying to do is to change the position of Congress expressed in the 1968 omnibus crime legislation.

Mr. Chairman, we clearly said in the 1968 legislation, in section 2511(3), that we were not going to impinge on the President's inherent power. Now we are trying to go exactly the opposite and saying the President does not have inherent power, he only has what we give him.

The people who drafted the legislation, those who appeared before the committee, those who testified, knew what they were doing.

Let us take what Common Cause said in their letter of August 7 to all of us. It said that H.R. 7308 eliminated once and for all the doctrine that the executive branch has inherent power to conduct national security wiretaps.

That is what the ACLU believes. That is what Common Cause believes. That is what people who will be going into court and litigating believe.

I do not think we should, as we have on page 67, indicate that the President of the United States does not have the authority that is inherent in the Constitution. That is done by using the word "exclusive."

I believe that he has certain inherent powers. We cannot change them. It is like saying tomorrow is Monday, although it is still Friday. It is like 435 Members of Congress voting and saying tomorrow is Monday, although it is still Friday. The President has the inherent power, regardless of what we say. But we do try to muddy the water here and I think that is why the language of my colleague, the gentleman from Virginia, is absolutely essential. It puts us back in the position we were in in 1968. It puts us back in the same position we were in in the Keith case. The President has what powers he has, and the court will uphold those powers. We should not at this point try to countermand those powers.

So the sponsors are not saying we are going to impinge on the President's inherent powers but they are going to try to cut it a little bit. That is the basis of page 67 of this bill.

It may be that Mr. Carter does not want to exercise his powers. There is little counterintelligence now. We are not talking, necessarily, about 1978, 1979, or 1980. We are talking about future Presidents. If Mr. Carter does not want to engage in wiretapping that he has a right in his constitutional power, that is his business. But why should we sav at this point that future Presidents will be limited to the narrow action President Carter now wants to take in the vital field of internal security?

I certainly urge the support and the adoption of the amendment offered by the gentleman from Virginia (Mr. BUTLER), and I applaud him for offering the amendment.

Mr. LATTA. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Chairman, I thank the gentleman from Ohio for yielding.

I just want to clarify one point which the gentleman from Wisconsin, in the course of his references to the proposed legislation, has referred to time after time.

Mr. Chairman, if I could have the attention of the gentleman from Illinois (Mr. MURPHY), perhaps we could solve the problem which my amendment addresses. By inserting on page 67, line 11, the word "statutory," we could make perfectly clear that this legislation is the exclusive statutory means by which electronic surveillance is to be permitted. We will have solved the problem; and my amendment would be unnecessary.

Mr. Chairman, I wonder whether the gentleman from Illinois (Mr. MURPHY), the manager of the bill, would agree to that amendment. If so, we could avoid further discussion of the amendment in question.

Mr. MURPHY of Illinois. If the gentleman will yield, Mr. Chairman, would the gentleman repeat that statement again? I am sorry.

Mr. BUTLER. Yes. The amendment which I would ask the gentleman to consider would obviate the problem to which my amendment is addressed would be on page 67, line 11. At that point I would suggest inserting after the third word, and before the word, "means," one word, "exclusive." At that point I would insert the word "statutory" so that the legislation shall read the "exclusive statutory means."

Mr. MURPHY of Illinois. Mr. Chairman, if the gentleman will withdraw his amendment, we will accept that word "statutory" at that point in the bill.

Mr. BUTLER. Mr. Chairman, I thank the gentleman from Illinois (Mr. MURPHY).

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The CHAIRMAN pro tempore. The amendment offered by the gentleman from Virginia (Mr. BUTLER) is withdrawn.

Does the gentleman propose another amendment?

Mr. BUTLER. Yes, Mr. Chairman. If I may, I ask unanimous consent that I may offer an amendment not in writing and not published in the RECORD, which would insert the word "statutory" on page 67, line 11.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Virginia?

Mr. MURPHY of Illinois. Reserving the right to object, Mr. Chairman, I would like to hear the amendment first.

Mr. BUTLER. All right.

AMENDMENT OFFERED BY MR. BUTLER

Mr. BUTLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BUTLER: On page 67, line 11, after the word "exclusive" insert the word "statutory".

Mr. MURPHY of Illinois. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. MURPHY of Illinois. Mr. Chairman, we will accept the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Virginia (Mr. BUTLER).

The amendment was agreed to.

PARLIAMENTARY INQUIRY

Mr. BUTLER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BUTLER. Mr. Chairman, is my amendment now accepted in the bill?

The CHAIRMAN pro tempore. The Chair will state that the gentleman's amendment is accepted.

Mr. BUTLER. As part of the bill, Mr. Chairman?

The CHAIRMAN pro tempore. As part of the bill.

Mr. BUTLER. I thank the Chair.

AMENDMENT OFFERED BY MR. LATTA

Mr. LATTA. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. Is the gentleman offering an amendment which appears in the RECORD?

Mr. LATTA. That is correct, Mr. Chairman.

The CHAIRMAN pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. LATTA: Page 40, after line 4, insert the following new subparagraph and redesignate subparagraphs (2) and (3) accordingly:

(2) Notwithstanding any other law, the President, through the Attorney General, may authorize electronic surveillance without a court order under this title to acquire foreign intelligence information for periods up to one year—

(A) during a period of war declared by the Congress; or

(B) during a period of national emergency, declared by the President in accordance with the National Emergencies Act, with specific reference to this Act, and upon the transmittal to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate of a statement by the President setting forth the facts and circumstances giving rise to the need for such declaration.

Mr. LATTA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. LATTA. Mr. Chairman, I ask unanimous consent to substitute a modified amendment by reason of the fact that the McClory amendment has changed the page number into which this amendment would fit, and we have had to redraft the amendment to provide for a new section.

Mr. Chairman, this matter has been discussed with both sides, both managers of the bill.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN pro tempore. The Clerk will report the amendment, as modified.

The Clerk read as follows:

On page 64, after line 25, add the following new section:

"AUTHORIZATION DURING TIME OF WAR

"Notwithstanding any other law, the President, through the Attorney General, may authorize electronic surveillance without a court order under this title to acquire foreign intelligence information for periods up to one year during a period of war declared by the Congress".

Mr. LATTA. Mr. Chairman, I believe my amendment is needed to correct an oversight or an omission in this bill. At the time this matter came before the Committee on Rules, I raised the question of the need for the President to act in times of war without being required to take the time to secure a court order. There certainly would be no desire on the part of the proponents of this legislation to tie the hands of the President during such a period and to possibly put the security of the country in jeopardy. During such a period we ought to give the President of the United States all the discretion he needs to protect the best interests of the country. Therefore, I have proposed this amendment to give him that needed authority. I have discussed this amendment with the managers on both sides of the aisle and I believe they will accept it as a necessary amendment to the bill.

Mr. MURPHY of Illinois. Mr. Chairman, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Illinois.

Mr. MURPHY of Illinois. I thank the gentleman for yielding.

The gentleman from Ohio brought this to our attention when the committee appeared before the Committee on Rules. I think it is a pertinent amendment, and this side of the aisle will accept it.

The CHAIRMAN pro tempore. The question is on the amendment, as modified, offered by the gentleman from Ohio (Mr. LATTA).

The amendment, as modified, was agreed to.

AMENDMENT OFFERED BY MR. ERTEL

Mr. ERTEL. Mr. Chairman, I offer an amendment that has been published in the RECORD.

The Clerk read as follows:

Amendment offered by Mr. ERTEL: Page 63, line 2, insert "(a)" after "Sec. 108.".

Page 63, after line 9, insert the following new subsection:

(b) The Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate shall periodically review the information provided under subsection (a). If either such committee determines that an electronic surveillance of a United States person under this title has produced no foreign intelligence information and that the disclosure of the fact of such surveillance to such United States person would not harm the national security, such committee shall inform such person of the fact of such surveillance and that no foreign intelligence information was derived from such surveillance.

Mr. ERTEL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Ms. HOLTZMAN. Reserving the right to object, Mr. Chairman, will the gentleman from Pennsylvania explain the amendment?

Mr. ERTEL. Yes, I will, Mr. Chairman.

Ms. HOLTZMAN. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. ERTEL. Mr. Chairman, prior to discussing the amendment, I ask unanimous consent that one word in the amendment as printed in the RECORD be changed, that is, that the word in the third line of section (b) be changed from "shall" to "may."

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN pro tempore. The Clerk will report the modification.

The Clerk read as follows:

In the third sentence of section (b) of the Ertel amendment following the word "Senate" strike the word "shall" and insert in lieu thereof the word "may".

Mr. ERTEL. Mr. Chairman, this amendment is basically an amendment for oversight by the Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate. It provides that in the event there has been electronic surveillance, whether it be by a wiretap or any other type of electronic surveillance, if the committee of the House or the Senate determines, one, that no foreign intelligence information has been obtained and, two, that there is no threat to the national security, then that committee should inform the target of that investigation that he has been under surveillance. It advises the person what has been done in regard to his particular activities by the intelligence community.

I point out that this is an oversight amendment. It gives the Select Committees on Intelligence a right. They do not have to, but they may disclose to the individual, but only after they make an affirmative determination there is no threat to the national security or, second, that no foreign intelligence information was obtained. The reason for the amendment is to hold over the intelligence agencies the threat that their activities if they are improperly done will be disclosed. There are criminal sanctions within this bill which are to be

used against intelligence agencies if they act in bad faith, but there is no way to know if they act in bad faith unless there is a disclosure.

We cannot provide a disclosure unless we know that there is no threat to the national security, and further, that there is no national security information obtained; so really what it is, is an oversight amendment to make sure that the agencies act properly.

Mr. MURPHY of Illinois. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. I yield to the gentleman from Illinois.

Mr. MURPHY of Illinois. Mr. Chairman, I appreciate the gentleman bringing this to the committee's attention. I have talked with the gentleman, as have other members of our committee and the chief counsel, and with the change from "shall" on the third line to the word "may", this side will accept the amendment.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I do not know that I have any objection to the amendment; but I would just like to ask this question. How do you determine whether or not information has been obtained; who would make that determination?

Mr. ERTEL. The Select Committee on Intelligence, either of the House or of the Senate, they would make that determination under their oversight. Under the bill it is required that the Select Committee have oversight on a semiannual basis.

Mr. McCLORY. Mr. Chairman, we have no objection to the amendment.

The CHAIRMAN pro tempore. The question is on the amendment, as modified, offered by the gentleman from Pennsylvania (Mr. ERTEL).

The amendment, as modified, was agreed to.

AMENDMENTS OFFERED BY MR. M'CLORY

Mr. McCLORY. Mr. Chairman, I offer two conforming amendments.

The Clerk read as follows:

Amendments offered by Mr. McCLORY: Page 50, strike out line 22 and all that follows down through line 6 on page 51, and redesignate subsections (d) through (g) accordingly.

Page 51, line 9, strike out ", except that" and all that follows down through line 13 and insert in lieu thereof: ".".

Page 51, line 17, strike out ", except that an" and all that follows down through line 23 and insert in lieu thereof: ".".

In section 102(a) (as amended by the amendment offered by Mr. McCLORY), strike out "the Special Court" and insert in lieu thereof "a court".

In section 105(e) (as amended by the amendment offered by Mr. McCLORY), strike out "designated pursuant to" and insert in lieu thereof "having jurisdiction under".

Mr. McCLORY (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. MURPHY of Illinois. Mr. Chairman, reserving the right to object, I wish the gentleman would explain the amendments.

Mr. McCLORY. Mr. Chairman, these are amendments which have been discussed by counsel on both sides.

Mr. MURPHY of Illinois. Mr. Chairman, reserving the right to object, I would insist on the amendments being read. Therefore, I object.

The CHAIRMAN pro tempore. Objection is heard.

The Clerk will read.

(The Clerk concluded the reading of the amendments.)

Mr. McCLORY. Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. MURPHY of Illinois. Mr. Chairman, reserving the right to object, now that the amendments have been read, we have no objection on this side.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN pro tempore. The question is on the amendments offered by the gentleman from Illinois (Mr. McCLORY).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. M'CLORY

Mr. McCLORY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLORY: Page 45, line 9, strike out "or" and insert in lieu thereof "and".

Mr. McCLORY. Mr. Chairman, this amendment really does nothing more than to add to the accountability of the Executive with regard to exercise of foreign intelligence electronic surveillance. In the foreign intelligence requirements in H.R. 7308 there is provision that the court application shall include a detailed certification.

It states that the certification should contain statements that the information sought was from intelligence information-gathering agencies, including a justification for the statement, and that the information cannot reasonably be obtained by normal investigative techniques. It states also that the certification should be approved by a senior executive branch official or the Assistant to the President for National Security Affairs.

What this amendment does is to require that the Assistant to the President for National Security Affairs and a senior executive official who is confirmed by the Senate shall make this certification. It merely assures that we can call before our body for purposes of oversight somebody who will be involved in this certification procedure. It affords us a better chance at oversight. It imposes a greater responsibility and puts greater restrictions on the Executive.

Mr. MURPHY of Illinois. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Illinois.

Mr. MURPHY of Illinois. Mr. Chairman, I have talked to the gentleman from Illinois (Mr. McCLORY) with regard to this amendment, and we are willing to accept it on this side.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Illinois (Mr. McCLORY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. M'CLORY

Mr. McCLORY. Mr. Chairman, I offer an amendment that is referred to as "amendment number 11."

The Clerk read as follows:

Amendment offered by Mr. McCLORY: Page 63, line 2, strike out "semiannual" and insert in lieu thereof "quarterly".

Mr. McCLORY. Mr. Chairman, all this amendment does is require that the Attorney General shall report quarterly not semiannually to the House and Senate Intelligence Committees. It seems to me, particularly since we are going to be reporting with regard to electronic surveillance on U.S. persons, that we should have that kind of reporting.

The Attorney General, as I recall, said that this would not be too great a hardship on his part to provide for this quarterly report. It would give us increased oversight and enable the Congress to protect further the rights of persons who are subjected to electronic surveillance.

Mr. Chairman, it seems to me that this amendment is likewise a very desirable amendment, and I urge its adoption.

Mr. MURPHY of Illinois. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the committee spent considerable time and thought in deliberations over the congressional oversight provisions. We considered requiring quarterly reporting. The administration opposed it and gave convincing arguments against it.

It was decided that the advantages of more frequent reporting were outweighed by the administrative burdens and security risks involved in the proliferation of the paperwork that would ensue. It was also felt that the content of the report would be more thorough and substantive if it were developed over a 6-month period.

This is the view of the Director of the FBI, the Attorney General, and the heads of the NSA and the CIA.

On those grounds, Mr. Chairman, I reluctantly oppose the gentleman's amendment.

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of Illinois. I am happy to yield to the chairman of the committee.

Mr. BOLAND. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, as the distinguished chairman of the subcommittee indicated, the administration opposes this particular amendment because it does impose an administrative burden upon the administration.

But beyond that, it is going to impose an administrative burden upon this committee, and we have sufficient burdens right now. We have a difficult enough time now reading the voluminous reports that come to us and getting all the briefings from the intelligence agencies. I hope we are not impacted with yet another report.

The 6-month report is clearly sufficient to do the job that ought to be done by the administration and by the committee.

Mr. Chairman, I would hope that this particular nitpicking amendment would be rejected by the committee.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Illinois (Mr. McCLORY).

The amendment was rejected.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment, entitled "amendment number 10," which appeared in the RECORD on August 2, 1978.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: Page 63, strike out lines 11 through 18 and insert in lieu thereof the following:

SEC. 109. (a) OFFENSE.—A person is guilty of an offense if he intentionally engaged in electronic surveillance under color of law except as authorized by statute.

Page 63, line 19, strike out "(1)".

Page 63, line 20, strike out "(1)".

Page 63, strike out line 25 and all that follows down through line 4 on page 64.

Mr. ASHBROOK (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. ASHBROOK. Mr. Chairman, this amendment was requested by the Justice Department in a letter to Chairman BOLAND of the House Permanent Select Committee on Intelligence dated April 17, 1978, and signed by John M. Harmon, Assistant Attorney General, Office of Legal Counsel. I have worked with my colleague, the gentleman from Arizona, Mr. RUDD, in developing this amendment.

The statement of the Justice Department on this section is:

> The Administration objects to this section, which was added by Subcommittee amendment. The penalty section in the Senate version of this bill makes it a crime to willfully engage in an unauthorized surveillance or to willfully disclose information derived from an unauthorized surveillance. That is acceptable. This section in H.R. 7308, however, would cover unauthorized surveillances and a violation of any other provision of the chapter. Thus, it would be criminal to violate the minimization requirements of this bill.
>
> As the Committee is aware, this is a very complicated legislation and the minimization procedures required by the bill will often be long and involved. We do not believe it is necessary to ensure that the bill's provisions are properly implemented to impose possible criminal violations on all of those employees who will have to deal with such minimization procedures on a daily basis. There are no comparable provisions in connection with Title III. We see no need to treat individual employees in the intelligence community substantially different than their colleagues involved primarily in law enforcement.

In this matter I find myself in agreement with the administration.

Under this section, if an FBI agent intentionally kept one piece of information he was supposed to destroy, or intentionally disseminated one conversation within the FBI to a person who was not supposed to receive it, he could be sent to jail. If an FBI agent intentionally violates the minimization procedures, he should be subject perhaps to disciplinary measures within the Bureau, but it is not a violation sufficient to justify criminal prosecution. Even more important, where he does not intentionally violate the procedures, but in the press of business makes a human mistake, he may fear that a prosecutor is going to be breathing down his neck, expecting the agent to prove that it was not intentional. Such a threat will impede the intelligence collection of this country and runs counter to one of the avowed purposes of the bill—to protect these agents and give them confidence that they will not be prosecuted for acting under the bill.

In addition, if this provision is not deleted, the ACLU will be encouraged to undertake additional civil suits to harass the FBI agents.

Mr. MURPHY of Illinois. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Illinois.

Mr. MURPHY of Illinois. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Ohio (Mr. ASHBROOK) and I have discussed this. The chief counsel and other members of the committee have reviewed it, and we will accept the amendment.

Mr. ASHBROOK. I thank my colleague.

Mr. RUDD. Madam Chairman, I move to strike the requisite number of words.

I would like to engage the distinguished gentleman from Illinois in a colloquy, if I may, and perhaps the gentleman from Ohio in a colloquy concerning the Ashbrook amendment which was passed. I have a couple questions that I would like to ask.

In the debate yesterday, I expressed concern about what might happen in the case of a subordinate, a loyal subordinate, the agent on the street, and I am wondering if this amendment will actually protect the person against prosecution while acting under legal guidelines and under authority of the President and the Attorney General in conducting surveillances prior to the time a warrant might be issued. Is that spelled out in this amendment?

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. RUDD. I will yield to anyone who can answer the question.

I yield to the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. Madam Chairman, the subject of protection of FBI agents and law enforcement personnel is addressed by the Federal Torts Claims Act Amendments pending before the Committee on the Judiciary. That bill would be comprehensive with regard to all Federal agents and would substitute the United States as the party defendant in suits alleging that Federal agents have acted unlawfully.

This legislation would absolve Federal agents of defending against challenges to their activities performed under color of law and would guarantee to plaintiffs that their successful grievances will be fully remedied. This legislation is a matter of high priority with the administration and will, I believe, be considered in the Judiciary Committee next week.

Mr. RUDD. Madam Chairman, I thank the gentleman.

I yield to the gentleman from Ohio.

Mr. ASHBROOK. Madam Chairman, I thank the gentleman for yielding.

As I pointed out in my statement, the reason that John Harmon, Assistant Attorney General of Counsel, addressed a letter to Chairman BOLAND stating, in effect, the administration's opposition to a provision that was in the House bill, but not in the Senate bill, was for the precise purpose that my amendment was offered. As Mr. Harmon said, there was no comparable provision in title III of the Senate bill and he went on to say, and I think this will answer the question:

> We see no need to treat individual employees of the intelligence community substantially different than their colleagues involved in law enforcement.

The thrust of my amendment, which was agreed to by both the majority and the minority side, was to delete the House provision, which in the case of minimization procedures would possibly make an FBI agent or a CIA agent guilty or subject to criminal prosecution for violation of a regulation.

Madam Chairman, we all agree that they should be guilty and found guilty if they willfully violate the law. I do not think there is any question about that. I do not think the FBI agents or the CIA agents disagree with that.

But what Mr. Harmon is saying and what my amendment attempted to clarify is that in those situations where we have good faith performances and cumbersome minimization procedures, the agent in the field should not be held criminally liable or stand a chance of facing criminal prosecution if by chance or in some way there is a name he forgot to turn in from his file or he did not comply with some procedure that was laid out in minimization.

My amendment precisely addressed itself to that problem. It did not relieve him of criminal liability in cases where he violated the law. It simply said that as far as minimization procedures and good faith performances are concerned, he has the same rights that other law enforcement officers have, and that counterintelligence officers and intelligence community officers should also have those rights. That is the only thrust of my amendment.

Mr. RUDD. Madam Chairman, I am sure the agent himself or anyone else would want to bo so assured. If he is acting in good faith, he is protected, and I assume this piece of legislation also

does the same thing civilly. That would derive also from the criminal action; is that correct?

Mr. ASHBROOK. Yes. If the gentleman will yield further, if an FBI agent intentionally violates the law, I think all of us agree, of course, that he can be subject to criminal prosecution. But where he might make some human error or unintentionally violate guidelines or procedures that would be handed down—and many times, as we all know, they are nebulous, particularly as they concern the man out in the field—he would not be subject to prosecution.

The CHAIRMAN pro tempore. The time of the gentleman from Arizona (Mr. RUDD) has expired.

(By unanimous consent, Mr. RUDD was allowed to proceed for 2 additional minutes.)

Mr. ASHBROOK. Madam Chairman, if the gentleman will yield further, my point was that the agent could and probably should be subject to discipline within the agency, within the FBI or CIA, for violation of minimization procedures, but he should not have the fear that some prosecutor or some court might be looking over his shoulder and saying, "You are guilty or you may be guilty of a criminal violation, and we are going to prosecute you."

Mr. RUDD. Madam Chairman, I wanted to be assured, of course, that an agent acting in good faith is properly protected, and after all, we want to guarantee to our intelligence agents they may operate without fear of reprisal for doing the job they may be ordered to do in a competent manner.

Mr. ASHBROOK. I do not completely agree with all the provisions of the bill, but the bill does not change the common law provisions, of course, and it protects the agents who are acting in good faith.

Mr. MURPHY of Illinois. Madam Chairman, will the gentleman yield?

Mr. RUDD. I yield to the gentleman from Illinois.

Mr. MURPHY of Illinois. Madam Chairman, I agree with the remarks of the gentleman from Ohio (Mr. ASHBROOK). We have entered into a colloquy about this matter on a number of occasions.

There is a good faith defense in common law.

When an FBI agent does his job pursuant to a warrant or a court order and he goes out and he does it in good faith, he has a good faith common law defense. The only time I think they could bring a criminal action is for a conscious, open disregard of the law. The standard would be almost beyond a reasonable doubt. This is the problem we addressed.

I appreciate the gentleman's bringing this point to our attention.

The testimony before our subcommittee and the full committee by the head of the FBI, Mr. Webster, and the Attorney General was that we are having a hard time getting agents to execute orders today for conducting surveillance of foreign spies in this country, and there is a wealth of intelligence material that is undetected. That was not the fact in the past, because in the old days under Director Hoover orders were given to conduct surveillance, and the job was done.

The CHAIRMAN pro tempore. The time of the gentleman from Arizona (Mr. RUDD) has again expired.

(By unanimous consent, Mr. RUDD was allowed to proceed for 2 additional minutes.)

Mr. MURPHY of Illinois. Madam Chairman, if the gentleman will yield further, under Director Hoover, the agents were sent out into the field to conduct surveillance, and there was no memorandum or there were no written orders given. Mr. Hoover is now dead, and these agents stand naked in the "hall of justice" trying to defend themselves against criminal charges brought against them for their behavior.

What this bill does is to try to protect those agents, and I think it does it well.

Madam Chairman, I thank the gentleman for yielding.

Mr. RUDD. Madam Chairman, I thank the gentleman from Illinois (Mr. MURPHY) for clarifying this issue, and I am sure this legislation does protect the employees.

I hope the mention of Mr. Hoover's name will not be taken as disparaging or that anyone thinks we are disparaging in any way the name of this great American. Mr. Hoover was a great American, and he did a fine job for our country.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The amendment was agreed to

AMENDMENT OFFERED BY MR. BUTLER

Mr. BUTLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BUTLER: Page 31, line 11, strike out "and controlled".

Mr. BUTLER. Mr. Chairman, section 101(a) provides six definitions of the term "foreign power."

The sixth definition defines "foreign power" as an entity that is directed and controlled by a foreign government or governments.

This amendment would simply strike the words "and controlled," so that it would be sufficient if an entity is directed by a foreign government rather than directed and controlled. If an entity is directed by a foreign government, this should be more than adequate to allow our intelligence agents to target such entity for electronic surveillance to gather foreign intelligence information.

To burden the Government with the additional requirement that a showing also be made to the court that the entity is also controlled by a foreign government is entirely inappropriate, and the amendment would strike the words "and controlled."

Mr. FOWLER. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Georgia.

Mr. FOWLER. I thank the gentleman for yielding, and I have just one question of clarification that I would like to ask of the gentleman from Virginia.

How would this affect a foreign airline? Would the gentleman have an opinion as to whether or not a government airline would be directed and controlled, or simply directed and not controlled?

Mr. BUTLER. I would assume, under those circumstances, that an airline is both directed and controlled.

Mr. FOWLER. If it were a government-owned airline?

Mr. BUTLER. Right.

Mr. FOWLER. I thank the gentleman.

Mr. MURPHY of Illinois. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, any domestic group which would receive some direction from a foreign government could be targeted under this amendment. A law firm or public relations firm representing a foreign government falls into this category. Former CIA Director William Colby's firm is one such law firm. The majority of the American banking institutions and Madison Avenue firms also would be covered. They all receive some direction from foreign governments. I might say to my colleagues that the subcommittee, under the able leadership of the gentleman from North Carolina (Mr. ROSE), is considering starting hearings on terrorist groups, and this committee will in the future deal with domestic terrorist groups that I think the gentleman from Virginia is directing his amendment at. I might say that we recently in Chicago had a terrorist group take over the embassy or the German legation in Chicago. The gentleman from North Carolina (Mr. ROSE) is bringing down those officials who were involved in the peaceful settlement of those terrorists occupying the German legation office, and we are presently taking testimony on this. I would ask the gentleman to defer this amendment so that when this committee comes out with legislation—and I can assure the gentleman that as chairman of the subcommittee I will be working closely with the gentleman from North Carolina (Mr. ROSE)—in the not-too-distant future we will begin to discuss thoroughly this question. I feel it would be better not to deal with it today under this amendment.

Mr. BUTLER. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

AMENDMENT OFFERED BY MR. BUTLER

Mr. BUTLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BUTLER: Page 31, beginning on line 20, strike out "contrary to" and all that follows through page 22, line 3, and insert in lieu thereof "; or".

Mr. BUTLER. Mr. Chairman, this amendment would broaden the definition of "agent of a foreign power" as it applies to non-U.S. persons by deleting from the foreign visitor provision the requirement that the circumstances of the visitor's presence in the United States would indicate that he was likely to engage in espionage. It would also delete the requirement that any espionage conducted by the visitor's country of origin by

"contrary to the interests of the United States" before the visitor could fall under the definition of "agent of a foreign power."

The requirement that the circumstances of the visitor's presence in the United States indicate that he is likely to engage in espionage creates inflexibility and denies positive intelligence-gathering opportunities. The principal responsibility of our intelligence services is to learn and understand the political, strategic, economic, and sociological forces of other countries. As former CIA Director William Colby pointed out in testimony before the Subcommittee on Courts, Civil Liberties and the Administration of Justice:

> When people with this kind of background come over here, even if they are going to Disneyland, they can have a considerable knowledge to that effect. In their side remarks and their conversations with their colleagues and communications homeward they can be communicating information which, putting those bits of pieces together, can give us a unique view of what is happening in some foreign country. It has nothing to do with protecting us in the narrow sense of that man doing something here, but it has a great deal to do with protecting us by understanding another country's politics.

It is clear that the requirement that the circumstances of the visitor's presence in the United States indicate that he is likely to engage in espionage would undermine this general intelligence gathering activity that has proven so useful to the United States in the past.

The additional requirement that any espionage conducted by the visitor's country of origin be contrary to the interests of the United States is equally restrictive and unnecessary. When a foreign power is conducting intelligence activities in secret in the United States it is highly inconceivable that the purpose of such activities is benevolence toward the United States.

Therefore, I urge my colleagues to support the amendment which would strike these two overly restrictive and unnecessary standards which would greatly undermine foreign intelligence activities conducted by the United States.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I certainly would agree 100 percent with what my colleague has said. I have brought up some of these precise points in committee before, and this is an area that concerns me very much.

The thing that bothers me the most about this bill, in addition to creating so many cracks that I think intelligence can fall through, is that it is almost a "Catch 22" in some cases. Our intelligence agencies almost have to show full control they can have surveillance in one section we just discussed.

One cannot really do that without first having some investigation. We have many, many examples where it took long, hard investigation with some surveillance to prove the case.

There are too many cases where we almost have to prove the end result before the intelligence agencies can do anything. I think the gentleman adequately makes the point, and I thank him very much.

Mr. BUTLER. I thank the gentleman.

Mr. MURPHY of Illinois. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman and my colleagues, most of the arguments made against the gentleman's previous amendment are equally compelling here.

The overriding point that wants to be noted is that the U.S. Government does not, cannot, and should not engage in the kind of indiscriminate electronic surveillance that the amendment would authorize.

The amendment will not contribute one iota toward the achievement of any intelligence goal that the intelligence people have suggested is necessary. The FBI does not seek this amendment. They have asked for nothing more than the current provision contained in H.R. 7308, which was inserted in committee to respond to the Bureau's concerns.

The FBI participated directly in drafting the existing language that the gentleman would amend. The existing language gives the Bureau the full authority it asked for to target specific classes of individuals from specific foreign countries.

The gentleman's amendment would lay hidden like a bomb with a long fuse waiting to be fired. If some future President or FBI wanted to utilize it—and the fact were made known—the political and diplomatic repercussions would be explosive. The amendment would authorize the wiretapping of any foreigner who comes to our shores in a representative capacity.

All that would need to be documented to a judge is that the foreigner comes from a country that engages in intelligence activities in the United States. Presumably, that is about any country with the money to support an intelligence service.

I oppose such wasteful and indiscriminate surveillance, as does the intelligence community, and I oppose the gentleman's amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Virginia (Mr. BUTLER).

The amendment was rejected.

Ms. HOLTZMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I ask for this time solely to clarify some of the language in the bill.

(Ms. HOLTZMAN asked and was given permission to revise and extend her remarks.)

Mr. Chairman, I would like to direct to the attention of the distinguished chairman of the subcommittee to the language on page 34 which gives the definition of "foreign intelligence information." The definition says that foreign intelligence information means "information with respect to a foreign power or foreign territory that relates to and, if concerning a U.S. person, is necessary to . . . the conduct of the foreign affairs of the United States."

I am concerned by what the term "the conduct of the foreign affairs of the United States" means. We are not talking here about the national defense or security position of the United States. We are talking about something much broader.

I am concerned that this term would authorize surveillance of a U.S. citizen in the United States who might be engaged in a perfectly peaceful activity. For instance, if a group of Americans organizes to protest the arms sale to Turkey, obviously that relates to the foreign affairs of the United States. Or suppose a group organizes to protest arms sale to Saudi Arabia or another nation. Are those groups of Americans now subjected to surveillance?

Foreign affairs is a subject of very grave concern to many Americans who participate in expressing their views in a perfectly peaceful manner, and I am concerned that we may be authorizing surveillance of them when they engage in these activities.

Mr. MURPHY of Illinois. Mr. Chairman, if the gentlewoman will yield, I would say the type of group she describes would not be the type of group that would come under observation. In other words, it is not the type of group the FBI and the National Security Agency or the counterintelligence or the CIA had in mind when we drafted this language.

Ms. HOLTZMAN. They might not have had these groups in mind at that time but I want to be sure that they never have them in mind and are never able to subject them to electronic surveillance, because the gentleman and I both agree that this kind of activity is peaceful and perfectly in accordance with our democratic system. I am concerned about the breadth of this term "foreign affairs of the United States" and what surveillance activities it would trigger.

Mr. MURPHY of Illinois. It was not intended to prohibit a first amendment activity. I do not know whether that would help the gentlewoman or not.

Ms. HOLTZMAN. Would it subject American citizens or U.S. persons—I guess that is the term used in the bill—to surveillance if, in a peaceable manner, they engaged in activities that relate to the conduct of foreign affairs of the United States?

Mr. MURPHY of Illinois. If they were exercising their first amendment rights, U.S. persons would not be the subject of this type of surveillance as the lady envisions.

Ms. HOLTZMAN. I thank the gentleman for his assurance.

Mr. DRINAN. Mr. Chairman, if the gentlewoman will yield, why should we not drop lines 17 and 18? I know that was in the Senate bill, and the Senate bill read at one time the successful conduct of U.S. foreign affairs.

The gentleman from Illinois (Mr. MURPHY) says there is no intention against American citizens who may be protesting, so why do we not just drop lines 17 and 18 seeing the bill relates only to the security of the United States.

Mr. MURPHY of Illinois. I can say to the gentleman from Massachusetts (Mr. DRINAN) that this language was suggested by the administration when they

testified before the committee, as the type of activity they were referring to.

The gentlewoman from New York (Ms. HOLTZMAN) brought up the fact it does not apply to this particular section. The gentleman from Massachusetts (Mr. DRINAN) says why should we not strike that out? The answer is no because there are circumstances under which the counter-intelligence divisions of the FBI and the NSA consider important, and would bring in under that definition.

Mr. DRINAN. But this is relating to the national defense or security of the United States so that that does broaden the vast powers that are vested in the CIA and the FBI, and they simply can state that it is necessary to have surveillance on certain American citizens because the information to be obtained is necessary for the United States to conduct the foreign affairs of the United States, they do not have to say it is necessary to the national defense.

The CHAIRMAN pro tempore. The time of the gentlewoman has again expired.

(On request of Mr. MURPHY of Illinois, and by unanimous consent, Ms. HOLTZMAN was allowed to proceed for 2 additional minutes.)

Mr. MURPHY of Illinois. Mr. Chairman, will the gentlewoman yield further?

Ms. HOLTZMAN. I yield further to the gentleman from Illinois.

Mr. MURPHY of Illinois. I would suggest that the gentleman turn to page 30 and read the definition of "foreign power" and what we mean by foreign power under that definition.

Mr. DRINAN. This section is speaking only, on page 13 and 14, that if this operation, that is a U.S. person, who wishes to demonstrate, so that it is necessary to obtain this surveillance because the information to be obtained is necessary to the conduct of the foreign affairs of the United States, that is far and above, it is much wider than just relating to national defense or security.

Mr. MAZZOLI. Mr. Chairman, if the gentlewoman would yield, in answer to the last question of the gentleman from Massachusetts (Mr. DRINAN) I would refer him to page 32 of our bill, at line 4, which protects the kind of person who would be targeted. I think this is a very important distinction because, in answer to what the gentlewoman also brought up, in order for a U.S. person, that is an American citizen or a resident alien, to be targeted, that person has to fit into the category on page 32. There is a criminal standard that that person has to measure up to. So, taking part in some activity relating to the arms sale to Turkey, or the embargo thereof, is not a criminal violation.

Ms. HOLTZMAN. Mr. Chairman, if I might refine my question a little, would this bill, let us say, allow a wiretap on a foreign power or its agent solely for the purpose of getting information about Americans who are engaging in a perfectly peaceful conduct? For example, would it permit wiretapping an agent of the Greek Government in order to find out whether or not Americans were going to engage in a protest against the arms sale to Turkey? I am very concerned that we in no way permit any such surveillance.

Mr. FOWLER. Mr. Chairman, if the gentlewoman will yield, the answer is an unequivocable no under the committee bill. It may be questionable now that the McClory amendment has been adopted.

The CHAIRMAN pro tempore. The time of the gentlewoman has again expired.

(On request of Mr. MAZZOLI and by unanimous consent, Ms. HOLTZMAN was allowed to proceed for 2 additional minutes.)

Ms. HOLTZMAN. I thank the gentleman for yielding and I yield further to the gentleman from Georgia.

Mr. FOWLER. I appreciate that very much.

Under the committee bill, the answer is no.

Now that we have no warrant to protect U.S. citizens from the very kind of abuse that might occur under the McClory substitute or under the McClory amendment which was adopted last night, we have to be even more vigilant that that does not occur.

However, I asked the gentleman from Kentucky to yield to me so that I could answer the original question which he has just elaborated upon.

First of all, when we have a U.S. person involved, the criminal standard has to apply that that person is either engaging in criminal activity or is likely to engage in criminal activity.

Ms. HOLTZMAN. I understand that would be the case if the U.S. person were the target of the surveillance; but what if the U.S. person is not the nominal target, but is the real target? Would this bill nonetheless authorize the intelligence agencies to obtain a warrant to snoop on foreign powers or persons for the purpose solely or primarily of getting information about Americans and American conduct? That is really my question.

Mr. FOWLER. If I may respond, the gentlewoman from New York undoubtedly knows about the Pike committee and the Church committee, on both of which the gentleman from Illinois (Mr. MURPHY), as subcommittee chairman, served. They have documented those abuses where a foreign agency or a foreign organization was targeted just to collect information on Americans.

Ms. HOLTZMAN. Yes; that is my point.

Mr. FOWLER. Therefore, we wrote into this bill the judicial protection that in an application for a tap, the magistrate should evaluate the reason for that tap in order to afford protection. Unfortunately, the McClory amendment knocked out that provision.

The CHAIRMAN pro tempore. The time of the gentlewoman from New York (Ms. HOLTZMAN) has again expired.

(On request of Mr. MAZZOLI and by unanimous consent, Ms. HOLTZMAN was allowed to proceed for 2 additional minutes.)

Mr. MAZZOLI. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I thoroughly concur with what my friend, the gentleman from Georgia (Mr. FOWLER), has said.

I think that that protection which our bill, in the original form H.R. 7308, provided did protect the American citizen who is the incidental subject of a targeted search or surveillance, let us say, of the Turkish Embassy or of some foreign power.

Last night on this very floor I suggested that the committee bill did protect against that by requiring minimization procedures to be in effect and approved by the judge before the tap was put on. Further, if the judge, after inquiring into the matter, determined that this was an indirect effort to really target American citizens by going through this facade of targeting some foreign power solely to get this information, the original bill—now it is changed—would have said that there are minimization procedures as to this, and those minimization procedures would be periodically reviewed by the court.

When this committee goes back into the House, I hope we will have a chance to take another look at the McClory amendment. That is why I opposed it last night. While I am sure it is well-intended, I think it has a pernicious effect.

Ms. HOLTZMAN. I thank the gentleman from Kentucky for his assurance.

Let me just ask again under the original bill, not as amended by the gentleman from Illinois if the courts were to find that the objective of the wiretap or of the surveillance was solely or essentially to get information about American people or the conduct of American citizens here in the United States or U.S. persons, even though the matter were related to foreign affairs in some way, that surveillance would not be authorized in the bill?

Mr. MAZZOLI. Absolutely not. The gentlewoman from New York is correct.

Ms. HOLTZMAN. I thank the gentleman for his assurance.

Mr. McCLORY. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I would like to point out that with or without the McClory amendment, we have minimization procedures which are prescribed and must be adhered to.

If we had the abuses to which the gentleman from Kentucky (Mr. MAZZOLI) makes reference, then we have abuses which we can take care of both the congressional oversight and by appropriate action against anybody who is abusing the authority.

Mr. MAZZOLI. If the gentlewoman will yield, Mr. Chairman, one of the important distinctions of those minimization procedures to which the gentleman refers would then involve solely an executive function, reviewed by nobody.

Mr. BOB WILSON. Madam Chairman, I move to strike the requisite number of words.

I would like to clarify the colloquy which occurred here with respect to the McClory amendment.

The McClory amendment does not affect U.S. persons as far as the warrant

requirement is concerned. The statement made by the gentleman from Georgia (Mr. FOWLER) is completely inaccurate in that respect.

Mr. FOWLER. Madam Chairman, will the gentleman yield?

Mr. BOB WILSON. I yield to the gentleman from Georgia.

Mr. FOWLER. Madam Chairman, I would like the gentleman to specify in what way my statement was inaccurate.

Mr. BOB WILSON. The McClory amendment removes the warrant requirement for non-U.S. persons only; is that not correct? And U.S. persons are not only subjected to a warrant requirement in order for them to be surveilled, but also, they are protected through the minimization procedures.

Both the gentleman from Georgia and the other gentleman said that the McClory amendment took this right away from U.S. citizens, and that is completely unfair and wrong.

Mr. FOWLER. Madam Chairman, if the gentleman will yield further, I will be delighted, of course, to let the author of the amendment correct me if I make any inaccurate statements. First, however, I would like to have an opportunity to respond.

First of all, the question which the gentlewoman from New York (Ms. HOLTZMAN) asked was whether or not there was judicial protection for American citizens who are surveilled through a tap which was placed on a foreign entity.

I am sure the gentleman from Illinois (Mr. McCLORY) will agree that under his amendment there is no judicial protection under that circumstance and that he inserts minimization protection which are, as the gentleman from Kentucky (Mr. MAZZOLI) pointed out, solely under the control of the executive branch.

The whole thrust of our legislation was to try to keep this Government, or any subsequent Government, from tapping a foreign power under the ruse of collecting foreign intelligence information when it is really trying to collect nonintelligence information about Americans. The amendment offered by the gentleman from Illinois would not give judicial protection in that instance.

Mr. McCLORY. If the gentleman will yield, I would like to point out that if there is abuse of the authority which is granted, if there is some ruse employed, the guilty person is going to be subjected to criminal penalties under the McClory amendment or without the McClory amendment. So the question is as to whether or not we are going to require a judicial warrant when we want to target a foreign power or a foreign agent. It could be a foreign spy.

Let me point out that the minimization procedures are minimization procedures which are developed and put in place by the Executive. The judiciary does not have anything to do with either developing or promulgating these minimization procedures, and they should not. I am fearful that with the intervention of the courts they may try to usurp authority that is not granted to them in this legislation. But to suggest that the court is going to review the minimization procedures, then, this it seems to me is an aberration. It is an irrelevant explanation of this legislation. The court is supposed to be there presumably to protect the Attorney General or those who are exercising authority under his direction. They claim that they want this for the Attorney General and for the FBI agents, and so on, who have been sued or who are not going to be sused any more, and it may be that this legislation may discourage some of the suits. But let me say that if the Attorney General or others are abusing their authority, whether they have a court order or they do not have a court order, there is a right to sue and to recover, and the bill provides for it.

Mr. BOB WILSON. Madam Chairman, I yield back the remainder of my time.

AMENDMENT OFFERED BY MR. RAILSBACK

Mr. RAILSBACK. Madam Chairman, I ask unanimous consent to offer a clarifying amendment not previously printed in the RECORD, but which I have discussed with both sides and which I believe to be acceptable.

The CHAIRMAN pro tempore (Mrs. MEYNER). Is there objection to the request of the gentleman from Illinois?

Mr. MURPHY of Illinois. Reserving the right to object, I would just say, Madam Chairman, if we could have the amendment read for the benefit of all of the members of the Committee, it would clarify it.

The CHAIRMAN pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. RAILSBACK: In the amendment offered by Mr. McCLORY, section 102(b)(4)(A)(1) is amended by adding the words "unobtrusively and" before the words "in such a manner"; and on page 50, lines 8 and 9, add the words "unobtrusively and" before the words "in such a manner".

Mr. MURPHY of Illinois. Madam Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois (Mr. RAILSBACK)?

There was no objection.

Mr. RAILSBACK. Madam Chairman, I offer this amendment to insure that H.R. 7308 will not impose new and onerous burdens of compliance on those telephone companies called upon to assist in the establishment of electronic surveillances.

Currently, I am told, telephone company assistance—pursuant to court order in criminal proceedings, authorizations of the U.S. Attorney General in national security cases—is limited to providing line access information and, when requested, a private line from the source of the tap to the listening post. All physical connections to the intercepted telephone line, however, are made by law enforcement personnel who also provide, connect, and operate listening or recording devices.

Language contained in this measure has been interpreted by some as opening the door to greater demands for telephone company involvement such as: The furnishing of monitoring equipment, the use of telephone company employee identification cards to gain access to customer premises, or even the use of telephone company personnel for access and listening device placement in customer premises. Such a direct role in electronic surveillance by the telephone companies would, in my opinion, be inappropriate. It would seriously conflict with the responsibility of these companies to safeguard the privacy of their customers.

The amendment which I am proposing is quite simple. It would merely replace the uncertain language contained in H.R. 7308 with the judicially tested and defined language found in the Federal Omnibus Crime Control Act. Found at 18 U.S.C. section 2518(4) this language provides that telephone companies will provide the technical assistance necessary to accomplish the interception "unobtrusively". This language is preferable over that found in the legislation currently under consideration because it has proven workable over a number of years, it is compatible with the responsibility owed by telephone companies to their customers, and its meaning has been clearly refined by judicial interpretation.

I urge my colleagues on both sides of the aisle to support this simple amendment.

Mr. McCLORY. Madam Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman for yielding.

I am familiar with the gentleman's amendment, and I see no objection to the amendment.

Mr. MURPHY of Illinois. Madam Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Illinois.

Mr. MURPHY of Illinois. I thank the gentleman for yielding.

I would say to my colleague, the gentleman from Illinois, that we have discussed this amendment. The amendment that he offers makes it clear that the statute does not authorize the Government to request cooperation from a common carrier that is not authorized under title III of the Omnibus Crime Control Act of 1968. I made this point yesterday in colloquy with the gentleman from Wisconsin (Mr. KASTENMEIER) and the gentleman from Ohio (Mr. ASHBROOK) on the floor. We are not requiring anything other than what is required now under title III of the act I just mentioned.

Mr. RAILSBACK. I want to thank the gentleman very much.

Mr. MURPHY of Illinois. I will support the amendment, and I appreciate the gentleman's bringing it to our attention.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Illinois (Mr. RAILSBACK).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. KEMP

Mr. KEMP. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KEMP: Page 62, after line 15, insert the following new subsection:

(l)(1) Notwithstanding any other provision of this title, whenever the President

has reason to believe that, based upon information obtained through an electronic surveillance under this title or otherwise, an individual who has diplomatic immunity conferred by the United States is, within the United States, intercepting by electronic means the communications of individuals in the United States and that such intercepting of communications is being conducted on behalf of a foreign power and in violation of the laws of the United States, the President shall—

(A) so inform the chairman and ranking minority member, or, in his discretion, the members, of the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate;

(B) except as provided under paragraph (2), so inform any individual believed to be a particular target of such intercepting of communications in order that such individual may take such precautions as such individual considers advisable; and

(C) except as provided under paragraph (2), so inform the Ambassador or Charge d'Affaire or other principal representative of such foreign power to the United States and demand that such intercepting of communications be ceased immediately.

(2) The President shall not be required to comply with the provisions of subparagraph (B) or (C) of paragraph (1) in any case in which the President certifies in writing to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate that to comply with the provisions of such subparagraph would cause serious damage to the national security of the United States.

Mr. KEMP (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. KEMP. Madam Chairman, my amendment would require the President to take the following actions when it became apparent that electronic communications of U.S. persons were being intercepted and monitored by foreign governments or their agents. First, the President would be required to notify such person that his communications were being subjected to electronic surveillance by the foreign government. Second, the President would be required to notify the foreign government to cease and desist such surveillance, since the act is in violation of U.S. law. The President would be relieved of this responsibility in the event that he notify the House Permanent Select Committee on Intelligence and the Select Committee on Intelligence of the other body that to comply would cause grave harm to the national security interests of the United States.

Information has been reported recently in the press that millions of Americans are having their telephone calls monitored and recorded by the KGB from various locations in the United States. Further, the press reports that the Soviets are engaged in electronic surveillance of Government activities and defense contractors, private businesses, stock and commodity exchanges, national and international banking institutions, and perhaps even the press, universities and other centers of information and research concentration.

It would appear that the Soviets carefully plan for this activity by determining the routes of communications, so as to optimize intercept capability. Further, it appears that the locations for new consulates and trade missions have been carefully selected to provide even greater opportunities for the Soviets to intercept personal information, and business and monetary secrets of our citizens and corporations. This situation could grow more serious in the near future as new consulates and trade missions are opened. Further, the techniques involved in electronic surveillance are neither technologically difficult, nor expensive. There is no guarantee that other foreign governments, and their intelligence organizations, will not similarly invade the rights to privacy guaranteed under the provisions of the fourth amendment.

The bill under consideration would provide protection to those few U.S. persons who were subjected to electronic surveillance by our intelligence organizations and, under the provisions of Executive Orders 11905 and 12036, only a few U.S. persons have been subjected to electronic eavesdropping. It is ironic that, during this same period, millions of American citizens have had their privacy right violated with impunity by the Soviet Union.

The House in dealing with this legislation has a responsibility to the American people to do all in its power to protect their right to privacy. Apparently, the fourth amendment provisions of our Constitution do not apply to acts of foreign governments, but are limited to acts of the Government of the United States. In view of the activities of the intelligence services of foreign governments operating against U.S. persons within our territory, I believe we must provide statutory protection to limit these criminal actions. Adoption of my amendment would accomplish these objectives by warning U.S. persons of the fact, and notifying foreign governments to cease and desist, unless the President personally determined that to do so would cause grave harm to the national security interests of the United States.

Madam Chairman, I urge support for this amendment.

Mr. McCLORY. Madam Chairman, I rise in support of the amendment.

Madam Chairman, I want to commend the gentleman from New York (Mr. KEMP) on the amendment that is being offered. I think at a time when we are seeking to protect the privacy of U.S. citizens through our own efforts and through actions of our executive branch, and to the extent that we may be also involving the courts in this matter of protecting the privacy interests of U.S. persons, to ignore the fact that Americans' privacy is being violated in a wholesale way, as is reported to us through the press and through the debates that were carried on in the other body at the time this measure was debated there, seems to me to be quite unthinkable.

This is a very modest approach to the subject of protecting U.S. citizens against intrusion by electronic surveillance of a foreign power right in our midst, in this city, and perhaps in other cities and other areas of our country. To the extent that these reports are or may be true, it seems to me that the very least we can do is to adopt this amendment.

It is, of course, a further protection to U.S. citizens. In part of the debate we have had here, we talked about protecting the incidental rights of American citizens whose communications are incidentally listened into—that is, not intentionally, but just because they happen to get overheard accidentally or incidentally. What this amendment would do would be to attack that type of electronic surveillance which is directly or deliberately imposed upon American citizens, so I cannot see that there is any reason for this body not to support this.

The bill that the gentleman has sponsored and that is sponsored in the other body by Senator MOYNIHAN goes a long way and deals precisely with this subject. I might say that the amendment was drafted very carefully in order to be sure that it was germane and was not objectionable from a parliamentary standpoint. It seems to me that it is entirely appropriate that we should adopt it.

Mr. STRATTON. Madam Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from New York.

Mr. STRATTON. Madam Chairman, I would just like to join the gentleman from Illinois in support of the amendment of my colleague from New York (Mr. KEMP). As a matter of fact, I have an amendment that bears on this same situation, which Senator MOYNIHAN has recently brought to the attention of all of us.

I think the gentleman's amendment is a very valuable addition to the bill, and at the proper time in title III I shall be offering my own amendment which will, I believe, further provide some restrictions in connection with the same situation as the amendment of the gentleman from New York (Mr. KEMP).

Mr. McCLORY. I thank the gentleman.

Mr. MURPHY of Illinois. Madam Chairman, I rise in opposition to the amendment. It serves no useful purpose here in furthering the dialog on H.R. 7308 or in protecting Americans from unlawful foreign surveillances. The President, the intelligence agencies, and the congressional intelligence committees share the gentleman's concern and are fully aware of the intrusive activities that some governments engage in within our borders.

It is a sensitive and complex problem with sweeping intelligence and diplomatic ramifications.

I suggest to the gentleman that I think any further discussion here of the sensitive issues involved can only serve to aggravate the underlying problem which has nothing to do with the merits of H.R. 7308.

I assure the gentleman and my colleagues in the House that this Member

and the Intelligence Committee will maintain the closest possible scrutiny of this delicate issue.

I think that on the floor of the House with our visitors and guests in the House is no place to discuss the sensitive issues involved.

Mr. KEMP. Madam Chairman, will the gentleman yield?

Mr. MURPHY of Illinois. I yield to the gentleman from New York.

Mr. KEMP. Madam Chairman, I respect the gentleman's position. The gentleman knows I am not about to reveal anything that would hurt this Nation or its relations with other countries or the privacy of U.S. citizens. So I share that belief as far as the gentleman is concerned. I give him credit for that. I only bring it out because there have been reports about it. It was related in the Rockefeller report to the American people. So I apprecate the gentleman's attempts to deal with this quietly and in a proper forum, and I regret to having to bring it up, but it seems to me it is a legitimate concern to the American people, not by virtue of a KEMP or a MOYNIHAN bringing it up, but it was the subject of the Rockefeller report.

But if it is simply a matter of codifying what the gentleman has suggested, I cannot understand the gentleman's opposition to the amendment, thus making it a bigger issue.

It is just that it seems that this has been going on for quite some time? That is my only concern.

Mr. MURPHY of Illinois. Let me say that the methods the gentleman speaks about are very sensitive and sophisticated.

I just think now that, to go any further today with this dialog would be ill-advised.

Mr. ASHBROOK. Mr. Chairman, I move to strike the last word and I rise in support of the amendment offered by the gentleman from New York (Mr. KEMP).

Mr. Chairman, this amendment seems to present several of the arguments that I have heard on many amendments. For instance, I have heard it said a number of times, against amendments that I bring in that, well, a previous President agrees with the Carter administration on this bill so that makes it pass the litmus paper test.

Here it has been said that it would be premature to tread in this area. Let us be fair about it, Soviet eavesdropping was done in a previous administration and little was done, if anything. We have had the best part of 2 years of the new administration and little is done if anything. So it is not a partisan issue. I think there was a degree of allowing this to be the victim of détente, of looking the other way in both administrations. So it is not a partisan matter.

Mr. MURPHY of Illinois. Will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Illinois.

Mr. MURPHY of Illinois. The gentleman says nothing has been done. I do not know if the gentleman was present in the hearings, but definite moves have been made by the executive branch and the Secretary of State in this matter. They are in the midst of bearing fruit. Also the fact that protective measures are being directed at those individuals that have been conducting it.

The gentleman is fully aware of what those moves are without my describing them today.

Mr. ASHBROOK. That is right, and the gentleman indicated that some people have been contacted, but the sheer multitude of eavesdropping indicates if there are tens of thousands of American conversations being monitored, nobody is making an effort to contact tens of thousands of people.

Mr. MURPHY of Illinois. I will say to the gentleman that the most sensitive, the people that have the most to lose have been contacted.

Mr. ASHBROOK. Then let us not get caught in that trap. All the arguments I have heard have been made, the gentlewoman from New York (Ms. HOLTZMAN) presented them, and I have heard them any number of times. We are supposedly vigilant for all Americans' rights. How many times have I heard it said in this debate that we must make sure we protect the rights of Americans?

I think the Kemp amendment is a pretty good test of whether Congress wants to show it is zealous to protect Americans' rights against our Government and against actions directed by Communist agents against Americans.

Mr. MURPHY of Illinois. I am sure the gentleman recognizes the fact that we gave the counterintelligence division $10 million in the last appropriation here for this very purpose.

Mr. ASHBROOK. I would add one point to my colleague, the gentleman from Illinois, and that is that I do not see that the Kemp amendment does anything that would be adverse to our national security or to our intelligence gathering effort. It merely requires the President of the United States to indicate what is going to be done on this subject. It is not going to trespass into the intelligence field.

Mr. KEMP. Mr. Chairman, if the gentleman would yield, I would say, just to enter into this colloquy, that this issue was fully aired and discussed on April 20 in the other body.

I can understand the gentleman's concerns, and they are shared by me, but I want to remind the gentleman that the article pubulished in the New York Times, which suggests that the administration is mapping a secret plan to counteract Soviet activity is kind of interesting, because here we are mapping out a public plan, a congressional plan to take care of domestic surveillance, and yet we are working on a secret plan, according to the New York Times, to deal with the activities of the Soviets.

Why are we so sensitive about that and less sensitive about the intelligence gathering agencies of the U.S. Government. It seems to me to be a little bit counterproductive.

Mr. MURPHY of Illinois. We are talking about a sensitive apparatus and sensitive methods. We are not talking about the fourth amendment rights of American citizens, basic rights under the Bill of Rights.

Let me say, further, that the junior Senator from New York that brought this up in the Senate, after he made his point, he withdrew the amendment which you can see if you read the debate.

Mr. KEMP. I have.

Mr. MURPHY of Illinois. That the Senate committee was working on this, too, and they have the same information that we have.

Mr. ASHBROOK. Mr. Chairman, let me reclaim my time to say that my colleague, the gentleman from New York (Mr. KEMP), is not becoming involved in sensitive apparatuses. He is not becoming involved in foreign policy. He is not becoming involved in intrigue. All he is saying is that this foreign surveillance is going on on a massive scale and it deserves some attention. We know that to be a fact.

Mr. Chairman, there is no reason that the Congress should not at least recognize that fact in what we are doing, not with respect to countermeasures, not with respect to sensitive equipment, but to emphasize the knowledge of this invasion of privacy, indeed, criminal invasion of privacy of the American people by the Soviet Union, to escalate that knowledge of something which is at least known by the public. Countermeasures or what is being done to protect us has nothing to do with the Kemp amendment.

Mr. BOLAND. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Let me suggest to my very good friend—and he is my friend—why does he not perform an act of statesmanship here, as was done by the junior Senator from New York? He has made his point in offering the amendment. Why does he not withdraw it?

One of the reasons I suggest that he do it is that as intelligent as he is, as smart and as persuasive as he is, he knows that this is a matter with ramifications which really travel beyond the matter which we are discussing today in this foreign intelligence surveillance bill. The gentleman from New York (Mr. KEMP) knows that.

He also knows that those ramifications do embrace other agencies of the Government such as the State Department and the Department of Commerce.

Mr. Chairman, it would occur to me that this is really not the place in which to accept this amendment.

The gentleman from New York (Mr. KEMP) has his own bill. He knows that he will get a hearing on that bill because it is a matter which the Congress is very interested in. He knows that he is going to get a hearing on the bill. He can bring that matter to the attention of the Congress at that time; and I am sure that with the persuasiveness of which he is so capable, we will get a bill which will answer the problems that he and the junior Senator from New York are so interested in.

Furthermore, the gentleman from

New York (Mr. KEMP) knows that the President is worrying about this matter and that the Congress is getting a look at it, as this committee is, and as are other committees, incidentally, of the House and Senate, too. He also knows that the President and the administration are engaged in the study of this very difficult problem; and hopefully, it will be resolved.

Again, why does not the gentleman perform that act of statemanship at this point? Why does he not withdraw his amendment? He is going to get a lot of credit for it anyhow.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I am sorry that the gentleman from Massachusetts (Mr. BOLAND) suggests that I might be doing this simply to get credit.

I am doing it to get the Soviets to cease and desist their electronic surveillance of American citizens, which now mounts into the tens of thousands or more. This fact has already been confirmed by the gentleman as well as by our friend, the gentleman from Illinois (Mr. MURPHY).

My point is that if we knew about this, why was not something done in conjunction with bringing this bill to the floor? Why am I now being asked to remove the amendment from consideration and to be a statesman and lower the profile of our concern for the rights of American citizens?

Why was not this matter brought to the attention of the committee at an earlier time so that we could have had a bill that would have dealt with both of these problems, not only the surveillance of American citizens by domestic intelligence agencies, but also that of foreign intelligence agencies?

Mr. BOLAND. That is a good question, and it deserves an answer.

Let me say emphatically to the gentleman from New York that I do not think the gentleman offered his amendment for the purpose of getting publicity. I am aware of his intense interest in this matter as well as of the interest of a lot of Members of Congress, a lot of members of this committee, and a lot of members of the New York delegation.

One of the reasons I presume—at least, it is my judgment—that we did not include this matter in this bill is that we are not the only committee involved here. The International Affairs Committee would be involved in this matter; there is no doubt about it. There are some diplomatic ramifications. Let me indicate to the gentleman, we had enough difficulty with the foreign surveillance intelligence bill without impacting with something that might give us additional trouble. That is my response to the gentleman from New York.

Mr. KEMP. Will my friend, the gentleman from Massachusetts, yield again?

Mr. BOLAND. I yield to the gentleman.

Mr. KEMP. I thank the gentleman for yielding.

This act creates or amends all of the applicable law on electronic surveillance, and it seems, therefore, that any electronic surveillance undertaken by an intelligence-gathering source, domestic or foreign, in this country, is a violation of the specific provisions of this bill. I cannot understand why the Congress ought not make clear our concern for these violations and force the Soviets to cease and desist. I personally would like to make them persona non grata, but I understand that might not be germane.

We worked, as the gentleman from Illinois (Mr. MCCLORY) said, with the Parliamentarian in trying to work out something that would be acceptable. It seems to me a reasonable attempt to assure the people of this country that we are concerned as much about their rights vis-a-vis foreign intelligence services, as we are about their rights vis-a-vis our own agencies. So I rest my case and hope that the gentleman will support it.

Mr. BOLAND. Mr. Chairman, I think this is the wrong place and the wrong time for this particular amendment, and I would hope that the committee would reject it.

The CHAIRMAN pro tempore (Mr. MURTHA). The question is on the amendment offered by the gentleman from New York (Mr. KEMP).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. KEMP. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

The CHAIRMAN pro tempore. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to report their presence. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 732]

Abdnor	Conyers	Guyer
Ambro	Crane	Hagedorn
Ammerman	Danielson	Hansen
Andrews, N. Dak.	Davis	Harrington
Archer	Delaney	Harsha
Armstrong	Dellums	Hawkins
Bellenson	Dent	Holt
Bingham	Diggs	Holtzman
Bonker	Duncan, Oreg.	Huckaby
Brodhead	Emery	Kasten
Burke, Calif.	Erlenborn	Krueger
Burke, Fla.	Evans, Ga.	Leggett
Burton, Phillip	Fary	Lehman
Byron	Fish	Long, La.
Cederberg	Flowers	Lundine
Chisho'm	Forsythe	McCloskey
Clawson, Del	Fraser	McCormack
Clay	Frey	McDonald
Cochran	Gibbons	McFall
	Goldwater	Madigan
	Mahon	Rinaldo
	Mathis	Risenhoover
	Meeds	Roncalio
	Mikva	Rooney
	Miller, Calif.	Runnels
	Murphy, N.Y.	Santini
	Neal	Scheuer
	Ottinger	Shipley
	Pepper	Sisk
	Pettis	Skubitz
	Pike	Solarz
	Pressler	Staggers
	Quayle	Steed
	Quie	Symms
	Quillen	Teague
	Rangel	Thone
		Treen
		Tsongas
		Tucker
		Waggonner
		Waxman
		Whitten
		Wiggins
		Winn
		Wright
		Yatron
		Young, Alaska
		Young, Tex.
		Zablocki
		Zeferetti

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. MURTHA, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 7308, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 327 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

RECORDED VOTE

The CHAIRMAN pro tempore. The pending business is the demand of the gentleman from New York (Mr. KEMP) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 154, noes 230, not voting 48, as follows:

[Roll No. 733]

AYES—154

Anderson, Ill.	Forsythe	Moorhead, Calif.
Andrews, N. Dak.	Frenzel	Mottl
Applegate	Gammage	Myers, Gary
Archer	Gaydos	Myers, John
Ashbrook	Gilman	Nichols
AuCoin	Goldwater	Nowak
Bafalis	Goodling	O'Brien
Bauman	Gore	Oberstar
Beard, Tenn.	Grassley	Pritchard
Bennett	Green	Pursell
Biaggi	Hammer-schmidt	Quayle
Bowen	Harsha	Railsback
Breaux	Heckler	Regula
Brinkley	Hillis	Rhodes
Broomfield	Holt	Rinaldo
Brown, Mich.	Holtzman	Robinson
Brown, Ohio	Horton	Rousselot
Broyhill	Hyde	Rudd
Buchanan	Ichord	Runnels
Burgener	Jeffords	Ruppe
Butler	Johnson, Colo.	Santini
Caputo	Kemp	Sarasin
Carter	Kildee	Satterfield
Cederberg	Kindness	Sawyer
Clausen, Don H.	LaFalce	Schulze
Cleveland	Lagomarsino	Sebelius
Cohen	Latta	Shuster
Coleman	Leach	Smith, Nebr.
Collins, Tex.	Leggett	Snyder
Conable	Lent	Spence
Conte	Levitas	Stangeland
Corcoran	Livingston	Stanton
Coughlin	Lott	Steiger
Cunningham	Lujan	Stockman
Daniel, Dan	McClory	Stratton
Daniel, R. W.	McDade	Stump
Davis	McDonald	Taylor
Derwinski	McEwen	Treen
Devine	McKinney	Trible
Dickinson	Madigan	Vander Jagt
Dornan	Maguire	Walker
Drinan	Markey	Walsh
Duncan, Tenn.	Marks	Wampler
Edwards, Ala.	Marlenee	Watkins
Edwards, Okla.	Marriott	Weiss
Emery	Martin	Whalen
Evans, Del.	Mathis	Whitehurst
Evans, Ind.	Michel	Wilson, Bob
Fenwick	Mikulski	Winn
Findley	Miller, Ohio	Wylie
Flowers	Mitchell, N.Y.	Young, Fla.
	Moore	

NOES—230

Addabbo	Fountain	Nedzi
Akaka	Fowler	Nix
Alexander	Fuqua	Nolan
Ambro	Garcia	Oakar
Anderson, Calif.	Gephardt	Obey
Andrews, N.C.	Giaimo	Ottinger
Annunzio	Ginn	Panetta
Ashley	Glickman	Patten
Aspin	Gonzalez	Patterson
Baldus	Gradison	Pattison
Barnard	Gudger	Pease
Baucus	Hall	Pepper
Beard, R.I.	Hamilton	Perkins
Bedell	Hanley	Pickle
Benjamin	Hannaford	Pike
Bevill	Harkin	Poage
Bingham	Harrington	Preyer
Blanchard	Harris	Price
Blouin	Hefner	Rahall
Boggs	Heftel	Rangel
Boland	Hightower	Reuss
Bolling	Holland	Richmond
Bonior	Hollenbeck	Risenhoover
Bonker	Howard	Roberts
Brademas	Hubbard	Rodino
Breckinridge	Hughes	Roe
Brodhead	Ireland	Rogers
Brooks	Jacobs	Roncalio
Brown, Calif.	Jenkins	Rose
Burke, Mass.	Jenrette	Rosenthal
Burleson, Tex.	Johnson, Calif.	Rostenkowski
Burlison, Mo.	Jones, N.C.	Roybal
Burton, John	Jones, Okla.	Russo
Burton, Phillip	Jones, Tenn.	Ryan
Byron	Jordan	Scheuer
Carney	Kastenmeier	Schroeder
Carr	Kazen	Selberling
Cavanaugh	Kelly	Sharp
Chappell	Keys	Sikes
Chisholm	Kostmayer	Simon
Clay	Krebs	Skelton
Collins, Ill.	Le Fante	Slack
Conyers	Lederer	Smith, Iowa
Corman	Lloyd, Calif.	Solarz
Cornell	Lloyd, Tenn.	Spellman
Cornwell	Long, La.	St Germain
Cotter	Long, Md.	Stark
D'Amours	Luken	Steed
Danielson	Lundine	Steers
de la Garza	McCloskey	Stokes
Delaney	McCormack	Studds
Dellums	McFall	Thompson
Derrick	McHugh	Thornton
Dicks	McKay	Traxler
Dingell	Mahon	Tucker
Dodd	Mann	Udall
Downey	Mattox	Ullman
Early	Mazzoli	Van Deerlin
Eckhardt	Meeds	Vanik
Edgar	Metcalfe	Vento
Edwards, Calif.	Meyner	Volkmer
Eilberg	Milford	Walgren
English	Mineta	Waxman
Ertel	Minish	Weaver
Evans, Colo.	Mitchell, Md.	White
Evans, Ga.	Moakley	Whitley
Fascell	Moffett	Whitten
Fisher	Mollohan	Wilson, C. H.
Fithian	Montgomery	Wilson, Tex.
Flippo	Moorhead, Pa.	Wirth
Flood	Moss	Wolff
Florio	Murphy, Ill.	Wright
Flynt	Murphy, N.Y.	Wydler
Foley	Murtha	Yates
Ford, Mich.	Myers, Michael	Young, Mo.
Ford, Tenn.	Natcher	Young, Tex.
	Neal	Zablocki

NOT VOTING—48

Abdnor	Fraser	Quie
Ammerman	Frey	Quillen
Armstrong	Gibbons	Rooney
Badham	Guyer	Shipley
Bellenson	Hagedorn	Sisk
Burke, Calif.	Hansen	Skubitz
Burke, Fla.	Hawkins	Staggers
Clawson, Del	Huckaby	Symms
Cochran	Kasten	Teague
Crane	Krueger	Thone
Dent	Lehman	Tsongas
Diggs	Mikva	Waggonner
Duncan, Oreg.	Miller, Calif.	Wiggins
Erlenborn	Murphy, Pa.	Yatron
Fary	Pettis	Young, Alaska
Fish	Pressler	Zeferetti

Mr. ROBERTS changed his vote from "aye" to "no."

Mr. MAGUIRE changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. Are there any further amendments to title I?

The Clerk will read.

The Clerk read as follows:

TITLE II—CONFORMING AMENDMENTS

AMENDMENTS TO CHAPTER 119 OF TITLE 18, UNITED STATES CODE

SEC. 201. Chapter 119 of title 18, United States Code, is amended as follows:

(a) Section 2511(2)(a)(ii) is amended to read as follows:

"(ii) Notwithstanding any other law, communication common carriers, their officers, employees, and agents, landlords, custodians, or other persons, are authorized to provide information, facilities, or technical assistance to persons authorized by law to intercept wire or oral communications or to conduct electronic surveillance, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978, if the common carrier, its officers, employees, or agents, landlord, custodian, or other specified person, has been provided with—

"(A) a court order directing such assistance signed by the authorizing judge, or

"(B) a certification in writing by a person specified in section 2518(7) of this title or the Attorney General of the United States that no warrant or court order is required by law, that all statutory requirements have been met, and that the specified assistance is required,

setting forth the period of time during which the provision of the information, facilities, or technical assistance is authorized and specifying the information, facilities, or technical assistance required. No communication common carrier, officer, employee, or agent thereof, or landlord, custodian, or other specified person shall disclose the existence of any interception or surveillance or the device used to accomplish the interception or surveillance with respect to which the person has been furnished an order or certification under this subparagraph, except as may otherwise be required by legal process and then only after prior notification to the Attorney General or to the principal prosecuting attorney of a State or any political subdivision of a State, as may be appropriate. No cause of action shall lie in any court against any communication common carrier, its officers, employees, or agents, landlord, custodian, or other specified person for providing information, facilities, or assistance in accordance with the terms of an order or certification under this subparagraph.".

(b) Section 2511(2) is amended by adding at the end thereof the following new provisions:

"(e) Notwithstanding any other provision of this ttile or section 605 or 606 of the Communications Act of 1934, it shall not be unlawful for an officer, employee, or agent of the United States in the normal course of his official duty to conduct electronic surveillance, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978, as authorized by that Act.

"(f) Nothing contained in this chapter, or section 605 of the Communications Act of 1934, shall be deemed to affect the acquisition by the United States Government of foreign intelligence information from international or foreign communications by a means other than electronic surveillance as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978, and procedures in this chapter and the Foreign Intelligence Surveillance Act of 1978 shall be the exclusive means by which electronic surveillance, as defined in section 101 of such Act, and the interception of domestic wire and oral communications may be conducted.".

(c) Section 2511(3) is repealed.

(d) Section 2518(1) is amended by inserting "under this chapter" after "communication".

(e) Section 2518(4) is amended by inserting "under this chapter" after both appearances of "wire or oral communication".

(f) Section 2518(9) is amended by striking out "intercepted" and inserting "intercepted pursuant to this chapter" after "communication".

(g) Section 2518(10) is amended by striking out "intercepted" and inserting "intercepted pursuant to this chapter" after the first appearance of "communication".

(h) Section 2519(3) is amended by inserting "pursuant to this chapter" after "wire or oral communications" and after "granted or denied".

Mr. MURPHY of Illinois (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN pro tempore. Are there amendments to title II?

The Clerk will read.

The Clerk read as follows:

TITLE III—EFFECTIVE DATE

EFFECTIVE DATE

SEC. 301. The provisions of this Act and the amendments made hereby shall become effective upon the date of enactment of this Act, except that any electronic surveillance approved by the Attorney General to gather foreign intelligence information shall not be deemed unlawful for failure to follow the procedures of this Act, if that surveillance is terminated or an order approving that surveillance is obtained under title I of this Act within ninety days following the designation of the chief judges pursuant to section 103 of this Act.

The CHAIRMAN pro tempore. Are there amendments to title III?

AMENDMENT OFFERED BY MR. STRATTON

Mr. STRATTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STRATTON: Page 68, strike out line 5 and all that follows down through "of this Act," on line 8 and insert in lieu thereof the following:

EFFECTIVE DATE

SEC. 301. The provisions of this Act and the amendments made by this Act shall not take effect unless the President certifies to the Congress that no individual who has diplomatic immunity conferred by the United States is, within the United States, intercepting by electronic means the communications of individuals in the United States on behalf of a foreign power and in violation of the laws of the United States. If the President makes such a certification, the provisions of this Act and the amendments made by this Act shall take effect upon the date of such certifications.

Mr. STRATTON. Mr. Chairman, the previous amendment referred to a situation which is also at the heart of my amendment, but for different reasons. The House was unwilling to accept the amendment of the gentleman from New York (Mr. KEMP) because of the possibility that it might lead to discussions

and disclosures about the extent of our information.

My amendment also is premised on the news we have received in the press lately about the intelligence activities of certain foreign governments operating here in the United States, and even in the city of Washington.

This bill, essentially, places limitations on the operation of United States intelligence. It provides restrictions so that we do not get into the errors and abuses of the past and it requires various things—or did until the amendment of the gentleman from Illinois and the gentleman from Pennsylvania were adopted on yesterday—to be performed before intelligence collection can begin.

In effect this legislation is based on the philosophical concept enunciated, I think it was by Mr. Justice Holmes, that "it is better that one guilty man go free than that the Government play an ignoble role."

That kind of Marquis of Queensberry approach to intelligence might have been all right back in the easy-going early days of the 20th century or the last part of the 19th century; but the world that we live in today is a different world, as it was made clear yesterday in the debate. No other nation, either in the free world or the Communist world or the third world, operates by the type of system that we are proposing to place upon our intelligence services in this bill. Certainly not our number one competitor, the Union of Soviet Socialist Republics; so it is obvious that if we are going to place these limitations on our own intelligence activities, we are going to be operating at a distinct disadvantage in a tough, competitive real world where intelligence operations are sometimes matters of life and death.

It is a little bit as though you went to a football game and one team was allowed to tackle while the other team was only allowed to say, "Please slow down." Obviously, that is not the kind of situation we want to be in as far as our national security is concerned today.

Senator MOYNIHAN has already indicated the extent to which these intelligence activities are going on in Washington today. I do not want to say more about them, because, as the distinguished chairman of the subcommittee, the gentleman from Illinois (Mr. MURPHY) has said, we are indeed getting into a sensitive area. But we ought to be aware of it. So it seems to me that it is a little ridiculous for us to enact this legislation under these circumstances, because we would be in effect adopting the Unilateral Intelligence Disarmament Act of 1978.

We are going to be "good guys," we are going to be clean, we are going to play by Marquis of Queensberry rules, but we are operating in a world in which nobody else follows that same procedure.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I will yield in just a moment.

Mr. Chairman, my amendment simply says that until American citizens are not being surveilled and "intelligenced" and spied upon in our country, we are not going voluntarily to restrict our own ability to protect ourselves against that kind of surveillance or insist on comparable intelligence to protect our own security.

Mr. Chairman, I will be glad to yield now to the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding.

As I understand the gentleman's amendment, it only relates to the effective date of this legislation.

The CHAIRMAN pro tempore (Mr. MURTHA). The time of the gentleman from New York (Mr. STRATTON) has expired.

(On request of Mr. McCLORY, and by unanimous consent, Mr. STRATTON was allowed to proceed for 2 additional minutes.)

Mr. McCLORY. Mr. Chairman, will the gentleman yield further?

Mr. STRATTON. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, the legislation we are discussing here relates to restrictions and restraints which circumscribe our exercise of electronic surveillance of foreign agents and foreign powers for foreign intelligence. So all the gentleman is asking in this amendment is that the effective date of this legislalation be postponed, and that these restraints and guidelines be imposed at such time as we are assured that similar electronic surveillance of American citizens by foreign agents or foreign powers has been discontinued.

In other words, we do not want to leave ourselves open to their electronic surveillance while we are preventing ourselves from engaging in that kind of intelligence gathering.

Mr. STRATTON. Exactly. The gentleman from Illinois (Mr. McCLORY) has expressed it very clearly.

We are living in a real world in which people are zeroing in on us, and we would be foolish, it seems to me, to impose these restrictions, which everybody acknowledges do limit the effectiveness of our intelligence, at a time when we are going to be hard pressed to maintain our own operations. That is all that is involved here.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I am glad to yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, there are, of course, various constitutional restrictions in the Bill of Rights on our Government, such as the fourth amendment itself.

The argument the gentleman is making would require that we suspend the Bill of Rights until all the other countries in the world impose similar restrictions on their governments. I do not really see that that is practical.

Mr. STRATTON. Mr. Chairman, I do not think the gentleman from Ohio (Mr. SEIBERLING) was here last night when I had the opportunity to address the committee. I find that my remarks somehow never got into the RECORD, and so the gentleman may unfortunately be prevented from ever reading that "deathless prose."

What I was referring to were the fairly successful intelligence operations going on in this country during World War II and even before World War II. I believe we can all be grateful that those operations were not embargoed by the very restrictions we are instituting in this bill.

Mr. FOWLER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, speaking on behalf of the committee, if we adopt the Stratton amendment as it is proposed, including that language that requires that we postpone the effective date of this act until the President certifies to Congress that no individual with diplomatic immunity conferred by the United States is engaging in electronic surveillance in the United States, that would require us to reveal—and I stress the hypothetical nature of my example—that if we determine that friendly governments such as the Government of New Zealand, for instance, was using electronic surveilling in this country against the Government of Australia, then this would cause this act not to go into effect.

In other words, the Stratton language is so broad that, if our Government gains knowledge of any electronic surveillance by any government against any other government within the borders of this country, then this would vitiate the entire act under the Stratton amendment.

Also, as if that were not reason enough to defeat this amendment, let me say this. First, I might say that I know the position of the gentleman from New York (Mr. STRATTON), because I heard what he referred to as his "deathless prose" last night. We are trying to protect the ability of this country to preserve the finest intelligence surveillance system in the world, and if we are to certify to the Congress or to the Executive or to anybody else that we know everything about what our enemies or our allies are doing in the electronic surveillance field, we are in the old Western position of revealing how our ambush is better than their ambushes, and immediately our enemies will have ways of targeting on us to find out how we know what we know from what we must reveal if the Stratton amendment passes.

It is overly broad, it is completely unworkable, it would work against our allies as much as it would work against our enemies, and I urge rejection of the amendment.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. FOWLER. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Chairman, I would point out to the gentleman that the text of my amendment says that—

. . . intercepting by electronic means the communications of individuals in the United States on behalf of a foreign power and in violation of the laws of the United States.

It is the interception on behalf of a foreign power in violation of our laws that we are asking be certified as nonexistent before we will adopt these procedures ourselves.

In other words, the gentleman appears to be suggesting that we allow activities in violation of our laws, and I do not

think he really would want that to happen.

Mr. FOWLER. Mr. Chairman, the only place I will agree with the gentleman from New York (Mr. STRATTON) is that the basis of spying is nasty business. We are talking about spying. We are violating laws, both of this country and of others by spying, laws that are protected by the first and fourth amendments to the Constitution. What this legislation attempts to do is to set precise standards so that we balance that need for collection; that is, spying, and at the same time protect the rights of American citizens when those rights do not have to be violated.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. FOWLER. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

Mr. Chairman, I think the gentleman makes a very good point. I am against the amendment, and I join the gentleman in opposition to it.

I would ask the gentleman one further question. The administration of this, the handling, the mechanics of putting the Stratton amendment into play just completely befuddle me. If I understand the language, if the millennium ever arrives and nobody is spying on anybody, the Stratton amendment goes into effect. And what happens on the day when the spying resumes? Would the gentleman suggest that the Stratton amendment ceases to be in effect?

Mr. FOWLER. First of all, I cannot conceive of the scope of the administrative bureaucracy that would have to be set up in order for the President to make this determination.

Mr. MAZZOLI. That is right.

Mr. FOWLER. And, of course, everything the legislation is trying to protect would have to be held in abeyance.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. FOWLER. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. I thank the gentleman for yielding.

Mr. Chairman, would not the gentleman from Georgia concede that the enactment of the Stratton amendment would in effect make the President a prisoner, literally, of persons beyond Presidential control because of diplomatic immunity? It makes a mockery of the whole process, in effect.

Mr. FOWLER. I certainly agree with the distinguished gentleman.

Mr. KASTENMEIER. Certainly the amendment ought to be rejected. I agree with the gentleman.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. STRATTON).

The amendment was rejected.

AMENDMENT OFFERED BY MR. DRINAN

Mr. DRINAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DRINAN: Page 68 after line 15, add the following new section:

SUNSET PROVISION

SEC. 302. The provisions of this Act and the amendments made by this Act shall expire at the end of the five-year period beginning on the date of enactment of this Act.

Mr. DRINAN. Mr. Chairman, in general I do not favor the adoption of sunset provisions, calling for positive action by Congress to reenact a bill by a date certain. H.R. 7308, however, breaks so much new ground, contains so many provisions which are subject to differing interpretations, and deals to such a large extent with so many of our most fundamental rights, including the fourth amendment, that I believe it is essential that we reconsider this bill in its entirety after we have had an opportunity to study its implementation.

The amendment which I propose is a simple one. It states that the terms of this act shall expire 5 years after the date of its enactment. This will provide us with the time to consider the actual impact of this bill and also provide answers to the many questions which H.R. 7308 raises. How will the unprecedented three-judge special courts function? Will warrants be granted almost as a matter of course, as some fear, or will the intelligence agencies be denied the opportunity to conduct surveillance which is needed, as others believe? Can we depend upon rigid adherence to the rule of secrecy? Precisely how broadly will the intelligence agencies define the terms "foreign power" and "agent of a foreign power"? To what extent will some law enforcement agencies abuse the privileges granted by H.R. 7308 to obtain information about a wide range of individuals and activities not subject to the surveillance authorization?

One of the most important distinctions drawn by H.R. 7308 is between citizens and resident aliens on the one hand and all other persons within the United States on the other. Insofar as I am aware, there is little constitutional support for such a distinction, especially when it is a central concept of legislation which deals directly with the bill of rights. Many people in the United States are neither citizens, nor resident aliens, nor engaged in espionage of any kind. Tourists, lecturers, businessmen, scholars and others all visit the United States regularly. Yet these individuals are not accorded the same protections as citizens and resident aliens. The first and fourth amendments refer to people, not just citizens. To what extent will we, by passing this measure, diminish the scope of these amendments and subject our guests to eavesdropping? To this question, as to the others, we have no answer.

In a more general sense, a sunset provision will insure that, after a reasonable period of time within which to evaluate the act, we will be able to balance the amount and the importance of the intelligence information collected under the terms of this bill against its intrusions on our first and fourth amendment rights. The important respects in which this bill departs from our existing intelligence gathering methods mandate a comprehensive review of the act after we have seen its results. The only way to make absolutely certain that we have the opportunity to conduct such a review is by adopting a sunset provision.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. DRINAN. I will be happy to yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, it seems to me that this is most appropriate legislation in which to have a so-called sunset amendment. We are venturing into ground that has been uncharted. It is an unprecedented piece of legislation. Many aspects of this legislation are really without precedent, and consequently I think a 5-year limitation on the legislation is highly desirable.

Mr. Chairman, I am happy to support the gentleman's amendment.

Mr. DRINAN. I thank the gentleman for his support.

Mr. MURPHY of Illinois. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the purpose of this bill is to assure Americans that their rights are being protected and to provide a sound legal basis for the continuation of vital foreign intelligence programs. Having it expire in 5 years' time puts both those principles in jeopardy.

If there were to be a delay in the legislative process and the bill was not passed again on time, the status of protection of individual rights and the legality of surveillances would be endangered.

The Senate has announced that it will take a hard look at this statute on an annual basis to determine if it needs to be modified on the basis of experience. That seems a far sounder approach where such important issues are at stake and the committee will certainly pledge to do that also.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Massachusetts (Mr. DRINAN).

The question was taken, and on a division (demanded by Mr. DRINAN) there were—ayes 21; noes 28.

Mr. DRINAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the distinguished gentleman from North Carolina (Mr. PREYER).

Mr. PREYER. Mr. Chairman, I thank the distinguished gentleman from Massachusetts for yielding to me. I wish to ask the chairman of the committee at this time if I am correct in my understanding that in accordance with section 2, 2(c) of House Resolution 658, jurisdiction to study and review intelligence activities other than those dealing exclusively with the Central Intelligence Agency is to be shared concurrently with the committee by other committees that have exercised jurisdiction over these activities in the past.

The Government Information and Individual Rights Subcommittee, which I

chair, has in the past held numerous hearings on such matters as the interception of nonverbal communications by Federal intelligence agencies and the notification to victims of improper intelligence activities. For this reason, I think the subcommittee's jurisdiction in the area of intelligence surveillance has been established.

I would appreciate the comments of the gentleman from Massachusetts (Mr. BOLAND) regarding this matter.

Mr. BOLAND. Mr. Chairman, in response to the question propounded by the gentleman, let me say that his understanding of House Resolution 658, establishing the House Permanent Select Committee on Intelligence, and his reference to section 2, 2(c) of that resolution conferring jurisdiction to study and review intelligence activities other than those dealing exclusively with the CIA, is to be shared concurrently with the committee by other committees that have exercised jurisdiction over these activities in the past is correct. Those committees that have exercised jurisdiction of these activities in the past will continue to have that jurisdiction.

And as he has indicated, his Subcommittee on Government Information and Individual Rights has actually dealt with some of the matters we are dealing with, and we will continue to share that jurisdiction with his subcommittee and the full committee.

Mr. PREYER. I thank the gentleman.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. M'CLORY

Mr. McCLORY. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. McCLORY:

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Foreign Intelligence Electronic Surveillance Act of 1978".

TABLE OF CONTENTS

TITLE I—ELECTRONIC SURVEILLANCE WITHIN THE UNITED STATES FOR FOREIGN INTELLIGENCE PURPOSES
Sec. 101. Definitions.
Sec. 102. Authorization for electronic surveillance for foreign intelligence purposes.
Sec. 103. Use of information.
Sec. 104. Congressional oversight.
Sec. 105. Penalties.
Sec. 106. Civil liability.
Sec. 107. Retention of records.
TITLE II—CONFORMING AMENDMENTS
Sec. 201. Amendments to chapter 119 of title 18, United States Code.
TITLE III—EFFECTIVE DATE
Sec. 301. Effective date.

TITLE I—ELECTRONIC SURVEILLANCE WITHIN THE UNITED STATES FOR FOREIGN INTELLIGENCE PURPOSES

DEFINITIONS

SEC. 101. As used in this title:

(1) a foreign government or any component thereof, whether or not recognized by the United States;

(2) a faction of a foreign nation or nations, not substantially composed of United States persons;

(3) an entity that is openly acknowledged by a foreign government or governments to be directed and controlled by such foreign government or governments;

(4) a group engaged in international terrorism or activities in preparation therefor;

(5) a foreign-based political organization, not substantially composed of United States persons; or

(6) an entity that is directed and controlled by a foreign government or governments.

Such term shall not apply to any United States person solely upon the basis of activities protected by the first amendment of the Constitution.

(b) "Agent of a foreign power" means—

(1) any person other than a United States person who—

(A) acts in the United States as an officer, member, or employee of a foreign power; or

(B) acts or on behalf of a foreign power which engages in clandestine intelligence activities in the United States contrary to the foreign policy or security interests of the United States, when the circumstances of such person's presence in the United States indicate that such person may engage in such activities in the United States, or when such person knowingly aids or abets any person in the conduct of such activities or knowingly conspires with any person to engage in such activities; or

(2) any person who—

(A) knowingly engages in clandestine intelligence activities for or on behalf of a foreign power under circumstances which indicate that such activities are contrary to the foreign policy or security interests of the United States;

(B) knowingly engages in sabotage or international terrorism, or activities that are in preparation therefor, for or on behalf of a foreign power; or

(C) conspires with or knowingly aids or abets any person engaged in any activity described in subparagraph (A) or (B).

Such term shall not apply to any United States person solely upon the basis of activities protected by the first amendment of the Constitution.

(c) "International terrorism" means activities that—

(1) involve violent acts or acts dangerous to human life that are or may be a violation of the criminal laws of the United States or of any State, or that might involve a criminal violation if committed within the jurisdiction of the United States or any State;

(2) appear to be intended—

(A) to intimidate or coerce a civilian population;

(B) to influence the policy of a government by intimidation or coercion; or

(C) to affect the conduct of a government by assassination or kidnapping; and

(3) occur totally outside the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to coerce or intimidate, or the locale in which their perpetrators operate or seek asylum.

(d) "Sabotage" means activities that involve or may involve a violation of chapter 105 of title 18, United States Code, or that might involve such a violation if committed against the United States.

(e) "Foreign intelligence information" means—

(1) information that relates to and, if concerning a United States person, is necessary to the ability of the United States to protect against—

(A) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

(B) sabotage or international terrorism by a foreign power on an agent of a foreign power; or

(C) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or

(2) information with respect to a foreign power or foreign territory that relates to and, if concerning a United States person, is necessary to—

(A) the national defense or the security of the United States; or

(B) the conduct of the foreign affairs of the United States.

(f) "Electronic surveillance" means—

(1) the acquisition by an electronic, mechanical, or other surveillance device of the contents of any wire or radio communication sent by or intended to be received by a particular, known United States person who is in the United States, if the contents are acquired by intentionally targeting that United States person, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes;

(2) the acquisition by an electronic, mechanical, or other surveillance device of the contents of any wire communication to or from a person in the United States, without the consent of any party thereto;

(3) the intentional acquisition, by an electronic, mechanical, or other surveillance device, of the contents of any radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes, and if both the sender and all intended recipients are located within the United States; or

(4) the installation or use of an electronic, mechanical, or other surveillance device in the United States for monitoring to acquire information, other than from a wire or radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes.

(g) "Minimization procedures", with respect to a particular electronic surveillance, means specific procedures, reasonably designed in light of the purpose and technique of the surveillance, to minimize the acquisition, retention, and dissemination of nonpublicly available information concerning unconsenting United States citizens consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information. To achieve such minimization, the Attorney General shall adopt procedures which shall include, where appropriate—

(1) provisons for the destruction of unnecessary information acquired through the surveillance;

(2) provisions with respect to what information may be filed and on what basis, what information may be retrieved and on what basis, and what information may be disseminated, to whom, and on what basis;

(3) provisions for the deletion of the identity of any United States citizen acquired through the surveillance if such identity is not necessary to assess the importance of or to understand the information;

(4) provisions relating to the proper authority in particular cases to approve the retention or dissemination of the identity of any United States citizen acquired through the surveillance;

(5) provisions relating to internal review of the minimization process; and

(6) provisions relating to adequate accounting of information concerning United States citizens that is used or disseminated.

In addition, the procedure shall include provisions that require that nonpublicly available information that is not foreign intelligence information, as defined in subsection (e)(1), shall not be disseminated in a manner which identifies any individual United States citizen, without such person's consent, unless such person's identity is necessary to understand foreign intelligence information or to assess its importance; and shall allow for the retention and dissemination of information that is evidence of a crime that has been, is being, or is about to be committed and that is to be retained or disseminated for the purpose of preventing the crime or of enforcing the criminal law.

(h) "United States person" means a citizen of the United States, an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act), an unincorporated association a substantial number of members of which are citizens of the United States or aliens lawfully admitted for permanent residence, or a corporation which is incorporated in the United States, but does not include a corporation or an association which is a foreign power, as defined in subsection (a) (1), (2), or (3).

(i) "United States", when used in a geographic sense, means all areas under the territorial sovereignty of the United States and the Trust Territory of the Pacific Islands.

(j) "Aggrieved person" means a person who is the target of an electronic surveillance or any other person whose communications or activities were subject to electronic surveillance.

(k) "Wire communication" means any communication while it is being carried by a wire, cable, or other like connection furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the transmission of interstate or foreign communications.

(l) "Person" means any individual, including any officer or employee of the Federal Government, or any group, entity, association, corporation, or foreign power.

(m) "Contents", when used with respect to a communication, includes any information concerning the identity of the parties to such communication or the existence, substance, purport, or meaning of that communication.

(n) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and the Trust Territory of the Pacific Islands.

AUTHORIZATION OF ELECTRONIC SURVEILLANCE TO OBTAIN FOREIGN INTELLIGENCE INFORMATION

SEC. 102. (a) Electronic surveillance of a foreign power or an agent of a foreign power for the purpose of obtaining foreign intelligence information may be authorized by the issuance of a surveillance certificate in accordance with subsection (h). If the target of the electronic surveillance is a United States citizen, the issuance of a certificate under oath and signed by the President stating that such electronic surveillance would be in accordance with the criteria and requirements of this title shall also be required.

(b) Electronic surveillance authorized under subsection (a) may only be performed according to the terms of a surveillance certificate issued in accordance with subsection (h).

(c) Electronic surveillance may be authorized under this section for the period necessary to achieve its purpose, except that—

(1) if the target of the surveillance is not a foreign power, the period of the surveillance may not exceed ninety days; and

(2) if the target of the surveillance is a foreign power, the period of the surveillance may not exceed one year.

(d) An electronic surveillance authorized under this section may be reauthorized in the same manner as an original authorization, but all statements required to be made under subsection (h) for the initial issuance of a surveillance certificate shall be based on new findings.

(e)(1) Notwithstanding any other provision of this title, if the Attorney General or Deputy Attorney General determines that—

(A) an emergency situation exists with respect to the employment of electronic surveillance to obtain foreign intelligence information before the requirements of subsection (a) can be followed; and

(B) the factual bases exist for the issuance of a surveillance certificate under subsection (h) to approve such surveillance,

the Attorney General or Deputy Attorney General, as the case may be, may authorize the emergency employment of electronic surveillance if, as soon as is practicable, but not more than forty-eight hours after the Attorney General or Deputy Attorney General authorizes such surveillance, the requirements of subsection (a) are met as they would have been.

(2) If the target is a United States citizen, the Attorney General or Deputy Attorney General shall notify the President at the time of such authorization that the decision has been made to employ emergency electronic surveillance.

(3) If the Attorney General or Deputy Attorney General authorizes such emergency employment of electronic surveillance, he shall require that the minimization procedures required by this title be followed.

(4) If electronic surveillance is authorized under this subsection, it shall terminate when the information sought is obtained or after the expiration of forty-eight hours from the time of authorization, whichever is earliest. In the event that the requirements of subsection (a) are not met, all information obtained or evidence derived from electronic surveillance authorized under this subsection shall be destroyed within forty-eight hours of such determination, except that a record of the facts surrounding the Attorney General's or Deputy Attorney General's authorization and the failure to meet the requirements subsection (a) shall be made and preserved with all other records which under this title are required to be retained.

(f) Notwithstanding any other provision of this title, officers, employees, or agents of the United States are authorized in the normal course of their official duties to conduct electronic surveillance not targeted against the communications of any particular person or persons, under procedures approved by the Attorney General, solely to—

(1) test the capability of electronic equipment, if—

(A) it is not reasonable to obtain the consent of persons incidentally being subjected to the surveillance;

(B) the test is limited in extent and duration to that necessary to determine the capability of the equipment; and

(C) the contents of any communication acquired are retained and used only for the purpose of determining the capability of the equipment, are disclosed only to test personnel, and are destroyed before or immediately upon completion of the test;

(2) determine the existence and capability of electronic surveillance equipment being used by persons not authorized to conduct electronic surveillance, if—

(A) it is not reasonable to obtain the consent of persons incidentally subjected to the surveillance;

(B) such electronic surveillance is limited in extent and duration to that necessary to determine the existence and capability of such equipment; and

(C) any information acquired by such surveillance is used only to enforce chapter 119 of title 18, United States Code, or section 605 of the Communications Act of 1934, or to protect information from unauthorized surveillance; or

(3) train intelligence personnel in the use of electronic surveillance equipment, if—

(A) it is not reasonable to—

(i) obtain the consent of the persons incidentally subjected to the surveillance;

(ii) train persons in the course of surveillances otherwise authorized by this title; or

(iii) train persons in the use of such equipment without engaging in electronic surveillance;

(B) such electronic surveillance is limited in extent and duration to that necessary to train the personnel in the use of the equipment; and

(C) no contents of any communication acquired are retained or disseminated for any purpose, but are destroyed as soon as reasonably possible.

(g)(1) Upon the issuance of a surveillance certificate under this section, the Attorney General may direct a specified communication or other common carrier, or a landlord, custodian or other specified person, to—

(A) furnish any information, facility, or technical assistance necessary to accomplish the electronic surveillance in such a manner as will protect the secrecy of such surveillance and will produce a minimum of interference with the services that such common carrier or person provides its customers; and

(B) maintain any records concerning such surveillance or the assistance furnished by such common carrier or person that such common carrier or person wishes to retain under security procedures approved by the Attorney General and the Director of Central Intelligence.

(2) Any direction by the Attorney General under paragraph (1) shall be in writing.

(3) The Government shall compensate any common carrier, landlord, custodian, or other specified person at the prevailing rate for assistance furnished pursuant to a direction under paragraph (1).

(4) Any individual may, for reasons of conscience, refuse to comply with a direction from the Attorney General under paragraph (1).

(h) A surveillance certificate issued under subsection (a) shall be issued in writing and under oath by the Attorney General and an executive branch official or officials designated by the President from among those officials employed in the area of national security or national defense who were appointed by the President by and with the advice and consent of the Senate, and shall include—

(1) a statement—

(A) identifying or describing the target of the electronic surveillance, including a certification of whether or not the target is a United States citizen;

(B) certifying that the target of the surveillance is a foreign power or an agent of a foreign power; and

(C) certifying that each of the facilities or places at which the surveillance is directed is being or may be used by a foreign power or an agent of a foreign power;

(2) a statement of the basis for the certification under paragraph (1) that—

(A) the target of the surveillance is or is not a United States citizen;

(B) the target of the surveillance is a foreign power or an agent of a foreign power; and

(C) each of the facilities or places at which the surveillance is directed is being used or may be used by a foreign power or an agent of a foreign power;

(3) a statement of the proposed minimization procedures;

(4) a statement that the information sought is foreign intelligence information;

(5) a statement that the purpose of the surveillance is to obtain foreign intelligence information;

(6) if the target of the surveillance is a United States person, a statement that the information sought cannot reasonably be obtained by normal investigation techniques;

(7) if the target of the surveillance is not a foreign power, a statement of the basis for the certification under paragraph (4) that

the information sought is foreign intelligence information;

(8) a statement of the period of time for which the surveillance is required to be maintained;

(9) a statement of the means by which the surveillance will be effected;

(10) if the nature of the intelligence gathering is such that the approval of an electronic surveillance under subsection (b) should not automatically terminate when the described type of information has first been obtained, a statement of the facts indicating that additional information of the same type will be obtained thereafter;

(11) a statement indicating whether or not an emergency authorization was made under subsection (e); and

(12) if more than one electronic, mechanical, or other surveillance device is to be involved with respect to such surveillance, a statement specifying the types of devices involved, their coverage, and the minimization procedures that will apply to information acquired by each type of device.

USE OF INFORMATION

SEC. 103. (a) Information acquired from an electronic surveillance conducted pursuant to this title concerning any United States person may be used and disclosed by Federal officers and employees without the consent of the United States person only in accordance with the minimization procedures required by this title. No otherwise privileged communication obtained in accordance with, or in violation of, the provisions of this title shall lose its privileged character. No information acquired from an electronic surveillance pursuant to this title may be used or disclosed by Federal officers or employees except for lawful purposes.

(b) No information acquired pursuant to this title shall be disclosed for law enforcement purposes unless such disclosure is accompanied by a statement that such information, or any information derived therefrom, may only be used for or disclosed in any proceeding with the advance authorization of the Attorney General.

(c) Whenever the Government intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, against an aggrieved person, any information obtained or derived from an electronic surveillance of that aggrieved person pursuant to the authority of this title, the Government shall, prior to the trial, hearing, or other proceeding or at a reasonable time prior to an effort to so disclose or so use that information or submit it in evidence, notify the aggrieved person and the court or other authority in which the information is to be disclosed or used that the Government intends to so disclose or so use such information.

(d) Before any State or political subdivision thereof may enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of a State or a political subdivision thereof, against an aggrieved person any information obtained or derived from an electronic surveillance of that aggrieved person pursuant to the authority of this title, the State or political subdivision thereof must receive from the Attorney General an authorization to so use such information. Upon receiving such authorization, the State or political subdivision thereof shall notify the aggrieved person and the court or other authority in which the information is to be disclosed or used that the State or political subdivision thereof intends to so disclose or so use such information.

(e) Any person against whom evidence obtained or derived from an electronic surveillance to which he is an aggrieved person is to be, or has been, introduced or otherwise used or disclosed in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, a State, or a political subdivision thereof, may move to suppress the evidence obtained or derived from such electronic surveillance on the grounds that—

(1) the information was unlawfully acquired; or

(2) the surveillance was not made in conformity with an order of authorization or approval.

Such a motion shall be made before the trial, hearing, or other proceeding unless there was no opportunity to make such a motion or the person was not aware of the grounds of the motion.

(f) Whenever a court or other authority is notified pursuant to subsection (c) or (d), or whenever a motion is made pursuant to subsection (e) and the Government concedes that information obtained or derived from an electronic surveillance pursuant to the authority of this title as to which the moving party is an aggrieved person is to be, or has been, introduced or otherwise used or disclosed in any trial, hearing, or other proceeding, the Government may make a motion before the court, or if the case is before a court of a State or a subdivision thereof, then before the United States district court of the judicial district in which the case is pending, to determine the lawfulness of the electronic surveillance. Such motion shall stay any action in any court or authority to determine the lawfulness of the surveillance. In determining the lawfulness of the surveillance, the court shall, nowithstanding any other law, if the Attorney General files an affidavit under oath with the court that disclosure would harm the national security of the United States or compromise foreign intelligence sources and methods, review in camera the surveillance certificate and such other materials relating to the surveillance as may be necessary to determine whether the surveillance of the aggrieved person was lawfully authorized and conducted. In making such determination, the court may disclose to the aggrieved person, under appropriate security procedures and protective orders, portions of the application, order, or other materials if there is a reasonable question as to the legality of the surveillance and if disclosure would likely promote a more accurate determination of such legality.

(g) Except as provided in subsection (f), whenever any motion or request is made pursuant to any statute or rule of the United States or any State before any court or other authority of the United States or any State to discover or obtain surveillance certificates or other materials relating to surveillance pursuant to the authority of this title, or to discover, obtain, or suppress any information obtained from electronic surveillance pursuant to the authority of this title, and the court or other authority determines that the moving party is an aggrieved person, if the Attorney General files with the court of appeals of the circuit in which the case is pending an affidavit under oath that an adversary hearing would harm the national security or compromise foreign intelligence sources and methods and that no information obtained or derived from an electronic surveillance pursuant to the authority of this title has been or is about to be used by the Government in the case before the court or other authority, the court of appeals shall, notwithstanding any other law, stay the proceeding before the other court or authority and review in camera and ex parte the surveillance certificate and such other materials as may be necessary to determine whether the surveillance of the aggrieved person was lawfully authorized and conducted. In making this determination, the court of appeals shall disclose, under appropriate security procedures and protective orders, to the aggrieved person or his attorney, portions of the surveillance certificate or other materials relating to the surveillance only if necessary to afford due process to the aggrieved person.

(h) If the court pursuant to subsection (f) or the court of appeals pursuant to subsection (g) determines the surveillance was not lawfully authorized and conducted, it shall, in accordance with the requirements of the law, suppress the evidence which was unlawfully obtained or derived from electronic surveillance of the aggrieved person or otherwise grant the motion of the aggrieved person. If the court pursuant to subsection (f) or the court of appeals pursuant to subsection (g) determines the surveillance was lawfully authorized and conducted, it shall deny the motion of the aggrieved person except to the extent that due process requires discovery or disclosure.

(i) Orders granting motions or requests under subsection (h), decisions under this section as to the lawfulness of electronic surveillance, and, absent a finding of unlawfulness, orders of the court or court of appeals granting disclosure of surveillance certificates or other materials relating to a surveillance shall be binding upon all courts of the United States and the several States except the courts of appeals and the Supreme Court, and shall be final orders for purposes of appeal.

(j) In circumstances involving the unintentional acquisition by an electronic, mechanical, or other surveillance device of the contents of any radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes, and if both the sender and all intended recipients are located within the United States, such contents shall be destroyed upon recognition, unless the Attorney General determines that the contents may indicate a threat of death or serious bodily harm to any person.

CONGRESSIONAL OVERSIGHT

SEC. 104. On a semiannual basis the Attorney General shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all electronic surveillance under this title. Nothing in this chapter shall be deemed to limit the authority and responsibility of those committees to obtain such additional information as they may need to carry out their respective functions and duties.

PENALTIES

SEC. 105. (a) OFFENSE.—A person is guilty of an offense if he intentionally—

(1) engages in electronic surveillance under color of law except as authorized by statute; or

(2) violates section 102(a), 102(b), 102(d), 102(e), 103(a), 103(b), 103(j), or 107 or any order issued pursuant to this chapter, knowing his conduct violates such section or such order.

(b) DEFENSE.—(1) It is a defense to a prosecution under subsection (a)(1) that the defendant was a law enforcement or investigative officer engaged in the course of his official duties and the electronic surveillance was authorized by and conducted pursuant to a search warrant or court order of a court of competent jurisdiction;

(2) It is a defense to a prosecution under subsection (a)(2) that the defendant acted in a good faith belief that his actions were authorized by and taken pursuant to a surveillance certificate or otherwise did not violate any provision of this title, under circumstances where that belief was reasonable.

(c) PENALTY.—An offense described in this section is punishable by a fine of not more than $10,000 or imprisonment for not more than five years, or both.

(d) JURISDICTION.—There is Federal jurisdiction over an offense in this section if the person was an officer or employee of the United States at the time the offense was committed.

CIVIL LIABILITY

SEC. 106. CIVIL ACTION.—An aggrieved person, other than a foreign power or an agent of a foreign power as defined in section 101 (a) or (b)(1)(A), respectively, who has been subjected to an electronic surveillance or whose communication has been disclosed or used in violation of section 105 of this chapter shall have a cause of action against any such person who committed such violation and shall be entitled to recover—

(1) actual damages, but not less than liquidated damages of $1,000 or of $100 per day for each day of violation, whichever is greater;

(2) punitive damages, where appropriate; and

(3) reasonable attorney's fees and other investigation and litigation costs reasonably incurred.

RETENTION OF RECORDS

SEC. 107. All surveillance certificates and all documents used to support the issuance of surveillance certificates shall be retained for a period of not less than twenty years and shall be stored at the direction of the Attorney General under security procedures approved by the Director of Central Intelligence.

TITLE II—CONFORMING AMENDMENTS

AMENDMENTS TO CHAPTER 119 OF TITLE 18, UNITED STATES CODE

SEC. 201. Chapter 119 of title 18, United States Code, is amended as follows:

(a) Section 2511(2)(a)(ii) is amended to read as follows:

"(ii) Notwithstanding any other law, communication common carriers, their officers, employees, and agents, landlords, custodians, or other persons, are authorized to provide information facilities, or technical assistance to persons authorized by law to intercept wire or oral communications or to conduct electronic surveillance, as defined in section 101 of the Foreign Intelligence Electronic Surveillance Act of 1978, if the common carrier, its officers, employees, or agents, landlord, custodian, or other specified person has been provided with—

"(A) a court order directing such assistance signed by the authorizing judge, or

"(B) a certification under oath and signed by a person specified in section 2518(7) of this title of the Attorney General of the United States that no warrant or court order is required by law, that all statutory requirements have been met, and that the specified assistance is required,

setting forth the period of time during which the provision of the information, facilities, or technical assistance is authorized and specifying the information, facilities, or technical assistance required. No communication common carrier, officer, employee, or agent thereof, or landlord, custodian, or other specified person shall disclose the existence of any interception or surveillance or the device used to accomplish the interception or surveillance with respect to which the person has been furnished an order or certification under this subparagraph, except as may otherwise be required by legal process and then only after prior notification to the Attorney General or to the principal prosecuting attorney of a State or any political subdivision of a State, as may be appropriate. No cause of action shall lie in any court against any communication common carrier, its officers, employees, or agents, landlord, custodian, or other specified person for providing information, facilities, or assistance in accordance with the terms of an order or certification under this subparagraph.".

(b) Section 2511(2) is amended by adding at the end thereof the following new provisions:

"(e) Notwithstanding any other provision of this title or section 605 or 606 of the Communications Act of 1934, it shall not be unlawful for an officer, employee, or agent of the United States in the normal course of his official duty to conduct electronic surveillance, as defined in section 101 of the Foreign Intelligence Electronic Surveillance Act of 1978, as authorized by that Act.

"(f) Nothing contained in this chapter, or section 605 of the Communications Act of 1934, shall be deemed to affect the acquisition by the United States Government of foreign intelligence information from international or foreign communications by a means other than electronic surveillance as defined in section 101 of the Foreign Intelligence Electronic Surveillance Act of 1978, and procedures in this chapter and the Foreign Intelligence Electronic Surveillance Act of 1978 shall be the exclusive means by which electronic surveillance, as defined in section 101 of such Act, and the interception of domestic wire and oral communications may be conducted.".

(c) Section 2511(3) is repealed.

(d) Section 2518(1) is amended by inserting "under this chapter" after "communication".

(e) Section 2518(4) is amended by inserting "under this chapter" after "wire or oral communication" both places it appears therein.

(f) Section 2518(9) is amended by striking out "intercepted" and by inserting "intercepted pursuant to this chapter" after "communication".

(g) Section 2518(10) is amended by striking out "intercepted" and by inserting "intercepted pursuant to this chapter" after "communication" the first place it appears therein.

(h) Section 2519(3) is amended by inserting "pursuant to this chapter" after "wire or oral communications" and after "granted or denied".

TITLE III—EFFECTIVE DATE

EFFECTIVE DATE

SEC. 301. The provisions of this Act and the amendments made hereby shall become effective upon the date of enactment of this Act, except that any electronic surveillance approved by the Attorney General to gather foreign intelligence information shall not be deemed unlawful for failure to follow the procedures of this Act, if that surveillance is terminated or a surveillance certificate authorizing that surveillance is obtained under title I of this Act within ninety days following such date of enactment.

Mr. McCLORY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The amendment has been printed in the RECORD previously.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. McCLORY. Mr. Chairman, this is the substitute amendment about which there has been a great deal of information circulated. As a matter of fact, this is the substitute measure which has the support of a large number of Members on both sides of the aisle. A "Dear Colleague" letter was circulated bearing the signatures of 21 Democratic Members and 15 or 16 Republican Members, noting that this substitute was the preferable procedure for handling the subject of foreign intelligence and electronic surveillance.

What the substitute amendment does in essence, is to translate the existing Presidential guidelines issued formerly by President Ford and more recently by President Carter, into statutory form.

Let me say that the guidelines and restrictions are more circumscribed than are the provisions in the committee bill. For one thing there is a requirement that in order to engage in electronic surveillance of any foreign agent, foreign power, or a U.S. person, it has to be authorized by an executive department official who has been confirmed by the Senate. This is someone over whom we can exercise oversight.

If it relates to the exercise of electronic surveillance of a U.S. citizen, then it requires action by the President of the United States himself.

I do not think that there is any greater imposition on the executive department or Presidential responsibility contained in the substitute amendment. Nor is there any better way in which we can have executive department accountability. It seems to me that is where we want the accountability to be. The reason we have oversight committees is so that we can oversee what the executive does. If there are abuses, then we can take some appropriate action against them.

It is only the political personnel, the executive department officials, and the Members of Congress over whom the public has any control. We are the political entities in this great system of government, that we have and we are the ones that can be called to account for any abuses of our authority. And so it seems to me that this substitute is far superior to one which delegates to the judicial branch the authority to decide whether or not we shall have electronic surveillance.

If the judiciary abuses its authority, or serves as a patsy to the executive branch, and we find persons subjected to electronic surveillance who were not previously subjected, are we going to be able to discipline the court? Certainly not.

Or, if the judiciary denies the executive the opportunity to engage in electronic surveillance for our national security and defense purposes, are we going to be able to discipline the court? Certainly not.

If, for instance, the court decides that something that comes to its attention should be made public when, in fact, it should not be made public, is there any way to discipline the court? None whatsoever.

The only way we can discipline those charged with the responsibility regarding electronic surveillance of foreign intelligence is to repose that responsibility and accountability in the executive branch of the Government.

So, Mr. Chairman, in a sense, that is what my amendment does.

It is supported by all of the former intelligence officers, and by their entire

association. It is supported by virtually all of the former leaders in the intelligence community. If you wonder why we have support for the bill from those who have more recently been appointed, you will find that what they are saying, in effect, is that they can support the administration's bill. They can go along with it. They can live with it. And, of course, they are responding in a very obedient way to the demands of the executive.

The Washington Star has commented very favorably on this amendment. Former Deputy Attorney General Lawrence Silverman has commented favorably on this amendment.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(By unanimous consent, Mr. McCLORY was allowed to proceed for 1 additional minute.)

Mr. McCLORY. This is the last amendment. If this substitute can be adopted I can assure you that we will have effective electronic surveillance of foreign intelligence gathering while not experiencing any abuses. I can say under the existing executive guidelines that there is no evidence before our Committee on the Judiciary of any abuses, and I see none forthcoming. However, if any occur, we can find far more effective ways of taking care of them than the proposed bill.

Mr. MURPHY of Illinois. Mr. Chairman, I rise in opposition to the amendment in the nature of a substitute offered by the gentleman from Illinois (Mr. McCLORY).

Mr. Chairman and my colleagues, the McClory substitute is opposed by the administration and every intelligence agency.

It will not clear up the overriding legal issue of whether warrants are or are not required. It will not change the existing situation in which field agents are hesitant to rely on the Attorney General's orders. It sets no standard of proof to guide the executive officials in approving surveillances. Even the current executive branch guidelines require the Attorney General to find probable cause to believe that the target is an agent of a foreign power.

It allows electronic surveillance of American citizens with no showing of any connection with any criminal activity required.

The substitute allows common carriers and others to refuse to provide assistance to the government in the conduct of foreign intelligence surveillances.

Mr. Chairman, the gentleman from Illinois talked about the editorial of the Washington Star in support of his substitute. We have editorials from the New York Times, the Washington Post, the Chicago Tribune, the American Bar Association, all in support of the committee's well-thought-out legislation.

We have a letter from former President Ford.

I have talked personally with former Attorney General Levi, the present Attorney General, the President of the United States and they are all in favor of this legislation.

This legislation is the result and the work product of 3 years of intensive study of hearings and reports of over six committees. To scrap it now after all this work would appear to me to be the height of irresponsibility.

I respectfully urge my colleagues to oppose the amendment in the nature of a substitute offered by the gentleman from Illinois (Mr. McCLORY).

Mr. WRIGHT. Mr. Chairman, I hope my colleagues will reject this additional attempt to alter and redirect the entire thrust of this carefully drafted bill.

Rarely in the years that I have spent in the Congress have I seen a bill which was the product of so many labors. Rarely have I seen one which has brought together often disparate thoughts into one well-crafted piece of legislation supported by practically all of the thinking elements of our society. It is a shame that we have failed, apparently, to recognize the care and precision with which this particular legislation has been drafted.

Not only do I hope that we will reject the total McClory substitute; I hope that when a separate vote is requested in the House, we will reflect very carefully upon what was done in haste yesterday and will reject the McClory amendment which does away with the requirement of a warrant.

The requirement of a warrant was asked for by the FBI Director, Mr. Webster, when he appeared before the committee. It was asked for by the Director of the CIA, Admiral Turner. It was asked for by Chief Hinman of the National Security Agency. It was agreed to by all of those people as a protection for the agents of the United States against the jeopardy they otherwise might face with respect to criminal prosecution or civil suits.

President Carter wants this committee bill passed. President Ford wants this committee bill passed. Civil liberties groups have embraced and endorsed the committee bill. The distinguished chairmen of the Intelligence Committee of the House, the International Relations Committee of the House, the Judiciary Committee of the House, and of the Armed Services, Appropriations, and Budget Committees of the House all want this committee bill passed. The 95 U.S. Senators who voted for its companion measure want this bill passed.

Most important of all, perhaps, the Directors of the Central Intelligence Agency, the National Security Agency, and the Federal Bureau of Investigation want this committee bill passed. They believe that it will strengthen and assist them and give them tools which they have needed for a long time, and that it will clarify their rights and remove the jeopardy in which their agents sometimes are presently placed.

Mr. Chairman, I do hope the Members will recognize the enormous amount of time that has gone into the crafting of this particular piece of legislation, will respect its carefully balanced provisions, and will reject the McClory substitute; and when the time comes, on a separate vote, will reverse the narrow margin by which yesterday, in haste, the House adopted an ill-considered amendment.

Mr. RUDD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as a former FBI special agent for 20 years who spent many of those years in the foreign intelligence area, I would implore this body to adopt the McClory substitute as an alternative to H.R. 7308.

Mr. Chairman, one of the benefits of this substitute over the committee's proposal is that it will accomplish the objective of tightening up the procedures for conducting electronic surveillance for foreign intelligence purposes without compromising essential speed in emergency and other special situations.

The McClory proposal does not open up the Pandora's box of judicial involvement in the intelligence process. However, it does insure public accountability of the executive branch in its conduct of intelligence operations by requiring a much greater involvement by Congress and particularly of the special intelligence committees which we have established for that purpose.

I sincerely believe that the McClory substitute adequately meets all of the concerns which have been raised about former intelligence surveillance without compromising the essential speed and confidentiality of the intelligence activities which would occur under the committee bill.

Mr. Chairman, I urge passage of the McClory substitute.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. RUDD. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding.

I just want to point out that former President Ford, in his speech at the University of South Carolina, stated in part as follows:

> The Carter Administration has asked the Congress to pass much of that responsibility to the courts. The conduct of foreign policy is not a judicial function. Moreover, after this responsibility is split, it will no longer be possible for the American people to hold the President, his political appointees, and any involved Members of Congress responsible for misdeeds in this area.

President Ford's position has been made clear there that he does not subscribe to this business of passing the responsibility on to the courts. I would like to point out, too, that while it is true that the ACLU has tremendous input insofar as this legislation is concerned, this is merely a foot in the door. This is merely a foot in the door. What they really want to get a warrant requirement with regard to informants and informers of the FBI, and that is well known. Of course, the New York Times editorial of July 26 pointed out that in their opinion electronic surveillance was less offensive than an informant who intrudes on individuals and organizations and then informs the law enforcement agencies of the information that he has gathered. So I think that we should be very, very cautious before we venture into this area

of a warrant requirement for foreign intelligence surveillance. I am hopeful that on a rollcall vote we can have a favorable vote on this substitute and then move on by in effect translating the very valid guidelines that the Executive has established into statutory form for permanent control of foreign intelligence electronic surveillance.

I thank the gentleman for yielding.

Mr. RUDD. No intelligence agency, no police agency can operate very long without dependable sources, and that is why this McClory substitute is a necessary substitute for H.R. 7308.

Mr. Chairman, I yield back the remainder of my time.

Mr. MAZZOLI. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I would just take a brief few seconds to endorse what was recently said by the majority leader of the House, who I think eloquently stated in the well of the House the reasons why this McClory amendment, as well as the McClory amendment which was adopted by the House last night in haste, which will be revoted on in a few minutes, ought to be defeated.

H.R. 7308, which came out of the committee headed by the able gentleman from New Jersey (Mr. RODINO) and came out of the committee headed by the able gentleman from Massachusetts (Mr. BOLAND) is a very carefully developed bill which satisfies the unique and sometimes desperate needs of all of the intelligence community, those organizations and groups dealing with civil liberties in America, and those groups dealing with law enforcement. Mr. Chairman, it seems that if we deprive, take away—we strip away that protection. We strip away that device which gives security to those people and to all individuals, and then it seems to me that we have gutted the bill. I think instead of having the best of both worlds, we have the worst of both worlds.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman for yielding.

We have differences of opinion as to what a good foreign intelligence surveillance bill should provide, but I merely want to point out that the Committee on the Judiciary did not consider this legislation. As a matter of fact, what happened there was that there was a motion to table. The motion to table succeeded, and the matter remains in the Committee on the Judiciary right now, which in effect means that the bill is really not on the floor from the Committee on the Judiciary in any sense at all.

Mr. MAZZOLI. I appreciate the gentleman's comments. I think we spoke last night to the very point that the distinguished chairman of the subcommittee, the gentleman from Wisconsin (Mr. KASTENMEIER) conducted 3 days of very complete hearings and very vigorous debate, and I would say that probably in those 3 days this bill got as much attention as it might have gotten in many other committees of the House in perhaps weeks. It was a serious-minded effort, Mr. Chairman. I would hope that the Committee of the Whole House on the State of the Union would reject the gentleman's statement.

The McClory substitute and his amendment of yesterday would harm—not help—the Government's future ability to conduct surveillance of foreign persons in the United States.

First, it leaves a cloud of legal uncertainty over the surveillance of foreigners in the United States. There are grave doubts about the constitutionality of discriminating against all nonresident aliens simply on the basis of their being "foreigners." The Constitution requires reasonable grounds for any discrimination against aliens. The Supreme Court might easily find that there are no reasonable grounds for the blanket exclusion of all nonresident aliens from the fourth amendment warrant protection.

Second, this risk means that FBI agents and other intelligence officials will continue to act at their peril. Anyone who proceeds with the Attorney General's approved only—and no judicial warrant—has no certainty that his acts are constitutional. This is likely to keep intelligence agents from acting vigorously because their conduct might still, in the future, be considered illegal.

Third, the Attorney General himself will surely be reluctant to approve surveillances of nonresident aliens as long as these doubts persist. Without a warrant, he is left where he is now. He needs the support of legislation that includes a warrant to resolve any serious constitutional doubts in this area.

The purpose of the bill is to assure that the legality of surveillance is as clear as possible. Limiting the warrant to U.S. persons or having no warrants at all does not achieve that goal. Instead, it raises new constitutional questions that will inhibit intelligence gathering.

AMENDMENT OFFERED BY MR. GONZALEZ TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. M'CLORY

Mr. GONZALEZ. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

POINT OF ORDER

Mr. MURPHY of Illinois. Mr. Chairman, a point of order.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. MURPHY of Illinois. Mr. Chairman, this amendment is not germane in that it is not timely printed in the RECORD. The gentleman came up to us just a few minutes ago and said the gentleman had printed it in the RECORD yesterday; but the rule issued July 12 requires it be reported 3 legislative days prior to consideration.

The CHAIRMAN pro tempore. The Chair will rule that the rule applies to amendments to the bill and not to amendments to amendments. In this case we have an amendment to a substitute amendment, so the rule does not apply.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. GONZALEZ to the amendment in the nature of a substitute offered by Mr. McCLORY: On page 24, line 24, after "SEC. 104" insert "(a)".

On page 25, after line 6 insert:

(b) In April of each year, the Attorney General shall transmit to the Administrative Office of the United States Courts and to Congress a report setting forth with respect to the preceding calendar year—

(1) the total number of applications made for orders and extensions of orders approving electronic surveillance under this title; and

(2) the total number of such orders and extensions either granted, modified, or denied.

(c) And in April of each year the Attorney General shall transmit a report to the appropriate Member of Congress or Congressional Committee on any information gathered by virtue of this act regarding any foreign government's attempt to improperly influence Congress, suborn individual Members or to threaten a Member.

Mr. GONZALEZ. Mr. Chairman, I offer this amendment to the amendment in the nature of a substitute offered by the gentleman from Illinois (Mr. McCLORY) because it is the only opportunity that I have a chance to bring up a matter that I thought had been properly taken care of in other sections of the bill; but after looking at the bill and making a reading of the bill, I find that every consideration seems to have been given to the executive branch of the Government, to the FBI, to the CIA and the other surveillance agencies, but nothing safeguarding the basic rights of Members of Congress.

Let us suppose that in the course of a foreign intelligence wiretap or microphone surveillance, information is gathered that indicates some foreign power is attempting to bribe or otherwise suborn a Member of Congress. This is information that the Congress needs to know in order that we may protect our integrity, but the bill does not require, nor does the substitute amendment, that reports bearing on the integrity of the Congress be made available to us.

My experience has been that most statutes, such as those in title XVIII that make it mandatory for the FBI to investigate any threats of violence against the Congress, the FBI interprets that to mean they should investigate, but never report to the Congressman involved.

I have had three cases in which I have been unable to this day to get a written report from the FBI concerning information pursuant to threats that the FBI investigated; so that is the interpretation these agencies have given the statutes we have written for our protection.

Now, let us continue here and say that we have this hypothetical situation. A foreign intelligence gathering system reflects after our surveillance agencies have found out by virtue of the powers we give them in this act that a Member or Members of Congress are involved. The Executive can sit back with this information. He does not have to impart

it to the Members or other Members of Congress.

Let us suppose further that a surveillance indicates some dishonest behavior on the part of a Member. Does the bill require that a complete and immediate investigation be undertaken, and that the House be informed? It does not. Instead, such information can be held at the leisure and the pleasure of the Executive, the President, who may use it in any way he pleases. Can we imagine what would have happened just a few years ago with that power?

Let us suppose that one of our colleagues has in some way become entangled with a foreign government. Should we not know this? And should we not know if some foreign power is attempting to sway our actions one way or another? But the bill does not require that we be informed.

These are not hypothetical problems. There have been occasions in the past in which I have some good reason to know that there has been some forbearance in the case of Members who feared some retaliation on the part of the executive branch or who feared prosecution. If the Speaker or the Ethics Committee had known of any investigations involving these Members, there could have been some actions taken to disqualify at least the votes rendered in that case, if the House had been informed of the action of other governments in the past.

For instance, let us take the case of the Korean Government. We could have averted scandal and tragedy. As it is, we do not know what actions might have been taken to protect individual Members from being suborned, to protect the integrity of the House, and, as I have said, to cause even Members influenced by actions of Korean agents to disqualify themselves from voting on issues involving that country. The existence of such a system to help assure our own integrity would have caused that government never to have attempted to play its game of influence.

This bill does not address such questions. Because of the fact that the rule made it impossible to offer any amendment after the discovery of the need for it during the debate and because of the 3-day legislative rule, the only chance I have had to offer this amendment for consideration is under these circumstances as an amendment to the amendment offered by the gentleman from Illinois (Mr. McCLORY).

It is certainly true that intelligence gathering is in the national interest. I am not certain that civil rights are best protected by legitimizing what amounts to warrantless search. I am even less certain that a special court has any more competence to protect individual rights than any other court.

This bill has profound importance, because it establishes in law practices that heretofore have been of at best questionable legality, and confirms in law Presidential powers that have heretofore only been claimed to exist, never really legitimized. We are dealing here with questions that affirm—if we pass this bill—powers that Presidents have claimed they had, implicit powers or residual powers—previously undefined. These are but poorly charted constitutional grounds, and none of us should mistake the fact that we are in fact creating new powers here, in the name of confining quasi-legal practicies to some definable procedural law.

This is why this bill is embraced by the administration; it assures that the powers it now exercises only in legal peril can hereafter be exercised with impunity. We are confining nothing; we are confiding wholly new powers instead.

The CHAIRMAN pro tempore. The time of the genteman from Texas (Mr. GONZALEZ) has expired.

Mr. MURPHY of Illinois. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the gentleman from Texas (Mr. GONZALEZ) brings an amendment to us late in the day. This bill has been under consideration for over 3 years. At least during the last 6 or 7 months or during the whole session of this Congress it has been thoroughly considered, and the gentleman brings this amendment to us at this late date. I am not saying that what the gentleman has to say is not meritorious, but this is not the manner to bring it up and discuss it in the waning moments of the consideration of the bill.

I urge my colleagues to reject this amendment. Then we will invite the gentleman from Texas (Mr. GONZALEZ) before our committee. I would be happy to have the gentleman testify before the committee and bring any information in that he has. The gentleman talks about a Member of Congress who might have been involved in the Korean scandal. My understanding of the situation is that the Member who pleaded guilty in that matter was engaged actively in the bribery that came about, so I do not imagine that if he was told about it ahead of time, it would have made much difference.

Mr. GONZALEZ. Mr. Chairman, will the distinguished chairman of the subcommittee yield?

Mr. MURPHY of Illinois. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, my amendment has been offered at a late date, for which I have apologized, but because of the fact of the narrowness of the rule accompanying this bill, I believe that had we been untrammeled in our consideration of the bill, I could have offered the amendment in a timely fashion.

Mr. MURPHY of Illinois. Mr. Chairman, does the gentleman realize that the rule was granted on July 12?

Mr. GONZALEZ. Right.

Mr. MURPHY of Illinois. The rule was granted on July 12, and the gentleman had from July 12 until last week to put his amendment into the RECORD.

Mr. GONZALEZ. That is correct.

Mr. MURPHY of Illinois. Does the gentleman say that is not enough time?

Mr. GONZALEZ. Mr. Chairman, it is a question of the sufficiency of that kind of a rule and the fact that this ought to be a body that should be untrammeled in the free flow of debate, because there are many things involved, and even if one knows of the existence of a rule, since one is not a member of the committee, he is going to have to wait for the full general debate and get the fine nuances of the facts before offering an amendment.

Mr. MURPHY of Illinois. There have been over 50 amendments printed in the RECORD, and I would imagine there have been over 100 "Dear Colleague" letters circulated.

Mr. GONZALEZ. Mr. Chairman, although, as I said, I admit that maybe we should have acted sooner, I want to get to the merits and the sufficiency of this amendment.

If the gentleman will bear with me a little further, this amendment encompasses what the gentleman has in the bill now accept the last four lines, in which I provide for a report to be made in a case involving an individual Member of the committee or of the House, and it provides that he will be informed. That is the only thing involved.

Will a Member have an opportunity to be informed that surveillance has discovered that he is involved? He may be an unwitting victim. Yet we are saying the executive branch ought to be the sole and exclusive judge as to his comportment and it is under no obligation to convey that information to him.

Mr. MURPHY of Illinois. Mr. Chairman, let me say to the gentleman that the intelligence agencies have to report to this committee on a semiannual basis, and they have to report all warrants or wiretaps taking place.

The counterintelligence division of the FBI talks to us constantly about the nature of the Soviet involvement within this country. I can assure the gentleman, speaking as chairman of the Legislative Committee, and I am sure, the gentleman from Massachusetts (Mr. BOLAND), as chairman of this committee, that we would be glad to inquire of the FBI; and when we get that information I can assure the gentleman that we would inform any Member if any foreign government were attempting to influence Members of this House. The gentleman has my word.

Mr. GONZALEZ. I know the gentleman is very sincere in that.

Let me just add one thought, in addition. Let us look what we are doing now in the case of Korea. We are actually providing that Members be exposed, under no protection of our traditional constitutional rights, in the case of the interrogation of the former Korean ambassador. He could involve in his testimony an innocent Member who is wholly and completely vulnerable to the whims of a particular foreign agent.

Mr. MURPHY of Illinois. The gentleman has me at a disadvantage. I am not a member of the Ethics Committee that undertook the investigation into the Korean scandal. I do not think this is the forum or the time to discuss this. I know Members of Congress have been accused. I would like to afford any Member his day in court which is his due. I do not wish to discuss it on the floor. I have no information with relation to that.

The CHAIRMAN pro tempore. The time of the gentleman from Illinois (Mr. MURPHY) has expired.

(On request of Mr. CHARLES H. WILSON

of California and by unanimous consent, Mr. MURPHY of Illinois was allowed to proceed for 1 additional minute.)

Mr. CHARLES H. WILSON of California. Mr. Chairman, if the gentleman will yield, I do not want to discuss Korea, especially; but I was a little concerned, though, that the principal argument the gentleman had against the Gonzalez amendment was that it was submitted at a late hour in the day. When is a good time to submit an amendment? Would the gentleman tell me, please? What time of the day should we put in our amendments?

Mr. MURPHY of Illinois. If the gentleman will yield, a rule was granted on July 12. We had hearings for a year and one-half prior to that. This bill has been under consideration for 3 years.

Mr. CHARLES H. WILSON of California. Is there some rule that we have that prohibits a Member from putting in an amendment or that says when to put in amendments?

Mr. MURPHY of Illinois. We live by and go by the Rules of the House. The gentleman is aware of the open and closed rules. We do not need to get into that now.

I would like to say that I can assure the gentleman from Texas, as chairman of the Legislative Subcommittee, I will make inquiry into all of the intelligence agencies as to whether they have any information about any foreign government attempting to influence legislators.

The CHAIRMAN pro tempore. The time of the gentleman from Illinois (Mr. MURPHY) has again expired.

(On request of Mr. BOLAND and by unanimous consent, Mr. MURPHY of Illinois was allowed to proceed for 1 additional minute.)

Mr. BOLAND. Mr. Chairman, if the gentleman will yield, in response to the question propounded by my friend, the distinguished gentleman from California (Mr. CHARLES H. WILSON), frankly, I do not think either the gentleman from Illinois (Mr. MURPHY) or myself can give a very sound answer when amendments are to be offered. My only suggestion is you do not offer them after 9 o'clock at night because nobody seems to get any amendments adopted at that time. And I think the gentleman from California understands the response of the gentleman from Illinois (Mr. MURPHY) with reference to the rule itself which was granted on July 12. We then had 3 legislative days prior to consideration of this bill for any amendments to be printed in the RECORD. As the gentleman indicated, we have had something like 50 amendments, and maybe even more than that.

I think we have a reasonable rule. I do not think anybody can quarrel with that rule. I can understand the concern of the gentleman from Texas about this particular matter and, so far as this Committee is concerned, the assurance that has been given by the chairman of the Legislative Subcommittee I would agree with, and this is a matter which ought to be looked at a little bit more carefully. I do not think this is the time to do it.

Mr. Chairman, I oppose the amendment.

Mr. KAZEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just want to remind my good friend, the gentleman from Illinois, concerning the question of time limits on amendments, this is the very first opportunity that the gentleman from Texas has had to offer this amendment, since it would not have been in order under the rule before this time, until the gentleman from Illinois (Mr. McCLORY) offered his amendment. This is an amendment to the McClory amendment. If the Gonzalez amendment is too late, the McClory amendment is too late. But so far as the timeliness is concerned, this is the earliest opportunity in the entire debate, in the entire consideration of this bill, that the gentleman from Texas had to offer his amendment.

I am not debating the merits of the amendment. I am questioning the point that the gentleman from Illinois has made on the procedure in this matter.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Texas (Mr. GONZALEZ) to the amendment in the nature of a substitute offered by the gentleman from Illinois (Mr. McCLORY).

The amendment to the amendment in the nature of a substitute was rejected.

The CHAIRMAN pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Illinois (Mr. McCLORY).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. McCLORY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 128, noes 249, not voting 55, as follows:

[Roll No. 734]

AYES—128

Andrews, N. Dak.
Applegate
Archer
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bevill
Bowen
Breaux
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burleson, Tex.
Butler
Carter
Cederberg
Chappell
Clausen, Don H.
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Cunningham
Daniel, Dan
Daniel, R. W.
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Ala.
English
Erlenborn
Evans, Del.
Fish
Flippo
Flowers
Flynt
Forsythe
Fountain
Gammage
Goldwater
Goodling
Gradison
Grassley
Hall
Hammer-schmidt
Harsha
Hightower
Hillis
Hoit
Hyde
Ichord
Jenkins
Jones, N.C.
Kelly
Kindness
Lagomarsino
Latta
Lent
Livingston
Lott
Lujan
McClory
McDonald
McEwen
Madigan
Mahon
Marriott
Martin
Mathis
Michel
Milford
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
Murphy, N.Y.
Myers, Gary
Myers, John
Nichols
O'Brien
Poage
Pursell
Quayle
Regula
Rinaldo
Roberts
Robinson
Rousselot
Rudd
Runnels
Ruppe
Satterfield
Schulze
Sebelius
Shuster
Sikes
Skubitz
Smith, Nebr.
Snyder
Spence
Stangeland
Stanton
Steiger
Stockman
Stratton
Stump
Taylor
Treen
Trible
Vander Jagt
Walker
Walsh
Wampler
Watkins
Whitehurst
Whitley
Wilson, Bob
Wydler
Wylie
Young, Fla.

NOES—249

Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Ashley
Aspin
AuCoin
Baldus
Barnard
Baucus
Beard, R.I.
Bedell
Benjamin
Bennett
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Brademas
Breckinridge
Brodhead
Brooks
Brown, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Cavanaugh
Chisholm
Clay
Cleveland
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cornwell
Cotter
D'Amours
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Dicks
Diggs
Dingell
Dodd
Downey
Early
Eckhardt
Edgar
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
Ertel
Evans, Colo.
Evans, Ga.
Evans, Ind.
Fascell
Fenwick
Findley
Fisher
Fithian
Flood
Florio
Ford, Mich.
Ford, Tenn.
Fowler
Frenzel
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Ginn
Glickman
Gonzalez
Gore
Green
Gudger
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Heckler
Hefner
Heftel
Holland
Hollenbeck
Holtzman
Horton
Howard
Hubbard
Hughes
Ireland
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Keys
Kildee
Kostmayer
Krebs
LaFalce
Leach
Lederer
Le Fante
Leggett
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Luken
Lundine
McCloskey
McCormack
McDade
McFall
McHugh
McKay
McKinney
Maguire
Mann
Markey
Marks
Marriott
Mattox
Mazzoli
Meeds
Metcalfe
Mikulski
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Pa.
Moss
Motti
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Michael
Natcher
Neal
Nix
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pickle
Pike
Preyer
Price
Pritchard
Rahall
Rallsback
Rangel
Reuss
Risenhoover
Rodino
Roe
Rogers
Roncalio
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Ryan
Santini
Sarasin
Scheuer
Schroeder
Seiberling
Sharp
Simon
Skelton
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Staggers
Stark
Steed
Steers
Stokes
Studds
Thompson
Thornton
Traxler
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
Whalen
White
Whitten
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Yates
Young, Mo.
Zablocki

NOT VOTING—55

Abdnor
Ammerman
Armstrong
Badham
Bellenson
Burke, Calif.
Burke, Fla.
Caputo
Clawson, Del
Cochran
Crane
Dent
Drinan
Duncan, Oreg.
Fary
Foley
Fraser
Frey
Fuqua
Gibbons
Guyer
Hagedorn
Hansen
Hawkins
Huckaby
Johnson, Colo.
Jordan
Kasten
Kemp
Krueger
Lehman
Meyner
Mikva
Miller, Calif.
Pettis
Pressler
Quie
Quillen
Rhodes
Richmond
Rooney
Sawyer
Shipley
Sisk
Symms
Teague
Thone
Tsongas
Waggonner
Wiggins
Winn
Yatron
Young, Alaska
Young, Tex.
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. Richmond against.

Mr. Kasten for, with Mr. Zeferetti against.

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Mr. BURLISON of Missouri. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I believe that legislation is needed to clear up the existing confusion and uncertainty surrounding the use of electronic surveillance, and that H.R. 7308, as reported, is best calculated to achieve this purpose.

For the past year I have had the privilege and responsibility of chairing the Intelligence Committee's Subcommittee on Program and Budget Authorization. I also serve on the Appropriations Subcommittee on Defense. As a result, I have spent a good deal of my time meeting with intelligence officials. I have attempted to use these meetings, the resources of the committee, and the budget authorization process itself, to obtain a useful understanding of the workings and complexities of our intelligence agencies.

In so doing, I have come to a few basic conclusions:

The people working in our intelligence services are competent men and women of good faith, dedicated to serving the national interest.

Occasionally, their view of what is in the national interest is clouded by their very dedication.

In its programmatic and budget concerns the intelligence community behaves like any other Government bureaucracy that must seek funding from the Congress.

These conclusions are not by any means novel or the result of any particular insight. But they did aid me in thinking through my position on H.R. 7308 when it came to the full committee from the Subcommittee on Legislation.

I do support this measure but, as my colleagues on the committee know, I had to be convinced.

The first question I had to answer for myself was whether electronic surveillance was a necessary and efficient method of obtaining needed foreign intelligence information. So I spoke to intelligence officials, listened to their testimony at both open and closed hearings, read the budget justification books, and made myself aware of some of the product of electronic surveillance activities. As a result, I concluded that such activities are, indeed, an essential part of our intelligence operations.

My next endeavor was to determine if legislation was needed to authorize, regulate, or control such activities. It soon became readily apparent that the answer was "yes"—not only because of the well known excesses and abuses committed pursuant to national security wiretaps, but also because of the political and legal uncertainties which surround the use of electronic surveillance.

Clearly, it seemed to me, our intelligence agents need legislation to authorize and legitimize their activities; and other American citizens need legislation to protect their legitimate privacy rights.

So, the question then became one of deciding whether H.R. 7308, with its judicial warrant requirement, was the proper legislation.

Having been a county prosecuting attorney for several years, I was familiar with warrants and the concepts behind them. I know the protections warrants afford, and that activities engaged in pursuant to a judicial warrant were more readily accepted as proper by the people of the community.

But I was also skeptical. I wondered if the bill's standards and procedures went too far. Was there an overreaction that would thwart our intelligence collection efforts?

I talked to some intelligence officials. I read their statements. I listened to their testimony given in executive session.

I heard the Director of Central Intelligence say that H.R. 7308 was good legislation that would not unduly burden intelligence collection.

I heard the Director of the National Security Agency state his unqualified support for H.R. 7308, as reported by the Intelligence Committee.

I heard the Director of the FBI say that the bill and its warrant requirement, including a warrant for embassies and other official foreign powers, would facilitate the work of and improve the morale of his agents.

I also heard Director Webster state that the bill's compromise version of a criminal standard for surveilling Americans was fully supported by him, because it was not the criminal standard required for law enforcement warrants.

Finally, I heard the Attorney General say that both he and the field agent needed the protections that could best be provided by a warrant, and that passage of H.R. 7308 would facilitate, not hinder, intelligence collection.

In summary, I have become convinced that electronic surveillance is a means of intelligence collection that must be utilized; that it is susceptible to abuse if not regulated by statute; and that H.R. 7308, as reported is carefully balanced legislation that will authorize needed intelligence activities while protecting the legitimate interest of our intelligence agents and our people. I hope the House will overturn the McClory amendment in the full House and pass the bill.

Mr. McCLORY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it is my understanding that a separate vote will be requested with regard to amendment No. 2, the McClory amendment that was adopted yesterday by a very narrow margin. I know there has been a great deal of activity undertaken to try to switch votes in order to try to change the outcome of that vote result when we get to the separate vote on that amendment after we return to the House. I am hopeful that the Members will hold the line and will, indeed, support this important amendment. I do not want any confusion as to the substitute that we just voted upon. The substitute was, indeed, my legislation. It was my view that we should establish clear statutory guidelines for conducting foreign intelligence surveillance. But my proposal would have eliminated the warrant requirement with regard to all foreign intelligence surveillance. It would have eliminated the court proceedings from the entire picture, and it would have done other things that I felt were desirable.

The amendment that I offered yesterday, which was favorably acted upon, was an amendment which would eliminate the warrant requirement for all except U.S. persons. In other words, there would be no need to go to a judge and have a judge decide whether or not the executive branch could conduct foreign intelligence surveillance. We are only talking about foreign powers and foreign agents and we are only talking about that insofar as national security is concerned. We are only talking about targeting foreign agents and foreign powers that will be defined in this bill. So the only change that would result from my amendment is that we would not have to go to a judge when we want to engage in foreign intelligence, national security intelligence, when these foreign powers or foreign agents are involved.

With regard to U.S. persons, we would still have this requirement. We know, that after the adoption of my amendment, we adopted overwhelmingly an amendment that will eliminate the special court, so that in the situation we are in now with no special court, unless we retain the McClory amendment, is that we will have a large barrage of applicants for warrants, which would be very burdensome for the district courts throughout the entire country.

In my opinion, the House acted very wisely in eliminating the special courts. This unprecedented provision for a special court with special prerogatives, special tenure, and all that sort of thing was appropriately eliminated from the bill; but without that and with a warrant requirement that would be so far reaching as to reach every foreign agent and every foreign power it seems unthinkable to me that we would want to restore such a provision.

I might say that the committee did adopt an amendment in the committee, which was my amendment No. 9, which excludes a large part of the foreign intelligence surveillance from the warrant requirement, where foreign powers are communicating with each other.

It seems to me appropriate that we should also eliminate the warrant requirement when we want to target in on foreign agents or foreign powers, by radio, telephone, even by television. Without my amendment you could not televise the Soviet Embassy unless you first got a court order. Now, how absurd can you get?

It seems to me the McClory amendment makes a lot of sense. It makes a

much better bill than the bill that the committee reported.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, first of all, I want to commend my colleague, the gentleman from Illinois. I know often work is done around this Chamber that is not appreciated by all of us; but I cannot express my appreciation enough for what the gentleman has done. The gentleman from Illinois has been diligent and worked hard and been on the right track.

Let me repeat what the gentleman said. I think the McClory amendment is absolutely necessary to this legislation. I am one who over the time we have been hearing this legislation gradually developed the view that we probably ought to wait until next year until the charter legislation comes up and tie this all together. But if this bill is necessary I think we should at least have the McClory amendment as a part of it.

In a lighter vein, let me say to my colleague that I have been the author of four amendments in the last session that have been rejected when we went into the House. Those who were listening to the debate voted for them and then when we go back in the Whole House in a separate vote, quite often the good intelligence and good sense of the Members have been reversed for some mysterious reason.

I hope this does not happen to the gentleman from Illinois, but it has happened to me four times in the last year.

Mr. Chairman, I had hoped that this bill could be amended enough so it could be supported by those of us who are concerned about the state of our Nation's security.

H.R. 7308 has been recommended to us as both a bill to authorize surveillance in foreign espionage and terrorism cases, and as a protection for the American people. The bill as it now stands does not do enough of either. The protections for foreign agents are too broad while the authorization to surveil them is too narrow. The only effect this bill will have on the freedom of the American people is to weaken the defenses we have against foreign agents and terrorists. If we cannot protect our country, we will really lose our freedoms.

During the next session Congress will be considering charter legislation for the intelligence agencies. The argument for such legislation is that it will provide "a carrot and a stick" for the intelligence community. "A carrot" in the sense that it will protect them by spelling out their duties and responsibilities. "A stick" in the sense that it will spell out restrictions. H.R. 7308 will upset that balance by placing some of the restrictions on in advance. Foreign intelligence wiretaps are clearly part of the charter package. In fact, this bill, or its equivalent, appears as title III in the proposed charter bill.

Mr. BOLAND. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let the members of this committee understand precisely what we are going to vote on when we ask for a separate vote on the McClory amendment. That amendment would delete the warrant requirements for all targets—all targets, except U.S. persons.

I join with my distinguished friend, the gentleman from Ohio (Mr. ASHBROOK) in commending the gentleman from Illinois (Mr. McCLORY) for the gentleman's continual and persistent work on this particular bill. It has not been easy. We started at 3 o'clock yesterday afternoon, wound up after 9 o'clock last night. We started at some time around 2 o'clock today and it is now 6 o'clock in the evening; so we have spent considerable time on it.

Let me also say to the members of this committee that we have accepted a number of amendments that have been offered by Members on the other side of the aisle and also some offered by Members on this side. We have to go to conference on this bill. That is going to be a very difficult conference. The Senate bill is a bill which was not acceptable to a lot of the Members on both sides of this aisle, and because it was not accepted, some of the Members on both sides of the aisle, and to the members of the Select Committe on Intelligence, we perfected the Senate bill and brought the bill that we are now discussing to the floor and adopted the McClory amendment that we hope will be knocked out when we come to a separate vote on that particular amendment.

Mr. Chairman, all the intelligence committee agents and all the agents of our intelligence communities oppose the McClory amendment. It would be open season, it seems to me, on all foreign visitors. Tradesmen, athletes, teachers—you name them—anybody coming to the United States, whether they are from Russia, France, England, or any nation, if they are foreigners, they would be subject to surveillance without a warrant under the terms of the McClory amendment.

Need I recall for the Members the abuses that have occurred in the past, in years gone by?

All of these abuses or the majority of them that were detailed by the Church committee, detailed by the Pike committee, or detailed by any committee that has looked into this particular matter have been made known. These abuses occurred, because there was surveillance of foreign embassies and foreigners, and American names became involved. Then the names of those Americans were turned over to someone else in the administration that was in power at that time, be it a Republican administration or a Democratic administration.

Mr. Chairman, that is what we are trying to get rid of here. We are trying to get rid of the abuses. This bill was submitted by President Ford and by Attorney General Levi, and it was resubmitted by President Carter and Attorney General Bell. Their position is that this bill is a well-balanced bill, one that protects the national interests and the national security. It also protects, as I say, the constitutional rights of American citizens and foreigners who are in this land and who are entitled to the same protection under the fourth amendment as U.S. persons who are permanent resident-alien.

Mr. Chairman, it would be a disaster for this committee to accept the amendment offered by the gentleman from Illinois (Mr. McCLORY). We would then bring this bill to conference, and do we think that the other body is going to cave in on this amendment? This is a disastrous amendment. It ought to be rejected. I hope it is soundly defeated when we get back into the House and vote on it.

The CHAIRMAN pro tempore. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. MURTHA, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 7308) to amend title 18, United States Code, to authorize applications for a court order approving the use of electronic surveillance to obtain foreign intelligence information, pursuant to House Resolution 1266, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole?

Mr. BOLAND. Mr. Speaker, I demand a separate vote en bloc on the McClory amendments agreed to on September 6, and I demand a separate vote on the conforming McClory amendments agreed to today.

The SPEAKER. Is a separate vote demanded on any other amendment to the Committee amendment? The Clerk will report the amendments en bloc on which a separate vote has been demanded.

PARLIAMENTARY INQUIRIES

Mr. BAUMAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BAUMAN. Mr. Speaker, is it proper for the gentleman from Massachusetts (Mr. BOLAND) to demand a separate vote en bloc on the amendments, or must he ask for a vote on each one of these amendments?

The SPEAKER. The Chair will state that the rule provides that it shall be in order to consider the amendments en bloc, so under the rule the vote on the amendments would be considered as on the amendments en bloc.

Mr. BAUMAN. The amendments were considered en bloc?

The SPEAKER. Yes, under the rule.

Mr. BAUMAN. Mr. Speaker, am I correct that the original McClory amendment was considered separately and that the several others were adopted subsequently?

Mr. McCLORY. Mr. Speaker, if the gentleman will yield, I might inform the gentleman that the conforming amendments were considered separately, and the other amendments were considered en bloc.

Mr. BAUMAN. Mr. Speaker, may I inquire, on which amendment is it that the gentleman from Massachusetts (Mr. BOLAND) demands a separate vote? I wish the Chair would let the House know so we will know what we are voting on.

The SPEAKER. The Chair will state that the amendments offered by the gentleman from Illinois (Mr. McCLORY) that were agreed to yesterday will be voted on en bloc today. That is in conformance with the demand made by the gentleman from Massachusetts (Mr. BOLAND).

Mr. BAUMAN. A further parliamentary inquiry, Mr. Speaker.

The gentleman mentioned the McClory amendment and all amendments agreed to en bloc. So do we now face three or four separate votes?

The SPEAKER. The McClory amendment agreed to today is a separate amendment.

The Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment: Page 39, strike out line 1 and all that follows down through line 12 on page 41 and insert in lieu thereof the following:

AUTHORIZATION FOR ELECTRONIC SURVEILLANCE FOR FOREIGN INTELLIGENCE PURPOSES

SEC. 102. (a) An application for a court order under this title is authorized if the President has, in writing, authorized the Attorney General to approve applications to a court having jurisdiction under section 103. A judge to whom such an application is made may, notwithstanding any other law, grant an order in accordance with section 105 approving electronic surveillance of a United States person who is a foreign power or an agent of a foreign power for the purpose of obtaining foreign intelligence information.

(b)(1) If the target of electronic surveillance for the purpose of obtaining foreign intelligence information is not a United States person, such electronic surveillance may be authorized by the issuance of a surveillance certificate in accordance with subsection (c).

(2) Electronic surveillance authorized under this subsection may be authorized for the period necessary to achieve its purpose, except that—

(A) if the target of the surveillance is not a foreign power, the period of the surveillance may not exceed ninety days; and

(B) if the target of the surveillance is a foreign power, the period of the surveillance may not exceed one year.

(3) Electronic surveillance authorized under this subsection may be resuthorized in the same manner as an original authorization, but all statements required to be made under subsection (c) for the initial issuance of a surveillance certificate shall be based on new findings.

(4)(A) Upon the issuance of a surveillance certificate under this subsection, the Attorney General may direct a specified communication common carrier—

(i) to furnish any information, facility, or technical assistance necessary to accomplish the electronic surveillance unobtrusively and in such a manner as will protect the secrecy of such surveillance and will produce a minimum of interference with the services that such common carrier provides its customers; and

(ii) to maintain any records concerning such surveillance or the assistance furnished by such common carrier that such common carrier wishes to retain under security procedures approved by the Attorney General and the Director of Central Intelligence.

(B) Any such direction by the Attorney General shall be in writing.

(C) The Government shall compensate any communication common carrier at the prevailing rate for assistance furnished by such common carrier pursuant to a direction of the Attorney General under this paragraph.

(c) A surveillance certificate issued under subsection (b)(1) shall be issued in writing and under oath by the Attorney General and an executive branch official or officials designated by the President from among those officials employed in the area of national security or national defense who were appointed by the President by and with the advice and consent of the Senate, and shall include—

(1) a statement—

(A) identifying or describing the target of the electronic surveillance, including a certification of whether or not the target is a foreign power or an agent of a foreign power; and

(B) certifying that each of the facilities or places at which the surveillance is directed is being used or may be used by a foreign power or an agent of a foreign power;

(2) a statement of the basis for the certification under paragraph (1)—

(A) that the target of the surveillance is a foreign power or an agent of a foreign power; and

(B) that each of the facilities or places at which the surveillance is directed is being or may be used by a foreign power or an agent of a foreign power;

(3) a statement of the proposed minimization procedures;

(4) a statement that the information sought is foreign intelligence information;

(5) a statement that the purpose of the surveillance is to obtain foreign intelligence information;

(6) if the target of the surveillance is not a foreign power, a statement of the basis for the certification under paragraph (4) that the information sought is foreign intelligence information;

(7) a statement of the period of time for which the surveillance is required to be maintained;

(8) a statement of the means by which the surveillance will be effected;

(9) if the nature of the intelligence gathering is such that the approval of electronic surveillance under subsection (b) should not automatically terminate when the described type of information has first been obtained, a statement of the facts indicating that additional information of the same type will be obtained thereafter;

(10) a statement indicating whether or not an emergency authorization was made under section 105(e); and

(11) if more than one electronic, mechanical, or other surveillance device is to be involved with respect to such surveillance, a statement specifying the types of devices involved, their coverage, and the minimization procedures that will apply to information acquired by each type of device.

Page 47, strike out lines 4 through 14 and redesignate the succeeding subsections accordingly.

Page 48, line 24, strike out ", if the target is a United States person,".

Page 50, strike out line 22 and all that follows down through line 6 on page 51, and redesignate subsections (d) through (g) accordingly

Page 51, line 9, strike out ", except that" and all that follows down through line 13 and insert in lieu thereof: ".".

Page 51, line 17, strike out ", except that an" and all that follows down through line 23 and insert in lieu thereof: ".".

Page 52, strike out lines 11 and 12 and insert in lieu thereof the following:

(2) the factual basis exists for the authorization of such electronic surveillance;

Page 52, beginning on line 14, strike out "if a judge" and all that follows through the period on line 20 and insert in lieu thereof the following: "if the otherwise applicable procedures of this title are followed as soon as practicable, but not more than twenty-four hours after the Attorney General authorizes such surveillance. In addition, if the target of such electronic surveillance is a United States person, the Attorney General or his designee shall at the time of such authorization inform a judge having jurisdiction under section 103 that the decision has been made to employ emergency electronic surveillance.".

Page 52, beginning on line 23, strike out "for the issuance of a judicial order".

Page 52, line 24, insert "or surveillance certificate" after "a judicial order".

Page 53, line 4, strike out "such" and insert in lieu thereof "an".

Page 53, line 5, insert "or a surveillance certificate is not issued" after "approval is denied".

Page 53, line 6, insert "or surveillance certificate" after "order".

Page 59, line 3, strike out "application, order," and insert in lieu thereof "application and order or the surveillance certificate".

Page 59, line 18, strike out "applications or orders" and insert in lieu thereof "applications, orders, or surveillance certificates".

Page 60, line 8, strike out "application, order," and insert in lieu thereof "application and order or surveillance certificate".

Page 60, line 14, insert "surveillance certificate," after "order,".

Page 68, line 12, insert "or surveillance certificate" after "order".

Mr. BOLAND (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. BAUMAN. Mr. Speaker, reserving the right to object. I do so only to ask the gentleman from Illinois (Mr. McCLORY) a question.

The pending amendment now to be voted on is not a series of amendments en bloc, but only the amendment which was adopted yesterday in the Committee of the Whole: is that correct?

Mr. McCLORY. If the gentleman will yield, that is correct. The only thing that has occurred since the adoption of the McClory amendment yesterday was the adoption today by unanimous consent of two conforming amendments.

We had attempted to have those conforming amendments embodied in the bill yesterday, but that request was refused; so we did offer those conforming amendments today.

Mr. BOLAND. Mr. Speaker, if the gentleman will yield. in response to the question of the gentleman from Maryland, let me say that the amendment that we will be voting on is the McClory amendment No. 2, which deletes the warrant requirements of U.S. persons. The other amendments which were offered and accepted today by the Committee were accepted en bloc. But they are conforming amendments which will conform to the amendment that was offered yesterday by the gentleman from Illinois and accepted by the Committee.

Mr. McCLORY. Mr. Speaker, if the gentleman will yield further, I would say that there is this aspect involved, too: There was the Railsback amendment to my amendment which was adopted today, and I do not see how we can have a separate vote on that by putting them all en bloc. I think that what we require is separate votes, a separate vote on my amendment, and, if you wish to have a separate vote on other amendments, to request them separately.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, I just want the assurance of the Chair that we are voting on nothing but the McClory amendment adopted last night by the Committee. Is that correct?

The SPEAKER. The Chair must say, as modified today by the Railsback amendment.

Mr. BAUMAN. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to dispensing with further reading of the amendment?

There was no objection.

The SPEAKER. The question is on the amendment.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. McCLORY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 176, nays 200, not voting 56, as follows:

[Roll No. 735]

YEAS—176

Alexander
Ambro
Anderson, Ill.
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bennett
Bevill
Blanchard
Bowen
Breaux
Brinkley
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burleson, Tex.
Butler
Carter
Cederberg
Chappell
Clausen, Don H.
Cleveland
Cohen
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Derwinski
Devine
Dickinson
Dingell
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fish
Flippo
Flowers
Flynt
Forsythe
Fountain
Frenzel
Gammage
Gilman
Goldwater
Goodling
Gradison
Grassley
Gudger
Hall
Hammer-schmidt
Harsha
Heckler
Hightower
Hillis
Holt
Horton
Hubbard
Hyde
Ichord
Jeffords
Jenkins
Jones, N.C.
Jones, Tenn.
Kazen
Kelly
Kindness
Lagomarsino
Latta
Leach
Lent
Livingston
Lloyd, Tenn.
Lott
Lujan
Luken
McClory
McCormack
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Marlenee
Marriott
Martin
Mathis
Michel
Milford
Miller, Ohio
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, N.Y.
Myers, Gary
Myers, John
Nedzi
Nichols
O'Brien
Poage
Pritchard
Pursell
Quayle
Regula
Rinaldo
Risenhoover
Roberts
Robinson
Rousselot
Rudd
Runnels
Ruppe
Sarasin
Satterfield
Sawyer
Schulze
Sebelius
Shuster
Sikes
Slack
Smith, Nebr.
Snyder
Spence
Staggers
Stangeland
Stanton
Steiger
Stockman
Stratton
Stump
Taylor
Treen
Trible
Vander Jagt
Walgren
Walker
Walsh
Wampler
Watkins
White
Whitehurst
Whitley
Whitten
Wilson, Bob
Wilson, C. H.
Winn
Wolff
Wydler
Wylie
Young, Fla.

NAYS—200

Addabbo
Akaka
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
AuCoin
Baldus
Barnard
Baucus
Beard, R.I.
Bedell
Benjamin
Biaggi
Bingham
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Brademas
Breckinridge
Brodhead
Brown, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Carr
Cavanaugh
Chisholm
Clay
Collins, Ill.
Conyers
Corman
Cornell
Cornwell
Cotter
Danielson
Delaney
Dellums
Derrick
Dicks
Dodd
Downey
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Evans, Colo.
Evans, Ga.
Fascell
Fenwick
Findley
Fisher
Fithian
Flood
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Garcia
Gaydos
Gephardt
Giaimo
Ginn
Glickman
Gonzalez
Gore
Green
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hefner
Heftel
Holland
Hollenbeck
Holtzman
Howard
Hughes
Ireland
Jacobs
Jenrette
Johnson, Calif.
Jones, Okla.
Kastenmeier
Keys
Kildee
Kostmayer
Krebs
LaFalce
Le Fante
Lederer
Leggett
Levitas
Lloyd, Calif.
Long, La.
Long, Md.
Lundine
McCloskey
McFall
McHugh
Maguire
Mahon
Mann
Markey
Marks
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Mikulski
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Moss
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Michael
Natcher
Neal
Nix
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pickle
Pike
Preyer
Price
Rahall
Railsback
Reuss
Rodino
Roe
Rogers
Roncalio
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Ryan
Santini
Scheuer
Schroeder
Seiberling
Sharp
Simon
Skelton
Smith, Iowa
Solarz
Spellman
St Germain
Stark
Steed
Steers
Stokes
Studds
Thompson
Traxler
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Waxman
Weaver
Weiss
Whalen
Wilson, Tex.
Wirth
Wright
Yates
Young, Mo.
Zablocki

NOT VOTING—56

Abdnor
Ammerman
Armstrong
Badham
Bellenson
Burke, Calif.
Burke, Fla.
Byron
Caputo
Clawson, Del
Cochran
Crane
Dent
Diggs
Drinan
Duncan, Oreg.
Fary
Fraser
Frey
Fuqua
Gibbons
Guyer
Hagedorn
Hansen
Hawkins
Huckaby
Johnson, Colo.
Jordan
Kasten
Kemp
Krueger
Lehman
Mikva
Miller, Calif.
Pettis
Pressler
Quie
Quillen
Rangel
Rhodes
Richmond
Rooney
Shipley
Sisk
Skubitz
Symms
Teague
Thone
Thornton
Tsongas
Waggonner
Wiggins
Yatron
Young, Alaska
Young, Tex.
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Waggonner for, with Mr. Richmond against.

Mr. Teague for, with Mr. Zeferetti against.

Mr. Kasten for, with Mrs. Burke of California against.

Mr. Symms for, with Mr. Dent against.

Mr. Hagedorn for, with Mr. Diggs against.

Mr. Puqua for, with Mr. Yatron against.

Mr. Guyer for, with Mr. Drinan against.

Mr. Kemp for, with Mr. Hawkins against.

Mr. Rhodes for, with Mr. Mikva against.

Mr. Badham for, with Mr. Miller of California against.

Mr. Hansen for, with Mr. Fary against.

Until further notice:

Mr. Byron with Mr. Abdnor.

Mr. Duncan of Oregon with Mr. Burke of Florida.

Mr. Fraser with Mr. Cochran of Mississippi.

Mr. Gibbons with Mr. Johnson of Colorado.

Mr. Ammerman with Mr. Caputo.

Mr. Huckaby with Mr. Armstrong.

Miss Jordan with Mr. Krueger.

Mr. Lehman with Mrs. Pettis.

Mr. Rangel with Mr. Del Clawson.

Mr. Rooney with Mr. Thone.

Mr. Shipley with Mr. Crane.

Mr. Sisk with Mr. Pressler.

Mr. Thornton with Mr. Wiggins.

Mr. Tsongas with Mr. Young of Alaska.

Mr. Prey with Mr. Quie.

Mr. Skubitz with Mr. Quillen.

So the amendment was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. EVANS of Colorado). The Clerk will report the conforming amendments upon which a separate vote has been demanded.

The Clerk read as follows:

Conforming amendments: Page 50, strike out line 22 and all that follows down through line 13 and insert in lieu thereof: ".".

Page 51, line 17, strike out ", except that an" and all that follows down through line 23 and insert in lieu thereof: ".".

The SPEAKER pro tempore. The question is on the conforming amendments.

The conforming amendments were rejected.

The SPEAKER pro tempore. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. M'CLORY

Mr. McCLORY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. McCLORY. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. McCLORY moves to recommit the bill, H.R. 7308, to the Select Committee on Intelligence with the instructions to report back the same to the House forthwith with the following amendments:

Page 39, strike out line 10 and all that follows down through line 17 and insert in lieu thereof: "at a foreign power as defined in section 101(a) (1), (2), or (3); and".

Page 47, strike out line 4 and all that follows down through line 14, and redesignate subsections (c) and (d) accordingly.

Page 50, strike out line 22 and all that follows down through line 6 on page 51, and redesignate subsections (d) through (g) accordingly.

Page 51, line 9, strike out ", except that" and all that follows down through line 13 and insert in lieu thereof ".".

Mr. McCLORY (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. McCLORY) is recognized for 5 minutes in support of his motion to recommit.

Mr. McCLORY. Mr. Speaker, this motion to recommit with instructions would impose much narrower restrictions with respect to the elimination of a warrant requirement. In other words, it is narrower than the so-called McClory amendment which would have eliminated all foreign agents and all foreign powers from the requirement that the intelligence agencies would have to go to court to get a warrant.

This would merely eliminate the warrant requirement with regard to a foreign government or a component thereof—an embassy, for instance—or to a faction of a foreign government—the Eritrean Liberation Front, or the PLO—or an entity openly directed and controlled by a foreign government—such as Aeroflot—or some agency like that that is operating here in our country but is owned and controlled by a foreign government. In other words, it seems to me for us to impose upon ourselves a requirement that we go and get a judicial warrant to engage in electronic surveillance of the Soviet Embassy means that we would be required to get a warrant if we wanted to be there with radio interception, or television surveillance, or whatever it might be, and that just seems to me to be completely absurd.

When I talk to individuals about this, they wonder what in the world we are getting ourselves into that we want our intelligence agencies to go to a court and get a judge to decide whether or not we should have electronic surveillance of foreign powers and foreign agents in power such as this.

When I say "foreign agents," I mean foreign spies who might be in this country, and yet we could not engage in electronic surveillance of that foreign spy under this legislation unless we first go to a court and get a court order. To what absurd length must we go in order to cleanse ourselves of some abuses that took place some years ago? The evidence before our committee is without question that there have been no abuses, no abuses of any rights of any American, during the period that we have had executive guidelines. The amendment embodied in the motion to recommit was intended to be offered by our colleague, the gentleman from Louisiana (Mr. WAGGONNER) if he were here. I know that the gentleman from Texas (Mr. HALL), is also supporting this position, and I hope that the Members will vote favorably on this motion to recommit.

Mr. BOLAND. Mr. Speaker, I rise in opposition to the motion to recommit with instructions.

Mr. Speaker, I cannot say with surety that the gentleman from Louisiana (Mr. WAGGONNER) would be offering this amendment or would propose it in the motion to recommit. The gentleman from Illinois (Mr. McCLORY) would probably have better knowledge of that than I. But be that as it may, the same arguments that prevailed with respect to the McClory amendment prevail in this, too. So, Mr. Speaker, without delaying the time of this House—they have been awfully patient—this motion to recommit ought to be rejected, just as the McClory amendment was rejected in the separate vote.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. McCLORY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 164, nays 207, not voting 61, as follows:

[Roll No. 736]

YEAS—164

Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bennett
Bevill
Bowen
Breaux
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burleson, Tex.
Butler
Carter
Cederberg
Chappell
Clausen, Don H.
Cleveland
Cohen
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Cunningham
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Derwinski
Devine
Dickinson
Dingell
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fish
Flippo
Flowers
Flynt
Forsythe
Fountain
Frenzel
Gammage
Gilman
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gudger
Hall
Hammer-schmidt
Harsha
Heckler
Hefner
Hightower
Hillis
Holt
Horton
Hyde
Ichord
Jeffords
Jenkins
Jenrette
Kazen
Kelly
Kindness
Lagomarsino
Latta
Leach
Lent
Livingston
Lloyd, Tenn.
Lott
Lujan
McClory
McCormack
McDade
McDonald
McEwen
McKinney
Madigan
Marriott
Martin
Mathis
Michel
Milford
Miller, Ohio
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Myers, Gary
Myers, John
Nedzi
Nichols
O'Brien
Poage
Pritchard
Quayle
Regula
Rinaldo
Risenhoover
Roberts
Robinson
Rousselot
Rudd
Runnels
Ruppe
Sarasin
Satterfield
Sawyer
Schulze
Sebelius
Shuster
Sikes
Skubitz
Smith, Nebr.
Snyder
Spence
Stangeland
Stanton
Steiger
Stockman
Stratton
Stump
Taylor
Treen
Trible
Vander Jagt
Walker
Walsh
Wampler
Watkins
White
Whitehurst
Whitley
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wolff
Wydler
Wylie
Young, Fla.

NAYS—207

Addabbo
Akaka
Alexander
Anderson, Calif.
Annunzio
Applegate
Ashley
Aspin
AuCoin
Baldus
Barnard
Baucus
Beard, R.I.
Bedell
Benjamin
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Brademas
Breckinridge
Brodhead
Brown, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Carr
Cavanaugh
Chisholm
Clay
Collins, Ill.
Conyers
Corman
Cornell
Cornwell
Cotter
D'Amours
Danielson
Delaney
Dellums
Derrick
Dicks
Diggs
Dodd
Downey
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Evans, Colo.
Evans, Ga.
Fascell
Fenwick
Findley
Fisher
Fithian
Flood
Florio
Ford, Mich.
Ford, Tenn.
Fowler
Garcia
Gaydos
Gephardt
Giaimo
Glickman
Gore
Green
Gudger
Hall
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Heftel
Holland
Holtzman
Howard
Hubbard
Hughes
Ireland
Jacobs
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Keys
Kildee
Kostmayer
Krebs
LaFalce
Leach
Lederer
Le Fante
Leggett
Levitas
Lloyd, Calif.
Long, La.
Long, Md.
Luken
Lundine
McCloskey
McDade
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Mikulski
Mineta
Minish
Mitchell, Md.
Moffett
Moorhead, Pa.
Moss
Motl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Michael
Natcher
Neal
Nix
Nolan
Nowak
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pickle
Pike
Preyer
Price
Pritchard
Pursell
Quayle
Rahall
Railsback
Reuss
Rinaldo
Risenhoover
Roberts
Rogers
Roncalio
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Ryan
Santini
Sarasin
Sawyer
Scheuer
Schroeder
Seiberling
Sharp
Simon
Skelton
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Staggers
Stark
Steed
Steers
Stokes
Studds
Thompson
Traxler
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
Whalen
Wirth
Wright
Yates
Young, Mo.
Zablocki

NOT VOTING—61

Abdnor
Ammerman
Armstrong
Badham
Bellenson
Brooks
Burke, Calif.
Burke, Fla.
Byron
Caputo
Clawson, Del
Cochran
Crane
Dent
Drinan
Duncan, Oreg.
Fary
Foley
Fraser
Frey
Fuqua
Gibbons
Guyer
Hagedorn
Hansen
Hawkins
Heckler
Johnson, Colo.
Jordan
Kasten
Kemp
Krueger
Lehman
Luken
Marlenee
Mikva
Miller, Calif.
Moakley
Pettis
Pressler
Quie
Quillen
Rangel
Rhodes
Richmond
Rodino
Rooney
Shipley
Sisk
Symms
Teague
Thone
Thornton
Tsongas
Waggonner
Wiggins
Yatron
Young, Alaska
Young, Tex.
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Waggonner for, with Mr. Richmond against.
Mr. Teague for, with Mr. Zeferetti against.
Mr. Kasten for, with Mr. Dent against.
Mr. Symms for, with Mr. Drinan against.
Mr. Hagedorn for, with Mr. Hawkins against.
Mr. Guyer for, with Mr. Fary against.
Mr. Kemp for, with Mr. Rangel against.
Mr. Rhodes for, with Mrs. Burke of California against.
Mr. Badham for, with Mr. Mikva against.
Mr. Hansen for, with Mr. Moakley against.
Mr. Abdnor for, with Mr. Yatron against.

Until further notice:

Mr. Bellenson with Mr. Armstrong.
Mr. Brooks with Mr. Burke of Florida.
Mr. Huckaby with Mr. Caputo.
Mr. Sisk with Mrs. Pettis.
Mr. Shipley with Mr. Frey.
Mr. Rooney with Mr. Del Clawson.
Mr. Rodino with Mr. Pressler.
Miss Jordan with Mr. Johnson of Colorado.
Mr. Krueger with Mr. Thone.
Mr. Whitten with Mr. Young of Alaska.
Mr. Ammerman with Mr. Cochran of Mississippi.
Mr. Byron with Mr. Luken.
Mr. Duncan of Oregon with Mr. Wiggins.
Mr. Foley with Mr. Crane.
Mr. Fraser with Mr. Marlenee.
Mr. Gibbons with Mr. Quie.
Mr. Tsongas with Mr. Thornton.
Mr. Lehman with Mr. Quillen.
Mr. Fuqua with Mr. Miller of California.

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 246, nays 128, not voting 58, as follows:

[Roll No. 737]

YEAS—246

Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Annunzio
Applegate
Ashley
Aspin
AuCoin
Baldus
Barnard
Baucus
Beard, R.I.
Bedell
Benjamin
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Brademas
Brinkley
Brooks
Broomfield
Brown, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Carr
Cavanaugh
Chisholm
Clay
Cleveland
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cornwell
Cotter
D'Amours
Danielson
de la Garza
Delaney
Dellums
Derrick
Derwinski
Dicks
Diggs
Dingell
Dodd
Downey
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Evans, Colo.
Evans, Ga.
Evans, Ind.
Fascell
Fenwick
Findley
Fisher
Fithian
Flood
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Ginn
Glickman
Gore
Green
Gudger
Hall
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Heckler
Hefner
Heftel
Holland
Hollenbeck
Horton
Howard
Hubbard
Hughes
Ireland
Jeffords
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Keys
Kildee
Kostmayer
Krebs
LaFalce
Leach
Lederer
Le Fante
Leggett
Levitas
Lloyd, Calif.
Long, La.
Long, Md.
Luken
Lundine
McCloskey
McDade
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Mikulski
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Moss
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Michael
Natcher
Neal
Nix
Nolan
Nowak
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pickle
Pike
Preyer
Price
Pritchard
Pursell
Quayle
Rahall
Railsback
Reuss
Rinaldo
Risenhoover
Roberts
Rogers
Roncalio
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Ryan
Santini
Sarasin
Sawyer
Scheuer
Schroeder
Seiberling
Sharp
Simon
Skelton
Smith, Iowa
Solarz
Spellman
St Germain
Staggers
Stanton
Stark
Steed
Steers
Stokes
Studds
Thompson
Traxler
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
Whalen
Wirth
Wright
Yates
Young, Mo.
Zablocki

NAYS—128

Andrews, N.C.
Andrews, N. Dak.
Archer
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bennett
Bevill
Bowen
Breaux
Brodhead
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burleson, Tex.
Butler
Carter
Cederberg
Chappell
Clausen, Don H.
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Cunningham
Daniel, Dan
Daniel, R. W.
Davis
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlenborn
Ertel
Evans, Del.
Fish
Flippo
Flowers
Flynt
Forsythe
Fountain
Frenzel
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Hammer-schmidt
Harsha
Hightower
Hillis
Holt
Holtzman
Hyde
Ichord
Jenrette
Kelly
Kindness
Lagomarsino
Latta
Lent
Livingston
Lloyd, Tenn.
Lott
Lujan
McClory
McCormack
McDonald
McEwen
Marriott
Martin
Michel
Miller, Ohio
Mitchell, N.Y.
Mollohan
Moore
Moorhead, Calif.
Myers, Gary
Myers, John
Nedzi
Nichols
O'Brien
Oakar
Poage
Regula
Robinson
Rousselot
Rudd
Runnels
Ruppe
Satterfield
Schulze
Sebelius
Shuster
Sikes
Skubitz
Slack
Smith, Nebr.
Snyder
Spence
Stangeland
Steiger
Stockman
Stratton
Stump
Taylor
Treen
Trible
Vander Jagt
Walker
Walsh
Wampler
Watkins
Whitehurst
Whitley
Wilson, Bob
Wilson, C. H.
Winn
Wylie
Young, Fla.

NOT VOTING—58

Abdnor
Ammerman
Armstrong
Badham
Bellenson
Breckinridge
Burke, Calif.
Burke, Fla.
Byron
Caputo
Clawson, Del
Cochran
Crane
Dent
Drinan
Duncan, Oreg.
Fary
Fraser
Frey
Fuqua
Gibbons
Guyer
Hagedorn
Hansen
Hawkins
Huckaby
Johnson, Colo.
Jordan
Kemp
Krueger
Lehman
Mikva
Milford
Miller, Calif.
Moakley
Moss
Pettis
Pressler
Quie
Quillen
Rangel
Rhodes
Richmond
Rodino
Rooney
Shipley
Sisk
Symms
Teague
Thone
Thornton
Tsongas
Waggonner
Wiggins
Yatron
Young, Alaska
Young, Tex.
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Richmond for, with Mr. Drinan against.
Mr. Zeferetti for, with Mr. Kasten against.
Mr. Fary for, with Mr. Symms against.
Mr. Rooney for, with Mr. Abdnor against.
Mr. Fuqua for, with Mr. Hansen against.
Mrs. Burke of California for, with Mr. Hagedorn against.
Mr. Rangel for, with Mr. Rhodes against.
Mr. Mikva for, with Mr. Del Clawson against.
Mr. Yatron for, with Mr. Crane against.
Mr. Rodino for, with Mr. Kemp against.
Mr. Dent for, with Mr. Guyer against.
Mr. Hawkins for, with Mr. Teague against.
Mr. Miller of California for, with Mr. Waggonner against.
Mr. Lehman for, with Mr. Wiggins against.
Mr. Shipley for, with Mr. Badham against.

Until further notice:

Mr. Ammerman with Mr. Armstrong.
Mr. Bellenson with Mrs. Pettis.
Mr. Gibbons with Mr. Pressler.
Mr. Sisk with Mr. Thone.
Mr. Tsongas with Mr. Burke of Florida.
Mr. Krueger with Mr. Frey.
Miss Jordan with Mr. Quie.
Mr. Huckaby with Mr. Quillen.
Mr. Breckinridge with Mr. Caputo.
Mr. Byron with Mr. Duncan of Oregon.
Mr. Milford with Mr. Thornton.
Mr. Moss with Mr. Young of Alaska.

Mr. BROWN of Michigan changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to authorize electronic surveillance to obtain foreign intelligence information.".

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. FOLEY). Pursuant to the provisions of House Resolution 1266, the Committee on the Judiciary is discharged from the further consideration of the Senate bill (S. 1566) to amend title 18, United States Code, to authorize applications for a court order approving the use of electronic surveillance to obtain foreign intelligence information.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BOLAND moves to strike out all after the enacting clause of the Senate bill S. 1566 and to insert in lieu thereof the provisions of H.R. 7308, as passed by the House, as follows:

That this Act may be cited as the "Foreign Intelligence Surveillance Act of 1978".

TABLE OF CONTENTS

TITLE I—ELECTRONIC SURVEILLANCE WITHIN THE UNITED STATES FOR FOREIGN INTELLIGENCE PURPOSES

Sec. 101. Definitions.
Sec. 102. Authorization for electronic surveillance for foreign intelligence purposes.
Sec. 103. Special courts.
Sec. 104. Application for an order.
Sec. 105. Issuance of an order.
Sec. 106. Use of information.
Sec. 107. Report of electronic surveillance.
Sec. 108. Congressional oversight.
Sec. 109. Penalties.
Sec. 110. Civil liability.

TITLE II—CONFORMING AMENDMENTS

Sec. 201. Amendments to chapter 119 of title 18, United States Code.

TITLE III—EFFECTIVE DATE

Sec. 301. Effective date.

TITLE I—ELECTRONIC SURVEILLANCE WITHIN THE UNITED STATES FOR FOREIGN INTELLIGENCE PURPOSES

DEFINITIONS

SEC. 101. As used in this title:

(a) "Foreign power" means—

(1) a foreign government or any component thereof, whether or not recognized by the United States;

(2) a faction of a foreign nation or nations, not substantially composed by United States persons;

(3) an entity that is openly acknowledged by a foreign government or governments to be directed and controlled by such foreign government or governments;

(4) a group engaged in international terrorism or activities in preparation therefor;

(5) a foreign-based organization, not substantially composed of United States persons; or

(6) an entity that is directed and controlled by a foreign government or governments.

(b) "Agent of a foreign power" means—

(1) any person other than a United States person, who—

(A) acts in the United States as an officer, member, or employee of a foreign power; or

(B) acts for or on behalf of a foreign power which engages in clandestine intelligence activities in the United States contrary to the interests of the United States, when the circumstances of such person's presence in the United States indicate that such person may engage in such activities in the United States, or when such person knowingly aids or abets any person in the conduct of such activities or knowingly conspires with any person to engage in such activities; or

(2) any person who—

(A) knowingly engages in clandestine intelligence gathering activities for or on behalf of a foreign power, which activities involve or may involve a violation of the criminal statutes of the United States;

(B) pursuant to the direction of an intelligence service or network of a foreign power, knowingly engages in any other clandestine intelligence activities for or on behalf of such foreign power, which activities involve or are about to involve a violation of the criminal statutes of the United States;

(C) knowingly engages in sabotage or international terrorism, or activities that are in preparation therefor, for or on behalf of a foreign power; or

(D) knowingly aids or abets any person in the conduct of activities described in subparagraph (A), (B), or (C) or knowingly conspires with any person to engage in activities described in subparagraph (A), (B), or (C).

(c) "International terrorism" means activities that—

(1) involve violent acts or acts dangerous to human life or property that are or may be a violation of the criminal laws of the United States or of any State, or that might involve a criminal violation if committed within the jurisdiction of the United States or any State;

(2) appear to be intended—

(A) to intimidate or coerce a civilian population;

(B) to influence the policy of a government by intimidation or coercion; or

(C) to affect the conduct of a government by assassination or kidnapping; and

(3) occur totally outside the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to coerce or intimidate, or the locale in which their perpetrators operate or seek asylum.

(d) "Sabotage" means activities that involve or may involve a violation of chapter 105 of title 18, United States Code, or that might involve such a violation if committed against the United States.

(e) "Foreign intelligence information" means—

(1) information that relates to and, if concerning a United States person, is necessary to the ability of the United States to protect against—

(A) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

(B) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

(C) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or (2) information with respect to a foreign power or foreign territory that relates to and, if concerning a United States person, is necessary to—

(A) the national defense or the security of the United States; or

(B) the conduct of the foreign affairs of the United States.

(f) "Electronic surveillance" means—

(1) the acquisition by an electronic, mechanical, or other surveillance device of the contents of any wire or radio communication sent by or intended to be received by a particular, known United States person who is in the United States, if the contents are acquired by intentionally targeting that United States person, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes;

(2) the acquisition by an electronic, mechanical, or other surveillance device of the contents of any wire communication to or from a person in the United States, without the consent of any party thereto, if such acquisition occurs in the United States;

(3) the intentional acquisition by an electronic, mechanical, or other surveillance device of the contents of any radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes, and if both the sender and all intended recipients are located within the United States; or

(4) the installation or use of an electronic, mechanical, or other surveillance device in the United States for monitoring to acquire information, other than from a wire or radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes.

(g) "Attorney General" means the Attorney General of the United States (or Acting Attorney General) or the Deputy Attorney General.

(h) "Minimization procedures", with respect to electronic surveillance, means—

(1) specific procedures, which shall be adopted by the Attorney General, that are reasonably designed in light of the purpose and technique of the particular surveillance, to minimize the acquisition, retention, and dissemination of nonpublicly available information concerning unconsenting United States persons consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information;

(2) procedures that require that nonpublicly available information, which is not foreign intelligence information, as defined in subsection (e)(1), shall not be disseminated in a manner that identifies any individual United States person, without such person's consent, unless such person's identity is necessary to understand foreign intelligence information or assess its importance;

(3) notwithstanding paragraphs (1) and (2), procedures that allow for the retention and dissemination of information that is evidence of a crime which has been, is being, or is about to be committed and that is to be retained or disseminated for the purpose of preventing the crime or enforcing the criminal law; and

(4) notwithstanding paragraphs (1), (2), and (3), with respect to any electronic surveillance approved pursuant to section 102(a), procedures that require that no contents of any communication to which a United States person is a party shall be disclosed, disseminated, or used for any purpose or retained for longer than twenty-four hours unless a court order under section 105 is obtained or unless the Attorney General determines that the information may indicate a threat of death or serious bodily harm to any person.

(i) "United States person" means a citizen of the United States, an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act), an unincorporated association a substantial number of members of which are citizens of the United States or aliens lawfully admitted for permanent residence, or a corporation which is incorporated in the United States, but does not include a corporation or an association which is a foreign power, as defined in subsection (a)(1), (2), or (3).

(j) "United States", when used in a geographic sense, means all areas under the territorial sovereignty of the United States and the Trust Territory of the Pacific Islands.

(k) "Aggrieved person" means a person who is the target of an electronic surveillance or any other person whose communications or activities were subject to electronic surveillance.

(l) "Wire communication" means any communication while it is being carried by a wire, cable, or other like connection furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the transmission of interstate or foreign communications.

(m) "Person" means any individual, including any officer or employee of the Federal Government, or any group, entity, association, corporation, or foreign power.

(n) "Contents", when used with respect to a communication, includes any information concerning the identity of the parties to such communication or the existence, substance, purport, or meaning of that communication.

(o) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and any territory or possession of the United States.

AUTHORIZATION FOR ELECTRONIC SURVEILLANCE FOR FOREIGN INTELLIGENCE PURPOSES

SEC. 102. (a)(1) Notwithstanding any other law, the President, through the Attorney General, may authorize electronic surveillance without a court order under this title to acquire foreign intelligence information for periods of up to one year if the Attorney General certifies in writing under oath that—

(A) the electronic surveillance is solely directed at—

(i) communications exclusively between or among foreign powers, as defined in section 101(a)(1), (2), or (3); or

(ii) the acquisition of technical intelligence from property or premises under the open and exclusive control of a foreign power, as defined in section 101(a)(1), (2), or (3); and

(B) the proposed minimization procedures with respect to such surveillance meet the definition of minimization procedures under section 101(h); and

if the Attorney General shall report such minimization procedures and any changes thereto to the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence at least thirty days prior to their effective date, unless the Attorney General determines immediate action is required and notifies the committees immediately of such minimization procedures and the reason for their becoming effective immediately.

(2) An electronic surveillance authorized by this subsection may be conducted only in accordance with the Attorney General's certification and the minimization procedures adopted by him.

(3) With respect to electronic surveillance authorized by this subsection, the Attorney General may direct a specified communication common carrier to—

(A) furnish all information, facilities, or technical assistance necessary to accomplish the electronic surveillance in such a manner as will protect its secrecy and produce a minimum of interference with the services that such carrier is providing its customers; and

(B) maintain under security procedures approved by the Attorney General and the Director of Central Intelligence any records concerning the surveillance or the aid furnished which such carrier wishes to retain.

The Government shall compensate, at the prevailing rate, such carrier for furnishing such aid.

(b) Applications for a court order under this title are authorized if the President has, by written authorization, empowered the Attorney General to approve applications to a United States district court having jurisdiction under section 103, and a judge to whom an application is made may, notwithstanding any other law, grant an order, in conformity with section 105, approving electronic surveillance of a foreign power or an agent of a foreign power for the purpose of obtaining foreign intelligence information, except that the court shall not have jurisdiction to grant any order approving electronic surveillance directed solely as described in paragraph (1)(A) of subsection (a) unless such surveillance may involve the acquisition of communications of any United States person.

JURISDICTION

SEC. 103. (a) The United States district courts shall have jurisdiction to receive applications for court orders under this title and to issue orders under section 105 of this title.

(b) Proceedings under this title shall be conducted as expeditiously as possible. If any application to the United States district court is denied, the court shall record the reasons for that denial, and the reasons for that denial shall, upon the motion of the party to whom the application was denied, be transmitted under seal to the United States court of appeals.

APPLICATION FOR AN ORDER

SEC. 104. (a) Each application for an order approving electronic surveillance under this title shall be made by a Federal officer in writing upon oath or affirmation to a judge having jurisdiction under section 103. Each application shall require the approval of the Attorney General based upon his finding that it satisfies the criteria and requirements of such application as set forth in this title. It shall include—

(1) the identity of the Federal officer making the application;

(2) the authority conferred on the Attorney General by the President of the United States and the approval of the Attorney General to make the application;

(3) the identity, if known or a description of the target of the electronic surveillance;

(4) a statement of the facts and circumstances relied upon by the applicant to justify his belief that—

(A) the target of the electronic surveillance is a foreign power or an agent of a foreign power; and

(B) each of the facilities or places at which the electronic surveillance is directed is being used, or is about to be used, by a foreign power or an agent of a foreign power;

(5) a statement of the proposed minimization procedures;

(6) a detailed description of the nature of the information sought and the type of communications or activities to be subjected to the surveillance;

(7) a certification or certifications by the Assistant to the President for National Security Affairs and an executive branch official or officials designated by the President from among those executive officers employed in the area of national security or defense and appointed by the President with the advice and consent of the Senate—

(A) that the certifying official deems the information sought to be foreign intelligence information;

(B) that the purpose of the surveillance is to obtain foreign intelligence information;

(C) that such information cannot reasonably be obtained by normal investigative techniques;

(D) that designates the type of foreign intelligence information being sought according to the categories described in section 101(e); and

(E) including a statement of the basis for the certification that—

(i) the information sought is the type of foreign intelligence information designated; and

(ii) such information cannot reasonably be obtained by normal investigative techniques;

(8) a statement of the means by which the surveillance will be effected;

(9) a statement of the facts concerning all previous applications that have been made to any judge under this title involving any of the persons, facilities, or places specified in the application, and the action taken on each previous application;

(10) a statement of the period of time for which the electronic surveillance is required to be maintained, and if the nature of the intelligence gathering is such that the approval of the use of electronic surveillance under this title should not automatically terminate when the described type of information has first been obtained, a description of facts supporting the belief that additional information of the same type will be obtained thereafter; and

(11) whenever more than one electronic, mechanical or other surveillance device is to used with respect to a particular proposed electronic surveillance, the coverage of the devices involved and what minimization procedures apply to information acquired by each device.

(b) Whenever the target of the electronic surveillance is a foreign power, as defined in section 101(a)(1), (2), or (3), and each of the facilities or places at which the surveillance is directed is owned, leased, or exclusively used by that foreign power, the application need not contain the information required by paragraphs (6), (7)(E), (8), and (11) of subsection (a), but shall contain such information about the surveillance techniques and communications or other information concerning United States persons likely to be obtained as may be necessary to assess the proposed minimization procedures.

(c) The Attorney General may require any other affidavit or certification from any other officer in connection with the application.

(d) The judge may require the applicant to furnish such other information as may be necessary to make the determinations required by section 105.

ISSUANCE OF AN ORDER

SEC. 105. (a) Upon an application made pursuant to section 104, the judge shall enter an ex parte order as requested or as modified approving the electronic surveillance if he finds that—

(1) the President has authorized the Attorney General to approve applications for electronic surveillance for foreign intelligence information;

(2) the application has been made by a Federal officer and approved by the Attorney General;

(3) on the basis of the facts submitted by the applicant there is probable cause to believe that—

(A) the target of the electronic surveillance is a foreign power or an agent of a foreign power: *Provided*, That no United States person may be considered a foreign power or an agent of a foreign power solely upon the basis of activities protected by the first amendment to the Constitution of the United States; and

(B) each of the facilities or places at which the electronic surveillance is directed is being used, or is about to be used, by a foreign power or an agent of a foreign power;

(4) the proposed minimization procedures meet the definition of minimization procedures under section 101(h); and

(5) the application which has been filed contains all statements and certifications required by section 104 and, if the target is a United States person, the certification or certifications are not clearly erroneous on the basis of the statement made under section 104(a)(7)(E) and any other information furnished under section 104(d).

(b) An order approving an electronic surveillance under this section shall—

(1) specify—

(A) the identity, if known, or a description of the target of the electronic surveillance;

(B) the nature and location of each of the facilities or places at which the electronic surveillance will be directed;

(C) the type of information sought to be acquired and the type of communications or activities to be subjected to the surveillance;

(D) the means by which the electronic surveillance will be effected;

(E) the period of time during which the electronic surveillance is approved; and

(F) whenever more than one electronic, mechanical, or other surveillance device is to be used under the order, the authorized coverage of the devices involved and what minimization procedures shall apply to information subject to acquisition by each device; and

(2) direct—

(A) that the minimization procedures be followed;

(B) that, upon the request of the applicant, a specified communication or other common carrier, landlord, custodian, or other specified person furnish the applicant forthwith any and all information, facilities, or technical assistance necessary to accomplish the electronic surveillance unobtrusively and in such manner as will protect its secrecy and produce a minimum of interference

with the services that such carrier, landlord, custodian, or other person is providing that target of electronic surveillance;

(C) that such carrier, landlord, custodian, or other person maintain under security procedures approved by the Attorney General and the Director of Central Intelligence any records concerning the surveillance or the aid furnished that such person wishes to retain; and

(D) that the applicant compensate, at the prevailing rate, such carrier, landlord, custodian, or other person for furnishing such aid.

(c) Whenever the target of the electronic surveillance is a foreign power, as defined in section 101(a) (1), (2), or (3), and each of the facilities or places at which the surveillance is directed is owned, leased, or exclusively used by that foreign power, the order need not contain the information required by subparagraphs (C), (D), and (F) of subsection (b)(1), but shall generally describe the information sought, the communications or activities to be subjected to the surveillance, and the type of electronic surveillance involved, including whether physical entry is required.

(d)(1) An order issued under this section may approve an electronic surveillance for the period necessary to achieve its purpose, or for ninety days, whichever is less, except that an order under this section shall approve an electronic surveillance targeted against a foreign power, as defined in section 101(a) (1), (2), or (3), for the period specified in the application or for one year, whichever is less.

(2) Extensions of an order issued under this title may be granted on the same basis as an original order upon an application for an extension and new findings made in the same manner as required for an original order, except that an extension of an order under this chapter for a surveillance targeted against a foreign power, as defined in section 101(a) (4), (5), or (6), may be for a period not to exceed one year if the judge finds probable cause to believe that no communication of any individual United States person will be acquired during the period.

(3) At the end of the period of time for which electronic surveillance is approved by an order or an extension, the judge may assess compliance with the minimization procedures by reviewing the circumstances under which information concerning United States persons was acquired, retained, or disseminated.

(e) Notwithstanding any other provision of this title, when the Attorney General reasonably determines that—

(1) an emergency situation exists with respect to the employment of electronic surveillance to obtain foreign intelligence information before an order authorizing such surveillance can with due diligence be obtained; and

(2) the factual basis for issuance of an order under this title to approve such surveillance exists;

he may authorize the emergency employment of electronic surveillance if a judge having jurisdiction under section 103 is informed by the Attorney General or his designee at the time of such authorization that the decision has been made to employ emergency electronic surveillance and if an application in accordance with this title is made to that judge as soon as practicable, but not more than twenty-four hours after the Attorney General authorizes such surveillance. If the Attorney General authorizes such emergency employment of electronic surveillance, he shall require that the minimization procedures required by this title for the issuance of a judicial order be followed. In the absence of a judicial order approving such electronic surveillance, the surveillance shall terminate when the information sought is obtained, when the application for the order is denied, or after the expiration of twenty-four hours from the time of authorization by the Attorney General, whichever is earliest. In the event that such application for approval is denied, or in any other case where the electronic surveillance is terminated and no order is issued approving the surveillance, no information obtained or evidence derived from such surveillance shall be received in evidence or otherwise disclosed in any trial, hearings, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such surveillance shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information may indicate a threat of death or serious bodily harm to any person. A denial of the application made under this subsection may be reviewed as provided in section 103.

(f) Notwithstanding any other provision of this title, officers, employees, or agents of the United States are authorized in the normal course of their official duties to conduct electronic surveillance not targeted against the communications of any particular person or persons, under procedures approved by the Attorney General, solely to—

(1) test the capability of electronic equipment, if—

(A) it is not reasonable to obtain the consent of the persons incidentally subjected to the surveillance;

(B) the test is limited in extent and duration to that necessary to determine the capability of the equipment; and

(C) the contents of any communication acquired are retained and used only for the purpose of determining the capability of the equipment, are disclosed only to test personnel, and are destroyed before or immediately upon completion of the test;

(2) determine the existence and capability of electronic surveillance equipment being used by persons not authorized to conduct electronic surveillance, if—

(A) it is not reasonable to obtain the consent of persons incidentally subjected to the surveillance;

(B) such electronic surveillance is limited in extent and duration to that necessary to determine the existence and capability of such equipment; and

(C) any information acquired by such surveillance is used only to enforce chapter 119 of title 18, United States Code, or section 605 of the Communications Act of 1934, or to protect information from unauthorized surveillance; or

(3) train intelligence personnel in the use of electronic surveillance equipment, if—

(A) it is not reasonable to—

(i) obtain the consent of the persons incidentally subjected to the surveillance;

(ii) train persons in the course of surveillances otherwise authorized by this title; or

(iii) train persons in the use of such equipment without engaging in electronic surveillance;

(B) such electronic surveillance is limited in extent and duration to that necessary to train the personnel in the use of the equipment; and

(C) no contents of any communication acquired are retained or disseminated for any purpose, but are destroyed as soon as reasonably possible.

(g) Certifications made by the Attorney General pursuant to section 102(a) and applications made and orders granted under this title shall be retained for a period of at least ten years from the date of the application and shall be stored at the direction of the Attorney General under security procedures approved by the Director of Central Intelligence.

USE OF INFORMATION

SEC. 106. (a) Information acquired from an electronic surveillance conducted pursuant to this title concerning any United States person may be used and disclosed by Federal officers and employees without the consent of the United States person only in accordance with the minimization procedures required by this title. No otherwise privileged communication obtained in accordance with, or in violation of, the provisions of this title shall lose its privileged character. No information acquired from an electronic surveillance pursuant to this title may be used or disclosed by Federal officers or employees except for lawful purposes.

(b) No information acquired pursuant to this title shall be disclosed for law enforcement purposes unless such disclosure is accompanied by a statement that such information, or any information derived therefrom, may only be used in a criminal proceeding with the advance authorization of the Attorney General.

(c) Whenever the Government intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, against an aggrieved person, any information obtained or derived from an electronic surveillance of that aggrieved person pursuant to the authority of this title, the Government shall, prior to the trial, hearing, or other proceeding or at a reasonable time prior to an effort to so disclose or to use that information or submit it in evidence, notify the aggrieved person and the court or other authority in which the information is to be disclosed or used that the Government intends to so disclose or so use such information.

(d) Whenever any State or political subdivision thereof intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of a State or a political subdivision thereof, against an aggrieved person any information obtained or derived from an electronic surveillance of that aggrieved person pursuant to the authority of this title, the State or political subdivision thereof shall notify the aggrieved person, the court or other authority in which the information is to be disclosed or used, and the Attorney General that the State or political subdivision thereof intends to so disclose or so use such information.

(e) Any person against whom evidence obtained or derived from an electronic surveillance to which he is an aggrieved person is to be, or has been, introduced or otherwise used or disclosed in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, a State, or a political subdivision thereof, may move to suppress the evidence obtained or derived from such electronic surveillance on the grounds that—

(1) the information was unlawfully acquired; or

(2) the surveillance was not made in conformity with an order of authorization or approval.

Such a motion shall be made before the trial, hearing, or other proceeding unless there was no opportunity to make such a motion or the person was not aware of the grounds of the motion.

(f) Whenever a court or other authority is notified pursuant to subsection (c) or (d), or whenever a motion is made pursuant to subsection (e) and the Government

concedes that information obtained or derived from an electronic surveillance pursuant to the authority of this title as to which the moving party is an aggrieved person is to be, or has been, introduced or otherwise used or disclosed in any trial, hearing, or other proceeding, the Government may make a motion before the court to determine the lawfulness of the electronic surveillance. Unless all the judges of the Special Court are so disqualified. The motion may not be heard by a judge who granted or denied an order or extension involving the surveillance at issue. Such motion shall stay any action in any court or authority to determine the lawfulness of the surveillance. In determining the lawfulness of the surveillance, the Court shall, notwithstanding any other law, if the Attorney General files an affidavit under oath with the court that disclosure would harm the national security of the United States or compromise foreign intelligence sources and methods, review in camera the application, order, and such other materials relating to the surveillance as may be necessary to determine whether the surveillance of the aggrieved person was lawfully authorized and conducted. In making this determination, the court may disclose to the aggrieved person, under appropriate security procedures and protective orders, portions of the application, order, or other materials if there is a reasonable question as to the legality of the surveillance and if disclosure would likely promote a more accurate determination of such legality, or if such disclosure would not harm the national security.

(g) Except as provided in subsection (f), whenever any motion or request is made pursuant to any statute or rule of the United States or any State before any court or other authority of the United States or any State to discover or obtain applications or orders or other materials relating to surveillance pursuant to the authority of this title or to discover, obtain, or suppress any information obtained from electronic surveillance pursuant to the authority of this title, and the court or other authority determines that the moving party is an aggrieved person, if the Attorney General files with the United States court of appeals an affidavit under oath that an adversary hearing would harm the national security or compromise foreign intelligence sources and methods and that no information obtained or derived from an electronic surveillance pursuant to the authority of this title has been or is about to be used by the Government in the case before the court or other authority, the Special Court of Appeals shall, notwithstanding any other law, stay the proceeding before the other court or authority and review in camera and ex parte the application, order, and such other materials as may be necessary to determine whether the surveillance of the aggrieved person was lawfully authorized and conducted. In making this determination, the court of appeals shall disclose, under appropriate security procedures and protective orders, to the aggrieved person or his attorney portions of the application, order, or other materials relating to the surveillance only if necessary to afford due process to the aggrieved person.

(h) If the court pursuant to subsection (f) or the court of appeals pursuant to subsection (g) determines the surveillance was not lawfully authorized and conducted, it shall, in accordance with the requirements of the law, suppress the evidence which was unlawfully obtained or derived from electronic surveillance of the aggrieved person or otherwise grant the motion of the aggrieved person. If the court pursuant to subsection (f) or the court of appeals pursuant to subsection (g) determines the surveillance was lawfully authorized and conducted, it shall deny the motion of the aggrieved person except to the extent that due process requires discovery or disclosure.

(i) Orders granting or denying motions or requests under subsection (h), decisions under this section as to the lawfulness of electronic surveillance, and, absent a finding of unlawfulness, orders of the district court or court of appeals granting or denying disclosure of applications, orders, or other materials relating to a surveillance shall be final orders and binding upon all courts of the United States and the several States except the court of appeals and the Supreme Court.

(j) In circumstances involving the unintentional acquisition by an electronic, mechanical, or other surveillance device of the contents of any radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes, and if both the sender and all intended recipients are located within the United States, such contents shall be destroyed upon recognition, unless the Attorney General determines that the contents may indicate a threat of death or serious bodily harm to any person.

(k) If an emergency employment of electronic surveillance is authorized under section 105(e) and a subsequent order approving the surveillance is not obtained, the judge shall cause to be served on any United States person named in the application and on such other United States persons subject to electronic surveillance as the judge may determine in his discretion it is in the interest of justice to serve, notice of—

(1) the fact of the application;

(2) the period of the surveillance; and

(3) the fact that during the period information was or was not obtained.

On an ex parte showing of good cause to the judge the serving of the notice required by this subsection may be postponed or suspended for a period not to exceed ninety days. Thereafter, on a further ex parte showing of good cause, the court shall forego ordering the serving of the notice required under this subsection.

REPORT OF ELECTRONIC SURVEILLANCE

SEC. 107. In April of each year, the Attorney General shall transmit to the Administrative Office of the United States Courts and to Congress a report setting forth with respect to the preceding calendar year—

(a) the total number of applications made for orders and extensions of orders approving electronic surveillance under this title; and

(b) the total number of such orders and extensions either granted, modified, or denied.

CONGRESSIONAL OVERSIGHT

SEC. 108. (a) On a semiannual basis the Attorney General shall fully inform the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence concerning all electronic surveillance under this title. Nothing in this title shall be deemed to limit the authority and responsibility of those committees to obtain such additional information as they may need to carry out their respective functions and duties.

(b) The Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate may periodically review the information provided under subsection (a). If either such committee determines that an electronic surveillance of a United States person under this title has produced no foreign intelligence information and that the disclosure of the fact of such surveillance to such United States person would not harm the national security, such committee shall inform such person of the fact of such surveillance and that no foreign intelligence information was derived from such surveillance.

PENALTIES

SEC. 109. (a) OFFENSE.—A person is guilty of an offense if he intentionally engaged in electronic surveillance under color of law except as authorized by statute.

(b) DEFENSE.—It is a defense to a prosecution under subsection (a) that the defendant was a law enforcement or investigative officer engaged in the course of his official duties and the electronic surveillance was authorized by and conducted pursuant to a search warrant or court order of a court of competent jurisdiction.

(c) PENALTY.—An offense described in this section is punishable by a fine of not more than $10,000 or imprisonment for not more than five years, or both.

(d) JURISDICTION.—There is Federal jurisdiction over an offense under this section if the person committing the offense was an officer or employee of the United States at the time the offense was committed.

CIVIL LIABILITY

SEC. 110. CIVIL ACTION.—An aggrieved person, other than a foreign power or an agent of a foreign power, as defined in section 101 (a) or (b)(1)(A), respectively, who has been subjected to an electronic surveillance or whose communication has been disseminated or used in violation of section 109 shall have a cause of action against any person who committed such violation and shall be entitled to recover—

(a) actual damages, but not less than liquidated damages of $1,000 or $100 per day for each day of violation, whichever is greater;

(b) punitive damages; and

(c) reasonable attorney's fees and other investigation and litigation costs reasonably incurred.

AUTHORIZATION DURING TIME OF WAR

Notwithstanding any other law, the President, through the Attorney General, may authorize electronic surveillance without a court order under this title to acquire foreign intelligence information for periods up to one year during a period of war declared by the Congress.

TITLE II—CONFORMING AMENDMENTS

AMENDMENTS TO CHAPTER 119 OF TITLE 18, UNITED STATES CODE

SEC. 201. Chapter 119 of title 18, United States Code, is amended as follows:

(a) Section 2511(2)(a)(ii) is amended to read as follows:

"(ii) Notwithstanding any other law, communication common carriers, their officers, employees, and agents, landlords, custodians, or other persons, are authorized to provide information, facilities, or technical assistance to persons authorized by law to intercept wire or oral communications or to conduct electronic surveillance, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978, if the common carrier, its officers, employees, or agents, landlord, custodian, or other specified person, has been provided with—

"(A) a court order directing such assistance signed by the authorizing judge, or

"(B) a certification in writing by a person specified in section 2518(7) of this title or the Attorney General of the United States that no warrant or court order is required by law, that all statutory requirements have been met, and that the specified assistance is required,

setting forth the period of time during which the provision of the information, facilities, or technical assistance is authorized and specifying the information, facilities, or technical assistance required. No communication common carrier, officer, employee, or agent thereof, or landlord, custodian, or other specified person shall disclose the existence of any interception or surveillance or the device used to accomplish the interception or surveillance with respect to which the

person has been furnished an order or certification under this subparagraph, except as may otherwise be required by legal process and then only after prior notification to the Attorney General or to the principal prosecuting attorney of a State or any political subdivision of a State, as may be appropriate. No cause of action shall lie in any court against any communication common carrier, its officers, employees, or agents, landlord, custodian, or other specified person for providing information, facilities, or assistance in accordance with the terms of an order or certification under this subparagraph.".

(b) Section 2511(2) is amended by adding at the end thereof the following new provisions:

"(e) Notwithstanding any other provision of this title or section 605 or 606 of the Communications Act of 1934, it shall not be unlawful for an officer, employee, or agent of the United States in the normal course of his official duty to conduct electronic surveillance, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978, as authorized by that Act.

"(f) Nothing contained in this chapter, or section 605 of the Communications Act of 1934, shall be deemed to affect the acquisition by the United States Government of foreign intelligence information from international or foreign communications by a means other than electronic surveillance as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978, and procedures in this chapter and the Foreign Intelligence Surveillance Act of 1978 shall be the exclusive statutory means by which electronic surveillance, as defined in section 101 of such Act, and the interpretation of domestic wire and oral communications may be conducted.".

(c) Section 2511(3) is repealed.

(d) Section 2518(1) is amended by inserting "under this chapter" after "communication".

(e) Section 2518(4) is amended by inserting "under this chapter" after both appearances of "wire or oral communication".

(f) Section 2518(9) is amended by striking out "intercepted" and inserting "intercepted pursuant to this chapter" after "communication".

(g) Section 2518(10) is amended by striking out "intercepted" and inserting "intercepted pursuant to this chapter" after the first appearance of "communication".

(h) Section 2519(3) is amended by inserting "pursuant to this chapter" after "wire or oral communications" and after "granted or denied".

TITLE III—EFFECTIVE DATE

EFFECTIVE DATE

SEC. 301. The provisions of this Act and the amendments made hereby shall become effective upon the date of enactment of this Act, except that any electronic surveillance approved by the Attorney General to gather foreign intelligence information shall not be deemed unlawful for failure to follow the procedures of this Act, if that surveillance is terminated or an order approving that surveillance is obtained under title I of this Act within ninety days following such date of enactment.

Amend the title so as to read: "An act to authorize electronic surveillance to obtain foreign intelligence information.".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to authorize electronic surveillance to obtain foreign intelligence information.".

A motion to reconsider was laid on the table.

A similar House bill (H.R. 7308) was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 7308

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that the Clerk may be authorized to make any necessary corrections in section numbers, cross references, and punctuation in the engrossment of the bill, H.R. 7308.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 6536, DISTRICT OF COLUMBIA RETIREMENT REFORM ACT

Mr. DIGGS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6536) to establish an actuarially sound basis for financing retirement benefits for policemen, firemen, teachers, and judges of the District of Columbia and to make certain changes in such benefits, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. DERWINSKI. Mr. Speaker, reserving the right to object, may I ask the gentleman from Michigan if this procedure has been discussed with the ranking minority member of the committee.

Mr. DIGGS. If the gentleman will yield, it has, and I have the recommended conferees from the minority side.

Mr. DERWINSKI. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan? The Chair hears none, and, without objection, appoints the following conferees: Messrs. DIGGS, DELLUMS, FAUNTROY, MAZZOLI, MCKINNEY, and WHALEN.

There was no objection.

APPOINTMENT OF CONFEREES ON HOUSE CONCURRENT RESOLUTION 683, REVISING CONGRESSIONAL BUDGET FOR THE U.S. GOVERNMENT FOR FISCAL YEAR 1979

Mr. GIAIMO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the concurrent resolution (H. Con. Res. 683) revising the congressional budget for the U.S. Government for the fiscal year 1979, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut? The Chair hears none, and, without objection, appoints the following conferees: Messrs. GIAIMO, WRIGHT, LEGGETT, MITCHELL of Maryland, BURLESON of Texas, DERRICK, OBEY, SIMON, MINETA, LATTA, CONABLE, DUNCAN of Tennessee, and REGULA.

There was no objection.

REQUEST TO CONCUR IN SENATE AMENDMENTS TO H.R. 1337, AMENDING THE INTERNAL REVENUE CODE OF 1954 WITH RESPECT TO EXCISE TAX ON CERTAIN TRUCKS, BUSES, TRACTORS, ET CETERA

Mr. CORMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1337) to amend the Internal Revenue Code of 1954 with respect to excise tax on certain trucks, buses, tractors, et ceteras, with Senate amendments thereto, concur in the Senate amendment to the title of the bill, and concur in the Senate amendment to the text of the bill with amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert:

SECTION 1. EXCISE TAX ON CERTAIN TRUCKS, BUSES, TRACTORS, ETC.

(a) IN GENERAL.—Paragraph (1) of section 4216(b) of the Internal Revenue Code of 1954 (relating to constructive sale price) is amended by inserting after the second sentence thereof the following new sentence: "In the case of an article the sale of which is taxable under section 4061(a) and which is sold at retail, the computation under the first sentence of this paragraph shall be a percentage (not greater than 100 percent) of the actual selling price based on the highest price for which such articles are sold by manufacturers and producers in the ordinary course of trade (determined without regard to any individual manufacturer's or producer's cost)".

(b) CONFORMING AMENDMENT.—The second sentence of paragraph (1) of such section 4216(b) is amended by inserting "(other than an article the sale of which is taxable under section 4061(a))" after "sold at retail".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer or producer on or after the first day of the first calendar quarter beginning 30 days or more after the date of enactment of this Act.

SEC. 2. HOME PRODUCTION OF BEER AND WINE.

(a) EXEMPTION FROM TAX ON WINE.—Section 5042(a)(2) of the Internal Revenue Code of 1954 (relating to production of wine for personal consumption) is amended to read as follows:

"(2) WINE FOR PERSONAL OR FAMILY USE.—Subject to regulations prescribed by the Secretary—

"(A) EXEMPTION.—Any adult may, without payment of tax, produce wine for personal or family use and not for sale.

"(B) LIMITATION.—The aggregate amount of wine exempt from tax under this paragraph with respect to any household shall not exceed—

"(i) 200 gallons per calendar year if there are 2 or more adults in such household, or

"(ii) 100 gallons per calendar year if there is only 1 adult in such household.

"(C) ADULTS.—For purposes of this paragraph, the term 'adult' means an individual who has attained 18 years of age, or the minimum age (if any) established by law applicable in the locality in which the household is situated at which wine may be sold to individuals, whichever is greater.

(b) EXEMPTION FROM TAX ON BEER.—

(1) IN GENERAL.—Section 5053 of such Code (relating to exemptions from excise tax on beer) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new section:

"(e) BEER FOR PERSONAL OR FAMILY USE.—

Subject to regulations prescribed by the Secretary, any adult may, without payment of tax, produce beer for personal or family use and not for sale. The aggregate amount of beer exempt from tax under this subsection with respect to any household shall not exceed—

"(1) 200 gallons per calendar year if there are 2 or more adults in such household, or

"(2) 100 gallons per calendar year if there is only 1 adult in such household.

For purposes of this subsection, the term 'adult' means an individual who has attained 18 years of age or the minimum age, if any, established by law applicable in the locality in which the household is situated for individuals to whom beer may be sold, whichever is greater."

(2) ILLEGALLY PRODUCED BEER.—

(A) Section 5051 of such Code (relating to imposition and rate of tax) is amended by adding at the end thereof the following new subsection:

"(c) ILLEGALLY PRODUCED BEER.—The production of any beer at any place in the United States shall be subject to tax at the rate prescribed in subsection (a) and such tax shall be due and payable as provided in section 5054(a)(3) unless—

"(1) such beer is produced in a brewery qualified under the provisions of subchapter G, or

"(2) such production is exempt from tax under section 5053(e) (relating to beer for personal or family use).".

(B) Section 5054(a)(3) of such Code (relating to illegally produced beer) is amended to read as follows:

"(3) ILLEGALLY PRODUCED BEER.—The tax on any beer produced in the United States shall be due and payable immediately upon production unless—

"(A) such beer is produced in a brewery qualified under the provisions of subchapter G, or

"(B) such production is exempt from tax under section 5053(e) (relating to beer for personal or family use).".

(3) DEFINITION OF BREWER.—Section 5092 of such Code (defining brewer) is amended to read as follows:

"SEC. 5092. DEFINITION OF BREWER.

"Every person who brews beer (except a person who produces only beer exempt from tax under section 5053(e)) and every person who produces beer for sale shall be deemed to be a brewer.".

(4) EXEMPTION FROM CERTAIN PROVISIONS RELATING TO DISTILLING MATERIALS.—Section 5222(a)(2)(C) of such Code (relating to certain exemptions) is amended by striking out "; or" and inserting in lieu thereof "or 5053(e); or".

(5) PENALTY FOR UNLAWFUL PRODUCTION OF BEER.—

(A) Section 5674 of such Code (relating to penalty for unlawful removal of beer) is amended to read as follows:

"SEC. 5674. PENALTY FOR UNLAWFUL PRODUCTION OR REMOVAL OF BEER.

"(a) UNLAWFUL PRODUCTION.—Any person who brews beers or produces beer shall be fined not more than $1,000, or imprisoned not more than 1 year, or both, unless such beer is brewed or produced in a brewery qualified under subchapter G or such production is exempt from tax under section 5053(e) (relating to beer for personal or family use).

"(b) UNLAWFUL REMOVAL.—Any brewer or other person who removes or in any way aids in the removal from any brewery of beer without complying with the provisions of this chapter or regulations issued pursuant thereto shall be fined not more than $1,000, or imprisoned not more than 1 year, or both.".

(B) The item relating to section 5674 in the table or sections for part III of subchapter J of chapter 51 of such Code is amended to read as follows:

"Sec. 5674. Penalty for unlawful production or removal of beer.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act.

SEC. 3. REFUNDS TO BE MADE TO AERIAL APPLICATORS IN CERTAIN CASES.

(a) ENTITLEMENT OF AERIAL APPLICATORS TO REFUND OF GASOLINE TAX IN CERTAIN CASES.—Subsection (c) of section 6420 of the Internal Revenue Code of 1954 (defining use on a farm for farming purposes) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) CERTAIN FARMING USE OTHER THAN BY OWNER, ETC.—In applying paragraph (3)(A) to a use on a farm for any purpose described in paragraph (3)(A) by any person other than the owner, tenant, or operator of such farm—

"(A) the owner, tenant, or operator of such farm shall be treated as the user and ultimate purchaser of the gasoline, except that

"(B) if the person so using the gasoline is an aerial applicator who is the ultimate purchaser of the gasoline and the person described in subparagraph (A) waives (at such time and in such form and manner as the Secretary shall prescribe) his right to be treated as the user and ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial applicator shall be treated as having used such gasoline on a farm for farming purposes."

(b) ENTITLEMENT OF AERIAL APPLICATORS TO REFUND OF SPECIAL FUELS TAX IN CERTAIN CASES.—The second sentence of subsection (c) of section 6427 of such Code (relating to use for farming purposes) is amended to read as follows: "For purposes of this subsection, if fuel is used on a farm by any person other than the owner, tenant, or operator of such farm, the rules of paragraph (4) of section 6420(c) shall be applied (except that 'liquid taxable under section 4041' shall be substituted for 'gasoline' each place it appears in such paragraph (4)."

(c) CONFORMING AMENDMENT.—Subparagraph (A) of section 6420(c)(3) of such Code is amended by striking out "except that" and all that follows down through the semicolon at the end of such subparagraph (A).

(d) EFFECTIVE DATE.—The amendments made by the first section of this Act shall take effect on the first day of the first calendar quarter which begins more than 90 days after the date of the enactment of this Act.

SEC. 4. PARTIAL ROLLOVERS OF LUMP SUM DISTRIBUTIONS.

(a) PARTIAL ROLLOVER PERMITTED.—Paragraph (5) of section 402(a) of the Internal Revenue Code of 1954 (relating to rollover amounts) is amended to read as follows:

"(5) ROLLOVER AMOUNTS.—

"(A) GENERAL RULE.—If the balance to the credit of an employee in a qualified trust is paid to him within his taxable year in a termination or discontinuance distribution or in a lump sum distribution and he transfers all or a portion of the total taxable amount (as defined in subsection (e)(4)(D)) of the distribution to an eligible rollover source, then the amount transferred shall not be included in gross income.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) QUALIFIED TRUST.—The term 'qualified trust' means an employees' trust described in section 401(a) which is exempt from tax under section 501(a).

"(ii) TERMINATION OR DISCONTINUANCE DISTRIBUTION.—The term 'termination or discontinuance distribution' means a distribution on account of a termination of the plan of which a qualified trust is a part, or, in the case of a profit-sharing or stock bonus plan, a complete discontinuance of contributions under the plan.

"(iii) LUMP SUM DISTRIBUTIONS.—The term 'lump sum distribution' means a distribution described in subparagraph (A) of subsection (e)(4) (determined without regard to subparagraph (B) of that subsection).

"(iv) ELIGIBLE ROLLOVER SOURCE.—The term 'eligible rollover source' means—

"(I) an individual retirement account described in section 408(a),

"(II) an individual retirement annuity described in section 408(b) (other than an endowment contract),

"(III) a retirement bond described in section 409,

"(IV) a qualified trust, or

"(V) an annuity plan described in section 403(a).

"(C) SPECIAL RULES.—

"(i) TRANSFER TREATED AS ROLLOVER CONTRIBUTIONS UNDER SECTION 408.—A transfer described in subparagraph (A) to an eligible rollover source described in subclause (I), (II), or (III) of subparagraph (B)(iv) shall be treated as a rollover contribution as described in section 408(d)(3).

"(ii) SELF-EMPLOYED INDIVIDUALS AND OWNER-EMPLOYEES.—Qualified rollover sources described in subclause (IV) or (V) of subparagraph (B) shall not be treated as qualified rollover sources for transfers of a distribution if any part of the distribution is attributable to a trust forming part of a plan under which the employee was an employee within the meaning of section 401(c)(1) at the time contributions were made on his behalf under the plan.

"(iii) PROPERTY ROLLED OVER MUST BE THE PROPERTY RECEIVED.—Subparagraph (A) shall not apply to a transfer of property other than money unless the property transferred is the property which was received in the distribution.

"(iv) TRANSFER MUST BE MADE WITHIN 60 DAYS OF RECEIPT.—Subparagraph (A) shall not apply to any transfer of a distribution made after the 60th day following the day on which the employee received the property distributed.".

(b) TAXATION OF PORTION EXCLUDED FROM ROLLOVER.—Paragraph (6) of section 402(a) of such Code (relating to special rollover rules) is amended—

(1) by striking out "For purposes of paragraph (5)(A)(i)—" and inserting in lieu thereof "For purposes of paragraph (5)—". and

(2) by adding at the end thereof the following new subparagraph:

"(C) TAXATION OF NONROLLOVER PORTION.—If the total taxable amount of a distribution described in paragraph (5)(A) exceeds the amount transferred in a transfer described in such paragraph, then—

"(i) subsection (e) and section 62(11) shall not apply with respect to the distribution, and

"(ii) to the extent that the total taxable amount of such distribution exceeds the amount transferred, the excess shall be treated as ordinary income (or loss)."

(c) SPECIAL RULE.—For the purpose of applying the amendment made by subsection (a) of this section in the case of a taxpayer whose attempt to comply with the requirements of section 402(a)(5) of the Internal Revenue Code of 1954 (relating to rollover amounts) for a taxable year beginning before the date of enactment of this Act failed to meet the requirement of such section that all property received in a distribution be transferred, the provisions of such section (as amended by subsection (a)) shall be applied by treating any transfer of

property made on or before the later of December 31, 1978, or the 60th day after the date of enactment of this Act as if it were made on or before the 60th day after the day on which the taxpayer received such property. For purposes of this subsection, a transfer of money shall be treated as a transfer of property received in a distribution to the extent that the amount of the money transferred does not exceed the fair market value of the property distributed on (or at any time within 60 days after) the date on which the taxpayer received the distribution.

(d) EFFECTIVE DATE.—The amendment made by subsections (a) and (b) shall apply with respect to taxable years beginning after December 31, 1974.

SEC. 5. CASH PAYMENT IN LIEU OF FOOD STAMPS TO RECIPIENTS OF SSI BENEFITS.

(a) Section 8(d) of Public Law 93-233 is amended by adding at the end thereof the following new sentences: "For purposes of this subsection, if the State requests the Secretary to make the finding specified in the first sentence of this subsection and to make an additional cash payment under title XVI in lieu of food stamps, in the amount and the manner described below, to every individual in the State who does not have an eligible spouse and who receives a supplementary payment pursuant to an agreement under section 1616(a) of the Act (other than an individual who (i) receives such a supplementary payment at a level prescribed by the State by reason of his or her residence in an institution, or other living arrangement in which board and care are provided, or (ii) receives payments pursuant to section 212 of Public Law 93-66 at a level in excess of the level applicable to such individual as established by the State under such agreement), the Secretary shall make such payments if he finds that the conditions of paragraph (1) has been met (and for this purpose the conditions of paragraph (1) shall be considered to have been met to the extent that they involve amounts payable under the law referred to in paragraph (1)(B) notwithstanding the suspension in 1978 of the cost-of-living increase in State supplementary payments under such law) for months beginning with the first month in which, as determined by the Secretary, such additional cash payment can be made, and ending with the month before the first subsequent month for which the conditions of paragraph (1) are met without regard to this sentence (and the requirements of paragraph (2) shall also be considered to have been met, effective on the first day of such first subsequent month, for purposes of applying the first sentence of this subsection to that month and succeeding months). For purposes of the preceding sentence, the amount of an additional cash payment under title XVI in lieu of food stamps shall equal the cash value of the minimum allotment specified by section 8 (a) of the Food Stamp Act of 1977 for one-person households, and such additional cash payment shall be appropriately included in or with the check issued to such individual in payment of his supplementary security income benefit (or supplementary payment under such section 1616(a)).".

(b) No additional cash payment under title XVI of the Social Security Act may be made pursuant to the third sentence of section 8(d) of Public Law 93-233 (as added by subsection (a) of this section) for any month beginning before October 1, 1978, or ending after September 30, 1979.

Amend the title so as to read: "An Act to amend the Internal Revenue Code of 1954 with respect to excise tax on certain trucks, buses, tractors, et cetera, home production of beer and wine, refunds of the taxes on gasoline and special fuels to aerial applicators, and partial rollovers of lump sum distributions.".

Mr. CORMAN (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate amendments be dispensed with, and that they be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the House amendments to the Senate amendments.

The Clerk read the House amendments to the Senate amendments as follows:

Page 3, line 25, of the Senate engrossed amendments, insert a comma after "18 years of age".

Page 4 of the Senate engrossed amendments, strike out lines 1 through 5 and insert the following: age (if any) established by law applicable in the locality in which the household is situated at which beer may be sold to individuals, whichever is greater."

Page 4, line 19, of the Senate engrossed amendments, strike out "illegally produced beer" and insert in lieu thereof "to illegally produced beer".

Page 8, line 7, of the Senate engrossed amendments, strike out "paragraph (4)" and insert in lieu thereof "paragraph (4))".

Page 8, beginning in line 12, of the Senate engrossed amendments, strike out "the first section of this Act" and insert in lieu thereof "this section".

Page 8 of the Senate engrossed amendments, strike out line 16 and all that follows down through line 9 on page 13, and insert:

SEC. 4. PARTIAL ROLLOVERS OF LUMP SUM DISTRIBUTIONS.

(a) PARTIAL ROLLOVER FROM EMPLOYEES' TRUSTS PERMITTED.—Paragraph (5) of section 402(a) of the Internal Revenue Code of 1954 (relating to rollover amounts) is amended to read as follows:

"(5) ROLLOVER AMOUNTS.—

"(A) GENERAL RULE.—If—

"(i) the balance to the credit of an employee in a qualified trust is paid to him in a qualifying rollover distribution,

"(ii) the employee transfers any portion of the property he receives in such distribution to an eligible retirement plan, and

"(iii) the amount so transferred consists of the property (other than money) distributed,

then such distribution (to the extent so transferred) shall not be includible in gross income for the taxable year in which paid.

"(B) MAXIMUM AMOUNT WHICH MAY BE ROLLED OVER.—In the case of any qualifying rollover distribution, the maximum amount transferred to which subparagraph (A) applies shall not exceed the fair market value of all the property the employee receives in the distribution, reduced by the employee contributions.

"(C) TRANSFER MUST BE MADE WITHIN 60 DAYS OF RECEIPT.—Subparagraph (A) shall not apply to any transfer of a distribution made after the 60th day following the day on which the employee received the property distributed.

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) QUALIFYING ROLLOVER DISTRIBUTION.—The term 'qualifying rollover distribution' means 1 or more distributions—

"(I) within 1 taxable year of the employee on account of a termination of the plan of which the trust is a part or, in the case of a profit-sharing or stock bonus plan, a complete discontinuance of contributions under such plan, or

"(II) which constitute a lump sum distribution within the meaning of subsection (e)(4)(A) (determined without reference to subsection (e)(4)(B)).

"(ii) EMPLOYEE CONTRIBUTIONS.—The term 'employee contributions' means—

"(I) the excess of the amounts considered contributed by the employee (determined by applying section 72(f)), over

"(II) any amounts theretofore distributed to the employee which were not includible in gross income.

"(iii) QUALIFIED TRUST.—The term 'qualified trust' means an employees' trust described in section 401(a) which is exempt from tax under section 501(a).

"(iv) ELIGIBLE RETIREMENT PLAN.—The term 'eligible retirement plan' means—

"(I) an individual retirement account described in section 408(a),

"(II) an individual retirement annuity described in section 408(b) (other than an endowment contract),

"(III) a retirement bond described in section 409,

"(IV) a qualified trust, and

"(V) an annuity plan described in section 403(a).

"(E) SPECIAL RULES.—

"(i) TRANSFER TREATED AS ROLLOVER CONTRIBUTION UNDER SECTION 408.—For purposes of this title, a transfer described in subparagraph (A) to an eligible retirement plan described in subclause (I), (II), or (III) of subparagraph (D)(iv) shall be treated as a rollover contribution described in section 408(d)(3).

"(ii) SELF-EMPLOYED INDIVIDUALS AND OWNER-EMPLOYEES.—An eligible retirement plan described in subclause (IV) or (V) of subparagraph (D)(iv) shall not be treated as an eligible retirement plan for the transfer of a distribution if any part of the distribution is attributable to a trust forming part of a plan under which the employee was an employee within the meaning of section 401(c)(1) at the time contributions were made on his behalf under the plan."

(b) PARTIAL ROLLOVER OF ANNUITY CONTRACTS PERMITTED.—Subsection (a) of section 403 of such Code (relating to taxability of beneficiary under a qualified annuity plan) is amended by striking out paragraphs (4) and (5) and inserting in lieu thereof the following new paragraph:

"(4) ROLLOVER AMOUNTS.—

"(A) GENERAL RULE.—If—

"(i) the balance to the credit of an employee in an employee annuity described in paragraph (1) is paid to him in a qualifying rollover distribution,

"(ii) the employee transfers any portion of the property he receives in such distribution to an eligible retirement plan, and

"(iii) the amount so transferred consists of the property (other than money) distributed,

then such distribution (to the extent so transferred) shall not be includible in gross income for the taxable year in which paid.

"(B) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of subparagraphs (B) through (E) of section 402(a)(5) and of paragraph (6) of section 402(a) shall apply for purposes of subparagraph (A)."

(c) TAXATION OF PORTION NOT ROLLED OVER.—

(1) GENERAL.—Paragraph (6) of section 402(a) of such Code (relating to special rollover rules) is amended by adding at the end thereof the following new subparagraph:

"(C) TREATMENT OF PORTION NOT ROLLED OVER.—If any portion of a lump sum distribution is transferred in a transfer to which paragraph (5)(A) applies, paragraph (2) of subsection (a), and paragraphs (1) and (3) of subsection (e) shall not apply with respect to such lump sum distribution."

(2) CONFORMING AMENDMENTS.—Paragraph (6) of section 402(a) of such Code is amended—

(A) by striking out "For purposes of paragraph (5)(A)(i)",

(B) by striking out "A complete" in subparagraph (A) and inserting in lieu thereof "For purposes of paragraph (5)(D)(i), a complete", and

(C) by inserting "For purposes of paragraph (5)(D)(i)—" after "Assets.—" in subparagraph (B).

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (c) shall apply with respect to taxable years beginning after December 31, 1974.

(2) VALIDATION OF CERTAIN ATTEMPTED ROLLOVERS.—If the taxpayer—

(A) attempted to comply with the requirements of section 402(a)(5) or 403(a)(4) of the Internal Revenue Code of 1954 for a taxable year beginning before the date of the enactment of this Act, and

(B) failed to meet the requirements of such section that all property received in the distribution be transferred,

such section (as amended by this section) shall be applied by treating any transfer of property made on or before December 31, 1978, as if it were made on or before the 60th day after the day on which the taxpayer received such property. For purposes of the preceding sentence, a transfer of money shall be treated as a transfer of property received in a distribution to the extent that the amount of the money transferred does not exceed the highest fair market value of the property distributed during the 60-day period beginning on the date on which the taxpayer received such property.

Mr. CORMAN (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the House amendments to the Senate amendments be dispensed with, and that they be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. STEIGER. Mr. Speaker, reserving the right to object, I reserve the right to object in order to give the gentleman from California an opportunity to briefly explain the amendments proposed by the other body and included in the text of the bill.

Mr. CORMAN. Mr. Speaker, will the gentleman yield?

Mr. STEIGER. I will be happy to yield to the gentleman.

Mr. CORMAN. I thank the gentleman for yielding.

Mr. Speaker, H.R. 1337, as passed by the Senate, is a combination of three small bills which have been passed by the House plus several Senate amendments.

The first section of the bill provides that the use of the administratively developed "cost floor" rule is specifically prohibited as an alternative tax base for purposes of computing the excise tax on trucks, buses, and other highway equipment sold by manufacturers at retail. Under a Senate amendment to the House bill, the September 30, 1977, effective date was changed so that this rule will apply prospectively beginning with the first calendar quarter which begins more than 30 days after enactment.

In this connection, I want to emphasize that the intent of the Committee on Ways and Means concerning the constructive sale price percentage for a type of taxable article is that the percentage is to be determined by reference to a comparison between the price at which these articles are sold at retail and the price at which these articles are predominately sold at other than retail, even though these latter sales may comprise a minority of the total sales of such articles.

The second section of the bill deals with Excise taxes on beer and wine. It corrects problems in interpreting present law so that an adult may brew beer or make wine in limited quantities for personal and family use without incurring beer or wine excise taxes or being subject to certain penalties. Under a Senate amendment to the House-passed provisions, which were contained in H.R. 2028, the treatment of home-brewing is made parallel to the treatment of home winemaking so that home brewers will be able to brew up to 200 gallons of beer each year without being subject to the 30-gallon-on-hand limitation and the registration requirement contained in the House bill. However, there are several clarifying amendments that are made to conform the language contained in the Senate amendment to that of the House bill.

The third section of the bill expands the farming exemption from fuel taxes to enable an aerial crop duster who uses fuel for farming purposes to claim the tax refund or credit. A Senate amendment to the House-passed provision, which was contained in H.R. 2852, requires that the farmer must waive his right to the refund or credit in order for the crop duster to claim it. A technical amendment is made to correct the effective date as contained in the Senate amendment.

The fourth section of the bill is a Senate provision which would allow tax-free treatment for any portion of a lump-sum distribution from a qualified retirement plan which is deposited in an individual retirement account or another qualifying plan. There is also a special makeup rule for individuals who previously attempted to make a rollover deposit but failed to transfer the required amount.

In addition to various technical amendments, an amendment is made to this Senate amendment which is necessary to extend the relief provided by the bill to plans funded by annuity contracts. A similar makeup rule would apply to individuals who previously attempted to roll over distributions from annuity plans, but failed to transfer the entire amount of the distribution.

The final section of the Senate-passed bill deals with supplemental security income and is identical to H.R. 13814, which was favorably reported by the Committee on Ways and Means on August 16. It addresses a problem which has recently arisen regarding the SSI program in California.

The Senate amendment contained in section 5 of H.R. 1337 amends section 8(d) of Public Law 93-233. It provides that, upon the request of the State of California, the Secretary of Health, Education, and Welfare would make a monthly cash payment equal to the minimum food stamp allotment for an eligible one-person household ($10) to noninstitutionalized, SSI recipients who do not have an eligible spouse. This additional payment would be included in or with the individual's SSI check. Eligible SSI individuals would receive this $10 monthly cash payment in place of food stamps. These cash payments in lieu of food stamps could not be made before October 1, 1978 nor continue beyond September 30, 1979.

This amendment is identical to a bill, H.R. 13814, that has been approved by the Committee on Ways and Means and is scheduled to be considered by the House under a suspension of the rules.

The purpose of the Senate amendment and the committee approved bill is to provide eligible SSI individuals in California with a Federal payment equivalent to their food stamp entitlement in a manner that reduces administrative procedures and costs. Under both, noninstitutionalized SSI individuals in the State would receive a monthly $10 cash payment in lieu of food stamps. The amendment would allow California to resume the "cash-out" status for SSI recipients that has been in effect since the SSI program was implemented in January of 1974.

The Congressional Budget Office (CBO) estimates that, for fiscal 1979, the payments provided under this amendment will cost approximately $60 million; $57 million for benefits and $3 million for administration. CBO estimates that if this amendment is not enacted, and SSI recipients in California remain eligible for food stamps, annual Federal food stamp cost will increase by $50 million, $30 million of which would be for benefits and $20 million for the Federal share of administrative expenditures. Since States pay half the food stamp administrative costs, the CBO estimate indicates that California would pay an additional $20 million in yearly administrative costs if SSI recipients remain eligible for food stamps. In other words, it would cost approximately $40 million ($20 million Federal and $20 million State) to administer $30 million in food stamp benefits. Whereas, under this Senate amendment and the committee bill, it would cost only $3 million to administer $57 million in benefits. Almost twice as many needy aged, blind, and disabled individuals would receive the Federal benefits to which they are entitled at a fraction of the administrative cost, and at a comparable total cost to the Federal Government.

Mr. Speaker, I urge that the House concur in the Senate amendments, with the modifications just described.

Mr. STEIGER. Mr. Speaker, further reserving the right to object, I very much appreciate the explanation of the gentleman from California (Mr. CORMAN).

I would hope that the House might unanimously agree to this request. These amendments are in fact sensible. I urge their adoption.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, the gentleman from California (Mr. CORMAN) was good enough to discuss this matter with me before he made his request, and I indicated I had some questions about the procedure being followed. The gentleman has adequately described the problem, but I think the question is larger than just the immediate bill before us.

We are constantly faced with bills from the Committee on Ways and Means and from the other body containing a number of unrelated provisions.

There are some good provisions in this bill, but the Members should understand precisely the full implications of section 5 which was added by the other body. It would not be uncharitable to characterize this section as a direct result of the action taken by the voters in California who voted overwhelmingly in favor of proposition 13.

As I understand the explanation of what the gentleman from California (Mr. CORMAN) is asking, it would require the Federal Government to come up with $60 million to take the place of funds that the State of California was required to appropriate by law for SSI recipients. The California legislature did not provide these funds, because they wished to cut down on welfare costs in the wake of proposition 13.

The basic question, it seems to me, is why the Congress should step in and bail out California's welfare program in this instance, particularly when the Committee on Ways and Means has already reported out on August 17 a bill, H.R. 13814, that can be in due course considered by the House and acted on when there is chance for debate and amendment.

Mr. Speaker, I would hope that the gentleman from California (Mr. CORMAN) would withdraw his request at this time so it would be in order for us to debate this section 5, the other body's amendment, in proper order.

Mr. CORMAN. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from California.

Mr. CORMAN. Mr. Speaker, I might explain to the gentleman from Maryland (Mr. BAUMAN) that this does not give any SSI recipient in California any more Federal welfare benefits than the existing law does. The existing law requires the Federal Government to give $10 in food stamps to noninstitutionalized SSI recipients in California who do not have an eligible spouse. It is estimated that $30 million would be spent for these food stamp benefits in fiscal 1979.

Additionally, the Federal Government will pay one-half of administrative costs and the State the other half of the costs of making these food stamp payments. The Congressional Budget Office estimates that total administrative costs associated with the payment of the $30 million in food stamp benefits will be $40 million in fiscal 1979, half paid by the Federal Government and half by the State of California.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, I would have to say to the gentleman that, according to the information before me, there is an additional cost of $10 million to the Federal Government, if this bill is passed, over and above what it would cost for the State of California to go into the food stamp program for the supplemental benefits. But the greater additional cost if they go into the food stamp program, as I understand it, will result because California will have to come up with the money for the administrative costs, which could be considerable. That seems to me to be the problem of the current government of California, in the wake of the wise decision of their electorate on proposition 13.

Mr. CORMAN. If the gentleman will yield, half of the administrative costs will be paid by the State of California and half will come from the Federal Government. All of the food stamp benefit costs will be paid by the Federal Government. It is uncertain as to how many aged, blind, or disabled people who are eligible for food stamps would actually go down to the welfare office, apply and go through the bureaucratic process required to get that $10 worth of food stamps. The $10 million net cost of the bill estimated by the Congressional Budget Office assumes substantially less than 100 percent participation in the food stamp program. If all who are eligible for food stamps collected them, the Senate amendment under consideration would result in substantial savings to the Federal Government, because of the lower administrative costs.

I would urge the gentleman to consider the importance of time. As soon as we can get this bill passed, HEW can begin making their computer adjustments, and they can abandon the process necessary to get several hundred thousand people processed and eligible for food stamps.

When this bill is passed, the basic administrative procedure will be to make the adjustment to the checks of those eligible for the additional $10. They are presently entitled to that $10 from the Federal Government; but they are now entitled to $10 of food stamps rather than the cash.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, I understand the gentleman's concern, but I also think there are better procedures available for the House to consider a request of this nature. Other States may wisely adopt spending and taxing limitation policies as did the California electorate, to control State officials, because of their inability to control themselves. But the request before us sets a precedent for the Federal Government to step in in each instance and bail out those States. Indeed, in this case it will cost $60 million, $10 million net more. I do not wish to set such a precedent.

I think we should debate the full issue in due course and not under unanimous consent. Unless the gentleman wishes to withdraw his request, I would object.

Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

CIVIL SERVICE REFORM ACT OF 1978

Mr. UDALL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 11280) to reform the civil service laws.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 307, nays 10, answered "present" 1, not voting 114, as follows:

[Roll No. 738]

YEAS—307

Akaka
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Ashbrook
Aspin
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Bolling
Bonior
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Mass.
Burleson, Tex.
Butler
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clay
Cleveland
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cornell
Coughlin
Cunningham
D'Amours
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Dicks
Dodd
Dornan
Duncan, Tenn.
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Gammage
Garcia
Gephardt
Giaimo
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Green
Gudger
Hamilton
Hammer-schmidt
Hanley
Hannaford
Harkin
Harsha
Hefner
Heftel
Hightower
Hillis
Holt
Holtzman
Horton
Howard
Hubbard
Hughes
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Keys
Kildee
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Levitas
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marriott
Martin
Mattox
Mazzoli
Meeds
Meyner
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Poage
Preyer
Price
Pritchard
Pursell
Rahall
Railsback
Regula
Reuss
Rinaldo
Risenhoover
Robinson
Roe
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Rudd
Runnels
Russo
Ryan
Santini
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shuster
Simon
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spence
St Germain
Staggers
Stangeland
Stark
Steed
Steiger
Stockman
Stokes
Stratton
Studds
Taylor
Thompson
Traxler
Trible
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Walgren
Walker
Walsh
Wampler
Watkins
Weaver
Weiss
Whalen
White
Whitehurst
Whitley
Winn
Wolff
Wright
Wydler
Wylie
Yates
Young, Mo.
Zablocki

NAYS—10

Dickinson
Harris
Heckler
Lloyd, Calif.
Mitchell, Md.
Spellman
Steers
Wilson, Bob
Wilson, C. H.
Wydler

ANSWERED "PRESENT"—1

Gaydos

NOT VOTING—114

Abdnor
Addabbo
Ambro
Ammerman
Anderson, Ill.
Archer
Armstrong
Ashley
AuCoin
Badham
Bellenson
Boland
Bonker
Bowen
Brown, Calif.
Burke, Calif.
Burke, Fla.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Caputo
Carney
Clawson, Del
Cochran
Cornwell
Cotter
Crane
Daniel, Dan
Dent
Diggs
Dingell
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Evans, Colo.
Fary
Flowers
Forsythe
Fowler
Fraser
Frey
Gaydos
Hall
Hansen
Harrington
Hawkins
Holland
Hollenbeck
Huckaby
Ichord
Johnson, Colo.
Jordan
Kasten
Kemp
Kindness
Krueger
Leggett
Lehman
Lent
Livingston
Marlenee
Mathis
Metcalfe
Mikva
Milford
Miller, Calif.
Moakley
Moss
Pettis
Pickle
Pike
Pressler
Quayle
Quie
Quillen
Rangel
Rhodes
Richmond
Roberts
Rodino
Rogers
Roncalio
Rooney
Ruppe
Sarasin
Satterfield
Shipley
Sikes
Sisk
Snyder
Stump
Symms
Teague
Thone
Thornton
Treen
Tsongas
Volkmer
Waggonner
Waxman
Whitten
Wiggins
Wilson, Tex.
Wright
Yatron
Young, Alaska
Young, Fla.
Young, Tex.
Zeferetti

So the motion was agreed to.

The result of the vote was announced as above recorded.

Mr. CLAY. Mr. Speaker, I move to reconsider the vote pursuant to which the motion that the House resolve itself into the Committee of the Whole House on the State of the Union was agreed to.

Mr. UDALL. Mr. Speaker, I move to table the motion offered by the gentleman from Missouri (Mr. CLAY).

The SPEAKER pro tempore. The question is on the motion to table offered by the gentleman from Arizona (Mr. UDALL).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CLAY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 296, nays 18, not voting 118, as follows:

[Roll No. 739]

YEAS—296

Akaka
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Aspin
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Brademas
Brinkley
Brodhead
Brooks
Brown, Mich.
Brown, Ohio
Broyhill
Burgener
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Cleveland
Cohen
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cornell
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dodd
Dornan
Downey
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flynt
Foley
Ford, Tenn.
Fountain
Frenzel
Gammage
Garcia
Gaydos
Gephardt
Giaimo
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Green
Gudger
Hamilton
Hammer-schmidt
Hanley
Hannaford
Harkin
Harsha
Hefner
Heftel
Hightower
Hillis
Holtzman
Horton
Howard
Hubbard
Hughes
Hyde
Ichord
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kelly
Kildee
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Levitas
Livingston
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
Madigan
Maguire
Mahon
Markey
Marks
Marlenee
Marriott
Martin
Mattox
Mazzoli
Meeds
Michel
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Poage
Preyer
Price
Rahall
Railsback
Regula
Reuss
Rinaldo
Risenhoover
Robinson
Roncalio
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Rudd
Runnels
Russo
Ryan
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shuster
Simon
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spence
St Germain
Stangeland
Stanton
Stark
Steed
Stockman
Stratton
Studds
Taylor
Traxler
Treen
Trible
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Hefner
Heftel
Hightower
Hillis
Holtzman
Horton
Hubbard
Hughes
Hyde
Ichord
Jeffords
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kelly
Kildee
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Levitas
Livingston
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
Madigan
Walsh
Wampler
Watkins
Weaver
Weiss
Whalen
White
Whitehurst
Whitley
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Young, Mo.
Zablocki

NAYS—18

Broomfield
Clay
Collins, Ill.
Davis
Gilman
Harris
Holt
Leggett
Metcalfe
Mikulski
Quayle
Spellman
Staggers
Steers
Stokes
Wilson, Bob
Wilson, C. H.
Young, Fla.

NOT VOTING—118

Abdnor
Addabbo
Ammerman
Armstrong
Ashley
AuCoin
Badham
Bellenson
Bonker
Bowen
Breaux
Breckinridge
Brown, Calif.
Buchanan
Burke, Calif.
Burke, Fla.
Burton, John
Burton, Phillip
Byron
Caputo
Clawson, Del
Cochran
Cotter
Coughlin
Crane
Dent
Diggs
Dingell
Drinan
Duncan, Oreg.
Erlenborn
Evans, Colo.
Fary
Flippo
Flowers
Ford, Mich.
Forsythe
Fowler
Fraser
Frey
Fuqua
Gibbons
Guyer
Hagedorn
Hansen
Harrington
Harsha
Hawkins
Holland
Holland
Howard
Huckaby
Jacobs
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jordan
Kasten
Kazen
Kemp
Keys
Kindness
Krueger
Lehman
Lent
Lloyd, Calif.
McKinney
Mann
Mathis
Meyner
Mikva
Milford
Miller, Calif.
Moakley
Montgomery
Moss
Pettis
Pickle
Pike
Pressler
Pritchard
Pursell
Quie
Quillen
Rangel
Rhodes
Richmond
Roberts
Rodino
Rogers
Rooney
Ruppe
Sarasin
Scheuer
Shipley
Sikes
Sisk
Snyder
Steiger
Stump
Symms
Teague
Thompson
Thone
Thornton
Thompson
Tsongas
Waggonner
Waxman
Whitten
Wiggins
Wilson, Tex.
Yatron
Young, Alaska
Young, Tex.
Zeferetti

Mr. LIVINGSTON changed his vote from "nay" to "yea."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 11280, with Mr. DANIELSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on August 11, 1978, all time for general debate on the bill had expired.

Pursuant to the rule, the Clerk will now read by titles the committee amendment in the nature of a substitute recommended by the Committee on Post Office and Civil Service now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk proceeded to read the bill.

POINT OF ORDER

Mr. MEEDS. Mr. Chairman, I make a point of order against titles IX and X, based on their violation of clause 7, rule XVI, in that they are nongermane to the bill before us.

Title IX deals with two groups of em-

ployees not covered in the original bill. It includes postal workers and District of Columbia employees. There is much precedent which indicates that we have classes of subjects not covered by the basic proposition before us, which renders the new material nongermane. That is precisely what title IX does by adding two new subjects.

Title X, on the other hand, introduces new subject matter, the pay of firefighters that is not covered in the original bill. Title X deals exclusively with hours of work and wages of firefighters, while the original bill deals with the institution of the merit system within the system. Where hours or wages are included, it is only incidental to the basic proposition of the merit system, so both of these titles should be stricken for the above reason, and for the added reason that neither proposition amends the original bill. Rather, both seek to amend existing and basic law.

The CHAIRMAN. The gentleman from Washington (Mr. MEEDS) makes a point of order against titles IX and X.

Mr. CLAY. Mr. Chairman, I rise in opposition to this point of order.

For the life of me, I cannot understand how and why title IX should be treated in this discriminatory manner.

The facts are fairly obvious—and the connections between Hatch Act reform and the rest of H.R. 11280 are quite strong—

First, the bill, in section 2302 (on page 138, beginning on line 24) defines improper political activities as a prohibited personnel practice. Title IX of the bill states exactly what these improper political activities are.

Second, the bill charges the special counsel of the Merit System Protection Board (MSPB) with responsibility for not only investigating prohibited personnel activities in general but improper political activities in particular. (See page 160, beginning on line 24.) Title IX of the bill defines more fully these activities which apply to Federal civilian as well as postal employees.

Mr. Chairman, it is inconceivable to me that this bill—which touches on virtually every aspect of civil service—should have political activities and firefighters singled out for this kind of shabby treatment.

Title IX is virtually identical to H.R. 10, the Federal Employees' Political Activities Act of 1977, which passed the House on June 7, 1977, by a vote of 244 to 164. The only major differences between title IX and H.R. 10 is that title IX designates the special counsel of the Merit Systems Protection Board as the enforcing authority and the Board as the adjudicatory authority. H.R. 10 designated the general counsel of the Civil Service Commission as the enforcing authority while the Commission would have been the adjudicatory authority. These changes assume that the Civil Service Commission will be superceded by the Office of Personnel Management (OPM) and the Merit Systems Protection Board established under reorganization plan No. 2 of 1978. The investigative procedures of H.R. 10 were deleted to parallel those established in H.R. 11280.

Although both the committee and the House approved this legislation in the last two Congresses by overwhelming margins, it has become increasingly clear to me that the other body will not act on Hatch Act reform this year. I offered my amendment in committee in order to insure that both Houses of Congress have the opportunity to work their will in considering reform of the Hatch Act. Many of us have worked long and hard in pressing for passage of this and other legislation in recent years only to see it languish and die in the other body.

Mr. Chairman, the issue of full political participation for Federal employees and protection of the public interest should be addressed here and now.

Finally, inclusion of Hatch Act reform does not constitute a "burden" on civil service reform. Civil service reform and Hatch Act reform are inextricably interrelated. Each insures that the people's business—the business of our Government—is conducted in a fair and impartial manner.

Inclusion of Hatch Act reform in this bill is not "untimely" as the administration would like the public to believe. There can be nothing more "timely" than providing Federal employees with the right to full participation in the political process of our Nation.

Mr. Chairman, it is inconceivable to me that this bill, which touches on virtually every aspect of civil service, should have political activities and firefighters singled out for this kind of shabby treatment. Title IX is virtually identical to H.R. 10, the Federal Employees Political Activities Act of 1977, which passed this House on June 7 of last year by a vote of 244 to 164.

Mr. Chairman, I think that it is unfortunate that the kind of heavy-handed activity and pressure is taking place to combine both title IX and title X into the same point of order as permitted by the rule. Personally, I resent that kind of heavy-handed activity on the part of the leadership of this House and on the part of the administration of this Nation.

Mr. Chairman, I urge that the point of order not be sustained.

Mr. HARRIS. Mr. Chairman. I rise in opposition to the point of order.

The CHAIRMAN. The Chair recognizes the gentleman from Virginia.

Mr. HARRIS. Mr. Chairman, the point of order under the rule applies to titles IX and X, and comes before this House in a most unusual, and indeed a peculiar, way that the Chair perhaps would have to rule against the germaneness of one title that will be germane, because it is connected in the rule to another title that the Chair may consider nongermane.

I think it is unfortunate that the House must consider the matter in that fashion. I would point out to the Chair with regard to this point of order that title X, in fact, does pass the jurisdictional test. It was in fact with the same jurisdiction committee, the Committee on Post Office and Civil Service, as this bill is brought; therefore, it passes that jurisdictional test as far as the case is concerned.

I would point out further that the firefighter bill was actually reported out of this committee and came before this House; it passed by almost a 2-to-1 margin. Again, it reaches the fundamental purpose test.

The bill itself is for the reform of the civil service system by title. This bill is for the reform of the working conditions of the firefighters, a part of the civil service system by title. The fundamental purpose of both bills are exactly the same, that is, reform of the system.

All the titles are not across-the-board application in this bill. I refer the Chair specifically to title IV, which deals with a very small segment of the civil service system, that is the senior executives. This title deals only with 9,000 senior executives of the civil service. The firefighters bill deals with 11,000 civil service employees. If in fact we would hold that the firefighters failed the germaneness test, because it dealt with a smaller group than an across-the-board structure, we would certainly have to argue that on title IV. Title IV deals with a subgroup. Title X deals with a subgroup. It deals with a particular application.

I can cite precedents to indicate that when a bill deals with several particulars, one particular may be held to be germane.

In fact, this class is the same as the other titles of the bill. A bill may be amended by a specific proposition of the same class.

I would be happy to quote to the Chair about a dozen precedents that make this point.

If in fact we were to deal with the whole civil service system, dealing with a particular part of that system, that is the firefighters and their work rules is a particular matter within that system. Therefore, I would urge the Chair to overrule the point of order and hold title X as germane.

The CHAIRMAN. The gentleman from Washington makes a point of order against titles IX and X of the committee amendment in the nature of a substitute recommended by the Committee on Post Office and Civil Service, on the grounds that these titles would not have been germane if offered as an amendment to the bill H.R. 11280, as introduced.

As indicated by the gentleman from Washington, the special order providing for consideration of this measure, House Resolution 1307, allows the Chair to entertain a point of order on the basis stated by the gentleman, that titles IX and X would not have been germane as a separate amendment to H.R. 11280 in its introduced form.

The bill as introduced and referred to the Committee on Post Office and Civil Service, although broad in its coverage of reform proposals within the competitive service and in the executive branch of the Government, is limited to merit system principles and personnel management within the civil service of the U.S. Government. Title IX of the

committee amendment is designed to characterize and to protect appropriate political activities of employees of the District of Columbia and Postal Service as well as civil service employees, by amending the Hatch Act. The Chair agrees with the argument of the gentleman from Washington that the amendment would add an entirely new class of employees to that covered by the bill, and for that reason is not germane.

Accordingly the Chair sustains the point of order.

Pursuant to the rule the Clerk will now read by titles the substitute committee amendment without titles IX and X, recommended by the Committee on Post Office and Civil Service, now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read the bill.

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent to dispense with further reading of section 2, and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

Mr. CHARLES H. WILSON of California. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk continued the reading of the bill.

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent to dispense with further reading of section 3; and that it be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

Mr. CHARLES H. WILSON of California. Reserving the right to object, Mr. Chairman, this is an extremely important bill that some Members are trying to pass through in this Congress. I think it is extremely important that those of us who are here on the floor know what is in this bill.

There have been many agreements made in connection with parts of the bill with members of the committee who are extremely concerned about labor provisions and about other provisions affecting this new section by which they are going to destroy the civil service system which we have known for so many years.

Mr. Chairman, I do not think that this is something we should take so lightly. That is the reason I am asking that the bill be read. I think it is important enough to every member of this committee that we do have this bill read and that we understand what is in it.

Therefore, Mr. Chairman, I am going to have to continue to object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk continued to read.

POINT OF ORDER

Mr. CHARLES H. WILSON of California. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. CHARLES H. WILSON of California. Mr. Chairman, I know the Clerk is not deliberately skipping some of these lines. He must be getting tired, but he is beginning to go a little fast over some of these lines. I think that all of the lines should be read.

The CHAIRMAN. The Chair will state that the Chair observes that the Clerk is proceeding in regular order.

The Clerk will read.

The Clerk continued to read.

Mr. DERWINSKI (during the reading). Mr. Chairman, I have been impressed by the attention of the House, so therefore, I would ask unanimous consent that the remainder of the title be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. CHARLES H. WILSON of California. Mr. Chairman, reserving the right to object, right up to now I have been very impressed with the principles of this bill, and it sounds pretty good so far, but I have to have the rest of it read, I will say to the gentleman from Illinois (Mr. DERWINSKI), because there may be something in here that is going to change my opinion about it. I think right up to now it sounds beautiful, but I will have to object.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. CHARLES H. WILSON of California. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding. Is it not possible for the gentleman to read by himself?

Mr. CHARLES H. WILSON of California. The gentlewoman is certainly correct. I think the gentlewoman understands what is going on here.

Mrs. FENWICK. If the gentleman will yield, I honestly do not.

Mr. CHARLES H. WILSON of California. I object to the legislation, and I am using the rights that are guaranteed to me as a Member of this body to exercise my opposition to the legislation. It has been done on the gentlewoman's side; it has been done on our side.

Mrs. FENWICK. If the gentleman will yield further, I know. Will the gentleman, though, consider that the people's time is involved here. Our time is short until we are supposed to adjourn, and we are not unpaid volunteers; we are paid public servants.

Mr. CHARLES H. WILSON of California. I realize that.

Mrs. FENWICK. I think we should be using our time in the most effective way for the public benefit.

Mr. CHARLES H. WILSON of California. If the Speaker will pull this bill off the calendar, we can proceed with the important business of the Congress. I do not think this bill is so important that it has to be passed in this Congress.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. CHARLES H. WILSON of California. I yield to the gentleman from New York.

Mr. BIAGGI. I thank the gentleman for yielding.

I would like to comment in response to the gentlewoman from New Jersey. We are aware of our responsibilities, and we are aware of the people's concerns, and we are aware that there are many people in this country in government employment who would rather not have this bill see the light of day. We are exercising whatever legitimate tactic is made available to us through parliamentary procedure. To impugn the conduct that is procedural and proper, in my judgment, is strictly out of order, and I think it is unfortunate.

Mrs. FENWICK. I resent very much the fact that the gentleman from New York suggests that I impugn anything. I merely asked if we could not proceed in a more orderly manner.

The CHAIRMAN. All Members will suspend. The gentleman from New York (Mr. BIAGGI) will suspend, and all other Members will suspend.

The Chair will state that the time is under the control of the gentleman from California (Mr. CHARLES H. WILSON).

Mr. CHARLES H. WILSON of California. Mr. Chairman, still reserving the right to object, I would like to say to the gentlewoman from New Jersey (Mrs. FENWICK) that she is absolutely correct in any observation that she makes. That does not offend me at all at this point.

Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk continued to read.

POINT OF ORDER

Mr. CHARLES H. WILSON of California (during the reading). Mr. Chairman, I again make a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. CHARLES H. WILSON of California. Mr. Chairman, I think the Clerk forgot to read line 6 on page 142. I recognize the burden placed upon him; however, I must have all of the lines read, if I can.

The CHAIRMAN. The Clerk will read line 6 on page 142, commencing with line 6, "through affirmative action * * *"

The Clerk concluded the reading of title I.

The text of title I reads as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Civil Service Reform Act of 1978".

SEC. 2. The table of contents is as follows:

TABLE OF CONTENTS

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Findings and statement of purpose.

TITLE I—MERIT SYSTEM PRINCIPLES

Sec. 101. Merit system principles; prohibited personnel practices.

TITLE II—CIVIL SERVICE FUNCTIONS; PERFORMANCE APPRAISAL; ADVERSE ACTIONS

Sec. 201. Office of Personnel Management.
Sec. 202. Merit Systems Protection Board and Special Counsel.
Sec. 203. Performance appraisals.
Sec. 204. Adverse actions.
Sec. 205. Appeals.

TITLE III—STAFFING

Sec. 301. Volunteer services.
Sec. 302. Definitions relating to preference eligibles.
Sec. 303. Noncompetitive appointment of certain disabled veterans.

Sec. 304. Examination, certification, and appointment of preference eligibles.
Sec. 305. Retention preference.
Sec. 306. Training.
Sec. 307. Travel, transportation, and subsistence.
Sec. 308. Retirement.
Sec. 309. Extension of veterans readjustment appointment authority.
Sec. 310. Notification of vacancies in the civil service.
Sec. 311. Dual pay for members of the uniformed services.
Sec. 312. Minority recruitment program.
Sec. 313. Effective date.

TITLE IV—SENIOR EXECUTIVE SERVICE

Sec. 401. General provisions.
Sec. 402. Authority for employment.
Sec. 403. Examination, certification, and appointment.
Sec. 404. Retention preference.
Sec. 405. Performance rating.
Sec. 406. Awarding of ranks.
Sec. 407. Pay rates and systems.
Sec. 408. Pay administration.
Sec. 409. Travel, transportation, and subsistence.
Sec. 410. Leave.
Sec. 411. Disciplinary actions.
Sec. 412. Retirement.
Sec. 413. Conversion to the Senior Executive Service.
Sec. 414. Limitations on executive positions.
Sec. 415. Effective date; experimental application.

TITLE V—MERIT PAY

Sec. 501. Pay for performance.
Sec. 502. Technical and conforming amendments.
Sec. 503. Effective date.

TITLE VI—RESEARCH, DEMONSTRATION, AND OTHER PROGRAMS

Sec. 601. Research programs and demonstration projects.
Sec. 602. Intergovernmental Personnel Act amendments.
Sec. 603. Amendments to the mobility program.

TITLE VII—FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS

Sec. 701. Federal service labor-management relations.
Sec. 702. Backpay in case of unfair labor practices and grievances.
Sec. 703. Technical and conforming amendments.
Sec. 704. Miscellaneous provisions.

TITLE VIII—GRADE AND PAY RETENTION

Sec. 801. Grade and pay retention.

TITLE IX—POLITICAL ACTIVITIES

Sec. 901. Federal employees' political activities.
Sec. 902. State and local employees' political activities.
Sec. 903. Effective date.
Sec. 904. Study concerning political participation by Federal employees.

TITLE X—FIREFIGHTERS

Sec. 1001. Basic workweek of firefighters.
Sec. 1002. Effective date.

TITLE XI—MISCELLANEOUS

Sec. 1101. Study on decentralization of governmental functions.
Sec. 1102. Savings provisions.
Sec. 1103. Authorization of appropriations.
Sec. 1104. Powers of President unaffected except by express provisions.
Sec. 1105. Technical and conforming amendments.
Sec. 1106. Effective date.

FINDINGS AND STATEMENT OF PURPOSE

SEC. 3. It is the policy of the United States that—

(1) the merit system principles which shall govern in the competitive service and in the executive branch of the Federal Government should be expressly stated to furnish guidance to Federal agencies in carrying out their responsibilities in administering the public business, and prohibited personnel practices should be statutorily defined to enable Government officers and employees to avoid conduct which undermines the merit system principles and the integrity of the merit system;

(2) Federal employees should receive appropriate protection through increasing the authority and powers of the independent Merit Systems Protection Board in processing hearings and appeals affecting Federal employees;

(3) the authority and power of the Special Council should be increased so that the Special Counsel may investigate prohibited personnel practices and reprisals against Government employees for the lawful disclosure of certain information and may file complaints, against agency officials and employees who engage in such conduct;

(4) the function of filling positions and other personnel functions in the competitive service and in the executive branch should be delegated in appropriate cases to the agencies to expedite processing appointments and other personnel actions, with the control and oversight of this delegation being maintained by the Office of Personnel Management to protect against prohibited personnel practices and the use of unsound management practices by the agencies;

(5) a Senior Executive Service should be established to provide the flexibility needed by agencies to recruit and retain the highly competent and qualified managers needed to provide more effective management of agencies and their functions, and the more expeditious administration of the public business;

(6) in appropriate instances, pay increases should be based on quality of performance rather than length of services;

(7) research programs and demonstration projects should be authorized to permit Federal agencies to experiment, subject to congressional review, with new and different personnel management concepts in controlled situations to achieve more efficient management of the Government's human resources and greater productivity in the delivery of service to the public; and

(8) the training program of the Government should include retraining of employees for positions in other agencies to avoid separations during reductions in force and the loss to the Government of the knowledge and experience that these employees possess.

TITLE I—MERIT SYSTEM PRINCIPLES

MERIT SYSTEM PRINCIPLES; PROHIBITED PERSONNEL PRACTICES

SEC. 101. (a) Title 5, United States Code, is amended by inserting after chapter 21 the following new chapter:

"Chapter 23—MERIT SYSTEM PRINCIPLES

"Sec.
"2301. Merit system principles.
"2302. Prohibited personnel practices.
"2303. Responsibility of the General Accounting Office.
"2304. Coordination with certain other provisions of law.

"§ 2301. Merit system principles

"(a) This section shall apply to—

(1) an Executive agency;

"(2) the Administrative Office of the United States Courts; and

"(3) the Government Printing Office.

"(b) It is the policy of the Congress that in order to provide the people of the United States with a highly competent, honest, and productive Federal workforce reflective of the Nation's diversity, and to improve the quality of public service, Federal personnel management should be implemented consistent with the merit system principles.

"(c) The merit system principles are as follows:

"(1) Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.

"(2) All employees and applicants should receive fair and equitable treatment in all aspects of personnel management without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition, and with proper regard for their privacy and constitutional rights.

"(3) Equal pay should be provided for work of equal value, with appropriate consideration of both national and local rates paid by employers in the private sector, and appropriate incentives and recognition should be provided for excellence in performance.

"(4) All employees should maintain high standards of integrity, conduct, and concern for the public interest.

"(5) The Federal work force should be used efficiently and effectively.

"(6) Employees should be retained on the basis of the adequacy of their performance; inadequate performance should be corrected, and employees should be separated who cannot or will not improve their performance to meet required standards.

"(7) Employees should be provided effective education and training in cases in which education and training would result in better organizational and individual performance.

"(8) Employees should be—

"(A) protected against arbitrary action, personal favoritism, or coercion for partisan political purposes, and

"(B) prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for election.

"(9) Employees should be protected against reprisal for the lawful disclosure of information which the employees reasonably believe evidences—

"(A) a violation of law, rule, or regulation,

"(B) mismanagement, a waste of funds, or an abuse of authority, or

"(C) a substantial and specific danger to public health or safety.

"(d) The President shall take actions, including the issuance of rules, regulations, or directives, as the President determines are necessary to carry out the policy set forth in subsection (b) of this section.

"§ 2302. Prohibited personnel practices

"(a)(1) For the purpose of this title, 'prohibited personnel practice' means any action described in subsection (b) of this section.

"(2) For the purpose of this section—

"(A) 'personnel action' means—

"(i) an appointment;

"(ii) a promotion;

"(iii) an action under chapter 75 of this title or other disciplinary or corrective action;

"(iv) a detail, transfer, or reassignment;

"(v) a reinstatement;

"(vi) a restoration;

"(vii) a reemployment;

"(viii) a performance evaluation under chapter 43 of this title;

"(ix) a decision concerning pay, benefits, or awards, or concerning education or training if the education or training may reasonably be expected to lead to an appointment, promotion, performance evaluation, or other action described in this paragraph; and

"(x) a substantial change in duties or responsibilities which may reasonably be expected to result in a reduction in pay or grade;

with respect to an employee in, or applicant for, a position in the competitive service in an agency or a position in the excepted service in an agency (other than a position which is excepted from the competitive service because of its confidential, policy-determining, or policy advocating character), or to a career appointee in the Senior Executive Service in an agency.

"(B) 'agency' means an Executive agency, the Administrative Office of the United States Courts, and the Government Printing Office, but does not include—

"(i) a Government corporation;

"(ii) the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, or any Executive agency or unit thereof which is designated by the President and which conducts foreign intelligence or counterintelligence activities; or

"(iii) the General Accounting Office.

"(b) Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority—

"(1) discriminate for or against any employee or applicant for employment—

"(A) on the basis of race, color, religion, sex, or national origin, as prohibited under section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16);

"(B) on the basis of age, as prohibited under sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a);

"(C) on the basis of handicapping condition, as prohibited under section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791);

"(D) on the basis of marital status or political affiliation, as prohibited under this title; or

"(E) on any basis prohibited under the provisions of any other law, rule, or regulation;

"(2) solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action unless the recommendation or statement is based on the personal knowledge or records of the person furnishing it and consists of—

"(A) an evaluation of the work performance, ability, aptitude, or general qualifications of the individual; or

"(B) an evaluation of the character, loyalty, or suitability of the individual;

"(3) coerce the political activity of any person (including the providing of any political contribution or service), or take any action against any employee or applicant for employment as a reprisal for the refusal of any person to engage in such political activity;

"(4) deceive or obstruct any person with respect to the person's right to compete for Federal employment;

"(5) influence any person to withdraw from competition for any position for the purpose of improving or injuring the prospects of any other person for employment;

"(6) grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any person for Federal employment;

"(7) appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position, any individual who is a relative (as defined in section 3110(a)(3) of this title) of an employee if the position is in the agency in which the employee is serving as a public official (as defined in section 3110(a)(2) of this title) or over which the employee exercises jurisdiction or control as a public official (as defined in section 3110(a)(2) of this title);

"(8) take or fail to take a personnel action with respect to any employee or applicant for employment as a reprisal for—

"(A) a disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences—

"(i) a violation of any law, rule, or regulation, or

"(ii) mismanagement, a waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety,

if such disclosure is not specifically prohibited by law or if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs; or

"(B) a disclosure to the Special Counsel of the Merit Systems Protection Board, or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures, of information which the employee or applicant reasonably believes evidences—

"(i) a violation of any law, rule, or regulation, or

"(ii) mismanagement, a waste of funds, or an abuse of authority, or a substantial and specific danger to public health or safety;

"(9) take or fail to take a personnel action with respect to any employee or applicant for employment as a reprisal for the exercise of any right of appeal granted by law, rule, or regulation;

"(10) discriminate for or against any employee or applicant for employment on the basis of conduct which does not adversely affect the performance of the employee or applicant or the performance of others, except that nothing in this paragraph shall prohibit an agency from taking into account in determining suitability or fitness any conviction of the employee or applicant for any crime of violence or moral turpitude under the laws of any State, of the District of Columbia, or of the United States; or

"(11) take or fail to take any personnel action on the basis of personal favoritism.

"(c) The head of each agency shall be responsible for the prevention of prohibited personnel practices, the compliance with and enforcement of applicable civil service laws, rules, and regulations and other aspects of personnel management. Any individual to whom the head of an agency delegates authority for personnel management, or for any aspect thereof, shall be similarly responsible within the limits of the delegation.

"(d) This section shall not be construed to extinguish or lessen any effort to achieve equal employment opportunity through affirmative action or any right or remedy available to any employee or applicant for employment in the civil service under—

"(1) section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16), prohibiting discrimination on the basis of race, color, religion, sex, or national origin;

"(2) sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a), prohibiting discrimination on the basis of age;

"(3) section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), prohibiting discrimination on the basis of handicapping condition;

"(4) the provisions of this title, and rules and regulations thereunder, prohibiting discrimination on the basis of marital status or political affiliation; or

"(5) the provisions of any other law, rule, or regulation prohibiting discrimination on any such basis.

"§ 2303. Responsibility of the General Accounting Office

"If requested by either House of the Congress (or any committee thereof), or if considered necessary by the Comptroller General, the General Accounting Office shall conduct audits and reviews to assure compliance with the laws, rules, and regulations governing employment in the executive branch and in the competitive service and to assess the effectiveness and soundness of Federal personnel management.

"§ 2304. Coordination with certain other provisions of law

"No provision of this chapter, or action taken under this chapter, shall be construed to impair the authorities and responsibilities set forth in section 102 of the National Security Act of 1947 (61 Stat. 495; 50 U.S.C. 403), the Central Intelligence Agency Act of 1949 (63 Stat. 208; 50 U.S.C. 403a and following), Public Law 86–36 (73 Stat. 63; 50 U.S.C. 402), and Public Law 88–290 (78 Stat. 168; 50 U.S.C. 831–835).".

"(b)(1) The table of chapters for part III of title 5, United States Code, is amended by adding after the item relating to chapter 21 the following new item:

"23. Merit system principles..... 2301."

(2) Section 7203 of title 5, United States Code (as redesignated in section 703(1) of this Act) is amended—

(A) by striking out "Physical handicap" in the section heading and inserting in lieu thereof "Handicapping condition"; and

(B) by striking out "physical handicap" each place it appears in the text and inserting in lieu thereof "handicapping condition".

AMENDMENTS OFFERED BY MR. HARRIS

Mr. HARRIS. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. HARRIS: Page 136, line 4, after "(b)" insert "or (c)".

Page 138, strike out paragraph (2) beginning on line 13 and ending on line 23 and redesignate the following paragraphs accordingly.

Page 141, after line 19 insert the following:

"(c)(1) No employee may accept or consider, or influence or direct, or attempt to influence or direct any other employee to accept or consider, with respect to any personnel action, any recommendation unless—

"(A) the recommendation is furnished pursuant to a request made by an authorized representative of the United States solely to determine whether the individual involved in the personnel action meets the loyalty, suitability, and character requirements for employment; or

"(B) the recommendation—

"(i) is furnished pursuant to a request of an employee who is responsible for taking (or directing others to take), recommending, processing, or approving the personnel action; and

"(ii) consists solely of an evaluation of the work performance, ability, aptitude, character, or general qualifications of the individual involved in the personnel action.

"(2) Any employee who receives a written recommendation prohibited by paragraph (1) of this subsection shall return such recommendation to the person who provided it, with an appropriate indication that the acceptance or consideration of such recommendation would be in violation of this subsection.

"(3) Any employee who receives an oral recommendation which is prohibited by paragraph (1) of this subsection shall advise, in an appropriate manner, the person providing such recommendation that the acceptance or consideration of such recommendation would be in violation of this subsection.

"(4) For the purpose of this subsection—

"(A) 'recommendation' means any communication, oral or written, made directly or indirectly by—

"(i) a Member of Congress or a candidate for such office;

"(ii) a Congressional employee, as defined in section 2107 of this title (determined without regard to whether or not the employee's pay is paid by the Secretary of the Senate or the Clerk of the House of Representatives);

"(iii) an employee appointed by the President; or

"(iv) an employee in a position which is excepted from the competitive service because of its confidential or policymaking character;

"(B) 'recommendation' does not include an inquiry which is limited solely to a request—

"(i) for a statement on the status of any personnel action; or

"(ii) for an explanation of the basis on which a personnel action has been taken.

Page 141, line 20, strike out "(c)" and insert in lieu thereof "(d)".

Page 142, line 4, strike out "(d)" and insert in lieu thereof "(e)".

Mr. HARRIS (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. HARRIS. Mr. Chairman, this is an amendment to this very important bill which would make sure that we eliminated all unwarranted political influence in the civil service personnel matters. I think the important matter that civil service reform is designed to assure or should be designed to assure is that the merit system is not influenced by political recommendations or political pressures but is operated on the basis of merit and handled on the basis of a competitive service as it should be. This can be strengthened by the adoption of this amendment to clearly eliminate unwarranted political recommendations in hiring and promotions and other personnel actions.

Under my amendent the political recommendations from Members of Congress or staff or White House officials and political appointees in the executive branch would be explicitly prohibited. The notion that elected political officers ought to determine who gets what job in the career merit system is simply wrong.

Some argue that it is a fact of life. If so, that fact of life is wrong. It is time to stop working on that system. I think we should be making it clear to people that the hiring and promotion and firing is on the basis of merit, on the basis of competence and job performance, and not on the basis of whom one knows or who makes a recommendation for one.

If in fact we are going to make a case here that we are going to have a merit system that is not influenced by politics or political pressure, then we ought to have the clear language in this bill which says, as this amendment will make it clear, that such a recommendation may not be accepted. I think we should tell to every American that he can be considered for a merit system job if he has the competence and will enter the competitive examination and is qualified, and therefore the recommendation of a politician, an elected official or one appointed in the executive branch will have no bearing on his job application.

If we are really serious about civil service reform, we will put this language in very clearly and precisely, as my amendment does. I cannot imagine having any objection, but I offer it as an amendment and urge that it be adopted.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I will be happy to yield to my good friend and colleague, the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Chairman, I would ask the gentleman from Virginia (Mr. HARRIS) if this is the amendment that we defeated in the committee rather overwhelmingly?

Mr. HARRIS. As I recall—and I am not sure whom my colleague refers to as "we."

Mr. ROUSSELOT. Well, I am still on the committee, I am part of the committee.

Mr. HARRIS. I do not think it was a partisan effort at all. The amendment was offered in the committee and was not adopted in the committee.

Mr. ROUSSELOT. It was defeated?

Mr. HARRIS. Yes. And if I may continue, I thought that my amendment was defeated more by proxies than it was by people in the committee and I wanted to give the full house a chance to vote on it where proxies may not have the full effect on it as they do in the committee.

Mr. ROUSSELOT. I think the gentleman is right, proxies do not work here.

But it was defeated in the committee, is that right?

Mr. HARRIS. My colleague is correct, or I would not be offering it here on the floor, I might point out to my colleague.

Mr. ROUSSELOT. I thank the gentleman.

Mr. DERWINSKI. Mr. Chairman, I rise reluctantly, of course, to oppose the amendment offered by the gentleman from Virginia (Mr. HARRIS).

Mr. Chairman, I would also like to use this amendment to emphasize the seriousness of this measure, the importance of this measure to the well-being of this country and its citizenry and the absolute need for this Congress to pass this civil service reform which our noble President has so properly, legitimately and heroically requested.

I would first point out to my dear friend, the gentleman from Virginia (Mr. HARRIS) that I believe he used some weak logic in supporting his amendment. He first stated that it was a fact of life he was trying to correct. You do not correct facts of life, they are there.

Secondly, the gentleman referred to the fact that he lost the amendment in committee because proxies were in other people's hands. That sounds to me as if he is admitting that certain other Members had more charm and were able to exercise the use of proxies because often the person handling the proxies is the one you have the greatest confidence in, the one whose judgment you respect.

Mr. HARRIS. Mr. Chairman, will my colleague yield on that point?

Mr. DERWINSKI. Certainly.

Mr. HARRIS. I want to make it clear to this body, and to my colleague, that there is no question of a contest on charm between my colleague and me, there is no doubt about it, my colleague has the charm.

Mr. DERWINSKI. Mr. Chairman, I think I will put that statement in my campaign literature.

But, here is the point. Under the gentleman's amendment, it would prohibit Members of Congress and Presidential appointees from submitting a recommendation on the application of any person for Federal career employment. Note, it only says Members of Congress and Presidential appointees. It would not prohibit national committeemen or party chairmen, ward committeemen, or local political leaders. Or, to use the gentleman from Virginia's term, politicians should not influence career appointments. What he is saying is that we, as Members of Congress, are politicians. Presidential appointees are politicians, but a Chicago ward committeeman is not a politician.

I do not know if the gentleman has studied politics across the country, but a Chicago ward committeeman is a noble kind of politician. He is a powerful politician, and to say in this amendment, as you do, that a ward committeeman of the city of Chicago could recommend someone for Federal employment, but our distinguished majority leader, the gentleman from Illinois (Mr. ROSTENKOWSKI) could not, is a denial of practical politics.

So, as much as this amendment may have some unique appeal in the suburban areas surrounding Washington, D.C., it does not really square with the facts of life across the country.

There is nothing wrong with a dedicated Presidential appointee or a dedicated Congressman legitimately recommending someone for Federal employment.

I am not aware that there have been particular abuses in this field. I do not think Members of Congress should be denied that responsibility.

In summing up my point of view, may I point out that we will have hundreds of amendments, gosh knows how many days we will be on this bill, but we must not forget the noble goal ahead of us. That noble goal is to give the President of the United States a legitimate reform of the civil service. But I suggest that this amendment does not square with the overall concept of reform.

It is unneeded, it is unworkable. It actually discriminates against Members of Congress and Presidential appointees.

Mr. Chairman, I suggest a very effective rejection of the amendment.

Mr. CHARLES H. WILSON of California. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from California, my distinguished friend.

Mr. CHARLES H. WILSON of California. Mr. Chairman, the gentleman has been the principal advocate within the committee for the administration on this legislation. he and the gentleman from Arizona (Mr. UDALL).

Is this one of the amendments which has to be defeated in order to retain the solid support of the Republicans for this legislation?

Mr. DERWINSKI. The Republicans are

not politically motivated by this legislation other than in recognizing the nobility of the Presidential request. The Republicans have risen above partisanship on this issue. We are totally nonpartisan. We want the President of the United States to have a good civil service reform bill.

Mr. FORD of Michigan. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Unfortunately, we must oppose this amendment, and I would not want the Members left with the impression that, in fact, it was the Republican members of the committee who made up the majority which defeated the amendment in committee. The vote in committee was 16 to 5 against the amendment when it was considered in committee.

Mr. Chairman, what should be borne in mind is that it was not considered in a vacuum as an alternative to no control on the recommendations of the employees to the civil service versus the Harris amendment. What he seeks to do in his amendment is substitute his restriction for the one which we carefully worked out in the bill.

Mr. Chairman, if the Members will look at lines 13 through 23 on page 138, they will see that we already restrict the people who would be covered by the Harris amendment to making a recommendation solely on the basis of their personal knowledge or record. In other words, if one of your employees is seeking a civil service position and puts you down as a recommendation, you can, in fact, say in the recommendation that the employee performed the duty of a legislative assistant and worked on certain kinds of legislation, that the employee came to work on time, and that the employee had good character and good work habits.

However, one could only say those things which he knew about the person, based on his personal knowledge and the records of his office.

Mr. Chairman, the Harris amendment would not only prohibit one from answering such an inquiry, but it would prohibit any other employee, not only of our individual offices, but an employee of a committee could not answer an inquiry from a Federal agency about a job applicant who had previously been employed in that agency.

Further, Mr. Chairman, I point to the fact that the kind of recommendation that congressional employees and Presidential appointees would be permitted to make under the committee bill as it comes to us is limited further to an evaluation of the work performance, ability, aptitude, or general qualifications of the individual.

Again, we are putting a greater restriction on Members of Congress and their employees and Presidential appointees than we put on the Chicago ward heeler or ward committeeman—that is a kinder word—or the chairman of either political party; but we recognize the very special nature of the relationship of the Congress and its employees to the civil service; and the committee bill already restrains and restricts recommendations by the Members of Congress and their employees far beyond that restraint or restriction that is put on any other political officeholder.

Mr. Chairman, I would urge the Members to support the committee and reject the Harris amendment.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Virginia.

Mr. HARRIS. Mr. Chairman, my colleague and I tried to have most of my amendment read so that our colleagues would understand it.

My colleague, the gentleman from Michigan (Mr. FORD) may oppose my amendment; but I wish that he would not oppose it for a provision which is not in there.

Mr. Chairman, I read to my colleague the body of the amendment, which says that the recommendation may be considered if it is furnished pursuant to a request of an employee who is responsible for taking—or directing others to take—recommending, processing, or approving the personnel action; and consists solely of an evaluation of the work performance, ability, aptitude, character, or general qualifications of the individual involved in the personnel action.

I am sure my colleague, Mr. Chairman, will now admit that the amendment as drafted will permit any Member of Congress or staff member of Congress to make a recommendation with regard to merit system employment if it did in fact consist of an evaluation of the work performance of the Member of Congress or staff member.

Mr. FORD of Michigan. I think the gentleman is making a comparison. If the Members will look at lines 22 and 23 on page 138, they will see that the committee bill will permit an evaluation of the character, loyalty, or suitability of the individual, all of which are specifically excluded by the gentleman. It is just an unsatisfactory last-minute attempt to further narrow the position worked out by the committee, and it should be defeated.

Mr. UDALL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, under the direction of the leadership in just a few minutes I am going to try to get an agreement on limitation of time and vote on this simple and uncomplicated amendment. Before we do that, I want to kind of advise my colleagues where I think we are going on this legislation and what I see as being at stake. The clock is running on all of us. The elections are not too many weeks away, and adjournment time is coming rapidly upon us. We have got a whole load of the public's business to dispose of—tax legislation, energy, all the rest.

I chatted with the Speaker a moment or two today. The load is horrendous. I think it is incumbent upon all of us to make this a proud time of the House and act with dispatch on important legislation between now and the time we adjourn.

There is broad support for this bill. I do not think there is any question in anybody's mind that if we took a vote on final passage at this time, it would pass by a very large margin, possibly 2 to 1 or better. It has broad support among labor management people and business groups. It will give perhaps a little bit of ability to manage.

A group of us met with the Vice President today, and he told us about the President going off to Bonn to the Economic Summit. One of the things he could do, he could do administratively, and the frustration of all Presidents was there. He asked one of the bureaus—and I will not name which one—to give him a report in 60 days where he could get a fight going on inflation. When he asked for it, their response was, we are not ready yet. The President wrote a handwritten note to the director of that agency and said, "I am going to Bonn and want to take this with me. Will you have it ready when I come back?" The report came back from the bureau saying, "You don't really need it, and we probably won't be able to do what you want us to do." That type of thing has frustrated Presidents from time immemorial.

The American people are angry at the inexpressiveness of the Federal Government, and we are trying to give the President the tools with which to make this executive branch work.

Here we are with two eminent colleagues—and I love them both—the gentleman from California (Mr. CHARLES H. WILSON), and the gentleman from Missouri (Mr. CLAY) on the committee who do not want a bill. They are sincere about it. They do not want a bill this year. They are using procedures in the House rules and threatening to continue to use them. But I want the Members of the House to know what is at stake here.

We heard a charge here by the gentleman from California that we are acting hastily. Let me give you some of the history. The bill was introduced on March 3, had 13 long days of hearings. We heard from every segment all over this country. It was suggested by some that the Democratic members of the committee ought to get our act together. We met day after day and night after night, haggling over every section of the bill, and came up with the consensus of our party. The committee went to markup day after day, in night sessions, over a period of from June 21 to July 19. We finally got a bill. It was voted out by a big bipartisan consensus. The gentleman from Illinois (Mr. DERWINSKI), and a lot of good people on the other side helped bring it out by a vote of 18 to 7. There was general debate on August 11. Everybody has had time to study the amendments. Dozens of them are printed in the RECORD now. This is our President's major domestic bill, a bill our Speaker and the majority leader have given high priority to before the House. It is not going to go away. There is another body down at the other end of this building whose members can talk and decide what priorities and legislative schedules we will have, but this bill is going to be acted on in this session.

One of our options in scheduling is to

go tomorrow, quit at 3:30. The other option that will give the Members an idea of the importance of this legislation is that all suspensions are going to be knocked off on Monday. We will work on this bill all day Monday. We will stay Monday night to finish it. A lot of people are going to get hurt by having suspensions taken off of the calendar on Monday. I have some business on the Suspension Calendar. I think everybody has a stake in processing those important bills before we leave here. Some of them require conferences with the Senate.

So I would simply appeal to my colleagues who have strong feelings about this bill to work with us and let the legislative process work.

We are not going to shut off any Member. We have serious amendments to consider. There are a lot of amendments pending, and we want to give full consideration to them and then either vote them up or down.

Let me say to the Members, particularly my friends on this side, let us not go home having to say that the President and the Democratic Congress cannot even act in 6 or 8 months on this major piece of legislation to give us some flexibility and some management direction in the executive branch. This is a fine thing that we could take home to our constituents as one accomplishment of this Congress.

Mr. Chairman, I ask unanimous consent that all debate on the pending Harris amendment and all amendments thereto do now cease.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

Mr. BAUMAN. Mr. Chairman, reserving the right to object, will the gentleman from Arizona (Mr. UDALL) tell us what the program will be for tomorrow, since he has already indicated what might happen?

Mr. UDALL. Mr. Chairman, if the gentleman will yield, if we have some expression of cooperation, I think we might finish this bill tomorrow. We will come in at 10, and we could be out of here by 3 o'clock. Unless I have those assurances, I am going to accept the offer of the leadership to put the bill off until Monday.

In that event, the suspension calendar is going to be bumped, and then we will be in here on Monday and go as late as need be to finish this bill on Monday. That is our option.

Mr. Chairman, I would prefer to proceed tomorrow in an expeditious kind of way and decide these things on their merits. But if we are going to be forced to read every line and every section of a 300-page bill, considerable time will be taken.

Mr. BAUMAN. Mr. Chairman, let me assure the gentleman that I will be glad to cooperate with him.

Mr. UDALL. The gentleman from Maryland (Mr. BAUMAN) is always cooperative.

Mr. BAUMAN. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

Mr. HARRIS. Mr. Chairman, reserving the right to object, I listened carefully to my colleague, the distinguished vice chairman of the committee, when he made his comments, and I wondered if my colleague would be kind enough to tell me this: The gentleman did not mention the amendment, and I was wondering if he is for it or against it.

Mr. Chairman, may the RECORD show that my colleague, the gentleman from Arizona (Mr. UDALL), put his thumb down toward the floor in a gesture meaning that he opposes the amendment, I assume.

Mr. UDALL. Mr. Chairman, if the gentleman will yield, I told the Member that was my position, for the reasons stated by my friend, the gentleman from Michigan (Mr. FORD), and for those stated by that great Hart, Schaffner and Derwinski clothing firm.

Mr. HARRIS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. UDALL. Mr. Chairman, I move that all debate on the pending Harris amendment and all amendments thereto do now cease.

The CHAIRMAN. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL).

The motion was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. HARRIS).

The question was taken; and on a division (demanded by Mr. HARRIS) there were—ayes 11, noes 57.

So the amendment was rejected.

Mr. UDALL. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. DANIELSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11280) to reform the civil service laws, had come to no resolution thereon.

REPORT ON RESOLUTION PROVIDING FOR FURTHER EXPENSES OF THE SELECT COMMITTEE ON ASSASSINATIONS

Mr. PANETTA, from the Committee on House Administration, submitted a privileged report (Rept. No. 95-1555) on the resolution (H. Res. 1276) providing for the further expenses of the Select Committee on Assassinations, which was referred to the House Calendar and ordered to be printed.

PARLIAMENTARY INQUIRY

(Mr. CHARLES H. WILSON of California asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. CHARLES H. WILSON of California. Mr. Speaker, I was a little disappointed to hear my good friend, the gentleman from Arizona (Mr. UDALL), state what his plans would be in the event those of us who oppose the civil service reform legislation continue to utilize the House rules to take advantage of whatever we have to do to hold up the legislation.

The gentleman made an implied threat that if we do not let him go ahead tomorrow with the bill, he will arrange to have all the suspensions removed from the calendar on Monday, and then we will work until some unlimited time on Monday night.

I would like to know, Mr. Speaker, what the calendar is for tomorrow and what the program is, and I think the Members of the House are entitled to know.

The SPEAKER. Is the gentleman making a parliamentary inquiry?

Mr. CHARLES H. WILSON of California. Mr. Speaker, I make such a parliamentary inquiry, yes.

The SPEAKER. The Chair will advise the gentleman at the present time that the bill that we have before us, the civil service reform bill, will be postponed until Monday, and we will go forward with the schedule as scheduled for Friday.

Mr. CHARLES H. WILSON of California. I thank the Speaker.

PERMISSION FOR SELECT COMMITTEE ON ASSASSINATIONS TO SIT TOMORROW AND THROUGHOUT NEXT WEEK DURING 5-MINUTE RULE

Mr. STOKES. Mr. Speaker, I ask unanimous consent that the Select Committee on Assassinations may be permitted to sit on Friday, September 8, 1978, and throughout next week during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I wonder if the chairman of that distinguished committee could confine his request to tomorrow, and perhaps he could ask tomorrow, when we know what the schedule will be.

There might be days when very important bills are up and Members ought to be on the floor.

Mr. STOKES. Mr. Speaker, if the gentleman will yield, tomorrow the committee will be hearing witnesses who will be giving a specialized type of technical scientific testimony.

Next week we will be hearing from similar types of witnesses.

Mr. BAUMAN. Further reserving the right to object, Mr. Speaker, the gentleman's problem is the uncertainty of being able to sit because of scheduling of witnesses; is that the problem?

Mr. STOKES. No, it is merely trying to comply with the House rules so that we are in conformity with the House rules.

Mr. BAUMAN. Further reserving the right to object, Mr. Speaker, I have no wish to impede the progress of the gentleman and his committee, but it seems to me that in the last 3 or 4 weeks of the session—we have just received a lecture on what we should be doing on the floor—the committee might tailor its activities to the fact that we are all Members of the House of Representatives and there are numerous committees.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, do I understand that we are going to have another request for money for this committee?

Mr. STOKES. If the gentleman will yield, Mr. Speaker, there is a funding resolution which was voted out of the Committee on House Administration this morning which will be coming to the floor of the House at some date in the future.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, I will ask the gentleman this question: Why do we need so much more money? What have we already spent, 4 million bucks, or what is it?

Mr. STOKES. If the gentleman will yield, Mr. Speaker, I can say to the gentleman that at the time we last appeared before the Committee on House Administration it was made clear at that time that we would have to return for a supplemental resolution funding in order to complete the work of the committee. We anticipated it would be around the time that we begin public hearings on both the Kennedy and King assassinations.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, does the gentleman really need the whole time next week? Does the gentleman need to deny the members of his committee the right to be on the floor all that time? Could the gentleman maybe do it for a couple of days, or were those witnesses all scheduled a long time ago, or what is the problem?

Mr. STOKES. If the gentleman will yield, I will say to the gentleman that over 2 months ago, in a speech I made in the well of the House, I apprised the House of the schedule of this committee. We advised the House at that time that we would commence hearings, public hearings, on the Kennedy assassination on the 7th of September, and we would run those hearings throughout the entire month of September.

We further advised the House that, commencing immediately after the elections in November, we would return, notwithstanding the fact that the House would be in recess, that we would return and commence hearings on the King assassination throughout the entire month of November, and that we would further come back and have hearings in December in order to give final recommendations to the House.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, the gentleman is telling us that all of these witnesses were scheduled 2 or 3 months ago for this coming week?

Mr. STOKES. If the gentleman will yield further, I cannot say to the gentleman that all of these witnesses were scheduled, if the gentleman means did we actually have them under subpena for that time.

Over the past 15 months we have been conducting hearings in executive session, and many of these witnesses were kept under continued subpena so that at such time as the committee called them for public hearings, that they would be available to the committee.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS OF COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO SIT FRIDAY, SEPTEMBER 8, DURING 5-MINUTE RULE

Mr. BARNARD. Mr. Speaker, I ask unanimous consent that the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce be permitted to sit on Friday, September 8, during the 5-minute rule.

Mr. Speaker, it is my understanding that this has been cleared with the minority. The purpose of the hearing is for testimony only.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, what was the time frame?

Mr. BARNARD. One day.

Mr. ROUSSELOT. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

LEGISLATION TO PROVIDE FISCAL RELIEF TO STATES AND LOCALITIES

(Mr. ZEFERETTI asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

● Mr. ZEFERETTI. Mr. Speaker, today I am introducing, along with Mr. NOWAK and Mr. GREEN a bill to provide fiscal relief to States and localities, and to begin movement toward the type of welfare reforms that are so urgently needed throughout the country.

This legislation is identical to S. 3470, introduced on August 25 by Senators MOYNIHAN, CRANSTON, and LONG. Effective July 1, 1979, the bill would eliminate the present AFDC funding mechanism which is based on Federal payment of a percentage of each State's AFDC costs. Instead, the bill would substitute a two-part block grant. The first part of the block grant to each State would be based on the actual Federal funding provided to that State for its AFDC costs in fiscal 1978. The second part of the block grant would be a fiscal relief element allocated among the States in proportion of their June 1978 AFDC expenditures and in proportion of their general revenue sharing allocations. Both elements of the block grant would be updated annually to reflect changes in the cost of living. For fiscal year 1980, the fiscal relief element is estimated to total $1.5 billion. The Senate Subcommittee on Public Assistance will be holding hearings on this bill Tuesday, September 12, 1978.

While it is no longer possible to enact comprehensive welfare reform legislation during this Congress, I think it is essential that we take immediate steps to provide some fiscal relief to State and local taxpayers who are struggling under the current costs of our welfare system. The Federal Government should assume for all States the present non-Federal share of benefit payments for the aid to families with dependent children and emergency assistance to families programs.

The arguments for increased Federal funding for public assistance programs are numerous and need not be repeated in detail here. Poverty is a national problem that is manifested in States and localities. Nationally induced economic and demographic trends have produced concentrations of public assistance recipients in urban and, increasingly, suburban areas that erode the financial base of these governments. States and localities did not cause and cannot cure the poverty problem in the Nation.

It costs every American taxpayer $548 to support the 25 million persons receiving public assistance. Behind the waste and failure of the $45 billion system is the Federal Government's lack of a uniform policy to prevent abuse, relieve the States of staggering and unfair financial burdens or insure equitable and sufficient coverage.

Mr. Speaker, the current system of public assistance in the United States is so poor that the words, "welfare" and "mess" have become inextricably linked in our political vocabulary. The most important unanimous conclusion is that the present welfare programs should be scrapped and a totally new system implemented. I believe Congress must take the initiative here and acknowledge this well-recognized fact. As my distinguished colleague from New York, Senator MOYNIHAN pointed out, this bill does not contain all that we would like to see done. But it does contain worthwhile changes and presents us with a real opportunity to enact substantial improvements to a welfare network that has long been riddled with both inefficiencies on the part of its administrators and unfairness suffered by its recipients.●

CAROL FOREMAN GOES FROM FAVORITISM TO CRONYISM

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ASHBROOK. Mr. Speaker, Assistant Secretary of Agriculture Carol Tucker Foreman obviously intends to turn the position of Administrator of the Food Safety and Quality Service into a political patronage plum for a junior member of the White House Georgia Mafia.

The appointment of Sid Butler as Acting Administrator of the Food Safety and Quality Service following the resignation of Dr. Robert Angelotti last month is a clear signal that politics comes be-

fore qualifications in Mrs. Foreman's assessment of what is needed in filling critical positions in the Agriculture Department.

Although the Food Safety and Quality Service requires a person knowledgeable in scientific and technical areas, Sid Butler's sole qualification for serving even as Acting Director is that his brother Landon Butler works for Hamilton Jordan in the White House. Sid Butler may be well qualified as a lawyer and Carter campaign worker, but he has had no formal training or experience in microbiology or any of the other scientific-technical disciplines needed in a Food Safety and Quality Administrator.

It is my understanding that Assistant Secretary Foreman intends to put Sid Butler's name forward as permanent Administrator. This is simply another case of the White House Georgia Mafia's playing "All in the Family" with critical administrative positions in the executive branch. Far from seeking the best qualified replacement for Mr. Angelotti, Mrs. Foreman seems satisfied to fill this position on considerations of political favoritism.

This has been the consistent pattern followed by Mrs. Foreman in conducting her office. Under her jurisdiction, her former employer, the Consumer Federation of America, has been favored with special agriculture study grants funded by the Department. I have asked for an investigation into this questionable favoritism. Now we see this favoritism extend to the appointment of key Agriculture personnel.

Inasmuch as the Food Safety and Quality Administrator's office has jurisdiction in areas involving the Federal school lunch program, I intend to pursue the matter of Butler's appointment.

It is ironic, to say the least, that for all the high-sounding talk that has emanated from Mrs. Foreman's office regarding the need to upgrade the school feeding program, a job as vital as that of Food Safety and Quality Service Administrator should be treated by the Assistant Secretary as pure political favoritism.

I do not believe the Congress should sit idly by while the White House and Assistant Secretary Foreman disregard the need for a qualified scientist-technician to replace Dr. Angellotti. The questionable appointment of Sid Butler showed concern all of my colleagues, especially those who have agricultural constituencies.

AN AGRICULTURE MARKET IN JAPAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GOLDWATER) is recognized for 5 minutes.

● Mr. GOLDWATER. Mr. Speaker, it is disappointing news which reached me this morning, that after the second day of the 3-day talks between Japanese trade officials and our Special Representative for Trade, Bob Strauss, little progress has been made on proposals to reduce tariffs for U.S. agricultural products exported to Japan.

I have taken a special interest in these negotiations, Mr. Speaker, because of the importance of the citrus industry to my congressional district. It is my understanding that the citrus issue was being considered today, but the lack of success in the first 2 days of these talks is cause for concern. While it would be desirable for our agriculture interests to see a complete lifting of the 45,000 tons per year quota on orange shipments, a doubling of our tonnage for export would be a boost to the industry, and help to turn the tide on our balance-of-trade deficit.

It is my understanding that the Japanese are not inclined to budge on this issue. The sale of citrus and beef to Japan, which is the topic of today's discussions between the Strauss team, Japanese Trade Envoy Nobuhiko Ushiba, and their Agriculture Minister Ichiro Nakagawa, amounts to less than $50 million a year for U.S. exporters. But the potential to sell more to Japan far exceeds this amount.

I know it is politically difficult for the Japanese to buckle under the pressure from the 700,000 growers of the tangerine-like mikans. More than half the seats in Japan's parliament are controlled by their domestic farm interests, and already they have protested over the mere prospect that concessions will be made to the United States. Many of my colleagues, I am sure, saw the ads in the Washington Post and Los Angeles Times last month, in which Japanese producers of citrus crops complained that the U.S. negotiators "threatened their livelihood."

Yesterday Secretary Blumenthal explained to the Japanese Vice Minister of Finance, Takehiro Sagami, of plans by our Government to improve the position of the dollar abroad. The United States sincerely wants to carry out its trade policies in an atmosphere favorable to the world economy. This, of course, will involve a concerted effort by both our country and the Japanese to reach some agreement mutually beneficial to our commercial activity in the international market.

In an effort to make the House aware of the ramifications of the present situation, I would like to share the observations of one of my constituents who recently returned from a trip to the Orient. Jacqueline Sherman of Woodland Hills, Calif., in a published letter to the editor of the Los Angeles Times, yesterday's edition, told of oranges costing 80 cents a piece in Japan. That is $1.60 a pound. A glass of orange juice is $6 there. Just a few days later she and her husband visited Hong Kong where a single orange cost only 15 cents, or 30 cents a pound. A glass of orange juice costs just 50 cents a glass there.

Clearly, it would serve the interest of the Japanese consumer to have the opportunity to purchase the less expensive American grown fruit. But this would mean that the Japanese Government would have to contend with the political consequenses of such an action, and I do not know if they are about to take that risk.

Let me conclude, Mr. Speaker, by adding that I have full faith in Ambassador Strauss in his efforts to obtain greater access for American exporters of citrus to Japan. These are an important 3 days for us, Mr. Speaker, and the cooperation and flexibility of the Japanese Government would do much to improve our relationship with them for the future.●

QUESTIONS AND ANSWERS ON THE KEMP-ROTH LEGISLATION TO REDUCE INDIVIDUAL INCOME TAX RATES ACROSS THE BOARD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 15 minutes.

● Mr. KEMP. Mr. Speaker, I had an opportunity during the just-concluded recess to compile, and to reflect further upon, the criticisms which were leveled at the Roth-Kemp legislation during the course of our recent debate on the Revenue Act of 1978.

The provisions of Roth-Kemp which pertain to individual income tax rate reductions of about 33 percent over the next 3 years were offered by me, through a motion to recommit with instructions to include those provisions in the Revenue Act, during the course of that debate. The motion failed on a surprisingly and regrettably partisan vote.

I want to raise the more obvious questions and also comment for a few moments on the criticisms and responding to them point by point.

WHAT HARD DATA IS THERE THAT TAX RATE REDUCTIONS WORK?

"We are in a stage with persistently high inflation and one of our largest budget deficits ever. Now ROTH and KEMP are asking the country to take a bold economic gamble based largely on historic anecdotes that show major tax cuts will increase revenues. What hard economic data support such a notion?" This is an important, central question.

Today a growing number of economists believe our present inflation and large budget deficits are chiefly the result of a major inefficiency in the U.S. economy, one caused largely by high marginal tax rates. Individuals are not saving, investing, or working at desirable rates or in desirable ways.

A clear sign of this inefficiency is the existence of today's large "cash" or "subterranean" marketplace outside the taxable economy. The Government provides no hard economic data on this marketplace, because it exists outside the vision of the tax collector. But estimates are on the order of $200 billion. Lower marginal tax rates on capital and labor would draw part of this cash economy into the official tax paying economy by reducing Government's percentage in taxes of the reward for such activity, making the total economy more efficient and expanding the tax base.

Today's stock market is perhaps even harder evidence of inefficiency in the economy. The stock market is a precise measure of the value, after taxes, of the

Nation's capital stock, that is the economy's ability to produce a given flow of goods and services in the future and to reward the producers so they will sense the value of their efforts.

The Dow Jones industrial average (DJI) touched 1,000 in February 1966, as the market forecast highly efficient production flows from the capital stock. The DJI has not been close to 1,000 since then, in 1966 dollars; it is not below 900 in current dollars. For the stock market to now value the Nation's capital stock as highly as it did in 1966, the DJI would have to be roughly 2,500 or more.

One might say the economy today is not so much unemployed as it is underemployed, with individual workers and investors operating well below potential, to the detriment of the economy as a whole. They operate below their potential because tax rates are discouragingly high, standing as impediments to commerce.

Much has been said about the revenue reflows from Roth-Kemp, but not enough has been said of the effects of increased savings. Let us do so. Chase Econometrics estimates that personal savings, retained earnings, and other capital inflows will rise enough from the tax rate reductions found in Roth-Kemp to cover any added deficit, should there be such, and still have enough saving left over to increase net investment substantially. This would deliver an enormous noninflationary boost to real growth and productivity.

WHERE IS THE U.S. ECONOMY ON THE LAFFER CURVE?

Where is the U.S. economy today on the so-called Laffer curve, the graphic depiction of the relationship between tax rates and tax revenues by Prof. Arthur B. Laffer of the University of Southern California?

It is inappropriate to ask where a nation as a whole is on the Laffer curve. That curve is an instrument to analyze only "individual" economic actions. Some individuals face low marginal tax rates, and some face confiscatory rates. The Laffer curve looks at the latter, and we know these people exist in increasing numbers. The measure of total economic activity is the result of the summation of all of these individual calculations.

A nation as a whole does not face a marginal tax rate and thus cannot be placed on the Laffer curve, except as a rough, anecdotal expression of the collective problem of excessive taxation of individuals.

It is clear though that millions of individuals work and save less because they have been pushed into higher marginal tax brackets. Thus, if tax rates were reduced at the margin, saving and growth would increase and tax revenues from the expanded tax base from such savings and growth would increase. The Laffer curve is so true it is a truism.

WHY A 33-PERCENT REDUCTION IN INDIVIDUAL RATES?

I hear, "How did Roth-Kemp arrive at the 33-percent tax cut figure, 10 percent each year for 3 years cumulatively?

"If inflation is the major fear of enactment of Roth-Kemp, why not expand the tax cut time frame to 5 years, beginning the first year at a relatively low tax cut rate, increasing it year by year at an increasing rate?"

Roth-Kemp is designed as an after-the-fact adjustment of tax rates to offset the debilitating inflation rates of the 1970's.

If the progressive income tax rates had been indexed since 1970 to annually adjust for the rate of inflation, thereby preventing real increases in tax rates from occurring, the income thresholds would have been adjusted upward by more than 60 percent in that period, except that if the rates had been indexed, the deficits, contraction and inflation would not have been as severe as we have experienced.

In light of this, Roth-Kemp's 33-percent tax cut over 3 years is a relatively modest attempt to return to a sense of reasonableness in Federal income taxation.

As to the second question, I originally planned a 1-year adjustment but conceded to requests for a protracted phase-in. To extend that phase-in over 5 years would not adjust for the inflation the Carter administration forecasts for the future, let alone the last 8 years of inflation.

WHY NOT REDUCE PAYROLL TAXES INSTEAD OF LESS BURDENSOME PERSONAL INCOME TAXES?

I read, "Roth-Kemp aims its major tax cuts at the personal income tax. Yet, payroll taxes (social security, et cetera) have become far more burdensome to the average worker.

"If you really want to reduce labor costs (and thus slow inflation), raise employment, and provide incentives to invest, why not reduce the worker payroll tax and forget about the less burdensome personal income tax?"

This question confuses the difference between the burden of taxation and the incidence of taxation. There is an important distinction, which can be explained with this brief scenario.

If Government spends x amount of the economy's resources, it must raise x amount of resources through taxation. It places certain tax rates on one portion of the economy, say income recipients of all kinds. This is the incidence of the taxation.

If some of those income recipients are discouraged by the high tax rates, they can choose leisure over income, or lower nontaxable income over higher taxable income. To the degree they do this, the Government falls short of the x amount of resources it has decided to spend, and the burden of providing x falls on the remaining taxpayers who do not have the option to choose leisure on nontaxable income.

Thus, it is possible that raising tax rates on incomes can, in fact, increase the burden of taxation on other elements of society, such as people paying for public insurance programs like social security. As the wealthy withdraw from the tax economy, the rest pay more of a percentage of total taxes. As the wealthy come back into the taxable economy, the rest pay less of that percentage.

Government, after all, must provide x amount of resources to recipients of social security, to return to that example. If it does not get this amount by contributions to Social Security, it must place the incidence of taxation on some other element of the economy. Where will this be, if other elements of the economy are already slipping the incidence of taxation via leisure and nontaxed income because of high marginal tax rates?

As to social security taxes, they have become more burdensome because earlier contributors to the system, now retired, were promised benefits that presumed a level of wealth in the economy that does not now exist. It does not exist, many supply-side economists now believe, because of the disincentive effects of high marginal tax rates.

By lowering rates on incomes, the economy would draw capital and labor out of leisure and nontaxable income sources—bartering, loopholes—and both the incidence and burden of the now lower tax rates would fall, removing burdens from other elements of the economy. The now higher level of real national wealth can more easily provide the x amount of resources promised social security recipients.

WHY NOT SIMPLY REDUCE TAX RATES ON UNEARNED INCOME?

"If the Kennedy tax cuts of the early 1960's led to increased productivity, why didn't we see the same increase in productivity in the early 1970's when tax rates on earned income were cut from a maximum of 70 percent to 50 percent?

"Could it be that increased productivity only results from a decrease of tax rates on unearned income? If so, why not simply reduce tax rates on unearned income, a la the Hansen-Steiger bill to reduce capital gains tax rate, and forget Roth-Kemp?"

Let me respond to that.

In 1970, at the same time tax rates on "earned" income were falling from 70 percent to 50 percent in the highest marginal tax bracket, the tax rate on "unearned" income, including capital gains, was doubled. Had the rate on "earned" income not been reduced, the economic duress of the last several years would have been intensified.

Almost all economists now agree the prohibitive tax rates on "unearned" income must be reduced, "unearned" income merely being a perjorative way of describing income from capital. But Hansen-Steiger takes up only partly back to where income from capital was being taxed in 1969. The addition of Roth-Kemp would reduce tax rates on both capital and labor across the board, offsetting the debilitating effects of several years of inflation on the progressive tax system. Both actions—Hansen-Steiger and Roth-Kemp—are necessary to achieve the greatest leap in productivity over the next several years, a process already underway in mere anticipation of some amelioration of tax rates this year.

WHY SO MUCH WEIGHT ON THE INDIVIDUAL TAX RATE SINCE SHOULDN'T THERE BE MORE FOR CORPORATIONS?

I hear from spokesman for business, "If the goal of Roth-Kemp is to generate economic expansion on the supply side of the economy, why is the proposal so stingy with cuts in the corporate income tax? Shouldn't the corporate income tax cuts be at least equal in magnitude to the personal income tax cuts to accomplish your called-for rate of economic expansion?"

It is a mistake to think of corporate taxes as taxes on capital and personal taxes as taxes on consumption. Both are taxes on production, with the former applied selectively to corporate income, the latter applied to all forms of productive income. Think about that; learn it.

In the final analysis, all income flows through to individuals, which is why Roth-Kemp emphasizes cuts in personal income taxes. An across-the-board reduction in individual income tax rates treats all forms of primary income sources without bias. In other words, individuals receive taxable income from wages and salaries, interest, dividends, royalties and capital gains, and all of these must encounter the personal income tax schedules.

There is a second reason why personal income tax cuts are so important. Any tax plan that cuts business taxes but neglects personal income taxes will do nothing to raise the rate of return on work effort. Nor will it increase the after-tax rate of return on savings. And increased savings is an important and sought byproduct of any tax cut plan.

Consider the administration's proposed tax plan, which would cut the corporate taxes while doing little to encourage increased individual work effort and savings. Businesses would be encouraged to expand. They would rush to the credit markets—today retained earnings and the investment tax credit meet only a fraction of business capital needs—and find Government trying to borrow back the tax cut it just granted. Interest rates would soar. The Federal Reserve would see this as crowding out, increase the money supply, and thus guarantee inflation.

The flaw, then, in a tax plan that fails to cut personal income taxes is that it provides no mechanism with which to expand savings. The Business Roundtable, the Conference Board, and so forth, should make note of that.

On the other hand, under Roth-Kemp, firms would reach the credit market, find a large increase in savings, providing funds for both themselves and Government, with no increase in interest rates, no crowding out, and no inflationary increase in the money supply.

The point is, we cannot modernize American industry simply by cutting taxes for business without cutting personal income taxes to encourage increased saving.

ISN'T ROTH-KEMP ANOTHER TAX RELIEF PROGRAM FOR THE RICH?

I hear from some critics:

"The Roth-Kemp bill has achieved the image of progressivity, yet its actual tax cuts would be aimed heaviest at high income taxpayers. For example, under Roth-Kemp a family of four with an adjusted gross income of $8,000 would save only $108 in taxes. A family of four with an adjusted gross income of $40,000 would save $2,616. Is not Roth-Kemp just another tax relief program for the rich?"

This question misdefines the notion of progressivity and taxes.

Although the actual dollar tax cut for higher income families as a result of Roth-Kemp is greater than for lower income families, the proposed tax cut applies equal percentage tax decreases across-the-board. The percentage decreases are equal to avoid the disincentive effect of the economy of shifting the tax burden from one income group to another.

In any event, the object of Roth-Kemp is not to put money into people's pockets. It could not do so in any case, the way this question is put. After all, where would the $108 and $2,616 come from? From Federal borrowing, or other tax increases.

The object of the Roth-Kemp proposal is to increase the efficiency of the entire economy, and thereby the level of wealth of the entire economy. In our particular economic climate today, it does no good to increase the aftertax rewards of lower income groups if this means the aftertax rewards of upper income groups must be decreased.

After all, it has traditionally been in the upper income levels where we find the managerial ability necessary to the assembling of enterprises. If the rewards associated with this activity are confiscated, or reduced to a level not matching the effort and risk entailed in attaining these capabilities, where will new job opportunities come from for lower income individuals who want to move up the ladder? The will not come, or will come in less number.

There is another misunderstanding embodied in this question. A tax rate reduction applies to future productivity, not past performance. The individual in the $8,000 AGI class should know that if he or she works productively and sharpens skills required to move toward the $40,000 AGI class, the greater reward will match the effort. And the individual in the $40,000 AGI class should know a slackening of effort, or leisure, will result in a greater loss of reward than was the case previously.

Roth-Kemp is designed to give the worker greater incentive to increase his work effort. It does this by increasing the yield from his labor.

WHY WOULD ROTH-KEMP RESULT IN HIGHER LEVELS OF CORPORATE INVESTMENT?

"Supporters of Roth-Kemp point to the high levels of business investment as a result of the Kennedy tax cuts in the 1960s. But didn't corporate investment increase because, at around the same time of the Kennedy tax cuts, the investment tax credit was introduced along with the much-needed reform of depreciation guidelines?

"Granted, Roth-Kemp may raise dividends and retained earnings, but there's no reason to believe it would result in dramatically higher levels of corporate investment."

Let me comment on this too?

The investment tax credit and reform of depreciation guidelines had beneficial effects on business expansion. But these measures are biased toward favoring mature enterprises; they do little to encourage new growth and young enterprise. Yet it is that new growth enterprise which our economy sorely needs today to renew itself.

The investment tax credit probably has not been as beneficial to the economy on the whole as its proponents believe. Why? It explicitly prejudices the entrepreneur's selection of the factors of production in favor of physical capital, against labor. To the degree labor is displaced, even temporarily, the cost to Government of social support programs increases.

With Roth-Kemp, higher levels of corporate investment would flow, in the first sentence, from encouragement of new enterprise and new corporate investment, as the pretax costs of all factors of production would fall and the potential rewards to risk capital would increase dramatically, facing not a marginal tax rate at the top of 70 percent, but of 50 percent.

WOULD NOT THE CAPITAL INVESTMENT SURGE CREATE MORE PROBLEMS THAN IT SOLVES?

"Dr. Norman Ture estimates the Roth-Kemp tax cuts will increase capital investment by $113 billion—more than a 30-percent jump—in 'real' dollars. This would be an investment boom without precedent; larger than the jump in investment between 1965 and 1972.

"But, writing in the National Journal, journalist Robert Samuelson comments that 'even if business wanted to increase investment that much, shortages in supplies and the needed machinery and materials almost certainly would rise.' Samuelson adds that without offsetting cuts in Federal expenditures, such huge tax reductions would risk creating an enormous surge in spending which would lead either to a dangerous accelerating of inflation or to a crippling credit crunch."

It is beyond our understanding of all variety of economic theory how a privately financed boom in capital investment could do all the terrible things imagined by Mr. Samuelson. Economists of all theoretical schools, including Marxists, would dismiss the Samuelson scenario. Any economist would welcome a $113 billion increase in capital investment, privately financed, if he could get it.

The more pertinent question goes to Dr. Ture's estimate of a 30-percent increase in real terms, greater than the investment jump between 1965 and 1972.

Supply-side economists believe such an increase within the realm of possibility because they believe the U.S. economy in 1978 is operating well below its potential, certainly at a far lower speed than it was achieving in 1965. Government statisticians, who can only measure quantity of production and static utilization rates—based on past rates of capital investment—dispute the supply-side theorists. But the electorate seems well aware that the economy is dragging along, especially in quality measures, relative to the preinflation era.

ISN'T ROTH-KEMP INFLATIONARY, ESPECIALLY IN THE SHORT-RUN

Much of our debate focused on inflation. Opponents said, "What about Roth-Kemp and its inflationary effects? Won't Roth-Kemp create a sudden and huge surge in consumer spending, creating the inflationary situation of too many dollars chasing too few goods? Even if investment spending increases at this time as capital stock is put in place, won't this too be inflationary, particularly in the short run?"

There are two effects of a tax rate reduction along the lines of Roth-Kemp. One, which this question addresses, is the increase in after-tax incomes of workers and investors.

In the first year of Roth-Kemp, this increase "in consumer pockets" would amount to $20 billion in a gross economy 100 times as large. But while $20 billion goes, in effect, into consumer pockets, $18 billion comes right out as a result of increased social security taxes and inflation-related tax increases. This $2 billion net is only one-thousandth the size of the economy itself—hardly enough to overwhelm capacity with great surges in consumer demand as the gloomy inflation scenarios predict.

In addition, to the degree the economy sees that this $2 billion must be paid back to finance the bonds that make it available, the economy will save, not spend, the $2 billion. Particularly in the lowest income classes, where credit is often necessary for survival, the net results of Roth-Kemp would tend to pay down debt, thus going into savings, not consumption.

The second, more important effect of Roth-Kemp is to remove unnecessarily high barriers to production. That is, a lower tax rate not only affects the current paycheck—or interest payment, or dividend check. It holds out greater incentive to work, save or invest in the future. The increased willingness of workers to produce plus the increased willingness of capital to assemble workers in new or added enterprise—there now being a greater reward for such effort—lifts the entire economy to a higher level of efficiency. Even if the physical effort expanded, in aggregate, remains the same, production of goods and services increases by increased efficiency, productivity.

As to the effects of increased investment spending, a tax rate reduction cannot focus on either labor or capital to the exclusion of the other. If tax rates on labor were zero and tax rates on capital 100 percent, there would be no employment, thus no enterprise, and no revenues. Roth-Kemp, of course, applies across-the-board on the incomes of workers, savers, and investors.

There would also be no short-run inflationary effect from Roth-Kemp. The economy simply does not await actual passage of a tax cut to begin expanding work, saving, and investment. The closer Congress gets to passing Hansen-Steiger and Roth-Kemp, and as White House resistance subsides, the more buoyant the economy will become.

Federal, State, and local tax revenues have, without doubt, increased already on the mere anticipation of lower Federal rates. That is, as individual workers, savers and investors "gear up" to take advantage of the lower rates, their taxed transactions and incomes provide increased revenue flows.

WOULD KEMP-ROTH OVERWHELM OUR EXISTING CAPACITY WITH "A TIDAL WAVE OF INCREASED DEMAND?"

Prof. Walter Heller says the Roth-Kemp tax cuts "would simply overwhelm our existing productive capacity with a tidal wave of increased demand and sweep away all hopes of curbing deficits and containing inflation". He is wrong.

Professor Heller and other opponents of Roth-Kemp think of a tax cut only in terms of the number of dollars it dumps into the economy. This is supposed to stimulate "demand" and purchasing power and be spent about twice over to increase GNP by a multiple of the tax cut. This line of reasoning is badly out of date, but for our purposes this afternoon, let's adopt it.

Opponents of Roth-Kemp then claim the proposed tax cut is too large and the resulting increase in spending would greatly exceed our unused capacity, currently between $70 and $90 billion. But is the net result of Roth-Kemp really that large?

Chase Econometrics estimates that social security tax increases and the tax increase from inflation, as it pushes people into higher tax brackets, will amount to $332.8 billion over the next 5 years. Yet, the Roth-Kemp tax cut itself totals only $383.1 billion for the same 5 years. Who is fooling whom about great spending surges?

Given that social security and other inflation-related tax increases will amount to $26.4 billion in 1979, $40.9 billion in 1980, $66.1 billion in 1981, $89.5 billion in 1982, and $109.9 billion in 1983, the net result of Roth-Kemp is only $12.8 billion in 1980, $15.9 billion in 1981, $16.1 billion in 1982, and $9.1 billion in 1983.

So how can Roth-Kemp overwhelm our existing productive capacity and generate wild inflation, even given Professor Heller's demand-multiplier analysis?

Clearly, if we ignore a $332-plus billion social security, inflation-related tax increase over the next several years without some offsetting tax relief, we will have a severe recession which will generate perhaps the largest deficits in history. That is what Roth-Kemp seeks to avoid.

WILL KEMP-ROTH CREATE SHORT-RUN PROBLEMS BECAUSE OF INADEQUATE CAPACITY ON THE SUPPLY SIDE?

I have heard it said here that, "Professor Laffer now admits Roth-Kemp may cause 'short-run' problems to the economy because of inadequate capacity on the supply side."

I do not agree.

Laffer's statement has been taken far out of context by economic journalists. Supply-side economists may "admit" to the possibility of short-term supply problems with Roth-Kemp, but only because as econometricians they refrain from making absolute statements. This, unfortunately, has not been the case with opponents of Roth-Kemp. In other words, while it is difficult for supply-side economists to imagine short-run supply problems—especially given the nature of the extended phase-in period, when asked, they will admit there is always the posaibility such problems could occur.

These so-called problems, though, are only those temporary difficulties often associated with real growth. In periods of real expansion, some fragment of the economy will always run out of capacity before the rest of the economy, causing a short-term shift in relative prices that pushes the economy to seek substitutes, that is, imports or substitute goods.

But, if the fragment of the economy that runs out of capacity first believes the increased incentives to produce will be permanent—not a temporary "shot in the arm"—it will add capacity—putting on extra shifts, adding plant and equipment, training new workers—and in the midterm the relative prices will readjust.

In any event, are not temporary growing pains, if there be such, always preferable to shrinking pains?

WOULDN'T ROTH-KEMP SEND INTEREST RATES SOARING?

If the Roth-Kemp tax cut proposal were enacted today, how would interest rates be affected in 1979, 1980, and 1981?

Interest rates are, for the most part, a function of monetary policy. But if we can assume for analytical purposes, that monetary policy stays constant, interest rates would be lower with Roth-Kemp. This is because supply-side economists believe marginal tax rates are now in the prohibitive range of the Laffer Curve, and Roth-Kemp would expand the productive base, the tax base and revenues. The economy's savings pool would expand with production and there would be "crowding in," not "crowding out" in the capital markets.

Remember, too, that income tax rates are part of the wedge between borrowers and lenders. That is, there is an "interest rate paid" by the borrower and an "interest rate received" by the lender. The difference is the amount taken by the Government in taxes. When this wedge is reduced through a lowering of the tax rate, we would expect the interest rate paid by the borrower to fall, even though a part of the decreased wedge goes to a greater interest rate received by the lender.

AREN'T THE KENNEDY AND OTHER HISTORICAL EXAMPLES MISLEADING?

I hear partisans on the other side of the aisle say, "You continually say the Kennedy tax cuts of the early 1960's led to increased productivity. Why not consider the inverse situation? Was there a marked slowdown in economic growth and productivity in 1913 when the personal income tax was first imposed? Was there a marked slowdown in 1968 with the imposition of the 10 percent surcharge on income which went to finance the Vietnam war?"

What is the answer?

It is often misleading to relate tax rate and productivity changes by examining Government statistics. Markets do not respond with surges, up or down, on the official dates of change in tax laws, or any other laws. When the market gets the first inkling of a change in the wedge between effort and reward, it begins the adjustment process, so by the time the change is officially made, it often has already been fully discounted by the market.

Drawing economic assumptions based on marked slowdowns or surges in Government statistics can be a deceiving process. For example, economist Walter Heller argues that if, as Roth-Kemp supporters claim, the Kennedy tax cuts unleashed incentives by triggering a great leap forward on the supply side of the economy, where is the sudden bulge in productivity and GNP potential in the economic statistics of the mid-1960's? Heller concludes there was no bulge.

The answer is that there was a bulge in capacity, which is evident from the simple fact that without a tax cut in 1964 the economy would have been in a recession shortly thereafter. In fact, much of the support for the Kennedy tax cut was generated by the expectation that a recession was imminent. Professor Heller can answer his own question by comparing capacity after the cut to what would have happened to the economy had there not been a cut.

SHOULDN'T KEMP-ROTH BE COUPLED WITH A SPENDING LIMITATION TO ELIMINATE ANY RISK OF INFLATION-CAUSING DEFICITS?

I hear from some of the conservative Keynesians, "What about Roth-Kemp helping to maintain or even enlarge our present Federal deficit? Deficits have the inflationary effect (Federal borrowing, crowding out, and so forth) of pushing up interest rates, which usually results in pressure on the Federal Reserve to increase the money supply. Isn't the only safeguard against inflation in this situation some kind of accompanying cut or limitation in Federal spending?"

This is very important, so let me deal within several ways.

First, prudence—restraint in the expenditure of public funds—is always helpful to the Treasury and Federal Reserve in the management of public finance. And today's vigilant congressional efforts to restrain spending should be maintained.

But it is the opinion of a growing number of economists that not more than a reasonable fraction of the congressional effort should be invested in this endeavor. By this they mean that if half of Congress devotes itself to increasing Federal outlays, and the other half devotes itself to decreasing Federal outlays, there remains no political leadership devoted to economic growth. Yet this, essentially, has been the condition of the past dozen years.

Moreover, it does not seem realistic to expect that $50- or $60-billion level deficits can be ended suddenly by trimming back Federal outlays. The public demands collective expenditures for social-support programs during periods of collective economic contraction, which the United States has been experiencing for more than a decade. In fact, the public will even tolerate large waste in spending programs to insure that as many of their fellow citizens as possible are assisted, by collective effort, during this contraction period.

The approach Roth-Kemp takes is to end the economic contraction—which brought about most of the increase in Federal expenditures in the first place—and invite a period of economic growth by removing tax disincentives to commerce.

Both proposals are a suggestion that the time and intellectual resources of Congress be concentrated on expanding the economy's productive base, which, of course, expands the tax base as well. In such an expansion, we would expect the public demand for Federal outlays to diminish as the threat to their fellow citizens caused by contraction is ameliorated.

Second, if, in economic expansion, demand for Government services declines, as expected with Roth-Kemp, a budget cut occurs naturally, whether or not it has been anticipated. And a formal budget limitation becomes superfluous.

But if, for unforeseen reasons, a contraction occurs in the future—a hypothetical tariff war in Europe, for example—it is my opinion the average American would not appreciate his Government's hands being tied by a spending limitation.

The public expects Government to be flexible in managing the public economy, in good times and bad, and legislated spending limits are the equivalent of price controls in the private sector, for which the general electorate also has little enthusiasm.

In any event, supply-side economists predict the Roth-Kemp tax cuts will increase incentives for output and employment, while reducing demand for Federal outlays for unemployment and social welfare spending. But as to a forced accompanying budget cut or spending limitation it is as Irving Kristol put it in The Wall Street Journal of August 10, naive even to think that Congress can face down the spending lobbies until after it has cut taxes.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. SARASIN) is recognized for 5 minutes.

● Mr. SARASIN. Mr. Speaker, on August 16, 1978, I was absent for part of the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 712: House Concurrent Resolution 683; Second budget resolution. The House rejected a substitute amendment that sought to provide for a balanced budget, "yes"; and

Rollcall No. 713: House Concurrent Resolution 683; Second budget resolution. The House agreed to the concurrent resolution revising the congressional budget for the U.S. Government for the fiscal year 1979, "no."

On August 17, 1978, I was absent from the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 715: H.R. 13467: Second supplemental appropriations. The House agreed to the conference report on the measure making supplemental appropriations for the fiscal year ending September 30, 1979, "no";

Rollcall No. 716: H.R. 13467: Second supplemental appropriations. The House rejected motions to recede from its disagreement and concur in Senate amendments Nos. 48 and 82, "no";

Rollcall No. 717: H.R. 12935: Legislative branch appropriations. The House agreed to the conference report to the measure making appropriations for the legislative branch for the fiscal year ending September 30, 1979, "yes";

Rollcall No. 718: H.R. 12927: Military construction appropriations. The House agreed to the conference report on the measure making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1979, "yes";

Rollcall No. 719: H.R. 13468: District of Columbia appropriations. The House agreed to the conference report on the measure making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1979, "yes";

Rollcall No. 720: S. 9: Outer Continental Shelf. The House agreed to the conference report on the measure, Outer Continental Shelf Lands Act Amendments of 1978, "yes";

Rollcall No. 721: H.R. 12240: Intelligence authorization. The House agreed to the conference report on the measure to authorize appropriations for fiscal year 1979 for intelligence and intelligence-related activities of the U.S. Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, "yes";

Rollcall No. 722: H.R. 10898: USRA authorization. The House agreed to the rule (H. Res. 1321) under which the bill was considered, "yes"; and

Rollcall No. 723: H.R. 10898: USRA authorization. The House passed the measure to amend the Regional Rail Reorganization Act of 1973 to authorize appropriations for the U.S. Railway Association for fiscal year 1979, "yes".●

CONSUMER EDUCATION AND ELECTRONIC BANKING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, crimes against the elderly have reached staggering proportions. What better victim is there for the hardened criminal than a frail senior citizen seen leaving the bank? And, older Americans are particularly vulnerable to attack at the first of the month, when many citizens receive Government benefits and social security checks.

Partly in response to this disgusting trend, there is a movement afoot to make Governments benefits subject to electronic banking. This would entail requiring senior citizens to set up a bank account to which their Government checks are directly deposited, via the rapidly growing system of electronic fund transfers (EFT's). This would eliminate the hazards senior citizens encounter when cashing their checks, proponents maintain.

This problem and possible solution were recently discussed by Bill Gold in his daily column, "The District Line," in the August 25 edition of the Washington Post. After considering the possibility of making EFT a condition of Government or employee benefit, Mr. Gold concluded that the best way to approach this situation is through improved consumer education of EFT systems, with a special emphasis on educating senior citizens.

Although I am greatly disturbed by the crimes being perpetrated against our Nation's senior citizens, I agree with Mr. Gold's conclusions. There is no room in the developing system of electronic banking for required use. One of the conditions of H.R. 13007, the Electronic Fund Transfer Act, which I sponsored and which passed the House August 11, is prohibition of such mandatory use. No person may be required to use electronic fund transfers as a condition of employment or Government benefit.

Consumers are traditionally slow to accept change. Consider the massive advertising campaign the banking industry launched to convince consumers to use checks. Bank customers had to be assured that checks are sometimes better than cash—that checks are like proof of payment, that checks could be stopped if merchandise is found faulty, and so on.

A similar campaign heralded the advent of credit cards. And today both checks and credit cards are an accepted way of life.

And now, the public is being asked to accept banking by computer, an inherently cold and dehumanized approach to transacting their money. And unfortunately for consumers, the banking industry has little ammunition to promote the new service. Only a handful of States have laws governing EFT transactions. There is no Federal law covering electronic banking.

Many consumers assume that because a debit card—the card used to activate electronic banking terminals—resembles a credit card, that the same laws govern the two. Nothing could be further from the truth.

The truth is if a consumer's life savings are wiped out through the use of a stolen debit card, the consumer has as much redress under Federal law as when a thief steals money from him on the street.

The most important provision of H.R. 13007 corrects this disparity by establishing a $50 consumer liability limit, very similar to that currently in effect for credit card holders. The bill further protects consumers by prohibiting the issuance of unsolicited, validated cards through the mail. H.R. 13007 also requires prompt error resolution and requires that detailed monthly statements are sent to card holders. The bill also requires that a card holder receives a receipt at the time of each transaction.

H.R. 13007 passed the House on August 11, by an overwhelming 314–2 margin. Still, the bill faces tough opposition in the Senate where a number of crippling amendments are already proposed. It will be a close race to see a comprehensive EFT bill passed this session.

I agree with Mr. Gold that consumer education is needed in the field of electronic fund transfers. And the first order of that education is letting consumers know that, as it stands, they have virtually no rights under the system.●

MASTERS CHAMPION RUNNER, RAY GORDON: PROOF THAT YOU CAN STAY ACTIVE AND FIT AS YOU GET OLDER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 5 minutes.

● Mr. PEPPER. Mr. Speaker, I would like to bring to the attention of my colleagues the outstanding achievements of Alexander R. "Ray" Gordon, Jr., age 60, who won the national title for persons over 60 in the 400-meter dash, 800-meter run, and the 1,500-meter run, at the National Masters AAU Track and Field Championships in Atlanta, Ga., July 7–9 of this year. Ray, the president of the Shenandoah Valley Runners, now holds the world record for the half mile for persons over 60 and holds other age-group records in the quarter-mile, 1,500-meter run, and may long distance cross-country and road races.

At the University of Alabama, in 1918, I ran on the cross-country team. I ran 10 miles a day during practices. While I do not run 10 miles a day now, I walk as fast as I can everywhere I go and often play 18 holes of golf.

You do not have to roll over and play dead as you get older. Ray Gordon is living proof of the potential of exercise to help one lead a vital life as one gets older. I commend him for his accomplishments and hope that Ray's achievements will serve as a model to encourage others to stay active and fit as they approach later years. By so doing, I am convinced people can live not only healthier, but longer lives.●

IRRESPONSIBLE CONDUCT BY THE WASHINGTON POST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. FOUNTAIN) is recognized for 5 minutes.

● Mr. FOUNTAIN. Mr. Speaker, on August 5, the Washington Post ran an editorial "Urban Aid in Distress" on the administration's supplementary fiscal assistance proposal which contained two completely untrue allegations.

The Post alleged that the subcommittee which I chair has never been hospitable to urban aid plans and that I personally did not entertain any amendments before the subcommittee voted on that bill.

In addition to making these two allegations—which are demonstrably not true—the Post editorial displayed a lack of understanding about the relationship between unemployment rates and the fiscal condition of local governments.

I sent a hand-delivered letter to the Post's editor 2 days later (August 7) requesting that my response be printed while the untrue allegations were still fresh in the readers' minds.

I believe any person who is singled out for criticism in an editorial is entitled to an opportunity to defend himself and to have his response printed on a timely basis.

The Washington Post, I am sorry to report, has denied me an opportunity to reply to the untrue statements in its editorial. Moreover, it has done so in an inconsiderate and arrogant manner.

When my letter to the editor did not appear by August 11, I asked my staff to phone the Post to inquire when it would appear. Only then was I informed, through my staff, that the letter was considered too lengthy for the available space. My staff was advised that it would be printed more quickly if compressed into 850 words and rewritten as an op-ed piece.

Acting on that understanding, I took the time from a very busy schedule that same afternoon to rewrite the letter in accordance with the Post's specifications, and it was picked up by a Post messenger late in the day. What did I get for that effort? Dead silence from the Post. The Op-Ed piece did not appear, and I have never received even the courtesy of a call or letter of acknowledgement.

After repeated, unproductive phone calls to the Post's editorial office, my staff learned yesterday afternoon from Mr. Philip L. Geyelin, the paper's editorial page editor, that the Post has no intention of printing my response. So much for fair play.

I firmly believe that a free press is an essential component of a democratic society. But it is equally important that the rights and privileges accorded to the press be exercised with a sense of responsibility and a high regard for the rights of individuals.

Mr. Speaker, the Post editorial conveyed the erroneous impression that the subcommittee I chair acted hastily in voting to postpone further consideration of the supplementary fiscal assistance bill, and that I refused to consider amendments. That false impression has also been conveyed repeatedly by a subcommittee member who was on the losing side. What that member fails to disclose is the fact that he did not offer any amendment or alternative either in our Democratic caucus or in the subcommittee meeting, nor did he inform the chairman before the meeting of his intention to offer an amendment.

The truth is that the bill was fully and carefully examined in 3 days of public hearings, an executive session, a caucus, by in-depth staff analysis, and in numerous discussions among the Members. It was evident before the subcommittee meeting on August 2 that a majority of

the Members could not support the bill, and no amount of discussion would have changed the outcome. Indeed, the President personally sought to persuade at least one Member to change his position, and failed.

As for the false charge that the Chair did not permit amendments to be offered, the official stenographic record of the meeting clearly shows that I actually invited amendments on three separate occasions. This is shown on pages 7, 8, and 10 of the record. I would be delighted to furnish that transcript to interested Members.

Mr. Speaker, I request that my August 7, 1978, letter to the editor of the Washington Post be included at this point for the information of my colleagues and other readers of the CONGRESSIONAL RECORD.

The letter follows:

LETTER TO EDITOR, WASHINGTON POST

HOUSE OF REPRESENTATIVES,
Washington, D.C., August 7, 1978.

Your editorial, "Urban Aid in Distress", (Washington Post for August 5), makes the unwarranted assertion that the Subcommittee I chair "has never been too hospitable to urban-aid plans." I know of no factual basis for that statement. On the contrary, the Inter-governmental Relations and Human Resources Subcommittee was deeply concerned with urban problems and Federal-State-local relations long before these subjects became fashionable in Washington.

It would be correct to say that the Fountain Subcommittee has never been hospitable to unsubstantiated claims, the misuse of statistical data, and political slogans when it comes to spending the public's money.

The Subcommittee opposed the Antirecession Fiscal Assistance (countercyclical) program last year because it was poorly constructed and could not possibly serve the objectives stated for it. It was claimed the program was needed to help compensate State and local governments for their recession-related revenue losses, even though the recession had ended two years earlier. It was argued that the State and local governments would spend their allocations promptly, thereby stimulating the national economy. This argument ignored the legal reality that governments are required to follow budget procedures which preclude the rapid spending of temporary assistance. Further, a government qualified for aid if its unemployment rate exceeded 4.5 percent, a lower figure than the rate considered "full employment" by the Presidents' Council of Economic Advisers.

The use of local unemployment rates as the mechanism for targeting money to needy governments was the fatal flaw of the countercyclical program. Those rates are so unreliable that the Commissioner of Labor Statistics has described their fluctuations as no better than "random numbers" for communities under 50,000 population. Worse still, actual rates have been developed for fewer than 5,000 governments, with the vast majority of units receiving allocations on the basis of assigned "balance of the county" rates which bear little or no resemblance to the local situation. As a result, many of the wealthiest communities in the United States, located in counties like Nassau, Suffolk and Westchester in New York State, have been receiving assistance. And they would continue to receive money under the proposed new program.

Even if unemployment rates could be made reliable, they would still not be a useful measure of local need because these rates are wholly unrelated to a governments service responsibilities and fiscal condition. By an interesting coincidence, the lead story in the August 5 Washington Post dealt with black teen-age unemployment. I agree that minority youth unemployment is a serious problem, and one which we have not yet addressed satisfactorily. It is important to note in this regard that approximately half of the national unemployment rate is attributable to youth unemployment, Youth unemployment, therefore, accounts for an even larger percentage of the high unemployment rates found in a great many central cities.

It is essential to ask in this connection what fiscal responsibility a particular local government has for this group or for the unemployed in general. The answer for most cities is "very little". There are, of course, exceptions. The cities mentioned in your editorial illustrate this point. Cleveland, New Orleans and Buffalo have no responsibility for financing any part of the costly public assistance and medicaid programs. These costs are borne by an overlying county for Buffalo and Cleveland and by the State in the case of New Orleans. Moreover, the public schools are the fiscal responsibility of independent school boards in both Cleveland and New Orleans.

In sharp contrast, a small number of cities, including New York and San Francisco, are required by their States to pay part of the non-Federal share of public assistance and medicaid costs, and they also support public education out of the municipal budget.

The fact is that local governments have widely differing responsibilities, revenue sources, and fiscal arrangements with their State governments. As a result, it is highly misleading to compare cities, especially across State lines, or to measure local need and tax effort without taking the total State fiscal system into account. And it is just plain silly to conclude a city is in fiscal need or distress on the basis of an unemployment rate or any other available socioeconomic indicator. Our Subcommittee has studied this problem, with the counsel of the Nation's leading experts, for the past several years. Like many social problems, this one is not susceptible to easy solutions.

The Washington Post has helped create the false impression that the Subcommittee acted hastily in votng to postpone consideration of the Administration's bill. The bill was carefully and fully examined in hearings, executive session, caucus, staff analyses, and in numerous discussions among the Members before last week's meeting. I am convinced that every Subcommittee member had made up his mind before the meeting, and no amount of discussion would have changed the outcome. It should be noted that not a single amendment was offered when the Chair made amendments in order on three separate occasions.

The defects of the proposed Supplementary Fiscal Assistance program are so fundamental that the bill is beyond salvage. Far from being a program to aid distressed communities, it would allocate money to fully 70 percent of the Nation's local governments. The quirks in the allocation formula result in its favoring wealthy communities over poorer ones.

How the program would operate in the Washington metropolitan area is instructive. The District government is treated as the third most distressed city among the country's one hundred largest municipalities, and would receive a per capita payment of $14.29. Among the one hundred largest cities, only Newark and New York would receive larger per capita amounts. On the other hand, no other large city or any county in the Washington area would receive a penny. However, payments would be made to such wealthy places as Chevy Chase Village, Chevy Chase Town, and Somerset. It would be difficult to devise a more irrational formula.

This legislation would surely encourage local governments to become permanently dependent on the Federal budget for such basic local services as police and fire protection and trash collection.

The local perception of need is a very flexible one when the Federal Government stands ready to hand out money. Last week, for example, I received a mailgram from the mayor of Jacksonville, Florida, which read: "Needless to say, these funds are most urgently needed and important to Jacksonville." This is the same city for which large advertisements were recently placed in the Wall Street Journal announcing its "property taxes are among the lowest in the nation and they've been going down . . . There is no State or local income tax. And independent research shows the cost of living for an executive is $10,000 a year lower here than in New York."

There is no justification for another general revenue sharing program when we already have one providing almost $7 billion a year in assistance. This is especially true at this time when the Federal Government has an astronomical national debt, a huge budget deficit, and when inflation is the most critical domestic problem facing all of us. Moreover, it is not widely known that the existing general revenue sharing program targets money more effectively to the large central cities than the Administration's proposal.

I believe there is need for a carefully designed program to help those local governments that are genuinely distressed as the result of long-term economic decline, and I plan to give this matter priority attention early next year. However, it would be a disservice to the American people to create the impression that a "quick fix" is possible now through political negotiation in the Congress.

Sincerely,

L. H. FOUNTAIN,
Chairman, Intergovernmental Relations and Human Resources Subcommittee.●

THE NEED TO PROVIDE EQUAL ACCESS TO PUBLIC TRANSPORTATION FOR THE HANDICAPPED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. ST GERMAIN) is recognized for 5 minutes.

● Mr. ST GERMAIN. Mr. Speaker, for the Nation's 30 million handicapped citizens, the Rehabilitation Act of 1973, the bill outlining a broad program to insure that Federal funds are spent in a manner that would promote accessibility and eliminate traditional obstacles, was a source of hope.

The hope carried in the bill was that the handicapped would soon be able to move about freely in a world that had, for years, been filled with impassable barriers.

A cornerstone in this quest for equal access is the Transbus, the vehicle that would give the infirm and handicapped the freedom of movement now enjoyed by the rest of the population.

The Secretary of Transportation in 1977 ordered that by September 1979 all public transportation must be accessible to the handicapped by use of the Transbus.

I am firmly committed to the concept of equal accessibility and feel that any

proposal aimed at delaying this program would undermine the intent of Congress as expressed in the Rehabilitation Act of 1973.

It has been brought to my attention that, due to a lack of technical know-how, the mandate requiring the Transbus would have to be scuttled.

The debate to determine the best possible system has been raging for over 5 years and now, according to opponents of the Transbus, we are still at step 1.

I cannot accept any further delays in the right to accessible transportation for the handicapped and urge the Congress and the Secretary of Transportation to act to insure that the intent of the Rehabilitation Act be carried out so that public transportation is provided to all Americans.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. RANGEL (at the request of Mr. WRIGHT), for after 6 p.m. today and for September 8 and 11, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GREEN) to revise and extend their remarks and include extraneous material:)

Mr. GOLDWATER, for 5 minutes, today.
Mr. KEMP, for 15 minutes, today.
Mr. SARASIN, for 5 minutes, today.

(The following Members (at the request of Mr. BARNARD) to revise and extend their remarks and include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. PEPPER, for 5 minutes, today.
Mr. FLOOD, for 5 minutes, today.
Mr. FOUNTAIN, for 5 minutes, today.
Mr. ST GERMAIN, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. SIKES, in two instances and to include extraneous matter.

(The following Members (at the request of Mr. GREEN), and to include extraneous matter:)

Mr. FINDLEY in four instances.
Mr. DERWINSKI in three instances.
Mr. MICHEL.
Mr. COLLINS of Texas in three instances.
Mrs. HOLT.
Mr. SNYDER.
Mr. STEIGER.
Mr. ARCHER.
Mr. DORNAN in two instances.
Mr. RUDD.
Mr. WHALEN.
Mr. HOLLENBECK in two instances.
Mr. SARASIN in two instances.
Mr. WALKER.
Mr. STEERS.

(The following Members (at the request of Mr. BARNARD), and to include extraneous material:)

Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. ROGERS in five instances.
Mr. RYAN.
Mr. REUSS.
Mr. IRELAND.
Mr. LONG of Maryland.
Mr. YOUNG of Missouri.
Mr. BRECKINRIDGE in five instances.
Mr. BLOUIN.
Mr. TEAGUE in three instances.
Mr. MINETA.
Mr. MCDONALD.
Mr. VANIK.
Mr. HARKIN.
Mr. HARRIS.

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 6669. An act to establish a comprehensive and coordinated national climate policy and program, and for other purposes.

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on September 6, 1978, present to the President, for his approval, bills and joint resolutions of the House of the following titles:

H.R. 185. To amend section 2632 of title 10, United States Code, to provide the Secretary of the department in which the Coast Guard is operating with the authority to transport Coast Guard employees to and from certain places of employment;

H.R. 2931. To amend chapter 89 of title 5, United States Code, to establish uniformity in Federal employee health benefits and coverage by preempting certain State or local laws which are inconsistent with such contracts, and for other purposes;

H.R. 2952. For the relief of M/Sgt. William E. Boone, U.S. Army, retired;

H.R. 3532. To amend chapter 639 of title 10, United States Code, to enable the Secretary of the Navy to change the name of a publication of the Naval Observatory providing data for navigators and astronomers;

H.R. 7161. To amend title 10, United States Code, to allow nationals, as well as citizens, of the United States to participate in the Junior Reserve Officers' Training Corps program;

H.R. 7162. For the relief of Stephanie Johnson;

H.R. 8342. To amend title 5, United States Code, to provide for the application of local withholding taxes to Federal employees who are residents of such locality;

H.R. 8397. To provide that a certain tract of land in Pinal County, Ariz., held in trust by the United States for the Papago Indian Tribe, be declared a part of the Papago Indian Reservation;

H.R. 8471. To authorize the Governor of the State of Wyoming to exhibit the Nameplate, ship's bell, and silver service of the U.S.S. *Wyoming* without restriction as to the place of such exhibition;

H.R. 8771. To amend title 5, United States Code, to authorize the Civil Service Commission to comply with the terms of a court decree, order, or property settlement in connection with the divorce, annulment, or legal separation of a Federal employee who is under the civil service retirement system, and for other purposes;

H.R. 10676. To extend until October 1, 1981, the voluntary insurance program provided by section 7 of the Fishermen's Protective Act of 1967, and for other purposes;

H.R. 10809. To provide for Federal regulation of participation by foreign banks in domestic financial markets;

H.R. 12106. To amend the Independent Safety Board Act of 1974 to authorize additional appropriations;

H.R. 12240. To authorize appropriations for fiscal year 1979 for intelligence and intelligence-related activities of the U.S. Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes;

H.R. 12602. To authorize certain construction at military installations for fiscal year 1979, and for other purposes;

H.R. 12927. Making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes;

H.R. 13235. For the relief of James Thomas Lantz, Jr., David D. Bulkley, and Arthur J. Abshire;

H.R. 13467. Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes;

H.R. 13468. Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1979, and for other purposes;

H.J. Res. 773. Authorizing and requesting the President of the United States to issue a proclamation designating the seven calendar days beginning September 17, 1978, as "National Port Week"; and

H.J. Res. 1014. Designating April 28 and 29 of 1979 as "Days of Remembrance of Victims of the Holocaust."

ADJOURNMENT

Mr. BARNARD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 8 minutes p.m.) the House adjourned until tomorrow, Friday, September 8, 1978, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4932. A letter from the Director of Legislation, Department of the Navy, transmitting notice of the Navy's intention to donate a Japanese flying boat (Kawanishi HPK2: code name Emily) to the Japanese Foundation for the Promotion of Maritime Science, Tokyo, Japan, pursuant to 10 U.S.C. 7545; to the Committee on Armed Services.

4933. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense services to Saudi Arabia (transmittal No. 78-66), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4934. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain military equipment to Saudi Arabia (transmittal No. 78-68), pursuant to section 36(b) of the Arms Export Control Act; the Committee on International Relations.

4935. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to

sell certain defense services to Saudi Arabia (transmittal No. 78-87), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4936. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting, a monthly report on sales of retail gasoline for April 1978, pursuant to section 4(c)(2)(A) of the Emergency Petroleum Allocation Act of 1973; to the Committee on Interstate and Foreign Commerce.

4937. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting a monthly report on sale of retail gasoline for May 1978, pursuant to section 4(c)(2)(A) of the Emergency Petroleum Allocation Act; to the Committee on Interstate and Foreign Commerce.

4938. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting a monthly report on sales of refined petroleum products for May 1978, pursuant to section 4(c)(2)(A) of the Emergency Petroleum Allocation Act; to the Committee on Interstate and Foreign Commerce.

4939. A letter from the National Commander, Military Order of the Purple Heart, transmitting the report on the audit of the Order for the year ended June 30, 1978, pursuant to section 3 of Public Law 88-504; to the Committee on the Judiciary.

4940. A letter from the Chairman, National Transportation Safety Board, transmitting the Board's budget request for fiscal year 1980, pursuant to section 304(b)(7) of Public Law 93-633; jointly, to the Committees on Appropriations, Interstate and Foreign Commerce, and Public Works and Transportation.

4941. A letter from the Comptroller General of the United States, transmitting a report on the Agency for International Development's housing investment guaranty program (ID-78-44, September 6, 1978); jointly, to the Committees on Government Operations, and International Relations.

4942. A letter from the Secretary of Transportation, transmitting a report on the study of highway needs to solve energy problems, pursuant to section 153(b) of Public Law 94-280; jointly, to the Committees on Public Works and Transportation, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ZABLOCKI: Committee of conference. Conference report on H.R. 12222 (Rept. No. 95-1548). Ordered to be printed.

Mr. ZABLOCKI: Committee of conference. Conference report on S. 3075 (Rept. No. 95-1546). Ordered to be printed.

Mr. FOLEY: Committee on Agriculture. S. 409. An act to designate the Meat Animal Research Center located near Clay Center, Nebr., as the "Roman L. Hruska Meat Animal Research Center" (Rept. No. 95-1547). Referred to the House Calendar.

Mr. FOLEY: Committee on Agriculture. H.R. 7432. A bill to designate the U.S. Department of Agriculture's Bee Research Laboratory in Tucson, Ariz., as the "Carl Hayden Bee Research Center" (Rept. No. 95-1548). Referred to the House Calendar.

Mr. FOLEY: Committee on Agriculture. H.R. 11123. A bill to designate the U.S. Department of Agriculture's Pecan Field Station in Brownwood, Tex., as the "W. R. 'Bob' Poage Pecan Field Station" (Rept. No. 95-1549). Referred to the House Calendar.

Mr. FOLEY: Committee on Agriculture. H.R. 11079. A bill to amend the Farm Credit Act of 1971 (85 Stat. 583) to extend the term for production credit association loans to producers or harvesters of aquatic products; with amendment (Rept. No. 95-1550). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee on Agriculture. H.R. 13675. A bill to amend section 103(f)(1) of the Agricultural Act of 1949 by deleting the third sentence thereof in order to insure that interest rates on price support loans for upland cotton are not less favorable to producers than the interest rates for such loans on other commodities (Rept. No. 95-1551). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee on Agriculture. S. 2946. An act to authorize the Secretary of Agriculture to relinquish exclusive legislative jurisdiction over lands or interests under his control (Rept. No. 95-1552). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee on Agriculture. S. 2951. An act to authorize the Secretary of Agriculture to accept and administer on behalf of the United States gifts or devises of real and personal property for the benefit of the Department of Agriculture or any of its programs (Rept. No. 95-1553). Referred to the Committee of the Whole House on the State of the Union.

Mr. KASTENMEIER: Committee on the judiciary. H.R. 13331. A bill to amend title 28 of the United State Code to make certain changes in the places of holding Federal district courts, in the divisions within judicial districts, and in judicial district dividing lines; wth amendment (Rept. No. 95-1554). Referred to the Committee of the Whole House on the State of the Union.

Mr. DENT: Committee on House Administration. House Resolution 1276. Resolution providing for the further expenses of the Select Committee on Assassinations (Rept. No. 95-1555). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. COCHRAN of Mississippi (for himself, Mr. BOWEN, Mr. BUTLER, Mr. EVANS of Georgia, Mr. JOHNSON of Colorado, Mr. LOTT, Mr. MCDONALD Mr. STEED, and Mr. STOCKMAN):

H.R. 14002. A bill to clarify the circumstances under which territorial provisions in licenses to manufacture, distribute, and sell trademarked soft drink products are lawful under the antitrust laws; to the Committee on the Judiciary.

By Mr. DAVIS:

H.R. 14003. A bill to amend title XVIII of the Social Security Act with respect to the payment, under the medicare program, of services of physicians rendered in a teaching hospital; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. GRADISON (for himself, Mr. BLOUIN, Mr. BOWEN, and Mr. WYDLER):

H.R. 14004. A bill to amend the Internal Revenue Code of 1954 to provide for automatic cost-of-living adjustments in the income tax and withholding rates; to the Committee on Ways and Means.

By Mr. RICHMOND (for himself, Mr. AKAKA, Mr. BONIOR, Mr. PHILLIP BURTON, Mr. CARR, Mrs. CHISHOLM, Mr. CORRADA, Mrs. COLLINS of Illinois, Mr. EILBERG, Mr. GARCIA, Mr. GREEN, Mr. HARRINGTON, Ms. KEYS, Mr. KEUGER, Mr. LEDERER, Mr. LOTT, Mr. MITCHELL of Maryland, Mr. NOLAN, Mr. OTTINGER, Mr. PEASE, Mr. PEPPER, Mr. RANGEL, Mr. SIMON, Mrs. SPELLMAN, and Mr. STARK):

H.R. 14005. A bill to provide more effectively for the use of interpreters in courts of the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. EVANS of Indiana:

H.R. 14006. A bill to prohibit the Secretary of Agriculture from prohibiting the use of nitrites as food preservatives as the basis of any carcinogenic effect nitrates may be represented to have until a satisfactory substitute is commercially available; to the Committee on Agriculture.

H.R. 14007. A bill to prohibit the Secretary of HEW from prohibiting the use of nitrites as food preservatives as the basis of any carcinogenic effect nitrates may be represented to have until a satisfactory substitute is commercially available; to the Committee on Interstate and Foreign Commerce.

By Mr. HARSHA:

H.R. 14008. A bill to amend the Packers and Stockyards Act, 1921, for purposes of requiring persons who purchase meat or meat food products from packers to pay for such purchases within 8 days; to the Committee on Agriculture.

By Mr. STEIGER (for himself, Mr. GEPHARDT, Mr. HORTON, Mr. FUQUA, Mr. GRADISON, Mr. WIRTH, Mr. HILLIS, Mr. HEFTEL, Mr. ESTEL, Mr. VOLKMER, Mr. BLANCHARD, Mr. GLICKMAN, Mr. YOUNG of Missouri, Mr. FINDLEY, and Mr. JOHN T. MYERS):

H.R. 14009. A bill to require biennial reports to Congress on the effectiveness of Government programs, and for other purposes; to the Committee on Government Operations.

By Mr. WATKINS:

H.R. 14010. A bill to change the name of Clayton Lake which is an element of the flood control project for the Clayton and Tuskahoma Reservoirs, Kiamichi River, Okla., to Sardis Lake; to the Committee on Public Works and Transportation.

By Mr. ZEFERETTI (for himself, Mr. NOWAK, and Mr. GREEN):

H.R. 14011. A bill to amend the Social Security Act to improve the operation of the aid to families with dependent children program and thereby provide fiscal relief for State and local welfare costs; to the Committee on Ways and Means.

By Mr. HARRIS (for himself, Mr. DIGGS, Mr. FAUNTROY, Mr. FISHER, Mrs. SPELLMAN, Mr. MCKINNEY, and Mr. STEERS):

H.R. 14012. A bill to amend the National Capital Transportation Act of 1969 to authorize additional Federal contributions for the cost of construction of the regional rail system of the Washington Metropolitan Area Transit Authority, to provide an orderly method for the retirement of bonds issued by such Authority, and to provide an annual operation and maintenance subsidy to such Authority to reflect the special Federal relationship to such system; to the Committee on the District of Columbia.

By Mr. LEACH (for himself, and Mr. BLOUIN):

H.R. 14013. A bill to amend title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954 to provide mandatory social security coverage for Members of Congress, offsetting against any benefits based on such coverage the amount of any civil service annuities simultaneously

payable (on the basis of such coverage) to such Members or their survivors; to the Committee on Ways and Means.

By Mr. QUAYLE (for himself, Mr. ARDNOR, Mr. AUCOIN, Mr. ANDERSON of Illinois, Mr. BADHAM, Mr. BAFALIS, Mr. BUTLER, Mr. CAVANAUGH, Mr. CONTE, Mr. FORSYTHE, Mr. FITHIAN, Mr. GOLDWATER, Mr. GRADISON, Mr. GUYER, Mr. HANSEN, Mr. HARRINGTON, Mrs. HECKLER, Mr. HOLLENBECK, Mr. KILDEE, Mr. LAGOMARSINO, Mr. LEACH, Mr. MCCLOSKEY, Mr. MCKINNEY, Mr. MAGUIRE, and Mr. MITCHELL of Maryland):

H.R. 14014. A bill to secure and protect the rights of citizens and protect the freedom of the press; to the Committee on the Judiciary.

By Mr. QUAYLE (for himself, Mr. MURPHY of Pennsylvania, Mr. NOLAN, Mr. PANETTA, Mr. PATTERSON of California, Mr. PATTISON of New York, Mr. RANGEL, Mr. SCHEUER, Mrs. SPELLMAN, Mr. SYMMS, Mr. THONE, Mr. WALKER, Mr. WALGREN, and Mr. WEISS):

H.R. 14015. A bill to secure and protect the rights of citizens and protect the freedom of the press; to the Committee on the Judiciary.

By Mrs. SMITH of Nebraska:

H.R. 14016. A bill to provide indemnities to beef, goat, or sheep producers or owners when import quotas are used to suppress market prices; jointly, to the Committees on Agriculture and Ways and Means.

By Mr. WALKER:

H.R. 14017. A bill to limit foreign assistance to programs relating to food production and nutrition and military assistance; to the Committee on International Relations.

By Mr. ADDABBO (for himself and Mrs. COLLINS of Illinois):

H.J. Res. 1131. Joint resolution to authorize and request the President to issue a proclamation designating November 30, 1978, as "National Postal Workers' Recognition Day"; to the Committee on Post Office and Civil Service.

By Mr. COLLINS of Texas (for himself, Mr. HAGEDORN, Mr. HYDE, and Mr. SYMMS):

H. Con. Res. 705. Concurrent resolution expressing the sense of the Congress that merit employment in the civil service be preserved; jointly, to the Committees on Education and Labor, and Post Office and Civil Service.

By Mr. SOLARZ (for himself, Mr. HORTON, Mr. PEASE, and Mr. JEFFORDS):

H. Con. Res. 706. Concurrent resolution expressing the sense of Congress that the Attorney General, under the authority of the Immigration and Nationality Act, should parole into the United States Cambodian refugees currently held in camps in Thailand; to the Committee on the Judiciary.

By Mr. VENTO:

H. Con. Res. 707. Concurrent resolution expressing the sense of Congress regarding the withdrawal of Syrian troops in Lebanon; to the Committee on International Relations.

By Mr. STEERS (for himself, Mr. MOFFETT, Mr. MOORHEAD of California, and Mr. COHEN):

H. Res. 1340. Resolution calling upon the President to communicate to the Government of the Soviet Union the concern of the United States that Issac Zlotver be granted permission to emigrate to Israel in order to be reunited with his family; to the Committee on International Relations.

MEMORIALS

Under clause 4 of rule XXII,

469. The SPEAKER presented a memorial of the Legislature of the State of California, relative to Vietnamese refugees; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. MCFALL introduced a bill (H.R. 14018) for the relief of Ignacio Aguila Ramos, which was referred to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6729

By Mr. MINETA:

—Page 42, strike out line 18 and all that follows down through page 43, line 23.

—Page 43, strike out lines 16 through 21.

Page 43, line 22, strike out "(4)" and insert in lieu thereof "(2)".

H.R. 11280

By Mr. COLLINS of Texas:

—Page 147, after line 22, insert the following:

"(d)(1) In establishing and enforcing standards applicable to appointment or retention of any individual in any position in the Food and Drug Administration, the Drug Enforcement Administration, the National Institute on Drug Abuse, the Office of the Attorney General, or any other Executive agency designated by the Office of Personnel Management the functions of which relate to enforcement of laws relating to controlled substances, the Office shall provide for the investigation of such individual relating to the past and present use of controlled substances.

"(2) For the purpose of this section, the term 'controlled substance' has the meaning set forth in section 102(6) of the Controlled Substances Act.

H.R. 11280

By Mr. CORCORAN of Illinois:

—Page 305, beginning on line 14, strike out "Except as provided under subsection (e) of this section, if" and insert in lieu thereof "If".

Page 306, strike out line 3 and all that follows down through line 23.

Page 308, line 24, strike out "(f)" and insert in lieu thereof "(e)".

Page 309, line 3, strike out "(g)" and insert in lieu thereof "(f)".

Page 309, line 7, strike out "(h)" and insert in lieu thereof "(g)".

Page 310, line 12, strike out "(i)" and insert in lieu thereof "(h)".

H.R. 11280

By Mr. MCCLOSKEY:

—Page 244, after line 20, insert the following new subsection:

"(d)(1) Subject to paragraph (2) of this subsection, effective for pay periods beginning in October, November, and December of each year after calendar year 1980, each annual rate of basic pay determined under subsections (a) through (c) of this section shall be decreased or increased (as the case may be) so that the average of that annual rate (taking into account such adjustment) for all pay periods beginning in the calendar year is the same percentage of that annual rate of pay (disregarding any adjustment under this subsection) as the percentage that—

"(A) the revenues received by the United States during the fiscal year ending immediately before such 3-month period is of

"(B) the budget outlays made by the United States during such fiscal year.

"(2) For purposes of this subsection—

"(A) the average annual rate referred to in paragraph (1) shall be rounded to the nearest multiple of $100 (or if midway between multiples of $100, to the next highest multiple of $100); and

"(B) the percentages referred to in paragraph (1) shall be rounded to the nearest multiple of a tenth of a percent (or if midway between multiples of a tenth of a percent, to the next highest multiple of a tenth of a percent).

"(3) In applying subsection (b) of this section for pay periods beginning during such 3-month period, the rates of pay for level GS-16 and for level IV referred to in subsection (b) shall be adjusted in accordance with paragraph (1) of this subsection.

"(4) Effective for pay periods beginning after the 3-month period, the rate which shall apply, unless otherwise adjusted under this section, shall be that rate which would have been applicable for those pay periods if no adjustment had been made under this subsection.

"(5) For the purpose of this subsection, the Secretary of the Treasury shall determine and make public after the end of each fiscal year the revenues received and the budget outlays made during such fiscal year. The terms 'revenues' and 'budget outlays' shall be used for purposes of this subsection as those terms are used in the Congressional Budget and Impoundment Control Act of 1974.

Page 244, line 21, strike out "(d)" and insert in lieu thereof "(e)".

H.R. 11280

By Mr. PANETTA:

—Page 238, line 8, strike out "service" and insert in lieu thereof the following: service, including any significant reduction in paperwork".

—Page 265, line 9, strike out "service" and insert in lieu thereof the following: "service, including any significant reduction in paperwork".

Page 267, line 21, insert after "operations" the following: "or achieves a significant reduction in paperwork".

Page 268, line 6, insert after "operations" the following: "or achieves a significant reduction in paperwork".

Page 270, insert after line 16 the following new section:

INCENTIVE AWARDS AMENDMENTS

SEC. 502. (a) Section 4503(1) of title 5, United States Code, is amended by inserting after "operations" the following: "or achieves a significant reduction in paperwork".

(b) Section 4504(1) of title 5, United States Code, is amended by inserting after "operations" the following: "or achieves a significant reduction in paperwork".

Page 270, line 18, strike out "Sec. 502." and insert in lieu thereof "Sec. 503".

Page 272, line 19, strike out "Sec. 503." and insert in lieu thereof "Sec. 504.".

Page 130, in the table of contents, strike out the items relating to sections 502 and 503 and insert in lieu thereof the following:

Sec. 502. Incentive awards amendments.
Sec. 503. Technical and conforming amendments.
Sec. 504. Effective date.

H.R. 11280

By Mrs. SPELLMAN:

—Page 208, line 4, after "recruited" insert "(including from within the civil service)".

Page 208, after line 12, insert the following new subsection:

"(d)(1) The regulation under subsection (c) of this section shall provide that in filling any position in an Executive agency for which a recruitment program under subsection (c) is being conducted by that agency for women, to the maximum extent practicable, an individual not entitled to status as a preference eligible under section 2108(3) (A) or (C) for purposes of preference in consideration for appointment shall be entitled, with respect to consideration for appointment to that position, to the preference

available to an individual having the status of a preference eligible under section 2108 (3)(A) if the individual—

"(A) is a woman; and

"(B) has completed, in the aggregate, at least 5 years of civilian service.

"(2) Such regulation shall provide, to the maximum extent practicable, that no individual shall be excluded from consideration for appointment by reason of the application of this subsection."

Page 208, line 13, strike out "(d)" an insert in lieu thereof "(e)".

Page 208, line 26, strike out "(e)" and insert in lieu thereof "(f)".

—Page 209, after line 12, insert the following new subsection:

INTERPRETING ASSISTANTS FOR DEAF EMPLOYEES

SEC. 313. (a) Section 3102 of title 5, United States Code, is amended—

(1) by redesignating paragraph (4) of subsection (a) as paragraph (5), by striking out "and" at the end of paragraph (3), and inserting after paragraph (3) the following new paragraph (4):

"(4) 'deaf employee' means an individual employed by an agency who establishes, to the satisfaction of the appropriate authority of the agency concerned under regulations of the head of that agency, that the employee has a hearing impairment, either permanent or temporary, so severe or disabling that the employment of an interpreting assistant or assistants for the employee is necessary or desirable to enable such employee to perform the work of the employee; and";

(2) in subsection (b), by inserting "and interpreting assistant or assistants for a deaf employee" after "or assistants for a blind employee", and amending the last sentence to read as follows: "A reading assistant or an interpreting assistant, other than the one employed or assigned under subsection (d) of this section, may receive pay for services performed by the assistant by and from the blind or deaf employee or a nonprofit organization, without regard to section 209 of title 18."

(3) in subsection (c), by inserting "or deaf" after "blind"; and

(4) by inserting at the end thereof the following new subsection:

"(d) The head of each agency may also employ or assign, subject to section 209 of title 18 and to the provisions of this title governing appointment and chapter 51 and subchapter VIII of chapter 53 of this title governing classification and pay, such reading assistants for blind employees and such interpreting assistants for deaf employees as may be necessary to enable such employees to perform their work.".

(b)(1) The analysis of chapter 31 of title 5, United States Code, is amended by striking out the item relating to section 3102 and inserting in lieu thereof the following:

"3102. Employment of reading assistants for blind employees and interpreting assistants for deaf employees.".

(2) The caption for section 3102 of title 5, United States Code, is amended to read as follows:

"§ 3102. Employment of reading assistants for blind employees and interpreting assistants for deaf employees.".

(c) Section 410(b)(1) of title 39, United States Code, is amended by inserting after "open meetings)" a comma and "3102 (employment of reading assistants for blind employees and interpreting assistants for deaf employees),".

Page 209, line 14, strike out "313." and insert in lieu thereof "314.".

Conform the table of contents accordingly.

EXTENSIONS OF REMARKS

KEEPING AN EYE ON AIRBUS

HON. MARK W. HANNAFORD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. HANNAFORD. Mr. Speaker, I have been monitoring with great interest Airbus Industrie negotiations with China Airlines for the purchase of several wide-bodied jet aircraft. This is because I have received information indicating that the French Government has taken the extraordinary step of offering landing rights in Paris to the Chinese if they purchase the Airbus A300. Such an offer would violate international agreements between France and the United States and compel us to take Government precautions against similar future anticompetitive actions on the part of our European competitors.

When this matter first came to my attention, I wrote to Secretary of the Treasury Blumenthal alerting him to the problem it posed. I insert both that letter as well as his response for the RECORD:

WASHINGTON, D.C., *August 1, 1978.*

Hon. W. MICHAEL BLUMENTHAL,
Secretary of the Treasury,
Washington, D.C.

DEAR MR. SECRETARY: As you know from our telephone conversation of yesterday, I am extremely upset at the apparent violation of the 1975 Aircraft Understanding of the Organization for Economic Development and Cooperation by the French with regard to a pending aircraft sale to China Airlines. The Nationalist Chinese were considering the purchase of two Douglas Aircraft DC-10s with options for two more. The Airbus A300 was a competitor for this sale. Reportedly the French have offered the Chinese landing rights in Paris if they purchase the A300 (a privilege they do not presently enjoy), and reportedly the Chinese have responded favorably to this offer with a letter of intent.

The OECD Understanding prohibits the use of extraordinary sales or financing terms by any government to secure a sale of aircraft. The tie-in of landing rights with an aircraft sale is clearly extraordinary and unfair to American private aircraft manufacturers. Consequently, I urge you to take immediate action to persuade the French to rescind these extraordinary terms and allow the competition on these particular four planes to be decided on the merits of the aircraft.

While I am pursuing a legislative solution to this kind of predatory competition, I hope your efforts will secure an expeditious settlement to the problem at hand. Let me know if I can be of any assistance to you in the endeavor.

Sincerely,

MARK W. HANNAFORD,
Member of Congress.

WASHINGTON, D.C.,
August 15, 1978.

Hon. MARK W. HANNAFORD,
House of Representatives,
Washington, D.C.

DEAR MARK: Thank you for your letter of August 1, in which you restated your strong feeling that the French may have violated the OECD Aircraft Understanding by offering landing rights to China Airlines in return for purchasing the A-300 Airbus.

As I mentioned in our phone conversation of July 31, we are equally disturbed by the report that the French Government may be linking landing rights to purchases of the Airbus. As a result, we have inquired about this. Initial reports from our Embassies indicate that although Airbus Industrie may have offered to intercede on behalf of China Airlines for landing rights in Paris, it is not the policy of the French Government to offer landing rights for such reasons. The French state, moreover, that such an offer would be contrary to their policy towards Peking.

We are seeking further information on this matter from the Republic of China and have indicated to them our concern about linking landing rights with Airbus purchases. Should the McDonnell Douglas report be confirmed, we would intend to take up the issue with the French. We share your view very strongly that such extraordinary government intervention in a commercial sale is both inappropriate and unfair.

At present, the OECD Understanding does not exclude the use of such special inducements, although they run counter to the stated policy of both France and the United States. For this and other reasons, we hope to broaden the Understanding such that only market considerations—price, quality and service—will influence the choice of aircraft by an airline.

I hope we have your support in our efforts to strengthen the OECD Understanding.

Sincerely,

W. MICHAEL BLUMENTHAL.●

ALCOHOL POWERS AUTOS IN BRAZIL

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. FINDLEY. Mr. Speaker, while we were in our home districts during the recess, the Washington Post printed on August 30 an account of the growing use of alcohol as a motor fuel in Brazil. The Brazilians are moving ahead rapidly in this petroleum-saving technology. Within 2 years it is planned that gas stations in Brazil will offer only pure alcohol or as gasohol mixture of 20 percent alcohol and 80 percent gasoline.

If the United States were to make a similar effort, I am certain, we could benefit from the widespread use of gasohol in this country. Gasohol use would reduce our need to import foreign oil, help our balance of payments, and provide a new use for American agricultural products. The Brazilian example shows what is possible with determined effort.

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

The Post article is well worth noting, and I commend it to my colleagues.

Text of article follows:

GAS GUZZLERS BECOMING ALCOHOLICS IN BRAZIL

(By Larry Rohter)

SAO PAULO, BRAZIL.—For the last year, hundreds of state-owned cars with stickers saying "This Vehicle Is Powered by Alcohol" have been driven around this city of more than 8 million people.

Local auto parts shops sell a $200 kit to convert conventional gasoline engines to run on pure alcohol.

A nearby industrial center has just ordered a fleet of non-polluting alcohol-powered buses. In half a dozen major cities, Brazilians now fill the tanks of their car with "gasohol"—a mixture of 80 percent gasoline and 20 percent ethyl alcohol.

That mixtures requires no engine modification. By 1980, when alcohol production is to reach 1 billion gallons annually, all pumps are to offer only gasohol or alcohol.

The president of the Brazilian Automobile Manufacturers' Association, Mario Carnero, has predicted that by 1981 more than 16 percent of all cars built here—currently 1 million per year—will come equipped with engines that burn pure alcohol.

Only a few year ago, none of these projects would have been considered practical. In the heady days of Brazil's economic upsurge in the early 1970s, planners here followed the example of the United States and other industrialized countries and looked to cheap gasoline to fuel the booming economy. They gave little thought to "nonconventional" energy sources.

Today, however, Brazil imports 83 percent of its petroleum, costing $4 billion yearly—the largest oil import bill in the Southern Hemisphere. Now, Brazil is seeking its salvation in one of the oldest and most plentiful substances known to man: alcohol distilled from sugar cane, manioc and other tropical plant that grow abundantly in this giant land.

The effort is already far enough along that energy experts consider Brazil the world leader in using alcohol as a motor fuel. This year alone, Brazil's alcohol program will result in the consumption of 635 million gallons of ethyl alcohol either as a gasoline substitute or supplement.

"This is one area of energy research and development in which the Brazilians have an advantage not only over us, but over everybody else," said a White House aide during President Carter's March visit here, when the United States and Brazil agreed on an energy information exchange program. "There are really a lot of things for us to learn from them."

The process by which vegetable material—or "biomass," as it is technically known—is transformed into alcohol fuel is simple. Brazilians have been converting sugar cane into alcohol by fermentation since colonial days, and ethyl alcohol was mixed with gas as early as the 1930s, when record low prices of sugar brought on by the worldwide depression forced Brazil to divert part of its bumper crop into fuel.

But systematic investigation of the large-scale use of alcohol as a gasoline substitute or additive began only with the advent of the international energy crunch in 1973. In the last five years, Brazil's National Alcohol Commission has approved some 170 projects and earmarked $800 million for biomass conversion and engine modification efforts.

"The emphasis has been not so much on research and development as on the expansion and implementation of programs that already existed on paper," says an American official in Brasilia. "They've mostly done things like modernize old sugar mills and improve their distribution system."

But at the aerospace and technology Center, a government research facility near here, scientists have undertaken 34 different programs to design engines that will run on pure alcohol or to convert gasoline engines to alcohol at minimum cost. Elsewhere, agronomists are engaged in genetic research in an attempt to increase yields of crops that will be distilled into alcohol.

Thus far, sugar cane alcohol has received more attention from the Brazilians, but Petrobras, the giant state oil monopoly, has recently begun operating a manioc distillery near the industrial city of Belo Horizonte that turns out 16,000 gallons of manioc alcohol daily.

Experimental programs conducted in major cities have shown that alcohol, whether derived from sugar cane or manioc, has several major advantages over ordinary gasoline. Although it leaves a slight odor, it burns cooler, cleaner and more efficiently, giving virtually the same mileage as gasoline, but without leaving lead or sulphur pollutants. Hydrocarbon residues "can be lowered to negligible levels," according to a recent study.

While alcohol engines are harder to start than ones that run on gasoline, this is less of a problem in Brazil's tropical climate than it would be in the temperate United States. The Brazilians attach a gadget to the motor that starts the car each day on a small quantity of pure gasoline. After that, they say, the residual heat is sufficient for the pure alcohol to catch without difficulty.

The converted cars use normal gas tanks and the experts say they have encountered no problems with evaporation. For all the interest in alcohol as fuel, the government—which is pouring billions of dollars into nuclear and hydroelectric energy programs—has proven more reluctant to take what one foreign energy expert calls "the big leap" to pure alcohol.

"There are no technological reasons whatsoever to prevent alcohol from eventually taking the place of gasoline," said Professor Jose Goldemberg of the University of Sao Paulo, president of the Brazilian Society of Physics and one of the strongest advocates of the biomass program. "What's holding them back are political and economic considerations."

"Petrobras opposes the alcohol program because the pump price it charges for gasoline is a purely artificial one that is four times the actual cost," Goldemberg said. "Since alcohol currently costs twice as much to make as gasoline, that means both Petrobras' profits and government tax revenues would drop if a crash program to replace gasoline with alcohol were put into effect."

Proponents of the alcohol program say these economic shortcomings are offset by other gains. In widely publicized speeches recently, two influential government ministers argued that a full-scale pure alcohol effort would generate jobs in Brazil and that all expenses incurred would be in cruzeiros, not dollars—thus avoiding adverse effects on Brazil's uncertain balance-of-payments situation.

In the long run, say both foreign and Brazilian energy experts, there is no doubt that alcohol will emerge as an economically attractive source of energy, both for Brazil and for other nations.

"The trend seems to be that while oil prices will rise, the price of alcohol will continue to drop, perhaps by as much as 20 percent as methods of production become more efficient," says a U.S. official.

Some Brazilian officials are already looking ahead a decade and predicting that their nation will be able to export alcohol and alcohol technology to Africa, Latin America and perhaps even the industrialized world. Patents have already been taken out by Brazil on engine modifications and distillery improvements that have been developed here.

"Biomass energy just may be the wave of the future," said the U.S. official. "If it is, the Brazilians are going to have the jump on the rest of us."

Biomass fuels were once associated with underdevelopment and Brazilians have had to overcome their pride to enter the field. They note, however, that others are following—West German and Scandanavian scientists have bought the results of Brazilian studies.●

TRIBUTE TO SPONSOR AND BOARD OF TRUSTEES OF ST. ELIZABETH MEDICAL CENTER, COVINGTON, KY.

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. SNYDER. Mr. Speaker, I would like to take a moment of my colleagues' time to pay a well deserved tribute to a small group of people whose commitment and foresight make them worthy of recognition. I refer to the sponsor and board of trustees of the St. Elizabeth Medical Center in Covington, Ky.

Since 1860, St. Elizabeth Medical Center has provided the northern Kentucky area with exemplary, personalized health care. And it does not plan to stop doing so in the foreseeable future.

Some 10 years ago, the medical center's sponsor, the Most Reverend Richard H. Ackerman, S.T.D., Bishop of Covington, and the board of trustees recognized the limitations imposed by the center's downtown location in view of the southward expansion and general suburban growth in the area. So they went to the drawing board and drew up a dream—an outlying medical village with a new unit of the St. Elizabeth Medical Center as its core. Today that dream has been pushed from the drawing board to reality and, in mid-October, will open its doors to the public, providing accessible medical care for northern Kentucky for many years to come.

The value of any facility lies in its ability to change with the needs of the community it serves and its ability to plan for and fulfill future needs as well. The foresight and dedication of Bishop Ackerman and the trustees has insured that St. Elizabeth Medical Center will be able to provide northern Kentucky—a changing community—the same high quality of medical care it has come to expect from St. Elizabeth Medical Center.

Following is a list of the medical center's trustees:

The Most Reverend Richard H. Ackerman, Sponsor, John L. Cassidy, M.D., Charles H. Deters, Merwin Grayson, Jr., Julie Greene, Sr. Karen J. Hartman S.P.P., Henry M. Mann, William J. Mersch, M.D., William H. Middendorf, Ph.D., Donald H. Niehaus, Charles R. Perry, M.D., Rev. Msgr. John J. Rolf, James Simpson, Jr., Sr. Yvonne Thranow, D.C., George E. Weidner, A. Martin Zalla, and Paul C. Bellendorf, Administrator.

The foresight of these people and their commitment to the health needs of their community pushed a dream to reality, and the opening of the St. Elizabeth Medical Center-South Unit is a monument to their careful planning and their dedication to that dream.●

HAZARDOUS WASTE CONTROLS

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. FINDLEY. Mr. Speaker, last Monday there appeared an excellent article in the Washington Post discussing the problems of burying hazardous chemical wastes, which I commend to all my colleagues. Within my district, in the town of Wilsonville, Ill., lies a hazardous waste treatment facility which was recently ordered shut down by an Illinois circuit court judge, because of the dangerous health hazards it posed to the local community.

Legislation I have introduced, H.R. 8657, is designed to deal with the dangers of treating and burying hazardous chemical wastes by requiring that waste treatment facilities and dumps be constructed on lands away from populated areas and dedicated to public ownership. Those hazardous waste disposal sites already in operation would also be acquired by the Federal Government after they have ceased operations to insure forever the highest safety and maintenance standards.

The people of Niagara Falls, N.Y., are painfully aware of the potential for tragedy which can result from the improper burial of chemical wastes. A chemical waste dump which was covered over 35 years ago now has a school and subdivision on top of it. Birth defects are abnormally high and people in the neighborhood see their lives slipping away from them. I would encourage my colleagues to read the following article from the Washington Post which outlines the growing and dangerous problem of hazardous chemical waste dumps:

OOZING EARTH—PAYING FOR CLEANUP OF BURIED CHEMICALS POSES NEW NIGHTMARE FOR OFFICIALDOM

(By Bill Richards)

The first inkling that something had gone wrong in rural Hardeman County, Tenn., came last winter when the local kitchen sinks started turning brown.

Then came reports from puzzled residents of the southwestern Tennessee farming region that their well water had developed a peculiar insecticide-like odor. When a rash of unexplained cases of stomach cramps and dizzy spells hit the area, federal and state health investigators moved in.

Their discovery—some 350,000 leaky 55-gallon drums of levally buried chemical waste on a nearby ridgetop owned by the Chicago-based Velsicol Chemical Co.—is likely to add another chapter to what is rapidly becoming a recurring chemical-age nightmare.

Velsicol admits that between 1965 and 1972 it dumped chemical waste at the site from its Memphis pesticide plant. But a company spokesman insists there is no concrete proof that 17 chemical contaminants identified thus far in the local well water came from its dump. Moreover, Velsicol says its dumping was perfectly legal under state laws at the time.

That leaves federal and state officials with a virtual sea of toxic chemicals—including some known carcinogens—apparently flowing into the local water supply and no clear villain on whom to place the blame.

If the Hardeman County problem seems Herculean it is by no means unique. Across the nation, new stores of nearly forgotten, highly toxic chemical waste seem to be oozing into the headlines every week. Federal officials estimate there may be as many as 400 more suspicious hazardous waste sites around the country. And no one seems to know who will pay to clean them up.

Some recent examples:

Authorities in Michigan, nervously keeping tabs on toxic chemicals leaking from a company dump in Montague into Lake Michigan, recently checked and were horrified to discover it could cost $100 million to clean up similar hazardous waste sites around the state. "There's no way we're going to ask the taxpayers to ante up for that," said a state official.

In Massachusetts, health officials got an emergency $1.3 million from the state legislature to remove 17,000 barrels of toxic chemicals leaking from an abandoned lot in Lowell into the Merrimac River, the water source for several downstream communities. State officials are pledged to try to recover the cleanup money from financial backers of the bankrupt disposal firm and those who originally shipped the waste to the site. But a state official concedes glumly: "We're not holding our breath waiting to get paid."

In the widely publicized Love Canal situation in Niagara Falls, N.Y., officials have estimated that preliminary cleanup costs alone will run to $8 million. "And that," says an Environmental Protection Agency official "is just to make the area liveable. We're not even talking about relocation costs."

Nearly 200 families may eventually have to be permanently moved out of the area where thousands of drums of cancer-causing chemicals have leaked into backyards and basements.

Who will pay? "There's no provision for the federal government to come riding to the rescue," says Fred Lindsey, an EPA official in charge of the agency's implementation section.

"It's kind of confusing," admits another EPA official. "I guess the one who pays is whoever gets left holding the bag."

That could include, says EPA's senior hazardous waste official Steffen Plehn, any of an estimated 425,000 firms which generate toxic chemical waste, or the 25,000 or so firms that transport it, or another 25,000 firms that store, treat or dispose of it.

Beyond that broad spectrum, Plehn admits, the focus of the blame becomes less clear. "If a company is still legally tied to the stuff then I guess it's theirs," says Plehn. "If they've been able to unload it then I guess the blame goes with it."

In the end, Plehn said, the answer may lie with efforts by EPA to set up a national trust to pay to clean hazardous waste sites. The trust would come from a per-ton tax on waste as it is dumped and would be held for emergencies such as the Love Canal disaster.

The problem with such a solution, however, is that it will tax waste generators who may be complying with the law today for the environmental sins of others in the past. "It's not fair, and more important it probably isn't legal," complained a chemical industry official who asked not to be identified.

Thus far, only Michigan has sought to force chemical waste generators to pay for the cleanup of hazardous sites, even though they may not be directly involved in the problem.

Earlier this year Michigan Attorney General Frank Kelly went to court to recoup $1 million the state spent to clean out a site in Pontiac. The site was so dangerous, officials said, that a spell of hot weather could have caused some of the chemicals to explode and send a toxic chemical cloud floating over the city's wealthy suburbs.

The state's efforts to force the issue were sidetracked, however, when about 17 big waste generators, including such names as Ford and Dow-Corning, agreed to come up with an out-of-court settlement.

Right now Michigan is closely watching another site owned by the Hooker Chemical and Plastics Corp. in Montague. There, quantities of C-56—a chemical building block for several carcinogenic pesticides—is leaking into White Lake, an arm of Lake Michigan.

Hooker's disposal site, as well as others in the state, may be legal, said Stewart Freeman, an assistant state attorney general. "But even assuming it is legal we can still say: all right you contain it or you pay for it," he said.

Hooker also operated the Love Canal site in Niagara Falls before deeding the site to a local school district under threat, according to the company, of condemnation proceedings against it.

Under a preliminary agreement, Hooker agreed to pay up to $280,000 to help clean up the Love Canal site. A company spokesman said Hooker also is spending several hundred thousand dollars on its Montague, Mich., disposal site where 11,000 tons of toxic chemicals are buried.

But the spokesman said Hooker will not admit legal liability in either case. "There's no way you could get us to say we're responsible for what happened at Love Canal," he said. Hooker or any company would "fight like hell" in court if the cleanup bills were turned over to them, he said.

That test could come in Tennessee. So far no one has formally blamed Velsicol for the polluted water in Hardeman County. But state officials note there does not appear to be another source for the unusual array of chemicals—including suspected carcinogens such as chlorobenzine, tetrachloroethelene and toluene—that have turned up in the area's water. In addition, a still-unreleased federal study has also concluded that chemicals from Velsicol's disposal site have leaked into nearby wells.

Velsicol officials are preparing to do their own study of the situation. Some have even hinted darkly that perhaps local residents put the chemicals in the wells themselves in an effort to force blame on the company.

"This is a puzzle and all the parts aren't together yet," says one Velsicol official. "We do know that once that ridge was supposed to be an ideal dumping location. Now there's some question whether it was so idea after all." ●

PERSONAL EXPLANATION

HON. ROBERT A. YOUNG

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

Mr. YOUNG of Missouri. Mr. Speaker, I was unavoidably absent from the floor due to a prior commitment in the district. Had I been present, I would have voted as follows:

Rollcall No. 616, an amendment to H.R. 12432 by Mr. BUTLER, "no";

Rollcall No. 617, an amendment to H.R. 12432 by Mr. BUTLER, "yes";

Rollcall No. 657, an amendment to H.R. 13635 by Mrs. HECKLER, "no";

Rollcall No. 659, an amendment to H.R. 13635 by Mr. BROWN, "no";

Rollcall No. 660, an amendment to H.R. 13635 by Mr. CONTE, "yes"; and

Rollcall No. 661, an amendment to H.R. 13635 by Mr. HARKIN, "no."●

HOW TO GET A CHECK OUT OF UNCLE SAM

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mrs. HOLT. Mr. Speaker, among the most traditional and popular publications on the American scene is the mail-order catalog. In recent times, the Government has composed a similar product called the "Catalogue of Federal Domestic Assistance," from which State and local governments and other service organizations can prepare their shopping lists by browsing through more than 1,000 programs.

It seems that we somehow forgot to publish a catalog of programs available to individual citizens, but do not be concerned about that oversight. A private company is operating a mass mailing to advertise its catalog of "137 perfectly legal ways to get a check out of Uncle Sam." It charges $8.98 for the book.

The flyer mailed to one of my constituents identifies the company as Instant Learning, Inc., 770 Lexington Ave., New York, N.Y. It apparently also has a facility known as a "Fulfillment Center," at 120 Smith St., Farmingdale, N.Y.

Advertising the wondrous book this company is peddling, the flyer announces that the results are "Guaranteed. This startling report must show you how to qualify for a minimum of $500 in Government checks this year alone * * * or you don't pay a penny."

The advertisement quotes the editor of the report as saying:

> I'm beginning to wonder if there's a single adult American who isn't entitled to at least one of these government checks Or two! Or more!

Mr. Speaker, I would not blame any private company for attempting to make a profit from the spend-crazy follies of the Congress. Over many years, the Congress has created such a galaxy of programs, and stripped the people of so much of their substance to fund them, that many people are tempted to abandon the virtue of self-sufficiency to pursue the handouts available from Government.

The Congress has created the society of the big hustle. People who are perfectly capable of self-sufficiency are hustling to get an easy living from their fellow citizens through the Federal Treasury. The Federal Government has confiscated so much of the national treasure from the citizenry that many people reach the obvious conclusion: the Government is the source of money and you can get it just for the asking if you find the right program and follow the necessary procedures.

So, it is no wonder that a private company is selling information on how to pursue the goodies. This is just a sympton of the moral rot that is eating away the vitals of America.

Here we have a country committed since its earliest days to the ideal of individual liberty, but over many years Congress has behaved in a manner calculated to make every citizen a dependent of the Central Government, to some degree.

The Congress has taxed honest work and production to the extent that more and more people are doing less work and investing. The people become more and more dependent on Government, moving more and more toward the time when we will have a national mentality of serfs.

Mr. Speaker, the strength and freedom of American are being eroded.●

A NATIONAL TRAGEDY

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. DORNAN. Mr. Speaker, a recent edition of the National Enquirer carried a story about the late "King" of rock and roll, Mr. Elvis Presley. At an age when most performers would be looking toward many more fruitful years, Mr. Presley's life was cut short, so it seems, by habituation to legal, prescriptive drugs, made available by licensed physicians.

It is my judgment that Dr. E. Eric Muirhead, who has made the charge that Elvis died from drug usage and not heart disease, should be invited to testify before the Select Committee on Narcotics Abuse and Control. If Dr. Muirhead's contention about the true cause of Elvis' death is true, then we in Congress, charged with protecting the health and welfare of Americans, should make a national self-assessment about the growing prescriptive drug dependency that is rapidly becoming a life style among the famous and the ordinary.

Elvis Presley had fans in virtually every nation on the planet whose citizens had record players. If Elvis did die from a legal form of drug abuse, what does that say about us as a nation? Is it really true that the kids need marihuana, the parents need valium to merely cope with the beauty and challenge of life?

Wake up, America. Your vitals are being consumed by the worm of self-indulgence.

The article follows:

EXCLUSIVE: SECRET AUTOPSY REPORT

. . . IT CONTRADICTS MEDICAL EXAMINER'S OFFICIAL FINDINGS

Memphis officials have whitewashed the true facts behind the tragic death of Elvis Presley—covering up official autopsy findings that Presley actually died from a drug overdose, an Enquirer investigation has uncovered.

"There are some who say if this were a Joe Doe instead of Elvis Presley, drugs would be indicated as the cause of death . . . without question," declared Maurice Elliott, the vice president and official spokesman for Baptist Memorial Hospital in Memphis, where Presley's autopsy was performed.

The Shelby County medical examiner's official report states that Presley died of heart disease.

But Baptist Memorial Hospital refused to agree with the medical examiner. In an exclusive bombshell interview with The Enquirer, hospital spokesman Elliott disclosed for the first time that Presley's official autopsy report contains the opinion by top medical experts that Presley actually died of a drug overdose.

And medical experts from across the nation—asked by Baptist Memorial Hospital to review its autopsy findings on Presley—back up in the autopsy report itself that drugs were to blame for Elvis Presley's death.

After Presley died on Aug. 16, 1977, a team of pathologists at Baptist Memorial Hospital performed an autopsy on the star's body. Their findings went into the autopsy report, kept secret under orders from Elvis' father, Vernon Presley.

No report of any kind was ever publicly issued by the hospital.

But two months later, Shelby County Medical Examiner Dr. Jerry Francisco, who had reviewed the autopsy report, called a press conference and officially announced that—although eight different prescription drugs had been found in Presley's body—"drugs played no part in his death."

Dr. Francisco listed the cause of death as "hypertensive heart disease with coronary artery disease as a contributing factor."

The drugs found in Presley's body were barbiturates, a sleeping medication methaqualone, a painkiller codeine and ethinamate, a sedative.

The chief pathologist at Baptist Memorial Hospital, Dr. E. Eric Muirhead, is still angry at Dr. Francisco's announcement that the cause of Presley's death was heart disease.

"His interpretation is not my interpretation!" said Dr. Muirhead.

"What I want to know is what authority did he have to call a press conference and interpret my autopsy?" he fumed.

Tennessee State Senator Jim White, a Memphis attorney, charges: "The public has never been given all the facts surrounding the tragic death of Elvis Presley.

"Under Tennessee law an autopsy report is public record," he said. But since the autopsy was ordered by Vernon Presley, local officials "contend the autopsy is a private matter. Thus we have what amounts to a legal sham calculated to circumvent Tennessee law."

Dr. Francisco, the county medical examiner, defended his official conclusions as to the death of Elvis Presley, though he admitted: "I wouldn't like to see the autopsy report made public.

"I feel comfortable with my findings," he added: "They don't need to be vindicated. We covered up nothing. My final report is the fact.

"People can like it or they can lump it."

But Dr. Francisco did admit that "half of the comments on the autopsy report disagree with the conclusions that I drew."

The mystery behind Elvis Presley's death "will never end," said Dr. Francisco. "I think it's possible that Vernon Presley doesn't want the report made public as a way to perpetuate the mystery and the Presley myth." ●

U.S. CITRUS INDUSTRY POSITION ON UNITED STATES-JAPANESE TRADE

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. IRELAND. Mr. Speaker, as you well know, one of the high visibility items now at issue between Japan and the United States in the ongoing trade negotiations is the question of increased access for United States citrus to Japan.

Last month a group of Japanese growers placed ads in the Washington Post and the Los Angeles Times urging the American public to support their position of restricted access to their market. Their basic argument is that the U.S. position, which is being vigorously and effectively pushed by Ambassador Strauss, is somehow unfair. Our position is, quite simply, that if they wish to continue to do business with us, the Japanese must grant us the same access to their market as we grant them to ours.

Mr. Speaker, all of us here have an enormous stake in the future of United States-Japanese trade. Therefore, I want to take this opportunity to share with our colleagues, the citrus industry's response to the Japanese growers ad campaign.

I am confident that you will find our position to be completely open and fair, and consistent with the principles we must adhere to if we are to have free trade worldwide.

Thank you, Mr. Speaker.

The statement follows:

JOINT U.S. CITRUS INDUSTRY STATEMENT

The following statement is endorsed by the California-Arizona citrus industry, the Florida citrus industry and the Texas citrus industry and is in response to an advertisement by the Mandarin Orange Growers of Ehime Prefecture, Japan, which appeared in the Washington Post and Los Angeles Times on August 18, 1978.

The advertisement is an effort on the part of the Japanese citrus growers to convince the American citrus industry and the United States Government to cease their demands that Japan eliminate quotas on importation of fresh oranges, orange juice and grapefruit juice, which are illegal under the General Agreement on Tariffs and Trade (GATT).

The Japanese mandarin growers claim that agriculture should be separated from industrial goods in discussing trade imbalances between the United States and Japan. This is impossible. The overall trade picture should be examined, and trade in citrus is only one part of the full trade problem.

The Japanese Minister of Trade and Industry recently forecast a trade surplus of up to $24 billion for this fiscal year, and trade with the United States is expected to create a favorable balance of $10 billion. Increased agricultural exports to Japan can help to offset this.

However, the heart of the matter is the fact that the present quotas on citrus are illegal under GATT. It would be just as illegal if the United States were to try to limit the import of Japanese automobiles. Long ago, Japan became a developed country and assumed status as a major economic force in the world. It must live up to its GATT treaty provisions, as do the other signers of the treaty.

It was interesting to note that in the same edition of the Los Angeles Times in which the advertisement appeared, there was an advertisement for Toyotas, and a major article appeared in the financial section headlined, "Nissan Will Push Top Line Cars in U.S." There were also numerous ads for Japanese stereo sets and cameras.

The Japanese citrus industry cites overproduction as the reason for wanting to maintain their illegal quotas. The overproduction of their industry is in reality the results of their own protectionist attitude in defense of the quota system. Much of the citrus acreage now under cultivation in Japan was planted after Japan had agreed in the early 1970's to move towards liberalization of imported citrus.

The advertisement contends that there is a surplus of frozen concentrated orange juice in Japan, and that attempts to create a market for it have been unsuccessful. The U.S. citrus industry says that if the quotas are removed, American promotion could easily develop the market for a blended juice comprising both U.S. and Japanese juice, thus assisting both countries' growers.

The Japanese claim that 340,000 Japanese households produce citrus, primarily mandarins, with only 11 percent holding more than one hectare of orchard acreage. The reason the word "household" was used is because most of these so-called growers are what are called backyard producers. They are hobbyists, or part-time growers, who do not make their living from the land, but instead work in other jobs, many of which are in factories producing products that will be sold in the United States. Because of these backyard producers, returns to the commercial producers in Japan have been lower than would be expected without them.

The Japanese new import quotas for oranges are less than 2% of the total Japanese production and only represent 2½ oranges per person per year. Yet their advertisement cites the large numbers of oranges that have entered Japan following increase of the quotas from 15,000 metric tons per year to 45,000 metric tons per year.

It is ironical that when U.S. television manufacturers recently petitioned the International Trade Commission to limit import of Japanese color television receivers to 62 percent of U.S. production, Japan prevailed with its argument that this was unreasonably restrictive. Yet American citrus imports to Japan, under the expanded quotas, remain at only 3 percent of Japanese production.

Does this mean that the Japanese would agree to limiting U.S. import of automobiles to just 2 percent of U.S. television production? Of course not. Nor would Americans agree to such a proposal.

Despite the increases in imported oranges, the price of Japanese fruit remains at the same level. And the price of American oranges remains quite high, too—as much as $1.00 per orange when and if the consumer can get them. The real loser in this is the Japanese consumer, who must continue to pay a premium price for something that should be readily available at a much lower price.

The Japanese growers have said that so-called "off-season" citrus production in Japan has allowed development of a year-round distribution system, and that there should be no difference between the Mikan season and the "off" season. The U.S. citrus industry agrees. Both seasons should be treated the same—with complete liberalization.

The U.S. citrus industry is sorry if the Japanese mandarin producers are upset and their patience is being tried because of the U.S. demands for market access for citrus, as the advertisement states. We are sure the same can be said of U.S. citizens in the automobile and electronic industries who are watching Japanese automobiles, television sets and cameras move into the United States marketplace.

In the advertisement, the Japanese growers make a statement, "We are in favor of importing products from the United States if they are in short supply in Japan". Let's carry this logic to the other side of the Pacific Ocean. Our own domestic manufacturers of cars and television sets can adequately supply the U.S. market, so why should we import these products from Japan?

Fortunately, the U.S. citrus industry doesn't agree with this line of reasoning. It believes in fair and just trade with equal access to all markets for all commodities with reasonable tariff and protective measures, which would allow for orderly and equitable entry of products from one country to another.

The U.S. citrus industry does agree with the Japanese growers that America and Japan have been reliable and faithful trading partners. It wants to continue to buy Datsun forklifts for their packing houses, they want to continue to drive Toyotas, watch Panasonic television sets, listen to Sony radios and tell time by their Seiko watches.

All we ask in return is fair and just access for our citrus in the Japanese market place as required by the General Agreement on Tariffs and Trade.●

THE VA'S DOUBLE-BARRELED EDUCATION PROGRAM

HON. RAY ROBERTS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. ROBERTS. Mr. Speaker, I have often commented on the superb professional staff of the Veteran's Administration. At hand is yet another example of how VA officials have gone far beyond duty to meet a community need. Under the leadership of John G. Miller, director of the Los Angeles VA regional office, and Jack Dweck, that office's loan guaranty officer, the VA has developed a program that costs the Government little, yet helps young people help themselves. It is described in the August issue of American Education:

THE VA'S DOUBLE-BARRELED EDUCATION PROGRAM

(By Clif Stallings)

Educators and government officials who are scratching their heads over what to do with their old surplus school buildings might take heart from one government agency that, richly experienced in being swamped with excess real estate, has come up with a canny way to make its shoddy buildings bright and serviceable—and to serve as teaching aids in the transition. Of course, the problems are not parallel, the Veterans Administration—that experienced government agency—having little or no traffic in school buildings. But the lesson is that perseverance will prevail over the knottiest surplus building problem, whether the buildings are schools or houses.

Some may be surprised to know that the Veterans Administration is among the largest real estate operators in the country. The

VA didn't intend it that way, but when an agency runs a guaranty loan program that over three decades has helped close to ten million veterans buy homes valued at more than $140 billion, some identity as a real estate operator is almost inevitable. As inevitable as some defaults in a volume of ten million loans. Each time the VA makes good on its guaranty of a loan in default, it acquires the property.

Since 1944, the VA has acquired some 405,000 properties, which comes to about four percent of the almost ten million homes for which loans were guaranteed for veterans. During that same interval VA has sold more than 390,000 of these properties and currently has title to about 11,000 others. Allowing for those undergoing repairs, adversely occupied, or burdened in other respects, there are about 7,300 vacant properties for sale. The turnover in VA sales averages about 1,300 monthly.

In order to recover its guaranty or as much of it as possible, the VA seeks to place acquired properties in a condition that compares favorably with competitive neighborhood properties. With rare exception the houses require only redecoration or modest repairs to place them in salable condition. Nevertheless, there are some that were abandoned and vandalized before VA acquired title, and appropriate repairs needed to be made.

California, housing more than ten percent of the nation's 30 million veterans, leads in VA home loan guaranty activities. The VA regional office in Los Angeles—one of three in California—acquired about 50,000 properties over the past 30 years, and sold virtually all of these shortly after they came into VA ownership. Today, that office has fewer than 600 houses on hand, and the sales rate runs almost 100 properties per month.

In a program started by the Los Angeles VA Regional Office five years ago, students at ten area high schools have contributed toward the rehabilitation of a number of abandoned houses while gaining valuable vocational training. Working as volunteers, the young men and women refurbish the houses, making minor repairs without doing any job that would require a license. The VA provides all tools and equipment and determines by appraisal of the property the amount that should be spent for materials. The program, currently being carried out in San Diego and Compton, has drawn praise not only from students and educators, but from area residents as well.

"The place next door was a dilapidated shack before the VA let those kids in there," recalls Compton resident Del Burnett, whose home is adjacent to a student-refurbished house now up for sale. "It had been broken into and vandalized. It looked terrible and made the whole neighborhood look bad. When the kids came to fix it, I was skeptical. Kids that age don't have too good a reputation these days. But those kids were something else. They turned that dump into a nice place. I never would have believed kids could do work like that."

According to Onward Montgomery, director of Vocational Education and Federal and State Projects for the Compton School District, students in the housing rehabilitation program have had a marked effect on every neighborhood in which they have worked. "The recurring sight of teenagers doing something beneficial for the neighborhoods has done a lot to restore people's confidence in our community youngsters," Montgomery says. "And in most cases, the program also seems to have left area residents with a fresh sense of community pride. Invariably, a completed project is followed by a general sprucing-up of neighboring properties."

Montgomery also notes that student-rehabilitated houses are seldom targets for vandals. "I think this is because the kids themselves, some of whom have probably vandalized other properties, use what influence they have among peer groups to protect what they've helped to restore."

Montgomery says that though school officials and Compton residents have praised the program as practical, productive education, the students themselves have voiced the most enthusiastic approval. Montgomery adds, "This program, besides providing a welcome break from classroom routine, offers youngsters a chance to expend energy in a useful way and learn directly applicable skills at the same time."

Compton High School student John Sims mentions that he has already learned things that he's been able to repeat in his own home. "I've learned enough so far to help me get a job," he says. "I can set tile, do roof repairs, handle regular carpenter work, and paint. I couldn't learn all that in a classroom."

Ernestine Pettigrew, also of Compton High, one of six girls from the district who has been involved in the program, feels that it provides needed opportunities for young women to gain experience that could help them maintain their homes or find employment in the construction industry. Says Pettigrew, "I think it's a good thing for women to be able to take advantage of the same opportunities that men have. This is a new time for women, and we need to prepare for it. I've really enjoyed this program and have learned a lot."

Montgomery also points out that the housing rehabilitation program in his district has been particularly helpful to youths with extensive juvenile records. "Some of the kids have gang-related problems, some have been involved in thefts or burglaries, and others have engaged in vandalism or just plain mischief," Montgomery says. "Probably the main reason they got into trouble is that they didn't have much of anything else to do. This program has given them something to do, along with a sense of pride and satisfaction, and has been the therapy these kids have needed to stay out of trouble."

A tribute to the VA housing rehabilitation program is the story of 20-year-old Lennon Hunter, who graduated from Compton High School two years ago. "I didn't have anything going for me before I got into that program," Hunter recalls. "I was bored with school, uncertain about the future, and had no skill or experience that I could apply toward a job.

"The rehab program opened up a new world for me. I found out I could do something worthwhile, something that I enjoyed. Even before I graduated from school I started working for contractors on weekends and earning a little money. One thing led to another, and now I have my own contracting business." To help others along his successful path, Hunter employs former housing rehabilitation participants and offers part-time employment to students in the program.

The housing rehabilitation program was initiated in Southern California in March of 1973 through an agreement between the Los Angeles VA Regional Office and the William S. Hart Union High School District in northern Los Angeles County. Since then, more than 130 students from Hart High School have participated in the refurbishment of 12 VA repossessed homes. In 1975 the Compton and San Diego Unified School Districts joined the program, which has now accounted for 29 completed projects.

Jack Dweck, VA Loan Guaranty Officer in Los Angeles, says the success of the rehabilitation program is primarily dependent upon two "musts": Distressed VA repossessed houses must be available, and school districts must make necessary administrative and funding arrangements for student participation.

"We've found that where we've encountered difficulties or delays in trying to establish a rehab program within a school district, it usually has been due to problems associated with transportation for the students, the hiring of a qualified vocational instructor, or a lack of complete school district support," says Dweck.

On occasion there has been misunderstanding of VA motives with respect to the use of students in place of commercial contractors. "There are those who have thought that the VA saves a considerable amount of money by letting the youngsters do the work of contractors," says Dweck. "While it's true that we pay only the cost of materials and equipment for a student-rehabilitated house, it takes students months to finish a job that a contractor could finish in days. This is partly due to the fact that the kids work only a few hours a day and only on certain days."

Additionally, students work under the supervision of an instructor who must ensure that, according to the terms of the school district's contract, all repairs meet VA specifications. "If the kids don't do the job right, the instructor has them do it over," Dweck says. "Nor are students allowed to perform electrical or plumbing repairs. We pay licensed contractors to do that." Consequently, during the extra time the student-refurbished houses are on our books, VA expenses include the likes of taxes, insurance, and certain maintenance supervisor fees. These pretty well offset the difference between the costs of students' equipment and the amount of contractors' bills."

Dweck emphasizes that the VA makes the program available solely for its beneficial educational and social effects, which have been lauded on numerous occasions by community and school district officials. Last year the Compton City Council issued a special resolution expressing appreciation to the Los Angeles VA Regional Office for the beneficial effects of the housing rehabilitation program. The council credited the VA not only with upgrading neighborhoods but also with "instilling a sense of pride in accomplishment on the part of the students who performed the work, and a spirit of pride on the part of area residents for the positive accomplishments of teenagers."

Home repair programs similar to the one sponsored by the VA in Los Angeles have been conducted elsewhere in the nation by state and local authorities and by some citizen organizations. Says Dweck, "These activities also have given disadvantaged youth valuable skills and, in some instances, have helped mental patients on their way to recovery. The VA is proud to be included in such community activity."

Unquestionably, it would add to VA pride if the rehabilitation program were to offer the headscratchers who worry over what to do with old school buildings some insight into their own peculiar problems.●

LET'S RANK GOVERNMENT EFFECTIVENESS

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. STEIGER. Mr. Speaker, a little over a month ago, Senator CHUCK PERCY

and I called a press conference to introduce a proposal of ours, inspired by a recent article by former Ambassador Larry Silberman, to better enable Congress to put a rein on increased Government spending.

Our proposal, the Government Accountability Act of 1978, would require a biennial ranking by the President and the Director of the Office of Management and Budget of all programs within a department. The ranking would be made available to the public. Thus, we provide the advantage of a comprehensive review of all programs, along with a safeguard through public input against an administration attempting to sabotage a program or agency for ideological or other reasons.

Support for our legislation has grown over the past month. On August 3, DICK GEPHARDT, DON FUQUA, and FRANK HORTON joined me in introducing the measure, H.R. 13723. Since then, we have gained 31 additional cosponsors, 11 of whom are going on the bill I am introducing today. Though we clearly cannot anticipate action on the legislation this late in the session, this provides an excellent base of support to build on in the 96th Congress.

Michael Novak, in an August 30 Washington Star column, referred to our proposal as "a shrewd technique to make big government accountable." He pointed out:

> In the private sector competition helps. A ranking system will make the public sector competitive. . . . It restores a piece of invisible government to visibility. It will help presidents to get a handle on the monster they manage.

As we try to come to grips with the growing bureaucracy and increased Federal programs, we need better management tools than we now have. The Government Accountability Act provides those tools. For the benefit of those concerned about improving Government accountability, I am including for the RECORD the Novak column. Along with it, I am inserting a report I wrote on the proposal, articles from the August 6 Milwaukee Journal and August 9 Education Daily discussing it, and an editorial from the August 11 Savannah Morning News endorsing this new approach.

The article follows:

WASHINGTON REPORT

(By Congressman WILLIAM A. STEIGER)

A major focus of the media and Congress in recent months has been the growing taxpayers' revolt. The passage of Proposition 13 in California and the overwhelming support for the idea of cutting the tax on capital gains have shown clearly that the average taxpayer has a sophisticated understanding of our economic problems and sees the need for change.

With all the attention on efforts to reduce taxes has come a renewed awareness of another need—that of putting a rein on government spending. One approach has been to propose across-the-board 2 percent cutbacks on appropriations bills for various departments and agencies. This approach serves the immediate purpose of cutting spending, but it doesn't resolve the long-range problem.

After searching for a mechanism to help Congress better put the brakes on government spending, I read a recent article by former Ambassador Larry Silberman who suggests a proposal I'm confident can do the job. Senator Chuck Percy and I with bipartisan sponsors last week introduced the "Government Accountability Act," a measure that would require the Administration to give Congress a report card on the performance and cost-effectiveness of federal programs.

The bill would require biennial reports to Congress on the relative effectiveness of these programs. The President and the Director of the Office of Management and Budget would rank all programs within a department with all others in that department. Our bill sets forth a reasonably objective standard for ranking.

Though there have been other efforts aimed at ranking federal programs—the Carter Administration asked Members of Congress to do so in 1977—this proposal provides the advantage of a comprehensive review of all programs. More important, this ranking will be made available to the public.

The importance of public release of the rankings cannot be overstated. This will provide the opportunity for input by individuals and organizations affected by a particular program. By so doing, we provide a safeguard against an administration attempting to sabotage a program or agency for ideological or other reasons.

A high ranking by the Administration will not necessarily mean Congress will approve continuation of a program intact or with the authorization level requested by the Administration. Neither will a low ranking mean that a program is destined for elimination.

What the rankings will mean is that Congress can get a better handle on determining which federal programs could be improved or weeded out and which deserve more or less money than they're currently being given. They will also allow us to deal with the problems of overlapping or of contrasting goals.

The report would be filed at the beginning of each new Congress. It will thus enable responsible House and Senate committees to strengthen their oversight efforts. The key to effective, efficient management of programs oftentimes rests on the quality of oversight process in each Congress.

Too often, Congress creates new programs, then fails to follow up to see whether they're run as they should be and whether they're accomplishing the goals for which they're intended. For the first time, we would have a clearly spelled out, simple and inexpensive means of beginning the oversight process in each Congress.

Our proposal will not solve all the problems we have in bringing government spending under control. It will, though, offer an important tool to more effectively deal with the issue.

As we near the close of the 95th Congress, it is doubtful this proposal will be passed before the end of the session. My hope is that we can begin the education process and build bipartisan support for this legislation so that it will receive quick action in the 96th Congress.

[From the Washington Star, Aug. 30, 1978]

LET'S RANK GOVERNMENT EFFECTIVENESS

(By Michael Novak)

I wish Democrats had thought of this idea first: a shrewd technique to make big government accountable. "Rank the bastards!" might be its battle cry.

My colleague at the American Enterprise Institute, former Ambassador Laurence H. Silberman, spelled out the idea in the new Republican intellectual journal Commonsense (310 First St. NE., Washington, D.C. 20003). Each year the president of the United States would be required to report to Congress on the rank of every program in each department of the executive branch according to its effectiveness. Then the Congress—and the people—would get an idea of the least effective programs in each department.

Every single program would be ranked. Each would be rated in comparison to other programs within its own department. Good programs would get due notice. So would poor ones. Silberman proposes three mandatory criteria for distinguishing them: (a) coherence of statutory objectives; (b) design of the program; (c) quality of management. The ranking system would give government programs something like the major-league baseball standing: a mandatory finish line with clear winners and losers each year.

The director of the Office of Management and Budget would be required to identify programs within the government that have contradictory aims (i.e., encouraging tobacco growers but discouraging smokers). The OMB director would be entitled to propose to Congress the elimination of ineffective programs. Good managers might welcome that opportunity.

Would this particular presidential report be buried from sight? Both journalists and the public would love it. Would budget-wise administrators place the most popular programs at the lowest ranking, to protect them? Lobbies for popular programs would almost certainly begin fighting for a high ranking months before the report was due.

Some ineffective but popular programs would always be at the bottom and some of the worst would be sure to be among them. Besides, the president would have to supply a rationale for each ranking. He would not want to appear to be naive.

Some administrators might try to hide poor programs within larger categories. But astute administrators would have an incentive to break programs down into smaller measurable units. In order to keep their empires as large as possible, some would sacrifice only smaller units at the bottom. Year by year, the worst of these could be pruned away.

Actually, Silberman notes, good managers of federal departments have been doing something like this for years. Faced with tighter budgets, they informally rank their programs when they allocate scarce resources. A new law would force them to make these rankings formal, analytically precise and public.

How can one compare apples and oranges? When you have a limited amount of money for fruit, you have to. A Government Accountability Act would force managers to compare real programs with read programs, on the basis of clear technical analysis. Over the years, evaluative techniques will become sharper. For the only way to diminish controversy will be to develop clear, objective, communicable criteria.

Recall that when students in college used to be ranked, each single one received a relative position. Nowadays, when students are not ranked, "grade inflation" occurs; the bottom half moves upward in an anonymous mass. In the old days, even if all passed, each knew where he stood. Ranking improves techniques of evaluation.

Most subcabinet officers today stay in one position less than two years. To make a name for themselves, some find an incentive to launch a "new" program. No one notices or rewards tough managerial skills (which usually provoke internal dissension).

Under a ranking system, new appointees would face the threat of seeing their program slip lower, compared to previous years, and some would hit bottom. Standards of excellence would change, as incentives changed.

In the private sector, competition helps. A ranking system will make the public sector competitive.

Leaders in the House and Senate have recently proposed a Government Accountability Act based on Ambassador Silberman's shrewd techniques. Democrats, who favor good government as well as big government,

should favor this act for the best of populist reasons.

It restores a piece of invisible government to visibility. It will help presidents to get a handle on the monster they manage.

[From the Savannah Morning News, Aug. 11, 1978]

ACCOUNTABILITY SOUGHT

We doubt that a private enterprise would remain in business long if it never assessed the profit and loss of its operations.

But this is standard procedure for the federal government. Congress will debate a measure, pass a law and regularly appropriate money for the resulting program. In more cases than not, however, Congress directs few inquiries as to how well the program is working and whether or not it is meeting the goals that its sponsors set forth.

Sen. Charles Percy (R-Ill.) and Rep. William Steiger (R-Wis.) are disturbed by this situation and they have proposed legislation that would help Congress measure the success of failure of its handiwork.

Under this bill—The Government Accountability Act of 1978—the president and the Office of Management and Budget director would submit bi-annual ratings of programs within executive branch departments. The rating designations would be "Excellent," "Adequate" and "Satisfactory."

"Like any business," Senator Percy affirms, "the federal government should have a system of ranking programs on performance. Without such a system there is virtually no accountability to the taxpayers who support federal programs.

The passage of California's Proposition 13 has heralded 1978 as the year of the taxpayer. The proposed accountability act is a fitting step to celebrate the occasion. Too many old and useless programs never die and fade away. Congress needs prompting to shut them down.

[From the Milwaukee Journal, Aug. 6, 1978]

BILL PROPOSES AGENCY RATINGS

WASHINGTON, D.C.—If Rep. William Steiger (R-Wis.) and Sen. Charles Percy (R-Ill.) get their way, each federal agency will get a "report card" every two years from the president.

The accounting would not include A's and F's, but it would rate each agency in terms such as "excellent," "adequate" or "unsatisfactory." And within each department, the performance of various agencies would be listed in the order of their relative efficiency.

Last week, Percy and Steiger introduced a bill entitled the Government Accountability Act of 1978 to accomplish their aims. They think it would fit in nicely with President Carter's crusade to reform the federal bureaucracy.

Under provisions of the bill, the biennial reports on each agency would be prepared by the president's Office of Management and Budget and would be submitted to Congress with the federal budget every two years.

The plan has the support of four former Republican budget directors—George Shultz, Roy Ash, Caspar Weinberger and James Lynn. And Percy and Steiger credit Laurence H. Silberman, a former Republican undersecretary of labor and deputy attorney general, for the research leading to the idea.

"Since there is no uniform method of evaluating programs," Silberman has written, "generating a national political consensus as to prime targets for elimination is extremely difficult."

The idea behind the bill, Percy said, is to provide not only a ranking, but also a presidential explanation of the ranking.

Obviously, such a requirement could present problems for any administration because a president would have to identify programs that were operating inefficiently under his jurisdiction.

PROBLEMS TO OVERCOME

Steiger and Percy conceded that this could present some problems, but they contended that such problems could be overcome.

Could a chief executive with some ax to grind try to get rid of a certain agency by giving it unfairly low ratings?

Steiger said that congressional committees would have to watch for this and protect agencies that deserve to continue their work.

But, he said: "Too often, government programs develop lives of their own long after they've lost their usefulness or effectiveness. Our bill will provide a mechanism for evaluating these programs and give Congress a better means of determining which ones could be improved or which ones could be weeded out."

Rating all of the departments and agencies might be a chore for any president.

But Percy and Steiger would spare the White House from one impossible task—judging its own performance.

[From the Education Daily, Aug. 9, 1978]

BILLS CALL FOR RANKING GOVERNMENT PROGRAMS EVERY 2 YEARS

Sen. Charles Percy, R-Ill., and Rep. William Steiger, R-Wis., last week introduced identical bills, S. 3366 and H.R. 13723, aimed at evaluating the effectiveness of federal programs.

Called the Government Accountability Act of 1978, the Percy-Steiger measure would require the president to rank all federal programs every two years in a report to Congress. The ranking would be based on three criteria: clarity of the statutory objective; design of the program; and the quality of its management.

Every program ranked would carry with it a presidential explanation of the ranking and a rating of excellent, adequate or satisfactory. "Federal programs" are defined as those "carried out pursuant to separate statutory authorization or for which federal expenditures are specifically allocated by the Federal Government." The bills exclude independent regulatory agencies and the executive office of the president from the ranking procedure.

IMB's Role.—The legislation also would require the director of the Office of Management and Budget to identify programs that appear to have aims contradictory to other federal programs and recommend steps to correct the situation. In addition, OMB is called on to recommend "the termination or modification of any program whose relative ineffectiveness no longer justifies continued Federal expenditures or only justifies a lower level of Federal expenditures."

In introducing the bill last week, Percy noted his objective is "to provide the public and Congress with a ranking of federal programs so that those glaringly ineffective and mismanaged will stand out." He also noted that the legislation doesn't specify what steps Congress must take when the report is received.

In a prepared statement, Steiger said, "I wish to emphasize the concept of strengthening ineffective programs. Ranking a program as least effective should not be tantamount to elimination. It should assure action that will result in more for our tax dollars." ●

BOURNE DECISION SMACKS OF CRONYISM

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. FINDLEY. Mr. Speaker, the decision by Virginia and Federal officials not to prosecute Dr. Peter Bourne but instead to prosecute only the young woman who tried to fill the prescription for Dr. Bourne's secretary, is an unconscionable miscarriage of justice and smacks of cronyism at its worst in the White House. Virginia law enforcement officials state that Bourne will elude them because of technicalities and "an oversight" in the law, but Toby Long will not, even though she was not even the intended user of the drug Bourne illegally prescribed and, according to the Virginia prosecutor, is "the least culpable of the bunch." She now faces a possible 5 years in prison and a $15,000 fine, penalties which Dr. Bourne only narrowly escaped.

U.S. Attorney Carl S. Rauh, who has the prime responsibility for enforcement of Federal laws in the District of Columbia where the crime was committed, gives no intelligible reason for failing to bring Bourne to the bar of justice. He simply states that:

> We originally deferred to Virginia authorities to decide whether to prosecute or not in this case. They've made their decision and as far as this office is concerned, that's the end of the matter.

Curiously enough, this bit of sleight of hand comes from the very office that had major responsibility for the prosecution of the Watergate burglars. It was Mr. Rauh's predecessor, Earl Silbert, a Republican, who prosecuted the burglars who broke into Democratic National Headquarters. I cannot see why Mr. Rauh, Silbert's successor and presumably a Democrat, should be under any less compulsion to prosecute White House crimes of the Carter administration. Perhaps he is afraid that if he upholds the law in this case his boss the Attorney General might see to it that he follows in David Marston's footsteps. Rauh cannot have missed the significance of the fact that Deputy Attorney General Benjamin Civiletti, and presumably the Attorney General, knew of Bourne's falsification of the prescription a full week before it was publicly revealed and took no action. He was also probably aware of President Carter's description of Bourne as "about the closest friend I have in the world."

The facts are clear. Dr. Bourne violated both Federal laws and those of the District of Columbia by writing a false prescription. There is no possible legal or ethical justification for Mr. Rauh turning his back on this illegal conduct and refusing to prosecute. If Mr. Rauh is kept on the job after this miscarriage of justice, and after David Marston was fired, then it is clear that this administration has a double standard of justice.

During his campaign, President Carter set forth his own code of ethics. He said:

> As President, I will be responsible for the conduct of the Executive Branch of government. Errors will be immediately revealed and an explanation given to the public, along with corrective action to prevent any recurrence of such actions. There is only one person in this nation who can speak with a clear voice, who can set a standard of morals, decency and openness. That person is the President.

Dr. Bourne may have been "an able and dedicated public servant" as the

President described him after he had left the White House. but those words have an all too familiar ring, recalling former President Nixon's testament to Haldeman and Erlichman just a few short years ago. The question now is whether this administration will stand by the President's code of ethics, or stand by President Carter's long-time friend as Nixon stood loyally by his, ignoring the fact that the laws have been violated.

My hope is that Attorney General Griffin Bell will yet personally direct the Justice Department to investigate fully the illegal conduct of Dr. Bourne and take whatever steps are required—regardless of party or friendship. After Watergate, the American people deserve no less.

The medical societies of the District of Columbia, Georgia, California, and Colorado, all of which Dr. Bourne is a member, must also fulfill their own separate responsibilities. Officials of the American Medical Association, the American Psychiatric Association, and the D.C. Medical Association all agree that the use of a fictitious name in prescribing a controlled substance like Quaalude violates the law and therefore the standards of professional conduct. Dr. Bourne's actions must be reviewed by each medical society and appropriate disciplinary action taken. Just as most of the White House lawyers who participated in the Watergate scandal were disbarred, so too must Dr. Bourne pay the appropriate penalty for violating the ethics of his profession.

Following is an editorial from the Christian Science Monitor that is right on point:

CLEAR THE BOURNE CLOUD

"Bourne got off, why pick on me?" It is all too easy to imagine this kind of reaction from less privileged violators of drug laws than Dr. Peter Bourne, whose offense occurred while he was still President Carter's chief adviser on drugs and health. Indeed, if Dr. Bourne's falsification of a drug prescription can blandly be allowed to fall between the cracks of the legal system, a new encouragement to deception of all kinds is offered to impressionable young people—or their impressionable elders, for that matter.

We are not suggesting a personal hounding of Dr. Bourne. But his case has become symbolic of lapsed integrity at the top. And whatever the proper legal judgment on his admitted deceit may be, the nation needs a sense that the full legal process has been pursued—and that the administration *cares* about pursuing it.

As it is, the legal authorities in Washington get out from under by leaving a decision on prosecution up to authorities in Virginia, where the fabricated-in-Washington prescription was presented to a druggist. The Virginia authorities get out from under by disclaiming jurisdiction over Dr. Bourne's violation "outside the state." Attorney General Bell gets out from under on the grounds that the case did not reach his "level."

Of course, the country's main guardian of justice cannot be forced to swat gnats all the time. But it is no mere gnat when a high White House aide flouts the law, whatever lofty motives he claims. If Americans cannot expect concern for an uncompromising sense of ethics in the White House, where can they expect it?

Mr. Carter conveyed such a concern to many who voted for him. If he is to keep faith with them—not to mention with the office of the presidency—he cannot wash his hands of a case like this by leaving it to Virginia.

The swift elimination of Dr. Bourne from the administration was an improvement on the long clinging to Bert Vance. The President must not, of course, abuse his power by interfering with due legal process. But at the same time, he must help ensure the atmosphere in which that full process goes forward, without double standards, letting the chips fall where they may. The Bourne case cannot be left in legal limbo between Pennsylvania Avenue and Prince William County. The Attorney General, if no one else, ought to be able to find somebody willing to accept jurisdiction for carrying the case through.●

CAPITAL GAINS AND EQUITY

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. DORNAN. Mr. Speaker, Thomas Jefferson, in his first inaugural address, remarked that "A wise and frugal government, which shall restrain men from injuring one another, which shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned. This is the sum of good government . . ." It is indeed unfortunate, Mr. Speaker, that we have not taken to heart Mr. Jefferson's words. I refer in particular to the capital gains tax.

There is a great deal of talk these days, Mr. Speaker, about "equality of opportunity." But is there really equality of opportunity when in the past 10 years the capital gains tax has increased from 25 percent to 49 percent? Is there equality of opportunity when some 25 million stockholders are forced to pay homage to the Government on profits that rightfully belong to them? Is there equality of opportunity, Mr. Speaker, to tax those who work, plan, and save in order to support an increasing army of bureaucrats and those who rely on governmental largesse?

The principle involved here, I respectfully submit, Mr. Speaker, is not the principle of equality of opportunity but rather that of reverse discrimination, couched in the euphemistic terminology of "transfer payments." Those who through foresight and intelligence have accumulated savings and invested it in property and stocks are progressively discriminated against in direct proportion to the success of their investment.

It is no coincidence, Mr. Speaker, that the nations of Japan, Germany, France, Belgium, and the Netherlands, countries with the strongest currencies and lowest inflation rates in the free world, will not tolerate a capital gains tax. Is it not ironic that the most successful country on the face of the Earth does not recognize the debilitating effect of the capital gains tax on investment? Since 1969 there has been a 17-percent decline in individual stock market participation and a negligible percentage of equity issues for new high technology firms. If businesses do not find it profitable to invest in new ventures can a decline in productivity and a rise in unemployment be far behind? In addition, investors often feel "locked in" if their assets or investments have increased significantly in value. As a result, they may hesitate to sell because of the existence of a capital gains tax, with a resulting distortion of business and investment decisions.

The issue, Mr. Speaker, is pathetically simple and clear. If a people is to remain free and productive, they must be encouraged to exercise the virtues of an earlier era, the virtues of frugality, foresight, and planning (private sector planning). They must be permitted, within broad limits, to keep and use their resources as they think best, receiving the benefits and bearing the costs of their own decisions. Such a course of action, and only such a course, will lead to true equality of opportunity. The alternative, Mr. Speaker, is the road to serfdom.

I should consider it a great privilege at this time to incorporate the eloquent remarks of Mr. William F. Buckley, Jr., on this vital issue.

TURNING CAPITAL GAINS UPSIDE DOWN

(By William F. Buckley, Jr.)

A conservative journal of opinion leads off this week with a pithy item. "A small semantic milestone was passed in New Jersey on Aug. 16 when the Trentonian editorially blasted senatorial candidate Jeffrey Bell's tax-cut proposal. Allowing people to keep their own money, growled the Trentonian, is a 'giveaway.'"

The liberal counterpart of this journal, the New Republic, fired off during the same week with a long editorial entitled "Alms for the Rich," by managing editor Michael Kinsley.

Mr. Kinsley is talking about the tax bill which is certain to do something about capital gains taxes. There are several proposals on the floor. Most publicity has attached to the Steiger Amendment, which would return the tax code to the status quo ante, taxing only 50 per cent of a capital gain.

There are variations, trending up to President Carter's original position, now abandoned like the neutron bomb, in which it was proposed not to decrease the capital gains tax but to increase it. What is interesting is less the disputed figure than the underlying philosophical premises. These are nicely introduced by the semantic inversion quoted above. Under current practice, the decision to permit a man to keep the money he has earned is—a giveaway.

The New Republic lays its prejudices bare as though it were addressing its psychiatrist. "Indeed the present capital gains provisions are a layered history of the ebb and flow of favoritism and half-hearted reform." That sentence is as terminologically straightjacketed as anything Freud ever wrote. "Favoritism" sounds (pick one of the following): 1) Bad 2) Neutral 3) Good. The answer is of course: Bad. Why? If we could answer that question easily, we could easily peel off layer after layer of socialist superstition.

Let us put it in another way. The man who leaves his money to his son is 1) Good 2) Bad 3) Don't know. That question itself is heuristic, because the answerer finds himself worrying over the generic question, "Should a father be permitted to leave money to his son?" There are of course those who believe in the total taxation of inheritance. Unless that question is answered, how do you go on to answer the subsidiary question?

What is favoritism? Is favoritism as easy as pointing out that, numerically, only a few benefit? "Since less than 6 per cent of all

taxpayers have capital gains at all," the New Republic writes, "this means the Steiger Amendment would benefit about four taxpayers out of a thousand." That does sound like a chancy criterion does it not?

But try this one: That provision in the Bill of Rights which forbids Congress from passing any law affecting the freedom of the press directly benefits about one person out of one hundred thousand. Is it therefore favoritism?

And note, of course, the handy uses of the loaded word, "reform." Legislation to increase the taxes levied on Americans who make $100,000 or more per year are (mark one): 1) Desirable 2) Undesirable 3) Don't know. A reform is, by common semantic sanction, that which is more desirable than the antecedent situation. By the simple standards of the New Republic, a "reform" is that which increases the tax of the "rich."

This, of course, becomes troublesome at the margin, as Sen. George McGovern discovered in 1972 when he proposed that everybody who earned more than the average should turn over enough money to pay out $1,000 per year to those who earn less than the average. A lot of people thought that was a marvelous idea until the news broke that that meant that everybody earning more than $12,000 per year should be taxed an extra thousand dollars.

What is remarkable is that these are the same people who talk about a land of opportunity. A land of opportunity to do what? To qualify to pay more taxes to the government? There is a lot of common sense going around, of which Proposition 13 is an expression, but the real revolution will not take place until the good guys recapture the philosophical categories.

This means that a society of men committed to the proposition that people ought to be free not only to earn money but to keep the money they earn, is not more outrageous than a society committed to the proposition that people ought to be free to start newspapers and buy magazines even if they inherited the money to buy them with. Right?●

BALTIMORE COUNTY SUCCESS WITH CETA

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. LONG of Maryland. Mr. Speaker, the Baltimore County CETA (Comprehensive Employment and Training Act) program has achieved widespread recognition for its commendable goal of placing trained enrollees in unsubsidized jobs within the short period of 18 months. Over the last 2 years, two-thirds of the county's CETA enrollees have been placed in permanent unsubsidized jobs in the private sector.

Not only does this approach alleviate unemployment, but it also enables the county to use Federal funds to assist greater numbers of the unemployed.

I am pleased to share with my colleagues this paper "Managing Public Service Employment With an 18-Month Termination Policy: Turning Anxiety to Creative Energy" authored by Myra Shapiro, CETA Administrator; David Saunders, Senior Manpower Specialist; and Rona Blank, Director of Counseling; which describes the county's program.

MANAGING PSE WITH AN 18-MONTH TERMINATION POLICY: TURNING ANXIETY TO CREATIVE ENERGY

As of this writing, Congress is finishing hearings on the reenactment of CETA (Comprehensive Employment and Training Act). One key provision, section 121 (CLAI) may create major changes in the management of Public Service Employment (PSE) Programs by limiting PSE enrollment to 18 months, thus focusing the PSE effort on private sector unsubsidized placement.

On a national level, three-quarters of a million currently enrolled CETA–PSE enrollees will be moving from the CETA payrolls to private sector jobs or to unemployment insurance or public assistance. Enrollees will be terminating at the same rate at which they were hired. If a jurisdiction had a hiring goal of 100 slots per month, they will eventually have a termination schedule of nearly 100 enrollees per month.

From the start of CETA, Baltimore County, Maryland has planned PSE as a transitional program preparing employees for unsubsidized jobs within an 18-month enrollment period. To meet the goal of private sector placement, a multi-faced approach evolved based on strong linkages with first-line supervisors, creative use of career development workshops, a sound foundation of economic and learning theory and a humanistic approach to the anxieties of a transitional employee.

The positive placement rate of forced terminations has increased each month from 50 percent to 70 percent with an average of 66 percent (N–243) over the last two years. About two-thirds (65 percent) of the positive placements have been with local business and industry. The placement rate was improved by the cooperation of first-line supervisors, after they understood the goals of CETA.

WPA/CCC AND THE FIRST-LINE SUPERVISION

At first, regular county employees saw CETA as an extension of welfare. They were reluctant to get involved, slow in hiring, and generally treated the "CETA workers" with skepticism. On the other hand, CETA workers were eager, productive, and competing hard for the few merit system vaccancies. The seeds of discord were sown long before the Economic Stimulus Act made CETA a high impact program of increasing importance to local jurisdictions.

The local CETA administration approached with trepidation an invitation to give over 120 merit system first-line supervisors part of a supervisory skills course. The workshops, limited to about 20 supervisors each, turned into a chess game, as attackers and defenders of CETA parried. CETA moved first with an analogy to WPA and CCC. "Anyone who worked in CCC or WPA please raise your hand. Tell us your experience." Every group had at least two WPA or CCC workers. Those who were positive about WPA/CCC tended to be supportive of CETA, those critical of WPA/CCC complained about CETA.

A pattern developed in each successive workshop. It became apparent that supervisors needed an outlet to vent frustrations. Novel special projects, unskilled workers, added responsibilities and the need to retrain a new CETA-PSE worker every 18 months irked the supervisors. However, after the antipathy for CETA-PSE workers was expressed, the workshop atmosphere changed.

A video-tape of job-finding workshops brought home the message that CETA was temporary. Supervisors were asked to imagine their own jobs ending in 18 months. The workshops built a new line of communication between supervisors and the CETA-PSE counseling unit. As a result, first-line supervisors became an arm of the counseling unit. Supervisors saw that under CETA local government had a responsibility to train workers for the private sector. Supervisors started taking initiative, they became advocates for CETA-PSE workers, and motivated dozens into finding private sector jobs.

The courting of first-line supervisors has really just begun. The effort has resulted in placements; on the drawing board is a follow up for 400 first-line supervisors on how to be better on-the-job trainers.

ECONOMIC THEORY AND PRIVATE SECTOR PRODUCTIVITY

Private business, department heads, middle-managers and locally elected officials also needed indepth briefings on CETA-PSE. A more esoteric approach was chosen, built on American history, economic theory and a hypothesis for increasing private sector productivity.

First, most briefings started with a retrospective look at the 1930's at which time the government intervened to combat the great Depression. A brief description of the War Manpower Commission that operated in the 1940's was followed by a quick review of the economic and technological changes that led to the 1958–1961 recession. This discussion was highlighted by recalling memories of the Baltimore County plant closing of the Martin-Marietta Corporation that resulted in 30,000 layoffs. The urban riots and Johnson's Great Society programs set the stage for an economic analysis of CETA.

Second, every college economic textbook contains a description of the multiplier effect, which readily explains the rationale for CETA as economic stimulus.

Third, the group is told about the following hypothesis that Baltimore County CETA wants to test: Workers are more productive if they go through a systematic process of vocational choice. As shall be described in the next section, each CETA-PSE worker is given an opportunity to examine his/her own skills, interests and aptitudes. When they return to the labor market, they do so with a specific vocational target.

Our hypothesis is that if workers make an intelligent vocational choice, then they will be more productive on the job. In the workshop setting, an intelligent vocational choice comes from self-assessment of skills, interest and aptitudes. It is the hope of the Baltimore County CETA office that someday it can demonstrate that CETA-PSE workers who attend career development workshops are more productive than the general labor force.

OCCUPATIONAL THEORY AND CREATIVE CAREER DEVELOPMENT

The experience of conducting briefings on CETA demonstrated that a strategy was needed to convince people that indeed it was possible to find private sector jobs in a tight labor market.

Fortuitously, the Baltimore County CETA office had the services of Ray Ziegler, former labor commissioner for the State of Oregon and professor at Dundalk Community College. Mr. Ziegler in the March, 1963 issue of Readers Digest theorized that, at any given moment, 4% of the total jobs are vacant and that anyone with the right job-finding skills can get one of those vacant slots.

The community college, at no cost to CETA, conducted dozens of Ziegler's "Creative Career Development Workshops." Hundreds of CETA workers took the workshops, examined their skills, interests, likes and dislikes, and wrote detailed resumes. To follow Ziegler's method of resume writing, CETA-PSE workers would paraphrase passages from the Dictionary of Occupational Titles that described in great technical detail aspects of their work history. This resulted in high quality resumes prepared in a relatively short period of time. DOT books became a highly valued resource and the scarce copies were closely guarded!

PAID RELEASE TIME AND COMMON COURTESY

The enrollee workshops had tapped an energy source in CETA-PSE workers who started to clamor to workshops and private sector job interviews Ziegler's workshop technique relied entirely on the CETA workers doing their own job development. A policy of paid time off for verified job search was initiated at an early stage. Complaints came from some departments that CETA-PSE workers were too frequently attending workshops, or going to job interviews. CETA administrators wanted to maximize job search activities, while not upsetting the daily scheduling of tasks. Permission slips for every workshop and job interview seemed cumbersome, so a compromise called "common courtesy" was initiated requiring negotiations between the enrollee and the supervisor for paid release time. All paid release time was verified by the counseling office. No amount of coercion from CETA administration could substitute for genuine concern of the first-line supervisor.

PERFORMANCE, ATTENDANCE AND COMMONLY HELD MYTHS

In the continual process of developing rapport with first-line supervisors, attitudinal problems were prevalent. A commonly held myth was that first-line supervisors were dissatisfied with CETA-PSE workers. Contrary to the stereotyped view of CETA workers as being poor performers and excessively absent, the CETA administration was pleased when the research data on the matter were tabulated.

The Baltimore County data reveal a 92% satisfactory and above performance evaluation, and a 90% satisfactory attendance record. The proportion of poor performance and excessive absence was 8% and 10% respectively, barely statistically significant, and certainly not high enough to stereotype 1500 CETA workers. These research findings were often shared with supervisors and enrollees to the disbelief of both. Myths proved difficult to dispel.

COMMUNITY RESOURCES AND CONSTANTLY EVOLVING WORKSHOPS

The educational and training needs of over a thousand enrollees were far greater than could be provided by the small CETA counseling unit. Attention was turned to existing educational and training resources that were found to be plentiful in the community.

The community colleges gladly set up classes right in the county office building. They taught career development along with a few specialized courses involving the artificial barriers women face in the labor market and popular courses such as stress management and values clarification. The stress management course grew out of a very real need expressed by CETA-PSE enrollees who faced the end of training just 18 months away.

Quickly surfacing also was the need for high school diplomas. Young and old alike, CETA-PSE workers who never finished high school found this a detriment when applying for private sector jobs. The county's public school adult education component, at no cost to CETA, supplied a certified GED instructor who came to the county office building each week. CETA-PSE enrollees, after diagnostic tests, came to weekly classes for individual self-paced instruction. There has been a total enrollment of 141; of these, 24 passed the GED, 10 failed, and 55 are currently enrolled to be tested at future dates. As word of the class spread, the enrollment doubled from 47 in 1976 to 97 in 1977. After curriculum adjustments for this particular group of adult learners, the drop-out rate dropped from 59% in 1976 to 25% in 1977.

Another inexpensive and often overlooked source of locally relevant career information is the private employers themselves. Personal invitations and a well designed program brought local businessmen, trades people, technical specialists from areas such as construction, retail, and personnel management to Career Opportunity Workshops (COW). Often the biggest problem with these workshops was finding a conference room large enough for the dozens of CETA enrollees who eagerly sought career information.

Workshops, although they can be categorized under orientation, technical skills, coping skills and job-finding skills, were most successful if they evolved from locally expressed needs. For example, a new workshop has just begun for CETA-PSE enrollees who are in danger of being fired for poor attendance.

TRANSFERS AND OPPORTUNITIES

The counseling unit was unable, on occasion, to resolve supervisor/employee conflicts. Rather than fire the CETA-PSE worker, an experimental transfer policy was initiated. Although each transfer generated a massive amount of paperwork, the CETA-PSE enrollee usually coped better in the new environment. One supervisor developed a special knack for handling enrollees who were unacceptable in other departments. After a few months of training, the supervisor's skill as a motivator and leader turned this group of problem workers into a hard-working, effective competent, workforce. They incidently had the job of cleaning a polluted county waterway, hauling debris out of the river, and handling the frequent fish kills. On rainy days, the "river rats" as they are called, went on job-finding excursions to local factories. The crew's dump trucks were regularly used for practice driving, and many of these enrollees used the county trucks to take the test for a truck driver Grade B license.

SUMMARY

CETA-PSE program operators need to prepare for the scheduled terminations that eventually must come if PSE is a truly transitional program. Enrollees properly prepared can locate the vacancies due to frictional employment, but their support should come from their day-to-day contacts with first-line supervisors, as well as workshops and counseling sessions.●

CALLS FOR A DRUG INVESTIGATION: PARTISAN OR PRAISEWORTHY?

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. MICHEL. Mr. Speaker, on June 16, 1976, candidate Jimmy Carter appeared before the Platform Committee of the Democratic Party to present his platform proposals. Among those proposals, listed under title "An Open and Honest Government: Code of Ethics for the Federal Government," was this one:

> Errors or malfeasance in the Executive Branch should be *immediately* revealed by the President and an explanation given to the public along with corrective action, where appropriate, to prevent any recurrence of such actions. (emphasis in the original)

One month later, on the night of July 15, 1976, Jimmy Carter gave his acceptance speech in Madison Square Garden. In that speech he said:

> It is time for our government leaders to respect the law no less than the humblest citizen, so that we can end once and for all a double standard of justice. I see no reason why big shot crooks should go free and the poor ones go to jail.

Those two statements can be said to reflect Jimmy Carter's deepest convictions about how high level officials should conduct themselves. The rules Carter has set down for those who would work in his administration are clear and unambiguous. His own duty as President—to "reveal" errors or malfeasance on the part of his subordinates and to give an "explanation" to the public—is no less clear.

Recent charges of widespread use of illegal drugs among the White House staff bring these Carter statements to mind. How has the President lived up to his own high standards of conduct in light of these charges? The answer to that question can tell us much about the seriousness and the sense of purpose of the Carter administration.

The first point that must be made is that at the moment we have only second-hand testimony that illegal drug activities have taken place at the Carter White House or by members of his staff outside the White House. Dr. Peter Bourne, former White House drug expert has stated that marihuana and cocaine are used by White House aides. Various accounts in the media have reported that widespread use of drugs among White House staffers is well-known among journalists. One reporter has written that he knows the names of two high level White House staff members who use illegal drugs and that such drugs have been used at White House functions and even on Presidential trips.

If these charges are true, criminal activity has been going on in the White House. If they are false, a close friend and former high-ranking aide of President Carter and prestigious newsmen are deliberately telling lies. In either event, the response of the President has been curious, to say the least. It would appear that the first thing the President should have done was to immediately ask Bourne to either prove or retract his statement. If Bourne knows who has been breaking the law in the White House he has a moral and legal obligation to say who it is. If he does not know, he should be exposed as one who recklessly smeared the reputation of high-level officials and former associates. But President Carter has neither asked Bourne to provide evidence of his charges nor demanded that he apologize.

And what of the press accounts of drug use at the White House? The President has not publicly questioned the accuracy of these reports nor has he suggested he is a victim of press bias, which he most certainly would have done if he believed such serious charges to be false. It is to say the least untypical of the Carter White House (or any White House for that matter) to silently tolerate false reports of criminal wrongdoing among high level officials. The only logical reason that the President has not attacked the media on this point is that he believes or perhaps even knows the allegations are true. If he has any doubts whatsoever, his duty would be to save the reputations of innocent White House staff members by having a full investigation of the charges. But he has not done so.

Since the President has not acted to either clear the air by publicly asking Bourne to name names or to conduct an investigation that will set the record straight, what is to be done?

Obviously someone else has to do what the President himself should be doing and, indeed, promised the American people he would do. Someone has to demand that an investigation of Bourne's charges be made so as to either clear the reputations of the White House staffers or to demonstrate that illegal drugs have been used and that "corrective action" is to be taken.

As matters now stand a "double standard of justice" is being used, no matter how you look at the situation. If Bourne is allowed to simply walk away from the serious charges he has made, it will appear that the President has one set of standards for his friends and another for everyone else, for it is inconceivable that the President would remain silent if such allegations were made, without supporting evidence, by someone outside his official family. And, of course, if Bourne's allegations are true, then the President, by not investigating the charges is allowing his high level aides to show disrespect for the law and even to break the law without revealing such conduct to the public.

The President will not do what must be done. No Democrat has asked the President to do what must be done. The media has thus far not demanded an investigation. So it remains for Republicans to do so. Senator HOWARD BAKER has suggested an investigation should be held and Congressman HENRY HYDE has written to the Attorney General asking for an investigation.

But some critics says that if Republicans demand that a thorough and impartial investigation be made by the Justice Department or a special prosecutor, partisanship will have reared its ugly head. Republicans—or so it has been argued—are simply trying to discredit the White House, to exploit a minor incident, to stir up trouble. Republicans who ask for such an investigation are simply trying to "get back" at the Democrats for Watergate.

This is an unconvincing argument because it focuses attention not on the merits of the proposal that is made, or the seriousness of the charges involved, but on the supposed motivations of those who make it. Since no Republican can prove he is not acting from "partisanship"—how can you prove a negative?—it would appear that the public will never be told the truth about drugs and the Carter White House.

But is it really partisan politics to remind the President of the United States of what he himself swore to do? Is it really partisan politics to, at the very least, seek to discover if Bourne is smearing Government officials or, if his charges prove to be correct, if Carter aides have been doing exactly the opposite of what he said his White House aides would do? Is it really partisan politics to ask if Bourne's charges about big shots at the White House have any basis in fact?

Even if it could be shown that Republicans who ask for an investigation are acting from the most ignoble, base, partisan motives—so what? Let the media report those motives and let the public judge. But get on with the investigation.

There have been arguments made, not by the White House, but in the press, that even if Bourne's charges are true, too much is being made about them. It is argued that many members of the generation currently occupying high level positions at the White House smoke pot and use cocaine. They are simply doing what many Americans of their age and class do. Why all the fuss about the breaking of an unpopular law?

To his credit Jimmy Carter has already stated that he does not agree with such an evaluation of the charges. He knows that charges like these strike to the very heart of public trust and public confidence. Carter does not share the casual attitude toward law that has marked the comments of many in and out of the media concerning these charges. He knows that if it is indeed true that members of his staff have been breaking the law with impunity, they have made a mockery of his principles and disgraced his administration.

Knowing all of this, why has the President not demanded an investigation that will either clear the White House of this cloud or bring to justice or to public attention those who feel it is not yet "time for our government leaders to respect the law"?

The truth about these charges must be known. There is no other fair way to go about it than to have an investigation and have Bourne and possibly others testifying under oath. If Bourne is a liar the White House has nothing to fear from such an investigation and the charges will be publicly laid to rest. But if Bourne is correct, the public deserves to know the names of Carter's aides who, big shots that they are, have treated with contempt laws that have put some "humble" citizens behind bars.

President Carter promised he would end "once and for all a double standard of justice." All the President has to do now is follow through on his sacred promise to the American people.

Nationally syndicated columnist Michael Novak recently addressed himself to the Bourne allegations. At this time I want to insert in the RECORD "Where's Carter's Ethic in the Bourne Case," by Michael Novak, published in the Washington Star, August 23, 1978.

The newspaper article follows:

[From the Washington Star, Aug. 23, 1978]

WHERE'S CARTER'S ETHIC IN THE BOURNE CASE?

(By Michael Novak)

On drug use at the White House the stone wall of silence is about to crack. An official of conscience in the Justice Department has grown uneasy about the cover-up. He talked by telephone from his home recently: "Here is a president who can lecture lawyers about equal justice for the downtrodden and the big shots. A ghetto kid caught with a small amount of marijuana can go to jail, but his own drug adviser—a federal official—escapes without even a federal investigation. If the president wants to crack down on big shots, he can begin right in his own office."

According to my source, the Justice Department is doing nothing about the Peter Bourne case. According to federal drug law, "controlled substances" may be given out by prescription only with three precautions: The name and address of the prescribing physicians, the amount, and the name and address of the patient must be registered in writing. Failure in one or more of these might normally lead to a federal investigation, especially since a federal official is involved.

If Dr. Bourne falsified the name and address of a patient—as he self-admittedly did—then he may be subject to these penalties: (1) revocation of his right to prescribe controlled substances; (2) civil charges; (3) criminal charges. The infringement is federal. It is not solely a local or a state matter. A federal investigation is called for in the case of ordinary folks.

Why isn't the Justice Department making an inquiry? Why isn't the president interested in "big shots"?

A U.S. attorney in Virginia not long ago had an employee on his payroll who was caught with a small amount of marijuana. To protect the integrity of his own office, the U.S. attorney prosecuted the minor employee, who went to jail. "Are only little fish to go to jail?" my informant at Justice asked.

"What exactly is the Justice Department doing, then?" he was asked.

"We are doing nothing," he said in disgust. "You'd think the era of cover-ups had passed."

Why is the White House doing nothing? There have been published allegations to the following effect: (1) Dr. Peter Bourne himself smoked marijuana and snorted cocaine at a Washington party. (2) Dr. Peter Bourne asserted that there was frequent marijuana use and occasional use of cocaine among the White House staff. (3) Jody Powell, the president's press secretary, asserted that Dr. Bourne had prescribed "controlled substances" on at least four occasions, not counting "diet pills" (alleged by others to be controlled substances, of multiple purpose) for Hamilton Jordan. (4) Hunter S. Thompson of *Rolling Stone* magazine has alleged that "a few" White House staffers have joined reporters in the use of drugs presently not legal.

The implication of these allegations is that illegal activity has reached to very high levels in the White House, touching federal officials very close to the president. So far as is known, no agency of the federal government is investigating these allegations. The White House has stonewalled. On one occasion, for which he later apologized, Powell made veiled threats against White House news personnel who might also be implicated.

President Carter promised "open" government. Why, my informant asked, is there not an open, public, federal investigation of alleged charges of illegal activity on the part of high federal officials close to the president, and part of his official family?

Highest among the Justice Department's declared priorities are white-collar crime, organized crime and narcotics abuse. At least two of these elements are, or may be, involved at the White House since, clearly, such illegalities as are alleged constitute: (a) white-collar crime; and (b) abuse of narcotics laws.

In the 12-month period ending March 31, 1978, more than 10 per cent of all federal criminal prosecutions (3,932 of 37,380) were for drug law violations. President Carter received praise for handling the Peter Bourne affair more quickly than he handled the Bert Lance affair. But a cover-up is going on in the former even more clearly than in the latter. The drug matter may be a more serious threat to the pillars of the Carter administration than the Lance affair.●

BALANCE(S) OF POWER SERIES BOOK III (F)—SOUTHERN AFRICA

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, today's selection in the continuing regional balance series trains its sights still further south on the African Continent. The balance of forces in southern Africa defies a comprehensive accounting, since guerrilla warfare conditions create an ebb and flow of loosely aligned revolutionary forces across national boundaries. It is essential, however, to maintain a position balance of forces to resist the incursion of these spoilers in the turbulent setting of southern Africa.

Of particular concern today are armed rebel forces within and around Rhodesia, seeking to influence and benefit from the political changes in that beseiged country. Today's article, "Chimurenga," by D. F. S. Fourie, shows that the insurgent forces are still of insufficient strength to impose a solution by force of arms. But it also shows that continued armed struggle in the face of existing odds are perpetuating a situation of unrest and instability in Rhodesia and in the southern part of Africa.

This article, which first appeared in the Bulletin of the Africa Institute in the fall of 1977, follows:

CHIMURENGA—THE WAR IN RHODESIA [1]

Rhodesia's war, is much in evidence today. Soldiers and armed civilians are a common sight. Commerce and industry are being disrupted by repetitive military call ups. Rural life has been disrupted by terror, by counter-insurgency measures and reprisals, the movement of villagers to new settlements and by the imposition of curfews.

It has become commonplace among observers—newspapermen, academics and politicians—to forecast the downfall of the Rhodesian government. Some even suggest that it would be in South Africa's interests if this were to happen. The arguments are based on what are perceived to be the weakening factors in Rhodesian security—manpower limits, foreign exchange shortage and general stress on the economy as the result both of sanctions and world-wide inflation.

In a war of this nature however, where there are no conclusive engagements, no defined fronts and no specific areas disputed by force predictions about the outcome are unwise and risky. It is appropriate to recall the words of D E H Russell in his book *Rebellion, Revolution and Armed Force: a comparative study of fifteen countries with special emphasis on Cuba and South Africa* [2] when he says "If it is true—that no mass rebellion can succeed without the defection of some of the régime's armed forces, then it helps revolutionaries not one jot to act in ignorance of this . . . In a situation where people are rebelling the behavior of the armed forces has been shown to be a decisive factor in the outcome of the rebellion".

If Russell is right, and his opinion is shared by others such as J. Bowyer Bell of Columbia University, then it is not the present campaign that will bring down the Rhodesian government while it continues to command the loyalty of the armed forces, black and white.

[1] The name given to the rebellion of 1896, now used by the insurgents to arouse the spirit of the past.

[2] Academic Press, New York, London, 1974.

A military conclusion it seems would only result from the intervention of conventional force and it would appear that such a force would have to come from outside the African continent south of the Sahara. The Rhodesian war has gone through several phases. The first commenced in 1966, soon after UDI, and ended to the discredit of the insurgents in March 1970.

Thereafter followed a period of relative inactivity that ended in December 1972 after the military wing of ZANU had established itself among the rural inhabitants of the north-eastern districts around Centenary and Mount Darwin, using persuasion, intimidation and witchcraft. This second phase, beginning with Operation Hurricane, has continued until the present.

In 1974 prospects for the insurgents improved when the government of Prime Minister Caetano fell and Portugal summarily ended the colonial rule on Mocambique. With the effective ending of allied control of Rhodesia's eastern border, the insurgents were free to move along the frontier establishing bases and crossing into Rhodesia unhampered. It was to counter these operations that Operation Thrasher was mounted by the Rhodesian security forces in 1975. This extension of operations has been marked by a break down of relations with Moçambique and has resulted in strikes into Moçambique against bases and camps where considerable casualties have been reported amongst the insurgents.

DETAINED LEADERS RELEASED

The year 1974 was also significant in that a number of detained ZANU and ZAPU leaders were released as part of the South African accords respecting détente. Later, in 1975 South African Police units were finally withdrawn from Rhodesia, having been withdrawn from operational areas in 1974.

Many blacks, insurgents and uncommitted people, interpreted these events as a defeat for the Rhodesian government, particularly when the ZANU insurgents in the north-east continued to operate in defiance of the cease fire agreement. In the belief that the government was no longer able to protect them from terrorism many blacks switched their passive support from the security forces to the insurgents. Until then black support for the security forces had been a significant factor in the bush war, particularly as it provided a flow of intelligence of considerable and significant proportions. The intensification and spread of the war to new sections of the border lead to security forces having to undertake counter-insurgency operations south of Umtali (Operation Repulse) and between Victoria Falls and Beit Bridge (Operation Tangent).

A feature of the war on the eastern border has been the use of numbers of virtually untrained troops by the insurgents—frequently schoolboys who are no match of Rhodesia's security forces—counted among the best anti-insurgency forces in the world. During 1976 it was believed that some 1,700 insurgents would be sent; into Rhodesia between January and October—an impcsing number when compared to the 260 believed to have been the highest number present in Rhodesia at any one time before that.

The Rhodesian response was a series of preamptive strikes against Mocambique between August and November 1976 which effectively reduced the danger of large scale incursions. One raid resulted the seizure of 50 tons of equipment and also valuable intelligence documents.

On the Zambian and Botswana side ZAPU has been engaged in much more limited operations (designated Operation Tangent by the security forces) using better trained forces, with only about 60 men in Rhodesia at any one time and only about 400 reported to be in reserve. They have concentrated on soft targets such as the Victoria Falls Hotel, lone travellers, farms, the Wankie mine and its compound and the railway from Zambia.

PSYCHOLOGICAL SIDE

Although there have been strikes as close as 30 km from Salisbury, these have been exceptions rather than the rule. It is clear from this that the insurgents have not been able to establish themselves far from the border, their refuge and source of supplies. The problem experienced with this kind of campaign is that isolated incidents are often spectacular beyond their significance, whereas the actual overall picture of the campaign shows that insurgents make little headway. A factor adversely affecting the government's political and psychological position is the number of civilians who have been killed by security forces while breaking the curfew that restricts night movement in the rural areas. There is no set picture of a campaign developing in the operations, but the numerous incidents have an adverse affect on the public at large. This is because the public, black and white, is influenced by the frequency of reports of incidents and because military service has become such a prominent feature of life in the country—Asians, Coloureds and whites all undertake national and operational service. Consequently, a feeling of uncertainty and fear is inevitable. Even the constant presence of uniforms and weapons does not dispel the fear and create an impression of protection, since the interpretation is that uniforms proliferate because things are going badly. Certainly, this is the way a number of observers interpret the situation, although how general the feeling is, is difficult to establish. This is of course, one of the characteristic problems of insurgency, namely that the psychological impact often outweighs the actual physical impact.

In Rhodesia's case the interpretation is further exaggerated by the tension between Rhodesia and neighbouring countries, and by the tension with the Catholic Church as a consequence of the dilemma in which missionaries find themselves when they have to support both sides for their own safety. (This has resulted departure of some nuns and missionaries). Then there is the tension generated by uncertainty about the future, notably among the whites and among the black civil servants, police and 2,500 soldiers whom Robert Mugabe had threatened with retribution. For them in particular, the future may be grim.

In such circumstances there is an inevitable tendency to regard a collapse as unavoidable. Superficial comparisons are drawn with experience in countries such as Kenya, Malaya, Vietnam, Angola and Mocambique to persuade one of the inevitability of military defeat. This disregards what actually led to a change of government in those countries—such as British policy to divert itself of colonies, a decision made long before the first postwar insurgency began. It also disregards the actual course of wars and how they were actually terminated, in favour of more subjectively acceptable interpretations.[3]

This results not only in unwarranted pessimism on one side but in injustifiable over-optimism on the other, and over-optimism that has led many a young Rhodesian black to a premature grave. (Table 1). Losses in action have been very heavy especially on the eastern border. This has been offset by the large numbers who are either willingly or forcibly recruited to take up arms and of course, by the seemingly unlimited resources available to them.

However long the war may continue there seems little evidence at present to suggest that the outcome will be settled to the satisfaction of the insurgents by the kind of military action being undertaken at present. To launch a campaign which can make a significant impact on the Rhodesian security forces will require a force of considerable quality.

[3] See for examples, Bell, J. B. *The Myth of the Guerrilla*, Knopf, New York, 1971.

Casualties in the Rhodesian war

	December 1972 to November 1976	January to December 1976	December 1972 to March 25, 1977
Guerillas:			
Killed	1,916	±1,500	2,118
Captured			520
Blacks killed helping gangs	126	—	—
Blacks killed breaking curfew	133	—	—
Rhodesian Security Forces: Killed	198	±130	213
White civilians killed	59	±40	—
Black civilians*:			
Killed	1,005	±600	1,053
Injured	1,338	—	1,424

Notes:

1. All kinds of injuries and causes of death related to the war, including battle, accident and terrorism.

2. Figures derived from various sources. Exact details as to figures for particular times require checking.

*Black civilians attacked by terrorist gangs, mine incidents, etc.●

CONGRESS SHOULD ENACT CONSTITUTIONAL AMENDMENT MANDATING A BALANCED BUDGET

HON. MICHAEL T. BLOUIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. BLOUIN. Mr. Speaker, I would like to call to the attention of the House that today I have filed a discharge petition for House Journal Resolution 468, a proposed constitutional amendment mandating a balanced budget by 1980 and repayment of the national debt over the next 20 years. This has been designated as Discharge Petition No. 11.

As we are all aware, three separate amendments were offered and defeated during the consideration of the second concurrent budget resolution which would have significantly reduced this year's projected deficit. While I did not support two of these particular amendments, I did support the amendment offered by Congressman FISHER of Virginia which would have reduced budget authority and outlays by $5 billion each respectively, thus reducing the projected deficit to $35 billion the same deficit figure offered as part of the Holt amendment without the corresponding excessive tax cuts that accompanied this proposal. Unfortunately, and to my surprise, the Fisher amendment failed by a larger note than the two previously offered amendments.

Based on the House's recent action, it now appears obvious that collectively the Congress appears unwilling to even modestly reduce Federal expenditures. given this fact, I believe that it is time to show the American public that their interests, and not that of "special interests" are protected from irresponsible spending.

The people of Iowa, as well as the people of this country, are well within their rights to expect that the Federal Government operate within the amount that is taken in annually in revenues.

In fact, in a questionnaire that I recently sent to my constituents on the subject of Federal spending, of the literally thousands that responded, the overwhelming consensus was that a balanced budget was the number one priority.

It is for this reason that I trust that the Members of the House will demonstrate their desire to begin consideration of this matter by joining me in signing Discharge Petition No. 11, which will provide for a balanced budget by 1980.●

MIDDLE EAST OIL SUPPLIES

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. SIKES. Mr. Speaker, I am concerned that continued U.S. delays in military and economic assistance to Somalia and North Yemen could seriously threaten assured access to oil for the West and undermine Saudi Arabian efforts for peace and stability in the Middle East.

It was my privilege, in this connection, during the August congressional recess, to hold lengthy conversations with officials in Saudi Arabia and North Yemen. Included were Crown Prince Fahd, Deputy Prime Minister; Prince Sultan, Minister of Defense and Aviation; Prince Saud, Minister of Foreign Affairs, all from Saudi Arabia; and President Salih, Foreign Minister Al-Asnaj, Deputy Prime Minister for Economic and Financial Affairs, and Acting Prime Minister Junayd, Deputy Prime Minister Al-Kibse, Vice President and Chairman of the Peoples Constituent Assembly Al-Arashi from North Yemen.

There are many who hold strongly to the view that failure of the U.S. Government to move swiftly when overtures were made to the United States by South Yemen may have contributed to the assassination of the President and the rapid consolidation by the Russians of their hold on that country. An estimated 500 to 700 Cubans have been positioned at the important port of Aden and in the surrounding area. Another port development reputedly under development near Oman will further strengthen Russia's ability to threaten shipments of oil essential to the West and supplies necessary to the Middle East. Oman also is a target for Russian incursion.

The reconquest of Eritrea with Russian arms and Cuban support can be expected to open the Port of Massawa, giving the Russians the ability to dominate shipping both from the Persian Gulf and the Red Sea to the Indian Ocean and the Sues Canal. The Port of Aden already largely compensates the Russians for the loss of Berbera in Somalia.

The North Yemenese are very apprehensive about an invasion by their southern neighbor. Heretofore, North Yemen has accepted Russian arms and advisors. They see a continuation of this policy to be an acceptance of Communist control. They now seek United States support and alliance with Saudi Arabia. The Saudis realize the threat of continuing Communist encroachment as a very real danger which would leave Western oriented, anti-Communist powers encircled by Russian guns.

I must state regretfully that at present the United States is still following a policy of too little and too late. The nations which oppose communism are afraid to depend upon us. A promise of weapons to Somalia at the time that nation expelled the Russians from the strategic port of Berbera on the Horn of Africa—equally as important as Aden—still has not been kept. A year ago President Siad Barre of Somalia told me the Russians planned a force of 15,000 Cubans in Ethiopia for their conquest of Ogaden. The State Department insisted the number would be nearer 500. The actual number was 17,000. The Government of Somalia is now threatened from within because of U.S. dealliance. We simply cannot play games and maintain a posture of significance worldwide.

At the beginning of the August recess, I participated in the United Nations Conference Committee on Disarmament in Geneva, met with SALT officials there, attended military briefings in Ramstein, Germany, and NATO briefings in Brussels. Then flew to Baghdad in Iraq for discussions of that nation's hard line policies toward the West and the United States in particular.

I found that Iraq, which is now one of the world's major oil producers, is pursuing a policy of internal development which can open some trade doors to the United States, but there is no indication of a change in their hard line official attitude. The Iraqis blame the United States for the Arab problem with Israel. Iraq still poses a threat to the continued existence and security of Kuwait. They have never relinquished their claim for Kuwaite territory. Since Iraq also borders on Saudi Arabia, their militant stand causes apprehension in that country also.●

HUMAN RIGHTS AND INTERNATIONAL FINANCIAL INSTITUTIONS

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. HARKIN. Mr. Speaker, in September 1977, the House of Representatives rejected the International Financial Institutions Act of 1977 because it failed to contain strong human rights language. Immediately following this rejection, the House adopted the same conference report except that the human rights language originally adopted by the House was reinstated.

Now that a year has passed since this crucial vote, time has come to assess the effectiveness of the human rights language. The following memo done by Jim Morell of the Center for International Policy for Senator MARK HATFIELD does just that. I think the record clearly shows that the House's decision to maintain its firm human rights position was correct.

Soon the House may be faced with the same situation in regard to another multilateral funding mechanism. It is very likely that the conference report establishing the supplementary financing facility of the International Monetary Fund will not contain any language referring to human rights or human needs. In the last few years our U.S. foreign policy has come a long way in recognizing the plight of the poor and the oppressed. If we authorize an expenditure of more than $1.8 billion through an international funding institution in which our U.S. representative does not have to acknowledge these valid policy concerns, we will be taking a giant leap backwards. I do not think Congress or the American people want this to occur.

I include the following:

A HUMAN RIGHTS SUCCESS STORY: THE HARKIN AMENDMENT ON THE INTERNATIONAL BANKS

A memo from Jim Morrell, Associate, Center for International Policy to Jack Robertson of Sen. Mark Hatfield's office.

The Harkin amendment on the international banks has been perhaps the most successful of all the human-rights amendments passed by Congress since 1974. The amendment, Section 701 of the International Financial Institutions Act of 1977 (PL 95–118), passed by the House April 6, 1977 and signed into law October 3, 1977, has stimulated the Carter administration to take more specific actions to advance human rights through aid policy than any of the similar amendments governing U.S. military aid, Agency for International Development programs, PL–480 loans, or Export-Import Bank financing authorizations. Since enactment of this amendment and its predecessor legislation, Section 28 of the Inter-American Development Bank Act, approved May 31, 1976, the Carter administration has voted "no" on 11 loans and abstained on 21 loans to human-rights violators, and the Ford administration voted "no" on one loan. (See Table 1).

TABLE 1.—U.S. HUMAN RIGHTS POLICY ACTIONS IN THE IFI'S

Country	Action	Date	Institution	Project
(A) DURING CARTER ADMINISTRATION				
Argentina	Abstention	June 16, 1977	IBRD	Industrial credit.
Do	do	do	IFC	Soybean processing.
Do	No vote	Oct. 27, 1977	IDB	Gas pipeline.
Do	do	Dec. 1, 1977	IDB	Cellulosel.
Do	do	Dec. 8, 1977	IDB	Petrochemical.
Do	Abstention	Feb. 21, 1978	IBRD	Grain storage.
Do	do	Mar. 14, 1978	IFC	Juan Minetti, South America.
Do	do	Apr. 25, 1978	IFC	Massuh, South America.
Do	do	May 9, 1978	IBRD	Agricultural credit.
Do	do	May 30, 1978	IFC	IPAKO polyethyline.
Benin	do	May 26, 1977	IDA	Roads.
Do	do	do	IDA	Regional development technical assistance.
CAE	do	Oct. 20, 1977	AfDF	Education.
Chile	No vote	Dec. 8, 1977	IDB	Roads.
Do	do	Mar. 2, 1978	IDB	Rural public health.
El Salvador	Abstention	May 18, 1978	IBRD	Telecommunications.
Ethiopia	Abstention	May 10, 1977	IDA	Irrigation.
Do	do	do	IDA	Roads.
Do.[1]	do	Apr. 4, 1978	IDA	Grain marketing and storage.
Guinea	do	Nov. 23, 1977	AfDF	Kenaf production.
Korea	do	Oct. 31, 1977	ADB	Asan Bay power.
Do	do	Dec. 22, 1977	ADB	Mineral resources.
Paraguay	No vote	Mar. 7, 1978	IBRD	Highways V.
Do	do	Mar. 23, 1978	IDB	Trans-Chaco Road.
Do	do	May 25, 1978	IDB	ANDE electrical transmission.
Philippines	Abstention	Nov. 29, 1977	ADB	Development bank.
Do	do	Dec. 9, 1977	ADB	Hydropower.
Do	do	Apr. 25, 1978	IBRD	PISO Development Bank.
Do	do	May 18, 1978	IBRD	Industrial credit III.
Uruguay	No vote	Dec. 21, 1977	IDB	Paso Severino water supply.
Do	do	do	IDB	Coastal roads.
Yemen, PDR	do	Feb. 14, 1978	IDA	Wadi Tuban agriculture.
(B) DURING FORD ADMINISTRATION				
Chile	do	June 1976	IDB	Industrial credit.

[1] Abstention took into consideration concerns with expropriation as well as the human rights situation.

While these policy actions within the international financial institutions (IFIs) certainly reflect the Carter administration's own commitment to advancing human rights abroad, the passage of the Harkin amendment has also considerably strengthened the hand of human-rights advocates within an administration that is grievously divided on this issue. For although President Carter, Secretary of State Vance and Deputy Secretary Warren Christopher have all exerted pressure from the top for advancing human rights through our aid decisions, the majority of the State and Treasury Departments at the outset opposed this policy and it is still unpopular within the administration. As a result, human-rights advocates find themselves badly outnumbered within this administration. The existence of legal instructions and a definite Congressional mandate have made a clear difference.

Althouogh it is impossible to establish a direct cause-and-effect relationship between U.S. human-rights policy actions in the IFIs pursuant to the Harkin amendment and specific improvements in human-rights performance abroad, U.S. actions in the IFIs encouraged progress in four key countries:

TABLE 2

Human Rights Progress Encouraged by Harkin Amendment in IFIs

Argentina.—The right of option and release of names of 10 prisoners, and some releases since January 1978.

The Philippines.—Some prisoner releases, especially the prompt release of the 600 picked up after the elections.

Chile.— Some changes and a conditional easing of repression.

South Korea.—Releases in December 1977–January 1978 followed adverse U.S. votes in Asian Development Bank; these votes did register and influence Korean government decision.

Despite limited improvements as noted above, the State Department and non-governmental organizations continue to find serious human-rights problems persisting in these four countries. A further difficulty in precisely gauging the effect of U.S. policy actions in the IFIs under the Harkin amendment is the fact that other purely bilateral aid sanctions have also contributed to U.S. pressure for human rights improvements. In the case of Argentina and Chile, U.S. military aid has been discontinued (except for deliveries under prior-year agreements); in Chile, bilateral economic assistance has been cut to $6 million in FY 1979; and in the cases of the Philippines and South Korea, PL–480 Title I aid was temporarily deferred. Nevertheless, in coordination with these bilateral actions, U.S. action in the IFIs have exerted definite pressure for human-rights improvements.

Apart from the specific improvements cited in Table 2, the Harkin amendment has had three other beneficial effects. It has extended our policy to an arena, the international banks, that involves substantially larger flows of resources than bilateral aid, thus increasing the leverage for improvements; it has provided opportunities for internationalizing U.S. human-rights concerns; and it has focused attention, both in the U.S. government and in the international banks, on determining who are the beneficiaries of economic aid projects and whether they serve basic human needs.

Extending policy to cover larger resource flows.—Since early 1977, an inter-agency committee chaired by Deputy Secretary Christopher has met to review upcoming AID, PL–480 and international bank loans using human-rights criteria. Usually the international bank loans in question are many times larger than bilateral U.S. economic assistance programs. In FY 1977, for example, South Korea received $77.4 million in direct U.S. economic assistance, and $155 million in military aid (military aid is not reviewed for human rights by the Christopher committee but by the Arms Export Control Board) for a total of $232.4 million in U.S. bilateral assistance programs, while receiving $545.8 million from the international banks. The Philippines received $124.9 million in direct U.S. assistance and $474.8 million from the international banks. The figures for Indonesia were $175 million in direct U.S. assistance and $540.6 million from the banks.

In one other important area as well, the Harkin amendment on the IFI's extends the

scope of U.S. policy actions. Human-rights amendments on both bilateral and multilateral aid require U.S. opposition to loans unless they serve basic human needs. Today AID claims all its programs serve such needs (note: The Center for International Policy estimates that some 62 per cent of AID programs meet this standard), and thus automatically qualify for the exemption. But the majority of international bank projects coming before the Christopher committee are directed toward industry, infrastructure and balance-of-payments functions that clearly fall short of the basic human needs criteria. (Note: The Center for International Policy considers 55 percent of the World Bank's $9 billion FY 1979 lending program as directed toward industry, infrastructure or balance-of-payments functions rather than basic human needs.) The Christopher committee has followed a consistent policy of recommending U.S. "no" votes or abstentions on non-basic human needs projects in countries with serious human-rights problems and of the 32 loans the United States opposed by "no" votes or abstentions, all but four fell in the non-basic needs category.

Internationalizing U.S. human-rights concerns.—Once the Christopher committee has decided on a "no" vote or abstention on an upcoming IFI loan, the U.S. executive director and other U.S. officials consult with the other major donor members of the bank seeking to coordinate policy. In a number of instances the United States has induced other countries to follow its example. Here, the Harkin amendment has stimulated the United States to take the lead in advancing human rights—a clear advance from the previous situation when the major European countries in the World Bank opposed loans to Chile while the Ford administration continued to vote for them. Deputy Secretary Christopher earlier this year led a mission to Europe to explore a common human-rights policy with our major allies. Recipient countries who once denounced human rights as a unilateral U.S. crusade (despite the fact they are all signatories to the U.N. Universal Declaration of Human Rights, from which the phraseology of the Harkin amendment in derived) now increasingly face a coordinated front of donor countries.

During the first six months of application of the policy, the Treasury Department was apprehensive of politicization of the banks, but in recent months Treasury has taken a more relaxed view as human rights have been pursued with no visible ill effect on the functioning of the banks. The banks have not crumbled, and in recent inter-agency meeting Treasury has refrained from raising the politicization issue.

Focusing on basic human needs.—The Harkin amendment requires the United States to oppose any loan to human-rights violating countries unless it serves basic human needs. As already discussed, the administration has acted in the spirit of this legislation in the IFI votes. For each of the over 300 separate bilateral and multilateral aid agreements that the Christopher committee each month reviews for human-rights problems, a detailed one-page description of the project is prepared. The description includes a very careful review of the beneficiaries of the project. If a gray area arises, Christopher asks AID or Treasury and the bank in question to submit a more detailed description of the beneficiaries. This detailed and quite conscientiously applied review process, by clearly the basic human needs exemption, greatly increases the incentive for the banks and recipient countries to fashion projects to directly benefit the needy—a predictable although perhaps unintended consequence of the Harkin amendment.

The intensive review process and wide variety of actions taken by the Christopher committee illustrate another advantage of the Harkin amendment—its flexibility. In the spring of 1977, administration spokesmen somewhat melodramatically warned that the Harkin amendment would "tie the administration's hands." In opposition to this alarmist view, the Center for International Policy testified to the House Banking Committee in March 1977:

The broad areas of determination are, first, whether a loan directly benefits the neediest, which is an area where the administration has considerable flexibility; second, whether a country qualifies as a gross and consistent violator of human rights.

It is our feeling, in terms of human rights violations, that most countries in the world violate human rights on some scale or another. However, the language of the Harkin amendment is such that a country would have to work overtime in order to qualify as a consistent and gross violator of human rights.

This also gives the administration certain flexibility when these loans come before the banks. Consideration of the loans is a rather long process, sometimes taking years and always many months.

During this period the administration can work with both the bank officials and with authorities in the country in question and remind and prod the authorities in the country in question to improve their human rights record. It is thus left to the administration to determine whether or not release of a certain number of prisoners and an improvement in the human rights situation has in fact been made. This allows considerable flexibility, so certainly the Harkin language is not a straitjacket.

Eight months after passage of this legislation, it is clear that the administration has had wide latitude under the Harkin amendment to implement concrete policies, and no one today in the State Department contends the amendment ties their hands. The administration has retained full discretion to define a human rights violator simply by refraining from officially identifying any country as engaging in "a consistent pattern of gross violations of internationally recognized human rights", the language in the legislation; instead it has identified countries with "serious human rights problems," thus avoiding formally invoking the Harkin amendment. Likewise, in determining what projects serve basic human needs, it has retained freedom of action. The administration has acted within the spirit of the Harkin amendment on the IFIs; policy and legislative intent are in accord.

Overall, the Harkin amendment in the IFI's has done much to add substance and integrity to U.S. human rights policy, although much more remains to be done. The legislation backs up with action the President's recent warning at the Organization of American States conference that repressive regimes should know the price of their inhuman conduct: the forfeiting of U.S. and international cooperation, including financial cooperation. Pragmatically, the Harkin amendment and U.S. policy actions in the IFIs stimulated by it play a key role, for a violating government may calculate it can survive a deterioration of political relations with the United States. It can ignore cuts in small bilateral programs, and it can continue to obtain private bank loans. But any third-world government must think twice before jeopardizing the large amounts flowing through the international banks. The international banks are therefore the only remaining arena of effective U.S. government leverage for human-rights improvements in many countries. Many violating governments initially considered that President Carter's words were meant for domestic consumption. The Harkin amendment and U.S. policy actions show that the message is intended precisely for them.●

TAXPAYERS AND GOVERNMENT INVOLVEMENT

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. DERWINSKI. Mr. Speaker, at a time when tax reform legislation, budget appropriations, as well as economic proposals effecting Federal, State, and local governments, are major items facing us, I wish to direct to the Members an editorial appearing in one of the newspapers serving my district, the Des Plaines Valley News, by the distinguished editor of that publication, Harry "Scoop" Sklenar. The editorial, which follows, depicts the grassroots viewpoint of the taxpayer about Government involvement:

BOTH WAYS IMPOSSIBLE—

Both organized political parties are currently circulating petitions asking for a limitation on taxes. The U.S. Congress has recently approved a tax cut plan.

Taxpayer groups in many areas are revolting against state and local tax levies. With November elections rapidly approaching, many candidates have adopted a cut-taxes campaign.

The trouble is that there are citizen groups, there are social service organizations, school officials, village and city authorities standing in line asking for either a state or federal grant at the same time.

Summit village learned last week that slow reimbursements caused a financial problem in that a sum of $50,000 had to be borrowed to pay CEDA workers since the village must wait 30 to 60 days to be repaid for salaries expended.

Now this happens in practically every grant provided. Ask your school boards. The school board depends on its state aid for a portion of its budget. The state aid sum at times is cut without notice, or other state funding is reduced. Thus the anticipated dollars fail to meet expectations. All social service agencies securing grants have a similar problem.

What must be learned is that a taxpayer cannot expect to have a tax cut and then expect to secure a money grant at the same time.

There seems to be a growing dependency on federal funding. Each village now is alloted a share of the income tax. Each village secures a share of the revenue sharing funding. Each village secures a share of their village sales tax. Right?

Now what's wrong about securing grants? Note that the threat of withholding federal grants or state grants has been increasingly used to secure compliance with regulations, creating a significant loss of local control and greater centralization of governmental power.

The bureaucrats say, you either do this or that or else the requested aid grant will be denied.

Secondly, that grant funding is taken from your taxes in some form or another, or in borrowing funds at an interest rate from banks.

In 1950 the federal aid to state and local governments was $6.5 billion, while in 1979, the figure is estimated at $85 billion. Then you are worrying about inflation!

Note that the value of the American dollar

dropped sharply during the past year or two. Prices are rising rapidly each month, creating a situation where workers ask pay increases to meet their cost of living, since they find they are buying less and less with the money they have been earning.

Now, a situation arose in Germany during World War II, where the money was so abundant that it almost took a wheelbarrow full to buy a postage stamp. In the United States, the stamp cost went from 3 cents to 15 cents. Gasoline is now nearing 75 cents a gallon with taxes at the state level, at the federal level, and RTA level in that sum.

Note that local property taxes are increasing annually. Note that your federal social security tax is increasing annually. Note that industries are being forced to build plants in Mexico, Canada, Ireland, and elsewhere, simply because the payroll taxes, the federal and state taxes, as well as the regulations, are becoming an increasing burden.

When you buy an article do you examine the country of manufacture? Look over those clothing racks today, and count how many articles are made elsewhere, rather than in the United States. Note the number of foreign autos on the streets. Note that recently another watch firm moved to Switzerland and an auto industry moved to Canada, and another to Ireland.

This week, two groups in Congress are battling over establishing a new hospitalization plan. Now, just who do you suppose is to fund either of the plans? Your taxes and mine, that's who.

The idea that on one hand one can secure a tax cut, and on the other hand secure a new service, without any more taxes added should be discarded, or else face increasing bureaucratic control over your life, from cradle to the grave.●

ONE HUNDREDTH ANNIVERSARY OF THE PENNS GROVE RECORD

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. HUGHES. Mr. Speaker, I would like to take this opportunity to offer my heartiest congratulations to the Penns Grove Record on the occasion of its 100th anniversary as a weekly newspaper in Penns Grove, N.J.

Penns Grove, N.J., is my hometown, so I am especially delighted to have the opportunity to call to my colleagues' attention the fact that this small town newspaper has been publishing the news each week for the last century. The Record, in the great tradition of American small town papers, provides a spark that keeps the local residents of Penns Grove informed and aware of local activities and events. It has an outstanding history of service to the local community. For many residents of Penns Grove, the Record's weekly publication each Wednesday is a real high point.

So today, Mr. Speaker, I salute the Penns Grove Record and send my sincere congratulations and best wishes for its continuing success in meeting the community's informational needs.●

WILL MR. CARTER NOW TAKE HEED?

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. ARCHER. Mr. Speaker, I would like to share with my colleagues in the House of Representatives the following disturbing article which appeared in the August 7 edition of the Daily Telegraph in London, England.

If there ever was any doubt in the minds of any in this Chamber that the lapses of judgment which have so characterized this administration are having a major negative impact on our Nation's image abroad, this article should be most educational.

Mr. Carter should indeed take heed. The editorial follows:

CARTER DRUG SCANDAL IS NOT OVER

(By Robert Moss)

It is little more than a fort-night since Dr. Peter Bourne, President Carter's English-born adviser on drug abuse, was obliged to resign in the midst of dramatic allegations that he had supplied narcotics to an attractive assistant under a false name and sniffed cocaine at a Washington party.

Yet the scandal seems all but forgotten. Many were astonished to find that, after all that it suffered through Watergate, the American presidency could still be subjected to new indignities.

Who, before the Bourne affair, would have presumed to ask the President in front of the television cameras whether he himself had been supplied with drugs?

All the same, there seems to be widespread readiness to accept that Dr. Bourne's use of drugs, like Mr. Hamilton Jordan's table manners, is just one more case of the frivolity of the Carter entourage, something we might as well grin and bear.

I believe that it would be as mistaken to dismiss the Bourne affair as a casual peccadillo as to shrug off Mr. Andrew Young's pronouncements on the state of the world as slips of the tongue—rather than calculated attempts to undermine the chances of an effectively anti-Soviet-American foreign policy.

BIG QUESTIONS

We have barely begun to scratch the surface of the Bourne affair, and it will be interesting to see how deep America's much-vaunted new breed of "investigative reporters" will care to dig. There are two very big questions to be answered:

(1) How did Dr. Bourne, with his long record as a radical activist on political issues, as well as the drug question, become a trusted adviser of the President, with wide-ranging responsibilities in the White House?

(2) How far have other radicals—many of them associated with the Institute for Policy Studies (IPS)—succeeded in penetrating the Carter Administration?

Dr. Bourne's role as health adviser gave him a say in the selection of American doctors for foreign leaders who requested medical help. He also had broader duties—for example, a watching brief over international organisations that made him a regular visitor to Geneva.

It has also been alleged that he acted informally as the President's personal consultant since before his election as Governor of Georgia.

Dr. Bourne's position of influence—prior to the scandal—is the more remarkable given his earlier political career. He was a leading light in a radical organisation called Vietnam Veterans Against the War (VVAW), some of whose members led violent demonstrations at the Republican National Convention in Miami in 1972.

MARIJUANA CAMPAIGN

His involvement in the campaign to "decriminalise" marijuana was well known.

Less known and more intriguing was his role as a trustee of an outfit called the Institute for Southern Studies (ISS), founded in Atlanta, Georgia, in March, 1970, as a direct subsidiary of IPS in Washington.

One of Dr. Bourne's fellow trustees was Mr. Marcus Raskin, co-director of IPS, who has recently been a moving figure in the anti-intelligence campaign (and in a group providing legal support for the Socialist Workers Party (US) campaign to expose FBI informants).

According to ISS literature, its staff consisted of "active participants in the struggles of the sixties"—in other words, the radical anti-Vietnam student movements.

Atlanta's first radical think-tank declared its resolve to collect embarrassing data on private corporations in order to break their "colonial domination" of the southern states. The ISS has been notably active in campaigning against local defence projects.

One wonders how many of the people who voted for Mr. Carter in Georgia in 1976 were aware of the existence of this institute, let alone the involvement of Dr. Bourne, described in Carter's campaign material as a "long-term personal friend and adviser."

The link with IPS is striking. The Institute for Policy Studies had been described as the "link between the revolutionary and the respectable Left" in Washington.

It is dedicated to (a) promoting a socialist economic system; (b) encouraging unilateral disarmament; (c) the disruption and ultimate disbanding of the intelligence services in their present form; and (d) support for radical governments and guerrilla movements in the Third World.

In a society as visoerally conservative as the United States, it is strange that an organisation with these objectives can lay claim to any degree of influence within the Administration. Yet Dr. Bourne is not the only IPS associate who achieved a significant post under President Carter.

Founded in 1963, IPS now occupies a small, five-story building at 1901 'Q' Street in Washington. It is not short of funds, which mostly come from private foundations.

Between 1970 and 1976 alone, five foundations provided a total of about $8 million for IPS and its offshoots. The largest contributor was the Samuel Rubin Foundation, set up by the retired chairman of the Faberge Corporation, whose son-in-law, Peter Weiss, is chairman of the Board of IPS.

The Rubin foundation contributed heavily to the Transnational Institute, IPS's Amsterdam-based subsidiary, which has provided research grants for people like Tariq Ali, and is deeply involved in the campaign against the multinational companies.

Through seminars, conferences and study groups, the IPS has succeeded over the years in building an impressive range of contacts among congressional staffers and the media. In 1976, IPS was requested by 47 Left-wing Democrat Congressmen to prepare a critical analysis of the federal budget.

It has since prepared "alternative budgets" and even an "alternative defence budget," focusing on ways to bring about unilateral American disarmament, that have influenced congressional debates.

A current IPS project is to encourage government employees, especially intelligence officers, to become "whistleblowers" and to leak official secrets.

IPS has even created a special "whistleblowers hotline," answered by Institute staffers, for the convenience of government employees who want to pass on classified information.

With the advent of the Carter Administration, some of the friends that the IPS organisers had made in previous years moved into offices in the federal government. The radical influx was particularly obvious in government agencies like ACTION, which controls the Peace Corps and other voluntary programmes.

Mary E. King, Dr. Bourne's wife, is deputy director of ACTION. Her boss, Mr. Sam Brown, had been involved in an IPS project called the National Conference on Alternative State and Local Public Policies (NCASLPP), and attended its conference in Denver last year.

Literature put out by this body with a long-winded title declares that it exists to bring together those who "share a radical or populist outlook" and also to build contacts with local government officials in Cuba.

Both Mr. Brown and the head of ACTION'S adult education programme, Marge Tabankir, were leading anti-Vietnam war activists who have given public support to Hanoi.

IMPRESSIVE LIST

IPS assocates pop up in more surprising areas of the Carter Administration. Mr. Sidney Harman, the Under Secretary of Commerce, is a former IPS trustee. Mr. Robert Pastor, a Latin American specialist on the National Security Council, who is reported to have asked the CIA to draw up a plan for toppling the Pinchet regime in Chile, had long been associated with Latin American projects supported by IPS.

The lists of IPS fellows contain an impressive number of people with government posts.

Since leading figures in IPS have aggressively supported Vietnam, Cuba, the Palestine Liberation Organizations and the Rhodesian terrorists and have drawn Marxist groups into a widening network, the links of a government official with the Institute may be a cause of legitimate concern.

The Bourne episode, and the evidence of radical penetration of the lower echelons of the Carter Administration should focus attention on the recent testimony of Mr. Alan K. Campbell, the Chairman of the U.S. Civil Service Commission, to the Senate Committee of the Judiciary.

Mr. Campbell testified that mere membership of an extremist, violence-prone organization—including the Communist party, the Ku Klux Klan, and the Nazi party—is no longer a bar to federal employment in the United States.

The Civil Service Commission, responsible for vetting would-be government employees, is not even allowed to question them on their membership, past or present, of such organisations unless they are known to have committed an overt criminal act.

The Chairman of the Senate Committee concluded that "we do not have a federal employee security programme worthy of the name."

Will Mr. Carter now take heed? ●

FIFTIETH ANNIVERSARY COMMENDATION TO COLMA BRANCH 19 OF THE ITALIAN CATHOLIC FEDERATION

HON. LEO J. RYAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. RYAN. Mr. Speaker, on September 30, Colma Branch 19 of the Italian Catholic Federation will celebrate the 50th anniversary of its founding. This branch, located in the 11th Congressional District of California which I have the honor to represent, was founded in 1928 at Holy Angels Church in Colma, Calif.

I would like to take this opportunity not only to acquaint my colleagues with the Colma Branch but also to commend the branch for its 50 years of outstanding community service. This organization is devoted to the purpose of upholding and developing a religious spirit among its members and to spreading that spirit among the people of Italian descent outside the organization. The federation also strives through its many and varied charitable and apostolic activities to assist effectively in enriching the lives of all citizens of its community. By all indications, the Colma Branch and its members have fully lived up to the goals of the organization. They are actively involved in providing assistance to the elderly in the local convalescent hospitals and in contributing donations to needy persons and for community activities. In addition, they sponsor the annual baccalaureate mass and graduation breakfast for Jefferson High School, sponsor scholarship grants, and promote youth activities in the community.

The anniversary celebration itself will be a twofold event. The anniversary dinner will be held on Saturday, September 23, at the Villa Hotel in San Mateo. A concelebrated mass will be held at Holy Angels Church on Sunday, October 1. The mass will be concelebrated by the pastors of the churches in Daly City, present and past branch chaplains, and the pastors and chaplains from the churches in San Mateo County where the federation is located.

I extend my very best wishes to the Colma Branch of the Italian Catholic Federation on its 50th anniversary, while also thanking its members for the active interest they have displayed in their community. If more people were as devoted to their fellow beings as the members of this organization are, it would make the job of any elected official much easier. I look forward to working with the Colma Branch as it begins its sixth decade of service to its church and to its community.●

NOISY AIRCRAFT BILL: THE AIRLINES' SCHEME TO RAID $3 BILLION FROM THE TREASURY

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. VANIK. Mr. Speaker, title III of the Airport and Aircraft Noise Reduction Act, the so-called Noisy Aircraft Revenue and Credit Act, provides a $3 billion gift to the airlines for the purchase of new aircraft and engines. In a column entitled "'Clever Scheme' To Pay for Quieter Planes," Hobart Rowen of the Washington Post, on August 17, attacked the noisy aircraft bill as an airline scheme to rip off the American taxpayer to pay for the airlines' cost of complying with environmental standards. The column follows:

CLEVER SCHEME TO PAY FOR QUIETER PLANES

(By Hobart Rowen)

If the airlines have their way, every time you buy a ticket for a flight in this country, 25 percent of the taxes you pay would go directly to them to buy $3.3 billion worth of new aircraft and equipment. And every time you go abroad, $10 would go from your pocket to the airlines' treasuries—it wouldn't even go first to Uncle Sam—to finance their new equipment.

This rip-off is part of a clever scheme concocted by the airlines to have the public pay for the less noisy planes they are supposed to acquire. It is a lovely make-work project for the aircraft manufacturers. And among the more interesting aspects is that airline fares could be reduced by the amount of this bonanza to the industry if administration officials and congressional leaders have the guts to oppose the scheme.

Wage-price watchdog Barry Bosworth wrote a private internal memorandum to the Office of Management and Budget on Sept. 18, 1977, exposing the plan. But he has not been allowed to go public with it. The details of the proposed "Treasury raid" were first publicized by Rep. Gene Snyder (R-Ky.).

Here's what has happened: The airlines now collect, to pay for air-safety measures, an 8 percent tax on domestic tickets, 5 percent on domestic air freight, and a fixed $3 fee on each foreign departure.

Those monies go into a trust fund financing airport safety measures, including the salaries of personnel and the detection equipment used in the pre-boarding routines. But the money collected is said to be more than needed, suggesting that the 8 percent tax ought to be lowered to about 6 percent and the other charges accordingly. Wouldn't a 25 percent reduction in airline taxes be a nice anti-inflationary gesture?

But no. The airlines, required by a 1976 Federal Aviation Administration regulation to use less noisy aircraft after 1984, saw an opportunity to make the public pick up the check. Instead of lowering the tax bill by about $3.3 billion, the airlines' lobby has had two measures (H.R. 8729 and H.R. 11986) introduced in Congress.

They would divert 2 points of the 8 percent passenger tax (25 percent) and 2 points of the 5 percent freight charge (that's 40 percent) into a kitty to finance new planes. The $3 departure tax would be upped to $10, with all of it going to the airlines. And a brand-new 5 percent surcharge would be placed on international cargo—all going to the carriers.

So far, these measures appear to be moving with little opposition through the House Public Works and Ways and Means committees.

In 1976, the FAA estimated that the airlines could modify their planes to conform to anti-noise requirements for a total cost of $950 million. "Retro-fitting" a Boeing 727 by installing sound-absorbent material costs only about $225,000. A new plane can run to $12 million.

But if the airlines can squeeze $3.3 billion out of an unsuspecting public, they will have acquired all new equipment, by putting up barely over half of the total cost, estimated at $7 billion. You and I will pay for the rest.

If the airlines get away with this bad precedent, then the public should expect to be the victim—through taxes—of the cost of meeting any environmental standard.

But the devious nature of this particular proposal is extraordinary. The tax is sneaky, because it is already on the books for another purpose. Without publicity, the "raid" would have taken place, and no one would be the wiser.

This gift to the airlines ought to be vigorously contested by the Carter administration.

Instead, it is keeping quiet, in the hopes that it will get some congressional votes as a trade-off for an airline regulation reform bill.

Privately, Carter aides hope to get the House bills weakened in the Senate. But if the White House really wants to control inflation, and be convincing in denials that it has mumbled Bosworth (whose jawboning has offended George Meany), it can do so easily. It can unleash Bosworth and others for an active role in whipping an inexcusable handout to the airline industry at the taxpayers' expense.

These persuasive arguments show that the closed rule for title III must be opposed when the bill reaches the floor early next week. This would permit the House to consider amendments which would reduce the airline passenger tax by 2 percent and deny the airline industry an investment tax credit on the tax gift.

We cannot let the airlines fly away with $3 billion from the Airport and Airway Trust Fund. I urge you to vote against the closed rule on this bill that will raid the U.S. Treasury.●

MRS. "TERRI BLAKE" BLALACH AND NATIONAL GRANDPARENTS DAY

HON CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. WHALEN. Mr. Speaker, on Sunday, September 10, 1978, America celebrates National Grandparents Day. Passed by this body on July 10 and later signed into law by President Carter on July 28, 1978, this resolution has been the special concern of one of my former constituents, Mrs. "Terri Blake" Blalach of Hollywood, Calif.

In 1955 at the corner of Hollywood and Vine Ms. Blake began collecting signatures on a 50-foot scroll for a National Grandmothers Day. Later the grandmothers designation grew to include all grandparents. During the ensuing years, Ms. Blake traveled throughout the country speaking before countless groups on behalf of an official observance of a National Grandparents Day.

Now a great-grandmother, whose 75th birthday coincidentally was also September 10, Terri Blake is living proof that one is never too old to realize one's dreams. At age 50 she embarked on a career in movies, followed by parts in such well-known television programs as "Dennis the Menace" and "Highway Patrol." In addition, her book "You Can Do It" has provided inspiration for people faced with impending retirement.

Recently, Mayor Tom Bradley of Los Angeles honored Mrs. Blalach by presenting her with the official Los Angeles proclamation of Grandparents Day. Mr. Speaker, I think it is only fitting that this body similarly recognize her tireless efforts and many years of service on behalf of America's grandparents.●

PLAYING POLITICS WITH U.S. DEFENSE

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. RUDD. Mr. Speaker, I was appalled by refusal of the House today to override President Carter's veto of the defense budget authorization for next year.

Both the President and the Members of Congress who supported his veto are playing cheap power politics with the security and defense of our Nation, in an attempt to help the President's image and make him appear to be a tougher leader.

There was no reason to veto the entire defense program in the first place. If the President was sincerely concerned about the cost of the proposed new nuclear carrier, he could have used his authority to rescind funds for just that one budget item after Congress had appropriated the money—rather than delay and jeopardize our entire defense program, including vital support of NATO, just to help bolster his image.

I think it is a sad day for our country when the defense and security of our people become the victim and the hostage of politicians who are more interested in improving the President's low ratings in the polls.

In my book, this action should only serve to lower those ratings, because statesmanship has been discarded in favor of power politics.

Mr. Speaker, I was proud to vote today with the 191 Members of the House in support of the defense program, and to override the President's veto.

The Wall Street Journal's lead editorial this morning is an excellent factual commentary repudiating the President's position against the defense bill as originally passed by both Houses of Congress—including the new nuclear carrier—and this politically motivated vote to uphold the veto.

The editorial shows that plans, facilities, and construction crews are already primed to build a follow-on *Nimitz*-class nuclear carrier, as soon as the one now under construction is launched.

The design of a new oil-powered conventional carrier is not even complete. The molds and other expensive preconstruction work will have to be done all over again if we scrap the nuclear facilities. The total cost to build and operate a conventional ship will therefore eventually far exceed the cost of another nuclear vessel.

I would like to include this editorial showing the complete lack of basis for the action of the President, and the majority of the House in this matter today, at this point in the RECORD:

ADMIRAL RAFSHOON

"It's not just talk, Congress cut muscle for another layer of fat." So Gerald Rafshoon, Atlanta adman and student of the defense budget, instructs John Stennis, Melvin Price and other greenhorns who don't understand President Carter's veto of the defense procurement bill.

Admiral Rafshoon's military career has been the most meteoric since Gilbert and Sullivan's Ruler of the Queen's Navie, and he should be duly rewarded with the Order of the Cardigan and the title Lord Get Tough for helping to engineer a supposedly image-enhancing veto. But as Congress votes on the move to override, something is shaping up beyond cosmetic politics. If the veto is sustained, it will be largely through the votes of Congress's scrap-the-Pentagon bloc.

Critics of the veto in Congress include not only Armed Services Chairmen Stennis and Price, but Sen. Gary Hart, the chief apostle of a more-but-smaller-ships navy. Some who oppose nuclear carriers don't think the veto was procedurally wise, since it will reignite congressional debate on the bill's compromises and slow all military improvements. The President can count on the support of partisan loyalists like Speaker O'Neill, on votes for sale for dams or breeder reactors, and on the bloc that thinks slowing military improvements is a good thing. But among Congressmen sensitive to the merits of the issue, the administration has lost the debate.

This is scarcely surprising, considering the quality of the argument the administration has been advancing. We have already remarked on how in announcing the veto the President assailed Congress by confusing authorization bills and appropriations bills. He also remarked, "I have not had a single adviser who told me that we ought to go ahead with the nuclear aircraft carrier." We wonder if the President ever met his just-retired Chief of Naval Operations, James Holloway, who publicly testified in favor of another Nimitz-class boat last April.

Then there is the administration's persistent claim that the nuclear carrier would cost $1 billion more than the oil-powered version it wants. Some $268 million has already been spent buying the nuclear components for a new ship, and Congress figures it could finish the job for another $1,930 million. The oil-powered ship is estimated at $1,575 million. The nuclear ship comes with a 13-year fuel supply, worth $330 million in oil at current prices. Treating sunk costs as sunk, and adjusting for fuel included in one purchase price but not the other, the vastly more capable nuclear ship costs only $25 million more.

How this becomes $1 billion was explained in a letter last week from Thomas B. Ross, Assistant Secretary of Defense for Public Affairs (and, in a former incarnation, co-author of "The Invisible Government," one of the first sensationalist assaults on the CIA): The nuclear components will be stored in case one of the present nuclear carriers breaks down, so add the sunk costs back into the nuclear purchase price. Forget fuel costs, because there are also other operating costs. Add in $200 million to put certain equipment contemplated for the conventional ship on the nuclear one as well. When you have done all this, $268 million plus $330 million plus $200 million plus the original $25 million, you get $823 million. Close enough for government work, call it $1 billion.

Now, there have been detailed life-cycle cost studies of the two carriers, most conveniently summarized in Admiral Rickover's April testimony. Including all operating costs and aircraft, the nuclear option costs 1.38 times as much as the conventional one over their respective lifetimes but the nuclear ship provides 1.45 times as many aircraft. Per plane, nuclear is 5% cheaper. And the nuclear ship is faster, freer of a logistical tail, more able to defend itself, and more able to sustain combat damage.

All of these calculations, further, are likely

to be dwarfed by a simple industrial fact. Plans, facilities and construction crews are primed to build a follow-on Nimitz-class boat as soon as the one now under construction is launched. The design of the oil-powered option is not even complete; in the end its estimated $1,575 million cost is altogether likely to work its way above the $1,930 million for the nuclear version.

The administration's contentions are simply unsustainable on the merits, which explains why it chose the essentially unprecedented route of vetoing the whole defense procurement bill. It could have asked for a simple recision without upsetting the rest of the bill, a course it took last year. But to get a recision it needs a majority in both houses, while it can sustain a veto with a third in either. And a third is an easy target because, despite much healing of the Vietnam trauma, there are still a significant number of Congressmen prepared to vote against anything military.

In pursuit of Mr. Rafshoon's "tough" image, the administration is striking an alliance with the antimilitary faction in Congress. Meanwhile, it charges that Sen. Stennis and the rest are soft on defense. By now it should be clear that the electorate wants not cosmetics but a stronger defense, and Congressmen who lend themselves to the administration's trick-mirror maneuver should be called to account in November.●

FAMILIES: CORNERSTONE OF AMERICAN LIFE

HON. HAROLD C. HOLLENBECK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. HOLLENBECK. Mr. Speaker, at a time when many of our institutions are suspect, and are under attack from many directions, it is important that we recognize the importance of many of those institutions. One of the most important of those is the family. It is to recognize the importance of the family in our society that National Family Day is being celebrated on September 17, 1978.

In my own Ninth District of New Jersey, the celebration of National Family Day has been planned and carried out by parents, children, businessmen, workers, men, women, teachers, ministers. They come from all walks of life, from every age group, every religious faith and every political philosophy. They are united by their belief that the family is mortar in the foundation of our Nation.

Mr. Speaker, I share their belief. Although it has been fashionable in some circles to ridicule the idea of close family ties, and to mock the very idea of family love itself, the majority of Americans still know that families are important. They are a safe harbor, a constant source of strength and help. They are where we learn about life, about love, and about ourselves.

By learning how to live in our own family, we can learn how to live in the larger families of which we all are a part—the family of our friends, our fellow Americans, and or fellow men throughout the world.

So, Mr. Speaker, I commend those in my district, as well as those throughout the country who have worked so hard to bring National Family Day the recognition it deserves, and I urge my colleagues to give this day their strong support.●

ASIAN AMERICAN PARTICIPATION IN FHWA APPRENTICESHIP PROGRAMS MUST BE INCREASED

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. MINETA. Mr. Speaker, the recent Supreme Court decision in the Bakke case to uphold the principle of affirmative action stands as testimony to our country's basic commitment to equal opportunity for all Americans. The Court struck down the use of quotas as a method of affirmative action, but chose to preserve affirmative action itself as an effective means of overcoming past discrimination. Although not the sole standard for selection in special school admissions and employment programs, the factors of race and ethnic origin as important criteria for consideration have been sustained.

I believe that we as a nation have a commitment to insure equality of opportunity in all facets of American life, and that affirmative action programs are necessary to fulfill that commitment. Innovative, creative, and fair ways of integrating disadvantaged persons into American life must now be designed and implemented. The Supreme Court's ruling may bring reform of current recruitment and admissions policies, but such reform must render affirmative action programs more sensitive and responsive to the special skills, needs, and talents of all individuals.

I would like to bring to the attention of my colleagues one sector of the construction industry where the needs of a particular ethnic minority apparently are not being met. The Federal Highway Administration of the U.S. Department of Transportation ordered a study to be prepared by Equivest Associates of Pasadena to assess the degree of involvement of Asian Americans in FHWA-sponsored highway construction apprenticeship programs in California. Results of the study indicate that very few Asian Americans are participating in highway construction apprenticeships generally, and few participate in FHWA support services specifically.

Formal apprenticeship training programs in California, as regulated by the State Department of Industrial Relations, Division of Apprenticeship Standards, combine on-the-job training with supplemental classroom instruction over a 4-year period. An individual apprenticeship is arranged by an agreement between the apprentice, the employer, and a Joint Apprenticeship Committee representative.

Concern for the lack of minority participation in apprenticeships led the California Conference on Apprenticeships in 1960 to propose equal opportunity committees to encourage sponsors of apprenticeship programs to devise ways of involving more minority persons. Federal and State regulations followed these early voluntary efforts, and as a result the FHWA established supportive services programs in parts of the State to act as liaisons between apprenticeship programs, potential apprentices, potential contracting companies, labor unions, and consultants from the Division of Apprenticeship Standards. Supportive services programs disseminate information about trade opportunities to eligible young adults in communities. They also prepare applicants for interviews and math and English requirements on qualifying tests for particular trades.

Asian Americans over the past decade have comprised the fastest growing ethnic group in California and, contrary to favorable stereotypes attributed to Asian Americans, poverty, unemployment, and underemployment are substantial problems with Asian-American communities. There is a great need for job training and development in Asian-American communities, particularly for young adults.

Problems are particularly severe for the Indochinese who settled in the United States following the collapse of Indochina in 1975. Of the roughly 130,000 of these recent immigrants, 30,500 have settled in California, and many are still dependent on cash assistance programs.

Currently, there exist three highway supportive services programs in California which provide assistance to minority groups, including Asians, in apprenticeship programs. The study examined these programs to evaluate their effectiveness in reaching out to Asian Americans. Asian-American apprentices were contacted to obtain their input regarding the quality of supportive services programs and their suggestions for change and improvement of such programs. Some conclusions of the study were:

(1) According to the Quarterly Training Reports from the State Department of Transportation, a total of 6 Asian Americans participated in Federal-aid highway construction apprenticeship programs in California between December 1, 1976, and September 30, 1977. While estimated 1977 census data indicate that Asian Americans accounted for 5.4% of California's population, statistics from the State Department of Transportation show that Asian Americans represented only 0.7% of the total apprentices in highway construction training programs.

(2) The low participation of Asian Americans in highway construction work in California has been due to a lack of outreach to Asian communities by apprenticeship programs in general, and by highway supportive services in particular. For example, in Southern California, the Mexican American Opportunity Foundation (MAOF), available to Asian Americans, has provided highway supportive services for the past six years. Yet most Asian American organizations in Southern California are not even aware of the existence of MAOF. Of the 14 Asian American apprentices contacted by the research study, only one was recruited by a highway supportive services program.

(3) There appears to be racial discrimination against Asian Americans within the construction industry generally, including highway construction-related apprenticeship programs. To illustrate this point, it has been documented that out of 11 Asian Americans who passed a test for a specific highway construction trade, many of them with solid educational backgrounds and work experience, not a single Asian trainee was hired by contractors participating in the apprenticeship programs.

Mr. Speaker, I believe more pressure must be brought to bear by government, by individual citizens and groups, and by the manager of recruitment and counseling services to change this state of affairs. The report which I have referred to today makes some specific recommendations for improvement:

(1) Greater communication between administrators of the apprenticeship programs and Asian American community and social service organizations should take place. Potential applicants must get the information they need to participate in FHWA-sponsored programs and supportive services.

(2) Programs to date have been geared toward blacks and Mexican Americans. Existing supportive services groups should be made to increase their sensitivity to the special needs of Asian Americans. Recruiting and counseling staffs should include members who are culturally sensitive to Asian Americans, preferably bilingual individuals who can help non-English speaking immigrants develop a working knowledge of English for qualifying tests of each trade.

(3) Existing State and federal regulations requiring affirmative action plans, goals, and timetables should be actively enforced by the FHWA in the highway construction industry to combat existing discrimination. The needs and characteristics of Asian Americans should be made clear to the industry.

The FHWA should specifically identify which ethnic groups constitute Asian Americans to both the industry and supportive services, in order to help eliminate this misconception that Asians consist only of such well-established groups as Japanese and Chinese. Stereotypes concerning the wealth and self-sufficiency of Asian Americans should be eliminated; there is definitely a large pool of highway construction trade apprentices within the various Asian American communities in both northern and southern California.

Mr. Speaker, the U.S. Department of Transportation recently gave final approval for construction of an 11 mile stretch of freeway in San Jose, Calif., within the 13th Congressional District, which I represent. I hope that this $53 million project will provide the FHWA with an opportunity to make more progress in helping Asian Americans acquire and use skills associated with highway construction.

Americans of Asian descent have made impressive contributions to the social, scientific, economic, cultural, and political development of the United States. Asian American participation in the growth of the farming, mining, and railroad industries of this country has been well documented. I urge the FHWA to adjust its apprenticeship programs to bring more Asian Americans into the highway construction industry. To do any less would be to undermine our basic commitment to equal opportunity for all Americans.●

BALANCE(S) OF POWER SERIES BOOK II (G)—NATIONAL CHARACTER

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, in our consideration of the many factors which bear on the strategic balance between the United States and the Soviet Union, we turn next to an article written about the Soviet national character and making some comparisons with opposing American characteristics.

Different patterns of upbringing, education, national history, and other conditioning lead to behavioral responses and perceptions by a member of a nationality which would be completely unpredictable or misunderstood by a member of the other, if we did not take the time to study these differences.

The author of this selection in the strategic balance is a longtime student of the Soviet Union and Russian ways, Richard E. Pipes. By focusing on the historical experience which has produced today's Soviet elite, Professor Pipes shows why we must expect the Soviet Union to pursue a strategic role of aggression and opportunism. His article, entitled "Why the Russians Act Like Russians," first appeared in Air Force magazine in June 1970.

The article follows:

WHY THE RUSSIANS ACT LIKE RUSSIANS

(By Prof. Richard E. Pipes)

The desire to seek explanation of a country's conduct in its history is a natural and justifiable one, since clearly every nation's outlook and behavior are in some measure influenced by its past experience. But the procedure is always fraught with danger. It is all too easy to fashion an image of another people's national character, to assume that it is eternal and immutable, and from this assumption to draw completely false deductions.

In reality, "national character" is an elusive and transient thing. In the seventeenth and eighteenth centuries, for example, the French were generally regarded as the most aggressive nation on the European continent, whereas the Germans were viewed as impractical dreamers, sovereigns of the "realm of clouds," as Voltaire called them. Then, in the second half of the nineteenth century the roles were neatly reversed, and the Germans, descending from their clouds, turned into a nation of Huns.

The Japanese, who were once thought to have inherited from their samurai ancestors an unquenchable thirst for blood, have recently become a nation of frenetic businessmen, at the same time that the Jews, whose unfitness for warfare had been proverbial, created in Israel a military machine of unsurpassed efficiency. Such examples could be multiplied many times over.

As every historian knows, that which is loosely called "national character" represents the spirit not of an entire nation, but only of that social group which at a given time happens to control the instruments of power and the organs of opinion, and manifests itself only as long as that group enjoys this control. The problem, therefore, is one of identifying the elite and ascertaining its particular experiences, interests, and expectations. Such knowledge is particularly useful in dealing with countries that have authoritative forms of government because there the ruling elite is relatively immune to public pressures.

In considering the elite that rules today's Russia and its possessions, four facts relevant to its conduct of foreign policy demand emphasis—its cultural background, the nature of its claim to authority, its class interests, and its colonial experience. Only when all four of these factors have been taken into account is it possible to understand something of that peculiar mixture of aggressiveness and caution that has distinguished Soviet foreign policy since 1917.

CULTURAL BACKGROUND

The Soviet elite is not the same one that had ruled Russia in the Imperial period—that is, from the accession of Peter the Great in 1689 to the Revolution. The Imperial elite, composed largely of landed and service gentry, was thoroughly Westernized; it considered itself part of Europe and in its majority emulated European models. This class was overthrown in 1917, and replaced by a new elite formed of elements that had never been much exposed to Westernization: the lower bureaucracy, small tradesmen, provincial intelligentsia, clergy, skilled labor, and peasantry. The cultural roots of these groups lay not in the Westernized Russia of Peter and his successors, but in the prePetrine culture of old Moscow, and even beyond it, in Byzantium and the Turkic tribes of the steppe.

In Imperial Russia, the ancestors of the Soviet elite had been kept out of the chambers of power. They always viewed the Western culture of the St. Petersburg court and of its gentry with distaste and suspicion. Though not averse to borrowing Western technology, especially of a military nature, they rejected the spiritual foundations on which this technology had grown. Their whole attitude toward the external world was decisively influenced by the teachings of the Orthodox Church, which more than any other Christian establishment resisted innovation and persecuted heresy. The xenophobia this Orthodox Church inculcated in its flock impressed itself very deeply on the mind of the Russian lower classes; and so did the belief that the Orthodox alone are pure and fit for salvation. This faith, in a secularized form, has remained very much part of the outlook of the Soviet elite; for although this elite professes militant atheism, it has no other culture to fall back on than the xenophobic, anti-Western culture of old Moscow.

The practical consequences of this fact are considerable. The group ruling the Soviet Union is not predisposed by its cultural background to regard itself as part of a broader international community; nor does it tend to think in terms of a stable world order that accords every nation a rightful place. Such an outlook is widespread in communities with a Protestant and a commercial culture, but it is rather rare elsewhere. The Soviet elite tends to think in terms of a perpetual conflict pitting right against wrong, from which only one side can emerge victorious. Needless to elaborate, Communist ideology with its stress on class warfare culminating in a vast revolutionary cataclysm neatly reinforces this inherited religiously inspired outlook.

THE QUESTION OF LEGITIMACY

The elite that rules Soviet Russia lacks a legitimate claim to authority, and this fact has critical bearing on its conduct of both domestic and foreign policy. Lenin, Trotsky, and their associates seized power by force, overthrowing an ineffective but democratic government. The government they founded, in other words, derives from a violent act carried out by a tiny minority. Furthermore, this power seizure was carried out under false pretenses. The coup d'etat of October 1917 was accomplished not on behalf of the Bolshevik party but on behalf of the soviets—a fact that survives today mainly in the name "Soviet Union." The soviets were representative bodies of soldiers, workers, and peasants, which, for all their structural looseness and lack of regular procedure, did in a fashion express the will of the people.

But although the Bolsheviks claimed to overthrow the Provisional Government in order to transfer power to these soviets, in reality they used them from the beginning as a facade behind which to consolidate their own authority, and the transfer was never accomplished. And, finally, the Soviet government has never dared to seek a mandate from its population. The one and only post-1917 election in which the Bolsheviks ran in competition with other parties—the election for the Constituent Assembly held in the winter of 1917–1918—gave them a quarter of the national vote, whereupon they ordered it dissolved. No elections giving the voter a choice even from among Communist candidates have been held since that disagreeable experience.

Now it is sometimes said by friends of the Soviet Union abroad that one must not apply to its government standards of democracy derived from the West. And, indeed, it is perfectly possible to exercise authority without recourse to the Western idea of popular sovereignty or by twisting it out of all semblance as Hitler had done when he claimed that the will of 80,000,000 Germans fused and became one with his own. But as a matter of record, the Soviet government makes no such claim on its own behalf: Its constitution and legal system claim to rest on democratic principles indistinguishable from our own, and hence it cannot escape being judged by them. A government that came to power by force in the name of slogans it did not honor and had no intention of honoring, and which has never dared to seek popular sanction, such a government cannot be said to be democratic no matter how broadly the term is defined. And herein lies its tragedy and insoluble inner contradiction. The yawning gap between constitutional promise and political reality stares in the eye of all but the most obtuse or cynical of Soviet citizens.

Legitimacy of some kind is essential to every political authority to justify the right of some men to order others about. The Soviet government is no exception. Unable to obtain a popular mandate, it seeks to obtain it in a variety of other ways, of which nationalism is the handiest. By appearing as the protector of Russian national interests from internal and external enemies, the regime can identify itself with the people. But to be able to do so, it must have enemies; and it conjures them up as the need arises. The atmosphere of a crisis is essential to the Soviet elite and can be counted on to remain an instrument of Soviet policy as long as the present elite remains in power.

In the 1930s and 1940s it was often said that Soviet behavior was motivated by fear. This is correct as far as it goes—only the fear is not of other peoples but of its own, and for that reason it is incapable of being allayed by concessions. Fear breeds insecurity, which in turn expresses itself, in nations as in individuals, in aggressive behavior. (It may be noted parenthetically, that the one time the Soviet Union confronted a genuine menace rather than one of its own making, namely Nazi Germany, it reacted by appeasing; its most determined reactions have always been reserved for imaginary enemies.)

CLASS INTERESTS

All elites have vested interests, or they would not be elites. But as a rule, the disparity between the interests of the elite and of the rest of the citizenry is wider in poor countries than in rich ones, and the dread of losing status is proportionately more acute. And Russia is still a desperately poor country, with a standard of living below that of some countries in the pre-industrial state of development. The bulk of the wealth created by Soviet industry since the inauguration of the first Five Year Plan in 1928 has gone into armaments and those branches of the economy of greatest direct benefit to the military. Agriculture has been ruined to pay for this most up-to-date military machine; and the consumer industry has been forced to operate on a shoestring.

This situation has not significantly changed since the death of Stalin, periodic promises of a vast outpouring of consumer goods notwithstanding (*e.g.*, Khrushchev's confident boast that by 1970 the Soviet Union would exceed the United States in the production of meat and milk). The Soviet citizen today is poor not only in comparison with his counterpart in other European countries, but also in comparison with his own grandfather. In terms of essentials—food, clothing, and housing—the Soviet population as a whole is worse off than it was before the Revolution and in the 1920s. If one considers such intangibles as access to information and the right to travel as elements of the standard of living (as they should be), then the Soviet citizenry is positively destitute.

This cannot be said of the Soviet elite, which enjoys a fairly decent standard of life. The closer a member of this group stands to the inner sancta of the bureaucratic-military-police establishment, the readier his access to the country's very limited store of goods and services, to the sources of objective information, to a passport authorizing travel abroad. No wonder, therefore, that the Soviet elite vigorously protects its privileged position and the political system which makes it possible; that it dreads democracy which would inevitably sweep away its status and force it to share the indescribably drab life of the ordinary Soviet citizenry; that it supports the regime in its nationalism and crisis-mongering.

THE COLONIAL EXPERIENCE

The Moscow state emerged on the fringe of Asia. In order to create a national state, its founders had not only to impose their authority on rival Russian principalities, but also to repel, subdue, and integrate the Turco-Mongol and Finnic populations by which they were surrounded. As a consequence, in Russia the process of nation-building took place concurrently with that of empire-building, rather than before. The two processes, so distinct in the history of Western states, in the case of Russia cannot be readily separated either chronologically or geographically. In the second half of the sixteenth century Moscow already administered a sizable colonial population of Tatars and Finns. To these were added in the seventeenth century the natives of Siberia and the Cossacks; in the eighteenth the nomads of Central Asia, the Crimean Tatars, the Ukrainians, Belorussians, Poles, Jews, and Baltic peoples; and in the nineteenth, the Caucasians and Muslims of Turkestan.

As a result of these acquisitions, the Moscow government acquired early a great deal of expertise in handling foreigners; but this expertise it gained from administering subject peoples, Western and Oriental, not from dealing on equal terms with other sovereign states. The Office of Ambassadors in Moscow knew less, comparatively speaking, about foreigners than did the various administrative offices charged with responsibility for administering immense territories inhabited by peoples of different races and religions. In some measure this also held true of the Imperial government and of the Soviet government; for techniques of government tend to survive changes of elites.

The implications are not far to seek. A country whose governing apparatus has learned how to deal with foreign peoples from what are essentially colonial practices is not predisposed to think in terms of a stable international community or of a balance of power. Its natural instincts are to exert the maximum use of force, and to regard absorption as the only dependable way of settling relations with other states, especially those located along its own borders. There is little need here for theory, because the options are narrow, and concern tactics rather than objectives or strategy.

To any one acquainted with the rich literature on the international relations of the Western powers, it must come as a surprise to learn that there is no definitive or even comprehensive history of Russian foreign relations. The literature on the theory of Russian foreign policy is so meager that it may be said not to exist. That Russians have felt no need to compile the record of their external relations or to investigate its principles is in itself a significant fact, illustrative of their general attitude toward the outside world.

THE CHARACTER OF THE RUSSIANS

These four factors impel the elite which rules Soviet Russia to conduct a dynamic and inherently aggressive foreign policy, very different from that pursued by such predominantly commercial countries as the United States, whose main aim is international stability. If the Soviet elite were not inhibited by other factors, which it is helpless to change, the Soviet Union very likely would conduct a policy of reckless external expansion such as Germany and Japan pursued in the 1930s. But fortunately, such inhibiting factors do exist, and these must be taken into account to provide a rounded picture of Soviet foreign policy.

The most important of these is the spirit and mood of the ordinary people: not only the people of Great Russian stock but also those belonging to the numerous ethnic minorities inhabiting the Soviet Union.

The Russian people have no tradition of glorifying war, perhaps because they never had a feudal culture in the proper sense of the word. Its great medieval epic celebrates not the victory of Russian arms but their defeat. Neither in the folklore nor in the proverbs of Russia is there much trace of militarism. The common people have always viewed war as a desperate act to defend one's home; and Russian troops, so effective on their home soil, have never shown much skill in foreign campaigns. This general attitude deserves comment even in the case of a country that allows its citizenry no say in governmental affairs, because in the long run the quality of the human material has considerable bearing on a government's freedom of action.

Even more significant, however, is the fact that the people of the Soviet Union are utterly exhausted. The country had been mobilized in 1914 and except for brief respites has not been allowed since then to return to normal life. Having dropped out of the international war in 1917, Russia suffered for the next three years an even more devastating civil war, followed by two years of famine. It barely recovered from these disasters during the New Economic Policy era, when in

1928 it was reharnessed into state service to carry out the most ambitious program of industrialization ever attempted by a nation. To make this program economically feasible, a whole counterrevolution was inaugurated in the countryside, in the course of which the government confiscated, in the face of the peasantry's desperate resistance, its land, livestock, and implements. This tragedy was not even over when the regime launched a political massacre of nightmarish dimensions of actual, potential, or imaginary opponents.

And then came World War II. The losses in human lives which the population of the Soviet Union has suffered between 1914–1945 exceed those of any people in modern times including the Jews. They can be estimated at 2,000,000 casualties in World War I, 14,000,000 during the civil war and the famine, 10,000,000 during collectivization, 10,000,000 during the purges, and 20,000,000 during World War II, for a total of 56,000,000. The demographic pyramid of the Soviet population bears a visible scar from these stupendous losses showing a deep indentation in the age group between thirty-five and seventy, especially males.

After such exertions and bloodletting the inhabitants of the Soviet Union are simply incapable of being mobilized once again for any sustained national effort. Their fatigue is so profound that neither exhortations nor alarms can shake them from it. They require three things of which they have been deprived for the past half a century: peace, privacy, and prosperity, probably in this order. With a population in this state it is just not possible to launch ambitious drives of external expansion.

Consideration must also be given to the fact that approximately one-half of the population of the Soviet Union consists of peoples who are not of Russian nationality. This colonial population brought under Russian sovereignty by Imperial and Soviet conquest, not only shares the exhaustion of the Russians proper, but experiences a sense of national frustration as well. Neither blandishments nor prosecution have had much effect on the patriotic spirit among the ethnic minorities. They constitute a volatile and unreliable element.

Thus, a kind of dilemma arises before the Soviet elite: One of the principal factors inducing it to maintain an aggressive posture, namely lack of confidence in its popular support, also forces it to act cautiously. The Soviet government cannot risk a protracted war because such a war always makes the government dependent on its population. All the important concessions which the Imperial government had made were the consequence of long wars: the Crimean War, which compelled it to free the serfs and institute local self-government; the Japanese war, which forced it to grant a constitution; and World War I, which caused it to abdicate. These historic lessons have not lost on the Soviet Union and in large measure account for the prudence which its rulers have always shown in the face of firm resistance by other powers.

The same factor explains the haste with which the Soviet elite exploits any opportunity abroad where serious opposition seems unlikely. Guided more by the prospect of success than by any consideration of "national interest," Russian expansion follows no discernible pattern. The whole concept of "national interest," in the sense in which the term is used in the West, is altogether alien to the Russian mind. Most writings on the subject from the pens of foreigners who seek to locate behind Russian foreign policy patterns of a kind they are familiar with in their own countries. In Russian literature, prerevolutionary and Soviet, hardly anything is said on the matter. As for Communist theory, it too provides no guidelines for the conduct of a rational foreign policy insofar as the whole assumption of communism is that the forces of "progress" and of "reaction" are split along class lines, not national ones.

By and large, Russian expansion tends to focus on targets of opportunity. Historians have long noted what may be called the "pendulum" effect in nineteenth-century Russian expansion, meaning rapid shifts from one area to another in response to encountered resistance. Thus, frustrated by its defeat in the Crimean War from subjugating the Ottoman Empire, the Imperial government promptly sent its forces into Central Asia, which it conquered in a series of rapid expeditions. But as soon as the British, alarmed for the security of India, threatened to stop Russian advances in that region, St. Petersburg shifted its attention to the Far East. Defeated in Korea and Manchuria by Japan, it returned to the Balkans.

Such pendular swings can also be detected in Soviet foreign policy: for instance, the shift in 1948 from expansion in Europe—where it was halted by determined U.S. resistance—to East Asia. This evidence suggests that Russian expansion is motivated less by needs than by opportunities, less by what its elite wants than by what it can get. For this reason it is impossible to determine control over which areas would satisfy the Soviet government and induce it to assume a corporate international stance. Russia has all the territory and all the resources it needs; its external security is assured by its military power and by vast buffer zones separating it from potential enemies. If it nevertheless keeps on expanding it is precisely because its expansion is in large measure determined by internal rather than external factors, above all, by the tragic relationship of the government to its people.

DEVELOPMENTS SINCE WORLD WAR II

Developments which have occurred in military technology since the end of World War II, and particularly the emergence of a strategy based on rocketry and nuclear weapons, significantly affected the situation.

In some respects, the changes in warfare have had a positive effect on world peace. Scientific and technological warfare requires a large scientific and technical intelligentsia, whose outlook is bound to be very different from that of the traditional class of field or staff officers. That which has been learned of this intelligentsia through personal contacts during the past fifteen years suggests that it differs indeed from the rest of the Soviet elite of which it is a member by virtue of its privileged status. Soviet scientists and technicians think of themselves not only as Russians but also as citizens of the world, for they are better aware than administrators of common human problems. They are more objective and less emotional. Their whole temper is more liberal than that of the rest of the Soviet elite. Their emergence is undoubtedly a healthy phenomenon, good for Russia and the rest of the world.

In other respects, the development of highly technical warfare has had a very deleterious effect on the prospects of peace. If it is true, as argued above, that the principal deterrent to a recklessly aggressive Soviet foreign policy is the unreliability of the Soviet population, then clearly any development which frees the regime from dependence on its population reduces the effectiveness of the deterrent.

The more mechanized warfare becomes the briefer and more devastating war tends to become, the less the Soviet elite needs to make allowance for the spirit of its population, the less it is afraid of war. The scientific-technical intelligentsia, of course, gains in status under these conditions; but its actual influence on government policy in Russia, as elsewhere, is questionable. It is a curious fact that the most liberal among American scientists, who have been so frustrated in their attempt to influence their own government on such issues as ABM are most sanguine about the power of their Soviet counterparts. But if they tried and failed to exert political power in a country where it is possible to appeal over the head of the administration to the mass of citizens, how can the Soviet scientific elite succeed in a country where no such opportunity exists?

On balance, the development of modern military technology will probably intensify the expansionist tendencies of the Soviet elite. It is likely to increase its self-confidence and encourage it to pursue targets of opportunity wherever they present themselves with greater boldness than before.

(NOTE. Richard E. Pipes (Ph.D. Harvard, 1950) is Professor of History and Director of the Russian Research Center at Harvard University, where he has been a member of the faculty since 1950. A former member of the Joint Committee on Slavic and East European Studies of the American Council of Learned Societies and the Social Science Research Council, he has also served as visiting professor at the University of California at Berkeley. His publications which bear directly on Russian history include: Formation of the Soviet Union: Communism and Nationalism, 1917-1923 (rev. ed., 1964); Karamzin's Memoir on Ancient and Modern Russia (1959); The Russian Intelligentsia (editor and contributor, 1961); Social Democracy and St. Petersburg Labor Movement (editor, 1963); Of the Russe Commonwealth by Giles Fletcher (1591) (co-editor with John Fine, 1966); Revolutionary Russia (editor and contributor, 1968); and Europe since 1816 (1970)).●

AFFIRMATIVE ACTION

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. WALKER. Mr. Speaker, because so much controversy has surrounded the real intent to the Walker equal opportunity amendment to the Labor-HEW appropriation bill, I would like to bring to my colleagues' attention an exchange of correspondence I had with a Pennsylvania resident during the August recess.

The letter I received included the following:

I wish to express my thanks to you for the anti-affirmative action amendment introduced by you to the Labor-HEW bill. I wish you would continue to fight the affirmative action program that has gone beyond the intent of the program. . . . and may you continue to fight to restore the incentive of the individuals that are qualified.

My reply follows:

Thank you for your letter regarding affirmative action.

You should be aware, however, that while I am a strong opponent of federally enforced quotas, I am also a supporter of affirmative action. I am deeply committed to the civil rights cause and believe strongly in equal opportunity for all.

Quotas are discriminatory by definition and their enforcement by the federal government destroys the concept of merit. Men and women must be judged on their abilities not

on the color of their skin. The federal government has used quotas as a convenience rather than seeking new, more imaginative ways to bring about increased opportunities for minorities and women.

Certain institutions have had success with affirmative action, outreach programs that do not rely on quotas. Temple University is one such institution. Minority enrollment in Temple's law school has increased under their affirmative action programs which retain the merit concept as an integral part of the admission process.

Cordially,

ROBERT S. WALKER.●

TOP 15 DISSIDENTS

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. COLLINS of Texas. Mr. Speaker, the other day I had an interesting discussion regarding who would be the first dissidents to be eliminated. Here are the 15 groups listed in the order of priority:

(1) Preachers, (2) Military Leaders, (3) College Professors, (4) Writers, (5) Newspaper Staffs, (6) Politicians, (7) Jewish Communities, (8) Business Leaders, (9) Bankers, (10) Land Owners, (11) Sick and Infirmed, (12) Black Communities, (13) School Administrators, (14) Policemen and Firemen, (15) Lawyers.

The way the subject came up was the present trend toward nationalization and the way this Government is building more and more toward an all-powerful dictatorial Federal Government. If the Government continues this trend, which is gaining in momentum, it is believed that we might reach a complete nationalized state within 10 years.

We can look to the history of nationalized states to see how dictators establish their authority. Some are nationalized according to the Communist system and others have used the Fascist system. Anytime you have an all-powerful Federal state, the first thing the ruling dictator will do is murder all dissident groups. Obviously, the first group to be murdered would be the preachers, rabbis and priests. There is no God in a Fascist or Communist society because the state is God.

The next groups to be murdered would be all the leaders of the military. This would include not only the officers but also the sergeants, who are the backbone of the service. A dictatorship must have absolute control of the military.

Then on highest priority would be the independent-thinking college professors, writers, and responsible news staffs. In a dictatorship there is no tolerance for independent thinking. The government position is the only position. The writer with the fiery pen is buried the first day.

Politicians would be the next group. They would probably get about 90 percent of the politicians, as there are probably 10 percent that are fast enough on their feet and lack political conviction to where they could assimilate into the new movement.

If we refer to history, we would see the next group to suffer would be the Jewish community. In order to make a public appeal, the dictatorship would take one group and blame them for everything. Because the Jewish people are smart, hard working, and prosperous, it is also a group that is widely envied. Hitler with Fascism showed how quickly a dictator moved against the Jewish people. The same thing occurs with the Communists, so either type of dictatorship sees the entire Jewish family threatened with annihilation.

To gain popular support brings on redistribution of the wealth and giving the masses something for nothing. That means all the business leaders, bankers and any landowners that have more than 200 acres must be shot.

During the transition to a dictatorial state, the productivity standards drop, providing less in the way of material goods. So then they kill all of the sick and infirmed. These people are not able to produce and are only consuming, so the cold-hearted but effective solution is to eliminate them.

Italy used the black community as a target. The blacks have been oppressed in history. Dictatorships always concentrate on minorities.

Then we round out the group of the top 15 with the school administrators, policemen, firemen, and lawyers. School administrators would probably be eliminated within the first 2 weeks, as dictators must control the minds of the young generation in order to build a Fascist or Communist state. Policemen and firemen represent law and order and the dictatorship will choose their own. Lawyers would round out the group. Lawyers would be killed because they simply talk too much, and are contentious by the nature of their business. In a completely nationalized state, there is no need for lawyers because the government is the law.

The interesting part about preparing this list was the fact that so many of the groups, who will be the first to be killed, are the strongest advocates of building up a complete federalized, all-powerful, nationalized state.

Compassion and lack of common sense motivates many of our great leaders of public opinion. Constantly from the pulpit and from the press do you hear the suggestion and pressure for the Government to extend its bureaucracy to provide more regulations, collect more taxes, and extend more Government controls. As the Government now gets 42 cents out of every dollar of the gross national product, the Government greedily seems nearing the point where it wants to take it all.

All of the leaders of free enterprise would be the first to be killed. Because to operate an all-powerful, nationalized government, there is no room for a dissident voice. In China, they have been very successful in having the men and women march out together to the field for 10 hours of good work. Six days a week they work and they like it. The ones who voiced objection were buried soon thereafter. Today, all the citizens hear, read, or see are the Government's views.

The irony of the situation is that many individuals who encourage the people of this country to move toward an all-powerful Federal welfare state will be the first ones that the all-powerful Federal Government will eliminate. As we know, when these governments took over in Germany, Russia, and China there were between 10 and 40 million people killed. Will you be one of the first in the blood bath?

Why does not the United States move again toward freedom of the individual? Why do we continue to centralize all the power in Washington? Why does the Government spend so much and tax so heavy? Let us pray that America's leaders from coast to coast reestablish the United States of America as a land of freedom and opportunity for all?●

THE TRAP

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. LONG of Maryland. Mr. Speaker, the preservation and protection of wildlife and the environment have always been of major concern to me. I have sponsored several measures in Congress to insure the humane treatment of animals, such as the Endangered Species Act and the Marine Mammal Protection Act, which are both public laws now.

I was therefore particularly pleased to note that my bill to curb use of the steel jaw leg-hold trap, H.R. 3516, was commended by the winner of this year's essay contest sponsored by Friends of Animals, Inc. and the Committee for Human Legislation, Inc.—organizations which do outstanding work to combat the mistreatment of animals. The admirable goal of this nationwide contest for college students is to foster a new environmental ethic that extends consideration to all forms of life.

I am pleased to share with my colleagues excerpts of the prize-winning essay by Anne E. Reiner—University of Texas, Dallas—entitled "The Trap."

The excerpts follow:

THE TRAP

The notion of man's uniqueness in his ability to reason, along with the Biblical concept of "dominion," combine to produce the conviction that man owns the earth and all the nonhuman creatures that inhabit it, to use as he pleases. This attitude is the trap which holds all animalkind in its jaws, helpless and doomed, just as surely as the mechanical device which is but one of its manifestations.

While the immediate purpose of this essay is to support legislation banning a particularly inhumane device, the leg-hold trap, its ultimate aim is much more profound. There is an urgent need to bring into public awareness the attitudes governing our actions toward the other species with whom we share this planet. These attitudes must be consciously examined, evaluated in terms of present-day knowledge, and either reaffirmed

or repudiated. Considering the immediate plight of animalkind, it is imperative that we weigh the consequences of each course of action open to us and follow our convictions as to which choice best demonstrates our "humanity."

There is cause for optimism in the fact that many of our policies toward nonhuman animals are increasingly becoming the subject of public debate. Awareness of specific injustice can initiate the process whereby we begin to make valuative judgments regarding the rationale behind our policies. When an informed public begins to recognize this rationale as a hollow shell of habit, prejudice and greed, a more realistic view of man's place in the hierarchy of life may be adopted. Nothing less than a major change in man's attitudes will suffice to free animalkind from its hopeless situation. Only when man ceases to look upon animals as useful objects and truly regards them as fellow living creatures, perhaps our only companions in the universe, will "the trap" be destroyed.

Arrogant man finds it demeaning to accept Darwin's reaffirmation of the unity of life, of our kinship with the beasts. Instead, Darwin's concept of individual and species competition, "the survival of the fittest," has been used as justification for man's domination of all other life forms. Two centuries earlier, Thomas Hobbes had described the state of nature as a "war of all against all." The attitude generated from a synthesis of these two concepts seems to be that man, the fittest species, must subdue all others in this war in order to survive.

We tend to forget that each species of animal (including man) and plant existing today is already a winner in the eons-long competition with others fighting for the same ecological niche. This "forgetfulness" is symptomatic of our picking and choosing among available information, incorporating into our attitudes only those facts that do not disrupt our comfortable habit patterns.

If we were truly rational beings, we would employ our "reason" to integrate new knowledge, as it becomes available, into our existing value system, and base our actions thereon. Instead, however, we have exercised our rationality by "rationalizing" our culturally determined attitudes and behavior. Instead of allowing habit to determine our behavior, we should exercise our supposed free will: *decide* which attitudes are based in reality and *choose* to act in accordance with them.

Until rationalization gives way to rationality, animalkind will remain caught in the trap from which the only release will be extinction.

In the process of rationalizing our prejudices against nonhuman animals, many characteristics are asserted to be uniquely human. Recent animal behavior and ethological studies, however, indicate that animals may possess some of these characteristics in varying degrees.

Some traits that seem obviously shared by both humans and nonhumans are the ability to feel pain and fear, to grieve, play, dream, and even to act altruistically. These are evident to anyone who has ever shared his home with a cat or a dog.

Less obvious in animals are the abilities to use language and to engage in abstract reasoning. Many people consider the latter to be dependent on the former; but even language is no longer considered strictly a human acquisition, especially since the successful experiments in teaching American Sign Language to chimpanzees.

The fact that animals share these abilities in varying degrees with humans, together with the fact that many humans lack them, in the same measure, destroys their validity as absolute distinctions by which to define "man."

The search for additional characteristics that purportedly distinguish man from other animals becomes more frantic and more absurd. It also creates its own pitfalls:

"(A)cademic writers tend to forget that the high-flown disparities they sometimes mention as of the essence of man are of enormously little concern to most nonacademic men. If animals, on these criteria, are less than human, so are men."

Unless new, more accurate distinctions are invented soon, we shall be forced to consider the possibility that nonhumans might be heir to the same natural rights claimed for humans. Since the subject of animal rights has been so exhaustively explored by many writers, only the salient points need be mentioned here:

(1) If, indeed, humans do have rights, the only irrefutable criterion for granting those rights to all humans and only humans is, as Peter Singer has so thoroughly demonstrated, outright speciesism.

(2) It is claimed that humane laws already in existence were not passed for the purpose of protecting animals' rights, that their sole purpose is to benefit humans on the ground that cruelty to animals corrupts morals. If, however (and as seems more likely), these laws were adopted and are obeyed for the benefit of animals: if we believe

". . . that such treatment is something we *owe* animals as their *due*, something that can be *claimed* for them, something the withholding of which would be an *injustice* and a *wrong*, and not merely a cause of damage, then it follows that we do ascribe rights to animals."

Whatever the semantics involved, whether or not animals have rights in the legal sense, it would seem that a more responsible interpretation of the term "dominion" implies that man does have obligations toward those who are incapable of looking after their own interests, whether human or nonhuman. In a sense, we have "dominion" over children and the mentally incompetent; but this does not grant us the license to inflict harm on them. As Clark points out, "Let it be that animals have no *rights*—they can still be wronged."

The leg-hold trap, one incarnation of the trap which has been the subject of this essay, need hardly be described in detail. It is a device used to harvest the pelts of wild animals. Traps are preferred over guns because much less damage is inflicted on the pelts; this ensures a higher market value. Except when traplines are laid near human habitation, very few children and pets suffer injury or death because of them. Since animals cannot read, there is no way to warn nontarget wildlife that all who are not beavers, or foxes, should avoid certain areas. Should a nontarget animal be caught, the trapper faces the inconvenience of disposing of its carcass and rebaiting the trap. If he has killed an eagle, or a member of some other endangered species, after all, this was not his intent.

One could go on, but the message is already clear. As long as trafficking in furs remains profitable, trappers will continue to use the most efficient device available.

The Williams-Long bills (S. 818 and H.R. 3516) seek to negate this profitability by forbidding interstate and foreign commerce in fur and leather from any state or country in which the leg-hold trap is not banned. Both bills further seek to prevent the use of such painful devices by discouraging their manufacture, sale and use in the United States.

True progress consists of many small steps taken in the direction of a goal. Supporting these bills is one small step we can take toward our goal: respect for the worthiness of all creatures to share life on this earth.●

AFL–CIO PRESIDENT GEORGE MEANY'S POSITION ON DEFENSE AND FOREIGN POLICY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. DERWINSKI. Mr. Speaker, one of the most respected American voices on foreign affairs is that of AFL–CIO President George Meany. He has devoted much of his career to fighting for free trade unionism and against efforts of Communism to take over labor organizations throughout the world.

Therefore, I am especially pleased to call the Member's attention to Mr. Meany's remarks on defense and foreign policy. President Victor Bussie of the Louisiana AFL–CIO delivered Mr. Meany's speech to the 60th annual convention of the American Legion in New Orleans on August 22. The speech follows:

It gives me great pleasure on behalf of the AFL–CIO, to extend greetings and best wishes to the delegates and guests attending the American Legion's 60th Annual Convention.

I wish it were possible for me to present these greetings in person. Unfortunately, my schedule requires me to forego the delights of New Orleans, and I have therefore asked my good friend, Victor Bussie, to present these words for me.

One of the reasons I had hoped to be able to appear before you is that I know that among your ranks are many members of the AFL–CIO. This should come as no surprise. After all, when the peace breaks down, it is the working people of this country who are called upon to fight.

So whatever differences we may have on other policy matters, we share a common interest in maintaining peace. And, like the American Legion, the AFL–CIO believes that the surest force for peace in this world is a strong America, second to none.

I would like to take this opportunity to tell you something about some of the basic principles, some of the philosophy, that underlie the AFL–CIO's outlook on world affairs.

First of all, we start out with a vested self-interest, if you want to call it that, which we are not afraid to declare: We have an interest in the development of free trade unions throughout the world—not only on the moral grounds that all workers should have some of the good things in life that we have won in America, but also on the economic grounds that we don't want unfair competition from workers earning 50 cents or 75 cents an hour. We can't compete with those wages and support the American standard of living.

Now, in order to have unions, you have to have a climate in which human rights are respected. Without the freedom to assemble, to associate, to speak, and to strike, workers cannot establish or sustain effective trade union organizations. Human rights are the life blood of trade unionism.

So, long before President Carter launched his human-rights campaign, the AFL–CIO urged that the promotion of human rights throughout the world be undertaken, not simply as a moral crusade, but as an essential, integral part of our nation's foreign policy.

In the final analysis, what should be the goal of our foreign policy, if not the reversal of the totalitarian tide and the expansion of the democratic world community? Take this

away, and what have we left as a worthy object of foreign policy? The protection of private business investment abroad? Is that a goal that can justifiably claim the lives of workers and their sons?

So, as far as the American labor movement is concerned, the advancement of human rights and material well-being are not only the proper business of American foreign policy but should be its centerpiece. It is our trump-card.

We were, therefore, delighted and encouraged when candidate Jimmy Carter made human rights a theme of his Presidential campaign and then, after his election, made a number of dramatic pronouncements that focused world attention on human rights as an international issue and helped to restore meaning to American foreign policy.

For those actions we have repeatedly applauded the President. We have defended him against those in both parties who have criticized him for speaking out too loudly against Soviet violations of human rights, and we have noted that some of those critics would not apply the same "quiet diplomacy" to those of our allies whose human-rights records are wanting.

Of course, we believe the President's words and his deeds should match. Otherwise the language of human rights, which has inspired millions, would turn sour and a great opportunity to shift the moral balance of power toward the West would have been lost.

Some would prefer the President to scale down the rhetoric. We prefer to raise our deeds to the level of our democratic commitment—in other words, to do what we say.

In recent months, the Soviet Union has cracked down mercilessly on those of its citizens—like Orlov, Shcharansky, and Ginzburg—who have demanded that their nation live up to the human-rights provisions of the agreement it signed in Helsinki. It is clear that one of Mr. Brezhnev's objectives in this crackdown is to get rid of the dissident movement, at least in Moscow, before the 1980 Olympics.

But it is also clear that the jailings of Orlov, Scharansky and Ginzburg—as well as the incarceration of Vladimir Klebanov in a mental institution for trying to form a free workers movement—these acts not only violate the rights of the individuals involved: they violate a solemn international agreement which the Soviet Union signed with the United States and 33 other countries in Helsinki.

What has been the response of our government to these repeated violations of Helsinki?

Have we yet said that, if the Soviet Union continues to violate the human-rights provisions of Helsinki, we will not feel bound to respect the other provisions? No. In effect we have declared ourselves to be unilaterally bound by the Helsinki accords.

Have we yet said that, in view of the Soviet government's refusal to live up to the Helsinki agreement, we shall reconsider the advisability of entering into another agreement with them—on SALT? No. So far, we have said in effect that we are determined to sign a SALT agreement no matter what—and without regard to the issue of trust, of credibility.

Have we yet said that, we will use all our technological and economic leverage to press for Soviet compliance with Helsinki? No. After first considering cancelling the sale of oil drilling technology, the President decided to go ahead with the sale—thereby giving the Soviets the indispensable tools to develop their Siberian oil resources at the very time they are moving in on the Middle East oil that Europe and Japan desperately need.

So far, our only response to the barbaric trials of Soviet freedom fighters, aside from cancelling some official visits to Moscow, has been to stop the sale of the Sperry-Univac computer to TASS.

Now, I am not against signing agreements with the Soviet Union. I am not against negotiating with the Soviet Union. But I can tell you, as a trade unionist of more than half a century's experience, that if our labor leaders negotiated with employers the way our government has negotiated with the Soviets during the last 10 years, the rank and file would throw us out.

When we sit down at the bargaining table, we go tit-for-tat. We concede, the boss concedes. We give, he gives.

But that's not the way the U.S. has dealt with the Soviet Union. There has been no reciprocity. We give, they take.

Everything in my experience tells me that erosion of the principle of reciprocity, steady accommodation to totalitarian power, if not checked will lead to war. Twice before in our century appeasement led to war. If it happens again, it will be the last time. Thereafter the planet earth will repose in the peace of the graveyard.

I believe we should tell the Soviet Union, for starters, that we will not be complicit in their effort to create a dissident-free environment for the 1980 Olympics. The AFL–CIO has called for moving the 1980 Olympics from Moscow to a country which respects the human rights of athletes and all other persons. I hope the American Legion will join us in this effort.

I also believe that President Carter should inform the Soviets that, owing to their repeated and blatant violations of the human-rights provisions of the Helsinki Final Act, we no longer feel bound to abide by the other provisions—especially those economic, scientific, and trade provisions which are so disproportionately beneficial to the Soviet Union.

I believe the President should also make it clear to the Soviets that no SALT agreement can be signed, whatever its terms, until we have good reason to trust the Soviet Union to live up to such an agreement—and no such good reason can exist in the face of continuing Soviet violations of Helsinki.

I guess this goes by the name of "linkage"—and I'm for it. Linkage means that we apply our strengths—technological, economic, and moral—to Soviet weaknesses. The alternative to linkage is steady retreat before probing, advancing Soviet power.

"Linkage" is, I think, Henry Kissinger's term. Brezhnev talks about the "correlation of forces"—by which he means the balance of power in political, diplomatic, economic, *and* military terms. He sees the "correlation of forces" shifting to the advantage of the Soviet bloc. I fear he may be right.

If such a shift is taking place, it is based on one area of Soviet strength: its indisputably growing military strength.

When Dr. Kissinger was Secretary of State, he was asked whether we had lost our military superiority, and he said: What can you do with military superiority? Well, we may not know what to do with it, but the Soviets surely do. They know that military superiority not only makes possible military adventures of the kind the Cubans are carrying out for them in Africa, it also makes possible political and diplomatic pressures which weaker countries cannot withstand. And who can deny that for many small and weak countries, lacking the capacity for independent action, the choice between East and West will rest on their perception of our relative military strength and our will to use it?

Therefore, when it comes to national defense programs, the AFL–CIO has only one standard, one criterion. What do we need to do to maintain a favorable balance of power?

We reject the notion that bombers, submarines, and tanks should be built because that would create jobs. That has never been the position of the labor movement and, if it were, that position should be rejected by the rest of society. To create weapons of mass destruction in order to reduce unemployment would be immoral—and a confession of bankruptcy by our society.

We also reject the notion that we should *not* build bombers, submarines, and tanks in order to create jobs—or to make more funds available for domestic social needs. What good does it do to clear our slums and eliminate poverty if we then succumb to totalitarian military power—or are incinerated in a war brought on by a destruction of the balance of power?

We are therefore opposed to simplistic approaches to defense spending. We are opposed to just lopping off a certain percentage of the defense budget and transferring it into the social sector without regard to the real dangers on the international scene.

So, as far as we are concerned, the only legitimate questions to be asked about a particular weapon or weapons system is: do we need it? If we give it up, what will the other side do?

Now, I am not a military expert, but I do know something about collective bargaining, and I wonder: Could we not get iron-clad guarantees from the Soviets about the security of Western Europe in exchange for not constructing the neutron bomb?

I could cite other examples but they all can be quickly summed up: Is the conduct of foreign and defense policies by "good example" a sound policy?

If we show a sincere interest in disarmament by disarming unilaterally, will the Soviets do likewise? If we show restraint in Africa, will they do likewise? If we change our visa policies to allow Soviet agents disguised as trade unionists to tour our country, will they let Andrei Sakharov come and go as he pleases?

I doubt it. I doubt it will moderate Soviet behavior, reassure our allies, or protect our interests.

I propose our foreign and defense policies not be based on "good example" but rather on reciprocity.

I am convinced that the American people are tired of those in both political parties who have rationalized defeat and retreat by the language of detente. I think they are tired of those in both parties—and they are in both parties—who talk about human rights while accommodating militarily, diplomatically, and politically to the system that tramples human rights.

Following World War II, Americans came together behind a bipartisan foreign policy consensus which helped to maintain the peace, to rebuild war-torn Europe, to contain Communism, and to facilitate the independence movements of colonial peoples.

We cannot go back to the past. But we can put behind us the divisions, the self-doubt, and the illusions of the post-Vietnam era, and commit ourselves to a bipartisan policy whose goals would be unchallengeable military strength, and a completely reciprocal relationship with the totalitarian world.

Only on such a foundation can we hope to champion the course of human rights throughout the world.●

TRADE READJUSTMENT ASSISTANCE PROGRAMS

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. SARASIN. Mr. Speaker, tomorrow the House of Representatives is

scheduled to consider H.R. 11711, a bill which attempts to improve the trade readjustment assistance programs. Although the measure had been scheduled to come before us on two previous occasions, time constraints prohibited our consideration until after the August district work period. Now, unfortunately, I find that I will be unable to participate in tomorrow's proceedings.

However, I do have very strong feelings about this legislation and the amendments which will be considered, and I would like to share my thoughts with my colleagues.

I strongly support the provisions of H.R. 11711, for the extensions and revisions to the TRA program are absolutely necessary. There are several areas of concern to me, though, concerns that focus on the extent of coverage provided under this measure. In particular, I am referring to section 112, dates of effective enactment. While the committee will seek to amend this section, the intent will remain the same. The sections dealing with individual trade readjustment allowances will still apply only to those people who have been separated from employment 60 days after date of enactment.

This will not allow us to protect those workers who, at the date of enactment, are in an approved training program and receiving benefits. Under these circumstances, an individual's benefits could easily expire prior to the completion of their training program, and in many cases, these workers will be forced to terminate their training programs prematurely. This is not the intent of the TRA program, and we should not take action which will harm those workers affected by trade or jeopardize their opportunities for future employment.

Fortunately, we will have the opportunity to correct this oversight during tomorrow's consideration. Congressman JIM JEFFORDS and I have drafted an amendment, which he will offer, to insure the inclusion of these people under the new TRA provisions. We did so because this is an issue of equity for the worker now in the program. While we cannot help those people whose benefits have already expired and who have already terminated their training programs, we cannot disregard the plight of those workers currently in programs—workers who sincerely believe that this measure will help them.

I strongly urge my colleagues to accept the Jeffords amendment tomorrow.

There is another amendment which I wish to call to the attention of my colleagues. Mr. CLEVELAND will introduce an amendment that would reinstate Federal reimbursement to the State for unemployment compensation benefits paid to workers who are eligible for adjustment assistance under provisions of the Trade Act. A good part of the responsibility for lost jobs lies with Federal trade policies, and the Federal Government should assume the financial burden of their impact. My own State of Connecticut is a good example of this serious problem. We have paid nearly $400,000 in unemployment benefits under the Trade Act, and this amendment would ease a burden that few States can afford.

In conclusion, I urge my colleagues to support final passage of H.R. 11711 and to support the two correcting amendments.●

EMBARGOES ARE OF QUESTIONABLE VALUE

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. FINDLEY. Mr. Speaker, the disturbing tendency of using embargoes of U.S. exports to achieve political goals has persisted in American history, cropping up intensely from time to time. Recent years have seen such a time, with both the executive and legislative branches too willing to restrict the export of American products in futile attempts to influence the policies of foreign states. All such policies accomplish is a reduction of our exports and damage to our domestic industries and balance of payments. An analysis by Robert L. McNeill shows with special clarity the fallacy of such trade restriction policies. My colleagues would do well to pay careful notice to the article which follows:

AMERICA NEEDS MORE INTERNATIONAL BUSINESS

(By Robert L. McNeill, Executive Vice Chairman, Emergency Committee for American Trade)

During the Napoleonic Wars, Americans were outraged at the excesses of the combatants, England and France. In order to influence their behavior, we imposed an embargo on foreign commerce. The result was a disaster. New England almost broke away from the young Federal Union; President Jefferson wisely gave up the attempt to use the pressure of withholding American exports as a lever to influence the behavior of other nations.

I believe it is time that we re-examined some of the assumptions behind present-day policies that may be well motivated but are threatening to strangle American exports and overseas earnings.

Why? Because these policies are not working. Just as they did in Jefferson's time, they are hurting our exports and they are hurting Americans. But they are not doing anything to change the habits of other nations. They are, in fact, nothing but a windfall to our competitors. The result is that the American dollar is in a nosedive. It is only because of the absence of better alternatives that foreign nationals still hold on to their American dollars and accept new ones.

In the first 25 years after World War II, the United States earned billions of dollars in foreign trade surpluses. Our post-war cumulative trade surplus—excluding foreign aid shipments—was over $100 billion. We used that money wisely to build up investments overseas that poured profits into the United States.

In 1976, sales from American-owned companies located abroad amounted to $515 billion. If it weren't for the profits on those sales, the dollar would be in even deeper trouble.

Today, the shoe is on the other foot. In 1977, the United States had a trade deficit of $27 billion and other countries are investing that surplus here in the United States. This is not unwelcome. It helps maintain an equilibrium in international accounts. Still, it has caused the American dollar to plummet in value and it serves to make the world think that American strength is waning.

In my opinion, there is no reason that the dollar should be deprecated or depreciated. A rise in American exports would restore confidence in our currency and such a rise is well within our reach.

Thanks to our continental economy, the United States is capable of applying more resources to efficient production than any nation or group of nations in the world. It is for that reason that we are able to export 41 percent of the construction and surface mining machinery that we make, and 25 percent of our aircraft, and 22 percent of our agricultural chemicals.

In few fields have we shown the world more how our economy makes us efficient than in agriculture. We export 25 percent of our corn, 45 percent of our wheat, 57 percent of our milled rice and 60 percent of our soybeans.

These exports—$121 billion worth in 1977—provide millions of Americans with jobs, generally good jobs at higher pay than in industries where there is little export activity. But we need more exports. Other industrialized and agricultural nations are fiercely competing in world markets. They want the existing business and the new business. Nowhere is this competition more intense than in the new markets of the so-called developing nations, particularly those in the Middle East.

Many trade experts think that these markets are going to be critical to the future of advanced industrialized countries like the United States. The New York Times reported on July 30 that:

"Some observers, including Lehman Brothers chairman, Peter G. Peterson, a former Secretary of Commerce, see the engine for growth of United States exports as the Third World countries, markets that remain virtually untapped. Increased trade with developing nations would also relieve some of the tensions that would arise if American goods began flooding industrialized countries' marketplaces."

However, other experts like John W. Sewell of the Overseas Development Corporation caution that "An increasingly competitive world economy will require the United States to improve its export performance, overcome investment bottlenecks in export sectors, and put more resources into research and technological innovation."

That sounds reasonable, but are we doing it? I regret to say we seem to be doing just the opposite. In the case of the Middle East, we are limiting the ability of our exporters to obtain orders by technical requirements in legislation such as the anti-boycott provisions in the Export Administration Act.

The head of Deere & Company has informed the Congress that one such technical requirement has prevented the company from bidding to supply a substantial number of tractors from its Dubuque, Iowa factory. A successful bid could have resulted in U.S. business worth $18 million and 20,000 man days of work for Deere & Company's United States employees.

That is just one self-inflicted set-back. We also have legislation that makes it difficult to engage legitimate agents in developing countries. The result is our competitors are taking away business. The purpose is well-intentioned—to prevent questionable payments. Still, if American companies are so worried about a wrong interpretation of paying an agent that they avoid the use—the traditional way of doing business in many countries—the business will go to companies in Europe and Japan.

Much of our export business is also being held up by the restrictions on financing of shipments to countries that do not meet American standards on human rights or concern for the environment.

Again, the result is not to change the ways of these countries, but to take away needed American jobs. According to the July 19,

1978 Wall Street Journal, "The State Department is blocking an Export-Import Bank loan to Argentina for 20 large turbines and other equipment for a major hydroelectric power project." The company who would supply this equipment, Allis Chalmers, has said that unless the Ex-Im Bank relents, "We shall have no alternative but to inform the Minister of Economy (in Argentina) that Allis Chalmers will undertake to furnish the equipment from facilities in other countries where financing will be available." Good-bye to $268 million in exports.

All of this makes no sense. Americans need such business. We can restore the dollar to prominence if we help our exporters, not hurt them. It wouldn't take that much help. Our economy could easily pump out the additional goods that other countries need—even more than enough to cover our deficit in petroleum exports. That would balance the books on the high side—where the United States ought to be. The results would be beneficial to everyone. For every billion dollars of exports produces tens of thousands of American jobs. C. Fred Bergsten, Assistant Secretary of the Treasury for International Affairs, recently said that "One out of every five jobs in this country now produces for exports to other countries. One out of three dollars of corporate profit in this country derives from international activities of American firms."

We could increase these percentages. I say we have to increase them. But to do so we must be more practical and more realistic about international trade. Let us review some of the practices that restrict our exports and get rid of them and then let us look for new methods of delivering the goods to the rest of the world.●

NATIONAL GRANDPARENTS' DAY

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. SARASIN. Mr. Speaker, as ranking member of the Human Services Subcommittee of the Select Committee on Aging, I have heard many witnesses testify to the neglect, indeed, abuse, of our country's senior citizens. America has not always been kind to its elderly, and we cannot pretend, by setting aside 1 day or 1 month, that we are adequately recognizing our elderly—our grandparents. I think it is fitting, nevertheless, that we have established a Senior Citizens' Month and a National Grandparents' Day to pay some small tribute to our elderly population.

Nearly a third of Americans are now choosing to remain single and some suggest that even the family itself is well on its way to becoming a thing of the past. With the decline of the family as an important element of our society, we are beginning to see our parents, grandparents, and children grow farther and farther apart. Alex Comfort, in his book "A Good Age," touches on the decline of intergenerational exchange, but is, finally, supportive of maintaining the essential contact between grandparents and grandchildren. I have included the section on "Relatives" from Mr. Comfort's most important work:

RELATIVES

One consequence of contraception, of changing family habits and a falling child death rate has been a shortage of kin, compared with the large traditional human family. The "extended family" on the Jewish, Chinese or Italian model has been overpraised—as well as mutual support, it generated pressures we now are unwilling to accept. Apart from the fact that one of numerous nonlib daughters could be drafted, often to her lifelong hurt, to "look after" older relatives, the great advantage of the extended family in later life was less its size than the cohabitation and intermixture of generations. With urban housing this was bound to decline anyway. The surrogates for generations sharing a house are the car and the telephone, but these don't provide constant interaction for the old with grandchildren, who become only occasional visitors. The older dynamics of the three-generation family have effectively disappeared.

Relatives, especially children, are people on whom you are perfectly entitled to rely for support of many kinds, but the folklore of independence has much that is valid in it, and children when adult aren't necessarily the people you most want to talk to. The real need of older people is for friends rather than the relatives of earlier peasant-type societies. Dr. Jacob Boronowski, the author of The Ascent of Man, remarked that Americans tend to be friendly, but friendless. In fact, all ages seem to be in a social transition from relationship-based to friendship-based social bonding.

The ideal outcome of this, envisaged by Tolstov, Thoreau, the early Christians and the hippies, is the "all people are brothers and sisters" formulation. This, however, remains hot air unless some quite powerful charismatic interaction takes place. At present we lack the use of straightforward concern, which gets neutralized by "independence" as an ideal in America and by "privacy" as an ideal in Britain, and do not universally draw bonding from religion—the nearest approach is through pararelligious behaviors like humanistic psychology and the encounter group. At the same time, the void left by kin is widely sensed, and probably accounts for the appeal of "growth" movements among middle adults, and even the quite extensive reappearance of the Eskimo expedient of wife exchange, the aim of which is in fact to create surrogate kin, by one of the strongest types of primate bonding.

We cannot now predict how the children of this transition period will age. They will certainly be more peer-dependent and less kin-dependent, they may still go to encounter groups rather than to churches; ideally, if society is by then age-blind, the active extrusion of each generation by the next will have gone. In the meantime, grandparenthood is and will remain as basic a human learning experience as is parenthood, both for child and for grandparent. In all cultures good grandparenting tends to limit parent-child overexposure, which is particularly onerous in our isolated small-family households. Being an active grandparent is one continuing responsibility of seniors which they should hang on to, difficult as the institution of serial polygamy may make this. Children in general like the company of grandparents. They also like to hear about the past, and telling them about the past has a function, so don't confuse this with doting reminiscence. This is how tradition is passed on. Every wise young parent will involve grandparents to the full. Even if you fear that your own parents will be overindulgent or oversevere to your children, remember that exposure to a different set of child-rearing ways is highly beneficial to children as a learning experience in the diversity of people. Since few children who don't live with them get overexposed to grandparents, comprehension between grand-generations is often high.

Victor Hugo: "When you are old, you feel like a grandfather to all small children." ●

JULIA REED PALMER AND THE AMERICAN READING COUNCIL

HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. REUSS. Mr. Speaker, the July 17, 1978, issue of Publisher's Weekly contained an informative article about the work being done by Julia Reed Palmer, chairman of the American Reading Council in New York. The council, under Mrs. Palmer's dedicated leadership, has been working on innovative and successful methods of improving literacy and reading skills, particularly for young people in our inner cities. These methods can and should be expanded to all of our cities, and I want to share the article, by Frank G. Jennings, with my colleagues.

The article follows:

ARC: WORKING TO WIN YOUNG READERS

(By Frank G. Jennings)

Since Julia Palmer founded the nonprofit American Reading Council three years ago, the membership has been energetically promoting two sets of programs. The first makes good books available, at cost, to parents and children. The ARC's elementary-school, paperback bookstores are open to parents and run by the students themselves, as a form of career education. The children's involvement in the project gives them a strong motivation to improve in reading and mathematics. And the stores make inexpensive books accessible in an ongoing program. Where these stores exist, reading scores go up; school library use and family reading sessions increase dramatically. Experience has proved boys and girls who browse and buy books—with their own money—make a commitment that goes beyond that of a child who is given or loaned a book by an adult.

The Council's second program makes the same, good, inexpensive softcovers available for sale to parents through book racks in day-care centers and nursery schools. Even parents in low-income areas seize the opportunity to create a home library for themselves and their children.

Palmer's interest in creating the Council stems from her long career as a teacher—largely in poverty areas—and as chairman of the successful Brooklyn Bookmobile, "Buttercup." She says that the idea of the ARC, however, was suggested by Dr. John Niemeyer, retired president of Bank Street College; Dr. Nancy Larrick, reading specialist and author; John Franz, formerly head of the National Book Committee, and Lucille Thomas, head of the New York Library Association. ARC also has the support of two former U.S. Commissioners of Education—Francis Keppel and Dr. Sidney Marland, as well as of the present commissioner, Dr. Ernest Boyer.

The ARC manages a special program for inner cities, a bookmobile to be combined with a Community Library Program, which will make the underutilized resources of libraries in these locations available to bookmobile graduates.

The bookmobile operation has been most gratifying, attracting previous nonreaders who now read as many as 16 books in 16 weeks. In addition, the program hired and trained semi-literate teenagers, giving them

basic education and job skills. Familiarity with the bookmobile also gave parents education and material for them to help their children to read more and appreciate books.

Plans for the Community Library Program will encompass the same features and add parent-education classes, after-school book and game clubs and other activities on matters of local interest. Both programs will run year-round and be extremely cost effective. (The bookmobile circulated books at approximately one-third the cost of the average public library.)

In Newark, N.J., the Public Library Board of Trustees has voted to implement the Community Library Program at its Central Ward branch, if ARC can get funding.

It is Palmer's belief that books should be made as available and attractive as drugs. To start her program required money, and money required an organization with purpose, legal status; a management and policy body (trustees and advisors) and tax-exempt status.

"We obtained a small grant from a charitable foundation and started business," Palmer says. The Council has prepared manuals on how to start and run a bookmobile to serve poverty areas and how to set up and operate school bookstores, set up book racks in day-care centers and nursery schools, and established a routine for encouraging similar activities throughout the country. Moreover, the ARC has sent proposals for funding future inner-city operations to a number of foundations and requested congressional legislation to fund the Council's programs. They report some progress, with the encouragement of HEW and the White House.

The biggest disappointment to date, says Palmer "is that the publishing industry has yet to offer any tangible support, although some of the leaders and many of their assistants have expressed interest in some or all of the aspects of the Council's work. In fact, one of the principal problems that arose in obtaining legislative support was the constant question from Congress: 'If the Council is helping with reading, where are the publishers?'"

Palmer notes that the British Bookshop Association's success with schoolchildren may serve the U.S. as a model. She reports a visit with Mrs. Clödagh Albrough, whose British enterprise is called "Books for Your Children." Last year Mrs. Albrough sold 1,600,000 children's paperbacks. "Imagine," says Mrs. Palmer, "these books are sold only through school bookstores or through what she calls community booksellers. If her figures are correct—and John Donovan of our Children's Book Council says she has the highest credentials—her average school bookstore is selling nearly 5000 books a year." Palmer believes that a comparable program in this country would have a potential for as many as 40,000 such school bookstores.●

FORMER VETERANS' AFFAIRS COMMITTEE CHAIRMAN BRYAN DORN SUPPORTS HANLEY AMENDMENT

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. TEAGUE. Mr. Speaker, the former chairman of the Committee on Veterans' Affairs, the Honorable William Jennings Bryan Dorn of South Carolina, has made a strong statement in support of continuing veterans preference in Federal employment. He has outlined his views in a statement in which he supports the proposed Hanley amendment which will preserve veterans preference.

So that all Members will have the benefit of Mr. Dorn's views on this issue, there follows a copy of his statement of August 3:

VETERANS PREFERENCE

William Jennings Bryan Dorn, former Chairman of the House Committee on Veterans Affairs, said today he contacted members of the South Carolina Congressional Delegation and others in Washington and urged them to push for passage of the Hanley Amendment to preserve veterans preference.

The proposed bill (H.R. 11280), scheduled for House action next week, Dorn said, would erode veterans preference laws which have been fought for and established over a 200 year period. Any weakening of these laws now could be the entering wedge to abolish all veterans preference including VA hospital, insurance, housing and GI education programs and even benefits for widows, orphans and dependants of veterans.

The high unemployment rate for Vietnam veterans, Dorn said, is already of grave national concern. This bill would discriminate against Vietnam veterans at a time they need special help. This bill could adversely affect 6 million Vietnam veterans and terminate benefits for 20 million World War II and Korean veterans. Unless the Hanley amendment is approved, Dorn continued, 6 million Vietnam veterans, some 2.4 million of whom served overseas in Vietnam, will lose their veterans preference by 1987.

This is no time, Dorn said, to abandon the principal of equal benefits for equal service. Veterans who fought for their country in time of national emergency believe this bill is a calculated step to destroy veterans benefits. This is the first time, the former Congressman said, such legislation has been seriously proposed. The public sympathizes with the Vietnam veteran who fought so gallantly in a filthy, undeclared war 10,000 miles from home.

Too many people, Dorn said, forget too soon.●

SEVENTH-DAY ADVENTIST CHURCH IN SYRIA

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. DERWINSKI. Mr. Speaker, recently, I received a letter from Baron Frary von Blomberg, President of the International Religions Council, calling my attention to the problems of human rights in Syria, and more specifically the complications encountered by the Seventh-Day Adventist Church in Syria.

Because of the savage slaughter of Christians in Lebanon by Syrian forces, I offered an amendment to the foreign assistance appropriations bill which denied Syria of $90 million in economic assistance. My amendment was adopted by a large margin in the House, much support has grown for its Senate counterpart.

I wish to direct Members' attention to a brief outline of the history of the Seventh-Day Adventist Church in Syria:

HISTORY OF THE SEVENTH-DAY ADVENTIST CHURCH IN SYRIA

In 1947 the government gave the Seventh-day Adventists permission to worship and to open schools. The permit was issued from the Prime Minister's office.

In 1951 a church was built in Bazak which today is called Rauda, near Tartous. After one year, a revolution occurred in Syria and the church in Rauda was closed.

Pastor Charic Srour was told that he was not free to worship or preach. He was asked to sign a paper stating that he accepted the declaration given in 1947 as being invalid.

Although the church in Rauda was closed in 1951, the Seventh-day Adventists continued meeting in the homes of the members. Three pastors led out in the worship services.

Around 1955, some of the workers were put into prison, but after being taken to court, they were found not guilty. After 15 days they were released. During these years, different permits to sell books, operate a correspondence school, etc. were issued by the government.

In 1965 the Center in Damascus was opened. In connection with the Center there was a small church. Nobody stopped or even questioned the members about worshiping . . . they had freedom to assemble. However, in 1970 six people were taken to prison and the building in Damascus was left vacant.

The six people: Pastor Gabriel Katrib, Pastor Zaki Hennawi, Faris Dow, Adel Tayyar, Fahmi Lewis, and Michael Tannous were held for 92 days and investigated and questioned thoroughly so that everything was known about them. They were found not guilty. After being freed they were told not to preach as before until the government studied their case and gave permission.

Pastor Gabriel Katrib was moved to Lebanon, but Pastor Zaki Hennawi stayed in Syria. We knew that the building was frozen and we were not allowed to sell it. After a short time it was occupied.

Since then the Seventh-day Adventists tried to ask permission for our members to worship, but have so far been unsuccessful.●

SOCIALIST WORKERS PARTY PROGRAM: INFILTRATE TRADE UNIONS, SUPPORT TERRORISM

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. McDONALD. Mr. Speaker, the Socialist Workers Party (SWP), the U.S. section of the Trotskyite Fourth International (FI), reconfirmed its program of support for revolutionary terrorist groups and of infiltrating the trade unions at its "Active Workers and Socialist Educational Conference," held August 5–12, 1978, at Oberlin College. The SWP conference was attended by 1,550 people, 400 more than the organizers had expected.

A new development at this SWP conference, held in nonconvention years, was the presence of members of the Puerto Rican section of the Fourth International, the International Workers League, who reported that they were recruiting from and working within the Committee to Free the Five Puerto Rican Nationalists. The Committee to Free the Five, as it is known, is a support group for terrorists from the Puerto Rican Nationalist Party who are serving Federal prison terms for the attempted assassination of President Truman in 1950 and for shooting several Members of Congress in 1954. The Committee to Free the Five groups in Chicago and New York have been closely linked with the terrorist Fuerzas Armadas de Liberacion Nacional (FALN).

The Puerto Rican Trotskyites said they have been able to stop the Puerto Rican Committee to Free the Five from making public statements in support of terrorism and to restrict discussions of terrorist "armed struggle" to private debates within the organization.

THE SWP AND TERRORISM

The Socialist Workers Party pretends in public that it disapproves of "terrorism." In fact like its sister Trotskyite Communist Parties in the Fourth International, the SWP supports "revolutionary armed struggle" including terrorism so long as the actions are carried out under the direction of their party which they claim is the real representative of the masses. The Trotskyites, like other Marxists-Leninists, term as terrorists those who commit violent acts outside the control of the party.

From 1969 until 1977, the SWP led a minority faction in the Fourth International which opposed the FI majority decision to make terrorist "armed struggle" a strategy for attracting new recruits and building a mass revolutionary movement. The debate was summed up by SWP Political Committee member, Mary Alice Waters, an SWP delegate to the FI's International Executive Committee, as follows:

> The majority held that they too were for building parties but that revolutionary parties could only be constructed today in Latin America if the Trotskyists proved themselves the best guerrilla fighters, arms in hand. Such was the only path to either the vanguard or the masses.
>
> The minority felt that such a strategy could only lead to the political miseducation of the entire world movement and the decimation of the small Trotskyist parties and cadres in Latin America. Logically it would have to be extended beyond Latin America to other parts of the world.
>
> * * * * *
>
> Other supporters of the Latin American majority document have tried to shift the discussion onto the axis of "for or against armed struggle." We reject any implication that that is what the discussion is really about. If supporters of the minority view were against armed struggle, they would be Social Democrats or Stalinists, not Trotskyists. What we reject is the strategy of "pick up the gun" as the road to power. As a strategy it stands in the way of the construction of mass revolutionary parties * * * and that is what the debate is about.

Since the 1969 decision of the Ninth World Congress, terrorist activities have been conducted by sections of the Fourth International in Argentina, Bolivia, Peru, Spain, France, England, Ireland, and the Middle East. In areas where the Fourth International sections have been too weak to themselves launch terrorist activities, they have provided logistical support for existing terrorist movements such as the Marxist terrorist movements in Southern Africa and the Palestine Liberation Organization (PLO).

It cannot be too strongly emphasized that the question in the Fourth International debate over terrorist "armed struggles" has always been when to use such tactics, not whether to do it. As SWP National Committee Member Peter Camejo wrote in 1973:

> Guerilla warfare is only one form of the utilization of arms. It cannot be correctly counterposed to terrorism.
>
> The word "terrorism" is commonly used to mean the politics of those who believe that violent actions against individual bourgeois figures can bring about social change, precipitate a revolutionary situation, or electrify or help mobilize the masses even if undertaken by isolated individuals or groups. Terrorism in that sense is rejected by the Marxist movement. But under conditions of civil war, terrorist acts can have a totally different political import. Their isolated nature fades. In the process of an insurrection, terrorist acts may be advantageous to the workers movement. They may also be damaging. But terrorist acts that are not part of a generalized mass armed struggle remain isolated and are detrimental to the workers movement.

The Canadian section of the Fourth International which works closely with the SWP, wrote the following in 1972:

> Lenin, of course, did not reject terrorism "in principle" * * *. Marxists do not reject any method of struggle "in principle." We judge each method according to one criterion: "will this method, used at this time and in these circumstances, advance the cause of proletarian revolution?" If the answer is yes, then we use the method if we are able. If the answer is no, then we don't. We are concerned only with effectiveness, and anyone who reads the works of Marxism on terrorism * * * will see that effectiveness is the only criterion used.

As it has turned out, the arguments of the SWP-led minority faction in the Fourth International have proved correct. The Argentinian Trotskyite terrorists have been virtually wiped out; and there have been serious reverses in the other areas in which the FI sections have directly engaged in terrorism. In a series of mergers, rival FI factions in Mexico, Canada, and other countries have healed their splits. Additional mergers are being planned in Ireland and several other countries.

The Fourth International recognizes now that their involvement with terrorism did not result in the recruitment of many new cadres and that it resulted in intense investigation by the police and security agencies of many Western nations. In order to expand their political base for future terrorist "armed struggle" operations, the Fourth International sections are attempting to penetrate the trade union movements of many countries, to take advantage of the antinuclear and disarmament movements, and to infiltrate various social democratic and some Communist Parties. But this does not mean that the Fourth International sections are ending their involvement in terrorism. Logistical support is being provided to terrorist "national liberation movements" in the Middle East, Southern Africa, Iran, West Germany, Spain, Ireland, and Corsica; and wherever feasible, the FI sections are expected to fulfill their "armed struggle" mandate themselves.

WORLD POLITICAL SITUATION

This double Fourth International drive of "party building" by involvement in the trade unions, antinuclear movement, and other organizations while providing support for many terrorist groups was made plain in the address by SWP National Secretary Jack Barnes to the conference audience. Barnes announced that a special convention of the SWP would be held in 1979 to select delegates for the upcoming 11th World Congress of the Fourth International. He said that the SWP's draft resolution on the world political situation would call for all FI sections to follow the SWP lead in penetrating the trade unions to make them the basis of a revolutionary movement.

With the healing of the FI factional disputes, the FI majority obviously agrees on most points with Barnes and company. The FI's confidential, members-only International Internal Discussion Bulletin (IIDB), vol. XV, No. 5, July 1978, gives its entire 28-page issue to the text of the FI majority's draft resolution on "The World Political Situation and the Tasks of the Fourth International."

The draft resolution has a number of interesting points which would require analysis too lengthy for this report. However, the Trotskyite discussion on "Eurocommunism," the latest intellectual fad among American liberals, is of interest. According to the Fourth International majority:

> * * * What is new in so-called Eurocommunism is the emphasis these bureaucrats place on their "independence" from the Kremlin. Formerly they rode high on the popularity of the Soviet Union, particularly after its victory over German imperialism. Today they seek to rid themselves of the political cost of publicly associating so intimately with the Kremlin. In the past, sharp turns in the international situation, to which Moscow responded with total reversals in foreign policy, would cause these mass Communist parties to make abrupt shifts in line. Under current conditions, such overnight reversals run the risk of causing disastrous losses of trade-union influence and voters.
>
> * * * * *
>
> Nevertheless, the Eurocommunist CPs have not cut their links with the Soviet Union, the "socialist camp," and the "world Communist movement." In fact they do their utmost not to let their more critical stance toward the Kremlin injure these links.

The Fourth International majority's draft resolution goes on to set forth as the priority tasks a number of projects involving providing support to terrorist movements, and "party building" by infiltration of other organizations. These included:

"Backing oppressed nations and national minorities in their struggle for liberation." Among the targeted groups specified are the Irish in Great Britain, the Corsicans in France, the Basques in Spain—all of which have active terrorist groups in operation among them; black revolutionary movements in Southern Africa; "and the blacks, chicanos, and Puerto Ricans in the United States."

"Participating in the struggles of poor peasants and working farmers." The

targeted countries included Peru, where Fourth International Leader Hugo Blanco, convicted of killing three police officers in a terrorist raid in the early 1960's, has returned following his election to the new Constituent Assembly at the head of a peasant-based coalition; Egypt, where the Trotskyites hope to use discontent that led to rioting in 1977 against the government of President Sadat; Mexico, the site of serious "land invasions" by unemployed peasants; and Spain.

"Defense of the revolutionary struggles of oppressed peoples that have been singled out by reactionary forces as special military targets." This includes "defense of the Palestinian people against the U.S.-backed military onslaught of the Israeli Government;" the "defense of the peoples of Southern Africa against the predatory attacks mounted by the racist regime of South Africa;" the "defense of the Cuban revolution against the belligerent threats, bullying tactics, and systematic economic and diplomatic pressure amounted by U.S. imperialism;" "defense of Vietnam;" and support for the Irish Republican Army—Provisional Wing demand to remove the British Army from Northern Ireland where it has successfully battled the IRA Provo terroists.

With regard to the Palestine Liberation Organization, the FI document urges the "Palestinian resistance" to "mobilize support among the millions of workers and poor peasants from Morocco to Iraq" not only to gain support in current political maneuvers, but in order to form a mass Arab revolutionary party to overthrow the governments of "Arab reaction," which is, of course, the PLO's long-term goal. Target countries include Tunisia, Morocco, Jordan, and Egypt. Also targeted is the "peace movement" inside Israel, and the draft resolution notes, "This antiwar sentiment can expand swiftly into political opposition, and shake the stability of the Israeli Government."

Providing "full assistance" to the Bertrand Russell Peace Foundation and to Amnesty International "in their defense work" for revolutionary "political prisoners" in Northern Ireland, Iran, Argentina, Brazil, Chile, and other countries is also an urgent task for FI sections. The Trotskyites view the "human rights" campaigns as ways to aid the revolutionary movements in those countries and as ploys to increase their contacts and credibility among revolutionary groups.

Supporting the antinuclear protest movement. The recent swift expansion of the antinuclear movement is of great significance. Its international character facilitates coordination of protest actions in a number of countries. The Trotskyists everywhere have met with a friendly reception in the antinuclear movement, demonstrating the opportunities open to the Fourth International in this arena.

Encouraging the formation of Trotskyite youth groups; and supporting the expansion of the women's liberation movement.

Ending Fourth International factional disputes.

Increasing electoral activities by Fourth International sections. "In many ongoing struggles, well-chosen initiatives can lead to substantial gains for the party. Fruitful work can be accomplished in the electoral field. The point is to organize campaigns that bring to the fore the favorable response of the Trotskyists to new advances by this or that sector of the working class and its allies. * * * Systematic campaign initiatives of this kind around key questions of the class struggle and political life can decisively consolidate party-building gains and help project the party's program as a general solution to the problems affecting all sectors of the working class and its allies. Under the present conditions of unemployment, well-planned campaigns for a shorter workweek without reductions in pay, closely linked to growing favorable sentiment inside the unions on this question, are an important example."

Penetration of and "fraction work inside mass Social Democratic and Stalinist parties, their youth groups, and mass organizations dominated by them." It should be noted that the SWP uses the term "faction" to denote an organized, formally declared grouping within the party, while a "fraction" is a generally secret grouping made up almost entirely of party members working within an outside organization such as a trade union, women's organization, or community group.

Among those named as targets are the Jusos (Young Socialists) in West Germany; the Finnish Socialist Youth; and in France, the CERES—Centre d'Etudes, de Recherches et d'Education Socialistes. Also subject to FI "colonization" are "Eurocommunist" parties such as the Communist Party of Spain and related parties such as the Japanese and Australian Communist Parties and the Venezuela Movimiento al Socialismo (MAS), a 1971 split from the Venezuelan Communist Party which has gained increasing strength.

"Defending sections and members of the Fourth International subjected to repressive measures." The draft resolution complains that "under the guise of 'battling terrorism'" by the offshoots of the Red Army Fraction/Baader-Meinhof gang and the "Carlos network" of international terrorists, the West German Government is conducting "a witch-hunt reminiscent of the McCarthyite period;" and attacks the governments of many countries in which the Trotskyites have been involved in terrorism such as Argentina, Chile, Spain, and Japan, where local Trotskyites have been involved in the violent riots against the new international airport, for cracking down on the activities of revolutionaries. The document continues:

As justification for hitting Trotskyists with special vindictiveness, a sustained effort has been made by reactionary forces to paint the Fourth International as a "terrorist" organization. Two of the most vicious agencies have been the CIA and FBI. * * * The American Socialist Workers Party and the Young Socialist Alliance have taken the lead in countering this witch-hunt. Through a $40 million suit against the government, they were able to uncover a great deal of evidence * * * and set in motion similar suits by others * * *.

The campaign of the SWP has greatly aided the efforts of the world Trotskyist movement to counter the propaganda smearing it as a "terrorist" movement. The Canadian section has taken a similar initiative against the Royal Canadian Mounted Police. Increased attention should be paid in the coming period to possibilities of this kind in other countries.

During the conference, a representative of the Swiss section of the Fourth International described how a campaign against the federal security agency was being conducted. The West German and Scandanavian FI sections have been looking into similar projects.

SWP LAWSUIT AGAINST THE FBI

SWP National Committee member, Larry Siegle, gave the main presentation on the SWP lawsuit against the FBI. He boasted of the Justice Department's lack of understanding of the SWP's motive in bringing the lawsuit and how the Justice Department's lawyers complained of their "unreasonableness" in refusing to make deals and concessions.

Speaking at a mass rally to support the lawsuit, Siegle said he had some news that the audience had not yet heard. He proceeded to give his version of a meeting called by the Justice Department earlier this year in which the U.S. attorneys offered to settle out of court and pay the SWP several hundred thousand dollars if the SWP would agree to give up its demands for the remaining FBI files, including the files on the FBI informants in the SWP. Said Siegle:

We authorized our negotiating team to make a simple and very reasonable proposal: give us millions of dollars and all files.

He said that the Justice Department response was to merely offer still more money in settlement and propose that the FBI files on the SWP be sent to the National Archives where no one could view them without the permission of the U.S. Attorney General. The SWP rejected this out of hand in favor of continuing Federal court litigation where the SWP, thanks to unbelievable Justice Department misfeasance, ignorance, and incompetence, has gained access to almost every document and file it has demanded.

Siegle said that the Justice Department does not understand the SWP's motives in filing the suit and went on to elaborate:

By the rulers' standards, we are unreasonable because we're not interested in helping them find a way out. We're interested only in exposing their system. * * * That's why we're not going to let Bell or Carter and the FBI off the hook. We're going to take full advantage of the openings presented by this case to mobilize all victims and potential victims of the FBI to strike a blow against the political police and the class they defend.

Siegle said:

We've one goal and one goal only, and that is to educate and organize and mobilize the working people of this country to use their power to defend their own interests, to take control of this country in their own hands, and to bring to power a workers government.

Siegle did not give his rally audience

any details of the "State Terror" instituted under the direction of Lenin by the SWP's hero, Leon Trotsky, after the "workers government" took power in Russia in 1917.

TURN TO THE TRADE UNIONS

First on the list of Fourth International priorities in the draft resolution of the Fourth International majority is "continuing the proletarian orientation." Recognizing that the majority of Trotskyites are recruited from among student, intellectual and professional classes, the document orders that "these cadres * * * be led to make a turn in this direction without further delay." And why must the members of Trotskyite parties give up their present jobs and take jobs in heavy industry so that they can join industrial unions? Why? Says the FI majority:

Their participation in trade-union fraction work from the base of jobs in industry can perceptibly increase the rate of successes of the party's political campaigns * * * by showing the workers how to think socially and act politically. * * *

On the internal level, it will facilitate training leaders and solving organizational problems in all aspects of our work. * * * The goal is parties of experienced worker-Bolsheviks who view themselves as political leaders of their class and its allies.

During the SWP's "Active Workers and Socialist Educational Conference," SWP National Committee member, Andrew Pulley, a member of United Steelworkers Local 1066 at the U.S. Steel Gary Works, encouraged the members of the SWP's steelworkers fraction to keep in mind that the "socialist order" would come about "only when a revolutionary party has been built that leads the masses of workers in action." Said Pulley, the role of the SWP was to gain the confidence of rank-and-file union members for a struggle to "transform the unions into revolutionary, fighting instruments."

In his opening presentation, Jack Barnes commenced by warning the Trotskyite cadres colonizing the industrial unions not to fall into the "trap" of "bread and butter unionism" by merely demanding higher wages and better working conditions. He said:

Simply sending the majority of our present cadres into industry and into the industrial unions is not in and of itself the solution to building a mass revolutionary party of workers. The key to doing this is winning thousands of workers to the party. Our goal is building a mass party of workers, a party that * * * represents the working class, by organizing its most advanced militant fighters in its own ranks.

What Barnes was saying is that the Trotskyite party will organize only the "vanguard party" numbering thousands of U.S. working people, and that party will then claim to speak for the "masses" by ruling them in the usual Leninist top-down structure. The millions of American workers will be "represented" by a centralized party composed of their alleged "leaders." Even Jack Barnes admitted that "Getting a big majority of our members into industry and into industrial unions now is a tactic to facilitate building such a party, nothing more."

It was reported that the SWP had increased its membership in the USWA to 130 members of which 30 were people recruited from the steelworkers by SWP colonizers. These SWP members have been assigned to work to be appointed delegates of the USWA to conventions of various union groups. It should be noted that not every member of a fraction need be a SWP member, but all fraction members operate as a disciplined unit under tight SWP control.

Rival Communist Parties were of considerable concern to the SWP during the convention. The activities of the Revolutionary Communist Party (RCP) and the breakaway Revolutionary Workers Jarvis were of considerable concern for the competition they provide in recruiting the trade union members. SWP union activists were particularly concerned with RWH leadership of the Good Contract Committee which led the wildcat strike of postal workers at the Jersey City Bulk Mail Center which handles much of the mail for the New York metropolitan region. According to the SWP, the RWH's Good Contract Committee has some 150 members and was willing to dampen sectarian differences and accept support from the SWP and other revolutionary groups.

The SWP members were told not to seek union offices, and that only in unusual situations, with approval from the SWP, to accept them. The Communist Party, U.S.A. (CPUSA) was strongly criticized for having its members and allies run for top union and local posts as "Stalinist bureaucrats." However, in several fraction meetings, SWP members discussed the value of running for "grassroots" union posts on grievance committees and as shop stewards. The examples of the RCP and RWH in these areas was noted. Participants in several fraction meetings told how their relatively open SWP membership and sale of the militant was advantageous in attracting individual militants to their cause.

During the conference, trade union fraction meetings were held that were closed to all but fraction members and top SWP organizers for auto workers, building trades, rail workers, shipbuilders, transit workers, public employees, teamsters, teachers, National Organization for Women (NOW), machinists, molders, postal workers, electrical workers, hospital workers, and printers.

During the conference Tony Austin, of USWA Local 12243 in New Jersey announced that the SWP would open two new branches in Gary, Ind., and Birmingham, Ala., both steel centers.

The national priorities for the SWP were outlined during the conference by Betsey Stone, of the National Committee. She stated that in addition to the present SWP trade union concentrations on steel, auto, rail, and coal, the party is planning to expand into the electrical and machinists unions, the Oil, Chemical, and Atomic Workers (OCAW), and help form a national fraction in the Teamsters.

SWP NATIONAL PROGRAMS

Other SWP national campaigns for 1978–79 include:

Support for the Equal Rights Amendment and full involvement in the national conference of the National Organization for Women (NOW) to open October 6, 1978, in Washington, D.C.

Support and involvement of the YSA in the regional conference of the North East Coalition for the Liberation of Southern Africa (NECLSA) to be held at New York University, November 17–19, 1978. An NECLSA Steering Committee meeting will be held September 30, 1978, at Yale University to make final plans for the conference. Operating from the offices of the American Committee on Africa (ACOA), 305 East 46th Street, New York, N.Y. 10017 (212/838–5030), the NECLSA's Divestiture Working Group will sponsor a Midwest Conference on University Investment in South Africa to be held at Northwestern University, October 20–22, 1978. The SWP and YSA will join some 50 other U.S. organizations invited to participate.

The SWP is also supporting the upcoming October U.S. tour by Drake Koka, founder and general secretary of the Black Allied Workers Union (BAWU) of South Africa in 1972, and a cofounder and first general secretary of the Black People's Convention (BPC), outlawed last year. According to the SWP, Koka fled to Botswana to avoid arrest for his participation in the Soweto rioting in 1976.

Increased efforts to colonize the antinuclear and disarmament coalitions, the Clamshell Alliance, the Mobilization for Survival (MFS) and related groups. This included SWP participation in the Louisville, Ky. No Nukes Strategy Conference held August 16–20, 1978, at which proposals for national and regional mass demonstrations were discussed; and will include strong SWP and YSA involvement in the upcoming second national MFS conference in Des Moines, Iowa, September 15–17, 1978.

Joining with the CPUSA's National Alliance Against Racist and Political Repression (NAARPR) in a campaign to free the Wilmington 10, particularly aiding in organizing a large demonstration this fall.

Using the Hector Marroquen case for recruiting in the Mexican-American community.

Attempting to greatly increase sales and circulation of "The Militant, Perspectiva Mundial," and launching a new theoretical journal to replace International Socialist Review which ceased publication in 1975, despite obvious financial strains which caused the closing of the regional offices of "The Militant."

INTERNATIONAL EVENTS

As at previous SWP conferences and conventions, "corevolutionists and friends" from Trotskyite parties in foreign countries were present and participating in the work of the meetings. Among the countries represented were Belgium, France, West Germany, and Switzerland; Iran and Israel; Australia and New Zealand; Canada, Mexico, the Dominican Republic, and Columbia.

Fourth International activities in a number of foreign countries were the subject of formal and informal meetings during the week-long conference. Gus

Horowitz, a member of the SWP National Committee who uses the alias "Galois" on the FI's International Executive Committee, spoke on his trip to Peru to witness the return of Hugo Blanco. Horowitz had been accompanied by Fred Murphy who presented a series of slides he had taken in Peru. Blanco ran on the ticket of an electoral front, the Front of Workers, Peasants, Students and the People (FOCEP), that received 12 percent of the vote in the Peruvian Constituent Assembly vote on June 18.

Blanco is a leader of the Peruvian Fourth International section, the Partido Socialista de los Trabajadores (PST). His goal is to unify the PST with the five other Trotskyite parties in Peru and bring them all into the Fourth International. Unification meetings were said to be planned for to start at the end of August and Peter "Pedro" Camejo had been designated the SWP's representative.

A representative of the Ligue Marxiste Revolutionnaire (LMR) (Revolutionary Marxist League), the Swiss section of the Fourth International, reported on the LMR Fourth Congress held in Lausanne in July. The LMR was formed by a core of some 100 French-speaking Swiss who split from the Swiss Communist Party (PdA) (Labor Party) in May 1978 in a protest against the French Communist Party decision not to back the student militants. The LMR claims more than 500 members and 1,000 sympathizers.

The LMR stated it had been working in the Swiss and Western European antinuclear movement and in a campaign against the Swiss federal security agency. Its representative said that in line with the "unified" FI line, the LMR is abstaining from direct involvement in violence and terrorism while attempting to expand its political base for future revolutionary activity.

The LMR claimed to have strength in the Swiss teachers and government employees unions, leading a strike of teachers in Geneva in 1977. It has been involved in electoral politics since 1973, and claims about 3 percent of the vote in Geneva and a number of rural farming villages where LMR cadre who are school teachers have developed followings of students and young adults. The LMR emphasized the importance of work among students by Trotskyist "revolutionary socialists."

Reportedly the LMR congress decided to enter candidates in many 1979 cantonal campaigns and will attempt to work with certain other leftist groups in presenting joint electoral slates, but rejected electoral cooperation with the Swiss Labor Party (the pro-Moscow Communist Party) or with the New Left Swiss Progressive Organization (POCH). The LMR also was said to have some 17 trade union militants on its new Central Committee. Like the other FI sections involved in a "turn" to the trade unions, the LMR hopes to make the unions instruments of class struggle with the openly declared aim of overturning existing power relationships, labor peace, and eventually the social, economic, and political order.

Chile is another area of increased Trotskyist activity. Chilean Anibal Vargas and the SWP's Rich Finkel led workshops on the history of the Chilean Marxist movement and on developments since the 1973 military coup. The Moscow-dominated section of the Chilean Socialist Party (PSCh) now called the External Secretariat and headquartered in East Berlin has been in a factional dispute with the secondary PSCh leadership that remained in Chile and has an external base in Mexico City that is called the National Coordination of Regional Committees (CNR). The SWP shares many of the CNR's criticisms of the Moscow-controlled External Secretariat, and the FI is clearly cultivating a relationship with the CNR.

The SWP noted that the terrorist MIR (Movimiento de la Izquierda Revolucionaria—Movement of the Revolutionary Left) had had Trotskyists among its initiators and the services it had provided to Salvador Allende's Unidad Popular coalition government. It was reported that a number of Latin American Trotskyist exiles in Sweden, where FI Peruvian leader, Hugo Blanco, had spent several years until his return to Lima in July, have begun publication of Combate, and that a new U.S. publication, Convergencia Revolucionaria, was available from Conrev Publications, DLD 63, 310 Franklin Street, Boston, Mass. 02120.

The Chile solidarity presentations concluded with the statement that the Socialist Workers Party "can contribute to the building of a revolutionary party in Chile by maintaining a relationship with exiled Chileans now living in the United States."

It is noted that the report on the MIR made little comment on the fact that its overseas headquarters are in Havana, or that the MIR has become increasingly active in Chile during a time of political stress for the ruling military government, with MIR's July activities including planting bombs in a Santiago bank and subway station and the armed robbery of passengers on a bus.

SWP RALLY

On August 11, those participating in the SWP's conference attended a rally to celebrate the successes of the SWP lawsuit against the FBI. Greetings were read from what the SWP terms "Stalinists" meaning veterans of the Communist Party, U.S.A. such as Anne Braden; from veterans of the pro-Hanoi anti-Vietnam movements such as David Dellinger, Dave McReynolds of the War Resisters League, Distributive Workers District 65 President David Livingston, and Dr. Benjamin Spock; and from Kate Millett, Attorney Leonard Boudin, Dick Gregory, and Walter Johnson, president of Local 1100 of the Department Store Employees Union.

In addition of Larry Siegle, rally speakers included:

Vernon Bellecourt, International Indian Treaty Council (IITC) and member of the national council of the militant American Indian Movement (AIM), who announced that AIM had assembled a team of lawyers, legal workers, and researchers to work on the 80,000 pages of FBI files recently released under the Freedom of Information Act.

Mary Zins, an SWP member in the United Mineworkers of America Local 284 who was active in organizing support for the July march in Washington, D.C., in support of the equal rights amendment by the National Organization for Women.

Sra. Rosario Ibarra de Piedra, a founder of the Mexican National Committee to Defend Political Prisoners.

Anne Sheppard Turner, a member of the Wilmington 10 convicted of arson conspiracy.

George Novack, a veteran SWP leader.

Robert Meeropol, of the National Committee to Reopen the Rosenberg Case and a son of the executed Soviet atom spies who represented the Fund for Open Information and Accountability (FOIA) and called for "unity" of all political parties and tendencies "against today's repression" in the struggle "forward toward justice, toward peace, and toward socialism."

Hector Marroquen, now a member of the SWP and its youth group, the Young Socialist Alliance (YSA), wanted by Mexican authorities on charges of having committed terrorist acts as a member of the 23d of September Communist League. Marroquen described his recent meeting in Washington, D.C., with Immigration and Naturalization Service Director Leonel Castillo who said Marroquen would be granted political asylum if he could prove he would be "persecuted if I return to Mexico."

Patricia Wright, SWP candidate for Governor of Ohio.

Maceo Dixon, SWP National Committee.

Olga Rodriguez, SWP Southwest Field Coordinator and National Committee member.

LEADING SWP ACTIVISTS

The following members of the Socialist Workers Party or its youth arm, the Young Socialist Alliance (YSA) took leading roles in the 1978 "Active Workers and Socialist Educational Conference as speakers, and as leaders of classes and workshops:

Rashaad Ali.

Eugenia Aranda, Partido Revolucionario de los Trabajadores, Mexico.

It is noted that the PRT spokeswoman was identified merely as "Christina" to her audience which may be her "party name" or alias, or may indicate a substitute speaker.

Tony Austin, USWA Local 12243, New Jersey.

Nan Bailey, SWP National Committee.

Reza Barahenl, member of the Sattar League, the Iranian section of the Fourth International.

Jack Barnes, SWP National Secretary.

Michael Bauman, managing editor, Intercontinental Press/Inprecor.

Susan Berman, YSA.

Nelson Blackstock, SWP National Committee.

Bob Bresnahan.

Jon Britton (Delivered SW Political Committe report to National Committee meeting held just prior to opening of conference).

Peggy Brundy, Alternate member SWP National Committee.

Peter Buch.

Jim Burfriend, SWP Louisville (formerly of Austin, TX).

Peter "Pedro" Camejo, SWP National Committee.

Steve Clark.
Nancy Cole.
Steve Craine.
Sharon Crawford.
Maceo Dixon, SWP National Committee.
Ted Edwards.

Dean Elder, UAW member at Bingham Stamping Plant, Toledo.

Leslie Evans, Alternate member SWP National Committee.

Betsy Farley, YSA National Organizational Secretary.

Diane Feeley.
Fred Feldman.

Rich Finkel, Alternate member, SWP National Committee; IRA liaison.

Gerry Foley, Alternate member, SWP National Committee; IRA liaison.

David Frankel, Palestine Human Rights Campaign workshop.

Marcia Gallo.

Catarino "Dick" Garza, SWP National Committee.

Ilona Gersh.
Raul Gonzales.
Bill Gottlieb.
Peter Green.
Patricia Grogan.
Don Gurewitz.

Lillian Haddock, International Workers League of Puerto Rico [FI section].

Fred Halstead, SWP National Committee.
Joseph Hansen, veteran SWP leader.

James Harris, Alternate member, SWP National Committee; national coordinator, National Student Coalition Against Racism (NSCAR).

Jamileh Harris, YSA.

Ernest Harsch, Intercontinental Press/Inprecor.

Osborne Hart.

Ed Heisler, Alternate member, SWP National Committee; member, United Transportation Union.

John Hillson.

Gus Horowitz, SWP National Committee, just returned from Peru.

Jerry Hunnicutt, YSA, Washington, D.C.
Doug Jenness, SWP National Committee.
Linda Jenness, SWP National Committee.

Sara Johnston, USWA member and SWP candidate for Governor of Texas.

Susan LaMont, Alternate member SWP National Committee.

Tom Leonard.
Bruce Levine.
Frank Lovell, SWP National Committee.
Caroline Lund, SWP National Committe.
Wendy Lyons, SWP National Committee.
Robin Mace.
Michael Maggi.
Malik Miah, SWP National Committee.
Ken Miliner, SWP New York City.
Mary Lou Montauk.
Paul Montauk.

Andrea Morrell, SWP National Committee.

Laura Moorhead.
Fred Murphy, accompanied Horowitz on Peru trip.
Omari Musa, Alternate member SWP National Committee.
Barbara Mutnick.
August Nimtz.
George Novack.
Thabo Ntweng.
Reiko Obata, YSA, New York City.
Kara Obradovic, YSA National Committee.
Miguel Pendas.
Jose Perez.
David Prince, SWP Finance Director.

Andrew Puley, SWP National Committee; USWA Local 1066 [U.S. Steel, Gary Works].

Socorro Ramirez, Partido Socialista de los Trabajadores [FI section in Colombia].

Evelyn Reed.

Willie Mae Reid, Alternate member SWP National Committee.

Dick Roberts, Alternate member SWP National Committee.
Olga Rodriguez, SWP National Committee.
Jane Roland.
Andy Rose.
Nancy Rosenstock.

Roger Rudenstein, workshop on recruiting lawyers, law students and legal workers.

Norton Sandler.

John Sarge, USWA Houston [Hughes Tool].

Bob Schwarz [provided an analysis of the Democratic Socialist Organizing Committee (DSOC)].

Glova Scott, YSA National Committee and SWP candidate for District of Columbia Mayor.

Cathy Sedwick, YSA National Chair.

Peter Seidman, Alternate member SWP National Committee; [PLO support and liaison].

Ken Shilman, Alternate member SWP National Committee.

Michael Smith, workshop on recruiting lawyers, law students and legal workers.

Katherine Sojourner, SWP National Committee.

John Staggs.
Syd Stapleton, SWP National Committee.
Betsey Stone, SWP National Committee.
Claudio Tavarez. Perspectiva Mundial.
Anne Teesdale.
Gaudencio Thiago de Mello, Brazilian guitarist.
Tony Thomas, SWP National Committee.
Anibal Vargas, Chilean.
Marilyn Vogt.
Alan Wald.
Susan Wald.
Diane Wang.

Mary-Alice Waters, SWP National Committee.

Scott Ware, Brooklyn Navy Yard shipfitter.

Arnold Weissberg.
Reba Williams.

Patricia Wright, Alternate member SWP National Committee.

Miguel Zarate.
Mathilde Zimmerman.

Mark Zola, SWP candidate for Governor of Pennsylvania.●

ISAAC ZLOTVER TO REAPPLY IN JANUARY

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. STEERS. Mr. Speaker, I have learned of recent developments in the case of Isaac Zlotver that I would like to share with my colleagues.

For over a year now, I have been involved in an effort to secure emigration permission from the Soviet Union for an elderly engineer, Isaac Zlotver, who has terminal cancer, so that he may be reunited with his family and see for the first time his grandchild. I would like to say that I am most proud of this Congress for the support it has shown this man. Over 70 Members have joined me in various efforts in behalf of Mr. Zlotver, the latest one being the introduction of a House resolution urging the President to communicate to the Government of the Soviet Union the concern of the United States that Isaac Zlotver be granted permission, in accordance with the Helsinki Accords, to emigrate from the Soviet Union to be reunited with his family. Today I am reintroducing this legislation with additional cosponsors.

Mr. Zlotver's health has improved slightly and he is now working a few hours a day. He has been informed by local Soviet officials that his most recent application to emigrate received the highest attention in Moscow. While this information was probably designed to discourage Mr. Zlotver from reapplying this most determined gentlemen has taken it as a positive sign and he is going to reapply this January once again. The Members of this House who have worked on this case in the past should be commended for their work thus far, because without their support, Isaac Zlotver's application would most probably never have left Sverdlovsk.

Mr. Zlotver feels that he has been refused as an example for other Jews in Sverdlovsk who might wish to apply to emigrate, but have not. He is willing to continue his courageous efforts to emigrate, and I urge all my colleagues to become involved in this effort and write Soviet officials and Mr. Zlotver himself, as a show of support and concern for his next application this January. I am inserting into the RECORD at this point a letter I sent Mr. Zlotver yesterday:

SEPTEMBER 5, 1978.

Mr. ISAAC ZLOTVER,
U.S.S.R.,
RSFSR Sverdlovsk K-62,
Pr Lenina 93/2.

DEAR MR. ZLOTVER: I am certainly heartened to learn that your health has improved slightly, and that your physical condition has become stronger.

I want to assure you that the people I represent and many other Members of Congress have not forgotten your efforts to see for the first time your grandchild and be reunited with your children. I am enclosing copies of a resolution recently introduced in the House of Representatives in your behalf. This resolution has gained the support of over 60 Members of Congress who are willing to continue to work in your behalf.

I wish you continued improvement in your health and strength in your ordeal.

Yours sincerely,

NEWTON I. STEERS, Jr.●

HOUSE OF REPRESENTATIVES—*Friday, September 8, 1978*

The House met at 10 a.m.

Rev. Morris Murray, Jr., Kansas Baptist Church, Kansas, Ala., offered the following prayer:

From among those of us who are assembled here this day, we who are Your children corporately extend to You our adoration and praise. We worship You not only as the Creator but also as the Emancipator who alone has delivered us from the cancerous disease of sin, and has made us acceptable to Yourself in Jesus Christ.

We thank You, our Father, that we have this privilege to enter Your presence. We confess our need of Your mercy and grace. We acknowledge that You alone are capable and worthy of directing our lives both individually and nationally.

We therefore renew our commitment to Your lordship. May the decisions made this day reflect that commitment.

We offer this prayer for Your glory. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendments of the House to a bill of the Senate of the following title:

S. 2928. An act to amend the International Investment Survey Act of 1976, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 12112. An act designating Gathright Lake on the Jackson River, Va., as Lake Moomaw.

The message also announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 2358. An act to declare that the United States holds in trust for the Pueblo of Zia certain public domain lands;

S. 2588. An act to declare that the United States holds in trust for the Pueblo of Santa Ana certain public domain lands; and

S.J. Res. 131. Joint resolution to change the name of Copan Dam and Lake in the States of Oklahoma and Kansas to Copan Dam and the Lake of the Delawares.

REV. MORRIS MURRAY, JR.

(Mr. BEVILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEVILL. Mr. Speaker, I was honored today to have Rev. Morris Murray, Jr., of Kansas, Ala., give the opening prayer in the House of Representatives.

Reverend Murray is pastor of the Kansas Baptist Church. The community of Kansas is located in the Fourth Congressional District of Alabama I am privileged to represent here in the Congress.

Reverend Murray is a graduate of Walker High School, Samford University, and the New Orleans Baptist Theological Seminary. He has been an active minister for 10 years now.

He is active in civic affairs and his work is known and appreciated throughout his community and the surrounding area.

He was accompanied to Washington by his lovely wife, Brenda, who is also with us today.

Reverend Murray and his work form one of the basic principles upon which our country was founded and it was my distinct honor and pleasure to have him as my guest on the House floor today.

TRIBUTE TO THE LATE JOHN E. BOATWRIGHT

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HUBBARD. Mr. Speaker, it is with both sadness and pride that I speak today in the House of Representatives regarding Kentucky's beloved J. W. (Johnny) Boatwright, Jr., of McCracken County, Ky.

Johnny Boatwright, State Representative for McCracken and Livingston Counties, died of cancer at the age of 30 on August 23, 1978. His recent untimely death has created a void in the lives of all who knew him. He served our country in the U.S. Air Force in Vietnam, was an active member of the Concord United Methodist Church in Paducah, and served in various civic endeavors.

In 1975, Boatwright, then 27 years of age, was elected to serve in the Kentucky House of Representatives, unseating a veteran incumbent. Then, running unopposed, he was returned to that office by the people of the fourth district in 1977. He served as vice chairman of the House State government committee and was a member of the joint interim committee. One of the youngest members of the Kentucky General Assembly, Johnny was also one of the most dedicated and hardworking. The members of the legislature all deeply respected him and any advice he offered. When he rose to speak on the floor of the House, silence reigned. He was dedicated, conscientious, and honest.

Boatwright proudly stood up for what he believed was right for his constituents and for all Kentuckians. Through his calm words of wisdom he enlightened many of his colleagues and was always happy to provide us with his confident, well-reasoned, rural point of view.

As a personal friend of Johnny Boatwright's, I would like to express my sympathy to his lovely wife Linda, his son Roger, his daughter Lynnette, his parents Anne and Johnson Boatwright and all other members of the family.

REPORT ON SPECIAL COMMITTEE ON SOUTHEAST ASIA

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, in this morning's mail each Member of the House has received a copy of the report submitted to you on the findings and recommendations of the Special Committee on Southeast Asia. The report is brief and to the point and I urge my colleagues to take the 20 or 25 minutes required to read it.

The eight Members of our delegation feel our recent journey to Vietnam and Laos was beneficial and has made it possible to provide you with the most current information on the situation in Southeast Asia. The findings of our delegation will prove, we believe, to be helpful to our colleagues and our Government in determining America's future policy toward the nations of Southeast Asia.

TRAGIC DESTRUCTION OF RHODESIAN AIRLINER BY RHODESIAN PATRIOTIC FRONT GUERRILLAS

(Mr. ROBERT W. DANIEL, JR., asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROBERT W. DANIEL, JR. Mr. Speaker, recent news accounts have related how a Rhodesian airliner was destroyed by a surface-to-air missile and how passengers, including women and children, who survived the crash were shot and bayoneted to death. Responsibility for the destruction of the aircraft has been claimed by Joshua Nkomo, coleader of the Rhodesian Patriotic Front guerrillas.

Need I remind this House that these are the very people whom the administration and many of our colleagues insist must be included in a future Rhodesian Government.

It would seem to me that those who continue to adhere to this position can only be committed to the triumph of savagery over civilization.

APPOINTMENT OF CONFEREES ON H.R. 13125, AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS, 1979

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 13125) making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1979, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mr. WRIGHT). Is there objection to the request of the gentleman from Mississippi? The Chair hears none, and without objection, appoints the following conferees: Messrs. WHITTEN, EVANS of Colorado, BURLISON of Missouri, BAUCUS, TRAXLER, ALEXANDER, MCHUGH, SIKES, NATCHER, MAHON, ANDREWS of North Dakota, ROBINSON, JOHN T. MYERS, and CEDERBERG.

There was no objection.

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

APPOINTMENT OF CONFEREES ON H.R. 12934, STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATION ACT, 1979

Mr. SLACK. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 12934) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1979, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia? The Chair hears none, and without objection, appoints the following conferees: Messrs. SLACK, SMITH of Iowa, FLYNT, and ALEXANDER, Mrs. BURKE of California, and Messrs. EARLY, MAHON, CEDERBERG, ANDREWS of North Dakota, and MILLER of Ohio.

There was no objection.

PROVIDING FOR CONSIDERATION OF SENATE JOINT RESOLUTION 4, HAWAIIAN NATIVE CLAIMS STUDY COMMISSION

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1265 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1265

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (S.J. Res. 4) establishing the Aboriginal Hawaiian Claims Settlement Study Commission, and for other purposes. After general debate, which shall be confined to the joint resolution and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, the joint resolution shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the joint resolution for amendment, the Committee shall rise and report the joint resolution to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, this rule came out of the Committee on Rules by a voice vote. While the matter it brings up has some controversy in it, as witness the vote on the suspension, so far as I know, there is no controversy whatsoever on the rule. It is a very straightforward, open rule providing for 1 hour of debate.

Mr. Speaker, I therefore reserve the balance of my time.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule provides 1 hour of general debate for the consideration of Senate Joint Resolution 4 to establish an Aboriginal Hawaiian Claims Settlement Study Commission. The rule contains no limitations on amendments and it contains no waivers of points of order. Rules such as this are becoming increasingly rare.

While the rule is simple and straightforward, Mr. Speaker, the joint resolution made in order by the rule is more controversial.

Senate Joint Resolution 4 was considered under suspension of the rules procedure on May 23, 1978. It failed to receive the two-thirds vote necessary for passage. The vote was 210 yeas to 194 nays.

The joint resolution appears to find that there is evidence indicating that the United States committed a wrong against the natives of Hawaii when it annexed the Hawaiian Islands to the United States and that the United States may have some obligation to compensate the natives for the alleged wrong.

The joint resolution provides for the establishment of a study commission to be appointed by the President. The 15-member commission must contain at least 7 members of Hawaiian native blood. If the commission finds that the United States has an obligation to compensate the natives, it is directed to recommend the nature of such settlement and how it should be implemented and administered.

The Congressional Budget Office estimates the cost of this joint resolution to be as follows:

Fiscal year:	*Thousands*
1978	$190
1979	571
1980	96
1981	----
1982	----

Mr. Speaker, I voted against this joint resolution when it was considered under suspension of the rules procedure, and I still oppose it in its present form. However, there is nothing objectionable about the rule, so I will not oppose it.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 11711, ADJUSTMENT ASSISTANCE FOR WORKERS AND FIRMS

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1288 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1288

Resolved, That upon the adoption of this resolution it shall be in order to move, sections 401(a), 401(b)(1) and 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11711) to improve the operation of the adjustment assistance programs for workers and firms under the Trade Act of 1974, and all points of order against said bill for failure to comply with the provisions of clause 5, rule XXI are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for amendment under the five-minute rule by titles instead of by sections. It shall be in order to consider the amendments recommended by the Committee on Ways and Means now printed in the bill on page 11, lines 2 through 19, and beginning on page 11, line 24 through page 12, line 26, and all points of order against said amendments for failure to comply with the provisions of section 401(b)(1) of the Congressional Budget Act of 1974 (Public Law 93-344) and clause 5, rule XXI are hereby waived. No amendments to the bill or to the committee amendments shall be in order except pro forma amendments for the purpose of debate and germane amendments relating only to chapters 2, 3 and 5 of title II of the Trade Act of 1974 (Public Law 93-618), the trade adjustment assistance provisions of said Act. Any point of order to the contrary notwithstanding, it shall be in order to consider an amendment printed in the Congressional Record of July 25, by Representative Cleveland of New Hampshire, if offered. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. NATCHER). The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA); pending that, I yield myself such time as I may consume.

Mr. Speaker, this resolution seems to be very complicated on the surface, but actually when you examine the various waivers and so on, it is not really all that difficult. The proof of that is that there was virtually no controversy in the Committee on Rules on the resolution that is before us. There is a limited controversy on the bill that it would bring up, but plenty of opportunity is offered to the opponents of one or two sections to deal with the problems where they do not agree with the committee.

Mr. Speaker, I do not know of any controversy on the rule and I reserve the balance of my time.

Mr. LATTA. Mr. Speaker, this is a rather complex rule and provides 1 hour of general debate for the consideration of H.R. 11711, adjustment assistance for workers and firms. There are a total of seven different waivers of points of order included in this rule. In addition, there are restrictions on offering amendments to certain parts of the bill.

Let me begin with the waivers.

First, in order to allow consideration of the bill, points of order are waived for failure to comply with section 401(a) of the Budget Act. Section 401(a) bars the consideration of any bill which provides new contract authority unless that contract authority is subject to the appropriation process. In this case, sections 108 and 203 of the bill provide authority to enter into contracts that is not expressly limited to amounts provided in appropriation acts, and therefore the bill would be subject to points of order. According to a letter from the chairman of the Budget Committee, amendments are to be offered to cure this Budget Act violation.

The second waiver of points of order is necessary because certain provisions in the bill violate section 401(b)(1) of the Budget Act. This section bars the consideration of any bill which provides new entitlement authority which is to become effective before the first day of the fiscal year which begins during the calendar year in which the bill is reported. Since title I of the bill provides new entitlement authority that could become effective prior to October 1, 1978, the year in which the bill was reported, the bill would be subject to points of order under section 401(b)(1) of the Budget Act. Again, the chairman of the Budget Committee has written a letter stating that amendments are to be offered to cure this Budget Act violation.

The third waiver of points of order in this rule is necessary because parts of the bill violate section 402(a) of the Budget Act. Section 402(a) provides that authorizations must be reported before May 15 preceding the beginning of the fiscal year when they take effect. Titles II and III of the bill provide authorizations which could take effect during the current fiscal year. In order to comply with the Budget Act requirement, it would have been necessary for the bill to be reported prior to May 15, 1977. Once again, the chairman of the Budget Committee has indicated that amendments will be offered on the floor to cure this Budget Act violation.

The fourth waiver of points of order is necessary because this bill technically violates clause 5 of rule XXI, which prohibits appropriations on a legislative matter. The problem arises because the bill expands eligibility for benefits. Funds previously appropriated for a narrower program may now be used for the expanded program. Technically, these funds are being appropriated to a new purpose, and this constitutes appropriation on a legislative bill.

The fifth waiver of points of order applies to the committee amendments printed in the bill. Points of order are waived against the committee amendments for failure to comply with the provisions of section 401(b)(1) of the Congressional Budget Act. This same point of order was waived against the bill. The problem with the committee amendment is the same as the problem in the bill, that is, there are entitlements which take effect before the Budget Act permits. Once again, the chairman of the Budget Committee has indicated his understanding that the Budget Act violation will be cured by amendment on the floor.

The sixth waiver of points of order also applies to the committee amendments printed in the bill. Points of order are waived against the committee amendments for failure to comply with clause 5, rule XXI, which prohibits appropriations on legislation. This same point of order was waived against the bill. The problem with the committee amendment once again is the same as the problem with the bill, that is, previously appropriated funds are technically being transferred to a new purpose.

The seventh and last waiver applies to the Cleveland amendment which is made in order by the rule. All points of order are waived against the Cleveland amendment. This was done to insure that the Cleveland amendment could not be knocked out on grounds of germaneness or for any other reason.

Mr. Speaker, in addition to the above waivers, the rule provides that no amendments to the bill or to the committee amendments will be in order except pro forma amendments for the purpose of debate and germane amendments relating only to chapters 2, 3, and 5 of title II of the Trde Act of 1974, the trade adjustment assistance provisions of the act. This restriction on amendments is in compliance with the request of the Committee on Ways and Means.

The rule provides that the bill will be read for amendment by titles instead of by sections.

Finally, the rule specifically makes in order an amendment by the gentleman from New Hampshire (Mr. Cleveland) providing for Federal reimbursement to States for unemployment insurance benefits paid to workers under this program.

Mr. Speaker, I have no further requests for time.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 333, nays 2, answered "present" 3, not voting 94, as follows:

[Roll No. 740]

YEAS—333

Addabbo	Anderson, Calif.	Andrews, N. Dak.
Akaka	Anderson, Ill.	Annunzio
Alexander	Andrews, N.C.	Archer
Ambro		
Ashley	Fowler	Montgomery
Aspin	Frenzel	Moorhead, Calif.
AuCoin	Gaimmage	
Bafalis	Garcia	Moorhead, Pa.
Baldus	Gephardt	Moss
Barnard	Giaimo	Motti
Baucus	Gilman	Murphy, N.Y.
Bauman	Ginn	Murphy, Pa.
Beard, R.I.	Glickman	Murtha
Beard, Tenn.	Goldwater	Myers, John
Bedell	Gonzalez	Myers, Michael
Benjamin	Goodling	Natcher
Bennett	Gore	Neal
Bevill	Gradison	Nedzi
Biaggi	Grassley	Nichols
Bingham	Green	Nix
Blanchard	Gudger	Nowak
Blouin	Hall	O'Brien
Boggs	Hamilton	Oberstar
Boland	Hammer-schmidt	Obey
Bolling		Ottinger
Bonior	Hanley	Panetta
Bowen	Hannaford	Patten
Brademas	Harkin	Patterson
Breckinridge	Harris	Pattison
Brodhead	Hagedorn	Pease
Broomfield	Hefner	Perkins
Brown, Calif.	Heftel	Pickle
Brown, Mich.	Hightower	Pike
Brown, Ohio	Holland	Poage
Broyhill	Hollenbeck	Preyer
Buchanan	Holt	Price
Burgener	Holtzman	Pritchard
Burke, Mass.	Horton	Pursell
Burleson, Tex.	Howard	Quayle
Burlison, Mo.	Hubbard	Rahall
Burton, John	Hughes	Ralisback
Burton, Phillip	Hyde	Regula
Butler	Ichord	Reuss
Carney	Jacobs	Rinaldo
Carr	Jeffords	Risenhoover
Carter	Jenkins	Robinson
Cavanaugh	Jenrette	Roe
Cederberg	Johnson, Calif.	Rogers
Chappell	Johnson, Colo.	Roncalio
Clausen, Don H.	Jones, N.C.	Rose
	Jones, Okla.	Rosenthal
Clay	Jones, Tenn.	Rousselot
Cleveland	Kastenmeier	Roybal
Coleman	Kasten	Rudd
Conable	Kelly	Runnels
Conte	Kemp	Ruppe
Corcoran	Keys	Russo
Cornell	Kildee	Ryan
Cornwell	Kindness	Satterfield
Coughlin	Koltmayer	Sawyer
Crane	Krebs	Scheuer
Cunningham	LaFalce	Schroeder
D'Amours	Lagomarsino	Schulze
Daniel, Dan	Latta	Sebelius
Daniel, R. W.	Le Fante	Seiberling
Danielson	Leach	Sharp
Davis	Lederer	Shuster
de la Garza	Leggett	Sikes
Delaney	Lent	Skelton
Dellums	Levitas	Slack
Derrick	Livingston	Smith, Iowa
Derwinski	Lloyd, Calif.	Smith, Nebr.
Devine	Lloyd, Tenn.	Solarz
Dickinson	Long, La.	Spellman
Dicks	Long, Md.	Spence
Diggs	Lott	Staggers
Dingell	Luken	Stangeland
Dodd	Lundine	Stanton
Dornan	McCory	Stark
Downey	McCloskey	Steed
Drinan	McCormack	Steers
Duncan, Tenn.	McDade	Steiger
Early	McDonald	Stockman
Eckhardt	McEwen	Stokes
Edgar	McFall	Stratton
Edwards, Ala.	McHugh	Studds
Edwards, Calif.	McKay	Stump
Edwards, Okla.	Madigan	Taylor
Emery	Mann	Thompson
English	Markey	Traxler
Erlenborn	Marks	Treen
Ertel	Marlenee	Trible
Evans, Colo.	Marriott	Tucker
Evans, Del.	Martin	Udall
Evans, Ga.	Martox	Ullman
Evans, Ind.	Mazzoli	Vander Jagt
Fascell	Meeds	Vanik
Fenwick	Meyner	Vento
Findley	Michel	Walgren
Fisher	Mikulski	Walker
Fithian	Miller, Ohio	Walsh
Flippo	Mineta	Watkins
Flood	Minish	Weaver
Florio	Mitchell, Md.	Weiss
Foley	Mitchell, N.Y.	Whalen
Ford, Tenn.	Moakley	White
Forsythe	Moffett	Whitehurst
Fountain	Mollohan	Whitley

Whitten	Wolff	Yatron
Wilson, Bob	Wright	Young, Fla.
Wilson, C. H.	Wydler	Young, Mo.
Wilson, Tex.	Wylie	Zablocki
Wirth	Yates	

NAYS—2

Moore	Volkmer

ANSWERED "PRESENT"—3

Eilberg	Rooney	Simon

NOT VOTING—94

Abdnor	Frey	Pressler
Ammerman	Fuqua	Quie
Applegate	Gaydos	Quillen
Armstrong	Gibbons	Rangel
Ashbrook	Guyer	Rhodes
Badham	Hagedorn	Richmond
Bellenson	Hansen	Roberts
Bonker	Harrington	Rodino
Breaux	Hawkins	Rostenkowski
Brinkley	Heckler	Santini
Brooks	Hillis	Sarasin
Burke, Calif.	Huckaby	Shipley
Burke, Fla.	Ireland	Sisk
Byron	Jordan	Skubitz
Caputo	Kasten	Snyder
Chisholm	Krueger	St Germain
Clawson, Del	Lehman	Symms
Cochran	Lujan	Teague
Cohen	McKinney	Thone
Collins, Ill.	Maguire	Thornton
Collins, Tex.	Mahon	Tsongas
Conyers	Mathis	Van Deerlin
Corman	Metcalfe	Waggonner
Cotter	Mikva	Wampler
Dent	Milford	Waxman
Duncan, Oreg.	Miller, Calif.	Wiggins
Fary	Murphy, Ill.	Winn
Fish	Myers, Gary	Young, Alaska
Flowers	Nolan	Young, Tex.
Flynt	Oakar	Zeferetti
Ford, Mich.	Pepper	
Fraser	Pettis	

The Clerk announced the following pairs:

Mr. Richmond with Mr. Frey.
Mr. Rodino with Mr. Guyer.
Mr. Rostenkowski with Mr. Rhodes.
Mr. Zeferetti with Mr. Sarasin.
Mrs. Chisholm with Mr. Kasten.
Mr. Waggonner with Mr. Abdnor.
Mr. Gaydos with Mr. Hansen.
Mr. Fuqua with Mr. Hagedorn.
Mr. Breaux with Mrs. Pettis.
Mr. Ammerman with Mr. Wiggins.
Mr. Cotter with Mr. Collins of Texas.
Mr. Dent with Mr. Cohen.
Mr. Flynt with Mr. Burke of Florida.
Mr. Murphy of Illinois with Mr. Ashbrook.
Mr. Pepper with Mrs. Heckler.
Mr. Mikva with Mr. Lujan.
Mr. Teague with Mr. Badham.
Mr. St Germain with Mr. Caputo.
Mr. Shipley with Mr. Del Clawson.
Mr. Rangel with Mr. Winn.
Mr. Brooks with Mr. Fish.
Mrs. Burke of California with Mr. Quie.
Mr. Byron with Mr. Pressler.
Mr. Corman with Mr. Skubitz.
Mr. Fary with Mr. Wampler.
Mr. Mathis with Mr. Cochran of Mississippi.
Mr. Krueger with Mr. Hillis.
Mr. Lehman with Mr. McKinney.
Mr. Hawkins with Mr. Milford.
Mr. Roberts with Mr. Gary A. Myers.
Mr. Santini with Mr. Young of Alaska.
Mr. Van Deerlin with Mr. Thornton.
Mr. Waxman with Mr. Snyder.
Mr. Tsongas with Mr. Sisk.
Mr. Applegate with Mr. Armstrong.
Mr. Bellenson with Mr. Conyers.
Mr. Ireland with Mr. Huckaby.
Mr. Harrington with Mr. Duncan of Oregon.
Mrs. Collins of Illinois with Mr. Fraser.
Ms. Oakar with Mr. Flowers.
Mr. Ford of Michigan with Mr. Miller of California.
Mr. Metcalfe with Mr. Symms.
Miss Jordan with Mr. Gibbons.
Mr. Nolan with Mr. Quillen.
Mr. Bonker with Mr. Mahon.
Mr. Maguire with Mr. Brinkley.

Mr. BEARD of Rhode Island changed his vote from "nay" to "yea."

Mr. BLANCHARD changed his vote from "present" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

HAWAIIAN NATIVE CLAIMS STUDY COMMISSION

Mr. RONCALIO. Mr. Speaker, I call up the Senate joint resolution (S.J. Res. 4) establishing the Aboriginal Hawaiian Claims Settlement Study Commission, and for other purposes, and ask unanimous consent that the Senate joint resolution be considered in the House as in Committee of the Whole.

The SPEAKER pro tempore (Mr. NATCHER). Is there objection to the request of the gentleman from Wyoming?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 4

Whereas in the year 1893 the United States Minister accredited to the sovereign and independent Kingdom of Hawaii, acting wholly without the authority or knowledge of the Congress or the President, unlawfully conspired with a small group of non-Hawaiian residents of that kingdom, including citizens of the United States, to overthrow the indigenous and lawful government of Hawaii; and

Whereas in pursuance of such conspiracy the United States Minister and the naval representative of the United States, also acting without authority, caused Armed Forces of the United States to be put ashore and deployed in support of the overthrow of that indigenous and lawful government; and the United States Minister thereupon extended diplomatic recognition to a provisional government formed by the conspirators without the consent of the people or of the lawful government of Hawaii, which provisional government was sustained solely by the Armed Forces of the United States; and

Whereas, on December 18, 1893, in a message to the Congress, President Grover Cleveland did report fully and accurately on these illegal actions, which statement acknowledged that "by an act of war, committed with the participation of a diplomatic representative of the United States and without the authority of Congress, the government of a feeble but friendly and confiding people has been overthrown", that "a substantial wrong has thus been done which a due regard for our national character as well as the rights of the injured people requires that we endeavor to repair", and that "the United States cannot fail to vindicate its honor and its sense of justice by an earnest effort to make all possible reparation"; and

Whereas a claim for repair of these wrongs to the Hawaiian people was presented to the Government of the United States of America by Queen Liliuokalani, the lawful monarch of Hawaii, and on July 15, 1893, a petition for redress was also presented by the Hawaiian Patriotic League, representing Aboriginal Hawaiians; and

Whereas, in 1898, Hawaii was annexed to the United States, and by such annexation, among other things, the United States acquired ownership of vast landholdings that had been common property of the Aboriginal Hawaiians prior to the overthrow of their indigenous government; and

Whereas some eighty-four years have now passed without the wrongs done Aboriginal Hawaiians having been repaired: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby declares that a wrong has been committed against the Aboriginal Hawaiians which the United States is obligated to endeavor to remedy; that no wrong such as this committed eighty-four years ago in far different circumstances to a specific people few of whom survive today can be fully rectified in this or future Congresses; that the Congress, however, is desirous of determining whether a suitable remedy for such wrong can be fashioned; and that the Congress wishes to establish a commission of Aboriginal Hawaiians and other citizens to advise it on all matters pertaining to the best manner in which to provide such remedy.

(b)(1) The Commission shall be composed of fifteen members appointed by the President, of whom eight shall be from a list of not less than eighteen persons submitted to the President by the Governor of Hawaii. No less than nine of the members shall be of the blood of Aboriginal Hawaiians who inhabited the Hawaiian Islands prior to 1778 (hereinafter "Aboriginal blood"), three of whom shall be of one-half degree or more of Aboriginal blood, three of whom shall be of one-quarter or more degree of Aboriginal blood, and three of whom shall be of any degree of Aboriginal blood. Each of the islands of Hawaii, Kauai, Lanai, Maui, Molokai, and Oahu shall be represented on the Commission by at least one member of Aboriginal blood who is an inhabitant thereof, and all persons of any degree of Aboriginal blood who are not residents of the State of Hawaii shall be represented by a member of any degree of Aboriginal blood who is not a resident of the State of Hawaii. The President, prior to appointing the members of the Commission, and the Governor, prior to submitting recommendations for members, shall consult Aboriginal Hawaiian organizations and the Aboriginal Hawaiian community in each of the islands named in this paragraph (1).

(2) The Commission shall elect a Chairman and Vice Chairman from among its members.

(3) Eight members of the Commission shall constitute a quorum, but a smaller number, as determined by the Commission, may conduct hearings.

(4) Vacancies in the membership of the Commission shall not affect the powers of the remaining members to execute the functions of the Commission and shall be filled in the same manner as in the case of the original appointments.

(5) Each member of the Commission shall receive $100 for each day such member is engaged in the actual performance of duties vested in the Commission. Each member shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as shall be provided from time to time by regulations adopted by the Committee on House Administration of the United States House of Representatives.

(c) The first meeting of the Commission shall be called by the President within the sixty-calendar-day period following the date of approval of this resolution.

(d) Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(1) appoint and fix the compensation of an executive director, a general counsel, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum

rate for GS-18 of the General Schedule under section 5332 of such title; and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

(e) Each Federal department, agency, and instrumentality is authorized to furnish to the Commission such data, reports, information, and other resources as the Chairman of the Commission may request.

DUTIES OF THE COMMISSION

SEC. 3. The Commission shall—

(1) conduct a study of the culture, needs, and concerns of the Aboriginal Hawaiians; the nature of the wrong committed against, and the extent of the injuries to, the Aboriginal Hawaiians by reason of the actions set forth in the preamble of this resolution; and various means to remedy such wrong;

(2) hold such public hearings with public notice as it deems necessary to further such study, but not less than one hearing in each of the islands of Hawaii, Kauai, Lanai, Maui, Molokai, and Oahu in the State of Hawaii and at another site elsewhere in the United States where a substantial number of persons of Aboriginal blood resides;

(3) provide public information concerning the actions set forth in the preamble wherever possible in advance of public hearings and such other methods employed by the Commission to obtain public participation in the study;

(4) publish, within one year of enactment of this resolution, a draft report of the findings of the study and make said report available to appropriate Federal and State agencies, Aboriginal Hawaiian organizations, and the public;

(5) solicit written comments from such agencies and organizations and the public;

(6) consider such comments in preparing the final report of the findings of the study; and

(7) submit to the President and the Committee on Energy and Natural Resources of the Senate and Committee on Interior and Insular Affairs of the House of Representatives, within six months of the publication of the draft report, the final report of the findings of such study, such report to include all written comments on the draft report submitted to the Commission.

COMMISSION RECOMMENDATIONS

SEC. 4. (a) The report required by section 3 shall provide recommendations for a remedy. Such recommendations shall include—

(1) the distribution, expenditure, investment, or other use of funds as a component of any such remedy, including, where appropriate, innovative uses of the funds which will permit such moneys to be employed successively for the benefit of Aboriginal Hawaiians, such funds to be appropriated in equal increments over a period of years;

(2) the provision of land as a component of any such remedy through any method, including the surplusing of Federal land and amendments to the Hawaiian Homes Commission Act of 1920 (42 Stat. 109): *Provided*, That, should the surplusing of Federal lands be recommended as a component of any such remedy, the Commission shall propose a method or methods for resolving, whenever a tract of such land is offered, whether such tract shall be conveyed to the State under applicable law or the Aboriginal Hawaiians under a subsequent Act to provide for such remedy;

(3) such other recommendations concerning the components set forth in clauses (1) and (2) of this subsection as the Commission deems appropriate;

(4) the preservation and enhancement of Aboriginal Hawaiian culture and lifestyles and the education of Aboriginal Hawaiians as principal purposes of any such remedy;

(5) the blood quantum or other requirements for eligibility to receive the benefits of any remedy, and, if the Commission deems appropriate, to receive specific benefits or shares of benefits;

(6) the form or forms of organization best suited to receive, distribute, or administer the benefits of any remedy; and

(7) other matters concerning any such remedy, including, but not limited to, alienability and tax status of the benefits of any such remedy, provision of technical assistance to Aboriginal Hawaiians on the use of such benefits, and the reporting to the Federal Government and the Aboriginal Hawaiians of the disposition of such benefits.

(b) Any such recommendation shall, to the extent possible, be designed to assure that any such remedy—

(1) will be a final settlement of all claims of Aboriginal Hawaiians against the United States arising from the actions set forth in the preamble of this resolution;

(2) will be capable of prompt implementation with a minimum of litigation;

(3) will be in conformity with the real economic and social needs of the Aboriginal Hawaiians;

(4) is fashioned and will be implemented with the maximum participation of Aboriginal Hawaiians;

(5) will not create a wardship or trusteeship;

(6) will not diminish any right, privilege, or obligation of the Aboriginal Hawaiians as citizens of the United States or the State of Hawaii; and

(7) will not relieve, or diminish any obligation of the United States or the State of Hawaii to protect and promote the rights and welfare of Aboriginal Hawaiians as citizens of the United States or the State of Hawaii.

TERMINATION OF THE COMMISSION

SEC. 5. Except as provided in subsection (b) of section 7, upon the expiration of the sixty-day period following the submission of the report required by section 3, the Commission shall cease to exist.

SAVINGS CLAUSES

SEC. 6. No provision of this joint resolution shall be construed as—

(1) constituting a jurisdictional act, conferring jurisdiction to sue, or granting implied consent to Aboriginal Hawaiians to sue the United States or any of its officers with respect to claims arising from the actions set forth in the preamble of this resolution; or

(2) constituting a precedent for reopening, renegotiating, or legislating upon any past settlement involving land claims or other matters with any Native organization or any tribe, band, or identifiable group of American Indians.

AUTHORIZATION

SEC. 7. (a) There are hereby authorized to be appropriated for fiscal years 1979 and 1980 such sums as are necessary to carry out the provisions of this resolution. Until October 1, 1978, salaries and expenses of the Commission shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman. To the extent that any payments are made from the contingent fund of the Senate prior to the time appropriation is made, such payments shall be chargeable against the authorization provided herein.

(b) The Secretary of the Treasury shall reserve a reasonable portion of the funds appropriated pursuant to subsection (a) of this section for the purpose of providing payment for the transportation, subsistence, and reasonable expenses of the members of the Commission in testifying before the Congress with respect to their duties and activities while serving on the Commission or to such matters as may involve the findings of the study of the Commission after the expiration of the Commission pursuant to section 5.

Mr. RONCALIO (during the reading). Mr. Speaker, I ask unanimous consent that the Senate joint resolution be considered as read, printed in the RECORD, and open to amendment at any point.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

Mr. RONCALIO. Mr. Speaker, I move to strike the last word.

Mr. Speaker and my dear colleagues, this is the second time around for this legislation which passed by a handsome majority but not by the necessary two-thirds vote when it was considered under suspension of the rules a few months ago.

Mr. Speaker, I cannot think of a better explanation of this legislation, historically and factually, than is set forth in the "Dear Colleague" letter that was sent out by the gentleman from Hawaii, Mr. CECIL HEFTEL, that all of the Members received about 2 months ago. I am going to quote from that letter of July 21, 1978.

He says that this resolution seeks to establish a commission and a study.

And I want to emphasize the word "study".

And I particularly want to state to my good friend and colleague, the gentleman from Maryland (Mr. BAUMAN), whom I consider to be the watchdog of the minority of this body, and his colleagues, that this does nothing by way of a cause of action, it does not make any admissions of any type of irresponsibility or wrongdoing. It carries some allegations of historical facts.

What should be stated, of course, is the fact of the 1893 overthrow of the government in the Island of Hawaii.

I realize that 85 years is a long time for most Americans. Memories grow short after that length of time and most events seem to be relegated to the history books, but this event has riveted the attention of some Americans ceaselessly—and it certainly has on the west coast and in the counties of Hawaii. Its details are as familiar to some children as are the stories of Paul Revere's ride and the signing of the Declaration of Independence.

This was an important incident, and it lies still in the hearts, as I say, of millions of Americans on our west coast and in Hawaii.

It is something that has to be faced, my colleagues, because it is a fact that the Armed Forces of the United States, without authority of Congress or direction of the President, supported a group of non-Hawaiian aliens in an unlawful seizure of power in the overthrow of the Government of Queen Liliuokalani on January 16, 1893.

I might add that I have been reading a book about the area of the Choptank River, where my friend, the gentleman from Maryland (Mr. BAUMAN), comes from, written by Mr. Michener, and I am recommending that the gentleman read the book that he also wrote about Hawaii, and he describes there with the same sort of accuracy regarding the incident of the overthrow of the Hawaiian government, just as he has described the development of eastern Maryland.

Mr. Speaker, I believe the Hawaiian people, and particularly the Hawaiian

natives, have been very patient and understanding of this incident, and they need some fair compensation and support, and better treatment. I believe that some attention should be paid to that act that took place, at least a study of the possibility of remuneration, compensation, and adjustment. We all have some "face" whether we are orientals or whether we are occidentals in this world, and I am sure in the case of a wrongdoing by our people, which of course, ought not turn into a handout type of thing—but where a nation has character, a nation with a character ought not wish to have history perpetrate its wrongs.

We certainly have treated all of our minorities with imminent justice over the years and there is no reason we should exclude the Hawaiian natives from that consideration.

We believe the people of Hawaii have waited long enough for their study. They have shown their patience. We believe it is now time for the U.S. Government to show its wisdom by creating a commission to study what loss, if any, the Hawaiian people suffered, and what compensation is possible.

When we get into a discussion of this matter I am sure we will get all of the details that are necessary, and let us do it calmly. I know that there are hot tempered types among the people there, just as there have been in other areas, who would like to use this effort to cause dissent, and to cause economic turmoil, and we have seen that happen.

We have seen that happen; but if that happens, it will not be the fault of the hotheads of Hawaii. It will be the fault of some of the persons in this House of Representatives who refuse to permit even a study or consideration of what should be an equitable, proper act on the part of the lawmakers of this Nation.

Therefore, Mr. Speaker, if each Member can, without great delay this morning, consider the amendments we have offered, then I hope we can have a good and full discussion of the matter and see to the passage of this joint resolution.

Mr. WHITE. Mr. Speaker, will the gentleman yield?

Mr. RONCALIO. I am happy to yield to the gentleman from Texas.

Mr. WHITE. Mr. Speaker, so that I can get a better understanding of this bill, could the gentleman elaborate on the type of wrongs to which the Hawaiian natives have been subjected? At the time of annexation was some of their property taken without compensation?

Mr. RONCALIO. I would be delighted to answer the gentleman.

The SPEAKER. The time of the gentleman from Wyoming (Mr. RONCALIO) has expired.

(By unanimous consent Mr. RONCALIO was allowed to proceed for 3 additional minutes.)

Mr. RONCALIO. To answer the gentleman, Mr. Speaker, land reform had taken place, ordered by the Queen, prior to that. A few years prior to this incident, such lands had been passed to the people of Hawaii, certain lands at certain places in each of the counties of Hawaii. Maps were prepared showing this particular land.

The claims made now are not to those lands by the descendants of these Hawaiians. That would be an impossible thing to achieve. The idea now is to have a study of the wrongs which took place and to give some type of consideration to those who are the descendants of those who were wronged.

The study commission could recommend, if it wishes, where there might be entitlements that can be added in a sort of Hawaiian homes commission type of function, or lands that can be used. For example, let us take the lands in Molokai. There could be homesteads there, and some people might be able to make a home out of the land there.

This matter involves those in the lower echelon economically, and the highest number of those in Hawaii, unfortunately, are the Hawaiian Natives. This situation puts a burden on our conscience, and we have a duty to do something to help these people to reach a higher economic level. If this device can be used to do that, it will serve a noble purpose.

Mr. WHITE. If the gentleman will yield further, in the first place, are there not existent programs which would address those in the lower income levels? The Hawaiians, after all, are members of a State of the United States.

Mr. RONCALIO. There are programs, but they are woefully, frightfully inadequate.

Mr. WHITE. How was the land taken in a wrongful manner? I am just trying to answer that question in my own mind.

Mr. RONCALIO. I can only refer the gentleman to a half-dozen history books to give him the details on that subject. It was President Cleveland who said that this was not done with the constitutional authority of the United States of America.

The very character of this Nation requires that some corrective action be taken to help the people of Hawaii. Mr. Michener's book comes to the same conclusion on Hawaii, and so does anybody else who ever studied the facts.

Frankly, we do not apologize for what this country did; but we recognize that some of the acts may have been less than circumspect. If it is appropriate to discuss them and to compensate them in some form, I think that should be done.

Mr. WHITE. Under our statutes, under the due process clauses of the Constitution, have any of these cases been taken to court and adjudicated?

Mr. RONCALIO. No; and this does not commit a cause of action to be taken. I am not conducting a revolution. I am just managing a little bill on the floor. I am not conducting a revolution, and I am not creating a cause of action in a court of law. I am a little old to be doing those things.

Frankly, all I want to do is to pass a bill to create a commission to study some of the wrongs done to the people of one of our States.

Mr. BUTLER. Mr. Speaker, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Speaker, I think it has been the practice in the House, in the brief time that I have been here, for claims against the United States to be considered by the Committee on the Judiciary.

Has the Committee on the Judiciary had an opportunity to consider the claims that we have before us, or has it had the time to consider any of these native claims?

Mr. RONCALIO. Actually, in response, I think the gentleman is correct. That may be the more proper and more appropriate committee having jurisdiction. It may be that this commission may find that in this case that should be done. This commission's work will start, and after a year or two they may recommend that this matter should be referred to the appropriate subcommittee of the Committee on the Judiciary.

If it so says, that is what the Study Commission will come up with. All this bill does is create a Commission to do it and give us a report and its opinion and that should be the procedure to take. I have no doubt that responsible officials of the Judiciary will want to appear before this committee and make that case, particularly if there is to be any consideration or action or litigation ensued; but I hope that will not be the result.

Mr. BUTLER. Mr. Speaker, if the gentleman will yield further, it is a fair statement that the Judiciary Committee has not had an opportunity to consider this problem up to this point.

Mr. RONCALIO. Oh, it has had 89 years of opportunity to consider the problem, but has not done it.

Mr. BUTLER. Mr. Speaker, if the gentleman will yield further, is it a fair statement to say that the Committee on the Judiciary, given the opportunity, has declined to consider this problem?

Mr. RONCALIO. No; I do not believe that to be a fair statement. I am not aware they have declined to consider it.

It has had massive opportunity to do so, but it has gone neglected by the Committee on Interior and Insular Affairs and by the Committee on Government Operations and by all the other committees of this House. They have had the opportunity. The Committee on the Judiciary is one that could have taken action, but did not take it.

Mr. BUTLER. Mr. Speaker, I thank the gentleman.

COMMITTEE AMENDMENTS

The SPEAKER pro tempore. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 3, after the enacting clause, strike out all of Section 1 and insert in lieu thereof the following:

That the Congress finds and declares—

(1) that there is substantial evidence that a wrong was committed against the Aboriginal Hawaiians, involving the complicity and unauthorized support of civil and military officials of the United States;

(2) that this wrong, committed eighty-four years ago in far different circumstances to a specific people, few of whom survive today, cannot be fully rectified by Congress;

(3) that the Congress, however, is desirous of determining whether a suitable remedy for such wrong can be fashioned; and

(4) that the Congress should establish a commission of Aboriginal Hawaiians and

other citizens to advise it on all matters pertaining to the best manner, if any, in which to provide such remedy.

Mr. RONCALIO (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

Mr. JOHNSON of Colorado. Mr. Speaker, reserving the right to object, yesterday under the rule we had 30 minutes. Are we in the amending process?

The SPEAKER pro tempore. The Chair would like to advise the gentleman, as the gentleman knows, this is being considered in the House as in the Committee of the Whole.

Mr. JOHNSON of Colorado. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

Mr. RONCALIO. Mr. Speaker, I rise in support of the amendment, but I would be pleased to yield 5 minutes of my time to the eminent minority member of my subcommittee, the gentleman from Colorado (Mr. JOHNSON). That is probably my fault. I failed to apprise the gentleman that we were proceeding in the House as in the Committee of the Whole.

The SPEAKER pro tempore. Does the gentleman from Colorado desire to be heard?

Mr. JOHNSON of Colorado. No, Mr. Speaker.

Mr. RONCALIO. Mr. Speaker, this amendment affects section 2(b)(1), the subsection providing for appointment of members to the Commission appointed by the President. It establishes criteria for their selection and provides for 15 members, no less than 9 being of the blood of Aboriginal Hawaiians. The committee felt this would impugn the objectivity of the findings; however, the committee did not feel it would be appropriate for prior representation on the Commission; however, the committee did feel there should be appropriate Hawaiian representation on the Commission.

The amendment reduces from nine to seven the representation. It makes corresponding adjustments in the blood criteria.

I would add that I do not like these kinds of amendments, but this is a necessary fact of life and I urge its adoption.

The SPEAKER pro tempore. The question is on the committee amendment.

The committee amendment was agreed to.

Mr. RONCALIO. Mr. Speaker, I ask unanimous consent that the remaining committee amendments be considered as read, printed in the RECORD, and that they be considered en bloc.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

The remaining committee amendments are as follows:

Committee amendments: Page 4, beginning on line 15 through page 5, line 11, strike out all of paragraph 1 of section 2(b) and insert in lieu thereof the following:

(b)(1) The Commission shall be composed of fifteen members appointed by the President, of whom eight shall be from a list of not less than eighteen persons submitted to the President by the Governor of Hawaii. No less than seven of the members shall be of the blood of Aboriginal Hawaiians who inhabited the Hawaiian Islands prior to 1778 (hereinafter "Aboriginal blood"), two of whom shall be of one-half degree or more of Aboriginal blood, two of whom shall be of one-quarter or more degree of Aboriginal blood, and three of whom shall be of any degree of Aboriginal blood. Each of the four counties of the State of Hawaii shall be represented on the Commission by at least one member of Aboriginal blood who is an inhabitant thereof, and all persons of any degree of Aboriginal blood who are not residents of the State of Hawaii shall be represented by a member of any degree of Aboriginal blood who is not a resident of the State of Hawaii. The President, prior to appointing the members of the Commission, and the Governor, prior to submitting recommendations for members, shall consult with Aboriginal Hawaiian organizations and with the Aboriginal Hawaiian community in each of the islands of Hawaii, Kauai, Lanai, Maui, Molokai, and Oahu in the State of Hawaii.

Page 8, line 5, strike out "wrong" and insert in lieu thereof "wrong, if any,".

Page 9, strike out all of lines 13 through 15 and insert in lieu thereof:

SEC. 4. (a) Any recommendations for a remedy contained in the report required by section 3 may include, but shall not be necessarily limited to—.

Mr. RONCALIO. Mr. Speaker, these committee amendments have the effect of insuring that the resolution, itself, does not predetermine the very issues which the proposed Commission is required to study and report upon. As passed by the other body, the resolution statutorily makes findings which the Commission is to determine.

The first five committee amendments merely insert the word "alleged" in the preamble to make clear that we are not congressionally determining the validity of the assertions made in the preamble.

The sixth amendment amends section 1, involving congressional findings, to again make clear that, while there is some evidence to show that a wrong was committed against the Hawaiian Natives by the United States, the validity of that evidence is a matter for the proposed study and should not be predetermined by Congress.

Amendment 8 amends section 3 in like fashion to make clear that whether or not a wrong was committed must be left to the study.

Amendment nine amends section 4. As passed by the other body, section 4 requires that the Commission submit a report recommending a remedy and predetermining what such recommendations should contain. The committee amendment makes it clear that the Commission may or may not recommend a remedy and, if so, suggests areas and factors which should be considered in any such proposed remedy.

Mr. Speaker, I urge adoption of these committee amendments.

The SPEAKER pro tempore. The question is on the committee amendments.

The committee amendments were agreed to.

Mr. BAUMAN. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I regret that the gentleman from Wyoming (Mr. RONCALIO) has not given us a better explanation of the need for this legislation. I understand the gentleman's concern about this alleged wrong that was supposedly committed more than 80 years ago.

This bill was originally brought up on suspension, as has become the custom in this Congress. The leadership throws almost anything into the suspension procedure, including billion-dollar bills and bills with potentials of spending billions of dollars.

This matter was debated here at length before and the question can legitimately be asked of us: Why should we bother with fighting over a bill like this—$857,000 for a 3-year commission? That, some would say, is "peanuts" as money for commissions flies around this place. We create million-dollar select committees to do nothing for 3 years only to come up with no conclusion. So why get so excited?

I think the reason we ought to be concerned is the reason we are here in this House as Members representing our people. It is no disrespect to the people of Hawaii or to the aboriginal Hawaiians that this bill should be opposed by me or by others. We oppose it because the bill is a horrendous precedent for us to set, even though it is portrayed as only $857,000 for a commission.

Let me quote to the Members from an article that appeared in the New Yorker magazine written by Elizabeth Drew, who is a responsible journalist. She investigated bills that were considered by the House under suspension, and one that caught her eye was this bill. She went to the Office of Management and Budget and asked them about it. Here is her quote:

> An official of the Office of Management and Budget has told me that the Hawaiian claims could end up costing the government thirty-five billion dollars.

Mr. JOHNSON of Colorado. Mr. Speaker, will the gentleman yield at that point?

Mr. BAUMAN. I will yield in a moment.

Here is a responsible journalist that says that she was informed this could wind up costing the taxpayers $35 billion. She may be wrong; it may not cost more than $857,000 for this Commission. We all know it will cost something.

But the point of the matter is that the potential cost to the taxpayers for this Commission has not been explained to this House. It is not in the report. This is sold to us on the basis that it is just another little study, that it means a few per diems for the Commission members, and then they will come back and perhaps say there is really no problem at all, that it can all be met through existing laws.

But that is not what will happen and we all know it.

The basic concept of this legislation is plain. There is going to be compensation to unknown numbers of people that will cost unknown numbers of dollars to the taxpayers. Worse than that, it sets a precedent. We have taken one course with Indian claims, we set another precedent with Alaskan Native claims, and now we are setting a still broader precedent with aboriginal Hawaiian claims. There will be no end to claims based on supposed past wrongs if Congress continues to permit this sort of thing.

How many people are alive today whose lands have actually been taken without compensation? I have wondered if I looked back at my own family tree—and I always shudder when I think about that because of what I might find—whether I might have a claim against the U.S. Government for some long-forgotten wrong against a great uncle or a great great grandmother or someone remote in the past.

It is the precedent that is important. How long do you have to go on looking for things on which to spend money? You spend too much as it is, and that is the issue here.

So why should Congress create a commission that should perhaps more properly be set up by the Hawaiian legislature with a few leftover dollars in its budget? Why should we pass a resolution that admits national guilt for some past alleged wrong?

Why should we start on a process that will inevitably lead toward the expenditure of more money to be paid to present living persons who are already eligible for help in the form of numerous existing Federal programs today?

We should not, I believe.

Mr. JOHNSON of Colorado. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Speaker, I thank the gentleman for yielding.

I am surprised that the gentleman raised the specter of a $35 billion program when he knows that that article from which he is quoting is a piece of irresponsible journalism.

Mr. BAUMAN. I do not know that at all.

Mr. JOHNSON of Colorado. We do not go to the OMB to get a figure of that sort and then quote it here on the floor of the House as being an authoritative report.

Mr. BAUMAN. I do not know its truth or untruth. I said that. Ms. Drew's responsibility is not at issue. The amount of money is the issue.

Mr. JOHNSON of Colorado. The gentleman asked a question, and I would like to respond.

Mr. BAUMAN. The issue is: What is the cost? The gentleman said $857,000 for a commission. The gentleman has to admit they are going to award at least $1 compensatory damages and more likely millions more.

Mr. JOHNSON of Colorado. They cannot award anything, and the gentleman knows it. The Commission will make a recommendation to the Congress and the Congress will then decide.

The SPEAKER pro tempore. The time of the gentleman from Maryland (Mr. BAUMAN) has expired.

(By unanimous consent, Mr. BAUMAN was allowed to proceed for 3 additional minutes.)

Mr. BAUMAN. Mr. Speaker, the gentleman from Colorado (Mr. JOHNSON) has one of the most able minds on the Interior Committee and in the House. I have served with him for 5 years on that committee, and I know the gentleman's ability. But I also know the central issue that I am raising, and one of the gentlemen ought to be addressing, is what the entire cost of this will be if the Commission leads to the logical conclusion this legislation suggests. And the report is silent on that cost. So it is just as logical for me to quote Elizabeth Drew. I do not have the figure.

Mr. JOHNSON of Colorado. I do not think there is a figure. I think it is irresponsible for anybody to quote any kind of figure, because, as the gentleman knows, the language of the resolution says—and this is at my insistence—"that this wrong committed 84 years ago in far different circumstances to a specific people, few of whom survive today, cannot be fully rectified by Congress."

We tried to acknowledge this, that although we acquired the land by conquest, nevertheless the possibility of rectification is one that seems very remote.

And we add "that the Congress, however, is desirous of determining whether a suitable remedy for such wrong can be fashioned * * *"

Mr. BAUMAN. Has the gentleman ever looked at the number of staff members on the Interior Committee? With all due respect to those staff members of the committee who are sitting on the floor, since its former chairman left the staff has grown by leaps and bounds. Perhaps they all are needed. Could not the staff write legislation rather than another commission?

My colleague, the gentleman from Virginia (Mr. BUTLER), just indicated his committee handles claims all the time, so we have a House procedure for that.

No, this is yet another costly commission. I am told everybody should try to get what they can out of the Congress, if they think it is a good cause, but the rest of us have to ask some serious questions. This bill has to be the bell ringer of all time, when people from Hawaii all the way back to Maryland are screaming about the cost of government and demanding less spending and lower taxes.

Mr. JOHNSON of Colorado. I guess we are just going to wrangle about this particular subject here until the time expires.

Mr. BAUMAN. My time is about up anyway.

Mr. JOHNSON of Colorado. I will get the gentleman more time.

This is not the kind of program which I ordinarily would endorse, to reimburse the Hawaiians for $1 billion, but I think the United States must recognize that when it acquired territory by conquest it was not done by any kind of legitimate authority. The President at the time was embarrassed and ashamed of it.

Mr. BAUMAN. Grover Cleveland, one of the greatest Democratic Presidents. I think we should have more Democrats like him.

Mr. JOHNSON of Colorado. If we had more like him, maybe we would have had a longer recession than we did under his Presidency.

Nevertheless, he was very candid in stating that the United States acquired this property by nefarious means. I do not think there is anything wrong in having a commission inquire into whether there is a possibility of a remedy of this wrong.

It is true, as the gentleman from Wyoming pointed out, that those natives are the people who are living at the lower end of the economic scale in Hawaii. It is a shameful incidence, a shameful experience that those people are living in.

The SPEAKER pro tempore. The time of the gentleman from Maryland (Mr. BAUMAN) has again expired.

(On request of Mr. JOHNSON of Colorado and by unanimous consent, Mr. BAUMAN was allowed to proceed for 1 additional minute.)

Mr. JOHNSON of Colorado. If the gentleman will yield further, it is a shameful experience, it seems to me, that we acquired by conquest a beautiful area of the world, Hawaii, and then the people we take it away from are those who are the poorest, the sickest, the most uneducated and the most downtrodden in that particular area of the world. That is a circumstance I know the gentleman would not endorse.

Mr. BAUMAN. The gentleman is correct. This is an unfortunate present circumstance the gentleman aptly describes. But he may as well describe the plight of the Indians in the United States as a result of similar conquests.

Mr. JOHNSON of Colorado. That is correct.

Mr. BAUMAN. And we have turned the American Indian nations into enormous welfare operations over the years, to their detriment, to the destruction of their pride and their nationhood. We have reduced them to a lesser people than they were before the conquest, and I have the same fear for the original Hawaiians if we put them on Federal dole.

But in the meantime they get social security, they are eligible for welfare. So are other hundreds of thousands of people regardless of race or color, but they get it because of their economic standing. They get no special treatment as this bill suggests.

Mr. HEFTEL. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, the gentleman has alluded to a $35 billion cost, and he has quoted from a journalist who obviously knows more than this body. During the course of the last 5 years, this body and the then Members from Hawaii, SPARK MATSUNAGA and Pasty Mink, introduced legislation, and in 1974 H.R. 15666 was proposed, the Hawaiian Native Claims Settlement Act. The bill sought to establish the Hawaiian Native Corporation in which every person with any Hawaiian blood would share equally. The Corporation would administer a $1 billion repa-

ration payment from the U.S. Government to be paid at the rate of $50 million per year for 20 years, which would be about ⅔ of a billion of actual cost.

Now, I would like to point out that at no time, even when the Members from Hawaii were proposing a sum certain, did they propose a sum that even equals $1 billion. One billion dollars at the rate of $50 million a year would be in the nature of $600 million of present value. There is no basis for using these extraordinary and untrue allegations of cost.

Assuming that a responsible commission is appointed, a responsible conclusion will be reached by that commission and recommended to this body. If this body concludes that the commission's findings are not reasonable, this body will reject them. But in no case should we ever hesitate to react to the qualities of conscience, of human decency, and a sense of responsibility.

I would like to remind the gentleman that because of a sense of responsibility and conscience, regardless of the consequences and the outcome, it does remain true that perhaps $500 billions were spent trying to defend peoples' freedom in Vietnam; trying to stop people from being overtaken in the same way that the Hawaiian people and their lands were overtaken in 1893 without an act of Congress, without the knowledge of the President.

Now, the gentleman is well aware that this commission is a responsive and responsible way to determine what, if any, reparations are due the Native Hawaiian people. We should not be afraid to study, to analyze, to think. We should not be afraid of the truth. We should not be afraid of our consciences, and I would hope that this body would at least see fit to establish the commission to determine what, if any, reparations are due Native Hawaiian people.

Mr. BAUMAN. Mr. Speaker, will the gentleman from Hawaii yield for a question?

Mr. HEFTEL. I yield to the gentleman from Maryland.

Mr. BAUMAN. The gentleman has given us more information than we have heard in two debates on this matter—did I understand the gentleman to say his estimate of the potential cost, if the claims are equitably settled, would be at least $1 billion?

Mr. HEFTEL. No, I did not.

Mr. BAUMAN. Could the gentleman give us his projected figure, if all the claims are equitably settled, as to what the total cost will be?

Mr. HEFTEL. I can only tell the gentleman that in 1974, when this body and the then Representatives from Hawaii, SPARK MATSUNAGA and Patsy Mink, endeavored to use a sum certain and did not propose a commission to be appointed to determine reparations, but rather determine what they thought reparations should be, determined that it should be $1 billion paid at the rate of $50 million a year, which would have a present value of 60 percent, or approximately $600 million.

That is the only time any sum certain has been mentioned in the 5 years that this dialog has continued about reparations for native Hawaiians. Assuming that the Congress decided and then rejected, Representatives MATSUNAGA and Mink decided it would be better to establish a commission, since that commission might come in at a lower or higher figure, or might want to utilize funds for native Hawaiians in a different way than merely establishing a corporation for meeting specific needs.

The SPEAKER pro tempore. The time of the gentleman from Hawaii (Mr. HEFTEL) has expired.

(On request of Mr. BAUMAN, and by unanimous consent, Mr. HEFTEL was allowed to proceed for 3 additional minutes.)

Mr. BAUMAN. Mr. Speaker, if the gentleman will yield further, is the intention in giving compensation to the descendants of those wronged, if some are still living, to compensate them for the value of the lands taken valued at the time they were taken or the value of the lands at the present time?

Mr. HEFTEL. It is not based on the value of the lands at the time they were taken or at the present time. The determination of the amount would be determined by what is considered to be fair in light of all the facts some 80 years later.

Mr. BAUMAN. I thank the gentleman.

Mr. WHITE. Mr. Speaker, will the gentleman yield?

Mr. HEFTEL. I yield to the gentleman from Texas.

Mr. WHITE. Mr. Speaker, I wonder if the gentleman would clarify these points for me. Is the wrongdoing and the compensation therefor to be for the taking over of government or the actual taking of land and titles for individuals?

Mr. HEFTEL. It is the Commission's responsibility to determine what should be the nature of the compensation and upon what wrong it should be based.

Mr. WHITE. But I am asking, Was land title taken from individuals or was there merely a change of government?

Mr. HEFTEL. Land titles changed hands. Individuals who owned lands no longer owned them afterward.

Mr. WHITE. Without compensation?

Mr. HEFTEL. Without compensation.

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. HEFTEL. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Speaker, I rise in support of this legislation.

I think much of the debate would be more relevant after we had the benefit of the recommendations of the Commission. I for one cannot anticipate what those recommendations will contain. I do not think anyone in the House can, but I do think it valid to construct this mechanism to bring to the Congress an informed point of view on what variety, if there be a variety, of approaches, if any, we should take to deal with this problem.

People living in the island areas, that by definition have a very small and limited amount of land, are confronted with a different measurement of continuum, if you will, of the kinds of problems that those of us living on the land mass of the continent do not have and have not been confronted with.

I can distinguish clearly this mechanism from a great deal of other matters, some of which are remotely similar and some of which are not similar at all, to the great variety of native American claims we hear bruited about from one end of the country to the other.

The SPEAKER pro tempore. The time of the gentleman from Hawaii (Mr. HEFTEL) has again expired.

(On request of Mr. PHILLIP BURTON, and by unanimous consent, Mr. HEFTEL was allowed to proceed for 1 additional minute.)

Mr. PHILLIP BURTON. Mr. Speaker, if the gentleman will yield further, finally we have an irony in the fact that if Hawaii were still a territory—and as our colleagues know, I happen to chair this committee as it relates to the insular areas—Hawaii's claims, to whatever extent they would have been valid, probably would have been dealt with. We do not need to have in any of the areas, that is, in the Virgin Islands or in Puerto Rico or in Micronesia or in Samoa or in Guam or in the Northern Marianas, any added mechanism for unfinished business in any of these matters. Hawaii fortunately became a State, but as a result of that they have been left out of the mechanisms set up for any other of the island areas where there was a demonstrated need to deal with these matters. So I would urge my colleagues to focus in on the short-term effort to set up this Commission.

The SPEAKER pro tempore. The time of the gentleman from Hawaii (Mr. HEFTEL) has again expired.

(By unanimous consent, Mr. HEFTEL was allowed to proceed for 2 additional minutes.)

Mr. PHILLIP BURTON. Mr. Speaker, if the gentleman will yield further, the effort today is to set up a short-term Commission, without prejudging how we will react to any or all or whatever recommendations may be brought to our attention.

Mr. MARRIOTT. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I would like to have a colloquy with the gentlemen from Hawaii (Mr. AKAKA and Mr. HEFTEL).

Mr. HEFTEL. It will be my pleasure.

Mr. MARRIOTT. First, Mr. Speaker, I would like to mention that probably few people, other than yourselves, in this body have spent more time in Hawaii than I have. I have lived there for a couple of years and have a lot of love for that area, but I do want to ask a couple of questions that bother me a little bit.

No. 1, why are we resurrecting this problem at this point? Why have 80 years elapsed and we are now just discovering that possibly there might be a claim against the United States, and therefore we are now entertaining this possibility?

Mr. HEFTEL. Mr. Speaker, if the gentleman will yield, the Hawaiian people are not as versed in the rights of citizens or in the law either as a territory or now as one of the States of the United States. They were a trusting people. They never tried to exercise their rights. Ultimately through the educational process and the awareness of the way individuals express and exert their rights as Americans, the native Hawaiians concluded that they alone, among the native Americans, have been wronged and have never acted to have anything done to right that wrong.

So, ultimately, when they found themselves to be the overwhelming highest percentage of people on welfare, in prisons, and not well adjusted to the society in which they lived, they commenced finding out what their rights were, as did other native American groups.

If you will check, you will find that the Indians and the native Alaskans all exerted their rights while the native Hawaiians sat back and, among other things, waited for America to do that which was right.

It is to the credit of this body and this Nation that we did ultimately address those wrongs and have for the last 5 years been discussing what, if anything, should be done to right those wrongs.

The Commission would theoretically be the first official body to be established within our Government to make a report to this body as to what, if anything, should be done with respect to the wrongs against the native Hawaiians.

Mr. MARRIOTT. Why did not the Governor of the State or the legislature of the State or the local officials of Hawaii do something? Was there not a court system used back in those early years to get at this problem? Why are we doing this now in the Congress? It would seem to me to be perhaps an inappropriate place in which to do this.

Mr. HEFTEL. I suppose there is a reason. The people, when they established this Government of the United States, determined that there shall be a Congress, a Congress which represents the people, a body which is the conscience, perhaps, of the people. We are here to perform those functions which we will know we should perform when we determine what is right and what should be done. I am not afraid to find out that we have obligations which we should assume. That is why we are here. That is why this legislation has been proposed in this body. This is where it belongs.

The gentleman will note that most native Americans, most dissident groups in America, go to courts of law because they find that they want to sue. They want to use legal remedies. They sometimes want to attack.

The gentleman may recall what happened in the burning of Watts. He may recall other riots that we have had in the United States.

The native Hawaiians were willing to patiently wait for this body to act in good conscience and with some concern, and that is why we are here today.

I think we should meet this responsibility that has naturally been given to us.

Mr. MARRIOTT. I have just one other question.

Not to belabor the point, does the gentleman have a list of potential grants to those to whom the gentleman thinks a wrong has been done? Do we have some kind of preliminary list of those people, where they are located, and how much land is involved?

The SPEAKER pro tempore. The time of the gentleman from Utah (Mr. MARRIOTT) has expired.

(On request of Mr. HEFTEL and by unanimous consent, Mr. MARRIOTT was allowed to proceed for 2 additional minutes.)

Mr. HEFTEL. If the gentleman will yield further, Mr. Speaker, so that I may answer his question, we are not going back to the land as the basis for the establishment of the Commission or for the determination of what will be found by that Commission. What we are going back to is an illegal taking of land and now a determination of what, based on present day fact, should be the reparation.

The number of people, if we included all Hawaiians of any degree of Hawaiian blood, would be approximately 150,000 native Hawaiians. If we use something greater than .01 percent of native Hawaiian blood, then the number of people would be reduced from 150,000. They are all available for targeting, for identification, for participation; and at no time has the Commission that has been proposed or prior legislation that has been proposed conceived of direct payments to native Hawaiians. That may be the finding of the Commission; but up until this point, it has been a question of what kind of mechanism should be established to perform what kind of function for the native Hawaiian so as to right the wrong that was committed, if the Commission finds that wrong has been committed, and that some form of reparation should take place.

Mr. MARRIOTT. Most of this land, I take it, would be on the island of Oahu rather than the outer islands?

Mr. HEFTEL. No, no. If we want to address the question of where the land is, it would not necessarily be Oahu versus the neighboring islands. However, we are not trying to address the land, per se.

Mr. MARRIOTT. The purpose of this legislation, then, will be to study the 150,000 potential claimants and determine whether or not they, in fact, have a legitimate claim; is that what we are doing?

Mr. HEFTEL. The Commission would be established to do that and to make a recommendation of what, if any, remedy is due.

Mr. AKAKA. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, the background of Senate Joint Resolution 4 has been discussed many times over—in the Interior and Insular Affairs Committee, on the floor of the House, in the Rules Committee and in numerous dear colleague letters.

The Hawaiian Monarchy, an independent, foreign nation, was unilaterally overthrown by the U.S. Minister and a group of non-Hawaiians. The action was investigated by the Federal Government and decried by President Grover Cleveland. President Cleveland said that—

> If a feeble but friendly state is in danger of being robbed of its independence and its sovereignty by a misuse of the name and power of the United States, the United States cannot fail to vindicate its honor and its sense of justice . . .

All Senate Joint Resolution 4 does is indicate that we in the Congress are willing to at least look into a situation that has been ignored for 85 years.

When this measure was brought up under suspension, certain objections were raised which I would like to place in proper perspective.

First. This is not a reparations bill. It merely establishes a study commission to look into the overthrow of the Hawaiian monarchy in 1893. The commission will determine if a wrong was committed and what obligation, if any, the United States may have in affording a remedy. It does not prejudge the issue. It does not mandate any compensation. There is no need for such alarmist statements as "the taxpayers of the United States ought to be protected against a wholesale raid on the Treasury under the guise of retroactive reparations." Anything, and I repeat, anything recommended by the commission will have to be approved by the Congress.

Second. Except in the case of Hawaii, the United States has never directly acquired territory by conquest. I believe that the examples used to illustrate our recognition of the right of conquest were Texas and the Louisiana Territory. Texas first declared its sovereignty from Mexico, then joined the Union. France acquired the Louisiana Territory from Spain by conquest, but we purchased it from France. Furthermore, the overthrow of the Hawaiian Government was carried out solely by the U.S. Minister to Hawaii and troops at his immediate command, without the knowledge or consent of the President or the Congress.

Finally, we are not, as some people have stated, setting any kind of dangerous precedent by addressing ourselves to claims that are 85 years old. The Alaska Native Claims Settlement Act was approved by Congress 104 years after the signing of the Treaty of Cessions, through which the United States purchased Alaska from Russia.

My friends, Native Hawaiians constitute 19 percent of the population of my State. This 19 percent accounts for 46 percent of all juvenile offenders and 35 percent of all adult offenders. In 1977, they had an unemployment rate of 13.6 percent, nearly twice the State average. According to the 1970 census, 58.8 percent of all Hawaiian families had incomes below $10,000.

The Hawaiians have made every attempt to help themselves, but the events of history and factors beyond their control have exacerbated their efforts.

Some people may try to relate Senate Joint Resolution 4 to disruptive land claims litigation. Some may try to relate it to dark visions of multi-million-

dollar reparations. Some may not be able to relate at all to an issue dealing with people 5,000 miles away. I can only say to you: This matter is as foremost in the minds of 150,000 of the people I represent as any issue of national or international note. It is as real and as close to them as are the personal concerns of any other citizens of any other part of the United States. It was passed by voice vote in the Senate. It was passed by the House Committee on Interior and Insular Affairs. I now ask that the full House pass Senate Joint Resolution 4, as presently worded, and fulfill our responsibilities as the representatives of all Americans.

Mr. RUDD. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I feel great sympathy for my distinguished colleagues from Hawaii, and I know that they feel great compassion for the people there.

I do, too. But I fail to see the differences that have been outlined here—differences such as the acquisition of New Amsterdam from the Indians by the Dutch, of what later turned out to be New York, part of the United States of America.

I do not quite see the difference between this approach, which could turn into great reparations for the Native Hawaiians, from that of the people who say that the Treaty of Guadalupe Hidalgo in 1847 was a travesty on the descendants, or the owners, or at least the occupiers of the land that encompassed a good portion of the Western part of our country today.

There is a movement afoot in the Southwest today to try to nail that one down.

What we are really talking about are territories acquired by one nation from another nation, where the territories are acquired by the country as a whole at a time when sometimes the people who have occupied the land probably did not have title to the land in the sense that we think about title.

We think of title as being the title they would have had under the government in this instance when the land was transferred to our Government.

But as we reach back into history to try to remedy these wrongs, thereby establishing a precedent like this, I think we will set up a means by which the descendants of the people who occupied the Southwest, the Louisiana purchase, and even Manhattan Island, would have a claim against our Government in this day and age—a claim against the people who pay taxes today.

This is something that should have been handled and remedied at the time of the acquisition. We cannot rightfully impose the potential high cost of the remedy being proposed here upon the taxpayers of the United States, today and tomorrow.

Mr. Speaker, I am opposed to this piece of legislation.

Mr. VANIK. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I may support this legislation. I think it has merit, but I would like to be sure that it is not going to result in any unjust enrichment.

I can understand why there might be a very proper claim for compensation for lands acquired by the Federal Government at Hickam Field and such installations that are involved in the State of Hawaii, but I would be terribly shocked if the Federal taxpayers were to be called on to make compensation payments from the people all over the United States to contribute to help recover the rights of people while others have been unjustly enriched.

If some of this land is now in the hands of private people or private corporations, I would hope that the commission would have the authority to determine this and determine whether some part of the cost of the compensation should not be paid by those who are unjustly enriched.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Speaker, I appreciate the gentleman's position.

I think the Commission will have a duty to look first into what lands on all the islands are not beneficially used in agriculture anymore because of the sinking of the water tables and the difficulty of irrigation and what lands lend themselves to residential purposes. If so, some of these lands can very readily be acquired at something less than high figures or at a very moderate price and can be put to a good purpose. I am looking forward to this sort of report from the commission.

Second, it is almost impossible to go to other Hawaiians and nonnatives and disturb peaceful possession of their homes. These are people who may have been there 50 or 75 years, and we do not want to disturb that. This is all privately owned land, and this is what we want to avoid. I am sure the Commission will realize this.

The problem is how to bring about a just use of surplus lands by the General Services Administration, and this addresses itself to the fundamental question. What value do we put on Hickam Field. Can the Congress value that at $10 billion? If we wish to put a value on it, the figure must be a fictitious one.

I am sure the clerk at OMB said to Elizabeth Drew what she reported, but that may not have been what OMB said.

Mr. Speaker, the Commission will have a job to do, and I am glad the gentleman brought this matter up.

Mr. VANIK. Mr. Speaker, let me ask, will the Commission have an authority and a mandate to see that there is no unjust enrichment, and that we do not simply use the Federal Treasury to pay off the native claims, which are very proper, and then let someone else enjoy the use of those lands today without having properly paid for them or obtained title to them?

Mr. HEFTEL. Mr. Speaker, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from Hawaii.

Mr. HEFTEL. Mr. Speaker, perhaps it would be helpful simply to read from the Senate joint resolution itself. The appropriate language is as follows:

Any recommendations for a remedy contained in the report required by section 3 may include, but shall not be necessarily limited to—

(1) the distribution, expenditure, investment, or other use of funds as a component of any such remedy, including, where appropriate, innovative uses of the funds which will permit such moneys to be employed successively for the benefit of Aboriginal Hawaiians, such funds to be appropriated in equal increments over a period of years;

(2) the provision of land as a component of any such remedy through any method, including the surplusing of Federal land and amendments to the Hawaiian Homes Commission Act of 1920 (42 Stat. 109): *Provided*, That, should the surplusing of Federal lands be recommended as a component of any such remedy, the Commission shall propose a method or methods for resolving, whenever a tract of such land is offered, whether such tract shall be conveyed to the State under applicable law or the Aboriginal Hawaiians under a subsequent Act to provide for such remedy;

Mr. Speaker, there has never been any intention that any individual will obtain improper enrichment or even enrichment per se. What we are talking about is a commission that can determine whether there are surplus lands or moneys which should be used in a responsive, responsible, and innovative way for the native Hawaiians. There is nothing involved in here that contradicts that.

Mr. VANIK. The section the gentleman has read does not answer my question.

Mr. HEFTEL. Would the gentleman like to offer an amendment?

Mr. VANIK. No. I am dealing with the issue of the original taking of the land.

Now, the Government of the United States, in all of its history, has never denied the right of the titleholders of property. We have always recognized established titles of those.

The SPEAKER pro tempore. The time of the gentleman from Ohio (Mr. VANIK) has expired.

(By unanimous consent, Mr. VANIK was allowed to proceed for 2 additional minutes.)

Mr. VANIK. I want to be sure that the land which was taken does not now somehow find itself in the hands of private people, private corporations, and then have the Federal taxpayers of all of the United States, paying our tax money for the benefit of the private enrichment of those who now hold the land. I am not talking about a claimant's right. I am talking about the person who now has the title, who somehow got title to the land and is now in possession of it. I want to be sure that person is not unjustly enriched at the expense of the U.S. taxpayers.

Mr. HEFTEL. If my colleague will yield to me, there is no way that can happen unless the commission reports findings that it wants to do that and this body votes to do it. It has never been the intention to do that. I can never believe the commission was established to do it. Therefore, it cannot happen.

Mr. VANIK. My one question is: Will the commission determine in its study that the lands were appropriated or taken by the United States of America and are now in private hands? Are you

going to identify those lands? Are you going to identify those lands and raise the question as to the legality of the title?

Mr. HEFTEL. There was no attempt in the establishment of this commission to concern itself with given parcels of land entitled to it. That was not the commission's objective.

Mr. VANIK. The gentleman is avoiding my question.

Mr. HEFTEL. I am not evading the gentleman's question.

Mr. JOHNSON of Colorado. Mr. Speaker, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. I thank the gentleman for yielding.

Mr. Speaker, I would say that the answer to the gentleman's question is an unequivocal no. The commission does not have that kind of authority, the commission does not have that kind of mandate, and it should not. And when the gentleman from Maryland was talking about the kind of precedent that this would set, he obviously did not even have this notion in mind.

The SPEAKER pro tempore. The time of the gentleman from Ohio (Mr. VANIK) has again expired.

(On request of Mr. JOHNSON of Colorado and by unanimous consent, Mr. VANIK was allowed to proceed for 2 additional minutes.)

Mr. JOHNSON of Colorado. If the gentleman will yield further, if the gentleman's notion were taken seriously that this commission or Congress should go back and consider the doctrine of unjust enrichment and perhaps restore land, all the way from Maine to California the native claims would be filed with the same kind of justification, and I would assume that would include the same kind of Indian claims in Ohio. And that is the kind of bag of worms that the gentleman certainly does not want to open up. I do not think the gentleman is serious when he talks about unjust enrichment and taking the land away from the people who have had the land for the past 85 years. The means by which their ancestors got it is not the fault of the people who have it now.

Mr. VANIK. I am seriously interested in the question of unjust enrichment. I am going to consider it carefully. If this report does not dwell on it, then I may react to the report. But I would, frankly, feel that I would be deeply interested in how the people got title between the time the United States got involved and the present time. And I think we should be sure we are compensating for someone who has picked up the title wrongfully. We should not ask the American taxpayers all over the United States to pay to reimburse natives who ought to be reimbursed on their rights of the land which has now been conveniently transferred, the title for which remains in the name of a private corporation or a private individual. Action should be taken against those who wrongfully hold land appropriated or taken from the native Hawaiians. I just want to be sure there is no unjust enrichment.

Mr. JOHNSON of Colorado. I think that the legislative record should reflect that that is the gentleman's own personal view. It certainly is not the point of view of the Committee on Interior and Insular Affairs or the Subcommittee on Interior which considered it.

Mr. VANIK. We will deal with the report when it is made.

Mr. RONCALIO. Mr. Speaker, I move to strike the requisite number of words.

I believe we have spent an hour and 10 minutes on debate, and if there is no further debate, I should like to move the previous question. However, I do not wish to cut anybody off.

Mr. POAGE. Mr. Speaker, I move to strike the last three words.

Mr. Speaker, I take this time to try to clarify this thing in my own mind; not to try to give the Members information, but to try to get some.

Of course, there is one thing I think we have all overlooked that I think I do know. No commission on earth can settle this nor can the Congress. Only the courts can settle it. We cannot adjudicate land titles. We can pass legislation here, but we cannot adjudicate land titles, and neither can any commission.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. POAGE. I yield to the gentleman.

Mr. RONCALIO. It is not our intention to adjudicate land titles, and not the intention of the commission to adjudicate land titles. It is not the intent of this bill and not the intention of this Congress in years to come. We hope to create a commission to study wrongdoing and recommend compensation or adjustment or atonement. That is all.

Mr. POAGE. In other words, the gentleman from Wyoming is saying that presumably the commission will make some recommendations to the Congress as to the possibility of making payments, rather than passing upon the titles. Here I think we get into terribly dangerous ground, or at least it seems that way to me. Maybe I am wrong. Am I right?

I am afraid that I voted for this bill when it was brought up the first time because I wanted to give these people every chance to recover anything that they owned, but now do I understand correctly that in about 1893 there was a revolution in Hawaii against the queen, and that our minister or ambassador there sent some American marines to take part in it on the side of the revolutionary group? Is that correct?

Mr. RONCALIO. That is alleged.

Mr. POAGE. What is that?

Mr. RONCALIO. That has been alleged. This report alleges that is the case.

Mr. POAGE. What are the facts? That is what I am trying to find. What are the facts?

Mr. RONCALIO. May I answer this, if I may? I think a little bit of reading on the part of all of us might enhance our knowledge on what the facts are, and I would recommend that we do that reading when the commission is meeting over the next few years.

Mr. POAGE. Well, I want to know some facts right now. I understand—at least, I have heard—that there was a revolution in Hawaii, and that the United States involved itself through our ambassador. The President later repudiated it, as I understand it. At least we took sides and at least we had some marines there. I do not know whether they did any fighting or did anything, but they were there.

Mr. JOHNSON of Colorado. Mr. Speaker, will the gentleman yield?

Mr. POAGE. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. I think it is an exaggeration to call it a revolution, because it was a "Committee of Safety" made up of approximately a dozen businessmen who contacted the American minister, who sent in a couple hundred marines and overthrew the government. So, it was not a revolution in the traditional sense.

Mr. POAGE. Did the marines do anything? Did they shoot any guns, kill anybody?

Mr. JOHNSON of Colorado. No, they did not have to. It was such a peaceful event that it did not qualify as a revolution. They just took over the operation of the islands.

Mr. POAGE. Anyway, is it not fair to say that there was a new government established? A so-called interim or provisional government. This new government was established and operated over 4 or 5 years, as I recall. Is that about right? Is it not correct to say that that provisional government claimed the title of all the lands that the queen had owned, what had been royal or public lands?

Mr. RONCALIO. Not only royal lands, but it was a distribution of land in species to the various natives that had taken place, and we have seen the maps, which lands are involved, and we rejected the appeal of those among the natives who said that land in species should be returned because that land constitutes about 60 percent of the entire islands.

I personally said to them, "It will be a cold day in hell when you ever get back 60 percent of those islands."

Mr. POAGE. We have got a court system. We have had one in the 1890's. Did we, the United States or the U.S. Congress, take any lands or did the provisional government of Hawaii take the action? Is it not fair to say that there was a domestic government in Hawaii, that they had a local government?

We have a government in the United States sitting right here now that came here as a result of a revolution against King George. We threw him out and we set up a government here that the British looked upon as revolutionary and we adjudicated land titles.

We are only talking, are we not, about the public lands of Hawaii? The U.S. Government has never taken lands.

The SPEAKER pro tempore. The time of the gentleman from Texas has expired.

(By unanimous consent, Mr. POAGE was allowed to proceed for 3 additional minutes.)

Mr. POAGE. Mr. Speaker, as I understand it, we are talking about the public lands of Hawaii, call them crown lands, call them queen's lands, call them whatever we want to, but the land that

belonged to the government. The government changed. Whether that change was properly constitutional or not does not seem to be the question here. But the government did change, and the government which was the government for 4 or 5 years did adjudicate these lands as belonging to the government of Hawaii, and it passed title to people who possibly should not have received title, but the government of Hawaii passed the title. Now that is right, is it not? Is that not what happened?

Mr. RONCALIO. If the gentleman will yield, I believe that is an accurate accounting of what took place.

Mr. POAGE. All right.

Then we come in 1899 or somewhere along about then and the United States annexed Hawaii. We had a request from the government of Hawaii, just as we had earlier had a request from the Republic of Texas. The Republic of Texas asked and the U.S. Congress annexed, and they did the same thing in the case of Hawaii. And the public lands of Hawaii became public lands of the United States.

But the private lands, the lands that had passed under title arrangements of the previous governments, remained just where they were. When we annexed Hawaii, the United States of America did not take title to a single acre of privately owned land, did it, of privately owned land?

Mr. RONCALIO. I believe that is correct.

Mr. POAGE. All right. Then we are talking about the public lands, and the public lands passed. I am not trying to pass judgment on the justice of annexation because I do not know, but the public lands did pass from the queen to the provisional government and from the provisional government to the United States. But the private lands remained in the titles where they were and passed under the laws of the government that was in existence at the time of the transfer. And since 1898 any private transfer has been in accordance with the laws of the United States. And I do not suppose that we are now challenging any of those titles. If there is a challenge to those titles, the courts are open and any challenge to the transfer of lands.

Mr. RONCALIO. There is no challenge to those titles. I am sure of that.

Mr. POAGUE. That is what I am trying to get at.

Mr. HEFTEL. There is no challenge to any land title nor is the Commission intended to determine whether or not any land titles should change hands.

Mr. POAGE. I think that goes to the heart of the question that the gentleman from Ohio (Mr. VANIK) raised.

The SPEAKER pro tempore. The time of the gentleman from Texas (Mr. POAGE) has again expired.

(By unanimous consent, Mr. POAGE was allowed to proceed for 2 additional minutes.)

Mr. POAGE. Mr. Speaker, I think that goes to the question the gentleman from Ohio (Mr. VANIK) raised. He pointed out that we are not doing full justice by making payments if in fact we have taken their lands simply by paying the 1893 value of that land. Evidently, if land has been wrongly taken and is now in private hands someone must have been enriched. But what government is responsible? Is it contended that the United States should pay for what some previous government did by reason of having a different system from our own?

I agree that it seems to me very probable that some of those governments, whether it was the queen or whether it was the provisional government I know not, but somebody in Hawaii transferred a vast amount of land to five families. Is that not right?

Mr. RONCALIO. That is correct.

Mr. POAGE. Someone got a lot of the land into the hands of five families and it may or may not have been right, but it was not the U.S. Government, it was one of the previous governments of Hawaii, not the U.S. Government. And for the U.S. Government to now make payments in cash for the injustices perpetrated by a previous government, seems to me to be entirely out of line.

Mr. RONCALIO. Mr. Speaker, would the gentleman yield?

Mr. POAGE. Certainly.

Mr. RONCALIO. The point is well taken. I again wish to state to the excellent gentleman in the well, and to those who have applauded his remarks, that the maps that those Native Hawaiians have, who pursue this legislation, make a distinction between the land claims which you mention, and who are talking about compensation for the 62 or 63 percent of the surface of the islands, not the land you referred to. They want compensation for the land taken from them not for the land conveyed by the prior Hawaiian administrations.

Mr. POAGE. That is the point I am making, it was land taken by another government, not the United States. I do not believe the United States is responsible for what the kings and the queens of Hawaii did, nor what the provisional government of Hawaii did. I think the United States is responsible for its own acts and I will vote to pay the debts we have contracted, but I am not assuming responsibility for the acts done by some foreign government, because the government of Hawaii was a foreign government as far as we were concerned, up until 1898.

Mr. HEFTEL. Mr. Speaker, if the gentleman will yield, the Native Hawaiians are talking about, if nothing else, if you want to only talk about land, that land which the United States of America owns and lays title to as a result of that illegal takeover. The U.S. Government itself has its own multiple thousands of acres of ownership.

If you want to deal in land, you can restrict the dialog to the land owned by the United States of America as a result of the illegal actions which were committed in 1893. But we are not, in this case, trying to delve into that part of the issue. We are not talking about that land.

The SPEAKER pro tempore. The time of the gentleman has again expired.

(By unanimous consent, Mr. POAGE was allowed to proceed for 2 additional minutes.)

Mr. POAGE. Let us get the facts straight. Then we are coming down to the proposition that we are actually asking the United States to make payment for the inequitable acts of a previous government.

Now, it is alleged that the United States had a part in establishing that provisional government. I think the testimony is that all that happened was that the United States had some Marines over there, and they were there and supposedly exercised some moral influence, but no direct force.

Mr. JOHN L. BURTON. Mr. Speaker, would the gentleman yield?

Mr. POAGE. I would, but I am not going to ask for additional time so I would like to go ahead and conclude my statement.

So we are not talking, then, about restoring land that the United States has taken from anybody, but we are paying for something that somebody else did.

I live in a country where the King of Spain once owned all of the land and the King of Spain did not distribute it like I would like to see it done. Later the Mexican Government owned all of the land and did not grant it like I would like to see it granted. Are we now going to go back and pay for all the claims on the Mexican Government or on the King of Spain?

I will pay for every wrong that the United States has done, and if the United States took anybody else's land I want to pay for it, but when we did not take it, then I do not see why we should make such a payment.

Mr. HEFTEL. Mr. Speaker, will the gentleman yield?

Mr. POAGE. I would be glad to yield to the gentleman from Hawaii.

Mr. HEFTEL. Mr. Speaker, will the gentleman yield?

Mr. POAGE. Yes, I yield to the gentleman from Hawaii.

Mr. HEFTEL. Mr. Speaker, I would like to point out that armed Marines of the U.S. Government do not exert moral persuasion on a people who are not armed.

Mr. RONCALIO. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I want to thank the majority leader, the gentleman from Texas (Mr. WRIGHT), for the timely and appropriate message he has just concluded.

Mr. Speaker, I ask unanimous consent that all debate on this resolution and all amendments thereto end by 12:30 or in 30 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, there are a number of Members seeking time and they have not spoken before.

I wonder whether we can just conclude this bill without cutting off debate on it.

Mr. RONCALIO. I am sorry, Mr. Speaker, I did not hear the gentleman's statement.

Mr. BAUMAN. I just wonder whether the gentleman could not withdraw his request at this time.

Mr. RONCALIO. I would be happy to extend the request, if that would be agreeable, to 12:45 or 1:15 p.m.

Mr. WHITE. If the gentleman will yield, Mr. Speaker, I do not think it will take that long.

Mr. RONCALIO. Mr. Speaker, I withdraw my unanimous-consent request.

The SPEAKER pro tempore. The gentleman from Wyoming withdraws his request.

Mr. JOHN L. BURTON. Mr. Speaker, I move to strike the requisite number of words.

I am not going to take 5 minutes, but before we read great thoughts, why not just read the bill? All the bill does is establish a study commission to investigate the claims that obviously need some investigating, because everybody in the House seems to be confused about what is at stake, and then to make a report to Congress with recommendations. The cost of the whole project will be something less than $900,000 for 3 years. That is all we are voting on. We are not voting on the five families; we are not voting on reparations; we are not voting on billions of dollars. We are voting to establish a commission to study the real problem, to report to us for final action, and according to the committee recommendation.

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from Ohio.

Mr. VANIK. I thank the gentleman for yielding.

What concerns me is the provision on page 3 beginning with line 15 in which Congress by its action today declares, that we, the American people, atone for a wrong committeed by the American people.

Mr. JOHN L. BURTON. What is wrong with that?

Mr. VANIK. I am not sure. I have not been convinced that a wrong was committed by the American people for which we must atone. That is what is wrong with this language. I do not mind the study. I do not mind the commission. I am not prepared to admit a confession of wrongdoing by the American people through this Government.

Mr. JOHN L. BURTON. A confession is good. I will take back my time. I yield no further.

Confession is good for the soul. There is substantial evidence; that is what we are saying. I think this study might even find that it is better to have plumbers working the plantations of Hawaii than have the plantations worked as plantations. I just think we ought to deal with what is before us. It sets up a commission. Less than $900,000 will be spent over 3 years to report to us what the problem is and what the recommendation is. We will probably end up spending more than $900,000 worth of our time wasting it discussing something that is very simple, very straight forward, and that everybody sees a lot of problems with. I just think we ought to get on with it.

Mr. MARRIOTT. Mr. Speaker, will the gentleman yield?

Mr. JOHN L. BURTON I yield to the gentleman from Utah.

Mr. MARRIOTT. I thank the gentleman for yielding.

I think just to get down to the bottom line, it seems to me that however we study this issue, the fact is that there were wrongs committed, and the issue today is whether or not we ought to have a commission to study it or whether some other method that we have in Congress can do it without an $800,000 or a million-dollar commission. Could the gentleman or somebody comment on whether or not we have really thought out in terms of whether the commission method is the only way to solve this?

Mr. JOHN L. BURTON. Yes. I mean we could just bow our heads for a minute and maybe divine guidance would strike us. A commission at a cost of less than $300,000, which is certainly a substantial amount of money, per year for 3 fiscal years is really the best way to solve this. The commission idea came about because Congress rejected a congressional solution to the problem in an authorization of $12 million. I think this is the sensible way to go about it. There may be other ways, but we could be debating them for 6 months. I think this is a simple, straightforward approach to find out what the problem is and to do something.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. JOHN L. BURTON. I would be happy to yield to the gentleman from Wyoming.

Mr. RONCALIO. I thank the gentleman for yielding.

May I say to the gentleman from Utah (Mr. MARRIOTT) that the last Congress rejected a bill to provide a specific sum, so we are trying to find a common ground again for what seems to be the best approach.

Mr. CHARLES H. WILSON of California. I thank the gentleman for yielding.

Mr. JOHN L. BURTON. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. I thank the gentleman for yielding.

Will the gentleman be able to tell me what the makeup of the commission is? I think there was an amendment earlier today that changed the makeup of the commission.

Mr. JOHN L. BURTON. I do not know what the amendment was. I will be happy to yield to my friend, the gentleman from Hawaii (Mr. HEFTEL).

Mr. HEFTEL. I thank the gentleman for yielding.

The commission has been amended to comprise less than a majority of Native Hawaiians and less than a majority coming from a list submitted by the Governor to be appointed by the President.

Mr. CHARLES H. WILSON of California. The way I heard it was there were 15 people, no less than 9 of whom would be Native Hawaiians.

Mr. JOHN L. BURTON. No; that was changed.

Mr. CHARLES H. WILSON of California. That has been changed.

Mr. HEFTEL. It has been amended to no more than seven Native Hawaiians.

Mr. JOHN L. BURTON. It eliminates potential conflict.

Mr. KINDNESS. Mr. Speaker, I move to strike the requisite number of words.

It will be my intent to take much less than 5 minutes, but I think this debate has amply demonstrated that people of sincerity and good will may share a concern about a problem and yet differ greatly as to the means with which to attack and attempt to solve that problem. It seems quite clear to me from the debate that the problem is identified broadly in terms of the condition in which people find themselves living at the present time, which results in part from a disruption of a way of life that occurred some time ago.

Whatever involvement the U.S. Government has, appropriate or inappropriate, legal or illegal, constitutional or unconstitutional, it really matters very little. What we should be focusing upon is the problems confronted in living by the people in the grouping to which this whole matter is directed, this whole attempt to treat that problem is directed.

In other States of the United States perhaps you could find similarly situated people. The confusion seems to arise today from looking back. If we only looked forward, as I believe both the gentleman from Hawaii have been attempting to cause us to do. Let us look forward. The idea, or at least one of the principal ideas surrounding this Commission concept is that there should be planning for how to deal with the adjustment in a way of living or a change in the way of living that continues after these 80 some years. Those adjustment needs still are there today. We can see adjustment needs like these that still exist and have existed among people of different background circumstances for even longer periods of time.

I believe personally that the approach suggested in this resolution is a wrong approach. We ought to be considering, not the history and the background and "Who struck John", so to speak, but rather looking ahead to solving these problems.

In many programs enacted by this Congress attempts have been made to arrive at solutions to such problems. The whole concept of the Economic Opportunity Act and related legislation is to allow in specific areas and communities throughout this land the development of programs to meet problems of adjustment of people to the changes in our society.

Therefore, I would have to reach the conclusion that this is not the correct approach so long as it is directed to only one grouping or State.

I, for example, am descended from people who came to the United States since the time this matter occurred in Hawaii. It is a little difficult for me to look back in history and identify myself as a part of a nation 80 years ago that supposedly perpetrated this wrong.

Many other Americans who would pay the taxes to meet these needs through whatever programs might be recommended by the Commission and approved by the Congress have not been citizens and taxpayers of this country during all these 80 years. I think it is wrong for us to be backward looking. Instead, we should be forward looking.

Let us identify these problems, along with the problems of many other Americans and help to solve them as best we can, but not raise the hopes, as this bill will, perhaps false hopes, that there will be special attention given on some special basis to one group of people. Someone has suggested that maybe the people of Georgia at the time of the Civil War could suggest they ought to be entitled to some recompense from the United States for Sherman's drive through Georgia and the wrongs perpetrated there.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Speaker, the analogy is totally inappropriate. That was an act of war. The Nation was at war and Congress had a hand in that. The Congress did not have a hand in the taking of Hawaii.

Mr. KINDNESS. Well, there are all kinds of ridiculous proposals that could be made. There are shades of differences. Looking back might have caused this country to be great; but we can be greater by looking forward.

Mr. WHITE. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I think that everyone is very sympathetic to the plight of Hawaii, and everybody is very proud of Hawaii.

I think the reason we are exercised is, No. 1, because of the precedent this bill would set, particularly in the Western States of this country, and, No. 2, in fairness to the taxpayer. I think the gentleman from Texas (Mr. POAGE) is correct when he points out that the title was lost to the provisional government. There is no showing to support the idea that title was lost to the United States or that the United States took title of any land or took land away from any individuals. Yet the bill does not address whether it is land of individuals or public land that would be compensated.

Mr. JOHNSON of Colorado. Mr. Speaker, will the gentleman yield?

Mr. WHITE. Let me finish what I have to say, and I will get back to the gentleman.

Mr. Speaker, the provisional government declared a Republic which existed for 4 years prior to the annexation by the United States. Those facts are clear. The question is apparently over an intrusion of some 160 marines, but there is no showing that there was any firing. In fact, it is acknowledged there was no firing of weapons.

The monarchy, at a minimum had some 500 armed troops readily available, and apparently the natives themselves did not feel the government was worth supporting. There is nothing to show that they supported the monarchy. There is nothing in the report to show whether some of the Hawaiians of native birth were supportive of this overthrow or of the new government. There is nothing to show they were not in support of the provisional government itself.

I think what we need to address is not only the assistance of Hawaiians, but I am also quite willing, as I am sure other Members are, to remove any statute of limitations which would prevent the local citizens of Polynesian blood from going forward with claims against the State of Hawaii or the U.S. Government for any act which is compensable, but I do not feel that the taxpayers should be called on at this time to pay present values or inflated values as a result of the pure act of troops going in, unauthorized by the U.S. Government. Any claim would be by the unauthorized act on the part of our minister at that time, but there is no showing that the troops themselves caused any aggression or performed an aggressive act, and there is no showing whatever of any title being taken by the United States.

Mr. JOHNSON of Colorado. Mr. Speaker, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Speaker, addressing myself to that point about the United States taking over the acreage, I think there is a great misunderstanding on the gentleman's part.

The government land at the time, in 1893, including the land on which the people lived, amounted to 1.5 million acres. The crown land amounted to 984,000 acres, land belonging to members of the Queen's family.

That was the land that was taken over by the Committee on Public Safety when the American Marines provided the force that took over. The gentleman can say that he absolves himself and the United States from any responsibility, but as a matter of fact, it was our troops under the jurisdiction of our Marines that took it over.

Mr. WHITE. Did the American troops themselves have an act in taking over the land, had they removed themselves by that time, or was there any action on their part?

Mr. JOHNSON of Colorado. No, the marines were there at the time the new government was established. The Queen withdrew and threw herself on the mercy of the United States.

Mr. WHITE. When was the land taken?

Mr. JOHNSON of Colorado. In 1893.

Mr. WHITE. Was it taken over under the auspices of the marines?

Mr. JOHNSON of Colorado. Yes, that is what I am telling the gentleman. It was taken as a result of that action.

Mr. WHITE. There is nothing in the report that says the United States caused the loss of that title.

Mr. JOHNSON of Colorado. The Queen was deposed by U.S. Marines at the instance of American businessmen.

Mr. WHITE. No. The Queen probably surrendered her government because of the presence of the marines, but she had superior forces at the time and obviously did not have the support of her own people.

Mr. JOHNSON of Colorado. No.

Mr. WHITE. There is nothing to show the marines were ready to fire a shot.

Mr. JOHNSON of Colorado. Mr. Speaker, the gentleman is drawing a conclusion that I think perhaps should be reported on by the Commission. But the land itself was the 2.5 million acres. That is what I wanted to inform the gentleman. There were 1.5 million acres which belonged to the government. That was the land on which the people lived, and the crown lands amounted to 984,000 acres. Those lands were administered by the Committee on Public Safety. That was the land that was subsequently distributed and taken away from the people of Hawaii.

Mr. WHITE. But were the marines there at that time?

Mr. JOHNSON of Colorado. Yes.

Mr. WHITE. No, I do not think that history will show that the marines were there during the course of all those actions throughout the history of the Republic.

The point is that I think that is a fallacy in the gentleman's argument. This could be handled through the court system, as the gentleman from Texas (Mr. POAGE) said, and if there is a statute of limitations as an impediment, we should remove that. Let us remove any legal obstacle whatever so they can carry their claims forward as to that land.

Mr. FOLEY. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I think I may be among those Members who are deeply troubled by the necessity of casting a vote, either affirmatively or negatively, on this bill at some time today.

As indicated in the debate here today, there appears to be some evidence that the misconduct of some elements of the U.S. Forces, operating in Hawaii under the direction of our then-minister, may have contributed in some way to the improper taking of lands. That, at least, is the allegation made by the sponsors of this legislation.

My primary concerns are that the Study Commission it would authorize is not really given the task of analyzing the validity of these allegations and reporting back its findings, nor are we in effect authorizing something resembling the British Royal Commission to look into these questions of possible moral or legal obligation on the part of the people of the United States with respect to oher groups of citizens or the descendants of an earlier group.

We are, in fact, told by the committee that the purpose of this bill is to create a study commission. Given this fact, the subsequent findings are interesting to me. In the two or three paragraphs that precede the actual legislative language, the bill states that there is substantial evidence that a wrong was done to aboriginal Hawaiians. Then, the next paragraph goes on to assert that while this wrong—not this alleged wrong or evidence of wrong, but this wrong, which in one paragraph has been transformed from substantial evidence to a positive fact—cannot be fully compensated for, we must nevertheless attempt to do so. To this end, the legislation establishes a commission, whose main function, as I

understand it, is simply to decide ways and means of determining the compensation and the manner of its distribution.

Apparently, as it turns out, somehow we have already decided that compensation is owed, that a wrong has been committed, and that an obligation, at least in the moral sense, exists.

This, I think, is what troubles not only me but others here. A number of us who would like to establish a way to explore these assertions of wrongdoing and moral responsibility further but are not ready in the absence of such an investigation, to vote a finding of moral and financial responsibility on the part of the American people on the basis of alleged wrongdoing. Another cause of concern to me is the fact that the Commission itself is to be so constituted that 8 of its 15 members are to be appointed by the Governor of Hawaii. Yet, the State of Hawaii, perhaps indirectly and its citizens, directly, are to be beneficiaries of the Commission's work. In other words, the majority of those on the Commission are to come from the State that is to be benefited through some form of material compensation.

Pursuing this further, seven members of the Commission—it does not say seven of the eight—are to be Native Hawaiians. So most of the Commission's members will obviously be of a blood quantum which would be financially benefited by any compensation paid. This raises a bit of a problem, I would suggest, with respect to a conflict of interest, in that the very Commission members who are going to assess the probability of need for a certain amount of compensation are people who are of the community to be benefited. They are in effect the recipients themselves. How is it possible that this is not going to be a disturbing element when we come down to the question of compensation? I hope that my personal inability to vote favorably on the measure before us today will not be construed as an unwillingness on my part to look into this question further, for I think it ought to be examined.

Yet, in my view the very precipitous transition which takes in this bill from evidence of wrongdoing, to a finding of wrongdoing, to a determination that compensation is due a group, the majority of whose members are from the State involved, coupled with the notion that a number of those to be benefited should be involved in decisions regarding the amount of compensation, raises very real questions as to whether this is an appropriate forum and mechanism for deciding a question which, I believe, all Americans would like to see addressed appropriately and objectively.

Mr. FRENZEL. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I was stuck in the House waiting for another bill to come up, and I have listened to this entire debate. I must say that I have come to the same conclusions that have been articulated by the gentleman from Washington.

We are admitting a wrong about which there seems to be some doubt. We are creating a commission, which is indeed a stacked commission, which can only come back with some verdict of some large amount of money or some other resource.

But perhaps even worse than that is the fact that since those people who are supporting this claim have never been able to get a claim through this Congress, they are asking us to establish a whole new level of bureaucracy to do the job which the Congress itself should do.

My constituents have not been asking me to create new study commissions at a cost of $900,000. I doubt that other Members have received such requests. My constituents have been asking me, indeed, why a $1 billion Congress cannot do the kinds of things that these study commissions are supposed to do.

In my judgment, we would make a terrible error if we were to accept this bill or to create a commission for something we ought to do ourselves, a commission which is stacked, a commission which is already charged or told that a certain wrong has been committed that it must recompense.

Mr. Speaker, I think it is a bad bill. It ought to be returned to committee, and that committee ought to work on it in the future.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I would like to associate myself with the remarks of my colleague from Minnesota, and with the remarks of my colleague from the State of Washington.

Mr. RONCALIO. Mr. Speaker, I move the previous question on the Senate joint resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the third reading of the Senate joint resolution.

The Senate joint resolution was ordered to be read a third time, and was read the third time.

AMENDMENTS TO THE PREAMBLE

The SPEAKER pro tempore. The Clerk will report the amendments to the preamble.

The Clerk read as follows:

Committee amendments to the preamble:

Page 1, after the "Whereas" in paragraphs 1 and 2, insert the words "it is alleged that".

Page 2, line 8, after "these" insert "alleged".

Page 2, line 19, after "these" insert "alleged".

Page 2, line 26, insert at the beginning of the line and before "by such annexation," the words "it is alleged that".

Page 3, line 1 of the Whereas clause, after "without the" insert "alleged".

Mr. RONCALIO (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendments to the preamble be considered en bloc, and that they be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

The amendments to the preamble were agreed to.

The SPEAKER pro tempore. The question is on the passage of the Senate joint resolution.

MOTION TO RECOMMIT OFFERED BY MR. BAUMAN

Mr. BAUMAN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman from Maryland opposed to the Senate joint resolution?

Mr. BAUMAN. The gentleman is.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. BAUMAN moves to recommit the Senate joint resolution (S.J. Res. 4) to the Committee on Interior and Insular Affairs.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore being in doubt, the House divided, and there were—yeas, 29; nays 10.

Mr. RONCALIO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 190, nays 148, not voting 94, as follows:

[Roll No. 741]

YEAS—190

Anderson, Ill.
Andrews, N. Dak.
Annunzio
Archer
Ashley
Aspin
Bafalis
Barnard
Baucus
Bauman
Beard, Tenn.
Bedell
Benjamin
Bennett
Bevill
Biaggi
Blanchard
Bolling
Bowen
Brodhead
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burke, Mass.
Burleson, Tex.
Butler
Carney
Carter
Cavanaugh
Cederberg
Chappell
Cleveland
Coleman
Conable
Conte
Corcoran
Coughlin
Crane
Cunningham
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Derwinski
Devine
Dickinson
Dicks
Dingell
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Eilberg
Emery
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fenwick
Findley
Flippo
Flood
Florio
Flowers
Foley
Ford, Mich.
Fountain
Frenzel
Gammage
Giaimo
Gilman
Ginn
Glickman
Goodling
Gradison
Grassley
Green
Hall
Harsha
Hefner
Hightower
Holland
Hollenbeck
Holt
Hyde
Ichord
Jenkins
Jenrette
Jones, N.C.
Kazen
Kelly
Kemp
Kindness
LaFalce
Lagomarsino
Latta
Leach
Leggett
Lent
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Luken
McClory
McCormack
McDade
McDonald
McEwen
Madigan
Mahon
Mann
Marriott
Martin
Mattox
Mazzoli
Meyner
Michel
Miller, Ohio
Minish
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Murtha
Myers, John
Neal
Nedzi
Nichols

Nowak	Runnels	Trible
O'Brien	Russo	Ullman
Obey	Satterfield	Vander Jagt
Panetta	Sawyer	Vanik
Pickle	Schulze	Walker
Poage	Shuster	Walsh
Price	Sikes	Watkins
Pritchard	Slack	Whalen
Quayle	Smith, Nebr.	White
Railsback	Spence	Whitehurst
Regula	Stangeland	Wilson, Bob
Reuss	Stanton	Wilson, C. H.
Risenhoover	Steers	Wolff
Roberts	Stockman	Wydler
Robinson	Stratton	Wylie
Rogers	Stump	Yatron
Rousselot	Taylor	Young, Fla.
Rudd	Treen	Zablocki

NAYS—148

Addabbo	Gonzalez	Pease
Akaka	Gore	Pepper
Alexander	Gudger	Perkins
Ambro	Hamilton	Pike
Anderson, Calif.	Hanley	Preyer
Andrews, N.C.	Hannaford	Pursell
Applegate	Harkin	Rahall
Baldus	Harris	Richmond
Beard, R.I.	Heftel	Roe
Bingham	Holtzman	Roncalio
Blouin	Hubbard	Rooney
Boggs	Hughes	Rose
Bonior	Jeffords	Rosenthal
Brademas	Johnson, Calif.	Roybal
Breckinridge	Johnson, Colo.	Ruppe
Brown, Calif.	Jones, Tenn.	Ryan
Burgener	Kastenmeier	Santini
Burlison, Mo.	Kildee	Schroeder
Burton, John	Kostmayer	Sebelius
Burton, Phillip	Krebs	Seiberling
Carr	Le Fante	Sharp
Chisholm	Lederer	Simon
Clausen, Don H.	Levitas	Skelton
Clay	Lundine	Skubitz
Conyers	McCloskey	Smith, Iowa
Cornell	McFall	Solarz
Cornwell	McHugh	Spellman
D'Amours	McKay	Staggers
Dellums	Markey	Stark
Diggs	Marks	Steed
Downey	Marlenee	Steiger
Drinan	Meeds	Stokes
Early	Metcalfe	Studds
Eckhardt	Mikulski	Thompson
Edgar	Mineta	Traxler
Edwards, Calif	Mitchell, Md.	Tucker
Evans, Colo.	Moakley	Udall
Evans, Ga.	Moorhead, Pa.	Van Deerlin
Fascell	Moss	Vento
Fisher	Mottl	Volkmer
Fithian	Murphy, N.Y.	Walgren
Ford, Tenn.	Murphy, Pa.	Weaver
Forsythe	Myers, Michael	Weiss
Fowler	Natcher	Whitley
Garcia	Nolan	Whitten
Gaydos	Oberstar	Wilson, Tex.
Gephardt	Ottinger	Wirth
Goldwater	Patten	Wright
	Patterson	Yates
	Pattison	Young, Mo.

NOT VOTING—94

Abdnor	Frey	Myers, Gary
Ammerman	Fuqua	Nix
Armstrong	Gibbons	Oakar
Ashbrook	Guyer	Pettis
AuCoin	Havedorn	Pressler
Badham	Hammer-schmidt	Quie
Bellenson	Hansen	Quillen
Boland	Harrington	Rangel
Bonker	Hawkins	Rhodes
Breaux	Heckler	Rinaldo
Brinkley	Hillis	Rodino
Brooks	Horton	Rostenkowski
Burke, Calif.	Howard	Sarasin
Burke, Fla.	Huckaby	Scheuer
Byron	Ireland	Shipley
Caputo	Jacobs	Sisk
Clawson, Del	Jones, Okla.	Snyder
Cochran	Jordan	St Germain
Cohen	Kasten	Symms
Collins, Ill.	Keys	Teague
Collins, Tex.	Krueger	Thone
Corman	Lehman	Thornton
Cotter	Lujan	Teongas
Dent	McKinney	Waggonner
Derrick	Maguire	Wampler
Dodd	Mathis	Waxman
Duncan, Oreg.	Mikva	Wiggins
English	Milford	Winn
Fary	Miller, Calif.	Young, Alaska
Fish	Moffett	Young, Tex.
Flynt	Murphy, Ill.	Zeferetti
Fraser		

The Clerk announced the following pairs:

Mr. Jones of Oklahoma with Mr. Frey.
Mr. Zeferetti with Mr. Guyer.
Mr. Rodino with Mr. Rhodes.
Mr. Rostenkowski with Mr. Wampler.
Mr. Ireland with Mr. Snyder.
Mr. Waggonner with Mr. Sarasin.
Mr. Fuqua with Mr. Kasten.
Mr. Dodd with Mr. Abdnor.
Mr. Mathis with Mr. Hansen.
Mr. Breaux with Mr. Hagedorn.
Mr. Ammerman with Mrs. Pettis.
Mr. Cotter with Mr. Wiggins.
Mr. Dent with Mr. Cohen.
Mr. Flynt with Mr. Burke of Florida.
Mr. Murphy of Illinois with Mr. Lujan.
Mr. English with Mr. Badham.
Mr. Mikva with Mr. Caputo.
Mr. Teague with Mr. Del Clawson.
Mr. St Germain with Mr. Winn.
Mr. Shipley with Mr. Fish.
Mr. Rangel with Mr. Quie.
Mrs. Burke of California with Mr. Pressler.
Mr. Byron with Mr. Cochran of Mississippi.
Mr. Fary with Mr. Hillis.
Mr. Krueger with Mr. McKinney.
Mr. Lehman with Mr. Milford.
Mr. Hawkins with Mr. Young of Alaska.
Mr. Waxman with Mr. Thornton.
Mr. Tsongas with Mr. Sisk.
Mr. Beilenson with Mr. Armstrong.
Mr. Howard with Mr. Horton.
Mr. Bonker with Mr. Symms.
Mr. Harrington with Mr. Quillen.
Mrs. Collins of Illinois with Mr. Fraser.
Mr. Scheuer with Mr. Moffett.
Miss Jordan with Mr. Gibbons.
Mr. AuCoin with Mr. Ashbrook.
Ms. Keys with Mr. Rinaldo.
Mr. Jacobs with Mr. Collins of Texas.
Mr. Corman with Mr. Gary A. Myers.
Mr. Brooks with Mrs. Heckler.
Mr. Boland with Mr. Duncan of Oregon.
Mr. Maguire with Mr. Nix.
Ms. Oakar with Mr. Hammerschmidt.
Mr. Brinkley with Mr. Derrick.
Mr. Miller of California with Mr. Huckaby.

Mr. PRITCHARD, Mr. MATTOX, Mrs. MEYNER, Mr. HOLLENBECK, and Mr. LONG of Maryland changed their votes from "nay" to "yea."

Mr. RAHALL changed his vote from "yea" to "nay."

So the motion to recommit was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. RONCALIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on Senate Joint Resolution 4.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

AMENDING BANKRUPTCY ACT TO PROVIDE FOR UNIFORM SUPERVISION AND CONTROL OF EMPLOYEES OF REFEREES

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 3107) to amend the Bankruptcy Act to provide for uniform supervision and control of employees of referees in bankruptcy, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill as follows:

S. 3107

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraphs (2) and (3) of subdivision a of section 62 of the Bankruptcy Act (11 U.S.C. 102(a) (2) and (3)) are amended to read as follows:

"(2) The actual and necessary office and other expenses of referees shall be authorized and approved by the Director, including compensation of clerical, stenographic, and other assistants of referees at rates fixed by the Director, at rates not less than the rates for comparable services prevailing in the respective offices of the clerks of the several district courts, and the costs of establishing and maintaining their offices with equipment and supplies, adequate for their efficient and economical operation, including mechanical equipment and devices and law libraries. Such expenses may be allowed when authorized by a judge of the judicial district or districts in which a referee serves in cases of emergency where it is not feasible to secure prior authorization of the Director.

"(3) When, in the opinion of the Director, the public interest requires it, he may, on the recommendation of a referee, which recommendation shall state facts showing the necessity for the same, allow the referee to employ necessary clerical, stenographic, and other assistants. All employees of the referee shall be utilized under the direct supervision of the referee exclusively in the processing of bankruptcy cases. The referee may at his pleasure remove any assistant in his employ. The authority of the referee to employ, direct, and remove assistants may not be exercised by anyone other than the referee. The Director may utilize funds collected or appropriated for the referred salary fund and the referees' expense fund pursuant to section 40c of this Act, to pay the salaries of only such clerical, stenographic, or other assistants as are employed under the direct supervision of the referee in the office of the referee: *Provided, however,* That salaries of the employees of the Bankruptcy Division of the Administrative Office of the United States Courts may also be paid out of such funds. If the office of the referee shall become vacant, the employment of his assistants shall not thereupon be terminated: *Provided, however,* That during such vacancy the Director may terminate the employment of any assistant, if, in his opinion, the services of such assistant are no longer needed.".

● Mr. EDWARDS of California. Mr. Speaker, S. 3107 is entitled "A bill to amend the Bankruptcy Act to provide for uniform supervision and control of employees of referees in bankruptcy." It amends two adjacent paragraphs of the Bankruptcy Act, found in section 62a. These two paragraphs currently provide for supervision of bankruptcy clerks by referees in bankruptcy, now called bankruptcy judges. Nevertheless, some question has arisen in recent years over the interpretation of these paragraphs. This bill simply adds language to make clear what Congress intent was in 1946 when this section of the Bankruptcy Act was last amended, and that is that the bankruptcy judges must have direct control over the work of their court clerks in order for the bankruptcy court to function efficiently. The bill requires no expenditure of funds, and merely clarifies existing law. I urge its immediate adoption.●

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 3107.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ADJUSTMENT ASSISTANCE FOR WORKERS AND FIRMS

Mr. VANIK. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11711) to improve the operation of the adjustment assistance programs for workers and firms under the Trade Act of 1974.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. VANIK).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11711, with Mr. MCHUGH in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Ohio (Mr. VANIK) will be recognized for 30 minutes, and the gentleman from Wisconsin (Mr. STEIGER) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 11711, as amended by the Committee on Ways and Means, a bill to improve the operation and effectiveness of the trade adjustment assistance programs for workers and firms under chapters 2, 3, and 5 of the Trade Act of 1974.

Congress first established a trade adjustment assistance program under the Trade Expansion Act of 1962 for workers and firms dislocated by Federal policies to encourage increased foreign trade. The Trade Act of 1974 made substantial changes in these programs to ease the eligibility criteria, to streamline the petition and certification process, and to provide more adequate benefits and reemployment services.

Despite the far greater utilization of the new programs, the Subcommittee on Trade became aware of many legislative and administrative inadequacies and proposals for improvement brought to its attention by labor unions, industry associations, individual workers and firms, and Members of Congress during and subsequent to its oversight hearing held in the spring of 1977.

H.R. 11711, as amended, addresses the most common of these complaints. It broadens the coverage and removes certain inequities in the eligibility of workers and firms for adjustment assistance benefits, liberalizes certain of these benefits to workers and firms to promote their adjustment to import competition, contains provisions to accelerate the certification process and delivery of benefits, and introduces technical assistance on an industry-wide basis into the program for the first time.

H.R. 11711, as amended, extends adjustment assistance coverage to certain workers and firms which supply component parts or other articles or services essential to the production, transport, or storage of import-impacted articles, to workers laid off from import-impacted firms in situations involving exercise of labor union seniority rights, and to workers employed a minimum of 40 of the 104 weeks immediately preceding their layoff with one or more import-impacted firms. Benefits would become available retroactively to workers laid off prior to November, 1977 who were unaware of the 1-year time limit under the new program for filing petitions following layoff.

The bill extends benefit periods an additional 26 weeks, up to a maximum of 104 weeks, to enable workers to complete training and until older workers age 60 or over reach social security age. Job search and relocation allowances for workers are increased and the application period for these benefits extended. Demonstration projects would be established in trade-impacted areas to test vouchers as an alternative method to encourage worker retraining as an economic adjustment measure.

H.R. 11711 expands substantially technical and financial assistance benefits to import-impacted firms. It provides precertification technical assistance to help firms prepare their petitions, requires provision of technical assistance to firms unable to prepare their economic adjustment plans without outside help, and raises the ceiling on the Government share of the cost of technical assistance from 75 to 90 percent. On financial assistance, the bill lowers the interest rate on direct loans, raises the present ceiling on direct loans from $1 to $3 million and the limit on loan guarantees from $3 to $5 million, and authorizes interest rate subsidies to reduce interest paid by borrowers on guaranteed loans to rates comparable with direct loans.

To accelerate the certification process and benefit delivery, H.R. 11711 authorizes worker and firm certification on the basis of threatened as well as actual declines in sales and/or production of the firm, requires exchange of investigatory material between the Departments of Labor and Commerce, authorizes the Secretaries of Labor and Commerce to initiate petitions on behalf of workers or firms, and establishes the Commerce-Labor Adjustment Action Committee as a statutory body to coordinate operation of the program.

The subcommittee thoroughly discussed these and other issues during its drafting of the bill. The administration participated in the markup sessions and most of the proposals it submitted at that time were included in the bill. The subcommittee favorably reported H.R. 11711 by a rollcall vote of 10 to 3 to the full committee on March 22. On April 12 the Committee on Ways and Means ordered H.R. 11711 favorably reported by voice vote with two amendments.

The bill reflects the committee's concern that the adjustment assistance programs provide an effective response to the economic dislocations that increased imports can bring to certain segments of our society and a more viable alternative to increased import restrictions. This purpose is all the more important as the United States continues its historical leadership role in the current Multilateral Trade Negotiations of seeking the overall economic benefits from further liberalization of international trade. The bill strikes a balance of addressing some of the most serious criticisms of the program, while recognizing that the more basic problems of adjustment could not be solved within our budgetary constraints.

Mr. Chairman, I urge the Members of the House to join me in support of this important piece of legislation.

Mr. STEIGER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from Ohio, the distinguished chairman of the Subcommittee on Trade, has done an excellent job in discussing this bill in some detail.

I must say, Mr. Chairman, that this bill has been slow in coming to the floor, and I regret that. I hope the bill can pass not only this body today but the other body in the not too distant future. It is a piece of legislation which is very badly needed, in my judgment, both from the standpoint of workers and management, and it makes some very necessary and very important changes in the Trade Adjustment Assistance Program. It represents, from the standpoint of the Subcommittee on Trade, nearly 2 years of very careful study and evaluations of how best to remedy the inadequacies of the present system and thereby to achieve more successfully the program's objectives.

The bill is extensive. It addresses a wide range of problems, and yet it adheres to rather stringent budgetary requirements.

Mr. Chairman, if the gentleman from California (Mr. JOHN L. BURTON) wishes me to yield, I will be glad to yield to him.

Mr. JOHN L. BURTON. Mr. Chairman, I am going to try to get time from the gentleman from Ohio (Mr. VANIK).

Mr. STEIGER. Would the gentleman rather wait for him?

Mr. JOHN L. BURTON. Mr. Chairman, I have been waiting for him for a long time. I thank the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER. The gentleman is quite welcome. Any time.

Let me, if I may, Mr. Chairman, simply outline for the Members a couple of things about which I have some questions.

There are two committee amendments that we will consider shortly about which I have very serious reservations. I urge my colleagues who are either here on the floor—all eight of us—or who are perhaps potentially watching in their comfortable offices to look at the minority views that accompany this bill in an effort to become more familiar with those two issues that we will face in a few minutes.

The first of the committee amendments is that one which expands coverage for certified workers over 60 in order to bridge them into Social Security. However compassionate the intentions, it is not appropriate to use this legislation as a vehicle for piecemeal implementation of social or other goals unrelated to trade. We should not forget that one of the very serious issues we faced in this Congress—mandatory retirement—was created partly as a result of tying various legislative proposals to the age at which a person may collect social security.

In addition, the equity of this particular committee amendment has not been adequately studied or discussed. There are many other situations where an individual between the ages of 60 and 62 would find himself or herself unemployed but would not have the protection afforded to trade-impacted workers by this amendment.

The second of the committee amendments is one to which I have equally strong objections, perhaps to a little further extent. It adds $16 million to the estimated cost of the bill. This amendment allows individuals to qualify for trade adjustment benefits on the basis of 40 weeks of work out of the preceding 2 years. This would be an alternative to the 26 weeks out of the preceding 52 weeks required under existing law. Not only is this amendment costly, but no forethought was given to the effect of such an amendment on the unemployment compensation program.

Although trade adjustment assistance is a program distinct from unemployment compensation, it operates in conjunction with it. The subcommittee has had no opportunity to consider a change such as the one added in committee, and nowhere has there been any consideration of the ripple effect it undoubtedly would cause in the unemployment compensation program.

Therefore, Mr. Chairman, I urge my colleagues to reject the two committee amendments, but to support the bill as originally approved by the subcommittee. The necessary improvement in the adjustment assistance programs, therefore, will be preserved, yet the cost of the bill will be kept near the level of expenditure approved in the second concurrent resolution on the budget.

A final word, Mr. Chairman, is that I should congratulate the gentleman from Minnesota (Mr. FRENZEL), a distinguished member of the Trade Subcommittee, and the subcommittee chairman, the gentleman from Ohio (Mr. VANIK), for their work on the bill.

The gentleman from Minnesota (Mr. FRENZEL) has given thoughtful and persistent attention to the problem of adjustment assistance—it says in my speech—since the middle of the 94th Congress, and it also says in my speech that the gentleman from Ohio (Mr. VANIK) has also labored tenaciously on this bill—can you imagine that, "tenaciously"?—against frustrating administration indifference for 18 months.

It ought to be said that the gentleman from Ohio has had to overcome the obstacle of the indifference of the administration and the downright frustrating attempts of the administration not to do anything to improve the adjustment assistance program. So all of us owe a debt of gratitude to those who have done such a superb job and I congratulate them both for their excellent work, and their contributions should be recognized.

I should also pay tribute to the gentleman from Indiana. I forgot to have his name on my list. The gentleman from Indiana (Mr. SHARP) has also been very instrumental in giving us his input and his attention, along with some of his friends on the outside, to this problem. And we have adopted the Sharp bill as a part of this bill.

Mr. WATKINS. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Oklahoma.

Mr. WATKINS. Mr. Chairman, I would like to thank the gentleman from Wisconsin in a serious vein, not in a light one. Does this bill in any way, can the gentleman tell me, actually right the wrongs of the displacement of a lot of cattle people in this country, when a large amount of beef imports, foreign beef imports have come into the country and the price has sunk so low that most of them have lost their herds and have gone bankrupt? Does this bill take anything into consideration for these people who have lost so much of their livelihood?

Mr. STEIGER. I would say to my friend, the gentleman from Oklahoma, that the answer is no, this bill does not do that. I think it is very clear that the Trade Subcommittee is mindful of the problems the American ranchers and producers have had. That is why we went yesterday to the Rules Committee to seek a rule on the Meat Import Act. I would, however, draw the gentleman's attention to chapter 3 of the Trade Act of 1974, particularly section 261. In this part of the Trade Act if cattle people can satisfy the definition of a "firm" under section 261 they can enjoy the benefits of trade adjustment assistance.

Besides, I must tell the gentleman, I think it would be fair to say that, given the limits of the import program, it would be exceedingly difficult for us to make a very good case that the gentleman's problem is one caused by imports as much as it is by a series of other factors over some of which we have no control.

Mr. WATKINS. If the gentleman will yield further, I know there is a great debate on this, but foreign beef imports did replace a lot of our cattle people through low prices, and so forth, and I just wanted to bring out that I hope the record would show that many of us do have a concern. We are thankful that prices have moved into the area today that maybe some of our cattle people are paid off in notes and are able to make a living now and get back on their feet. But it was a long 4-year period, and it was very hard to explain to the American cattle people and farmers who have given most of their lives putting something together and who had to give it all up, having seen thousands of tons of foreign beef hit the shores. I wanted to point this out, hoping that the committee would take this into consideration and help us solve it. Many of us are deeply concerned about the continued existence of these people.

Mr. STEIGER. I appreciate very much my colleague from Oklahoma raising that with us. Yes, we are aware of that problem. I am sure, as a matter of fact, that if we got the gentleman from Texas (Mr. POAGE) to make the same kind of speech he did on the Hawaiian claims bill, we could take it by acclamation if there was something we wanted to put in here.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. I yield to my friend from Texas.

Mr. PICKLE. I thank the gentleman for yielding to me. While this particular bill does not address the problem the gentleman from Oklahoma has submitted to the gentleman from Wisconsin, I would point out to him that there is a bill pending, the Meat Import Act, that might be considered next week.

During the course of our committee hearings as amendment was offered by me which attempted to treat live cattle the same as we did frozen meats or frozen carcasses. That amendment may be submitted when this other bill is brought to the House. I mention this so that the gentleman knows that there is a possibility of some relief if the House would be willing to accept it.

Mr. STEIGER. I thank the gentleman.

Mr. CORCORAN of Illinois. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Illinois.

Mr. CORCORAN of Illinois. Mr. Chairman, my question concerns the fact that in the Trade Expansion Act of 1962 relative to the threatened dislocation as well as the actual decline in sales which is contained in title I and title II of the act according to the report, I can understand how we can make determination about actual decline in sales, but would the gentleman explain to me how we make a determination regarding threatened decline in sales?

Mr. STEIGER. What we are dealing with in this situation—and I am trying to find the language in the committee report which deals with that issue of threat, because I think the committee report does a very good job of outlining how we handle that problem—if the gentleman will look at page 7 of the committee report, he will find that what we are dealing with in the use of the

word "threat" is those who are eligible to apply for adjustment assistance not to receive benefits. Obviously, what we have is a situation as follows, and I quote:

> In determining whether a "threat" or sales and/or production decline exists, the committee intends that the Secretary examine all economic factors relevant to the particular case, including but not limited to, indicators such as the overall financial status of the firm (including depletion of working capital), profit levels, the status of orders and inventory, and utilization of productive facilities. Alternatively, a "threat" might be based on an announced closing of the firm or plans to purchase a facility and transfer production overseas.

In addition to that, the gentleman will see that in section 103 we amend the act to provide that eligibility criteria for worker certification on the basis of a threat or an absolute decrease in the sales and/or production of a firm or subdivision. So, what we have is a situation in which a worker, in applying for assistance, or a firm—workers in this case—makes an application, but the application to be eligible to be approved by the Secretary, has to go beyond just somebody alleging that there is a threat. There are, in fact, objective criteria that must be met in order to receive certification.

Mr. CORCORAN of Illinois. I thank the gentleman.

Mr. VANIK. Mr. Chairman, I yield such time as he may consume to our distinguished colleague, the gentleman from Indiana, (Mr. SHARP).

Mr. SHARP. Mr. Chairman, I urge the House to pass the bill H.R. 11711, the bill to improve the operation of the trade adjustment assistance program established under the Trade Act of 1974.

I want to express my gratitude to the subcommittee chairman, the gentleman from Ohio (Mr. VANIK), the gentleman from Minnesota (Mr. FRENZEL), the gentleman from Wisconsin (Mr. STEIGER), the gentleman from Virginia (Mr. FISHER), and the other members of the subcommittee for their willingness to attend to a serious injustice that developed out of the operation of the 1974 act.

Mr. Chairman, the bill makes several changes in the program, and they have been explained and discussed by others. My main interest in the bill, and my original reason for seeking a provision which is incorporated in the bill, is a simple case of injustice involving thousands of workers.

The Trade Act of 1974 provided for various forms of adjustment assistance to workers who lost their jobs as a result of increased import competition. The reason for this assistance was to ensure that relatively few workers did not, through the loss of their jobs, pay the entire cost of a liberalized import policy that was supposed to bring greater benefits to the economy as a whole.

In order to ensure that the assistance was provided promptly, the 1974 act provided that workers must petition the Department of Labor for certification of eligibility within one year of their layoff. This 1 year limit is what has caused the inequity affecting thousands of workers in Indiana and elsewhere.

When the trade adjustment assistance program was new, many workers who would have been eligible to participate missed the 1 year deadline for filing a petition because they lacked information about the program and the petition requirement.

As I testified in the Trade Subcommittee, there are three cases in my own district which illustrate the problem.

At the Warner Gear plant in Muncie, workers who lost their jobs in late 1974 and early 1975 due to increased auto imports actually asked the local employment office about applying for adjustment assistance. Because the officials who should have been able to inform them about the petition requirement were unaware of it, they missed the 1-year deadline.

Another factor made these workers acutely aware of the inequity. A petition was finally filed in February 1976, and some workers laid off after February 1975 were certified and received benefits. This meant that people who had worked side by side at the same jobs and who were laid off for the same reason were treated differently under the law.

Another example of the inequity of the implementation of the 1974 Trade Act occurred at the Jay Garment factory in Portland, Ind. The petition for these workers was approved by the Department of Labor, but the earliest eligibility date under the 1-year limit fell on a Sunday, March 9, 1975. Most of the workers had been laid off on the previous Friday, March 7, and there was insufficient flexibility in the law to allow these workers to receive their benefits.

A third example in my district involved workers in the Allegheny-Ludlum specialty steel plant in New Castle, Ind. A relatively small number of workers here were laid off, but the specialty steel industry was massively affected by imports. Confusion about whether a petition could or should be filed when the International Trade Commission had already undertaken an investigation of an industry may have led to missing the 1-year petition deadline in this case.

With the operation of the adjustment assistance program for a few years, the problem of people not knowing about it has become less important. The problem remains, however, of how to deal fairly with the individuals who were denied benefits due to the lack of information about the program in its early months.

The substance of a bill I introduced with 38 cosponsors has been incorporated, with amendments by the subcommittee, in H.R. 11711. It provides eligibility for workers who were unintentionally excluded from the program prior to November 1, 1977. It will correct the inequity which occurred by allowing the affected workers to receive their benefits retroactively.

Some of these workers are still unemployed, and their adjustment assistance benefits, however late, are still urgently needed. Others have been called back to work or have found other jobs, but they have not recovered financially from the harm they suffered due to their import-related layoffs. Receipt of benefits now will help them to pay off some of the debts they incurred during their period of unemployment.

Equally important, correction of the unfair application of the Trade Adjustment Assistance program will help alleviate a sense of injustice felt by these workers. They have paid the price for economic benefits shared by all of us. They have seen others receive benefits for similar suffering while they were excluded. And they have become convinced that international trade is something that the United States should avoid.

I believe fair trade with adequate consideration for workers and firms who bear the burden is in the best interest of our country. Equal treatment under the law should be an obvious goal of national policy. Passage of H.R. 11711 will help achieve both of these goals, and I urge my colleagues to support it.

Mr. VANIK. Mr. Chairman, I yield such time as he may consume to our distinguished colleague, the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. Mr. Chairman, I rise in support of H.R. 11711, a bill to improve the operation of the adjustment assistance program for workers and firms under the Trade Act of 1974.

I would like to commend the Committee on Ways and Means for its recognition of the need to revise certain provisions of the Trade Act and for its fine efforts to address these shortcomings in a direct and responsible manner as evidenced in the language of this bill. The committee has drafted a sound and much-needed piece of legislation which deserves prompt enactment into law.

I first became aware of the need to improve delivery of adjustment assistance under the Trade Act through the events subsequent to the closing of a large electronics plant in my district. In late September of 1977, the Zenith Corp. announced a nationwide production cutback which was precipitated by the importation of electronic products from Japan at less than fair market value. The decision resulted in the displacement of 5,600 Zenith employees across the country. In Sioux City, Iowa, 800 jobs were eliminated, 500 of which were held by individuals who were the sole supporters of their families.

Unfortunately, announcement of the production curtailment and widespread layoffs was to be only the first in a series of disillusioning setbacks for these distressed workers. Having lost their jobs to unfair foreign competition, aided in part by the failure of past administrations to effectively enforce existing fair trade laws, the Zenith employees turned to the Federal Government for assistance under the Trade Act of 1974. However, these workers soon found their hopes for timely and direct aid dashed by the poor dissemination of information, lack of coordination among program officials, and general problems with implementation which became characteristic of the existing trade adjustment program.

Due in part to the complexity of the program, the suddenness of the layoff announcement, and the number of workers affected, information pertaining to the scope of benefits and procedural

steps provided under the Trade Act was not found to be readily available. To remedy this deficiency, the Director of the Trade Adjustment Assistance Office within the Department of Labor came to Sioux City, at my urging, to personally brief the former Zenith employees on the details of the program. Though then aware of available assistance, many workers encountered additional problems in obtaining a correct computation of their individual benefits and specific information relating to their own opportunities for retaining or relocation. This situation was further aggravated by an acute lack of coordination between Federal, State, and local officials in implementing the program and designating local administrating authorities.

In view of the shortcomings of the trade adjustment assistance program which I have observed firsthand, it is with a great deal of enthusiasm that I support the legislation presented before the House today. Notable among the changes in this bill are provisions streamlining eligibility certification procedures, making more equitable the formula used in determining individual worker eligibility, and extending to firms producing key components or providing essential services for trade-impacted firms coverage under the Trade Act. Also, I am pleased to note that the legislation calls for improved dissemination of program information to workers and firms adversely impacted by foreign competition. It is my hope that this improved information flow will further serve to foster improved program coordination among Federal and local officials.

Mr. Chairman, I think that enactment of this legislation will go a long way toward providing much needed assistance to workers displaced by foreign competition, and I urge its approval here today. However, I feel that it is important to recognize that this legislation provides only cosmetic relief for a problem whose root cause in many cases lies in the ineffective enforcement of existing fair trade laws. Many American firms and their employees have been adversely and unfairly affected by the lack of proper enforcement of U.S. fair trade laws, and I urge that the Congress also address this more general problem in a timely and responsible manner.

Mr. STEIGER. Mr. Chairman, I yield 5 minutes to the distinguished, articulate, able and effective gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, for the record I would like to state I am not now and never have been the speech writer for the gentleman from Wisconsin.

Mr. Chairman, I support the bill H.R. 11711. I think it is a necessary bill which the House should pass promptly.

I would state further that the genesis of the bill is the responsibility of our colleague, the gentleman from Indiana (Mr. SHARP), who brought to our attention the fact that some workers, due to being unaware of the provisions of the Trade Adjustment Assistance Act, were not getting the benefits which Congress intended that they should get. His original bill became section 101 in the bill now before us, and we are grateful to him for having brought this matter to our attention in the first instance.

In addition, the bill does contain other good things which were described by our distinguished colleague, the subcommittee chairman, the gentleman from Ohio (Mr. VANIK) and by the distinguished ranking minority Member, the gentleman from Wisconsin (Mr. STEIGER). It does improve the benefits to individuals. It also improves the adjustment assistance that goes to firms.

In response to the query of the gentleman from Oklahoma, firms are defined in the act as individuals and partnerships as well as corporations, so the advantages in the sections numbered in the 200's will be available to those cattle producers who are not incorporated.

I would also second some of the comments that have already been made, Mr. Chairman. In the first instance we received no help at all from the administration on this matter. We waited a year and a half, asking frequently for recommendations from the administration. None were forthcoming, and so the committee had to move on its own. As a result we probably have a better bill than we would have had had we waited for recommendations.

There is another important point. Section 106 and section 107, which were not in the original bill and will be before this committee today as committee amendments are amendments that should be defeated by this committee. One of them changes the qualification for adjustment assistance from 26 weeks of work in the last 52 weeks to 40 weeks of work in the last 104 weeks, which in the opinion of the administration and in my opinion does not demonstrate enough attachment to the labor market to qualify for that high level of benefits.

The second additional section, section 107, attempts to do a job which is socially desirable, that is to take care of older workers until such time as they can receive social security. However it does that at the expense of the unemployment compensation system and is a needless expense on that system. If we choose to achieve this social goal we should do it in some other way rather than loading down this particular system with that cost. The total cost of those two systems is $17 million per year, which takes the bill beyond the original budget request of this original subcommittee.

I hope those two amendments will be defeated, but, whether they are or not, it is essential that this bill be passed expeditiously by this House.

Mr. STEIGER. Mr. Chairman, I yield 3 minutes to the gentleman from New Hampshire (Mr. CLEVELAND).

Mr. CLEVELAND. Mr. Chairman, when we come to the amending process on this bill I am going to offer an amendment and I thought I would take advantage of this brief period of time to explain what my amendment does.

Although there are very few Members here on the floor, I hope at least some of the TV sets are on in the offices. In addition, I have written several "Dear Colleague" letters on this issue. One of them was cosigned by my friend and colleague, the gentleman from Alabama, WALTERS FLOWERS. I also had a great deal of help on this amendment from my colleague from New Hampshire (Mr. D'AMOURS).

Basically my amendment is sort of a fair play amendment and a common sense amendment. It does not add a nickel to the costs of this bill. Those who speak against the amendment will say it is a terribly costly amendment. What they mean is it will cost our Federal Government more. That is because what my amendment will do is simply revert to the situation that we had from 1962 to 1974. During that period of time it was the law that if the trade policies of the United States could be shown to definitely put people out of work then the United States Government would pay for the compensations under the Trade Expansion Act of 1962.

And that is fair. It was the Federal policy that put the people out of work and if the Federal Government wants to pursue that policy, then they should pay for it.

Then in 1974 the Senate slipped in an amendment which said, well, the States will have to pay for some of it and the States are paying for some of it. It is not fair for the States to have to pay part of this Federal program. So my amendment will simply revert to the 1962–74 situation when the Federal Government would pay all of the compensation benefits, which were caused by the Federal trade policies.

As I say, it is sort of a commonsense-fairplay type of amendment.

I think a lot of people are aware of the fact that there is a good deal of unrest out there in the States. Proposition 13 has been talked to death, but that proposition 13 told us that a lot of the people out there are not happy about the way the State and Federal Government and the Congress are conducting the business of our country.

I would suggest to you that here is a classic example.

The CHAIRMAN. The time of the gentleman has expired.

Mr. STEIGER. Mr. Chairman, I yield 2 additional minutes to the gentleman from New Hampshire (Mr. CLEVELAND).

Mr. CLEVELAND. If the Congress wants to pass this bill—and I do not even argue whether it is a good bill or a bad bill, I never get to that point. I will take the word of the gentleman from Minnesota (Mr. FRENZEL) that the bill is needed and should be passed. As I say, it may be a good bill or it may not be a good bill, but I do not even get to that point. The fact of the matter is that here we are, sitting in the U.S. Capitol and we are passing legislation. It may be good legislation, perhaps, or maybe some people do not like it, but the point is we are passing legislation that adds a crushing

burden on some of the unemployment compensation funds of the States. Many of those funds, as you probably already know, or should know, if you do not, have already had trouble and States have had to come to the Federal Government to borrow money. It does not make sense for us to pass legislation and then tell the States that they have to pick up part of the tab.

I read in the report on the recent Governors' Conference where one of the Governors got up and said, "For goodness sake, Washington, will you stop passing all those good bills that, in the long run, we have to pay so much of."

In this particular case the States do not have to pay all of it, but they have to pay a substantial part of it.

So, Mr. Chairman, I hope that my amendment will receive serious consideration and, indeed, I hope it will be adopted.

Mr. VANIK. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana (Mr. BENJAMIN).

Mr. BENJAMIN. Mr. Chairman, as a cosponsor of H.R. 4460 with my colleague and friend, Mr. SHARP, I am happy to rise in support of H.R. 11711, a bill to improve the operation of the adjustment assistance program for workers under the Trade Act of 1974.

As originated in 1962, the trade adjustment assistance program provided, among other things, financial and technical assistance to workers who were adversely affected by import competition. Unfortunately, under the 1962 program, the only help available to firms and employees injured by import competition was "escape clause" relief and the experience proved unsatisfactory.

This and other inadequacies of the program led to changes incorporated in the Trade Act of 1974. Under Public Law 93–618, the criteria under which workers and firms could be certified was liberalized, the program benefits were enhanced and a community program was initiated. Other changes were made with the intention of facilitating qualification for eligible petitioners for benefits under the program.

Many have been helped, many more were not, particularly in the steel industry, a problem of substantial concern to me.

In the words of Jack Parton, president of United Steel Workers' Local 1014, the number of those affected is "substantial." Norman Purdue, president of United Steelworkers Local 1011, on a number of occasions, has confirmed Mr. Parton's statement and expressed the deep concerns of his union's membership regarding the inadequacies of the present law. It is regrettable that many of those not aided were employees who were unaware of the 1-year time limit under the program for filing petitions.

With this problem in mind, I joined with Representative SHARP and others to sponsor H.R. 4460 which would have extended the "impact date" from 1 to 2 years prior to date of the filing of the petition to insure that the legislation assists all those intended.

Following hearings on H.R. 11711, this proposal was modified from 2 years to 18 months and incorporated in section 101 (b) of H.R. 11711.

In spite of the improvements incorporated in the bill, and that proposed by the Oberstar amendment to restore the time expansion proposed by H.R. 4460 which I shall support, at least one major difficulty has not been resolved.

Section 231 of the act provides that payment of a trade readjustment allowance shall be provided an adversely affected worker if such worker's last total or partial separation before his application was on or after the impact date.

As pointed out to me by President Jack Parton of United Steelworkers 1014 in Gary, Ind., neither the present Trade Adjustment Act or these amendments properly compensate workers who are laid off prior to the impact date. He suggests, and I concur, that these workers should qualify for trade adjustment assistance from the impact date to their reassignment, although not necessarily from the time of layoff to the impact date.

My office contacted the Trade Subcommittee of the Ways and Means Committee and advised them of President Parton's proposal. We were advised that although this problem was analyzed, its resolution was not included in H.R. 11711 because trade adjustment assistance was not intended to be merely unemployment compensation, as this proposal would purportedly make it.

The reasoning behind the use of an impact date is to determine at what point imports caused serious economic and employment problems in our domestic industries. It was decided that a worker laid off subsequent to the impact date could qualify for assistance and those laid off prior thereto would not qualify because their job was not lost as a result of foreign trade competition. I do not accept this contention. Moreover, their reemployment may certainly and unfortunately, be dependent upon the situation of our foreign trade.

Unfortunately, the subcommittee was not receptive to my proposal to open up trade adjustment assistance to workers who were laid off prior to the impact date.

Since H.R. 11711 incorporates a large number of improvements which have been needed and are vital to our workers, I would not do anything to jeopardize its success. However, my position is and will continue to be that these workers, described by President Parton, should be qualified. I hope that the other body will consider President Parton's proposal and that a final version will include adequate provisions for these previously laid-off workers.

I enjoin my colleagues to support H.R. 11711. I laud Chairman VANIK for the tremendous task that he has undertaken and in which he has suceeded, except for needed improvement to section 231 of the act.

Mr. VANIK. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for yielding.

I want to commend our chairman of the Subcommittee on Trade (Mr. VANIK) for bringing this legislation to the floor to correct the very obvious inequity in the existing very good, very well-intentioned Trade Adjustment Act. I feel that the legislation has responded to a definite need in the country among those workers and industries that have been impacted by our present policy to expand world trade and to continue the policy of a free world-trade market.

In this process, however, of expanding trade and opening markets, workers have been injured by being laid off, family income lost, wages gone, never to be recovered. Therefore, we owe it to those people to provide some benefit to help them through that period of difficulty.

Mr. Chairman, these amendments will make that legislation more equitable. They affect very extensively the people in my own district, both in iron ore mining and those in the garment industry who have been adversely affected by our trade policies.

Mr. Chairman, the United States is committed to a reduction of the barriers to free and unrestricted trade among nations. This policy, however, entails a responsibility on the part of our Government to provide relief to the millions of individual workers who have been adversely affected by that policy and the competition of foreign goods in the American market.

In passing the Trade Act of 1974, Congress recognized that responsibility. The legislation before us today, H.R. 11711, represents our continued commitment to improving that act and meeting our commitment to the American workers who bear the heaviest burden of trade policies.

The chairman of the subcommittee (Mr. VANIK) and the members of the committee are most sensitive to the needs of these Americans.

I support the committee amendment which will enable a worker to qualify for trade adjustment assistance on the basis of having worked 40 weeks out of the previous 104 weeks in one or more affected industries.

This is a sound provision which maintains an appropriate attachment to the labor force as the basis for eligibility.

It does, however, recognize that many workers in impacted industries are unable to meet the present requirement because they were out sick, on paid vacation, or, as quite commonly happens, on temporary lay-off in the year prior to the lay-off actually certified as trade related.

The committee provision is, however, only prospective. It will not provide relief to those workers laid off as the result of the surge of imports in the past 2 years.

Probably every Member of this House has constituents who, if this committee provision had been in effect during the past 2 years, would be eligible for trade adjustment assistance. When this bill is considered for amendment under the 5-minute rule, I shall offer an amendment which will correct some unfortunate inequities, not intended by the original Trade Adjustment Act.

My amendment would enable any worker laid off in the 2 years prior to enactment to use the alternative 40/104 week provision to apply for benefits.

The Department of Labor estimates that an additional 20,000 workers would be able to apply for benefits under this amendment. The one-time cost would be approximately $32 million: $29 million in benefits and $3 million in administrative costs.

The 2-year retroactivity figure represents a reasonable compromise between excluding all workers already laid off from the benefits of the provision and extending retroactivity back to such an extent that the costs of administration would be prohibitive.

Most importantly, it recognizes that applications for trade adjustment assistance have risen dramatically in the past 2 years. In 1976, the number of applications for TRA received by the Department of Labor was 11,900. In 1976, that monthly figure rose to 12,750. In the first 6 months of this year, the number has rocketed to 20,375.

My amendment would reach the workers who are suffering the effects of the surge in imports in the past 2 years. In the steel industry alone, foreign imports as a share of domestic consumption has risen from 13.5 percent in 1975 to 18.4 percent for the first 6 months of this year.

This is a fair amendment which can be administered by the Department of Labor.

I urge its adoption.

Mr. STEIGER. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. REGULA).

Mr. REGULA. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise to support this legislation that will move toward achieving fairness under the readjustment provisions of the Trade Act.

I sponsored legislation which would have extended the eligibility for TRA benefits for 1 year. While the bill which was reported out of the House Ways and Means Committee provides for a 6-month extension, it has my support and is an effort toward remedying some of the unfairness of the present program.

I represent an area of the country which has been adversely affected by imported steel. As a member of the Executive Board of the Congressional Steel Caucus, I have become increasingly aware of the unfair conditions under which our domestic steel industry must compete. I believe progress is being made to insure fair competition within this industry and to save domestic jobs in the steel industry.

However, we must not forget those who through no fault of their own have suffered economic setbacks because of unfair competition. I particularly have received many complaints from older workers and these complaints indicate a trend of older workers being the first to be laid off and being excluded from eligibility for TRA benefits. Many of these older workers have strong ties to the community and extensive family responsibilities. Therefore, those who are in most need of assistance have in many cases been denied help. By extending the eligibility period we will lessen the economic impact on many communities, keeping many workers off of welfare and providing those affected with some help in preparing for new careers.

Mr. STEIGER. Mr. Chairman, I have one more request for time, I will say to my colleague, the gentleman from Ohio (Mr. VANIK). I yield 3 minutes to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Chairman, I take this time just to alert the membership that I intend to offer an amendment to title II of the bill which will take care of what I believe is a serious inequity in the present bill. The present bill extends benefits—and I think rightfully so—for people who are under the act and who are in training programs that last a couple of years, which most training programs do, and this will allow benefits to be payable for up to 104 weeks. The problem is, though, that it only applies to those people who get into the program after 60 days after the effective date of the act. It does not give any consideration to those people who are involved in the programs at the time of the effective date of the act. What this means is that those people who are presently involved in a 2-year training program, but whose benefits are going to run out after 18 months, would not get the benefits of coverage under this bill. Yet somebody, just by virtue of the circumstances of the business, coming into the program 60 days after the effective date would get the full 2 years of benefits. I do not think that is equitable. I think we ought to take care of those people already in the pipeline, those people already in the program, those people who are already suffering. These people should be given fair advantage of this bill in the extension of their benefits. I am hopeful that the Members will support my amendment. I think it is an equitable and fair one.

Mr. STEIGER. Mr. Chairman, would the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Wisconsin.

Mr. STEIGER. I thank the gentleman for yielding.

Would the gentleman make sure to give us a copy of that amendment, and make sure that the chairman also has one?

Mr. JEFFORDS. Yes; I most assuredly will do that. The staff has been provided copies.

Mr. STEIGER. We do not have copies. Therefore, it is a little hard to judge it. Second, I want to make sure that before we get to the amendment stage, has the gentleman got an estimate from the Department of Labor for the cost of the Sarasin-Jeffords amendment?

Mr. JEFFORDS. Yes. First I want to point out I am offering this myself and with the gentleman from Connecticut, Mr. SARASIN, who is deeply involved in these problems. It is my understanding the uppermost cost, the maximum cost, would be as high as approximately $14 million. However, I feel the actual cost would be much less.

Mr. STEIGER. I thank the gentleman. Please make sure we get a copy.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The time of the gentleman has expired.

Mr. STEIGER. I yield 1 additional minute to the gentleman from Vermont.

Mr. JEFFORDS. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. I thank the gentleman for yielding.

The gentleman's amendment sounds very much like an amendment I had developed prior to today's session, which I will offer later on, to make the benefits of this legislation retroactive 2 years to cover those very same inequities the gentleman has already described. We have a very similar situation in my own congressional district. It occurs elsewhere in the United States. Some 10,000 workers would be affected by the retroactivity provision. I think it is very equitable, and I look for the gentleman's support.

Mr. JEFFORDS. I thank the gentleman. I will be happy to consider his, if he will consider mine. I thank the gentleman.

● Mr. DENT. Mr. Chairman, I rise in support of H.R. 11711, the trade adjustment assistance programs improvements. Until the Trade Act of 1974 (and its liberalized trade adjustment assistance provisions) was passed, the record of assistance to workers who had lost their jobs because of imports was totally unacceptable. The process required by the Federal Government was arduous and full of obstacles clearly designed to minimize any real help to a displaced worker.

The Trade Act of 1974 changed the adjustment assistance procedure by easing the very stringent criteria and taking into account the real hardships visited upon workers who have lost their jobs because of circumstances beyond their control. Under the new procedure (beginning on April 3, 1975, through July 31, 1978) 4,019 petitions have been decided: 1,342 have been certified, affecting 365,478 workers; 1,700 have been denied, effecting 383,123 workers; and 772 are still pending. As one can see, even under liberalized conditions over half the workers who petition for assistance do not get it. Moreover, that is only part of the picture, since only the worker who was directly involved in the manufacture of the imported goods can qualify for assistance. Any other worker indirectly affected by a plant shutdown or drop in business activity because of imports

could not qualify for any assistance. This is hardly a satisfactory answer to unemployed workers and their families, and hopefully this bill will go a long way toward improving these problem areas.

However, I do want once again to call the House's attention to the fact that the provisions of the Trade Act of 1974 shift the financial responsibility for unemployment caused by international trade agreements from the Federal Treasury, where it legitimately belongs, to State unemployment compensation funds, resulting in a hidden cost to the States that will ultimately total hundreds of millions of dollars.

Let me explain. Under the Trade Act of 1962, States that paid workers determined to be unemployed as a consequence of increased imports were reimbursed by the Federal Government for the unemployment compensation benefits paid to these workers. Reimbursement was, and is, an appropriate approach inasmuch as these workers were unemployed as a consequence of national policy decisions in an international forum, and for no other reason. Such dislocation and unemployment was inherently recognized and expected in the Trade Act of 1962 and in other subsequent trade arrangements, such as the Canadian-American Automotive Agreement.

It surfaced as an even greater issue in deliberations on the Trade Act of 1974, primarily because of the growing number of industries affected by imports, and because of complaints that TRA qualifying guidelines were far too stingent. In dealing with this aspect of the law, the guidelines were liberalized, but the burden for supporting the cost of these TRA benefits was shifted to the States, who have absolutely nothing to say about our trade policy. I pursued this matter in my own State of Pennsylvania and found the following, staggering information:

Under the Trade Act of 1962, 1,040 Pennsylvania workers received a total of $1,066,600 of TRA benefits from the State of Pennsylvania, reimbursed totally by the Federal Treasury, from 1962 through April 3, 1975.

Since the passage of the Trade Act of 1974 through June 31, 1978, 55,394 Pennsylvania workers have qualified for TRA benefits and have received $143,014,215. Of that, $59,552,000 came from the Federal Treasury; the remainder, $83,462,215 came out of Pennsylvania's unemployment compensation fund. This is the case in virtually every State in the country.

This raises two very important issues:

First. The cost this Nation bears as a consequence of its trade policies is vastly understated, and, in fact, hidden. In addition to the revenues lost to communities and States as a consequence of unemployment due to imports, we also pay out enormous amounts of money for these trade policies at both State and Federal levels. Now, if you call the TRA office of the Department of Labor and ask them what the cost of the TRA program is, they will report that under the new act from April 1975 through June 30, 1978, 365,478 workers received benefits totaling $486,785 million. Of that amount, Pennsylvania received $59,552,000. They are right. That is the Federal cost. It is staggering in itself. What they do not tell you is that the real cost to the country is approximately three times that because the States pay these same workers unemployment compensation. In the case of Pennsylvania, the State paid unemployment compensation benefits of $83,462,215 for which it should not be responsible, and for which it will not be reimbursed. And that is only through June 30, 1978. Petitions to the Department of Labor are increasing on a daily basis, and believe me, we have yet to see what unrestricted imports cost this Nation. It is estimated that TRA benefits are increasing by approximately $10 million a month. I suggest that the total payments of TRA, by both State and Federal Treasury will easily approach hundreds of millions of dollars on a yearly basis.

Second. The upshot of this shifting of costs is that it lends itself to easy misrepresentation of a program to which many look as part and parcel of the rationale to continue our present trade policies. It is easy to say that the damage of imports is minimal because we have only paid out of the Federal Treasury a small amount of dollars, ignoring that the major burden of the cost is State borne, and also ignoring that more than half the claims for TRA are denied. Moreover, some of the highest unemployment rates are evidenced in those areas where the most workers have applied for and received TRA benefits.

Thus far the Department of Labor, as of July 31, 1978, has certified 1,342 petitions covering a total of 365,478 workers. Over one-half of these workers are in the States of Michigan, Missouri, New York, Pennsylvania, Wisconsin, Ohio, and California.

I am not for a moment suggesting the dissolution of the TRA program. For many workers, it represents the difference between bread on the table and nothing. I am suggesting that the TRA program was never meant to be a supplemental welfare system, or an excuse for categorically relinquishing more of this country's production jobs in the name of free trade. Moreover, it is grossly inequitable at a time when States are experiencing serious financial difficulties, to expect States to pay for national trade decisions. If the high cost of our trade policy is able to be seen for what it is, then perhaps, those who make the trade decisions will pay closer attention to what their decisions are costing this country, and those of us who are committed to fiscal responsibility will realize the direct impact that trade policies have on unemployment and its concurrent problems.●

● Mr. LAFALCE. Mr. Chairman, I rise in support of H.R. 11711, which provides adjustment assistance for workers and firms adversely affected by imported goods from abroad.

H.R. 11711 will help correct many of the inequities and deficiencies in the trade adjust assistance programs, as originally enacted in the Trade Act. A substantial number of firms and workers who were adversely affected by a flood of inexpensive imports were inadvertently not covered by the original provisions of the Trade Act of 1974. The Committee on Ways and Means and its Subcommittee on Trade are to be commended for their lengthy and careful examination of this situation and for H.R. 11711, which is a response to those unfortunate omissions.

Section 101 of title I is particularly commendable, because it retroactively extends the one-year rule to 18 months for eligibility petitions for assistance filed before November 1, 1977. This would allow the Secretary of Labor to promptly and expeditiously reconsider petitions for assistance which had been previously denied because of the mandated and somewhat arbitrary deadline date of impact or because of the failure of the petitioning group of workers to meet the 1-year rule for the filing date of the petition under section 223(b)(1). Many qualified workers missed these deadline dates in the early months of the program, usually because they were unaware of the existence of the program. In almost every State of the Union, including thousands in New York State, there are workers who will finally get that assistance which was so long, and inequitably, denied them.

Section 103 of title I addresses another drawback in the original Trade Act of 1974. That act did not cover those workers who were secondarily impacted or affected by imports, which has left many workers without assistance for which they should have been qualified. Unlike section 101, this is an ongoing problem which must be dealt with as soon as possible. These workers are employed by firms which supply articles and services to and are economically dependent upon one or more "import-impacted firms." In reality, the sole difference between their status and that of employees for primarily impacted companies resides in the name of their employer, and not in the nature of their economic circumstances. Since H.R. 11711 imposes reasonable and strict criteria for measuring secondary impact, it will extend eligibility for assistance benefits to adversely affected firms and workers, without endangering the integrity and fairness of the whole adjustment assistance program.

There are many other worthwhile features in this bill, including provisions for enhanced opportunities for innovative and experimental retraining programs and provisions to significantly accelerate the certification process and benefit delivery for qualified firms and employees. I urge my colleagues to support H.R. 11711 which will help U.S. industry compete in the highly competitive climate of international trade and will succor those workers who were innocent casualties of that fiercely competitive world.●

● Mr. CORRADA. Mr. Chairman, I rise in support of H.R. 11711, a bill to improve the operation of the adjustment

assistance programs for workers and firms under the Trade Act of 1974.

H.R. 11711 proposes to liberalize the criteria for eligibility certification and the adjustment assistance benefits to workers and firms. Similarly, it would accelerate the processing of petitions for certification.

One of the most often heard complaints about the current trade adjustment assistance (TAA) programs is the lack of awareness by workers and firms of the existence and nature of the programs, and as a result, many otherwise eligible firms and workers have not filed petitions for certification. Section 225 of H.R. 11711 directs the Secretary of Labor to provide full information to workers about such things as benefit allowances, training and other employment services available under the TAA programs. This section also helps to emphasize the purpose of the assistance; that is, to aid the worker in readjusting to import competition, rather than simply providing him/her with unemployment compensation.

Another way in which the bill seeks to stress the true purpose of the TAA programs is demonstrated in section 108 of the bill which establishes a program of experimental or demonstration projects to improve techniques and demonstrate the effectiveness of specialized methods to meet the employment and training problems of workers displaced by foreign competition.

I am particularly pleased to see that section 101 of the bill provides for retroactive eligibility for TAA for workers who were previously denied benefits because they were either unaware of the program or because of the 1-year limitation for filing a petition. This provision acknowledges the early failings of the programs in becoming visible to eligible workers and firms.

I am in full agreement with section 103 and section 201 of H.R. 11711 insofar as they amend eligibility criteria to permit worker and firm certification on the basis of a "threat" of an absolute decrease in the sales and/or production of a firm or subdivision thereof. These amendments will enable certification of workers and firms in advance of actual reduction in firm output when it is clear that such reduction and resulting unemployment due to increased imports are imminent. In light of the fact that administrative delays in payment of benefits to workers occur in a majority of all cases under the current program, and in some cases workers are already reemployed by the time they begin to receive the benefits section 103 will help streamline the certification process and the payments of benefits.

H.R. 11711 proposes improvement in the TAA program for firms, primarily concerning requirements for the provision of precertification technical assistance, by raising the ceiling on the Government share of the cost of such technical assistance from 75 percent to 90 percent and raising the present ceiling on direct loans and guaranteed loans. It is important to note that the bill also authorizes interest rate subsidies to reduce interest paid by borrowers on guaranteed loans. This will help provide incentives where necessary for private job creating investments in areas of high unemployment in the form of low-interest loans.

Adjustment assistance is extremely important to my home district of Puerto Rico where the unemployment rate is around 18 percent and whose manufacturing sector is dominated by import sensitive industries such as textiles and related products, chemicals, petrochemicals, machinery, electrical equipment, and scientific instruments. These industries employed 85,638 workers and contributed $67,608,926 to the local treasury during 1977.

The important sensitivity of these industries in Puerto Rico is best illustrated by the case of textiles. In 1976 there were 453 plants in the apparel and textiles industry employing 41,331 persons. This is almost 100 firms and 7,000 jobs less than the numbers for 1973. Rising local wages and foreign competition in the U.S. market from low wage foreign areas caused 144 establishments to close down between 1968 and August 1977.

In spite of the adverse effects of foreign competition on the manufacturing sector of the Puerto Rican economy, only 19 worker adjustment assistance petitions were certified by the Department of Labor since the inception of the program under the Trade Act of 1974. Of the 19 petitions, 7 were granted and 2,165 workers have begun to receive benefits. On the other hand two firms on the island were certified by EDA and only one of these petitions, covering 682 workers, was granted.

H.R. 11711 proposes to improve the TAA programs in areas which have been in large part responsible for the programs' ineffectiveness.

I am pleased to support H.R. 11711 as a necessary measure to counteract the reality of import competition to those firms adversely affected as a result of it and workers who have become unemployed thereby, and I strongly urge my colleagues to vote for its passage.●

● Mr. AMMERMAN. Mr. Chairman, hospitalization as a result of a recent automobile accident precludes my recording my vote in favor of H.R. 11711, the Adjustment Assistance for Workers and Firms Act, a bill which will improve the operation and effectiveness of the trade adjustment assistance program. I do, however, wish to register my strong support for this legislation. Reforms such as these are long overdue.

Trade adjustment assistance should accomplish two major goals: It should provide temporary compensation to workers and firms adversely affected by imports; and it should provide job training programs and positive incentives for displaced workers who need to find new jobs.

A related ingredient in assisting firms and workers in all industries, and especially in those affected by import competition, is the provision of real incentives for the modernization of plant facilities and equipment. We have begun to address this need through investment and employment tax credits, as well as other important measures. The tax bill which was adopted by the House just last week will increase from the current 50 percent to 90 percent the investment tax credit that can be used to reduce tax liability.

The 23d Congressional District has had to bear more than its fair share of jobs lost due to imports. I have consistently fought to protect the jobs of workers in the industries within my district, including those producing textiles, steel and specialty steel, lightbulbs, and other products. Many cities and towns, including Bradford, St. Marys, Kane, Emporium, Houtzdale, Lock Haven, Johnsonburg, Oil City, and Franklin have suffered serious losses in employment directly because of imports. In some instances, workers and firms have qualified for trade adjustment assistance. But many have not. It is my hope that this bill will enable more workers to receive benefits and job search assistance than previously was the case.

The bill now before the House seeks to improve the operation of the adjustment assistance program by expanding many of the eligibility requirements. It provides retroactive eligibility for workers in certified units who were denied benefits between October 1974 and November 1977. It extends benefits to workers in firms which provide services or articles to import-impacted firms if such services or articles are essential to the production of the import-impacted good. The latter is a meaningful reform of the adjustment assistance program for all workers who produce component parts of import-impacted articles or services.

This bill expands the responsibility of the Department of Labor to provide full information to workers about allowances, training and employment services. It also broadens job search allowances by permitting partially separated workers as well as totally separated workers to apply, expands the date within which a worker may apply for these allowances, and increases the amount of the allowance.

In conclusion, this bill provides significant reforms within the trade adjustment assistance program which will expand the coverage and eligibility of many workers in industries adversely affected by imports. It is my deepest wish that many workers in Pennsylvania's 23d District will benefit from this legislation. They have paid the price for the expansionary and relatively free international trade policy of the United States.●

● Mr. MURPHY of Illinois. Mr. Chairman, I rise in support of this legislation. I believe this bill provides an effective response to economic dislocations of workers and firms due to increased imports. However, we would have no need for this bill if the Treasury Department and this administration stopped foot-dragging and started enforcing the antidumping laws that are on the books right now.

In 1971, the Treasury Department made a finding that Japanese TV receivers were being dumped in the United States at less than fair market value. Again, on March 9 of this year, the International Trade Commission ruled that Japanese imports were seriously damaging the domestic industry, costing thousands of American jobs. On March 31,

Treasury announced that the Customs Service had assessed dumping duties of $46 million on entries of television sets just through 1973. However, Treasury also announced that although the total amount of dumping duties reached approximately $400 million for that period, they were only acting to resolve unliquidated entries for this period, leaving unresolved 4 years of imports.

Why was this done, and more importantly, what kind of effect will this have on domestic companies wrestling with illegal dumping? Zenith has been forced to move its operation overseas, eliminating over 5,000 domestic jobs since it can no longer compete with TV imports. Treasury's consistent failure to enforce antidumping laws has seriously harmed this domestic company and the outlook for the industry is not good. I am tired of watching our industry get undercut as Treasury and this administration quietly sit back. I would hope that the Trade Subcommittee hearings scheduled for September will be able to look at this lack of Government enforcement and get some answers.●

● Mr. BOLAND. Mr. Chairman, I support this very important piece of legislation, H.R. 11711 is the latest in a series of bills designed to protect American workers and American firms. The Trade Expansion Act of 1962 first established these special programs. In 1974, this Congress revised the administration of trade adjustment assistance for workers and firms affected by Federal trade policies. Mr. Chairman, we now see that still a further need exists for improving the operation of these vital programs. We are attempting here to insure that this Nation's workers and firms have available to them effective and timely adjustments to the economic hardships which result from increased imports. H.R. 11711 does just that—insures that the congressional intent of trade adjustment assistance is made a reality.

All of us, Mr. Chairman, are aware of the balance-of-trade problems facing this Nation. We are continuing, of course, our efforts to restore some semblance of a balance of trade. A most important part of that effort is an effective program to protect American workers and American industry. The Adjustment Assistance Programs Improvements Act of 1978 broadens the coverage, corrects inequities and improves the entire benefit delivery procedure. In addition, Mr. Chairman, it provides for industrywide studies and technical assistance so that this Congress can continue to exercise our oversight function in this important area that affects all Americans.

I support this bill, Mr. Chairman. The alternative is to initiate import relief measures and I would rather not see that. For some time, Federal policies have encouraged increased foreign trade. In so doing, however, we must also continue to support trade adjustment assistance programs. American workers and American firms affected by these Federal policies should be protected and this bill is a further, necessary step in accomplishing that goal.●

Mr. VANIK. Mr. Chairman, I have no further requests for time, and I yield back the remainder of my time.

Mr. STEIGER. Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the bill by titles. No amendment shall be in order except pro forma amendments for the purpose of debate and germane amendments relating only to chapters 2, 3, and 5 of title II of the Trade Act of 1974 (Public Law 94-618), and it shall be in order to consider an amendment printed in the CONGRESSIONAL RECORD of July 25 by Representative CLEVELAND of New Hampshire, if offered.

The Clerk will now read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—IMPROVEMENTS IN ADJUSTMENT ASSISTANCE FOR WORKERS

SEC. 101. SPECIAL TREATMENT OF CERTAIN CERTIFICATIONS AND PETITIONS.

(a)(1) This subsection applies—

(A) to any petition for a certification of eligibility to apply for adjustment assistance under chapter 2 of title II of the Trade Act of 1974—

(i) if such petition was filed with the Secretary of Labor (hereinafter in this section referred to as the "Secretary") before November 1, 1977; and

(ii) if the Secretary, on the basis of section 223(b)(1) of the Trade Act of 1974—

(I) denied issuance of such a certification,

(II) refused to accept the petition,

(III) caused the petition to be withdrawn, or

(IV) terminated an investigation undertaken with respect to the petition; and

(B) to any worker covered by a certification issued under section 223 of the Trade Act of 1974 on the basis of a petition filed before November 1, 1977, if such worker was not eligible for adjustment assistance under such chapter 2 by reason of subsection (b)(1) of such section.

(2) The Secretary shall promptly reconsider any petition referred to in paragraph (1)(A) and the eligibility for adjustment assistance of any worker referred to in paragraph (1)(B). In undertaking such reconsideration, the provisions of chapter 2 of title II of the Trade Act of 1974 shall apply, except that—

(A) for purposes of section 223(b)(1) of such Act, an 18-month period shall be applied rather than a one-year period; and

(B) for purposes of section 231(1)(B) of such Act, the date of the determination, if an affirmative determination is made incident to reconsideration, under section 223 shall be the 60th day after the date on which the petition concerned was initially filed with the Secretary, or, in the case of any petition to which pargraph (1)(A)(ii)(I) applies, the date of the initial determination by the Secretary denying certification.

(b)(1) Any group of workers separated from employment after October 3, 1974, and before November 1, 1977, may file, or have filed on their behalf (including a filing on their behalf by the Secretary), a petition for a certification of eligibility to apply for adjustment assistance under chapter 2 of title II of the Trade Act of 1974 if a petition for such a certification for such group was not filed with the Secretary after April 2, 1975, and before November 1, 1977. The Secretary may not consider any petition filed under this subsection unless the petition is filed before the close of the 6-month period beginning on the date of the enactment of this Act.

(2) The provisions of such chapter 2 shall apply with respect to any petition filed under this subsection; except that—

(A) for purposes of section 223(b)(1) of the Trade Act of 1974, an 18-month period shall be applied rather than a one-year period.

(B) the date of the petition shall be April 3, 1975, or such other date deemed appropriate by the Secretary on the basis of the information obtained during the investigation, and

(C) for purposes of section 231(1)(B) of such Act, the date of the determination, if an affirmative determination is made, under section 223 with respect to the petition shall be the 60th day after the date of the petition established under subparagraph (B).

(c) In carrying out subsections (a) and (b), the Secretary may not pay, or recompute the amount of, any program benefit under chapter 2 of title II of the Trade Act of 1974 for the same week of unemployment for which any worker received, or is eligible to receive, such a benefit pursuant to such chapter under other than the authority of this section.

(d) The Secretary shall provide full information to workers regarding the provisions of this section and shall provide whatever assistance is necessary to enable workers concerned to prepare petitions or applications for benefits.

SEC. 102. FILING OF WORKER PETITIONS BY SECRETARY OF LABOR.

Section 221(a) of the Trade Act of 1974 (19 U.S.C. 2271(a)) is amended to read as follows:

"(a) A petition for a certification of eligibility to apply for adjustment assistance under this chapter—

"(1) may be filed with the Secretary of Labor (hereinafter in this chapter referred to as the 'Secretary') by any group of workers or by their certified or recognized union or other duly authorized representative; or

"(2) may be filed by the Secretary on behalf of any group of workers.

Upon the filing of a petition under paragraph (1) or (2), the Secretary shall promptly publish notice in the Federal Register that the filing has been made and that the Secretary has initiated an investigation.".

SEC. 103. GROUP ELIGIBILITY REQUIREMENTS FOR ADJUSTMENT ASSISTANCE.

(a) Section 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amended—

(1) by inserting "(a)" immediately before "The Secretary";

(2) by amending paragraph (2) to read as follows:

"(2) that sales or production, or both, of such firm or subdivision have decreased absolutely, or threaten to decrease absolutely,";

(3) by inserting ", or the threat thereof" immediately before the period at the end of paragraph (3);

(4) by striking out the last sentence thereof; and

(5) by adding at the end thereof the following new subsections:

"(b)(1) The Secretary shall certify a group of workers as eligible to apply for adjustment assistance under this chapter if the Secretary determines—

"(A) that not less than 25 percent of the total sales, or not less than 25 percent of the total production, of such workers' firm or subdivision is accounted for by the provision to import-impacted firms of—

"(i) any article (including, but not limited to, any component part) which is essential to the production of any import-impacted article,

"(ii) any service which is essential to the production, storage, or transportation of any import-impacted article, or

"(iii) any article and any service described in clauses (i) and (ii);

"(B) that a significant number or proportion of the workers in such workers'

firm or subdivision have become totally or partially separated, or are threatened to become totally or partially separated;

"(C) that the sales or production, or both, of such workers' firm or subdivision have decreased absolutely, or threaten to decrease absolutely; and

"(D) that the absolute decrease, or the threat thereof, in the sales or production, or both, by import-impacted firms of import-impacted articles, with respect to which such workers' firm or subdivision provides articles or services referred to in subparagraph (A), contributed importantly to the total or partial separation, or threat thereof, referred to in subparagraph (B) and to the decline in sales and production, or the threat thereof, referred to in subparagraph (C).

"(2) For purposes of this subsection—

"(A) The term 'import-impacted article' means any article produced by an import-impacted firm, if such article is one with respect to which a determination under subsection (a)(3) or section 251(c)(3) was made incident to the certification of the group of workers or firm concerned.

"(B) The term 'import-impacted firm' means—

"(i) any firm or appropriate subdivision thereof the workers of which have been certified pursuant to subsection (a), or

"(ii) any firm which has been certified pursuant to section 251(c).

"(c) For purposes of this section, the term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.".

(b) The amendments made by subsection (a) shall apply with respect to petitions filed under section 221(a) of the Trade Act of 1974 on or after the date of the enactment of this Act.

SEC. 104. DETERMINATIONS BY SECRETARY OF LABOR.

Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) is amended—

(1) by redesignating subsection (d) as subsection (f); and

(2) by adding immediately after subsection (c) the following new subsections:

"(d) In any case in which the Secretary of Commerce notifies the Secretary that a petition has been filed under section 251 by any firm, if a petition has been filed under section 221 regarding any group of workers of such firm, the Secretary, notwithstanding any other provision of law, shall promptly provide to the Secretary of Commerce any data and other information obtained by the Secretary in taking action on the petition which would be useful to the Secretary of Commerce in making a determination under section 251 with respect to the firm.

"(e) If any certification issued under subsection (a) is based upon a determination made pursuant to section 222(a)(2) or (b)(1)(C) that the production or sales, or both, of the firm or subdivision concerned threaten to decrease absolutely, no adjustment assistance under this chapter shall be provided to any worker covered by such certification until after the date on which the Secretary determines pursuant to such section that the production, or sales, or both, of such firm or subdivision have decreased absolutely.".

SEC. 105. PROVISION OF INFORMATION ON BENEFITS TO WORKERS.

(a) Section 224 of the Trade Act of 1974 (19 U.S.C. 2274) is amended—

(1) by striking out "; ACTION WHERE THERE IS AFFIRMATIVE FINDING" in the section heading thereto; and

(2) by striking out subsection (c) thereof:

(b) Subchapter A of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271–2274) is amended by adding at the end thereof the following new section:

"SEC. 225. BENEFIT INFORMATION TO WORKERS.

The Secretary shall provide full information to workers about the benefit allowances, training, and other employment services available under this chapter, and under other Federal programs, which may facilitate the adjustment of such workers to import competition. The Secretary shall provide whatever assistance is necessary to enable groups of workers to prepare petitions or applications for program benefits. The Secretary shall make every effort to insure that cooperating State agencies fully comply with the agreements entered into under section 239(a) and shall periodically review such compliance.".

(c) The table of contents of the Trade Act of 1974 is amended by striking out

"Sec. 224. Study by Secretary of Labor when International Trade Commission begins investigation; action where there is affirmative finding."

and inserting in lieu thereof the following:

"Sec. 224. Study by Secretary of Labor when International Trade Commission begins investigation.

"Sec. 225. Benefit information to workers.".

SEC. 106. WORKERS FOR MORE THAN ONE ADVERSELY AFFECTED EMPLOYER.

Section 221(2) of the Trade Act of 1974 (19 U.S.C. 2291(2)) is amended to read as follows:

"(2) Such worker had, in the 52 weeks immediately preceding such total or partial separation, at least 26 weeks of employment at wages of $30 or more a week in one or more firms or appropriate subdivisions thereof with respect to each of which a certification has been made under section 223 and which is in effect on the date of separation; or, if data with respect to weeks of employment with a firm are not available, equivalent amounts of employment computed under regulations prescribed by the Secretary.".

SEC. 107. TIME LIMITATIONS ON READJUSTMENT ALLOWANCES.

Section 233(a) of the Trade Act of 1974 (19 U.S.C. 2293(a)) is amended—

(1) by striking out "26 additional weeks" in paragraph (1) and inserting in lieu thereof "52 additional weeks"; and

(2) by amending the last sentence thereof to read as follows:

"In no case may any adversely affected worker be paid trade readjustment allowances for more than 78 weeks, or for more than 104 weeks in the case of workers to which paragraph (1) applies.".

SEC. 108.

(a) Part II of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2295–2296) is amended by adding at the end thereof the following new section:

"SEC. 236A. EXPERIMENTAL TRAINING PROJECTS.

"(a) The Secretary shall establish a program of experimental, developmental, demonstration, or pilot projects, through grants to, or contracts with, public agencies or private nonprofit organizations, or through contracts with other private organizations, for the purpose of improving techniques, and demonstrating the effectiveness, of specialized methods in meeting the employment and training problems of workers displaced by import competition. One such specialized method shall be the provision of certificates or vouchers to workers entitling employers and institutions to payment for on-the-job training, institutional training, or services provided by them to workers.

"(b) The Secretary shall carry out program projects under this section only within political subdivisions of States with respect to which the Secretary finds that—

"(1) a significant number or proportion of the workers within the political subdivision have become totally or partially separated, or are threatened to become totally or partially separated; and

"(2) increases in imports or articles like or directly competitive with articles produced by firms and subdivisions thereof located within the political subdivision have contributed importantly to the total or partial separations, or threats thereof, referred to in paragraph (1).

For purposes of paragraph (2), the term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.

"(c) Participation by any worker in a program project established under subsection (a) shall be on a voluntary basis; except that a worker may not be selected by the Secretary for participation unless the worker is, at the time of his application for participation—

"(1) covered by a certification issued under section 223 relating to employment or former employment within the political subdivision in which the project will be undertaken; or

"(2) if not so covered, is—

"(A) included within a group of workers for which a petition has been filed under section 221 and on which a determination under section 223 is pending, and

"(B) totally or partially separated from employment within such political subdivision.

The Secretary shall select workers for participation in a program project on such basis as the Secretary deems appropriate to carry out the purposes of this section, but such selections shall be made in a manner so as to insure that each project undertaken includes workers who represent diverse skill levels and occupations within the political subdivision concerned.

"(d) Grants made, and contracts entered into, by the Secretary under this section shall be subject to such terms and conditions as the Secretary deems necessary and appropriate to protect the interests of the United States.

"(e) Section 239(c) shall apply in the case of any individual in training under a project undertaken pursuant to this section with respect to entitlement to unemployment insurance otherwise payable to such individual. The agreement under section 239 with any State shall be modified to effect the purposes of this section, if the State deems such a modification to be necessary.

"(f) Not later than March 1, 1981, the Secretary shall submit to Congress a report setting forth a description and evaluation of the effectiveness of the projects implemented under the program established under subsection (a), together with such recommendations as the Secretary may have for implementing on a permanent basis those methods used in the program which have proven most effective.

"(g) For purposes of carrying out this section, there are authorized to be appropriated to the Department of Labor not to exceed $1,500,000 for each of fiscal years 1979 and 1980.".

(b) The table of contents of the Trade Act of 1974 is amended by inserting after

"236. Training."

the following:

"236A. Experimental training projects.".

(c) Section 246(b)(1) of the Trade Act of 1974 (19 U.S.C. 2317) is amended by inserting "other than section 236A" immediately before the period.

SEC. 109. INCREASED JOB SEARCH ALLOWANCES.

Section 237 of the Trade Act of 1974 (19 U.S.C. 2297) is amended as follows:

(1) Subsection (a) thereof is amended—

(A) by striking out "who has been totally separated";

(B) by striking out "80 percent of the cost of his necessary" and inserting in lieu thereof "100 percent of the cost of his reasonable and necessary"; and

(C) by striking out "$500" and inserting in lieu thereof "$600".

(2) Subsection (b) thereof is amended—

(A) by amending paragraph (1) to read as follows:

"(1) to assist an adversely affected worker who has been totally separated in securing a job within the United States;"; and

(B) by amending paragraph (3) to read as follows:

"(3) where the worker has filed an application for such allowance with the Secretary before—

"(A) the later of—

"(i) the 365th day after the date of the certification under which the worker is eligible, or

"(ii) the 365th day after the date of the worker's last total separation;

"(B) if such worker is age 60 or older on the date of his last total separation, the later of—

"(i) the 547th day after such date; or

"(ii) the 547th day after the date of the certification under which the worker is eligible; or

"(C) the 182d day after the concluding date of any training received by the worker, if the worker was referred to such training by the Secretary.".

SEC. 110. INCREASED RELOCATION ALLOWANCES.

Section 238 of the Trade Act of 1974 (19 U.S.C. 2298) is amended—

(1) by amending subsection (a)—

(A) by striking out "who has been totally separated";

(B) by striking out the period and insert in lieu thereof the following:

", if such worker was, or is, entitled to trade readjustment allowances under such certification and files such application before—

"(1) the later of—

"(A) the 425th day after the date of the certification, or

"(B) the 425th day after the date of the worker's last total separation;

"(2) if such worker is age 60 or older on the date of his last total separation, the later of—

"(A) the 547th day after such date or

"(B) the 547th day after the date of the certification; or

"(3) the 182d day after the concluding date of any training received by such worker, if the worker was referred to such training by the Secretary.";

(2) by amending subsection (c) to read as follows:

"(c) A relocation allowance shall not be granted to such worker unless his relocation occurs within 182 days before or after the filing of the application therefor or (in the case of worker who has been referred to training by the Secretary) within 182 days after the conclusion of such training."; and

(3) by amending subsection (d)—

(A) by striking out "80 percent" in paragraph (1) and inserting in lieu thereof "100 percent", and

(B) by striking out "$500" in paragraph (2) and inserting in lieu thereof "$600".

SEC. 111. DEFINITIONS.

Section 247 of the Trade Act of 1974 (19 U.S.C. 2319) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) The term 'adversely affected worker' means an individual who—

"(A) because of lack of work in adversely affected employment, has been totally or partially separate from such employment;

"(B) has been totally separate from other employment with a firm, in which adversely affected employment exists, within 190 days after being transferred from work in adversely affected employment in the firm because of lack of work; or

"(C) has been totally separated from other employment in a firm in which adversely affected employment exists as the result of—

"(i) the transfer of an individual from such adversely affected employment because of lack of work, or

"(ii) the reemployment of an individual who was totally separated from such adversely affected employment, if the reemployment occurs within the 190-day period beginning on the date of such separation.";

(2) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively, and by redesignating paragraphs (6) through (14) as paragraphs (8) through (16), respectively;

(3) by inserting immediately after paragraph (2) the following new paragraph:

"(3) The term 'appropriate subdivision' means—

"(A) any establishment or, where appropriate, any group of establishments operating as an integrated production unit or engaging in an integrated process, which is within any multiestablishment firm; or

"(B) any distinct part or section of any establishment which is within any firm, whether or not such firm is a multiestablishment firm."; and

(4) by inserting immediately after paragraph (6) (as redesignated by paragraph (1) of this section) the following new paragraph:

"(7)(A) The term 'firm' includes any of the following entities (regardless whether any such entity is under a trustee in bankruptcy or receivership under court decree):

"(i) Individual proprietorship.

"(ii) Partnership.

"(iii) Joint venture.

"(iv) Association.

"(v) Corporation (including any development corporation).

"(vi) Business trust.

"(vii) Cooperative.

"(B) Any firm, together with any—

"(i) predecessor in interest,

"(ii) successor in interest, or

"(iii) other affiliated firm (if both such firms are controlled or substantially beneficially owned by substantially the same persons),

may be considered to be a single firm for the purposes of this chapter.".

SEC. 112. EFFECTIVE DATES.

(a) Except as provided in subsection (b), this title shall take effect on the date of the enactment of this Act.

(b) The amendments made by sections 106, 107, 109, 110, and 111(1) shall take effect on the 60th day after such date of enactment and shall apply with respect to workers separated from employment on or after such 60th day.

Mr. VANIK (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 11, strike out lines 2 through 5, inclusive, and insert the following:

(2) Such worker had—

(A) in the 52 weeks immediately preceding such total or partial separation, at least 26 weeks of employment at wages of $30 or more a week; or

(B) in the 104 weeks immediately preceding such total or partial separation, at least 40 weeks of employment at wages of $30 or more;

in one or more firms or appropriate subdivisions thereof with respect * * *

Mr. VANIK. Mr. Chairman, I rise in support of the committee amendment.

This first amendment would allow workers to qualify for benefits if they have at least 40 weeks of employment in the 104 weeks immediately preceding their layoff as an alternative to the present 26 out of 52 weeks employment requirement. The committee adopted the amendment because of the many cases brought to its attention of workers unable to meet the 26 weeks of work requirement in the year preceding their layoff because their firm instituted shorter, intermittent work periods rather than immediate, permanent layoffs of all employees as it became impacted by imports. These workers have usually been in the labor force many years, the more junior employees with less seniority being laid off first rather than receiving shorter work schedules. The amendment provides greater equity in the coverage of eligible workers, at the same time preserves the intent of existing law that workers demonstrate a substantial attachment to the labor force to qualify for these supplemental benefits. A larger number of farmworkers should also be able to become eligible, particularly since the 40 weeks may be employment with more than one trade-impacted firm.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I am delighted to yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, the gentleman from Ohio said he would describe both committee amendments; but I think we are only voting on them one at a time.

Mr. VANIK. I was going to ask, if there is no objection, to vote on them en bloc.

Mr. FRENZEL. Mr. Chairman, I would object. I would hope the gentleman would not request that.

Mr. VANIK. All right; I will not make that request.

Mr. STEIGER. Mr. Chairman, I rise in opposition to the committee amendment.

Mr. Chairman, I will try and do this as briefly as we can, because I realize that time is limited and the hour is fast approaching in which we all turn into pumpkins.

Mr. Chairman, we note if we look at the bill that the committee amendment is one that strikes out language that was agreed to by the subcommittee. The language that is stricken is that which says that:

Such worker had in the 52 weeks immediately preceding such total or partial separation, at least 26 weeks of employment at wages of $30 or more, in one or more firms or appropriate subdivisions thereof with respect.

The amendment that was adopted in the full Committee on Ways and Means strikes that language and goes to new language, in which it is 52 weeks, 26 or in the 104 weeks preceding, at least 40 weeks of employment at wages of $30 or

more in one or more firms or appropriate subdivisions thereof.

It is that to which we are addressing ourselves in the committee amendment. The cost of this committee amendment is $16 million on an annual basis according to a letter from the Labor Department.

Mr. Chairman, my hope is that the Committee of the Whole House on the State of the Union will reject this subcommittee amendment and will go back to the original committee view. I would caution those Members who have further amendments, including our colleague, the gentleman from New Hampshire (Mr. CLEVELAND), our colleague, the gentleman from Minnesota (Mr. OBERSTAR), and our colleague, the gentleman from Vermont (Mr. JEFFORDS), that, as they know, we are under a budgetary ceiling for adjustment assistance, and the effect of the adoption of the committee amendment means we have even less of a chance of adopting even those amendments that might be beneficial, whether it is that of the gentleman from Minnesota, that of the gentleman from Vermont, or that of the gentleman from New Hampshire.

So there are some reasons why I think we ought not to accept this committee amendment.

The historic fact is, however, that this $16 million committee amendment will, in my judgment, mean a disruption of the relationship between unemployment compensation and trade adjustment assistance. While it is true that trade adjustment assistance is a different program, it nevertheless is directly tied and has historically always been parallel to unemployment compensation.

We have not thought carefully on the implications or the ripple effect of the adoption of this amendment, because we are setting here new criteria, criteria which is not eligible to others in the unemployment compensation system but which might in fact become repressive and set a pattern for the rest of the unemployment compensation system.

I, therefore, Mr. Chairman, think the committee amendment ought to be rejected, and I hope the members of the committee will vote no.

Mr. FRENZEL. Mr. Chairman, I move to strike the last word, and I rise in opposition to the committee amendment.

Mr. Chairman, in the scheduled debate I discussed my opposition to this amendment. I would now like to read portions of a letter from the Secretary of Labor, Mr. Ray Marshall, to the distinguished chairman of the Subcommittee on Trade, the gentleman from Ohio (Mr. VANIK), in which the administration raises its objections to this particular amendment. Mr. Marshall says this:

> The alternative qualifying requirement, in the amendment to section 106 of the bill, would permit workers to qualify for up to 78 weeks of the tax free benefits on the basis of 40 weeks of employment in the 104 weeks immediately preceding layoff with one or more firms. This would be an alternative in addition to the present qualifying test of 26 weeks of employment in the 52 weeks preceding layoff. The administration opposes this provision because the proposed alternative does not reflect a sufficient attachment to the labor force.

Mr. Chairman, that says it about as well as anyone can say it. For working only 40 weeks in a 2-year period, with earnings as low as $30 a week, a person otherwise qualified for adjustment assistance is going to be able to earn 78 weeks of benefits. That means for a week of work at $30 a week they will earn 2 weeks of unemployment compensation.

It may be true that some of these people have long labor market attachment, and if that is true, there are far better ways one could write this law to pick up those people who had such long labor market attachment. But this particular section does not require long labor market attachment. It requires only 40 weeks of work in 2 years.

The gentleman from Wisconsin (Mr. STEIGER) has indicated this amendment has a first-year cost of $32 million and an annual cost of $16 million thereafter.

It seems to me we did a good job of trying to put this committee report and this bill together to do an honest and fair job of improving our adjustment assistance program. By this particular amendment which was put on by the committee after the subcommittee had carefully considered it, I think we have produced a feature which is a disincentive for work, and this is exactly the point Mr. Marshall was raising in his letter to the chairman of the subcommittee.

If the unemployment benefits are too long and too generous, there simply is no incentive to go back to work, and this is what I fear by this particular section.

Mr. Chairman, I hope the committee amendment to section 106 will be defeated.

Mr. VANIK. Mr. Chairman, I rise in support of the committee amendment, and I wish to voice my opposition to the position just taken by my distinguished colleague, the gentleman from Minnesota (Mr. FRENZEL).

The CHAIRMAN. Without objection, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

There was no objection.

Mr. VANIK. Mr. Chairman, I would simply like to state that the whole theory of trade adjustment assistance is to provide relief for people who lose their work through some action of Federal policy and trade which has caused them to separate from their employment.

I, first of all, do not understand how my colleague, the gentleman from Minnesota (Mr. FRENZEL), can contend that this has a budgetary impact of $32 million in the first year and $16 million thereafter. The figures that I have indicated it would have a budgetary impact of $16 million for the first year, and we are within the budget allocation on this issue.

The whole question is what happens when an industry and its worker is impacted by imports from foreign countries. The very natural thing happens. There are short-term layoffs; there are fewer workdays. There may be weeks in which work is suspended, and it all results from the impact of foreign products that have distorted the normal productive facilities of the industry.

These people are hurt, and evidence of the hurt or damage is traceable to that situation, and I think they should indeed be given this kind of protection that is afforded under this bill.

I think if the Trade Adjustment Assistance Act is going to be meaningful, it must correct the injustice that was the result of trade policy.

For those who feel that opposing the first committee amendment would create more revenue for their amendments, I want to tell them that I think that if they analyze the impact of the rejection of the first committee amendment they would find that it would hurt them in their constituencies even more than if they fail to get what they seek in their amendment.

I simply want to say that the language of the first amendment offered by the committee was carefully considered in committee. There was a division in the vote in the committee. It passed by a vote of 18 to 13. But we gave this matter very careful consideration. It was not a partisan deliberation. It was the way the membership of the Committee on Ways and Means broke down and divided on the issue.

I certainly hope the Members of this committee will support the determinations that were made by the Committee on Ways and Means in adopting the first committee amendment.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentleman for yielding.

Mr. Chairman, I am quoting again from that same letter to the gentleman:

> The Department of Labor estimates that the cost of these provisions would total $48 million, of which $32 million is a short-time cost and $16 million is the annual cost.

Mr. VANIK. The language assumes it was made retroactive. And we have not done that. The figures you quote rely on an assumption that it will be made retroactive.

Mr. FRENZEL. I will look over the letter again. I was not under that impression. If so, I would be glad to admit another one of my frequent mistakes.

Mr. VANIK. As I understand it, that estimate was based on the idea that the amendment would be retroactive.

Mrs. FENWICK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have a number of questions that I would like to ask the committee.

As I understand it, this bill refers to those who have lost employment through the action of the Federal Government, namely, the Trade Act of 1974. Is that correct?

Mr. STEIGER. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Wisconsin.

Mr. STEIGER. Mr. Chairman, the way the gentlewoman stated the question, the answer is that that would not be a correct analysis. What the trade adjustment assistance program is designed to do is to provide transitional help to employees and firms who have been im-

pacted by a rapid increase or a large percentage increase in imports.

Mrs. FENWICK. That is what I am talking about. That is what I meant. I did not put is quite as fully as I obviously should have. But there are two questions that I would like to ask of the chairman and the ranking minority Member.

Suppose that the men left employment in the 2 years preceding the effective date here, not because of the act, but because of some other reason. I notice here the mention of 104 weeks. In the 104 weeks immediately preceding, somebody might have left employment of this particular company, having been employed there for 40 weeks, but long before the effects of the Trade Act came into effect.

Would he be covered? That is my first question. Second, how is this going to be administered? Is it going to be governed by clear and specific provisions?

Mr. VANIK. I might just say in response to the first question that it applies to the workers laid off prospectively to the enactment of the bill.

Mrs. FENWICK. Yes, prospectively.

Mr. VANIK. Once they have been laid off.

Mrs. FENWICK. In other words, they would have to tie the laying off of the employee to some act of the Federal Government in relation to the Trade Act, is that correct?

Mr. VANIK. No. It has to be after a determination by the Secretary of Labor that there has been an impact.

Mrs. FENWICK. That there has been an impact on this particular company, and therefore on the employees. That is what I am talking about.

Mr. VANIK. That is correct.

Mrs. FENWICK. Very well. If we have the kind of interpretation that we have had on unemployment compensation generally, we are going to find that the interpretation gets broader and broader. I do not know what is happening in the gentleman's State, but I know what is happening in mine. When an employee leaves employer A because he has found a better job with employer B, and does not stay there long enough to qualify, he receives unemployment compensation at the expense of employer A. Is that what is contemplated by this Congress?

Mr. VANIK. The worker must have 40 weeks of employment with trade impacted firms. The gentlewoman does realize that trade must have an adverse effect on employment. So, it is the action of the Federal Government in trade policy which creates the trade impact on the unemployed.

Mrs. FENWICK. Is there anything in this bill which ties these clauses that go into effect closely to the condition that the gentleman has just described?

Mr. VANIK. Yes, all through the bill. The whole impact of the bill is directed very specifically to this narrow group of people.

Mrs. FENWICK. Unemployment compensation is not narrowly construed, as my example shows, in general. I think the problems really are on the other side.

Mr. STEIGER. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield.

Mr. STEIGER. It is a very different problem.

The CHAIRMAN. The time of the gentlewoman from New Jersey has expired.

(At the request of Mr. STEIGER and by unanimous consent, Mrs. FENWICK was allowed to proceed for 2 additional minutes.)

Mr. STEIGER. The gentlewoman does have to separate out the way that the unemployment compensation system operates, designed and written by the State Legislature of New Jersey, as compared to the adjustment assistance program. The gentlewoman is right, under most unemployment compensation programs in most States the circumstances the gentlewoman describes where an employee leaves employer A and then leaves employer B—employer A will have to pay unemployment compensation.

Mrs. FENWICK. Is that fair?

Mr. STEIGER. From my standpoint, no. The answer is, it is not, but that is not a matter covered by the Federal Government adjustment assistance. That is what we are dealing with. We have tried to be reasonably precise in terms of talking about how one achieves eligibility.

Mrs. FENWICK. All right.

Mr. STEIGER. One receives unemployment assistance as a result of a trade problem. It is not then a matter of leaving one employer and going to the other. It is a matter of having to be certified by the Secretary of Labor, of the fact that there is a trade impact, that imports have caused a decline. Therefore, the worker is eligible as a result of that import problem and the firm can receive assistance as a result of that. It is not the same as unemployment compensation, and I hope maybe in terms of the two questions the gentlewoman has asked that might help her better understand, and help all of us better understand, how this would operate. It is a good program.

Mrs. FENWICK. I thank the gentleman.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words, and I ask unanimous consent to speak again.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. FRENZEL. Mr. Chairman, I simply want to apologize to the distinguished gentleman from Ohio. He was correct and I was wrong in the figures. The cost of the amendment is $16 million, as he indicated. The $32 million one-time cost, as I understand it, would be the cost of funding the Oberstar amendment. I apologize for the error.

The CHAIRMAN. The question is on the first committee amendment.

The question was taken; and on a division (demanded by Mr. VANIK) there were—ayes 21, noes 14.

RECORDED VOTE

Mr. STEIGER. Mr. Chairman, given the closeness of that vote, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 206, noes 110, not voting 116, as follows:

[Roll No. 742]

AYES—206

Addabbo	Gilman	Ottinger
Akaka	Glickman	Panetta
Alexander	Gonzalez	Patten
Ambro	Gore	Patterson
Anderson, Calif.	Green	Pattison
Anderson, Ill.	Gudger	Pease
Annunzio	Hamilton	Pepper
Applegate	Hanley	Perkins
Ashley	Hannaford	Preyer
Aspin	Harris	Price
Baldus	Heftel	Pritchard
Bedell	Holland	Quayle
Benjamin	Hollenbeck	Rahall
Bevill	Holtzman	Regula
Biaggi	Hubbard	Reuss
Bingham	Hughes	Risenhoover
Blanchard	Hyde	Roe
Bolling	Ichord	Rooney
Bonior	Jeffords	Rosenthal
Brademas	Johnson, Calif.	Roybal
Brodhead	Jones, Tenn.	Russo
Brown, Calif.	Kastenmeier	Ryan
Brown, Ohio	Kemp	Santini
Buchanan	Kildee	Scheuer
Burke, Mass.	Kostmayer	Schroeder
Burlison, Mo.	Krebs	Schulze
Burton, John	LaFalce	Seiberling
Burton, Phillip	Le Fante	Sharp
Carney	Lederer	Shuster
Carr	Lent	Simon
Carter	Lloyd, Calif.	Slack
Cavanaugh	Lloyd, Tenn.	Smith, Iowa
Chisholm	Luken	Solarz
Clausen, Don H.	Lundine	Spellman
Conte	McCormack	Staggers
Conyers	McDade	Stanton
Corneil	McEwen	Stark
Cornwell	McFall	Steed
D'Amours	McHugh	Steers
Danielson	McKay	Stokes
Dellums	Mann	Stratton
Derwinski	Markey	Studds
Dingell	Marks	Thompson
Downey	Marlenee	Traxler
Drinan	Mattox	Trible
Early	Mazzoli	Tucker
Eckhardt	Metcalfe	Udall
Edgar	Meyner	Ullman
Edwards, Ala.	Mikulski	Van Deerlin
Edwards, Calif.	Mineta	Vanik
Eilberg	Minish	Vento
Ertel	Mitchell, Md.	Volkmer
Evans, Colo.	Mitchell, N.Y.	Walgren
Fascell	Moakley	Walker
Findley	Mollohan	Walsh
Fisher	Moorhead, Pa.	Weaver
Fithian	Moss	Weiss
Flippo	Mottl	Whalen
Flood	Murphy, Pa.	White
Florio	Murtha	Wilson, Tex.
Flowers	Myers, Michael	Wirth
Foley	Natcher	Wolff
Ford, Mich.	Neal	Wright
Ford, Tenn.	Nedzi	Wydler
Garcia	Nichols	Yates
Gaydos	Nolan	Yatron
Gephardt	Nowak	Young, Mo.
Giaimo	O'Brien	Zablocki
	Oberstar	
	Obey	

NOES—110

Andrews, N.C.	Crane	Grassley
Andrews, N. Dak.	Daniel, Dan	Hall
Archer	Daniel, R. W.	Harsha
Bafalis	Davis	Hefner
Barnard	de la Garza	Hightower
Bauman	Devine	Holt
Beard, Tenn.	Dickinson	Jenkins
Bennett	Dornan	Johnson, Colo.
Boggs	Duncan, Tenn.	Jones, N.C.
Bowen	Edwards, Okla.	Jones, Okla.
Breckinridge	Emery	Kazen
Broomfield	English	Kelly
Brown, Mich.	Erlenborn	Kindness
Broyhill	Evans, Del.	Lagomarsino
Burgener	Evans, Ga.	Latta
Burleson, Tex.	Fenwick	Leach
Butler	Forsythe	Levitas
Cederberg	Fountain	Livingston
Chappell	Fowler	Long, La.
Cleveland	Frenzel	Long, Md.
Coleman	Ginn	Lott
Conable	Goldwater	McClory
Corcoran	Goodling	McCloskey
	Gradison	McDonald

Mahon	Roberts	Stockman
Marriott	Robinson	Stump
Martin	Rose	Taylor
Michel	Rousselot	Treen
Miller, Ohio	Rudd	Vander Jagt
Montgomery	Runnels	Watkins
Moore	Ruppe	Whitehurst
Moorhead, Calif.	Satterfield	Whitley
Myers, John	Sawyer	Whitten
Pike	Sebelius	Wilson, Bob
Poage	Sikes	Wylie
Pursell	Spence	Young, Fla.
Railsback	Stangeland	
	Steiger	

NOT VOTING—116

Abdnor	Flynt	Murphy, N.Y.
Ammerman	Fraser	Myers, Gary
Armstrong	Frey	Nix
Ashbrook	Fuqua	Oakar
AuCoin	Gammage	Pettis
Badham	Gibbons	Pickle
Baucus	Guyer	Pressler
Beard, R.I.	Hagedorn	Quie
Bellenson	Hammer-schmidt	Quillen
Blouin	Hansen	Rangel
Boland	Harkin	Rhodes
Bonker	Harrington	Richmond
Breaux	Hawkins	Rinaldo
Brinkley	Heckler	Rodino
Brooks	Hillis	Rogers
Burke, Calif.	Horton	Roncalio
Burke, Fla.	Howard	Rostenkowski
Byron	Huckaby	Sarasin
Caputo	Ireland	Shipley
Clawson, Del	Jacobs	Sisk
Clay	Jenrette	Skelton
Cochran	Jordan	Skubitz
Cohen	Kasten	Smith, Nebr.
Collins, Ill.	Keys	Snyder
Collins, Tex.	Krueger	St Germain
Corman	Leggett	Symms
Cotter	Lehman	Teague
Coughlin	Lujan	Thone
Cunningham	McKinney	Thornton
Delaney	Madigan	Tsongas
Dent	Maguire	Wagonner
Derrick	Mathis	Wampler
Dicks	Meeds	Wayman
Diggs	Mikva	Wiggins
Dodd	Milford	Wilson, C. H.
Duncan, Oreg.	Miller, Calif.	Winn
Evans, Ind.	Moffett	Young, Alaska
Fary	Murphy, Ill.	Young, Tex.
Fish		Zeferetti

Messrs. RISENHOOVER, BEVILL, WALKER, and FOLEY changed their vote from "no" to "aye."

Mr. BROYHILL and Mr. LIVINGSTON changed their vote from "aye" to "no."

So the committee amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will report the second committee amendment.

The Clerk read as follows:

Committee amendment: Page 11, strike out line 24 through line 6 on page 12 and insert:

SEC. 108. EXPERIMENTAL TRAINING PROJECTS.

(1) by striking out "26 additional weeks" in paragraph (1) and inserting in lieu thereof "52 additional weeks";

(2) by amending paragraph (2) to read as follows:

"(2) such payments shall be made for not more than 26 additional weeks to an adversely affected worker who is not receiving payments under paragraph (1) and has attained age 60 on or before the date of total or partial separation, except that if payment is made for the 26th additional week and such worker has not attained age 62 before the close of such week, such payments shall be made for not more than the number of weeks occurring during the period beginning with the week after such 26th additional week and ending with, but including, the week in which the worker attains age 62." and

"(3) by amending the last sentence thereof by striking out "78 weeks" and inserting in lieu thereof "104 weeks".

Mr. VANIK. Mr. Chairman, I rise in support of the committee amendment.

The second amendment extends the benefit period for older workers age 60 or over at their time of layoff by up to an additional 26 weeks to a maximum of 104 weeks until the worker reaches age 62. Under present law older workers receive an additional 26 weeks beyond the basic 52-week benefit period to a maximum of 78 weeks. The committee believes that older workers are likely to experience the greatest difficulty among trade-impacted workers of finding alternative employment opportunities or in being retrained. The amendment provides a "bridge" whereby such workers can receive trade readjustment allowances during the 6 months beyond the 78 weeks before they reach social security age. Benefits would cease at age 62 or, as with any other worker, upon reemployment.

Mr. Chairman, I hope the committee will adopt the amendment.

Mr. STEIGER. Mr. Chairman, I rise to oppose the amendment.

Mr. Chairman, during the general debate I took some time to explain why I thought it was not appropriate for us to adopt this second committee amendment. Given the vote on the first amendment, I must say to my colleagues that I do not intend to push for a vote in opposition to it. I outlined why I thought it was bad public policy.

Mr. Chairman, I urge a "no" vote and yield back the balance of my time.

Mr. FRENZEL. Mr. Chairman, I move to strike the last word, and I rise in opposition to the committee amendment.

Mr. Chairman, I also described my opposition to this committee amendment earlier in the day's debate. I would, however, read a section from the same letter to which I referred before from the Secretary of Labor to the chairman of our Subcommittee on Trade, which reads as follows:

Under the amendment to section 107 of the bill, the extended duration of benefits for workers aged 60 or older would allow the payment of trade readjustment allowances (TRA) to workers up to the time that reduced social security benefits become payable. The Administration believes that providing additional tax-free TRA would serve as a disincentive to work and would result in the de facto establishment of an income maintenance program for such workers until they qualify for social security insurance benefits. The Department of Labor estimates that this provision would cost an additional $984,000 on an annual basis.

Mr. Chairman, what the committee and what the gentleman from Ohio (Mr. VANIK) are trying to do is a good thing. It, however, should not be done through the unemployment compensation insurance program. I hope the committee amendment is defeated.

Mr. LEDERER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the committee amendment.

Mr. Chairman, I wish to lend my support to the chairman of the Subcommittee on Trade, the gentleman from Ohio (Mr. VANIK), and urge adoption of the committee amendment. This is my amendment.

I think what we do by this amendment is to continue giving the working man dignity after, through no fault of his own, he becomes unemployed.

Mr. Chairman, I ask for the adoption of this committee amendment.

The CHAIRMAN. The question is on the second committee amendment.

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the third committee amendment.

The Clerk read as follows:

Committee amendment: Page 13, before line 1, after "SEC. 108." insert "EXPERIMENTAL TRAINING PROJECTS."

The committee amendment was agreed to.

AMENDMENTS OFFERED BY MR. VANIK

Mr. VANIK. Mr. Chairman, I offer technical and conforming amendments in all three titles of the bill to remove violations of the Budget Act and to insert a section heading.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. VANIK: Page 3, lines 23 and 24, strike out "date of the enactment" and insert "effective date".

Page 8, line 14, strike out "date of enactment" and insert "effective date".

Page 15, line 11, after "States." insert the following: "The authority of the Secretary to enter into contracts under this section shall be effective for any fiscal year only to such extent, and in such amounts, as are provided in appropriation Acts.".

Page 22, strike out lines 5 through 12, inclusive.

Page 26, line 6, strike out "date of the enactment" and insert "effective date".

Page 27, line 25, strike out "section.'." and insert the following: "section. The authority of the Secretary to enter into contracts under this section shall be effective for any fiscal year only to such extent, and in such amounts, as are provided in appropriation Acts.'."

Page 28, line 3, strike out "date of the enactment" and insert "effective date".

Page 28, lines 23 and 24, strike out "date of the enactment" and insert "effective date".

Page 29, line 2, strike out "date of enactment" and insert "effective date".

Page 30 line 7, after "SEC. 301." insert "ADJUSTMENT ASSISTANCE COORDINATION."

Page 34, after the matter appearing after line 6, insert the following:

SEC. 303. EFFECTIVE DATES.

(a) Except as provided in subsection (b), this Act shall take effect on October 1, 1978, or on the date of the enactment of this Act if the date of the enactment is after October 1, 1978.

(b) The amendments made by sections 106, 107, 109, 110, and 111(1) shall take effect on the 60th day after the effective date of this Act and shall apply with respect to workers separated from employment on or after such 60th day.

Mr. VANIK (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is the gentleman from Ohio (Mr. VANIK) also asking unanimous consent that the amendments be considered en bloc?

Mr. VANIK. Yes, Mr. Chairman, I also

ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. VANIK. Mr. Chairman, the purpose of these amendments is to correct certain technical violations of the Congressional Budget Act in H.R. 11711, as amended. The Budget Committee supported, and the Rules Committee approved in House Resolution 1288 waivers of all points of order against the bill for failure to comply with sections 401(a), 401(b)(1), and 402(a) of the act, based on the understanding that the Committee on Ways and Means would offer floor amendments to remove the Budget Act violations.

The amendments on pages 15 and 27 of the bill expressly limit the authority under sections 108 and 203(d) to enter into contracts to the extent or amounts provided in appropriation acts, as required by clause 5, rule XXI of the House. The amendment on page 34 stipulates that the bill will not take effect until the beginning of the next fiscal year on October 1, 1978, or on the date of enactment, whichever is later, in compliance with sections 401(b)(1) and 402(a) of the Budget Act. The other amendments make conforming changes on the effective date in titles I and II. The amendment on page 30 inserts a heading for section 301, missing in the bill as reported.

AMENDMENTS OFFERED BY MR. OBERSTAR TO THE AMENDMENTS OFFERED BY MR. VANIK

Mr. OBERSTAR. Mr. Chairman, I offer amendments to the amendments.

The Clerk read as follows:

Amendments offered by Mr. OBERSTAR to the amendments offered by Mr. VANIK: On page 2 of the amendments, in the matter proposed to be inserted as subsection (a) of section 303, strike out "subsection (b)" and insert in lieu thereof "subsections (b) and (c)".

On page 2 of the amendments, in the matter proposed to be inserted as subsection (b) of section 303, strike out "106,".

On page 2 of the amendments, in the matter proposed to be inserted as section 303, insert at the end thereof the following:

(c)(1) The amendment made by section 106 shall apply with respect to—

(A) workers separated from employment after the effective date of this Act, and

(B) workers separated from employment during the period beginning two years before the effective date of this Act and ending on the effective date of this Act, in the manner provided in paragraph (2).

(2) Any worker may apply, in a manner prescribed by the Secretary, for a trade retha Trade Act of 1974 for any week of unadjustment allowance under section 231 of employment during the period described in paragraph (1)(B) for which the worker was not qualified for such an allowance at the time of his separation. Payment of such an allowance shall be made to such a worker if the Secretary determines that the worker would have been entitled to the allowance if the amendment made by section 106 had been in effect at the time of the worker's separation.

Mr. OBERSTAR (during the reading). Mr. Chairman, I ask unanimous consent that the amendments to the amendments be considered as read, printed in the RECORD, and considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. OBERSTAR. Mr. Chairman, very simply stated, the purpose of this amendment is to make the provisions of the previously adopted committee amendment retroactive for a period of 2 years. It would affect some 10,000 employees at an annual cost of about $16 million or a 2-year cost of $32 million.

While I was home recently I met with the steelworkers who mine the iron ore that provides the basic raw material for the steel industry of this country. These workers have been affected by the imports of steel into this country just as much as employees in basic steel, because when the steel industry is not working, the iron ore mines of my area are not working and the miners of my district are laid off.

There were some 2,300 employees of one iron ore processing, or taconite, plant who were laid off because of imports. Most of them were eligible for trade adjustment benefits. In fact, 2,200 out of 2,300 were eligible for the benefits. But one elderly couple came to me with a very sad and, I think, very touching and very descriptive circumstance. The husband, who had worked in this mine for 25 years, was unfortunately injured, laid up in a hospital for a period of months. While he was hospitalized, the union went on strike. The day after the strike was settled, the company, instead of calling back the employees, laid them all off because of imports. This man was not eligible for trade adjustment benefits. He had used up whatever unemployment compensation to which he had been entitled. He was now in the worst of all worlds. He had a big hospital cost. He was not working, with little prospect of going back to work, and not eligible for trade adjustment benefits, because the misfortune happened to him prior to the date provided in the law.

All I am saying is that if we are going to liberalize this law, let us cover all of those equitable cases, all of those deserving cases, all of those people like this family in my district who need help, who have been injured by a conscious trade policy of the United States to open our doors to imports, which then results in domestic unemployment.

When the European Common Market opened their doors, they broke down the trade barriers. They made it possible for free exchange of goods. They strengthened their economy by doing it, but they also took care of the poor, the unfortunate, the working people who were laid off.

I know about the Common Market situation because I studied in Europe. I studied the problems of the unification of Western Europe. I saw what those economies did, what those governments did for their most unfortunate and poor people and those employees of the weakest industries in those countries—and they were taken care of. They were taken care of in the way that I am proposing to do in this amendment. If the European governments can care for their employees, then this most favored of all nations can do this little bit to rectify the wrong that has been wreaked upon some of our people. All this amendment does is roll back the effects, the very beneficial effects, of the Vanik amendment 2 additional years, to that point in history when the impact of the imports was being felt in this country with most serious effect—in the steel industry, in the clothing industry, and many other industries, in the smaller communities as well as the larger metropolitan areas throughout this country where people want to work for a living but because of unfair competition from abroad they cannot.

Mr. Chairman, I ask support of this amendment.

Mr. VANIK. Mr. Chairman, with great reluctance I must rise in opposition to this amendment.

I think the gentleman from Minnesota (Mr. OBERSTAR) has very well articulated the problem of his community. I feel a deep sensitivity to it. However, I must say that the amendment would involve a nonbudgeted item here, an additional $32 million over the funds that have already been approved in this second budget resolution. While I can understand the very difficult problems in his community, it is very difficult and there is very little logical reason to single out this particular provision for a retroactive application and not every other amendment in the bill.

Mr. Chairman, not only would this add a tremendous budgetary and administrative cost, but it would also be contrary to the basic purpose of the program, which is adjustment to reemployment rather than income maintenance or compensation for past unemployment.

Mr. Chairman, because of these factors, I hope that my colleagues in the committee will reject the amendment.

Mr. STEIGER. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from Wisconsin.

Mr. STEIGER. I very much appreciate the gentleman's yielding to me and I want to join with him, with the same reluctance as the gentleman expressed, in opposing the amendment offered by the gentleman from Minnesota (Mr. OBERSTAR).

Mr. Chairman, it simply would not be a very good idea at this point, given the budgetary restraints and given, yes, the precedence that is established in making this apply on a selective kind of retroactive basis.

We all understand the very real problems faced in the northern part of Minnesota and various other places throughout the country. But I must say in all honesty, it would be the wrong place and wrong time to rectify through this vehicle at this point, and I would hope that the amendment would be rejected.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Minnesota (Mr. OBERSTAR) to the amendments offered by the gentleman from Ohio (Mr. VANIK).

The question was taken, and on a division (demanded by Mr. OBERSTAR) there were—ayes 7; noes 38.

So the amendments to the amendments were rejected.

AMENDMENT OFFERED BY MR. JEFFORDS TO THE AMENDMENTS OFFERED BY MR. VANIK

Mr. JEFFORDS. Mr. Chairman, I offer an amendment to the amendments.

The Clerk read as follows:

Amendment offered by Mr. JEFFORDS to the amendments offered by Mr. VANIK: On page 2, line 16 of the Vanik amendment strike out "107," and insert in lieu there of "107(2)" and in Subsection 303(b) insert at the end thereof the following:

(c) The amendments made by section 107 (1) and (3) shall take effect on the effective date of this act and shall apply:

(1) with respect to workers separated from employment on or after such effective date, and,

(2) with respect to workers receiving trade readjustment allowances on the effective date to assist them in completing an approved training program as provided by section 233(a)(1) of the Trade Act of 1974.

Mr. JEFFORDS. Mr. Chairman, I am offering this amendment on behalf of myself and also on behalf of the gentleman from Connecticut (Mr. SARASIN). I believe the amendment is self-explanatory, and I would be happy to yield to the gentleman from Wisconsin (Mr. STEIGER).

Let me further explain the amendment in more details. In particular, I feel that the language in section 112 creates a serious inequity because of the limitations imposed. While the committee will seek to amend this section, the intent will be the same. Those sections dealing with individual trade readjustment allowances will still apply only to those people who have been separated from employment 60 days after date of enactment.

This, unfortunately does not protect those workers who, at the date of enactment, are participating in an approved training program and receiving benefits. Under these circumstances, an individual's benefits could easily expire prior to the completion of their training program, and in many cases, these workers will be forced to terminate their training programs prematurely. I do not believe this is the intent of the TRA program, and I think my colleagues would agree with me on that point. To exclude these workers from the provisions of this legislation is to blind ourselves to a very real problem—one that we can solve before it confronts us.

We now have the opportunity to correct this oversight, and amend the bill to include these people. With that in mind, Congressman RON SARASIN and I have drafted this amendment to insure that inclusion. RON and I both felt that this was clearly an issue of equity for the worker currently on the program. This is not a retroactive measure. We are not going back into the books of the Department of Labor to search out individuals who have encountered this situation in the past. We are merely saying that this dilemma is going to face many workers in the future, even after the enactment of this legislation, and by applying foresight, we can avoid such a problem. I have here with me a number of individual cases of workers who have contacted our offices seeking support for this legislation because their benefits are going to expire prior to the conclusion of their training programs. Unfortunately, these people have been misled. H.R. 11711 in its present form will not help these people. I have been informed that this is a nationwide problem and that thousands of workers have experienced this problem in the past. Today, I ask your support for my amendment to insure the presence of equity in this bill.

While some Members may argue that our amendment adds too much of the cost of the TRA program it must be remembered that whatever the cost is, it would be a one-time expense and the maximum amount it could add to a worker's benefits is $1,400 (DOL) for 26 weeks—I sincerely believe that in order to pass a bill today that will express our real concern for workers affected by imports, with an emphasis on their retraining, we must make this one-time expense and cover these people currently participating in the program.

Mr. STEIGER. Mr. Chairman, to clarify again the question I asked the gentleman earlier, what is the cost of this amendment?

Mr. JEFFORDS. I know the maximum cost. I do not know the actual cost, but I do know the maximum cost. The outer limits are $14 million, but that would anticipate that everyone who is available and eligible would apply.

Mr. STEIGER. If it gets to be that much, and I think we will have to clarify this over in the other body, we have a problem with the budget limitation. But, I think the amendment is essentially a fair and equitable one. I would be willing on the part of our side to accept the amendment with the understanding of the gentleman in the well and of Mr. SARASIN that we will have to further clarify exactly what, in fact, the cost would be.

Mr. JEFFORDS. I am confused, as the gentleman is, on the cost, because the figures given to me and to my colleague from Minnesota (Mr. OBERSTAR) are identical. I do not believe ours would be anywhere near as expensive as those in the previous amendment just rejected. That is why I said as a very outer limit it would be $14 million. I think it would be substantially lower.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. I think the gentleman's amendment is a very sound and responsible one. It does not reach as far as my previously offered amendment would, and represents a scaled down, bargain-basement model of my own proposal. I would certainly hope that the committee could accept it.

Mr. JEFFORDS. I thank the gentleman.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, the basic purpose of adjustment assistance is to provide adjustment for reemployment, with emphasis on training. I think, as I understand the gentleman's amendment, it deals with those already in training, and allows them to complete that training. Otherwise, the basic training would be a total loss.

I, with the same reservations that were made by my distinguished colleague from Wisconsin, the ranking minority member of the committee (Mr. STEIGER) have a concern on that cost which I hope to have clarified. With that understanding, I will accept the amendment.

Mr. JEFFORDS. I thank the gentleman. All this does is to make sure that those already in training do not get terminated prematurely if there is a 2-year program and benefits run out. They are extended like anybody else if they are eligible.

Mr. VANIK. I might say that I am also influenced by the fact that it will provide some relief for the cases that are so clear-cut in the explanation made by our colleague from Minnesota.

Mr. JEFFORDS. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Vermont (Mr. JEFFORDS) to the amendments offered by the gentleman from Ohio (Mr. VANIK).

The amendment to the amendments was agreed to.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Ohio (Mr. VANIK), as amended.

The amendments, as amended, were agreed to.

AMENDMENT OFFERED BY MR. CLEVELAND

Mr. CLEVELAND. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CLEVELAND: Page 11, after line 19, insert the following:

SEC. 107. REIMBURSEMENT OF STATES FOR UNEMPLOYMENT INSURANCE PAYMENTS.

(a) Section 232 of the Trade Act of 1974 (19 U.S.C. 2292) is amended by adding at the end thereof the following new subsection:

"(g)(1) If unemployment insurance is paid under a State law to an adversely affected worker for a week for which—

"(A) he receives a trade adjustment allowance, or

"(B) he makes application for a trade readjustment allowance and would be entitled (determined without regard to subsection (c) or (e)) to receive such allowance,

the State agency making such payment shall, unless it has been reimbursed for such payment under Federal law, be reimbursed from funds appropriated pursuant to section 245 (b)(1), to the extent such payment does not exceed the amount of the trade readjustment allowance which such worker would have received, or would have been entitled to receive, as the case may be, if he had not received the State payment. The amount of such reimbursement shall be determined by the Secretary on the basis of reports furnished to him by the State agency.

"(2) In any case in which a State agency

is reimbursed under paragraph (1) for payments of unemployment insurance made to an adversely affected worker, such payments, and the period of unemployment of such worker for which such payments were made, may be disregarded under the State law (and for purposes of applying section 3303 of the Internal Revenue Code of 1954) in determining whether or not an employer is entitled to a reduced rate of contributions permitted by the State law.".

(b) Section 241(a) of the Trade Act of 1974 (19 U.S.C. 2313(a)) is amended by adding at the end thereof the following new sentence: "Sums reimbursable to a State pursuant to section 232(g) shall be credited to the account of such State in the Unemployment Trust Fund and shall be used only for the payment of cash benefits to individuals with respect to their unemployment, exclusive of expenses of administration.".

(c) Paragraph (3) of section 3302(c) of the Internal Revenue Code of 1954 (relating to credits against Federal unemployment tax) is repealed.

Redesignate sections 107 through 112 as sections 108 through 113, respectively.

Mr. CLEVELAND (during the reading). Mr. Chairman, this amendment has been printed in the RECORD previously and has been described in several "dear colleague" letters, so I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Hampshire?

There was no objection.

Mr. CLEVELAND. Mr. Chairman, this amendment is a simple one. It reinstates Federal reimbursement to the States for unemployment compensation benefits paid to workers who receive adjustment assistance under the Trade Act.

The purpose is equally simple. It is my belief that the Federal Government has the responsibility to assume the costs of the impact of the Federal trade policies. At the present time, since the passage of the Trade Act of 1974, the States have had to pay unemployment compensation benefits to workers whose jobs were eliminated mainly because of the increased imports. I submit that this is unfair and constitutes a considerable burden for States, including the depletion of their unemployment trust funds for reasons totally beyond their control.

Under provisions of the Trade Expansion Act of 1962 and until the passage of the Trade Act of 1974—and let me repeat this—under provisions of the Trade Expansion Act of 1962 until the passage of the Trade Act of 1974, the Federal Government did assume the entire cost of unemployment benefits to workers receiving trade adjustment assistance allowances. They did it, for 12 years, and if they did it for 12 years there must have been some reason and logic behind it. It is the same reason and logic behind my amendment. It was changed in 1974 by means of a Senate amendment and was never debated in the House, but adopted in a conference report.

Its impact caught many of us by surprise, and I appreciate very much the Rules Committee granting a rule which provides the House an opportunity to now debate this issue.

The present system is a two-tier program whereby the States must pay unemployment compensation benefits to trade adjustment workers and the Federal Government provides a supplemental benefit.

May I remind the Members that this is done by the decision of the Federal Government and is a decision over which the States have no control whatsoever.

An added problem in some States, particularly my own State, is that the differnce between the State program and the Federal supplement can be very large and it reduces a worker's incentive to obtain new employment. That also increases the burden on the States. Let us just take my own State, for example. By the way, I have the figures available at the desk for every State in the Union.

If you have any doubts about this and as to how it impacts your State, those figures are available. They were sent to your office.

Just to give you an example, in New Hampshire our maximum benefit is $102, but under the trade adjustment assistance program workers are eligible to receive as much as $227 per week. And that is tax free.

One can readily conclude that this discrepancy might, indeed, prolong the duration of unemployment for trade adjustment workers and I have figures from a number of States listing the average duration of unemployment for Trade Act workers which in some cases is as high as 48 weeks.

Also in New Hampshire—and I do not have these figures available for the other States—and perhaps some of the people who represent other States do not care, but if they do, they should listen to the figures from New Hampshire.

In New Hampshire 80 percent of Trade Act workers exhausted their benefits which meant they stayed on for as long as they could under the greatly enriched benefits.

The national average and the State average is somewhere around 20 to 30 percent for exhausting benefits.

That gives you some conception of what I am trying to tell the Members, and I regret there are not more Members present on the floor.

Earlier I circulated a letter to my colleagues containing figures which the Department of Labor supplied indicating the actual expenditures by States in fiscal year 1977 for unemployment compensation to Trade Act workers. Members from the 24 States who have been forced to borrow from the Federal Government in order to keep their unemployment compensation trust funds solvent would do well to bear in mind the added pressure of Trade Act expenditures on those trust funds.

In conclusion, I want to stress that my amendment does not in any way increase the actual costs of the program but merely shifts the burden from the States to the Federal Government since that is where the trade policies are set. I expect that the subcommittee chairman, the gentleman from Ohio, will make a point of the estimated costs of this amendment and, again, I would point out that the costs will be the same whether or not my amendment passes. However, in fairness, I think the Federal Government, not the States, should have to pay for Federal programs.

Mr. FLOWERS. Mr. Chairman, will the gentleman yield?

Mr. CLEVELAND. I yield to the gentleman from Alabama.

Mr. FLOWERS. Mr. Chairman, I thank the gentleman from New Hampshire (Mr. CLEVELAND) for yielding me this time.

Mr. Chairman, I want to say to my colleagues in the House that I fully support the gentleman in the offering of his amendment. In fact, I joined with the gentleman in a "Dear Colleague" letter, myself, to do that.

I will not say that this is a States rights amendment, although it is bordering on that, but it is an answer to the Federal Government's intrustion into the States' activities. Since we are going to tell the States what they have to do, then I think we have got to be able to back them up by paying them for the costs.

When the gentleman talks about his State of New Hampshire, the same thing is true of my own State of Alabama, and of all of the States where the States are required to make an enormous expenditure as a result of Federal policies. This particular action is the result of the Federal Fair Trade policies.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. FLOWERS, and by unanimous consent, Mr. CLEVELAND was allowed to proceed for 2 additional minutes.)

Mr. FLOWERS. Mr. Chairman, if the gentleman will yield further, let me say that I think it is of paramount importance, and only fair, that we do this now and compensate the States for what they have to pay out as a result of the act of the Federal Government.

I thank the gentleman for yielding.

Mr. CLEVELAND. Mr. Chairman, I thank the gentleman from Alabama (Mr. FLOWERS) for his remarks.

The gentleman is quite right that, although it is not essentially a States rights amendment, it is very much in that nature.

The fact of the matter is that there is increasing comment out there in the rest of the country that the States and local governments are getting sick and tired of the Federal Government passing well-intentioned bills with good purpose and good reason and then saying: all right, this is a good idea, therefore, we want Illinois to do it, we want California to do it, we want Missouri to do it, we want all of the States to do it and, in fact, you have to do it.

But, then who pays the bill? We foist part of the charge over on to them.

As I say, the people are getting sick and tired of that kind of procedure.

That is what my amendment is all about.

I hope the House will adopt the amendment, and it should, because if this legislation is as good as its proponents say it is, it ought to be good enough for the people who pass the act to pay for the act.

Mr. TREEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to take just a minute to ask the author of the amendment a few questions.

The gentleman from New Hampshire (Mr. CLEVELAND) has said that this amendment is a desirable amendment and I would ask the gentleman whether this amendment has any retroactive effect to reimburse States for previously incurred costs?

Mr. CLEVELAND. I do not think it does. I do not want to be too definite, but I think it would become effective on the date of its enactment.

Mr. TREEN. If any Member can enlighten me on that point I would be interested in hearing the response.

Mr. STEIGER. Mr. Chairman, will the gentleman yield?

Mr. TREEN. Yes, I yield to the gentleman from Wisconsin.

Mr. STEIGER. Mr. Chairman, the answer is yes. The response of the gentleman from New Hampshire (Mr. CLEVELAND) is correct.

Mr. TREEN. It has no retroactive effect?

Mr. STEIGER. It does not.

Mr. TREEN. The other question I have is this: After the basic period of unemployment benefits, there is a 13-week additional under the extended benefits program, and half of that is paid now out of the Federal share of unemployment tax and 50 percent by the States.

What effect does the gentleman's amendment have with respect to unemployment benefits paid 50-50 by the Federal Government and the State government?

Mr. CLEVELAND. If the gentleman will yield further, I do not think it would have an effect on that. This would only affect payments that are made by virtue of the Trade Assistance Act.

Mr. TREEN. I understand that, but the States are going to be reimbursed only for the portion paid by the States; we are not going to reimburse the States for benefits that they have administratively paid, but which were contributed to by the Federal tax; is that correct?

Mr. CLEVELAND. I do not think my amendment does that.

Mr. TREEN. The intention of the gentleman's amendment is merely to reimburse, on a dollar-for-dollar basis, that which the State paid out of the State's collections, that is, the collections that are credited to the State's account; is that the intention of the gentleman's amendment?

Mr. CLEVELAND. The purpose of my amendment is to have the Federal Government pay all of what a worker receives in the way of compensation, because the trade policies of the United States have been declared to have caused his unemployment. The Federal Government will pay all of the compensation that the worker receives exactly as they did from 1962 when the Trade Expansion Act was passed to 1974, before the Senate sneaked in this amendment which made the States pay part of it.

Mr. TREEN. I appreciate the gentleman's amendment. I think it is consistent with the entire principle of unemployment compensation.

Moreover, I think the fact that the States have to take the burden of this is inconsistent with the Trade Assistance Act.

Mr. Chairman, I urge that the Members support the amendment.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the gentleman from New Hampshire (Mr. CLEVELAND) has described his amendment excellently. The problem is that things are never quite the same from one year to the next.

In 1962 under the act that was then in force until 1974, it was required that in order to receive adjustment assistance, one must be unemployed wholly by reason of imports. In 1974 we changed the definition so that imports only had to be one of the factors concerned with unemployment.

For that reason, the Federal share of the cost of such assistance was reduced to a point where it is around 45 percent.

To say that we are requiring the States to do something they would not have to do is not wholly accurate. Fires, famines, droughts, and plagues, which also cause unemployment, are beyond the ability of the States to cope with. Yet, the States must pay unemployment.

If we question the entire Unemployment Compensation Act, we have to go back to the 1930's; and I do not think we want to do that.

What we have said in this bill is that trade has to be only an important factor, not the most important factor, in unemployment. Were there no Trade Act, those States would have to pay a little lower rate of unemployment compensation; but if we take what the Federal Government pays to them now, the States would be paying even more, absent the act that is before us.

Mr. Chairman, as to total costs, the cost of the amendment of the gentleman from New Hampshire is around $270 million.

Mr. CLEVELAND. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from New Hampshire.

Mr. CLEVELAND. Let us be honest about that matter. The gentleman has misstated that. There is a total cost of $200 million. That would be a cost which the Federal Government would pay, but which the States are now paying; is that not true?

Mr. FRENZEL. Yes. That is what I said.

Mr. CLEVELAND. All right.

Mr. FRENZEL. I am telling the Members that the cost to the Federal Government of the amendment of the gentleman from New Hampshire, (Mr. CLEVELAND) is about $274 million as we have it from the Department of Labor. The bill before us, depending on whether one believes the committee or the CBO, has a cost of between $130 and 149 million. So if we accept the amendment of the gentleman from New Hampshire, we are not going to double the cost of the bill; we are going to triple it; and that is, of course, way out of whack with the second budget resolution. It only means that something else is going to have to give somewhere. So in my judgment, Mr. Chairman, the bill before us is fair. There is no reason to accept the amendment of the gentleman from New Hampshire. It is inordinately expensive, and it should be defeated.

Mr. STEIGER. Mr. Chairman, will my colleague yield?

Mr. FRENZEL. I yield to the gentleman from Wisconsin.

Mr. STEIGER. I thank the gentleman for yielding.

I want to join, Mr. Chairman, my colleague, the gentleman from Minnesota (Mr. FRENZEL) in opposing this amendment. Let us understand the two fundamental points that are involved: One, under the present law what we did in the Trade Act of 1974 by expanding in effect the effect of the old trade law in making trade impact only a part of the reason for unemployment and the receipt of unemployment compensation is we said that the Federal Government ought to pick up that share over and above what the State would otherwise be paying for unemployment compensation. What the Cleveland amendment does—and this is the second point—is to say that regardless of what happens, we are assuming that the State is being unfairly burdened, and that is simply not the case at all, so the record ought to be eminently clear that the Trade Act of 1974 concept of picking up the cost above the State unemployment compensation program was the right way to do it. We could go back, if we wanted to, and revise the other old concept of tightening and making it solely trade imoact. Then we would have the argument that the Federal Government ought to come in and pick up the whole ball of wax, but that is not what this amendment does. So the amendment ought not to be passed. I urge its rejection.

Mr. FRENZEL. I thank the gentleman for his contribution. I think this is true. This is not a States' rights amendment; it is giving a little gift to the States and burdening the Federal taxpayer.

Mr. FISHER. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Virginia.

Mr. FISHER. I thank the gentleman for yielding.

I would like to join my colleague, the gentleman from Minnesota (Mr. FRENZEL), and others who have spoken in opposition to this amendment and for the same reasons that they give. There are really two reasons why this amendment is not a good idea.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. FRENZEL was allowed to proceed for 1 additional minute.)

Mr. FRENZEL. I yield to the gentleman from Virginia.

Mr. FISHER. The first reason is its cost would carry us way over the budget,

and we would be in serious trouble on that count. The other is a little more abstruse perhaps, but if we say that everything caused by national policy or national situations ought to be paid for by the Federal Government, there is no telling where we would end up. A great deal of unemployment is caused by national conditions or national tax, or fiscal or monetary or employment policy, and also by trade policy. There is no way we can disengage that and say that in the case of national trade policy all the unemployment costs shall be borne as a cost to the Federal Government, none to the States, because all these other things we do at the Federal level may also contribute to unemployment or to employment, and we just do not get anywhere along that track.

I would say we ought to stick with the conventional time-tested way of doing this, of financing the bulk of this program through the State level.

The CHAIRMAN. The time of the gentleman has expired.

Mr. D'AMOURS. Mr. Chairman, I move to strike the requisite number of words, and I rise in strong support of the amendment offered by my colleague from New Hampshire to the Trade Adjustment Assistance Act.

I firmly believe that it is time for the Federal Government to once again take full responsibility for its trade policies, rather than shifting part of this burden onto the States and their unemployment compensation systems.

Until 1974 the Federal Government did assume full responsibility for the compensation of workers who were laid off as a result of U.S. trade policies and unfair foreign trade competition. But during consideration of the Trade Act of 1974 the other body adopted an amendment to the House passed bill which provided that each State would have to pick up the tab for the portion of trade adjustment assistance benefits that workers would receive if they were unemployed for other reasons.

Unfortunately, the House receded to the Senate position in conference and a longstanding Federal policy was reversed.

This amendment would reinstate the provisions of the Trade Act prior to the adoption of the 1974 amendments and would once again have the Federal Government assume its full responsibility to these workers by paying the full cost of their unemployment and trade adjustment assistance benefits.

We are all well aware that the past few years have been years of relatively high unemployment. This has placed a great strain on the unemployment compensation funds of many States. I think it is highly unfortunate that the Federal Government chose a time of high unemployment, when there was already a large demand on unemployment compensation funds, to shirk its full responsibility. It is particularly ironic that this change took place in a time period when the dollar has been declining and the pressures of unfair foreign competition have been increasing.

So I ask my colleagues, do you have shoe or textile firms in your district which have been adversely affected by Federal trade policy and cheap foreign labor?

Do you have steelworkers or autoworkers who have been laid off as a result of foreign dumping?

Do you have TV or electronic workers who have been affected by the recently disclosed anticompetitive actions from Asia?

Do you have agricultural workers who have been laid off because their employers cannot keep up with foreign cartels and unfair foreign subsidization?

If so, I urge you to support this amendment which will save your State the cost of unemployment benefits to workers who have been certified by the U.S. Government as unemployed due to foreign trade actions of the U.S. Government.

Mr. Chairman, this is another classic example of a situation where the Federal Government's actions create unemployment, the Federal Government mandates that States pay unemployment compensation, and yet the Federal Government refuses to accept the full financial responsibility for its actions.

I urge my colleagues to adopt this amendment and place the responsibility for trade policy right where it belongs, on the shoulders of the Federal Government which sets that policy, not on the shoulders of the States which have no influence over trade policies.

Let us make sure that Ambassador Strauss knows when he is negotiating trade policy with other nations that his actions may result in higher unemployment benefit payments, and that these payments will be fully borne by the U.S. Treasury.

This is the best incentive Congress can give the administration to make sure that U.S. trade policy adequately protects U.S. workers.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. D'AMOURS. I yield to the gentleman from California.

Mr. JOHN L. BURTON. Mr. Chairman, I rise in wholehearted support for the amendment.

I hear some saying, "Vote," but we will stay until 4 o'clock anyway, so they might as well shut up.

The Federal Government mandates the programs on to the State level and then with Federal policy creates unemployment and then expects the States to gargle the cost of the program. If it is a Federal policy, the Federal Government ought to pay the bill, and if the Federal Government does not want to pay the bill, we ought to change our trade policies.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Hampshire (Mr. CLEVELAND).

The question was taken; and on a division (demanded by Mr. CLEVELAND) there were—ayes 20, noes 31.

Mr. CLEVELAND. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

Mr. CARNEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of H.R. 11711, trade adjustment assistance for workers and firms.

As Representative from the 19th Ohio District, which includes Youngstown, Ohio, I have witnessed firsthand the importance of a strong, national program for workers who have lost their jobs because of imports.

Trade readjustment assistance benefits must be part of Government policy if we intend to foster international trade with a minimum of barriers.

Large numbers of workers should not be expected to pay the economic consequences of our inability to promote a more stable international trade climate.

Provisions for trade readjustment assistance under the "Trade Act of 1974" have greatly helped American workers who have lost their jobs due to imports.

However, many workers who lost their jobs due to increased imports have not been eligible for such assistance.

H.R. 11711 provides improvements in benefits, especially by protecting workers who are indirectly affected, that is, those who supply industries which are directly hurt by foreign imports.

It provides retroactive eligibility to those workers laid off up to 18 months prior to filing petitions before November 1977.

It extends benefit periods by 26 weeks up to 104 weeks for workers 60 and older and workers who have decided to seek training in another field.

In addition, the bill increases job search and relocation allowances to 100 percent of expenses up to $600.

Mr. Chairman, on behalf of the more than 7,000 workers in my district who receive trade adjustment assistance, I urge my colleagues to vote in favor of this legislation.

A responsible course on trade policy demands that proper consideration be given to those who are directly affected by our trade policy.

The CHAIRMAN. Are there any further amendments to title I?

If not, the Clerk will read.

The Clerk read as follows:

TITLE II—IMPROVEMENTS IN ADJUSTMENT ASSISTANCE TO FIRMS

SEC. 201. ELIGIBILITY REQUIREMENTS OF FIRMS FOR ADJUSTMENT ASSISTANCE.

(a) Section 251 of the Trade Act of 1974 (19 U.S.C. 2341) is amended—

(1) by amending subsection (c)—

(A) by amending paragraph (2) to read as follows:

"(2) that sales or production, or both, of such firm have decreased absolutely, or threaten to decrease absolutely,",

(B) by inserting ", or the threat thereof" immediately before the period at the end of paragraph (3), and

(C) by striking out the last sentence thereof; and

(2) by striking out subsection (d) and inserting in lieu thereof the following:

"(d)(1) The Secretary shall certify a firm as eligible to apply for adjustment assistance under this chapter if the Secretary determines—

"(A) that not less than 25 percent of the total sales of such firm is accounted for by the provision to import-impacted firms of—

"(i) any article (including, but not limited to, any component part) which is essen-

tial to the production of any import-impacted article,

"(ii) any service which is essential to the production, storage, or transportation of any import-impacted article, or

"(iii) any article and any service described in clauses (i) and (ii);

"(B) that a significant number or proportion of the workers in such firm have become totally or partially separated, or are threatened to become totally or partially separated;

"(C) that the sale or production, or both, of such firm have decreased absolutely, or threaten to decrease absolutely; and

"(D) that the absolute decrease, or the threat thereof, in the sales or production, or both, by import-impacted firms of import-impacted articles, with respect to which such firm provides articles or services referred to in subparagraph (A), contributed importantly to the total or partial separation, or threat thereof, referred to in subparagraph (B) and to the decline in sales and production, or the threat thereof, referred to in subparagraph (C).

"(2) For purposes of this subsection—

"(A) The term 'import-impacted article' means any article produced by an import-impacted firm, if such article is one with respect to which a determination under section 222(a)(3) or subsection (c)(3) was made incident to the certification of the group of workers or firm concerned.

"(B) The term 'import-impacted firm' means—

"(i) any firm or appropriate subdivision thereof the workers of which have been certified pursuant to section 222(a), or

"(ii) any firm which has been certified pursuant to subsection (c).

"(e) For purposes of subsections (c) and (d) the term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.

"(f) A determination shall be made by the Secretary as soon as possible after the date on which any petition is filed under this section, but in any event not later than 60 days after that date.

"(g) In any case in which the Secretary of Labor notifies the Secretary that a petition has been filed under section 221 by any group of workers, if a petition has been filed under subsection (a) regarding any firm in which such group of workers is, or was, employed, the Secretary, notwithstanding any other provision of law, shall promptly provide to the Secretary of Labor any data and other information obtained by the Secretary in taking action on the petition which would be useful to the Secretary of Labor in making a determination under section 223 with respect to the workers.

"(h) If any certification issued under this section is based upon a determination made pursuant to subsection (c)(2) or (d)(1)(C) that the production or sales, or both, of the firm concerned threaten to decrease absolutely, no technical assistance (other than assistance provided for in section 253(a)(1)) or financial assistance under this chapter shall be provided to the firm covered by such certification until after the date on which the Secretary determines pursuant to such subsection that the production, or sales, or both, of such firm have decreased absolutely.".

(b) The amendments made by subsection (a) shall apply with respect to petitions filed under section 251(a) of the Trade Act of 1974 on or after the date of the enactment of this Act.

SEC. 202. TECHNICAL ASSISTANCE

(a) Section 252 of the Trade Act of 1974 (19 U.S.C. 2342(c)) is amended—

(1) by striking out subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

(b) Section 253 of such Act (49 U.S.C. 2343) is amended—

(1) by amending subsection (b)—

(A) by striking out "(b) The" and inserting in lieu thereof "(b)(1) Except as provided in paragraph (2), the"; and

(B) by adding at the end thereof the following new paragraph:

"(2) The Secretary shall provide technical assistance, on such terms and conditions as the Secretary determines to be appropriate, to any firm certified under section 251 for the purpose of assisting such firm in preparing a proposal for its economic adjustment, unless the Secretary determines, after consultation with the firm, that it is able to prepare such a proposal without such assistance. If technical assistance provided to a firm under this paragraph is furnished, pursuant to subsection (c), through any private individual, firm, or institution, the Secretary shall bear, subject to the 90 percent limitation in such subsection (c), that portion of the cost of such assistance which, in the judgment of the Secretary, the firm is unable to pay.".

(2) by striking out "75 percent" in subsection (c) and inserting in lieu thereof "90 percent".

SEC. 203. FINANCIAL ASSISTANCE

(a) Section 254 of the Trade Act of 1974 (19 U.S.C. 2344) is amended by adding at the end thereof the following new subsection:

"(d) With respect to any loan guaranteed under this section, the Secretary may, without regard to section 3679(a) of the Revised Statutes of the United States (31 U.S.C. 665 (a)), contract to pay annually, for not more than 10 years, to or on behalf of the borrower an amount sufficient to reduce by up to 4 percentage points the interest paid by such borrower on such guaranteed loan. No payment under this subsection shall result in the interest rate paid by a borrower on any guaranteed loan being less than the rate of interest for a direct loan made under this section.".

(b) The amendment made by subsection (a) shall apply with respect to loans guaranteed under section 254 of the Trade Act of 1974 on or after the date of the enactment of this Act.

SEC. 204. CONDITIONS FOR FINANCIAL ASSISTANCE.

(a) Section 255 of the Trade Act of 1974 (19 U.S.C. 2345) is amended—

(1) by amending subsection (b) by striking out "(1)", and by striking out ", plus" and all that follows thereafter and inserting in lieu thereof a period; and

(2) by amending subsection (h)—

(A) by amending paragraph (1) to read as follows:

"(h)(1) The outstanding aggregate liability of the Government at any time with respect to loans guaranteed under this chapter on behalf of any one firm shall not exceed $5,000,000."; and

(B) by striking out "$1,000,000" in paragraph (2) and inserting in lieu thereof "$3,000,000".

(b)(1) The amendments made by subsection (a)(1) shall apply with respect to direct loans made under section 255 of the Trade Act of 1974 on or after the date of the enactment of this Act.

(2) With respect to any direct loan made under such section 255 before such date of enactment, at the request of the borrower the Secretary of Commerce shall take such action as may be appropriate to adjust the rate of interest on such loan consistent with the amendment made by subsection (a)(1) effective with respect to the outstanding balance of the loan existing on October 31, 1977.

SEC. 205. PROVISIONS OF INFORMATION ON BENEFITS TO FIRMS.

(a) Section 264 of the Trade Act of 1974 (19 U.S.C. 2354) is amended—

(1) by striking out "; ACTION WHERE THERE IS AFFIRMATIVE FINDING" in the section heading thereto; and

(2) by striking out subsection (c) thereof.

(b) Chapter 3 of title II of the Trade Act of 1974 (19 U.S.C. 2341–2354) is amended by adding at the end thereof the following new section:

"SEC. 265. BENEFIT INFORMATION TO FIRMS.

"The Secretary shall provide full information to firms about the technical and financial assistance available under this chapter, and under other Federal programs, which may facilitate the adjustment of such firms to import competition. The Secretary shall provide whatever assistance is necessary to enable firms to prepare petitions for certifications of eligibility.".

(c) The table of contents of the Trade Act of 1974 is amended by striking out

"Sec. 264. Study by Secretary of Commerce when International Trade Commission begins investigation; action where there is affirmative finding."

and inserting in lieu thereof the following:

"Sec. 264 Study by Secretary of Commerce when International Trade Commission begins investigation.

"Sec. 265. Benefit information to firms."

Mr. VANIK (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. Are there amendments to title II?

If not, the Clerk will read.

The Clerk read as follows:

TITLE III—GENERAL PROVISIONS

SEC. 301.

Section 281 of the Trade Act of 1974 (19 U.S.C. 2392) is amended to read as follows:

"SEC. 281. ADJUSTMENT ASSISTANCE COORDINATION.

"(a) There is established an Adjustment Assistance Coordinating Committee to consist of a Deputy Special Trade Representative as Chairman and the officials charged with adjustment assistance responsibilities of the Department of Labor, the Department of Commerce, and the Small Business Administration. It shall be the function of the Adjustment Assistance Coordinating Committee to coordinate the development and review of all policies, studies, and programs of the various agencies involved pertaining to the adjustment assistance of workers, firms, and communities to import competition for the purpose of insuring prompt, efficient, and effective delivery of adjustment assistance available under this title.

"(b) There is established the Commerce-Labor Adjustment Action Committee (hereinafter referred to in this subsection as the 'Committee') the members of which shall be officials charged with economic adjustment responsibilities in the Department of Commerce, the Department of Labor, and any other appropriate Federal agency. The chairmanship of the Committee shall rotate among members representing the Department of Commerce and the Department of Labor. In addition to any other function deemed appropriate by the Secretary of Commerce and the Secretary of Labor, the Committee shall facilitate the coordination between such departments in providing to trade-impacted workers, firms, and communities timely and effective assistance under this title (including, but not limited to, the implementation of sections 225 and 265) and under other appropriate programs administered by such departments. The Committee shall report quarterly on its activities to the Adjustment Assistance Coordinating Committee.".

SEC. 302. GRANT PROGRAMS AND STUDIES

(a) Chapter 5 of Title II of the Trade Act of 1974 (19 U.S.C. 2391–2271) is amended—

(1) by redesignating section 284 as section 287; and

(2) by inserting immediately after section 283 the following new sections:

"SEC. 284. GRANTS TO LABOR ORGANIZATIONS.

"(a) The Secretary of Labor may make grants to unions, employee associations, or other appropriate organizations for the purpose of enabling such organizations to carry out research on, and the development and evaluation of, issues relating to the design of an effective program of trade adjustment assistance for workers in industries in which significant numbers of the workers have been, or will likely be, certified as eligible for adjustment assistance. Such issues shall include, but not be limited to, the impact of new technologies on workers, the design of new workplace procedures to improve efficiency, the creation of new jobs to replace those eliminated by foreign imports, and worker training and skill development. Any grant made under this section shall be subject to such terms and conditions as the Secretary deems necessary and appropriate. The Secretary of Labor may not expend more than $2,000,000 in any one year for grants under this section.

"(b) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

"SEC. 285. GRANTS TO INDUSTRY ORGANIZATIONS.

"(a) The Secretary of Commerce may make grants, on such terms and conditions as the Secretary of Commerce deems appropriate, for the establishment of industrywide programs for research on, and the development and application of, technology and organizational techniques designed to improve economic efficiency. Eligible recipients may be associations or representative bodies of industries in which a substantial number of firms have been certified as eligible to apply for adjustment assistance under section 251. The Secretary of Commerce may not expend more than $2,000,000 in any one year for grants under this section.

"(b) There are authorized to be appropriated such sums as may be necessary and appropriate to carry out the purposes of this section.

"SEC. 286. INDUSTRY STUDIES BY SECRETARY OF COMMERCE.

"The Secretary of Commerce may conduct studies of those industries actually or potentially threatened by import competition. The purpose of such studies shall include—

"(1) the identification of basic industrywide characteristics contributing to the competitive weakness of domestic firms;

"(2) the analysis of all other considerations affecting the international competitiveness of industries; and

"(3) the formulation of options for assisting trade-impacted industries and member firms, including industrywide initiatives.".

(b) The table of contents of the Trade Act of 1974 is amended—

(1) by striking out

"Sec. 281. Coordination."

and inserting in lieu thereof

"Sec. 281. Adjustment assistance coordination."; and

(2) by striking out

"Sec. 284. Effective date.

and inserting in lieu thereof

"Sec. 284. Grants to labor organizations.

"Sec. 285. Technical assistance grants.

"Sec. 286. Industry studies by Secretary of Commerce.

"Sec. 287. Effective date.".

Mr. VANIK (during the reading). Mr. Chairman, I ask unanimous consent that title III be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. Are there amendments to title III?

If not, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. NATCHER) having assumed the chair, Mr. MCHUGH, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 11711) to improve the operation of the adjustment assistance programs for workers and firms under the Trade Act of 1974, pursuant to House Resolution 1288, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 261, nays 24, not voting 147, as follows:

[Roll No. 743]

YEAS—261

Akaka
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Applegate
Ashley
AuCoin
Bafalis
Baldus
Barnard
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bevill
Bingham
Blanchard
Boggs
Bolling
Bonior
Bowen
Breckinridge
Brodhead
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Burgener
Burke, Mass.
Burlison, Mo.
Burton, John
Butler
Carney
Carr
Carter
Cavanaugh
Cederberg
Chisholm
Clausen, Don H.
Cleveland
Coleman
Conable
Conte
Conyers
Corcoran
Cornell
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Derwinski
Devine
Dickinson
Dingell
Dornan
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Fascell
Fenwick
Fisher
Fithian
Flippo
Flood
Flowers
Foley
Ford, Mich.
Fowler
Frenzel
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Green
Gudger
Hamilton
Hanley
Hannaford
Harris
Harsha
Hefner
Heftel
Holland
Holt
Holtzman
Hubbard
Hughes
Ichord
Jeffords
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Kastenmeier
Kemp
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Le Fante
Leach
Lederer
Leggett
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, Md.
Lott
Luken
Lundine
McClory
McCloskey
McCormack
McEwen
McFall
McHugh
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mattox
Mazzoli
Meeds
Meyner
Michel
Mikulski
Miller, Ohio
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Perkins
Preyer
Price
Pritchard
Pursell
Quayle
Rahall
Railsback
Regula
Reuss
Risenhoover
Robinson
Roe
Rogers
Rooney
Rosenthal
Rousselot
Roybal
Ruppe
Russo
Ryan
Santini
Satterfield
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shuster
Simon
Skubitz
Smith, Iowa
Solarz
Spellman
Spence
Staggers
Stangeland
Stanton
Stark
Steers
Steiger
Stokes
Stratton
Studds
Thompson
Treen
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Volkmer
Walgren
Walker
Walsh
Watkins
Weaver
Weiss
White
Whitehurst
Whitten
Wilson, Bob
Wirth
Wolff
Wylie
Yates
Yatron
Young, Mo.
Young, Tex.
Zablocki

NAYS—24

Andrews, N.C.
Archer
Bauman
Bennett
Burleson, Tex.
Crane
Fountain
Hall
Jones, N.C.
Kelly
McDonald
McKay
Mahon
Montgomery
Pike
Poage
Roberts
Rose
Runnels
Steed
Taylor
Whitley
Wydler
Young, Fla.

NOT VOTING—147

Abdnor
Addabbo
Ammerman
Armstrong
Ashbrook
Aspin
Badham
Baucus
Bellenson
Biaggi
Blouin
Boland
Bonker
Brademas
Breaux
Brinkley
Brooks
Buchanan
Burke, Calif.
Burke, Fla.
Burton, Phillip
Byron
Caputo
Chappell
Clawson, Del
Clay
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Corman
Cornwell
Cotter
Coughlin
Cunningham
Dellums
Dent
Derrick
Dicks
Diggs
Dodd
Duncan, Oreg.
Edwards, Okla.
Evans, Ind.
Fary
Findley
Fish
Florio
Flynt
Ford, Tenn.
Forsythe
Fraser
Frey
Fuqua
Gammage
Gibbons
Guyer
Hagedorn
Hammer-schmidt
Hansen
Harkin
Harrington
Hawkins
Heckler
Hightower
Hillis
Hollenbeck
Horton
Howard
Huckaby
Hyde
Ireland
Jacobs
Jenrette
Jones, Tenn.
Jordan
Kasten
Kazen
Keys
Krueger
Latta
Lehman
Long, La.

Lujan	Pressler	Stump
McDade	Quie	Symms
McKinney	Quillen	Teague
Madigan	Rangel	Thone
Maguire	Rhodes	Thornton
Mathis	Richmond	Traxler
Metcalfe	Rinaldo	Tsongas
Mikva	Rodino	Tucker
Milford	Roncalio	Vento
Miller, Calif.	Rostenkowski	Waggonner
Minish	Rudd	Wampler
Moffett	Sarasin	Waxman
Motti	Sawyer	Whalen
Murphy, Ill.	Shipley	Wiggins
Myers, Gary	Sikes	Wilson, C. H.
Nix	Sisk	Wilson, Tex.
Nolan	Skelton	Winn
Oakar	Slack	Wright
Pease	Smith, Nebr.	Young, Alaska
Pepper	Snyder	Zeferetti
Pettis	St Germain	
Pickle	Stockman	

The Clerk announced the following pairs:

Mr. Brinkley with Mr. Buchanan.
Ms. Oakar with Mr. Coughlin.
Mr. Brooks with Mr. Cunningham.
Mr. Dodd with Mr. Latta.
Mr. Maguire with Mr. McDade.
Mr. Corman with Mr. Whalen.
Mr. Jacobs with Mr. Wampler.
Ms. Keys with Mr. Findley.
Mr. Nix with Mr. Hammerschmidt.
Mr. Pease with Mrs. Heckler.
Mr. Murphy of Illinois with Mr. Rudd.
Mr. Baucus with Mr. Sawyer.
Mr. Jones of Tennessee with Mr. Horton.
Mr. Jenrette with Mr. Hyde.
Mr. Biaggi with Mr. Stockman.
Mr. Blouin with Mr. Thone.
Mrs. Burke of California with Mr. Kazen.
Mr. Phillip Burton with Mr. Madigan.
Mr. Chappell with Mr. Snyder.
Mr. Howard with Mr. Forsythe.
Mr. Ireland with Mr. Aspin.
Mr. Long of Louisiana with Mr. Hollenbeck.
Mr. Mathis with Mr. Clay.
Mr. Dicks with Mr. Skelton.
Mr. Edwards of Oklahoma with Mr. Pickle.
Mr. Florio with Mrs. Smith of Nebraska.
Mr. Cornwell with Mr. Stump.
Mr. Motti with Mr. Tucker.
Mr. Charles H. Wilson of California with Mr. Evans of Indiana.
Mr. Vento with Mr. Derrick.
Mr. Slack with Mr. Diggs.
Mr. Dellums with Mr. Ford of Tennessee.
Mr. Gammage with Mr. Roncalio.
Mr. Gibbons with Mr. Harkin.
Mr. Hightower with Mr. Charles Wilson of Texas.
Mr. Metcalfe with Mr. Traxler.
Mr. Wright with Mr. Moffett.
Mr. Addabbo with Mr. Frey.
Mr. Rodino with Mr. Guyer.
Mr. Fary with Mr. Sarasin.
Mr. Richmond with Mr. Kasten.
Mr. Zeferetti with Mr. Abdnor.
Mr. Brademas with Mr. Hansen.
Mr. Rostenkowski with Mr. Hagedorn.
Mr. Waggonner with Mrs. Pettis.
Mr. Fuqua with Mr. Wiggins.
Mr. Sikes with Mr. Cohen.
Mr. Miller of California with Mr. Burke of Florida.
Mr. Breaux with Mr. Lujan.
Mr. Ammerman with Mr. Badham.
Mr. Carter with Mr. Caputo.
Mr. Dent with Mr. Del Clawson.
Mr. Flynt with Mr. Winn.
Mr. Pepper with Mr. Fish.
Mr. Mikva with Mr. Quie.
Mr. Teague with Mr. Pressler.
Mr. St Germain with Mr. Cochran of Mississippi.
Mr. Shipley with Mr. Hillis.
Mr. Rangel with Mr. McKinney.
Mr. Byron with Mr. Milford.
Mr. Krueger with Mr. Young of Alaska.
Mr. Lehman with Mr. Thornton.
Mr. Hawkins with Mr. Sisk.
Mr. Waxman with Mr. Armstrong.
Mr. Tsongas with Mr. Symms.
Mr. Beilenson with Mr. Quillen.
Mr. Bonker with Mr. Fraser.
Mr. Harrington with Mr. Ashbrook.
Mrs. Collins of Illinois with Mr. Rinaldo.
Mr. Nolan with Mr. Collins of Texas.
Miss Jordan with Mr. Gary A. Myers.
Mr. Boland with Mr. Duncan of Oregon.
Mr. Minish with Mr. Huckaby.

Mr. GARCIA changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PIKE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 3816, FEDERAL TRADE COMMISSION AMENDMENTS OF 1977

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 3816) to amend the Federal Trade Commission Act to expedite the enforcement of Federal Trade Commission cease and desist orders and compulsory process orders; to increase the independence of the Federal Trade Commission in legislative, budgetary, and personnel matters; and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

CONFERENCE REPORT (H. REPT. No. 95–1557)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3816) to amend the Federal Trade Commission Act to expedite the enforcement of Federal Trade Commission cease and desist orders and compulsory process orders; to increase the independence of the Federal Trade Commission in legislative, budgetary, and personnel matters; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Trade Commission Amendments of 1978".

PERSONNEL

SEC. 2. (a)(1) The first section of the Federal Trade Commission Act (15 U.S.C. 41) is amended—

(A) in the first sentence thereof, by inserting "(a)(1)" after "That";

(B) by inserting "(b)" before the second paragraph;

(C) in subsection (a)(1) thereof, as so designated in subparagraph (A)—

(i) by inserting after the first sentence thereof the following new sentences: "The President shall nominate persons for the Commission who by reason of training, education, or experience are qualified to carry out the functions of the Commission under this Act. In nominating persons for the Commission, the President shall insure that Commission membership is well balanced, with a broad representation of various talents, backgrounds, occupations, and experience appropriate to the functions of the Commission.";

(ii) by striking out "The Commission shall choose" and all that follows through "membership." and inserting in lieu thereof the following new sentences: "The President shall appoint one of the Commissioners as the Chairman of the Commission. The Chairman shall serve as Chairman at the pleasure of the President";

(iii) by inserting "profession," after "vocation,"; and

(iv) by inserting after "or malfeasance in office." the following new sentence: "Once appointed, a Commissioner may serve until the conclusion of his term of office without regard to the provisions of section 8335 of title 5, United States Code."; and

(D) in subsection (a) thereof, as so designated in subparagraph (A), by adding at the end thereof the following new paragraph:

"(2) No person who is appointed to a term as a Commissioner after the date of enactment of the Federal Trade Commission Amendments of 1978, no employee of the Commission classified as a GS–16 or higher, and no employee appointed to any position by the Commission under section 2(c) shall, for a period of one year beginning on the last day of service as such Commissioner or employee—

"(A) make any appearance before; or

"(B) make any written or oral communication to;

the Commission, or any Commissioner or employee, on behalf of any person (other than the United States) on any particular matter which is before the Commission, except that the restriction established in this paragraph shall not apply to any matter of an exclusively personal and, individual nature.".

(2) The amendment made in paragraph (1)(D) shall apply to employees of the Commission specified in that amendment beginning on and after the first day of the 13th complete calendar month occurring after the date of the enactment of this Act.

(b) Section 2 of the Federal Trade Commission Act (15 U.S.C. 42) is amended—

(1) by striking out "SEC. 2. That each" and inserting in lieu thereof "SEC. 2. (a) Each";

(2) by inserting, respectively, "(b)", "(e)", "(f)", and "(g)" before the second, third, fourth, and fifth paragraphs thereof; and

(3) by inserting after subsection (b) thereof, as so designated in paragraph (2), the following new subsections:

"(c) In addition to the other authority conferred by this section, the Commission is authorized to establish, assign the duties, and fix the compensation for not more than 25 attorney, economist, special expert, and outside counsel positions. Individuals may be appointed to such positions by the Commission without regard to the provisions of title 5, United States Code, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that such individuals shall be paid at rates not in excess of the maximum rate of basic pay then currently paid for GS–18, but not less than the minimum rate of basic pay then currently paid for GS–16, of the General Schedule under section 5332 of such title.

"(d) The appointment or removal of any officer (other than a Commissioner or the general counsel of the Commission) or employee of the Commission shall not be subject, directly or indirectly, to review or approval by any officer or entity within the Executive Office of the President.".

APPLICATION OF ACT TO SAVINGS AND LOAN INSTITUTIONS

SEC. 3. (a) Section 5(a)(2) of the Federal Trade Commission Act (15 U.S.C. 45(a)(2)) is amended by inserting after "banks," the following: "savings and loan institutions described in section 18(f)(3),".

(b)(1) Section 6(a) of the Federal Trade Commission Act (15 U.S.C. 46(a)) is amended by inserting after "banks" the following: ", savings and loan institutions described in section 18(f)(3),".

(2) Section 6(b) of the Federal Trade Commission Act (15 U.S.C. 46(b)) is amended by inserting after "banks," the following: "savings and loan institutions described in section 18(f)(3),".

(3) The proviso at the end of section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is amended—

(A) by inserting after "banks" the following: ", savings and loan institutions described in section 18(f)(3),"; and

(B) by inserting ", in business as a savings and loan institution," after "banking".

(c)(1) Section 18(f)(1) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(1)) is amended—

(A) in the first sentence thereof—

(i) by inserting "or savings and loan institutions described in paragraph (3)" after "banks" each place it appears therein; and

(ii) by inserting "or (3)" after "(2)";

(B) in the second sentence thereof, by inserting after "System" the following: "(with respect to banks) and the Federal Home Loan Bank Board (with respect to savings and loan institutions described in paragraph (3))"; and

(C) in the last sentence thereof—

(i) by inserting "each" before "such Board" the first place it appears therein;

(ii) by striking out "such Board finds that (A)" and inserting in lieu thereof "(A) either such Board finds that";

(iii) by inserting "or savings and loan institutions described in paragraph (3), as the case may be," after "banks" the first place it appears therein;

(iv) by inserting after "or (B)" the following: "the Board of Governors of the Federal Reserve System finds"; and

(v) by striking out "the Board" and inserting in lieu thereof "such Board".

(2) Section 18(f) of the Federal Trade Commission Act (15 U.S.C. 57a(f)) is amended by redesignating, paragraphs (3), (4), and (5) thereof as paragraphs (4), (5), and (6), respectively, and by inserting after paragraph (2) thereof the following new paragraph:

"(3) Compliance with regulations prescribed under this subsection shall be enforced under section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464) with respect to Federal savings and loan associations, section 407 of the National Housing Act (12 U.S.C. 1730) with respect to insured institutions, and sections 6(i) and 17 of the Federal Home Loan Bank Act (12 U.S.C. 1426(i), 1437) with respect to savings and loan institutions which are members of a Federal Home Loan Bank, by a division of consumer affairs to be established by the Federal Home Loan Bank Board pursuant to the Federal Home Loan Bank Act.".

REVIEW OF CEASE AND DESIST ORDERS

SEC. 4. (a) The first sentence of section 5(c) of the Federal Trade Commission Act (15 U.S.C. 45(c)) is amended to read as follows: "Any person, partnership, or corporation required by an order of the Commission to cease and desist from using any method of competition or any act or practice may obtain a review of such order in the court of appeals of the United States for the circuit within which such person, partnership, or corporation resides or maintains its principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in the court within 60 days after the date of the service of such order, a written petition praying that the order of the Commission be set aside.".

(b) The amendment made in subsection (a) shall apply only with respect to petitions for judicial review of cease and desist orders served under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) after the date of the enactment of this Act.

EFFECTIVE DATE OF CEASE AND DESIST ORDERS

SEC. 5. (a)(1) Section 5(g) of the Federal Trade Commission Act (15 U.S.C. 45(g)) is amended to read as follows:

"(g)(1) For purposes of this Act (other than section 19(d)), an order of the Commission to cease and desist shall become final upon the expiration of 60 days after such order is served, except as provided in subsections (h), (i), and (j). After an order has become final the Commission may modify it or set it aside as provided in the last sentence of subsection (b). Any such order may be stayed in whole or part, subject to such conditions as may be appropriate, by—

"(A) the Commission;

"(B) an appropriate court of appeals of the United States, if a petition for review of such order is pending in such court and if an application for such a stay was previously submitted to the Commission and the Commission, within the 30-day period beginning on the date the application was received by the Commission, did not grant the application; or

"(C) the Supreme Court, if an applicable petition for certiorari is pending.

"(2) For purposes of section 19(d), such an order shall become final—

"(A) upon the expiration of 60 days after such order is served if no petition for its review is filed in accordance with subsection (c); or

"(B) if such a petition is so filed—

"(i) upon the expiration of the time allowed for filing a petition for certiorari, if the order of the Commission has been affirmed or the petition for review dismissed by a court of appeals of the United States and no petition for certiorari has been duly filed;

"(ii) upon the denial of a petition for certiorari, if the order of the Commission has been affirmed or the petition for review dismissed by a court of appeals of the United States; or

"(iii) upon the expiration of 30 days from the date of issuance of a mandate of the Supreme Court directing that the order of the Commission be affirmed or the petition for review dismissed.".

(2) Section 19(c)(1) of the Federal Trade Commission Act (15 U.S.C. 57b(c)(1)) is amended by striking out "by reason of section 5(g)(1)" and inserting in lieu thereof "under section 5(g)(1) and no petition for its review was filed in accordance with section 5(c)".

(b) The amendments made in subsection (a) shall apply only with respect to cease and desist orders of the Federal Trade Commission served under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) after the date of the enactment of this Act.

ENFORCEMENT OF SUBPOENAS AND ORDERS

SEC. 6. (a)(1) Section 10 of the Federal Trade Commission Act (15 U.S.C. 50) is amended—

(A) by striking out "SEC. 10. That any" and inserting in lieu thereof "SEC. 10. (a) Any";

(B) by inserting, respectively, "(b)", "(c)(1)", and "(f)" before the second, third, and fourth paragraphs;

(C) by striking out the first two sentences of subsection (c)(1), as so designated in subparagraph (B), and inserting in lieu thereof the following: "Except as provided in paragraph (2), if any person, partnership, or corporation fails to comply with any subpoena or order (other than a cease and desist order) issued by the Commission under this Act and if such failure continues for 30 days after service on such person, partnership, or corporation of a notice of such default, such person, partnership, or corporation shall be liable to the United States for a civil penalty of not more than $5,000, as the court may determine, for each day that such failure continues after such 30th day. Such a civil penalty shall be recoverable in a civil suit, by and in the name of the Commission by any of its attorneys designated by it for such purposes, brought in a district court of the United States. If such a civil action is brought against one person, partnership, or corporation, it shall be brought in the district court of the United States within the jurisdiction of which such person, partnership, or corporation resides or transacts business. If such a civil action is brought against two or more persons, partnerships, or corporations, such civil action may be brought in any district court of the United States for a district within which the inquiry of the Commission is being carried on. In determining the amount of such a civil penalty, the court shall take into account the reasonableness and good faith of any action or inaction of such person, partnership, or corporation with respect to which such penalty is being assessed, and such other matters as justice may require. The amount of such civil penalty shall be payable into the Treasury of the United States."; and

(D) by inserting after subsection (c)(1), as so designated in subparagraph (B), the following:

"(2) Any person, partnership, or corporation which has been served with a notice of default issued by the Commission with respect to any subpoena or order referred to in paragraph (1) may apply to an appropriate district court of the United States requesting a stay of the accumulation of penalties under such paragraph for the default with respect to which such notice was served. If, before the expiration of 15 days after such person, partnership, or corporation is served with such notice, such person, partnership, or corporation—

"(A) makes such application; and

"(B) furnishes the court to which such application is made such records, documents, and other materials as may be required for the disposition of the application;

such person, partnership, or corporation shall, notwithstanding paragraph (1), not be liable for such penalties until the expiration of 45 days after service of such notice.

"(d) No court shall have jurisdiction over any action or claim seeking—

"(A) to stay the accumulation of any penalties authorized in subsection (c)(1) for for failure to comply with any subpoena or order referred to in such subsection; or

"(B) to challenge the validity of, or enjoin the enforcement of, any such subpoena or order;

unless the action is brought or the claim is made by a person, partnership, or corporation, or by a member of a joint venture, and a notice of default respecting such subpoena or order has been served upon such person, partnership, corporation, or joint venture.

"(e) No court shall stay the accumulation of penalties for failure to comply with any part of any subpoena or order referred to in subsection (c)(1) unless the party seeking such stay demonstrates that the applicable standards for such stays are satisfied as to such part.".

(2) The amendments made in paragraph (1) shall apply only with respect to failures to comply with a subpoena or order referred to in section 10(c)(1) of the Federal Trade Commission Act (as so designated in paragraph (1)(B) and as amended in paragraph (1)(C)) and issued after the date of the enactment of this Act.

(b) Section 16(a)(2)(D) of the Federal Trade Commission Act (15 U.S.C. 56(a)(2)(D)) is amended to read as follows:

"(D) relating to the enforceability or validity of a subpoena or order (other than a cease and desist order) issued by the Commission;".

(c)(1) Section 9 of the Federal Trade Commission Act (15 U.S.C. 49) is amended—

(A) by striking out "SEC. 9. That for" and inserting in lieu thereof "SEC. 9. (a) For";

(B) by inserting, respectively, "(b)", "(d)", and "(e)" before the second, fifth, and sixth paragraphs; and

(C) by striking out the third and fourth paragraphs and inserting in lieu thereof the following new subsection:

"(c) In case of failure to comply with any provision of a subpoena or of an order (other than a cease and desist order) issued pursuant to this Act, the Commission may invoke the aid of a court of the United States in requiring compliance with such subpoena or order. Any of the district courts of the United States within the jurisdiction of which the inquiry of the Commission is being carried on may, in the case of such refusal to obey, issue an order requiring compliance with such subpoena or order, and any failure to obey such order of the court may be punished by such court as a contempt thereof.".

(2) Section 9(b) of the Federal Trade Commission Act, as so designated in paragraph (1)(B), is amended by striking out the second sentence thereof.

CITIZEN PETITIONS FOR RULEMAKING

SEC. 7. Section 18(b) of the Federal Trade Commission Act (15 U.S.C. 57a(b)) is amended—

(1) by inserting "(1)" after "(b)";

(2) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively; and

(3) by adding at the end thereof the following new paragraph:

"(2) If the Commission receives a petition for the issuance, amendment or repeal of a rule described in subsection (a)(1)(B) of this section, the Commission shall either grant or deny the petition within 120 days after the date the petition is received by the Commission. If the Commission grants such a petition, it shall as soon as is practicable after the date the petition is granted, commence a proceeding under this section as requested by the petition. If the Commission denies such a petition, it shall notify the petitioner of the denial and the reasons therefor and shall publish such reasons in the Federal Register.".

STATEMENT OF BASIS AND PURPOSE

SEC. 8. The last sentence of section 18(e)(5)(C) of the Federal Trade Commission Act (15 U.S.C. 57a(e)(5)(C)) is amended to read as follows: "In the review under this subsection of such a rule, the court may not review the contents and adequacy of any statement of basis and purpose required by subsection (b)(4) except as part of a review of the rulemaking record taken as a whole.".

CONGRESSIONAL REVIEW OF RULES

SEC. 9. (a)(1) The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended (A) by redesignating sections 20 and 21 thereof as sections 21 and 22, respectively; and (B) by inserting after section 19 thereof the following new section:

"SEC. 20. (a) For purposes of this section, the term 'rule' means any rule prescribed by the Commission pursuant to section 18(a)(1)(B).

"(b)(1) The Commission shall, after prescribing a final rule, submit such rule to the Congress not later than 90 calendar days before the proposed effective date of such rule. Such rule shall be delivered to each House of the Congress on the same date and to each House of the Congress while it is in session.

"(2) No rule which the Commission is required to submit to the Congress under paragraph (1) shall be effective if, during the period of 90 calendar days of continuous session of the Congress after the date upon which such rule is submitted, there is enacted (with the approval of the President or by the overriding of a veto of the President) a joint resolution disapproving such rule. If such approval by the President occurs after the end of such 90-day period, or if such joint resolution is enacted by overriding a veto of the President after such 90-day period, then such disapproval shall be effective if such joint resolution was adopted by both Houses of the Congress before the end of such 90-day period.

"(3)(A)(i) Each rule submitted to the Congress under paragraph (1) shall be referred to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Interstate and Foreign Commerce of the House of Representatives, respectively. In the case of any rule referred to the Committee on Interstate and Foreign Commerce of the House under this clause, not later than the 5th day of session following the day on which such rule is submitted, a joint resolution shall be introduced (by request) in the House by the chairman of such committee or by a member or members designated by such chairman.

"(ii) A joint resolution with respect to a rule shall be referred to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Interstate and Foreign Commerce of the House of Representatives, respectively, and all joint resolutions with respect to the same rule shall be referred to such committees, by the President of the Senate or the Speaker of the House of Representatives, as the case may be. In the case of a joint resolution referred to the Committee on Interstate and Foreign Commerce of the House under this clause, such committee shall make its recommendations to the House of Representatives during the period of 45 calendar days of continuous session of the Congress following the date upon which such joint resolution is introduced.

"(B) If the Committee on Interstate and Foreign Commerce has not reported a joint resolution introduced under subparagraph (A)(i) (or, in the absence of such a joint resolution, the first joint resolution with respect to the same rule) at the end of the period of 75 calendar days of continuous session of the Congress after submission of the rule by the Commission, such committee shall be deemed to be discharged from further consideration of such joint resolution and such joint resolution shall be placed on the appropriate calendar of the House.

"(C)(i) When the Committee on Interstate and Foreign Commerce has reported, or has been deemed to be discharged (under subparagraph (B)) from further consideration of, a joint resolution with respect to a rule, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the House to move to proceed to the consideration of the joint resolution. The motion is highly privileged and is not debatable. The motion shall not be subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the House until disposed of.

"(ii) Debate on the joint resolution, and on all debatable motions and appeals in connection with such joint resolution, shall be limited to not more than 2 hours, which shall be divided equally between individuals favoring and individuals opposing the joint resolution. A motion to further limit debate is in order and is not debatable. An amendment to, or a motion to postpone, a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to shall not be in order.

"(iii) Immediately following the conclusion of the debate on the joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with rules of the House, the vote on final approval of the joint resolution shall occur.

"(iv) If, before passage by the House of a joint resolution of the House, the House receives a joint resolution with respect to the same rule from the Senate, then—

"(I) the procedure in the House shall be the same as if no such joint resolution has been received from the Senate; but

"(II) the vote on final passage shall be on the joint resolution of the Senate.

"(4) For purposes of this subsection, the term 'joint resolution' means a joint resolution of either House of the Congress, the matter after the resolving clause of which is as follows: 'That the Congress hereby disapproves the rule submitted by the Federal Trade Commission to the Congress on _____, 19__.' (The blank space shall be filled with the appropriate date.)

"(5) For purposes of this subsection, continuity of session is broken only by an adjournment sine die. If continuity of session is broken after the submission of a rule by the Commission, the Commission shall be required to resubmit such rule at the beginning of the next regular session of the Congress and the time period specified in paragraph (2) shall begin on the date of such resubmission.

"(6) This subsection shall not apply in any case in which the Commission for good cause finds (and incorporates the finding and a brief statement of reasons for such finding in the rule prescribed) that emergency conditions exist requiring the immediate effect of the rule to avoid imminent harm to persons or property or to the public interest.

"(c)(1) To the extent practicable and appropriate, the Chairman of the Commission shall submit with each rule submitted to each House of the Congress under this section—

"(A) a paperwork impact analysis, for such rule, containing—

"(i) an estimate of the numbers of, and a description of the classes of, persons who would be required to file reports, maintain records, and fulfill any of the information-gathering requirements under such rule;

"(ii) an estimate of the nature and amount of the information required to be filed in such reports, the frequency of such reports, the nature and number of records that would have to be kept by such persons, and the amount of time such persons would require, and the costs which would be incurred, to keep such records and make such reports; and

"(iii) a description of steps being taken by the Commission to insure that there is no unnecessary duplication in recordkeeping and report filing resulting from the issuance of such rule;

"(B) a judicial impact analysis showing the probable consequences of such rule on the operation, workload, and efficiency of the Federal courts, including an analysis of the cost impact on and benefits to court administration, changes in judicial procedures, effects on jurisdiction, and demands on court personnel; and

"(C) such other explanatory and supporting statements and materials as the Commission determines necessary and appropriate for congressional consideration of such rule.

"(2)(A) Except as provided in subparagraph (B), no material submitted to the Congress by the Chairman of the Commission under this subsection shall be subject to any judicial review, including any judicial review to determine whether such material is sufficient to comply with the requirements of this subsection. In the event the Commission finds that it is impractical or inappropriate to submit the information required under subparagraphs (A) and (B) of paragraph (1), the Commission shall submit a statement as to why it cannot so comply.

"(B) If any material submitted to the Congress by the Chairman of the Commission under this subsection also is included in any rulemaking record of the Commission, any determination regarding whether such material is subject to judicial review in connection with any review of such rulemaking record shall not be affected by the submission of such material to the Congress under this subsection.".

(2) The amendments made in paragraph (1) shall apply to any rule of the Federal Trade Commission which has not become final before the date of the enactment of this Act.

(b)(1) For purposes of this subsection—

(A) the term "Commission" means the Federal Trade Commission;

(B) the term "rule" means—

(i) any trade regulation rule prescribed by the Commission under section 6(g) of the Federal Trade Commission Act (15 U.S.C. 46(g)); and

(ii) any rule prescribed by the Commission under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)); and

(C) the term "rulemaking record" has the meaning given it in section 18(e)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(e)(1)(B)).

(2) Within 18 months after the date of the enactment of this Act, the Commission shall conduct a study of all the rules which the Commission has issued and which are in effect on the date of the enactment of this Act. At the end of such 18-month period, the Chairman of the Commission shall submit a report to the Congress. The report shall, to the extent practicable and appropriate—

(A) recommend the deletion of particular rules and portions of rules, including reasons for such recommendation; and

(B) recommend the initiation of appropriate rulemaking proceedings under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) to make changes or modifications in particular rules or portions of rules.

(3) In any case in which the Commission proposes to delete any rule or portion of a rule during the 18-month period specified in paragraph (2), the Commission shall notify each House of the Congress of such proposal at the time such proposal is published in the Federal Register.

(4)(A) To the extent practicable and appropriate, the Chairman of the Commission shall include in the report submitted to the Congress under this subsection, for each rule which the Commission has issued and which is in effect on the date of the enactment of this Act—

(i) an economic impact analysis which takes into account, for such rule, the cost impact on and benefits to consumers and affected businesses (with particular attention to small businesses);

(ii) a paperwork impact analysis containing—

(I) an estimate of the numbers of, and a description of the classes of, persons who are required to file reports, maintain records, and fulfill any of the information-gathering requirements under such rule;

(II) an estimate of the nature and amount of the information required to be filed in such reports, the frequency of such reports, the nature and number of records that are kept by such persons, and the amount of time such persons would require, and the costs which would be incurred, to keep such records and make such reports; and

(III) a description of steps being taken by the Commission to insure that there is no unnecessary duplication in recordkeeping and report filing resulting from such rule;

(iii) a judicial impact analysis showing the effect of such rule on the operation, workload, and efficiency of the Federal courts, including an analysis of the cost impact on and benefits to court administration, changes in judicial procedure, effects on jurisdiction, and demands on court personnel; and

(iv) such other explanatory and supporting statements and materials as the Commission determines necessary and appropriate for congressional consideration of such report.

(B)(i) Except as provided in clause (ii), no material submitted to the Congress by the Chairman of the Commission under this paragraph shall be subject to any judicial review, including any judicial review to determine whether such material is sufficient to comply with the requirements of this paragraph. In the event the Chairman of the Commission finds that it is impractical or inappropriate to submit the information required under clauses (i) through (iii) of subparagraph (A), the Chairman of the Commission shall submit a statement as to why he cannot so comply.

(ii) If any material submitted to the Congress by the Chairman of the Commission under this paragraph also is included in any rulemaking record of the Commission, any determination regarding whether such material is subject to judicial review in connection with any review of such rulemaking record shall not be affected by the submission of such material to the Congress under this paragraph.

(5) The Committee on Commerce, Science, and Transportation of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives shall, in the exercise of their oversight responsibilities, examine, study, and take other appropriate action with respect to the report submitted to the Congress under this subsection and referred to such committees.

AUTHORIZATION OF APPROPRIATIONS

SEC. 10. Section 21 of the Federal Trade Commission Act, as so redesignated in section 9(a)(1), is amended—

(1) by striking out "and" after "1976;" and

(2) by striking out "1977. For fiscal years ending after 1977, there may be appropriated to carry out such functions, powers, and duties, only such sums as the Congress may hereafter authorize by law," and inserting in lieu thereof "1977; not to exceed $65,000,000 for the fiscal year ending on September 30, 1978; not to exceed $70,000,000 for the fiscal year ending on September 30, 1979; not to exceed $75,000,000 for the fiscal year ending on September 30, 1980; and not to exceed $80,000,000 for the fiscal year ending on September 30, 1981.".

TECHNICAL AND MISCELLANEOUS AMENDMENTS

SEC. 11. (a)(1) Section 5(m)(1)(A) and section 5(m)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 45(m)(1)(A); 45(m)(1)(B)) are each amended by adding at the end thereof the following new sentence: "In such actions, the district courts of the United States are empowered to grant mandatory injunctions and such other and further equitable relief as they deem appropriate.".

(2) Section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is amended by inserting after paragraph (h) the following new paragraph:

"(i) To accept gifts and voluntary and uncompensated services, notwithstanding the provisions of section 3679 of the Revised Statutes (31 U.S.C. 665(b)).".

(3)(A) Section 9(a) of the Federal Trade Commission Act, as so designated and as amended in section 6(c)(1)(A), is further amended—

(i) by inserting after "For the purposes of this Act" the following: ", or any other provision of law enforced by the Commission,"; and

(ii) by inserting "or other physical" after "documentary" each place it appears therein.

(B) Section 9(b) of the Federal Trade Commission Act, as so designated in section 6(c)(1)(B) and as amended in section 6(c)(2), is further amended by inserting "or other physical" after "documentary".

(C) The last sentence of section 9(d) of the Federal Trade Commission Act, as so designated in section 6(c)(1)(B), is amended by inserting "or other physical" after "documentary" each place it appears therein.

(D) The fourth sentence of section 5(b) of the Federal Trade Commission Act (15 U.S.C. 45(b)) and the third sentence of section 9(d) of such Act, as so designated in section 6(c)(1)(B), are amended by inserting after "writing" the following: ", or shall be recorded through the use of any electronic or mechanical recording device,".

(4)(A) Section 19(a)(1) of the Federal Trade Commission Act (15 U.S.C. 57b(a)(1)) is amended to read as follows:

"(a)(1) If any person, partnership, or corporation violates—

"(A) any rule under this Act respecting unfair or deceptive acts or practices (other than an interpretive rule, or a rule violation of which the Commission has provided is not an unfair or deceptive act or practice in violation of section 5(a)); or

"(B) any final cease and desist order issued by the Commission which is applicable to such person, partnership, or corporation; then the Commission may commence a civil action against such person, partnership, or corporation for relief under subsection (b) in a district court of the United States or in any court of competent jurisdiction of a State.".

(B) Section 19(d) of the Federal Trade Commission Act (15 U.S.C. 57b(d)) is amended—

(i) by striking out "subsection (a)(1)" and inserting in lieu thereof "subsection (a)(1)(A)";

(ii) by inserting before "or the unfair or deceptive act or practice to which" the following: "the cease and desist order violation to which an action under subsection (a)(1)(B) relates,"; and

(iii) by inserting "(as prescribed by section 5(g)(2))" after "has become final".

(b)(1) Section 5 of the Wool Products Labeling Act of 1939 (15 U.S.C. 68c) is amended by striking out "violating" in second paragraph and inserting in lieu thereof "wool".

(2) Section 9(b)(1) of the Fur Products Labeling Act (15 U.S.C. 69g(b)(1)) is amended by striking out "violating" and inserting in lieu thereof "violating".

And the Senate agree to the same.

HARLEY O. STAGGERS,
BOB ECKHARDT,
RALPH H. METCALFE,
CHARLES J. CARNEY,
JAMES H. SCHEUER,
T. A. LUKKEN,
MATTHEW J. RINALDO
(for consideration of section 112 of the Senate amendment only),
M. CALDWELL BUTLER
Managers on the Part of the House.

HOWARD W. CANNON,
WENDELL H. FORD,
JOHN A. DURKIN,
JOHN C. DANFORTH,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3816) to amend the Federal Trade Commission Act to expedite the enforcement of Federal Trade Commission cease and desist orders and compulsory process orders; to increase the independence of the Federal Trade Commission in legislative, budgetary, and personnel matters; and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SUMMARY OF CONFERENCE ACTION

Briefly, in contrast to the previous conference report (Report No. 95-892), the conferees struck in its entirety the "equitable relief" section, which would have allowed the Federal Trade Commission (hereinafter in this statement referred to as the "Commission") to go to court to seek equitable relief (including the appointment of a trustee) in order to preserve a firm's assets for possible consumer redress if a law violation was found. The conferees also adopted a compromise which provides for a veto of a Commission rule by adoption of a joint resolution, subject to a Presidential veto (which could be overridden by the Congress), within a 90-day period before such rule could go into effect. Otherwise the conference report is substantially the same as the previous conference report, in providing for authorizations for fiscal years 1979, 1980, and 1981, and in containing a number of provisions designed to expedite the enforcement of Commission cease and desist orders and compulsory process orders.

QUALIFICATIONS OF MEMBERS

House bill.—The House bill contained no provision with respect to qualifications of members for service on the Commission.

Senate amendment.—The Senate amendment required the President to nominate persons for the Commission who are qualified by training, education, or experience to carry out the functions of the Commission. In addition, the amendment required the President to insure that the Commission is balanced with respect to the talents, backgrounds, occupations, and experience of the members nominated and appointed.

Conference substitute.—The conference substitute is the same as the Senate provision.

APPOINTMENT OF THE CHAIRMAN

House bill.—The House bill contained no provision with respect to the appointment of the Chairman of the Commission.

Senate amendment.—The Senate amendment provided for Senate confirmation of one of the Commissioners as Chairman of the Commission. It also codified existing law that the President appoints one of the Commissioners as Chairman and that the Chairman serves at the pleasure of the President. See section 3 of Reorganization Plan No. 8 of 1950, effective May 24, 1950, 15 F.R. 3175, 64 Stat. 1264.

Conference substitute.—The conference substitute does not contain any provision requiring Senate confirmation of one of the Commissioners as Chairman. The substitute does, however, adopt the Senate provision codifying existing law that the President appoints one of the Commissioners as Chairman and that the Chairman serves at the pleasure of the President.

AVOIDANCE OF CONFLICT OF INTEREST

House bill.—The House bill contained no provision with respect to avoidance of conflict of interest.

Senate amendment.—The Senate amendment contained two provisions designed to avoid both any conflict of interest or the appearance of a conflict of interest. First, it provided that no member of the Commission nor any employee classified as a GS-16 or higher shall, during the two years after leaving the Commission, represent anyone in any formal or informal proceeding before the Commission, or make any written or oral communication on behalf of any person with intent to influence the action of the Commission in connection with any proceeding involving a specific party which was under his official responsibility as a member or employee. Second, it contained a complete ban on former members or employees classified as GS-16 or higher making any appearance or communication with the intent to influence the action of any Commissioner or employee on any matter being considered by the Commission (including investigations, rules, and complaints) for one year after leaving the Commission.

Conference substitute.—The conference substitute adopts the Senate provision which prohibits former Commissioners and high-level staff members from making appearances or communications with the Commission, any Commissioner, or any employee of the Commission for a period of one year after such persons leave service with the Commission. The conferees intend the ban to apply to all matters of business, whether new or old, which are before the agency during that year. Thus, such persons would be prohibited from petitioning the Commission for the initiation of a rulemaking proceeding and from making any appearance or communication in connection with a Commission investigation, adjudication, rulemaking proceeding, or any other substantive matter.

However, the ban does not include contact concerning matters of an exclusively personal and individual nature. For example, a former Commissioner or employee covered by these provisions could appear before or contact the Commission on a personnel matter, a Freedom of Information request, a Privacy Act matter, a pension matter, or any other matter which relates to a personal right of the former employee.

The restriction also does not apply where such a person is representing the United States, as would be the case if he or she were to be employed by another department or agency of the Federal Government or to be reemployed by the Commission itself as either an employee or a consultant. Finally, the ban is not intended to apply where the former official, solely at the initiation of the Commission, is contacted for information or required to appear and give testimony. Otherwise, the prohibition does apply to self-representation.

The conferees dropped the two-year restriction concerning matters under the former Commissioner's or employee's official responsibility because they believed that this matter is adequately addressed by the provisions of section 207 of title 18, United States Code, and the Commission's own rules, which both prohibit such activities by *all* former employees, regardless of their grade, for one year.

NUMBER OF TOP LEVEL EMPLOYEES

House bill.—The House bill contained no provision with respect to the number of employees the Commission may employ at the supergrade level.

Senate amendment.—The Senate amendment provided for 25 positions at the Commission to be paid at the rates prescribed for supergrade positions.

Conference substitute.—The conference substitute adopts the Senate provision.

The Commission is currently authorized only 42 employees at the supergrade level, of whom 13 are administrative law judges. The following comparison of the ratio of Commission supergrade attorneys to attorney staffs in other organizations shows that the Commission has a worse ratio than other similar Federal agencies:

Antitrust, Justice, 1:17.
Justice Department, 1:19.
Securities and Exchange Commission, 1:19.
Federal Communications Commission, 1:20.
Federal Trade Commission, 1:22.

Further, the 29 supergrades at the Commission who are not administrative law judges are all in managerial positions. As a result, the Commission has no position or salary incentive beyond the GS-15 level to offer outstanding personnel who do not wish to become managers. Even with recent salary increases, the limitation on salaries at the GS-15 level for experienced litigators and other talented, specialized personnel makes retention of the best staff members a difficult task.

Similarly, the Commission has no incentives to offer experienced individuals who may wish to offer their services to the Commission for a limited period of time.

The substitute will enable the Commission to offer the necessary incentives to experienced litigators, senior economists, and other senior specialists who are not in management positions. While the substitute would permit the Commission to fill some or all of these positions from the outside, the conferees wish that it be understood that the principal purpose of the provision is to offer salary incentives to talented line personnel before using the new positions for short-term recruitment.

EXECUTIVE BRANCH POLITICAL CLEARANCE

House bill.—The House bill contained no provision with respect to political clearance of Commission personnel.

Senate amendment.—The Senate amendment provided that there would be no executive branch political clearance of any Commission employee.

Conference substitute.—The conference substitute is essentially the same as the Senate amendment, except that the position of general counsel of the Commission is not included. The intention of the substitute is to prohibit any executive branch political clearance of any employee classified as Schedule "C" or as a noncareer executive assignment.

APPLICATION OF ACT TO SAVINGS AND LOAN INSTITUTIONS

House bill.—The House bill exempted savings and loan institutions from the Commission's section 5 jurisdiction with respect to unfair methods of competition and unfair or deceptive acts or practices. An exemption also was accorded such institutions from the Commission's section 6 authority to compile information, conduct investigations and require the filing of reports. However, savings and loan institutions were still required to provide information and reports when the Commission investigation involved a person or entity not engaged in or only incidentally engaged in business as a savings and loan institution. In addition, the House bill amended section 18 of the Federal Trade Commission Act to require the Federal Home Loan Bank Board to establish a separate division of consumers affairs to act upon complaints regarding unfair or deceptive

acts or practices. The Board was further required to prescribe regulations defining unfair or deceptive acts or practices and to adopt Commission rules on such matters unless it finds that such acts or practices are not unfair or deceptive with respect to savings and loan institutions.

Senate amendment.—The Senate amendment exempted savings and loan institutions from the Commission's section 5 jurisdiction only to the extent that the Board is authorized to prohibit such acts or practices covered by section 5. No exemption from the Commission's section 6 authority was included. Section 18 of the Federal Trade Commission Act was amended to impose requirements upon, and provide authorities to, the Board similar to those under the House bill.

Conference substitute.—The conference substitute adopts the House provision. The conferees stress that the substitute is to operate prospectively. It is not the intention of the conferees to interfere with any further litigation in the case of *In re Perpetual Federal Savings and Loan Association*, FTC Docket No. 9083 (1978).

ENFORCEMENT OF SUBPOENAS AND ORDERS

House bill.—The House bill made several amendments to section 10 of the Federal Trade Commission Act, relating to the assessment of civil penalties for failure to comply with a Commission order to file annual or special economic or business reports. First, it made the penalty provisions applicable to all Commission orders (other than cease and desist orders), including subpoenas. Second, it raised the amount of penalties for failure to comply with a Commission subpoena or order (other than a cease and desist order) from a mandatory $100 per day to a range of from $0 to $5,000 per day. The amendment provided that in determining the amount of any such penalties, the court must take into account the reasonableness and good faith of any action or inaction of the person, partnership, or corporation against whom the penalties are being assessed, and such other matters as justice may require.

Third, the House bill modified the time frame regarding when civil penalties for noncompliance with Commission subpoenas or orders (other than cease and desist orders) would begin to accrue. Under present law, in such situations of noncompliance, penalties begin to accrue 30 days after the Commission issues a notice of default signaling its intention to seek civil penalties for noncompliance, unless the resisting company is able to secure a stay of penalties within that time. The House bill provided that penalties would begin to accrue after 30 days only if a company did not file for a stay of penalties within 15 days after the notice of default was served. If the noncomplying party filed with the court for a stay of penalties within 15 days and provided the court with all the necessary information to decide the stay petition, then penalties would not begin to accrue until 60 days after service of the notice of default, assuming that the noncomplying party failed to obtain a stay.

Fourth, the House bill prohibited any challenges to Commission subpoenas and orders (other than cease and desist orders) until the Commission issued a notice of default signaling its intent to seek penalties.

Fifth, the House bill provided that penalties for noncompliance would accrue as to any part of a Commission subpoena or order (other than a cease and desist order) with which a party failed to comply if a stay of penalties has not been obtained as to that part of such subpoena or order.

Sixth, the House bill authorized the Commission to bring suit against a noncomplying company for civil penalties in any district court within which the noncomplying company resides or does business.

Finally, the House bill provided that the amendments made by this section would apply with respect to failures to comply with a subpoena or order (other than a cease and desist order) that is issued after the date of enactment of the House bill.

Senate amendment.—The Senate amendment was the same as the House bill with the following exceptions—

(1) it omitted any reference to a defendant's reasonableness and good faith in determining the level of any civil penalties;

(2) it retained existing law with respect to when penalties begin to accrue after issuance of a notice of default, that is, 30 days thereafter;

(3) it authorized the Commission to bring suit for civil penalties against a single noncomplying company where that company resides or transacts business but if the suit were against two or more companies, the Senate amendment authorized the Commission to bring suit in any district court in which the inquiry of the Commission is being carried on;

(4) it set standards for when a court could refrain from enforcing any subpoena or order (other than a cease and desist order) of the Commission; and

(5) it provided that the amendments made by this section of the Senate amendment would apply with respect to failures to comply with a subpoena or order (other than a cease and desist order) insofar as they occur or continue after the date of enactment of the Senate amendment.

Conference substitute.—The conference substitute adopts the House provisions except in the following two respects: (1) it adopts the Senate provision on venue for civil penalties, that is, that the Commission can bring suit against a single company where that company resides or transacts business and against two or more companies in any district court where the inquiry of the Commission is being carried on; and (2) it provides that penalties will begin to accrue 30 days after a notice of default issues unless a company files all the necessary papers in seeking a stay of such penalties within 15 days after the notice of default is served. In that case, penalties will not begin to accrue until 45 days after service of the notice.

VENUE FOR ENFORCEMENT OF SUBPOENAS AND ORDERS

House bill.—The House bill provided that venue for a Commission suit to enforce a subpoena or order (other than a cease and desist order) would be proper in any district in which the Commission's inquiry is being carried on.

The House bill amended section 9 of the Federal Trade Commission Act, under which enforcement venue is bifurcated. Where the Commission seeks to enforce a subpoena, it may bring suit in a district where the inquiry is being carried on, which has been held to include the place where the Commission or the regional office of the Commission issuing the subpoena is located, and the place where the subpoena is returnable. The place where the documents sought by a subpoena are located may also be such a place. See, e.g., *FTC* v. *Browning*, 435 F.2d 96 (D.C. Cir. 1970); *FTC* v. *Cockrell*, 431 F. Supp. 558 (D.D.C. 1977); and *FTC* v. *Sherry*, CCH 1969 Trade Cas. section 72906 (D.D.C. 1969). Perhaps the best statement as to what constitutes a "place of inquiry" is found in *FTC* v. *MacArthur*, 532 F.2d 1135, 1140 (7th Cir. 1976): "The test whether the Commission is undertaking an inquiry in a particular place is whether that place and the activities there bear a reasonable relation to the subject matter of the investigation. Factors such as the convenience of the Commission, the location documents, and witnesses, and the corporate headquarters are relevant in determining whether there is an inquiry in a particular judicial district when the only action taken by the Commission is a request for information. As in other areas, the Commission's choice of place of inquiry is subject to the bounds of reasonableness."

On the other hand, in the case of enforcement of an order (such as an order to file a report or an access order), the Commission must proceed by writ of mandamus. No venue is specified for this proceeding, which is subject to the general provisions regarding venue and personal jurisdiction applicable to regular civil actions involving private parties. Particularly in cases in which the Commission is suing for enforcement of identical orders against a number of persons, partnerships, or corporations, the strict venue requirements may make it difficult or impossible to proceed in any single forum against all parties.

Senate amendment.—The Senate amendment likewise updated and streamlined the venue for enforcement of compulsory process, but included a requirement that, if there is only one person, partnership, or corporation involved, the Commission may maintain its suit only where the defendant resides or transacts business.

Conference substitute.—The conference substitute adopts the House provision. The conferees feel that there was no evidence that the Commission was abusing its authority in the case of the single recipient of a subpoena or order by bringing suit in an inconvenient forum. It therefore appeared unnecessary to provide additional restrictions on the process.

CITIZEN PETITIONS FOR RULEMAKING

House bill.—The House bill gave a specific right to petition the Commission for the issuance, amendment, or repeal of a rule under section 18(a)(1)(B) of the Federal Trade Commission Act. It required that the Commission respond to such a petition within 120 days of its receipt. If the Commission granted the petition, it was required to commence the requested proceeding as soon as practicable thereafter. If it denied the petition, it was required to so notify the petitioner, giving its reasons and publishing those reasons in the Federal Register.

Senate amendment.—The Senate amendment granted the same right of petition and required Commission response in the same time and manner. However, the right of petition encompassed not only section 18(a)(1)(B) rules but also any other rule and any order or regulation issued under any of the Acts the Commission administers.

Further, the Senate amendment, in cases of Commission inaction on or denial of a petition, granted the petitioner a right to sue to force the granting of the petition. If the petitioner, by a preponderance of the evidence in the material he had submitted to the Commission, met the standards set out in the section regarding appropriateness and need for the action, the court would be required to order the initiation of the requested Commission proceeding.

Conference substitute.—The conference substitute adopts the House provision.

STATEMENT OF BASIS AND PURPOSE

House bill.—The House bill amended section 18 of the Act with respect to court review of rulemaking proceedings under that section. The existing provisions of section 18 are open to the interpretation that the courts could not review a Commission failure to consider the factors specified by section 18(d)(1) for inclusion in a statement of basis and purpose issued pursuant to section 18(b)(4). Under the amendment, the court could consider the entire statement of basis and purpose as part of the rulemaking record in determining whether the Commission's action in promulgating the rule satisfies the judicial review standard specified by section 18. No separate review of the sufficiency or content of the statement of basis

and purpose was permitted. This review of the statement of basis and purpose would apply with respect to all rules where the rulemaking record has not been closed prior to the date of enactment of this Act.

Senate amendment.—The Senate amendment contained no comparable provision.

Conference substitute.—The conference substitute adopts the House provision.

CONGRESSIONAL REVIEW OF RULES

House bill.—The House bill provided that a Commission rule would not go into effect if a concurrent resolution disapproving such a rule were adopted within 90 calendar days of continuous session after the rule's issuance. Alternatively, the section provided for disapproval of a rule if one House adopted a concurrent resolution within 60 days and the other House failed to disapprove that resolution within 30 days thereafter.

Senate amendment.—The Senate amendment contained no directly comparable provision. However, section 102 contained a broad provision aimed at some of the same concerns for increased knowledge and control over Commission activities. It requires the Commission, within 660 days from the date of enactment of the Senate amendment, to prepare and submit to the Congress first an initial proposal and then a final recodification of all its rules. Each proposal was, to the extent practicable and appropriate, to include recommendations for transfer, consolidation, modification, and deletion of particular rules, as well as proposals for changes in structure, organization, language, etc., necessary to make the rules more up to date and easily understood. The recodification also would have included a comprehensive index of the rules.

The initial and final recodification proposals, to the extent practicable and appropriate, would include for each rule or class of rules an economic impact analysis, a paperwork impact analysis, a judicial impact analysis, and any other explanatory or supporting statements the Commission determined necessary and appropriate.

The term "rule" under the Senate amendment was broadly defined to include substantive statements of policy of general applicability and future effect, and also procedural rules and organizational rules of the Commission.

Conference substitute.—The substitute incorporates elements of each of the provisions. Thus, it establishes a procedure whereby Commission rules can be vetoed as well as a procedure for review of existing Commission rules in order to eliminate outdated ones and simplify those rules that are still appropriate.

The House bill provided a procedural mechanism for vetoing a Commission rule but had no requirement that the Commission provide the Congress with information concerning the potential impact of the rule on the paperwork of persons who would be affected by the rule and the potential impact on the Federal judiciary. Nor did the House provision deal with rules already in effect.

The Senate amendment, on the other hand, was designed to require the Commission to study all its past rules with a view of modernizing, simplifying, and codifying them. The relevant congressional committees would be involved in the review process in the exercise of their oversight responsibility. The Senate amendment, however, made no provision for expedited congressional consideration of Commission rules.

The conference substitute first seeks to strike a compromise between the strong House position in favor of the legislative veto and the strong Senate position in opposition to such a provision. The House position was expressed in the 272–139 vote on October 13, 1977, in favor of a motion to include a legislative veto provision in H.R. 3816. It was once again expressed in the 255–146 vote on February 28, 1975, to reject the first conference report on H.R. 3816. The floor debate in the House revealed that the vote reflected opposition to the fact that the conference report did not include a legislative veto provision and to the fact that it did include a provision which specifically would have allowed the Commission to go to court to seek equitable relief, including the appointment of a trustee, in order to preserve a firm's assets for possible consumer redress if a law violation was found. In this conference, the equitable relief section was struck in its entirety.

On the other hand, Senate opposition to the legislative veto was expressed in a 65–29 vote on July 20, 1978, against inclusion of a similar provision in the HUD authorization bill While the HUD vote related to an executive agency and not an independent regulatory agency and while it was on a one House veto provision, the point was forcefully made by the Senate conferees that these are distinctions that are not meaningful to the Senate. In addition, a letter dated August 14, 1978, from the chairman and the ranking minority member of the Senate Government Affairs Committee confirmed this view, stating that,

"Volume 3 of our committee's 'Study on Federal Regulation' considered the matter (of legislative veto). In that regard, we concluded that 'Congress should reject an across-the-board use of the legislative veto for regulatory agency rules,' and that Congress 'refrain from routinely adding a legislative veto provision to regulatory agency statutes'. Thus, in our opinion, rules and regulations of the Federal Trade Commission should not be subject to 'legislative veto' by the Congress."

The compromise provision provides for expedited consideration by the Congress of a joint resolution of disapproval of any Commission Magnuson-Moss trade regulation rule.

Specifically, each proposed rule would be submitted to the Congress 90 calendar days prior to its effective date. Thereafter, the following expedited procedures would apply in the House. Within 5 days of the transmittal, a joint resolution would be introduced (by request) by the chairman of the House Interstate and Foreign Commerce Committee. The committee would then have 45 calendar days of continuous session (broken only by adjournment sine die) to make its recommendations to the House. If the committee had not reported such joint resolution at the end of the period of 75 calendar days of continuous session, the committee would be deemed to be discharged from further consideration and the joint resolution would be placed on the appropriate House calendar.

After a joint resolution was either reported by the committee or deemed to be discharged, it would be in order for any Member of the House to move to proceed to the consideration of the joint resolution. The motion would be highly privileged and not debatable nor subject to amendment, a motion to postpone, or a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion was agreed to or disagreed to would not be in order.

If a motion to consider the joint resolution were adopted, two hours of general debate would be permitted on the resolution. Motions to amend, to postpone, to proceed to consideration of other business or to recommit the resolution would not be in order, nor would a motion to reconsider the vote on the joint resolution.

The conferees did not change the Senate procedures because Senate rules already permit expedited consideration of such a resolution of disapproval. Senate rules provide that a single Senator may move at any time to discharge a Senate committee from further consideration of a joint resolution, whereas the rules of the House provide that a motion to discharge is in order only if a majority of the Members of the House have signed a discharge petition. Thus, the conferees are confident that Commission rules will receive the close scrutiny of both Houses of the Congress.

If a joint resolution is approved by both Houses in the 90-day period, the proposed Commission rule would not take effect, unless the President vetoed the joint resolution. In that case, the rule would take effect unless the Congress overturned the President's veto.

The conferees adopted the approach of a joint resolution as the only compromise that was available to them in light of the strong House and Senate positions that run in opposite directions. Since the one House veto (or one House without disapproval of the disapproval resolution by the other House) was not acceptable to both Houses, the conferees felt that the only constitutionally permissible option was a two House veto with Presidential signature. While some present laws do authorize the Congress to reject a rule by concurrence of both Houses, such provisions have never been considered by the Supreme Court and the conferees believe that they clearly violate section 7 of article I of the Constitution, which provides that,

"Every order, resolution or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill."

To assist the Congress in reviewing rules on an informed basis, the conference substitute requires the Commission to file with each rule, in addition to the economic impact analysis already required by existing law, paperwork and judicial impact analyses and other necessary and appropriate explanatory materials.

The conference substitute also adopts a Senate-passed requirement that the Commission study and make recommendations regarding each of its trade regulation rules already in effect. Those recommendations are to include a report where practicable and appropriate on the economic, paperwork, and judicial impact of each rule proposed to be retained, deleted, or modified. The economic impact analysis will take into account the cost impact on, and benefits to, consumers and affected businesses, particularly small businesses. The paperwork impact analysis will include study of the number and classes of persons subject to the paperwork requirements of the rule, as well as an analysis of the nature, amount, and frequency of paperwork required, and of the Commission's effort to minimize burdens and unnecessary duplication. The judicial impact analysis will show the effect of the rule on the courts.

In sum, the substitute reflects the view that the Congress should have an opportunity for expedited review of Commission rules before they take effect and that existing Commission rules should be reviewed, and modified and simplified where appropriate.

GRANTING OF EQUITABLE RELIEF

House bill.—The House bill contained no provision with respect to the granting of equitable relief.

Senate amendment.—The Senate amendment authorized the Commission to go to court to seek equitable relief when the Commission had reason to believe (1) that any person, partnership, or corporation is violating any provision of law enforced by the Commission; and (2) that, for the purpose of preserving the assets of the person, partnership, or corporation for consumer redress,

the granting of equitable relief is necessary pending the issuance of a complaint by the Commission and until such complaint is dismissed by the Commission or set aside by the court on review, or until the order of the Commission has become final.

Conference substitute.—The conference substitute contains no provision with respect to the granting of equitable relief.

AUTHORIZATION OF APPROPRIATIONS

House bill.—The House bill authorized to be appropriated $63,000,000 for fiscal year 1978, and $70,000,000 for fiscal year 1979.

Senate amendment.—The Senate amendment authorized to be appropriated $65,000,000 for fiscal year 1978; $70,000,000 for fiscal year 1979; $75,000,000 for fiscal year 1980; and $80,000,000 for fiscal year 1981.

Conference substitute.—The conference substitute adopts the Senate amendment.

JOINT SUBMISSION OF BUDGET REQUESTS

House bill.—The House bill contained no provision with respect to joint submission of budget information.

Senate amendment.—The Senate amendment would have required the Commission to submit a copy of any budget information it transmits to the President or the Office of Management and Budget to the Congress at the same time.

Conference substitute.—The conference substitute does not contain the Senate provision. The conferees felt that this issue should not be handled on an agency-by-agency basis.

CONCURRENT SUBMISSION OF LEGISLATIVE RECOMMENDATIONS, TESTIMONY, OR COMMENTS

House bill.—The House bill contained no provision with respect to concurrent submission of legislative recommendations, testimony, or comments.

Senate amendment.—The Senate amendment provided that the Commission would be required to submit any legislative recommendations, testimony, or comments on legislation to the Congress at the same time it was submitted to the President or the Office of Management and Budget. In addition, the amendment provided that no officer or agency of the United States shall have any authority to require the Commission to submit such comments for approval prior to submission of the comments to the Congress.

Conference substitute.—The conference substitute contains no provision with respect to concurrent submission of legislative recommendations, testimony, or comments. The conferees felt that this was an issue that should not be handled on an agency-by-agency basis.

CONGRESSIONAL ACCESS TO INFORMATION

House bill.—The House bill contained no provision with respect to congressional access to information collected by the Commission.

Senate amendment.—The Senate amendment provided that whenever an authorizing committee of the Congress made a written request to the Commission for documents, the Commission must supply such documents within 10 days, or submit a statement as to why the Commission cannot comply. Further, the amendment provided that submissions of information under this provision would not have constituted an offense under section 1905 of title 18, United States Code.

Conference substitute.—The conference substitute does not contain a provision with respect to congressional access to Commission information. The conferees felt that Congress' right to secure information from the Commission was clear.

AUTHORITY OF THE COMMISSION TO REPRESENT ITSELF IN COURT TO SEEK CIVIL PENALTIES

House bill.—The House bill contained no provision authorizing the Commission to represent itself in court to seek civil penalties for violations of Commission rules and cease and desist orders.

Senate amendment.—The Senate amendment provided that the Commission could represent itself in court to seek civil penalties for violations of Commission rules and cease and desist orders.

Conference substitute.—The conference substitute does not contain a provision with respect to Commission self-representation to seek civil penalties for violations of Commission rules and cease and desist orders.

CONSUMER PRODUCT SAFETY COMMISSION AMENDMENTS

House bill.—The House bill contained no provisions amending the Consumer Product Safety Act.

Senate amendment.—The Senate amendment contained numerous amendments to the Consumer Product Safety Act.

Conference substitute.—The conference substitute contains no provisions amending the Consumer Product Safety Act.

HARLEY O. STAGGERS,
BOB ECKHARDT,
RALPH H. METCALFE,
CHARLES J. CARNEY,
JAMES H. SCHEUER,
T. A. LUKEN,
MATTHEW J. RINALDO
(for consideration of section 112 of the Senate amendment only),
M. CALDWELL BUTLER.
Managers on the Part of the House.

HOWARD W. CANNON,
WENDELL H. FORD,
JOHN A. DURKIN,
JOHN C. DANFORTH,
Managers on the Part of the Senate.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have requested this time for the purpose of inquiring of the acting majority leader, the gentleman from California (Mr. DANIELSON), the program for the balance of today, if any, and for next week.

Mr. DANIELSON. Mr. Speaker, would the gentleman yield?

Mr. MICHEL. I will be happy to yield.

Mr. DANIELSON. Mr. Speaker, in response to the inquiry of the gentleman from Illinois (Mr. MICHEL) the program for the rest of today is that we have concluded our legislative calendar and propose to adjourn as soon as the closing comments have been made.

The program for next week is as follows:

On Monday, September 11, 1978, the House will meet at 12 o'clock noon.

There will be no suspensions.

We will take up H.R. 11280, the Civil Service Reform Act and carry it through to completion.

Following that we have scheduled the District of Columbia Calendar with seven bills, as follows:

H.R. 13224, transfer U.S. real property to District of Columbia Redevelopment Land Agency.

H.R. 12116, home rule charter amendments.

S. 3120, enlarge contracting authority of Commission on Financial Oversight.

H.R. 13243, revenue bonds for HFA.

H.R. 10311, District of Columbia Redevelopment Act amendments.

S. 1103, District of Columbia Reciprocal Tax Collection Act, and

S. 2556, rename District of Columbia Bail Agency.

Following that we have scheduled H.R. 11622, fuels transportation safety amendments with an open rule and 1 hour of general debate.

Plus H.R. 8729, Airport and Aircraft Noise Reduction Act, under a modified open rule with 2 hours of general debate.

On Tuesday, September 12, 1978, the House will meet at 12 o'clock noon and there will be eight suspensions. Votes on all suspensions will be postponed until the end of the suspensions.

The suspensions are as follows:

H.R. 12860, Rhode Island Indian land claims settlements.

H.R. 13311, ports and waterways safety amendments.

H.R. 12026, Indian Peaks Wilderness Area.

H.R. 12578, Miscellaneous Revenue Act of 1978.

H.R. 12165, extend duty suspension on waste and scrap metals.

H.R. 5265, temporary duty suspension on fluorspar.

A House resolution—which as yet has not been numbered—concurring in Senate amendments to H.R. 1337.

And H.R. 13331, United States Code amendments for Federal district courts.

These are to be followed by H.R. 12005, Justice Department authorizations under an open rule with 1 hour of debate, and,

H.R. 9214, International Monetary Fund, a motion to go to conference.

On Wednesday, Thursday, and Friday, the House will meet at 10 o'clock a.m. We have calendared the following items:

First, a conference report on House Concurrent Resolution 683, the second budget resolution.

Next, House Resolution 1276, funding for the Committee on Assassinations.

Then an as yet unnumbered House resolution, Executive Reorganization Plan No. 3.

After that we will take up the following:

H.R. 12611, Air Service Improvement Act of 1978, under an open rule, with 1 hour of debate;

H.R. 11733, Surface Transportation Assistance Act of 1978, under a modified open rule, with 2 hours of debate;

H.R. 1, Ethics in Government Act, under a modified open rule, with 2 hours of general debate; and

H.R. 12452, CETA amendments, on which we will complete consideration.

The House will adjourn by 9 p.m. on Tuesday, by 7 p.m. on Thursday, and by 3 p.m. on Friday.

Conference reports may be brought up at any time, and any further program will be announced later.

Mr. MICHEL. Mr. Speaker, I thank the acting majority leader for his response.

I believe he would share my view that in view of our having the Civil Service Reform Act on the calendar until completed on Monday, with the balance of whatever there is on that bill, then with those District bills and the other two bills being scheduled for Monday, Members should be prepared to be here until a very late hour on Monday.

Mr. DANIELSON. I think that that would be a prudent attitude to take with respect to Monday.

Mr. MICHEL. Then, too, might I inquire in view of our hopefully drawing toward the end of the session, with only eight bills on suspension scheduled for Tuesday, while that is a good order of business, is the leadership planning to take up a considerable number of suspensions for the following Monday, September 18?

Mr. DANIELSON. The gentleman's surmise is correct. On Monday, the 18th day of September, there are at least 25 suspensions which are scheduled to be put on the calendar. The leadership is mindful of the fact that there are many suspensions and will make every effort to take care of them.

Mr. MICHEL. I think it is good that we have this particular dialog so that Members will be especially aware of that in making their weekend plans for the weekend after next, so as to be sure to be back here on the following Monday for fear of losing a chance to vote on some 25 suspensions.

Mr. DANIELSON. I think that is an excellent suggestion.

Mr. MICHEL. Mr. Speaker, I thank the gentleman. If he has nothing further to contribute to the program, I will be glad to relinquish my time.

Mr. DANIELSON. Mr. Speaker, I thank the gentleman for yielding.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday of next week.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ADJOURNMENT TO MONDAY, SEPTEMBER 11, 1978

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 12 o'clock noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

DANGERS OF NITRITE BAN

(Mr. LEACH asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. LEACH. Mr. Speaker, as a Representative from one of the largest pork-producing districts in the country, I would like to inform the House that I have today introduced legislation to spur research on nitrite substitutes and to mandate the Department of Agriculture to conduct further studies into the effects of nitrites on animals other than one strain of laboratory rats.

This legislation is designed to complement the bills introduced by Congressmen WAMPLER and MATHIS to prevent the disruption of consumer buying patterns and excessive losses to producers which would be the result of a precipitous nitrite ban.

Mr. Speaker, it would appear unreasonable to consider a ban on the use of nitrites when there is no meaningful effort underway by the USDA or the Food and Drug Administration to develop an effective and safe alternative.

There may be a need to develop alternative preservatives for meat, fish and poultry products. But what should be expected from the USDA is low-key scholarly research and prudent corrective measures rather than the high profile of public confrontation over how to insure the high quality of food products we take for granted in the United States.

In 1958 American cranberry growers lost a major portion of their market due to a mistaken cancer scare. There is no need for our pork producers to suffer the same consequences without any element of assistance from the Department of Agriculture, the primary Federal department charged with assisting farmers to profitably produce and market their products.

A product in use for hundreds of years should not be banned simply on the basis of one research project which fed rats 1,500 times as much nitrite on the average as humans ordinarily obtain from cured meats. In order to ingest a comparable amount of nitrite a person would have to eat 586 pounds of cured meat every day. Moreover, there is substantial evidence to indicate that nitrites consumed in food represent only a trivial percentage of the nitrites naturally manufactured and ingested into the human body.

Mr. Speaker, I urge the House to give early consideration to this issue. Livestock producers, especially pork producers, see the possibility of a lifetime investment of time and labor jeopardized by a bureaucracy unsympathetic to their concerns.

THE PROBLEM OF DISCRIMINATORY DISTRICTING

(Mr. HANLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANLEY. Mr. Speaker, we have in this country a practice popularly known as political gerrymandering which, for nearly 200 years, has hindered the concept of fair and effective representation within congressional districts.

I am sure that you are well aware of what the gerrymander has done—and is capable of doing—as an instrument of partisan political profiteering. This discriminatory districting which operates unfairly to inflate the political strength of one group and deflate that of another, disrupts entire cities, towns and communities of interest for the sole purpose of creating and maintaining a political power base within a State.

Although it runs in direct opposition to the principles upon which our republic was founded, gerrymandering remains within the boundaries of the law. It is sad to say that we, as a legislative body, have done absolutely nothing to bring this unfortunate practice to an end.

Some progress in this area, however, has been made. The "one-man, one-vote" Supreme Court decisions of the mid-1960's, in addition to the many judicial breakthroughs in the early 1970's have taken great strides toward the creation of fair and effective political representation on the congressional level.

At the present time, all State constitutions contain some type of provision regarding redistricting and apportionment. Most State constitutions require the legislature to reapportion on a basis of population following each Federal decennial census, while many of them also explicitly provide for district compactness and contiguity.

Although the courts have entered this political thicket, and many State constitutions now contain redistricting provisions, the standards are usually too vague and unenforceable to amount to any substantial change.

The gerrymander's scalpel has not been deterred from successfully dissecting congressional districts. As a result, State legislatures are given the green light to perform their handiwork with virtually no opposition.

Congress is the only legislative body in the United States which exercises no influence over its own districting and the time has certainly come for us to constructively influence the manner in which the States conduct this process. Fair and effective representation is not a privilege which is determined through the whims and fancies of State legislators—it is a constitutional right. Gerrymandering is an evil practice and Congress, having the power and responsibility, ought to eliminate it.

I am introducing today a bill, which is designed to lessen the opportunity for such gerrymandering to take place. The proposed law will take districting power away from the State legislatures and give it to bipartisan commissions in the various States, which will be required to hold open hearings, assimilate public input and publicize their final plan to allow for citizens input and challenge.

In cases where States prove incapable of coming up with a workable and constitutional scheme, the U.S. district courts shall order the commission to set up a new plan within 60 days. Only in this way can we eliminate the possibility of a partisan court decision in this apportionment process.

An additional safeguard against making districting a political football would be the provision limiting this redistricting process to one per census. These commissions would be required to follow guidelines in their work, such as maintaining the integrity of political subdivisions to the greatest extent possible, making districts compact, keeping within general numerical requirements and taking into account the fair representation of minority groups.

The track record of some State legislatures in dealing with this matter is not good. Past performances prove that some

are incapable of creating fair and constructive plans for redistricting and are willing to place personal gain ahead of democratic principles.

It is time to put away the toys of gerrymandering. It is time to stop playing the manipulative games of old politics in a smoke-filled room. We must now enter into an era where fair and effective representation is no longer a meaningless phrase but a political reality.

This bill is not the complete answer. We will not establish a redistricting utopia through the passage of this bill, but I feel that sound reform is desperately needed, and my bill will go a long way toward eliminating this worthless and undemocratic practice.

AMENDMENT TO LAND AND WATER CONSERVATION FUND ACT

(Mr. RONCALIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RONCALIO. Mr. Speaker, since the land and water conservation fund was authorized in 1964, the program has grown in popularity and use. More than $1.7 billion has been made available to States and local governmental units to acquire and develop open space, parks, and outdoor recreation areas throughout the country.

In 1976, Public Law 94-422 amended the Land and Water Conservation Fund Act to, among other things, provide for the sheltering and enclosure of ice skating rinks and swimming pools.

Although the 1976 amendment is conceptually helpful in extending the use of the land and water conservation funds for sheltering outdoor recreation facilities, in terms of application, it is hardly helpful.

Even though Congress recognized that there was a need to extend public use of certain outdoor recreation facilities which receive limited use, because of climatic conditions, outdoor recreation still receives primary consideration in the alloctaion of funds. Because the thrust of the program is outdoor recreation, the use of funds for sheltering is very limited.

The amendment allowed assistance to be provided for the sheltering or enclosure of swimming pools and ice skating rinks in areas of the country that suffer from severe climatic conditions. The conference report also states that the sheltering or enclosure would be limited to Northern tier areas of the country which are subject to extreme cold, heavy snow, or high wind conditions. In addition, eligible States were limited to using up to 10 percent of their yearly allocation for sheltering.

I am, therefore, introducing a bill today to permit States to shelter or enclose, at their own expense, any outdoor recreation facility previously or hereafter developed with moneys from the land and water conservation fund.

Early in the spring of 1977, the Heritage Conservation and Recreation Service issued proposed guidelines to implement sheltering provisions; and the comments on the proposals clearly indicated the problems with the existing law. The problems can be summarized as follows:

The requirement that eligible areas be defined by climatic conditions does not recognize the reality of political and jurisdictional boundaries. Many States and possibly some counties would be divided because of slight variations in average temperatures and snowfall.

The limitation to northern tier areas of the country imposed by the Conference Committee Report discounts factors which limit public use of outdoor recreation facilities in other areas of the country. Excessive rainfall, cool summer temperatures, sand and dust, hot weather, and extreme temperature fluctuations are factors which to one degree or another affect virtually every area of the Nation. These conditions limit the public use of many outdoor recreation facilities and, in some cases, can prevent certain activities from being offered at all. Ice skating, for example, can't be provided in an outdoor setting in our southern States.

Limiting the use of Fund assistance to 10 percent of a State's yearly allocation places many States in untenable positions. For States that do not receive extremely large allocations, this limitation creates more problems than it may solve. For example, there have been States which have had to turn down many otherwise excellent proposals because funding was insufficient. In other States, the sheltering proposals may require the State's funding limit for several years. The Fund is not sufficient to meet existing needs.

Swimming pools and ice skating rinks are not the only outdoor recreation facilities which are affected. Tennis, basketball, and other court games can be provided only during certain months of the year. In some cases, simple shelters can shade the facilities from severe sun or a screen can provide protection from strong winds or dust conditions. In all cases, however, our citizens are not getting their full dollar value from facilities which may lay idle for many months out of the year.

People with physical handicaps, youngsters, senior citizens, and others with medical disabilities are most affected by climate conditions.

The bill which I am introducing today would help alleviate the problems by—

First. All outdoor recreation facilities eligible for Land and Water Conservation Fund Assistance could be sheltered or enclosed. Eligibility would no longer be limited to sheltering of swimming pools and ice skating rinks.

Second. Sheltering or enclosure could be undertaken in any area of the country. The northern tier qualifications and cold climatic criteria would be eliminated, thus recognizing types and degree of climatic conditions that affect outdoor recreational activities.

Third. Sheltering or enclosure would be undertaken without assistance from the fund, therefore, not affecting the Federal budget.

These changes are realistic, practical, and would be instrumental in extending the use of recreational facilities to a broader range of individuals, for a longer period of time throughout the year.

THE CETA PROGRAM—IT'S WORKING

(Mr. CHARLES H. WILSON of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

● Mr. CHARLES H. WILSON of California. Mr. Speaker, a few weeks ago, the House of Representatives considered, but did not conclude work on legislation extending the life of the Comprehensive Employment and Training Act (CETA).

Frankly, I am concerned that some of the amendments adopted during that initial debate will diminish the effectiveness of this important program. Recently, I received a very constructive and positive statement of support for extending CETA from the mayor of Redondo Beach, Calif., the Honorable Dave Hayward.

My colleagues who have questions as to whether CETA is accomplishing its objectives—training and putting people to work—should invest a few minutes in reading Mayor Hayward's letter.

I think the record of this California city is sound evidence to the Congress that the CETA program works, and that its life should be extended.

AUGUST 23, 1978.

Hon. CHARLES WILSON,
U.S. Congress,
Lawndale, Calif.

DEAR CONGRESSMAN WILSON: In recent months we have become aware of the controversy in Congress over reenactment of the Comprehensive Employment and Training Act (CETA). Cities across the nation have been criticized for their misuse and outright abuse of CETA funds and attention to the negative aspects has caused some elected officials to actually support elimination of certain CETA programs.

While it is clear that there have been instances of abuse, we feel that there have been far more positive affects of CETA, and would like to share with you some of those benefits in our Community.

Approximately one year ago numerous projects were begun under title VI of CETA in which long-term, low income residents were employed for 12 months.

Project goals including providing training to participants so that they would have greatly improved chances of finding unsubsidized work after CETA, and accomplishment of specific improvements throughout the Community. We believe that both goals have been achieved. Not only are participants given training in specific areas, but they are encouraged to take advantage of City CETA policies allowing job related education and verified interviews or tests for unsubsidized jobs during their working hours. Numerous projects have been completed by the City, the school districts and community based organizations throughout Redondo Beach CETA.

In the City, projects included: a concrete project in which sidewalks, curbs and cross-gutters were repaired throughout the City as well as installation of handicap ramps in over 40 intersections; a sewer lateral replacement and cleanout project in which sewer laterals which had been almost totally clogged by roots of Magnolia trees in the North of the City were replaced on 751 homes. In addition, over 150 miles of sewer lines were cleaned; landscaping projects in which new landscaping and sprinkler systems were installed in several parks, parkettes, parkways and intersections. Erosion control as well as repair of vandalized planters throughout the City were included in the project and the affect on the aesthetics of the City has been enormous. The South Bay Union High School District has completed extensive landscaping and sprinkler installation at all three high schools and their painting project has enormously improved interiors and exteriors of schools, as well as stadium fences, bleachers and gymnasiums.

The elementary school district has utilized CETA employees to transfer pupil records to microfilm, and create Conservation, Ecology and Multiculture education curriculum packages. South Bay Children's Health Center, an organization which provides no cost dental and psychological health services to children, was able to completely refurbish their facilities and as a result provide better service to more children. The Director, Frank Masi, cannot say enough about the benefits of CETA.

Importantly, none of these projects would have been completed without CETA. Local funds were in no way substituted with federal funds. These projects would simply not have been accomplished.

Naturally, there have been some difficulties, but they have to do with training individuals who are part of the hard core unemployed. Working with such individuals is not an easy task, but the City and school districts have tried very hard to offer productive opportunity to all CETA participants who are, after all, our own residents. The projects mentioned are only a sample of CETA benefits under titles II and VI over the last year.

CETA titles I and II also offer unique opportunities of training and job placement for economically disadvantaged residents of Redondo, Hermosa and Manhattan Beaches. An On-the-Job Training program with TRW, the areas largest private employer, has resulted in over 90 percent placement, and a new training program in micro-electronic assembly through TRW will result in $5–$6 per hour placement wages in a high demand occupation. Other training offered through title I includes EKG Technician, clerical, welding, and auto mechanics and past placement rates have all exceeded 70 percent.

A new and very innovative program funded technicial training to long term unemployed under title III offers non-commercial video technician training to long term unemployed youth (18–21). In this program private sector consultants to Sony Corporation helped to create and implement an outstanding program.

Needless to say, with so many positive programs in our Community funded through CETA, it is extremely distressing to realize that those funds and the manner in which they may be used are in jeopardy.

Please consider our successes as you make decisions on CETA Reenactment. CETA has worked well in Redondo Beach and we are very anxious for it to continue.

Sincerely,

DAVID K. HAYWARD,
Mayor.●

INTERNATIONAL LITERACY DAY FOCUSES NEED FOR WORLDWIDE ACTION

(Mr. McCLORY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. McCLORY. Mr. Speaker, in observance of International Literacy Day, it is important that we pause to note that there are literally 800 million adult persons around the world who are incapable of either reading or writing.

While the major problem of illiteracy exists in the underdeveloped or developing countries, it is important for us to recall that in our own Nation and other developed nations the problem of illiteracy is increasing.

An observance is taking place today in the State Department auditorium in recognition of International Literacy Day and I had hoped to attend this ceremony with other Members of Congress. Indeed, it had been my expectation to deliver remarks today at the Interparliamentary Union Conference taking place at this very time in Bonn, Germany.

Mr. Speaker, you were most gracious to appoint me as a delegate to this important conference; but, as my colleagues will understand, it has been incumbent for me to remain here for the legislative business which has taken place on the floor of this Chamber this week. However, I had prepared remarks to be delivered at the IPU meeting. These remarks, in my opinion, represent a significant statement in behalf of our Nation as we view the problem of illiteracy around the world from this vantage point of economic, social, and cultural development.

Mr. Speaker, I hope that all of my colleagues will join me today in directing their thoughts toward the problem of international illiteracy and will recognize that the ability to read and write are basic essentials to virtually every social, cultural, and spiritual advantage which is afforded to the human species.

Mr. Speaker, the title of the subject being discussed in Bonn, Germany, at the IPU Conference is "The Increase in Illiteracy as a Threat to World Development and as a Basic Cause of Poverty, Hunger, Disease, and Human Misery." My prepared remarks on this subject are attached for the benefit of my colleagues and of all who view the report of our proceedings in this Chamber today:

[Interparliamentary Union, 65th Conference, Bonn, Federal Republic of Germany, Sept. 3–14, 1978]

THE INCREASE IN ILLITERACY AS A THREAT TO WORLD DEVELOPMENT AND AS A BASIC CAUSE OF POVERTY, HUNGER, DISEASE AND HUMAN MISERY

Mr. Chairman, and fellow parliamentarians: today, September 8, has been proclaimed throughout the world as World Literacy Day. So I would like to take this opportunity to speak for a few moments on a problem of pressing urgency in all the nations of the world . . . illiteracy.

The continuing fight against illiteracy is important in industrialized societies just as it is in societies which have not yet attained a high standard of living. It is important to the productivity and the GNP of industrialized nations to have a high rate of literacy just as it is in the developing nations of the world. Recent studies and programs in some of the industrialized nations indicate that the ideal literacy rate has not been reached, despite generations of compulsory education. In my own country, despite a very high literacy rate for many years, information regularly comes to light of a hidden functional illiteracy, which means an inability to read well enough to function in an industrialized society. Much more pressing are the needs in developing countries which have fewer resources to devote to the eradication of illiteracy.

Few would argue that literacy is not an essential part of the developmental process. Governments have recognized the problem for years, and many have devoted considerable energy and expenditures to literacy programs, as well as to industrialization and other facets of economic development. On the surface, the problem appears to be gradually disappearing. In 1950, the world-wide illiteracy rate was 44 percent. Now it is estimated to be only 34 percent. But this impressive drop in the percentage of illiterates in the world does not reflect the tremendous growth in the world population during the same 28 years, from 1.6 billion in 1950 to an estimated 4 billion plus today. These figures mean that the actual number of illiterate adults in the world has increased from 700 million in 1950 to over 758 million today. And with population growth outstripping the abilities of developing nations to increase educational facilities, the number of children reaching adulthood without any formal schooling is also increasing.

Between 1954 and 1975, UNESCO attempted to help solve this problem of illiteracy with an intensive project involving 11 Third World countries. The Experimental World Literacy Program was aimed at halting the worsening situation with regard to illiteracy in the world . . . and changing the direction of the upward curve in the number of illiterate people. The program demonstrated the many difficulties in fighting illiteracy. All the money allocated for the programs was not spent. Responsibility for the literacy programs was scattered through many bureaucracies. Some of the governments did not give adequate support to the programs. Some pupils had to drop out to earn a living. In some countries with more than one language, the language used in the program was not the language spoken by a large segment of the people.

But the Experimental World Literacy Program was successful in some ways. It called attention throughout the world to the problems of illiteracy, and indeed kindled an increasing interest and effort among governments to attack the problems of illiteracy. It provided a large quantity of material resources which might not have been developed if the program had not taken place, and it demonstrated on a large scale several methods of literacy training. It taught the educators involved that literacy must be achieved by flexible programs, geared to the students, the society in which they live, and their needs. The Program had an important effect on education, especially in those countries directly involved. Adult education courses were added to the curriculums of teacher education programs. Follow-up programs to help the newly literate maintain their new skills were developed in some countries, including newspapers geared to new readers and the establishment of libraries and literacy centers.

The Program also showed that literacy must be tied to overall development, that the development of a nation creates both the need and the desire for literacy, and that since learning to read and write is a difficult task which requires highly motivated students, motivation is essential to the success of literacy programs. Literacy training alone cannot succeed. The UNESCO evaluation of the literacy program urged (1) that future literacy programs must "link literacy work with overall concerted action for development" including social changes as well as economic growth, and (2) that the function of literacy training must be interpreted in its widest sense to include improving the cultural, social and political situation of the student as well as the occupational and economic situation.

Literacy can provide a lubricant to ease a nation toward development. Literate people are more open to change . . . less hampered by traditional mores which may need to be changed in order to improve the economic situation. Literacy facilitates communication between sectors of the society. As the Population Reference Bureau stated in its study, *Literacy and World Population*,

"Literacy is perhaps the most imoortant single way station to social and economic development, opening for the individual the door to innovative ideas, options, and actions and releasing him from only the known and traditional."

Nevertheless, the problems of the UNESCO literacy program, and other programs, have resulted in a certain amount of discouragement among educational experts and governments. We must guard against this discouragement and against any slackening of effort on the part of the nations or international agencies. There is compelling evidence that when a government gives a literacy program top priority, the program can succeed. Tanzania reduced its illiteracy rate from 67 percent to 39 percent in four years despite its status as one of the world's least-developed countries. Brazil's official statistics report that the illiteracy rate in that country has dropped from 36 percent to 18.7 percent since 1970. Iran has also been successful in substantially reducing the number of illiterates in its society.

The United States Congress has identified the reduction of illiteracy as one of the purposes of the foreign assistance program and in response the Agency for International Development has increased the amount of bilateral economic aid devoted to first level education programs, which include literacy.

Both the World Bank and UNESCO have announced substantial new programs to provide funds for literacy programs. For, while the problem of illiteracy is a universal one, it is most acute in the developing nations. Here illiteracy compounds and exacerbates every other manifestaton of underdevelopment, and adds to the sum total of human misery. Although the developing nations have less to spend on education, it is also true that many have not given education the highest priority. It is still true that developing nations as a whole spend more public revenue on military forces than on both education and health combined. And it has been pointed out in a survey of 140 nations that the top twenty nations in terms of expenditures for military purposes include several countries which rank very low in spending on health and education and equally low in their literacy rate.

The significance of the high rates of illiteracy in developing countries become clearer upon examining statistics showing who the illiterates are. The Population Reference Bureau points out that of all adult illiterates, most live in rural areas and most are women. An average of 80 percent of women in the developing countries are illiterate, and in some of the least developed, the percentage is virtually 100. This figure is especially disturbing since statistics have shown that educated mothers, even those with only a few years of schooling, tend to have fewer children and also are less likely to keep their children home from school to work. Equally tragic are the UNESCO figures on children between the ages of 6 and 11. Currently, more than half of these children in the developing countries are not in school, and if present trends continue, by 1985 less than 30 percent of the children in the least developed countries will be attending school, thus adding eventually to the number of adult illiterates.

The Interparliamentary Union has been intimately involved in the study of illiteracy and in the development of plans and programs aimed at the reduction of illiteracy in the world.

In light of all of these facts, this body has wisely reported a draft resolution supporting the right of all people to be literate, and acknowledging the unmistakable connection between literacy and social and economic progress. This resolution calls upon parliaments to bring about national awareness of the importance of literacy and to urge their respective governments to give high priority to literacy training, especially for women. I wholeheartedly support this resolution, and I urge its adoption by the membership.

I commend the Interparliamentary Union officers and delegates for designating an appropriate portion of time during this Conference for observing International Literacy Day . . . and for recognizing the significance of this day throughout the world.

CALIFORNIA HOMEOWNERS BEWARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, the savings and loan industry in California is playing both sides of an issue to its benefit and the victim of the maneuverings is the California homeowner.

The game is being played with a new mortgage instrument called a variable rate mortgage—a mortgage in which interest rates fluctuate to reflect changes in the money supply.

Mr. Speaker, interest rates on home mortgages are at the highest rate ever recorded by the Federal Home Loan Bank Board. Leading the pack in high interest rates is California, where interest rates topped 10 percent this year. It is virtually impossible to acquire a home loan with an interest rate under 10 percent in the State of California.

But, suddenly, prospective homeowners are seeing that the two largest savings and loan institutions in California are offering variable rate mortgages at 9¾-percent interest. The conventional, fixed rate mortgages are still offered at 10-percent interest.

But, on the other side of the street, over 100,000 California residents will experience increases in the interest rates on their variable rate mortgages—as much as one-quarter of a percentage point rise.

The predictions from California are that interest rates will rise in October on most home mortgages made with a variable rate since 1975, and an excess of 100,000 California homeowners will be affected.

What will this rise in the interest rate mean to a California homeowner holding a variable rate mortgage? On a $60,000 home made at a 9-percent rate of interest in 1975, it means at least a 2-year extension on their mortgage. It means an additional 2 years of monthly payments for these thousands of homeowners. And there was no assurance that interest rates will not rise on variable rate mortgages again in 1978.

Mr. Speaker, as the thousands of homeowners holding these mortgages realize their plight, countless other consumers are being lured into a similar fate by the one-quarter percentage point differential the savings and loan institutions are offering on a new home mortgage made with a variable rate.

The variable rate mortgage is the most controversial of several new loan plans springing up across the country that are referred to as alternative mortgage instruments. The interest rate on variable rate mortgage are designed to reflect changes in the money supply. In other words, the homeowner signs a 30-year mortgage with the agreement that his interest rates are subject to change, with a maximum allowance of a 2½-percent rise in the rate. So, the amount of future payments are always an uncertainty.

The variable rate mortgage is not confined to California, although it is the only State in which the mortgage instrument has been tested on a wide-scale basis. In addition to California, there are 16 States which currently allow State-chartered savings and loan associations to offer the loan plan.

Over the past few years, there has been tremendous pressure generated from the savings and loan industry for a greater availability of VRM's. Specifically, the industry seeks congressional approval to offer VRM's in Federal savings and loan associations across the country. Short of this, proponents maintain that VRM's should be offered in the States where State-chartered institutions offer the loan plan.

The Federal Home Loan Bank Board issued proposals for variable rate mortgages in 1975. Both Houses of Congress moved to prohibit the issuance of these regulations by wide margins. Yet, still the industry pushed for variable rate mortgages in Federal associations.

On June 28, despite serious objections from consumer groups, members of the housing industry and organized labor, the full Committee on Banking, Finance, and Urban Affairs narrowly approved an amendment to the Financial Institutions Regulatory Reform Act of 1978 which allows Federal savings and loans to offer VRM's in States which allow State institutions to do so. I vigorously opposed this amendment in committee. I repeated my concern in a statement of additional views to the committee report of the Financial Institutions Regulatory Reform Act. And as we near consideration of the Reform Act, I feel compelled to bring this issue, again, to the attention of my colleagues in the House.

The increases that California residents will soon face in their mortgage payments indicates the primary problem with VRM's—the inflationary burden posed to consumers. Homeowners are already at the mercy of rising property taxes, rising utility costs, and an inflation rate that will top 8 percent this year. The monthly mortgage payment has always been a set figure to pay each month—however high, at least the figure was set and known to the homeowner. With the variable rate mortgage, these payments could easily climb right out of the homeowners budget, because of rises in the interest rate.

I find it particularly ironic that California homeowners will be so gravely affected by this mortgage instrument. I need not remind my colleagues of the passage of proposition 13 this summer. Consumers are sick and tired of the rules being changed in the middle of the game. To approve the issuance of VRM proposals is to completely ignore the mandate of the people.●

LEGISLATION TO CONTINUE AND REAFFIRM THE FEDERAL COMMITMENT TO A NATIONAL CAPITAL TRANSPORTATION SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. HARRIS) is recognized for 5 minutes.

● Mr. HARRIS. Mr. Speaker, today I am introducing legislation entitled the National Capital Transportation Amendments of 1978. My colleagues Mr. FISHER,

Mr. DIGGS, Mr. FAUNTROY, Mr. STEERS, Mr. MCKINNEY, and Mrs. SPELLMAN join me in cosponsorship.

Although this legislation is written specifically to amend the National Capital Transportation Act of 1969, it is in fact a continuation and reaffirmation of a Federal commitment that officially began nearly 20 years ago. The title to the National Capital Transportation Act of 1969 reads in part as follows:

The Congress finds that an improved transportation system for the National Capital region is essential for the continued and effective performance of the functions of the government of the United States, for the welfare of the District of Columbia, for the orderly growth and development of the National Capital region, and for the preservation of the beauty and dignity of the Nation's Capital. . . . The Congress therefore declares that it is the continuing policy and responsibility of the federal government, in cooperation with state and local governments of the National Capital region, to encourage and aid in the planning and development of a unified and coordinated transportation system for the National Capital region.

In keeping with that commitment, this legislation addresses the three major challenges faced today by the Washington Metropolitan Area Transit Authority:

First. Reaffirmation of the long-standing Federal Government financial commitment to complete a total Metro transit system in the Nation's Capital;

Second. Establishment of a method for the orderly retirement of bonds issued by the Washington Metropolitan Area Transit Authority; and

Third. Creation of an ongoing Federal participation in operating costs to reflect the special Federal benefits accruing from the Metro system.

The Washington Metropolitan Area Transit Authority (WMATA) recently released a "proposed financial plan for completion and operation of the public transportation system for the national capital area." This plan, which was developed at the request of the Urban Mass Transportation Administration (UMTA) and the Department of Transportation, presents two alternative methods to reach the stated objective. This legislation is designed to implement the alternative plan endorsed by the WMATA board. It calls for a continuation of the special Federal relationship that created Metro in the beginning. It calls upon the Federal Government to meet the obligations of a partnership entered into over 20 years ago with the local governments of the Washington metropolitan area.

It calls for a 101-mile Metro system to be completed and fully operational by 1985 at a savings of $200 million over the other financial approach proposed.

A 101-mile Metro system has been supported by an alternatives analysis recently conducted by one of this Nation's leading consulting firms. That 18-month analysis concluded that a 101-mile system was not just the best thing for regional transportation goals, but was the best thing for the total development of the Washington metropolitan region.

A 101-mile Metro system has also recently won the support of the Department of Transportation and the Urban Mass Transportation Administration.

That 101-mile Metro system will be completed in the shortest possible time at the greatest possible savings to local and national taxpayers through enactment of this bill.

Under this bill, up to $1.7 billion in Federal funds would be authorized beginning in 1980 for capital construction purposes. This amount added to already identified highway transfer funds would serve to complete the remaining 40 miles of Metro on an 80 percent Federal/20 percent State and local basis. This approach, which is consistent with Congress philosophy of providing "advance authorization," would enable Metro to be fully operational 2 years sooner than would be otherwise possible and at a savings of over $200 million.

The second major element of this legislation relates to payment of the interest and principal on the approximately $1 billion in construction bonds due to expire in 2010. It is unfair and unrealistic to expect the farebox or the local taxpayer to cover this expense alone. The approach set down in this legislation is financially sound and consistent with Federal assistance currently provided to all U.S. cities now constructing mass transit systems.

The bill calls for Federal participation in a sinking fund that would pay off the bonds as they mature and in the interest payments now borne strictly by the local taxpayers. The ratio for participation in both cases would be on an 80 percent Federal/20 percent local basis.

The third area addressed by this bill is a direct Federal operating subsidy to reflect the benefit and convenience of Metro to the Federal Government. In fiscal year 1980 the subsidy is $20 million and increases at a rate of 6 percent a year to $30 million in 1987.

The benefits of Metro to the day-to-day operation of the government are immense. This Federal participation, at less than 10 percent of current Metro operating costs, is small compensation for the convenience and savings from stations dedicated to government facilities such as the Pentagon, NIH, and Arlington Cemetery. Time and dollars saved by employees using Metro instead of taxes on official Government business and greatly decreased lost time due to inclement weather are just two other advantages of Metro to the Federal Government.

This legislation emphasizes the special obligations the Federal Government has to the citizens of Northern Virginia, the District of Columbia and suburban Maryland when it sets special requirements that go beyond those set for similar projects in other parts of the country.

The Washington Metro system is a transit system befitting of a Nation's Capital. President Johnson specified that this be so. Metro has the mark of the National Capital Planning Commission. Station and car designs were reviewed by the Fine Arts Commission. Such costly requirements do not exist for the taxpayers of Atlanta, Chicago, or Philadelphia or any other U.S. city as they design and build their mass transit systems.

Neither does any other system maintain stations built strictly at Federal Government request as Metro does.

Neither does any other system have mass transit stations located in buildings dedicated to Federal Government use.

Metro is not just another mass transit system.

Metro is the mass transit system of the Capital of the United States.

Metro does not serve just one city or State. Metro serves two States, Virginia and Maryland, and the District of Columbia.

This legislation continues and reaffirms the special nature of Metro and the special commitment the Federal Government has to it.

The text of the bill follows:

H.R. 14012

A bill to amend the National Capital Transportation Act of 1969 to authorize additional Federal contributions for the cost of construction of the regional rail system of the Washington Metropolitan Area Transit Authority, to provide an orderly method for the retirement of bonds issued by such Authority, and to provide an annual operation and maintenance subsidy to such Authority to reflect the special Federal relationship to such system

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Capital Transportation Amendments of 1978".

SEC. 2. (a) The National Capital Transportation Act of 1969 (D.C. Code, sec. 1-1441 et seq.) is amended by adding after section 13 the following new section:

"AUTHORIZATION OF ADDITIONAL FEDERAL CONTRIBUTIONS FOR CONSTRUCTION

"SEC. 14. (a) The Secretary of Transportation is authorized to make contributions to the Transit Authority, in addition to the contributions authorized by section 3 of this Act, for the purpose of financing in part the cost of construction of the Adopted Regional System.

"(b) Federal contributions under subsection (a) for the Adopted Regional System shall be subject to the following limitations and conditions:

"(1) The work for which such contributions are authorized shall be subject to the provisions of the Compact and shall be for projects included in the Adopted Regional System.

"(2) The aggregate amount of such Federal contributions made during any fiscal year shall be matched by the local participating governments by payment of capital contributions for such year in a total amount that is not less than 25 per centum of the amount of such Federal contributions.

"(c)(1) There is authorized to be appropriated to the Secretary of Transportation for fiscal years beginning on or after October 1, 1980, a total amount not to exceed $1,700,000,000 to carry out the purposes of this section.

"(2) Amounts appropriated under paragraph (1)—

"(A) shall remain available until expended; and

"(B) shall be in addition to, and not in lieu of, amounts available to the Transit Authority under the Urban Mass Transportation Act of 1964 and the Federal Aid Highway Act of 1973."

(b) Section 3 of the National Capital Transportation Act of 1969 (D.C. Code, sec. 1-1442) is amended—

(1) by inserting "under this section" in subsection (a) after "Federal contributions"; and

(2) by inserting "under this section" in subsection (b) after "Federal contributions" the first place it appears therein.

SEC. 3. Effective October 1, 1979, section 4 of the National Capital Transportation Act of 1969 (D.C. Code, sec. 1-1443), relating to District of Columbia contributions, is amended—

(1) by striking out "Commissioner" in subsections (a) and (d) and inserting in lieu thereof "Mayor"; and

(2) by striking out "aggregating not to exceed $269,700,000" in the first sentence of subsection (a); and

(3) by striking out "not to exceed $219,700,000" in the second sentence of subsection (a) and inserting in lieu thereof "such sums as may be necessary".

SEC. 4. (a) The National Capital Transportation Act of 1969 (D.C. Code, sec. 1-1441 et seq.) is amended by adding after section 14 (as added by section 2 of this Act) the following new sections:

"PAYMENT OF BONDS

"SEC. 15. (a)(1) The Transit Authority shall establish a sinking fund to be used for the accumulation of assets for payment of principal on bonds and other obligations issued by the Transit Authority. The fund shall be established and administered in accordance with the provisions of the Compact providing for funds established by the Transit Authority, and moneys in the fund may be invested by the Transit Authority in accordance with the Compact.

"(2) Assets of the fund shall be used to pay the principal on bonds and other obligations issued by the Transit Authority as payments for such principal become due.

"(b)(1) Beginning October 1, 1997, the Secretary of Transportation may make contributions to the fund established pursuant to subsection (a).

"(2) Any Federal contribution under paragraph (1) shall be matched by contributions to such fund by the local participating governments in a total amount that is not less than 25 per centum of the amount of such Federal contribution.

"(c) The Transit Authority, with the approval of the Secretary of Transportation, may use income from the investment of moneys in the fund established pursuant to subsection (a) to pay interest costs incurred on obligations issued by the Transit Authority after July 13, 1972, but any such payment by the Transit Authority may only be made after the payment with respect to such costs by the Secretary of Transportation under section 10.

"(d)(1) The Secretary of Transportation may make contributions to the Transit Authority, in addition to any other contributions authorized by this Act, in amounts sufficient to provide for the payment of 80 per centum of the amount of interest costs on obligations issued by the Transit Authority after July 13, 1972, remaining after the payment with respect to such costs by the Secretary under section 10 and any amount paid by the Transit Authority with respect to such costs under paragraph (1).

"(2) Any Federal contribution under paragraph (1) shall be matched by contributions by the local participating governments in a total amount that is not less than 25 per centum of the amount of such Federal contribution.

"ANNUAL FEDERAL CONTRIBUTION FOR RAIL OPERATING EXPENSES

"SEC. 16. (a) The Secretary of Transportation is authorized to make an annual contribution to the Transit Authority to finance in part the cost of operating and maintaining the rapid rail transit system of the Transit Authority.

"(b) There is authorized to be appropriated to the Secretary of Transportation to carry out the purpose of subsection (a) the following amounts:

"(1) For fiscal year 1980, the amount of $20,000,000.

"(2) For fiscal year 1981, the amount of $21,200,000.

"(3) For fiscal year 1982, the amount of $22,500,000.

"(4) For fiscal year 1983, the amount of $23,800,000.

"(5) For fiscal year 1984, the amount of $25,200,000.

"(6) For fiscal year 1985, the amount of $26,700,000.

"(7) For fiscal year 1986, the amount of $28,300,000.

"(8) For fiscal year 1987, the amount of $30,000,000.

"(c) Contributions under this section shall be made without any requirement of a matching contribution by the local participating governments and shall be in addition to contributions under any other section of this Act.

"(d) Amounts appropriated under subsection (b)—

"(1) shall remain available until expended; and

"(2) shall be in addition to, and not in lieu of, amounts available to the Transit Authority under the Urban Mass Transportation Act of 1964."●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 5 minutes.

● Mr. DRINAN. Mr. Speaker, I was unavoidably absent from the House of Representatives for a short time at the end of yesterday's session. Had I been present, I would have voted as follows: "no" on rollcall No. 734, the McClory substitute for H.R. 7308; "no" on rollcall No. 735, an amendment limiting the warrant requirements of H.R. 7308 to surveillance of American citizens; "no" on rollcall No. 736, a motion to recommit H.R. 7308 with instructions to allow certain warrantless surveillance; "no" on rollcall No. 737, final passage of the Foreign Intelligence Surveillance Act, H.R. 7308; "aye" on rollcall No. 738, to resolve into the Committee of the Whole for the consideration of H.R. 11280; "aye" on rollcall No. 739, to table a motion to reconsider the previous vote.●

NEWSPAPER PRIVILEGE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. OTTINGER) is recognized for 5 minutes.

● Mr. OTTINGER. Mr. Speaker, today I am introducing a bill which grants journalists the right to withhold the identity of confidential sources and information received from those sources.

Freedom of the press is essential to the survival of our democratic system. Prosecution of journalists to require them to reveal their confidential sources of information and the details of such information is a substantial impairment of press freedom. Without the privilege of confidentiality, sources will simply stop taking the risks implicit in revealing important information to the press. Justice Douglas understood this when he wrote, "The press has a preferred position in our constitutional scheme, not to enable it to make money, not to set newsmen apart as a favored class, but to bring fulfillment to the public's right to know."

When newsmen sit in jail for refusing to reveal confidential sources and information, the chilling effect on freedom of the press is painfully obvious. When newsmen sit in jail, it is time for Congress to act. The first amendment to the Constitution says:

Congress shall make no law * * * abridging the freedom * * * of the press.

It is time for Congress to effectuate this important first amendment right against the encroachments that have recently been imposed by the courts. The text of the bill follows:

H.R. 14029

A bill to protect from disclosure the confidential sources and information of newspersons

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Newspersons' Privilege Act of 1978."

SEC. 2 The Congress declares that—

(1) fundamental to democracy in a Nation is the ability to keep its people fully informed, and fundamental to this is a free press; and

(2) basic to the realization of the function of a free press is the ability to rely on confidential sources; and

(3) recent court actions requiring the divulgence by the press of sources and information have undermined the capacity to carry out this vital function; therefore

(4) the Congress must insure the basic first amendment guarantee of freedom of the press by protecting newspersons' confidential sources and information.

SEC. 3. No newsperson shall be required by the Congress, by any committee or subcommittee thereof, or by any court, grand jury, or administrative body of the United States or of any State, to reveal any information or source of such information received by such newsperson while acting in a journalistic capacity.

SEC. 4. For purposes of this Act—

(1) the term "information" means any written, oral, or pictorial news, or other material;

(2) the term "journalistic capacity" means the compiling, gathering, editing, writing, and disseminating of information;

(3) the term "news medium or media" includes regularly published newspapers and periodicals, wire services, news agencies, news associations, makers of newsreels or documentary motion pictures, licensed broadcasting stations and networks, broadcasting services, and community antenna television services;

(4) the term "newsperson" means any person who is regularly employed in a journalistic capacity by any news medium or media, or any person who is not regularly employed by any news medium or media but whose primary occupation is the preparation of news material for a news medium or media and who has had a significant number of pieces or works published or broadcast by any news medium; and

(5) the term "source" includes any agency, or person from or through whom information was obtained, supplied, or delivered.●

FINANCIAL PRIVACY LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 5 minutes.

● Mr. PREYER. Mr. Speaker, later this month, it appears that the House will take up H.R. 13471, the Financial Institutions Regulatory Act of 1978. Of particular interest to me as the chairman of the Subcommittee on Government Information and Individual Rights is title XI of H.R. 13471, the Right to Financial Privacy Act of 1978. Based in large part on the work done by the Privacy Protection Study Commission, the Right to Financial Privacy Act is the only legislative recommendation of that Commission with a chance for passage by the House this year. Yet, although there is a great need for legislation spelling out standards for government access to bank depositor records, we must take great care to insure that any law we enact will effectively deal with this complex aspect of privacy protection. Our job in considering this bill is to decide whether it is adequate to its purpose.

Today, I would like to share with my colleagues some general observations on the purpose and design of legislation to regulate and control Government access to records maintained by banks about their customers' transactions. In doing this, I hope to explain the reasons why financial privacy legislation is needed and to suggest some standards by which the legislation can be measured. In the next few days, I intend to comment specifically on the features of the Right to Financial Privacy Act of 1978.

Financial privacy legislation has its origins in recent structural changes in the management of personal financial affairs. Not too many years ago, credit cards and checking accounts were rare, and most ordinary personal transactions were in cash. Today, we are in the midst of a transition to a so-called cashless society, and an ever-increasing percentage of our purchases of goods and services do not involve the exchange of cash. One of the major consequences of the use of other payment methods is the accumulation of large amounts of personal information in the hands of third parties such as banks and credit grantors.

The volume of personal financial information that is maintained in files beyond our control is surprisingly large. Suppose that your personal records were lost or unavailable but that you had to reconstruct your financial affairs for the last year. By going to the bank where you have a checking account, to department stores where you do business, to credit card companies, and other commercial establishments, you would probably be able to identify most of your transactions. However, this process would not permit you to trace any of your cash transactions. When you pay in cash for a newspaper, a meal, a taxi ride, or almost anything else, no one keeps a record of your identity or your purchase. The more cash you spend, the harder it is to use records maintained by third parties to determine after the fact how you have spent your money.

For most of this country's history, people conducted their business in cash, and a person's finances could not be reconstructed from records beyond that person's control. Because of a lack of a paper trail for most transactions, the only source of personal financial records was the individual himself. Nevertheless, even though personal financial records were not maintained elsewhere, the Government was prohibited from seizing the records maintained by an individual without probable cause. This limited availability of records was part of the overall balance struck in the Constitution between society's interest in law enforcement and an individual's interest in privacy and personal liberty.

That balance between individual liberty and the Government's investigatory powers has been affected by the change in modern recordkeeping practices. Records that were previously unavailable to the Government or that were accessible only after the individual had notice of and an opportunity to object to governmental access are now routinely kept by third party recordkeepers. These records are within easy reach of Government investigators, and a recent Supreme Court case confirms their availability.

In *United States* v. *Miller*, 425 U.S. 435 (1976), the Supreme Court decided that an individual has no constitutional protection against government demands for access to records about himself if the records are maintained by a bank. The Court held that an individual has no standing to challenge a government subpena issued to a bank, and that the individual has no protectible legal interest in the bank's records about his account and his transactions. Thus, despite the sensitive and revealing nature of these records, an individual has no legitimate expectation of privacy.

The Privacy Protection Study Commission's 2-year look at the problem suggested statutory modification of the Miller decision. To effectively do so, a financial privacy law must give the individual a statutory interest in depositor records as well as a statutory right to protect that interest. The experience with the Tax Reform Act of 1976 clearly shows that both of these features are crucial. Under that act, the Internal Revenue Service is required to give an individual notice that a summons has been served on a bank or other third party recordkeeper. The individual is then able to stop the recordkeeper from complying with the summons until a hearing is held, and the individual may intervene in the enforcement proceeding for the summons. This law gives standing to contest an IRS access request, but an individual still has no protectible legal interest. As the Privacy Protection Study Commission stated in its report of last year,

> The individual may go into court, but when he gets there he has nothing to say, because he has no legal interest to defend or to balance against the government's desire for the record.

It is not surprising therefore that all those who have actually gone to court in an attempt to quash an Internal Revenue Service summons have failed. Nor is it surprising that many who have initially filed an objection to a summons have later failed to appear in court to argue against IRS access, or that those who have appeared have made what appeared to be frivolous arguments. No substantive arguments are recognized under the tax reform law, nor, according to Miller, under the Constitution. By providing legal standing but no protectible legal interest in bank records, the Tax Reform Act accomplishes little. Standing to sue without a protectible legal interest is meaningless.

In enacting a general financial privacy law, we must take care not to repeat the mistakes of the Tax Reform Act. Individuals must not only be permitted to object to Government access requests for bank records, but they must be given a legally protectible interest in those records. The lesson of both the Miller case and the Tax Reform Act is that Congress and not the courts must define and limit the degree of intrusion into personal affairs that is permitted through the use of subpenas and summonses issued to banks.

How much protection should we allow? Some of the lines are relatively easy to draw. A financial privacy law is a failure if it does not prevent access by a government employee who is merely curious about someone's financial affairs and is on a fishing expedition. A financial privacy law is a failure if there is insufficient basis upon which the court can review the Government's access request.

On the other hand, we must take care not to be overly restrictive of legitimate law enforcement activities. A financial privacy law can also be a failure if it prevents access by a government investigator who has a legitimate and reasonable law enforcement purpose.

In evaluating the legislation before us, we should ask: What type of privacy interest in bank records are we creating? What type of access requests will be honored by the law? What burden must the individual shoulder to be successful in preventing Government access? Our goal must be to strike a fair and meaningful balance between the competing interests of privacy and law enforcement.

I hope to share further thoughts on this issue as we approach a vote on the measure.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BURGENER (at the request of Mr. MICHEL), for Monday, September 11, 1978, on account of official business to co-conduct Small Business Conference for firms seeking to compete for Federal contracts.

Mr. COTTER (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. CORMAN (at the request of Mr. WRIGHT), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DOWNEY) to revise and extend their remarks and to include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. HARRIS, for 5 minutes, today.
Mr. DRINAN, for 5 minutes today.
Mr. OTTINGER, for 5 minutes, today.
Mr. PREYER, for 5 minutes, today.
Mr. MAGUIRE, for 45 minutes, on September 12.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GREEN) and to include extraneous matter:)

Mr. FINDLEY in two instances.
Mr. LAGOMARSINO.
Mr. GILMAN
Mr. DORNAN.
Mr. KEMP in two instances.
Mr. ERLENBORN.
Mr. ROUSSELOT.

(The following Members (at the request of Mr. DOWNEY) and to include extraneous matter:)

Mr. HAMILTON.
Mr. SIKES in two instances.
Mr. FOUNTAIN.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. CARNEY.
Mr. IRELAND.
Mr. KILDEE.
Mr. APPLEGATE.
Mr. SIMON in two instances.
Mr. DINGELL.
Mr. ZABLOCKI.
Mr. KOSTMAYER.
Mr. POAGE.
Mr. BOLAND.

SENATE JOINT RESOLUTION REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 131. Joint resolution to change the name of Copan Dam and Lake in the States of Oklahoma and Kansas to Copan Dam and the Lake of the Delawares; to the Committee on Public Works and Transportation.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on September 7, 1978, present to the President, for his approval, a bill of the House of the following title:

H.R. 6669. To establish a comprehensive and coordinated national climate policy and program, and for other purposes.

ADJOURNMENT

Mr. DOWNEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 20 minutes p.m.), under its previous order, the House adjourned until Monday, September 11, 1978, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4943. A letter from the Secretary of Labor, transmitting a report on the 1978 summer youth jobs programs, pursuant to section 705(c) of the Comprehensive Employment and Training Act of 1973, as amended; to the Committee on Education and Labor.

4944. A letter from the Secretary of Labor, transmitting a report on the exemption of certain switchboard operators from the minimum wage and overtime provisions of the Fair Labor Standards Act, pursuant to section 4(d)(2) of the act, as amended (88 Stat. 73); to the Committee on Education and Labor.

4945. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the proposed issuance of a license for the export of certain defense articles and services sold commercially to the Philippines (transmittal No. MC-12-78), pursuant to section 36(c) of the Arms Export Control Act; to the Committee on International Relations.

4946. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting the final report on programing and obligation of funds for Lebanon relief and rehabilitation, pursuant to section 495C of the Foreign Assistance Act of 1961, as amended (90 Stat. 762); to the Committee on International Relations.

4947. A letter from the Secretary of Health, Education, and Welfare, transmitting the first annual report of the Director of the National Institute of Arthritis, Metabolism, and Digestive Diseases on arthritis activities under the Arthritis Plan, pursuant to section 434(f) of the Public Health Service Act, as amended (88 Stat. 2224); to the Committee on Interstate and Foreign Commerce.

4948. A letter from the Secretary of Health, Education, and Welfare, transmitting the findings of the assessment of health professions schools' admissions criteria for bilingual and bicultural activities, pursuant to section 904(a) of Public Law 94-484; to the Committee on Interstate and Foreign Commerce.

4949. A letter from the vice president for Government affairs, National Railroad Passenger Corporation, transmitting the financial report of the Corporation for the month of May 1978, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

4950. A letter from the vice president for Government affairs, National Railroad Passenger Corporation, transmitting a report covering the month of June 1978, on the average number of passengers per day on board each train operated, and the on-time performance at the final destination of each train operated, by route and by railroad, pursuant to section 308(a)(2) of the Rail Pasesnger Service Act of 1973, as amended; to the Committee on Interstate and Foreign Commerce.

4951. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of certain aliens, pursuant to section 212(d)(6) of the act; to the Committee on the Judiciary.

4952. A letter from the Comptroller General of the United States, transmitting a report on the causes of food price rises (CED-78-170, September 8, 1978); jointly, to the Committees on Government Operations, Agriculture, and Education and Labor.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DANIELSON: Committee on the Judiciary. H.R. 11002. A bill to provide for the resolution of claims and disputes relating to Government contracts awarded by executive agencies; with amendment (Rept. No. 95-1556). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee of conference. Conference report on H.R. 3816 (Rept. No. 95-1557). Ordered to be printed.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X,

The bill, to strengthen and improve the early and periodic screening, diagnosis, and treatment program, and for other purposes (H.R. 13611, as reported on August 11, 1978) was referred by the Speaker as follows:

The Committee of the Whole House on the State of the Union discharged, and referred to the Committee on Appropriations for a period not to exceed 15 legislative days with instructions to report back to the House as provided in section 401(b) of Public Law 93-344.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANNUNZIO (for himself and Mr. CARNEY):

H.R. 14019. A bill to amend chapter 59 of title 38, United States Code, to provide for the recognition of representatives of the Italian American War Veterans of the United States, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. CONABLE (for himself and Mr. RANGEL):

H.R. 14020. A bill to amend the Internal Revenue Code of 1954 with respect to the treatment of certain employees' trusts organized to invest in real estate; to the Committee on Ways and Means.

By Mr. CONABLE (for himself and Mr. YOUNG of Florida):

H.R. 14021. A bill to amend the Internal Revenue Code of 1954 to permit a church plan to continue after 1982 to provide benefits for employees of organizations controlled by or associated with the church and to make certain clarifying amendments to the definition of church plan; to the Committee on Ways and Means.

H.R. 14022. A bill to amend section 403(b) of the Internal Revenue Code of 1954 with respect to computation of the exclusion allowance for ministers and lay employees of the church; to the Committee on Ways and Means.

H.R. 14023. A bill to amend the Internal Revenue Code of 1954 to extend the special elections for section 403(b) annuity contracts to employees of churches, conventions, or associations of churches, and their agencies and to permit a de minimis contribution

amount in lieu of such elections; to the Committee on Ways and Means.

By Mr. DOWNEY (for himself, Mr. MOAKLEY, Mr. WHITEHURST, Mr. GUYER, Mr. EMERY, Mr. FRENZEL, Mr. CARR, Mr. RANGEL, Mr. OTTINGER, Mr. CLAY, Mr. DRINAN, Mr. SOLARZ, Mr. MAGUIRE, Mr. STOKES, Mr. STARK, and Mr. MURPHY of New York):

H.R. 14024. A bill to permit regulation of automated blood pressure machines to insure the accuracy and reliability of their performance; to the Committee on Interstate and Foreign Commerce.

By Mr. HANLEY:

H.R. 14025. A bill to provide for an equitable procedure for establishing congressional districts; to the Committee on the Judiciary.

By Mr. JOHNSON of Colorado (for himself and Mr. YOUNG of Alaska):

H.R. 14026. A bill to provide means for the acquisition and retention of title to certain lands by the village corporation organized pursuant to the Alaska Native Claims Settlement Act for the Natives of the village of Kake, Alaska, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. LEACH (for himself and Mr. GLICKMAN):

H.R. 14027. A bill to direct the Secretary of Agriculture to conduct research with respect to the effects of nitrites on animals and with respect to possible nitrite substitutes; jointly, to the Committees on Agriculture, and Interstate and Foreign Commerce.

By Mr. MURPHY of Pennsylvania (for himself, Mr. MOAKLEY, Mr. SANTINI, Mr. WHITEHURST, Mr. LAGOMARSINO, Mr. RAHALL, Mr. PANETTA, Mr. STAGGERS, Mr. MATHIS, Mr. LEDERER, Mr. BATEL, Mr BURKE of Florida, Mr. EILBERG, Mr. FOUNTAIN, Mr. FINDLEY, Mr. JEFFORDS, Mr. ROBERT W. DANIEL, Jr., Mr. CORRADA, Mr. SCHEUER, and Mr. FLOOD):

H.R. 14028. A bill to amend title 38, United States Code, to provide for an official memorial flag to honor war veterans; to the Committee on Veterans' Affairs.

By Mr. OTTINGER:

H.R. 14029. A bill to protect from disclosure the confidential sources and information of newspersons; to the Committee on the Judiciary.

By Mr. RICHMOND (for himself, Mr. EDWARDS of California, Mr. SEIBERLING, Mr. DRINAN, Mr. VOLKMER, Mr. BEILENSON, Mr. BUTLER, Mr. MCCLORY, Mr. THOMPSON, Mr. VENTO, and Mr. WAXMAN):

H.R. 14030. A bill to provide more effectively for the use of interpreters in courts of the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. RONCALIO:

H.R. 14031. A bill to amend section 6(e)(2) of the Land and Water Conservation Fund Act of 1965, as amended; to the Committee on Interior and Insular Affairs.

By Mr. SCHULZE:

H.R. 14032. A bill to amend the Internal Revenue Code of 1954 to increase the dollar amount which is required before certain gambling winnings are subject to income tax withholding; to the Committee on Ways and Means.

By Mrs. SPELLMAN (for herself, Mr. EVANS of Indiana, Mr. RICHMOND, and Mr. VOLKMER):

H.R. 14033. A bill to assist cities and States by amending section 5136 of the Revised Statutes, as amended, with respect to the authority of national banks to underwrite and deal in securities issued by State and local governments, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. RONCALIO (for himself, Mr. WEISS, Mr. BALDUS, Mr. BAUCUS, Mr. BONIOR, Mr. EILBERG, Ms. KEYS, Mr. ST GERMAIN, Mr. STEERS, Mr. BEARD of Rhode Island, Mr. FORD of Tennessee, Mr. YATRON, Mr. STOKES, Mr. MURPHY of Pennsylvania, and Mr. LEDERER):

H.J. Res. 1132. Joint resolution to authorize the President to issue a proclamation designating March, 1979, as "Youth Art Month"; to the Committee on Post Office and Civil Service.

By Mr. BIDDELL:

H. Con. Res. 708. Concurrent resolution to establish a Presidential commission to evaluate defensive weapons systems; to the Committee on Armed Services.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. ICHORD introduced a bill (H.R. 14034) for the relief of Luis Acosta, doctor of medicine, Nereida Acosta, Julia Acosta, and Juan Carlos Acosta, which was referred to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1

By Mr. MOORHEAD of California:

—Page 44, line 2, strike out "; or" and insert in lieu thereof a dash.

Page 44, strike out line 3 and everything that follows through line 13 on page 45.

Page 45, strike out line 16 and everything that follows through line 21 on page 46.

Page 46, line 22, redesignate subsection (f) as subsection (c) and strike out "(a), (b), or (c)" and insert in lieu thereof "(a) or (b)".

Page 47, line 7, redesignate subsection (g) as subsection (d) and on page 48, line 3, redesignate subsection (h) as subsection (e).

—Page 44, line 2, strike out "; or" and insert in lieu thereof a dash.

Page 44, strike out line 3 and everything that follows through line 13 on page 45.

Page 45, strike out line 16 and everything that follows through line 21 on page 46.

Page 46, line 22, redesignate subsection (f) as subsection (c) and strike out "(a), (b), or (c)" and insert in lieu thereof "(a) or (b)".

Page 46, line 23, insert "(1)" immediately after "shall not apply if".

Page 47, line 6, strike out the period at the end thereof and insert in lieu thereof the following: "; or (2) the former officer's or employee's appearance before the agency is of a category exempt by the agency by general rule or regulation, approved by the Director of the Office of Government Ethics and published in the Federal Register, or the agency, after full disclosure of all facts by the former officer or employee, makes a written determination, subject to review by the Director of the Office of Government Ethics, that the former officer or employee will not exercise any undue influence on substantive agency action by virtue of his or her former association with the agency. All such written determinations shall be a matter of public record."

Page 47, line 7, redesignate subsection (g) as subsection (d) and on page 48, line 3, redesignate subsection (h) as subsection (e).

H.R. 11733

By Mr. BIAGGI:

—Page 195, strike out line 16 and all that follows down through and including line 2 on page 196.

Renumber succeeding sections and references thereto accordingly.

H.R. 12611

By Mr. YOUNG of Alaska:

—Page 138, after line 18, insert the following new section:

LABOR DISPUTES

SEC. 33. Within 10 days after the date of enactment of this section, the President, pursuant to section 10 of the Railway Labor Act, shall create a board to investigate and report on the dispute between Wein Air Alaska, Incorporated, and the Air Line Pilots Association. Such board shall report its findings to the President within thirty days from the date of its creation. After the creation of such board, and for thirty days after such board has made its report to the President, no change, except by agreement, shall be made by the parties to the controversy in the conditions out of which the dispute arose.

Renumber the succeeding sections of the bill accordingly.

H.R. 13850

By Mr. MOORHEAD of California:

—Page 46, line 22, strike out "; or" and insert in lieu thereof a dash.

Page 46, strike out line 23 and everything that follows through line 7 on page 48.

Page 48, strike out line 10 and everything that follows through line 14 on page 49.

Page 49, line 15, redesignate subsection (f) as subsection (c) and strike out "(a), (b), or (c)" and insert in lieu thereof "(a) or (b)".

Page 49, line 25, redesignate subsection (g) as subsection (d) and on page 50, line 21, redesignate subsection (h) as subsection (e).

SENATE—*Friday, September 8, 1978*

(Legislative day of Wednesday, August 16, 1978)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by Hon. JOHN MELCHER, a Senator from the State of Montana.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray:

O Lord who has promised never to leave us nor forsake us, we beseech Thee to draw near to us as we draw near to Thee. Dispel the dark forces which debase the human spirit and frustrate doing Thy will. Shed Thy light upon everyone in this place. May Thy saving and redemptive spirit pervade all that we do. When the way is hard and the direction unclear may some miracle of divine grace work Thy will for this Nation and the world. Fill our lives with joy and peace that our work may arise from hearts that are pure and motives worthy of Thy Servant who went about doing good, and in whose holy name we pray. Amen.

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 8, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN MELCHER, a Senator from the State of Montana, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. MELCHER thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, does any Senator wish me to yield time?

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there are two measures which have been cleared for passage by unanimous consent and minority clearance has been secured also, I believe. They are Calendar Orders Nos. 1069 and 1094. I therefore ask unanimous consent that the Senate proceed to the consideration of those two calendar orders.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PARLIAMENTARY CONFERENCES WITH JAPAN

The Senate proceeded to consider the joint resolution (S.J. Res. 111) to authorize participation by the United States in parliamentary conferences with Japan, which had been reported from the Committee on Foreign Relations with amendments as follows:

On page 1, line 4, after "periodically" insert "and when the Congress is not in session (except that this restriction shall not apply to meetings held in the United States)";

On page 1, line 7, after "House of" insert "Councilors";

On page 3, beginning with line 10, insert the following:

SEC. 5. No funds shall be authorized to be appropriated under this resolution until fiscal year 1980.

So as to make the joint resolution read:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That not to exceed twenty-four Members of Congress shall be appointed to meet jointly and periodically and when the Congress is not in session (except that this restriction shall not apply to meetings held in the United States) with representatives of the House of Representatives and House of Councilors of the Japanese Diet for discussion of common problems in the interests of relations between the United States and Japan. Of the Members of the Congress to be appointed for the purposes of this resolution (hereinafter designated as the "United States group") half shall be appointed by the Speaker of the House from the Members of the House (not less than four of whom shall be from the International Relations Committee), and half shall be appointed by the President of the Senate from the Members of the Senate (not less than four of whom shall be from the Foreign Relations Committee). Such appointments shall be for the period of each meeting of the Japan-United States Interparliamentary group except for the four members of the International Relations Committee, and four members of the Foreign Relations Committee, whose appointment shall be for the duration of each Congress.

SEC. 2. An appropriation of $50,000 annually is authorized, $25,000 of which shall be for the House delegation and $25,000 for the Senate delegation, or so much thereof as may be necessary to assist in meeting the expenses of the United States group of the Japan-United States Interparliamentary group for each fiscal year for which an appropriation is made, the House and Senate portions of such appropriation to be disbursed on vouchers to be approved by the Chairman of the House delegation and the Chairman of the Senate delegation, respectively.

SEC. 3. The United States group of the Japan-United States Interparliamentary group shall submit to the Congress a report for each fiscal year for which an appropriation is made including its expenditures under such appropriation.

SEC. 4. The certificate of the Chairman of the House delegation or the Senate delegation of the Japan-United States Interparliamentary group shall hereafter be final and conclusive upon the accounting officers in the auditing of the accounts of the United States group of the Japan-United States Interparliamentary group.

SEC. 5. No funds shall be authorized to be appropriated under this resolution until fiscal year 1980.

The amendments were agreed to.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was passed.

Mr. STONE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(Later, the following occurred:)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all actions taken with respect to Senate Joint Resolution 111 today be vitiated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. That had not been fully cleared all the way around.

I thank the Chair.

INTERNATIONAL AGREEMENTS CONSULTATION RESOLUTION

The Senate proceeded to consider the resolution (S. Res. 536) expressing the sense of the Senate with respect to whether certain international agreements should be submitted as treaties, which had been reported from the Committee on Foreign Relations with an amendment to strike all after the resolving clause and insert in lieu thereof the following:

Resolved, That this resolution may be cited as the "International Agreements Consultation Resolution".

SEC. 2. It is the sense of the Senate that, in determining whether a particular international agreement should be submitted as a treaty, the President should have the timely advice of the Committee on Foreign Relations through agreed procedures established with the Secretary of State.

SEC. 3. The Secretary of the Senate shall transmit a copy of this resolution to the President.

The amendment was agreed to.

The resolution, as amended, was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1171), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE RESOLUTION

The principal purpose of Senate Resolution 536, sponsored by Senator Glenn and cosponsored by Senator Clark, is to facilitate the implementation of the "advice" portion of the treaty clause to the extent that such provision is applicable to the question of whether a given international agreement should be submitted as a treaty. The treaty clause, article II, section 2, clause 2 of the Constitution, provides that the "President shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur."

In mandating that the President receive not only the consent but also the advice of the Senate, the Framers contemplated close collaboration between the President and the Senate throughout the entire treaty-making process. The Senate was expected to render advice, in the words of Wilson, "in the spirit of an executive counsel." For several reasons, primarily early, unfavorable experiences with the "advice" process and the vastly increased size of the Senate, the "advice" portion of the treaty clause has largely withered through disuse. Nonetheless, the committee believes that thorough collaboration during the negotiation of international agreements can only strengthen the treaty-making process and improve its end product.

This applies in particular to the question of what form a given agreement should take. Considerable controversy has arisen in recent years over the use of executive agreements in situations which arguably required treaties. The simplest and most logical way of eliminating such disagreements, it appears to the

committee, is to have a full exchange of views before and during the process of negotiation regarding the form that a given agreement of consequence should take.

BACKGROUND

The resolution expresses the sense of the Senate that, in determining whether a particular international agreement should be submitted as a treaty, the President should have the timely advice of the Committee on Foreign Relations through agreed procedures established through the Secretary of State. This provision is similar to consultation provisions contained in Senate Resolutions 424 and 486 in the 95th Congress as well as Senate Resolution 24 in the 95th Congress, all sponsored by Senator Clark. The latter resolution was incorporated in the Foreign Relations Authorization Act, Fiscal Year 1979 (S. 3076) as section 502, as reported by the committee. This section was stricken on the Senate floor, with the exception of the consultation provision on which the Senate receded in conference. This resolution is similar to that provision.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENATE TO CONVENE AT 11 A.M. ON MONDAY, SEPTEMBER 11, 1978

Mr. ROBERT C. BYRD. Mr. President, for the record, at what time does the Senate convene on Monday?

The ACTING PRESIDENT pro tempore. At the close of business today, the Senate will be in recess until 11 a.m. on Monday.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I yield such remaining time to Mr. PROXMIRE as he may desire.

Mr. PROXMIRE. I thank the distinguished majority leader.

BEST WISHES TO JOANN BAREFOOT

Mr. PROXMIRE. Mr. President, today the Subcommittee on Housing and Urban Affairs of the Senate Banking Committee will be losing a valued and valuable staff member—JoAnn Sweet Barefoot. JoAnn was appointed to the subcommittee staff in January 1976. Since that time, she has made a lasting and significant contribution to such areas of committee concern as mortgage finance, community reinvestment, displacement, and unassisted housing programs. Her approach to any issue was characterized by thoroughness, perseverance, and objectivity. In legislative markups her cogent and articulate explanations and presentations of complex matters was as pleasurable to listen to as they were enlightening.

On September 11, JoAnn will formally begin a new and equally challenging career as Director of Customer and Community Programs at the Office of the Comptroller of the Currency. In that capacity, she will oversee the Office of the Comptroller's programs implementing its civil rights, consumer affairs, and urban lending initiatives. It is a responsibility which I know JoAnn will handle with ease and assurance.

Mr. President, on behalf of my colleagues and staff of the Banking Committee, I wish JoAnn the greatest success and happiness in her future career.

THE GREAT TRADITION OF NATURAL LAW DEMANDS RATIFICATION OF THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, despite the often dismal record of man's treatment of his fellow man down through the ages, there has survived a belief in certain natural rights. From the Stoics and Roman jurists to the Atlantic Charter and Roosevelt's Four Freedoms, many have passionately defended the idea that men are entitled to make certain claims by virtue simply of their common humanity.

Can we deny the majesty of this belief?

Can we deny the powerful impact it has had over the centuries?

There seems no doubt that the assertions of certain Greek philosophers about the "natural" equality of men and their consequent right to freedom caused the contemporaries of those thinkers to become uneasy about the institution of slavery.

Similarly, the doctrines of the rights of man, including life, liberty, and the pursuit of happiness, were significantly connected to the American and French Revolutions.

Even the Communist Manifesto owed much of its success not to its "scientific" analysis of capitalist society, but to its denunciation of a kind of wage slavery and its appeal to all workers to assert their equal brotherhood.

But today, how do we treat fundamental human rights?

How should we treat fundamental human rights?

The Romans had an answer. In terms as applicable today as when they were first pronounced, Roman lawyers conceived of natural law as an ideal or standard, a standard fixed by nature, to be discovered and gradually applied by men.

For the lawyer, said the distinguished Roman jurist Ulpian, is not merely the interpreter of existing laws, but also the priest or guardian of justice, which is the "fixed and abiding disposition to give every man his right."

Today, centuries later, how energetically have we applied human rights?

How conscientiously have we tried to safeguard human rights?

Mr. President, whatever progress we have made in some areas of the world, we have not succeeded in stopping human rights violations from being a commonplace in the modern world. And it is shocking that the most fundamental of those human rights—the right to live—is still gravely threatened in many countries.

What is even more distressing is that the United States, with the right to live prominently contained in its Declaration of Independence, still has not ratified the United Nations Convention on Genocide that defines and punishes mass murder as a crime under international law.

In fact, 83 nations, many of which have nothing even resembling a written constitution or other written instrument of human rights, have seen fit to ratify this important treaty.

Who is responsible for this gross inconsistency in our policies?

Mr. President, it is none other than the U.S. Senate, which has had this document before it for nearly three decades.

Can we accept this delay?

Can we afford the diplomatic embarrassment that inevitably attends our failure to ratify the convention?

Can we condone any more needless deaths?

The answer to all these questions is no. It is time to stand behind the standard of natural law alluded to by the Roman jurists. It is time to place ourselves squarely in the middle of the great tradition of defending human rights. And the time to act is now.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. Does the Senator from Indiana care to be recognized?

Mr. LUGAR. No, Mr. President, I yield back my time.

AGRICULTURAL EXPORT TRADE EXPANSION ACT OF 1978

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 3447, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 3447) to strengthen the economy of the United States through increased sales abroad of American agricultural products.

The Senate proceeded to consider the bill.

The ACTING PRESIDENT pro tempore. The time for debate on this bill is limited to 1 hour, to be equally divided and controlled by the Senator from Florida (Mr. STONE) and the Senator from Kansas (Mr. DOLE), 30 minutes on any amendment, with 15 minutes on any debatable motion, appeal, or point of order.

Mr. STONE. Mr. President, I yield briefly to the Senator from Arkansas for a unanimous consent request.

Mr. HODGES. Mr. President, during consideration of this bill and any votes thereon, I ask unanimous consent that Randy Marble, Steve Moore, and Bill

Kennedy of my staff be granted privilege of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STONE. Mr. President, I ask unanimous consent that Nancy Foster of my staff, Bill Motes of Senator CLARK's staff, Dave Lyons of Senator LUGAR's staff, and the following staff members of the Committee on Agriculture, Nutrition, and Forestry be granted the privilege of the floor during consideration of S. 3447, including all rollcall votes thereon: Henry Casso, Carl Rose, Phil Fraas, Nelson Denlinger, Bill Lesher, Bill Taggart, and Stu Hardy.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STONE. Mr. President, I rise today on behalf of the Agricultural Trade Expansion Act of 1978, S. 3447.

This legislation is designed to strengthen the Nation's economy and improve the income of our agricultural producers. It would also serve to benefit the Nation's balance of payments and provide much needed strength for the dollar.

It would do that by selling more of our products abroad, as opposed to our present imbalance of purchasing far more than we sell abroad.

The legislation will provide the means for maintaining, developing, and increasing our agricultural export markets. While we have made significant strides in increasing our agricultural export markets during the past decade, there has been some erosion in our wheat exports, with our share going down from 31.5 million tons in the 1975–76 marketing year to 25.7 million tons in the 1976–77 marketing year, while the volume of wheat exports by Canada, Australia, and Argentina increased at the same time from 23.2 million tons to 27.0 million tons.

Mr. President, the legislation would provide a number of authorities for the Commodity Credit Corporation of the Department of Agriculture to increase the sale of U.S. agricultural products abroad. The CCC would be authorized to provide intermediate credit financing for the commercial sale of agricultural products for not less than 3 years nor more than 10 years to, first, develop, expand, or maintain the importing nation as a foreign market, on a long-term basis, for the commercial sale and export of U.S. agricultural commodities without displacing normal commercial sales; or, second, otherwise improve the capability of the importing nation to purchase and use, on a long-term basis, U.S. agricultural commodities.

Intermediate export credit could be used among other purposes, first, for the establishment of reserve stocks; second, for breeding livestock and poultry (including freight costs); third, to establish handling and related facilities; and fourth, to meet credit competition for agricultural export sales.

Intermediate export credit could not be used to encourage credit competition, or for the purpose of foreign aid or debt rescheduling. Intermediate export credit would carry the same interest rate, as nearly as practicable, as that charged by the CCC for short-term export credit.

The legislation would also establish short-term credits, not to exceed 3 years, to exporters who offer deferred payment terms. Some countries prefer to deal directly with an exporter rather than a Government agency such as the Commodity Credit Corporation. This program would provide another option to enable the United States to be competitive with other exporting nations.

The People's Republic of China would be eligible for credits under the deferred payment program as well as the existing 3-year CCC credit program.

S. 3447 also provides for the establishment of from 6 to 25 agricultural trade offices in countries or regions where there are major U.S. trade interests. The establishment of U.S. agricultural trade offices would serve as a catalyst for aggressive export trade promotion and the consolidation of Department of Agriculture-financed export promotion activities.

The legislation would also raise the level of our agricultural representation abroad from "agricultural attaché" to "agricultural counselor" in at least 16 countries. In most foreign nations, great significance is attached to titles, and having our agricultural representatives no higher than the level of "attaché" has caused problems in gaining access to key foreign government officials. Another nation competing with the United States for agricultural export markets will more than likely be represented by a counselor, and may, therefore, have an advantage in reaching key purchasing officials.

Mr. President, this Nation has reason to be proud of its record in agricultural exports with their value increasing from $6.3 billion in 1968 to $24 billion in 1977. In recent years the annual net favorable agricultural export balance has been in the $10.2 to $12.6 billion range.

Compare that with so many other of our American products and we can see how important it is for us to expand further on our strong point, which is agricultural export sales.

As a result of this trend, agricultural exports have become extremely important to the U.S. balance of payments. An unfavorable nonagricultural trade balance of $40.1 billion in 1977 was reduced to a deficit of $29.9 billion through agricultural export sales. In 1976, a $20.7 billion imbalance in nonagricultural trade was reduced to an $8.7 billion deficit, because of a favorable agricultural exports may reach $26 billion in 1975, the United States had a favorable balance of trade of $9.7 billion, and this was the result of a $12.6 billion favorable balance in agricultural trade. Agricultural exports may reach $26 billion in 1978 with a net agricultural balance of around $12 billion.

Our agricultural producers have become heavily dependent on a strong agricultural export market. Our farmers devote around 100 million acres each year to production for export—almost 1 acre in 3 that are harvested. Almost 20 percent of U.S. farm income is provided by export sales. We presently export over half of our wheat, soybeans, and hides each year, roughly 40 percent of our cotton, nearly a third of our tobacco and over a fourth of our rice and corn.

It is anticipated that the legislation could result in outlays by the Commodity Credit Corporation approximating $100 million in loans per year. However, the repayment record for CCC loan has been very good. In addition, the loans will bear interest at rates above the cost of money to the Government. Thus, after a few years, we would expect to have a net inflow of funds to the Government. At the same time we would expect the program to be helpful in opening new markets for U.S. agricultural commodities.

In addition, increased exports will undoubtedly mean improved farm prices, thereby saving the Treasury in terms of deficiency payments. In the case of corn, each cent per bushel increase in market price would reduce deficiency payments to producers by about $54 million; in the case of cotton each cent per pound increase would mean a $60 million reduction in payments; and in the case of wheat each cent per bushel increase would mean a reduction of about $20 million in payments.

Thus an increase in the average market prices of 10 cents a bushel for wheat and corn and 10 cents a pound for cotton, as a result of increased export sales, could result in annual savings to the Treasury of about $1.3 billion

We also should note that other segments of the economy benefit from increased agricultural export sales. A Department of Agriculture study shows that the $22 billion of agricultural exports in 1974 generated about $43 billion of total business activity.

With regard to employment, an estimated 1.2 million full-time civilian jobs were related to our agricultural exports in 1974. Of this, around 500,000 U.S. farmworkers—14 percent of the U.S. farm labor force—were required to produce the agricultural commodities exported in 1974.

In addition, more than 650,000 nonfarm jobs were directly or indirectly related to the assembling, processing, and distribution of agricultural commodities for export. Around 50,000 of these jobs were in food processing; 300,000 in trade and transportation; 100,000 in other manufacturing; and 200,000 in other services.

Of the total U.S. work force in 1974, about 4 percent were involved in producing food and related products, and just under 1 percent of the total U.S. nonagricultural civilian labor force were engaged in providing goods and services for agricultural exports.

In developing S. 3447, the Subcommittee on Foreign Agricultural Policy, which

I chair, drew upon bills introduced by Senators HUMPHREY, LUGAR, DOLE, CLARK, and STEVENSON.

Our April hearings were well received by the witnesses. The thrust of much of the testimony was to the effect that, although U.S. agricultural exports have increased in recent years, much of the increase has happened by chance and without attention or support. The United States, the witnesses indicated, is now facing growing competition from other agricultural exporting nations, and a more sustained effort is required in order to maintain and hopefully expand our export markets.

The size and significance of our agricultural export markets are finally beginning to be recognized by policymakers in both the legislative and executive branches. S. 3447 will further this recognition and provide a commitment toward further growth and development.

In conclusion I wish to thank our distinguished chairman, Senator TALMADGE, for his strong support, and also the dedicated efforts of my committee colleagues, especially Senators CLARK, DOLE, BELLMON, and LUGAR.

Mr. President, I urge that this legislation be adopted.

Mr. President, I ask unanimous consent that a summary of S. 3447 prepared by the staff of the Committee on Agriculture, Nutrition, and Forestry be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF S. 3447

The bill authorizes several new Commodity Credit Corporation credit programs to expand export sales of U.S. agricultural commodities, authorizes the appointment of agricultural counselors to serve as representatives of the Department of Agriculture in diplomatic missions abroad, and authorizes the establishment of U.S. agricultural trade offices in foreign nations.

The bill would—

(1) Authorize the Commodity Credit Corporation (the "CCC") to finance export sales of U.S. agricultural commodities out of CCC and private stocks on "intermediate" credit terms (in excess of 3 years, but not more than 10 years) to—

(a) develop, expand, or maintain the importing nation as a foreign market, on a long-term basis, for the commercial sale and export of U.S. agricultural commodities without displacing normal commercial sales; or

(b) otherwise improve the capability of the importing nation to purchase and use, on a long-term basis, U.S. agricultural commodities.

Intermediate export credit could be used, among other purposes—

(a) For the establishment of reserve stocks,

(b) For breeding livestock and poultry (including freight costs),

(c) To establish handling and related facilities, and

(d) To meet credit competition for agricultural export sales.

Intermediate export credit could not be used to encourage credit competition, or for the purpose of foreign aid or debt rescheduling. Intermediate export credit would carry the same interest rate, as nearly as practicable, as that charged by the CCC for short-term export credit (sec. 101);

(2) Require the Secretary of Agriculture, with respect to CCC "intermediate" export credit sales, to obtain commitments from purchasers to prevent resale or transshipment of the purchased goods to other nations and to prevent (with respect to sales to establish reserve stocks) domestic use of the reserve stocks in a manner inconsistent with an international commodity agreement or, if there is no applicable commodity agreement, domestic use except as needed for emergency relief required by a crop shortfall or other natural disaster (sec. 101);

(3) Provide that the cargo preference laws are not to apply to CCC "intermediate" export credit sales (sec. 101);

(4) Require the Secretary to provide "short-term" CCC financing (not to exceed 3 years) to exporters of United States agricultural commodities who need to provide their customers such short-term deferred payment terms to meet sales competition from other nations or to make additional export sales. This financing would be available only for export sales to nations that are eligible for direct CCC short-term financing and the People's Republic of China (sec. 201);

(5) Notwithstanding any other provision of law, authorize the CCC to provide direct short-term credit and deferred payment short-term credit for commercial sales of United States agricultural commodities out of private stocks to the People's Republic of China (sec. 202);

(6) Provide that the senior Department of Agriculture representative in the United States diplomatic mission at each of the major foreign agricultural posts (in no event less than 16 such representatives) will be given the title of "Agricultural Counselor" (sec. 302);

(7) Require agricultural counselors and agricultural attachés to submit annual reports to the Secretary (and the Secretary of State) (who shall transmit the reports to the agriculture committees of Congress) detailing the agricultural situation in the nations or areas to which the counselors and attachés are assigned (sec. 302);

(8) Require the Secretary to establish not fewer than 6 nor more than 25 United States agricultural trade offices in foreign nations to conduct foreign market development programs (sec. 402);

(9) Authorize the Secretary to establish one agricultural trade office in the United States (sec. 402);

(10) Authorize agricultural counselors, agricultural attachés, and agricultural trade officers to receive representation allowances (sec. 402); and

(11) Require the Secretary to report to Congress annually on the Department of Agriculture foreign market development activities (sec. 504).

Mr. STONE. Mr. President, I yield 5 minutes to the chairman of the Agriculture Committee, the distinguished Senator from Georgia (Mr. TALMADGE).

Mr. TALMADGE. I thank the floor manager of the bill and the ranking minority member. I congratulate the Senators and all other members of the subcommittee on doing an outstanding job.

Mr. President, as chairman of the Committee on Agriculture, Nutrition, and Forestry, I strongly support S. 3447—the Agriculture Export Trade Expansion Act of 1978. This bill would stimulate the growth of export markets for our agricultural commodities, and therefore merits the support of all Senators.

Five major provisions to maintain and expand our agricultural export markets are included in the bill. They are: First, the establishment of an intermediate export credit program; second, the extension of credit to exporters that offer deferred payment terms; third, the extension of Commodity Credit Corporation credits to the People's Republic of China; fourth, upgrading the title of our major foreign agricultural representatives from "agricultural attache" to "agricultural counselor"; and fifth, the establishment of agricultural trade offices in nations where significant market opportunities exist.

It is essential that S. 3447 be enacted. The value of U.S. agricultural exports has risen sharply in the past decade—from $6.3 billion in 1968 to $24 billion in 1977—and we have become dependent on a high level of agricultural exports for this Nation's economic well-being.

Agricultural exports are an important part of U.S. farm income. In recent years almost 20 percent of our farm income has been provided by export sales. We presently export over half of our wheat, soybeans, and hides each year, roughly 40 percent of our cotton, nearly a third of our tobacco, and over a fourth of our rice and corn. Consequently, our farmers devote over 100 million acres each year to production for export—almost one acre in three that are harvested.

In my home State of Georgia, exports are extremely important to farmers. Approximately $475 million worth of agricultural commodities produced in Georgia in 1977 were exported. These exports included such commodities as peanuts, soybeans, tobacco, cotton, broilers, and eggs.

Georgia exports have grown significantly in recent years, and could continue to increase since Georgia farmers, food processors, and manufacturers are just beginning to get a foothold in several overseas markets. This bill could help Georgia capture a larger share of these markets.

Mr. President, I ask unanimous consent that a letter to me from the Commissioner of Agriculture for the State of Georgia, Mr. Thomas Irvin, describing the importance of exports to Georgia agriculture and supporting export promotion legislation be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AUGUST 9, 1978.

Hon. HERMAN E. TALMADGE,
Senator, Subcommittee of Foreign Agricultural Policy, Russell Senate Office Building, Washington, D.C.

DEAR HERMAN: This concerns S. 2384—Agricultural Trade Act of 1978 which, in my opinion, is one of the most important pieces of legislation to come before Congress this year.

The plight of our farmers calls for new outlets for the sale of agricultural products. Georgia farmers, food processors and manufacturers are just beginning to get a foothold in the overseas markets. The value of 1977 agricultural exports in Georgia alone increased $20 million over FY 1975 to reach a total of $475.7 million. The 1978 total could well be much higher as more companies are finding it profitable to enter the export market.

Nations, who in the past have been unable to import quality food products, are now reaching the point where they can participate in the international market, thus opening new markets for U.S. agricultural products. If USDA is afforded the opportunity to expand its credit term program under the CCC sales export program, open trade offices in new areas and upgrade personnel in trade offices, then U.S. opportunities to export more agricultural products will be greatly increased.

I strongly urge you to give serious consideration to favorable movement of this legislation.

With warmest personal regards, I am,
Sincerely,

THOMAS T. IRVIN.

Mr. TALMADGE. Mr. President, as the demand for our agricultural commodities is strengthened through export sales, commodity prices are maintained. With higher commodity prices, lower Federal outlays for agricultural support programs are made, and reduced deficit spending and lower taxes are the results.

The benefits of agricultural exports are not limited to agriculture. Our balance-of-trade deficit is reduced by agricultural exports. In 1977 our balance-of-trade deficit was reduced by over $10 billion because of a favorable agricultural trade balance.

In addition, a Department of Agriculture study shows that for the $22 billion of agricultural exports in 1974 there was about $43 billion of total business activity. Thus, each dollar of agricultural exports stimulated an additional 96 cents of output—a multiplier effect of almost two. Of the additional $21 billion of activity, $6 billion occurred in agriculture and $15 billion in the nonfarm economy. Thus, about 70 percent of the additional economic activity occurred in the nonfarm part of the economy. This means an estimated 1.2 million full time civilian jobs were related to our agricultural exports in 1974.

There is no doubt that agricultural exports are essential to our farmers and the Nation's prosperity. Measures must be taken to at least maintain and, hopefully, expand these markets—especially in light of the bumper crops predicted for this year.

However, there are indications that, instead, we are losing ground in the worldwide agricultural export market. For example, our share of the world wheat export trade has been reduced in recent years.

It is feared that we will always remain the world's residual supplier of agricultural commodities because we do not have the means to compete effectively with other nations.

There is evidence that we do not offer credit terms as flexible as those offered by other nations. More flexible credit terms are extremely important to increased agricultural trade—especially in the long run.

Extended credit for breeding livestock, for example, will encourage nations to shift from a primarily grain diet to one that includes more meat. As personal tastes and preferences change and the demand for meat increases, this will generate an even greater demand for our corn and other grains to feed the livestock.

Furthermore, credit given to construct facilities to help importing nations handle, process, store, and distribute agricultural imports will increase their capacity to buy more from us many years to come since these facilities would be in operation for several decades.

It appears that other exporting nations are much more aggressive than the United States in competing for agricultural export markets. For example, other nations spend relatively larger amounts of money to promote export sales in terms of trade offices and other sales efforts.

Furthermore, it seems that other nations regard agricultural trade as more important to their economy since their foreign agricultural representatives are given higher rank than our representatives.

Mr. President, the five major program initiatives undertaken by S. 3447 will enable this Nation to begin to compete effectively with others for agricultural export markets.

The cost of the bill in the years ahead will be minimal and far less than its benefits. Increased agricultural exports will increase domestic agricultural commodity prices, raise farm incomes, reduce our balance-of-trade deficit, create jobs, strengthen the dollar abroad, and reduce Government support payments to farmers. In the long term, the bill could save the American taxpayers millions of dollars.

I commend my distinguished colleague from Florida, Senator STONE, for his efforts to bring this important bill to the floor of the Senate. As chairman of the subcommittee on foreign agricultural policy, Senator STONE has worked long and hard, through several hearings and markups, to develop this piece of legislation. Also, I commend the other Senators from the Committee on Agriculture, Nutrition, and Forestry, especially Senators CLARK, BELLMON, DOLE, and LUGAR, who also have spent many hours helping make this one of the most important agricultural bills that the committee has considered this year.

I urge the speedy approval of this bill by the Senate.

Mr. STONE. Mr. President, I thank the distinguished chairman of the full committee for all the assistance he has given this bill.

I yield to the Senator from Indiana (Mr. LUGAR), a member of our subcommittee.

Mr. LUGAR. Mr. President, I appreciate the distinguished chairman of our subcommittee yielding to me in order that I might make this statement.

U.S. exports of agricultural products have increased greatly since 1972. As Senator STONE pointed out earlier, the value of our exports rose from $9.4 billion in 1972 to $24 billion in 1977, and it has been estimated that the value of 1978 U.S. agricultural exports will exceed $26 billion.

As a result of this trend, agricultural exports have become extremely important to the U.S. balance of trade. For example, in 1973 a trade deficit of $8 billion in nonagricultural trade was offset by a $9.2 billion surplus in agricultural trade which resulted in an overall trade surplus of $1.2 billion. In 1976, a $20.7 billion deficit in nonagricultural trade was offset by a $12 billion surplus in agricultural trade resulting in an overall trade deficit of $8.7 billion. Similarly, in 1977 the overall trade imbalance was $29.9 billion. Without agricultural trade the deficit would have been over $40 billion.

Agricultural exports are an important factor in the market for farm products. Nearly 1 acre in every 3 that is harvested goes into the export market. Presently about 60 percent of U.S. wheat production, about 40 percent of U.S. cotton production, about one-third of U.S. soybean production, and about one-fourth of U.S. corn and rice production, are exported. About 20 percent of U.S. farm income is provided by export sales.

The benefits of agricultural export sales are not limited to the farm sector of the economy. A great many nonfarm jobs are dependent on the income accruing from export sales. Thousands of jobs in industries supplying agricultural inputs and marketing agricultural products would be nonexistent in the absence of export sales.

While the growth in U.S. agricultural exports has been impressive and is the only bright spot in a very dark U.S. export situation, the need for increasing U.S. agricultural exports has never been greater.

Farm income declined in 1977 to $19.3 billion, the lowest level since 1964 when adjusted for inflation. Farm income will probably rise in 1978, but once again due to inflation—rising prices of practically all farm inputs, real income will increase very little.

The United States is faced with its second consecutive bumper crop. It is estimated by USDA that corn production in the United States this year will be 6.5 billion bushels, up from last years record 6.4 billion bushels. Soybean production is estimated to be a record 1.8 billion bushels, up from 1.7 billion bushels last year. USDA has estimated ending stocks of corn this year to be 1.3 billion bushels, the highest level in years. Add this 1.3 billion bushels of corn left over to the 6.5 billion bushels of corn produced and the United States has a tremendous 7.8-billion-bushel supply of corn. Add this

corn to the record soybean crop, plus a wheat crop estimated to be 1.8 billion bushels, plus over 1 billion bushels of wheat carried over from the previous year, and we know that the United States has a tremendous amount of agricultural products to consume domestically or to export. I have not even mentioned the huge supplies of many other agricultural products such as cotton and rice.

Any increase in agricultural exports will strengthen farm prices. Farmers will then be able to receive more of their income from the marketplace instead of the Federal Treasury. An increase in exports that would keep market prices above target prices would save the many millions of dollars otherwise expended for deficiency payments promised to farmers.

The United States is currently faced with the biggest balance-of-trade deficit in its history. This trade imbalance is responsible for the continuing decline of the U.S. dollar. This situation of a trade deficit and declining dollar have exacerbated the inflation problem here in the United States. It is really very simple. If the United States is going to import huge quantities of petroleum, automobilies, and other manufactured goods, then the United States must export something to pay for these imports. An increase in agricultural exports would be most beneficial in correcting this unfortunate trade situation.

In January, I introduced a bill that would provide intermediate term credit for the purposes of financing the sale of agricultural commodities produced in the United States. The ideas expressed in my original bill are a substantial part of this legislation—the Agricultural Export Trade Expansion Act of 1978.

Mr. President, I recognize that a leader in this area for a long time was our late colleague, Senator Hubert Humphrey, whose bill, S. 2385, was a part of our consideration. Also, under the distinguished leadership of Senator STONE, the bill introduced by Senator CLARK, S. 2968, and the bill introduced by Senator DOLE, S. 2504, encompassed the areas that I think bear heavily upon any consideration of success in this area—namely, the work of our diplomatic agricultural counselors abroad and the ways and means of expanding exports in the countries that more or less have been friendly or might be sought to be friendly, without leading to great diplomatic imbroglios that might have interfered with this legislation.

An extraordinary job was done by our subcommittee chairman, Senator STONE, in weaving through both the agricultural and the diplomatic aspects of this legislation. We all are indebted to him and to the chairman of our committee, Senator TALMADGE, for their diplomacy and their leadership in making certain that this measure came to the fore.

This legislation would allow for the extension of CCC credit to foreign purchasers of U.S. agricultural products for a period of time greater than 3 years, but not more than 10 years at an interest rate equal to the cost of CCC funds. Three years financing of exports is currently available under conventional short term CCC credit.

This 3- to 10-year intermediate term credit would be available only for uses consistent with developing, expanding, or otherwise improving the capability of the importing nation to purchase and use, on a long-term basis, U.S. agricultural products. More specifically, this intermediate term financing could be used for the export of breeding livestock, the establishment of facilities in the importing nation to improve the handling, marketing, processing, storage, or distribution of imported agricultural commodities. For example, the money could be used for the construction of port facilities, grain elevators, processing plants, and so forth.

I mention this simply to indicate that we are not borrowing from current sales. We are looking toward legitimate purposes of establishing an intermediate term credit situation. The important point is that funds used for these purposes will serve to increase the long-term demand for U.S. agricultural products in foreign countries.

I strongly urge passage of this measure to promote export sales of U.S. agricultural products. This legislation would provide a step toward increasing farm income, reducing the need for Government deficiency payments to farmers, reducing the trade deficit, and strengthening the economy of this country.

Mr. STONE. Mr. President, I thank the distinguished Senator from Indiana for his kind words, but even more for the excellence of his work on the subcommittee and for the input which his own proposed legislation contributed in connection with this bill.

I yield to the ranking Republican member of the full Senate Agriculture Committee, whose bill was a valuable part and whose efforts are a valuable part of this bill.

Mr. DOLE. Mr. President, I thank the Senator from Florida. I commend him and the Senator from Indiana and others who really are responsible for this legislation. The need for it has been outlined rather clearly by the Senators who have spoken.

I share the view of the Senator from Florida, the Senator from Indiana, and the Senator from Georgia, as well as those of the Senator from South Carolina (Mr. MORGAN), who has been interested in this legislation and our efforts and his efforts for some time.

I know that the distinguished Senator from Arkansas will be offering an amendment which we all support and the Senator from Kansas will offer an amendment in a few minutes that would simply require that a minimum aggregate quantity of 7 million metric tons of U.S. farm commodities shall be exported under titles I, II, and III of this act during each of the next 4 years.

It seems to me that this would be of some assistance to what I consider to be a rather depressed farm economy, and I do not see any immediate hope for the American farmer. So this bill certainly will offer some assistance in the right direction as has been indicated before in the realm of exports.

As Senator TALMADGE indicated earlier, there are really five major provisions in this bill.

FIVE MAJOR PROVISIONS

This legislation contains five major provisions to maintain and expand our agricultural export markets. They are:

First: The establishment of an intermediate export credit program.

Second: The extension of credit to exporters that offer deferred payment terms.

And that might open up some markets in the People's Republic of China, for example. It would also, I think, provide a certain amount of flexibility. It is a new approach and one that I think could be helpful to our economy and to our farmers and to those who seek our commodities.

Third: The extension of Commodity Credit Corporation (CCC) credits to nations that promise to become significant new commercial markets;

A fourth important area is the upgrading of the title of our major foreign agricultural representatives from "agricultural attaché" to agricultural counselor." This may appear to be a cosmetic change but in the view of this Senator and others on the committee it will be helpful as they address some of the serious problems in each of their countries.

Fifth: The establishment of agricultural trade offices in nations where significant market opportunities exist.

The bill directly addresses areas that will increase the export of U.S. agricultural commodities. The cost of the bill in the years ahead will be minimal and far less than the benefits.

Increased agricultural exports will increase domestic agricultural commodity prices, raise farm incomes, reduce our balance of trade deficit, create jobs, strengthen the dollar abroad, and reduce Government support payments to farmers. In the long term, the bill could reduce budgetary outlays.

IMPORTANCE OF FARM EXPORTS TO U.S. ECONOMY

A large volume of farm exports is essential to U.S. agriculture. Our farmers devote around 100 million acres each year to production for export—almost 1 acre in 3 that are harvested. Almost 20 percent of U.S. farm income is provided by export sales.

I only suggest as the Senator from Indiana has pointed out we export a lot of our commodities. We presently export over half of our wheat, soybeans, and hides each year, roughly 40 percent of our cotton, nearly a third of our tobacco and soybeans, and over a fourth of our rice and corn. So exports, of course, are critical to our farm economy.

Besides providing an outlet for our abundant agricultural production, the export market serves to strengthen the demand side of the market price equation, and, thus, keep prices up. This is important not only to farmers, but to the Federal budget. Keeping farm prices above the target prices through increased exports saves Federal funds otherwise expended for deficiency payments paid to farmers under agricultural commodity legislation.

The benefits of agricultural exports are, however, not limited to agriculture.

A Department of Agriculture study shows that—for the $22 billion of agricultural exports in 1974—there was about $43 billion of total business activity.

Thus, each dollar of agricultural exports stimulated an additional 96 cents of output—a multiplier effect of almost two. Of the additional $21 billion of activity, $6 billion occurred in agriculture and $15 billion in the nonfarm economy. Thus, about 70 percent of the additional economic activity occurred in the nonfarm part of the economy.

U.S. BALANCE OF TRADE

It is also important to note that the value of U.S. agricultural exports has risen sharply in the past decade—from $6.3 billion in 1968 to $24 billion in 1977; and these exports have been a major positive factor in the U.S. balance of trade.

As a result of this trend, agricultural exports have become extremely important to the U.S. balance of payments. An unfavorable nonagricultural trade balance of $40.1 billion in 1977 was reduced to a deficit of $29.9 billion through agricultural export sales.

Agricultural exports may reach $26 billion in 1978, with a net agricultural balance of around $12 billion.

In a trade report for the marketing year 1976–77 published by the Department of State, corn, wheat, and soybeans ranked first, third, and fifth on the list of principal commodities exported by the United States.

Mr. President, agricultural, industrial, and political leaders increasingly have become convinced that a legislative initiative is necessary to strengthen efforts to increase agricultural exports.

The growing deficit in our balance of trade makes this legislation even more urgent. Agriculture has been one of the few bright spots in our balance-of-payments situation in recent years.

The decline in net farm income to just under $20 billion in 1977 provides a further incentive to increase our export sales and reduce stocks to more manageable levels.

This is why the Agricultural Export Trade Expansion Act ranks high on our list of legislative priorities for the 95th Congress.

Mr. President, I commend my colleagues for their efforts and also the staff in developing this legislation.

Mr. STONE. I thank the distinguished Senator from Kansas.

Mr. President, I ask unanimous consent that a statement by the Senator from Illinois (Mr. STEVENSON) on this bill be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STATEMENT BY SENATOR STEVENSON

I strongly support passage of S. 3447, The Agricultural Export Trade Expansion Act of 1978, and commend the distinguished Senator from Florida (Mr. STONE) for his outstanding leadership and hard work on this legislation.

In July, the U.S. ran a trade deficit of $3 billion, the fourth largest monthly deficit in U.S. history. The dollar plummeted.

The key to a stronger dollar is better U.S. trade performance which in turn depends upon improved export competitiveness. The July deficit was not caused by oil imports—they were down over the previous month. There were seasonal factors and special circumstnaces as there always are. But the key factor in the trade deficit is the declining competitiveness of the U.S. in the world—the decline in U.S. exports in July came in six of ten major caterogies, including agricultural products.

The Subcommittee on International Finance, which I chair, has conducted comprehensive hearings this year on ways to improve the competitiveness of U.S. exports. At a March 30 hearing in Chicago on Agricultural Export Policies, the Subcommittee heard extensive testimony on the need to improve our agricultural export programs in order to maintain and expand our agricultural export markets and meet increasingly stiff foreign competition. Three consistent suggestions were made by all the witnesses at that hearing—authorize the Commodity Credit Corporation to extend intermediate term credits in support of agricultural exports, enlarge the number of countries eligible for CCC programs, and improve our marketing and promotional activities abroad.

S. 3447 accomplishes each of these purposes. It provides for an intermediate export credit program to be conducted by the Commodity Credit Corporation which should increase the total world market for grains and other commodities. I appreciate the consideration given by the Subcommittee on Foreign Agricultural Policy and by the Committee on Agriculture, Nutrition and Forestry to my own bill in this regard—S. 3011. The availability of three to ten year credit terms, the exemption of the new intermediate credit program from the cargo preference laws, and a specific provision indicating that the intermediate credit program may be used to meet foreign competition are all necessary. In particular, I would like to stress that many of our best agricultural customers, such as Poland, need longer credit terms from the CCC because of bunchings of international debt that will be occurring over the next several years. Simply put, some countries will not be able to acquire substantial amounts of U.S. agricultural products without longer term credits.

S. 3447 will enhance our competitiveness in one of the most promising new export markets for our agricultural products—the People's Republic of China—by making it eligible for CCC financing out of private stocks and a new deferred payment program. S. 3447 will also improve our marketing efforts by providing for the establishment of Agricultural Trade Offices abroad and by upgrading the title of our major foreign agricultural representatives from "Agricultural Attaché" to "Agricultural Counselor."

These changes will benefit not only our trade balance but also our productive farmers and a hungry world. Almost one third of harvested cropland is devoted to agricultural products which are exported. My State of Illinois is the leading farm exporter, exporting farm products totalling $2.5 billion in 1977. It contributed an estimated 19 per cent of the feed grain, soybeans, protein meal, and soybean oil exported in 1977, and was our second largest exporter of meat products.

S. 3447 strikes the proper direction in our farm policy. We should be rewarding the American farmer for his productivity. We should be penetrating foreign markets with his crops, not pricing ourselves out of them. Instead of paying farmers to decrease food production, we should buy it and sell it to the earth's poor. We should use our productivity to assure a fair price for the farmer and food for a hungry, turbulent world.

I commend all the members of the Committee on Agriculture, Nutrition and Forestry for their throughful consideration of this bill, and the distinguished Chairman of the full Committee (Mr. TALMADGE) and the distinguished Chairman of the Foreign Agricultural Policy Subcommittee (Mr. STONE) for their prompt consideration of this most important legislation.

Mr. STONE. I yield to the Senator from Arkansas who I believe has an amendment.

Mr. HODGES. Mr. President, I thank the distinguished Senator from Florida.

He is to be commended, as are those who had so much input into this bill, for what I think is a significant step forward.

I personally know some of the difficulties he has had trying to hold together the State Department and our Agriculture Department and the committee. He has done a splendid job in bringing those various elements together.

I will offer in a moment an amendment to this bill, but I wish first to speak briefly on behalf of the bill, the need for and timeliness of such legislation. Farmers are always being told that the answer to their problems is a greatly expanded level of agricultural exports. This bill would enhance just such a development. Equally significant in my mind is the upgrading of some of our agricultural attachés to the rank of counselors and it should increase the authority with which they can deal with matters of agricultural trade. Establishing agricultural trade offices will increase both the visibility and access of our overseas agricultural representatives and the commodities available for export.

The provisions of the bill allowing for financing of intermediate credit sales, deferred payment sales and sales to the People's Republic of China, finally take account of the great complexity and variety of international agricultural trade today. The changes called for by this bill will greatly extend the flexibility and strength with which the United States can seek to expand agricultural exports and thus improve farm income.

However, I have one misgiving, and my amendment speaks to that point. In addition to providing for the financing of the sale of agricultural commodities to meet credit competition, for the construction of marketing and storage facilities, and for the export of breeding animals, S. 3447 would permit intermediate term financing of the sale of U.S. grain to be used in establishing a foreign country's reserve stock. My amendment would require simply that the Secretary of Agriculture notify the Senate Committee on Agriculture, Nutrition, and Forestry and the House Agriculture Committee of any such agreement and delay implementation of that agreement for 30 days after notification if Congress is in session, 60 days if Congress is not in session. This delay is necessary if Congress is to be able to fully evaluate the impact of a U.S. Government-financed sale to establish a foreign grain reserve and to allow some remedial action if the agreement is found to work against the interests of U.S. farmers.

I want to make it clear that no automatic veto power is intended and that this is not another effort to extend congressional control over program operations. The language in this amendment

is meant merely as a safeguard against a sale in violation of the spirit of this bill—a method of alerting us that an agreement has been made and of giving us time to assure that the agreement contains no long-run impacts that may be disadvantageous.

The Department of Agriculture has yet to win the complete confidence of American farmers. Time after time, the interests of farmers have lost out to the "war on inflation" or to the requirements of an "effective foreign policy." I need only go back as far as this last June for a demonstration. Only months after cattlemen had begun to see the first profitable prices in over 3 years, the import quota on foreign beef was raised, forcing live cattle prices down by almost $15 per hundredweight in a very short time.

The bill before us is meant to improve farm income by expanding agricultural exports. We should not, however, try to increase current export movement if it risks future damage to farm income. A grain reserve of unwarranted size made possible by provisions of this bill could be used to dampen or even control commodity prices at some time in the future.

This same fear generated several amendments which I offered in committee and which were adopted and stand in the current bill. Sections 6(B) and 6(C) of title I of the bill require that in any sales financed under this legislation for establishment of reserve stocks, the Secretary must obtain commitments from purchasers that will insure against any domestic sale or distribution of the reserve stocks except as dictated by an international reserve agreement governing the subject commodity, whether or not the purchasing country has signed the agreement. If there is no governing international agreement, there can be no domestic distribution except for emergency relief that would be required by a crop shortfall or some other natural disaster in that country. Any violation of these commitments by the purchasing country would result in the credit falling due immediately and the cessation of further USDA credits until payment had been made in full.

There has been much discussion during the last several years of the wisdom of allowing the U.S. Government to own any substantial quantity of grain. The size of the Commodity Credit Corporation inventory and the fear of its being dumped dominated American agriculture during the 1960's. To avoid a repeat of that experience, the administration has devoted much talk and energy to the concept of a domestic, farmer-held reserve. I agree that our Government should not hold any reserve. The temptation to use it for short-term economic political gains is too great. Similarly, while I sympathize with any nation's desire to guard against crop shortfall, I do not want any other government to have the power to depress commodity prices by dumping its reserve stocks for whatever short-term gains it may perceive. I am sure the spirit of this amendment reflects the concern of the Committee on Agriculture, Nutrition, and Forestry for the immediate and longrun health of the farm economy.

Mr. President, I urge acceptance of this amendment and encourage the passage of S. 3447 with this amendment.

● Mr. HUDDLESTON. Mr. President, the value of U.S. agricultural exports has risen sharply in the past decade to $24 billion in 1977; and these exports have been a major positive factor in the U.S. balance of trade.

Until 1960, agricultural imports often exceeded the value of agricultural exports, but since then agricultural exports have exceeded imports on a continuing basis.

In 1973, there was a dramatic upswing in the net favorable agricultural export-import balance. Since that time, the annual net favorable agricultural export balance has been in the $10.2 to $12.6 billion range.

As a result of this trend, agricultural exports have become extremely important to the U.S. balance of payments. An unfavorable nonagricultural trade balance of $40.1 billion in 1977 was reduced to a deficit of $29.9 billion through agricultural export sales. In 1976, a $20.7 billion imbalance in nonagricultural trade was reduced to an $8.7 billion deficit because of a favorable agricultural trade balance of $12 billion. In 1975, the United States had a favorable balance of trade of $9.7 billion, and this was largely the result of a $12.6 billion favorable balance in agricultural trade. I am told agricultural exports may reach $26 billion in 1978 with a net agricultural balance of around $12 billion.

In my judgment, a large volume of agricultural exports is essential to U.S. agriculture. Our farmers devote around 100 million acres each year to production for export—almost one acre in three that are harvested. Almost 20 percent of U.S. farm income is provided by export sales. We presently export over half of our wheat each year, roughly 40 percent of our cotton, nearly a third of our tobacco and soybeans, and over a fourth of our rice and corn.

Besides providing an outlet for our abundant agricultural production, the export market serves to strengthen the demand side of the market price equation and, thus, keep prices up. This is important not only to farmers, but to the Federal budget. Keeping farm prices above support prices through increased exports saves Federal funds otherwise expended for deficiency payments paid to farmers under agricultural commodity legislation.

But benefits of agricultural exports are not limited to agriculture. A USDA study shows that—for the $22 billion of agricultural exports in 1974—there was about $43 billion of total business activity. Thus, each dollar of agricultural exports stimulated nearly an additional dollar of output. Of the additional $21 billion of activity, $6 billion occurred in agriculture and $15 billion in the nonfarm economy. Thus, about 70 pecent of the additional economic activity occurred in the nonfarm part of the economy.

An estimated 1.2 million full-time civilian jobs were related to our agricultural exports in 1974. Of this, around 500,000 U.S. farmworkers—14 percent of the U.S. farm labor force—were required to produce the agricultural commodities exported in 1974. In addition, more than 650,000 nonfarm jobs were directly or indirectly related to the assembling, processing, and distribution of agricultural commodities for export. Around 50,000 of these jobs were in food processing; 300,000 in trade and transportation; 100,000 in other manufacturing; and 200,000 in other services.

Mr. President, this bill contains five major provisions to maintain and expand our agricultural export markets. They are: First, the establishment of an intermediate export credit program; second, the extension of credit to exporters that offer deferred payment terms; third, the extension of Commodity Credit Corporation ("CCC") credits to nations that promise to become significant new commercial markets; fourth, upgrading the title of our major foreign agricultural representatives from "Agricultural Attaché" to "Agricultural Counselor"; and fifth, the establishment of agricultural trade offices in nations where significant market opportunities exist.

Mr. President, S. 3447 is timely legislation. It is legislation that is highly important to our agricultural sector and our economy as a whole. I urge my colleagues to join me in supporting this measure.●

UP AMENDMENT NO. 1824

(Purpose: The amendment would require a 30-day waiting period (60 days if Congress is not in session) before any Commodity Credit Corporation financed intermediate credit agreement for the establishment of reserve stocks could become effective)

Mr. HODGES. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. HODGES) proposes an unprinted amendment numbered 1824.

Mr. HODGES. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 5, line 19, insert "(A)" after the paragraph designation.

On page 5, line 20, insert a comma after the word "subsection" and between that comma and the word "shall" insert the following: "except agreements to finance export sales for the establishment of reserve stocks,".

On page 5, add a new paragraph (B) after line 24 as follows:

"(B) Agreements to finance export sales of agricultural commodities under this subsection for the establishment of reserve stocks shall be subject to such other terms and conditions as the Secretary may deem necessary and appropriate. No such agreement, however, may become effective or be carried out until the expiration of 30 days following the date on which a detailed summary of such agreement or proposal is transmitted by the Secretary to the Senate Committee on Agriculture, Nutrition, and Forestry and the

House Committee on Agriculture, if transmitted while Congress is in session, or 60 days following the date of transmittal if transmitted while Congress is not in session.".

Mr. HODGES. Mr. President, I have described the amendment. This was discussed in committee. We simply did not have a final answer from the Department of Agriculture. We have been working on this. This is part of a series of controls and restrictions and guarantees the committee wanted and approved.

The Department of Agriculture is willing to go along with this amendment, and has given its consent thereto and, therefore, I ask for its adoption.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. HODGES. I yield.

Mr. CLARK. Mr. President, I ask unanimous consent that two members of my staff, Mr. Bill Motes and Marge Baker, be accorded the privilege of the floor during consideration of this debate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STONE. Mr. President, the majority manager of the bill will accept this amendment. We will do the best we can in conference to persuade our House colleagues to accept this good amendment.

Mr. DOLE. I certainly have no objection. I have checked it with my colleague, Senator LUGAR, and we are very happy to accept the amendment.

Mr. STONE. We yield back our time.

Mr. HODGES. I yield back my time and I ask for the adoption of the amendment.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Arkansas.

The amendment was agreed to.

UP AMENDMENT NO. 1825

(Purpose: Adding a new title VI, relative to "Food for peace")

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 1825.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 22, line 11, insert the following:

TITLE VI

The Agricultural Trade Development and Assistance Act of 1954 is amended by adding at the end thereof a new section 413 as follows:

"SEC. 413. (a) In order more adequately to meet the food requirements of hungry and malnourished people in the developing countries while at the same time providing additional export outlets for American farmers, a minimum aggregate quantity of 7 million metric tons of U.S. farm commodities shall be exported under titles I, II, and III of this Act during each of the following fiscal years: fiscal year 1979, fiscal year 1980, fiscal year 1981 and fiscal year 1982. This aggregate quantity requirement, shall not affect the title II minimum quantities required under Section 201(b) of this Act, since those minimums shall be a part of the total minimum requirement for all titles.

"(a) The export of an aggregate quantity of 7 million metric tons for each such fiscal year under titles I, II and III shall be mandatory unless (1) export supplies are not available as determined under section 401(a) of this Act, or (2) food needs of developing countries do not merit such quantity as gauged by (a) a lack of request for food assistance by the developing countries, or (b) a determination by the Food and Agriculture Organization of the United Nations that unfilled food requirements of the developing nations are less than 7 million metric tons during such fiscal year.

"(c) Should less than the minimum quantities required by this section be exported because of the above criteria, the President shall report to the appropriate committees of Congress the specific reasons for such shortfall.".

Mr. DOLE. Mr. President, I mentioned earlier, at least cited briefly, what the amendment does. It is not a difficult amendment to understand. I might suggest that there is some opposition to the amendment from the administration. Perhaps we could work it out in conference.

Mr. President, this amendment would simply require that a minimum aggregate quantity of 7 million metric tons of U.S. farm commodities shall be exported under titles I, II, and III of the Agricultural Trade Development and Assistance Act of 1954 (P.L. 480) during each of the next 4 years.

This 7 million ton minimum export level for Public Law 480 (the Food for Peace program) would be mandatory unless the President determined that export supplies are not available, or that the food needs of developing countries do not merit such quantity.

Mr. President, during the past 24 years, the Public Law 480 program (or Food for Peace program) has been responsible for $30 billion worth of farm commodity exports.

The great value of this program, in terms of assisting hungry and malnourished people in developing countries, while helping our own farmers, is impossible to comprehend. It is one of the great practical humanitarian steps of all times.

Unfortunately, our Public Law 480 shipments have been declining in recent years. During the decade from 1960 to 1970, for instance, we exported an average of 13.2 million metric tons annually under title I alone. In fiscal year 1978, however, only about 5 million metric tons will be exported under all titles of Public Law 480, and that figure will decline to only about 4 million metric tons in fiscal year 1979.

This quantity will not adequately meet the food assistance needs of about 30 developing nations that will be requesting far more food than the combined quantities planned for fiscal year 1979.

Mr. President, my amendment mandates an annual export level of only 7 million metric tons. Moreover, the amendment provides for a Presidential waiver of this minimum level in the event of a domestic food shortage or a lack of need among developing nations.

Therefore, I ask the support of my colleagues for this amendment which will not only address the food problems of food-short developing countries, but will also help U.S. farmers improve their incomes at a time when many of them are receiving prices less than the cost of production for the commodities they are asked to raise.

Mr. STONE. Mr. President, the distinguished Senator from Kansas makes a very good and valid point. In my capacity as chairman of the Subcommittee on Near East and South Asian Affairs of the Committee on Foreign Relations, I became aware, for example, of a Public Law 480 case in Tunisia, a good friend and ally of the United States, a moderate, one that is helping us, but one which suffered a drought this year.

Yet when the price varied with respect to some of the grains, the commitment and the request, which looked like it was all set to be delivered, had to be altered, had to be reduced, and then they had a difficult problem.

Many countries in the third and fourth world are affected by budgetary and price fluctuations when we are talking about the poorest of the poor getting enough to eat, and when we are talking about our own farmers and growers knowing how much actual product is going to be delivered under this program as opposed to the variations and fluctuations which create uncertainties caused by world price conditions.

So I would accept this amendment with enthusiasm and take it to conference. We do understand the administration does not want to favor any fixed level but, nevertheless, the point made by the distinguished ranking Republican member of our committee is a good and valid one. So we will do everything we can to persuade our House colleagues that it is the right thing to do.

I yield back my time.

Mr. MORGAN. Mr. President, will the Senator yield for just a moment?

The ACTING PRESIDENT pro tempore. The Senator from North Carolina.

Mr. MORGAN. Mr. President, I joined with the distinguished Senator from Kansas earlier this year in cosponsoring a bill that would have done the same thing, and I am delighted that he brought it to the floor as an amendment. I think it is an excellent amendment, one that will not only benefit the farmers of America but certainly aid the poor of the world.

I ask unanimous consent that the Senator allow me to join with him in cosponsoring this amendment.

Mr. DOLE. I thank my distinguished colleague. It is an oversight. It should have been the Dole-Morgan amendment, based on our earlier work, and I appreciate the floor manager's willingness to accept the amendment.

It just seems to me, as I tried to point out in the brief statement, that it serves a twofold purpose: When we look at the decline in our food for peace shipments with some 30 developing countries needing this assistance—and we are talking about food, and this is the kind of assistance most Americans are willing to support—also when you couple that with

what we consider to be a rather important part of our total economy, talking about agriculture, and when we see what is happening in rural America—not in every case but in many cases—where farmers are receiving far less than their cost of production for what they raise, that is why thousands of farmers came to Washington last December, January, February, and all through the spring months—it seems to me that the amendment does have merit.

I might also suggest this was a matter of great interest to our late distinguished colleague, who has probably done more in the food for peace area than anyone, and that was the late Senator Humphrey. So I am pleased that the amendment is acceptable.

The ACTING PRESIDENT pro tempore. Without objection, the Senator from North Carolina will be added as a cosponsor.

Is all time yielded back?

Mr. STONE. I yield back my time.

Mr. DOLE. I yield back my time.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment was agreed to.

Mr. STONE. Mr. President, I yield to the distinguished cosponsor of this bill, the Senator from North Carolina (Mr. MORGAN) who, I believe, has an amendment.

Mr. MORGAN. Mr. President, I thank my distinguished colleague from Florida.

Mr. President, I am pleased to rise in support of the Agricultural Trade Export Expansion Act.

Before I begin my remarks, I would like to commend the Senator from Florida, Senator STONE, and the other members of the Senate Committee on Agriculture, Nutrition, and Forestry for developing this forward-reaching legislation.

This legislation is designed to strengthen the role of the U.S. farmer in the world market. As such, it should be considered major farm legislation.

The members of this chamber have discussed, on many occasions, the importance of agriculture in the world economy. This year we will earn about $25 billion in farm exports. Our overseas sales will generate domestic economic benefits of at least $50 billion, impacting in a significant way on an estimated 20 million U.S. jobs.

This legislation is made even more important by the sharp decline of the dollar. We need to export more to reduce our serious trade deficit. Even though agriculture has been one of the few bright spots in our international economic picture, I believe we can export even more food and fiber commodities.

This legislation should be viewed as one part of a two-part ongoing effort to increase our farm exports. Currently, our Government, represented by Ambassador Bob Strauss, is negotiating a new trade agreement that covers both industrial goods and farm commodities. We must have concessions on both tariff and nontariff trade barriers if we are to consider these negotiations to have been successful. Under the leadership of Ambassador Strauss, I believe that we will obtain such concessions.

Mr. President, I do not believe it necessary for me to review this legislation in depth. The four provisions—intermediate credit; establishment of trade offices; deferred payments to the People's Republic of China; and the naming of agricultural counselors—all are designed to move this Nation aggressively forward in the area of farm exports.

I would, however, like to discuss two provisions. The first has to do with the appointment of Agricultural Counselors. I believe that this is a positive step.

Across this Nation, farmers believe that the State Department has more say in farm export policy decisions than the Agriculture Department has. By upgrading the role of agriculture in rank-conscious embassies, agriculture will have more to say about issues of great importance such as trade policy, market development, and food assistance.

This particular provision has concerned me so much that I have introduced two amendments. One requires that these counselors be appointed within 3 years of enactment of this bill. Frankly, I am worried that they will never be appointed if such a provision does not exist. It is my understanding that the distinguished floor managers on both sides are willing to accept the first amendment.

My second amendment would have required that four individuals be named as Minister-Counselors of Agriculture. After much consideration, I have decided not to press this amendment. However, I think that such an amendment makes good sense from the standpoint of sound public policy, for the same reasons that the naming of Counselors makes sense. There are dozens of Ministers in our Foreign Service today. Given the importance of agriculture, it makes good sense to me that we have Minister-Counselors of Agriculture in key areas abroad. Because of my conviction on this approach, I am exploring the possibility of introducing similar legislation next year.

Mr. President, the second provision I would like to discuss momentarily concerns the arrangement of deferred payment sales, the provision that can be found in title II. I believe that this provision is innovative and responsive to a need that will help the United States make inroads into a potentially vast market. While I support this provision, which will help this Nation sell its food and fiber, I would have preferred a bill that would have facilitated credit arrangements with countries that are attractive markets for our farm commodities, but countries we cannot reach because of inflexible finanical arrangements.

Mr. President, I urge that my colleagues support this bill, and I thank our distinguished colleague from Florida for yielding.

AMENDMENT NO. 3580

(Purpose: To require that the sixteen senior Department of Agriculture representatives designated as Agricultural Counselors be designated as such within three years after the date of enactment of the bill)

Mr. STONE. I think the Senator should offer his first amendment now.

Mr. MORGAN. I was not sure whether I had called it up.

Mr. President, I ask that my first amendment, No. 3580, be called up.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. MORGAN) offers an amendment numbered 3580:

On page 10, line 18—

Mr. MORGAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 10, line 18, strike out the period after the word "Counselor" and insert in lieu thereof a colon and the following: *Provided further*, That not less than sixteen such representatives shall be designated as Agricultural Counselors within three years after the date of enactment of the Agricultural Export Trade Expansion Act of 1978.".

Mr. MORGAN. Mr. President, this amendment is very simple. My amendment would require that the individuals that are to be appointed to the rank of Counselor be appointed within 3 years of the date of enactment.

This amendment is not intended to be a criticism of the administration. However, I am fearful that there will be a delay in the appointment of these Counselors without such a provision.

Now, I would like to stress that this amendment does not mean that the administration is to wait 2 years and 10 months and then appoint 16 Counselors. Indeed, it is my hope that several Counselors will be appointed shortly after this bill is signed into law.

While I think it important the administration move quickly to name these Counselors, I do hope that the Department of Agriculture will consider individuals who currently are not in Government service. There are many individuals in the private sector with broad experience in market development and trade activities who should be considered for these appointments.

In summary, I expect that the Department of Agriculture will work to find the best individuals, from within or without Government service, to staff these new positions. It is my understanding that the floor managers have agreed to accept this amendment. Therefore, Mr. President, I move acceptance of the amendment.

Mr. STONE. Mr. President, speaking for the majority, we would accept the amendment of the distinguished Senator from North Carolina, and may I add a word: I am quite sympathetic with the Senator's second amendment, personally, and if time had permitted this year I would have loved to push that amendment to this measure. When the Senator offers it next year, I can assure the Senator that if it is assigned to the subcommittee that handled this bill, he will get an early hearing and personal, sympathetic attention from the chairman of the subcommittee, because I believe the Senator is quite right, that in a rank-conscious world, particularly the diplomatic world, the major agricultural markets, for example Japan, could well use a Minister-Counselor and not just a Counselor.

We are talking about big money, and we are talking about big efforts to balance our trade. In my previous travel abroad, I have found that the higher the official pushing for the sale of an American commodity or the lowering of the barriers to that commodity, the higher the official, the better chance you have in making some inroads in the difficult world of trade barriers and export-import sales.

So, speaking for the majority of the committee, we would accept the amendment just read.

Mr. LUGAR. Mr. President, speaking for the minority, we commend the Senator from North Carolina for a very constructive amendment. It follows along the fine work done within the subcommittee and the committee by Mr. CLARK in the production of legislation which upgrades the situation of agricultural diplomacy, together with, of course, the work of our subcommittee chairman, Senator STONE.

We would wish to echo the subcommittee chairman's words that the second portion of the distinguished Senator from North Carolina's remarks are equally commendable, even if such an amendment is not to be introduced today. We enthusiastically support the amendment.

Mr. STONE. Mr. President, I yield back the remainder of our time on this amendment.

The PRESIDING OFFICER (Mr. SASSER). Does the Senator from North Carolina yield back his time?

Mr. MORGAN. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment (No. 3580) of the Senator from North Carolina.

The amendment was agreed to.

Mr. STONE. Mr. President, I yield to the distinguished Senator from Iowa.

Mr. CLARK. I thank the Senator very much.

Mr. President, I support this bill and I hope my colleagues in the Senate will join me in voting to pass it very quickly so that we can complete work on it and get it signed into law this session.

This is, of course, a committee bill. We have all worked on it, I guess, every member of the committee, but many of the major provisions of the bill were also contained in a bill I originally introduced, S. 2968.

I particularly wish to commend Senator Stone and the Foreign Agricultural Policy Subcommittee, and the minority on the committee, for their work in developing this legislation.

Mr. STONE. Mr. President, will the Senator yield at that point?

Mr. CLARK. Yes.

Mr. STONE. I think the subcommittee ought to acknowledge its debt of authorship to the work of the Senator from Iowa. The Senator is quite correct in saying that his bill covers a lot of the subject matter of the subcommittee bill, and moreover, the subcommittee would say those provisions of his bill were extremely helpful to us in the preparation of the subcommittee bill.

Mr. CLARK. I thank the chairman very kindly.

I think this legislation is important not only to the people whom I represent in Iowa, the Iowa farmers, and not just the farmers in Iowa and in other parts of the country. It will help our entire agricultural export situation.

I represent a State that depends heavily on farm exports. Iowa is always either first or second in corn production, and first or second in soybean production. Our dependence on these crops means that production from one of every three acres in Iowa depends on overseas markets. Clearly, the growth and development of overseas markets is essential for a major share of the income of Iowa farmers—and for farmers across the Nation.

It is now a specific policy of our Government to depend on agricultural exports for both a major share of U.S. farm income, and for the $12 billion foreign exchange surplus we enjoy from agricultural trade. The administration used the explicit threat of a veto on many occasions last year when we were debating the 1977 farm bill in order to insure that Congress did not write provisions into that law that would damage our competitive position in foreign markets.

But competitive prices are not enough. If we are to have strong overseas markets, we must systematically work at developing and maintaining them. We must strengthen our market development programs for agriculture and make them more effective in finding new markets and hanging on to the customers we now have.

Other nations spend more of their revenue from exports on developing markets than we do, and they are threatening to beat us out of some markets. It is the purpose of this bill to strengthen our agricultural market development program; to give it more visibility and status; to give it some new tools for our exporters to work with; and to help it move outside the walls of the U.S. Embassy and into those cities where more of the agricultural trade takes place.

Mr. President, in spite of the fact that there is a real and significant need for the market development program to be strengthened and in spite of the fact that strengthening this program is entirely consistent with administration policy, I believe the administration opposes this bill. As I understand it, they would agree to the establishment of a greatly restricted program of intermediate credit, but oppose all the other provisions.

I must confess that I am somewhat puzzled as to why the administration continues to oppose this legislation. I visited with President Carter in late April in his office about this legislation. He seemed very receptive to the principles involved and, indeed, arranged for me to talk to Juanita Kreps, the Secretary of Commerce, who is responsible for coordinating an effort to try to increase exports. But very little has come of those discussions. No proposals were ever made by the administration and, to this date, although they apparently oppose this legislation, they have offered no meaningful alternative—indeed, as far as I know, no alternative of any kind—to increase agricultural exports.

I am deeply concerned by the administration's opposition to this bill—first, because I think it is simply wrongheaded. The administration is afraid to set up a broader intermediate credit program because they fear we might start a trade war with friendly competitors.

The answer to that concern is the observation that whether the State Department knows it or not, we are already in a trade war with some of these friendly countries. No one likes trade wars. But I am told by officials in USDA that our competitors use intermediate term credit when such terms are necessary to make sales.

In fact, we usually do not know the terms of their sales. We, at least, need to have intermediate credit to use as a threat in cases where our competitors use it against us, and that is the way the intermediate credit program in this bill would work. I think it is a good program, and that we need to have it.

Second, the administration's opposition is partly bureaucratic in nature, I think. They oppose the sections of the bill that would authorize more trade offices outside our embassies, and which would upgrade the rank of agricultural attachés. Frankly, I think this opposition is merely petty bureaucratic wrangling over turf. The State Department fears that USDA may get some authorities under this bill that would reduce the Ambassador's ability to control his mission.

I think it is this level of concern that annoys me the most about the administration's efforts against this bill. The State Department and OMB are greatly concerned about the bureaucratic pecking order. I fear that they are so concerned about these mechanical details that they have lost sight of concerns for the U.S. farmers, and for our balance of payments and the national need for foreign exchange. Like Senator TALMADGE, I wonder if we do not need a U.S. desk at the State Department to argue in the inner councils there for the needs of U.S. citizens and taxpayers.

I hope the Senate will pass this bill in spite of administration opposition.

All too often, Mr. President, our policy toward our agricultural market development programs seems to reflect the attitude that they are not really important. When there are shortages around the world, we seem to take the view that it is unnecessary to improve the basis for our agricultural trade, because we have so much of the available supply.

When there are surpluses here and around the world, our policy seems to reflect the view that either increases in foreign trade cannot be accomplished, or if they can, they will not be enough to do any real good. I think the simple fact is that in agriculture, as in high technology, we have one great advantage. These are our great advantages in terms of improving our balance of payments and the soundness of our dollar.

At any rate, as a result of these policies, our foreign market development programs have been turned on and off

several times since World War II. They have never been a central component of our agricultural policy. They have been peripheral, operating in the shadow of other efforts.

The PRESIDING OFFICER. All time of the proponents has expired.

Mr. CLARK. Will the Senator yield 2 minutes?

Mr. STONE. I ask the Republican manager of the bill if he can yield an extra 2 minutes to the Senator from Iowa.

Mr. LUGAR. I am very pleased to yield as much time as the Senator from Iowa requires.

Mr. CLARK. I thank the Senator very much.

It is my view that we can no longer consider the foreign trade component of our agricultural policy as secondary in importance. This is not because our domestic production or price policies are less important. It is because the success of our domestic policies now depend so heavily on the success of our foreign policies and programs.

The importance of our export policies and programs has increased dramatically since 1973. A change in economic circumstances and in world weather converted U.S. agriculture to an export orientation almost overnight. Almost overnight, we came to depend on foreigners for markets for more than half of our soybean production and a quarter of our corn production.

And, we have a very positive balance of trade in agriculture—perhaps some 12 billion in 1978. Clearly, our negative overall balance of trade would have been very much worse without the agricultural exports.

The factors that moved us to an export oriented agriculture were worldwide economic trends and weather, rather than a conscious change in our policy. Because we did not design the policy change, our system of efforts to maintain the increase our overseas markets has not kept pace. It is important that we upgrade these efforts, make them more visible and more effective, and that we insure that they are commensurate with the important role they play in maintaining and increasing the prosperity of American farmers.

Each of the provisions of S. 3447 would help meet that goal.

I believe the intermediate credit provisions of the bill are the most important. They are additions to the current program. We have short term (up to 3 years) commercial credits available from CCC at market rates, and we have very long-term credit under Public Law 480 that permits repayment over a 10- to 40-year period. However, for those purchasers who need somewhat better terms than the current 3-year CCC loans, but who do not need or who cannot qualify for the concessional sales provisions under Public Law 480 long-term programs, there is now no adequate source of credit.

Many countries that are potential markets for U.S. commercial exports do not have adequate facilities to handle or store these products. In many cases, these countries lack adequate credit to permit the construction of such facilities. S. 3447 would permit loans for such facilities.

It is impossible to know how much credit is needed under this program, or exactly what the cost would be. The programs would operate through the existing structure of CCC. The new authorities would permit loans, and Congress would reimburse CCC after the loans were made. The loans would be at commercial rates of interest, and would be repaid.

The level of loan activity under the program would depend on a number of factors, including the price of our products, and their availability both here and in importing countries. USDA estimates outlays under this program at approximately $100 million per year for the first year and at higher levels later on.

The second feature of this bill is to establish U.S. agricultural trade offices in a number of countries. We now have only one such office, in London. Elsewhere, the management of U.S. market development activities is but one of a large number of responsibilities agricultural attachés must carry out, working from U.S. Embassy offices. Because the attachés' attentions must be divided and because cooperators, and private trade representatives frequently cannot conduct business on the same premises as the attachés, coordination and consolidation of activities are greatly hindered. Furthermore, many nonresident exporters are discouraged by the lack of facilities and services at their disposal for market development activities.

This bill would permit trade offices to be located outside embassies. They would be headed by an assistant agricultural attaché and staffed by local nationals for professional and clerical help.

The offices would provide the data for the strategic planning activities needed to formulate long-term market development programs and policies. They would be responsible for the implementation and coordination of all USDA export market promotion activities within each country. They would assist visiting U.S. business representatives and nonresident cooperator personnel in their market development efforts and would provide guidance on the use of Public Law 480 as a development tool for U.S. agricultural markets.

These offices would also provide assistance for exhibits, sales teams, the trade opportunity referral system and assist in developing the industry support for removing trade barriers that inhibit U.S. agricultural exports.

In addition, this bill would upgrade the position of certain officials attached to the diplomatic missions of the United State from "attaché" to "counselor."

These are technical changes in structure, but they are important in making this program more visible and in making it work better.

The fact is, the rank of attaché is too low to permit agricultural representatives access to many of the meetings and functions they need to attend. It significantly reduces the effectiveness of these representatives. Increasing the status of these officials should help upgrade our program of expanding agricultural exports and make it more visible both here and abroad.

Mr. President, I have no illusions that these changes would instantly raise prices in our export markets. They would not. They are mainly technical changes, designed to make our system of export activities work better over the long term. They are not costly, and would far more than pay for themselves over the long run. I believe they are improvements that are long overdue. I hope my colleagues will join me in support of this bill.

Mr. President, I thank the distinguished chairman and the ranking minority member for granting me the time.

UP AMENDMENT NO. 1826

(Purpose: To make certain technical and clerical corrections in S. 3447)

Mr. STONE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Florida (Mr. STONE) proposes an unprinted amendment numbered 1826.

Mr. STONE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 9, strikes out "For" and insert in lieu thereof "for".

On page 4, line 11, strike out "The" and insert in lieu thereof "the".

On page 6, line 23, strike out "Agricultural" and insert in lieu thereof "Agriculture".

On page 7, line 12, insert a comma immediately after "nations".

On page 7, line 13, insert a comma immediately after "sales".

On page 8, line 17, insert comma immediately after "commodities".

On page 10, line 4, strike out "whenever" and insert in lieu thereof "wherever".

On page 10, line 12, strike out "of" and insert in lieu thereof "as those of".

On page 13, line 25, strike out "17161" and insert in lieu thereof "1761".

On page 16, line 18, strike out "product for developing, expanding" and insert in lieu thereof "commodity for developing, expanding".

On page 19, line 3, strike out "period" and insert in lieu thereof "periods".

On page 19, line 12, strike out "Embassy" and insert in lieu thereof "embassy".

On page 20, line 14, insert "Agricultural Trade" immediately after "the".

Mr. STONE. Mr. President, this is in the nature of a technical and clerical amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

AGRICULTURE AND WORLD TRADE

● Mr. McGOVERN. Mr. President, I support the Agriculture Export Trade Expansion Act of 1978 and view it as another step forward for the American agricultural community. This fiscal year exports will be up between $2 and $3 billion from last year's $24 billion and the volume of these exports will be up between 12 and 14 percent. Both will be new records. When nearly one in every three of our cultivated acres ends up

in international trade it is everyone's business to enact strong legislation to promote and expand our position in world trade.

This legislation pushes us forward on three basic fronts. First of all it expands CCC intermediate export credit from present limits of 3 years to a maximum of 10. A major breakthrough is including the People's Republic of China in that group of nations eligible for credit. Credit has become an important tool in international commerce as it has become in the Nation's national business community. Not only is it an expression of confidence with our trading partners but it gives us a competitive edge or at least an equal credit position with other nations who have a large stake in the international field.

The second important feature of the bill is that part which upgrades our present agriculture attachés to consular status. If we are going into the 1980's with a view toward expanding our agricultural exports, and this we must do, we must give our overseas representatives the status which they need and deserve in promoting our products and advising us of the crop conditions in nations far away from us where climatic conditions are volatile.

Not the last in order of importance is the authorization for establishment of a number of agricultural trade offices in important points of commerce throughout the world. State Department reservations notwithstanding, I feel that there are adequate safeguards in the history of this legislation to protect the integrity of our diplomatic services.

In connection with this legislation, I want to add a word of remembrance and tribute to our beloved and departed friend and colleague Hubert Humphrey. This legislation is Hubert Humphrey's kind of bill. Were he with us now he would applaud our efforts—and probably expand on them—Hubert Humphrey was as great an agricultural trader as this chamber has seen. This bill is certainly in the tradition of Hubert Humphrey's long public service to the Nation and I, for one, do not want to forget his long association with the subject.

Mr. President, as a member of both the Senate Agriculture Committee and the Committee on Foreign Relations I want to point out that in the course of the Senate's consideration of the proposed Agricultural Export Trade Expansion Act, I draw attention to the fact that there are a number of provisions in this measure which raise important foreign policy issues and which properly fall within the legislative purview of the Senate Committee on Foreign Relations. The bill, for example, authorizes short-term agricultural credits to the People's Republic of China; it also authorizes intermediate agricultural credits to permit the United States to compete more effectively against Canada, Australia, Argentina, and others; it provides for the designation of "Agricultural Counselors" in lieu of the more traditional "Agricultural Attachés," and it calls for the establishment abroad of at least six but not more than 25 "Agricultural Trade Offices."

Mr. President, all of these measures are soundly designed with one purpose in mind—to place American agriculture on a more competitive footing in the international arena. This goal is a worthy one and I fully support it. Having said this, I also recognize the foreign policy implications and potential legislative jurisdictional issues raised by the pending bill. Indeed, the jurisdiction of the Foreign Relations Committee is quite clear; it encompasses not only "relations of the United States with foreign nations generally," but also the "diplomatic service," "foreign loans" and "measures to foster commercial intercourse with foreign nations. . . ."

Mr. President, the long and the short of it is that there is much in this bill which the Committee on Foreign Relations could properly have asked to review and consider before it reached this stage of the legislative process. The chairman of Foreign Relations, the distinguished senior Senator from Alabama, was inclined to do just that in fulfillment of the oversight responsibilities assigned to the committee. These are serious responsibilities, as every Member knows and every committee chairman knows too well. In this particular instance, however, Senator SPARKMAN agreed not to request a sequestial referral of the bill in order to permit it to come up during this session. Under the circumstances and the severe time limitations we face, I believe that was the right decision—one in fact which I and others encouraged.

By the same token, however, I think the record ought to be made as clear as possible that this action does not denigrate the committee's jurisdiction or prejudice its oversight prerogatives in any way. In fact, I think it is well to put to advise the Senate that those issues contained in this bill which fall within the foreign policy area and which survive the legislative process this year will receive careful consideration and close scrutiny next year by the Committee on Foreign Relations. As chairman of the committee's Subcommittee on International Operations, I intend to review with the State Department and others the foreign policy implications of these issues during our regular hearings on the annual State Department authorization bill. These hearings will afford ample opportunity for the committee to undertake the kind of review that simply was not possible this year.

In summary, Mr. President, I applaud the spirit of accommodation that permits our consideration of this important measure during the current session and I look forward next year to examining several features of it more carefully from the foreign policy perspective.●

Mr. STONE. Mr. President, I believe there are no additional amendments or pending amendments, so I ask for third reading.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. STONE. Mr. President, does the Republican manager of this bill have remarks at this time?

Mr. LUGAR. Mr. President, I wish to reiterate two things that have been said during this debate.

First of all, the imperative need for exports, the need for income on the part of American farmers and all who are dependent on our farm industry, is evident.

Second, I echo the remarks of the distinguished Senator from Iowa during this debate. He has visited with the President of the United States, the Secretary of Commerce, and others, in attempting to obtain the good will of the administration and various cabinet officials that is required for this legislation to be successful and to serve the country.

I hope that following the passage of this measure by this body and a successful conference with the House of Representatives, the administration will weigh the merits of this bill, which are evident to my colleagues today, and will proceed to give support to an expanded export program for this country.

Mr. President, I am ready to yield back my time.

Mr. STONE. Mr. President, I ask my distinguished colleague not to yield back his time just yet, because we may need a minute or two.

I ask unanimous consent that I may suggest the absence of a quorum, with the time to be charged to the time on the Republican side, since the time of the majority has expired.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STONE. Mr. President, I ask for the yeas and nays on final passage of this bill.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STONE. Mr. President, I believe the Republican side is prepared to yield back their time.

Mr. LUGAR. I am prepared to yield back the time, unless the distinguished floor manager of the bill wishes time.

Mr. STONE. I do not.

Mr. LUGAR. I yield back the time.

The PRESIDING OFFICER. The bill having been read a third time, the question is, shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Delaware (Mr. BIDEN), the Senator from Arizona (Mr. DECONCINI), the Senator from New Hampshire (Mr. DURKIN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Montana (Mr. HAT-

FIELD), the Senator from Maine (Mr. HATHAWAY), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Rhode Island (Mr. PELL), the Senator from Michigan (Mr. RIEGLE), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I also announce that the Senator from Massachusetts (Mr. KENNEDY) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mrs. HUMPHREY) would vote "yea."

Mr. CURTIS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BARTLETT), the Senator from Massachusetts (Mr. BROOKE), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), the Senator from North Carolina (Mr. HELMS), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Virginia (Mr. SCOTT), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD), the Senator from North Carolina (Mr. HELMS), and the Senator from Michigan (Mr. GRIFFIN) would each vote "yea."

The result was announced—yeas 65, nays 1, as follows:

[Rollcall Vote No. 376 Leg.]

YEAS—65

Abourezk	Ford	Moynihan
Bayh	Garn	Muskie
Bellmon	Glenn	Nelson
Bentsen	Goldwater	Nunn
Bumpers	Gravel	Packwood
Burdick	Hansen	Randolph
Byrd, Harry F., Jr.	Hart	Ribicoff
Byrd, Robert C.	Hatch	Roth
Cannon	Hayakawa	Sarbanes
Case	Helms	Sasser
Chafee	Hodges	Schmitt
Chiles	Hollings	Schweiker
Church	Huddleston	Sparkman
Clark	Jackson	Stennis
Cranston	Leahy	Stone
Culver	Long	Talmadge
Curtis	Lugar	Thurmond
Danforth	Magnuson	Wallop
Dole	McGovern	Weicker
Domenici	Melcher	Williams
Eagleton	Metzenbaum	Young
	Morgan	Zorinsky

NAYS—1

Proxmire

NOT VOTING—34

Allen	Hatfield, Paul G.	McIntyre
Anderson	Hathaway	Pearson
Baker	Helms	Pell
Bartlett	Humphrey	Percy
Biden	Inouye	Riegle
Brooke	Javits	Scott
DeConcini	Johnston	Stafford
Durkin	Kennedy	Stevens
Eastland	Laxalt	Stevenson
Griffin	Mathias	Tower
Hasbell	Matsunaga	
Hatfield, Mark O.	McClure	

So the bill (S. 3447), as amended, was passed, as follows:

S. 3447

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Export Trade Expansion Act of 1978".

DECLARATION OF POLICY AND PURPOSE

SEC. 2. It is hereby declared to be the policy of Congress, in order to raise farm income, create a more favorable balance of trade for the United States, and promote the general economic welfare, that the United States Government, in concert with private enterprise, engage in a systematic program to expand international markets for United States agricultural commodities. It is the purpose of this Act to provide the means for the development and implementation of such program.

DEFINITION

SEC. 3. The term "agricultural commodity" as used in this Act shall include any agricultural commodity or product thereof.

TITLE I—INTERMEDIATE CREDIT

SEC. 101. Section 4 of the Food for Peace Act of 1966 is amended to read as follows:

"SEC. 4. (a) Commercial export sales of agricultural commodities out of private stocks on credit terms of not to exceed three years may be financed by the Commodity Credit Corporation under its export credit sales program.

"(b)(1) Export sales of agricultural commodities out of Commodity Credit Corporation and private stocks on credit terms in excess of three years, but not more than ten years, may be financed by the Commodity Credit Corporation.

"(2) No export sale may be financed under this subsection unless the Secretary of Agriculture determines that the sale will—

"(A) develop, expand, or maintain the importing nation as a foreign market, on a long-term basis, for the commercial sale and export of United States agricultural commodities without displacing normal commercial sales; or

"(B) otherwise improve the capability of the importing nation to purchase and use, on a long-term basis, United States agricultural commodities.

"(3) Intermediate financing under this subsection shall be available for any use consistent with the provisions of paragraph (2) of this subsection, including, but not limited to, the following uses:

"(A) to establish reserve stocks consistent with international commodity agreements or other stock building plans acceptable to the United States;

"(B) the export sale of breeding animals (including, but not limited to, cattle, swine, sheep, and poultry), including the cost of freight from the United States to designated points of entry in other nations;

"(C) where determined feasible, for the establishment of facilities in the importing nation to improve handling, marketing, processing, storage, or distribution of imported agricultural commodities (either through direct financing or the use of local currency generated from the sale and import of United States agricultural commodities to finance all or part of such facilities); and

"(D) to meet credit competition for agricultural export sales.

"(4) Intermediate financing under this subsection may not be used to encourage credit competition, or for the purpose of foreign aid or debt rescheduling.

"(5) The terms of credit for export sales financed under this subsection shall include the following terms:

"(A) repayment shall be in dollars with interest at a rate equal, as nearly as practicable, to the rate charged by the Commodity Credit Corporation for financing under the Corporation's short-term export credit sales programs; and

"(B) the Secretary may, if the Secretary deems such action appropriate to protect the interest of the United States, require an initial payment from the purchaser at the time of sale or shipment of the agricultural commodity.

"(6)(A) The Secretary shall obtain commitments from purchasers that will prevent resale or transshipment to other nations, or use for other domestic purposes, of agricultural commodities purchased with financing provided under this subsection.

"(B) In financing export sales under this subsection for the establishment of reserve stocks, the Secretary shall obtain commitments from the purchasers that will prevent the domestic sale or distribution of such stocks, except in a manner consistent with an international reserve agreement governing the agricultural commodity involved that has been adopted with the advice and consent of the United States Senate, whether or not the purchasing nation has adopted the agreement. If no such international agreement exists, the Secretary shall obtain commitments from the purchaser that agricultural commodities purchased for the establishment of reserve stocks with financing provided under this subsection will not be sold or distributed domestically, except as needed for emergency relief required by a crop shortfall or other natural disaster.

"(C) If the Secretary finds that a purchaser has failed to comply with commitments made under this paragraph, the full amount outstanding under financing arrangements entered into by the purchaser under this subsection shall become immediately due and payable and no further credits or credit guarantees shall be available to the purchaser from any agency of the Department of Agriculture until payment in full of the amount due has been made.

"(7)(A) Agreements to finance export sales of agricultural commodities entered into under this subsection, except agreements to finance export sales for the establishment of reserve stocks, shall be subject to such other terms and conditions as the Secretary may deem necessary or appropriate and shall be subject only to review by the National Advisory Council on International Monetary and Financial Policies.

"(B) Agreements to finance export sales of agricultural commodities under this subsection for the establishment of reserve stocks shall be subject to such other terms and conditions as the Secretary may deem necessary and appropriate. No such agreement, however, may become effective or be carried out until the expiration of thirty days following the date on which a detailed summary of such agreement or proposal is transmitted by the Secretary to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture, if transmitted while Congress is in session, or sixty days following the date of transmittal if transmitted while Congress is not in session.

"(8) The provisions of the cargo preference laws shall not apply to export sales financed under this subsection.

"(9) The authority provided under this subsection shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

"(c) There are hereby authorized to be appropriated such sums as may be necessary to reimburse the Commodity Credit Corporation annually for its costs for the programs established under this section.

"(d) The term 'agricultural commodity' as used in this section shall include any agricultural commodity or product thereof.".

TITLE II—COMMODITY CREDIT CORPORATION FINANCING OF DEFERRED PAYMENT SALES; CREDIT SALES TO THE PEOPLE'S REPUBLIC OF CHINA

COMMODITY CREDIT CORPORATION FINANCING OF DEFERRED PAYMENT SALES

SEC. 201. (a) To develop new market opportunities for the sale of United States agricultural commodities and to maintain and expand existing foreign markets for such commodities, the Secretary of Agriculture shall provide Commodity Credit Corporation financing to exporters of such commodities who wish to extend deferred payment terms to buyers in other nations in order to meet sales competition from other nations or to make additional export sales. Except as otherwise provided in section 202 of this title, financing under this section shall be available only with respect to sales to those nations that are eligible for financing under the short-term export credit sales program conducted by the Commodity Credit Corporation.

(b) Exporters who are willing to sell United States agricultural commodities to foreign buyers on deferred payment terms of not to exceed three years and who must extend such deferred payment terms in order to meet sales competition from other nations, or to make additional export sales, may apply to the Commodity Credit Corporation for financing such sales. Upon approval of the applicant's export sales plan by the Commodity Credit Corporation, and upon proof of export in accordance with the approved plan, the Corporation shall provide the necessary financing.

(c) Repayment to the Commodity Credit Corporation shall be made in dollars by the exporter in accordance with the terms and at interest rates contained in the approved export sales plan. Interest rates on such financing shall be no higher than those charged for financing under the short-term export credit sales program conducted by the Commodity Credit Corporation.

(d) The Secretary may, if the Secretary deems such action appropriate to protect the interests of the United States, require a performance guarantee from the exporter at the time of the sale.

(e) Financing agreements with exporters entered into under this section shall be subject to such other terms and conditions as the Secretary may deem necessary or appropriate and shall be subject only to review by the National Advisory Council on International Monetary and Financial Policies.

(f) The authority provided under this section shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

CREDIT SALES TO THE PEOPLE'S REPUBLIC OF CHINA

SEC. 202. Notwithstanding any other provision of law, in order to develop new, and expand existing, markets for United States agricultural commodities, the Commodity Credit Corporation may provide financing for commercial sales of agricultural commodities out of private stocks on terms of not to exceed three years to the People's Republic of China under (1) the short-term export credit sales program conducted by the Commodity Credit Corporation, and (2) the deferred payment program for exporters established under section 201 of this Act.

TITLE III—AGRICULTURAL COUNSELORS

FINDINGS

SEC. 301. Congress finds that the officials of the United States Department of Agriculture attached to the diplomatic missions of the United States play an important role in developing, maintaining, and expanding markets for United States agricultural commodities and that their position and responsibilities should be at a level commensurate with the magnitude and importance of the objectives they are assigned to accomplish.

AMENDMENTS TO THE AGRICULTURAL ACT OF 1954

SEC. 302. Title VI of the Act of August 28, 1954 (68 Stat. 908–910, as amended; 7 U.S.C. 1761–1768), is amended by—

(1) amending the title designation to read:

"TITLE VI—FOREIGN MARKET DEVELOPMENT";

(2) inserting immediately before section 601 the subtitle designation:

"Subtitle A—Agricultural Counselors and Agricultural Attachés";

(3) in section 601, striking out "agricultural products" wherever that phrase appears therein and inserting in lieu thereof "agricultural commodities", and striking out "said products" and inserting in lieu thereof "such commodities";

(4) in sections 602(a), 602(e), 604, and 605, striking "this title" wherever that phrase appears therein and inserting in lieu thereof "this subtitle";

(5) amending section 602(b) to read as follows:

"(b) Officers or employees assigned or appointed to posts abroad under this subtitle still have the designation of Agricultural Counselor, Agricultural Attaché, or such other titles or designations that shall be agreed to by the Secretary of State and the Secretary of Agriculture, and shall be accorded the same rank and privilege as those of other counselors or attachés in embassies: *Provided,* That the senior Department of Agriculture representative in each of the major foreign agricultural posts, as determined by the Secretary of Agriculture after consultation with the Secretary of State, but in no case less than sixteen such representatives, shall have the title of Agricultural Counselor: *Provided further,* That not less than sixteen such representatives shall be designated as Agricultural Counselors within three years after the date of enactment of the Agricultural Export Trade Expansion Act of 1978.";

(6) adding immediately after section 602 a new section 602A as follows:

"SEC. 602A. (a) To effectuate review of the worldwide supply, demand, and price of agricultural commodities and to promote understanding of problems involved in selling United States agricultural commodities to other nations, each officer or employee appointed and assigned to a post abroad under this subtitle shall annually submit a report, through the Chief of the United States Diplomatic Mission for the nation to which the officer or employee is assigned, to the Secretary of State and Secretary of Agriculture (who shall transmit such report to the chairmen of the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry) detailing the agricultural situation in the nation or area to which the officer or employee is assigned, and including the following information:

"(1) a summary of the supply, demand, and prices of each major agricultural commodity in the nation or area, in order to discover long- and short-term trends in such supply, demand, and prices;

"(2) present and projected imports and exports of agricultural commodities for the nation or area;

"(3) unusual patterns, changes, or distortions, such as those caused by governmental intervention, in the trade and consumption of agricultural commodities in the nation or area;

"(4) trade barriers in the nation or area affecting United States imports;

"(5) governmental and other impediments to domestic food production in the nation or area; and

"(6) other matters that the Secretary of Agriculture considers appropriate in carrying out this section.

"(b) The information in this report shall be compiled periodically on a nation-by-nation basis (or on an area basis where appropriate), organized in a format suitable for a general audience with an interest in foreign agriculture, and made available at a reasonable price to the public."; and

(7) adding at the end of section 604 a new subsection (c) as follows:

"(c) Upon request by the Secretary of Agriculture, each Federal department and agency shall make its services, personnel, and facilities available to the greatest extent within its capability to the officers and employees appointed and assigned to posts abroad under this subtitle in the performance of their functions. The Secretary of Agriculture may reimburse or advance funds to Federal departments and agencies for the services, personnel, and facilities that are made available.".

TITLE IV—ESTABLISHMENT OF UNITED STATES AGRICULTURAL TRADE OFFICES

FINDINGS AND DECLARATION OF POLICY

SEC. 401. (a) Congress finds that United States Government assistance in developing foreign markets for agricultural commodities is declining in real terms and in relation to total agricultural exports, that other major agricultural exporting nations are opening new markets through aggressive market development programs larger in scope than those of the United States, and that the economic strength of United States agriculture depends on developing, maintaining, and expanding international markets for United States agricultural commodities.

(b) It is hereby declared to be the policy of Congress that foreign market development programs be periodically reviewed for their cost effectiveness and that no new demands be made on the United States Treasury unless it can be shown that the benefits from such increased spending will be reasonable in relation to the costs to the United States taxpayer.

ESTABLISHMENT OF UNITED STATES AGRICULTURAL TRADE OFFICES

SEC. 402. Title VI of the Act of August 28, 1954 (68 Stat. 908–910, as amended; 7 U.S.C. 1761–1768), is further amended by—

(1) adding immediately after section 605 the following new subtitle designation and sections:

"Subtitle B—United States Agricultural Trade Offices

SEC. 605A. (a) For the purpose of developing, maintaining, and expanding international markets for United States agricultural commodities, the Secretary of Agriculture, after consultation with the Secretary of State, shall establish not less than six nor more than twenty-five United States Agricultural Trade Offices in other nations.

"(b) Each United States Agricultural Trade Office shall be directed and administered by an Agricultural Trade Officer who shall be a person who by reason of training, experience, and attainments is qualified to carry out the purposes of this subtitle.

"(c) Each Agricultural Trade Officer may be appointed without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, and may be paid without regard to the provision of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates, except that no Agricultural Trade Officer may be paid basic pay at a rate in excess of the maximum annual rate of basic pay payable for GS–17 of the General Schedule contained in section 5332 of title 5.

"(d) Each Agricultural Trade Officer shall perform such functions and duties, and have such powers relating to foreign market development, as may be delegated from time to time by the Secretary of Agriculture, after consultation with the Secretary of State, and shall report directly to the Agricultural Counselor or other senior representative of the Secretary of Agriculture in the nation or nations of concern or to such other person

as the Secretary of Agriculture may designate.

"(c) Each Agricultural Trade Officer shall be responsible for the exercise of the powers and the discharge of the duties of the United States Agricultural Trade Office to which the Officer is assigned and shall have the authority to direct and supervise all personnel and activities thereof, subject to approval by the Agricultural Counselor or other senior representative of the Secretary of Agriculture in the nation or nations of concern and guidance from the Administrator of the Foreign Agricultural Service.

"(f) The Secretary of Agriculture may appoint, after consultation with the Secretary of State, such other personnel as the Secretary determines to be necessary, and may employ local nationals for the professional and clerical help necessary, to carry out the duties of the United States Agricultural Trade Offices.

"(g) No employee of any United States Agricultural Trade Office may engage in any business, vocation, or other employment, or have other interests, that are inconsistent with official responsibilities.

"(h) Upon the request of the Secretary of Agriculture, the Secretary of State shall regularly and officially attach Agricultural Trade Officers and personnel of United States Agricultural Trade Offices to the diplomatic missions of the United States in the nations in which such officers or personnel are to be assigned by the Secretary of Agriculture, and shall request for Agricultural Trade Officers and other Office personnel, and agricultural officers and employees stationed at United States diplomatic missions, diplomatic privileges and immunities equivalent to those enjoyed by Foreign Service personnel of comparable rank and salary.

"SEC. 605B. Subject to approval and guidance from the Administrator of the Foreign Agricultural Service and the Agricultural Counselor or other senior representative of the Secretary of Agriculture in the nation or nations of concern, the functions of each United States Agricultural Trade Office shall be to—

"(1) increase the effectiveness of agricultural export promotion efforts through consolidation of activities, providing services and facilities for foreign buyers and United States trade representatives, and coordination of market development activities sponsored by the Department of Agriculture;

"(2) establish goals by nation or region and agricultural commodity for developing, expanding, and maintaining markets for United States agricultural commodities;

"(3) initiate programs to achieve the export marketing goals approved by the Department of Agriculture;

"(4) maintain facilities for use by nonresident cooperators, private trade groups, and other individuals engaged in the import and export of United States agricultural commodities where the use of such facilities will aid in the conduct of market development activities;

"(5) develop and maintain a current listing of trade, government, and other appropriate organizations for each agricultural commodity area and make such listing available to persons with a bona fide interest in exporting or importing United States agricultural commodities;

"(6) originate and provide assistance for exhibits, sales teams, and other functions for the promotion of United States agricultural commodities;

"(7) under the direction of the General Sales Manager, provide practical assistance for the use of the programs under the Agricultural Trade Development and Assistance Act of 1954, the export credit sales program, the export incentives program, and related programs of the United States Government where use of such programs will serve as a market development tool for United States agriculture;

"(8) supervise project agreements with United States cooperators, coordinate the activities of the United States Agricultural Trade Office with those of the cooperators, and submit annual recommendations to the Administrator of the Foreign Agricultural Service on the efficacy of coperator programs, including statements as to whether project agreements should be extended, amended, canceled, or allowed to expire;

"(9) publicize the services offered by the United States Agricultural Trade Office through advertisements in trade journals or by other appropriate means; and

"(10) perform such other functions as the Secretary determines necessary and proper for achieving the purposes of this subtitle.

"SEC. 605C. (a) In addition to the United States Agricultural Trade Offices to be established under section 605A of this subtitle, the Secretary of Agriculture may establish one such office in the United States if the Secretary determines that doing so would achieve the purpose of this subtitle.

"(b) Subject to exceptions made by the Secretary consistent with the purpose of this subtitle, any domestic United States Agricultural Trade Office shall operate under the same provisions of law applicable to any such office in another nation.

"SEC. 605D. Nothing in this subtitle shall be construed to diminish the authority of the officers and employees of the Department of Agriculture appointed and assigned to posts abroad under subtitle A of this title.

"SEC. 605E. In establishing the United States Agricultural Trade Offices, the Secretary of Agriculture, after consultation with the Secretary of State, may rent or lease (for periods of less than ten years) such offices, buildings, grounds, and living quarters as the Secretary of Agriculture may deem necessary, make payments therefor in advance, and maintain, improve, repair, and furnish water and utilities for such properties.

"SEC. 605F. United States Agricultural Trade Offices shall be centrally located in the cities of assignment to facilitate foreign trade meetings and foreign trade reliance on such offices for assistance in marketing activities, but shall not be colocated with a United States embassy.

"SEC. 605G. Upon request by the Secretary of Agriculture, each Federal department and agency shall make its services, personnel, and facilities available to the greatest extent within its capability to the United States Agricultural Trade Offices in the performance of their functions. The Secretary of Agriculture may reimburse or advance funds to Federal departments and agencies for the services, personnel, and facilities that are made available.";

(2) redesignating section 606 as section 606A and inserting immediately after new section 605G, as added by this Act, the following subtitle designation and new section 606:

"Subtitle C—Representation Allowances, Regulations, General Provisions, and Authorization for Appropriations

"SEC. 606. United States Agricultural Trade Officers, and officers and employees of the Department of Agriculture appointed and assigned to posts abroad under subtitle A of this title shall, under regulations prescribed by the Secretary of Agriculture, be entitled to a representation allowance in an amount determined by (1) the extent to which an Agricultural Trade Officer, or officer or employee, can effectively use such funds to further the purposes of this title and (2) the extent to which it is at a level commensurate with representational and promotional efforts by other major agricultural exporting nations competing in markets assigned to the Agricultural Trade Officer, or officer or employee.";

(3) redesignating sections 602(d), 602(f), and 603 as sections 606B, 606C, and 606D, respectively, and inserting the redesignated sections immediately after section 606A of this title, as redesignated by this section;

(4) in section 606C, as redesignated, striking out "subsection" wherever that word appears therein and inserting in lieu thereof "section";

(5) redesignating section 602(e) as 602(d); and

(6) adding at the end thereof a new section 609 as follows:

"SEC. 609. The term 'agricultural commodity' as used in this title shall include any agricultural commodity or product thereof.".

TITLE V—GENERAL PROVISIONS

IMPLEMENTATION OF THIS ACT; REGULATIONS

SEC. 501. (a) The Secretary of Agriculture shall implement this Act as expeditiously as possible consistent with the efficient and effective administration of the programs established under this Act and their integration with related foreign agricultural programs.

(b) The Secretary may issue such regulations as may be necessary to implement the provisions of this Act.

AVAILABILITY OF APPROPRIATED FUNDS

SEC. 502. Appropriations made available to carry out foreign agriculture related functions within the Department of Agriculture shall be available to implement the provisions of this Act.

PROHIBITION AGAINST DISCRIMINATION

SEC. 503. No person shall on the ground of sex, age, race, color, religion, handicap, or national origin be excluded from participation in, denied the benefits of, or subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this Act.

ANNUAL REPORT

SEC. 504. The Secretary of Agriculture shall transmit to Congress each year a report that shall include a comprehensive statement of the activities and accomplishments of the Department of Agriculture in developing, maintaining, and expanding foreign markets for United States agricultural commodities during the preceding year.

EFFECTIVE DATE

SEC. 505. The provisions of this Act shall become effective October 1, 1978.

TITLE VI—EXPORTATION OF FARM COMMODITIES

SEC. 601. The Agricultural Trade Development and Assistance Act of 1954 is amended by adding at the end thereof a new section 413 as follows:

"SEC. 413. (a) In order more adequately to meet the food requirements of hungry and malnourished people in the developing countries while at the same time providing additional export outlets for American farmers, a minimum aggregate quantity of seven million metric tons of United States farm commodities shall be exported under titles I, II, and III of this Act during each of the following fiscal years: fiscal year 1979, fiscal year 1980, fiscal year 1981, and fiscal year 1982. This aggregate quantity requirement shall not affect the title II minimum quantities required under section 201(b) of this Act, since those minimums shall be a part of the total minimum requirement for all titles.

"(b) The export of an aggregate quantity of seven million metric tons for each such fiscal year under titles I, II, and III shall be mandatory unless (1) export supplies are not available as determined under section 401(a) of this Act, or (2) food needs of developing countries do not merit such quantity as

gauged by (A) a lack of request for food assistance by the developing countries, or (B) a determination by the Food and Agriculture Organization of the United Nations that unfilled food requirements of the developing nations are less than seven million metric tons during such fiscal year.

"(c) Should less than the minimum quantities required by this section be exported because of the above criteria, the President shall report to the appropriate committees of Congress the specific reasons for such shortfall.".

Mr. STONE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LUGAR. I move to lay that motion on that table.

The motion to lay on the table was agreed to.

Mr. STONE. Mr. President, I ask unanimous consent that the secretary of the Senate be authorized to make clerical and technical corrections in the engrossment of S. 3447.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STONE. Mr. President, I want to thank my distinguished colleagues, the Senator from Indiana (Mr. LUGAR), the Senator from Kansas (Mr. DOLE), and the other members of our subcommittee, Senator CLARK, Senator MORGAN, and others, who participated in this bill, and also the committee staff who worked diligently to make this bill a constructive effort to extend agricultural sales.

I yield the floor.

ORDER OF BUSINESS

Mr. STONE. Mr. President, I ask unanimous consent that I be allowed to yield to the distinguished Senator from Georgia for the introduction of and the immediate consideration of a resolution without intruding on the time of the bill and that the record not be interrupted so that the resolution and remarks of the distinguished Senator from Georgia will appear after the passage or action on the current bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXPRESSION OF THE SENSE OF THE SENATE ON OUTCOME OF THE MIDDLE EAST SUMMIT CONFERENCE

Mr. NUNN. Mr. President, I send to the desk a resolution and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the resolution.

The legislative clerk read as follows:

S. RES. 554

Whereas President Jimmy Carter, Prime Minister Menachem Begin, and President Anwar Sadat have requested people of all faiths to pray that peace and justice may result from the deliberations of the Middle East Summit Conference: Now, therefore be it

Resolved, That it is the sense of the Senate to urge people of all faiths to pray that the outcome of the Middle East Summit Conference will be successful, and that the deliberations of the Conference will be based on understanding, humility, and willingness to negotiate for solutions acceptable to all sides in order to further the effort for lasting peace and justice in the Middle East.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

Mr. SPARKMAN. Mr. President, reserving the right to object, and I do not intend to object, I do want to call attention to the fact that always, in the past, when resolutions such as this were offered, I as chairman and other members of the Foreign Relations Committee have insisted that they be referred to the committee for consideration. I do not intend to make that objection to this pending resolution because of the urgency and timeliness of it. Therefore, I shall not object, but I do not want this to be considered as a precedent in any way, because I think the only orderly way of handling these things, generally, is for them to be referred to the committee for consideration. This is an unusual case, and I, therefore, shall not object. Moreover, it is a resolution that I agree with completely.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the immediate consideration of the resolution.

The Senate proceeded to consider the resolution.

Mr. NUNN. Mr. President, I, of course, want to thank my colleague from Alabama, the chairman of the Foreign Relations Committee (Mr. SPARKMAN) for his understanding in permitting this resolution to be considered in a timely fashion. I do believe that if every Member of the Senate read the resolution, there would be 100 percent approval of it.

I have a number of cosponsors. The Senator from Alabama (Mr. SPARKMAN) has indicated that he will cosponsor the resolution. Also, Mr. CURTIS, Mr. HATFIELD of Oregon, and Mr. CHILES are original sponsors of the resolution.

I ask unanimous consent that the following Senators' names be added as cosponsors: Senator ANDERSON, Senator BELLMON, Senator ROBERT C. BYRD, Senator CHAFEE, Senator CRANSTON, Senator DANFORTH, Senator DECONCINI, Senator DOLE, Senator HANSEN, Senator GLENN, Senator HEINZ, Senator LUGAR, Senator MCCLURE, Senator PACKWOOD, Senator PERCY, Senator RANDOLPH, Senator STONE, Senator TOWER, Senator TALMADGE, Senator SCHMITT, Senator SASSER, Senator HOLLINGS, Senator HODGES, Senator LEAHY, Senator GARN, Senator RIEGLE, Senator STEVENS, Senator THURMOND, Senator ALLEN, and Senator MORGAN.

Mr. President, I ask unanimous consent their names be included as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, Wednesday afternoon, in a statement released at Camp David, President Carter, President Sadat, and Prime Minister Begin made a direct appeal for the prayers and support of people of all faiths as they begin their historic deliberations.

Mr. President, I would like to quote very briefly from that joint appeal. It states:

After four wars, despite vast human efforts, the Holy Land does not enjoy the blessings of peace. Conscious of the grave issues which face us, we place our trust in the God of our fathers, from whom we seek wisdom and guidance. As we meet here at Camp David we request people of all faiths to pray with us that peace and justice may result from these deliberations.

It is signed by Mr. Begin, Mr. Sadat, and Mr. Carter.

Mr. President, this really is a direct apepal from the leaders involved in this crucial set of negotiations for the prayers and support of people of all religious faiths as they begin their historic deliberations.

The resolution I off today is in response to this earnest and sincere solicitation of our prayers.

When I say "our prayers," I mean all the people of the United States and the world.

The three principals, although of different faiths, are deeply religious men. I am convinced that each truly seeks a meaningful and lasting peace in the Middle East.

This resolution calls on men and women of all faiths to prayerfully and reverently ask for God's guidance in the current deliberations at Camp David. Today, there can be no doubt that the three men gathered in the Cactoctin Mountains depend on the support of Almighty God as they seek to find mutually agreeable solutions to extremely complex problems.

There are many specific ways Americans can respond to the request for prayerful support from Mr. Begin, Mr. Sadat, and Mr. Carter on their search for peace. I will not in any way attempt to name all those ways today, because I cannot even envision all the ways that this prayerful support could come about through various groups in this country.

But churches and religious groups may want to hold special prayer services to pray specifically for the success of the Camp David summit conference.

Churches, synagogues, and mosques throughout the country may want to place a special emphasis on this initiative in their regular worship services over the next few days.

Men and women in public life may want to make a statement in support of the appeal.

Citizens may want to send messages supporting this "call to prayer" to the capitals of Israel and Egypt and to the White House.

These are just a few things people can do throughout the country.

A great repository of spiritual faith and strength exists within the hearts and minds of millions of citizens of this country and, indeed, throughout the world. I am confident Americans will respond with prayerful support of President Carter, President Sadat, and Prime Minister Begin as they continue their crucial mission searching for peace and justice in the land that is still known as the Holy Land, the Middle East.

I thank my colleague from Florida for yielding me this time. I thank the Senator from Alabama for his consideration in allowing this resolution to be brought forward for immediate consideration.

Mr. President, I will certainly yield

for comments any other Senator would like to make.

Mr. SPARKMAN. Will the Senator yield to me briefly?

Mr. NUNN. I am glad to yield.

Mr. SPARKMAN. I also want to say that I have discussed this with Senator CASE, the ranking minority member of the Foreign Relations Committee, and he is in full accord. He is not on the floor at the present time, but I believe the record should show that he supports this decision.

Mr. NUNN. I also express my appreciation to Senator CASE for his consideration.

Mr. LUGAR. Mr. President, I appreciate the comments by the distinguished Senator from Alabama, the chairman of the Foreign Relations Committee, that the resolution was cleared with the minority and, specifically, Senator CASE.

I commend Senator NUNN for an extraordinarily perceptive and sensitive resolution, of which I am proud to be a cosponsor.

I agree that the procedural question was important, that the Foreign Relations Committee should have been consulted, obviously has been on the majority and minority sides, and I simply wanted to record that for the record.

Several Senators addressed the Chair.

Mr. NUNN. I thank the Senator from Indiana for his comments and for his cosponsorship of this resolution.

Mr. President, I ask unanimous consent that during this day other Senators who have not been able to be contacted in terms of their cosponsorship of this resolution be permitted to add their names as cosponsors for the remainder of this legislative day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Will the Senator from Georgia yield?

Mr. NUNN. I yield to my colleague from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that my name be added as a cosponsor of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I found the call for prayer from Camp David to be a very moving one this week. I know, as a Catholic, I found myself joining our Baptist President, the Jewish Prime Minister of Israel, and the Moslem President of Egypt in prayer.

I hope that that was the attitude taken not only by those of us in Government, but by those throughout the United States and throughout the world.

None of us can predict what will be the result of Camp David, but, certainly, it is a setting in which there is total bipartisan hope for success.

There is no more troubled area in the world than the Middle East today. There is no area showing greater potential for disaster, disaster that conceivably can be worldwide, than the Middle East, and there is no area in the world needing the good will of all people more.

So I commend my colleague from Georgia for the resolution. I hope the combined prayers, wishes, hopes, aspirations of people in this country and, really, throughout the world, will help to move forward the talks at Camp David.

Mr. NUNN. I thank the Senator from Vermont for his comments.

Mr. GLENN. Will the Senator yield?

Mr. NUNN. I yield.

Mr. GLENN. Mr. President, I appreciate the Senator's yielding.

I would like to be added as a cosponsor of the resolution. I think it is very worthwhile. I commend the Senator from Georgia for his initiative in placing this resolution before the Senate. I think it is needed. I think we see too much going our own way in the world today and maybe not the way of whatever higher powers there are to guide us, whatever our religious background may be.

I commend the Senator from Georgia for bringing this to the attention of the Senate and I ask to be added as a cosponsor.

Mr. NUNN. I thank my colleague from Ohio.

Mr. President, I ask unanimous consent the Senator from Ohio be added as a cosponsor and that the Senator from Arkansas (Mr. HODGES) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. I thank the Senator from Florida for yielding.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 554) was agreed to.

The preamble was agreed to.

THE NATURAL GAS CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I would like to inquire at this time, so that Senators will be on notice as to what to expect during the afternoon, as to whether or not it would be possible to call up the gas conference report today, debate it, and get an agreement that for today only there would be no motion to table the conference report. This would protect Senators who are away from a surprise motion to table the conference report on, perhaps, the most important subject matter that has come before the Congress, and it would allow for some debate during the afternoon, with the time equally divided.

So I, therefore, ask unanimous consent that Senator JACKSON proceed with calling up the conference report today, that there be no votes with respect to the conference report, that no motion to table the conference report be in order today, and that the time for debate be equally divided between Mr. JACKSON and Mr. HANSON or their designees. That is my request.

Mr. ABOUREZK. Mr. President, reserving the right to object, may I be recognized?

Mr. ROBERT C. BYRD. Mr. President, I have the floor. The Senator may reserve the right to object.

The PRESIDING OFFICER. The Senator may speak on the reservation.

Mr. ABOUREZK. We went all through this yesterday, a couple of times. I have to just reiterate what I said yesterday when I objected to the same sort of request, now modified somewhat with respect to time.

If the majority leader or the distinguished chairman of the Energy Committee would like to bring up the national gas conference report under the Senate rules, either one has that right. Nobody is objecting to anybody bringing up the natural gas conference report. I am all for it. Everyone I know in this little coalition we have is all for bringing it up. The only thing we cannot agree to is some sort of a motion or—we do not want to preclude ourselves from offering anything, from any right we have under the rules, offering a motion, a tabling motion or whatever. We just do not want to preclude ourselves from that.

If we were to agree not to have any kind of a tabling vote today, for example, what would happen? I think everyone recognizes that Senator JACKSON, Senator METZENBAUM, and myself would be here on the floor discussing it with each other all day long, and everybody else goes home. We would be here, on perhaps the most important domestic issue of the last decade, talking to ourselves. I do not think that is right or fair, and I would hope the distinguished majority leader would not ask us to go through that.

We believe that if Members of the Senate are in their offices, at least if they think there is a vote or there might be a vote coming up, we believe we will have a shot, at least, at getting some of them over here to listen to the debate.

As I said yesterday, the conference report we are to consider was drafted in secret. We were not allowed to ask questions on it, we were not allowed to debate it all during the year; it was kept even from those of us on the conference committee who did not agree with deregulation.

I think we are entitled and I think the Senator is entitled to at least have an open-air debate, a debate out in the sunshine, as I have heard said so many times around here, where Senators can listen to the debate and where we can talk and argue back and forth; and I would hate, through a procedural maneuver, just to send everyone on back to their States to campaign for a few days, and the rest of us just sit here and talk to each other about it.

So, Mr. President, I regretfully and reluctantly must object to the unanimous-consent request.

Mr. ROBERT C. BYRD. Mr. President, I respect the distinguished Senator from South Dakota tremendously. I respect him for many reasons. I respect his courage, his forthrightness, and his integrity, and I respect his being against the conference report.

Let me say, however, when the Senator says there would be no objection to bringing up the conference report, that conference reports are privileged, and if they cannot be brought up by unanimous consent, they can be brought up by nondebatable motion. So it is not a question of being able to bring it up today. The question is whether it can be brought up without a surprise motion to table that conference report being made.

I had the votes here yesterday to defeat a tabling motion. My concern was, if we brought it up yesterday, that today, about 4 o'clock in the afternoon or 5 o'clock in the afternoon, or 6 o'clock, 7 o'clock, or 8 o'clock in the afternoon, a motion to table that conference report could be made, and I was not about to anticipate such a vote occurring when I would be concerned about absentees, many on both sides of the question, many on both sides of the aisle.

So for that reason I shall not ask Mr. JACKSON to proceed with the conference report this afternoon, because a motion could be made to table that conference report at any time today, up until midnight.

But, Mr. President, for the information of the Senate, agreement or no agreement, the Senate will proceed on Monday to take up the natural gas conference report. I have sought an agreement that would protect Senators from a sudden surprise motion, but all Senators are now on notice. They will be alerted over the weekend to expect anything to happen beginning Monday. There can be procedural votes, there can be motions to table the conference report, there can be votes on getting the Sergeant at Arms to get Senators to come in—there can be all kinds of motions made, if Senators want to indulge in them, and some of them are nondebatable and require immediate votes.

So, with that, may I say that the Senate is coming in at 11 o'clock on Monday morning, and Senators may expect anything, and they should, of course, prepare their schedules accordingly.

So, for today—and I apologize for the rollcall vote; I make no bones about it, I asked for that rollcall vote. I had not previously asked for a rollcall vote this year, but I asked for that rollcall vote so I could see what our absentee situation was, just in the event we did call up that conference report today, and to see where the votes were, and for various other reasons in connection with the natural gas conference report. I apologize to the Senate for doing that; I thought the reasons were sufficient, but that I should point them out.

Mr. METZENBAUM. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. METZENBAUM. I think it is only fair that the majority leader be advised, and I would hope he would advise other Members of the Senate, that at some time on Wednesday a motion to recommit with instructions will be brought up. At exactly what point that will be brought up is undetermined at the moment, but I think it would be fair to say we would not anticipate bringing that up on Monday or Tuesday.

I think I reflect a great body of opinion here in the Senate, particularly on the part of those who have joined in the "Dear Colleague" letter relative to the motion to recommit, that we do not anticipate nor do we support a motion to table the conference committee report, it not being our desire to kill the bill, but rather to have a positive alternative.

Mr. ROBERT C. BYRD. I appreciate what the Senator has said. I do not doubt his sincerity, and I know his word is his bond. But without absolute unanimous consent to guarantee no motion to table at any time today I cannot afford that risk, because when a Senator gets the floor, he cannot be taken off the floor, and can speak up to midnight and then move to table. As I say, I cannot afford to run that risk this afternoon.

May I say that I will make no further unanimous-consent requests with respect to the natural gas conference report today, and I will protect all Senators on both sides of the aisle against any unanimous-consent request that deals with the energy conference report, with this exception: I would like to get unanimous consent that the Senator from Washington (Mr. JACKSON) be recognized on Monday after the two leaders have been recognized under the standing order, or at any time during the day, and I will assure Mr. METZENBAUM and Mr. ABOUREZK that that will not be done until they are on the floor.

I ask unanimous consent that Mr. JACKSON be recognized at some point during the afternoon on Monday to call up the conference report.

The PRESIDING OFFICER (Mr. BURDICK). Is there objection?

Mr. ABOUREZK. Mr. President, reserving the right to object, and I shall not object, you are only asking, not for him to hold the floor, but just that he be recognized to call up the conference report, and at that time the rules take effect?

Mr. ROBERT C. BYRD. Exactly. I just want to guarantee that the conference report will be called up at that time.

Mr. METZENBAUM. Will the majority leader be good enough to explain why the unanimous-consent request is needed?

Mr. ROBERT C. BYRD. It is so that Senator JACKSON will get the floor. That is the only point.

Mr. BARTLETT. Mr. President, reserving the right to object, those of us on this side of the aisle, Senator HANSEN and myself, would also like to be notified.

Mr. ROBERT C. BYRD. Yes.

Mr. BARTLETT. I listened to a unanimous-consent request a little while ago and we got here as quickly as we could. We would like to be notified of any action to be taken. If that is the understanding, that is fine. If that is not the case, we will just be on the floor.

Mr. ROBERT C. BYRD. May I apologize to the Senator? I knew the request would be objected to. I knew the Senator's side was ably represented, and I knew the request was going to be objected to. I apologize to the Senator.

Mr. JACKSON. I will assure the Senator that the minority side will be notified in advance before I call up the conference report.

Mr. BARTLETT. Not only the minority side, but also Senator HANSEN and myself.

Mr. JACKSON. Specifically, Senator BARTLETT and Senator HANSEN.

Mr. ABOUREZK. I think the reason for Senator BARTLETT's concern is that he knew I was over here, and he knows I have been negotiating to get a poison gas facility built in South Dakota in exchange for my vote on the natural gas bill. He is concerned that I might sell out. That is why he is concerned.

[Laughter.]

Mr. ROBERT C. BYRD. Mr. President, today is a good day for jokes but we should get on with our work.

Mr. LUGAR. Reserving the right to object, and I will not object, I want to assure my colleague (Mr. BARTLETT) that I was going to object in his behalf as I know his feelings. I would raise the question with the majority leader, respectfully, if he has any idea, or if he could advise us, about what time on Monday morning or afternoon Senator JACKSON might be seeking recognition, if there is any time in mind?

Mr. ROBERT C. BYRD. The Senator thinks between 11 o'clock and noon.

Mr. LUGAR. Between 11 o'clock and noon on Monday he anticipates his opening statement?

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. One moment. Is there objection? The Chair hears none and it is so ordered.

SECOND CONGRESSIONAL BUDGET RESOLUTION

Mr. HUDDLESTON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Concurrent Resolution 683.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the concurrent resolution (H. Con. Res. 683) revising the congressional budget for the U.S. Government for the fiscal year 1979, and requesting a conference with the Senate on the disagreeing votes of the two House thereon.

Mr. HUDDLESTON. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. MUSKIE, Mr. MAGNUSON, Mr. HOLLINGS, Mr. CRANSTON, Mr. CHILES, Mr. ABOUREZK, Mr. BELLMON, Mr. DOLE, Mr. MCCLURE, and Mr. HEINZ conferees on the part of the Senate.

LICENSE FEES AND EXEMPTIONS UNDER THE PERISHABLE AGRICULTURAL COMMODITIES ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1079.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 976) to amend the Perishable

Agricultural Commodities Act, 1930, relating to practices in commodities.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Agriculture, Nutrition, and Forestry with an amendment to strike all after the enacting clause and insert the following:

SECTION 1. (a) Effective January 1, 1979, section 1 of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a), is amended by—

(1) in subsection (6), striking out "$100,000" and inserting in lieu thereof "$200,000"; and

(2) in subsection (7), striking out "$100,000" and inserting in lieu thereof "$200,000".

(b) Section 1 of the Perishable Agricultural Commodities Act, 1930, is further amended by inserting in subsection (6) immediately after "(C) no person buying any commodity" the following: "other than potatoes", except that no person buying potatoes for processing solely within the State where grown shall be deemed or considered to be a dealer under subsection (6) of section 1, as amended by this subsection, until January 1, 1982.

SEC. 2. Section 3(b) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499c(b)), is amended by—

(1) striking out "$100" in the third sentence and inserting in lieu thereof the following: "$300, plus $50 for each branch or additional business facility operated by the applicant in excess of twenty such facilities, as determined by the Secretary. Total annual fees for any applicant shall not exceed $1,000 in the aggregate";

(2) inserting immediately before the fourth sentence a new sentence as follows: "The Secretary may assess a single uniform license fee for all applicants, or the Secretary may assess a graduated fee based upon the amount or type of business conducted by the applicant or both.";

(3) inserting immediately after "referred to above:" in the fourth sentence the following: *"Provided*, That the amount of money accumulated and on hand in the special fund at the end of any fiscal year shall not exceed 25 percent of the projected budget for the next following fiscal year:"; and

(4) inserting "further" immediately after *"Provided"* in the fourth sentence.

Mr. ROBERT C. BYRD. Mr. President, there may be rollcall votes on amendments to this bill and a rollcall vote on passage. I assure all Senators I will not ask for any further rollcall votes today, because I have the information I need.

May I ask Mr. HUDDLESTON if he has any indication of rollcall votes on amendments or final passage?

Mr. HUDDLESTON. I will advise the majority leader I have no information that any amendment or final passage will require a rollcall vote. I know of one amendment, the amendment by the Senator from Iowa.

Mr. ROBERT C. BYRD. Would Mr. CLARK indicate whether or not he expects a rollcall vote?

Mr. CLARK. Mr. President, I have no desire to ask for a rollcall vote.

Mr. HUDDLESTON. Mr. President, I do not think we can guarantee there will not be a rollcall vote so far as we know now.

Mr. ROBERT C. BYRD. I think we better take Mr. HUDDLESTON's words exactly at face value as we would at any time. He says, for the information of the cloakrooms, there can be no guarantee that there will not be rollcall votes on amendments or on passage. He knows of no desire for rollcall votes on anyone's part at this point, but they could occur.

I thank the Senate and I thank the Senator.

Mr. BAYH. Will the Senator yield for a unanimous-consent request?

Mr. HUDDLESTON. I yield.

Mr. BAYH. Mr. President, I ask unanimous consent that a member of my staff, Mr. Jay Townsend, be permitted access to the floor during the debate and discussion on this particular legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. Mr. President, S. 976 amends the Perishable Agricultural Commodities Act (PACA) to—

First. Increase from $100,000 to $200,000 the value of fresh and frozen fruits and vegetables that retailers may purchase, and the value of transactions frozen food brokers may negotiate, annually before they become subject to PACA license requirements, effective January 1, 1979;

Second. Make potato processors subject to licensing under PACA as "dealers" (except that no person buying potatoes for processing solely within the State where grown would be deemed to be a dealer until January 1, 1982);

Third. Permit increasing the maximum annual license fee from $100 to $300, plus $50 for each branch or additional business facility in excess of 20, up to a total of $1,000, and permit the Secretary of Agriculture to assess a single uniform license fee for all applicants, or a graduated fee based upon the amount or type of business conducted by the applicant or both; and

Fourth. Limit the amount of money that could be accumulated and held in the special fund for the administration of PACA at the end of each fiscal year to not more than 25 percent of the projected PACA budget for the next fiscal year.

The basic objective of the Perishable Agricultural Commodities Act (PACA) is to establish a code of fair-trading practices governing the marketing in interstate and foreign commerce of fresh and frozen fruits and vegetables and cherries in brine and to aid in the enforcement of contracts for marketing these commodities. Under PACA, it is unlawful for any commission merchant, dealer, or broker in connection with any transaction in interstate or foreign commerce to engage in certain unfair trade practices. Among these are:

First. To reject or fail to deliver in accordance with terms of a contract, without reasonable cause;

Second. To dump, discharge, or destroy without reasonable cause any lot received on consignment;

Third. To fail or refuse to account correctly and pay promptly for any lot;

Fourth. To fail to perform any specification or duty arising out of a contract without reasonable cause;

Fifth. To misrepresent or misbrand as to character, kind, grade, quality, quantity, size, pack, weight, condition, degree of maturity, or State, country, or region of origin; and

Sixth. To fail to maintain adequate records and accounts. Enforcement is through a system of licenses. Every commission merchant, broker, and dealer, including certain retailers and processors, operating subject to PACA is required to be licensed. Most applicants encounter no problems in obtaining licenses. However, the Secretary of Agriculture may deny licenses to certain individuals for specific reasons spelled out in the law, including false or misleading statements in the application, a history of repeated violations of PACA, the criminal record of the applicant, failure to pay reparation awards, or failure to furnish required surety bonds. Licenses may be suspended or revoked for violations of PACA.

There are two main phases of activity in administering PACA. First, the Secretary is authorized to hear and decide disputes that involve claims for damages resulting from any violation of the fair trading principles. Complaints are filed with the Secretary; investigations are made as warranted; and, if possible, amicable settlements are worked out between the parties. If a dispute cannot be settled informally, it may become a formal proceeding in which the parties are given an opportunity to submit evidence in support of their positions, either at an oral hearing or by written submissions of evidence. If the Secretary concludes that a violation has occurred, he determines the amount of damages sustained and issues an order requiring the offender to pay such damages to the injured party by a specified date. The offender's license is automatically suspended unless he pays the amount of the award or appeals the Secretary's decision to a district court of the United States, as provided in PACA.

The second main phase of activity relates to disciplinary measures. These include administrative proceedings by the Secretary to suspend or revoke licenses for violations of PACA and court actions to collect civil penalties for operating without a license, together with injunctions to restrain further operations.

Mr. President, this legislation raises the exemption for both retailers and frozen food brokers from the licensing requirement of PACA from $100,000 to $200,000. The proposed increase in the index of wholesale food prices that have taken place since the amount of the exemption was last set by Congress in 1969. Since 1969, wholesale prices for fresh fruit and vegetables have doubled.

PACA is self-supporting from annual license fees. These fees are deposited in a special PACA fund and all costs of administration of PACA—except for legal services—are financed from these fees.

The Secretary may set the level of the annual license fee, within the maximum provided in the law, at an amount sufficient to provide the revenue to meet anticipated expenses for administering PACA. Before the license fee can be raised, the Secretary must publish the proposed rate, giving all interested persons an opportunity to file their comments or objections. The present maximum fee authorization of $100 was established in 1969.

The statutory ceiling on license fees must be raised because of: First, the declining number of firms operating subject to license, and second, the increasing cost of administering the law. At present, the number of firms licensed is approximately 16,127, compared with an all-time peak of about 27,000 in 1956. This trend toward fewer licensees results from the continuing mergers and consolidations in the fruit and vegetable industry and the closing of many small firms.

Despite the decline in number of firms licensed, the number of complaints filed under PACA and the requests for advice and assistance have remained relatively constant. During the past fiscal year, a total of 2,318 reparation complaints were handled by the Department under PACA. Informal amicable settlements were arranged in 1,268 such cases, resulting in payments to the parties of approximately $5.5 million. In addition, 382 formal orders were issued by the Department's judicial officer awarding reparations amounting to over $2.3 million. The Department makes no charge for the handling of these complaints.

This bill limits the amount of money that could be accumulated and held in the special fund for the administration of PACA at the end of each fiscal year to not more than 25 percent of the projected PACA budget for the next fiscal year. Since the administration of PACA is dependent entirely on fees collected, the Department of Agriculture should maintain a reasonable reserve of collected fees to support the continued provision of program services. However, this reserve should be limited to the minimum amount necessary for reserve purposes, which is estimated to be one-fourth of annual program expenditures.

Mr. President, this bill is equitable and fair and I urge my colleagues to join me in support of this measure.

Mr. President, I ask unanimous consent that the committee amendment be agreed to and that the bill as amended be considered as original text for purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TALMADGE. Mr. President, will the Senator yield briefly?

Mr. HUDDLESTON. Yes; I yield.

Mr. TALMADGE. Mr. President, I should like to compliment the distinguished chairman of the subcommittee for the outstanding job he did on the bill.

I also commend the ranking minority member of the subcommittee and the full committee (Mr. DOLE) and Senator LUGAR and Senator CLARK for the outstanding jobs they did on this legislation. I wholeheartedly support its passage and urge the Senate to approve it.

Mr. DOLE. Mr. President, I only say, as has been expressed by the distinguished floor manager, the chairman of our committee, that this is a good bill.

Since it was enacted in 1930, the Perishable Agricultural Commodities Act has served us well in assuring fair trading and market practices in the fresh and frozen produce industry.

PACA protects growers from certain unfair trade practices, including nonpayment by commission merchants, dealers, and brokers of contract obligations. The Secretary of Agriculture may hear and decide disputes involving claims for damages resulting from violations of the act.

The Secretary may also take disciplinary actions against violators.

PACA's licensing system is an important enforcement tool. But since 1930, the fee charged for licenses has been the same for all operators, regardless of their size.

The structure of today's food marketing system has changed since 1930. Now there are not only the local operators, but large retail chains with hundreds of stores across the country. Branch stores often get their produce from local growers as well as through national chain distribution systems.

It seems to me that these big operators should carry more of the burden of financing PACA than the small operators.

The bill contains a provision permitting the Secretary of Agriculture to assess up to $50 for each additional branch store or business location that a licensee has, over 20 branches, up to a total of $1,000. Within this framework, the Department of Agriculture should be able to adjust the fee scale to provide adequate funding for PACA without hurting licensees like the "mom and pop" store whose operations are mostly local.

Mr. President, I urge the enactment of S. 976.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Wanda Weaver of my staff be permitted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CLARK. Mr. President, I ask unanimous consent that Bill Motes and Marge Baker of my staff be granted the privilege of the floor.

Mr. LUGAR. I make a similar request for David Lyons of my staff.

Mr. DOLE. I ask the same privilege for Dolores Klumpp of my staff, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1827

Mr. CLARK. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Iowa (Mr. CLARK) for himself and others, proposes unprinted amendment numbered 1827.

Mr. CLARK. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4, after line 5 add a new section as follows:

SEC. 3. Section 3(b) of the Farm Labor Contractor Registration Act of 1963, as amended (78 Stat. 920, as amended; 7 U.S.C. 2043), is amended—

(a) by striking out the word "or" at the end of paragraph (8), striking out the period at the end of paragraph (9) and inserting in lieu thereof a semicolon and the word "or"; and

(b) by adding at the end thereof a new paragraph (10) as follows:

(10) Any person who would be required to register solely because they are engaged in any such activity solely for the purpose of supplying full-time students or other persons whose principal occupation is not farmwork to detassel hybrid seed corn or sorghum for seed, and to engage in other incidental farmwork for a period not to exceed four weeks in any calendar year: *Provided*, That such students or other persons are not required by the circumstances of such activity to be away from their permanent place of residence overnight: *Provided, further*, That such full-time students or other persons, if under 18 years of age, are not engaged in providing transportation in vehicles caused to be operated by the contractor.".

Mr. CLARK. Mr. President, I ask unanimous consent that Senators BAYH, LUGAR, PERCY, STEVENSON, and MORGAN be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CLARK. Mr. President, I am submitting today an amendment designed to correct a problem that is an example of government out of control. This amendment would exempt a portion of the seed industry, including the hybrid seed corn industry, from the Farm Labor Contractor Registration Act of 1963.

Congress passed FLCRA in 1963 to protect migrant and seasonal workers who were being exploited by professional farm labor contractors. It was legislation that was very badly needed. When the act was amended in 1974, I supported that effort because the Labor Department was not adequately protecting workers from exploitation by unscrupulous contactors.

The Senate report to the 1974 amendments described the migrant workers which the act was intended to protect:

Today, the bulk of the migrant workforce is made up of Mexican-Americans, Puerto Ricans, West Indians, and native born black Americans.

Migrant and seasonal farm workers have long been among the most exploited groups in the American labor force. Despite their hard toil and valuable contribution to our nation's economy, their lot has historically been characterized by low wages, protracted hours, and horrid working conditions. The families, and particularly the children of these workers have also suffered from the typical symptons of chronic poverty—being undereducated, ill-fed, poorly housed, and lacking even the most rudimentary health and sanitary facilities.

The 1974 amendments to FLCRA were designed to prevent this exploitation by requiring farm labor contractors to be fingerprinted, to register annually with the Secretary of Labor, and to designate the Secretary as their agent for service of process. Detailed information concerning the vehicles and housing provided for workers was required as well

as compliance with special insurance provisions, and a medical examination for vehicle drivers. In addition, contractors were required to keep detailed employment records and make detailed disclosures to workers concerning all aspects of the worker's employment.

FLCRA required annual registration and detailed information (including fingerprints) because of the transient nature of this type of farm labor. Because migrant and seasonal farm workers often traveled far from their homes and because (as the Senate report indicated) they suffered from all of the handicaps of poverty, they were extremely dependent upon the contractor that recruited them and vulnerable to exploitation. The 1974 amendments have improved the protection of these workers.

Until last year, the Labor Department did not seek to enforce FLCRA against the seed corn industry. However, last year, the Labor Department made a series of decisions that extended the provisions of the act to people who are clearly not migrants by any reasonable definition, and who were not intended to be included in the coverage provided by the act. These are young people ranging in age from 14 to 16 years old who work for an average of 10 days to 2 weeks each summer to detassel seed corn, eliminate "rogue" plants, and perform other functions, related to seed production.

These young people normally work within 30 or 40 miles of their homes and return to it each evening. The act, as it is now construed by the Department of Labor, defines these persons as seasonal and migrant farm workers.

Because the act defines these young people as "migrant and seasonal farm laborers," any person—usually a local high school principal or coach—who recruits, hires, transports, supervises, or deals with these young people while they are detasseling corn, must now register as a farm labor contractor. That means that the law treats established, well-known local citizens in exactly the same way it treats the most unscrupulous, fly-by-night labor contractor.

My constituents in Iowa are very much up in arms about this, Mr. President, and I must say that I do not blame them. I think that it is ridiculous for the Government to classify a local high school coach or principal as a migrant labor contractor if he arranges for some of his students to detassel corn during the summer. I have been contacted by the Governor of Iowa, the chairmen of the house and senate agriculture committees of the Iowa State Legislature, and by the ranking members of those committees.

I have been contacted by several seed corn companies, and by dozens of private individuals. The people of the State of Iowa I believe, think that this application of the FLCRA is a prime example of what is wrong with our Government today. It is an example of the failure on the part of the Government to be sensitive to the difference between an important need for a strong protection, and a situation where such rule is frustrating, costly, and unnecessary.

Mr. President, I consider my amendment to be a last resort. Last February 23, when I first became aware of the construction the Department of Labor was putting on this act, I wrote to Secretary of Labor Ray Marshall and asked him to reconsider the decision to regulate corn detasseling operations under FLCRA. I discussed the problems with Assistant Secretary Elisberg in my office, and I discussed it with Secretary Marshall over the telephone. My staff had repeated contacts with USDA staff over the issue as well.

However, the Department of Labor has refused to change its position.

In a May 2 letter, signed by Assistant Secretary Elisberg, USDA said that existing exemptions in the law would be adequate when the industry modified its operations to take advantage of them.

Mr. President, the existing exemptions do not get to the root of the problem, and they are not adequate. The current exemptions do not change the fact that young Iowans who live at home and work near home, are classified as migrants because they work a few days detasseling corn. And the current exemptions do not change the fact that established local citizens must register and be fingerprinted and fill out long forms if they want a few days work arranging for kids to detassel corn.

And, the current exemptions do not effectively exempt most of those Congress intended to exempt in 1974. To detassel seed when it must be detasseled, workers must be moved to where the fields are. Frequently, that is more than 25 miles from the home of the person arranging for the labor. And, to arrange for labor, it is common for advertisements to be put in local newspapers.

If that paper has a circulation beyond a 25-mile radius from the home of the person arranging for the labor, he must register as a contractor. Most newspapers have a circulation beyond that radius. Thus, the current exemptions do not effectively deal with the problem.

Because we were unable to get relief from these rules from the Department of Labor, I am offering this amendment today. It is a narrow amendment. It is specifically designed to exempt from the FLCRA young people who work in the seed industry during the summer, primarily corn detasselers. I believe it would not affect other types of workers.

Mr. President, temporary summer work such as detasseling has been performed by young people in my State for many years; and there has never been any evidence of exploitation of the type which FLCRA is intended to prevent. Detasselers are covered by the minimum wage and child labor provisions of the Fair Labor Standards Act as well as by the Occupational Safety and Health Act.

In most cases, they are transported to the fields either in personal vehicles driven by local adults, who many of the young people have known all their lives, or in school buses subject to State school bus inspection laws and driven by specially licensed drivers. Companies operating in my State maintain liability insurance for their vehicles equal to that required by FLCRA.

The number of jobs provided by the seed industry to young people each year is very large. The American Seed Trade Association estimates that more than 280,000 young people are engaged as temporary employees by the seed industry. Pioneer Hi-Bred International, Inc., which is headquartered in Des Moines and produced about 30 percent of the seed corn in 1977, employed about 50,000 people in detasseling last year, paying wages of nearly $14 million. DeKalb AgResearch, Inc., another large company active in Iowa, employed 32,000 detasselers in 1977.

Not only does the seed industry utilize primarily student labor, but also the supervisors who recruit and transport them are not professional contractors.

Normally, detasselers are recruited, transported, and supervised by employees of the seed companies or by other community residents seeking some extra income through part-time work. Many of the people in my State who would be required to register are schoolteachers or college students who have returned home for summer vacation. In summary, the people employed on a part-time basis by the seed industry are generally middle-class Americans, far different from the exploited groups which FLCRA was originally intended to protect.

Under the Labor Department's present policy, any individual who recruits students to work in the seed industry or transports them beyond 25 miles would be required to register. As a result, thousands of community residents who organize or transport young people on a part-time basis must register as farm labor contractors. The American Seed Trade Association estimates that more than 19,000 people would have to register. In contrast, during 1977, the Department of Labor reported about 12,000 registrations for all agriculture activities (other than the seed industry throughout the entire country).

Registration of these individuals is not necessary and will harm legitimate enforcement of FLCRA. The adults that recruit and transport young people in the seed industry have been adequately regulated by State and local law for many years. When Congress looked into the exploitation of migrant workers, it found no evidence of abuse in the seed industry. I have heard from many people in my State who resent the unnecessary paperwork associated with registration, and especially the requirement to be fingerprinted. Unnecessary enforcement of FLCRO breeds resentment against this law and against the Government employees that enforce it, but more importantly, it diverts Labor Department resources from focusing on the abuses and exploitation that the act was originally intended to prevent. I am concerned that if resentment continues to grow, the public may seek to have the entire law repealed; thereby ultimately damaging the very groups which the law was intended to protect.

The amendment that I am introducing is a narrow exemption to FLCRA that will exempt the seed industry to the extent that it does not use traditional migrant workers and professional con-

tractors; and it will not disturb the coverage of "day haul" operators which Congress, in 1974, sought to regulate.

On two other occasions, since 1974, amendments to FLCRA were adopted, exempting activities which were never intended to be covered. Like certain activities of the sheep-shearing industry and the custom poultry industry, the activities of the seed industry I have enumerated today should not be covered by FLCRA.

Mr. President, we in Congress must reduce the unnecessary intrusion of the Federal Government into the lives of the ordinary citizen. My amendment is intended to correct just such an abuse, without in any way diluting the protection the act was originally intended to afford.

Mr. President, I ask unanimous consent to have Senator DOLE added as a cosponsor of the legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, it is a privilege for the Senator from Indiana to be able to join with my colleague and friend from Iowa in introducing this amendment.

I have been working with our distinguished colleague from Iowa and have shared many of the same frustrations he has shared. I would like to reiterate the general thrust of his very detailed and very thorough explanation of why this amendment is necessary.

When Congress amended FLCRA in 1974 strengthening the act, I supported that effort because the Labor Department was not adequately protecting migrant workers from exploitation by unscrupulous farm labor contractors. Hearings held by both the House and the Senate demonstrated that many contractors recruited workers with exaggerated promises, skimmed large amounts from the worker's wages, transported them for long distances in unsafe vehicles, failed to furnish adequate housing, and paid workers in cash without keeping records of withholding taxes.

In order to combat these abuses, the major provisions of FLCRA (as strengthened by the 1974 amendments) require that farm labor contractors register annually with the Secretary of Labor, and be fingerprinted. Detailed information concerning the vehicles and housing provided for workers is required as well as compliance with special insurance provisions and a medical examination for vehicle drivers. In addition, contractors are required to keep detailed employment records and make detailed disclosures to workers concerning all aspects of the worker's employment.

Annual registration and detailed information was required because of the transient nature of this type of farm labor. Since migrant and seasonal farmworkers often travel far from their homes, they are extremely dependent upon the contractors that recruit them.

Until a few years ago, anybody who spent much time in a migratory labor camp, could not help but come away with the terrible feeling that this really was not the way people who work for a living should be treated in the United States of America. I believe that the 1974 amendments have greatly improved the protection of these workers.

However, having been a supporter and involved in the passage of that original act, it came as a significant shock to the Senator from Indiana to see that particular act, designed to meet a very real life-or-death emergency situation, construed to be applicable to a totally different and unrelated situation.

One of the first jobs I had as a young farm boy was to work for a neighbor who was in the seed corn business, and participate in the detasseling process.

It is a short-term, short-period kind of situation. It involves the use, primarily if not totally, of neighborhood kids, friends, families, farm neighbors, and their children in trying to meet the intense labor requirements at a given moment.

Recently, the Labor Department has begun imposing FLCRA upon the seed industry which rarely employs traditional migrant and seasonal farmworkers and professional farm labor contractors. The seed industry should be subject to FLCRA to the extent that it employs migrant workers and professional farm labor contracts; however, for the most part, the industry hires local young people ranging in age from 14 to 16 years old for a few weeks each season to detassel seed corn, eliminate "rogue" plants, and perform other functions. These young people normally work on farms nearby their homes and return home each evening.

They receive the minimum wage and are protected by the child labor provisions of the Fair Labor Standards Act and by the Occupational Safety and Health Act. In addition, they are normally transported in schoolbuses which are subject to State schoolbus inspection laws or in personal vehicles driven by the same adults that might transport them to the community swimming pool. Companies operating in my State maintain liability insurance for their vehicles equal to that required by FLCRA. According to the American Seed Trade Association the number of jobs provided by the seed industry to young people each year is approximately 280,000.

Mr. President, normally, detasselers are transported and supervised by employees of the seed companies or by other community residents seeking some extra income through part-time work. Many of the people in my State who would be required to register are schoolteachers or college students who have returned home for summer vacation. It is not unusual for a high school football coach to recruit his players in order to raise money for uniforms.

Under the Labor Department's present policy any individual who recruits students to work in the seed industry or transports them beyond 25 miles would be required to register. This would require the Department to register thousands of these community residents as farm labor contractors. According to the American Seed Trade Association approximately 19,000 people would be required to register. In contrast, during 1977, the Department of Labor reported about 12,000 registrations for all agricultural activities throughout the entire country. It is hard to believe that the Department can protect the workers that the act was intended to protect with its current resources if it actually enforces FLCRA against the seed industry.

Moreover, the registration of these individuals serves no useful purpose and is virtually unenforceable. Because the individuals who supervise and transport the detasselers also live permanently in the community, annual registration, fingerprinting, and the other requirements designed to keep traveling contractors subject to regulation are not needed; State and local law is sufficient. In addition, since these supervisors work for only a few weeks a year and since there are literally thousands of them, it would be virtually impossible for the Labor Department to insure registration.

When this matter first came to our attention, I thought it would be relatively easy to resolve. I shared the experience that has already been related to the Senate by our good friend from Iowa of trying to persuade the Secretary to rectify this problem administratively. I think the problem was a handful of bureaucrats under the Secretary with the immediate responsibility for carrying out this act. They first refused to consider it. Second, they said, "We'll take a look at the regulation."

Later, they said, "We'll not change the regulation, but we will just turn our head and not enforce it very much."

That is a ridiculous state of affairs and that is why I think this amendment which is before the Senate now is critical.

Mr. President, FLCRA was intended to protect migrant workers by registering professional farm labor contractors. We in Congress never expected the Labor Department to register high school teachers. In 1974 when the strawberry industry in the Pacific Northwest expressed its concern that the act might be applied to teenage berry pickers and the community adults that supervised them, we specifically referred to this as the kind of situation the act was not intended to cover. The problem now confronting the seed industry in my State is virtually identical to that anticipated in 1974 by the strawberry industry. I am sure that had we known in 1974 that the Labor Department would seek to enforce FLCRA against the seed industry several years later, this too would have been mentioned as another illustration of the kind of activity which the act was not intended to cover.

The amendment that I am cosponsoring is a narrow exemption to FLCRA that will exempt the seed industry to the extent that it uses student workers and community supervisors. If a corporation or farmer uses both traditional migrant and seasonal farmworkers as well as students and other local temporary workers, it is the intention of this amendment that the corporation or farmer would be covered under the FLCRA only to the extent that it acts as a farm labor contractor with respect to traditional migrant or seasonal farmworkers. The corporation or farmer would not be sub-

ject to the act with respect to the students and other temporary local workers referred to in this amendment.

Mr. President, I deeply believe in the goals of FLCRA; the Federal Government has a legitimate role in protecting traditional migrant and seasonal farmworkers because of a long history of abuse and exploitation of this underprivileged workforce which is so vital to our Nation's economy. However, FLCRA was never intended to apply to the situation I have referred to today in which thousands of teenagers work in fields near their homes for a few weeks each summer. The intrusion of the Federal Government in this way is unnecessary and must be stopped.

I appreciate the excellent job the Senator from Iowa has done. I have considered it a privilege to work with him.

Mr. LUGAR. Mr. President, I appreciate very much the opening statements made on this amendment by Senator CLARK and my distinguished colleague from Indiana (Mr. BAYH).

Mr. President, early in July, I received a number of letters from the seed industry in Indiana and from young people employed in the detasseling of hybrid seed corn in Indiana informing me of a Department of Labor policy which regards these young people as migrant laborers and requires labor contractors engaged in the hiring, transporting, and supervising of these young people to follow complicated registration procedures.

This Labor Lepartment policy is based on a new interpretation of a law to protect traditional migrant work crews. Beginning in 1976, the Department of Labor began to apply the Farm Labor Contractors Registration Act of 1963 (FLCRA) to the activities of the seed industry, principally, seed corn detasseling. These work activities are performed during several weeks of the summer by high school and college students on summer vacation. Students have historically detasseled, rogued, and pollinated seed crops and were never treated as migrant workers until 1976. Incidentally, most of the supervisors of these student crews are students or teachers, also on summer vacation.

On July 21, 1978, I wrote to Secretary Ray Marshall suggesting that the Department of Labor had stretched the intent of the FLCRA by applying it to seed corn detasselers. Labor, however, advised me that its application to detasselers was within the scope of the FLCRA as amendment in 1974. I disagree.

My study of the FLCRA's legislative history indicates that Congress did not intend for it to apply to the detasseling situation. In fact, report language accompanying the 1974 amendments offers specific direction that the act was not to apply to student or other local berrypickers in the Pacific Northwest—a situation nearly identical to that of seed corn destasselers.

On August 2, in an informal sense, I introduced an amendment to the Labor-HEW appropriations bill, H.R. 12929, which would, in effect, overturn this policy of the Department of Labor toward young workers who fill summer jobs detasseling seed corn in Indiana and other States. This amendment was referred to the Committee on Appropriations where no action was taken.

Shortly after introducing this amendment, I learned of a similar effort to correct this situation initiated by Senator CLARK. I have since joined this effort with Senators CLARK, CULVER, BAYH, and PERCY. We have drafted this amendment which would exempt certain activities of the seed industry from regulation under FLCRA. Activities exempted include detasseling but also include activities such as roguing and hand pollenating which are typically performed by young people. This amendment is narrowly drawn so that only temporary employees of the seed industry who work in the fields near their homes would be exempted. Furthermore, our amendment would not affect the various State and Federal laws, including OSHA and the Fair Labor Standards Act, which currently protect student detasselers.

I urge passage of this amendment that would correct a situation that has threatened the summer jobs of 280,000 young people.

Mr. President, clearly, the points at issue here have been well made, but let me reiterate them for the sake of my colleagues.

Each of us who has been in contact with young people involved in detasseling seed corn, whether in the State of Iowa, a great corn producing State, the State of Indiana that often ranks along with and just behind Iowa in terms of production of corn each year, realize that something has occurred here that we believe was not intended. Senator CLARK, Senator BAYH, both indicated, others might, as I will, that we have been in communication with the Secretary of Labor, Mr. F. Ray Marshall, and his agents to see whether this could, in fact, be clarified by simply administrative language and policies of that Department.

I think each of us have been frustrated and confounded that a point of view that seemed to us relatively commonsense and straightforward has not been accepted.

In view of that, each one of us in our own way has proceeded to try to bring some commonsense to the situation.

I am very pleased to be a part of the introduction of the amendment today and a part of this debate. I am hopeful that the signal given by what I am certain will be unanimous—well, I hope unanimous—but at least overwhelming consent, will be a relief to a problem which has been meaningful.

My colleague from Indiana (Mr. BAYH) has described in detail his youth in working with the detasseling process. In my own experience, I had a similar happy occupation on my own farm in Indiana working with other people.

I think that the facts of the matter are that in a narrow sense the Department of Labor is trying not to give ground unnecessarily. I appreciate the idealism through which this is all being approached.

Some time ago a 25-mile limit had been mentioned as the defining point as to what becomes a neighborhood farm exercise and something involving migratory labor of 25 miles on most country roads in Indiana or here or elsewhere is not very far. There should be a greater capacity to move and to work than this rather narrow conscription.

So, on behalf of many persons in the State of Indiana and on behalf of young people everywhere who are involved in this constructive activity, I hope the amendment will be adopted, and adopted with a pretty strong voice here today.

Mr. WILLIAMS. Mr. President, because the Committee on Human Resources has had no opportunity to hold hearings on this proposed exception to the Farm Labor Contractor Registration Act, I would like to emphasize the narrow scope of what is being proposed here.

I certainly understand the negative reactions by many citizens in the Midwest, about the application of the Farm Labor Contractor Registration Act to local people who transport high school students and other persons who are not migrant or seasonal farmworkers to detassel corn. Certainly, no one would suggest that high school students are migrant workers in the usual sense of that term. And, of course, no one would argue that high school principals or other responsible members of the community should not be trusted to transport students to engage in this work.

The language which has been developed makes clear that no exemption will be provided by this amendment for people who are engaged in farmwork as their usual or principal employment. This is, therefore, a very narrow exemption. It involves only crews composed principally of students who are employed to detassel hybrid seed corn, and to engage in some incidental activities, during a 10-day to 2-week period each summer.

Limitations in the amendment insure that migrant and seasonal farmworkers will lose no protections. The amendment also provides that children under 18 years of age will not be used to transport groups of workers under this amendment.

With these limitations, I am satisfied that the amendment is narrow and meets the problem at hand without weakening necessary protections for migrant and seasonal farmworkers.

This amendment does amend legislation that came from the Human Resources Committee dealing with the registration of farm labor contractors.

The Senator from Iowa has described completely all the reasons that prompted us to pass that farm labor contractor legislation, the crew leader legislation, as it was formerly called. He described the exploitation that had been discovered, on the part of those who recruit, and contract to supply, farm workers to the farms for the harvest.

The most recent expression of the need for protection in this area is found in the Farm Labor Contractor Act Amendments of 1974. The situation to which this amendment is addressed was not described in the purposes of the earlier Crew Leader Registration Act. As a matter of fact, I have learned that the particular processes of corn detasseling began after we had developed that basic

legislation. I understand that following the corn blight of the early 1970's, new strains of corn were developed, and out of that came the necessity for manual detasseling of the corn. All this came after the passage of the Farm Labor Contractor Registration Act of 1963.

This amendment is narrowly defined to reach the situation that now prevails in the detasseling of corn, where mostly young people, students, are taken for brief periods, described in the amendment, to the farms. They are not migrant laborers. They return to their homes in the evening, and it is a local situation.

We have been given every assurance that within the local community there will be adequate protection and concern for the young people who are involved in this part of agriculture, the detasseling of corn and other limited activities.

With this understanding about the limited nature of the amendment, our committee will not object to this amendment. It is an exceptional situation and can be reached through this amendment.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. WILLIAMS. I yield.

Mr. BAYH. Mr. President, I should like to express my sincere appreciation to my good friend and colleague from New Jersey for his cooperation in this matter. It was really as a result of his leadership that we first were made aware of the terrible problem that existed in some of the migrant labor camps.

All of us who are concerned about decent workplaces for Americans, wherever they may work, owe the Senator from New Jersey a deep debt of gratitude. I express that to him again, as I did at the time we were considering the legislation.

Mr. WILLIAMS. I thank the Senator from Indiana.

I appreciate the way this situation came to us. The members of our committee are sensitive to the application of law in situations about which we did not have information when we passed the basic legislation. We try to respond as we have, in not blocking or attempting to defeat their amendment to the law.

Mr. LUGAR. Mr. President, on behalf of those on this side of the aisle, I commend the distinguished Senator from New Jersey.

The minority members of his committee also have been notified and have given their assent to this measure, as I understand it.

I simply wish to reiterate what my colleague from Indiana has pointed out: We appreciate the sense of humanity and the commonsense that are involved. The problems of migratory workers are serious, as are the problems of youth. This has been a meeting of the minds, for which we are grateful.

Mr. WILLIAMS. I appreciate the statement of the Senator from Indiana.

I know that our ranking minority member, the Senator from New York (Mr. JAVITS), although he is not here on the floor, is aware of this and shares my feeling that we will not oppose the amendment.

Mr. CLARK. Mr. President, one further word: I particularly thank the Senator from New Jersey for his cooperation and work. I think everyone in this body knows the efforts he has made in this particular area, both through his subcommittee and through the committee generally. I add my commendations.

I thank Senator BAYH for working carefully with us over the last several days with regard to this amendment, and I thank the other sponsors: Senator LUGAR, Senator CULVER, Senator DOLE, and others.

Mr. President, I ask unanimous consent that the name of the Senator from New Mexico (Mr. DOMENICI) be added as a cosponsor.

The PRESIDING OFFICER (Mr. RIEGLE). Without objection, it is so ordered.

Mr. CLARK. Mr. President, it really has been through a cooperative effort by all the people mentioned here that we have been able to put this amendment together. I appreciate the comments of my colleagues, and I hope the managers of the bill will see fit to accept the amendment.

Mr. DOLE. Mr. President, I support this amendment, which I have previously cosponsored.

The distinguished Senator from Indiana (Mr. LUGAR) has pointed out that last year the Department of Labor ruled that persons employed in the detasseling of seed corn are required to register under the Farm Labor Contractor Registration Act. The amendment simply exempts corn detasselers from the FLCRA.

During the last session of Congress, Congress granted similar exemptions from the Farm Labor Contractor Registration Act for berrypickers and for crews on custom combiners.

Persons employed in corn detasseling are usually neighborhood high school students, not adult migrant laborers. Corn detasseling is an important source of employment to thousands of young people in the corn-belt States. If the Department of Labor ruling is permitted to stand, this source of employment is likely to dry up because employers—those who operate hybrid seed corn farms—will be subject to the massive paperwork registration requirements under the FLCRA.

I therefore urge my colleagues to support this amendment which benefits both employers and laborers in hybrid corn operations.

Mr. HUDDLESTON. Mr. President, I commend all those who have participated in the development of this amendment and have presented it here. It does address itself to a very serious and real problem, and I think it is an adequate and proper solution to that problem.

We are happy to accept the amendment.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. HUDDLESTON. I yield.

Mr. BAYH. Mr. President, I think we would be in error if we did not express a special note of gratitude to the distinguished Senator from Kentucky, who is a principal mover of this particular piece of legislation. We appreciate his sensitivity and his willingness to consider this amendment on the merits. Without his help, we would not be prepared to meet the successful results which I anticipate are going to be forthcoming.

Mr. HUDDLESTON. I thank the Senator from Indiana.

Mr. President, is there time remaining on the amendment?

The PRESIDING OFFICER. There is no time limit on the bill.

Mr. LUGAR. Mr. President, the minority is delighted to accept this amendment.

I second the comment made by my colleague from Indiana, Senator BAYH, that we deeply appreciate the work of Senator HUDDLESTON and his staff in working out this matter with the distinguished Senator from New Jersey and others on the Human Resources Committee.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HUDDLESTON. Mr. President, I know of no further amendments to the pending bill.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 976

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) Effective January 1, 1979, section 1 of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a), is amended by—

(1) in subsection (6), striking out "$100,000" and inserting in lieu thereof "$200,000"; and

(2) in subsection (7), striking out "$100,000" and inserting in lieu thereof "$200,000".

(b) Section 1 of the Perishable Agricultural Commodities Act, 1930, is further amended by inserting in subsection (6) immediately after "(C) no person buying any commodity" the following: "other than potatoes", except that no person buying potatoes for processing solely within the State where grown shall be deemed or considered to be a dealer under subsection (6) of section 1, as amended by this subsection, until January 1, 1982.

SEC. 2. Section 3(b) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499c(b)), is amended by—

(1) striking out "$100" in the third sentence and inserting in lieu thereof the following: "$300, plus $50 for each branch or additional business facility operated by the applicant in excess of twenty such facilities, as determined by the Secretary. Total annual fees for any applicant shall not exceed $1,000 in the aggregate";

(2) inserting immediately before the fourth sentence a new sentence as follows: "The Secretary may assess a single uniform license fee for all applicants, or the Secretary may assess a graduated fee based upon the amount or type of business conducted by the applicant or both.";

(3) inserting immediately after "referred to above:" in the fourth sentence the following: "*Provided*, That the amount of money accumulated and on hand in the special fund at the end of any fiscal year shall not exceed 25 percent of the projected budget for the next following fiscal year:"; and

(4) inserting "further" immediately after "*Provided*" in the fourth sentence.

SEC. 3. Section 3(b) of the Farm Labor

Contractor Registration Act of 1963, as amended (78 Stat. 920, as amended; 7 U.S.C. 2042), is amended—

(a) by striking out the word "or" at the end of paragraph (8), striking out the period at the end of paragraph (9) and inserting in lieu thereof a semicolon and the word "or"; and

(b) by adding at the end thereof a new paragraph (10) as follows:

"(10) Any person who would be required to register solely because they are engaged in any such activity solely for the purpose of supplying full-time students or other persons whose principal occupation is not farmwork to detassel hybrid seed corn or sorghum for seed and to engage in other incidental farmwork for a period not to exceed four weeks in any calendar year: *Provided*, That such students or other persons are not required by the circumstances of such activity to be away from their permanent place of residence overnight: *Provided, further*, That such full-time students or other persons, if under 18 years of age, are not engaged in providing transportation in vehicles caused to be operated by the contractor.".

Mr. HUDDLESTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 976.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTEREST RATES ON UPLAND COTTON PRICE SUPPORT LOANS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1076 while both Mr. HUDDLESTON and Mr. LUGAR are in the Chamber.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 3468) to amend the Agricultural Act of 1949 to ensure that the interest rates on price support loans for upland cotton are not less favorable to producers than the interest rates for such loans on other commodities (Rept. No. 95–1154).

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 103(f) of the Agricultural Act of 1949 is amended by striking out the fourth sentence of paragraph (1).

Mr. HUDDLESTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1154), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

SHORT EXPLANATION

The bill would place upland cotton in the same category and on the same basis as other agricultural commodities with respect to the interest rates charged eligible producers on price support loans.

BACKGROUND AND NEED

I.

Prior to the enactment of the Food and Agriculture Act of 1977, there was no statutory provision specifically relating to the charging of interest by the Commodity Credit Corporation on price support loans for eligible commodities. Thus, the rate of interest to be charged, if any, and the method of computation were matters for administrative discretion.

II.

The Food and Agriculture Act of 1977, however, contains a specific provision for determining interest rates on price support loans for upland cotton. The act adds section 103 (f)(1) to the Agricultural Act of 1949, which provides, in pertinent part, that the rate of interest on loans to cooperators on the 1978 through 1981 crops of upland cotton shall be established quarterly by the Commodity Credit Corporation on the basis of the lowest current interest rate on ordinary obligations of the United States.

III.

Until October 1, 1974, it was the policy of the Commodity Credit Corporation to set interest rates on commodity loans on a crop-year basis with all loans on a particular crop bearing interest at the same rate from disbursement to repayment.

Effective October 1, 1974, the interest rate policy was changed to provide that commodity loans would be subject to changes in the interest rate while they were outstanding. The Executive Vice President of the Commodity Credit Corporation was directed to review the interest rate semiannually, each March and October, and to establish and publicly announce a rate which would recover the Corporation's cost of borrowing.

IV.

The policy on semiannual review of interest rates for commodity loans has not been followed since March 1, 1976. At that time, the Commodity Credit Corporation made the interest rate of 7.5 percent per year (which was established on October 1, 1975, for commodity loans) effective for a 1-year period—April 1, 1976, through March 31, 1977. On April 8, 1977, the Secretary of Agriculture announced that a rate of 6 percent per year would be effective for the 1977 crop loans and that the same rate would apply from April 1, 1977, on outstanding crop loans.

V.

On June 13, 1978, the Commodity Credit Corporation announced that the annual interest rates on price support loans for 1978 crop commodities, except upland cotton, would be increased from the then 6 percent to 7 percent, effective immediately. The increased interest rate reflected an increase to the Corporation in the cost of money that it borrows from the Department of the Treasury.

VI.

On July 26, 1978, the Commodity Credit Corporation announced that the interest rate on price support loans for upland cotton would be increased from 6 to 7¾ percent, effective immediately. This increase reflected the change in law made by the Food and Agriculture Act of 1977. It was also announced that future interest rates on upland cotton price support loans would be evaluated and announced quarterly.

VII.

The bill being reported by the committee would repeal the statutory requirement regarding the interest rate to be charged on price support loans for upland cotton. The enactment of the bill would enable the Commodity Credit Corporation to charge the same interest rate on price support loans on upland cotton as is charged on loans for other commodities, thereby resulting in more equitable treatment of all producers.

Mr. ROBERT C. BYRD. Mr. President, I know of no further rollcall votes today, and the cloakrooms can make that announcement.

OSAGE TRIBE IN OKLAHOMA

Mr. ROBERT C. BYRD. Mr. President, there is one measure that has been cleared for consent on both sides. It is Calendar Order No. 1080. I ask unanimous consent that the Senate proceed to the consideration of that measure now.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1081) to amend the laws relating to the Osage Tribe in Oklahoma.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Select Committee on Indian Affairs with an amendment to strike all after the enacting clause and insert the following:

That section 9 of the Act of June 28, 1906 (34 Stat. 539, 545), as amended is further amended to read as follows:

"SEC. 9. There shall be a quadrennial election of the officers of the Osage Tribe as follows: A principal chief, an assistant principal chief, and eight members of the Osage Tribal Council shall be elected, to succeed the officers elected in the year 1974 at a general election to be held in the town of Pawhuska, Oklahoma, on the first Monday in June 1982, and on the first Monday in June of each fourth year thereafter, in a manner to be prescribed by the Secretary of the Interior, and said officers shall be elected for a period of four years commencing on the first day of July following the election. In case of a vacancy in the office of principal chief or other officer by death, resignation or otherwise, the vacancy shall be filled in a manner to be prescribed by the Osage Tribal Council. In the event of a common disaster and a quorum of five of the Osage Tribal Council does not survive, the Secretary shall appoint a principal chief and/or the number of councilmen necessary to complete a total of eight, to serve until the next quadrennial election. The Secretary is hereby authorized to remove from the council any member or members for good cause, to be by him determined, after the party involved has had due notice and opportunity to appear and defend himself. The tribal government so constituted shall continue in full force and effect until January 1, 1984, and thereafter until otherwise provided by Act of Congress.".

SEC. 2. (a) The first paragraph of section 3 of the Act of June 24, 1938 (52 Stat. 1034, 1035), as amended, extending the mineral estate reserved to the Osage Tribe by the Act of June 28, 1906 (34 Stat. 539), is further amended by striking the phrase "until the

eighth day of April 1983, and thereafter until otherwise provided by Act of Congress" and substituting, in lieu thereof, the phrase "in perpetuity".

(b) The second paragraph of section 3 of the Act of June 24, 1938 (52 Stat. 1034, 1035), as amended, is amended by striking the phrase "unless otherwise provided by Act of Congress" and inserting, in lieu thereof, the phrase "and thereafter until otherwise provided by Congress".

(c) The fourth paragraph of section 3 of the Act of June 24, 1938 (52 Stat. 1034, 1036) is amended by striking the phrase "January 1, 1984" and inserting, in lieu thereof, the phrase "January 1, 1984 and thereafter until otherwise provided by Congress".

SEC. 3. (a) The Act of February 5, 1948 (62 Stat. 18) is hereby repealed.

(b) Any Osage Indian having received a certificate of competency under paragraph 7 of section 2 of the Act of June 28, 1906 (34 Stat. 539, 542); section 3 of the Act of March 2, 1929 (45 Stat. 1478, 1480); or the Act of February 5, 1948 (62 Stat. 18), may make application to the Secretary of the Interior to revoke such certificate and the Secretary shall revoke such certificate: *Provided*, That revocation of any certificate shall not affect the legality of any transactions heretofore made by reason of the issuance of any such certificate. Restrictions against alienation of lands heretofore removed are not reimposed.

(c) Sections 3 and 4 of the Act of February 27, 1925 (43 Stat. 1008, 1010–1011); and section 4 of the Act of March 2, 1929 (45 Stat. 1478, 1480); and sections 1 and 3 of the Act of June 24, 1938 (52 Stat. 1034) are hereby amended by striking, wherever they occur, the phrases "of one-half or more Indian blood", "of more than one-half Indian blood", "of one-half or more Osage Indian blood", and "or who is one-half or more Osage Indian blood".

SEC. 4. In order to conserve natural resources and provide for the greatest ultimate recovery of oil and gas underlying the Osage mineral estate, the Secretary of the Interior is authorized to establish rules and regulations under which oil and gas leases producing from a common source of supply may be unitized.

SEC. 5. (a) Section 8 of the Act of April 18, 1912 (37 Stat. 86, 88), is hereby amended to read as follows: "Any person of Osage Indian blood, eighteen years of age or older, may dispose of his Osage headright or mineral interest and the remainder of his estate (real, person, and mixed, including trust funds) from which restrictions against alienation have not been removed by will executed in accordance with the laws of the State of Oklahoma: *Provided*, That the will of any Osage Indian shall not be admitted to probate or have any validity unless approved after the death of the testator by the Secretary of the Interior. The Secretary shall conduct a hearing as to the validity of such will at the Osage Indian Agency in Pawhuska, Oklahoma. Notice of such hearing shall be given by publication at least ten days before the hearing in a newspaper of general circulation in Osage County, Oklahoma, and by mailing notice of such hearing to the last known address of all known heirs, legatees, and devisees. The cost of publication shall be borne by the estate. The rules of evidence of the State of Oklahoma shall govern the admissibility of evidence at such hearing. All evidence relative to the validity of the will of an Osage Indian shall be submitted to the Secretary within one hundred and twenty days after the date of the petition for approval of such will is filed with the Secretary, unless for good cause shown the Secretary extends time: *Provided*, That such time shall not be extended beyond six months from the date of the first hearing. For purposes of determining the validity of any will, the Secretary is hereby granted the same subpena power as is vested in the courts. All costs of obtaining witnesses and evidence before the Secretary shall be borne by the party producing such witnesses or evidence, subject to such costs being taxed to the estate in the event that District Court of the State of Oklahoma having jurisdiction should determine such costs beneficial to the whole estate. Notwithstanding any appeal from the decision of the Secretary, approval of such will by the Secretary shall entitle it to be admitted to probate without further evidence as of its validity or, upon disapproval thereof, the heirs may immediately petition for letters of administration in the district court. No appeal from the order of the Secretary approving or disapproving any will shall stay the issuance of letters testamentary or of administration: *Provided*, That such letters shall not confer power to sell any restricted assets by virtue of any provision in such will, pay or satisfy legacies, or distribute property of the decedent to the heirs or beneficiaries until the final determination of the appeal, but all other action taken by the district court pending said appeal shall be valid and binding. No court except a Federal court shall have jurisdiction to hear a contest of a probate of a will that has been approved by the Secretary. Such appeals shall be on the record made before the Secretary and his decisions shall be binding and shall not be reversed unless the same is against the clear weight of the evidence or erroneous in law.".

(b) Section 3 of the Act of April 18, 1912 (37 Stat. 86), is hereby amended to read as follows: "That the property of deceased and of orphan minor, insane, or other incompetent Osage Indians, such incompetency being determined by the laws of the State of Oklahoma which are hereby extended for such purpose to all Osage Indians, shall, in probate matters, be subject to the District Court of Oklahoma having jurisdiction. A copy of all papers filed in the district court shall be served on the Superintendent of the Osage Agency at the time of filing, and said Superintendent is authorized, whenever the protection of the interest of the Osage Indian requires, to appear in the district court. The Superintendent of the Osage Agency or the Secretary of the Interior, whenever he deems the same necessary, may investigate the conduct of executors, administrators, guardians, or other persons having charge of the estate of any minor, incompetent, or deceased Osage Indian. Whenever he shall be of the opinion that the estate is in any manner being dissipated, wasted, or permitted to deteriorate in value by reason of the negligence, carelessness, or incompetency of the executor, administrator, guardian, or other person in charge of the estate, the Superintendent of the Osage Agency or the Secretary is authorized, and it shall be his duty, to report said matter to the district court, take the necessary steps to have such case fully investigated, and prosecute any remedy, either civil or criminal, as the exigencies of the case may require The costs and expenses of any civil proceedings shall be a charge upon the estate of the Osage Indian or upon the executor, administrator, guardian, or other person in charge of the estate of the Osage Indian and his surety, as the district court shall determine. Every bond of the executor, administrator, guardian, or other person in charge of the estate of any Osage Indian shall be subject to the provisions of this section and shall contain therein a reference hereto: *Provided*, That no guardian shall be appointed for a minor whose parents are living unless the estate of said minor is being wasted or misused by such parents: *Provided further*, That no land shall be sold or alienated under the provisions of this section without approval of the Secretary.".

(c) Section 7 of the Act of February 27, 1925 (43 Stat. 1008, 1011), as amended, is hereby further amended to read as follows: "Hereafter none but heirs of Indian blood and children legally adopted by a court of competent jurisdiction and parents, Indian or non-Indian, shall inherit from Osage Indians any right, title, or interest to any restricted land, moneys, or Osage headright or mineral interest.".

(d) Notwithstanding the provisions of subsections (a), (b), and (c) of this section, disposition of any Osage headright or mineral interest shall be subject to the provisions of section 7 of this Act.

SEC. 6. (a) With the approval of the Secretary of the Interior, any person of Osage Indian blood, eighteen years of age or older, may establish an inter vivos trust covering his headright or mineral interest except as provided in section 8 hereof; surplus funds; invested surplus funds; segregated trust funds; and allotted or inherited land, naming the Secretary of the Interior as trustee. An Osage Indian having a certificate of competency may designate a banking or trust institution as trustee. Said trust shall be revocable and shall make provision for the payment of funeral expenses, expenses of last illness, debts, and an allowance to members of the family dependent on the settlor.

(b) Property placed in trust as provided by this section shall be subject to the same restrictions against alienation that presently apply to lands and property of members of the Osage Tribe, and the execution of such instrument shall not in any way affect the tax-exempt status of said property.

SEC. 7. After passage of this Act, a person not of Osage Indian blood, except a child legally adopted by an Osage Indian in any court of competent jurisdiction and the lineal descendants of such adopted child, subject to the stipulation that such adopted child or his lineal descendants cannot alienate his Osage headright or mineral interest and the devolution thereof is limited to intestacy, will, or inter vivos trust the same as if he were of Osage Indian blood, is prohibited from receiving more than a life estate in an Osage headright interest owned by any Osage Indian, such adopted child or his lineal descendants, whether such interest is received by will inter vivos trust, or Oklahoma law of intestate succession. Upon the death of such recipient, the Osage headright or mineral interest shall vest in the remaindermen thereof who are of Osage Indian blood, adopted children, and/or lineal descendants of such adopted children designated by the will or inter vivos trust of the deceased Osage Indian, his adopted child, or the lineal descendants of such adopted child. If such instrument does not designate remaindermen thereof who are of Osage Indian blood, adopted children, and/or lineal descendants of such adopted children, or if the deceased died intestate, the Osage headright or mineral interest shall vest in his heirs pursuant to the Oklahoma law of intestate succession, subject to the above limitations. On the death of the non-Osage beneficiary or heir, except in the case of adopted children or lineal descendants of such adopted children, such Osage headright or mineral interest shall vest in the Osage Tribe and the tribe shall pay the estate of the non-Osage beneficiary or heir the market value of such Osage headright or mineral interest. Payments under this section shall be made from Osage tribal mineral funds authorized to be expended by section 8(b) hereof.

SEC. 8. (a) Any individual right to share in the Osage mineral estate (commonly referred to as "headright") owned by a person not of Indian blood may not, without the approval of the Secretary of the Interior, be sold, assigned, or transferred. Sale of any such interest shall be subject to the right of the Osage Tribe to purchase it within forty-five days at the highest legitimate price offered the owner thereof.

(b) Prior to the time any tribal mineral income is segregated for distribution to in-

dividual headright owners, the Secretary of the Interior, at the request of the Osage Tribal Council, may direct the use of any such income for the purchase of Osage headright interests offered for sale to the Osage Tribe pursuant to this section or vested in the Osage Tribe pursuant to section 7 of this Act.

SEC. 9. Under such regulations as the Secretary of the Interior may prescribe, the heirs and legatees of any deceased owner of an Osage headright or mineral interest, real estate on which restrictions against alienation have not been removed, and funds on deposit at the Osage Agency may be determined by the Secretary is such aggregate interests do not exceed $10,000: Provided, That no court of competent jurisdiction has undertaken the probate of the deceased's estate and a request for such administrative determination has been made to the Secretary by one or more of the heirs or legatees.

SEC. 10. An Osage Indian or his estate is exempt from the payment of all estate, inheritance, and income taxes on any Osage headright or mineral interest and the income derived therefrom.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill is passed.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1157), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of S. 1081, as introduced by Senator Bartlett, for himself and Senator Bellmon, is to amend and supplement various laws relating to the Osage Indians of Oklahoma.

BACKGROUND

The Osage Indians were traditionally and aboriginally located in southern Illinois and Indiana. When first contacted by white explorers, the Osage were located in Missouri and northern Arkansas. Through a series of treaties with the United States, beginning 1808 and ending in 1870, the Osage gradually ceded these lands and were removed westward.

By the act of July 17, 1870, a reservation was created for the Osage in northeastern Oklahoma. The reservation contained 1,470,-994 acres and is now coterminous with Osage County, Okla.

In 1887, Congress passed the General Allotment Act of February 8, 1887 (24 Stat. 388) which provided that the various Indian reservations would be allotted, in individual tracts, to the members of the tribe and any remaining lands would be declared surplus and sold to white settlers. The Osage strongly resisted the allotment of their reservation and the 1887 act was made inapplicable to them.

However, in 1906, Congress passed the Osage Allotment Act of June 28, 1906 (34 Stat. 539) over strong protests from the Osage.

This act provided for the allotment of 480 acres to each member of the tribe and, after making certain reservations for schools, dwellings, cemeteries, Government buildings, et cetera, the remaining lands were to be divided equally among the members. The Secretary of the Interior was authorized to issue certificates of competency to adult Indians, authorizing them to convey their lands, except that 160 acres of homestead lands were to remain inalienable and nontaxable for 25 years or during the life of the allottee. Oil, gas, coal, and other minerals were to be reserved for the tribe for 25 years, were to be subject to lease by the tribal council, with the approval of the Secretary, and royalties were to be paid to the tribe. Minerals then were to become the property of the individual allottees. Allotted lands were to be subject to lease for farming and grazing purposes, with approval by the Secretary.

Funds of the Osage Tribe were to be held in trust for 25 years and then distributed to the individual members except that (1) moneys received from sale of land in Kansas and any moneys found due on claims against the United States were to be placed to the credit of the individual members of the tribe, were to draw interest as provided by law, and the interest was to be paid quarterly to members or to parents or guardians in the case of minors, and (2) royalties from mineral leases moneys received from sale of town lots or from grazing lands were to be placed in the Treasury to the credit of the individual members of the tribe and distributed at the same time as interest on trust funds. Provision was made for election of the tribal officers and council.

The 1906 act constitutes the basic Federal law regulating the property and affairs, including tribal government, of the Osage Indians, and the descent and distribution of interests in individual trust lands and property and in tribal property. This act has been amended and supplemented by several subsequent statutes, particularly with respect to extending the life of the Osage Tribal Council, and in extending the tribal mineral reservation, and the trust status of the individual allotments.

LEGISLATIVE HISTORY

S. 1081 and S. 1087 were introduced by Senator Bartlett, for himself and Senator Bellmon. No hearings were held on the legislation.

A companion bill, H.R. 11894, was introduced on April 5, 1978 by Representative Risenhoover. A hearing was held before the House Interior Subcommittee on Indian Affairs and Public Lands on April 20, 1978. The House Committee on Interior and Insular Affairs reported H.R. 11894 on August 9, 1978.

COMMITTEE AMENDMENTS

The committee adopted an amendment in the nature of a substitute which incorporates the text of S. 1081–S. 1087 and S. 1089. Sections 1 through 9 of the substitute are identical to the companion measure in the House, H.R. 11984. The committee consolidated the bills in this fashion in order to expedite resolution of differences between the House and Senate versions of the legislation.

Section 10 of the substitute is identical to S. 1089. This section exempts an Osage Indian or his estate from payment of all estate, inheritance, and income taxes on any Osage headright or mineral interest and the income derived therefrom. This section does not appear in the House companion measure, H.R. 11894, but is identical to H.R. 4384, which was introduced by Mr. Risenhoover on March 2, 1977 and referred to the Ways and Means Committee.

EXPLANATION

The provisions of the substitute amendment are as follows:

Section 9 of the 1906 act, as amended, establishes the Osage Tribal Council and provides that such council shall continue in full force and effect until January 1, 1984. As of April 22, 1977, the Osage Tribe consisted of 9,205 persons of Osage blood who are carried on the Agency census records. Of these 9,205 individuals, an estimated 7,022 have no interest in the tribal mineral estate (known as a headright interest) and, under departmental regulations, have no vote in tribal election and no right to hold elective office, in the Osage Tribal Council. Osage headright interests may be passed by inheritance from one Osage to another. The inheritance process has resulted in some persons accumulating several headright's interests; others acquiring only a fractional interest; and still others of substantial Osage blood not acquiring any headright interest at all. In the last few years, a group of persons of Osage blood have filed suit against the Department of the Interior alleging that the tribal council has statutory authority only for management of the Osage mineral estate and not for general government of the Osage tribe. Section 1 of the substitute would extend the existence of the tribal council indefinitely and provides for filling of the various offices in the event of a common disaster. The committee does not intend by enactment of this section to affect in any way the question involved in the lawsuit noted above (*Logan et al. v. Andrus et al.* (Civ No. 77-165-C), N. D. Oklahoma). This section is similar to S. 1081.

Existing law with respect to the Osage provides that the mineral estate underlying the Osage reservation shall be reserved to the tribe until April 8, 1983 or until otherwise provided by Congress; that the property of the individual Osage shall continue to be held in trust until January 1, 1984, unless otherwise provided by Congress; and that the homestead allotment of individual Osage shall be exempt from taxation until January 1, 1984.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, that Senators may be permitted to speak up to 10 minutes therein, and that the period not extend beyond 1 hour and that I then be recognized for any final statement or orders that I may get before recessing.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVES MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:35 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to House Concurrent Resolution 683, revising the congressional budget for the U.S. Government for the fiscal year 1979,

requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. GIAIMO, Mr. WRIGHT, Mr. LEGGETT, Mr. MITCHELL of Maryland, Mr. BURLESON of Texas, Mr. DERRICK, Mr. OBEY, Mr. SIMON, Mr. MINETA, Mr. LATTA, Mr. CONABLE, Mr. DUNCAN of Tennessee, and Mr. REGULA were appointed managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendment of the Senate to H.R. 6536, an act to establish an actuarially sound basis for financing retirement benefits for policemen, firemen, teachers, and judges of the District of Columbia and to make certain changes in such benefits; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. DIGGS, Mr. DELLUMS, Mr. FAUNTROY, Mr. MAZZOLI, Mr. MCKINNEY, and Mr. WHALEN were appointed managers of the conference on the part of the House.

HOUSE JOINT RESOLUTION REFERRED

The following joint resolution was read twice by its title and referred as indicated.

H.J. Res. 1088. A joint resolution providing financial assistance for the city of New York; to the Committee on Appropriations.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC-4283. A communication from the Vice President, Indian Claims Commission, reporting, pursuant to law, final determination with respect to cases before the Commission in docket numbered 59, 29-E and 133-B; to the Committee on Appropriations.

EC-4284. A comunication from the Chairman, National Transportation Safety Board, transmitting, pursuant to law, the Board's 1980 budget submission; to the Committee on Commerce, Science, and Transportation.

EC-4285. A communication from the General Counsel, Department of Energy, transmitting, pursuant to law, notices of meetings related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-4286. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the department's third report on State Medicaid program compliance with section 1902(g) of the Social Security Act; to the Committee on Finance.

EC-4287. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Agency For International Development's Housing Investment Guaranty Program," September 6, 1978; to the Committee on Governmental Affairs.

EC-4288. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Customs' Cargo Processing—Fewer But More Intensive Inspections Are In Order," September 7, 1978; to the Committee on Governmental Affairs.

EC-4289. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Nuclear Regulatory Commission Needs to Aggressively Monitor and Independently Evaluate Nuclear Powerplant Construction," September 7, 1978; to the Committee on Governmental Affairs.

EC-4290. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report of findings of the Assessment of Bilingual and Bicultural Awareness Activities in Health Professions Schools; to the Committee on Human Resources.

EC-4291. A communication from the Secretary of Health Education, and Welfare, transmitting, pursuant to law, a report of findings of the Assessment of Health Professions Schools' Admissions Criteria for Billingual and Bicultural Activities; to the Committee on Human Resources.

EC-4292. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders suspending deportation, as well as a list of persons involved; to the Committee on the Judiciary.

EC-4293. A communication from the Assistant Attorney General for Legislative Affairs, Department of Justice, transmitting a draft of proposed legislation to improve the physical security features of the motor vehicle and its parts, increase the criminal penalties of persons trafficking in stolen motor vehicles and parts, and to curtail the exportation of stolen motor vehicles, and for other purposes; to the Committee on the Judiciary.

EC-4294. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders entered in 1,243 cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of such aliens; to the Committee on the Judiciary.

EC-4295. A communication from the National Commander, Military Order of the Purple Heart, transmitting, pursuant to law, its report of financial audit for the fiscal year ending June 30, 1978; to the Committee on the Judiciary.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM-784. A concurrent resolution adopted by the Legislature of American Samoa; to the Committee on Armed Services:

"HOUSE CONCURRENT RESOLUTION No. 106

Whereas, the Congress is now considering S. 1607, cosponsored by Senators Daniel Inouye and Spark Matsunaga, and H.R. 7161, sponsored by Congressman Richard White, identical bills that would include the Territory of American Samoa in the Junior Reserve Officers Training Corps for our high school students; and

"Whereas, in the statement of Deputy Assistant Secretary of Defense, Mr. I. M. Greenberg, he states that the 'enlistment rate is about three times the national U.S. rate' (speaking about American Samoan enlistments into the U.S. Armed Services now); and

"Whereas, Mr. Greenberg continues in that statement . . . (if) 'American Samoans can join our military forces, they should be able to join Junior ROTC. This proposed bill (H.R. 7161) corrects this inequity by enabling the high school students of American Samoa to participate in Junior ROTC'; and

"Whereas, the Fono has already passed one resolution endorsing this action HCR 44 of last August 1977, a copy of which it attached.

"Now, therefore, be it resolved by the House of Representatives of the Territory of American Samoa, the Senate concurring:

"That, the 95th Congress is respectfully requested to pass either S. 1607 or H.R. 7161 to correct the inequity of enabling the high school students of American Samoa to participate in the Junior ROTC program; and

"Be it further resolved, that the Chief Clerk of the House of Representatives is directed to send copies of this resolution to: Honorable John C. Stennis of Mississippi, Chairman of Senate Committee on Armed Services; Honorable Paul G. Hartfield of Montana, Member; Honorable Daniel Inouye of Hawaii, Member; Honorable Henry M. Jackson of Washington, Member; Honorable Spark Matsunaga of Hawaii, Member; Honorable Howard W. Cannon of Nevada, Member; Honorable John Tower of Texas, Member; Honorable Barry Goldwater of Arizona, Member; Honorable Melvin Price of Illinois, Chairman of House Subcommittee on Armed Services; Honorable Charles H. Wilson of California, Member; Honorable Richard White, Chairman of Subcommittee on Military Personnel; Honorable G. V. Montgomery of Mississippi, Member; Honorable Antonio Won Pat of Guam, Member; Honorable David Treen of Louisiana, Member; Honorable Elwood Hillis of Indiana, Member; Honorable I. M. Greenberg, Deputy Assistant Secretary of Defense for Program Management; Honorable Peter Tali Coleman, Governor of American Samoa; Honorable A.P. Lutali, Delegate-at-Large; Mr. Francis R. Valeo, Secretary of the Senate and Mr. Edmund L. Henshaw, Jr., Clerk of the House of Representatives."

POM-785. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary:

"ASSEMBLY JOINT RESOLUTION No. 95

"Whereas, Since the fall of South Vietnam to Communist forces three years ago, the United States has welcomed the arrival of over 100,000 Vietnamese refugees; and

"Whereas, Over 80 percent of these refugees are seeking a better life in California and are gradually joining the mainstream of American life; and

"Whereas, These refugees have come to this country in order that they may enjoy the freedoms and human rights which constitute the basic principles for our system of government; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to promote respect for the rights of Vietnamese refugees in this country by granting the status of permanent resident alien to those refugees who request such status in order that they may have the opportunity to enjoy fully the American way of life; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. CULVER:

S. 3489. A bill to amend the Internal Revenue Code of 1954 to allow an additional carryback of 7 years for excessive net operating losses attributable to product liability losses; to the Committee on Finance.

By Mr. STENNIS:

S. 3490. A bill for the relief of A. Z. M. Rabiul Hasan; to the Committee on the Judiciary.

By Mr. WALLOP (for himself, Mr. MELCHER, Mr. HAYAKAWA, Mr. CURTIS, Mr. LAXALT, Mr. GARN, Mr. GOLDWATER, Mr. YOUNG, Mr. HATCH, Mr. DECONCINI, Mr. HANSEN, and Mr. STEVENS):

S.J. Res. 159. A joint resolution providing procedures for congressional disapproval of implementation of national water resources policies, and for other purposes; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CULVER:

S. 3489. A bill to amend the Internal Revenue Code of 1954 to allow an additional carryback of 7 years for excessive net operating losses attributable to product liability losses; to the Committee on Finance.

● Mr. CULVER. Mr. President, I am today introducing legislation drafted by the Department of Treasury and endorsed by the administration as appropriate short-term financial relief to businesses hard-pressed by the rising costs and limited availability of product liability insurance. It would allow businesses suffering product-liability losses to "carry back" such losses and apply them against their taxable income in the 10 preceding years. This is an extension specifically for product liability 7 years beyond the 3-year carryback currently granted for most business losses. Earlier in this Congress, I introduced other tax measures, which had emerged from Senate Small Business Committee hearings which I chaired and from comprehensive studies by a Federal Interagency Task Force on Product Liability. These earlier bills, S. 1611 and S. 3049, while somewhat different in detail, share the essential common feature of allowing businesses to deduct from taxable income contributions to a reserve trust to be used only for product-liability related losses. The carry back legislation, in intent and in some of its effects, resembles S. 1611 and S. 3049. Introducing it today should facilitate the comparison of these two approaches in the hope of fashioning the best immediate response to a very complicated and serious problem.

Product liability is the term describing legal responsibility for injuries caused by items which a firm manufactures, distributes, or sells. Typically, firms protect themselves financially from payments which they may have to make to injured consumers and workers by purchasing conventional insurance coverage. Until recently, the cost of this coverage was a relatively minor portion of most firms' business expenses. In the past several years, for reasons which are still not entirely clear, this situation has changed dramatically. Startling increases in premiums for product liability extend across a broad range of industries. Averaging as much as 200 percent a year for such entire industries as machine tool building, sporting goods, and pharmaceuticals, these increases made it difficult for many small- and medium-size firms to afford insurance coverage. The situation was even worse for many individual firms confronted with yearly premium hikes of well over 1,000 percent. Some risked "going bare," taking the chance that a sizable settlement against them would cause bankruptcy or leave injured consumers without redress. The interagency task force reported that the problem had contributed directly to a number of business failures.

We should not be lulled into thinking that this is a minor problem limited to the relationship between manufacturers and insurers. To the extent that businesses must absorb increased costs, they inevitably pass them on to consumers as higher prices. Because one of the most severely affected industries is the machine tool area, the cost of virtually all products—which must be produced by machine tools—will feel the impact to one degree or another. To the extent that firms go without insurance, injured consumers have no assurance that their injuries will be duly compensated.

Long-range solutions to the product liability problem inextricably involve such complicated and fundamental issues as tort law, workers' compensation, insurance ratemaking, and manufacturing practices. It is clear that legal changes in these areas will require careful work and lengthy consideration. In the meantime, it is equally clear, some measure of immediate financial assistance to businesses is in the public interest.

Both tax deductible reserve trusts and extended carryback allowances would facilitate the ability of firms to provide themselves with adequate risk coverage. In the case of reserve trusts, dollars which otherwise would have been paid as taxes can be held against the possibility that they might be needed for product liability related losses. In the case of the carryback extension, dollars which have already been paid as taxes can be recouped to pay similar costs. The taxpaying business faced with a net operating loss in a current year due to product liability could file amended returns for preceding years, deducting from taxable income for those years the unused portion of the current year's net operating loss. Refunded taxes would then be available to help pay the product liability settlement.

Although the Department of Treasury maintains that the carryback extension is an effective substitute for a proposed reserve trust, I believe that it also merits attention as a supplement to such a trust. Businesses trying to fund a truly catastrophic loss might well find trust dollars or potential refunds from an extended carryback capacity individually inadequate—but in combination sufficient to meet their needs. Another benefit of extended carryback would accrue to firms which faced net operating losses for reasons including, but not limited to, product liability costs. These other losses can now be carried back for 3 years and conceivably might exhaust the firm's potential for a refund under current law. An additional 7-year period solely to carry back product liability losses would be extremely valuable for such firms.

The U.S. Department of Commerce which recommended the reserve trust approach earlier this year identified a number of very beneficial secondary effects to such an approach. Whether the carryback provision would achieve all of the advantages of a tax-deductible reserve account, as the Treasury believes, is a question which merits serious attention.

Among the advantages of the reserve trust is the incentive it provides to manufacturers to emphasize safe products. Manufacturers operating with such a trust would see their own funds directly at risk. In order to protect that investment they would be far more likely to undertake and maintain efforts to minimize dangerous defects in their products. Whether they would feel a similar incentive with extended carry back availability in which the tendency would be to view the dollars at risk as the Government's money—taxes already paid—needs to be explored.

Similarly, another advantage of a reserve trust is its potential to bring competition to bear upon insurance carriers to charge affordable premiums. Though extensive data was assembled by the task force, it was insufficient to measure precisely the justification of premium increases in recent years. The task force did feel confident, however, that claims and settlements experience did not fully justify the rising charges and that insurers were "panic pricing." The existence of a reserve trust serving as "self-insurance" or to cover, and thus allow a firm to accept a higher deductible or partial self-retention (leading to reduced premiums) would give firms improved "bargaining power" with their insurance carriers. Theoretically, I am told, the potential refunds of extended carry back give the same power. Whether this actually would prove to be the case has to be demonstrated.

Finally the deduction for funds contributed to a reserve account will be discerned as an immediate tax benefit in the eyes of business owners. It will actively encourage them to protect themselves and their customers through the establishment of a self-insurance trust. The tax benefit of carry back is a potential one, realized only after a loss occurs. When realized it can pay only part of a product liability loss, since the loss is applied against previous taxable income—not against previous taxes. It would need to be supplemented from currently available funds. We need to give serious thought to whether manufacturers would set aside "post-tax" dollars for such a purpose.

In summary, Mr. President, the legislation which I am introducing today has certain independent advantages which argue for its adoption. Taken in conjunction with a provision for a tax-deductible reserve account it can make a strong contribution to the ability of firms to guard against product liability losses. The administration has now formally acknowledged that product liability difficulties are serious problems for thousands of American small businesses. It is also important that it has urged a responsible use of the IRS Code as appropriate short-term solutions are

sought. I am pleased to introduce this legislation today in the hope that it will let us move promptly in the weeks ahead to refine the precise terms which this relief measure should take. I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3489

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 172 of the Internal Revenue Code of 1954 (relating to net operating losses) is amended—

(1) by striking out "and (G)" in clause (i) of section (b)(1)(A) and inserting in lieu thereof "(G), (H), and (I),",

(2) by inserting at the end of subsection (b)(1) the following new subparagraphs:

"(F) In the case of a taxpayer who incurs a product liability loss (as defined in subsection (i)) for any taxable year beginning after December 31, 1977, the smaller of—

"(i) the excess of the net operating loss for such year (determined without regard to any portion thereof attributable to a foreign expropriation loss) over the sum of the taxable income (as determined under paragraph (2)) for each of the 3 prior taxable years to which such loss may be carried under subparagraph (A)(i), or

"(ii) the product liability loss for such taxable year,

shall be a net operating loss carryback to each of the 7 taxable years preceding the earliest of such 3 prior taxable years.

"(I) In the case of a taxpayer who incurs a net operating loss for a taxable year beginning after December 31, 1977 (referred to in this subparagraph as the 'loss year') and who had both a net operating loss and a product liability loss (as defined in subsection (i)) for a prior taxable year beginning after that date (referred to in this subparagraph as the 'prior year'), if the amount of the net operating loss for the loss year which may be carried over under this subsection would be reduced by doing so, then the smaller of—

"(i) the net operating loss (determined without regard to any portion thereof attributable to a foreign expropriation loss) for the prior year, or

"(ii) the product liability loss for the prior year,

shall be considered to be a separate net operating loss for the prior year and shall be a net operating loss carryback to each of the 10 taxable years preceding the prior year.",

(3) by adding at the end of paragraph (2) of subsection (b) the following new sentence: "In the case of a taxable year to which paragraph (1)(H) applies, this paragraph shall be applied by treating the entire net operating loss as a net operating loss carryback to each of the 3 taxable years preceding the loss year and by treating that portion of the loss described in paragraph (1)(H) as a separate net operating loss carryback to each of the 7 taxable years preceding the earliest of such three taxable years." and

(4) by redesignating subsection (i) as (j), and by inserting after subsection (h) the following new subsection:

"(i) PRODUCT LIABILITY LOSS DEFINED; SPECIAL RULE.—For purposes of subsection (b)—

"(1) PRODUCT LIABILITY LOSS.—The term 'product liability loss' means, for any taxable year, the amount of the deductions under sections 162 and 165 attributable to product liability (as defined in paragraph (2)) and to expenses incurred in the investigation, settlement, and opposition to claims against the taxpayer on account of product liability.

"(2) PRODUCT LIABILITY.—The term 'product liability' means liability for damages on account of physical injury or emotional harm to individuals, or damage to or loss of use of property, on account of the manufacture, importation, distribution, lease, or sale by the taxpayer of any product if such liability arises after the taxpayer has completed or terminated operations with respect to, and has relinquished possession of, such product.

"(3) SPECIAL RULE.—For purposes of applying sections 6501 and 6511 to a net operating loss to which subsection (b)(1)(I) applies, the net operating loss for the prior year (as defined in such subsection) shall be considered to be a net operating loss for the loss year (as defined in such subsection).".●

By Mr. WALLOP (for himself, Mr. MELCHER, Mr. HAYAKAWA, Mr. CURTIS, Mr. LAXALT, Mr. GARN, Mr. GOLDWATER, Mr. YOUNG, Mr. HATCH, Mr. DECONCINI, Mr. HANSEN, and Mr. STEVENS):

S.J. Res. 159. A joint resolution providing procedures for congressional disapproval of implementation of national water resources policies, and for other purposes; to the Committee on Governmental Affairs.

● Mr. WALLOP. Mr. President, a sound, comprehensive, and workable national water resource policy is a priority. However, the formulation and implementation of such a policy cannot be unilateral. To do so is a recipe for confrontation. The States, the Executive, and the Congress must all interact if such a policy is to be successful.

Today we introduce a Senate joint resolution which provides for State notification and congressional review of regulations which would implement certain new national water resources policies. Through the procedures which we seek to establish here, certain water policies initiated by the Executive will be channeled through Congress and the States to insure the interaction that is absolutely necessary to the successful implementation of any such policy of national scope and importance.

A brief review of the recent history of development of a Federal water resources policy will highlight the need for this procedure. For well over 1 year now, the Executive has been engaged in a comprehensive review of Federal water resources policy. The first few months of that study, conducted without participation by the public, the States, or Congress, resulted in the publication of July 15 and 25, 1977, of option papers in the Federal Register. The scope of these water policy option papers was well beyond the proper scope of an exclusively Federal policy study. They dramatically pointed to the need for increased State and congressional participation in the development of a national water resources policy.

The controversy which ensued was productive in that it fostered an increased level of necessary participation. However, the forum for policy development was still exclusively Federal, while the possible ramifications of the study would likely be felt most heavily by States and the individual water users.

Concerned with this disparity, the Senate, on October 5, 1977, agreed to Senate Resolution 284, which expressed the sense of the Senate that no new national water policy be implemented without congressional concurrence and review by the States.

The water resources policy study culminated in the President's announcement of a national water resources policy on June 6, 1978, that policy basically contained only broad policy statements, however, it was generally conceded that the policy reflected the increased degree of public, State, and congressional participation in the process. It represented significant improvement over what had appeared to be the policy's initial direction a year before.

The President's general policy statement of June 6, was followed on July 12, 1978, by a series of more specific Executive memoranda to the heads of Federal agencies and departments.

In most cases, these Executive memoranda directed agencies and departments to improve internal procedures, prepare legislative proposals for submission to Congress, and to further study particular areas of water policy which had been identified as posing special problems. However, in a few cases, the memoranda directed the immediate implementation of policies which would directly impact upon the American people. In these cases, the directives are directly contrary to the sense of the Senate as expressed in Senate Resolution 284.

Our resolution speaks only to this last type of directive. It does not seek to block their implementation en bloc, but only to provide State and congressional review so that their implementation will have the benefit of comprehensive review, or will be quickly identified as a policy for which there is no concensus.

The potential impact of these policies is unknown. On July 10, 1978, the Subcommittee on Water Resources of the Committee on Environment and Public Works held hearings on national water policy. At that hearing, those in the executive branch charged with the implementation of these policies could not explain the meaning of the directives which they were charged with immediately implementing. Yet the implementation process goes forward.

Under the terms of our resolution, two specific types of policies would be subject to rule regulation review and State notification. First, those which would impose additional burdens on those who contract for municipal, agricultural, and industrial water supply from Federal projects. Second, those which would impose additional burdens on those who receive or seek Federal grant or loan assistance for water supply and treatment works. The resolution would also require congressional and State notification of Federal legal actions which might extinguish or diminish rights to the use of water under the Reservation Doctrine.

Specifically, Congress would be provided 60 days in which to disapprove any rule or regulation which would implement the policies described above. If either House passed a resolution stating in substance that the House did not approve of the rule or regulation, it would cease to be effective. The provisions of section 1017 of the Impoundment Control Act of 1974, 37 United States Code 1407, would apply to the procedural require-

ments of such a resolution in either House.

The States would be provided with not less than 60 days notification before regulations to implement this limited portion of the policy could be promulgated.

Finally, our resolution would require the heads of Federal agencies or departments to notify Congress before instituting legal action which might extinguish or diminish rights to the use of water which have been perfected under State laws through the use of the doctrines of Federal or Indian reserved water rights. This does not represent a congressional affirmation of either doctrine or reserved rights. It does not seek to limit the powers of the Federal Government to claim or protect any of its property rights. It only seeks at this time to insure that Congress and the affected States will be informed of how the process of "inventory and quantification," which has been ordered, is progressing, and of the conflicts which may be generated by its implementation.

Mr. President, I wish to reemphasize that this resolution is not intended to put us at loggerheads with the executive branch on water policy. On the contrary, it seeks to establish a procedure through which policy on a limited number of issues will be implemented with full review so as to identify conflicts early. In this way we can insure that those policies which are implemented have had the benefit of wide review and consideration, and hopefully of consensus as well.●

SENATE RESOLUTION 557—SUBMISSION OF A RESOLUTION REQUESTING THE PRESIDENT TO APPOINT A SPECIAL PROSECUTOR IN CONNECTION WITH GSA

Mr. ROTH submitted the following resolution which was referred to the Committee on the Judiciary:

S. RES. 557

Resolved, that it is the sense of the Senate that:

1. the President, with the advice and consent of the Senate, immediately designate an individual of the highest character and integrity from outside the Executive Branch to serve as special prosecutor for the government of the United States in any and all criminal investigations, indictments, and actions arising from any illegal activity by any persons acting individually or in combination with others, relating to the General Services Administration.

2. the President should grant such special prosecutor all authority necessary and proper to the effective performance of his duties, subject to the following guidelines:

DUTIES AND RESPONSIBILITIES OF THE SPECIAL PROSECUTOR

THE SPECIAL PROSECUTOR

There will be appointed by the President with the advice and consent of the Senate within the Department of Justice a Special Prosecutor to whom the President & Attorney General shall delegate the authorities and provide the staff and other resources described below.

The Special Prosecutor shall have full authority for investigating and prosecuting offenses against the United States arising out of any illegal activity by any persons acting individually or in combination with others, relating to the General Services Administration.

STAFF AND RESOURCE SUPPORT

1. Selection of staff.

The Special Prosecutor shall have full authority to organize, select, and fire its own staff of attorneys, investigators, and supporting personnel, on a full or part-time basis in such numbers and with such qualifications as he may reasonably require. He may request the Assistant Attorneys General and other officers of the Department of Justice to assign such personnel and to provide such other assistance as he may reasonably require. All personnel in the Department of Justice including United States Attorneys, shall cooperate to the fullest extent possible with the Special Prosecutor.

2. Budget.

The Special Prosecutor will be provided with such funds and facilities to carry out his responsibilities as he may reasonably require. He shall have the right to submit budget requests for funds, positions, and other assistance, and such requests shall receive the highest priority.

3. Designation and responsibility.

The personnel acting as the staff and assistants of the Special Prosecutor shall be known as the General Services Administration Special Prosecution Force and shall be responsible only to the Special Prosecutor.

CONTINUED RESPONSIBILITIES OF ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION

Except for the specific investigative and prosecutorial duties assigned to the Special Prosecutor, the Assistant Attorney General in charge of the Criminal Division will continue to exercise all of the duties currently assigned to him.

APPLICABLE DEPARTMENTAL POLICIES

Except as otherwise herein specified or as mutually agreed between the Special Prosecutor and the Attorney General, the Watergate Special Prosecution Force will be subject to the administrative regulations and policies of the Department of Justice.

PUBLIC REPORTS

The Special Prosecutor may from time to time make public such statements or reports as he deems appropriate and shall upon completion of his assignment submit a final report to the appropriate persons or entities of the Congress.

In particular, the Special Prosecutor shall have full authority with respect to the above matters for:

Conducting proceedings before grand juries and any other investigations he deems necessary;

Reviewing all documentary evidence available from any source, as to which he shall have full access;

Determining whether or not to contest any assertion of "Executive Privilege" or any other testimonial privilege;

Determining whether or not application should be made to any Federal court for a grant of immunity to any witness, consistently with applicable statutory requirements, or for warrants, subpoenas, or other court orders;

Deciding whether or not to prosecute any individual, firm, corporation or group of individuals;

Initiating and conducting prosecutions, framing indictments, filing informations, and handling all aspects of any cases within his jurisdiction (whether initiated before or after his assumption of duties), including any appeals;

Coordinating and directing the activities of all Department of Justice personnel, including United States Attorneys;

Dealing with and appearing before Congressional committees having jurisdiction over any aspect of the above matters and determining what documents, information, and assistance shall be provided to such committees.

In exercising this authority, the Special Prosecutor will have the greatest degree of independence that is consistent with the Attorney General's statutory accountability for all matters falling within the jurisdiction of the Department of Justice. The Attorney General will not countermand or interfere with the Special Prosecutor's decisions or actions. The Special Prosecutor will determine whether and to what extent he will inform or consult with the Attorney General about the conduct of his duties and responsibilities. The Special Prosecutor will not be removed from his duties except for extraordinary improprieties on his part.

● Mr. ROTH. Mr. President, today I am submitting a resolution calling for the President to appoint an independent special prosecutor to be confirmed by the Senate to investigate the General Services Administration.

I believe this action is vital to insure the investigation is thorough and impartial. The alleged corruption in GSA has been called the largest money scandal in our Nation's history. After months of investigation, we still do not have a clear idea of the dimensions of these problems. We only know they are enormous and pervasive. We need a special prosecutor, fully empowered to investigate and prosecute.

I am very distressed to learn the current special counsel will soon leave GSA with a great amount of unfinished work. I am concerned that whatever momentum the current investigation has, might be slowed by this move. I have also learned the President has asked one of his closest friends and Attorney General Griffin Bell's former law partner to monitor and observe the GSA investigations. While I appreciate the President's concern, I believe this action in no way satisfies the need for an independent special prosecutor, confirmed by this body.

The American people are outraged by the press accounts of the GSA corruption. It is time to put a stop to this swindle and begin to restore public confidence in our Government.●

NOTICE OF HEARINGS

AGRICULTURAL RESEARCH AND GENERAL LEGISLATION SUBCOMMITTEE—HEARINGS OF THE USE OF NITRITES IN THE PROCESSING OF MEAT

● Mr. LEAHY. Mr. President, I would like to announce that the Agricultural Research and General Legislation Subcommittee, of which I am chairman, will soon hold the third in a series of hearings on "Chemicals in Food and Agriculture." This section of hearings will be held on the issue of the use of nitrites in the processing of meats and will be held on September 13, 14, 15, and 25, from 8 a.m. to 11 a.m. in room 322, Russell Senate Office Building.

The series of hearings on "Chemicals in Food and Agriculture" were started in 1977. These hearings began with a broad overview of the state of science in regard to detection of chemicals in our food supply and then explored the status of regulation of these chemicals by Government. This series of hearings was undertaken to establish an objective record to which Congress can look when it addresses issues in this area of crucial importance to health and well-being of our Nation's 220 million citizens.

We are now about to address the issue of nitrites. Nitrites are used in the curing of meat and meat products. These additives are used for several reasons including botulism prevention, and color and flavor enhancement. However, their safety and their status as additives have been recently called into question by a study conducted by Dr. Paul Newberne of the Massachusetts Institute of Technology for the Food and Drug Administration, which indicates that nitrites may be carcinogenic.

These hearings on nitrites will focus on the Newberne study and its health, legal, and economic implications, the effects of a ban or limitation of the use of nitrites, especially focusing on the issue of botulism, the health effects of continued use of nitrites as additives, the alternatives to nitrite cured meats and their feasibility, and the economics of nitrite use or disuse.

Because of the limited time available for hearings at this time, the subcommittee will only be able to allow presentations from invited witnesses. These invited witnesses will cover all viewpoints and all segments of the affected public, industry, and Government—see attached witness list. However, we encourage all interested parties to submit written statements for the hearing record.

It is our subcommittee's hope that these hearings will provide an objective forum to thoroughly explore this complex issue.

To submit statements or for further information, please contact Ms. Denise Alexander, hearing clerk, Senate Agriculture, Nutrition Committee, room 322, Russell Senate Office Building, Washington, D.C. 20510 or call 202/224-2035.

The list follows:

SCHEDULE

Wednesday, September 13, 8 a.m. to 11 a.m.:

Dr. Paul Newberne, Professor of Nutritional Pathology, Department of Nutrition and Food Science, Massachusetts Institute of Technology.

Thursday, September 14, Scientific Panel on Newberne Study 8 a.m. to 9:45 a.m.:

Dr. William Lijinsky, Director of Chemical Carcinogenesis Program, Frederick Cancer Research Center.

Dr. John Weisburger, Vice President for Research, Naylor Danna Institute for Disease Prevention.

9:45 a.m. to 11 a.m.: Scientific Panel on Botulism.*

Friday, September 15, 8 a.m. to 8:30 a.m.:

Marvin Garner, Executive Vice President, National Pork Producers Council.

8:30 a.m. to 10:00 a.m., Consumers and Health Advocates Panel:

Ellen Haas, Director, Consumer Division, on behalf of Community Nutrition Institute and the Consumer Federation of America.

Mike Jacobson, Executive Director, Center for Science in the Public Interest.

Anita Johnson, Environmental Defense Fund.

Bill Schultz, Staff Attorney, Public Citizen Litigation Group.

10 a.m. to 11:30 a.m., Industry Panel:

Richard Lyng, President, American Meat Institute.

Stephen Krut, Assistant Executive Director, American Association of Meat Processors.

Arthur Buring, President, Buring Food Group, Inc., accompanied by Dr. William Brown, ABC Research, on behalf of National Independent Meat Packers Association.

Monday, September 25, 8 a.m. to 11 a.m.:

Dr. Donald Kennedy, Commissioner, Food and Drug Administration.

8 a.m. to 11 a.m.: Carol Tucker Foreman, Assistant Secretary of Agriculture.●

*To be determined.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate today to hold a hearing on truck safety.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

ERA EXTENSION: THE ISSUE IS FAIRNESS

● Mr. GARN. Mr. President, many of my colleagues think that only those opposed to the Equal Rights Amendment in principle are disturbed by the process of extending the time limit for State ratifications. I suppose we are inclined to be more concerned than others, but it is only fair to note that many institutions and groups who strongly support ERA oppose the political power play now pushing the extension through the Congress.

As an example, I cite the New Republic. This magazine is not normally thought of as a bastion of conservatism, or resistance to social issues. And the New Republic strongly supports the ERA.

But its editors oppose extension, at least as it is being carried out.

In an editorial in the issue of July 29 of this year, the editors raise three questions: First, the length of the extension; second, rescission; and third, whether or not a two-thirds vote is required. TNR does not answer these questions; merely notes that they are real questions, and troubling. "These procedural problems make us doubt the wisdom of extension."

These same procedural questions trouble me, Mr. President, and lead me to use whatever parliamentary tactics are available to me to see that they are resolved properly before an extension for ERA is voted on.

Mr. President, I invite all Senators to read the editorial mentioned, and ask that it be printed in the RECORD.

The editorial follows:

ERA: START FROM SCRATCH

This has become the summer of the ERA. The Equal Rights Amendment was originally scheduled by Congress to be ratified or rejected by the states after a seven year period ending on a cool day now eight months away: March 22, 1979. But still three states short of the 38 needed for ratification and running out of time, the ERA was brought back to the capital in the July heat for a new lease on life. On July 9, a crowd in white sweated under the DC sun and posed a grand question: can there be a time limit on justice, the cause of equal human rights? Others in ordinary dress, both for and against the ERA, have been asking a more prosaic question: is extension of the ratification deadline for the ERA a fair or advisable procedural innovation? Sitting bleached under the TV lights in the committee room last week, opponents and proponents of the extension got their first answers from the House Judiciary Committee. Yes, there is a time limit—until June 30, 1982; but yes, extension is fair and advisable—for three and a quarter years. Proponents clapped at the results. We support the ERA, but we doubt this is the way to achieve it.

The long day of debate dealt with the constitutional procedure of extension, not with the substance of the ERA. Citing Supreme Court precedents and the testimony of constitutional scholars, the committee members generally agreed that Congress has the power to enact an extension of a ratification time limit that Congress itself has imposed. Here the consensus stopped. Committee members disagreed on the policy of exercising that power. Among those who supported an extension, there were three points of controversy. First, the length of the extension. How many years satisfies the vague standard that three-fourths of the states approve an amendment "contemporaneously"? Second, the issue of rescission. If states that have ratified an amendment wish to change their minds, is this merely fair play or a dangerous constitutional innovation? Third, the question of method. Must an extension be approved by the two-thirds majority required to start the amendment process, or only by a simple majority?

These procedural problems make us doubt the wisdom of extension. The controversy over procedure is not likely to be resolved easily, and it shouldn't be. It is a constitutional controversy and involves, like the ERA debate, principles we like to think are fundamentally important. But neither the constitution nor the ERA need be sacrificed to the other. If the extension passes, it may mean bad press for the ERA and a bad precedent for the constitutional process of amending. An extension could be the arbitrary time limit that ends up killing the ERA; if it fails to be ratified, even with a three-year extension—which can't be ruled out—the amendment will be dead.

Even if the ERA is ratified after an extension, its symbolic power may be diminished by general sentiment that the ratification procedure smacked of foul play, especially if rescission are not allowed. To tamper with the constitutional amendment procedure now makes it more susceptible to tampering later, when the purpose may not appeal to liberals who want to fiddle now.

Instead of extending the ERA, why not start from scratch if its deadline expires without three more ratifications? A conservative House Judiciary Committee has passed an extension and is hopeful that it will pass a full House, even with a two-thirds majority, if the Rules Committee calls for it. This makes it hard to believe that a new ERA, unencumbered by constitutional problems, wouldn't be approved. Ratification would be a bigger project with a fresh start, but there would be more time and fewer public relations problems. Polls show that most people support the ERA on its merits. A new beginning would shift the debate back to those merits. If the ERA is an important and necessary amendment, and we feel it is, an examination of what it really means should give it the full and informed support it may now lack.●

THE MISEDUCATION OF MILLIONS: THE ALARMING RISE OF FUNCTIONAL ILLITERACY IN AMERICA

● Mr. McGOVERN. Mr. President, it is intolerable, but true, that on International Literacy Day in 1978, America's standing in world literacy ratings is fall-

ing sharply. The United States, the first country to provide public education for all, has now been surpassed by the Soviet Union in effectively educating its citizens. According to the United Nations in 1970, the U.S. illiteracy rate was three times higher than that of the Soviet Union; 2 million Americans of at least normal intelligence were illiterate, according to the U.N. count.

In fact, even this estimate of America's illiteracy rate is too low. The results of new and more accurate tests reveal that one out of every five Americans is reading with serious difficulty; they cannot read a newspaper intelligently, understand directions on household articles, or comparison shop for value. But nowhere is the evidence more frightening than among our youth. In 1977, Gilbert B. Schiffman, director of the Federal right-to-read program, reported that—

> At least one out of ten students nearing the end of high school is still not able to do basic everyday reading tasks . . . in certain low socio-economic areas the ratio exceeds one out of five.

Even many prospective teachers are not truly literate. For example, in 1976 one-third of the applicants for teaching jobs failed an eighth grade general knowledge test in Florida. And as the problem worsens, educational agencies do less and less about it, even though study after study continues to document the dimensions of our failure.

According to the national assessment of educational progress in 1974–75:

> Thirteen percent of all seventeen year olds were functionally illiterate.
>
> Forty-two percent of all blacks in that same age group were functionally illiterate.

But even these percentages understate the problem by not including high school dropouts, whose illiteracy rates are very high. The National Institute of Education estimates that "the majority of functionally illiterate students are dropping out of high school before they graduate."

U.S. STUDENTS BEHIND EUROPEANS

Unfortunately, the problem is not confined to those who drop out or are only hoping for a high school diploma. Incredibly, many college-bound graduates are also borderline literates. Colleges and universities complain that one out of four incoming freshmen need remedial help in reading and writing. The University of California found that 75 percent of the State's top high school students failed a nationally used English composition test in 1975. And as a group, American students scored considerably lower on achievement tests than students from other industrially advanced nations: 21.7 points lower in math than students in Germany, 25.5 points below students in Japan, and 31 points below British students.

Over the last 14 years, scholastic aptitude test scores have fallen steadily. There has been a 49-point drop in verbal skills and a 32-point drop in math skills. Annegret Harnischfeger and David Wiley found that a significant drop in English course enrollments, 11 percent nationwide and 19 percent in California from 1972 to 1975, along with a drop in basic and practical course enrollments, could account for the lower scores. They suggest that a 10-percent decrease in the total number of classroom hours spent in teaching the fundamentals caused the 10-percent drop in SAT scores. According to this study, and a later study by the college board, other causal factors included the high incidence of absenteeism and a 50-percent cut in homework. Both studies agreed that changes in test material were not responsible for the falling scores, but that softer academic requirements might be. The college board cautioned, however, that no diagnosis was certain: "The truth is that the real causes for this complex change are at present unknown." There is no certain explanation, but there is absolutely no excuses. Every high school graduate in this country should have at least a basic knowledge of the three R's.

Sadly, this is not the case. The problem is chronic and getting worse. And if this trend continues—if illiteracy remains underinvestigated and research tools underdeveloped—an already deteriorating situation will become an educational disaster and a national disgrace.

Therefore, the first step toward ending illiteracy is the most basic one. We lack an operational definition that sets the goals and standards that American education must meet. Lyndon Johnson once said:

> The answer for all our national problems—the answer for all the problems of the world—comes to a single word. That word is education.

Yet we have not defined even the minimal meaning of education—the threshold at which education makes a meaningful economic and vocational difference for students.

The Federal right-to-read program broadly and vaguely defines the "literate person as one who has acquired the essential knowledge and skills in reading, writing, and computation required for effective functioning in society." In other words, literacy does not mean that one can simply read or write one's name or, at the other extreme, that one can appreciate and understand intricacies of a Faulkner novel. The real meaning of literacy lies somewhere in between. But, as of today, no one has discovered or set its boundaries.

THIRTY MILLION ADULT AMERICANS "FUNCTIONALLY INCOMPETENT"

Dr. Norvell Northcutt, director of the adult performance project, attempts to close this gap by offering a more specific terminology than "functional illiteracy" to describe the increasing lack of basic skills. In defining "functional competency," he draws a mathematical relationship between the mastery of basic educational skills and economic or educational success. Literacy, in his study, is a set of applied skills necessary to survival in a technological society. He defines three levels of functional competence. At the lowest level, the functional incompetent cannot effectively read a want ad, fill out a job application, or perform simple computational tasks. By this standard, 16 percent of whites, 44 percent of blacks, and 56 percent of Spanish surnamed adults—30 million adult Americans—are functionally incompetent. According to another study, 20 million Americans over the age of 16 cannot read well enough to understand a want ad. All too often, economic poverty is due primarily to educational impoverishment.

Employers cannot and will not hire people who can barely read or write. When they do, as the armed services have been learning to their distress, they assume a high risk. An astounding 30 percent of Navy recruits, according to Adm. Hyman Rickover, are a danger to themselves and to costly naval equipment because they lack basic educational skills. One illiterate recruit recently caused $250,000 in damage because he could not read a repair manual; he tried and failed to follow the illustrations.

ECONOMIC COSTS OF LOWER LITERACY

A solid education is the essential foundation upon which a productive life is based. If that foundation is weak or defective, what is built atop it will not be straight or strong, but crooked and near collapse. Young Americans who lack a minimally functional base cannot enter society at the ground level and work their way up. Rather, they swell our unemployment lines; they fill our prisons and our drug treatment centers. Instead of becoming taxpayers, they become taxeaters, at an annual public cost of nearly $6 billion.

We are ending up with three classes in this society—the very rich, the very poor, and the very taxed. Unless some changes are made soon, the welfare and the unemployment rolls will grow even faster; the divisions will cut even deeper.

Once again, America must pay more in the end for spending less in the beginning. The latest bill for Federal aid to education authorized a meager $47 million for basic skill training. It would make more dollar sense to prevent higher social costs in the years ahead by spending additional money on basic education now. Exorbitant public expenditures for treatment programs have bought insignificant gains. Many young Americans who enroll in vocational or occupational programs find their basic educational skills so deficient that they are unable to profit from job training.

ILLITERACY BARS YOUTHS FROM JOBS

According to a recent survey in New York City, many employers consider the lack of basic educational skills—rather than the lack of specific job skills—to be the decisive obstacle in hiring unemployed inner city youth. Mayor Edward Koch of New York argues:

> These youths will never be able to successfully function in society unless, along with everything else, they are given remedial education, which can and should be done.

The most recent unemployment statistics show that nearly half of the black youth looking for work cannot find it. Adolph Slaughter of the District of Columbia Manpower Department has graphically explained the educational roots of this unemployment rate:

> Most of these unemployed don't have the educational skills to impress an employer. They can't speak well, they can't add well enough for you to put them on a cash register. . . . This is a problem here in Washington and in Chicago and New York, all the big cities. . . . They lack educational skills and they need those things to sell themselves. It's just pitiful.

How can it be that after 12 years of schooling so many have learned so little?

The answer is neither simple nor self-evident. It is not primarily the fault of teachers, who on the whole are better educated than ever; they have to cope with many problems that arise outside the schools, but affect performance in classrooms. The cycle of poverty, shattered family lives, overcrowded schools, and teachers who must spend more time disciplining than teaching only begin to catalogue the list of contributing factors. The educational fads that tried to make learning easy rather than certain, the corroding effect of television, a decline in the total number of hours spent in school, and big city schools with a majority of poor students all have added to the large number of unemployable high school graduates we have today. And Federal efforts to stem the tide of functional incompetence have been inadequate and ineffective.

FEDERAL HELP: DECLINING AND MISALLOCATED

In 1965 title I of the Elementary and Secondary Education Act provided Federal assistance to improve the education available to low income, low achieving children. Yet, as the years go by and as illiteracy grows, the funds to combat it shrink. In 1967 the title I program served approximately 7.6 million children at an average level of $378 per child. But in fiscal 1977, only 5.2 million children received assistance at the same average level. This amounts to a 30 percent decrease in real spending.

Equally disturbing is the limited range of title I funds. Only 57 percent of those children who are eligible actually receive assistance. This means that 5 million children suffer from serious deficiencies that go untreated. Furthermore, of those who are helped, over half are not low achievers and nearly two-thirds are not low income.

There are several reasons for this misallocation of resources. One is that the allocation formula is based upon an outdated 1969 survey which insufficiently reflects the movement of the poor from the rural South to the urban Northeast. By the time new data becomes available, the currently used data will be 13 years old. In the farthest stretch of the imagination, could we see the Defense Department using 13-year-old data to plan military strategy? Yet that is exactly what we are doing with our educational strategy, which will determine the future strength of both our domestic economy and our defense.

Second, the process for distributing Federal dollars often results in less needy schools receiving more funds. The Federal Government allocates money to school districts based on the number of eligible children. The districts, however, may use their discretion in budgeting the money. Paul T. Hill, director of a 1977 study of compensatory education, explains that the "local educational agencies are using the flexibility now provided by the statutes and regulations to deliver services in schools which have relatively low concentrations of low income children." As a result, children whose real needs qualified a school district in the first place to receive Federal dollars may never benefit from a single dime of those dollars.

Third, where districts compete for scarce Federal funds, the district which spends the least per child usually receives the most aid. Government policy actually penalizes the district that makes a conscientious effort, even at fiscal sacrifice, to establish and expand remedial programs. The districts that lose such a competition are usually in urban areas where operating costs are higher and the number of poor children is greater.

To compound the irony, title I programs may actually hinder more children than they help. Title I students receive less time in reading and basic skills than nontitle I students. One-fourth of title I students are isolated from the other students which tends to lead to ethnic and racial segregation and tracking. These "pullouts" are more likely to miss some or all of their regular instruction than students who receive title I instruction in their regular classrooms.

Finally, fewer than 1 percent of American high school students benefit from title I, even though it was designed to aid both elementary and secondary schools. Consequently, the child who makes gains in the early years forfeits those gains in later years because funds are not available. The National Institute of Education sums up the situation in 1978:

> The schools are failing to provide the help necessary to decrease the number of functionally illiterate students between the ages of twelve and seventeen.

A 1974 survey of high school students revealed that 89 percent felt the most seriously inadequacy in their schools was that students struggling with math and reading were ignored.

THE TREND TOWARD COMPETENCY TESTING

Many parents concerned about their children's substandard academic achievement have pushed for minimal competency tests. This grassroots movement took the educators and legislators by surprise; but today many States are seriously considering competency testing.

It is astounding that an industry, second only to the military in spending and employment, is subject to little or no systematic checking. Only after students graduate do the inadequacies of their preparation become apparent. However, a few graduates refuse to forget what they did not learn in school. Recently a high school student of normal intelligence sued his school in San Francisco for educational malpractice—he had been awarded a diploma even though he could only read at the fifth-grade level. This is not an isolated case. Such litigation is the first sign of the enlarging perception that schools may be liable for educational failure. The legal counsels of various State offices of education agree that the number of such suits will increase and that increasingly they will succeed during the next 5 years.

Forty-two States have moved toward adopting or developing competency tests, but only five States have completed the task. The majority are a long way from full implementation. States often lack the necessary resources for the development of a reliable and fair testing instrument. Some States complain that it is impossible to achieve a consensus as to what the requirements for high school graduation should be. In order to avoid paralyzing and protracted indecision, to insure that success in one State does not mean failure in another, and to avoid possible racial or ethnic bias in testing, the Federal Government should formulate optional national criteria for competency testing.

Competency testing should not be used, or misused, as a final day of reckoning. The tests should not be misused merely to label a student a failure or a success. Their greatest potential value would be as a tool to diagnose educational problems at all grade levels and to assist and guide teachers in developing prescriptive programs. It is vital to catch and correct basic deficiencies at an early age rather than waiting until the 11th or 12th grades when the difficulties are chronic. By then, time permits just a last ditch effort which will most likely result in a diploma that certifies only attendance, rather than one which reflects achievement and competence.

A PROPOSAL TO ESTABLISH A NATIONAL COMMISSION ON LITERACY

If we continue on our present course, it will mean that we have effectively denied the right to an education to those who need it most. We have closed the door of education behind poor students and the door of opportunity in front of them. No one knows the final answer, but we must begin at least to raise the right issues. I intend to introduce Federal legislation with the following five objectives:

First, the Federal Government should establish an independent National Commission on Literacy. The current educational establishment faces an inherent conflict of interest in attempting to address the problem of illiteracy. An example of the most disheartening kind came in a report for the National Institute of Education in January of 1978 which asserted, with hardly a shred of proof, that illiteracy is largely an aberration and that its high incidence is an exaggeration. The report offers no new research or documentation. To refute the estimates of the adult performance level project, the Harris study and the Educational Testing Service that between 5 and 15 percent of those in the professional or managerial occupations are functionally illiterate, the NIE report relied upon a simple and simple-minded argument:

> Surely one would want to conclude that the functional literacy label had been applied inappropriately to individuals in the professional-managerial class.

Certainly one would want to conclude that, but unfortunately, it is neither logically necessary nor empirically proven. The studies finding relatively high illiteracy rates could be flawed; however, one cannot draw the inference that because they may not be 100 per-

cent accurate, they are 1 percent accurate. The NIE baldly states, but does not even barely show, that because a person has a job, he must be functionally competent at a professional level. Educational authorities agree that many such employees may get by with inadequate basic skills by having others do for them what they cannot do for themselves. At best, they are likely to be minimally competent in a narrow field, with little chance for advancement or change in jobs or careers.

The NIE report also concluded that "few, if any, functional illiterates were actually awarded high school diplomas." Yet recent evidence points to a directly opposite conclusion. It has become apparent that the number of repeaters has been held down artificially by policies of social promotion. Only within the last year have students in Washington area schools been held back when they did not meet minimum requirements for promotion to a higher grade. In that year retention rates rose dramatically; they are now 7 to 70 percent higher in various schools. It is clear that the end of social promotion and the advent of accountability mean that students will no longer have a sheepskin to disguise basic deficiencies. The NIE study unfortunately took that disguise at face value.

It is disturbing that the latest study for the National Institute of Education is an excuse rather than an examination of illiteracy. Too often the related agencies absolve the industry they are supposed to evaluate. The NIE study of illiteracy proves one point above all others—we need an independent commission to study the problem.

Second, the National Commission on Literacy should examine the possibility, the desirability, and the content of competency standards. The initial object should be the development of an operational definition of basic literacy: What every young adult, at minimum, needs to know in order to function successfully in American society. It should be emphasized that any Federal aid to education must provide the States with incentives not only to meet these standards, but to surpass them.

Third, the Commission should evaluate current programs and explore possible innovations to raise literacy levels through classroom instruction. The Commission should investigate present Federal and State programs (title I in particular), identifying their strengths, their weaknesses, and their bureaucratic inefficiencies. The extent and the effects of social promotion should also be measured. In light of recent evidence, it seems likely that this policy accounts for the larger number of illiterates graduating from high school today. Finally, the Commission should examine how teachers can make a difference, even in the vast majority of cases where the basic difficulties of students are not the teachers' fault. They should be encouraged to do their best job in teaching basic skills. Teachers should be rewarded for a job well done, not blamed for bad results caused by social problems outside the schools.

Fourth, the Commission should consider alternative solutions outside the traditional school setting. It has been empirically demonstrated that young people make tremendous gains in reading achievement when they are taught job skills and basic skills in unison rather than separately. Educational dollars may be more wisely spent on programs that are more than merely academic.

Jerry Kolker, director of the New York City Department of Employment, reported in 1977:

> I have personnally witnessed youngsters with a fifth grade reading level advanced three grades simply because they were not in school, but were in a work situation where they saw a direct relation between the skill they were learning and the need to improve their academic expertise.

Fifth, the commission should analyze the effectiveness of current Federal assitance in combating illiteracy and the effect of different formulas to distribute such funds. It is unacceptable to appropriate enough money to reach only half of those who need help, and then to misallocate even those insufficient funds. At the very least, there should be full funding of currently successful compensatory education and reading improvement programs.

Something is very wrong in American education. No one in education should be scurrying to protect particular professional interests. Public officials and educational leaders should be searching out the causes without fear or favor and with one paramount interest—the effective education of our children. Our children come first. Efforts to improve our country—efforts in health, housing, the economy, and defense—will be depleted if our children are shortchanged in the schools. What good does it do to spend $130 billion a year to defend our Nation militarily in the world when the citizens we seek to protect are ill equipped to function educationally in the world they live and work in every day? ●

MR. JACK KAHN, SR.

● Mr. CURTIS. Mr. President, I would like to share with my colleagues a letter I recently received from Mr. Jack Kahn, Sr., an outstanding, patriotic citizen of Sarasota, Fla.

A veteran of World War II, Mr. Kahn distinguished himself in battle, and has since contributed his time, effort, and resources to the betterment of America and her people. Mr. Kahn is a founding member of the U.S. Citizens' Congress and its Education Foundation. His thoughts in this letter are consistent with his humane endeavors, and merit particular attention today when legislators often look down on the citizenry rather than up to it. I ask to print the letter in the RECORD.

The letter follows:

SARASOTA, FLA.,
August 5, 1978.

Hon. CARL T. CURTIS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CURTIS: Politics, more often than not, is the science of the image and nuance. The turn of a phrase, the degree of accessibility, the aspects of the relationship between petitioner and petitioned, all are components which swing the balance among legislators themselves, between legislators and the citizenry and among the three co-equal branches of government.

From the first televised hearings conducted by Senator Estes Kefauver in the 1950's to the final gavel of Senator Sam Ervin in 1974, the seating arrangement of the members of the Committee in relation to the witnesses has deeply troubled me. The sight of Senators poised on high peering down upon the witness, strikes a discordant note and illbefits the fine and noble traditions of our Republic.

More importantly, the psychological effect of the image, on the legislator, witness and audience, may actually thwart the purpose of a hearing—the inflow of information. The witness, be he Cabinet member, labor leader, environmentalist, business leader or John Q. Public, is handicapped at the outset by his physical subordinance. Unlike a court of law, a congressional hearing renders no judgement on the witness, and the legislators are not unbiased. The witness is clearly at a disadvantage.

Surely courtesy, equity and the principle of the consent of the governed would be well-served if the legislator were to step down from the forbidding, semi-circular rampart to the level of the legislated where ideas can meet and survive or perish on their own merits.

Sincerely yours,

JACK KAHN, Sr.●

IRS EDUCATION RULES SEEN HURTING POOR

● Mr. STONE. Mr. President, after studying S. 2388, a bill to provide for the exclusion from gross income of certain employee educational assistance programs, I have joined as a cosponsor of this bill. Senator PACKWOOD and Senator JAVITS, the principal sponsors of the bill are to be congratulated for a proposal which, if adopted, would encourage educational opportunity for many of America's workers. The present IRS rules make an unreasonable and unfair distinction against educational assistance to employees if such educational training is related to a new job or business. S. 2388 would correct this situation.

Sylvia Porter has written an excellent article on this subject in the September 6, 1978, Washington Star. I ask that Sylvia Porter's article entitled, "IRS Education Rules Seen Hurting Poor" be printed in the RECORD.

The article follows:

IRS EDUCATION RULES SEEN HURTING POOR

(By Sylvia Porter)

A secretary at a medium-size corporation decides to study for a degree in business administration, with the goal of moving up to a better paying, more demanding job at the same company. Her employer, as many do, pays for her tuition.

A market analyst at the same corporation also takes advantage of the employer's tuition aid program and he, too, gets a degree in business administration.

But here the similarities between the two

employees end. The secretary, under current Internal Revenue Service rules, must pay federal income taxes on the tuition support she receives from her employer. The higher-paid market analyst does not.

Q. Why the difference in taxation of education benefits?

A. Because the market analyst's training was related to his present job, while the additional schooling the secretary received could have prepared her for a job or business.

Tuition fees paid by employers for education or training to maintain or improve an employee's skills in a present job are non-taxable, under today's IRS rules. The employee need not report the payments as income, and if the payments are reported, they may be claimed as deductions.

But if the assistance helps the employee qualify for other jobs, the aid must be reported as income and is fully taxable.

If workers pay for the education themselves, the same distinctions on taxation apply.

It is this "job-related distinction" that is currently under attack in Congress.

Led by Sens. Robert Packwood (R.-Ore.) and Jacob Javits (R.-N.Y.), about 30 senators are co-sponsoring a bill to change IRS practice to make all education assistance provided by employers tax-exempt. You, the employee, could then exclude from your income all tuition fees, cost of books, supplies, etc., paid for or provided in-house by your employer. It wouldn't matter whether the training was related to your present job or to a future one.

Backing this Employer Education Assistance bill are some unions, Motorola, Mobil Oil, the American Hospitalization Society, and the American Society for Training and Development as well as other groups involved in education. These supporters argue that the present job-related test hits hardest at those who most need new skills and can least afford to pay taxes on additional training.

Specifically, these are lower-level workers: the typist striving to become a secretary, the secretary eager to become a para-legal, the mechanic who dreams of being a mechanical engineer. Today's IRS rules hinder the development and upward mobility of these workers.

"The big losers are unskilled persons, women and minorities," says Packwood. "They are less likely to have any skills to which training can relate, more likely to have low-paying, undesirable jobs. And perhaps, they are less likely to participate in a program if, the day training begins, the employer withholds an additional amount from their small paycheck to cover the federal tax."

The U.S. Treasury opposes the proposal, roughly estimated to cost about $23 million in '78, rising to $40 million in '83, reports my Washington associate, Brooke Shearer. It argues that exempting employer-provided education assistance would discriminate against, say, full-time students or workers in firms without such programs. These people would continue to pay for their education out of after-tax income, while some employees would receive schooling tax-free. It adds that highest-income taxpayers would receive the greatest benefits.

Raising the tax-exempt levels of income would be a more direct and equitable way of attacking the problems of the poor, it insists. And it fears a growing loss of revenue if many people arrange to receive tax-free tuition aid instead of taxable higher pay.

The measure has strong support in the Senate and companion bills have been introduced into the House. But the administration offers little basis for compromise.

Sen. Russell Long, D.-La., chairman of the Senate Finance Committee, will decide the fate of the bill. Long wants a tax law in '78, is anxious to steer clear of any amendments which are controversial and might slow down the tax bill. His assessment of support and opposition to this measure is the key.●

THE SECOND CONCURRENT BUDGET RESOLUTION

● Mr. HART. Mr. President, I commend the distinguished chairman of the Senate Budget Committee for the work he and the committee have performed so diligently over the last several months. In this era of budget deficits and demands for fiscal responsibility, perhaps no committee of the Congress has as great a responsibility for gaining and maintaining the public trust. In my judgment, no committee deserves the public trust more.

The clearest message the American people have sent to their elected officials this year is that the time has come for more responsible Federal spending and the more efficient use of every tax dollar. The time has come for public officials to take another, more careful look at the long-term implications and results of the programs and policies they enact. The Budget Committee's second concurrent budget resolution before the Senate is an encouraging step in this direction.

In the time that has passed since the adoption of the first concurrent budget resolution, the committee has thoughtfully and effectively responded to major changes in the economy such as the decline in unemployment and the increasing rate of inflation. As the Senator from Maine has pointed out, the second concurrent resolution has reduced Federal spending by $9.3 billion in outlays, a reduction which represents a cut of nearly 2 percent in the level contained in the first budget resolution. The Senator must be commended for bringing a spending resolution before us which reduces the deficit projected in the first resolution by $8.6 billion, nearly 17 percent. Even more significant is the fact that the resolution provides for a 2-percent reduction in the future cost of Government by reducing budget authority for fiscal year 1979 by more than $11.1 billion.

The Budget Committee has, for perhaps the first time, given us an opportunity to get real congressional control over the budget—with all the hard and painful choices that responsibility includes. While some public figures and elected officials have sought to appease their constituents with rhetorical demands for less Federal spending and across-the-board cuts in the budget, the congressional Budget Committees have nurtured and shaped a process that will permit us to establish meaningful budget priorities. The across-the-board cuts that are now proposed with some regularity in the Senate are nothing more than a political sleight of hand whose hypocracy is bound to come back and haunt us. There is simply no substitute for the Senate doing its homework, no matter how difficult the task may be. This is what the Senate Budget Committee has been charged to do, and has done well.

I believe strongly that American taxpayers want the Congress to control the growth of the Federal Government. A combination of inflation and increased taxes has virtually eliminated any increase in family purchasing power over the last 7 years. We must reduce the burden of Federal taxes. We must reduce taxes in a way which neither aggravates inflation, nor reduces the growth of employment.

No one can disagree that the American people want controlled Federal budgets, less Federal spending, and the lower taxes that would result. What the American people want even more, however, is competence on the part of the government that was established in their behalf. We make a mockery of the public sentiment if we pretend to solve our economic dilemmas through across-the-board budget cuts or mechanical formulas to balance the budget. The American people expect their representatives to establish goals, objectives, and priorities. This is what a responsible budget process is designed to do.

I share a commitment with many of my colleagues to reduce the growth of Federal expenditures and achieve a balanced budget with lower rates of inflation and taxation. There are no easy means to this end. It's time that we face the work ahead and commit ourselves to confront it in a responsible fashion.

It has become clear that every Member of this body, regardless of which committees he sits on, must strive to familiarize himself with the budgetmaking process. I look forward to working with the Budget Committee and increasing my participation in one of the Senate's most important functions: the establishment of national spending priorities.●

PHILIPPINE BASES RECONSIDERED

● Mr. McGOVERN. Mr. President, I am sure all Senators are aware of the broad questions involved in Philippine President Ferdinand Marcos' demand for a renegotiation of the 1966 agreement covering our rights to Clark Air Force Base and Subic Bay. While the current agreement runs until 1991, Mr. Marcos has demanded a renegotiation to provide, among other things, some $1 billion in rental for our continued access to these facilities.

Both the executive branch and the Congress seem to be dominated by the view that these bases are so vital to our security interests in the Pacific that we have no choice but to go along with the renegotiation. In my view that is not necessarily the case. There are a number of alternatives that deserve consideration.

The factors that should shape our thinking on this issue were outlined very succinctly in a compelling article which appeared in the Washington Post Outlook section on August 27. This piece was authored by Dr. George McT. Kahin, who is professor of international studies at Cornell University and who is one of the country's foremost authorities on Asian and Pacific affairs. Since it appeared during the recess and may therefore have escaped the attention of some of my colleagues, I ask unanimous consent that this thoughtful article be printed in the RECORD.

The article follows:

[From the Washington Post, Aug. 27, 1978]

THE NEED TO END OUR RISKY MILITARY TIES TO MANILA

(By George McT. Kahin)

On the northern Philippine island of Luzon, some 50 miles from Manila, stand two symbols of American Pacific power: the Navy's base at Subic Bay and the Air Force's Clark Air Base, two of the largest U.S. overseas bases. With the U.S.-Philippine 1951 Mutual Defense Treaty, they represent a major U.S. military commitment.

The Navy and Air Force are strongly wed to these bases, and the Pentagon offers many reasons why they should be kept. However, Congress recently has tended to question their strategic value and their political and financial costs. For some members of Congress, the mystique of Filipino-American brotherhood has been shattered as much by Philippine President Ferdinand E. Marcos' demands for a large payment of rent for the bases as by his destruction of the semi-democratic system they regarded as an American legacy to his country.

A modified agreement governing U.S. use of the bases was signed by Marcos in 1966. This was to run until 1991, with neither party having the right to alter its terms without the concurrence of the other.

However, since his proclamation of martial law in 1972 and his assumption of virtually dictatorial powers, Marcos has been demanding that the agreement be renegotiated to provided further Filipino control and a rental of well over $1 billion for a five-year period.

At the same time, Marcos expects the United States to honor its commitment to maintain the security mantle provided by the 1951 treaty—insisting this be broadened to provide firmer assurance of U.S. backing for his oil claims in the South China Sea.

The Carter administration has been involved in the same "delicate negotiations" for a new base agreement that Henry Kissinger got off to such a disastrous start. In December 1976, Kissinger yielded to Marcos' demands for rent and offered $1 billion in military and economic aid over a five-year period. Marcos turned down the offer. Apparently he believed that a new administration might give them more

But the Kissinger formula remains attractive to the Philippine leader because its one-shot transfer of funds bypasses potentially hostile yearly congressional scrutiny and leaves him in a financial position to buy arms from the United States. As the recently retired chairman of the Joint Chiefs of Staff, Adm. Thomas H. Moorer, acknowledged last year, "Rent from the bases—which more than likely will be in excess of $1 billion for a five-year period—will ensure Marcos a continued source of hard American currency should the Carter administration reduce aid in reaction to the alleged human rights violations of the Marcos regime."

Marcos has been doing well in his dealings with the present administration. Military aid has remained approximately the same as under Ford, and economic assistance has been significantly increased. Rather than refusing to pay additional compensation to keep the bases open and insisting upon adherence to the existing agreement, the assistant secretary of state for East Asian affairs, Richard Holbrooke, has secured presidential backing for picking up where Kissinger left off. The administration has mollified Marcos by a variant of Kissinger's proposal that provides for a large amount of annually appropriated economic support that need not be identified as rental for the bases. If Congress refuses to approve this increased aid, payment can be channeled through the International Monetary Fund, World Bank or other international agency where the administration's influence remains heavy and largely outside congressional control.

Whether remuneration to Marcos is called "rent" or by some euphemism more acceptable to Congress, the Philippines becomes the only country with which we have a mutual defense treaty that obliges us to pay for using local base facilities that serve the security needs of both countries. The costs of the bases have been borne by the United States, with wages and other U.S. expenditures bringing into the Philippines economy around $200 million a year. Beyond this, U.S. military personnel spend at least $50 million more.

Moreover, Marcos' demand for rent raises a serious question of precedent. We also have mutual defense treaties with Japan and South Korea, where we likewise have base facilities. If the United States pays rent to Marcos, why shouldn't these other countries exact rent?

Some knowledgeable officials believe that Marcos calculates he is better off with a publicly unresolved base dispute, and that he may continue making demands that he realizes the United States will not accept. This not only provides him with sustained leverage for exacting aid from Washington, but also helps give him the public image of a man willing to stand up to the United States. This is politically useful, both domestically and in his efforts to become a Third World leader.

Americans clearly have been misled as to the actual value of the bases and the 1951 Mutual Defense Treaty. Though for the Navy and the Air Force the bases are comfortable and convenient, they are no longer of fundamental importance to U.S. security. Indeed, our continuing occupation of them, together with certain features of the interrelated treaty, put some U.S. defense interests distinctly at hazard. There are strong arguments for positioning U.S. air and naval facilities elsewhere in the western Pacific and for either terminating the defense treaty or rewriting it.

HUMAN RIGHTS CONCERNS

While unsure as to their actual strategic value to the United States—and afraid to challenge Pentagon experts on this issue—many in Congress are dragging their heels on assistance because of Marcos' marital law. Their concern was not assuaged when the Department of State acknowledged last February that "no real steps have yet been taken toward the restoration of democratic government or the elimination of the more severe intrusions on individual rights," and said it had no reason to doubt the authenticity of continuing reports of human torture.

In April, Marcos staged a blatantly fraudulent election for what is actually a powerless legislative assembly. This was calculated to reduce congressional criticism by demonstrating that Marcos was moving back toward democracy. U.S. officials also believed that establishment of such an assembly would undercut congressional fears that any new base agreement might not endure after Marcos left office because while this new body might be Marcos' puppet, its endorsement would endow the agreement with a legitimacy that would continue beyond his death or loss of office.

But the nature of this "election" and the arrest of many of those who ran against Marcos' slate ensured that this maneuver would backfire. Congressional outrage was demonstrated in a letter drafted by the sober and respected Iowan, Berkeley Bedell, and signed by 114 members of the House. Expressing concern over violations of human rights, and shock at the conduct of the election and the arrests of opposition candidates, its signers made clear that their support for continued U.S. aid would be dependent upon "meaningful efforts to redress this situation."

Since then congressional disapproval has been less vocal, with many members bowing before the administration's arguments that criticism should be curbed lest it jeopardize U.S. base rights.

THE INTERNAL THREAT

Proponents of the bases now rarely argue that they are necessary to defend the Philippines under the Mutual Defense Treaty, for clearly adequate measures could be mounted from U.S. facilities outside the islands. The U.S. military privately acknowledges that there is no credible Soviet or Chinese threat to the Philippines, and it is evident that if either country were to try an air or naval assault, American power based in Japan and Guam could easily interdict the effort.

The only real threat to a Philippine government, it is widely agreed, is internal. Because of this and the ambiguity of the U.S. commitment under the Mutual Defense Treaty, any responsible discussion of keeping a U.S. military presence in the islands requires a close scrutiny of both the terms of this treaty, with their differing American and Philippine interpretations, and the political context within which it must operate. It is here that the Carter administration has been most complacent.

Both Subic and Clark are located near traditional centers of insurgent activity. The major insurgent force, the Maoist-oriented New People's Army, with 2,500 to 3,000 armed men, is still much smaller than its earlier counterpart, the formidable Hukbalahap, which in the early 1950s was strong enough to penetrate the suburbs of Manila. The NPA, however, is growing, and its emphasis upon building cadre, developing better rapport with peasants and acquiring weapons (mostly purchased surreptitiously from Filipino soldiers) rather than military confrontation gives a misleading impression of its potential capabilities.

Certainly the mounting economic disparities, the lack of progress with agrarian reform, the frequent brutality of the military and dissatisfaction with martial law provide increasing political capital for almost any opposition leadership. The possibility of increased insurgent activity adjacent to the bases is taken very seriously by some senior U.S. military officers.

With about 85 percent of the government's combat troops trying to suppress the rebellion by Filipino Moslems in the southern islands of Mindanao and Sulu or committed to garrison duty in the Spratley Islands, where many believe oil will be found, virtually no reserves are available to confront a serious increase in rebel activity in Luzon.

Nor should one overestimate the capacity of the Philippine military. Although their numbers have increased 300 percent since 1972, they have been able to achieve no more than a standoff with the Moslem insurgents, despite an enormous superiority in firepower.

Philippine military protection of the U.S. bases is not impressive. Several thousand impoverished peasant squatters have moved into Clark Air Base, and some are believed to have ties wtih the New People's Army. The fences around Clark and Subic are never fully intact, for there is a thriving black market industry in selling them for scrap.

Since the Carter administration has done nothing to disengage from the still operative Manila Pact—the center-piece of the old SEATO—the United States is bound to come to the support of either the Philippines or Thailand in case of external aggression. If their governments should be under serious threat from rebellion, presumably neither the present administration nor Congress would be disposed to accept the tortuous interpretation of the pact's language that permitted the Johnson and Nixon administrations to employ it to send troops to fight an insurgency in Vietnam. Nor probably would they countenance interpretation of the U.S.-Philippine Mutual Defense Treaty as extending that commitment to countering a rebellion.

However, the existence of the Philippine bases provides something of a tripwire for American military intervention. Any American president would find it difficult not to order military measures against Philippine insurgents if they threatened military and civilian base personnel. It would be quite simple for Filipino insurgents to provoke an American military involvement that might be politically beneficial to them because of Philippine nationalist reaction.

A much more immediate danger is posed by the recent occupation of islets in the Reed Bank area of the Spratley Islands in the South China Sea some 250 miles west of Manila. These islands constitute a disputed area of overlapping claims by the Peking, Taipei, Hanoi and Manila governments, with the last three maintaining garrisons. The islet occupied by the Filipino troops is 200 yards from one garrisoned by the Vietnamese, whose claim has been inherited from that of the U.S.-supported Thieu government in South Vietnam. The reason for these expensive occupations is oil, believed to lie in the shallow seas surrounding the islets. Manila has already engaged at least one American firm in exploratory drilling, despite the efforts of the U.S. Embassy to discourage this.

Gen. Freddie Poston, commander of the 13th Air Force at Clark Air Base, told me, "An oil strike in the Spratleys could precipitate a dangerous situation." The Filipinos have very firm expectation of U.S. support if they get into trouble with the other claimants, and Gen. Poston has been under constant pressure from the Philippine military to put his planes on a standby alert to meet this contingency. So far he has refused.

This dangerous situation is not defused by our Manila Embassy's reiteration that the United States does not regard the Mutual Defense Treaty as applying to the Spratleys. The Filipinos insist that the treaty does cover them there. The treaty was drawn up during the Korean War when it was to the American interest that it cover our forces throughout the Pacific, and it is this language that has come back to haunt us. For its reciprocal Philippine protection extends not merely to attack against the Philippines themselves but also to Filipino "armed forces, public vessels or aircraft in the Pacific." It is difficult to argue that if its provisions once covered Philippine-based operations of U.S. troops in Korea and later Vietnam (where SEATO was also invoked), it should not today cover a Philippine garrison in the Spratleys and supply ships and planes.

Because of heavy dependence on foreign oil, Marcos and his military leaders are intent upon holding onto and developing their Spratley claim. What if Marcos or a successor gets into serious trouble in the Spratleys and we don't use the air and naval power we have based at Clark and Subic to bail him out? Philippine nationalist sentiment would be outraged and probably no government could successfully resist the demand that we be ousted from the bases. Would the United States then have any alternative to withdrawal? The only answer one top military official could give me was: "Well if they didn't want us here, we'd have to leave."

KEEPING THE POLITICAL STATUS QUO

Keeping the American presence in the Philippines also draws the United States into the political arena in a way that heavily influences Philippine policies. We must support the government in power. This was perceived in the Senate's 1969 hearings by Sen. J. W. Fulbright, who observed that, because of our interest in the bases, "We will always resist any serious change in political and social structure of the Philippine government, which is very likely to be, in the long run, a detriment to the people of the Philippines." Thus, so long as the United States is intent upon keeping the bases, it will act to preserve the political status quo, even if that means support of Marcos' martial law regime.

Americans who have believed that it is traditional for this country to encourage democratic government may find it incongruous that U.S. military and economic assistance markedly increased in 1972 after Marcos proclaimed martial law. This year, the Carter administration is seeking the same $37.3 million in arms aid that was provided last year. This military support tells Filipinos that the United States stands four-square behind Marcos.

The symbolism was significantly enhanced in May when Vice President Walter F. Mondale, despite the strong opposition of Patricia Derian, the State Department's human rights coordinator, yielded to the urging of Holbrooke and Under Secretary David Newsom and traveled to Manila to sign a series of economic aid agreements to a kind that normally would be signed by an ambassador or other lesser official.

The administration's bases priority also provides Marcos with a useful foil for turning aside criticism of his political repression. It was because of the bases that the administration served notice that U.S. strategic interests—or more accurately, its definition of them—must take precedence over concern for human rights. The Marcos regime naturally concluded that it didn't have to take American protests over human rights very seriously. Thus, though Marcos' secretary of national defense assured Derian early this year that he would be "the first to order the investigation of any violation of human rights especially if those involved are members of the armed forces," some three months later when I visited the Philippines there was no indication of any investigation of the more than 80 officers cited by Amnesty International as allegedly involved in torture.

THE STRATEGIC ARGUMENTS

U.S. officials who argue for keeping the bases generally flourish a long list of reasons: their importance to U.S. global defense; their critical role in maintaining an equilibrium among the superpowers in Southeast Asia and for projecting U.S. power into that area; their contribution to the defense of South Korea, Japan and Taiwan; their superior effectiveness for surveillance of Soviet naval shipping in the Indian Ocean; their unique value as a back door for supplying Israel in case of another Middle East war, and their necessity for the defense of the Philippines.

With respect to global defense requirements, the U.S. has placed its major nuclear deterrents elsewhere. We have no ICBMs in the Philippines; our Polaris submarines use facilities in Guam, and we base our B-52s in Guam. It was understood during the Vietnam war that no Philippine government would permit B52s on its territory, so the United States had to build expensive facilities in Thailand and rely on its main base in Guam, from which it cost nearly four times as much to fly as it would have from the Philippines.

The thesis that the bases are essential for maintaining military equilibrium between the great powers in Southeast Asia simply does not stand up. There is nothing approaching equilibrium in the area, the ratio being enormously in favor of the United States. Only the United States has the capacity to maintain a substantial naval force in the area. American base facilities in Guam, Okinawa and Japan are close enough to permit sustained large scale naval deployment there. Moreover, the U.S. has access to facilities of friendly neighboring states, including Australia and Singapore, not available to the Soviet Union. The nearest Soviet base is Vladivostok and it is unlikely that any country in Southeast Asia, Vietnam included, would grant the Soviets a base.

U.S. officials are hard pressed to argue that planes of the 13th Air Force could not more effectively fulfill their primary responsibility of defending South Korea if based in Japan or Okinawa. The same holds for the view that U.S. withdrawal from the Philippines would signal to the Japanese and Koreans that we were abandoning Asia. The Japanese could be expected to welcome the Clark Field squadrons to facilities in Japan. The bases from which the 7th Fleet could most easily defend Japanese and South Korean waters are in Japan, not the Philippines.

Even if there still were vital American interests at stake in Southeast Asia, bases in the Philippines are no longer available for supporting U.S. military activities there. Regardless of whether U.S. public opinion would permit an American president to intervene militarily in Southeast Asia, it is clear that Philippine public opinion would be opposed. In July 1976, Marcos signed an agreement with Hanoi pledging that he would not allow the bases to be used by "any foreign country" for intervention against Vietnam or other countries of the region. The Philippines signed this pact (over strenuous U.S. objections) in part to ensure that Vietnam would not sell arms to the Moslem Filipino insurgents. (Whether or not Hanoi made such a pledge, it has made no arms available.)

ACCESS TO MIDDLE EAST

The argument that U.S. base facilities are needed to keep a back door to Israel open is specious. It overlooks recent advances in Air Force logistical capacity that permit our huge C5A Galaxies and C141 Starlifters to reach Israel via the Atantic directly from the United States. Unloaded, these planes can easily make it all the way without refueling and, by availing themselves of midair refueling, they can carry enormous loads—30 tons for the C141s.

Should countries of Western Europe again deny overflight permission, in the event of another Middle East war, we could reach Israel by flying over the Straits of Gibraltar because the range of our planes and the state of air tanker transport and mid-air refueling technology have advanced considerably since 1973.

Gen. Poston assured me that if he were given A15s, which are now being made available to both Israel and Saudi Arabia, he could operate toward the Middle East from Guam just as easily as he does with older planes from Clark Field. With ranges of at least 5,000, 6,500 and 7,000 miles respectively, the A15s and the C5A and C141 cargo transports can easily fly from Guam to the intermediate U.S. Indian Ocean base at Diego Garcia. They would only need the single refueling by air tanker that Poston's present shorter range planes require to get there from the Philippines.

Such Guam-based airpower would be as effective in keeping open Indian Ocean sea lanes as planes based in the Philippines. And the assertion that Philippine bases are necessary for Indian Ocean surveillance is outmoded; our Orion planes now make regular use of facilities in Singapore, much closer to the area.

We must not forget that Marcos has already felt the squeeze of an Arab oil embargo imposed as a consequence of his heavy-handed tactics against Moslem insurgents, and would not want a second reprisal. This would be likely if, during a renewal of Middle East fighting, he permitted the bases to be used for supplying Israel. Moreover, such action would antagonize the Philippines' two Moslem neighbors, Indonesia and Malaysia, the latter openly sympathetic to the cause of the Moslem insurgents.

THE RANGE OF ALTERNATIVES

Has the United States no choice but to remain in the Philippines, locked into a helpless dependency upon the unpredictable currents of local nationalism and the unpredictable moves of a Philipoine dictator? Must American security interests remain hostage to the long-term threat of insurgent activity and the more immediate danger of embroilment in international disputes reflecting Philippine acquisitiveness rather than American defense needs? What are the feasible alternatives to remaining in the Philippines?

Moving the 13th Air Force from the Philippines 1,500 miles eastward to Guam would not pose significant difficulties. That island has well-developed air base facilities, with a longer runway than Clark. A guerrilla insurgency is unlikely to be mounted on its 209 square miles of well garrisoned territory, largely peopled by American citizens. The same would be true of the Northern Mariana archipelago that stretches northward from Guam.

Nor should the potential of the Northern Marianas be overlooked. It was from Tinian, one of the Northern Marianas, that the United States sent a plane to drop an atomic bomb on Nagasaki. Modern aircraft based there, or some 200 miles to the south on Guam, could easily operate in air space above Japan, South Korea and Taiwan. Both Guam and Tinian are closer than Clark to Tokyo.

The main loss in the Air Force's move to Guam and Tinian would be the excellent training facilities in the Clark complex. But these could be compensated for by heavier use of existing facilities in the United States or by development of new ones in the Marianas.

For the Navy, withdrawal from Subic would not be the loss that is sometimes alleged. The disadvantages clearly do not weigh so heavily as the threats to its continuing viability posed by unpredictable developments in the Philippines. The 7th Fleet's effectiveness in Southwest Pacific waters would not be greatly impaired if it made greater use of its major base facilities in Japan and Guam. In addition to communications facilities, Guam has considerable repair and logistical capacity, including a large drydock. If more extensive facilities were needed, these could be built in Guam and the Marianas.

In view of the 7th Fleet's responsibilities for keeping shipping routes open through the Straits of Malacca and its potential role in the Indian Ocean, Singapore is obviously much better positioned than Subic, some 1,500 miles northeast. The Singapore government would welcome greater American use of its modern Serangoon base. Some American officials try to spike arguments in favor of Singapore by asserting that its government makes drydocking facilities available to Soviet ships. The argument is dishonest because the Serangoon base, where Americans are welcome and the Russians are not, is on the other side of Singapore island from the commercial dry docks at Kepple harbor, the only place Russian ships are permitted.

Singapore is also hardly suitable terrain upon which to build up a guerrilla insurgency. Moreover, since the United States has no mutual defense treaty with Singapore, rental of its base facilities would not entail the incompatibility that attends such payment to the Philippines. (Which is not, of course, to say that the U.S. could not defend Singapore if this were to American interests.)

There is also the possibility of using the facilities of Australia at Darwin and North West Cape. These would require additional construction, but one location has well-developed communications and both have runways of at least 10,000 feet.

Moreover, withdrawal of the U.S. military presence from the Philippines need not mean abandonment of repair and logistical facilities at Subic and Clark. As a senior American diplomat said more than a year ago: "With the question of sovereignty and control finally resolved, the government of the Philippines would probably be as delighted as Singapore is to provide us with base facilities when we need them, for a fee." He observed that Manila would also probably accept the presence of small maintenance and repair teams on a permanent basis. Another formula would be to provide repair and logistical facilities at Subic and Clark under contract to American civilian management.

Thus a number of options could meet the needs of the Navy and Air Force. Initially some of them would be more expensive than Clark and Subic. However, they would all carry much less risk of exposing the United States to dangerous local political pressures and military entanglements.

THE DOMESTIC FACTORS

What then accounts for the administration's cap-in-hand approach to this arrogant Philippine dictator, and why is it unwilling to oppose his demand that the United States pay rent for the bases? One major reason is the reluctance of the U.S. military, especially the Navy, to give up what seems to be a good thing, and the Pentagon's consequent pressure on the administration for retaining the bases. They provide military facilities and physical amenities that are probably unmatched elsewhere outside the United States and unlikely to be duplicated at new bases.

Another is American domestic politics. In a period when the president is under attack for alleged weakness and indecisiveness in matters of defense and foreign policy, the administration believes that withdrawal of the U.S. military presence in the Philippines would strengthen the hands of its critics. This concern has apparently been heightened by the unwillingness of so many senators to relinquish American control over another traditional symbol of American overseas might, the Panama Canal, and the opposition of many of them to phasing out the U.S. military presence in South Korea.

The administration sees the Philippine bases and Mutual Defense Treaty as providing palpable symbols of a determination to maintain a forward position of U.S. power in the western Pacific and concrete evidence that the fiasco of Vietnam does not mean abandonment of a U.S. military capability in Southeast Asia.

A new base agreement with Marcos could dramatize—as the recent Panama treaty with Torrijos did not—the administration's resolve to maintain a posture of global military power. Being unaware of the insecure political foundations upon which these Philippine symbols of American strength rest, and of the unpredictable calls which a local insurgency or Marcos' oil claims might make on U.S. power based there, many Americans might find this gesture impressive. Moreover, it will make little difference that the Filipino people are unlikely to regard an agreement with Marcos as having any more legitimacy than the marital law rule under which he negotiated it, and consequently subject to their repudiation when he leaves the political scene. His departure may not be far off, but it is unlikely to come before the next U.S. presidential election.

Whatever the relative weight of these factors, the administration is keeping the United States hostage to unpredictable political developments within the Philippines and to Filipino military requirements that clash with U.S. strategic priorities. And it is doing so while acknowledging that the Manila regime continues to violate basic human rights. This policy reflects calculations of short-term expediency more than it does conscientious and responsible stewardship of fundamental American interests.

THE NATURAL GAS CONFERENCE REPORT

● Mr. MUSKIE. Mr. President, In just a few days, the Senate will begin in earnest its consideration of the conference report on the natural gas bill.

This legislation, like much of the energy legislation considered by the Congress, is complex and very technical. Also, the provisions of the bill are sure to have a marked effect on our economy both in the near and longer term.

Several weeks ago, I asked the Congressional Budget Office to prepare an analysis of the conference documents available at that time. This morning, I would like to share the results of that CBO analysis with my colleagues.

In summary, the CBO analysis presents a positive view of the conference report. CBO determined that the provisions of the conference agreement will result in additional production of natural gas, protect consumers, and have a minimum impact on inflation and the economy in general.

Mr. President, I believe that the CBO report is a fair and accurate analysis of the provisions of the conference report on the natural gas bill. I ask that it be printed in the RECORD.

The report follows:

THE NATURAL GAS COMPROMISE

The CBO has not performed an independent analysis of the Natural Gas Policy Act of 1978. Instead we have reviewed the two existing studies which compare current policy to the House and Senate passed bills as well as to the Conference report. These two studies are: The Joint Explanatory Statement of the Committee on Conference (received July 31, 1978), and the Pricing Proposals by the Energy Information Administration (dated June 14, 1978; updated August 1, 1978). Given that review and our previous background in the natural gas area, we have made a number of qualitative and quantitative judgments regarding the potential impact of the Conference report. Essentially three topics are addressed in this overall review:

1. The objectives of the new legislation on natural gas pricing and the extent to which H.R. 5289 attains those objectives.

2. The current policy problem, that is, what should be assumed about future natural gas supplies, allocation of those supplies, and prices in the absence of new legislation.

3. A brief review of some of the strengths and weaknesses of the quantitative analysis contained in the Conference Committee Explanatory Statement.

THE GOALS OF NEW LEGISLATION

The principal objectives of H.R. 5289 are:

1. To permit interstate pipelines to compete with intrastate pipelines for new supplies of natural gas.

2. To increase the incentives for exploration and production of new natural gas.

3. To incrementally price at least some gas users who have realistic fuel alternatives so they will convert to coal or oil. This provision should also prevent wellhead prices from rising above the levels of competing fuels when deregulation finally takes effect. ...

4. To accomplish the above objectives with the minimum impact on the overall rate of inflation and, specifically, with the minimum impact on the prices paid for natural gas by residential users who, in general, are unable to switch to other fuels.

Advantages—CBO believes that H.R. 5289 accomplishes these goals reasonably well. The Conference agreement ends the price discrepancies between the intra and interstate markets and thereby enables the two groups to compete equally for new gas. Thus, gas curtailments, common in recent years in parts of the country served by interstate pipelines, will be reduced and possibly eliminated. Further, regions of the country not hitherto served by gas pipelines may have the opportunity to obtain natural gas.

H.R. 5289 raises the price for new interstate gas up to the approximate price of intrastate gas and allows for an orderly and predictable rise in prices over the next eight years. These price rises, combined with the special pricing provisions for high cost gas, should increase the supply of domestically produced gas by about .7 to .8 trillion cubic feet in 1985. This increase in domestic production could, in turn, reduce the demand for costly LNG imports and for other higher cost energy sources, including electricity. H.R. 5289 contains incremental pricing provisions that should transfer a portion of the new higher prices onto interstate boiler fuel users. This is the same group that is the target of the coal conversion portions of the Natural Energy Act. More than any other single group of fuel users outside the utility sector, industrial boiler fuel users have the technical potential to replace gas boilers with coal fired units. The advantage of these incremental pricing provisions is therefore not only to protect residential consumers from rapid large price increases, but it allocates the high cost gas to those consumers who can shift from natural gas to other fuels (principally oil and coal). Thus, at least a partial ceiling will be placed on the prices of new gas once complete deregulation takes effect.

Although the original analysis by the Energy Information Administration indicated that the Senate bill would have lower prices to residential consumers than the Conference agreement, CBO believes that their interpretation of the incremental pricing provision in the Senate bill was in error. (A letter to the Chairman of the Energy and Power Subcommittee of House Interstate and Foreign Commerce from the EIA Administration dated August 1, 1978 acknowledged the misinterpretation in the EIA analysis).

It is also important to note that the legislation gives the Federal Energy Regulatory Commission the right to extend the incremental pricing provision to all interstate industrial users which would, in turn, provide greater protection to residential consumers. Whether or not this will be implemented, however, is difficult to determine.

Disadvantages.—H.R. 5289 has three major disadvantages. First it represents a wealth transfer from consumers of gas to producers of gas. This transfer goes beyond the high prices paid for truly new gas and includes, in many cases, higher prices for already flowing gas. The Conference Committee has estimated these costs to be no more than $11 billion from now until 1985. In the view of the CBO, this $11 billion estimate is most likely an underestimate, but probably by no more than $9 billion. That is, the transfer from consumers to natural gas producers over the next 7 years is unlikely to exceed $20 billion. After consumer savings resulting from the increased domestic production are included, the net costs to consumers are unlikely to exceed $16 billion between now and 1985. (Details discussed in the last section of this paper).

Second, by immediately deregulating the prices for high cost gas, while retaining controls on all other gas, there is a possibility that the price of the high cost gas will increase dramatically. If such were the case, producers might channel their investment funds into these high cost resources and pass over lower cost and more accessible gas that was still under price controls. In such a situation, producers would be profiting at the expense of consumers who would be denied access to lower cost gas.

Third, the Natural Gas Policy Act of 1978 is extremely complex and, therefore, there are likely to be implementation problems. Despite the good intentions of the bill's authors, it is fair to say that this bill may allow abuse and legal challenge by producers. The extent of this abuse is, however, difficult to estimate at this time.

THE CURRENT POLICY PROBLEM

A major difficulty in estimating the consumer cost of H.R. 5289 is the great uncertainty over what gas prices would be in the absence of new legislation. Unlike oil and coal prices, where the major uncertainties evolve around OPEC prices and energy demands, interstate gas prices are regulated by the FERC. The current pricing policy used by the FERC (opinion 770 A) provides for increases in interstate gas price of one cent for each calendar year quarter. Nevertheless, many experts believe that, in the absence of new legislation FERC would diverge from this current policy and follow previously announced pricing formulas, thereby increasing interstate prices significantly. Other experts feel that the FERC would try to keep regulated prices constant in real terms. Further, those pricing decisions depend on the future price in the intrastate market. Given the great uncertainty with respect to pricing policies in future years, most analyses (including CBO) have assumed that gas prices will remain approximately constant in real terms in the absence of any new legislation. However, it is possible that without new legislation average gas prices would rise dramatically in real terms over the next decade. Were that to be the case, of course, H.R. 5289 could hold down consumer costs for natural gas.

STRENGTH AND WEAKNESSES OF THE CONFERENCE COMMITTEE REPORT

In the opinion of the CBO, the economic analysis contained in the Conference Committee is technically competent and relatively unbiased. It addresses the major sections of an extremely complex bill and makes reasonable estimates of the bill's impact.

Producer Revenues and Consumer Costs.—The principal conclusion of the Conference Committees' economic analysis is that, H.R. 5289 will increase producer revenues (for the same quantity of gas) by $7.4 to $10.8 billion from now until 1985. However, according to the Conference Report, consumers won't pay all these costs because H.R. 5289 will also stimulate .7–1.4 TCF of new natural gas production which will replace more expensive alternative energy sources, thereby reducing consumer costs to a net amount of $1–5 billion from now until 1985. On the basis of these calculations, the report concludes that the overall macroeconomic reports are virtually zero.

While CBO agrees with the direction of the estimates in the Conference report, we believe that total consumer costs could be some what higher but no more than $8–16 billion higher than the projections of current policy, over the 7 year period. The details of these differences are as follows:

1. The economic analysis of H.R. 5289 makes a complex set of assumptions regarding the volume of gas that would qualify for deregulation under the high cost provisions and for relatively high (regulated) prices under, for example, the stripper provisions. While this is difficult to forecast, the CBO's judgment is that the Committee may have understated the volumes of gas qualifying for the high priced categories, particularly for deep gas and for the stripper wells. Recent growth in the number of oil wells qualifying for the stripper provisions of EPCA would support such a conclusion. Therefore, the CBO believes that producers' revenues for this category may be understated slightly in the Conference report—possibly on the order of $3–5 billion from now until 1985.

2. The Committee seems to have made a strong effort to minimize the possibility that producers will take advantage of H.R. 5289 in a way not intended by its principal authors. Yet, in light of the extreme complexity of this bill, the possibility remains that producers will find a way to increase their revenues above the levels predicted by the Committee. CBO has no special knowledge in this area but believes that it is important to recognize the possibility of abuse under H.R. 5289.

3. The ranges of truly new production forecast by the Committee are, in the opinion of the CBO, too optimistic. We believe that additional production on the order of .7 TCF in 1985, which corresponds to the conservative estimate presented in the Conference Committee report, is the most likely outcome.

In summary, CBO believes that the likely increase in producer revenues over the 7-year period would range from $12–20 billion more than current policy. Offsetting those revenues by $4 billion in consumer savings from new gas production the likely consumer costs range from $8–16 billion.

A final point that may be important regarding price changes for a particular region. The high wellhead price of gas in 1985 in the intrastate market which is claimed in the EIA report under the terms of Conference agreement is, in the view of CBO, misleading. Because the compromise regulates gas prices until 1985 it is true that there is the potential for large increases thereafter to clear the market. However, the alternative proposed by the Senate is to allow prices to rise in the earlier years and thereby reduce potential price rises in the later years. The key point is that the consumer is not concerned solely with the new price in 1985. It is the average price that really matters and there is no doubt but that the Compromise agreement provides for lower consumer prices in 1985 then does the Senate bill. Examination of Table 2 in EIA's August 1, 1978 supplement clearly supports that statement.

Macro-economic Impacts.—Depending on the extent to which increased producer revenues are funneled into productive investments, the overall effects could be either slightly positive or slightly negative. However, in a $2 trillion economy, the effect would be relatively small in any event.

Regarding inflation, the effects are also likely to be small. If the increased consumer cost for gas were spread out evenly over the 7-year period, we expect the rate of increase of the GNP deflator would increase by a maximum of .05–.1 of one percent per year. If, as seems likely, the effects are very low in the initial years and build up in the later years, then we could see slightly larger inflation impacts in the 1982–1985 period.●

JUVENILE ALCOHOLISM

● Mr. CULVER. Mr. President, we are witnessing an alarming increase in juvenile alcohol abuse. Testimony before the Juvenile Delinquency Subcommittee, which I chair, has shown that young people are beginning to drink earlier in life and in greater amounts. In my own State of Iowa, we have discovered that from 1974 to 1976 the earliest age of alcohol abuse fell from 9 years to 6 years of age. We also know that an estimated 17,000 Iowans between the ages of 14 and 17 have become heavy drinkers.

The task of preventing juvenile alcohol abuse is a difficult one. Alcoholism among young people has its roots in a society which tolerates and even encour-

ages the use of alcohol. In addition, the message which the media delivers to our youth is that drinking is glamorous and necessary for social acceptance.

At the Federal level, the Alcohol and Drug Abuse Education Office in the Department of Health, Education, and Welfare (HEW) provides training and resources for school programs in alcohol and drug abuse, education, and prevention. This office and its work deserve strong and continued congressional support.

Government programs alone, however, cannot halt the rise in juvenile alcoholism. We must also commit ourselves in our families, churches, and communities to provide the kind of personal guidance and support which will truly deter young people from the self-destructive use of alcohol. The importance of this approach was strongly supported by Mr. Gary Reidman, director of the Iowa Substance Abuse Authority, in an editorial that appeared in the Waterloo, Iowa Courier on August 20, 1978. Mr. Reidman traces the rise of alcohol's popularity among young people to its acceptance by society and to the relative lack of concern by parents about its use by their children. He suggests that parents should recognize alcohol as a drug and help to develop effective conditions for reducing the socially attractive appeal of alcohol.

I commend this article to my colleagues and ask that it be included in the RECORD.

The article follows:

SAYS NOT ENOUGH ATTENTION TO YOUTH ALCOHOL ABUSE

(By Gary P. Riedmann)

In the past 10 years we have heard much about the use of marijuana, heroin and other drugs by our youth.

Yet, at the same time, little attention has been given to the increasing use and abuse by young people of our society's most dangerous drug—alcohol.

The National Institute on Alcohol Abuse and Alcoholism estimates that there are 3.3 million teenagers in our country who are having problems with alcohol.

The proportion of teenagers who have experienced drunkenness has climbed from 19 percent to 45 percent in recent years.

These are national statistics, but we also have similar problems here in our own state, with data to support it.

In 1977, there were nearly 7,000 persons admitted to alcoholism programs for treatment. Of these, 900 or 13 percent, were under 21 years of age.

Younger and younger children seem to be drinking alcohol now.

In one statewide study conducted in 1974 and again in 1976, it was found that the earliest reported case of alcohol in 1974 was at age 10, while in 1976 it was age 6, with regular use reported by age 10.

The study also projected that 17,000 Iowa youth ages 14–17 exhibit a heavy drinking pattern.

Why is alcohol becoming more of a problem among our state's youth?

A primary reason is that alcohol has become such a socially acceptable drug to our society. This is true even to such a point that some parents are relatively unconcerned by their children's use of alcohol.

Undoubtedly, their reaction would be different if they discovered their child smoking marijuana.

Yet, at the same time, it is a fact that the disease, alcoholism, is the number three health problem in our country, causing more health, family, and adjustment problems and more directly or indirectly related deaths than any other drug.

The growing problem of the abuse of alcohol by young people has been blamed on a number of factors, including advertising, lack of parental supervision, lowered drinking ages and many others.

But in actuality, it is easy to see how the attitudes of society promote the use and abuse of alcohol.

We live in a chemical society. From an early age, children learn through watching others and television programs that alcohol is associated with having a good time and feeling good.

We see fathers and mothers coming home from the office or factory and reaching for a cold beer or martini "to help relax."

Some television programs subtly suggest that if a crisis develops, the immediate answer "to help cope" is to have a stiff drink.

Social events rotate around the use of alcohol, with friends pressuring you to "have just one more."

Young people are very aware of these attitudes and early develop the idea that alcohol is not a dangerous drug in the same sense as heroin.

Alcohol is not only acceptable, but also fun.

To use alcohol is to feel good.

If we are to deal with the rise in alcohol problems among youth, we must first deal with some of the attitudes of society.

Some ways you can personally help are:

Recognize that alcohol is a drug. Learn the facts about alcohol abuse and alcoholism. Understand that alcoholism is a disease which causes serious health and social problems.

Set proper models for youth to follow concerning the use of alcohol. Whether this means not using alcohol at all, or using more wisely, we must realize that we are helping to form either healthful or destructive attitudes toward alcohol by our own actions.

Explore ways for you and your family and friends to have a good time and feel good without the use of alcohol. There are many ways to relax after a hard day at work, and there are lots of unique non-alcoholic beverages that can add life to a party.

Through these ways and others, we can work together to insure that alcoholism does not become any worse among our youth.

There is so much talent and enthusiasm among our youth, it would be a shame to inhibit this potential by the use of alcohol.

For further information on alcohol or alcoholism or programs in the state, contact the Iowa Substance Abuse Information Center, Cedar Rapids Public Library, 428 3rd Ave. SE, Cedar Rapids, Ia., 52401.●

ILLEGAL ALIENS

● Mr. HUDDLESTON. Mr. President, the problem of huge numbers of illegal aliens entering this country is escalating daily and it is imperative that this matter become a high priority item for the next Congress. A solution must be found in order to prevent the continued undermining of the labor force in this country.

In order to appreciate the severity and longrun implications of this problem, I believe it is imperative that we understand the motivating force behind most illegal immigration. Approximately 90 percent of the illegal aliens entering this country come from Mexico, and realization of the increasing economic and population pressures in that country should encourage us to enact strong measures to deal with the problem.

John Huey wrote an article for the August 30, 1978 edition of the Wall Street Journal which dramatically illustrates the Mexican dilemma and its impact upon illegal immigration in this country. Mr. Huey's article indicates that Mexico's unofficial plan for coping with the bleak economic future and burgeoning population is emigration through the "porous U.S. border." He quotes Patrick J. Lucey, U.S. Ambassador to Mexico, as saying, "They've [Mexican leaders] made it clear that they don't feel any sense of responsibility toward helping the U.S. with its problem of undocumented workers. The failure of [the U.S.] Congress to act on the question is viewed as a welcome breathing spell."

I do not believe that the United States can continue to act as a safety valve for other countries by permitting virtually unlimited immigration. Congress must act decisively and as soon as possible on this problem.

I ask unanimous consent that Mr. Huey's article be printed in the RECORD.

The article follows:

DESPITE RISING WEALTH IN OIL, MEXICO BATTLES INTRACTABLE PROBLEMS

(By John Huey)

MEXICO CITY.—Two years ago, in the waning days of Luis Echeverria's presidency, Mexico seemed near collapse. But since then, the tension that gripped this giant city has been soothed by visions of a sea of oil.

Mexico's sharp increase in its petroleum-reserve estimates has restored its international credit rating. Its $26 billion foreign debt seems certain to be whittled down, and phrases like "the next Saudi Arabia" are bandied about in flashy new discos springing up here.

But despite the oil-based balm, the cancers that have eaten away at Mexico for years are still afflicting it. So far, the private investment desperately needed to create jobs continues to lag. Mexican workers, robbed of purchasing power by inflation, are raising their wage demands and calling for more and longer strikes. Soaring population growth defies solution. Farm problems persist. And the flood of illegal emigrants to the U.S. continues as the primary safety valve.

It is becoming clear, in the words of a U.S. State Department economist, that "the problems of Mexico won't be solved by oil, and its major problems may well be worsened by it." Indeed, adds a Commerce Department analyst in Washington, "There is a growing school of thought that oil could be very harmful to Mexico right now. It's providing an excuse—a crutch—not to solve the basic structural problems." Some even compare Mexico's breakneck expansion of oil sales to a derelict selling his blood in the morning to buy an afternoon bottle of wine.

HUGE OIL RESERVES

Clearly, however, Mexico has plenty of blood to sell. Probable petroleum reserves are estimated at 31 billion barrels and possible reserves at 120 billion, while street-corner speculation puts the total at 160 billion barrels. Among other things, President Jose Lopez Portillo is expected to announce yet another sizable increase in reserves during his annual state of the nation address this Friday.

And amid a great debate over how to spend the newfound bounty, the money already has started pouring in. Pemex, the state-owned oil company, says exports this year should total about $2 billion, double last year's, and should hit $11.5 billion by 1985. Some U.S. observers see much-quicker growth in export revenue; they forecast $5

billion by 1980 and double that by 1982 or 1983. Such figures inevitably provoke comparisons with countries like Saudi Arabia, whose proven reserves exceed 150 billion barrels.

But other comparisons paint a far-different picture. The age makeup of Mexico's population of 64 million—almost half under 15 years old—is matched only by countries like Pakistan and Bangladesh. Mexico's income distribution ranks among the most unequal in the world, alongside countries like Uganda. And a slew of other social and economic ills presents an equally stark scene.

U.S. DEEPLY INVOLVED

These ills, moreover, are almost certain to become directly troublesome to the U.S. With almost 2,000 miles of common border, any further instability in Mexico will "create an entirely new type of international problem for the U.S.," a State Department official warns.

Of all these ills, unemployment is worrying Mexicans the most right now. The government concedes that only about half of the work force in Mexico City is fully employed, and official statistics show that industrial employment in the nation dropped 1.6% last year, with no signs of a reversal in the first half of 1978.

The job problem is evident in Mexico City whenever a traffic light turns red. Gaunt young men with rags and buckets rush out among the stopped cars and try to earn a few pesos by cleaning windshields. And their competition is constantly increasing. Each day, an estimated 1,400 country people pour into this city of 13 million and strain a system already struggling to import food and drinking water. Nationwide, an estimated 800,000 additional jobs a year are required just to avoid a rise in unemployment.

GRAVE NEED FOR JOBS

"The economic situation is grave," says Alfonso Sanchez Madariaga, No. 2 man in the Confederation of Mexican Workers, the nation's most-powerful labor group. He believes that the immediate need—quite apart from the future—is for five million new jobs, and he adds, "We are hoping that with the exploitation of oil, the government can create new jobs in all areas of basic industrial production."

But skeptics contend that employment isn't easily increased in "extractive" industries like petroleum, in which creation of one job requires an investment of $100,000 to $200,000, compared with only $1,000 to $2,000 in light manufacturing.

"There is no way that oil—its extraction, its refinement or its marketing—will improve employment in Mexico," says the skeptical State Department economist, who adds, "Given the way Mexico is organized, it (petroleum) will worsen income distribution." Professor Calvin Blair, longtime Mexico-watcher at the University of Texas, agrees. "If the government uses strong oil revenues as a reason for postponing fiscal reform—particularly tax reform," he says, "income distribution may well worsen."

Both income distribution and unemployment are intertwined in another of Mexico's devastating problems: the feudal inefficiency of its agricultural system. More than 45 percent of the labor force works millions of fertile acres but produces less than 10 percent of gross national product and receives only 6 percent of national income; half the farmers produce only 4 percent of total agricultural output and don't grow enough food to feed their own families; and the country hasn't grown enough to feed itself since 1971.

The agricultural system is divided between primitive ejido (communally owned) farms and large, mechanized agribusiness spreads. On the least-efficient farms, inferior seeds, insufficient fertilizer and archaic equipment hold down per-acre corn yields to less than one-quarter the U.S. average.

The farm problem is politically explosive. To one faction, nothing is as sacred as the field worker's right to own land—a tenet basic to the 1910 revolution. To another, nothing seems as urgent as increased efficiency. But Manuel Clouthier, president of Coparmex (a powerful employers' confederation), observes, "Every time agricultural production has increased anywhere, employment has decreased"—hardly what Mexico needs. Although the tension has eased since the violence that followed Mr. Echeverria's expropriations two years ago, the pressure for land reform hasn't abated; just last week the government expropriated about 26,000 acres of private land to be distributed to ejidos and accepted another 49,000 acres in "voluntary" donations.

If some solution isn't worked out, the benefits of oil exports could be largely lost. "Quite simply, the oil boom will be offset if agricultural production isn't increased," Mr. Clouthier says. He notes that producton dropped 1 percent in both 1977 and 1976. And even though 4 percent growth is forecast for this year, Mr. Clouthier cites projected imports—including 1.8 million tons of corn, 1.6 million tons of oilseeds and 700,000 tons of sorghum—as an alarming trend. As one agribusiness executive asks, "What good will it do to export $11.5 billion in oil in 1985 if we have to use it to pay for half our food in imports?"

BURGEONING POPULATION

Moreover, feeding Mexico today is literally only half the job that it will soon become. Already the 10th largest in the world, Mexico's population is expected to double by the year 2000. This surge—due to a high birth rate coupled with a relatively low death rate—is perhaps Mexico's worst problem, and the one least solvable by oil money. After decades of urging the populace to reproduce, the government's initial efforts to push birth control have met with some success in the past couple of years. But most experts credit that success to acceptance by the educated classes and express little hope of convincing the masses. Besides, demographers note, even if the birth rate suddenly plunged, population growth wouldn't be significantly affected for 20 years because of the multitude of women soon entering their childbearing years.

While oil revenues apparently can do little to solve such problems, they clearly can do much to aggravate some others: corruption, inflation and, subsequently, the distribution of income. The large influx of money understandably arouses widespread suspicion in a country that, ever since 1950, has seen strong economic development accompanied by deterioration in income distribution and by overt corruption. To combat doubt, President Lopez Portillo has initiated what appears to be the beginnings of an anticorruption campaign, but many observers wonder whether it is possible to overcome a malady so endemic here. As a popular expression puts it, "Oil, a gift of the gods; is the temptation of the Devil."

To the extent that oil money isn't used to service foreign debt, the funds also could become a temptation to spend—and thus a fuel for inflation. According to most U.S. estimates, inflation already is clipping along at well above 20 percent annually. Prices have risen so steadily that labor long ago was released from its voluntary 10 percent limit on wage increases and recently has been winning settlements as high as 16 percent. The unions are "more aggressive than they're been since they organized 40 years ago," a labor lawyer for several big corporations says. "They're better educated, and they expect more."

REAL WAGES DROP

But in real terms—adjusted for inflation—workers aren't getting more. A U.S. Embassy report shows that the average real wage declined in 1977 and will drop again this year. The report also counted, in the first quarter of this year, 427 strikes, 47 percent more than in the like 1976 period.

In the face of all these mounting pressures, Mexico's plan for stability has long been clear, most observers say. And it isn't oil.

"It's the same way the Irish and the English and the Germans and the Italians all solved their problems in the late 19th and early 20th Centuries, when their economies were transforming from agrarian to industrial," Prof. Blair of the University of Texas says. "Between 1830 and 1920, they sent 30 million immigrants to the U.S."

Mexican leaders don't deny the need for emigration. "They've made it clear that they don't feel any sense of responsibility toward helping the U.S. with its problem of undocumented workers," Patrick J. Lucey, U.S. Ambassador to Mexico, says. "The failure of (the U.S.) Congress to act on the question is viewed as a welcome breathing spell."

How these impoverished migrants will fare in the U.S. sparks much speculation here. But wealthier Mexicans have insured that they always will be welcome—by purchasing real estate in Texas, California, Colorado and elsewhere.

KEEPING U.S. TOEHOLDS

"We aren't seeing the large pools of money coming in, like we did during the Echeverria days; there's obviously a higher comfort level with Lopez Portillo," says Mayion Burnham, president of a San Diego real-estate firm that long has served Mexican investors. However, he says, "A lot of our Mexican investors have had opportunities to pull their money out, but they always prefer to roll it over into U.S. property. And we haven't seen any slowdown of the quarter-million, half-million and three-quarter-million-dollar investments.

Nor has Mexico seen any upturn in investment from the U.S., which accounts for more than 70 percent of foreign holdings here. In the 1978 first quarter, according to the central bank, new private foreign investment in Mexico totaled only $14 million, the lowest in at least six years. Business, a U.S. executive says, "is just sitting around waiting"—waiting to see what will happen next.

And concern over what comes next is increasing. For one thing, the fragility of oil dreams was made clear to most Mexicans by the failure of a much-heralded plan to sell natural gas to the U.S.; it failed because the price didn't conform to President Carter's energy plans.

"We don't know what the real situation is," a wealthy Mexican merchandiser complains, "but we're tired of fantasies. If the government has a plan for this petroleum, it should publicize it. We know the oil is a postponement; we just don't know what it's a postponement of." ●

FOOD INFLATION

● Mr. McGOVERN. Mr. President, on Tuesday, August 29, the Labor Department reported that the consumer price index increased 0.5 percent in July. Though this monthly increase is the smallest since last December, the seasonally adjusted annual rate for the first 7 months of this year equals 9.8 percent—"the worst inflation rate in 3 years."

I have been deeply concerned over the extent to which food has been the main contribution to the double-digit inflation we have experienced this year. Due to the volatility of food prices, the figures for July essentially remained unchanged from the June statistics. However, it is imperative that we recognize that the American consumer is confronting a 15.3 percent seasonally ad-

justed annual rate of inflation for food. This is an intolerable situation.

A pertinent example of the severity of our present food price dilemma is in Washington, D.C., where supermarket prices rose 3.2 percent in the past 2-month period. In an article appearing in the Washington Post (August 30), a Washington shopper aptly expressed the depth of this problem: "It's absolutely ridiculous * * * During the last month, for the first time, my food bill amounts to more than half of my weekly paycheck."

Mr. President, I request that this Washington Post article of August 30, 1978, be printed in the RECORD.

The article follows:

[From the Washington Post, Aug. 30, 1978]

AREA PRICES UP 1.9 PERCENT

(By Charles S. Rowe, Jr., and Neil Henry)

Led by large increases for food, housing and transportation, consumer prices in the metropolitan Washington area rose 1.9 percent from June through July, slightly above the average national price increase of 1.8 percent during the two months, the Labor Department reported yesterday.

Since July a year ago, local consumer prices have risen 7.7 percent as prices nationwide increased 7.4 percent.

Locally, inflation is accelerating as the latest 1.9 percent increases in prices follows a 1.7 percent increase in April and May and an increase of seven-tenths of 1 percent during the first three months of the year.

During June and July, local food prices increased 2.8 percent, the largest increase for any of the major consumer expenditure categories. Grocery store food prices increased 3.2 percent during the two months. Nationally, food prices increased 2.2 percent during the two months.

Housing costs, which account for 46.7 percent of the average spending of Washington area consumers, increased 1.9 percent during the two-month period. Since July a year ago, local housing costs have risen 8.4 percent, while the costs nationwide have risen 8.8 percent.

Among housing costs, the cost of utilities increased 5.2 percent during June and July, partly reflecting an increase of 10 percent for gas and electricity.

The cost of traveling around the metropolitan area also increased significantly during June and July. Public transportation costs increased 2.5 percent and private transportation increased 2.6 percent. Since July 1977, local transportation costs have risen 6.2 percent compared to an increase nationwide of 4.5 percent.

The large increase in food prices was greatest for meats, poultry, fish, eggs, fruits and vegetables—which all increased in price more than 4 percent in the two months. Prices declined for a few products, including oranges, lettuce and tomatoes.

Among Washington shoppers interviewed yesterday, the increase in grocery store food prices came as no surprise. Many felt helpless while others were downright furious.

"It's absolutely ridiculous," said Louise Lemmon, cradling a bag of groceries in her arms as she left the Metro Supermarket at 141 P St. NW. "During the last month, for the first time, my food bill amounts to more than half of my weekly paycheck.

"You spend $4 or $5 for a piece of meat, and when you get home and cut away the fat you find it isn't hardly enough to feed one person, let alone four," she said. "Then when the rent comes due you wonder where all the money went."

Linda Jarman, interviewed outside the Townhouse Supermarket at 1800 20th St. NW, suggested a solution to the rise in local food prices.

"My husband and I are planning to move to rural North Carolina," she said, "because life is so expensive around here. I think down South we'll find it a bit cheaper to live."

Chau Phan, 71, who lives on 19th Street NW on a fixed income, left the store with a small bag of groceries.

"Last year, I was able to get a bag and a half of food for the same money," said Phan, who shops for food once a week with his wife. "My pension doesn't stretch at all, while food prices seem to always stretch. One or the other will have to give after a while."

Local consumers may find some relief in clothing prices, which decreased 2.1 percent during June and July. The price of footwear showed the sharpest drop, falling 5 percent as female apparel prices fell 3.4 percent and male apparel prices fell 1.8 percent. Nationwide, clothing prices fell 1.1 percent during the two months.●

PROPOSED ARMS SALES

● Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD at this point the three notifications I have just received.

The notifications follow:

In reply refer to: I-13504/77ct.

WASHINGTON, D.C.,
September 7, 1978.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78-66, concerning the Department of the Army's proposed Letter of Offer to Saudi Arabia for other than major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $460 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA, Director, Defense Security Assistance Agency.

[Transmittal No. 78-66]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Saudi Arabia.
(ii) Total estimated value:

	Million
Major defense equipment*	$0.0
Other	460.0
Total	460.0

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: Management of construction of Ministry of Defense and Aviation Headquarters facility at Riyadh. The facility will include office and administrative space, cafeteria, mosque, auditorium, atrium, underground command center, parking garage, market facilities, gatehouses, roads, and all utilities.

(iv) Military Department: Army.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: September 7, 1978.

WASHINGTON, D.C.,
September 7, 1978.

In reply refer to: I-2239/78ct.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78-68, concerning the Department of the Army's proposed Letter of Offer to Saudi Arabia for other than major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $35 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA, Director, Defense Security Assistance Agency.

[Transmittal No. 78-68]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Saudi Arabia.
(ii) Total Estimated Value:

	Million
Major Defense Equipment*	$0.0
Other	35.0
Total	35.0

*As included in the U.S. Muntions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: One (1) 35 MW Power Plant at Khamis Mushayt Military Cantonment.

(iv) Military Department: Army.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: September 7, 1978.

WASHINGTON, D.C.
September 7, 1978.

In reply refer to: I-4917/78ct.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78-87, concerning the Department of the Army's proposed Letter of Offer to Saudi Arabia for defense articles and services estimated to cost $272.1 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA, Director, Defense Security Assistance Agency.

[Transmittal No. 78-87]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Saudi Arabia.
(ii) Total Estimated Value:

	Million
Major Defense Equipment*	$0.0
Other	272.1
Total	272.1

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: Additional design as required, construction, and other related procurement, for Additional Support Facilities, Saudi Naval Expansion Program (SNEP), including U.S. Army Corps of Engineers costs for services provided in managing and administering the design and construction contracts. Facilities are to be located at Jubail.**

(iv) Military Department: Army.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: September 7, 1978.●

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I suggest that the cloakrooms ask Senators, and I wonder if the cloakrooms know of any Senator who wishes to come over during morning business to make any statement or introduce a bill. If we could find out within 5 minutes the Senate could go out.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HANSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE NATURAL GAS COMPROMISE—PROS AND CONS

Mr. HANSEN. Mr. President, few issues we currently face are as complex and controversial as the question of whether to approve the report of the conferees on the natural gas part of the energy bill. The Congressional Research Service has now scheduled an informational debate seminar on this bill which may be of great value to Members and staff who are considering this critical question. Because of the late moment at which this program was arranged, notice of it may not have been delivered in time to all Senators' offices. For this reason, and because I believe that the program will provide an excellent airing of the arguments both for and against this legislation, I ask unanimous consent that the announcement of this program be included in the RECORD following my remarks.

There being no objection, the announcement was ordered to be printed in the RECORD, as follows:

THE NATURAL GAS COMPROMISE—PROS AND CONS

In response to the anticipated debate, the Congressional Research Service invites Members and staff professionals to a seminar on the Natural Gas Compromise.

Date: Tuesday, September 12, 1978.

Time: 9:00 a.m. to 11:00 a.m.

Place: Coolidge Auditorium, Library of Congress.

Panels will offer five-minute arguments on each of the following issues:

1. Is the natural gas compromise an enforceable piece of legislation?

2. What are the impacts of the compromise on consumers, both residential and industrial, compared to the status quo?

3. How will natural gas producers fare under the compromise, compared to the status quo?

4. How will gas supply respond under the compromise as compared to the status quo?

5. What is the impact of the compromise on the dollar, the balance of payments, and the U.S. image abroad?

6. Are there any practical current alternatives to the compromise and will Congress face the issue again if the compromise fails?

Written and oral questions from the audience will be entertained after the debate.

PANELISTS

Pro

Leslie J. Goldman, Prin. Dpty. Ass't Sec'y, DOE.

George H. Lawrence, Pres., American Gas Assoc.

William Demarest, Counsel, Energy and Power Subc.

J. N. Warren, Natural Gas Producer.

Con

Jack M. Allen, Pres., Indep. Petroleum Assoc.

Danny Boggs, Senate Energy Committee.

James Flug, Exec. Dir., Energy Action Committee.

A Noted Economist.

Mr. HANSEN. Mr. President, the administration argues that the country needs this gas bill to impress the outside world with its serious intent to control energy use and that the fate of the dollar might depend on the outcome of the vote.

But when the substance of this so-called compromise is weighed against its symbolism it reminds me of a man paying a bill with a bum check. And if this bill is passed, you can bet your bottom devalued dollar that it, too, will bounce.

As the distinguished chairman of the Finance Committee, (Mr. LONG) said in commenting on the bill:

> What I find to be one of the most impressive arguments to some Senators, when thoroughly analyzed, becomes one of the most ridiculous. That is the argument that we must pass a bad bill, even though it be a very bad bill, because it will strengthen the dollar, that somebody abroad will think America has done something about the energy question and, therefore, they will have more confidence in the dollar.
>
> . . . we might as well pass a blank sheet of paper and just write "energy bill" across the top of the sheet of paper and hope to fool somebody.
>
> What good would it do us to pass a bad bill, a bill that is going to cause us to have less energy, not more energy, a bill that will hinder production, not increase production? What good will it do us to pass such a bill in the hope of fooling some foreigner?
>
> Those are sophisticated people. They are not a bunch of idiots over there in Japan, in Europe, and elsewhere. They will know from everyone they talk to in the industry that the bill does more harm than good.

Mr. President, one of those European countries is doing just the opposite of what this so-called compromise proposes to do.

France is freeing itself of the yoke of price controls and restoring market forces as the prime mover in the French economy. For French Prime Minister Raymond Barre as well as President Valery Giscard d'Estaing, both trained economists, this bold new policy of economic liberalization constitutes a considerable economic and political gamble, for it inevitably means a period of rising prices and rising unemployment while waiting for the anticipated market forces to bring both down.

Barre pointed out that there are always risks in any policy, so it is important to acquire the means of limiting those risks. He said it was his belief that in the present state of the French economy, they had those means.

The price indices will go up in coming months, he said, but those increases are adjustments and not inflationary price rises.

Barre said:

> Let's try to understand what is happening and understand that our policy is to build a sounder economy.

If this bill were a true deregulation bill such as the Senate passed almost a year ago rather than the monstrosity it is, I would be hailing it for partly restoring market forces as the prime mover in the U.S. energy economy as the French are doing.

Rather than that, this bill extends price controls and regulation to the only free gas market we have, the intrastate market.

The Energy Policy and Conservation Act of 1975 which extended price controls on crude oil has had a stifling effect on domestic crude production. Other than Alaska, domestic crude production continues to decline under a ridiculous four-tiered crude pricing system—lower tier oil, upper tier oil, stripper well oil, and foreign oil.

As though this jerry-built crude pricing system plus a crude oil entitlements program that encourages imports is not enough of a bureaucratic nightmare, this so-called natural gas compromise proposes to outdo the Rube Goldberg crude oil pricing system with one that was described by Robert J. Samuelson of the National Journal as "a law that promotes neither maximum gas production nor energy conservation and, simultaneously, is so complicated that it defies easy obedience or enforcement. Like all bad laws, it will ultimately breed contempt for the law."

Mr. Samuelson called the conference bill a "logrolling monstrosity."

The article ended with this observation:

> So the Congress can choose between the disaster of passing an atrocious bill and the calamity of rejecting an "energy plan." It is a chapter straight from Dante.

With permission of the National Journal, I ask unanimous consent that the full text of Mr. Samuelson's copyrighted article be printed in the RECORD.

There being no objection, the article was ordered to be printed n the RECORD, as follows:

CONGRESS' CHOICE ON GAS BILL CHAPTER STRAIGHT FROM DANTE

(By Robert J. Samuelson)

There is no turning back once you start down the road to hell. Either you arrive or you get stranded in purgatory.

President Carter and Energy Secretary James R. Schlesinger might reflect on this during the final scenes of the natural gas debate—for it captures perfectly their predicament.

** Jidda, Riyadh and Dammam and includes: (1) Recreational Facilities, (2) Housing and Community Support Facilities, (3) Base Support Facilities, and (4) Base Access Roads and Channels.

If the bill passes, Congress will have enacted a law that promotes neither maximum gas production nor energy conservation and, simultaneously, is so complicated that it defies easy obedience or enforcement. Like all bad laws, it will ultimately breed contempt for the law.

But the bill also has acquired a symbolic importance far removed from its merits. If it fails, the United States will be seen—once again—as having rejected a "national energy program." Abroad, this rejection will confirm the view that the United States cannot manage its own economy.

Carter and Schlesinger have only themselves to blame for this denouement. Flawed in concept, their original natural gas proposal activated all the confusion and conflict inherent in this issue. The result was preordained.

The best way to understand their error is to take a detached look at natural gas—the way a Martian might.

Natural gas now supplies about 25 percent of the nation's energy and is used by more than half of all homes. Although nearly 60 percent of gas sales go to industry, this use is declining. Fearing future shortages, businesses have conserved more than consumers and have switched to other fuels.

Consequently, homes and apartments will constitute an ever-larger part of the gas market. For most residential users, gas prices today are cheaper than oil or electricity prices. Last year, for example, the average cost of gas for homeowners—$2.33 per thousand cubic feet—was about one-third less than the equivalent oil cost.

Federal price regulation accounts for much of this difference. About 55 percent of all gas moves between states (interstate) under prices set now by the Federal Energy Regulatory Commission and previously by the Federal Power Commission. The FERC has set wellhead prices ranging from 54 cents per thousand cubic feet (for gas discovered before 1973) to $1.50 (for gas discovered after 1975). Pipeline and distribution costs account for the rest of the retail price.

By contrast, gas produced and consumed in the same state (intrastate) isn't regulated and now sells for a wellhead price between $1.90 and $2.10 per thousand cubic feet.

The conclusions are relatively simple. The distinction between the interstate gas and intrastate gas means some consumers (in the interstate market) who want gas most can't get it because producers sell where the price is highest. So the government needs to end the distinction.

Likewise, the government needs to end price controls. If this would push prices up, it also would promote maximum production and conservation. The impact would extend over about a decade because most prices are now set by long-term contracts.

That Carter and Schlesinger did not accept this conclusion inevitably led to all their subsequent political and public relations problems. They simply fixed another artificial price for newly discovered gas, $1.75 per thousand cubic feet, and proposed applying this price to intrastate gas.

The justification for this new price does not stand scrutiny. Any higher price (they argued) wouldn't result in much more gas simply because there isn't much more. In fact, no one knows how much natural gas remains and, therefore, what the price should be. After two years of study, Resources for the Future Inc., a Washington research group, came to precisely that bland conclusion.

But if Schlesinger seriously believed in the scarcity of gas, the proper response would have been to let prices rise and to tax "excess" profits from producers. Holding down prices simply stimulates unnecessary consumption, depleting a scarce resource faster. It protects gas consumers, but creates more price pressures on oil—the most easily available substitute—and, consequently, hurts oil consumers. Because "conservation" was such a prominent part of the Carter rhetoric, this glaring inconsistency undermined the President's credibility.

Having embraced this ill-conceived plan, Carter and Schlesinger have been its chief victims. Not the least of its liabilities is a potentially stifling effect on the development of Mexico's vast gas reserves. Negotiations between the United States and Mexico over the export of two billion cubic feet daily to the United States (3 percent to 4 percent of total consumption) broke down early this year, in part because the Mexicans insisted on a price above the administration's regulated price.

Allowing a free market price would simplify talks with the Mexicans enormously. Mexico needs to sell its gas here. If it can't (or won't), it may slow its energy development. Much of the Mexican gas is found with new oil. The upshot is that there could be not only less gas production, but also less oil production—and more pressure on prices.

Nor did the Carter plan, inconsistent and incapable of being explained to the public, command much support in Congress. The resulting conference bill is a logrolling monstrosity. At last count, the bill contained at least 17 price classifications. Wells drilled to 15,001 feet get one price and those to 14,999 feet get another. Wells drilled within 2.45 miles of an existing well get one price and wells 2.55 miles away get another. Some gas would be freed from controls (theoretically) in 1985, and other gas wouldn't.

Consequently, almost no one is satisfied with the outcome. Staff members of the FERC fear that the bill may require detailed information on each new gas well—11,000 last year—and could not possibly be administered conscientiously. Sen. Edward M. Kennedy (D-Mass.) believes the bill will "result in endless litigation, delay and misunderstanding." The producers are appalled.

So Congress can choose between the disaster of passing an atrocious bill and the calamity of rejecting an "energy plan." It is a chapter straight from Dante.

Mr. ROBERT C. BYRD. Mr. President, I understand there is another Senator coming to the floor. As a matter of fact, I see him coming down the hall. I yield the floor.

SENATE RESOLUTION 555 AND SENATE RESOLUTION 556—SUBMISSION OF RESOLUTIONS OF DISAPPROVAL OF MODIFICATION OF CERTAIN SHIPBUILDING CONTRACTS

(Referred to the Committee on Armed Services.)

Mr. PROXMIRE. Mr. President, I send to the desk resolutions of disapproval of the Navy's proposal to provide hundreds of millions of dollars of financial relief to bail out General Dynamics and Litton under Public Law 85-804.

Mr. President, I have just come from a hearing on this matter before the Joint Economic Committee. I testified there and before the Armed Services Committee.

This is one of the worst ripoffs in the history of our Nation. It is something that few people have had an opportunity to pay any attention to. I am very hopeful that we can get a vote on this. It will be difficult to do so, I realize, under the circumstances, but I am hopeful we can get a vote of the Senate up or down on this disapproval under the Senate rules. If we cannot get a vote, I propose that this should be a demonstration of why the rules should be changed, because the purpose of the law under which I am sending the resolution to the desk is to provide an opportunity for the Senate as a whole or the House of Representatives as a whole to disapprove settlements that are far above the contract terms. They have to be at least $25 million above the contract before we have an opportunity to vote on such a resolution. These are almost a billion dollars, in aggregate, above what the contract settlements provided.

I realize the hour is late and the Senate will go out of session shortly, so I will not detain the Senate by making a long substantive statement at the moment.

AN APPEAL TO STOP A CLASSIC TAXPAYER RIPOFF

The proposals are objectionable on several grounds. They do not represent a solution to the shipbuilding claims problem. Because they were done as a result of threats by the shipbuilders to shut down operations, and because they provide them with hundreds of millions of dollars over and above the values placed on the claims by the Navy, they are bad precedents. They violate the integrity of the Navy's claims review process and they do severe injury to the defense procurement system.

The Navy wants to pay the two companies $541 million more than the value of the claims. It seeks to do this on grounds that to do so will facilitate the national defense. I fail to see how it facilitates the national defense. I believe the proposals will impair the national defense.

I do not object to the Navy's findings about the value of the claims. It says General Dynamics' claim is worth $125 million and Litton's is worth $312 million. But the Navy wants to pay the two firms $541 million over and above the value of the claims.

The issue is whether or not it facilitates the national defense to pay the firms $541 million more than the value of their claims.

The Navy has stressed the fact that without the relief it seeks to provide both firms face large losses on their Navy contracts. Indeed, the settlements were reached by splitting the potential losses between the Navy and the companies. The material supplied by the Navy implies that the contractors might go out of business if they had to absorb the total cost overruns.

NO BANKRUPTCY PROBLEM

But there is no evidence that either company would go bankrupt without the generous bailouts offered by the Navy. Indeed, the audits conducted at the Navy's request show the opposite and the Navy now admits that neither company faces bankruptcy.

If we are not saving two contractors from bankruptcy, how are we facilitating the national defense?

Secretary Claytor believes these settlements will end the acrimonious relationship between the Navy and its shipbuilders and avoid expensive and time-consuming litigation over the claims.

Of course, if you give a defense contractor several hundred million dollars above the value of his claim he will agree

to stop arguing about it and to stop threatening you about it. But that hardly facilitates the national defense.

TAXPAYER SACRIFICED

What it does is sacrifice the taxpayers' interest to those of two large corporations:

First. The Navy is turning military muscle into fact by using funds that could build ships to pay for cost overruns;

Second. It is engaging in a form of backdoor welfare by paying shipbuilders $541 million over and above the value of their claims;

Third. It is rewarding waste, mismanagement, and inefficiency, because there is abundant evidence that the shipbuilders were unable to manage their labor forces and that corporate management is primarily responsible for the large cost overruns;

Fourth. It is giving in to the shipbuilders' threats to shut down operations unless its demands are met;

Fifth. It is establishing a harmful precedent which will lead to the needless expenditure of additional sums; and

Sixth. The Navy can provide no assurance that the contractors will refrain from filing future claims without adequate justification.

The message the Navy is sending out is this: If you are a large contractor and you dominate an important portion of the defense market, file an inflated claim and the Navy will pay the true value plus as much as 50 percent of the remaining portion.

The result will be to encourage future claims. It is highly probable that within a year or so we will be faced with new claims from the same and other contractors and we will find ourselves in the same predicament we are in today.

Indeed there is already evidence that General Dynamics is preparing the ground for a new major claim on the Trident. A memo by Admiral Rickover dated August 14, 1978, provides details on this new development. I will be very surprised if Litton is not doing the same thing.

NAVY POLITICAL APPOINTED TAKEOVER

The Navy is also telling the defense contractor community not to worry too much about the professional Navy claims examiners. After the claims examiners finish their work and determine, from the Government's perspective, what the claims are worth, the Navy's political appointees will take over. All the contractors have to do is wait for the political appointees to move in and deal directly with them. Likely as not, the political appointees will work out a way to bail you out.

I believe the better solution for the Navy is to enforce its contracts. Claims should be reviewed and settled strictly on their merits. If contractors do not agree to a settlement, as is their privilege, then the appeals process should be allowed to take its course.

The Navy and Congress should not give in to threats from contractors. When contractors threaten to stop work, the Government should coolly consider its options. The Government has options in these cases. If the shipbuilder tries to shut down, the Government can get an injunction from a Federal court to keep the yard open. In fact, this was done in the Litton case. When Litton decided to shut down in 1976, the Navy got a Federal injunction to keep the yard open.

Even if a company goes bankrupt, a Federal court can keep the company in business under the bankruptcy laws. As a last resort the Government can temporarily take over a shipyard if the contractor refuses to complete work on ships needed for national defense.

These are difficult choices for the Government to make, but the contractors are forcing the Government to make such choices. Unfortunately, in the present case the Navy has capitulated to the demands of the contractors rather than making the tough decisions.

MASSIVE BAILOUTS

I want to reiterate the point I have been trying to make that the Navy is proposing massive bailouts and that the present proposals are merely the tips of a gigantic bailout iceberg. Let me quote from a memorandum by Admiral Rickover to Secretary Claytor. The memorandum is dated August 14, 1978.

Rickover says:

> The proposed PL 85-804 settlement with General Dynamics leaves the Navy vulnerable in future to unfounded and inflated claims of the same sort you are now proposing to settle.

The admiral goes on to say that—

> Even after the announcement of the PL 85-804 settlement, Electric Boat is actively laying the groundwork for future claims on Trident and SSN 688 class submarine contracts; that unless special precautions are taken now, General Dynamics may well attempt in future to recover through new claims a major portion of the $359 million loss they are presently agreeing to absorb.

The remainder of Rickover's memorandum contains examples illustrating how General Dynamics is already taking advantage of the situation. Here is one, and I quote from the memorandum:

> Recently the detailed government-furnished shielding drawings had to be revised to correct an error made by Electric Boat in its capacity as the government's design agent under the Trident design contracts. This revision added a requirement to drill a single 1½ inch hole in a steel shield box in each of seven ships. Fabrication of the affected part had not yet begun, so no ripout rework or disruption was involved. Nonetheless, the company contends that the drawing revision constitutes a change to the contract and has quoted a price of $1000 per ship to drill the hole. The Navy has rejected this request. Soon, I expect we will get a letter announcing that the company is proceeding with the work subject to submitting a claim.

Mr. President, even as we meet today General Dynamics and Litton are preparing new claims to be submitted in the near future. That is why Secretary Claytor's statements that the two companies are being forced to absorb large losses is nonsense. The ships that are the subject of the claims are still under construction. They would not be delivered to the Navy for years.

LOSSES OR PROFITS ON CONTRACTS

It is premature to talk about losses on ship contracts that would not be completed for years. This is especially so when the companies have a history of filing claims, are claims prone, and are known to be preparing the ground for future claims.

This is the second time the Navy has settled a claim from General Dynamics on the 688 submarine program. In 1976, the Navy gave the company $97 million on a $220 million claim. So this is the company's second bite of the apple. It is fair to say that it is now trying to get the portion it failed to get in 1976 and we would be fools to believe it will not try to get more after this settlement.

A few final words. It is time to rethink the way the Navy gets its ships. The premise of the present system is that private yards can build ships cheaper than Navy yards. But if we have to bail out the private yards and, in effect, guarantee them against losses the premise is undermined and the reason to rely on the private yards is lost.

I believe we ought to act on Admiral Rickover's suggestion that the Navy consider buying a shipyard as part of an overall settlement or that it uses an existing Navy yard which could be operated by a private contractor on a cost reimbursement basis as a Government-owned, contractor-operated shipyard. As an alternative, we might consider a TVA-type Government shipyard to provide the Navy with a facility to build some of its own ships and a measuring rod to compare the costs and performance of the private yards.

For the Navy to simply drop its tail and run whenever a company threatens to shut down or file a lawsuit is unacceptable. For the Navy to abandon its contractual rights and to be intimidated into bailing out the private shipyards is not in the interests of the Navy or the taxpayers.

We have a taxpayer ripoff before us and one that would not stop ripping until the Navy finds the courage to enforce its own contracts.

Mr. President, I send the two resolutions to the desk.

The PRESIDING OFFICER. The resolutions will be received and appropriately referred.

The resolutions are as follows:

S. RES. 555

Resolved, that the Senate disapproves the obligation of the United States proposed to be made by the Secretary of the Navy in modifications to contracts numbered N00024-71-C-0268 and N00024-74-C-0206 between the United States and the Electric Boat Division of General Dynamics Corporation, notification of such proposed obligation having been transmitted by the Secretary of the Navy to the Committee on Armed Services on June 22, 1978, under the provisions of the first section of Public Law 85-804 (50 U.S.C. 1431).

S. RES. 556

Resolved, that the Senate disapproves the obligation of the United States proposed to be made by the Secretary of the Navy in modifications to contracts numbered N00024-69-C-0283 and N00024-70-C-0275 between the United States and the Ingalls Shipbuilding Division of Litton Systems, Inc., notification of such proposed obligation having been transmitted by the Secretary of the Navy to the Committee on Armed Services on June

24, 1978, under the provisions of the first section of Public Law 85-804 (50 U.S.C. 1431).

Mr. PROXMIRE. Let me ask, Mr. President, under the rules, is there a possibility that these resolutions could be held at the desk if referred? Is there any regulation requiring when they have to be reported to the floor? If sent to a committee, is there a limit on how long the committee can hold them? As I understand, the resolutions have to be acted on by September 20 or they are dead and, therefore, the rules may prevent the Senate from having an opportunity to vote on this matter. Could the Parliamentarian and the Presiding Officer advise as to what our rights are under the rules?

The PRESIDING OFFICER. The Chair would advise that under the normal procedure, these resolutions would be referred to the Armed Services Committee, and would reside with that committee until that committee took action upon them.

Mr. PROXMIRE. Well, I have already pleaded with the Armed Services Committee to report a resolution of disapproval, but it fell on, I should not say deaf ears, but ears that were not sympathetic to this particular cause. It is a very fine committee, but they do not agree with me.

I wonder if a Senator, under these circumstances, has any rights of any kind that would enable him to secure a vote by the Senate, or if we have to find a way of changing the rules so that under these circumstances something can be done; or can the committee simply block, under the circumstances, any action on the part of the Senate?

The PRESIDING OFFICER. The Chair is advised that unless the committee having jurisdiction reports the resolution back to the Senate as a whole, the Senate as a whole is not in a position to take the matter up and vote on it.

Mr. PROXMIRE. So if the Armed Services Committee does not decide to act favorably on these resolutions of disapproval, there is no opportunity for the Senate to exercise its will in the matter; is that correct?

The PRESIDING OFFICER. The Chair is advised that that is the normal course and practice.

Mr. PROXMIRE. Well, then, Mr. President, I understand the situation; in that event I will do my best to persuade that able committee to report the resolutions even if they disagree with their substance, and give the Senate an opportunity to act upon them. I will see what else I can do.

I thank the Chair.

GRASSLANDS MIGRATORY BIRD CONSERVATION ACT

Mr. ROBERT C. BYRD. Mr. President, I understand that Calendar Order No. 1096 has been cleared for action by unanimous consent. I, therefore, ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1096. Mr. HAYAKAWA is here, and he can speak for the minority.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 691) to provide for the preservation and enhancement of critical habitat for migratory waterfowl and other wetlands-dependent migratory birds of the Pacific flyway in the grasslands area of the San Joaquin Valley, Calif.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

Mr. HAYAKAWA. Mr. President, we have no objection. Indeed, I want to endorse this measure completely. This is an enhancement of the critical habitat for migratory waterfowl, and so on. I wish to indicate that it has my full approval, and no objections from our side.

Mr. ROBERT C. BYRD. Let me say, Mr. President, on behalf of Mr. CRANSTON, who is the author of the bill, that he not only is agreeable to the Senate's action on this bill today, but urges it.

The bill was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of August 27, 1954 (68 Stat. 879), is amended by deleting the last sentence of section 6 and inserting in lieu thereof the following: "If and when available, such water shall be delivered from the Central Valley project to the contracting entity, and the cost of furnishing the water shall not be reimbursable or returnable under the Federal reclamation laws: *Provided,* That, in order for the delivery of such water to continue on a nonreimbursable or nonreturnable basis—

"(a) the public organizations or agencies contracting with the Secretary of the Interior, excluding the State of California, shall deliver annually to the United States Fish and Wildlife Service (hereinafter referred to as the 'Service'), at no cost to the United States, not less than three thousand five hundred acre-feet of water during the period October 1 through November 30, inclusive, and not less than four thousand acre-feet of water during the period May 1 through September 30, inclusive, if available: *Provided,* That such amounts of water and times of delivery may be changed upon approval of the Secretary of the Interior:

"(b) the public organizations or agencies, excluding the State of California, shall construct, operate, and maintain any water conveyance facilities necessary to deliver the water referred to in section 6(a) of this Act to a point or points within the boundaries of such public organization or agency as designated by the Service, or to such points as may be mutually agreed upon by the public organization or agency and the Service. The Service shall be responsible for delivering the water from such point or points to appropriate locations within lands under its jurisdiction;

"(c) any contract entered into by the Secretary of the Interior and any public organization or agency pursuant to this Act shall provide that in the event the public organization or agency for any reason fails to carry out the obligations imposed upon it by said contract or by this Act, the rights of use of any facilities referred to in subsection (b), and the rights to all water contracted for by the organization or agency pursuant to this Act shall revert to the Secretary of the Interior for migratory waterfowl purposes in accordance with the laws of the State of California; and

"(d) in accordance with existing or future contracts, the use of lands located within the boundaries of the public organizations or agencies shall be restricted by covenants requiring that such lands be used only for the purpose of waterfowl and wildlife habitat conservation or other uses as may be mutually agreed upon by the public organizations or agencies and the Service.".

SEC. 2. The Act of August 27, 1954 (68 Stat. 879), is further amended by adding at the end thereof the following new section:

"SEC. 8. The Secretary is hereby authorized to negotiate amendments to existing contracts to conform said contracts to the provisions of this Act.".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1173), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

BACKGROUND

The Central Valley of California, which includes the 98,000-acre area of the San Joaquin Valley, is the most important wintering area for waterfowl in the Pacific flyway. This area, the last remaining habitat of its kind in the San Joaquin Valley, supports approximately 50 million waterfowl use-days annually for many species of waterfowl and shorebirds such as long-billed curlews, great blue herons, and snowy egrets. The preservation of this valuable wildlife area is the Fish and Wildlife Service's highest priority for its Pacific flyway habitat protection program.

While there are two national wildlife refuges in this section of the San Joaquin Valley, over half of the managed waterfowl lands are controlled by private property owners, including the members of the 46,000-acre Grassland Water District. In 1954, Congress passed legislation which reauthorized the Bureau of Reclamation's Central Valley project, in the San Joaquin Valley, incorporating for the first time fish and wildlife conservation as a specific project purpose. The act authorized the Secretary of the Interior to deliver water to public agencies, including the Grasslands Water District, for developing and maintaining migratory waterfowl habitat, and to levy a charge for such water service at rates not to exceed the prevailing rate for class 2 agricultural water services.

The Grasslands Water District members currently manage their lands both as native pasture for livestock production and wetlands for wintering waterfowl. Unfortunately, higher land taxes and operating costs are forcing some of these individuals to convert their property from wildlife conservation to more economically attractive land-intensive uses such as sugar beet or cotton farming. If this continues to occur, the Secretary of the Interior will have to move under existing authority to acquire the private lands of the Grasslands Water District for wildlife habitat. Acquisition of the land has already been approved by the Migratory Bird Conservation Commission, the Merced County Board of Directors, and the California State Fish and Game Commission.

DISCUSSION OF MAJOR PROVISIONS

S. 691 provides an incentive to landowners to conserve their lands for waterfowl by removing the charge for Central Valley project water which is delivered to the Grasslands Water District for waterfowl conservation. The following conditions must be met: (1) The water district continues an existing agreement to deliver to the Fish and Wildlife Service 3,500-acre-feet of water each fall and 4,000-acre-feet each summer for wildlife conservation at no cost to the Federal Government; (2) it constructs, operates, and maintains conveyance facilities for delivery of this water; and (3) it agrees by contract

to arrange for the use of lands within its boundaries for waterfowl habitat.

The committee did not accept an amendment proposed by the administration which would have made the costs of furnishing the water reimbursable from surplus power revenues. This provision would, in effect, require power users to bear the cost of preserving waterfowl habitat in the San Joaquin Valley. Since this habitat is of national significance, the committee decided that the Federal Treasury should absorb any costs incurred by furnishing water to the Grasslands Water District for waterfowl conservation purposes on a non-reimbursable basis.

The legislation would result in a reduction of water service revenues at an approximate rate of $5,000 per year, for a total of $250,000 over the next 50 years. The alternative to the legislation, acquisition of the area by the Federal Government for waterfowl conservation, would cost the Federal Government between $14 million to $20 million, according to the Interior Department. This alternative would have the added adverse effect of removing land from the tax rolls of State and local jurisdictions.

The National Environmental Policy Act, of course, applies to any action under this act.

The committee's action relating to water revenues on this bill in no way is intended to prejudge the committee's action relating to national water policy. This bill's action to relieve local sponsors of some project costs should not be viewed as a precedent for future actions. The committee intends to undertake a serious evaluation of a coordinated water policy.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HAYAKAWA. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RESOLUTIONS OF DISAPPROVAL OF MODIFICATION OF CERTAIN SHIPBUILDING CONTRACTS

Mr. PROXMIRE. Mr. President, will the distinguished majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. PROXMIRE. The majority leader was on the floor when I brought up my resolutions of disapproval. I want to make sure I am doing whatever I can under the rules to secure action to the extent that I possibly can.

It was my understanding, on the basis of the Parliamentarian's advice and the Presiding Officer's advice, that the resolution had to be referred to the committee, which it was, and that was proper. I understand that if I move to discharge the committee, although that motion would, in most circumstances, have great difficulty securing support—but even if I moved to do that, that motion would not be in order, I understand. It would have to lie over a day and then it could only be called up by unanimous consent.

Is that correct?

Mr. ROBERT C. BYRD. A motion to discharge—let me start with a few things here. A motion to discharge, of course, the Senator would have to give a day's notice and I would say that his chances to discharge the committee would be very poor under all of the circumstances that obtain in this instance. He could also ask unanimous consent—what is this, a resolution?

Mr. PROXMIRE. This is a resolution of disapproval that has been before the Armed Services Committee in a different form for a long time. There have been extensive hearings. They had the Secretary of the Navy, they had the GAO testify on it, and a number of others. So they have substantial documentation. They are well aware of the issue. They have had a substantial amount of time to consider it.

I appealed to them to report a resolution of disapproval and they have not decided to do so. What I am trying to do is all I possibly can to see if I can get an up or down vote on this on the floor of the Senate. I should be very grateful to the distinguished majority leader for any suggestion he has, as one who has truly mastered the rules and understands the opportunities and limitations of what a Senator can do.

Mr. ROBERT C. BYRD. I should have to say to the distinguished Senator that, in my 20 years in the service of the Senate, I do not believe I have seen a motion to discharge a committee that was controversial. We quite often do it by unanimous consent. If it is controversial, I cannot recollect any specific occasion on which it has been done. I am sure it may have been done during that 20 years once or twice, but if it is controversial, it has many obstacles, quite an obstacle course to run.

Of course, the motion, once the Senator had it before the Senate, could be tabled and——

Mr. PROXMIRE. We could get a vote on the tabling motion.

Mr. ROBERT C. BYRD. I would say the chances of discharging a committee, if he is having problems with getting the committee to act, his chances are about as good as the chances of a snowball in Shiloh.

Mr. PROXMIRE. I just want a vote on this. Of course, what I can do and certainly will do is try to persuade the Members to give us an opportunity to vote on the floor. That may or may not be successful. I doubt it will be, but I will try that route. It is one I take it I am free to pursue.

Mr. ROBERT C. BYRD. Yes.

Mr. PROXMIRE. My question is, Is there any other feasible action which the leader can suggest, because this is a puzzling situation? Here we have what is the biggest bailout in the history of the country, as far as I know, certainly the biggest in the Navy, almost a billion dollars. It is one that is extraordinarily controversial, one that has been bitterly attacked by Navy officials, including Admiral Rickover and other top Navy officials, who think it is a scandalous action to take. For that reason, I think it is one that Congress ought to decide under the Proxmire amendment, which provides that whatever settlement exceeds $25 million that is made under 85-804 is subject to a disapproval by either the House or the Senate.

So I think, when it is something that is this important, this far reaching, it sets a precedent which is likely to be far more expensive. It is one that should receive some deliberation on the part of the Senate when a Member presses it as I am trying to press it.

Mr. ROBERT C. BYRD. May I ask the Senator—I have been thinking about the rules while he has been talking and there may have been something I missed here. Is there a time limit on this disapproval?

Mr. PROXMIRE. Yes, there is. The time limit, I believe, is September 20. It expires September 20, dies, and action of any kind, a subsequent introduction, would not extend the time.

Mr. ROBERT C. BYRD. In the case of these disapproval resolutions on which there is a time limit, usually there are specifics in the law that are quite outside the normal rule of the Senate. The Chair could advise whether, in this particular instance, there is any other recourse that the Senator would have as a result of provisions that were written into the law governing the disposition of such a disapproval resolution, which are quite outside the normal rules of the Senate.

I ask the Chair that question.

The PRESIDING OFFICER. The Chair is advised that these resolutions have no special privilege under the law.

Does that answer the question the Senator is posing exactly?

Mr. ROBERT C. BYRD. No; it is not the answer.

Ordinarily, if a Senator wants to get a resolution on the Calendar, he can attempt to force it on, depending upon whether it is a joint resolution or a simple resolution or a bill. He can force it onto the Calendar by a certain mechanism. If it is a discharge resolution, about as far as it could get right now would be the table of resolutions and motions over, under the rule, which would mean that it would never get up, because there are at least nine resolutions and motions ahead of it and those are not at all likely to come over under the rule. There are so many roadblocks that can be thrown up against them at the only times during the day that they can possibly come over that it is next to impossible to get anything before the Senate by way of resolutions and motions over under the rule.

There is a mechanism under rule XIV for forcing bills onto the calendar, and I believe it also applies to joint resolutions. I am quite sure that rule does not put a simple resolution on the Calendar. It will put a simple resolution on the Calendar of Resolutions and Motions over, under the rule, but not on the General Orders Calendar, talking about a simple resolution.

Even if it were a bill or joint resolution that could be forced onto the Calendar via rule XIV, the Senator would still have a problem in getting it motioned up, which would be debatable, except during a certain period of a new legislative date, which rule was utilized by the majority leader in connection with the District of Columbia representation amendment, which has a lot of cracks into which to fall.

So I would say to the distinguished Senator that the only course I would see open to him—may I ask the Chair if rule XIV could be utilized in the instant case about which Senator PROXMIRE is talking, we are talking about a disapproval resolution?

The PRESIDING OFFICER. The Chair is advised that the resolution of-

fered by the Senator from Wisconsin could not be forced onto the Calendar of General Orders under rule VIII.

Mr. ROBERT C. BYRD. I mean, if the previous action referring the resolution to the committee already, if that action could be vitiated, could rule XIV——

The PRESIDING OFFICER. The Chair is advised, even if that action had been taken, that there is still no procedure for forcing a simple resolution onto the Calendar of General Orders under rule VIII.

Mr. ROBERT C. BYRD. Mr. President, I really did not need to answer that question because I already stated that if it is a simple resolution the only thing under rule XIV would be to put it on the Calendar of Resolutions and Motions over, under the rule. I thought it might be a joint resolution. but it is not.

Mr. PROXMIRE. It is a simple resolution.

The PRESIDING OFFICER. They are simple resolutions.

Mr. ROBERT C. BYRD. So the Senator really has no recourse other than to ask unanimous consent it be placed on the Calendar and, of course, there would be an objection to that. He would first have to ask unanimous consent that the referral to the committee be vitiated. There would probably be an objection to that. If he got unanimous consent to put it on the Calendar, he would have difficulty getting it up because that motion would be debatable, except at certain times, certain very nice moments during a new legislative day. that he might be able to get a motion to proceed without debate. But even if he got it up it would be debatable.

The other recourse is to move to discharge the committee, which the Chair has already discoursed on.

So I would say to the Senator that I think he has about exhausted all the practicable courses of action.

Mr. PROXMIRE. I want to thank the majority leader for his painstaking and thoughtful. most accommodating efforts to be helpful.

Mr. ROBERT C. BYRD. I think they are not open to him.

Mr. PROXMIRE. While I recognize the obstacles, I am still not completely discouraged. I intend to call members of the Armed Services Committee. the chairman of the committee. and others, to see if there is any possibility that they may report the resolution out.

I take it. that is my recourse.

Mr. ROBERT C. BYRD. That is the Senator's most practicable recourse. How practicable it may be remains to be seen. But I have great confidence in the Senator's tenacity and his persuasive arts.

Mr. PROXMIRE. I thank the distinguished majority leader.

Mr. ROBERT C. BYRD. He is very persuasive, very dedicated, very tenacious, and determined.

ORDER FOR CERTAIN ACTION TO BE TAKEN DURING RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Senators may have until 4 o'clock p.m. today to enter statements into the RECORD, to introduce bills and resolutions, petitions, and memorials, and for committees to submit reports.

The PRESIDING OFFICER (Mr. STONE). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized, during the recess of the Senate over until 11 a.m. on Monday morning, to receive messages from the other body and from the President of the United States, and that they may be appropriately referred.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Vice President, the President pro tempore, and the Acting President pro tempore may be authorized to sign all duly enrolled bills and joint resoutions during the recess of the Senate over until 11 o'clock on Monday morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

BEST WISHES FOR A GOOD WEEKEND

Mr. ROBERT C. BYRD. Mr. President, does any Senator wish recognition before the motion to recess is made?

If not, I thank all Senators, and with best wishes for a good weekend and with the prospects for hard days and diligent labors and many tests in the immediate days ahead, weeks ahead, may I say to the distinguished Senator from California (Mr. HAYAKAWA) I hope that the Senate can adjourn sine die—is that the correct pronunciation, sine die?

Mr. HAYAKAWA. Absolutely; that is perfectly acceptable.

Mr. ROBERT C. BYRD. Well, if it is acceptable to the Senator from California, it must be all right. It would be acceptable to Webster, would it not?

Mr. HAYAKAWA. Fine.

Mr. ROBERT C. BYRD. Sine die.

By the way, I often hear and use the words "p-e-r s-e."

Mr. HAYAKAWA. Per se.

Mr. ROBERT C. BYRD. Pronounced per se as in bee, or per se, as in bay. I pronounce it both per se, and per se, I suppose either is correct—is either correct?

Mr. HAYAKAWA. I would prefer per se.

Mr. ROBERT C. BYRD. Per se.

I will stick with per se.

Mr. HAYAKAWA. Chacun à son goût.

Mr. ROBERT C. BYRD. Speaking of words, I have heard these words pronounced in a myriad of ways. Amicus curiae, amicus curiae.

How would the Senator from California pronounce those words? I have heard amicus curiae, amicus curiae, amicus curiae, amicus curiae, and amicus curiae?

Mr. HAYAKAWA. Amicus curiae.

Mr. ROBERT C. BYRD. The Senator would.

Mr. HAYAKAWA. Yes. I took 4 or 5 years of Latin. I never got over it.

Mr. ROBERT C. BYRD. Well, I am not one to argue with the Senator, but I think I will just continue amicus curiae.

Mr. HAYAKAWA. That is dreadful.

Mr. ROBERT C. BYRD. Let me see if I can think of another word.

Well, sufficient unto the day is the evil thereof.

RECOGNITION OF SENATOR PROXMIRE ON MONDAY, SEPTEMBER 11, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders have been recognized and before Mr. JACKSON seeks recognition under the order previously entered, Mr. PROXMIRE be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR GOLDWATER AND SENATOR BAKER ON TUESDAY, SEPTEMBER 12, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Tuesday next Mr. GOLDWATER and Mr. BAKER each be recognized for not to exceed 15 minutes after the two leaders or their designees have been recognized under the standing order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will shortly recess.

On Monday it will convene at 11 o'clock a.m. After the two leaders have been recognized under the standing order Mr. PROXMIRE will be recognized for not to exceed 15 minutes, after which Mr. JACKSON may be recognized to call up the conference report on natural gas pricing. The order for the recognition of Mr. JACKSON provides also that he may be recognized at any time during the day on Monday for that purpose. Am I correct, may I ask the Chair?

The PRESIDING OFFICER. The Chair is advised the Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. JACKSON has advised that he will be prepared to call up the conference report at a point between 11 o'clock and 12 noon on Monday. In view of the fact that Mr. Proxmire will have a 15-minute order, I would say that the conference report will be called up at some point between 11:20 or 11:30 a.m. and noon.

NATURAL GAS POLICY ACT CONFERENCE REPORT

Mr. President, for the information of all Senators, I sought several times unsuccessfully to get a time agreement to protect Senators against any motions to table the conference report up through next Wednesday, and I also sought to get an agreement that would allow for a definite hour to vote on a motion to recommit on Wednesday. These requests were objected to under the rules.

Mr. President, when the conference report is called up, therefore, many things can happen. There are various nondebatable motions that can be made, of course. I could list several of them but will only list a couple. One would be a motion to table the conference report; one would be to go into executive session.

Those are just two, and there are others. Of course, any Senator can make such a motion, which is nondebatable. And, in such a situation, there is nothing in the world that can be done by the leadership to protect absent Senators except to put in a quorum call or move to recess or adjourn if the leadership has the votes, or delay matters by demanding a rollcall vote on instructing the Sergeant at Arms to request the attendance of absent Senators, instructing the Sergeant at Arms to compel the attendance of absent Senators, or instructing the Sergeant at Arms to arrest absent Senators—which I have done on one occasion—which order did not have to be carried out because a quorum quickly appeared.

There can be quorum calls; there can be votes on procedural motions and matters. There can be a motion to adjourn with a rollcall vote demanded on it, and it is not debatable. There can be a motion to recess, a rollcall vote demanded on it, and it is not debatable.

What I am saying, Mr. President, is that Senators should be prepared for anything, be prepared for the worst case, hoping that the worst case does not happen. There is no way that the leadership can protect Senators in many of those situations.

There are of course, some situations in which the leadership can and will protect Senators.

Considering the circumstances surrounding this particular piece of legislation, it would be my suggestion that all Senators, as much as possible, be available for rollcall votes at any time beginning at noon Monday when the conference report is called up and continuing daily until it is disposed of.

Senators should also keep in mind that the order which was entered at the beginning of the session limiting rollcall votes to 15 minutes can be demanded, and Senators cannot be protected beyond 15 minutes if the regular order is called for and if a Senator is not on the floor seeking recognition to vote.

There is also no way that the leadership can force the Senate to go out of session on any day if a Senator has the floor and is talking at 6 o'clock, 7 o'clock, 8 o'clock, 9 o'clock, 10 o'clock, at night or 1 o'clock in the morning and declines to yield the floor. If that Senator wants to hold the floor, the leadership is helpless. It cannot make a motion to recess or to adjourn. The Senator holding the floor might, at his own discretion, put in a live quorum or make a motion to table the conference report at such a late hour.

What I am saying is that we are probably going to be in a situation that is not the norm; it can be an unusual situation, although usual if a filibuster occurs. I want to use that word carefully because I am not saying that a filibuster will occur on this occasion. However, there will be considerable debate. There should be a reasonable time for debate on this conference report, which is lengthy and which involves a complicated issue, even though the Congress has now considered it for 16 months and the conferees have discussed it back and forth for 8 or 10 months. Nevertheless, it is an issue that nobody should expect to be disposed of within a day, 2 days, 3 days, or perhaps even a week. So a reasonable length of time should transpire.

Sooner or later, however, I hope that the Senate will work its will up or down on the conference report. Naturally, I hope to see the Senate adopt the conference report, but this is a matter for each individual Senator to decide. My purpose here is just to emphasize that while the situation is not exactly a situation sui generis, it is, nonetheless, not at all the normal situation that confronts the Senate in our every day business, when Senators can often leave the floor with some assurance that they will be protected, or leave the floor with some assurance that there will be no votes, or some assurance that there will only be one or two votes, or whatever.

But there is absolutely no assurance which can be given with respect to the protection of Senators once this conference report is called up. Quite the contrary would appear to be the case, to wit, that anything can happen at any time unless—unless—the leadership is able to work out a time agreement, which it will try to do from time to time, to get a time agreement so that Senators can know in advance when a vote or votes will occur. That would be a different situation. But as long as we do not have a time agreement, then Senators have to protect themselves.

I would simply urge that they be prepared, be in town, be prepared to vote, be prepared to vote without warning, except the 15-minute warning that the rollcall vote bell gives, or a warning from the cloak rooms that a quorum is going to be called after which a rollcall vote will occur; be prepared for late sessions. It is not that I am desirous of keeping the Senate in late every day.

There might be an occasion or two when I would feel it necessary to keep the Senate in late, but this kind of situation really, Mr. President, is more under the control of the opponents than it is of the leadership, insofar as keeping the Senate in session late is concerned and insofar as making surprise tabling motions is concerned. Because of the rules, these are areas in which the opposition to any bill really has a measure of control that goes beyond the control of the leadership.

I am saying what I am saying in an effort to be helpful to all Senators on both sides of the issue. I have no desire to catch Senators out of town who are opposed to this measure, no desire whatsoever. If a motion to recommit were made, it would not be my desire to suddenly move to table that motion to recommit just because I might look down at the absentee sheet and find that they had 15 Members out and we had 8.

I am not interested in taking Members by surprise on a tabling motion. I would simply give Senators notice that, within 2 hours or 3 hours or 6 hours, or some such, I would seek recognition and move to table. Or if, in looking over the absentee sheets, I see all Senators are here who are going to be here today, tomorrow, and the next day, I might say that, as soon as Senator so-and-so finishes speaking, the matter having been discussed long enough, I shall seek recognition and I shall then move to table.

I do not want to take anybody by surprise on a motion to table, but I do not blame the opposition for doing it. If someone who is opposed to this conference report feels that he can take the Senate by surprise and move to table a conference report, I do not find any fault with him for doing that, although I would hope that does not occur. That is what I am trying to emphasize here, that Senators must take into consideration the very special circumstances that will be surrounding this controversial measure and be present and be ready to vote at any hour, at any time.

I close by saying that I hope that, from time to time, we can get time agreements that will give Senators on both sides of the aisle and both sides of the question notice in advance as to when a critical vote is going to occur such as a vote on a motion to recommit or a vote up or down on the conference report.

I should like to see us be able to work out time agreements. But this cannot be guaranteed at this time.

Having said that, I think I have said enough to alert Senators who read the RECORD that this situation that we are now about to confront is one in which every Senator had better have his eyes glued on the legislative radar, because storm warnings are apparent. I suggest that the seat belts be buckled and that people stay out of the aisle and be ready for politically climatic and procedurally climatic conditions that will be quite turbulent at points, with strong winds coming from various directions; and that everybody be prepared for a rough ride ad sudden jolts, but keep the faith and be prepared to vote at any time.

RECESS UNTIL MONDAY, SEPTEMBER 11, 1978, AT 11 A.M.

Mr. ROBERT C. BYRD. So I shall thank the Senator from California, shake hands with him, and move, Mr. President, that the Senate, in accordance with the order previously entered, stand in recess until the hour of 11 o'clock a.m. on Monday next.

The motion was agreed to; and at 1:09 p.m., the Senate recessed until Monday, September 11, 1978, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate September 8, 1978:

IN THE AIR FORCE

Lt. Gen. Bryan M. Shotts, U.S. Air Force (age 55), for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. John Franklin Forrest, 356-16-9650, U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Julius Wesley Becton, Jr., 197-14-1624, U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. David Ewing Ott, 439-56-8523, (age 55), Army of the United States (major general, U.S. Army).

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Rolland Valentine Heiser, 336-14-6250, (age 53), Army of the United States (major general, U.S. Army).

IN THE MARINE CORPS

Lt. Gen. Leslie E. Brown, U.S. Marine Corps, (age 58), for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

The following-named officer under the provisions of title 10, United States Code, section 5232, to be assigned to a position of importance and responsibility designated by the President, in grade as follows:

To be lieutenant general

Maj. Gen. Adolph G. Schwenk, 007-14-5005, U.S. Marine Corps.

EXTENSIONS OF REMARKS

AMERICAN LEGION SUPPORT OF HANLEY AMENDMENT

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. TEAGUE. Mr. Speaker, I have received a copy of a communication of September 5 with enclosed fact sheet outlining the American Legion's views on what impact the civil service reform bill, H.R. 11280, would have on minorities and women, and a rebuttal to Civil Service Commission Chairman Campbell's August 11 "Dear Member" letter. The American Legion has been in the forefront to preserve veterans preference in Federal employment.

So that the Members will have the benefit of the latest thinking of the American Legion on maintaining veterans preference in Federal employment, there follows a copy of their letter of September 5 with attachments:

SEPTEMBER 5, 1978.

DEAR CONGRESSMAN: The House of Representatives next week is expected to consider H.R. 11280—the Civil Service Reform Act of 1978. The American Legion would like to present its views on how modification in veterans preference in federal employment proposed by this legislation would effect Vietnam-era and disabled veterans and its impact on minorities and women.

VIETNAM-ERA VETERANS

The so-called "Schroeder amendment" would limit veterans preference in federal employment to a "one-shot" use within a period of 15 years after the date of discharge from military service. Should that amendment become law, about 5 million of the 8.5 million Vietnam veterans would have 0 to 5 years of employment preference remaining—not 15 years. Only those who entered military service before the termination of veterans preference on October 15, 1976 and left the service after October 1980 would receive the full 15 years of employment preference. According to DoD projections, more than 1.5 million of the 2.5 million people on active duty when veterans preference was terminated in 1976 will have left service before October 1980. Thus fewer than 1 million veterans will have the full 15 years of preference, and many of them will be retirees whose service began before the Vietnam War period.

The "Schroeder amendment" would also limit veterans' "reduction-in-force" benefits to 5 years following initial appointment to federal service. That means that all veterans who had been employed by the government for 5 years or more—including the Vietnam era veterans who entered federal service between August 5, 1964 (the official beginning date of the "Vietnam era") and October 1972—would immediately lose their "RIF" protection when the law became effective October 1980. The 84,000 Vietnam era veterans who entered federal service in 1973 would have 1 year of "RIF" protection, the 113,000 Vietnam era veterans who began government jobs in 1974 would have 2 years of "RIF" protection remaining, and so forth.

Representative Schroeder stated in the Report of the Committee on Post Office and Civil Service on H.R. 11280 that "Vietnam veterans hold 9.6 percent of the federal jobs which veterans overall have obtained." That statistic is inaccurate. In fact, according to Civil Service Commission statistics, 538,501 Vietnam-era veterans were hired by the federal government between 1972 and 1977. The CSC does not know how many Vietnam veterans entered federal service between 1964 and 1972, but assuming that only half as many Vietnam-era veterans were hired during that 8-year period as were hired during the 6-year period between 1972 and 1977, a total of more than 800,000 Vietnam veterans have been hired by the federal government. Since it has been so difficult to obtain a federal job in the first place, and since the general job market has been so tight, it is reasonable to assume that the vast majority of them are still working for the government. Thus there is a very strong possibility that about half of the 1.2 million veterans now in federal service are Vietnam-era veterans. Any legislation—such as the reduction in "RIF" protection—affecting veterans employed by the government would therefore adversely impact on Vietnam veterans more than the veterans of other wars.

A recent "fact sheet" sent to Members of Congress by Representatives Bonior and Schroeder claimed that "Of about 150,000 veterans being hired annually . . . over half are pre-Vietnam veterans." That is untrue. During the past several years Vietnam-era veterans have consistently accounted for at least 56 percent of the veteran new hires, while 5-point perference, pre-Vietnam veterans have accounted for less than 40 percent. In per capita terms (there are only 8.5 million as opposed to 21 million World War II and Korean War veterans), Vietnam veterans have been utilizing veterans preference at a rate more than three times greater than veterans of other wars. By 1980, when the proposed legislation would take effect, the average age of World War II veterans will be 60—at or near retirement age. Thus it is clear that the ratio of Vietnam veterans entering federal service will increase rapidly.

DISABLED VETERANS

It is not at all certain that the proposed legislation will significantly benefit disabled veterans, whose preference benefits will nominally remain unchanged. Indeed, disabled veterans have been somewhat of a "problem" for the Civil Service Commission.

CSC Chairman Campbell, commenting on a study done by his staff on the effect of veterans preference on the PACE register, remarked that "the effect on the percentage of women lies not in eliminating either the 5 or 10 point preference alone but equally in eliminating the 'top of the register' provision." In other words, a disproportionate number of veterans "blocking" the PACE and other registers are disabled veterans, who "float to the top" of the register if they receive a passing score. According to CSC statistics, in mid-1977 disabled veterans were at the top of 5,997 of the 14,683 civil service hiring registers.

If the proposed legislation becomes law, disabled veterans will continue to "block" nearly half of the registers. Will they actually be hired in greater numbers? Or will federal agencies continue to "bypass" veterans—disabled and nondisabled alike—by employing one or more of the 11 methods listed by the GAO in a report issued last year? Thus far the Carter administration's performance with regard to the employment of disabled veterans has been less than satisfactory: only 3.8 percent of the total hires in 1977 were disabled veterans and only 1.8 percent were disabled Vietnam veterans. It is true that the proposed legislation stipulates that agencies "may" appoint disabled veterans with disability ratings of 30 percent or more to career or career-conditional positions, but we do not believe that that is tantamount to assurance that significant numbers of such appointments will indeed be made. Thus we have no reason to believe that disabled veterans will be any better off with the new legislation than they are now.

The American Legion is convinced that an "aye" vote for the Bonior-Schroeder substitute to H.R. 11280 will be detrimental to veterans . . . especially to those who served during the Vietnam era. We all realize that the civil service system cries out for reform but to say "veterans preference" is the reason women and minorities are being impeded from advancing or being completely kept out of the federal government would, in our opinion, be a false allegation.

The facts we have outlined speak for themselves. The American Legion urges you to vote against the Bonior-Schroeder proposal and support the "Hanley amendment".

Sincerely,

MYLIO S. KRAJA,
Director, National Legislative Commission.

CIVIL SERVICE REFORM IMPACT ON WOMEN AND MINORITIES

MINORITIES

In testimony before the House Subcommittee on Civil Service in October 1977 a Government Accounting Office official, commenting on his agency's recent study of the impact of veterans preference on the hiring of minorities and women for federal jobs (the only major study done on that subject to date) commented as follows:

"In 8 of the 44 registers we examined, the potential for minority job candidates to be

certified increased when preference was excluded. On 15 registers there was a decrease. Twenty-one showed no change in minority representation when preference was excluded. In 32 of the registers the change involved only one individual. So we found it difficult to come to a conclusion about the impact of veterans preference on minority employment." Thus the GAO refutes the oft-repeated claim that veterans preference is a significant obstacle to the employment of minorities, and indeed shows that veterans preference helps minority candidates twice as often as it harms them.

In March 1978 a spokesman for the National Alliance of Postal and Federal Employees, an association of black government workers, termed efforts to curtail veterans preference a "backlash against what some consider a disproportionate number of black veterans" and insisted that veterans preference is a "useful tool" for unemployed black veterans. The NAPFE spokesman is backed up by statistics: minorities account for 8.5 percent of the U.S. veteran population but for 19 percent of all veterans employed by the federal government. Minority veterans make up only 2 percent of the national work force but 9 percent of the federal work force. And during the past 3 years 28 percent of the veterans hired by the federal government have been minority veterans—who have accounted for more than 20 percent of all minority new hires.

Nor has veterans preference harmed the employment prospects of nonveteran minority job seekers. According to a Civil Service Commission newsletter released on August 23, 1978, "Minority full-time employment has steadily increased by an average of 1.2 percent per year since November 1975, despite an overall decline in total full-time federal work force for this period." The CSC newsletter also pointed out that minorities, who account for only 12 percent of the national population, hold 21.6 percent of the federal jobs, and that in 1977 the number of minorities in GS 14 and GS 15 positions increased by 6.4 percent.

WOMEN

In essence, therefore, the issue of veterans preference is one of veterans "versus" women. But the CSC has not claimed that veterans preference has discriminated against women at the lower levels of federal service. Women hold more than 35 percent of all government jobs and 42 percent of all white-collar General Schedule jobs. Those figures are lower than the ratio of women to the total population, but are significantly above the approximately 30 percent of the full-time, year-round jobs they hold in the civilian work force.

Nor does the CSC claim that veterans preference handicaps women on all civil service registers. Chairman Campbell, commenting on the GAO study of selected hiring registers, admitted that, "The most surprising thing . . . is that the pattern of effects is not consistent across all exams. In some cases women obtain little or no advantages by eliminating veterans preference. Eliminating some or all veterans preference advantages will not have a systematic favorable impact on women."

Rather, the CSC has focused on the PACE (GS 5–6) register, which is the principal source of potential managerial talent and which, it claims, affords the clearest evidence of the adverse impact of veterans preference on the employment prospects of women. In fact, assuming that the ratio of veterans who would have been selected without veterans preference would have equalled the selection rate of nonveteran males, and that the jobs lost by veterans would have been distributed proportionately among women and nonveterans, women would have picked up only about 300 jobs in 1977 had veterans preference been eliminated. Last year 6.5 percent of the 40,000 women eligibles on the PACE register were selected. Without veterans preference, 7.5 percent would have been selected. Clearly, the women's organizations which envision greatly enhanced employment opportunties for women with the elimination of veterans preference are going to be sorely disappointed.

In a speech at the Federal Women's Program Seminar held in Washington in the summer of 1977, Chairman Campbell emphasized that, "Veterans preference is only one, and probably not the most important, of many built-in hindrances to the accomplishment of a genuine merit system," and singled out the fact that 80 percent of all personnel actions in the federal government are done within the system as being an "especially powerful deterrent to women, minorities, and other well-qualified for employment in the federal service." Another recent GAO study noted that although federal agencies have made special recruiting efforts to attract women and minorities, they "still face problems in their recruiting efforts—such as scarcity of women and minorities for some disciplines, hiring freezes and funding limitations, and competition from other sectors of the employment market, particularly private industry." It is clear to us that those who attribute real or imaginary imbalances in federal employment to veterans preference are taking an inaccurate and simplistic view.

SEPTEMBER 5, 1978.

DEAR CONGRESSMAN: On August 15, 1978 CSC Chairman Alan Campbell sent a "Dear Member" letter to members of Congress in which he commented on the July 31, 1978 letter from VFW National Commander John Wasylik to members of the House and on a recent American Legion "fact sheet" on veterans preference. We will restrict our comments on Chairman Campbell's letter to his remarks regarding statements made by The American Legion.

1. With regard to preference benefits for disabled veterans, Chairman Campbell claims that "There would be statutory noncompetitive appointments, not before available, for veterans rated at 30 percent or more disabled."

In Fact, H.R. 11280, as amended by the House Committee on Post Office and Civil Service, stipulates only that "an agency may make a noncompetitive appointment leading to conversion to career or career-conditional employment of a disabled veteran who (1) has a compensable service-connected disability of 30 percent or more, or (2) is enrolled in or has successfully completed a course of job-related training prescribed by the Administrator of Veterans Affairs." (Chapter 31, Sec. 3112)

Although under the amended legislation agencies may appoint veterans with a disability of 30 percent or more, we do not believe that that amounts to assurance that the administration's performance with regard to the employment of disabled veterans will improve. Thus we will stick to the conclusion we reached in our "fact sheet": "There is no reason to believe that disabled veterans will be any better off with the new legislation than they are now."

2. "Reduction in preference for nondisabled veterans would increase the value of preference for the disabled."

Chairman Campbell offers no further explanation or statistical data to back up that assertion. We find it rather baffling. Under the existing law and the amended version of H.R. 11280, veterans with a compensable disability of 10 percent or more would "float to the top" of civil service registers if they received a passing score. Nondisabled veterans receive only a 5-point bonus, which is added to their passing scores. Thus disabled veterans always rise above nondisabled veterans on the registers. How, then, could 5-point preference veterans stand in the way of the employment of disabled veterans who rise to the top of the register?

3. Commenting on The American Legion's assertion that the OPM will be able to "pass over disabled veterans with ease," Chairman Campbell remarked, "There would be no change in present statutory 'passover' provisions."

The original civil service reform legislation presented to Congress by the administration provided for an expansion of the Rule of Three to a Rule of Seven and also permitted the OPM to substitute any other "referral and selection procedure" it deemed appropriate. It is true that that stipulation was omitted in the House Committee on Post Office and Civil Service. But the administration has made and is making vigorous efforts to restore that key provision.

A GAO report on veterans preference issued in October 1977 pointed out that the CSC "encourages agencies to make use of a variety of hiring practices when problems are encountered in obtaining women eligibles from CSC registers" and lists 11 ways agencies bypass veterans—disabled and nondisabled alike—who are "blocking" civil service registers. Furthermore, during the past several years the CSC has approved about three-fourths of the formal requests from agencies for permission to pass over veterans.

The administration clearly wants even more "flexibility" to pass over veterans. In an Option Paper circulated in the fall of 1977 in preparation for the drafting of the civil service reform legislation, the CSC explained why it desires such "flexibility": "Managers and selecting officials feel constrained by the Rule of Three, as defined in the Veterans Preference Act, which requires selection of individuals from among the three highest rated candidates. The issue is how to provide greater latitude to selecting officials in choosing candidates who best meet their needs." Some of the options suggested in that option paper were ranking candidates in five broad categories, permitting agencies to make selections from the top three applicants on a register plus the three highest ranking minorities or women on that register, etc.

It is clear to us that if the administration succeeds in putting such "flexibility" back into the legislation the OPM could, indeed, "pass over disabled veterans with ease."

Sincerely,

MYLIO S. KRAJA,
Director, National Legislative Commission.●

LEGISLATION TO CONTINUE AND REAFFIRM THE FEDERAL COMMITMENT TO A NATIONAL CAPITAL TRANSPORTATION SYSTEM

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. HARRIS. Mr. Speaker, today I am introducing legislation entitled the National Capital Transportation Amendments of 1978. My colleagues Mr. FISHER, Mr. DIGGS, Mr. FAUNTROY, Mr. STEERS, Mr. MCKINNEY, and Ms. SPELLMAN join me in cosponsorship.

Although this legislation is written specifically to amend the National Capital Transportation Act of 1969, it is in fact a continuation and reaffirmation of a Federal commitment that officially began nearly 20 years ago. The title to the

National Capital Transportation Act of 1960 reads in part as follows:

The Congress finds that an improved transportation system for the National Capital region is essential for the continued and effective performance of the functions of the government of the United States, for the welfare of the District of Columbia, for the orderly growth and development of the National Capital region, and for the preservation of the beauty and dignity of the Nation's Capital. . . . The Congress therefore declares that it is the continuing policy and responsibility of the federal government, in cooperation with state and local governments of the National Capital region, to encourage and aid in the planning and development of a unified and coordinated transportation system for the National Capital region.

In keeping with that commitment, this legislation addresses the three major challenges faced today by the Washington Metropolitan Area Transit Authority:

First. Reaffirmation of the longstanding Federal Goverment financial commitment to complete a total Metro transit system in the Nation's Capital;

Second. Establishment of a method for the orderly retirement of bonds issued by the Washington Metropolitan Area Transit Authority; and

Third. Creation of an ongoing Federal participation in operating costs to reflect the special Federal benefits accruing from the Metro system.

The Washington Metropolitan Area Transit Authority (WMATA) recently released a proposed financial plan for completion and operation of the public transportation system for the National Capital area. This plan, which was developed at the request of the Urban Mass Transportation Administration (UMTA) and the Department of Transportation, presents two alternative methods to reach the stated objective. This legislation is designed to implement the alternative plan endorsed by the WMATA board. It calls for a continuation of the special Federal relationship that created Metro in the beginning. It calls upon the Federal Government to meet the obligations of a partnership entered into over 20 years ago with the local governments of the Washington metropolitan area.

It calls for a 101-mile Metro system to be completed and fully operational by 1985 at a savings of $200 million over the other financial approach proposed.

A 101-mile Metro system has been supported by an alternatives analysis recently conducted by one of this Nation's leading consulting firms. That 18-month analysis concluded that a 101-mile system was not just the best thing for regional transportation goals, but was the best thing for the total development of the Washington metropolitan region.

A 101-mile Metro system has also recently won the support of the Department of Transportation and the Urban Mass Transportation Administration.

The 101-mile Metro system will be completed in the shortest possible time at the greatest possible savings to local and national taxpayers through enactment of this bill.

Under this bill, up to $1.7 billion in Federal funds would be authorized beginning in 1980 for capital construction purposes. This amount added to already identified highway transfer funds would serve to complete the remaining 40 miles of Metro on an 80-percent Federal/20-percent State and local basis. This approach, which is consistent with Congress' philosophy of providing "advance authorization," would enable Metro to be fully operational 2 years sooner than would be otherwise possible and at a savings of over $200 million.

The second major element of this legislation relates to payment of the interest and principal on the approximately $1 billion in construction bonds due to expire in 2010. It is unfair and unrealistic to expect the farebox or the local taxpayer to cover this expense alone. The approach set down in this legislation is financially sound and consistent with federal assistance currently provided to all U.S. cities now constructing mass transit systems.

The bill calls for Federal participation in a sinking fund that would pay off the bonds as they mature and in the interest payments now borne strictly by the local taxpayers. The ratio for participation in both cases would be on an 80-percent Federal/20-percent local basis.

The third area addressed by this bill is a direct Federal operating subsidy to reflect the benefit and convenience of Metro to the Federal Government. In fiscal year 1980 the subsidy is $20 million and increases at a rate of 6 percent a year to $30 million in 1987.

The benefits of Metro to the day-to-day operation of the Government are immense. This Federal participation, at less than 10 percent of current Metro operating costs, is small compensation for the convenience and savings from the stations dedicated to Government facilities such as the Pentagon, NIH, and Arlington Cemetery. Time and dollars saved by employees using Metro instead of taxies on official Government business and greatly decreased lost time due to inclement weather are just two other advantages of Metro to the Federal Government.

This legislation emphasizes the special obligations the Federal Government has to the citizens of northern Virginia, the District of Columbia, and suburban Maryland when it sets special requirements that go beyond those set for similar projects in other parts of the country.

The Washington Metro system is a transit system befitting a Nation's Capital. President Johnson specified that this be so. Metro has the mark of the National Capital Planning Commission. Station and car designs were reviewed by the Fine Arts Commission. Such costly requirements do not exist for the taxpayers of Atlanta, Chicago, or Philadelphia or any other U.S. city as they design and build their mass transit systems.

Neither does any other system maintain stations built strictly at Federal Government request as Metro does.

Neither does any other system have mass transit stations located in buildings dedicated to Federal Government use.

Metro is not just another mass transit system.

Metro is the mass transit system of the Capital of the United States.

Metro does not serve just one city or State. Metro serves three States, Virginia, Maryland, and the District of Columbia.

This legislation continues and reaffirms the special nature of Metro and the special commitment the Federal Government has to it.●

BALANCE(S) OF POWER SERIES, BOOK IV (D)—MEANING OF SOVIET MILITARY DOCTRINE

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, today's article in the continuing Book IV of the "Balance(s) of Power" series, which sets forth Soviet intentions and doctrine, is concerned with the rudimentary meaning of military doctrine as understood and defined by Soviet leaders. Entitled "Soviet Military Thought," and written by Joseph Douglass under Air Force auspices, this brief article summarizes brilliantly the basic meaning of military doctrine inside the Kremlin. Introductory in nature, especially compared to later insertions that will be made in book IV, "Soviet Military Thought," nevertheless, illustrates—by referencing Soviet writings—how the Russians view this subject and, implicitly, how there interpretation differs from Western and Amercan sources.

The article follows:

SOVIET MILITARY THOUGHT

In ways that are particularly important to this analysis, the Soviets have certain concepts and words that are very different from their U.S. counterparts and that need to be recognized in reading the Soviet literature. Although largely taken for granted in the United States, the organization of military thought into specific categories, such as military doctrine, science, art, and strategy, and the Marxist-Leninist interpretation of certain words and concepts, such as war, one-man control, and independence are very important to the Soviet and an appreciation of this and the definitions is essential and requisite to understand what the Soviets are saying. This is especially so for "doctrine," "strategy," and "war." This chapter will review how these very basic terms are used in the Soviet Union. Other definitional problems and idiosyncrasies will be discussed in the following chapters as the need arises.

A. SOVIET MILITARY DOCTRINE

In the United States, military doctrine is a very flexible word that means very different things to different people. In effect, everyone has his own meaning. There is national doctrine, allied doctrine, Army doctrine, Air Force doctrine, and tactical nuclear doctrine, to mention but a few. In contrast, in the Soviet Union, there is only one, and that is official Soviet military doctrine.

In the Soviet Union, military doctrine is very carefully defined and promulgated. It is worked out in conjunction with the political leadership, and it represents their guidance to the military in preparing for war. As stated in *Military Strategy*, military doctrine is ". . . the expression of the accepted views of a state regarding the problems of political evaluation of future war, the state attitude toward war, a determination of the nature of future war, preparation of

the country for war in the economic and moral sense, and regarding the problems of organization and preparation of the armed forces, as well as of the methods of waging war. Consequently, by military doctrine one should understand the system of officially approved, scientifically based views on the basic fundamental problems of war." [Ref. 8, p. 38]

As stated in *The Officer's Handbook* in 1971:

"Military doctrine is worked out and determined by the political leadership of the state." [Ref. 13, p. 109]

"The Central Committee of the Party . . . works out Soviet military doctrine. [Ref. 13, p. 25]

"*Military doctrine* is a system of guiding views and principles of a state on the character of war under given specific historical conditions, the determination of the military tasks of a state, the armed forces, and the principles of their construction, and also the methods and forms for the solution of all these tasks, including armed conflict, which issue from the goals of the war and the socio-economic and military-technical capabilities of a country." [Ref. 13, p. 109]

In the Soviet Union, military doctrine is drawn up under the guidance of the Central Committee of the Party. In contrast, U.S. doctrine is developed by the military to guide their action and tends to equate more evenly with Soviet principles of operational art or tactics, which are more at the base of the hierarchal structure of Soviet military thought. In the Soviet Union, doctrine is at the apex, developed at the Kremlin; while in the U.S., doctrine is something developed at lower command levels in the Services. Thus, "doctrine" in the Soviet system is not even similar to "doctrine" in the U.S. system. Military doctrine in the Soviet Union is official and is to be used in preparing the country for war. It identifies the nature of the war, the preparations to be undertaken, and the priority tasks and problems.

The doctrine is promulgated in books such as *Marxism-Leninism on War and the Army* [Ref. 3] and publications such as *Communist of the Armed Forces*. The basic characteristics and some of its content are set forth in *Methodological Problems of Military Theory and Practice* and *The Officer's Handbook*. As an example of Soviet doctrine, consider the following excerpts from *The Officer's Handbook:*

Soviet military doctrine has an offensive character. . . . The Soviet Union . . . will conduct the war which the enemies impose on them in the most offensive manner in order to attain the smashing of the enemy in short times.

Soviet military doctrine allocates the decisive role in contemporary war to nuclear missile strikes of a strategic and operational-tactical character, the armed forces will employ conventional armament. [Ref. 13, p. 116]

The basic ingredients that have consistently made up Soviet doctrine since at least the late fifties are its offensive character, the importance of nuclear weapons, and the belief that the war will be decisive in its early phase and, therefore, short. Soviet military doctrine has consistently held that surprise attack is the most probable method whereby "the imperialists will unleash war":

As for the means the imperialists have of unleashing [sic] war, Soviet military doctrine considers most probable a surprise attack of the aggressor without a declaration of war. This precisely is the main thing the imperialists are counting on. They have repeatedly resorted to such means of unleashing war in the past. The aggressors resort to it under modern conditions, too, as was shown, for example, by the attack of Israel on the Arab countries. [Ref. 14, p. 321]

Finally, should world war come about, the basic tenets of Soviet military doctrine are that it will be the conflict of two diametrically opposed social systems, a coalition war that is definitely nuclear, will result in destruction of the capitalist system, and the world-wide triumph of the socialist system.

The major change, introduced in the sixties, allows for the possibility of an opening conventional phase (phase, not war) that subsequently escalates to all-out intercontinental war.

It is possible that war can begin by gradual escalation of a limited conflict into a world conflict. Imperialists can begin it and wage it for any time without using nuclear weapons with only conventional means. [Ref. 14, p. 321]

More recently, as discussed in Chapter VI, the possibility of limited nuclear war is being investigated and may well emerge as doctrine in the near future.

B. MILITARY SCIENCE AND STRATEGY

Soviet military thought is divided into two major compartments; military doctrine and military science. Within military science, strategy is the most important element. Soviet military science is defined in *The Officer's Handbook* as follows:

Soviet military science is a united system of knowledge on the preparation and conduct of armed conflict in the interests of the defense of the Soviet Union and other socialist countries against imperialist aggression. In its functions include:

The discovery and investigation of the objective laws of armed conflict;

The development, on the basis of the knowledge of these laws, of the means and forms of armed conflict for the achievement of victory over the enemy;

The investigation of the problems and determination of the methods for the preparation of the territory of the country and the Armed Forces for war, and the comprehensive support of the armed struggle economically, politically, morally, materially and technically, scientifically, and in other ways;

The development of the bases for the organization and training and education of the troops in accordance with the requirements of contemporary war;

The development of the method of military science as a whole, its general theory, theory of military art, the military-technological sciences, and its other parts and branches. [Ref. 13, pp. 82–83]

The interaction and difference between military doctrine and military science are important. While military doctrine guides military science, military doctrine also is developed using the conclusions of military science. Military doctrine exploits the conclusions of various sciences. The doctrine rests upon the conclusions of military science particularly as regards determining the nature of a future war and the methods for conducting it, and for determining the structure and preparation of the armed forces. [Ref. 8, p. 38]

As described in *Methodological Problems of Military Theory and Practice:*

"Military science studies a much wider circle of problems than necessary for realization of the practical problems of construction of the armed forces of the state during the given period. It considers all the probable means and conditions of waging armed struggle, including those which are not typical for the given country and do not entirely coincide with its means. But the conclusions of military science use doctrine, proceeding from the real conditions and means of the country. No contemporary military science can disregard the appearance of nuclear missiles and their determining effect on the means and form of armed struggle. However, for states without nuclear missiles military doctrine had to show ways of military construction different from those which countries having very modern means of armed struggle can go. And these ways are developed by military science.

"Military science studies the development of military affairs in many countries and evaluates the state of the armed forces and military means of states and coalitions and condition of waging armed struggle in various theaters of military actions. The doctrine considers only those factors which affect the construction of the armed forces in its country. In other words, of the entire variety of phenomena and trends studied by military science, of all its generalizations and recommendations, military doctrine takes only those which correspond to the political course of the state and to its strategic means." [Ref. 14, pp. 327–328]

Although military doctrine and military science have much in common, it should be clear that there are important differences. In addition to the above example, military science focuses on the past, present, and future, while doctrine is pointed to the present and immediate future; that is, to foresee the nature of war and probable enemy in order to provide guidance to military science regarding the course to follow. A further difference is that ". . . doctrine, being developed and accepted by the state, is a single system of views and a guide to action free from any particular subjective views and evaluations. Inherent to science, in its development, is the struggle of opinions. In the system of military theories which comprise military science there may be several different points of view, different scientific ideas, and original hypotheses which are not selected by doctrine for practical application and they thereby do not acquire the character of official state views on military questions." [Ref. 13, p. 115]

Military science includes a number of different fields, such as history, administration and organization, training, and the military art. The most important of these components is military art, which is made up of strategy, operational art, and tactics. The most important of these, which is also critical to this study, is strategy.

Strategy is the part of military art which studies the foundations of the preparation and conduct of war as a whole and its campaigns. In practice it is policy's direct weapon. With respect to strategy, policy plays the leading and directing role.

Strategy is general and single for all the types of the armed forces of the country because war is conducted, not by some one type of armed forces or combat arm, but by their combined efforts. The coordination of the actions of all the types of armed forces in war is possible only within the framework of a single military strategy. [Ref. 13, p. 101]

The most important problem of strategy is the determination of the character of modern war, the possible means of its emergence and conduct, its stages (periods) and targets (problems), which are landmarks for its planning. [Ref. 14, p. 313]

Strategy and doctrine are the areas of greatest interest in this study—with operational art and tactics examined to obtain greater detail, where important, regarding the organization and employment of various force elements. Probably the single study most representative of strategy is Sokolovskiy's *Military Strategy*, third edition. The Soviet officer is still referred to this important book for basic strategy.

Military strategy and doctrine, although very similar in coverage, are different in principle. For example:

Military strategy occupies a subordinate position with regard to military doctrine. Military doctrine determines over-all policy in principle, while military strategy, starting from this over-all policy develops and investigates concrete problems touching upon the nature of future war, the preparation of a country for war, the organization of the armed forces, and the methods of warfare. [Ref. 8, p. 40]

What is most important is the relationship between doctrine and strategy in time of war.

During war, military doctrine withdraws somewhat into the background because in armed conflict they are guided primarily by military-political and military-strategic considerations and by the conclusions and generalizations which follow from the conditions of a specific situation. Consequently, war and armed conflict are guided not by doctrine, but by strategy. [Ref. 13, p. 116]

In evaluating the Soviet threat to NATO and the prospects for controlling and terminating a NATO/Warsaw Pact war in Europe, the Soviet doctrine and strategy are coequal in importance and preeminent in the whole field of military thought.

C. WAR

A word that can introduce considerable definitional problems is the very simple word "war." In the Soviet doctrine, war is not just one word. There are two types of war—just war and unjust war—and which war is being discussed often has to be inferred from the context of the sentence. The distinction between just and unjust war is not trivial. It is particularly important because the interpretation can cast considerable influence on the meanings attached to various discussions in tthe Soviet literature and, in particular, to those discussions that are associated with limited nuclear war. It is essential to understand *whose* war is being discussed in interpreting Soviet statements.

A war is just or unjust depending on the social content and goals of the war—not by who attacks first, where the war is fought, or whether the troops are attacking or defending themselves.

Just wars are those which are liberating, directed at class or national liberation. Also wars defending the people from outside attack and attempts to enslave them, to free colonies and dependent countries from imperialist oppression, and civil wars. A special place is occupied by wars in defense of the socialist fatherland. These are the most just of all wars since they defend the system under which they live as well as their native land and national independence.

Unjust wars are predatory wars organized by exploiting classes. Their goal is to seize territory of others, defeat and enslave other peoples and working classes.

Dividing wars into just and unjust is very important. It helps orient communist to each war. At the same time communists have never been pacifists, that is, against any war. [Ref. 15, p.2]

When one reads a statement regarding wars, he must ask whether the statement applies to just wars or to unjust wars—the context is most important. In brief, anyone challenging the Soviets is fighting an unjust war; and, any war in which the Soviets are involved is, from their position, a just war.

As stated in a 1975 *Communist of the Armed Forces* editorial:

"War still is explained by the Leninist principle of just and unjust wars. A war which might be unleashed by imperialism against the Soviet Union would be unjust and reactionary and a continuation of their predatory policies. From the socialist countries' side, it would be the most just and progressive war. It would be defending the most advanced social structure—socialism, for the benefit of of all progressive mankind. Such wars might be those of the working classes against the bourgeoisie and wars of national liberation. Only wars in the interests of socialism can be just from the point of view of the working masses." [Ref. 15, p. 5]

When the Soviets denounce warfare, call for declarations against weapons of mass destruction, and emphasize the need to work to make nuclear war impossible, the war they are talking about is the unjust war. Such statements do not mean that they are at all interested in having curtailed *their* capability to conduct just wars of similar scale and using similar weapons.

As stated most clearly by Colonel V. V. Larionov, a prominent Soviet authority on military affairs and composing editor of all three editions of Marshal Sokolovskiy's classic *Military Strategy:*

"As for the Soviet Union it has always resolutely opposed international agreements legalizing *unjust* wars. Our country is consistently struggling for general and complete disarmament. *That is, for the destruction of all material means for waging such wars.*" [Emphasis added] [Ref. 16, p. 33]●

WE WILL NEVER GIVE UP

HON. HAROLD C. HOLLENBECK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. HOLLENBECK. Mr. Speaker, the following letter to President Carter speaks eloquently for the feelings of thousands of Cuban-Americans and the others concerned with the plight of those people in Cuba who are enslaved and jailed both behind prison walls and on the outside but denied freedom of movement.

The text of the letter—hundreds of which will be addressed to the President—follows in both English and Spanish:

(NOTE.—The letter in English is included in the RECORD).

UNION CITY, N.J.,
August 5, 1978.

Mr. JAMES CARTER,
President of the United States of America,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: From the gloomy Cuban prisons through underground channels we have learned that the political prisoners confined in the dungeon known as "Combinado del Este" in Havana, are in hunger strike as a protest against the farce of the so called "International Youth Festival" being staged in Havana under the auspices of the Castro-Communist regime.

The Cubans in exile as the outspoken voice of our muzzled and enslaved compatriots come forward at this time to denounce the crimes and atrocities being committed by the Soviet's puppet repressive police to our brothers in Cuba, asking for the active support to our cause of the free men of the world.

We feel that we have been abandoned by some of our former friends and allies. An ominous curtain of silence has been imposed on our struggle. Our freedom fighters are being persecuted and jailed. However, our uncompromising decision is stronger than ever to continue the fight by every and all means until the tyranny in Cuba is overthrown.

We demand a worldwide mobilization for the implementation of the Human Rights Principles and the Helsinki Accords in our homeland. May we count on you?

We'll never give up.

Recently, through many efforts on my part and because of the voices raised here in the United States, the Castro regime has indicated a willingness to free some incarcerated behind prison walls and to allow others to move to freedom as well.

This is a beginning—a beginning only—and should not be allowed to cause us to cease our unstinting efforts on behalf of human rights and implementation of the Helsinki accords in Cuba. Our voices and our efforts must continue until freedom prevails.●

VETERANS ORGANIZATIONS SUPPORT HANLEY AMENDMENT

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1978

● Mr. TEAGUE. Mr. Speaker, during the past several months all Members have received a number of communications from national veterans organizations calling for the preservation of veterans preference in Federal employment. In this regard, veterans organizations who speak for Vietnam veterans, as well as older veterans, are in total agreement in their support of the Hanley amendment which would continue veterans preference rights for all veterans.

There follows, therefore, copies of communications received from Eric Sandstrom, national commander-in-chief of the Veterans of Foreign Wars of the United States; Billy O. Hightower, national commander of the Disabled American Veterans; and a letter to the President from Frances S. Wapnick, national president of the National Ladies Auxiliary of the Jewish War Veterans of the U.S.A., Inc., in which it is indicated that a number of Ladies Auxiliaries and women's veterans organizations have expressed their opposition to the modifying of veterans preference in Federal employment.

The letters follow:

VETERANS OF FOREIGN WARS
OF THE UNITED STATES,
September 1, 1978.

U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C.

On August 24, 1978, the Senate passed S. 2640, the companion bill to H.R. 11280, the President's proposed Reform of Civil Service Laws. In its wisdom, and for which I commend that august body, the Senate left virtually undisturbed the Veterans Preference Act of 1944, as amended. The only modification thereof was to abolish veterans preference for able-bodied Armed Forces retirees in the grades of Major or Lt. Commander and above.

Due to the Schroeder Amendment, H.R. 11280, as reported by the House Post Office and Civil Service Committee, would greatly curtail veterans preference and be particularly detrimental to our younger Vietnam veterans, those, the Administration purports to help. Although the Schroeder Amendment is an Administration compromise somewhat ameliorating a strong anti-veteran posture, it is wholly unacceptable to us. The Schroeder Amendment so incensed the 16,000 voting delegates to our 79th National Convention, held in Dallas, Texas last month, that they unanimously passed Resolution No. 601 entitled, "Preserve and Extend Veterans Preference", a copy of which is appended to my letter. This resolution enjoins me to advise Congress and the President of the United States of the opposition of the Veterans of Foreign Wars of the United States to H.R. 11280 in its present form.

In view of the foregoing, and on behalf of our 1.85 million members of whom 500,000, or 27 percent, are Vietnam veterans, and the 610,000 members of our Ladies Auxiliary, I urge each of you, as our elected representatives, to defeat the Schroeder Amendment to H.R. 11280 and adopt the Hanley Amendment, which will bring your bill in line with that passed by the Senate, in this respect.

Our entire membership, as well as all veterans and their families, who constitute nearly half the population of our great nation, will be following closely your vote with respect to veterans preference.

With best wishes and kind regards, I am

Sincerely,

ERIC SANDSTROM,
National Commander-in-Chief.

RESOLUTION NO. 601—PRESERVE AND EXTEND VETERANS PREFERENCE

Whereas, our federal government specially selected as mentally, morally and physically fit, certain members from its society, specially trained this group, subjected them to stringent rules and regulations removed them from home, family and employment, asked of them a special sacrifice, required some of them to suffer wounds they will live with forever; and

Whereas, a grateful nation, through its representatives in the Congress of the United States has, in recognition of that special service and loss of employment opportunity while defending the country in time of need, extended a long history of employing the returning veterans by enacting the Veterans Preference Act as contained in Title 5, U.S.C.; and

Whereas the term "veteran" includes every category of society—sex, age, religion, ethnic group, race, and creed; and

Whereas, absence from the highly competitive job market due to military service creates an unfair and unequal burden on veterans in competing for employment with their non-veteran peers upon completion of military service; and

Whereas, the veterans preference law accomplishes the legislative purpose of honoring veterans and provides a small advantage in competing for federal jobs; and

Whereas, there have been introduced into the Senate and the House of Representatives of the Congress of the United States proposed legislation known as S. 2640 and H.R. 11280, respectively, which bills would on their effective date, October 1, 1980, terminate veterans preference for more than 19 million non-disabled wartime veterans, including 3½ million nondisabled Vietnam veterans, and which bills would provide for termination of veterans preference for all of our nation's nondisabled veterans 10 years after they have completed their active duty military service; now, therefore

Be it resolved, by the 79th National Convention of the Veterans of Foreign Wars of the United States, that the Congress and the President of the United States be informed of this organization's strong opposition to the legislation proposed in S. 2640 and H.R. 11280 or similar type legislation; and

Be it further resolved, that this organization deplores each and every attempt to degrade, dilute or modify the historical precedence of giving job eligibility preference to those who were taken from their communities to serve their country in time of war, and that the President and the Congress of the United States reject any and all recommendations or requests for any change, amendment, or weakening of purpose of the Veterans Preference Act of 1944 as amended.

Adopted by the 79th National Convention of the Veterans of Foreign Wars of the United States held in Dallas, Texas, August 18–25, 1978.

DISABLED AMERICAN VETERANS,
Washington, D.C., September 5, 1978.

Hon. OLIN E. TEAGUE,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN TEAGUE: The Disabled American Veterans is again urging your support for the "Jim Hanley Amendment" to H.R. 11280, the Civil Service Reform Act of 1978. Congressman Hanley's Amendment, as you know, will prevent the sharp curtailment of veterans' preference in Federal employment as presently proposed by the Civil Service Reform bill.

I know my immediate predecessor, Oliver E. Madows, has written to you previously on this subject. As the newly elected National Commander of the DAV, I would like to bring to your attention what I consider to be three very important points concerning the veterans' preference issue.

(1) By recent vote of 87 to 1 the Senate not only gave overwhelming support for retention of the five point preference for nondisabled veterans, but through adoption of the Cranston Amendment, voted to strengthen the 10 point preference extended to service-connected disabled veterans.

(2) The Cranston Amendment included a provision to eliminate the five point preference now given to military retirees ranked Major (or the equivalent) and above—the so-called "double dipper". The Hanley Amendment would do this also.

(3) The attached statistical data, assembled by the Civil Service Commission itself (but not given wide distribution), completely refutes the Administration's claim that the use of veterans' preference adversely impacts upon the hiring of women and minorities by the Federal government. In fact, it suggests just the opposite.

Thank you very much for your kind attention to this letter. I trust that it will lead you to support your colleague, Jim Hanley, in his efforts to preserve veterans' preference for our Nation's veterans.

Sincerely yours,

BILLY O. HIGHTOWER,
National Commander.

DATA TRANSMITTED BY ALAN CAMPBELL, CHAIRMAN, CIVIL SERVICE COMMISSION, TO CONGRESSWOMAN PATRICIA SCHROEDER IN A LETTER DATED JULY 24, 1978. THE C.S.C., AFTER BEING REQUESTED TO DO SO, LATER PROVIDED THE DAV WITH THIS SAME INFORMATION.

MINORITY HIRES

Figures below (rounded to nearest thousand) reflect governmentwide new hires (all pay systems). Figures do not include those for Guam, Hawaii and Puerto Rico.

Calendar years	1975	1976	1977
Total new hires [1]	458,000	509,000	495,000
Total minority new hires	141,000	145,000	141,000
Total veteran new hires	109,000	116,000	116,000
Total minority veteran new hires	29,000	31,000	31,000

[1] Does not include those who transferred, returned to duty, or restored to duty.

WOMEN NEW HIRES VERSUS VETERAN NEW HIRES

Figures below reflect only those new hires into General Schedule and pay systems for which an equivalency table can be supplied. Figures for Postal Service, Federal Wage Systems, etc., not available.

New hires, GS and equivalent [1]	Calendar year— 1975 Women	1975 Veteran	1976 Women	1976 Veteran	1977 Women	1977 Veteran
1	6,594	577	7,444	609	7,019	597
2	35,079	5,676	33,177	5,690	33,743	5,266
3	45,582	11,681	48,230	12,312	50,522	12,413
4	22,054	7,948	25,165	8,055	27,434	8,726
5	9,679	7,455	10,919	7,574	11,192	7,749
6	1,673	1,076	1,606	1,119	1,614	1,126
7	4,324	5,565	5,091	4,818	5,131	4,536
8	854	334	892	330	950	306
9	3,165	3,956	3,157	3,482	3,323	3,325
10	77	104	80	90	112	86
11	1,058	2,525	1,099	2,174	1,321	2,162
12	398	1,662	454	1,517	537	1,500
13	228	1,014	207	847	284	700
14	117	679	120	500	164	421
15	65	749	66	554	124	478
16	7	109	5	64	16	46
17	2	63	4	31	11	34
18	0	31	2	19	6	27
Total	130,956	51,204	137,718	49,785	143,503	49,498

[1] DAV comment—Most new hires, for both women and veterans, occur in the ower GS levels. In recent years, women hires substantially outnumbered veteran hires in GS levels 1 through 8.

NATIONAL LADIES AUXILIARY,
JEWISH WAR VETERANS,
Washington, D.C., May 16, 1978.

The PRESIDENT,
The White House

MY DEAR MR. PRESIDENT: The National Ladies Auxiliary, Jewish War Veterans of the U.S.A., recently asked allied veterans organizations to join with us in the following statement: "We strongly oppose the Administrations proposal to act against veterans preference. Such action would further erode the rights of thirty million veterans and their families. We urge the Administration to refrain from stripping veterans of the rights they have earned in the patriotic service of our country".

The following organizations are united on the statement:

American Gold Star Mothers, Inc.

Daughters of Union Veterans of the Civil War.

Ladies Auxiliary of the Military Order of the Purple Heart.

Ladies Auxiliary, Veterans of World War I, Inc.

National Ladies Auxiliary, Jewish War Veterans of the USA.

National Woman's Relief Corps Auxiliary to the Grand Army of the Republic, Inc.

Polish Legion of American Veterans Auxiliary.

We trust that you will consider our statement in your future deliberations in the matter.

With sincere good wishes,

Sincerely yours,

FRANCES S. WAPNICK,
National Presidents.●

VETERANS' PREFERENCES

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 8, 1978

● Mr. ERLENBORN. Mr. Speaker, the well-known columnist and commentator, James J. Kilpatrick, recently did a commentary on the subject of Veterans' Preferences. It was aired over radio station WTOP.

Inasmuch as the House is currently considering the Civil Service Reform Act, I think this is a most germane and intelligent discussion of the subject.

I commend it to the attention of my colleagues.

The commentary follows:

COMMENTARY ON VETERANS' PREFERENCES

(By James J. Kilpatrick)

It was predictable, but it is disappointing all the same, that the American Legion and other veterans' groups should have erupted in knee-jerk opposition to Mr. Carter's proposals for civil service reform. The President's recommendations for retrenchment in this matter of "veteran's preference" are not extreme. They strike me as fair and reasonable, and ought to be adopted.

The present system goes back to the War Between the States, when Abraham Lincoln sought to reward the Union veterans with a little advantage in getting government jobs. The advantage carried over to the expanding system of Civil Service. As it operates today, a veteran now has a lifetime bonus toward a Federal job, even though he may have served a minimum hitch 20 years ago.

Under Mr. Carter's plan, the disabled veteran would continue to have a lifetime preference. For other veterans, the advantage would last for only ten years following their discharge from military services. High-ranking officers would get no special preference at all, on the theory that they need none to find satisfactory civilian employment. All this makes sense to me.

Persons in military service these days are better paid by far than they were in Lincoln's time. They have greater opportunities for job training, and for post-service education. It's a bit much to continue giving them a Civil Service advantage also, especially when the system operates inevitably against qualified women. Mr. Carter is on the right track here, and the Legion's opposition ought not to prevail. I'm James J. Kilpatrick.●

TRIBUTE TO BASEBALL COACH ANG VACCARO

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 8, 1978

● Mr. APPLEGATE. Mr. Speaker, last Wednesday, I had the honor of informing the House of Representatives of the American Legion Ohio State baseball champions. The team represented Teramana American Legion Post 33 of Steubenville, Ohio. In my remarks, I mentioned the names of the players and coaching staff, but for Head Coach Ang Vaccaro, this is not near enough.

Ang Vaccaro has guided and provided leadership to thousands of individuals over the years through his academic position as principal of the Steubenville High School and coach of both scholastic and amateur sports.

During his career as head coach of the Steubenville High School basketball team, Ang achieved a record of 213 wins and 98 losses. As head baseball coach for several years his teams enjoyed a total of 205 wins and only 23 losses. Because of these outstanding achievements, Ang Vaccaro had been inducted into the Ohio Basketball Coaches Hall of Fame upon his retirement as high school coach in 1960.

From the high school level. Ang turned his attention to the coaching of American Legion baseball, serving as head coach of Steubenville Post 33 for all of its 32 years. During that time, his teams won two State championships, one in 1964 and just 3 weeks ago for the 1978 crown. This past season, the team accomplished a 41 and 6 record, just missing a chance to go to the American Legion World Series by two runs in the final game of the Great Lakes Regional Tournament.

What is most impressive though, is Ang's winning record as American Legion coach. In those 32 years, his teams have won 924 games while losing only 210. This, combined with his high school coaching record gives him a lifetime record of 1,342 wins and only 331 losses, making Ang one of the most successful coaches in the history of American sports.

After reviewing this man's remarkable coaching career, which is far from over, I am sure we would all agree on the fact that Ang Vaccaro is truly a leader and an inspiration to thousands. On behalf of Ohio's 18th Congressional District, I extend hearty congratulations to Ang Vaccaro on a job truly well done.●

INTERNATIONAL EMERGENCY WHEAT RESERVE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 8, 1978

● Mr. GILMAN. Mr. Speaker, recently both the House Committees on Agriculture and on International Relations reported out legislation establishing an international emergency wheat reserve. This measure authorizes the President to acquire and maintain a reserve stock of wheat to be targeted to nations in need of emergency food assistance during periods of critical food shortages.

In light of the world food crisis of 1972–74, when available supplies sunk dangerously below the needs of famine-stricken nations, the current administration (as did its predecessor), as well as key international food conferences, have advocated establishing such a reserve.

The Senate Agriculture Committee, however, has reported out legislation considerably different than the measure now pending in the House. The Senate bill, establishing an international emergency food fund, would set aside a fund of up to $500 million to be used by the President to acquire, during periods of shortages, grain stocks to be used for international emergency assistance.

Compelled by a dubious logic that would have us purchase grain stocks during periods of shortages of these stocks, when indeed that grain available is considerably more costly than if purchased during periods of abundant harvests, this measure would not enable us to meet our goal of adequately responding to food crises.

Writing in the August 31, 1978 Washington Post, Brennon Jones, an issue analyst with Bread for the World, an organization dealing with U.S. policy and world hunger, offers a cogent analysis of the serious shortcomings of the "Food fund" as compared to the grain reserve concept.

As a sponsor of legislation establishing an emergency grain reserve, and anticipating that the two measures to which I have referred will soon be before Congress, I wish to share this timely article with my colleagues and insert it at this point in the RECORD:

WORLD FOOD FUNDS: YOU CAN'T EAT MONEY

(By Brennon Jones)

Religious groups urge the administration to assist famine-struck nations with additional food aid, but are turned down because of the impact such purchases would have on domestic prices. U.S. consumers boycott in protest of skyrocketing food prices. And U.S. farmers lobby against embargoes and export restrictions that are imposed because of tight grain supplies.

That sounds like fiction, but it all happened during the 1972–74 food crisis. And the chances of a recurrence would be strengthened if Congress adopts a bill now under consideration.

The bill entitled the International Emergency Food Fund, authorizes the President to spend up to $500 million during periods of international food emergencies for purchases of U.S. food aid for humanitarian relief. Introduced by Sen. Robert J. Dole (R-Kan.), the bill was reported out of the Senate Agriculture Committee on Aug. 16 in preference to legislation that would establish grain reserves for such emergencies.

When the World Food Conference met in Rome in 1974, a key part of the global strategy that emerged for avoiding food crises in the future was established in an international grain-reserve system. The Carter administration endorses the concept and has advocated U.S. international emergency reserves. Both the House Agriculture and International Relations Committees passed legislation in mid-August that would establish such reserve stocks. The justification for emergency grain reserves is clear: Such stocks ensure that food aid levels do not shrink at precisely the time when they are most needed—during famines. Without reserves, food aid is bought at the current market price, and in times of scarcity the price soars. So the same aid dollar buys considerably less grain. Thus U.S. food-aid shipments dropped from 9.9 million tons in 1972 to 3.3 million in 1974.

The building of such reserves is clearly in the interest of U.S. producers, because grain for stocking them is purchased on the market—an insight that has not escaped the National Association of Wheat Growers, who have endorsed a wheat reserve of moderate size. The Congressional Budget Office estimates that, should a 6 million metric ton wheat reserve be established (the size the administration supports and the House International Relations Committee bill would provide), U.S. wheat prices could rise immediately by as much as 51 cents per bushel, with a season average increase of up to 34 cents. Such increases would result in a reduction in government outlays for price-support payments to farmers of $235 million in fiscal year 1979 alone.

By votes of 27 to 16 in the House Agriculture Committee, and 12 to 2 in the International Relations Committee amendments were rejected that would have substituted the International Food Fund for the grain-reserve bills. The arguments against the fund are based on these considerations:

Unlike a grain reserve, a fund ensures only that money—not food—is available. Ample grain supplies are on hand for the near future, but a combination of poor weather, rapid population growth and increased consumption due to rising affluence could quickly put us back into a period of scarcity. According to the International Food Policy Research Institute, by 1985 (just 6½ years from now) the annual food deficit of the developing nations alone will increase from this year's level of 36 million metric tons to at least 95 million metric tons.

A food fund has price impact at exactly the wrong time. Purchases would be made in the market only during times of limited grain supplies and high prices. And the U.S. consumer would bear the brunt of the price impact—a situation that could set the stage for embargoes and export restrictions that ultimately disrupt commercial sales and hurt U.S. producers.

Having a food fund does not ensure its use. The fund is similar to the authority the president already has through the Commodity Credit Corporation (CCC). During the 1974 food crisis, when supplies were tight and prices high, the Ford administration had approximately $10 billion in unused CCC authorizations it could have used to purchase grain for emergency relief purposes. But because of the potential price impact, the choice was made to not respond immediately. For similar political and economic reasons, a president is likely to choose not to enter the market with an emergency food fund when food is critically needed in the future.

Cost is an additional factor that works against the food-fund approach. There are potential cost advantages in that the fund earns interest when not in use, while a grain reserve entails annual charges, including those for storage and quality control. However, the price at which grain is acquired is the key determinant. A grain reserve is acquired when market prices are depressed, or at least not excessively high. But a food fund would be tapped only in critical situations when supplies are tight and prices escalating—as in the 1972–74 period when wheat prices initially doubled, then ultimately tripled. A mere doubling of current wheat prices would be $5.60. Even if the administration were to purchase for the reserve at the current price of $2.80 per bushel (a price they have indicated they are unlikely to purchase much above) and held the stocks for six years, the initial cost, plus annual carrying charges, would still be cheaper than the $5.60 minimum price at which a food fund would conceivably be tapped.

Food fund or grain reserve? Now it's up to House and Senate floor action in September to decide which approach they want to take. Before they do, they might reflect on House Agriculture Committee Chairman Thomas Foley's comment during consideration of the food fund: "People cannot eat dollars. Even less can they eat CCC credits." ●

LIBYA WANTS BETTER RELATIONS AND MORE TRADE WITH THE UNITED STATES

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 8, 1978

● Mr. SIKES. Mr. Speaker, during my committee trip to Europe, the Middle East, and Africa, I found that Libya wants better relations and more trade with the United States. The problem lies in an American embargo, and the Libyan practice, now discontinued, of offering asylum to hijackers. There also is opposition by Jewish leaders because of Libya's hard line against Israel.

Libyan leaders of ministerial rank with whom I conferred indicated their country wants to buy American commercial aircraft, trucks, and autos, and American farm equipment. They also want the benefit of American expertise in industrial and agricultural development. They are now supplied with Russian weapons,

many of them sophisticated, which they claim they first tried to buy from the United States.

The matter is worthy of active consideration, further delays are nonproductive and can be harmful. An important first step would be an exchange of Ambassadors. We maintain full diplomatic relations with many nations that offer less.

Trade is important to the United States. We buy $4 billion in oil each year from Libya and they buy from us $400 million. It is estimated their purchases could increase to $1 billion. An improvement not to be overlooked.

The United States should weigh all these matters rather than hold to the position of no change toward Libya. This is a changing world and we do not distinguish ourselves by being slow to take advantage of new openings for better relations with other countries.●

VA ANNOUNCES OLIN L. TEAGUE AWARD

HON. RAY ROBERTS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 8, 1978

● Mr. ROBERTS. Mr. Speaker, as we draw near adjournment of the 95th Congress, we are reminded that one of the finest Members who ever sat in this body will not be returning. My colleague and friend, "TIGER" TEAGUE has announced his retirement. Honors, deservedly, have begun to pour in on him from some of the millions of Americans whose lives bear the beneficial imprint of his service.

Few honors will please him more than one announced September 7, 1978, by the Veterans' Administration. It is described in an agency news release which is reprinted below:

OLIN E. TEAGUE AWARD

The Veterans' Administration today honored long-time Texas Congressman Olin E. Teague by establishing an annual award in his name to recognize agency employees for outstanding achievements in the rehabilitation of war-wounded veterans.

In announcing the award, VA chief Max Cleland said it was fitting that it should be named for Teague, "one of the most decorated combat-disabled soldiers of World War II and a tireless champion of legislation benefiting veterans."

Teague, an infantry battalion commander who suffered multiple wounds and was decorated eleven times for gallantry, served 18 years as chairman of the House Committee on Veterans Affairs.

Earlier this year, Teague became the one person outside the Veterans' Administration to receive the agency's Exceptional Service Award. The award is VA's highest commendation for an individual by the agency.

Cleland cited Teague for "his extraordinary contributions" to America's veterans.

"No person in the history of America has had such a saluatory effect on the lives of veterans and their families," Cleland said.

Teague's investigations of shortcomings in the World War II VA education assistance legislation led to his authorship of the Korean-era GI Bill and Cleland pointed out that "much of the veterans legislation that has been approved by Congress since World War II bears his imprint."

Rep. Teague has announced his retirement from Congress at the end of the current session.

In advising him of the award's establishment, Cleland told Teague that "of all the programs and activities of the VA, none is more meaningful, more challenging or more representative of the distinctive mission of the VA than the rehabilitation of war-injured veterans.

"During your illustrious 32 years of service in the Congress, there has been no more staunch ally of America's wounded veterans, and none who has worked more enthusiastically or with more effect in their behalf.

"I therefore deem it most appropriate that this high award bear your name as a lasting symbol of what you have done for those whose service to our nation has cost them so dearly."

The Teague Award will be made annually to the VA employee or team of employees whose accomplishments in the area of rehabilitation involve an outstanding improvement in the quality of life for war-injured veterans or contribute in an outstanding manner to their rehabilitation.

Cleland said eligibility for the award "encompasses the whole spectrum of VA personnel who have dealt with wounded veterans. This includes medical personnel, social scientists, vocational counselors, engineers and basic scientists.

"The accomplishment may be a development of a technique or concept that has in a most significant or direct way materially improved the veteran's ability to function as normally as the present state of the art of physical and psychological rehabilitation can offer," he said.●

SHOULD WE HAVE MAP?

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 8, 1978

● Mr. BEDELL. Mr. Speaker, during House consideration of the fiscal year 1979 Department of Defense appropriations bill last month, I brought to the attention of my colleagues the existence within that bill of nearly $100 million for research and development of a proposed alternate launchpoint system known as MAP (Multiple Aim Point). During the ensuing debate, questions were raised about the efficacy of MAP, and concern was expressed about the lack of knowledge about the potential ramifications of this project. As a result of an informal consensus that grew out of this discussion of the implications of the MAP R. & D. program, I am today introducing a resolution that expresses the sense of the House that the President appoint a high-level commission charged with making a thorough evaluation of the MAP concept and the advisability of its full-scale implementation. I would like to take this opportunity to elaborate briefly on the need for such a study.

Full-scale implementation of MAP would mean the excavation of thousands of vertical silos located primarily in the Western and Midwestern regions of the United States. In a manner akin to a giant "shell game," the 1,000-plus Minutemen (or proposed MX if ever developed) would be covertly shuttled from silo to silo at a ratio of 20 silos to 1 missile so as to prevent the Soviets from knowing the precise locations of our ICBM's. MAP's proponents argue that it

would deter the Soviets from launching a counterforce strike against our land-based ICBM force since they would have to guess as to which silo contained the real missile, therefore making it likely that a sufficient number of missiles would survive to inflict unacceptable damage on the Soviet Union's own populace and industry.

Of course, another possible scenario is that the Soviets would feel constrained to target every missile silo in the United States in order to be relatively assured of depriving us of our counterstrike capability. In that event, Gen. Lew Allen's characterization of MAP as a "great sponge" of targets that would serve to "absorb" the Soviet warheads could very well prove to be prophetic, a prospect which in itself should make any American living west of the Mississippi River dubious about the advisability of deploying such a system. It seems to me that the U.S. strategic objective should logically be to draw Soviet fire away from the U.S. land mass rather than upon it.

This is just the first of many questions that I feel need to be more carefully explored by an objective group of experts prior to congressional action on further implementation of the MAP concept. Other disturbing questions that come to mind include:

First. The cost and strategic utility of the program—is the $20 billion price tag a cost effective means of spending taxpayer dollars? And, might not the money be better spent by upgrading the remaining two-thirds of our nuclear TRIAD?

Second. The impact on arms reduction—how will a commitment to full-scale development of MAP affect the chances for a successful negotiation of the already-endangered SALT II treaty?

Third. The impact on U.S. land patterns—how will MAP affect domestic land use patterns given the fact that the total land required for the project would be roughly equivalent to an area the size of the State of Connecticut?

Fourth. The security implications—what sorts of security measures will be required to protect the inviolability of the secret missile locations? And, are there reasonable assurances that the Soviets do not now have, or are not on the verge of having, the surveillance capability that would make MAP a $20 billion "white elephant?"

I am aware that military preparedness is both necessary and expensive. It is not necessarily the intent of this resolution to thwart the development of the MAP system, but only to obtain the necessary information so that Congress will be equipped to intelligently deal with the likely administration request for full-scale funding in the near future. It is my concern that, without the advance access to information that this resolution would provide, history will repeat itself and Congress will find itself inadequately prepared to deal with all the nuances of a major strategic system like MAP.

The resolution itself would have no binding effect on the President, but it would hopefully serve to catalyze an administration initiative to conduct a thorough study of the potential ramifications of MAP. I believe, Mr. Chairman, that my colleagues will agree that this is a reasonable request and one that may save us much in the way of time, money, and resources in the final analysis.

The text of the resolution follows:

H. CON. RES. —

Whereas recent developments with respect to changes in the U.S./Soviet strategic nuclear balance have resulted in a heightened interest in the survivability of U.S. land-based ICBMs; and

Whereas the military and defense establishment community has, as evidenced by strong statements of support from highly-placed officials within the Administration, expressed interest in the full-scale development of the so-called Multiple Aim Point System (MAP); and

Whereas there has been a significant absence of debate as to the advisability of a full-scale implementation of the MAP System and an alarming lack of opportunity for its review and the presentation of opposing viewpoints; and

Whereas funds have already been expended for the testing and development of the MAP program and additional funds have been appropriated for the coming fiscal year for such purposes, and

Whereas the MAP program would require the excavation of vertical silos located primarily west of the Mississippi River on the continental United States land mass and would require the equivalent of an area the size of the state of Connecticut; and

Whereas there are serious questions about the effects that such a proliferation of vertical silos would have on land use patterns, agricultural productivity, and the environment in this vital region; and

Whereas severe reservations have been expressed about the effect a U.S. commitment to the MAP concept might have on the successful negotiation of the current SALT treaty; and

Whereas the minimum cost estimates for MAP of $20 billion raise extension concerns about the opportunity costs it would involve in terms of other alternatives that would have to be foregone; and

Whereas it is the responsibility of Congress to keep itself fully abreast of developments such as the MAP program, the funding of which would carry with it profound implications for each and every American; Now, therefore, be it

Resolved by the House of Representatives of the United States in Congress Assembled, That it is the sense of Congress that the President of the United States establish a Presidential commission composed of experts on defensive weapons systems from both the military and civilian strategic communities and representatives of the general public, or, if he should deem it appropriate, any other similarly-composed body that is now already in existence, to compare the Multiple Aim Point System with alternative defensive weapons systems, taking into account the effect of each such defensive weapons system on national defensive, foreign policy, and the national budget, and domestic priorities, to evaluate the desirability of implementing the multiple aim point system, and to report its findings to the President and to the Congress.●

PERSONAL EXPLANATION

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 8, 1978

● Mr. LAGOMARSINO. Mr. Speaker, on Wednesday, September 6, 1978, I was not recorded on the first quorum call. I missed that vote due to the fact that TWA flight 88 from Los Angeles to Dulles, scheduled to arrive at Dulles Airport at 6 a.m., September 6, 1978, did not reached the airport until noon on that day.

The flight was delayed for 6 hours in Phoenix, Ariz., due to engine trouble.●

ANDERSON ASKS FOR SUPPORT FOR AIRCRAFT/AIRPORT NOISE REDUCTION LEGISLATION

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 8, 1978

● Mr. ANDERSON of California. Mr. Speaker, from time to time I have entered letters of support from among the wide spectrum of supporters of the Airport and Aircraft Noise Reduction bill, H.R. 8729. These have been for the most part letters from national associations or others representing large groups attesting to their strong sense of need and urgency. I have entered only a fraction of the support letters and wires received either by me or others who have called such letters to my attention. In an attempt to be helpful to my colleagues I have had a list prepared of such communications which I request be entered here. Regrettably it does not constitute a complete list of those we know to be in support based on telephone calls and other reports, and many letters probably will be received in the days immediately ahead; however, the list does indicate wide geographic spread from places large and small, and from business, labor, citizens, and local public officials.

Although I have not been able to personally contact each of you, my colleagues, and ask you personally for your support even though I am confident a majority of you already support the bill, I do ask you for your support and commend the list to you in addition to the mail you have individually received. The chances are good that your local airport operators, your local city officials, your local chambers of commerce, your local labor unions, your State officials, and those airlines which serve you, or to whom you are looking for service, have something at stake here. Several thousand small businesses across the country also have a concern. If your district is impacted by aircraft noise your citizens know full well that they have very, very much at stake. But the general public, who will be involved in supporting this with their tax dollars, and especially the traveling public which depends on good and unrestricted air commerce, also have much at stake. Your support is needed. There is no better time.

The list follows:

SOME SUPPORTERS OF AIRCRAFT/AIRPORT NOISE REDUCTION LEGISLATION

International Association of Machinists and Aerospace Workers.
U.S. Conference of Mayors.
West Palm Beach, Florida, Chamber of Commerce.
Buffalo Area Chamber of Commerce.
St. Paul Area Chamber of Commerce.

Coraopolis, Pennsylvania, Chamber of Commerce.
Dayton Area Chamber of Commerce.
Phoenix Metropolitan Chamber of Commerce.
Chicago Association of Commerce and Industry.
Chamber of Commerce of Hawaii.
Matoon, Illinois, Association of Commerce.
New Jersey State Assembly.
New Jersey State Chamber of Commerce.
Mt. Vernon, Illinois, Airport Authority.
San Diego City Council.
Tucson Airport Authority.
Tulsa Airport Authority.
City of Rochester, Minnesota, and Rochester Airport Authority.
Salt Lake City, Mayor's Office.
Columbia Chamber of Commerce.
Clarksville, Tennessee, Chamber of Commerce.
Greater Hartford Chamber of Commerce.
Greater Providence, Rhode Island, Chamber of Commerce.
Newark Chamber of Commerce.
Empire State (New York) Chamber of Commerce.
Illinois Public Airports Association.
Long Island MacArthur Airport.
Los Angeles Area Chamber of Commerce.
Indianapolis Airport Authority.
Air Line Pilots Association.
Dade County Aviation Department (Miami International)
Hillsborough County Aviation Authority (Tampa)
Port of New York and New Jersey Authority.
Airport Operators Council International.
American Association of Airport Executives.
Metropolitan Airports Commission of Minneapolis/St. Paul.
Minneapolis Chamber of Commerce.
Tucson Chamber of Commerce.
Scottsdale, Arizona, Chamber of Commerce.
Governor of South Dakota.
Tennessee Division of Aeronautics.
Tri-City Airport Commission, Bristol, Tennessee.
Nashville Metropolitan Airport Authority.
Greater Lakewood, California, Chamber of Commerce.
California Director of Transportation.
National League of Cities.
Los Angeles County Federation of Labor.
Mayor of San Francisco.
San Francisco Airport Commission.
Pan Am Pilots Master Executive Council.
Mayor of Los Angeles.
Los Angeles Department of Airports.
Douglas Aircraft.
Los Angeles City Council.
City of Long Beach, California.
Rohr Industries.
Southern California Association of Governments.
Greater Boston Chamber of Commerce.
Wayne County Road Commission (Detroit Metropolitan Airport).
Greater Boston C. of C.
McDonnell-Douglas Corp.
Little Rock Municipal Airport Commission.
ALTA (Association of Local Transport Airlines).
Greater Detroit Chamber of Commerce.
Maine State Chamber of Commerce.
San Francisco Chamber of Commerce.
Massachusetts Port Authority (Logan Airport-Boston).
New England Council, Inc.
Mayor of Peoria, Ill.
City manager, Sioux Falls, S.Dak.
City manager, Pierre, S.Dak.
Rapid City, S.Dak. Chamber of Commerce.
Western South Dakota Development Co.
Marathon Battery Company, Waco, Tx.
Lockheed Aircraft Service Company, Ontario, Ca.
Ladish Co., Cudahy, Wis.
Shaw Aero Devices, Inc., East Hampton, N.Y.
Kirkhill Rubber Co., Brea, Ca.
Marine Lumber Co., Tigard, Oregon.
Protection Systems Division, Ashland, Mass.
Narmco Materials, Inc., Costa Mesa, Ca.
Fairchild Industrial Products Division, Fairchild Camera and Instrument Corp., Commark, N.Y.
Consolidated Controls Corp., El Segundo, Ca.
American Sign/Indicator Corp., Spokane, Wash.
Litton Fastening Systems, Lakewood, Ca.
Port of Seattle, Seattle, Wash.
Nordskog Industries, Inc., Van Nuys, Ca.
Bendix Energy Controls Division, South Bend, Ind.
SSP Products, Inc., Burbank Ca.
Orcon Corp., Union City, Ca.
LeFiell Manufacturers, Santa Fe Springs, Ca.
American Avitron, Division of Lear Siegler, Inc., Rye, N.Y.
Radar Electric Co., Inc., Seattle, Wash.
Griggs Equipment, Inc., Belton, Tx.
Aerospace and Industrial Products Division, SPS Technologies, Inc., Jenkintown, Pa.
Bendix Corp., Davenport, Iowa.
Davis Industrial Products Co., Portland, Ore.
Sperry Flight Systems, Phoenix, Arizona.
Sperry Rand Corp., Phoenix, Az.
Plessey Dynamics Division, Plessey Industries, Inc., Hillside, N.J.
Smith Industries, Inc., Clearwater, Fla.
Star Machinery Co., Seattle, Portland & Spokane, Wash.
AFL-CIO.
Air Transport Association.●

FURTHER UNDERLYING CURRENTS OF PROPOSITION 13

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 8, 1978

● Mr. BROWN of California. Mr. Speaker, we in Congress have often discussed the possible meanings of the recent passage of Proposition 13. I believe the the initiative was partially a criticism of the decisionmaking process in our society. I would like to discuss this point here further today.

All decisions in our society ideally would be democratically made by those persons affected by their outcome, with due consideration to environmental, social and economic questions, and with an emphasis on decentralization. Our society thus would be providing its citizens with control over their own lives. We would be a free and equal people, and the goal of our Government would be the common good. Unfortunately, our system has evolved so that the outcome of most important decisions, made in both the public and private sector, benefit a relatively few persons. Their goal is not the common good but rather private gain (money, perks, prestige, and power over other people's lives). Government intervention was historically limited to protecting personal convictions and private property rights. Economic, social, and political decisionmaking has been slowly transferred from local governments and the private sector to the Federal Government as crises, most notably the Great Depression, and various wars have occurred. Those persons benefiting from the decisions are not mush different, though, as the decisionmakers have changed. Advertising, campaign financing, lobbying, and the general structure in which questions are asked limit most Government actions. The crises continue to occur, because we in Government do not usually attempt to solve the fundamental flaws of our systems, but merely devise further programs to keep our society hobbling along to the next crisis. These programs benefit a wealthy few, but are paid out of general tax funds. Proposition 13 shows that the people are not satisfied with what they receive from their Government. I believe, though, that the people are just as dissatisfied with the private sector. The message of Proposition 13 is that we should stop reforms that merely increase the power and size of Government and business. Our Government should end programs that provide for the private gain of a wealthy few and adopt the goals of the common good I first described.

Unfortunately, Propostion 13 is being used by many as an excuse for indiscriminate cuts in Government spending and attacks on social welfare programs. This could lead to the return of cowboy capitalism and social Darwinism, where the goals and welfare of the poor and middle classes are sacrificed almost completely for the private gain of a wealthy few without consideration of social and environmental consequences. Therefore, we should try to understand the fallacies of the arguments that lead to this end before we attempt to use Proposition 13 as a catalyst for social change. An article from the August 18 edition of the Los Angeles Times, by Blase Bonpane of Cal State Northridge, I think best explains these fallacies. I thus would like to insert here this article, entitled "It's Time to Chop Up Those Myths About the Distribution of Wealth":

PROPOSITION 13

The ideas of every age, according to Karl Marx, were the ideas that belonged to the ruling class. On that axiom he would base his explanation of why middle and lower-class people generally mimic the ideas of society's wealthiest members.

Even today the wealthy have the means and the media to define reality for the rest of us. They do it by perpetuating myths in the thinking patterns of both the ruling and the ruled—myths that, in the wake of the Jarvis-Gann "tax revolt," it is important to examine.

The possibility of establishing a real economic democracy—a truly equitable distribution of goods and services—depends on our ability to expose these myths for the fallacies that they are. Of the seven myths that I am listing here, five are already firmly established in the public mind. The last two have recently been promoted by some of our more frightened and opportunistic politicians.

Myth No. 1: We are middle-class.

So many people claim to be middle-class that it is hard to find anyone who admits to being anything else. However, if the father and mother of a family of four must both work, and if even with their combined salaries they sink deeper in debt each month, they are not middle-class—they are poor. The majority of Americans neglect regular medical and dental care; if this happens, as in many cases, in spite of rigorous budgeting, we are describing poverty. The vast ma-

jority of Americans still have not flown in an airplane or stayed in a hotel.

The people who owe more than they own are rarely suffering from bad management of their family finances. The money that is rationed out after taxes to hard-working Americans is simply not enough to justify referring to most of them as middle-class.

Myth No. 2: Those who have it earned it.

We do not actually live in a meritocracy. Most individuals in the highest ranks of wealth and position entered them at birth, usually on the strength of their parents' or grandparents' labor.

By contrast, no one puts in more demanding physical labor than do farm workers—and no one gets paid less. Even white-collar crime pays better. Offenses against society like tax evasion, embezzlement, price-fixing and consumer fraud are each far, far more lucrative than ordinary street crime. To cite just one example, Ramsey Clark notes in his book, "Crime in America," that "reported bank embezzlements cost 10 times more than bank robberies each year."

The same principle applies to education. The majority of students in college this year are there through parental support. Privilege is stacked on privilege: Once they have a college education, these students will be in a position to earn more than those without one. Farm workers may labor more hours, with equal dedication to their tasks, but their reward will never be as great.

Myth No. 3: "They" don't want to work.

Substandard jobs are filled with blacks and other minorities usually lumped together as "they." Such positions are not unionized (fewer than 25 percent of U.S. workers belong to a union), and they offer no health or pension benefits, and very little income. "They" also stand in line by the hundreds for any decent job opening—one that pays more than the minimum wage plus benefits.

The head of a family cannot realistically afford to accept a job that pays only the minimum wage; in doing so, he would draw approximately the same income as he does on welfare, while surrendering the secondary assistance of food stamps and the option of Medi-Cal in time of crisis.

Myth No. 4: All "they" want is welfare.

Over 90 percent of the people on welfare simply cannot work. They are children, aged, sick or mothers with dependent children whose day-care costs would eat up any income in excess of the amount supplied by welfare.

It is essential to remember that the poor did not design the welfare system. Liberals, including a number of rich ones, established it as a poverty-maintenance program. Welfare is not supposed to lead the poor out of poverty. Fundamentally, it is a domestic pacification program, not a means toward rehabilitation.

Myth No. 5: The middle class supports the poor.

The poor are not supported by anyone; that is why they are poor. In fact, both the poor and the middle class support the rich, by condoning a system that is impossibly weighted in favor of the rich. A person possessed of $100,000 who invests it conservatively can reap an average of $8,000 or better per year for doing nothing at all, while a hard-working husband and wife who rent their home and are struggling to pay bills can find themselves charged 25 percent or more to borrow $1,000 for that same year. And the larger the loan, the lower the interest rate.

For most people, the American Dream will remain just that. It is the exception, not the rule, for the poor and middle classes to move up. Generally they just move over, or down.

Indeed, through all the political and economic fluctuations of the 20th century, the distribution of wealth in this country has shown no fundamental change—this according to Douglas Dowd in his 1974 essay, "The Twisted Dream." Dowd notes that, back in 1910, the top fifth of the population on the economic scale received 46 percent of the national income, while the bottom fifth wound up with slightly more than 8 percent. Only five years ago the top fifth was still getting more than 40 percent, while the bottom fifth was scraping along with a little more than 5 percent.

Myth No. 6: We are going to cut the fat.

Payments to senior citizens do not constitute fat in anyone's budget. Reducing or eliminating those expenditures is a curtailment of essential services. So is the termination of summer school.

Budgetary fat does include inflated salaries and excessive privileges enjoyed by many elected officials. Do such luxuries as limousines, chauffeurs and tax allowances not available to the rest of us add measurably to the efficient performance of an officeholder? I think not. And my heart stops bleeding when I see salaries begin to rise much above $30,000 a year.

In condoning such inequities, Gov. Brown and the Legislature are making whipping-boys of precisely the members of society who are least able to defend themselves. Instead, in my view, California officials should stand up to the economic powers-that-be by instituting an impartial progressive state income tax that would be hardest on those who could most easily afford it.

The surplus already accumulated from state taxes could have been spent on services for the people of California who paid those taxes in the first place. Why is it now being trundled out as the reason that Proposition 13 cuts will not hurt so much?

Unfortunately, the reduction in statewide property-tax revenues will hand back about $2 billion in extra income taxes to the federal government, and an additional amount that may well run into billions to national and international corporations for their use outside California. Can this state so easily afford to lose that much money as "fat"?

Myth No. 7: The people have spoken.

The only statement that the people made in their vote for Proposition 13 was that they did not want their property taxed in the way it was being taxed. They did not, however, insist on forestalling a progressive state income-tax program; they did not even ask for a constitutional amendment to limit state spending (although they may have an opportunity to vote on such an amendment this November). The people did not ask to have schools closed for the summer, library hours cut or fees imposed for garbage collection. On the contrary, they believed that it was possible to have better education and better services available to all with lower property taxes on private homes.

It is time for the governor of California to ask himself whether he wants to maintain these myths or to serve the common good. Come on, Jerry—*noblesse oblige*.●

KEEPING AN EYE ON AIRBUS, CONTINUED

HON. MARK W. HANNAFORD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 8, 1978

● Mr. HANNAFORD. Mr. Speaker, it has come to my attention that it is not only the House of Representatives and the Department of the Treasury that are particularly interested in French Government activities on behalf of Airbus Industrie in its sales efforts in the Republic of China. Our colleagues in the Senate are also watching. I insert a copy of a letter from four of our distinguished Senators to Secretary of the Treasury Blumenthal on this matter:

AUGUST 11, 1978.

Hon. W. MICHAEL BLUMENTHAL,
Secretary of the Treasury, Department of the Treasury, Washington, D.C.

DEAR MR. SECRETARY: We have received reports that the French have offered China Airlines landing rights in Paris in exchange for the purchase of the Airbus A-300. Landing rights tied to an aircraft sale would violate the OECD understanding with respect to the sale of aircraft.

We urge you to investigate the allegation and take appropriate action. Aircraft sales should be based on fair competition in conformity with the international rules previously agreed upon by the principal exporting countries.

We look forward to receiving the results of your investigation.

With best wishes,

Sincerely,

WILLIAM PROXMIRE,
Chairman, Committee on Banking, Housing and Urban Affairs.
EDWARD W. BROOKE,
Ranking Minority Member.
ADLAI E. STEVENSON,
Chairman, Subcommittee on International Finance of the Committee on Banking, Housing, and Urban Affairs.
H. JOHN HEINZ,
Ranking Minority Member.●

NATURAL GAS COMPROMISE SEMINAR SEPTEMBER 12

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 8, 1978

● Mr. DINGELL. Mr. Speaker, if the Senate approves the conference report on the natural gas portion of the energy bill, the House will be casting the final, deciding vote on this critical question. The Congressional Research Service has just announced that it will be holding an informational debate seminar on the pros and cons of the natural gas compromise next Tuesday, September 12, for all interested Members and professional staff. Because this program is being planned on short notice, notification of it may not reach all congressional offices in time. I believe that the planned program may be of significant value to those who are considering the merits of the natural gas conference report. I therefore ask that the announcement of the seminar be printed in the RECORD and encourage all interested Members and staff to attend.

THE NATURAL GAS COMPROMISE—PROS AND CONS

In response to the anticipated debate, the Congressional Research Service invites Members and staff professionals to a seminar on the Natural Gas Compromise.

Date: Tuesday, September 12, 1978
Time: 9:00 a.m. to 11:00 a.m.
Place: Coolidge Auditorium, Library of Congress

Panels will offer five-minute arguments on each of the following issues:

1. Is the natural gas compromise an enforceable piece of legislation?
2. What are the impacts of the compromise on consumers, both residential and industrial, compared to the status quo?
3. How will natural gas producers fare under the compromise, compared to the status quo?
4. How will gas supply respond under the compromise as compared to the status quo?
5. What is the impact of the compromise on the dollar, the balance of payments, and the U.S. image abroad?
6. Are there any practical current alternatives to the compromise and will Congress face the issue again if the compromise fails?

Written and oral questions from the audience will be entertained after the debate.

PANELISTS

Pro

Leslie J. Goldman, Prin. Dpty. Ass't Sec'y, DOE.

George H. Lawrence, Pres., American Gas Assoc.

William Demarest, Counsel, Energy and Power Subc.

J. N. Warren, Natural Gas Producer.

Con

Jack M. Allen, Pres., Indep. Petroleum Assoc.

Danny Boogs, Senate Energy Committee.

James Flug, Exec. Dir., Energy Action Committee.

A Noted Economist.

Questions about the seminar may be directed to John Jimison, 426-5880.●

DEFENDING THE DOLLAR: THE CRISIS OF CONFUSION

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 8, 1978

● Mr. KEMP. Mr. Speaker, that the U.S. dollar is in trouble can come as no surprise. We read daily of its decline in the world's money markets—a decline against currencies in Western Europe, against the Japanese yen.

International monetary policy can be an incredibly complex subject area. But what is wrong with the U.S. dollar and what ought to be done about it is not incredibly complex. It is something which can be dealt with in only a few movements, if there is national U.S. leadership committed to it, committed both to understanding the issue and to doing something about it.

The roots of the dollar's problems go back for several administrations, but the precipitous decline has occurred in the current administration. The year 1977 marked the beginning of the dollar's sharp decline, declining in that 1 year about 20 percent against the German mark and about 30 percent against the yen. In just 90 days, the dollar lost one-fifth of its value against the Swiss franc.

This issue must be understood and a course of action charted. A major contribution to those twin objectives has been made in the Washington Review of Strategic and International Studies by Richard J. Whalen. Mr. Whalen is a political and economic writer, consultant, and president of the Worldwide Resources, Inc., of Washington. Many will remember him as the author of such best sellers as "Catch the Falling Flag," and "Taking Sides."

Mr. Whalen has detailed what has happened to the dollar during the current administration and he has offered some thoughtful solutions for correcting the situation.

This important piece follows:

DEFENDING THE DOLLAR—THE CRISIS OF CONFUSION

(By Richard J. Whalen)

I

Early last spring, on his final day on the job, ousted Federal Reserve Board Chairman Arthur F. Burns held a rare, on-the-record, direct-quotation news conference and fired a few parting salvos at the misguided policies of the Carter administration, especially its failure actively to defend the international value of the dollar. In his best Old Testament manner, the white-haired, 73-year-old conservative economist solemnly warned: "I fear that if the dollar continues to depreciate, it may bring on, before very long, serious international economic and political trouble."

Privately, Burns was known to believe that this "trouble" had already overtaken the inept administration. The floating dollar was sinking beneath unprecedented trade and current account deficits, swollen by an accelerating domestic inflation. Nevertheless, Burns cast his public counsel in a somewhat more hopeful vein because, as he told a questioner, "the thinking of the government is evolving," and he evidently hoped it might yet be moved toward his position.

Repeating advice unheeded earlier in administration councils, Burns urged mobilization of the nation's official financial resources, including the expressed willingness to sell the entire $50 billion gold hoard if necessary to bolster confidence in the dollar. ("What the hell are reserves for?" he thundered.) He also proposed large-scale Treasury borrowing abroad through the issuance of new bonds to be denominated in foreign currencies, a scheme flatly rejected by Treasury Secretary W. Michael Blumenthal. These fairly dramatic short-term measures would buy time to pursue "fundamental correction" of the dollar's major problems, said Burns. Permanent solutions would be found along several "routes," he declared, pointing to such remedies as a "significant" energy-conservation policy, a "credible" antiinflation policy, a tax policy encouraging capital formation and business investment, and more rapid economic growth among leading U.S. trading partners.

The farewell news conference of the retiring Federal Reserve Board chairman, though skillful as ever, caused scarcely a day's ripple in the Washington media pond. So Arthur Burns was sounding off again on the dollar—and what else was new? Yet it was noteworthy nonetheless that Burns had chosen these international concerns for his closing lines. If one listened closely, one could detect in his words a disturbing echo of similar urgent warnings sounded in the spheres of international politics, strategy, and military affairs—warnings against the tendency of post-Vietnam America indiscriminately to slough off foreign burdens, obligations, and commitments. Our political leaders were seeking to redefine the nation's position in the world according to popular desires rather than as hard necessities dictated. In publicly admonishing the administration, Burns was trying to awaken proper concern for the dubious message sent overseas by the dollar's plunge amid official indifference.

Burns's departure removed from power one of the last representatives of the post-World War II leadership generation in the United States. He had first entered government service as a part-time adviser to the Treasury in the late 1930s, and like many other distinguished academics and men of business and finance, he had shuttled between New York and Washington during the decades after the Second World War to help steer the country on the course of international cooperation appropriate to its unique influence in world affairs. Burns and his contemporaries acted on assumptions that looked beyond crisis, and these anchoring beliefs gave long-term continuity to U.S. policy. They naturally inclined to the view that America's leadership combined moral and practical imperatives, and that the marketplace advantages of economic primacy were balanced by acceptance of responsibilities to others even at the cost of pain and sacrifice. One of these was the duty to uphold the dollar's integrity.

Like so much else that belonged to the post-World War II perspective and policy consensus, this view of America's role was a casualty of the strange war in Vietnam, which President Lyndon Johnson "escalated by stealth"—Eliot Janeway's telling phrase—and financed through inflation. This fiscal deception in the mid-1960s laid the groundwork for the economic upheavals of the early 1970s. At the same time, Johnson's Great Society social welfare programs, with their fantastic built-in spending increases, tilted the fiscal balance decisively from foreign to domestic priority and, by determining the shape of future budgets, confirmed the nation's inclination to become self-absorbed.

II

The international monetary system created at Bretton Woods in 1944 rested on the dollar and depended crucially on a reasonable degree of intelligence, foresight, and self-discipline in Washington's economic policy making. (It also depended, among other things, on the willingness of Americans and foreigners to live with a relatively overvalued dollar, but that is another and more technical matter.) Because U.S. domestic monetary policy determined monetary conditions for the rest of the world, stability at the center was essential. In return for the great financial and trading advantages of possessing at the world's key currency, the United States was expected to restrain those domestic political forces pressing for inflationary expansion measures. This proved to be too much to ask of politicians. The crucial attributes of American policy assumed to be the foundation of the dollar's position began to erode in the late 1960s and then disappeared in a rush in the early 1970s as inflation soared.

The dollar devaluations that President Nixon attempted to depict as triumphs of American statecraft were in fact the financial analogue to the military retreats of an overcommitted United States. And Nixon's ill-conceived New Economic Policy, with its import surcharge and peacetime wage and price controls, reflected the inwardness of post-Vietnam America. Thus, even before the spectacularly successful price-gouging of the Organization of Petroleum Exporting Countries and the onset of the Great Recession of 1974–75, the dollar-centered international economic system was in dancer of being shaken apart by the fundamental inflationary disequilibrium developing within the United States.

Here we may briefly note the ambivalence that foreigners typically display toward the United States, the ubiquitous dollar, and official U.S. economic managers. They are dependent on the special status of the dollar, yet they resent it. Because the United States is the world's most important export market (it absorbs some 15 percent of total exports), foreigners have a clear self-interest in a prosperous and expanding American economy. Yet they also insist that such expansion should be as noninflationary as possible. Because they hold so many dollars (roughly 80 percent of official foreign currency reserves overseas are held in dollars; the private Eurodollar pool consists of an estimated $400 billion), they wish to preserve these assets

against the ravages of inflation and exchange-rate deterioration—hence their ceaseless clamor for a "strong" dollar. Yet they also fear the impact on them and their markets of the kind of trade and balance of payments surpluses that a fully competitive United States might generate in pursuit of unquestioned "confidence" in the dollar.

The self-perception of foreigners, especially in Europe and Japan, is profoundly affected by their seemingly helpless dependence on the dollar. As Claude Monnier, editor-in-chief of the prestigious *Journal de Geneve*, told an American interviewer last March: "We are very, very nervous about the fall of the dollar, not because it means we will be selling fewer Mercedes automobiles in the United States, but because it is proof that we are weak. We are weak because there is nothing we can do to stop the fall. We feel completely powerless."

In practical as well as psychological terms, there is no alternative to the dollar. More than 40 percent of the world's trade is denominated in dollars. The petroleum-exporting and consuming nations need ready access to scores of billions of dollars annually to finance the international oil trade. Only the dollar offers a currency supply large enough to meet the world's enormous trading and financing demands. Yet the fanciful notion of doing global business with "baskets" of several currencies, mixed together like so many apples, persists and invariably revives when the dollar weakens.

During the Burns era, foreign central bankers usually could resolve their recurring doubts about the dollar through their personal trust in the intelligence and integrity of their American counterpart. His professorial manner, even his old-fashioned rimless spectacles and his hair parted down the middle, seemed cause for reassurance. His European heritage helped. For his part, Burns recognized that the ultimate guarantee of the dollar's value was the performance of the U.S. economy. Washington's fiscal and monetary policies would satisfy dollar-holders abroad if they appeared to be working at home; but they were visibly failing, no official words, gestures, or "intervention" gimmicks could boost American credibility and foreign confidence. Of course, in his own antiinflation rhetoric, which sometimes bore only faint resemblance to actual Fed policy, Burns made a personal exception.

III

President Carter and his administration see the world economy, America's place in it, and the role of the dollar in an entirely different way. To the extent that high administration officials have truly settled on international economic policy, these are based, not on deep-rooted convictions and assumptions such as the post-World War II generation shared, but on freshly minted abstract theories about the way the real world ought to work. The arrival of such men as Richard Cooper of Yale at the State Department and of Fred Bergsten of Brookings at the Treasury, along with their supporting casts, signalled a coming to power by the academics under Carter that was far more consequential than the celebrated (but largely illusory) reign of the intellectuals in the Kennedy years.

In an interview early in 1977, a senior Treasury official under the sway of fashionable academic theories expressed to me his delight at "the strength and stability" of the dollar under the floating-exchange rate system, and his complete confidence in the systems' ability to continue to absorb a rising U.S. current account deficit, which he then underestimated at barely one-third its eventual mammoth size for the year. This head-on clash between theory and reality, between arrogant policy and unexpected results, explains much of the new administration's difficulty overseas in its first year. The near-collapse of the dollar destroyed Carter's credibility before he could begin building it. And the "tragedy," as Burns remarked, was that the dollar's fall was unnecessary.

Treasury Secretary Blumenthal, the former chairman of the Bendix Corporation (but no insider in the corporate business establishment) was himself an international economist as well as a Kennedy-era trade negotiator. Although he prided himself on being a pragmatic operator, he fell in easily with the theorizing of Undersecretary Anthony Solomon and Assistant Secretary Bergsten. Early in his tenure, Blumenthal began expounding the theme that the mounting U.S. payments deficit was not an embarassment but an exemplary American contribution to international financial stability and the collective adjustment to OPEC's steep levy on oil consumers. The United States thus was enabling other nations to earn or borrow the dollars to pay their oil import bills.

If he had stopped about there in his public remarks, Blumenthal would have been more right than wrong. In the unprecedented financial circumstances created by OPEC, a substantial U.S. payments deficit was appropriate and indefinitely sustainable, at least as long as the cartel ran a collective surplus with the rest of the world. After all, the OPEC nations with payments surpluses recycled their dollars through the American private banking system and bought many billions of dollars annually of Treasury bonds, thus painlessly financing a large fraction of the chronic U.S. budget deficit. (In 1977, as Blumenthal seemed to overlook, fully one-third of the Treasury's cash needs were borrowed overseas.)

With a cynical shrug, foreigners could have swallowed Blumenthal's claims of altruism when in fact the special status of the dollar made it easy for the U.S. to pay its oil bills. As a former senior Treasury official had once observed to me: "The U.S. can print dollars as fast as OPEC can pump oil." Foreigners might even have suppressed their suspicion that the U.S. was deliberately allowing its payments deficit to soar (an attitude soon dubbed "malign neglect") and thereby tacitly devaluing the dollar once again in order to gain a competitive edge for U.S. exports. As foreigners saw it, that official expediency postponed the evil day of reckoning when Americans would be forced to cease paying artificially low, government subsidized prices for imported energy.

But Blumenthal did not stop at any of these points. Noting the sharp swing in the U.S. payments position from an $11 billion surplus in 1975 to a larger and still growing deficit in 1977, the secretary presumed to advise our allies on how to run their economies. He insisted that the other major trading nations, especially Japan and West Germany, should quickly reduce their surpluses, stimulate their sluggish domestic economies to absorb more imports, and allow the value of their currencies to rise against the dollar. Even at this point, after semipublic hectoring of Bonn and Tokyo, Blumenthal could have halted without too much damage to his own or the dollar's credibility. Instead, presenting a spectacle that shocked and dismayed foreigners, he rushed headlong to throw his weight against the dollar in foreign-exchange markets.

In late June 1977, at a Paris meeting of Western finance ministers, Blumenthal bluntly declared: "We need significant shifts—into deficit—in the [balance of payments] positions of such surplus countries as Japan, Germany, Switzerland, and the Netherlands." He insisted on language in the conference communique indicating the deutschemark and the yen should be allowed to float upward. Until the American secretary of the treasury launched his "open mouth" devaluation effort, the dollar had been strong despite the mounting U.S. payments deficit. Capital inflows had made up for trade imbalance, insulating exchange and financial markets from the effects of the deficit. Swiftly, however, foreigners now heeded Blumenthal's advice that the dollar was overvalued and switched into "stronger" (undervalued) currencies such as the yen, the mark, and the Swiss franc.

By needlessly increasing the exchange risk to dollar holders, Blumenthal had triggered a panicky, self-reinforcing flight from the U.S. currency and dollar-denominated assets. After Blumenthal's mid-June speech, the dollar plummeted, and it kept on falling for the rest of the year. By the end of 1977, it had declined about 20 percent against the German mark and roughly 30 percent against the yen. Within a span of only 90 days, the dollar lost one-fifth of its value against the Swiss franc. The reversal of capital flows was stunning. In the first half of 1977, items reflecting private capital movements into the United States showed a net surplus of $2.9 billion; in the second half, this became a $6.6 billion outflow.

Like the sorcerer's apprentice, Blumenthal found the violent market fluctuations were too much of a presumed blessing, but neither he nor his colleagues had any idea how to turn off the devaluation process. Meanwhile, the wildly gyrating value of the world's trading money disrupted markets, caused record-level bankruptcies in Japan, pushed up unemployment in stagnant West Germany, and generally depressed international economic activity. Confidence in U.S. leadership fell even further than the dollar. West Germany's thoroughly alarmed Central Bank President Otmar Emminger declared: "The decline of the dollar has gone far beyond what could be justified by the facts."

Treasury officials emphatically agreed, complaining that the exchange markets were "irrational." If floating exchange rates had been working according to theory, adjusting currency values to differing rates of domestic inflation, experts calculated that the dollar might have lost perhaps 3 to 4 percent of its value against the German mark. Obviously, the markets were applying a much larger discount than the theorists anticipated for uncertainty arising from American unpredictability and demonstrated incompetence in managing both the dollar and the domestic economy. As the *Wall Street Journal* declared: "This flight from the dollar is a massive vote of no-confidence in the policies of the administration and the Federal Reserve." Ironically, long before producing any promised trade advantages, the cheaper dollar boosted the cost of imports and encouraged domestic producers to hike their prices, too, thus worsening the overall inflationary threat to American consumers and, more than incidentally, to the Carter presidency.

IV

Late in 1977, the administration heard a succession of entreaties from foreign leaders to "do something" about the free-falling dollar, climaxed by the plea of Saudi Arabia's King Khalid, whose kingdom possesses more than $55 billion in paper assets subjected to inflationary erosion. In a face-to-face meeting with President Carter, he made an impressive appeal backed by a credible "or else" threat pinned to higher oil prices. Carter at once gave the commitment demanded, turning it over to Blumenthal and his colleagues to redeem. Rather naively, they assumed that

they could talk and manipulate the dollar upward as surely as they had driven it down earlier. Their magic formula: "intervention."

By this time, the secret, behind-the-scenes campaign to gain the reappointment of Federal Reserve Board Chairman Burns had more or less conclusively failed. With his term due to expire at the end of January, the chairman, who had stood aloof from the efforts on his behalf, was as completely his own man as he had ever been. When informed by Carter and Blumenthal that official indifference to the dollar was now to be succeeded by "intervention," even on what the secretary called a "massive" scale, he approved the new approach. But he went on to tell them that "intervention in itself is not a policy."

On January 4, 1978 in an extraordinary joint statement, the Treasury and the Federal Reserve Board announced that they would begin to intervene "actively" in chaotic foreign exchange markets, using borrowed West German marks and other "strong" currencies to buy up dollars. To some anxious and credulous dollar-holders overseas, that statement may have had the same thrilling sound as the bugle call of the cavalry riding hard to the rescue in the final reel of the classic Western movie. But the speculators were unimpressed, and after a short-lived rally, the dollar resumed its decline. Although the battered currency was overdue for a strong technical rebound, the markets concluded that "intervention" left adverse fundamental factors unchanged.

As Burns had forewarned, official U.S. and foreign resources available for supporting the dollar—on which Blumenthal appeared unbriefed—were piddling alongside the hundreds of billions of dollars in private and potentially speculative hands. In 1977, foreign central banks had spent an estimated $40 billion to prop up the dollar, much of it by the skilled market-riggers of the Bank of Japan, but all to no avail. In terms of influencing flows of liquidity, "intervention" was like dipping a teaspoon into Niagara Falls.

Burns did more than deliver a private White House lecture. Acting on his own initiative, he resolved to give the Carter-Blumenthal exercise in symbolism at least a measure of substance. At a meeting of the Fed's board of governors on January 6, he proposed, and a divided board adopted by a close four to two vote, an increase in the discount rate from 6 to 6.5 percent. This was the first increase in the discount rate for balance of payments reasons in a decade, a fact that conveyed its own symbolic message abroad.

The Treasury was *not* informed in advance of the action. According to an aide, Blumenthal was "furious" at the news. He was angry chiefly because the Fed's decision to increase a key interest rate and restrain the domestic economy had been for *international* reasons, which he bitterly characterized as an "unforgivable" distortion of priorities. Burns stood his ground. He refused to allow the administration to waffle and attempt to embrace a fundamental contradiction. Either it would defend the integrity of the dollar through such classical (and credible) measures as raising rates and restraining the growth of the money supply, or it could persist in a kind of "America-first" economics based on continued inflationary expansion, regardless of the damage to the international value of the dollar. But it could not have it both ways.

Subsequently, in March, when the Treasury came up with an unconvincing defend-the-dollar plan, Burns personally intervened with West Germany's central bankers on Blumenthal's behalf. In transatlantic telephone calls, he persuaded his friends and former colleagues to agree to an additional $2 billion in "swap" arrangements to bolster the dollar. It remains to be seen whether these all-important lines of personal communications, based on trust, can be kept open in the future.

V

To defend the dollar, the source of its peril must be clearly identified. It is simply this: we are creating too many dollars. An inflationary monetary policy, reflected in more rapid recent price increases in the U.S. than in any other major industrial country, lies at the heart of the dollar's weakness. This dangerously accommodative stance is forced on the Federal Reserve by loose U.S. fiscal policy, which has produced 16 budget deficits in the past 17 years.

The dollar crisis grows out of the intellectual bankruptcy of orthodox, neo-Keynesian economic theory, which rationalizes mounting deficits as the sure-fire stimulus to achieve "full employment." Instead, the deficits now yield higher levels of inflation, a rapidly expanding federal borrowing requirement, and disappointingly slow growth. Nevertheless, despite the perverse effects, the prescription remains unchanged: *inflate*.

But astute foreigners are not so trusting as they once were, and they test avowals of good intentions by performance. Each Thursday afternoon, when the Federal Reserve issues the weekly money-supply figures, dollar-holders abroad are attentive and many adjust their investment strategies according to the changing inflation outlook. For more than a year, the biggest dollar-holders, the Saudis, have been sending not-so-subtle messages to Washington through the money markets—by buying British pounds and by shifting their short-term investment funds from dollars into marks and Swiss francs. If they have not already done so, they are in a position to send a message that cannot be ignored simply by restricting their purchases of U.S. Treasury debt issues. Such a "buyer's strike" could force the Treasury into borrowing in foreign currencies, a procedure that would compel Washington to bear exchange risk involved in committing itself to future repayment of marks or yen. "We always do the right thing after exhausting the other possibilities," notes a governor of the Federal Reserve who has urged such borrowing.

In a speech in mid-April, Henry Kaufman, one of the most respected economists in Wall Street, said: "I have come to the sobering conclusion that the dollar's role in international finance is overextended. In a global inflationary environment the key reserve currency is subjected to increasing volatility and pressure * * *. In addition, the compromise with inflation domestically arouses doubts among foreign dollar creditors about the will of the government of the key reserve currency to defend its currency and maintain its world banking role."

Kaufman, like many others, speculated on the possibility that eventually a new international monetary system might be devised, one that reduced the dollar's role and perhaps shifted the burdens to multiple reserve currencies. But the major trading nations, especially Japan and West Germany, are not willing to see their currencies become "internationalized" and thereby escape the control of domestic monetary authorities. It is precisely the absence of meaningful international cooperation that subverts the present system and makes a new and basically different one so difficult to imagine.

So the world is stuck with the dollar, at least in the near future, and has no real choice but to continue transacting its business and holding its reserve assets in U.S. paper. This should not be the excuse, however, for a short-sighted and complacent U.S. attitude that ignores the international consequences of domestic inflation. At a minimum, the U.S. needs to restrain its oil imports by one means or another, expand its agricultural and high-value technology exports as systematically as our Japanese competitors, and adopt tax measures and investment incentives to restore the productivity and competitiveness of American industry. Ideally, these measures would be taken within the framework of a new analysis and strategy for the U.S. economy, which outgrew Keynesianism a generation ago.

Unfortunately, a fairly broad consensus, including much of the business and financial community, favors inherently inflationary fiscal and monetary policies. The reason is as plain as the statistical evidence: we are a nation of debtors (private, corporate, and public) and we greatly prefer cheap money and ample credit to keep the leverage game going as long as possible. This "structural" bias is often overlooked. The vested organizational interests favoring "moderate" inflation are also vastly more powerful than those opposing it because the former are protected by various forms of "indexing."

All in all, the domestic priority in economic policy and politics is becoming very nearly absolute. Americans are unaware of any need to adjust their domestic appetites to their international financial condition, and their elected leaders, in this generation, are not telling them otherwise. Americans reject the discipline that balance of payments deficits impose on other nations more dependent on trade. From Congress to Main Street, they mentally inhabit a securely America-centered, dollar-oriented world—and so, apparently, does the provincial Jimmy Carter. Professor Ralph B. Levering, in his newly published book, The Public and American Foreign Policy, 1918–1978, predicts that "if the next series of international crises center on economic issues, the American people may be almost as ill-prepared to deal with these crises intelligently as they were to judge the merits of escalating the Vietnam War in 1965."

In April of this year, confidence at home and overseas rallied, sending the New York Stock Exchange into orbit. Newly appointed Federal Reserve Board Chairman G. William Miller, former chief executive of Textron Corporation, impressed businessmen (and surprised the White House) by echoing Burns's antiinflation opinions. What's more, the Fed gave weight to Miller's words by pushing up short-term interest rates.

Meanwhile, the president finally unveiled his own, largely voluntary program to deal with inflation, and it, too, boosted confidence because he put his most accomplished political aide, Special Trade Representative Robert Strauss, in charge. Finally, the Treasury announced plans to sell modest amounts of gold from its reserves over a period of several months. The West German press praised the move and especially the new attitude of Secretary Blumenthal. "He has undergone an inner change so exemplary as to be found only in Biblical history," a Frankfurt newspaper rejoiced.

The surge of optimism abroad was as excessive as the earlier deep slide into pessimism. It did not matter whether Blumenthal had seen the light or even whether Carter had seen the rapidly growing threat to his tensure beyond 1980. What did matter was Washington's belated acceptance of the seriousness of the inflationary danger, which at last put the administration in step with the allies.

Economics will not determine the future of the dollar or the international payments system based on it. Ultimately, this system rests on certain assumptions about the character and behavior of the political leadership of the United States. For semantic convenience, these assumptions are commonly bundled together in a single word—"confidence."

The steep decline of the dollar reveals in-

creasing doubts abroad not only about the immediate value of our currency and the near-term prospects for the U.S. economy but also about the long-term validity of the underlying political assumptions. To foreigners, the most important assumption is that, at the level of national policy, the United States can be depended on to act from a rational and intelligible estimate of self-interest. In calculating their risks and making decisions that must be translated into buying and selling dollars, foreigners may disagree with Washington's views, but they must be able to understand them, see how they reflect American calculations, and how they serve American objectives. In too many instances during the first year and a half of Carter's presidency, this has simply been impossible.

If we Americans seem to know where we are going and why, foreigners are better able to decide, for their own reasons, what course to pursue. It is an aimless, politically irrational, and morally self-indulgent America that alarms them and causes them to take flight from the dollar and our larger common causes.●

NOTHING FUNNY ABOUT POLISH JOKES

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 8, 1978

● Mr. ZABLOCKI. Mr. Speaker, recently my esteemed colleague and friend, Representative JOHN G. FARY, condemned in remarks before the House a current motion picture production defaming persons of Polish descent in the crudest possible manner.

I personally deplore such disparagement of Polish Americans or any ethnic group, and join in the denouncement of irresponsible filmmaking, which profits from such abuses of constitutionally protected freedom of expression.

In that vein, I would like to share the following commentary which appeared recently in the Milwaukee Journal, which succinctly expresses the righteous anger of Polish Americans everywhere whose contributions to the greatness of our Nation seem to be rewarded with ill-conceived, malicious humor:

NOTHING FUNNY ABOUT POLISH JOKES

(By Matt Babinski)

In the movie "The End," Dom DeLuise portrays a Polish schizophrenic. His performance is highlighted by a lengthy series of Polish jokes. Raw Polish jokes. Crude Polish jokes.

I am a first generation Polish American. A Pol-Am.

Polish jokes are protected in this instance by the First Amendment. As an individual, I have no practical recourse in a court of law for any defamation to me. What has been my injury? Impossible to measure. Theirs is a multimillion dollar enterprise. My resources are meager. As a distinct legal class, we don't exist. Second and third generation Polish Americans legally are simply Americans. Sub rosa, however, the Polish American is classified. He is a second class American.

I compared a few of the movie's reviews. Elliott of the Chicago Sun-Times ". . . and a full star to DeLuise, who shakes us awake as an asylum inmate traumatized by a childhood of Polish jokes. . . ." Siskel of the Chicago Tribune, ". . . DeLuise's is a rich performance that takes over the second half of the movie. . . ." Vincent Canby of the New York Times, ". . . the film's sustained comedy, supplied by the incomparable DeLuise, amounts to a solo nightclub act. . . ."

Not one of them mentioned that DeLuise's characterization might, just might, be highly offensive to many of the 12 million Americans of Polish descent. What in the world were these reviewers thinking of with this praise? Are they that blind to bigotry? That insensitive? Canby of the Times, Dodds of the New Orleans Times-Picayune, and Rich of Time Magazine made no reference whatsoever of the Polish characterization or the Polish jokes. How could they have failed to mention this blatant group defamation?

Has the evil of these Polish jokes now become so deep rooted that it is accepted as a norm by perceptive reviewers? This defamation, under the guise of movie irreverence, has become so commonplace that everyone is expected to participate. Next, a TV audience of 30 million will be invited to indulge, children included.

Recently, a friend attended a performance of Voltaire's "Candide" at Stratford in Canada. When a simple mention of a Polish something or other occurred in this 18th century play, the audience burst into laughter, totally unrelated to the play. Is this the future "Krystalnacht" for my people, where any reference to them within a dramatic piece will produce a similar wave of spontaneous laughter?

It's partially our own fault. We have permitted this to happen through the meekness of our politicians, the timidity of our clergy, our ignorance, our reluctance to get involved, shyness in speaking out, fear of jeopardizing opportunities to get ahead if too outspoken on Polishness. Maybe we're like the Jews were in Germany in the thirties.

No longer can I be silent. Come what may. Our awesome Bill of Rights protects the right of actors and writers to express themselves freely. For me, Polish jokes foul precious memories of my mother, widowed with seven children in the 1930s, knowing very little English, insecure, yet somehow guiding us through it all. The "rich performance" upstages the care, love, affection and traditions imparted to me by my small community of relatives and Polish neighbors. The DeLuise nightclub act ridicules my name, Babinski, about the only thing my TB victim father could pass on to us seven.

I must learn to hate. I must hate with a vengeance those who are trying to destroy by ridicule and irreverence all those things that are dear to me and to my people, my Polacks.●

A VERY SPECIAL 40TH WEDDING ANNIVERSARY

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 8, 1978

● Ms. OAKAR. Mr. Speaker, a very special occasion was celebrated in my district recently—the 40th wedding anniversary of Ann and Emmet Holleran. I want to take this occasion to comment on the fact that in this day and age when marriage is looked upon by some as "old-fashioned" and bringing children into the world is not considered as important as it once was, the Hollerans are a joyful and wonderful family.

I want to extend my congratulations to them and their children on the occasion of their 40th wedding anniversary and to use this occasion to say that there are many families like the Hollerans in this country who adhere to the traditional family life, and who believe in the old-fashioned virtues we are so fond of extolling from our pulpits and our platforms. May they have many more years of happiness together.●

"HELPERS FOR CHRIST" SET EXAMPLE

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 8, 1978

● Mr. FINDLEY. Mr. Speaker, we all remember the fairy tale of the elves who did the shoemaker's work for him when he was too sick to do it for himself. Well, it happens in real life—only the "elves" are more like angels.

Each summer a group of 15 or more teenagers from Sherman and Athens, communities near Springfield, Ill., spend 12 days living away from home donating their labor to repair the homes of those who cannot do the work themselves or afford to have it done. During the year the teenagers earn money for building materials through pizza sales and by manning coat check booths at dances.

They are called "the Helpers for Christ" and are supervised by Father Peter Mascari, the pastor of Catholic churches in Athens and Sherman, formerly pastor at Pittsfield. It is an example that other groups, religious and secular, could well follow.

The nature and value of their work is reviewed in two articles that I would like to place in the CONGRESSIONAL RECORD. One article is by Bob Hastings, editor of the Illinois Baptist. The other is from the Cairo Evening Citizen.

It is hard to think of a better way for young people to spend some time. They help others, and no doubt learn a lesson in charity and goodwill that stays with them the rest of their lives.

Text of articles follow:

"THE NEEDIEST"

(By R. J. Hastings)

"The Helpers of Christ" is a group of Catholic teenagers from the Illinois communities of Athens and Sherman who *look* for people to help. Throughout the year, they raise their own funds in various projects. Then in June, they spend 12 days helping a needy family somewhere in the Midwest.

"We go to the public aid office," Father Peter Mascari told me, "and ask for the names of some of their neediest families. Maybe it's a family that needs a new roof on their house. Or the house needs painting, or some minor electrical or plumbing work. We go in with our own material and tools, and do the job for them. There's no cost, no obligation. We do it in the name of Christ, to make life a little easier for someone who really has it tough."

When pastor Mascari told me this story, I thought of Job 15–16, "I was eyes to the blind, and feet was I to the lame. I was a father to the needy; and the cause which I knew not, I searched out."

There's no end to appeals. Solicitors stop us on the street. Door-to-door canvassers

come with pledge cards and contribution envelopes. Almost daily, the mail brings another appeal for money. Each new fund-raising drive persuades us why we should give.

But the Bible verse from the book of Job, quoted above, talks about *looking* for places to give, not waiting to be solicited. "And the cause which I knew not, I searched out."

Some of the neediest people have no one to champion them, no one to plead their cause. They will be found only when we look for them. In fact, they may be too proud to signal their need. And remember, not all needs are material.

That's why I admire "The Helpers of Christ." They're looking—not waiting!

"HELPERS FOR CHRIST" GROUP ASSISTS NEEDY HOMEOWNERS

Several families in Alexander and Union counties will be getting some help in repairing their homes during the next week.

Members of the "Helpers of Christ" group headed by Father Peter Mascari, are in the area until June 30, painting repairing roofs, paneling, and constructing porches.

The group of 15 high school students and nine adults are from two communities outside Springfield, Ill.: Sherman and Athens.

The volunteers, all members of either the Holy Family Catholic Church or St. John Vainney Catholic Church, provide the materials and labor to repair homes year round in their own communities. They also spend 12 days a year working on homes in some area within 250 miles of Springfield.

"The group repairs the homes of persons too old or incapacitated to do the work, or those who don't have the finances.

"The only criteria" says Father Mascari, "is that they own their own homes. We don't want to repair some landlord's property free of charge."

The group works from referrals given to them by local Public Aid offices. The families referred don't have to be receiving any assistance to qualify, they merely have to fit the requirements above.

Each family referred is visited by a representative of the organization during the year in order to evaluate their needs and see if "helpers" are in a position to assist. A form is filled out at this time listing the work to be done.

The "Helpers" earn all money for their supplies and other costs themselves through pizza sales and proceeds from a coat check booth at parish dances. The group also receives private donations from persons who have heard of their work and want to support their efforts.

They earn between $3,500 and $4,000 a year. Father Mascari says they try not to take any contributions for their labor because this takes away from the real purpose which is to "live the Christian charity we hope we are learning in our religious instruction program."

This is the first time the group has been in Alexander and Union counties, although they have been in Southeastern Illinois and Southeastern Missouri in the past, and also in Ohio and Kentucky.

The group is working with the Cairo and Anna Public Welfare offices. The students are staying at St. Vincent's College in Cape Girardeau and rooms for the adults have been provided free of charge at the Ramada Inn through the generosity of a sponsor in St. Louis.

Members of the group are: Brother Michael, Father Mascari, Mark Barnett, Paul and Eileen Cerar, Karen Christen, Chris Cownan, Ann Dees, Mike Egizil, Angie Fontana, Les Freer, Lori Freer, Andy Johnson, Rick Johnson, Tammy Jones, Denise Markey, Rhonda McDaniel, Maureen Rork, Vicki Schmidt, Joe and Elizabeth Thompson, Clarence and Millie White, Jeff Young, Kim Young and Kelly Young.●

ARCADIA'S DIAMOND JUBILEE

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 8, 1978

● Mr. ROUSSELOT. Mr. Speaker, this is indeed a season of jubilant celebration in the city of Arcadia, located in the beautiful San Gabriel Valley in the golden State of California. Residents of this city are observing the 75th anniversary of Arcadia's incorporation. It gives me great pride, as the elected Representative of California's 26th Congressional District including the city of Arcadia, to offer this well-deserved tribute.

Arcadia has a background rich in the tradition of early Californian history. Situated in southern California, the city of Arcadia was once part of an enormous land grant given by the King of Spain to the San Gabriel Mission in 1771. Later, Spanish rule submitted to Mexican rule in 1822, and following the Mexican War and the treaty of Guadalupe Hidalgo, California was transferred to the United States and became a State of the Union in 1850.

Incorporated on August 17, 1903, Arcadia has grown from a small city of 696 residents to a "city of beautiful homes" with over 47,000 residents and encompasses an area of approximately 11 square miles.

With the awesome backdrop of the imposing, yet impressive, Sierre Madre Range and with easy access to mountain resorts, desert and ocean playgrounds and metropolitan cultural centers, Arcadia attracts both the business executive and professional as the ideal spot in which to settle and raise a family.

Arcadia offers exceptional recreational and educational facilities and opportunities. It is the home of the beautiful State and county aboretum, as well as thoroughbred horseracing at Santa Anita Race Track. In addition, the city has 12 attractive community parks, including the Wilderness Park and Nature Center.

Many people choose Arcadia as their residential community because of an outstanding public education system. The school district, staff members and students alike, continue to receive each year numerous scholastic, artistic, musical, and athletic honors and awards. Members of Arcadia's school district have been the recipients of 19 Freedom Foundation Awards.

Arcadia's library is a busy place, indeed, with appriximately 2,000 people per day utilizing the facility. Readers borrow over 400,000 items annually, making Arcadia truly a "reading community." As well as housing an outstanding collection of books, the library serves as a public service center offering a variety of remarkable programs to the citizens of Arcadia.

Assuring health care facilities for Arcadians, the Methodist Hospital of Southern California, with a bed capacity of 345, is a nonprofit charitable community hospital serving persons of all races, faiths and creeds. Every specialty of medicine is represented by the 300 distinguished members of the medical staff. Located on a 22-acre site leased from the city of Arcadia the Methodist Hospital continues to provide excellent care and service to those in need of treatment.

Helping people has not been limited to the hospital. Arcadia's churches open their doors to all who come to worship. Everyone is welcomed by these churches and in these challenging times they provide stability, faith, understanding, and guidance for all. Every denomination—Christian Reformed, Christian Science, Church of Christ, Church of God, Congregational, Episcopal, Evangelical Free, Friends, Lutheran, Methodist, Non-Denominational, Pentecostal, Presbyterian, Roman Catholic, Latter-Day Saints, Serbian Orthodox, and Jewish Synogogues—offer experiences in worship, education, fellowship and counseling for personal and family development.

In 1951, the electorate of Arcadia voted to become a charter city and establish the council-manager form of municipal government. The five-member city council, elected from the city of large, each year, selects one of its outstanding members to serve as mayor. This has proven a truly representative body, serving Arcadians wisely during the years. Boasting one of the lowest city property tax rates in Los Angeles County, Arcadia council members have actually reduced property taxes over the years. Presently, the rate is the lowest in the last 83 years and 20 percent below the rate of 10 years ago.

The Arcadia Chamber of Commerce represents over 900 member firms and provides a broad range of services for the community, including an official city hostess program which provides useful community information to all new residents.

The Arcadia Chamber of Commerce has been designated as the official agency charged with the responsibility to organize, coordinate and present the 75th birthday celebration on September 29 and 30. The Honorable James R. Helms, Jr., former mayor and councilman, now serving as president of the chamber of commerce has been named as general chairman of the Diamond Jubilee. Although Mr. Helms and the various committee chairmen will provide leadership for the festival, it is the 47,000 residents of Arcadia who will be the "stars" of the occasion. This promises to be a truly proud occasion for all Arcadians. Among the scheduled events are the: Jubilee Parade, Jubilee Dance, Alumni Homecoming, Jubilee Tournaments and Sports, Jubilee Judging and Awards and Jubilee Fiesta.

Tribute should be given to the individuals who have contributed their time and efforts to the festival: Kel Mason, chairman, Jubilee Parade; Marguerite Towsley, chairman, Jubilee Dance; the Honorable Charles Gilb, chairman, Jubilee Grand Marshall's and VIP Committee; Steve Lloyd and Caye Wells, cochairmen, Alumni Homecoming; Carol Papay, chairman, and Marilyn Daleo, vice chairman, Jubilee Publicity; Richard Miller, chairman, and F. Harold Roach, vice chairman, Jubilee

Historical Committee; Neal Johnson, chairman, Jubilee Judging Prizes and Awards Committee; Floretta Lauber, chairman, Community Coordinating; Rick Bundy, chairman, Jubilee Merchants Committee; Jerry Collins, chairman, Jubilee Tournaments and Sports Committee; and Ruth Gilb, chairman, Jubilee Fiesta Committee.

Before closing, Mr. Speaker, I would like to spotlight five dedicated individuals who have given guidance to the city of Arcadia. Mayor David E. Parry is serving his third year on the council. He is an attorney for the Santa Fe Railway Co. and has been a resident of Arcadia for the past 12 years. Mayor pro tem Robert G. Margett is currently serving his third year on the council. He is an engineering contractor and has been a resident for the past 18 years. Councilman Charles E. Gilb is a former Mayor and is serving in his 5th year on the council. He is the owner of a wholesale produce firm and has been a resident for 19 years. Councilman Don Pellegrino, elected to the council just this year, has been a fine resident for the past 17 years. Finally, Councilman Jack Saelid, who served as mayor last year, is currently in his fifth year on the city council. He is manager of Electrical Mechanical Engineering for the Xerox Corp. in Pasadena and has also been an Arcadian resident for 17 years.

Mr. Speaker, I ask that you and my colleagues in the House of Representatives join with me to offer our heartiest congratulations to the residents of the City of Arcadia as they celebrate their Diamond Jubilee.●

W. A. MOORE TO BE 99 ON OCTOBER 1

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 8, 1978

● Mr. KILDEE. Mr. Speaker, one of my constituents, Mr. W. A. "Wiley" Moore of Mount Morris, Mich., will be 99 years old on Sunday, October 1. His active and productive life, which covers nearly half the entire history of the United States as a nation, is a tribute to his fine spirit and to his determination to live a good life and raise a fine family.

Mr. Moore was born in Sanilac County, in the Thumb of Michigan.

Mr. Moore's education was limited to the grade school facilities of those times and location. However, he clerked in a legal office for a few years. Mr. Moore met his future wife, Martha Mable Whitely, while she was teaching at the local one-room school and boarding at Mr. Moore's parents' home. Mr. and Mrs. Moore went deer hunting every fall until he was 88 years old. Mrs. Moore passed away in 1972 at the age of 90.

Mr. and Mrs. Moore first ran a farm, and after World War I operated a local road building firm in the early State program to promote road building. Mr. Moore tells that in building his first new home, he considered the question of whether to install an acetylene gas plant for lighting the home, or an electrical generator. The gas was selected as being more safe and reliable.

Following the financial panic after World War I, Mr. Moore found himself nearly out of business upon the failure of the local country bank. At this time, he moved to the Flint area near Mount Morris to engage with others in home construction and manufacturing. After the depression of the early thirties, he continued the cement block business and remained in that business until his retirement at the age of 88. He says the biggest mistake he ever made was when he quit working, but he's delighted to say that he has never worked for anyone in his life time.

To talk to Mr. Moore is to turn back a whole book of history, not only in chronological terms, but in terms of attitude, language and philosophy of living. As an example—his children had difficulty in getting him to sign up for social security.

He was raised in a time that a trip to the county seat was of significance. Medical care was rarely available. For example, his teeth were completely extracted at an early age by an itinerant dentist, and all without the benefit of our modern pain killers.

As a youngster, there were limited churches nearby. As a result, his father held services of his own, and complemented this by a Bible reading before each evening meal.

Mr. and Mrs. Moore both saw that their children procured the best education available. As young parents, their two oldest sons traveled a distance of 7 miles by horse and buggy to attend high school.

Upon coming to Mt. Morris, their four children further attended college, some starting at what was then Flint Junior College. There were three sons and one daughter. The eldest, Stuart, was a civil engineer, graduate of Michigan State, and became assistant head of the Divisional Office of the U.S. Engineer Office. He died in a United Airlines crash in Chicago in 1940. Samuel graduated from our local General Motors Institute, married Jane Hyatt of Flushing, and worked mostly for Ismont Corp. as manager of its plastics division. He is now retired in New Jersey. W. James graduated in civil engineering from the University of Michigan, and following naval civil engineering, married Phyllis Kennedy of Detroit. He now operates a manufacturing business in Detroit. The daughter, Virginia, interrupted her stay at the University of Michigan to marry a Navy pilot at the beginning of World War II. Her husband, George Castle, continued as an airline pilot, and they now live in Seattle, Wash.

It is interesting that people of modest means not only sacrificed to send all four of their children on to college, but they instilled in them the desire to do so, something most of us do not appreciate in our more affluent times. Also, here is a man, who as a youth saw mostly only a local county and used horse and buggy, and now he jets from coast to coast to visit his children.

Mr. Moore has 13 granchildren and five great grandchildren.

Mr. Moore enjoys excellent health, retains a remarkable sense of humor and an avid interest in current events and political life. His slogan has been and continues to be, "Don't sell America short."●

IRRESPONSIBLE CONDUCT BY THE WASHINGTON POST

HON. L. H. FOUNTAIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 8, 1978

● Mr. FOUNTAIN. Mr. Speaker, on August 5, the Washington Post ran an editorial, "Urban Aid in Distress" on the administration's supplementary fiscal assistance proposal which contained two completely untrue allegations.

The Post alleged first, that the subcommittee which I chair has never been hospitable to urban aid plans, and second, that I personally did not entertain any amendments before the subcommittee voted on that bill.

In addition to making these two allegations—which are demonstrably not true—the Post editorial displayed a lack of understanding about the relationship between unemployment rates and the fiscal condition of local governments.

I sent a hand-delivered letter to the Post's editor 2 days later—August 7—requesting that my response be printed while the untrue allegations were still fresh in the readers' minds.

I believe any person who is singled out for criticism in an editorial is entitled to an opportunity to defend himself and to have his response printed on a timely basis.

The Washington Post, I am sorry to report, has denied me an opportunity to reply to the untrue statements in its editorial. Moreover, it has done so in an inconsiderate and arrogant manner.

When my letter to the editor did not appear by August 11, I asked my staff to phone the Post to inquire when it would appear. Only then was I informed, through my staff, that the letter was considered too lengthy for the available space. My staff was advised that it would be printed more quickly if compressed into 850 words and rewritten as an Op-Ed piece.

Acting on that understanding, I took the time from a very busy schedule that same afternoon to rewrite the letter in accordance with the Post's specifications, and it was picked up by a Post messenger late in the day. What did I get for that effort? Dead silence from the Post. The Op-Ed piece did not appear, and I have never received even the courtesy of a call or letter of acknowledgment.

After repeated, unproductive phone calls to the Post's editorial office, my staff learned yesterday afternoon from Mr. Philip L. Geyelin, the paper's editorial page editor, that the Post has no intention of printing my response. So much for fair play.

I firmly believe that a free press is an essential component of a democratic society. But it is equally important that the rights and privileges accorded to the press be exercised with a sense of responsibility and a high regard for the rights of individuals.

Mr. Speaker, the Post editorial conveyed the erroneous impression that the subcommittee I chair acted hastily in voting to postpone further consideration of the supplementary fiscal assistance bill, and that I refused to consider amendments. That false impression has also been conveyed repeatedly by a subcommittee member who was on the losing side. What that Member fails to disclose is the fact that he did not offer any amendment or alternative either in our Democratic caucus or in the subcommittee meeting, nor did he inform the chairman before the meeting of his intention to offer an amendment.

The truth is that the bill was fully and carefully examined in 3 days of public hearings, an executive session, a caucus, by in-depth staff analysis, and in numerous discussions among the Members. It was evident before the subcommittee meeting on August 2 that a majority of the Members could not support the bill, and no amount of discussion would have changed the outcome. Indeed, the President personally sought to persuade at least one Member to change his position, and failed.

As for the false charge that the Chair did not permit amendments to be offered, the official stenographic record of the meeting clearly shows that I actually invited amendments on three separate occasions. This is shown on pages 7, 8, and 10 of the record. I would be delighted to furnish that transcript to interested Members, or anyone else who cares.

Mr. Speaker, I request that my August 7, 1978, letter to the editor of the Washington Post be included at this point for the information of my colleagues and other readers of the CONGRESSIONAL RECORD.

The letter follows:

INTERGOVERNMENTAL RELATIONS AND HUMAN RESOURCES SUBCOMMITTEE OF THE COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C., August 7, 1978.

LETTER TO EDITOR, WASHINGTON POST

Your editorial, "Urban Aid in Distress", (Washington Post for August 5), makes the unwarranted assertion that the Subcommittee I chair "has never been too hospitable to urban-aid plans." I know of no factual basis for that statement. On the contrary, the Intergovernmental Relations and Human Resources Subcommittee was deeply concerned with urban problems and Federal-State-local relations long before these subjects became fashionable in Washington.

It would be correct to say that the Fountain Subcommittee has never been hospitable to unsubstantiated claims, the misuse of statistical data, and political slogans when it comes to spending the public's money.

The Subcommittee opposed the Antirecession Fiscal Assistance (countercyclical) program last year because it was poorly constructed and could not possibly serve the objectives stated for it. It was claimed the program was needed to help compensate State and local governments for their recession-related revenue losses, even though the recession had ended two years earlier. It was argued that the State and local governments would spend their allocations promptly, thereby stimulating the national economy. This argument ignored the legal reality that governments are required to follow budget procedures which preclude the rapid spending of temporary assistance. Further, a government qualified for aid if its unemployment rate exceeded 4.5 percent, a lower figure than the rate considered "full employment" by the Presidents' Council of Economic Advisers.

The use of local unemployment rates as the mechanism for targeting money to needy governments was the fatal flaw of the countercyclical program. Those rates are so unreliable that the Commissioner of Labor Statistics has described their fluctuations as no better than "random numbers" for communities under 50,000 population. Worse still, actual rates have been developed for fewer than 5,000 governments, with the vast majority of units receiving allocations on the basis of assigned "balance of the county" rates which bear little or no resemblance to the local situation.

As a result, many of the wealthiest communities in the United States, located in counties like Nassau, Suffolk and Westchester in New York State, have been receiving assistance. And they would continue to receive money under the proposed new program.

Even if unemployment rates could be made reliable, they would still not be a useful measure of local need because these rates are wholly unrelated to a government's service responsibilities and fiscal condition. By an interesting coincidence, the lead story in the August 5 Washington Post dealt with black teen-age unemployment. I agree that minority youth unemployment is a serious problem, and one which we have not yet addressed satisfactorily. It is important to note in this regard that approximately half of the national unemployment rate is attributable to youth unemployment. Youth unemployment, therefore, accounts for an even larger percentage of the high unemployment rates found in a great many central cities.

It is essential to ask in this connection what fiscal responsibility a particular local government has for this group or for the unemployed in general. The answer for most cities is "very little". There are, of course, exceptions. The cities mentioned in your editorial illustrate this point. Cleveland, New Orleans and Buffalo have no responsibility for financing any part of the costly public assistance and medicaid programs. These costs are borne by an overlying county for Buffalo and Cleveland and by the State in the case of New Orleans. Moreover, the public schools are the fiscal responsibility of independent school boards in both Cleveland and New Orleans.

In sharp contrast, a small number of cities, including New York and San Francisco, are required by their States to pay part of the non-Federal share of public assistance and medicaid costs, and they also support public education out of the municipal budget.

The fact is that local governments have widely differing responsibilities revenue sources, and fiscal arrangements with their State governments. As a result, it is highly misleading to compare cities, especially across State lines, or to measure local need and tax effort without taking the total State fiscal system into account. And it is just plain silly to conclude a city is in fiscal need or distress on the basis of an unemployment rate or any other available socio-economic indicator. Our Subcommittee has studied this problem, with the counsel of the Nation's leading experts, for the past several years. Like many social problems, this one is not susceptible to easy solutions.

The Washington Post has helped create the false impression that the Subcommittee acted hastily in voting to postpone consideration of the Administration's bill. The bill was carefully and fully examined in hearings, executive session, caucus, staff analyses, and in numerous discussions among the Members before last week's meeting. I am convinced that every Subcommittee member had made up his mind before the meeting, and no amount of discussion would have changed the outcome. It should be noted that not a single amendment was offered when the Chair made amendments in order on three separate occasions.

The defects of the proposed Supplementary Fiscal Assistance program are so fundamental that the bill is beyond salvage. Far from being a program to aid distressed communities, it would allocate money to fully 70 percent of the Nation's local governments. The quirks in the allocation formula result in its favoring wealthy communities over poorer ones.

How the program would operate in the Washington metropolitan area is instructive. The District government is treated as the third most distressed city among the country's one hundred largest municipalities, and would receive a per capita payment of $14.29. Among the one hundred largest cities, only Newark and New York would receive larger per capita amounts. On the other hand, no other large city or any county in the Washington area would receive a penny. However, payments would be made to such wealthy places as Chevy Chase Village, Chevy Chase Town, and Somerset. It would be difficult to devise a more irrational formula.

This legislation would surely encourage local governments to become permanently dependent on the Federal budget for such basic local services as police and fire protection and trash collection.

The local perception of need is a very flexible one when the Federal Government stands ready to hand out money. Last week, for example, I received a mailgram from the mayor of Jacksonville, Florida, which read: "Needless to say, these funds are most urgently needed and important to Jacksonville." This is the same city for which large advertisements were recently placed in the Wall Street Journal announcing its "property taxes are among the lowest in the nation and they've been going down . . . There is no State or local income tax. And independent research shows the cost of living for an executive is $10,000 a year lower here than in New York."

There is no justification for another general revenue sharing program when we already have one providing almost $7 billion a year in assistance. This is especially true at this time when the Federal Government has an astronomical national debt, a huge budget deficit, and when inflation is the most critical domestic problem facing all of us. Moreover, it is not widely known that the existing general revenue sharing program targets money more effectively to the large central cities than the Administration's proposal.

I believe there is need for a carefully designed program to help those local governments that are genuinely distressed as the result of long-term economic decline, and I plan to give this matter priority attention early next year. However, it would be a disservice to the American people to create the impression that a "quick fix" is possible now through political negotiation in the Congress.

Sincerely,

L. H. FOUNTAIN,
Chairman.●

SPEAK, MR. SPEAKER

HON. W. R. POAGE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 8, 1978

● Mr. POAGE. Mr. Speaker, H. G. Dulaney and Edward H. Phillips have just prepared a most remarkable and unique

book entitled, "Speak, Mr. Speaker." It is a big book, containing nearly 500 pages. It traces the life and actions of Hon. Sam Rayburn from his childhood to his death—and it lets Mr. Rayburn do the speaking, in the form of quotations.

The book is for sale by the Sam Rayburn Library at Bonham, Texas 75418. Of course, the proceeds all go to the support and maintenance of the library which is probably the finest legislative library in existence. I am sure that many of the senior Members, and I hope of the junior Members, of the House will want a copy of this book. It can be procured by sending a check for $12.50 to the Sam Rayburn Library, which pays for the postage as well as the book.●

MR. ANDREW J. SUSCE OF NEWTON FALLS, OHIO, CONTINUES HIS 35-YEAR FIGHT WITH THE IRS

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 8, 1978

● Mr. CARNEY. Mr. Speaker, one of my constituents, Mr. Andrew J. Susce, of Newton Falls, Ohio, is continuing his 35-year battle with the Internal Revenue Service for justice and restitution. Mr. Susce was fired from his job with the IRS in 1943, allegedly because he "blew the whistle" on wrong-doing by his superiors.

The story of Mr. Susce's long struggle will be told in a book entitled "Lonely Fight: One Man's Battle with the Government," which will be published later this year. In addition, attorneys for Mr. Susce are preparing a civil suit against the Secretary of the Treasury, seeking full redress of Mr. Susce's grievances.

Recent developments in Andrew Susce's efforts to vindicate himself have been chronicled in the Youngstown Vindicator and other area newspapers, and I am inserting one of these articles in the RECORD at this time. The article follows:

[From the Youngstown Vindicator, Aug. 20, 1978]

FIRED FROM IRS IN '43, SUSCE WANTS JOB BACK

(By Emily Webster)

NEWTON FALLS.—Andrew J. Susce, frustrated in his attempts to regain a government job from which he was fired more than 30 years ago, is hoping that an imminent, double-barrelled attack will result in the righting of what he believes is an old wrong.

The story of Susce's fight for reinstatement to his Internal Revenue Service job—a job he lost after he conducted, on superiors' orders, an investigation that implicated some of those same bosses—has become the subject of a book slated for fall publication.

At the same time, a civil suit is being prepared in his name to force the government to recognize his claim and reinstate him with full back pay and benefits.

Susce's battle began in 1943, after he had been fired from the IRS's Pittsburgh office on a charge that he had "reflected on the integrity of a superior officer."

In fact, Susce's report on the tax evasion practices of Pittsburgh's top mobsters did more than "reflect"—it relayed direct accusations of bribery and corruption. And more than one of his superiors in the IRS, as well as Pittsburgh area city officials and policemen, were named.

DILIGENCE SURPRISED BOSSES

The report, ostensibly a study of possible tax evasion on the part of mob kingpin John S. LaRocca, had been wrongly assigned to him in the first place, Susce felt—it belonged in the IRS's intelligence division. But, ordered to pursue it, he did that with a diligence that, he thinks now, surprised his immediate superiors.

LaRocca, Susce learned, instituted the help of city leaders, law enforcement officials and government workers, including highly placed IRS men, in a successful attempt to amass more than $180 million annually in undeclared—therefore tax-free—income.

His information had come—surprisingly freely—from inside the very mob he was investigating, Susce says. Surprised and angered that some of the top men in the IRS were named as having been corrupted by the mob, he nevertheless dutifully recorded what he was told.

The implication of what he had learned was not lost on Andy Susce. He made a copy of his report before he turned it in—a move he was later to congratulate himself for, because he was immediately fired from his job.

He began the appeal process immediately, but the trail of justice always ended at the same place—the door of the Treasury Department, where a "Case Closed" sign was hung.

Just "Case Closed." No explanation, no investigation, no hearing were ever offered.

Congress heard of the Susce report, and for a while it looked as though his plight might be alleviated by the power of the people as represented in Washington. That excitement soon died down though it gave birth to the convening of a grand jury in Pittsburgh to investigate the circumstances of the report.

NO INDICTING JURY

The grand jury was impressed though as an investigative jury it had no indicating powers. An indicting jury was never called.

Subsequent indictments and convictions concerning tax evasion, and the unearthing of scandals within the IRS in the past several decades, have convinced Susce that his report is indeed being put to use. But he's never gotten credit for it.

Thirty-five years of repeated attempts through congressmen, senators, and government officials as high as the President resulted in the same response: Sorry. Wish we could do something for you. Too bad . . .

Now, he's found two people who can do something, and who are willing to try.

One of them's a journalism instructor at Temple University in Philadelphia, John Hayes. Hayes wrote a story on Susce's long fight for "Pittsburgh" magazine more than a year ago and then expanded that work into book length.

The manuscript was accepted by the Lyle Stuart Publishing Co. of Secaucus, N.J. "Lonely Fighter: One Man's Battle With the Government" will be published in November.

By that time, Susce's attorney, Ted Johnson, expects to have filed a civil action against the Secretary of the Treasury, seeking reinstatement of job status, retroactive pay and benefits, as well as reimbursement for the covert blacklisting that prevented his client from getting another government job.

"We've come to the end of the road," Johnson says of Susce's long struggle. "Something's got to be done for this guy."

HAS PROOF OF APPEAL

Johnson acknowledges that the statute of limitations may create some problems in prosecuting a case against the government but notes that an appeal was filed immediately after Susce was fired.

"He never had an appeal hearing—they just rubber-stamped the firing notice—but it establishes that he hasn't let this many years go by without trying to rectify the condition," Johnson explains.

An earlier appeal which Johnson filed with the U.S. Civil Service Commission resulted in "a long time without an answer, then a letter saying no appeal had ever been filed," Johnson says.

"But we have papers proving that the appeal was filed," he adds.

Susce, still nursing the shock and disappointment he first felt when the mighty power of the United States Government was turned against him, clings to the hope that, finally, his lifelong faith in ultimate justice will be justified.

Besides the matter of his own treatment, he insists, is the lingering question of that tax evasion. At $180 million a year in undeclared income, he says, "there's enough taxable money in this country to wipe out the national debt."

Someone, he says, should go out and collect it.●

SENATOR STEVENSON GIVES SENSIBLE WARNING

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 8, 1978

● Mr. SIMON. Mr. Speaker, one of the most distinguished Members of the Senate is the junior Senator from Illinois, ADLAI STEVENSON.

He is not one of the noisier Members of that body, but certainly one of the most reflective.

In remarks for the Senate, which were in the RECORD of August 18 (while the House was in recess) Senator STEVENSON pointed out that we are "shooting ourselves in the foot" in our policies on exports.

I am taking the liberty of inserting his remarks into the RECORD at this point, because many Members of the House probably did not see them.

What he has to say to those of us in the House and the Senate and what he has to say to business, labor, and the Nation makes a great deal of sense:

THE SLIPPING DOLLAR

U.S. exports are becoming less competitive in world markets. This conclusion is reinforced in the extensive hearings which the Subcommittee on International Finance has recently held on U.S. export policy.

The reasons for this decline in competitiveness are largely self-inflicted. Business too often ignores export markets, or fails to compete aggressively for them. It has seen increasing numbers of foreign competitors, including the LDC's, beat it with superior technology and marketing. Labor concentrates on protecting jobs from import competition, instead of creating jobs through more exports. Thus, it warmly endorses import restrictions, which threaten the fabric of international trade, and reacts grudgingly to export incentives. And we in Congress, with the best of motives, encumber trade laws with a maze of restrictions, limitations, and conditions designed to promote everything from emigration to environmental protection, but not exports.

This article contains a rude awakening—we are no longer the indispensable supplier of the world's commodities, goods, and services. For every sale we forgo—for lack of effort, for other objectives—there is someone else ready to make the sale, to create jobs in their own country. I hope my colleagues will keep this in mind when we begin debate on the Eximbank bill. Any more unnecessary restrictions on exports, no matter how well intentioned, will be but another case of shooting ourselves in the foot. Soon, we may have no feet to stand on in international markets.

We are at a watershed in our international economic history. Either we compete, to sell more abroad to reduce the trade deficit or face the prospect of becoming a second-rate economic power. That may sound a harsh statement, but it is a harsh reality.

Included in the Senator's remarks was an article on exports which appeared in the National Journal of August 5, written by Robert J. Samuelson. For those interested in the subject, I would recommend either reading the Journal article or getting the CONGRESSIONAL RECORD of August 18.

Among other things Mr. Samuelson points out is the slippage in exports; that, for example, between 1974 and 1977, there was actually a drop in U.S. exports.

The Samuelson article also quotes Henry G. Wallich, a member of the Federal Reserve Board, as saying:

Treating our exports as a stick with which to beat people (is) completely ineffective. Every time we deny a country access (to sales) there's another country to take our place . . . we get a reputation as an unreliable supplier.

Among the OECD nations, the U.S. share of exports to Japan declined from 52.4 percent in 1974 to 48.2 percent in 1977; to the European community, our exports declined from 11 percent in 1974 to 9.8 percent in 1977; in the developing countries, the decline was 27.2 to 24.6 percent and to the Communist countries it was 12.4 to 8.4 percent.

Our colleague in the Senate and the author of the article in the National Journal are sending us a message that is not making any headlines but is extremely important for the economy of this Nation, and I hope we heed their sensible warning.●

INFLATIONITIS REMEDIES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 8, 1978

● Mr. HAMILTON. Mr. Speaker, the September 4 issue of the Chicago Sun-Times carried an excellent article on inflation by my good friend, the Honorable JOHN BRADEMAS of Indiana. I insert the article into the CONGRESSIONAL RECORD and commend it to my colleagues with the suggestion that its prescriptions be carefully considered.

The article follows:

[From the Chicago Sun-Times, Sept. 4, 1978]

12 REMEDIES TO HELP US GET OVER INFLATIONITIS

(By John Brademas)

With another Labor Day upon us, Americans have reason to rejoice that the past 20 months have brought a record number of new jobs and substantially lower unemployment. But because these advances have been accompanied by a rising cost of living, the American economy is not as healthy as it should be.

Just as government led the effort to put more people to work, government now must take the lead in the drive to hold down inflation.

Congress is acting. On Aug. 16 the House adopted its annual budget resolution for fiscal 1979 with a deficit of $39.7 billion, the lowest in five years and a one-third slash from the $60.5-billion deficit President Carter proposed last January. This proposal allows for the $16.3-billion tax cut that the House approved early last month and continues the programs and policies that set the economy on the road to recovery.

Since January, 1977, nearly 6 million new jobs have been created, most of them in the private sector; the unemployment rate has dropped from 7.8 per cent to 6.2 per cent. But, although personal income has shot up 11 per cent this year, escalating costs strike at nearly every family.

So what's to be done about inflation?

First, we must understand its causes, which includes hikes in oil prices by the oil-producing countries, drought in the wheat belt, soaring interest rates and poor productivity. All these factors, in addition to unjustified government spending, contribute to inflation.

Also, we must realize that no quick, overnight fix is likely to solve the problem. If we are really serious, we must attack inflation on several fronts—in both the private and public sectors, and with a variety of approaches.

Here, with a comment or two, are a dozen prescriptions I think should be considered;

1. Keep lowering the federal deficit. This means gradually reducing the proportion of the gross national product represented by federal spending from the present 22 per cent to 20 percent by 1982.

2. Scrutinize the impact of the costs of government regulations. Estimates are that they add about three-quarters of a per cent annually to the rate of inflation.

3. Keep reducing unemployment. Stimulating recession is no way to fight inflation. It would take an additional 1 million unemployed to lower the inflation rate one percentage point—a bad tradeoff.

4. Press for a national energy policy that sharply reduces our reliance on imported oil, steps up energy conservation and develops alternative sources. We cannot expect to win the war against inflation as long as we pay billions of dollars a year for oil imports.

5. Encourage private investment and higher productivity by tax cuts for both individuals and business. The bill the House passed in August would mean $12.2 billion in tax reductions for individual's, including $1.8 billion in capital-gains relief and $4.1 billion for business.

6. Intensify the drive to sell Americans goods abroad, especially farm products, to improve our trade balance and strengthen the dollar.

7. Urge restraint on business and labor in price and wage policies. A careful look should be taken at tax-incentive plans—tax credits to workers for holding down wage demands and to companies for holding down price increases, plus penalties for stiff increases in either one.

8. Consider the use of vountary guidelines for wages and prices, geared to productivity, for companies and unions of significant size. Fact-finding, mediation and presidential jawboning would be the instruments of compliance.

9. Reduce interest rates as inflation subsidies. The rising cost of money is part of the rising cost of living.

10. Encourage competition in the private sector. Airline deregulation is a dramatic example of how a little free enterprise goes a long way in helping both consumers and business.

11. Zero in on sectors of the economy that have special inflation problems, such as health care, food and housing.

12. Provide job training and employment opportunities to chronic welfare recipients who are able to work, thereby reducing unwarranted public expenditures.

No single one of these remedies will eliminate the curse of inflation. All will mean sacrifice by some sector of our society. But, taken together, they could improve the well-being of all Americans.●

MILITARY INTERVENTION IN BEHALF OF TAIWAN

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 8, 1978

● Mr. FINDLEY. Mr. Speaker, if Taiwan were ever attacked by the Peking government, most of the people in my congressional district feel the United States should help in some way—but not with U.S. military forces.

This is the conclusion drawn from the nearly 18,000 answers to my annual survey of district opinion. One question asked:

The United States currently has a defense treaty with Taiwan (Republic of China). If Taiwan is attacked militarily by communists from the mainland (People's Republic of China), what should the United States do? (Check one or more.)

Only 21 percent checked doing nothing. Other checks went to sending some form of U.S. aid to Taiwan: Economic supplies, 28 percent; military supplies, 31 percent; U.S. air and sea forces, 16 percent; U.S. ground forces, 4 percent.

Interestingly only a total of 20 percent of the check marks fell in the last two alternatives which involve committing American military forces. Certainly most Americans are anxious to avoid getting bogged down again as happened in Vietnam. Also many see some advantage to better relations with mainland China.

The People's Republic of China has the world's largest population and offers a huge potential market for U.S. commodities and products. Earlier this spring I went to China, and recently I invited the Chinese representative stationed in Washington to Illinois in an effort to spur mutual understanding as the basis for peace and trade.

One of the challenges to American foreign policy in the future will be finding a satisfactory relationship with Taiwan which at the same time will allow improved relations with the Chinese mainland.

To that end I recommended earlier this year several steps toward modernizing our relations with Taiwan. They are:

First. The enactment of legislation which will assure continuity of our friendly relations with Taiwan.

Second. The termination at a date certain after 1 year's notice as provided in the treaty, of our mutual defense treaty with the Republic of China, a document

that was signed and ratified in a bygone era and which is now so out of date that it no longer serves as a proper instrument of U.S. national interest.

Third. The establishment of a diplomatic mission at Taipei at the consular level, the same that we have with the other island province of China, Hong Kong.

Fourth. The removal from Taiwan of the few U.S. military personnel who remain there, consisting of about 1,000 persons. Almost all of them serve in communications work assignments, which could be handled by civilians.

These changes would bring our relations with Taiwan up to date with today's security needs in the Far East as well as with American public opinion.●

NEED FOR HIGHWAY BEAUTIFICATION ACT

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 8, 1978

● Mr. KOSTMAYER. Mr. Speaker, I share today with my colleagues a letter from Secretary of Transportation Brock Adams citing his Department's objections to proposed amendments to the Highway Beautification Act contained in H.R. 11733, the Surface Transportation Assistance Act of 1978.

SECRETARY OF TRANSPORTATION
Washington, D.C., August 17, 1978.

Hon. PETER KOSTMAYER,
U.S. House of Representatives,
Washington, D.C.

DEAR M. KOSTMAYER: You have asked for our comments regarding sections 116 and 117 of H.R. 11733 (July 12, 1978 Committee Print), the Surface Transportation Assistance Act of 1978, which would amend the outdoor advertising control provisions of the Highway Beautification Act (23 U.S.C. 131).

These sections would change the existing Highway Beautification Act in several important ways. First, the amendment to 23 U.S.C. 131(g) contained in section 116 would require that just compensation be paid upon removal of a legally erected sign that is located adjacent to a federal-aid primary or Interstate highway, even though the removal may be for a purpose not related to the state or federal highway beautification laws. It is even possible that the amendments to 23 U.S.C. 131(k) would extend the compensation requirements of 23 U.S.C. 131(g) to highway systems not otherwise controlled by the Highway Beautification Act. In addition, section 116 amends 23 U.S.C. 131(o), which presently permits exemotions from removal requirements for tourist information signs located in areas that would suffer economic hardships if such signs were removed. The amended language would require the Secretary to approve any state application for exemptions and would strike the existing requirement that exempted signs be located in the area which suffers the hardship. Finally, section 117 of the bill would require the Department to permit many types of electronic signs.

We are very concerned that these amendments would seriously undermine the integrity of the outdoor advertising control program and would inject the federal government into areas which have long been the responsibility of state and local governments.

The Highway Beautification Act has consistently been interpreted to require compensation only in those cases where signs are removed in furtherance of the Act. Typically, localities also regulate activities such as outdoor advertising pursuant to zoning ordinances that terminate nonconforming uses after a period of time by amortization. Section 116 of the bill would prohibit removal without compensation even under such local zoning ordinances. Federal protection would thus be provided for outdoor advertisers against legitimate local regulation that is not related to the specific purposes of the Highway Beautification Act. This would represent an unprecedented intrusion by the federal government into the prerogatives of localities to control land uses within their jurisdiction. Moreover, by requiring zoning authorities to give sign owners special treatment, it would raise constitutional problems of discriminatory treatment. Since most of these signs are not reached by the federal Act, they would in effect be guaranteed the right to stay up or receive compensation for removal, a protection not granted any other commercial interests. Local authorities would be inclined to leave signs up rather than pay compensation and therefore undermine their own zoning laws.

A number of recent decisions by state courts across the nation have considered local authority in this area. For example, the Maryland Court of Appeals recently upheld a Baltimore ordinance creating an historic district. Activities inconsistent with the purposes of the district were eliminated over a period of years by amortization. These activities included outdoor advertising. A company owning signs adjacent to Interstate and primary highways sued, claiming that state and federal highway beautification laws required compensation. The court ruled that the purpose of the Baltimore ordinance was not related to the purposes of the state and federal beautification laws and therefore signs removed because of it were not subject to the federal compensation requirements. *Donnelly Advertising Corp. v. City of Baltimore*, 370 A. 2d 1127 (Md. 1977).

A New York law providing for the removal of signs by amortization in the Catskill Park was upheld by the New York Court of Appeals, since the statute pursuant to which the signs were removed was a general land use law establishing the Catskill Park. Again the advertising company alleged a right to compensation under the state and federal highway beautification laws, but the court held that those laws were not related to the state park law, since the intent of the two statutes was different. *Modjeska Sign Studio, Inc. v. Berle*, 43 N.Y. 2d, 468, 402 N.Y.S. 2d 359 NE. 2d, 255 (1977).

The proposed amendments to section 131 would require us to penalize the states involved in these cases if compensation were not paid for the signs. Similar decisions have been rendered in recent months in Maine, Oregon, and Massachusetts. This is in addition to numerous other court decisions of less recent vintage. In fact, a brief review of the state statutes relating to outdoor advertising control indicates that should section 116 of H.R. 11733 be enacted, only five states could comply under their present laws. This would mean that, with respect to 45 states, immediate amendments to state law would be needed or we would have to take a penalty action. In some cases, the state government does not have constitutional authority to bind local officials, and a single city could cause the loss of ten percent of federal-aid highway funds to the state by refusing to pay for removed signs.

The Department recognizes that a small potential for abuse exists under present law. The outdoor advertising industry has argued that state and local governments may avoid their responsibilities under the Highway Beautification Act by the expedient of providing for removal of all signs pursuant to zoning ordinances without payment of the compensation that would otherwise be required under the Act. In order to deal with this problem, the Federal Highway Administration (FHWA) issued instructions to its field units regarding the review of advertising signs. A copy is enclosed.

These instructions set forth standards under which federal officials are to review local actions. The tests for this review are based on a decision of the United States Supreme Court dealing with the question of whether or not a local zoning ordinance had a racially discriminatory intent. *Village of Arlington Heights v. Metropolitan Housing Development Corp.*, 97 S. Ct. 555 (1977). Only one matter has been brought to our attention in the eighteen months since these instructions were issued, and it was successfully resolved after federal review.

The Department recognizes its responsibilities under the Highway Beautification Act, including the responsibility to ensure that outdoor advertisers whose signs are removed because of the Act receive just compensation. However, section 116 of H.R. 11733 would enmesh the Federal Government in local matters to a degree unprecedented in the land use area. We do not believe that past experience indicates a need to make such fundamental changes to the Highway Beautification Act.

Section 116 of H.R. 11733 would also amend 23 U.S.C. 131(o). This provision, added to the Act in 1976, allows the Secretary to approve requests of a state to exempt from removal nonconforming signs which carry "directional information about goods and services in the interest of the traveling public" and which are located in a defined area that would suffer substantial economic hardship in the event such signs were removed. The proposed amendment appears to eliminate the Secretary's discretion to deny requests not made in conformance with section 131(o). Since we will in fact grant properly supported requests, there is no reason to eliminate the Secretary's discretion to deny requests which are fundamentally inconsistent with the Act.

The amendment would also exempt from removal all signs advertising a tourist oriented concern located within an economic hardship area, no matter where the signs are located. Exempted signs could be located hundreds of miles from the hardship area or the activity advertised.

In the almost two years since the adoption of section 131(o), not one request for exemption has been made by a state in accordance with the Act's provisions. The proposed amendment does not change the economic factors which would qualify an area for exemption; it simply increases the number of signs eligible for exemption. The result could be a proliferation of signs along our nation's highways, which would be seriously at odds with the basic intent of the Highway Beautification Act.

Finally, section 117 of H.R. 11733, dealing with electronic signs, would mandate the allowance of many types of signs with flashing, moving or intermittant lights. These signs are presently controlled under state/federal agreements and would necessitate legislative or regulatory changes in virtually every state. There are no indications that the states want to make such a change. Further, we are concerned that the safety and esthetic impacts of allowing signs of this type have not been adequately considered and believe that until these impacts have been thoroughly evaluated, a legislative mandate to allow such signs without limitation is premature.

The provisions of the 1978 bill would produce a profound change in the direction of the Highway Beautification Program and

would undermine efforts to control scenic blight along our highways. We do not believe such a change is warranted or desirable.

Your interest in this matter is greatly appreciated. If we can provide you with any further information, please do not hesitate to contact us.

Sincerely,

BROCK ADAMS.

Mr. Speaker, I am concerned that the Public Works Committee has approved the amendments to the highway beautification program without hearings and with little or no discussion during markup. As Secretary Adams states, the bill if adopted would "seriously undermine the integrity of the outdoor advertising control program." If we are to take such a drastic step, I believe we should do so only after a thoughtful reevaluation of the whole nationwide highway beautification program . I do not believe we have met this obligation, and I hope the Congress would not act too hastily in the rush to adjourn.

I will, therefore, offer amendments when H.R. 11733 comes to the floor next week to delete those sections of the bill which do damage the the highway beautification program, a program initiated in 1965. I ask my colleagues for their support in this effort to save the Highway Beautification Act from irreparable damage.

A PLAN FOR ENERGY CONSERVATION

HON. EDWARD W. PATTISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 8, 1978

● Mr. PATTISON of New York. Mr. Speaker, a great deal is said these days about the need to conserve energy. But not much is said about specific, practical ways to do this, beyond setting our heaters lower and our air-conditioners higher.

That is why I was so impressed with a plan for energy conservation developed by the city of Davis, Calif. The Davis plan is outstanding for two reasons: First, the ways that have been developed to save energy are practical, relatively cheap, simple, and clearcut, yet they may be able to cut energy consumption in that city by up to 50 percent; and second, these measures have been developed by a community on its own initiative.

I learned of the Davis plan early this year through an article in the New York Times by James Ridgeway, the editor of the Elements, a monthly journal on resources. Subsequently, I was able to obtain from the Elements copies of a booklet entitled "The Davis Experiment," which describes the plan in detail.

I think that "The Davis Experiment" is worth serious study. While some of the programs developed in Davis are not suited to other parts of the country, the Davis approach can be creatively adapted to the particular needs of any area.

Having a national energy plan is vital, and I hope that Congress will approve one before this session ends. But such a plan, however good, will not solve our energy problems. They will only be solved when communities across the country, like Davis, decide to get serious about conserving energy, and work together to find ways to do that.

At this point, I would like to insert the Times article in the RECORD. Copies of the booklet, "The Davis Experiment," can be obtained by writing to the Elements, 1747 Connecticut Avenue NW., Washington, D.C. 20009. The cost is $2 per copy.

The article follows:

A CITY'S ENERGY-SAVING

(By James Ridgeway)

WASHINGTON.—The small city of Davis, Cal., offers a good example of what a community can do on its own to save energy. With a population of about 33,000 Davis is set amidst the lush farmlands of the northern central valley. It is both the home of a major campus of the state university system and a residency for office workers in nearby Sacramento, the state capital.

When Davis was threatened by suburban sprawl and swarming traffic, the city council 10 years ago moved to limit growth. In 1973, before the Arab oil boycott, residents were troubled by rapidly rising costs of electricity and natural gas; a group of architects, professors and students persuaded the university and city council to support a study of how energy could be properly conserved in Davis buildings, many of which are apartment complexes.

The energy study showed that apartments that faced either East or West were especially hot during the summer and required large amounts of electricity to run air conditioners. In the winter, apartments with South windows needed much less energy for heating than apartments facing in other directions. The survey concluded that natural heating and cooling is obtained with well-ventilated buildings oriented on a North-South axis with maximum glass exposure on the South.

The city council thereupon drew up and approved an ordinance embodying a set of performance standards for building construction aimed at achieving conservation. The code regulates the amount of window area in relation to the floor area. If more glass is desired, then architects must arrange it on the South-facing portions of the building, or employ thermal glass. The amount of unshaded glass is severely limited. The code stipulates that light colors (to better withstand the sun) must be used on the roof, and it included upgraded requirements for insulation.

Plans for new buildings are carefully checked by city officials who put scale models of proposed buildings under a solar simulator. The simulator is a gadget with light bulbs canted at different angles to represent the rays of the sun on different days of the year. In this way you can get a quick idea of whether a proposed building is properly positioned on a lot, whether there is too much glass, whether the glass is properly shaded, and so on.

Since the code took effect last year, Davis has widened its efforts to conserve energy. There are 25,000 bicycles in town, and Davis has built a complex of special paths and set aside lanes on public roads to encourage their use. City Hall maintains its own bike fleet for the use of employees who need to shuttle about on their jobs. Bikes must be registered and youngsters learn how to use them in special courses presented at school by the police department.

To further cut down on use of cars, Davis has a fleet of old London double-decked buses that are run about the city by a student group as a sort of jitney service. Finally, the city itself is getting rid of its big cars and trucks, replacing them with compacts and sub-compacts.

Davis wants to narrow—not widen—its streets and take pains to be sure they are well-shaded. Research has shown that neighborhoods with narrow, shaded streets are 10 degrees cooler in summer than neighborhoods with wide unshaded streets. A citizens committee has made a careful survey of all the trees in the city, and takes care to see that new trees are planted in accordance with a general plan.

Until recently, Davis made heavy use of pesticides for controlling insects on trees and shrubs. Now the city sprays the trees with water, and has introduced biological control for bugs.

The city council has designed different kinds of solar houses as models to encourage builders to formally adopt such houses in major complexes; the model houses will be used as dwellings for migrant farm workers. There are more than 700 swimming pools in Davis, and the city council wants to cut down on energy by forbidding the use of gas or electricity for heating them. Finally, a solemn ordinance endorses the use of "solar dryers" or clotheslines.

By adopting these fairly simple, clear-cut measures, Davis hopes to cut energy consumption by up to 50 percent.

While the details of the Davis experiments in energy conservation are, of course, designed to meet the city's unique needs, the ideas and plans can be helpful elsewhere around the nation. For what the Davis experiments really show is that citizens working through local government actually can have a substantial impact on a major international issue.●

TRADE AND WEAPONS SALES

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 8, 1978

● Mr. SIKES. Mr. Speaker, my research shows that many nations, particularly among the Arabs, now supplied with Russian weapons, first sought to buy from the United States. They prefer U.S. aircraft and weapons for performance and durability.

In some instances sales were refused to help maintain peace. In others we said they should spend more on internal improvement. The prospective buyers simply went elsewhere. The Russians are knocking on doors worldwide to sell weapons on favorable terms. Our allies in the western world are equally anxious to sell. However, weapons sales offer one of the few opportunities open to the United States to improve our very serious trade deficit. We are falling behind year after year. Weapons sales are accompanied by assignment of technicians and advisors who in themselves can help to improve relations and to encourage dialog between the United States and other nations.

There are obvious benefits to U.S. industry and U.S. workers from increased sales of weapons abroad.

No amount of moralizing can change the fact that Russian and other Communist weapons are immediately available to almost anyone who will accept them. A certain amount of influence accompanies each sale. Weapons sold by

the Russians are more likely to be used against us and our friends than are American weapons.

Better the United States sell them than the Russians. Better that people look to us than the Russians. The number who do is dwindling year by year. ●

PANAMANIAN POLITICAL CRISIS

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 8, 1978

● Mr. DORNAN. Mr. Speaker, on August 9, 1978, the official Communist Party newspaper, "Pravda," praised the Republic of Panama for its new policy of "warmer relations" with the U.S.S.R. and the Soviet bloc. The Soviet journal also praised the Torrijos regime for supporting "national liberation" movements in the Third World and the Panamanian advocacy of U.S. abandonment of its naval base at Guantanamo, Cuba.

How well I remember those of us warning that the transfer of the Panama Canal would only be a prelude to Latin Communist agitation for the U.S. surrender of its Cuban naval base. Naturally, those of us who opposed the treaties were dismissed in liberal circles as alramists and jingoists. We were condescendingly reminded that we were no longer living in the age of Teddy Roosevelt and America's Great White Fleet. Our fears, we were told, were borne of our inability to grasp the broader view of modern geopolitics and the higher destiny of the American Republic. We could afford to be generous with a little dictator like Torrijos, we were told. Such a display of generosity was the proper testimony to our new greatness in a greatly changed world.

I am not here, of course, to repeat the litanies that could—easily and cruelly—burn the ears of pro-Canal Treaty Congressmen in this House. I am not, in other words, going to indulge in an orgy of "I told you so" recriminations. But I do think it is worthwhile to sketch, in outline, the character of the current Isthmian political crisis.

The geopolitical reality is this: The anti-American, anti-Western forces, openly backed by Havana (no Communist conspiracy here), are seizing every opportunity to establish bases of political and diplomatic support in the western Caribbean region. In Nicaragua, the Cuban-supported Sandanistas are trying to overthrow the Somoza regime. Whatever its drawbacks, and they are many, it is not clear that the rebels are going to establish a social order that is more open, free, or democratic than that of Somoza's. The one saving grace of rightwing regimes is that they do not aline themselves with an aggressive and expansionist ideological power. A Somoza is not a Castro; and the Nicaraguan troops are not fighting black nationalists in Africa. The outcome, as of today, is not entirely clear. But the regime has thus far had the support of the military.

In Panama, the situation is reversed. The Torrijos regime is supported by the military, or at least a large portion of it, the Cubans, and probably terrorists exiled from embattled Nicaragua. From what I have gathered, the Panamanian political condition is potentially explosive. All the political parties, rallying around the former, democratically elected President Arnulfo Arias, are opposing the Torrijos dictatorship. On August 28, there was a massive demonstration in Panama City by women, carrying pots and pans. The economic situation in this poorly managed political system is still chaotic. As far as I know, this great demonstration received little or no coverage in the U.S. press.

There is another development that is extremely significant. Former President Arias is being protected by segments of the Panamanian Guardia Nacional. This very fact suggests that there may be potentially explosive divisions of loyalty within the National Guard itself. I have no doubt that there are many officers and men in the Panamanian armed forces who, fearing for the future of their country, would favor a change in the government. They realize that the radical leftward position of the Panamanian regime is being consolidated. This fact is confirmed by recent announcements that Torrijos' Minister of Education Aristides Royo, will, in all likelihood, assume the full executive powers of the Republic of Panama in October. Royo is a protege of Escobar Bethancourt, whose sympathies for the Communist enterprise are a matter of historical record.

So the internal national crises will determine the political character of the region. The success or failure of President Somoza in Nicaragua will undoubtedly have a strong impact on the internal politics of Panama. If Somoza holds out against the radical left, there is every possibility that anti-Marxist Panamanian forces will be encouraged to take action against the Torrijos dictatorship. If Cuban-backed Communist forces are successful in Nicaragua, we will see an even hotter pace in Panama's move toward warmer relations with "national liberation" movements. Red terrorists, based in Nicaragua, could join forces with a hostile Panamanian regime in a classic "pincer movement" against Costa Rica. But the ultimate prize, of course, is not Costa Rica. The big stake is the undisputed control over the two, historic canal route sites: Panama and Nicaragua. This control will assure a stronger Cuban hand in the Gulf basin and the Carribbean region in general.

There are internal pressures in Panama which will no doubt be decisive in the shaping of that nation's relations with the United States and the world. Internally, there is a movement to control the education and outlook of Panamanian youth, to consolidate political control over the content of the educational curriculum. Externally there is a clear, unabashed desire on the part of the Torrijos regime to forge new, positive relations with Soviet Russia, now in possession of a powerful, modernized—blue water navy. It is no wonder that the Soviet leadership, sending such a high level functionary as politbureau candidate Vasiliy Zuznietsov, is deeply interested in the future of the Panama Canal.

Mr. Speaker, I am enclosing two relevant documents on the current situation. The first is a letter by a former professor of the University of Panama, Roberto Reyna, on the transformation of Panamanian education. The other is a report from "Matutino", an independent Panamanian newspaper on the recent high level meetings in Bogota, Colombia between Torrijos and Soviet leader Vasili Zuznietsov on the bright future of Soviet-Panamanian relations. I ask my colleagues to give these literary pieces their close attention.

The Documents follow:

Translation (Spanish)

Alert, Head of families
Alert, Consciencious educators
Alert, Attention, free men of Panama

PANAMA, *July 17, 1978.*

MR. JULIO ORTEGA,
Radio Mia,
Panama City

DEAR MR. ORTEGA: I would like to discuss in this letter the intervention of a group of officials responsible for guidance, printing and publications of the new text books under the auspices of the Ministry of Education, during today's morning news bulletin of Radio Mia. Here are my remarks:

1. Love through hate. Despite the fact that I am unfamiliar with the books in question, in the "Republica Dominical" of yesterday I read the column "The world needs love," taken from the book "Spanish, the language of my country," and like you, I found it in very bad taste, that to guide a child towards love, they had recurred to hate, with aggravating circumstances which seek to indicate that egoism is rooted in a given social group so that you must feel "compassion, pity or disgust" and not in just any social class.

The eminent Panamanian educator, Professor José Daniel Crespo, told us in one of his psychology classes to a group of future teachers: "Never try to convey a positive message to a child's mind by negative means. Instead of saying to your pupils, 'Don't throw stones at birds,' invite them to place food in small bird houses made by them and put on the branches of trees. A child who does this will never throw stones at a bird and will never allow others to do so."

Unfortunately, from what I hear today, it is a question of breaking with the past, and what I deduce is that the teachings of the famous teachers of the National Institute, the Normal School and the Professional School will become outmoded in the new textbooks.

Who can judge: One of the visitors to Radio Mia today said unequivocally that her group was ready to listen to criticism made of her work by her students, but that they were not inclined to accept opinions about the books given by the parents. This mental attitude requires the following considerations:

a. It is really unbelievable for somebody called "educator," to have such a poor notion of the citizens of this country, and to try to make us believe that immature pupils of what they call the elementary level, without knowledge and experience, have more academic and spiritual acumen about what should be taught to them than their parents, among whom there are professionals, educators, craftsmen, farmers and individuals of all activities. Simply, the children are much easier to deceive.

b. the justification that they advanced for such an absurdity is that since their academic formation is of the old school, with which they are trying to break their children are better qualified than them to decide whether their text books are good or not. This is truly incredible.

I am not trying to say that the school in which so many generations of Panamanians have been educated was perfect. What I can state is that the majority of the teachers were ladies and gentleman incapable of spreading hate, people with minds open to new educational currents of humanity, citizens who taught their students the democratic principles of respect for the opinion of others and who did not fear open discussion of ideas, educators whose pupils left primary school without bitterness and with an academic formation which at least saved them from grammatical errors which we hear on the radio program today.

c. To deny parents, with whose taxes the salaries of those in charge of the texts and of all the educators are paid, the right to have an opinion on the books which are intended to be used for the academic and spiritual formation of their children is an unacceptable and dogmatic kind of authoritarianism which we Panamanians are not used to, and is also a violent attack against the legal provisions of paternal power, as they intend to pass over the parents, undermine their authority and cause conflict between parents and their children, characteristic of totalitarian political systems, and which lead to turning the children into political spies against their own parents. Will Panamanian parents allow this divisive activity?

3. Evasive reply: The reply which was given to you by one of the ladies from the Ministry of Education drew attention negatively when she observed the fact that in one of the texts there appeared a photograph of the commander of the National Guard in thought. The lady in question replied that as they only intended to show that the text books had no Marxist orientation, there was no reason to refer to this fact.

I, who share with you astonishment at the presence of the photograph in question because I do not agree with personal politics interfering in the education of children, I deplore the impolite reply, which I interpret as the result of her incapacity to give a reasonable explanation for that unusual fact without precedents in Panamanian educational history, because it is contrary to elemental norms in any serious and democratic educational system.

I believe, nevertheless, that this fact has a closer relation with the orders of the educational authorities who are making compulsory attendance of primary school pupils to political concentrations which under the name given to it by the military of "domestic patrolling" is currently being carried out by the Commander of the National Guard over all the country.

I congratulate you for your performance today and with my best greetings I remain

Sincerely yours

ROBERTO REYNA R.,
Ced. 6 Av.–15–398.

Translated by Casimir Petraitis CRS—Language Services, August 21, 1978.

Translation (Spanish)

Source: MATUTINO, (Independent Newspaper), Panama, Wednesday, August 9, 1978

The caption reads: The second of the high dignataries with whom the head of the Panamanian government, Omar Torrijos Herrera, had talks during his visit to Bogotá, Colombia, on the occasion of the transfer of power to the new Colombian President Dr. Julio César Turbay Ayala, was with the first Vice President of the Supreme Soviet of the Soviet Union, Vasily Kusnietsov, behind closed doors. Rogelio Achurra photographed this historical event.

THE MEETING BETWEEN TORRIJOS AND KUENIETSOV INDICATES THE CHANGES THAT OPERATE IN LATIN AMERICA, SAYS PRAVDA

BOGOTÁ, August 8 (TASS). The head of the Soviet delegation to the inauguration ceremonies of President Julio César Turbay, Vasili V. Kusnietsov, candidate for Political Bureau of the Communist Party of the Soviet Union and Vice President of the Supreme Soviet of the USSR met today with General Omar Torrijos, head of the government of the Republic of Panama. During the meeting, which took place in an atmosphere of friendship, there was an exchange of views concerning the relations between both countries as well as on other problems of interest to both nations.

Moscow, August 8 (TASS). The cooperation between the USSR and other states of the Socialist camp with the emerging countries of Latin America is fully in line with the interest in peace and progress, notes Juli Rusanov in Pravda, commenting on the intention of the Panamanian government to strengthen friendly relations and cooperation with the Socialist states and develop economic ties with them on a mutually beneficial basis.

The initiative of Panama, the commentary emphasizes, is an additional sign of the changes operating in Latin America, whose peoples do not want the U.S. to keep on considering them its fief. The editorialist notes that the desire to establish and strengthen economic, technical, scientific and cultural cooperation with the Socialist world is on the increase in various states of the region.

In the editorial it is said that the states of the Socialist camp base their relations with the emerging countries on a profoundly democratic basis, guided strictly by the principles of compete equality and mutual benefit. "By rigorously complying with these principles well-deserved confidence is gained as reliable partners."

The economic cooperation of the emerging states of Latin America with the countries of the Socialist Camp, the editorialist notes, has been enriched with considerable useful experience and led to positive and concrete results.

Prepared by Phillip Harman, Chairman, Committee for a Free Panama, 2401 H Street, N.W., Washington, D.C. 20037.●

ARBITRATION VS. BARGAINING

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 8, 1978

● Mr. SIMON. Mr. Speaker, the St. Louis Post-Dispatch recently carried an article by Gerald M. Boyd which pointed out the movement toward more and more compulsory arbitration in settling labor disputes.

I am inserting into the RECORD the article from the Post-Dispatch as well as a column I wrote in May of 1976.

The Post-Dispatch article suggests that some changes are taking place that have not received a great deal of attention. I concur with the reporter's conclusion that these changes are significant.

I hope my colleagues and members of congressional staffs will read the article.

ARBITRATION VS. BARGAINING

(By Gerald M. Boyd)

WASHINGTON.—With trepidation like that of somebody about to leave for a blind date, major unions are rethinking their longstanding opposition to compulsory arbitration to prevent prolonged and devastating strikes.

Thus far, the rethinking among most unions has been little more than an academic exercise, representatives of several major labor organizations have told the Post-Dispatch in interviews. But what organized labor once viewed as a straitjacket around its ability to bargain collectively, is no longer universally scorned.

In fact, some of the stiffest opposition to the use of binding arbitration is coming not from the ranks of the labor movement, but from governmental and management organizations, which argue that it gives labor an unfair edge.

"There is a movement toward compulsory arbitration in those areas where strikes are extremely destructive to the public welfare," said Robert Coulson, president of the American Arbitration Association. "When there is a strike by police or firemen, for example, there is the danger of a serious social breakdown in the community."

Both organized labor and management groups are watching with more than a casual eye the outcome of an eleventh-hour decision here last week that averted a national postal strike. Although the agreement, between Postal Service and union leaders is not being called such, it represents the potential use of binding arbitration to resolve a strike that could have crippled mail delivery nationwide.

Compulsory arbitration was proposed by federal mediators after the membership of two major postal unions rejected a contract that had been negotiated by postal and union officials. It is the first time in recent years that the concept has been offered and agreed to as a last-minute option to an unsuccessful collective bargaining process in a strike with national implications.

Under the compromise procedure, what represents binding arbitration would be used if the two sides failed to reach a settlement within 15 days, during which talks are to be held before a specially appointed mediator. The mediator, James J. Healy, a professor of industrial relations at Harvard University, would then become the arbitrator if a negotiated settlement is not reached.

Under a 1970 congressional law creating the Postal Service, arbitration can be required if labor and management fail to reach an agreement; thus a legal mandate exists for it to be used. But several other examples, in addition to the postal dispute, reflect a growing acceptance of the tactic.

Seven states presently have compulsory arbitration for some state nad local government employees. Six other states have such laws applicable only to fire fighters and policemen. In addition, several cities nationally have also adopted compulsory arbitration for municipal employees.

At least one major union, the United Steelworkers of America, has a contract with major steel companies that calls for the use of compulsory arbitration if an impasse occurs during contract negotiations. Since the agreement has existed, over the last several years, there have been no strikes in the steel industry.

The leadership of the largest union within the AFL–CIO, the American Federation of State, County and Municipal Employees, has supported the use of arbitration in contract disputes that involve public employees working in emergency-care type situations. It also favors arbitration as an option for public employees working in non-emergency type jobs.

"Things are changing somewhat," says John Leach, a spokesman for the union. "I don't know if it is a trend, because I don't think compulsory arbitration is really understood by the public as an alternative. But it is one of the avenues open, if both sides are not willing to bargain in good faith."

The union's statistics would seem to present an argument for the concept, at least in public sector labor disputes. The number of strikes in the public sector declined from a high of about 412 in 1970 to 384 in 1974 as increasingly more states passed laws calling for the use of compulsory arbitration.

Many union leaders and labor experts, however, are quick to note a key distinction. Where it is often viewed favorably among

public sector unions, it is opposed, often strongly, by unions in the private sector.

In 1975, for example, arbitration prompted a major dispute and bruising floor fight at the AFL–CIO convention in San Francisco. The American Federation of State, County and Municipal Employees led efforts to have the AFL–CIO adopt a resolution supporting compulsory arbitration for police and firemen unions, but sharp opposition erupted from representatives of private sector labor groups. The resolution was defeated.

Officially, the AFL–CIO is absolutely opposed to compulsory arbitration, spokesman said. But he pointed out that a distinction is at least being made by the leadership in its use in private sector strikes as compared to labor disputes in the public sector.

George Meany, the head of AFL–CIO, for example, called the agreement that ended the postal impasse "a responsible and sensible decision" and "a common-sense solution to a difficult problem." By agreeing to compulsory arbitration, he said, union leaders had done a solid job of representing their members.

The United Auto Workers union has a similar position, a spokesman said.

"The UAW has always taken a position against compulsory arbitration in private sector bargaining, but I believe it has an open mind in public sector disputes," the spokesman said. "If it can be used to achieve equality for public employees with private sector employees, it can be a healthy thing."

Only one major private sector union, the United Steelworkers, now has an agreement that calls for compulsory arbitration if a negotiated settlement cannot be reached. Two contracts that have been decided since it went into effect were arrived at by negotiation, so arbitration was not necessary.

"Because of good faith bargaining, it has not been necessary to test it," said Robert Moffet, a union spokesman in Pittsburgh. "Our position is that we are not wedded to the arrangement; the first time it doesn't satisfy our people we will probably dispose of it."

But Moffet said the fact that arbitration was available if a negotiation faltered, has been one reason behind the successful bargaining. And he said that under the arrangement union members have been the recipients of good contracts.

Recent statistics by the Labor Department, for example, show that four types of employees represented by the United Steelworkers have obtained recent wage increases substantially above the inflation rate. And the wage increase for steelworkers represented the highest salary gain in the 12-month period that ended on March 31.

Labor officials say that the compulsory arbitration agreement, as an aid to bargaining, has benefited both the steelworkers, by resulting in favorable contracts, and the steel industry, by alleviating strikes. But because no dispute has ever gone to arbitration, they add, no track record exists to gauge the agreement's effectiveness.

"In private sector employment, where the employer normally has an overwhelmingly strong economic advantage, he usually is not willing to have an impartial arbitrator dictating wages, hours and working conditions," said Howard Coughlin, board chairman of the American Arbitration Association. "The same is true when the union is very strong, and it will normally refuse, too, to agree to arbitration."

But perhaps the strongest, or at least the most vocal, opponents of binding arbitration are not unions, but local elected officials. Public sector groups adamantly opposed include the National League of Cities, the United States Conference of Mayors, the National Governor's Conference and the National Association of Counties.

"What we are finding is that cities now have a great concern about compulsory arbitration," said Allan Beals, the executive director of the National League of Cities. "There is a willingness developing to waive a position opposing strikes by public employees to give local officials the right to bargain. That trend is significant."

Last week, Beal and several organization officials met with a selected group of reporters in an effort to publicize their objectives to arbitration. At the same time, he said, the group is gearing its drive to several other levels, such as intervening in court challenges to state and local laws legalizing arbitration, he said.

In one instance, for example, it intervened in a Connecticut case now before the state Supreme Court in which a lower court held that binding arbitration was illegal because it denied decisionmaking by elected officials. That ruling, Beal said, supported the group's argument that arbitration destroys collective bargaining, not enhances it.

"A lot of people believe in collective bargaining, but binding arbitration is eating at the very foundation of collective bargaining and is forcing people to abandon it for a gamble on a strike," he said. "What happens is that both sides submit extremes to an arbitrator and he normally rules somewhere in the middle. That destroys collective bargaining."

One case Beal cites is in the city of Livonia, Mich., where an arbitrator decided in favor of the firemen's union in a dispute that lasted about 18 months. The ruling, said the city's mayor, meant the city had to ask voters to approve a $1.3 million tax increase to pay increased salary and fringe benefits firemen received, a precarious position for local officials in light of resistence nationally to tax increases.

Edward H. McNamara, the city's mayor, says compulsory arbitration dilutes local officials' control of tax rates and muddies their accountability and responsibility to the public.

McNamara heads the League of Cities labor relations committee, which has been attempting to help cities handle better compulsory arbitration. He said that about 60 percent of the cases nationally involving contract disputes that have gone to arbitration have been decided in favor of the labor organizations and not local officials.

McNamara said that had voters not approved the tax increase in August, he has no idea how the arbitrator-mandated settlement would have been met.

But Leach, of the American Federation of State, County and Municipal Employees, said that victories for unions reflect the fact that the public employees unions probably have a more responsible position than the local officials.

Leach cited a recent study of binding arbitration financed by the Department of Labor that concluded that arbitration is emerging as a politically acceptable means of resolving impasses. The study said that it had not had an adverse effect thus far on the collective bargaining process.

"It's very popular now to beat up on public employees," he said. "Officials are willing to take a strike and blame public employees so they can say that they are being responsible with the city's money; they never address the issue of whether a need exists."

Officially the Carter Administration does not have a public position on binding arbitration, a Labor Department spokesman said. Large management type organizations, however, generally are opposed to it, several labor experts said.

"Our policy and practice are strongly opposed to it, primarily because it involves having an outsider not familiar with working conditions settling disputes," said Randolph Hale, who works for the National Association of Manufacturers.

Another criticism expressed by several officials is that the public generally opposes arbitration and shows that position when given an opportunity. Several cited voters' rejection of a proposal which would have mandated compulsory bargaining in Dayton, Ohio.

Last June Dayton voters defeated a charter amendment for the proposal, 21,103 to 12,009. City officials, with several community and business organizations, had waged a strong campaign against adoption, arguing that it would interfere with the ability of local officials to bargain effectively. Although the defeat meant that the 390-member fire union still maintained the ability to bargain collectively, it could not place a contract impasse before an arbitrator.

ALTERNATIVES TO NATIONAL STRIKES

(By Congressman PAUL SIMON)

The brief Teamsters strike a few weeks ago brings into focus a problem that the laws of the United States don't adequately face, and probably will not face for some time. But if we wait until a crisis situation develops we may make some bad judgments.

The United States economy is so interdependent, so intertwined, that a lengthy nation-wide strike of the Teamsters or the Auto Workers or the Steelworkers or a number of other unions would bring the national economy to a halt.

Then, in an emotional atmosphere, we might pass some radical legislation rather than sensible legislation.

The President now has the power to postpone a strike, through the Taft-Hartley Act provisions, but after a period a strike may continue.

One alternative some have suggested is to have special labor-management courts, with power to make some determinations both as to corporate profits and labor wages in any extreme situations which might be referred to the special courts by the President.

Proponents of this idea hope that both labor and management would increasingly find these labor-management courts fair, and would refer their disputes to such courts, without the necessity of presidential action.

Germany has another interesting alternative.

By law, Germany requires labor leaders to sit on the boards of directors of the large corporations; and since the labor representatives are involved in the decision-making, strikes as we know them are rare.

Volkswagen is a good example.

Seven of the 21 votes on the VW board are labor votes. Labor representatives are involved in all of the major decisions of the company. The union there is the Metal Workers Union, the largest in West Germany.

There has not been a nation-wide strike in the 30-year history of this union.

Recently, when there had to be a substantial layoff of workers because of the recession and decreasing car sales, union representatives on the board helped to make the decisions as to how many layoffs and how they would take place.

There are both management and union people in the United States who don't like the German idea.

I do.

It makes both union leaders and management personnel more realistic and more understanding of the problems the other side faces.

Germans call it "co-determination."

The United States has had remarkably little strike difficulty during the past few years, and one of the finest long-range pacts has been signed for the steel industry.

But whenever a strike occurs, it means loss of wages, loss of profits and loss of productivity.

I believe we should take a good, serious look at the German idea of co-determination.●

SENATE—*Monday, September 11, 1978*

(Legislative day of Wednesday, August 16, 1978)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the Vice President.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty and ever-living God, who has made of one blood all peoples to dwell upon this Earth, Thou hast made us for Thyself, and our hearts are restless until they rest in Thee. As Thou hast taught us to pray without ceasing, so unite us heart to heart, mind to mind, soul to soul with all who are in quest for justice and righteousness, especially those who have ascended to the summit of high peaceful purpose. Grant wisdom and courage to those in whom so many have placed their trust and their hope.

Show us once more that man is the highest order of creation and that people are of greater value than land or heritage. Give us grace and wisdom to know and to do Thy will in this place that we may have a part in moving forward Thy coming kingdom.

We pray in His name who rules above all men and all nations. Amen.

RECOGNITION OF LEADERSHIP

The VICE PRESIDENT. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The VICE PRESIDENT. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 o'clock tomorrow morning.

The VICE PRESIDENT. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I yield 5 minutes of my allotted time under the standing order to the Senator from Texas (Mr. BENTSEN).

Mr. BENTSEN. I thank the distinguished majority leader.

SALT II

Mr. BENTSEN. Mr. President, on June 28, I addressed the Senate on some of my concerns regarding the SALT II negotiations. I suggested at the time that, like it or not, diplomatic "linkage" would be a major factor in Senate consideration of SALT II for the simple reason that there can be no such thing as a sound agreement with an aggressive partner seeking to exploit every advantage and widen every loophole.

The record of past Soviet performance on SALT I and current Soviet adventurism make it apparent that adequate verification procedures are absolutely essential to any acceptable SALT II treaty. If we cannot trust the Soviets, clearly we must be able to tell when they are cheating, particularly on an issue as important as strategic arms limitations.

Furthermore, we cannot permit a SALT II agreement, no matter how sound or verifiable, to serve as a maginot line in our strategic posture. The Soviets clearly have the will, and may well have the capacity, to outflank any such agreement by aggressively exploiting opportunities for confrontation throughout the world, using conventional means.

Obviously Mr. President, no Member of this body is in a position to pass final judgment on a SALT II agreement that does not yet exist. I believe, however, that there is some merit in raising and discussing fundamental issues pertaining to SALT; issues that will inevitably bear on the question of Senate ratification regardless of the final form the treaty may take.

There are two aspects of SALT that currently cause me some disquiet. The first is the necessity of preserving MAPS in the forthcoming SALT II treaty—MAPS is the concept that we can confound a Soviet first strike against our Minuteman sites by digging more silos than we have missiles. The second issue is our general perception of arms limitations agreements over the years and the aura of inevitability that has developed around SALT II.

The faddishness and jargon of the arms control dialog would be amusing if the topic were not so important. Clearly, the latest vogue in the ongoing debate about SALT II is the multiple aim point system, or MAPS. The same concept is also referred to with the acronym of ALPS—alternate launch point system. MAPS or ALPS, the notion is identical and disarmingly simple. It is almost as if a talented layman were introduced into the arms control debate.

I am neither qualified nor inclined to deliver a long address on the pros and cons of MAPS. Certain elements of the problem and the proposed remedy are, however, beyond dispute.

We currently have a substantial number of ICBM's, mostly Minuteman III, targeted at the Soviet Union in hardened positions. This land-based missile force constitutes one element of our triad. There is substantial agreement within the brotherhood of strategic analysts that the Soviet Union will, by the early to mid-1980's, have the capability of destroying the majority of our Minuteman force without substantially depleting their own missile inventory. This situation will exist whether or not the SALT II treaty is signed in its current form, and it is not a comforting thought.

With these factors in mind, two questions immediately occur. What options are available to us, within and beyond the constraints of SALT II, to protect our land-based missile system? What purpose is this system intended to serve?

In regard to the first question, we could program, fund, and build a mobile missile system, the much-heralded, hotly debated and highly expensive MX. That is one option, and SALT II would not be an impediment. It has been deliberately delayed by the administration, and is scheduled to be operational in 1986, after the treaty expires.

The MAPS/ALPS multiple silo approach provides a second, theoretically less costly option for enhanced survivability, because it utilizes the existing Minuteman III. Our missiles are vulnerable because they exist in finite numbers; the Soviets know where they are; they can land a warhead close enough to take them out; and they will have sufficient warheads to do the job.

Let me just add parenthetically that I have always been a little puzzled by the notion that our ICBMs could be eliminated in their silos because I had always assumed that, even in the case of a Soviet first strike, we would have sufficient warning time to get our missiles up and off. But let us assume for the sake of argument that this launch-on-warning option is rejected.

Under the MAPS/ALPS approach, we simply diffuse about 250 of our missiles over a much greater number of holes, or launch points. They become safer because the Soviets do not know at any given instant which of up to 5,000 new holes has the missile and because they lack the means to attack all the launch points. Multiple silos should theoretically curb the Soviet appetite for a first strike and virtually assure the survival of at least a significant part of our minuteman force in any contingency.

At the very least, Mr. President, this is a clever idea. I would be hard-pressed to demonstrate why it would not work.

True, the multiple silo concept raises some very significant and difficult questions. It complicates verifiability, which is a critical aspect of SALT II. We would, in effect, set out to make it impossible for the Soviet Union to determine where our missiles are. We would make each silo look as if it contained a missle, a conscious effort at deception. We would make it more difficult for the Soviets to determine if we were cheating on the upper limit of missiles, assuming that

they lack the capacity to detect new missile production in this country.

Resort to the multiple silo approach would also invite the Soviets to follow suit, creating new verification problems for us and raising similar concerns about total numbers of missiles.

Considerations of this nature are important. They deserve to be addressed. But the option is also important. It deserves to be preserved. We gave up the B-1 bomber and got nothing in return. We are treading water on the neutron bomb, again with no reciprocal concession in sight. We have terminated minuteman III production and delayed MX and have production delays with Trident. I do not think we can gratuitously afford to scrap the multiple silo concept, and I am pleased to see Secretary Brown and ACDA Director Warnke agree with this position. They are insisting that the option to deploy a MAPS be preserved in a SALT II treaty.

One of the most intriguing aspects of the MAPS debate is the fact that it drives the Soviets up the wall. Pravda is indignant. They do not like it one bit.

Perhaps we should pause for a moment and attempt to determine why the Soviet Union is so clearly and strongly opposed to multiple silos, particularly when we do not deny their right to deploy the same system.

It takes no great strategic genius to divine the reasons for this protest. The reason is simple. The Soviets are acknowledging that they do not want to sacrifice their perceived ability to destroy our land-based missiles in a first strike.

I do not want the Soviet Union, even in a worse case hypothesis, to have that capability. I do not think we should permit it to exist. One way to circumvent it is to deploy a MAPS.

There may be some other, more arcane, or more legitimate reason for strong Soviet objections to multiple silos. If it exists, I would like to know what it is. In the absence of any such information, I must assume that the Soviets object for the reason stated.

I alluded earlier to a second question on MAPS/ALPS: What is the purpose of our land-based missile system? It should by now be apparent to even a neophyte in the field of arms limitations that we lack the capacity to take out the Soviet land-based missile force in a first strike with our Minuteman force. That is not the goal nor the purpose of Minuteman. Our land-based missiles serve only to deter a Soviet first strike; they are an element of our potential response to any such initiative. They do not, however, represent a significant first strike threat to the Soviet ICBM's.

Where, I ask, is the symmetry in an agreement that acknowledges the Soviet potential to wipe out our land-based missiles while denying us a reciprocal ability to provide for our own ICBM survivability? Clearly, this Nation must demand the creative latitude to take passive measures to protect this essential element of the triad.

If the Soviets want to dig more silos, more power to them. They are welcome to do so. We have no illusions about our ability to target and destroy their missile force now or in the future. If they want to double their invulnerability, that is their option. We simply seek to preserve ours in the face of a very real and legitimate threat.

I am not prepared at this stage to stand before the Senate and argue that an ability to deploy a multiple silo system is essential to our national security. I do not suggest that MAPS/ALPS is the only, or necessarily the best way to safeguard our land-based missile system.

I do, however, submit that our Minuteman force must be protected and must remain invincible to a Soviet first strike. If it can be demonstrated that the MAPS approach is the most efficient, least expensive means to make that system survivable, then I for one would be extremely skeptical of any SALT II agreement that impinged on our right to exercise this option.

What I am saying, Mr. President, is let us not discard this option until we determine whether it can serve our national interests. Let us not give it away for nothing. Let us weigh the multiple silos proposal on its merits, independent of SALT, independent of Soviet objections. Multiple silos are not a menace to the Soviet Union; they merely deny the Soviets the ability to destroy our land-based missile force in a first strike.

I am somewhat reluctant to make the point, but we must understand that there comes a point at which no SALT II agreement is preferable to an ambiguous, weak, or dangerous agreement. There is a limit to the concessions we can make on the altar of strategic arms limitation, and we are fast approaching that limit.

We have been engaged in the business of trying to brake our arms race with the Soviets for the past 15 years. During this time there have been a number of "successes." Agreements that have imparted momentum to the process and gradually created a sense of euphoria in the American public.

Now any reasonable person, Mr. President, would support the notion of arms limitation and reduction provided it does not pose a threat to our national security.

What concerns me, however, is that the American public has come to accept the notion that we are winding down our Union. Disarmament, it seems, is just around the corner.

We believe this for two reasons: Because we want to believe it, and because our fondest hopes have been reinforced by a series of pacts successfully marketed as significant steps on the road to an end of the arms race and—eventually—to a relaxation of the balance of terror that rules the world.

During the past 15 years we have become so committed to the concept of arms control limitation that I shudder to think how we might react if the process does not continue. What happens if we cannot negotiate a successful SALT II agreement with the Soviet Union? Are we prepared to accept an unsafe, inadequate agreement on the basis that it is better than no agreement at all; the best that the situation will permit? Are we prepared, as a nation, to accept the consequences of failure to agree with our traditional adversary on the issue of arms control? Do we, really and honestly, have any option but to conclude a SALT II agreement with the Soviet Union?

Fifteen years ago we set out on the path of arms limitation with the Soviet Union with conclusion of the limited test ban treaty, the first, tentative step back from the cold war policy of confrontation. At that time, so soon after the Cuban missile crisis, we were clearly and unequivocally superior to the Soviet Union in nuclear weaponry; we held a clear strategic advantage.

Today that is obviously no longer the case. We seek to preserve a position of "parity" and avoid a situation of outright inferiority.

I do not suggest that our slide from superiority to precarious parity is entirely a function of the era of arms control. Obviously, it is not. The United States has exercised unilateral restraint in deploying new ICBM and SLBM launchers since 1967, and our strategic budget has declined since 1963.

But I suggest that, having accepted and embraced the notion of arms control/limitation, we were better able to look with equanimity on the notion of parity. A security posture "second to none" became good enough. We accepted the inevitability of a Soviet Union as powerful and as advanced as the United States.

What bothers me, Mr. President, is the lingering suspicion that the Soviet Union might just see things a little differently. One does not have to be an expert in trend lines and force analysis to conclude that, during the past 15 years, the Soviets have been winning the race for strategic superiority. They have the momentum going their way.

The whole purpose of SALT II, of course, is to stabilize this process at rough equilibrium. To establish limits that insure essential parity. But the spirit of SALT II is as important as the letter of agreement. It is important to understand that there is no fat, no margin for error or miscalculation, in a U.S. position of parity.

The United States has available a number of options that could restore to this Nation a position of strategic superiority. They include the cruise missile, the B-1 bomber, and the multiple silo approach or MX missile. Most are expensive options, both in terms of cost and in terms of what they would do to the cherished notion of arms control/limitation. I think it is safe to assume that we can no longer have arms control and a position of strategic superiority. The Soviets will not permit it, and their attitude is probably understandable.

If we forsake superiority and opt for parity together with a welcome element of control, I must be convinced that our partners in the negotiations are not leading us down the garden path. Otherwise we might be deceived into accepting inferiority.

With every arms limitation agreement—the LTBT, the SALT I ABM Treaty, SALT I interim agreement, the Vladivostok aide memoire—the Soviets have continued to gain on us. What assurance do we have that SALT II will put an end to this historical progression and stabilize the balance of forces? What sign, what indication, do we have from the Soviets that they will be satisfied with parity? How do we know that they are not using arms limitations talks as a smokescreen to mask a drive toward superiority?

The answer, Mr. President, is that we have no such assurance. We just do not know. We are asked instead to credit the Soviets with honorable intentions, and that is no mean task on an issue this important. Their record of questionable compliance with the SALT I agreements alone should warn us that they may have more sinister intentions.

Perhaps the time has come to disabuse ourselves of the notion that a SALT II agreement is inevitable and inherently desirable. In a recent SALT paper circulated by the State Department the point is made that—

> The choice the United States now faces is between a good agreement protecting and enhancing our national security, and no agreement at all. It is against this standard that what has been achieved at SALT should be measured—not against some ideal agreement that as a practical matter, given the relationship between the two countries, cannot be concluded at this time.

I am bothered by this distinction between a good and an ideal agreement. It would seem to me that an agreement that truly protects and enhances our national security would be ideal. If it pretty much protects our national security, if it protects as well as it is possible to protect in the context of SALT, if there are gaps in this protection, then the agreement is not good at all. We should not accept negotiated risks to our national survival as inevitable. If it is simply the best we can do, then I am not prepared to accept that standard when it comes to national security; I do not think the Senate is prepared to accept it, and I do not think the American people will accept it.

The United States of America has clearly demonstrated its abiding commitment to arms control by unilaterally allowing itself to move from a position of superiority to a position of parity. The Soviets have yet to demonstrate a reciprocal commitment. It is now the turn of the Soviets to display good faith, to cease exploiting every loophole in existing arms control agreements, to cut back on their awesome increase in strategic capability, to accept the notion that we have the right to insure the survival or our land-based missiles—in short, Mr. President, to demonstrate that they are prepared to stop at parity and reach a truly equitable SALT II treaty.

In the absence of positive indications of good will from the Soviet Union, in the absence of positive indications of a commitment to parity and mutual deterrence, it is going to be difficult indeed for the U.S. Senate to approve any SALT II agreement.

(Mr. LEAHY assumed the chair.)

Mr. ROBERT C. BYRD. Mr. President, I understand Mr. SPARKMAN has a conference report he wishes to call up, and it will only take 3 or 4 minutes.

I yield to him time on my time under the order for that purpose.

Is that all right with the acting Republican leader?

Mr. STEVENS. Mr. President, it is all right with me.

INTERNATIONAL SECURITY ASSISTANCE ACT OF 1978—CONFERENCE REPORT

Mr. SPARKMAN. Mr. President, I submit a report of the committee of conference on S. 3075 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. METZENBAUM). The report will be stated.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3075) to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 7, 1978.)

Mr. SPARKMAN. Mr. President, Senate and House conferees met on August 10, 14, and 15 to consider the International Security Assistance Act of 1978. The committee of conference recommends a fiscal year 1979 authorization of $2,817,500,000 for seven security assistance programs.

Mr. President, I ask unanimous consent that a table reflecting the executive request, the Senate recommendation, the House recommendation, and the conference agreement for funding of seven security assistance programs be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[In millions of dollars]

	Executive request	Senate recommendation	House recommendation	Conference agreement
Grant military assistance	133.5	133.5	163.5	133.5
Grant international military education and training	32.1	31.8	32.1	31.8
Foreign military sales (FMS) credits	674.3	677.8	674.3	674.3
FMS aggregate ceiling [1]	[1] (2,085.5)	[1] (2,120.2)	[1] (2,085.5)	[1] (2,085.5)
Subtotal, military assistance and sales program	839.9	843.1	869.9	839.6
Peacekeeping operations			29.4	30.9
Middle East Special Requirements Fund	[2] (5.0)	5.0	[2] (2.0)	[4] (3.5)
Sinai Support Mission	[2] (11.7)	11.7	[2] (11.7)	[2] (11.7)
U.N. Forces in Cyprus	[2] (8.7)	8.7	[2] (8.7)	[2] (8.7)
Spain	[2] (7.0)	7.0	[2] (7.0)	[2] (7.0)
Subtotal, peacekeeping operations	[3] 32.4	32.4	29.4	30.9
Economic Support Fund	[3] 1,872.0	1,932.0	[5] 50.0	1,902.0
Contingency Fund	5.0	2.5	10.0	5.0
International Narcotics Control	40.0	40.0	40.0	40.0
Total	2,789.3	2,850.0	999.3 [5] (2,854.3)	2,817.5

[1] The FMS aggregate ceiling represents the total program which could be funded under FMS credit authorization. The aggregate ceiling is not an authorization of funds for appropriation.
[2] Requested under the Security Supporting Assistance account.
[3] Included in the general peacekeeping operations assistance authorization, but no line item authorization made.
[4] Earmarked under the Peacekeeping Operations account.
[5] Only $50,000,000 (for Turkey) of the Economic Support Fund was authorized in the House amendment. An additional $1,855,000,000 was authorized in the International Development and Food Assistance Act of 1978 (H.R. 12222).
[6] Total including $1,855,000,000 authorized for an Economic Support Fund in H.R. 12222.

Mr. SPARKMAN. Mr. President, the authorization of appropriations agreed upon in conference is $32.5 million less than the authorization contained in the Senate bill and $28.2 million more than the authorization requested by the President. The conference bill provides $1,785,000,000 in economic aid and military credits for Israel and $750,000,000 in economic aid for Egypt, as requested by the President.

In addition to these authorizations, the committee of conference reached agreement on all policy issues, including repeal of the arms embargo on Turkey, economic sanctions on Rhodesia, troop withdrawal from Korea, conventional arms exports, and the economic support fund.

First. Repeal of the arms embargo on Turkey. The Senate bill repealed the arms embargo on Turkey, made policy statements regarding Cyprus, and required special Presidential certifications to accompany future economic and military aid requests for Greece, Cyprus, and Turkey. The House bill contained similar policy language and provided

that the arms embargo would have no further force and effect if the President made certain determinations. The conferees adopted the House version with an amendment containing some of the Senate's policy language. The action clearly constitutes a de facto repeal of the arms embargo and has the support of the President. The conferees also agreed to provide Greece with $35 million in grant military aid and $140 million in military credits. Turkey will receive $175 million in military credits and $50 million in economic aid.

Second. Sanctions against Rhodesia. The Senate bill required the President to lift sanctions against Rhodesia until fiscal year 1980 if determinations were made concerning Rhodesia's participation in an all-parties conference and installation of a freely elected government. The House bill permanently lifted sanctions after calendar year 1978 unless the President determined that a freely elected government had not been installed in Rhodesia. The conferees adopted a compromise version which retains the basic intent of the Senate bill. Sanctions would be lifted permanently only if the President makes certain determinations about Rhodesia's willingness to negotiate at an all-parties conference and to install a freely elected government. The conference report contains the details of the determinations.

Third. Compensation for troop withdrawal from Korea. The conferees adopted a compromise provision authorizing the President to transfer defense articles and services to South Korea in conjunction with U.S. ground troop withdrawal. The conferees also accepted the sense of the Congress statement that further withdrawal of U.S. ground forces may seriously risk upsetting the military balance in the region and requires full advance consultation with the Congress. Detailed reports are required 120 days prior to each phase of troop withdrawal.

Fourth. Arms transfer policy. The conferees accepted a number of modified Senate provisions on arms transfer policy including requirements for an annual arms sale proposal, reports on defense requirements surveys, and a policy statement on multilateral arms export restraint. The conferees also accepted provisions clairfying existing human rights language.

Fifth. Economic support fund. The conferees accepted Senate provisions creating an economic support fund as a successor to the security supporting assistance program. The fund would emphasize economic development. Peacekeeping programs would be authorized under a separate title.

Mr. President, I believe that this conference report represents a fine effort to bring together the best of both the Senate and the House bills. The administration generally supports the conference report. I urge its passage. I move the adoption of the conference report on the International Security Assistance Act of 1978 (S. 3075).

● Mr. CASE. Mr. President, the conference report on the security supporting assistance bill pretty much speaks for itself. I wish, however, to call attention to a section which is not in the conference report, because it was dropped by the conference committee.

Recent events make it worth pointing the section out to Members in the hope and expectation that work will continue on the matter.

I refer to the problem of giving adequate and thorough consideration to the export of equipment and technology which could have a political and military implication. The recent dispute over the sale of sophisticated drill bits to the Soviet Union illustrates that some of the problems still exist.

I recall to my colleagues that the original version of S. 3075, which passed the Senate on July 26, contained section 29, a modification by Senator STEVENSON of my amendment intended to assure an adequate review by the Secretary of State of commercial sales which might have a political and economic significance.

My amendment to S. 3075 sought to clarify the intent of Congress with respect to exports which could be damaging to U.S. foreign policy and national security interests.

While the provision was not too different from current authority, it did provide for a State Department review during a 30-day period. It also permitted the appropriate Federal agency to review the transaction.

Mr. President, I ask unanimous consent that a copy of my amendment be inserted at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

SEC. 29. Section 4 of the Export Administration Act of 1969, as amended, is amended by adding at the end thereof the following new subsection:

"(m)(1) With respect to any country engaged in activities which are detrimental to important political/military interests of the United States, any item which could have direct military application and could significantly assist such activities shall be approved for export by the Secretary of Commerce only pursuant to a validated export license.

"(2) The Secretary of Commerce shall determine, in consultation with the Secretary of State, the types of transactions which shall be reviewed by the Secretary of State to carry out the purposes of this subsection. The Secretary of State shall have thirty calendar days to conduct the reviews referred to in this subsection and at the end of such period of time shall state his recommendation or his reasons for not making a recommendation.

"(3) The provisions of this subsection shall not apply with respect to countries which are members of the North Atlantic Treaty Organization, or to Japan, Australia or New Zealand.

"(4) The provisions of this subsection shall not apply with respect to any agricultural commodity, including fats and oils or animal hides or skins.".

Mr. CASE. The amendment met with the immediate opposition of industry and the State Department. A spokesman for the Department said that while the amendment would limit the flexibility of the executive branch, it would enforce greater discipline upon the Department in expediting export approvals.

While the legislation was under consideration on the floor of the Senate, Senator STEVENSON wrote a letter to Senator PERCY, a member of the Senate Foreign Relations Committee, seeking the withdrawal of the amendment. At the same time, Senator STEVENSON promised that his Banking Subcommittee on International Finance would begin hearings on export controls this fall as part of the extension of the Export Administration Act of 1969.

Mr. President, I ask unanimous consent that a copy of Senator STEVENSON's letter to Senator PERCY be inserted at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
August 10, 1978.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: I understand that when the conference committee meets on S 3075, the International Security Assistance Act of 1978, the Senate conferees may move to recede to the House with respect to section 29 of the bill as passed by the Senate. Section 29 would amend the Export Administration Act to clarify the intent of Congress that exports which could be damaging to U.S. foreign policy and security interests be screened by the appropriate departments of the Federal Government before the transaction is completed. The House version contains no similar provision.

As I stated when I offered the language of section 29 as a floor amendment, export controls for political and national security as well as economic reasons will receive thorough study next year by the Committee on Banking, Housing and Urban Affairs which has jurisdiction over the Export Administration Act and the subject of exports controls generally.

As you know, that Act must be reviewed and extended next year because it would otherwise expire September 30, 1979. The Subcommittee on International Finance, which I chair, will begin hearings on export controls this fall. Accordingly, should the conferees decide to delete section 29 from S. 3075, I will not oppose such action.

With best wishes,
Sincerely,

ADLAI E. STEVENSON.

Mr. CASE. I understand that hearings have since been scheduled for the full Banking, Housing, and Urban Affairs Committee, chaired by Senator PROXMIRE. This committee, which has jurisdiction over export controls, is to begin those hearings September 21.

Mr. President, I cite my amendment and the subsequent turn of events in view of the Carter administration's approval of the sale of a drill bit factory to the Soviet Union.

As you may recall, Dresser Industries of Dallas, Tex., had sought approval from the Commerce Department to supply the Soviet Union with technology

and equipment to build its own plant to manufacture oil field drilling bits.

Part of the overall deal is a $1 million electron-beam welding machine which purportedly has direct military application in the production of armor piercing shells.

Most of the licenses for this $144 million deal—a transaction which is regarded as one of the largest United States-Soviet deals in recent years—had been approved May 30.

Then in the wake of human rights violations in the Soviet Union, including the imposition of prison sentences against dissidents, President Carter in mid-July ordered a review of all oil technology exports to the Soviet Union.

By August, however, no one reportedly had told the President's national security affairs adviser, Zbigniew Brzezinski, and Energy Secretary James Schlesinger that a Presidential go-ahead had been given to the Commerce Department to approve the rest of the project, which included the electron-beam welding machine. They purportedly learned of the resumption of the deal through the press.

After Schlesinger and Brzezinski raised strenuous protest over the sale, the Defense Department reconsiderd its position and opposed the sale.

Schlesinger and Brzezinski reportedly pressed for an independent review of the disputed licenses and the Defense Department's Defense Science Board undertook the study.

These events raise questions surrounding review procedures on the sale of equipment which may have national security application.

But it has happened before.

Earlier this year, American Motors Corp. announced the construction of a factory outside Cairo to manufacture so-called utility vehicles. That really meant jeeps.

The sale was approved by the Commerce and State Departments. What was not known to the Congress at the time was a classified document from State to the Commerce Department which, I am informed, indicated that the location of the factory would be next to a factory to build British Swingfire antitank missiles. It now is our information that these missiles are to be mounted on the jeeps, making them a highly versatile long-range weapon.

What seemingly appears to be an innocuous sale, Mr. President, turns out to be a new weapons system which increases the arms race while bypassing the congressional review procedure.

A similar development arose earlier this year when the Commerce Department approved the sale to Libya of 400 heavy duty trucks—suitable for tank transports.

The company, in Oshkosh, Wis., had been warned that there would be problems with that sale, but they went ahead with the contract signing anyway. The sale was ultimately turned down.

Mr. President, I cite these incidents not to rake over not-so-ancient history but to point out that there is a need to improve the review procedures for exports of items and equipment which have a direct or indirect military use. It may be that there are reasons for letting most of the proposed sales go through. But there are times when our national interests are best served by stopping or delaying such sales.

These decisions are not always clear-cut and seldom are easy. But it is important that the decisionmaking process be thorough and that all the various sections of the Government which should be involved in the process are fully consulted.

In the most recent case, that of the sophisticated drill bits, I and many of my colleagues believe that this is not the time to go ahead with the sale. The decision to go ahead was disturbing. But equally disturbing was the way it was handled.

I am glad, therefore, that the matter of review procedures will be taken up by the Senate Banking Committee.

It is important, too, that the Committees on Foreign Relations and Banking continue efforts to improve those procedures.●

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. SPARKMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRIVILEGE OF THE FLOOR

Mr. STEVENS. Mr. President, I ask unanimous consent that Patricia Bennett, of my staff, be accorded the privilege of the floor during consideration of the conference report on the natural gas bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, I ask unanimous consent that Erich Evered, of my staff, and Fred Craft and Danny Boggs, of the minority staff, be accorded the privilege of the floor during the vote and consideration of the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, will the Senator yield?

Mr. STEVENS. I yield.

Mr. CANNON. Mr. President, I ask unanimous consent that Frankie Sue Del Papa and Bruce Eggers, of my staff, be accorded the privilege of the floor during consideration of the natural gas conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF LEADERSHIP

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, there is no request for the minority leader's time. Therefore, I yield back the remainder of the minority leader's time.

SPECIAL ORDER

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin (Mr. PROXMIRE) is recognized for not to exceed 15 minutes.

UNCLE SAM'S TWO FATTEST WELFARE APPLICANTS—GENERAL DYNAMICS AND LITTON

Mr. PROXMIRE. Mr. President, last Friday I submitted resolutions of disapproval for the two proposals to bail out the giant Navy shipbuilders, General Dynamics and Litton. Under the terms of Public Law 85-804, either House of Congress has 60 days to disapprove use of Public Law 85-804 or else the proposed action will go into effect. That 60 days expires in about 1 week.

Without passage of this resolution or disapproval, General Dynamics and Litton will become the two fattest welfare recipients in this country.

As the author of the 60-day provision, along with the Senator from Virginia (Mr. HARRY F. BYRD, JR.) I can assert in unqualified terms that its purpose was to grant authority to Congress to act in extraordinary circumstances. The conditions are simple—there must be a large amount of money—public funds—at stake. While the legislation calls for congressional participation anytime the amount is over $25 million, the present case involves $931 million for two claims of which $541 million is in excess of what was substantiated by the Navy's own claims review process.

When I introduced this legislation, it had incorporated within its provision certain requirements which would make it certain that any controversial matter would come to a vote. There was an antifilibuster provision, for example. However, due to the request from the majority leader, this language was stricken. Senator Symington, then acting chairman of the Armed Services Committee, indicated that he thought these controversial subjects should be brought to the Senate for a vote. He wrote me a letter stating that he had instructed the staff of the committee to inform the authors of the amendment when the use of Public Law 85-804 was contemplated. He also said that he would work with me to insure votes on such matters. Given that assurance, I struck the antifilibuster and automatic vote provisions from the legislation and it was passed.

Perhaps I was too trusting for today we have a circumstance where it is possible that these resolutions of disapproval will be bottled up in the Armed Services Committee and not allowed to come to the floor for a vote.

I withheld offering these resolutions so that the committee could hold hearings and gather the facts. It seemed that this was the proper thing to do—to allow

the committee process to work. But now it appears that the committee process will not work and that the committee deliberately will take no action on the resolutions or will block consideration of these resolutions on the floor.

I hope that this will not be the case—that the committee will agree that the expenditure of nearly 1 billion of tax funds is worthy of a vote by the Senate. Even if the committee should be in opposition to the resolutions, certainly there should be a vote on the substance of the issue.

Those who do not favor bailing out the giant shipbuilders at the expense of the taxpayers, those who disagree with the presumption that large corporations who mismanage Federal programs and find themselves in financial difficulty should become corporate welfare clients, those of us who argue that the Federal Government is taking the risk out of business and transferring it to the taxpayers—we believe that the Senate should take a stand on this issue.

If by one stratagem or another, a resolution of disapproval is blocked in the Senate, I serve notice that the Senate will not completely escape this responsibility. The payment of claims above that now set aside must be authorized in a new military procurement authorization bill or appropriated within a following defense appropriations bill. Language can be attached to the authorizing measure specifically disallowing the payment of any claims above that determined by the Navy's claim review process—no matter whether or not the 60-day period has expired and Public Law 85-804 is in effect.

I wish to make it clear that I will not agree to any unanimous-consent agreements regarding time or procedure on the new military procurement bill or the upcoming defense appropriations bill. Furthermore I now indicate that there should be a thorough if not exhaustive debate on this matter at that time. It would be far better to have a vote on the resolution of disapproval itself, but if individual Senators move to block this, I will take whatever action is necessary to safeguard the taxpayers against this arbitrary payout of $541 million in unaudited claims.

Mr. President, in view of the fact that there are no stipulations as to how these resolutions of disapproval will be handled, will the Chair please inform me if a resolution of disapproval can be attached as a rider to some appropriate bill that happens to be pending on the floor—that is regardless of any action taken by the Armed Services Committee, is that in order to place a resolution of disapproval on another measure?

The PRESIDING OFFICER (Mr. HART). The Chair wishes to inform the Senator that the procedure which he suggests would be appropriate under circumstances where the legislation to be amended does not have a germaneness condition attached to it for amendments.

The Chair further wishes to inform the Senator from Wisconsin that under rule XVI appropriation bills do have a germaneness requirement on amendments.

Mr. PROXMIRE. May I further inquire whether or not I could attach this to a bill that would not be an appropriation bill, say, an authorization bill? Would that be in order?

The PRESIDING OFFICER. If cloture has not been invoked, and there were no agreement otherwise providing for germaneness of amendments.

Mr. PROXMIRE. In other words, if I object to a unanimous-consent agreement until this is settled, I would be free to offer this on an authorization bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. PROXMIRE. Mr. President, I thank the Chair.

Let me just continue very briefly on this matter. Let me put the substance of this argument in the clearest terms. The civilian hierarchy of the Navy, the Secretary and Assistant Secretary, over the objections of the uniformed Navy, has arbitrarily decided to split the difference with General Dynamics and Litton on the size of their shipbuilding claims. Instead of auditing the claims, some of which may have been fraudulent, they simply divide the amount in half. Now this amount—$541 million—is in excess of the total determined by the Navy's own specialists and claims award process.

Therefore, we can now see the formula for success for defense firms. It goes like this. When in trouble, file millions of dollars in inflated claims, disregard any investigations or audits, do not cooperate with the auditors, threaten to stop production, and sit back and wait. Very shortly, the Defense Department will be pleading to provide at least one-half of what you want. And if you have inflated the claims originally by at least 100 percent, you will gain back every penny in your original plan.

The welfare handout doors are open. The treasury is large. The inclination on the part of the civilian leadership of the Pentagon is "come and get it."

THE STATE OF PUBLIC EDUCATION AND THE ROLE OF THE FEDERAL GOVERNMENT

Mr. PROXMIRE. Mr. President, what an irony. The same week that the Senate passed the colossal $50 billion bill to extend the Elementary and Secondary Education Act, two major reports appeared which revealed both the failures of the present public school system and the fruitlessness of the present Federal school aid approach.

The first report was a CBS News three-part documentary entitled, "Is Anyone Out There Learning?" which showed why many parents, taxpayers, and even students and teachers have lost faith in our Nation's public schools.

The best test of any program is the results. Public education is not only doing badly it is getting worse. Why do I say this?

INCREASING COSTS AND LOWER TEST SCORES

During the past 15 years our Nation has increased its spending on public schools, not by twofold, not by threefold, but by fourfold, and the results? Students are scoring lower on any number of standardized tests.

Since 1963 the educational achievement as measured by the scholastic aptitude test of collegebound students has fallen year after year in both verbal and math skills.

As the CBS documentary points out, the level of functional illiteracy among all 17-year-olds is at least 13 percent and is three times higher for 17-year-old blacks.

Studies supported by the Office of Education show a general decline in test scores over the last decade for grades 5 and above. Again, what is particularly striking is the fact that the decline becomes more pronounced at the higher grades.

These disappointing statistics reinforce the belief of many that there has been a serious deterioration in the ability of our young people to perform satisfactorily as informed citizens and skilled workers. Mr. President, why is our economic productivity declining? Here is one clear and shocking answer.

The tragically high unemployment rate among teenagers, especially black teenagers, can, in part, be traced to this group's deficiencies in basic English and math skills.

On the CBS broadcast the personnel manager of Mountain Bell says that 40 to 50 percent of the people applying for a job failed to even get past the company's entrance exams because of these deficiencies in math or English skills.

The CBS documentary also reports on the ugly atmosphere of insubordination, drugs, hostility, and fear which pervades some of our Nation's public schools. It is obvious that very little learning can go in in schools exhibiting that kind of unwholesome environment.

Finally, as CBS news reports, there have been runaway costs associated with educating children in our Nation's public schools. Higher salaries for teachers, more expensive textbooks, and larger amounts and more costly types of "teaching aids" such as audio visual equipment and computers have pushed the cost of educating children clear through the roof and into the sky. No wonder the hard-pressed taxpayer is looking for relief from school-related taxation.

Mr. President, this should be far more alarming to any American concerned with the strength of this country than any military deterioration. Why? Because the strength of this country—as in any country—is in the strength of its people. The skill, the understanding, the training of our citizens is what makes a nation strong. This is more important than our factories, our farms, our natural resources. The quality of our people is what will make this country succeed or fail. And the dismal record now shows we are failing.

The CBS news report never focuses on the role of the Federal Government in public elementary and secondary education. However, at the same time the CBS education documentary ran, the Rand Corporation was releasing a study funded by the Office of Education which reported the results of a 4-year examination of a large number of federally supported educational innovations in public schools. And what were the results of this massive review of Federal aid to elementary and secondary education? The Rand researchers found that in general no existing educational approaches consistently improve student performances; that Federal aid had not fulfilled expectations and that questions continue to be raised about what might be the most appropriate and effective Federal role for improving the Nation's public schools.

The Rand study states what I believe to be true—that more Federal intervention and money cannot and must not be a replacement for local commitment and innovation. As the report says:

> All the Federal programs had funded some successfully implemented projects as well as dismal failures and many projects in between. The difference between success and failure depended primarily on how school districts implemented their projects, not on the type of Federal sponsorship. The Federal spending was simply overwhelmed by local concerns and characteristics.

Did the huge increase in Federal money help? No! It did not "buy" more committed teachers, more effective project directors, more concerned principals, and so on. In other words, project outcomes reflected not the amount of funds available, but the quality and behavior of the local staff.

THE NEED FOR A REEXAMINATION

The Senate has recently passed a $50 billion education bill. That I voted against for that very reason. My first speech in the Senate more than 20 years ago addressed the need for a strong Federal commitment to education, and yet I was one of the few who voted against this year's education bill. Why did I vote as I did?

Because too much of our Federal education money is just going into the education slag heap. We must not continue to blindly, thoughtlessly, pour money into programs and approaches that simply are not working. What we need to do is to end Federal support of educational programs which have been shown to be failures. We need to reform those programs which can be salvaged. And most important of all, we need to control overall Federal spending and taxation so that additional funds can be retained through State and local taxation to be spent on locally created and controlled educational programs.

While there are legitimate and important Federal educational priorities, Federal aid to public education must always be a limited supplement, for limited purposes, to help support local and State educational programs and initiatives.

Mr. President, I ask unanimous consent that excerpts from the CBS News broadcast "Is Anyone Out There Learning?" and the summary of the Rand report entitled "Federal Programs Supporting Educational Change, Volume VIII, Implementing and Sustaining Innovations" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

IS ANYONE OUT THERE LEARNING?

CHARLES COLLINGWOOD. Here comes the class of 1978, part of an army of three million young Americans who went through similar high school graduation ceremonies this year. This particular battalion comes from the John F. Kennedy High School in Denver, Colorado.

How good an education did they get? Many people think it was not good enough. There are widespread complaints that young Americans like these have not acquired in school the basic skills with which to lead full lives in today's society. There is a national demand that high school graduates must demonstrate academic competence to get their diplomas. There are taxpayers' revolts against the high cost of education. The rallying cry of the critics is: "Back to the basics!"

Ironically, among those members of the Denver school board conferring the diplomas was Mrs. Naomi Bradford, herself a critic of the present educational system.

NAOMI BRADFORD (member, Denver public school board). We are not giving the students the basics that we ought to be giving. The parents are telling me they want more of the basics. They want their children as well educated in the basics as they are. Let the alternatives go by the wayside if they need be, but give them the basics.

WALTER CRONKITE. Good evening. The appeal we heard a minute ago—they want their children as well-educated as they are—happened to come from Denver. It could have come from anywhere in this country. Parents, teachers, students, taxpayers—all are increasingly critical, increasingly emotional, about public schools they say are not educating young people as they could, as well as they should.

Well, what has happened? What we know is that tests show today's students scoring lower in basic subjects than they did 15 years ago. During those same 15 years, the cost of public education has almost quadrupled. So the question: "Is anyone out there learning?"

Starting tonight and for two nights to come, we will suggest some answers to that elemental question. First, some elements of the problem.

CRONKITE. The rate of functional illiteracy—the inability to read and write simple sentences—is now running at 13% or higher among 17-year-olds.

STIRLING COOPER [teacher]. The tests we're giving don't show literacy. They show bits and pieces of learning. If we really gave literacy tests, I would wager half or more of our students are illiterate in the old-fashioned sense.

CRONKITE. Students are passed on to higher grades, whether or not they can do grade-level work.

WILLIAM KOERBER [teacher]. We pass kids because they physically get big, not because they mentally or emotionally or any other ways get big. And that's been the pattern of—as long as I've been in the schools. We socially—we call it a social promotion.

CRONKITE. Most standardized test scores, including the SAT, the Scholastic Aptitude Test taken by those seeking to go to college, have been declining for the past 14 years.

WILLARD WIRTZ [Director, National Manpower Institute]. Starting in the early sixties, middle sixties, almost all of the academic scores started going down gradually. They all went down gradually until about 1970, and then they plummeted.

CRONKITE. There's a rapidly growing grassroots demand for minimal competency testing to determine whether a student actually has enough knowledge to qualify him or her for a diploma, or whether he or she is not qualified and should be denied a diploma.

CHRISTIAN C. PIPHO [Education Commission of the States]. I would say it's one of the few times in the history of American education that we've had a—a movement for reform come into education from outside of education—from legislators, from state board members, from citizens—something like this.

CRONKITE. It is said that the quality of teaching has declined.

LLOYD BAKER [parent]. Some of the teachers, truthfully, in my opinion, have been retired, as far as educating children are concerned, for many years; but sit there, because of tenure, and collect their—their pay. That's all they care about.

CRONKITE. Because of all this, widespread demands have emerged for "back to basics" in the school curriculum.

Mrs. BRADFORD. Anyone with their ear to the ground and really listening to the public right now will hear that the public demand is back to the basics. "Hey, my kid can't do the multiplication facts like I can." "Hey, my kid can't punctuate, can't sound out words, like I can." "That's what I want first for my children." I think that's what the public is saying.

CRONKITE. Across the nation, an HEW study shows that 42% of black 17-year-olds enrolled in school are functionally illiterate, three times the national average. And the absentee rate among black youngsters—it used to be called truancy or playing hooky—is also higher than the national average. An absentee rate of about 5% for reasons of health is considered about normal, but in inner-city schools, 30% is not uncommon.

CLARK BALLINGER (Denver teachers union head). You have a great number of youngsters, as you do in any urban city, that really haven't found themselves, and they just don't care. And so they have great problems in the absentee business. They don't—they don't want to come to school. The question is how do you force them to do that? What do you do? Do you—take a youngster that says, you know, "I'll come when I want to, and if I don't want to I won't." You can flunk them. You could kick them out if you wanted to, and say you can't—you can't come to school. There's any number of answers, none of which meet the needs of the youngster. The goal is to keep these kids in school, and to try to help them. And the Denver public schools—and I really want to give them credit here—work hard at that. And they do a—really a good job of—of putting together progams. They don't do a very good job of making those programs successful. They just frankly are not working. The absentee rate sometimes in a—in a high school can be as much as four and five and six hundred a day. That's horrendous. And they're trying to work on it. All I can say is we can only do so much as educators. Basically, if the parents cannot force and make their youngsters go to school, the teachers can't.

COLLINGWOOD. There is no father figure in the Craft family, and Mrs. Craft has enough to do with making ends meet and coping with her own problems that she is not a stern disciplinarian. Still, she feels keenly that two of her children seem to be missing out on the educational opportunities she herself tried to take advantage of in a less privileged time.

What kind of facilities did you have when you went to school?

Mrs. CRAFT. Nothing. [Laughs.] Not anything. Scratched up desks, a raggedy book and a few crayons, and a few scratched up blackboards.

COLLINGWOOD. But you still think you got more out of it than some of your children have?

Mrs. CRAFT. I think so. With—with all the latest equipment that they have, and different types of things they have to work with, I think my education's better than theirs.

CRONKITE. Mrs. Craft is not alone in believing that throwing money at the problem has not solved it. The public doesn't think so either. Our CBS News poll shows that 41% of

those who responded say that their children are not getting as good an education as they got. Only 35% think today's education is better; 16% feel it's about the same. And those are not very good marks.

One of the greatest public concerns is about violence and vandalism in the schools, and we'll look at that next.

CRONKITE. When we talk about violence in our schools these days, we're not talking about youthful high jinks. We're talking about a pattern of widespread mindless destruction. We're speaking of attacks on persons of incalculable cost, of attacks on property that cost enough each year to pay the salaries of 50,000 teachers. As Charles Collingwood tells us, Denver's been paying the price, too.

COLLINGWOOD. In Denver, Miss Barbara Piascik, who teaches social sciences at Smiley Junior High, finds that year by year her job becomes more difficult because of the growing lack of discipline tolerated in the schools.

MS. BARABARA PIASCIK. I—I think that when a kid comes to school, I mean, he should come there to learn something. And you know, we can—we can only do so much. But when—when a child—when—when a teacher reprimands a kid, and the kid comes back with—with four-letter words and all this kind of thing, that's a discipline problem. When I open the door and see kids in the hall, they're running around, kids with pieces of glass, and—and then other students telling me of—of kids of with guns, I get very depressed about it, because I don't see anything being done about it.

JOHN RYOR [President, National Education Association]. Our statistics suggest that about 70,000 teachers a year in the United States are victims of physical abuse, and it is a serious problem. It's—it's a problem that's been growing over the years. It's a problem again that needs resolution. It's difficult in a classroom of 40 people, of 35 people, for a teacher to accomplish his or her goals as they relate to the school's curriculum when you spend thirty, forty or—percent of your time perhaps with three or four students who just are either unwilling to—to fit the—the classroom situation, unwilling to behave according to standards that make it possible for all the children to learn, or—or simply are disruptive for whatever reason.

ROBERT HOLLEY. Yeah, some classes get pretty bad. It's—some of the classes that have the good kids in them, supposedly, are pretty bad discipline-wise. I'm in—in my ex-English class, there's absolutely no order. The—the teacher tries to do something about it, but he can't—he doesn't have the authority to whip the kids back into their place. All's he can do is slap their hand or send them down to the student advisor. And it doesn't do any good.

COLLINGWOOD. Part of the problem of discipline in the schools is the widespread use of drugs. Hank Holley was very frank about that.

Are there a good deal of drugs in high school in Denver?

HANK HOLLEY [laughs]. Yes.

COLLINGWOOD. Hard or soft?

HANK HOLLEY. Both. I can—yeah, there's—there's a lot. I've seem more than my fair share, let's put it that way. I've seen quite—quite a few that I wish I wouldn't have.

COLLINGWOOD. You ever into that much yourself?

HANK HOLLEY. I have been. And like my sophomore year I don't think I spent a day straight. Always high, always smoking dope. Going out before class and after class. That—that was—that was my status.

BALLINGER. The youngsters that come to school that are in high school, by the time they're in high school at least 80% smoke marijuana regularly or—or have at least tried some kind of hard drug. This is a lot different from the education in the fifties, in the sixties. The seventies is different, and it's very difficult to work with these youngsters.

DR. BRZEZINSKI. Discipline is the number one concern of Denver parents, as well as the rest of the country. It's a problem that we're trying to do something about. We've appointed a very high-level discipline committee composed of administrators, teachers, parents and students. We're examining the discipline policies and practices. Prior to my taking this position, no one had been expelled from the Denver public schools for two years.

CRONKITE. What is the public perception of discipline in the schools. Well, it's overwhelming critical. A CBS News poll finds that 84% of those who responded say that discipline is not strict enough. Only 4% say it is too strict.

Elementary and high schools are a steppingstone, a training ground, for the young peole of the United States. They determine what happens to the student when he or she goes on to a job or to college. How do the universities and the employers feel about today's high school graduates? Charles Collingwood has some answers.

COLLINGWOOD. Of all the test American students take, perhaps the ultimate one is that administered by the marketplace, which decides what kind of a job the skills he has learned qualify him for. In Denver, the Mountain Bell Telephone System is the largest private employer. Mrs. Connie Bragg, Mountain Bell's personnel manager, is not happy about the qualifications of the young people who apply for jobs there.

CONNIE BRAGG. Forty and fifty percent of the people who come in to take our entrance exams are unable to qualify.

COLLINGWOOD. What are the reasons for that? What—what—what are their deficiencies?

MRS. BRAGG. Basically, I guess the prime deficiency is in the area of math. But in some cases it's just an inability to understand or comprehend language.

COLLINGWOOD. Do you attribute this to the schools that they've gone through, or to the society in general, or to their homes, or what?

MRS. BRAGG. Well, I guess inasmuch as—as we charge the school system with—with training our—our young people, you have to put some of the blame there. But it's—it's difficult for me to say how much of that really is—is the education system's fault and now much is—is a—a home environment.

COLLINGWOOD. What kind of qualifications would you ideally like to see in those coming in to Mountain Bell?

MRS. BRAGG. If I can use some old-fashioned terms, I would certainly like to—I'd want to say reading, writing and arithmetic. Those are very basic skills that you need to operate in—in the business world.

COLLINGWOOD. Business is not the only end user of the products of American high schools; so are colleges and universities. At the University of Colorado at Boulder, which enrolls many Denver high school graduates, the head of the English Department, Dr. Paul Levitt, and his colleague, Professor Elissa Guralnick, have been waging a campaign against the illiteracy of the students they get.

Professor ELISSA GURALNICK. Most of our students are not prepared to write college papers when they come to the university, college-level papers. They tell us that they haven't written papers in high school. They'll tell us that they've written one or two papers in high school, usually in tenth grade for some reason. They'll tell us that they can't remember writing in junior high school.

Dr. PAUL LEVITT: I'm persuaded that the writing has—has—has grown terrible in the last few years. And the only—the only evidence I have is that on occasion I go back to my files and I look at papers that were written for me in 1964, '5, '6, and they are, in fact, better written papers than the ones I am receiving now.

COLLINGWOOD. Dr. Levitt, you wrote once that many students in this university are only marginally literate. Now, what do you mean by "literacy", and how many are only marginally literate?

Dr. LEVITT. In order for a student to be literate at a university level, he has—he has to bring with him, or she has to bring with her, a body of knowledge. There has to be an assumed ex— experience for that student. For example, we assume that the—that the student can, at a very fundamental level, can read and write. We assume that the student can recognize names like William Shakespeare and Winston Churchill. We assume that if we are talking to student—students about a grammatical error in a sentence and we say that the subject and the verb do not agree, the student won't look at us and say, "What's a verb?" We have students who are coming to us who, when you say to them, "What is the subject of this sentence?" they say, "What's a subject?" And so we can't talk to them about literature. That is to say we can't make any assumptions. We can't mention the word plot, because they don't know what a plot is. We can't mention the word character because they don't know what a character is. We can't say the subject of the sentence because they don't know what the subject is. So finally I say they're marginally literate, and I'm being polite when I say that.

WALTER CRONKITE. Public education is bigger than ever in America. Almost 44-million youngsters go to public elementary and high schools. Many more now graduate than ever before. We spend almost $81-billion each year on their schooling, a record. More than one person in every four is involved in some way in education. There are more school books—more expensive, more glossy, more pictures; more kinds of instructional kits and gadgets to supplement the books; more than two million teachers getting more pay, some quite a lot more. And there's more criticism, more concern, more questioning whether our public schools are doing the job. Why? Some say it's the teachers.

Mr. RONALD SEVIER: I don't think the teacher today is nearly as dedicated as the teacher was twenty years ago.

Mr. ROBERT HOLLEY. Just kind—lose interest after a little while, and they're just there for—to be there from day to day.

Dr. DIANE RAVITCH [educational historian]. Studies have shown that an awful lot of time spent in school is not spent in classroom, and a lot of time spent in classrooms is not spent teaching or learning. It's spent moving around, shuffling papers, gabbing, rapping, whatever. This is not teaching and learning.

CRONKITE. It's not just the teachers and teaching that are criticized. It's the books and other teaching equipment. Instructional materials are big business, too.

JERROLD ZACHARIAS [Professor Emeritus, MIT]. The control of education is in the hands of the publishers now; a handful.

CRONKITE. And there's television. It has transformed the lives of most of us. Certainly it's impact on the lives and minds of the young has been revolutionary. How and why?

ERNEST L. BOYER [U.S. Education Commissioner]. Children are now watching television four to five thousand hours every—before they go to school.

DUKE SEVIER. I enjoy television. That's probably the funest thing besides sports that I do. Actually, I watch more TV than I do anything else in life.

BARBARA PIASCIK [teacher]. Television! I mean, kids are glued to the television set all day. They don't have to read a book the way I did when I was growing up, or the way you did when you were growing up.

CRONKITE. Teachers, textbooks, television. These are some of the reasons critics say are behind the decline in American public education. There are other reasons, ranging from a permissive society to a change in family structure and basic social values. They help to explain why today's public school pupils are not learning as well as they could, as well as they should. And the reasons why are the subject of our broadcast tonight.

CRONKITE. Good evening. For most of America's history our pride and our boast have been that our system of public education is second to none. But today, to many Americans the boast seems hollow and the pride is gone. Last night we presented a situation report on the state of the country's public elementary and high schools, with the focus on the school system of Denver, Colorado. What we found was an alarming number of high school graduates who could not read well enough to function in society, lack of discipline in the schools, absenteeism, and widespread complaints by employers and colleges that the young people who come to them are sadly unqualified. Tonight in this second of three broadcasts, we'll look at the reasons why.

In the teaching process, nobody's more important than the teacher, and most people are not very happy with today's teachers. In a CBS News poll, we found that only 26% of those who answered said that today's teachers were better than those of a generation ago; 35% said teachers were worse; and 39% said they were about the same, or they voiced no opinion.

My colleague Charles Collingwood has been looking into the reasons for what is at least a perceived decline in the quality of teaching and school administration.

CHARLES COLLINGWOOD. There are more than two million public school teachers in our elementary and high schools. How are they doing?

STUDENT. They don't push you to read and they don't push you or, if it's not part of the class, you're not going to read.

MOTHER. My son brought home a paper that had something like seventy mistakes on it that I caught. His teacher didn't bother.

ROBERT HOLLEY. No teacher has ever really told me that I have to do some homework or I'm going to fail the class.

STUDENT. If you have an assignment due—a writing assignment due on Friday, you turn in some words written on a paper; she grades it—marks it up. Who cares? You get an A.

COLLINGWOOD. "She's not teaching." "They don't push you to read." His teacher "didn't bother." It all seems to suggest that teachers are part of the problem. A study prepared for the College Entrance Examination Board suggests that, too. Secondary school principals reported that their teachers today are less dedicated, have less desire to enforce high academic standards, are more permissive, spend less time outside the class with the students, and place less emphasis on classroom discipline than did their counterparts in 1965. They also hold more degrees. There are 61 percent more M.A. degrees or the equivalent than back in the early sixties, when test scores were at their peak.

Their defenders say teachers are better than ever.

JOSEPH A. CALIFANO, JR. [HEW Secretary]. I think that its—it's very easy for any of us at any point in time to say, "Well, my child is not learning because the teacher isn't good." I think schools by and large do a better job than they're given credit for, and I think teachers by and large do a better job than they're given credit for.

CULHANE. Do children watch too much television? Is that why they seem to be learning less? Many teachers and psychologists think that television is having a negative impact on the education of children. Indeed, some authorities say television is one of the main culprits. They are not talking only about too much violence and sex, too many candy commercials, and the reinforcement of racial and male-female stereotypes on TV. What they are saying is this: first, that children watch so much television that it becomes a thief of time, time that would be better spent reading or writing; and second, that there may be something inherent in the act of watching television that is detrimental to the educational process.

And the critics are talking about all television—good television, bad television, commercials, cartoons, educational TV—whatever children watch, and they watch everything. By the time children get to the first grade, they will have watched, on the average, more than 4,000 hours of TV. And by the time they graduate from high school, they will have expended more time watching television than they spent in the classroom, or indeed on any activity except sleeping.

ERNEST L. BOYER. There's an up side to television. It has traveled around—caused children to travel around the world through some of our marvelous specials. They've gone to the bottom of the ocean, to the top of our greatest mountains. They understand chemistry, and we've seen the moon. And we've looked at Earth from outer space. I just think it has had a marvelous expansion of our understanding of the nature of the world we live in and our relationships to it. So I think its force has been exciting, in my view, as well as—as somewhat destructive to formal education.

CRONKITE. In case you hadn't noticed, there's been a lot of finger-pointing in this hour, and I think we've shown there's plenty of blame to go around. The teachers: they're the key, but they place the blame on society, not themselves. And they're not altogether wrong, nor are they all that right. They're better paid than ever, better protected by unions than ever, hold more degrees than ever, but they do not do a better job than ever. If children are tuned out, so are many of their teachers.

Teaching materials are, we have heard, glossier and jazzier than ever, but are they better than ever? They talk down to students who cannot read and write as well as they used to, but that just perpetuates the vicious cycle we were told of.

Poor discipline—society's fault. That means everybody's fault, and nobody's. But our conclusion is that permissive parents and timid school administrations have to shoulder a lot of the baime.

Television. Well there seems no question that too many children look at television too much. And when they put on their statesmen's hats, many leaders of our industry agree, even if they dispute the criticisms that TV viewing shortens a child's attention span or makes him a passive participant in the world around him. Whose fault is too much TV? The parents? Sure. But what if the parents are busy or indifferent or incapable. What if they're not there?

Tomorrow night we'll search for some answers to the questions we have raised. If our schools do not teach our children as well as they should, what can we do? As we say in our trade, stay tuned.

WALTER CRONKITE. Good evening. On the first two broadcasts of this series, we talk about some of the problems facing American education, and some of the reasons those problems came into being. Tonight, we'll look at some proposals for improving our schools—experiments that are now under way in many parts of the country. Some appear to be working well; some are having difficulties. But there are lessons to be learned from all of them.

One proposed solution is called "minimum competency testing". It's been described as the hottest growth stock form of competency testing. In half of those, the test must be passed before a high school diploma can be issued. Our CBS News poll indicates how popular that idea has become: 82% of those polled favor requiring high school students to pass a standard test before graduation. But does that system produce results? Charles Collingwood reports on one example.

CHARLES COLLINGWOOD. The program here in Denver is the oldest in the country. It's been in operation 18 years now. Denver calls the tests P & R tests—proficiency and review—and they're given in four subjects: arithmetic, spelling, grammar and reading. A student must pass all four to qualify for a high school diploma. Otherwise he can graduate, but he gets only a certificate of attendance. And does this guarantee a good education? Some here say it does not. They argue that high school seniors are being tested at about a sixth grade level.

STIRLING COOPER [teacher]. I smile to myself when I hear this praise nationally about Denver's courage in giving a test. Sure, we've got courage; but, boy, do we have problems. We now have the courage to get kids up to the sixth grade level and give them a diploma for 12 years.

Dr. JOSEPH BRZEZINSKI [Superintendent, Denver Public Schools]. All the test does—and we've never tried to say that it does any more than this—is to ensure minimal competencies in reading, language, spelling and mathematics. It was certainly never intended to be the hallmark of an educated man or woman.

COLLINGWOOD. The fact of the matter is that almost all of Denver's high school seniors pass the test. But they don't necessarily pass it the first time. It's first given in the ninth grade, and students who fail can keep trying in later years. They can even come back after graduation and try again.

TEACHER. Do you have any questions?

STUDENT. No, I'm—been through it a couple of times, so I know what's happening.

TEACHER. Okay.

COLLINGWOOD. Some 40% of the students fail the test the first time, but all but two to four percent have passed it by graduation time. Should the tests be made more demanding?

Dr. BRZEZINSKI. Now it's possible to change that standard. And there has been some criticism as to the level of competency demanded by that test. It's very possible to change that standard. It depends whether you expect the schools to become a sorting institution for society. We could put those requirements through changing the score that is required, so that only 50% of our students could get a high school diploma. I'm not sure society is ready to pay that price or to deal with that social dynamite that would exist.

COLLINGWOOD. There are other questions about the minimum competency tests. Can multiple choice exams graded by computer measure the true abilities of a student? Who decides what competencies to test? What do you do with those who fail? And when should the test be given?

ERNEST L. BOYER [U.S. Education Commissioner]. Testing should be done to keep children in school, not to force them out. So I would like to see testing start earlier, especially on the skills that we've mentioned, so that the progress can be measured. And if a young person is not moving forward, you can make changes before it's too late.

COLLINGWOOD. As a matter of fact, Denver began a pilot program this year to develop competency testing as early as the third grade. The results would be used by teachers in the next grade to give special help where needed. Across the country there seems to be a trend toward early testing. Those who favor minimum competency testing say it will force the schools to do a better job. Skeptics reply that's not necessarily true; it

depends on how the tests are designed, and how the results are used.

CRONKITE. So far tonight, we've been talking about what our schools can do for us. Perhaps it is time to talk about what we can do for them.

ERNEST BOYER. Very often the school reflects what the community is facing. And I think the—the lack of influence on the home has been a serious problem. If the parents are not deeply engaged in the school—helping the children read, encouraging homework, turning off TV occasionally—the school cannot do it all alone.

CRONKITE. Many Americans do read to their children. Educators believe that's important, not only because the child is learning to read; he's also learning that education is taken seriously in his family. That will be reinforced later on if his parents show they care about his homework assignments and study hours, and if they keep in touch with his teachers and counselors. One school believes there is much more parents can do. Barry Serafin reports.

BARRY SERAFIN. Just over one thousand children attend Hunt Valley Elementary School in Springfield, Virginia. What makes this school unusual—and, according to everyone involved, what makes it particularly successful—is the fact that hundreds of parents don't just drop their children off here each morning; they join them in the classroom.

STUDENT. . . . thirteen, fourteen, fifteen.

PARENT. Okay. Fifteen times three. Help her out.

SERAFIN. This woman is not a teacher. She's a parent. Several years ago the Hunt Valley school and the local PTA began a program under which parents help out teachers in the classroom. This year 467 parents volunteered nearly 4,000 hours of their time. For example, they help in the reading lab, of which the school is particularly proud. The lab is not just for slow learners, but for every student from the third grade on. Tests indicate that students make two-month gains for every month spent in the program, and more than 90 percent perform at or above their expected reading levels. Reading instructor Mike Matta says such results would be impossible without the parent's help.

CRONKITE. Charles, in the first two hours of this series we looked at the problems of our schools. And in this hour we've shown a whole array of solutions. We'd like now, before we sign off, to review both problems and solutions.

The biggest problem, at least as the public perceives it, is that the schools have strayed too far from the basics of learning; that we don't adequately teach reading, writing, mathematics.

COLLINGWOOD. And the solutions to that seem clear, at least in outline: a thorough review of curricula and courses; perhaps some reduction in the number of elective subjects, and certainly elimination of the softest electives; re-emphasis above all in courses that require writing; homework assignments that require both reading and writing.

CRONKITE. The second problem that bothers people most is the lack of discipline in our schools. You can't learn if you or those around you don't behave. And the problem's compounded by the fact that the schools are part of a more permissive society. You can't expect them to be enclaves of discipline in an increasingly undisciplined world.

COLLINGWOOD. One solution to discipline problems is simply better schools. We've seen that when a learning environment that stimulates students exists, discipline tends to take care of itself. In addition, teachers and administrators need greater community support to enforce discipline. And in that I would include fewer legal constraints upon them.

CRONKITE. Another problem that really bothers people is promotion from grade to grade whether or not the student deserves it. And a sort of corollary, what is called grade inflation. We've seen that youngsters get into honor societies even if they can't read or write adequately.

COLLINGWOOD. Again, Walter, we have seen solutions: tougher tests, tougher grading. Don't just pass student if they don't pass the tests. But that has to be accompanied by other things: starting testing and remediation in the earliest grades; remedial programs quickly, when it's seen that a student isn't up to standard. Don't wait until the higher grades until it's too late. And second, alternative education programs for those youngsters who, with the best teaching in the world, cannot or will not do well with a conventional curriculum.

CRONKITE. Another problem we've seen is with teachers. Too many of them are simply not as good as they should be.

COLLINGWOOD. Here again we've had solutions pointed out to us: competency tests for teachers before they enter the system; closer review of their records once they're in it; on the job training; and special training for teachers who work in the inner cities.

CRONKITE. And there's the problem and the opportunity called television. We can certainly not ignore the fact that critics say we've not lived up to our responsibilities: that too much of what appears on TV is simply not suitable for young viewers. And that too much television watching of any kind can interfere with education. But at the same time, TV is very much a fact of our lives. It's not going to go away. And it can be used both in and out of the classroom to enhance the learning process.

COLLINGWOOD. Again, there are indicated solutions. First, most obviously, stricter parental control of TV viewing. Second, encouraging teachers, many of whom become set in their ways, to use television and not just fight it. Certainly they should try to make full use of the best programming now available for young people. And third, though it hardly falls within the scope of these broadcasts, better overall television programming for young people.

CRONKITE. What we can say at the end of these three hours is that our children deserve a better education than they are now getting. They deserve better from their teachers, their school administrators and boards of education, their textbooks, the television industry. And most of all, they deserve better from us, their parents, and from the whole society.

For Charles Collingwood and me, good night.

FEDERAL PROGRAMS SUPPORTING EDUCATIONAL CHANGE, VOLUME VIII: IMPLEMENTING AND SUSTAINING INNOVATIONS

SUMMARY

Background

Federal financial aid now makes up an important fraction of many local school district budgets, but its effectiveness in improving local educational practices is uncertain. Federally sponsored evaluations reveal inconsistent and generally disappointing results, and, despite considerable innovative activity on the part of local school districts, the evidence suggests that:

No class of existing educational treatments has been found that consistently leads to improved student outcomes (when variations in the institutional setting and nonschool factors are taken into account).

"Successful" projects have difficulty sustaining their success over a number of years.

"Successful" projects are not disseminated automatically or easily, and their "replication" in new sites usually falls short of their performance in the original sites.

Consequently, although federal support for local school services has become well established, the "decade of reform" that began with ESEA has not fulfilled its expectations, and questions continue to be raised about what might be the most appropriate and effective federal role in improving the public schools.

To aid in reexamining federal education policies, the U.S. Office of Education awarded a contract to The Rand Corporation to study a national sample of educational innovations funded by federal programs. The study aimed to help improve federal change agent policies by describing how the process of innovation works in its local setting, and by trying to discern what factors affect the innovative process and its outcomes. This report reviews the findings of Rand's research.

Study design

Rand conducted a four-year, two-phase study. The first phase (July 1973 to July 1975) studied local innovations during their last or next to last year of funding by federal change agent programs and the research focused on the initiation and implementation of these local projects. Four federal programs were identified by USOE to be included in Phase I of the study: Elementary and Secondary Education Act Title III (now a part of Title IV-C), Innovative Projects; Elementary and Secondary Education Act Title VII, Bilingual Projects; Vocational Educational Act, 1968 Amendments, Part D, Exemplary Programs; and Right-to-Read. These change agent programs had a common purpose: the stimulation and spread of educational innovations. They also had a common policy instrument: the provision of temporary funds (3 to 5 years) which, although small relative to the budget of a school district (ranging from grants of $10,000 or less to several hundred thousand dollars per year), were intended to fund new educational services, not to support existing practice. A sample of 293 local projects funded by these four federal programs was drawn from 18 states. Field studies were conducted at 29 projects, and 1,735 personal interviews were conducted with staff at all levels in the school districts for all 293 projects.

Phase II of the study (August 1975 to April 1977) examined what happened to innovative projects after the end of the federal funding period (of 3 to 5 years). Accordingly, two years after the initial field research, Rand restudied a sample of approximately 100 of the projects, originally funded under Title III of ESEA. Fieldwork was conducted in 18 school districts, and 1,343 district staff were surveyed in 100 sites. By thus studying local innovations one to two years after the end of federal funding, we were able to explore the longer-run effects of the federal policy of providing "seed money" as a means to promote educational improvement.

This research was exploratory. Consequently, the analysis is subject to methodological reservations, and the conclusions are open to rival interpretations. These caveats notwithstanding, we believe the research sheds light on how innovation works and on the factors affecting educational change.

Findings About the Effects of Federal Programs

We examined two questions relevant to the effects of the federal programs:

How did the "seed money" policy common to the change agent programs affect local projects?

Were the differences in guidelines and objectives among the federal programs reflected in their projects' implementation and continuation?

We found that federal change agent policies had a major effect in stimulating local education agencies to undertake projects that were generally consistent with federal categorical guidelines. This local response resulted from the availability of federal funds

and, in some programs, from guidelines that encouraged specific educational practices.

But the adoption of projects did not insure successful implementation; moreover, successful implementation did not guarantee long-run continuation. Neither those policies unique to each federal program nor those policies common to them strongly influenced the fate of adopted innovations. The net return to the federal investment was the adoption of many innovations, the successful implementation of few, and the long-run continuation of still fewer (with the exception of the special case of bilingual projects, where federal and state funding continues to be available)

All the federal programs had funded some successfully implemented projects as well as dismal failures and many projects in between. The difference between success and failure depended primarily on how school districts implemented their projects, not on the type of federal sponsorship. The guidelines and management strategies of the federal change agent programs were simply overshadowed by local concerns and characteristics.

Similarly, "more" money supplied by federal funds did not necessarily purchase those things that mattered; it did not "buy," for example, more committed teachers, more effective project directors, more concerned principals, and so on. In other words, project outcomes reflected not the amount of funds available, but the quality and behavior of the local staff.

This is not to say that "federal money doesn't matter." Federal seed money allowed some districts to undertake activities that their staff were anxious to pursue but that could not be supported out of district funds. Moreover, federal funding has bestowed legitimacy on local projects and given them the aura of "special status," which can provide some measure of "protection" for politically controversial or pedagogically untested educational practices.

Yet few districts in our sample planned for the long-term stability of projects. The end of federal funding generally resulted in a reduction of resources, particularly expensive ones. Many districts complained of insufficient resources to carry on project activities, although the financial requirements for project continuation could have been foreseen and planned for from a project's inception. Instead, budget and personnel decisions typically perpetuated the "special project" status of innovations, thereby leaving them particularly vulnerable to the financial and political fortunes of the district.

While the overall effects of federal policy may be disappointing, the positive results should not be overlooked. Some local projects worked well, and from these successes, we can identify factors that determine the fate of innovations.

Factors Affecting Implementation and Continuation

In addition to analyzing the effects of federal policies, we examined how characteristics of projects and school districts affect the outcomes of innovations. We studied the projects' educational method, resource levels, scope, and implementation strategies; the district characteristics we analyzed were school climate and leadership, teacher attributes, and district management capacity and support. We found:

1. *Educational methods.* A project's methods determined its implementation, effect, and continuation to only a small and limited extent. This is so because projects with essentially the same educational methods can be, and usually are, implemented very differently and thus with varying effectiveness. In short, what the project *was* mattered less than how it was done.

2. *Project resources.* More expensive projects were generally no more likely than less expensive ones to be effectively implemented, elicit teacher change, improve student performance, or be continued by teachers. Nor did variations in the number of project schools per district or in the funding per student strongly affect project outcomes in most cases.

3. *Scope of project.* Ambitious and demanding innovations promoted teacher change and teacher continuation of project methods without necessarily causing unmanageable implementation problems or diminishing gains in student performance. Teachers must clearly understand their project's goals and percepts; such clarity comes during implementation. We doubt whether projects aiming at significant change can be effectively implemented across a whole school system at once.

4. *Implementation strategies.* Implementation strategies are the local decisions and choices, explicit or implict, on how to put the innovation into practice. We found that these strategies could spell the difference between success or failure, almost independently of the type of innovation or educational methods involved; moreover, they could determine whether teachers would assimilate and continue using project methods or allow them to fall into disuse. The following strategies were frequently *ineffective* because they were not consonant with the conditions of school district life or with the dominant motivations and needs of teachers:

Outside consultants.

Packaged management approaches.

One-shot, preimplementation training.

Pay for training.

Formal evaluation.

Comprehensive projects.

Effective strategies promoted *mutual adaptation*, the process by which the project is adapted to the reality of its institutional setting, while at the same time teachers and school officials adapt their practices in response to the project. Effective strategies provide each teacher with necessary and timely feedback, allow project-level choices to be made to correct errors, and encourage commitment to the project. The following were effective strategies, particularly when applied in concert:

Concrete, teacher-specific, and extended training.

Classroom assistance from project or district staff.

Teacher observation of similar projects in other classrooms, schools, or districts.

Regular project meetings that focused on practical problems.

Teacher participation in project decisions.

Local materials development.

Principal participation in training.

5. *School organizational climate and leadership.* Three elements of a school's organizational climate powerfully affected the project's implementation and continuation—the quality of working relationships among teachers, the active support of principals, and the effectiveness of project directors. The importance of the principal to both short- and long-run effects of innovations can hardly be overstated. The principal's unique contribution to implementation lies not in "how to do it" advice better offered by project directors, but in giving moral support to the staff and in creating an organizational climate that gives the project "legitimacy." The principal's support was also crucial for continuation. Teachers were unlikely to continue a full array of project methods without the sanction of their principal, even if the methods were successful and had been assimilated. Moreover, after the end of federal funding, many districts took a laissez-faire attitude of letting the principals decide the fate of the project within their schools. Unless principals actively promoted the project, particularly in regard to seeking district financial support and replacing staff that moved elsewhere, even "successful" projects could wither away. All told, the principal amply merits the title of "gatekeeper of change."

6. *Characteristics of schools and attributes of teachers.* Change was typically harder to obtain and continue at the secondary level. Three teacher attributes—years of teaching, sense of efficacy, and verbal ability—significantly affected project outcomes. The number of years of teaching had *negative* effects: the longer a teacher had taught the less likely was the project to achieve its goals, and the less likely was the project to improve student performance. Furthermore, teachers with many years on the jobs were less likely to change their own practices and less likely to continue using project methods after the end of federal funding. The teacher's sense of efficacy—a belief that the teacher can help even the most difficult or unmotivated students—showed strong positive effects on all outcomes, where as teachers' verbal ability had a positive correlation only with improved student achievement.

7. *District management capacity and support.* Districts differ sharply in their capacity to manage change agent projects and in their receptivity toward them. Though we could not measure these factors with precision, our observation and interview data leave little doubt as to the importance of constant and active support from LEA officials and specialized staff for the project's short-run outcomes and especially its long-run fate.

Implications for Federal policy

Our research suggests that federal policy has often been based on misconceptions about the reality of school districts and the factors that produce change in their organizational and educational practices. Correct assumptions would not, of course, automatically improve policy effectiveness, because any policy may be poorly implemented. But faulty assumptions—indeed even one faulty assumption among otherwise good ones—can lead to ineffective and counterproductive programs. Federal policy to date has largely been based on a research and development point of view—that the federal government should develop new technologies, provide incentives for their adoption, and introduce these technologies into school districts by projects that were targeted, and thus accountable. In a very real sense, school districts were thought of as "black boxes." Federal "inputs" would be supplied to change and control district behavior so that a desirable educational "output" could be achieved. This R&D point of view was embodied in the following assumptions:

1. Improving educational performance requires innovative educational technologies.

2. Improving educational performance requires the provision of missing resources to school districts.

3. Improving educational performance requires a targeted project focus.

We believe that federal officials should set aside the largely ineffective R&D point of view. Instead, they might consider an approach that assumes school districts are ultimately responsible for improving their own performance but require both short- and long-run aid to achieve this end.

School districts need institutional assistance, but an institutional development strategy can work only if federal officials identify those aspects of the local change process and of district organizational characteristics where federal resources and influence can be effective. The following premises might provide building-blocks to formulate this point of view:

1. Educational performance could be improved if more attention were paid to all stages of the local change process.

2. Educational performance could be improved with adaptive implementation assistance.

3. Educational performance could be improved if the capacity of school districts to manage change were enhanced.

These premises, as well as mode specific recommendations suggested in the report, direct attention to areas that federal policy has tended to neglect. For example, they suggest that local adoption of projects should not be the sole federal policy focus; that federal efforts to improve the change process within school districts should take precedence over their past concern with improving educational products; that federal evaluators should expect and encourage the adaptation of programs to suit local needs; that the federal government should promote local institutional development in addition to more targeted project approaches; and that federal legislation should establish ways to provide more differentiated and flexible support to school districts. In short, these premises suggest a shift in the federal role toward the process of educational change, which might well imply a strengthened role for state educational agencies. We believe that policy should reflect the assumption that state education agencies are potentially better suited than federal agencies to influence and provide opportune assistance to school districts.

Mr. PROXMIRE. Mr. President, I point out that that splendid TV program should be included in the RECORD because, of course, it is highly perishable, and if it is not preserved in some way it is hard to refer to.

LAWYERS, HUMAN RIGHTS, AND THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, it should come as no surprise that, in the three decades since the Genocide Convention first came before the Senate, almost no one has objected to the treaty on principle. No, opponents have always rested their case on supposed legal shortcomings of the document.

That is why February 27, 1976, was such an important day in the history of the Genocide Convention. On that day, the secretary of the American Bar Association, Mr. Herbert D. Sledd, wrote a letter to my colleague, Senator SPARKMAN. The letter notified the Senate that the ABA's House of Delegates had voted at their February 1976 meeting to support the Genocide Convention. With opponents placing so much weight on the legal drawbacks of the treaty, the support of this distinguished body, the representative of the legal profession in America, was particularly heartening.

It is really not surprising that the American Bar Association should take such an enlightened, humane position on this crucial human rights treaty. In fact, the ABA has consistently recognized its peculiar responsibility to advocate the cause of human rights across the globe.

Let me mention just one recent example.

In May 1977, shortly before assuming his duties as president of the American Bar Association, Mr. William B. Spann spoke before the 20th conference of the Inter-American Bar Association, on the topic "Lawyers and Human Rights." Mr. Spann stated unequivocally the role lawyers must play in advancing human rights.

"There can be no doubt," he said, "where lawyers' responsibility as professionals lies in regard to human rights. They have a very special obligation to assert themselves in their behalf."

Mr. President, how is it that lawyers have a responsibility to human rights? What about their profession obligates them in this way?

From Plato and Cicero down to Rousseau, the great thinkers of Western civilization have known that for a society to be good, it must first have good laws. But they knew also that good laws are to no avail if not vigorously, scrupulously upheld.

Mr. President, the lawyer's obligation is twofold: To labor for good laws, and to make certain that the law is upheld.

This obligation comes through crystal clear when we consider human rights. These rights are so fundamental that any law abusing them is clearly a bad law, and any action denying them is clearly unlawful. Much of the responsibility for making certain that human rights receive the protection of the law, both in theory and in fact, must logically fall on the legal profession itself.

Mr. President, if we are ever to have peace and justice in the world, we must enact just, humane laws, and we must be vigilant in their defense. We need to make the protection of human rights a reality instead of an empty platitude. The Genocide Convention is an important step in that direction.

The support of the American Bar Association, and of clear-sighted individuals like William B. Spann, makes it all the more likely that we will soon take that step, and many more afterwards, toward safeguarding the human rights of all the world's people. With their help, and the help of all those who revere good laws and labor to make certain the law is good, we can enact just laws and make them stick.

The American Bar Association stands behind the Genocide Convention. What more assurance do we need?

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 3 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered. Is there morning business?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CANNON). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

PRIVILEGE OF THE FLOOR

Mr. JACKSON. Mr. President, I ask unanimous consent for the privilege of the floor in connection with the conference report which will be called up shortly on the natural gas pricing bill, H.R. 5289, for Charles Gentry, of the Budget Committee staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I ask for the privileges of the floor during the consideration of the Natural Gas Pricing Act conference committee report for Barry Direnfeld, Rick Wilson, Roy Meyers, Dan Grady, and Rick Sloan.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. I yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I ask unanimous consent that the following staff members be given floor privileges during the consideration of and voting on H.R. 5289, the natural gas conference report: Fred Craft, Danny Boggs, Dave Swanson, Tom Imeson, Carol Sacchi, Rose Fillingane, Ted Orf, Chuck Trabandt, Nolan McKean, Peggy Kimbrough, and Judy Foley.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATURAL GAS POLICY ACT OF 1978—CONFERENCE REPORT

Mr. JACKSON. Mr. President, pursuant to the previous unanimous consent agreement, I submit a report of the committee of conference on H.R 5289 and ask for its immediate consideration.

Mr. HANSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. CANNON). The report will be stated.

Mr. HANSEN. As I understood the Senator, he stated——

The PRESIDING OFFICER. First, the clerk will report.

Mr. HANSEN. The Senator said "according to the previous unanimous-consent agreement."

Mr. JACKSON. That I be recognized.

Mr. HANSEN. All right; no objection.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing vote of the two Houses on the amendment of the House to the amendment numbered 8 of the Senate to the bill (H.R. 5289) for the relief of Joe Cortina of Tampa, Florida, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection? Without objection, the Senate will proceed to the consideration of the conference report.

Mr. JACKSON. Mr. President, the Senate today begins to consider the conference report on the Natural Gas Policy Act of 1978.

We do so at a critical time for national economic and energy policy. Rightly or wrongly, events have made congressional action on natural gas policy a serious test of our ability to deal with major

national problems and halt the erosion of confidence in our economic and political institutions.

I have participated in debates over natural gas pricing policy for 25 years in the Senate. For the past 18 months I have devoted the largest part of my time to the prolonged, painstaking and—at times—painful deliberations which produced this compromise.

I do not ask my colleagues to approve this conference report on the vague grounds of national interest or to satisfy the demands of world opinion.

If this bill is not a major step forward toward a sound natural gas pricing policy, we should defeat it. If it is not a vast improvement over the shambles of a regulatory system we have in natural gas today, we should defeat it.

I am convinced that the natural gas conference report is a sound compromise that will be good for the Nation and that we must pass it.

It will increase supplies of our premium fuel for the Nation's consumers while providing price certainty and new markets for the Nation's producers. Even the act's opponents do not dispute the critical fact that substantial additional quantities of natural gas will flow into the interstate market at prices below that of displaced alternate fuels if this bill is enacted.

The fact is that the conferees have agreed on legislation dealing in a definitive way with a central issue of energy policy—natural gas pricing—which has gone unresolved for a quarter of a century.

We are proposing a natural gas pricing policy to replace the increasingly unworkable, antiquated system we have today.

We are proposing a policy which opens the interstate market to producers, allowing gas now backed up in the intrastate market to flow into the interstate market, where it is sorely needed.

We are proposing a policy which concentrates the rewards of higher prices where they are most needed—on the development of new, high-cost gas.

We are proposing a policy which would, through incremental pricing, protect the residential and small commercial consumers who most need protection from excessive price increases.

We are proposing a policy which assures the privately-financed construction of the Alaska gas pipeline to bring 0.8 trillion cubic feet of production to domestic markets in 1985.

We are proposing a policy which, by opening Alaskan production and stimulating greater production in the lower 48 States, could increase interstate gas supplies by 30 percent by 1990.

We are proposing a policy which could, by 1985, reduce our dependence on high-cost foreign oil by 1 million barrels a day, saving more than $5 billion a year in our balance of payments.

Mr. President, over the past few weeks this conference compromise has been subject to attack from all sides. Consumer groups argue that it will set prices too high. Producers contend that prices will be too low. Many critics contend that the bill is unworkable, that it would cost billions more than no bill, that the status quo is far preferable.

As debate on the conference report begins, I will address two issues—whether the bill will work and produce new supplies, and whether it will cost consumers more than no bill at all. I plan to discuss incremental pricing in some detail later during the debate.

(Mrs. HUMPHREY assumed the chair.)

Mr. JACKSON. Madam President, the virtues of the status quo are worth examining in light of two basic criticisms: that the bill is unworkable and cannot be administered and that it will cost billions more than a continuation of present law.

Everyone has heard of the 17 or 18 or 22 categories of natural gas this legislation creates. But counting categories is a simplistic exercise which should be taken with a grain of salt.

According to the Independent Gas Producers Committee:

The definitions of each category are clear cut, and should not be difficult to apply. New discoveries and new reservoirs qualify for the new gas price. A special incentive development price is available for bona fide reservoir extensions. Stripper wells qualify for a higher ceiling price, and high cost gas is deregulated in one year. Flowing gas prices are not affected until existing contracts expire.

That is it.

Most of the categories of natural gas in the conference report result from the differences between the House and Senate new natural gas definitions. Our objective was to target the revenues a producer can expect to receive from production from a given well. We wanted to elicit the maximum supply response at a minimum cost to consumers. For example, the most expensive kinds of wells to drill, those over 15,000 feet in depth, are deregulated in 1 year. So is natural gas produced from Devonian shale, methane gas from coal seams, and natural gas produced from geopressurized brine. Because production from these categories will be very important in our long-term natural gas supply picture, they deserve the maximum economic incentive. Gas produced from 15,000-foot wells represents 500–600 trillion cubic feet of potential; methane gas from coal seams represents 300–800 tcf; and geopressurized zones represent 3,000–50,000 tcf. The short-term supply response may be minimal, but the long-term potential is great. These were perfect candidates for the maximum price incentive.

As the Independent Gas Producers Committee puts it, "Although this process (of creating different categories) tended to make the bill more complicated, it also allowed the conferees to achieve a bill that will encourage production while protecting consumers from paying unnecessarily high prices for gas that they could expect to receive at lower prices under current policies."

Yes, Madam President, the legislation is complicated. But it works. And, more importantly, it works far better than existing law.

The existing system is, in my opinion, even more complicated than the conference report. Intrastate producers are generally unregulated, and are subject to a fickle market which is increasingly satiated and unable to expand to accommodate new supplies.

The interstate market price system is a patchwork quilt of various Federal Power Commission and Federal Energy Regulatory Commission, opinions, rules, and orders, I submit that if we could project the situation that would exist in 1985 without new legislation, there would be many more categories of natural gas under the Natural Gas Act than there are under this act. The chart of the interstate market in 1985 would be even more complicated than the chart of the conference report. Let me describe it.

First, you would have five pre-1978 "vintages." When the FPC allowed prices to increase for new natural gas, it did not necessarily allow prices to increase for old flowing natural gas. So you already have FPC opinion 749, which establishes a ceiling price for certain vintages of natural gas; then the rollover opinion which establishes another ceiling price for certain vintages of natural gas; then FPC Opinion 699 for recompletions which establishes yet another ceiling price for certain vintages of natural gas; then the 1973–74 vintage, which is yet another ceiling price; then the famous Opinion 770–A ceiling price for the 1975–76 vintage, which is yet another vintage. Second, you would have all of the 1978–85 vintage prices. Any FERC price decision issues between 1978 and 1985 will be open to question and will certainly be subject to challenge, and Commission review, and court review, by consumer groups, or farmer groups, or producer groups, or a combination of all groups.

Then, of course, one must consider emergency sales, and limited-term certificates, and the optional procedure, and the direct sales to a qualified industrial user under order 533, and the special relief procedures. And, of course, there is nothing to preclude the Commission from establishing new forms of cost-based pricing under the just and reasonable standard of the Natural Gas Act. And do not forget the special proceeding that would be necessary to establish the wellhead price for Prudhoe Bay gas. An i so on and so forth. Based on past experience, FERC could be expected to establish at least one, and perhaps two or three, additional categories or vintages of gas every 2 years as it attempts to adjust the current system within the constraints of the Natural Gas Act to bring more gas into the interstate market.

It is easy to count the number of categories under the conference report. But it is very misleading to imply there will be fewer categories by 1985 under the Natural Gas Act. It is also easy to complain about the new litigation that will result under the new legislation. But that is misleading, too, unless you also account for the litigation that will be inevitable under the Natural Gas Act during the same period.

Is this the simple status quo that critics of the conference report seek to maintain?

COST OF STATUS QUO VERSUS COMPROMISE

Consider also the costs of continuing

under the status quo, as opposed to the costs of the compromise.

There are two ways of looking at the cost of the proposed legislation. One way examines the revenues that will be paid to producers between now and 1985. The other way examines the consumer cost between now and 1985. Obviously if you produce more natural gas under the compromise than you would under present law, the producer will have greater revenues.

But producer revenues should not be confused with consumer cost. The measure of consumer cost compares what consumers would pay for the energy supplies by natural gas with what consumers would pay for energy supplied from other sources if natural gas is not available.

In order to project either producer revenues or consumer cost for years to come, it is necessary to project what would happen to natural gas wellhead prices under existing law, without the legislation, and what would happen with the legislation. This crystal ball approach is hazy, at best, but it is a useful tool for assessing the consequences of no legislation.

I need to stress the importance of looking at the assumptions that are made about the future of natural gas prices without any legislation and the supply response projected to occur under the legislation before attempting to compare various cost estimates.

If you assume that the FERC will not raise interstate ceiling prices for natural gas, and that intrastate prices will also remain constant, the proposed legislation could cost $9 billion more in producer revenues than the status quo. The consumer cost of the proposal would be only about $1 billion with those assumptions, because consumers would pay nearly $8 billion less to foreign sources for heating oil, liquefied natural gas, and imported natural gas due to increased supplies of domestic gas. These are the assumptions and statistics used by the staff of the House Subcommittee on Energy and Power in analyzing the conference report.

Quite frankly, I do not agree with those assumptions. It is not reasonable to assume that FERC will keep interstate natural gas prices constant; nor is it reasonable to assume that intrastate prices will not increase.

If you assume that FERC will allow interstate prices to increase at a rate equivalent to projected increases in the cost of fuel oil, and that intrastate prices will increase at a similar rate, projected producer revenues would be $5 billion less with the proposed legislation than under the status quo. These are also statistics used by the House Subcommittee on Energy and Power which I believe are more reasonable ones.

Consumer group analysts assert that the proposed legislation will cost $35 to $55 billion more than we would pay—under the very generous House bill which is $21 to $41 billion more than the status quo—if we stick with the current gas price control law and the current law is fully enforced by the brandnew Federal Energy Regulatory Commission. Their analysis assumes there is no real price increase in interstate natural gas prices. They also assume that FERC is able to fully enforce the Natural Gas Act and in doing so control the price of old intrastate natural gas at the same price as old interstate natural gas. Intrastate rollovers would be limited to the same rate that interstate rollovers are allowed by the FERC.

In my view, their assumptions are simply unrealistic. The consumer groups have petitioned FERC to exercise authority under a nondiscrimination provision in the Natural Gas Act which they believe enables the Federal Government to control intrastate natural gas prices at the wellhead. I must say, Madam President, it is a novel legal theory and I give them credit for their idea. But even if FERC did grant their petition, it would no doubt be subject to challenge in the courts and the results would be tied up in litigation for years.

Indications are that even the friendliest circuit court of appeals the consumers could hope for, the District of Columbia Circuit Court of Appeals, would not accept their argument.

In a recent opinion, the court said that the plea "that intrastate sales be regulated, is a plea that must be addressed to the legislature. The courts cannot provide the relief desired." *American Public Gas Association et al.* v. *Federal Energy Regulatory Commission*, No. 75-2105, D.C. Cir., May 10, 1978.

But even if the consumers could convince the court to change its mind, and decide that the Natural Gas Act does provide authority to regulate intrastate prices, I doubt that it would roll back existing intrastate prices to interstate price levels. Under close scrutiny, the consumer groups' price projections simply do not hold up.

In sum, Madam President, this bill does not gouge consumers and cost them untold billions of dollars. Even conservative assumptions show it will cost consumers no more than $1 billion more than existing law between now and 1985. And more realistic assumptions show that it will save—not cost—consumers substantial amounts of money.

President Carter's National Energy Act has been before the Congress for 16 months. Those 16 months have been difficult ones.

Madam President, the time to act is now. The proposed legislation deals head on with the massive distortions of the dual market system for natural gas. It will produce more natural gas, at less to consumers, than no bill. It will provide producers with the certainty they need to make investment. It will decrease our balance of payments problems by reducing the amount of crude oil that we import.

I urge adoption of the conference report on H.R. 5289, the Natural Gas Policy Act of 1978.

(Mr. BAYH assumed the chair.)

Mr. BARTLETT. Will the Senator yield for a question?

Mr. JACKSON. Yes.

Mr. BARTLETT. The distinguished chairman of our committee has been very closely associated with this conference report for some time.

My question is, Would the Senator classify it as a deregulation proposal, or conference report, or as a regulation conference report?

Mr. JACKSON. It is a phased deregulation bill which, in 1985, if it does not work, the Congress and the President retain the opportunity to continue price regulations for 18 months, if necessary.

Mr. BARTLETT. Are there not classifications of gas that will be——

Mr. JACKSON. Deregulated?

Mr. BARTLETT. That will be controlled forever?

Mr. JACKSON. No—well, we are talking about ongoing contracts, and that is old gas.

But I am talking about the categories I mentioned in my remarks that will be deregulated within 1 year. That is the high cost gas.

Mr. BARTLETT. For example, the gas that might have great potential in the Baltimore Canyon that is just, possibly, being discovered now—at least it looks very interesting—I believe is on old leases. Would that not be controlled gas, the price of which will be controlled forever in the future as far as this legislation is concerned?

Mr. JACKSON. I point out to the Senator that the gas from the Outer Continental Shelf, as the Senator knows, has been dedicated by statute over the years to the interstate market.

I would point out to the Senator that even Pearson-Bentsen continued regulation of certain categories of natural gas. I think that is the bill the Senator voted for——.

Mr. BARTLETT. Are there not other categories of gas that will be controlled; stripper gas for one, intrastate gas with the price less than $1 for another; was that not controlled?

Mr. JACKSON. Yes, but let me add one thing. The Senator asked about the Baltimore Canyon. The new reservoirs that come in will be subject to deregulation.

Mr. BARTLETT. I understand that. But is it not true it takes about 10 to 15 years leadtime to develop any amount of production on new offshore leases?

These leases were awarded, I believe, in 1966.

Mr. JACKSON. Well, the OCS Act requires that on the Outer Continental Shelf they must act, that is, get drilling underway, within 5 years. I believe that is the existing law.

Already, they have discovered some gas in the Baltimore Canyon area allegedly—all I know is what I read in the papers.

Mr. BARTLETT. Well, does the Senator have——.

Mr. JACKSON. I want to emphasize to the Senator that the bill that passed the Senate, Pearson-Bentsen, which I voted against, made provisions for the continued regulation of certain categories. The Senator voted for that; I did not.

So when we went to conference, obviously, we had to try to reconcile the differences between a close vote in the Senate to deregulate and a close vote

in the House to regulate. I think we did the most sensible thing that one could do under all the circumstances.

The art of legislating—that is what we are here for—is to try to find a way in which we can reconcile real differences in bills that have been passed by one body versus the action taken by the other.

Mr. BARTLETT. Am I correct in my understanding that new reservoirs on old leases offshore are not deregulated by the conference report?

Mr. JACKSON. The Senator is in error on that. They are deregulated.

Mr. BARTLETT. We will do a little checking on that with the conference report.

I will ask another question.

At the present time we get about 40 percent of our gas production from the intrastate market. Is that not roughly correct?

Mr. JACKSON. My understanding is that last year the demand for natural gas was about 20 trillion cubic feet. Supply was a little more than 19 trillion. The intrastate market was a little more than 8 trillion. So that is better than 40 percent. Would the Senator agree with that? It is about 42 percent or 43 percent of the market.

Mr. BARTLETT. I was trying to be conservative. Yes, 42 or 43 percent.

Mr. HANSEN. Mr. President, will the Senator from Oklahoma yield?

Mr. JACKSON. Will the Senator withhold for a moment? The distinguished Senator from New York has a unanimous-consent request, and I yield for that purpose.

Mr. METZENBAUM. Mr. President, will the Senator yield for a unanimous-consent request?

The PRESIDING OFFICER. Does the Senator from Washington yield?

Mr. JACKSON. I yield.

Mr. METZENBAUM. On behalf of Senator HUMPHREY, I ask unanimous consent that Tom Gator have the privilege of the floor; and on behalf of the Presiding Officer, Senator BAYH, I ask unanimous consent that Eve Lubelan have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I make the same request for Dr. Jerry Cohen, of my staff, and Mr. Sam Ratner and Miss Jocelyn Samuels.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Washington has the floor.

Mr. BARTLETT. I believe the Senator did say earlier that new reservoirs on old leases offshore are deregulated.

Mr. HANSEN. He said deregulated.

Mr. JACKSON. Yes. The staff advises me that the new reservoirs will get the new price but that they will not be deregulated after 1985.

Mr. BARTLETT. That was the point I was trying to make.

Mr. JACKSON. They are deregulated for nonprice purposes, but for price purposes regulation continues after 1985.

Mr. BARTLETT. The present percentage of deregulated gas, then, according to the Senator from Washington, is approximately 42 percent.

Mr. JACKSON. That is a rough approximation.

Mr. BARTLETT. I agree with that. I will call it 40 percent, if the Senator wishes.

Mr. JACKSON. It does not matter.

Mr. BARTLETT. I think 42 percent is a little more accurate.

What percentage will be deregulated for price in 1985, after we have deregulation?

Mr. JACKSON. I cannot give the Senator a figure on that. That will depend on new discoveries and the amount that will come into the market. That would be pretty much in the field of speculation.

Mr. BARTLETT. I think there is some speculation with it, but I think the Department of Energy has made some general determinations as to what that would be.

Let me put it this way, then: Does the Senator anticipate that the amount deregulated in 1985 would be greater than the amount today?

Mr. JACKSON. Oh, yes; there is no question about that. The staff has indicated that the Department of Energy has supplied estimates, and they talk about 24.6 percent of gas production being "new" gas in 1985 and thus subject to deregulation by that time.

Mr. BARTLETT. 24.6 percent?

Mr. JACKSON. That is the figure they have submitted.

Mr. BARTLETT. We looked at the figures that DOE had in the report. I do not have the name of that report before me, but the amount came out to be less than 40 percent.

I find that many people have been very discouraged with that kind of finding. They felt that there would be true deregulation, meaning to them a deregulation of the present interstate gas, which was deregulated in the Pearson-Bentsen bill, as the Senator knows. It appears that this certainly is not a deregulation bill.

Mr. JACKSON. I said it is a phased deregulation bill.

Mr. BARTLETT. Apparently, it would deregulate in the future, at such time as there were no controls, after 1985, but it does not phase deregulation in the 7 years or so of the existence of control under this conference report.

Mr. JACKSON. I am trying to describe this the best I can. The Senator from Washington philosophically, of course, supports regulation. As the chairman of the committee, I have a responsibility to put together legislation that would give us some kind of policy, despite the opposing views of the two bodies. I believe that regulation is the proper way to approach it. So I had to allow my views to be subordinated to the decision of this body and the views of the House.

I believe that, on balance, we have a bill here that will serve the public interests and the national interests, which the current law will not do.

As a regulator, when I talk to my friends who are for keeping the old law, I have to taunt them and say the old law is inadequate. After all, I have been here through all these battles, supporting regulation. I supported Mr. Truman when he vetoed legislation which would have taken away from the Federal Power Commission the authority to regulate gas.

I have to point out that if we have regulation, how do my friends on the side that are joined together with all you regulators and deregulators explain that the price of new gas in 1970 was 17 cents and that now, under so-called regulation, it is $1.50? I know the Senator will have a lot of fun with that.

Mr. METZENBAUM. If the Senator will yield, Mr. President, I would like to explain.

Mr. JACKSON. I yield.

Mr. METZENBAUM. That was because two previous Presidents had made the wrong appointments to the Federal Power Commission. Now, under the present appointments, I am looking for better protection for the American consumer.

Mr. JACKSON. I say to the Senator from Ohio that the trouble with that argument is that the Federal Energy Regulatory Commission does not have the power they should have, which is to get the gas.

And the reason that the price has gone up under the doctrine of just and reasonable compensation is that the price of oil has gone up, thanks to the OPEC oil cartel. It is fine to make these great statements about being for regulation when the existing law is totally inadequate. I challenge my friend, and I will support him if he really wants a motion to recommit with instructions to vote for tougher regulations, how many votes he will get. Does the Senator know, I say to my friend—and I was here—that under a Democratic Congress, Mr. President, we could not get the votes for tough regulation. I was here. I know. It was only a courageous Mr. Truman who stopped that move way back.

So I am here trying to be realistic because I know that under existing law the Federal Energy Regulatory Commission cannot adequately do the job of regulating.

Mr. METZENBAUM. Mr. President, will the Senator from Washington yield?

Mr. JACKSON. I quoted the dicta from the—may I just finish?

Mr. METZENBAUM. I am sorry.

Mr. JACKSON. I quoted the dicta from that most liberal category of judicial repose, the Circuit Court of Appeals for the District of Columbia, that they will not entertain the idea by legislation that you can regulate intrastate gas. That should be a clear signal to our friends who are laboring under the impression that by judicial action you can do it. But where are the votes, I say to my good friend from Ohio? Where are the votes for tough regulation?

Mr. METZENBAUM. I respond to my very good friend and my leader on the Energy Committee that the votes are not there for tougher regulation and hopefully the votes will not be there for this phased deregulation which really becomes almost total deregulation in some instances by reason of the redefinition of old gas and new gas and the rollover contracts.

I also say to the Senator from Wash-

ington that when he was talking a moment ago about how FERC is going to get the new gas, let us first agree there is a surplusage of natural gas in this country at the moment and there is a glut on the market, but let me also remind the Senator—if my friend from Washington says that I am in error I will publicly admit that—is it not the fact that at one point in these deliberations in the conference committee the Senator said he would never accept a natural gas bill if it did not contain a provision giving the President the authority to have mandatory allocation so that he might go into the intrastate market and bring out natural gas into the interstate market? And the conference committee report on the bill does not have that provision in it? Is that not correct?

Mr. JACKSON. That is correct, and this bill does make it possible to allocate gas for boiler fuel.

Mr. METZENBAUM. But that is just a de minimis item.

Mr. JACKSON. It is not de minimis.

Mr. METZENBAUM. But the fact is that is on emergency situations not in excess of 120 days, but as far as allocating intrastate gas into the interstate market, which the Senator indicated to those of us who serve with him and supported his leadership in the conference committee, he would never accept the bill that did not give the President the authority for mandatory allocation from the intrastate market to the interstate market and not merely for the limited extent that is provided for under the conference committee report.

Mr. JACKSON. We got part of it, and I think that is a helpful part. It is the best we could get. But I do not know how the Senator from Ohio can support a motion to recommit that will send the bill back which he knows will be dead and face the country with the fact that nothing is being proposed as an alternative to this bill. I have great respect for those who will come in and move to recommit the bill with tough regulations. Why is that not being offered?

Mr. METZENBAUM. Because that will not survive. The Senator knows it and I know it.

Mr. JACKSON. We are both going in opposite directions.

Mr. METZENBAUM. There is not any reason under the sun why our motion to recommit with instructions should not be agreed to. It will bring back this very provision that the Senator just talked about, which would make it possible for FERC to allocate gas from the intrastate market to the interstate market where there is surplus gas. That would all be in our motion to recommit with instructions. If the bill sounds a death knell, it will not be because the Members of the Senate were unwilling to have a natural gas bill. It will be because someone preconceived an idea many months ago that we have to hold hostage three bills that were the part of the national energy plan. We hold those bills hostage and what we will do is then get a natural gas bill that will satisfy the oil and gas industry, and then after we get that, we will get the wellhead tax. That was the preconceived plan, but it did not work.

Now we are saying none of this stuff has worked so far. It just did not. Why do we have to say to the American people that you are going to get hit with, I do not care what the number is—$20 billion, $11 billion, $29 billion, $40 billion—whatever the amount is? Why should the American people have to pay a price for a piece of legislation that even its best supporters say is nothing but a C-minus piece of legislation? I think that we are asking too much and we do not need legislation under these circumstances.

Mr. JACKSON. I wonder what the Senator from Ohio is going to do about the gas that should come from Alaska, which is in this bill? Why does he not say something about the gas that we need to bring from Alaska to do something about supply and about the balance of payments?

That is, Mr. President, a very critical part of this legislation and that part of the President's program will die if that motion to recommit carries.

Mr. METZENBAUM. Will the Senator from Washington be willing to go with us on the motion to recommit if we accepted that portion of it?

Mr. JACKSON. Why, of course not. That is only a part of the bill. But the Senator has made an arrangement with the deregulators. That is the unholy part of this alliance. The regulators on one side and deregulators on the other side are sending to conference a proposal which will not give us a program in the field of natural gas but is just dealing with emergency gas. How can one face the country, Mr. President, go home and tell the people of this country we do not have an alternative program to this one? What is your alternative program?

Mr. METZENBAUM. The alternative program is included. The Senator is well aware of the fact that in our motion to recommit we intend to give the President the emergency powers that the Senator just described in the Chamber giving him the authority to allocate gas to priority users. We also provide that the surplus gas, which may be moved from the intrastate market into the interstate market under orders made by FERC, will provide people some protection, and we also provide that you can move gas in the intrastate market along interstate pipelines without thereby becoming subject to the Federal regulations.

Mr. JACKSON. Does the Senator have his motion to recommit? I wish to see a copy of it. I have not seen it.

Mr. METZENBAUM. I will be happy to make a copy available to the Senator.

Mr. JACKSON. I wish to see it.

All I am saying, Mr. President, is how can one go home after this session of Congress, having been here for almost 18 months, and say that we just killed the program, we did not come in with an alternative program? If the alternative program is simply to extend the Emergency Natural Gas Act, that is buying deregulated gas, is it not? That is buying deregulated gas. I do not know how my good friend can be associated with that ideology.

Mr. METZENBAUM. I say to the Senator from Washington I will be very happy to share with him the terms of our motion to recommit which were outlined in the Dear Colleague letter signed by 24 Senators.

Mr. JACKSON. Fine. But is it not a fact that the Senator is proposing in this motion to recommit in an emergency to buy deregulated gas? I thought the Senator favored regulation.

Mr. METZENBAUM. That is the very provision that is in the bill that the Senator is standing on the floor advocating at this moment, and what we are saying is that we will take some portions of the bill that the Senator is advocating and which were needed on an emergency basis, but we do not want the pricing provision.

Mr. JACKSON. But the Senator knows in this bill for the first time—and that is why my colleagues from the producing States in the South are opposing it—for the first time we are providing for a ceiling price on intrastate gas on the same basis as interstate gas.

Mr. METZENBAUM. The ceiling price, I might point out, is much higher than the market price of that same gas, substantially higher.

Mr. JACKSON. In the summertime, and I would point out it is a ceiling and, obviously, they are not going to sell gas up to the ceiling if the market is below it.

Mr. METZENBAUM. It has been higher by about 40 cents per mcf for a good many months now.

Mr. JACKSON. All I want to say is, as one who has supported in this Congress regulation longer than any Member of this body, I had to face a problem, and that was to reconcile the action taken by the Senate, which supported regulation by a narrow margin, and by the House which supported regulation by a narrow margin.

All I want to say, Mr. President, is I think this legislation is, on balance, in the national interest for the consumers. I come from a State that pays the highest price of any State in the Union for natural gas. We get it all the way from Canada because we have not been able to get production, Mr. President. We have to buy it from Canada at $2.16 per 1,000 cubic feet, which is higher, Mr. President, than the unregulated intrastate price of new gas, which currently is about $1.80.

I do not want this country to be dependent on other countries for its gas supply.

I again emphasize, Mr. President, that this bill makes possible the movement of almost 1 trillion cubic feet of gas from Alaska across Canada into the middle of the United States, and that addresses itself to supply and that addresses itself to the balance of payments.

I believe this body, the Senate—yes, and the House—has a responsibility of facing the energy problem head on. If we want to reject this bill, then pass a bill that will get the supply and provide for a sensible price to the consumer. But where is that proposal? It is not being offered.

For the Congress to adjourn and say, "Well, we recommitted it," killed it, I would not want to face my constituents

under those circumstances or face a cold winter with a short supply of gas.

With the dollar, Mr. President, every time you turn on the radio in the morning, the first thing you hear—the radio or TV—is the dollar is down again today in Zurich, the dollar is down again today in London, Bonn, and in Tokyo.

I think we have to fish or cut bait in this operation in which we are involved. It is obvious that we have irreconcilable views in the Senate if we do not work out a compromise, we have irreconcilable views with the House if we do not work out a compromise. That, Mr. President, in my years in Congress is what legislation is all about. You just cannot say, "I am going to either have it my way or I am going to take my marbles and go home."

We have tried to put this all together in what I think is the best bill we can get after 15 months of labor.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that floor privileges be granted for Ed Tanzman and Chris Burke of Senator DURKIN's staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. President, I ask unanimous consent that Jim Fleming and Martha Moloney of my staff be granted the privileges of the floor during the debate and vote on this piece of legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I rise today to express in the strongest terms my opposition to the conference report now before us. I have great respect for the chairman of the Energy Committee, but in this issue I must disagree with him because I believe it is bad legislation. It is bad because it will saddle the consumers of gas in this country with up to $41 billion in additional costs between now and the end of 1985, costs which will fall heaviest on residential consumers.

The sad fact is that even the strongest supporters of this legislation do not claim it will call forth much in the way of additional gas production between now and 1985.

The very estimates—and I have just heard the distinguished Senator from Washington use it—is that it would mean a trillion cubic feet in 1985, which would be 5 percent.

The other figures that are being used by the CBO are seven-tenths of a trillion cubic feet, which would be 3½ percent, but it will be——

Mr. FORD. Mr. President, will the Senator yield?

Mr. METZENBAUM. I will not.

Mr. FORD. I just want to get the Senator straight on something.

Mr. METZENBAUM. It will have a severe effect on consumers. By 1985 the average wellhead cost of this legislation will be 353 percent of what it was last year, 618 percent of what it was in 1975, and 1,608 percent of what it was in 1970.

Those specific figures, Mr. President, are 17.1 cents per mcf in 1970; 44.5 cents in 1975; 77.9 cents in 1977; and a projected $2.75 average figure in 1985, although the actual maximum at that point would be about $3.50.

This bill is bad for consumers; it is bad for producers; it is bad even for the regulators, and it is bad for our economy as a whole.

By sharply raising the costs of the 27 percent of our total energy consumption that now derives from natural gas, the bill will contribute substantially to the inflation that is one of the main causes of the decline abroad in the value of the dollar.

The ripple effects of this price rise will touch every sector of the economy, and the direct impact of higher heating bills on residential consumers—and, I might point out, that over half of the homes in this country heat with gas—will lead inevitably to demands for compensating wage and salary increases.

Mr. President, the Natural Gas Pricing Act is a bill that has no constituency, no constituency outside of the White House and the Office of the Secretary of Energy. I stand corrected in one respect on that point, Mr. President, in that I did note the other day that the League of Women Voters has now come out for the bill, as being the only consumer organization in the country that has indicated its support for the legislation.

This bill has only one distinction. It is a bill that has produced the most widespread, broadly based opposition that this Chamber has probably seen in a great many years in opposition to a single piece of legislation. It is a bill that nobody wants. It is a bill that brings together in opposition such unlikely allies as the American Conservative Union and the ADA—that may be a first; the U.S. Chamber of Commerce, the UAW, and the AFL-CIO, the American Farm Bureau Federation, and the Consumer Federation of America.

It unites the Independent Petroleum Association of America with Energy Action, the Energy Policy Task Force, and the Environmental Policy Centers.

It joins together marathon oil, the Farmers' Union, and the National Association of State Regulatory Commissioners.

The Secretary of Energy has publicly dismissed this alliance of conservatives and liberals, of consumers and producers, and of labor and industry as a coming together of extremes. By using that language he has attempted to claim the middle ground for himself and his legislation.

But the bill does not represent a middle ground. It is, as one observer described it, "a feeble patchwork, the product of constant giveaways and give-ins."

It is a bill that has often been described as the end result of the administration's desire to get a bill—any kind of a bill.

While the members of the conference committee were meeting at night, keeping other members of the conference committee out of the meeting, what were they saying? They were saying the administration was willing to agree to anything, anything at all, just to get a bill—a bad bill, a good bill, any kind of a bill. This reflects the administration's willingness to pay any price to get a bill.

It is a bill whose strongest supporters grade it no better than "C—".

And it is a bill whose supporters argue for its enactment on grounds that have little or nothing to do with its legislative merits.

We are told, for example, that to vote against this bill is to undermine the President's ability to lead the Nation.

I do not for one moment accept this argument.

I have been a strong and loyal supporter of the President's legislative program.

An examination of my voting record will show that I rank in the top 5 percent of all Senators in supporting the President's positions.

But I cannot and I will not support the President when I know him to be wrong.

I cannot and I will not support him when he acts, as he has clearly done in this case, on bad advice.

And I fail to see any way in which enactment of this crazy quilt of a bill will enhance the administration's position in this country or abroad.

Nonetheless, we have repeatedly been told that failure to pass this bill will signal the rest of the world that, as Secretary Schlesinger recently put it, this country "lacks the discipline" to face up to our energy problems. That signal, the Secretary has assured us, will have what he described as a "devastating" effect on the value of the dollar overseas. It is interesting to note that the Secretary of Energy is the only one who talks in these terms except other administration spokesmen.

Leading experts in international finance do not agree with this assessment. In a letter dated August 23 to the Business Round Table, for example, the vice president for international economic forecasting of the Chase Manhattan Bank wrote as follows:

> The argument that passage of the compromise gas bill would play an important role in halting the decline in the dollar and strengthening the U.S. balance-of-payments outlook is at best highly exaggerated and at worst just plainly wrong. Adoption of the proposed legislation would probably result in a modest strengthening of the dollar in the very short run, but this improvement would not be permanent. In the longer run, the legislation could actually result in some weakening of the dollar as foreign exchange markets come to perceive that the longrun supply of natural gas in the U.S. is as likely to be reduced as increased under the new regulatory regime.
>
> There are two major weaknesses with the administration's position that international implications provide a strong argument for the bill. First, the major source of weakness in the dollar at this time is not a weak current or prospective trade balance but rather worsening expectations about U.S. inflation. Indeed, the dollar has entered a new phase of weakness in spite of widespread recognition by market analysts that the U.S. trade deficit has peaked and is likely to decline substantially in 1979. The movement of the U.S. trade account into a large deficit position—and concerns that growing energy imports would imply continuing balance-of-payments difficulties—were the major sources

of weakness in the dollar from the summer of 1977 until the spring of 1978. The current weakness of the dollar springs from the accelerated rate of inflation in the U.S. and perception that U.S. monetary policy seem designed to accommodate to increased cost-push inflation. No policy action that is not designed to affect inflationary expectations is likely to have a significant and permanent impact on the value of the dollar under current market conditions.

Second, it is by no means clear that the market will perceive the compromise bill as resulting in an enhanced long-run supply of natural gas in the U.S. and hence an improved long-run balance-of-payments outlook. The legislation is highly complex and difficult to analyze, thus there is likely to be a short period of euphoria in which the dollar temporarily strengthens in response to the assumption of favorable supply effects. Our belief is that once market analysts have time to examine the legislation carefully, they are likely to conclude that the status quo provides at least as much production incentive as the proposed regulatory regime.

This issue we confront today has nothing to do with this Nation's "discipline". Instead, it has everything to do with the Senate's ability to exercise commonsense.

And it makes no sense at all to pass a bad bill in order to somehow appear "tough" or "determined" or "disciplined" in the eyes of foreign observers.

Europeans and Japanese bankers, government officials, and businessmen are no fools. They know this legislation for what it is, and they also know that the problems of the dollar are complex—far more complex than the advocates of this bill would have the Congress and the American people believe.

Mr. President, natural gas pricing has little or nothing to do with the position of the dollar.

West Germany, Switzerland, and Japan are far more dependent than we are on imported energy. Yet their currencies are now the strongest in the world.

Our problem, Mr. President, is that inflation in this country is far worse than it is in the strong foreign economies.

Our problem is that foreigners do not want to hoard our dollar because they believe with good reason that it is a shrinking asset.

And our further problem is that, according to leading Wall Street economists quoted in an article that appeared in the August 18 edition of the Washington Post, foreigners doubt our Government's resolve to do something about it:

"As we read it," said the chief economist for Goldman, Sachs and Co., "there has been in the last couple of weeks a significant loss of credibility in the anti-inflation posture of the government as a whole."

And make no mistake about it, Mr. President, the gas bill is highly inflationary.

As I have already said, it will directly hit every family in this country that heats and cooks with natural gas.

It will have ripple effects on the costs of production of every single item that needs gas in the production process.

And it will inevitably lead to a strengthening of demands for higher wage and salary settlements.

My friend, the distinguished Senator from Maine, has argued in an article published this morning that it is difficult to measure what he calls the "confidence factor" with regard to the expectations of the American people about the economy.

I agree with him that such measurements are difficult for the economists and the statisticians. But I say that if you want to know the confidence factor, if you want to know about the impact of inflation, do not just take a statistician's figure about it being one-half of 1 percent or one-tenth of 1 percent, or whatever the case may be. Walk down the streets of any American community today or tomorrow, and ask the people whether they think inflation is 7 percent, 8 percent, or 10 percent. The American people have lost confidence that we can hold back the whole problem of inflation. I suggest to the Senator from Maine that he ask the people of my State what they think about the prospect of paying $3.75 per mcf by 1985 for gas that cost 17 cents in 1970.

I suggest that the Senator from Maine, or any other Senator, ask the people of my State or any other State in this Union what they think when they pay their soaring utility bills, or when they make a 20-cent telephone call that used to cost a dime. That is not 8-percent inflation or 10-percent inflation. Or go out and buy a hamburger, a 2-by-4, or a lady's dress. Ask them whether or not that is 8- or 10-percent inflation.

Ask them about the statistics and the figures, and you will find that the people of this country are not willing to support any bill that increases their utility bills more than they presently are; and they are complaining about those figures at the present time.

This bill means intolerable pressures on consumer budgets, and no statisticians' figures are going to change the result of the American people. When we went from 17 cents to the place where we are at the moment, about a dollar and a half, and where we go up immediately upon passage of this bill to about $1.93, and then when we go up to $3.00 by 1985, and then when we will go to deregulation after that, the people of American understand what we are talking about.

We are talking about a massive movement of billions of dollars from the consumers of this country to the gas producers of this country.

The gas pricing picture in this country is an unhealthy, dangerous situation. This bill will make it even worse.

We have also heard, Mr. President, that a vote against this costly, cumbersome, and ill-conceived natural gas bill is a vote against the national energy program.

Mr. President, I want to emphasize to the President of the Senate, to every Member of the Senate, and to the American people, that that is just not in accordance with the facts. It is just not true.

The truth is that the Nation could have had an energy program in place almost a year ago. Back in October and November, the conference committee came to agreement on the coal conversion measure, the Utility Rate Reform Act, and the Conservation Act. These three bills will achieve most of the reduction in foreign oil imports envisioned by the National Energy Act. But the administration has deliberately insisted that those measures be held hostage to passage of the gas bill.

I remember when I personally went to representatives of the administration and said, "Will you support us? Will you support the chairman of the Senate Energy Committee in moving those three bills so we can put them into place and we can make them law?" They were unwilling to do so.

Clearly, the strategy of the administration was to give the oil and gas industry enough dollars through the gas bill to enlist their support for passage of the administration's even more costly and inflationary crude oil tax.

This Nation urgently needs an energy program.

Let us go ahead and take up the bills that stand ready for action.

The Nation needs a natural gas bill as part of its energy program. But the Nation does not need a bill passed for the sole purpose of getting something—anything on the books.

Accordingly, I intend to join at the appropriate time with a number of other Senators in introducing a congressional alternative to the faulty legislation that is now before us.

That alternative will take the form of a motion to recommit the bill to conference, with instructions to delete its pricing provisions and to report back alternative legislation. That legislative alternative will restore to the President his expired authority to protect residential consumers from unnecessary supply interruptions in the event of an emergency, and to allow extra gas from the producing States to flow into the consuming States under prescribed conditions.

This alternative proposal will restore to the President the emergency powers that have expired to allocate interstate gas to high priority users like hospitals, schools, and homes. It will also make it possible for FERC to authorize emergency sales from intrastate markets under certain conditions. The alternative will help consumers by sparing them billions of dollars in extra costs and it will help producers and intrastate pipelines by minimizing complex regulations and bureaucratic mumbo jumbo.

And passage of the alternative will permit the Senate to move expeditiously to consideration of the remaining three parts of the national energy plan. It will, in other words, remove the logjam that has kept us until now from putting a national energy program in place.

Let me take a moment to talk about a point that keeps coming up, and that has been emphasized by both the President and the majority leader. It has been mentioned today by the chairman of the energy committee. It is a point that concerns and disturbs a number of Members of this body. Query: Does support and passage of the motion to recommit mean that we are killing the gas legislation? I have said it before and I repeat it now, and was joined by the distinguished Senator from Wyoming the other day:

We are proposing this legislative alternative with the sincere expectation that the conference committee, in these closing days, will promptly return the bill to both Houses for final passage. There will be nothing new in our version of the bill. The language and the issues are not controversial, because they are already in the conference committee bill. Let me emphasize this point:

If the House refuses, with or without the President's support, to accept this stripped-down version of the bill, then it will not be the Senate that has sounded the death knell of the gas bill. The responsibility will lie upon those who for almost a year have played the game of withholding the three parts of the national energy plan on which we have been in agreement. The Senate, if it agrees to our motion to recommit will have spoken in an affirmative manner for a national energy plan.

Mr. President, I have directed the bulk of my remarks so far to generalized issues like Presidential leadership, international currency movements, and the need for a national energy plan. I have done so because those are the themes emphasized so far by supporters of the bill. As such, they are topics that must be addressed.

But I believe that it would be a mistake for the Senate to confine its debate to these broad concerns. In the end, our decision must turn on the specifics of the bill.

There is a report around, and it has been repeated often, that the administration, when they are going out seeking votes for the conference committee bill, does not want to talk about the specifics of the bill. They do not want to talk about how this proposal before the Senate is different from that which the administration originally proposed.

It is no secret that the bill the administration now supports so strongly differs in almost every important respect from the gas bill proposed by the President in April 1977.

The original bill would have continued Federal regulation of the wellhead price of natural gas. The conference report provides for deregulation in 1985.

The original bill sought to abolish the current distinction between the interstate and intrastate gas markets, in spite of administration claims to the contrary. The conference report preserves much of the dual market system, eliminating the price differences only where "new gas" is conceived.

For all the many other categories of gas, price differences will continue to exist. And as I have stated already, the conference report will make it impossible in times of emergency for the Federal Government to allocate gas from low priority users in the producing States to homes, schools, and hospitals in the consuming States. In addition, the conference report will give a special advantage to industries located in producing States by exempting them from the incremental pricing provisions of the bill.

The original administration bill, which I opposed on the grounds that the regulated gas prices it established were unreasonably high, is a bargain for consumers when compared with the conference report. The additional cost of the conference report to consumers over the present system will come to an agreed upon $29 billion. It will cost at least $14 billion over the administration's original proposal. And last minute "corrections" in the compromise will reportedly add another $12 billion, or a possible total of $41 billion between now and 1985, or $27 billion over the President's original bill.

Even the CBO, which arrives at lower figures than the DOE, says that gas producers will be enriched by $20 billion between now and 1985 at the expense of the American consumer. And for what? For .7 tcf of extra natural gas in 1985, or a 3.5-percent increase over the amount otherwise expected. That translates down to an added cost for this new gas amounting to between $16 to $60 per mcf (depending upon whether you use the $11 billion figure used by the conference committee, the $20 figure used by the CBO, or the $29 billion figure used by the DOE, plus the unconfirmed $12 billion estimated cost of the last minute changes made in the conference committee report). Using any figure, it is understandable why the esteemed chairman of the Senate Finance Committee, who is known and recognized as an able spokesman for the industry, says:

I would first like to make it abundantly clear that I am not opposed to the so-called natural gas compromise because of price. The new gas price called for in the conference report compares favorably with the prevailing unregulated intrastate market price and, therefore, is not an issue with me.

The protection from sudden, sharp price increases that residential consumers would have enjoyed under the bills passed by both the House and the Senate does not exist in the compromise legislation. I should point out that, after the DOE arrived at this conclusion, it was urged to change its original unpressured and unbiased assumptions. Thereafter, the DOE energy information administration reversed itself. We believe in its first conclusion that was independently made. That protection—which took the form in the House and Senate bills of requiring industry to bear the main burden of bringing expensive new gas into the system—disappeared altogether in conference. In a reversal of the clear intent of both Houses, the conference report lowers prices for industry and shifts much of the cost of new supplies to homeowners and small businessmen—those who can least afford to bear it.

Under the House bill, residential consumers would pay $2.89 per mcf by 1985, while industrial users would pay $2.78—or a difference of 11 cents.

Under the Senate bill, the difference would be 5 cents—$2.92 for residential users, $2.87 for industry.

Under the compromise, the difference is truly staggering.

Under the compromise, industrial users will pay $2.44; but for the average homeowner, the price will go to an astronomical $3.28.

That, Mr. President, is a difference of 84 cents. An incredible difference, Mr. President, and one that is totally unacceptable to the consumers of this country.

Mr. President, the chairman of the Committee on Energy and Natural Resources has stated on many occasions that he could not support a bill that did not include emergency authority for mandatory allocation of intrastate gas. The conference report contains no such provision.

(Mr. HODGES assumed the chair.)

Mr. METZENBAUM. Originally, we were told to be for the administration's bill because it made it possible for the President to go into the intrastate market and take gas out of the intrastate market and bring it into the interstate market. That is called mandatory allocation. I heard, as I previously mentioned, on the floor of the Senate that the distinguished chairman of the Energy Committee in the Senate said that was an absolute minimum, that unless we could get that provision in the bill, he could never be for it. That provision is not in the bill, and I hope that maybe, by my having pointed it out, he might possibly change his point of view, but I doubt it.

This topsy-turvy system wil penalize individuals who cannot readily switch from gas to other fuels. At the same time, it will reduce the incentive for industry to convert from gas to alternative sources of energy, including coal. They have taken away the incentives. It is unfair, it is unworkable. And it means that our national policy in the future will permit industrial users to burn America's remaining natural gas without restraint. It means that our national policy is not any longer to conserve our remaining gas by requiring those who can do so to convert to other fuels. The new policy embodied in this bill is to substitute gas for oil. It is a "deplete America" policy. It is anticonsumer, and it represents a reversal of what many Senators and the public thought our policy was and should be.

Both the President and Congress, at an early point, recognized the need to provide special incentives for exploration in difficult, high-risk areas, but the conference report provides those special incentive prices to gas that is already flowing. The result will be that, once again, consumers will pay more. And once again, they will get no additional production in return.

Finally, Mr. President, all Senators should be aware that this bill, for all the cost, complexity, and economic uncertainty it entails, will produce very little in the way of new gas production.

The administration claims that passage of the gas bill will, by 1985, reduce our oil imports by 1.4 million barrels per day.

That is a substantial figure. It is also a misleading one.

That figure includes a projected savings of the equivalent of 400,000 barrels per day because of the projected delivery by 1985 of Alaskan gas to the markets in the lower 48 States.

The arrival of Alaskan gas will be welcome, particularly in my part of the country.

But it is, I believe, misleading to attribute our supply gains from Alaska to passage of this bill. Congress has already expressed its support for construction

of the gas pipeline and although Alaskan gas pricing provisions happen to be included in the conference report, there is no reason whatever to believe that they cannot and should not be treated legislatively and affirmatively by this body and the House as well.

The administration figure also includes an estimate that we will gain the equivalent of 250,000 BBL/day as a one-time-only production spurt in response to deregulation in 1985. But that is 1985, and Mr. Schlesinger himself recently stated that talk about 1985 is, and I quote, "theological."

I must confess that I do not understand his use of the term, but apparently, he was saying it in some deprecating manner when he was on the Public Broadcasting Service program on the MacNeil-Lehrer show. Only the administration knows where they got this figure. Only Mr. Schlesinger knows when he talks about 1985 as being something theological. That figure has never been mentioned before and if it is as credible as many of the other puffed up claims made by DOE, then it has little or no relevance to our deliberations.

The remainder of the savings claimed by the administration for the bill are based on an estimate that additional gas production will replace 750,000 BBL/day of imported oil by 1985.

That, Mr. President, is an extremely optimistic estimate.

The Department of Energy's own Energy Information Administration, for example, projects potential replacement savings at 500,000 barrels per day.

My staff has been advised by the Congressional Budget Office that savings will be as low as 350,000 barrels per day.

So, Mr. President, let us take another look at the administration's figures.

The administration claims that the bill will save 1.4 million barrels per day, but 400,000 barrels per day of that will come from Alaskan gas. Alaskan gas will come on line with or without this particular legislation.

That leaves a million barrels.

Of that million, 250,000 are attributed to a highly speculative production "spurt" that may or may not materialize in 1985, and I am not certain whether it is a one-time "spurt" on whether it keeps "spurting."

Discounting that, we are left with the 750,000 barrels per day that is supposed to be saved by increased gas production.

As we have seen, that figure itself is open to serious question. The more accurate estimate may be the 500,000 barrels per day projected by the Energy Information Administration, or it may be that CBO's estimate of 350,000 barrels per day is closer to the mark.

Or perhaps the administration was correct in April 1977 in estimating that the original gas bill would save no oil whatever.

But the bottom line, Mr. President, is that when we remove the Alaskan gas, and the speculative "spurts" from the administration estimate and when we conservatively discount the administration's production claims, we come to a figure that is less than half the administration's claim, and maybe even as low as a quarter.

I point this out because I am disturbed about the manner in which the administration has made its case for this bill. They reached up in the air and picked out some figure that they found convenient.

The administration has wrapped a bad bill in the rhetoric of national interest. This is not the first time they have stated figures to support their position and, sometime later, had to back up when the facts were available.

The administration has presented misleading information to the Congress and to the public on this and on other energy-related issues. In this connection, I think of the CIA report that appeared so conveniently last year at a time when top officials of the administration were attempting to create a crisis atmosphere in order to persuade the Congress to take quick and uncritical action on the administration's energy proposals.

Those figures that were used at that time were subsequently proven to be erroneous and the administration had to back up with respect to the fact presentation as it was given to us.

I see these maneuvers, and I deeply resent them. They smack to me of the scare tactics that some in the military and the intelligence establishment have used in the past to move their budget requests through the Congress. These tactics have no place in the energy debate. And above all, they should have no place in this administration.

Mr. President, I do not believe that this bill is defensible on its merits.

I do not accept the assertion that we should pass this measure because, as a top administration official put it, "It's the only natural gas bill we've got."

And I give no credence whatever to the argument that the bill is needed to strengthen the President, or to the claim that we must pass it in order to send a signal to the world that we are serious about enacting an energy program.

These are hollow arguments.

They are arguments rooted in symbolism instead of substance.

They are arguments that do not square with the facts.

Mr. President, I believe that the case against this legislation is overwhelming.

I believe that this bill is worse than no bill at all.

And I am convinced that enactment of this bill would be a disservice to the people of this country.

Mr. President, the congressional alternative that we will propose will give the Senate the opportunity to act responsibly on natural gas.

I believe that the alternative is worthy of support and I hope the Senate will see fit to adopt the alternative in place of the costly and counter-productive legislation that is now before us.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Has the Senator from Ohio concluded?

Mr. METZENBAUM. Yes.

Mr. FORD. The Senator from Montana wishes to speak. I would like to make a remark or two and yield the floor then to the distinguished Senator from Montana.

I understand that the Senator said in the beginning, and I attempted to correct him at that time when he said that the distinguished Senator from Washington said that this bill would put a trillion cubic feet per year into the interstate pipeline.

He was referring at that time only to the Alaskan pipeline, which is a part of this bill. I was sure the distinguished Senator from Ohio would not want to make any mistake as it related to the statements of our distinguished chairman of the Energy Committee.

Also, I would like to correct one thing that the Senator from Ohio has said. He made a statement the other night I thought was adequate. He did not do it today, and that is when he was quoting the vice president of Chase Manhattan Bank.

I think the Senator has a telegram from the president of Chase Manhattan which said that the remark the Senator quoted was a personal view of the vice president and not the position of the bank.

So I would like to clear the air that there are other banking institutions with equal validity of Chase Manhattan Bank that see it somewhat differently.

But I did want to make that point that the president of Chase Manhattan said that it was only a personal view of that vice president and not the opinion of the bank.

Also, I would like to say that the Senator says in his statement that the chairman of our Energy Committee said without the emergency allocation he would not be for a bill.

He defended himself a few moments earlier as it related to his statement, that the emergency allocation was in this bill and is one of the major parts of it.

Therefore, I want the Senator to be sure he did not say something about our chairman, when he is not here to defend himself, when he already answered the Senator's question.

Also, I might say to the distinguished Senator from Ohio that he said to the Senator from Washington a few moments ago that he would like him to have a copy of this motion, to recommit, the Senator was going to make. We hope it will not be given to us just at the time he makes it several days from now. I am authorized to receive it if he would like to give it to us this morning or this afternoon. I will be delighted to take it and pass it around.

Mr. METZENBAUM. In due time. In due time.

Mr. FORD. In due time.

Well, I understand what due time is. But the Senator is not——

Mr. METZENBAUM. The Senator will have adequate notice, he will not be expected——

Mr. FORD. What does the Senator consider adequate notice?

Mr. METZENBAUM. Well, I think at the time and place when I decide to bring up our motion to commit, he will

be given adequate time and the opportunity to find if it is unsatisfactory, or happy to delay——

Mr. FORD. I understand, the Senator keeps wanting to delay all the time.

Mr. METZENBAUM. I have not asked any delay at all.

Mr. FORD. I have been asking for the copy and all the Senator says is that it will be in good time and he will give it to us.

Mr. METZENBAUM. I said in due time.

Mr. FORD. In due time, the Senator's time, because he has the motion.

I yield to the Senator from Montana.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky has the floor. Does the Senator from Kentucky yield the floor?

Mr. FORD. I would like to see the Senator——

Mr. MELCHER. I yield to the Senator from Ohio.

Mr. FORD. All right, I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. I thank the Senator from Montana. I just wanted to say to my good friend from Kentucky, and I shall be very brief, that all last week, including the first day I got here, I was urging the bill be called up and be brought up.

We have no desire to delay this matter. We will be prepared to move forward with it and at an appropriate time, hopefully, so that all Members of the Senate will have an opportunity to vote on a motion to commit.

Mr. FORD. I understand what the Senator from Ohio is doing. He is trying to disassociate himself from everybody with him a long time who has been objecting. I do not blame him for that.

Mr. METZENBAUM. Mr. President, that is not my desire at all, because Senator ABOUREZK, who made objection the other day, and Senator HANSEN, Senator BARTLETT, and Senator LONG, none of them had indicated any desire to keep the bill from coming to the floor. But there were certain conditions attached to it. Those conditions do not exist today and I have not heard any motion to table and I do not expect to. So it could have been brought up last week just as well as today.

Mr. MELCHER. Mr. President, one of the reasons the Senator from South Dakota (Mr. ABOUREZK) objected to bringing up the bill last week was that he feared bringing it up with an agreement that there would not be a tabling motion sometime this week against the bill, that there would not be enough Senators present, that there would be three or four on the floor, and it was necessary to have Senators here to understand the complexities of the bill, and its merits and demerits.

I find that he was exactly right. Even though there is no agreement on not having a tabling motion, there are still only three or four Senators on the floor and, notably among the absent, is the Senator from South Dakota.

The fact is that most of us know what we are going to do on the bill, whether we are going to vote for it or against it.

I was pleased to be able to listen to the Senator from Ohio in his delivery of his remarks on the conference report before us. He referred in part of his discussion to the price of hamburger and inferred that many consumers feel that the price of hamburger is too high.

Well, the fact is that the producers do not believe the price of hamburger is too high. The producers who are in the position of trying to rebuild their cow herds after a series of years of staggering losses are now realizing that the cows they sell to go into hamburger are not bringing anything too much in order to have the wherewithal of enough income on the farm or ranch to stay in business.

So I guess when we look at the price of a producer, it depends on whether or not we are consumers or producers.

The Senator from Ohio mentioned 7½ cents per thousand cubic feet as the price of natural gas only a few short years ago.

From the consumer's standpoint, that was a bonanza; but from the producers' standpoint, it did not work.

So in my State and many other States where there has been and continues to be natural gas production, we found that the wildcat operators, the independents who go out and drill wells and try to find natural gas or oil, were not going into the field to drill for natural gas. The price was much too low.

I might say, to bring this into context, that the price they are operating on is about $1.35 to $1.40 per thousand cubic feet, which is a great deal more than 17.5 cents per thousand cubic feet. Because of that price, almost all the independents in my State, based on the geologic knowledge they have, are not able to go out and wildcat for natural gas. They have told me that, for the past year, it would take somewhere in the neighborhood of $2 to $2.25 per thousand cubic feet for the sale of gas before they would be able to get into the field and drill to attempt to find it.

They have the geological information that would indicate that there are small amounts of natural gas at certain levels in certain areas in Montana, and they would feel fairly confident to go out in the field and drill—wildcat, mind you—to find out if gas could be produced. But they would not do it until the price got into a range of $2 or $2.25 per 1,000 cubic feet.

With respect to the $1.93 per thousand cubic feet which the Senator from Ohio mentioned would be the adjusted price for new gas if this conference report became law, it is necessary to take into view how that relates to the cost of other energy supplies.

I think it is fair to say that the price of $1.93 per thousand cubic feet for natural gas is substantially below what the cost would be in heating a home by using No. 2 fuel oil. I think it is fair to say that in most areas, $1.93 per thousand cubic feet of natural gas would be a better buy for a homeowner to heat his home than it would be to convert back to coal.

These are things we have to keep in mind. If our goal is to deplete the reserves of natural gas that we now know are available for use in this country, then perhaps we want a low price for it. But if we want to be realistic and practical and conserve natural gas for purposes of use in America where it best fits, in order to avoid using either fuel oil or coal, then we had better have a relaxation on the price of natural gas. Under the terms of this conference report, the natural gas prices that would be allowed would hardly rise to comparable rates for oil or coal in most homes or most industries until about 1985.

If we are going to be practical about it, what about the supply from Alaska that has been spoken of? I had the privilege of being the manager of the so-called Alaskan natural gas bill in the House of Representatives at the time of its adoption by the House. It was also adopted by the Senate, and the President signed it.

In relation to that measure, the President made the decision as to what would be the preferred pipeline company to bring that natural gas down to the lower 48, and the preferred route. They have been designated. They have been selected—if we care to use that term—as the ones that will be building a pipeline for natural gas from Alaska to the lower 48.

The owners of that company advise me that they feel that it is absolutely essential that this conference report be adopted this year. The conference report contains in its structure the so-called roll-in provisions for natural gas pricing for such new gas that is brought down to the lower 48 as is the case with Alaskan natural gas. The owners of that pipeline company tell me that without the bill, without adoption of this conference report this year, they will not be able to sell bonds in order to have financing to build that privately owned and privately operated natural gas pipeline.

I think it is also worth noting that after this conference report is adopted and after that company, through the provisions of roll-in pricing in this conference report, is able to go to the money market and to sell their bonds, and therefore gets into a position to construct that pipeline—and let us assume it takes 2 or 3 years after that to construct a pipeline—the cost of that natural gas delivered to the lower 48 will be much above what we are talking about now, in terms of $1.93, $2.25, or $2.50 per thousand cubic feet for natural gas.

So it hardly befits any practical sense of the situation we are in today to speak of the Alaskan supply being available to us to augment our supplies without this bill being enacted this year.

The Senator from Ohio (Mr. METZENBAUM) and the Senator from South Dakota (Mr. ABOUREZK) jointly have signed a letter to us, dated September 7, which we all have received. It has been widely publicized for the public. It is their intention to offer a motion for recommittal, and they list a series of supporters of their viewpoint.

I point out that the first one they list, the American Conservative Union, is on record and still maintains that the po-

sition they seek is one of full deregulation of gas.

The second one mentioned is Americans for Democratic Action, and the position of Americans for Democratic Action has been, and continues to be a position of opposing all deregulation of natural gas.

The third, the American Farm Bureau, is on record—and their letter is included with the letter from Senator METZENBAUM and Senator ABOUREZK—as wanting and still supporting full deregulation. I will read a portion of that letter from the American Farm Bureau to Senator METZENBAUM:

> We continue to believe the Farm Bureau's policy providing for immediate deregulation of natural gas pricing is in the best interests of farmers and the national economy.

Going down the list, the fourth one mentioned is the AFL–CIO, and they are on record as opposing all deregulation of natural gas. However, not mentioned is that the building trades of the AFL–CIO favor the conference report.

The Consumer Federation of America, the fifth one mentioned in the Metzenbaum-Abourezk letter, opposes natural gas deregulation.

The U.S. Chamber of Commerce is listed, and they are on record as wanting full deregulation. They want the bill recommitted, and they want action deferred on any bill until the next Congress.

The Independent Petroleum Association of America also advocates this bill being a bad bill; that it should be recommitted or killed; because they want deregulation. They hope they can get it next year.

The National Association of State Regulatory Commissioners also is listed as being in favor of a motion to recommit.

But it is clear from their letters they have a specific reason for recommital. It is on incremental pricing. They want that changed. But I believe they are on record as being for the bill otherwise.

So, the truth of the matter is that the advocates of recommital, as listed in the letter from the Senator from South Dakota and the Senator from Ohio, are a mixed bag. Some want one thing and some want the other. As a matter of fact, part of them are for total deregulation, instantaneously, some are for deregulation next year, and some do not want deregulation at any time.

Suppose their viewpoints were represented on that conference committee if there were recommital with instructions. It would be extremely difficult for such a conference committee to come back with any kind of a recommendation or any kind of an agreement whereby we could have a bill.

So I believe that it is correct to point out that the result of recommittal is (a) no agreement; (b) no bill. That is it. Recommit and no bill.

The very backers, the very endorsers of recommittal are not in agreement on what should be the terms of a different bill. So we have this choice: Do we want this bill or no bill at all?

I personally was in favor of the Pearson-Bentsen proposal as the Senate adopted it. I felt that a gradual deregulation was in the best interest of this country, and I still maintain that viewpoint.

It will be interesting when the votes are counted that we will probably see some of those who supported Pearson-Bentsen voting for this conference report and some of the others in the Senate who supported Pearson-Bentsen voting against this conference report.

But I think it is fair for me to say that those of us who supported Pearson-Bentsen, a phased in deregulation for natural gas, continue to feel that that is by far the wisest course. Why? Because I and I think all who backed Pearson-Bentsen and voted for it feel that there is a national need for finding more natural gas in the United States, that to accomplish that we have to have a better price incentive and that the price incentive for doing so would be fair and equitable and entirely practical if we tied it to the present cost and whatever the changing cost is of No. 2 fuel oil because that is what it is comparable to.

Personally I would rather have natural gas to heat my home than fuel oil. I am sure there are many industries that must have natural gas rather than No. 2 fuel oil or coal, or that will work a hardship on them and have them incur other costs.

So, if we had a phased-in deregulation that was realistic and looking at that kind of a price structure and arriving there rather quickly, as was the case in the Pearson-Bentsen approach, then I believe we would have a much superior part of the overall energy package for this country.

However, the conferees could not agree with that and so we have here a proposal that on pricing it gradually works up to a point of somewhere near the present cost of No. 2 fuel oil for natural gas that is new and also will work up gradually to a point of deregulation. It does not come as fast as I think it should. But, nevertheless, it is the only available method that I have to vote for deregulation at some point and a more superior method of pricing natural gas in comparison to other types of energy supplies.

In all cases that I have used this term of natural gas, I of course mean new natural gas. The method of describing what is new natural gas or fixing by law what is new natural gas under this conference report is somewhat complicated. I regret that. But, nevertheless, I am advised by some independent gas producers from my own State that it is workable on pricing. They do have a great concern about the necessary paperwork that will be foisted on them by the adoption of this conference report, particularly as it affects intrastate gas, gas produced in my State, for instance, of Montana, and sold within the State for use within the State.

I hope before the days of debate are concluded on this measure to have in my possession the mechanism that would be used by FERC, the Federal Energy Regulatory Commission, working with the individual State commissions on just how that paperwork would be accomplished. For instance, if an independent drills a well, a successful well, and then submits the data to the Montana Commission, first of all, to arrive at a determination whether or not it is new gas as identified under the terms of this act and then, second, when a contract for sale of that new gas has been accomplished, submits that contract between the independent gas producers, the wildcatter, mind you, and a utility firm, which might be in our case in Montana the Montana Power Co., that that is about the end of the paperwork that that wildcatter has to go through as an independent gas producer of new gas.

I am advised by officials in the Federal Energy Regulatory Commission that it will be handled in that way, the gas producer going to the State commission, the State commission establishing (a) that it is, first of all, new gas and then, second, (b), the (b) part of it being the price for that gas as established in the contract with a utility firm that will move and sell the gas to consumers in a State will be the procedure that is followed and that the old procedures of the Federal Power Commission on monthly reporting by each gas producer will not be required and that in general the State's requirements and the State's management of the reporting will govern.

If that is the case, as has been described to me by officials of the Federal Energy Regulatory Commission, which will have the responsibility for overseeing and enforcing these provisions, I think some of the problems that the independents envision in producing new natural gas within the State, the mechanism and the procedures of reporting it, and the reports that follow thereafter will be alleviated. One of their most vigorously and most understandably justified objections to the bill will have been wiped out.

I fervently hope that is the case. At a later point as we debate this issue before the Senate during the coming days, I expect to be able to substantiate that being the case under the Federal Energy Regulatory Commission's power, that that is truly their intent.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. HANSEN. Mr. President, before I begin my prepared remarks, it seems to me there is a need to at least try to be accurate about what is in this complex and confusing bill.

Earlier today my good friend, the junior Senator from Washington, said that new reservoirs on old leases are deregulated from nonprice controls. This is not correct.

Section 601(a) deals with nonprice deregulation. However, only new gas as defined in section 102(c) is so deregulated.

When we look to section 102(c) we see again that only gas from new leases is deemed new. So again gas from promising areas like the Baltimore Canyon, will not be freed from nonprice regulation either.

Mr. President, one of the myths being propagated with regard to this bill is that our only choice is between this bill or nothing. It is stated that the motion

to recommit that I and others will propound is only a disguised effort to kill the bill. And that the bill proposed by the motion to recommit could not be adopted. This is untrue, and I would like to provide some background on this.

The pricing provisions of the bill were the source of the months of endless debate, haggling, secret meetings and so on which finally resulted in the complex monstrosity that we have before us. However, when that process was finished in late May, there remained a number of provisions contained in somewhat similar form in both bills, which remained for resolution. These were handled quite expeditiously in a few meetings in June, and were placed into the bill with the virtuously unanimous support of the conferees on both sides of the question in both Houses. It is essentially these provisions, on emergency and surplus sales, which we propose to enact in our motion to recommit.

On the merits of these issues there is virtually total agreement. The only way in which the arguments made by the "all-or-nothing" crowd would be true would be if the conferees supporting the conference report were to adamantly insist on a "dog-in-the-manger" approach, refusing to report provisions unanimously agreed upon simply in spite at the failure of the rest of their handiwork.

I do not believe that the conferees would react in this fashion, and I do not believe the American people would stand for it. Let me address this tactical situation a bit further. The conference report could only command the barest majority of signatures of the conferees from each House. Those supporting the motion to recommit will be at most one vote short of majority support among the conferees of both Houses right now. If the motion to recommit succeeds, it is inconceivable that those who have just argued so loudly that there must be some natural gas legislation this year would be the instruments preventing adoption of the provisions whose merits were agreed on by all parties.

Finally, let me reiterate that the provisions we hope to adopt by the motion to recommit are provisions taken essentially verbatim from the language adopted by the conferees. These are not some novel or untried ideas cooked up on the spur of the moment. These are good and useful provisions adopted overwhelmingly by the conferees themselves, on which there is little dispute. It seems absurd to abandon the good parts of the work done by the two Houses of Congress and by the conferees simply by holding them hostage to the complex, repressive, and unworkable provisions that have been adopted with regard to pricing.

In fact, however, this argument is rather in line with the strategy of the proponents of this bill in other areas. In an attempt to adopt this bill they have essentially been perpetrating one of the greatest mass hostage-takings since the Middle Ages. Originally, only the other parts of the energy bill were being held hostage for the passage of the natural gas bill. Now, as we see, the attitude is to hold hostage the other good parts of the gas bill as security of the safety of the pricing and regulatory provisions. In addition, we have seen how totally unrelated issues such as the breeder reactor, steel imports, and almost any other activity with which a logical or illogical link can be forged have been "yoked unequally" with this bill.

I believe the time has come for this process to end. The time has come for the issues to be treated on their merits, and on those merits, Mr. President, there is little doubt that the outcome should be the support of the motion of recmmital, the adoption of the good and useful provisions along with the other parts of the national energy bill as acted upon by the conference committee.

A second myth being propagated about this bill is that in some way failure to adopt what has been dumped before us will be an unfavorable reflection of the U.S. Senate or on the national will of the United States. The distinguished majority leader previously stated:

> This Nation will be perceived as one that shrinks from its problems if we do not face this issue.

But what does it mean to face the issue? I have never understood that the U.S. Senate is obliged to adopt legislation simply because it is brought before it. That is why we are endowed with the power of debate and vote and endowed with the various devices to shape legislation to the national interest as we perceive it. We will certainly be facing this issue if we forthrightly declare that the bulk of the pricing provisions as reported by the conferees are bad legislation and should not be adopted and that certain provisions are good and useful and should be adopted.

Similarly, the charges made that failure to adopt this particular bill would mean that Congress cannot deal with the matter that is of vital interest to the Nation, or that "the Senate just did not have the courage and the decisiveness to act on this question" seem to me to be grossly misleading.

Perhaps what is intended by these statements is that it will be a poor reflection on the conferees and on the secret negotiators who hammered out this piece of legislation, or that it will be a poor reflection upon the staff and the members of the administration who help to draft it. If that is the argument, then so be it. If that process of secrecy, of backroom dealings and accommodations, has proven itself to be a failure, we should certainly state so forthrightly. It is certainly no reflection on the decisiveness of the thermometer that it truly reflects the temperature, or on the decisiveness of the calendar that it accurately reports what the day is. We should not revile the compass for telling us that we are going in the wrong direction.

And it will be no reflection on the character of the Senate if it accurately reports that this is a bad piece of legislation in most of its provisions and that only those that can be of use to the country should be salvaged through the motion to recommit.

In short, Mr. President, this argument that we are obliged not simply to decide this issue, but to decide it in a manner favorable to the proponents, is simply another one of a seemingly endless series of arguments which have been ingeniously devised to prevent us from focusing on the substance of the bill before us. It has been accurately said, by the senior Senator from Missouri, when we were on television together last week, that the supporters of the bill are rather loath to talk about what is in it. They would rather talk about the value of the dollar or the will of the Senate or the international prestige of the Presidency. And that itself is a sign of the weakness of the position they are attempting to foist on the Senate. And yet, all of those other factors must ultimately depend on the merits of the bill. There can be no prestige in willfully adopting a bad bill; there can be no long term support for our economy or our currency by adopting a bill that will do nothing to aid them.

Mr. President, one of the major talking points being used by the proponents of this bill is that it will produce large additional supplies of natural gas.

This is the keystone of the arguments for the bill. The argument for reducing oil imports depends entirely on this myth. Yet the argument seems very strange coming from those who last year argued that complete deregulation would produce no additional gas. How could this complex bill provide incentive for a "30 percent increase in interstate gas?" It does not.

The alleged advantages of this bill are in two major areas—price and regulatory certainty. I will deal with each of these in turn, but before I do I would like to present a brief overview of the situation of the gas producers and drillers in the United States. There is not a monolithic drilling industry in the sense that people who produce natural gas may operate in widely differing environments. Some may work on the outer continental shelf while others work on shore. Some may produce exclusively for the intrastate market while others produce exclusively for the interstate market or for both. Some have interest in shallow wells and production areas; others have interest in deep wells, so that these conditions and financial considerations may differ quite widely.

Now it is undoubtedly true that when you take this proposed bill, which is so full of nooks, crannies, gradations, splotches of color here and there that a visual representation would look like a Jackson Pollack painting, it is undoubtedly true that some producers are in such a situation that they will be better off under this bill than they would be under the status quo, at least in the short run.

And it is also true that the natural gas producers in this country, though many of them are indeed my friends, are not so devoted to principle that they would reject a proposal, whether you call it regulation or deregulation, that would genuinely encourage and allow them to produce more gas, because that is their business. In fact, many producers have at one time or another over the course of the negotiations been quite desirous of supporting a bill. The

fact is as this bill has finally emerged, as this bill now lies before us and as this bill will operate if we adopt it, the vast majority of the gas producers of the United States are opposed to it.

The Independent Petroleum Association of America, whose members drill the large majority of gas wells and find the large majority of reserves, is vehemently opposed to this bill. The local, state and regional associations of drillers and royalty owners in all of the producing States are opposed to this bill.

Many of the major producing companies, such as Standard of Indiana, Conoco, Marathon, Phillips, Getty, Sun, Pennzoil, have been willing to affirmatively state their opposition to this bill. It is true that some of the other major companies have been silent, or have been lending quiet support to the bill, although to my information no major producer has been willing to state its reasons for that support. Quite frankly, the neutrality or tacit acquiescence of such companies has been secured by the knowledge that the larger the company, the more it stands to gain or lose from future Government action either directly in the business of regulation of gas or through other governmental activities. So I think it is pretty clear that on the merits of this bill, on the substance of this bill, people who are supposed to produce the vast additional quantities of gas claimed by the supporters of the bill simply do not believe it will work.

Let us turn now to the mechanics of the bill and see just why this is the case. As a general matter what happens is that the currently unregulated intrastate market is regulated immediately and fully. This will undoubtedly lead to a relative reduction of incentive and new drilling activity in that area.

The intrastate market has produced most of the new gas finds in recent years, precisely because it was a free market, able to respond to changing needs and demands This bill would place immediate controls on that intrastate market. The price allowed for gas proven to be "new" under the complex system in the bill would be limited, today, to a price lower than some, though not most, current intrastate sales.

However, gas not considered "new" would get a lower price. In addition, the producer loses the right to renegotiate later for a better price, he loses the right to negotiate the length of his contract, and he loses the certainty that the deal he agrees to is the one that will stick. All of these matters are turned over to Federal bureaucrats. All of this has to reduce incentives, on balance.

In the interstate market, the bill junks a system of cost-based regulation that is at least relatively well understood for one that is far more complex, uncertain, and burdensome. For new drilling today, there is only one uncertainty—what is the price FERC will set for that gas. Even this uncertainty is due only to FERC's slowness in promulgating rates. Thus, in the last half of 1976, producers knew with certainty that wells drilled then, being in the 1975–76 biennium, would get the set rate of $1.42+ escalation. Drillers today know they will get the rate set for the 1977–78 biennium, although they do not yet know what that rate will be.

Under the new system, each well must be assigned a category and a price. This will require a separate State proceeding, followed by Federal review, with further judicial review and uncertainty that revenues from each well will be in jeopardy while this process goes on.

Nor is the prospect of "deregulation" beyond 1985 likely to add much incentive. For drillers now, 1985 is a long way off. As it comes closer, it will be more and more tempting to wait until after 1985 to drill, to see whether it actually comes off. The bill only guarantees deregulation for the first 6 months of 1985, and then only for some categories of gas.

The administration has tried to sell this bill as a deregulation bill, one that will bring the benefits that we had said would come from deregulation—though the administration denied any such benefits would arise at the time. In fact, however, this is also a myth. Today over 40 percent of all gas is sold in the unregulated, intrastate market. If this bill is passed all of that gas will come under regulation. One hundred percent of the gas in the country will be under regulation and price control. After a year, less than 1 percent of gas will be deregulated as high cost gas. Ninety-nine percent will remain regulated. By 1985, the best estimate of the distribution of gas among the many, many categories established by the bill is that less than 40 percent of gas would be deregulated, even assuming that deregulation sticks. After 7 years of complete regulation under this arbitrary and complex bill, we would have less deregulation than we have today. That certainly does not sound like incentive.

The above arguments, while we believe them conclusive, do require the exercise of judgment, and they are controverted by supporters of the bill. But what about the people who will have to live under these new rules, and risk their own money under them? What is their judgment?

If the bill's supporters are right, this bill will mean more production, more revenues and profits for drillers, more severance tax revenue for producing States and general prosperity for the industry. If so, why is this bill opposed by:

First. Senators from States representing 95 percent of America's gas production,

Second. The Governors of the three largest gas-producing States, and

Third. The overwhelming majority of independent producers and wildcatters and many major producers?

These are not stupid people. If they really believed this bill would make their areas better off, they would support the bill. At this later date, opposition to the bill is not a bluff. It is a simple recognition that this bill will provide less incentive for the producer than the status quo, and consequently less gas for the consumer, which is supposed to be the point of the whole exercise.

Let us look at another myth; that the bill's incremental pricing provisions are "fair, balanced and workable," and will protect consumers.

The original concept of "incremental pricing" was to insure that those who demanded supplies of new and high-priced gas received that gas, but also paid the increased cost. The incremental pricing in this bill is so badly designed that it causes higher prices for consumers, higher prices and more uncertainly for industrial users, and "an economic catastrophe" for all citizens of consuming States.

The flaws in incremental pricing are well set out in a recent "Open Letter to the United States Senate" by Charles Cicchetti, chairman of the Wisconsin Public Service Commission, and a leading advocate of fair and effective incremental pricing. He concludes:

> The so-called incremental pricing pass-through will cause industry to convert to foreign oil, move factories to gas producing states, and escalate the prices of their products.

This letter is based on the final version of the conference report as filed.

As indicated by the only full-scale study of this provision, done by the Department of Energy's own Energy Information Administration this bill will lead to higher retail residential prices than under the status quo, or under either the House or the Senate bills. The administration's claim that "the price of natural gas to industrial users will be lower than the price would have been under the Senate * * * bill" rests on this same EIA report, which they otherwise repudiate.

Further, as Cicchetti points out, industrial users will pay much higher prices than under current law, and are not likely to sit still and be hit with the double whammy of higher prices, and continued uncertain supplies due to the operation of curtailment programs. They will tend to switch where they can, usually to oil. Such switching will increase, not decrease, oil imports, and will further drive up the price to other industrial users, thus creating a "domino" effect.

Finally, this provision is very discriminatory between regions and users, on an arbitrary basis. In some areas, residences will be fully protected, and industries will not be hurt too badly if the residential load is very small and the industrial load very large. In other areas consumers will receive little protection, yet the industries being incrementally priced will be hurt badly. Some pipelines will have to price much of their gas incrementally, while others, with good long-term contracts, will be better off.

And throughout this process, FERC will be making decisions that will impose or shift literally billions in costs between users and between sections of the country. And intrastate users will not be incrementally priced at all, thus acquiring a vast advantage over the interstate users that are supposed to be the beneficiaries of this bill. It is little wonder that most of the major industries of this country oppose this bill.

(Mr. MOYNIHAN assumed the chair.)

Mr. HANSEN. Myth. The passage of this bill "Will have a direct impact on

our trade deficit, on the value of the dollar, and on the rate of inflation."

To the extent these claims have any validity, they would have to rest on the bill's actually increasing American production. As shown above, the bill will not do that. In addition, the increase in oil use through incremental pricing will actually worsen the economic situation. In the absence of such increased production, it is very hard to contend that the mere "psychological effect" of passing "an energy bill" will have much effect.

Surely we cannot believe that those who trade in dollars can be fooled by a piece of paper with "energy bill" at the top. We should also note that Canada, which is a net energy exporter, has seen its dollar fall even further than ours in the last few months. Statements by Milton Friedman, William Simon, and the Chase Manhattan Bank, which I will insert following my remarks, all indicate that passage of this bill, and fundamentally any energy bill, will have little effect on the dollar. The dollar's value rests on how many we print, and how many the rest of the world wants to hold, not on whether the President scores a legislative triumph.

Mr. President, I ask unanimous consent that the three articles to which I have referred be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HANSEN. In summary, this bill will not produce more gas, it will produce more regulation, and it deregulates less gas than is now unregulated.

As Senator JACKSON himself said, "If this bill is not a major step forward, we should defeat it."

The merits of the bill deserve defeat, but our motion to recommit will preserve the good parts of the bill, without bringing along the counterproductive regulatory baggage in this conference report.

EXHIBIT 1

HOOVER INSTITUTION ON WAR, REVOLUTION AND PEACE,
Sanford, Calif., August 22, 1978.

Hon. CLIFFORD P. HANSEN,
Senate Office Building, Washington, D.C.

DEAR SENATOR HANSEN: I understand that one issue that has arisen in connection with the so-called gas deregulation compromise is what effect it might have on the value of the dollar abroad.

As compared with the present situation, the proposed compromise would have minor effects in both directions on the dollar. The compromise would certainly reduce the efficiency and output of that part of the gas industry now free from control, the intrastate market. On the other hand, this is by no means clear, the compromise might provide a greater incentive for additional production from the part of the gas industry now subject to control. The effect on intrastate gas, which would hurt the dollar, would be immediate and certain. The effect on interstate gas, which might help the dollar, would very probably be delayed. The complexity of the proposed arrangements are such that it would truly take a modern Einstein to figure out when these effects would occur and how great they would be.

In any event, the dollar has not been weak because of the energy problem, and no amount of tinkering with energy legislation will have any significant or lasting effect on the dollar. The dollar is weak because of bad domestic economic policy, policy which is destroying the unrivaled capacity for growth of American free enterprise by hampering it at every turn with taxes, controls, regulations, policy which is producing inflation through excessive government spending and excessive creation of money.

The way to strengthen the dollar fundamentally is to improve these policies, to set American enterprise free, to end inflation. From this point of view, a truly fundamental energy reform, which eliminated all controls on prices as well as our present subsidies of oil imports, which abolished the Department of Energy, enabling the market to go to work to produce, price, and distribute the energy we demand—such a program would truly strengthen the dollar, not because of its direct effects on energy imports, but because it would demonstrate to the world that we were awakening from our drugged state and were prepared to set our economic policy on the right path.

Sincerely yours,

MILTON FRIEDMAN.

STATEMENT BY ROBERT L. SLIGHTON, VICE-PRESIDENT, THE CHASE MANHATTAN BANK

The argument that passage of the compromise gas bill would play an important role in halting the decline in the dollar and strengthening the US balance-of-payments outlook is at best highly exaggerated and at worst just plainly wrong. Adoption of the proposed legislation would probably result in a modest strengthening of the dollar in the very short run, but this improvement would not be permanent. In the longer run, the legislation could actually result in some weakening of the dollar as foreign exchange markets come to perceive that the long-run supply of natural gas in the US is as likely to be reduced as increased under the new regulatory regime.

There are two major weaknesses with the Administration's position that international implications provide a strong argument for the bill. First, the major source of weakness in the dollar at this time is not a weak current or prospective trade balance but rather worsening expectations about US inflation. Indeed, the dollar has entered a new phase of weakness in spite of widespread recognition by market analysts that the US trade deficit has peaked and is likely to decline substantially in 1979. The movement of the US trade account into a large deficit position—and concerns that growing energy imports would imply continuing balance-of-payments difficulties—were the major sources of weakness in the dollar from the summer of 1977 until the spring of 1978. The current weakness of the dollar springs from the accelerated rate of inflation in the US and the perception that US monetary policy seems designed to accommodate to increased cost-push inflation. No policy action that is not designed to affect inflationary expectations is likely to have a significant and permanent impact on the value of the dollar under current market conditions.

Second, it is by no means clear that the market will perceive the compromise bill as resulting in an enhanced long-run supply of natural gas in the US and hence an improved long-run balance-of-payments outlook. The legislation is highly complex and difficult to analyze, thus there is likely to be a short period of euphoria in which the dollar temporarily strengthens in response to the assumption of favorable supply effects. Our belief is that once market analysts have time to examine the legislation carefully, they are likely to conclude that the status quo provides at least as much production incentive as the proposed regulatory regime

SIMON CALLS GAS COMPROMISE "TERRIBLE" LEGISLATION

NEW YORK, August 24, 1978—Carter Administration attempts to force passage of bad energy legislation and an equally bad natural gas compromise on pleas that it will strengthen the U.S. dollar abroad were denounced today by former Treasury Secretary William Simon.

Simon, who was also first head of the Federal Energy Administration, acknowledged that while a "good" energy bill would assist in making the U.S. currency stronger in international markets, the fundamental cause of the disastrous decline of the dollar in world markets is the irresponsible economic policies of this Administration. "We have allowed inflation to dominate our economic affairs, and when a country debases its currency, people do not wish to own that currency. The energy legislation being considered is counter-productive and the natural gas compromise about to be taken up in the Senate," the former Treasury Secretary and energy czar said, "is not a bad compromise, it's a 'terrible' compromise. The Good Lord knows that we need an energy policy in this country, but I would prefer to have no legislation rather than bad legislation."

"The Administration's own energy enforcement authorities have made it clear," Mr. Simon noted, "that the natural gas bill is 'so complex, ambiguous and contradictory that it cannot be enforced and that the national interest will not be served by adoption of legislation which . . . is unenforceable'."

"I am in total agreement with this finding," Simon said. "Imagine the administrative chaos which would result when a Rube Goldberg agency attempts to develop regulations to implement legislation conceived in confusion and couched in cloudy language which will thrust almost every decision into the courts for adjudication."

"It is a tragedy," Simon went on, "that the Administration is no longer arguing the merits of the bill but is reduced to jawboning and arm twisting to win votes and is willing to sacrifice the U.S. economy in the vain hope of enhancing political prestige at home and abroad."

"Our international friends are not so naive as to believe that bad U.S. energy policy will lead to a stronger U.S.," Simon added, and concluded with the comment: "I really wonder if the Carter Administration is more concerned with the polls than with our energy policy."

Mr. MELCHER. Will the Senator yield?

Mr. HANSEN. I yield.

Mr. MELCHER. My friend from Wyoming and I stood together in voting for the Pearson-Bentsen proposal as the Senate passed it, that portion of the energy policy, almost a year ago. I think we stood together for the same reasons. We wanted some type of deregulation phased in, and believed it was absolutely essential if we were to have more production of natural gas in our area that there had to be a better price before people would go out in the field and wildcat.

We do not have Pearson-Bentsen before us. This is quite different.

I agree with the assessment made by my friend from Wyoming on almost all the points he raised in his delivery today. However, there is a point on recommittal that I would like to ask the Senator from Wyoming about.

If the recommittal motion were successful and only the two points were

changed in the bill as described in the August 23 letter to all of us, on which Senator BENTSEN was the first signer along with some 18 other Senators, if those were the only two points that were changed in the bill, how would these changes really benefit an independent gas producer in Wyoming or Montana?

One would provide the President with the authority needed to cope with emergencies by allocation of temporary sales and the other point is to allow interstate consumers to take advantage of surpluses in the producing States under conditions that will prevent brokering. Those are the only two points changed. How would it alleviate the problem for the independents to encourage them to feel more confident about going into the field to drill wells?

Mr. HANSEN. First, let me thank my distinguished friend from Montana for the interest he has taken in this legislation over the years, for his participation in the debate on the floor when we were debating Pearson-Bentsen, and for his attention now.

I respond by saying that the encouragement for independent producers in my State of Wyoming and his State of Montana would come about in this fashion: We would not be imposing regulation on the intrastate market. The intrastate market has provided the major incentive for additional drilling for both oil and gas because, insofar as natural gas goes, that was not regulated. As a matter of fact, about the only part of gas drilling activity that has shown any life lately has been that which was done for the intrastate market insofar as onshore drilling is concerned.

The trouble with this bill, and why, I think, there is the proposition we propose in our motion to recommit and to report back is that we would not be saddling the gas industry, those who are actually drilling, with regulation on the intrastate market, plus this other fact: Under FERC every 2 years, as my friend from Montana knows, it is the responsibility of that regulatory agency to establish a new price for all gas. That price, absent the activity in the legislation which engages us at the present time, would probably have been established earlier. They have been holding off down at the Federal Energy Regulatory Commission because of the prospect that legislation would be passed. When we make comparisons and when projections are made on what would be produced under the status quo or under the compromise or under the Senate-passed bill, Pearson-Bentsen, it has been, I think, an error on the part of the staff who have been serving the majority to assume that the comparisons can logically be made with what the price of gas is now under the old FERC definition, or what it would be under the terms of the bill.

That is part of the reason that I think the compromise we talk about would offer greater encouragement to the industry than it would have under the conference report.

Second, however, we should not overlook the fact that there is an enormous amount of regulation that will be imposed under the terms of the compromise bill. No one says that there will be fewer than 17 kinds of different gas identified. I pointed out in my remarks that first, before anyone drilling a well could say with certainty what price he would get for the gas under the compromise, he would have to pass the examination by a State regulatory agency. That would be subject to review by the Federal regulatory agency; and then, third, by court review if he wanted to go through all of the steps. So I think we have to recognize that, given the advantage and the encouragement that the gas producer now has and with the two terms that are contained in our motion to recommit—one to give the President emergency powers to allocate gas and to fix prices; and second, to permit the movement of gas from where it may be in surplus supply to areas where it is needed—with the avoidance of all of the regulatory controls that would be imposed under the terms of this bill, we can expect, subject to the limitation, the only limitation, that there can be no brokering, you certainly would expect, in times of need in one area, with surpluses in another area, that there could be a price improvement over what would happen in that particular area.

I shall just have to conclude by saying that I think that the industry is best able to speak for itself. The independents in my State of Wyoming are solidly on record that they would favor no bill at all as compared with this bill. I think that, as I recall the great number of independents that there are in the State of Montana, I suspect that the great majority of them share the view of the industry as a whole, of the IPAA as a whole, of my Wyoming producers, in saying that. They shall make up their own minds, but I shall have to say the final proof, to my friend from Montana, is best disclosed by what the independents say for themselves.

Mr. MELCHER. I thank my friend from Wyoming and I think that it would be accurate to say that the independent gas producers from Montana are opposed to the conference report. It is only fair, in saying that, also to say that some, perhaps most, feel that the pricing mechanism that is allowed under the conference report would be adequate to encourage them, to give the incentive to go out and risk their capital to see if they can find some more natural gas.

Mr. HANSEN. If my friend from Montana would yield at that point, let me just take this opportunity to make one observation.

A year ago, when my friend from Montana, whose friendship I cherish, and I were supporting Pearson-Bentsen and made the argument that greater incentive was needed, we were told then by the administration—this is just about a year ago—that there was no need at all to go above $1.75 for gas; if you went above that, nothing would happen in the way of additional production. All that would occur would be inflation. Even some of my friends, who represent important producing States, at that time were making the same argument. They did it on this specious reasoning: first, that there were only so many drilling rigs available so that a higher price would not do anything about encouraging greater production. Of course, the fallacy in that argument is simply this: given a higher price for anything, a greater effort will be made by any reasonably prudent person to get into that business. As regards the statement that there were only so many drilling rigs available, that is very true; at that time, there were in existence a definite number of drillings rigs. But if drilling rigs become valuable enough and if you have enough people wanting to get into the drilling business, there indeed will be bidding going on for drilling rigs. We know what that will do: it will drive up the price of drilling rigs.

If you make the production of drilling rigs sufficiently profitable, you will have a lot more drilling rigs produced in this country than we have today. I have made the statement that if it got profitable enough to build drilling rigs, you would find shipyards and steelmakers and automobile makers in the drilling rig business. Anyone who has observed the private enterprise economy knows that that is the way it works.

I apologize for taking so long, but I did want to get that in, because I think it spells out what was wrong with the argument that was being made against those that were offered by my friend from Montana and me last year.

Mr. MELCHER. I think my friend from Wyoming would agree, perhaps, with this belief that if you live long enough and are still around here, you see the wisdom of your original thoughts sometimes agreed to by others.

Mr. HANSEN. That encourages me to live longer.

Mr. MELCHER. I want to say on the other point that independents look at this conference report and have serious reservations on the reporting provisions that would accompany the discovery and sale of new interstate gas. It was described to me by several of my independent friends in Montana as being a requirement of the old Federal Power Commission reporting procedures and that, if that were the case, they would not go out in the field to try to find natural gas that we would probably be selling under contracts in 1979 for about $2.20 per thousand cubic feet, if they were subject to the reporting provisions that the Federal Power Commission used to require, and it does not anymore because it has one out of existence, or the authority was taken out by the Federal Energy Regulatory Commission, but still based on the Natural Gas Act, and they probably have a lot of the same reporting requirements in place yet. But if the independents were faced with those stringent reporting requirements which are very costly, and they explained it to me, a monthly report, a very detailed report, how gas was produced, the type of well and the conditions of the well, who got the gas, et cetera, they would not want to go into the field to try to find natural gas at about $2.20 per thousand cubic feet for sale in 1979 to intrastate utilities.

I find the burden of paperwork not

only to be frustrating on business, but to be extremely costly.

So I tended to believe their objection, that if it were the case and they were subject to all these reporting requirements it would be pretty much an unworkable situation for them.

I was relieved to find out from the staff and from the Federal Energy Regulatory Commission that such would not be the case, that the independent, having drilled a well successfully, found some gas, under the terms of the act, that was obviously new gas, would ask the regulatory commission in Montana to ascertain whether or not it was such gas, the commission would so find, and that part of it is not so hard to understand.

They would so find and then certify, inform the independent that it was new gas and certify in this case, the epitome of the "Great White Father" here in Washington that, indeed, an independent had found some gas in Montana and that it did fit into new gas.

So the interpretation of the new gas is placed in the hands of the State commission.

Then the next step, what is the price for that new gas, is also in the hands of the State commission, and they tell the independent. The independent sells the gas under terms of a contract, say, to a utility company such as Montana Power, for sale within the State, and that contract then is filed with the State commission. The commission approves it. Where does FERC come in? I am told FERC comes in to spot check what the State commission does.

Charlie Curtis and Mr. Smith are the two on the commission I spoke to in the last week that tell me they have no intention of ever getting bogged down in the reporting requirements, as was required under the Natural Gas Act.

The Federal Power Commission built up, I suppose, huge storage rooms of very detailed reports which probably received scant attention when they were filed.

FERC tells me they will not go through that exercise, that the bill is written to spot check the State commission. I find some comfort in that. I hope my independents in Montana will find some comfort in that. I hope they will find it workable.

They will have to carefully review it with our State commission, our State oil and gas commission, to see, will the State oil and gas commission interpret this bill as that, go along with it, described exactly by FERC—and I hope to have the definite writing signed by FERC in my possession before the debate on this subject is closed because it is an extremely important point—as regards independents and for reporting to a State commission, and not to be obligated to tons and tons of monthly paperwork by a Federal commission.

Now, the point I would like to stress with my good friend from Wyoming is this, a motion to recommit with instruction goes back then to a conference committee with the House, if they are willing—if they are willing—and in that conference committee, with a viewpoint espoused by my good friend and which I share with my good friend from Wyoming on the need for getting out of the business of regulating the price of natural gas so that we can have increased production, my friend having that point of view, and others that will vote for a motion to recommit, how would it be possible to arrive at a position of unity, a majority at least, in such a conference committee between the Senate and the House to come back with a bill?

Remember, I know my friend from Wyoming will recall, although I am a member of the Senate Energy Committee at this time, I was not a member until just recently. I participated in the debate and in the final outcome of the gas deregulation bill here in the Senate on the basis of Pearson-Bentsen. I was not a member of the committee at that time and I have never been a member of the conference committee.

So, I can join with my friend from Wyoming who can wash his hands of the result of the conference committee because he did not sign the conference report. But in all reality, what good would it do to go back to a conference committee with divergent views, absolutely 180 degrees apart, on gas deregulation as espoused by himself and others like him, and my friend from Ohio, my friend from South Dakota, who has a viewpoint of almost feeling that any type of deregulation is harmful to the people of this country?

How can a new conference committee resolve those issues?

Mr. HANSEN. I appreciate the question. I will try to make my response brief because I know the distinguished Senator from Kansas is on the floor and was told earlier that he might expect to be recognized about now.

So let me say very briefly that the two provisions we have included in our motion to recommit and to report back have the support of an overwhelming majority of Senators and of House Members. So that there was no argument about the desirability of extending the President's emergency powers which have now expired. Nor was there any serious opposition at all over the other portion of that recommittal motion which would permit the movement of gas from areas where it was in surplus to areas of greater need, through either interstate or intrastate pipelines, without getting bogged down in this great morass of Federal regulations.

I also say to my good friend from Montana, third, that the conference report was just signed by a bare majority of Senators and of House Members. I think it was 10 to 7 on the Senate side; but since, I understand, there have been some defections, and on the House side, I think, by a majority of one.

So I point out that there really is not, in my opinion, all that much likely opposition to what I should think would appeal to most people as being two actions which could be taken, which clearly would be in the national interest, which would address emergencies that would move gas from areas where it is surplus to areas where it is needed, which would not impose regulation upon the intrastate market, and which would eliminate the other things that are wrong.

When the Federal Energy Regulatory Commission took over from the Federal Power Commission, there were, I am told, some 12,000 pending applications for relief. Today there are more than 20,000 applications.

Sheila Hollis, a new enforcement officer at FERC, who came on board with the present chairman, has said that this bill is so complicated that it is going to be practically impossible to administer, that it will be an administrative nightmare. Chairman Curtis has said that they will need a large number of additional employees to administer this bill.

Mr. President, I ask unanimous consent that Bill Reinsch and David Deisley, of Senator HEINZ' staff, have the privilege of the floor during the debate and any votes on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. I say again to my friend from Montana that I know there are other complex things to discuss. I would be happy to join in, but I am reluctant to intrude further on the time of the Senator from Kansas. I think the Senator from Wisconsin also wishes to speak.

Mr. MELCHER. I will respond briefly, and then I will yield the floor.

Mr. President, I think the Senator from Washington is extremely honest in his presentation of this matter.

I think it is apparent that by scuttling the whole report except for two provisions which he has described, which would continue the President's authority needed to cope with emergency conditions and allocations as one of the two points that would be retained, and the second, to allow for brokering of gas by intrastate pipelines to interstate distributors—these are two points, as he has outlined correctly, which are acceptable to both the House and the Senate. But there are other points that are clearly unacceptable to both the House and the Senate. One of them is incremental pricing.

We all can find some fault with the provision that is made in the conference report for incremental pricing. But the fact is that if the conference committee would come up with exactly what is asked for by those who are advocating a recommital motion, there would be no bill at all. It would be dead.

As to the point about the independents and the paperwork that might be imposed upon them, or that they fear would be imposed upon them, in intrastate sales, apparently that is a fear that is not justified, in that they would report much the same as they do now, to their own State commission.

That also brings up the consideration that if the conference report is not adopted, all the requirements of the Natural Gas Act remain in force and all the paperwork that is required under the Natural Gas Act presumably would have to be required by the Federal Energy Regulatory Commission, even though they have stated flatly they wanted to get out from under it.

The memorandum from Charlie Curtis, the chairman of the commission, speaks

right to that point: That in terms of relief from paperwork required under the Natural Gas Act, which the Federal Power Commission, the predecessor of FERC, had to enforce and had to require, it will continue if we do not have a bill.

So the score, I suppose, in defeating paperwork would be about 10 to 1. If we kill the bill, we still would retain that 10 parts of paperwork required under the Natural Gas Act, and which has been in effect for so many years through the Federal Power Commission.

If we go the other way and agree to this conference report, apparently we can hope to get down to one, a minimal requirement of paperwork and expense.

So it appears to me that, on balance, our best out is to agree to this conference report, get it into law, strike a lot of the paperwork for everybody involved in natural gas production and the sale and distribution thereof, find out if there really are going to be any big bugs in it for the independents, and correct it promply in the next Congress.

One other group that has some credibility around here—maybe it is belated; in my judgment, it is belated—but the independent oil and gas producers are beginning to have credibility in Congress, and I hope with the administration.

I think we are paying them a lot more attention, listening to their beefs, their legitimate gripes and complaints, and the hamstringing they are subjected to by Government regulation. If the conference report is adopted and we run into that next year, I think we will have some opportunity in the votes to straighten out some of those particular problems.

Mr. President, I yield the floor.

WHY THE NATURAL GAS BILL SHOULD BE DEFEATED

Mr. PROXMIRE. Mr. President, in my opinion the so-called natural gas compromise bill should be defeated. We should beat it outright, on the merits, and vote it down.

DOES NOT PROTECT CONSUMERS

First of all, does it protect consumers? The answer is a loud, emphastic, ringing "No!" Under it, prices will go up and up and up. By 1985, new gas prices probably will double.

ADDS TO THE BURDEN OF REGULATION

Second, does it reduce the burden of regulation? Again, the answer is "No!"

Regulations will be more complex, more onerous, and more difficult under it than they are now. The proponents of deregulation of natural gas always had one good argument on their side; namely, that deregulation would mean less paperwork and less government than its continuance. But this bill is the worst of all worlds, because it increases regulation while it lessens protections for the consumer.

Of course, while my good friend from Montana says there will be less paperwork, anybody who has been around here very long knows how these bills are supposed to reduce paperwork. The best index is what happens to the bureaucracy. Under this bill, they say that the bureaucracy will have to increase. They are asking for more people.

DOES NOT PROVIDE FOR ADEQUATE EMERGENCY ALTERNATIVES

Third, does it carry out one of the major purposes it was intended to carry out; namely, to provide intrastate gas to the interstate system in times of great emergency? The big push came for a gas bill two winters ago when industry and consumers in areas like eastern Ohio were without gas. No. Under the bill, the emergency allocation of gas is limited to pipelines already in the interstate market.

DOES NOT HELP DOLLAR PROBLEM

Finally, does it help the problem of the dollar? No! This bill not only will not help the problem of the dollar but in my opinion will make the dollar problem worse. There is a simple, straightforward reason for this. The dollar is in trouble because of rampaging, endemic, rising inflation. This bill, which will double the price of gas by 1985 and which provides for yearly increases 3 to 4 percent or more above the rate of inflation, will make inflation worse.

And, when those who say this bill is needed to solve the dollar problem find out the reality that this bill will add to the rate of inflation, the dollar problem will get relatively worse rather than relatively better.

DOES NOT CARRY OUT ORIGINAL ADMINISTRATION GOALS

This bill does almost none of the things the administration set out to do. It does not continue price ceilings, as the administration proposed, on all but very high cost and hard to produce gas. Instead, virtually everything is finally deregulated.

It does not simplify regulation and administration, it makes it worse.

It does not integrate the interstate and intrastate systems, one of the major reasons for the bill, but provides for incremental pricing only for interstate gas and restricts emergency allocation to pipelines in interstate markets.

The bill does not limit the maximum price incentives for genuinely new gas and very high cost gas, but gives the maximum prices to a variety of old gas by providing new definitions.

So here is a bill which is anathema to the consumers, which will raise prices and significantly add to inflation, which will add to the burden of regulation for producers, which will produce no significant increase in natural gas and may actually bring a reduction, and which achieves almost none of the objectives for which the administration originally advocated it.

SYMBOLIC BILL AT BEST

But in the face of these solid, factual, adverse arguments we are told we must pass it for "symbolic" reasons. We must have an energy bill, it is said, no matter what is in the bill or how much harm or how little good it will accomplish.

And the voices in pursuit of this end have now risen in crescendo.

I am reminded that George Santayana once defined fanaticism as redoubling one's efforts after having lost sight of one's aims.

Let me now elaborate somewhat on two of the points I have mentioned, first that the bill will vastly raise prices without significantly increasing production and hence will add to inflation; and second that far from helping the dollar it could make things relatively worse for the dollar.

Mr. MELCHER. Mr. President, will my friend from Wisconsin yield at this point?

Mr. PROXMIRE. I cannot yield at this point because I unfortunately have a commitment. After I finish with this, I will be delighted to yield. I do not have a very long speech.

RAPID INCREASE IN NATURAL GAS PRICES

Since 1973 we have witnessed a phenomenal increase in new gas prices for interstate natural gas.

From the time of the Phillips decision in 1954—when the Supreme Court told the Federal Power Commission to get on with the job of regulating wellhead prices as required by the 1938 Natural Gas Act—until 1965, the price of new interstate natural gas at the wellhead remained remarkably stable at the level of 14 to 17 cents per thousand cubic feet.

In 1964 the Federal Power Commission abandoned its wellhead regulation and went to an area pricing rate. Between then and 1973, the time of the Organization of Petroleum Exporting Countries (OPEC) oil embargo, prices increased from about 16.5 to 25 cents per thousand cubic feet, or by 57 percent.

In 1974 the Federal Power Commission shifted from the area rates of 1965 to a national rate for all new gas produced after January 1, 1973. The new price was 42 cents, or an increase of 17 cents or 68 percent in one year.

In 1975 the price was raised again by the Federal Power Commission, this time to 52 cents plus an inflation adjustment of 1 cent per thousand cubic feet per year.

Then on July 26, 1976, the FPC issued the infamous opinion 770 which established a radically higher national rate for new gas of $1.42 for all new gas produced after January 1, 1975. Meanwhile the old 52 cent rate was raised to 93 cents for gas priced under it, and older gas from contracts which had expired were allowed to be sold in interstate commerce at 52 cents.

In 1931 the British cabinet was persuaded by its Central Bank that it should cut unemployment insurance in order to restore "confidence" to the international community, particularly to the international financial community and the New York Federal Reserve.

That, of course, was a disastrous policy. Similar action here and abroad deepened the depression and caused untold misery, all in the name of "confidence".

I am reminded of this incident when I read articles by eminent political columnists saying that the President is making a vote for the gas bill a vote of confidence in the system or that we should pass the bill, no matter how bad its provisions, on grounds that it will help the dollar.

Arguments of that kind have to be made as a last desperate resort. If the bill cannot and should not be supported on its merits it is not going to either

restore confidence to the President or to our international standing or help the dollar.

Since 1973, therefore, we have seen an explosion in natural gas prices. This is shown in Table I.

TABLE I.—*New interstate natural gas prices*

Years:	*Price (cents per mcf)*
1955–64	14–17
1965 (area rate)	16.5
1973	25
1974 (national rate)	42
1975	52
1976	$1.42
1977	$1.57

Since 1953, therefore, we have seen an explosion in natural gas prices. There was an explosion in the price of interstate natural gas. The increase was not just a modest increase. It did not only double or triple or quadruple. It went up tenfold, tenfold. It went up from around 14.5 cents per thousand cubic feet to $1.57 per thousand cubic feet. That is as dramatic an example in the increase in prices as we have anywhere in our economy, a tenfold increase, outpacing inflation by four or five times.

NO INCREASE IN PRODUCTION

Did this explosion in the price of interstate natural gas bring any significant increase in new discoveries?

We have seen a geometric increase in prices—a doubling in price from 1973 to 1975 and a tripling of price from 1975 to 1977. One would expect that such a vast increase in price would produce a great outpouring of supply. It would certainly tend to do that to the degree that the markets were competitive and reacted to an increase in price.

That did not happen. There has been no overall increase in supplies since 1972. Unlike the period between 1955 and the mid to late 1960's, when natural gas prices were relatively stable, new discoveries, revisions, and extensions are far lower now than when prices were low and stable.

In the former period they averaged about 20 trillion cubic feet a year. But, since 1973, they have fluctuated up and down at a level about half that of the 1955–67 period and essentially since 1967 they have fallen off very much.

Table II shows this:

TABLE II.—*Natural gas production compared to discoveries, revisions, and extensions of proven gas reserves, 1950–1975 (tcf.)*

Year	Discoveries, revisions, extensions	Net production
1950	12.0	6.9
1951	16.0	7.9
1952	14.3	8.6
1953	20.3	9.2
1954	9.5	9.4
1955	21.9	10.1
1956	24.7	10.8
1957	20.0	11.4
1958	18.9	11.4
1959	20.6	12.4
1960	13.9	13.0
1961	17.2	13.4
1962	19.5	13.6
1963	18.2	14.5
1964	20.3	15.3
1965	21.3	16.3
1966	20.2	17.5
1967	21.8	18.4
1968	13.7	19.4
1969	8.4	20.7
1970	*37.2	22.0
1971	9.8	22.1
1972	9.6	22.5
1973	6.8	22.6
1974	8.7	21.3
1975	10.5	19.7
1976	7.5	19.5
1977	11.9	19.45

*Includes Alaska.

Source: AGA Gas Facts, Table 4, reprinted from JEC Study, p. 14.

Interestingly enough, according to a study by the Congressional Joint Economic Committee, ". . . drilling activity, especially for gas wells, has risen sharply since 1973."

Thus we have higher prices—in fact spectacularly higher prices; more drilling for gas wells; but less gas.

Some people call that the "free market." But I do not.

What are some of the reasons for this contradictory situation?

HIGHER PRICES—LOWER PRODUCTION

One reason for this is the drive for deregulation by the natural gas industry. The figures on supplies and reserves are provided by the industry. Since the oil and gas industry started its big push for deregulation after 1967, discoveries have dropped phenomenally. They have dropped from the general level of 20 billion thousand cubic feet (mcf) per year to the 6.8 to 11.9 billion mcf since 1971.

INDUSTRY REVISES ESTIMATES TO GET DEREGULATION

But much of this is merely the revised estimates of the industry of its reserves on hand. For example, in what is called the Non-Associated Texas district 3, the estimates for the amount of gas held underground in that district, originally discovered in 1935, dropped from 5.8 to 3.8 billion cubic feet, or by 2 billion cubic feet or 35 percent in the period 1970 to 1973.

ARTIFICIAL BIDDING UP TO MINERAL RIGHTS

A second reason, according to a Joint Economic Committee study is that a considerable proportion of the increase in price went not only for the increased costs of labor and equipment, such as drilling rigs and pipe, but especially in the bidding up of the price of limited mineral rights.

As the study states (p. 41):

> Such an adjustment in the value of mineral rights (basically a rent payment) will have minimal effect on incentive to develop and produce from most properties.

RAPID PRICE INCREASES INDUCE WITHHOLDING SUPPLIES

The big rise in past prices—and we can expect the same under this bill—has created an incentive to keep gas off the market, not to sell it. As the JEC study notes:

> If the rate of energy price increase is higher than the return on alternative investments—i.e., the prevailing rate of interest—a producer will do better by holding his reserve.

As the study so succinctly puts it:

> In this situation, energy in the ground is a better investment than money in the bank. (p. 42.)

The increase in typical price of new gas since 1970—when it was about 20 cents—to 1976—when it was set at $1.42 nationally—was 470 percent, or 40 percent a year.

In other words, the rapid increase in the price and anticipation of further rapid increases under this bill encourages withholding of gas from the market. Under this bill the price goes up by 3 or 4 percent more than inflation. This makes it more profitable to keep gas in the ground than to produce it.

I cannot think of any investment one can make which is guaranteed to go up 3 or 4 percent more than inflation. If there is one I am sure a great deal of money would go into it. So why would any rational natural gas producer respond to this bill by making supplies available when he can keep them in the ground? Obviously the ground is a much better bank than he could find in a bank or he could find in any stock market investment or any real estate investment that one could count on.

The best alternative, both for bringing new production onstream and protecting the plight of the consumers, would be for reasonably small but fair increases which were predictable over a fairly long period.

The anticipation of higher and higher prices has brought the worst of all worlds, higher prices, more inflation, and less gas.

WHY THE GAS BILL IS IRRELEVANT TO THE DOLLAR PROBLEM

That passage of the natural gas bill is necessary to save the dollar is a ridiculous argument. Now that all other arguments have failed, we are told it must be passed, that the United States must have an energy bill—no matter how bad its substance—and that all this is necessary to save the declining dollar.

Mr. President, this is getting like King George's head. If people cannot think of any other reason to follow some economic policy, they say, "We have to save the dollar." We have heard that over and over again.

Like the flowers that bloom in the spring, with respect to the problem of the dollar, the natural gas bill has nothing to do with the case.

Mr. TOWER. Mr. President, will the Senator yield for a question at that point?

Mr. PROXMIRE. I will yield, but not at this point. Unfortunately, I have limited time, and I shall be through shortly and be happy to yield to the Senator from Montana and the Senator from Texas.

STOCK ARGUMENT

Mr. President, that passage of the natural gas bill is needed to save the dollar reduces the plea for its passage to a stock argument. Over the years in the Senate and in politics we have heard them all. From time to time they change. Prior to and during World War II, the stock argument was that a particular action would beat Hitler and stop fascism. After World War II almost every program and every proposal was advocated on the dubious grounds that it was

necessary to stop communism. Now the stock, fashionable argument of last resort is that it is necessary to save the dollar. Let us take a look at that argument on the dollar.

ENERGY IMPORTS DROP—DOLLAR DECLINES

First of all, during the period when the dollar has been declining relative to the German mark and the Japanese yen, the imports of energy from abroad have made up a smaller proportion of our total imports than before. So as our position with respect to energy imports has improved, the dollar, with relationship to the mark and the yen, has declined. So there is no direct cause and effect relationship. If anything the opposite cause could be argued with stronger persuasion.

JAPAN AND GERMANY IMPORT MORE ENERGY THAN WE DO

Second, the importation of energy is not the basic reason for the dollar problem. Consider both Japan and Western Germany. Japan imports almost all of its energy needs, but the yen has increased in value vis-a-vis the dollar. West Germany imports a far greater proportion of its energy needs than does the United States. Yet the mark has increased in value vis-a-vis the dollar.

How is it that the dollar is said to be in trouble vis-a-vis the yen and the mark because we import too much energy but that the yen and the mark, the currency of countries which import far more of their energy needs than we do, are strong in relation to the dollar? The argument does not make sense.

INFLATION CAUSE OF DOLLAR PROBLEM

There is a very different answer, one I touched on at the beginning of this speech. The basic reason for lack of confidence in the dollar is the endemic inflation this country now faces. That is the problem. And if we pass this natural gas bill and energy prices under it go up year by year not only at the rate of inflation but 3 or 4 percent or more per year faster than inflation, which is what the bill provides for, it will be seen that this bill adds to inflation and the dollar will remain in trouble. Those are the stark, objective, basic facts about this bill. It will hurt the dollar and not help the dollar.

SOME REAL CAUSES OF THE DOLLAR PROBLEM

The dollar problem has a host of causes, some good, some bad, and some neutral.

PROBLEM A MEASURE OF SUCCESS

With floating exchange rates now prevalent in the world, to some considerable degree the dollar problem is a measure of the United States post-World War II success in restoring the economies of the Western Allies first and strengthening the economies of the Third World second.

There was a period after World War II when there was a shortage of dollars abroad. No country could buy our goods. Economies were faltering because of the lack of dollars. We had to loan or give billions of dollars to Western Europe directly through the Marshall plan and less directly to other countries through foreign aid so they would have the funds to get back on their feet and to buy our goods.

That was no economic heaven. It cost us dearly in deficits and loans and in forgoing tariff reductions by other countries.

It added to our budget deficit. It increased our national debt. It took tax dollars from American citizens and spent them for the benefit of people abroad. Sure we had a strong dollar but the economic conditions were not good.

BETTER U.S. ECONOMIC GROWTH

The dollar problem is also the result of a much faster rate of economic growth in this country than in Germany and Japan in the last few years. We recovered from the 1974–75 recession far faster than they did. Our employment grew. Unemployment dropped. Our growth rate exceeds theirs. The dollar gap is to that degree an expression of our success—faster growth, increased employment, and declining unemployment. Do we really want slower growth, greater unemployment, and less employment in order that the dollar may improve vis a vis the mark and the yen?

NOT ALL BAD

The fall in the dollar is not all bad. It makes American goods cheaper abroad and hence increases our exports. It makes foreign goods more expensive here and thus decreases our imports. Already there has been some decrease in imports from Japan. Over time this problem will work itself out provided we come to grips with our basic economic problem here at home, namely inflation.

NATURAL GAS BILL WILL NOT HELP

Passing the natural gas bill will not make it easier for American farm products to get into the Common Market, which is one basic reason our exports are not as large as they should be.

Passing the gas bill will not make it one whit easier for American firms to sell their products in Japan, because that depends to a very considerable degree on the Japanese Government and their willingness to reduce barrier on the importation of our products.

FALSE BASIC PREMISES

The basic premises on which passage of the gas bill are based are false.

First, the premises that if prices rise, and in this case they will almost double by 1985, consumption will drop and gas energy will be conserved.

That has been shown to be false because demand for natural gas is relatively inelastic to price changes. Once a house is hooked up with gas stove, a gas furnace, a gas water heater, and a gas diswasher, a family has no real alternative fuel. It has to pay the price or go cold. And as the price of natural gas has risen far faster than any savings in supply which can be made by turning down the thermostat or washing the dishes in cold water, a very little savings have come about.

Far more savings can come from a policy of no more hookups or by requiring industry to convert from gas than in raising the price which will have little effect on demand and use.

The second premise is that prices will increase the supply. But as we have seen, a 10 fold increase in the price has resulted in no new supplies at all. Another doubling of the price will not solve this problem for it will still be more profitable to keep gas in the ground because the annual increase in value of gas in the ground under this bill will greatly exceed the benefit of selling the gas and putting the return in the bank to earn interest or to invest in stocks.

Finally, the premise that the bill is necessary to solve the dollar problem is without merit.

That problem—the dollar problem—is the problem of inflation. When those abroad who say we need a gas bill to solve the dollar problem find that it will result in higher prices and more inflation, and that it will result at best in only a marginal increase in the supply of gas, or an actual decrease in supplies if recent experience is any test, they will shortly be criticizing us for taking such foolish action.

WORST OF ALL WORLDS

This bill is the worst of all worlds. Consumers do not want it. Producers do not want it. Labor does not want it. Business does not want it. Liberals do not want it. Conservatives do not want it. Almost its only supporters appear to be the central bankers in Zurich and Bonn and Tokyo who if they knew what was really in this bill and how inflationary it was would not want it either.

Mr. President, I do want to add a note relating to my own State of Wisconsin.

Charles J. Cicchetti is chairman of the Public Service Commission of the State of Wisconsin. It was Wisconsin which brought the famous suit which resulted in the Phillips decision in 1954 which told the then Federal Power Commission to get on with the job of regulating natural gas.

As a consequence the administration and the Department of Energy have called and cajoled and attempted to persuade Mr. Cicchetti that the bill before us is acceptable. In fact, some changes were made in the bill at his suggestion to improve it.

In a letter to me and to all Senators he states that this it not a deregulation bill and that a natural gas bill is not necessary in 1978. He recommends, notwithstanding the administration's attempt to persuade him otherwise, that this bill be defeated and that either this year or next year Congress pass a good gas bill whose principal provisions he outlines.

Mr. Cicchetti is an avowed expert on this subject. He knows what this bill will do to Wisconsin and the country and he is against it.

I ask unanimous consent that his letter of August 22, 1978 be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF WISCONSIN,
PUBLIC SERVICE COMMISSION,
Madison, Wis., August 22, 1978.

An Open Letter to the U.S. Senate.

DEAR SENATORS: You will soon be considering the Natural Gas Policy Act. There are two things about this bill that you should know.

This is *not* a deregulation bill. While wellhead price regulation will be phased out over the next seven years, this bill substitutes a completely new form of price and use regulation. For the first time ever, federal regulations will apply to the pricing of industrial

natural gas. A series of exemptions and special considerations are permitted, making this new federal regulation a prime candidate for special interest domination and bad public policy. Furthermore, there are numerous categories of gas under phased deregulation policing and regulating them will be a public disaster and a bureaucrat's delight.

A natural gas bill is *not* necessary in 1978. Two years ago there was a serious natural gas crisis caused by a severe winter and foolish federal and state regulation. Now there is a natural gas supply bubble caused by conservation and conversion, and a favorable Supreme Court decision in the *California vs. Southland Royalty Co.* case. Many states which prohibited natural gas hookups are now reconsidering in light of the current gas surplus. The Department of Energy officials, who cried wolf, need any gas bill (phrases like "the best this Congress will produce" abound). But, the nation can afford to wait. To argue that a bad gas bill is necessary to help the dollar in international markets represents a sophomoric understanding of current energy and international monetary situations.

A good gas bill, which the nation most assuredly needs either now or in the next Congress, should have two simple features. First, in exchange for paying the same higher prices as the intrastate market, consumers in both the intrastate and interstate markets should come under identical amounts of federal price, non-price, allocation, curtailment and end-use pricing controls.

Second, new federal regulation of retail prices should be deleted from the current natural gas bill and kept out of future legislation. The so-called incremental price passthrough will cause industry to convert to foreign oil, move factories to gas producing states, and escalate the prices of their products. The industrial abandonment of gas in the interstate market will mean the higher gas prices, and a larger portion of fixed costs, will be passed on to the residential customers. The so-called consumer-oriented legislators who support this provision either have a strange view of how to help consumers, or have little knowledge of their own state's gas markets. I urge them to contact their public utility commissions to determine what is thought of this new layer of federal regulation and preemption of state authority, all in the name of deregulation.

In conclusion, I would like to see the nation end the two-tier natural gas market that has disrupted the natural gas industry for the past five years. I would like to see the President get the international credit for his ability to lead. In my opinion, this can be accomplished by sending the present bill back to Committee with instructions to: (1) treat all states alike in every respect, and, (2) delete the present attempt to substitute one form of new federal regulation for the one being phased out. If these goals cannot be accomplished, I believe natural gas should be a principal agenda item for the next Congress. It is simply not correct to claim that we as a nation will gain international credit and create domestic energy tranquility by passing a bad gas bill.

Sincerely yours,

CHARLES J. CICCHETTI,
Chairman.

Mr. PROXMIRE. I am happy to yield to my friend from Montana.

Mr. MELCHER. I thank my friend from Wisconsin for yielding, and I am happy that he mentioned the 1954 Phillips case where the Supreme Court decided that the Federal Power Commission had better get on with the job of regulating the price at the wellhead.

Between the time of 1938, when the Natural Gas Act was passed, and 1954 when the Supreme Court said, "You have got more duties then you have been doing, Federal Power Commission," there was not so much paperwork by that agency. But after 1954, as a result of that Supreme Court decision and the duty of the Federal Power Commission to regulate the price of natural gas at the wellhead, we have gotten to a point now in 1978 of overwhelming reporting.

We put the Federal Power Commission out of business and put the Federal Energy Regulatory Commission in business, and said they are going to take over, among other duties, the Federal Power Commission's duties.

Here is Charles Curtis, the chairman of that Commission, reporting to us on what this bill does in terms of paperwork that they have inherited under the Natural Gas Act that the Federal Power Commission was doing. They had 10,025 cases under section 4 of the Natural Gas Act when they took over from the Federal Power Commission since fiscal 1977, and in that fiscal year had received an additional 15,769 cases, for a total workload of 25,794 cases based on section 4 of the Natural Gas Act.

What does this conference report do? I tend to agree with the Senator from Wisconsin when he says if we think we are going to pass new legislation around here and end some paperwork we are generally fooled. The only way we can end any paperwork is if we repeal some law. This conference report repeals the Natural Gas Act, repeals all of those provisions under section 4 of the Natural Gas Act for those interminable 30-day reports.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. MELCHER. I would be delighted to yield. It is on the time of the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin has the floor.

Mr. PROXMIRE. The Senator is making an interesting argument. But this is not deregulation. As I pointed out in this Chicchetti letter it is not deregulation for the reason he gives, and I would like to point out also there are something like 23 different pricing tiers.

So, as my good friend from South Dakota reminded me, Senator ABOUREZK, you can multiply what you are doing now 23-fold. If that is deregulation it is 2,300 percent more. It may be that it will not be quite that bad, I suppose, but the fact that the energy agency is asking for more personnel for the purpose of administering the legislation suggests that they have to have that to regulate it.

Furthermore, as Mr. Cicchetti points out, what this really does is to provide regulation after the date given here, regulation eventually by the industry itself and, of course, they also are likely to have more paperwork. It is true it will not be Federal paperwork, it will be private paperwork.

Mr. MELCHER. I think the confusion that arises in the mind of my friend from Wisconsin is that he is talking about pricing regulations and not addressing the question of nonprice regulation. Section 4, to which I referred, and to which Charles Curtis refers, is nonprice regulation. It is interminable reports that are required by the Federal Power Commission that will not be required because it will be repealed under this act, and those reports will be turned over to the States. The requirement for all of that will be to a State regulatory commission on the nonprice regulations, and that is the point and how you get out of some paperwork on the Federal level.

Mr. PROXMIRE. Mr. President, I yield to my friend from South Dakota.

Mr. ABOUREZK. Mr. President, I thank the Senator for yielding. Just briefly I want to ask the Senator from Montana about this 23-level pricing system that has been established in the conference report—and, incidentally, I do not call this a compromise. A compromise is an area of agreement between two opposing sides. This particular thing was not an agreement between two opposing sides. It was between two people who agreed in any event. We ought to call it not the natural gas compromise, but the Jackson-Dingell conference report or the Jackson-Dingell-Schlesinger-Carter conference report because those are the folks who agreed on it, and hardly anybody else.

In this conference report there is a 23-level pricing structure set up with 23 different kinds of natural gas and nobody, including the Senator from Montana, can tell me there is not going to be a maze of regulations, there is not going to be a series of lawsuits. In fact, since I am going to go out and practice law next year, I ought to vote for this bill, because this is going to be wonderful for lawyers out in private practice. It is going to make everybody who gets into it wealthy. They are going to be able to send all their kids to college and buy several airplanes, yachts, and homes in the process as a result of this regulation system.

I believe in regulation of natural gas pricing. But I do not believe in clobbering people with this kind of a pricing system, 23 levels.

If you think they have had trouble enforcing the oil regulations that have been written since 1973—and lawsuits to make oil companies comply with the regulations have been lost on the basis that the regulations were too complicated—what do you think will happen with a 23-level pricing system? It is going to drive them crazy. Charles Curtis, the head of the FERC, Federal Energy Regulatory Commission, has announced, now that Schlesinger has got him straightened out, where he first said "we cannot enforce this thing," he now says, "Oh, yes, we can enforce it, but we are going to have to have more money, more staff, and a bigger bureaucracy."

Enormous costs are what you are foisting upon the American public with higher prices, and on the industry as well with this kind of a regulatory bureaucracy.

Mr. PROXMIRE. May I respond? I have the floor. I say to my good friend this is not a deregulation bill anyway. Charles Cicchetti points out why. It is true—and I am reading from his letter:

This is not a deregulation bill. While wellhead price regulation will be phased out over the next seven years, this bill substitutes a completely new form of price and use regulation. For the first time ever, federal regulations will apply to the pricing of industrial natural gas. A series of exemptions and special considerations are permitted, making this new federal regulation a prime candidate for special interest domination and bad public policy. Furthermore, there are numerous categories of gas under phased deregulation; policing and regulating them will be a public disaster and a bureaucrat's delight.

Now, this is a man who has devoted his life to regulatory policy. He is chairman of probably the finest public service commission in the country. We are very proud of it, and it has a great tradition, and this is his view of how to reduce the burden of deregulation.

Mr. MELCHER. May I answer the Senator from South Dakota?

Mr. PROXMIRE. Yes.

Mr. MELCHER. I thank the Senator for yielding to me. I will answer this way, in Charles Curtis' own words:

The staff has estimated that a like number of rate applications will be received in fiscal 1978 yielding a total workload of 28,407 cases.

That is a totally unreasonable number of cases.

Continuing:

FERC's current caseload is substantial, its backlog unacceptably large. This circumstance derives from a number of causes. First, the regulatory scheme, as presently implemented, is particularly cumbersome and appears incapable of keeping pace with the dynamics of the market. Second, this Commission's predecessor, the Federal Power Commission was singularly unsuccessful in obtaining from the Congress adequate resources to perform the Commision's duties.

Generally speaking, except for gas which is committed or dedicated to interstate commerce on the day before the date of enactment, the current utility-type regulatory mechanism would be terminated. Thus, it would no longer be incumbent on producers to obtain certificate authorization for new sales in interstate commerce, dedications of new gas reserves would not be required nor would a producer need abandonment permission from the Commission to allow it to sell gas to another upon the conclusion of the contractual term. Also, in the case of sales of gas not previously committed or dedicated to interstate commerce occurring after date of enactment, tariff filings and rate increase applications would be dispensed with. This would also be true in the case of production from new onshore producing wells, new gas wells, and high-cost wells even if the gas is currently committed or dedicated . . . it is reasonable to expect that the Commission's present caseload attributable to functions now conducted under the Natural Gas Act will significantly diminish in future years.

Mr. ABOUREZK. Why would Curtis say that in one breath, and in another breath say, "I need more money and more bureaucrats?" I do not understand.

Mr. MELCHER. For one reason: Because Congress seems to have given to the Federal Regulatory Commission a great deal more authority and responsibility under the law passed by Congress than was in the hands of the Federal Power Commission. The Federal Power Commission licensed some hydropower——

Mr. PROXMIRE. That does not require paperwork. What does that mean? That means they have to exercise it by persons that require paperwork.

Mr. MELCHER. That is exactly correct; plus some coal conversion work, plus a lot of other responsibilities we give to the Federal Regulatory Commission.

Mr. ABOUREZK. But you miss my point. The point is, Curtis said that if the conference report passes, he will need more money and more bureaucrats than he would otherwise need.

I think it is fair to say that Curtis would have said that regardless of whether this conference report passes.

Mr. MELCHER. But he has said that one portion of all the forms they require under the Natural Gas Act will require a workload of more than 28,000 cases.

Mr. ABOUREZK. It is fair to say——

Mr. MELCHER. And that is not just a small amount of storage of obsolete paperwork. That is more than this whole building could hold, over the course of a couple of years.

Mr. ABOUREZK. What is fair to say is this: In response to a direct question about the responsibility under this conference report, Curtis said, "I will need more money and more bureaucrats; there is no way you can escape it."

Mr. PROXMIRE. I yield to the Senator from Idaho.

Mr. McCLURE. I thank the Senator for yielding.

A great deal has been made about the regulatory complexity under this bill, but not much has been said about the complexity in the absence of this bill.

A portion would be returned to the States for their regulatory commissions under this bill; so it would be returned to the States for their supervision, which I think is appropriate, and I think the Senator from Wisconsin would agree with me on that. Second, they already have some——

Mr. PROXMIRE. May I say it may or may not be appropriate, depending on the State, and I think the Senator has a good point. However, as Mr. Cicchetti, a distinguished public service commission regulator, said, it will also be returned to private industry under circumstances which will make it extremely difficult, and, as he said, make it a great hunting ground for special interest domination and bad public policy.

Mr. McCLURE. I understand, but that is the case that is already made. That is the case now. Every well that is drilled, they have to get new drilling cost permission. So you do not have dozens of classes of gas under current law, you have hundreds. Almost every one is a special case, in which special interests and special favors may be shown, and, because it is of limited application, it is one to which public interest would not be directed very widely, and therefore the opportunity for wheeling and dealing, if that is the suspicion, is greater under present law that under the new bill.

And I might point out, in response to the suggestion made earlier that for the first time we get into the industrial fuel, that one of the major reasons for industrial gas regulation under this bill is because of the DeConcini amendment adopted on the floor of the Senate dealing with incremental pricing. That is not something the conferees from the Senate were free to deal with in conference, because it had been added on the floor of the Senate. The Energy Committee had not put that in; it was offered and adopted on the floor of the Senate.

Therefore, that question of industrial price regulation was injected by an amendment, which I think the Senator from Wisconsin voted for.

Mr. ABOUREZK. Mr. President, will the Senator yield briefly on that point?

Mr. PROXMIRE. Yes; I yield to the Senator from South Dakota.

Mr. ABOUREZK. In the terms of the incremental pricing, the Energy Information Administration in its report and analysis on this conference report, has said that the incremental pricing provisions have been thrown out the window, that in fact homeowners will pay more for natural gas, proportionately, than will industry.

Mr. McCLURE. Will the Senator yield on that question?

Mr. ABOUREZK. He has the floor.

Mr. PROXMIRE. I yield.

Mr. McCLURE. Let me say that the Senator from South Dakota incorrectly reported what the EIA said. They said it will lead to a change in their regulations some 5 years from now, but not because incremental pricing has been thrown out the window.

Mr. ABOUREZK. No, sir, the Senate provision, which in fact was reversed in the Senate——

Mr. McCLURE. The Senator is incorrect.

Mr. ABOUREZK. Let me get a copy of that report, and read it.

Mr. PROXMIRE. Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. FORD). The Senator from Idaho.

Mr. McCLURE. Mr. President, this question of the complexity of the bill seems to go to the heart of the controversy. There are various reports about how many regulations there may be pending action. I am amazed at the number of people who are opposed to this bill because they say it is too complex from a regulatory standpoint, but at the same time they say industry can do better under FERC, because they always go to FERC and ask for relief.

They cannot have it both ways. They can either ask FERC to help them, or object to the regulatory procedure, but they cannot do both, it seems to me. Yet at the same time they are doing precisely that. They are saying this requires FERC to protect the industry, and requires FERC to do what FERC cannot do now. They cannot come out with enough regulations to decide the pending applications rapidly enough to avoid the backlog, which I think is 700 major cases and 25,000 to 35,000 minor decisions, in addition to the major ones, that are backlogged now.

No wonder the Federal Regulatory Commission comes in and says, "We will need more staff." The Senator from Montana is exactly correct; we have, by the actions of this Congress, already increased the demands upon the Federal Regulatory Commission. This bill undoubtedly requires some additional complexity.

That was going to be true under Pearson-Bentsen, particularly with the incremental pricing provision, which the Senate in its wisdom added. I might add that I voted against that. I think the Senator from South Dakota voted for it. If there is to be, as a matter of fact, any additional complexity because of that regulation, it should not be tagged against the junior Senator from Idaho. I did not want that. There were others who said, "We have to protect the consumer." Now because we are protecting the consumer by a regulatory process, they object that we have a regulatory process. It does not seem to me one can have it both ways by at one time condemning the regulatory process in this bill and then commending the regulatory process as the only means to protect the consumer on the other hand.

This bill, certainly in my opinion, in this Senator's opinion, is not a perfect bill. I think the Pearson-Bentsen approach was better. I know my friend from South Dakota does not agree with that at all. That does not surprise me. But, as a matter of fact, if we array this bill against the current law, it is a step toward deregulation in a structure, measured, predictable manner, with no greater complexity than is in the existing law and, in my judgment, much less complexity; a greater certainly to those who wish to produce and, therefore, since they have greater certainty, there will be greater investment. And there is the immediate advantage of releasing to the interstate market, without the interference of the regulatory commission, releasing to the interstate market that which is now blocked within the intrastate market. That is a tremendous boon to those areas of the country which are not producing States.

I know there are those who say, "Well, we could have done it under the emergency procedures under existing law," but the same people are saying, "Well, depend upon FERC to release it," and are the same ones objecting to the regulatory complexity. Can you have it both ways? Can you say, "I will depend upon FERC to release it but I cannot depend upon FERC to do these other things because they are incompetent and the complexity of regulation is far too great"?

Mr. ABOUREZK. Can I read from this announcement under prices and consumption:

Table 4 represents the projected natural gas delivered prices by sector for each of the proposals in the current regulation case. Residential prices are estimated to be lower under the House and Senate bills than the series C case due to their respective incremental pricing provisions. Incremental pricing under these two bills passes on the lower cost of old contracts to high priority consumers, largely residential and small commercial consumers. In the compromise, however, the projected residential prices are higher than in the other two proposals due to the different allocations of high cost gas to the incremental pricing pool for low priority customers. The major factors are that the Alaskan gas, transportation costs, and existing and improved LNG and SNG projects as well as intrastate gas are rolled into all consumers under the compromise proposal and are not placed in the incremental pricing pool as they are in the House and Senate bills.

Now, does that square with what I said just a few minutes ago?

Mr. McCLURE. No, it does not, as a matter of fact.

Mr. ABOUREZK. Where is the difference?

Mr. McCLURE. The Senator is referring to the Alaskan pipeline compromise that was made, and it was the judgment of the conferees that that was the only way to get that supply here. Maybe the Senator from South Dakota would rather his consumers in South Dakota go without that gas. That is certainly not my understanding of what the Senator is trying to do, to increase a shortage.

Mr. ABOUREZK. What does that have to do with what I was talking about?

Mr. McCLURE. Because the reason for the difference is the rolled-in price treatment for the Alaskan gas pipeline which was not the case in the incremental pricing provision as adopted by the Senate in the first instance. To that extent there would be a higher cost to consumers, residential consumers, than otherwise.

I go back to the old story of the fellow who went into the store, looked for something on the shelf, and asked the merchant how much for that item on the shelf. The merchant said, "That is $1.49."

He said, "I don't know why I should buy it from you. Your competitor down the street has it for 50 cents."

The merchant said, "Why don't you buy it from him, then?"

He said, "I would, but he doesn't have any."

The merchant said, "If I didn't have any, I would sell it for 50 cents, too."

Mr. ABOUREZK. That is a fine story but what has that to do with this?

Mr. McCLURE. It has exactly to do with this because the question is whether or not you are going to have Alaskan natural gas in the Lower 48 State markets.

Mr. ABOUREZK. Sorry, the question is how much of the gas price gets treated as part of the incremental pricing pool. That is the question.

Mr. McCLURE. That is what I was trying to tell the Senator, that you are not going to have it unless you roll it in. If you are saying we cannot roll it into the price, you will not have in the market.

Mr. ABOUREZK. Just a minute.

Mr. McCLURE. I will be glad to wait however long it takes the Senator.

Mr. ABOUREZK. The reason the incremental pricing pool raises prices to residential consumers as indicated by the department analysis is that the Alaskan gas price is rolled in and it makes prices higher to residential homeowners in the conference report than it does in the House or Senate bill.

Mr. McCLURE. That is correct.

Mr. ABOUREZK. That is what exists in the conference report.

Mr. McCLURE. That is correct.

Mr. ABOUREZK. There is no way to change it now unless we recommit it and go back to the conference committee.

Mr. McCLURE. That is correct. I am not arguing with my friend on that subject. It is a question of whether or not you want the gas. If you do not want the gas, go ahead and say you do not want it rolled in.

Mr. ABOUREZK. Then you do not disagree that the conference report makes prices higher for residential consumers? Do you agree with that?

Mr. McCLURE. Let me answer my friend in this way

Mr. ABOUREZK. No, do not ask. Answer it.

Mr. McCLURE. I will answer it my way, not your way. I would say in the judgment of the conferees you have a choice to make. The question is whether or not you want to protect the consumer against the high price by guaranteeing that he will not have gas to pay for. You can do that if you want to. The conferees came to the judgment that if we are going to have the pipeline built we are not going to get it unless we pay for it. My friend can argue all day long if he wants to. There is no argument between us as to the pricing effect to the consumer. The question is whether or not he has that alternative supply of gas available. If he does not, then maybe we will go down to Mexico and——

Mr. ABOUREZK. Let us assume——

Mr. McCLURE. Just a moment.

Mr. ABOUREZK. Let us assume——

Mr. McCLURE. Just a moment. Maybe my friend would prefer we go down to Mexico and pay them $2.60 per mcf. That has been suggested as an alternative. Or perhaps he would rather we pay $4.50 per mcf for LNG. Perhaps my friend would prefer that we strip mine more in the West so we do not have to depend on natural gas. Those are some of the choices, too.

Mr. ABOUREZK. Let us assume that we have the Alaskan natural gas supply, so we have that argument out of the way.

Mr. McCLURE. Let us assume it how? Let us assume we can get it without paying for it?

Mr. ABOUREZK. No; let us assume that we have it at any price you want to set on it.

Mr. McCLURE. All right.

Mr. ABOUREZK. We have it. Under this conference report, that price is rolled into the price residential consumers have to pay, which makes their price higher than the industrial users.

Mr. McCLURE. No, not at all.

Mr. ABOUREZK. No?

Mr. McCLURE. Not higher than to the industrial users.

Mr. MELCHER. Will the Senator yield?

Mr. McCLURE. I am happy to yield.

Mr. MELCHER. The existing situation is that industry gets it cheaper than the homeowners get it. What is new about that? There is nothing at all new about that.

Mr. ABOUREZK. Will the Senator agree with my analysis of the conference report?

Mr. McCLURE. Let me put it this way——

Mr. ABOUREZK. Let us not argue about whether or not we have it now.

Mr. MELCHER. If the Senator will yield to me, let me refer exactly to the Energy Information Administration analysis that the Senator from South Dakota referred to. That agency, in their analysis, used two different assumptions about what incremental pricing would do, and then it came up and showed the following retail price projections in 1985 for residential consumers.

First of all, under the Senate bill, if you could assume that the intrastate pipelines and the local distribution companies within a State would use incremental pricing, the price would have been $2.97 by 1985. But there is no reason to make that assumption because it is not required by the Senate bill, and I have never heard of a local distribution company or an intrastate pipeline company that wanted to get into the morass of incremental pricing. So if you assume that they will not use incremental pricing because they are not required to do so under the terms of the act, under the terms of the Senate bill that price would have been $3.62 for home consumers in 1985.

Under the compromise, under this conference report, that price will be $3.31 in 1985.

Now, if the Senator from South Dakota has some weird idea that, since we have the natural gas in Alaska, it is going to get down here without building the pipeline, he is operating in a never-never land. If the Senator from South Dakota has the idea that the U.S Government is going to underwrite, is going to pay for that pipeline, assume the construction costs, then I think he should stick around with us in the next Congress to see whether that could ever come about. I do not think it will ever come about.

I do not think the U.S. Government is going to enter into the proposition of paying for pipelines. I think we are going to keep the status quo. That is that the pipeline companies, based on selling bonds, based on a projected tariff, are going to have a pipeline built eventually. But let me tell him something: I think the Senator from South Dakota assumes that we can get the Alaska natural gas pipeline constructed without rolling in the wellhead price and transportation costs, and that is a fictitious thought. That will never happen. That just will not happen.

They have to enter into the bond market. Those people who want to build that pipeline, that has been designated by the President as the preferred route, the preferred company, are never going to build a pipeline unless they go into the bond market and say to those money brokers, "Here is what we can do based on the contracts for selling the natural gas." And they do not have a contract that is worth a tinker's dam until the wellhead price and the transportation price are rolled in. That is why they have come to us and they have come to the Senator, too, I think, and said to him, as they said to me, "If we are going to do anything about selling bonds, we are going to have to have this bill or some bill like it that will allow the wellhead price and the transportation costs to be rolled into the final price of gas that we transport."

That is a serious situation and the question is exactly, do you want the natural gas to come down from Alaska or not? If the Senator does not want it to come down, let me tell him something else that will happen: That oil can only be pumped out of Prudhoe Bay out of those wells for so long under the process of reinjecting the gas that comes out along with the oil, for only a certain amount of time. When the point comes where the pressure is so great that the gas cannot be reinjected, the producers of those wells at Prudhoe Bay have two choices: expensive storage for the gas, which will make it tremendously costly—five times, six times, seven times more costly, just from adding the storage to it—or they can shut down the well.

Mr. McCLURE. The Senator might add that they have one other alternative if they were permitted under our law; that is, to flare the gas, just waste it.

Mr. MELCHER. Well, we are not permitting any flaring and we are not going to because it is absolute waste. The Senator from South Dakota would not advocate it and I do not think the Senator from South Dakota would advocate that we shut down the wells to make our situation even more dastardly than it is now.

I can hardly believe that the Senator from South Dakota would represent the people of this country and say, "You are going to have to build expensive storage for that gas in order to keep producing the oil," which in turn would mean when the gas is finally brought down here for use in the lower 48, it would be five or six times more costly than under this system. If we are going to have that gas from Alaska, it is going to have to be on the basis of this. And on that basis, it will still be plenty expensive and probably be more expensive than the incremental price I have suggested here that, under the terms of the bill, will cost residential users $3.31 in 1985. For all the home owners of this country who are finding fault with the high utility bills they have from their gas companies, I sympathize, and I include myself, but it is going to be worse if we are going to continue to use natural gas.

We are faced with a limited number of alternatives. This conference report gives us an alternative that none of us really likes very well, but it is the best one we have.

Mr. McCLURE. I yield to the Senator from South Dakota.

Mr. ABOUREZK. The only thing I want to wrap up with is to say that, apparently, both the distinguished Senators agree that the conference report increases the price to residential home owners. They do not disagree with that, as they are standing there arguing right alongside of me.

Mr. McCLURE. Let me say it will only be higher if Alaska gas comes. If Alaska gas does not come, it will be no higher. All the Senator from South Dakota is asking us to do is guarantee that the Alaska gas supply will not be available to the consumers in his State.

Mr. ABOUREZK. I did not ask that.

Mr. McCLURE. Yes, he did. He may not have known he was asking that, but that is what he was asking.

Mr. ABOUREZK. I asked the Senator to concede that this great incremental pricing provision that the Senate passed, which I remember very well, because I supported it and voted for it last year in September, has been tossed out the window and what is left is a price that is higher to consumers in the conference report. He cannot disagree with it; he has agreed with it already.

Mr. McCLURE. Let me tell my friend he can repeat that as often as he wants to, but that does not change the fact. The fact is if he wants that gas down here, his consumers are going to have to pay for it.

We did not throw the incremental pricing provision out in conference, although I dearly would have liked to do that. But the Senate had voted for one, the House had voted for one, and I could not throw it out. If I had had that latitude, I would have been urging that. But we did say the incremental pricing provision cannot be realistically applied to the Alaskan gas, because if it is applied to Alaskan gas, you will not have any down here.

My friend from South Dakota can argue it as long as he wants, but there is no begging the issue that that pipeline must be financed; it cannot get gas to the U.S. market until the gas pipeline is financed; and it cannot be financed under the incremental pricing provision. It is just that simple.

When the Senator from South Dakota suggests that we must have the incremental pricing provisions applied to the Alaska gas, he is arguing that the Alaska gas should not be permitted to reach this market. The financing requirements are very simple: the people who would like to build the gas pipeline must go to prospective consumers of that gas and negotiate contracts. They must go to the prospective suppliers of the natural gas, the producers in Alaska, and negotiate a purchase price. The spread between the two must be equal to the operating costs and the financing costs of that gas pipeline. If they are unable to negotiate the contracts on both sides, here will be no financing, there will be no pipeline.

I happen to believe that natural gas in Alaska ought to be made available to our consumers in this country, rather than forcing them to the alternatives of even higher-cost gas elsewhere. The Senator from South Dakota is presuming, when he makes that statement, that we shall be able to buy a sufficient supply of gas at lower cost than we can buy it from Alaska or that the Alaska gas should not be made available to the market in this country. That, to me, is an unacceptable and an unrealistic expectation. I just do not think it is going to happen that way. That is the reason why the conferees on the part of both the Senate and the House agreed to the modification of the incremental pricing provision. The balance of the incremental pricing provision remains in the conference report. It was not junked. It was narrowed.

There were those who wanted the incremental pricing provision across the

board and the House conferees said, "In order to protect the users of electricity, the utility rates that are produced by natural gas, you have to exempt utilities from the incremental pricing provision, because that will just show up in their utility bill next month if they are forced to buy the high-priced fuel."

There was another provision, which the Senator certainly does not disagree with—at least, I hope he does not—in regard to food processing, because the price of food on the consumers' table will reflect increased energy costs just as quickly and just as inevitably as will the consumption of gas in the utility structure.

So, in addition to the Alaska gas deletion, there was also the exception for utility and there was also the exception for food processing.

Surely, that is the reason some of the big industries, for whom the Senator from South Dakota is a sometimes ally, object, because they alone are left with absorbing all the incremental costs, and they do object. That is one of the major reasons for objection to this conference report, because they think they have been singled out as the broader incremental pricing market was narrowed and it has to focus on a smaller number of people. The result, of course, is that the incremental pricing provision weigh more heavily on them than otherwise under the original Senate bill.

But to argue that the consumer of natural gas in the Senator's State or mine will pay the bill because of the Alaska gas pipeline compromise on the incremental pricing simply presumes the gas pipeline can be built without cost, which we simply cannot make.

Mr. HATCH. Will the Senator yield for a unanimous-consent request?

Mr. McCLURE. I am happy to.

Mr. HATCH. Mr. President, I ask unanimous consent that Everett Wallace, of Senator BAKER's staff, be granted privilege of the floor during debate and votes on the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, I make the same request for Sue Sadler.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I make the same request for Mike Hathaway, of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Does the Senator care to ask any other question or make any other comment? If not, I will be glad to yield the floor to him.

Mr. ABOUREZK. Not at this point.

Mr. McCLURE. Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MELCHER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, would the Senator from South Dakota (Mr. ABOUREZK) inform me if he cares to take the floor at this time?

Mr. ABOUREZK. Not at this time.

Mr. MELCHER. Does the Senator intend to expound on the issue promptly, or does the Senator know of others that would care to address the Senate on the issue?

Mr. ABOUREZK. At this point, I do not know if anybody wants to talk.

Mr. MELCHER. Does the Senator care to inform me or anybody else in the Senate if he feels that a session late this evening is necessary to accommodate those who care to address the issue?

Mr. ABOUREZK. Nobody has told me that they want to make a speech today. I can make one, to fill the dead air time, but I would have to repeat it tomorrow.

Mr. MELCHER. Does the Senator from Utah wish to speak?

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent that Mr. Tom Perry, of my staff, have the privilege of the floor throughout the pendency of this matter and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, it is very flitting that the Senate leadership has decided to reverse the order in which we had expected to consider the four remnants of the National Energy Act.

If there is one word that is synonymous with the issue of natural gas deregulation, that word is reversal.

A brief review of the President's opportunistic gearshifting on this vital issue requires no embellishment to make my point.

In a June 16, 1976, presentation to the Democratic Platform Committee, a fellow named Jimmy Carter had this to say:

> For natural gas we should deregulate the price of only that natural gas not currently under existing contract for a period of five years.

Four months later, and barely 3 weeks before election day, Carter promised Texas Governor Briscoe and Oklahoma Governor Boren, as well as Louisiana Governor Edwards:

> I will work with the Congress, as the Ford administration has been unable to do, to deregulate new natural gas.

But 6 months later, when President Carter submitted his hastily drawn National Energy Act to this Congress, he reneged on his unqualified commitment and recommended that price controls on natural gas be continued.

To compound his breach of faith, the President—on three occasions during September of 1977—implied incorrectly that the oil and gas industry was seeking immediate and total deregulation.

The demagoguery reached a new low at an October 13, 1977, press conference when the President—in a scathing attack that startled even the liberal press—accused deregulation advocates of "potential war profiteering," said it could lead to "the biggest ripoff in history," and claimed the oil companies "apparently want it all."

Despite his advocacy of continued regulation of interstate gas and his endorsement of a House bill extending controls, for the first time, to the unregulated intrastate market, the President, on two additional occasions saw fit to insult the intelligence of his audiences.

At an October 28 question and answer session with visiting newspaper executives, the President, at one point, told his audience:

> As I said in my campaign and also as I said to the Congress when I made my energy speech last April, we are working toward deregulation of natural gas.

A week later, in another question and answer session, the President, when challenged on the contradictions in earlier remarks, replied:

> I don't believe that I've changed my position. I don't interpret it that way. My position was that I would work with Congress, as had President Ford, for the deregulation of natural gas . . . The difference is in the rapidity with which natural gas is deregulated.

I found that to be extremely interesting.

As many Senators will recall, those baffling statements triggered an outpouring of skeptical and critical editorial comment that I am sure accounts in part for the unprecedented nosedive in the President's credibility.

But the worst was yet to come.

On March 9, 1978, the President—in a statement that was both incredible and incredulous—told a news conference he was willing to accept phased decontrol of natural gas, explaining:

> This was a campaign statement and commitment of mine—that I thought natural gas should be deregulated.

In lieu of the mere skepticism and criticism that greeted the President's earlier remarks, the commentary on his March 9 statement bordered on ridicule and insult. And it is no wonder.

In the light of this sad and somewhat sickening record, I would hope that many of my Senate colleagues would have the same difficulty I am having in accepting at face value any of the current White House and DOE claims regarding the virtues of this conference report on H.R. 5289.

As I have followed this natural gas deregulation fight in the Senate, I have supported deregulation because I feel this country is in trouble energywise—not because there is not enough energy, not because we cannot engage in efforts to find new and better enhanced recovery techniques, not because we do not have the ability to come up with new technology, not because there are no alternative forms, but because we have been emphasizing the public sector over the private sector. We have been relying on a Federal bureaucracy to produce natural gas and it does not have the ability to do so.

The fact is that the only ones who ever have produced natural gas in our society are the people in the private sector, the

independent business people, the people who can go out there and find it because there are incentives to go out and find it.

I might add that the only way to get the natural gas difficulties and the energy difficulties off our backs is to deregulate the price of gas and put the incentives in the private sector, where they belong, where we can find oil and gas and their alternative forms, and get the bureaucracy off our backs.

DOE has grown to approximately 20,000 employees just since its organization. Of course, they have taken already existing employees in the Federal Government and have added to their numbers. The budget is well over $10 billion a year, and not $1 is going to find 1 cubic foot of natural gas, let alone a drop of oil. In the process, we are finding that this country is not solving its energy crisis—or, perhaps I should say its energy difficulties, because I do not believe we have a crisis now.

I recall when the famous MOP study was being undertaken. It was before the Pearson-Bentsen amendment debates, and everybody was talking about energy as a crisis in America. I made a speech on the floor of the Senate called "the Bureaucratization of Our Energy Crisis." I made the point that we are not out of natural gas, that we are not out of oil, that we are just out of the ability and the will to find it, because of overregulation by the Federal Government, among other things.

I recall that people laughed at that point, but almost everybody has come to an agreement that I was right when I made that speech, way back in the early days of my first year in the U.S. Senate.

The MOP study was unsatisfactory to this President and his administration; because it proved that if we would deregulate the price of gas to the then world price of about $2.25 per thousand cubic feet of gas, we would be awash in natural gas, substantiating my opinion with respect to the bureaucratization of the energy crisis. Well, they got rid of those people in the original MOP study and sent them away, dispersed them throughout the bureaucracy.

Then they came up with another study, and that was not satisfactory, and finally they reduced it to a third study, which I understand now that Mr. Schlesinger is suggesting we burn.

The basic conclusion of the third study also was that if we would deregulate the price of natural gas to the world price, we still would be awash in natural gas.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. HATCH. I am delighted to yield.

Mr. MELCHER. The Senator from Utah knows that I agree with him, that deregulation, at least phased-in deregulation, such as Pearson-Bentsen, is much preferable, which I believe the Senator advocates.

Mr. HATCH. I find no fault with the Senator from Montana, other than that we disagree on this particular issue.

Mr. MELCHER. The question of regulation, however, would not be with the Department of Energy. It would be with the Federal Energy Regulatory Commission.

Earlier we established a couple of facts pertinent to the manpower needed and the paperwork necessary under existing law as compared to passing this conference report.

One of the points made was that under section 4 of the Natural Gas Act passed in 1938, amended several times, with a requirement of the Supreme Court in 1954 in the Phillips case for wellhead pricing by the Federal Power Commission, there was a tremendous increase in reporting required for nonprice regulation.

Now Charles Curtis, the Chairman of the Federal Energy Regulatory Commission, points out that they anticipate during this fiscal year 28,000 new cases under section 4 that they will have to wade through and be inundated by the paper that is generated in those cases, all of which are on nonprice regulation under section 4 of the Natural Gas Act.

We established that section 4 of the Natural Gas Act will be repealed. Those requirements on those reports of nonproce will be repealed, and even under the terms of this act, if it is adopted, the pricing regulations for what has been described as 23 different price possibilities will be taken over by paperwork required by the State commissions, that most of us think can do it better, easier, quicker, faster, and with less frustration than if we leave the section 4 of the Natural Gas Act as the law of the land enforced by FERC to require all of that reporting that goes along with it.

So in one aspect we get rid of some paperwork and some regulation that is burdensome.

But I wonder if the Senator from Utah will tell me how he views a motion to recommit with instructions of this conference report? Does the Senator from Utah view that with favor?

Mr. HATCH. At the present time, I do.

To answer the Senator's question——

Mr. MELCHER. Yes; I wish to have the answer clarified.

Mr. HATCH. I think that the motion to recommit the natural gas conference report with instructions to report back a bill that will embody provisions already agreed on by the conferees facilitating transfer of surplus and emergency gas to the interstate market is a good thing. And the motion, it seems to me, would also require the conferees to finish action on the utility and conservation portions of the energy plan which have been held hostage to the gas bill and, as I see it, these provisions would do the following:

No. 1, under adequate safeguards they would provide the President with the authority needed to cope with emergency conditions by allocations and temporary sales, as he did successfuly after the passage of the Emergency Natural Gas Act of 1977. Such authority, as the Senator already knows, has now expired.

No. 2, it would allow interstate consumers to take advantage of surpluses in the producing States under conditions that will prevent "brokering" of gas by intrastate pipelines.

If you add these factors together with the coal conversion bill, these actions would provide an energy bill that addresses our energy problems without loading excessive costs on consumers or excessive regulations on producers. It would be a national and not an emotional response to the need for action and it will not worsen our situation simply to satisfy a demand for cosmetic change.

I simply say this, that in a Scripps-Howard national editorial which was entitled "If the Gas Bill Dies," its final conclusion was as follows:

> Here is a time when doing almost nothing is better than great showboating actions to make the public think "Government is rising to the energy crisis."

Those are reasons why I feel that the motion to recommit is a good motion.

But to go further, we think that this compromise will not produce more gas than the present situation or status quo and that the regulatory complexities imposed on the intrastate market will reduce producer incentives. In addition, interstate customers will have to pay higher prices without assured new supplies, and the incremental pricing provisions will damage many industrial areas dependent on interstate sources of gas.

Those are reasons why I feel, at least at the present time, and I am still studying it and giving it every consideration that I can, at the request of a number of my colleagues and Senators here in the Chamber these are some of the reasons why I tend to support and probably will support the recommittal motion, and I think it is a wise motion.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. HATCH. I am delighted to yield.

Mr. MELCHER. I follow the position of the Senator from Utah, and I know it is presented very forthrightly and with no shades of manipulation, but just laying it out foursquare what he feels should be done and what he feels can be done.

But we, however, have to recognize, first of all, that the House of Representatives would not likely agree to a conference, but let us assume they do.

Mr. HATCH. I think they would. If they do not, then I think the conclusion of the Scripps-Howard newspaper is probably a good conclusion.

Mr. MELCHER. Let us assume that they do and that the House of Representatives and the Senate conferees agree on a bill with just the two provisions in it that the Senator has mentioned, which are not under any debate, either in the House of Representatives or the Senate. Both of those provisions are accepted. But, however, we would be giving up the provisions that rolls in the price at the wellhead and the transportation cost of the gas, which is particularly important if the Alaska natural gas pipeline is ever going to be built.

The owners of that company have told us that without this bill they are not in a position to go in the bonding market and sell bonds. They would have to wait until Congress acted at some subsequent time, adopting such provisions, so that they would be able to go to the market and sell the bonds and then at some later date, after being financed, start the construction work on that natural gas pipeline.

We would also have to give up this repeal of section 4 of the Natural Gas

Act and keep it in perpetuity until such time as Congress acted again and repealed section 4 of the Natural Gas Act, and we would still be saddled with the almost insurmountable task of 30,000 cases under section 4 which have nothing to do with pricing but with the nonpricing regulations called for under the Natural Gas Act.

And it is implied by the Senator from Utah and by the editorial he quoted that at a future time Congress could enact a bill deregulating natural gas, and we would forego these limited steps and these very admittedly hesitant steps of getting to deregulation of natural gas by 1985 and 1987. We would forego all that on the strength that Congress would wisely and promptly act, which is presumed by him to be shortly after the new Congress convenes in 1979.

I ask my friend from Utah how Senators and House Members in Congress in 1979, with the attitude he has on gas deregulation, and which I share, how we are going to pass that in 1979 when most of the advocates for recommittal are those advocates who do not want any deregulation? They do not want it. Are they going to change? Has the Senator from Utah any assurance that the votes are there, that the support is there, in 1979 to get the gas deregulation on the basis of Pearson-Bentsen?

(Mr. SARBANES assumed the chair.)

Mr. HATCH. I appreciate the sincerity of the Senator from Montana. All I can point out to him is has the Senator from Montana any proof or can he assure me we are going to have deregulation by 1985 even if we pass this monstrosity?

Mr. MELCHER. I have no proof, but I feel we would be most likely to have it in 1987. Remember there are two cases: Part of it is 1985 and the rest of it is 1987. I tell the Senator the part that concerns me the most and our independents the most is in 1987.

Mr. HATCH. I appreciate the vociferous arguments of the Senator from Montana. But it seems to me he is arguing that the Alaska natural gas will not be produced unless this bill is adopted in all of its portions.

Here again it seems to me that the supporters of the bill appear to be counting on short memories in this body because less than 2 years ago this body adopted legislation specifically designed to facilitate the construction of the Alaskan natural gas pipeline. Pursuant to that legislation the President of the United States made a decision as to the pipeline route, the conditions for building and the procedure for insuring that the pipeline was constructed, and, if I might just finish this, pursuant to previous legislation this Congress ratified the President's decision which we had been assured would make the gas available in a timely and economical manner.

Mr. MELCHER. That is all a bunch of hogwash.

Mr. HATCH. If I can just finish, we are told the situation is such that the pipeline will not be built unless what many in this body feel is extraneous legislation is passed.

I believe, Mr. President, if this argument were true it would speak very poorly for the original decision of the President and for the decision of Congress in ratifying that decision.

On the contrary, I believe that this is essentially an argument concocted at the last minute as an ace in the hole. If there were particular deficiencies in the previous decision by the President which required correcting that can be done by specific amendment to the Alaskan Gas Transportation Act or by specific legislation.

So although I sympathize with the Senator from Montana and feel very strongly about the Alaskan natural gas pipeline, as he does, I am not so sure his arguments are entitled to at least the great weight he feels they are and they should be.

Mr. MELCHER. May I enlighten the Senator? I will go back into the history of the legislation. I was intimately involved with the legislation.

The Alaskan Pipeline Act—and that was to produce or transport the oil that could be produced up in Prudhoe Bay by the bill I managed on the House floor and managed in the conference—set the way, it gave the provisions, for the permits for the construction of that pipeline to go forward without interference by more court cases, and the pipeline was subsequently built under conditions set under that act, which were rather stringent.

But all the time that it was being built, we were well aware of the fact that you could only produce the oil out of those wells in Prudhoe Bay by reinjecting the gas as it came out, and that after a number of years—and it is indefinite, but let us say 3, 4, or 5 years—the injection of that gas as it comes out with the oil, the injection back into the well, increasingly becomes more costly, and eventually it builds up a pressure of a nature so that the gas must be taken off.

Knowing that, we attempted to expedite the clearance of the Alaskan natural gas pipeline. We had the oil pipeline under construction, almost completed at that time, almost ready to start pumping, and we passed not really timely but not altogether too late the next step to set the stage for the construction of the natural gas pipeline.

But Congress followed the same pattern as it did with the oil pipeline in Alaska. It was private industry financing, first of all, for the construction of the lines and then the building of the lines. It cost a lot of money. Money was available for the oil pipeline.

The question of the natural gas pipeline, which must be built promptly or else we are going to have a very difficult position up there for the producers of Prudhoe Bay as to what to do with the gas when they finally find it too costly to reinject it and much too costly to build storage facilities there, why, they are going to have to shut down their wells pumping oil.

The people who are going to build the natural gas pipeline under the terms of the act and under all precedents in this country of a huge pipeline in interstate commerce—the pipeline which is going to be built under all precedents concerning natural gas pipelines in this country of a great size—this pipeline is going to be built by private industry.

In order to do that they have to be able to finance it. The contractors or the company that has been designated with the preferred route, the preferred company to build it, by the act to which the Senator from Utah has referred, is not going to go through Government funds. It has to approach the private money market, and it has to be able to be in a position to sell the bonds, and they have informed me, as I am sure they have at least attempted to inform the Senator from Utah, that without the provisions in this bill that will allow for the pricing at the wellhead and the transportation costs to be rolled into the eventual costs to the consumers, that there is no way in which they can go to the money market and sells bonds, and until they can do that there will not be 1 foot of right-of-way, easements, purchased or dealt with in Canada or any private land in Alaska or the lower 48. There will not be any bonds solds, there will not be anything done.

Unless this bill is passed this year they cannot get into the money market next year with their proposition or unless there is some assurance that Congress will act at some time next year, they cannot get into the money market next in late 1979. Until you have the money in the pipeline game, you do not do anything, as in most businesses.

Mr. HATCH. I appreciate the Senator's point. However, I disagree with him. I think the other ratification of the President's decision does take care it. But let us assume it does not.

Mr. MELCHER. It does not.

Mr. HATCH. Let us assume it does not.

Mr. MELCHER. It does not have anything to do with it, as a matter of fact.

Mr. HATCH. If it does not, then I would suggest there is a very simple way of solving that problem on the motion to recommit where all that the distinguished Senator from Montana has to do is to add his concern by way of amendment to the motion to recommit as an instruction, and they will bring the bill back with the Senator's concern contained in it.

I believe the other ratification by Congress does solve the problem. But assuming I am wrong—which I think is not the case—then the Senator should make it one of the instructions on the motion to recommit, assuming that it is agreed to. If that is so, we can solve the problem that way.

Mr. MELCHER. I can assure the Senator that at the time we acted on the Alaska natural gas pipeline, it was assumed that the wellhead price for the gas and some type of rolled-in pricing would be passed by Congress, and that is the very guts of the Natural Gas Act; and that is why we are now here at this point.

Mr. HATCH. Let me say I believe you could take your language right out of the other bill, adopt it in your instructions, and it would come back and solve your problem.

Mr. MELCHER. I believe that would be naive in this case, because I do not believe about half of the people who are going to vote for recommittal will vote for a blanket authority, that a wellhead pricing of the gas and a rolled-in pricing for transportation costs along with

that wellhead price will not be acceptable. That is what they object to; they do not believe like you and I do. They are against deregulation.

Mr. HATCH. I believe the conferees on both sides will agree. I do not think it is as big a problem as the Senator from Montana thinks. I think it is a red herring that is being flashed here, to put the remainder of these awful provisions on the American people.

I think there are close sides to this question; I am trying to keep my mind open, to be informed by the best prevailing side.

Mr. MELCHER. Well, the Senator should know that those who are interested in deregulation and who signed the conference report only agreed to this provision because they could get the rest of it, the rest of this hodge-podge of stuff which I do not advocate and the Senator from Utah does not advocate.

Mr. HATCH. That is true.

Mr. MELCHER. But it is the only game in town; and if we kill this bill we do not have any. If the Senator from Utah can really believe that promptly in 1979 the House, the Senate, and the new Congress will deregulate natural gas, there would be some merit to his argument and he might even have me on board, but I do not think it is going to happen, because I believe we will have the same argument in the new Congress made by many of the same people who never wanted deregulation.

Mr. FORD. Mr. President, will the Senator yield for a question?

Mr. HATCH. I yield.

Mr. FORD. Does the Senator from Utah know what the motion is going to be, or whatever, that we take a vote on to recommit the bill?

Mr. HATCH. I have recited earlier much of what I thought the motion was going to contain.

Mr. FORD. You did? Well, what bothers me is that the Senator from Ohio said around noon today that he would allow Senators to see the motion at his pleasure. So if the Senator from Utah has a copy of the motion to recommit that will be made, the junior Senator from Kentucky would love to see it. If you have the privilege to do that, I would be delighted to get a copy of it. Will you let me have it? Will you let me have a copy of it?

Mr. HATCH. I have a draft copy of it, but I must say——

Mr. FORD. You have a "Dear Colleague" letter, I guess.

Mr. HATCH. Well, I have the "Dear Colleague" letter.

Mr. FORD. If you are going to vote on the base of the "Dear Colleague" letter, that does not necessarily mean——

Mr. HATCH. I will give you the provisions of the conference report that I think will be requested to be recommitted.

Mr. FORD. Well, if you start taking paragraphs out of some provisions, and little pieces out of the bill, and that sort of thing, I suspect we will get everybody a little bit confused.

What I would like to have is a copy of the motion that will be made for recommittal.

Mr. HATCH. I do not have a copy of that.

Mr. ABOUREZK. Will the Senator yield briefly on that?

Mr. HATCH. I yield.

Mr. ABOUREZK. When we are ready to make the motion, we will be very happy to provide it to the Senator.

Mr. FORD. That is fine; everybody is talking about what they are going to do about recommittal, but nobody will say what they are going to do.

Mr. ABOUREZK. You think you might vote for it if I show it to you earlier?

Mr. FORD. You have a better chance of getting my vote if you let me see it earlier than if I do not have a chance to see it, if I do not know what it contains.

Mr. ABOUREZK. Is that the same philosophy you used on the conference report?

Mr. FORD. No, I studied it very well; and I was at more of the meetings than you were, Senator. And by the way, you were not disinvited.

Mr. ABOUREZK. I just was not told they were being held.

Mr. FORD. Well, you were not very anxious to be at any of the hearings. I remember when you were voting proxies and other people were voting proxies, and they had to turn around and unvote the proxies because they were voted wrong, the Senator from Ohio.

So all of these things about the conference committee are not necessarily what you say, or the paper says. If you look at the votes cast by proxy, or one of them, and then later in that same conference, after the Senator left, they had to change the votes, because they had voted by proxy and voted wrong.

Mr. HATCH. Let me state what I think will be in the motion.

Mr. FORD. You are stating the things that will be in the motion?

Mr. HATCH. I think this will be the motion. I believe it will read as follows:

> Mr. President, I move that the conference report on H.R. 5289, the Natural Gas Policy Act of 1978, be recommitted to the committee of conference with instructions that it be reported back with all references to the pricing of natural gas deleted therefrom, and that it embody the language contained in Titles III, IV, and VI of the conference report with such conflicting language and/or definitions deleted. The conferees are specifically instructed to report back with the following sections excluded—

Then there is a list of sections.

Mr. FORD. Will the Senator from South Dakota say, on the floor, for the record, that he agrees this is the language that will be in the recommittal motion?

Mr. ABOUREZK. I do not think it has been put in final form yet. That will be the bulk of it, but there might be more——

Mr. FORD. Or less?

Mr. ABOUREZK. More provisions.

Mr. FORD. Or less?

Mr. ABOUREZK. There could be less, yes.

Mr. FORD. But you think if you put in a couple more, you might get another vote, or a couple less you might get another vote?

Mr. ABOUREZK. We do not have any breeder reactors to promise.

Mr. FORD. How about a few blacktop roads?

Mr. ABOUREZK. We will consider that, too. Whatever you have to offer.

Mr. FORD. I do not have anything to offer. I thought you were offering.

Mr. ABOUREZK. All we can offer is another provision in that recommittal motion.

Mr. McCLURE. Mr. President, will the Senator from Utah yield?

Mr. HATCH. I am delighted to yield.

Mr. McCLURE. First of all, I think we ought to get back to the discussion earlier about the fact that the Senate had already acted with regard to the Alaska pipeline bill.

Mr. HATCH. I would be more than happy to listen to the distinguished Senator from Idaho on that point.

Mr. McCLURE. I think it quite possible that the Senate might vote for the Alaska gas pipeline provisions. Remember that the latest action the Senate has taken with respect to gas pricing is that the incremental pricing provisions shall apply. That was the last vote of the Senate on the subject to Alaskan gas as well, and if you listened carefully to our friend from South Dakota arguing earlier, that is one of the reasons he does not like this bill.

Mr. HATCH. It literally exempted the Alaska gas pipeline from the exemptions of the bill, which it imposes on every other producer.

Mr. McCLURE. That is correct.

Mr. HATCH. What is the reason for that? If this bill is so good, why would it not be imposed on everything?

Mr. McCLURE. Simply because if you analyze the Alaska gas pipeline, to be built it has to have provisions which will enable it to be financed.

Mr. ABOUREZK. Will the Senator yield on that point briefly?

Mr. McCLURE. Just a moment, if you will.

Mr. HATCH. Let the Senator from Idaho finish.

Mr. McCLURE. The conferees and those who are working on this matter in the Energy Committee have come to a pretty unanimous agreement, not totally but nearly so, that there is no likelihood that the Alaska pipeline can be built if it requires incremental pricing; that the only way it can be financed is by getting contracts from producer and consumer that assume a rolled-in pricing provision; and without that rolled-in pricing provision there is no likelihood that they can get it constructed, and hence no likelihood that they can get the financing; so that, if it has an incremental pricing provision; it simply will not be built.

In fact, the conferees, looking at that, say there is no way you can get the Alaska pipeline built under the incremental pricing provisions. The Senator from Utah has said we can get that Alaska pipeline built without the incremental pricing provisions.

The Senator from South Dakota says there is no way to get it without incremental pricing. Therefore, it casts the entire issue in doubt.

Mr. FORD. Will the Senator let me add, I suspect that the reason they are

waiting now to allow us to know what their recommittal motion might be is that they might even try to stick on the Alaskan pipeline now. That would be part of their package.

Let me ask the Senator——

Mr. HATCH. Mr. President, I believe I have the floor.

Mr. McCLURE. Would the Senator not agree that under the language he submitted that the effect would be to leave the Alaskan pipeline in there subject to the incremental pipeline provision?

Mr. HATCH. The recommittal motion I have submitted has no incremental pricing.

Mr. McCLURE. The incremental pricing is stricken in the bill or is that in the provisions which remain after striking the language?

Does the Senator from South Dakota agree? I see the Senator from Ohio has joined us. Do the Senator from South Dakota and the Senator from Ohio agree that the motion to recommit will strike the incremental pricing provision from this bill?

Mr. ABOUREZK. It depends on what is in the motion to recommit.

Mr. MELCHER. It will not have the Alaskan pipeline provision in it at all.

Mr. ABOUREZK. Does the Senator have a copy of the motion?

Mr. MELCHER. No, but I know the sentiments of the Senators from South Dakota and Ohio, and numerous people opposed to deregulation are opposed to that, because that is the very guts of the Natural Gas Act which they want to have stay in effect.

Mr. ABOUREZK. Would the Senator like to lay a little money on that?

Mr. MELCHER. Yes, I would like to lay a little bit on that.

Mr. McCLURE. What kind of a deal is the Senator offering?

The PRESIDING OFFICER. The Senator from Utah has the floor and is the Senator to whom requests to yield should be addressed.

Mr. MELCHER. Will the Senator yield so that we can complete our betting?

Mr. FORD. Will the Senator from Utah give me just a few moments to ask him, the Senator from Ohio, or the Senator from South Dakota, a question?

Mr. HATCH. I would be glad to yield.

Mr. FORD. I have a copy of a letter setting out the recommittal and the first two signatures are Senator HOWARD M. METZENBAUM and Senator CLIFF P. HANSEN, and then others. The first subparagraph under the first paragraph on the last page says:

> Under adequate safeguards provide the President with the authority needed to cope with emergency conditions for allocating and temporary sales as he did successfully after the passage of the Emergency Natural Gas Act of 1977. Such authority has now expired.

Are you saying here that you are just going to allow emergency allocation of the interstate? For example, will the motion allow allocation of intrastate gas from boiler fuel users? Section 303 of the conference report does allow for such allocations. The letter about the recommital motion implies that it will not allow such allocation. Where are we?

Mr. HATCH. It is the very same as in the original draft, as I understand it.

Mr. FORD. The Senator will have allocation of inter and intrastate gas both by the President? Does Senator HANSEN know that?

Mr. HATCH. As far as I know.

I am not going to make the motion.

Mr. FORD. You are going to support something they have probably——

Mr. HATCH. I am going to do all that I can, realizing that any Senator can amend, any Senator can change it, and any group of people can get together. The Senator asks what I know about it today and that is the best I have.

Mr. METZENBAUM. Will the Senator from Utah yield?

Mr. HATCH. I yield.

Mr. METZENBAUM. I think the Senator from Kentucky was adequately answered this morning and that in due time he will be apprised if that is to be included in a motion to recommit. Nothing much has changed in the last several hours.

Mr. FORD. If he is discussing me, can I have him back?

Mr. HATCH. Yes.

Mr. FORD. The Senator from Utah was defending your position.

Mr. METZENBAUM. And very ably.

Mr. FORD. He indicated he was going to vote for recommital. He was trying to explain what was in the motion for recommital. Then the Senator from South Dakota was trying to say what might or might not be in it. Now he is even thinking about adding the Alaskan pipeline as part of the direction to come back for recommital. All I ask him was would there be allocation of intrastate gas. I was asking if there would be something in the motion that would allocate intrastate gas.

Mr. METZENBAUM. Does the Senator from Kentucky suggest that that would be there?

Mr. FORD. Section 303 of the conference report does allow for such allocation.

Mr. METZENBAUM. Under that condition?

Mr. FORD. When there is an emergency and the President orders boiler fuel users to stop burning natural gas.

Mr. METZENBAUM. Is it not a fact that there is nothing in the bill that permits the allocation of intrastate gas into the interstate market which was the sine qua non, that about which there was nothing according to a number of members of the Senate Energy Committee, and that is not in the bill and the President said that was a necessary condition?

Mr. FORD. Under emergency conditions it is in the bill, Senator. It is in the bill.

Mr. METZENBAUM. That portion that will be in for the limited period you are talking about will be in the motion to recommit.

Mr. FORD. Oh, you are going to take intrastate gas and put it in the interstate pipeline? That is a fact?

Mr. METZENBAUM. Yes.

Mr. FORD. Is Senator HANSEN for that?

Mr. METZENBAUM. We have said that we are going to be agreeable to taking intrastate gas and moving it on an interstate basis or through an interstate pipeline without it becoming subject to FERC regulations. We have said that consistently.

Mr. FORD. I do not see how you are going to get agreement among yourselves.

Mr. METZENBAUM. We only have the same provision that is in the conference committee report at the moment.

Mr. FORD. That is not what the letter says that you signed. It is right there, bare cut. You ought to read it yourself.

Mr. METZENBAUM. I am looking forward to that.

Mr. MELCHER. Will the Senator yield?

Mr. HATCH. I yield.

Mr. MELCHER. Is it not obvious that the group that is going to back the motion to recommit is never going to come to an agreement on what they want to vote on the provisions for recommittal, the instructions they want to tie in? How could the Americans for Democratic Action and the National Farm Bureau ever agree on natural gas? Yet those are the proponents for a motion to recommit.

Mr. METZENBAUM. We also have the American Conservative Union. Do not leave them out.

Mr. MELCHER. They are there, and the Senators who are going to vote for recommital are there, because they have different ideologies. They are that far apart, and they are never going to come together.

If the motion to recommit would prevail, there is never going to be a bill, because there will never be agreement among all those people. I do not believe that the group that wants the recommittal motion—there, there, others—is ever even going to agree on what they want as instructions in the motion to recommit, if we stayed here until Christmas or on into the next year. We might as well get on to the motion to recommit, in whatever form it is going to be, and vote it down.

Mr. HATCH. I do not think that the Americans for Democratic Action and the Americans for a Conservative Union really will make the decision. I think it will have to be the compromise made by the Senators here. I have to admit it will take——

Mr. MELCHER. There is plenty of evidence to show there is no compromise.

Mr. HATCH. It will take plenty of prayers to get it done.

Mr. McCLURE. Is the Senator from Utah implying that there have been secret meetings for a new compromise?

Mr. HATCH. I would say only that the Senator from Idaho and some of the folks opposing this motion would know.

Mr. McCLURE. I do not know whether you have been having secret meetings or Senators ABOUREZK and METZENBAUM have been having secret meetings about whether to recommit.

Mr. METZENBAUM. The Senator from Idaho would have more information than we both as to secret meetings with the President of the United States and the conferees.

Mr. McCLURE. I have not been invited to those meetings.

Mr. METZENBAUM. We have not been invited to the meetings having to do with the breeder reactor. We do not hold secret meetings. We have our meetings in the sunshine.

Mr. HATCH. I point out that——

Mr. McCLURE. The Senator will not even tell us what is in the proposed motion to recommit and he talks about not——

The PRESIDING OFFICER. The Senate will be in order.

In response to the query by the Senator from Utah as to who has the floor, the Chair informs the Senators that the Senator from Utah was earlier recognized and continues to hold the floor.

Mr. McCLURE. Will the Senator from Utah yield?

Mr. HATCH. I shall be happy to yield to the Senator from Idaho, but I say this: If there have been secret meetings, I do not think they have been on the side of those who are against this bill. Knowing and trusting and believing in the Senator from Idaho as I do in this matter, even though we are on the other side at the present time, I should hope that he did get the commitment from the President that I believe he got, and that certainly was not done in a public meeting.

Mr. McCLURE. Will the Senator yield?

Mr. HATCH. I am delighted to yield.

Mr. McCLURE. I keep hearing this talk about what is going to be in the motion to recommit. I can only assume that somebody has been talking about what is going to be in the motion to recommit. I know I have not. We have been trying to find out. The Senator from Ohio says that, by and by, we will learn. The Senator from Utah has tried to outline what he expects. All I can assume is that there have been some conversations somewhere. I do not care how you tag it, that is a secret meeting in my book.

I only raise that question, I say to my good friend from Utah, because a number of other people have been critical of the means by which the conferees arrived at an agreement.

Mr. HATCH. I appreciate that from the Senator from Idaho.

Mr. McCLURE. If the Senator will yield further, I only want to stress this, because I think the Senator from Utah does not approve of or voted against the DeConcini amendment with regard to pricing.

Mr. HATCH. The Senator is correct.

Mr. McCLURE. I know my friends from South Dakota and Ohio are in favor of it. The motion to recommit is going to deal with that question one way or another: either we are going to have an incremental pricing provision or we are not. From what the Senator said, the incremental pricing provision remains in the bill.

Mr. HATCH. That is right, but it is a total, far cry from what the DeConcini amendment is.

Mr. McCLURE. Am I correct in assuming, then, that the Senator from Utah understands that the others who are opposed to the compromise, for opposite reasons, are going to accept the incremental pricing provision——

Mr. HATCH. I cannot speak for other Senators, who are either on the floor of the Senate or who belong to the Senate, but I believe a compromise can be brought about on the motion to recommit. I shall be surprised if it is not, but anything is possible in this august body, especially when we have, if they are advocates of the ADA and the ACLU, then I suspect that would be the situation.

I think the Senator from Idaho is familiar with the situation.

I yield to the Senator from South Dakota.

Mr. ABOUREZK. I want to clarify something, if I might, as long as the Senator from Idaho is here.

The Senator from Idaho, I think very openly and very honestly, released a letter which purported to describe in detail an agreement made between him and the President regarding the nuclear breeder reactor. Subsequently, the White House, the President and the Secretary of Energy, denied ever having seen him. They did not even know who he was.

Mr. McCLURE. Would the Senator yield on that point?

Mr. HATCH. Yes.

Mr. McCLURE. May I correct that statement?

Mr. ABOUREZK. I just want to clarify what the agreement was.

Mr. McCLURE. The President and the Secretary of Energy have consistently said, yes, there was an agreement; yes, we do have an understanding; yes, those are the figures; yes, that is the proposed program on the breeder reactor program. So there has been no denial.

Mr. ABOUREZK. That is what I have been reading, that there is a denial.

Mr. McCLURE. Maybe I do not read the same things the Senator reads.

Mr. ABOUREZK. Would the Senator describe what the agreement was so it will be on the record?

Mr. McCLURE. I shall be glad to bring it in for the record and put in the RECORD. I do not think it is fruitful for discussion right now. It has nothing to do with the natural gas bill.

Mr. ABOUREZK. Was the agreement in return for his signature on the conference report?

Mr. McCLURE. It was not. I have said that repeatedly and the President has said that repeatedly.

Mr. ABOUREZK. Just out of the blue, then, they decided to put a breeder reactor in Idaho?

Mr. McCLURE. No, if the Senator will yield further, this was not out of the blue. As the Senator knows, this has been under discussion, under debate, within the Energy Committee for months. It has been an ongoing discussion and perhaps grew out of the same concern for the statement of energy policy and the position of various people in this country, an understanding by people outside of this country of what this country has as a matter of basic energy policy: Is there a natural gas bill? Is there an energy bill? Is there a breeder reactor program? Is there a nuclear program? It grew out of that discussion.

Certainly, I know the Senator was not there when we were discussing the so-called Jackson-Church-Johnston compromise. I think the Senator did vote on that in the Energy Commission. I know that the Senator was there at least during a portion of the debates on the Melcher amendment that was offered in the Energy Committee on the nuclear program, on the Department of Energy authorization. I know that the Senator knows that this has been going on for weeks, and it should not be surprising that the Senator from Idaho has feelings about it. I have expressed them openly in the committee and elsewhere. It is a matter that I have been discussing with them for a long, long while.

Mr. ABOUREZK. I understand that. What is not clear to me yet is why, since the administration had vehemently opposed the breeder reactor program for months and months—in fact, I was one of those who was asked by the administration to oppose it in the Energy Commitee, which I did. They did not even have to ask me; I would have done it anyway.

Mr. McCLURE. I am glad to know that the Senator——

Mr. ABOUREZK. If the Senator knows—though he may not know—I wish he would tell me: Why would they suddenly, just when they need his signature on the conference report, reverse themselves and come out in favor of the breeder reactor?

Mr. McCLURE. Will the Senator yield further so I may respond?

Mr. HATCH. I shall yield for one more comment. Then I should like to continue.

Mr. McCLURE. Let me say to the Senator from South Dakota I know that, from his wealth of experience and his deep cynicism about the political processes, he must make an assumption concerning agreements that come about.

Mr. ABOUREZK. All I know is what I read in the papers.

Mr. McCLURE. No, the question is perhaps better addressed to the administration than it is to me. I do not know what motivated them. I cannot tell exactly how. They did not consult me earlier in regard to the program. But I have consulted with them concerning it. They did not ask me to oppose it as, apparently, they did my colleague. I am glad to know my colleague is so close to the White House. I have not been that close to them on the nuclear programs. But I have been discussing with them, and they have not asked for my help on the nuclear program, but we did discuss what ought to be in the nuclear program. That eventually evolved to the point of an understanding as to what should be in the nuclear program.

The Senator from Idaho did not make any extortionate demands on them, that they agree or else, but I have seen the opponents of the breeder reactor program make extortionate demands: You go back on that or we oppose your natural gas bill. The linkage that was established was certainly not established by the Senator from Idaho. It has been established by those who are opposed to the breeder reactor program, a program which I happen to favor.

I hope that we shall be able to—if the Senator is at all interested, I shall send him a copy of my letter to the President and the press release so he may have full information. It has been in the public domain for weeks.

Mr. ABOUREZK. I would appreciate that. I would like to read it.

Mr. McCLURE. Perhaps the Senator has not read those.

Mr. ABOUREZK. I am grateful to the Senator for clarifying that matter, because as he said, in my mind, it seemed to me a quid pro quo. I am glad to hear him deny it here, although I understand that he cannot deny it on behalf of the administration.

Mr. McCLURE. If the Senator will yield further, I cannot speak for the administration, except that I know what they have said publicly and privately with respect to the question, was there a trade? There was not. There was a mutual coming to agreement upon two things that needed compromise.

The Senator has suggested that this is a reversal of administration program or policy position on the breeder program. The President has repeatedly denied that that is true, just as he denied that there was any change in his position with respect to deregulation of natural gas. I leave it to my friend from South Dakota to judge both positions, because I am sure he will do so regardless of what I say.

Mr. ABOUREZK. In other words, there is as much integrity in that breeder reactor position as there was in his position on natural gas.

Mr. McCLURE. I happen to approve of the position he has taken on natural gas, not because it is all that I would want, and I happen to approve of the agreement that the President has made with me on the breeder reactor program, not because it is all that I would want. I would like to see the Clinch River breeder reactor built now. I would like to see the commitment to go ahead with it now. But the nature of compromise between conflicting views says let us find an acceptable middle ground which we can occupy and move both programs forward.

Mr. ABOUREZK. The Senator said there was a compromise reached in two areas. One was the breeder reactor. What was the other?

Mr. McCLURE. The natural gas bill is a compromise between conflicting views.

Mr. MELCHER. Since the Senator from Idaho——

Mr. ABOUREZK. But was that the compromise discussed?

Mr. McCLURE. Excuse me?

Mr. ABOUREZK. Was that the compromise the Senator discussed?

Mr. McCLURE. We have discussed both those issues, among others involved in the energy program, just as the Senator from South Dakota and the Senator from Idaho have discussed it.

Mr. MELCHER. Since the Senator from Idaho has used my name in terms of the——

Mr. ABOUREZK. May I ask another question?

Mr. HATCH. I am happy to yield and then I would like——

Mr. ABOUREZK. I am curious if the discussion came up at the same meeting.

Mr. McCLURE. I would say that discussions of both matters have gone over a long period of time. There have been meetings in which both have been discussed, as other issues were discussed.

The junior Republican Senator from Idaho does not get to the White House as often as some other people on the other side of the aisle, and I have to use that opportunity, when there, to discuss whatever I have on my mind. I might not get back inside. So I am very happy to discuss whatever I have of concern to me when there.

Mr. ABOUREZK. I can give the Senator a formula for not getting back inside.

Mr. HATCH. I think the distinguished Senator from South Dakota knows a great deal about that and I would tend to believe that formula.

If I could, I would like to yield to the distinguished Senator from Texas.

Mr. MELCHER. Will the distinguished Senator from Texas yield me 30 seconds?

Mr. TOWER. I am delighted to.

Mr. MELCHER. I thank the Senator.

Since the Senator from Idaho mentioned a Melcher amendment in terms of the Clinch River breeder reactor, let me state that that is an amendment that was adopted in committee. Since the energy authorization bill is before us in the Senate, it will be in the bill and the Senate will have the opportunity to either approve it or reject it, or have a third alternative on modifying it.

It will be the pertinent provision dealing with whether or not the Senate and the House want to give the authority to the President to, first of all, cancel out the Clinch River breeder reactor, and second, to go on from that point with just the opportunity to engage in more experimentation, more research work, to determine whether a suitable method of using nonproliferating nuclear material in a breeder program would be practical, and report back to Congress on their recommendation, one way or the other, in 1981, and then Congress to decide at that point whether Congress wants to authorize further work on such a plan.

It is what the committee accepted. All the talk about what kind of an arrangement the President might agree to, if the House and Senate passed those provisions, that is all the opportunity the President and the executive branch will have.

Mr. McCLURE. Will the Senator from Texas yield just a moment so that I might respond?

The PRESIDING OFFICER. Does the Senator from Texas seek recognition?

The Chair recognizes the Senator from Texas.

Mr. TOWER. I yield 1 minute to my distinguished friend from Idaho.

Mr. McCLURE. I thank the Senator.

Let me just indicate that the chairman of the Energy Committee (Mr. JACKSON), Senator CHURCH and Senator JOHNSON, had offered a compromise that would allow the President to cancel the Clinch River breeder reactor program in return for certain base program improvements. That amendment was killed, that offer in the committee was killed on a tie vote of 9 to 9.

The Senator from Montana offered the amendment which he has now described, which also failed, with the junior Senator from Idaho abstaining.

I then changed my vote to vote in favor of it, not because I approved the agreement, but because it was necessary to get off dead center and get it to the floor.

The Clinch River breeder reactor is the core of a controversy. I would hope when we get to the floor of the Senate with the DOE authorization bill we will be able to debate in full what the breeder reactor program ought to be.

I would just remind my friends who may be concerned about what is in the agreement and the proposed compromise the President and I have agreed upon, it is a halfway point between the DOE authorization bill as reported by the Senate committee and the Appropriations Committee action dealing with the same provisions, the Appropriations Committee having agreed to spend more money on the breeder reactor program than on the liquid metal fast breeder reactor program than I have agreed to with the President in exchange with an assurance in 1980 and 1981, and the Presidential support, or at least agreement, not to veto or oppose those actions.

That is all set forth in a great deal of detail which has been released to the press and the public.

Mr. President, I thank the Senator from Texas for permitting me to make that explanation.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Mr. President, it is my firm conviction that this natural gas conference report does not deserve the approval of the Senate. At best, its enactment would do little, if anything, to increase our domestic supply of natural gas or to reduce foreign oil imports. More likely, its approval would tend to aggravate rather than solve this Nation's domestic crude oil and natural gas supply problems. Certainly its approval can have no significant or lasting effect on the strength of the dollar in foreign exchange markets.

As a proponent of legislation to deregulate new natural gas, I believe that enactment of this gas pricing compromise can be justified only if it will substantially contribute to achievement of the goal of unregulated, market-determined gas pricing at an early date. I must conclude that this bill is not designed to achieve that goal. In fact this bill, rather than moving toward less regulation, actually provides for a dramatic increase in the scope of Federal regulation.

For the Nation's natural gas producers, its enactment would mean a staggeringly complex new regulatory scheme which would reduce price certainty and significantly increase the regulatory cost of exploring for and producing gas. This additional regulatory burden will be especially heavy for the Nation's smaller gas producers, including most of the independents, and it is the independents who find most of the natural gas reserves in the United States and who drill most of the producing gas wells.

Not only does this bill expand the scope and complexity of Federal regulation of the interstate market, but it extends this regulation to the now unregulated market for natural gas produced and consumed in the same State. Many independent gas producers have chosen to operate in the intrastate markets not only because of the price incentives available there, but also because of the absence of costly Federal regulation. Extensive regulation imposes costs on the regulator and regulated alike, and the bill will increase the cost of regulation substantially.

Enactment of this bill will impose on the Federal Energy Regulatory Commission—the regulator—an almost impossible task of administration and enforcement. "Virtually impossible * * * to enforce" is how the FERC Director of Enforcement described it, and the provisions which led to that conclusion remain essentially intact despite changes subsequently made in the bill.

Even now, FERC has a backlog of approximately 10,000 pending wellhead pricing cases, and under current law the Commission regulates less than 60 percent of the gas produced. This bill mandates what is essentially a well-by-well evaluation to determine which of the numerous pricing categories applies to the gas produced from each individual well. With about 10,000 new gas wells drilled each year in the United States, it is apparent that this additional burden of regulation and review will only further increase the backlog and result in months and years of additional delays. Even if the bill is enforceable, as its proponents contend, FERC Chairman Charles Curtis has already conceded that the Commission will need significantly increased funding for a substantial number of new Federal regulators to do the job.

The States would suffer further encroachment of their authority and responsibility under the bill. With respect to wellhead pricing, not only does the bill initiate Federal control of intrastate gas, but Federal regulation would for the first time also be extended to cover natural gas owned by States and municipalities. In Texas and some other States, the volume of State-owned gas production is significant and the revenue derived from its sale helps to serve beneficial public purposes.

The prospect of all of this new Federal regulation leading to meaningful deregulation seems to me remote, at best. Despite what the bill and its proponents say about deregulation of some categories of natural gas in 1980, 1985, 1987, or 1989, it is my view that analysis of the bill in the context of our experience with oil price regulation leads inescapably to the conclusion that this is not a deregulation bill in any real sense of the word. The pricing mechanism established by this natural gas bill is strikingly similar to the oil pricing scheme created by the Energy Policy and Conservation Act of 1975. The EPCA was also a compromise measure and it too was promoted as a way to achieve gradual price decontrol. The curious idea behind that law and the current bill as well is that you extend the coverage of price controls now so that you can later remove them.

The EPCA extended then existing oil price controls to cover "new oil" which was then exempt. The law also provided for gradual increases in the ceiling prices and set June 1, 1979, as the date for completion of the phased removal of all controls on domestic crude oil.

However, that is not what has happened under the oil pricing law. Rather than gradually increase in real terms, oil prices have been frozen and even rolled back several times. Under the present administration, oil prices have not even been allowed to rise to the level permitted under the law. Further, if the repeated statements of the administration have any meaning, the clear prospect is that these oil price controls will be extended and continued indefinitely. I believe that a similar continuation of an expanded system of Federal price controls is precisely what can be expected to result from this compromise gas bill.

Even if one takes on faith this bill's promise of some ultimate price deregulation, I think it is apparent that the bill will significantly reduce incentives for natural gas exploration and production during the period in which controls remain in effect. Exploration and production incentives are determined not only by wellhead prices and the degree of price certainty, but also by consideration of regulatory cost. The regulatory costs imposed on producers by this bill would be substantial. Together with the price ceilings, these regulatory costs will have the effect of decreasing overall incentives to producers.

In the interstate gas market, this bill would result in little, if any, increases in wellhead price ceilings relative to those which would likely be applicable under new rates promulgated under existing law. The extension of price controls to the intrastate market will reduce wellhead price revenues substantially below those which producers could otherwise expect to receive in the absence of the bill. In both the interstate and intrastate gas markets, the added regulatory cost imposed by this bill would be substantial. Especially for those many independents now operating primarily in the intrastate markets, this bill will have a chilling effect on producer incentives.

For all of these reasons and others, Mr. President, it is quite clear to me that final approval of this natural gas conference report would not serve the national interest. It is apparent that the bill is designed not to add to overall supply but rather to shift shortages around in the short run by bleeding the intrastate markets. To adopt this bill to establish long-term pricing policy for natural gas is to perpetuate the current shortage of domestic gas and to opt for continued reliance on OPEC oil and import liquefied natural gas, at prices well in excess of those which are allowed our domestic energy producers.

This bill will not significantly increase the Nation's supply of natural gas, but it will lead to greatly increased Federal regulation. Its approval will contribute nothing to the solution of our domestic energy supply problems and it can in no meaningful way improve our domestic or international economic situation. I urge the Senate to reject this conference report and send it back to committee, with instruction. I believe that will provide Members of this body with a satisfactory alternative.

Mr. FORD. Mr. President, will the Senator from Texas yield for a question or two?

Mr. TOWER. I am delighted to yield.

Mr. FORD. Most of the Senator's comments—and I am about like the lamb charging the lion, trying to ask the Senator from Texas about oil——

Mr. TOWER. When somebody says that to me, I start looking behind me, to see what is gaining on me.

Mr. FORD. The Senator has referred to the bill primarily, and then right at the end——

Mr. TOWER. The Senator probably was going to say that he is just a country lawyer. Lyndon Johnson used to say, "When somebody says he is just a country lawyer, hold on to your pocketbook."

Mr. FORD. I say to the good Senator from Texas that I am not a lawyer.

Mr. TOWER. Neither am I, and I am tempted to say that I am delighted that there are at least two of us here who are not.

Right at the end of his fine statement, the Senator said that he hopes Senators will vote for recommital with instructions.

What are we going to vote on in that recommittal motion? Does the Senator know?

Mr. TOWER. It is my understanding that the motion that will be offered will be to recommit, with instructions to report a bill that, in effect, strips out the controversial gas pricing provisions, reports those provisions of the bill which are pretty generally acceptable to most Senators including provisions for extension of emergency allocation and temporary sales authority.

Mr. FORD. Is the Senator saying that he is going to support some legislation that would direct the President to go into intrastate gas out of the Senator's State into incremental pricing?

For example, will the motion allow elimination of intrastate gas from boiler fuel users?

Mr. TOWER. It is my understanding——

Mr. FORD. People do not really know what the recommittal is going to be, do they?

Mr. ABOUREZK. That is because it has not been filed.

Mr. TOWER. I am talking about my understanding of what is going to be filed. I am not going to blindly commit to any kind of instruction until I see it.

Mr. FORD. The Senator from Texas has not seen it yet, either?

Mr. TOWER. It is my understanding that this is generally what is agreed on by people who want to see this bill recommitted.

Mr. FORD. Is the Senator going to vote, for example, for a motion that would allow allocation of intrastate gas from boiler fuel users?

Mr. TOWER. I am not going to vote for extensive intrastate allocation authority that permits——

Mr. FORD. Oh, you are not.

Mr. TOWER. Wait a minute. I am not through [continuing] that permits some bureaucrat here in Washington to make a decision as to who needs our gas most.

Mr. FORD. Then, the Senator really is not in favor of the "Dear Colleague" provision is the recommittal proposal, and that carries very specific language, and the Senator signed it.

Does the Senator have a little trouble deciding what he signed?

Mr. TOWER. No, I have no difficulty at all. I am just trying to determine specifically what the Senator from Kentucky is referring to. It is my understanding that the Senator is referring to the Glenn amendment gas. Is that correct?

Mr. FORD. Yes, sir. Well, it is the authority to allocate the gas, and that is what the Senator refers to in section 303 of the bill.

Does the Senator want me to ask for a quorum call while he finds out what he signed?

Mr. TOWER. No. I know what I signed. I just do not have a copy of the letter here.

(Mr. PAUL G. HATFIELD assumed the chair.)

Mr. FORD. If the Senator wants an explanation of the provision I will be glad to give it to him. It is page 104 of the conference report, the first full paragraph.

Mr. TOWER. The Senator has a copy of the bill. The Senator has me at a disadvantage. He has a copy of the letter.

Mr. FORD. I thought that the Senator signed the letter that stated what——

Mr. TOWER. I signed the letter, but I do not have a copy of it in front of me.

Mr. FORD. Here is one here. I never sign a letter until I know what is in it.

Mr. TOWER. I know what is in it. I do not have details of the exact wording.

As I understand it, the Glenn amendment provision is in section 607, subparagraph 1. In order to assist in meeting natural gas requirements for high priority users of natural gas the President may by order allocate supplies of natural gas, the use of which has been prohibited by the President pursuant to authority under section 607 of the Public Utility Regulatory Policy Act of 1978 relating to the use of natural gas as a boiler fuel during any natural gas supply emergency.

This is an authority that does currently exist in the public utility rate bill.

Mr. FORD. That is right.

Mr. TOWER. Is that correct?

Mr. FORD. Interstate pipeline.

Mr. TOWER. That is right.

Mr. FORD. Interstate.

Mr. TOWER. This refers to authority the President already has in the public utility bill.

Mr. FORD. But the Senator refers in the letter to the provisions in the bill. The provisions in the bill allow the President to allocate intrastate gas. When the Senator refers to that provision in the bill I accept the point that he is taking that part out of the conference report and going to say in his motion of recommittal with instructions that that will be the part that he is giving the President which includes the authority to allocate intrastate as well as interstate gas supplies.

Mr. TOWER. The thing is if we would remove regulation altogether we would not need the allocation authority. We have already passed allocation authority. I do not necessarily agree with that.

Mr. FORD. I thought the emergency powers had expired.

Mr. TOWER. It has expired.

Mr. FORD. It has expired.

Mr. TOWER. To begin with, to be able to recommit this thing you have to make it as attractive to as many people as possible. For my part, I may not fully support every provision of this recommittal instruction, but legislation is after all the art of the possible.

Mr. ABOUREZK. A matter of preference.

Mr. TOWER. I would prefer to have those provisions rather than the extensive regulatory authority over intrastate gas which I think would have a stifling effect on the production of intrastate gas.

Mr. ABOUREZK. Mr. President, will the Senator yield?

Mr. TOWER. If the Senator will allow, when you couple the allocation authority with the authority to regulate all the other aspects of intrastate gas you run the risk of reducing the amount of production and jeopardizing the supply of gas. We have a surplus of intrastate gas. Why? Because the price was allowed to rise to a market regulated level. That is why we have it, and that is why there is some gas to spare. If regulation is not extended to intrastate gas, then it can be produced for availability under an emergency situation.

Mr. ABOUREZK. Mr. President, will the Senator yield?

Mr. TOWER. I yield to the Senator from South Dakota.

Mr. ABOUREZK. Mr. President, I shall take a few minutes to read a news story filed by United Press International, September 11. That is today:

WASHINGTON.—Gas home heating bills will increase sharply in the Midwest if the natural gas bill is approved, spokesmen for industry and regulatory agencies said Sunday.

The officials, in a series of telephone interviews, predicted heavy industry will switch from natural gas to oil if the compromise legislation to phase out price controls becomes law.

W. R. Wilson, Inland Steel's senior vice president for energy, said the bill would "certainly raise the price" of natural gas in the Midwest, prompting industry to convert to oil.

"We have the capability of making switches. . . . and we would probably put in more equipment to do that," he said.

The Northern Indiana Public Service Commission, which sells Inland Steel much of its gas, said the bill will force industry to switch to oil or "relocate to gas-producing states."

"Industry relocating means loss of jobs in Indiana," a spokesman said.

NIPSCO said a survey of its customers indicated the bill would cause enough switches from gas to lead to the loss of 24 percent of the utility's revenue.

"This revenue loss must be borne by the remaining customers and would result in an increase to residential customers of not less than 15 percent or $60 per year," the spokesman said.

The utility said ultimate industrial revenue loss could increase residential bills as much as $180 a year.

The Wisconsin Public Service Commission, which regulates the State's utilities, forecast "an economic catastrophe" in the State if the bill is approved.

"Wisconsin's industry would be forced to convert to higher priced energy, probably foreign oil," a spokesman said. "Wisconsin would lose jobs to energy producing States."

The Carter administration has insisted that the bill will increase production, reduce America's dependence on foreign oil and help regain international confidence in the troubled dollar.

I thank the Senator for yielding.

Mr. FORD. Mr. President, will the Senator from Texas allow the Senator from Kentucky to make an observation?

Mr. TOWER. I am delighted to yield for that purpose.

Mr. FORD. There are two things here. The Senator from South Dakota, as a regulator, likes that statement. I am sure the Senator from Texas, who is a deregulator, does not necessarily approve of that statement.

This morning the Senator from South Dakota was arguing that incremental pricing is no good, because it would put the load on the homeowner, the consumer. But now he comes in with great pride and reads this statement which says that industry is going to carry the big load and industry itself says it is going to carry the big load. So it means to me that this latest statement says that the consumer will be protected and the industry will be carrying the load instead of the residential user.

Mr. TOWER. Let me note that different people are supporting this recommittal for different reasons.

Mr. FORD. Yes, that is true. I agree with that.

Mr. TOWER. I do not think that is an extremely well-kept secret.

Mr. FORD. But the Senator from South Dakota has been on both sides of the same question in 1 day.

Mr. TOWER. That is between the Senator from Kentucky and the Senator from South Dakota. I am expressing my own views as to why I oppose it here. If they are not consistent with the views of others who are opposing it, so be it. We are more interested in numbers than rationale at this point, and I think the numbers are growing, and I think for very good reason. It is generally recognized this is not a good piece of legislation. Maybe some have bought the specious argument that this bill is going to help stop the slide of the dollar in international monetary markets, but that is certainly not the case. That is a massive delusion, and I think that perhaps Senator PROXMIRE and I may engage in more discussion tomorrow on that matter, hopefully to help disabuse some people of that notion.

Mr. FORD. Will the Senator allow us to get back to the original question about the allocation of intrastate gas?

Mr. TOWER. Go right ahead.

Mr. FORD. The Senator got off of it and went into regulation or deregulation, but in this Dear Colleague letter, which

the Senator signed, there is discussion of the allocation of inter- and intrastate, and the Senator read from the proposed statute which is absolutely correct on emergency allocation authority.

But the old Emergency Natural Gas Act has expired, and it expired in April, and that old emergency act did not allow allocations of intrastate gas.

But in this "Dear Colleague" letter the Senator referred to the provision in the bill, which is section 303, which does allow the allocation of inter- and intrastate gas. Now, is the Senator for that provision?

Mr. TOWER. I would prefer not to have it, but I am realistic enough to know that to avoid getting legislation that may be worse it is prudent for those of us who are, perhaps, not entirely satisfied with this provision to go ahead and support it.

Let me note, too, that the only intrastate gas that would be allocated would be the Glenn amendment gas which the President orders freed from industrial boilers. It is not likely that we would ever have any significant volumes of intrastate gas or any other kind of gas allocated under these provisions.

I think, too, with a free market situation in the intrastate markets we could produce enough gas to meet emergency needs [commitments] without even having to preempt gas from those who are currently using it for industrial reasons.

I think, too, that we should proceed apace with our efforts at conversion rather than wastefully and needlessly use gas under boilers.

I support the idea of conversion. As a matter of fact, we have been converting in Texas for a long time. We started converting in Texas before there was any coal conversion legislation. Why? Because the price of gas was going up. That was the incentive to convert. If we would take the lid off the price of gas there would be a lot of conversion going on. Then, no doubt, somebody would suggest that we control the price of coal in interstate markets.

Mr. FORD. It has already been suggested. We voted on it on the Senate floor this year.

Mr. TOWER. Is the Senator for it?

Mr. FORD. No.

Mr. TOWER. Neither am I.

Mr. FORD. I was for deregulation.

Mr. TOWER. We in Texas buy much of the coal we use from elsewhere. We buy much of it from Wyoming.

Mr. FORD. I believe the Senator said today——

Mr. TOWER. In fact, if you allow the price of gas to go above the Btu equivalent of coal and competing fuels, people are going to stop using gas inefficiently. It is unlikely that this allocation authority will be used. If I thought there were any imminent likelihood it was going to be used, I think I probably would be unable to support those provisions under these circumstances.

Mr. FORD. I was going to remind the Senator from Texas that he called the allocation of intrastate gas evil earlier today. Now the Senator is talking about the Glenn amendment. The Glenn amendment includes intrastate gas.

Mr. TOWER. I recognize that fact.

Mr. FORD. The Senator says he does not want the bureaucrats up here allocating intrastate gas even under an emergency situation. But you are getting into that now, and if the Senator is for the "Dear Colleague" letter that the Senator signed——

Mr. TOWER. Without the accompanying regulatory power over intrastate gas.

Mr. FORD. There must be a real——

Mr. TOWER. With continuation of a free intrastate market I do not think supplies would be adversely impacted such that you would have to preempt and allocate gas, and that is the point.

Mr. FORD. Well, the Senator——

Mr. TOWER. In other words, I feel a little bit more sanguine about some limited allocation authority in the absence of the regulatory power than I would if that authority were accompanied by the regulatory power.

Mr. FORD. Well, the only thing I can say is that the Senator from his letter that he signed said he was for the allocation of intrastate gas. The Senator has just now said that he would support——

Mr. TOWER. The Senator did not say that. The Senator is talking about—what the Senator signed was a letter——

Mr. FORD. But the Senator just said a few moments ago——

Mr. TOWER [continuing]. Supporting an instruction.

Mr. FORD. By the way, could I have a copy of my letter back?

Mr. TOWER. I do not know. I may not be through with it.

[Laughter.]

Mr. FORD. But the Senator just said he would support the allocation of intrastate gas, and I think it is in the RECORD. I was somewhat surprised——

Mr. TOWER. The Senator is wrong. I did not say I would support it.

Mr. FORD. The Senator said he would vote for——

Mr. TOWER. I said I would vote for the instruction because I believe it would be calculated to result in less dangerous legislation than that contained in the entirety of the conference report, and there is a difference.

Has the Senator from Kentucky ever supported an amendment which tended to ameliorate bad legislation?

Mr. FORD. Well, I have tried not to even vote for it in the first place.

Mr. TOWER. It is sometimes prudent to support an amendment that will gut it and then vote against the bill. But, in fact, we always have to——

Mr. FORD. The Senator reminds me of a Congressman we have at home who votes against every appropriation, every tax piece of legislation, and he is the first one to announce an expenditure.

Mr. TOWER. Well, I think the Senator from Kentucky is missing the issue a little bit here. In fact, I have never been a great supporter of allocation of any kind, I do not think we need or should have mandatory allocation authority, but I recognize that under the circumstances we have to strike a compromise, and that is what I am supporting, a compromise. The allocation authority under the circumstances, in my view, is not likely to be used, especially when not accompanied by the intrastate regulatory power.

Mr. FORD. I have no further questions of the Senator from Texas. If he has no questions from me——

Mr. TOWER. I just want to set the record straight on this particular point. My supporting an instruction to report out a bill with certain provisions does not necessarily mean I support every provision in that bill any more than I would necessarily support every funding item in an armed services bill that I vote to report from committee to the Senate. We must do so to have a bill to consider.

In this instance I think it is the only way to produce any kind of energy legislation. I think the responsible posture is to vote to recommit it. In the absence of that——

Mr. FORD. With instructions.

Mr. TOWER. I intend to vote against the conference report.

Mr. FORD. Mr. President, I have no further statements to make on the bill, the natural gas conference report, this afternoon. I do not know anyone else to whom to yield the floor on that matter.

I yield to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Kentucky. I have talked to Members on both sides of the aisle, on both sides of the issue, and there seems to be no Senator at this point to speak on it.

● Mr. PEARSON. Mr. President, the conference report of the Natural Gas Policy Act of 1978 which is before the Senate today is an imperfect piece of legislation. Its imperfection arises out of the fact that it is a product of a compromise; a compromise forged from the cross currents of strongly conflicting political views, competing economic doctrines, and sharply differing interpretations as to the consequences of the bill's multitude of technical provisions.

Despite its imperfections and notwithstanding the fact that the pending compromise falls short of the Pearson-Bentsen bill previously adopted by the Senate, I have, after careful consideration, decided to support its adoption.

Mr. President, this bill is opposed on one hand by those who argue that it will result in unjustified profits to producers and excessive costs to consumers. On the other hand, there are those who argue that it does too little for the producers, that it provides too few incentives for the stimulation of new domestic gas production.

I do not challenge the sincerity of these beliefs held by each of these opposing sides. But, for me, Mr. President, it seems a matter of simple logic that the truth of the matter must lie somewhere between these opposing views. Both cannot be right.

Because this is a complex subject and a complicated bill, I cannot say with any absolute certainty precisely where on the scale the conference report comes down between these two opposing points of view. However, as a strong believer in the concept of deregulation, and I have been involved in this effort for a good long time, I am convinced that this measure is a positive step in the direction toward ultimate deregulation. And, although the regulatory procedures contained in the conference report have been made unnecessarily complicated, I believe that there is sufficient flexibility in the administrative machinery provided by this bill to make it work.

Mr. President, there are those who argue that we should scuttle this bill on the assumption that the Federal Energy Regulatory Commission will, in the months ahead, make pricing and administrative changes that will substantially improve the incentives for increased natural gas production. I fully acknowledge that the FERC could, in fact, do a great deal in this regard. I recognize the possibility that indeed the FERC may do so. But I think the probability that it actually will, is not very high. The history of heavy handed regulation of the natural gas industry is long and all too clear and I frankly do not see the ingredients that would bring about a sudden and significant change in the situation. Even if the FERC did take actions to enhance natural gas production, I do not doubt that such measures would be tied up in exhausting litigation for years to come.

Therefore, I am fully convinced that legislative action is necessary. I am also convinced that if we do not act favorably on the conference report before us now, the chances for legislative action will not likely come our way for a good number of years. After President Eisenhower vetoed a deregulation bill in 1956 it was a decade and a half before the Congress was able to even seriously again discuss the issue. Circumstances today are quite different but, nevertheless, I am convinced that this is the critical moment for action. The Congress has studied and debated this issue for too long. The conflicts and the passions have been too strong. Should we fail to act now it is not likely that the Congress will have the will to take up a full scale review for natural gas policy for a good number of years.

On the other hand, if we proceed to put this particular bill into the statute books, I believe that the climate would be such that piecemeal amendments could be considered even as early as the next Congress if it were found that there are, indeed, critically serious defects in this legislation.

Mr. President, let me review some of the major reasons why I think this measure should be adopted.

First and foremost, it provides the process which will lead us ultimately to the deregulation of new natural gas pricing. It does not get us to that objective as soon as I would like and there are provisions in the bill which could, under certain circumstances, result in continued regulation beyond the target date of January 1, 1985. But I am convinced that the measure will work well enough so that by 1985, complete deregulation of new natural gas will be a politically acceptable proposition.

Second, I believe this measure does provide incentives for increased production of natural gas between now and the target date for deregulation. I do not reject the argument that the excessive regulatory aspects of the measure also provide certain disincentives, but I am convinced that the pricing incentives are sufficient to bring on an increase in new natural gas production and that the industry can adapt to the administrative procedures.

Third, adoption of this measure will bring a degree of certainty to the marketplace. This is in sharp contrast to the uncertainty which we have had during the past 3 years while the Congress has debated the natural gas legislation; a period during which natural gas production has continued to decline. Now there is no particular virtue in certainty itself, except that it is one of the important factors, I believe, that will serve to stimulate and encourage greater production. Decisions as to large scale capital investment in exploration and development could not be made with greater confidence. Likewise, users will have a much clearer picture of the future and this will have a salutary effect on their long-range planning.

Fourth, this bill will, by establishing a national pricing system, serve to bring more gas into the interstate pipeline system almost immediately. At the present there are surpluses in the intrastate market and shortages in the interstate system. I think most agree that this bill will help bring about a more effective balance. More natural gas in our interstate pipelines will help reduce the fixed per unit costs for transportation thus helping to offset the increased cost for new natural production. This helps the consuming States without penalizing the producing States.

Fifth, if this measure does in fact result in greater production, as indeed I believe it will, this should result in a lessening of our dependence on imported foreign crude oil and LNG. This means a reduction in our trade deficit. And, given the seriousness of our balance of payments problem, this is, indeed, a powerful argument in favor of adoption.

Sixth, this bill protects the residential user against sharply accelerating costs through incremental pricing. And it provides some very important provisions essential to the welfare of our farmers and small businessmen.

Seventh, passage of this measure paves the way for the adoption of a rather comprehensive national energy policy package. The final enactment of a national energy policy on which we have been working for the past year and a half, is important in it own right, in that taken together, all the parts of the package will help move us toward solving some of our more pressing energy problems.

But adoption of a national energy policy, including this natural gas bill, also has great symbolic value, both here at home and abroad. It is extremely important, it seems to me, that we demonstrate to the American people that we have the capacity to write controversial and complicated legislation on an issue which we all know is of paramount and fundamental importance.

It is also extremely important that through the adoption of this legislation we are able to demonstrate to the international community that we have the will and the capacity to move ahead with measures which deal in a positive way with the energy problem. There seems little doubt but that our failure to complete action on a national energy policy has been one of the root causes in the decline in the value of the U.S. dollar abroad.

Mr. President, this has not been an easy decision for me. I have expended much time and energy on behalf of the deregulation new natural gas pricing. I have never doubted the wisdom of deregulation. One of the great disappointments of my Senate career was that the Pearson-Bentsen bill, passed by the Senate, was not enacted into law. But I am a realist. Legislation on controversial, complex issues requires compromise. I am not happy with this particular compromise but I can accept it. Taking into account all the factors which I believe bear on this issue, I am convinced that it is in the national interest to move to adopt the confernce report of the Natural Gas Policy Act of 1978.●

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business not to exceed 30 minutes, with statements limited therein to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE PRESIDENT RECEIVED DURING THE RECESS

Under authority of the order of the Senate of September 8, 1978, the Secretary of the Senate, on September 8, 1978, during the recess, received a message from the President of the United States submitting the nomination of Richard T. Mulcrone, of Minnesota, to be a Commissioner of the United States Parole Commission, which was referred to the Committee on the Judiciary.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVAL

A message from the President of the United States reported that on September 9, 1978, he approved and signed the following act:

S. 2543. An act to amend title 39 of the United States Code to provide better enforcement procedures for preventing fraudulent solicitations through the mails.

MESSAGES FROM THE HOUSE

At 11:01 a.m., a message from the House of Representatives delivered by Mr. BERRY, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to H.R. 12930, an act making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1979, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STEED, Mr. ADDABBO, Mr. ROYBAL, Mr. PATTEN, Mr. BOLAND, Mr. SLACK, Mr. MAHON, Mr. MILLER of Ohio, Mr. MCEWEN, and Mr. CEDERBERG were appointed managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendments of the Senate to H.R. 12934, an act making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1979, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. SLACK, Mr. SMITH of Iowa, Mr. FLYNT, Mr. ALEXANDER, Mrs. BURKE of California, Mr. EARLY, Mr. MAHON, Mr. CEDERBERG, Mr. ANDREWS of North Dakota, and Mr. MILLER of Ohio were appointed managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendments of the Senate to H.R. 13125, an act making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1979, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. WHITTEN, Mr. EVANS of Colorado, Mr. BURLISON of Missouri, Mr. BAUCUS, Mr. TRAXLER, Mr. ALEXANDER, Mr. MCHUGH, Mr. SIKES, Mr. NATCHER, Mr. MAHON, Mr. ANDREWS of North Carolina, Mr. ROBINSON, Mr. JOHN T. MYERS, and Mr. CEDERBERG were appointed managers of the conference on the part of the House.

At 12:18 p.m., a message from the House of Representatives delivered by Mr. BERRY, announced that the House has passed the following bill, without amendment:

S. 3107. An act to amend the Bankruptcy Act to provide for uniform supervision and control of employees of referees in bankruptcy.

The message also announced that the House agrees to the amendment of the Senate to H.R. 11567, an act to amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal years 1979–81, and for other purposes, with an amendment in which it requests the concurrence of the Senate; and agrees to the amendment of the Senate to the title of the bill.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

S. 2928. An act to authorize appropriations for the fiscal year 1979 under the International Investment Survey Act of 1976, and for other purposes.

The enrolled bill was subsequently signed by the Vice President.

At 5:44 p.m., a message from the House of Representatives, delivered by Mr. Hackney, one of its reading clerks, announced that the House agrees to the amendment of the Senate to H.R. 9471, an act to amend title 5, United States Code, to provide that Japanese-Americans shall be allowed civil service retirement credit for time spent in World War II internment camps.

The message also announced that the House has passed the following bill in which it requests the concurrence of the Senate:

H.R. 11711. An act to improve the operation of the adjustment assistance programs for workers and firms under the Trade Act of 1974.

HOUSE BILL REFERRED

The following bill was read twice by its title and referred as indicated:

H.R. 11711. An act to improve the operation of the adjustment assistance programs for workers and firms under the Trade Act of 1974; to the Committee on Finance.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, September 11, 1978, he presented to the President of the United States the following enrolled bill:

S. 2928. An act to authorize appropriations for the fiscal year 1979 under the International Investment Survey Act of 1976, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations, with an amendment:

S. 2053. A bill to promote the orderly and environmentally sound exploration for and commercial recovery of hard mineral resources of the deep seabed, pending adoption of an international regime relating thereto (Rept. No. 95–1180).

By Mr. RANDOLPH, from the Committee on Environment and Public Works, without amendment:

S. Res. 558. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to consideration of H.R. 2329. Referred to the Committee on the Budget.

By Mr. MOYNIHAN, from the Committee on Environment and Public Works, without amendment:

S.J. Res. 160. An original joint resolution to initiate preliminary studies for the restoration and renovation of the Pension Building in Washington, District of Columbia, to house a Museum of the Building Arts, and for other purposes (Rept. No. 95–1181).

By Mr. MATHIAS, from the Committee on the Judiciary, with an amendment:

H.R. 1445. An act conferring jurisdiction upon the United States Court of Claims to hear, determine, and render judgment upon the claim of Commander Edward White Rawlins, United States Navy (retired) (Rept. No. 95–1182).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HASKELL (for himself, Mr. LAXALT, Mr. MCINTYRE, Mr. MATSUNAGA, Mr. BENTSEN, Mr. WEICKER, Mr. GARN, Mr. LUGAR, and Mr. GRAVEL):

S. 3491. A bill to extend for 2 years and modify the Federal income tax credit for employment of new employees; to the Committee on Finance.

By Mr. MOYNIHAN (from the Committee on Environment and Public Works):

S.J. Res. 160. A joint resolution to initiate preliminary studies for the restoration and renovation of the Pension Building in Washington, District of Columbia, to house a Museum of the Building Arts, and for other purposes. Original joint resolution reported and placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HASKELL (for himself, Mr. LAXALT, Mr. MCINTYRE, Mr. MATSUNAGA, Mr. BENTSEN, Mr. WEICKER, Mr. GARN, Mr. LUGAR, and Mr. GRAVEL):

S. 3491. A bill to extend for 2 years and modify the Federal income tax credit for employment of new employees; to the Committee on Finance.

JOBS CREDIT EXTENSION ACT OF 1978

● Mr. HASKELL. Mr. President, I am pleased to be joined by Senators LAXALT, MCINTYRE, BENTSEN, MATSUNAGA, WEICKER, GARN, GRAVEL, and LUGAR in introducing the Jobs Tax Credit Extension Act.

Basically, the bill extends the existing jobs tax credit which was passed last year as part of the Tax Reduction and Simplification Act of 1977. However, it does incorporate some changes which I will explain in detail.

The existing credit, which expires at the end of 1978, is designed to influence a small or medium sized employer to increase his or her payroll by offering a credit of up to $2,100 for each new employee hired.

The bill which we are introducing today has the following provisions:

First. The credit is extended for 2 years through December 31, 1980.

Second. A credit of up to $2,100 per new employee is available to any employer who increases his number of employees.

Third. The credit is limited to $25,000 per employer and therefore, provides an incentive for the creation of up to 12 new jobs per employer.

DETAILS OF THE EXISTING CREDIT

The jobs credit is equal to 50 percent of the increase in the aggregate wage base upon which the Federal unemployment tax, FUTA, is calculated above 102 percent of the prior years FUTA base. The wage base was $4,200 per employer in 1977 and although it increased to $6,000 in 1978, for the purpose of calculating the jobs credit it remained at $4,200. It is limited to $100,000 per firm.

MODIFICATION FROM PRESENT CREDIT

First. The existing credit contains a confusing and unnecessary requirement

that the credit cannot exceed 50 percent of the increase in total wages paid by the employer for the year above 105 percent of total wages paid in the previous year. It is eliminated.

Second. The existing credit used 102 percent of the prior year's FUTA as the threshold above which the credit is applied. Our bill reduces the threshold to 100 percent; that is, if you exceed last year's FUTA payroll you get the credit.

Modifications 1 and 2 were made so that employers will know at the time they hire new employees whether they are likely to receive the credit at the time they file their taxes.

Third. To recover the revenue lost from lowering the threshold the cap is lowered from $100,000 to $25,000 per firm.

Fourth. The credit is made elective.

Fifth. It adds the maritime industry which had been inadvertently excluded.

The revised credit will be 35 percent of a $6,000 wage base instead of 50 percent of $4,200 in the existing credit. Both approaches result in a credit of $2,100 per new employee.

SIMPLICITY

The beauty of the jobs credit is that it requires absolutely no new forms, no certification process, and no identification of the new employees. The employer simply takes his or her aggregate FUTA (Federal unemployment tax) wages paid for the year, subtracts last year's FUTA wages and multiplies that figure by 35 percent. The product is the amount of the credit for which the employer qualifies.

SMALL BUSINESS FOCUS

Small business is the sector of the economy which creates jobs. According to testimony of the National Alliance for Business (a big business group), small business accounted for almost 80 percent of the new jobs created in the past 10 years. Capital intensive big business has the investment tax credit, ADR, and other capital-related tax devices. Labor intensive small business has argued eloquently at three recent jobs credit hearings conducted by the Finance and Small Business Committees, which I chaired, that the existing jobs credit, with minor modifications, should be extended and given a fair chance to demonstrate its long-range impact.

Enactment of the jobs tax credit was at the top of small businesses' priority list last year as is its extension and simplification this year.

As the Small Business Legislative Council testified on July 26, 1978:

> In the elimination of current high unemployment the small business sector (should) be the employer of first resort, with the incentive being provided by a job creation tax credit.

The Council's member organizations represent approximately 4 million small businesses nationwide.

The National Federation of Independent Business has written approximately 175,000 of its more than half million members, urging them to contact their Senators in support of our proposal.

The Smaller Business Association of New England (SBANE) testified that it, "supports an extension of the jobs tax credit because the credit does what it is supposed to do—serves as an incentive to increase employment for the small business community."

FAILURE OF PROMOTION

There is no question that the existing credit has had less of an impact on unemployment than it could have, because of intentional lack of promotion by the administration. The Labor and Commerce Departments did next to nothing to let businesspeople know about it. The IRS enclosed a one-page slip in a mailing to FUTA payers which never made it to most of the people who make hiring decisions. According to SBANE, the Governor of Vermont became so frustrated with lack of publication of the credit that he mailed explanatory flyers to most of the businesses in his State.

REVENUE IMPACT

According to the Joint Committee on Internal Revenue Taxation if extended, the existing credit would cost $1.9 billion in calendar year 1979. This bill would cost $2.1 billion.

These estimates do not include the positive revenue impact caused by additional taxes, saved unemployment compensation, and so forth.

I intend to raise this bill as an addition to the 1978 tax bill now being worked up in the Finance Committee. Several additions need to be made to the bill in its final draft by the committee, including a provision which prevents this credit from being taken in addition to any other employment credit which might be enacted. Additionally the bill needs language allowing the credit to be elective retroactively, thereby permitting a deduction for the full amount of wages otherwise deductible without regard to the jobs credit. Assessment authority for cases of retroactive election is also necessary. These are all technical changes which the committee can make in markup.

Mr. President, with the threat to employment represented by inflation and actions to control it, a program which offers a simple, substantial, and cost-effective incentive to increased private sector employment deserves our continued support. With impending increases in the minimum wage and social security taxes the credit is that much more important.

Mr. President, I ask unanimous consent that an article from the August 26, 1978, issue of Business Week entitled "The Surprising Impact of the Jobs Tax Credit," a section-by-section analysis, and the text of the bill itself be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 3491

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Jobs Credit Extension Act of 1978".

SEC. 2. Section 44B of the Internal Revenue Code of 1954 (relating to credit for employment of certain new employees) is amended to read as follows:

"SEC. 44B. CREDIT FOR EMPLOYMENT OF CERTAIN NEW EMPLOYEES.

"(a) GENERAL RULE.—At the election of the taxpayer, there shall be allowed as a credit against the tax imposed by this subtitle the amount determined under subpart D of this part.

"(b) ELECTION.—

"(1) IN GENERAL.—An election under subsection (a) shall be made in such manner as prescribed by the Secretary.

"(2) TIME FOR FILING ELECTION.—An election under subsection (a) shall be effective for any taxable year only if filed on or before the last day for filing a claim for refund under section 6511 for such taxable year.

"(3) REVOCATION.—An election under subsection (a) for any taxable year may be revoked at any time on or before such last day.

"(c) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section and subpart D.".

SEC. 3. (a) Section 51 of the Internal Revenue Code of 1954 (relating to the amount of the credit for employment of certain new employees) is amended to read as follows:

"SEC. 51. AMOUNT OF CREDIT.

"(a) DETERMINATION OF AMOUNT.—The amount of the credit allowable by section 44B for a taxable year beginning in any calendar year shall be an amount equal to 35 percent of the excess of the aggregate unemployment insurance wages paid during such calendar year over the aggregate unemployment insurance wages paid during the preceding calendar year.

"(b) MINIMUM PRECEDING YEAR WAGES.—For purposes of determining the amount of the credit under subsection (a) with respect to any calendar year, the amount of the aggregate unemployment insurance wages paid during the preceding calendar year shall be deemed to be not less than 50 percent of the amount of such wages paid during the calendar year in which the taxable year begins.

"(c) $25,000 PER YEAR LIMITATION ON CREDIT.—Except as provided in subsection (d), the amount of the credit determined under this subpart for any employer (and the amount of the credit allowable by section 44B to any taxpayer) with respect to any calendar year shall not exceed $25,000.

"(d) ADDITIONAL 10 PERCENT CREDIT FOR VOCATIONAL REHABILITATION REFERRALS.—

"(1) IN GENERAL.—The amount of the credit allowable by section 44B for any taxable year beginning in any calendar year (determined without regard to this subsection) shall be increased by an amount equal to 10 percent of the unemployment insurance wages paid by the employer to vocational rehabilitation referrals during the calendar year in which such taxable year begins.

"(2) ONLY FIRST YEAR TAKEN INTO ACCOUNT.—For purposes of this subsection, unemployment insurance wages may be taken into account with respect to any individual only to the extent attributable to services rendered during the 1-year period beginning with his first payment of wages by the employer after the beginning of such individual's rehabilitation plan.

"(3) ONLY FIRST $6,000 WAGES TAKEN INTO ACCOUNT FOR ANY INDIVIDUAL.—For purposes of this subsection, the unemployment insurance wages paid during any calendar year which are taken into account with respect to any individual shall not exceed $6,000 reduced by the amount of unemployment insurance wages paid by the employer to such individual during the preceding calendar year.

"(4) 20-PERCENT LIMITATION.—The amount of the credit allowable by reason of this subsection for any taxable year shall not ex-

ceed one-fifth of the credit determined for such year under this section without regard to this subsection and subsection (c).

"(e) DEFINITIONS.—For purposes of this subpart—

"(1) UNEMPLOYMENT INSURANCE WAGES.—Except as otherwise provided in this subpart, the term 'unemployment insurance wages' has the meaning given to the term 'wages' by section 3306(b).

"(2) AGRICULTURAL LABOR.—If the services performed by any employee for an employer during more than one-half of any pay period (within the meaning of section 3306(d)) taken into account with respect to any calendar year constitute agricultural labor (within the meaning of section 3306(k)), the term 'unemployment insurance wages' means with respect to the remuneration paid by the employer to such employee for such year, an amount equal to so much of such remuneration as constitutes 'wages' within the meaning of section 3211(a), except that the contribution and benefit base for each calendar year shall be deemed to be $6,000.

"(3) RAILWAY LABOR.—If more than one-half of the remuneration paid by an employer to an employee during the calendar year is remuneration for service described in section 3306(c)(9), the term 'unemployment insurance wages' means, with respect to such employee for such year, an amount equal to so much of the remuneration paid to such employee during such year as is subject to contributions under section 8(a) of the Railroad Unemployment Insurance Act (45 U.S.C. 358(a)), except that the contribution and benefit base for each calendar year shall be deemed to be $6,000.

"(4) VOCATIONAL REHABILITATION REFERRAL.—The term 'vocational rehabilitation referral' means any individual who—

"(A) has a physical or mental disability which, for such individual, constitutes or results in a substantial handicap to employment, and

"(B) has been referred to the employer upon completion of (or while receiving) rehabilitative services pursuant to—

"(i) an individualized written rehabilitation plan under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973, or

"(ii) a program of vocational rehabilitation carried out under chapter 31 of title 38, United States Code.

"(f) RULES FOR APPLICATION OF SECTION.—For purposes of this subpart—

"(1) REMUNERATION MUST BE FOR TRADE OR BUSINESS EMPLOYMENT WITHIN UNITED STATES.—

"(A) IN GENERAL.—Remuneration paid by an employer to an employee during any calendar year shall be taken into account only if more than one-half of the remuneration so paid is for services performed in the United States in the trade or business of the employer.

"(B) EMPLOYMENT ON AMERICAN VESSEL.—For purposes of subparagraph (A), remuneration paid by an employer to a citizen of the United States for employment on, or in connection with, an American vessel (within the meaning of section 3306(c)) shall be treated as remuneration for services performed in the United States in a trade or business of the employer.

"(2) SPECIAL RULE FOR CERTAIN DETERMINATIONS.—Any determination as to whether paragraph (1) of this subsection, or paragraph (2) or (3) of subsection (e), applies with respect to any employee for any calendar year shall be made without regard to subsections (a) and (b) of section 52.".

(b)(1) Subsection (c) of section 52 of such Code (relating to special rules) is amended by striking out "December 31, 1975" each place it appears and inserting in lieu thereof "December 31, 1977".

(2) Subsection (e) of section 52 of such Code is amended to read as follows:

"(e) Change in Status from Self-Employed to Employee.—If—

"(1) during any calendar year an individual has net earnings from self-employment (as defined in section 1402 (a)) which are attributable to a trade or business, and

"(2) for any portion of the succeeding calendar year such individual is an employee of such trade or business

then, for purposes of determining the credit allowable for a taxable year beginning in such succeeding calendar year, the employee's aggregate unemployment insurance wages for such calendar year shall be increased by an amount equal to so much of the net earnings referred to in paragraph (1) as does not exceed $6,000.".

(3) Subsection (g) of section 52 of such Code is amended by striking out "$100,000" each place it appears in paragraph (3) and inserting in lieu thereof "$25,000".

(4) Subsection (i) of section 52 of such Code is amended—

(A) by striking out "$50,000" each place it appears and inserting in lieu thereof "$12,500"; and

(B) by striking out "$100,000" and inserting in lieu thereof "$25,000".

(5) Subsection (j) of section 52 of such Code is amended to read as follows:

"(j) CERTAIN SHORT TAXABLE YEARS.—If the employer has more than one taxable year beginning in any calendar year, the credit under this subpart shall be determined for the employer's last taxable year beginning in that calendar year.".

SEC. 4. Section 280C of the Internal Revenue Code of 1954 (relating to deductibility for portion of wages for which credit it claimed under section 44B) is amended by striking out "No" and inserting in lieu thereof "In the case of any taxable year for which an election is in effect under section 44B, no".

SEC. 5. Section 202(e) of the Tax Reduction and Simplification Act of 1977 is amended—

(1) by inserting "and before January 1, 1981," after "December 31, 1976,"; and

(2) by inserting "and carryovers" after "carrybacks".

SEC. 6. (a) Except as provided in subsection (b), the amendments made by this Act shall apply with respect to taxable years beginning after December 31, 1979, and before January 1, 1981.

(b) The amendments made by the section 2 and section 4 of this Act shall apply with respect to taxable years beginning after December 31, 1976, and before January 1, 1981.

(c) Section 51(f)(1)(B) of the Internal Revenue Code of 1954, as added by Section 3(a) of this Act, shall apply to taxable years beginning after December 31, 1976, and before January 1, 1981.

SECTION-BY-SECTION ANALYSIS

Section 2 of the Bill amends the presently mandatory credit by providing an elective credit. The election may be filed within the period of time allowed for filing for a refund. Therefore, a partnership of Subchapter S corporation which did not have taxable income against which to take the credit in its start-up years can later on take the credit and not claim the wage deduction relating to the credit. The election is retroactive.

The 102% test and the 105% test of section 51 of the Code have been eliminated by section 3 of the Bill. A 100% test has been substituted for the 102% test in section 51(a) of the Code. Therefore, the credit is still applied on an incremental basis. However, the employer will be able to more easily determine whether he is eligible for the credit, and accordingly adjust his cash-flow.

Section 3 of the Bill takes into account the changes in the FUTA wage base from $4200 to $6000. The amount of the credit remains $2100.

However, the $100,000 cap on the credit has been reduced to $25,000 in section 3 of the Bill.

Vocational rehabilitation referrals still get an additional 10 percent credit, with the same 20 percent limitation of present law.

A new subsection has been added to section 51(f) of the Code, by the bill. This section provides that the employer of a U.S. citizen employed on an American vessel is eligible for the credit. This provision is retroactive.

THE SURPRISING IMPACT OF THE JOBS TAX CREDIT

Despite the erratic behavior of July's unemployment rate, employment has been rising more rapidly than production for nearly a year (chart). And one of the reasons, according to small-business spokesmen and several economists, may be the unexpected success of the new jobs tax credit, a program which the Carter Administration resisted last year and which now appears ready to shut down.

Businessmen have already claimed more than $1.1 billion in tax credits under this program, according to Emil M. Sunley, deputy assistant Treasury secretary. The credits are available to companies that increase employment by more than 2% from year to year, up to a maximum of $100,000—equivalent to about 48 employees, at the maximum credit of $2,100 (50% of earnings up to $4,200 per worker).

Sunley's figure reflects claims for the equivalent of 522,000 full-time employees. And filings for 1977 are far from complete—business may ultimately claim coverage for nearly 900,000 of 1977's new hires. That would be more than 20% of the year's total gain in employment.

Congress would not be likely to turn its back on a program that really provided so many jobs, particularly in an election year. But, heeding Administration arguments that most of the credits have subsidized fast-growing companies that would have done the same amount of hiring anyway, the House Ways & Means Committee voted July 27 to replace the present credit with a drastically curtailed program. And both the full House and the Senate now seem ready to go along.

Movement in Congress to scale back the credit arises from the fact that unemployment has dropped substantially since 1977, and some legislators increasingly feel that a more tightly-focused program attacking structural employment is now more appropriate than broader hiring incentives.

SABOTAGE EFFORT?

To proponents of the credit, congressional action along these lines simply spells the success of apparent Treasury Dept. efforts to sabotage the program. "Treasury was opposed to it last year, and they want a different program this year," says William J. Dennis Jr., spokesman for the National Federation of Independent Business (NFIB). "They say they've tried to publicize the credit," he adds, "but we have our doubts."

Northwestern University economist Robert Eisner is sharper in criticizing the Treasury's performance, as reflected in a February Census Bureau survey of business response to the credit. Eisner cites the bureau's finding that only 34% of surveyed firms even knew of the credit's existence as *"prima facie* evidence of inadequate administration of the jobs credit."

But government spokesmen back up the low recognition figure with the survey's finding that only 6% of the companies that were aware of the credit increased their hiring because of it. For all the other firms who qualified, often for the maximum credit, the tax break turned out to be a veritable windfall. "People are going to claim credits for what they would have done anyhow," says Assistant Labor Secretary Arnold H. Packer.

NO DIFFERENCE

Indeed, Compugraphic Corp. in Wilmington, Mass., is just one of many companies contacted by Business Week that fit Packer's description. With employment up 300 in the past nine months, says Vice-President David W. Hepworth, "we were happy to take the maximum from the jobs program." He adds: "But it certainly made no difference to our hiring pace."

Albuquerque's Aztech International Ltd., which qualified for just $43,000 in credits, comes closer to the NFIB's view that employment received additional impetus from the program. "We had to hire to meet demand," says Aztech President Bennett King, "but we're delighted with the credit." King adds a point made by many other surveyed businessmen, including those who exhausted the permissible credit: "It will keep prices lower because it's keeping our costs lower."

Job credit proponents stress this kind of anti-inflationary impact, while also rejecting government claims that the program has only puny job-creating powers. NFIB spokesmen point out that even a small proportion of the nation's 3.5 million small businesses is sufficient to generate a lot of employment. Based on a quarterly sampling of its own 340,000 members, the NFIB estimates that more than 300,000 jobs had been created by the credit in small business alone as of July, with 4.1 percent of the companies adding an average of 2.3 jobs apiece.

University of Wisconsin economist John H. Bishop, who has applied a complex statistical model to employment and cost data for the construction, trade, and trucking industries, estimates that the credit generated about 400,000 jobs in these sectors alone by April, while also helping retailers to accept significantly lower price markups. "The danger," says Bishop, "is that if we take the credit off, there may be a drop in employment in January. And the credit also helps us on the price front."

MORE WINDFALLS

Like Bishop, Northwestern's Eisner sees the credit as having an important anti-inflationary impact, offsetting to some extent increases in labor costs that were legislated by such measures as the higher minimum wage and increased payroll taxes. "We have a tax credit of 10 percent for machinery," he argues, "and payroll taxes of 12 percent to 16 percent against employment. Let's redress the balance." Eisner, along with the NFIB, Bishop, and others, accepts the Administration's interest in a "structural" credit targeted for workers in high-unemployment categories, but he also wants something like the present credit kept in place.

The Administration itself estimates that its proposed replacement, the targeted employment credit, will take three years before it creates as many as 160,000 net additional jobs per year. Nor will windfalls be avoided: Seven or eight credits will be claimed for every hire that is actually created, according to estimates presented by Labor's Packer. Moreover, the proposal's linkage to veterans and other special groups will give rise to certification paperwork that may smother the program.●

ADDITIONAL COSPONSORS

S. 3277

At the request of Mr. DANFORTH, the Senator from Utah (Mr. GARN) was added as a cosponsor of S. 3277, the Small Communities Act of 1978.

S. 3422

At the request of Mr. BAKER (for Mr. WALLOP), the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 3422, a bill to establish a congressional award program.

S. 3471

At the request of Mr. TOWER, the Senator from Oklahoma (Mr. BARTLETT) was added as a cosponsor of S. 3471, a bill to postpone the increase in the minimum wage under the Fair Labor Standards Act of 1938.

UP AMENDMENT NO. 1719

Mr. HART. Mr. President, on August 23 of this year, I introduced an amendment to title VII of the Elementary and Secondary Education Act. That amendment was cosponsored by Senators DOMENICI and HASKELL, whose names I neglected to record. Because I believe their efforts in this area should be recognized, I would like to take this opportunity to record the fact that they were involved in the effort to improve the sections in title VII that strengthen parent involvement in bilingual education.

SENATE RESOLUTION 558—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. RANDOLPH, from the Committee on Environment and Public Works, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 558

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974 the provisions of section 402(a) of such Act are waived with respect to consideration of H.R. 2329, an Act to improve the administration of fish and wildlife programs, and for other purposes.

Such waiver is necessary to permit consideration of H.R. 2329, a House-passed measure which was not received in the Senate until after May 15, 1978. Title III as reported by the Committee on Environment and Public Works contains authorizations available in fiscal year 1979. This title, however, was a provision in another bill which has already passed the Senate and was added to H.R. 2329 to expedite consideration in the House of Representatives.

SENATE RESOLUTION 559—SUBMISSION OF A RESOLUTION AUTHORIZING PRINTING

Mr. RANDOLPH submitted the following resolution, which was referred to the Committee on Rules and Administration:

S. RES. 559

Resolved, That the report of the Secretary of Transportation to the Congress of the United States (in compliance with section 153 of the Federal-Aid Highway Act of 1976, (Public Law 94-280) entitled, "Highway Needs To Solve Energy Problems" be printed with illustrations as a Senate document.

SEC. 2. There shall be printed one thousand additional copies of such document for the use of the Committee on Environment and Public Works.

AMENDMENTS SUBMITTED FOR PRINTING

TARIFF TREATMENT OF FILM, STRIPS, SHEETS, AND PLATES OF CERTAIN PLASTICS OR RUBBER—H.R. 5285

AMENDMENTS NOS. 3581 THROUGH 3584

(Ordered to be printed and to lie on the table.)

Mr. SCHWEIKER submitted four amendments intended to be proposed by him to H.R. 5285, an act to amend the tariff schedules of the United States with respect to the tariff treatment accorded to film, strips, sheets and plates of certain plastics or rubber.

● Mr. SCHWEIKER. Mr. President, I am today submitting a series of amendments to H.R. 5285, a House-passed tariff bill which will be the vehicle for Senate consideration of hospital cost containment legislation.

H.R. 5285 contains the text of S. 1470, the Medicare-Medicaid Administrative and Reimbursement Reform Act, recently amended by the Senate Finance Committee. While the Senate is also expected to address the broader hospital cost containment proposals of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Wisconsin (Mr. NELSON) when it considers the medicare-medicaid bill, the amendments I am filing today are directed only to H.R. 5285, as reported.

AMENDMENT NO. 3581

My first amendment concerns exemptions from the Federal cost control program for qualified plans initiated by the States. It applies to H.R. 5285 the thrust of a bill Senator MCINTYRE and I introduced earlier this session encouraging the establishment of State hospital review commissions as an alternative to the purely Federal approach proposed by the administration. My proposal would allow States to conduct their own cost containment activities as they saw fit, as long as certain criteria were met and their cost savings equalled Federal medicare and medicaid reimbursement limits.

State programs would only be required to cover medicare and medicaid reimbursements, though new and existing programs clearly could cover all payors if they chose. Qualifying States would be eligible for Federal financial assistance to help defray startup and administrative costs incurred in overseeing medicare and medicaid expenditures. Under my amendment, States would have more flexibility in designing cost containment methodologies than under the narrow State programs exemption of H.R. 5285. The discretion of the Secretary of HEW to disapprove such programs would be sharply limited. In addition, the States themselves could determine how best to recover excess expenditures, rather than be automatically subjected to the more rigid, percentage-based payback system contained in H.R. 5285.

Mr. President, I believe we must encourage the States to attack the skyrocketing costs of health care rather than use an already bloated Federal bureaucracy to impose purely Federal controls. State and local officials are more in tune with the unique health care needs of their communities and with the specific steps which would be most effective in curbing sharply rising costs.

AMENDMENT NO. 3582

My second amendment would delete H.R. 5285's provision for establishing a Health Facilities Cost Commission. As a member of the Senate Appropriations and Human Resources Committees, I have watched the Department of HEW

grow by leaps and bounds over the past few years, with many departments and bureaus overlapping each other in functions and authority. Since HEW already is so involved in the subject of hospital cost containment, I do not understand why we need yet another Commission—one with 11 members paid at the GS-18 level—to perform the function of making cost containment recommendations to the Secretary and the Congress. Moreover, the bill does not even contain a defined cost ceiling for the Commission; instead it simply authorizes it to be funded by "such sums as may be necessary." Not only would this new element of the bureaucracy carry an uncertain cost; its apparent purpose is to lead the way toward further Federal controls. I, therefore, believe it should be deleted.

AMENDMENT NO. 3583

Mr. President, a third amendment I am offering addresses section 31 of the bill which would require a skilled nursing facility to participate in both medicare and medicaid as a condition of participation in either program. The reason for this provision, as stated in the committee report, is that many nursing homes are declining to participate in one program or the other, reducing the availability of skilled nursing facilities, and that there is a need to encourage greater participation.

Mr. President, from all indications the reason for declining participation in medicare and medicaid is unmanageable paperwork, slow collection on claims, and a host of other administrative difficulties relating to red tape and bureaucratic inconvenience. It seems to me that it would be far more effective to aim reform efforts directly at those problems rather than try to coerce SNF participation with this kind of all-or-nothing condition. Because these deterrents to participation will not be removed by the amendment, I also doubt that it will work. My amendment would delete this new provision in hopes that a more constructive approach to the problem can be found.

AMENDMENT NO. 3584

The fourth amendment I am proposing, Mr. President, would reinforce the action taken by the Senate in passing S. 2410, the Health Planning Act Amendments of 1978, earlier this summer. In that bill, we strive to establish a health planning process that established priorities at the State and local level and let them emanate to the Federal level. S. 2410 contains provisions for payments to promote the closing and conversion of underutilized facilities, but programs established under that bill would give a far greater role to the States and localities than section 3 of H.R. 5285. In addition, H.R. 5285 would establish a Hospital Transitional Allowance Board at the Federal level to oversee such payments. Because section 3 would seek to promote closing and conversion of underutilized facilities in an additional but inconsistent manner relative to the already passed provisions of S. 2410, my amendment would propose to delete it.●

NOTICES OF HEARINGS

SUBCOMMITTEE ON ADMINISTRATIVE PRACTICE AND PROCEDURE

● Mr. ABOUREZK. Mr. President, I wish to announce that the Subcommittee on Administrative Practice and Procedure of the Committee on the Judiciary, will hold a hearing on September 21, 1978, concerning the Regulatory Control Act, Senate bill 2862. The hearing will be at 10 a.m. in room 2228, Dirksen Building.●

CANCELLATION

● Mr. ABOUREZK. Mr. President, I wish to announce that the hearings scheduled for September 14, 1978, by the Subcommittee on Administrative Practice and Procedure, concerning the FBI charter, have been canceled.●

ADDITIONAL STATEMENTS

SENATE RESOLUTION 534—A RESOLUTION ON SOCIAL SECURITY FINANCING REFORM AND TESTIMONY OF HON. G. WILLIAM MILLER

● Mr. HART. Mr. President, on August 4th of this year I introduced a resolution Senate Resolution 534 which addressed the inflationary effect brought about by implementation of the social security tax increase scheduled to take effect early in 1979. The resolution would postpone the effective date of the scheduled increases in the social security tax for a 12-month period. The purpose of the 12-month delay is to give the Senate Finance Committee time to act upon legislation proposing alternate mechanisms of financing the social security program.

Economists now are almost uniformly of the opinion that imposition of the increased social security tax early next year would have a serious inflationary impact and would create incentives for firms not to hire workers.

On September 7, 1978, the Honorable G. William Miller, Chairman of the Board of Governors of the Federal Reserve System, testified before the Senate Finance Committee on H.R. 13511—the Revenue Act of 1978. Mr. President, I shall ask that it be in order to print the entirety of Mr. Miller's testimony in today's RECORD.

Mr. Miller addresses clearly the problem of inflation and the need for continued efforts in the battle to reduce unemployment. Specifically, I would like to direct the attention of my colleagues to Mr. Miller's statements regarding the inflationary impact of the increase in social security taxes. He suggests, as does Senate Resolution 534, that the effective date of the tax increase be delayed for 12 months, while we explicitly commit ourselves to action designed to deal realistically with the remaining long-range problems of funding social security. Mr. Miller states that inflation is our most important economic concern today, and goes on to point out that there is a great need to provide incentives for work, and that we have to take a close look at means of maintaining disposable income at its current level in order to overcome the forces of inflation. After Mr. Miller suggested that it would be desirable to defer the 1979 social security tax change, and in that way reduce taxes for individuals as well as reduce the inflationary impact of increased payroll taxes, he stated that the Board of Governors of the Federal Reserve System has estimated that the scheduled increase in social security taxes would add about one-half a percent to inflation next year. Chairman Miller states that anything that could be done to eliminate that increase should be given careful consideration.

Mr. President, I also ask that the text of Senate Resolution 534 be printed in the RECORD, and thereby place it before my colleagues once again for their consideration. The resolution recognizes both the need to effect fundamental reform of the financing structure for the social security system, as well as the need to delay changes in the tax structure that will cause us to take backward steps in our march against inflation. We most certainly cannot afford to aggravate our inflation problems. Nor can we afford to diminish the small gains we have made in reducing unemployment. I strongly urge my colleagues to join me in this effort to avoid a costly error.

The material follows:

STATEMENT OF HON. G. WILLIAM MILLER, CHAIRMAN, BOARD OF GOVERNORS, FEDERAL RESERVE SYSTEM

I certainly appreciate the opportunity to be here this morning. I do not know that taxes are the usual preserve of the Federal Reserve, but they usually influenced the entire economy and are very important in the coordination of monetary and fiscal policy, so I welcome the opportunity to give my thoughts on this subject.

All of you are familiar with the recent economic conditions, but I have prepared some charts that you might want to glance at, just to remind ourselves where we are. We have had quite a recovery from the great recession of '74–'75 with an 18 percent growth in real GNP since the trough and with 10.5 million jobs added to the payroll since that time.

While the unemployment rate is still much higher than we would like, we do have the highest percentage of Americans employed that we have ever had. So there have been some real improvements.

The problem on the job front, of course, is that much of the remaining difficulty with unemployment is structural in nature and particularly falls heavily on young people and blacks, and it deserves careful consideration.

But the main theme, I think, in looking at the economic situation generally is that we do need to maintain upward momentum, even though we have had this three and a half year period of growth, and even though that is a long upswing by historical standards, the conditions of this nation are such that we do need to continue to grow at a moderate pace that will allow us to add to the output and utilization of labor and capacity and, at the same time, to counter the inflationary pressures that have hit us so dramatically.

And we cannot afford to risk the mistakes of the past of overshooting by trying to either slow the economy down too rapidly and fall into recession by mistake, nor can we continue to grow at a level that will build the

inflationary pressures and cause difficulties later.

Inflation is our most important economic concern today. The advance in prices, which you can see in Chart 2, has been rather worrisome. We have had an almost 10 percent rate of growth, measured in CPI in the first half of the year at an annual rate. Food prices have accelerated very sharply.

If you look at the middle panel in Chart 2, you can see that in July, while there was a considerable improvement in CPI, the middle panel shows that if you take out food, that we still have a very unacceptable rate of increase in prices.

The depreciation of the dollar, of course, is one of the factors that has both influenced inflation and has been a very troublesome matter to us, and one that deserves continued close consideration.

Well, under all of these circumstances, it it would seem that Congress should weigh with great care the size and the composition of its tax program. A tax cut certainly should provide no more stimulus than is necessary to sustain moderate economic expansion. Anything beyond that would jeopardize our chances for restraining inflation.

It also seems to me that the structure of tax cuts should be very much programmed to provide incentives for work and for capital formation which are essential to overcome these forces of inflation. Congress can take a significant step by paying greater attention to the supply side effects, and I would like to discuss some of those aspects here today.

In my personal judgment, a tax reduction in the vicinity of the $15 billion effective January 1 that is being discussed in Congress is appropriate. Despite some bumpiness in recent economic activity, the balance of the economy is quite good. Yet, we do need to provide some further adjustment in private demand if we are going to sustain the growth.

If we look at Chart 3, we see that there is a continuing fairly satisfactory level of consumer attitude about buying, but there is already a fairly low rate of saving and a very high, historically high, burden of debt repayments. Consumer debt now, household debt, is at the point where about 20.5 percent of disposable personal income is required to service that debt, which is quite high.

So we have to look at disposable income and means of maintaining it to be sure that we do not create an undue burden there.

Chart 4 shows the private housing starts and this also is an area that, with some of the steps taken this spring to avoid disintermediation has continued at a fairly good level, but we could expect that with the maturity of the cycle and with the present level of rates, interest rates and available resources, that this would be tapering off.

Chart 5 shows that there has been, as is typical in recoveries from recessions, a growth in business fixed investment, but it has been rather sluggish by historical standards and only recently has reached to the peak of the prior cycle, and really is, in historical sense, lagging.

Well against this backdrop, a reduction in Federal taxes next year would provide timely support to spendable income, and without a tax cut, individuals will actually be facing substantial tax increases in 1979. You have to remember that, without a tax reduction, that we have mandated Social Security increases which will boost Federal revenues next year by $8 billion. I would like to point out that about half of that, about $4 billion, will be increased taxes on individuals. So without some tax relief, we not only have a $4 billion increase in payroll taxes, but we also have another $8 billion that will impact individuals because of the interaction of inflation and the progressive income tax structure.

Now, it is also important when thinking about tax cuts to consider the expenditure side of the budget ledger in deciding what size the tax cut should be and what can be afforded. Inflationary pressures are such that it is imperative that the budget deficit be reduced substantially below the $50 billion of this current fiscal year, and it is encouraging to see the action that has already been taken by Congress to perhaps narrow that deficit to the $40 billion area.

As a side note, I mentioned that the original plan for FY '79 contemplated a budget deficit of $60.5 billion, so reducing that to around the $40 billion level is a really outstanding accomplishment, and I think that Congress deserves a lot of credit for taking that initiative in the face of inflationary difficulties.

Well, if a tax cut is desirable and if the amount of it is on the order of magnitude that we have been talking, then the question is, how to structure it? We need to structure it to make maximum contributions for achieving our basic economic goals of full employment, price stability, and a sound dollar.

It is obvious that substantial contemporaneous tax increases for individuals suggests that a lot of the tax cut be allocated to this group in order to give them a sense of equity. Distribution of the tax cuts between the household and corporate sectors implied in the House bill appears to me to be reasonable. However, I would like to express just a few doubts as to the particular devices employed, not as to the level or the amounts.

A significant portion of the tax cuts for individuals, of course, would only offset these revenue impacts I have mentioned. It therefore might be asked, would it not be more desirable simply to defer the 1979 Social Security tax change, and in that way accomplish two things—to do part of the tax reduction for individuals in that way, but at the same time, to reduce the inflationary impact of increased payroll taxes.

The Board's staff has estimated that the scheduled increase in employer contributions to Social Security would add about one-half a percent to inflation next year, and one-half is a large number. Anything that could be done to eliminate that, I think, should be given careful consideration. A one-year deferral of the Social Security increase due to take effect next January 1 would not place an undue strain on the resources of the Trust Fund.

Nonetheless, a deferral should be considered only if there was an explicit commitment for action to deal realistically with the remaining longrange problems of funding Social Security. Last year's legislation did insure financial viability for Social Security, but with the people of this country faced with a rapidly growing financial burden and a Social Security tax that is both inflationary and regressive, it is certainly worthwhile to consider whether a deferral might not be coupled with an undertaking by Congress for a comprehensive study to reduce the funding requirements and therefore to make a permanent change in the level of taxation in this area.

I would be happy later, in the questions, to discuss some of the ways that this might be accomplished, because I am not suggesting for a moment that Social Security be deferred, or taxes be deferred or reduced in a way that would, in any way, impair the long-term financial integrity of the Social Security system; but, rather, that we look at means of improving the funding.

In considering the corporate and capital gains provisions of the House bill, I also want to focus attention today on how the proposed cuts would contribute, if at all, to enhancement of business fixed investments. The performance of capital spending in this economic expansion has not been satisfactory. Real business fixed investment has recovered much later than is the case in prior cycles. And, moreover, the growth of the nation's capital stock has not kept pace with the increases in its work force.

I would particularly call attention to Chart 6, and I think this is the most important chart that I have submitted to this Committee this morning. It shows that throughout the 1970's, the ratio of capital stock to labor has fallen ever shorter of its earlier growth trend line, and this, undoubtedly, has been a significant factor in the slower growth of productivity we have experienced over this period.

This upper panel shows this rather remarkable decline in the ratio of capital to labor and, of course, the lower panel shows the tremendous drop-off in productivity gain and, to my mind, increased productivity is one of the keys to achieving an answer to our inflation problem. The only way I know that we are going to break the cycle of wages chasing prices and prices shaking wages is to begin to get productivity gains so that prices do not have to go up in order to maintain profitability.

Capital accumulation is a critical ingredient in the long-range growth of labor activity and the raising of living standards. To compensate for the neglect of recent years, as well as to accommodate to the reality of scarcer and more expensive energy, a larger share of GNP must now be devoted to the expansion and modernization of the nation's capital stock. It will not be enough simply to reach the investment proportion of 10.5 to 11 percent that has been characteristic of past periods of prosperity and low unemployment.

In my opinion, the nation must set an ambitious goal of say 12 percent of GNP for an extended period—say, over ten years—a level that would foster more rapid improvement in productivity and faster economic growth.

The capital gains and corporate income tax cuts in the House bill would provide some impetus to business capital formation and is certainly a move in the right direction, but the question is, are these the most effective measures that might be taken at this time. And I do have some reservations.

There is considerable controversy, for example, about the effects of capital gains cuts on investment and on Federal revenues. This is not surprising. A change in capital gains treatment would work its influence through a complex and uncertain set of channels.

In assessing the impact of business capital formation, one must contend with the fact that the tax change would affect investment by both households and businesses in all sorts of assets and, therefore, in all sorts of ways. How much effect the tax cut would have on the price of corporate stock and thus on the cost and availability of equity capital is still unclear, and how this would translate into acquisition of new plant and equipment is a further uncertainty.

Yet, I would say the reduction in capital gains tax does have its advantages and its attractions. It would, for example, bring some relief to those who have been confronted with very high, real tax rates, often exceeding 100 percent because their cost base, in calculating capital gains, does not reflect the rise from inflation.

It would also benefit young, emerging companies which have little income and thus are not in a position to benefit from other changes in business taxes.

Lower capital gains taxes would encourage equity investment in such enterprises.

I would conclude that some cut in capital gains taxes would be appropriate, but I would not assign a high priority at this time to this particular tax initiative. I believe that it might have higher priority at some later time.

My reservation about the capital gains provision in the House bill extends to the corporate tax changes as well. In so far as incentives for business investment are concerned, this bill seems to use a shotgun approach rather than a rifle. It does provide for a phased liberalization of the investment tax credit, but the bulk of the corporate tax reduction occurs through a lowering of the rate structure.

Although lower tax rates would improve after-tax profits, the linkage between this improvement in cash flow and spending on new plant and equipment is a loose one. The additional cash might be channeled into any of a number of uses, including the acquisition of other firms, the purchase of securities, or an increase in dividends.

It is quite likely that a smaller gain in real investment would be achieved for a given dollar of tax revenue loss than would be the case with tax reductions that are linked directly to capital expenditures.

While some cut in the corporate tax rates is desirable, I believe greater emphasis should be placed on other, more efficient tax incentives for investment.

Accelerated depreciation is a very efficient way to encourage investment. The tax benefits of faster appreciation accrue to a firm only after new plant and equipment has been put in place. In addition, enlarged depreciation allowances would redress the serious drag on real corporate profitability that has occurred in recent years as inflation has caused replacement costs to exceed depreciation deductions by a wide margin.

Larger investment tax credits also provide direct incentives to capital formation and, therefore, are more efficient in stimulating investment than are corporate tax rate cuts.

There are, however, likely to be differences in the cost effectiveness of accelerated depreciation and investment credits, that is, the degree of investment stimulus that is achieved per dollar of tax relief. These differences will hinge on some rather technical factors, among the most critical of which is the importance that business attaches to the time pattern of income.

In my experience, as businesses are increasingly paying attention to discounted cash flow in making investment decisions, and in that regard, it is more favorable, there is more bang for the buck, through accelerated depreciation than through the investment tax credit.

I hope that these comments have been helpful for the Committee to set the stage for the questioning. I would just add that it seems to me that our problems today are very serious in this country—our economic problems are very serious. They have developed over a dozen years. They start with the advent of being involved in Vietnam, both as a divisive activity and one in which we did not elect to pay our way. We started the seeds of inflation.

This led into higher inflation rates with the experiment with wage and price controls which were ineffective and did not work properly. This led to the breakdown of the international monetary system.

We had the experience of the double digit inflation and double digit interest rates. We have had the oil embargo. We have had the great recession of 1975 and, for a dozen years, we have been having a serious, perhaps misdirection, of building our economy with the strength and productivity that it needs for the long-term.

It perhaps is time now for us to all give up some of our individual preferences and see if we can take the resources that are available for a sound economic plan and to use them as directly as possible and as honed-in as much as possible to achieve the important results of fighting inflation, of achieving productivity gains, and creating a sense of equity and fairness in our tax structure that will, in the long-term, best benefit our nation.

Thank you very much.

SENATE RESOLUTION 534

Resolved,

Whereas, the Congress enacted the Social Security Amendments of 1977 in an effort to counteract the deteriorating financial position of the social security program;

Whereas, the Social Security Amendments of 1977 called for substantial new social security tax revenues to be raised in addition to those then provided for under law;

Whereas, the increase in social security payroll taxes provided for in the Social Security Amendments of 1977 represents one of the largest peacetime tax increases in the history of the United States;

Whereas, the increase in social security payroll taxes threatens to aggravate inflation and unemployment at a time when the economy of the United States can ill afford either such effect;

Whereas, there is a pressing need to effect fundamental reform of the financing structure for the social security system; and

Whereas, insufficient consideration has been given to the alternative of using general revenues to assist in defraying the rising costs of the social security program: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Senate Committee on Finance consider legislative proposals offering alternative mechanisms for financing the social security system, including those that advocate the use of general revenues to fund the Disability Insurance and Hospital Insurance Trust Funds, and report out to the Senate (favorably or unfavorably) a proposal for such an alternative mechanism prior to January 1, 1979; and

(2) if the Committee on Finance and the Senate have not acted on a proposal for such an alternative mechanism prior to January 1, 1979, the increases in the social security taxes scheduled to take effect on January 1, 1979, should be deferred for twelve months and any general tax cut enacted in 1978 by this Congress should take into account any effect such deferral has on efforts to achieve a balanced budget.●

(At the request of Mr. BAKER, on behalf of Mr. HELMS, the following statement was submitted for the RECORD:)

MEDICARE-MEDICAID REFORM ACT—S. 1470

● Mr. HELMS. Mr. President, recently the Senate Finance Committee approved S. 1470, the Medicare and Medicaid Administrative and Reimbursement Reform Act, and reported this important legislation to the Senate as an amendment to H.R. 5285, a minor tariff bill passed by the House. My distinguished colleague from Georgia, Senator TALMADGE, the chairman of the health subcommittee, has worked for the last several years to perfect this legislation into a proposal which will improve the present Medicare reimbursement system, encourage more efficient hospital management, and, in the long run, produce substantial savings in the Federal government's expenditures for hospital care.

I understand that when H.R. 5285 comes to the Senate floor an attempt may be made to provide the Secretary of HEW with broad standby authority for imposing arbitrary cost constraints on the hospitals of this country. This amendment, though it may come disguised as a "reasonable compromise," will really be nothing more than a last minute effort to revive the Administration's hospital cost control bill—an ill-conceived, punitive, and wholly inappropriate proposal that has already been rejected by two House committees. It would, in effect, authorize wage and price controls on a single segment of our interdependent economy.

Mr. President, I will strongly oppose this amendment if it is offered, and I urge my colleagues to join me in opposing it. Rising hospital costs are a matter of concern to us all, but they are a complex problem that cannot be solved by a program of arbitrary, government-imposed price controls. Moreover, the hospital industry has voluntarily undertaken a program for reducing costs that is producing significant savings. The Voluntary Effort, developed under the auspices of the American Hospital Association, the Federation of American Hospitals, and the American Medical Association, has reported a 3.3 percentage point decline in the rate of increase in hospital expenditures during the first 5 months of this year as compared to the same period in 1977.

This performance to date has exceeded the program's goal of reducing the rate of increase by 2 percentage points by the end of 1978. The hospitals in North Carolina are achieving substantial savings through their participation in this voluntary program, and I believe that their program and those of other states should be allowed to be carried out without the threat of government intervention. Standby cost control authority, as proposed in this amendment, can only serve to undermine the effectiveness of this nationwide voluntary effort by encouraging anticipatory charge increases on the part of some hospitals. Furthermore, this amendment negates the constitutional lawmaking prerogatives of this Congress by giving the Secretary of HEW, an unelected official, authority to make sweeping statutory changes—changes that could only be reversed by enactment of contrary legislation.

I commend Senator TALMADGE for his responsible approach to reducing hospital costs. In contrast to a program of price controls which might penalize well-managed institutions, his incentive payment system would provide increased reimbursement for efficiently-managed hospitals and reductions for institutions whose costs are out of line with those of their peers. His proposal, coupled with the hospital industry's voluntary cost reduction program, would produce a savings of at least $30 billion over the next 5 years. In addition, it would create an atmosphere of competition among hospitals that would, over time, lead to further savings. That is why I will support the bill reported by the Finance Committee and why I will oppose any 11th-hour attempts to dilute its effectiveness by providing for standby Federal controls and broad new regulatory powers for HEW.●

THE RANCHER'S BEEF IS NOT ALL IN THE STEAK

● Mr. MCGOVERN. Mr. President, Americans accustomed to high protein diets largely through the consumption of quality cuts of beef seldom consider the economics or technology that go into the production of the product prior to its appearance on the dinner table. Among urban consumers this phenomenon is more of a mystery than in areas where the land is closer to the people. The urban

buyer's concern with beef generally goes no further than a price judgment he is forced to make at the meat counter in the supermarket. This general lack of understanding is further compounded because few publications which urbanites read take space to explore the production process of beef, or, for that matter, the production process of any of our major food products from the raw state to the retail outlet.

I was thus surprised to read in the August 29, 1978, edition of Esquire magazine a very perceptive and accurate account of the great American steak dinner, detailing the modern economic judgments ranchers and feeders must make in starting the calf on its way to the filet mignon. A rancher must be part cowboy, part agricultural economist, part veterinarian, part marketing agent, and part prestidigitator and soothsayer if Americans are to continue the diets to which they have become accustomed. Sensing that such material, largely relegated to trade publications or farm journals, would be of interest to other Members of the Senate, I ask that an article entitled, "American Beef! Steaks Are High, But Ranchers Are Down," by Geoffrey Norman, be printed in the RECORD.

The article follows:

AMERICAN BEEF! STEAKS ARE HIGH, BUT RANCHERS ARE DOWN

(By Geoffrey Norman)

At a meeting of the Colorado Cattlemen, in Lamar, a lanky man with leathery brown skin and thin unsmiling lips calls President Carter a son of a bitch in tones that let you know unmistakably that he still thinks these are fighting words. "We don't ask for a damn thing from the government except to be left alone. But just when we start to make some money for the first time in four years, Carter steps in and says no. He's nothing but a goddamned peanut farmer." From the way the man says this, you have to think that there is something suspect about peanut farming. That it is like hairdressing or something. That it isn't manly. "Peanuts are the most heavily subsidized crop in the country. Carter got rich off the government."

The man fairly represents the feelings of the cattlemen who are gathered in Lamar for meetings and speeches, a barbecue, and a show that features authentic Indian dancing. But just about everybody else in the country is mad about beef, too—shoppers who watched the price jump 6.5 percent a month during the spring, restaurant owners, local butchers and grocers. At a small grocery back East, a friend proved to me with invoices and meat scales that he is losing a penny a pound on hamburger even before he takes out for his overhead—and he was getting complaints from agitated customers at that price.

But Americans love to eat beef. From the best steak houses in Manhattan—places with names like Frankie and Johnnie's, the Palm, and Christ Cella—to the steak houses with names like the Beef Barn or the Sirloin Saloon that you see in every self-respecting town or aspiring city to the budget places for families that only get out once a month for a meal and a movie—places where you get a rib eye, a baked potato, and a lettuce salad served cafeteria style for $5—Americans eat beef with a passion that is truly carnivorous. There are the billions of McDonald's and lesser hamburgers, all those chuck roasts, pot roasts, and rib roasts wrapped in cellophane in the supermarket meat counters; hamburgers charcoaled in backyards across the land. Americans eat 154.6 pounds of red meat a year for every man, woman, and child. Lately the figure has gone up sharply.

So when President Carter and his advisers decided to move against inflation, beef probably looked like the most natural target available. The price of beef, after all, was rising faster than most other prices. By lowering the price of beef, or at least slowing the rate of increase, Carter would be helping the consumer directly. Also, according to the press, this price decrease came at a time when President Carter was getting poor grades in the polls and was being urged to act more forcefully. So in June he took a simultaneously drastic and expedient step and allowed an increase in the quota of imported beef. It amounted to about 200 million pounds of New Zealand and Australian beef. But the impact on the beef market was profound. Consumers were alerted and began substituting other foods for beef. Producers, consequently, cut back. The price of live cattle droped ten cents a pound—almost sixteen percent—in three weeks. It was a short-term victory for Carter and the consumer. But for cattlemen, it was a disaster.

Around the farms, feedlots, and ranches of eastern Colorado, there was a feeling of billous resentment. Men who had gone humbly to the county banker for three straight years, taking out loans to keep small farms and ranches going until the price of beef went up again, felt betrayed. They knew they might have to get out of ranching altogether so that Carter might gain a temporary point or two at the polls and the spoiled shoppers in the city could have a free ride.

It is this knowledge—the certainty that ranchers will be forced off the land for the sake of votes—as much as anything, that feeds the resentment. The land is important to these men in a way, they feel, that nothing in this world is to a politician or to most city-dwelling consumers. They have made the land produce, and it has kept them and their families alive for generations. To be forced off, to see their kind of operation give way to huge corporate farms owned by mining and oil interests and operated at a cheerful loss for tax purposes and with no regard for the real values of ranching—this is almost too much to bear.

Keith Propst's house sits among some of the rare shade trees along the Platte River, in northeast Colorado. The trees were planted by his ancestors, who came to Colorado a few years after the Civil War had soured things for them back East. There were no trees at all when they arrived.

"Buffaloes," Propst says. "There were thousands of them back then. What they didn't eat, they trampled. There wasn't a tree anywhere in the Great Plains."

Propst is president of the Colorado Farm Bureau, an organization that tries to get the best deal it can for farmers by keeping the government out of agriculture. Propst is fifty-three and has the weather-beaten face and the squint of a lifelong rancher. He also has a broad and engaging smile: Whereas most ranchers are tight-lipped and smile by raising a corner of the mouth. Propst breaks out in teeth—one of them gold—when some thing strikes him funny or he recognizes a friend.

"I can show you the figures on paper," Propst says when I arrive. We sit in his living room, pleasantly furnished and cool in the heat of late June. Propst has scribbed columns of numbers and marginal notes on a sheet of paper that he holds in big hands and spreads out on the coffee table. It is a breakdown of his costs done just the way a grocery would do it, or a boutique, or a private university. "Here is what it costs me to feed a calf. This is for my overhead. Interest. Labor. Depreciation. Veterinary. Figure all of that in, and here is what I have to sell a steer for, live weight, just to break even." The figure is fifty-four cents a pound. About five cents more than he can get that morning on the market. Every time he sells a steer, he can lose $40.

"But maybe," Propst says, "you can get a better idea of what those numbers mean after we've taken a look around." So we climb into his Scout and drive out to the range.

There are eight windmills on Keith Propst's 10,000 acres of range. They turn monotonously in the steady Great Plains breeze that blows down from Wyoming, providing all the water for Propst's cow-calf operation, which is running at about 400 animals this year. He had planned to increase the herd, but after Carter's decision he is not sure he will.

"Twenty acres of this land will support one cow and her calf. Or maybe two and a half yearlings," he says. "So I could get it up to five hundred animals if the price was right. But it's hard. Politicians go with the votes. And all the votes are in town."

The land in question stretches out bleakly in every direction, relieved by a few folds and depressions and one long sand ridge that parallels the course of the river. The thin soil is held by sagebrush and yucca grass, which the cattle cannot eat, and by grama and bluestem grass, which they can. Besides Propst's cattle, the land supports rattlesnakes, jackrabbits, coyotes, and some mule deer. On hundred fifty miles to the west are the Rockies: Aspen and Vail and great forested peaks lush with conifers. When Propst's ancestors first arrived in Colorado, the Rockies were something just to get across. Now, the real money is up in those mountains.

"Get the gate, Koger."

Propst's son—eighteen years old, thin and straight as a pencil—climbs out of the Scout. He is dressed in cowboy boots, Levi's, and a T-shirt. It is the same outfit the kids in Denver are wearing.

Propst drives the Scout down a rutted trail to the first of the eight windmills. He is out here to check them and to get on with the breeding of his herd.

"We've got an AI program going out here, and we have to check the heifers just about every day."

AI is artificial insemination.

"We're breeding Simmentals. It's a European breed that has gotten popular over here in the last ten years. But you can't import animals directly from Europe. That's to keep out the hoof-and-mouth disease. So you import the semen. Then you artifically inseminate the heifer. Her calf will be a half-breed. You artifically inseminate that calf, and you get a three-quarter-breed And so on until, theoretically, you've got a full-blooded Simmental."

There are seventy or eighty animals around the first windmill, which is paddling along faithfully, pumping water into a large holding tank. Three or four animals are drinking lazily from it; the others are idly grazing or simply standing in that cone of bovine indifference that is the expression of cows everywhere.

Propst points out half- and three-quarter-breed Simmentals." See that bull over there?" he says pointing to a bulky animal that looks muzzled. "That's what we call a Gomer. His penis has been fixed so he can't actually breed a heifer. But he still has the urge, and he'll mount one when she is in heat. That muzzle has a paint roller in it so when a Gomer mounts a heifer, he leaves paint marks on her back. When we come out and find one with paint on her back, we know right away that she's ready to breed."

Propst drives the Scout around the herd, checking the heifers for paint marks. "I don't see any that are marked up. Do you, Koger?"

"Nope."

"Well let's go take care of that one we've got over in the corral."

The Scout lurches along the ruts, springs, and shocks, creaking with each bounce. A mile from the first windmill, Propst arrives at a small corral with a squeeze chute—a nervous heifer is pacing in one of the pens. Inside an equipment trailer, there is a large tank filled with liquid nitrogen to keep the Simmental bull semen a couple of hundred degrees below zero. Propst pulls a single vial from the tank and slowly thaws it in ice water. "I don't know how they figured this system out, but it works," he says. "You've got to keep it real cold until right before you use it. Then you warm it up just so much. Too much and you kill it."

When everything is ready. Propst and his son go back outside. Propst uses a leather survey whip to force the skittish heifer down the narrow squeeze chute. The animal bolts.

"Damn. She acts like she's crazy."

Finally the heifer moves into the chute and down to the end where Propst's son springs a head gate and she is caught. She bellows and stomps, then quiets down.

Koger does the work. He raises the heifer's tail and forces his right arm, which is covered to the elbow in a sheet of clear plastic, far up the animal's dung-encrusted anal canal. With his hand, he massages her to make her receptive. Then with his left hand he runs a long, thin plastic tube up the vaginal opening, past the cervix. The valuable semen—it costs $15 to $25 a vial—will pass through this hollow plastic tube. The animal is still skittish. While Propst is paying attention to something else and before his son can force the semen through the tube, the animal bellows and sits down.

Propst's son tears the fouled plastic sheet from his arm in disgust and tries to prod the animal to her feet. The heifer only bellows.

"Here, let me help you," Propst says. "I didn't know you were having trouble." Propst stands by with a battery-powered prod in case the heifer should try to sit again, while his son repeats the procedure with his plastic-encased right arm and the plastic tube. This time, it takes. While his son returns the equipment to the trailer and makes some notes in a record book, Propst releases the panicked heifer. She will go back to the range to find the calf she bore in March; it will be weaned in the fall; and she will bear again in the spring. This is the first day in a cycle that keeps Keith Propst and his family on the land.

Farming is perhaps the least understood and appreciated of all the ways an American can go about making his living. Nobody understands things like parity and yields and acreage quotas—except the people who must understand them or go broke and the people who make the rules. American agriculture is so successful that for most consumers, food simply comes from the grocery store. It is always there, and when the price goes up, there doesn't seem to be any good reason for it. And since food is the *essential*, price increases lead to outrage. The fact that one farmer can produce enough to feed himself and fifty-six others and that the average American spends only eighteen percent of every dollar to eat doesn't make much difference, even though those figures are remarkable in this world. Unique.

But agriculture remains about as low in the interest and esteem of most Americans as . . . as what? Blue-collar workers are having their day in movies and books; coal miners were big not long ago; truck drivers and their radios have become a folk cliché. But it will probably never happen for farmers—not because what they do is too simple (what could be more simple than driving a truck?) but because it is too hard. And because, for the most part, it gets done so well.

Talking to Keith Propst and men like him, you learn about cow-calf operations; feedlots; backgrounders; speculators; champion breeders; breeds that started in England, India, France, and Switzerland. You learn the reasons why one farmer goes with Charolais and another with Angus and the thousands of variables that enter each equation.

Keith Propst's operation is a good place to start looking at cattle ranching because he does several things. The whole point of his operation and of the entire industry is to raise cattle to slaughter weight as efficiently as possible.

With Propst, it begins out on the range with a breeding herd more or less stationary in number. He can add heifers—and their calves—when he thinks the price will justify it.

The calves feed from the udder for about six months. "One of the reasons ranchers are high on Simmentals is that they are better milk producers than the English breeds. The Swiss use them as a combination beef producer and dairy cow. So the calf will be a little heavier when she's weaned. All calves lose a little at first when you wean them. They're bawling and looking for mother for three or four weeks. It's a real stressful time for them. So that little extra counts."

After the calf is weaned, it "goes to grass." This takes the animal from about 400 to about 600 pounds. It can be done on a range or pasture or field of cutover crops, which is the method Propst uses. His short yearlings (animals that have been weaned but aren't a year old yet) feed in his corn and sugar beet fields, then go back to the range until the steers weigh about 700 pounds and the heifers about 600. These yearlings are ready for the feedlot.

Virtually all beef cattle are "finished" in feedlots. Fed properly, a yearling can gain almost three pounds a day in a feedlot and reach slaughter weight in 120 to 150 days. The steers are ready at 1,100 to 1,200 pounds; the heifers, at 900 to 1,000.

There are several advantages to the feedlot, which is no more than a pen where a number of animals are crowded and fed a carefully balanced and very rich grain diet along with some mineral supplements. The animals eat and drink, sleep and defecate—nothing more, until they are ready to be shipped for slaughter. Because they are confined and inactive, they cannot burn many calories or manufacture any tough muscle. They gain good tender weight very fast.

Propst's feedlot is small: 1,500 animals. Some have come from his own breeding herd, and some he has bought from cow-calf operations as far away as Georgia.

There are lots that feed several thousand animals bought from cow-calf operations or from backgrounders who put weaned calves on grass for the few months it takes to get them up to sufficient weight for the feedlot. It is an age of specialization in all things. But Propst breeds his own cattle, fattens them in his own lot, and raises the food—mostly corn—for the lot on his 900 acres of irrigated land along the river valley. He buys additional cattle when he thinks the price will be right and the grain to feed them when its price is low.

Then comes the hard part, the aspect of ranching that makes it so tough. When Propst's cycle is complete and when the animal that he has bred, weaned, grazed, and fattened reaches a slaughter weight almost three years after its conception—perhaps at the end of a plastic tube—Propst must sell. He cannot keep feeding the cow and waiting for a better price in a month or so. If the animal goes on eating and gaining weight, "it'll get all wastey. Too fat. The price will go down and it'll cost money to feed, besides."

Propst knows how much it has cost to bring the animal to slaughter weight, so he knows how much he is losing—or making—on each animal he sells. When every animal sells at a loss, there is only one thing to do: You cut losses by selling fewer animals—which means, ultimately, breeding fewer animals.

"This thing works in cycles, and it always has," Propst says, irritated that people can't see how *simple* it all is. "When the price is way up, everybody wants to be grazing a few steers. The big feedlots can't buy enough yearlings. So the cow-calf operations go to work and breed more animals because everybody wants them. Then pretty soon you've got a surplus. So the price falls, and everybody who was making money starts losing and wants out. The wheat farmer who was feeding sixty head when the price was up says. 'To hell with that beef stuff, I'm sticking with wheat.' So he doesn't buy any calves. The demand goes down and the cow-calf operators don't breed as much. Pretty soon the supply gets back down, and the price goes up again. That's the way it works. We're ready to take the three or four bad years if we can just count on that one good year to make up our losses. We'd like to make up a little for inflation, too. Just like everybody else."

It takes two hours to check the remaining windmills once the skittish heifer is bred Propst drives the Scout across the hard scrabble terrain and explains the intricacies terrain and explains the intricacies of his trade: when to breed; when to wean; when to castrate; salts and supplements; inoculations; machinery; weather.

"One of the things about this part of the country is that we have about as good a weather as you could want for cattle. It gets cold in the winter, but we don't see the snow they get up in some of those mountain pastures, where they have to fly in hay with a helicopter. That'll run your costs up for sure."

The Scout comes over a small ridge and below, in the shade of a bent and crippled old cottonwood tree, are eight mule deer. They are up quickly, moving across the range in single file.

"I used to hunt a little," Propst says. "But the season comes right at the busiest time for us, and I don't fool with deer hunting anymore. We do some duck hunting, though."

Propst checks the last windmill, then leaves the scrub range and drives back to the lush valley of the Platte River and home for lunch.

"There's another thing," he says as we drive along the riverbank. "The EPA [Environmental Protection Agency] has set a deadline for cleaning up the river. It's never been a fishing river. There's some fish in it, but it has always been used for farming. For irrigation. But the EPA says that if you take water out to irrigate, then it has got to go back in clean as it was when you took it out. And you can't do it.

"But that's what the EPA wants, and it'll just mean the end of farming in this valley. They keep extending the deadline. And we'll probably get an exemption through Congress. But you have to wonder if those people know *anything* about farming."

Lunch is a big hot meal, the kind that sends you away from the table, especially on a hot day, desperate for a nap: roast beef, squash, potatoes, a salad, ice cream. Nell Propst, a small woman—petite in the appropriate word, in her case—and a very gracious hostess, presides at the table and says grace. Koger and his twenty-year-old brother Joel and his sister Holly, seventeen, are there.

During lunch, I learn more about how much there is to farming. In addition to EPA and its water standards, farmers and ranchers these days must cope with the most ubiquitous and despised of all the regulatory agencies: Occupational Safety and Health Administration.

"You know what they say about farm

animals?" Nell Propst asks. Her tone is a blend of indignation and wonder. "They say you can't have livestock within five hundred feet of a house. We've always had horses in the pasture right out behind the house. We like to have them there, so we can look at them and go out and ride them when we want to. Now it's illegal."

Keith Propst laughs, and laughs heartily. "I suppose the idea was to keep people from putting workers' shacks out in the middle of the same field where they were slopping pigs. But they don't say that. It's 'no animals within five hundred feet of any house,' and that's it."

"Well, what was that other one, Dad, the one about toilets out on the range?" Propst's son asks.

"Oh, they made some ruling about how nobody could work more than three or four hundred yards from a toilet. So I'd have to put those portable Johnnies all over ten thousand acres of land to be in compliance.

Propst laughs again. It is his most engaging characteristic. When he talks about things that usually turn a man's face into a mask of nearly unmanageable anger, Propst laughs. He probably figures that it is all he can do.

"The thing is," Propst says, "there are farmers around here who would go broke if they tried to do everything right. So they just figure on doing nothing right and hope they don't get caught. Either way, they go broke. It breeds disrespect all the way down when you have these rules that don't make any sense."

At a cattle auction and a slaughterhouse, there is more to learn. A weary man who buys live animals and sells cold slabs of beef over the phone says, "I don't know why Carter is picking on us. The price of everything else is allowed to go up two or three times. Beef isn't even essential. It's a discretionary item. If you don't want to pay the price of beef, you can eat chicken or fish or pork. You know what is essential for most people: a god-damned car. You don't have any choice about buying a car in this society. I need to have a car even if it means I've got to leave eight thousand dollars sitting out in the parking lot every day. Cars go up every year, and nobody says anything."

At the auction, Propst quietly guesses the final price of each lot before the bidding starts. He is usually right and never off by more than twenty-five or fifty cents.

"Those heifers have got a little pink-eye. They won't gain so well for a week or more. Won't get much for them." He guesses forty-three cents a pound, and they sell for forty-three and a quarter.

"Those steers will go for about fifty-nine. They're good yearlings, and some backgrounder can use them for cheap gain."

"That heifer is a little too wastey for its age—probably belonged to some kid who bucket-fed it."

Two hundred miles south, in Lamar, there is more to learn at the meeting of the Colorado Cattlemen: about the way the banks have carried ranchers for the last three years.

A banker who specializes in agricultural loans says that the small banks have already reached the limit: "They just couldn't use any more of their depositors' funds. So you are starting to see some bankruptcies. Some people, who are diversified, like Keith Propst, are going ahead, but very cautiously.

"There are smaller, less diversified operators who are selling," the banker continues. "Big corporate operations come in, and they seem to be able to smell a situation that is right for a sale. They are very tough: They know when a man is desperate, and they drive a hard bargain. But they pay cash.

"But they aren't really interested in the farming end of it. I was talking to one of their people the other day, and he said they were satisfied if the land appreciated and they could increase the capital value. They weren't in it for income.

"This spring there was some optimism in the air for the first time in three years. Both the bankers and the farmers were seeing a little daylight. Then Carter made that decision. It was the most demoralizing thing he could have done." The banker speaks with genuine regret. He knows these people and has seen them through hard times before. Like them, he hates to see the land taken over by big outside money.

Finally, there was the marker. It said more than anything else would about a way of life that men like Propst value and that is threatened by inflation and the expedient measures politicians have used to fight it.

At lunch, I asked if the house was on the same site as the original Propst settlement.

"Oh, you've got to show him the marker," Nell Propst said.

After lunch, full and sleepy, I went with Keith Propst to a small plot next to his front yard. There were two blue spruce growing there. "They got those in the mountains," he said. Then he showed me the centennial monument. It is almost five feet tall, cut from marble, and it sits on the site of the original Propst cabin, in Colorado. The inscription reads:

MICHAEL V. PROPST FAMILY MEMORIAL

This marker commemorates the centennial of the settlement of the Propst family on the South Platte River near Buffalo, Colorado, which is now Merino . . . Michael V. Propst and the other family members left Pickens County, Alabama, and arrived in this area on April 7, 1876. They came . . . to find land and to build homes. They developed cattle ranches, farms, and businesses. They helped establish schools, churches, irrigation systems, and communities. They served their nation in peace and war and left a legacy of love of country and faith in the future.

"We had a centennial celebration to dedicate it," Propst says. "My brothers came in from Florida and Michigan, and my sister came from Arizona. Nell has a degree in drama, and she wrote a play that we put on. The whole thing sort of moved you." ●

WHAT THE DOLLAR DROP COSTS US

● Mr. JAVITS. Mr. President, on August 17, I addressed my colleagues about the serious consequences of a continued decline in the value of the dollar. At the time I explored the effect of the dollar's decline on the U.S. economy and especially on inflation and suggested a three-part approach to strengthening the dollar.

The recent actions of the administration and the Federal Reserve Board with respect to gold sales and interest rate increases are positive steps; but unless accompanied by serious moves to combat inflation and improve our balance of trade, these moves will not strengthen the dollar in the long run. The foreign exchange markets are waiting anxiously for further moves, and I hope that the administration will continue to face the problem forcefully.

At the time of my speech I indicated that the administration's policy, which I labeled as the "politics of despair," would, if continued, have serious negative effects on the U.S. and world economies.

In an incisive article entitled "What the Dollar Drop Costs Us" in the September 5 edition of the Washington Star, Lee Cohn dealt with these concerns in a very intelligent and analytical manner. He provides excellent documentation in support of the view that the decline of the dollar is "making Americans poorer and their lives harder" and will have serious effects on our ability to fight inflation.

Furthermore, he says that the decline in the dollar can have only a deleterious effect on the prestige of the United States in the international arena. Not only is Mr. Cohn's analysis good economics but it is also good journalism in that it explains the problem very coherently and intelligently.

Mr. Chairman, I commend this article to the attention of my colleagues and ask that it be printed in the RECORD.

The article follows:

[From the Washington Star, Sept. 5, 1978]

WHAT THE DOLLAR DROP COSTS US

(By Lee M. Cohn)

A basic economic fact, often obscured by sophisticated theories, at last is dawning on the Carter administration: The decline of the dollar abroad is making Americans poorer.

Ordinary people always have worried vaguely that it is bad for the dollar to fall in value. Those fears reflect ignorance and outmoded nationalism, many economists contended in the past. Some of them still scoff.

Devaluation or depreciation of the dollar boosts U.S. production and creates jobs, they have argued. The Nixon administration boasted that its two formal devaluations were triumphs of strategy and policy. Until recently the Carter administration welcomed the decline of the dollar as a boon to the economy.

Now the administration is starting to wonder about the claimed benefits of a falling dollar and seeing some drawbacks—though still not recognizing all the harmful effects. For President Carter and most officials, the new perspective on the dollar is only a glimmering, not a flash of light.

Carter now is trying to halt or cushion the fall of the dollar, but it is too late to save the country from all the painful consequences. A declining dollar:

Raises prices paid by American consumers for imported and domestic goods, while cutting prices paid by foreigners for American products.

Limits the quantity and variety of goods Americans consume and enlarges foreign consumption, thus lowering standards of living in the United States and raising standards of living abroad.

Increases costs of foreign travel by American tourists and business executives, and living expenses of civilian and military personnel stationed abroad.

Encourages foreigners to invest in the United States and deters Americans from investing abroad, shifting assets and future earnings from Americans to foreigners.

Heightens pressure for oil price increases.

Erodes the value of monetary reserves, savings and other financial assets held by governments, businesses and individuals.

Creates uncertainty and turbulence, which can disrupt financial markets, discourage investment, curtail trade and depress the world economy.

Compels the United States to restrain domestic economic growth.

Weakens U.S. prestige and power in international affairs.

A negative list like this makes it difficult to believe that U.S. policies ever pushed the dollar down deliberately. Yet the Nixon administration called its two devaluations

"good for the economy and a triumph for rationality over superstition." Though less openly, the Carter administration also encouraged the decline of the dollar until recently, and still is not fully convinced that a strong rise would be a plus for the United States.

The argument favoring a declining dollar rests on the price effects and their presumed impact on U.S. production and jobs.

West Germany's mark was pegged at 3.66 to a dollar, giving it a value of 27.32 cents, before the dollar devaluation of December 1971. In the worldwide realignment of currencies carried out then, the official value of the dollar was lowered to about 3.22 marks and the mark was raised to 31.03 cents. A second devaluation in February 1973 lowered the dollar to 2.9 marks and raised the mark to 34.48 cents.

Then the leading nations gave up trying to fix currency values and decided to let them "float"—rise and fall more or less in response to supply and demand in the markets, with only limited government intervention. The dollar has dropped in 5½ years of floating to about 2 marks and the mark has risen to about 50 cents.

Since December 1971 the dollar has dropped from 360 Japanese yen to about 190. The dollar also has declined substantially in terms of most other major currencies, with the notable exception of the Canadian dollar, which has been even weaker than the U.S. currency.

At present exchange rates, an American consumer pays $5,000 for a Volkswagen priced at 10,000 marks or a Toyota priced at 950,000 yen. If the 1971 exchange rates were still in effect, a 10,000-mark Volkswagen would cost only $2,732 and a 950,000-yen Toyota would sell for $2,639.

Americans logically should buy fewer autos at the sharply higher dollar prices, and should buy more U.S.-made cars. U.S. production and employment should rise. Imports of autos and some other goods have been declining, in fact, though not to the extent indicated by theory.

On the flip side, the decline of the dollar has lowered prices of U.S. goods in foreign currencies. A $50,000 American-made machine cost a German company 183,000 marks and a Japanese buyer 18 million yen in 1971. At today's exchange rates, a $50,000 machine would cost only 100,000 marks or 9.5 million yen.

The impact of dollar depreciation on prices has helped boost U.S. exports though not as much as theoretical computations suggested.

Price effects have been diluted by competitive forces. Trying to maintain sales here, exporters and importers of foreign goods sometimes shave profit margins or reduce production costs through improved technology to limit price rises. U.S. companies may fatten profit margins by raising prices on their exports.

Foreign countries may tighten restrictions on imports and subsidize exports, offsetting part of the U.S. price advantage. Americans prefer some foreign goods for quality, style, prestige or other reasons, and are willing to pay premium prices. U.S. companies sometimes fail to understand what their foreign customers want.

Even if the decline of the dollar is fully reflected in prices and customers react according to formula it will take time and hard effort to reduce the U.S. trade deficit—the excess value of imports over exports.

At 3.66 marks to a dollar, 1,000 autos priced at 10,000 marks each earned Germany a little over $2.7 million. If the dollar's fall to 2 marks reduces sales to 900 autos priced at 10,000 marks, Germany's earnings rise to $4.5 million. To hold dollar earnings down to the previous level, it would be necessary to reduce sales to 546 autos, and deeper reductions would be needed to lower earnings.

Sale of 100 machines at $50,000 each to Germany earned 18.3 million marks for the United States under the old exchange rate. At the present rate, an increase in sales to 125 machines would reduce earnings to 12.5 million marks. To earn 18.3 million marks, the United States would have to sell 183 of the machines.

Thus, the trade account at first may get worse instead of better. Any improvement will require the American economy to climb a steep, slippery slope. Export earnings in foreign currencies will rise and import payments will decline only if the price shifts cause very big gains in the volume of U.S. sales abroad and sharp reductions of purchases.

That exposes a flaw in the theory that depreciation of the dollar is good for the country. Even if U.S. production grows and jobs are created, the decline of the dollar makes Americans poorer in a basic way: They are paying more for less goods, and earning less for producing more.

Inflation is a big element in the impoverishment. Depreciation of the dollar directly raises prices paid by American consumers for imported products. Costs of imported raw materials and components also rise, boosting prices of American-made goods with foreign ingredients. And higher prices on imports ease competitive pressures on U.S. manufacturers, allowing them to raise prices higher than customers would tolerate otherwise.

Dollar depreciation and inflation feed on each other, whipping up an accelerating spiral. As the dollar falls, inflation quickens, and faster inflation pushes the dollar still lower.

The kind of inflation caused by the dollar's decline internationally is worse for Americans than home-grown inflation, because it discriminates against them and favors foreigners. Imported goods cost Americans more than consumers in the producing countries. American-made goods are sold cheaper abroad than in the United States.

Dollar depreciation has about the same effect as a tariff increase in raising prices on imports. Like a high tariff, the decline of the dollar may protect U.S. producers and their employees from import competition, but it's hard to see why consumers should cheer higher prices.

How would a consumer in Virginia benefit if a tariff to protect jobs and profits in his state raised the prices of products made in Maryland?

Price cuts help consumers, and U.S. producers are free to lower prices whether the dollar is rising, falling or holding stable. The special wrinkle in dollar depreciation is that it reduces prices of U.S. goods sold abroad, without cutting prices on the same goods at home.

If Maryland producers cut prices on goods sold in Virginia, but held prices up in Maryland, Virginians might be pleased but wouldn't Marylanders complain?

Higher prices, by definition, reduce purchasing power. If American consumers pay more for imports they continue to buy despite the decline of the dollar, they will have less to spend for other domestic and imported goods.

To be a success, depreciation of the dollar must reduce U.S. imports and increase exports. That means Americans will consume fewer goods with less variety, while foreigners will consume more. The U.S. standard of living will decline, or will not increase as fast as if the dollar were strong, and standards of living will rise abroad. That's another way of saying Americans will be poorer and foreigners will be richer.

Total consumption of goods by Americans, not just imports, will be held down if depreciation of the dollar works as intended. If a country has a trade deficit, its residents consume more than they produce. If there is a trade surplus, they produce more than they consume.

A trade surplus may increase production and employment. But do people work just to earn money, or to buy that they want with their earnings? How will Americans benefit if they produce more goods for Germans and Japanese to consume and less for themselves?

In fact, the United States has no choice but to reduce its trade deficit and move toward a surplus to pay its way in the world. This country has been spending much more abroad than it could earn. It has been paying foreigners with dollars, which have piled up as IOUs abroad. Foreigners could have spent the dollars here. They did not because they could get more for the money elsewhere.

The U.S. trade deficit is in a sense a measure of credit extended to this country by foreigners. U.S. imports exceeded exports by $26.5 billion last year and the deficit totaled $19.3 billion in the first seven months of this year.

Now the credit is running out. Depreciation of the dollar means the OIUs are being discounted. Americans must put up more dollar IOUs to obtain 1,000 marks or 1,000 marks worth of goods. If big trade deficits continue to enlarge the glut of dollars, the discounts will be deeper.

The United States must import less because this country no longer can afford to import more, not because it benefits American consumers to import less. And the United States must export more to earn its way—to pay for imports and avoid piling up more IOUs abroad—not because it helps most Americans to sell more goods to foreigners at lower prices.

Travel is a form of consumption, and the impact of dollar depreciation is similar to the effects on trade in good. American tourists and business executives traveling abroad are paying more to obtain less, while foreigners traveling in the United States are enjoying bargains.

Discretionary foreign travel by Americans will be curtailed, or will grow more slowly. Civilian workers and military personnel stationed abroad cannot afford to live as well as before, unless their salaries are raised to compensate for the dollar's drop.

Just as a foreigner can buy more U.S. goods than previously with the same amount of marks, yen or other currencies when the dollar declines, foreigners can buy more stocks in U.S. corporations, build more plants here and expand other forms of investment. It costs more for Americans to invest abroad.

Foreign investments here expand the economy and create jobs. But the investments transfer U.S. assets and future earnings to foreigners, which could make it even harder to balance international accounts. Depending on the pattern and extent of the investments, foreigners could gradually take control of important sectors of the American economy.

Curtailed U.S. investment abroad would reduce potential earnings and limit growth of American-based multinational corporations. Some Americans say multinationals shift production and jobs out of this country. However, foreign subsidiaries also buy goods from their parent companies here.

The fall of the dollar aggravates oil price problems. Most oil producers set prices in dollars and take payment in dollars. As the value of the dollar declines, the real price of oil falls. That is, $14 received by Saudi Arabia for a barrel of oil will buy substantially less in Germany and elsewhere now than a few months ago.

Pressures are growing to raise the dollar price of oil, at least to stay even. Alternatively, some oil producers want to base prices on a "basket" of currencies to protect themselves. If the dollar continued falling, the price stated in dollars would rise automatically. Either way, inflation would worsen in the United States and other oil importing countries.

Also discussed recurrently, but less likely to happen, is a switch from dollars to other currencies for oil payments. That would sharply reduce demand for dollars abroad, probably leading to further depreciation of the U.S. currency.

Aside from specific consequences in trade and other areas, the decline of the dollar hurts the U.S. and world economies in ways that are harder to measure but may be even more harmful.

The dollar is the world's main store of value. Governments hold most of their reserves in dollars. Businesses and individuals all over the world hold savings and other assets in dollar deposits and investments. When the dollar falls, those reserves, savings and assets lose value, which can upset financial plans, weaken governments, undermine banks and corporations, and disrupt markets.

Dollar holders fearing losses unload dollars, which pushes the value of the currency still lower.

Actual losses on the dollar are painful, and uncertainty can be as damaging. If the dollar fluctuates wildly and no one can reasonably estimate its value next week or next year, it is difficult to negotiate prices on goods to be delivered or terms of loans. Companies cannot predict confidently whether potential investments would pay off.

To protect themselves, investors and business executives may demand big premiums to cover risks, or they may play safe by curtailing investments, orders and other commitments. Such caution can reduce international trade, curb economic expansion and perhaps push the world into a recession or depression.

Even if severe disruptions can be prevented, the United States must defend the dollar and the defensive actions will include tigher credit and budget policies. The purpose is to restrain the U.S. economy in order to fight inflation, limit imports and increase exports. Restrictive policies may curb economic growth throughout the world, not just in the United States.

Beyond economic consequences, depreciation of the dollar hurts the United States in world politics. A sagging dollar limits what this country can afford to do abroad. The dollar's fall reflects unfavorably on management of the American economy and shakes confidence in U.S. leadership internationally. U.S. prestige and clout suffer.

The decline of the dollar signals that the U.S. economy is weakening. No country with a weak economy can be strong in world politics.

This nation's political stability, the depth of its financial system and the remaining strength of the economy despite recent deterioration have limited the damage so far. However, the margins of safety are shrinking rapidly.

Depreciation of the dollar is not a grand strategy. It has been forced on the United States as a result of the economy's failures and dissipation. If opportunities are not wasted, the dollar's decline can be a first step toward rehabilitating the economy.

But in the meantime, Americans will be poorer and life will be harder.●

NATIONAL HISPANIC HERITAGE WEEK

● Mr. HART. Mr. President, the week of September 10–16 has been declared National Hispanic Heritage Week by President Carter. I am pleased by this formal recognition by the President of Hispanic people and their culture. In my home State of Colorado, persons of Latin descent comprise a large percentage of the population, and their contributions and culture have left an indelible imprint on our western way of life—from the names of our towns and streets, to the clothes we wear, to our rodeo and ranching vocabulary.

Executive branch officials will be conducting hearings in selected cities across the Nation, including Denver, to hear the views of Hispanic people on current economic and social issues. I intend to study carefully the testimony presented at these hearings, and intend to do my best to work with the administration in its efforts to meet the needs identified.

Again, I commend the President on his efforts to recognize, understand and assist the Hispanic/Chicano community. I hope that the President will continue his efforts in this direction, and join my colleague Senator PERCY in urging the President to fill one of the two vacancies for the position of Commissioner in the Equal Employment Opportunity Commission with a person of Hispanic descent. Although Hispanic people constitute the second largest minority in this country, there is not currently an Hispanic Commissioner in the EEOC to represent their interests and needs. It would be a visible and substantial demonstration of administration concern if the President provided Hispanic participation in the important work of this Commission.●

EDITORIAL OPPOSES D.C. REPRESENTATION IN CONGRESS

● Mr. TOWER. Mr. President, the resolution proposing a constitutional amendment giving the citizens of the District of Columbia full voting representation in the Congress of the United States is now before the legislatures of the several States for consideration.

The rationale for and against approval of this issue has been both extensive and varied. One of the best arguments against its adoption has been presented in an editorial appearing in the August 31, 1978, edition of the Groesbeck Texas Journal.

In order that my colleagues and others may have the benefit of its contents, I request that the subject editorial be printed in the RECORD.

The editorial follows:

DO WE WANT A NEW STATE 1/14TH SIZE OF LIMESTONE COUNTY

Many, many bad ideas have come out of Washington down through the years, but the worst and most sinister idea ever hatched in the halls of state in our Nation's Capitol broke forth from the shell of skulduggery up there last week.

This very bad idea is to add a 51st state to the United States and to make this 51st State the City of Washington, D.C., with a population of 756,510 residing in an area of 67 square miles, approximately one-fourteenth the size of Limestone County.

But size and population has nothing to do with whether or not the District of Columbia should be a state. It should not become a state because that would go directly contrary to the purpose of its creation.

The District of Columbia and the brand new city of Washington were created in 1790 to be the nation's capital. Congress convened there for the first time in 1790 and has been convening there ever since. Prior to the establishment of the seat of government in Washington, D.C., the capital had been at intervals in four different states, Pennsylvania, Maryland, New Jersey, and New York.

During this period of uncertainty as to which state the capital of the world's newest nation should be located, the compromise plan evolved that the capital would be located in one of the thirteen states but in a district separate and apart from all the states. The creators of this nation not only desired that all men have equal rights but that none of the thirteen states should have advantage over the other twelve by having the nation's capital located within its boundaries.

Both Virginia and Maryland ceded contiguous land for the creation of the District of Columbia but only that of Maryland was used. The wisdom of this arrangement has been praised throughout the world.

Why is that now 186 years later the majority membership of the House of Representatives and the U.S. Senate has suddenly decided that the Congress of 1790 was wrong? There are several reasons and each of them is bad, selfish, and sinister, and most of them induced by political pressure and intimidation.

These reasons will be discussed in future issues of The Journal. Right now let's praise those founding fathers who created the District of Columbia for also undergirding their new nation with a Constitution that is not too easily changed. In order for the District of Columbia to become the 51st state it will take ratification by 38 of the present 50 states for the U.S. Constitution to be amended to make this possible.

Let us hope that none of the fifty states is so foolish as to ratify this preposterously foolish amendment, and let us take particular pains to see that the Texas Legislature doesn't.●

LIBERALISM IS NOT DEAD

● Mr. MCGOVERN. Mr. President, during the clamor of recent times predicting the death of liberalism, I have been among those who have denied that liberal government is over. I believe, in fact, that a positive, dynamic role for the Federal Government is both a necessity and a desirability in American society. That has been my view for many years, and I see nothing in the current complexity of American life to indicate a diminishing role for government.

It is thus with some personal pleasure and satisfaction that I read Mr. William Greider's excellent piece in yesterday's Washington Post, supporting this view in a most compelling way. Mr. Greider, one of our most perceptive political writers, bases a considerable portion of this article on an important new book by Professor Edward R. Tufte, entitled "Political Control of the Economy."

I ask that this seminal article by Mr. Greider be printed in the RECORD.

The article follows:

(By William Greider)

Every few years, something comes along in public affairs, an outburst of public anger or stupendous scandal or whatever, which provokes a chorus of premature obituaries. Liberalism is dead. The New Deal is over, finally. Government is too big, too powerful. The people have spoken.

We are in one of those seasons now, stimulated mainly by the genuine public rage at government and taxes.

Corporate propagandists are busy proclaiming a new era of laissez-faire in which business is free at last, free at last from the heavy hand of meddling bureaucrats.

The anvil chorus of political pundits has

identified a "conservative tide" sweeping the land and boiled it down to simple-minded shorthand: The voters want less government, and that is what the smart politicians are promising them.

This fashionable chatter is not totally bilge. But it's mostly bilge.

The businessmen and political seers who think the nation is heading into an era of less government are setting themselves up for a severe case of whiplash, for the political necessities are headed in the opposite direction—toward greater government spending, toward much more serious government intervention in the private economy. If you're looking for a shorthand phrase, it might be more accurate to predict a period of "neo-liberalism."

Here is an alternative version of what to expect, a forecast which is prudently based upon the fundamental economic-political rhythms of modern American democracy:

Sometime in the next 15 months, the Carter administration, notwithstanding its previous rhetoric, will become strikingly more "liberal"—perhaps abruptly so. Congress, despite the usual carping and criticizing, will go along happily with this leftward turn.

This "liberal hour" for Jimmy Carter will be expressed in many ways. A plausible hunch list would include the following:

The Carter government will move to implement direct control over price increases, perhaps wage increases too, once all the voluntary measures have failed to control inflation. Simultaneously, it will begin to pump up the national economy, creating a government-induced boomlet, a temporary prosperity that will extend through 1980.

This will be accomplished by pulling the economic levers available to every president and usually used at election time: By loosening fiscal policies to step up economic growth, stimulating more production, more jobs. By delivering huge chunks of additional cash to voters through tax cuts and increased social-welfare programs. By leaning on federal agencies to step up their distribution of federal largesses, the billions of dollars in government grants which add jobs, construction projects and other tangible benefits to local economies.

If Jimmy Carter does all these things, if he does them wisely and well, his current low standings in the public opinion polls will become as irrelevant as last season's batting averages. By 1980, a grateful citizenry will reelect him to a second term.

If Carter rejects these economic imperatives or botches them or waits too long in his response, then he may well be remembered as the first one-term president since Herbert Hoover. In politics, courageous principle translates as stubborn foolishness, after one loses the election.

Does all this sound far-fetched? This scenario for Carter is a precise description of what Richard Nixon did to win reelection in 1972, confronted with quite similar problems—soaring inflation and sagging popularity. In general terms, leaving aside the extreme "liberal" solution of wage-price controls, the scenario describes the left-ward economic turn taken by every modern president, save one, as they approached national elections. The exception was Dwight D. Eisenhower, who stuck with his conservative economic policies and won a landslide victory anyway (but Ike's policies lost Congress to the Democrats three times and lost the 1960 presidential election for Nixon.)

Jimmy Carter, in any case, is not Ike. At the moment, Carter's unpopularity is more comparable to Nixon's in the spring of 1971, when the pundits were likewise predicting that Nixon would be a one-term president.

What changed, among other things, was that Nixon suddenly imposed old-fashioned liberal remedies in the grossest manner. An awkward regulatory lid was clamped on all prices and wages. The spigots were opened for an awesome pump-priming of federal dollars. By the autumn of 1972, Americans were "feeling good." The GNP in the final quarter of that election year jumped upward by an extraordinary 11.5 percent—nearly three times the normal growth rate. Nixon aided by the ineptness of his Democratic opposition, won by an historic landslide.

It is fatuous, of course, to predict flatly that this president will follow the exact behavior of that president or any other president. History doesn't repeat itself mindlessly. But history does offer us patterns and probabilities in public affairs, a strong cycle which reoccurs with such regularity that these patterns—not the short-term controversies and outbursts—are the true baseline for judging the shifts and turns of public policy.

No one, of course, would argue that Nixon's economic tricks were the only factor in this '72 landslide, that any president has omnipotent control over the economy, or that economics is the only issue in presidental elections. But the "liberal hour" is a fundamental rhythm in national politics, usually ignored and often misunderstod, yet crucial to most elections.

It was the late Adlai Stevenson, a man of ideas as well as wit, who coined that phrase. There is a brief period in American politics, he said, that moment just before national elections, when even the most obdurate conservatives bend themselves toward the liberal political ideas which serve the "greater good" and, of course, the greater number of voters. Every politician in national life knows this intuitively, the smart ones anyway, but it is hardly a fit subject for public debate. It just happens, year in and year out, without any headlines.

Fortunately, the political-economic cycle of the "liberal hour" now has been confirmed in an important new book, "Political Control of the Economy," by Yale political scientist Edward R. Tufte. With persuasive evidence, Tufte describes the biennial economic surges which flow from politics in even-numbered years of federal elections, strongest in the years when incumbent presidents are seeking reelection, but also present in "off-year" election seasons like 1978 when Congress is on the ballot.

The rhythms are quantified by Tufte: With extraordinary consistency, the American economy prospers more in election seasons. Unemployment is lower. Inflation is more likely to be under control. The national economy grows at twice the normal rate. Real disposable income—the cash which people have to spend after taxes, after inflation—increases twice as fast when a president seeks reelection as it does in odd-numbered years.

Tufte also found that the Federal Reserve Board, notwithstanding its alleged independence from politics, usually cooperates with the political surge in the economy. Except for the Eisenhower years, the rate of growth in the money supply usually increases in the biennial periods prior to presidential elections, and decreases afterwards.

The techniques of political management which produce these surges are also described, with great clarity, by Tufte. Some are obvious and well known: the government cuts taxes in election years but raises taxes in odd-numbered years. It increases the direct distribution of money to voters in election years. Social Security benefits, veterans' pensions and other social welfare programs.

Other techniques, revealed by Tufte's research, are not so obvious. Most government grant programs, he discovered, also go through a mysterious autumn surge of distributing cash in presidential election years. In the fall of 1972, for example, the quarterly flow of federal grants jumped by an extraordinary $12 billion, up by one-third. After the election, when Nixon began impounding every program in sight and turning off the spigots, the federal outlays shrunk dramatically.

Tufte asserts—and the political memos from the Nixon White House confirm—that intense political pressure was exercised on federal agencies all over the town, pushing them to deliver the bucks faster. Most sensible bureaucrats will cooperate with their president when he tells them to spend more.

WIDE PUBLIC SUPPORT

Reasonable citizens will disagree about the propriety of the "liberal hour," based on their ideological preferences or their notions of how government is supposed to behave. Conservatives or good-government reformers, reading Tufte's account, might shrink in horror at this portrait of politicians "buying" votes with the taxpayers' own money.

Liberals (and probably the overwhelming majority of the populace) probably would look at it differently. They might argue that, for a few months of a year at most, the electoral season forces politicians to worry about the masses of people, the working stiffs and the poor and the ordinary folks. The rest of the time, American politics is skewed toward serving more powerful and more conservative interests.

The strength of Tufte's analysis, the quality which sets him apart from so many purist theories of his academic colleagues, is that Tufte accepts the natural conflict between these two viewpoints as an inherent tension of democracy. The distinctions are not subject to easy definition or goo-goo reforms. An elected government which responds to public need and desire can always be accused of pandering. That does not make unresponsive government more clean or more desirable.

But do the American people really want these "liberal" policies? The answer is clearly yes, though that may come as a shock to those who are promoting the conservative revolt. If we define "liberal" in the old-fashioned way, bequeathed by Roosevelt's New Deal, the activist government which intervenes in the market economy, controlling the behavior of private corporations, stimulating growth and curbing corporate excesses, the American people are still very "liberal."

This is not a new trend or a seasonal anxiety—it is a more or less permanent fact of public opinion. Poll after poll has shown that the general public, when asked about issues of government intervention to manage the economy, is permanently to the left of the political establishment, Republican and Democratic, which decides those questions.

For instance, if Carter does move to wage-price controls, however reluctantly, he will find that popular political support is there waiting for him. His friends in business will be furious. Labor leaders will scream, having been burned in 1972 by the Republican-administered controls. But the public, according to Gallup, wants controls, 52 to 37 percent, as it always does when inflation becomes a severe problem.

In political terms, the hard choice for Carter would be how to impose controls. He could do it with a Republican bias, as Nixon did, or with a Democratic bias, holding down prices first and counting on that control to dampen wage inflation.

There are numerous other examples of the leftward tilt of public opinion. The public for years has endorsed the idea of government action to guarantee every American a job, yet that concept, embodied in the Humphrey-Hawkins bill, cannot win congressional passage.

The public favors the radical approach of rationing to conserve oil and gas—in preference to the conservative solution of price and tax increases proposed under Carter's energy plan.

The public wants more regulation, not less, to clean up pollution. Indeed, cleaning up the air and water, even if it costs a lot more, is one goal on which the American people are unified. Aside from seasonal fluctuations, they do not want to retreat to laissez-faire.

The principal liberal idea which does not have majority support in popular opinion is the guaranteed annual income. A majority is against that, though the opposition is declining gradually, not increasing.

Why have these "liberal" ideas not become permanent government policy, if so many people want them? Again, the answer is a manner of political theology. A conservative might say that, mainly they are bad ideas which would be ruinous to the national well-being. Therefore, Congresses and presidents embrace them reluctantly or not at all, and then only when political fortune requires it.

A left-leaning spectator might answer that these "liberal" goals are examples of how unrepresentative the American government is, how politicians are more sensitive to narrow, intense objections to change, not to a general progressive atmosphere.

Except for periods of great upheaval and stress, like the Depression which spawned the New Deal, American politics moves quite slowly toward new ideas. National health insurance, for example, has been on the agenda for 30 years, long supported by a majority of Americans. Yet it is not enacted. But if American politics moves slowly—at a conservative pace—it moves toward liberal goals. There are very few exceptions to that rule, especially since 1932.

THE NEO-LIBERAL CONGRESS

Skeptical readers can test Tufte's analysis in the present season, when so many politicians are preaching empty sermons about less government. It is certainly true that the voters are angry about high taxes and slothful government, about programs that waste money or don't work (we can all say amen to that). And it is also true that Congress has taken selected whacks at this and that program, demonstrating its dedication to lean and small.

But, meanwhile, Congress is behaving in this election year pretty much the way Tufte's thesis would predict. It is enacting a tax cut of approximately $17 billion. It is raising veterans' pensions $700 million to $1 billion. It has set up Social Security increases so that millions of grateful recipients received bigger checks this June, increases worth nearly $6 billion a year (the tax boost to pay for that increase won't hit wage earners hard until next year, after the election).

A new wrinkle now has been added to these "feel good" levers—the federal budget calendar was shifted to begin on Oct. 1. This means the annual surge of new budget spending in all federal programs will occur at the best time for politicians—one month before the election.

If you listen closely to this season's political rhetoric, there is even a strong strain of neo-liberalism emanating from Republican conservatives. The Kemp-Roth tax cut proposal, embraced by the GOP, sounds like a pumped-up version of old liberal dogma—generous tax cuts reduce federal deficits by priming the economy.

Rep. Jack Kemp, who is the new Republican glamor stock, appears to have a sharp focus on these contradictions, judging from his press clippings. Kemp is an unorthodox conservative who wants an activist government in some areas, less in others. He rejects wholesale cuts in federal spending. He wants to spend more on defense, more on cleaning up air and water pollution. He praises John F. Kennedy and criticizes Herbert Hoover. Rep. Kemp, in short, has read a little history.

Back at the White House, Jimmy Carter on some days sounds very much like a Republican.

The other day, he praised the Federal Reserve Board for raising interests rates—liberal heresy. He struggles to reduce the federal deficits—conservative dogma. He proposes an energy plan designed to curb consumption by raising prices and taxes—a modified market approach which Carter asserts will help fight inflation. Whether he is right or not, individual voters are not likely to see it that way. Most consumers do not believe that higher prices at the gas pump or higher home heating bills will help them fight inflation.

POLITICAL DYNAMITE

Carter's conservative economic policies have been variously attributed to his character or his Georgia origins or to different neo-conservative and Republican experts who advise him. But there is at least one additional explanation: Carter is a Democratic president confronted with an economic problem—inflation—that traditionally demands Republican remedies. Tufte puts it this way:

"To win reelection, Carter must solve the most salient problem and that seems to be inflation. The next most important thing for him to do is behave like a Democrat and there's a lot of tension between those two things."

If inflation could somehow be set aside, Carter's performance as an economic manager looks pretty good. Since his inaugural, the unemployment rate has been dropping, slowly but steadily. Real disposable income is growing at a healthy rate. The nation's economy is recovering steadily from the Nixon-Ford recession, jobs are increasing.

Yet people are angry—mad as hell, you might say—and none of these accomplishments will count for much if the inflation rate continues near or in double digits. The general aggravation may be summarized in the following:

In 1973, the mythical average worker portrayed in labor statistics earned $146.50. By this spring, five years later, his wages were up handsomely to $212. He deserved more money because his productivity increased steadily during that period. Yet everyone knows, from personal experience, that the wage increases are unreal. The average wage level, when adjusted for inflation, have been sitting still for five years—no real increase from 1973 to 1978.

This is dynamite in American politics, a fact which threatens all the old rules, for all Americans have come to expect, especially since World War II, a steady improvement in their lives, what they buy and enjoy, the basic comforts and, yes, the luxuries too.

If this period of stagnation continues, millions of Americans will feel cheated, and then politics will continue to be angry. But history tells us that popular opinion moves toward government-imposed solutions in times of economic stress, not away from them.

Who is getting hurt the most? It is not so clear. The statistics tell us that, in general, everyone feels squeezed, but at least half the wage earners are losing ground—earning more pay and taking home less real income. The victims apparently do not fall into neat categories of Republicans or Democrats, professional or blue collar. When Dr. Gallup asks people who is mad about inflation, there are minor variations between groups but the short answer is: Most people are mad, young and old, rich and poor.

The relevant political point for Carter, however, is that his natural constituency, the Democrats who elected him in 1976, are the voters most favorably disposed to government controls. In short, it would be politically plausible for him to move in that direction.

The president obviously has not chosen at this point, though his economic advisers are turning up the heat on their anti-inflation warnings, promising tougher "guide lines" and other devices to cajole labor and business into restraint.

If one were cynical, it would make political sense in Tufte's cyclical terms for Carter to let unemployment rise a little in the next six months or so, dampening federal spending and the gross inflationary impulses in the economy. Then, as the election season approaches, assuming that inflation has abated, he can open up the spigots again and make everyone "feel good" for 1980.

President Carter does face one unique tactical problem, different from his predecessors. Carter's "liberal hour" must come earlier than most. He must aim his economic management not merely at 1980, but at next summer and fall when Democratic rivals like Gov. Jerry Brown will be deciding whether to challenge an incumbent president in the Democratic primaries. If Carter wants to avoid those potentially ruinous challenges, he must make everyone "feel good" about him much earlier than the autumn of 1980.

MORE DEMOCRACY, NOT LESS

None of this has really addressed the most important question about the "liberal hour." Is it bad for the country? Political experience tells us that the pre-election "liberal" tilt is good politics. In the short run, it helps to win elections. But, in the long run, do these policies distort the economy and produce a painful hangover?

Tufte, for one, is not prepared to condemn the political-economic cycle by itself. It represents democratic control of economic policies, and he does not relish the typical reform proposal—to "clean up" government decision-making by insulating it from dirty old politicians and turning it over to high-minded but non-elected technocrats. This remedy has been applied again and again by 20th century reformers, to problems of every variety, but it does not seem to have eradicated political corruption.

Tufte's solution to the sleazier political manipulation is more democracy, not less. The two modern examples of presidents who grossly damaged the economy by their political manipulation both depended upon deceit and secrecy.

Nixon's overheated economy in 1972 produced a boom-and-bust recession and aggravated the inflation which still haunts us. Lyndon Johnson deceived the nation and the Congress about the true cost of the war in Vietnam, a political trick which caught up with him eventually and set off a decade of high inflation.

In both cases, Tufte argues, a vigilant press and a full-blown political debate might have prevented these presidents from their damaging excesses. Tufte writes:

"The mistakes were not made because gluttonous voters were possessed with 'inflationary bias' or bcause of 'voter myopia' (except insofar as politicans failed to reveal their economic priorities), or because of an excess of democracy in economic policy-making. Quite the contrary. The operating assumption made by those who undertook and secretly pursued these mistaken policies was, I believe, absolutely correct: Sleazier efforts at manipulating economic policy for short-run advantage cannot survive public scrutiny."

That is a fancy way of saying that the American people aren't dumb, if someone will tell them the facts. Over time, they catch up with most charlatans. Over time, they support policies which are truly in their self-interest. That is another way of saying that democracy will work, if people will let it.●

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

● Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control

Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that such a notification was received on September 8, 1978.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, Room S-116 in the Capitol.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 8, 1978.

In reply refer to: I-6889/78 ct

DR. HANS BINNENDIJK,
Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a NATO country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA, Director.●

ERA EXTENSION: WHAT THE POLLS SHOW

● Mr. GARN. Mr. President, if House Joint Resolution 638 reaches the floor of the Senate we are sure to hear a lot about the results of this or that poll. In fact, I have already cited a number of polls in this regard in my testimony on extending the period for ratification of the amendment. My testimony was presented before the Subcommittee on the Constitution of the Senate Judiciary Committee and is reprinted in the RECORD of August 7, 1978. One of the major topical headings of that testimony was "Amending the Constitution According to Gallup and Harris." Clearly, polls provide insufficient reason for amending the Constitution, and any attempt to connect polls results with Senate action on constitutional issues must fall flat on its face. I noted, for example, that we are not following the polls showing a majority of the American people favoring a balanced budget, changing the electoral college, limiting congressional terms, and so on.

However, polls serve a certain purpose and, as politicians, it is unlikely that we will ignore them. Therefore, I wish to call the attention of our colleagues to two recent polls regarding extension of the ratification time limit.

The Associated Press-National Broadcasting Co. news poll (AP-NBC) taken in August 1978, showed the following results to this question:

The deadline for States to ratify the Equal Rights Amendment is next March. Do you think that deadline should be extended another 7 years, or don't you think so?

	Percent
Yes—deadline should be extended	34
No—deadline should not be extended	55
Not sure	11

The second poll was conducted by Opinion Research Corp. (ORC) Princeton, N.J., and was also done in August. The ORC survey asked the following questions, and produced the results shown:

1. In order to add an amendment to the U.S. Constitution, a resolution must be passed by Congress and then approved by 38 states. As with every other Constitutional amendment in the past 60 years, the Equal Rights Amendment, passed by Congress in 1972, specified that it would become part of the Constitution if the necessary number of states approved it within seven years. The seven year time limit expires next March. Some people now want to extend the time limit for an additional three years and three months so that states that have not yet approved the Equal Rights Amendment might do so.

Do you favor or oppose changing the Equal Rights Amendment resolution order to extend the time for states to approve the Equal Rights Amendment?

	Percent
1. Favor	45
2. Oppose	39
3. No opinion	16

2. Some people say that because the average time for approval of the 26 existing amendments to the U.S. Constitution has been one year and four months, and that the longest time ever needed for any amendment was three years and eleven months, the time limit for the Equal Rights Amendment should not be extended beyond seven years.

Other people say that even though ERA has been debated for 6½ years, it still has not had a fair chance to be ratified. Do you feel that ERA has had a fair chance to be ratified or not?

	Percent
1. Yes, had fair chance	61
2. No, did not have fair chance	26
3. No opinion	13

3. Among states which have approved ERA are several which originally voted against it. Several other states have changed their votes from approval to disapproval. Some people say that once a state has voted for ERA it should not be permitted later to vote against it. Others say that a state should be permitted to change its vote either way up to the deadline.

Do you favor or oppose a provision that would allow states to change their votes within the specified time limit?

	Percent
1. Favor	61
2. Oppose	28
3. No opinion	11

●

THE FEDERAL OIL SHALE COMMERCIALIZATION TEST ACT

● Mr. HASKELL. Mr. President, it is with considerable sadness and disappointment that I take the floor today to report on the Carter administration's lack of response to my bill, S. 419—the Federal Oil Shale Commercialization Test Act.

The Senate passed this legislation on June 27, 1978, by an overwhelming bipartisan vote of 61 to 23. I think it is indicative of the wisdom of and widespread support for this proposal that it passed the Senate by such a margin even while the major components of the President's energy bill were and are locked in controversy. There is a general frustration throughout the land with our inability to arrive at a national energy policy. S. 419 could have constituted a major portion of such a policy—a portion which would emphasize our urgent need for alternative sources of liquid fuels to replace imported foreign petroleum.

I do not think it necessary to elaborate on the need for this legislation. However, I would like to briefly remind my colleagues of the facts.

First, there is no doubt that we do now face and will continue to face a liquid fuel shortage which can either be addressed by imports or alternatives. Oil shale constitutes one of the most attractive of such alternatives.

Second, oil shale is an enormous if not fabulous national resource. Approximately 2 trillion barrels of oil shale are estimated to be contained in deposits lying in Colorado, Utah, and Wyoming. Of this total, an estimated 600 billion barrels, an amount approximately equal to the entire world's known petroleum reserves, is in high grade deposits.

Third, oil shale technology is now at the point where commercial testing should commence. Government tests have shown it can be refined into high quality jet fuel.

Fourth, and perhaps most important, there is no on-going commercial test of oil shale technology in the United States today.

These four basic facts lead to an obvious conclusion—enactment of a program to test the commercial potential of various oil shale processes to determine whether and to what extent oil shale represents a viable alternative source of liquid fuel should be made a high priority goal of this 95th Congress.

Unfortunately, Mr. President, in spite of these facts, the solid support which this bill received in the Senate and a stated willingness on the part of the House Armed Services Committee Subcommittee on Seapower and Strategic and Critical Materials to hold hearings on the bill in the House, the Carter administration has seen fit to obstruct such proper consideration by delaying a response to that subcommittee chairman's, Representative CHARLES E. BENNETT, request for departmental reports on the legislation.

Chairman BENNETT requested reports from the Departments of Defense, Energy, and Interior on July 14, 1978, and has yet to receive any response. On August 17, 1978, I wrote to the Secretaries of these Departments asking that they expedite their responses. One week later, I was personally assured by spokesmen for two of them that the reports would

be forthcoming immediately. None have been received by the subcommittee.

It is obvious that time is now very short and that passage of S. 419 in this Congress is only a slim possibility. It need not have been so. I made every effort to work with the Carter administration throughout the consideration of S. 419 in the Senate. My bill offered a workable oil shale proposal. At the time it was introduced and for a year thereafter, the Carter administration had no alternative oil shale proposal except to rely on a forlorn hope that the world price would stimulate development.

I think it is a shame and a tragedy that, despite professions of extreme interest in a national energy plan, that this administration has not only refused to endorse and assist in the enactment of the Federal Oil Shale Commercialization Test Act, but has obstructed the efforts of its supporters. Perhaps, as our reliance on Arab oil continues to grow and as our balance-of-payments picture continues to darken, the Carter administration will one day wake up to the need to develop alternative sources of liquid fuel such as oil shale. However, should this ever happen, we will have to suffer the consequences of the sorry record of delays which we are now experiencing in this Congress.

Mr. President, I ask that my letters to the Secretaries of Defense, Energy, and Interior be printed in the RECORD at the conclusion of my remarks.

The letters follow:

COMMITTEE ON ENERGY
AND NATURAL RESOURCES,
Washington, D.C., August 17, 1978.

Hon. JAMES R. SCHLESINGER,
The Secretary of Energy,
Washington, D.C.

DEAR MR. SECRETARY: The question of the source of this Nation's future liquid fuel supplies continues to go unanswered. Once the temporary impact of the opening of the Alaska pipeline is absorbed, we will again be on the path of ever increasing reliance on foreign oil.

This dilemma can be partially addressed in various ways, including emphasis on conservation, solar energy, and other new sources of supply. However, the fact remains that liquid fuels will continue to constitute a very significant segment of domestic demand and new sources of liquid fuel supplies must be found.

One potential source of liquid fuels is the vast oil shale deposits in the West. These deposits contain almost twice the total world supply of crude oil in high grade shales alone. Yet, there is not a single on-going commercial test of oil shale technologies in the United States today, almost five years after the OPEC oil embargo.

On June 27, 1978, the Senate took a major step toward remedying this situation. On that day, it passed, by an overwhelming, bipartisan vote of 61-23, the Federal Oil Shale Commercialization Test Act, S. 419.

I introduced this bill in early 1977 at a time when it became clear to me that a Federal program such as the one contained in S. 419 was needed to test our oil shale potential. Although this administration has variously opposed, seemed to endorse and finally apparently become neutral on this legislation, I have been successful in convincing my colleagues in the Senate—on both sides of the aisle—of the need for this bill.

At the present time, the bill rests in two committees of the House of Representatives, the Committee on Armed Services and the Committee on Interior and Insular Affairs. The Chairman of the Subcommittee on Seapower and Strategic and Critical Matters, the Honorable Charles E. Bennett of Florida, has assured me that he will give this legislation an expeditious hearing upon receipt of departmental reports from your department and two others. Although Congressman Bennett requested these reports on July 14, 1978, he has as yet received no response.

I am sure you will recall our conversation of April 26 of this year during which you informed me that the Department of Energy would remain neutral on S. 419.

I hope, however, that you will submit your analysis of the benefits and negative aspects of the program.

Therefore, I urge you to complete the preparation of the requested comments. Without them, it will be very difficult for the Congress to work its will on this important energy legislation.

I hope I can expect a response one week from today.

Sincerely,

FLOYD K. HASKELL,
U.S. Senator.

COMMITTEE ON ENERGY
AND NATURAL RESOURCES,
Washington, D.C., August 17, 1978.

Hon. CECIL D. ANDRUS,
The Secretary of the Interior,
Washington, D.C.

DEAR MR. SECRETARY: The question of the source of this Nation's future liquid fuel supplies continues to go unanswered. Once the temporary impact of the opening of the Alaska pipeline is absorbed, we will again be on the path of ever increasing reliance on foreign oil.

This dilemma can be partially addressed in various ways, including emphasis on conservation, solar energy, and other new sources of supply. However, the fact remains that liquid fuels will continue to constitute a very significant segment of domestic demand and new sources of liquid fuel supplies must be found.

One potential source of liquid fuels is the vast oil shale deposits in the West. These deposits contain almost twice the total world supply of crude oil in high grade shales alone. Yet, there is not a single on-going commercial test of oil shale technologies in the United States today, almost five years after the OPEC oil embargo.

On June 27, 1978, the Senate took a major step toward remedying this situation. On that day, it passed, by an overwhelming, bipartisan vote of 61-23, the Federal Oil Shale Commercialization Test Act, S. 419.

I introduced this bill in early 1977 at a time when it became clear to me that a Federal program such as the one contained in S. 419 was needed to test our oil shale potential. Although this administration has variously opposed, seemed to endorse and finally apparently become neutral on this legislation, I have been successful in convincing my colleagues in the Senate—on both sides of the aisle—of the need for this bill.

At the present time, the bill rests in two committees of the House of Representatives, the Committee on Armed Services and the Committee on Interior and Insular Affairs. The Chairman of the Subcommittee on Seapower and Strategic and Critical Matters, the Honorable Charles E. Bennett of Florida, has assured me that he will give this legislation an expeditious hearing upon receipt of departmental reports from your department and two others. Although Congressman Bennett requested these reports on July 14, 1978, he has as yet received no response.

I am aware that the Department of the Interior opposed S. 419 in 1977. However, since that time virtually all of the items to which the Department objected have been deleted.

In my judgment, it would be in the interest of the Department to endorse S. 419 as an approach to testing oil shale technology which would mesh and not conflict with the Department's existing prototype oil shale leasing program. The program established by S. 419 tests technologies. If these tests prove successful, these technologies can be employed in the development of the leases issued under the Department's program. Moreover, the tests are most likely to occur on the lands of the Naval Oil Shale Reserves and not on public lands—a point to which Interior objected initially.

Therefore, I urge you to reconsider your position on S. 419. It is my firm judgment that such an effort would speed oil shale testing in general and the successful pursuit of the Department's program in particular.

In any event, I ask that the Department complete the preparation of the comments requested by the House committee. Without them, it will be very difficult for the Congress to work its will on this important energy legislation.

I hope I can expect an early response from you regarding my request.

Sincerely,

FLOYD K. HASKELL,
U.S. Senator.

COMMITTEE ON ENERGY
AND NATURAL RESOURCES,
Washington, D.C., August 17, 1978.

Hon. HAROLD BROWN,
The Secretary of Defense,
Washington, D.C.

DEAR MR. SECRETARY: The question of the source of this Nation's future liquid fuel supplies continues to go unanswered. Once the temporary impact of the opening of the Alaska pipeline is absorbed, we will again be on the path of ever increasing reliance on foreign oil.

This dilemma can be partially addressed in various ways, including emphasis on conservation, solar energy, and other new sources of supply. However, the fact remains that liquid fuels will continue to constitute a very significant segment of domestic demand and new sources of liquid fuel supplies must be found.

One potential source of liquid fuels is the vast oil shale deposits in the West. These deposits contain almost twice the total world supply of crude oil in high grade shales alone. Yet, there is not a single on-going commercial test of oil shale technologies in the United States today, almost five years after the OPEC oil embargo.

On June 27, 1978, the Senate took a major step toward remedying this situation. On that day, it passed, by an overwhelming, bipartisan vote of 61-23, the Federal Oil Shale Commercialization Test Act, S. 419.

I introduced this bill in early 1977 at a time when it became clear to me that a Federal program such as the one contained in S. 419 was needed to test our oil shale potential. Although this administration has variously opposed, seemed to endorse and finally apparently become neutral on this legislation, I have been successful in convincing my colleagues in the Senate—on both sides of the aisle—of the need for this bill.

At the present time, the bill rests in two committees of the House of Representatives, the Committee on Armed Services and the Committee on Interior and Insular Affairs. The Chairman of the Subcommittee on Seapower and Strategic and Critical Matters, the Honorable Charles E. Bennett of Florida, has assured me that he will give this legislation an expeditious hearing upon receipt of departmental reports from your department and two others. Although Congressman Bennett requested these reports on July 14, 1978, he has as yet received no response.

The Department of Defense, through the Navy's research arm, has been exploring the jet fuel potential of petroleum produced

from oil shale for some time. It is my understanding that the testing of the first batch of shale oil refined to Navy specifications under this program was very encouraging. The Navy is continuing to test the potential uses of shale oil by refining an additional 100,000 barrels.

However, no matter how promising oil from shale may be as a military fuel, it will be of no value if it cannot be extracted from the rock. Additionally, the Naval oil shale reserves can provide very little in terms of safeguard against a petroleum supply interruption if we do not have the technology to recover it.

Therefore, it appears to me that enactment of S. 419 should be of great interest to the Department of Defense. Whatever your position, I urge you to complete the preparation of the comments requested by the House committee. Without them, it will be very difficult for the Congress to work its will on this important energy legislation.

I hope I can expect a response one week from today.

Sincerely,

FLOYD K. HASKELL,
U.S. Senator.●

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CORRECTION OF VOTE—S. 1423

Mr. McGOVERN. Mr. President, on September 7, on final passage of the Judicial Tenure Act, S. 1423, I was recorded as not voting. I was here and cast a "nay" vote. Indeed, my vote was so recorded by the unofficial recorder, Mr. Patrick Hynes, but was missed by the official recording the vote.

I ask unanimous consent, under those circumstances, that my vote be recorded as I voted. I point out that this change will not affect the outcome of the vote.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, this matter was brought to my attention this afternoon. While it is an extraordinary thing to change a roll call vote, I think it also would be extraordinary not to accept the representations just made by the Senator from South Dakota. Since it does not change the result, since he was kind enough to bring it to our attention before making the request, and since he was in the Chamber and did vote, we have no objection to the RECORD being changed in accordance with the request made by the distinguished Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, I thank the distinguished minority leader.

FEDERAL TRADE COMMISSION AMENDMENTS OF 1977—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, Mr. FORD is about to present a conference report on H.R. 3816. I ask unanimous consent that the time on that conference report, which deals with the Federal Trade Commission Act amendments, be limited overall to not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I submit a report of the committee of conference on H.R. 3816 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3816) to amend the Federal Trade Commission Act to expedite the enforcement of Federal Trade Commission cease and desist orders and compulsory process orders; to increase the independence of the Federal Trade Commission in legislative, budgetary, and personnel matters; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 8, 1978.)

Mr. FORD. Mr. President, this legislation is the result of two extensive conferences. The only significant changes in this legislation from the version that was passed by the Senate by voice on February 22, 1978, are that there is now a two-House legislative veto provision contained in the bill with provision for a Presidential override of such veto and the equitable relief provisions have been deleted. Although the Senate has, in this conference, substantially accommodated the strong views of the House in regard to equitable relief and legislative veto, I still believe that this is a conference report that should receive the support of the Senate.

Mr. President, this conference report, I think, has been cleared on the other side. I do not want to take any more time of the Senate; therefore, I yield back the remainder of my time and move its adoption.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR CHURCH: KUDO OF THE MONTH FOR OLDER AMERICANS

Mr. MELCHER. Mr. President, Senator FRANK CHURCH has served on the Committee on Aging with distinction since it was created in 1961.

During the past 7½ years he has provided superb leadership as its chairman.

He has grappled with important day-to-day issues facing older Americans. These concerns may not always appear on the front pages of newspapers, but they are enormously important for the elderly, including:

Inadequate income in retirement;
Age discrimination in employment;
Quality care in nursing homes;
Gaps in medicare coverage;
Transportation difficulties;
Inflation; and
Tax relief.

He has also proved to be a resourceful and skillful legislator. One measure of his success is that he has never lost a floor amendment for the elderly since being named chairman of the Committee on Aging. And, most of his Senate-passed amendments have become law.

Over the years, he has been instrumental in the drive for many victories for older Americans:

The 20-percent social security increase in 1972;

A cost-of-living adjustment mechanism to make social security inflation-proof for the elderly;

A two-step, 11-percent social security increase in 1974;

Establishment of a community education program to provide recreational, educational, and other community services for the young and old alike;

Numerous improvements to the Older Americans Act;

Improved social security protection for elderly widows;

Expansion of the senior community service employment program to provide increased job opportunities for persons 55 or older in a wide range of fulfilling activities;

Reduced air fares on a space-available basis for older Americans;

Increased tax counseling assistance for elderly taxpayers;

Additional tax relief in taxable year 1976 averaging $182 for 165,000 elderly taxpayers who would be adversely affected because the new tax credit for the elderly replaced the former retirement income credit.

Since being appointed to the Senate Committee on Aging, I have been impressed by Senator CHURCH's leadership, his decency, and his ability to understand complex issues.

Jack Anderson selected Senator CHURCH for his "Kudo of the Month" award in the September edition of 50 Plus, and deservedly so. He describes Senator CHURCH as the "hero of the aging" who "has been doing the kind of legislative job that can have important results for folks over 50."

Mr. President, I ask unanimous consent that the article by Jack Anderson be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

KUDO OF THE MONTH

(By Jack Anderson)

The Kudo of the Month goes to that boyish-looking hero of the aging, Idaho's Senator Frank Church. Like a marshal in the Old West—hard-working, often unappreciated, and without fanfare—he has been doing the kind of unglamorous legislative job that can have important results for folks over 50.

His Special Committee on Aging is taking a hard, close look at the Medigap insurance huckstering that I have described on the opposite page. The investigation could lead to stricter disclosure requirements on insurance policies purporting to supplement Medicare.

Church also held three days of hearings on "The Graying of America." He explored the financial implications of our growing senior citizen population on federal programs.

And, finally, Church has pushed successfully for a White House Conference on Aging to be held in 1981. If past conferences of the elderly are any indication, this won't be just speeches and a Rose Garden ceremony.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order Nos. 1083, 1084, 1085, 1091, and 1092.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, I rise only to advise the distinguished majority leader that the calendar order numbers that he identifies are cleared on our calendar, and we have no objection.

Mr. ROBERT C. BYRD. Mr. President, let me state to the distinguished minority leader that I was in error in respect to order No. 1092. It should have been 1093 instead of 1092; so I make that correction.

The PRESIDING OFFICER. The clerk will report the first measure.

FEDERAL RECORDS COUNCIL

The bill (H.R. 8112) to repeal chapter 27 of title 44, United States Code, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1160), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of this bill is to abolish the Federal Records Council, as established by the Administrator of General Services Administration, under authority granted in chapter 27 of title 44, United States Code. Additionally, the bill will repeal chapter 27 of the above referenced title.

BACKGROUND

When the Federal Records Council was established in 1950, records management programs were relatively unknown in the Federal Government and it was believed that the Federal Records Council could perform a valuable function by providing direction and leadership in the early stages of records management programs.

The Council was active during the late 1950's and early 1960's but as agencies' records management activities became more sophisticated the Council's direction was no longer necessary. Gradually, the Council's meetings became infrequent and eventually stopped altogether. The Council's inactive status has not hindered advances in record management.

The original language on H.R. 8112 inadvertently failed to delete from the table of chapters of title 44, United States Code, the reference to chapter 27. This technical amendment conforms the table of chapters to reflect the substantive aspect of the bill, deletion of chapter 27 of title 44.

NATIONAL ARCHIVES TRUST FUND BOARD

The bill (H.R. 12915) to amend sec. 2301 of title 44, relating to the National Archives Trust Fund Board, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1161), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD as follows:

PURPOSE

The purpose of this bill is to amend section 2301 of title 44, United States Code, to fill the existing vacancy on the Trust Fund Board created by the abolition of the Senate Post Office and Civil Service Committee. Additionally, this legislation will replace the congressional representatives on the Board with the Secretary of the Treasury and the Chairman for the National Endowment for the Humanities. These replacements are designed to remove any possible conflict of interest which might arise by having congressional representatives serve on executive branch boards and/or committees.

BACKGROUND

The National Archives Trust Fund Board was established in July 1941 (44 United States Code, sections 2301–2308), to receive and administer gifts or bequests of money, securities, or other personal property, for the benefit of the National Archives.

As a result of several congressional committee reorganizations, the membership of the Board has come to consist of the Archivist of the United States, as Chairman, and the chairman of the House Government Operations Committee and the chairman of the Senate Post Office and Civil Service Committee. However, since the Senate committee no longer exists, one position is vacant.

The legislation was introduced at the request of the Administrator of General Services Administration and has the support of the administration.

SENATE PAYROLL DEDUCTIONS FOR CHARITABLE CONTRIBUTIONS

The Senate proceeded to consider the bill (S. 2376) to authorize withholding from salaries disbursed by the Secretary of the Senate and the Architect of the Capitol for contributions to certain charitable organizations, which had been reported from the Committee on Governmental Affairs with amendments as follows:

On page 1, line 6, strike "them" and insert "the Secretary or who are employees of the Architect, including employees of the Botanic Garden or the Senate Restaurants";

On page 2, beginning with line 6, strike through and including line 11, and insert in lieu thereof the following:

(2) Upon request by such an individual specifying the amount to be withheld and one Combined Federal Campaign Center in the Washington metropolitan area to receive such amount, the Secretary, the Architect, or any other officer who disburses the pay of such individual, as the case may be, shall—

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) for purposes of this Act, the term—

(1) "Secretary" means the Secretary of the Senate; and

(2) "Architect" means the Architect of the Capitol.

(b)(1) The Secretary and the Architect shall notify individuals whose pay is disbursed by the Secretary or who are employees of the Architect, including employees of the Botanic Garden or the Senate Restaurants of the opportunity to have amounts withheld from their pay pursuant to this section for contribution to national voluntary health and welfare agencies designated by the Chairman of the Civil Service Commission pursuant to Executive Order 10927, dated March 19, 1961.

(2) Upon request by such an individual specifying the amount to be withheld and one Combined Federal Campaign Center in the Washington metropolitan area to receive such amount, the Secretary, the Architect, or any other officer who disburses the pay of such individual, as the case may be, shall—

(A) withhold such amount from the pay of such individual; and

(B) transmit (not less than once each calendar quarter) the amount so withheld to the Combined Federal Campaign Center as specified in such request.

(c) The Secretary and the Architect shall, to the extent practicable, carry out subsection (b) at or about the time of the Combined Federal Campaign and other fundraising in the executive branch of the Federal Government conducted pursuant to Executive Order 10927, dated March 18, 1961, and at such other times as each such officer deems appropriate.

(d)(1) No amount shall be withheld under subsection (b) from the pay of any individual for any pay period if the amount of such pay for such period is less than the sum of—

(A) the amount specified to be withheld from such pay under subsection (b) for such period; plus

(B) the amount of all other withholdings from such pay for such period.

(2) No amount may be specified by an individual to be withheld for any pay period under subsection (b) which is less than—

(A) 50 cents, if the pay period of such individual is biweekly or semimonthly; or

(B) $1, if the pay period of such individual is monthly.

(e) This section imposes no duty, burden, or requirement upon the United States, the Senate, or any officer or employee of the United States, except as specifically provided in this section. Nothing in this section shall be deemed to consent to the application of any provision of law which has the effect of subjecting the United States, the Senate, or any officer or employee of the United States to any penalty or liability by reason of the provisions of this section. Any paper, form, document, or any other item filed with the Secretary under this section is a paper of the Senate within the provisions of rule XXX of the Standing Rules of the Senate.

(f) The Secretary and the Architect are authorized to issue rules and regulations they consider appropriate in carrying out their duties under this section.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A bill to authorize withholding from salaries disbursed by the Secretary of the Senate and from certain employees under the jurisdiction of the Architect of the Capitol for contribution to certain charitable organizations.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1162), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of this bill is to authorize withholding from salaries disbursed by the Secretary of the Senate and from salaries of employees of the Architect of the Capitol for contributions to certain charitable organizations associated with the Combined Federal Campaign.

The amendments are technical in nature and are intended to assure that the bill's coverage includes all employees under the jurisdiction of the Architect of the Capitol.

STATEMENT

Executive Order 10927, March 18, 1961, authorized the Civil Service Commission to make arrangements for national voluntary health and welfare agencies to solicit funds from Federal employees and members of the Armed Forces at their places of employment or duty stations. Public Law 87–304, September 26, 1961, provides authority for the head of each department in the executive branch to establish procedures under which employees are permitted to make allotments or assignment from their compensation to be remitted directly to the designated recipient. With regard to the efforts of the Combined Federal Campaign, these procedures are commonly referred to as voluntary payroll deductions.

In contrast to the procedures established in the executive branch, neither the Senate, nor the Architect of the Capitol has established systems by which employees may have amounts voluntarily withheld from their paychecks for the purpose of contribution to the Combined Federal Campaign.

BACKGROUND

The Combined Federal Campaign of the National Capital area is a once-a-year solicitation on behalf of the 120 voluntary health and welfare agencies of the United Way, 11 national health agencies, and 6 international service agencies. The Combined Federal Campaign brings the solicitations of all these charitable agencies together for the benefit of both the charitable agency and the Federal employee.

The provision for voluntary payroll deductions was seen as critically important when the Federal campaigns were authorized by Executive Order 10927, March 18, 1961, to deal in a meaningful way with a growing multiplicity of separate fund drives. It was recognized that a single gift, to replace many gifts, would have to be relatively large, and that a pledge gift paid over time through payroll deductions would be the only way most contributors could give such a large amount. It should be noted that most large employers in metropolitan Washington, provide payroll deduction privileges for employees supporting the Combined Federal Campaign.

The House of Representatives adopted a similar measure earlier this Congress in House Resolution 12 which became effective in January 1978. Under the provisions of that resolution, employees in the House may voluntarily have payroll deductions contributed to the Combined Federal Campaign in the Washington metropolitan area.

NATIONAL AQUACULTURE POLICY ACT OF 1978

The Senate proceeded to consider the bill (S. 3408) to provide for the development of aquaculture in the United States, and for other purposes, which had been reported from the Committee on Agriculture, Nutrition, and Forestry and the Committee on Commerce, Science, and Transportation, jointly, with an amendment in the nature of a substitute.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VITIATION OF ACTION

Mr. ROBERT C. BYRD subsequently said:

Mr. President, I ask unanimous consent that the action taken on Calendar No. 1091 be vitiated, inasmuch as the measure had not been fully cleared all the way around.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill is restored to the Calendar.

SALT RIVER PIMA-MARICOPA BOUNDARY MODIFICATION

The Senate proceeded to consider the bill (S. 3002) to modify a portion of the south boundary of the Salt River Pima-Maricopa Indian Reservation in Arizona, and for other purposes, which had been reported from the Select Committee on Indian Affairs with amendments as follows:

On page 9, line 1, after "Service" insert "Reserve";

On page 9, line 4, strike "southwest" and insert "southeast";

On page 11, line 10, strike "There" and insert "Effective October 1, 1979, there";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS AND POLICY

SECTION 1. (a) The Congress hereby finds that—

(1) the Salt River Pima-Maricopa Indian Reservation was established on Federal lands for the purpose of providing a place for members of the Salt River Pima-Maricopa Indian community to live in peace and prosperity with other persons in Arizona;

(2) at the time of the creation of such reservation, a portion of the south boundary was established to follow the course of the Salt River;

(3) the United States granted patents for, and leaseholds and other interests in, lands adjacent to such boundary for sand and gravel excavation and for other purposes to persons who were not members of such Indian community;

(4) subsequent to the establishment of such boundary, the course of the Salt River shifted, creating uncertainty with respect to the precise location of such boundary; and

(5) by an Executive order, the Secretary of the Interior located and permanently fixed such boundary in a location which included within such reservation, lands for which the United States had previously issued patents, leaseholds, and other interests, causing confusion and an ongoing controversy between such Indian community and persons holding such patents, leaseholds, and other interests.

(b) The Congress hereby declares that it is the policy of the Congress to resolve, without costly and lengthy litigation, the dispute between the Salt River Pima-Maricopa Indian community and the persons referred to in subsection (a)(3) over the location of the south boundary of the Salt River Pima-Maricopa Indian Reservation.

MODIFICATION OF SOUTH BOUNDARY

SEC. 2. The south boundary of the Salt River Pima-Maricopa Indian Reservation in Arizona (hereinafter in this Act referred to as the "reservation"), created by the Executive order issued on June 14, 1879, shall be modified in accordance with the provisions of sections 3 and 4 of this Act. Any portion of such boundary established by this Act shall be fixed and permanent and not ambulatory.

RESERVATION LANDS

SEC. 3. (a)(1) The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") shall acquire by purchase or condemnation the lands described in paragraph (2). Upon acquisition, such lands shall be added to the reservation. The acquisition of lands under this subsection, and payment for such lands under section 5(b) of this Act, shall be deemed to have been pursuant to condemnation by the United States.

(2) The lands authorized to be acquired in paragraph (1) are located in township 1 north, range 5 east, Gila and Salt River base and meridian, Arizona, and are those portions of the land in—

(A) the south half of the southeast quarter of section 6 of such township, and range;

(B) the south half of the southwest quarter of section 6 of such township, and range; and

(C) the southwest quarter of the southeast quarter of section 4 of such township and range;

which lie north of the boundary line representing the middle of the south channel of the Salt River and the south boundary of the Salt River Indian Reservation as shown of record on a map entitled "Township 1 North, Range 5 East, of the Gila and Salt River Meridian, Arizona, Dependent Resurvey and

Survey of the South Boundary of Salt River Indian Reservation" which consists of four sheets, dated August 17, 1972, and is on file and available for public inspection at the Department of Interior, Bureau of Land Management, Washington, District of Columbia.

(b) Upon the acquisition of the lands described in subsection (a), the reservation shall include all lands in township 1 north, range 5 east, Gila and Salt River base and meridian, Arizona, lying north of that boundary line representing the middle of the south channel of the Salt River and the south boundary of the Salt River Indian Reservation as shown of record on the map referred to in subsection (a)(2), except for any portion of the following parcels of land:

(1) the north half of the northwest quarter of section 18 of such township and range;

(2) the north half of the northeast quarter of section 18 of such township and range;

(3) the north half of the southeast quarter of the northeast quarter of section 8 of such township and range;

(4) the northwest quarter of the northwest quarter of section 9 of such township and range;

(5) the northeast quarter of the northwest quarter of section 9 of such township and range;

(6) the southeast quarter of the northwest quarter of section 3 of such township and range;

(7) the north half of the north half of the southwest quarter of section 3 of such township and range;

(8) the southwest quarter of the northeast quarter of section 3 of such township and range; and

(9) the northeast quarter of the northeast quarter of section 3 of such township and range.

(c) The boundary of the reservation shall be extended to include the following parcels of land:

(1) in township 2 north, range 6 east, Gila and Salt River base and meridian, Arizona—

(A) the area between the reservation boundary created by the Executive order issued on June 14, 1879, as amended, and a line parallel to and 150 feet north of the concrete canal lining on the northerly edge of the South Canal within the west 1,000 feet of section 13 of such township and range;

(B) any portion of the southeast quarter of the southeast quarter of section 14 of such township and range lying south and east of the reservation boundary created by the Executive order issued on June 14, 1879, as amended;

(C) the area between the reservation boundary created by the Executive order issued on June 14, 1879, as amended and a line parallel to and 150 feet north of the top of the concrete canal lining on the northerly edge of the South Canal in sections 24, 23, 22, and 27 of such township and range and the east half of sections 28 of such township and range, except for approximately 16 acres of land described as that part of the west half of the southwest quarter of section 27 of such township and range lying north of the South Canal;

(D) the area between the reservation boundary created by the Executive order issued on June 14, 1879, as amended, and the north line of the south half of the southwest quarter of section 28 of such township and range;

(E) the area between the reservation boundary created by the Executive order issued on June 14, 1879, as amended, and the north line of the south half of the south half of sections 29 and 30 of such township and range; and

(F) the north 600 feet of the Granite Reef Reserve in lots 2 and 3 of section 13 of such township and range; and

(2) in township 2 north, range 5 east, Gila and Salt River base and meridian, Arizona, the south 450 feet of the Evergreen Reserve in the west half of the northwest quarter of the northwest quarter of the southeast quarter of section 23.

(d) Any lands added to the reservation under this Act shall become a part of the reservation in all respects and upon all the same terms as if such lands had been included in the Executive order issued by the President on June 14, 1879, as amended, except that such lands shall remain tribal lands and shall not be subject to allotment to individual Indians.

STATUS OF ARIZONA CANAL AND OTHER RECLAMATION PROJECT LANDS

SEC. 4. (a) The United States shall have, free of any claim of Indian title or trusteeship by the Salt River Pima-Maricopa Indian community, all rights and interests in, and absolute and unqualified title to, the following parcels of land:

(1) those portions of the Arizona Canal right-of-way within the exterior boundaries of the Salt River Indian Reservation as defined by the March 29, 1913, accepted United States general land office resurveys of township 2 north, range 5 east and township 2 north, range 6 east of the Gila and Salt River base and meridian, Arizona, and supplemental surveys dated September 30, 1924, plats of which are of record in the Arizona State Office of the Bureau of Land Management, United States Department of the Interior, Phoenix, Arizona;

(2) that portion of the reservation in section 13, township 2 north, range 6 east, Gila and Salt River base and meridian, Arizona, lying between the southerly prolongation of the west line of lot 2 and the southerly prolongation of the east line of lot 3 of section 13 and lying between the southerly boundaries of lots 2 and 3 and the southerly reservation boundary created by the Executive order issued on June 14, 1879, as amended;

(3) United States Reclamation Service Reserve (Granite Reef), which consists of lots 2 and 3 in section 13, township 2 north, range 6 east, Gila and Salt River base and meridian, Arizona, except the north 600 feet of such lots 2 and 3, title to which has been confirmed in the United States for the benefit of the Salt River Pima-Maricopa Indian community; and

(4) United States Reclamation Service Reserve (Evergreen), which consists of lot 9 and the west half of the northwest quarter of the northwest quarter of the southeast quarter of section 23, township 2 north, range 5 east, Gila and Salt River base and meridian, Arizona, except the south 450 feet of such Reserve, title to which has been confirmed in the United States for the benefit of the Salt River Pima-Maricopa Indian community.

(b) The reservation boundary shall be modified to exclude from the reservation the parcels of land described in paragraphs (1) through (4) of subsection (a).

COMPENSATION

SEC. 5. (a)(1) The Secretary shall determine the fair market value of those portions of the parcels of land described in paragraphs (1) through (9) of section 3(b) of this Act which lie north of the boundary line referred to in section 3(b) of this Act, and shall pay an amount equal to such fair market value or $1,964,520, whichever is greater, to the Salt River Pima-Maricopa Indian community.

(2) Acceptance of the payment described in paragraph (1) shall constitute a complete release and satisfaction of any claim which the Salt River Pima-Maricopa Indian community may have against the United States or holder of any interest with respect to any right, title, or interest in any portion of the parcels of land described in paragraphs (1) through (9) of section 3(b) of this Act which are located north of the boundary line referred to in section 3(b) of this Act.

(b)(1) Except as otherwise provided in paragraph (2), the Secretary shall determine the fair market value of each parcel of land acquired by the United States and added to the Reservation pursuant to section 3(a)(1) of this Act, and shall pay an amount equal to such fair market value to the owner, under a patent issued by the United States, of such parcel.

(2) If the aggregate of all amounts to be paid under paragraph (1) is less than the sum of $1,951,740, in lieu of such payments under paragraph (1), the Secretary shall pay such sum to the owners, under patents issued by the United States, of the parcels of land acquired by the United States and added to the reservation pursuant to section 3(a)(1) of this Act. In determining the amount of any payment to any person under this paragraph with respect to such parcels of land, the proportion of the amount of the payment to any person to $1,951,740 shall be equal to the proportion of the amount of the acreage of such parcel which such persons owns, under a patent issued by the United States, to the total acreage of such parcels.

(3) Acceptance of the payment described in paragraph (1) or (2) by any person shall constitute a complete release and satisfaction of any claim which such person may have against the United States, the Salt River Pima-Maricopa Indian community, or holder of any interest with respect to any right, title, or interest in any portion of the parcels of land described in subparagraphs (A), (B), or (C) of section 3(a)(2) of this Act which are located north of the boundary line referred to in section 3(a)(2) of this Act.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 6. Effective October 1, 1979, there are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1170), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE MEASURE

The purpose of S. 3002 is to settle a dispute regarding the location of a portion of the south boundary of the Salt River Pima-Maricopa Indian Reservation in Arizona, and to establish as fixed and permanent the south boundary of that reservation.

The legislation would ratify an agreement reached among the Salt River Pima-Maricopa Indian Community, the United States, the Salt River Valley Water User's Association, and the Salt River Project Agricultural Improvement and Power District. It would provide compensation consisting of money and land to the Salt River Indian Community for the loss of certain reservation lands transferred to non-Indian title. It would also provide monetary compensation to those pri-

vate landowners whose lands are to be added to the Salt River Reservation as part of this agreement. The bill will thus avoid protracted and costly litigation now pending among the parties.

BACKGROUND AND NEED

OVERVIEW

The Salt River Pima-Maricopa Indian Reservation was established by Executive order on June 14, 1879. Subsequent executive orders in 1910 and 1911 enlarged the reservation to its present size of 49,294 acres, which is nearly evenly divided between tribally owned trust land and individually allotted trust land. The reservation supports an Indian population of some 2,500. The urban centers of Phoenix and Scottsdale lie immediately adjacent to the west of the reservation, and the city of Mesa lies immediately south of the reservation's southern boundary.

When the reservation was created, a portion of its southern boundary was defined as the middle of the stream bed of the Salt River. Since 1879, the river has changed course, and another channel has been formed. Upstream, it has been increasingly diverted, causing its stream beds to become dry most of the year, thereby allowing access for the removal of quantities of sand and gravel.

Two subsequent Federal surveys in 1888 and 1910 established the southern boundary of the reservation as the center of the northern channel of the Salt River. The Federal Government declared those lands south of the surveyed boundary to be public land open for entry, and numerous patents and leaseholds were issued to non-Indian individuals and entities. Permits and rights-of-way were also granted to both public and private parties.

The surveys of 1888 and 1910 have always been questioned by the Indian community. In response to a request by the tribe, an Opinion of the Solicitor of the Department of the Interior dated January 17, 1969 established the southern boundary of the reservation as the middle of the south channel of the Salt River. Finally, in 1972, the Bureau of Land Management's Department of Cadastral Surveys located the southern boundary of the reservation as the lowest point of the south channel of the Salt River. Confusion has arisen as a result of these differing boundary interpretations.

That confusion resulted in the filing on July 17, 1972, in the U.S. District Court in Phoenix, Ariz., of an action in trespass by the Salt River Indian Community (Community) against the Salt River Valley Water User's Association (Association). The Association, an Arizona corporation, is the agent of the Salt River Project Agricultural Improvement and Power District (District), a political subdivision of the State of Arizona. The Association and the District are both a part of the Salt River Project, a Federal reclamation project operating adjacent to the south boundary of the Salt River Reservation.

The District and the Association, in a separate action in the U.S. District Court in Phoenix, filed in 1974, responded to the Secretary of the Interior, alleging that the Bureau of Land Management's 1972 survey was erroneous. The actions were consolidated and on August 16, 1976 the court found for the Secretary of the Interior on the issue of the validity of the survey. The issue of damages to the Community is pending. Approximately $109,000—revenues from sand and gravel leases received by the Community from the Allied Concrete and Material Company—is being held by the court pending final determination of the boundary dispute.

Litigation continued with the filing of a complaint on April 22, 1974, amended on June 3 and July 24, 1974, by the Community against the District, the Association, the Secretary of the Interior, the Federal Power Commission, and the United States, alleging that portion of the Granite Reef Dam, the Arizona Canal, and a 69/12 KV power transmission line constituted trespasses by the District, the Association, and the United States, and as such they were liable in damages. The complaint was dismissed on March 21, 1975, but the Community appealed that portion of the judgment regarding the Arizona Canal and Granite Reef Dam to the Ninth Circuit Court of Appeals on April 16, 1975. Briefs have been filed and oral arguments are pending.

In an administrative action, the Community filed a petition on March 3, 1975 with the Federal Power Commission, seeking cancellation of the license by which the District operates the 69/12 KV power line mentioned above, on the basis that the Commission does not have jurisdiction to license, and that the terms of the license have been breached. The presiding Administrative Law Judge found for the Community, but refused to cancel the license until a valid right-of-way had been arranged. All parties have taken exception to this ruling.

In a corollary matter which may have bearing for the District and the Association, the United States brought an action on August 23, 1976 in the U.S. District Court in Phoenix to condemn some 82 acres of reservation land to construct the Salt River Siphon, a part of the Central Arizona project. The community asserted in its response that the Congress must authorize the condemnation and that the Secretary of the Interior has not complied with the National Environmental Policy Act and Federal reclamation laws.

On August 25, 1976, the Community responded with a suit against the Secretary of the Interior and Bureau of Reclamation, seeking to enjoin construction of the Granite Reef Aqueduct and the Salt River Siphon, alleging that the defendants had failed to comply with the National Environmental Policy Act and certain Federal reclamation laws. A temporary restraining order has been stipulated to by the parties and no hearing has yet been held on the preliminary injunction.

THE SETTLEMENT

After extensive negotiations, on December 22, 1976, a settlement was reached among the parties (see Appendix for full text of this settlement). Briefly, the settlement recognizes that the United States holds fee title to the Granite Reef Dam, the Granite Reef Reserve, the Evergreen Reserve, and the Arizona Canal, free of Indian title, and that the United States has authorized the Association and the District to exercise exclusive jurisdiction for purposes of reclamation over this property and those facilities. It further agrees that the Community stipulates to the reversal of its appeal and the filing of a counterclaim by the United States to quiet title to the Arizona Canal and the Granite Reef Dam in the action on appeal before the Ninth Circuit Court of Appeals, Docket No. 75-2248. The Community further grants rights-of-way for the existing 69/12 KV power transmission line and agrees to an appropriate conclusion of the action pending before the Federal Power Commission.

The Community will also abandon its claim for damages and conclude the litigation in the matter filed in U.S. District Court on July 17, 1972; it will further withdraw its defenses in the condemnation action filed by the United States on August 23, 1976, Docket No. CIV 76-588; and it will abandon its injunction action against the Secretary of the Interior and others in the matter filed on August 25, 1976, Docket No. CIV 76-601.

The Community will grant the District an easement for a proposed 230 KV electric power line across the reservation; and it will grant to the Salt River Project a 50 year lease to 80 acres of sand and gravel land for extraction and sanitary landfill purposes. It also will grant a lease to the Salt River Project for refuse dumping purposes, and, along with the District, will make diligent good faith efforts to bring about the filing of a Cadastral survey of certain reclamation withdrawn lands in dispute.

THE LEGISLATION

S. 3002 will resolve the boundary dispute and provide compensation to both the Indian Community and those private landowners whose land will now become part of the reservation. Specific monetary amounts are authorized, and fair market values will be utilized to determine the exact rate of compensation for both the tribe and the non-Indians. It gives clear title to those lands in dispute in the trespass litigation between the tribe and the Salt River Project, as described in Section 4 of the bill.

This legislation also modifies the Executive Order of June 14, 1879, by the inclusion of the additional land now to become a part of the south boundary of the reservation. Section 3 specifically describes the land, and provides an exact description of the location of the boundary in the riverbed. It should be noted that the comment of the Department of the Interior with respect to retroactive inclusion of the lands in this settlement (see sections 3(c) and 3(d)), as part of the original reservation will constitute a full release and satisfaction of any claim for the depletion of these lands through sand and gravel extraction. This is accomplished by payment of fair market value as provided in Section 5(a).

LEGISLATIVE HISTORY

S. 3002 was introduced by Senator Goldwater on April 27, 1978. A similar measure, H.R. 12344, was introduced on April 25, 1978 by Mr. Rhodes, for himself and Mr. Stump, Mr. Rudd, and Mr. Udall. A joint hearing was held by the House Subcommittee on Indian Affairs and Public Lands and the Senate Select Committee on Indian Affairs on July 14, 1978. Mr. Goldwater, Mr. Rhodes, representatives of the City of Mesa, Arizona, the President of the Salt River Pima-Maricopa Indian Community, and the Director of Government Relations for the Salt River Project all testified in favor of the legislation.

On July 26, 1978, the full committee of the House on Interior and Insular Affairs ordered the bill reported. A legislative report was filed August 16, 1978.

VICTIMS OF CRIME ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 895 with the understanding that no more than 30 minutes would be needed overall thereon, to be under the control of Mr. KENNEDY and the minority leader or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 561) to provide for grants to States for the payment of compensation to persons injured by certain criminal acts and omissions, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Victims of Crime Act of 1978".

ADMINISTRATION

SEC. 2. (a) The Attorney General of the United States (hereinafter referred to as the "Attorney General") shall administer the provisions of this Act. The Attorney General shall not delegate primary responsibility for administering the provisions of this Act unless such delegation is made to an individual who is compensated at the rate provided for level II, III, IV, or V of the Executive Schedule under subchapter II of chapter 53 of title 5, United States Code.

(b) There is established an Advisory Committee on Victims of Crime (hereinafter referred to as the "Committee") which shall advice the Attorney General with respect to the administration of this Act and the compensation of victims of crime. The Committee shall consist of nine members, one of whom shall be designated the Chairman, all appointed by the Attorney General. Seven members of the Committee shall be officials of qualifying State programs. The Committee shall meet at least two times each year, and at such other times as the Attorney General may direct. The term of office for each member of the Committee shall be one year. The Committee shall exist for a period of three years from the date of its establishment.

(c) While away from their homes or regular places of business in the performance of services for the Committee, members of the Committee shall be allowed travel and transportation expenses, including per diem allowance, in the same manner and to the same extent as persons employed intermittently in the Government service are allowed travel and transportation expenses under subchapter I of chapter 57 of title 5, United States Code.

POWERS OF THE ATTORNEY GENERAL

SEC. 3. (a) Subject to the availability of amounts appropriated, the Attorney General shall make an annual grant and may make supplemental grants for compensation of victims of crime to each State program that qualifies under section 4. Except as provided in section 5, the grants made to a qualifying State program under this Act with respect to a Federal fiscal year shall equal—

(1) 100 per centum of the then current cost, as determined by the Attorney General, of paying compensation for personal injury or death for such fiscal year for qualifying crimes that are described in section 7(8)(B); and

(2) 25 per centum of the then current cost, as determined by the Attorney General, of paying compensation for personal injury or death for such fiscal year for qualifying crimes that are described in section 7(8)(A). Grants under this section may be made in advance or by way of reimbursement. The Attorney General shall not have the power to modify the disposition of any individual claim that has been processed by any State program.

(b) For the purpose of carrying out the provisions of this Act, the Attorney General is authorized to—

(1) promulgate such rules, regulations, and procedures as are necessary to carry out the provisions of this Act, including rules and regulations regarding the data to be kept by State programs receiving funds under this Act and the manner in which these data shall be reported to the Attorney General; and

(2) approve in whole or in part, or deny, any application for an annual or supplemental grant under this Act.

QUALIFICATIONS OF STATE PROGRAMS

SEC. 4. A State proposing to receive payments to carry out a State program under this Act shall submit an application to the Attorney General at such time and in such form as the Attorney General shall prescribe by regulation. A State program for the compensation of victims of crime qualifies for grants under this Act if the Attorney General finds that such program is in effect in such State on a statewide basis during any part of the Federal fiscal year with respect to which grants are to be made and that such program substantially complies with the following criteria:

(1) The program offers—

(A) compensation for personal injury to any individual who suffers personal injury that is the result of a qualifying crime; and

(B) compensation for death to any surviving dependent of any individual whose death is the result of a qualifying crime.

(2) The program offers the right to a hearing with administrative or judicial review to aggrieved claimants.

(3) The program requires as a condition for compensation that claimants cooperate with appropriate law enforcement authorities with respect to the qualifying crime for which compensation is sought.

(4) The program does not have a limitation based on the financial means of the victim or any surviving dependent.

(5) There is in effect in the State a requirement that appropriate law enforcement agencies and officials exercise reasonable care to insure that victims of qualifying crimes are informed of—

(A) the existence of a State program of compensation for injuries sustained by victims; and

(B) the procedure for applying for compensation under that program.

(6) There is in effect in the State a law or rule that the State is subrogated to any right of action the victim, or a dependent of the victim, has against the perpetrator of the qualifying crime for personal injury or death resulting from the qualifying crime, to the extent of any money paid to the victim or dependent by the program.

(7) The program does not require any claimant to seek or accept any benefit in the nature of welfare unless such claimant was receiving such benefits prior to the occurrence of the qualifying crime that gave rise to the claim.

(8) The program requires denial or reduction of a claim if the victim or claimant contributed to the infliction of the death or injury with respect to which the claim is made.

(9) There is in effect in the State a law or rule that, in addition to or in lieu of any other penalty, a perpetrator of a crime may be required to make restitution to any victim or any surviving dependent of any victim for that crime.

(10) The program does not require that any person be apprehended, prosecuted, or convicted of the qualifying crime that gave rise to the claim.

LIMITATIONS ON FEDERAL GRANTS

SEC. 5. In computing the annual cost of a qualifying State program for the purpose of establishing the amount of Federal grants under section 3, there shall be excluded from such cost any amount for administrative expenses incurred in carrying out the program, any amount for which the program has received proceeds pursuant to section 4(6) or for which the victim or any dependent has received restitution pursuant to section 4(9), and any amount representing State compensation awards—

(1) for pain and suffering;

(2) for property loss;

(3) to the extent the amount of any award to a victim, or the aggregate amount of any awards to the surviving dependents of a victim with respect to such victim, exceeds $50,000.

(4) to any claimant who is entitled to receive compensation for personal injury or death from any source, other than from a compensation program assisted under this Act or from the perpetrator of the qualifying crime, up to the amount of that compensation;

(5) to any claimant whose award would be for an amount less than $100 or for lost earnings or loss of support computed on the basis of less than five work days;

(6) to the extent the amount of any award for loss of earnings to a victim, or the aggregate amount of any awards for loss of support to the surviving dependents of a victim with respect to such victim, exceeds $200 per week;

(7) to any claimant who failed to file a claim under the State program within one year after the occurrence of the qualifying crime, unless good cause for such failure to file has been found by the appropriate State agency; and

(8) to any claimant who failed to report the qualifying crime to law enforcement authorities within seventy-two hours after the occurrence of that qualifying crime, unless good cause for such failure to report has been found by the appropriate State agency.

REPORT OF THE ATTORNEY GENERAL

SEC. 6. Not later than one hundred and thirty-five days after the end of each Federal fiscal year in which grants were made to State programs under this Act, the Attorney General shall submit a report to the House and Senate Committees on the Judiciary. The report shall include—

(1) with regard to each qualifying State program—

(A) the number of persons compensated;

(B) a statistical presentation of—

(i) the kinds and corresponding amounts of loss compensated;

(ii) the range in monetary value of claims awarded;

(iii) the reasons for denial of claims; and

(iv) the types of crimes that resulted in claims;

(C) a description of the administrative mechanisms and procedures used in processing claims, including claims for emergency assistance if the program provides for such assistance;

(D) the time required to process claims, including claims for emergency assistance if the program provides for such assistance;

(E) efforts made to publicize the program;

(F) administrative expenses; and

(G) the number of qualifying crimes described in paragraph (8)(B) of section 7 that were compensated; and

(2) with regard to the activities of the Attorney General in carrying out the provisions of this Act—

(A) an itemized statement of grants and expenditures;

(B) copies of all rules promulgated pursuant to section 3(b); and

(C) projected expenditures for the Federal fiscal year in which the report is required to be submitted.

DEFINITIONS

SEC. 7. As used in this Act—

(1) "administrative expenses" includes any fee awarded by the State agency administering a State compensation program to any claimant's attorney, if such fee is paid in addition to, and not out of, the amount of compensation awarded to such claimant;

(2) "claim" means a written request to a State compensation program for compensation for personal injury or death made by or on behalf of a victim, or any surviving dependent of a victim, of a qualifying crime;

(3) "compensation for death" means compensation for loss that is the result of death caused by a qualifying crime, including—

(A) all appropriate and reasonable expenses necessarily incurred for funeral and burial expenses; and

(B) loss of support to any dependent of a victim, not otherwise paid as compensation for personal injury, for such period as the

dependency would have existed but for the death of the victim;

(4) "compensation for personal injury" means compensation for loss that is the result of personal injury caused by a qualifying crime, including—

(A) all appropriate and reasonable expenses necessarily incurred for ambulance, hospital, surgical, nursing, dental, prosthetic, and other medical and related professional services and devices relating to physical or psychiatric care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the appropriate State agency;

(B) all appropriate and reasonable expenses necessarily incurred for physical and occupational therapy and rehabilitation; and

(C) loss of past and anticipated future earnings;

(5) "dependent" means, with respect to any State compensation program, any dependent as defined by such State for purposes of such program;

(6) "personal injury" means, with respect to any State compensation program, personal injury occurring in such State as defined by that State for the purposes of such program;

(7) "property loss" does not include expenses incurred for medical, dental, surgical, or prosthetic services and devices;

(8) "qualifying crime" means—

(A) any act or omission that is criminally punishable under any statute of a State and that such State designates as appropriate for compensation under its program; or

(B) any act or omission that would be a qualifying crime under subparagraph (A) except for the fact that such act or omission is subject to exclusive Federal jurisdiction; and

(9) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States.

AUTHORIZATION

SEC. 8. For the purpose of carrying out the provisions of this Act, there are authorized to be appropriated $40,000,000 for the fiscal year ending September 30, 1979; $50,000,000 for the fiscal year ending September 30, 1980; and $60,000,000 for the fiscal year ending September 30, 1981.

EFFECTIVE DATE

SEC. 9. This Act shall be effective on the date of enactment, except that section 2(b) of the Act shall take effect six months after the date of enactment of this Act.

Mr. KENNEDY. Mr. President, one issue which has concerned every Member of this Chamber at one time or another is the problem of crime in our Nation. While we may not always agree on how best to resolve that problem, we have all attempted to deal with the complexities of this issue.

We have all felt the rippling effect crime has upon the citizens of this country. We have recognized its devastating effect on the fabric of our society. We have witnessed how it has eroded our security, heightened our fears, and violated our lives.

Our attempts to deal with this serious problem have spanned a broad range of efforts. We have enacted laws which provide strict penalties for criminal activity. We have provided increased law enforcement resources to detect, prevent, and prosecute offenders. We have established programs which, indirectly at least, attempt to deal with the root causes of crime. We have set up agencies to make funds available to assist all levels of the criminal justice system. And we have spent hundreds of millions of dollars on the care, treatment, and rehabilitation of offenders in the hope that they might become productive and law-abiding members of our society.

Our attention has been focused on the needs of the criminal justice system on the one hand, and on the needs of the criminal offender on the other. These efforts, however, have almost completely failed to give anything but nominal recognition to victims of crime. Granted, some efforts have been made: Restitution programs have been set up, victimization surveys have been conducted, rape crisis centers have been established, and witness assistance programs have been initiated. These programs, as laudable as their goals and purposes are, have generally been fragmented overburdened and understaffed. They have tended to serve only a very miniscule portion of the victim population in isolated geographic areas.

I do not mean to criticize these programs, nor do I mean to disparage their efforts or belittle their achievements. My point simply is this: there are literally hundreds of thousands of victims of personal crimes that we have completely forgotten and totally ignored. These people have become victims, because our society and this Nation have been frustrated in their attempts to deal with the crime problem. These people are victims, because we have been totally unable to prevent crime, to deter criminals, and to provide a safe environment for all citizens to live in.

A crime-free society may always remain a dream, but this reality should not lessen our efforts to achieve this ideal. Crime should not be the price of progress and development in a civilized society. But if it is in fact the price that must be paid, that price should not be borne solely and disproportionately by innocent victims of those crimes. There is no logical, social, political, or human reason why a citizen who is assaulted, brutalized, injured, or maimed as a result of a criminal act should be required to bear the economic burden resulting from medical expenses and lost wages in addition to the physical suffering and property loss.

Mr. President, a recent study funded by LEAA noted that each year there are nearly 6 million victimizations involving contact with the criminal; 38 percent (2,271,880) of the cases involve instances where the victim was attacked; 27 percent (1,589,832) of these cases involve injury to the victim; 10 percent (580,505) of those injured required medical attention; and 7 percent (428,390) required hospital treatment. Many of those who were injured and received treatment were covered by some type of medical insurance, but 76,696 of the victims had unreimbursed medical expenses amounting to $22,575,545, which they had to bear themselves.

Seventy-five percent (57,520) had unreimbursed medical expenses of less than $100. The remaining 25 percent of the victims (919,176), however, had unreimbursed medical expenses which amounted to 91 percent of the total amount of unreimbursed medical expenses ($20,523,296). What is even more striking is that 2 percent (1,716) of this victim group had to personally absorb 46 percent ($10,296,000) of the unreimbursed medical costs. These figures demonstrate unequivocally the unequal price victims of crime must pay for being an innocent victim.

There is another side to our responsibility for trying in someway to make the victim of a crime whole again. Without their cooperation in reporting, identifying, apprehending, and testifying against the perpetrator, the law enforcement task would be impossible to perform. Regardless of the reasons for their cooperation, the victim's cooperation in bringing a criminal to justice and getting the perpetrator off the streets is an indispensible function of the criminal justice system. It is their assistance which makes our society just a little safer—a benefit we all share in. Is it fair by any imaginable standard then that we require these same victims to bear the economic burden resulting from lost earnings and medical expenses?

Mr. President, a number of States have already begun addressing this problem and providing assistance to crime victims. Many of these programs have operated successfully for a number of years. My own State, Massachusetts, initiated a program 10 years ago. Last year, the program distributed nearly $1 million to victims of crime for unreimbursed medical expenses and lost earnings. Let me take just a few more minutes and tell you about some of the people helped by this program:

Bill D., a 23-year-old trucking company employee, earned $120 a week. He used $75 of his take-home pay to take care of his father, who had polio, his mother, who had lost one of her hands, and his brother, who had cerebral palsy. On October 10, 1977, Bill was driving down a road and was stopped by a man who Bill thought wanted directions. The man grabbed Bill, pulled him out of the car, stabbed him to death and stole what little money he had. Bill's family received the maximum award of $10,000 which helped them to begin a new life without Bill.

Fred W., owned and operated a small liquor store. On Christmas Eve of last year, he left the store to deposit the store's daily receipts, and then he planned to go home and celebrate the holidays with his elderly wife. As he got in his car, a man approached him, attempted to rob him, and shot him to death. Fred's widow received an award of $10,000, which helped her to pay burial expenses as well as provide her with a minimum of financial support.

Robert O., was a 29-year-old high school teacher. Early one morning a man pounded on the door of his house and identified himself as a police officer. Robert opened the door, and two men rushed in, shot him in the head, and robbed him. As a result of this attack, Robert is now paralyzed from the waist down, and has suffered permanent brain damage which caused him to lose his teaching job. He received $10,000 from

the program which helped to defray medical expenses and to pay for intensive physical therapy.

Eleanor C., a 75-year-old resident of Boston, was walking down the street one day when she was assaulted and robbed. She suffered broken bones in her face, hand, and shoulder, and was knocked unconscious. After her hospitalization, she needed nursing assistance at home and transportation to and from the hospital where she went for therapy. None of these latter costs were covered by medicare, and the Massachusetts program awarded her $650 for these expenses.

Allieu M., a world-ranked marathoner, was assaulted one day while training by six people merely because he was black. He suffered serious injury in addition to having his teeth kicked out. He did not have any medical insurance, and his $2,500 in medical expenses were covered under the program.

Paul K., a truckdriver for a Boston newspaper, was robbed, shot, and stabbed one day while working. He had $7,000 in medical expenses which were paid by insurance, but lost over $6,400 which was not covered by workmen's compensation. The program reimbursed him for his lost earnings.

These are just a few of the many examples which I could relate to you about the victims which our program has helped. I am sure that these examples could be multiplied by every Senator whose State has a similar program.

Recently my staff completed a study of existing victim compensation programs throughout the country which showed that nearly $17.5 million had been provided for crime victims. Under the provisions of S. 551, the Federal share for these programs would have been approximately $4.4 million, far less than is presently authorized for the program. The following table provides a detailed breakdown of each of the State programs which have existed for more than 1 fiscal year, the total program costs, the total amount of payments to victims, and the total administrative costs. I have also included the ratio of administrative costs to total program costs which clearly shows that the States are operating their own programs very efficiently.

State and budget year dates	Percent	Total administrative expenses	Total payments to victims	Total program costs
Maryland:				
June 30, 1977 to July 1, 1978	11	$139,122.00	$1,133,383.00	$1,272,505.00
Delaware:				
July 1, 1977 to June 30, 1978	37	87,941.82	146,872.92	234,814.74
Virginia:				
July 1, 1977 to June 30, 1978	23	31,076.10	103,268.83	134,344.93
New York:				
Apr. 1, 1977 to Mar. 31, 1978	15	739,317.00	4,313,078.00	5,052,395.00
New Jersey:				
July 1, 1977 to June 30, 1978	15	167,298.00	919,046.11	1,086,354.11
Ohio:				
July 1, 1977 to June 30, 1978	20	316,326.54	1,242,753.00	1,559,079.54
Pennsylvania:				
July 1, 1977 to June 30, 1978	24	237,586.00	746,320.00	983,906.00
Wisconsin:				
Jan. 1, 1977 to Dec. 31, 1977	22	56,201.35	201,912.31	258,113.66
Kentucky:				
June 30, 1977 to July 1, 1978	27	[1] 24,417.15	66,902.16	91,319.31
Minnesota:				
July 1, 1976 to June 30, 1977	15	40,860.00	224,278.34	265,138.34
North Dakota:				
July 1, 1976 to June 30, 1977	39	$16,567.24	$26,161.22	$42,728.46
Washington:				
July 1, 1977 to June 30, 1978	14	155,925.00	983,610.00	1,139,535.00
California:				
July 1, 1977 to June 30, 1978	15	867,306.96	5,025,288.84	5,892,595.80
Alaska:				
July 1, 1976 to June 30, 1977	20	74,985.31	120,968.07	195,953.38
Massachusetts:				
July 1, 1977 to June 30, 1978		[2] NA	915,391.78	NA
Hawaii:				
Jan. 1, 1977 to Dec. 31, 1977	20	56,944.00	223,863.55	280,807.55
Illinois:				
June 30, 1977 to July 1, 1978		[2] NA	1,082,214.26	NA
Total payments to victims			17,475,312.39	
25 percent Federal share			4,368,828.10	

[1] Cost of claim investigators only. Total administrative cost combines victim compensations and Board of Claims—$248,665.98. Breakdown not available.

[2] Administrative costs combine Attorney General's office, Court of Claims and victim compensation program. Breakdown not available.

Note: Florida program established January 1978. Michigan program established October 1977. Oregon program established January 1978 (victim payments $126,000 to date). Tennessee program established July 1978. Indiana program established June 1978. Kansas program established August 1978. Nevada has a "good samaritan" policy where the victim is awarded compensation only if he was harmed while attempting to prevent a crime. Last fiscal year (June 30, 1977 to July 1, 1978) there was only 1 award amounting to $5,000.

Mr. President, I would be hard pressed to think of a better example of money well spent. In many instances, especially in the case of elderly victims which has deeply concerned me for many years, the assistance provided by these State programs was the difference between financial security and severe economic hardship. In the amendment which my distinguished colleagues, the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Wyoming (Mr. WALLOP), and I have introduced, special emphasis was placed on the elderly crime victim. We have included a provision which allows the States to waive the deductible provisions in instances where the crime victim is an elderly person. It is our strong desire and fervent hope that the several States will adopt this measure and take special care of our senior citizens who are not only more susceptible to becoming a crime victim but also more likely to suffer serious injury and severe financial hardship as a result of the crime.

Mr. President, S. 551 is the culmination of years of effort and concern for the forgotten victims of crime. Our work today stands as a special tribute to the man who spearheaded that effort and kept that concern alive. I am speaking, of course, of the former Senator from Minnesota, Mr. Humphrey, whose entire life and work was epitomized by a sense of human caring which continues to permeate this Chamber and inspire us all. It is principally because of his tireless efforts and because of his genuine concern that this important legislation has come to fruition. It is indeed sad that he cannot be here today to see the results of his dedication. But the challenge and inspiration he has left as his legacy certainly are present. It is that influence which has guided us in the past and brings us together today to act upon this legislation.

I urge all of my colleagues to join with us in adopting this legislation.

Mr. MATSUNAGA. Mr. President, I rise in support of S. 551, the proposed Victims of Crime Act of 1978, and urge my colleagues to join me in support of this important measure.

Mr. President, the enactment of the legislation before the Senate today designed to provide Federal assistance to the States for the purpose of compensating victims of crime is long overdue. As my colleagues well know, the Senate has long supported the idea of compensating victims of violent crime. In each of the past three Congresses, the Senate has approved some form of victims compensation legislation, only to watch similar measures die in the House of Representatives. During the current Congress, the Senate passed S. 1437, the Criminal Code Reform Act of 1977, which contains a provision providing for the compensation of victims of Federal crimes. Most significantly, however, the Senate Judiciary Committee, on June 28 of this year, favorably reported S. 551, the Victims of Crime Act of 1978, to the full Senate. This bill was introduced last year by the late Senator Hubert H. Humphrey and cosponsored by 20 Members from both sides of the aisle. I am proud to be one of the original cosponsors of the Senate bill, which I first introduced in a slightly different form in 1965, while a Member of the House of Representatives.

Mr. President, we are closer today than even before in the long history of this legislation to the enactment of a comprehensive crime victims compensation law. Support for the proposed Victims of Crime Act has been bipartisan and has come from national, State, and local groups and organizations not always found on the same side of the crucial issues of the day.

The act has been endorsed by officials, both Democrat and Republican, of many States with and without established crime victim programs. It has been endorsed by numerous and diverse groups and organizations such as the National Conference of State Legislatures, the National District Attorneys Association, the National League of

Cities and the U.S. Conference of Mayors, the American Bar Association, the National Council on Crime and Delinquency, the National Retired Teachers Association, the American Association of Retired Persons and the National Council on Senior Citizens, the International Conference of Police Organizations and the Fraternal Order of Police, the International Association of Chiefs of Police, Americans for Effective Law Enforcement, the National Moratorium on Prison Construction, the United Automobile Workers, and the Americans for Democratic Action.

Furthermore, President Carter last year announced his administration's full support for victims compensation legislation and urged the Congress to pass such a bill. I might remind my colleagues that the Ford administration also endorsed similar legislation during the 94th Congress.

The single most important signal of support, however, came last year from the House of Representatives. The House passed, for the first time, a victims compensation bill very similar to the legislation we are considering today. Indeed, I was particularly pleased about this action in the other body because of the fact that as as a Member of the House, I fought long and hard for the passage of this legislation. I am sure that the other cosponsors of S. 551 join me in commending the distinguished chairman of the House Judiciary Committee, PETER RODINO, and the other members of his committee for this long-awaited accomplishment.

Mr. President, it is now up to the Senate to take final action on the Victims of Crime Act. S. 551, is designed to provide federal assistance to qualified state programs for the purpose of compensating all victims of crime for losses resulting in physical injuries or death. State programs will be entitled to a Federal reimbursement of 25 percent of the costs of compensating victims of State crimes and 100 percent of the costs of compensating victims of federal crimes. This legislation will enable those States with crime victim compensation programs to favorably respond to more crime victims than ever before. It will assist more eligible victims by defraying the high cost of medical care and providing reimbursement for lost wages.

Mr. President, two of the important goals of the Victims of Crime Act are: first, to provide Federal financial assistance to insure the continuation of existing State victims programs, and second, to provide an adequate incentive to encourage States to establish victims compensation programs. In this respect, I join the Senator from Minnesota (Mrs. HUMPHREY) in hoping that the 25 percent Federal share established in this legislation will be increased during the next Congress.

Under S. 551, States are required to provide 75 percent of the costs of compensating victims of State crimes, as well as carry the full administrative costs of their programs. While I am convinced that the Federal assistance provided in the bill will provide financial relief to overburdened State programs and encourage other States to establish programs, I believe that a higher level of Federal reimbursement is necessary in order to insure the full attainment of goals of the Victims of Crime Act. I am hopeful that after reviewing the report of the Attorney General on the act, which is required by section 6 of S. 551, the Senate will have a better picture of the costs of State programs and take legislative steps to increase the Federal contribution to 50 percent of the costs of compensating State crime victims. At that time, I will also urge the Senate to consider applying such an increased Federal percentage to the total costs of state programs, rather than just to the costs of paying compensation.

Mr. President, S. 551 stands out from other crime victims compensation bills considered by the Senate in the past in that it addresses, to some extent, the difficult and unique problems of elderly crime victims. It has been brought to our attention that elderly victims, nearly half of whom live at or below the poverty level, experience monetary losses as a result of crime more often and more severely than any other segment of our population. S. 551, as introduced and reported, would unintentionally exclude many elderly victims because of a provision limiting Federal reimbursements for awards to claimants of less than $100. To insure that elderly victims are treated with special care and consideration under the Victims of Crime Act, we have amended S. 551 to provide a waiver of the $100 deductible clause for victims 62 years of age and over. I believe that this is an important and necessary modification of S. 551 in terms of assisting elderly victims and I hope that my colleagues will support it.

I might emphasize, in addition, that it is our intention in this legislation to encourage states to develop programs for the emergency compensation of elderly crime victims. The recent House Aging Committee study on elderly victimization had this to say:

> Many older people have no bank accounts from which they can withdraw funds in an emergency, that is, if robbed. They must often wait until their social security pension or supplemental security income checks arrive in the following month.

Indeed, emergency compensation payments to elderly victims are most important in view of the limited resources and special needs of senior citizens. I hope that the States will follow the lead of New York City which is the first jurisdiction to establish a program specifically designed to provide immediate, emergency financial assistance to elderly victims of crime.

Mr. President, I have heard it said from time to time that crime victims in this country are victimized first by the criminal offender and second by our own criminal justice system. Whether or not this statement is true has long been the subject of debate. However, I do believe that the plight of the innocent victim of crime in this country has had a serious impact on the functioning of our criminal justice system during these times of increasing crime and violence. While there is currently great public concern about crime in our neighborhoods, there is, ironically, a serious alienation on the part of the American public from our criminal justice system.

This alienation on the part of the public is reported and confirmed by both law enforcement officials and prosecutors. People are becoming more and more unwilling to assist in the apprehension and prosecution of criminal offenders. Those that are witnesses to crime do not want to become involved. Those who are victims of crime many times refuse to cooperate with police or refuse to press charges.

Mr. President, this desire not to become involved has an obvious and serious impact on our battle against crime. Without the full cooperation of victims and witnesses, it becomes very difficult, often impossible, to apprehend, prosecute, and convict criminals. An equally serious problem is the large number of crimes that are not reported to the public. As a result, many offenders who are dangerous to the community remain free.

Mr. President, in the final analysis, we will only be successful in our war against crime if we have the cooperation of all citizens—cooperation as victims, as witnesses, as complainants, and as voluntary obeyers of the law. Voluntary cooperation is indeed the foundation of our criminal justice system. I strongly believe that the legislation before the Senate is specially directed to reduce the alienation of the public from that system. The Victims of Crime Act will encourage both citizen cooperation with police and prosecutors and the reporting of crimes to law enforcement authorities. If this legislation would accomplish only these two goals, I believe that it would be worthy of our support.

Mr. President, Cicero said, in the first century before Christ, "The safety of the people is the highest law." In my judgment, this holds true under our Nation's constitutional system. It is the duty of our Government to provide for the general welfare of the people, particularly when it is beyond the means of the States acting alone, and beyond the capacity of the people individually, to provide for it. The enactment of the Victims of Crime Act will be an important recognition of our Government's responsibility to protect its citizens, and upon its failure to do so, compensate them for their injuries.

Mr. President, I commend to my colleagues the thoughtful and favorable consideration of the provisions of the Victims of Crime Act. I feel that the Senate should adopt this measure to show once again that our Government is not only a just government, but also a compassionate government.

Finally, Mr. President, I would like to commend the distinguished Senator from Massachusetts (Mr. KENNEDY) for his strong leadership on this important issue and his active support for this legislation in the Judiciary Committee and here on the Senate floor. I would like to thank the distinguished Senator from Wyoming (Mr. WALLOP) for his assistance in making this bill acceptable to his side of the aisle. I would also like to thank my dear colleague from Minnesota, with whom I worked very closely on this bill, for her

invaluable contribution to this measure which her deceased husband Hubert Humphrey introduced in the Senate early last year, and which will, when enacted, stand as another living memorial in his honor.

Mrs. HUMPHREY. Mr. President, I rise to urge my colleagues to support S. 551, the Victims of Crime Act of 1978.

It is clear that despite our best efforts, crime is increasing and will continue to plague society. It has become a cancer on society. It is no longer just a local problem, it is a major, national problem which continues to alienate our citizens.

S. 551 is a reasonable bill premised on the belief that the Federal Government has the constitutional responsibility and duty to provide for the general welfare, and that this includes the safety of the people.

Violent crime frequently maims and permanently injures the innocent victim, and it is certainly the Government's responsibility to assist our citizens when it is beyond their capacity to help themselves.

As we consider this bill, we should ask ourselves what is the value of being physically and mentally able to be productively employed, active members of society? I think we owe it to the innocent victims of crime when, because of society's failure to protect them, they are robbed of the ability to earn an income and to participate in society without being under the duress of a physical or mental handicap.

This bill provides that a qualified State crime compensation program is eligible for a grant equal to 25 percent of the current cost of paying victims of State crimes and 100 percent of its costs of paying compensation to victims of analogous Federal crimes. The cost of administering the crime victim compensation program would be borne entirely by the State.

My own State of Minnesota has a very successful program which is meeting the needs of victims and helping to improve law enforcement. In fiscal year 1977–78 the State spent $375,000 on its crime victim compensation program. Almost 90 percent of the budget was direct aid to the victims, who received an average claim payment of just over $1,500.

In 1974, Minnesota recognized the humanitarian need for a crime victim compensation program. Without the benefits of Minnesota's program, the victim is often left with burdensome bills and the anxiety they bring. Minnesota's program has helped alleviate the victim's anxiety and improved law enforcement by increasing citizen cooperation.

One important question which needs to be answered about the Federal role in crime victim compensation is how much will it cost? A recent Law Enforcement Assistance Administration study indicates that if the program's eligibility requirements: First, contain provisions requiring the victim to have incurred at least $100 worth of medical expenses in addition to those paid by a private insurance company; and second, require the victim to miss 1 week of work to be eligible for loss of earnings reimbursement, the total program costs, State and Federal, would be approximately $50 million. Since this bill provides for 25-percent Federal sharing of the compensation for qualifying State crimes, it is clear that overall Federal expenditures should easily fall within the authorization limits in the bill.

S. 551 contains an important step in our effort to fight crime across this Nation. A key provision of the bill provides that States cannot receive Federal funds for those crimes where the victim fails to cooperate with law enforcement authorities. This provision will assist law enforcement officers in apprehending, prosecuting and convicting suspects.

Mr. President, one of the outstanding features of this bill is its treatment of senior citizens. Although recent research indicates that the crime rate against the elderly is lower than that for other age groups, it also indicates that the psychological, physical, and economic impact of crime is considerably greater for the elderly. Victimization surveys indicate more frequent hospitalization of the elderly crime victim, subsequent to an injury, compared to other age group. In short, the problems and needs of the elderly victim are different from other classes of victims, and the elderly deserve special consideration. This bill gives them consideration by providing a waiver for elderly victims of the $100 deductible but, just as important, it should be clear to the States that we are encouraging them to provide immediate emergency payments to the elderly.

Finally, Mr. President, I would like to thank the Senator from Massachusetts for his leadership on this issue. Senator KENNEDY has been an active supporter of this legislation since it was first introduced by Hubert in 1977. I know he is as pleased as I am that it will soon become law.

Mr. MATSUNAGA. Mr. President, I am sure that the Senator from Minnesota will agree that the alarming increase in violent crime in this country in recent years has been directed toward a specific segment of our population—the elderly. As we all know, America's senior citizens are virtually defenseless against criminal assault because of their physical limitations, lifestyles, and social habits. A recent study conducted by the House Select Committee on Aging clearly shows that crime against the elderly is ever-increasing, with Americans 65 and over experiencing the greatest overall increase in crimes of violence with the exception of males between the ages of 16 and 19.

The House study reveals that our Nation's elderly—some 20 million Americans—have become the primary victims of common street and household crimes such as muggings, purse snatchings, burglaries, and confidence games. Elderly victims are not only less resilient to the trauma and personal injury of a criminal attack, but they are also very vulnerable to serious financial injury due to the fact that they live on low, fixed incomes. Other studies on the effects of crime on the elderly have found that elderly crime victims become particularly fearful of falling victim to crime again. In some cases, they place themselves under a self-imposed house arrest to the extent that they may suffer from bad health and malnutrition because they are afraid to move out of their homes for medical care and food.

In my judgment, it is clear that physically, psychologically, and financially, the elderly who have been victimized by crime suffer more hardships than any other group of Americans. I know that the Senator from Minnesota is deeply concerned, as I am, about the many problems of America's elderly citizens and will agree that if we do not begin today to address the difficult problems faced by elderly crime victims, those problems will continue to grow in size and severity. I believe that this legislation, the Victims of Crime Act, represents an important first step in this direction and for this reason is worthy of our support.

Mrs. HUMPHREY. Will the Senator from Hawaii yield?

Mr. MATSUNAGA. I am happy to yield to the distinguished Senator from Minnesota.

Mrs. HUMPHREY. Mr. President, I agree with my good friend from Hawaii that violent crime is a serious and growing problem for the elderly and that we have to do something to help the elderly victim now. As the Senator knows, more than 20 States have crime victim compensation programs. Both Minnesota and Hawaii have very fine programs.

Furthermore, 14 States with crime victim compensation programs also have provisions for emergency compensation prior to the receipt of the final award. Minnesota's and Hawaii's programs have such a provision and I know that the emergency compensation program is working well in Minnesota.

In many of these 14 States, if not in all of them, all innocent victims of crime, not just elderly victims, are eligible for emergency compensation. What I think we need to make clear to the other States who currently have programs and to those States which will develop programs is that at a minimum, the elderly should be eligible for emergency compensation. In some States, it may mean partial compensation on the same day a claim is filed. In other States, because of administrative procedures, it may take a little longer to provide emergency compensation. We need to make clear that it is our intent for States to provide the elderly emergency relief in the most expeditious manner possible. This can be done at a minimal cost, and, as the Senator from Hawaii has pointed out, there is a great need for this type of help for the elderly.

● Mr. McCLURE. Mr. President, I oppose S. 551, not because I oppose the types of systems which it seeks to fund—I heartily endorse State programs to compensate victims of criminal acts—but because Federal Government involvement is both unnecessary and destructive of the programs already in existence.

Nearly half of the States have been able to establish programs to compensate victims of crime without the benefit of S. 551. Furthermore, there is no indication that these programs have undergone the type of dire financial

hardship that would suggest the necessity of Federal involvement. To the contrary, State programs appear to have prospered without the fatherly intervention of the Federal Government.

Rather, this is one more case of the Federal Government spending money without any real indication that funding from the Federal Government is necessary for the furtherance of its social purpose.

In a post-Jarvis era, we can no longer afford this type of expenditure. It is no longer enough that a federally funded program be "nice" or efficacious—although it would help if some of the programs already in existence fit this description. We need instead to ask ourselves whether a pressing national purpose demands a Federal Government commitment as a sine qua non to its accomplishment. In this case, the answer is clearly "no."

Why, then, are proponents of this legislation so eager to entwine the Federal Government in State programs to compensate victims of crime? Part of the reason is the insatiable desire of interest groups, both governmental and nongovernmental, for increased levels of subsidization.

At least as important, however, is the feeling on the part of those of us in Washington that we can run State programs better than the States can. As a result, the bill reported out of committee would have disqualified from receiving funding a majority of the State systems currently in existence. Although the Wallop amendment does improve the bill slightly by removing some of the Federal strings, between a third and a half of State programs would still have to be legislatively altered in order for those States to qualify for continued funding under this bill.

Mr. President, the genius of our federal system is the ability of 50 governmental units to experiment with various ways of accomplishing governmental purposes. While I do not agree with every policy embodied in State programs to compensate victims of crime, I believe that States should have the right to make the types of distinctions which they deem to be reasonable.

Hence, I would not, out of hand, deny the States the right to target funding at those individuals who are most needy. Neither would I definitely circumscribe expedited procedures which States might establish in order to avoid extensive judicial proceedings. These are areas in which the States should be free to experiment for the purpose of developing systems tailored to their individual needs and philosophies. This bill, although not definitively binding on the States would, practically speaking, put an end to such experimentation.

In this respect the draftsmen of S. 551 are more candid than most legislative sponsors. Normally, the funding comes first; then, the strings. With S. 551, we can already see the emergence of the types of conditions which so inexorably flow from the receipt of Federal money. This should alert us to the fact that the States will inevitably pay dearly for the breadcrumbs embodied in this legislation.

Finally, I oppose S. 551 because of my expectation that funding will increase geometrically when the time comes for reauthorization. We have seen the same pattern before, frequently with the same cast of characters: A program is created and is provided with just enough money to lobby for more money. Two or 3 years down the line, what began as a small program becomes voracious.

This was the pattern for legal services activities, health care research programs, and protection and advocacy for the handicapped—all programs in which the Senator from Massachusetts has displayed a more than passing interest.

In view of the fact that proposals have already been made to double the size of S. 551 by increasing the Federal share to 50 percent, how can the proponents assure us that this program will not follow the path of all of the others? Will the Senate never learn from its experiences with this type of program?

Mr. President, for all of the reasons I have enumerated, I oppose this legislation.●

Mr. BAKER. Mr. President, I ask unanimous consent that the statement of the Senator from Wyoming (Mr. WALLOP) and the Senator from Alaska (Mr. STEVENS) appear appropriately in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR WALLOP

Mr. WALLOP. Mr. President, my remarks will be brief and are intended to explain the amendment to S. 551 that I am cosponsoring today with Senators Kennedy, Humphrey and Matsunaga.

The Victims of Crime Act of 1978, S. 551 is designed to serve as an incentive to states to set up and maintain compensation program for victims of crimes. The bill originally set forth ten mandatory criteria with which a state would have to comply in order to be eligible for federal funds. If a state did not satisfy all ten requirements, it could not participate in the federal program created by S. 551. The vast majority of the twenty states which had compensation programs in existence at the time the bill was introduced would have been ineligible for federal monies because they differed in several respects from the ten mandatory requirements of the legislation. To become eligible for federal monies, each of these state legislatures would have been compelled to amend the authorizing statutes for their state programs. No grace period was provided.

It is anamolous that a bill designed to encourage states to establish crime compensation plans would not fund those states that already have plans, particularly in light of testimony before the Senate Subcommittee on Criminal Laws and Procedures and the House Criminal Justice Subcommittee, which is summarized in the report accompanying S. 551, excerpts of which are as follows:

"From this testimony, and from various reports submitted to the Committee, it must be concluded that the States are administering their victim compensation programs in a commendable way. There seems to be a conscious effort to keep a firm rein on the expenditure of public funds for this purpose."

The amendment I offered during committee markup would have changed this result. The majority of the twenty existing programs would have been eligible to participate in the federal program envisioned by S. 551. Under the amendment a state would be eligible for federal funds if the state plan was in "substantial compliance" with the ten criteria in the bill. In adopting this "substantial compliance" language, the Committee accepted my contention that the requirements of the bill should not be so rigid as to penalize those states whose programs did not fully comply with the subsequently imposed federal criteria, especially where it has been demontrated that these programs were operating effectively and efficiently.

The amendment we are offering today to Section 4 of S. 551, as amended, is a refinement of the amendment adopted by the Judiciary Committee. It is the product of weeks of deliberation and discussion between Senator Kennedy and I. It avoids any difficulties in interpretation and application of the "substantial compliance" language without compromising the goals I sought to reach.

This amendment restricts federal dominance over state programs to those areas in which the federal government has a legitimate interest by reducing the number of mandatory criteria in the bill from 10 to 6. In addition, it provides that all existing programs will be funded for at least one legislative session after the effective date of this legislation whether or not they comply fully with the newly imposed federal criteria.

The effect of this amendment is to grandfather all programs in existence on the effective date of the act for at least one regular session of the State legislature which should provide adequate opportunity for state legislatures to take whatever steps are necessary to bring the state plan into full compliance with the six mandatory criteria in the bill.

Mr. President, I am satisfied that this amendment deals fairly and equitably with all the states which are presently administering victims compensation plans, and I hope that by reducing the number of mandatory criteria in the bill, many other states will be induced to participate in the program created by this legislation.

Finally, I am pleased to endorse the portion of this amendment which will make special provision for elderly victims of crime.

STATEMENT BY SENATOR STEVENS

Mr. STEVENS. Mr. President, one of the most appalling discrepancies of our time is the difference in treatment received between the criminal and the victim of crime. Criminals may receive free legal representation, counseling, job training, rehabilitation, medical care, etc., at great cost to the American taxpayer. But what happens to the victims of those crimes? Generally the victim is simply ignored while he or she experiences mental or physical anguish, often expensive medical and hospital bills and lost earnings. Further, as is often the case when death results from the criminal activity, dependents of the victims are left without means of support. I believe that S. 551 takes a big step in righting that injustice.

S. 551 encourages States to enact legislation to set up their own programs by providing for payment by the Federal Government of 100 percent of certain costs of compensating victims of exclusively Federal offenses and 25 percent of those costs with respect to the victims of State offenses. This bill permits the States to establish their own programs with a minimum of Federal red tape and bureaucracy.

Although the guidelines are miminal, I believe that they adequately protect the system from abuses and unnecessary costs. For example, the bill provides certain limitations on Federal grants specifying types of compensation awards for which the Federal Government will not provide funding—including payments for pain and suffering, payments for property loss, aggregate payments exceeding $50,000 to a victim on his dependents,

payments for awards of less than $100, and payments for lost earnings or lost support in excess of $200 per week for a period of less than 5 work days.

Further, Federal money will not be used to pay for administrative costs—it will be provided only to pay for the grant to the victim. Mr. President, I believe the bill before us is an equitable one. The States will bear 75 percent of the costs, as well as administer and shape their own programs. Today there are already 20 states which have their own programs. My state of Alaska, for instance, began just such a program several years ago and I believe that they have done an excellent job. It is important that programs such as this be encouraged and that other States have the opportunity to build such a program which they might not otherwise have without the passage of this legislation.

● Mr. CHURCH. Mr. President, as chairman of the Committee on Aging, I shall direct my remarks to provision in S. 551 directly affecting older Americans.

The Victims of Crime Compensation Act is especially helpful for the elderly because it waives the $100 deductible provision for persons 62 or older. This exemption recognizes that criminal victimization—even though the resultant personal injury loss may be small—may have a devastating financial impact for older Americans struggling on limited income. A $50 loss, for example, may result in unpaid utility bills, unfilled prescriptions, or missed meals. This exemption further recognizes that the older victim is most likely to be a low-income individual involved in a purse snatching or other street crime involving minor, but still serious, monetary loss due to physical injury. This bill also encourages elderly victims to come forward, report crimes, and seek assistance by prohibiting any means test or requiring claimants to seek welfare. This is consistent with other major programs for older Americans—such as medicare or the Older Americans Act—which do not impose any demeaning means test because it is cumbersome and expensive to administer.

The Committee on Aging has heard repeatedly that elderly victims frequently suffer longterm harm due to their physical frailties and fixed incomes. Many older Americans live under a form of house arrest because of fear of criminal victimization. To the extent that a Federal contribution can encourage the establishment and expansion of victims compensation programs, it can help to reduce this fear by letting the elderly know that a criminal attack need not result in crippling financial losses.

It is also my understanding that Senator KENNEDY and other Senate conferees will seek conference report language encouraging the States to establish emergency compensation procedures for elderly victims. Immediate aid is often essential for the traumatized older person. Fourteen States already provide immediate assistance. An article in the July 2 New York Daily News describes the workings of such a program administered by the dedicated staff of the Jamaica Service Program for Older Adults. Mr. President, I ask that this article be inserted in the RECORD at the conclusion of my remarks. As this article notes, the program has two beneficial effects: First, to give direct and immediate help, and second, to see that the State compensation program is functioning properly for older victims.

The inclusion of these provisions must be credited to the effective research and advocacy of the National Committee on Crime and the Elderly, working in conjunction with staff of the Committee on Aging and Committee on the Judiciary. The National Committee was founded in 1974 to develop a national program of crime prevention and assistance for older persons. It is composed of leading organizations representing and working in behalf of older Americans—the National Council of Senior Citizens, National Retired Teachers Association/American Association of Retired Persons, National Center on the Black Aged, National Council on the Aging, U.S. Conference of Mayors, and the Urban Elderly Coalition. The committee's activities are funded through the Administration on Aging, Community Services Administration, Law Enforcement Assistance Administration, Department of Housing and Urban Development, and the Ford Foundation. I salute the constructive contribution which the committee has made in improving this legislation in behalf of older Americans, and look forward to continuing to work with them so that the Nation's elderly can have less fear of being the victims of a criminal attack, and greater assurance of quick and effective aid when they are victimized.

The article follows:

[From the New York Daily News, July 2, 1978]

AGED CRIME VICTIMS GET AID FAST

(By Jack Leahy)

"I told him take everything, only please don't hurt me," said the 79-year-old Jamaica woman. "But he still knocked me down and kicked me and kicked me . . ."

The woman, still tearful and too terrified to allow her name to be revealed, was a victim of one of the human animals that roam the city's streets and apartment buildings, preying on defenseless old people.

Since April, when an emergency assistance program for elderly crime victims was started in Jamaica, more than 175 persons have been helped financially or otherwise, according to Ellen Camerieri, coordinator of the project for the Jamaica Service Program for Older Adults, 9247 165th St.

MANY NEED ASSISTANCE

"Fortunately or unfortunately, depending on how you look at it, the program is going very well," said Camerieri. "It proves that a great many crime victims need this kind of assistance."

The case of the beaten woman was typical of many others, Camerieri said. If anything, the woman was more cautious than most.

"I have my Social Security check sent directly for deposit in my bank," said the woman. "The day I was robbed, I had gone to the bank to withdraw some money I needed.

"It was an unusually large amount—more than $100—and the teller warned me not to go directly home with it because someone might be watching for me," she recalled.

"DIDN'T SEE ANYONE"

"I can't walk very far because of arthritis, but I stopped at the library for a while. When I got to my apartment, I didn't think anyone was following me and I didn't see anyone in the hallway.

"But this big man appeared from nowhere, just as I opened my door. He wore a pink nylon jacket and he took a knife out of his pocket and he said he'd cut me to pieces if I didn't give him money.

"I'd have given him anything, anything . . . he didn't have to hurt me. I would rather he killed me than make me suffer so much pain."

The emergency assistance program couldn't remove the woman's pain, but it did see that she got medical aid, daily nursing and a homemaker to help her until she regains use of her right arm, which had been immobile since the vicious assault.

FOR IMMEDIATE NEEDS

Emergency assistance is meant to be just that, Camerieri emphasized. The program is geared to provide help immediately after a crime—overnight shelter, replacement of broken locks, transportation to medical facilities, temporary homemaker service, psychological counseling, etc.—not long-term assistance that is provided for the elderly by other social agencies, she said.

"The program has a two-fold purpose," said Camerieri. "First, to help the victim directly and second, to see that state crime victim systems are functioning properly for the aging.

"We have found there is a great need for advocates to help senior citizens to negotiate with the Crime Victims Compensation Board, for example, and the Emergency Assistance for Adults program of the State Department of Social Services."

Recently, a police officer from the 103d Precinct in Jamaica, who was unusually knowledgeable about such agencies, referred an elderly crime victim to Emergency Assistance for Adults for help in moving to a safer neighborhood, Camerieri said.

"The victim was first told that she was ineligible for relocation aid," recalled Camerieri. "Then we interceded for her and she was eligible."

The Jamaica program is privately funded through the Community Service Society for an 18-month period to serve residents of the 103d, 105th, 106th and 113th police precincts.

Capt. John Kelly, commanding officer of the 103d, hailed the program for meeting "a very real need."

"When older people get ripped off, very often they shut themselves in their homes and don't go out for a week or more, even to get food," Kelly said.

LONG WELFARE LINES

"They might not have any money to buy anything until the next check comes in from Social Security," he continued. "Welfare takes time, and many oldsters feel their dignity is imposed upon if they have to wait on long lines in a welfare office.

"Some fast emergency cash or even a simple thing like getting a lock fixed can be very important at such times."

Just the fact that someone was interested in helping her boosted the spirits of 91-year-old Lydia Loebmann, who heard about the program at the Archer Ave. Seniors Center, located in the same building as the Jamaica Service Program for Older Adults.

"I was mugged and hurt in my apartment building by some young punk," said Loebmann. "He took my purse with what few dollars I had in it, along with my Social Security card and my half-fare seniors transit card.

PAID FOR MEDICINES

"The emergency assistance people were wonderful," she declared. "They paid for my doctor bill and medicines and they took care of getting new copies of my cards."

About 80% of victim referrals have come from police precincts; the remainder applied

directly to the Jamaica Service Program, Camerieri said.

"It's a very positive program," a police official said. "It could be used citywide, if we could ever come up with the money for it." ●

UP AMENDMENT NO. 1828

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY), for himself, Mrs. HUMPHREY, Mr. MATSUNAGA, Mr. BIDEN, and Mr. WALLOP, proposes an unprinted amendment numbered 1828.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(1) On page 14, section 4, beginning with line 16, strike through and including line 23 on page 16 and insert in lieu thereof the following:

"SEC. 4. (a) A State proposing to receive payments to carry out a State program under this Act shall submit an application to the Attorney General at such time and in such form as the Attorney General shall prescribe by regulation. A State program for the compensation of victims of crime qualifies for grants under this Act if the Attorney General finds that such program is in effect in such State on a statewide basis during any part of the Federal fiscal year with respect to which grants are to be made and that such program meets the following criteria:

"(1) The program offers—

"(A) compensation for personal injury to any individual who suffers personal injury that is the result of a qualifying crime; and

"(B) compensation for death to any surviving dependent of any individual whose death is the result of a qualifying crime.

"(2) The program offers the right to a hearing with administrative or judicial review to aggrieved claimants.

"(3) The program does not have a limitation based on the financial means of the victim or any surviving dependent.

"(4) The program does not require any claimant to seek or accept any benefit in the nature of welfare unless such claimant was receiving such benefits prior to the occurrence of the qualifying crime that gave rise to the claim.

"(5) The program requires denial or reduction of a claim if the victim or claimant contributed to the infliction of the death or injury with respect to which the claim is made.

"(6) The program does not require that any person be apprehended, prosecuted, or convicted of the qualifying crime that gave rise to the claim.

"(b) If a State has a program in effect on the effective date of this Act which does not comply with the requirements of subsection (a) of this section such program shall be eligible for grants under this Act until the day after the close of the first regular session of the State legislature that begins after the effective date of this Act. Thereafter, only those programs which comply with the requirements of subsection (a) shall be eligible for grants under this Act.".

(2) On page 17, strike out lines 7 through 10 and insert in lieu thereof the following: "has received proceeds pursuant to any State right of subrogation or for which the victim or any dependent has received restitution from the perpetrator of the crime, and any amount representing State compensation awards—".

(3) On page 17, strike out line 22 and insert in lieu thereof the following:

"(5) to any claimant, other than a claimant sixty-two years of age or older, whose award would be for an".

(4) On page 18, line 12, strike out the word "and".

(5) On page 18, strike out line 17 and insert thereof the following:

"found by the appropriate State agency; and

"(9) to any claimant who failed to cooperate with appropriate law enforcement authorities with respect to the qualifying crime for which compensation is sought.".

(6) On page 22, line 22, strike out "1979" and insert in lieu thereof 1980"; line 23, strike out "1980" and insert in lieu thereof "1981"; and line 25, strike out "1981" and insert in lieu thereof "1982".

(7) On page 23, strike out lines 2 through and including line 4 and insert in lieu thereof the following:

"SEC. 9. This Act shall be effective on October 1, 1979.".

Mr. KENNEDY. Mr. President, I urge the adoption of the amendment.

So the amendment (UP No. 1828) was agreed to.

Mr. KENNEDY. Mr. President, I urge the adoption of the committee substitute, as amended.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. ROBERT C. BYRD. Mr. President, has the bill been advanced to third reading?

The PRESIDING OFFICER. No, it has not been.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. KENNEDY. Mr. President, I would like to add as cosponsors, Senators BROOKE, HEINZ, INOUYE, METZENBAUM, WILLIAMS, FORD, CRANSTON, and PACKWOOD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent the Judiciary Committee be discharged from further consideration of H.R. 7010 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 7010) to provide for grants to States for the payment of compensation to persons injured by certain criminal acts and omissions, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed immediately to the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I move to strike all after the enacting clause of the House bill, H.R. 7010, and that the text of the Senate bill, as amended, be inserted in lieu thereof.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate bill, S. 551, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 7010.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I move that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses on H.R. 7010, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Mr. KENNEDY, Mr. BAYH, Mr. BIDEN, Mr. METZENBAUM, Mrs. HUMPHREY, Mr. THURMOND, Mr. HATCH, and Mr. WALLOP conferees on the part of the Senate.

ORDER FOR RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, are there any special orders entered for the recognition of Senators on tomorrow?

The PRESIDING OFFICER. Yes, there are orders for Senator GOLDWATER and Senator BAKER, for 15 minutes each.

Mr. ROBERT C. BYRD. Then, Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9:30 a.m. tomorrow, rather than 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESUMPTION OF THE UNFINISHED BUSINESS TOMORROW

Mr. ROBERT C. BYRD. I ask unanimous consent that at the conclusion of the recognition of Senators under special orders tomorrow, the Senate resume its consideration of the natural gas conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL ORDER AND RESUMPTION OF THE UNFINISHED BUSINESS ON THURSDAY

Mr. ROBERT C. BYRD. Mr. President, are there any orders for the recognition of Senators on Thursday?

The PRESIDING OFFICER. No, there are not.

Mr. ROBERT C. BYRD. I thank the Chair. I ask unanimous consent that after the two leaders are recognized on Thursday under the standing order, the Senator from Idaho (Mr. CHURCH) be recognized, after which the Senate resume its consideration of the natural gas conference report.

The PRESIDING OFFICER. Fifteen minutes to the Senator from Idaho?

Mr. ROBERT C. BYRD. Fifteen minutes, yes. I thank the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, the order is for the convening of the Senate at 9:30 a.m. tomorrow. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. And there are two special orders, one for Mr. BAKER and one for Mr. GOLDWATER?

The PRESIDING OFFICER. The Senator is correct.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 9:30 a.m. tomorrow.

After the two leaders or their designees have been recognized under the standing order, Mr. GOLDWATER and Mr. BAKER will be recognized, each for not to exceed 15 minutes, after which the Senate will resume its consideration of the conference report on the natural gas pricing bill.

Rollcall votes could occur tomorrow. I imagine that there will be continued debate.

It has been indicated by Mr. METZENBAUM and others that a motion to recommit the bill with instructions likely will be made sometime on Wednesday. I hope an agreement can be reached for a vote on the motion to recommit.

So far as I am concerned, I would be willing to waive any rights to move to table that motion to recommit, if we could get an agreement as to a time certain for a vote up or down on the motion to recommit, so that all Senators on both sides of the aisle and both sides of the question could be alerted in ample time to make arrangements to be present for that vote.

So I look forward with hope that such an arrangement can be agreed to and that such a vote could occur on Thursday. I have discussed it with Mr. METZENBAUM and Mr. ABOUREZK, and they seem to be amenable to consideration of the proposal. I believe they have been in touch with their supporters on the minority side and on the majority side, and they have indicated that they will discuss the matter further on tomorrow.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 9:30 a.m. tomorrow.

The motion was agreed to; and at 6:02 p.m. the Senate recessed until tomorrow, Tuesday, September 12, 1978, at 9:30 a.m.

NOMINATIONS

Executive nomination received after the recess of the Senate September 8, 1978, under the authority of the order of the Senate of September 8, 1978:

U.S. PAROLE COMMISSION

Richard T. Mulcrone, of Minnesota, to be a Commissioner of the United States Parole Commission for a term of six years, vice James R. Cooper, term expiring.

Executive nominations received by the Senate September 11, 1978:

DEPARTMENT OF STATE

Thomas R. Pickering, of New Jersey, a Foreign Service officer of the class of Career Minister, to be an Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs.

THE UNITED NATIONS

The following-named persons to be Representatives of the United States of America to the Thirty-third Session of the General Assembly of the United Nations:

Andrew J. Young, of Georgia.

James F. Leonard, Jr., of New York.

Abraham A. Ribicoff, United States Senator from the State of Connecticut.

James B. Pearson, United States Senator from the State of Kansas.

Set Charles Momjian, of Pennsylvania.

The following named persons to be Alternate Representatives of the United States of America to the Thirty-third Session of the General Assembly of the United Nations:

Donald F. McHenry, of Illinois.

Melissa F. Wells, of New York.

Angelique O. Stahl, of Florida.

John W. Hechinger, of the District of Columbia.

Richard W. Petree, of Virginia.

HOUSE OF REPRESENTATIVES—*Monday, September 11, 1978*

The House met at 12 noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Endeavor to keep the unity of the spirit in the bond of peace.—Ephesians 4: 3.

Almighty God, our Father, whose love never lets us go and whose light follows us all our lives, help us to begin the tasks of this day aware of Thy presence, and eager to do our best for the good of our country.

Give to us and to our people a determination to strive for unity, a desire to live with good will in our hearts, and a devotion to the highest and best we know. Deliver us from differences which divide us, from difficulties which defeat us, and from disillusionments which dampen our spirits. Guide us in the way we should go and the work we should do as we seek to make our country great and strong and good.

In Thy holy name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3075) entitled "An act to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act, and for other purposes."

The message also announced that the Senate insists upon its amendments to the concurrent resolution (H. Con. Res. 683) entitled "A concurrent resolution revising the congressional budget for the United States Government for the fiscal year 1979," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MUSKIE, Mr. MAGNUSON, Mr. HOLLINGS, Mr. CRANSTON, Mr. CHILES, Mr. ABOUREZK, Mr. BELLMON, Mr. DOLE, Mr. MCCLURE, and Mr. HEINZ to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 691. An act to provide for the preservation and enhancement of critical habitat for migratory waterfowl and other wetlands-dependent migratory birds of the Pacific flyway in the grasslands area of the San Joaquin Valley, Calif.

S. 976. An act to amend the Perishable Agricultural Commodities Act, 1930, relating to practices in the marketing of perishable agricultural commodities;

S. 1061. An act to amend the laws relating to the Osage Tribe in Oklahoma;

S. 1423. An act to establish a procedure in addition to impeachment for the retirement of disabled members of the Judiciary of the United States and the removal of those whose conduct is or has been inconsistent with the good behavior required by article III, section 1 of the Constitution, and for other purposes;

S 3467. An act to designate the U.S. Department of Agriculture Pecan Field Station in Brownwood, Tex., as the "W. R. 'Bob' Poage Pecan Field Station," and to designate the U.S. Department of Agriculture Meat Animal Research Center located near Clay Center, Nebr., as the "Roman L. Hruska Meat Animal Research Center";

S. 3468. An act to amend the Agricultural Act of 1949 to ensure that the interest rates

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

on price support loans for upland cotton are not less favorable to producers than the interest rates for such loans on other commodities; and

S.J. Res. 154. Joint resolution authorizing the President to invite the States of the Union and foreign nations to participate in the International Petroleum Exposition to be held at Tulsa, Okla., from September 10, 1979, through September 13, 1979.

HISPANIC WEEK

(Mr. BROWN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of California. Mr. Speaker, I would like to bring to the attention of my colleagues the week of September 10 to 16 as "National Hispanic Heritage Week." President Carter has made this proclamation recognizing the "countless historical, cultural, and scientific contributions that Hispanics have made to the development of our country."

Many of my colleagues have asked why we need to have a "Hispanic Week." Indeed, the entire growth of our Nation is attributable, not to cultural diversity, but rather to the "melting" of the various cultures into one. However, the accomplishment of the Hispanic to which we should pay tribute is that, although they have chosen to adhere to their cultural identity, they have succeeded to make gains and thus contribute to American society. I believe that, as much as this is a tribute to Hispanic heritage, it is also a tribute to our fundamental notions of opportunity for all.

This is not to gloss over the problems that Hispanics have encountered, and continue to encounter, in their efforts to advance. Discrimination is a persistent and pervasive element of our society that must be overcome if we are to advance as a nation. But I call to the attention of my colleagues today those Hispanic-Americans who, despite the discrimination and despite the disadvantage of cultural difference, have succeeded to make contributions to our Nation's growth.

THE LAUGHING GAS ACT?

(Mr. CONABLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONABLE. Mr. Speaker, everybody wants a serious and effective resolution of our quest for a national energy policy. I am afraid we are not on the right track, judging from a report in the Washington Post this morning. It carries a highly dubious endorsement of the gas compromise by a distinguished Senator who has been laboring earnestly in this area. He writes:

> Very little • • • is certain about the (natural gas) bill or its consequences, • • • No one really knows what will happen to energy prices and supplies if we pass the bill • • •
>
> But the compromise is infinitely preferable to doing nothing • • • The bill will bring some desperately needed certainty to the question of natural gas prices.

I just wonder, if "no one really knows what will happen" if we pass the bill, how can it produce "some desperately needed certainty?"

Confused? Well, you should be. The compromise itself is hopelessly confusing. The kind of contradictory endorsement quoted above, offered by the distinguished Senator, is very appropriate.

All this time I thought we were worried about natural gas prices. Now it turns out possibly to be about laughing gas. But it will not be a laughing matter for either consumers or producers if we pass this bill. Gas is not what they will get; it is what we will all take.

CIVIL SERVICE RETIREMENT CREDIT FOR JAPANESE-AMERICAN WORLD WAR II INTERNEES

Mrs. SPELLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 9471) to amend title 5, United States Code, to provide that Japanese-Americans shall be allowed civil service retirement credit for time spent in World War II internment camps, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 3, strike out lines 13 to 15, and insert:

SEC. 2. (a) The amendments made by this Act shall take effect on the later of—

(1) the date of the enactment of this Act, or

(2) October 1, 1978.

The SPEAKER. Is there objection to the request of the gentlewoman from Maryland?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, I think we should know what is going on here. What does the bill purport to do?

Mrs. SPELLMAN. Mr. Speaker, if the gentleman will yield, this is a bill which has been passed, of course, by the House. The sole purpose of the bill is to authorize civil service retirement credit for periods in which people of Japanese ancestry were interned against their will in World War II internment camps.

Mr. ASHBROOK. Mr. Speaker, further reserving the right to object, it would apply to those on civil service before their service was interrupted by internment; is that what the gentlewoman is saying?

Mrs. SPELLMAN. Mr. Speaker, if the gentleman will yield further, some may have been, others may not have been; but they would be given credit for the time they served involuntarily and, indeed, it was involuntary service. Our treatment of these people represents one of the most shameful episodes of our history.

We did, of course, go through this whole question and then passed this measure with an overwhelming vote in the House. The only difference between our bill, our House bill, and the other body's measure, is the effective date.

Mr. ASHBROOK. Mr. Speaker, further reserving the right to object, I yield to my colleague from Iowa (Mr. LEACH).

Mr. LEACH. Mr. Speaker, this bill was passed with overwhelming support on both sides of the aisle. It was supported unanimously both in subcommittee and the full committee and it affects a very limited number of people who will under this legislation be allowed to apply to their civil service retirement credit for work performed for the Government while these individuals were interned during World War II.

Virtually every member from the State of California, virtually everyone that was closely concerned with this legislation approved it. I think it is the type of measure that this House should pass.

The Senate amendment, which is a limited one, was very carefully drawn.

Mr. Speaker, with the chairwoman of the subcommittee, as the ranking Republican, I strongly endorse it.

Mr. ASHBROOK. Mr. Speaker, further reserving the right to object, one last question. I assume there were no amendments from the Senate that would not have been germane under the House rules?

Mrs. SPELLMAN. Mr. Speaker, if the gentleman will yield further, that is right. The only amendment was to make the effective date the date of the beginning of the fiscal year.

Mr. ASHBROOK. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

A motion to reconsider was laid on the table.

CIVIL SERVICE REFORM ACT OF 1978

Mr. UDALL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 11280) to reform the civil service laws.

The SPEAKER. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 318, nays 4, answered "present" 2, not voting 108, as follows:

[Roll No. 744]

YEAS—318

Abdnor	Beard, Tenn.	Burleson, Tex.
Addabbo	Bedell	Burlison, Mo.
Akaka	Benjamin	Burton, John
Alexander	Bennett	Burton, Phillip
Ambro	Bevill	Carney
Anderson, Calif.	Bingham	Carr
Anderson, Ill.	Blanchard	Carter
Andrews, N.C.	Blouin	Cavanaugh
Andrews, N. Dak.	Boggs	Cederberg
Annunzio	Boling	Clausen, Don H.
Archer	Bonior	Clay
Ashbrook	Bowen	Cleveland
Ashley	Brademas	Coleman
AuCoin	Breckinridge	Collins, Ill.
Badham	Brinkley	Collins, Tex.
Bafalis	Brodhead	Conable
Baldus	Brooks	Conte
Barnard	Broomfield	Corcoran
Baucus	Brown, Calif.	Corman
Bauman	Broyhill	Cornell
	Buchanan	Cornwell
	Burke, Mass.	

Coughlin	Johnson, Calif.	Rhodes
Crane	Jones, N.C.	Rinaldo
Cunningham	Jones, Okla.	Risenhoover
D'Amours	Kastenmeier	Roberts
Daniel, Dan	Kazen	Robinson
Daniel, R. W.	Keys	Roe
Danielson	Kildee	Rogers
Davis	Kindness	Rooney
de la Garza	Kostmayer	Rose
Dellums	Krebs	Rosenthal
Derrick	Lagomarsino	Rostenkowski
Derwinski	Le Fante	Roybal
Devine	Leach	Runnels
Dickinson	Lederer	Ruppe
Dicks	Leggett	Russo
Dingell	Lent	Ryan
Dornan	Levitas	Santini
Downey	Livingston	Satterfield
Drinan	Lloyd, Tenn.	Sawyer
Duncan, Oreg.	Long, La.	Scheuer
Duncan, Tenn.	Long, Md.	Schroeder
Early	Lott	Schulze
Edgar	Luken	Sebelius
Edwards, Ala.	Lundine	Seiberling
Edwards, Calif.	McClory	Sharp
Edwards, Okla.	McCormack	Shuster
Emery	McDade	Sikes
English	McDonald	Simon
Erlenborn	McEwen	Sisk
Ertel	McFall	Skelton
Evans, Colo.	McKinney	Slack
Evans, Del.	Madigan	Smith, Iowa
Evans, Ga.	Maguire	Smith, Nebr.
Evans, Ind.	Mahon	Snyder
Fascell	Markey	Solarz
Fenwick	Marks	Spellman
Findley	Marriott	Spence
Fisher	Martin	Stangeland
Fithian	Mathis	Stanton
Flippo	Mattox	Stark
Florio	Mazzoli	Steed
Flynt	Meeds	Steers
Foley	Metcalfe	Stockman
Ford, Mich.	Meyner	Stokes
Forsythe	Michel	Studds
Fountain	Mikulski	Symms
Fowler	Mikva	Taylor
Frenzel	Miller, Ohio	Thompson
Gammage	Mineta	Thone
Gaydos	Minish	Treen
Giaimo	Mitchell, N.Y.	Trible
Gilman	Moakley	Tucker
Ginn	Mollohan	Udall
Glickman	Montgomery	Ullman
Gore	Moore	Van Deerlin
Gradison	Moss	Vento
Grassley	Mottl	Volkmer
Green	Murphy, N.Y.	Waggonner
Gudger	Murphy, Pa.	Walgren
Guyer	Murtha	Walker
Hall	Myers, Gary	Walsh
Hamilton	Myers, John	Wampler
Hammer-schmidt	Myers, Michael	Watkins
Hanley	Natcher	Waxman
Hannaford	Nedzi	Weaver
Harkin	Nichols	Weiss
Harrington	Nix	Whalen
Harris	Nolan	White
Harsha	O'Brien	Whitehurst
Hawkins	Oberstar	Whitley
Heckler	Obey	Whitten
Hefner	Ottinger	Wilson, C. H.
Heftel	Patterson	Wilson, Tex.
Hightower	Pattison	Winn
Hillis	Perkins	Wirth
Holland	Pike	Wolff
Hollenbeck	Poage	Wright
Holt	Pressler	Wydler
Horton	Preyer	Wylie
Hubbard	Price	Yates
Hughes	Pritchard	Yatron
Hyde	Quillen	Young, Fla.
Ichord	Railsback	Young, Mo.
Jacobs	Rangel	Zablocki
Jeffords	Regula	
	Reuss	

NAYS—4

Lloyd, Calif.	Mitchell, Md.	Quayle
Marlenee		

ANSWERED "PRESENT"—2

Goodling	Patten

NOT VOTING—108

Ammerman	Brown, Mich.	Clawson, Del
Applegate	Brown, Ohio	Cochran
Armstrong	Burgener	Cohen
Aspin	Burke, Calif.	Conyers
Beard, R.I.	Burke, Fla.	Cotter
Bellenson	Butler	Delaney
Biaggi	Byron	Dent
Boland	Caputo	Diggs
Bonker	Chappell	Dodd
Breaux	Chisholm	Eckhardt
Eilberg	Kemp	Rahall
Fary	Krueger	Richmond
Fish	LaFalce	Rodino
Flood	Latta	Roncalio
Flowers	Lehman	Rousselot
Ford, Tenn.	Lujan	Rudd
Fraser	McCloskey	Sarasin
Frey	McHugh	Shipley
Fuqua	McKay	Skubitz
Garcia	Mann	St Germain
Gephardt	Milford	Staggers
Gibbons	Miller, Calif.	Steiger
Goldwater	Moffett	Stratton
Gonzalez	Moorhead, Calif.	Stump
Hagedorn	Moorhead, Pa.	Teague
Hansen	Murphy, Ill.	Thornton
Holtzman	Neal	Traxler
Howard	Nowak	Tsongas
Huckaby	Oakar	Vander Jagt
Ireland	Panetta	Vanik
Jenkins	Pease	Wiggins
Jenrette	Pepper	Wilson, Bob
Johnson, Colo.	Pettis	Young, Alaska
Jones, Tenn.	Pickle	Young, Tex.
Jordan	Pursell	Zeferetti
Kasten	Quie	
Kelly		

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 11280, with Mr. DANIELSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Thursday, September 7, 1978, the Clerk had read through line 2 on page 144.

Are there any further amendments to title I of the bill?

Mr. HANLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as we initiate our deliberation on civil service reform today, it is my fondest hope that this legislation will move relatively smoothly and, without taking up too much time, be voted on in the Chamber at some point late this afternoon.

I would like to respond if I can briefly to some remarks on the part of my dear friend and colleague and manager of the bill, the gentleman from Arizona (Mr. UDALL), going back to Thursday night, when it was about 9 o'clock and the tempers were not that good. I would have preferred to have responded at that point but logic suggested that it was time to break it up and come back here on Monday and start anew. I have great respect for the gentleman from Arizona, Mo UDALL, and have worked closely with him from the very beginning.

I do believe, however, that the issue of civil service reform has to be put into another perspective. Certainly I know that he did not intend it that way, but the implication was that by virtue of the activity of several members of the committee that this measure was not moving and was slowed down in the committee process.

I would take issue with that implication and I would have to put it this way that any delays that have been attributed to the deliberation of this measure we have to fault the administration itself because from the very beginning the administration insisted upon expediency. As a result, that insistency agonized many, many entities, This was totally unnecessary. The implication the other evening was that everybody embraced this measure and all America was out there waiting for its enactment into law. That is not necessarily the case in its present form.

I would hope very much that certain amendments today will prevail to make this measure more palatable to most Americans.

Few disagree with the necessity for civil service reform. We all agree, and I think that this committee on the whole is committed, to reforming the civil service system. The problem happens to relate to the methodology employed by the White House in pursuit of this legislation.

As a result of which, for instance, the largest union of Federal employees, the American Federation of Government Employees, is somewhat unhappy with it. It did not have to be that way. There were compromises that could have been effected.

For instance, the American veterans' community is not happy with the legislation in this present form. It did not have to be this way at this point in time.

I could allude to a number of other entities such as the National Association of Treasury Agents, and many others, who are very unhappy with the bill. All of this was unnecessary if we could have applied sufficient deliberation to the measure but expediency was the order of the day on the part of the White House and the President, time in and time out, said that we have to have a bill this year. Well, in my judgment, if you are moving in the direction of something as complex and as broad in scope as this measure, certainly, then, it was due a decent foundation and, unfortunately, the measure that we are deliberating never enjoyed that decent foundation.

So we are going to do the best we can this day to make the measure more palatable so that we will be doing justice to the taxpayers and at the same we are not inflicting harm upon that good dedicated Federal employee.

Yes, we do have problems within our personnel complement but they are relatively few and most of the people happen to be very dedicated people who want very much to produce a day's work for a day's pay.

There are aspects of this legislation which could be unfair in this regard and we intend, through the amendment process, hopefully to effect responsible change.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. HANLEY was allowed to proceed for 2 additional minutes.)

Mr. HANLEY. Mr. Chairman, we hope very much that during the course of this day, through the amendatory process, we make the measure far more palatable and far more fair to all.

Incidentally, I have the highest regard for the administration's chief technician on this measure, the Chairman of the Civil Service Commission, Allen "Scotty" Campbell, whom I regard as a great professional from the standpoint of public administration.

Unfortunately, the accelerated time frame provided the problems we have with this measure. It is unfortunate that

this situation had to prevail throughout the period of deliberation.

Therefore, Mr. Chairman, I am very hopeful that today, posthaste, but yet responsibly, we can do what has to be done to this bill so that we can say, "All right, Mr. President, here is the tool you have asked for. We are providing it for you in this 95th Congress. We would have preferred to have taken a little more time and to have done something far more responsible in the next Congress; but, in any event, we are saying, Mr. President, that this is what you have asked for; and we are going to give you the best possible bill given the environment under which we worked."

Mr. Chairman, I yield back the balance of my time.

Mr. CHARLES H. WILSON of California. Mr. Chairman, I move to strike the second from the last word.

Mr. Chairman, I do not relish the role of speaking against quick passage of the civil service legislation, H.R. 11280, perceived by many to be a good reform vote in an election year. If the stakes were not so high I suppose that we could just let this one sail by.

To put it quite bluntly most Members of the House seem to feel that anything labeled civil service reform is better than nothing.

I would have hoped that we would have learned from the ill-conceived Postal Reform Act of 1970 that that is not the case.

Indeed the similarity between this civil service bill and the 1970 postal bill is glaring.

Just as we do today, back in 1970 we had a juggernaut of forces—many totally unfamiliar with the subject matter—descending on the Hill to lobby for passage. Is it not interesting that in the past few months the Business Roundtable has sent scores of representatives to lobby the Congress on the civil service bill despite the fact these representatives when pressed for details openly admitted they did not understand the bill?

Just as we do today, back in 1970 we had a new President pushing for a dramatic "reform" bill.

Just as we do today, back in 1970 we had broad bipartisan support. Incidentally, Republicans must have wry smiles on their faces as they watch Democrats support their bill.

If President Nixon were pushing this particular bill to open so many positions to political appointees, he would have been laughed off the floor, by my Democratic colleagues. Now we are doing this for an administration which has announced through its Secretary of Agriculture that it will soon start disciplining errant congressional Democrats by removing their friends from appointed positions.

Just as we do today, back in 1970 during consideration of the Postal Reform Act the White House had a Democratic champion for the bill, ironically the same one we find today. I do not think we want to further damage Mr. UDALL's record by passing this bill, too.

Virtually every Member of the House will agree that the postal reform bill of 1970, to put it mildly, did not solve all of the troubles of the Postal Service, as passage in the House this year of corrective legislation by a 384 to 11 vote proved. We do not have to make the same mistake with civil service reform by acting in haste.

I think that it is also important to emphasize that during consideration of this bill all Members should understand that when in some cases Mr. UDALL implies certain support for this legislation he is talking about very different forms of the bill. Indeed this bill now being discussed by Mr. UDALL is not the same one approved by the Post Office and Civil Service Committee—there are substantive differences. Contrary to the implication given by Mr. UDALL, the Federal employee unions do not support this bill.

In summary, I hope that every Member of this House will realize that a bad civil service bill would not simply hurt a few of the local Washington area members with a concentration of Federal employees, it will damage every citizen's contact with every aspect of the Federal Government.

Mr. CLAY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am pleased to announce that I have received assurances from the President that he will press for consideration and action by the other body on Hatch Act reform prior to adjournment. Accordingly, in view of President Carter's personal assurances of his intent, I deem it unnecessary to continue my effort to attach Hatch Act reform to civil service reform or to further oppose consideration of the reform measure on the House floor.

I applaud the President for his continued support to Hatch Act reform and am delighted by his assurances that he will use the powers of his office to encourage Senate consideration and action prior to adjournment. My efforts were geared to insure Senate consideration of the bill in the forthcoming House-Senate conference on civil service reform. Now, assuming that the President's efforts are successful, I feel a lessened sense of urgency for Hatch Act reform to be a part of civil service reform.

Mr. Chairman, for the consideration of my colleagues I am submitting the following letter from the President of the United States.

THE WHITE HOUSE,
Washington, September 8, 1978.

Hon. WILLIAM CLAY,
Chairman, Subcommittee on Civil Service, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Early in my administration I proposed to Congress that the Hatch Act provisions affecting the political activities of federal employees be modified.

I was pleased that the House, under your leadership, voted overwhelmingly last year to strengthen the protections of federal employees from political coercion on the job while permitting them to freely exercise their First Amendment rights to participate in the political process. I continue to support Hatch Act reform.

Because I am concerned that the issues surrounding Hatch Act modification and Civil Service reform not become intertwined, I have consistently sought reform of the Hatch Act independent of action on Civil Service reform.

I believe separate consideration of the two bills is the best way to insure that each bill is eventually passed. This does not reflect any diminution of my commitment to fuller political participation for federal employees while affording necessary protections to the public. It does reflect my belief that the Hatch Act should not be considered together with Civil Service reform.

I share your concern that the Senate has not yet acted upon Hatch Act legislation, and intend to bring this concern to the attention of the Senate leadership. Hopefully, consideration and action will be taken without undue delay—prior to adjournment.

Your efforts on behalf of Hatch Act reform merit the appreciation of all federal employees anxious to exercise their basic political rights. I look forward to continuing our mutual efforts in support of those federal employees.

Sincerely,

JIMMY CARTER.

AMENDMENTS OFFERED BY MR. COLLINS OF TEXAS

Mr. COLLINS of Texas. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. COLLINS of Texas:

On page 137, line 12 after "(ii)" insert the following: "the Federal Bureau of Investigation,".

On page 142 after line 22 insert:

(e) With regard to employees and applicants for employment in the Federal Bureau of Investigation, disclosures described in subsection (b)(8)(A) of this section shall be made to the Attorney General or his designee. The Attorney General of the United States shall issue rules and regulations to protect employees and applicants for employment in the Federal Bureau of Investigation from the taking or failure to take any personnel action as a reprisal for such disclosure.

On page 213, line 5: after "(B)" insert the following: "the Federal Bureau of Investigation,".

On page 258, line 7: strike out 10,920 and insert in lieu thereof "10,780".

On page 258, line 13: strike out "Management." and insert in lieu thereof the following: "Management, except that the Director of the Federal Bureau of Investigation, without regard to any other provision of this section, may place a total of 140 positions in the Federal Bureau of Investigation in GS-16, 17, and 18."

On page 273, line 15: after "(B)" insert the following: "the Federal Bureau of Investigation,".

Mr. COLLINS of Texas. Mr. Chairman, I ask unanimous consent that the amendments I have offered, which are related to the FBI and are to title I, title IV, and title VI, be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. COLLINS of Texas. Mr. Chairman, I have offered four amendments which would insert identical provisions into titles I, IV, and VI of the bill. I asked and was given unanimous consent that they be considered en bloc.

My amendments exclude the Federal Bureau of Investigation from the bill on the same basis as the various national security agencies—the Central Intelligence Agency, the Defense Intelligence Agency, and the National Security Agency.

Title I of the bill sets forth merit system principles, but its prohibited personnel practices section would contradict the current status and flexibility of the

FBI. The Bureau has been exempted, for example, from considering alcoholics and drug abusers for employment—the Alcoholism Rehabilitation Act, Public Law 91-616, and the Drug Abuse Rehabilitation Act, Public Law 92-255—but under the merit system language of title I and a recent ruling by the Civil Service Commission defining "handicapping condition" to include alcohol or drug abuse, the FBI might have to consider for employment individuals with histories of alcoholism or drug abuse.

Existing law also limits the FBI from the purview of the Civil Service Commission in such areas as recruitment, qualification requirements, promotion and internal placement, career and career-conditional employment, and temporary assignments. Title I of the bill would allow active overview of the Bureau by the Merit Systems Protection Board and the Office of Personnel Management and affect the authority of the FBI Director to place up to 140 positions at supergrade levels in order to respond to the investigative priorities of the Justice Department.

Title IV should also exclude the FBI on the same basis as other national security agencies. The Senior Executive Service could place executives from other agencies in positions of high sensitivity in which demanding, rigorous or dangerous duties could be thrust upon them. The lives and safety of FBI personnel should not be jeopardized by the possibility of assignment of supervisory executives from other than law enforcement backgrounds.

Title VI on research and demonstration projects should exclude the FBI for obvious reasons. The Bureau is charged with the investigation of 78 different types of violations of criminal statutes relating to the integrity of Federal officials. The impartiality of such investigations is threatened by any program which makes it dependent on other agencies for its executive staffing or compels it to participate in exchanges of executives with these agencies. The bill's exclusion of the General Accounting Office is based on the same reasoning: The impartiality of GAO's Government-wide audits would be threatened.

Finally, Mr. Chairman, the bill as drafted empowers the President to exclude from coverage by the three titles "any executive agency or unit thereof which is designated by the President and which conducts foreign intelligence or counterintelligence activities," but the FBI has exclusive investigative responsibility for foreign counterintelligence activities within the United States. It is therefore unreasonable to refrain from excluding it for substantially the same reasons as for exempting the other security agencies.

Mr. Chairman, I urge enactment of my amendments.

Mr. UDALL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, if I can have the attention of my friend, the gentleman from Texas, I hope maybe we can work this thing out in just a few minutes to the gentleman's satisfaction.

One of the many problems we have wrestled with in this legislation is what do we do about exempting intelligence agencies? The President's bill as originally submitted did not exempt the FBI from the bill.

I am prepared this morning to offer a substitute, and I hope to have the substitute language ready in just a moment for the gentleman from Texas (Mr. COLLINS). What my substitute will do is this—and I hope it will be acceptable to the gentleman from Texas (Mr. COLLINS) because we are giving him most of what he wants and most of what the Bureau wants—we will totally exempt the FBI from the senior executive provision of the bill. That is No. 1.

No. 2, we will exempt the FBI from the title VI experimental personnel demonstration portion of the bill which they wanted out from under.

With regard to the "whistle-blower" section, the language of the bill now permits the President to exempt the FBI from that section, and based on language submitted to us by the White House today, I think they have worked this out with the Justice Department. If the President does decide to exempt them—and he may exempt them, he will under the language of the bill be required to issue special rules and regulations so that the FBI "whistle-blowers" will be in a position to have someplace to go and so that they will have some protection. This will be done through a system to be designated by the President. This would be essentially consistent with the amendments the gentleman from Texas (Mr. COLLINS) has offered and showed me this morning.

I will have this language ready in just a moment as further discussion goes on. I hope it will be acceptable to the gentleman from Texas (Mr. COLLINS), and I hope we put this matter to rest.

I want to say that I have great regard for the FBI. This in a fine agency, but it is an agency that has suffered some agonies in the past. I know of the concern the professional members of the FBI have about the status of their agency today, and I do not want to come out here with legislation that will disrupt them further and submit them to additional agony.

I am reluctant to start exempting agencies, because many of the Federal agencies think they are special and think they ought to have special treatment. I am going to be pretty careful about exempting any other agency, but I think the FBI has made a case for the compromise I am going to offer in just a moment, as soon as the staff gets it ready for us.

Mr. COLLINS of Texas. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Texas.

Mr. COLLINS of Texas. Mr. Chairman, I appreciate the gentleman's yielding.

Mr. Chairman, as the gentleman knows, in our FBI present system, as far as the investigation of what they call the whistle-blowers is concerned, the present setup within the FBI involves four different places where they can go. The first one, of course, is the Inspection Staff where they have the Office of Professional Responsibility, known as the OPR.

As I understand it, in Phoenix, Ariz., in Dallas, Tex., or St. Louis, any place they live or work, they can pick up the telephone and call directly to the OPR, and in confidence they can discuss anything they want to discuss or they can make it an FBI agency matter. They have their choice of either doing it confidentially or going before FBI as a complainant.

I checked on and found out that so far this year there have been 248 citizens who reported to the FBI, to the Office of Professional Responsibility. So it is an active section of FBI. I can see why we are very aware, from the comments we have in Washington today, that we must be very certain we have all and full access for any employee.

The second referral point is that they can go to the Justice Department itself. The Justice Department has its own Office of Professional Responsibility, and that particular OPR is reporting only to the Attorney General.

Now, that was in the clarification amendment that we put into this law on the gentleman's suggestion. The gentleman from Georgia (Mr. LEVITAS) clarified this point so it now codifies the Justice Department referral. That is the way it works in practice, and it works well. It depends on a strong Attorney General, and we have a strong Attorney General.

It is interesting that last year under this provision, there was someone who reported to the Attorney General, and after a full investigation the No. 2 person in the FBI was removed. When we have a provision strong enough to remove the No. 2 executive within an agency, we do have something that is unusually strong.

Mr. UDALL. Mr. Chairman, the concern I have, if I may express this to the gentleman from Texas (Mr. COLLINS), is that the public should have confidence that there are channels within the Government so that people can "blow the whistle" on the FBI just as they can on other agencies.

We all remember our old Watergate fears, and the fear of some of our friends was that we would have been in a situation where, concerning L. Patrick Gray, if he had blown the whistle on one of his people, he would have blown the whistle and the appeal would have gone on to John Mitchell.

We want to have the President set up a channel through the agency that will satisfy most people that there is a channel available so that these matters can come forward.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of amendments to provide certain exclusions for the Federal Bureau of Investigation.

The rigorous and dangerous duties performed by the Bureau's employees do not lend themselves to some aspects of this legislation.

The best argument for exclusion of the FBI is probably the exclusion in the bill

of other national security agencies. The Bureau's domestic work is as dangerous and rigorous as that of the Central Intelligence Agency, which the bill excludes; and because the FBI is in charge of investigating white collar crimes throughout the Nation, we have at least as much reason for excluding it from the personnel exchanges and experiments proposed in title VI as we have for excluding the General Accounting Office. The bill rightfully excludes the GAO in order to preserve the objectivity of its audits, but the objectivity of investigations into alleged Federal employee wrongdoing is at least as important.

Mr. Chairman, I urge support of these amendments in order to conform this bill to the laws which rightfully correspond to the FBI's unique investigative needs.

Basically, Mr. Chairman, I support the package of amendments offered by the gentleman from Texas (Mr. COLLINS), but I certainly hope that we can work out this adjustment that the gentleman from Arizona (Mr. UDALL) will offer.

There are two points here, though, that I would like to make to the Members of the House. One is that the reason I would like to see a very satisfactory adjustment of this issue of the FBI is because there has been doubt on the part of some Members on this bill and it is an honest doubt.

The FBI is a sensitive agency. We should clear up any concern over how the FBI would be influenced. We can clear up some of the concerns about the bill itself. I think the entire bill will receive more support if some of these lingering doubts—that is with regard to the FBI—are cleared up.

So in that sense, I would hope that we can work out a solution to which the gentleman from Texas and the gentleman from Arizona have provided a very positive role in adding to the momentum of this bill.

There are unique problems facing an intelligence agency such as the FBI, and I think this package of amendments is necessary to clarify any questions that we do have.

Mr. UDALL. Mr. Chairman, will the gentleman yield to me for the purpose of offering amendments as a substitute for the amendments offered by the gentleman from Texas (Mr. COLLINS)?

Mr. DERWINSKI. I yield to the gentleman from Arizona.

AMENDMENTS OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENTS OFFERED BY MR. COLLINS

Mr. UDALL. Mr. Chairman, I offer amendments as a substitute for the amendments.

The Clerk read as follows:

Amendments offered by Mr. UDALL as a substitute for the amendments offered by Mr. COLLINS: Page 137, after line 18, insert:

"(3) If the President does not designate the Federal Bureau of Investigation, in its entirety, under paragraph (2)(B)(ii) of this subsection, functions of the Special Counsel relating to the enforcement of this section with respect to the Bureau, or any unit thereof, shall be carried out by the President (or his designee) notwithstanding any provision of law to the contrary."

Page 213, line 5, after "(B)" insert the following: "the Federal Bureau of Investigation,".

Page 273, line 15, after "(B)" insert the following: "the Federal Bureau of Investigation,".

The CHAIRMAN. The gentleman from Illinois (Mr. DERWINSKI) still has the floor.

Mr. DERWINSKI. Mr. Chairman, in order to expedite the procedure, I will yield back the balance of my time, so that the gentleman from Arizona (Mr. UDALL) can explain his amendments.

The CHAIRMAN. Does the gentleman from Arizona (Mr. UDALL) wish to be heard on his amendment?

Mr. UDALL. Mr. Chairman, for the time being, I shall reserve my time.

Mr. LIVINGSTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendments offered by the gentleman from Texas which would exempt the FBI from coverage under titles I, IV and VI of the Civil Service Reform Act.

Enactment of H.R. 11280, as written now, could effectively deprive the Director of the FBI of his prerogative to control all phases of personnel administration. Traditionally, this authority, which would be lost under title I, has been one of the keystones of the Bureau's semi-autonomous status and has provided insulation from improper external influences into matters which could compromise classified information or sensitive operations.

With the creation of the senior executive service under title IV, one can easily imagine the consequences of other agencies' officials, previously unexposed to the broad scope of criminal law enforcement, who would be entrusted with new responsibility for its leadership in the Bureau executive system.

Inclusion of the FBI under title VI would seriously threaten the impartiality of investigations the Bureau is mandated to conduct with regard to violations of criminal statutes dealing with official and political corruption.

Mr. Chairman, there can be no credible argument in favor of inclusion of the FBI in the present bill. The FBI ranks as one of the agencies in the Government most subject to oversight. It must make regular reports to six committees of Congress—Senate and House Judiciary, Intelligence and Appropriations—and is subject to oversight by the Department of Justice, the General Accounting Office and the Office of Management and Budget.

Finally, failing to exempt the FBI, like all other security agencies, from these three titles of the bill, could mean the end of the FBI as we know it—a centrally administered, tightly disciplined, responsive career law enforcement agency. Such action would create just one more agency, subject to the traditionally inefficient bureaucratic mechanisms.

Mr. Chairman, I urge this body to agree to the amendments. Possibly, if we can reach an amicable compromise through the efforts of the gentleman from Arizona, I would like to join in those efforts. I would like to see how the ultimate compromise comes down, but in the meantime I would be happy to yield to the gentleman from Texas (Mr. COLLINS) for his comments.

Mr. COLLINS of Texas. Mr. Chairman, at this time I would like to offer an amendment to the substitute amendments offered by the gentleman from Arizona (Mr. UDALL).

The CHAIRMAN. The gentleman from Texas (Mr. COLLINS) is advised that the gentleman from Louisiana cannot yield for the purpose of offering an amendment. He can yield time for debate.

Mr. LIVINGSTON. Mr. Chairman, I yield back the balance of my time.

AMENDMENT OFFERED BY MR. COLLINS OF TEXAS TO THE AMENDMENTS OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENTS OFFERED BY MR. COLLINS OF TEXAS

Mr. COLLINS of Texas. Mr. Chairman, I offer an amendment to the amendments offered as a substitute for the amendments.

The Clerk read as follows:

Amendment offered by Mr. COLLINS of Texas to the amendments offered by Mr. UDALL as a substitute for the amendments offered by Mr. COLLINS of Texas:

On page 141, line 20, after "(c)" inserts "(1)"; on page 142 after line 3, insert the following:

On page 142 after line 22 insert:

"(2) In the case of employees and applicants for employment in the Federal Bureau of Investigation, disclosures described in subsection (b)(8)(A) of this section shall be made to the Attorney General or his designee. The Attorney General of the United States shall issue rules and regulations to protect employees and applicants for employment in the Federal Bureau of Investigation from the taking or failure to take any personnel action as a reprisal for such disclosure.

The CHAIRMAN. The gentleman from Texas (Mr. COLLINS) is recognized.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I will be glad to yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, this amendment to my substitute is perfectly acceptable. It carries out the intent of what the gentleman from Texas was trying to do earlier.

So, if we will adopt the Collins amendment to the Udall substitute, and adopt the Udall substitute, we will have this compromise worked out.

Mr. COLLINS of Texas. Let me ask one question: It is my understanding that the President, when he wants to use this authority would go to the Attorney General. That would be the person he would turn to to follow up on this?

Mr. UDALL. The President will be empowered to set up a separate system, and under the gentleman's amendment to my substitute it would be required that it go through the Attorney General.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to my colleague from Georgia.

Mr. LEVITAS. Mr. Chairman, I thank the gentleman for yielding to me. First of all, I would like to commend the gentleman from Texas (Mr. COLLINS) on the leadership he has taken in this regard.

I have one question. I think it is important to clarify through the chairman, the gentleman from Arizona, with respect to the language contained in the first part of his amendment to which the gentleman from Texas has offered an amendment. Under this language, would it be possible for the President to designate, as his designee, the special counsel otherwise created in this legislation for purposes of investigation in an FBI matter? Because, if that is the case, it would seem to me to defeat the purpose of the Collins amendment.

Mr. UDALL. Mr. Chairman, if the gentleman will yield, it is very clear. The Collins amendment to my amendment states that it is ordered by the Congress that he not do it this way, that he work through the Attorney General. The President is given pretty broad powers, but I cannot imagine that he would go to the special counsel with this history we have made here today.

Mr. LEVITAS. I thank the chairman for that clarification. I think that does relieve not only myself, but others on these concerns, because I think the legislation is quite clear that the special counsel created by this legislation would not be the vehicle through which these matters would be pursued. I think it is very important because without this clarification, the FBI would be treated substantially different in the sensitive areas from the other intelligence agencies.

Mr. UDALL. The gentleman from Georgia has accurately stated what I am trying to do in this compromise.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I would ask of the gentleman from Texas, and through him the chairman of the committee, whether or not the amendment that is proposed by the gentleman from Arizona, as proposed to be amended by the gentleman from Texas, is the essence of agreements and understandings made with the chairman of the House Intelligence Committee, the gentleman from Massachusetts (Mr. BOLAND), whom I do not see on the floor today.

I would ask the gentleman from Arizona, as I just asked the gentleman from Texas, whether or not the substitute proposed by the gentleman from Arizona to be further amended by the amendment offered by the gentleman from Texas, incorporates the agreements or understandings or discussions had with Chairman BOLAND of the House Intelligence Committee?

Mr. UDALL. If the gentleman will yield, here we are dealing with another matter. That is a different matter. I have worked out an amendment with the gentleman from Massachusetts (Mr. BOLAND) which I will accept later in the proceedings on that matter.

Mr. MAZZOLI. I thank the gentleman from Arizona.

Mr. COLLINS of Texas. Mr. Chairman, I think we now have an understanding that questions will go through the Attorney General and the FBI, and I would accept the substitute with the amendment.

Mr. UDALL. Mr. Chairman, the staff tells me the Collins amendment to the Udall amendments has not been placed properly in the bill.

I would ask unanimous consent that the Collins amendment to the Udall substitute amendments be clarified as to its place in the bill as identified in the amendment at the desk.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

On page 141, line 20, after "(c)" insert "(1)";

On page 142, after line 3, insert the following:

"(2) In the case of employees and applicants for employment in the Federal Bureau of Investigations, disclosures described in subsection (b)(8)(A) of this section shall be made to the Attorney General or his designee. The Attorney General of the United States shall issue rules and regulations to protect employees and applicants for employment in the Federal Bureau of Investigation from the taking or failure to take any personnel action as a reprisal for such disclosure.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona to modify the amendment?

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. COLLINS), as modified, to the amendments offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendments offered by the gentleman from Texas (Mr. COLLINS).

The amendment, as modified, to the amendments offered as a substitute for the amendments was agreed to.

The CHAIRMAN. The question is on the amendments, as amended, offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendments offered by the gentleman from Texas (Mr. COLLINS).

The amendments, as amended, offered as a substitute for the amendments were agreed to.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Texas (Mr. COLLINS), as amended.

The amendments, as amended, were agreed to.

AMENDMENT OFFERED BY MR. HARRIS

Mr. HARRIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARRIS: Page 141, line 20, insert "(1)" after "(c)".

Page 142, after line 3, insert the following:

"(2)(A) The head of each agency shall establish a personnel office and appoint an individual to be the head of such office.

"(B) The position to which any individual is appointed under subparagraph (A) of this paragraph shall, notwithstanding any other provision of law, be a position within the competitive service or a career reserved position within the Senior Executive Service. The requirement of the preceding sentence shall not apply if a majority of the civil service positions within such agency are excepted from the competitive service by or under any law (other than this title).

Mr. HARRIS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read, and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. HARRIS. Mr. Chairman, this is a simple amendment, but I think a very important amendment. One of the biggest fears that is in the minds of many Federal employees today is to what extent we allow this bill to politicize the system. I think the flexibility we have talked about and the modernization we have talked about is supported by the average citizen and Federal employees alike. What they fear is who is going to implement these merit principles that are so finely pronounced in title I. What this amendment does is say that we will have in fact a personnel director that is not a political appointee. It is a competitive merit system person himself or herself who will be responsible for implementing these principles.

I would point out to my colleagues that under the bill we do centralize a great deal of the responsibility with respect to guarding the merit system principles and hiring principles enunciated in title I. No longer will we have a centralized bureau like the Civil Service Commission that will have total responsibility of making sure that merit system principles are adhered to.

There is provision in the bill to delegate this responsibility to individual agencies. I think we have had the experience in the past of agency heads saying they were not responsible for implementing it, it was the job of the Civil Service Commission, and so forth. Perhaps this delegation is a good idea, but only if we are sure who has the responsibility within each agency to guard against the politicization of the system and make sure that these merit principles are adhered to.

This amendment does one thing, somebody in that agency is a personnel officer where that agency is composed mostly of competitive people, to make sure that this person is a career person and not a political appointee.

I think it is one small step toward guarding against the appearance of, and the actuality of, in many cases, of politicizing the system, and will be a major reform in the bill as it is.

I would hope my colleagues can consider this favorably. I think it establishes a very important element with regard to a reform measure by saying simply that within each agency there is somebody responsible for safeguarding these merit principles we are enunciating, and, No. 2, that that person is not a political appointee and that person has knowledge of and understands the merit principles.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I thank the gentleman from Virginia (Mr. HARRIS) for yielding to me.

Mr. Chairman, I rise to applaud the efforts of the gentleman from Virginia (Mr. HARRIS) and endorse the goal that he seeks.

If we truly fear the politicization of both the SES as well as the entire Federal bureaucracy, what better way to accomplish this than to permit a political appointee to decide the fate of job applications and promotions.

Casting doubt on the integrity of the hiring and promotion process, as we will if the gentleman from Virginia's amendment is not adopted, will likewise cast doubt on the independence and impartiality of Federal decisionmaking.

I urge my colleagues to support this amendment.

Mr. UDALL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment is unnecessary, and it was soundly defeated in the committee.

There are really two things wrong with it. First, it mandates that every agency, however large or small, must have a full-time personnel officer-director. There are a whole variety of agencies, there are agencies such as HEW that has tens of thousands of employees and there are Federal agencies that may have a mere handful of employees. If you want a formula to increase the number of bureaucrats in every agency, however small or large, then this will do it through requiring a full-time personnel director.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Virginia.

Mr. HARRIS. Mr. Chairman, I am sorry that I have not explained the amendment well enough so that my colleague understands it. There is no requirement that this person's job has to be fulltime with regard to personnel director, it simply says that somebody in that agency is the personnel director. It means that that person may have other duties, and that is not covered by this amendment at all. This in no way creates any additional requirements so far as the number of personnel is concerned, it simply designates one person in that agency as the personnel director.

Mr. UDALL. My theory is that if we accept this requirement, that even very small agencies must have an individual who is the personnel director, we will have to have some individual designated to do that.

Mr. HARRIS. That is right.

Mr. UDALL. The second point is that we will not be giving the management a little bit more freedom and flexibility.

So that in every case, whether it is HEW or a smaller agency, the personnel director has to be a career officer. I hope and I believe that in most cases they will be career officers, but clearly there are some advantages there, but to say that even very large agencies must do this, is a critical requirement to impose, especially if we are going to grant the President and the Cabinet officer freedom to put somebody in these agencies who is responsible, and then say we are going to take away the flexibility of the President and the Cabinet secretary and require in all cases that they have to be career persons in this particular personnel spot.

I urge defeat of the amendment.

Mrs. SPELLMAN. Mr. Chairman, I would like to point to a comment made by our distinguished chairman who pointed out that this is an important position and that he would hope that these people who were doing the hiring would be career people.

We are talking about attempting to keep from total politicization of the system. If we are going to have political appointees doing the hiring, we can be certain that additional political types are going to be hired.

Do we have a civil service system which we are working to retain? Do we have a merit system which we are working to preserve? If so, should we demand anything less than to have people who are professionally trained do the hiring? It has nothing at all to do with the number of people they hire. It has nothing at all to do with the number of hours which these people work in doing the hiring—whether they work at their recruitment functions full time or part time. We merely ask that career people should be hiring career employees.

Mr. Chairman, I find it very difficult to see how we can object to that. If, indeed, we are trying to protect a merit system, then I feel we can do no less than to adopt the amendment.

Mr. FISHER. Mr. Chairman, will the gentlewoman yield?

Mrs. SPELLMAN. I yield to the gentleman from Virginia.

Mr. FISHER. Mr. Chairman, I support this amendment. It is one of the things which we can do to add an extra protection against undue political influence in the various departments and agencies of Government.

The personnel officer, part time or full time, as the case may be, is in a sensitive position. It seems to me that we ought to protect against loading these sensitive positions with political appointees.

This amendment would be a way of doing it very clearly, and it would then make it possible for Members, perhaps like this Member from Virginia, to support final passage of a bill; but we have to be convinced on behalf of thousands upon thousands of Government employees that here and there extra steps have been taken and that care has been taken to see that undue political influence cannot be exerted.

Mr. Chairman, it seems to me that this is a sensible, a manageable, and a logical way to achieve just that highly necessary objective.

Mrs. SPELLMAN. Mr. Chairman, I thank my colleague, the gentleman from Virginia (Mr. FISHER).

I would like to point out that we are looking out not only for those people who are Federal employees, but for all of the citizens of the United States who are served by these Federal employees; and I feel that if the people were given their choice, they certainly would want the job of hiring performed by professional staff rather than by political appointees.

Mr. Chairman, I yield back the balance of my time.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, before I give my devastating argument against the amendment, I first wish to commend the gentleman from Virginia (Mr. HARRIS) for very dramatically representing his unique constituency. We appreciate the fact that in northern Virginia one does have a substantial number of Federal employees, and they look to their Congressman for support when they feel that their interests are affected.

However, Mr. Chairman, this is a gut issue. Basically, this bill is intended to strengthen the hands of the President as the Chief Executive of the Federal Government. That is the purpose of the bill. But this amendment would restrict management in personnel matters. This amendment is one of a pattern of amendments which would turn this bill away from the direction in which it is properly headed.

A real problem with our Federal Government is its huge size and the fact that it is almost uncontrollable. A President of the United States, we must keep in mind, is not just a world figure meeting at Camp David with heads of state. He is not simply the spokesman for the aspirations of a free people. He is something more than that: He is the Chief Executive of our Government. We have shackled our Chief Executives over the years with restrictions which prevent them from effectively managing the entities over which they presumbly preside. This amendment would follow that costly path.

Mr. Chairman, I suggest that the bill before us is in this area a good bill. It is a strong bill, and I would suggest not only rejection of this amendment, but of any other amendments which would have the effect of adding new shackles to the ability of the President and his appointees to properly run this huge Federal Government of ours.

If you want to know what proposition 13 is all about, it is not just dollars and cents or objections to a tax bill. Proposition 13 mentality includes frustration over the inability of the average citizen to get proper service from Government.

Why is this frustration felt? Because the Federal Government, especially the civil service bureaucracy, often does not respond to the public interest. Frankly, the bureaucracy sometimes does not respond to the directives of a President.

What we are trying to do in this bill before us is to give the President the legitimate authority a Chief Executive should have, and on that basis I strongly recommend the rejection of the amendment.

Mr. LEACH. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Iowa.

Mr. LEACH. I thank the gentleman for yielding.

The current head of the Civil Service Commission is Mr. Scotty Campbell, who has a good deal of respect on the Democratic side as well as on our side of the aisle. If this amendment were adopted, would not someone like Mr.

Campbell, who comes largely from academia and experience in State government, become ineligible to head a Federal personnel office? And is that not a good argument against adoption of the amendment?

Mr. DERWINSKI. The gentleman is using an unusual example, but the analysis is correct. If I read this amendment correctly, someone coming to head the personnel service must, in fact, under this amendment be a career official.

Mr. HARRIS. Mr. Chairman, will my colleague yield on that?

Mr. DERWINSKI. I yield to the gentleman from Virginia.

Mr. HARRIS. I thank the gentleman for yielding.

I would like to respond to both of my colleagues on that. I rise in defense not of the amendment but of Mr. Campbell. Any implication made on this floor that Mr. Campbell could not pass a civil service test I think is an unfair impugning of his ability.

Mr. DERWINSKI. Just a minute. Mr. Chairman, I reclaim my time. I do not want the gentleman to abuse my time. No one is impugning anyone. All we are trying to do is point out the basic unacceptability of the gentleman's amendment.

Mr. HARRIS. Will my colleague yield on that point?

Mr. DERWINSKI. I will yield if the gentleman behaves himself.

Mr. HARRIS. My colleague certainly does not want to put any restrictions on behavior. I am sure of that. I certainly think that the notion that was brought up by the last question that this in any way hampers bringing competent people into the personnel director position is unwarranted.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. HARRIS, and by unanimous consent, Mr. DERWINSKI was allowed to proceed for 2 additional minutes.)

Mr. HARRIS. Will the gentleman yield further?

Mr. DERWINSKI. Of course. I yield to the gentleman.

Mr. HARRIS. I thank the gentleman for yielding, but I think the point is that we are not saying here that they have to be existing in competitive service now. We say that the position has to be a competitive service position. That means that the person in that position has to be qualified; that is all. I would want to assure the gentleman that many personnel directors would and could come from outside the system. All we are saying here is that that person comes in and qualifies as a competitive employee and not just as a political hack. That is all this amendment does, and I would hope that we would not misconstrue the amendment as doing anything more than that.

Mr. DERWINSKI. Just as the gentleman was a little concerned that we not cast some reflection on Mr. Campbell, may I point out that noncareer appointees are not necessarily political hacks. Many of them are great statesmen. They are needed to rejuvenate the civil service. They are needed to bring in imagination, spirit, and creativity. So I think if we would just keep in mind that the injection of experts from acadamia or from the business world often brings the kind of leadership that we need to shake up a bureaucracy, I think in that sense the gentleman should welcome a blood transfusion for the tired Federal service.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding.

I think the point here is that in the bill we have pronouncements against politization of the civil service. Ninety percent of the senior executive service must be career service. There are only 10 percent who will be political appointments. They are the people we bring in from the outside to carry out the administration program. I do not think the ordinary Federal employee thinks some career Federal employee is going to be his friend any more than some competent person brought in from the outside. I think the amendment is unnecessary. It just attaches some additional restrictions.

Mr. STEERS. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, very briefly, I want to commend the gentleman from Virginia for attempting to do just exactly what it was that the gentleman from Illinois (Mr. DERWINSKI) stated that the gentleman was doing; namely, to turn this bill away from the general direction in which it is headed.

I remind the House that the Chief of Government, in addition to meeting with heads of state and also running the Federal Government, is also the Chief of a political party. This amendment would reduce, I think clearly the amount of clout that the President of the United States would have.

I was against this politicization of the bureaucracy when it was proposed by Persident Nixon. I am still against it.

The gentleman from Arizona (Mr. UDALL) has properly said that it is only 10 percent, and 90 percent and will still be governed by the civil service. I would point out to this body that if this idea is such a good one, how come we are restricting it only to 10 percent? What is good for 10 percent should be good for the other 90 percent.

Of course, the answer is that the 10 percent who would be selected would be at the top and they would be subject to the President's direction. They would be subject to politicization. We would, thereby, take an enormous step toward the spoils system which we finally got rid of 80 years ago.

Mr. Chairman, I yield to the gentleman from Virginia (Mr. HARRIS) first, then to the gentleman from Illinois (Mr. DERWINSKI).

Mr. HARRIS. Mr. Chairman, I thank the gentleman for yielding. The point the gentleman makes is an important one and should be expanded.

When we speak of 90 percent that must be qualified, that does not mean, and I hope it is not misrepresented to mean, that 90 percent has to come out of the career services. It does not. It simply means that 90 percent has to be qualified, that is all. Any percentage can be brought in from the outside. It is a question of whether they are qualified, or whether they are brought in as political appointees.

May I make the point and ask the gentleman from Illinois (Mr. DERWINSKI) and the gentleman from Arizona (Mr. UDALL) to listen to the point. If, in fact, we mean in the bill if, in fact, first, the merit principles recently set down in title I are meaningful, and, second, if we really mean 90 percent of the senior executive service are going to be competitive appointments, then should we not have a personnel director that is competitively appointed, rather than politically appointed? If 90 percent of the people that the personnel directors are going to deal with in the senior executive service and the rest are going to be competitive appointments, should not the personnel director be a competitive appointment; or should we under the bill open up, not to this President, but perhaps to some future President the opportunity of putting a fox in charge of the chicken house?

Should we allow a political appointee to be the one to implement these merit principles that we think are so important?

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. STEERS. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Chairman, I do not represent a rural area, so I do not know what foxes do in chicken houses; but evidently that term applies to the amendment of the gentleman from Virginia, because the gentleman would insist, that this person who is appointed would be one who would be drawn from the ranks of civil servants and would be basically motivated to protecting the tenure of the civil servant, contrary to the public request for more efficient services.

Just to use numbers, if the gentleman from Maryland would agree with my numerical calculations, there are approximately 2 million Federal civilian employees, outside of the Postal Service. Let us assume, even for purposes of argument, that these 9,000 positions would all be political. That is just 9,000 out of 2 million, and all we are speaking of is 900 so I see no spoils system nor political grab.

I see nothing behind the basis thrust of this bill but pure governmental nobility.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. HARRIS).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HARRIS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 16, noes 336, not voting 80, as follows:

[Roll No. 745]

AYES—16

Bedell	Gilman	Murphy, Pa.
Bennett	Gonzalez	Myers, Gary
Breckinridge	Hannaford	Spellman
Carney	Harris	Steers
Fish	Holt	
Fisher	Lloyd, Calif.	

NOES—336

Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Ashbrook
Ashley
AuCoin
Badham
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bellenson
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bowen
Brademas
Brinkley
Brodhead
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Carr
Carter
Cavanaugh
Cederberg
Clausen, Don H.
Clay
Cleveland
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cornell
Cornwell
Cotter
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Dellums
Dent
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fascell
Fenwick
Findley
Fithian
Flippo
Florio
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Gammage
Garcia
Gaydos
Gephardt
Giaimo
Ginn
Glickman
Goldwater
Goodling
Gore
Gradison
Grassley
Green
Gudger
Guyer
Hall
Hamilton
Hammer-schmidt
Hanley
Harkin
Harrington
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Howard
Hubbard
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Le Fante
Leach
Lederer
Leggett
Lent
Levitas
Livingston
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKinney
Madigan
Maguire
Mahon
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mikulski
Mikva
Milford
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moss
Motti
Murphy, N.Y.
Murtha
Myers, John
Myers, Michael
Natcher
Nedzi
Nichols
Nix
Nolan
O'Brien
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quayle
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Runnels
Ruppe
Russo
Ryan
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shuster
Sikes
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spence
Staggers
Stangeland
Stanton
Stark
Steed
Stockman
Stokes
Studds
Symms
Taylor
Thompson
Thone
Treen
Trible
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Waxman
Weaver
Weiss
Whalen
White
Whitehurst
Whitley
Whitten
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki

NOT VOTING—60

Abdnor
Ammerman
Anderson, Ill.
Applegate
Armstrong
Aspin
Bonker
Breaux
Brooks
Brown, Mich.
Brown, Ohio
Burgener
Burke, Calif.
Burke, Fla.
Byron
Caputo
Chappell
Chisholm
Clawson, Del
Cochran
Cohen
Delaney
Derrick
Eckhardt
Eilberg
Evans, Colo.
Fary
Flood
Flowers
Fraser
Frey
Fuqua
Gibbons
Hagedorn
Hansen
Holtzman
Horton
Huckaby
Jenkins
Johnson, Colo.
Kasten
Kelly
Kemp
Krueger
Latta
Lehman
Lujan
McKay
Mann
Miller, Calif.
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Neal
Nowak
Oakar
Pettis
Pursell
Quie
Richmond
Rodino
Roncalio
Rousselot
Rudd
Sarasin
St Germain
Steiger
Stratton
Stump
Teague
Thornton
Traxler
Tsongas
Vander Jagt
Wiggins
Wilson, Bob
Wilson, C. H.
Young, Alaska
Young, Tex.
Zeferetti

Mr. DENT changed his vote from "aye" to "no."

Mr. GONZALEZ changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. CLAY

Mr. CLAY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CLAY: On page 138, after line 5, insert a new section as follows:

"(C) on the basis of sex, as prohibited by the Equal Pay Act of 1963, 29 U.S.C. 206(d);",

and redesignate the subsequent section accordingly.

On page 142, after line 14, add a new section as follows:

"(3) under the Equal Pay Act of 1963 (29 U.S.C. 206(d)), prohibiting discrimination on the basis of sex;", and renumber the subsequent sections accordingly.

Mr. CLAY. Mr. Chairman, this amendment is offered at the request of the Equal Opportunity Commission. It clarifies the statutory basis of discrimination and is intended to insure that nothing in the bill can be construed to detract from the provisions of title VII of the Civil Rights Act of 1964, as amended.

Specifically, the amendment clarifies that the provisions of the Equal Pay Act are included in allegations of discrimination, and that a trial de novo remains available to complainants in discrimination cases.

The amendment makes no changes in the bill, it simply makes explicit the intent of the bill's drafters.

Mr. Chairman, I urge adoption of the amendment.

Mr. UDALL. Mr. Chairman, if the gentleman will yield, this amendment makes no change in existing law, it simply carries these nondiscrimination principles forward into this legislation and it is perfectly agreeable to me.

Mr. CLAY. I thank the gentleman.

Mr. DERWINSKI. Mr. Chairman, if the gentleman will yield, the gentleman from Missouri (Mr. CLAY) has very properly explained his amendment. I congratulate the gentleman for his attention to detail and his support for this legislation.

Mr. CLAY. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. CLAY).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. FISHER

Mr. FISHER. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. FISHER: Page 142, line 24, insert "(a)" before "If".

Page 143, after line 6, insert the following new subsection:

"(b) The General Accounting Office shall prepare and submit an annual report to the President and the Congress on the activities of the Merit System Protection Board and the Office of Personnel Management. Such report shall include a description of—

"(1) significant actions taken by the Board to carry out its functions under this title; and

"(2) significant actions of the Office of Personnel Management, including an analysis of whether or not the actions of the Office of Personnel Management are in accord with merit system principles and free from prohibited personnel practices.

Mr. FISHER. Mr. Chairman, I ask unanimous consent that the amendments may be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. FISHER. Mr. Chairman, if I may have the attention of the gentleman from Arizona (Mr. UDALL) who is managing the bill, I would say that this is a general amendment to title I, which would extend somewhat the role of the General Accounting Office in keeping track and monitoring and examining the work done under this bill. The bill, as it stands, says this: That if a Member requests a General Accounting Office study of some facet of the bill, it will be done. The GAO on its own may initiate a study. My amendment would simply extend this a little bit and specify that the GAO shall prepare and submit annually a report on significant issues to the President and the Congress on the activities of the Merit System Protection Board and the Office of Personnel Management. This, no doubt, would result in improvements in both of the new agencies and would increase their accountability.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. FISHER. I will be glad to yield to the gentleman from Arizona.

Mr. UDALL. My concern about the amendment basically is that we are going to add some more to the voluminous paperwork that is produced every year. This mandates the GAO to do this, even though the GAO already has the authority to conduct investigations. They would be mandated by this amendment to make a report each year. However, my inclination is to accept the amendment offered by the gentleman from Virginia on the understanding that the Senate bill does

not have such a provision, and that possibly we may want to take a look at it in the conference. But, with that understanding, I am inclined to accept the amendment offered by the gentleman from Virginia. (Mr. FISHER), who is trying to work toward improvements on this bill.

Mr. FISHER. I thank the gentleman.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. FISHER. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I rise in support of the gentleman's amendment. This amendment is designed to insure effective accountability for the actions of the Office of Personnel Management in view of the enormous concentration of power that would be placed in the Office under the administration's proposal. One of the more serious weaknesses of H.R. 11280 is that the possibility for manipulating the civil service for personal or political favoritism is greatly increased because personnel policy would be made by an administrator serving at the pleasure of the President, instead of by a bipartisan body. Another serious weakness is the sweeping authority to be granted the Director to delegate to the agencies the functions of the Office of Personnel Management. A further loophole is the potential opening of thousands of positions formerly reserved for the competitive service to the ravages of political patronage.

The number and rapidity of changes contemplated by H.R. 11280 and Reorganization Plan No. 2 will make it virtually impossible for Congress to effectively oversee the Office of Personnel Management unless provision is made for an annual systematic review of the policies and program decisions and the compliance and enforcement actions of the Office of Personnel Management by the GAO.

Mr. Chairman, I believe this amendment is necessary to help reduce the great risk of reverting to political and personal favoritism on a grand scale in the civil service. I believe it is absolutely essential if the Congress is to have the minimum information it needs to hold the Office of Personnel Management accountable and to oversee the executive branch with regard to merit in the civil service.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Virginia (Mr. FISHER).

The amendments were agreed to.

The CHAIRMAN. Are there any other amendments to title I?

AMENDMENTS OFFERED BY MR. LEACH

Mr. LEACH. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. LEACH:

Page 137, line 4, after "which is" insert "in the Foreign Service of the United States or which is".

Page 143, line 15, after "831–835)" insert "or the authorities or responsibilities under the Foreign Service Act of 1946 (60 Stat. 999; 22 U.S.C. 800 and following)".

Page 149, at the end of the matter below line 14, insert the following new item:

"1209. Exception for the Foreign Service."

Page 165, line 15, strike out the quotation marks and the period which follows.

Page 165, after line 15, insert:

"§ 1209. Exception for the Foreign Service."

"This chapter shall not apply to the Foreign Service of the United States.".

Page 178, line 5, strike out the period and insert in lieu thereof "; or".

Page 178, after line 5, insert:

"(3) whose position is in the Foreign Service of the United States.

Page 182, in the analysis for chapter 77, insert the following new item:

"7703. Foreign Service Grievance Board."

Page 188, line 12, strike out the quotation marks and the period which follows.

Page 188, after line 12, insert:

"§ 7703. Foreign Service Grievance Board

"This chapter shall not apply to any individual who is entitled to utilize the Foreign Service Grievance Board under sections 691 through 694 of the Foreign Service Act of 1946 (22 U.S.C. 1037–1037c).".

Page 274, line 1, after "individual" insert "(other than an individual in the Foreign Service of the United States)".

Mr. LEACH (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. LEACH. Mr. Chairman, I also ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. LEACH. Mr. Chairman, the three amendments I am proposing have been prepared with the support of the Department of State and are consistent with the position taken by the full Post Office and Civil Service Committee in July, when it voted to exempt the Foreign Service from the Senior Executive Service and from provisions pertaining to Federal Labor Management relations.

The first amendment simply excludes the Foreign Service from the provisions in title I of the bill pertaining to merit system principles and prohibited personnel practices.

The second amendment excepts the Foreign Service from the authority of the Merit Systems Protection Board and Special Counsel since the service already has its own apparatus—the Board of the Foreign Service—and officer—Director General of the Foreign Services—to oversee personnel policies and practices.

The third amendment excepts individual members of the Foreign Service from the categories subject to personnel research and demonstration projects under the direction of the Office of Personnel Management.

These proposed modifications are designed to preserve the Foreign Service personel system which the Congress has taken special care to maintain over the years.

Mr. Chairman, the Foreign Service has a substantially different personnel system than the civil service involving the establishment of rank-in-person rather than rank-in-grade. I believe it would be a mistake to change the Foreign Service system through this legislative vehicle. Accordingly I urge adoption of these amendments.

Mr. UDALL. Mr. Chairman, I rise in opposition to the amendments.

Mr. Chairman, I think we are seeing the beginning of what we are going to be wrestling with this afternoon.

The gentleman from Iowa (Mr. LEACH) is a very distinguished and valuable member of our committee. He has a special concern about protecting the Foreign Service. The Foreign Service is important, and they do have special problems.

Mr. Chairman, we have been lobbied since this bill began by the Park Service and the Forest Service. I spoke with a distinguished member of the other body today who wants to exempt the Smithsonian Institution. Each one of us probably has some special agency with which we have a special relationship, and we would like some special provisions or special exemptions written into the law with respect to that agency.

With regard to the Foreign Service, in the committee the gentleman from Iowa (Mr. LEACH) offered an amendment to exempt the Foreign Service from the Senior Executive Service in this bill. I was opposed to that amendment, and he carried the day. It was a major victory for the gentleman from Iowa.

Now in these amendments he would go further. We have in title I some basic statements of principle with regard to the merit system Government-wide, and those principles include the following: that employees should be protected against arbitrary action, personal favoritism, coercion for partisan political purposes, and so on; that employees should be protected against reprisal for the disclosure of information, and so on; that employees should maintain high standards of integrity, conduct, and concern.

Mr. Chairman, these amendments exempt the Foreign Service from those provisions. I am sure that just as soon as we pass this kind of amendment, other Members on the floor will be in with similar amendments to exempt agencies for whom they have some special concern.

Mr. Chairman, I would hope that we would leave the bill as it is and not begin to make exemptions. It is going to be a long night. If we continue at the speed at which we have been going, I think we can finish the bill at a reasonable hour this evening.

This amendment is unsound. We have already made our major concessions to the Foreign Service.

Mr. Chairman, I would hope that these amendments would be defeated.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Iowa (Mr. LEACH).

The amendments were rejected.

The CHAIRMAN. Are there other amendments to title I? There being none, the Clerk will read title II.

The Clerk read as follows:

TITLE II—CIVIL SERVICE FUNCTIONS; PERFORMANCE APPRAISAL; ADVERSE ACTIONS

OFFICE OF PERSONNEL MANAGEMENT

SEC. 201. (a) Chapter 11 of title 5, United States Code, is amended to read as follows:

"Chapter 11.—OFFICE OF PERSONNEL MANAGEMENT

"Sec.
"1101. Office Personnel Management.
"1102. Director; Deputy Director; Associate Directors
"1103. Function of the Director.
"1104. Delegation of authority for personnel management.
"1105. Reports to the Congress.
"1106. Administrative procedure.

"§ 1101. Office of Personnel Management

"The Office of Personnel Management is an independent establishment in the executive branch. The Office shall have an official seal which shall be judicially noticed and shall have its principal office in the District of Columbia, and may have field offices in other appropriate locations.

"§ 1102. Director; Deputy Director; Associate Directors

"(a) There is at the head of the Office of Personnel Management a Director of the Office of Personnel Management appointed by the President, by and with the advice and consent of the Senate.

"(b) There is in the Office a Deputy Director of the Office of Personnel Management appointed by the President, by and with the advice and consent of the Senate. The Deputy Director shall perform such functions as the Director may from time to time prescribe and shall act as Director during the absence or disability of the Director or when the office of the Director is vacant.

"(c) No person shall, while serving as Director or Deputy Director, serve in any other office or position in the Government of the United States except as otherwise provided by law or by the President.

"(d) There may be within the Office of Personnel Management not more than five Associate Directors, as determined from time to time by the Director. Each Associate Director shall be appointed by the Director.

"§ 1103. Functions of the Director

"The following functions are vested in the Director of the Office of Personnel Management, and shall be performed by the Director, or by such employees of the Office as the Director designates:

"(1) securing accuracy, uniformity, and justice in the functions of the Office;

"(2) appointing individuals to be employed by the Office;

"(3) directing and supervising employees of the Office, distributing business among employees and organizational units of the Office, and directing the internal management of the Office;

"(4) directing the preparation or requests for appropriations for the Office and the use and expenditure of funds by the Office;

"(5) executing, administering, and enforcing—

"(A) the civil service rules and regulations of the President and the Office and the statutes governing the civil service; and

"(B) the other activities of the Office including retirement and classification activities;

"(6) reviewing the operations under chapter 87 of this title; and

"(7) the functions prescribed in part I of Reorganization Plan Numbered 2 of 1978.

"§ 1104. Delegation of authority for personnel management

"(a) Notwithstanding any other provision of this title—

"(1) the President may delegate, in whole or in part, authority for personnel management functions, including authority for competitive examinations, to the Director of the Office of Personnel Management; and

"(2) the Director may delegate, in whole, or in part, any function vested in or delegated to the Director including authority for competitive examinations (except competitive examinations for administrative law judges appointed under section 3105 of this title), to the heads of agencies in the executive branch and other agencies employing persons in the competitive service.

"(b)(1) The Office of Personnel Management shall establish standards which shall apply to the activities of the Office or any other agency under authority delegated under subsection (a) of this section.

"(2) The Office shall establish and maintain oversight program to ensure that activities under any authority delegated under subsection (a) of this section are in accordance with the merit system principles and the standards established under paragraph (1) of this subsection.

"(c) If the Office makes a written finding, on the basis of information obtained under the program established under subsection (b)(2) of this section or otherwise, that any action taken by an agency pursuant to authority delegated under subsection (a)(2) of this section is contrary to any law, rule, or regulation, or is contrary to any standard established under subsection (b)(1) of this section, the agency involved shall take any corrective action the Office may require.".

"§ Reports to the Congress

"Notwithstanding any other provision of law or any rule, regulation, or directive, the Director, or any employee of the Office of Personnel Management designated by the Director, may transmit to the Congress on the request of any committee or subcommittee thereof, by report, testimony, or otherwise, information and views on functions, responsibilities, or other matters relating to the Office, without review, clearance, or approval by any other administrative authority.

"§ 1106. Administrative procedure

"In the exercise of the functions assigned under this chapter, the Director shall be subject to subsections (b), (c), and (d) of section 553 of this title, notwithstanding subsection (a) of such section 553.".

(b)(1) Section 5313 of title 5, United States Code, is amended by inserting at the end thereof the following new paragraph:

"(24) Director of the Office of Personnel Management.".

(2) Section 5314 of such title is amended by inserting at the end thereof the following new paragraph:

"(68) Deputy Director of the Office of Personnel Management.".

(3) Section 5315 of such title is amended by inserting at the end thereof the following new paragraph:

"(122) Associate Directors of the Office of Personnel Management (5).".

(c)(1) The heading of part II of title 5, United States Code, is amended by striking out "THE UNITED STATES CIVIL SERVICE COMMISSION" and inserting in lieu thereof "CIVIL SERVICE FUNCTIONS AND RESPONSIBILITIES".

(2) The item relating to chapter 11 in the table of chapters for part II of such title is amended by striking out "Organization" and inserting in lieu thereof "Office of Personnel Management".

MERIT SYSTEMS PROTECTION BOARD AND SPECIAL COUNSEL

SEC. 202. (a) Title 5, United States Code, is amended by inserting after chapter 11 the following new chapter:

"Chapter 12—MERIT SYSTEMS PROTECTION BOARD AND SPECIAL COUNSEL

"Sec.
"1201. Appointment of members of the Merit Systems Protection Board.
"1202. Term of office; filling vacancies; removal; quorum.
"1203. Chairman; Vice Chairman.
"1204. Special Counsel; appointment and removal.
"1205. Powers and functions of the Merit Systems Protection Board and Special Counsel.
"1206. Authority and responsibilities of the Special Counsel.
"1207. Hearings and decisions on complaints filed by the Special Counsel.
"1208. Reports to Congress.

"§ 1201. Appointment of members of the Merit Systems Protection Board

"The Merit Systems Protection Board is composed of 3 members appointed by the President, by and with the advice and consent of the Senate, not more than 2 of whom may be adherents of the same political party. No member of the Board may hold another office or position in the Government of the United States. The Board shall have an official seal which shall be judicially noticed. The Board shall have its principal office in the District of Columbia and may have field offices in other appropriate locations.

"§ 1202. Term of office; filling vacancies; removal; quorum

"(a) The term of office of each member of the Merit Systems Protection Board is 7 years.

"(b) A member appointed to fill a vacancy occurring before the end of a term of office of his predecessor serves for the remainder of that term. Any appointment to fill a vacancy is subject to the requirements of section 1201 of this title.

"(c) Any member appointed for a 7-year term may not be reappointed to any following term.

"(d) Members may be removed by the President only upon notice and hearing and only for misconduct, inefficiency, neglect of duty or malfeasance in office.

"(e) Except as otherwise provided in this title, the Board shall act upon majority vote of those members present, and any 2 members present shall constitute a quorum for the transaction of business of the Board.

"§ 1203. Chairman; Vice Chairman

"(a) The President shall from time to time designate one of the members of the Merit Systems Protection Board as the Chairman of the Board. The Chairman is the chief executive and administrative officer of the Board.

"(b) The President shall from time to time designate one of the members of the Merit Systems Protection Board as Vice Chairman of the Board. During the absence or disability of the Chairman, or when the office of Chairman is vacant, the Vice Chairman shall perform the functions vested in the Chairman.

"§ 1204. Special Counsel; appointment and removal

"The Special Counsel of the Merit Systems Protection Board shall be appointed by the President, by and with the advice and consent of the Senate, for a term of 7 years. The Special Counsel may be removed by the President only upon notice and hearing and only for misconduct, inefficiency-neglect of duty, or malfeasance in office.

"§ 1205. Powers and functions of the Merit Systems Protection Board and Special Counsel

"(a) Any member of the Merit Systems Protection Board, the Special Counsel, any administrative law judge appointed by the Board under section 3105 of this title, and any employee of the Board designated by the Board may—

"(1) issue subpenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States or any territory or possession thereof, the Commonwealth of Puerto Rico, or the District of Columbia, and

"(2) administer oaths, take or order the taking of depositions, order responses to written interrogatories, examine witnesses, and receive evidence.

"(b) In the case of contumacy or failure to obey a subpena issued under subsection (a)(1) of this section, the United States district court for the judicial district in which the person to whom the subpena is addressed resides or is served may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(c) Witnesses (whether appearing voluntarily or under subpena) shall be paid the same fee and mileage allowances which are paid subpenaed witnesses in the courts of the United States.

"(d) In addition to functions otherwise provided in this title, the Board shall have the functions prescribed in part II of Reorganization Plan Numbered 2 of 1978.

"§ 1206. Authority and responsibilities of the Special Counsel

"(a)(1) The Special Counsel shall receive any allegation of a prohibited personnel practice and shall investigate the allegation to the extent necessary to determine whether there are reasonable grounds to believe that a prohibited personnel practice exists or has occurred.

"(2) If the Special Counsel terminates any investigation under paragraph (1) of this subsection, the Special Counsel shall prepare and transmit to any person on whose allegation the investigation was initiated a written statement notifying the person of the termination of the investigation and the reasons therefor.

"(3) In addition to authority granted under paragraph (1) of this subsection, the Special Counsel may, in the absence of an allegation, conduct an investigation for the purpose of determining whether there are reasonable grounds to believe that a prohibited personnel practice exists or has occurred.

"(b)(1) If the Special Counsel determines that there are reasonable grounds to believe—

"(A) that a personnel action was taken, or is to be taken. as a result of a prohibited personnel practice; and

"(B) except with regard to a prohibited personnel practice described in section 2302 (b)(8) of this title, that the personnel action would have a substantial and adverse impact on the employee involved;

the Special Counsel may order a stay of the personnel action for 30 calendar days or any longer period the Board may prescribe under paragraph (2) of this subsection.

"(2) If the Board—

"(A) has received a petition of the Special Counsel for an extension of a stay ordered under paragraph (1) of this subsection, and

"(B) concurs in the determination of the Special Counsel under paragraph (1), after an opportunity is provided for oral or written comment by the Special Counsel and the agency involved,

the Board may extend the period of such stay for any period it considers appropriate. If the aggregate period of the stay, as proposed to be extended, will not exceed 60 days, the function of the Board under this paragraph may be performed by any one member of the Board.

"(c)(1) In any case involving—

"(A) any disclosure of information by an employee or applicant for employment which the employee or applicant reasonably believes evidences—

"(i) a violation of any law, rule, or regulation; or

"(ii) mismanagement, a waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; if the disclosure is not specifically prohibited by law and if the information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs; or

"(B) a disclosure by an employee or applicant for employment to the Special Counsel of the Merit Systems Protection Board, or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures, of information which the employee or applicant reasonably believes evidences—

"(i) a violation of any law, rule, or regulation; or

"(ii) mismanagement, a waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; the identity of the employee or applicant may not be disclosed without the consent of the employee or applicant during any investigation under subsection (a) of this section or under paragraph (2) of this subsection, unless the Special Counsel determines that the disclosure of the identity of the employee or applicant is necessary in order to effectively carry out the investigation.

"(2) Within 15 days after receiving any information under paragraph (1)(B) of this subsection, the Special Counsel shall determine whether the information warrants an investigation. If an investigation is determined to be warranted, the Special Counsel shall—

"(A) transmit the information to the head of the agency involved;

"(B) require the head of the agency to—

"(i) conduct an investigation of the information and any related matters transmitted by the Special Counsel to the head of the agency; and

"(ii) submit a written report to the Special Counsel and to the General Accounting Office setting forth the findings of the head of the agency within 60 days after the date on which the information is transmitted to the head of the agency or within any longer period of time agreed to in writing by the Special Counsel; and

"(C) transmit a copy of the report to the employee or applicant for employment who disclosed the information.

"(3) Any report required under paragraph (2) of this subsection shall be reviewed and signed by the head of the agency and shall include—

"(A) a summary of the information with respect to which the investigation was initiated;

"(B) a detailed description of the conduct of the investigation;

"(C) a summary of any evidence obtained from the investigation;

"(D) a listing of any violation or apparent violation of any law, rule, or regulation; and

"(E) a description of any corrective action taken or planned as a result of the investigation, such as—

"(i) changes in agency rules, regulations, or practices;

"(ii) the restoration of any aggrieved employee;

"(iii) disciplinary action against any employee; and

"(iv) referral to the Attorney General of any evidence of a criminal violation.

"(4) In any case in which evidence of a criminal violation obtained by an agency in an investigation under paragraph (2) of this subsection is referred to the Attorney General, the agency shall notify the Office of Personnel Management and the Office of Management and Budget of the referral.

"(5) Upon receipt of any report of the head of any agency required under paragraph (2)(B)(ii) of this subsection, the Special Counsel shall review the report and determine whether—

"(A) the findings of the head of the agency are reasonable;

"(B) the agency's investigation was complete and unbiased; and

"(C) the corrective action taken or planned is sufficient in light of any violations found to have occurred.

"(6) Upon receipt of any report of the head of any agency required under paragraph (2)(B)(ii) of this subsection, the General Accounting Office shall review the report and determine whether the agency investigation involved was adequate and whether the corrective action, if any, taken or planned by the agency is adequate. The General Accounting Office shall report the results of its review to the Congress if it determines that the agency's investigation or any corrective action taken or planned by the agency is inadequate.

"(7) Except as specifically authorized under this subsection, the provisions of this subsection shall not be considered to authorize disclosure of any information by the Congress, any agency, or any person which is—

"(A) specifically prohibited from disclosure by any other provision of law; or

"(B) specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

"(8) The Special Counsel may, with the consent of the employee or applicant for employment involved, participate in any proceeding before the Merit Systems Protection Board under section 7701 of this title, to the extent the Special Counsel determines appropriate, if the Special Counsel believes the personnel action which is the subject of the proceeding involves a reprisal for a disclosure of information described in paragraph (1)(A) or (B) of this section."

"(d)(1) If, in connection with any investigation under this section, the Special Counsel determines that there are reasonable grounds to believe that a prohibited personnel practice exists or has occurred which requires corrective action action, the Special Counsel shall report the determination together with any findings or recommendations to the Merit systems Protection Board, the agency involved, and to the Office of Personnel Management, and may report the determination, findings, and recommendations to the President. The Special Counsel may include in the report recommendations as to what corrective action should be taken, but the final decision on the corrective action to be taken shall be made by the Merit Systems Protection Board after opportunity for comment by the agency concerned and the Office of Personnel Management.

"(2) If, in connection with any investigation under this section, the Special Counsel determines that there is reasonable cause to believe that a criminal violation by an employee has occurred, the Special Counsel shall report the determination to the Attorney General and to the head of the agency involved, and shall submit a copy of the report to the Director of the Office of Personnel Management and the Director of the Office of Management and Budget.

"(3) If, in connection with any investigation under this section, the Special Counsel determines that there is reasonable cause to believe that any violation of any law, rule, or regulation has occurred which is not referred to in paragraph (1) or (2) of this subsection, the violation shall be reported to the head of the agency involved. The Special Counsel shall require, within 30 days of the receipt of the report by the agency, a certification by the head of the agency which states—

"(A) that the head of the agency has personally reviewed the report; and

"(B) what action has been, or is to be, taken, and when the action will be completed.

The Special Counsel shall maintain and make available to the public a list of noncriminal matters referred to heads of agencies and their certifications under this paragraph.

"(e)(1) In addition to the authority other-

wise provided in this section, the Special Counsel shall, except as provided in paragraph (2) of this subsection, conduct an investigation of any allegation concerning—

"(A) political activity prohibited under subchapter III of chapter 73 of this title, relating to political activities by Federal employees;

"(B) political activity prohibited under chapter 15 of this title, relating to political activities by certain State and local officers and employees;

"(C) arbitrary or capricious withholding of information prohibited under section 552 of this title;

"(D) activities prohibited by any civil service law, rule, or regulation, including any activity relating to political intrusion in personnel decisionmaking; and

"(E) involvement by any employee in any prohibited discrimination found by any court or appropriate administrative authority to have occurred in the course of any personnel action.

"(2) The Special Counsel shall make no investigation of any allegation of any prohibited activity referred to in paragraph (1)(D) or (1)(E) of this subsection if the Special Counsel determines that the allegation may be resolved more appropriately under an administrative appeals procedure.

"(f) During any investigation initiated under subsection (a), (c), or (e) of this section, no disciplinary action shall be taken against any employee for any alleged prohibited activity under investigation or for any related activity without the approval of the Special Counsel.

"(g)(1) Except as provided in paragraph (2) of this subsection, if the Special Counsel determines that disicplinary action should be taken against any employee—

"(A) after any investigation under this section, or

"(B) on the basis of any knowing and willful refusal or failure by an employee to comply with an order or requirement of the Special Counsel under subsection (b), (c), or (d)(3) of this section or an order of the Merit Systems Protection Board,

the Special Counsel shall prepare a written complaint against the employee containing his determination, together with a statement of supporting facts, and present the complaint and statement to the employee and the Merit Systems Protection Board in accordance with section 1207 of this title.

"(2) In the case of an individual appointed by the President, by and with the advice and consent of the Senate (other than an individual in the Foreign Service of the United States), the complaint and statement referred to in paragraph (1) of this subsection shall be presented to the President for appropriate action in lieu of being presented under section 1207 of this title.

"(h) The Special Counsel may appoint the legal, administrative, and support personnel necessary to perform the functions of the Special Counsel.

"(i) The Special Counsel may prescribe regulations relating to the receipt and investigation of matters under the jurisdiction of the Special Counsel. Such regulations shall be published in the Federal Register.

"(j) The Special Council shall not issue any advisory opinion concerning any law, rule, or regulation (other than an advisory opinion concerning chapter 15 or subchapter III of chapter 73 of this title).

"(k) The Special Counsel shall prepare and submit an annual report to the President and to the Congress on—

"(1) the investigation and disposition of each case considered by the Special Counsel during the annual period covered by the report; and

"(2) actions by the Special Counsel on each case referred by the Special Counsel to the President during the annual period covered by the report.

"§ 1207. Hearings and decisions on complaints filed by the Special Counsel

"(a) Any employee against whom a complaint has been presented to the Merit Systems Protection Board under section 1206(g) of this title shall be entitled to—

"(1) a reasonable time to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

"(2) be represented by an attorney or other representative;

"(3) a hearing before the Board, an administrative law judge appointed under section 3105 of this title and designated by the Board, or any other employee of the Board designated by the Board to conduct the hearing;

"(4) have a transcript kept of any hearing under paragraph (3); and

"(5) a written decision and reasons therefor at the earliest practicable date including a copy of any final order imposing disciplinary action.

"(b) A final order of the Board may impose disciplinary action—

"(1) in the case of political activity prohibited under subchapter III of chapter 73 of this title, as provided in section 7327 of this title; or

"(2) in any other case, consisting of removal, reduction in grade, debarment from Federal employment for a period not to exceed 5 years, suspension, reprimand, or an assessment of a civil penalty not to exceed $1,000.

"(c) There may be no administrative appeal from an order of the Board. An employer subject to a final order imposing disciplinary action under this section may obtain judicial review of the order in the United States district court for the judicial district in which the employee resides.

"(d) In the case of any State or local officer or employee under chapter 15 of this title, the Board shall consider the case in accordance with the provisions of such chapter.

"§ 1208. Reports to the Congress

"Notwithstanding any other provision of law or any rule, regulation or directive, any member of the Board, or any employee of the Board designated by the Board, may transmit to the Congress on the request of any committee or subcommittee thereof, by report, testimony, or otherwise, information and views on functions, responsibilities, or other matters relating to the Board, without review, clearance, or approval by any other administrative authority.".

(b) Any term of office of any member of the Merit Systems Protection Board serving on the effective date of this Act shall continue in effect until the term would expire under section 1102 of title 5, United States Code, as in effect immediately before the effective date of this Act, and upon expiration of the term, appointments to such office shall be made under section 1201 and 1202 of title 5, United States Code (as added by this section).

(c)(1) Section 5314(17) of title 5, United States Code, is amended by striking out "Chairman of the United States Civil Service Commission" and inserting in lieu thereof "Chairman of the Merit Systems Protection Board".

(2) Section 5315(66) of such title is amended by striking out "Members, United States Civil Service Commission" and inserting in lieu thereof "Members, Merit Systems Protection Board".

(3) Section 5315 of such title is further amended by adding at the end thereof the following new paragraph:

"(123) Special Counsel of the Merit Systems Protection Board.".

(4) Paragraph (99) of section 5316 of such title is hereby repealed.

(d) The table of chapters for part II of title 5, United States Code, is amended by inserting after the item relating to chapter 11 the following new item:

"12 Merit Systems Protection Board and Special Counsel ..... 1201."

PERFORMANCE APPRAISAL

SEC. 203. (a) Chapter 43 of title 5, United States Code, is amended to read as follows:

"Chapter 43.—PERFORMANCE APPRAISAL

"SUBCHAPTER I—GENERAL PROVISIONS

"Sec.
"4301. Definitions.
"4302. Establishment of performance appraisal systems.
"403. Actions based on unacceptable performance.
"4304. Responsibilities of Office of Personnel Management.
"4305. Regulations.

"§ 4301. Definitions

"For the purpose of this subchapter—

"(1) 'agency' means—

"(A) an Executive agency;

"(B) the Administrative Office of the United States Courts; and

"(C) the Government Printing Office;

but does not include—

"(i) a Government corporation;

"(ii) the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, or any Executive agency or unit thereof which is designated by the President and which conducts foreign intelligence or counterintelligence activities; or

"(iii) the General Accounting Office;

"(2) 'employee' means an individual employed in or under an agency, but does not include—

"(A) an employee outside the United States who is paid in accordance with local native prevailing wage rates for the area in which employed;

"(B) an individual in the Foreign Service of the United States;

"(C) a physician, dentist, nurse, or other employee in the Department of Medicine and Surgery, Veterans' Administration, whose pay is fixed under chapter 73 of title 38;

"(D) an administrative law judge appointed under section 3105 of this title;

"(E) an individual in the Senior Executive Service; or

"(F) an individual appointed by the President; and

"(3) 'unacceptable performance' means performance of an employee which fails to meet established performance standards in one or more critical elements of such employee's position.

"§ 4302. Establishment of performance appraisal systems

"(a) Each agency shall develop one or more performance appraisal systems which—

"(1) provide for periodic appraisals of job performance of employees;

"(2) encourage employee participation in establishing performance standards;

"(3) use the results of performance appraisals as a basis for training, rewarding, reassigning, promoting, reducing in grade, retaining, and removing employees; and

"(4) shall be the basis, notwithstanding any other provision of law, for promotions of one or more grades during any 12-month period in individual cases of exceptionally meritorious performance.

"(b) Under regulations which the Office of Personnel Management shall prescribe, each performance appraisal system shall provide for—

"(1) establishing performance standards which will permit the accurate evaluation of job performance on the basis of objective criteria related to the job in question for each employee under such system;

"(2) as soon as practicable, but not later than October 1, 1981, with respect to initial

appraisal periods, and thereafter at the beginning of each following appraisal period, communicating to each employee the performance standards and the critical elements of the employee's position;

"(3) evaluating each employee during the appraisal period on such standards;

"(4) recognizing and rewarding employees whose performance so warrants;

"(5) assisting employees in improving unacceptable performance;

"(6) reassigning, reducing in grade, or removing employees who continue to have unacceptable performance; and

"(7) promoting employees one or more grades during any 12-month period, notwithstanding any other provision of law, in individual cases of exceptionally meritorious performance, subject to limitations prescribed by the Office of Personnel Management on the number or proportions of such promotions.

§ 4304. Actions based on unacceptable performance

"(a) Subject to the provisions of this section, an agency may reduce in grade or remove an employee for unacceptable performance.

"(b)(1) An employee whose reduction in grade or removal is proposed under this section is entitled to—

"(A) 30 days' advance written notice of the proposed action which identifies—

"(i) each instance of unacceptable performance by the employee on which the proposed action is based; and

"(ii) the critical elements of the employee's position involved in each instance of unacceptable performance;

"(B) be represented by an attorney or other representative;

"(C) a reasonable time to answer orally and in writing;

"(D) an opportunity during the notice period to demonstrate acceptable performance; and

"(E) a written decision which—

"(i) in the case of a reduction in grade or removal under this section, specifies the instances of unacceptable performance by the employee on which the reduction in grade or removal is based, and

"(ii) unless proposed by the head of the agency, has been concurred in by an employee who is in a higher position than the employee who proposed the action.

"(2) An agency may, under regulations prescribed by the head of such agency, extend the notice period under subsection (b)(1)(A) of this section for not more than 30 days. An agency may extend the notice period for more than 30 days only in accordance with regulations issued by the Office of Personnel Management.

"(c) The decision to retain, reduce in grade, or remove an employee—

"(1) shall be made within 30 days after the date of the expiration of the notice period, and

"(2) in the case of a reduction in grade or removal, may be based only upon those instances of unacceptable performance by the employee—

"(A) which occurred during the 1-year period ending on the date of the notice under subsection (b)(1)(A) of this section in connection with the decision; and

"(B) for which the notice and other requirements of this section are complied with.

"(d) If, because of performance improvement by the employee during the notice period, the employee is not reduced in grade or removed, and the employee's performance continues to be acceptable for 1 year from the date of the advance written notice provided under subsection (b)(1)(A) of this section, any entry or other notation of the unacceptable performance for which the action was proposed under this section shall be removed from any agency record relating to the employee.

"(e) Any employee who is a preference eligible or is in the competitive service and who has been reduced in grade or removed under this section is entitled to appeal the action to the Merit System Protection Board under section 7701 of this title.

"(f) This section does not apply to—

"(1) the reduction to the grade previously held of a supervisor who has not completed the probationary period under section 3321(a)(2) of this title,

"(2) the reduction in grade or removal of an employee in the competitive service who is serving a probationary or trial period under an initial appointment or who has not completed 1 year of current continuous employment under other than a temporary appointment limited to 1 year or less, or

"(3) the reduction in grade or removal of an employee in the excepted service who has not completed 1 year of current continuous employment in the same or similar positions.

"§ 4304. Responsibilities of the Office of Personnel Management

"(a) The Office of Personnel Management shall make technical assistance available to agencies in the development of performance appraisal systems.

"(b) If the Office of Personnel Management determines that a performance appraisal system does not meet the requirements of this subchapter (including regulations prescribed under section 4305 of this title), the Office of Personnel Management shall direct the agency to implement an appropriate system or to correct operations under the system, and the agency shall take any action so directed.

"§ 4305. Regulations

"The Office of Personnel Management may prescribe regulations to carry out the purpose of this subchapter.".

(b) The item relating to chapter 43 in the table of chapters for part III of title 5, United States Code, is amended by striking out "Performance Rating" and inserting in lieu thereof "Performance Appraisal".

ADVERSE ACTIONS

SEC. 204. (a) Chapter 75 of title 5, United States Code, is amended by striking out subchapters I, II, and III and inserting in lieu thereof the following:

"SUBCHAPTER I—SUSPENSION FOR 14 DAYS OR LESS

"§ 7501. Definitions

"For the purpose of this subchapter—

"(1) 'employee' means an individual in the competitive service who is not serving a probationary or trial period under an initial appointment or who has completed 1 year of current continuous employment in the same or similar positions under other than a temporary appointment limited to 1 year or less; and

"(2) 'suspension' means the placing of an employee, for disciplinary reasons, in a temporary status without duties and pay.

"§ 7502. Action covered

"This subchapter applies to a suspension for 14 days or less, but does not apply to a suspension under section 7521 or 7532 of this title or any action initiated under section 1206 of this title.

"§ 7503. Cause and procedure

"(a) Under regulations prescribed by the Office of Personnel Management, an employee may be suspended for 14 days or less only for such cause as will promote the efficiency of the service.

"(b) An employee against whom a suspension for 14 days or less is proposed is entitled to—

"(1) an advance written notice stating the specific reasons for the proposed action;

"(2) a reasonable time to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

"(3) be represented by an attorney or other representative; and

"(4) a written decision and the specific reasons therefor at the earliest practicable date.

"(c) An agency may provide, by regulation, for a hearing which may be in lieu of or in addition to the opportunity to answer provided under subsection (b)(2) of this section.

"(d) Copies of the notice of proposed action, the answer of the employee if written, a summary thereof if made orally, the notice of decision and reasons therefor, and any order effecting the suspension, together with any supporting material, shall be maintained by the agency and shall be furnished to the Merit Systems Protection Board upon its request and to the employee affected upon the employee's request.

"§ 7504. Regulations

"The Office of Personnel Management may prescribe regulations to carry out the purpose of this subchapter.

"SUBCHAPTER II—REMOVAL, SUSPENSION FOR MORE THAN 14 DAYS, REDUCTION IN GRADE OR PAY, OR FURLOUGH FOR 30 DAYS OR LESS

"7511. Definitions; application

"(a) For the purpose of this subchapter—

"(1) 'employee' means—

"(A) an individual in the competitive service who is not serving a probationary or trial period under an initial appointment or who has completed 1 year of current continuous employment under other than a temporary appointment limited to 1 year or less; and

"(B) a preference eligible in an Executive agency in the excepted service, and a preference eligible in the United States Postal Service or the Postal Rate Commission, who has completed 1 year of current continuous service in the same or similar positions;

"(2) 'suspension' has the meaning as set forth in section 7501(2) of this title;

"(3) 'grade' means a level of classification under a position classification system;

"(4) 'pay' means the rate of basic pay fixed by law or administrative action for the position held by an employee; and

"(5) 'furlough' means the placing of an employee in a temporary status without duties and pay because of lack of work or funds or other nondisciplinary reasons.

"(b) This subchapter does not apply to an employee—

"(1) whose appointment is made by and with the advice and consent of the Senate;

"(2) whose position has been determined to be of a confidential, policy-determining, or policy-advocating character by—

"(A) the Office of Personnel Management for a position that it has excepted from the competitive service; or

"(B) the head of an agency for a position which is excepted from the competitive service by statute.

"(c) The Office of Personnel Management may provide for the application of this subchapter to any position or group of positions excepted from the competitive service by regulation of the Office of Personnel Management.

"§ 7512. Actions covered

"This subchapter applies to—

"(1) a removal;

"(2) a suspension for more than 14 days;

"(3) a reduction in grade;

"(4) a reduction in pay; and

"(5) a furlough of 30 days or less;

but does not apply to—

"(A) a suspension or removal under section 7532 of this title,

"(B) a reduction in force action under section 3502 of this title,

"(C) the reduction in grade of a supervisor who has not completed the probationary period under section 3321(a)(2) of this title if such reduction is to the grade held

immediately before becoming such a supervisor,

"(D) a reduction in grade or removal under section 4303 of this title, or

"(E) an action initiated under section 1206 or 7521 of this title.

"§ 7513. Cause and procedure

"(a) Under regulations prescribed by the Office of Personnel Management, an agency may take an action covered by this subchapter against an employee only for such cause as will promote the efficiency of the service.

"(b) An employee against whom an action is proposed is entitled to—

"(1) at least 30 days' advance written notice, unless there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed, stating the specific reasons for the proposed action;

"(2) a reasonble time, but not less than 7 days, to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answers;

"(3) be represented by an attorney or other representatives; and

"(4) a written decision and the specific reasons therefor at the earliest practicable date.

"(c) An agency may provide, by regulation, for a hearing which may be in lieu of or in addition to the opportunity to answer provided under subsection (b)(2) of this section.

"(d) An employee against whom an action is taken under this section is entitled to appeal to the Merit Systems Protection Board under section 7701 of this title.

"(e) Copies of the notice of proposed action, the answer of the employee when written, a summary thereof when made orally, the notice of decision and reasons therefor, and any order effecting an action covered by this subchapter, together with any supporting material, shall be maintained by the agency and shall be furnished to the Merit Systems Protection Board upon its request and to the employee affected upon the employee's request.

"§ 7514. Regulations

"The Office of Personnel Management may prescribe regulations to carry out the purpose of this subchapter.

"SUBCHAPTER III—ADMINISTRATIVE LAW JUDGES

"§ 7521. Actions against administrative law judges

"(a) An action may be taken against an administrative law judge appointed under section 3105 of this title by the agency in which the administrative law judge is employed only for good cause established and determined by the Merit Systems Protection Board on the record after opportunity for hearing before the Board.

"(b) The actions covered by this section are—

"(1) a removal;

"(2) a suspension;

"(3) a reduction in grade;

"(4) a reduction in pay;

"(5) a furlough of 30 days or less; and

"(6) a written reprimand or admonition based on the performance or nonperformance of adjudicatory duties;

but do not include—

"(A) a suspension or removal under section 7532 of this title;

"(B) a reduction in force action under section 3502 of this title; or

"(C) any action initiated under section 1206 of this title.".

(b) So much of the analysis for chapter 75 of title 5, United States Code, precedes the items relating to subchapter IV is amended to read as follows:

"Chapter 75.—ADVERSE ACTIONS

"SUBCHAPTER I—SUSPENSION OF 14 DAYS OR LESS

"Sec.
"7501. Definitions.
"7502. Actions covered.
"7503. Cause and procedure.
"7504. Regulations.

"SUBCHAPTER II—REMOVAL, SUSPENSION FOR MORE THAN 14 DAYS, REDUCTION IN GRADE OR PAY, OR FURLOUGH FOR 30 DAYS OR LESS

"7511. Definitions; application.
"7512. Actions covered.
"7513. Cause and procedure.
"7514. Regulations.

"SUBCHAPTER III—ADMINISTRATIVE LAW JUDGES

"7521. Actions against administrative law judges.".

APPEALS

SEC. 205. Chapter 77 of title 5, United States Code, is amended to read as follows:

"Chapter 77.—APPEALS

"Sec.
"7701. Appellate procedures.
"7702. Judicial review of decisions of the Merit Systems Protection Board.

"§ 7701. Appellate procedures

"(a) An employee, or applicant for employment, may submit an appeal to the Merit Systems Protection Board from any action which is appealable to the Board under any law, rule, or regulation. An appellant shall have the right—

"(1) to a hearing for which a transcript will be kept; and

"(2) to be represented by an attorney or other representative.

Appeals shall be processed in accordance with regulations prescribed by the Board.

"(b) The Board may hear any case appealed to it or may refer the case to an administrative law judge appointed under section 3105 of this title or other employee of the Board designated by the Board to hear such cases. The Board, administrative law judge, or other employee (as the case may be) shall make a decision after receipt of the written representations of the parties to the appeal and after opportunity for a hearing under subsection (a)(1) of this section. A copy of the decision shall be furnished to each party to the appeal and to the Office of Personnel Management.

"(c)(1) Subject to paragraph (2) of this subsection, the decision of the agency shall be sustained under subsection (b) only if the agency's decision is supported by a preponderance of evidence.

"(2) Notwithstanding paragraph (1), the agency's decision may not be sustained under subsection (b) of this section if the employee or applicant for employment—

"(A) shows harmful error in the application of the agency's procedures in arriving at such decision;

"(B) shows that the decision was based on any prohibited personnel practice described in section 2302(b) of this title; or

"(C) shows that the decision was not in accordance with law.

"(d)(1) Except as provided in subsection (e) of this section, any decision under subsection (b) of this section shall be final unless—

"(A) a party to the appeal or the Director of the Office of Personnel Management petitions the Board for a review within 30 days after the receipt of the decision; or

"(B) the Board reopens and reconsiders a case on its own motion.

The Board, for good cause shown, may extend the 30-day period referred to in subparagraph (A) of this paragraph. One member of the Board may grant a petition or otherwise direct that a decision be reviewed by the full Board. The preceding sentence shall not apply if, by law, a decision of an administrative law judge is required to be acted upon by the Board.

"(2) The Director of the Office of Personnel Management may petition the Board for a review under paragraph (1) of this subsection only if the Director is of the opinion that the decision is erroneous and will have a substantial impact on civil service laws, rules, or regulations under the jurisdiction of the Office of Personnel Management.

"(e) The Equal Employment Opportunity Commission may delegate to the Merit Systems Protection Board the authority to provide an employee or applicant with a preliminary determination on the issue of discrimination whenever, as part of a complaint or appeal before the Merit Systems Protection Board on other grounds, the employee or applicant involved alleges a violation of section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16), the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a), or section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791). Nothing in the subsection shall be construed to authorize the Equal Employment Opportunity Commission to delegate the function of making a final determination concerning the issue of discrimination.

"(f) The Board, or an administrative law judge or other employee of the Board designated to hear a case, may—

"(1) consolidate appeals filed by two or more appellants, or

"(2) join two or more appeals filed by the same appellant and hear and decide them concurrently,

if the deciding official or officials hearing the cases are of the opinion that the action could result in the appeals' being processed more expeditiously and would not adversely affect any party.

"(g)(1) Except as provided in paragraph (2) of this subsection, the Board, or an administrative law judge or other employee of the Board designated to hear a case, may require payment by the agency involved of reasonable attorney fees incurred by an employee or applicant for employment if the employee or applicant is the prevailing party and the Board, administrative law judge, or other employee, as the case may be, determines that payment by the agency is warranted.

"(2) If an employee or applicant for employment is the prevailing party and the decision is based on a finding of discrimination prohibited under section 2302(b)(1) of this title, the payment of attorney fees shall be in accordance with the standards prescribed under section 706 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(k)).

"(h) The Board may, by regulation, provide for one or more alternative methods for settling matters subject to the appellate jurisdiction of the Board which shall be applicable at the election of an applicant for employment or of an employee who is not in a unit for which a labor organization is accorded exclusive recognition, and shall be in lieu of other procedures provided for under this section. A decision under such a method shall be final, unless the Board reopens and reconsiders a case at the request of the Office of Personnel Management under subsection (d) of this section.

"(i) The Merit Systems Protection Board may prescribe regulations to carry out the purpose of this section.

"§ 7702. Judicial review of decisions of the Merit Personnel Systems Protection Board

"(a) Any employee or applicant for employment adversely affected or aggrieved by a final order or decision of the Merit Systems Protection Board may obtain judicial review of the order or decision.

"(b) A petition to review a final order or decision of the Board shall be filed in the Court of Claims or a United States district court as provided in chapters 91 and 85, respectively, of title 28. Notwithstanding any other provision of law, any petition for review must be filed within 30 days after the date the petitioner received notice of the final order or decision of the Board.

"(c) The court shall review the record for the purpose of determining whether the findings are in accordance with law, and whether the procedures required by statute and regulations were followed. The findings of the Board are conclusive if supported by the evidence in the record. If the court determines that further evidence is necessary, it shall remand the case to the Board. The Board, after such further proceedings as may be required, may modify its findings, and shall file with the court the record of such proceedings. The findings of the Board are conclusive if supported by the evidence in the record as supplemented.

"(d) If the Director of the Office of Personnel Management determines, in his sole discretion, that the Board erred in interpreting a civil service law, rule, regulation, or policy directive affecting personnel management and that the Board's final decision or order will have a substantial impact on any civil service, law, rule, or regulation, the Director may file a petition for judicial review of the order or decision in the United States District Court for the District of Columbia. In addition to the named respondent, the Board and all other parties to the proceedings before the Board shall have the right to appear in the proceeding before the court. The granting of the petition for judicial review shall be at the discretion of the court.".

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent to dispense with further reading of title II, and that it be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

AMENDMENTS OFFERED BY MR. HANLEY

Mr. HANLEY. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. HANLEY: Page 186, after line 25, insert the following:

"§ 7702. Pretermination hearings

"(a) If an agency gives notice under—

"(1) section 4303(b)(1) of this title of its intention to separate an employee; or

"(2) section 7513(b)(1) of this title of its intention to remove an employee, or to suspend an employee for more than 14 days;

such employee may, on or before the 10th day after such employee receives such notice, elect a pretermination hearing under this section in lieu of further proceedings under section 4303 or section 7513 of this title. An election of a pretermination hearing under this section must be made in a writing submitted to the Merit Systems Protection Board in accordance with regulations prescribed by the Board.

"(b) Any pretermination hearing elected under subsection (a) of this section shall be treated as an appeal to the Merit Systems Protection Board under section 7701 of this title, except that—

"(A) such hearing shall be conducted by an administrative law judge appointed under section 3105 of this title and employed by the Board, whose decision shall be final, subject to judicial review under section 7703 of this title as a decision by the Board;

"(B) subsection (d) of such section 7701 shall not apply; and

"(C) no hearing pursuant to such election shall be scheduled before the 14th day after the date of the submission of such election to the Board.

"(2)(A) Subject to subparagraph (B) of this paragraph, an employee who has elected a pretermination hearing under this section shall not be removed or suspended under section 4303 or section 7513 of this title before the issuance of a decision under this section.

"(B) If, on the 90th day after the submission of an election of a pretermination hearing under this section, a decision under this section has not been made in connection with such hearing and the administrative law judge involved determines that such delay was caused primarily by the employee involved, such employee may, after such day, be removed or suspended in accordance with the proposed action on which the election under this section was based, pending a final decision by the administrative law judge under this section.

"(c) This section shall not apply in any case in which—

"(1) there is reasonable cause to believe the employee involved has, in connection with the matter on which the proposed action involved is based, committed a crime for which a sentence of imprisonment may be imposed; or

"(2) a matter affecting the national security is involved.

"(d) The parties to a negotiated collective bargaining agreement may agree to implement or substitute in whole or in part the procedure of this section as part of a collective bargaining agreement, or may agree upon alternative methods of settling matters subject to this section.

"(e) The Merit Systems Protection Board shall prescribe such regulations as are necessary to carry out the purpose of this section.

Page 170, line 8, insert "and, in the case of removal of an employee, subject to section 7702 of this title," after "section,".

Page 179, line 9, insert "and subject to section 7702 of this title," after "Management,".

Page 182, in the matter following line 17, strike out "7702" and insert in lieu thereof "7703", and insert after the item relating to section 7701 the following: "7702. Pretermination hearings.

Page 187, line 1, strike out "§ 7702" and insert in lieu thereof "§ 7703".

Mr. HANLEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. HANLEY. Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. HANLEY. Mr. Chairman, I rise to submit amendments to title II that would streamline the appeal procedure for Federal workers who are discharged or suspended for more than 14 days.

Under the present system, there is a two-step appellate procedure which takes up to 2 or more years to process from the time action is initiated until the final administrative appeal is concluded.

In my judgment it is unconscionable to keep an employee in limbo and most likely out of work for this period of time. Moreover, it is unfair to an agency because if that employee is ordered reinstated after 2 or more years the agency must return the employee to his or her position even though it may have been filled in the interim. This could result in an agency paying two employees to do one job.

Neither the President's proposal nor the committee's bill prevents these inordinate delays. They both perpetuate the two-step appeal procedure without providing for necessary time limits on the appeal process. My amendments, on the other hand, would prevent these foreseeable consequences. For the first time strict time limits would be incorporated into the procedure. They provide that an employee who is the subject of a discharge action or suspension for more than 14 days will receive a notice of charges, be afforded a hearing before the MSPB and be provided a final decision in a maximum of 90 days. This would end the administrative appeal process.

If it is determined that discharge or suspension is warranted the action will be immediately imposed, and the only appeal from the administrative determination is to the Federal courts after the employee is discharged or suspended. This procedure parallels the private sector where collective bargaining agreements provide for one hearing before an arbitrator. The only appeal from binding arbitration is to the courts.

Additionally, unlike the present system and the one proposed in this bill, my amendments attempt to build into the system a motivation to expedite appeals. The employee is motivated to act expeditiously because if he or she requests a delay or otherwise makes it impossible for the process to be completed within the 90 days, then he or she is removed at the end of the 90-day period. Any further right of the employee to a hearing will be after the discharge or suspension action is imposed. Moreover, the agency is motivated to act promptly because if delay results from a request by the agency or the failure of the MSPB to schedule a timely hearing, the employee remains on the payroll until a decision is rendered.

Based upon private sector experience, I strongly believe that it would be beneficial to all sides to eliminate the present cumbersome layers of appeals. Employees will not have to suffer long periods of uncertainty and unemployment before knowing the disposition of their cases. And agencies will not be faced with staffing problems that result from appealed adverse actions remaining open for so long.

I urge my colleagues to join me in support of these amendments.

During the markup of H.R. 11280 Con-

gressman DERWINSKI alleged that the streamlined appeal procedure would result in increased Government cost. In support of this claim he relied upon the estimates of the Congressional Budget Office which estimated an increased cost of $2.6 million in fiscal year 1978, $11.0 million in fiscal year 1979; $11.6 million in fiscal year 1980, $12.5 million in fiscal year 1981, and $13.4 million in fiscal year 1982.

These claims of increased costs based upon the Budget Office estimates are erroneous. Their estimates were based upon H.R. 6225, the pretermination hearing bill ordered reported by the Post Office and Civil Service Committee on January 25, 1978. The streamlined appeal procedure amendment to H.R. 11280 is vastly different than H.R. 6225 thus rendering the Budget Office's analysis inapplicable. It differs on the following basis:

First. These amendments do not expand coverage of the appeal procedure to employees in the excepted service as provided for in H.R. 6225. Thus, the Budget Office estimate of increased costs resulting from additional cases is not applicable.

Second. H.R. 6225 extended coverage to include the appeal of all suspension actions. These amendments limit coverage to suspensions of more than 14 days.

Third. H.R. 6225 required that appeal cases be heard by Administrative Law Judges instead of hearing examiners. The Budget Office determined this would result in increased salary costs. These amendments eliminate the requirement of Administrative Law Judges, thereby negating the increased salary cost estimates. Under the amendments cases would be heard by hearing examiners of the Merit System Protection Board.

Fourth. Unlike H.R. 6225 these amendments also place a 90-day time limit on the processing of appeals. The Budget Office's estimates were based on employees remaining on the payroll 120 days longer than under the present system. According to Chairman Campbell during the markup session on June 22, 1978, under the present system it takes between 30 to 60 days to remove someone from the payroll. Thus their figures were based on employees remaining on the payroll for between 150 and 180 days. However, under these amendments it would only be 90 days, therefore, the estimates do not apply.

Fifth. The Budget Office does not take into account the fact that these amendments would provide for binding arbitration as a substitute to the Statutory appeal procedure. This could result in a net cost savings to the Government because under such an alternative procedure the unions generally assume one-half the cost. Under the statutory procedure the Government pays the entire cost.

Mr. CLAY. Mr. Chairman, will the gentleman yield?

Mr. HANLEY. I am delighted to yield to my friend, the gentleman from Missouri.

Mr. CLAY. Mr. Chairman, is this not virtually what passed the subcommittee that I chair in the Committee on Post Office and Civil Service?

Mr. HANLEY. Essentially, there was similar dialogue on the committee passed measure and I know that during the course of Committee consideration of this amendment there were some figures provided by OMB which suggested the cost of this concept would be rather heavy; however, in analysis, the cost provided by the OMB applied to the bill you refer to.

Mr. CLAY. Mr. Chairman, if the gentleman will yield further, so virtually it is the same proposal that passed the subcommittee and the full committee and is now awaiting a rule from the Committee on Rules,

Mr. HANLEY. Well, no; there are substantive differences in the committee-passed bill and this amendment. The cost associated with this amendment is substantively less than the cost associated with that bill.

The CHAIRMAN. The time of the gentleman from New York (Mr. HANLEY) has expired.

(By unanimous consent, Mr. HANLEY was allowed to proceed for 2 additional minutes.)

Mr. CLAY. Mr. Chairman, will the gentleman yield further?

Mr. HANLEY. I yield to the gentleman from Missouri.

Mr. CLAY. Mr. Chairman, I thank the gentleman and I intend to support the amendment.

Mr. UDALL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is a major amendment and was debated at some length in the committee and was then rejected by a vote of 10 to 15. There is something very fundamental and very basic at stake here. This amendment goes exactly opposite to the main thrust of what we are trying to do in this bill. Presently, it is pretty hard, one of the premises on which this legislation is founded is that it is too difficult to discharge or discipline inefficient Federal employees.

Now, if one is a Federal employee, the current law is that he can be given 30 days notice and then be terminated. After that, there is an opportunity to come in and have a hearing. The employee is entitled to have a written decision and an appeal may be taken by the employee to an outside appeals authority. This turns it around and says that employee cannot be fired unless you have a hearing before they are fired. It moves in the opposite direction and instead of doing what this bill is trying to do to make it easier to fire incompetent Federal employees, it makes it much more difficult; so it is contrary to the basic purpose of the bill. It will make it even more difficult than it is today to remove an incompetent employee.

There was an estimate by the Congressional Budget Office that it would cost $63 million. That was an earlier pretermination bill and I do not know the differences in cost between that one and this one.

Clearly, if we are going to set up a whole new structure and a whole new web of protection for Federal employees against being fired, we are going to have some costs involved.

Mr. HANLEY. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from New York.

Mr. HANLEY. Mr. Chairman, just to clarify the point with respect to the cost of this measure, the dollar figure associated previously was in error. That was the figure of OMB in association with a similar but much heavier measure that had been passed by the committee and is now pending in the Committee on Rules.

So that figure should not at all be associated with this amendment.

The dollar factor is very minimal, and I would repeat what I have already said: That in essence what we would be doing here is we should be applying the concept that is utilized in the private sector where, if that employer for some reason decides he is going to dismiss an employee, in fairness there is a bit of consultation with the employee prior to definitive action. So he calls the gentleman or the gentlelady in and says, "For these reasons it appears that termination of your tenure is in order."

In that way we give the individual the benefit of the rationale of the employer. So actually what we are doing here, if we adopt the amendment, is simply concurring with the traditional concept in the private sector in fairness to that employee.

Mr. UDALL. Mr. Chairman, if the gentleman agrees, as I do, that one of the fundamental purposes of this bill is to make it easier and not harder to discharge incompetent employees, then the gentleman's amendment goes directly in the wrong direction.

We have testimony that it takes 152 days now—and that is the average time—to complete this appeals process. The real vice of this amendment is that it would keep this person on the payroll sitting around for that length of time. We would encourage employees who otherwise would go away and accept their discharge to appeal because they are going to get paid, and there they are inflicting their presence on the whole system while this appeal process is going on.

Mr. Chairman, I think it would be a major mistake to accept this amendment. I strongly urge that it be defeated.

Mr. DERWINSKI. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendments.

Mr. Chairman, I am going to be very brief. The gentleman from Arizona (Mr. UDALL) made the proper arguments against the amendment.

Actually here again we are in what may be a pattern in working on this bill. This is a classic case of an immediate retreat from a new goal. Basically, this amendment would add an extra step which would impede termination of the services of an incompetent employee.

As I understand this amendment, it would encourage everyone to appeal. If I may have the attention of the gentleman from New York (Mr. HANLEY), the figure he earlier quoted of $63 million as the possible cost of the application of this amendment was the result of research for the Civil Service Commission, but the gentleman, with a brush of his hand ruled that out.

Can the gentleman tell us specifically what figures he has to substantiate the cost of his amendment?

I am speaking of something other than an opinion now. I would like to have something specific.

Mr. HANLEY. Mr. Chairman, if the gentleman will yield, I believe in fairness, the figure used by OMB and provided the committee at that time was a figure used in association with an entirely different bill, and the committee labored under the impression that that was the cost of this amendment in committee. That is not true.

What the actual cost is I do not know. However, I do know that this cost is substantively less than the cost in the singular bill that was approved by the committee and is now pending in the Committee on Rules.

Mr. DERWINSKI. But the point is—and I am sure the gentleman will not dispute the other statistics we have—that the Civil Service Commission appealing now is 152 days. We would in fact, through the gentleman's amendment, add more days over and above whatever we provide for in this bill.

Mr. HANLEY. Mr. Chairman, will the gentleman yield on that point?

Mr. DERWINSKI. Let me finish my thought first.

Mr. Chairman, the gentleman starts taking us down the road of adding to the appeal time, adding to the delay, and, therefore, denying the very goal of the bill, which is a streamlining of personnel procedures.

Mr. HANLEY. Mr. Chairman, will the gentleman yield now?

Mr. DERWINSKI. Yes, I yield to the gentleman from New York.

Mr. HANLEY. Mr. Chairman, obviously, on the basis of what the gentleman has just said, a misunderstanding prevails, because what I would suggest through this amendment is that we are expediting that process, because within a timeframe of not more than 90 days that matter would have to be disposed of one way or the other, as opposed to present law or the language of this bill, which still makes it possible that the process could continue up to 2, 3, or maybe 4 years.

Think of the cost involved in that procedure, where again you are dealing with administrative law, just in an effort to resolve that one employee problem.

My guess is that this would be far less expensive than the present methodology; and, beyond that, certainly fair to that individual.

It certainly is not my intent to encourage continued employment of incompetent people, but I do not feel that that individual should certainly be entitled to his or her day in court.

Mr. DERWINSKI. They are entitled to their day in court under the bill. The effect of the gentleman's amendment would be to add an additional layer, an additional step, and this would have the effect of encouraging people to utilize it. And that is where the cost factor comes in. I think it is the height of optimism for the gentleman to imply that there would be minimal cost because, in effect, through the gentleman's amendment, he would be encouraging almost automatic use of this provision, and the costs are almost impossible to calculate.

Mr. HANLEY. If the gentleman will yield further, is it not rather logical that the cost factor associated with an endeavor that can be washed out within a 90-day period would be far preferable to a procedure which currently provides maybe up to 2 or 3 or 4 years before that decision is made? That is a rather costly process.

Mr. DERWINSKI. The gentleman is talking about the present system which takes 2 or 3 or 4 years. That has been streamlined. The gentleman's amendment would add an additional 20 or 30 days.

Mr. HANLEY. No.

Mr. GILMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendments.

Mr. Chairman, in the interest of due process, I rise in support of the gentleman's amendment.

The courts have generally found that a job is a property right and, therefore, that due process should apply in any decision with regard to that right.

Due process, in our system of justice, means an individual is innocent until proven guilty.

What the gentleman from New York is seeking to do is to provide the Federal employee with an opportunity to prove his or her innocence before they would lose their jobs. Removing employees from their jobs prior to any hearing would reverse our standards of justice.

In our committee hearings, I might add, there was testimony that, while in some instances it did take an inordinate length of time to remove an employee, there are statutory and regulatory provisions and procedures available that, if properly utilized, would enable the discharge of an employee within a very reasonable period, and not the 152 days as suggested by our acting chairman.

Accordingly, Mr. Chairman, I urge the adoption of this amendment.

Mrs. SPELLMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Speaker, I would like to call to the attention of all of those Members present—and, I would hope, of anyone who is at all interested in the bill—the words of our distinguished Chairman. He made it very clear, and he was absolutely right, that under today's system an employee can be out of the system in 30 days.

We have heard a great deal of talk about how it takes 18 months, to fire an employee. We were at times told it took 27 months, and 3 years, and all that sort of thing. That was nonsense. An employee can be out of the system today in 30 days, and then the appeals process starts. And, indeed, there have been situations where it has taken a couple of years, and even 3 years, but when we looked into those situations we found that that was because the Government itself had dragged its feet, that the Government had caused the delay, not the employee. The idea was to drag the case out, to the point where no employee could afford to continue to fight his dismissal.

So what we are having proposed here at this time really is not going to extend the time. It will give a date finite to the Government, and the Government will be advised that at the end of 90 days it must have reached some conclusion. Therefore, it makes very good sense, No. 1, to give an employee a fair opportunity and, No. 2, to allow that employee to know that in 90 days his or her case will be disposed of. The citizens of the United States would also be spared the expense incurred by delays.

It has been really cruel and unusual punishment to have dragged cases out, as they have been in the past. The amendment makes very good sense, and I would certainly support this proposal by the gentleman from New York.

Mr. STEERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I support this amendment, and I only want to make one additional point in connection with it. The acting chairman has pointed out that the purpose of the bill is to enable the boss to get rid of incompetent employees. Of course, that sounds good until we stop to remember that competence is a matter of opinion. So, when this bill gives the power to fire incompetent employees, it also gives the power to fire competent employees.

Now, let us assume the most favorable supposition, and that is that the great majority of the firings are of incompetent people. There is no question that out of a large number that may get fired over a number of years, there are going to be some mistakes made for one reason or another, so somebody gets fired who is not incompetent, and so his salary ceases.

It is all very well to talk about reinstatement and payment of back salary and so forth. The family, however, of this employee has got to eat, and they cannot eat on future pay. I think that to deny the employee a hearing before firing him for "incompetence" is quite unfair. I support the amendment proposed by the gentleman from New York.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New York (Mr. HANLEY).

The question was taken; and the Chairman being in doubt, the committee divided, and there were—ayes 15; noes 23.

So the amendments were rejected.

AMENDMENT OFFERED BY MR. HARRIS

Mr. HARRIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARRIS: Page 150, line 2, after "United States." insert the following "One member of the Board shall

be selected from among individuals who have served in the competitive service.".

Mr. HARRIS. Mr. Chairman, this bill and the reorganization plan that Congress approved this past month separates the Civil Service Commission into two parts. It has a Merit System Protection Board, which has the job of protecting the rights of the employees. It has taken the personnel function out of the Civil Service Commission and set it up in another office.

All right, so in this amendment we are just talking about the Merit System Protection Board. The Board purports to have a three-person board that has one single job, and that is to protect the civil service employees with respect to the merit principles espoused in the bill. What this amendment does is say that one person appointed to that Board will have had experience in the merit system. It requires only that one person on that Board, at least, will have served in the merit system to the extent of knowing what the problems of the employees are, what the employees' side of the contest is, what the needs are to protect the particular rights of an employee.

I think it is a matter of simple justice and a matter of simple appearance here if we are truly trying to restore confidence in the employees with respect to whether there is an arm of the Government that protects that employee's rights. That is what the Board is created for; that is what the Board is supposed to do; that is what the Civil Service Commission was created for. But, most of us know that the Federal employee lost confidence in the Civil Service Commission some time ago with regard to that agency's protecting employee rights.

All right, if we are going to have a separate Board to protect employees' rights, if that Board is to be a three-person Board, I think it makes eminently good sense to have at least one person on that Board with experience in the merit system competitive service.

I would urge my colleagues to adopt this amendment and to make this little recognition that in establishing something to protect employees' rights we will have somebody on there that has had the employee perspective and not management perspective.

Mr. UDALL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this was considered in the committee. The amendment offered by the gentleman from Virginia was defeated in that forum and should be defeated today.

This is not a major matter but there is a principle at stake. We are going to set up a merit system protection. The President is going to appoint the board members and they will be confirmed subject to the will of the Senate. We will start in by saying one of the three must be a person who served in the career service. That seems to make a good deal of sense. But if we adopt that, let us start putting other restrictions on the President: that one of them ought to be a lawyer; one of them ought to be a woman; one of them ought to be a non-Caucasian; and one of them ought to be of some other qualifications.

I would hope and believe the President would appoint from time to time people on this board who have had actual civil service employee experience, but to suggest on all occasions and at all times there must be someone to meet that particular qualification ties the hands of the President and suggests the Senate is not going to exercise any oversight jurisdiction on this matter.

I do not think this is a necessary amendment. I think it is a mischievous amendment and ought to be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. HARRIS).

The amendment was rejected.

AMENDMENTS OFFERED BY MR. STEERS

Mr. STEERS. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. STEERS. Page 144, strike out line 16 and all that follows down through line 19 on page 145 and insert in lieu thereof the following:

"§ 1102. Appointment of members of the Office of Personnel Management

"The Office of Personnel Management is composed of three Commissioners appointed by the President, by and with the advice and consent of the Senate, not more than two of whom may be adherents of the same political party. No Commissioner of the Officer of Personnel Management may hold another office or position in the Government of the United States.

"§ 1103. Terms of office; filling vacancies; removal; quorum

"(a) The term of office of each Commissioner of the Office of Personnel Management is four years.

"(b) Any Commissioner appointed to fill a vacancy occurring before the end of a term of office of his predecessor serves for the remainder of that term.

"(c) Any Commissioner appointed for a four-year term may be reappointed to any following term.

"(d) Any Commissioner may be removed by the President only upon notice and hearing and only for misconduct, inefficiency, neglect of duty, or malfeasance in office.

"(e) Except as otherwise provided in this title, the Office of Personnel Management shall act upon majority vote of those members present, and any two members present shall constitute a quorum for the transaction of business of the Board.

"§ 1104. Chairman; Vice Chairman

"(a) The President shall from time to time designate one of the Commissioners of the Office of Personnel Management as the Chairman of the Office of Personnel Management. The Chairman is the chief executive and administrative officer of the Office of Personnel Management.

"(b) The President shall from time to time designate one of the members of the Office of Personnel Management as Vice Chairman of the Office of Personnel Management. During the absence or disability of the Chairman, or when the office of Chairman is vacant, the Vice Chairman shall perform the functions vested in the Chairman.

"§ 1105. Functions of the Office

"The following functions are vested in the Commissioners of the Office of Personnel Management, and shall be performed by the Commissioners, or by such employees of the Office as the Commissioners designate."

Page 146, lines 23, 24, and 25; page 147, line 25; and page 148, line 1, strike out "Director" and insert in lieu thereof "Commissioner".

Redesignate the following provisions (and references thereto) accordingly.

Mr. STEERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read, printed in the RECORD, and that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland (Mr. STEERS)?

There was no objection.

Mr. STEERS. Mr. Chairman, this amendment is simple enough, which is why I thought it need not be read. It certainly would change the character of this bill and I think in a very salutary manner.

Of course, I believe the Civil Service ought to be reformed, but I believe the measure before us is not the appropriate vehicle.

I am most concerned about the concentration of personnel authority in the hands of one individual, one man, the Director of the Office of Personnel Management. In my opinion this would politicize the Federal service and destroy the merit system which has served the American people well for nearly 100 years.

Placing Government-wide personnel responsibility in the hands of one Director would take the decisionmaking process out of the public's eye. The Director would have merely to make a proposal affecting Government-wide personnel decisions to himself, debate it by himself, and make a unilateral decision whether to implement the proposal. Thus there is no check on arbitrary and capricious actions by a Director.

My amendment would preserve the impartial administration of the civil service system. While it would continue the proposed split of the Civil Service Commission's responsibilities between the Office of Personnel Management and Merit System Protection Board, it would vest the powers of the Office of Personnel Management in three Commissioners. By so doing, it will provide for checks and balances against misuse of authority.

By creating a commission, the decisionmaking process would be opened to the public and all decisions would require a majority vote. Moreover, it would be a bipartisan commission. Therefore it will act as a check against an incumbent President using the authority of the Office of Personnel Management for personal political reasons.

While no system is "fail safe," as the Watergate era demonstrated, I believe the public would be better served by an open system which would decentralize authority instead of the system proposed in this bill.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. STEERS. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I rise in support of the gentleman from Maryland's amendment.

The most serious weakness in the administration's proposals to reform the civil service is that it increases the possibilities for manipulating the civil service for personal or political favoritism. Instead of having personnel policy made by

a bipartisan body, it would be made by an administrator serving at the pleasure of the President. Although this change has been accomplished by Reorganization Plan No. 2 of 1978, it was done under a procedure that excluded amendments.

On July 7, 1947, the 80th Congress approved Public Law 162, thereby establishing the Commission on Organization of the Executive Branch of the Government. The Commission became known as the First Hoover Commission. It was directed to investigate the structure of the executive branch and recommend ways of improving its efficiency, effectiveness, and accountability.

Between July of 1947 and May of 1949, 300 men and women worked for the Hoover Commission. Twenty-four task forces scrutinized each of the major functional areas of the Government and reported their findings and recommendations. The Commission then studied and evaluated the task force reports and issued a series of 19 reports to the Congress.

In a statement of purpose and principle, the Hoover Commission declared:

> There is perhaps no time in history when it has been more important to evaluate the effectiveness of the Executive Branch of the Government in carrying out the will of the Congress and the people. While we recognize that efficiency in itself is no guarantee of Democratic Government, the sobering fact remains that the highest ideals and aims of democracy can be thwarted through excessive administrative costs and through waste, disunity, apathy, irresponsibility, and other byproducts of inefficient government.

The Commission's recommendations in total, therefore, are directed to the achievement of reforms which it hopes will bring about a more responsible and a more responsive government, a government that will act with dispatch, with greater internal coordination and harmony, with consistency of administrative policy, and economy of operation.

On considering restructuring the Civil Service Commission, the Hoover Commission warned that—

> The Government must impose upon itself many regulations and controls to fend off myriad pressures and influences which seek special privilege or gain, particularly for political reasons.

It therefore rejected all single-administrator forms of organization and concentrated on organizational structures which would protect the merit system and at the same time provide the desirable benefits of single administration. It refused to propose any reorganization which would weaken the protective functions of or sacrifice the public confidence in a full-time, bipartisan commission of three members.

Accordingly, the Hoover Commission recommended that the bipartisan, three member Commission form be retained but that the President designate one of the Commissioners as Chairman and vest in him full responsibility for administering the operating organization and program of the Commission. The Chairman's role, apart from that of the other Commissioners, was to be the principal point of contact between the President and the heads of operating agencies in all matters of civilian personnel management, both domestic and foreign, acting within the rules and regulations established by the full Commission.

Thus, while the Chairman would exercise authority to implement the rules and regulations of the civil service, the full Commission would retain its power and responsibility for establishing those rules and regulations. In addition, the Commissioners not designated as Chairman the duty of continuing the study of the nature, frequency, and source of abuses of the merit system in order to initiate steps to prevent their recurrence.

I agree that daily operations of the central personnel agency do need to be the responsibility of a single individual. This is, in fact, what happens now with the Chairman of the Civil Service Commission. He is designated by law as the Chief Operating Officer of the Agency. Everything the administration wants a new Office of Personnel Management to do, can be done under a single administrator serving under a bipartisan body with the Chairman acting as the Chief Operating Officer.

However, under this bill, the merit system would be seriously endangered, for a single individual would be making personnel policy for the entire Federal Civil Service work force of more than 2 million employees.

Administration spokesmen point to some States and cities where responsibility for making personnel policy was recently shifted from a multiheaded agency to a single administrator. The analogy, however, is inapt for none is comparable to the size, complexity, diversity, and power of the Federal Government. In addition, no one has studied whether the policies made by these local administrators are better or worse, or whether they have resulted in more or less political and personnel favoritism in the civil service, than before.

For the above reasons, Mr. Chairman, I urge my colleagues to adopt the gentleman's amendment.

Mr. UDALL. Mr. Chairman. I rise in opposition to the amendments offered by the gentleman from Maryland (Mr. STEERS).

Mr. Chairman, you cannot run an army by a committee of generals, you cannot run a business by a committee of businessmen, and you cannot run a personnel system by a committee. The vice of this amendment is that is exactly what the gentleman from Maryland is asking us to do. But the administration's overhaul of the civil service system is to break up the system in which the Civil Service Commission used to be both the adjudicator, the judge, and the protector of the integrity of the system and also the personnel manager for the Government.

Now in the reorganization proposal which the committee headed by the gentleman from Texas (Mr. BROOKS) handled, we have broken these down into separate functions, so that the adjudicators can adjudicate and the managers can manage.

The amendment offered by the gentleman from Maryland, (Mr. STEERS) seeks to create a three-headed agency which would manage the Federal Government's personnel system. It would be unworkable, it is unwise, and it would be a serious mistake.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to my colleague, the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Chairman, I am opposed to the amendments offered by the gentleman from Maryland. Just a few weeks ago, the House overwhelmingly approved Reorganization Plan No. 2, which established the Office of Personnel Management and the Merit Systems Appeal Board. This plan very properly provided for a multimember board to protect the rights of civil service employees. But, it also very properly assigned to a single-headed office the personnel management role for the Federal Government. This role was previously carried out by the multimember Civil Service Commission and it proved to be a very unwieldly and inefficient management process. That is one of the major problems the reorganization plan and this legislation are trying to correct.

The Federal Government, like any large employer, needs a well run, responsive personnel operation. This can certainly be achieved more efficiently with a single-headed office. That is the way it is done in private industry and that is the way more than 30 States carry out their personnel practices.

We should not confuse the role of personnel management with that of handling employee grievances and civil service compliance. I believe that the Congress and this administration have made a significant step forward in setting up the Office of Personnel Management, and I oppose this effort to revert to the previous inefficient and unmanageable structure.

Mr. UDALL. Mr. Chairman, I thank the gentleman from Texas (Mr. BROOKS), and I associate myself with his remarks.

What we would be saying by passage of this amendment, if I may say in conclusion, is, "Your personnel management, Mr. President, is a three-headed independent board, the members of which are removable for cause only and are in effect free from Presidential direction."

Mr. Chairman, I think it would be a serious mistake to adopt this amendment.

Mr. FORD of Michigan. Mr. Chairman, I think the gentleman's amendment misses the target he described for us because I am afraid he has not read this bill very carefully.

In the next section of the bill he will find that there is a merit system protection board of three members which performs the merit system protection functions that the present three Civil Service

Commissioners have traditionally performed.

What is being created in the section which the gentleman would amend is a single personnel administrator, a new concept for the administration of Federal employment, not a new concept at the State and local level. At that level that is an accepted practice which has gone on for many years in the more enlightened structures of State and local government.

For the first time we would have the ability to have an executive head of the management function in administering a large Federal civilian work force. To create a second three-member board or a troika to go with the one included in the committee bill would just be foolish because we would then have two committees meeting, and we would still have no one initiating any executive-type action on behalf of the Government in administering its affairs with its vast work force.

I think the gentleman's amendment is defective because it is obsolete. It is an alternative which might have been considered to what we have done in the committee had we done nothing; but as an alternative to what we have done in the committee bill at the suggestion of the administration, it is a bad amendment. Had we done nothing in this area, the gentleman's amendment would be better than the status quo, but it is not better than what we have proposed as a change.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. STEERS. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Maryland, the author of the amendment.

Mr. STEERS. Mr. Chairman, very briefly, just to correct the record, the Member who spoke just previously said something about my not having read the bill. As proof thereof, he mentioned the Merit System Protection Board.

Mr. Chairman, I am afraid he was not listening to me because in my argument in behalf of my amendment, I mentioned the Merit System Protection Board.

He is quite right in saying that this would create another committee. I point out that the presidents of practically every major corporation in the United States are chosen by committees known as boards of directors. I do not think it follows at all that we have to have a one-headed member who will be judge, jury, and decider of all of these major personnel management problems.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. Yes; I yield to the gentleman from Michigan.

Mr. FORD of Michigan. I would simply like to indicate that with respect to the operation of the Federal Government and the Federal work force, we and the body on the other side of the Capitol are the board of directors. We do not need a substitute board of directors which is not elected by the people.

Mr. DERWINSKI. Mr. Chairman, to emphasize that brevity is sometimes a virtue, I would like to limit myself by saying I believe that this amendment is unnecessary. I think it borders on infringement of the constitutional rights of the President. I think the arguments made against it have been sound, responsible, and, of course, objective. Therefore, I join in opposing the amendment.

Mr. STEERS. Would the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Maryland.

Mr. STEERS. I thank the gentleman for yielding.

In other words, since the Civil Service Commission is clearly now doing what I have proposed be done by a new board, the gentleman believes that the Civil Service Commission for the last 80 years has been unconstitutional?

Mr. DERWINSKI. No, no. What I am saying is that the Merit System Protection Board will continue to function, which is the principle involved. And I am saying that the President will now have control over this Agency through appointment. What the gentleman, I think, approaches is diluting Presidential control.

Mr. STEERS. If the gentleman will yield further, the gentleman said it was unconstitutional, and it is now being done by the Civil Service Commission.

Mr. DERWINSKI. It borders on being unconstitutional.

Mr. STEERS. All right, then, you acknowledge it is not actually unconstitutional.

Mr. DERWINSKI. In light of the reorganization plan that we accepted a few weeks ago.

Mr. STEERS. I thank the gentleman.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Maryland (Mr. STEERS).

The amendments were rejected.

The CHAIRMAN. Are there other amendments to title II?

AMENDMENT OFFERED BY MR. HARRIS

Mr. HARRIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARRIS: Page 150, line 17, strike out "inefficiency,".

Mr. HARRIS. Mr. Chairman, the bill places a great deal of reliance on a Merit System Protection Board that is supposed to be independent of the President, appointed for a term certain, and, therefore, able on a nonpartisan basis—which is one of the requirements of the bill—to act with regard to a contest between employee and management in an impartial manner. The question is how independent or how truly for a term certain are these members of the Merit System Protection Board appointed? The bill makes it clear that they can be removed for misconduct. It also makes it clear they can be removed for neglect of duty or malfeasance in office. These grounds for dismissal of these independent members of the board, who are appointed and confirmed are left in the bill by my amendment. The one term that this amendment would strike is the term "inefficiency," which I think negates the whole principle that is currently in the bill. The term "inefficiency" is clearly and completely a subjective term, which would mean that any President could fire any member of the Merit System Protection Board that he wanted to at any particular time. I think it is wrong to present to the people, to the Federal employee, and to our colleagues a proposition that the bill tries to do. It says that this is an independent board appointed for a term certain, 7 years, and then does not reach the fact that any member of that board could be dismissed summarily on the grounds of the subjective term "inefficiency." This amendment simply tries to perfect the bill to the point of saying, Yes, these are in effect independent appointments. They could be fired for misconduct, even if they have been appointed for a term certain, or for neglect of duty, or malfeasance, but not just on the basis of inefficiency.

I would urge my colleagues to support this amendment, and I would suggest to my colleague, the gentleman from Arizona (Mr. UDALL) that we have a point in the bill that should be corrected if, in fact, we are going to have an independent Merit System Protection Board.

Mr. SOLARZ. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

I understand what my good friend, the gentleman from Virginia (Mr. HARRIS) is trying to do, but I really think that the adoption of this amendment could create some unfortunate consequences for the operation of the Merit System Protection Board. Nobody is perfect. We all make mistakes. The man in the White House we hope will do the right thing for America, but the fact of the matter is that some Presidential appointees have turned out bad in the past, and there is no doubt that some Presidential appointees will turn out to be inadequate in the future.

One of the primary responsibilities of the Merit System Protection Board is the expeditious consideration of the appeals that are sent to it, and it is not inconceivable that with the best of intentions, in spite of the fact that the Senate has to ratify these appointments, that in the future someone could be appointed to the MSPB who will simply not be able to cut the mustard, who will lack the ability to do the job.

I think that under those circumstances it really would be most unfortunate to deny the President the right to remove such an individual, because if this amendment is adopted, a simple inability to do the job will no longer constitute adequate justification for the removal of such an individual.

The point that I want to make here is that the 2 million Federal employees who work for the Federal Government, other than for the Postal Service, really are going to require the effective concern of the Merit System Protection Board, its fervent efforts on their behalf, and if it should turn out that someone is appointed to the Board who is not doing the job, I think the President ought to remove that individual in their interest.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from Virginia.

Mr. HARRIS. Mr. Chairman, I certainly agree with my colleague. I do not mean to sound crass, but I wish the gentleman would not strain at a gnat. The term "neglect of duty" is clearly left in the statute. Any member of the Merit Board that is guilty, as my colleague describes, is subject to neglect of duty even though he or she has been appointed and confirmed by the Senate.

What this bill does is not allow such a subjective term of "inefficiency" to be added to it. Let us not kid ourselves. If we leave the term "inefficiency" in there, we leave it up to the President to fire any member of the Merit System Protection Board that is supposed to be a member of that Board without any other justification than that member has been "inefficient."

Mr. SOLARZ. Mr. Chairman, I thank my friend, but I would insist there is an important and critical distinction between neglect of duty on the one hand and inefficiency on the other. There may be people who serve on the Merit System Protection Board who do attend to their responsibilities, and who do not neglect their duties, but who nonetheless are completely and totally inefficient, and in the interests of the Federal employees whom this Board is supposed to protect, I think it would be a mistake to deny the President the right to remove someone who is clearly and completely inefficient, because if it turns out they are trying to attend to their responsibilities, if this amendment is adopted, there would be no other way to get rid of them.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

In keeping with the pattern here, Mr. Chairman, I will be very brief. I would like to point out to the gentleman from New York that the gentleman very effectively addressed the amendment; but I would like to comment quite simply that I cannot conceive of the Congress of the United States telling the President he cannot remove someone from office that he deems inefficient. If you want to be on record as saying the President should not be able to remove someone on the grounds of inefficiency, I do not think in the light of today's demands of the public for better service that one wishes to take that position; so I suggest the rejection of the amendment.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to my friend and great statesman from California.

Mr. JOHN L. BURTON. Mr. Chairman, I thank the gentleman for yielding to me.

What would be the benchmark or definition of being inefficient? To what level of performance do we hold these people, to the highest performance level in the land or what?

Mr. DERWINSKI. I would say an acceptable, practical level. For example the kind of efficiency that the gentleman expects in his office and the kind of great efficiency the gentleman brings to the Congress. That is the kind of standard we would expect.

Mr. JOHN L. BURTON. Mr. Chairman, if the gentleman will yield further, so it would be my level of performance that would set the level of efficiency throughout the civil service system?

Mr. DERWINSKI. Even the most able civil servant would be hard put to meet the level of efficiency the gentleman from California represents.

For example, the gentleman's brother does not quit achieve his efficiency.

Mr. JOHN L. BURTON. Well, would it be safe to say it would be the level of performance that my brother shows in the Congress?

Mr. DERWINSKI. Yes, or that of a mere mortal.

Mr. JOHN L. BURTON. I think I will accept that.

Mr. STEERS. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, I am going to use my time only to ask the gentleman from Illinois (Mr. DERWINSKI) a question, and that is this:

Is it possible to remove members of the FTC, the SEC, and other administrative agencies for inefficiency? Does the gentleman know?

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. STEERS. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Does the gentleman mean under present law?

Mr. STEERS. Yes, under present law, is it possible to fire a Commissioner from the Federal Trade Commission?

Mr. DERWINSKI. I am sure some of our experts on Government operations would know the answer to that question.

Mr. STEERS. Mr. Chairman, I will ask if any Member who is opposed to this amendment knows whether members of other agencies can be fired for inefficiency. And if they do not know, why on Earth, then, are they voting against this amendment, without even knowing what the practices of other agencies are?

I believe the administrative agencies cannot be massacred one by one by firing for inefficiency, and I think this is a very reasonable amendment for that reason, if for no other.

Mr. DERWINSKI. Mr. Chairman, if the gentleman will yield further, may I point out to the gentleman that we are not speaking of massacres; we are speaking of a Presidential appointee, and if the President in his judgment feels this particular appointee is not operating in an efficient manner and is in fact inefficient, I think, given the sensitivity of his position and the effectiveness we want from this new civil service system, the President should have this prerogative.

Mr. STEERS. Does the gentleman mean the Merit System Protection Board should be sensitive to the desires of the President? I though it was instituted to protect employees.

Mr. DERWINSKI. No, I am not saying that at all. I am saying the Presidential appointee should perform at a high standard of efficiency.

I should say that where the gentleman from Maryland (Mr. STEERS) and I have our fundamental disagreement is not on an amendment like this or on any other amendments that may have preceded this or that may come later. I think the difference is that the gentleman has strong positions as to the motive of the bill as it relates to what he may call the "spoils system" or "politics."

I take the position that this bill is motivated by the highest of political principles. There is no spoils system or political motivation present. I think in that very fundamental way we differ.

The point here is that what is required from this revised Civil Service structure is a degree of efficiency that the public has judged the present Federal structure to be lacking. As I look at this, this means a return to efficiency and a desire to improve the performances. That is our goal.

Mr. STEERS. Mr. Chairman, is this not my time?

Mr. DERWINSKI. No, this is my time.

Mr. STEERS. Mr. Chairman, I thought it was my time.

The CHAIRMAN. The time is that of the gentleman from Maryland (Mr. STEERS).

Mr. DERWINSKI. Excuse me, Mr. Chairman, I did not mean to usurp the gentleman's time.

Mr. STEERS. Mr. Chairman, I am happy to get the gentleman's interesting observations, but I would reclaim my time merely to say that I do not raise any question as to the motivation of the President or of the administration. I simply think the result of this bill would be very detrimental, and I do not want to let the record go uncorrected.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. STEERS. I yield to the gentleman from Virginia.

Mr. HARRIS. Mr. Chairman, I appreciate my colleague's comments on this amendment.

I think our colleagues who have been engaged in colloquy on the floor make it crystal clear that even though we present it to the public and to our colleagues that we have an independent merit system protection board whose members are appointed for a term certain, they cannot be removed at the will of the President, but this provision is in fact put in here so that these members can be removed at the whim of the President if in fact these members do not perform in accordance with what the President wants them to do.

How in the world are we going to have an independent board whose job it is to protect employees' rights, not to put forward the administration's position but to protect employees' rights, if in fact we allow them to be dismissed at the whim of the President?

I think this is what my colleague sees in the bill, because that is what is in the bill. I think we have to in all fairness show to the public and to the Members of the House that by this language we do not have in this bill an independent merit system protection board but we have members who can be fired by the President anytime the President wants to fire them. I wonder if my colleague agrees with that statement.

Mr. STEERS. Mr. Chairman, I certainly do agree.

The CHAIRMAN. The question is on

the amendment offered by the gentleman from Virginia (Mr. HARRIS).

The question was taken, and on a division (demanded by Mr. HARRIS) there were—ayes 5, noes 20.

So the amendment was rejected.

AMENDMENTS OFFERED BY MR. STEERS

Mr. STEERS. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. STEERS. Page 148, strike out lines 12 through 24 and insert in lieu thereof the following:

(b)(1) Section 5314 of title 5, United States Code, is amended by inserting at the end thereof the following new paragraph:

"(67) Director of the Office of Personnel Management".

(2) Section 5315 of such title is amended by inserting at the end thereof the following new paragraph:

"(122) Deputy Director of the Office of Personnel Management."

(3) Section 5316 of such title is amended by inserting at the end thereof the following new paragraph:

"(144) Associate Directors of the Office of Personnel Management (5).".

Page 165, strike out line 24 and all that follows down through line 12 on page 166 and insert the following:

(c)(1) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(123) Chairman of the Merit Systems Protection Board".

(2) Section 5316 of such title is amended by adding at the end thereof the following new paragraphs:

"(145) Members, Merit Systems Protection Board.

"(146) Special Counsel of the Merit Systems Protection Board."

(3)(A) Paragraph (17) of section 5314 of such title is hereby repealed.

(B) Paragraph (66) of section 5315 of such title is hereby repealed.

(C) Paragraph (99) of section 5316 of such title is hereby repealed.

Page 300, line 6, strike out "Senate" and insert in lieu thereof the following: "Senate, and shall be paid at an annual rate of basic pay equal to the maximum annual rate of basic pay currently paid, from time to time, under the General Schedule,".

Page 347, strike out lines 5 through 8 and insert in lieu thereof the following:

(e) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(47) Members, Federal Labor Relations Authority (2).".

Mr. STEERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD, and that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. STEERS. Mr. Chairman, what this amendment would do is quite simple. It would save money. The problem of the size and cost of the bureaucracy is not adequately addressed in H.R. 11280. Streamlining the existing bureaucracy should make it smaller and more cost effective; it should not increase its size and cost. The amendment which I am offering here, which was offered by the junior Member of the Senate from Pennsylvania. This amendment was adopted by the Senate and will partially address this inconsistency.

Inherent in H.R. 11280, and in the reorganization plan which will go into effect between now and January 1, is an increase in the number of top-level appointed positions in the civil service system and an increase in the cost of these top-level positions. In sum, Mr. Chairman, we are seeing a so-called reform measure transform 3 full-time positions, and 3 very much part-time positions, into a total of 13 top-level, full-time positions, all at a higher pay level than currently. While it is tempting to try to restructure and prune back this proliferation of top-level political appointees, this amendment only seeks to reduce the pay of these positions by one level, thus preventing the pay inflation in the bill.

Mr. Chairman, I am including at this point the following table of the proposed positions and the pay levels for them under the administration's proposal and also under the Senate bill:

COMPARISON OF COSTS FOR APPOINTED POSITIONS BETWEEN THE ADMINISTRATION PROPOSAL AND HEINZ AMENDMENT

Administration proposal	Annual salary	Level	Senate amendment	Annual salary	Level
OPM:			OPM:		
Director	$57,500	2	Director	52,500	3
Deputy Director	52,500	3	Deputy Director	50,000	4
Five Associate Directors	250,000	4	Five Associate Directors	142,500	5
Total	360,000		Total	245,000	
MSPB:			MSPB:		
Chairman	52,500	3	Chairman	50,000	4
Vice Chairman	50,000	4	Vice Chairman	47,500	5
Member	50,000	4	Member	47,500	5
Total	152,500		Total	145,000	
Special Counsel	50,000	4	Special Counsel	47,500	5
FLRA:			FLRA:		
Chairman	52,500	3	Chairman	50,000	4
Two members	100,000	4	Two members	95,000	5
Total	152,500		Total	145,000	
Total for appointees	715,000		Total for appointees	582,500	

Amendment total for appointed positions (including Associate Directors) is 18.5 percent ($132,500) less than Administration proposal.

Mr. Chairman, I will yield to the acting chairman if the gentleman would like to speak at this point.

Mr. UDALL. Mr. Chairman, I was going to rise in opposition to the amendment. If the gentleman will yield for that purpose, maybe we can save some time.

Mr. STEERS. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I want to make a couple of points. The first point is that all of these positions are under compression now. These executive-level positions involved in this amendment are not going to get the October pay raise, in any event, so it has no practical application. The main opposition to the amendment, however, is that the scheduling of these positions in the different executive levels was done by the administration when they drafted the bill, so that positions of equal responsibility here in the new agencies we are creating would be equivalent to those of other agenices. For example, the head of the Office of Personnel Management should be the same level, unless you are going to get out of the synchronized salary system, as the Director of the Office of Management and Budget. And so it goes with the new adjudicatory positions. They should be the same as the positions of the Federal Labor Relations Board, the National Labor Relations Board, and similar positions. This would knock them all out of comparability status with other similar positions in the Federal Government.

For that reason, the amendment is unwise, and I would oppose it.

Mr. STEERS. Mr. Chairman, if the gentleman will yield back my time, what is the OPM Director under the bill supposed to be paid?

Mr. UDALL. Level 2, which would be $$57,500.

Mr. STEERS. It is the gentleman's position that this job is so important that it is comparable to the Director of the Office of Management and Budget?

Mr. UDALL. That is the position the administration took in drafting the bill. Frankly, I think we have grade creep in the whole Federal Government. I think all executive positions and generals and admirals maybe ought to go down one

notch, but I am not sure the place to start is in this bill.

Mr. STEERS. Mr. Chairman, reclaiming my time, I would just say that the time to start will never arrive if it is continually postponed. I think we do have grade creep, and I commend the gentleman from Arizona for acknowledging the grade creep. I regret that he has accepted it by failing to support this amendment.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Maryland (Mr. STEERS).

The amendments were rejected.

AMENDMENTS OFFERED BY MR. HARRIS

Mr. HARRIS. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. HARRIS: Page 150, line 24, strike out "President shall from time to time designate" and insert in lieu thereof "Board shall, every 2 years, elect".

Page 151, line 3, strike out "President shall from time to time designate" and insert in lieu thereof "Board shall, every 2 years, elect".

Page 151, after line 8, insert the following new subsection:

"(c) Any vacancy in the Office of Chairman or Vice Chairman shall be filled, for the balance of the term in which the vacancy occurred, by a special election which shall be held at the first meeting attended by 3 members.

Mr. HARRIS. Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. HARRIS. Mr. Chairman, this is another effort to try to make sure that we have a Merit System Protection Board that is independent of any President's manipulation. I think my colleagues realize how important it is—or perhaps they do not—to make sure that we have a Merit System Protection Board, no matter which way a President wants to go, no matter how bad the effect might be, that that Merit System Protection Board is standing there as a buttress against any intrusion on these merit principles we adopted in title I.

The way the bill is drafted, the chairman and vice chairman of the Merit System Protection Board can be designated by the President "from time to time." I think it makes eminently good sense, if we are going to have an independent board, to have them elect their own chairman and vice chairman. This is what this amendment does.

The amendment sets up a procedure, where there are vacancies, for those to be filled, and makes clear that the vice chairman fills those duties of the chairman when that office is vacant. I think it is important, Mr. Chairman, that we have in the bill a clear distinction here between an agency such as the Office of Personnel Management directly under the hand of the President, and an independent board such as the Merit System Protection Board. I think this amendment would make it clear that the board is, in fact, independent; that a chairman who may not be operating in accordance with the will of the President still will remain the chairman, and the President cannot change him or her simply because the President disagrees.

I hope my colleagues can distinguish in their minds the difference between the Personnel Board and the Merit System Protection Board. This Merit System Protection Board is supposedly independent; it is supposedly a bulwark against a President who may want to somehow intrude upon the merit system. That is the purpose of the board.

I hope my colleagues can adopt this amendment so that a chairman or vice chairman cannot, in fact, be disciplined by a President if he does not perform the way the President wants him or her to perform.

Mr. DERWINSKI. Mr. Chairman, I rise in opposition to the amendments.

I will be as brief as possible, Mr. Chairman. I do wish, however, to commend my good friend from Virginia on his consistency—consistency in trying to undo what we are trying to do with this bill. This amendment takes the bill away from its main thrust. It ties the President's hands in an appointment area.

The President deserves this flexibility, and I would think that if Members wanted an orderly program for the Federal personnel system, if we want the proper concept of top level management responsibility, that would include appointment of this chairman by the President. I suggest, in keeping with the constructive goals of this measure, that this restrictive amendment be rejected.

Mr. SOLARZ. Mr. Chairman, I rise in opposition to the amendment.

I will be very brief. The gentleman from Virginia is a good man but I am afraid that this is not a good amendment. In addition to the fact that the Merit System Protection Board is already effectively insulated from Presidential pressure by virtue of the fact that the members of the board are ineligible for reappointment and can only be removed for cause, this amendment constitutes a gratuitous slap at the President. I say this because the President is now permitted to appoint the chairman of almost every other regulatory body in the Federal Government, and it would be both unfair and unnecessary to deny him the right to appoint the chairman of the Merit System Protection Board as well.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Virginia (Mr. HARRIS).

The amendments were rejected.

AMENDMENTS OFFERED BY MR. GILMAN

Mr. GILMAN. Mr. Chairman, I offer five amendments which I would like to have considered en bloc.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. GILMAN: Page 145, line 18, insert ", subject to section 1104 (a) of this title," after "or".

Page 147, line 5, strike out "service." and insert in lieu thereof "service;".

Page 147, after line 5, insert the following: "except that the Director may not delegate open competitive examination authority with respect to positions whose requirements are common to agencies in the Federal Government, other than in exceptional cases in which the interests of economy and efficiency require such delegation and in which such delegation will not weaken the application of the merit system principles.".

Page 146, line 18, strike out "(a) Notwithstanding" and insert in lieu thereof "(a)(1) Subject to subsection (b)(3) of this section, and notwithstanding".

Page 147, insert after line 14 the following:

"(3) Nothing in subsection (a) of this section shall be construed as affecting the responsibility of the Director to ensure compliance with the civil service laws and regulations."

Page 152, after line 20, insert the following:

"(e) The Merit Systems Protection Board shall submit its request for annual appropriations to the Office of Management and Budget and to the Congress."

Page 152, insert after line 17 the following:

"(d) The Board shall conduct, from time to time, special studies relating to the civil service and to other merit systems in the executive branch, and report to the President and to the Congress as to whether the public interest in a civil service free of prohibited personnel practices is being adequately protected.

Page 152, line 18, strike out "(d)" and insert in lieu thereof "(e)".

Page 145, line 16, insert "(a)" before "The following".

Page 146, insert after line 16 the following:

"(b)(1) The Director shall publish in the Federal Register general notice of any proposed rule or regulation which affects any agency or its employees. Any such notice shall be in accordance with the notice requirements of section 553(b) of this title. Upon receipt of such notice of any proposed rule or regulation, the agency shall, under regulations which shall be prescribed by the Office of Personnel Management, post such proposed rule or regulation in such locations of such offices of the agency as the agency finds reasonably necessary to ensure notice to the maximum number of employees affected. The issuance of any such rule or regulation shall be in accordance with the rule making requirements of section 553(c) of this title. Any such rule or regulation shall be published in the Federal Register at least 60 days before its effective date.

"(2) Paragraph (1) of this subsection shall not apply to any proposed rule or regulation which is temporary in nature and which is necessary to be implemented expeditiously as a result of an emergency need.

Mr. GILMAN. Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GILMAN. Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GILMAN. Mr. Chairman, my first amendment prohibits the delegation of competitive examination authority for the positions common to agencies, except that there may be delegation when the positions are unique to agencies or in extraordinary circumstances in the interests of economy and efficiency.

In view of the sweeping authority entrusted to the Director of OPM and his ability to delegate such authority under

title II, section 1104(2), and to insure that any such delegation by the Director does not relieve him of his responsibility to assure compliance with civil service laws and regulations, my second amendment specifically prohibits delegating to the agencies the ultimate responsibility of the Director of OPM for the execution, administration and enforcement of the Civil Service Act, other statutes, rules, and regulations of the President and the Office of Personnel Management.

My third amendment requires the Merit Systems Protection Board to submit its budget requests simultaneously to the Congress and the President, as is the case with the Consumer Product Safety Commission and the Federal Energy Regulatory Commission. Without this change, the Merit Systems Protection Board would be little more than a one-eyed watchdog tied by a very short leash to the White House.

The number and rapidity of changes contemplated by H.R. 11280 and Reorganization Plan No. 2 will make it virtually impossible for Congress to effectively oversee the Office of Personnel Management unless provision is made for an annual systematic review of the policies and program decisions and the compliance and enforcement actions of the Office of Personnel Management by the Merit Systems Protection Board. My fourth amendment would require such a review and would further require the Board to prepare annually a comprehensive report to the Congress as well as to the President on whether these policies, decisions, and actions of the Office of Personnel Management are in accord with and contributing adequately to a civil service based on merit principles and free of prohibitive practices.

The last amendment requires the Director of the Office of Personnel Management to notify each agency consistent with the APA of any proposed rulemaking which affects such agency or its employees at least 60 days before the proposed rule or regulation's effective date. Upon receipt of the proposed rulemaking from the Office of Personnel Management, the agency must post the proposed rule or regulation in such locations within the agency to insure notice to the maximum number of employees affected.

Mr. Chairman, I urge my colleagues to adopt these five amendments.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I am pleased to yield to the acting Chairman.

Mr. UDALL. Mr. Chairman, I have had an opportunity to review with the staff the amendments and, in the interest of saving time and finishing at a reasonable hour today, I would be pleased to accept the amendments.

Mr. GILMAN. I thank the gentleman from Arizona.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Chairman, I studied the gentleman's amendments very carefully. I want to be sure of one thing on which the gentleman could reassure me. None of his amendments in any way weaken the amendments adopted in the committee in the area of administrative law judges; do they?

Mr. GILMAN. No. In fact, if anything they may enhance the authority.

Mr. DERWINSKI. Fine.

Mr. GILMAN. I thank the gentleman for accepting these amendments, which I assume the gentleman is willing to do.

Mr. DERWINSKI. Yes.

Mr. GILMAN. I thank the gentleman from Illinois.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New York (Mr. GILMAN).

The amendments were agreed to.

AMENDMENTS OFFERED BY MR. FISHER

Mr. FISHER. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. FISHER: Page 152, insert after line 17 the following:

"(d)(1) At any time after the effective date of any rule or regulation issued by the Office of Personnel Management in carrying out its functions under section 1103 of this title, the Board shall review any provision of such rule or regulation—

"(A) on its own motion;

"(B) on the granting by the Board, in its sole discretion, of any petition for such review filed with the Board by any interested person, after consideration of the petition by the Board; or

"(C) on the filing of a written complaint by the Special Counsel requesting such review.

"(2) In reviewing any provision of any rule or regulation pursuant to this subsection the Board shall declare such provision—

"(A) invalid on its face, if the Board determines that such provision would, if implemented by any agency, on its face—

"(i) require any employee to violate section 2302(b) of this title; or

"(ii) is contrary to any merit system principle; or

"(B) invalidly implemented by any agency, if the Board determines that such provision, as it has been implemented by the agency through any personnel action taken by the agency or through any policy adopted by the agency in conformity with such provision—

"(i) has required any employee to violate section 2302(b) of this title; or

"(ii) has been contrary to any merit system principle.

"(3)(A) The Director of the Office of Personnel Management, and any agency implementing any provision of any rule or regulation under review pursuant to this subsection, shall have the right to participate in such review.

"(B) Any review conducted by the Board pursuant to this paragraph shall be limited to determining—

"(i) the validity on its face of the provision under review; and

"(ii) the validity on its face of the provision under review has been validly implemented.

"(C) The Board shall require any agency—

"(i) to cease compliance with any provision of any rule or regulation which the Board declares under this subsection to be invalid on its face; and

"(ii) to correct any invalid implementation by the agency of any provision of any rule or regulation which the Board declares under this subsection to have been so invalidly implemented by the agency.

Page 152, line 18, strike out "(d)" and insert in lieu thereof "(e)".

Mr. FISHER (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendments be dispensed with, that they be printed in the RECORD, and that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. FISHER. Mr. Chairman, the purpose of this amendment is to add a small bit to the protection of Government employees throughout the Merit System Board.

According to the bill, the Office of Personnel Management can issue rules and regulations on personnel matters, even those pertaining to the Merit System Protection Board. This amendment simply says that the Merit System Protection Board can review any OPM regulation and if it violates a prohibited personnel practice, then it can overrule that regulation and prevent its going into operation.

Mr. UDALL. Mr. Chairman, if the gentleman will yield, I am advised that the administration is willing to accept this amendment. I find it agreeable and I will support it.

Mr. FISHER. I thank my colleague.

I might add that this provision was also included in the Senate bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. FISHER).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. GILMAN

Mr. GILMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GILMAN: Page 144, strike out line 6 and all that follows down through line 8 on page 149 and insert in lieu thereof the following:

SEC. 201. (a) Title 5, United States Code, is amended by adding after chapter 9 the following new chapter:

"CHAPTER 10—OFFICE OF PERSONNEL MANAGEMENT

"Sec.
"1001. Office of Personnel Management.
"1002. Director; Associate Directors.
"1003. Functions of the Director.

"§ 1001. Office of Personnel Management

"The Office of Personnel Management is an independent establishment in the executive branch. The Office shall have an official seal which shall be judicially noticed and shall have its principal office in the District of Columbia, but it may have field offices in other appropriate locations.

"§ 1002. Director; Associate Directors

"(a) There is at the head of the Office of Personnel Management a Director of the Office of Personnel Management appointed by the President, by and with the advice and consent of the Senate. No person shall, while serving as Director, serve in any other office or position in the Government of the United States except as otherwise provided by law or by the President.

"(b) There may be within the Office of Personnel Management not more than four Associate Directors, as determined from time to time by the Director. Each Associate Director shall be appointed by the Director. Such appointments may be made without regard to the provisions of this title governing appointments in the competitive service.

"§ 1003. Functions of the Director.

"(a) The following functions are vested in the Director of the Office of Personnel Management, and shall be performed by the Director, or by such employees of the Office as the Director designates—

"(1) recommending to the President for transmittal to Congress or the Commission such legislation or other measures as will promote an efficient civil service and systematic application of merit system principles, including measures relating to the selection, promotion, transfer, performance, pay, conditions of service, tenure, and separation of employees;

"(2) appointing individuals to be employed by the Office;

"(3) directing and supervising employees of the Office, distributing business among employees and organizational units of the Office, and directing the internal management of the Office;

"(4) directing the preparation of requests for appropriations and the use and expenditure of funds;

"(5) executing, administering, and enforcing—

"(A) the civil service rules and regulations of the President and the Commission, the statutes governing the civil service; and

"(B) such other activities of the Office as usual in civil service administration;

"(6) investigating matters pertaining to the administration of functions of the Office or the Director; and

"(7) reviewing the operations under chapter 87 of this title.

"(b) The functions enumerated under subsection (a) of this section shall not include any function which is either reserved to the Commission or the Merit System Protection Board including, but not limited to—

"(1) the preparation of rules under section 1301 of this title;

"(2) the prescription of rules, regulations, or similar policy directives;

"(3) the hearing or providing for the hearing of appeals, including appeals with respect to examination ratings, veterans' preference, racial and religious discrimination, disciplinary action, performance ratings, and dismissals, and the taking of final action on these appeals.".

(b)(1) Section 5314 of title 5, United States Code, is amended by inserting at the end thereof the following new paragraph:

"(67) Director of the Office of Personnel Management.".

(2) Section 5315 of such title is amended by inserting at the end thereof the following new paragraph:

"(122) Associate Directors of the Office of Personnel Management (4).".

(c)(1) Section 1104(a) of title 5, United States Code, is amended by striking out paragraph (5) and redesignating paragraph (6) as paragraph (5).

(2) Section 1302 of such title is amended—

(A) by striking out ", control, supervise, and preserve the records of," in subsection (a);

(B) by striking out "and enforce" in subsection (b); and

(C) by adding at the end thereof the following new subsection:

"(e) The Commission, subject to the rules prescribed by the President under this title, shall have authority to issue such regulations as necessary to prescribe general policy relating to the civil service laws. The Office of Personnel Management shall be guided by such policy in carrying out its functions under this title.".

(d)(1) The United States Civil Service Commission, as constituted under chapter 11 of title 5, United States Code, prior to the transfer of its functions under section 101 of Reorganization Plan Numbered 2 of 1978, is continued as an agency of the United States, except that of the first members appointed after the date of the enactment of this Act, one shall be appointed for a term of 2 years, one for a term of 4 years, and one for a term of 6 years, each such term expiring on March 1 of an odd-numbered year. Thereafter, members shall be appointed as provided under such chapter 11.

(2) If transfer of any function under such section 101 of such reorganization plan is inconsistent with the provisions of this section, such transfer is superseded by this section.

Mr. GILMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York (Mr. GILMAN)?

There was no objection.

Mr. GILMAN. Mr. Chairman, conforming to the wishes of the House which obviously desires the retention of the Office of Personnel Management, I am offering this amendment which establishes an Office of Personnel Management as an independent establishment in the executive branch structured basically as it is in this legislation before us and in the Reorganization Plan No. 2. However, the amendment further provides for the continuation of the U.S. Civil Service Commission, as formerly constituted, except for certain specified changes in the terms of the Commissioners.

The Commission, subject to the rules prescribed by the President, shall continue to enjoy the authority to issue such regulations as necessary to prescribe general policy relating to the Civil Service laws.

The power to make personnel policy includes the power to interpret the laws; to decide the policies for authorizing exceptions to certain laws; to make the policies which determine how job applicants shall be ranked for employment consideration; to take positions out of the competitive service so they can be filled by political cronies; and to set aside almost all civil service laws in demonstration projects that would affect many thousands of individuals. The citizens of the United States would have far greater confidence in the wisdom and impartiality of such policies if they were made by a bipartisan body. This is, of course, the primary reason for having established the bipartisan Civil Service Commission in the first place.

The Office of Personnel Management shall be guided by the policy prescribed by the Commission in carrying out its functions specified in section 1003 of my amendment. The Director of OPM will be vested with the authority to recommend to the President legislation under title 5; directing the preparation of requests for appropriations and the use and expenditure of funds; the execution, administration, and enforcement of the civil service rules and regulations of the President and the Commission and the statutes governing the civil service; and the investigation of matters pertaining to his functions.

The functions enumerated under section 1003, however, shall not include any function which is either reserved to the Civil Service Commission or the Merit System Protection Boards.

The 95-year-old civil service system is not without faults; it has gone through many changes to overcome weaknesses as they have been identified. But abolishing bipartisan personnel policymaking will not correct any of these flaws. Nor will it improve the quality and performance of the civil service system or increase the public's confidence in it. None of the civil service problems identified by the administration as reasons needed for reform would be solved by having personnel policies made by one person. No rational case has been made for abolishing policymaking by a bipartisan body, while the advantages of having a bipartisan policymaking body are obvious.

This division of personnel policymaking from its execution will serve to deter the creation of a civil service czar, and at the same time, insure the continuation of bipartisan policymaking.

Mr. Chairman, I move my amendment.

Mr. UDALL. Mr. Chairman, I rise in opposition to the amendment.

This amendment, Mr. Chairman, would drastically distort one of the purposes of the bill.

We have already agreed in connection with the reorganization proposal that we are going to break up the dual functions now handled by the Civil Service Commission. The adjudicatory judicial function of protecting the merit system which we have will be lodged in the Merit System Protection Board. The personnel management function will be headed up by the director of the OPM.

Now comes this amendment by the gentleman from New York (Mr. GILMAN), which transfers the authority to make personnel policy and to manage that policy from the President's personnel manager, the Director of OPM, to this three-headed judicial body.

It simply guts the authority of the President's personnel policy adviser and places it in the hands of an unresponsive personnel board.

That is exactly what we have been trying to get away from in this bill.

Mr. Chairman, adoption of this amendment would be a major mistake, and I urge the rejection of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. GILMAN).

The amendment was rejected.

The CHAIRMAN. Are there further amendments to title II?

AMENDMENT OFFERED BY MR. HARRIS

Mr. HARRIS. Mr. Chairman, I offer an amendment.

The clerk read as follows:

Amendment offered by Mr. HARRIS: Page 151, strike out line 18 and all that follows down through line 5 on page 152, and insert in lieu thereof the following:

"(a)(1) Any member of the Merit Systems Protection Board, the Special Counsel, any administrative law judge appointed by the Board under section 3105 of this title, and any employee of the Board designated by the Board may administer oaths, examine witnesses, and receive evidence.

"(2) Any member of the Merit Systems Protection Board, the Special Counsel, and

any administrative law judge appointed by the Board under section 3105 of this title may—

"(A) issue subpenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States or any territory or possession thereof, the Commonwealth of Puerto Rico, or the District of Columbia, and

"(B) take or order the taking of depositions and order responses to written interrogatories.

Mr. HARRIS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. HARRIS. Mr. Chairman, I think this is also an important change to be made with regard to the subpena power that we give a Government agency, and I think it touches upon many other actions which we have taken in the past with regard to subpena powers given to various Government employees.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I am happy to yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, if the gentleman will save us 5 minutes by not explaining the amendment, I am prepared to accept it.

Mr. HARRIS. Mr. Chairman, since I tried to explain the amendment to members of the committee and since my chairman apparently now understands the amendment, I will give it no further explanation and ask for a vote.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I am happy to yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Chairman, the gentleman from Virginia (Mr. HARRIS) is now exploring his great success with respect to this amendment.

Perhaps we could have an understanding whereby he would just henceforth offer amendments that are acceptable and would drop all of those which are not acceptable. In that case we could really move this afternoon.

Mr. HARRIS. Mr. Chairman, I say to my colleague that apparently that is basically the system we are operating under right now except for the gentleman from Virginia, who has always been known as a man who fights for principles, whether they are acceptable or not at the time.

Mr. DERWINSKI. I am thinking more of this great civil service reform and of the fact that down in the gentleman's noble heart, he knows we are pursuing the proper course for our country.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. HARRIS).

The amendment was agreed to.

The CHAIRMAN. Are there other amendments?

AMENDMENTS OFFERED BY MR. CLAY

Mr. CLAY. Mr. Chairman, I offer two amendments.

The Clerk read as follows:

Amendments offered by Mr. CLAY:

On page 185, line 7, insert the following after "(42 U.S.C. 2000e–16),": "the Equal Pay Act of 1963 (29 U.S.C. 206(d)),".

On page 187, line 17, insert after the word "followed" the following: ", except that in a case of discrimination brought under 42 U.S.C. 2000e–16(c), 29 U.S.C. 633a(c), or 29 U.S.C. 216 and 217, the proceeding shall be de novo.".

Mr. CLAY. Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from New York (Mr. GILMAN)?

There was no objection.

Mr. CLAY. Mr. Chairman, these amendments are precisely the same as the two I offered this morning which were accepted.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. CLAY. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding.

We have studied these amendments, and they are acceptable. I urge that they be adopted.

Mr. CLAY. I thank the gentleman.

Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Missouri (Mr. CLAY).

The amendments were agreed to.

The CHAIRMAN. Are there other amendments to title II?

AMENDMENT OFFERED BY MR. CLAY

Mr. CLAY. Mr. Chairman, I offer a fifth amendment. I thought it was coming up under title III.

The Clerk read as follows:

Amendment offered by Mr. CLAY: On page 187, strike lines 7 through 13, and insert the following in lieu thereof:

"(b) A petition to review a final order or decision of the Board shall be filed in the Court of Claims or a United States district court as provided in chapters 91 and 85, respectively, of title 28 except that cases of discrimination shall be filed under section 717(c) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16(c) under section 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(c)), section 16(b) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 216 and 217), as applicable. Notwithstanding any other provision of law, any petition for review must be filed within 30 days after the date the petitioner received notice of the final order or decision of the Board.".

Mr. CLAY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. CLAY. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding.

Mr. Chairman, this is a technical amendment which improves the bill and is acceptable.

Mr. CLAY. Mr. Chairman, I thank the gentleman. I yield back the remainder of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. CLAY).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. BOLAND: On page 155, line 9, strike "information which" and insert in lieu thereof: "information, other than foreign intelligence or counterintelligence information the disclosure of which is specifically prohibited by law or by executive order, which".

On page 159, after line 5, insert the following new paragraph:

"(9) In any case under paragraph (c)(1)(B) of this section involving foreign intelligence or counterintelligence information the disclosure of which is specifically prohibited by law or by executive order, or in any case in which the Special Counsel, in consultation with the head of an agency under paragraph (d)(3) of this section, determines that information involved is prohibited from disclosure by law or by executive order requiring that information be kept secret in the interest of national defense or the conduct of foreign affairs, the Special Counsel shall transmit such information to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

On page 160, line 19, strike "paragraph." and insert in lieu thereof: "paragraph, except that prior to including any information in a public list, the Special Counsel shall consult with the head of the agency involved to determine if any of the information to be contained therein is prohibited from disclosure by law or by executive order requiring that information be kept secret in the interest of national defense or the conduct of foreign affairs, in which case the information shall not be included in such a public list."

On page 161, line 7, strike "title;" and insert in lieu thereof: "title, except that the Special Counsel shall make no investigation under this subsection of any withholding of foreign intelligence or counterintelligence information the disclosure of which is specifically prohibited by law or by executive order."

Mr. BOLAND (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. BOLAND. Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. BOLAND. Mr. Chairman, as we all know, this bill creates a Special Counsel. The Special Counsel has the responsibility and the authority to receive allegations, to investigate allegations and to assess any corrective action taken with regard to allegations which are made to him. These allegations may be about prohibited personnel practices as defined by the bill, but they may also include any possible violation of law,

rule, regulation or any mismanagement or abuse by an officer or employee of the Government. The jurisdiction is very wide and the purpose of this amendment is to quarrel with only one part of it.

It seems to me that when matters involving classified intelligence information are involved, then the Special Counsel ought not to be involved. The various intelligence agencies presently have Inspectors General. There is a Presidentially created Intelligence Oversight Board and in addition, there are the oversight committees of Congress, including the Permanent Select Committee on Intelligence, which have, and ought to exercise, jurisdiction in matters that involve improprieties but which also concern intelligence information.

Mr. Chairman, section 1206 of the bill does exempt classified information from consideration by the Special Counsel in some circumstances. However, it does not in others. To be specific, if there has been a disclosure of classified information in the newspapers or in some other public form, then the Special Counsel is not involved. If, however, disclosure by an employee or applicant has been to a specific Inspector General or, indeed, to the Special Counsel himself, then the Special Counsel may investigate.

Mr. Chairman, the Special Counsel may investigate the most sensitive kinds of intelligence information. Further, the bill requires that when the Special Counsel determines that there ought to be an investigation, he should transmit that recommendation to the head of the agency involved and require the head of that agency to conduct an investigation about the allegation and submit a written report to him, the Special Counsel, and to the General Accounting Office. Further, the Special Counsel is required to publish a public list of matters which have been referred to the heads of agencies.

These provisions give me pause. I can understand very well the reasons which have convinced the committee that there ought to be a Special Counsel to investigate the allegations of whistle blowers. Indeed, that may be a very healthy thing to have within a civil service system like our own. I think allegations of impropriety, no matter by whom they are alleged to have been committed, ought to be investigated. The question, of course, is who is the proper authority to investigate them? When national security information is involved, it is my strong feeling, and that of the President and the intelligence agencies, as well, that the proper authorities to investigate these allegations are the Inspectors General which have been created in the intelligence agencies.

These Inspectors General have the ability and the authority to investigate any impropriety brought to their attention and they are required by Executive order to bring any activities which they deem indeed to be improper to the attention of the Intelligence Oversight Board. This Board, which has been in operation for some years, has the duty of investigating such matters and making its recommendations to the President. In addition, any actual or probable violations of law must be brought to the attention of the Attorney General.

Beyond this, the Permanent Select Committee on Intelligence of the House and the Select Committee on Intelligence of the Senate are, and have been, exercising continuing oversight over all intelligence agencies—with a particular emphasis on any improprieties or illegalities. These committees require and will receive under these amendments reports detailing any possible improprieties or illegalities from the Special Counsel in those cases which he is precluded from investigating. The committees will then conduct investigations of their own.

Mr. Chairman, the intelligence agencies are already explicitly exempted from the mandatory applicability of merit system principles established in title I of this bill. As originally introduced, this legislation limited the scope of the Special Counsel's authority to investigation of allegations of prohibited personnel practices. In expanding the authority of the Special Counsel, the committee has exempted intelligence agencies in some respects, but not in others from investigations conducted by the Special Counsel. This seems to me to be inconsistent with the exemptions found in title I and those partial exemptions contained in section 1206. It seems to me that this confusion of purpose is ill considered. I believe the House should focus on the inconsistencies in the bill and I believe it should agree to delete intelligence agencies from the coverage of the bill completely.

Mr. Chairman, the question of whether or not intelligence information would be subject to review by the Special Counsel was a topic not covered in hearings before the Committee on Post Office and Civil Service. Admiral Turner, the Director of Central Intelligence, and other intelligence officials did not have an opportunity to testify on this matter. They, understandably, are very concerned about its application. They are concerned not because they wish to avoid investigations of improprieties or illegalities but simply because they wish to assure the absolute confidentiality and inviolability of the kinds of information that may be involved in such investigations. They feel, as do I, that current investigatory machinery, such as the Inspector General, the Intelligence Oversight Board and most particularly the congressional oversight committees, are more than adequate to perform the task.

The classic rule of intelligence is that the fewer people know a secret, the safer that secret remains. That is why intelligence information is so closely guarded. That is why the two intelligence committees are as careful as they are in the selection and screening of their staff and in the procedures under which they handle classified material.

Mr. Chairman, the job of legitimate, responsible congressional oversight can be done under these circumstances. Within the intelligence agencies, watchdog institutions like Inspectors General who have independent authority to perform their investigations and make their recommendations without fear of reprisal can be very effective if they work within the agencies and they themselves hold very closely the information which they gather in the pursuit of their investigations.

Mr. Chairman, I do not wish to impugne the patriotism or the professional integrity of those who will occupy positions in the Office of the Special Counsel. I feel very simply, however, that there is danger in expanding access to classified intelligence information which can be of the most sensitive nature through the Office of the Special Counsel. I do not feel that it was carefully considered. I do not feel, nor do the responsible intelligence officials, that it provides for the safeguarding of the kind of information that may be involved and finally, I am concerned about further discussion in the public forum about classified intelligence information.

I suggest that the best course at this point is to exempt from the provisions of this bill all intelligence information or any allegations which might involve such information. This is the action which the Senate has taken, it is to me the most prudent course and at the same time, it does no violence to the jurisdiction to the Special Counsel as recommended by the committee. He is still empowered to look into any and all allegations of improprieties or illegality except those which may involve intelligence information.

I should note to the members that I have drafted these amendments in such a way as to exclude only intelligence information. I should also note that the amendments would have the effect of preventing classified information from being disclosed in the public list which is also referred to within this section. Finally, the amendments make a qualifying change to that part of section 1206 which refers to other authorities of the Special Counsel.

Specifically, the amendments make clear that where the Soecial Counsel has authority under the Freedom of Information Act, it preserves the authority currently exercised by the Civil Service Commission. This last change, Mr. Chairman, in my understanding, merely clarifies the intent of this legislation and is not inconsistent with the intent of the committee in offering this bill.

Mr. Chairman, let me just close with this assurance to the Members. The intent of these amendments is not to preclude the raising of complaints or allegations about improprieties or illegalities within our intelligence community. It is not to prevent such allegations reaching the surface. Rather, it is intended to insure that they are considered under procedures which have been adopted to handle such allegations. These procedures can also safeguard any sensitive, classified intelligence information which may be the subject or somehow involved with such allegations.

It seems to me the best course to exempt the intelligence agencies from the authorities of the Special Counsel. It seems to me that no case has been made that the Inspectors General and the Intelligence Oversight Board are not doing

their jobs. I am certain that the Members of this House will recognize that the Senate Select Committee on Intelligence, which has now been in operation for some 2½ years, has done a fine job in considering many aspects of the intelligence business. The Permanent Select Committee on Intelligence, which I chair, has been in this business for only a year. I can report to the Members of the House that we are doing as careful and as considered a job of oversight as we can. We will continue to do so. That, it seems to me is the way to go. The procedures of this bill are neither crafted for, nor were they carefully considered in light of, the kind of sensitive intelligence information that might be the subject of allegations brought before the Special Counsel. I therefore urge that such information not come within the jurisdiction of this Special Counsel.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding.

Mr. Chairman, I have studied the amendments. We modified them a little bit following our discussion, so they are acceptable to us, and I am told the administration finds that they are acceptable as well.

Mr. BOLAND. I thank the gentleman from Arizona.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. I am very pleased to yield to my friend, the gentleman from Illinois.

Mr. DERWINSKI. I thank the gentleman for yielding.

Anything that is acceptable to the administration is acceptable to us.

● Mr. MAZZOLI. I rise in support of the Boland amendments.

As initially proposed, I had reservations about the amendment. However, the gentleman from Massachusetts graciously agreed to the two modifications which I requested be made to the amendments.

First, I asked that the proposed exemption of intelligence matters from the jurisdiction of the Special Counsel be limited to "foreign intelligence and counter intelligence." Thus, domestic matters, such as criminal intelligence, would not qualify for an exemption. This modification was agreed to.

Second, I requested that a provision be added to give the House and Senate Intelligence Committees oversight jurisdiction over the Special Counsel's decision not to take—or to publicly list—"whistleblowers" involving foreign intelligence or counter intelligence.

This modification will assure—with the anticipated cooperation of the Special Counsel and the agencies—that the exemption will not be misused to cover waste, mismanagement, or illegal operations by the agencies.

I urge the House to adopt the gentleman's amendments.●

The CHAIRMAN. The question is on the amendments offered by the gentleman from Massachusetts (Mr. BOLAND).

The amendments were agreed to.

AMENDMENTS OFFERED BY MR. LEVITAS

Mr. LEVITAS. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. LEVITAS: On page 168, strike line 13 and insert: "such employee's position, which shall include, but not be limited to conduct that demonstrates a pattern of recurring discourtesy to the public, including discourteous conduct confirmed by an immediate supervisor's report of four such instances within any one year period and any other pattern of discourteous conduct.".

On page 178, strike lines 9 and 10 and insert: "Fourteen days or less for such cause as will promote the efficiency of the service, including conduct that demonstrates a pattern of recurring discourtesy to the public, including discourteous conduct confirmed by an immediate supervisor's report of four such instances within any one year period and any other pattern of discourteous conduct.".

On page 179, strike lines 10 and 11 and insert: "by this subchapter against an employee for such cause as will promote the efficiency of the service, including for conduct that demonstrates a pattern of recurring discourtesy to the public, including discourteous conduct confirmed by an immediate supervisor's report of four such instances within any one year period and any other pattern of discourteous conduct.".

Mr. LEVITAS (during the reading). Mr. Chairman, first, I ask unanimous consent that the two other substantially identical amendments to title II be considered as read, printed in the RECORD, and that all the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. LEVITAS. Mr. Chairman, first of all, I would like to take this opportunity to state that I consider this legislation not only to be the centerpiece of the President's reorganization program, but I consider it to be an extremely important and long overdue reform in government and improvement in the civil service. It is this bureaucracy that deals directly with the people, that implements the policies of the administration and of this Congress, and unless the civil service is the proper tool which it should be to effectively carry out these purposes, then we not only frustrate the policies of our Government, but we generate the type of public cynicism and disrepute of Government that frequently has been true in the past. That attitude undermines the effectiveness of the decisions made by the administration and by this Congress. That attitude is cause of lack of confidence in our Government and is the cause of lack of respect for our Government by the people of the United States.

Mr. Chairman, I want to commend the chairman of the subcommittee, as well as the ranking minority Member, for the truly outstanding way in which they have handled a most difficult bill.

The overwhelming number of employees of the Federal Government are loyal, hard-working, dedicated people, who seek to serve the public and, indeed, they are public servants in the best sense of the term. There are some few, however, and they are very few, indeed, who do not realize they are servants of the public. As a result, they do not act toward the public in encounters with them as public servants should. Too often they treat citizens with unconcern, arrogance, slowness, callousness, and plain rudeness. In short, they treat the public with discourtesy.

The amendments which I offer would make it very clear that under the new procedures relating to the civil service and accountability, where there are provisions made for performance appraisal, where there are provisions made for disciplining employees who fail to meet those standards, that one of the specific matters which shall be taken into account is the question of discourtesy to the public, discourtesy by public servants to the public they should be serving.

Some may say, "Well, this is so trivial, this is such an unimportant item when we are dealing with all these great decisions, why should we be troubled by something like rudeness or discourtesy?"

Well, I suggest that most Americans, the millions and millions of Americans who have to deal with public servants, deal with them on a one to one basis. The frustration and the anger and the embarrassment that result from rudeness and discourtesy creates more problems for our Government and for the civil service, perhaps, than some of the large decisions we so frequently hear about.

What this amendment does is this: it defines as "unacceptable performance" in the appropriate section of title II so that the definition of "unacceptable performance" includes a pattern of recurring discourtesy to the public. This definition would give a very clear mandate to the rulemakers and administrators that this is important to the American people and to this Congress to eliminate unprovoked discourtesy by federal employees. I think it will do a great deal to remove some of the problems which the few bad apples in the barrel create for others and will do more to make those good, dedicated public servants recognize that there are people in Government who stand behind them.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I have not seen the amendments until a moment ago. If the gentleman is going to make a record that the Congress is going to say that discourteous treatment to the public involving a pattern of repeated instances could be a ground for discipline, I do not see how anyone could quarrel with that.

I can see how it can be used mischivously by supervisors if we are not careful with the way it is administered. There is nothing in the Senate bill on this, but we can take a look at it in the conference.

Mr. Chairman, I personally think it is a good idea for the Congress to go on record in support of this basic principle.

Mr. LEVITAS. Mr. Chairman. I thank the gentleman, and I want to say I think it would do a great deal to strengthen the civil service reform and the public's regard for public employees.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Chairman, I wish to go beyond the immediate language of the gentleman's amendments and point out that those of us on the committee who worked hard to produce this bill appreciate the kind of interest and support and understanding we are getting on the floor.

This is a complex measure, and I believe all the Members appreciate the fact it is the public who will be better served if we write a good bill on the floor this afternoon.

Mr. Chairman, I thank the gentleman from Georgia (Mr. LEVITAS) for offering his amendment.

The CHAIRMAN pro tempore (Mr. BOLLING). The question is on the amendments offered by the gentleman from Georgia (Mr. LEVITAS).

The amendments were agreed to.

The CHAIRMAN pro tempore. Are there other amendments to title II?

If not, the Clerk will read.

The Clerk read as follows:

TITLE III—STAFFING

VOLUNTEER SERVICES

SEC. 301. (a) Chapter 31 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 3111. Acceptance of volunteer service

"(a) For the purpose of this section, 'student' means an individual who is enrolled, not less than half-time, in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution. An individual who is a student is deemed not to have ceased to be a student during an interim between school years if the interim is not more than 5 months and if the individual shows to the satisfaction of the Office of Personnel Management that the individual has a bona fide intention of continuing to pursue a course of study or training in the same or different educational institution during the school semester (or other period into which the school year is divided) immediately after the interim.

"(b) Notwithstanding section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)), the head of an agency may accept, subject to regulations issued by the Office of Personnel Management, voluntary service for the United States if the service—

"(1) is performed by a student, with the permission of the institution at which the student is enrolled, as part of an agency program established for the purpose of providing educational experiences for students;

"(2) is to be uncompensated; and

"(3) would not, under the facts and circumstances involved, be performed by an employee in the absence of voluntary service under this section.

"(c) Any student who provides voluntary service under subsection (b) of this section shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of this title (relating to compensation for injury) and sections 2671 through 2680 of title 28 (relating to tort claims).".

(b) The analysis for chapter 31 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"3111. Acceptance of volunteer service.".

DEFINITIONS RELATING TO PREFERENCE ELIGIBLES

SEC. 302. Section 2108 of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by inserting in paragraph (3) after "means" the following: ", except as provided in paragraph (4) of this section";

(3) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(4) by adding at the end thereof the following new paragraphs:

"(4) except for the purposes of chapters 43 and 75 of this title, 'preference eligible' does not include a retired member of the armed forces unless—

"(A) the individual is a disabled veteran; or

"(B) the individual retired below the rank of major or its equivalent; and

"(5) 'retired member of the armed forces' means a member or former member of the armed forces who is entitled, under statute, to retired, retirement, or retainer pay on account of service as a member.".

NONCOMPETITIVE APPOINTMENT OF CERTAIN DISABLED VETERANS

SEC. 303. (a) Chapter 31 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 3112. Preference eligibles; disabled; noncompetitive appointment

"Under regulations prescribed by the Office of Personnel Management, an agency may make a noncompetitive appointment leading to conversion to career or career-conditional employment of a disabled veteran who—

"(1) has a compensable service-connected disability of 30 percent or more, or

"(2) is enrolled in or has successfully completed a course of job related training prescribed by the Administrator of Veterans' Affairs under chapter 31 of title 38.".

(b) The analysis for chapter 31 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"3112. Preference eligibles; disabled; noncompetitive appointment.".

EXAMINATION, CERTIFICATION, AND APPOINTMENT OF PREFERENCE ELIGIBLES

SEC. 304. (a) Chapter 33 of title 5, United States Code, is amended by adding after section 3303 the following new section:

"§ 3303a. Preference eligibles; appointment; time limit

"(a) For the purpose of this subchapter—

"(1) the status of an individual, who is not a retired member of the armed forces, as a preference eligible under section 2108(3) (A) or (B) of this title for purposes of perference in consideration for appointment shall terminate—

"(A) at the end of the 15-year period beginning on the date of the individual's separation from active duty in the armed forces, or

"(B) upon appointment to a position that is not time limited,

whichever occurs first; and

"(2) the status of an individual, who is a retired member of the armed forces and who retired below the rank of major or its equivalent, as a preference eligible under section 2108(3) (A) or (B) of this title for purposes of preference in consideration for appointment shall terminate at the end of the 3-year period beginning on the date of the individual's separation from active duty in the armed forces.".

(b) Section 3305 of title 5, United States Code, is amended to read as follows:

"§ 3305. Competitive service; preference eligibles; applications

"On the application of a preference eligible, a competitive examination shall be held for any position for which there is an appropriate list of eligibles.".

(c) Section 3309 of title 5, United States Code, is amended to read as follows:

"§ 3309. Preference eligibles; examinations; additional credit for

"(a) Preference eligibles shall be referred for appointment in accordance with regulations issued under section 3317(a) of this title. A preference eligible who qualifies in an examination for entrance into the competitive service is entitled to additional points above the individual's earned rating, as follows:

"(1) subject to section 3309a of this title, a preference eligible under section 2108(3) (A) or (B) of this title—5 points; and

"(2) a preference eligible under section 2108(3) (C)–(G) of this title—10 points.

"(b) A preference eligible under section 2108(3)(C) of this title who qualifies in an examination for entrance into the competitive service and who has a compensable service-connected disability of 10 percent or more, shall be placed at the head of the list of eligibles, except that in the case of scientific and professional positions in GS-9 or higher, the preference eligible shall be placed on the list of eligibles in the order of the eligible's rating, including points added under subsection (a)(2) of this section.

"(c) If other rating systems are used, preference eligibles are entitled to comparable preference.".

(d) Section 3314 of title 5, United States Code, is amended by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management" and by striking out ", in the order named by section 3313 of this title".

(e) Section 3315 of title 5, United States Code, is amended—

(1) in the first sentence of subsection (a), by striking out ", in the order named by section 3313 of this title";

(2) in the second sentence of subsection (a), by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management"; and

(3) in the first sentence of subsection (b), by striking out "Commission" and inserting in lieu thereof "Office of Personnel Management".

(f) Section 3317(a) of title 5, United States Code, is amended to read as follows:

"(a) The Office of Personnel Management shall prescribe regulations for the referral of eligibles to a nominating or appointing authority for consideration for appointment to each vacancy in the competitive services.".

(g) Section 3321 of title 5, United States Code, is amended to read as follows:

"§ 3321. Competitive service; probations; periods of

"(a) The President may take such action, including the issuance of rules, regulations, and directives, as shall provide as nearly as conditions of good administration warrant, for a period of probation—

"(1) before an appointment in the competitive service becomes final; and

"(2) before an initial appointment as a supervisor or manager becomes final.

"(b) An individual—

"(1) who has been transferred, assigned, or promoted from a position to a supervisory or managerial position, and

"(2) who does not satisfactorily complete the probationary period under subsection (a)(2) of this section,

shall be returned to a position of no lower grade and pay than the position occupied by the individual immediately before the transfer, assignment, or promotion of the individual to the supervisory or managerial position. Nothing in this section prohibits the taking of an action against an individual serving a probationary period under section (a)(2) of this section for cause unrelated to supervisory or managerial performance.".

(j) Section 3326 of title 5, United States Code, is amended—

(1) in subsection (b)(1), by striking out

", and, if the position is in the competitive service, after approval by the Civil Service Commission"; and

(2) in subsection (c), by striking out ", or the authorization and approval, as the case may be,".

(k) The following sections of chapter 33 of title 5, United States Code are repealed:

(1) section 3313 (relating to registers of eligibles); and

(2) section 3319 (relating to members of family restriction).

(l) The analysis for chapter 33 of title 5, United States Code, is amended—

(1) by inserting after the item relating to section 3303 the following new item:

"3303a. Preference eligibles, appointment; time limit.";

(2) by amending the item relating to section 3305 to read as follows:

"3305. Competitive service; preference eligibles; applications.";

(3) by amending the item relating to section 3309 to read as follows:

"3309. Preference eligibles; examinations; additional credit for.";

and

(4) by striking out the items relating to sections 3313 and 3319.

RETENTION PREFERENCE

SEC. 305. (a) Section 3501(a) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(4) 'employee with limited preference' means any preference eligible (other than a preference eligible under section 2108(3)(C)–(G) of this title or subsection (a)(3)(A) of this section).".

(b) Section 3502(b) of title 5, United States Code, is amended to read as follows:

"(b) An employee with limited preference is entitled to military preference in retention under this section only during the 8-year period following the date of the employee's initial appointment in or under an Executive agency, or if later, during the 8-year period following the date of such employee's initial return following a leave of absence during which the employee was performing active service in the armed forces.".

(c) Section 3502(a)(2) of title 5, United States Code, is amended to read as follows:

"(2) military preference, subject to subsection (b) of this section and section 3501 (a)(3) of this title;".

(d) Section 3502 of title 5, United States Code, is further amended by adding at the end thereof the following new subsection:

"(c) An employee who is entitled to retention preference and whose performance meets a standard of adequacy under a performance appraisal system implemented under chapter 43 of this title is entitled to be retained in preference to other competing employees."

(e) Section 3503 of title 5, United States Code, is amended—

(1) in subsection (a), by striking out "each preference eligible employed" and inserting in lieu thereof "each competing employee"; and

(2) in subsection (b) by striking out "each preference eligible employed" and inserting in lieu thereof "each competing employee.".

TRAINING

SEC. 306. Section 4108 of title 5, United States Code, is amended by inserting "(a)" before "In order to increase" and by adding at the end thereof the following new subsection:

"(b)(1) Notwithstanding any other provision of this chapter, an agency may train any employee of the agency to prepare the employee for placement in another agency if the head of the agency determines that the employee will otherwise be separated under conditions which would entitle the employee to severance pay under section 5595 of this title.

"(2) Before undertaking any training under this subsection, the head of the agency shall obtain verification from the Office of Personnel Management that there exists a reasonable expectation of placement in another agency.

"(3) In selecting an employee for training under this subsection, the head of the agency shall consider—

"(A) the extent to which the current skills, knowledge, and abilities of the employee may be utilized in the new position;

"(B) the employee's capability to learn new skills and acquire knowledge and abilities needed in the new position; and

"(C) the benefits to the Government which would result from retaining the employee in the Federal service.".

TRAVEL, TRANSPORTATION, AND SUBSISTENCE

SEC. 307. Section 5723(d) of title 5, United States Code, is amended by striking out "not".

RETIREMENT

SEC. 308. Section 8336(d)(2) of title 5, United States Code, is amended to read as follows:

"(2) voluntarily, during a period when the agency in which the employee is serving is undergoing a major reorganization, a major reduction in force, or a major transfer of function, as determined by the Office of Personnel Management, and the employee is serving in a geographic area designated by the Office;".

EXTENSION OF VETERANS READJUSTMENT APPOINTMENT AUTHORITY

SEC. 309. Section 2014(b) of title 38, United States Code, is amended to read as follows:

"(b) To further this policy, veterans of the Vietnam era shall be eligible, in accordance with regulations which the Office of Personnel Management shall prescribe for veterans readjustment appointments and subsequent career-conditional appointments, under the terms and conditions of Executive Order Numbered 11521 (March 26, 1970), except that these appointments may be made up to and including GS–7 of the General Schedule described in section 5104 of title 5, or its equivalent, and, for disabled veterans, the fourteen years of education limit shall not apply. Notwithstanding any limitations with respect to the period of eligibility as prescribed in Executive Order Numbered 11521, a veteran of the Vietnam era who was eligible for appointment under such Executive order on April 9, 1970, or a veteran of the Vietnam era who was separated on or after such date, may be appointed at any time. No veterans readjustment appointment may be made under the authority of this subsection after September 30, 1980.".

NOTIFICATION OF VACANCIES IN THE CIVIL SERVICE

SEC. 310. Chapter 33 of title 5, United States Code, is amended by inserting at the end thereof the following new section:

"§ 3327. Notification of vacancies in the civil service

"(a) For the purpose of this section—

"(1) 'agency' has the meaning set forth in section 5102 of this title; and

"(2) 'vacant position' means a position in an agency which is considered by the agency to be available for employment.

"(b) Each agency shall promptly notify the Office of Personnel Management of—

"(1) each vacant position in the agency together with the address to which requests for information concerning the position may be sent; and

"(2) each position of which the Office was notified under paragraph (1) of this subsection and which has since been filled or is otherwise no longer considered by the agency to be available for employment.

"(c) The Office shall transmit to the United States Employment Service, and make available to each employment office established by the Service, a comprehensive listing of all vacant positions and addresses of which the Office has been notified under subsection (b)(1) of this section. The Office shall revise the listing each month in accordance with the notifications of filled or otherwise unavailable positions received by the Office under subsection (b)(2) of this section and shall promptly transmit to the Service each revision.".

(b) The analysis for chapter 33 of title 5, United States Code, is amended by inserting after the item relating to section 3326 the following new item:

"3327. Notification of vacancies in the civil service.".

DUAL PAY FOR RETIRED MEMBERS OF THE UNIFORMED SERVICES

SEC. 311. Section 5532 of title, 5, United States Code, relating to retired officers of the uniformed services, is amended by striking out so much of such section as precedes subsection (c) and by inserting in lieu thereof the following:

"§ 5532. Employment of retired members of the uniformed services; reduction in pay

"(a) If any member or former member of a uniformed service is receiving retired pay and is employed in a position the annual rate of basic pay for which, when combined with the member's annual rate of retired pay, exceeds the rate of basic pay then currently said for level V of the Executive Schedule, such member's pay for such employment shall be reduced by an amount computed under subsection (b) of this section. The amounts of the reductions shall be deposited to the general fund of the Treasury of the United States.

"(b) The amount of each reduction under subsection (a) of this section for any pay period in connection with employment in a position shall be equal to the retired pay allocable to the pay period, except that the amount of the reduction may not result in the amount payable for the pay period, when combined with the retired pay allocable to the pay period, being at a rate less than the rate of basic pay then currently paid for level V of the Executive Schedule.".

(b) Section 5531 of title 5, United States Code, relating to definitions, is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) 'member' has the meaning given such term by section 101(23) of title 37;";

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(3) 'retired pay' means—

"(A) retired pay, as defined in section 8311 (3) of this title, determined without regard to subparagraphs (A) through (D) of such section 8311(3); and

"(B) a pension or compensation paid under laws administered by the Veterans' Administration after a waiver of retired pay pursuant to section 3105 of title 38.".

(c) Section 5532(c) of title 5, United States Code, is amended—

(1) by striking out "subsection (b) of";

(2) by striking out "or retirement" each place it appears;

(3) by striking out "a retired officer of a regular component of a uniformed service" and inserting in lieu thereof "a member or former member of a uniformed service who is receiving retired pay"; and

(4) in paragraph (1), by striking out "whose retirement was" and inserting in lieu thereof "whose retired pay is computed, in whole or in part,".

(d) Section 5532(d) of title 5, United States Code, is hereby repealed.

(e) The item relating to section 5532 in the analysis for chapter 55 of title 5, United States Code, is amended to read as follows:

"5532. Employment of retired members of the uniformed services; reduction in pay."

(f)(1) The amendments made by this section shall apply only with respect to pay periods beginning after the effective date of this Act and only with respect to members of the uniformed services who first become eligible for retired pay (as defined in section 5531(3) of title 5, United States Code (as amended by this section)), after the effective date of this Act.

(2) The provisions of section 5532 of title 5, United States Code, is in effect immediately before the effective date of this Act, shall apply with respect to any retired officer of a regular component of the uniformed service who is eligible for retired pay on or before such date in the same manner and to the same extent as if the preceding subsections of this section had not been enacted.

MINORITY RECRUITMENT PROGRAM

SEC. 312. Section 7151 of title 5, United States Code, is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"§ 7151. Antidiscrimination policy; minority recruitment program";

(2) by inserting after such section heading the following new subsection:

"(a) For the purpose of this section—

"(1) 'underrepresentation' means a situation in which the number of members of a minority group designation (determined by the Equal Employment Opportunity Commission in consultation with the Office of Personnel Management, on the basis of the policy set forth in subsection (b) of this section) within a category of civil service employment constitutes a lower percentage of the total number of employees within the employment category than the percentage that the minority constituted within the labor force of the United States, as determined under the most recent decennial or mid-decade census, or current population survey, under title 13, and

"(2) 'category of civil service employments' means—

"(A) each grade of the General Schedule described in section 5104 of this title;

"(B) each position subject to subchapter IV of chapter 53 of this title;

"(C) such occupational, professional, or other groupings (including occupational series) within the categories established under subparagraphs (A) and (B) of this paragraph as the Office determines appropriate.";

(3) by inserting "(b)" before "It is the policy"; and

(4) by adding at the end thereof the following new subsection:

"(c) Not later than 180 days after the date of the enactment of the Civil Service Reform Act of 1978, the Office of Personnel Management shall, by regulation, implement a minority recruitment program which shall provide, to the maximum extent practicable—

"(1) that each Executive agency conduct a continuing program for the recruitment of members of minorities for positions in the agency to carry out the policy set forth in subsection (b) in a manner designed to eliminate underrepresentation of minorities in the various categories of civil service employment within the Federal service, with special efforts directed at recruiting in minority communities, in educational institutions, and from other sources from which minorities can be recruited; and

"(2) that the Office conduct a continuing program of—

"(A) assistance to agencies in carrying out programs under paragraph (1) of this subsection, and

"(B) evaluation and oversight of such recruitment programs to determine their effectiveness in eliminating such minority underrepresentation.

"(d) Not later than 60 days after the date of the enactment of the Civil Service Reform Act of 1978, the Equal Employment Opportunity Commission shall—

"(1) establish the guidelines proposed to be used in carrying out the program required under subsection (c) of this section; and

"(2) make determinations of underrepresentation which are proposed to be used initially under such program; and

"(3) transmit to the Executive agencies involved, to the Office of Personnel Management, and to the Congress the determinations made under paragraph (2) of this subsection.

"(e) Not later than January 31 of each year, the Office shall prepare and transmit to each House of the Congress a report on the activities of the Office and of Executive agencies under subsection (c) of this section, including the affirmative action plans submitted under section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16), the personnel data file maintained by the Office of Personnel Management, and any other data necessary to evaluate the effectiveness of the program for each category of civil service employment and for each minority group designation, for the preceding fiscal year, together with recommendations for administrative or legislative action the Office considers appropriate.".

EFFECTIVE DATE

SEC. 313. The amendments relating to the following sections of title 5, United States Code, shall take effect on October 1, 1980:

(1) section 2108(4) and (5),

(2) section 3303a,

(3) section 3305, and

(4) section 3309.

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that title III be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

AMENDMENTS OFFERED BY MR. SOLARZ

Mr. SOLARZ. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. SOLARZ: Page 209, insert after line 12 the following new section:

COMPENSATORY TIME OFF FOR RELIGIOUS OBSERVANCES

SEC. 313. (a) Subchapter V of chapter 55 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"5550a. Compensatory time off for religious observances

"(a) Not later than 30 days after the date of the enactment of this section, the Office of Personnel Management shall prescribe regulations providing for work schedules under which an employee whose personal religious beliefs require the abstention from work during certain periods of time, may elect to engage in overtime work for time lost for meeting those religious requirements. Any employee who so elects such overtime work shall be granted equal compensatory time off from his scheduled tour of duty (in lieu of overtime pay) for such religious reasons, notwithstanding any other provision of law.

"(b) In the case of any agency described in subparagraphs (C) through (G) of section 5541(1) of this title, the head of such agency (in lieu of the Office) shall prescribe the regulations referred to in subsection (a) of this section.

"(c) Regulations under this section may provide for such exceptions as may be necessary to efficiently carry out the mission of the agency or agencies involved.".

(b) The analysis for chapter 55 of title 5, United States Code, is amended by adding after the item relating to section 5550 the following:

"5550a. Compensatory time off for religious observances.".

Page 209, line 14, strike out "313." and insert in lieu thereof "314.".

Page 129, in the table of contents, strike out the item relating to section 313 and insert in lieu thereof the following:

Sec. 313. Compensatory time off for religious observances.

Sec. 314. Effective date.

Mr. SOLARZ (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read, printed in the RECORD, and considered en bloc.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. SOLARZ. Mr. Chairman, these amendments have the support, I believe, of the majority and the minority managers of the bill. I know they have the support of the administration and of all the relevant Federal employee unions.

These are in fact amendments which were adopted by voice vote a few months ago on the floor of the House when I offered them as amendments to the flextime bill. The only reason I am offering them now is that, in spite of the fact the flextime bill to which these amendments were attached was reported out of both the Committee on Government Operations and the Human Resources Committee in the Senate, it now appears that legislation is caught up in a parliamentary and political tangle, and even though there is no objection to it in the Senate, the bill may not actually come up for a vote on the floor of the other body.

These amendments, in brief, would provide that any Federal employee who is obligated to take time off from work for religious reasons will be permitted to make up for it by working overtime on a voluntary basis without having to be paid at the overtime rate in the process. Under existing law, Federal employees who are obligated to take time off for religious reasons must either make up for that time through a reduction in leave time, thereby significantly reducing the amount of time they have to spend with their families, or through a reduction in pay.

Mr. Chairman, I would submit that current law in effect penalizes Federal employees who choose to adhere to the dictates of their religion. This amendment, on the other hand, would make it possible for all Federal employees to observe the tenants of their religion without being penalized for it in the process.

And that, I would submit, is what America is all about.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to my friend, the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman from New York (Mr. SOLARZ) for having focused attention on this problem at recent hearings in New York City which were conducted by the gentlewoman from Maryland (Mrs. SPELLMAN) and her Subcommittee on Compensation and Employee Benefits, during which hearings we found an obvious need for legislation of this nature to assist those who wish to pursue their religious observance.

This amendment provides Federal employees the opportunity to take time off for religious observance while at the same time enabling those Federal employees who make such an election an opportunity to opt to work additional hours as compensation for the time taken to practice religious beliefs.

Mr. Chairman, I urge my colleagues to support these worthy amendments.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I thank the gentleman for his leadership on this matter, and I support the amendments.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Chairman, I am pleased to support the gentleman's amendments.

Mr. Chairman, I would like to commend the gentleman from New York (Mr. SOLARZ) on his amendment and, I reemphasize that it has been carefully drafted to avoid any constitutional problems. This was the principal concern of the Civil Service Commission. Therefore, this is a practical amendment which meets the interest of those individuals who do have such religious beliefs and who otherwise have been faced with complications.

This amendment was unanimously approved earlier by the House in passing H.R. 7814, the flexitime bill.

The CHAIRMAN pro tempore. The question is on the amendments offered by the gentleman from New York (Mr. SOLARZ).

The amendments were agreed to.

AMENDMENTS OFFERED BY MR. HANLEY

Mr. HANLEY. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. HANLEY:

Page 190, line 8, strike out "Section 2108" and insert in lieu thereof "Effective beginning October 1, 1980, section 2108".

Page 192, strike out line 3 and all that follows down through page 195, line 9.

Page 195, after line 9, insert the following section heading:

"APPOINTMENTS".

Page 195, line 10, strike out "(g)" and insert "Sec. 304." in lieu thereof.

Page 196, strike out line 11 and all that follows down through line 5 on page 199.

Page 199, line 7, strike out "306" and insert in lieu thereof "305".

Page 200, line 10, strike out "307" and insert in lieu thereof "306".

Page 200, line 13, strike out "308" and insert in lieu thereof "307".

Page 200, line 23, strike out "309" and insert in lieu thereof "308".

Page 201, line 19, strike out "310" and insert "309" in lieu thereof.

Page 203, line 3, strike out "311" and insert "310" in lieu thereof.

Page 206, line 5, strike out "312" and insert "311" in lieu thereof.

Page 209, strike out line 13 and all that follows down through line 20.

Conform the table of contents accordingly.

Mr. HANLEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD, and that they be considered en bloc.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GILMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendments offered by the gentleman from New York (Mr. HANLEY) and to commend him for his leadership on this issue.

Mr. GILMAN. Mr. Chairman, I do not intend to repeat today the same arguments that I put forward earlier on behalf of my colleague's amendment when it was first considered by the Post Office and Civil Service Committee. Nor do I intend to restate my views on veterans preference which were expressed in the committee report accompanying H.R. 11280.

Under existing law, a veteran (which generally means an honorably discharged individual who has served in the Armed Forces on active duty during a period of war or armed conflict, or in an area for which a campaign badge is authorized, or for a period exceeding 180 days any part of which occurred between January 31, 1955, and October 31, 1976, and in certain cases the spouse or mother of such a person) is entitled to appointment and retention preference in the competitive service. Preference is given by adding 5 points to the passing score of an applicant entitled to preference, but an applicant who is disabled on account of his military service received 10 points, and an applicant who is disabled and is receiving compensation from the Veterans' Administration because of such a disability is entitled to 10 points and automatically rises to the top of the civil service register of eligibles. A preference eligible may not be passed over to select a nonpreference eligible unless the Civil Service Commission approves the appointment. For retention purposes, all preference eligibles are retained within their competitive group during a reduction in force until all nonpreference eligibles have been displaced.

The committee has amended the bill to modify veterans' preference in the following manner:

In the case of any individual who is retired from the Armed Forces on account of physical disability, no change in existing law is proposed. These individuals will continue to enjoy lifetime veterans' preference for both appointment and retention.

In the case of an individual retired at the rank of major or its equivalent except a disabled veteran, appointment preference for a period of 3 years following his separation from the military service.

In all other cases, individuals who under current law have preference on account of military service, will have appointment preference for a period of 15 years following separation from the military service or until appointed to a permanent position in the civil service, whichever occurs first.

For retention purposes in reductions in force, individuals retired for physical disability incurred as a direct result of armed combat will continue to have full preference. Others retired will have no preference, as is the case under existing law, 5 U.S.C. 3501(a)(3)(A). All other individuals entitled to retention preference will have retention preference for a period of 8 years following their separation from the military service.

Permit me, however, to summarize the arguments set forth in behalf of this amendment that were circulated to you in my "Dear Colleague" letter of August 11, 1978.

First. The Schroeder amendment does not aid Vietnam-era veterans seeking Federal employment.

The administration would have you believe that their amendment to title III would mean a substantial gain in Federal employment for the Vietnam-era veterans. Regrettably, that will not be the consequence of the committee's action.

It is contended that Vietnam-era veterans would benefit from the Schroeder compromise amendment because it would limit the use of veterans' preference for nondisabled veterans to 15 years following discharge or upon appointment to a permanent civil service position, whichever occurs first. This would, of course, lead you to believe that the number of older veterans competing for jobs against younger veterans would be diminished, thereby affording the more youthful veterans less competition, and correspondingly, more employment. Again, this is not correct.

First, veterans of prior conflicts, the youngest now being in his early forties, would have already exercised their preference eligibility rights, at least those intending to do so, and having successfully sought Federal employment, may not utilize preference eligibility rights to advance their civil service status except for transfers into a different job series. Second, nondisabled veterans whose service commenced on or after October 15, 1976, are not entitled to five-point civil service preference, in accordance with the provisions of Public Law 94-502, the Veterans Education and Employment Act of 1976. Thus, Vietnam-era veterans will still be competing for entry level positions in the Federal Government against other Vietnam-era veterans and nothing done by this committee will change that. There will still be too few jobs available for the number of veterans applying for them.

Second. Veterans preference has far less impact on the employment of nonveteran minorities and women in the Federal Government than the Carter administration would have the public—and Members of Congress—believe.

With few exceptions, the witnesses appearing before our committee have argued for the retention of veterans' preference, and those who did not, failed to produce any statistical material or to demonstrate convincingly that preference eligibility discriminates against women or minorities. In fact, the minority groups that have testified before our committee pleaded for the retention of veterans' preference.

What we have learned, however, is that veterans' preference has hurt neither the promotion system nor the quality of the civil service. What faults that do exist in the civil service are inherently the problem of the system itself and the way it is being administered and cannot be laid at the doorstep of preference eligibility rights.

Third. Veterans' preference does not apply to promotions.

Under existing civil service law, disabled and nondisabled veterans receive preference in examination, appointment, and retention. In examination, nondisabled veterans have 5 credit points and disabled veterans have 10 credit points added to their passing scores. It should be noted that veterans must have recorded a passing grade before any credit points are added. Veterans, as with other nonveterans taking civil service examinations, must qualify first. After appointment, veterans may not utilize preference eligibility rights to advance their grades except in limited circumstances where there is a transfer to another job series.

Fourth. Retention preference for veterans is not absolute.

Mr. Arch S. Ramsay, Director of the Civil Service Commission's Bureau of Recruiting and Examining testified before the Committee on Post Office and Civil Service, earlier in 1977 and said:

In retention, veterans have the right to be retained over competing nonveterans in a reduction in force. Retention standing under the law is based on four factors: type of appointment, veterans preference, performance rating, and length of service. Although, this gives veterans a significant advantage, it is not absolute. For example, in fiscal year, 1976, 1800 veterans were separated in Reduction in Force actions versus 3,000 nonveterans. An equal number of veterans and nonveterans (approximately 4,500) were also reduced in grade.

Fifth. Another matter that should be put into perspective is how veterans are distributed within the Federal Government, for to say that "veterans comprise 50 percent of the Federal Service" may give the impression that that ratio holds true "across the board." In fact, more than 75 percent of the veterans in Federal service are employed by three agencies: The Department of Defense, the U.S. Postal Service, and the Veterans' Administration. Veterans thus account for only 37 percent of the Federal jobs outside those three agencies. That is a significant figure, but it is considerably lower than the ratio of veterans in the full-time national work force.

Sixth. The danger to veterans' preference eligibility rights posed by the administration's amendment is further compounded when we consider that veterans' preference and the system under which those scoring highest on examinations are to be appointed is today widely evaded. The agencies disregard the registers, job descriptions are rewritten, veterans are passed over, and those jobs supposed to be reserved for veterans under section 3310 of title V as guards, elevator operators, messengers, and custodians have upon the whole been contracted out.

Seventh. It has been the traditional philosophy in this country, that those who were ordered to serve their Nation in the Armed Forces in time of war should be preferred to serve their Nation in a civilian capacity when qualified. Removal of this preference is a matter that goes beyond any question of "flexibility," greater employment of other groups, or like concerns. It is really a question of whether this is a country that feels free, in time of national emergency, to call upon its very best to serve in its Armed Forces and face death, injury, disruption of normal life, and all the other conditions of that service, and after service to their country, to then discard them as veterans, to announce they must compete "as equals" against all nonveterans, except for such nonveterans as may be given preference in recruiting, examination, and selection.

Accordingly, I urge your support for the Hanley amendment.

PERFECTING AMENDMENT OFFERED BY MR. BONIOR

Mr. BONIOR. Mr. Chairman, I offer a perfecting amendment.

The Clerk read as follows:

Perfecting amendment offered by Mr. BONIOR: Page 192, after "(A)" insert "(i)".

Page 192, line 17, after "armed forces, or" insert "(ii) if later, December 31, 1985, but only if the individual's service in the armed forces on or after August 5, 1964, is the basis for awarding the Vietnam Service Medal or the Armed Forces Expeditionary Medal for Vietnam; or".

Mr. BONIOR (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

(By unanimous consent, Mr. BONIOR was allowed to proceed for an additional 3 minutes.)

The CHAIRMAN. The gentleman from Michigan (Mr. BONIOR) is recognized for 3 minutes.

Mr. BONIOR. Mr. Chairman, my amendment would provide more than 1.5 million Vietnam veterans with an extension of their preference. Simply put, veterans who served in the Vietnam theater between August 1964 and May 1975 would have 15 years from date of separation or until December 31, 1985, whichever occurs later, to use their preference. Vietnam theater veterans would thus have a minimum of 7 years to exercise their preference.

The question is asked: How would this help the Vietnam veteran? First of all, in sheer numbers and when taken in conjunction with the committee bill, the pool of veterans eligible for preference is diminished by 20 million people which, in and of itself, elevates the Vietnam veteran. When the pie remains the same size but those who partake diminish in number, the size of the shares are bound to increase. One needs only to look at Oregon which instituted this system in 1977. The data indicates the average age of veterans on the preference eligible lists dropped from 43 to 34. Further, competition from other veterans reusing their preference for other State jobs dropped significantly.

Second, many early Vietnam veterans may have put off a decision on whether or not to enter the civil service. Under the bill's current provisions, some would have as few as 2 years to use their preference.

With my amendment, all Vietnam theater veterans have a minimum of 7 years preference.

Further, the VVIC, of which I am a member, is attempting to obtain an extension of the delimiting date for the GI bill education benefits of those whose benefits may have expired before the large increases of late 1973 made them viable. This amendment would assure those veterans their 4 years of college, or other training, with time remaining to use their preference.

Mr. Chairman, I commend the chairman of the Veterans Affairs Committee, Mr. ROBERTS, and his predecessor, Mr. TEAGUE, and members of the Veterans Affairs Committee for the fine work they have done in providing for our older veterans. This country does owe a special debt to its veterans and theirs is a system without equal in the Western world. But it is also a system that has not met the needs of the Vietnam veteran.

Time and again, Vietnam veterans have told us "all we want is what our father had." Specifically, what was it that their fathers had.

They were given a veterans' preference in which they alone participated.

They were given Veterans Home Administration loans much more consistent with the market, areas like Levittown were practically built with VA loans.

They were provided broad, small business loans.

They had hospital care second to none within the VA system.

They had psychological programs geared to their needs.

They were given full tuition benefits under the GI bill.

They were provided a sizable monthly stipend in addition to their tuition.

They have recently been voted a substantial pension which automatically declares them at 65 to be disabled and eligible for pension.

They had the full and enthusiastic gratitude and support of the Congress and the country.

Is not it about time that we turned our attention to those with the greatest readjustment needs?

Mr. HANLEY has stated his belief that veterans preference is a lifetime privi-

lege. I understand his concerns and am convinced of his sincerity. However, it seems obvious to me from the language of President Roosevelt at the signing of the Veterans Preference Act that veterans' preference was meant as a readjustment tool:

I believe that the Federal Government functioning in its capacity as an employer, should take the lead in assuring those who are in the armed forces, that when they return, special consideration will be given to them in their efforts to obtain employment.

It is absolutely impossible to take millions of young men out of their normal pursuits for the purpose of fighting to preserve the nation, and then expect them to resume their normal activities without having any special consideration shown to them.

Yet, some of our older vets have had the use of their preference for over 30 years. Today 1 out of 2 Federal employees is a veteran, but only 1 out of 10 is a Vietnam-era veteran.

Although the 8½ million Vietnam-era veterans are nearly one-third of the 30 million total veterans Vietnam era veterans hold only 18 percent of the Federal jobs held by veterans in the civilian work force. This is not because Vietnam era veterans do not want Federal jobs, but because even with preference they cannot compete with the more experienced, older veteran who also enjoys lifetime preference.

A look at the Federal new hires illustrates the difficulties younger veterans have in competing for jobs. In 1977, there were 448,000 new hires in the Federal Government, of which 151,000 were veteran new hires. Of these, 47 percent were pre-Vietnam era career military, 11 percent veterans. Thus, out of 151,000 veterans hired, only 57,000 of these veterans were Vietnam-era veterans.

Further, a significant number of older veterans exercise their preference more than once further limiting the opportunities for younger veterans, existing provisions permit unlimited use of veterans preference. A broad Civil Service Commission survey found that 23.2 percent of 3,500 veterans on registers were current or former Federal employees. This survey drew upon three Federal regions and the Washington area.

We are told that older veterans are not block younger veterans, that they have already settled into careers, that the average age of the World War II vet is 58 and that of the Korean vet is 48 and they are, therefore, not interested in a civil service career. Then why are they so vehemently opposed to yielding their preference?

Opponents of our approach have mentioned Peace Corps and VISTA volunteers, people who also performed honest service to their country, will maintain their preference after vets lose theirs. What they do not mention is that these people are eligible for appointment for only 1 year after leaving ACTION service.

They have asserted that my amendment would adversely affect the families of MIA's and widows and orphans, that is simply not true. It does not affect their status.

They have also stated that 95 percent of Vietnam veterans support the Hanley amendment, a figure that certainly bears no relationship to reality. They have stated that all veterans' organizations oppose the Bonior and Schroeder amendments despite the fact that we have the support of groups like the National Black Veterans Organization, the American Veterans Committee, the Council of Vietnam Veterans, and a majority of the Vietnam veterans in Congress, not to mention the Nation's No. 1 veteran, VA Administrator Max Cleland, who has given his endorsement to the committee approach and my amendment.

The Vietnam veteran is at a critical juncture in his life. He is 32 years old, married and has two children. In many cases, if they are not unemployed they are underemployed. VA statistics show that over 855,000 Vietnam veterans earn less than $4,000 per year, and over 2 million earn less than $7,000. For many of them, if they do not get adequate education benefits, if they do not get psychological help soon, if they do not get employment help, their life patterns will be established and we will bear the awful responsibility for perhaps thousands of desolate and wasted lives—lives that were once offered to us in honest service. I look upon these reforms as a beginning to the fulfillment of that trust.

The argument is made that Vietnam vets will lose their preference in 15 years. We are not concerned about preference in 15 years. In 15 years, the Vietnam vet will be 47 and it will be too late to have a beneficial effect on their lives.

I have talked to many of the older veterans in my district and once they understand what it is we are really trying to do, the great majority of them are supportive.

The point to be made is that I am not anti-World War II veteran, I am not anti-Korea. I am for justice and compassion and I cannot believe that the veterans of those conflicts, who have known the stresses of war and its aftermath, and who have received much for their distinguished service, would deny this one small advantage for Vietnam veterans. If I am wrong, then I have made a grievous misjudgment of the American character.

Mr. MONTGOMERY. Mr. Chairman, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Chairman, I thank the gentleman for yielding.

I want to commend him. In the past he has earned great respect in the House for what he has done for the Vietnam veteran.

I just am concerned that the gentleman might be taking the wrong approach in wanting to help the Vietnam veteran.

I know he now has a bill in our committee which would extend the G.I. bill from 10 to 12 years, and it will be considered. Yet, the gentleman has an amendment which would cut off the veterans' preference at 15 years. I do not believe the gentleman is quite consistent in that position; and also, as I understand it, the gentleman will limit it to those Vietnam veterans.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. BONIOR) has expired.

(On request of Mr. MONTGOMERY and by unanimous consent, Mr. BONIOR was allowed to proceed for 1 additional minute.)

Mr. MONTGOMERY. Mr. Chairman, will the gentleman yield further?

Mr. BONIOR. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Chairman, as I understand the gentleman's amendment, it would be restricted to the Vietnam veteran who served in combat in Southeast Asia; is that correct?

Mr. BONIOR. That is correct.

Mr. MONTGOMERY. The only problem I have with it is this one—and I like the idea of taking care of those persons who really went over there and fought—however, serving on the Committee on Veterans' Affairs as I do, I want to say that we have never discriminated against certain veterans on the basis of where they happened to serve

During the Vietnam war, for example, I know a number of people wanted to go to the Vietnam war, believe it or not; but they were sent to Europe because we had to build up our forces there.

Under the amendment, that would discriminate against those persons who did not have the choice of assignment and had to go somewhere else.

Mr. BONIOR. The gentleman's remarks are well taken, but, as I indicated at the beginning of my remarks, I think what we have not done with the Vietnam veteran is deal with the readjustment problems.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. BONIOR was allowed to proceed for 1 additional minute.)

Mr. BONIOR. If we take them as a group, as an aggregate, I agree with the gentleman that those who need it the most are those who fought.

Dr. Charles Vigley, one of the most noted psychologists on Vietnam veteran problems, has indicated in a recent article in The American Legion magazine that that is exactly the case. The problems of those who serve in combat are much, much broader and different and deeper, and their wounds and scars are much deeper than those who did not serve.

I guess also another point is we are trying to strike some balance in this bill between veterans and younger veterans and women and the minorities. This is the whole civil service package. My objective was to include all Vietnam veterans but to strike a balance. We thought this was the best way to make that approach for those who need it the most, those who fought in combat.

Mr. HANLEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, in anticipation of the Bonior amendment I did a bit of analysis, and here is what I came up with—and when I say "I," this is a collective judgment of people very close to the subject matter. The problem with the gentleman's amendment is this: It would eliminate almost 4 million Vietnam-era veterans, of whom more than

1,360,000 had served in a combat theater. Now we have a new preference. The administration through this amendment applies only to Vietnam theater veterans, so if one served in the armed services during the Vietnam War but was not assigned to the combat theater, forget it. He loses his preference. This could set a new and disturbing precedent that veterans' benefits would be geared to a combat theater prerequisite.

Another negative aspect of the amendment is this: It would limit veterans reduction-in-force benefits to 8 years following initial appointment to the Federal Service. That means that all veterans who had been employed by the Government for 8 years or more, including the Vietnam-era veterans who entered Federal service between August 5 of 1964—which incidentally was officially the beginning of the Vietnam era—and October 1972, would immediately lose their RIF protection when the law becomes effective in October of 1980. I do not believe we want to do that; do we? Of course not.

The 84,000 Vietnam-era veterans who entered Federal service in 1973 would have 1 year left in RIF protection. The 113,000 Vietnam-era veterans who began Government jobs in 1974 would have but 2 years of RIF protection remaining, and so forth. So again the effect of the amendment takes heavily away from traditional preference.

The gentleman again alluded to support for his amendment on the part of Vietnam veterans. We do not see it that way. If The American Legion, as representative of its 675,000 Vietnam veterans, and the Veterans of Foreign Wars, as representative of over a half million Vietnam veterans, and the Disabled American War Veterans, with almost 150,000 Vietnam veterans, say that that amendment is wrong and my effort is correct, to whom, then, are we supposed to listen?

Mr. HAMMERSCHMIDT. Mr. Chairman, will the gentleman yield?

Mr. HANLEY. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Chairman, I want to associate myself with the remarks of the gentleman in the well. As the gentleman has said so eloquently, the Vietnam veteran, as we all know, has had numerous employment difficulties. He is almost exclusively the one who will be helped in the future by veterans' preference and now the gentleman from Michigan, I am sure with all good intentions, proposes a plan which will completely eliminate veterans' preference within the next 7 years. The Vietnam veteran deserves the same benefits as his World War II counterpart.

A recent "factsheet" sent to Members of Congress by proponents of this amendment claimed that "of about 150,000 veterans being hired annually * * * over half are pre-Vietnam veterans." That is untrue. During the past several years Vietnam-era veterans have consistently accounted for at least 56 percent of the veteran new hires, while 5-point preference, pre-Vietnam veterans have accounted for less than 40 percent. In per capita terms there are only 8.5 million as opposed to 21 million World War II and Korean war veterans, Vietnam veterans have been utilizing veterans' preference at a rate more than three times greater than veterans of other wars. By 1980, when the proposed legislation would take effect, the average age of World War II veterans will be 60—at or near retirement age. Thus it is clear that the ratio of Vietnam veterans entering Federal service will increase rapidly.

I submit it is the duty of Congress to preserve veterans' preference in the form it is now embraced.

I compliment the gentleman on his earlier amendment, and at a later time I want to support it; but at the present time I want to join the gentleman in opposition to the Bonior amendment.

Mr. HANLEY. Mr. Chairman, I appreciate the gentleman's comments.

If I may allude to a letter from the leadership of the National Association of Concerned Veterans, and mind you, their membership is totally Vietnam veterans, other veterans do not qualify for membership, I read the concluding paragraph of the rather lengthy letter:

Moreover, we point out that much of the information that the administration is using to support its case was provided in our previously alluded to testimony. What the NACV does object to is legislation which harms Vietnam veterans, as is the case with the amendment adopted in committee and the original Civil Service Reform Legislation proposed by the administration. Perhaps even more importantly, as citizens, we object to any legislation which undermines its alleged purpose and which is supported by only the most piecemeal and conclusory evidence.

Mr BONIOR. Mr. Chairman, will the gentleman yield?

Mr. HANLEY. I yield to the gentleman from Michigan.

Mr. BONIOR. Mr. Chairman, the gentleman alluded to the NACV group of Vietnam veterans that support the amendment.

I would just like to say to the gentleman that a recent article in the Stars and Stripes by Mr. Otto Lukert speaking for the NACV said that he wanted some provision geared more to the Vietnam veteran. He was not pleased with the situation.

Just one other point. Is the gentleman saying the amendment I am offering would eliminate 1.3 million combat veterans from veterans' preference? It is geared not to eliminate, but to protect them for 7 years.

Mr. HANLEY. That could be the gentleman's intent; but, unfortunately, the language of the gentleman's amendment would have this effect.

Mr. BONIOR. In what way?

Mr. HANLEY. It would eliminate almost 4 million Vietnam era veterans, of whom more than 1,360,000 had served in the combat theater, by virtue of restricting the tenure of their preference.

Mr. BONIOR. Mr. Chairman, if the gentleman will yield further. I would tend to disagree with the gentleman The amendment specifically is intended to protect those veterans.

The CHAIRMAN. The time of the gentleman from New York has expired.

(At the request of Mrs. SCHROEDER, and by unanimous consent, Mr. HANLEY was allowed to proceed for 1 additional minute.)

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. HANLEY. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I just wanted to ask the gentleman from New York about the comments the gentleman made about the RIF protection, because a lot of people do not quite understand what is in the bill.

Right now, under the preference as it stands without the bill, you have a lifelong RIF protection once you are in the Federal service, which means everybody else goes first and veterans will never, never be touched.

Under the bill we give them a RIF protection for 8 years after they are hired, and, of course, we always add on the years in service. So the minimum amount of time would be 10 years of seniority, and, of course, we do have seniority considered very heavily in the whole process of civil service.

Mr. Chairman, I just want to make it clear that we would not leave veterans totally unprotected or that they will lose their RIF protection. They will not have seniority protected forever but they will, as long as they have their 8 years of service, have that edge.

Mr. WHITE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Hanley amendment.

Mr. Chairman, I think if a reporter were to ask what ingredient of the Congress is one of the most important to the individual Member, most Members would probably respond, "To be fair," because after all, we sit in judgment of many events of this Nation and we are trying to be fair and balance things out for all peoples.

Recently, in 1976 we passed a bill that became law, a bill that cut off veterans' preference for the future, so, in other words, the percentage of veterans in the Government will decrease in the coming years without any modification of veterans' preference.

I want to point out a few statistics that I think will help the Members in making their decision.

The new hires in the Federal Government, according to the Bureau of Labor Statistics, have been going down for veterans. For instance, in 1975 the figures for females were 42.2 percent, and the figures for veterans were 32.2 percent. In 1977, just 2 years later, the veterans were 27 percent—in other words, more than 5 percent less than they were previously.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield on that point?

Mr. WHITE. Mr. Chairman. I will yield at the end of my remarks, if the gentlewoman will wait, please.

Approximately 7 out of every 10 annual new hires in the Federal civil service are nonpreference eligibles. The bulk of the veterans currently employed in the Government are World War II veterans who will soon be retiring in large numbers.

I would like to point out that the veterans' preference represents a promise made to those who entered the armed

services. Any modification of the veterans' preference system would be a breach of that particular promise.

On June 15 the Senate Government Affairs Committee voted 9 to 7 to delete the veterans' preference provision entirely from the bill, and the reason cited was it would threaten the passage. But the Members of the Senate realize there was indeed a promise, and they did not wish to breach that.

In September 1977, the General Accounting Office issued a report which supports the claim that veterans' preference is not a significant obstacle to minorities, and it in fact shows that veterans' preference helps minorities twice as often as it harms them, based on an examination of the Federal Register. The minority veterans make up only 8.5 percent of the U.S. veteran population but comprise 19 percent of the veterans employed by the Federal Government.

The chart shows that by 1987, 6,290,000 veterans of the Vietnam era, veterans under the bill as it is now proposed, will lose all veterans' preference opportunities currently provided in Federal employment. That is 70 percent of all such veterans and approximately 82 percent of those who served in the Vietnam combat theater.

What is so very wrong with having a strong infusion of people who served their country and came to its defense, many indeed in battle? I think it is a good fiber-building factor in our Government to have patriotism and to have people who are willing in peace as well as war to come to the front and serve their country.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I just want to emphasize a few things the gentleman pointed out, and I thank the gentleman for yielding.

I know there have been many statements made that veterans' preference does not hurt women, and so forth. The GAO has concluded otherwise in many studies, and I think one of the things we lose when we look at general figures is the fact that most of the women hold very low grade jobs. They are being hired as stenographers and secretaries, and is a very large portion of their Federal service.

If we look at who passes the tests, we find that 20 percent of the veterans passed the examinations and 34 percent of the people hired were veterans. So they do much better from passage to hiring.

We also find, when we look at super grades, that 65 percent of them are veterans, and that women are less than 3 percent. So the women and minorities tend to be compacted down in the lower grades, and we are counting them in the statistics equally.

Mr. Chairman, I think a part of what we are talking about here is having a fair shake across the board. I think the gentleman from Texas (Mr. WHITE) understands that, and we could play with figures all day and lose sight of that.

Mr. WHITE. Mr. Chairman, many of these veterans are also women, so when we are talking about veterans, we are talking about women as well as men. We are also talking about the minorities, as I said. The fact is that 42 percent, as I cited earlier, of those hired are women at the present time.

Mr. MONTGOMERY. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Chairman, in contradiction to what the gentlelady from Colorado (Mrs. SCHROEDER) is saying, in 1977, 203,000 females were hired and only 163,000 veterans were hired to Federal jobs, so the women are being protected.

Mrs. SCHROEDER. Mr. Chairman, if the gentleman from Texas (Mr. WHITE) will yield further, that is exactly what I am saying. The majority of women and minorities who are being hired are lower grades, secretaries and stenographers, and they really were not bidding against veterans in getting those jobs.

We are counting them in the total statistics, and I think that that changes the figures.

The CHAIRMAN. The time of the gentleman from Texas (Mr. WHITE) has expired.

(By unanimous consent, Mr. WHITE was allowed to proceed for 2 additional minutes.)

Mr. WHITE. Mr. Chairman, I am not contesting what the gentlewoman is saying. What I am saying is that in innumerable bills, time after time, this Congress has grandfathered groups or individuals, has not tried to change the rules in the middle of the game, and has said to those who are eligible that we are going to allow them to continue in their participation in the existing law. That is all we are saying here. This is going to be phased out. The bulk of World War II veterans are being phased out shortly. The Vietnam veterans are the ones who need it most, and those are the ones we want to get the same opportunities as the World War II veterans, and eventually they will be phased out as well. The percentage of those veterans will continue to go down as the percentage for women will go up. Pretty soon there will be far less veterans. I am saying that we should phase them out fairly.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from Kansas.

Mr. SKUBITZ. I thank the gentleman for yielding.

Mr. Chairman, I am a little disturbed because of the fact that we never seem to focus on the Korean veteran. We speak of the way the World War I veteran and the World War II veterans are being phased out. No one says anything about the Korean veteran. I intend to offer an amendment to the Bonior amendment which will include the Korean veteran. It seems to me that any veteran who served in the Korean War in Korea is entitled to veterans' preference just as his Vietnam comrade.

Mr. WHITE. Mr. Chairman, I totally agree with the gentleman. And if we vote for the Hanley amendment, they will be included. The only ones that will not be included in the Hanley amendment will be those who are double dipping, majors and over. We should allow these veterans to participate in the law, and I believe we would have a moral question if we did indeed change the law suddenly so that those veterans would not have that opportunity.

The CHAIRMAN. The time of the gentleman from Texas (Mr. WHITE) has again expired.

(On request of Mr. SKUBITZ and by unanimous consent, Mr. WHITE was allowed to proceed for 1 additional minute.)

Mr. SKUBITZ. Mr. Chairman, if the gentleman will yield further, our colleague, the gentleman from Mississippi (Mr. MONTGOMERY), emphasized the point that old soldiers never die, they just fade away. When Mr. MONTGOMERY spoke of the veterans of World War I and World War II fading away, he also included the Korean veterans. It is my feeling the Korean veteran should be protected.

Mr. WHITE. The Hanley amendment does that. The Hanley amendment also includes the Korean veteran.

Mr. GILMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment offered by the gentleman from Michigan (Mr. BONIOR).

Mr. Chairman, I rise in opposition to the Bonior amendment, and I urge that my colleagues be not so hasty as they embark on civil service reform that they forget the sacrifice of our veterans who, in responding to their Nation's call to duty, gave of themselves and of their careers.

Mr. Chairman, permit me to remind my colleagues that veterans' preference does not apply to promotions. Veterans' preference generally is utilized for entry-level positions, in other words, from GS–5 to GS–9, but not for promotions.

I further point out to my colleagues that most of our older veterans, the veterans from World War II and the veterans from the Korean War, are in the upper echelon positions and do not utilize veterans' preference to advance their careers. Our younger veterans, in other words, the Vietnam-era veterans, are competing not against other veterans and not against old-guard people. If we reduce the use of veterans' preference, as the Bonior amendment implies, we will only be harming opportunities for Vietnam-era veterans and not older veterans. I think there must be a better way to aid Vietnam-era veterans without diluting the veterans' preference which the Bonior amendment will do.

Modifying veterans' preference would only render it meaningless. Accordingly, I urge my colleagues to oppose the Bonior amendment.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I

think the gentleman from New York is correct in pointing out that veterans' preference does not aid one in a promotion on the career ladder he or she is on, but it will allow one to bid into a career ladder so that he could use it several different times. As to the use of statistics on how many people, 23 percent have used it numerous times to go on other career ladders once one is on the ladder, and he can use it to get on the ladder once, use it for promotion within. But he can use it for horizontal transfer and utilize it because that is considered bidding on a whole new job.

Mr. GILMAN. I think the gentlewoman is correct. However, statistics point out that it is not used frequently for that purpose. I would like to address a remark by the gentlelady from Colorado with regard to retention preference. In my earlier remarks I noted retention preference for veterans is not absolute. Mr. Arch S. Ramsay, Director of the Civil Service Commission's Bureau of Recruiting and Examining, testified before our committee—and the gentlewoman may recall when he said:

> In retention, veterans have the right to be retained over competing non-veterans in a reduction in force. Retention standing under the law is based on four factors: type of appointment, veterans' preference, performance rating, and length of service. Although, this gives veterans a significant advantage, it is not absolute. For example, in fiscal year, 1976, 1800 veterans were separated in Reduction in Force actions versus 3,000 nonveterans. An equal number of veterans and nonveterans (approximately 4,500) were also reduced in grade.

Mrs. SCHROEDER. First of all, on bidding, my understanding is that the Civil Service Commission says that over 23 percent of the people in the civil service have used their veterans' preference more than once on the horizontal job ladder. Whether the gentleman thinks that is a large number or not depends on his viewpoint.

Secondly, I think on the other issue, on RIF's, that is exactly correct, nothing is really absolute except death and taxes, but it certainly does give one an advantage to hold veterans preference in the Federal service. I think on that we have no disagreement.

Mr. GILMAN. Of course, the basis of our argument is that they are entitled to that advantage, and we hope to preserve that advantage under the Hanley amendment.

Mr. ROBERTS. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the Hanley amendment and in opposition to the Bonior amendment.

Mr. Chairman, I want to thank the very able gentleman from New York for his firm commitment to our veterans and their families. The gentleman served on the Committee in Veterans' Affairs for several years and he is well aware of the many problems that confront wartime veterans.

Administration officials, and those who advocate that we curtail the preference under the guise of helping women and Vietnam veterans either don't understand the issue or simply haven't gotten their facts straight.

First, the 5-point veterans' preference is a benefit that goes only to veterans who served during a period of war. Peacetime veterans are not entitled to the benefit and veterans who entered service on October 15, 1976 and thereafter are not entitled to the benefit. So the benefit has been terminated for all individuals who volunteered for service after that date. The pool of eligibles is continuing to increase.

The administration would have us believe that the so-called Schroeder amendment, by limiting the use of preference for able-bodied veterans to the first 15 years after discharge, would actually enhance employment opportunities for Vietnam-era veterans. How? By reducing the pool of eligible veterans competing for jobs with the termination of eligibility for World War II and Korean veterans. Surely the House is not going to buy that line. Does any Member of this body believe a 60-year-old World War II veteran is competing with a Vietnam veteran for a Federal job?

Everyone knows World War II veterans employed by the Federal Government are retiring in great numbers annually. After all, the average age of the World War II veteran is 59 years. What about the competition from Korean veterans? The average age is 49 years, and they are well established in their careers. There is no competition with these veterans in the Federal marketplace.

The administration also attempts to sell its proposed program on the fact that the bill gives agencies the authority to give special appointments without competitive examination to Vietnam era veterans. Of course this authority was established by Executive order several years ago, and is already in force. Our committee has expanded the authority already. This is nothing new.

We are involved in the old "shell game" of now you see it and now you do not. As first presented, the 5-point veterans' preference would be limited to 10 years. Proponents quickly determined such short-time use of the preference was unthinkable and the administration began seeking some alternative. Proponents then suggested a 15-year, one-time use of the preference.

JIM HANLEY quickly reminded every Member of the House that even with the additional 5 years, more than 6 million Vietnam-era veterans would lose their preference by 1987. Proponents of the administration proposal then called a press conference to announce that an amendment would be offered on the floor to provide some additional time for veterans who served in the Vietnam theater. I will admit such an extension would give a few Vietnam veterans from 2 to 5 years of additional time in which to use the 5-point preference.

But why make a distinction based on the location of the individual during war. We have never made any distinction between a combat veteran and a noncombat veteran in providing educational benefits. No matter where they served during their tour of service, they get equal benefits. I would not want to see us change that principle because a man or woman in service during war has no control over their destiny. All of them support the war effort and we should not treat them differently.

Mr. Chairman, it does not take a genius to understand the impact of the proposed change in the law. I do not care how many "5-year extensions" are added to the administration's proposal, the fact remains that Vietnam veterans come out on the short end. There is no mistake about it.

If the administration thinks the 60-year-old World War II veteran and the 49-year-old Korean conflict veteran is competing with the Vietnam veteran for Federal jobs, reducing the pool can be accomplished without limiting the benefit for Vietnam veterans. You can never convince me that a one-time use of the preference during 15 years after discharge is a better benefit than the Vietnam veteran now has.

The administration's proposal is full of flaws. One of the most serious inequities appears in the proposed plan to limit the reduction-in-force protection to only 8 years. We have not heard from the proponents on this provision of the bill because it will have such an adverse impact on Vietnam veterans in the future. Consider this typical case. Two young men complete high school in 1968. One is drafted into service and is sent to Vietnam. The other individual is not drafted. In fact, he may have purposely evaded the draft. He takes a job with the Federal Government. After serving in Vietnam the first person completes his 2-year tour and is honorably discharged. Within 30 days from discharge, he obtains a job at the same agency as the nonveteran. In 1982 there is a reduction-in-force at the agency.

Under the bill, all else being equal, the veteran will not be retained because the nonveteran has seniority. The nonveteran did not have to serve his country during a period of war. Unless the Hanley amendment is adopted, the veteran would be laid off from work and nonveteran would continue on the job. Is this the position in which we want to place our veterans for having defended their country in time of war? I certainly hope not.

Mr. Chairman, I do not care how many briefings are held and no matter how many press conferences are held to try to peddle this package as one that will benefit Vietnam veterans, it simply will not work. This administration proposal will not give the Vietnam veteran any advantage in Federal employment. It should be noted on this point that we cannot get the Civil Service Commission to enforce the laws already on the books to place Vietnam veterans on jobs.

Look at the poor records of most of the departments and agencies who have failed to hire Vietnam veterans through noncompetitive appointments under the veterans' readjustment authority we granted several years ago.

Quite frankly, Mr. Chairman, there is no valid data to show that the 5-point veterans' preference is keeping well quali-

fied women and minorities from being hired by the Federal Government. During 1977, newly hired employees included 213,000 females and 163,000 veterans. Veterans preference is helping minorities. Minority veterans make up only 8.5 percent of the U.S. veteran population but comprise 19 percent of the veterans employed by the Federal Government.

Most importantly, if one bothers to check with the personnel managers of the various Federal departments and agencies, they will find that veterans are outstanding employees. They are all well-qualified, notwithstanding the opinion of some high administration spokesmen that they are experiencing difficulty in hiring qualified women because unqualified veterans appear above them on the civil service register.

Anyone knowledgeable in veterans' affairs knows that a veteran never receives a 5-point preference on his or her examination unless the score is 70 or better.

In closing, I urge my colleagues to support the Hanley amendment. Otherwise, the House will, for the first time, violate the principle of equal benefits for equal service. Veterans who fought in Vietnam deserve benefits equal to those who fought during World War II and the Korean conflict. Now is not the time to give them less.

On May 7, 1975, just a little over 3 years ago, President Gerald Ford terminated the Vietnam era by Presidential proclamation. Already we see evidence, by this provision of the bill, that this terrible war is fading from the memory of some people. But I say to you, let us not forget those who served during such difficult times. They were drafted to serve. Let us not abandon them now. That is exactly what we will be doing if the Hanley amendment is not adopted.

Mr. Chairman, I also rise in opposition to the amendment offered by the gentleman from Michigan.

As I understand the gentleman's amendment, it would provide for veterans who served in the Vietnam theater, a one-time use of the 5-point preference 15 years from date of discharge, or December 31, 1985, whichever occurs later. I would assume that this is being done because of the flaw in the committee bill called to our attention by JIM HANLEY, which indicated that by the year 1985, more than 4,400,000 Vietnam veterans would lose their entitlement.

Mr. Chairman, this is a perfect example why we should oppose the veterans preference part of this reform bill and support the Hanley amendment. The proposal is full of flaws. First, the administration recommended a 10-year limit on the use of the preference. Finding that would be quickly rejected, the administration agreed to extend the time to 15 years.

Mr. HANLEY alerted all of us to the tremendous adverse impact even this period of time would have on some 6 million Vietnam veterans by the year 1987, and the administration scrambled to plug the dike. It was agreed that an amendment would be supported by the administration to provide some additional time for those who served in combat.

The proposed amendment would give a reprieve for some veterans who served in combat. I have real problems with the principle involved here. Why make a distinction between those who served in combat and those who supported the war effort located throughout the world? Should we now decide how close the individual was to the field of fire in determining the level of benefits to be paid? I think not. Equal benefits should be provided for equal service.

Further, Mr. Chairman, the gentleman's amendment does nothing to protect this same Vietnam-era veteran in his employment beyond the 8 years provided in the bill. Therefore, after years of employment, this same veteran who served in the Vietnam theater could be terminated from his job in a reduction-in-force action while the nonveteran continues on his job since he has seniority in that he did not have to answer the call to duty in Vietnam. It simply is not fair and equitable.

I urge my colleagues to vote no on the amendment offered by the gentleman from Michigan and to support the Hanley amendment.

Mr. MONTGOMERY. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the distinguished gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Chairman, I think it should be pointed out that under the bill as reported a veteran is protected in a reduction in force for only 8 years. Under the Bonior amendment, the protection is still only 8 years. Under current law the veteran is protected for life in a RIF action. So under the bill as reported or with the Bonior amendment we are cutting back the veterans' preference, any way we slice it.

Mr. ROBERTS. Of course it is subject to his performance, and I am perfectly willing that he should have to perform properly.

I thank the gentleman for his contribution.

Mr. BONIOR. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Michigan.

Mr. BONIOR. Mr. Chairman, does the gentleman have any figures on how many women are veterans? The figures we have are about 2 percent.

Mr. ROBERTS. I would not contest the gentleman's statement, but according to data before the committee, there are well over 600,000 of them.

Mr. BONIOR. Mr. Chairman, if the gentleman will yield further, I would ask just for one other point. The gentleman from Mississippi indicated the question of the 8-year guarantee. That is 8 years, but we also give them the years in military service, which comes out to a minimum of 10 years and maybe 11 or 12 years, and that is sufficient protection it seems to me. It is 11 or 12 years seniority and it also includes the inservice time.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, in response to the gentleman's inquiry with regard to the number of women who hold veterans' preference, there are presently enough women entitled to veterans' preference, 831,800 women who are now entitled to hold Federal jobs, to more than fill those jobs. There are some 893,500 jobs in that category.

I thank the gentleman for yielding.

Mr. ROBERTS. I thank the gentleman from New York for his contribution.

If we have the amendment of the gentleman from Michigan it would give a reprieve to some people who have served in combat. I have some problems with doing that. Why make a distinction between those who served in combat or those who supported the war effort throughout the world? I am a combat veteran and I support veterans' preference, but when a man is out in the open sea and his ship goes down, is he in combat or not? It is not that simple. Combat is more than just being in a hostile area and pulling a rifle trigger.

I hope the amendment offered by the gentleman is not adopted. I urge my colleagues to vote "no" on the amendment offered by the gentleman from Michigan and support the Hanley amendment.

The Hanley amendment is supported by the American Legion, the Veterans of Foreign Wars, the Disabled American Veterans and, as far as I know, all of the other major veterans organizations.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Texas (Mr. KAZEN).

Mr. KAZEN. Mr. Chairman, I thank the gentleman for yielding.

Will the gentleman tell me how he distinguishes between a Vietnam veteran who was actually in combat and one who served in a combat zone but was never fired on?

Mr. ROBERTS. The gentleman makes an excellent point and it was the point I was trying to make. How is combat defined?

Mr. BONIOR. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I will be happy to yield to the gentleman from Michigan.

Mr. BONIOR. Mr. Chairman, I would like to answer both the gentlemen from Texas. The specific language in this amendment relates to people who were awarded the Vietnam Service Medal, the Armed Forces Expeditionary Medal for Vietnam. So the guidelines of combat are specifically drawn up by the military by itself by the awarding of those medals.

Mr. TAYLOR. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Missouri.

Mr. TAYLOR. Mr. Chairman, my colleague from New York seeks to delete one of the most objectionable provisions of the committee bill, and by doing so he would preserve our existing veterans' preference in Federal employment.

I support his amendment because I simply do not believe the arguments of those who would have us turn our backs on this Nation's veterans.

The committee bill calls for substantial dilution of this Nation's longstanding policy of according military veterans' preference in examination, appointment, and job retention in Federal employment. In doing this, the committee would deny veterans' preference to millions of Vietnam era veterans and would severely limit retention preference for those who are now employed or become employed in Government service.

The committee accepted the argument of the Carter administration that the intent of veterans' preference is to provide for some sort of readjustment to civilian life, and that modifications are now in order because the employment of veterans has caused discrimination against women.

I reject the Carter administration arguments out-of-hand, because I do not believe that veterans' preference laws have hurt the quality of the Federal civil service, nor do I believe that the application of our current law has harmed the employment opportunities of any qualified persons.

Our current laws give honorably discharged veterans an advantage in appointment and job retention, although it is not as overwhelming one.

The concept of veterans' preference is based on the belief that those men and women who served their country honorably in time of war should have some first consideration in serving their country as civilians from among those with the same relative qualifications.

The committee bill is being sold under the guise of helping Vietnam-era vetnam-era veterans will lose all veterans' colleague from New York has pointed out that, by 1987, nearly 7 million Vietnam era veterans will lose all veterans' preference opportunities if the committee's provisions are left intact.

I urge my colleagues to support the Hanley amendment, for by doing so we will be keeping the faith with those who have served this country with honor.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. ROBERTS was allowed to proceed for 2 additional minutes.)

Mr. ROBERTS. Mr. Chairman, I would like to say to my colleagues that we have a system that works. It may not be perfect, but it has worked for a long period of time. We have men and women who have a vested interest in that system. Let us not change the rules in midstream.

Mr. UDALL. Mr. Chairman, I wonder if we could get some agreement as to a limitation of time?

Mr. Chairman, I ask unanimous consent that all debate on the amendment offered by the gentleman from New York (Mr. HANLEY) the perfecting amendment offered by the gentleman from Michigan (Mr. BONIOR) and all amendments thereto, close at 5 o'clock.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN. Members who were standing at the time the limitation of debate was agreed to will be recognized for approximately 1½ minutes each.

The Chair recognizes the gentleman from Arkansas (Mr. HAMMERSCHMIDT).

Mr. HAMMERSCHMIDT. Mr. Chairman, I rise in support of the gentleman from New York's amendment.

I find it highly ironic that those who have been the strongest advocates of affirmative action for women and minorities now oppose veterans' preference. Affirmative action, for which the administration recently reaffirmed its support, is designed to compensate a class of people for opportunities lost by their ancestors. It is speculative at best, when applied to an individual applicant. There is absolutely no guarantee that an individual applicant suffered the lost opportunity that is presumed to have been suffered by the class accorded affirmative action. Veterans' preference, on the other hand, is designed to compensate individuals for the actual loss of opportunities, due to military service during time of war. I can understand how a person can support veterans' preference and not affirmative action, but it is beyond me how a person can be in favor of affirmative action and not veterans' preference.

As stated earlier by the distinguished gentleman from New York (Mr. HANLEY), there is no evidence whatsoever that veterans' preference is harmful to the hiring opportunities of women and minorities. The administration and its allies have been playing a very simplistic game. They look at the proportion of women and minorities in the higher levels of the civil service, and at the proportion of veterans in those levels, and then conclude that veterans preference is responsible for the low percentages of women and minorities.

First, it is rational that veterans be represented in those categories. A majority of our male population in the 50 and above category is veteran. Second, the lack of women and minorities parallels a similar lack of women and minorities in higher positions in the private sector. Did veterans' preference cause that imbalance too? It is clear that, in both cases, those disparities have little to do with veterans' status, and much to do with societal structures which are being overcome. Furthermore, the disparities are certain to change rapidly even without a change in veterans' preference. World War II veterans make up the bulk of our veteran civil servants. These veterans are now almost 60 years old, on the average, and will be retiring in droves.

Without regard to representation in the upper echelons of civil service, it is interesting to note that women now constitute almost as large a percentage of professional new hires as veterans. Last year, 11,929 women were hired at GS-7 positions and above, while 13,621 veterans were. When we couple this with the fact that, overall, women constitute 42 percent of the Federal hires, and veterans 27.8 percent, it seems clear to me that women are faring very well: Those who want careers are getting them. Those who want clerical jobs to supplement their family's income are getting them.

Considering that the Vietnam veteran, even with the veterans' preference notion, holds a median grade of only a GS-6, at the average age of 31 years, I wonder how well veterans preference really works.

We know one thing: It does work for minority veterans, despite arguments that veterans' preference works to the disadvantage of minorities. Minority veterans make up 2 percent of the national work force, and fully 9 percent of the Federal work force. In fact, Mr. Speaker, minority applicants on the whole have been unaffected by veterans' preference. Some 12 percent of the country's population is minority, but 23 percent of the Federal work force is minority.

I have heard it said that veterans' preference affects equal employment opportunity, and that its elimination would restore that notion. It is clear, however, that the administration is not interested in establishing a completely unbiased employment system. Affirmative action discriminates in favor of women and minorities. Even more disconcerting have been the administration attempts to create special noncompetitive appointment positions for many of its friends. For instance, the so-called Sugarman plan would allow noncompetitive appointments for women and minorities all the way up to GS-18.

Even worse, in recent months the administration announced a special, noncompetitive hiring program for individuals who served for 1 year in ACTION programs such as VISTA and the Peace Corps. How can this administration embrace on a noncompetitive basis those who served voluntarily in capacities that were often exotic vacations, and then seek to cut off from a mere 5-point boost the veterans who suffered in the foxholes and the trenches of our Nation's wars?

Mr. Chairman, it has become a standard criticism of the traditional veterans' organizations that they are comprised of older veterans who care only for benefits that accrue to those who fought in World War II. I would submit to you that this issue, which is fully supported by all of our veterans' organizations, impacts almost exclusively on the well-being of our Vietnam veterans. The World War II veteran will use veterans' preference sparingly in the future, if at all. The Korean war veteran is for the most part ensconced in his profession. It is the Vietnam veteran who has encountered employment difficulty, and it is the Vietnam veteran who will be helped—or hurt—by the way the House votes on this amendment today. Again, Mr. Chairman, I find an irony in the makeup of those who oppose veterans' preference. How many of those who are trying to end perhaps the most meaningful benefit for the men who went off and fought our most unpopular war cried crocodile tears over his status last year when they supported the de-

serters and malcontents who were helped by the Carter discharge review program? Veterans' preference rewards honorable service. There has been few enough rewards for those who did their duty in Vietnam.

Mr. Chairman, I submit that now is the time to demonstrate a concern and appreciation for what the Vietnam veteran went through in the mud and jungles of Southeast Asia. If the Members of this body truly appreciate his sacrifices, they will support this amendment and now.

I rise in opposition to the gentleman from Michigan's amendment.

I find it highly ironic that the gentleman and some of his colleagues have been especially critical of the Committee on Veterans' Affairs for not having done enough for veterans of the Vietnam era, and now offer as their first congressional initiative a plan which would eliminate the future by veterans' preference. And nam veteran has available to him. The Vietnam veteran has had numerous employment difficulties. He is almost exclusively the one who will be helped in the future by veteran's preference. And now the gentleman proposes a plan which will completely eliminate veterans' preference within the next 7 years. The Vietnam veteran deserves the same basic benefits as his World War II counterparts, and I submit it is the duty of the Congress to preserve veterans preference in the form it now enjoys. Does the gentleman submit that the service of the Vietnam veteran was less deserving than his World War II counterpart's? If not, I should think he would vote against his own amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. HILLIS).

Mr. HILLIS. Mr. Chairman, I rise in wholehearted support of the amendment to H.R. 11280 being offered by our distinguished colleague, Mr. HANLEY and in opposition to the Bonior amendment. For years, this Nation has recognized its commitment, a lifelong commitment, to our veterans.

Due to the nature of military service, careers and educational plans are disturbed. These disruptions put veterans at a disadvantage when they return to civilian life and begin to look for meaningful employment. To compensate, the VA has solicited American businessmen to "hire the vet." Employment counseling services are provided to veterans before and after their separation from active duty.

For its part, the Federal Government has given preference to veterans in securing employment. However, no preference has ever been given to veterans of a particular war over other veterans. The committee's bill is designed to "provide greater employment opportunities to Vietnam-era veterans and to encourage the recruitment and retention of qualified applicants, particularly women and minority applicants." This is to be accomplished by eliminating veterans' preference after 15 years for nondisabled veterans. Further bonus points could only be used once within that 15-year period.

The Vietnam veteran is a different type of veteran.

First, they served in a very unpopular war, and moreover, it should be remembered that a great percentage of Vietnam veterans are minorities. One of the arguments against the draft was that it unfairly selected minorities to serve. I believe that veterans' preference, in fact, will do more in the future to assist minorities in obtaining meaningful jobs in the Federal Government than any other group. We have numerous programs already designed to insure equal employment opportunities for minorities and women in the Federal Government. This is not to say that we do not need to do more to assist these groups; however, eliminating the veterans' preference is not the answer.

Our Nation's veterans need our support now more than ever, particularly the Vietnam veteran who served his country well only to return in many instances to an ungrateful Nation. Because of the difficulty many veterans experienced upon their return home, it seems to me to be unconscionable that we now arbitrarily cut them off 15 years after their separation from service. By 1980 alone, nearly 500,000 Vietnam-era veterans will lose their eligibility rights; and in the next 7 years, over 6 million veterans will lose these rights.

If we are to alter these regulations, we must do so prospectively, not retroactively. It is totally unfair to tell those who served "Sorry, but we are changing the rules on you in the middle of the game." It is totally unfair for our Nation—this Congress—to act in such a capricious, arbitrary manner, and I cannot emphasize to my colleagues too strongly that we must not permit this erosion to begin.

A vote for the Hanley amendment is a simple way for the Congress to say thank you to our Nation's veterans, and to retain veterans' preference as we have known it—and as those who served their country in its time of need thought was the case. This is not a pro-Vietnam veterans' bill as has been suggested. This is a well-disguised, antiveterans program. I urge adoption of this amendment.

AMENDMENT OFFERED BY MR. SKUBITZ AS A SUBSTITUTE FOR THE PERFECTING AMENDMENT OFFERED BY MR. BONIOR

Mr. SKUBITZ. Mr. Chairman, I offer an amendment as a substitute for the perfecting amendment.

The Clerk read as follows:

Amendment offered by Mr. SKUBITZ as a substitute for the perfecting amendment offered by Mr. BONIOR: In lieu of the language of the Bonior amendment insert the following: Page 192, after "(A)" insert "(i)".

Page 192, line 17, after "armed forces, or" insert "(ii) if later, December 31, 1985, but only if the individual's service in the armed forces on or after June 25, 1950, is the basis for awarding the Vietnam Service Medal, the Armed Forces Expeditionary Medal for Vietnam or the Korean Theater Service Ribbon."

Mr. SKUBITZ. Mr. Chairman, the amendment I offer does no violence to the Bonior amendment.

What I am proposing to do is to expand the Bonior amendment so that Korean war veterans who served in that theater of war will be given the same protective rights which we give to Vietnam soldiers who served in a theater of war.

All my amendment does is to give to the Korean war veterans the same rights and privileges so far as eligibility is concerned as we give to the Vietnam war veterans.

Mr. HANLEY. Mr. Chairman, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from New York.

Mr. HANLEY. Mr. Chairman, may I say to the gentleman from Kansas that the effect of his amendment actually is already in place in my amendment. My amendment would include, as present law does, those who served in Korea.

Mr. SKUBITZ. Mr. Chairman, I would like to reclaim my time.

Let me say to my colleague the gentleman from New York is only partly correct. The gentleman's amendment goes further and maintains everything in its present place. My amendment only applies to Korean veterans and Vietnam veterans who served in theaters of war. His amendment maintains the status quo.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. CORNWELL).

Mr. CORNWELL. Mr. Chairman, being one of three Vietnam combat veterans in the House of Representatives and in the Senate, in Congress as a whole, I have to take issue with the statement which was just made regarding the Vietnam veteran, saying that the Vietnam veteran is different. I do not think that we are any different than any other veteran who ever fought a war for this country for the purposes of liberty and freedom. We have probably had as many legs blown off, as many wounds, as many traumas as were suffered by any other veteran in any other war. I do not think we are different because it was an unpopular war. I think we are different because we are younger and we do demand and do deserve a preference here as regards jobs in the public sector. Facts and statistics aforementioned prove this overwhelmingly.

I think we need to focus attention on those veterans who need it the most and who deserve it the most at this time.

(By unanimous consent, Mr. CORNWELL yielded the balance of his time to Mr. BONIOR.)

The CHAIRMAN. The Chair recognizes the gentleman from Mississippi (Mr. LOTT).

Mr. LOTT. Mr. Chairman, the Schroeder amendment which was adopted by the House Committee on Post Office and Civil Service was a compromise to the administration's original proposal on veterans' preference.

Outwardly, veterans' preference seems absolute. It gives an impression that nonveterans stand little if any chance in gaining Federal employment when competing with veterans. No doubt this is why the supporters of modifications suggested veterans' preference be diluted. The administration has charged that its

application adversely affects the employment opportunities of women and minorities.

The so-called Schroeder amendment would limit veterans' preference to a "one-shot" use within 15 years after discharge from military service. If we allow this legislation to become law, 21 million World War II and Korean war veterans would immediately lose all employment preference rights when the law went into effect in October 1980. What really concerns me, however, is 5 million of the 8.5 million Vietnam-era veterans would have zero to 5 years of employment preference remaining—not 15 years. Only those who entered military service before the termination of veterans' preference on October 15, 1976, and left the service after October 1980, would receive the full 15 years of employment preference.

The legislation would also limit veterans' "reductions-in-force" benefits to 8 years following initial appointment to Federal service. That means that all veterans who had been employed by the Government for 8 years or more—including the Vietnam-era veterans who entered Federal service between August 5, 1964, to October 1972—would immediately lose their "RIF" protection when the law became effective in October 1980.

Veterans' preference, currently in effect, was based upon recognition of the fact that millions of young men and women had been called upon to give up their usual occupations, often at great economic sacrifices and many had been exposed to personal danger and hardships. It was felt that readjustment to civilian life would be difficult for many, that those who remained at home would acquire a tremendous headstart financially over the serviceman and that, therefore, some assistance should be given to the veterans in readjusting and retaining lost ground.

Unemployment, as well as competing for and holding jobs, is still uppermost in the minds of many. According to a recent Harris study, unemployment and the lack of jobs is listed as the greatest problem facing returning Vietnam veterans. It is, therefore, inconceivable that this body would even contemplate reducing any aspect of veterans' preference.

I recognize the unemployment needs, including promotion and upward mobility of women and minorities but veterans are finding themselves a minority.

I cannot help but believe that my colleagues continue to feel as I do, that our veterans are in fact special and deserve more than a little consideration. Veterans' preference is a longstanding legitimate expression of public policy that has been folded into the overall merit system framework. I feel the present laws are achieving their intended effect of giving an advantage to veterans while preserving the essential elements of competition. Because of their service and the sacrifices so many of our veterans were called upon to make, I urge my colleagues to support the Hanley amendment.

The CHAIRMAN. The Chair recognizes the gentlewoman from Maryland (Ms. MIKULSKI).

Ms. MIKULSKI. Mr. Chairman, I rise in opposition to the Hanley amendment regrettably and enthusiastically rise in support of the Bonior amendment. The United States must continue to be a grateful nation to those of who fought and defended us in World War II, that created the Korean and the Vietnam conflicts.

However, we must meet the needs of those veterans according to the point of life in which they now find themselves.

I feel the Bonior amendment perfects the administration bill by extending both time and opportunities for the Vietnam veteran where time is running out. But for the World War II veteran, who is 58 years old, giving him 5 points in his old age is not the way to help him. That veteran is concerned about other needs, it is the need for retirement security, and he is particularly afraid that a catastrophic illness will wipe him out. I propose that instead of keeping the 5-point preference when he does not need it, that, to show our gratitude, on developing a comprehensive health care program for veterans that, No. 1, would care for them in terms of catastrophic illness and, No. 2, would provide for long-term care, where perhaps we could take unused nursing home beds in veterans' hospitals, where they could be cared for with respect and dignity along with their comrades.

Mr. Chairman, as we consider the Hanley amendment to the civil service reform legislation, my colleagues and I are faced with a very difficult decision. I, for several reasons which I will enumerate, cannot support this amendment.

The United States is a grateful nation for the gallant efforts made by the veterans who defended our cause abroad during World War I, World War II, the Korean war, and the Vietnam conflict. But the United States had made commitments to two constituencies and neither one can be overlooked.

When the veterans returned from war, we made a commitment then to help them readjust to the new lives to which they were returning by offering them the GI bill and veterans' preference, besides other benefits. Now we have reached a new phase, and these veterans are concerned with different priorities. Yet at the same time, we made a promise to nonveterans, many of whom supported the war effort, that they would have equal access to jobs within the Government, and that through the merit of their work, they would be upwardly mobile within the ranks of the civil service. Now these groups are converging and we must resolve their problems.

We need to look more closely at the real problems facing the veteran today. After meeting with several veterans' groups, I have found, as I suspected, that the real concerns of the veteran is planning for the future to make sure that he will be able to continue to take care of his family if he becomes ill. He no longer needs to worry about financing his own education or finding a job after finishing school or just finding a first job after being released from the service. The World War II veteran, whose average age is 58, must make provisions for his future well-being, as well as that of his family. For that reason, I have introduced House Joint Resolution 1113 which requires the Veterans' Administration to develop a comprehensive plan to provide health and social services to the ever-increasing number of senior veterans. Such a plan would include providing retirement counseling and planning services for senior veterans; converting unused acute-care hospital facilities under the jurisdiction of the Administrator to long-term care facilities; expanding the number of hospital-based home care units; expanding and improving long-term care and catastrophic health care programs; establishing new facilities to provide daytime care (in lieu of nursing home care) for senior veterans who are able to live with their families; establishing hospice programs for terminally ill senior veterans; and extending health care services to surviving spouses of veterans.

My colleague, Representative HECKLER, has also introduced legislation, the Veterans' Geriatric and Gerontological Health Services Expansion Act, which is also aimed at the real problem that face the veteran.

Today, when we vote on the Hanley amendment, we have to keep in mind the new needs and the new phase of care required by the veteran. We have a new commitment to the veterans which we must meet and extending veterans' preference as it now exists is not the way.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. Mr. Chairman and members of the committee, we were asked during this debate, and in Dear Colleague letters previous to this debate, to consider what veterans' preference needed to be changed in order to be fair to minorities and women. I and many other Members have taken that challenge into consideration. I have come down on the side of voting in favor of the Hanley amendment and leaving veterans' preference basically as it is for the simple reason that without the sacrifice of a veteran, most of us in this country would not have the freedoms that we have now. The great advancement in the opportunities for women and minorities in the last 50 years in this country has come about only because of the environment of freedom that has been preserved in this country by the sacrifice of our veterans in combat, and this is no time to take away the rewards that we have given and that we owe for that service to our country that has made possible the preservation of freedom for all. Because of this sacrifice I stand in support of the Hanley amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Chairman, I rise in support of the Hanley

amendment and in opposition to the amendment of our colleague, the gentleman from Michigan (Mr. BONIOR).

Mr. Chairman, there is just something wrong, in my opinion, with the idea of placing restrictions on the number of times that a veteran might use his preference, or place a limitation on the time that that preference is available. There have been many other arguments made on many other good points, but let me speak on just these two.

All of us, of course, know that in any of our wars there has been no practical restriction on the number of times that many veterans were called on to go into battle day after day after day, and I just do not think there should be any restriction placed on the amount of times that that eligibility should be available to him once he gets back into the civilian job market.

On the limitation of time, every one of us knows personally and knows of many more veterans who have come home from the wars missing an arm or missing a leg.

Mr. Chairman, I submit that that arm or that leg is gone forever, not 8 or 15 years, but it is gone forever. We know of those who came home physically but left their mental abilities and sanity in a foxhole someplace forever.

Mr. Chairman, to provide for those who did fight and for those who were standing by ready to fight is in keeping with the commitment of our country as expressed by President Lincoln, "To care for him who shall have bourne the battle—"

The CHAIRMAN. The time of the gentleman from Florida has expired.

(By unanimous consent, Mr. ROBERTS yielded his time to Mr. HANLEY.)

The CHAIRMAN. The Chair recognizes the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Chairman, I rise in support of the Bonior amendment and in referfence to women, I would like to say a word about this subject to the Members of the House. We have in Washington, D.C., in the Civil Service Office, 34 veterans at the top of the register. The only nonveteran woman, an applicant with a score of 100, is 35th on that list. Now, that really ought to tell us something about what is happening to women. I do not think women are necessarily the most important part of the whole population, but we certainly should do a little better than that.

Of all the positions at the 16 to 18 levels of civil service, women hold less than 3 percent. Below that, in grades 13 to 15, the proportion is only 6 percent. They are the clerks. They are the typists. They are down at the lower levels where men do not want to be. This is what is happening to women in the United States of America.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. GARCIA).

Mr. GARCIA. Mr. Chairman, I rise in support of the Bonior amendment and in opposition to the Hanley amendment.

Mr. Chairman, I speak as a veteran of the Korean war. I want the RECORD to note that I was among those who was in Korea with a regimental combat team. When I was discharged from the service I was able to take advantage of the opportunities afforded me by the GI bill. I think many veterans similarly took advantage of these many benefits offered them simply because they were veterans.

I do not believe I have a lifetime franchise on all of these special provisions. Especially as regards a preference for employment in the Federal Government, I believe the time under which a veteran can exercise that option should be limited. There is a very good and sensible reason for limiting this preference. And that is so that the younger veterans can now reap the benefits we all have been able to take advantage of.

The veterans of the Vietnam war are the ones who suffered most from fighting a war that was unpopular. And I think that most of those who fought there came out of urban America. Those are the ones who need our help and those are the ones I want to help. That is why I support the Bonior amendment and oppose the Hanley amendment.

As a leader in the Hispanic community, I can truly say that I am not expressing an isolated point of view. I want you all to know, as you consider this progressive section of the bill, that it is supported by the American GI Forum—one of the country's largest veterans' organizations; by the Mexican-American Legal Defense Fund, the Puerto Rican Legal Defense Fund, the National Conference of Puerto Rican Women, the National Conference of Cuban-American Women, the League of United Latin American Citizens, the National Council of LaRaza and by Image—which is the Hispanic Federal employees' national organization.

I urge you to share their view that altering veterans' preference via this Civil Service Reform Act will benefit future generations of veterans and civil servants.

The CHAIRMAN. The Chair recognizes the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Chairman, I rise in support of the Bonior amendment and against the Hanley amendment.

I just want to point out that I honestly think if we could do this vote by secret ballot, it would pass by a very heavy margin. Why? Because everybody talks about wanting to have the veterans all get a crack at the jobs, but nobody is for increasing the Federal service so they will all have that crack. Probably there will not be more than 150,000 new jobs in the Federal service next year for veterans, 150,000.

If we go with the Hanley amendment, it will leave 28 million potential people bidding for those jobs. If we go with the Bonior amendment, it gets us closer to 8 million people competing for those jobs. They all happen to be Vietnam-era people and they will have a much greater chance.

If we look at the Federal service, 48 percent of the people in the Federal service are veterans and only 9 percent of those are from the Vietnam era. That is basically because other veterans can come in with a higher standing, a higher educational background and more experience, and when they are bidding veteran versus veteran the other veterans tend to come out on top.

(By unanimous consent, Mr. WHITE yielded his time to Mr. HANLEY).

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Chairman, I rise in support of the Hanley amendment and in opposition to the Bonior amendment.

One last point that I wish to make concerns a statement made earlier by the gentlewoman from Colorado on veterans' preference. Conceding the gentlewoman's assertion that 23 percent of the veterans utilize veterans' preference to transfer into other job series, it is unlikely that veterans would exercise veterans' preference to transfer into another job series for the purpose of taking a downgrade.

It would be more likely that a switch into another job series would be for an advancement in grade or responsibility. Further, if most of our veterans are in upper echelons of management, then a switch into another job series would be for a job in the upper echelon of management, and not entry-level positions that veterans and nonveterans are competing for, which is the troubled area we are trying to correct by this legislation.

Accordingly, Mr. Chairman, I urge support for the amendment.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I am pleased to yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I think the gentleman has just proven my point. By just bidding into a higher level job, they have preempted other people from being qualified for that job. That is basically my point, and I think about those 23 percent.

Mr. GILMAN. The gentlelady misunderstands the point I am trying to make. Vietnam-era veterans, for the most part, are just beginning to apply for entry-level positions or are in the lower grades, years away from eligibility for upper echelon positions.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. BONIOR).

Mr. BONIOR. Mr. Chairman, in the short time I have been in Congress I have seen much legislation dealing with veterans coming before Congress, most of it on suspension. In fact, practically all of it has been under suspension. Most of it is geared toward those people who fought in earlier wars.

The pension bill that we pass is going to cost close to $700 million in the first year. Yet we have out in America, as I indicated earlier, 855,000 Vietnam-era veterans suffering from underemployment, earning $4,000 a year, or making less than $7,000. I think there are 3 million people making less than $9,000. All we are asking for is a bill for these people.

It has been argued time and again on the floor that these people are going to phase themselves out, those who are veterans of World War II and Korea. Why not, then, give the preference to those people who need it the most now, the Vietnam veterans? No one is going to need it to that extent when they are 39, 40, or 42. The readjustment problems of these people are occurring now. Their career problems are occurring now.

Mr. Chairman, I hope the Members of the Congress and of this committee will look with some compassion on this issue. These people fought bravely in that war, as they did in other wars, and the traditional benefits for veterans should be extended to Vietnam-era veterans in this country. They should be considered in this bill.

The CHAIRMAN. The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, I rise in support of the Bonior amendment, and I am opposed to the Hanley amendment.

We ought to recognize that no one is arguing today against the concept of veterans' preference. It is a good concept, it is a sound concept. The gentleman from Michigan (DAVE BONIOR) supports it, I support it, and the gentleman from New York (JIM HANLEY) supports it. The question is: What kind of veterans' preference are we going to have?

We say it ought to be focused on those areas involving the disabled veterans, and the Bonior amendment enlarges the protection for the disabled veterans. Indeed it doubles the number of disabled veterans who receive benefits.

We also say that it ought to be focused on the Vietnam-era veterans.

Let me tell the Members a few war stories. Let me give an example of why the present system is not working. More than 30 years ago I served in World War II for 4 years. I was on the U.S. side, in case there is any doubt among my detractors. I never heard a shot fired. Most of my time was spent pounding typewriters and performing other vital services in time of war.

I arrived on Iwo Jima on D-Day plus 100 with some baseball equipment and a piano to entertain troops who had been involved in the invasion.

Under the persent law, a young person, a widow 29 years old who lost her husband and has children may be applying for a Federal job, and let us say I apply for that Federal job. I get absolute preference.

The Government gave me an education. I got my law degree under the GI bill, and the Government helped me buy my first house. My first house was bought under Government insurance, and the Government helped me with my first law office. I do not need the help now, it is the young people who need this help.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Chairman, historically there has been veterans' preference of some sort since the founding of our Nation but in a more structured form since 1865 and finally, as we know it today, resulting from the enactment of the Veterans' Preference Act of 1944.

Veterans' preference has come under increasing attack from various quarters. It has been stated that veterans' preference is discriminatory. Veterans' preference, if one must call it discriminatory, does discriminate against those who remained civilian and got their preference by attaining an early education and establishing themselves in the job market while their contemporaries answered their country's call and shouldered arms.

It has been traditional philosophy in this country that, "those who were preferred to serve their Nation in the Armed Forces in time of war should be preferred to serve their Nation in a civilian capacity when qualified."

Removal of this veterans' preference is a matter that goes beyond any question of "flexibility," greater employment of other groups, or like concerns. It is really a question of whether this is a country that feels free, in time of national emergency, to call upon its very best to serve in its Armed Forces and face death, injury, disruption of normal life, and all the other conditions of that service. Then for the country to discard them as veterans, to announce they must compete "as equals against all nonveterans, except for such nonveterans as may be given preference in recruiting, examination and selection.

Right now we have no need for an emergency armed service, but if the need arises, the response will be forthcoming. However, the law should be there, needing only a slight amendment on qualifying dates of service, to acknowledge that the Nation that calls for sacrifice will also hire its veterans when qualified.

Supporters have waged an extensive campaign for the modification of veterans preference.

I have every reason to believe that with the enactment of this title, veterans will not only lose their preference benefits but will be subjected to discrimination in hiring, reduction in force, promotions, and assignment to and retention in the Senior Executive Service which will encompass upper level officials. I urge my colleagues to support the amendment to restore veterans' preference which this body has historically extended to those men and women who have served our Nation in the Armed Forces.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. HANLEY).

Mr. HANLEY. Mr. Chairman, the issue at stake here this afternoon is the integrity of the U.S. Government. Traditionally, we have heard the phrase "the full faith and credit of the U.S. Government." And during our periods of hostility, we said to a certain category of American citizens, the person who served in the military establishment, "My friend, once you go back to civilian life, here are the benefits that have accrued to you."

Mr. Chairman, for the life of me I cannot conceive of the attitude of this administration in wanting to renege on that commitment we made traditionally. It is wrong. It is improper. It is unjust.

When we talk about the Vietnam veterans, that is what it is all about. And as I have said time after time during the course of this debate this afternoon, the good majority of the Vietnam veterans, as represented by virtually all of the organizations, sustain this position, and that is to preserve this law.

Mr. Chairman, there is another ramification associated, too, with this. We know that all of the State governments have a tendency to follow suit, once the Federal Government acts. So what you would be doing is that you would be putting the veterans' community on the threshold of total erosion of benefits throughout the 50 States of this Union.

I do not believe that the majority in the House of Representatives wants to do that.

So, despite all that has been said about the effect of this amendment on the Vietnam veteran, there is only one good effect, and that is the provisions of my amendment which preserves veterans' preference, as our Nation committed itself to do to all of the men and women who served.

Reference was made to the person who was 58 years old. Generally speaking, my contemporaries are not in the job market. It has little effect on us. For that matter, it does not have that much effect on the Korean veteran. But it does have a major effect on the Vietnam veteran. And if ever there was a less than glorious war in the history of this Nation, it was Vietnam, and if ever a set of veterans got shortchanged, it was the Vietnam veterans. Some in this Chamber would move in the direction of further shortchanging them.

Someone has said that minorities and women suffer by virtue of the veterans' preference. Let me allude, if I might, for a minute, to the matter of women. I quote Chairman Campbell, commenting on the GAO study of selecting and hiring registers. He said:

> The most surprising thing is that the pattern of effects is not consistent across all examinations. In some cases, women obtain little or no advantages by eliminating veterans' preference. Eliminating some or all veterans' preference or advantages will not have a systematic favorable impact on women.

That is the Chairman of the Civil Service Commission. They are not my words. They are his words. So, hopefully, those words can put to rest the apprehension or the concern of those who feel that, by taking this right away from the veteran, you are going to expand upon employment for women and minorities.

That is not at all the case. I implore you, my friends, to vote down the Bonior amendment, to vote down the Skubitz amendment, and vote for the Hanley amendment.

I think that President Franklin Delano Roosevelt best explained the rationale for veterans preference when he stated:

I believe that the Federal Government, functioning in its capacity as an employer, should take the lead in assuring those who are in the armed forces that when they return special consideration will be given them in their efforts to obtain employment. It is absolutely impossible to take millions of young men out of their normal pursuits for the purpose of fighting to preserve the Nation, and then expect them to resume their normal activities without having any special consideration shown them.

● Mr. MONTGOMERY. Mr. Chairman, I rise in support of the Hanley amendment which would have the effect of retaining veteran's preference as it is in current law. I feel very strongly that we should not change the present rules of giving a five point preference to those men and women who have served our Nation so nobly as members of the Armed Forces.

If we accept this section of the bill as reported, we would be breaking an implied contract with our former servicemen and servicewomen and changing the rules for no reasonable purpose. Veterans preference was intended as a lifetime reward for those who served in the defense of their country.

It should be noted that the current veterans preference law does not apply to able-bodied veterans who entered the peacetime service after October 14, 1976. We are mainly talking about veterans of World War II and Korea, who are fast approaching retirement age anyway. What I fear is that the changes in the veterans preference as reported by committee will be harmful to our Vietnam-era veterans.

Mr. Chairman, according to recent studies I have seen, the facts do not show that veterans are disproportionately represented in the civil service.

I hope my colleagues will give their strong support to the Hanley amendment and vote against the Bonior and Skubitz amendments.●

● Mr. WOLFF. Mr. Chairman, I rise in support of the amendment offered by the distinguished gentleman from New York, which would amend the veterans' provisions of H.R. 11280, the civil service reform bill.

I would like to take this opportunity to congratulate my distinguished colleague (Mr. HANLEY) for the leadership he has shown in preserving the preference eligibility rights of all of America's veterans in Federal employment.

It is quite obvious that the veterans' preference modification proposals contained in H.R. 11280, as amended by the Schroeder amendment in Committee, will deny veterans' preference to millions of deserving Vietnam-era veterans. Why, in 1985 alone over 1 million Vietnam-era veterans will lose their preference eligibility. Mr. Chairman, these veterans were asked for an unlimited commitment by this Nation in its time of need. Simple justice requires in return that in their time of need these veterans be given a special degree of consideration which reflects the unlimited gratitude of an appreciative nation.

I, therefore, believe that the Vietnam-era veteran deserves far better than the proposed veterans' provisions of H.R. 11280, which would stigmatize Vietnam-era veterans as a disfavored class among the past defenders of this Nation. Equal benefits for equal service, in my mind, applies to the veterans of any war. This is not the time to change a principle when it would adversely affect so many young Vietnam-era veterans. Congress is not the place for this trampling of rights and expectations to occur.

Mr. Chairman, I strongly urge my colleagues to reject the undermining of the preference eligibility rights of America's veterans in Federal employment. I strongly urge rejection of the Schroeder amendment provisions of H.R. 11280, and support the Hanley amendment.●

● Mr. CORCORAN of Illinois. Mr. Chairman, I would like to urge my colleagues to support the compromise provision that was reported out of the Committee on Post Office and Civil Service. I refer to the compromise provision because this is emphatically not the original Carter proposal, which, rather than restructuring and reshaping benefits, blindly eliminated them. Moreover, this compromise does not irresponsibly abolish veterans' benefits. It is not an anti-veterans' compromise. Rather, it addresses a matter of philosophy. Is veterans' preference a matter of a lifelong right to preferential treatment as part of the veterans' payment for a job well done, or is it a more limited mechanism for easing the transition from military to civilian life?

I believe that veterans' preference should provide a source of support in the process of exchanging a uniform worn with pride for a shirt and tie. It should compensate our honored veterans for time spent in the service of our great country, but it should not act as a barrier to equal protection for our younger veterans, who not only served our country, but suffered because their war was unpopular at home. They did not return to our shores to cheers and ticker-tape parades. They returned to silent eyes and turned backs.

Contrary to the rampant spread of misinformation, this bill most assuredly does not make life more difficult for Vietnam-era veterans. After the first 2 years following enactment of H.R. 11280, during which all veterans would have an opportunity to apply for a civil service position, only veterans who have been discharged within 15 years would be eligible for veterans' preference. When combined with an amendment that my colleague from Michigan (Mr. BONIOR) will be introducing, this 15 years is sufficient to give all Vietnam veterans an opportunity to apply for and obtain a position with the benefit of preference points and without competition from older, more experienced veterans who also have preference points and are, therefore, so often more qualified. This can only limit the competition which would otherwise be experienced * * * that is, a preference would be provided for all Vietnam-era veterans.

The compromise would also limit absolute preference during reductions in force to 8 years, but surely 8 years is sufficient time to learn a job and, therefore, to equip a veteran to compete without the advantage of preference points. This is particularly true when coupled with the fact that in addition to all the time actually spent in the civil service, all the time spent in the military is included in seniority calculations for veterans in the Federal civil service.

This compromise definitely improves the situation for disabled veterans. It more than doubles the number of disabled veterans eligible for noncompetitive appointment by lowering the requirement from a 50-percent disability to a 30-percent disability. This is an increase in eligibility from 494,000 to 996,000 disabled veterans who are not required to compete for job appointments.

This is not an antiveterans bill. I would not support an antiveterans proposal. I am, myself, a veteran, having served in Germany with the U.S. Army in the midsixties. In fact, I am a member of my local American Legion post back home. And I have always strongly supported veterans' rights and benefits. I supported the veterans on all the issues brought before the House of Representatives in 1977. Mr. Chairman, you will recall that the measures which I was pleased to support included:

Legislation to provide veterans with automobile assistance allowance and adaptive equipment;

Legislation to increase service-connected compensation for veteran's loss of use of paired extremities;

GI Bill Improvement Act of 1977;

State grants for home facilities for veterans;

Retired serviceman's familv protection plan and the survivor benefit plan;

Veterans' Administration Medical Facilities Acquisition Act of 1977;

Veterans' Administration Physicians and Dentists Comparability Act extension;

Veterans and Survivors Pension Adjustment Act of 1977;

Veterans' Disability Compensation and Survivors Benefits Act of 1977; and

The Beard amendment to the HUD appropriations bill eliminating benefits for veterans whose discharges were upgraded under the Carter amnesty plan.

And, Mr. Chairman, during 1978, I was with the veterans again in supporting the following measures:

Legislation providing burial expenses (in allowances to States) for veterans;

Legislation increasing the pension for veterans who are recipients of the Congressional Medal of Honor;

Veterans' Disability Compensation and Survivors Benefits Act of 1978;

Legislation extending hospital care in States, territories, and possessions outside the continental United States for veterans;

Veterans' Housing Improvement Act of 1978;

Legislation increasing benefits for permanently disabled veterans' survivors and increasing compensation for veterans rated at 40-percent disabled;

Roberts amendment to the first budget resolution increasing veterans' programs by nearly $1 billion;

Veterans' and Suvivors' Pension Improvement Act of 1978; and I cosponsored the Anderson of California bill to increase benefits for World War I veterans.

I support this legislation before us now because it restructures benefits to reach those who need them most, and, surely, the people who need our help most are the Vietnam-era veterans and the disabled veterans. I believe that it is to them that we should offer this preference. In addition, I think it is time to recognize that our aim is to help veterans through the transition to civilian employment, not to offer them a lifetime guarantee of job security far above and beyond that offered to other civil servants in this day and age.

You are all being asked to make a difficult choice today, but I would ask you to consider the question that I asked myself during our committee deliberations: "Who needs our help most now, in 1978?" It should be apparent that the older, more experienced nondisabled veteran is not as desperately in need of help in making up for losses suffered, as is a Vietnam veteran or a disabled veteran.

Therefore, I urge my colleagues to defeat the Hanley amendment and support the committee provision in the bill on veterans preference.●

● Mr. TEAGUE. Mr. Chairman, I rise in support of the Hanley amendment. To limit veterans preference will be a gross violation of the long-held principle that veterans of all wars should have equal benefits for equal service. The amended provision on veterans preference will do a great disservice to the Vietnam veterans. The argument that by taking away veterans preference we will help Vietnam-era veterans, is a lot of hogwash. There is no supporting data, that I can find, which shows that Vietnam veterans whose average age is 30, are competing for jobs with World War II veterans, whose average is 60, and Korean veterans, whose average age is 50. There is no evidence that veterans use their preference over and over again. On the other hand, there is evidence that veterans preference is doing well for the minority veteran, who comprise 19 percent of the veteran work force, as opposed to only 8 percent of the general veteran population.

The facts do not bear out that women are being hurt by the Veterans Preference Act. Last year new hires show that 213,000 females were hired in civil service jobs as opposed to 163,000 veterans.

All veterans must obtain a passing grade before the five-point add on. There is nothing mandatory about hiring a veteran. The law provides an appointing officer may pass over a veteran to hire a nonveteran. This was done many times during the past year. There is simply no truth to the allegation being peddled by the administration and others, that the Veterans Preference Act is serving to load up our civil service jobs with less than qualified applicants.

All veterans organizations favor the Hanley amendment. Including the National Association of Concerned Veterans, which speaks exclusively for Vietnam-era veterans.

There is no bona fide national veterans organization, that I know of, that favors the Schroeder amendment in the bill.

Why does the Federal Government want to eliminate five-point preference for persons who served in the Armed Forces in the Vietnam war, and at the same time make eligible for a noncompetitive appointment in the Federal civil service, by Presidential Executive Order, persons who served as volunteers in the Peace Corps, Vista, and ACTION programs.

I see nothing wrong with giving a veteran who served in Vietnam an extra five-point preference when such veteran is seeking employment in the Federal Government. Our veterans gave everything they had for their country, and deserve in return everything a grateful Nation can possibly afford. We gave veterans of previous wars five-point and lifetime retention preference, and I see nothing wrong with keeping it for Vietnam veterans.

I strongly urge that the Hanley amendment will be approved.●

The CHAIRMAN. The hour of 5 o'clock has arrived.

The question is on the amendment offered by the gentleman from Kansas (Mr. SKUBITZ) as a substitute for the perfecting amendment offered by the gentleman from Michigan (Mr. BONIOR).

The amendment offered as a substitute for the perfecting amendment was rejected.

The CHAIRMAN. The question is on the perfecting amendment offered by the gentleman from Michigan (Mr. BONIOR).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BONIOR. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 149, noes 222, not voting 61, as follows:

[Roll No. 746]

AYES—149

Alexander
Anderson, Ill.
Ashley
Aspin
AuCoin
Baldus
Barnard
Bedell
Bellenson
Benjamin
Bingham
Blanchard
Blouin
Bolling
Bonior
Brademas
Breckinridge
Brinkley
Brodhead
Brown, Calif.
Burton, John
Burton, Phillip
Butler
Carr
Cavanaugh
Clay
Conable
Conte
Conyers
Corman
Cornwell
Cotter
Coughlin
Danielson
Dellums
Diggs
Dodd
Downey
Drinan
Edgar
Edwards, Calif.
Evans, Colo.
Fascell
Fenwick
Findley
Fisher
Fithian
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Garcia
Giaimo
Glickman
Gore
Gradison
Green
Hamilton
Harkin
Harrington
Harris
Hawkins
Hightower
Hollenbeck
Holtzman
Howard
Hughes
Jacobs
Jeffords
Jones, Okla.
Jordan
Kastenmeier
Keys
Krebs
LaFalce
Leach
Leggett
Lundine
McCloskey
McCormack
McHugh
McKinney
Madigan
Maguire
Markey
Mattox
Mazzoli
Meeds
Metcalfe
Michel
Mikulski
Mikva
Mineta
Mitchell, Md.
Moffett
Moss
Mottl
Nedzi
Nix
Nolan
Nowak
Oakar
Obey
Ottinger
Patterson
Pattison
Pease
Pike
Poage
Pritchard
Pursell
Quayle
Railsback
Rangel
Reuss
Rosenthal
Rostenkowski
Roybal
Ruppe
Ryan
Scheuer
Schroeder
Seiberling
Sharp
Simon
Smith, Iowa
Solarz
Spellman
Stark
Steers
Stockman
Stokes
Studds
Thompson
Tucker
Udall
Ullman
Van Deerlin
Vanik
Walgren
Waxman
Weaver
Weiss
Whalen
Whitehurst
Wilson, Tex.
Wirth
Yates

NOES—222

Abdnor
Addabbo
Akaka
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Badham
Bafalis
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bennett
Bevill
Biaggi
Boggs
Boland
Bowen
Brooks
Broomfield
Broyhill
Buchanan
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Caputo
Carney
Carter
Cederberg
Clausen, Don H.
Cleveland
Coleman
Collins, Tex.
Cornell
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Dent
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dornan
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Eilberg
English
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fish
Flippo
Florio
Flynt
Fountain
Frenzel
Gammage
Gaydos
Gephardt
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Grassley
Gudger
Guyer
Hall
Hammer-schmidt
Hanley
Hannaford
Harsha
Heckler
Hefner
Heftel
Hillis
Holland
Holt
Horton
Hubbard
Hyde
Ichord
Ireland
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Kazen
Kelly
Kildee
Kindness
Kostmayer
Lagomarsino
Le Fante
Lederer
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Luken
McClory
McDade
McDonald
McEwen
McFall
McKay
Mahon
Mann
Marks
Marlenee
Marriott
Martin
Mathis
Meyner
Milford
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nichols
O'Brien
Oberstar
Panetta
Patten
Pepper
Perkins
Pickle
Preyer
Price
Quillen
Rahall
Regula
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Rogers
Rooney
Rose
Runnels
Russo
Santini
Satterfield
Sawyer
Schulze
Sebelius
Shipley
Shuster
Sikes
Sisk
Skelton
Skubitz
Slack
Smith, Nebr.
Snyder
Spence
Staggers
Stangeland
Stanton
Steed
Symms
Taylor
Thone
Treen
Trible
Vento
Volkmer
Waggonner
Walker
Walsh
Wampler
Watkins
White
Whitley
Whitten
Wilson, C. H.
Winn
Wolff
Wright
Wydler
Wylie
Yatron
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki

NOT VOTING—61

Ammerman
Armstrong
Bonker
Breaux
Brown, Mich.
Brown, Ohio
Burgener
Burke, Calif.
Burke, Fla.
Byron
Chappell
Chisholm
Clawson, Del
Cochran
Cohen
Collins, Ill.
Corcoran
Delaney
Eckhardt
Emery
Fary
Flood
Flowers
Fraser
Frey
Fuqua
Gibbons
Hagedorn
Hansen
Huckaby
Jenkins
Johnson, Colo.
Kasten
Kemp
Krueger
Latta

Lehman
Lujan
Miller, Calif.
Moorhead, Calif.
Pettis
Quie
Richmond
Rodino
Roncalio
Rousselot
Rudd
Sarasin
St Germain
Steiger
Stratton
Stump
Teague
Thornton
Traxler
Tsongas
Vander Jagt
Wiggins
Wilson, Bob
Young, Alaska
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Richmond for, with Mr. Fary against.

Mrs. Chisholm for, with Mr. Breaux against.

Mrs. Burke of California for, with Mr. Chappell against.

Mr. Corcoran of Illinois for, with Mr. Emery against.

Mr. Miller of California for, with Mr. Zeferetti against.

Mr. Eckhardt for, with Mr. Stratton against.

Mr. Flood for, with Mr. Teague against.

Mrs. MEYNER and Messrs. YOUNG of Texas, MURPHY of Pennsylvania, MURPHY of Illinois, PRESSLER, WRIGHT, MOAKLEY, DERRICK, HEFTEL, DE LA GARZA, VOLKMER, NEAL, LEVITAS, RAHALL, and DICKS changed their vote from "aye" to "no."

Mr. STEERS changed his vote from "no" to "aye."

So the perfecting amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New York (Mr. HANLEY).

RECORDED VOTE

Mr. CHARLES H. WILSON of California. Mr Chairman, I demand a recorded vote

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 281, noes 88, not voting 63, as follows:

[Roll No. 747]

AYES—281

Abdnor
Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
AuCoin
Badham
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bevill
Biaggi
Boggs
Boland
Bowen
Brademas
Breckinridge
Brinkley
Brooks
Broomfield
Broyhill
Buchanan
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Caputo
Carney
Carter
Cavanaugh
Cederberg
Clausen, Don H.
Cleveland
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Cornell
Cornwell
Cotter
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Dent
Derrick
Derwinski
Devine
Dicks
Dingell
Dodd
Dornan
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Eilberg
English
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Findley
Fish
Fisher
Fithian
Flippo
Florio
Flynt
Foley
Forsythe
Fountain
Fowler
Frenzel
Gammage
Gaydos
Gephardt
Giaimo
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Gudger
Guyer
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Harris
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Horton
Howard
Hubbard
Hughes
Hyde
Ichord
Ireland
Jeffords
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Kazen
Kelly
Kildee
Kindness
Kostmayer
Krebs
Lagomarsino
Le Fante
Lederer
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Luken
Lundine
McClory
McCormack
McDade
McDonald
McEwen
McFall
McKay
McKinney
Madigan
Mahon
Mann
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Meyner
Michel
Milford
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nichols
Nowak
O'Brien
Oberstar
Panetta
Patten
Pepper
Perkins
Pickle
Pressler
Preyer
Price
Pursell
Quayle
Quillen
Rahall
Railsback
Regula
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Runnels
Ruppe
Russo
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sharp
Shuster
Sikes
Sisk
Skelton
Skubitz
Slack
Smith, Nebr.
Snyder
Spellman
Spence
Staggers
Stangeland
Stanton
Steed
Stockman
Symms
Taylor
Thompson
Thone
Treen
Trible
Tucker
Ullman
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Weaver
White
Whitehurst
Whitley
Whitten
Wilson, C. H.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yatron
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki

NOES—88

Anderson, Ill.
Ashley
Aspin
Bedell
Bellenson
Bingham
Blanchard
Blouin
Bolling
Bonior
Brodhead
Brown, Calif.
Burton, John
Burton, Phillip
Carr
Clay
Conyers
Corman
Dellums
Downey
Drinan
Edgar
Edwards, Calif.
Erlenborn
Evans, Colo.
Fascell
Fenwick
Ford, Mich.
Ford, Tenn.
Garcia
Green
Harkin
Harrington
Hawkins
Holtzman
Jacobs
Jones, Okla.
Jordan
Kastenmeier
Keys
LaFalce
Leach
Leggett
McCloskey
McHugh
Maguire
Markey
Mazzoli
Meeds
Metcalfe
Mikulski
Mikva
Mineta
Mitchell, Md.
Moffett
Moss
Nedzi
Nix
Nolan
Oakar
Obey
Ottinger
Patterson
Pattison
Pease
Pike
Poage
Pritchard
Rangel
Reuss
Ryan
Scheuer
Schroeder
Seiberling
Simon
Smith, Iowa
Solarz
Stark
Steers
Stokes
Studds
Udall
Van Deerlin
Waxman
Weiss
Whalen
Wilson, Tex.
Yates

NOT VOTING—63

Ammerman
Armstrong
Bonker
Breaux
Brown, Mich.
Brown, Ohio
Burgener
Burke, Calif.
Burke, Fla.
Byron
Chappell
Chisholm
Clawson, Del
Cochran
Cohen
Corcoran
Delaney
Dickinson
Diggs
Eckhardt
Emery
Fary
Flood
Flowers
Fraser
Frey
Fuqua
Gibbons
Hagedorn
Hansen
Huckaby
Jenkins
Johnson, Colo.
Kasten
Kemp
Krueger
Latta
Lehman
Lujan
Miller, Calif.
Moorhead, Calif.
Pettis
Quie
Richmond
Rodino
Roncalio
Rousselot
Rudd
Sarasin
Shipley
St Germain
Steiger
Stratton
Stump
Teague
Thornton
Traxler
Tsongas
Vander Jagt
Wiggins
Wilson, Bob
Young, Alaska
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Fary for, with Mr. Richmond against.

Mr. Breaux for, with Mrs. Chisholm against.

Mr. Zeferetti for, with Mrs. Burke of California against.

Mr. Ammerman for, with Mr. Eckhardt against.

Mr. Chappell for, with Mr. Corcoran of Illinois against.

Mr. Stratton for, with Mr. Diggs against.

Mr. St Germain for, with Mr. Miller of California against.

Mr. Krueger for, with Mr. Flood against.

Mrs. BOGGS changed her vote from "no" to "aye."

So the amendments were agreed to.

The result of the vote was announced as above recorded.

AMENDMENTS OFFERED BY MRS. SPELLMAN

Mrs. SPELLMAN. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mrs. SPELLMAN: Page 208, line 4, after "recruited" insert "(including from within the civil service)".

Page 208, after line 12, insert the following new subsection:

"(d)(1) The regulation under subsection (c) of this section shall provide that in filling any position in an Executive agency for which a recruitment program under subsection (c) is being conducted by that agency for women, to the maximum extent practicable, an individual not entitled to status as a preference eligible under section 2108 (3)(A) or (C) for purposes of preference in consideration for appointment shall be entitled, with respect to consideration for appointment to that position, to the preference available to an individual having the status of a preference eligible under section 2108 (3)(A) if the individual—

"(A) is a woman; and

"(B) has completed, in the aggregate, at least 5 years of civilian service.

"(2) Such regulation shall provide, to the maximum extent practicable, that no individual shall be excluded from consideration for appointment by reason of the application of this subsection."

Page 208, line 13, strike out "(d)" and insert in lieu thereof "(e)".

Page 208, line 26, strike out "(e)" and insert in lieu thereof "(f)".

Mrs. SPELLMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD, and that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

Mrs. SPELLMAN. Mr. Chairman, I rise to offer an amendment to section 212 of title III of the bill. Section 212 is entitled, "Minority Recruitment." I am very much in favor of that section, but I would like to broaden it.

What I am seeking here today is not to add a new class of people who are going to be given special treatment. I seek nothing special for women in general.

But we have a very unique situation in the Federal Government today which is triggered by affirmative action programs. We are happy to have affirmative action programs; had there not been affirmative action programs I know that a great many Members who voted for the Hanley amendment would have voted against it. Had they felt that they were hurting women, they would not have voted in favor of the Hanley amendment. So we do acknowledge the fact that even right within this bill there are affirmative action provisions to enable the hiring of women.

But, we have a very unique and a very unfair situation which is developing. As we reach out to bring women into the Federal Government where the agencies specifically seek women, we are finding that women are being brought in from the outside over the women who for years have served in the Civil Service.

And the women in the system are helpless. Here we have women who are capable, who only because they were women were held back. We recognize today how wrong that is, but we did not recognize it years ago. I was part of that kind of system and I thought it was all right. I did not know better. Now we know better. Yet we have no way of helping these women, who have trained the men who are today their bosses, to move up to the positions that they are capable of holding.

Instead, every time there is an affirmative action program we are reaching from outside the system and bringing women in over the women who have for years been doing the work. Women outside the system supersede those within the system for placement in upper grade jobs.

There is something very, very wrong with that. I am asking that we give recognition to that unusual situation.

According to the White House over 82 percent of all the women are concentrated in the GS grades 1 through 11 and earn less than $11,000 per year. We know that so many of them are capable of filling top grade positions. We know that many grade 9's, had they been male, would have been 11's or 12's or 15's today.

The Schroeder amendment did not address this problem. The Garcia amendment does not address it either.

So I am offering this today.

How do the veterans' groups feel on this? I would like to call to the attention of the Members the fact that veterans are generous people. They are not opposed. We posed this question to a group of people about to go to a meeting. After they studied the matter, and because of their own knowledge of the situation, this is the telegram I got from the Maryland American Legion. It says:

> On behalf of the 60,000 Legionnaires of Maryland we wish to express our appreciation for the Hanley amendment. We also pledge our support for the Spellman upward mobility amendment designed to help women in government gain better positions.
>
> JAMES R. THOMAS,
> *State Commander.*

This discussion was led by men who themselves had been in the Federal system and who knew that throughout the years there were women who were training men who went on ahead of them.

Let me repeat—we are asking nothing special for women. We are just saying: Let us not pit women against women—let us not forget those who for years have served. We are not creating a new affirmative action program. We are merely providing that when there is an affirmative action program in which women are being sought, that we help those women who are within the system apply and qualify for the jobs that they are capable of handling, instead of bringing new people in above them.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, if I listened correctly to the gentlewoman from Maryland, she in fact by her amendment would pit women against women, because what she provides is for a preference to women who have already had 5 years of civil service. New women applicants or those with less than 5 years would be by this amendment facing greater odds in seeking employment than those who have already the 5-year edge.

I am a firm defender of women's rights. But this amendment would be administratively impossible to handle.

You could not possibly conduct your Federal personnel system when you start to, by the back door, insert provisions presumably to correct, for example, the law that Congress just restated of veterans' preference. So what we would be doing, if we accepted this amendment, would be to completely contradict the two votes we just had.

Further, this amendment was not considered in the committee. We have no idea how in the world it could be administered. So in the usual parlance of committee terminology, we will be pleased to give it priority at the start of the next session. But I do not see how we could possible accept this amendment in this bill not knowing what its effect would be.

Mrs. SPELLMAN. Mr. Chairman, if the gentleman will yield, the amendment calls for regulations to be prepared to carry out the concept being proposed.

There will be regulations and we will have an opportunity to see them. We will have an opportunity to provide oversight over both the regulations and the administration.

Mr. DERWINSKI. But as the gentlewoman from Maryland (Mrs. SPELLMAN) well knows, oversight is a difficult field. Oversight over something we have had no background on or contract with or study about puts us in an impossible situation. I am not speaking just for the committee, but I do not believe that the Civil Service Commission could effectively administer this amendment.

Mrs. SPELLMAN. Will the gentleman yield further?

Mr. DERWINSKI. Yes, of course I yield further.

Mrs. SPELLMAN. Had the gentleman had the opportunity to be with us as we held hearings in five different departments throughout the city and throughout the Government, he would have found that over and over and over again this was one of the complaints that we had on the part of women.

I might say that we have also participated in meetings to discuss the subject and have invited the chairman of the Civil Service Commission to join in meeting with the women affected and to attempt to address the problem. The solution that was offered to the women at the time was, "Well, we will have to start somewhere so we will hire women for the top grades—they will then reach down to help you.

"You will never get anywhere until we put these women up here at the top."

We think that that is blatantly unfair on the face of it and I am sure the gentleman will agree.

Mr. DERWINSKI. But, if you take a good look at the amendment, I emphasize what I told you, this would develop women's preference and would automatically discriminate against all other category areas. As I said, each time you provide a preference for someone obviously this has some negative effect on some other category.

Since we do not have a real record in committee, and I do not believe the committee in the other body touched this subject, either, I think the best course of action would be to keep this bill as uncluttered as possible and give this matter priority when we go back to our work within the committee.

Mrs. SPELLMAN. If the gentleman will yield still further, I wish to remind my colleagues that this amendment addresses itself to only those situations in which affirmative action calls for women. It does not create a new situation, it does not spell out something else that must be done, but it does say when women are being sought for jobs, then it shall apply.

Mrs. SCHROEDER. I move to strike the requisite number of words.

Mr. Chairman, I think one of the things that we women have talked about more or less, and have snickered about has been the "old boys club."

I really object to this amendment because I see it starting an old-girls club.

As I recall the testimony of the women's groups—and I went out to check it with them—the women's groups in essence have been supportive of removing all preference points rather than cluttering the whole thing up with finding all sorts of new systems.

I think that any woman who wishes to compete within the affirmative action program for a higher job is certainly not prohibited from going ahead and filing for that job. She can file for that job at any time or on any day. The fact that she already has a job in the Federal civil service does not preclude her from taking that step. In fact, it probably helps her because she has some kind of background and she has certain experience. She already has several different ways in which she can move forward in that endeavor.

Therefore, Mr. Chairman, I really urge the Members to turn this amendment down. I think this is a dangerous prece-

dent. I can understand the politics of it in that what we could do is to give everyone points. We could give veterans points; we could give points to people who were in the war on poverty; we could give blacks preference; we could give Chicanos preference; we could give young people and old people preference. We could just nullify everything.

We could all run home and tell everybody, "Do you see what we did? We gave you all the goodies." We would not be telling them that we gave them to everyone else, too.

Really, this amendment would be counter productive. I think it goes against the thrust of what women's groups have been trying to do in the Federal service. They want merit promotions based on merit, on background, and on educational ability. They want, based on their own ability, to move forward. They do not want to be given five points just because they are women and they have been around a long time.

Mrs. FENWICK. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I would like to associate myself with the remarks of my colleague, the gentlewoman from Colorado (Mrs. SCHROEDER).

I would only like to point out that we have forgotten the Aleuts who are also a group which may be applying for a special preference if we continue with amendments like this one.

Mrs. SPELLMAN. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentlewoman from Maryland.

Mrs. SPELLMAN. Mr. Chairman, would the gentlewoman from Colorado tell us how we can move? Will she tell us how women who are in grade 9 and have been kept in grade 9 because only men were allowed to move into grade 10, 11, and 12, can move forward when they are applying for jobs and are being told, "We cannot move you a couple of grades"?

I might point out that the Civil Service Commission has had a little difficulty in answering that question. Has the gentlewoman given that any thought?

Mrs. SCHROEDER. I think we can allow them to bid on that job and prove they have background and the qualifications, and that we can do testing as we have always done. We do it on the basis of merit. However, to give them points because they have been in the Federal service and someone else has not is something which I do not think we want to do. I think we want to do it on the basis of whether they can or cannot do that GS-11, GS-12, or GS-13 job.

I think women want that, too, not just because we were here and staked it out. The points do not measure whether or not that woman in a GS-9 or a GS-10 job truly is qualified for the higher job. As a matter of fact, if we argue that they were flatly discriminated against with respect to getting the higher jobs, I think there have been blacks also who have been discriminated against, and Chicanos. Many of them in my area have not been able to move up at all; but to just flatly assign all of them points, too, say, double-bid so that they can go up several steps on the ladder without doing the testing violates the whole notion of merit, and what we are trying to do in the area of Civil Service reform.

Mrs. SPELLMAN. If the gentlewoman will yield further, of course, the point is that they would be taking a test, they would be qualified. They would have to be qualified. However, because they have been held down, they are in a position where they cannot jump these additional grades; and that is what we have to address ourselves to.

Mrs. SCHROEDER. However, they could go out and rebid on the register, and someone would look at the points on the test and the experience in the job. I think that is what should be measured. We do not give them extra points for that.

I think all of us have felt discriminated against at times, whether we are male, female, or what have you; but at some point we are going to end up with white males staging a revolt if we go too far on this sort of amendment.

I think we are really missing the whole point of what this bill is all about.

Mr. UDALL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I strongly support the statement just made by the gentlewoman from Colorado (Mrs. SCHROEDER).

We are plunging into a very, very difficult area if we say to a woman, "Because you are a woman in the Federal service and have been such for 5 years, we are giving you the same preference as we give to a veteran."

The next thing we know, other groups will say, "We want five points," and then more people will want five points.

Mr. Chairman, it is a bad amendment, untried, untested, and will lead us into a great deal of difficulty.

I ask that the amendment be defeated.

Mr. CHARLES H. WILSON of California. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. Mr. Chairman, does the gentleman agree with the gentlewoman from Colorado (Mrs. SCHROEDER) that the author of the amendment is a member of the old-girls club?

Mr. UDALL. I am with the gentlewoman from Colorado (Mrs. SCHROEDER), on this one and against my good friend, the gentlewoman from Maryland (Mrs. SPELLMAN).

Mr. GARCIA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this particular section of the bill is one that my staff and I have devoted many, many hours to. The reason for this section is because I felt very strongly that one of the factors which most hampers minorities in terms of Federal civilian employment is that their names are not on those civil service registers. The purpose of this section, then, is to insure that minorities will get on those registers, by placing heavy emphasis on their recruitment.

The amendment that has been put forth by the gentlewoman from Maryland (Mrs. SPELLMAN) came to my attention less than 1 hour ago. It may have a great deal of merit, Mr. Chairman, but because of the complexities involving this amendment, I do not believe this is the proper time to consider this measure. I therefore urge that the Spellman amendment be defeated.

Mr. HAMMERSCHMIDT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the gentlewoman's amendment.

If we were to pass this amendment, Mr. Chairman, it would be the height of discrimination based on a person's status as a member of a class. I am not a lawyer, but it does not take legal training to question the constitutionality of such a provision. And even more, Mr. Chairman, it would be an abominable injustice.

Veterans' preference points are awarded for affirmative service during a period of war. They are awarded without regard to race, sex, or creed. The qualifying criteria is military service. There is simply no correlation between this concept, and the concept of awarding points to people merely because they are women, or black, or from Arkansas, or any other reason not connected with an affirmative act as opposed to an inherent status.

If this amendment passes we will indeed have begun to discriminate in reverse, and for this reason, Mr. Chairman, I strongly oppose the amendment.

The CHAIRMAN. The question is on the amendments offered by the gentlewoman from Maryland (Mrs. SPELLMAN).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mrs. SPELLMAN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Seventy-five Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

Mrs. SPELLMAN. Mr. Chairman, I withdraw my demand for a recorded vote.

So the amendments were rejected.

AMENDMENTS OFFERED BY MR. LEACH

Mr. LEACH. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. LEACH: Page 209, after line 12, insert the following new section:

TEMPORARY EMPLOYMENT LIMITATION

SEC. 313. (a) Effective one year after the date of the enactment of this Act the number of individuals enployed in or under an Executive agency shall not exceed the number of individuals so employed on January 1, 1977.

(b) The President shall prescribe regulations to carry out the purpose of this section, including regulations to ensure that no increase in the procurement of personal services by contract occurs by reason of the enactment of this section.

(c) In administering this section, an individual employed on a part-time career employment basis shall be counted as a fraction which is determined by dividing 40 hours into the average number of hours of such individual's regularly scheduled workweek.

(d) For the purpose of this section, "Executive agency" has the meaning set forth in section 105 of title 5, United States Code.

(e) The provisions of this section shall not apply during a time of war or during a period of national emergency declared by the Congress or the President.

(f) The provisions of this section shall terminate at noon on January 20, 1981.

Page 209, line 14, strike out "313." and insert in lieu thereof "314."

Page 129, in the table of contents, strike out the item relating to section 313 and insert in lieu thereof the following:

Sec. 313. Temporary employment limitation.
Sec. 314. Effective date.

Mr. LEACH (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD, and that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. LEACH. Mr. Chairman, the amendments I am offering will simply establish a statutory ceiling on the total number of Federal employees in the executive branch.

There has been a great deal of discussion on the Federal bureaucracy, its ineffectiveness, its inefficiencies, the morass of redtape, and the need to reform our civil service laws. Clearly the existing system should be improved and management afforded greater flexibility in mobilizing the bureaucracy to accomplish its objectives. At the same time, the bill before us, in present form, is silent on the issue of the appropriate size of that bureaucracy.

According to Civil Service Commission statistics, executive branch employment, excluding those working for the U.S. Postal Service, has increased over the past year and a half by 112,000. While that figure includes all employees, whether employed full time, part time, or on an intermittent basis, it is significant to note that the increase in full-time jobs alone is 103,000.

I stress this growth figure because it is sudden. During the previous 8 years of Republican administrations, total executive branch employment decreased by 115,000. Yet in the past 18 months of the Carter administration Federal employment has increased by an almost identical 112,000.

It is easy to say this represents only a 5 percent increase compared to total executive branch employment of over 2 million, but in actuality it is rather extraordinary. When I first started looking into the matter 8 months ago, executive branch employment had increased by 15,000 and I reported to my constituents that this figure was larger than Fort Madison, Iowa—the seventh largest city in my district. Then the growth figure increased to 40,000 and I reported that the increase in Government employment was larger than Burlington, Iowa—the third largest city in my district. The latest available statistics now reveal that Government employment has jumped by more than 100,000, which is larger than Davenport, Iowa—the largest city in my district.

This trend must be reversed. In an effort to work constructively with the administration in accomplishing the major goal of civil service reform, I am offering this amendment to limit the number of executive branch employees to the number so employed in January 1977, which was 2,119,000. The ceiling would become effective 1 year after the date of enactment of the Civil Service reform bill, which permits the administration to reach the target level of reduced employment through attrition. According to the Civil Service Commission, the attrition/separation rate for 1977 was approximately 22 percent. Clearly the administration could refrain from filling one in four vacancies during the coming year and thus easily reach the statutory ceiling. I might also point out that the amendment further requires the President to issue regulations to insure that no increase in the procurement of outside services results from the limit on Federal employment. In addition, the amendment assures that part-time employment will be calculated as a fraction of full-time equivalent hours in order to avoid any inadvertent bias against part-time employment for which this body has expressed clear support.

The amendment also provides waiver authority in the event of a national emergency so as to permit the hiring of employees in excess of the statutory ceiling if necessary.

In sunset fashion, the amendment will expire with the termination of the President's current term of office, providing the Congress and the administration the opportunity, at that time, to review and evaluate the effectiveness of a ceiling on Federal employment.

Mr. Chairman, the current trend in Federal employment runs directly counter to the prevailing mood in this country. American taxpayers are weary, not only of high taxes, but of excessive and costly Government bureaucracy. Nowhere in the reform bill before us today is any meaningful effort made to meet that particular outspoken concern. Without explicit direction in this legislation, we may see, with all of the ensuing activity to reorganize and reform all aspects of the civil service system, an even greater growth in the number of employees on the Federal payroll.

During committee consideration, this employment ceiling amendment was rejected by a 13-to-8 vote. Frankly, I was disappointed that the Civil Service Commission and administration spokesmen argued strongly that a ceiling would be inappropriate because of the need to establish new Federal programs in the next several years. From the point of view of the minority, this reasoning underscores our philosophical commitment to put a halt to the growth of bureaucracy. Clearly, if one supports the initiation of massive new programs, this amendment should be opposed. But, just as clearly, those of us that are skeptical of the need for more programs should reflect that skepticism in a vote for this amendment.

In a 1976 interview with Business Week—well before the recent development popularly characterized as the proposition 13 tax revolt—the President responded to a question put to him regarding the substantial increase in State employment that occurred during his term of office as Governor of Georgia, that he had promised State employees that no one would be discharged as a result of his reorganization but that he did reserve the right not to fill vacancies as they occurred and would do the same thing upon being elected to office. I believe this approach the President outlined in the Business Week interview is on the right track and desire in no way to jeopardize the jobs of Federal employees now on the payroll. At the same time, I do believe this Congress ought to work cooperatively with the administration to allow for a reduced level of employment through the simple process of attrition.

Finally, let me stress again that not only should direct Federal employment be capped, but indirect employment should also be more carefully constrained. Frightening statistics recently presented by HEW Secretary Califano to the Senate Appropriations Committee, indicate that at the same time the U.S. Government is paying salaries to 144,000 regular HEW emoloyees. HEW is indirectly paying the salaries of another 980,000 who work for private think tanks, universities, State and local government, and related programs. Thus the equivalent payroll for this one Federal Department alone exceeds 1 million jobs.

While my amendments do not address all of these hidden and indirect personnel costs, I believe the Civil Service reform bill offers us a timely opportunity to move beyond rhetoric on the issue of big, costly Government, and take a meaningful step to limit the bureaucracy.

I urge adoption of the amendments.

Mr. UDALL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the gentleman from Iowa has a good idea, and everybody has got a lot of good ideas about civil service. I expect that before midnight we are going to hear most of them at the rate we

are going. I had a Member back here with the bright idea that every Member of Congress should have the right annually to fire one bureaucrat without any cause or argument.

The gentleman from Iowa is a very valuable member of our committee, and I do not want to put down the amendment he has offered, but this is a drastic action to take this afternoon in the middle of a very complicated bill. Maybe we ought to have a limitation on the number of employees in Federal Government, but we do not do it without hearings, not without bringing the departments and the administration in and finding out what is an appropriate limit. We do not legislate in this fashion, in this broadcast manner, in this particular bill.

This was considered by the committee and defeated by a vote of 13 to 8. I would hope we would not get into this business this afternoon of trying to adopt this amendment. Sure, we ought to look into this overall problem of excessive Federal employment, but I do not think there are many of us here tonight who have the information we need to say that we are going to put a rigid ceiling on Federal employment.

What we will end up doing is coming in with exemptions and additional legislation to let people out of it, so I would hope that we would have a vote and reject this amendment.

Mr. COLLINS of Texas. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendments.

Mr. Chairman, if I could I would like to call on the gentleman from Iowa who is sponsoring this amendment, because I think the key to the amendment is the fact that the gentleman says it will place a ceiling on civil service. Did the gentleman state that during the past two administrations we had actually had a decrease?

Mr. LEACH. Yes, we had a decrease of approximately 115,000 Federal employees.

Mr. COLLINS of Texas. During the two Presidential terms of Ford and Nixon they have been able to decrease 115,000 in civil service. Under this administration, which has only been here for a year and a half, how many people actually have been added?

Mr. LEACH. As of June, approximately 112,000.

Mr. COLLINS of Texas. In other words, the Carter administration has offset all of the gains that were made in reducing and getting civil service in line. Has the gentleman had anyone who objects basically to this concept the gentleman has of putting a ceiling on the size of the Government?

Mr. LEACH. Well, I have, of course, talked a good deal to my constituents about it, and I get very little resistance in the State of Iowa to that sort of restraint.

Mr. COLLINS of Texas. Of course, down in Texas everyone likes your recommendation. I have been interested in talking about it to many people in civil service who also liked the idea of applicants qualifying although doing temporary duty or waiting for these attrition openings. They want civil service to be a merit proposition instead of being on a political basis.

In the past, to get recognition in civil service there was supposed to be a statute whereby one would make a career out of civil service instead of trying to turn it into a political pork barrel through building new agencies which, as I said, would be the only reason people would oppose this amendment.

Has this been publicized enough to allow people to understand the full ramifications of it?

Mr. LEACH. I think the gentleman from Arizona has a good point. The committee has not held adequate hearings. However, people throughout the country understand this issue. It is a very clear issue. I might also say to the civil servants I talk to are very concerned. Not only is good government more limited government but an immediate and pressing problem for civil servants is the unfounded liabilities of the civil service retirement fund. If we continue to expand our Federal employees system willy-nilly, we will be risking the retirement of a very large number of civil servants.

Mr. COLLINS of Texas. Without a ceiling it would mean personnel headquarters could just go out and pick anybody here and there without giving present civil service people a chance for advancement.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Iowa to limit the number of Federal employees. It is abundantly clear to me, American taxpayers are at the absolute limit of their tolerance on Federal spending and bureaucracy.

As the gentleman carefully explained, this amendment will not work an unreasonable hardship on the administration since the President is required to comply with the employment limit within 1 year of enactment and the number, by which Federal employment will be reduced, may easily be reached through attrition.

By requiring the President to insure, by regulation, that no increase in the contracting out of services will result from the limit on Federal employment, will effectively prevent the administration from attempting to "end-run" the Congress.

As my colleagues may have noted, recent testimony by HEW Secretary Califano, before the Senate Appropriations Committee, painted a pretty bleak picture for the American taxpayer. According to Secretary Califano, the Department is paying the salaries of 144,256 regular HEW employees plus the salaries of another 980,217 people who work for private think tanks, universities, State and local government agencies, and the like. The total exceeds 1 million, direct and indirect jobs, dependent on HEW funds. This figure, mind you, refers only to one of our major departments.

Mr. Chairman, Federal spending and "jobs creation" by Uncle Sam has grown to staggering proportions. I believe this amendment will enable us to help stem this growth, and I encourage my colleagues to join me in supporting it.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, one of the questions I would have about this is when we start throwing figures out about how many people there are or there are not in civil service employment, one question is how many of those jobs then get contracted out? One of the difficulties we have on this, and I would appreciate the help of the gentleman from Iowa on this, is what we see happening is a shell game. Very often when one tries to get the number of people on the Federal employee rolls down, then they contract out jobs. We still have those people to pay and sometimes it even costs more.

I would hate to see only in-house personnel figures set in an amendment. I think we are aware of the A-76 circular from OMB, which went out under the previous administration, which was to try to force as many jobs as possible out under contract. I wonder if the gentleman is aware how many we contract out and whether or not we count those in the ceiling, and how do we deal with that?

Mr. LEACH. Since 1961 Federal employment has increased 25.8 percent while the population as a whole increased about 19 percent. And, although we do not have the exact figures, clearly the number of individuals involved in contracted service has increased substantially greater than the civil service itself.

The Civil Service Commission does not know how many contracted-out jobs there are in America today. This amendment addresses this issue by saying the ceiling that will be placed cannot be subverted by creating new contracted-out jobs in place of Federal positions. This amendment then does address the issue Mrs. SCHROEDER has referred to.

Mr. CHARLES H. WILSON of California. Mr. Chairman, I move to strike the requisite number of words.

I wonder if the gentleman from Arizona could respond to a question for me. I was a little surprised that the gentleman from Iowa mentioned that the Federal work force of employees went down during the past 2 administrations, talking about the Ford and Nixon administrations. Did not the gentleman from Arizona hold some studies that showed they went up? What levels are we talking about?

Mr. UDALL. The gentleman from Iowa is talking about overall levels and his figures are right in terms of reduction over the previous 8 years. But that makes the point I was trying to make earlier. We do not have enough facts. Does anyone feel that we have enough facts here about what is a valid personnel ceiling? Maybe we ought to have one, but we cannot solve all the problems of the world in this bill today.

Mr. CHARLES H. WILSON of California. I would hope we could.

Mr. UDALL. The point I was making is the supergrades and executives increased greatly. I have made a study of that. The White House upper levels went

completely out of hand. They more than doubled the top levels in the White House.

Mr. CHARLES H. WILSON of California. In other words, they got rid of the lower levels and put in more upper levels?

Mr. UDALL. They have had more chiefs and fewer Indians in those years.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Iowa (Mr. LEACH).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. LEACH. Mr. Chairman, I demand a recorded vote, and, pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

The CHAIRMAN. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to record their presence. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 748]

Ambro
Ammerman
Andrews, N.C.
Applegate
Archer
Armstrong
Aspin
Badham
Beard, R.I.
Beard, Tenn.
Biaggi
Bingham
Boggs
Boland
Bonker
Brademas
Breaux
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Burgener
Burke, Calif.
Burke, Fla.
Burton, John
Burton, Phillip
Byron
Chappell
Chisholm
Clawson, Del
Cochran
Cohen
Collins, Ill.
Conyers
Corcoran
Cornwell
Coughlin
Delaney
Dickinson
Dingell
Downey
Eckhardt
Emery
Evans, Colo.
Evans, Del.
Evans, Ga.
Fary
Fithian
Flood
Florio
Flowers
Flynt
Fraser
Frey
Fuqua
Gialmo
Gibbons
Glickman
Hagedorn
Hansen
Harrington
Harsha
Heckler
Hollenbeck
Huckaby
Ireland
Jenkins
Johnson, Colo.
Jones, N.C.
Kasten
Kemp
Krueger
Latta
Leggett
Lehman
Lujan
McDonald
McHugh
Madigan
Mathis
Meeds
Mikva
Milford
Miller, Calif.
Mitchell, Md.
Moakley
Moorhead, Calif.
Moss
Neal
Oakar
Obey
Pattison
Pease
Pettis
Pike
Quie
Rangel
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Rodino
Rosenthal
Rousselot
Rudd
Russo
Ryan
Santini
Sarasin
Scheuer
Shipley
Shuster
Sisk
St Germain
Stark
Steed
Steiger
Stratton
Stump
Symms
Teague
Thornton
Traxler
Treen
Tsongas
Tucker
Ullman
Vander Jagt
Walgren
Waxman
Wiggins
Wilson, Bob
Wilson, Tex.
Wright
Young, Alaska
Young, Tex.
Zeferetti

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA), having assumed the chair, Mr. NEDZI, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill, H.R. 11280, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 294 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

RECORDED VOTE

The CHAIRMAN pro tempore. The pending business is the demand of the gentleman from Iowa (Mr. LEACH) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 251, noes 96, not voting 85, as follows:

[Roll No. 749]

AYES—251

Abdnor
Ambro
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Aspin
AuCoin
Badham
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bevill
Blanchard
Blouin
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Broomfield
Broyhill
Buchanan
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Caputo
Carney
Carter
Cavanaugh
Cederberg
Clausen, Don H.
Cleveland
Coleman
Collins, Tex.
Conable
Conte
Cornell
Cornwell
Cotter
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
de la Garza
Dent
Derwinski
Devine
Dodd
Dornan
Drinan
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Okla.
Eilberg
English
Erlenborn
Ertel
Evans, Ind.
Fascell
Fenwick
Findley
Fish
Fithian
Flippo
Florio
Flynt
Foley
Forsythe
Fountain
Fowler
Frenzel
Gammage
Gaydos
Gephardt
Gilman
Ginn
Glickman
Goldwater
Goodling
Gradison
Grassley
Green
Gudger
Guyer
Hall
Hamilton
Hammer-schmidt
Harkin
Harrington
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Holt
Horton
Hubbard
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenrette
Jones, N.C.
Jones, Okla.
Kazen
Kelly
Keys
Kildee
Kindness
Kostmayer
Krebs
Lagomarsino
Leach
Lederer
Lent
Levitas
Livingston
Lloyd, Calif.
Long, La.
Lott
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mattox
Mazzoli
Michel
Mikulski
Milford
Miller, Ohio
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moss
Murphy, Pa.
Myers, John
Natcher
Neal
Nichols
Nowak
O'Brien
Oakar
Panetta
Pepper
Perkins
Pickle
Pike
Poage
Pressler
Pritchard
Pursell
Quayle
Quillen
Railsback
Regula
Rhodes
Roberts
Robinson
Roe
Rogers
Rose
Runnels
Ruppe
Russo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sharp
Shuster
Sikes
Skelton
Smith, Iowa
Smith, Nebr.
Snyder
Spellman
Spence
Staggers
Stangeland
Stanton
Steed
Stockman
Studds
Symms
Taylor
Thone
Treen
Trible
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Weaver
Whalen
White
Whitehurst
Whitley
Whitten
Winn
Wirth
Wolff
Wydler
Wylie
Yatron
Young, Fla.
Young, Mo.
Zablocki

NOES—96

Addabbo
Akaka
Alexander
Anderson, Calif.
Andrews, N.C.
Ashley
Bellenson
Bingham
Boggs
Bolling
Bonior
Brooks
Burton, John
Carr
Clay
Collins, Ill.
Corman
Danielson
Davis
Dellums
Derrick
Dicks
Diggs
Downey
Duncan, Oreg.
Edwards, Calif.
Evans, Colo.
Fisher
Ford, Mich.
Ford, Tenn.
Garcia
Gialmo
Gonzalez
Gore
Hannaford
Harris
Hawkins
Holtzman
Howard
Johnson, Calif.
Jones, Tenn.
Jordan
Kastenmeier
LaFalce
Le Fante
Leggett
Lloyd, Tenn.
Long, Md.
McFall
McHugh
Meeds
Metcalfe
Meyner
Mineta
Minish
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Gary
Myers, Michael
Nedzi
Nix
Nolan
Oberstar
Obey
Ottinger
Patten
Patterson
Pattison
Pease
Preyer
Price
Rahall
Reuss
Roncalio
Rooney
Rosenthal
Rostenkowski
Roybal
Scheuer
Seiberling
Simon
Slack
Solarz
Stark
Steers
Stokes
Thompson
Tucker
Udall
Ullman
Van Deerlin
Waxman
Weiss
Yates

NOT VOTING—85

Ammerman
Armstrong
Biaggi
Boland
Bonker
Breaux
Brown, Calif.
Brown, Mich.
Brown, Ohio
Burgener
Burke, Calif.
Burke, Fla.
Burton, Phillip
Byron
Chappell
Chisholm
Clawson, Del
Cochran
Cohen
Conyers
Corcoran
Delaney
Dickinson
Dingell
Eckhardt
Emery
Evans, Del.
Evans, Ga.
Fary
Flood
Flowers
Fraser
Frey
Fuqua
Gibbons
Hagedorn
Hanley
Hansen
Hollenbeck
Huckaby
Jenkins
Johnson, Colo.
Kasten
Kemp
Krueger
Latta
Lehman
Lujan
Mathis
Mikva
Miller, Calif.
Mitchell, Md.
Moorhead, Calif.
Moss
Pettis
Quie
Rangel
Richmond
Rinaldo
Risenhoover
Rodino
Rousselot
Rudd
Ryan
Sarasin
Shipley
Sisk
Skubitz
St Germain
Steiger
Stratton
Stump
Teague
Thornton
Traxler
Tsongas
Vander Jagt
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wright
Young, Alaska
Young, Tex.
Zeferetti

Mr. MARKEY changed his vote from "no" to "aye."

Mr. NOLAN changed his vote from "aye" to "no."

So the amendments were agreed to.

The result of the vote was announced as above recorded.

Mr. UDALL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take just a moment to answer the inquiries which a number of my colleagues have made about our plans for this evening.

This is the third full day of action on this important legislation. The leadership had committed to us this evening

so that we could go as long as necessary to finish action on the bill. We are on title III, and a lot of the controversy still remains. There are 11 titles in the bill.

It had been my hope and expectation that by 9 o'clock or so, we could finish the bill, but at the rate we are going, it does not look very good. However, we do intend to stay as long as necessary tonight to finish the legislation.

Mr. Chairman, I would urge on my colleagues the philosophy that I have always followed, which is that the function of debate in the House Chamber is to let the House act as a court of appeal on major issues, a half dozen or 8 or 10 major issues that could not be resolved in the committee, where we had a close vote, and not try to have a full-scale markup.

However, this subject of civil service arouses the passions of the Members. Most of us have one or two pet ideas about what ought to be done to improve the civil service.

I know of three noncontroversial amendments to title III. I am going to accept them. I think there is one and perhaps two amendments which may require a little bit of discussion, but I would hope that we could close out the debate on title III in the next 30 minutes or so and get on to some of the more important parts of the bill.

AMENDMENT OFFERED BY MR. HARRIS

Mr. HARRIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARRIS: Page 190, after the matter following line 6, insert the following new section:

EXCEPTIONS FROM THE COMPETITIVE SERVICE

SEC. 301A. (a) Section 2103 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(c)(1) The President may, by Executive order, except any position from the competitive service if the President determines that—

"(A) the duties of such position—

"(i) require significant involvement in the advocacy of Presidential administration programs and support of their controversial aspects,

"(ii) require significant participation in the determination of major policies of such administration, or

"(iii) principally involve serving as a personal assistant to or advisor of a Presidential appointee, or serving in a confidential relationship directly under such a personal assistant or advisor; or

"(B) it would be impracticable to apply competitive examination procedures in the filling of such position because of—

"(i) national security,

"(ii) statutory or other significant requirements establishing special employment conditions,

"(iii) the unusual nature of the duties of such position,

"(iv) duration and frequency of service,

"(v) work location, or

"(vi) inadequate number of applicants.

"(2) Periodically (but not less often than 2 years), the President shall review exceptions from the competitive service under Presidential authority, and shall revoke an exception if the President determines that, because of changed circumstances, the exception is no longer appropriate under the provisions of paragraph (1) of this subsection.

"(3) The President shall periodically review exceptions from the competitive service in the Executive agencies made by or under statute, and shall prepare and transmit a report on each such review to each House of the Congress containing such legislative and administrative changes as the President considers appropriate.".

(b) Section 3302(1) of title 5, United States Code, is amended by inserting ", to the extent authorized under section 2103(c) of this title," after "necessary exceptions".

Mr. HARRIS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. HARRIS. Mr. Chairman, this amendment simply calls for placing into statute what is already in law, under the Executive order with respect to excepting positions from the civil service merit system.

It further calls for a study of those positions which have been excepted from the civil service system and calls for such report to be made to Congress.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, this is a reporting amendment, and it carries forward some of the Executive order provisions.

I am prepared to accept it.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I am happy to yield to my colleague, the gentleman from Illinois.

Mr. DERWINSKI. Mr. Chairman, I always prided myself on recognizing a good amendment when I see one. Therefore, we will accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. HARRIS).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. HANNAFORD

Mr. HANNAFORD. Mr. Chairman, I offer the following amendments.

The Clerk read as follows:

Amendments offered by Mr. H(&&(6*84: Page 200, line 13, insert "(a)" after "Sec. 308.".

Page 200, after line 20, insert the following new subsection:

(b)(1) Section 8339 of title 5, United States Code, relating to computation of annuity, is amended by adding at the end thereof the following new subsection:

"(n)(1) An employee or Member who, at the time of retiring—

"(A) if married, notifies the Office of Personnel Management under subsection (j) of this section that he does not desire any spouse surviving him to receive an annuity under section 8341(b) of this title; or

"(B) if unmarried, does not elect a reduced annuity under subsection (k)(1) of this section;

may, during a period of one year beginning on the date of the retirement of such employee or Member, elect a reduced annuity with a survivor annuity under subsection (j) or (k)(1) of this section, as the case may be, if during such period such employee or Member deposits into the Fund the amount specified in paragraph (2) of this subsection.

"(2) The amount to be paid under paragraph (1) of this subsection is an amount equal to the sum of—

"(A) the full amount by which the annuity paid to such employee or Member would have been reduced for the period beginning on the date of his retirement and ending on the date on which he makes an election under paragraph (1) of this subsection if he had elected at the time of retirement to receive a reduced annuity under subsection (j) or (k)(1) of this section, as the case may be; plus

"(B) interest on such amount at the average annual interest rate earned during such period by securities held by the Fund.

"(3) An election by an employee or Member under paragraph (1) of this subsection voids prospectively any election previously made by such employee or Member under subsection (j) or (k)(1) of this section.

"(4) An annuity which is reduced by reason of an election made under paragraph (1) of this subsection shall be reduced by the same percentage reductions as were in effect at the time of the retirement of the employee or Member whose annuity is so reduced.

"(5) Rights and obligations resulting from the election of any reduced annuity under this subsection shall be the same as those rights and obligations which would have resulted had the employee or Member involved elected such annuity at the time of retiring.".

(2)(A) Section 8339(j) of title 5, United States Code, is amended by adding at the end thereof the following new sentence: "An employee or Member who, at the time of retirement, elects not to receive a reduced annuity under this subsection may, as provided in subsection (n) of this section, later elect to receive such an annuity.".

(B) The first sentence of section 8339(k) of title 5, United States Code, is amended—

(i) by inserting "or as provided in subsection (n) of this section" before ", an unmarried employee"; and

(ii) by inserting after "retired employee or Member" the following: ", except that an election under subsection (n) of this section may be made only with respect to an individual who had an insurable interest in such employee or Member at the time of the retirement of such employee or Member".

(3)(A) Subject to the provisions of subparagraph (B), the amendments made by this subsection shall apply with respect to employees and Members retiring before, on, or after the date of the enactment of this Act.

(B)(i) For purposes of applying the provisions of paragraph (1) of section 8339(n) of title 5, United States Code, as added by this subsection, to employees and Members retiring before the date of the enactment of this Act—

(I) the period referred to in such paragraph shall be considered to begin on the date of the enactment of this Act, and

(II) the amount referred to in such paragraph shall be computed without regard to the provisions of paragraph (2)(B) of such section 8339(n) respecting interest.

Mr. HANNAFORD (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

Mr. UDALL. Mr. Chairman, I reserve a point of order against the amendments.

The CHAIRMAN. The gentleman from Arizona (Mr. UDALL) reserves a point of order.

Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HANNAFORD. Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HANNAFORD. Mr. Chairman, I rise to offer amendments.

The language of my amendment is embodied in H.R. 3800, which I introduced last year. This gives civil service retirees a second chance to elect a survivor annuity.

Since its initial introduction, the bill has received the support of 44 cosponsors including Chairman NIX of the Post Office and Civil Service Committee, GLADYS SPELLMAN, chairman of the Subcommittee on Compensation and Employee Benefits, and nine other members of the Post Office and Civil Service Committee. The National Association of Retired Federal Employees has fully endorsed the bill. Furthermore, I have recently received 103 petitions signed by concerned constituents and 569 persons have written expressing support for this measure.

Under current law, a civil service employee must announce a survivor beneficiary at the time of retirement. If a survivor is not named at that time, the individual has no recourse. My amendment would give the retiree a second chance.

My amendment provides an equitable solution to a problem faced by many elderly individuals. But the amendment does not provide a free ride. It requires that a retiree who takes advantage of this second-chance election must pay back into the fund a sum equal to the amount that would have been deducted from his or her annuity since the time of retirement. In addition, a reasonable amount of interest must be paid. This provision will deter individuals from using the additional money as an interest free loan and then declaring a survivor after retirement.

CBO estimates that an average of $2,000 will be paid by about 2,600 retirees to participate in the program. This would total $5.2 million in additional revenues to the Federal Treasury.

To ease the administrative burden, I have stipulated that retirees will have 1 year from the date of enactment or 1 year from the date of retirement, which ever is later, to make use of this second-chance election.

Your support for this equity proposal is important and I urge a "yes" vote.

I do want to commend the gentleman from Arizona (Mr. UDALL) and the Members on both sides of the aisle for their splendid work on this historic piece of legislation. The problem that many of us have found—at least which I have found—is that because of the importance of this piece of legislation it has been difficult to get action that is worthy and related, and that is the reason perhaps for the difficulty that the distinguished committee and the chairman of the subcommittee have had with the bill. I want to explain the purpose of the legislation and get the reaction, if I could, from the gentleman from Arizona.

This amendment simply allows a second chance annuity selection for Federal retirees. We have had it analyzed by the CBO, and their determination is that it has no added cost. It has widespread support. I have personally had over 500 letters in support of this legislation. My bill has 44 cosponsors, including wide support on the Committee on Post Office and Civil Service. I think the gentleman from Arizona (Mr. UDALL) has a clear understanding of the intent of my amendment, and I would like to get his response to it, if I could.

Mr. UDALL. Let me say to the gentleman from California, if he will yield, that I admire and respect the work that he has done on this place of legislation. I regret that the committee, and the committee in the other body have not had time to act on it. It is not directly related to the overall subject of civil service reform, and there are conflicting estimates as to its cost. For example, the Civil Service Commission estimates that the increase in the unfunded liabilities of the system would be something on the order of $200 million if this were passed. Nonetheless, I would be prepared in the next Congress to take a look at the legislation to see if we cannot do justice to the thousands of people the gentleman has been working very hard for. I am going to be constrained at this time to oppose the amendment or to insist on my point of order. I would hope the gentleman, with the assurances that he has here, would not insist on his amendment, and perhaps he might be willing to withdraw it.

Mr. HANNAFORD. Mr. Chairman, I appreciate the gentleman's assurances. I do think the hasty estimates of added cost are incorrect. If they are correct, then the instructions on my amendment to the staff and to the counsel were not followed, because I am assured that the beneficiaries of this amendment would be, indeed, required to fully compensate both in terms of added payment and interest on their added payment in order to bring themselves in with the survivor. But I will accept the gentleman's assurances and withdraw out of respect for the fine work that the committee has done and their difficult job that they had before them. I do hope that we can get early hearings on this in the next Congress, as I have tried to do for the last 2 years.

Mrs. SPELLMAN. Mr. Chairman, will the gentleman yield?

Mr. HANNAFORD. I yield to the gentlewoman from Maryland.

Mrs. SPELLMAN. I thank the gentleman for yielding.

I want to commend the gentleman on offering this amendment, something that certainly is much needed. As the chairman of that subcommittee, I would pledge to hold hearings on this so that we can move it forward.

I appreciate this assurance from the gentlewoman from Maryland and I yield back the balance of my time.

Mr. HANNAFORD. With these kinds of assurances, Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENTS OFFERED BY MRS. SCHROEDER

Mrs. SCHROEDER. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mrs. SCHROEDER: Strike out section 311 (beginning on line 1 of page 203 and ending on line 3 of page 206) and insert in lieu thereof the following:

DUAL PAY FOR RETIRED MEMBERS OF THE UNIFORMED SERVICES

SEC. 311. Section 5532 of title 5, United States Code, relating to retired officers of the uniformed services, is amended by striking out so much of such section as precedes subsection (c) and by inserting in lieu thereof the following:

"§ 5532. Employment of retired members of the uniformed services; reduction in pay

"(a) If any member or former member of a uniformed service is receiving retired or retainer pay and is employed in a position the annual rate of basic pay for which, when combined with the member's annual rate of retired or retainer pay, exceeds the rate of basic pay then currently paid for level V of the Executive Schedule, such member's retired or retainer pay shall be reduced by an amount computed under subsection (b) of this section. The amounts of the reductions shall be deposited to the general fund of the Treasury of the United States.

"(b) The amount of each reduction under subsection (a) of this section allocable for any pay period in connection with employment in a position shall be equal to the retired or retainer pay allocable to the pay period, except that the amount of the reduction may not result in the amount of retired or retainer pay allocable to the pay period after being reduced, when combined with the basic pay for the employment during the pay period, being at a rate less than the rate of basic pay then currently paid for level V of the Executive Schedule.".

(b) Section 5531 of title 5, United States Code, relating to definitions, is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) 'member' has the meaning given such term by section 101(23) of title 37;";

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(3) 'retired or retainer pay' means retired pay, as defined in section 6311(3) of this title, determined without regard to subparagraphs (B) through (D) of such section 6311(3); except that such term does not include an annuity payable to an eligible beneficiary of a member or former member of a uniformed service under chapter 73 of title 10.".

(c) Section 5532(c) of title 5, United States Code, is amended—

(1) by striking out "subsection (b) of";

(2) by striking out "or retirement" each place it appears and inserting in lieu thereof "or retainer";

(3) by striking out "a retired officer of a regular component of a uniformed service" and inserting in lieu thereof "a member or former member of a uniformed service who is receiving retired or retainer pay"; and

(4) in paragraph (1), by striking out "whose retirement was" and inserting in lieu thereof "whose retired or retainer pay is computed, in whole or in part,".

(d) Section 5532(d) of title 5, United States Code is amended by inserting in lieu thereof the following:

"(d) The Office of Personnel Management may authorize exceptions to the restrictions in subsections (a) and (b) of this section only when necessary to meet special or emergency employment needs which result from a severe shortage of well qualified candidates in positions of medical officers which otherwise cannot be readily met."

(e) The item relating to section 5532 in the analysis for chapter 55 of title 5, United States Code, is amended to read as follows:

"5532. Employment of retired members of the uniformed services; reduction in pay."

(f)(1) The amendments made by this section shall apply only with respect to pay periods beginning after the effective date of this Act and only with respect to members of the uniformed services who first receive retired or retainer pay (as defined in section 5531(3) of title 5, United States Code (as amended by this section)), after the effective date of this Act.

(2) The provisions of section 5532 of title 5, United States Code, as in effect immediately before the effective date of this Act, shall apply with respect to any retired officer of a regular component of the uniformed service who is receiving retired pay on or before such date in the same manner and to the same extent as if the preceding subsections of this section had not been enacted.

Mrs. SCHROEDER (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be consider as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

Mrs. SCHROEDER. Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

Mrs. SCHROEDER. Mr. Chairman, these are amendments suggested by the administration to section 311, the Dual Compensation Act amendments, in the bill.

The amendments do not change the general thrust of the section, which is to place a "cap" of Executive Level V (now $47,500 per year) on retired military personnel holding civil service jobs and also drawing military retirement.

The changes do the following:

First. Reduce retired pay, rather than salary, to meet the cap. The Department of Defense informed me that from the bookkeeping standpoint they will have a much easier time in assuring that all affected individuals are covered.

Three examples will suffice to explain this change:

A retiree draws $30,000 in retired pay and is appointed Secretary of State, at $60,000 per year. The provision reduces his retired pay to $0. It does not provide for a reduction in his Secretary's salary so, like any other Secretary of State, he gets the $60,000 salary for the job he is now doing. The amendment never reduces salary, even if the salary itself is more than $47,500.

A retiree draws $10,000 in retired pay and holds a $37,500 per year civil service job. There is no reduction in retired pay since his retired pay does not push him over Executive Level V ($47,500 per year).

A retiree draws $12,500 in retired pay and holds a $37,500 per year civil service job. His retired pay would be reduced by $2,500 per year, since if he was paid that $2,500 in retired pay he would be over Executive Level V.

Second. Eliminate the reference to VA benefits falling under the reduction provision. The Veterans' Administration and DOD both were concerned that inclusion of such benefits would set an unwanted precedent and make it extremely difficult to administer the act in a uniform manner. Exclusion of the amount of these benefits are, in any event, not large enough to have any appreciable effect upon the intentions of the amendment.

Third. Assure, through certain language changes, that military survivor benefits are not unintentionally covered by the reduction provisions, and that retired naval enlisted personnel who technically draw "retainer" pay are covered.

Fourth. Permit, in extremely limited circumstances, an exception to the pay cap in the case of medical officers who are in severe shortage.

Mr. UDALL. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. The gentlewoman would be delighted to yield.

Mr. UDALL. Mr. Chairman, the amendment has been cleared with the Civil Service Commission. It carries out the purposes of what the committee did and it is acceptable to us.

Mr. DERWINSKI. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. The gentlewoman would be delighted to yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Chairman, I would just ask if in the process of revising and extending the gentlewoman would provide the full explanation of the amendment for the RECORD and that would give us what we need for this procedure?

Mrs. SCHROEDER. Mr. Chairman, I would be more than happy to. I have written out here exactly what we are doing. I had planned to read it, but I thought at this point I would give our ears a break and just put it in the RECORD.

Mr. DERWINSKI. Mr. Chairman, we realize the amendment of the gentlewoman is consistent with what the gentlewoman put in the committee and that works out fine.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Colorado (Mrs. SCHROEDER).

The amendments were agreed to.

AMENDMENTS OFFERED BY MR. GILMAN

Mr. GILMAN. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendment offered by Mr. GILMAN: Page 195, insert after line 9 the following:

(g) Section 3318(b) of title 5, United States Code, is amended by striking out ", on request, is entitled to a copy of" and inserting in lieu thereof "is entitled to receive, on or before the 15th day after the day on which he is passed over, a copy of".

Page 195, line 10, strike out "(g)" and insert in lieu thereof "(h)".

Page 196, line 11, strike out "(j)" and insert in lieu thereof "(i)".

Page 196, line 18, strike out "(k)" and insert in lieu thereof "(j)".

Page 196, line 24, strike out "(l)" and insert in lieu thereof "(k)".

Mr. GILMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read, printed in the RECORD, and that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GILMAN. Mr. Chairman, my amendment would require the Office of Personnel Management to provide a preference eligible or his designated representative, if said preference eligible is listed on a certificate of the highest three eligibles available for appointment furnished under section 3317(a) of this title, within 15 days of having been passed over by an appointing authority, a copy of:

First. The written reasons submitted by the appointing authority for having passed over a preference eligible; and

Second. The finding of the Commission as to the sufficiency or insufficiency of the reasons submitted by the appointing authority for the passover.

As matters now stand, a preference eligible or his designated representative may only receive the above mentioned information upon written request to the Commission. This procedure has proven inadequate, and more pointedly, has rendered the rule of three meaningless for those preference eligibles interested in Federal employment and certified by the Commission as eligible for appointment.

Current law requires the Commission to make up registers of those scoring highest, from which appointing officers are to select from any one of the top three available eligibles certified by the Commission (the so-called rule of three). An appointing authority may not pass over a preference eligible and appoint a nonpreference eligible lower on the list unless the Commission agrees that the reasons for passing over the preference eligible are sufficient. If a preference eligible is passed over, and is aware of it, he may appeal the passover as an adverse action. More often than not, however, a preference eligible is not advised or even aware of the fact that he has been passed over, thereby preventing him from initiating such an appeal.

This sad state of affairs is made doubly unfortunate both by the manner in which the Commission has blatently circumvented the rule of three, as I will next outline, and the increasing frequency with which the Commission rubber stamps requests from agencies for permission to passover preference eligibles among the top three candidates. For instance, in fiscal year 1976–77 alone, somewhere between 73 percent and 78 percent of passover requests were granted by the Commission.

The Civil Service Commission (CSC) has encouraged agencies to make use of a variety of hiring practices when problems are encountered in obtaining individuals, other than preference eligibles, from CSC registers by turning a blind eye to questionable procedures used by agencies to circumvent veterans' preference.

CSC, in its June 8, 1976, report to the House Committee on Post Office and Civil Service, "A Self-Inquiry Into Merit Staffing," recognized the veterans' preference causes agencies to utilize questionable hiring practices.

This problem has been recently highlighted in a letter to the chairman of the Post Office and Civil Service Committee, Congressman NIX of Pennsylvania, dated June 26, 1978, from the Disabled American Veterans, wherein it was specifically alleged, and documented, that "the Civil Service Commission chairman or responsible staff members have known since March 1977 that 26 of 40 agencies studied 'Did not have proper procedures in place for the observance of veterans preference requirements in the hiring of attorneys'. Included among the 65 percent of agencies in non-compliance were the Department of Justice, Immigration and Naturalization Service, Drug Enforcement Administration, and the Law Enforcement Assistance Administration."

Another indication of the Commission's lack of concern and neglect of preference eligibility rights in this area is reflected in the Commission's failure to maintain any records advising as to the number of preference eligibles who were taken off a certified register for reason of having been passed over three times. Sec. 3317(b) of title 5 provides that if a preference eligible who was certified from a register has been passed over three times, with such passovers approved by the Commission, certification of the preference eligible may be discontinued, but the preference eligible is entitled to advance notice of such discontinuance. Yet the Commission has advised veteran groups that they do not know how many preference eligibles were taken off registers after the required three passovers.

Mr. Chairman, the decision of the House today to retain the "rule of three" underlines the Congress commitment to continue this procedure. My amendment only insures that the House's will be carried out by the Office of Personnel Management and the agencies.

Mr. Chairman, this amendment was urged by the American Legion, the VFW, and the DAV on their testimony before our committee and enjoys their wholehearted support.

Mr. Chairman, I urge my colleagues to adopt this amendment.

Mr. HAMMERSCHMIDT. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I am happy to yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Chairman, I rise in support of the amendment offered by the gentleman from New York (Mr. GILMAN).

Mr. Chairman, I rise in support of the gentleman from New York's amendment.

At present a preference eligible who is passed over is not aware of any reason why he or she should request a copy of the reasons for being passed over nor are they aware of the Civil Service Commission thereon since he is not aware he has been passed over.

Such a requirement as composed by the amendment from the gentleman from New York would both inform the preference eligible he has been passed over, aid him in evaluating and improving his job search, and put the Agency and Commission squarely on record.

About 75 percent or more of all agency requests to the Commission for approval of passovers are approved. The Commission argues that this almost blanket approval is granted because only cases which the agencies are confident will be approved are submitted to the CSC. However, there is no way to check this since only rarely do preference eligibles ever request information on being passed over.

If there is no way to determine whether the passover system is equitable under present law and regulations, how could any preference eligible determine whether he had been passed over when the personnel selection system, as contemplated under the new system would be decentralized to the agencies in most cases?

Mr. Chairman, I urge the adoption of the gentleman's amendment.

Mr. GILMAN. Mr. Chairman, I thank the gentleman from Arkansas (Mr. HAMMERSCHMIDT) for his support.

Mr. DERWINSKI. Mr. Chairman, since the debate on this amendment seems to be centered on this side, I wish to express my opposition to this amendment.

I would like to alert the Members to the fact that there are at least two, if not three, amendments of which I am aware that Members have to offer attacking what they call "paperwork." The effect of this amendment is to add to paperwork.

This amendment requires certain reporting provisions to individuals when at the present time we have a system which has worked well, and as far as I know, there have not been major complaints against the procedure.

This amendment would in effect mandate certain additional reporting requirements and would be a bonus for attorneys, but I do not believe it would help run our Government, and I do not believe it would help the Civil Service structure function more properly.

Mr. Chairman, the amendment was offered in committee, and it was rejected by a vote of 15 to 6, reflecting bipartisan opposition and support.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I associate myself with the remarks of the gentleman from Illinois (Mr. DERWINSKI).

This amendment is unnecessary. It would simply generate a great deal more paperwork.

A veteran now is entitled to this information if he asks for it. This says that if a veteran has moved away and is no longer interested, they still have to run him down and tell him he is entitled to this copy. This would simply create more paperwork. The system we have now has worked very well.

Mr. Chairman, the administration does not support this amendment, and the committee is opposed to it. The system has worked very well the way it is, and I hope we will reject the amendment.

Mr. GILMAN. Mr. Chairman, will the gentleman yield further?

Mr. DERWINSKI. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I wish to point out that if the system was working well, we certainly would not need this sort of amendment. At present a preference eligible is not aware of any reason why he should request a copy of the reasons for being passed over after they have been filed by the Commission since he is not even aware that they were filed or that he had been "passed over." Such a requirement as imposed by this amendment would both inform the preference eligible that he has been passed over and it would assist him in evaluating his job search. It would put the agency and the Commission squarely on record.

Mr. Chairman, this amendment does nothing more than give proper notice to a veteran who has been passed over.

Mr. DERWINSKI. But, Mr. Chairman, we have to face up to the facts of life, and the facts of life are that the average veteran in civil service is well aware of what his rights are, and if he has any doubt of the procedure after being passed over, he can get the information.

I may also say—and I say this with great respect for my dear friend, the gentleman from New York (Mr. GILMAN)—that at the time the gentleman offered this amendment in committee, it was when the committee had already adopted its version of the veterans' preference, and one of the gentleman's arguments for this amendment was that this was needed as sort of the last defense that a veteran should have.

Having corrected the committee's action earlier through the adoption of the Hanley amendment, this makes it a moot question in terms of veterans' protection and veterans' preference. I really look on this amendment as a "paperwork" amendment.

Mr. GILMAN. Mr. Chairman, will the gentleman yield further?

Mr. DERWINSKI. I yield to the gentleman from New York.

Mr. GILMAN. Far from obviating the need for the measure by the adoption of the veterans' preference provision, such passage makes it even more important, because this is one of the abuses that has continually occurred and which has eroded veterans' preference.

About 75 percent of the requests for passover are perfunctorily granted. Most veterans not knowing that they have been passed over on the list; have no way of objecting. This amendment merely provides reasonable opportunity to a veteran to be heard.

Mr. DERWINSKI. The gentleman from Arizona (Mr. UDALL) emphasized that when the Civil Service Commission passes over a preference eligible, it makes those reasons part of the record. The veteran, in most cases, does then review that record. And I do not think that the additional requirements that the gentleman is attempting to put in are going to do anything but create the very thing we want to avoid, which is a more complex, complicated paperwork and, therefore, an artificial delay in personnel matters.

Mr. GILMAN. If the gentleman will yield further, it is perfectly true that the information is placed in the veteran's record. The problem that necessitates this remedial legislation is that the veteran has no way of knowing that he has been passed over and has no opportunity to be heard when such information is placed in his record without adequate notice. That is precisely what this amendment seeks to correct, to give the veteran 15 days' notice of having been passed over so that if the facts warrant it, he can take the issue up on appeal to the appropriate authority.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New York (Mr. GILMAN).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. GILMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendments were rejected.

AMENDMENTS OFFERED BY MRS. SPELLMAN

Mrs. SPELLMAN. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mrs. SPELLMAN: Page 209, after line 12, insert the following new subsections:

INTERPRETING ASSISTANTS FOR DEAF EMPLOYEES

SEC. 313. (a) Section 3102 of title 5, United States Code, is amended—

(1) by redesignating paragraph (4) of subsection (a) as paragraph (5), by striking out "and" at the end of paragraph (3), and inserting after paragraph (3) the following new paragraph (4):

"(4) 'deaf employee' means an individual employed by an agency who establishes, to the satisfaction of the appropriate authority of the agency concerned under regulations of the head of that agency, that the employee has a hearing impairment, either permanent or temporary, so severe or disabling that the employment of an interpreting assistant or assistants for the employee is necessary or desirable to enable such employee to perform the work of the employee; and";

(2) in subsection (b), by inserting "and interpreting assistant or assistants for a deaf employee" after "or assistants for a blind employee", and amending the last sentence to read as follows: "A reading assistant or an interpreting assistant, other than the one employed or assigned under subsection (d) of this section, may receive pay for services performed by the assistant by and from the blind or deaf employee or a nonprofit organization, without regard to section 209 of title 18."

(3) in subsection (c), by inserting "or deaf" after "blind"; and

(4) by inserting at the end thereof the following new subsection:

"(d) The head of each agency may also employ or assign, subject to section 209 of title 18 and to the provisions of this title governing appointment and chapter 51 and subchapter VIII of chapter 53 of this title governing classification and pay, such reading assistants for blind employees and such interpreting assistants for deaf employees as may be necessary to enable such employees to perform their work.".

(b)(1) The analysis of chapter 31 of title 5, United States Code, is amended by striking out the item relating to section 3102 and inserting in lieu thereof the following:

"3102. Employment of reading assistants for blind employees and interpreting assistants for deaf employees.".

(2) The caption for section 3102 of title 5, United States Code, is amended to read as follows:

"§ 3102. Employment of reading assistants for blind employees and interpreting assistants for deaf employees".

(c) Section 410(b)(1) of title 39, United States Code, is amended by inserting after "open meetings)" a comma and "3102 (employment of reading assistants for blind employees and interpreting assistants for deaf employees).".

Page 209, line 14, strike out "313." and insert in lieu thereof "314.".

Conform the table of contents accordingly.

Mrs. SPELLMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read, printed in the RECORD, and that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

Mrs. SPELLMAN. Mr. Chairman, the amendments which I am introducing clarifies some existing doubt as to the authority of the Federal Government to hire or assign readers for blind employees. This amendment would also expand current law to provide specific authority for the employment or assignment of interpreters for the deaf and, additionally, would specifically apply such authorizations to the Postal Service.

I believe this amendment to be noncontroversal.

Section 501 of the Rehabilitation Act of 1973, requires each department, agency, and instrumentality of the Federal Government, including the Postal Service and Postal Rate Commission, to submit to the Civil Service Commission an affirmative action program for the hiring, placement, and advancement of handicapped individuals. Section 7153 of title 5, United States Code, authorizes the President to prescribe rules which shall prohibit as nearly as conditions of good administration warrant discrimination because of physical handicap in an executive agency or in the competitive service. They enunciate clearly Congress general goal that the Federal Government be a leader and set an example with respect to the employment of handicapped individuals.

Section 3102 of title 5, United States Code, initially enacted in Public Law 87-614, provides authority for the head of each agency to employ nonpaid readers for blind employees of the Federal Government without regard to provisions governing appointments in the competitive service. Contrary to the general prohibition against receiving salary from sources other than the Federal Government, subsection (b) of the section provides specifically that the reading assistant may be paid for his or her reading assistance services by the blind employee or a nonprofit organization. At the time of passage of Public Law 87-614, it was envisioned that readers would also serve on a voluntary basis. But no comparable provision was included regarding the use of nonpaid employees as interpreters for deaf employees.

Mr. Chairman, the limitation of section 3102 to nonpaid employees and the exclusion of interpreters for deaf employees from this statute's provisions, have restricted some Federal agencies from meeting their section 501 obligations. Indeed, in a letter to Senator RIBICOFF, Jule Sugarman, Vice Chairman of the Civil Service Commission, stated:

It is my understanding that an amendment to Section 3102 of title 5, United States Code, essentially authorizes the employment of reading assistants for blind employees and interpreters for deaf employees.

In our view, the authorization to provide for these services is needed very much. Federal employees are required by law to exercise affirmative action in the hiring, placement, and advancement of handicapped persons. For the successful employment of blind and deaf persons, two of the most important accommodations are readers and interpreters. We have stated for some time that such services are allowable on an "as required basis" by other Federal employees, but experience shows that these services are often inadequate.

The real need is to convince managers that these are legitimate services and refusal to employ or promote deaf or blind individuals cannot be based upon a need for "extra" services. (The) proposed amendment will be very helpful in overcoming these barriers and in assuring that the payment of these services is indeed legal. For these reasons, the Administration favors the amendment.

In summary, section 3102 currently is too vague and, at the same time, too restrictive to allow the Federal Government to effectively promote the hiring of blind and deaf individuals as required by section 501 of the Rehabilitation Act of 1973. My amendments would correct these flaws by providing, in law, specific authority for the employment and assignment of readers and interpreters for the handicapped. They have the full support of the administration, and I believe they should have the full support of my colleagues.

Mr. UDALL. Mr. Chairman, will the gentlewoman yield?

Mrs. SPELLMAN. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentlewoman for yielding.

Mr. Chairman, the gentlewoman submitted these amendments to us earlier. The Civil Service Commission has looked them over. They are consistent with

existing law. The Senate, in a similar bill, adopted an amendment like this.

Mr. Chairman, I personally support the amendments.

Mrs. SPELLMAN. I thank the gentleman.

The CHAIRMAN. The question is on the amendments offered by the gentlewoman from Maryland (Mrs. SPELLMAN).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. CLAY

Mr. CLAY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CLAY: Page 209, after line 13, insert the following:

CATEGORY RATING SYSTEM

SEC. 313. (a) Section 3304 of title 5, United States Code, is amended by inserting at the end thereof the following new subsection:

"(e)(1) Subject to the provisions of this title (other than section 3318(a)), in cases in which the qualifications of applicants are being determined without the use of written examinations, the Office may provide that individuals shall be evaluated in accordance with a category rating system established by the Office which divides the qualified applicants into three or more categories. The appointing or nominating authority may select any individual within the highest category, or, if at least three candidates have not received such a rating, any individual in the next highest category or categories if necessary to provide the appointing or nominating authority with at least three applicants from which to choose.

"(2) For the purpose of applying section 3318(b) of this title in cases to which paragraph (1) of this subsection applies, an individual shall not be considered to be passed over unless a selection is made from a category which is lower than the category for which that individual qualified.

Page 209, line 14, strike out "313." and insert in lieu thereof "314.".

Conform the table of contents accordingly.

Mr. CLAY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. CLAY. Mr. Chairman, this amendment provides category ratings of job applicants in Federal employment. This amendment has the support of the administration and is offered at their request.

It authorizes the Office of Personnel Management to evaluate job applicants according to three or more quality levels. This authority could only be used where the Office of Personnel Management measures the qualifications of candidates by other than written tests.

Like most private businesses, the Commission judges the qualifications of applicants for professional, administrative, and technical jobs by evaluating their experience and education, because it generally is not feasible to use written tests for those occupations. Yet, personnel laws written many years ago require that all applicants be rated numerically and that selections only be made from the three highest rated. Thus the Commission must make overly fine distinctions among applicants with virtually the same qualifications when, in fact, no measurable differences exist.

Mr. Chairman, under these conditions, use of category ratings—grouping together of all eligibles with relatively "equal" qualifications into broad classes would be appropriate. The categories would be "outstanding," "well-qualified," and "qualified"—which would permit selection for a larger number of eligibles, rather than individual scores. Federal agencies have expressed almost unanimous concern about inflexibilities imposed on their managers by Federal personnel laws, and many have suggested using alternate ranking procedures for Federal job applicants, along the lines of those already in use in State and local public merit systems.

Mr. Chairman, my amendment seeks to provide this needed flexibility. I urge my colleagues to support this amendment.

Mr. SOLARZ. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have great respect for our dearly beloved colleague from Missouri. He has contributed creatively and constructively to the shaping of this legislation, but I must say that this amendment really goes too far. In fairness to him, however, I take note of the fact that he indicated that it was supported by the administration and was presumptively introduced at their request.

I think that our colleagues on the committee should know just a little bit about the history of this amendment. When the President's proposal was submitted to our committee, it contained a recommendation that we reject the Rule of Three, which has historically determined selections within the merit system, and substitute for it instead the so-called Rule of Seven. Our committee, after carefully considering this proposal, rejected it by a substantial majority, on the grounds that a change from the Rule of Three to the Rule of Seven would substantially increase the possibilities for selection to Federal personnel on grounds other than merit.

Having suffered such a defeat in our committee, the administration now comes before the Committee of the Whole and asks us, in effect, to accept an amendment which goes, not from the Rule of Three to the Rule of Seven, but from the Rule of Three to the rule of anyone who is in the category of qualified. That could mean a selection not from the three most qualified, not even from the seven most qualified, but potentially from the 100 or 150 or 200 who were most qualified. I would submit that not since the passage of the Pendleton Act in 1883 has there been such an opportunity to fill the Federal service with as many patronage seekers such as would be provided by the adoption of this amendment. It would open the door to cronyism, to favoritism, to patronage, to racism, and to racism in reverse.

This amendment is presumably being offered in order to make it easier to bring women or minorities or others who have suffered from discrimination in the past into the Federal Government, and it is possible that under certain administrations it might work that way. But the fact is that it is also very possible that in the hands of other administrations this amendment would work the other way by making it possible to deny the most qualified jobseekers, particularly if they were black or if they were women or if they came from other minority groups in the population, jobs which, under the current Rules of Three, they would be able to obtain.

I would submit that the Rule of Three has served us well. I think the merit system has served us well. This amendment would go a long way toward gutting the merit system entirely. It is a frontal assault on the merit system and I urge my colleagues on the committee to reject it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. CLAY).

The question was taken; and on a division (demanded by Mr. CLAY) there were—ayes 12, noes 18.

Mr. CLAY. Mr. Chairman, I object to the vote on the ground that a quorum is not present.

The CHAIRMAN. The gentleman cannot object to the vote on the ground in the Committee of the Whole.

Mr. CLAY. Mr. Chairman, I demand a recorded vote, and pending that I make the point of order a quorum is not present.

The CHAIRMAN. The Chair will count for a quorum.

Mr. CLAY. Mr. Chairman, I ask unanimous consent to withdraw the point of order.

The CHAIRMAN. Without objection, the point of order is withdrawn.

There was no objection.

The CHAIRMAN. Does the gentleman ask for a recorded vote?

Mr. CLAY. No, Mr. Chairman, I withdraw my request.

So the amendment was rejected.

The CHAIRMAN. Are there other amendments to title III?

AMENDMENT OFFERED BY MR. JACOBS

Mr. JACOBS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JACOBS: Page 209, insert after line 12 the following new section:

LIMITATION ON THE NUMBER OF CERTAIN EXECUTIVE POSITIONS

SEC. 313. (a) Notwithstanding any other provision of law, the number of positions in the Federal civil service classified in grades higher than GS-13 shall, by September 30, 1981, not exceed—

(1) in the case of positions in GS-14, 44,658;

(2) in the case of positions in GS-15, 21,555;

(3) in the case of positions in GS-16, 2,906;

(4) in the case of positions in GS-17, 857; and

(5) in the case of positions in GS-18, 298.

(b) The Office of Personnel Management shall prescribe regulations necessary to carry out the purpose of this section.

Page 209, line 14, strike out "313." and insert in lieu thereof "314.".

Page 129, in the table of contents, strike out the item relating to section 313 and insert in lieu thereof the following:

"Sec. 313. Limitation on the number of certain executive positions.

"Sec. 314. Effective date".

Mr. JACOBS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. JACOBS. Mr. Chairman, the amendment goes this way. In what I call the GS rich, the GS-14's and above in the civil service, 10 percent of those people, roughly 10 percent leave Government every year—attrition, in other words.

Mr. DERWINSKI. Mr. Chairman, the House is not in order.

Mr. JACOBS. We are not in the House either, I might point out.

Mr. DERWINSKI. The Committee is not in order.

Mr. JACOBS. In any case, 10 percent of these people retire every year. What this amendment calls for is if we replace half the people who leave Government service in the GS-14 and above levels every year we will have this. In my hometown there is the Lilly pharmaceutical firm. Fifty years ago Mr. Lilly conducted a tour through his plant and somebody said: "Mr. Lilly, how many people work here?" And he said: "About half of them."

What we can do with this is replace about half the people in the GS-14 levels and above who leave Government service every year. That is, nobody would be fired, to quote a Presidential candidate in 1976, nobody would be fired, but they would leave only by attrition.

The best figures I can get are that 82,675 were on the payroll as GS-14's and above in 1977. That is where we just went back to, as Members will recall, by the previous amendment dealing with the subject. We would get over a 3-year period to work our way down to 70,274 employees, the reduction being half or 5 percent in each of those successive years, to a total of 15 percent reduction and a total savings to the taxpayers of something over a third of a billion dollars.

Mr. UDALL. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Indiana (Mr. JACOBS).

Mr. Chairman, this amendment may well have some appeal with some of the Members. I agree with my friend, the gentleman from Indiana (Mr. JACOBS) that there may be too many supergrade positions, too many highly paid persons in the different departments, but I have not the vaguest idea, at this hour of the night, what is a fair number of GS-14's or what is a fair number of GS-15's or GS-16's. I just think it is unwise to legislate in this way at this time.

Let me tell you what the bill does: We are trying to get at this in the bill and we are setting up in the bill, a pool. At long last we will have a Government-wide pool of supergrades. On page 217 of the bill there is a formula by which each agency submits its request for supergrades. They come to the Office of Personnel Management which makes the decision. The Congress every 2 years under this new system will fix these limits.

I would hope my friend the gentleman from Indiana (Mr. JACOBS) would be satisfied to let this new system try and work and see if we cannot get control of that problem in that fashion rather than legislating in the blind tonight. Maybe after it has been in effect we can exercise better judgment as to its results, but I do think it would be very unwise to adopt this amendment. That is why I am strongly opposed to it.

Mr. DERWINSKI. Mr. Chairman, if the gentleman will yield, let me say that I concur with the observations of the gentleman from Arizona (Mr. UDALL) to the gentleman from Indiana (Mr. JACOBS). The gentleman from Indiana is rightly concerned over the excessive number of supergrades, but I also concur with the gentleman from Arizona (Mr. UDALL) that this is not the way to approach the problem. Because actually, if we applied this proposal, it would bring administrative disaster to the Government. Because, in this blanket type of approach, it does not give any clues as to what agencies or departments should be involved, and in what manner. Congress is mandating, for example, under the growing Department of Energy certain supergrades, but we do not know how this would be affected under any new provisions in the energy bill that is now in the other body.

If you take a look at the practicality of it all, the attractiveness of it on the surface disappears once one takes a look at the administrative impossibility this would create.

Mr. UDALL. Mr. Chairman, what will occur if this amendment is adopted is, I think that every Member in this Chamber is going to be immediately besieged by people from the agencies over which his particular committee has jurisdiction, who will be wanting certain numbers of supergrades in that agency and they will be wanting exemptions to cover their agency and pretty soon we will be having exemptions in the authorization and the appropriation bills for different agencies and we will be right back where we are today.

This bill sets up a good framework, at least along the lines pointed out, so that I believe that the approach taken by the gentleman from Indiana, even though it may be commendable, is not the way to do it.

Mr. JACOBS. Mr. Chairman, if the gentleman will yield, first I want to say that maybe the janitor should assume that position in the Indianapolis office, as the supervisor, but I simply say that when you walk down the cavernous buildings in the city of Washington and see somebody reading a funny book, somebody who is asleep and somebody flirting at the water cooler, it would certainly seem to me that it is going to take until the turn of the century in order to catch up to the jobs through the procedure that you are suggesting.

As the gentlewoman from Colorado has said, when they come down to testify we do not understand them, they sound like they have feathers in their mouths, and all that, so that you will never do it if you wait until the end of the century this way.

I would say that this is just another way of how Parkinson's law can be repealed if you just choose to repeal it.

Mr. UDALL. I believe we have a formula in this bill to gradually cut down on these supergrades, and the way in which we can get a little better grip and control over the growing ranks of supergrades in the Government if we can get this bill passed tonight and get this section on page 217 on the statute books.

Mr. STEERS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment proposed by the gentleman from Indiana (Mr. JACOBS.)

I would like to take this opportunity to ask the gentleman from Indiana a question. Is the gentleman from Indiana aware of the fact that since the time when Mr. Lilly inspected his plants, the number of supergrade employees at Lilly has increased?

Mr. JACOBS. If the gentleman will yield, Mr. Chairman, that is right, but they could not hold a candle to the Federal Government because Mr. Lilly's people have to pay the bills themselves. They cannot tax somebody to do it.

Mr. STEERS. Mr. Chairman, I agree that the problem in the Federal Government is not as easily solved as it is in a private enterprise where one can recognize that a company either makes a profit or loses money.

However, I would have to say that just as the Lilly Co. has grown and has done a better job as a result, so has the Federal Government.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. JACOBS).

The question was taken; and on a division (demanded by Mr. JACOBS) there were—ayes 14, noes 24.

So the amendment was rejected.

The CHAIRMAN. Are there further amendments to title III?

AMENDMENT OFFERED BY MR. STEERS

Mr. STEERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Steers: Page 200, line 13, after "308." insert "(a)".

Page 200, after line 20, insert the following new subsection:

(b)(1) Section 8339(d) of title 5, United States Code, is amended by inserting "(1)" after "(d)" and by adding at the end thereof the following new paragraph:

"(2) The annuity of an employee retiring under this subchapter with less than 20 years, but at least 5 years of service as a law enforcement officer or firefighter, or any combination thereof, as computed under subsection (a) of this section, except that the annuity of such employee is computed with respect to the service of such employee as a law enforcement officer or firefighter, or any combination thereof, by multiplying 2½ percent of his average pay by the years of that service.".

(2) The amendments made by this section shall apply with respect to individuals who become entitled to receive an annuity on or after the effective date of this Act.

Mr. STEERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. STEERS. Mr. Chairman, the purpose of this amendment is to provide Federal law enforcement and firefighting personnel with less than 20 years' service, but at least 5, a special 2½ percent of salary per year of service, in recognition of the special hazardous service which they perform. Current law (Public Law 93-530) already extends this credit to those with 20 or more years of service, but failed to provide similar credit to those who serve less than 20 years.

This amendment would correct this inequity by extending the special, hazardous duty retirement rate to all Federal law enforcement and firefighting personnel who retire with between 5 and 20 years of service. A similar amendment has been accepted by the Senate.

Mr. UDALL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I hope that as the evening goes on, we will keep in mind the purpose of the bill we are considering here. The bill is to reform and reorganize the overall civil service system.

There is a temptation among the Members to correct old injustices, to find pet peeves that they have about the civil service system, and generally to use this as a vehicle to accomplish a lot of long-sought gains.

This amendment would make a major change in the provisions regarding the pay of firefighters and other people in law enforcement. It is a 2½ percent addition after 20 years of service.

Mr. Chairman, this aim may be meritorious; and if it is, we ought to have hearings and an opportunity to have a bill reported out. We should not be legislating at this hour of the night.

Let me give my colleague just one statistic. The unfunded liability of the civil service system today is $110 billion. This little old amendment we are asked to adopt on a couple moments of debate will only add $5 billion to the unfunded liability.

Mr. Chairman, I do not think it is responsible to take that kind of action at this time of night on this kind of record, and I urge that the amendment be defeated.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words. I rise to associate myself with the comments of the gentleman from Arizona (Mr. UDALL) and point out that this would set a precedent. The next thing we would know is that we would have a rash of such amendments. The bill would be out of control, and the deficit noted in the retirement system is something that should be kept in mind.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. STEERS).

The amendment was rejected.

The CHAIRMAN. Are there other amendments to title III?

AMENDMENT OFFERED BY MR. JACOBS

Mr. JACOBS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JACOBS: Page 203, strike out line 7 and all that follows down through line 25 and insert in lieu thereof the following:

"§ 5532. Employment of retired members of the uniformed services; reduction in pay

"(a) If any member or former member of a uniformed service is receiving retired pay and is employed in a position, such member's pay for such employment shall be reduced—

"(1) by an amount computed under subsection (b)(1) of this section in the case of any member or former member who has engaged in combat with an enemy of the United States while serving as a member of a uniformed service and who is serving in a position the annual rate of basic pay for which, when combined with the member's annual rate of retired pay, exceeds the rate of basic pay then currently paid for level V of the Executive Schedule; and

"(2) by an amount computed under subsection (b)(2) of this section in the case of any member or former member who has not engaged in combat with an enemy of the United States while serving as a member of a uniformed service.

The amounts of such reductions shall be deposited to the general fund of the Treasury of the United States.

"(b)(1) The amount of each reduction under subsection (a)(1) of this section for any pay period in connection with employment in a position shall be equal to the retired pay allocable to the pay period, except that the amount of the reduction may not result in the amount payable for the pay period, when combined with the retired pay allocable to the pay period, being at a rate less than the rate of basic pay then currently paid for level V of the Executive Schedule.

"(2) The amount of each reduction under subsection (a)(2) of this section for any pay period in connection with the employment of any member or former member in a position shall be equal to the lesser of—

"(A) the member's retired pay allocable to such pay period; or

"(B) the member's pay for such employment for such pay period.".

Mr. JACOBS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

Mr. UDALL. Mr. Chairman, I reserve a point of order on the amendment.

Mr. JACOBS. Mr. Chairman, this amendment deals with the so-called double-dipping issue. The bill itself provides in essence, I guess, that a double-dipper cannot get more from the taxpayers than about $47,000. This provides that one cannot double-dip at all, but one can double-dip—a veteran—up to $47,000 if that veteran has actually been engaged in combat.

I am reminded of Bill Mauldin's cartoon—no, I am not reminded of it; I was reminded of it this afternoon, and I have it written down here—about the hairy trooper, and that is the fellow who is too far forward to shave, and too far back to get shot. This would exclude that individual from the privilege of taking two refreshing dips from the U.S. Treasury while working for the Federal Government and collecting a pension from that same Federal Government. That is about it.

Mr. Chairman, I yield back the remainder of my time.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Arizona (Mr. UDALL) wish to be heard on his point of order?

Mr. UDALL. Mr. Chairman, I insist on the point of order. The section involving the Jacobs amendment has already been acted on by the House in connection with the Schroeder amendment.

I am concerned about the double-dipping situation myself, and we took the beginning action in the committee.

The gentlewoman from Colorado (Mrs. SCHROEDER) struck out and rewrote the entire section to which the Jacobs amendment would apply and, therefore, it is subject to a point of order.

The CHAIRMAN. Does the gentleman from Indiana (Mr. JACOBS) wish to be heard on his point of order?

Mr. JACOBS. Mr. Chairman, I am not sure I understand the point of order. It is a matter of first impression with me. I simply ask the Chair to consider whether the title is open for amendment at any point and whether that relates to the gentleman's point of order.

The CHAIRMAN (Mr. DANIELSON). The Chair is prepared to rule.

It is true the title is open for amendment at any point. However, it is also true that section 311 was earlier amended and rewritten by the gentlewoman from Colorado (Mrs. SCHROEDER). The gentleman's proposed amendment would seek to amend the same section and, therefore, it is not in order.

The point of order is sustained.

Are there other amendments to title III? If not, the Clerk will read title IV.

The Clerk read as follows:

TITLE IV—SENIOR EXECUTIVE SERVICE

GENERAL PROVISIONS

SEC. 401. (a) Chapter 21 of title 5, United States Code, is amended by inserting after section 2101 the following new section:

"§ 2101a. The Senior Executive Service

"The 'Senior Executive Service' consists of Senior Executive Service positions (as defined in section 3132(a)(2) of this title).".

(b) Section 2102(a)(1) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by adding "and" at the end of subparagraph (B); and

(3) by adding at the end thereof the following new subparagraph:

"(C) positions in the Senior Executive Service;".

(c) Section 2108(a) of title 5, United States Code, is amended by inserting before the period at the end thereof the following: "or Senior Executive Service".

(d) Section 2108(3) of title 5, United States Code (as amended in section 302 of this Act), is further amended—

(1) by striking out the period at the end thereof and inserting in lieu thereof a semicolon; and

(2) by adding at the end thereof the following:

"but does not include applicants for, or members of the Senior Executive Service.".

(e) The analysis for chapter 21 of title 5,

United States Code, is amended by inserting after the item relating to section 2101 the following new item:

"2101a. The Senior Executive Service.".

AUTHORITY FOR EMPLOYMENT

SEC. 403. (a) Chapter 31 of title 5, United States Code, is amended by inserting after section 3112 (as added by section 303(a) of this Act), the following new subchapter:

"SUBCHAPTER II—THE SENIOR EXECUTIVE SERVICE

"§ 3131. The Senior Executive Service

"(a) It is the purpose of this subchapter to establish a Senior Executive Service to ensure that the management of the Government of the United States is responsive to the needs, policies, and goals of the Nation and otherwise is of the highest quality. The Senior Executive Service shall be administered so as to—

"(1) provide for a compensation system, including salaries, benefits, and incentives and for other conditions of employment, designed to attract and retain highly competent senior executives;

"(2) ensure that compensation, retention, and tenure are contingent on managerial success which is measured of the basis of individual and organizational performance (including such factors as improvements in quality of work or service, cost efficiency, and timeliness of performance);

"(3) recognize exceptional accomplishment;

"(4) enable the head of an agency to reassign senior executives to best accomplish the agency's mission;

"(5) provide for severance pay, retirement benefits, and placement assistance for senior executives who are removed from the Senior Executive Service for nondisciplinary reasons;

"(6) protect senior executives from arbitrary or capricious actions;

"(7) provide for program continuity and policy advocacy in the management of public programs;

"(8) maintain a merit personnel system free of improper political interference;

"(9) ensure accountability for honest, economical, and efficient Government;

"(10) ensure compliance with all applicable civil service laws, rules, and regulations including those relating to equal employment opportunity, political activity, and conflicts of interest; and

"(11) provide for the initial and continuing systematic development of highly competent senior executives.

"§ 3133. Definition and exclusions

"(a) For the purpose of this subchapter—

"(1) 'agency' means an Executive agency, the Administrative Office of the United States Courts, and the Government Printing Office, but does not include—

"(A) a Government corporation;

"(B) the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, or any Executive agency or unit thereof which is designated by the President and which conducts foreign intelligence or counterintelligence activities; or

"(C) the General Accounting Office;

"(2) 'Senior Executive Service position' means any position (other than a position in the Foreign Service of the United States or an administrative law judge position under section 3105 of this title) in an agency which is in GS-16, 17, or 18 of the General Schedule or in level IV or V of the Executive Schedule, or an equivalent position, which is not required to be filled by an appointment by the President by and with the advice and consent of the Senate, and in which an employee—

"(A) directs the work of an organizational unit;

"(B) is held accountable for the success of one or more specific programs or projects; or

"(C) supervises the work of employees other than personal assistants;

"(3) 'senior executive' means a member of the Senior Executive Service;

"(4) 'career appointee' means an individual in a Senior Executive Service position whose appointment to the position or previous appointment to another Senior Executive Service position was based on—

"(A) approval by the Office of Personnel Management of the managerial qualifications of such individual; and

"(B) selection through a merit staffing process consistent with Office of Personnel Management regulations;

"(5) 'limited term appointee' means an individual appointed under a nonrenewable appointment for a term of 3 years or less to a Senior Executive Service position the duties of which will expire at the end of such term;

"(6) 'limited emergency appointee' means an individual appointed under a nonrenewable appointment, not to exceed 18 months, to a Senior Executive Service position established to meet a bona fide, unanticipated, urgent need;

"(7) 'noncareer appointee' means an individual in a Senior Executive Service position who is not a career appointee, a limited term appointee, or a limited emergency appointee;

"(8) 'career reserved position' means a position which is required to be filled by a career appointee and which is designated under subsection (b) of this section; and

"(9) 'general position' means any position, other than a career reserved position, which may be filled by either a career appointee, noncareer appointee, limited emergency appointee, or limited term appointee.

"(b)(1) For the purpose of paragraph (8) of subsection (a) of this section, the Office of Personnel Management shall prescribe the criteria and regulations governing the designation of career reserved positions. The criteria and regulations shall provide that a position shall be designated as a career reserved position only if the filling of the position by a career appointee is necessary to ensure impartiality, or the public's confidence in the impartiality, of the Government. The head of each agency shall be responsible for designating career reserved positions in such agency in accordance with such criteria and regulations.

"(2) A position for which a designation is in effect under this subsection may be held only by a career appointee.

"(3) The Office of Personnel Management shall periodically review general positions to determine whether the positions should be designated as career reserved. If the Office determines that any such position should be so designated, it shall order the agency to make the designation.

"(4) Not later than March 1 of each year, the head of each agency shall publish in the Federal Register a list of positions in the agency which were career reserved positions during the preceding calendar year.

"(c) An agency may file an application with the Office of Personnel Management, setting forth reasons why it, or a unit thereof, should be excluded from any provision or requirement of this subchapter. The Office of Personnel Management shall—

"(1) review the application and stated reasons,

"(2) undertake an investigation to determine whether the agency or unit should be excluded from any provision or requirement of this subchapter, and

"(3) upon completion of its review and investigation, recommend to the President whether the agency or unit should be excluded from any provision or requirement of this subchapter.

If the Office recommends that an agency or unit thereof be excluded from any provision or requirement of this subchapter, the President may, on written determination, make the exclusion to the extent and for the period determined by the President to be appropriate.

"(d) The Office of Personnel Management may at any time recommend to the President that any exclusion previously granted to an agency or unit under subsection (c) of this section be revoked. Upon recommendation of the Office, the President may revoke, by written determination, any exclusion made under subsection (c) of this section.

"(e) If—

"(1) any agency is excluded under subsection (c) of this section, or

"(2) any exclusion is revoked under subsection (d) of this section,

the Office of Personnel Management shall, within 30 days after the action, transmit to the Congress a report concerning the exclusion or revocation.

"§ 3133. Authorization of positions; authority for appointment

"(a) During each odd-numbered calendar year, each agency shall—

"(1) examine its needs for Senior Executive Service positions for each of the 2 fiscal years beginning after such calendar year; and

"(2) submit to the Office of Personnel Management a written request for a specific number of Senior Executive Service positions for each of such fiscal years.

"(b) Each agency request submitted under subsection (a) of this section shall be based on—

"(1) the anticipated type and extent of program activities of the agency for each of the 2 fiscal years involved; and

"(2) such other factors as may be prescribed from time to time by the Office of Personnel Management.

"(c) The Office of Personnel Management, in consultation with the Office of Management and Budget, shall review the request of each agency and shall authorize, for each of the 2 fiscal years covered by requests required under subsection (b) of this section, a specific number of Senior Executive Service positions for each agency.

"(d)(1) The Office may, on a written request of an agency or on its own initiative, make an adjustment in the number of positions authorized for any Agency. Each agency request under this paragraph shall be submitted in such form, and shall be based on such factors, as the Office of Personnel Management shall prescribe.

"(2) The total number of positions in the Senior Executive Service may not at any time during any fiscal year exceed 105 percent of the total number of positions authorized under subsection (c) of this section for such fiscal year.

"(e) Appointments to the Senior Executive Service may be made by appropriate appointing authorities of agencies subject to the requirements and limitations of this title.

"§ 3134. Limitations on noncareer appointments

"(a) During each calendar year, each agency shall—

"(1) examine its needs for employment of noncareer appointees for the fiscal year beginning in the following year; and

"(2) submit to the Office of Personnel Management, in accordance with regulations prescribed by the Office, a written request for authority to employ a specific number of noncareer appointees for such fiscal year.

"(b) The number of noncareer appointees in each agency will be determined annually by the Office of Personnel Management on the basis of demonstrated need of the agency. The total number of noncareer appointees in all agencies may not exceed 10 percent of the total number of Senior Executive Service positions in all agencies.

"(c) The number of Senior Executive Service positions in any agency which are filled by noncareer appointees may not at any time exceed the greater of—

"(1) 25 percent of the total number of Senior Executive Service positions in the agency; or

"(2) the number of positions in the agency which were filled on the date of the enactment of the Civil Service Reform Act of 1978 by—

"(A) noncareer executive assignments under subpart F of part 305 of title 5, Code of Federal Regulations, as in effect on such date, or

"(B) appointments to level IV or V of the Executive Schedule which were not required to be made by and with the advice and consent of the Senate.

This subsection shall not apply in the case of any agency having fewer than 4 Senior Executive Service positions.

"§ 3135. Biennial report

"(a) The Office of Personnel Management shall submit to each House of the Congress, at the time the budget is submitted by the President to the Congress during each even-numbered calendar year, a report on the Senior Executive Service. The report shall include—

"(1) the number of Senior Executive Service positions authorized for the then current fiscal year, in the aggregate and by agency, and the projected number of Senior Executive Service positions to be authorized for the next two fiscal years, in the aggregate and by agency;

"(2) a description of each exclusion in effect during the preceding calendar year under section 132(c) of this title;

"(3) the authorized number of career appointees and noncareer appointees, in the aggregate and by agency, for such fiscal year;

"(4) the number of limited term appointees and limited emergency appointees, in the aggregate and by agency, employed during the preceding calendar year;

"(5) the titles of career reserved positions designated for such fiscal year;

"(6) the percentage of senior executives at each pay rate, in the aggregate and by agency, employed at the end of the preceding calendar year;

"(7) the distribution and amount of performance awards, in the aggregate and by agency, paid during the preceding calendar year; and

"(8) such other information regarding the Senior Executive Service as the Office of Personnel Management considers appropriate.

"(b) The Office of Personnel Management shall submit to each House of the Congress, at the time the budget is submitted to the Congress during each odd-numbered calendar year, an interim report showing changes in matters required to be reported under subsection (a) of this section.

"§ 3136. Regulations

"The Office of Personnel Management shall prescribe regulations to carry out the purpose of this subchapter.".

(b) Section 3109 of title 5, United States Code, is amended by inserting at the end thereof the following new subsection:

"(c) Positions in the Senior Executive Service may not be filled under the authority of subsection (b) of this section.".

(c) The analysis for chapter 31 of title 5, United States Code, is amended—

(1) by striking out the heading for chapter 31 and inserting in lieu thereof the following:

"Chapter 31—AUTHORITY FOR EMPLOYMENT

"SUBCHAPTER I—EMPLOYMENT AUTHORITIES"

and

(2) by inserting at the end thereof the following:

"SUBCHAPTER II—THE SENIOR EXECUTIVE SERVICE

"Sec.

"3131. The Senior Executive Service.

"3132. Definitions and exclusions.

"3133. Authorization of positions; authority for appointment.

"3134. Limitations on noncareer appointments.

"3135. Biennial report.

"3136. Regulations.".

EXAMINATION, CERTIFICATION, AND APPOINTMENT

SEC. 403. (a) Chapter 33 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER VIII—APPOINTMENT, REASSIGNMENT, TRANSFER, AND DEVELOPMENT IN THE SENIOR EXECUTIVE SERVICE

"§ 3391. Definitions

"For the purpose of this subchapter, 'agency', 'Senior Executive Service position', 'senior executive', 'career appointee', 'limited term appointee', 'limited emergency appointee', 'noncareer appointee', and 'general position' have the meanings set forth in section 3132(a) of this title.

"§ 3392. General appointment provisions

"(a) Qualification standards shall be established by the head of each agency for each Senior Executive Service position in the agency and shall be in accordance with requirements established by the Office of Personnel Management.

"(b)(1) An individual may be appointed to a Senior Executive Service position only if the appointing authority has determined in writing that the individual meets the qualification requirements of the position.

"(2) Not more than 30 percent of the individuals serving at any time in Senior Executive Service positions may have served less than an aggregate of 5 years in the civil service before appointment to such positions, unless the President certifies to the Congress that the limitation would hinder the efficiency of the Government.

"(c) If a career appointee is appointed by the President, by and with the advice and consent of the Senate, to a civilian position in the executive branch which is not in the Senior Executive Service, and the rate of basic pay payable for which is equal to or greater than the rate payable for level V of the Executive Schedule, the career appointee may elect (at such time and in such manner as the Office of Personnel Management may prescribe) to continue to have the provisions of this title relating to basic pay, performance awards, awarding of ranks, severance pay, leave, and retirement apply as if the career appointee remained in the Senior Executive Service position from which he was appointed. Such provisions shall apply in lieu of the provisions which would otherwise apply—

"(1) to the extent provided under regulations prescribed by the Office, and

"(2) so long as the appointee continues to serve under such Presidential appointment.".

"§ 3393. Career appointments

"(a) Each agency shall establish a recruitment program, in accordance with guidelines which shall be issued by the Office of Personnel Management, which provides for recruitment of career appointees from—

"(1) all groups of qualified individual applicants within the civil service; or

"(2) all groups of qualified individual applicants whether or not within the civil service.

"(b) Each agency shall establish one or more executive resources boards, as appropriate, the members of which shall be appointed by the head of the agency from among employees of the agency. The boards shall, in accordance with merit staffing requirements established by the Office of Personnel Management—

"(1) review the qualifications of candidates for appointment as career appointees; and

"(2) make written recommendations concerning candidates to the appropriate appointing authorities.

"(c)(1) The Office of Personnel Management shall establish one or more qualifications review boards, as appropriate, the members of which shall be appointed by the Director from within and outside the civil service on the basis of their knowledge of public management and other appropriate occupational fields. It is the function of the boards to certify the managerial qualifications of candidates for entry as career appointees into the Senior Executive Service in accordance with regulations prescribed by the Office of Personnel Management.

"(2) The Office of Personnel Management shall, in consultation with the various qualification review boards, prescribe criteria for establishing managerial qualifications for appointment to the Senior Executive Service. The criteria shall provide for—

"(A) consideration of demonstrated managerial experience;

"(B) consideration of successful participation in a career executive development program which is approved by the Office of Personnel Management; and

"(C) sufficient flexibility to allow for the appointment of individuals who have special or unique qualities which indicate a likelihood of managerial success and who would not otherwise be eligible for appointment.

"(d) An individual's initial appointment as a career appointee shall become final only after the individual has served a 1-year probationary period as a career appointee.

"§ 3394. Noncareer and limited appointments

"(a) Each noncareer appointee, limited term appointee, and limited emergency appointee shall meet the qualifications of the position to which appointed, as determined by the appointing authority.

"(b) An individual may not be appointed as a limited term appointee or as a limited emergency appointee without the prior approval of the exercise of such appointing authority by the Office of Personnel Management.

"§ 3395. Reassignment and transfer within the Senior Executive Service

"(a) A career appointee in an agency—

"(1) may be reassigned to any Senior Executive Service position in the same agency for which the appointee is qualified; and

"(2) may transfer to a Senior Executive Service position in another agency for which the appointee is qualified, with the approval of the agency to which the appointee transfers.

"(b)(1) A limited emergency appointee may be reassigned to another Senior Executive Service position in the same agency established to meet a bona fide, unanticipated, urgent need, except that the appointee may not serve in one or more positions in such agency under such appointment in excess of 18 months.

"(2) A limited term appointee may be reassigned to another Senior Executive Service position in the same agency the duties of which will expire at the end of a term of 3 years or less, except that the appointee may not serve in one or more positions in the agency under such appointment in excess of 3 years.

"(c) A limited term appointee or a limited emergency appointee may not be appointed to, or continue to hold, a position under such an appointment if, within the preceding 48 months, the individual has served more than 36 months, in the aggregate, under any combination of such types of appointment.

"(d) A noncareer appointee in an agency—

"(1) may be reassigned to any general position in the agency for which the appointee is qualified; and

"(2) may transfer to a general position

in another agency with the approval of the agency to which the appointee transfers.

"(e) A career appointee in an agency may not be involuntarily reassigned within 120 days after an appointment of the head of such agency.

"§ 3396. Development for and within the Senior Executive Service

"(a) The Office of Personnel Management shall establish programs for the systematic development of candidates for the Senior Executive Service and for the continuing development of senior executives, or require agencies to establish such programs which meet criteria prescribed by the Office of Personnel Management.

"(b) The Office of Personnel Management shall assist agencies in the establishment of programs required under subsection (a) of this section and shall monitor the implementation of the programs. If the Office of Personnel Management finds that any agency's program under subsection (a) of this section is not in compliance with the criteria prescribed under such subsection, it shall require the agency to take such corrective action as may be necessary to bring the program into compliance with the criteria.

"(c)(1) The head of an agency may grant a sabbatical leave to any career appointee for not to exceed 11 months in order to permit the appointee to engage in study or uncompensated work experience which will contribute to the appointee's development and effectiveness. A sabbatical leave shall not result in loss of, or reduction in, pay, leave to which the career appointee is otherwise entitled, credit for time or service, or performance or efficiency rating. The head of the agency may authorize in accordance with chapter 57 of this title such travel and per diem costs as the head of the agency may determine to be essential for the study or experience.

"(2) A sabbatical leave under this subsection may not be granted to any career appointee—

"(A) more than once in any 10-year period;

"(B) unless the appointee has completed 7 years of service—

"(i) in one or more positions in the Senior Executive Service;

"(ii) in one or more other positions in the civil service the level of duties and responsibilities of which are equivalent to the level of duties and responsibilities of positions in the Senior Executive Service; or

"(iii) in any combination of such positions; except that not less than 2 years of such 7 years of service must be in the Senior Executive Service: and

"(C) if the appointee is eligible for voluntary retirement with a right to an immediate annuity under section 8336 of this title.

Any period of assignment under section 3373 of this title, relating to assignments of employees to State and local governments, shall not be considered a period of service for the purpose of subparagraph (B) of this paragraph.

"(3)(A) Any career appointee in an agency may be granted a sabbatical leave under this subsection only if the appointee agrees, as a condition of accepting the sabbatical leave, to serve with the agency upon the completion of the leave, for a period of 2 consecutive years.

"(B) Each agreement required under subparagraph (A) of this paragraph shall provide that in the event the career appointee fails to carry out the agreement (except for good and sufficient reason as determined by the head of the agency involved) the appointee shall be liable to the United States for payment of all expenses (including salary) of the sabbatical leave. The amount shall be treated as a debt due the United States.

"§ 3397. Regulations

"The Office of Personnel Management shall prescribe regulations to carry out the purpose of this subchapter.".

(b) The analysis for chapter 33 of title 5, United States Code, is amended by inserting after the item relating to section 3385 the following:

"SUBCHAPTER VIII—APPOINTMENT, REASSIGNMENT, TRANSFER, AND DEVELOPMENT IN THE SENIOR EXECUTIVE SERVICE

"Sec.
"3391. Definitions.
"3392. General appointment provisions.
"3393. Career appointments.
"3394. Noncareer and limited appointments.
"3395. Reassignments and transfer within the Senior Executive Service.
"3396. Development for and within the Senior Executive Service.
"3397. Regulations.".

RETENTION PREFERENCE

SEC. 404. (a) Section 3501(b) of title 5, United States Code, is amended by striking out the period at the end thereof and inserting in lieu thereof: "or to a member of the Senior Executive Service.".

(b) Chapter 35 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER V—REMOVAL, REINSTATEMENT, AND GUARANTEED PLACEMENT PROVISIONS IN THE SENIOR EXECUTIVE SERVICE

"§ 3591. Definitions

"For the purpose of this subchapter, 'agency', 'Senior Executive Service position', 'senior executive', 'career appointee', 'limited term appointee', 'limited emergency appointee', 'noncareer appointee', and 'general position' have the meanings set forth in section 3132(a) of this title.

"§ 3592. Removal from the Senior Executive Service

"(a) A career appointee may be removed from the Senior Executive Service to a civil service position outside of the Senior Executive Service—

"(1) during the 1-year period of probation under section 3393(d) of this title; or

"(2) at any time for less than fully successful managerial performance as determined under subchapter II of chapter 43 of this title.

"(b) A limited emergency appointee, limited term appointee, or noncareer appointee may be removed from the service at any time.

"§ 3593. Reinstatement in the Senior Executive Service

"(a) A former career appointee may be reinstated, without regard to section 3393(b) and (c) of this title, to any Senior Executive Service position for which the appointee is qualified if—

"(1) the appointee has successfully completed the probationary period established under section 3393(d) of this title; and

"(2) the appointee left the Senior Executive Service for reasons other than misconduct, neglect of duty, malfeasance, or less than fully successful managerial performance as determined under subchapter II of chapter 43 of this title.

"(b) A career appointee who is appointed by the President to any civil service position outside the Senior Executive Service and who leaves the position for reasons other than misconduct, neglect of duty, or malfeasance shall be entitled to be placed in the Senior Executive Service if the appointee applies to the Office of Personnel Management within 90 days after separation from the Presidential appointment.

"§ 3594. Guaranteed placement in other personnel systems

"(a) A career appointee who was appointed from a civil service position held under a career or career-conditional appointment (or an appointment of equivalent tenure, as determined by the Office of Personnel Management) and who, for reasons other than misconduct, neglect of duty, or malfeasance, is removed from the Senior Executive Service during the probationary period under section 3393(d) of this title, shall be entitled to be placed in a civil service position (other than a Senior Executive Service position) in any agency.

"(b) A career appointee—

"(1) who has completed the probationary period under section 3393(d) of this title; and

"(2) who is removed from the Senior Executive Service for less than fully successful managerial performance as determined under subchapter II of chapter 43 of this title; shall be entitled to be placed in a civil service position (other than a Senior Executive Service position) in any agency.

"(c)(1) For purposes of subsections (a) and (b) of this section—

"(A) the position in which any career appointee is placed under such subsections shall be a continuing, full-time position at GS-15 or above of the General Schedule, or an equivalent position, and, in the case of a career appointee referred to in subsection (a) of this section, the career appointee shall be entitled to an appointment of a tenure equivalent to the tenure of the appointment held in the position from which the career appointee was appointed;

"(B) any career appointee placed under subsection (a) or (b) shall be entitled to receive basic pay at the higher of—

"(i) the rate of basic pay in effect for the position in which placed;

"(ii) the rate of basic pay in effect at the time of the placement for the position the career appointee held in the civil service immediately before being appointed to the Senior Executive Service; or

"(iii) the rate of basic pay in effect for the career appointee immediately before being placed under subsection (a) or (b); and

"(C) the placement of any career appointee under subsection (a) or (b) may not be made to a position which would cause the separation or reduction in grade of any other employee.

"(2) An employee who is receiving basic pay under paragraph (1)(B)(ii) or (iii) of this subsection is entitled to have the basic pay rate increased by 50 percent of the amount of each increase in the maximum rate of basic pay for the grade of the position in which the employee is placed under subsection (a) or (b) until the rate is equal to the rate in effect under paragraph (1)(B)(i) for the position in which the employee is placed.

"§ 3595. Regulations

"The Office of Personnel Management shall prescribe regulations to carry out the purpose of this subchapter.".

(b) The chapter analysis for chapter 35 of title 5, United States Code, is amended by inserting the following new item:

"SUBCHAPTER V—REMOVAL, REINSTATEMENT, AND GUARANTEED PLACEMENT PROVISIONS IN THE SENIOR EXECUTIVE SERVICE

"Sec.
"3591. Definitions.
"3592. Removal from the Senior Executive Service.
"3593. Reinstatement in the Senior Executive Service.
"3594. Guaranteed placement in other personnel systems.
"3595. Regulations.".

PERFORMANCE RATING

SEC. 405. Chapter 43 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER II—PERFORMANCE APPRAISAL IN THE SENIOR EXECUTIVE SERVICE

"§ 4311. Definitions.

"For the purpose of this subchapter, 'agency', 'senior executive', and 'career appointee' have the meanings set forth in section 3132(a) of this title.

"§ 4312. Senior Executive Service performance appraisal systems.

"(a) Each agency shall, in accordance with standards established by the Office of Personnel Management, develop one or more performance appraisal systems designed to—

"(1) provide for systematic appraisals of performance of senior executives;

"(2) encourage excellence in performance by senior executives; and

"(3) provide a basis for making eligibility determinations for retention in the Senior Executive Service and for Senior Executive Service performance awards.

"(b) Each performance appraisal system established by an agency under subsection (a) of this section shall provide—

"(1) that, on or before the beginning of each rating period, performance requirements for each senior executive in the agency are established in consultation with the executive and communicated to the executive;

"(2) that written proposals of performance are based on the individual and organizational performance requirements established for the rating period involved; and

"(3) that each senior executive in the agency is provided a copy of the appraisal and rating under section 4314 of this title and is given an opportunity to respond in writing to the appraisal and rating and have the appraisal and rating reviewed by an employee in a higher managerial level in the agency before the appraisal and rating become final.

"(c) If the Office of Personnel Management determines that an agency performance appraisal system does not comply with the requirements of this subchapter or regulations under this subchapter, the Office of Personnel Management shall order the agency to take any corrective action necessary to bring such system into compliance.

"§ 4313. Criteria for performance appraisals

"Appraisals of performance in the Senior Executive Service shall be based on both individual and organizational performance, taking into account such factors as—

"(1) improvements in quality of work or service;

"(2) cost efficiency;

"(3) timeliness of performance; and

"(4) meeting affirmative action goals and achievement of equal employment opportunity requirements.

"§ 4314. Ratings for performance appraisals

"(a) Each performance appraisal system shall provide for annual summary ratings of levels of performance as follows:

"(1) one or more fully successful levels,

"(2) a minimally satisfactory level, and

"(3) an unsatisfactory level.

"(b) Each performance appraisal system shall provide that—

"(1) any appraisal and any rating under such system—

"(A) are made only after review and evaluation by a performance review board established under subsection (c) of this section;

"(B) are conducted at least annually, subject to the limitation of paragraph (3) of this subsection;

"(C) in the case of a career appointee, may not be made within 120 days after the beginning of a new Presidential administration; and

"(D) are based on performance during a performance appraisal period the duration of which shall be determined under guidelines established by the Office of Personnel Management, but which may be terminated in any case in which the agency making an appraisal determines that an adequate basis exists on which to appraise and rate the senior executive's performance;

"(2) any career appointee receiving a rating at any of the fully successful levels under subsection (a)(1) of this section may be given a performance award as prescribed in section 5384 of this title;

"(3) any senior executive receiving an unsatisfactory rating under subsection (a)(3) of this section shall be reassigned or transferred within the Senior Executive Service, or removed from the Senior Executive Service, but any senior executive who receives 2 unsatisfactory ratings in any period of 5 consecutive years shall be removed from the Senior Executive Service, and

"(4) any senior executive who twice in any period of 3 consecutive years receives less than fully successful ratings shall be removed from the Senior Executive Service.

"(c) Each agency shall establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards, as appropriate. It is the function of the boards to make recommendations to the appropriate appointing authority of the agency relating to the performance of senior executives in the agency. The members of each board shall be appointed by the head of the agency from among employees of the agency other than senior executives with respect to which recommendations are being made the board. In making the recommendation with respect to a career appointee, each board shall include at least 1 career appointee.

"§ 4315. Regulations

"The Office of Personnel Management shall prescribe regulations to carry out the purposes of this subchapter.".

(b) The analysis for chapter 43 of title 5, United States Code, is amended by inserting at the end thereof the following:

"Subchapter II—Performance Appraisal in the Senior Executive Service

"Sec.
"4311. Definitions.
"4312. Senior Executive Service performance appraisal systems.
"4313. Criteria for performance appraisals.
"4314. Ratings for performance appraisals.
"4315. Regulations.".

AWARDING OF RANKS

SEC. 406. (a) Chapter 45 of title 5, United States Code is amended by adding at the end thereof the following new section:

"§ 4507. Awarding of ranks in the Senior Executive Service

"(a) For the purpose of this section, 'agency', 'senior executive', and 'career appointee' have the meanings set forth in section 3132(a) of this title.

"(b) Each agency shall forward annually to the Office of Personnel Management recommendations of career appointees in the agency to be awarded the rank of Meritorious Executive or Distinguished Executive. The recommendations may take into account the individual's performance over a period of years. The Office of Personnel Management shall review such recommendations and provide to the President recommendations as to which of the agency recommended appointees should receive such rank.

"(c) During any fiscal year, the President may, subject to subsection (d), award to any career appointee recommended by the Office of Personnel Management the rank of—

"(1) Meritorious Executive, for sustained accomplishment, or

"(2) Distinguished Executive, for sustained extraordinary accomplishment.

"(d) During any fiscal year—

"(1) the number of career appointees awarded the rank of Meritorious Executive may not exceed 5 percent of the Senior Executive Service; and

"(2) the number of career appointees awarded the rank of Distinguished Executive may not exceed 1 percent of the Senior Executive Service.

"(e)(1) Receipt by a career appointee of the rank of Meritorious Executive entitles such individual to a lump-sum payment of $2,500, which shall be in addition to the basic pay paid under section 5382 of this title or any award paid under section 5384 of this title.

"(2) Receipt by a career appointee of the rank of Distinguished Executive entitles the individual to a lump-sum payment of $5,000, which shall be in addition to the basic pay paid under section 5382 of this title or any award paid under section 5384 of this title.".

(b) The analysis for chapter 45 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"§ 4507. Awarding of ranks in the Senior Executive Service.".

PAY RATES AND SYSTEMS

SEC. 407. (a) Chapter 53 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"Subchapter VIII—Pay for the Senior Executive Service

"§ 5381. Definitions

"For the purpose of this subchapter, 'agency', 'Senior Executive Service position', and 'senior executive' have the meanings set forth in section 3132(a) of this title.

"§ 5382. Establishment and adjustment of rates of pay for the Senior Executive Service; comparability

"(a) There shall be 5 or more rates of basic pay for the Senior Executive Service, and each senior executive shall be paid at one of the rates. The rates of basic pay shall be initially established and thereafter adjusted by the President subject to subsection (b) of this section.

"(b) In setting rates of basic pay, the lowest rate for the Senior Executive Service shall not be less than the minimum rate of basic pay payable for GS-16 of the General Schedule and the highest rate shall not exceed the rate of level IV of the Executive Schedule. The payment of the rates shall not be subject to the pay limitation of section 5308 or 5363 of this title.

"(c) Subject to subsection (b) of this section, effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5305 of this title in the rates of pay under the General Schedule, each rate of basic pay for the Senior Executive Service shall be adjusted by an amount, rounded to the nearest multiple of $100 (or if midway between multiples of $100, to the next higher multiple of $100), equal to the percentage of such rate of basic pay which corresponds to the overall average percentage (as set forth in the report transmitted to the Congress under such section 5305) of the adjustment in the rates of pay under the General Schedule. The adjusted rates of basic pay for the Senior Executive Service shall be included in the report transmitted to the Congress by the President under section 5305(b)(3) or (c)(1) of this title.

"(d) The rates of basic pay that are established and adjusted under this section shall be printed in the Federal Register and shall supersede any prior rates of basic pay for the Senior Executive Service.

"§ 5383. Setting individual senior executive pay

"(a) Each appointing authority shall determine, in accordance with criteria established by the Office of Personnel Management, which of the rates established under section 5382 of this title shall be paid to each

senior executive under such appointing authority.

"(b) In no event may the aggregate amount paid to a senior executive during any fiscal year under sections 4507, 5382, and 5384 of this title exceed 95 percent of the annual rate payable for positions at level II of Executive Schedule in effect at the end of such fiscal year.

"(c) Except for any pay adjustment under section 5382 of this title, the rate of basic pay for any senior executive may not be adjusted more than once during any 12-month period.

"§ 5384. Performance awards in the Senior Executive Service

"(a)(1) To encourage excellence in performance by career appointees, performance awards shall be paid to career appointees in accordance with the provisions of this section.

"(2) Such awards shall be paid in a lump sum and shall be in addition to the basic pay under section 5382 of this title or any award paid under section 4507 of this title.

"(b)(1) No performance award under this section shall be paid to any career appointee whose performance was determined to be less than fully successful as the time of the appointee's most recent performance appraisal and rating under subchapter II of chapter 43 of this title.

"(2) The amount of a performance award under this section shall be determined by the agency head but may not exceed 20 percent of the career appointee's rate of basic pay.

"(3) The number of career appointees in any agency paid performance awards under this section during any fiscal year may not exceed 50 percent of the number of Senior Executive Service positions in such agency. This paragraph shall not apply in the case of any agency which has less than 4 Senior Executive Service positions.

"(c) Performance awards paid by any agency under this section shall be based on recommendations by performance review boards established by such agency under section 4314 of this title.

"§ 5385. Regulations

"The Office of Personnel Management shall prescribe regulations to carry out the purpose of this subchapter, and may provide guidance to agencies concerning the proportion of funds available for Senior Executive Service salary expenses which may be used for performance awards.".

(c) The analysis of chapter 53 of title 5, United States Code, is amended by adding at the end thereof the following new items:

"Subchapter VIII—Pay for the Senior Executive Service

"Sec.
"5381. Definitions.
"5382. Establishment and adjustment of rates of pay for the Senior Executive Service; comparability.
"5383. Setting individual senior executive pay.
"5384. Performance awards in the Senior Executive Service.
"5385. Regulations.".

PAY ADMINISTRATION

SEC. 408. Chapter 55 of title 5, United States Code, is amended—

(1) by inserting "other than an employee or individual excluded by section 5541(2)(xvi) of this section" immediately before the period at the end of section 5504(a)(B);

(2) by amending section 5541(2) by striking out "or" after paragraph (xiv), by striking out the period after paragraph (xv) and inserting "; or" in lieu thereof, and by adding the following paragraph at the end thereof:

"(xvi) member of the Senior Executive Service.";

and

(3) by inserting "other than a member of the Senior Executive Service" after "employee" in section 5595(a)(2)(i).

TRAVEL, TRANSPORTATION, AND SUBSISTENCE

SEC. 409. (a) Section 5723(a)(1) of title 5, United States Code, is amended by striking out "; and" and inserting in lieu thereof "or of a new appointee to the Senior Executive Service; and".

(b) Subchapter IV of chapter 57 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 5752. Travel expenses of Senior Executive Service candidates

"Employing agencies may pay candidates for Senior Executive Service positions travel expenses incurred incident to preemployment interviews requested by the employing agency.".

(c) The analysis for chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5751 the following new item:

"5752. Travel expenses of Senior Executive Service candidates.".

LEAVE

SEC. 410. Section 6304 of title 5, United States Code, is amended—

(1) in subsection (a), by striking out "and (e)" and inserting in lieu thereof "(e), and (f)"; and

(2) by adding at the end thereof the following new section:

"(f) Annual leave accrued by an individual while serving in a position in the Senior Executive Service shall not be subject to the limitation on accumulation otherwise imposed by this section.".

DISCIPLINARY ACTIONS

SEC. 411. Chapter 75 of title 5, United States Code, is amended—

(1) by inserting the following in the chapter analysis after subchapter IV:

"Subchapter V—Senior Executive Service

"Sec.
"7541. Definitions.
"7542. Actions covered.
"7543. Cause and procedure.";

and

(2) by adding the following after subchapter IV:

"Subchapter V—Senior Executive Service

"§ 7541. Definitions

"For the purpose of this subchapter—

"(1) 'employee' means an individual in the Senior Executive Service who—

"(A) has completed the probationary period prescribed under section 3393(d) of this title; or

"(B) was covered by the provisions of subchapter II of this chapter immediately before appointment to the Senior Executive Service; and

"(2) 'suspension' has the meaning set forth in section 7501(2) of this title.

"§ 7542. Actions covered

"This subchapter applies to a removal from the civil service or suspension for more than 14 days, but does not apply to an action initiated under section 1206 of this title, to a suspension or removal under section 7532 of this title, or to a removal under section 3592 of this title.

"§ 7543. Cause and procedure

"(a) Under regulations prescribed by the Office of Personnel Management, an agency may take an action covered by this subchapter against an employee only for such cause as will promote the efficiency of the service.

"(b) An employee against whom an action covered by this subchapter is proposed is entitled to—

"(1) at least 30 days advance written notice, unless there is reasonable cause to believe that the employee has committed a crime for which a sentence of imprisonment can be imposed, stating specific reasons for the proposed action;

"(2) a reasonable time, but not less than 7 days, to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

"(3) be represented by an attorney or other representative; and

"(4) a written decision and specific reasons therefor at the earliest practicable date.

"(c) An agency may provide, by regulation, for a hearing which may be in lieu of or in addition to the opportunity to answer provided under subsection (b)(2) of this section.

"(d) An employee against whom an action is taken under this section is entitled to appeal to the Merit Systems Protection Board under section 7701 of this title.

"(e) Copies of the notice of proposed action, the answer of the employee when written, and a summary thereof when made orally, the notice of decision and reasons therefor, and any order effecting an action covered by this subchapter, together with any supporting material, shall be maintained by the agency and shall be furnished to the Merit Systems Protection Board upon its request and to the employee affected upon the employee's request.".

RETIREMENT

SEC. 412. (a) Section 8336 of title 5, United States Code, is amended by redesignating subsection (h) as subsection (i) and inserting immediately after subsection (g) the following new subsection:

"(h) A member of the Senior Executive Service who is removed from the Senior Executive Service for less than fully successful managerial performance (as determined under subchapter II of chapter 43 of this title) after completing 25 years of service or after becoming 50 years of age and completing 20 years of service is entitled to an annuity.".

(b) Section 8339(h) of title 5, United States Code, is amended by striking out "section 8336(d)" and inserting in lieu thereof "section 8336 (d) or (h)".

CONVERSION TO THE SENIOR EXECUTIVE SERVICE

SEC. 413. (a) For the purpose of this section "agency", "Senior Executive Service position", "career appointee", "career reserved position", "limited term appointee", "noncareer appointee", and "general position" have the meanings set forth in section 3132(a) of title 5, United States Code (as added by this title), and "Senior Executive Service" has the meaning set forth in section 2101a of such title 5 (as added by this title).

(b)(1) Under the guidance of the Office of Personnel Management, each agency shall—

(A) designate those positions which it considers should be Senior Executive Service positions and designate which of those positions it considers should be career reserved positions; and

(B) submit to the Office of Personnel Management a written request for—

(i) a specific number of Senior Executive Service positions; and

(ii) authority to employ a specific number of noncareer appointees.

(2) The Office of Personnel Management shall review the designations and requests of each agency under paragraph (1) of this subsection and shall establish interim authorizations in accordance with sections 3133 and 3134 of title 5, United States Code (as added by this Act).

(c)(1) Each employee serving in a position at the time it is designated as a Senior Executive Service position under subsection (b) of this section shall elect to—

(A) decline conversion and be appointed to a position under such employee's current type of appointment and pay system, retaining the grade, seniority, and other rights and

benefits associated with such type of appointment and pay system; or

(B) accept conversion and be appointed to a Senior Executive Service position in accordance with the provisions of subsections (d), (e), (f), (g), and (h) of this section.

The appointment of an employee in an agency because of an election under subparagraph (A) of this paragraph shall not result in the separation or reduction in grade of any other employee in such agency.

(2) Any employee in a position which has been designated a Senior Executive Service position under this section shall be notified of such designation, the election required under paragraph (1) of this subsection, and the provisions of subsection (d), (e), (f), (g), and (h) of this section. The employee shall be given 90 days from the date of such notification to make the election under paragraph (1) of this subsection.

(d) Each employee who has elected to accept conversion to a Senior Executive Service position under subsection (c)(1)(B) of this section and is serving under—

(1) a career or career-conditional appointment; or

(2) a similar type of appointment in an excepted service position, as determined by the Office of Personnel Management;

shall be appointed as a career appointee to such Senior Executive Service position without regard to section 3393 (c) and (d) of title 5, United States Code (as added by this title).

(e) Each employee who has elected conversion to a Senior Executive Service position under subsection (c)(1)(B) of this section and is serving under an excepted appointment in a position which is not designated a career reserved position in the Senior Executive Service, but is—

(1) a position in Schedule C of subpart C of part 213 of title 5, Code of Federal Regulations;

(2) a position filled by noncareer executive assignment under subpart F of part 305 of title 5, Code of Federal Regulations; or

(3) a position in the Executive Schedule under subchapter II of chapter 53 of title 5 United States Code, other than a career Executive Schedule position;

shall be appointed as a noncareer appointee to a Senior Executive Service position.

(f) Each employee who has elected conversion to a Senior Executive Service position under subsection (c)(1)(B) of this section, who is serving in a position described in paragraph (1), (2), or (3) of subsection (e) of this section, and whose position is designated as a career reserved position under subsection (b) of this section shall be appointed to an appropriate general position in the Senior Executive Service or shall be separated.

(g) Each employee who has elected conversion to a Senior Executive Service position under subsection (c)(1)(B) of this section, who is serving in a position described in paragraph (1), (2), or (3) of subsection (e) of this section, and whose position is designated as a Senior Executive Service position and who has reinstatement eligibility to a position in the competitive service, may, on request to the Office of Personnel Management, be appointed as a career appointee to a Senior Executive Service position. The name of, and basis for reinstatement eligibility for, each employee appointed as a career appointee under this subsection shall be published in the Federal Register.

(h) Each employee who has elected conversion to a Senior Executive Service position under subsection (c)(1)(B) of this section and is serving under a limited executive assignment under subpart F of part 305 of title 5, Code of Federal Regulations, shall—

(1) be appointed as a limited term appointee to a Senior Executive Service position if the position then held by such employee will terminate within 3 years of the date of such appointment;

(2) be appointed as a noncareer appointee to a Senior Executive Service position if the position then held by such employee is designated as a general position; or

(3) be appointed as a noncareer appointee to a general position if the position then held by such employee is designated as a career reserved position.

(i) The rate of basic pay for any employee appointed to a Senior Executive Service position under this section shall be greater than or equal to the rate of basic pay payable for the position held by such employee at the time of such appointment.

(j) The Office of Personnel Management shall prescribe regulations to carry out the purpose of this section. Any employee who is aggrieved by any action by any agency under this section is entitled to appeal to the Merit Systems Protection Board under section 7701 of title 5, United States Code (as added by this title). An agency shall take any corrective action which the Merit Systems Protection Board orders in its decision on an appeal under this subsection.

LIMITATIONS ON EXECUTIVE POSITIONS

SEC. 414. (a)(1)(A) Subsections (b) through (g) of section 5108 of title 5, United States Code, relating to special authority to place positions at GS-16, 17, and 18 of the General Schedules are hereby repealed.

(B) Notwithstanding any other provision of law (other than section 5108 of such title 5), the authority granted to an agency (as defined in section 5102(a)(1) of such title 5) under any such provisions to place one or more positions in GS-16, 17, or 18 of the General Schedule, is hereby terminated.

(C) Subsection (a) of section 5108 of title 5, United States Code, is amended to read as follows: "The Director of the Office of Personnel Management may establish, and from time to time revise, the maximum numbers of positions (not to exceed an aggregate of 10,920) which may at any one time be placed in—

"(1) GS-16, 17, and 18; and

"(i) the Senior Executive Service, in accordance with section 3133 of this title.

A position may be placed in GS-16, 17, or 18, only by action of the Director of the Office of Personnel Management.".

(2)(A) Notwithstanding any other provision of law (other than section 3104 of title 5, United States Code), the authority granted to an agency (as defined in section 5102(a)(1) of such title 5) to establish scientific or professional positions outside of the General Schedule is hereby terminated.

(B) Section 3104 of title 5, United States Code, is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a)(1) The Director of the Office of Personnel Management may establish, and from time to time revise, the maximum number of scientific or professional positions (not to exceed 525) for carrying out research and development functions which require the services of specially qualified personnel which may be established outside of the General Schedule. Any such position may be established only by action of the Director of the Office of Personnel Management.

"(2) The provisions of paragraph (1) of this subsection shall not apply to any Senior Executive Service position (as defined in section 3132(a) of this title).".

(C) Subsection (c) of such section 3104 is amended—

(1) by striking out "(c)" and inserting in lieu thereof "(b)"; and

(ii) by striking out "to establish and fix the pay of positions under this section and section 5361 of this title" and inserting in lieu thereof "to fix under section 5361 of this title the pay for positions established under this section".

(3)(A) The provisions of paragraphs (1) and (2) of this subsection shall not apply with respect to any position so long as the individual occupying such position on the day before the date of the enactment of this Act continues to occupy such position.

(B) The director of the Office of Personnel Management—

(i) in establishing under section 5108 of title 5, United States Code, the maximum number of positions which may be placed in GS-16, 17, and 18 of the General Schedule, and

(ii) in establishing under section 3104 of such title 5 the maximum number of scientific or professional positions which may be established,

shall take into account positions to which subparagraph (A) of this paragraph applies.

(b)(1) Section 5311 of title 5, United States Code, is amended by inserting "(a)" before "The Executive Schedule," and by adding at the end thereof the following new subsection:

"(b)(1) Not later than 180 days after the date of the enactment of the Civil Service Reform Act of 1978, the Director of the Office of Personnel Management shall determine the number and classification of executive level positions in existence in the executive branch on that date of enactment, and shall publish the determination in the Federal Register. Effective beginning on the date of the publication, the number of executive level positions within the executive branch may not exceed the number published under this subsection.

"(2) For the purpose of this subsection, 'executive level position' means—

"(A) any office or position in the civil service the rate of pay for which is equal to or greater than the rate of basic pay payable for positions under section 5316 of this title, or

"(B) any such office or position the rate of pay for which may be fixed by administrative action at a rate equal to or greater than the rate of basic pay payable for positions under section 5316 of this title;

but does not include any Senior Executive Service position, as defined in section 3132(a) of this title.".

(2) The President shall transmit to Congress by January 1, 1980, a plan for authorizing executive level positions in the executive branch which shall include the maximum number of executive level positions necessary by level and a justification for the positions.

EFFECTIVE DATE; EXPERIMENTAL APPLICATION

SEC. 415. (a)(1) Except as provided in subsection (b) of this section, the provisions of this title, other than section 414(a), shall take effect on the date of the enactment of this Act.

(2) The provisions of section 414(a) of this title shall take effect 180 days after the date of the enactment of this Act.

(b)(1) Not later than 60 days after the date of the enactment of this title, the Director of the Office of Personnel Management shall prescribe regulations providing for an initial experimental application of the amendments made by sections 401 through 412 of this title and the provisions of section 413 of this title. Such regulations shall provide that Senior Executive Service positions will be designated, authorized, and filled only in 3 Executive departments designated by the Director.

(2) Within 30 days after the end of each of the first two fiscal years to which such amendments apply, the Director shall prepare and transmit to each House of the Congress a report on the Senior Executive Service, including an evaluation of its effectiveness and the manner in which such Service is administered. The second such report shall include proposed regulations which would provide for conversions and other adjustments

which would be appropriate in the event the Senior Executive Service does not continue by reason of paragraph (3).

(3) The provisions of the regulations under paragraph (1) providing for an initial, limited experimental application shall cease to have effect and the amendments made by sections 401 through 412 of this title and the provisions of section 413 of this title shall have full effect (without regard to the limitations under paragraph (1)) beginning on the 90th day of continuous session of Congress following the date on which the second annual report is transmitted to Congress under paragraph (2) of this section, unless the Congress before such day adopts a concurrent resolution which states that the Congress does not favor the continuance of the Senior Executive Service. If such a resolution is adopted before such date, then the provisions of such regulations, and such amendments (and the provisions of section 413), shall cease to have effect on such 90th day (or, if later, 30 days after the date of the adoption of such resolution).

(4) For purposes of paragraph (3), the continuity of a session of Congress shall be considered to be broken only by an adjournment of the Congress sine die, and the days on which either House of the Congress is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 90-day period under such paragraph.

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent to dispense with further reading of title IV, and that it be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN. Are there amendments to title IV?

AMENDMENT OFFERED BY MR. HARRIS

Mr. HARRIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARRIS: Page 209, strike out line 21 and all that follows down through line 13 on page 263, and insert in lieu thereof the following new title:

TITLE IV—SENIOR EXECUTIVE SERVICE

GENERAL PROVISIONS

SEC. 401. (a) Chapter 21 of title 5, United States Code, is amended by inserting after section 2101 the following new section:

"§ 2101a. The Senior Executice Service

"The 'Senior Executive Service' consists of Senior Executive Service positions (as defined in section 3132(a)(2) of this title).".

(b) Section 2102(a)(1) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by adding "and" at the end of subparagraph (B); and

(3) by adding at the end thereof the following new subparagraph:

(C) positions in the Senior Executive Service;".

(c) Section 2103(a) of title 5, United States Code, is amended by inserting before the period at the end thereof the following: "or the Senior Executive Service".

(d) Section 2108(3) of title 5, United States Code, is amended—

(1) by striking out the period at the end thereof and inserting in lieu thereof a semicolon; and

(2) by adding at the end thereof the following: "but does not include applicants for, or members of the Senior Executive Service.".

(e) The analysis for chapter 21 of title 5, United States Code, is amended by inserting after the item relating to section 2101 the following new item:

"2101a. The Senior Executive Service.".

AUTHORITY FOR EMPLOYMENT

SEC. 402. (a) Chapter 31 of title 5, United States Code, is amended by inserting after section 3112, as added by this Act, the following new subchapter:

"SUBCHAPTER II—THE SENIOR EXECUTIVE SERVICE

"§ 3131. The Senior Executive Service

"(a) It is the purpose of this subchapter to establish a Senior Executive Service in order to ensure that the management of the Government of the United States is responsive to the needs, policies, and goals of the Nation and otherwise is of the highest quality. The Senior Executive Service shall be administered so as to—

"(1) provide for a compensation system, including salaries, benefits, and incentives, and for other conditions of employment, designed to attract and retain highly competent career senior executives;

"(2) ensure that compensation, retention, and tenure are contingent on managerial success which is to be measured on the basis of individual and organizational performance (including such factors as improvements in quality of work or service, cost efficiency, and timeliness of performance);

"(3) recognize exceptional accomplishment;

"(4) enable the head of an agency to reassign senior executives to best accomplish the agency's mission;

"(5) provide for severance pay, retirement benefits, and placement assistance for career senior executives who are removed from the Senior Executive Service for nondisciplinary reasons;

"(6) protect career senior executives from arbitrary or capricious actions;

"(7) provide for both program continuity and policy advocacy in the management of public programs;

"(8) maintain a merit personnel system free of improper political interference;

"(9) ensure accountability for honest, economical, and efficient Government;

"(10) ensure compliance with all applicable civil service laws, rules, and regulations including those relating to equal employment opportunity, political activity, and conflicts of interest; and

"(11) provide for the initial and continuing systematic development of highly competent career senior executives.

"§ 3132. Definitions and exclusions

"(a) For the purpose of this subchapter—

"(1) 'agency' means an Executive agency, the Administrative Office of the United States Courts, and the Government Printing Office, except that such term does not include—

"(A) a Government corporation;

"(B) the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, and any Executive agency or unit thereof which is designated by the President and which conducts foreign intelligence or counterintelligence activities; and

"(C) the General Accounting Office;

"(2) 'Senior Executive Service position' means any position in an agency which is in GS-16, 17, or 18 of the General Schedule or in level IV or V of the Executive Schedule, or an equivalent position, which (other than a position in the Foreign Service of the United States) is not required to be filled by an appointment by the President, by and with the advice and consent of the Senate, and in which an employee—

"(A) directs the work of an organizational unit;

"(B) is held accountable for the success of one or more specific programs or projects; or

"(C) supervises the work of employees other than personal assistants;

"(3) 'career senior executive' means an individual in a Senior Executive Service position whose appointment to such position or previous appointment to another Senior Executive Service position was based on—

"(A) approval by the Office of Personnel Management of the managerial qualifications of such individual; and

"(B) selection through a competitive staffing process consistent with Office of Personnel Management regulations;

"(b) An agency may file an application with the Office of Personnel Management, setting forth reasons why it, or a unit thereof, should be excluded from any provision or requirement of this subchapter. The Office of Personnel Management shall—

"(1) review such application and stated reasons,

"(2) undertake such other investigation as it considers appropriate to determine whether the agency or unit should be excluded from any provision or requirement of this subchapter, and

"(3) upon completion of its review, recommend to the President whether the agency or unit should be so excluded from any provision or requirement of this subchapter.

If the Office recommends that an agency or unit thereof be excluded from any provision or requirement of this subchapter, the President may, on written determination, make such exclusion to such extent and for such period as the President determines appropriate.

"(c) The Office of Personnel Management may at any time recommend to the President that any exclusion previously granted to an agency or unit under subsection (c) of this section be revoked. Upon recommendation of the Office, the President may revoke, by written determination, any exclusion made under subsection (c) of this section.

"(d) If—

"(1) any agency is excluded under subsection (c) of this section, or

"(2) any exclusion is revoked under subsection (d) of this section,

the Office of Personnel Management, shall within 30 days after such action, transmit to the Congress a report concerning the exclusion or revocation.

"§ 3133. Authorization of positions; authority for appointment

"(a) On or before December 31 of each odd-numbered calendar year, each agency shall—

"(1) examine its needs for Senior Executive Service positions for each of the two fiscal years beginning after such calendar year; and

"(2) submit to the Office of Personnel Management a written request for a specific number of Senior Executive Service positions for each of such fiscal years.

"(b) Each agency request submitted under subsection (a) of this section shall be based on—

"(1) the anticipated type and extent of program activities of the agency for each of the two fiscal years involved;

"(2) such other factors as may be prescribed from time to time by the Office of Personnel Management.

"(c) The Office of Personnel Management, upon consultation with the Office of Management and Budget shall review the request of each agency and shall authorize, for each of the two fiscal years covered by requests required under subsection (b) of this section, a specific number of Senior Executive Service positions for each agency.

"(d)(1) The Office may, on a written request of an agency or on its own initiative, make an adjustment in the number of positions authorized for any agency. Each agency request under this paragraph shall be submitted in such form, and shall be based on

such factors, as the Office of Personnel Management shall prescribe.

"(2) The total number of positions in the Senior Executive Service may not at any time during any fiscal year exceed the total number of positions authorized under subsection (c) of this section for such fiscal year plus 5 percent of such total number.

"(c) Appointments to the Senior Executive Service may be made by appropriate appointing authorities of agencies subject to the requirements and limitations of this title.

"§ 3134. Biennial report

"(a) The Office of Personnel Management shall submit to each House of the Congress, at the time the budget is submitted by the President to the Congress during each even-numbered calendar year, a report on the Senior Executive Service. The report shall include—

"(1) the number of Senior Executive Service positions authorized for the then current fiscal year, in the aggregate and by agency, and the projected number of Senior Executive Service positions to be authorized for the next two fiscal years, in the aggregate and by agency;

"(2) a description of each exclusion in effect during the then current fiscal year under section 3132(c) of this title;

"(3) the percentage of career senior executives at each pay rate and the distribution and amount of performance awards, in the aggregate and by agency; and

"(4) such other information regarding the Senior Executive Service as the Office of Personnel Management considers appropriate.

"(b) The Office of Personnel Management shall submit to each House of the Congress, at the time the budget is submitted to the Congress each odd-numbered year, an interim report showing changes in matters required to be reported under subsection (a) of this section.

"§ 3135. Regulations

"The Office of Personnel Management shall prescribe such regulations as may be necessary to carry out the purpose of this subchapter.".

(b) Section 3109 of title 5, United States Code, is amended by inserting at the end thereof the following new subsection:

"(c) Positions in the Senior Executive Service may not be filled under the authority of subsection (b) of this section.".

(c) The chapter analysis of chapter 31 of title 5, United States Code, is amended—

(1) by striking out the heading for chapter 31 and inserting in lieu thereof the following:

"Chapter 31—AUTHORITY FOR EMPLOYMENT

"SUBCHAPTER I—EMPLOYMENT AUTHORITIES"; and

(2) by inserting at the end thereof the following:

"SUBCHAPTER II—THE SENIOR EXECUTIVE SERVICE

"Sec.
"3131. The Senior Executive Service.
"3132. Definitions and exclusions.
"3133. Authorization of positions; authority for appointment.
"3134. Biennial report.
"3135. Regulations.".

EXAMINATION CERTIFICATION AND APPOINTMENT

SEC. 403. (a) Chapter 33 of ttile 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER VIII—APPOINTMENT, REASSIGNMENT, TRANSFER, AND DEVELOPMENT IN THE SENIOR EXECUTIVE SERVICE

"§ 3391. Definitions

"For the purpose of this subchapter, 'agency', 'Senior Executive Service position', and 'career senior executive' have the meanings given such terms under section 3132(a) of this title.

"§ 3392. General appointment provisions

"(a) Qualification standards shall be established by the head of each agency for each Senior Executive Service position in such agency and shall be in accordance with requirements established by the Office of Personnel Management.

"(b) An individual may be appointed to a Senior Executive Service position only if the appointing authority has determined in writing that the individual meets the qualification requirements of such position.

"(c) If a career senior executive is appointed by the President, by and with the advice and consent of the Senate, to a civilian position in the executive branch which is not in the Senior Executive Service, and the rate of basic pay payable for which is equal to or greater than the rate payable for level V of the Executive Schedule such executive may elect (at such time and in such manner as the Office of Personnel Management may prescribe) to continue to have the provisions of this title relating to basic pay, performance awards, awarding of ranks, severance pay, and retirement apply as if such executive remained in the Senior Executive Service position from which he was appointed. Such provisions shall apply in lieu of the provisions which would otherwise apply—

"(1) to the extent provided under regulations prescribed by the Office, and

"(2) so long as such executive continues to serve under such Presidential appointment.

"§ 3393. Career senior executive appointments

"(a) Each agency shall establish a recruitment program, in accordance with guidelines which shall be issued by the Office of Personnel Management, which provides for recruitment of career senior executives from—

"(1) all groups of qualified individual applicants within the civil service; or

"(2) all groups of qualified individual applicants whether or not within the civil service.

"(b) Each agency shall establish one or more executive resources boards, as appropriate, the members of which shall be appointed by the head of such agency from among employees of such agency. It is the function of such boards, in accordance with competitive staffing requirements established by the Office of Personnel Management, to—

"(1) review the qualifications of candidates for appointment as career senior executives; and

"(2) make written recommendations concerning such applicants to the appropriate appointing authorities.

"(c)(1) The Office of Personnel Management shall establish one or more qualifications review boards, as appropriate, the members of which shall be appointed by the Director from within and outside the civil service on the basis of their knowledge of public management and other appropriate occupational fields. It is the function of such boards to certify the managerial qualifications of candidates for entry as career senior executives into the Senior Executive Service in accordance with regulations prescribed by the Office of Personnel Management.

"(2) The Office of Personnel Management shall, in consultation with the various qualification review boards, prescribe criteria for establishing managerial qualifications for appointment to the Senior Executive Service. Such criteria shall provide for—

"(A) consideration of demonstrated managerial experience;

"(B) consideration of successful participation in a career executive development program which is approved by the Office of Personnel Management; and

"(C) sufficient flexibility to allow for the appointment of individuals who have special or unique qualities which indicate a likelihood of managerial success and who would not otherwise be eligible for appointment.

"(d) An individual's initial appointment as a career senior executive shall become final only after such individual has served a 1-year probationary period as a career appointee.

"§ 3394. Reassignment and transfer within the Senior Executive Service

"(a) A career senior executive in an agency—

"(1) may be reassigned to any Senior Executive Service position in the same agency for which the executive is qualified; and

"(2) may transfer to a Senior Executive Service position in another agency for which the executive is qualified, with the approval of that agency.

"(b) A career senior executive in an agency may not be involuntarily reassigned within 120 days after an appointment of the head of such agency.

"§ 3395. Development for and within the Senior Executive Service

"(a) The Office of Personnel Management shall establish programs for the systematic development of candidates for the Senior Executive Service and for the continuing development of career senior executives or require agencies to establish such programs, which meet criteria prescribed by the Office of Personnel Management.

"(b) The Office of Personnel Management shall assist agencies in the establishment of programs required under subsection (a) of this section and shall monitor the implementation of such programs. If the Office of Personnel Management finds that any agency's program under subsection (a) is not in compliance with the criteria prescribed under such subsection, it shall require such agency to take such corrective action as may be necessary to bring such program into compliance with such criteria.

"(c)(1) An agency head may grant a sabbatical leave to a career senior executive for not to exceed 11 months in order to permit such executive to engage in study or uncompensated work experience which will contribute to the executive's development and effectiveness. Such leave shall not result in loss of, or reduction in, pay, leave to which the executive is otherwise entitled, credit for time or service, or performance or efficiency rating. The agency head may authorize in accordance with chapter 57 of this title such travel and per diem costs as such agency head may determine to be essential for such study or experience.

"(2) Sabbatical leave under this subsection may not be granted to any career senior executive—

"(A) more than once in any ten-year period;

"(B) unless such executive has completed 7 years of service—

"(i) in one or more positions in the Senior Executive Service;

"(ii) in one or more other positions in the civil service the level of duties and responsibilities of which are equivalent to the level of duties and responsibilities of positions in the Senior Executive Service; or

"(iii) in any combination of such positions; except that not less than 2 years of such 7 years of service must be in the Senior Executive Service; and

"(C) if such executive is eligible for voluntary retirement with a right to an immediate annuity under section 8336 of this title.

Any period of assignment under section 3373 of this title, relating to assignments of

employees to State and local governments

employees to State and local governments, shall not be considered a period of service for this purposes of subparagraph (B) of this paragraph.

"(3)(A) Any career senior executive in an agency may be granted sabbatical leave under this—subsection only if such executive agrees, as a condition of accepting such sabbatical leave, to serve with such agency upon the completion of such leave, for a period of two consecutive years.

"(B) Each agreement required under subparagraph (A) of this paragraph shall provide that in the event the career senior executive fails to carry out such agreement (except for good and sufficient reason as determined by the head of the agency involved) such executive shall be liable to the United States for payment of all expenses (including salary) of such sabbatical leave. Such amount shall be treated as a debt due the United States.

"§ 3396. Regulations

The Office of Personnel Management shall prescribe such regulations as may be necessary to carry out the purpose of this subchapter.".

(b) The chapter analysis for chapter 33 of title 5, United States Code, is amended by inserting after the item relating to section 3385 the following:

"SUBCHAPTER VIII—APPOINTMENT REASSIGNMENT, TRANSFER, AND DEVELOPMENT IN THE SENIOR EXECUTIVE SERVICE

"Sec.
"3391. Definitions.
"3392. General appointment provisions.
"3393. Career appointments.
"3394. Reassignment and transfer within the Senior Executive Service.
"3395. Development for and within the Senior Executive Service.
"3396. Regulations.".

RETENTION PREFERENCE

SEC. 404. (a) Section 3501(b) of title 5, United States Code, is amended by striking out the period at the end thereof and inserting in lieu thereof: "or a member of the Senior Executive Service.".

(b) Chapter 35 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER V—REMOVAL, REINSTATEMENT, AND GUARANTEED PLACEMENT PROVISIONS IN THE SENIOR EXECUTIVE SERVICE

"§ 3591. Definitions

"For purposes of this subchapter, 'agency', 'Senior Executive Service position', 'and career senior executive' have the meanings given such terms under section 3132(a) of this title.

"§ 3592. Removal from the Senior Executive Service

"(a) A career senior executive may be removed from the Senior Executive Service to a civil service position outside of the Senior Executive Service—

"(1) during the one year period of probation under section 3393(d) of this title; or

"(2) at any time for less than fully successful managerial performance as determined under subchapter II of chapter 43 of this title.

"§ 3593. Reinstatement in the Senior Executive Service

"(a) A former career senior executive may be reinstated, without regard to section 3393 (b) and (c) of this title, to any Senior Executive Service position for which such executive is qualified if—

"(1) such executive has successfully completed the probationary period established under section 3393(d) of this title; and

"(2) such executive left the Senior Executive Service for reasons other than misconduct, neglect of duty, or malfeasance, or less than fully successful managerial performance by such executive as determined under subchapter II of chapter 43 of this title.

"(b) A career senior executive who is appointed by the President to any civil service position outside the Senior Executive Service and who leaves such position for reasons other than misconduct, neglect of duty, or malfeasance shall be entitled to be placed in the Senior Executive Service if the executive applies to the Office of Personnel Management within 90 days after separation from the Presidential appointment.

"§ 3594. Guaranteed placement in other personnel systems

"(a) A career senior executive who was appointed from a civil service position under a career or career-conditional appointment (or an appointment of equivalent tenure), as determined by the Office of Personnel Management, and who, for reasons other than misconduct, neglect of duty, or malfeasance, is removed from the Senior Executive Service during the probationary period under section 3393(d) of this title, shall be entitled to be placed in a civil service position in any agency other than a Senior Executive Service position.

"(b) A career senior executive—

"(1) who has completed the probationary period under section 3393(d) of this title;

"(2) who has not completed in the aggregate, 5 years of service in the Senior Executive Service; and

"(3) who is removed from the Senior Executive Service for less than fully successful managerial performance as determined under subchapter II of chapter 43 of this title;

shall be entitled to be placed in a civil service position in any agency other than a Senior Executive Service position.

"(c)(1) For purposes of subsections (a) and (b) of this section—

"(A) the position in which any career senior executive is placed under such subsections shall be a permanent, full-time position at GS-15 or above of the General Schedule, or an equivalent position;

"(B) any career senior executive placed under subsection (a) or (b) shall be entitled to receive basic pay at the higher of—

"(i) the maximum rate of basic pay in effect for the position in which placed;

"(ii) the rate of basic pay in effect at the time of such placement for the position such executive held in the civil service immediately before being appointed to the Senior Executive Service; or

"(iii) the rate of basic pay in effect for such executive immediately before being placed under subsection (a) or (b); and

"(C) the placement of any career senior executive under subsection (a) or (b) may not be made to a position which would cause the separation or reduction in grade of any other employee.

"(2) An employee who is receiving basic pay under paragraph (1)(B) (ii) or (iii) of this subsection is entitled to have such basic pay rate increased by 50 percent of the amount of each increase in the maximum rate of basic pay for the grade of the position to which such employee is placed under subsection (a) or (b) until such rate is equal to the rate in effect under paragraph (1)(B)(i) for the position to which such employee is placed.

"§ 3595. Regulations

"The Office of Personnel Management shall prescribe such regulations as may be necessary to carry out the purpose of this subchapter.".

(b) The chapter analysis for chapter 35 of title 5, United States Code, is amended by inserting the following new item:

"SUBCHAPTER V—REMOVAL, REINSTATEMENT, AND GUARANTEED PLACEMENT PROVISIONS IN THE SENIOR EXECUTIVE SERVICE

"Sec.
"3591. Definitions.
"3592. Removal from the Senior Executive Service.
"3593. Reinstatement in the Senior Executive Service.
"3594. Guaranteed placement in other personnel systems.
"3595. Regulations.".

PERFORMANCE RATING

SEC. 405. Chapter 43 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER II—PERFORMANCE APPRAISAL IN THE SENIOR EXECUTIVE SERVICE

"§ 4311. Definitions

"For the purpose of this subchapter, 'agency' and 'career senior executive' have the meanings given such terms under section 3132(a) of this title.

"§ 4312. Senior Executive Service performance appraisal systems

"(a) Each agency shall, in accordance with standards established by the Office of Personnel Management, develop one or more performance appraisal systems designed to—

"(1) provide for systematic appraisals of performance of career senior executives;

"(2) encourage excellence in performance by career senior executives; and

"(3) provide a basis for making eligibility determinations for Senior Executive Service retention and performance awards.

"(b) Each performance appraisal system established by an agency under subsection (a) of this section shall provide—

"(1) that, on or before the beginning of each rating period, performance requirements for each career senior executive in such agency are established in consultation with such executive and communicated to such executive;

"(2) that written appraisals of performance are based on the individual and organizational performance requirements established for the rating period involved; and

"(3) that each career senior executive in such agency is provided a copy of the appraisal and rating under section 4314 of this title and is given an opportunity to respond in writing to such appraisal and rating and have such appraisal and rating reviewed by an employee in a higher managerial level in such agency before such appraisal and rating becomes final.

"(c) If the Office of Personnel Management determines that an agency performance appraisal system does not comply with the requirements of this subchapter or regulations under this subchapter, the Office of Personnel Management shall order the agency to take such corrective action as may be necessary to bring such system into compliance.

"§ 4313. Criteria for performance appraisals

"Appraisals of performance in the Senior Executive Service shall be based on both individual and organizational performers, taking into account such factors as—

"(1) improvements in quality of work or service;

"(2) cost efficiency; and

"(3) timeliness of performance.

"§ 4314. Ratings for performance appraisals

"(a) Each performance appraisal system shall provide for annual summary ratings of levels of performance as follows:

"(1) one or more fully successful levels,

"(2) a minimally satisfactory level, and

"(3) an unsatisfactory level.

"(b) Each performance appraisal system shall provide that—

"(1) any appraisal and rating under such system—

"(A) is made only after review and evaluation by a performance review board established under subsection (c) of this section;

"(B) is conducted at least annually, subject to the limitation of paragraph (3) of this subsection;

"(C) may not be made within 120 days after the beginning of a new Presidential administration; and

"(D) is based on performance during a performance appraisal period the duration of which shall be determined under guidelines established by the Office of Personnel Management, but which may be terminated in any case in which the agency conducting such appraisal determines that an adequate basis exists on which to appraise and rate the executive performance;

"(2) any career senior executive receiving a rating at any of the fully successful levels under subsection (a)(1) of this section may be given a performance award as prescribed in section 5384 of this title;

"(3) any career senior executive receiving an unsatisfactory rating under subsection (a)(3) of this section shall be reassigned or transferred within the Senior Executive Service, or separated from the Senior Executive Service, except that any executive who receives 2 such unsatisfactory ratings in any period of 5 consecutive years shall be separated from the Senior Executive Service; and

"(4) any career senior executive who twice in any period of 3 consecutive years receives less than fully successful ratings shall be separated from the Senior Executive Service.

"(c) Each agency shall establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards, as appropriate. It is the function of such boards to make recommendations to the appropriate appointing authority of such agency relating to the performance of career senior executives in such agency. The members of such a board shall be appointed by the head of such agency from among employees of such agency other than career senior executives with respect to which recommendations are being made by such board. In making any such recommendation with respect to a career senior executive, such a board shall include at least 1 career senior executive.

"§ 4315. Regulations

"The Office of Personnel Management shall prescribe such regulations as may be necessary to carry out the purposes of this subchapter.".

(b) The chapter analysis for chapter 43 of title 5, United States Code, is amended by inserting at the end of the chapter analysis the following:

"SUBCHAPTER II—PERFORMANCE APPRAISAL IN THE SENIOR EXECUTIVE SERVICE

"Sec.
"4311. Definitions.
"4312. Senior Executive Service performance appraisal systems.
"4313. Criteria for performance appraisals.
"4314. Ratings for performance appraisals.
"4315. Regulations.".

AWARDING OF RANKS

SEC. 406. (a) Chapter 45 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 4507. Awarding of ranks in the Senior Executive Service

"(a) For the purpose of this section, 'agency' and 'career senior executive' have the meanings given such terms under section 3132(a) of this title.

"(b) Each agency shall forward annually to the Office of Personnel Management any recommendation of career senior executives in such agency to be awarded the rank of Meritorious Executive or Distinguished Executive. The Office of Personnel Management shall review such recommendations and provide to the President recommendations as to which of the agency recommended executives should receive such rank.

"(c) During any fiscal year, the President may, subject to subsection (d), award to any career senior executive recommended by the Office of Personnel Management the rank of—

"(1) Meritorious Executive, for sustained accomplishment, or

"(2) Distinguished Executive, for sustained extraordinary accomplishment.

"(d) During any fiscal year—

"(1) the number of career senior executives awarded the rank of Meritorious Executive may not exceed 5 percent of the Senior Executive Service; and

"(2) the number of career senior executives awarded the rank of Distinguished Executive may not exceed 1 percent of the Senior Executive Service.

"(e)(1) Receipt by a career senior executive of the rank of Meritorious Executive entitles such individual to a lump-sum payment of $2,500.

"(2) Receipt by a career senior executive of the rank of Distinguished Executive entitles such individual to a lump-sum payment of $5,000.".

(b) The analysis for chapter 45 of title 5, United Startes Code, is amended by adding at the end thereof the following new item:

"4507. Awarding of ranks in the Senior Executive Service.".

PAY RATES AND SYSTEMS

SEC 407. (a) Chapter 53 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER VII—PAY FOR THE SENIOR EXECUTIVE SERVICE

"§ 5381. Definitions

"For the purpose of this subchapter, 'agency', 'Senior Executive Service position', and 'career senior executive' have the meanings given such terms under section 3132(a) of this title.

"§ 5382. Establishment and adjustment of rates of pay for the Senior Executive Service

"(a) There shall be 5 or more rates of basic pay for the Senior Executive Service, and each career senior executive shall be paid at one of such rates. Such rates of basic pay shall be initially established and thereafter adjusted by the President subject to subsection (b) of this section.

"(b) In setting rates of basic pay, the lowest rate for the Senior Executive Service shall not be less than the minimum rate of basic pay payable for GS-16 of the General Schedule and the highest rate shall not exceed the rate for level IV of the Executive Schedule. The payment of such rates shall not be subject to the pay limitation of section 5308 of this title.

"(c) Subject to subsection (b) of this section, effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5305 of this title in the rates of pay under the General Schedule, each rate of basic pay for the Senior Executive Service shall be adjusted by an amount, rounded to the nearest multiple of $100 (or if midway between multiples of $100, to the next higher multiple of $100), equal to the percentage of such rate of basic pay which corresponds to the overall average percentage (as set forth in the report transmitted to the Congress under such section 5305) of the adjustment in the rates of pay under the General Schedule. The adjusted rates of basic pay for the Senior Executive Service shall be included in the report transmitted to the Congress by the President under section 5305(a)(3) or (c)(1) of this title.

"(d) The rates of basic pay that are established and adjusted under this section shall be printed in the Federal Register and shall supersede any prior rates of basic pay for the Senior Executive Service.

"§ 5383. Setting individual executive pay

"(a) Each appointing authority shall determine, in accordance with criteria established by the Office of Personnel Management, which of the rates established under section 5382 of this title shall be paid to each career senior executive under such appointing authority.

"(b) In no event may the aggregate amount paid to a career senior executive for any fiscal year under sections 4507, 5383, and 5384 of this title exceed 95 percent of the annual rate payable for positions at level II of the Executive Schedule in effect at the end of such fiscal year.

"(c) Except for any pay adjustment under section 5382 of this title, the rate of basic pay for any career senior executive may not be adjusted more than once during any 12-month period.

"§ 5384. Performance awards for the Senior Executive Service

"(a)(1) To encourage excellence in performance by career senior executive performance awards shall be paid to career senior executive in accordance with the provisions of this section.

"(2) Such awards shall be paid in a lump sum and shall be in addition to the basic pay paid under section 5382 of this title or any award paid under section 4507 of this title.

"(b)(1) No performance award under this section shall be paid to any career senior executive whose performance was determined to be less than fully successful at the time of such executive's most recent performance appraisal and rating under subchapter II of chapter 43 of this title.

"(2) The amount of a performance award under this section shall be determined by the agency head but may not exceed 20 percent of the career senior executive's rate of basic pay.

"(3) The number of career senior executives in any agency paid performance awards under this section during any fiscal year may not exceed 50 percent of the number of Senior Executive Service positions in such agency. This subsection shall not apply in the case of any agency which has less than 4 Senior Executive Service positions.

"(c) Performance awards paid by any agency under this section shall be based on recommendations by performance review boards established by such agency under section 4314 of this title.

"§ 5385. Regulations

"The Office of Personnel Management shall prescribe such regulations as are necessary to carry out the purpose of this subchapter and may provide guidance to agencies concerning the proportion of funds available for Senior Executive Service salary expenses which may be used for performance awards.".

(c) The analysis of chapter 53 of title 5, United States Code, is amended by adding at the end thereof the following new items:

"SUBCHAPTER VII—PAY FOR THE SENIOR EXECUTIVE SERVICE

"Sec.
"5381. Purpose; definitions.
"5382. Establishment and adjustment of rates of pay for the Senior Executive Service.
"5383. Setting individual executive pay.
"5384. Performance awards for the Senior Executive Service.
"5385. Regulations.".

PAY ADMINISTRATION

SEC. 408. Chapter 55 of title 5, United States Code, is amended—

(1) by inserting "other than an employee or individual excluded by section 5541(2)(xvi) of this section" immediately before the period at the end of section 5504(a)(B);

(2) by amending section 5541(2) by striking out "or" after paragraph (xiv), by striking out the period after paragraph (xv) and inserting "; or" in lieu thereof, and by adding the following paragraph at the end thereof:

"(xvi) member of the Senior Executive Service."; and

(3) by inserting "other than a member of the Senior Executive Service" after "employee" in section 5595(a)(2)(i).

TRAVEL, TRANSPORTATION, AND SUBSISTENCE

SEC. 409. (a) Section 5723(a)(1) of title 5, United States Code, is amended by striking out "; and" and inserting in lieu thereof "or of a new appointee to the Senior Executive Service; and".

(b) Subchapter IV of chapter 57 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 5752. Travel expenses of Senior Executive Service candidates

"Employing agencies may pay candidates for Senior Executive Service positions travel expenses incurred incident to preemployment interviews requested by the employing agency.".

(c) The analysis for chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5751 the following new item:

"5752. Travel expenses of Senior Executive Service candidates.".

LEAVE

SEC. 410. Chapter 63 of title 5, United States Code, is amended by inserting in subsection (a) of section 6304 "(e), and (f)" in lieu of "and (e)," and by adding at the end of such section the following new subsection:

"(f) Annual leave accrued by an individual while serving in a position in the Senior Executive Service shall not be subject to the limitation on accumulation otherwise imposed by this section.".

DISCIPLINARY ACTIONS

SEC. 411. Chapter 75 of title 5, United States Code, is amended—

(1) by inserting the following in the chapter analysis after subchapter IV:

"SUBCHAPTER V—SENIOR EXECUTIVE SERVICE

"Sec.
"7541. Definitions.
"7542. Actions covered.
"7543. Cause and procedure."; and

(2) by adding the following after subchapter IV:

"SUBCHAPTER V—SENIOR EXECUTIVE SERVICE

"§ 7541. Definitions

"For the purpose of this subchapter—

"(1) 'employee' means an individual in the Senior Executive Service who—

"(A) has completed the probationary period prescribed under section 3393(d) of this title; or

"(B) was covered by the provisions of subchapter II of this chapter immediately before appointment to the Senior Executive Service; and

"(2) 'suspension' has the meaning set forth in section 7501 of this title.

"§ 7542. Actions covered

"This subchapter applies to removal from the civil service or suspension for more than 14 days, but does not apply to a suspension or removal under section 7532 of this title or to a removal under section 3592 of this title.

"§ 7543. Cause and procedure

"(a) Under regulations prescribed by the Office of Personnel Management, an agency may take an action covered by this subchapter against an employee only for such cause as will promote the efficiency of the service.

"(b) An employee against whom an action covered by this subchapter is proposed is entitled to—

"(1) at least 30 days advance written notice unless there is reasonable cause to believe that the employee has committed a crime for which a sentence of imprisonment can be imposed, stating specific reasons for the proposed action;

"(2) a reasonable time, but not less than 7 days, to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

"(3) be represented by an attorney or other representative; and

"(4) a written decision and specific reasons therefor at the earliest practicable date.

"(c) An agency may provide, by regulation, for a hearing which may be in lieu of or in addition to the opportunity to answer provided under subsection (b)(2) of this section.

"(d) An employee against whom an action is taken under this section is entitled to appeal to the Merit Systems Protection Board under section 7701 of this title.

"(e) Copies of the notice of proposed action, the answer of the employee when written, and a summary thereof when made orally, the notice of decision and reasons therefor, and any order effecting an action covered by this subchapter, together with supporting material, shall be maintained by the agency and shall be furnished to the Merit Systems Protection Board upon its request and to the individual affected upon such individual's request.

RETIREMENT

SEC. 412. (a) Section 8336 of title 5, United States Code, is amended by redesignating subsection (h) as subsection (i) and inserting immediately after subsection (g) the following new subsection:

"(h) A member of the Senior Executive Service who is separated from the Senior Executive Service for less than fully successful performance (as determined under subchapter II of chapter 43 of this title) after completing 25 years of service or after becoming 50 years of age and completing 20 years of service is entitled to an annuity.".

(b) Section 8339(h) of title 5, United States Code, is amended by striking out "section 8336(d)" and inserting in lieu thereof "section 8336 (d) or (h)".

CONVERSION TO THE SENIOR EXECUTIVE SERVICE

SEC. 413. (a) During the period beginning on the date of the enactment of this title and ending on the effective date of this title, each agency under the guidance and review of the Office of Personnel Management and the definitions in chapter 31 of title 5, United States Code, as amended by this title, shall designate those positions which are to be incorporated into the Senior Executive Service.

(b) Each agency shall also submit a request for total Senior Executive Service position allocations. The Office of Personnel Management shall establish interim authorizations in accordance with section 3133 of title 5, United States Code, as amended by this Act.

(c)(1) Each employee serving in a position at the time it is designated as a position in the Senior Executive Service may elect to—

(A) decline conversion and remain in a position under such employee's current appointment and pay system, retaining the grade, seniority, and other rights and benefits associated with career and career-conditional appointment; or

(B) convert to a Senior Executive Service appointment according to the automatic appointment conversion provisions of subsection (d) of this section.

The placement of an employee because of an election under subparagraph (A) shall not cause the separation or reduction in grade of any other employee.

(2) The employee shall be notified in writing that such employee's position has been brought into the Senior Executive Service and what the employee's options are under subsection (d) of this section. The employee shall be given 90 days from the date of such notification to elect one of the options.

(d) Each employee who has elected an automatic appointment conversion, is serving immediately before the effective date in a position designated as a Senior Executive Service position, and is currently under—

(1) a career or career-conditional appointment; or

(2) a similar type of appointment in an excepted service as determined by the Office of Personnel Management;

shall receive an appointment to that position in the Senior Executive Service not subject to section 3393 (c) and (d) of title 5, United States Code.

(e) Employees whose actual base pay at the time of conversion exceeds the pay of the rate to which they are converted shall retain their pay. If there are comparability increases under section 5305 of title 5, United States Code, these employees will receive half of each comparability increase until the base pay equals the established Senior Executive Service rate.

(f) The Office of Personnel Management shall prescribe regulations to carry out the purpose of this section. The regulations shall provide a right of appeal to the Merit Systems Protection Board for an employee who believes such employee's agency has violated the employee's rights under this section. An agency shall take the corrective action that the Merit Systems Protection Board orders in its decision on an appeal under this subsection.

LIMITATION ON EXECUTIVE POSITIONS

SEC. 414. (a)(1)(A) Subsections (b) through (g) of section 5108 of title 5, United States Code, relating to special authority to place positions at GS-16, GS-17, and GS-18 of the General Schedule, are hereby repealed.

Notwithstanding the provisions of any law (other than section 5108 of such title 5), the authority granted to an agency (within the meaning of section 5102(a)(1) of such title 5) under any such provisions to place one or more positions in GS-16, GS-17, or GS-18 of the General Schedule, is hereby terminated.

(C) Subsection (a) of section 5108 of title 5, United States Code, is amended to read as follows: "The Director of the Office of Personnel Management may establish, and from time to time revise, the maximum numbers of positions (not to exceed an aggregate of) which may at any one time be placed in—

(i) GS-16, GS-17, and GS-18 of the General Schedule: and

(ii) the Senior Executive Service, in accordance with section 3133 of title 5, United States Code (as added by this Act).

A position may be placed in GS-16, GS-17, or GS-18 of the General Schedule, only by action of the Director of the Office of Personnel Management.

(2)(A) Notwithstanding the provisions of any other provision of law (other than section 3104 of title 5, United States Code), the authority granted to an agency (within the meaning of section 5102(a)(1) of such title 5) to establish scientific or professional positions outside of the General Schedule is hereby terminated.

(B) Section 3104 of title 5, United States Code, is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a)(1) The Director of the Office of Personnel Management may establish, and from time to time revise, the maximum number of scientific or professional positions (not to exceed) for carrying out research and development functions which require

the services of specially qualified personnel which may be established outside of the General Schedule. Any such position may be established only by action of the Director of the Office of Personnel Management.

"(2) The provisions of paragraph (1) of this subsection shall not apply to any Senior Executive Service position (as defined in section 3132(a) of this title).".

(C) Subsection (c) of such section 3104 is amended—

(i) by striking out "(c)" and inserting in lieu thereof "(b)"; and

(ii) by striking out "to establish and fix the pay of positions under this section and" and inserting in lieu thereof "to fix under section 5361 of this title the pay for positions established under this section".

(3)(A) The provisions of paragraphs (1) and (2) of this subsection shall not apply with respect to any position so long as the individual occupying such position on the day before the date of the enactment of this Act continues to occupy such position.

(B) The Director of the Office of Personnel Management—

(i) in establishing under section 5108 of title 5, United States Code, the maximum number of provisions which may be placed in GS-16, GS-17, and GS-18, and

(ii) in establishing under section 3104 of such title 5 the maximum number of scientific or professional positions which may be established,

shall take into account positions to which subparagraph (A) of this paragraph applies.

(b)(1) Section 5311 of title 5, United States Code, is amended by inserting "(a)" before "The Executive Schedule," and by adding at the end thereof the following new subsection:

"(b)(1) Not later than 180 days after the date of the enactment of the Civil Service Reform Act of 1978, the Director of the Office of Personnel Management shall determine the number and classification of executive level positions in existence in the executive branch on such date of enactment, and shall publish such determination in the Federal Register. Effective beginning on the date of such publication, the number of executive level positions within the executive branch may not exceed the number published under this subsection.

"(2) For the purpose of this subsection, 'executive level position' means—

"(A) any office or position in the civil service the rate of pay for which is equal to or greater than the rate of basic pay payable for positions under section 5316 of this title, or

"(B) any such office or position the rate of pay for which may be fixed by administrative action at a rate equal to or greater than the rate of basic pay payable for positions under section 5316 of this title;

except that such position does not include any Senior Executive Service position, as defined in section 3132(a) of this title.".

(2) The President shall transmit to Congress by January 1, 1980, a plan for authorizing executive level positions in the executive branch which shall include the maximum number of executive level positions necessary by level and a justification for the positions.

CRITERIA FOR EXCEPTED POSITIONS

SEC. 415. (a) Section 3302 of title 5, United States Code, is amended to read as follows:

"§ 3302. Competitive service; rules

"The President may prescribe rules governing the competitive service. The rules shall provide, as nearly as conditions of good administration warrant, for necessary exceptions from the provisions of sections 2951, 3304(a), 3321, 7152, 7153, 7321, and 7322 of this title. Each officer and individual employed in an agency to which the rules apply shall aid in carrying out the rules.".

(b) Subchapter I of chapter 33 of title 5, United States Code, is amended by inserting after section 3302 the following new section:

"§ 3302a. Positions excepted from the competitive service

"(a) The President may, by regulation, except any position from the competitive service if he determines that—

"(1) the duties of such position—

"(A) require significant involvement in the advocacy of Presidential administration programs and support of their controversial aspects,

"(B) require significant participation in the determination of major policies of such administration, or

"(C) principally involve serving as a personal assistant to or advisor of a Presidential appointee, or serving in a confidential relationship directly under such a personal assistant or advisor; or

"(2) it would be impracticable to apply competitive examination procedures in the filling of such position because of—

"(A) national security,

"(B) statutory or other significant requirements establishing special employment conditions,

"(C) the unusual nature of the duties of such position,

"(D) duration and frequency of service,

"(E) work location, or

"(F) inadequate number of applicants.".

(c) The table of sections for chapter 33 of title 5, United States Code, is amended by inserting after the item relating to section 3302 the following new item:

"3302a. Positions excepted from the competitive service.".

EFFECTIVE DATE

SEC. 416. The provisions of this title shall take effect 9 months after the date of the enactment of this title with the exception of section 413, regarding conversion procedures, which shall take effect immediately upon enactment.

Page 2, revise the table of sections accordingly.

Mr. HARRIS (during the reading). Mr. Chairman, this is a complicated amendment, but I ask unanimous consent that we consider the amendment as read and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. HARRIS. Mr. Chairman, this amendment appears to be fairly lengthy because it is a rewriting of Title IV with one purpose in mind, and that purpose is to contain in Title IV all of those items that the administration and the committee in fact say that they need for Senior Executive Service, with the exception that we make sure that the Senior Executive Service is limited to career employees and does not contain political appointees.

Mr. Chairman, I think that we should recognize that we are dealing here with a relatively small group of top management officials, about 9,200. What the bill purports to do is set up a system that would permit the appointment of, the transfer of, and the removal of such officials.

We have been told that as an important element of this in any one of these positions of the Senior Executive Service the administration should have the authority to put a political appointee in that position. This is a tremendous departure from the existing system and one that I think strikes at the very heart of the viability of this bill. If in fact the civil service system has been designed to prevent the politicization of the system, it is in this title IV that we have opened it up to said politicization.

Mr. Chairman, I am offering a substitute to title IV, the title creating the new Senior Executive Service.

First, I want to emphasize that under my substitute, the key features and purposes of the proposed Senior Executive Service would not be changed. It retains the pay and performance evaluation provisions of the committee bill. The main concepts—pay for performance, mobility among agencies, flexibility in assignments, and management accountability—would remain.

It covers the same levels as the committee bill, GS-16 through executive level IV supervisory and managerial positions.

Basically, my substitute does two things: First, it stipulates that the Senior Executive Service would consist only of career employees; and second, it puts into law the standards now used to except a position from the career competitive service—for example, advocacy of administration programs, confidential assistant, national security.

My objection to the proposal under the bill is that the type of appointment—competitive or excepted—has no bearing on the responsibilities of the job. Agency heads who are political appointees, designate which positions are career and which are political. The bill has numerical limits on the number of political hirings, but these numbers are arbitrary. They have no relationship to the duties of the position.

I believe that some positions can legitimately be filled by political appointees, particularly those high-level jobs requiring advocacy or development of administration policies. But many positions should be filled by persons competitively hired, such as the head of a division handling tax returns, grants, or contracts.

My substitute is similar to current practice which is governed by regulation. Currently, under the Civil Service Commission rules if a position meets certain standards, it can be excepted from the competitive service. Those standards provide that the President may except certain positions if he determines that—

(1) the duties of the position—

(a) require significant involvement in the advocacy of Presidential administration programs;

(b) require significant participation in the determination of major policies of such administration, or

(c) principally involve serving as a personal assistant to or advisor of a Presidential appointee, or serving in a confidential relationship directly under such personal assistant or advisor; or

(2) it would be impractical to apply a competitive staffing process in the filling of such position because of—

(a) national security,

(b) statutory or other significant requirements establishing special employment conditions,

(c) the unusual nature of the duties of such position,
(d) duration and frequency of service,
(e) work location, or
(f) inadequate number of applicants.

My substitute would place these standards in the law; the effect would be the same as the current practice. The difference is that Congress would be providing clear direction and controls over which positions are political and which are career.

I believe my amendment goes to the heart of civil service "reform," a popular slogan that could be dangerously perverted under this bill. Politicizing the bureaucracy is not reform, in my view. There is a place for political appointments in the top layers of Government. But this bill leaves too many loopholes.

It was not that long ago that we saw political manipulation ripple throughout the bureaucracy under the guise of "getting control of the government." The taxpayer wants to know that Federal laws and programs are administered impartially, that decisions are made on principle, not politics. This is my goal, and I believe this amendment would accomplish that. I hope my colleagues will support it.

The CHAIRMAN. The time of the gentleman from Virginia has expired.

(By unanimous consent, Mr. HARRIS was allowed to proceed for 2 additional minutes.)

Mr. HARRIS. Mr. Chairman, what we do if we do not adopt this substitute is open up a system where all top management jobs could by Presidential decision be filled by political appointment. It means that anyone entering into the senior executive service where pay increases are not automatic under the theories of this bill would be in competition with political appointees with respect to such merit pay. We would be setting up a system diametrically opposed to the current system.

We are throwing out with this bill one of the concepts, one of the underlying principles of the civil service plan that we have developed over the last 80 or 90 years. We should not do this casually.

I urge my colleagues to adopt this substitute so we can give the administration the new vitality, the flexibility that they want, the mobility that they want, but not allow them to mix up political appointees and civil service merit employees in the same positions. If we do, I predict we will rue the day we do this probably as much as we rue the day we accepted the Postal Reform Act a few years ago.

Mr. Chairman, I urge we adopt this amendment.

Mr. DERWINSKI. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would like to point out that I consider the facts of life in a Government as huge as ours, that any President has to have a few people in office that are politically loyalists and share the philosophy of the administration.

We cannot have a President come into office and have a totally neuter Federal civil service. That is really the philosophy behind the argument of the gentleman from Virginia (Mr. HARRIS).

But the facts of life are these: That these new Senior Executive Service people will be the troubleshooters, the management experts, and the key people who keep Government working. It stands to reason some outside expertise and some new blood—a transfusion, if you will—will be needed.

It also stands to reason that when they draw some assignments in areas where there might be some controversial administration programs, there be a certain commonsense factor relating to political loyalties. If anyone thinks we can run a government as large as ours and not have at least a handful of people with honest-to-goodness political loyalties, then they have their heads buried in the sand.

Basically, we provide the procedure whereby only 10 percent of these people will come in without competitive examinations, and the real concept of it is that at least those civil servants who are excellent administrators and who will voluntarily accept these assignments will not as such then be subject to political label if the next administration then comes in and inherits the program.

This amendment was thoroughly debated in committee. It was subjected to real good, sharp, clean debate. The political facts of life are that the mix we envision is necessary for the proper functioning of Government and the response of the bureaucracy to the President of the United States.

Mr. Chairman, I as a Republican strongly urge we reject this amendment and give the present President an opportunity to mix with the career civil servants an occasional political loyalist to do a tough job in a tough situation.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, the gentleman from Illinois (Mr. DERWINSKI) has stated the case against the amendment very accurately, and I associate myself with his remarks.

The heart of this bill is the career senior executive civil servant. The gentleman from Virginia (Mr. HARRIS) very vigorously represents the feelings of many of his constituents on this subject.

We debated this amendment thoroughly, and it was a major amendment offered in committee. The vote for the amendment was 2, and the votes against it were 21.

The present bill for the first time would limit political appointments to not more than 10 percent of the total positions in the executive service, and this would be the first time that such a limit existed. So we are not turning it all wide open; we are saying 90 percent would be career and 10 percent would be people who could be brought in from the outside.

Mr. Chairman, it would be a very dangerous blow to this legislation and it would drastically harm it if this amendment were adopted. I, therefore, urge its defeat.

Mrs. SPELLMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I am really surprised, after all these months of discussions concerning this bill, to hear anyone still saying only 10 percent of the Senior Executive Service will be political. That is not factual. The fact is 100 percent may be political appointees. Ten percent need not be qualified.

We can take our uncles who are carrying the trash today and make them part of the Senior Executive Service in that 10 percent. The other 90 percent is required to be qualified. Nevertheless all 100 percent could conceivably be political. That is quite different, and we should understand that.

I know that there was an amendment in the committee which our good colleague, the gentleman from New York, offered, limiting political appointees to no more than 25 percent in each agency but it did not pass the Senate. Since it did not, we cannot be sure it will survive in conference. As the bill came to us from the administration, it provided for a 100-percent political possibility—9,200 employees.

But what concerns me about this section is that this could very well be the beginning of the end of the separation of powers between the various branches of Government.

Let us consider what would happen if a President were to call on each of us for 20 very well qualified people whom he would then appoint. Then each time we disagreed with him, we would get a call and be reminded that some of our appointees were in danger of being fired. "It would be well," the President would urge, "for you to reconsider your decision to oppose my program."

Just a couple of weeks ago the Secretary of Agriculture was quoted as saying that some of the Members of Congress might find that, if they do not get into line behind the President, that their political appointees will be fired. I am happy to say that the President hastened to deny that he would do that, and I am also happy to say that the Secretary of Agriculture hastened to disclaim those words. But somewhere in the future there may very well be a President who would believe in doing just that, or a Secretary of Agriculture, or whatever, who would feel that this would be the way to conduct the business of the Government.

So I warn my colleagues that we really ought to take a long, hard look at this situation.

There is no reason why we cannot have really good qualified people carrying out the business of the Government without creating a spoils system which we might someday regret.

Mr. GILMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the gentleman from Virginia's substitute to title IV.

In my opinion, the most worrisome aspect of this legislation, next to the over concentration of authority in the Director of the Office of Personnel Management, is the danger of the politicization of the Career Executive Service posed by title IV.

The gentleman from Virginia's substitute would alleviate this concern, a concern, I might add, which is shared by a number of the Members of this body, by insuring that only career executives would be appointed to positions within the SES.

Why is this necessary?

Title IV would give to Presidential appointees absolute power to significantly reduce the responsibilities and pay of career executives, including reassignment to an unwanted location, without any stated reasons or possibility of review by an impartial body. There is no restraint against ill-considered and arbitrary action. But perhaps even more important, this power in the hands of Presidential appointees will have the effect of denying to the American people the kind of responsible sharp criticism from career executives that over the years has been essential to both determining and serving the public interest when proposed policies, programs, and priorities are being debated within the agencies.

The Presidential appointees who would exercise this new power are for the most part exceptionally able and highly dedicated to the national interest. They constitute for our democratic process the vital link between the decisions of the electorate in choosing a President and the overall direction and management of the agencies. But it is a plain fact that many such appointees lack experience in public policymaking and in managing large organizations, and their initial perceptions of problems and alternative solutions are often cloudy, if not faulty. As the pressures and problems daily test the political-career relationships, it is important for the public interest that political appointees not have suffocating power over career executives: power that could be used intemperately, or to satisfy a special interest, or to provide a scapegoat for a poor decision made at a higher level. And we should have no doubt that when Presidential appointees have this power, even the vast majority who are well intentioned and competent will be subjected to pressure from many sides, often irresistible, to use the power to serve special interests rather than the public interest.

Career executives represent an important national resource which the Federal Government develops at considerable cost; their central commitment is to nonpartisan professional advice and the impartial administration of the laws, and both would be jeopardized by such a grant of authority.

The argument is made that this unrestricted power to reassign and reduce pay and responsibilities is needed for management flexibility and is no change from the present. But no evidence has been provided as to the widespread existence of real and important problems that this extraordinary grant of power would solve. Further, it is specious reasoning to argue that the unrestricted authority to reassign exists now and that there is no change. Title IV would combine five separate grades—GS-16, 17, and 18, and executive levels V and IV—into one Senior Executive Service without grades. Under existing law the Presidential appointee's absolute power applies only to reassignments from one position to another in the same grade and rank. This is completely different from authority to reassign to any job within the proposed Senior Executive Service. For example, unrelated to performance and simply to put someone else in the job who is more to his personal liking, the proposed unlimited power would permit a Presidential appointee to reassign a career executive from a position of Bureau Director in Headquarters now at level V or GS-18 to the position of Deputy Regional Director now at GS-16 and located some hundreds or thousands of miles from Washington. At the same time, the Presidential appointee could reduce the annual pay of the career executive by up to $8,000.

Advocates for this grant of power argue that top executives in large corporations have it, and so should Presidential appointees in order to encourage responsiveness. But the analogy is meaningless because no corporation could be successful if it lost its top three levels of executives every 2 to 4 years as the Federal agencies lose their Presidential appointees. This underscores the need for professionalism, objectivity, competence, and continuity of career executives to assure reasonable stability in the operations of Federal agencies.

Presidential appointees in the agencies occupy their positions for relatively short periods, and in their eagerness to exercise leadership by making changes in policies and operations, many often are impatient with career executives who disagree with them by identifying weak or undesirable elements in their ideas. They have a tendency, particularly in the first year or two of a new administration, to characterize such disagreement, or even questions, as evidence of unresponsiveness. The proposed new power for presidential appointees would send a clear signal to many career executives that if they do not want to be shipped out, they should not question or disagree with the views of their bosses. We would substitute a new generation of "agreeable" career executives for the constructively critical and politically neutral professionals who now serve this Nation well. A new quietness at the crucial point where political and career appointees should debate proposed policies, programs, and procedures would serve the Nation badly.

For these reasons, Mr. Chairman, I urge my colleagues to adopt the gentleman's substitute.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. HARRIS).

The amendment was rejected.

AMENDMENT OFFERED BY MR. SOLARZ

Mr. SOLARZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLARZ: Page 223, line 23, strike the words "before appointment to such positions".

Mr. SOLARZ. Mr. Chairman, I will be brief. This is a technical amendment. I think it has the support of the majority and minority managers of the bill. The legislation before us provides that at any given time at least 70 percent of the people in the Senior Executive Service have to serve 5 years in the Federal Government before being appointed to that position.

This amendment would provide instead that at any given time 70 percent of the people in the Senior Executive Service had to have served for 5 years in the Federal Government, period.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, this cleans up and clarifies what we were trying to do in committee, and moves a little bit in the direction of the concerns of the gentleman from Virginia (Mr. HARRIS). I think it is a good amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. SOLARZ).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. STEERS

Mr. STEERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STEERS: Page 262, strike out line 16 and all that follows down through line 6 on page 263 and insert in lieu thereof the following:

(3) The amendments made by sections 401 through 413 of this title shall cease to have effect on or after the 90th day of continuous session of Congress following the date on which the second annual report is transmitted to the Congress under paragraph (2) unless both Houses of the Congress have adopted a concurrent resolution which states in substance that the Congress favors the continuation of the Senior Executive Service.

Mr. STEERS (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with, and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. STEERS. Mr. Chairman, what this amendment does is terminate sections relating to the Senior Executive Service at the end of 2 years. Notice that at present the bill provides that the Senior Executive Service and the rest of the bill will be extended unless terminated. What this amendment would do is terminate unless extended.

I would like to point out to those Members present that this is an example of sunset legislation which many of us have at least given lip service to. Here is a chance to vote for it. Of course, we can always reconsider the matter, but this amendment will require us to reconsider the Senior Executive Service; it will give us the opportunity to put it out of existence.

I, of course, feel it should be put out of existence as soon as possible.

Mr. UDALL. Mr. Chairman, I rise in opposition to the amendment.

This would be a disaster to the Senior Executive Service concept. It is going

to take about a year to 15 months to set up the system. We are trying to attract into it the permanent career people, and we are telling them to cut their moorings, leave all they have and join this exciting new innovative service, and the whole thing is going to go down the drain in 2 years.

It will take at least 4 or 5 years to give this a fair trial. We went along in committee with a somewhat similar amendment offered by Mrs. SPELLMAN. This, in my judgment, destroys it. There would be no chance of getting the kind of people we want in the Senior Executive Service if it is a 2-year trial. It would hardly be on the way.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. STEERS).

The amendment was rejected.

AMENDMENT OFFERED BY MR. COLLINS OF TEXAS

Mr. COLLINS of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COLLINS of Texas: On page 258, line 7: strike out 10,920 and insert in lieu thereof "10,780".

On page 258, line 13: strike out "Management" and insert in lieu thereof the following: "Management, except that the Director of the Federal Bureau of Investigation, without regard to any other provision of this section, may place a total of 140 positions in the Federal Bureau of Investigation in GS-16, GS-17 and GS-18."

Mr. COLLINS of Texas. Mr. Chairman, I submit this amendment with Mr. LEVITAS of Georgia and Mr. VOLKMER of Missouri.

By reason of its unique responsibilities, the FBI has historically been afforded a measure of exemption from overview of the Civil Service Commission regarding personnel policies and authorizations. At present the FBI and all positions therein are in the excepted service (title 28 U.S.C. 536) and the Director is authorized to place up to 140 positions in the Bureau into grades GS-16, GS-17 and GS-18 (title 18 U.S.C. 5108 c2). Further, it has been the policy of the Department of Justice that the Director have complete latitude in managing the personnel policies and functions of the Bureau below the rank of Assistant Director, subject only to post-audit and correction by the Assistant Attorney General for Administration (title 28 CFR X, 0.137).

The effect of the FBI's excepted status is to remove it from the purview of the Civil Service Commission in such areas as recruitment, qualification standards, promotional requirements, internal placement, career and career-conditional employment, and temporary assignments. The authorization afforded to the Director to manage the executive manpower of the FBI, its supergrade employees, is central to this degree of independence. It insures that the FBI may respond in a prompt, flexible, and unfettered manner to the investigative priorities provided it by the Attorney General without need to obtain concurrence of other agencies or authorities.

Given the demanding, sensitive, and unique responsibilities of the FBI, particularly its role as the primary investigative arm of the Department of Justice, there is ample rationale for providing it as great a degree of insulation with regard to its personnel function as is practical. This consideration is most important when consideration is afforded the role of the FBI as the Department of Justice's primary investigative arm for 78 public integrity violations of the criminal statutes of the United States.

Since these violations, by definition, involve misconduct on the part of officials of the U.S. Government the most prudent course for the future would appear to be to insure that the FBI is not dependent upon other agencies in such important matters as executive staffing levels. To do otherwise detracts from the ability of the Attorney General to fully utilize the investigative capabilities of the FBI in a manner he believes best serves the interests of the United States.

This amendment is fair and consistent. It places the FBI on the same basis as the CIA, the National Security Agency, Defense Intelligence, and the GAO. For our national security, I ask your full support for the FBI amendment.

Mr. UDALL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the FBI is a good organization, a good professional organization, and it has been beleaguered in recent years. I know many Members have been concerned about it and many people have been lobbied by the FBI and their friends on these amendments.

I was determined today in this debate that nobody was going to have any legitimate ground to complain that the FBI had not been given everything they were entitled to and had been given all the exemptions they needed to perform their mission.

This morning I accepted an amendment that gave the FBI, I thought, everything they could ask for within reason. The FBI has been totally exempted from the Senior Executive Service and they have been given a total exemption from title VI, which had concerned them about demonstration practices and experimental efforts. We gave the President authority to exempt them from the standard personnel practices and standard provisions of the Personnel Act, and the President will exercise that.

We gave them the special authority this morning, in an amendment I agreed to, to let the President set up their own whistle-blower system so that appeals would not be to the outside but to the Attorney General.

Now they want it all. I do not think they are entitled to this amendment.

What are we talking about here? We are talking about supergrades. One of the worst things that has happened in the last few years is the end runs around the supergrade pool. The idea was to have one supergrade pool for all Government, and when an agency completes its mission and may not need all the supergrades it had, then those executives would transfer to another agency. Or an agency may need an increase. They could move them around. But what has happened is this. If we were dealing, for instance, with the Park Service, we would say to them that notwithstanding the pool they get 140 supergrades in this service here.

Then the next agency would come in, NIH, the Smithsonian, or the Labor Department, and they will all want their own little pools.

Today about 80 percent of the supergrade positions are outside the pool and the pool is really a joke because under existing law we give special exemptions to the FBI, to the GAO, the Library of Congress, the Secretary of Defense, the Immigration Service, NASA, Bureau of Prisons, Railroad Retirement, OSHA, the Law Enforcement Administration, the Tax Court, IRS, EEOC, they all have their own little supergrade pool.

So the bill before us would abolish all of them and we would just have one governmentwide pool. Each one of the agencies will come in, and they will say here is what we need. Then the Office of Personnel Management will evaluate the need.

But now, in this amendment, it is proposed that we give the FBI a special pool of 140 supergrades, and as of now, they will be the only agency in the whole bill that has been separately singled out, and the Members will say why single the FBI out, why not the defense agencies, the Defense Department and everybody else? They will all be in one separate pool, but the FBI will be treated separately.

So, I repeat, if we accept this amendment, I guarantee that before the evening is out, I think that every one of you will be on your feet trying to single another agency out because there is not a Member in the whole House who does not have his own special agency and who thinks they ought to have their own pool, forever and ever, world without end, amen.

So, if we are going to do this and get this problem settled, then let us do it right, and let us not start eroding it with the FBI, let us start out with a supergrade Government-wide overall pool, and with all of the agencies and their supergrades treated alike.

We have done that in this bill. I repeat, let us start with a good supergrade proposal. But, if we start out by singling out one particular department, and get that chain in the door, then we will not be able to stop the flood.

Mr. VOLKMER. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Texas (Mr. COLLINS).

Mr. Chairman and members of the committee, I do not plan to take the full 5 minutes in support of this amendment, however, as one who has tried to keep up with this legislation because of its known importance to this Nation and make it possible to restore public confidence in our National Government, and the operation of that Government by the separate individuals in it, and also to get better and still better operations through our public employees, and our Federal Government, as I say, I have tried to keep up with it, and specifically in this one area, and I have done so because I have been a member of the subcommittee that also has jurisdiction and oversight of this

agency, and also as one who has been involved in law enforcement, I have a great feeling for this agency. I realize that this agency must remain independent.

I must disagree with the gentleman from Arizona in that respect, and, in my opinion, if this amendment is not adopted, there will be a backing away from the independence of the FBI and thus cause harm to the criminal law enforcement in our Federal Government. I say that because the FBI is the one that investigates all of the other agencies of the Federal Government such as we have right now going on with the GSA.

It is the one agency that investigates the wrongdoings in the Federal Government, the white-collar crimes. If such a thing would occur, let us say, within the Civil Service Commission itself, then it would be investigated by the FBI. So, in my opinion, this could jeopardize that agency.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER Yes, I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I agree with everything that the gentleman is saying about the special role of the FBI. It is a good, honest agency, and I will praise it and I will defend it, but why, can the gentleman give me one reason why this agency out of all of the other agencies, not even the defense departments, not OSHA, not NASA, should have its own separate pool of supergrades? Why should this one agency be treated differently?

Mr. VOLKMER. That is because they are the agency that does the investigating of wrongdoings within the Federal Government.

Mr. UDALL. But what does the number of supergrades in that agency have to do with its ability to investigate wrongdoings?

Mr. VOLKMER. So that it will not depend on any other agency which it may have to investigate, including the Civil Service Commission.

I had been informed, and as a result of what happened this morning, I had discussed this matter with the man on the staff of the gentleman from Arizona, the man sitting next to him during the debate on that substitute, because I was concerned specifically about this point.

It was my understanding this morning when it was first brought up it included this provision. It was not until after that was all done that I determined that it did not, and I was greatly upset about it.

I had discussed it with our Attorney General. He is greatly upset about it, about the fact that this is not included.

I discussed it today with him. I have also been informed by another source, which I feel to be very reliable, that the Chairman of the Civil Service Commission has no objection to this amendment.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, I just came back on the floor. I am shocked.

Is the gentleman saying that Attorney General Griffin Bell discussed with him amendments to the President's civil service reform bill?

Mr. VOLKMER. I will emphatically say yes, y-e-s.

Mr. FORD of Michigan. Is the gentleman saying that the Attorney General is lobbying amendments into this bill?

Mr. VOLKMER. No, I am not saying that he is lobbying at all. I called him up. We discussed it among other things in which I am interested.

Mr. FORD of Michigan. The gentleman said that he is upset about the contents of the amendment this morning?

Mr. VOLKMER. Yes, because this was not included. I thought it was.

I talked to the staff man of the gentleman from Arizona. He is sitting right next to him. There was a misunderstanding there because when the gentleman answered me, at my request—and I am not blaming him—there was a misunderstanding. When he spoke to me he said it was the same as in the bill. It was my understanding that it was the same as in the present law.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, there was an obvious misunderstanding.

I gave them everything they want, their independence and their exemptions from the system. What I cannot understand is of all of these dozens of agencies in the Government, this one agency has to have supergrades when we are trying to set up a system under which no one has.

Mr. VOLKMER. It is so that it remains solely independent as a law enforcement agency, as it should.

Mr. GOLDWATER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

I think there is ample precedent here to exclude the FBI from this provision, especially in the higher grades we are talking about.

The FBI has a very unique mission with respect to law enforcement. These individuals are not just civil servants. They are very specialized. They are very narrowly categorized. They require a very special kind of training, and their mission is of the highest order. Certainly their responsibility and authority are important activities which we are dependent upon, not only for our security, but also for internal vigilance.

Mr. Chairman, it just seems to me that it makes a lot of commonsense that if we are going to continue the type of organization which we expect the FBI to be, that agency should have full control and authority over the type of personnel whom they are going to be relying upon for life and death and the security of this country and certainly for the internal vigilance which we expect. It just seems to me that this makes a lot of commonsense. I think we ought to support the amendment.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, may I pose this question: What do I say and how is the gentleman going to vote when the gentleman from Oregon wants to give the Forest Service its pool of supergrades?

The gentleman from California contacted me last week. He is on the board of the Smithsonian, and they want their own pool. What am I going to say to the CIA when somebody from the Committee on Intelligence gets up tonight and says that they are a special agency and they want their own allocation?

Will the gentleman join me in voting for all those amendments, or does he think the FBI is a special agency and it alone has to have a carved-out pool of supergrades?

Mr. GOLDWATER. I would agree with the gentleman in saying that the FBI is unique in the mission which they are set up to do.

Mr. UDALL. Does the accomplishment of the mission of the FBI depend on whether the President says they can get by with 135 supergrades or whether they have to have 140?

Why should this one agency alone, in the accomplishment of its mission, be dependent on having this number carved out for it, world without end, with no limit on it?

Mr. GOLDWATER. I would suggest to my friend, the gentleman from Arizona, that this agency's mission is of the highest priority as far as national security, as far as internal vigilance, and as far as law enforcement is concerned. It is a prime and singular agency. It does nothing else but pursue that particular mission.

Mr. UDALL. How is the accomplishment of that mission dependent upon the number of supergrades it has?

Mr. GOLDWATER. It depends on the quantity and the quality of personnel. I think that is that we are talking about here, and I think only those who have that responsibility of directing the FBI and its people really know and understand what is needed in this area. I think it is going to be completely confusing if we interject another sector such as OPA into it. I urge support of the amendment.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words.

I have a feeling that this debate is getting totally out of control in the sense of our all appreciating precisely what the amendment does and precisely what classifications of positions are involved.

The gentleman from Arizona (Mr. UDALL) has properly ponted out that heretofore every committee, every subcommittee, has played around like little crown princes knighting people and sending then off as supergrades. As a result, all through Government in every appropriation and authorization bill we are creating supergrades. Nobody has a hold on them—not even the President or the Office of Management and Budget—nobody. So what we have got in this bill is an attempt to pull them all together.

As I understand the supporters of the amendment, they seem to feel that we are going to put 140 misfits into the FBI. That is not the case at all. All that is going to happen is that the FBI under this reformed structure will in fact request the number of supergrade slots it wishes to have designated. They will be FBI agents, the agents in charge, for example, in the major cities, and we are not going to send a diet technician from Walter Reed Hospital to be the agent in charge of Phoenix, Ariz. He will be a career FBI law enforcement officer there. So the Members are reading into this a lot of things that are not there. But the point the gentleman from Arizona (Mr. UDALL) has made is one we should all follow. For example, our friend, the gentleman from Oregon, is going to take care of the Forest Service. Then there might be those Members who are interested in protecting the chief judge of the U.S. Tax Court. He has five supergrades. Why not let the chief judge rather than his pool handle that? What about the Commodity Futures Trading Commission? That is one of our newest little bureaucracies. They have 20 supergrades. Why should they not be excluded, and just have the farm interests? We go on and on and on.

So I would suggest the point the gentleman from Arizona (Mr. UDALL) is making is a sound one. What we have here is legitimate control of total numbers. The allocation will be practical. The allocation will take into account the expertise needed in the departments, and in the case of the FBI we are going to have the FBI in effect redesignate—and it is 140 or even more, if they can justify it—and they are not going to be square pegs in round holes. They are going to be good, loyal law enforcement officers, and the fear that somehow the FBI is going to be directed or administered by a bunch of locomotive engineers, not all law enforcement officers, just is not the case.

I appreciate the superconcern about the FBI. I do not want the FBI politicized. I do not want the FBI mishandled. I do not want it criticized, but I think we have greatly exaggerated the presumed danger of the FBI in the arguments against the position the gentleman from Arizona (Mr. UDALL) enunciated.

Mr. COLLINS of Texas. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Texas.

Mr. COLLINS of Texas. I thank the gentleman for yielding.

On page 213, just for clarification, it has been said that only the FBI is concerned. On the top of page 213 it refers to the exclusion. It sets up the terms, definitions, and exclusions, and it says the Central Intelligence Agency, the Defense Intelligence Agency, and the National Security Agency. They talk about the security agencies.

Mr. UDALL. Mr. Chairman, will the gentleman yield to me?

Mr. DERWINSKI. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding.

The gentleman from Texas (Mr. COLLINS) is making my precise point. In the bill as it came out of the committee we excluded the CIA. We said they are not even in the Senior Executive Service. This morning we did that for the FBI. We gave them complete exclusion from the SES. We excluded them from titles I and II. We took them out of the whistle-blower, and the only thing left here is whether they are going to have carved out a specific number of supergrades that will go to the President, and the pool will get all they need. But they should not be singled out forever to have an allocation. The thing the gentleman is talking about was taken care of in the amendment this morning. The FBI is the same as the CIA.

Mr. COLLINS of Texas. If the gentleman from Illinois would yield further to me, is the gentleman telling me in these categories they have no supergrades at all in any of these agencies?

Mr. UDALL. Nobody would have an allocated permanent pool of supergrades under this rule, and we are trying to hold that line.

Mr. DERWINSKI. What we are speaking of here is the Senior Executive Service. The Senior Executive Service will not be running the FBI.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. COLLINS).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. COLLINS of Texas. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee of the Whole appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Texas (Mr. COLLINS) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 124, noes 217, answered "present" 1, not voting 90, as follows:

[Roll No. 750]

AYES—124

Alexander
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bowen
Brinkley
Broomfield
Broyhill
Buchanan
Burke, Mass.
Butler
Carter
Cederberg
Clausen, Don H.
Cleveland
Coleman
Collins, Tex.
Crane
Cunningham
Daniel, Dan
Daniel, R. W.
Dent
Devine
Dornan
Duncan, Tenn.
Edwards, Okla.
English
Fountain
Fowler
Frenzel
Gaydos
Gephardt
Gilman
Ginn
Goldwater
Gradison
Gudger
Guyer
Hall
Hammer-schmidt
Harris
Harsha
Hillis
Hubbard
Hyde
Ichord
Johnson, Calif.
Jones, N.C.
Kelly
Kindness
Lagomarsino
Leach
Lederer
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Lott
McClory
McDonald
McEwen
Madigan
Marriott
Martin
Mathis
Miller, Ohio
Minish
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Motti
Murtha
Myers, Gary
Myers, John
Neal
O'Brien
Quillen
Regula
Roberts
Robinson
Rooney
Rose
Runnels
Ruppe
Satterfield
Schulze
Shuster
Sikes
Skelton
Slack
Smith, Iowa
Snyder
Spellman
Spence
Stangeland
Stanton
Steers
Steiger
Symms
Taylor
Treen
Tucker
Vanik
Volkmer
Waggonner
Walsh
Wampler
Watkins
Wolff
Wydler
Wylie
Yatron
Young, Fla.
Young, Mo.
Zablocki

NOES—217

Abdnor
Akaka
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Ashley
Aspin
AuCoin
Baldus
Baucus
Beard, R.I.
Bedell
Bellenson
Benjamin
Bennett
Bevill
Blanchard
Blouin
Boggs
Bolling
Bonior
Brademas
Breckinridge
Brodhead
Brooks
Brown, Calif.
Burlison, Mo.
Burton, John
Caputo
Carney
Carr
Clay
Collins, Ill.
Conable
Conte
Corman
Cornell
Cornwell
Cotter
Coughlin
D'Amours
Danielson
Davis
de la Garza
Dellums
Derrick
Derwinski
Dicks
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Ertel
Evans, Ga.
Evans, Ind.
Fascell
Fenwick
Findley
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Gammage
Garcia
Giaimo
Glickman
Goodling
Gore
Grassley
Green
Hamilton
Hannaford
Harkin
Hawkins
Heckler
Hefner
Heftel
Hightower
Holland
Hollenbeck
Holtzman
Horton
Howard
Hughes
Jacobs
Jeffords
Jenrette
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Keys
Kildee
Kostmayer
Krebs
LaFalce
Le Fante
Leggett
Long, La.
Long, Md.
Luken
Lundine
McCloskey
McCormack
McDade
McFall
McHugh
McKay
McKinney
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mikulski
Milford
Mineta
Moakley
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Myers, Michael
Natcher
Nedzi
Nichols
Nix
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quayle
Rahall
Railsback
Reuss
Rhodes
Roe
Rogers
Roncalio
Rosenthal
Rostenkowski
Roybal
Russo
Santini
Sawyer
Scheuer
Schroeder
Sebelius
Seiberling
Sharp
Simon
Skubitz
Solarz
Staggers
Stark
Steed
Stockman
Stokes
Studds
Thompson
Thone
Thornton
Tribble
Udall
Ullman
Van Deerlin
Vento
Walgren
Walker
Waxman
Weaver
Weiss
Whalen
White
Whitehurst
Whitley
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Yates

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—90

Addabbo
Ammerman
Armstrong
Biaggi
Bingham
Boland
Bonker
Breaux
Brown, Mich.
Brown, Ohio
Burgener
Burke, Calif.
Burke, Fla.
Burleson, Tex.
Burton, Phillip
Byron
Cavanaugh
Chappell
Chisholm
Clawson, Del
Cochran
Cohen
Conyers
Corcoran
Delaney
Dickinson
Diggs
Eckhardt
Emery
Evans, Colo.
Evans, Del.
Fary
Fish
Flood
Flowers
Flynt
Forsythe
Fraser
Frey
Fuqua
Gibbons
Hagedorn
Hanley
Hansen
Harrington
Holt
Huckaby
Ireland
Jenkins
Johnson, Colo.
Kasten
Kemp
Krueger
Latta
Lehman
Lujan
Mikva
Miller, Calif.
Mitchell, Md.
Moffett
Moorhead, Calif.
Moss
Pettis
Quie
Rangel
Richmond
Rinaldo
Eisenhoover
Rodino
Rousselot
Rudd
Ryan
Sarasin
Shipley
Sisk
Smith, Nebr.
St Germain
Stratton
Stump
Teague
Traxler
Teongas
Vander Jagt
Whitten
Wiggins
Wilson, Bob
Wright
Young, Alaska
Young, Tex.
Zeferetti

Messrs. BROOKS, STOKES, and ABDNOR changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. UDALL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think we can finish this bill this evening in a couple of hours. We are on title IV. The bill has eleven titles, but most of the remaining controversy is in title VII, the labor-management section.

Therefore, Mr. Chairman, I ask unanimous consent that all debate on title IV and all amendments thereto close at 9:45 p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

Mr. DUNCAN of Oregon. I will be glad to reconsider after we see how many of the pending amendments are affected, but for now I object.

Reserving the right to object, Mr. Chairman, how many more amendments are pending, if the gentleman knows?

Mr. UDALL. There are a large number of amendments which have been noticed. I do not think that very many of them will be offered. I have no way of telling.

I think that the amendments which Members seriously want to offer will get an opportunity to be offered in this period of time. Most Members with major amendments have already printed them in the CONGRESSIONAL RECORD, and they would be outside the limitation, in any event.

Mr. DUNCAN of Oregon. They would be outside the limitation with respect to the 5 minutes which the sponsor is entitled to.

Mr. Chairman, until we can get some more information as to the number pending and going to be considered, if there is a large number pending, I think a half hour is unreasonable on a bill of this magnitude.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN of Oregon. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Chairman, I especially appreciate that there has been a kind of bipartisan support and opposition to this bill. However, I have looked over all of the pending amendments; and really, as the gentleman from Arizona indicated, the gut issues are in title VII. The remaining amendments to titles IV, V, and VI may be important to some individual Member, but they are not going to alter the direction of the Republic.

Mr. Chairman, I really think we could expedite the relatively noncontroversial titles, and we could do a good job on the one tough title remaining.

Mr. DUNCAN of Oregon. Further reserving the right to object, Mr. Chairman, I am interested, as I know a number of other Members are, in a specific amendment which I think should be relatively noncontroversial. If the chair and the ranking minority member would study it and give us some assurance that it would be accepted, I should think in that instance a half hour would be plenty of time.

Mr. UDALL. If the gentleman will yield, Mr. Chairman, I will say to the gentleman that I do not think I am going to accept the amendment he refers to. However, we can process it very quickly. It is not complicated. I think that in 3 or 4 minutes the Members will be able to make a sensible decision on it.

Mr. DUNCAN of Oregon. Mr. Chairman, I will be constrained to withdraw an objection at a later time, but at this point I am constrained to object.

The CHAIRMAN. Objection is heard.

AMENDMENTS OFFERED BY MR. GILMAN

Mr. GILMAN. Mr. Chairman, I offer five amendments.

The Clerk read as follows:

Amendments offered by Mr. GILMAN: Page 212, line 21, strike out "and".

Page 212, line 23, strike out "executives." and insert in lieu thereof "executives;".

Page 212, insert after line 23 the following:

"(12) insure career appointees and, to the greatest extent possible, noncareer appointees, protection from prohibited personnel practices;

"(13) provide for a professional management system which is guided by the public interest and free from improper political interference; and

"(14) insure that, notwithstanding the provisions of section 3134 of this title authorizing up to 10 percent of Senior Executive Service positions to be filled by noncareer appointees, political appointments to such positions are minimized to the maximum extent possible.".

Page 228, strike out lines 10 through 12 and insert in lieu thereof the following:

"(e)(1) Except as provided in paragraph (2) of this subsection, a career appointee in an agency may not be involuntarily reassigned—

"(A) within 120 days after an appointment of the head of such agency; or

"(B) within 120 days after the appointment in such agency of such career appointee's most immediate supervisor who—

"(i) is a noncareer appointee; and

"(ii) has the authority to reassign such career appointee.

"(2) Paragraph (1) of this subsection does not apply with respect to—

(A) any reassignment under section 4314 (b)(3) of this title; or

(B) in the case of any appointment referred to in paragraph (1) (A) or (B) of this subsection, any disciplinary action initiated before such appointment.

Page 232, line 12, strike out "A career appointee" and insert in lieu thereof "Except as provided in subsection (b) of this section, a career appointee".

Page 232, after line 19, insert the following:

"(b)(1) Except as provided in paragraph (2) of this subsection, a career appointee in an agency may not be involuntarily removed—

"(A) within 120 days after an appointment of the head of such agency; or

"(B) within 120 days after the appointment in such agency of such career appointee's most immediate supervisor who—

"(i) is a noncareer appointee; and

"(ii) has the authority to remove such career appointee.

"(2) Paragraph (1) of this subsection does not apply with respect to—

"(A) any removal under section 4314(b)(3) of this title or;

"(B) in the case of any appointment referred to in paragraph (1) (A) or (B) of this subsection, any disciplinary action initiated before such appointment.".

Page 232, line 20, strike out "(b)" and insert in lieu thereof "(c)".

Page 227, line 3, insert "(1)" after "(a)".

Page 227, line 4, strike out "(1)" and insert in lieu thereof "(A)" and insert ", subject to paragraph (2) of this subsection," after "may".

Page 227, line 7, strike out "(2)" and insert in lieu thereof "(B)".

Page 227, after line 10, insert the following:

"(2) A career appointee may be reassigned to any Senior Executive Service position only if the career appointee receives a written notice of such reassignment—

"(A) at least 15 days in advance of such reassignment; and

"(B) containing a statement of the critical reasons for such reassignment.

Any career appointee who is reassigned in violation of subparagraph (A) of this paragraph may appeal such violation to the Merit Systems Protection Board.".

Page 245, after line 15, insert the following:

"(d) The rate of basic pay for any career appointee may be reduced from any rate of basic pay to any lower rate of basic pay only if the career appointee receives a written notice of such reduction—

"(1) at least 15 days in advance of such reduction; and

"(2) containing a statement of the critical reasons for such reduction.

Any career appointee whose rate of basic pay is reduced in violation of paragraph (1) of this subsection may appeal such violation to the Merit System Protection Board.

Page 228, insert after the line 12 the following:

"(f) A career appointee may be transferred only if—

"(1) he consents to the transfer; and

"(2) the transfer is part of a program designed to enlarge the responsibilities of

the career appointee and to advance his career in the Senior Executive Service.

No adverse personnel action shall be taken against a career appointee who exercises his right under this subsection to not consent to such a transfer. Any career appointee against whom an adverse personnel action is taken in violation of this subsection may appeal such personnel action to the Merit Systems Protection Board.

Page 215, strike out lines 4 through 11 and insert in lieu thereof the following:

"(8) 'career reserved position' means a Senior Executive Service position which is designated under subsection (b) of this section as a position to which a career appointee may be appointed;

"(9) 'general position' means any Senior Executive Service position which is not a career reserved position.

Page 215, beginning on line 15, strike out "career reserved positions." and all that follows down through "Government." beginning on line 19, and insert in lieu thereof "Senior Executive Service positions to which career appointees may be appointed.".

Page 215, line 21, strike out "career reserved" and insert in lieu thereof "such".

Page 215, line 24, insert after "appointee." the following: "Any other Senior Executive Service position may be filled only by a noncareer appointee, limited term appointee, or limited emergency appointee.".

Page 219, line 4, strike out "noncareer appointments" and insert in lieu thereof "general positions".

Page 219, beginning on line 6, strike out "employment of noncareer appointees" and insert in lieu thereof "general positions".

Page 219, beginning on line 11, strike out "authority to employ a specific number of noncareer appointees" and insert in lieu thereof "a specific number of general positions".

Page 219, strike out lines 13 through 18 and insert in lieu thereof the following:

"(b) The number of general positions in each agency will be determined annually by the Office of Personnel Management on the basis of demonstrated need of the agency for such positions, except that the total number of general positions in all agencies may not exceed 10 percent of the total number of Senior Executive Service positions in all agencies.

Page 219, strike out "Senior Executive Service" on line 19 and all that follows down through "appointees" on line 20 and insert in lieu thereof "general positions".

Page 222, in the matter following line 15, strike out "noncareer appointments" in the item relating to section 3134 and insert in lieu thereof "general positions".

Page 223, line 9, insert "'career reserved position',' before "and 'general position'".

Page 227, beginning on line 4, strike out "Senior Executive Service position" and insert in lieu thereof "career reserved position".

Page 227, beginning on line 7, strike out "Senior Executive Service position" and insert in lieu thereof "career reserved position".

Page 227, line 12, strike out "Senior Executive Service position" and insert in lieu thereof "general position".

Page 227, line 18, strike out "Senior Executive Service position" and insert in lieu thereof "general position".

Page 254, line 25, strike out "title)." and insert in lieu thereof "title), and such position shall be considered a career reserved position.".

Page 255, line 7, strike out "position." and insert in lieu thereof "position, and such position shall be considered a career reserved position."

Page 256, line 19, strike out "appointment;" and insert in lieu thereof "appointment, and such position shall be considered a general position.".

Mr. GILMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GILMAN. Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GILMAN. Mr. Chairman, I am offering five amendments to title IV.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, if the gentleman will save us a little time by not making a speech on the amendments, I am prepared to accept them.

Mr. GILMAN. Mr. Chairman, I appreciate the gentleman's kind offer. I think, though, for the benefit of the House there should be just a brief explanation of the five amendments so that we will know what the amendments are.

My first amendment establishes three important principles in the administration of the Senior Executive Service.

Section 3131 of title IV sets forth 11 principles to guide the administration of the Senior Executive Service. I propose to add three new principles to his section. Principle No. 12 would insure that career appointees and, to the greatest extent possible, noncareer appointees, protection from prohibited personnel practices. The purpose of this is to bring the Senior Executive Service under the umbrella of protections accorded employees by virtue of section 2302 of title I which enumerates specific practices which may not be engaged in and for which an individual shall be disciplined if these prohibited actions occur.

Principle No. 13 represents a policy statement advocating maximum utilization of career service employees. H.R. 11280 authorizes a ceiling of 10 percent for the placement of political appointees. The 10-pecent ceiling should not become a goal of each administration. I hope the goal of placement in the Senior Executive Service will center on individual qualifications for Government service. Therefore, maximum placement of career employees will be in the best public interest.

The final principle states a goal for the Senior Executive Service. I believe that statement is self-explanatory and self-supporting. The change establishes as Senior Executive Service policies: "Goals for a professional management system and the necessity to assure career members protection from prohibited personnel practices."

Subsection 3395(e), which provides that a career appointee may not be involuntarily reassigned or transferred within 120 days following the appointment of an agency head, admits a loophole. This provision should relate to the time of appointment of a Presidential appointee to whom the career official reports and not to the agency head, because most career officials report to a Presidential appointee under an agency head.

My second amendment amends subsection 3395(e) to provide that a career appointee may not be involuntarily reassigned or removed from the Senior Executive Service within 120 days after an appointment of the head of his or her agency, or within 120 days following the appointment of a Presidential appointee to whom the career appointee reports, whichever is later in time.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield for an observation?

Mr. GILMAN. I am pleased to yield to the gentleman from Illinois.

Mr. DERWINSKI. I thank the gentleman for yielding.

I think the gentleman is on the verge of getting a unanimous vote for his series of amendments. I have read those statements earlier, and I can assure the Members that these are fine amendments. Let us accept his amendments.

Mr. GILMAN. I thank the gentleman for his kind remarks, but I do think that since this is such an important measure to the administration and since the acting chairman has indicated that there is a sense of urgency in adopting this measure, that it is important to the House to know exactly what the measures are that they are voting upon. Accordingly, if I may proceed:

My amendment makes clear that corrective action initiated under subsection 4323(b)(3) prior to changes in supervisory personnel may continue or any disciplinary action initiated before such appointment.

This amendment was suggested by the National Academy of Public Administration and is along the lines of an amendment suggested by the administration.

My third and fourth amendments would have the effect of precluding arbitrary action by a Presidential appointee against a career appointee in the SES involving a change in either the career appointee's reassignment or reduction in pay by insuring that any such change, first, be preceded by 15 days' notice; second, be accompanied by a statement detailing the critical reasons for the reassignment or reduction in pay; and third, if timely notice is not accorded the career executive, the career executive would be permitted to complain of such action to the Special Counsel or the MSPB.

My fifth amendment limits the right of the Director of OPM or an executive department or agency to transfer a career appointee. First, a career appointee may not be involuntarily transferred. Second, if a transfer is proposed and consented to by a career appointee, the transfer must be part of a program designed to enlarge the responsibilities of the career appointee and to advance his career in the SES.

Mr. Chairman, in the interests of further perfecting this measure, I urge my colleagues to adopt these amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New York (Mr. GILMAN).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. GILMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendments were rejected.

AMENDMENT OFFERED BY MR. FISHER

Mr. FISHER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FISHER: Page 225, strike out line 15 and all that follows down through line 24 and insert in lieu thereof the following:

"(c)(1) The Office of Personnel Management shall establish one or more qualifications review boards, as appropriate. It is the function of the boards to certify the managerial qualifications of candidates for entry as career appointees into the Senior Executive Service in accordance with regulations prescribed by the Office of Personnel Management. Of the members of each board—

"(A) At least one-half shall be appointed from among career appointees; and

"(B) Up to one-half may be appointed from outside the civil service.

Appointments to such boards shall be made on a non-partisan basis, the sole selection criterion being the professional knowledge of public management and other appropriate occupational fields of the intended appointee.

Mr. FISHER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. FISHER. Mr. Chairman, I will be very brief. I believe there is no objection to this amendment. It would make some improvement in the way the Qualification Review Board operates.

Mr. Chairman, these qualification review boards play a key role in the SES. They certify the managerial qualifications of candidates for the SES. Knowledge of Government management is the primary qualification for appointment. Because persons who have had experience in the civil service really know the most about the requirements of SES positions, I believe it would be desirable that half the members of the qualification review boards be career employees.

This is at the critical level where SES persons are selected. Knowledge and experience in the career service are essential. I urge a vote for this amendment.

Mr. UDALL. Mr. Chairman, if the gentleman will yield, we accept the amendment.

The CHAIRMAN. Without objection, the amendment offered by the gentleman from Virginia (Mr. FISHER) is agreed to.

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The question is on the amendment offered by the gentleman from Virginia (Mr. FISHER).

The question was taken; and on a division (demanded by Mr. SYMMS) there were—ayes 59, noes 11.

Mr. BAUMAN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. One hundred seventeen Members are present, a quorum.

The pending business is the demand of the gentleman from Maryland (Mr. BAUMAN) for a recorded vote.

A recorded vote was refused.

So the amendment was agreed to.

The CHAIRMAN. Are there further amendments to title IV?

AMENDMENTS OFFERED BY MR. PANETTA

Mr. PANETTA. Mr. Chairman, with some trepidation, I offer a series of amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Page 238, line 8, strike out "service" and insert in lieu thereof the following: "service, including any significant reduction in paperwork".

Page 265, line 9, strike out "service" and insert in lieu thereof the following: "service, including any significant reduction in paperwork".

Page 267, line 21, insert after "operations" the following: "or achieves a significant reduction in paperwork".

Page 268, line 6, insert after "operations" the following: "or achieves a significant reduction in paperwork".

Page 270, insert after line 16 the following new section:

INCENTIVE AWARDS AMENDMENTS

SEC. 502. (a) Section 4503(1) of title 5, United States Code, is amended by inserting after "operations" the following: "or achieves a significant reduction in paperwork".

(b) Section 4504(1) of title 5, United States Code, is amended by inserting after "operations" the following: "or achieves a significant reduction in paperwork".

Page 270, line 18, strike out "Section 502." and insert in lieu thereof "Sec. 503.".

Page 272, line 19, strike out "Sec. 503." and insert in lieu thereof "Sec. 504.".

Page 130, in the table of contents, strike out the items relating to sections 502 and 503 and insert in lieu thereof the following:

Sec. 502. Incentive awards amendments.
Sec. 503. Technical and conforming amendments.
Sec. 504. Effective date.

Mr. PANETTA (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD, and that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. PANETTA. Mr. Chairman, I wish to commend the committee for its hard work on this very complex bill. Clearly, this is an important issue and one that demands close and careful scrutiny. This truly is our golden opportunity to reform the civil service system and we must be sure to do all that we want to and nothing that we do not want to do.

It is in this spirit that I ask the House to consider making a reduction in the level of Federal paperwork part of the goals of the civil service reform bill. I have pending two amendments, to titles IV and V, which would make reduction in paperwork one of the criteria for eligibility in the various incentive programs for Federal employees that exist in present law and that would also be established by this bill.

There can be no doubt that we all are aware of both the facts about the extent of Federal paperwork and the public's feelings about that situation. According to OMB, Americans spend a total of 785 million hours a year filling out 4,987 different Federal forms. The Commission on Federal Paperwork estimates that Federal forms cost about $100 billion a year to file and process, or $500 for every American citizen. Broken down, this works out to annual expenditures of from $25 to $32 billion by industry, $8.7 billion by individuals, $5 to $9 billion by State and local governments, and $43 billion by the Federal Government itself. The worst-case example might well be the filing of an application to operate a nuclear powerplant, which can take more than 55,000 hours, or the work of 27 people working 40-hour weeks for a year.

Clearly, this excessive paperwork does not gain us anything. I think, then, that it makes sense to build into the civil service system an incentive to reduce paperwork. My amendments would do this by including paperwork as a criterion for eligibility for the merit pay and cash bonus awards established in the bill for the GS levels 13 through 15 and as a criterion for the achievement ratings to be conducted under the new Senior Executive Service, for GS levels 16 through 18 and for the executive levels through level V. In addition, I would amend the existing incentive awards program to make paperwork reduction an eligibility determinant.

I believe this approach, rather than a new regulatory statute, emphasizes individual initiative, the way America has traditionally solved so many of its pressing problems in the past. Although conceivably we would be expending some funds in the recognition of paperwork reduction, it is certain that the long-term benefits and savings would more than justify any small payment to a Federal employee. The savings would come first from reduced Federal printing costs, then reductions in handling and processing of the paper; in addition, of course, the person dealing with the paperwork would be saved excessive expenditures to file the materials.

Most importantly, perhaps, the resultant reduction in paperwork would help restore people's faith that the Government serves them, rather than the other way around. The most frequent point of contact between citizens and the Federal Government is the exchange of paper, whether it is in the filing of tax returns, the application for a Federal grant, or the application for some benefit, such as medicare or social security. The tremendous load of paper involved in each of these transactions plays a key part in discouraging people, in making them feel that the Government has lost touch with the needs of people and has become too involved in regulation and meaningless detail. It is precisely this feeling

that underlies the sense of apathy or alienation that we each see so frequently in our capacities as representatives. If we can do anything to alleviate or even reverse that trend, we will have made a real achievement indeed.

It is my feeling that by giving every Federal civil servant from GS-1 to Executive Schedule V a reminder that she or he has a responsibility to try to reduce paperwork and an incentive to do so that we have a real chance to do just that.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, as far as these amendments are concerned, I wish they would have been presented in committee. They would have been adopted by a wide vote margin.

The amendments will use paperwork as a criterion for the bonus, and they make available the criteria for determining performance, since we are going to take into account innovative ways to save paperwork.

Mr. Chairman, I think these amendments are a good addition, and I am strongly in favor of them.

Mr. DERWINSKI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, some years ago our committee produced a work called "The Paperwork Jungle," and it was so thick that most Members developed eyestrain trying to read it.

Mr. Chairman, these are practical amendments and I think they will be helpful to the bill and to the operation of our Federal Government. They are fine amendments and should be adopted.

The CHAIRMAN. The question is on the amendments offered by the gentleman from California (Mr. PANETTA).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. WEAVER

Mr. WEAVER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WEAVER: On page 219, between lines 3 and 4, insert the following:

"(f)(1) Not later than one hundred and twenty days after the date of the enactment of the Civil Service Reform Act of 1978, and from time to time thereafter as the Director of the Office of Personnel Management finds appropriate, the Director of the Office of Personnel Management shall establish, by rule issued in accordance with section 1103 (b) of this title, the number of positions out of the total number of positions in the Senior Executive Service, as authorized by this section or section 413 of such Act, that are to be career reserved positions. Except as provided in paragraph (2), the number of positions required by this subsection to be career reserved positions shall not be less than the number of positions which, prior to such date of enactment, were authorized to be filled only through competitive civil service appointment.

"(2) The Director of the Office of Personnel Management may, by rule, designate a number of career reserved positions which is less than the number required by paragraph (1) only if he determines it necessary to designate as a general position a position which—

"(A) involves policymaking responsibilities which require the advocacy or management of programs of the President and support of controversial aspects of such programs;

"(B) involves significant participation in the major political policies of the President; or

"(C) requires the executive to serve as a personal assistant of, or adviser to, a Presidential appointee or other key political figure. The Director shall provide a full explanation for his determination in each case.

"(3) All positions in and hereafter established in the senior executive service shall be designated as career reserved positions for the Fish and Wildlife Service, the Bureau of Land Management, and the Park Service of the Department of the Interior and the Forest Service and Soil Conservation Service of the Department of Agriculture."

Mr. WEAVER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. WEAVER. Mr. Chairman, although the administration proposes that at any one time, no more than 10 percent of all executive positions could be occupied by political appointees, with the exception of a relative small group of career reserved positions, all other positions could be filled by a career or noncareer appointee. The Senate in their consideration of the legislation had a similar concern and adopted an amendment—CONGRESSIONAL RECORD August 24, 1978, p. 27560–27562—which provides that within 120 days of the effective date of the Civil Service Reform Act, the Director of the Office of Personnel Management, by rule and in accordance with the rulemaking provisions of the Administrative Procedure Act, must specify the number of positions in the Senior Executive Service that are to be career reserved positions. That number can be no less than the number of positions that can today be filled only through competitive civil service appointment. This means that the Director of the OPM will designate approximately 5,100 of the almost 9,000 positions in the Senior Executive Service that will be career reserved. The Director of the OPM is given the authority in the amendment to reduce the number of career reserved positions by designating them general positions under certain specific conditions. I endorse and offer a similar amendment.

I have however added one additional provision to the amendment, a provision to provide for career reserved status for positions in the Senior Executive Service responsible for directing public lands and resources programs in the National Park Service, Fish and Wildlife Service, Bureau of Land Management, Forest Service, and the Soil Conservation Service.

Successful natural resources management requires skilled coordination of many professional disciplines. Because of their long-term nature, natural resources programs must have continuity of support and direction. I firmly believe that this best can be accomplished by clear separation of the policy formation and policy implementation levels in Government. Policy formation should continue to be met at the Assistant Secretary and above levels.

My amendment would not preclude reassignment of high-level employees of those agencies. But their replacements, who could be appointed to meet an administration's policy objectives, would be required to be selected from those with career status. The amendment would provide the administration an opportunity to select top agency personnel having compatible philosophy while at the same time assuring that they possess strong professional background and experience in the resources disciplines. I strongly urge the adoption of my amendment.

Mr. UDALL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have been preaching here all day that if we are going to have a Government-wide personnel system, we must have basic principles that are not waived for particular agencies. I said that those of us in charge of legislation might see our colleagues seeking an exemption as with the FBI a little while ago, and now the gentleman is in my ballpark again. Here we are talking about the National Park Service, the Fish and Wildlife Service, the Bureau of Land Management, and so forth.

And here again, the Department has been lobbying its friends. The gentleman from Oregon is a very valuable member of my committee and the Committee on Agriculture. These people say now, "We are special," just as the FBI said they were special. And the amendment provides that all positions—not 90 percent or 95 percent, but all positions—in this agency are reserved for career positions in these particular departments. I think we open the door here, and other Members will have special agencies who feel they are career agencies and should not have any infusion of outside people or noncareer people. I think we should draw the line and say that we are going to have a Government-wide executive service and we should not make these exemptions. I am going to take this position in speaking for my own committee's jurisdiction, the Committee on the Interior, and for that reason I regretfully oppose the amendment.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would just like to point out that the observation and the analysis of the gentleman from Arizona is practical. It explains the situation just as it realistically is. If you want an absolute attack on personnel administration you should support the amendment. But consistent with the vote on the earlier amendment, I urge the rejection of this amendment.

Mr. DUNCAN of Oregon. Mr. Chairman. I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I support this amendment and I urge the Members here tonight to support it.

I would like to say that almost all of this amendment has already been accepted and inserted in the bill in the Senate.

The chairman points out, quite correctly, that the amendment does reserve all of these senior executive positions in these five specific natural resource agencies for career people. But he says it as though there were something wrong with it, and I ask you: What is wrong with that? In these natural resource agencies which we have created to protect the land from which all wealth flows, why should not they be managed by professional career people insead of political appointments who can be put into these senior executive slots. And you might say that that cannot happen, that it will not happen. I would only have to refer the Members back two administrations, to a point where it did happen, and Mr. Erlichman, and all of the rest of his assistants, were in the process of politicizing the civil service.

Mr. Chairman, I think this is a very, very important segment of this bill. I think this amendment is one way we can strike a blow for having professional civil service people running these natural resource agencies on which we depend in so many of our districts.

The chairman suggested it is just like the amendment we just defeated. It is not. That amendment reserved for ever and ever, world without end, 140 positions for the FBI. This has no specific numbers for these natural resource agencies. The provision is made in this amendment that these people can be transferred freely, just as other career senior executive people can. The only thing is, when you move someone back into there agencies you would have to move a civil service career-oriented person. The morale in these agencies is very important. Every forester, every biologist who starts out ought to be able to look forward to being the chief of the service or head of the Bureau of Fisheries. I think this is a very, very important amendment. I can take the points the chairman has made, turn them around, and say that every argument he has made is an argument in support of this. I do not see how it affects the bill. I do not see how it affects the overall purpose of the administration. They can move them around. They can reduce the number. All it says is that about 5,000 of these 9,000 jobs are going to be pulled out for the people who have spent their lifetimes serving each one of our constituents and the American people.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN of Oregon. I yield to the gentleman from Virginia.

Mr. HARRIS. Mr. Chairman, I agree so much with what the gentleman said. I can well agree with him that we ought to have professional people running these programs with regard to our land and water and our forests and our natural resources. Some of the words seemed familiar. I was wondering if it did not make good sense also to have professional people running our health programs.

Mr. DUNCAN of Oregon. If I had drafted this amendment, I would agree with the gentleman. I think the same thing really ought to apply to the doctors in the Veterans Administration and to the scientists in the National Institutes of Health. I think this provision in the bill as it came out of committee is the Achilles heel of the bill. I think it is one of the weakest policies, and we can help the bill a little with this amendment.

Mr. HARRIS. Did my colleague support my amendment that did this about a half hour ago?

Mr. DUNCAN of Oregon. I am sorry, I was not on the floor at the time.

Mr. HARRIS. I am too. I thank the gentleman.

Mr. DUNCAN of Oregon. I just would like to reiterate that it is in the Senate bill. I do not know whether the administration accepted it over there or not. I would say that if they did, they accepted it reluctantly.

I would tell the Members that I just visited with them out there in the hall, and was told, no, they would not accept it; they wanted to strike it out. To me, that is an insult to the House of Representatives, and I felt humiliated to have to go out in the hall and ask the consent of the executive branch of Government for action to be taken by the House of Representatives.

Mr. LEACH. Mr. Chairman, I move to strike the requisite number of words.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. LEACH. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Very, very briefly, Mr. Chairman, let me just point out that the gentleman from Oregon made a wonderful, impassioned plea. Can the Members imagine, now, every other Member getting up and making the same type of impassioned plea for a unit of Government for which he has special affection?

This is the very problem we feared an hour ago. The same arguments that basically prevailed in the Collins amendment are here.

The only thing they will have to do is look for their supergrade slots from a central pool. I am sure that with this administration, there is going to be enough allocation of supergrades.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. LEACH. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. There is nothing in this amendment, if the gentleman will study it, that says that these agencies do not have to go to the same pool. The only thing it says is that pool is going to have to be made up of a certain number of career civil service people—only about 5,000 out of 9,000. It also says with respect to these agencies that out of that central pool those who are going to be assigned are going to have to be out of that pool represented by those career civil service people.

Mr. DERWINSKI. Let me reclaim my time. That is not exactly what is going to happen.

Mr. LEACH. I yield to the gentleman from Illinois.

Mr. DERWINSKI. The facts are, from the standpoint of administration personnel, they are not going to take people from the Fish and Wildlife Service, Land Management, the Department of the Interior, the Forest Service; they are not going to be moving people in there who have been street inspectors in Brooklyn. They are, in fact, going to be their people.

The only controversy here is whether there shall be proper control of Government-wide supergrades. That is the issue. May I say, with all due respect to the gentleman, because as I recall he once pursued a position in the other body, arguing that just because the other body adopted an amendment does not really make it all that much of an asset, because we know legislative-wise there are many, many more mistakes made across in the other body than there are in this body.

Mr. DUNCAN of Oregon. There are not only mistakes made in the other body, but there are a lot of mistakes made on the way to the other body, as I can testify to myself.

The point which the gentleman makes with respect to the limitation on numbers just does not exist in this amendment. If that is all, that is not what this amendment does. The other point the gentleman makes when he says that we need not fear streetcar conductors being moved in.

If we do not intend to do it, then why should the gentleman have any objection to putting it in the law—stating that it cannot be done—because I do not have the same confidence in the continued benevolence and good will of the executive branch of the Government. I share the same apprehension with respect to it as you have with respect to the Senate.

Mr. DERWINSKI. The gentleman may argue that point, but the fact is that through this amendment this is a back door approach to guarantee for these five special units of Government absolute control of their supergrades. The gentleman is going through the back door rather then by a frontal attack.

Mr. DUNCAN of Oregon. Would the gentleman please find out where, in this amendment, it says that, because it just does not. It says the same authority exists to move people around as with the other agencies.

It does not change the total number of career service employees. It does not set a ceiling for these agencies. All it says is a certain number of senior executive service will be professional civil service people and that when those movements are made from these agencies the replacements must likewise be civil service.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon (Mr. WEAVER).

The amendment was rejected.

AMENDMENTS OFFERED BY MR. GILMAN

Mr. GILMAN. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. GILMAN: On page 215, strike out lines 4 through 11 and insert in lieu thereof the following:

"(8) 'career reserved position' means a Senior Executive Service position which is designated under subsection (b) of this section as a position to which a career appointee may be appointed;

"(9) 'general position' means any Senior Executive Service position which is not a career reserved position.

Page 215, beginning on line 15, strike out "career reserved positions." and all that follows down through "Government." beginning on line 19, and insert in lieu thereof "Senior Executive Service positions to which career appointees may be appointed.".

Page 215, line 21, strike out "career reserved" and insert in lieu thereof "such".

Page 215, line 24, insert after appointee." the following: "Any other Senior Executive Service position may be filled only by a noncareer appointee, limited term appointee, or limited emergency appointee.".

Page 219, line 4, strike out "noncareer appointments" and insert in lieu thereof "general positions".

Page 219, beginning on line 6, strike out "employment of noncareer appointees" and insert in lieu thereof "general positions".

Page 219, beginning on line 11, strike out "authority to employ a specific number of noncareer appointees" and insert in lieu thereof "a specific number of general positions".

Page 219, strike out lines 13 through 15 and insert in lieu thereof the following:

"(b) The number of general positions in each agency will be determined annually by the Office of Personnel Management on the basis of demonstrated need of the agency for such positions, except that the total number of general positions in all agencies may not exceed 10 percent of the total number of Senior Executive Service positions in all agencies.

Page 219, strike out "Senior Executive Service" on line 19 and all that follows down through "appointees" on line 20 and insert in lieu thereof "general positions".

Page 222, in the matter following line 15, strike out "noncareer appointments" in the item relating to section 3134 and insert in lieu thereof "general positions".

Page 223, line 9, insert " 'career reserved position'," before "and 'general position' ".

Page 227, beginning on line 4, strike out "Senior Executive Service position" and insert in lieu thereof "career reserved position".

Page 227, beginning on line 7, strike out "Senior Executive Service position" and insert in lieu thereof "career reserved position".

Page 227, line 12, strike out "Senior Executive Service position" and insert in lieu thereof "general position".

Page 227, line 18, strike out "Senior Executive Service position" and insert in lieu thereof "general position".

Page 254, line 25, strike out "title)." and insert in lieu thereof "title), and such position shall be considered a career reserved position.".

Page 256, line 7, strike out "position." and insert in lieu thereof "position, and such position shall be considered a career reserved position.".

Page 256, line 19, strike out "appointment;" and insert in lieu thereof "appointment, and such position shall be considered a general position.".

Mr. GILMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD, and that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GILMAN. Mr. Chairman, simply stated, my amendment insures that the 90:10 ratio of career appointees to noncareer appointees within the Senior Executive Service (SES), a goal chosen by the administration itself, is preserved. This is accomplished within the amendment by causing "career reserved positions" and "general positions" to be mutually exclusive. That is, only career appointees can be designated to fill career reserved positions, and conversely, only noncareer appointees, limited term appointees, or limited emergency appointees could be employed in general positions. My amendment then restricts the total number of general positions in all agencies to 10 percent of the total number of SES positions in all agencies.

You may well inquire if this amendment is really necessary and/or if it is too restrictive. Both questions are fairly asked, and I will do my best to answer them.

Among the many controversial aspects of this legislation, the most controversial, in my opinion, has been the allegation put forth by several of the witnesses and a number of our colleagues in Congress that the administration's proposal for the SES is a back-handed attempt to politicize the merit system, or at the very least, to restore the patronage system at the upper levels of Federal management.

Let us briefly review the administration's proposal, in light of these charges, and the oft-pronounced claim of the administration that political appointees within the SES will approximate the present number of political appointees in the executive branch.

Currently there are about 9,000 executive positions in the Federal service, other than those filled by Presidential appointees. About 10 percent or 900 of these are designated as specific positions to be filled politically. The administration proposes to change this so that most of the 9,000 positions could be filled by political appointment, although at any time no more than 10 percent of all executive positions could be occupied by political appointees. How could this be accomplished?

First, while it is true that political appointees are limited to 10 percent of the total SES corps, there is no similar cap on limited term appointees or limited emergency appointees. Second, limited term appointees or limited emergency appointees can be and very probably will be pseudonyms for political appointees, thus greatly increasing the 10-percent figure. Third, since the 10-percent cap is governmentwide, a large portion of the general positions could be placed in an agency that was deemed necessary to control with "favorable" executives. And fourth, once it is established that politics, and not impartiality and nonpartisanship, is the criteria for selection for general positions within the SES, the baser elements of human nature will flourish. We can assume that significant numbers of noncareer appointees will be encouraged and some, unfortunately, will be tempted to use their official discretion in subtle ways to serve partisan and special interests, rather than the public interest, in hopes of being looked on favorably as they seek advancement in the SES.

Will this administration appoint significant numbers of noncareer executives to the SES? The answer lies in their own admission that only a small proportion of the 8,000 career executive positions need to be filled by career executives "to preserve public confidence in the impartiality of certain functions of Government." In other words, most of the positions within the SES would be filled by noncareer appointees because there is no compelling need to preserve public confidence in the impartiality of most of the functions of the executive branch.

To return to my original question, then—is my amendment necessary? My answer is, indeed it is, if we hope to avert a return to the spoils system, and if we truly believe there is a compelling need to preserve public confidence in the impartiality of our SES. And to quote from U.S. News & World Report of August 28, 1978,

> No one alleges that Jimmy Carter lusts after power. But his reforms would enable any future political dictator to reach down through the levels and take the whole organization captive. Members of the Senior Executive Service would work close to the administration. In turn 72,500 intermediate managers, the GS-13s, 14s and 15s, bereft of automatic raises, would depend largely on SES review for their rewards. And the lower grade, finding appeal more difficult than at present, would have to please the middle managers in whatever shades of political control the managers transmit.

This still leaves unanswered the other question as to whether this amendment is too restrictive, a change generally leveled by the gentleman from Arizona to other amendments I have offered. The answer is, of course, no.

Section 3132, subsection (c) on page 129 of the committee print provides that agencies may apply to the Office of Personnel Management for exclusion of the entire agency or a part of it from being required to place positions in the Senior Executive Service. The reasons justifying the exclusion must be included in the application, but the range of possible justifications is not limited in the act. After review and investigation, as appropriate, the Office of Personnel Management will recommend to the President inclusion or exclusion of the agency or component. If the President makes a written determination of exclusion, the agency or component will be excluded from being required to place positions in the Senior Executive Service.

Thus, we see that the OPM has wide flexibility to exempt agencies for any number of reasons from the 10-percent cap on general positions.

In closing, I urge my colleagues to adopt this amendment, and I assure you that without the benefit of this amendment increased politicization is inevitable.

Mr. Chairman, I move my amendment.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I am pleased to yield to the gentleman from Virginia.

Mr. HARRIS. Mr. Chairman, I want to applaud my colleague, the gentleman from New York (Mr. GILMAN), for the amendment. It is actually a good backup type of amendment.

The CHAIRMAN. The time of the gentleman from New York (Mr. GILMAN) has expired.

(On request of Mr. HARRIS and by unanimous consent, Mr. GILMAN was allowed to proceed for 2 additional minutes.)

Mr. HARRIS. Mr. Chairman, will the gentleman yield further?

Mr. GILMAN. I am pleased to yield to the gentleman from Virginia.

Mr. HARRIS. Mr. Chairman, I thank the gentleman for yielding. I would like to applaud his efforts here.

His amendment is actually a good backup amendment since we were not able to pass the basic amendment to eliminate political appointees from the Senior Executive Service. I believe my colleague's amendment at least tries to make certain that the 10 percent limitation on political appointees is a meaningful limitation which actually applies to the Senior Executive Service, and that they will not find any backdoors to get additional political appointees in.

Mr. Chairman, I think by placing this amendment in statute, at least we have made the bill more honest in that regard, in that the 10-percent limitation does, in fact, act as a meaningful limitation on the number of political appointees that may infiltrate the top ranks of Government.

Do I understand my colleague's amendment correctly?

Mr. GILMAN. Mr. Chairman, I thank the gentleman for his contribution. The gentleman is precise in his definition of the objective and goals of this amendment, and, I thank the gentleman for his support.

Mr. UDALL. Mr. Chairman, I raise in opposition to the amendment.

Mr. Chairman, at this hour of the night I am not going to try to describe the technical effect of this amendment.

Let me say that it guts the bill. It guts this key section of title IV of the bill. That is why it makes my friend, the gentleman from Virginia (Mr. HARRIS), happy. He has never been very pleased with title IV.

Mr. Chairman, let me tell the Members what is invloved here. We are talking about the Senior Executive Service. We are talking about 10,000 positions. There are about three million Federal employees if we count political workers and everybody else, so that we are talking about one-third of one percent of the Federal work force. There are the top executives. These are the people who would be vice preseidents in charge of major divisions of very large companies.

Mr. Chairman, one of the central purposes of this bill is to give a President of any party who is elected to carry out his own program, who has some ideas, and who has made some campaign promises the machinery so that he can have in this career executive service 10 percent of noncareer people who would be brought in, out in the open, and labeled as such. He will be able to move them around and get them to respond, and that is what it is all about.

We have had a whole series of amendments, and I guess we will have some more, which are trying to undercut this principle and violate it and get away with it. This is as bad as any amendments offered to this title; it ought to be defeated.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Illinois.

Mr. DERWINSKI. I thank the gentleman for yielding.

Mr. Chairman, I concur with the observations made by the gentleman from Arizona (Mr. UDALL). Let me say there is no doubt as to the nonpolitical thrust of our effort and that I would support this very bill with every minute detail even if the gentleman from Arizona (Mr. UDALL) were in the White House at the present time.

Mr. Chairman, under the Gilman amendment all positions in the Senior Executive Service are divided into two categories: First, career reserved position; and second, general position.

Career reserved positions are those to which only a career executive may be appointed.

General positions are those to which noncareer, limited term, and limited emergency executives may be appointed.

The amendment then limits the total number of general positions to 10 percent Government-wide and 25 percent in any one agency.

The first effect of the amendment is to freeze 90 percent of all Senior Executive Service positions so that only a career person could be appointed. The administration bill would permit the agency to decide whether a particular position should be filled on a career or noncareer basis. Provided that the 10-percent or 25-percent limitation is not exceeded and provided it is not one of the positions designated as career reserved.

The second effect is to reduce the number of political appointees in the SES because from the general-position pool must come all noncareer (political), limited term, and limited emergency appointees. On the other hand, if an administration were to initially use the 10 percent pool for all noncareer, then there would be no flexibility for limited term or emergency appointees.

Under the administration bill, the 10-percent limitation applies only to noncareer appointees and the limited term and emergency appointees would come from the career pool.

Mr. UDALL. I thank the gentleman.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New York (Mr. GILMAN).

The amendments were rejected.

The CHAIRMAN. Are there further amendments to title IV? There being none, the Clerk will read title IV.

The Clerk read as follows:

TITLE V—MERIT PAY

PAY FOR PERFORMANCE

SEC. 501. Part III of title 5, United States Code, is amended by inserting after chapter 53 the following new chapter:

"Chapter 54.—MERIT PAY AND CASH AWARDS

"Sec.
"5401. Purpose.
"5402. Merit pay system.
"5403. Cash award program.
"5404. Reports.
"5405. Regulations.

"§ 5401. Purpose

"It is the purpose of this chapter to provide for—

"(1) a merit pay system which shall—

"(A) within available funds, recognize and reward quality performance by varying merit pay adjustments;

"(B) use performance appraisals as the basis for determining merit pay adjustments; and

"(C) regulate the costs of merit pay by establishing appropriate control techniques; and

"(2) a cash award program which shall provide cash awards for superior accomplishment and special service.

"§ 5402. Merit pay system

"(a) In accordance with the purpose set forth in section 5401(1) of this title the Office of Personnel Management shall establish a merit pay system which shall apply to any supervisor or management official (as defined in paragraphs (10) and (11) of section 7103 of this title, respectively) who is in a position which is in GS-13, 14, or 15 of the General Schedule described in section 5104 of this title.

"(b) The merit pay system established under subsection (a) of this section shall provide for a range of basic pay for each grade to which it applies, which range shall be limited by the minimum and maximum rates of basic pay payable for each such grade under chapter 53 of this title.

"(c)(1) Under regulations prescribed by the Office of Personnel Management, the head of each agency may provide for increases within the range of basic pay for any employee covered by the merit pay system.

"(2) Determinations to provide pay increases under this subsection—

"(A) may take into account individual performance and organizational accomplishment, and

"(B) shall be based on factors such as—

"(i) any improvement in efficiency, productivity, and quality of work or service;

"(ii) cost efficiency; and

"(iii) timeliness of performance;

"(C) shall be subject to review only in accordance with and to the extent provided by procedures established by the head of the agency; and

"(D) shall be made in accordance with regulations issued by the Office of Personnel Management which relate to the distribution of increases authorized under this subsection.

"(3) For any fiscal year, the head of any agency may exercise authority under paragraph (1) of this subsection only to the extent of the funds available for the purpose of this subsection.

"(4) The funds available for the purpose of this subsection to the head of any agency for any fiscal year shall be determined before the beginning of each such fiscal year by the Office of Personnel Management, after consultation with the Office of Management and Budget. The funds available to any agency shall be determined by the Office of Personnel Management on the basis of the amount estimated by the Office to be necessary to reflect within-grade step increases and quality step increases, which would have been paid

under subchapter III of chapter 53 of this title during such fiscal year to the employees of the agency covered by the merit pay system if the employees were not so covered.

"(d)(1) Effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5305 of this title, the rate of basic pay for any position under this chapter shall be adjusted by an amount equal to the percentage of the annual rate of pay which corresponds to the percentage generally applicable to positions in the same grade as the position.

"(2) Any employee whose position is brought under the merit pay system shall, so long as the employee continues to occupy the position, be entitled to receive basic pay at a rate of basic pay not less than the rate the employee was receiving when the position was brought under the merit pay system, plus any subsequent adjustment under paragraph (1) of this subsection.

"(3) No employee to whom this chapter applies may be paid less than the minimum rate of basic pay of the grade of the employee's position.

"(e) Under regulations prescribed by the Office of Personnel Management, the benefit of advancement through the range of basic pay for a grade shall be preserved for any employee covered by the merit pay system whose continuous service is interrupted in the public interest by service with the armed forces, or by service in essential non-Government civilian employement during a period of war or national emergency.

"(f) For the purpose of section 5941 of this title, rates of basic pay of employees covered by the merit pay system shall be considered rates of basic pay fixed by statute.

"§5403. Cash award program

"(a) The head of any agency may pay a cash award to, and incur necessary expenses for the honorary recognition of, any employee covered by the merit pay system who—

"(1) by the employee's suggestion, invention, superior accomplishment, or other personal effort, contributes to the efficiency, economy, or other improvement of Government operations; or

"(2) performs a special act or service in the public interest in connection with or related to the employee's Federal employment.

"(b) The President may pay a cash award to, and incur necessary expenses for the honorary recognition of, any employee covered by the merit pay system who—

"(1) by the employee's suggestion, invention, superior accomplishment, or other personal effort, contributes to the efficency, economy, or other improvement of Government operations; or

"(2) performs an exceptionally meritorious special act or service in the public interest in connection with or related to the employee's Federal employment.

A Presidential cash award may be in addition to an agency cash award under subsection (a) of this section.

"(c) A cash award to any employee under this section is in addition to the basic pay of the employee under section 5402 of this title. Acceptance of a cash award under this section constitutes an agreement that the use by the Government of any idea, method, or device for which the award is made does not form the basis of any claim of any nature against the Government by the employee accepting the award, his heirs, or assigns.

"(d) A cash award to, and expenses for the honorary recognition of, any employee covered by the merit pay system may be paid from the fund or appropriation available to the activity primarily benefiting, or the various activities benefiting, from the suggestion, invention, superior accomplishment, or other meritorious effort of the employee. The head of the agency concerned shall determine the amount to be contributed by each activity to an agency cash award under subsection (a) of this section. The President shall determine the amount to be controlled by each activity to a Presidential award under subsection (b) of this section.

"(e)(1) Except as provided in paragraph (2) of this subsection, a cash award under this section may not exceed $10,000.

"(2) If the head of an agency certifies to the Office of Personnel Management that the suggestion, invention, superior accomplishment, or other meritorious effort of an employee for which a cash award is proposed is highly exceptional and unusually outstanding, a cash award in excess of $10,000 but not in excess of $25,000 may be awarded to the employee on the approval of the Office.

"(f) The President or the head of an agency may pay a cash award under this section notwithstanding the death or separation from the service of an employee, if the suggestion, invention, superior accomplishment, or other meritorious effort of the employee for which the award is proposed was made or performed while the employee was covered by the merit pay system.

"§ 5404. Reports

"The Office of Personnel Management shall submit to the appropriate committees of each House of the Congress on or before January 1, 1982, a report on the operation of the merit pay system and the cash award program established under this chapter. The report shall include—

"(1) a statement, together with supporting facts, as to whether the purpose of this chapter has been met during the period covered by the report, including, to the extent practicable, quantitative measures of costs and accomplishments of the merit pay system and the cash award program; and

"(2) any recommendations for legislation to amend the provisions of this chapter relating to the merit pay system or the cash award program considered necessary by the Office.

"§ 5405. Regulations

"The Office of Personnel Management shall prescribe regulations to carry out the purpose of this chapter.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 502. (a) Section 4501(2)(A) of title 5, United States Code, is amended by striking out "title; and" and inserting in lieu thereof "title, but does not include an employee covered by the merit pay system established under section 5402 of this title; and".

(b) Section 4502(a) of title 5, United States Code, is amended by striking out "$5,000" and inserting in lieu thereof "$10,000".

(c) Section 4502(b) of title 5, United States Code, is amended—

(1) by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management";

(2) by striking out "$5,000" and inserting in lieu thereof "$10,000"; and

(3) by striking out "the Commission" and inserting in lieu thereof "the Office".

(d) Section 4506 of title 5, United States Code, is amended by striking out "Civil Service Commission may" and inserting in lieu thereof "Office of Personnel Management shall".

(e) The second sentence of section 5332(a) of title 5, United States Code, is amended by inserting after "applies" the following: ", except an employee covered by the pay system established under section 5402 of this title,".

(f) Section 5334 of title 5, United States Code (as amended in section 801(a)(3)(G) of this Act), is amended—

(1) in paragraph (2) of subsection (c), by inserting ", or for an employee appointed to a position covered by the merit pay system established under section 5402 of this title, any dollar amount," after "step"; and

(2) by adding at the end thereof the following new subsection:

"(f) In the case of an employee covered by the merit pay system established under section 5402 of this title, all references in this section to 'two steps' or 'two step-increases' shall be deemed to mean 6 percent.".

(g) Section 5335(e) of title 5, United States Code, is amended by inserting after "individual" the following: "covered by the merit pay system established under section 5402 of this title, or,".

(h) Section 5336(c) of title 5, United States Code, is amended by inserting after "individual" the following: "covered by the merit pay system established under section 5402 of this title, or,".

(i) The table of chapters for part III of title 5, United States Code, is amended by inserting after the item relating to chapter 53 the following new chapter:

"54. Merit Pay and Cash Awards.....5401".

EFFECTIVE DATE

SEC. 503. The provisions of this title shall take effect on the first day of the first applicable pay period which begins on or after October 1, 1981, except that such provisions may take effect with respect to any category or categories of positions before such day to the extent prescribed by the Director of the Office of Personnel Management.

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent to dispense with further reading of title V and that it be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN. Are there amendments to title V?

AMENDMENTS OFFERED BY MR. FISHER

Mr. FISHER. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. FISHER: Page 270, beginning on line 1, strike out "January 1, 1982, a report on the operation" and insert in lieu thereof the following: "January 1, 1986, and biennially thereafter, a report on the operation during the preceding 2 fiscal years".

Page 272, strike out lines 19 through 24 and insert in lieu thereof the following:

EFFECTIVE DATE; EXPERIMENTAL APPLICATION

SEC. 503. (a) Except as provided in subsection (b) of this section, the amendments made by this title shall take effect on the first day of the first applicable pay period which begins on or after October 1, 1981.

(b)(1) Not later than 60 days after the date of the enactment of this title, the Director of the Office of Personnel Management shall prescribe regulations providing for an initial, experimental application of the amendments made by this title, which shall begin on the first day of the first applicable pay period which begins on or after October 1, 1981. Such regulations shall provide that the merit pay system and the cash award program will apply with respect to positions only in 3 Executive departments designated by the Director.

(2) Within 30 days after the end of each of the first two fiscal years to which such amendments apply, the Director shall prepare and transmit to each House of the Congress a report on the merit pay system and the cash award program, including an evaluation of their effectiveness and the manner in which they are administered. The second such report shall include proposed regulations which would provide for adjustments which would be appropriate in the

event such system or such program does not continue by reason of paragraph (3).

(3) The provisions of the regulations under paragraph (1) providing for an initial, limited experimental application with respect to the merit pay system and the cash award program shall cease to have effect and the amendments made by this title relating to such system and such program shall have full effect (without regard to the limitations under paragraph (1)) beginning on the 90th day of continuous session of Congress following the date on which the second annual report is transmitted to the Congress under paragraph (2), unless the Congress before such day adopts a concurrent resolution which states that the Congress does not favor the continuance of such system and such program. If such a resolution is adopted with respect to such system and such program before such date, then the provisions of such regulations and such amendments relating to such system and such program shall cease to have effect on such 90th day (or, if later, 30 days after the date of the adoption of such resolution).

(4) For purposes of paragraph (3), the continuity of a session of Congress shall be considered to be broken only by an adjournment of the Congress sine die, and the days on which either House of the Congress is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 90-day period under such paragraph.

Mr. FISHER (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. FISHER. Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. FISHER. Briefly, Mr. Chairman, the bill establishes a merit pay system for supervisors and managers in Grades GS–13 to 15. My amendment would make the merit pay system an experiment to be carried out in three agencies for 2 years. This would parallel the 2-year experimental provision for the Senior Executive Service which we have accepted. After the 2 years are up, the merit pay system will go into effect Government-wide, unless both Houses of Congress veto it. This controversial proposal for attempting to motivate midlevel managers to perform better through monetary incentives should be tested before all managers throughout the Government are brought under the system. I think this is the way to do it.

In discussion with the Chairman of the Civil Service Commission, I find that in his opinion it would take some period of years to launch an effective incentive pay system for these GS–13 to GS–15 middle-level managers, and since it is going to take some time anyway, I think we would all be reassured if my amendment were passed and we said explicitly, as we have with the Senior Executive Service, let us try this out for 2 years on an ample scale and see how it works.

One final word: I am telling the Members from a lot of experience, both personal, in the civil service, and as a Representative of a district that has more civil servants than any other, that we are now talking about more than 9,200 people. We are reaching into tens of thousands, and it is the express intention that if this works, it would be extended all the way down to—what is it—GS–5.

Then we would be dealing with 1 million employees or more, so I think we ought to go a little slowly here to try to do it, to experiment with it, try it on an ample scale for a couple years, which is what it would take anyway to do it intelligently, and then make up our minds.

In my version of the amendment, the merit raise program would go Government-wide, so to speak, unless both Houses of Congress voted to the contrary. If that works, as I hope it does, I think thereafter we can consider extending it farther into the civil service so as to make merit pay characteristic of most of the civil service.

I urge very much that we consider this amendment, although I know it will not meet with the approval of the manager of our bill; but I urge that we consider it carefully and see if we do not want to vote for it as really the best way to go forward here.

I speak now, not as somebody with a lot of civil servants in his district and who is automatically going to vote against this bill. If it can be brought into reasonably good shape. I intend to vote for it and maybe I will vote for it even if this is not passed: but I do urge that we consider this amendment and see if we really do not want to vote for it.

Mr. UDALL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment deals with the middle managers in the Federal Government, the GS–13. 14 and 15 people. Today they get an annual comparability raise in October. Most of them get an annual or biannual step increase, so that every year or two you get a raise unless you are so bad that you are fired. More than 95 percent of the Federal employees get raises every year or 2 years, and they get comparability pay.

What we would do is leave the comparability pay in October alone. Everybody would get that. What we will do is use the step increases for merit pay, so that if somebody does a crackerjack job, that person will be recommended by the supervisor. You would be recommended by your supervisor and get a modest increase in pay. By saying we will try it in two or three departments and if it is bad we will cut it out and if it is good we will have the Executive sign it and find out whether it will work or not.

The gentleman from Virginia has been sincere and I know the gentleman is constructive, but I think it is a bad amendment. I urge its rejection.

Mr. FISHER. Mr. Chairman, will the gentleman yield for a very brief colloquy?

Mr. UDALL. I yield to the gentleman from Virginia.

Mr. FISHER. Mr. Chairman, in the first place, my amendment has nothing to do with comparability pay advances or cost-of-living.

Mr. UDALL. I tried to say that.

Mr. FISHER. Yes. Second, on the other type of increase, I too, hope we can go in the direction of this bill. I want to see merit pay pervade the government; but I really think we are stepping along too fast if we apply it everywhere in Government without the trial period. We could choose three departments that would represent a large percent of the total Government employment, even more than 50 percent if the administration wanted to.

I am thinking partly of the morale of all this. I am very close to these civil servants. I think I know them almost as well as I know my own family. Whatever we do here, we are still going to have to rely on these same people to run our Government. Anything that supports them and does not tear down their morale, and yet really gets us on rapidly toward a fair and workable merit pay system, I think really ought to be voted for.

Mr. UDALL. I understand; but the Civil Service Commission says it will take about 3 years to implement this; yet the gentleman would have a judgment made on the scheme at the end of 2 years. I think on that basis alone, it is a poor amendment.

Mrs. SPELLMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I want to congratulate my colleague, the gentleman from Virginia (Mr. FISHER), for making this recommendation. There was a recommendation made, and it was passed in the committee, that this Senior Executive Service be tried in three departments. That represents hundreds of agencies, not three agencies. Hundreds of agencies are involved in three departments.

I might point out that during that 2-year period there would be reports back to the Congress on the progress being made. A the end of 2 years the Senior Executive Service would spread out over the whole Government unless both Houses of the Congress determined that it should be brought to a stop. It would take legislative action to do that.

What we are attemping to do is to prevent the kind of chaos we have had with the Post Office reorganization. Surely we have learned something there, and surely we ought to recognize that if we move just a little more slowly and a little more surely, we will come up with a better product.

That recommendation did pass in committee. To incorporate this pay schedule so that it can be worked in the same way here makes very good sense. We are not limiting this to a small sample of employees. If the President were to select his three largest agencies, Defense, HEW, and Veterans, he would have over 66 percent of the Government covered. Surely 66 percent is a large enough sampling so that the Congress is able to keep an eye on what is going on.

Oversight after chaos is very difficult. It is far better that we monitor what is happening and change the rules if we

need to change the laws if we need to in order to help the administration administer the program.

Mr. Chairman, let us do it properly. I commend the gentleman from Virginia (Mr. FISHER) for his recommendation.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

I will use very little time, Mr. Chairman. I would like to point out that one might be tempted to refer to this as an amendment that guts the program, but the gentleman from Virginia (Mr. FISHER) is more of an expert in finesse than he is in gutting. He is not the type that guts; he is smooth, he is effective, he is knowledgeable, and he is scholarly. He has a wonderful approach to legislation.

But the effect of this amendment would really be to limit the program to a 2-year minimum period, and it would be difficult to get an honest evaluation in that time. The best guesses are that it would take anywhere from 3 to 5 years to implement major parts of this law, and it would be unwise to have sunset after 2 years without a fair period of evaluation, given the sheer size of this Government of ours and the obvious time it will take to really understand and see the workings of this new program.

I think limiting the program to just 2 years is too arbitrary. It is just too brief a period. I suggest, using pure commonsense and taking into consideration the headaches of a massive government structure such as the one we have, the job obviously cannot be done in 2 years, and this amendment is too restrictive.

Mr. FISHER. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. Of course, I will yield to the gentleman from Virginia.

Mr. FISHER. Mr. Chairman, I really think this phrase of "gutting" the program is a bit overdone.

Mr. DERWINSKI. I did not say the gentleman was gutting the program; I said the gentleman was finessing it.

Mr. FISHER. Mr. Chairman, in the gentleman's own fairly smooth and attractive manner, however, that is what he implied.

I have no intention of gutting the program. As I said several times over, it is altogether likely that I will vote for this bill even if it does not contain this amendment along with some of the others. I may be the only Member who comes from a district dominated by Federal employment who is likely to do that.

This does not gut the bill at all. It simply says: Let us try it out on a large scale for 2 years, and then we can make changes. But if we do not do anything, then automatically it goes Government-wide unless both bodies vote to the contrary. In no way can this directly or by implication be thought of as gutting what I consider to be a bill with very, very many important, innovative, and necessary features for the improvement of our Government.

Mr. DERWINSKI. Mr. Chairman, for the record, let me state that I had no intention of stating that the gentleman from Virginia (Mr. FISHER) was gutting the bill. I want to make it clear that what he is doing is imposing artificial restraints within which the management prerogative we all envision could not logically be properly implemented.

Mrs. SPELLMAN. Mr. Chairman, will the gentleman yield so that I may ask the gentleman from Virginia a question?

Mr. DERWINSKI. I yield to the gentlewoman from Maryland.

Mrs. SPELLMAN. I thank the gentleman for yielding.

Mr. Chairman, I would like to ask the gentleman from Virginia (Mr. FISHER) if he does not have a provision there which says that at the end of the 2 years this program automatically extends over the entire Government unless it is aborted by definite action by the Congress.

Mr. FISHER. That is correct.

Mrs. SPELLMAN. Both Houses of Congress?

Mr. FISHER. That is correct.

Mrs. SPELLMAN. Then it certainly is not a limited program, it is not just a small trial; it is an attempt to move into a new program, and one that is really quite different, at a deliberate pace.

Mr. FISHER. The gentlewoman has stated the matter correctly.

Mrs. SPELLMAN. I thank the gentleman.

Mr. DERWINSKI. But you would, in fact, say it is premature judgment by the Congress because of the lack of time to fully be able to understand and appreciate what is being done?

Mrs. SPELLMAN. If by "premature" the gentleman means before chaos has completely set in, I would hope so.

Mr. DERWINSKI. No. I am saying before efficiencies will be demonstrated in the civil service, then all of us in a nonpolitical fashion could appreciate it.

Mrs. SPELLMAN. I think we would have a pretty good idea of the route it was taking, and also the administration would be forced to do a better job because the eye of the Congress was upon it.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Virginia (Mr. FISHER).

The question was taken; and on a division (demanded by Mr. FISHER) there were—ayes 9, noes 38.

So the amendments were rejected.

The CHAIRMAN. Are there other amendments to title V?

There being none, the Clerk will read title VI.

The Clerk read as follows:

TITLE VI—RESEARCH, DEMONSTRATION, AND OTHER PROGRAMS

RESEARCH PROGRAMS AND DEMONSTRATION PROJECTS

SEC. 601. (a) Part III of title 5, United States Code, is amended by adding at the end of subpart C thereof the following new chapter:

"Chapter 47.—PERSONNEL RESEARCH PROGRAMS AND DEMONSTRATION PROJECTS

"Sec.
"4701. Definitions.
"4702. Research programs.
"4703. Demonstration projects.
"4704. Allocation of funds.
"4705. Reports.
"4706. Regulations.

"§4701. Definitions

"For the purpose of this chapter—

"(1) 'agency' means an Executive agency, the Administrative Office of the United States Courts, and the Government Printing Office, but does not include—

"(A) a Government corporation;

"(B) the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, or any Executive agency or unit thereof which is designated by the President and which conducts foreign intelligence or counterintelligence activities; or

"(C) the General Accounting Office.

"(2) 'employee' means an individual employed in or under an agency;

"(3) 'eligible' means an individual who has qualified for appointment in an agency and whose name has been entered on the appropriate register or list of eligibles;

"(4) 'demonstration project' means a project conducted by the Office of Personnel Management, or under its supervision, to determine whether a specified change in personnel management policies or procedures would result in improved Federal personnel management; and

"(5) 'research program' means a planned study of the manner in which public management policies and systems are operating, the effects of those policies and systems, the possibilities for change, and comparisons among policies and systems.

"§ 4702. Research programs

"The Office of Personnel Management shall—

"(1) establish and maintain (and assist in the establishment and maintenance of) research programs to study improved methods and technologies in Federal personnel management;

"(2) evaluate the research programs established under paragraph (1) of this section;

"(3) establish and maintain a program for the collection and public dissemination of information relating to personnel management research and for encouraging and facilitating the exchange of information among interested persons and entities; and

"(4) carry out the preceding functions directly or through agreement or contract.

"§ 4703. Demonstration projects

"(a) Except as provided in this section, the Office of Personnel Management may, directly or through agreement or contract with one or more agencies and other public and private organizations, conduct and evaluate demonstration projects. Subject to the provisions of this section, the conducting of demonstration projects shall not be limited by any lack of specific authority to take the action contemplated, or by any provision of law in effect which is inconsistent with the action, including any law or regulation relating to—

"(1) the methods of establishing qualification requirements for, recruitment for, and appointment to positions;

"(2) the methods of classifying positions and compensating employees;

"(3) the methods of assigning, reassigning, or promoting employees;

"(4) the methods of disciplining employees;

"(5) the methods of providing incentives to employees, including the provision of group or individual incentive bonuses or pay;

"(6) hours of work per day or per week;

"(7) the methods of involving employees, labor organizations, and employee organizations in personnel decisions; and

"(8) the methods of reducing overall agency staff and grade levels.

"(b) Before conducting or entering into any agreement or contract to conduct a demonstration project, the Office of Personnel Management shall—

"(1) develop a plan for such project which identifies—

"(A) the purposes of the project;

"(B) the types of employees or eligibles, categorized by occupational series, grade, or organizational unit;

"(C) the number of employees or eligibles to be included, in the aggregate and by category;

"(D) the methodology;

"(E) the duration;

"(F) the training to be provided;

"(G) the anticipated costs;

"(H) the methodology and criteria for evaluation;

"(I) a specific description of any lack of specific authority for any aspect of the project; and

"(J) a specific citation to any provision of law, rule, or regulation which, if not waived under this section, would prohibit the conducting of the project as proposed;

"(2) publish the plan in the Federal Register;

"(3) submit the plan so published to public hearing; and

"(4) transmit a copy of the plan, taking into account any revision resulting from the hearing, to each House of the Congress.

"(c)(1) Any demonstration project under this section may not be undertaken, or any agreement or contract with respect to such project may not be entered into, unless—

"(A) the plan under subsection (b) of this section for the project is approved by each agency involved;

"(B) a copy of the plan, as so approved, is transmitted to each House of the Congress; and

"(C) the plan is disapproved by either House of the Congress during the first period of 60 calendar days of continuous session of the Congress after the date on which the plan is transmitted to such House.

"(2) For the purpose of paragraph (1)(C) of this subsection—

"(A) the continuity of a session is broken only by an adjournment of the Congress sine die; and

"(B) the days on which either House of the Congress is not in session because of an adjournment of more than 3 calendar days to a day certain are excluded in the computation of the 60-day period.

"(d) No demonstration project under this section may provide for a waiver of—

"(1) any provision of chapter 63 (relating to leave) or subpart G (relating to insurance and annuities) of this title;

"(2) any provision of law—

"(A) referred to in section 2302(b)(1) of this title;

"(B) providing for equal employment opportunity through affirmative action under any such provision of law;

"(C) providing any right or remedy available to any employee or applicant for employment in the civil service under any such provision of law;

"(3) any provision of chapter 15 or subchapter III of chapter 73 of this title (relating to political activity); or

"(4) any rule or regulation issued under the provisions of law referred to in paragraph (1), (2), or (3) of this subsection.

"(e)(1) Each demonstration project shall—

"(A) involve not more than 5,000 individuals other than individuals in any control groups necessary to validate the results of the project; and

"(B) terminate before the end of the 5-year period beginning on the date of the transmittal to each House of the Congress by the Office of Personnel Maagement of a copy of the plan for the project under subsection (b)(4) of this section, except that research may continue beyond the date to the extent necessary to validate the results of the project.

"(2) Not more than 10 demonstration projects may be contracted for or conducted at any time.

"(f) Subject to the terms of any written agreement or contract between the Office of Personnel Management and an agency, a demonstration project involving the agency may be terminated by the Office of Personnel Management, or the agency, if either determines that the project creates a substantial hardship on, or is not in the best interests of, the public, the Federal Government, employees, or eligibles.

"(g) Employees within a unit with respect to which a labor organization is accorded exclusive recognition under section 7111 of this title shall not be included within any project under subsection (b) of this section—

"(1) if the project would violate a collective bargaining agreement (as defined in section 7103(8) of this title) between the agency and the labor organization, unless there is another written agreement with respect to the project between the agency and the organization permitting the inclusion; or

"(2) if the project is not covered by such a collective bargaining agreement, until there has been consultation or negotiation, as appropriate, by the agency with the labor organization.

"(h) Employees within any unit with respect to which a labor organization has not been accorded exclusive recognition under section 7111 of this title shall not be included within any project under subsection (b) of this section unless there has been agency consultation regarding the project with the employees in the unit.

"(i) The Office of Personnel Management shall evaluate the results of each demonstration project and its impact on improving public management.

"(j) Upon the request of the Director of the Office of Personnel Management, agencies shall cooperate with and assist the Office, to the extent practicable, in any evaluation undertaken under subsection (i) of this section and provide the Office with requested information and reports relating to the conducting of demonstration projects in their respective agencies.

"§ 4704. Allocation of funds

"Funds appropriated to the Office of Personnel Management for the purpose of this chapter may be allocated by the Office of Personnel Management to any agency conducting demonstration projects or assisting the Office of Personnel Management in conducting such projects. Funds so allocated shall remain available for such period as may be specified in appropriation Acts. No contract shall be entered into under this chapter unless the contract has been provided for in advance in appropriation Acts.

"§ 4705. Reports

"The Office of Personnel Management shall include in the annual report required by section 1308 of this title a summary of research programs and demonstration projects conducted during the year covered by the report, the effect of the programs and projects on improving public management and increasing Government efficiency, and recommendations of policies and procedures which will improve such management and efficiency.

"§ 4706. Regulations

"The Office of Personnel Management shall prescribe regulations to carry out the purpose of this chapter.".

(b) The table of chapters for part III of title 5, United States Code, is amended by inserting after the item relating to chapter 45 the following new item:

"47. Personnel Research Programs and Demonstration Projects—4701".

INTERGOVERNMENTAL PERSONNEL ACT AMENDMENTS

SEC. 602. (a) Section 208 of the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4728) is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"TRANSFER OF FUNCTIONS AND ADMINISTRATION OF MERIT POLICIES

(2) by redesignating subsections (b), (c), (d), (e), (f), and (g) as subsections (c), (d), (e), (f), (g), and (i), respectively, and by inserting after subsection (a) the following new subsection:

"(b) In accordance with regulations of the Office of Personnel Management, Federal agencies may require as a condition of participation in assistance programs, systems of personnel administration consistent with personnel standards prescribed by the Office of Personnel Management for positions engaged in carrying out such programs. The standards shall include the merit principles in section 2 of this Act."; and

(3) by inserting after subsection (g), as redesignated by this section, the following new subsection:

"(h) Effective one year after the date of the enactment of this subsection, all statutory personnel requirements established as a condition of the receipt of Federal grants-in-aid by State and local governments are hereby abolished, except—

"(1) those requirements listed in subsection (a) of this section;

"(2) those that generally prohibit discrimination in employment or require equal employment opportunity;

"(3) the Davis-Bacon Act (40 U.S.C. 276 et seq.); and

"(4) chapter 15 of title 5, United States Code, relating to political activities of certain State and local employees.".

(b) Section 401 of such Act (84 Stat. 1920) is amended by striking out "governments and institutions of higher education" and inserting in lieu thereof "governments, institutions of higher education, and other organizations".

(c) Section 403 of such Act (84 Stat. 1925) is amended by striking out "(less applicability to commissioned officers of the Public Health Service)".

(d) Section 502 of such Act (42 U.S.C. 4762) is amended in paragraph (3) by inserting "the Trust Territory of the Pacific Islands," before "and a territory or possession of the United States,".

(e) Section 506 of such Act (42 U.S.C. 4766) is amended—

(1) in subsection (b)(2), by striking out "District of Columbia" and inserting in lieu thereof "District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands"; and

(2) in subsection (b)(5), by striking out "and the District of Columbia" and inserting in lieu thereof", the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands".

AMENDMENTS TO THE MOBILITY PROGRAM

SEC. 603. (a) Section 3371 of title 5, United States Code, is amended—

(1) by inserting "the Trust Territory of the Pacific Islands," after "Puerto Rico," in paragraph (1)(A); and

(2) by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting a semicolon in lieu thereof, and by adding at the end thereof the following:

"(3) 'Federal agency' means an Executive agency, a court of the United States, the Administrative Office of the United States Courts, the Library of Congress, the Botanic Garden, the Government Printing Office, the Congressional Budget Office, the United States Postal Service, the Postal Rate Commission, the Office of the Architect of the Capitol, the Office of Technology Assessment, and such other appropriate agencies of the legislative and judicial branches as determined by the Office of Personnel Management; and

"(4) 'other organization' means—

"(A) a national, regional, State-wide, or metropolitan organization representing member State or local governments;

"(B) an association of State or local public officials; or

"(C) a nonprofit organization, one of whose principal functions is to offer professional advisory, research, or development services, or related services, to governments or universities concerned with public management.".

(b) Sections 3372 through 3375 of title 5, United States Code, are amended by striking out "executive agency" and "an executive agency" each place they appear and inserting in lieu thereof "Federal agency" and "a Federal agency", respectively.

(c) Section 3372 of title 5, United States Code, is further amended—

(1) in subsection (a)(1), by inserting after "agency" the following: ", other than a noncareer appointee, limited term appointee, or limited emergency appointee (as such terms are defined in section 3132(a) of this title) in the Senior Executive Service and an employee in a position which has been excepted from the competitive service by reason of its confidential, policy determining, or policy-advocating character,";

(2) in subsection (b)(1), by striking out "and";

(3) in subsection (b)(2), by striking out the period after "agency" and inserting in lieu thereof a semicolon;

(4) by adding at the end of subsection (b) the following:

"(3) an employee of a Federal agency to any other organization; and

"(4) an employee of an other organization to a Federal agency,"; and

(5) by adding at the end thereof (as amended in paragraph (4) of this subsection) the following new subsection:

"(c)(1) An employee of a Federal agency may be assigned under this subchapter only if the employee agrees, as a condition of accepting an assignment under this subchapter, to serve with the agency upon the completion of the assignment for a period equal to the length of the assignment.

"(2) Each agreement required under paragraph (1) of this subsection shall provide that in the event the employee fails to carry out the agreement (except for good and sufficient reason as determined by the head of the Federal agency involved) the employee shall be liable to the United States for payment of all expenses (excluding salary) of the assignment. The amount shall be treated as a debt due the United States.".

(d) Section 3374 of title 5, United States Code, is further amended—

(1) by adding the following new sentence at the end of subsection (b):

"The above exceptions shall not apply to non-Federal employees who are covered by chapters 83, 87, and 89 of this title by virtue of their non-Federal employment immediately before assignment and appointment under this section.";

(2) in subsection (c)(1), by striking out the semicolon at the end thereof and by inserting in lieu thereof the following: ", except to the extent that the pay received from the State or local government is less than the appropriate rate of pay which the duties would warrant under the applicable pay provisions of this title or other applicable authority;"; and

(3) by striking out the period at the end of subsection (c) and adding the following: ", or for the contribution of the State or local government, or a part thereof, to employee benefit systems.".

(e) Section 3375(a) of title 5, United States Code, is further amended by striking out "and" at the end of paragraph (4), by redesignating paragraph (5) as paragraph (6), and by inserting after paragraph (4) thereof the following:

"(5) section 5724(b) of this title, to be used by the employee for miscellaneous expenses related to change of station where movement or storage of household goods is involved; and".

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that title VI be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN. Are there any amendments to title VI?

AMENDMENT OFFERED BY MR. SOLARZ

Mr. SOLARZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLARZ: Page 288, insert after line 11 the following new subtitle:

Subtitle D—Federal Employees Flexible and Compressed Work Schedules

CONGRESSIONAL FINDINGS

SEC. 631. The Congress finds that new trends in the usage of 4-day workweeks, flexible work hours, and other variations in workday and workweek schedules in the private sector appear to show sufficient promise to warrant carefully designed, controlled, and evaluated experimentation by Federal agencies over a 3-year period to determine whether and in what situations such varied work schedules can be successfully used by Federal agencies on a permanent basis. The Congress also finds that there should be sufficient flexibility in the work schedules of Federal employees to allow such employees to meet the obligations of their faith.

DEFINITIONS

SEC. 632. For the purpose of this subtitle—

(1) the term "agency" means an Executive agency and a military department (as such terms are defined in section 105 and 102, respectively, of title 5, United States Code);

(2) the term "employee" has the meaning set forth in section 2105 of title 5, United States Code;

(3) the term "Office" means the Office of Personnel Management; and

(4) the term "basic work requirement" means the number of hours, excluding overtime hours, which an employee is required to work or is required to account for by leave or otherwise.

EXPERIMENTAL PROGRAM

SEC. 633. (a)(1) Within 180 days after the effective date of this section, and subject to the requirements of section 662 of this subtitle and the terms of any written agreement referred to in section 662(a) of this subtitle, the Office shall establish a program which provides for the conducting of experiments by the Office under parts 1 and 2 of this subtitle. Such experimental program shall cover a sufficient number of positions throughout the executive branch, and a sufficient range of worktime alternatives, to provide an adequate basis on which to evaluate the effectiveness and desirability of permanently maintaining flexible or compressed work schedules within the executive branch.

(2) Each agency may conduct one or more experiments under parts 1 and 2 of this subtitle. Such experiments shall be subject to such regulations as the Office may prescribe under section 665 of this subtitle.

(b) The Office shall, not later than 90 days after the effective date of this section, establish a master plan which shall contain guidelines and criteria by which the Office will study and evaluate experiments conducted under parts 1 and 2 of this subtitle. Such master plan shall provide for the study and evaluation of experiments within a sample of organizations of different size, geographic location, and functions and activities, sufficient to insure adequate evaluation of the impact of varied work schedules on—

(1) the efficiency of Government operations;

(2) mass transit facilities and traffic;

(3) levels of energy consumption;

(4) service to the public;

(5) increased opportunities for full-time and part-time employment; and

(6) individuals and families generally.

(c) The Office shall provide educational material, and technical aids and assistance, for use by an agency before and during the period such agency is conducting experiments under this subtitle.

(d) If the head of an agency determines that the implementation of an experimental program referred to in subsection (a) of this section would substantially disrupt the agency in carrying out its functions, such agency head shall request the Office to exempt such agency from the requirements of any experiment conducted by the Office under subsection (a) of this section. Such request shall be accompanied by a report detailing the reasons for such determination. The Office shall exempt an agency from such requirements only if it finds that including the agency within the experiment would not be in the best interest of the public, the Government, or the employees. The filing of such a request with the Office shall exclude the agency from the experiment until the Office has made its determination or until 180 days after the date the request is filed, whichever first occurs.

PART 1—FLEXIBLE SCHEDULING OF WORK HOURS DEFINITIONS

SEC. 641. For the purpose of this part—

(1) the term "credit hours" means any hours, within a flexible schedule established under this part, which are in excess of an employee's basic work requirement and which the employee elects to work so as to vary the length of a workweek or a workday; and

(2) the term "overtime hours" means all hours in excess of 8 hours in a day or 40 hours in a week which are officially ordered in advance, but does not include credit hours.

FLEXIBLE SCHEDULING EXPERIMENTS

SEC. 642. (a) Notwithstanding section 6101 of title 5, United States Code, experiments may be conducted in agencies to test flexible schedules which include—

(1) designated hours and days during which an employee on such a schedule must be present for work; and

(2) designated hours during which an employee on such a schedule may elect the time of such employee's arrival at and departure from work, solely for such purpose or, if and to the extent permitted, for the purpose of accumulating credit hours to reduce the length of the workweek or another workday. An election by an employee referred to in paragraph (2) of this subsection shall be subject to limitations generally prescribed to ensure that the duties and requirements of the employee's position are fulfilled.

(b) Notwithstanding any other provision of this subtitle, but subject to the terms of any written agreement under section 662(a) of this subtitle—

(1) any experiment under subsection (a) of this section may be terminated by the Office if it determines that the experiment is not in the best interest of the public, the Government, or the employees; or

(2) if the head of an agency determines that any organization within the agency which is participating in an experiment under subsection (a) of this section is being substantially disrupted in carrying out its functions or is incurring additional costs because of such participation, such agency head may—

(A) restrict the employees' choice of arrival and departure time,

(B) restrict the use of credit hours, or

(C) exclude from such experiment any employee or group of employees.

(c) Experiments under subsection (a) of this section shall terminate not later than the end of the 3-year period which begins on the effective date of this part.

COMPUTATION OF PREMIUM PAY

SEC. 643. (a) For purposes of determining compensation for overtime hours in the case of an employee participating in an experiment under section 642 of this subtitle—

(1) the head of an agency may, on request of the employee, grant the employee compensatory time off in lieu of payment for such overtime hours, whether or not irregular or occasional in nature and notwithstanding the provisions of sections 5542(a), 5543(a)(1), 5544(a), and 5550 of title 5, United States Code, section 4107(e)(5) of title 38, United States Code, section 7 of the Fair Labor Standards Act, as amended (29 U.S.C. 207), or any other provision of law; or

(2) the employee shall be compensated for such overtime hours in accordance with such provisions, as applicable.

(b) Notwithstanding the provisions of law referred to in subsection (a)(1) of this section, an employee shall not be entitled to be compensated for credit hours worked except to the extent authorized under section 646 of this subtitle or to the extent such employee is allowed to have such hours taken into account with respect to the employee's basic work requirement.

(c)(1) Notwithstanding section 5545(a) of title 5, United States Code, premium pay for nightwork shall not be paid to an employee otherwise subject to such section solely because the employee elects to work credit hours, or elects a time of arrival or departure, at a time of day from which such premium pay is otherwise authorized, except that—

(A) if an employee is on a flexible schedule under which—

(i) the number of hours during which such employee must be present for work, plus

(ii) the number of hours during which such employee may elect to work credit hours or elect the time of arrival at and departure from work,

which occur outside of the night work hours designated in or under such section 5545(a) total less than 8 hours, such premium pay shall be paid for those hours which, when combined with such total, do not exceed 8 hours, and

(B) if an employee is on a flexible schedule under which the hours that such employee must be present for work include any hours designated in or under such section 5545(a), such premium pay shall be paid for such hours so designated.

(2) Notwithstanding section 5343(f) of title 5, United States Code, and section 4107(e)(2) of title 38, United States Code, night differential shall not be paid to any employee otherwise subject to either of such sections solely because such employee elects to work credit hours, or elects a time of arrival or departure, at a time of day for which night differential is otherwise authorized, except that such differential shall be paid to an employee on a flexible schedule under this part—

(A) in the case of an employee subject to such section 5343(f), for which all or a majority of the hours of such schedule for any day fall between the hours specified in such section, or

(B) in the case of an employee subject to such section 4107(e)(2), for which 4 hours of such schedule fall between the hours specified in such section.

HOLIDAYS

SEC. 644. Notwithstanding sections 6103 and 6104 of title 5, United States Code, if any employee on a flexible schedule under this part is relieved or prevented from working on a day designated as a holiday by Federal statute or Executive order, such employee is entitled to pay with respect to that day for 8 hours (or, in the case of a part-time employee, an appropriate portion of the employee's biweekly basic work requirement as determined under regulations prescribed by the Office).

TIME-RECORDING DEVICES

SEC. 645. Notwithstanding section 6106 of title 5, United States Code, the Office or any agency may use recording clocks as part of its experiments under this part.

CREDIT HOURS: ACCUMULATION AND COMPENSATION

SEC. 646. (a) Subject to any limitation prescribed by the Office or the agency, a full-time employee on a flexible schedule may accumulate not more than 10 credit hours, and a part-time employee may accumulate not more than one-eighth of the hours in such employee's biweekly basic work requirement, for carryover from a biweekly pay period to a succeeding biweekly pay period for credit to the basic work requirement for such period.

(b) Any employee who is on a flexible schedule experiment under this part and who is no longer subject to such an experiment shall be paid at such employee's then current rate of basic pay for—

(1) in the case of a full-time employee, not more than 10 credit hours accumulated by such employee, or

(2) in the case of a part-time employee, the number of credit hours (not in excess of one-eighth of the hours in such employee's biweekly basic work requirement) accumulated by such employee.

PART 2—4-DAY WEEK AND OTHER COMPRESSED WORK SCHEDULES DEFINITIONS

SEC. 651. For the purpose of this part—

(1) the term "compressed schedule" means—

(A) in the case of a full-time employee, an 80-hour biweekly basic work requirement which is scheduled for less than 10 workdays, and

(B) in the case of a part-time employee, a biweekly basic work requirement of less than 80 hours which is scheduled for less than 10 workdays; and

(2) the term "overtime hours" means any hours in excess of those specified hours which constitute the compressed schedule.

COMPRESSED SCHEDULE EXPERIMENTS

SEC. 652. (a) Notwithstanding section 6101 of title 5, United States Code, experiments may be conducted in agencies to test a 4-day workweek or other compressed schedule.

(b)(1) An employee in a unit with respect to which an organization of Government employees has not been accorded exclusive recognition shall not be required to participate in any experiment under subsection (a) of this section unless a majority of the employees in such unit who, but for this paragraph, would be included in such experiment have voted to be so included.

(2) Upon written request to any agency by an employee, the agency, if it determines that participation in an experiment under subsection (a) of this section would impose a personal hardship on such employee, shall—

(A) except such employee from such experiment; or

(B) reassign such employee to the first position within the agency—

(i) which becomes vacant after such determination,

(ii) which is not included within such experiment,

(iii) for which such employee is qualified, and

(iv) which is acceptable to the employee.

A determination by an agency under this paragraph shall be made not later than 10 days after the day on which a written request for such determination is received by the agency.

(c) Notwithstanding any other provision of this subtitle, but subject to the terms of any written agreement under section 662(a) of this subtitle, any experiment under subsection (a) of this section may be terminated by the Office, or the agency, if it determines that the experiment is not in the best interest of the public, the Government, or the employees.

(d) Experiments under subsection (a) of this section shall terminate not later than the end of the 3-year period which begins on the effective date of this part.

COMPUTATION OF PREMIUM PAY

SEC. 653. (a) The provisions of sections 5542(a), 5544(a), and 5550(2) of title 5, United States Code, section 4107(e)(5) of title 38, United States Code, section 7 of the Fair Labor Standards Act, as amended (29 U.S.C. 207), or any other law, which relate to premium pay for overtime work, shall not apply to the hours which constitute a compressed schedule.

(b) In the case of any full-time employee, hours worked in excess of the compressed schedule shall be overtime hours and shall be paid for as provided by whichever statutory provisions referred to in subsection (a) of this section are applicable to the employee. In the case of any part-time employee on a compressed schedule, overtime pay shall begin to be paid after the same number of hours of work after which a full-time employee on a similar schedule would begin to receive overtime pay.

(c) Notwithstanding section 5544(a), 5546(a), or 5550(1) of title 5, United States Code, or any other applicable provision of law, in the case of any full-time employee on a compressed schedule who performs work (other than overtime work) on a tour of duty for any workday a part of which is performed on a Sunday, such employee is entitled to pay for work performed during the entire tour of duty at the rate of such employee's basic pay, plus premium pay at a rate equal to 25 percent of such basic pay rate.

(d) Notwithstanding section 5546(b) of title 5, United States Code, an employee on a compressed schedule who performs work on a holiday designated by Federal statute or Executive order is entitled to pay at the rate of such employee's basic pay, plus premium pay at a rate equal to such basic pay rate, for such work which is not in excess of the basic work requirement of such employee for such day. For hours worked on such a holiday in excess of the basic work requirement for such day, the employee is entitled to premium pay in accordance with the provisions of section 5542(a) or 5544(a) of title 5, United States Code, as applicable, or the provisions of section 7 of the Fair Labor Standards Act, as amended (29 U.S.C. 207), whichever provisions are more beneficial to the employee.

PART 3—ADMINISTRATIVE PROVISIONS

ADMINISTRATION OF LEAVE AND RETIREMENT PROVISIONS

SEC. 661. For purposes of administering sections 6303(a), 6304, 6307 (a) and (c), 6323, 6326, and 8339(m) of title 5, United States Code, in the case of an employee who is in any experiment under part 1 or 2 of this subtitle, references to a day or workday (or to multiples or parts thereof) contained in such sections shall be considered to be references to 8 hours (or to the respective multiples or parts thereof).

APPLICATION OF EXPERIMENTS IN THE CASE OF NEGOTIATED CONTRACTS

SEC. 662. (a) Employees within a unit with respect to which an organization of Government employees has been accorded exclusive recognition shall not be included within any experiment under part 1 or 2 of this subtitle except to the extent expressly provided under a written agreement between the agency and such organization.

(b) The Office or an agency may not participate in a flexible or compressed schedule experiment under a negotiated contract which contains premium pay provisions which are inconsistent with the provisions of section 643 or 653 of this subtitle, as applicable.

PROHIBITION OF COERCION

SEC. 663. (a) An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with—

(1) such employee's rights under part 1 of this subtitle to elect a time of arrival or departure to work or not to work credit hours, or to request or not to request compensatory time off in lieu of payment for overtime hours; or

(2) such employee's right under section 652 (b)(1) of this subtitle to vote whether or not to be included within a compressed schedule experiment or such employee's right to request an agency determination under section 652(b)(2) of this subtitle.

For the purpose of the preceding sentence the term "intimidate, threaten, or coerce" includes, but is not limited to, promising to confer or conferring any benefit (such as appointment, promotion, or compensation), or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

(b) Any employee who violates the provisions of subsection (a) of this section shall, upon a final order of the Merit Systems Protection Board, be—

(1) removed from such employee's position, in which event that employee may not thereafter hold any position as an employee for such period as the Board may prescribe;

(2) suspended without pay from such employee's position for such period as the Board may prescribe; or

(3) disciplined in such other manner as the Board shall deem appropriate.

The Board shall prescribe procedures to carry out this subsection under which an employee subject to removal, suspension, or other disciplinary action shall have rights comparable to the rights afforded an employee subject to removal or suspension under subchapter III of chapter 75 of title 5, United States Code, relating to certain prohibited political activities.

REPORTS

SEC. 664. Not later than 2½ years after the effective date of parts 1 and 2 of this subtitle, the Office shall—

(1) prepare an interim report containing recommendations as to what, if any, legislative or administrative action shall be taken based upon the results of experiments conducted under this subtitle, and

(2) submit copies of such report to the President, the Speaker of the House, and the President pro tempore of the Senate.

The Office shall prepare a final report with regard to experiments conducted under this subtitle and shall submit copies of such report to the President, the Speaker of the House, and the President pro tempore of the Senate not later than 3 years after such effective date.

REGULATIONS

SEC. 665. The Office shall prescribe regulations necessary for the administration of the foregoing provisions of this subtitle.

EFFECTIVE DATE

SEC. 666. The provisions of section 633 of this subtitle and parts 1 and 2 of this subtitle shall take effect on the 180th day after the date of the enactment of this Act.

Page 273, insert after line 2 the following:

"Subtitle A—Research Programs and Demonstration Projects".

Page 282, insert before line 4 the following:

"Subtitle B—Intergovernmental Personnel".

Page 282, line 5, strike out "602." and insert in lieu thereof "611.".

Page 284, insert after line 10 the following:

"Subtitle C—Mobility Program".

Page 284, line 12, strike out "603." and insert in lieu thereof "621.".

Page 130, in the table of contents, strike out the items relating to title VI and insert in lieu thereof the following new items:

TITLE VI—RESEARCH, DEMONSTRATION, AND OTHER PROGRAMS

Subtitle A—Research Programs and Demonstration Projects

Sec. 601. Research programs and demonstration projects.

Subtitle B—Intergovernmental Personnel

Sec. 611. Intergovernmental Personnel Act amendments.

Subtitle C—Mobility Program

Sec. 621. Amendments to the mobility program.

Subtitle D—Federal Employees Flexible and Compressed Work Schedules

Sec. 631. Congressional findings.
Sec. 632. Definitions.
Sec. 633. Experimental program.

PART 1—FLEXIBLE SCHEDULING OF WORK HOURS

Sec. 641. Definitions.
Sec. 642. Flexible scheduling experiments.
Sec. 643. Computations of premium pay.
Sec. 644. Holidays.
Sec. 645. Time-recordings devices.
Sec. 646. Credit hours; accumulation and compensation.

PART 2—4-DAY WEEK AND OTHER COMPRESSED WORK SCHEDULES

Sec. 651. Definitions.
Sec. 652. Compressed schedule experiments.
Sec. 653. Computation of premium pay.

PART 3—ADMINISTRATIVE PROVISIONS

Sec. 661. Administration of leave and retirement provisions.
Sec. 662. Application of experiments in the case of negotiated contracts.
Sec. 663. Prohibition of coercion.
Sec. 664. Reports.
Sec. 665. Regulations.
Sec. 666. Effective date.

Mr. SOLARZ (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. SOLARZ. Mr. Chairman, I will be very brief. This amendment provides for the establishment of an experimental flexitime program under the supervision of the Civil Service Commission throughout the Federal Government.

It came before the House a few months ago in bill form. At that time it was supported by the administration, by all of the relevant Federal employee unions, and by the majority and minority managers of the bill. Indeed, it passed the House by an overwhelming margin and it was sent over for the consideration of the other body. After a relatively brief period of time it was reported out by two separate committees in the other body, both of which had jurisdiction over the bill, without any dissenting votes in either of them. And, in fact, it was scheduled to be taken up on the calendar of the other body today. Unfortunately, however, one of the distinguished Members of the other body had an amendment to the bill which clearly was not germane, and the manager of the legislation said he would not call up the bill on the Senate floor if his colleague in the Senate insisted on offering this nongermane amendment.

To the extent that the author of the amendment has indicated his intention to offer this nongermane amendment, which has nothing whatever to do with flexitime itself, it means the other body will probably not take up the flexitime bill during the remainder of the session, despite the fact that it was voted out unanimously by two separate committees in the other body, and no objections to the bill itself have surfaced in the Senate.

Consequently, I am offering it today as an amendment to title VI. So if it is passed by the House today, as I hope and trust it will, it should be accepted by the Senate conferees, and thus become law.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I support the amendment.

Mr. SOLARZ. Mr. Chairman, I appreciate the gentleman's support.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from New York.

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Chairman, as I recall, when we passed the flexitime measure, there was also a part-time provision. Does the gentleman's amendment include both part-time and flexitime?

Mr. SOLARZ. No; that was a separate bill. It does not include the part-time provision which passed the House as a separate piece of legislation.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from Illinois.

Mr. DERWINSKI. I thank the gentleman for yielding.

Mr. Chairman, does the gentleman's amendment contain the religious holiday aspects, as passed in the House?

Mr. SOLARZ. No; that was adopted in the committee a few hours ago.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. SOLARZ).

The amendment was agreed to.

The CHAIRMAN. Are there other amendments to title VI?

There being none, the Clerk will read title VII.

The Clerk read as follows:

TITLE VII—FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS

FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS

Sec. 701. So much of subpart F of part III of title 5, United States Code, as precedes

subchapter II of chapter 71 thereof is amended to read as follows:

"Subpart F—Labor-Management and Employee Relations

"Chapter 71—LABOR-MANAGEMENT RELATIONS

"SUBCHAPTER I—GENERAL PROVISIONS

"Sec.
"7101. Findings and purpose.
"7102. Employees' rights.
"7103. Definitions; application.
"7104. Federal Labor Relations Authority.
"7105. Powers and duties of the Authority.
"7106. Management rights.

"SUBCHAPTER II—RIGHTS AND DUTIES OF AGENCIES AND LABOR ORGANIZATIONS

"Sec.
"7111. Exclusive recognition of labor organizations.
"7112. Determination of appropriate units for labor organization representation.
"7113. National consultation rights.
"7114. Representation rights and duties.
"7115. Allotments to representatives.
"7116. Unfair labor practices.
"7117. Duty to bargain in good faith; compelling need.
"7118. Prevention of unfair labor practices.
"7119. Negotiation impasses; Federal Service Impasse Panel.
"7120. Standards of conduct for labor organizations.

"SUBCHAPTER III—GRIEVANCES, APPEALS, AND REVIEW

"Sec.
"7121. Grievance procedures.
"7122. Exceptions to arbitral awards.
"7123. Judicial review; enforcement.

"SUBCHAPTER IV—ADMINISTRATIVE AND OTHER PROVISIONS

"Sec.
"7131. Reporting requirements for standards of conduct.
"7132. Official time.
"7133. Subpenas.
"7134. Compilation and publication of data.
"7135. Regulations.
"7136. Continuation of existing laws, recognitions, agreements, and procedures.

"SUBCHAPTER I—GENERAL PROVISIONS

"§ 7101. Findings and purpose

"(a) The Congress finds that experience in both private and public employment indicates that the statutory protection of the right of employees to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them safeguards the public interest and contributes to the effective conduct of public business. Such protection facilitates and encourages the amicable settlement of disputes between employees and their employers involving conditions of employment. Therefore, labor organizations and collective bargaining in the civil service are in the public interest.

"(b) It is the purpose of this chapter to prescribe certain rights and obligations of the employees of the Federal Government and to establish procedures which are designed to meet the special requirements and needs of the Federal Government.

"§ 7102. Employees' rights

"Each employee shall have the right to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such right. Except as otherwise provided under this chapter, such right includes the right—

"(1) to act for a labor organization in the capacity of a representative and the right, in such capacity, to present the views of the labor organization to heads of agencies and other officials of the executive branch of the Government, the Congress, or other appropriate authorities,

"(2) to engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under this chapter, and

"(3) to engage in other lawful activities for the purpose of establishing, maintaining, and improving conditions of employment.

"§ 7103. Definitions; application

"(a) For the purpose of this chapter—

"(1) 'person' means an individual, labor organization, or agency;

"(2) 'employee' means an individual—

"(A) employed in an agency; or

"(B) whose work as such an employee (determined under the preceding provisions of this paragraph) has ceased because of any unfair labor practice under section 7116 of this title and who has not obtained any other regular and substantially equivalent employment, as determined under regulations prescribed by the Federal Labor Relations Authority;

but does not include—

"(i) an alien or noncitizen of the United States who occupies a position outside the United States;

"(ii) a member of the uniformed services;

"(iii) a supervisor or a management official; or

"(iv) an officer or employee in the Foreign Service of the United States employed in the Department of State, the Agency for International Development, or the International Communication Agency;

"(3) 'agency' means an Executive agency (including a nonappropriated fund instrumentality described in section 2105(c) of this title and the Veterans' Canteen Service, Veterans' Administration), the Library of Congress, and the Government Printing Office, but does not include—

"(A) the General Accounting Office;

"(B) the Federal Bureau of Investigation;

"(C) the Central Intelligence Agency;

"(D) the National Security Agency;

"(E) the Tennessee Valley Authority;

"(F) the Federal Labor Relations Authority; or

"(G) the Federal Service Impasses Panel;

"(4) 'labor organization' means an organization composed in whole or in part of employees, in which employees participate and pay dues, and which has as a purpose the dealing with an agency concerning grievances and conditions of employment, but does not include—

"(A) an organization whose basic purpose is entirely social, fraternal, or limited to special interest objectives which are only incidentally related to conditions of employment;

"(B) an organization which, by its constitution, bylaws, tacit agreement among its members, or otherwise, denies membership because of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition; or

"(C) an organization sponsored by an agency;

"(5) 'dues' means dues, fees, and assessments;

"(6) 'Authority' means the Federal Labor Relations Authority described in section 7104(a) of this title;

"(7) 'Panel' means the Federal Service Impasses Panel described in section 7119(c) of this title;

"(8) 'collective bargaining agreement' means an agreement entered into as a result of collective bargaining pursuant to the provisions of this chapter;

"(9) 'grievance' means any complaint—

"(A) by any employee concerning any matter relating to the employment of the employee;

"(B) by any labor organization concerning any matter relating to the employment of any employee; or

"(C) by any employee, labor organization, or agency concerning—

"(i) the effect or interpretation, or a claim of breach, of a collective bargaining agreement; or

"(ii) any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment;

"(10) 'supervisor' means an individual employed by an agency having authority in the interest of the agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment, except that, with respect to any unit which includes firefighters or nurses, the term 'supervisor' includes only those individuals who devote a preponderance of their employment time to exercising such authority;

"(11) 'management official' means an individual employed by an agency in a position the duties and responsibilities of which require or authorize the individual to formulate, determine, or influence the policies of the agency;

"(12) 'collective baragining' means the performance of the mutual obligation of the representative of an agency and the exclusive representative of employees in an appropriate unit in the agency to meet at reasonable times and to confer, consult, and bargain in a good-faith effort to reach agreement with respect to the conditions of employment affecting such employees and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but the obligation referred to in this paragraph does not compel either party to agree to a proposal or to make a concession;

"(13) 'confidential employee' means an employee who acts in a confidential capacity with respect to an individual who formulates or effectuates management policies in the field of labor-management relations;

"(14) 'conditions of employment' means personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, affecting working conditions, except that such term does not include policies, practices, and matters—

"(A) relating to discrimination in employment on the basis of race, color, religion, sex, age, national origin, or handicapping condition;

"(B) relating to political activities prohibited under subchapter III of chapter 73 of this title; or

"(C) to the extent such matters are specifically provided for by Federal statute;

"(15) 'professional employee' means—

"(A) an employee engaged in the performance of work—

"(i) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital (as distinguished from knowledge acquired by a general academic education, or from an apprenticeship, or from training in the performance of routine mental, manual, mechanical, or physical activities);

"(ii) requiring the consistent exercise of discretion and judgment in its performance;

"(iii) which is predominantly intellectual and varied in character (as distinguished from routine mental, manual, mechanical, or physical work); and

"(iv) which is of such character that the output produced or the result accomplished

by such work cannot be standardized in relation to a given period of time; or

"(B) an employee who has completed the courses of specialized intellectual instruction and study described in subparagraph (A)(i) of this paragraph and is performing related worked under appropriate direction or guidance to qualify the employee as a professional employee described in subparagraph (A) of this paragraph;

"(16) 'exclusive representative' means any labor organization which—

"(A) is certified as the exclusive representative of employees in an appropriate unit pursuant to section 7111 of this title; or

"(B) was recognized by an agency immediately before the effective date of this chapter as the exclusive representative of employees in an appropriate unit—

"(i) on the basis of an election, or

"(ii) on any basis other than an election, and continues to be so recognized in accordance with the provisions of this chapter.

"(17) 'firefighter' means any employee engaged in the performance of work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment; and

"(18) 'United States' means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and any territory or possession of the United States.

"(b) An agency may file an application with the Authority requesting that it, or any unit thereof, be excluded from any provision or requirement of this chapter. The Authority shall—

"(1) review the application, and

"(2) undertake any other investigation it considers appropriate.

If, upon completion of its review and investigation, the Authority determines that the agency, or any unit thereof, has a primary function intelligence, counterintelligence, investigative, or security work, and that any requirement or provision of this chapter cannot be applied to the agency, or unit thereof, with respect to which such a determination has been made in a manner consistent with national security requirements and considerations, the Authority may issue an order excluding the agency, or unit thereof, with respect to which such a determination has been made from such requirement or provision.

"§ 7104. Federal Labor Relations Authority

"(a) The Federal Labor Relations Authority is composed of three members, not more than 2 of whom may be adherents of the same political party. No member shall engage in any other business or employment or hold another office or position in the Government of the United States except as otherwise provided by law.

"(b) Members of the Authority shall be appointed by the President by and with the advice and consent of the Senate, and may be removed by the President only upon notice and hearing and only for misconduct, inefficiency, neglect of duty, or malfeasance in office. The President shall designate one member to serve as Chairman of the Authority.

"(c)(1) One of the original members of the Authority shall be appointed for a term of 1 year, one for a term of 3 years, and the Chairman for a term of 5 years. Thereafter, each member shall be appointed for a term of 5 years.

"(2) Notwithstanding paragraph (1) of this subsection, the term of any member shall not expire before the earlier of—

"(A) the date on which the member's successor takes office,

"(B) the last day of the Congress beginning after the date on which the member's term of office would (but for this subparagraph) expire.

An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

"(d) A vacancy in the Authority shall not impair the right of the remaining members to exercise all of the powers of the Authority.

"(e) The Authority shall make an annual report to the President for transmittal to the Congress which shall include information as to the cases it has heard and the decisions it has rendered.

"(f)(1) The General Counsel of the Authority shall be appointed by the President, by and with the advice and consent of the Senate, for a term of 5 years. The General Counsel may be removed by the President.

"(2) The General Counsel may—

"(A) investigate alleged violations of this chapter,

"(B) file and prosecute complaints under this chapter,

"(C) intervene before the Authority in proceedings brought under section 7118 of this title, and

"(D) exercise such other powers of the Authority as the Authority may prescribe.

"(3) The General Counsel shall have direct authority over, and responsibility for, all employees in the office of General Counsel, including employees of the General Counsel in the regional offices of the Authority.

"(4) If a vacancy occurs in the office of General Counsel, the President shall promptly designate an Acting General Counsel and shall submit a nomination for General Counsel to the Senate within 40 days after the vacancy occurs, unless the Congress adjourns sine die before the expiration of the 40-day period, in which case the President shall submit the nomination to the Senate not later than 10 days after the Congress reconvenes.

"§ 7105. Powers and duties of the Authority

"(a) The Authority shall provide leadership in establishing policies and guidance relating to matters under this chapter, and, except as otherwise provided, shall be responsible for carrying out the purpose of this chapter.

"(b) The Authority shall adopt an official seal which shall be judicially noticed.

"(c) The principal office of the Authority shall be in or about the District of Columbia, but the Authority may meet and exercise any or all of its powers at any time or place. Except as otherwise expressly provided by law, the Authority may, by one or more of its members or by such agents as it may designate, make any appropriate inquiry necessary to carry out its duties wherever persons subject to this chapter are located. Any member who participates in the inquiry shall not be disqualified from later participating in a decision of the Authority in any case relating to the inquiry.

"(d) The Authority shall appoint an Executive Director and such regional directors, administrative law judges under section 3105 of this title, and other individuals as it may from time to time find necessary for the proper performance of its functions.

"(e)(1) The Authority may delegate to any regional director its authority under this chapter—

"(A) to determine whether a group of employees is an appropriate unit;

"(B) to conduct investigations and to provide for hearings;

"(C) to determine whether a question of representation exists and to direct an election; and

"(D) to conduct secret ballot elections and certify the results thereof.

"(2) The Authority may delegate to any administrative law judge appointed under subsection (d) of this section its authority under section 7118 of this title to determine whether any person has engaged in or is engaging in an unfair labor practice.

"(f) If the Authority delegates any authority to any regional director or administrative law judge to take any action pursuant to subsection (e) of this section, the Authority may, upon application by any interested person filed within 60 days after the date of the action, review such action, but the review shall not, unless specifically ordered by the Authority, operate as a stay of the action. The Authority may affirm, modify, or reverse any action reviewed under this subsection. If the Authority does not undertake to grant review of the action under this subsection within 60 days after the later of—

"(1) the date of the action; or

"(2) the date of the filing of any application under this subsection for review of the action;

the action shall become the action of the Authority at the end of such 60-day period.

"(g) In order to carry out its function under this chapter, the Authority may—

"(1) hold hearings; and

"(2) administer oaths, take the testimony or deposition of any person under oath, and issue subpenas as provided in section 7133 of this title.

"§ 7106. Management rights

"(a) Subject to subsection (b) of this section, nothing in this chapter shall affect the authority of any management official of any agency—

"(1) to determine the mission, budget, organization, number of employees, and internal security practices of the agency; and

"(2) in accordance with applicable laws—

"(A) to direct employees;

"(B) to assign work, to make determinations with respect to contracting out, and to determine the personnel by which agency operations shall be conducted; and

"(C) to take whatever actions may be necessary to carry out the agency mission during national emergencies.

"(b) Nothing in this section shall preclude any agency and any labor organization from negotiating—

"(1) procedures which management officials of the agency will observe in exercising their authority to determine the mission, budget, organization, number of employees, and internal security of the agency, or

"(2) appropriate arrangements for employees adversely affected by the exercise of the authority described in subsection (a) of this section by such management officials.

"SUBSECTION II—RIGHTS AND DUTIES OF AGENCIES AND LABOR ORGANIZATIONS

"§ 7111. Exclusive recognition of labor organizations

"(a) Exclusive recognition shall be accorded to a labor organization which has been selected by a majority of employees in an appropriate unit who participate in an election in conformity with the requirements of this chapter.

"(b)(1) If a petition is filed with the Authority—

"(A) by any person alleging—

"(i) in the case of an appropriate unit for which there is no exclusive representative that 30 percent of the employees in the appropriate unit wish to be represented for the purpose of collective bargaining by an exclusive representative, or

"(ii) in the case of an appropriate unit for which there is an exclusive representative that 30 percent of the employees in the unit allege that the exclusive representative is no longer the representative of the majority of the employees in the unit; or

"(B) by any person seeking clarification

of, or an amendment to, a certification then in effect or a matter relating to representation;

the Authority shall investigate the petition, and if it has reasonable cause to believe that question of representation exists, it shall provide an opportunity for a hearing (for which a transcript shall be kept) after reasonable notice. Except as provided under subsection (e) of this section, if the Authority finds on the record of the hearing that a question of representation exists, the Authority shall, subject to paragraph (2) of this subsection, conduct an election on the question by secret ballot and shall certify the results thereof. An election under this subsection shall not be conducted in any appropriate unit or in any subdivision thereof within which, in the preceding 12 calendar months, a valid election under this subsection has been held.

"(2)(A) If, after the 45-day period beginning on the date on which the petition is filed pursuant to paragraph (1) of this subsection, unresolved issues exist concerning—

"(i) the appropriateness of the unit in accordance with section 7112 of this title;

"(ii) the eligibility of one or more employees to vote in the proposed election; or

"(iii) other matters determined by the Authority to be relevant to the election;

the Authority shall direct an election by secret ballot in the unit specified in the petition and announce the results thereof.

"(B) After conducting an election under subparagraph (A) of this paragraph, the Authority shall expedite the resolution of any disputed issues described in subparagraph (A) of this paragraph. If the Authority determines that matters raised by the disputed issues did not affect the outcome of the election, the Authority shall certify the results of the election. If the Authority determines that the matters affected the outcome of the election, it shall conduct a new election by secret ballot in accordance with such requirements as are appropriate on the basis of its determination, and shall certify the results thereof.

"(c) A labor organization which—

"(1) has been designated by at least 10 percent of the employees in the unit specified in any petition filed pursuant to subsection (b) of this section;

"(2) has submitted a valid copy of a current or recently expired collective bargaining agreement for the unit; or

"(3) has submitted other evidence that it is the exclusive representative of the employees involved;

may intervene with respect to a petition filed pursuant to subsection (b) of this section and shall be placed on the ballot of any election under such subsection (b) with respect to the petition.

"(d) The Authority shall determine who is eligible to vote in any election under this section and shall establish rules governing any such deletion, which shall include rules allowing employees eligible to vote the opportunity to choose—

"(1) from labor organizations on the ballot, that labor organization which the employees wish to have represent them; or

"(2) not to be represented by a labor organization.

In any election in which no choice on the ballot receives a majority of the votes cast, a runoff election shall be conducted between the two choices receiving the highest number of votes. A labor organization which receives the majority of the votes cast in an election shall be certified by the Authority as the exclusive representative.

"(e) The Authority may, on the petition of a labor organization, certify the labor organization as an exclusive representative—

"(1) if, after investigation, the Authority determines that the conditions for a free and untrammeled election under this section cannot be established because the agency involved has engaged in or is engaging in an unfair labor practice described in section 7116(a) of this title; or

"(2) if, after investigation, the Authority determines that—

"(A) the labor organization represents a majority of employees in an appropriate unit;

"(B) the majority status was achieved without the benefit of any unfair labor practice described in section 7116 of this title;

"(C) no other person has filed a petition for recognition under subsection (b) of this section or a request for intervention under subsection (c) of this section; and

"(D) no other question of representation exists in the appropriate unit.

"(f) Any labor organization described in section 7103(a)(16)(B)(ii) of this title may petition for an election for the determination of that labor organization as the exclusive representative of an appropriate unit.

"(g) A labor organization seeking exclusive recognition shall submit to the Authority and the agency involved a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives.

"(h) Exclusive recognition shall not be accorded to a labor organization—

"(1) if the Authority determines that the labor organization is subject to corrupt influences or influences opposed to democratic principles;

"(2) in the case of a petition filed pursuant to subsection (b)(1)(A) of this section, if there is not credible evidence that at least 30 percent of the employees in the unit specified in the petition wish to be represented for the purpose of collective bargaining by the labor organization seeking exclusive recognition;

"(3) if there is then in effect a lawful written collection bargaining agreement between the agency involved and an exclusive representative (other than the labor organization seeking exclusive recognition) covering any employees included in the unit specified in the petition, unless—

"(A) the collective bargaining agreement has been in effect for more than 3 years, or

"(B) the petition for exclusive recognition is filed during the 4-month period which begins on the 180th day before the expiration date of the collective bargaining agreement; or

"(4) if the Authority has, within the previous 12 calendar months, conducted a secret ballot election involving any of the employees in the unit described in any petition under this section and in such election a majority of the employees voting chose a labor organization for certification as the unit's exclusive representative or chose not to be represented by any labor organization.

"(i) Nothing in this section shall be construed to prohibit the waiving of hearings by stipulation for the purpose of a consent election in conformity with regulations and rules or decisions of the Authority.

"§ 7112. Determination of appropriate units for labor organization representation

"(a)(1) The Authority shall determine the appropriateness of any unit. The Authority shall determine in each case whether, in order to ensure employees the fullest freedom in exercising the rights guaranteed under this chapter, the appropriate unit should be established on an agency, plant, installation, functional, or other basis and shall determine any unit to be an appropriate unit only if the determination will ensure a clear and identifiable community of interest among the employees in the unit and will promote effective dealings with, and efficiency of the operations of, the agency involved.

"(b) A unit shall not be determined to be appropriate under this section solely on the basis of the extent to which employees in the proposed unit have organized, nor shall a unit be determined to be appropriate if it includes—

"(1) except as provided under section 7136(a)(2) of this title, any management official or supervisor, except that, with respect to a unit or majority of which is composed of firefighters or nurses, a unit which includes both supervisors and employees may be considered appropriate;

"(2) a confidential employee;

"(3) an employee engaged in personnel work in other than a purely clerical capacity;

"(4) an employee engaged in administering the provisions of this chapter;

"(5) both professional employees and other employees, unless a majority of the professional employees vote for inclusion in the unit;

"(6) any employee engaged in intelligence, counterintelligence, investigative, or security work which directly affects national security; or

"(7) any employee primarily engaged in investigation or audit functions relating to the work of individuals employed by an agency whose duties directly affect the internal security of the agency but only if the functions are undertaken to insure that the duties are discharged honestly and with integrity

"(c) Two or more units which are in an agency and for which a labor organization is the exclusive representative by reason of elections within each of the units shall be consolidated into a single larger unit if the Authority considers the larger unit to be appropriate. The Authority shall certify the labor organization as the exclusive representative of the new larger unit.

"(d) In the case of the reorganization of one or more units for which, before the reorganization, a labor organization was the exclusive representative of any such unit, the labor organization shall continue to be the exclusive representative for each such unit until new elections are held or a period of 45 days has elapsed, whichever first occurs.

"§ 7113. National consultation rights

"(a)(1) If, in connection with any agency, no labor organization has been accorded exclusive recognition on an agency basis, a labor organization which is the exclusive representative of a substantial number of the employees of the agency, as determined in accordance with criteria prescribed by the Authority, shall be granted national consultation rights by the agency. National consultation rights shall terminate when the labor organization no longer meets the criteria prescribed by the Authority. Any issue relating to any labor organization's eligibility for, or continuation of, national consultation rights shall be subject to determination by the Authority.

"(b)(1) Any labor organization having national consultation rights in connection with any agency under subsection (a) of this section shall—

"(A) be informed of any change in conditions of employment proposed by the agency, and

"(B) shall be permitted reasonable time to present its views and recommendations regarding the changes.

"(2) If any views or recommendations are presented under paragraph (1) of this subsection to an agency by any labor organization—

"(A) the agency shall consider the views or recommendations before taking final action on any matter with respect to which the views or recommendations are presented; and

"(B) the agency shall provide the labor organization a written statement of the reasons for taking the final action.

"(c) Nothing in this section shall be construed to limit the right of any agency or exclusive representative to engage in collective bargaining.

"§ 7114. Representation rights and duties

"(a) A labor organization which has been accorded exclusive recognition is the exclusive representative of the employees in the unit it represents and is entitled to act for, and negotiate collective bargaining agreements covering, all employees in the unit. An exclusive representative is responsible for representing the interests of all employees in the unit it represents without discrimination and without regard to labor organization membership. An exclusive representative of an appropriate unit in an agency shall be given the opportunity to be represented at—

"(1) any discussion between one or more representatives of the agency and one or more employees in the unit or their representatives concerning any grievance, personnel policy or practice, or other conditions of employment; or

"(2) any discussion between an employee in the unit and a representative of the agency if the employee reasonably believes that the employee may be the subject of disciplinary action.

Any agency and any exclusive representative of any appropriate unit in the agency, through appropriate representatives, shall meet and negotiate in good faith for the purpose of arriving at a collective bargaining agreement. The rights of an exclusive representative under the preceding provisions of this subsection shall not be construed to preclude an employee from being represented by an attorney or other representative, other than the exclusive representative, of the employee's own choosing in any appeal action under procedures other than procedures negotiated pursuant to this chapter.

"(b) The duty of an agency and an exclusive representative to negotiate in good faith under subsection (a) of this section shall include the obligation—

"(1) to approach the negotiations with a sincere resolve to reach a collective bargaining agreement;

"(2) to be represented at the negotiations by duly authorized representatives prepared to discuss and negotiate on any conditions of employment;

"(3) to meet at reasonable times and convenient places as frequently as may be necessary, and to avoid unnecessary delays;

"(4) in the case of an agency, to furnish to the exclusive representative involved, or its authorized representative, upon request and, to the extent not prohibited by law, data which is normally maintained by the agency in the regular course of business, and which is reasonably available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining; and

"(5) if agreement is reached, to execute on the request of any party to the negotiation a written document embodying the agreed terms, and to take such steps as are necessary to implement such agreement.

"§ 7115. Allotments to representatives

"(a) If an agency has received from an employee in an appropriate unit a written assignment which authorizes the agency to deduct from the pay of the employee amounts for the payment of regular and periodic dues of the exclusive representative of the unit, the agency shall honor the assignment and make an appropriate allotment pursuant to the assignment. Any such allotment shall be made at no cost to the exclusive representative or the employee. Except as provided under subsection (b) of this section, any such assignment may not be revoked for a period of 1 year.

"(b) An allotment under subsection (a) of this section for the deduction of dues with respect to any employee shall terminate when—

"(1) the agreement between the agency and the exclusive representative involved ceases to be applicable to the employee; or

"(2) the employee is suspended or expelled from membership in the exclusive representative.

"(c)(1) Subject to paragraph (2) of this subsection, if a petition has been filed with the Authority by a labor organization alleging that 10 percent of the employees in an appropriate unit in an agency have membership in the labor organization, the Authority shall investigate the petition to determine its validity. Upon certification by the Authority of the validity of the petition, the agency shall have a duty to negotiate with the labor organization solely concerning the deduction of dues of the labor organization from the pay of the members of the labor organization who are employees in the unit and who make a voluntary allotment for such purpose.

"(2)(A) The provisions of paragraph (1) of this subsection shall not apply in the case of any appropriate unit for which there is an exclusive representative.

"(B) Any agreement under paragraph (1) of this subsection between a labor organization and an agency with respect to an appropriate unit shall be null and void upon the certification of an exclusive representative of the unit.

"§ 7116. Unfair labor practices

"(a) For the purpose of this chapter, it shall be an unfair labor practice for an agency—

"(1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;

"(2) to encourage or discourage membership in any labor organization by discrimination in connection with hiring, tenure, promotion, or other conditions of employment;

"(3) to sponsor, control, or otherwise assist any labor organization, other than to furnish, upon request, customary and routine services and facilities if the services and facilities are also furnished on an impartial basis to other labor organizations having equivalent status;

"(4) to discipline or discriminate against an employee because the employee has filed a complaint, affidavit, or petition, or has given any information or testimony under this chapter;

"(5) to refuse to consult, confer, or negotiate in good faith with a labor organization as required by this chapter;

"(6) to fail or refuse to cooperate in impasse procedures and impasse decisions as required by this chapter;

"(7) to prescribe any rule or regulation which restricts the scope of collective bargaining permitted by this chapter or which is in conflict with any applicable collective bargaining agreement; or

"(8) to otherwise fail or refuse to comply with any provision of this chapter.

"(b) For the purpose of this chapter, it shall be an unfair labor practice for a labor organization—

"(1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;

"(2) to cause or attempt to cause an agency to discriminate against any employee in the exercise by the employee of any right under this chapter;

"(3) to coerce, discipline, fine, or attempt to coerce a member of the labor organization as punishment, reprisal, or for the purpose of hindering or impeding the member's work performance or productivity as an employee or the discharge of the member's duties as an employee;

"(4) to discriminate against an employee with regard to the term or conditions of membership in the labor organization on the basis of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition;

"(5) to refuse to consult, confer, or negotiate in good faith with an agency as required by this chapter;

"(6) to fail or refuse to cooperate in impasse procedures and impasse decisions as required by this chapter;

"(7) to call or engage in a strike, work stoppage, or slowdown, or to condone any such activity by failing to take action to prevent or stop such activity; or

"(8) to otherwise fail or refuse to comply with any provision of this chapter.

"(c) For the purpose of this chapter it shall be an unfair labor practice for an exclusive representative to deny membership to any employee in the appropriate unit represented by such exclusive representative except for failure—

(1) to meet reasonable occupational standards uniformly required for admission, or

(2) to tender dues uniformly required as a condition of acquiring and retaining membership.

This subsection does not preclude any labor organization from enforcing discipline in accordance with procedures under its constitution or bylaws to the extent consistent with the provisions of this chapter.

"(d) Issues which may properly be raised under—

"(1) an appeals procedure prescribed by or pursuant to law; or

"(2) any grievance procedure negotiated pursuant to section 7121 of this title;

may, at the election of the aggrieved party, be raised either—

(A) under such appeals procedure or such grievance procedure, as appropriate; or

(B) if applicable, under the procedure for resolving complaints of unfair labor practices under section 7118 of this title.

An election under the preceding sentence shall be made at such time and in such manner as the Authority shall prescribe. Any decision under subparagraph (B) of this subsection on any such issue shall not be construed to be a determination of an unfair labor practice under this chapter or a precedent for any such determination.

"§ 7117. Duty to bargain in good faith; compelling need

"(a)(1) Subject to paragraph (2) of this subsection, the duty to bargain in good faith shall, to the extent not inconsistent with Federal law, extend to matters which are the subject of any rule or regulation which is not a Government-wide rule or regulation.

"(2) The duty to bargain in good faith shall, to the extent not inconsistent with Federal law, extend to matters which are the subject of any Government-wide rule or regulation for which the Authority has determined under subsection (b) of this section that no compelling need (as determined under regulations prescribed by the Authority) exists.

"(b)(1) In any case of collective bargaining in which an exclusive representative alleges that no compelling need exists for any Government-wide rule or regulation which is then in effect and which governs any matter at issue in such collective bargaining, the Authority shall determine under paragraph (2) of this subsection, in accordance with regulations prescribed by the Authority, whether such a compelling need exists.

"(2) For the purpose of this section, a compelling need shall be determined not to exist for any rule or regulation only if—

"(A) the agency which issued the rule or regulation informs the Authority in writing that a compelling need for the rule or regulation does not exist; or

"(B) the Authority determines, after a hearing under this section, that compelling need for the rule or regulation does not exist.

"(3) Any hearing under this subsection

shall be expedited to the extent practicable and shall not include the General Counsel as a party.

"(4) The agency which issued the rule or regulation shall be a necessary party at any hearing under this subsection.

§ 7118. Prevention of unfair labor practices

"(a)(1) If an agency or labor organization is charged by any person with having engaged in or engaging in an unfair labor practice, the General Counsel shall investigate the charge and may issue and cause to be served upon the agency or labor organization a complaint. In any case in which the General Counsel does not issue a complaint because the charge fails to state an unfair labor practice, the General Counsel shall provide the person making the charge a written statement of the reasons for not issuing a complaint.

"(2) Any complaint under paragraph (1) of this subsection shall contain a notice—

"(A) of the charge;

"(B) that a hearing will be held before the Authority (or any member thereof or before an individual employed by the Authority and designated for such purpose); and

"(C) of the time and place fixed for the hearing.

"(3) The labor organization or agency involved shall have the right to file an answer to the original and any amended complaint and to appear in person or otherwise and give testimony at the time and place fixed in the complaint for the hearing.

"(4)(A) Except as provided in subparagraph (B) of this paragraph, no complaint shall be issued based on any alleged unfair labor practice which occurred more than 6 months before the filing of the charge with the Authority.

"(B) If the General Counsel determines that the person filing any charge was prevented from filing the charge during the 6-month period referred to in subparagraph (A) of this paragraph by reason of—

"(i) any failure of the agency or labor organization against which the charge is made to perform a duty owed to the person, or

"(ii) any concealment which prevented discovery of the alleged unfair labor practice during the 6-month period.

the General Counsel may issue a complaint based on the charge if the charge was filed during the 6-month period beginning on the day of the discovery by the person of the alleged unfair labor practice.

"(5) The Authority (or any member thereof or any individual employed by the Authority and designated for such purpose) shall conduct a hearing on the complaint not earlier than 5 days after the date on which the complaint is served. In the discretion of the individual or individuals conducting the hearing, any person involved may be allowed to intervene in the hearing and to present testimony. Any such hearing shall, to the extent practicable, be conducted in accordance with the provisions of subchapter II of chapter 5 of this title, except that the parties shall not be bound by rules of evidence, whether statutory, common law, or adopted by a court. A transcript shall be kept of the hearing. After such a hearing the Authority, in its discretion, may upon notice receive further evidence or hear argument.

"(6) If the Authority (or any member thereof or any individual employed by the Authority and designated for such purpose) determines after any hearing on a complaint under paragraph (5) of this subsection that the preponderance of the evidence received demonstrates that the agency or labor organization named in the complaint has engaged in or is engaging in an unfair labor practice, then the individual or individuals conducting the hearing shall state in writing their findings of fact and shall issue and cause to be served on the agency or labor organization an order—

"(A) to cease and desist from any such unfair labor practice in which the agency or labor organization is engaged;

"(B) directing that a collective bargaining agreement be amended and that the amendments be given retroactive effect;

"(C) requiring an award of reasonable attorney fees;

"(D) requiring reinstatement of an employee with back pay, together with interest thereon; or

"(E) including any combination of the actions described in subparagraph (A) through (D) of this paragraph or such other actions as will carry out the purpose of this chapter.

If any such order requires reinstatement of an employee with backpay, backpay may be required of the agency (as provided in section 5596 of this title) or of the labor organization, as the case may be, which is found to have engaged in the unfair labor practice involved.

"(7) If the individual or individuals conducting the hearing determine that the preponderance of the evidence received fails to demonstrate that the agency or labor organization named in the complaint has engaged in or is engaging in an unfair labor practice, the individual or individuals shall state in writing their findings of fact and shall issue an order dismissing the complaint.

"(b) In connection with any matter before the Authority in any proceeding under this section, the Authority may request from the Director of the Office of Personnel Management an opinion concerning the proper interpretation of rules, regulations, or other policy directives issued by the Office of Personnel Management. Any interpretation under the preceding sentence shall be advisory in nature and shall not be binding on the Authority.

"§ 7119. Negotiation impasses; Federal Service Impasses Panel

"(a) The Federal Mediation and Conciliation Service shall provide services and assistance to agencies and exclusive representatives in the resolution of negotiation impasses. The Service shall determine under what circumstances and in what manner it shall provide services and assistance.

"(b) If voluntary arrangements, including the services of the Federal Mediation and Conciliation Service or any other third-party mediation, fail to resolve a negotiation impasse—

"(1) either party may request the Federal Service Impasses Panel to consider the matter, or

"(2) the parties may agree to adopt a procedure for binding arbitration of the negotiation impasse.

"(c)(1) The Federal Service Impasses Panel is an entity within the Authority, the function of which is to provide assistance in resolving negotiation impasses between agencies and exclusive representatives.

"(2) The Panel shall be composed of a Chairman and at least six other members, who shall be appointed by the President, solely on the basis of fitness to perform the duties and functions involved, from among individuals who are familiar with Government operations and knowledgeable in labor-management relations.

"(3) Of the original members of the Panel, 2 members shall be appointed for a term of 1 year, 2 members shall be appointed for a term of 3 years, and the Chairman and the remaining members shall be appointed for a term of 5 years. Thereafter each member shall be appointed for a term of 5 years, except that an individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced. Any member of the Panel may be removed by the President.

"(4) The Panel may appoint an Executive Director and any other individuals it may from time to time find necessary for the proper performance of its duties. Each member of the Panel who is not an employee (as defined in section 2105 of this title) is entitled to pay at a rate equal to the daily equivalent of the maximum annual rate of basic pay then currently paid under the General Schedule for each day he is engaged in the performance of official business of the Panel, including travel time, and is entitled to travel expenses as provided under section 5703 of this title.

"(5)(A) The Panel or its designee shall promptly investigate any impasse presented to it under subsection (b) of this section. The Panel shall consider the impasse and shall either—

"(i) recommend to the parties procedures for the resolution of the impasse; or

"(ii) assist the parties in resolving through whatever methods and procedures, including factfinding and recommendations, it may consider appropriate to accomplish the purpose of this section.

"(B) If the parties do not arrive at a settlement after assistance by the Panel under subparagraph (A) of this paragraph, the Panel may—

"(i) hold hearings;

"(ii) administer oaths, take the testimony or deposition of any person under oath, and issue subpenas as provided in section 7133 of this title; and

"(iii) take whatever action is necessary and not inconsistent with this chapter to resolve the impasse.

"(C) Notice of any final action of the Panel under this section shall be promptly served upon the parties, and the action shall be binding on such parties during the term of the agreement, unless the parties agree otherwise.

"§ 7120. Standards of conduct for labor organizations

"(a) A labor organization representing or seeking to represent employees pursuant to this chapter shall adopt, maintain, and enforce governing requirements containing explicit and detailed provisions to which it shall subscribe, which include provisions for—

"(1) the maintenance of democratic procedures and practices, including—

"(A) provisions for periodic elections to be conducted subject to recognized safeguards, and

"(B) provisions defining and securing the right of individual members to—

"(i) participate in the affairs of the labor organization,

"(ii) fair and equal treatment under the governing rules of the organization, and

"(iii) fair process in disciplinary proceedings;

"(2) the prohibition of business or financial interests on the part of labor organization officers and agents which conflict with their duty to the organization and its members; and

"(3) the maintenance of fiscal integrity in the conduct of the affairs of the labor organization, including provisions for accounting and financial controls and regular financial reports or summaries to be made available to its members.

"(b) This chapter does not authorize participation in the management of a labor organization or acting as a representative of a labor organization by a management official or a supervisor, except as specifically provided in this chapter, or by an employee if the participation or activity would result in a conflict or apparent conflict of interest or would otherwise be incompatible with law or with the official duties of the employee.

"SUBCHAPTER III—GRIEVANCES

"§ 7121. Grievance procedures

"(a) Any collective bargaining agreement shall provide procedures for the settlement of grievances, including questions of arbitrability. Any employee who has a grievance and who is covered by a collective bargaining agreement applies may elect to have the grievance processed under a procedure negotiated in accordance with this chapter.

"(b) Any negotiated grievance procedure referred to in subsection (a) of this section shall—

"(1) be fair and simple,

"(2) provide for expeditious processing, and

"(3) include procedures that—

"(A) assure an exclusive representative the right, in its own behalf or on behalf of any employee in the unit represented by the exclusive representive, to present and process grievances;

"(B) assure such an employee the right to present a grievance on the employee's own behalf, and assure the exclusive representative the right to be present during the grievance proceeding; and

"(C) provide that any grievance and satisfactorily settled under the negotiated grievance procedure shall be subject to binding arbitration which may be invoked by either the exclusive representative or the agency.

"(c) Any party to a collective bargaining agreement aggrieved by the failure, neglect, or refusal of the other party to proceed to arbitration pursuant to the negotiated grievance procedure provided in the agreement may file a petition in the appropriate United States district court requesting an order directing that arbitration proceed pursuant to the procedures provided therefor in the agreement. The court shall hear the matter without jury, expedite the hearing to the maximum extent practicable, and issue any order it determines appropriate.

"(d) The preceding subsections of this section shall not apply with respect to any grievance concerning—

"(1) any claimed violation of subchapter III of chapter 73 of this title (relating to prohibited political activities);

"(2) retirement, life insurance, or health insurance; or

"(3) a suspension or removal under section 7532 of this title.

"(e) The processing of a grievance under a procedure negotiated under this chapter shall not limit the right of an aggrieved employee to request the Equal Employment Opportunity Commission to review a final decision under the procedure—

"(1) pursuant to section 3 of Reorganization Plan Numbered 1 of 1978; or

"(2) where applicable, in such manner as shall otherwise be prescribed by regulation by the Equal Employment Opportunity Commission.

"§ 7122. Exceptions to arbitral awards

(a) Either party to arbitration under this chapter may file with the Authority an exception to any arbitrator's award pursuant to the arbitration. If upon review the Authority finds that the award is deficient because—

"(1) it is contrary to any law, rule, or regulation;

"(2) it was obtained by corruption, fraud, or other misconduct;

"(3) the arbitrator exercised partiality in making the award; or

"(4) the arbitrator exceeded powers granted to the arbitrator;

the Authority may take such action and make such recommendations concerning the award as it considers necessary, consistent with applicable laws, rules, or regulations.

"(b) If no exception to an arbitrator's award is filed under subsection (a) of this section during the 60-day period beginning on the date of such award, the award shall be final and binding. An agency shall take the actions required by an arbitrator's final award. The award may include the payment of backpay (as provided in section 5596 of this title) together with interest thereon.

§ 7123. Judicial review: enforcement

"(a) Any person aggrieved by a final order of the Authority under—

"(1) section 7118 of this title (involving an unfair labor practice);

"(2) section 7122 of this title (involving an award by an arbitrator); or

"(3) section 7112 of this title (involving an appropriate unit determination),

may, during the 60-day period beginning on the date on which the order was issued, institute an action for judicial review of the Authority's order in the United States court of appeals in the circuit in which the person resides or transacts business or in the United States Court of Appeals for the District of Columbia.

"(b) The authority may petition any appropriate United States court of appeals for the enforcement of any order of the Authority and for appropriate temporary relief or restraining order.

"(c) Upon the filing of a petition under subsection (a) of this section for judicial review or under subsection (b) of this section for enforcement, the Authority shall file in the court the record in the proceedings, as provided in section 2112 of title 28. Upon the filing of the petition, the court shall cause notice thereof to be served to the parties involved, and thereupon shall have jurisdiction of the proceeding and of the question determined therein and may grant any temporary relief (including a temporary restraining order) it considers just and proper, and may make and enter a decree affirming and enforcing, modifying and enforcing as so modified, or setting aside in whole or in part the order of the Authority. The filing of a petition under subsection (a) or (b) of this section shall not operate as a stay of the Authority's order unless the court specifically orders the stay. Review of the Authority's order shall be on the record in accordance with section 706 of this title. No objection that has not been urged before the Authority, or its designee, shall be considered by the court, unless the failure or neglect to urge the objection is excused because of extraordinary circumstances. The findings of the Authority with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any person applies to the court for leave to adduce additional evidence and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the failure to adduce the evidence in the hearing before the Authority, or its designee, the court may order the additional evidence to be taken before the Authority, or its designee, and to be made a part of the record. The Authority may modify its findings as to the facts, or make new findings by reason of additional evidence so taken and filed. The Authority shall file its modified or new findings, which, with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The Authority shall file its recommendations, if any, for the modification or setting aside of its original order. Upon the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the judgment and decree shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28.

"(d) The Authority may, upon issuance of a complaint as provided in section 7118 of this title charging that any person has engaged in or is engaging in an unfair labor practice, petition any United States district court within any district in which the unfair labor practice in question is alleged to have occurred or in which such person resides or transacts business for appropriate temporary relief or restraining order. Upon the filing of the petition, the court shall cause notice thereof to be served upon the person, and thereupon shall have jurisdiction to grant any temporary relief (including a temporary restraining order) it considers just and proper.

"SUBCHAPTER IV—ADMINISTRATIVE AND OTHER PROVISIONS

"§ 7131. Reporting requirements for standards of conduct

"The provisions of subchapter III of chapter 11 of title 29 shall be applicable to labor organizations which have been or are seeking to be certified as exclusive representatives under this chapter, and to the organizations' officers, agents, shop stewards, other representatives, and members to the extent to which the provisions would be applicable if the agency were an employer under section 402 of title 29. In addition to the authority conferred on him under section 438 of title 29, the Secretary of Labor shall prescribe regulations, with the written concurrence of the Authority, providing for simplified reports for any such labor organization. The Secretary of Labor may revoke the provision for simplified reports of any such labor organization if the Secretary determines, after any investigation the Secretary considers proper and after reasonable notice and opportunity for a hearing, that the purpose of this chapter and of chapter 11 of title 29 would be served thereby.

"§ 7132. Official time

"(a) Any employee representing an exclusive representative in the negotiation of a collective bargaining agreement under this chapter shall be authorized official time for such purposes, including attendance at impasse proceeding, during the time the employee otherwise would be in a duty status. The number of employees for whom official time is authorized under this subsection shall not exceed the number of individuals designated as representing the agency for such purposes.

"(b) Any activities performed by any employee relating to the internal business of a labor organization (including the solicitation of membership, elections of labor organization officials, and collection of dues) shall be performed during the time the employee is in a nonduty status.

"(c) Except as provided in subsection (a) of this section, the Authority shall determine whether any employee participating for, or on behalf of, a labor organization in any phase of proceedings before the Authority shall be authorized official time for such purpose during the time the employee otherwise would be in a duty status.

"(d) Except as provided in the preceding subsections of this section—

"(1) any employee representing an exclusive representative, or

"(2) in connection with any other matter covered by this chapter, any employee in an appropriate unit represented by an exclusive representative,

shall be granted official time in any amount the agency and the exclusive representative involved agree to be reasonable, necessary, and in the public interest.

"§ 7133. Subpenas

"(a) For the purpose of any hearing or investigation which the Panel or the Authority, or any member of the Authority or any individual employed by the Authority

and designated for such purpose, (hereinafter in this section referred to as the 'issuer') determines is necessary and proper for the exercise of its responsibilities under this chapter, the issuer shall at all reasonable times have access to, for the purpose of examination and copying any evidence relating to the subject matter of the hearing or investigation The issuer may, on the application of any party or on its own initiative, issue subpenas requiring the attendance and testimony of witnesses, the production and examination of any books or papers (including those of the Federal Government to the extent otherwise available under law), or any other evidence relating to the hearing or investigation requested in any such application or considered by the issuer to be relevant. Within 5 days after the service of a subpena on any person requiring the production of any evidence the person may petition the issuer to revoke, the subpena. The issuer shall revoke the subpena if in its opinion the evidence sought under the subpena does not relate to any matter under consideration in the hearing or investigation, or if in its opinion the subpena does not describe with sufficient particularity the evidence.

"(b) In the case of contumacy or failure to obey a subpena issued under subsection (a) of this section, the United States district court for the judicial district in which the person to whom the subpena is addressed resides or is served may issue an order requiring the person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(c) Witnesses appearing pursuant to a subpena issued under subsection (a) of this section shall be paid the same fee and mileage allowances which are paid subpenaed witnesses in the courts of the United States.

"(d) No person shall be excused from attending and testifying or from producing books, records, correspondence, documents, or other evidence in obedience to a subpena under this section on the ground that the testimony or evidence required of the person may tend to incriminate or subject the person to a penalty or forfeiture, except that no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction or other matter concerning which the person is compelled, after having claimed privilege against self-incrimination, to testify or produce evidence, except that the person so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

"(e) Any person who shall willfully resist, prevent, impede, or interfere with any member of the Authority or Panel or any individual employed by the Authority or Panel in the performance of duties pursuant to this chapter shall be published by a fine of not more than $5,000 or by imprisonment for not more than one year, or both.

"§ 7134. Compilation and publication of data

"(a) The Authority shall maintain a file of its proceedings and copies of all available agreements and arbitration decisions, and shall publish the tests of its decisions and the actions taken by the Panel under section 7119 of this title.

"(b) All files maintained under subsection (a) of this section shall be open to inspection and reproduction in accordance with the provisions of sections 552 and 552a of this title.

"§ 7135. Regulations

"The Authority, the Federal Mediation and Conciliation Service, and the Panel shall each prescribe rules and regulations to carry out the provisions of this chapter applicable to each of them, respectively. The provisions of subchapter II of chapter 5 of this title shall be applicable to the issuance, revision, or repeal of any such rule or regulation.

"§ 7136. Continuation of existing laws, recognitions, agreements, and procedures

"(a) Nothing contained in this chapter shall preclude—

"(1) the renewal or continuation of an exclusive recognition, certification of an exclusive representative, or a lawful agreement between an agency and an exclusive representative of its employees, which is entered into before the effective date of this chapter; or

"(2) the renewal, continuation, or initial according of recognition for units of management officials or supervisors represented by labor organizations which historically or traditionally represent management officials or supervisors in private industry and which hold exclusive recognition for units of such officials or supervisors in any agency on the effective date of this chapter.

"(b) Policies, regulations, and procedures established under and decisions issued under Executive Orders 11491, 11616, 11636, 11787, and 11838, or under any other Executive order, as in effect on the effective date of this chapter, shall remain in full force and effect until revised or revoked by the President, or unless superseded by specific provisions of this chapter or by regulations or decisions issued pursuant to this chapter.".

BACKPAY IN CASE OF UNFAIR LABOR PRACTICES AND GRIEVANCES

SEC. 702. Section 5596(b) of title 5, United States Code, is amended to read as follows:

"(b) An employee of an agency who, on the basis of a timely appeal or an administrative determination (including a decision relating to an unfair labor practice or a grievance) is found by appropriate authority under applicable law, rule, regulation, or collective bargaining agreement, to have been affected by an unjustified or unwarranted personnel action which has resulted in the withdrawal or reduction of all or a part of the pay, allowances or differentials of the employee—

"(1) is entitled, on correction of personnel action, to receive for the period for which the personnel action was in effect—

"(A) an amount equal to all or any part of the pay, allowances, or differentials, as applicable, which the employee normally would have earned or received during the period if the personnel action had not occurred, less any amounts earned by the employee through other employment during that period;

"(B) interest on the amount payable under subparagraph (A) of this paragraph; and

"(C) reasonable attorney fees and reasonable costs and expenses of litigation related to the personnel action; and

"(2) for all purposes, is deemed to have performed service for the agency during that period, except that—

"(A) annual leave restored under this paragraph which is in excess of the maximum leave accumulation permitted by law shall be credited to a separate leave account for the employee and shall be available for use by the employee within the time limits prescribed by regulations of the Office of Personnel Management, and

"(B) annual leave credited under subparagraph (A) of this paragraph but unused and still available to the employee under regulations prescribed by the Office shall be included in the lump-sum payment under section 5551 or 5552(1) of this title but may not be retained to the credit of the employee under section 5552(2) of this title.

For the purposes of this subsection, "grievance' and 'collective bargaining agreement' have the meanings set forth in section 7103 of this title, 'unfair labor practice' means an unfair labor practice described in section 7116 of this title, and 'personnel action' includes the omission or failure to take an action or confer a benefit.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 703. (a) Subchapter II of chapter 71 of title 5, United States Code is amended—

(1) by redesignating sections 7151 (as amended by section 312 of this Act), 7152, 7153, and 7154 as sections 7201, 7202, 7203, and 7204, respectively;

(2) by striking out the subchapter heading and inserting in lieu thereof the following:

"Chapter 72—ANTIDISCRIMINATION; RIGHT TO PETITION CONGRESS

"SUBCHAPTER I—ANTIDISCRIMINATION IN EMPLOYMENT

"Sec.

"7201. Antidiscrimination policy; minority recruitment program.

"7202. Marital status.

"7203. Handicapping condition.

"7204. Other prohibitions.

"SUBCHAPTER II—EMPLOYEES' RIGHT TO PETITION CONGRESS

"7211. Employees' right to petition Congress.";

and

(3) by adding at the end thereof the following new subchapter:

"SUBCHAPTER II—EMPLOYEES' RIGHT TO PETITION CONGRESS

"§ 7211. Employees' right to petition Congress

"The right of employees, individual or collectively, to petition Congress or a Member of Congress, or to furnish information to either House of Congress, or to a committee or Member thereof, may not be interfered with or denied.".

(b) The analysis for part III of title 5, United States Code, is amended by striking out—

"Subpart F—Employee Relations

"71. Policies ..... 7101"

and inserting in lieu thereof

"Subpart F—Labor-Management and Employee Relations

"71. Labor-management Relations 7101

"72. Antidiscrimination; Right to Petition Congress ..... 7201".

(c)(1) Section 2105(c)(1) of title 5, United States Code, is amended by striking out "and 7143" and inserting in lieu thereof "and 7204".

(2) Section 3302(2) of title 5, United States Code, is amended by striking out "7152, 7153" and inserting in lieu thereof "7202, 7203".

(3) Sections 4540(c), 7212(a), and 9540(c) of title 10, United States Code, are each amended by striking out "7154 of title 5" and inserting in lieu thereof "7204 of title 5".

(4) Section 410(b)(1) of title 39, United States Code, is amended by striking out "chapters 71 (employee policies)" and inserting in lieu thereof the following: "chapters 72 (antidiscrimination; right to petition Congress)".

(5) Section 1002(g) of title 39, United States Code, is amended by striking out "section 7102 of title 5" and inserting in lieu thereof "section 7211 of title 5".

(d) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following clause:

"(124) Chairman, Federal Labor Relations Authority.".

(e) Section 5316 of such title is amended by adding at the end thereof the following clause:

"(145) Members, Federal Labor Relations Authority (2), and its General Counsel.".

MISCELLANEOUS PROVISIONS

SEC. 704. (a) Except as provided in subsection (b) of this section, the amendments made by this title shall take effect on the first day of the first calendar month beginning more than 90 days after the date of the enactment of this title.

(b) Sections 7104, 7105, and 7136 of title 5, United States Code, as added by section 701 of this title, shall take effect on the date of the enactment of this title.

(c)(1) The wages, terms, and conditions of employment, and other employment benefits with respect to Government prevailing rate employees to whom section 9(b) of Public Law 92-392 applies shall be negotiated in accordance with prevailing rates and practices without regard to any provision of—

(A) chapter 71 of title 5, United States Code (as amended by this title);

(B) chapters 51, 53, and 55 of title 5, United States Code;

(C) or any other law, rule, regulation, decision, or order relating to rate of pay or pay practices with respect to Federal employees.

(2) No provision of chapter 71 of title 5, United States Code (as amended by this title), shall be considered to limit—

(A) any rights or remedies of employees referred to in paragraph (1) of this subsection under any other provision of law or before any court or other tribunal; or

(B) any benefits otherwise available to such employees under any other provision of law.

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent to dispense with further reading of title VII, and that it be printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN: Page 288, strike line 12 and all that follows thereafter through line 12 on page 348.

Mr. ERLENBORN. Mr. Chairman, I join with the gentleman from Illinois, my colleague (Mr. DERWINSKI) in supporting the basic concept contained in this bill for civil service reform. This itself is a very complex subject, but it is a very laudable and a very necessary goal. The question I think that is given to the House at this point is whether we should at the same time consider another very complex question that will impinge upon and, in some way, affect the goals of civil service reform; that is, to reform our labor-management relations at the same time.

I submit that we should not, that if we are to move from the present labor-management relations controls that are contained in the President's Executive order, it should be done in separate legislation and probably after civil service reform has been enacted and we have had an opportunity to see how that works under the present labor-management rules.

In submitting a civil service reform package in March, the President did not—did not—include legislation to rewrite the Executive order governing labor-management relations, nor even to take the present Executive order and write it into law. Later, he apparently agreed to make his Executive order statutory. As late as his August 3 forum in Fairfax County, he admitted that a few technical amendments had been worked out with Ken Blaylock, the head of some of the Government unions, and with the union, before the legislation was introduced. That is what is now title VII, the collective-bargaining legislation.

He said that this would in some way expand the Executive order, and I quote, "in ways that I do not understand."

In other words, the President suggested that he did want the Executive order, per se, written into law, and that there were some agreements reached with the union chief that the President himself did not understand. He went on to add that his preference is to limit the collective-bargaining processes of this legislation to what was included in the Executive order.

Now, when administration officials sent to Congress on May 10 a proposed title VII on labor relations, it was headlined as incorporating into law the existing Federal employee labor relations program. Title VII before us, as reported by the committee, is not the Executive order. The changes are not, as the President referred to them, a few technical amendments. I think we had better understand the differences before anyone votes for title VII, because we all know how important a few changes and a few words here and there may be.

We should not make it possible for some Federal officials to give a union exclusive recognition, with all that conveys, without an election, but that is in title VII. Members may recall H.R. 77, which was the predecessor to the famous labor law reform bill, contained such a provision, certification of a union as the exclusive bargaining agent for a unit of Government without an election before determining that they are supported by a majority of the employees in that unit.

Even President Carter rejected that concept and before he supported a labor law reform bill insisted that certification without election come out of the bill—and so it did.

Mr. CHARLES H. WILSON of California. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. The gentleman made reference to H.R. 7700. I do not think it is related to this at all.

Mr. ERLENBORN. I am sorry. The gentleman misunderstood me. I said H.R. 77. H.R. 77 was in the Education and Labor Committee and was the first of a series of bills labeled labor law reform.

Mr. CHARLES H. WILSON of California. Then the gentleman is not talking about the great bill the gentleman from New York (Mr. HANLEY) and I brought out. I thought that was it.

Mr. ERLENBORN. No. It is a different bill altogether.

There is another provision. Under the current law and the Executive order a strike by Federal employees is illegal. The provision here in title VII instead makes it merely an unfair labor practice.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. ERLENBORN) has expired.

(By unanimous consent, Mr. ERLENBORN was allowed to proceed for 5 additional minutes.)

Mr. ERLENBORN. Mr. Chairman, under the Executive order an illegal strike by Federal employees causes the union that has been certified as the bargaining agent to lose their status an exclusive agent.

The bill creates a divisive factor in Federal employment between union members and bargaining units and may affect employees who feel no need to affiliate with a labor union in such because under this bill they will be provided a two-track appeals process concerning disciplining of an employee or denial of automatic salary increases or disciplining action.

This also will produce a major incentive to vote for union representation or to join the union if one has been certified so that the individual employee will have this additional appeal alternative.

The bill allows a union with only 10 percent representation in the unit under question to negotiate for a voluntary dues check off, a form of union security. Now this is a strange provision in that a governmental agency as the employer will be required to bargain with a union that represents as little as 10 percent of the members of the bargaining unit for the purpose of check off. Agency discretion for withholding dues is removed. That discretion is now current under the Executive order.

The definition of dues is expanded to include assessments, which is extraordinary. That is not true under the Executive order. It is not true under the National Labor Relations Act. It means though that those who have agreed, an employee who has agreed to a check off will also have union assessments taken off his pay automatically. A worker who agrees to dues check off today commits himself only for a 6-month period. Title VII will commit without chance to change to his mind to that employee to a 1-year period.

How does title VII relate to the major objective of this bill, and that is change in the merit system? We do not know, because we have not had time to consider the relationship but it is altogether likely that negotiated contracts under title VII may directly go contrary to the major thrust and objective of the balance of the bill.

To top it off, title VII goes far beyond telling agency managers to meet and confer with unions as the Executive order currently does, it will order the manager to reach an agreement with the union. By adding two words to the definition of labor organization, title VII could allow other than public employee unions to represent Federal employees. Let us say, then, that we have a private sector union that organizes a unit in an agency in the Federal Government. Will then strife in the private sector lead to picketing at the Federal agency and refusal of Federal employees to cross the picket line, thus interfering with governmental business? It is altogether possible.

Expanding the scope of the Executive order as title VII will do means that we will need more administrative law judges, probably with all of the attendant personnel such as regional directors and their supporting personnel. Thus title VII will be expanding the Federal bureaucracy and adding to the cost of Government.

If you really want to tell your constituents that you voted for a civil service reform bill that is going to give the Government the flexibility and the abilities that are necessary for effective Government management, I urge you to vote to strike title VII. That will leave the Executive order in place governing labor-management relations and we will be able to get on with the business of civil service reform and if we desire later to change labor-management relations beyond this Executive order, this Congress will have the ability to do so.

Mr. COLLINS of Texas. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Texas.

Mr. COLLINS of Texas. Mr. Chairman, I thank the gentleman from Illinois (Mr. ERLENBORN) for yielding to me and I believe that he has summed it up well in just suggesting, very plainly, that we should strike this particular section of the bill.

I was impressed with a letter I received from the Chamber of Commerce of the United States.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. COLLINS of Texas and by unanimous consent, Mr. ERLENBORN was allowed to proceed for 2 additional minutes.)

Mr. COLLINS of Texas. Mr. Chairman, if the gentleman will continue to yield, the letter said:

> However, title VII goes so far beyond Executive Order 11491 that an entirely new system is created which clearly ignores the essential differences between private and public sector labor relations.

So what the gentleman has said is that this is not the time or the place or the bill to change this legislation.

I think the gentleman has summed it up well.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I thank the gentleman for yielding. I might say that I am a little bit concerned, I just do not know what the gentleman is referring to about the issue of a strike. And on page 320, it indicates that calling a strike on behalf of a union, constitutes an unfair labor practice.

Mr. ERLENBORN. That is right. What I was pointing out is that at the present time it is illegal, not just an unfair labor practice, an illegal strike by Federal employees, supported by their union will lead to the union no longer being allowed to be the exclusive bargaining agent. Now that will be changed, in substance, by this title VII.

Mr. GLICKMAN. If the gentleman will yield further, participating in or calling an illegal strike, being in violation of any other Federal laws, or perhaps other criminal laws—or does this section supersede anything like that? What I am trying to figure out, does this apply only to an unfair strike, or do other applications of the Federal law still prohibit the strike?

Mr. ERLENBORN. So far as I know this will be the only remedy, the unfair labor practice charge and no longer will it lead to decertification of the union or the union being any longer considered the exclusive bargaining agent for bargaining purposes.

Mr. FORD of Michigan. Mr. Chairman, if the gentleman will yield, I know the gentleman from Illinois (Mr. ERLENBORN) and I are totally in disagreement on some issues, and have been for the past 14 years, we have been in disagreement, but I know the gentleman well enough to know that he would not be wanting to mislead the Members, but the prohibition against Federal employees striking is in a single sentence which prohibits them from joining any organization.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. FORD of Michigan, and by unanimous consent, Mr. ERLENBORN was allowed to proceed for 2 additional minutes.)

Mr. FORD of Michigan. Mr. Chairman, as I was saying, that prohibits them from joining any organization advocating the overthrow of the Government by force or violence, or as mentioned, participating in a strike, and the Supreme Court has said that the effect of the strike provision is not enforceable because it is in violation of the first amendment to the Constitution. That statute is not affected by this law at all, or by this bill, rather, so the act of striking will continue to be a violation of Federal law.

The difference is that this bill for the first time will add on top of that a specific procedure available to the Government to go after a labor organization which advocates strike activity by making that an unfair labor practice reachable in the same way that any other unfair labor practice committed by the union or its representatives is reached by the statute, so that, in fact, we did not affect the existing law on strikes. We add a remedy for the Government in the case of someone advocating an illegal strike, which we think meets the court test of still not violating any first amendment rights.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. ERLENBORN) has expired.

(By unanimous consent, Mr. ERLENBORN was allowed to proceed for 5 additional minutes.)

Mr. ERLENBORN. Mr. Chairman, let me understand this. Is the gentleman suggesting that this bill, being a later enactment, would not be considered to be a repeal of the current law, and is it the gentleman's understanding that besides being an unfair labor practice, an illegal strike will also lead to a decertification of the union or to the union's no longer being able to act as the exclusive bargaining agent of the employees?

Mr. FORD of Michigan. If the gentleman will yield further, Mr. Chairman, title 18 of the United States Code 1918 provides criminal penalties against strikes in violation of 5 United States Code. Five United States Code prohibits the strike. Title 18 makes participating in the illegal strike a crime.

Neither of those titles is affected by any of the provisions in this act.

Mr. ERLENBORN. I thank the gentleman for his contribution.

Let me just wind this up by saying I would hope that the Members would support this motion to strike title VII. It is highly controversial; and if we would strike title VII, we can move on very expeditiously to concluding the consideration of this bill and going home tonight.

Mr. MARRIOTT. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I am happy to yield to the gentleman from Utah.

Mr. MARRIOTT. Mr. Chairman, I just want to ask the gentleman what the Senate did with this particular provision.

Mr. ERLENBORN. The Senate has a title VII that is in substance the incorporation of the Executive order with some few changes. Primarily it is an incorporation into the law of the Executive order. That title is not making the changes contemplated in this title VII.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield for one additional question?

Mr. ERLENBORN. I am happy to yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, perhaps the gentleman from Michigan (Mr. FORD) will want to answer this question.

I would like to ask two basic questions, if possible.

Number one, how does this provision in title VII expand on the provisions in the Executive order with respect to calling a strike or engaging in a strike?

Number two, I think unequivocally we need to have it stated whether this title in any way limits the Federal Government's ability to control strikes. Our constituents are concerned about public employees striking and Federal employees striking.

I think those two questions need to be answered. Could the gentleman from Illinois (Mr. ERLENBORN) or the gentleman from Michigan (Mr. FORD) answer them?

Mr. ERLENBORN. I am afraid I was trying to read a note from the staff and did not hear the gentleman's question.

Mr. FORD of Michigan. If the gentleman will yield, Mr. Chairman, the answer to the gentleman's question is that it does not expand on the right to strike. It does not deal with the right to strike except to enumerate the advocacy of strike activity which is not now prohibited by law as an unfair labor practice, so that, in fact, the passage of this law will provide the Government, as management, with a tool it does not now have to go after a union which advocates the

right to strike, because the Supreme Court has said that the current prohibition against advocating the right to strike is an unconstitutional impairment of their first amendment rights and that one cannot totally abrogate someone's right to advocate something, such as withholding his labor.

However, the court has in the past, under the National Labor Relations Act, upheld illegal strike advocacy for the wrong purposes at the wrong time; and we are following that kind of pattern.

I do not know why this particular section is picked on by the gentleman from Illinois (Mr. ERLENBORN) or why he does not like it because, very clearly, I will be very happy to strike that provision from the bill. It is an antilabor provision. It is a restraint on labor, a tool to be used against labor unions which does not now exist in the Executive order. In fact, this provision of the act is stronger than the Executive order when viewed from the perspective of anyone wanting to see unions challenged on the right to strike.

Mr. ERLENBORN. If the gentleman will yield back, it is very apparent it is not spelled out here. One of the effects of conducting an illegal strike would be the decertification of the union. Under the present practice of the Executive order, if an illegal strike is engaged in, the union that backed such an illegal strike can no longer act as the exclusive bargaining agent of the employees of that unit. Besides, in that definition section we allow a labor organization composed of one unit in whole or in part of Federal employees. In other words, this is an open invitation to mix in the same local employees in the private sector and the public sector.

Again I would point out that this could lead to strife in the private sector, leading to an interruption of work in the public sector. These are only a few. I have pointed out many of the other changes from the Executive order that are in this particular title VII. None of them were specifically backed by the President. The most he has said so far was that he would like possibly to see incorporated into the statute the Executive order. I hope the amendment is adopted.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FORD of Michigan. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

I want to say, without any intent to offend my friend, the gentleman from Illinois (Mr. ERLENBORN), that I thought for about 20 minutes there that he was going to filibuster his own amendment, so I will not take much more time. It should be very simple for everyone to understand that there are some tradeoffs in legislation of this kind.

We have heard very eloquently, particularly from that side this evening when we were talking about the SES, about all the new power we are giving the executive branch to control the destinies of employees, not just the employees who belong to the bargaining agents, the workers, not only the Indians but the chiefs as well, all the way to the top. In the process of the giving of this new power and expanded power and authority to management to manage the Federal work force, I think we might understand that the Federal employees become a little restive about where their status quo fits into a future with all this new power coming on one side of the picture. So the committee over a long period of time has tried to work out a balance to reassure the Federal employees that they are in fact going to maintain the status quo.

I wish that I could say to my friends in organized labor that what we have constructed here is a monumental new breakthrough for the future of public employee collective bargaining, but that would not be true. I must say parenthetically that the discussion of the gentleman from Illinois (Mr. ERLENBORN) about striking is all sheer nonsense, because not at any time did we spend 5 seconds talking about the right to strike. No practical person on our committee would have talked about that as a possibility. It has never been in the draft of any legislation. It has never even been whispered in a closet by any member of the committee. We know, I will say to the gentleman from Illinois (Mr. ERLENBORN) that that would be a foolish attempt to make here, and it has never been advocated. For us to spend all of this time talking about the right to strike as if at some time we had it in the bill is sheer nonsense. The bill does not deal with any expanded right in that regard. The bill does not deal with lots of rights that public employees have in the State arena and on the local level across the country. As a matter of fact, this is anything but a model that I would recommend that public employees would want adopted in their States for their States. What it does represent is an attempt to restructure John Kennedy's Executive order of 1962 into the realities of 1978 and the future, as the name of the game is changing and the rules of the game are changed by this civil service reform.

It is true that there are people in this country who would like to have us go home and say, "I voted for civil service reform," and when they say, "What is that?" we have to reply, "Well, that is the way which we use to kick the lazy, no good Federal employees off of their duffs and get them up to work." If we want to demagogue against Federal employees in that fashion, this is a handy vehicle to do it, but we need not at the same time create chaos in the Federal work force by destroying the morale of the employees.

It is absolutely essential that the employees believe, when we get through reforming the system and giving all of the top management these new powers, that the system is at least as fair to them in the exercise of their rights as it was before. And it is true that there is some change made in the language, the familiar language of the Executive order, although I think the gentleman from Illinois has illustrated that he is far more familiar with the National Labor Relations Act than he is with the Executive order, and I defer to his superior knowledge as a labor lawyer on the National Labor Relations Act.

We are dealing here with an entirely different ball game, I say to the gentleman from Illinois, and there are no dramatic changes from or departures from the existing rights of unions. We are not trying to write a collective bargaining agreement. We are not changing the method by which collective bargaining comes into play. We are drawing a more definitive picture of what the proper subject for collective bargaining would be, what the limitations on the subject matter of collective bargaining might be and the methodology. We are talking about grievance procedures for the first time. We are talking about them in a fashion that we calculate is going to save the Government a great deal of time and money.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(At the request of Mr. FRENZEL, and by unanimous consent, Mr. FORD of Michigan was allowed to proceed for 2 additional minutes.)

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for yielding.

I would like to inquire if one of those tiny little changes the gentleman is talking about is the installation of a binding arbitration system. That is not in the current Executive order, is it?

Mr. FORD of Michigan. The installation of a binding arbitration system? No; we are not installing a binding arbitration system.

Mr. FRENZEL. We are not? That is not the way I read the act.

Mr. FORD of Michigan. Is the gentleman talking about arbitration of grievances?

Mr. FRENZEL. Yes.

Mr. FORD of Michigan. Not arbitration of contract benefits?

Mr. FRENZEL. I will find it in a minute.

Mr. FORD of Michigan. I hope the gentleman understands the difference.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, first of all, I would like to associate myself with the gentleman's general remarks with respect to this title.

Second, to point out to my friend and colleague from Illinois, whose knowledge of the NLRA is not questioned at all, it seems to me there is a bit of confusion, if anything, here. In addition to the existing regulation emanating from 1962, there is being added by the committee a further restriction heretofore not extant in the form of creating an unfair labor practice where none exists now in the Federal Government. This does not relate at all, and the gentleman knows perfectly well, to the proposed H.R. 7777 relating to public employees, State, county, municipal, and Federal. It is really not in any way similar.

I certainly agree with my friend, the gentleman from Michigan (Mr. FORD) that I would not recommend this title, which I consider entirely too restrictive, to State, county, or municipal employees.

The CHAIRMAN. The time of the gentleman from Michigan has again expired.

(By unanimous consent, Mr. FORD of Michigan was allowed to proceed for 1 additional minute.)

Mr. FORD of Michigan. Mr. Chairman, let me say to my colleagues, it comes down to this. The gentleman from Illinois (Mr. ERLENBORN) and I have been arguing for 14 years. I have not persuaded the gentleman from Illinois very much and the gentleman from Illinois has not persuaded me very much.

Let me say, we are wasting our time arguing; but if title VII goes under the Erlenborn amendment, the bill goes, because this is like a balance. It is like a teeter-totter. We are trying to keep a balance with the employees and the new rights we are conferring on management.

You have heard those of us identified with labor tonight consistently fighting those people off who want to give management too many rights. Just a few minutes ago they were helping to try to gut the new management rights we are giving the administration. Who was fighting for them? We were fighting for them, but we were fighting in good faith, relying on the fact that what we had done in writing out agreements for employees would stay in the bill as a balance for what we were giving employees.

The CHAIRMAN. The time of the gentleman from Michigan has again expired.

(By unanimous consent, Mr. FORD of Michigan was allowed to proceed for 1 additional minute.)

Mr. FORD of Michigan. Mr. Chairman, really, if we accept the Erlenborn amendment, it simply ends everything and ends the ball game. We will rewrite this bill in a way that is harmful and there will be a subsequent amendment offered by the gentleman from Arizona (Mr. UDALL) that has been worked out over many months with all kinds of disagreeable choices, pushing and shoving, and finally coming to an agreement that does not make anyone so happy that they can walk away from here claiming a victory; but it is a reasonable legislative solution to our problems.

I just ask those of us who want to support this bill and want to see the President have a chance to put civil service reform into effect to support us in defeating the Erlenborn amendment, because passage of the Erlenborn amendment kills the bill.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, the gentleman said a few minutes ago that no one would offer the right to strike, and that that was not in the bill. I call the attention of the gentleman to his H.R. 1589, which provides the right to strike.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. FORD) has expired.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The gentleman from Michigan (Mr. FORD) does seek further time. The time of the gentleman has expired.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, the gentleman from Michigan invited me to peruse the bill to find what I consider to be binding arbitration within the bill.

I refer the committee and the gentleman to section 7119 on page 326, et seq., which states as follows:

> If the parties do not arrive at a settlement after assistance by the Panel . . .

And this is the Impasses Panel.

Then it states:

> Notice of any final action of the Panel under this section shall be promptly served upon the parties, and the action shall be binding on such parties during the term of the agreement . . .

That is No. 1. Now, this is No. 2.

Mr. FORD of Michigan. Mr. Chairman, let me take my time back.

Mr. FRENZEL. Mr. Chairman, it is not the gentleman's time, but I will be glad to yield to him in a minute.

Mr. FORD of Michigan. Does the gentleman want an answer?

Mr. FRENZEL. Let me state the second part first.

The CHAIRMAN. The Chair will state that the time is that of the gentleman from Minnesota (Mr. FRENZEL).

Mr. FORD of Michigan. Mr. Chairman, I ask the gentleman if he is seriously asking a question. If he is, I will be glad to answer it.

The CHAIRMAN. The Chair will repeat that the time is that of the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, my second point is in relation to section 7121, which is the grievance procedure, found on page 331, et seq., and there, of course, we have binding arbitration of grievances.

Mr. Chairman, I would ask the gentleman from Michigan (Mr. FORD) if that is not true, and I yield to the gentleman for his response.

Mr. FORD of Michigan. Mr. Chairman, it is true, but it is irrelevant, because what the gentleman is reading from on page 326 of the bill is the present Executive order, which the gentleman from Illinois, Mr. JOHN ERLENBORN, has taken to himself as the "Holy Grail."

Mr. FRENZEL. Do we have an impasses panel in the present Executive order?

Mr. FORD of Michigan. Yes; in the exact language the gentleman just read, and this is taken from the executive order.

Mr. FRENZEL. That is not my understanding.

Mr. FORD of Michigan. It represents no change in the status at all.

Mr. FRENZEL. That is not my understanding. How about the grievance procedure?

Mr. FORD of Michigan. That is this gentleman's understanding, and I think the gentleman from Minnesota misunderstands the situation.

Mr. FRENZEL. It would not be the first time I misunderstood, nor would it be the first time I misunderstood the gentleman from Michigan (Mr. FORD).

How about section 7121? Is that right out of the Executive order, too?

Mr. FORD of Michigan. No; that is grievance arbitration.

Mr. FRENZEL. That is binding arbitration, and that is new law; is it not?

Mr. FORD of Michigan. With respect to wages, hours, and working conditions.

Mr. FRENZEL. Is that not what we grieve over usually?

Mr. FORD of Michigan. No; we do not grieve a contract; we negotiate a contract.

Mr. FRENZEL. Mr. Chairman, I no longer yield.

Mr. Chairman, I think the situation is quite obvious. I think it is quite obvious there is new law, and it is different law. I think a lot of us do not know whether it is good law or bad law, but it seems to me we would be best served to revert to the time-tested Executive order.

Mr. Chairman, I hope the amendment is agreed to.

Mr. CHARLES H. WILSON of California. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. Mr. Chairman, I would like to ask the gentleman from Illinois (Mr. DERWINSKI) a question. The gentleman is the administration's supporter of this bill, and I want to know whether he is for this amendment or not.

Mr. FRENZEL. Mr. Chairman, I cannot advise the gentleman on that. I do not know.

Mr. CHARLES H. WILSON of California. Mr. Chairman, I see the gentleman from Illinois (Mr. DERWINSKI) is over here, and I will ask the gentleman, who is the administration's supporter of this bill, whether he is for this amendment.

Mr. DERWINSKI. Mr. Chairman, may I use this microphone?

Mr. CHARLES H. WILSON of California. The gentleman may use any microphone he wants to use.

Mr. FRENZEL. Mr. Chairman, I yield to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Chairman, my personal position is that this bill should have as title VII the President's Executive order, which was in fact the action taken in the Senate.

Mr. CHARLES H. WILSON of California. Mr. Chairman, will the gentleman yield further?

Mr. FRENZEL. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. Mr. Chairman, let me ask: Is that what the gentleman from Illinois (Mr. ERLENBORN) is seeking?

Mr. FRENZEL. That is what the gentleman from Illinois (Mr. ERLENBORN) is trying to do.

Mr. CHARLES H. WILSON of California. Mr. Chairman, I will ask the gentleman from Illinois (Mr. DERWINSKI):

Is that what the gentleman from Illinois (Mr. ERLENBORN) is trying to do?

Mr. DERWINSKI. Mr. Chairman, if the gentleman will yield, the gentleman from Illinois (Mr. ERLENBORN) is a very free gentleman.

Mr. CHARLES H. WILSON of California. No, what I would like to know is this: I think the Democrats should understand who is for who and what is for what. Now, if the gentleman from Illinois (Mr. ERLENBORN) is presenting the Presidential position, I think we should know that.

Mr. DERWINSKI. Mr. Chairman, the gentleman from Illinois (Mr. ERLENBORN) and I are both for civil service reform. We have a difference of opinion on title VII.

Mr. CHARLES H. WILSON of California. Who is for what?

Mr. CLAY. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Missouri?

Mr. CLAY. I thank the gentleman for yielding.

Mr. Chairman, the President recommended the provision that is in this title relating to binding arbitration. The Senate bill also includes this provision. In addition to that, the reason and the basis for this precise procedure is to save the taxpayers money.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. FRENZEL) has expired.

(On the request of Mr. CLAY and by unanimous consent, Mr. FRENZEL was allowed to proceed for 1 additional minute.)

Mr. FRENZEL. Mr. Chairman, I yield further to the gentleman from Missouri (Mr. CLAY).

Mr. CLAY. Presently, Mr. Chairman, under the process of appealing through statutory appeals, the Government pays the entire cost of the proviso. Under the provisions of this title, subjecting grievances to binding arbitration, the costs will be shared equally by the Government and the parties who are alleging grievances. And that is one of the provisos for us including it and accepting the recommendation of the administration to include it in the bill.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for his contribution.

I think it is an interesting point and may be a good one. I am not sure it would be pervasive in asking us to accept this new concept, however.

Mr. UDALL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the issue before us is the Erlenborn amendment, which would strike all of title VII. And as my friend, the gentleman from Michigan (Mr. FORD), said a minute ago, if there is no title VII, there simply is no bill.

The administration came forward early on in this controversy. The original administration's submission had no title VII, had no labor-management title in it at all. We raised questions about this, and the administration finally said, "We are willing to write into this new management rights bill, this new civil service reform bill, something the Federal employee unions have always wanted," which was not to be at the whim or the mercy of the President, who, with a stroke of the pen, could undo all of these collective bargaining rights enjoyed since 1963.

We argued a good deal over the last few months about what should be in that title VII, and no one has seriously suggested until tonight that there should be no title VII at all.

A number of my colleagues have asked me where we are in this debate today, and most of the remaining controversy is in title VII. Title VIII is a short title. Title IX and title X have been stricken by a point of order. We can be out of here fairly soon if we decide what we are going to do about title VII.

The first thing to do is to get rid of the Erlenborn amendment and get on with the real issues. There will be an amendment which will be offered by the gentleman from Texas (Mr. COLLINS) which sets up a labor-management framework. It is not at all acceptable to the Federal employee unions. It is acceptable to the administration. I will have a substitute for that amendment which represents the product of long negotiations. My labor friends do not like it very much. The gentleman from Michigan (Mr. FORD) has very limited enthusiasm for it. We have finally reached that limited ground, but we cannot get on with that as long as we are involved with an amendment which strikes out all of the title. I thought we were making good progress until I saw all of the big guns on the Education and Labor Committee rise, but I would hope that at least we could proceed very shortly to get a decision on the Erlenborn amendment which totally strikes all of title VII and, then, so far as I am concerned, we can end the debate.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Illinois.

Mr. ERLENBORN. I thank the gentleman for yielding.

Mr. Chairman, as the gentleman knows, I have been waiting patiently since noon to reach title VII. I would like to comment on the gentleman's statement about the Education and Labor Committee. About an hour ago, about 8 or 9 o'clock, several of my colleagues mentioned that the gentleman's committee was making the Education and Labor Committee look good.

Mr. UDALL. I claim full credit for that.

Mr. Chairman, I would hope that we could have a vote now on the Erlenborn amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

RECORDED VOTE

Mr. ERLENBORN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 125, noes 217, not voting 90, as follows:

[Roll No. 751]

AYES—125

Abdnor
Andrews, N.C
Archer
Ashbrook
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bennett
Bowen
Breckinridge
Brinkley
Broomfield
Broyhill
Butler
Carter
Cederberg
Clausen, Don H.
Collins, Tex.
Conable
Coughlin
Crane
Cunningham
Daniel, Dan
Daniel, R. W.
de la Garza
Devine
Dornan
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
English
Erlenborn
Ertel
Evans, Ga.
Findley
Flippo
Flynt
Fountain
Frenzel
Ginn
Goldwater
Goodling
Gradison
Grassley
Gudger
Guyer
Hall
Harsha
Hefner
Hightower
Holt
Horton
Hubbard
Hyde
Ichord
Ireland
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kindness
Lagomarsino
Leach
Levitas
Livingston
Lloyd, Tenn.
Lott
McClory
McDonald
McEwen
Madigan
Mahon
Marlenee
Marriott
Martin
Mathis
Michel
Milford
Miller, Ohio
Montgomery
Moore
Myers, Gary
Myers, John
Neal
Nichols
Poage
Preyer
Pritchard
Quayle
Quillen
Regula
Roberts
Robinson
Rose
Runnels
Ruppe
Satterfield
Schulze
Sebelius
Shuster
Snyder
Spence
Stangeland
Stanton
Stockman
Symms
Taylor
Thone
Treen
Trible
Waggonner
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Wilson, C. H.
Winn
Wydler
Wylie

NOES—217

Akaka
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Applegate
Ashley
Aspin
AuCoin
Baldus
Baucus
Beard, R.I.
Bedell
Bellenson
Benjamin
Bevill
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Brademas
Brodhead
Brooks
Brown, Calif.
Burlison, Mo.
Burton, John
Caputo
Carney
Carr
Cavanaugh
Clay
Cleveland
Coleman
Collins, Ill.
Conte
Corman
Cornell
Cornwell
Cotter
D'Amours
Danielson
Davis
Dellums
Dent
Derrick
Derwinski
Dicks
Diggs
Dingell
Dodd
Downey
Drinan
Early
Edgar
Edwards, Calif.
Eilberg
Evans, Ind.
Fascell
Fenwick
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Gammage
Garcia
Gaydos
Gephardt
Gilman
Glickman
Gonzalez
Gore
Green
Hamilton
Hammer-schmidt
Hanley
Hannaford
Harkin
Harris
Heckler
Heftel
Hillis
Holland
Holtzman
Howard
Hughes
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Jordan
Kastenmeier
Keys
Kildee
Kostmayer
Krebs
LaFalce
Le Fante
Lederer
Leggett
Lent
Lloyd, Calif.
Long, La.
Long, Md.
Luken
Lundine
McCloskey
McCormack
McDade
McFall
McHugh
McKay
Maguire
Mann
Markey
Marks
Mattox
Mazzoli
Metcalfe
Meyner
Mikulski
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Motti
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Michael
Natcher
Nedzi
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten

Patterson
Pattison
Pease
Pepper
Perkins
Pickle
Pike
Pressler
Price
Rahall
Railsback
Reuss
Rhodes
Roe
Rogers
Rooney
Rosenthal
Rostenkowski
Roybal
Russo
Ryan
Santini
Sawyer
Scheuer
Schroeder
Seiberling
Sharp
Sikes
Simon
Skelton
Skubitz
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stark
Steed
Steers
Steiger
Studds
Thompson
Thornton
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walsh
Waxman
Weaver
Weiss
Whalen
Wilson, Tex.
Wirth
Wolff
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki

NOT VOTING—90

Addabbo
Ammerman
Annunzio
Armstrong
Biaggi
Breaux
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burton, Phillip
Byron
Chappell
Chisholm
Clawson, Del
Cochran
Cohen
Conyers
Corcoran
Delaney
Dickinson
Eckhardt
Emery
Evans, Colo.
Evans, Del.
Fary
Fish
Flood
Flowers
Forsythe
Fraser
Frey
Fuqua
Giaimo
Gibbons
Hagedorn
Hansen
Harrington
Hawkins
Hollenbeck
Huckaby
Jenkins
Johnson, Colo.
Kasten
Kemp
Krueger
Latta
Lehman
Lujan
McKinney
Meeds
Mikva
Miller, Calif.
Mitchell, Md.
Moorhead, Calif.
Moss
Pettis
Pursell
Quie
Rangel
Richmond
Rinaldo
Risenhoover
Rodino
Roncalio
Rousselot
Rudd
Sarasin
Shipley
Sisk
Smith, Nebr.
St Germain
Stokes
Stratton
Stump
Teague
Traxler
Tsongas
Vander Jagt
Whitten
Wiggins
Wilson, Bob
Wright
Young, Alaska
Young, Tex.
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Breaux for, with Mr. Addabbo against.

Mr. Burleson of Texas for, with Mr. Mitchell of Maryland against.

Mr. Teague for, with Mr. Richmond against.

Mr. Lujan for, with Mr. Zeferetti against.

Mrs. FENWICK and Mr. SAWYER changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PREFERENTIAL MOTION OFFERED BY MR. CHARLES H. WILSON OF CALIFORNIA

Mr. CHARLES H. WILSON of California. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. CHARLES H. WILSON of California moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

Mr. CHARLES H. WILSON of California. Mr. Chairman, I am not going to take too much time. I think this amending process could go on indefinitely. It is a bad bill. We have not passed the right amendments, and I think it is about time that we went home and started doing other business.

Mr. DERWINSKI. Mr. Chairman, I rise in opposition to the preferential motion.

Mr. Chairman, I appreciate the Members' frustration. I appreciate that some of them are tired, and I appreciate all the complications of the hour.

However, I would like to point out that we have gone about 90 percent of the way with a very difficult, absolutely necessary piece of legislation. I would like to commend all of the Members who have in any way participated in the debate. This has been a good, high class, nonpartisan handling of a major national issue.

Mr. Chairman, this is necessary legislation. This is legislation that is good for every Member's constituents. If the Members will just be patient, we are within an hour of wrapping this legislation up properly. The Members are within an hour of casting a vote for what will go down in history as one of their greatest votes as Members of Congress. If they will just stay here, Mr. Chairman, we will pass civil service reform legislation.

Mr. RHODES. Mr. Chairman, would the gentleman yield?

Mr. DERWINSKI. I yield to my distinguished statesmanlike leader.

Mr. RHODES. I do not recognize the description. I would like to differ with the gentleman most respectfully. It seems to me that after the hour of 9 o'clock—and I thought we had agreed upon this—very little is done to save the Republic. I do not recognize the absolute necessity of passing this bill tonight. It seems to me that we have many days left, and some say we are even going to come back after the election. It seems to me, if the gentleman will yield further, that this might be a very propitious time to shut down the proceedings of the House tonight. I just do not believe that it is necessary for us to consider a bill of this importance—and it is of great importance—in this type of a situation. With all of the regrets and my great respect for the gentleman from Illinois (Mr. DERWINSKI) and my good friend, the gentleman from Arizona (Mr. UDALL), I hope that the motion of the gentleman from California (Mr. CHARLES H. WILSON) will be adopted.

Mr. DERWINSKI. No; just a minute. Do not hope that much. The gentleman from California is moving to strike the enacting clause, and I am sure my distinguished leader, the gentleman from Arizona, is just referring to the Committee's rising for the evening.

Mr. RHODES. If the gentleman would yield further, actually, if the committee votes to strike the enacting clause, we would go back into the House, and then, before the House agrees to the recommendation of the Committee we could adjourn, if we want to adjourn. We cannot adjourn from the Committee of the Whole. That is the main reason I think the gentleman's motion is well taken.

Mr. DERWINSKI. I realize that, but we do not want anybody in the well to think that our distinguished minority leader is momentarily in the embrace of the gentleman from California (Mr. CHARLES H. WILSON).

Mr. CHARLES H. WILSON of California. If the gentleman will yield, why not?

The CHAIRMAN. All time for debate on the motion has concluded. The question is on the preferential motion offered by the gentleman from California (Mr. CHARLES H. WILSON).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CHARLES H. WILSON of California Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 46, noes 286, not voting 100, as follows:

[Roll No. 752]

AYES—46

Applegate
Ashbrook
Barnard
Bauman
Breckinridge
Broomfield
Broyhill
Carter
Coleman
Collins, Tex.
Crane
Davis
Dornan
Duncan, Tenn.
Edwards, Okla.
Flynt
Hammer-schmidt
Harris
Holt
Kindness
Leggett
McDade
McDonald
McEwen
Marlenee
Mazzoli
Murtha
Myers, Gary
Myers, John
Quayle
Quillen
Rhodes
Runnels
Sawyer
Schulze
Sebelius
Shuster
Snyder
Spellman
Stangeland
Steers
Symms
Taylor
Waggonner
Walsh
Wilson, C. H.

NOES—286

Abdnor
Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Baucus
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Bevill
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Brinkley
Brodhead
Brooks
Burlison, Mo.
Butler
Caputo
Carney
Carr
Cederberg
Clausen, Don H.
Clay
Cleveland
Collins, Ill.
Conable
Conte
Corman
Cornell
Cornwell
Cotter
Coughlin
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
de la Garza
Dellums
Dent
Derrick
Derwinski
Devine
Dicks
Diggs
Dodd
Downey
Drinan
Duncan, Oreg.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
English
Erlenborn
Ertel
Evans, Ind.
Fascell
Fenwick
Findley
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Frenzel
Gammage
Garcia
Gaydos
Ginn
Glickman
Goldwater
Goodling
Gore
Gradison
Grassley
Green
Gudger
Guyer
Hall
Hamilton
Hanley
Hannaford
Harkin
Hefner
Heftel
Hightower
Hillis
Holland
Holtzman
Horton
Howard
Hubbard
Hughes
Hyde
Ireland
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kelly
Keys
Kildee
Kostmayer
Krebs
Lagomarsino
Le Fante
Leach
Lederer
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Luken
Lundine
McClory
McCloskey
McCormack
McFall
McHugh
McKay
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marriott
Martin

Mattox	Pike	Steiger
Meeds	Poage	Stockman
Metcalfe	Pressler	Stokes
Meyner	Preyer	Studds
Michel	Price	Thompson
Mikulski	Pritchard	Thone
Miller, Ohio	Rahall	Thornton
Mineta	Railsback	Treen
Minish	Regula	Trible
Mitchell, N.Y.	Reuss	Tucker
Moakley	Roberts	Udall
Mollohan	Robinson	Ullman
Moore	Roe	Van Deerlin
Moorhead, Pa.	Rogers	Vanik
Mottl	Rooney	Vento
Murphy, Ill.	Rose	Volkmer
Murphy, N.Y.	Rosenthal	Walgren
Murphy, Pa.	Rostenkowski	Walker
Myers, Michael	Roybal	Wampler
Natcher	Ruppe	Watkins
Neal	Russo	Waxman
Nedzi	Santini	Weaver
Nichols	Satterfield	Weiss
Nix	Scheuer	Whalen
Nolan	Schroeder	White
Nowak	Seiberling	Whitehurst
O'Brien	Sharp	Whitley
Oakar	Sikes	Winn
Oberstar	Simon	Wirth
Obey	Skelton	Wolff
Ottinger	Skubitz	Wydler
Panetta	Slack	Wylie
Patten	Smith, Iowa	Yates
Patterson	Solarz	Yatron
Pattison	Spence	Young, Fla.
Pease	Staggers	Young, Mo.
Pepper	Stanton	Zablocki
Perkins	Stark	
Pickle	Steed	

NOT VOTING—100

Ammerman	Flood	Pettis
Annunzio	Flowers	Pursell
Armstrong	Forsythe	Quie
Biaggi	Fraser	Rangel
Breaux	Frey	Richmond
Brown, Calif.	Fuqua	Rinaldo
Brown, Mich.	Gibbons	Risenhoover
Brown, Ohio	Gonzalez	Rodino
Buchanan	Hagedorn	Roncalio
Burgener	Hansen	Rousselot
Burke, Calif.	Harrington	Rudd
Burke, Fla.	Hawkins	Ryan
Burke, Mass.	Hollenbeck	Sarasin
Burleson, Tex.	Huckaby	Shipley
Burton, John	Ichord	Sisk
Burton, Phillip	Jenkins	Smith, Nebr.
Byron	Johnson, Colo.	St Germain
Cavanaugh	Kasten	Stratton
Chappell	Kemp	Stump
Chisholm	Krueger	Teague
Clawson, Del	LaFalce	Traxler
Cochran	Latta	Tsongas
Cohen	Lehman	Vander Jagt
Conyers	Lujan	Whitten
Corcoran	McKinney	Wiggins
Delaney	Mathis	Wilson, Bob
Dickinson	Mikva	Wilson, Tex.
Dingell	Milford	Wright
Eckhardt	Miller, Calif.	Young, Alaska
Emery	Mitchell, Md.	Young, Tex.
Evans, Colo.	Moffett	Zeferetti
Evans, Del.	Montgomery	
Evans, Ga.	Moorhead, Calif.	
Fary	Moss	
Fish		

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

Mr. UDALL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we have had a long and difficult day, and I must say that it has been a very productive day. The Members have been cooperative, and we have not had the kind of dilatory tactics some had feared. But the hour is late, and I am not sure we can be productive much longer. We do have a number of important amendments left.

Mr. Chairman, I am going to make a unanimous-consent request in just a moment, and if it is agreed to, at that point I would move that the committee rise. I am told by the leadership that we will come back on this bill perhaps on Wednesday, but not tomorrow.

Mr. Chairman, my unanimous-consent request is that the remaining time for debate on title VII, and all amendments thereto—that is the title we are now considering—be limited to a total of 2 hours.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

Mr. CHARLES H. WILSON of California. Mr. Chairman, reserving the right to object, this is just title VII?

Mr. UDALL. If the gentleman will yield, this is title VII only.

Mr. CHARLES H. WILSON of California. Further reserving the right to object, the gentleman is not asking that the entire bill be limited to 2 hours?

Mr. UDALL. No.

The remaining titles are not very controversial and are not very long. I am assuming that after we finish title VII, in a very rapid pace we could finish up the bill. But the pending request relates to title VII only.

Mr. CHARLES H. WILSON of California. I thank the gentleman.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

Mr. ASHBROOK. Mr. Chairman, I reserve the right to object. Could I be informed as to how many amendments are pending on title VII?

Mr. UDALL. It has been anticipated at this point that the gentleman from Texas (Mr. COLLINS) would offer a complete substitute for title VII. Immediately after that, I was going to offer a substitute for that substitute, which represents a compromise we have put together over here.

The gentleman from Illinois (Mr. ERLENBORN) indicated that he had a number of amendments to my substitute, and that he would offer them in a fairly prompt fashion. At the close of that we would choose between the Collins substitute and the Udall substitute. If either one of them carries, that is the end of title VII.

Mr. ASHBROOK. Further reserving the right to object, those do sound like very substantial amendments. Does the gentleman know whether there are any other amendments?

Mr. UDALL. I am not aware of any major amendments to title VII except those that have been proposed by the distinguished gentleman from Illinois (Mr. ERLENBORN). It might be that there are perfecting amendments to either the Collins or Udall substitutes. I doubt that there would be any besides that. In any event, the Members who have printed amendments in the RECORD would be protected.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Chairman, I am sure the gentleman from Ohio will be pleased to know that the amendment to be offered by the gentleman from Texas is identical to title VII in the Senate passed bill, so that what we are down to is really a narrow difference between the Udall substitute, which is an administration amendment, in effect, to the Collins amendment, which is the Senate title VII. So, the differences between the two positions are not extreme.

Mr. ASHBROOK. I thank the gentleman, and withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

Mr. GARY A. MYERS. Mr. Chairman, reserving the right to object, I do so make inquiry on parliamentary procedure. It is normal parliamentary procedure upon such a request for Members to stand and request time. Is it the Chairman's intent that the time to be divided be divided tonight?

The CHAIRMAN. The Chair would advise the gentleman that the Chair would not intend to divide the time tonight, but that subject will be taken up at the time we reconvene in connection with this bill.

Mr. GARY A. MYERS. I thank the Chair, and I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

Mr. FRENZEL. Mr. Chairman, reserving the right to object, as I understand it, there will be two substitutes posed, and a number of Members have amendments in the RECORD. They are, of course, amendments to the bill and not to the substitutes. I wonder if the Chair could tell me how we could protect the amendments which are now filed so that they would be in order and have time under the proposal that the gentleman suggests, to either of the substitutes.

The CHAIRMAN. The Chair advises the gentleman that the amendments which have been printed in the RECORD would be protected under our rules.

Mr. FRENZEL. Will we be able to make the amendments to the substitute, Mr. Chairman?

The CHAIRMAN. Yes. If they can be redrafted to pertain to the substitute, and placed in the RECORD, the answer is in the affirmative.

Mr. FRENZEL. I thank the Chair.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Chairman, to further demonstate the absolute cooperation that is developing, the gentleman from Illinois (Mr. ERLENBORN) has filed his amendments in the RECORD so that the record of what we are going to get to is clear. We think we are moving on an open basis toward final solution.

Mr. FRENZEL. I thank the gentleman, and I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

Mr. CHARLES H. WILSON of California. Mr. Chariman, I object to the unanimous-consent request.

The CHAIRMAN. Objection is heard.

Mr. UDALL. Mr. Chairman, I move that all debate on title VII and all

amendments thereto be limited to 2 hours for that debate purpose when we resume.

The CHAIRMAN. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL).

The motion was agreed to.

● Mrs. SCHROEDER. Mr. Chairman, I want to make a few comments regarding the effect of the two amendments offered by Mr. BOLAND and Mr. COLLINS of Texas as they affect the "whistleblower" provisions of H.R. 11280.

First. Generally, the merit system principles apply throughout Government to all executive agencies, including CIA, FBI, and everybody else. The President is required to take action to implement these principles, including section 2301 (c)(9) which requires the protection of whistleblowers.

Second. Generally, although Government corporations, CIA, FBI, and GAO are exempted from prohibited personnel practices, other existing law prohibits discrimination, Hatch Act violations, and nepotism in these agencies. With the exception of the whistleblower protection, the prohibited personnel practices are merely the codification of existing law. As to whistleblower protection, the FBI is specifically brought in under the Collins-Udall compromise, and the President will act as Special Counsel. For other agencies, the merit system principles, as implemented by the President will cover them.

Third. Generally, although the Special Counsel is only required to receive complaints and guarantee anonymity to employees in agencies covered by Prohibited Personnel Practices, nothing precludes the Special Counsel from receiving complaints and guaranteeing anonymity to anyone. He cannot, however, ever receive foreign intelligence or counterintelligence information nor can he order an agency investigation where the complaint does not come from an agency covered by prohibited personnel practices, whether or not the complaint concerns the agency in which the individual is employed.

Fourth. With regard to the FBI, the President's regulations required for the FBI must protect the same sort of information as the bill protects. What the President can vary is the enforcement of those principles. He can, but need not, give the enforcement power to the Special Counsel. The President's regulations must include some employee complaint handling mechanism, although the current procedures are satisfactory to meet this requirement.

Fifth. Generally, under the Special Counsel's general investigatory powers, as modified, the Special Counsel has the basic power to investigate allegations of arbitrary or capricious withholdings of information under the Freedom of Information Act, regardless of whether court-ordered discipline is required under section 552(a)(4)(F), unless the request deals with foreign intelligence or counter-intelligence information.

Sixth. Generally, the Special Counsel, under 1206(g)(1)(A) to seek disciplinary action against offending employees as the result of any investigation in the section, including investigations prompted by employee complaints to the Special Counsel.* * *

Seventh. Generally, the basic thrust of the whole section dealing with employee complaints is to encourage, but not require, internal attempts at revolving the wrongdoing. The goal is to rout wrongdoing out of the Federal Government as much as to protect the first amendment rights of employees.●

● Mr. FRENZEL. Mr. Chairman, the President has a rather low batting average in converting ideas into law. Partly it is his fault, but partly it is ours. When he has a good proposal, we ought to pass it even if it disturbs our personal comfort zones.

The President's civil service reform is a good idea. The American people think so, too. So did ex-President Ford who submitted a similar proposal. The need for tightening up the Federal bureaucracy, and for making it more responsive and manageable, is obvious.

The administration's plan was basically a good one. It still is. It addresses not all, but many, of the most glaring problems. Even our hard-to-please colleagues in the other body have passed it overwhelmingly.

Our Post Office and Civil Service Committee, has, however, made many changes which I deem inappropriate and unacceptable. The original bill was designed to make the civil service more manageable. The committee amendments, in some cases, make it the opposite. A case in point is the expanded scope of collective bargaining. These changes, made by the committee should be eliminated, and the original language, essentially retaining the provisions of the Executive order covering labor-management relations, should be restored.

Perhaps the most controversial section of the bill deals with the preference accorded to veterans in Federal employment. There is a real problem here. Women and minorities are not advancing as quickly as most of us would like in the Federal service. Nevertheless, a good, clear-cut case has not been made that veterans' preferences are a major retardant. I am unwilling, at this time, to take away the rights and preferences now accorded to veterans, and therefore intend to support the Hanley amendment to restore current preferences. However, there is some justice in what the President is saying and I would suggest a thorough study of this whole subject by the committee. At this point, we should not hold up, or jeopardize the passage of the bill because of this item.

The other highly controversial change made by the committee is the repeal of the Hatch Act. It is not germane to this bill and should be removed in a point-of-order. If not, I shall certainly support a motion to strike it.

The Hatch Act does need revision. But Federal employees need its protection. It should not be repealed in any case, and it should not be a part of this bill at all.

Some of my colleagues in the Republican minority are concerned about the increase in high-level, appointed jobs in the bureaucracy. Some concern is justified, but I endorse the position of the distinguished gentleman from Illinois (M. DERWINSKI) that any Chief Executive needs his own people to manage and motivate the bureaucracy. President Carter, like his predecessors, and like his successors, needs the authority to put capable managers of his own choosing into his Government if it is to be run well.

When the bad amendments are removed the House should promptly pass civil service reform. The President has made a good recommendation. This is one issue on which he has strong and justified popular support. Support here in Congress ought to be bipartisan, and it ought to be just as strong.●

● Mr. GARCIA. Mr. Chairman, I rise in support of the Civil Service Reform Act of 1978. I believe the time for change is long overdue. And I know there is much room for improvement in the functioning of the Federal civilian work force—for both those in labor and those in management.

In fiscal year 1977, $46,247,517,000 was spent on the Federal civilian employees' payroll. Presently, this payroll is averaging out to around $4,052,817,148 per month. That is an awful lot of money for the American people to pay for something that is less than the best. I welcome civil service reform because I think it is a major step toward giving us the best.

I, as one of the newest Members of Congress, am very pleased to have had the opportunity to be assigned to the committee which handled this major piece of legislation. It has been an honor for me to work long, hard hours with such fine colleagues on this committee to bring us to where we are right now. I would especially like to commend the gentleman from Arizona (Mr. UDALL) and the gentleman from Illinois (Mr. DERWINSKI) for their leadership throughout the entire process.●

Mr. UDALL. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker having resumed the chair, (Mr. DANIELSON), Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11280) to reform the civil service laws, had come to no resolution thereon.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on debate, including debate on the Hanley amendment.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

APPOINTMENT OF ADDITIONAL CONFEREES ON H.R. 11445, SMALL BUSINESS ADMINISTRATION PROGRAMS AND AUTHORIZATIONS

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to appoint additional conferees solely for the consideration of sections 117 and 118 of the Senate amendment to the bill (H.R. 11445) to amend the Small Business Act and the Small Business Investment Act of 1958.

The SPEAKER. Is there objection to the request of the gentleman from Iowa? The Chair hears none, and appoints the following conferees: Messrs. THOMPSON, GAYDOS, and BUCHANAN.

MAKING IN ORDER CONSIDERATION OF DISTRICT DAY BILLS ON TUESDAY, SEPTEMBER 12, 1978

Mr. DIGGS. Mr. Speaker, I ask unanimous consent that the business in order today under District Day be in order tomorrow, Tuesday, September 12, 1978.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, and I shall not object, a number of us including the gentleman from Maryland have had some concern about the proposed rules changes which are the subject of hearings or possibly a markup in the Rules Committee on Wednesday. I am referring to those proposed rule changes attempting to end a Representative's right to demand a second on motions to suspend the rules and the right to vote on motions to resolve into the Committee of the Whole and various other fundamental changes in the rules of the House all, I should add, under the guise of doing away with "pointless" votes on so-called "minor" procedural questions.

As the gentleman from Michigan (Mr. DIGGS) knows, unanimous-consent requests are a very useful tool in the House. They accomplish ends, and those of us who feel strongly about rules changes are not disposed to grant these unanimous-consent requests in certain circumstances.

I have had conversations with the Speaker of the House and he has told me that no rules changes will occur in this session, and with that understanding I am glad to only reserve the right to object and not object. I believe the Speaker to be a man of his word and I respect him for that. I think that we are in agreement that the best interests of the House would be served by the postponement of any rule changes until the first session of the 96th Congress.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair makes the following announcement:

It would be the hope of the Chair that we would take up the suspensions first tomorrow and have all the rollcalls occur in the afternoon, and then follow with the District bills, keeping in mind the fact that there are 14 primaries around the country tomorrow and that would give Members an opportunity to vote and then to come back here. So we would hope that the voting will take place in the afternoon.

The House will meet at noon tomorrow, the votes will come sometime late in the afternoon, and we will finish the session sometime around 9 o'clock tomorrow night.

COMPREHENSIVE REVIEW OF RETIREMENT INCOME PROGRAM

(Mr. ROONEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROONEY. Mr. Speaker, together with several of my colleagues on the Select Committee on Aging as well as Congressman JOHN H. DENT, chairman of the task force on welfare and pension plans, I am today introducing a House concurrent resolution to express the support of the Congress for the work of the President's Commission on Pension Policy and to urge this Commission, during the year long study it is about to undertake, to come to grips with the most basic issues which must be resolved before we can hope to develop the kind of cohesive and comprehensive national policy on retirement income which this country so desperately needs.

Earlier this year the Subcommittee on Retirement Income and Employment, which I chair, held several days of hearings on our national pension policies with particular emphasis on the private pension system. As you know, this Nation's present system of retirement income is a panoply of programs ranging from social security to various public and private pensions to individual savings and investments.

Since the security of millions of older Americans is directly affected by these programs and since greater demands will be placed on these various sources of retirement income by a growing proportion of retired persons, it is obvious that a more equitable and more well-coordinated system of retirement income is an urgent necessity in the United States.

In its hearings on this subject our subcommittee addressed such questions as: What should be the relative roles of social security, pension plans—public and private—and individual savings and investments in providing income to retired Americans? How should these programs be coordinated? What is an "adequate" pre-retirement earnings replacement rate? How should it be derived? We found not only that there are no readily available answers to these elementary questions, but that they have not even been adequately researched or fully discussed in any appropriate public forum.

This lack of an overall national policy is reflected in the private pension system which covers slightly less than half of the work force. The Employment Retirement Income Security Act of 1974 (ERISA) does not require employers to establish pension plans; it does not prescribe a minimum amount of benefits under any given plan; it does not require that benefits be adjusted according to changes in the cost of living.

While I believe that ERIS has extended much needed protection to individuals covered by private pension plans, the upsurge in plan terminations coupled with a decrease in the annual ratio of new plans to terminated plans since the enactment of this law would certainly seem to indicate that the private pension system is burdened with unnecessarily complex regulation by a multiplicity of Government agencies to the ultimate detriment of individuals who seek to rely on private pensions as a source of retirement income.

Notwithstanding the substantitve reforms made by ERISA, significant numbers of workers covered by private pension plans will not receive pensions reflective of their working years. Many people will never receive any benefits because they will be employed by several different employers during their careers and will change jobs before they acquire vested rights to their pension credits. We were informed by at least one expert witness that defined benefit plans can afford to pay pensions to the small proportion of employees who become vested in these plans only because of the high forfeiture rates among the preponderance of their covered workers. This, in my opinion, is a lottery system which runs contrary to basic principles of fairness and to the generally held belief that pensions are deferred wages.

All retirement income issues must, of course, be assessed within the context of today's economy. As we are all well aware, the ravages of inflation are experienced most acutely by individuals attempting to survive on fixed incomes. Regrettably only about 4 percent of private pension plans contain cost-of-living escalators.

Mr. Speaker, on the basis of the testimony presented to the subcommittee, we have concluded that if private pension plans are to be a substantial and reliable source of retirement income, the scope of their coverage must be expanded, their benefits must be distributed in a fairer manner and they must be able to keep pace with inflation. If the attainment of these goals is not feasible in the near future, I believe it will be necessary either to redefine the role of the social security system, or mandate a layer of private pension protection over and above social security, or make individual retirement accounts more widely available—or combine some or all of these approached.

It is my sincere hope that the President's Commission on Pension Policy will produce some imaginative and sound solutions to these problems, and, more importantly, that it will propose, as a result of its study, a farsighted, equitable and clearly defined policy on retirement income which we in the Congress can support and on which all older Americans can rely.

A MODEL FOR WELFARE REFORM

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. GOLDWATER) is recognized for 5 minutes.

● Mr. GOLDWATER. Mr. Speaker, we are constantly hearing of cases involving fraud in our welfare system. Just a few weeks ago I shared with the House the case of a Los Angeles County woman who collected nearly a quarter of a million dollars in welfare payments by claiming, at age 33, that she had 48 children. There are countless other cases with which, I am sure, you are familiar, probably right in your own congressional districts.

It is the failure of the bureaucracy to detect and confront welfare cheaters which incenses me and many of my colleagues, Mr. Speaker. The entire concept of providing temporary relief to economically disadvantaged individuals is not at all an improper undertaking for Government. Citizens of other nations are not quite as fortunate to have such assistance available to them.

The flagrant abuse of the system, however, demonstrates the need for an effective welfare reform program at all levels of government. It is a simple case of efficient organizational management, of being certain that the criteria for receiving benefits is complied with.

My attention has been drawn to the way in which the State of Oregon has taken action to institute reforms in its welfare system. Since last May the State has dropped 2,000 people a month from its rolls. That amounts to a reduction of about 6½ percent, an impressive figure, indeed. The Oregon Welfare Department is making an effort to reduce its $30 million deficit by passing on to volunteer private agencies, the task of caring for applicants in desperate straits. Computers have been installed to search for evidence of fraud. If an applicant applies for food stamps in one office, the computer will reject any claim made for food stamps in another welfare office. An attempt is made to provide every applicant for welfare with a suitable job, or training which will prepare them for one. A recent feature on the CBS Morning News profiled one applicant for welfare money who started training with a Portland firm, and has now earned three promotions in his 2½ years with the company, not to mention the sense of pride and self-esteem he has gained.

I think the strides toward welfare reform which Oregon has made is worthy of congressoinal review. I represent a district in the neighboring State of California, and I know my constituents would certainly welcome changes in this direction for its welfare system. If Oregon could do it, I do not see why this cannot be a reasonable goal for other jurisdictions. We can make the welfare program a viable one, Mr. Speaker, if the Congress would only make the commitment to take reform measures along the lines of those which Oregon has put into practice.●

A PERSONAL EXPLANATION

The SPEAKER. Under a previous order of the House, the gentleman from Connecticut (Mr. MCKINNEY) is recognized for 5 minutes.

● Mr. MCKINNEY. Mr. Speaker, due to commitments in the Fourth Congressional District, I was unable to be present during consideration of the legislative calendar for Friday, September 8. Had I been in attendance, I would have cast the following rollcall votes:

Rollcall No. 740; "yea."
Rollcall No. 741; "nay."
Rollcall No. 742; "yea."
Rollcall No. 743; "yea."●

IN OPPOSITION TO THE VARIABLE RATE MORTGAGE

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, homeowners across the country may be saddled with 40-year mortgages if a title to the Financial Institutions Regulatory Reform Act becomes law.

I am referring to title XVIII of the Reform Act, which allows Federal savings and loan institutions to offer variable rate mortgages in States where State-chartered associations may offer the controversial loan plan.

The variable rate mortgage has an interest rate that fluctuates with change in the money supply, with an allowance of a 2½-percentage-point increase over the life of the mortgage. When interest rates rise, the homeowner is given the choice of increased monthly payments or an extension of the mortgage at the same rate of interest. On a $60,000 home made with today's prevailing interest rate of 10 percent, which was adjusted to the maximum amount of interest allowed, 12½ percent, this theoretical mortgage would be extended a full 10 years.

Mr. Speaker, it is not out of the question for interest rates to rise by 2½ percent under a variable rate mortgage. I cannot fathom how this mortgage plan can possibly be construed as beneficial to consumers in any manner, considering a very real possibility of a 10-year extension on a home mortgage.

What rationale does exist for a variable rate mortgage? The savings and loan industry maintains that the VRM is needed for two reasons: First, consumers want a broader choice in home financing, and second, the instrument is needed to insure a steady flow of funds into savings and loan associations to be used for mortgage lending.

The problems faced by the savings and loan industry during periods of tight credit are very real. However, in the past several months, important steps have been taken to assure that savings and loan associations can effectively compete for savings during such periods. I am referring to the two new savings certificates that savings and loans began issuing June 1. One new instrument allow thrifts to pay rates on 6-month certificates equal to the 6-month Treasury bill discount rate plus 25 basic points. The other new instrument is an 8-year certificate that draws 8 percent interest. Together, these new instruments have greatly aided the savings and loan industry in attracting new savings during today's period of tight credit.

The industry has already felt the positive effects of these two certificates. The Federal Home Loan Bank Board reported that net new savings receipts of savings and loan associations rose sharply in July, in fact, to the largest volume since last summer. The amount of savings in certificates rose 20 percent in July, to a total of $3.059 billion as compared to $2.538 billion in June. And the industry further reported that 40 percent of the money invested in these certificates is "new money," that is, money from other sources than that already in savings accounts.

It would be ridiculous to say that all of the savings and loan industry's problems have been solved by these two new certificates. But, the truth is that the industry has benefited greatly from these instruments and they have come a long way in stabilizing the deposit base in savings and loan associations as well as attracting new funds.

These two new certificates have helped avert the situation of 1975, when savings and loan associations were greatly strapped for new funds. It was also in 1975 when Congress previously considered allowing variable rate mortgages to be offered in Federal associations. Despite the gravity of the S. & L.'s situation in 1975, a period of severely tight credit, both Houses of Congress prohibited any issuance of variable rate mortgage regulations. The prevailing reason—the threat this mortgage instrument posed to consumers far outweighed the advantages offered to the savings and loan industry.

Consider the typical homeowner today. He is the victim of record housing costs, record interest rates, record utility costs and record food costs. Fewer and fewer Americans can afford to buy a home. And an even smaller amount can afford to buy a home on one person's income. Many young couples must put off starting a family in order to afford a home.

This brings us to the issue of consumers wanting a broader choice in home financing. There is a great deal of truth in this statement. A recent survey found that 87 percent of those surveyed wanted greater availability of alternative mortgage instruments as opposed to the conventional, fixed rate loan. But, when the survey further broke down into the different types of alternative mortgage instruments, a more accurate picture emerges. Only 12 percent of those surveyed were interested in an increased availability of the variable rate mortgage. The loan plans that consumers want are the graduated payment mortgage, a loan plan where the monthly payments begin at a lower rate and increase over the life of the loan, and the reverse annuity mortgage, a loan plan which allows senior citizens to draw a monthly payment based on the equity of their homes.

What constituency does exist for the variable rate mortgage? It is clearly not the consumer. The administration has opposed the loan plan, calling it inflationary. The housing industry has opposed the VRM. The president of the National Association of Home Builders, Ernest A. Becker, Sr., has said the mortgages will "cost future homebuyers untold millions of dollars in additional mortgage interest." Organized labor has gone on record opposing the variable rate

mortgage, as well as consumer groups across the country.

It is clear that the only group pushing for the VRM is the savings and loan associations themselves. The reasons are self-explanatory. It allows the industry to pass on the increased costs of inflation to the borrower, and will represent a tremendous profit to the associations each time the interest rate climbs.

I stand in total opposition to title XVIII of the Reform Act. It poses a great threat to consumers. I shall do everything in my power to see this amendment defeated on the floor of the House.●

THE NATION TO OBSERVE ROSH HASHANA, OCTOBER 2 AND 3

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. ADDABBO) is recognized for 10 minutes.

● Mr. ADDABBO. Mr. Speaker, on October 1, 2, and 3, the Nation will observe Rosh Hashana, which are the High Holy Days for the people of the Jewish faith. I join with my colleagues in wishing a very happy and healthy new year to all of our citizens of the Jewish faith.

I also ask unanimous consent to put into the RECORD a short article by Rabbi Jehuda Melber of the Briarwood Jewish Center, which provides a historical summation of these important holidays. I think the Members of the House who might not be familiar with the background of these holidays will find the article fascinating reading:

FROM THE RABBI'S DESK

Due to the fact that last year 5738 was a leap-year, we celebrate the High-Holidays of 5739 at a much later period. This gives us a greater opportunity to do some deeper thinking and contemplating about the significance of Rosh Hashana and Yom Kippur. Rosh Hashana will be on Monday, October 2nd and Tuesday, October 3rd; Yom Kippur on Wednesday, October 11th. Let us therefore consider two questions with regard to Rosh Hashana:

A) What is the difference between Rosh Hashana and the other Jewish holidays?

B) What is the difference between the Jewish New Year's celebration and that of the Gentile world?

The replies to these questions shed brighter light for a better understanding of our tradition in general.

A) The difference between Rosh Hashana and the other Jewish holidays lies in the fact that all other holidays are referred to the Jewish "*nation*" in historical retrospect, whereas Rosh Hashana is addressed to the Jewish "*individual*" on a strictly singular basis: a day of judgement for every *single* person. Here the Jewish calendar in its totality represents a double concept of developing a sense of responsibility: Every person is responsible for *himself* and for the *society* in which he lives. No one has the right to disregard this double responsibility, as a wholesome discipline for proper human life. And when you ask which comes first, the answer is: Rosh Hashana is the *beginning* of the year, and so it is with the principle of responsibility. The accountability of the individual comes first.

B) The difference between the Jewish New Year's celebration and that of the Gentile world is quite obvious: The first of January is celebrated with dining and wining, with merry making spectacles and hilarity. But the first of Tishrei is celebrated with prayer and devotion, with soul searching and spiritual inventory taking. That makes it of course more inspiring and uplifting.

Let us therefore hope that Rosh Hashana of 5739 will indeed bring a new era of dedication to the tenets of the Bible's guidance, a new period of peace and harmony between man and neighbor, and nation. Let this forthcoming Rosh-Hashana be the end of our suffering and the beginning of our salvation for Klal-Israel and for all mankind.

Wishing all our members and friends a very Happy and Healthy New Year.

Your devoted Rabbi

DR. JEHUDA MELBER.●

GETTING DEADWOOD OUT OF CONGRESS

The SPEAKER. Under a previous order of the House, the gentleman from Montana (Mr. BAUCUS) is recognized for 5 minutes.

● Mr. BAUCUS. Mr. Speaker, once progressives called Congress an enemy of change. People said moss-headed Congressmen prevented progress in the country.

Recently that has changed. Congress has found new solutions as new problems developed.

We have been successful in reducing poverty and expanding educational opportunities for all Americans. We have closed many of the legal loopholes that benefited only the rich and powerful.

We have curbed the disastrous decline in environmental quality. We have increased employment opportunities.

But Congress has missed a point. The point is that we have only a limited amount of resources to commit to solving national problems.

Too many times Congress has addressed problems by creating new programs. The result is that Government has gotten out of touch and out of control.

The Federal Government now consists of 11 Cabinet-level departments. Plus 44 independent agencies. Plus 1,240 advisory boards, committees, commissions, and councils.

In all, we have over 1,000 Federal spending programs.

There may have been a time when we could afford those programs, and and not worry which ones were working and which ones were not.

But budget realities of today and tomorrow do not leave room to waste scarce resources. We cannot—and should not—continue to pay for a system where one hand does not know what the other is doing.

Let me give you one example. A General Accounting Office study of health care clinics in the District of Columbia found eight clinics in one neighborhood. These clinics were funded under several Federal programs, and each administrator was unaware of what the others were doing.

Several of these subsidized doctors were seeing only a handful of patients a day. Meanwhile, the citizens of Baker, Mont., cannot find a doctor at all.

I would like to discuss some of my ideas for attacking Government spending. None of these ideas are new—I have been pushing some of them for years.

We have heard many proposals recently that frankly amount to wishful thinking or hot air or a combination of both.

I am going to talk about solid proposals—ideas that will work, and that have a reasonable chance of being enacted by this Congress.

LIMIT FEDERAL SPENDING

First, Congress must limit Federal spending. Recent growth in Federal outlays is shocking: From less than $200 billion in 1970 to $480 billion for 1979.

The time has come for a freeze on spending. I recommend that next year's budget resolution call for—at most—$490 billion in outlays. I will vote against any budget resolution calling for higher spending.

And I will point out that I voted against both the first and second concurrent budget resolutions this year because the spending levels were unacceptably high.

A $490 billion limit would let current programs continue. Because of inflation, there would be a reduction in real terms.

But there is some waste and unnecessary spending in every agency; all we would really be doing is cutting out some fat.

During the spending freeze, Congress can concentrate on getting the most service per dollar spent.

SLASH FEDERAL PROGRAMS

In 1975 I joined Congressman BLANCHARD in introducing the Government Economy and Spending Reform Act. Senator MUSKIE introduced a similar bill in 1976.

Senator MUSKIE calls our legislation the Sunset Act. I prefer to call it the meat ax bill.

The notion is that all spending programs would be divided into five groups. Each year, Congress would examine one of the groups.

And unless Congress specifically voted to continue each specific program, it would automatically expire.

Let me point out why this meat ax approach is needed.

The medicaid program began in 1965. This year it will cost $11 billion, and I am concerned that too much of that money goes to line doctors' pockets. But medicaid has never had a top-to-bottom review by Congress.

We are spending million every year to improve rivers and harbors. Some of these expenditures are the result of laws passed by Congress in 1899—laws the Congressional Budget Office says have never been reviewed.

Revenue sharing was designed in 1976 to provide assistance for State and local governments hit by recession. The program was supposed to end automatically when unemployment dropped. Unemployment dropped all right, but now President Carter wants to continue the program and focus it exclusively on big cities.

Of the 1,200 spending programs identified by the General Accounting Office, over 800 are permanently authorized. That means they never come up for review or reconsideration by Congress.

The spending reform bill did not get much attention in the 94th Congress, so I cosponsored it again in April of 1977.

The measure will soon be debated on

the Senate floor and the House Rules Committee has held hearings.

This legislation is essential to help Congress rein in on excessive spending. It is essential to get the deadwood out of Government.

ABOLISH "TAXFLATION"

Our tax system provides automatic tax increases that let Government keep getting bigger. I call this phenomenon taxflation and I want it stopped.

Here is how it works. Suppose you and your spouse together have a taxable income of $22,000. Your income tax would be $4,044.

Suppose that you both get a 7-percent cost-of-living increase to help keep up with inflation. Your income would be $23,540—and according to IRS schedule Y, your new tax is $4,489.

That is an 11-percent tax increase, even though in real terms your income stayed the same.

One report I read estimated that a 10-percent increase in the Consumer Price Index raises Government revenues 16 percent.

Several months ago I introduced legislation to end this taxflation. My bill would adjust tax brackets upward each year according to the CPI—the best available measure of inflation.

I am gratified that part of this year's tax reduction bill adjusts brackets upward 6 percent to account for last year's inflation. But I will continue my efforts to pass legislation so this is done automatically every year.

Ending taxflation would be a solid step toward making Government more accountable and less expensive.●

COMMUNITY CREDIT NEEDS ACT OF 1978

The SPEAKER. Under a previous order of the House, the gentleman from Rhode Island (Mr. ST GERMAIN) is recognized for 5 minutes.

● Mr. ST GERMAIN. Mr. Speaker, today, I am introducing a bill which will be the focus of a Subcommittee on Financial Institutions markup in the near future. This legislation is a composite of three bills, the subjects of which have been discussed during hearings held in July and August and concluding Thursday of this week. The Thursday hearing will allow formal testimony on the provisions of H.R 13748 (regulation Q extension and transaction account differential elimination—CONGRESSIONAL RECORD, August 4, 1978, p. 24479). In addition, testimony will be received from those witnesses whose requests to testify could not be accommodated during the hearing period July 20 to August 10.

Title I of the bill extends regulation Q for 3 years and eliminates the differential on savings accounts at thrift institutions which are tied to an automatic transfer of funds to third-party accounts. This is identical to H.R. 13748. The hearing will allow opportunity for the subcommittee to consider suggestions for changes in the language regarding such accounts. For example, it has been suggested that the treatment of bill-payer services and transfers of interest income from certificates of deposit may need clarification.

Title II is a restatement of the investment authority of Federal savings and loan associations with four substantive changes in that authority. Section 5(c) of the Home Owners' Loan Act of 1933—the basic statute governing the operation of federally chartered savings and loans—is a complex statute which has needed simplification for many years. This legislation will accomplish that goal. the changes in investment authority all relate to the Federal Home Loan Bank Board's efforts to encourage more activity by Federal savings and loans in urban areas. Three of these changes were recommended by the Federal Home Loan Bank Board:

First. An updating of the authority of savings and loans to invest in community development assistance areas.

Second. A clarification and enhancement of the authority of savings and loans to invest in loans for property alteration, repair, or improvement.

Third. A revision and expansion of the authority to invest in obligations issued by State or local governments for the purposes of rehabilitation, financing or construction of residential real property.

The fourth change builds upon the Home Loan Bank Board's efforts to encourage Federal savings and loans to work in cooperation with State and local governments by placing in the unlimited investment category the authority for associations to invest in or lend to State housing corporations provided that the obligations are secured by real estate insured under the provisions of the National Housing Act. As stated the Board recommended a change in investment authority to allow savings and loans to invest in obligations issued by State or local governments for residential housing. This authority would limit such investments to 5 percent of an association's assets subject to requirements that the obligations be rated, or have a reserve or sinking fund, or have sufficient collateralization or guarantees. There are, however, some State obligations which are similar to direct investments in National Housing Act insured mortgages already allowed by statute. These obligations are issued by State housing corporations, are fully secured by residential mortgages, have full FHA insurance, and have full protection available in the event of default. Thus, the State housing corporation is between the savings and loan and FHA, the savings and loan receives a good yield and invests in a productive community project, and the State housing corporation can more readily market its bonds. This additional authority is in conjunction with the Board's own proposals and should make more funds available for housing in our communities.

Title III establishes a central liquidity facility for credit unions and is almost identical to H.R. 11310. The changes reflect suggestions made by National Credit Union Administrator Lawrence Connell, Gov. Philip Jackson of the Board of Governors of the Federal Reserve System and others during subcommittee hearings. The changes are:

First. Language to eliminate the possibility of double stock subscriptions in the facility;

Second. A requirement that NCUA not approve an extension of credit which is intended to expand a credit union's portfolio rather than to serve liquidity needs.

Third. A requirement that NCUA consider a credit union's creditworthiness prior to granting an application for assistance from the facility;

Fourth. A provision for emergency extensions of credit to State chartered credit unions by using a State share insurance fund of which the credit union is a member;

Fifth. Language to allow Federal reserve banks to act as fiscal agents, custodians, or depositories for the facility; and

Sixth. Revised borrowing authority to limit the total amount of such borrowing to 12 times capital stock and surplus of the facility. The 12 would apply whether the borrowings have a Government guarantee or not. This is comparable to the borrowing authority for other Federal Government entities.

It is my hope that the committee can expeditiously act on this legislation.●

REPORT ON SELECT COMMITTEE ON ASSASSINATIONS

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. STOKES) is recognized for 5 minutes.

● Mr. STOKES. Mr. Speaker, the Select Committee on Assassinations is well on its way to fulfilling the legislative mandate of this House. Each of the three main areas of our legislative mandate—First, who were the assassin(s) of Dr. Martin Luther King, Jr. and President John F. Kennedy; second, did the assassin(s) have aid or assistance either before or after the assassinations; and third, how did the agencies and departments of the U.S. Government perform in investigating the assassinations—are being fully explored.

The public hearings into the assassination of Dr. Martin Luther King, Jr. commenced the week of August 14, 1978. During the course of those hearings, I believe the extensive and professional work the committee has done was apparent. The committee commenced to make public the results of its year-and-a-half-long investigation into this case. It has looked at over 21 conspiracy allegations, and made numerous trips to every place James Earl Ray was known to visit. Indeed, the total number of points traveled to were over 700. More than 75 witnesses gave testimony in executive session and on 41 occasions, orders of immunity were obtained so that witnesses could fully testify. As for agency files, over 360 have been reviewed. Their quantity, however, was far greater than that number as one file can range from a few pages to literally thousands. Finally, several consultants were employed to bring scientific expertise into the required areas.

Public hearings on our investigation into the assassination of President John F. Kennedy commenced last week. As is equally apparent from these hearings, the select committee has spent long and detailed hours investigating this case. More than 500 places had to be visited. Over 1,500 witness interviews were conducted and more than 75 witnesses were

questioned in executive session. In excess of 500 files were reviewed. Indeed, these figures are as of the first 6 months of the year and have steadily grown. More so than the investigation into the death of Dr. Martin Luther King, Jr., scientific consultants have played a major role in the investigation of President Kennedy's assassination due to the evidence available. They have ranged through such diverse fields as photography, pathology, acoustics, ballistics and neutron activation analysis.

The supplementary funding request the committee is currently seeking will enable the committee to fully and professionally complete the work that has been mandated by this House. The failure to do so would be a disservice to the American people and only further foster rumors and allegations that surround each of these assassinations. By giving the select committee the full amount that we have requested, we can be assured that no shortcuts will have to be taken or necessary work left undone. The public hearings and, equally if not more important, the select committee's final report will be a credit to the House of Representatives.

During the course of the select committee's request for sufficient funds to complete its public hearings and write a complete final report, several allegations have been reported in the newspapers concerning the manner in which the select committee has been fiscally managed. I wish to assure you, and other Members of the House, that the select committee has been extraordinarily mindful of the taxpayer's dollar—it has operated in a responsible manner that is totally consistent with the directives of this House. The allegations of excessive expenditures and fiscal management are totally false.

It was reported in a newspaper that a Member of Congress loudly complained that the committee had made no effort to live within the $2.5 million budget the House gave it earlier this year. When the select committee's budget request earlier this year was reduced by the Subcommittee on Accounts, that subcommittee gave the select committee the same amount of money the select committee had appropriated in 1977. However, the forecast known requirements of the investigation were higher. In addition, there were other costs, for example, scientific projects, where actual expense could not then be forecast. When informed of these facts, the Accounts Subcommittee told the select committee that it would be perfectly appropriate to request additional funds if the appropriated funds could not finish the investigation. This is precisely what has happened, and why these funds are now being requested. The directive from the Accounts Subcommittee was not to restrict the investigation to only $2.5 million; it was to do a proper investigation, and if more than $2.5 million should be necessary, additional funds could be requested and authorized. The Accounts Committee was informed at that time that this additional request was almost certainly necessary—they did not change their position.

It has been charged and reported in the newspapers that the Select Committee's salaries are excessive. In fact, monthly reports filed with the Committee on House Administration for other House committees of comparable size to the Select Committee show their average salaries to be $4,600 to $5,400 higher than the Select Committee, with the percentage of salaries $30,000 and up substantially higher than the Select Committee.

It was reported in the newspaper that the Accounts Subcommittee staff was ordered to examine the Select Committee's financial records and put them in order. In fact, the senior staff member from the Committee on House Administration dispatched to carry out this assignment declined to do so as being unnecessary.

It was reported in the newspaper that the Select Committee has not been properly reporting its spending, especially in the area of its 56 secret consulting contracts. In fact, the Select Committee has filed every report required by the Committee on House Administration, the Finance Office of the Clerk of the House, and the Rules of the House of Representatives. As to consultants, the Committee on House Administration approved keeping that part of the monthly reports on a confidential basis until conclusion of the investigations. This was done mainly to protect the consultants from being prematurely harassed by the news media and others for the results of their findings.

As can be seen, Mr. Speaker, the Select Committee has consistently operated within the directives of the House. The allegations of fiscal mismanagement are without any merit, and I believe it important that the record reflect the true facts. At this point, I request permission to insert into the RECORD an analysis of the Select Committee's funding request which was submitted to the Committee on House Administration. The first chart reflects the committee's actual funding expenditures for the first 7 months of this year. The second chart reflects our projection of the committee's funding requirements for the balance of the year.

Finally, Mr. Speaker, there has been an allegation that a member of the Select Committee staff engaged in improper conduct. On the basis of evidence available to date, this allegation is totally without merit. I hereby request permission, Mr. Speaker, to insert into the RECORD a memorandum on this subject which was submitted to the Committee on House Administration on September 6, 1978.

Mr. Speaker, I trust that this report brings the Members of the House up to date on the progress of the Select Committee and answers any questions they may have had in conjunction with this request for additional funding.

SELECT COMMITTEE ON ASSASSINATIONS—ANALYSIS OF FUNDING REQUIREMENTS, 2D SESS., 95TH CONG.

	Actual						
	Jan. 1–31	February	March	April	May	June	July
Number of staff	(115)	(115)	(117)	(116)	(118)	(118)	(114)
Salaries	$200,416	$212,328	$214,374	$213,516	$218,635	$218,531	$195,171
Travel	41,218	39,409	53,739	58,546	56,588	34,131	26,369
Witnesses	368	3,451	10,659	13,649	7,466	7,428	9,102
Stationery and supplies	18	444	1,947	1,802	2,839	75	1,048
Telephone abd telegraph	4,672	5,909	7,107	6,367	7,635	6,910	3,807
Equipment—Lease	2,145	2,512	2,455	2,731	2,496	2,341	2,132
Reproductions, etc	457	988	753	749	1,975	1,287	2,588
Books and periodicals	85	152	345	154	244	117	593
Subtotal	249,379	265,193	291,379	297,514	296,678	270,820	240,810

STATUS OF CONTRACTS

	Obligated	Estimated expenditures	Paid to July 31, 1978	Balance
Consultants	$119,642	$100,300	$49,724	$50,576
Scientific projects	171,000	171,000	18,386	152,614
	290,642	271,300	68,110	203,190

	Projection						
	August	September	October	November	December	Jan. 1 and 2	Total
Number of staff	(92)	(90)	(90)	(90)	(90)	(90)	
Salaries	$171,600	$169,000	$170,500	$171,000	$171,400	$9,129	$2,335,000
Travel	25,000	25,000	25,000	20,000	15,000	0	420,000
Witnesses	7,877	14,000	8,000	14,000	4,000	0	100,000
Stationery and supplies	3,702	1,375	1,375	1,375	0	0	16,000
Telephone and telegraph	4,193	4,000	4,000	4,000	4,000	0	62,000
Equipment—Lease	3,388	3,200	3,400	3,200	3,000	0	33,000
Reproductions, etc	4,203	16,000	4,000	2,000	0	0	35,000
Books and periodicals	310	175	175	175	175	0	2,700
Subtotal	220,273	232,750	216,450	215,750	197,575	9,129	3,003,700
Consultants							100,300
Scientific projects							171,000
Reserve for contingencies							15,000
Total funding requirements							3,290,000
Less primary funding H. Res. 956							2,500,000
Supplemental request H. Res. 1276							790,000

To: Committee on House Administration
From: Chairman Louis Stokes, Select Committee on Assassinations
Re: Allegation of Illegal Conduct by Committee Staff
Date: September 6, 1978

Attached to this memorandum is a report analyzing the allegations of illegal conduct made by Oliver Patterson and Mark Lane against the Select Committee. As of the date of this memorandum, the Committee has not yet conducted a personal interview of Mr. Patterson. The Committee attempted to interview Mr. Patterson as soon as he made his public accusations. One interview that we scheduled with Mr. Patterson for August 12, 1978 was cancelled by Mark Lane, then acting on behalf of Mr. Patterson. Mr. Patterson's present attorney, Melvin Wulf, was contacted to arrange an interview. On August 31, Mr. Wulf informed the Committee that Mr. Patterson would be interviewed, but not earlier than the week of September 11, 1978. An interview is presently scheduled with Mr. Patterson for September 15, 1978.

To evaluate Mr. Patterson's allegations, the Committee Report relies on Mr. Patterson's affidavit (Exhibit 1) and his known public and private statements. The Committee has also attended a Mark Lane/Oliver Patterson press conference during which Lane "offered" physical evidence of claimed illegal conduct on the part of the Committee. This evidence, consisting of a taperecording between Patterson and Baetz, a photograph of one of their meetings and some scrawled notes, confirmed no more than the fact that Patterson was providing information to Baetz.

In the absence, to date, of an interview with Mr. Patterson, and the production of any physical evidence he may wish to offer, the attached report is complete.

HOUSE SELECT COMMITTEE ON ASSASSINATIONS STAFF REPORT ON ALLEGATIONS OF OLIVER PATTERSON

On August 7, 1978, Oliver Patterson in a news conference publicly alleged that a Committee staff investigator, Conrad Baetz, had engaged in illegal and improper activities during the course of his Committee assignments. (See Ex. 1, formal affidavit of Patterson concerning his allegations.) Present with Mr. Patterson during his public appearances in which he has made such allegations has been Mark Lane, attorney for James Earl Ray. This report is designed to set out each of Mr. Patterson's allegations in detail and provide responses to each. The Committee is confident that these responses will reveal that Mr. Baetz's conduct was legal as well as consistent with the Rules of this Committee and the Rules of the House of Representatives.

Before engaging in an analysis of Patterson's allegations and the Committee investigation of such, it is significant to understand the lawful function that informants in general *can* and *do* perform during investigations into criminal activity. Such an appreciation is particularly appropriate in the instant case where Mr. Patterson, Mr. Lane and others have attempted to suggest that the use of informants is inherently sinister and in contravention of constitutional rights.

UTILIZATION OF INFORMANTS IN GENERAL

Proper and lawful utilization of informants and informant information has long been recognized by the federal courts to be a necessary and permissible law enforcement technique. Various court decisions have dealt specifically with the implementtaion of informants and the relationship of such to certain fundamental guarantees.

I. *Fourth Amendment:* Conversations with, or in the hearing of, an undercover agent or government informant are not a search and seizure within the meaning of the Fourth Amendment. The Supreme Court held in *Hoffa v. United States*, 385 U.S. 293, 302 (1966), that a person speaking within the hearing of a government agent is not relying on the security of any constitutionally protected area, but rather on his misplaced confidence that the listener will not reveal what is said. The use of an informant to gather evidence of incriminating statements for use against the speaker does not pose a Fourth Amendment problem. *See also United States v. Satillo*, 507 F.2d 629, (3d Cir.), *cert denied*, 421 U.S. 968 (1975) (undercover agent's testimony from notes admissible at trial); *Berlin Democratic Club v. Rumsfeld*, 410 F. Supp. 144, 153 (D.D.C. 1976) (covert penetration of organization does not violate Fourth Amendment); *State v. Humm*, 234 N.W. 2d 60, 63 (S.D. 1975) (use of informant to "pump" suspects does not violate Fourth Amendment).

Electronic eavesdropping on conversations to which a consenting informant is a party or is physically present is not a search and seizure and no warrant is required. *United States v. White*, 401 U.S. 745, 752 (1971). This is so whether a) the conversation is transmitted by a device worn by the informant, *United States v. White, supra*; b) taped by the informant, *Lopez v. United States*, 373 U.S. 427, 439 (1963); c) taped by other agents monitoring a transmission, *Ansley v. Stynchcombe*, 460 F.2d 437, 441 (5th Cir. 1973); or d) taped by other agents monitoring a telephone call, *United States v. Bonano*, 487 F. 2d 654, 658 (2d Cir. 1973).

II. *Fifth Amendment:* The Supreme Court in *Hoffa v. United States, supra* at 304, also held that the use at trial of incriminating statements made to, or overheard by, an informant does not violate the defendant's privilege against compulsory self-incrimination. Such statements are made voluntarily and lack any element of compulsion. Lower federal courts have consistently held that informant obtained statements are admissible and do not violate the defendant's Fifth Amendment privilege. *See, e.g., United States v. DiLorenzo*, 429 F. 2d 216, 219 (2d Cir. 1970), *cert. denied*, 402 U.S. 950 (1971); *Ansley v. Stynchcombe, supra*.

III. *Due Process:* Courts have seldom treated the argument that the use of an undercover agent is *per se* a violation of due process. The argument was flatly rejected by the Supreme Court in *Hoffa v. United States, supra* at 311. It failed again in *United States v. Crow Dog*, 532 F. 2d 1182, 1197 (8th Cir. 1976), where the informant infiltrated a political organization when several of its members were under indictment.

Hence, this brief review of relevant case lay clearly identifies the constitutional propriety of informant use. No provisions of either the Rules of this Committee or the Rules of the House of Representatives limit or modify in any way the constitutionally prescribed methods of informant utilization.

COMMITTEE INVESTIGATION OF PATTERSON ALLEGATIONS INTRODUCTION

By his own admission (See Patterson affidavit, Exhibit 1 at page 1, paragraph 4), Oliver Patterson was an informant for the FBI during 1970 and 1971 to obtain information from Jerry Ray, brother of James Earl Ray, and J.B. Stoner, an avowed racist with an alleged background of violence. (Stoner also was a former attorney for James Earl Ray.) This Committee has clearly indicated to both Jerry Ray and Stoner that they are considered as subjects of its investigation into the murder of Dr. Martin Luther King, Jr. Given this characterization of Jerry Ray and J. B. Stoner and the proven intelligence capabilities of Patterson, who on one occasion advised the FBI that Jerry Ray had indicated to him the existence of a conspiracy to kill Dr. King, this Committee determined it only appropriate and propitious to ascertain Patterson's state of knowledge and capabilities for providing information relative to the possible roles of Jerry Ray and J. B. Stoner in the assassination of Dr. King. Accordingly, Patterson was not only served with a subpoena to appear before this Committee but he was also asked to provide information concerning Jerry Ray and Stoner on a continuing basis. He enthusiastically agreed.

SPECIFIC ALLEGATIONS

A. Role and payment of money.

Mr. Patterson himself was never a member of the staff of the Committee. His role was solely that of a subpoenaed witness, who, in fact, provided a statement under oath, and who provided additional information to the Committee relative to J. B. Stoner and Jerry Ray. Neither the testimony of Mr. Patterson nor his information were paid for. Mr. Patterson was advised that his role as a testimonial witness and source of information would not result in the payment of money to him by the Committee, except to the extent that Patterson, like all other witnesses who have testified or provided information to the Committee, would be accorded routine reimbursement for actual expenses for lodging, food, travel, telephone and similar costs incurred during the period that such testimony or information was provided. The Committee has every reason to believe that

Patterson understood precisely that he could receive only reimbursement for his expenses and not payment for information on a *quid pro quo* basis. That Patterson knew to expect only "expense" money is demonstrated in his response to the following question administered during a recent polygraph test:

Question: Were you promised *expense* money for travel and undercover work by Pete Baetz?

Answer: Yes. (Emphasis added) [1]

B. Electronic Surveillance

Committee interviews indicate that the staff investigator did not engage in physically recording any conversation overheard by him with the consent of Patterson. Nor did he overhear any conversation without the consent of Patterson. Patterson was also explicitly told that the Committee would not seek his cooperation in the utilization of otherwise proper and legal electronic surveillance techniques in order that the recordings made as a result of such surveillance could be used by the Committee.[2] See *United States* v. *White*, supra. Accordingly, electronic surveillance equipment has neither been provided nor used by the Committee in this or any other instance. Apparently, Patterson, with a background in electronics and personal possession of the necessary equipment, elected to record certain conversations on his own. Committee interviews indicate that the conduct of the staff investigator, therefore, did not constitute violation of the Committee Rules or House Rules; it also was not illegal.[3]

C. Hair Samples and Map

Patterson has also alleged in his affidavit (Exhibit 1, page 2, paragraph 7) and his polygraph test (footnote 2, *supra*, question No. 3) that the Committee was provided with hair samples and a map from the belongings of Jerry Ray. With respect to the map, on approximately April 17, 1978, while in Washington, D.C., and sharing a motel room with Jerry Ray, Patterson asked if the staff investigators with whom he was in contact wanted him to look through the personal effects of Jerry Ray for documents pertinent to the Committee investigation. Patterson was told immediately and repetitively by both investigators that he should not engage in such conduct. Patterson next advised the Committee on the following day, and *after the fact*, that he had indeed rummaged through Jerry Ray's belongings and discovered a map that he thought would be of interest to the Committee. He inquired if he should take it and photocopy it for the Committee. After this matter was immediately brought to the attention of the Chief Counsel for the Committee, Patterson was again explicitly instructed not to take the document in question or even allow staff members to view it. Patterson advised a staff investigator in response that he was going to make a copy anyway for his own use in case he wanted to write a book. Subsequent conversations with Mr. Patterson revealed that the nature of the map suggested an active plan by James Earl Ray to escape from the Tennessee Penitentiary where he is incarcerated. Given this significance to the map, the Committee asked Patterson to provide a *copy* of the map, which was in James Earl Ray's handwriting, so that the Committee could alert the appropriate law enforcement officials to prevent any escape attempt on the part of James Earl Ray. The actual map never came into the possession of the Committee. Information from the map was, in fact, conveyed to the FBI and the Tennessee Bureau of Investigation, as well as to the Governor of Tennessee. Hence, despite the Committee admonitions to Patterson, he obtained a xerox copy of the map which the Committee felt compelled to accept, in order to prevent a possible catastrophic event, i.e., another escape attempt by James Earl Ray. (Interestingly, on August 15, 1978, in a TV interview, Jerry Ray falsely denied even possessing a copy of the map which Patterson had obtained from him.[4])

As to the hair samples of Jerry Ray provided by Patterson to the Committee, Patterson advised the Committee that he had obtained such from a bathroom where Jerry Ray resided. This technique of suspect identification is clearly recognized in our judicial system. *Schmerber* v. *California*, 384 U.S. 757 (1966); *Gilbert* v. *California*, 388 U.S. 263 (1967); and *Biggers* v. *Tennessee*, 390 U.S. 404 (1968). Further, given the existence of unidentified hairs in the FBI investigation of Dr. King's murder and the necessity of determining Jerry Ray's possible involvement in the assassination, it is most appropriate for the Committee to seek the production of this type of evidence.

D. Subornation of Perjury

With respect to allegations that staff members suborned perjury during Mr. Patterson's sworn statement to the Committee, he has specifically contended in his August 14, 1978 press conference with Mark Lane that, while he cannot remember the questions and answers involved in the subornation effort or even whether he in fact lied, at least he was furnished answers for the last three questions that were posed to him. The last three questions and answers in Mr. Patterson's sworn statement are:

(1) Mr. EBERHARDT: Do you still actively participate in the National States Rights Party matters?

Mr. PATTERSON: No, I have not seen Jerry for about four years.

(2) Mr. EBERHARDT: During the last couple of days that you have been with Jerry Ray, has he expressly admitted to you any personal role on his part in the assassination of Dr. Martin Luther King?

Mr. PATTERSON: None.

(3) Mr. EBERHARDT: Has he indicated that John Ray had any personal involvement in the shooting of Dr. King?

Mr. PATTERSON: No, the statements are there has been no involvement whatsoever.

If it is Patterson's contention that perjury was suborned and obtained in the instance of these three answers, such a contention is not supported by the nature and content of his responses. Question (1) is inquiry with a response consistent with Patterson's known involvement with the National States Rights Party. The answers to Questions (2) and (3) could hardly be instances of suborned perjury since one of the key issues involved in the Committee investigation is a determination of the involvement of Jerry and John Ray in the assassination. The Committee could hardly be expected to suggest negative answers to Questions (2) and (3) where such negatives are so fundamentally inconsistent with its mandate to identify any conspiracy to the murder of Dr. King. Staff members present during Patterson's statement confirm the absence of any effort to encourage false testimony from Patterson.

E. False Statements to the Media

Patterson has alleged that the staff investigator advised him to give false information to the New York Times regarding the following three matters:

(1) Patterson claims that the staff investigator told him to state that Mark Lane had said that there was "Raoul" (the individual alleged by James Earl Ray to have set him up as a "dupe" in the assassination of Dr. King). In fact, Patterson had previously reported that both Jerry Ray and Mark Lane had implied in conversations in Patterson's presence that there was no "Raoul." Other evidence gathered by the Committee clearly establishes Raoul's non-existence and acknowledgements of such by Jerry Ray (who coincidentally was originally represented by Mark Lane in his initial appearance before the Committee).

(2) Patterson further claims that the same investigator advised him to state that Lane had no new evidence about the King case. Not only has Lane implicitly so indicated according to earlier Patterson reports to the same staff investigator, but James Earl Ray's recent public testimony before this Committee, with Lane as his attorney, confirms those earlier reports that there would be no "new evidence."

(3) Patterson also contends that the staff investigator advised him to claim that he was terrified of Jerry Ray and that such was the reason why Patterson wanted his relationship with the Committee out in the open, so as to perhaps discourage any harm that might come to him. In fact, Patterson had been warned by the FBI prior to the instant allegations that Jerry Ray had discovered his role with the Committee and that the FBI had reason to express concern for his safety because of such.

F. Threats of Incarceration

Patterson contends that the staff investigator threatened to send his girl friend, Donna Stayton, to prison if she revealed what she had learned of Patterson's role with the Committee. In fact, only after Patterson had initially contacted the staff investigator with the advice that his then disenchanted girl friend, who was acquainted with both Jerry Ray and J. B. Stoner, had knowledge of his sensitive posture, did the staff investigator caution her, out of a sense of concern for Patterson's security, that any disclosure on her part of his role could be construed as an obstruction of a Congressional investigation and therefore a violation of law. See Title 18, U.S.C., Section 1505 which states in pertinent part:

Whoever corruptly . . . endeavors to obstruct or impede . . . the due and proper exercise of the power of inquiry . . . by any Committee of either House . . . (s)hall be fined not more than $5,000 or imprisoned not more than five years, or both.

Such information was imparted in the form of advice, not a menacing threat as Patterson suggests. Furthermore, such advice was rendered by the staff investigator after consultation with staff counsel.

G. Personal Allegations

Patterson has sought to further discredit the staff investigator by making allegations of a personal nature. The Committee is satisfied that these allegations are totally false and deems their nature unworthy of further comment.

CONCLUSION

Based on all available information and evidence the Committee is satisfied that the allegations of Oliver Patterson are not founded in fact and that no unlawful or improper conduct has been engaged in by members of its staff.

FOOTNOTES

[1] The only other questions and answers contained in the polygraph test arranged with a private polygraphist by Mark Lane are as follows:

1. Question: Did you telephone and record calls to Jerry Ray, J. B. Stoner, and others with Pete Baetz monitoring some of the calls?

Answer: Yes.

2. Question: Did Pete Baetz furnish you with replacement tape cassettes to record telephone calls with Jerry Ray and others?

Answer: Yes.

3. Question: Did Pete Baetz direct you to mail documents and hair samples, illegally obtained by you from Jerry Ray, to his Wood River Illinois Post Office Box?

Answer: Yes.

The Committee has not yet had the opportunity to independently evaluate this test or review the post-examination interview of Patterson by the polygraphist who administered the test.

[2] Patterson's allegation relative to electronic surveillance is somewhat amorphous since it is his contention, in an interview with KSD-TV in St. Louis, that Baetz never gave him specific instructions in the form of "you do this or you do that," but rather that Baetz had in some way *suggested* that Patterson record his conversations with Jerry Ray.

[3] Rule 7.1 of the Committee Rules reads in pertinent part: "*Tape Recordings*. No conversation of Committee members or staff with any person shall be recorded without the prior knowledge and/or written consent of the person whose conversation is to be recorded." Further, it does not preclude the use of an informant to record conversations between the informant and a subject of the investigation, although such a technique involving consensual tape recording by an informant has not been implemented by this Committee in any instance. Rule 7.1 does limit the ability of "Committee members" and "staff" to engage in consensually recorded conversations, but the limitation extends no further.

[4] It is also interesting to note that in Patterson's description of how he obtained his copy of the map he specifically avoids any indication that he searched Ray's belongings in the first instance at Committee instructions. (See Exhibit 1, page 2, paragraph 7.)

STATEMENT OF OLIVER PATTERSON

Oliver Patterson, being duly sworn, deposes and says that:

1. I reside at 12350 Old Halls Ferry Road, in the City of Black Jack, State of Missouri.

2. For the past several months I have been working as an undercover agent for the House Select Committee on Assassinations.

3. During that period I testified before the Committee's staff in Washington, D.C. During that testimony, I was asked questions by a lawyer for the Committee named Michael Eberhardt and on several occasions I was handed written "answers" to the question by Conrad Baetz, hereinafter referred to as Baetz, a staff investigator for the House Select Committee on Assassinations, hereinafter referred to as HSCA. I read the Baetz-supplied answers into the record and the stenographer apparently took it down as my own. I do not believe that the members of Congress on the Committee know that their staff is functioning in this fashion.

4. During 1970 or 1971, I was assigned by the FBI, an organization I had worked for since 1968, to meet Jerry Ray, the brother of James Earl Ray, and J. B. Stoner, and to secure information from them. I continued to carry out that assignment for approximately three years.

5. Early this year I was recruited by Conrad Baetz to work for the Select Committee. I was sent to Georgia by the HSCA to meet Jerry Ray and to renew my relationship with him.

6. Baetz regularly instructed me to telephone Jerry Ray and to tape record those conversations. I often did that while Baetz was in my house. Often Baetz would listen in on the conversations by using earphones through which he monitored those telephone conversations. This went on for several months. Baetz took the tapes of the recorded conversations with him and gave me back new tapes regularly.

7. On one occasion when I was in Washington, D.C. with Jerry Ray and while I was working for the HSCA, I searched Jerry Ray's belongings. I found some letters from James Earl Ray to his brother Jerry and a map which Jerry had placed in his toilet article bag. Following directions from Baetz, I took the letters and the map from the Quality Inn on Capitol Hill where I had discovered them, across the street to the Hyatt Regency Hotel and there I had all of the documents photocopied. I had several copies of each document made. Following the specific directions of Baetz, I then mailed copies of each of the documents to him at his P.O. Box in Wood River, Illinois. Baetz gave me directions to photocopy the documents and send them to him in telephone conversations that I had with him almost immediately after I found the documents. I called Baetz at a special number he had given me and left word that he should call "David Rogers" at once. "David Rogers" was a code name that the Committee used to identify me. Baetz called me back almost immediately and told me that he had been called out of the hearing room. He told me that Jerry Ray was then testifying. When I told Baetz about the documents, he agreed to try to detain Jerry Ray longer before the Commitee so that I could make copies of the documents.

8. Later, Baetz told me that the documents were so important that a meeting was held in Washington, D.C. to discuss them. Baetz said those present at that meeting were, G. Robert Blakey, general counsel of HSCA, the Director of the FBI and Attorney General Bell.

9. During the course of my undercover work for the HSCA, I went to Georgia to see Jerry Ray. I was instructed by Baetz to secure samples of Jerry Ray's hair. A woman named Donna Stayton, (1619 Board Walk, Florissant, Missouri, 63031) who travelled with me at the time, assisted in securing hair samples.

10. Later, after I told Baetz that Donna and I had an argument, Baetz immediately visited Donna and thereafter told me that he had threatened to send her and her husband to a federal penitentiary if either of them ever told of our secret work for the HSCA. Baetz called me and told me that he had threatened Donna with prison.

11. Recently the HSCA discovered that Mark Lane had learned of our operation. Baetz told me that I had three options. He said I could leave town and just disappear. Or, I could hold a press briefing which he could set up and then leave town. Or, he said the FBI could visit me and arrange a new identity for me so that I could not be found.

12. Baetz told me that he had talked with Eberhardt and Blakey. He told me that they wanted me to meet with the New York Times. The House Select Committee arranged with the New York Times for a reporter to come to St. Louis on August 6, 1978 so that I could give him false information. Baetz called me in the afternoon to tell me that because the Pope had died it was a bad news day for our story and he put off the meeting with the New York Times until August 7, 1978.

13. Baetz told me that I was to tell the New York Times that "Mark Lane is a queer." In fact, I have not the slightest indication that that is true.

14. Baetz told me to tell the New York Times that Lane had said that there is no Raoul. Mark Lane has never made such a statement to me and in fact I have heard him say on many occasions that he was convinced that Ray was duped by a man who had identified himself as Raoul.

15. Baetz told me to tell the New York Times that Lane had no new evidence about the King case. Lane has told me just the contrary.

16. Baetz told me to tell the New York Times that I was terrified of Jerry Ray and that was why I was talking to the New York Times and requesting protection from the FBI.

17. Two weeks prior to the time that Mel Waxman and Baetz of the Select Committee had called upon me at my home in Black Jack for the first time, I was warned by the FBI of their impending arrival. Within 48 hours after having been warned by the FBI that the Select Committee was going to interview me, I wrote a letter to Jim Haggerty, Special Agent of the FBI, stating that I wished to withdraw from all further work with the FBI. I stated clearly that I did not wish to be involved any further with the Committee or with the FBI. However, my requests to be left alone were ignored. Not long after I wrote to the FBI, Baetz and Waxman visited me and asked me to work for the Select Committee by spying on Jerry Ray and J. B. Stoner.

18. I am now telling the truth about the secret operation against James Earl Ray, Jerry Ray and their lawyer, Mark Lane, that the Select Committee set up. I am willing to take a lie detector test and to make my statement before an investigating Committee under oath. I am willing to be cross-examined by an impartial investigating body.

19. In addition to urging me to call Jerry Ray, to tape record those conversations and to learn of Mark Lane's flight schedule and schedule of meetings, Baetz spent a lot of time at my house playing the pinball machine, watching pornographics films and urging me to get one of the girls in the film to my house so that he might have sexual intercourse with her. He was so persistent and so insistent that one day while Baetz was as my house, I did call the young woman. She came over to the house and Baetz and she had intercourse in the bedroom next to the room that I was occupying. They were in there for fifteen minutes and Baetz later told me that they had had intercourse.

OLIVER PATTERSON.

STATEMENT OF G. ROBERT BLAKEY, CHIEF COUNSEL AND DIRECTOR, SELECT COMMITTEE ON ASSASSINATIONS, AUGUST 10, 1978

On Monday, August 7, 1978, a man who has been associated with an attorney for the convicted assassin of Dr. Martin Luther King, Jr. held a press conference in which he made several serious allegations concerning the conduct of an investigator for the Select Committee on Assassinations. The man making the charges has given a statement under oath to the Committee, though he has never been an employee of the committee.

Since the integrity of the committee's investigation of the assassination of Dr. King has been questioned, the committee is looking into the allegations. The investigator charged with misdeeds, a law enforcement officer who has a top secret security clearance based on an extensive background examination of his character, has been interviewed, as have other members of the committee staff who may have had information concerning the investigator's conduct.

On the strength of a preliminary investigation, the committee categorically denies each and every allegation of wrongdoing. It states with assurance that no federal, state or local law or any rule of the House or of the committee has been violated by the investigator or by any other member of the committee staff.

The committee will continue to conduct a complete investigation of the allegations. If any indication of wrongdoing is uncovered, prompt and appropriate action will be taken and brought to public attention. The committee is determined that the American people will not be misled by attempts to discredit the committee and its investigation.●

NOISY AIRCRAFT REVENUE AND CREDIT ACT

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

● Mr. VANIK. Mr. Speaker, if H.R. 11986, the Noisy Aircraft Revenue and Credit Act, passes in its current form—

First. United Airlines could receive $640 million for its $1.6 billion order of Boeing 767's and 727-200's.

Second. Eastern Airlines could receive over $311 million for its $778 million purchase of the Airbus Industrie A300.

Third. Pan American Airlines could receive $200 million for its $500 million purchase of 12 Lockheed jets equipped with Rolls Royce engines.

Any airline purchasing a new aircraft with a less noisy engine is eligible to receive up to a 40-percent credit under this bill.

The Noisy Aircraft Revenue and Credit Act is an outrageous raid on the airline safety trust fund. If this fund is in surplus, the airline passenger tax should be reduced by 2 percent. The $3.2 billion that H.R. 11986 would give to the airline industry, by transferring 2 percent of the airline excise tax, belongs to the consumer.

I urge Members of the House to vote down the previous question on the rule on this bill so that an open rule may be considered. However, if the rule is not defeated, vote against H.R. 11986, the Ways and Means substitute to title III and for the motion to strike sections 301–304 of H.R. 8729. If these efforts fail, support the Snyder motion to recommit the bill.●

ABORTION AND GENETIC COUNSELING

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. SEIBERLING. Mr. Speaker, the September 10 edition of the Parade Magazine contains a very informative article on the significant progress being made in methods for identifying, prior to birth and even prior to conception, hereditary diseases with which the children of some parents may be afflicted. These diseases include the following:

Cystic Fibrosis: Afflicts children and young adults with breathing problems, intestinal difficulties and malnourishment, with life expectancy limited.

Down's Syndrome (Mongolism): Involves mental retardation and other functional difficulties often leading to institutionalization.

Sickle-Cell Anemia: Produces general weakness and susceptibility to infection leading to multiple crises and, finally, fatal bodily deterioration.

Spina Bifida: A birth defect affecting the central nervous system, causing a defect in the bony structure of the spinal column. Victims may never control the lower part of their bodies.

Tay-Sachs Disease: Causes a destruction of the nervous system. The affected child appears normal for about 6 months, then deteriorates rapidly, losing all physical skills, and eventually dies.

Thalassemia: Symptoms include anemia or multiple physical problems throughout childhood, requiring periodic blood transfusions; in more severe cases, still-birth or death soon after birth.

In some cases, tests of prospective parents prior to conception may indicate likelihood that their children will be afflicted with a genetic disease. In other cases, prenatal tests after conception are available or will soon be available to determine whether the infant will suffer the disease.

Where prenatal tests are available, the parents have the option of an abortion in order to avoid giving birth to a genetically diseased child. Unfortunately, under the restrictions imposed by the current so-called "right to life" amendments, many women in lower economic circumstances will be denied the right to such an abortion. The unfairness of this is obvious.

On this point, the article quotes Dr. Henry L. Nadler of Childrens' Memorial Hospital and Northwestern University Medical School:

> What do you do when you tell a woman who can't afford to pay for an abortion that she is going to have a child with mongolism, for example? I simply don't think we can selectively set up a particular socioeconomic section of the population and say, "Sorry, we can't help you." There will be a hue and cry that will make something happen.

Mr. Speaker, this is but one of the many unrealistic aspects of the so-called "right to life" campaign. It would deny the fruits of medical progress to poor women, forcing them to give birth to defective human beings, many of whom, such as mongoloid children, cannot live life in any meaningful sense. They would also, of course, force unwanted children on women lacking the financial means to care for them.

Certainly the "right to life" should include some considerations as to the quality of life of those who are born and not merely the question of whether all fetuses, once conceived, must proceed to birth whether or not the mother is willing and whether or not the person who is born will be able to have a meaningful existence.

The full text of the Parade article follows these remarks:

HELPING THE NEWBORN VIA GENETIC COUNSELING

(By Jeanne Helen Jones)

When Mrs. Robert W. Howard of New York give birth to a baby with Tay-Sachs disease, she and her husband felt they had only one person to blame—their obstetrician. After 22 months, the baby died a horrible death, and the Howards sued their obstetrician for failing to advise them of two means of preventing the tragedy: a blood test and a prenatal test.

Had they known about and taken these tests, they would have found themselves to be carriers of Tay-Sachs and the fetus destined to die of the disease. Mrs. Howard would have aborted.

The Howards won their original suit but lost on appeal to the Supreme Court of New York, which stated that it is the public policy not to weigh the quality of a life.

There have been many other cases similar to the Howards' and the outcomes have been mixed. Moreover, the abortion issue is aggravating the controversy over genetics.

Also adding to the confusion is the ignorance of the public and many medical professionals about what can be done to prevent genetic diseases. In fact, whether a woman receives expert or outdated advice on genetic risks could depend on when her physician graduated from medical school. "Ten years ago, many medical schools taught practically nothing about genetics," says Dr. Connie Sandlin, director of genetic services at Loma Linda (Cal.) University Medical Center. She notes that most chromosome diseases weren't charted and identified until the late 1950's.

As a result, "The average physician of any kind does not know what he or she should about handling genetic problems," says Dr. Henry L. Nadler of Children's Memorial Hospital and Northwestern University Medical School in Chicago. "Now at Northwestern a very significant amount of the obstetrics-gynecology training is spent in genetics."

The National Foundation—March of Dimes estimates that genetic factors account for 40 percent of all childhood deaths and 80 percent of the 3 million retarded in the United States today.

Infant genetic diseases usually arise through mistakes in one of the hundreds of thousands of genes within the chromosomes of the parents' egg or sperm, or through abnormalities in the chromosomes, most frequently those of the child—not the parent.

How can these diseases be detected? In the case of gene defects carried by the parents, prepregnancy blood tests are available to pinpoint risks for three diseases: Tay-Sachs, thalassemia and sickle-cell anemia. A blood test for cystic fibrosis is within a year of development, says the March of Dimes.

Another early-warning system is being devised to detect spina bifida, the second most common birth defect in this country. A blood test during pregnancy followed by a prenatal test for absolute diagnosis are being administered to prospective mothers in pilot projects throughout the country.

The prototype for genetic counseling is the highly successful California Tay-Sachs Disease Prevention Program directed by Dr. Michael Kaback. The program employs blood test to identify Tay-Sachs carriers and makes prenatal diagnoses of the fetus using amniocentesis.

But many genetic diseases cannot be detected through simple blood tests of the parent. In chromosome-related diseases, for example, the defects usually occur by chance in a particular baby. Fewer than 5 percent of the chromosome abnormalities are due to the parents' defective chromosomes. These diseases can be detected within the pregnant woman's uterus through amniocentesis, the most widely used prenatal test now available.

POOR RESPONSE

An alarming number of people fail to make use of this technique. Even in California, where amniocentesis is widely offered through 11 state-sponsored centers, the response has not been overwhelming. During fiscal year 1976–77, the state estimates that 3500 amniocentesis procedures were performed out of 18,700 pregnancies at risk and eligible.

"It is dramatic how slow society has been to utilize an outstanding technique that can greatly reduce birth defects," says Dr. Aubrey Milunsky, director of genetics and pediatrics at Harvard's Eunice Kennedy Shriver Center and author of Know Your Genes, a book for lay readers. He strongly suggests that the use of amniocentesis in this country should be expanded from the current 20,000 a year to 160,000 by testing every pregnant woman over 35.

Dr. Kaback takes a more moderate view: "Not every woman over 35 who is pregnant should have an amniocentesis. On the other hand, a pregnant woman beyond 35 should be informed that she is at a relatively increased risk for having a child with Down's

syndrome or with an often more serious chromosomal imbalance, that there is a safe and accurate test available to her to find out whether this pregnancy is an affected pregnancy, and that there are various options open to her to deal with this discovery."

ABORTION FOES

One of those options is, of course, abortion, which has its opponents. Shirley Murtaugh, education director of The Right to Life League of Southern California, says, "Many families have been advanced and enriched by having a defective child. We regret that abortion is connected with amniocentesis because we feel that under no circumstances, once a life exists, can there be an abortion. If the fetus is defective, we do not change our position one iota."

Last fall, Congress enacted the Michel Amendment, which cut off federal Medicaid funds in most abortion cases. Thirty-three states have also cut off public funds, with others showing signs of doing the same.

What this means for prenatal testing and genetic counseling is not clear. "What you basically do if you follow the letter of the law is make screening for genetic defects unavailable to a specific socioeconomic class," says Northwestern's Dr. Nadler. "What do you do when you tell a woman who can't afford to pay for an abortion that she is going to have a child with mongolism, for example? I simply don't think we can selectively set up a particular socioeconomic section of the population and say, 'Sorry, we can't help you.' There will be a hue and cry that will make something happen."

The demand for better genetics services nationwide has been heard in Congress. Sen. Jacob Javits (R., N.Y.) is spearheading a new bill providing funds for a network of genetics clinics around the country. And should current research seeking carrier detection for scores of diseases succeed, Dr. Kaback envisions the following scenario for a national counseling program:

"Twenty to 30 years from now, when a couple decides to have children, a state will provide a service, either through a clinic or private physician. The couple's blood will be drawn, and tests will be run on that blood for 50 different genetic problems—all paid for, all voluntary. The couple will then receive a report that they have been found not to be at risk for passing any of the tested diseases on to their offspring and are free from concern. If they are found at risk, counseling and amniocentesis services would be made available free of charge."

Whether this sounds like "playing God"—as some have labeled all things genetic—or like an idea whose time has come may depend on your philosophy, your religion, your family history, your physical health or your own genetic composition.

BASIC GENETIC GLOSSARY

Amniocentesis—the most common prenatal test. Fluid is drawn from the uterus during pregnancy for laboratory analysis. Danger to fetus and mother is generally accepted as far below 1 percent, and in more than 97 percent of people tested, no genetic problem is discovered. Can detect all chromosome abnormalities and at least 70 chemical errors in the genes.

Carrier—a healthy individual, usually not affected by the deleterious gene he or she carries, who can pass on a disease to offspring because of it.

Cystic Fibrosis—the most common severe birth defect of body chemistry affecting people of northwestern European ancestry. Children and young adults commonly suffer from breathing problems, intestinal difficulties and malnournishment, with life expectancy limited. Carrier blood and prenatal test in final research stages.

Down's Syndrome (Mongolism)—the most common birth defect and the one most screened for by amniocentesis. Caused by an error in the parent's ovum or sperm, producing an extra chromosome 21. Retardation and other functional difficulties often lead to institutionalization. Prenatal test now commonly available.

Genetic Counseling—making available knowledge about hereditary problems to the public. Counselors can reassure prospective parents who fear they may pass on a genetic disease, educate families with histories of genetic disorders and refer families with genetically impaired members to treatment facilities.

Genetic Disease—a mistake in the basic blueprint of an individual because of an error in one or a group of chromosomes or genes.

Sickle-cell Anemia—genetic disease afflicting black children. Symptoms can include general weakness and susceptibility to infection leading to multiple crises, and, finally, fatal bodily deterioration. Carrier blood test is currently available.

Spina Bifida—the most common birth defect affecting the central nervous system, causing a defect in the bony structure of the spinal column. Victims may never control the lower part of their bodies. Maternal blood and prenatal test now in pilot study stage.

Tay-Sachs Disease—an inherited genetic disorder most common in Ashkenazi Jews, causing a destruction of the nervous system. The affected child appears normal about six months, then deteriorates rapidly, losing all physical skills, and eventually dies. Blood and prenatal tests widely available.

Thalassemia—genetic disease prevalent among people of Mediterranean descent. Symptoms may include mild anemia or multiple physical problems throughout childhood, requiring periodic blood transfusions: more severely, still-birth or death soon after birth. Carrier blood test is currently available.

For counseling and referral:

The National Genetics Foundation, Inc., 9 West 57th Street, New York, N.Y. 10019. [212] 759-4432.

National Foundation—March of Dimes, Box 2000, White Plains, N.Y., 10605. [914] 428-7100.●

WE NEED TO KNOW ZAMBIA BETTER

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD.)

● Mr. SIKES. Mr. Speaker, Zambia is an enigma to most Americans. But it is highly important to negotiations affecting Rhodesia and Namibia. It is one of the few countries in Africa that holds meaningful elections, that has a relatively free press, and where whites are welcome.

The President, Kaunda, is Methodist mission trained and claims to be nonalined. However, both Russian and Cuban military personnel are in his country to assist in the training of forces of Nkomo, the Rhodesian guerrilla leader who plans an invasion of Rhodesia unless he is offered a place which is attractive to him in the present government.

Ironically, Nkomo's army and his Russian-supplied weapons are much larger in number than the Zambian forces. Because of a close personal friendship of many years, Kaunda has permitted Nkomo to use Zambia as a base of operations against Rhodesia. Now he is powerless to get rid of them. Estimates on the size of Nkomo's army range from 6,000 to 12,000. There are also 25,000 to 35,000 refugees from Rhodesia who accompany Nkomo's army. Feeding them is a major undertaking for a poor country and it is generally accepted that Russia is paying the bill.

Initially the Chinese assisted in training Nkomo's forces, but apparently the Chinese have been replaced by Cubans and Russians and are no longer there.

Kaunda does not approve of Cubans in Angola and he objected to U.S. efforts in Vietnam. It is known that he tried to curb SWAPO's recent incursion into the Capriva strip of Southwest Africa. This venture ended in disaster for SWAPO, which has been seeking for years to establish a new government in Southwest Africa and still enjoys strong support from the United Nations.

Despite these seeming contradictions, those who know Kaunda say that he is not a socialist, that he is widely respected in Africa, and that the United States should keep open our options for dealing with him.

Zambia needs western expertise. A major problem is food and self-sufficiency in agriculture production is a primary goal of the present government.●

THE REAL GOVERNMENT IN ANGOLA TODAY IS RUSSIA ALIAS CUBA

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD.)

● Mr. SIKES. Mr. Speaker, U.S. feelers toward better relations with Angola are directed to the wrong group. There is nothing to be gained by negotiating with a government which is kept in power only by Cuban bayonets, controlled by Russia, and used to obtain a major base of operations for Russian air and naval forces. The real government in Angola today is Russia alias Cuba.

The Communist faction in power in Angola, the MPLA, has no stronger claim for recognition as the legal government than does UNITA, which controls more than one-third of the country, including Angola's bread basket and principal railroad.

The MPLA government operating from Luanda, is far from secure despite 3 years of massive Russian aid and Cuban troop support.

Intelligence reports which were made available to me show 23,000 Cubans now in Angola, of whom 17,000 are troops and the remainder are Cuban technical and maintenance personnel. There has been much mystery about Cuban casualties, a subject generally ignored by the American press. It is obvious that casualties result from battle wounds and tropical illnesses, and best estimates from the local level are that there have been 5,000 Cuban deaths there. This does not include the numbers of sick and wounded. Castro has attempted to conceal the casualties. Notification is sent to families of deceased, sometimes months after death occurs. The seriously wounded and ill are flown to Communist nations in Europe, notably East Germany, for treatment and convalescence.

There are now an estimated 1,500 Russians in Angola, principally in the capital, in part to direct the Cuban war effort which often has been ineffective in the field. The Russians also maintain a sub-

stantial naval presence in Luanda, including combat surface ships and submarines. Russian aircraft, including reconnaissance planes and transport aircraft, are based there. This gives Russia an important stronghold in the South Atlantic.

There are reports of growing friction, sometimes with serious outbreaks, between Cubans and Angolans. As a result, Cubans are being kept more and more in their own compounds. Local Angolans accuse the Cubans of helping themselves to radios, TV sets, refrigerators, even automobiles, and shipping them back to Cuba.

The glamour of Castro's African adventure is wearing off as word of deaths, mutilation of captives, and other stories gain circulation in Cuba. Soldiers who are rotated back are instructed not to talk but word gets around. Despite Castro's continued bombastic statements, there is growing uneasiness on the island about "Cuba's Vietnam." More and more Cubans are seeking, by whatever means possible, to avoid service in Africa.

Even with Cuban and Russian support, MPLA troops do not venture out except in strength. This causes supply problems which they do not cope with effectively. Food sometimes is short, even in the capital, because UNITA controls so much of the food producing area and because of interruptions in the operation of the railroad. Defections from MPLA forces are reported to be occurring with increasing frequency.

Although UNITA is the principal adversary of the MPLA, another insurgent movement, the FMLA, continues to operate in the northern part of Angola. However, the FMLA controls but little territory.

The UNITA forces, headed by Savimbi, are careful to avoid a direct confrontation with the MPLA. Savimbi is Chinese-trained and he fully understands Mao's tactics of guerrilla warfare. His hit-and-run attacks have kept the MPLA off balance. He has a supply problem and a considerable part of his weapons are those captured from the MPLA forces. Although UNITA can operate with much more flexibility, the struggle is not an easy one. They are badly outnumbered and short of mobile equipment. They have tried repeatedly to obtain mobile radio broadcast facilities possessing greater power than those they now have in order to broadcast their story to the world.

Russia's interest is in maintaining a puppet government in the capital and in using the port and airfield facilities at Luanda for their own purposes. Admittedly, it will be almost impossible for UNITA to oust the MPLA from the capital area while the Cuban and Russian effort persists. However, there is no reason for the United States to place its stamp of approval on this situation by opening negotiations with the MPLA for recognition.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. YOUNG of Alaska (at the request of Mr. RHODES), for September 11 through 13, on account of official business.

Mr. BURKE of Florida (at the request of Mr. RHODES), for the week of September 11, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. KINDNESS) and to revise and extend their remarks and include extraneous matter:)

Mr. GOLDWATER, for 5 minutes, today.
Mr. MCKINNEY, for 5 minutes, today.
Mr. YOUNG of Florida, for 5 minutes, today.

(The following Members (at the request of Mr. RAHALL) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. PEPPER, for 5 minutes, today.
Mr. ADDABBO, for 10 minutes, today.
Mr. BINGHAM, for 10 minutes, today.
Mr. BAUCUS, for 5 minutes, today.
Mr. ST GERMAIN, for 5 minutes, today.
Mr. STOKES, for 5 minutes, today.
Mr. VANIK, for 5 minutes, today.
Mr. DOWNEY, for 45 minutes, September 12, 1978.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. KINDNESS), and to include extraneous matter:)

Mr. JEFFORDS.
Mr. FINDLEY in two instances.
Mr. PRITCHARD.
Mr. RHODES.
Mr. LEACH.
Mr. DORNAN.
Mr. FRENZEL in five instances.
Mr. MARRIOTT.

(The following Members (at the request of Mr. RAHALL), and to include extraneous matter:)

Mr. ANNUNZIO in six instances.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. BROWN of California in 10 instances.
Mr. KILDEE.
Mr. EILBERG in 10 instances.
Mr. IRELAND.
Mr. BOLLING.
Mr. BINGHAM in 10 instances.
Mr. THOMPSON.
Mr. RODINO.
Mr. HAMILTON.
Mr. LUNDINE.
Mr. MOORHEAD of Pennsylvania.
Mr. NOLAN in two instances.
Mr. DOWNEY.
Mr. HARRIS.
Ms. KEYS.
Mr. STARK.
Mr. WOLFF.
Mr. BRECKINRIDGE in four instances.
Mr. OTTINGER.
Mr. AUCOIN.
Mr. SIMON in three instances.
Mr. VANIK.
Mr. JONES of Oklahoma.
Mr. EDGAR.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 691. An act to provide for the preservation and enhancement of critical habitat for migratory waterfowl and other wetlands-dependent migratory birds of the Pacific flyway in the grasslands area of the San Joaquin Valley, California; to the Committee on the Judiciary; and

S. 1423. An act to establish a procedure in addition to impeachment for the retirement of disabled members of the Judiciary of the United States and the removal of those whose conduct is or has been inconsistent with the good behavior required by article III, section 1 of the Constitution, and for other purposes; to the Committee on Interior and Insular Affairs.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2928. An act to authorize appropriations for the fiscal year 1979 under the International Investment Survey Act of 1976, and for other purposes; and

S. 3107. An act to amend the Bankruptcy Act to provide for uniform supervision and control of employees of referees in bankruptcy.

ADJOURNMENT

Mr. RAHALL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 51 minutes p.m.), the House adjourned until tomorrow, Tuesday, September 12, 1978, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of title XXIV, executive communications were taken from the Speaker's table and referred as follows:

4953. A communication from the President of the United States, transmitting notice of the issuance of a determination that the extension for 1 year of the authorities currently exercised under section 5(b) of the Trading With the Enemy Act, with respect to various Communist countries, is in the national interest, pursuant to section 101(b) of Public Law 95-223. (H. Doc. No. 95-380); to the Committee on International Relations and ordered to be printed.

4954. A letter from the Director, Office of Management and Budget, Executive Office of the President transmitting a cumulative report on rescissions and deferrals of budget authority as of September 1, 1978, pursuant to section 1104(c) of Public Law 93-344 (H. Doc. No. 95-381); to the Committee on Appropriations and ordered to be printed.

4955. A letter from the president and chairman, Export-Import Bank of the United States, transmitting a statement describing a proposed transaction with British Airways exceeding $60 million, pursuant to section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended; to the Committee on Banking, Finance and Urban Affairs.

4956. A letter from the U.S. Commissioner of Education, Department of Health, Education, and Welfare, transmitting the 27th annual report on Federal financial assistance for maintenance and operation of schools and

for construction of school facilities in federally affected areas, and on disaster relief of schools in disaster areas, pursuant to section 401(c) of Public Law 71-874 and section 12 (c) of Public Law 81-815; to the Committee on Education and Labor.

4957. A letter from the U.S. Commissioner of Education, Department of Health, Education, and Welfare, transmitting a report on graduate fellowships and assistance for fiscal year 1977, pursuant to section 971 of the Higher Education Act of 1965, as amended; to the Committee on Education and Labor.

4958. A letter from Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

4959. A letter from the Secretary of Health, Education, and Welfare, transmitting the findings of the assessment of bilingual and bicultural awareness activities in health professions schools, pursuant to section 904(c) of Public Law 94-484; to the Committee on Interstate and Foreign Commerce.

4960. A letter from the executive director, American Historical Association, transmitting the audit of the association's accounts for the year ended June 30, 1978, pursuant to section 3 of Public Law 88-504; to the Committee on the Judiciary.

4961. A letter from the chairman, Board of Directors, Future Farmers of America, transmitting a report on the audit of the accounts of the organization for the year ended June 30, 1978, pursuant to section 3 of Public Law 88-504; to the Committee on the Judiciary.

4962. A letter from the Comptroller General of the United States, transmitting a report on the Nuclear Regulatory Commission's procedures for inspecting nuclear powerplants under construction (EMD-78-80, September 7, 1978); jointly, to the Committees on Government Operations, Interior and Insular Affairs, and Interstate and Foreign Commerce.

4963. A letter from the Comptroller General of the United States, transmitting a report on cargo processing by the U.S. Customs Service (GGD-78-79, September 7, 1978); jointly, to the Committees on Government Operations, and Ways and Means.

4964. A letter from the Assistant Attorney General for Legislative Affairs, transmitting a draft of proposed legislation to improve the physical security features of the motor vehicle and its parts, increase the criminal penalties of persons trafficking in stolen motor vehicles and parts and to curtail the exportation of stolen motor vehicles and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, the Judiciary, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ULLMAN: Committee on Ways and Means. H.R. 13750. A bill to implement the International Sugar Agreement between the United States and foreign countries; to protect the welfare of consumers of sugar and those engaged in the domestic sugar-producing industry; to promote the export trade of the United States; and for other purposes; with amendment (Rept. No. 95-1484, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. H.R. 9158. A bill to provide for grants to tribally controlled community colleges, and for other purposes; with amendment (Rept. No. 95-1558). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ARCHER:

H.R. 14035. A bill to amend the Internal Revenue Code of 1954 to provide that individuals will not be required to make declarations of estimated tax if the amount of estimated tax is less than $500; to the Committee on Ways and Means.

By Mr. EVANS of Colorado:

H.R. 14036. A bill to provide for the orderly construction, operation and maintenance of the previously authorized Fryingpan-Arkansas Federal reclamation project in Colorado, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. HOLLAND:

H.R. 14037. A bill to authorize the Secretary of the Interior to conduct a study of the historic resources of Camden, S.C., and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 14038. A bill to authorize the establishment of the Historic Camden National Historic Park, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. JACOBS (for himself and Mr. ERTEL):

H.R. 14039. A bill to amend title II of the Social Security Act to provide that renewal commissions, received by a retired insurance agent from life insurance policies which were sold by him before his retirement, shall not be taken into account in determining his net earnings from self-employment for purposes of the earnings test; to the Committee on Ways and Means.

By Mrs. LLOYD of Tennessee:

H.R. 14040. A bill to provide that any claim arising out of the loss, miscarriage, or negligent transmission of letters or postal matter be subject to the provisions of the Federal Tort Claims Act; to the Committee on the Judiciary.

By Mr. PICKLE (for himself, Mr. BAUMAN, Mr. ANDREWS of North Carolina, and Mr. LOTT):

H.R. 14041. A bill to amend the Internal Revenue Code of 1954 to clarify the application of the investment tax credit to certain enclosures or structures used for the housing, raising, or feeding of poultry or their produce; to the Committee on Ways and Means.

By Mr. PRICE:

H.R. 14042. A bill to authorize appropriations for fiscal year 1979 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes; to the Committee on Armed Services.

By M. PRICE (for himself and Mr. BOB WILSON) (by request):

H.R. 14043. A bill to amend title 10, United States Code, to remove chaplains from under the cognizance of the Chief of Naval Personnel; to the Committee on Armed Services.

By Mr. ST GERMAIN:

H.R. 14044. A bill to amend the authority for the flexible regulation of interest rates on deposits and accounts in depository institutions, to facilitate urban lending investment by Federal savings and loan associations, to establish a Central Liquidity Facility for Federal and State credit unions, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WHITEHURST (for himself and Mr. ARCHER):

H.R. 14045. A bill to assist former spouses of Federal employees in obtaining court-ordered payments; to the Committee on Ways and Means.

By Mr. OTTINGER (for himself, Mr. ROSE and Mr. FUQUA):

H.R. 14046. A bill to provide for a research, development, and demonstration program to establish an experimental public service satellite communications system; to the Committee on Science and Technology.

By Mr. STOCKMAN:

H.R. 14047. A bill to implement the International Sugar Agreement of 1977; jointly, to the Committees on Agriculture, and Ways and Means.

By Mr. THONE (for himself, Mr. EDWARDS of Oklahoma, Mrs. HOLT, and Mr. WAMPLER):

H.R. 14048. A bill to amend the Congressional Budget and Impoundment Control Act to limit total Federal budget authority and budget outlays in fiscal years 1980, 1981, 1982, and 1983; jointly, to the Committees on Government Operations, and Rules.

By Mr. TUCKER:

H.R. 14049. A bill to amend sections 170, 2055, and 2522 of the Internal Revenue Code of 1954 to provide a deduction for income, estate, and gift tax purposes for contributions to a section 501(c)(10) organization for the purpose of building or maintaining a building; to the Committee on Ways and Means.

By Mr. NOLAN (for himself, Mr. HOLLAND, Mr. KEUBER, Ms. KEYS, Mr. ANDREWS of North Dakota, Mr. WINN, and Mr. FLIPPO):

H.J. Res. 1133. Joint resolution raising the price support levels for milk, wheat, corn, soybeans, and cotton to 90 percent of the respective parity prices therefor, and for other purposes; to the Committee on Agriculture.

By Mr. EISENHOOVER:

H.J. Res. 1134. Joint resolution to change the name of Copan Dam and Lake in the States of Oklahoma and Kansas to Copan Dam and the Lake of the Delawares; to the Committee on Public Works and Transportation.

H.J. Res. 1135. Joint resolution to change the name of Oologah Lake in the State of Oklahoma to Will Rogers Lake; to the Committee on Public Works and Transportation.

By Mrs. MEYNER (for herself and Mr. LONG of Louisiana):

H. Con Res. 709. Concurrent resolution requesting the President to convene a White House Conference on Foreign Trade; jointly, to the Committees on International Relations, and Ways and Means.

By Mr. ROONEY (for himself, Mr. PEPPER, Mr. DENT, Mr. ROYBAL, Mr. BIAGGI, Mr. JOHN L. BURTON, Mr. BEARD of Rhode Island, Mr. BLOUIN, Mr. FLORIO, Mr. HUGHES, Mr. SANTINI, Mr. EISENHOOVER, Mr. DRINAN, Mr. LUNDINE, Ms. OAKAR, Mr. WAMPLER, Mr. HAMMERSCHMIDT, Mr. COHEN, Mr. SARASIN, Mr. GRASSLEY, Mr. COCHRAN of Mississippi, Mr. RINALDO, and Mr. MARKS):

H. CON. RES. 710. Concurrent resolution expressing the support of the Congress for a comprehensive review of retirement income, survivor benefit, and disability benefit programs in the United States; to the Committee on Education and Labor.

By Mr. BRECKINRIDGE (for himself, Mr. ROSE, Mr. PRESSLER, Mr. BAUCUS, Mr. WATKINS, Ms. KEYS, Mr. SIMON, Mr. EVANS of Georgia, Mr. ABNOR, Mr. RAILSBACK, and Mr. FOUNTAIN):

H. Res. 1341. Resolution to establish a select committee to study nonmetropolitan America; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII,

470. The SPEAKER presented a memorial of the Legislature of the State of California, relative to victims of crimes; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. HAMMERSCHMIDT:

H.R. 14050. A bill for the relief of John H. Parker; to the Committee on the Judiciary.

By Ms. HOLTZMAN:

H.R. 14051. A bill for the relief of Michael Carl Brown; to the Committee on the Judiciary.

H.R. 14052. A bill for the relief of Joy Marsia Dehaney; to the Committee on the Judiciary.

By Mr. LEVITAS:

H.R. 14053. A bill for the relief of Mirko Mark Sedlak; to the Committee on the Judiciary.

By Mr. PATTERSON of California:

H.R. 14054. A bill for the relief of Orange County Fair Housing Council, Inc.; to the Committee on the Judiciary.

By Mr. STEERS:

H.R. 14055. A bill for the relief of Javid Saadian; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1

By Mr. DANIELSON:

(Amendment to the amendment in the nature of a substitute.)

—Page 20, line 21: Strike "101" and insert "202".

Page 34, lines 21 and 22: Strike "the appropriate committee shall so inform the reporting individual and direct him" and insert: "the reporting individual shall be informed and directed".

Page 41, line 9: Strike "the" and insert "a".

Page 41, line 10: Strike "required by section 206(b)".

Page 44, line 2: Strike "1978" and insert "1979".

Page 51, line 22: Strike "January 1, 1978" and insert "July 1, 1979".

Page 62, line 2: Strike "101" and insert "202".

Page 64, lines 17 and 18; Strike "appropriate committee" and insert "Committee".

Page 66, line 3: Strike "(a)" and insert "(d)".

H.R. 1

By Mr. FRENZEL:

(Amendment to the amendment in the nature of a substitute.)

—Strike "and candidates for Federal office" in the title of H.R. 13850.

On page 2, lines 8–9, strike ", and any individual who becomes a candidate in any election for the office of Member"

On page 2, lines 17–18, strike "(1) Except as provided in paragraph 2," and capitalize the word "Each".

On page 2, lines 19–20, "other than an individual who becomes a candidate in any election for the office of Member,"

On page 3, strike lines 6–14 and on line 10 strike (B) and insert (2).

On page 3, strike lines 18–25 and on page 4 strike lines 1–2.

On page 4, line 3 strike (c) and insert (b).

On page 4, on lines 3–4 strike "or an individual who is a candidate for the office of Member".

On page 12, line 4 after ", except" strike all that follows through line 8,

On page 15, strike lines 12–22, and redesignate (2) as (1), (3) as (2), (4) as (3), (5) as (4), (6) as (5), (7) as (6), (8) as (7), (9) as (8), (10) as (9), (11) as (10), (12) as (11), (13) as (12), (14) as (13), and (15) as (14).

—On page 3, lines 16–17, strike "October 1, 1978," and insert "January 1, 1979,".

—On page 7, line 10, strike the "period", and insert "or any deposit in a personal savings account which bears interest."

—On page 8, line 5, after the word "children." insert the new paragraph:

"(7) The identity of all positions held as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation company, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, and any educational or other institution: Provided, that this paragraph shall not require the reporting of positions held in any religious, social, fraternal, charitable, or political entity."

—On page 8, line 5, after "children." insert:

"(8) A description of the date, parties to, and terms of any agreement or arrangment with respect to: (A) future employment; (B) a leave of absence during the period of the reporting individual's Government service; (C) continuation of payments by a former employer other than the United States Government; and (D) continuing participation in an employee welfare or benefit plan maintained by a former employee."

—On page 10, line 25, after the word "holdings" insert the following "at the time his interest in the trust was originally placed in such trust, if available,".

—On page 11, strike lines 14–25, and insert:

"(c) Any person requesting a copy of a report may be required to pay a reasonable fee to cover the cost of reproduction or mailing of such report, excluding any salary of any employee involved in such reproduction or mailing. A copy of such report may be furnished without charge or at a reduced charge if it is determined by the Clerk or Secretary that waiver or reduction of the fee is in the public interest because furnishing the information may be considered as primarily benefitting the public."

—On page 12, strike lines 1–8 and insert:

"(d)(1) Any report filed under this title shall be available for public inspection for a period of five years, so long as the reporting individual remains in a position designated in section 2, after which the report shall be destroyed.

(2) If the individual who filed the report is no longer within any position designated in section 2 and so notifies the office designated in section 6 holding his report, the report shall, one year after such notification, no longer be available for public inspection. Such report shall be retained by the office designated in section 6 of the remainder of the five year period after which it shall be destroyed;

(3) If the individual specified in subsection d(2) returns to any position designated in section 2 during such five year period, his report shall again be made available for public inspection for the remainder of that seven year period."

—On page 12, strike lines 17–19 and insert:

"(D) for use, directly or indirectly, in the solicitation of money for any purpose, other than for a political purpose."

H.R. 1

By Mr. MAZZOLI:

(Amendment to the amendment in the nature of a substitute.)

—On page 32, line 2, strike "In addition" and all that follows through the end of the subsection.

H.R. 1

By Mr. VOLKMER:

(Amendment to the amendment in the nature of a substitute.)

—On page 8, strike lines 12 through 19 and insert in lieu thereof the following:

"(1) up to $5,000;
"(2) from $5,000 to $15,000;
"(3) from $15,000 to $50,000;
"(4) from $50,000 to $100,000;
"(5) from $100,000 to $250,000;
"(6) from $250,000 to $500,000;
"(7) from $500,000 to $1,000,000;
"(8) from $1,000,000 to $2,000,000;
"(9) from $2,000,000 to $5,000,000; and
"(10) greater than $5,000,000."

—On page 26, strike line 22 and all that follows through line 1, page 27 and insert in lieu thereof the following:

"(1) up to $5,000;
"(2) from $5,000 to $15,000;
"(3) from $15,000 to $50,000;
"(4) from $50,000 to $100,000;
"(5) from $100,000 to $250,000;
"(6) from $250,000 to $500,000;
"(7) from $500,000 to $1,000,000;
"(8) from $1,000,000 to $2,000,000;
"(9) from $2,000,000 to $5,000,000; and
"(10) greater than $5,000,000."

—On page 57, strike lines 17 through 21 and insert in lieu thereof the following:

"(1) up to $5,000;
"(2) from $5,000 to $15,000;
"(3) from $15,000 to $50,000;
"(4) from $50,000 to $100,000;
"(5) from $100,000 to $250,000;
"(6) from $250,000 to $500,000;
"(7) from $500,000 to $1,000,000;
"(8) from $1,000,000 to $2,000,000;
"(9) from $2,000,000 to $5,000,000; and
"(10) greater than $5,000,000."

H.R. 11280

By Mr. EDWARDS of Alabama:

(Amendment to the Udall Substitute.)

—In section 7103(a)(1), strike the semicolon and the word "and" after the word "agency" and insert a comma and the following: "the numbers, types, and grades of positions or employees assigned to an organizational unit, work project, or tour of duty.".

In section 7106(b), delete all of item "(1)", which reads as follows: "at the election of the agency, on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work;".

H.R. 11280

By Mr. ERLENBORN:

(Amendments to the amendment in the nature of a substitute offered by Mr. UDALL to title VII.)

—Newly designated section 7103(a)(4) of subpart F of part III of title V, United States Code is amended by striking the words "in whole or in part" and by striking the words "and pay dues".

—Amend newly designated section 7103 of subpart F of part III of title V, United States Code by striking the "or" after subparagraph 7103(a)(4)(B); by inserting an "or" after subparagraph 7103(a)(4)(C); and by inserting the following new subparagraph 7103(a)(4)(D):

"(D) an organization which assists, or participates in the conduct of a strike against the Government of the United States or any agency thereof or imposes a duty or obligation to conduct, assist, or participate in such a strike;".

—Newly designated section 7103(a)(5) of subpart F of part III of title V, United States Code, is amended by striking the words "dues, fees and assessment" and substituting therefor "periodic dues and initiation fees uniformly required".

—Newly designated section 7104(f)(1) of subpart F of part III of title V, United States Code is amended by inserting before the final period the words "only upon notice and hearing and only for misconduct, inefficiency, neglect of duty, or malfeasance in office".

—Newly designated section 7105(e) of subpart F of part III of part V, United States Code, is amended by striking the number "(1)", redesignating the letters "(A)", "(B)", "(C)", and "(D)" as numbers "(1)", "(2)", "(3)", and "(4)"; and striking all of subsection 7105(e)(2); and striking the words "or administrative law judge" in subsection 7105(f).

Section 7118(a)(5), as presently designated, is amended by inserting before the period in the fourth sentence thereof the words "and filed with the Authority". Section 7118(a)(6), as presently designated is amended by striking "(or any member thereof or any individual employed by the Authority and designated for such purpose)"; and by striking the words "individual or individuals conducting the hearing shall state in writing their" and substitute therefor "Authority shall state in writing its". Section 7118(a)(7), as presently designated, is amended by striking all of section 7118(a)(7) and substituting therefor: "(7) If the Authority determines that the preponderance of the evidence received fails to demonstrate that the agency or labor organization named in the complaint has engaged in or is engaging in any such unfair labor practice, the Authority shall state in writing its findings of fact and shall issue an order dismissing the complaint.".

—Newly designated section 7111(b) of subchapter II of subpart F of part III of title V, United States Code is amended by striking "(b)(1)" and substituting therefore "(b)"; and is further amended by striking from presently designated 7111(b)(1)(B) the words "Except as provided under subsection (e) of this section, if" and substituting therefore "If," and by striking the words "subject to paragraph (2) of this subsection"; and by striking all of paragraph (2), including (2)(A) and (2)(B).

—Newly designated section 7111(b)(1)(B) of subchapter II of subpart F of part III of title V, United States Code is amended by striking the words "Except as provided under subsection (e) of this Section, if", and substituting therefore "If"; and section 711 is further amended by striking all of subsection (e) and redesignating the subsequent subsections accordingly.

—Newly designated section 7112 of subpart F of part III of title V, United States Code, is amended by inserting after subsection (c), a new subsection (d) (and redesignating the subsequent subsections accordingly) which reads as follows:

"(d) Any employee who is engaged in the administration, interpretation and enforcement of the Federal Election Campaign Act of 1971, as amended, shall not be represented by any labor organization which maintains a political action committee or which is affiliated, associated, or connected with an organization which maintains a political action committee; nor shall such employees be represented by a labor organization which expressly advocates the election or defeat of any candidate for Federal Office.".

—Strike newly designated section 7113 of subpart F of part III of title V, United States Code, and redesignate the subsequent sections accordingly; and amend newly designated section 7117 by striking all of subsection (d).

—Newly designated section 7115 of subpart F of part III of title V, United States Code is amended by striking all of subsection (c) thereof.

—Newly designated section 7116(a)(5) of subpart F of part III of title V, United States Code is amended by inserting immediately before the semicolon the following: "; *Provided*, That nothing in this chapter shall be construed as requiring an agency to negotiate in good faith with any labor organization certified after the enactment of this Act until such labor organization has been determined by means of a secret ballot election conducted in accordance with the provisions of this chapter. This provision shall not be construed to bar a consolidation of units without an election".

—Amend newly designated section 7116 of subpart F of part III of title V, United States Code, by inserting after subsection (b) a new subsection (c), redesignating the present subsection (c) and subsequent subsection accordingly, which reads as follows:

"(c) The expression of any personal views, argument, opinion or the making of any statement shall not (1) constitute or be evidence of an unfair labor practice under any of the provisions of this chapter or (2) constitute grounds for, or evidence justifying, setting aside the results of any election conducted under any provisions of this chapter, if such expression contains no threats of reprisal or force or promise of benefit.".

H.R. 11280

By Mr. FRENZEL:

(Amendment to the Udall substitute for title VII.)

—In new section 7103(a)(3)(F) strike the word "or".

In new section 7103(a)(3)(G) after the word "Panel;" insert the following: "or (H) the Federal Election Commission;".

H.R. 11622

By Mr. EDGAR:

—Page 56, after line 11, delete "." and insert the following:

"(3) Not later than 1 year after the date of the enactment of this subsection, the Secretary shall conduct a study, and submit a report thereon to the Congress, on the effects which would result from including within the coverage of this Act various types and classes of facilities and equipment used in the transportation on land of gas or liquified petroleum gas in interstate or foreign commerce, or storage in connection with such transportation.".

H.R. 11733

By Mr. EDGAR:

Page 204, strike out line 9 and all that follows down through page 209, line 11, and insert in lieu thereof the following:

SEC. 401. Section 134 of title 23, United States Code, and section 8 of the Urban Mass Transportation Act of 1964 are amended, both to read as follows:

"(a) It is declared to be in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective, the Secretary shall cooperate with the State and local officials in the development of transportation plans and programs which are formulated on the basis of transportation needs, as determined by the State and local officials, with due consideration given to the national goals set forth in subsection (c) of this section.

"(b)(1) The transportation planning process for urbanized areas shall be carried on, in collaboration with the State, by elected local officials acting through a metropolitan planning organization or other metropolitan instrumentality which, at the minimum, shall encompass the entire urbanized area within the State as designated by the Bureau of the Census. Where an urbanized area encompasses communities in more than one State the Secretary may, at his discretion and upon the request of the responsible local officials, assist in the development of separate plans and programs for those parts of the urbanized area within a single State.

"(2) Within one year after the enactment of this section, in the absence of State law to the contrary, the local officials of the urbanized area for which a metropolitan planning organization has been designated prior to enactment of this section, or for which a metropolitan planning organization has not been designated for the purposes of this section, may under rules established by the Secretary designate the State or any representative regional instrumentality as the metropolitan planning organization for the purposes of this section.

"(c)(1) On a date established by regulation, and at subsequent two-year intervals, urbanized areas desiring Federal financial assistance under this Act shall submit to the Secretary for his approval a comprehensive transportation plan. The planning process required under this section shall consider all modes of transportation, and shall be continuing, cooperative, and comprehensive to the degree appropriate based on the complexity of the transportation problems. All plans submitted under this section for approval by the Secretary shall include both a long-range and a short-range element.

"(2) The long-range element shall set forth a multi-year program of transportation improvement projects, staged according to priority. Such multi-year programs shall be based on an assessment of transportation needs, as determined by the responsible local officials, and shall include concise statements relating the program to each of the following objectives, which are declared to be in the national interest: (A) Coordination of the urbanized area transportation system with the Statewide Transportation System; (B) Development and implementation of strategies to reduce transportation improvement costs by making more efficient use of existing transportation facilities; (C) Development and implementation of strategies to coordinate various modes of passenger transportation; (D) Development and implementation of strategies to reduce traffic fatalities and improve other aspects of transportation safety; (E) General improvement of mobility, with special effort made in meeting the needs of the transportation disadvantaged; and (F) with respect to urbanized areas of 1,000,000 or more population, conservation of energy and improvement of air quality by development and implementation of strategies to reduce peak hour single-passenger automotive travel to and from major centers of employment.

"(3) The short-range element shall set forth those transportation improvement projects, together with alternative transportation management strategies, proposed for the following two calendar years. The short-range element shall be developed, under the supervision of the designated metropolitan planning organization, by an appropriate forum involving the State transportation department (or its equivalent), operators of public mass transportation, and other public bodies responsible for the implementation of the urbanized area's transportation policy.

"(4) The Secretary shall approve a comprehensive transportation plan submitted under this subsection unless he determines that the planning process on which the plan is based has not been carried out in conformance with this section, or unless he determines that the programs contained in the plan, when considered in the aggregate, will not reasonably promote each of the national objectives set forth under this subsection.

"(5) Concurrent with submission to the Secretary, metropolitan planning organizations shall submit the comprehensive transportation plan required by this section to the Governor of the State or States affected, to principal sponsors of projects proposed in the plan, and to the Environmental Protection Agency. If within thirty days thereafter any of the recipients submits comments to the Secretary, the Secretary shall con-

sider such comments before taking final action on the plan.

"(6) Approval by the Secretary of any plan submitted under this section shall not prevent the Secretary from subsequently disapproving any individual project on the program, pursuant to the provisions of the Urban Mass Transportation Act of 1964 or title 23, United States Code, nor shall it be considered an action or approval for the purposes of the National Environmental Policy Act or any other federal law.

"(d) No project assisted under this Act (title) and within an urbanized area as designated by the Bureau of the Census shall be approved by the Secretary (after the date of the enactment of rules established by the Secretary to implement this section) unless the proposed project is part of an approved short-range transportation planning element under this section.".

H.R. 11733

By Mr. WINN:

—Page 100, after line 4, insert the following:

URBAN SYSTEMS DISCRETIONARY GRANTS

SEC. 109. Subsection (a) of section 104 of title 23, United States Code, is amended by inserting "(1)" immediately after "(a)" the first place it appears and by adding at the end thereof the following new paragraph:

"(2) In addition to the deduction authorized by paragraph (1), the Secretary shall deduct an amount equal to 10 per centum of the sums authorized to be appropriated in each fiscal year for expenditure on the Federal-aid urban system. The sum so deducted shall be available for expenditure at the discretion of the Secretary for grants to States and to political subdivisions of States for projects on the Federal-aid urban system in accordance with those provisions of this title otherwise applicable to such projects unless the Secretary finds any such provision to be inconsistent with the purpose of this paragraph. No grant shall be made under this paragraph to any State, or to any political subdivision thereof, which has not obligated all of the funds apportioned to such State for such fiscal year for expenditure on the Federal-aid urban system. Any sum deducted by the Secretary under this paragraph shall remain available until expended. Sums apportioned to a State under paragraph (6) of subsection (b) of this section unexpended at the end of the period of their availability shall lapse as provided in section 118(b) of this title and shall thereupon become immediately available for expenditure, at the discretion of the Secretary, in accordance with this paragraph."

H.R. 12005

By Mr. SOLARZ:

—Page 8, line 16, insert "(a)" before "The".

Page 9, insert after line 24 the following new subsection:

(b) In recognition of the severe plight of refugees from Democratic Kampuchea (Cambodia) and in view of the magnitude and severity of the violations of human rights committed by the government of that country, the Attorney General should exercise his authority under section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)) to parole into the United States, during the two-year period ending on September 30, 1980, 15,000 of such refugees who seek admission to the United States.

H.R. 12611

By Mr. CAVANAUGH:

—Page 137, strike out line 17 and all that follows through line 18 on page 138 and insert in lieu thereof the following:

EMPLOYEE PROTECTION PROGRAM

SEC. 32. (a)(1) Any protected employee who suffers a qualifying dislocation shall have the right to be hired, regardless of age, for any position in such employee's occupational specialty by any air carrier before such air carrier hires any other individual for such position unless such other individual (A) was furloughed or terminated by such air carrier, or (B) suffered a qualifying dislocation before such protected employee and such other individual is a protected employee.

(2) The Secretary shall establish, maintain, and periodically publish in the Federal Register a comprehensive list of available jobs with air carriers. Such list shall include descriptions of, and qualifications for, such jobs and such other information with respect to such jobs as the Secretary deems advisable. The Secretary may require each air carrier to submit such reports, data, and other information at such times and in such manner as the Secretary deems necessary to carry out his responsibilities under this section. The Secretary shall be responsible for determining the accuracy of such reports, data, and information.

(b)(1) The Secretary of Labor shall make every effort to assist any protected employee who has been furloughed or terminated by any air carrier because of a qualifying dislocation in finding employment reasonably comparable to such employee's employment with such air carrier.

(2) The Secretary of Labor shall require each air carrier to comply with the requirements imposed by this section.

(c)(1) The Secretary may issue, amend, or repeal such regulations as the Secretary deems necessary to carry out his responsibilities under this section.

(2) Simultaneously with the promulgation of any regulation pursuant to paragraph (1) of this subsection the Secretary shall transmit a copy thereof to the Congress. Except as provided in paragraph (3) of this subsection, such regulation shall take effect 60 legislative days after the date of its promulgation unless—

(A) during such 60-day period and before either House of Congress adopts a resolution under clause (B) with respect to such regulation, both Houses adopt a concurrent resolution which states that both Houses approve such regulation, in which case such regulation shall take effect on the date of the adoption of such resolution by the second House taking action on such resolution; or

(B) during such 60-day period and before both Houses adopt a concurrent resolution under clause (A) with respect to such regulation, either House of Congress adopts a resolution which states that such House disapproves such regulation, in which case such regulation shall not take effect.

(3) Under provisions contained in a regulation described in paragraph (2) of this subsection, such regulation may be effective at a time later than the date on which such regulation would otherwise take effect under such paragraph.

(4) For purposes of this subsection, the term "legislative day" means a calendar day on which both Houses of Congress are in session.

(d) For purposes of this section—

(1) the term "air carrier" means any air carrier, as such term is defined in section 101 of the Federal Aviation Act of 1958, which holds a certificate issued under section 401 of such Act;

(2) the term "protected employee" means any individual who was employed full-time by any air carrier prior to the date of enactment of this Act for a period or periods totaling at least 12 months, except that such term shall not include any employee of the air carrier terminated for cause or any member of the Board of Directors or officers of the air carrier;

(3) the term "qualifying dislocation" means any furloughing or terminating of an employee by any air carrier due to any change in the Federal regulatory system made under the authority provided in this Act or in any amendment made by this Act to any other law which the Civil Aeronautics Board determines to have occurred on any date on which the total number of employees of such air carrier is less than the total number of employees of such air carrier on the date of enactment of this Act;

(4) the term "employee" includes individuals who are employed by an air carrier but not working because of any labor strike; and

(5) the term "Secretary" means the Secretary of Transportation.

(e) This section shall cease to be in effect after the last day of the 10-year period beginning on the date of enactment of this Act.

EXTENSIONS OF REMARKS

JUDGE PHILLIP FORMAN

HON. FRANK THOMPSON, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 11, 1978

● Mr. THOMPSON. Mr. Speaker, during our recent district work period while the House was out of session, my community of Trenton and the legal profession lost one of its most respected and able men. I have reference to U.S. District Court Judge Phillip Forman.

Judge Forman had a remarkable career on the Federal bench, serving for 46 years. He was appointed in 1932 by President Hoover and at the time was the youngest Federal judge in the Nation. I had the honor and privilege of having Judge Forman as a lifelong friend. He was a schoolmate of my late mother, Mrs. Beatrice Thompson, and did me the honor of admitting me to practice before the U.S. district court.

I know that Judge Forman's many friends join me in extending condolences to his widow, Mrs. Pearl Forman, and his brother, Mr. Milton Forman. It is with a great sense of personal loss that I place before my colleagues Judge Forman's obituary as it appeared in the Trenton Times:

PHILLIP FORMAN, 46-YEAR VETERAN OF FEDERAL BENCH

(By Ed Chelland)

U.S. District Court Judge Phillip Forman, a 46-year veteran of the federal bench and an expert in the field of antitrust and bankruptcy law, died yesterday at the Mercer Medical Center at the age of 82.

Judge Forman, who resided at 5 Belmont Circle, was named to the federal bench in 1932 by President Herbert Hoover. At the time he was the youngest federal judge in the nation.

He was admitted to the New Jersey Bar in 1917. He became an assistant U.S. attorney that year and served as U.S. attorney for the District of New Jersey from 1923 to 1929.

As U.S. attorney, he was hailed for tough actions against racketeering bondsmen who operated in federal courts in New Jersey. He shared offices with the firm of Hutchinson & Hutchinson in Trenton and later joined I. Herbert Levy in a law firm, a partnership which continued until his appointment as judge in 1932.

Judge Forman was named chief federal judge for New Jersey in 1951, a post he held until 1959 when he was named to the 3d Circuit Court of Appeals.

In 1961, he became a senior judge, and continued in active service until last year. During his career he presided over a number of major precedent-setting antitrust cases.

Also in 1961, Judge Forman was named as the chairman of the Advisory Commission on Bankruptcy Rules of the Judicial Conference of the U.S. The commission last year brought about changes that were hailed as the single greatest improvement ever made in the administration of the nation's bankruptcy laws.

Judge Forman was well-known for his numerous activities in charitable organizations and was one of the founders of the Trenton Council on Human Relations.

A veteran of World War I, he served in the U.S. Navy as a chief petty officer. He subsequently became commander of the Elkins-Olphant Post of the American Legion, which is now Post 93. In 1923 he was elected commander of the New Jersey American Legion.

He served as a major in the Organized Reserve Corps and as a lieutenant colonel in the Judge Advocate General's Department of the New Jersey National Guard.

After World War II, Judge Forman traveled to Europe with the Joint Distribution Committee to assist in the relocation of the survivors of concentration camps.

He was a member of the National Conference of Christians and Jews, the American Bar Association, the American Judicature Society, the Federal Bar Council, the New Jersey Bar Association and the Mercer County Bar Association.

He was a director of the McKinley Memorial Hospital, now Helene Fuld Medical Center, and a trustee of Rutgers University. He was also president of the board of managers of the New Jersey State Hospital, now the Trenton Psychiatric Hospital.

Judge Forman was born in New York City in 1895. Five years later the family moved to Trenton where his father established a tailor shop. He was a graduate of Trenton High School, Class of 1913, and of Temple University.

He is survived by his wife, Pearl Karlberg Forman, and a brother, Milton Forman of Hollywood, Fla.

Private funeral services will be held under the direction of Orland's Ewing Memorial Chapel, 1534 Pennington Road.●

MESSAGE FROM THE MAYOR OF KYRENIA, CYPRUS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 11, 1978

● Mr. HAMILTON. Mr. Speaker, at the request of the mayor of the town of Kyrenia on the island of Cyprus, I would like to bring to the attention of my colleagues a letter sent to Chairman Zablocki of the Committee on International Relations.

Although the mayor expresses bitterness and disappointment at the lifting of the arms embargo against Turkey, he and his people are thankful for the continued assistance and concern shown by the United States for the plight of the refugees and human suffering created as a result of hostilities between the Turks and Greeks on the island in 1974.

It is the hope of all of us that in the coming weeks the Greek and Turkish Cypriot communal talks can resume and negotiations for the return to the town of Famagusta of more than 30,000 of its former Greek-Cypriot inhabitants can be completed. We all share a continued interest in alleviating human suffering on Cyprus and our hopes are with the mayor of Kyrenia and other Cypriots that substantial progress for a Cyprus settlement can be achieved shortly after direct talks resume.

The mayor's letter follows:

Mr. CLEMENT J. ZABLOCKI,
U.S. House of Representatives,
Washington, D.C.

Mr. CHAIRMAN: Although we have heard with bitterness and disappointment of the lifting of the arms embargo on Turkey which we strongly believed to be the only means that Turkey would eventually have seen reason and allowed all refugees to return to their ancestral homes, we still see a ray of hope that America has not abandoned its responsibility to the support of justice and human rights, and that she recognises the immensity of the human tragedy that Turkish troops with American arms created in Cyprus, and voted financial aid to the 240,000 refugees.

We can assure you that whilst all refugees do appreciate the assistance afforded to them they will never forget or abandon their homes and towns and the problem in Cyprus will never be solved until every single refugee returns to his ancestral home. We wish to believe that we shall continue to enjoy the American government's support until the injustice is corrected and the refugees' aim and expectation is achieved.

Please Mr. Chairman we would appreciate if you would kindly circulate this message to all members of the House.

GEORGE TSIMON,
Mayor of Kyrenia, Cyprus.●

BOSTON IMPACT FELT BY THE FUELS TRANSPORTATION SAFETY AMENDMENTS DEBATE

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 11, 1978

● Mr. MOAKLEY. Mr. Chairman, today the House is scheduled to debate the Fuels Transportation Safety Amendments of 1978. It goes without saying that this is extremely significant legislation, especially for those of us in the Metropolitan Boston area where such a high volume of liquified natural gas finds its way through our city streets and highways on a daily basis.

I would like to take this opportunity to register my support of the Dingel-Markey bill governing the transportation of LNG and LPG through densely populated urban areas such as Boston. National media attention has been focused on the city of Boston in recent weeks, as officials from almost every level of the city and State government registered their strong opposition to the continued transportation of LNG through the heart of the city. Some of the statistics cited on national television are overwhelming. Experts have agreed that if the LNG commonly carried in one tanker, approximately 125,000 cubic meters, were to accidently escape for any variety of reasons, it could expand to cause a low-lying vapor cloud that would drift with the prevailing winds and cover an area of many square miles. If 40 cubic meters of LNG in one truck, perhaps half a load, were to spill and vaporize, it could mix with air and produce enough flammable gas to fill more than 110 miles of sewer lines or 15 miles of subway lines.

These are especially significant and awesome statistics for my constituents in the city of Boston because most of New England's LNG supply is shipped through the city of Boston on the southeast expressway. I do not doubt the necessity of insuring a continued supply of LNG to New England. Obviously, LNG is a very necessary element in the Northeastern area's energy picture. What I am concerned with is the literally life and death fears of my constituents in the impacted transportation network areas over what they perceive to be a very obvious threat to their own well-being. I urge my colleagues to support Mr. DINGELL's and Mr. MARKEY's proposed legislation as a necessary and rational first step in creating safer road conditions for LNG transportation, in maintaining a noninterruptible flow of LNG into New England, and in securing a safer environment for all Boston residents.●

NOISY AIRCRAFT AND REVENUE CREDIT ACT OF 1978

HON. JOEL PRITCHARD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, September 11, 1978

● Mr. PRITCHARD. Mr. Speaker, this week the House of Representatives considers H.R. 11986, the Noisy Aircraft and Revenue Credit Act of 1978. Legislation that assists the airline industry to meet the multibillion dollar Federal noise reduction requirements.

The Seattle Times, in an August 27th editorial, explains why this bill is not a "rip-off" for the airlines and why its enactment is in the national interest.

As a strong supporter of this legislation, I recommend these remarks to my colleagues.

The editorial follows:

[From the Seattle Times, Aug. 27, 1978]

FINANCING QUIETER AIRPLANES

An airplane noise-reduction bill now making its way through Congress has attracted a certain amount of controversy, not over the objective of mandating quieter airplanes, but over how the improvements would be financed.

The measure provides for diversion of a part of the existing airline-ticket tax to noise-abatement programs over five years.

The tax is now used to finance airport-improvement and air-safety programs, and most of it would continue to be used for those purposes. The diversion amounts to a

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

means of helping the airline industry meet multibillion-dollar federal noise-reduction demands with no increase in ticket costs, no new taxes, no direct appropriations, and no increase in federal spending.

That strikes us as a pretty sensible arrangement.

The principal objection to the legislation appears to be that it might set a bad precedent for other industries, giving them an excuse to seek special help in meeting environmental standards. But the objection overlooks the retroactive nature of the noise-abatement rules the airlines must meet.

The treatment given the airlines is different from that accorded all other transportation modes. For example, the Environmental Protection Agency has determined that it will not require railroad locomotives to be retrofitted for noise requirements, because, among other things, that would be too expensive for the railroads.

But the airlines, in addition to spending billions of dollars for new aircraft to meet normal demand in the years just ahead, must spend some $7 billion through 1984 to meet the noise-reduction rules imposed retroactively on two-thirds of the jet fleet. The noise rules, in effect, ground 1,600 airplanes unless they are modified or replaced.

The bill before Congress, H.R. 11986, would not only provide some form of environmental-cost equity for the airline industry at no taxpayer cost, but would encourage the replacement of planes now in service with new energy-efficient aircraft that are quieter than is required.

It would help maintain technological and sales leadership for the aerospace industry, which is, of course, this country's No. 1 exporter of manufactured goods.●

NATIONAL AFFAIRS

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, September 11, 1978

● Mr. BOLLING. Mr. Speaker, the American Veterans Committee (AVC) has recently adopted its current platform. I would like to draw your attention to the AVC policy on national affairs:

NATIONAL AFFAIRS

AVC stands for the Bill of Rights as a living force animating the political life of our Nation and as a firm limitation on the arbitrariness of government.

AVC stands for the Bill of Rights as a guarantee of our freedom to speak, to assemble, to believe, and to dissent without fear from the conformities of the day.

AVC stands for equality for all, regardless of race, color, ancestry, national origin, religion, sex or age, and for the constitutional guarantees of such equality.

AVC stands for just legislative representation of the people of the United States, the States and their subdivisions, without poll taxes or property qualifications for voting, with equal weight for each vote, and on a geographically fair basis, within the frame work of the Constitution of the United States.

AVC stands for honesty and integrity in public affairs and calls upon public officials scrupulously to uphold their oaths of office.

AVC stands for a policy of gainful, full employment and security for all, as outlined in the Employment Act of 1946.

AVC stands for responsible, efficient, and honest government and for the merit system in government employment.

AVC stands for a government willing to exercise all constitutional powers necessary to bring about solutions to our national problems.

AVC supports the active intervention of government, primarily of the Federal Government, in the economy and the general welfare of our country to stimulate and provide employment to improve the physical condition of our cities and towns, of our housing and our schools, to bring all the greatest benefits from the development and conservation of our natural and industrial resources and to provide for the general welfare and health of our people.

AVC supports a tax policy based on ability to pay and opposes regressive sales and excise taxes.

AVC stands for the recognition of equal rights for labor and management and for improved social benefits of employees.

AVC supports an educational system and a public health system which will give the American people, and America's youth in particular, the knowledge, skills, and training, and the physical and mental health and stamina, to continue their forward march toward America's democratic fulfillment.●

FFA PLAYING A PART IN AMERICA'S FUTURE

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Monday, September 11, 1978

● Mr. JEFFORDS. Mr. Speaker, earlier this summer I, along with many of my distinguished colleagues, attended a congressional breakfast sponsored by one of the Nation's outstanding youth groups—The Future Farmers of America. Those in attendance witnessed excellent remarks from several individuals, however, one of the most impressive of those statements was uttered by Rob Hovis, National FFA Vice President from Helene, Ohio. It is with a great deal of pleasure that I share the full text of the Rob Hovis speech with you.

FFA PLAYING A PART IN AMERICA'S FUTURE

(By Rob Hovis)

We appreciate the opportunity to share with you today some of our personal views concerning our program.

There are two great success stories of cooperation among local, state, and federal agencies that involve agriculture. The first is the story of the Cooperative Extension Service for agriculture, where local and state agricultural agencies, land-grant colleges, and the United States Department of Agriculture work together to generate, interpret, and distribute the research data that has ushered this Nation to the forefront of world agricultural production.

The second is the story which began with the passage of the Smith-Hughes Act of 1917. Since then, local communities have cooperated with state educational agencies and the United States Office of Education to provide facilities and personnel for vocational training programs.

Today, this program represents our best agent for effecting social and economic change in this country. And we should move quickly to activate this potential. In many cases, the only difference between the United States and nations similar to ours that have fallen in the past is a public education system that reaches all youth! And our system does, with some states having as high as 52% of their high school juniors and seniors enrolled in vocational education programs.

We are sure that many of you are aware of some of these facts, but we, as National student officers of the FFA want to reemphasize them today.

Vocational Education can help correct economic problems. Two great fears that the trustees of state and the National economies always have are unemployment and inflation. Our track record is very good in these areas. Let me illustrate by using my home state as an example. In Ohio, unemployment among graduates of vocational education programs who are four months out of high school is 7.5%, compared to a rate of 21% for all youth of similar age, and compared to as high as 45% for some minorities. (This statistic does not include those in college or military service because they are not seeking a job.)

Vocational education has great impact in the area of inflation. The single greatest factor in the cost of producing most goods in the United States is labor, and it is vocational education which increases worker productivity and efficiency.

Today, the American agricultural industry is placing severe demands upon the labor force for trained people. Some of the very largest of our vocational agriculture and FFA programs are in places like Philadelphia, Cleveland, Cincinnati, Los Angeles, etc. Fifty of the Nation's largest cities have vocational agriculture and FFA programs and it is from these student populations, as well as from our traditional programs in the high schools of rural America that we train food processors, farmers, horticulturists, agricultural mechanics, conservation technicians, and so on.

We must do more in vocational agriculture. Statistics collected by the United States Department of Labor show that there were 404,000 job replacement opportunities in American agriculture in 1975–76. Our own data tells us that the vocational agriculture and FFA programs generated only 131,000 qualified graduates—only 26% of the need. Some states are providing as low as 6% of their need. That cannot continue very long! We must work to expand our programs so that the industry of agriculture receives its due from public education. Vocational Agriculture/FFA is the best learning system we have for providing a student with up-to-date skills and a high degree of personal development for employment in agriculture. We are sure beyond question that a vocational student organization such as FFA, legally tied to the public education system as is FFA through its Federal Charter, Public Law 81–740, is the best way to secure the benefits of the organization for that instructional program. Public Law 81–740 demands performance from the FFA and establishes excellent lines of cooperation with the United States Office of Education, all of which has helped to give us the "Golden Past" which we speak of in our 1978 theme. All vocational student organizations and their corresponding instructional program would benefit from such legal linkage to their respective service area of the United States Office of Education.

Our priorities should be not merely to treat the problem of an untrained or mistrained population with massive investments in remedial programs designed to correct the shortcomings of education among people several years removed from high school, but to prevent the problem at its most likely point of origin—in the schools and, ladies and gentlemen, it is within this void between graduation from high school as a mistrained, untrained, or undertrained person, and the time at which the remedial program designed to correct that deficiency, may affect the individual, that the Nation's crime rate soars. Let's be wise enough to buy the ounce of prevention before we are assessed for the pound of cure.

In conclusion, I would like you to listen to what Confucius once said: "If you give a man a fish, you have provided for his food needs for one day. If you teach a man to fish, you have fed him for the rest of his life." We in vocational agriculture and FFA are in the business of teaching men to fish. You, the Congress of the United States, have paved the way by constructing the legal framework in

which the program functions, and we salute you.

As in any field of endeavor, vocational education is now facing some difficult and frustrating problems, but, realizing that our problems are really only the absence of ideas, we have no good reason to believe that they cannot be solved.●

CLEANER WATER IN PHILADELPHIA

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 11, 1978

● Mr. EILBERG. Mr. Speaker, I am pleased to announce that the city of Philadelphia will construct a new sludge recycling center as part of its program to promote cleaner streams and phase out the dumping of sludge in the ocean.

According to an announcement by Mayor Frank L. Rizzo, the $11 million center will be located next to the new Southwest Water Pollution Control Plant, at 80th Street and Penrose Ferry Road. It will provide for the dewatering, drying, composting, cleansing, storage, bagging, and distribution of digested sludge and sludge-based products.

This project will promote cleaner water throughout the entire Philadelphia area, and will make use of waste product for enriching the soil. The center will occupy 38 acres of vacant land. Water Commissioner Carmen F. Guarino says the center will supply rich and usable soil conditioners to what will be a growing market in future years.

The sludge, Mr. Speaker, will be given away and sold to homeowners, farmers, gardeners, horticultural firms, wholesalers, and other outlets. Eventually the center will be able to fill up to 1 million 40-lb. bags a year, besides distributing thousands of tons in dry bulk or liquid form by truck.

The new center will be built in three phases between 1979 and 1981. The first phase will provide for processing 60 dry tons of sludge a day, and the second phase an additional 150 tons. Thus by 1982, the center will have the capacity to convert over 76,000 dry tons of digested sludge (equal to all of Philadelphia's current annual output) into soil conditioner each year.

Guarino said that the plan calls for the pumping of digested sludge from the southeast and southwest sewage treatment plants to the recycle center. There, part of the sludge will be naturally dried in a dozen open-air drying beds, and then composted to increase the drying process.

Special treatment will be given to another part of the sludge, intended for sale. This will be mixed with wood chips and then force dried through perforated air pipes laid under the sludge in another area. This process will take 21 days. The resulting product will then be cured, screened for removal of wood chips, and shredded.

Phase 1 construction in 1979 will include:

Air drying beds, forced aeration beds, and a curing, shredding, screening area;

A storage area for dewatered sludge ready for composting, and for large quantities of bulking agents such as wood chips;

A liquid storage tank holding 730,000 gallons;

A liquid loading platform, where up to 25 tank trucks daily can take on liquid sludge;

A liquid sludge pumping station, plus pipelines;

An operations building to house offices, an information center, storage tanks, polymer pumps, and spare equipment;

A pick-up site, where the public can obtain sludge-based products free; and

Various access roads.

In phase 2, the water department will build more forced-aeration installations, storage areas, and curing and distribution areas, as well as composting facilities. The department will also build a full scale dewatering system that might include centrifuges, belt presses, air drying beds, or other processes. Additional liquid storage will also be provided.

Phase 3 will include an improved bulk-handling system for onsite transfer and truck loading, and a facility for bagging and warehousing sludge products destined for sale. Liquid storage will be further expanded.

Guarino said that in accordance with requirements of the Environmental Protection Agency, the water department has prepared an environmental assessment statement and description of the proposed facilities.

The city water department is seeking 75 percent funding from the EPA for the sludge recycling center.●

JOHN M. CAREY IS THE NATIONAL COMMANDER OF THE AMERICAN LEGION

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 11, 1978

● Mr. KILDEE. Mr. Speaker, it is with great pride that I wish to bring to the attention of my colleagues in the Congress the recent election of a constituent and personal friend of mine as national commander of the American Legion. He is John M. Carey, of Grand Blanc, Mich. Mr. Carey was elected national commander for 1978–79 at the recent convention of the American Legion in New Orleans.

Commander Carey is in Washington, D.C., this week. He will be appearing on Tuesday, September 12, before the House and Senate Committees on Veterans' Affairs to present the legislative goals and priorities of the American Legion for fiscal year 1980. That evening he also will be present to meet Members of Congress at a reception being hosted by the American Legion in recognition of the many services rendered to the veterans of America by the committee members.

A devoted family man, Mr. Carey brings an exceptional record of public involvement to his term as national commander. He has been active for many years both in the American Legion and in his community in many volunteer, appointive, and elective posts. I would like to just briefly outline some of his many accomplishments as a means of introducing him to my colleagues in the Congress.

John M. Carey is a native of Michigan, and served during World War II in the Pacific with the U.S. Army Corps of Engineers, 64th Engineering Battalion. He was married to Mildred Vanderlip on June 19, 1948, and today they have a son, John, and two daughters, Janice and Marsha. He and his wife went to Grand Blanc as high school teachers, before he began employment at General Motors, for which he has worked the last 27 years. Mr. Carey is now on a leave of absence from his position as department supervisor of the industrial engineering fabricating unit at the Fisher Body Plant in Flint.

As a member of the American Legion, he is a life member of Grand Blanc Post 413, and served as that post's adjutant for 28 years. He also is a past post commander, past district commander, past State finance officer, past State commander (1959), and past national executive committeeman (1965–67). He served as chairman of both the Michigan and national internal affairs committees, was a member of the national foreign relations council in 1977 and a member of the national public relations commission from 1970 to 1974.

As a citizen, Mr. Carey's exemplary record includes 8 years of service as the elected mayor of Grand Blanc. He was chairman of the Genesee County Small Cities Association in 1974, vice chairman of the Michigan Municipal League for Region Four in 1971, chairman of the Grand Blanc Regional Planning Commission from 1967 to 1971, and secretary-treasurer of the Michigan Republican Serviceman's Council. His awards for community service and involvement include the General Motors Award for Excellence in Community Activities for both 1972 and 1977. He also was the Grand Blanc Rotary Club's Man of the Year in 1972 and the Grand Blanc Community Veteran of the Year in 1975. He also has received the Minuteman Award from the Governor of Michigan and the Personal Leadership Award from the Flint Industrial Executives Club. Since 1969 Mr. Carey has been a member of the board of managers for the Michigan Veterans Facility in Grand Rapids.

The American Legion is fortunate to have such an outstanding individual for its national commander, and I look forward to working with Jack Carey on issues of vital concern to America's veterans.●

HUMAN RESOURCES DEVELOPMENT ACT

HON. STANLEY N. LUNDINE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 11, 1978

● Mr. LUNDINE. Mr. Speaker, I would simply like to clarify the copyright status of a manuscript submitted during hearings on the Human Resources Development Act in March of 1977. The item appearing in the appendix on page 225 of the record of the hearings before the

Subcommittee on Economic Stabilization of the Committee on Banking, Finance and Urban Affairs, House of Representatives, 95th Congress, 1st session, on H.R. 2596, inadvertently omitted the following reference:

Copyright 1977 Mitchell Fein.
All rights reserved.
Reproduction in whole or in part is prohibited.
"Draft 5."●

BUSINESS WEEK INVALIDATES FEDERAL-MILITARY PAY CAP RATIONALE

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 11, 1978

● Mr. HARRIS. Mr. Speaker, last Wednesday I introduced House Resolution 1336 to overturn the President's proposed 5.5 percent pay cap on Federal employees and military personnel. My resolution would put into effect the 8.4 percent pay adjustment which the President's pay advisers have recommended to achieve comparability between current public employee-military pay levels and private industry pay raises since 1977.

There has been much talk from the administration about the need for the Government to "set an example" for private industry in the fight against inflation. This is a commendable goal, but in singling out one sector of the economy for wage controls, the President has chosen an unfair and ineffective vehicle for providing an example to business. I have stated repeatedly, the Comparability Pay Act does not authorize cost-of-living increases; rather it directs that regular pay adjustments be made to bring military and Federal pay up to levels of comparable private industry salary increases.

A recent study by the Congressional Budget Office found pay caps in the past to have been an ineffective means of setting an example for private industry (see "Capping Federal Pay: Alternative Pay Adjustments for 1979," Congressional Budget Office report, August 1978). This new report shows that "in the 6 months following the 1975 (Federal pay) cap, major wage settlements in the private sector averages—for the first year—10.4 percent as compared with 9.4 percent for the preceding 6 months."

Today's issue of Business Week contains an excellent article which further illustrates the ineffectiveness of pay caps in setting an example for private industry. My colleagues will recall that in the spring of this year, President Carter announced his intention to freeze Federal and military pay as such an example, well in advance of any reliable data on what private industry increases would be, or what size of pay adjustment would be necessary to bring about comparability under the law. This article "A Boom in White-Collar Salaries" (Business Week, September 11, page 50) makes it clear that private white-collar salaries have risen far faster than the level which the President seeks to impose on employees under his control.

I commend this article to the attention of my colleagues:

A BOOM IN WHITE-COLLAR SALARIES

The Carter Administration may be making loud noises about holding a lid on salary increases, but apparently it is speaking into a vacuum. The Bureau of Labor Statistics recently announced that the 7.9% average white-collar raise for the 12-month period ending March, 1978, was the second largest overall increase recorded in the 18-year history of the BLS surveys—topped only by the 9% average for the inflation-heavy period of March 1974–75. What is more, the BLS numbers may be on the low side: A recent check of 20 industrial companies by Robert H. Hayes & Associates, a Chicago management consulting firm, showed average white-collar increases of 8.16% in 1978, with an 8.35% average projected for 1979. Business Week's own telephone survey showed nonpromotional raises hitting as high as 10% and 11% in some companies, with no downward swing in sight.

Clearly, the lull in salary pressure that many companies enjoyed in 1976 and 1977 is over, and the strongest heat is being felt at the lower rungs of the white-collar ladder. "The rate of pay increases at upper levels is definitely slowing down, while that at lower levels is speeding up," states Edwin S. Mruk of Arthur Young & Co., which does periodic surveys of executive compensation. "We find that management groups are moving ahead at an 8% clip nationally, while secretarial salaries are moving at 10% to 12%," adds Raymond F. Sasso, director of corporate compensation at Pitney-Bowes Inc.

HEAVY UNION PRESSURE

Unionized companies, of course, are affected most, as hefty blue-collar settlements cause a ripple effect upward through the lower management ranks. At Pillsbury Co., Robert Sayer, vice-president of personnel and organization planning, says that union settlements are coming in at 9%, which has put heavy pressure on white-collar raises. One result: Pillsbury raised salary midpoints for lower and middle management levels by about 6% in January, while grade levels for senior management have remained unchanged since June, 1976.

Even those companies that were first to hop on the White House bandwagon on fighting wage inflation are finding that union pressures on white-collar pay are almost irresistible. A General Motors Corp. spokesman admits that while the company is trying to hold the line on management salaries, lower-level white-collar raises now and in the future "will take into consideration what union employees get." And Jan Robbins, supervisor of compensation for American Telephone & Telegraph Co., notes that while salary ranges for employees in most middle- to upper-management jobs went up 5% in 1978, lower-level salary ranges were pushed up 7%. "We have to look at the outside competitive market for our managers, but we look at the internal lower-level pay pressures for secretaries and the like," she says.

In some parts of the country, however, fierce competition for really good lower-level employees rivals blue-collar wage hikes as the culprit in the renewed upward salary pressure. One large Midwestern insurance company recently granted 10% across-the-board increases to all employees making less than $20,000. In Greenwich Conn., Iroquois Brands Ltd., which granted white-collar raises of between 8% and 11% this year, bases its managerial increases on national salary surveys that it conducts once or twice a year, but bases its secretarial salaries on more frequent local salary surveys. "We know that if we give our secretaries, say, a 6½% raise and five companies within 20 blocks give 8%, we'll wind up with mass applications [for new jobs] going out," says Robert L. Cummings, executive vice-president. Similar competitive pressure in Houston has caused Pullman Kellogg to increase the frequency, if not the actual amount, of raises to secretaries. "Our lower-level people get about the same percentage increases as our middle and upper managers, but we are spreading the raises out, granting smaller ones several times a year," says David Bartlett, vice-president of personnel and facilities.

MERIT-RAISE CONFLICTS

All the corporate scurrying to remain competitive in salaries and, at least, to keep employees even as the cost of living surges is "battering the so-called concept of merit increases about the head," says Victor V. Veysey, director of the California Institute of Technology's Industrial Relations Center, which holds periodic discussion sessions with compensation managers. Still, at least some companies are struggling to continue linking monetary rewards to performance. Xerox Corp., for one, increased the upper level for possible nonpromotional raises in all pay categories to 15% in 1978 from 13% in 1977, but a company source stresses that "criteria for raises have been toughened."

Companies are also, of course, still looking for ways to keep outstanding performers at all levels happy without building huge increases into their base pay. Pitney-Bowes this year started granting overtime pay to exempt employees all the way up to senior executives, and Sasso says the company has already loosened restrictions on who qualifies. For example, managers formerly had to work more than 45 hours a week for four consecutive weeks to receive overtime. Now, working extra time in any week can bring in extra pay. Sasso adds that P-B is also looking to include more people under the umbrella of lump-sum performance bonuses. "We've already removed any restrictions on the proportion of our work force that can get the payment," he says, "and we're looking at possibly giving bonuses for the next-best level of performance as well as for the top achievers."

SALARY CRUNCH

Iroquois Brands also is striving to broaden the base of those employees who are covered by its incentive compensation program, but it, too, is trying to make sure that management bonuses are linked to actual performance. "Where three to four years ago bonuses were granted on a discretionary basis, we are now really taking hard looks at returns on investment, on sales, and the like," Cummings says. "Our objective is to hold salaries to a prudent level, and if a bad year comes along and bonuses are low, employees will understand how they were arrived at."

Still, keeping salaries reasonable is not going to be an easy task for any company this year. And most industry experts predict that 1979 is not going to be much better. "Through the end of this year and the beginning of next, there will be a great psychological impact from union bargaining that in normal times—times of less inflation—might well be ignored," says Harland Fox, executive compensation specialist at the Conference Board. Sums up Joseph W. Kimmel, vice-president of management consultants William E. Hill & Co. Inc., "The increasing rate of inflation, coupled with the pressure of blue-collar settlements, will put tremendous pressure on management to keep raises up."

And, of course, a thorny question remains: What can be done about the continual erosion of spendable income? The combination of progressive taxation and inflation continues to keep take-home pay frustratingly low despite the large increases.

Nearly every company contacted by BUSINESS WEEK is "working on the problem." But apparently no one is close to a solution. Until that solution is found, it is unlikely that the clamor for raises will ease.

THE ADMINISTRATION BELIEVES IN PROMISES

The responses are mostly in to the letters that Robert S. Strauss, President Carter's chief inflation fighter, sent to the 1,000 largest U.S. companies, asking them to hold down price and compensation increases. And although only about 10 percent of the corporate heads responded with positive commitments of one sort or another, the Administration apparently is trying to convince itself that the glass is not half empty, but half full. Strauss said responses came from a "significant number of American businesses [that] are now demonstrating a will to take the necessary steps to help reduce our rate of inflation."

In fact, Strauss did receive some specific commitments from corporate leaders. Uniroyal Inc. Chairman David Beretta promised that Uniroyal "will establish for the 12-month period from July 1978 through June 1979 a goal of maintaining salary increase costs for our mid and top management group at a 5 percent rate." And International Business Machines Corp. Chairman Frank T. Cary assured Strauss that "in 1978 the average increase in the compensation of IBM employees will be less than the average increase for the past two years."

But, if Strauss's statement is any indication, most of the commitments—particularly on prices—were hedged. For example, Du Pont Co. Chairman Irving S. Shapiro advised Strauss that "our domestic selling price index for 1978 will increase less than the average annual rate of increase for our firm for 1976 and 1977, assuming that our forecasts for raw materials and labor costs are reasonably accurate." In fact, the only actual number commitment cited by Strauss came from McGraw-Hill Inc. Chairman Harold W. McGraw, who specified that "the impact of increases in our domestic prices on our 1978 sales will be below 7 percent."

Possibly, many companies are still waiting to see if Washington will clean its house first. H. Barclay Morley, chairman and president of Stauffer Chemical Co., did pledge that Stauffer would hold 1978 price increases below the 1976–77 average annual rate. But Strauss quotes Morley as adding, "The majority of the business community will pitch in and help if they believe that more than cosmetic actions are being taken and that other sectors of the economy, especially government, are doing their share."

Of course, none of the companies is legally committeed to fulfilling even those salary and price restraint promises they did make. Still, some of them may have an easier time than others. One of the companies that promised to hold down wages was New York Times Co., which has been closed down by a strike for the last month.●

PERSONAL EXPLANATION

HON. MARTHA KEYS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 11, 1978

● Ms. KEYS. Mr. Speaker, on Friday September 8, 1978, I was unavoidably absent from the House. Had I been present, I would have voted on matters coming before the House as follows:

"Nay" on rollcall No. 741, on a motion to recommit Senate Joint Resolution 4, establishing the Aboriginal Hawaiian Claims Settlement Study Commission, to the Committee on Interior and Insular Affairs.

"Aye" on rollcall No. 742, on committee amendment No. 1, that provided for an alternative eligibility requirement which permits workers to qualify on the basis of 40 weeks of employment in one or more trade-impacted firms on the preceding 2 years.

"Yea" on rollcall No. 743, final passage of the bill H.R. 11711, trade adjustment assistance for workers and firms.●

BALANCE OF TERROR

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 11, 1978

● Mr. SIMON. Mr. Speaker, columnist Tom Braden had a column in the Washington Post and other newspapers recently which discussed the whole question of military superiority and "the balance of terror."

He reaches the conclusion that—

The peace of mutual terror requires care, wariness, restraint and vigilance. But the one thing that might destroy it is a chauvinistic determination to be No. 1.

I concur completely.

The article follows:

THE BALANCE OF TERROR

(By Tom Braden)

We must accept the fact that there is no such thing any more as being No. 1 in military matters. If we try, we run the risk of suicide.

I bring this up because another group dedicated to military superiority has just formed in the Congress. It is called the Coalition for Peace Through Strength and, like its sister organizations—the American Security Council, the Committee on the Present Danger and a number of others—it is dedicated to achieving and maintaining, "military superiority over Moscow."

Maybe those people get a certain satisfaction out of crying alarm. Maybe they fancy themselves as modern-day Paul Reveres. Consciously or unconsciously, they are, of course, fronting for an enormous weapons industry, which wants to build bombers and ships the Pentagon has declared unnecessary.

But whatever their reasons for talking nonsense, nonsense is what these people are talking. They want to embark on a huge civil-defense program, build more missiles, beef up our conventional forces, build a bigger Navy and Air Force.

And what will the Russians do? Why, of course, they will then do precisely the same thing. We can both spend ourselves into bankruptcy while the Japanese become the world's leading economic power.

All the spending in the world will not change the strategic balance, which rests today exactly where it did when Winston Churchill defined peace as "mutual terror." Each side knows that if it strikes first, the other can retaliate. Each side knows that if it strikes to kill, the other can and will kill before it dies.

Peace should not depend on mutual knowledge of possible obliteration, but it is fact. And all of us, owing our lives to the balance of terror, ought to be wary of efforts to upset that balance.

Because, of course, there is always the possibility that, if one side believes the other is achieving real superiority, some dangerous or desperate act may ensue.

We know, for example, that the Soviet Union is building up its forces in Eastern Europe to a level our secretary of defense estimates at "2 to 1 or more." We don't quite understand this. Some people think the Russians are only doing what they have always done, which is to try to maintain superior strength along their own borders. Others suspect they have or will develop offensive designs on Western Europe.

What do we do about this? Obviously we do not let the Russians achieve such superiority along their own borders as to tempt them to adventure. We maintain a NATO force that is capable of holding the pass.

Also, we obviously take counsel with our allies, and we talk with the Russians to see if we can determine why they are building up their conventional forces and whether we can reach some agreement, tacit or otherwise, in limiting the buildup.

But the one thing we must not do is to try to scare hell out of the Russians by embarking on an effort to be stronger than they are along their own borders.

The peace of mutual terror requires care, wariness, restraint and vigilance. But the one thing that might destroy it is a chauvinistic determination to be No. 1.●

HORROR STORIES

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 11, 1978

● Mr. IRELAND. Mr. Speaker, we often hear "horror stories" about the stupidity of particular Government regulations, or the blundering of certain agencies.

Well, today I would like to share with my colleagues a situation which is occuring in Palmetto, Fla., and is a prime example of just these kinds of problems.

What follows is a letter by the mayor of Palmetto, the Honorable John J. "Toby" Holland, describing the problem and a newspaper article filling in the details.

Mr. Speaker, the situation described by Mayor Holland is fast becoming the rule rather than the exception all across this Nation. We have far too many Government regulations and too much Government intervention in our lives. The American people are looking to us in Congress to help them with this problem. Up to now, we have disappointed them. We can and must do better.

Thank you, Mr. Speaker.

The material follows:

PALMETTO, FLA.,
August 24, 1978.

Hon. ANDY IRELAND,
House of Representatives,
Congress of the United States.

DEAR ANDY: May I take this opportunity to enclose an article sent to me by one of my friends in Georgia from an Atlanta newspaper. Big Brother in Washington has also affected this little community, this might be a reprint of our own problem.

As I am sure you are aware, we were threatened with a $10,000 a day fine for noncompliance of our sewage treatment plant. To avoid this we recently floated a 4.1 million dollar bond issue to meet the federal government requirements. The cost to renovate the plant will be some two million dollars and we hope to solve the number one problem, that of infiltration and exfiltration for an excess of one-half million dollars. The balance is the expense of the bond issue.

Had we not solved this problem totally with local funding but rather had applied to the 201 program we would have expended ten million dollars in local funds. That is the price of the carrot that the Feds hold in front of us for federal dollars. This plus a five year delay to get in compliance.

I am convinced that the least government is the best government and hope that you and the rest of the Florida delegation concur with my philosophy. Please do whatever you can to stop the threat of the federal government trying to solve all of the local problems because it has become a disaster. I hope that it will get back to the problem of trying to solve some of the world and national problems, an even greater disaster.

Sincerely,

JOHN J. HOLLAND,
Mayor.

MILLIONS WASTED ON SEWAGE PLANTS, HOUSE PANEL TOLD

(By Jeff Nesmith)

WASHINGTON.—Cities and towns in the Tampa Bay area of Florida are spending millions of dollars to comply with state water quality edicts that include a requirement that phosphate compounds be removed from sewage.

But the streams and rivers flowing into the bay drain an area that contains one of the world's richest deposits of phosphate rock—an area that for decades has provided one-third of all the commercial phosphate on earth.

The amount of phosphate that finds its way into Tampa Bay from city sewage is miniscule in comparison with the phosphate that would flow into the bay even if there were no towns or cities in the area.

Congressional investigators say the millions of dollars—federal, state and local—being spent to remove phosphates from area sewage will have no appreciable effect on water quality in the area.

In Toledo, Ohio, million of dollars have been committed to remove phosphates from sewage that empties into the Maumee River and ultimately flows into Lake Erie.

But most of the phosphate in the Maumee River does not come from Toledo sewage. It comes from the Tampa Bay area—in the tons of phosphorous-rich fertilizer that farmers in northern Ohio apply to their crops.

"Even if Toledo were wiped off the map, the Maumee River would still be full of phosphates," federal consultants recently reported.

LEAKY SEWER SYSTEM IS MAJOR PROBLEM

Moreover, the most serious water pollution problem in the Toledo area is a leaky sewer system that will keep a lot of wastewater from ever reaching the new treatment plant.

Yet most federal grants to Toledo are being spent on the new advanced water treatment facility, rather than on repairing the leaky sewers.

"Until the sewers are fixed, no amount of treatment will do much to improve these squalid, smelly waters," consultants Jerome Howorits and Berry Bazel told a House subcommittee recently.

"If the sewage never gets to the treatment plant, it can't be treated. It's that simple."

The Toledo and Tampa Bay cases are among several cited in an upcoming House subcommittee report that will warn that U.S. cities and towns may be spending billions of dollars for expensive sewage treatment equipment that won't work, is too expensive to operate, or is not needed.

The House Public Works subcommittee on investigations and review has heard testimony that inadequate design processes and a lack of knowledge about what is actually being dumped into the nation's waters could mean that billions being spent for advanced water treatment equipment will not achieve the expected improvements in water quality.

"Not only are the capital costs for building the waste treatment plants high, but operation and maintenance costs paid by the users are staggering as well," investigators from the General Accounting Office told the subcommittee.

TREATMENT PLANT NEVER WORKED RIGHT

For example, an advanced treatment plant was constructed in Greenville, Maine, to treat sewage discharges into scenic Moosehead Lake. The plant has never worked properly.

But to cover operating costs, the town's 1,500 residents are having to pay user charges of $200 a year per family, even though 80 per cent of the families have incomes below $10,000 a year.

Recently, the town put the plant up for sale.

In Walton, N.Y., a new $9 million sewer system and treatment plant for a community of 1,700 people is so expensive to operate that it now accounts for 88 percent of the town's expenditures. The eight workers who operate the plant outnumber the police force.

Despite such operating costs, surveys have repeatedly shown that as many as half of the wastewater treatment plants in the country are not operated properly, according to the committee's staff.

"The operation and maintenance problem is a very serious and massive one," a staff report noted. "In fact it may well be scandalous. Billions of federal, state and local tax dollars have already been invested in plants over the years which are not doing the job intended.

"This is known and admitted—and little if anything has been done over the years to correct the problems."

Environmental Protection Agency Administrator Douglas M. Costle appeared before the subcommittee and criticized a consultant's recommendation that funding for advanced water treatment plants be suspended until design and maintenance problems are better understood.

"I feel very strongly that the recommendation that we discontinue funding advanced water treatment pending further investigation is sadly misconceived," Costle said, calling the recommendation "a dramatic illustration of the old cliche about throwing the baby out with the bath."

He said new regulations and amendments to the federal Water Quality Act will make it possible to reduce some costs.

Rep. Ronald (Bo) Ginn, D-Ga., chairman of the subcommittee, has called for more careful planning and improved design for future plants.

"We do not always need to apply technology just because it's there," Ginn said. "If there are better ways to achieve progress and the goal of clean water, that is what we are seeking—not symbols or monuments or ego re-enforcement." ●

CARTER'S CURIOUS ARM SALES POLICY

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 11, 1978

● Mr. FINDLEY. Mr. Speaker, the United States has refused to build eight frigates worth $2 billion for Iran but will sell $350 million in armaments for the vessels.

The refusal means an enormous loss in shipbuilding jobs for the United States. In fact, since being turned down by the United States, Iran has decided to buy 12 frigates, not just 8. The larger package will cost about $2.5 billion and the Netherlands and West Germany will get the business. I made this disclosure for the first time August 18.

Coming at a time when the U.S. dollar is sinking abroad while the U.S. shipbuilding industry is sinking at home, the administration's handling of the Iranian transaction deserves high marks for stupidity. The three shipyards which build the U.S. frigate, Bath Iron Works in Bath, Maine, and Todd Shipyards in San Pedro, Calif., and Seattle, Wash., and their employees will, of course, be most directly hurt by such a confused and shortsighted decision. But the Nation as a whole will also suffer.

The reason for this curious decision to reject business which would have brought badly needed foreign exchange and jobs to the United States, to refuse to sell the ships but to sell the weapons that will equip the ships, is to be found in an absurd interpretation of its arms control policy by the administration.

Simply put, the armaments we have agreed to sell cost less money and therefore fit within an arbitrary and meaningless gross dollar ceiling on arms sales the Carter administration has set. The frigates, at $200 million a piece, cost more money and would have exceeded the ceiling. Therefore, this country finds itself in the ludicrous position of selling the armament suites or "lethal" components to Iran while it refuses to sell the "nonlethal" ships merely because the former are cheaper.

The Carter administration is willing to increase the firepower in the Persian Gulf by selling the armaments to Iran but not to benefit the U.S. balance of trade and provide more jobs for Americans.

The Carter administration's decision had nothing to do with arms control rationale. Indeed, it was a rigid attachment to the appearance of arms control rather than to the reality of arms control which motivated this amazing decision.

A dollar ceiling should not become the primary determinant of U.S. arms control efforts. Prudent and sincere arms control must depend upon a careful assessment on a case-by-case basis of U.S. interests, of the security needs of our friends and allies, and of regional and international military balance and stability. If these criteria were fulfilled in the case of the sale of the 12 armament suites to Iran, they must also apply to the transfer of the frigates themselves. If they do not permit the sale of the frigates, neither do they permit the transfer of the armament suites. To deviate from fundamental arms control principles and to attach instead the utmost importance to a dollar figure of annual sales displays an insincerity in the U.S. approach to arms control and robs our arms control efforts of all credibility.

Frankly, the Carter dollar ceiling is not impressive no matter how viewed. The fiscal year 1978 arms control ceiling of $8.6 billion belies the fact that total U.S. foreign military sales agreements worldwide for fiscal year 1978 will, it is estimated, approach $13.2 billion. The difference between $13.2 and $8.6 billion involves sales to countries exempted from the ceiling which includes

the members of NATO, Australia, Japan, and New Zealand and it includes all construction, making no distinction between a military hospital or an airbase runway. Of the $5 billion in foreign military sales agreements with Saudi Arabia in fiscal year 1978, for example, over $2.5 billion is in construction and, therefore, does not count under the administration's arms sales ceiling.

I attach several recent commentaries:

[From the Washington Post, Aug. 19, 1978]

IRAN SHIP PLOY LETS U.S. SKIRT CEILING ON ARMS

(By Don Oberdorfer)

The Carter administration has found a way to supply Iran with some very expensive armed frigates without violating the president's self-imposed ceiling on overseas arms sales.

The method: Let European countries build the costly ships, and then the United States will supply the less expensive weapons to make them effective.

Rep. Paul Findley (R-Ill.), who disclosed the ploy yesterday, called it "an enormous loss in shipbuilding jobs for the United States" with no gain in actual control of armaments. "Coming at a time when the U.S. dollar is sinking abroad while the U.S. shipbuilding industry is sinking at home, the administration's handling of the Iranian transaction deserves high marks for stupidity," he said.

According to Findley's account and interviews with embarrassed administration officials, Iran is buying more than $2 billion in hulls and propulsion systems for 12 guided missile frigates from Dutch and West German shipyards. However, the United States is selling the guns, missile and torpedo systems and other weaponry for the ships at a total cost of $350 million.

Informed sources attributed the idea for the split-level sale to Lt. Gen. Howard Fish, formerly the Pentagon's chief arms salesman, and Ambassador to Iran William H. Sullivan. Both the shah and top U.S. Navy officials were reported to be unhappy with the arrangement but powerless to find a way to allow Iran to buy the ships from the United States without breaching Carter's ceiling.

A recent White House review of arms for Iran within the past several weeks looked again at the separate sales of ships and their arms but took no action to change it, the sources said.

Congressional and executive branch sources said the shah has long wanted to buy heavily armed frigates as escorts for the four big Spruance class destroyers that the Nixon and Ford administrations agreed to sell to Iran. A preliminary request to purchase the frigates was made to the United States late in 1976.

As Carter's policy took shape in 1977, the decision to impose a U.S. arms sale ceiling beginning in 1978 caused a problem for the Iranian ship purchase.

Carter and the shah discussed the arms purchases in their meeting last November. According to administration sources, the shah was told then or a short time later that he would have to choose between the frigates or some other high priority weapons, such as the Airborne Warning and Control System plane, but he could not buy them all and stay within the Carter ceiling.

Originally the shah requested eight frigates, which would have cost at least $200 million each. Together with associated equipment, the total cost would have been $2 billion. The other weapons that Iran is buying from the United States this year will cost at least $1.8 billion and perhaps as much as $2.6 billion—a large share of Carter's overall arms sale ceiling of $8.6 billion for the year.

After deciding to buy his ships from the Netherlands and West Germany—and to increase the order to 12 ships—the shah formally requested the U.S. weaponry so that the frigates would have the same armaments as the destroyers they were to protect. This would make the ships more compatible and improve operational efficiency.

Within the last few days, Congress has been informed that the sale of U.S. weaponry for the 12 European-built ships has been approved by the Carter administration. The arms include two kinds of surface-to-surface missile systems, high powered automatic guns and a modern torpedo launching system.

[From the Houston Post, August 27, 1978]

SHELL GAME

"The Carter administration has found a way to cut off our arms to spite our balance of payments and American workers, but still deliver the goods. President Carter set a ceiling of $8.6 billion on U.S. arms sales this year to curb the spiraling global weapons trade. He considered this an exemplary move since the U.S. is the world's leading arms salesman. But the shah of Iran has been pressing us to sell him eight small warships in addition to other military hardware.

"Arms sales to Iran this year will total about $2 billion without the vessels—guided-missile frigates to be used as escorts for the large destroyers the U.S. had previously sold the shah. Their total cost would exceed $2 billion. If the entire arms sale package to Iran were made within the $8.6 billion ceiling, the administration decided that it would account for too great a proportion of the total allowed sales. If, on the other hand, the frigate sale were approved in addition to the other arms sales, it would breach the administration's self-imposed limit.

"But the shah of Iran is no ordinary customer. Iran is a major oil producer, a key member of OPEC, shares a long border with the Soviet Union and occupies a strategic position in the Persian Gulf region. When Iran, reportedly prompted by the U.S., decided to let West Germany and the Netherlands build the frigates (the order was raised from eight to 12), the administration agreed to supply the missiles, guns and torpedoes to arm them. Iran wants our weaponry because of its compatibility with the equipment on the destroyers. Luckily, the administration found that the $350 million cost of this hardware will not violate its arms sales ceiling.

"The deal will be a windfall for West German and Dutch shipbuilders, but the administration's ploy to get around its own barrier has drawn sharp criticism from members of Congress such as Rep. Paul Findley. The Illinois Republican charges that the maneuver cost us a chance to improve our deficit-dogged trade balance and forfeited contracts and jobs that could have gone to the U.S. shipbuilding industry.

"A declaration by the administration that it intended to work for reduction of the world arms traffic would have been more prudent than setting a specific ceiling on our own weapons sales without regard to what the rest of the world was doing. Once again the administration has trapped itself by adopting rigid policy limitations on a matter that demands maximum flexibility. If the only penalty for such blunders as the Iran frigate deal were official embarrassment, it might be discounted as a self-inflicted wound—richly deserved. But the nation must pay for its administration effort to circumvent its own policy in lost jobs and more red ink on our trade ledger." ●

UNDERLYING CURRENTS OF PROPOSITION 13—FURTHER DISCUSSIONS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 11, 1978

● Mr. BROWN of California. Mr. Speaker, the passage of proposition 13 in California was most obviously against high and unfair taxes. Our Nation's history records many movements against taxes, beginning with the colonial import taxes, and continuing with tariff fights, poll taxes, and now property taxes. I have commented these past few weeks on the underlying currents of proposition 13 that deal with the planning and structuring of Government programs. Our Government must tax its citizens and industries to finance its programs because it does not control the production of wealth in our society. The major forms of government revenue today are property, sales, and income taxes.

I would like to focus mainly on the questions of fairness and equity while I discuss the advantages and problems of these tax systems. Specifically, fairness means only taxing realized income and accounting for personal hardships. Horizontal equity means those persons earning the same income pay the same taxes, given considerations of fairness. Vertical equity means progressivity of rates, that is, those persons most able to pay higher taxes should, while less fortunate persons would pay proportionally less. The recent revision of the California income tax toward greater fairness and equity follows from the pressure of the Jarvis-Gann initiative. I hope proposition 13 will be a catalyst for many further such reforms throughout the Nation.

High property taxes in California caused the passage of proposition 13, and similar high property taxes in other States have placed further tax relief measures on the November ballots of these States. Further elections will probably have still more such initiatives. While I am concerned with the consequences these measures will have on local governments, I agree that the present system of property taxes is unreasonable. I believe these taxes are inherently unfair and should be completely phased out.

They are regressive and especially difficult for elderly and poor homeowners to pay. They tax unrealized earnings without concern to income differences. They also do not account for inflated property values. They discourage home improvements by the poor who cannot afford to have their property increase so much in value. These taxes force many people to sell their homes, go into debt and accept lower standards of living. Business and apartment owners usually pass their property taxes to consumers through higher prices.

Moderate priced homes and businesses are much more likely to be fully assessed as market values and taxed at full rates than are higher priced properties. The

more expensive estates are more likely to have untaxed or undertaxed improvements, such as swimming pools, tennis courts, and large gardens. Property taxes thus fail both in terms of fairness and equity. I feel these inherent defects, therefore, supersede any usefulness property taxes might otherwise have.

Sales taxes, unfortunately, are also regressive. Everyone pays the same rate, regardless of their ability to pay. These taxes thus take more proportionally from the incomes of poor people than from the incomes of wealthy persons. I believe, however, that sales taxes can be reformed into a more equitable revenue system. These taxes are relatively simple to administer and collect and are on realized income (though this is debatable with items bought on credit). Exemptions, such as that presently allowed on food in most States, can be expanded to cover other basic needs. The poor, who spend the greater portion of their income on the basic needs, would then pay less of their income to sales taxes. A luxury surcharge could be added to items generally bought by high income persons. A surcharge would allow those persons to pay higher taxes who can most afford them. The net result of these and similar adjustments hopefully would be a more progressive sales tax structure.

Income taxes are the major source of revenue for the Federal Government. The taxes are on realized income and are potentially the fairest and most equitable of all our tax systems. They are easily collected from most workers, though self-employed and wealthy people have greater inherent opportunities for fraud. Unfortunately, various loopholes and other problems now exist with income taxes that reduce their fairness and equity. The oil depletion allowance, for instance, lets oil companies not only have the usual investment credits and loss writeoffs, but also a special break for depleted resources. It seems horizontally inequitable to me to allow companies to extract minerals from the earth, process it, sell it at a large profit and then deduct an enormous sum from their taxes because they now have less of that mineral to extract.

It is argued that oil companies should receive some recompense for land that has deflated in value due to the loss of minerals. The oil depletion allowance, though, gives the companies a set deduction from their taxes regardless of their actual losses. I believe it would be fair to eliminate this allowance and simply expand the investment tax credits and loss write-offs. This would allow greater horizontal equity.

The double taxation of stock dividends is also inequitable. Investment tax deductions do not really solve the problem. I would favor having dividends only taxed as income to the stockholders, and withheld profits at full corporate tax rates. Personal exemptions, in vertical terms, are an example of how income taxes are made less progressive. Someone in a 50 percent tax bracket saves 50 cents that would have been paid in taxes for every dollar they can deduct from their income. A poorer person in a 10 percent bracket, though, only saves 10 cents for every dollar they deduct from their taxable income.

Income taxes would be much more progressive if tax credits were substituted for exemptions. The dollar a poor person is able to reduce from their taxes is a much larger proportion of their total tax bill than the dollar a wealthy person saves. Thus aid would be focused more on those in need of it. I believe there are only a few extraneous circumstances where people earning the same income should not pay the same taxes. It would be fair to allow tax credits for these few conditions.

The present hodgepodge of exemptions and credits should be greatly reduced. This would probably allow a large reduction of general income tax rates, and thus be much more beneficial to the whole public. Inflation causes income taxes to become unfair. People are pushed into higher tax brackets without increases in real income. Inflation does not affect those persons, though, already at the highest tax levels in this manner.

The present combination of regressive taxes and income tax loopholes renders our overall tax structure unfair and inequitable. Polls show that tax reform is high in the priorities of the public, just behind controlling inflation and lowering the crime rate. I believe inherently flawed taxes, such as those on property, should be gradually eliminated. Other taxes, such as those on sales and income, need many basic reforms. Our general principle should be fairness and equity. Proper tax reforms would be a great improvement over our current standard of tax rebates and cuts. The relief would be large and permanent, as polls and proposition 13 show the public wants. We in Congress should thus restructure our Government financing and follow the message of proposition 13.●

REPRESENTATIVE FASCELL SPEAKS ON HUMAN RIGHTS

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 11, 1978

● Mr. SIMON. Mr. Speaker, one of our colleagues who has provided exceptional leadership in the field of foreign affairs, as well as leadership for the people of his district and leadership of this Nation, domestically, is Representative DANTE FASCELL.

I serve on the Commission on Security and Cooperation in Europe, more commonly known as the Helsinki Commission, which he chairs.

I have the opportunity to view his deft, friendly but firm leadership at first hand.

Recently he spoke to the Chicago Council on Foreign Relations on the human rights policy and, particularly, the outcome of the Belgrade meeting.

I am taking the liberty of inserting it here because I know some of my colleagues who join me in my high esteem of DANTE FASCELL will want to read it.

HUMAN RIGHTS POLICY: THE U.S. AT BELGRADE

(Address of Rep. Dante B. Fascell)

For the last year and more President Carter's human rights policy has been a subject of continual comment, concern and controversy in Washington and around the world. In the United States, especially, the Administration's stand has been repeatedly put through the wringer of pragmatic questioning. Is it working? What are the results? What has it cost? Where is the payoff?

Those questions are proper, of course. They are the tests we would use in judging any political investment, whether it be for national defense or international decency, for creating jobs at home or promoting democratic values abroad.

Unfortunately, when we try to judge the efficacy of the policy against this standard of tangible achievement we inevitably get bogged down in partial and contradictory measurements. Which matter more—the release of thousands of political prisoners in Indonesia or the thousands more still detained in brutalizing conditions? Was it a plus to have martial law lifted in Nicaragua, or do we score it as a debit that people have been killed in riots there?

Is the increase in the number of Jews and others permitted to leave the Soviet Union a tribute to our steadfastness or a temporary and cynical gesture meant to buy off American public opinion for a few months?

The fact is that facts mislead. The scorecard on human rights shifts so often that tallies which can be made to look good today can also turn dismissal tomorrow. And the attempt to keep count of successes and of failures diverts us from what I think are the two central aspects of the pursuit of human rights.

The first has been cynically described as the "feel-good" quotient of the policy. It makes Americans feel good—after Vietnam and Watergate and other episodes of governmental deceit—to be on the side of the angels again.

I like the description, but I reject the cynicism with which it is applied.

There is nothing wrong—and a great deal right—about a policy which reminds Americans of the values our history reflects. There is nothing wrong—and a great deal right—with the attempt to project those values again into the international arena as the expression of an American consensus about ourselves and our role in world.

The second aspect of the policy is its nature as a long-term commitment. Advocacy of human rights is not a quick fix. The renewed American determination to defend civil and religious liberty, to seek broadened protection of individual rights and welfare holds no promise of easy victories. The effort is certain to be a long one, but so have been our programs to aid economic development around the world. The pursuit is likely to be frustrating, but so are trade negotiations or disarmament talks or the search for cancer cures or treatments.

We do not draw back from those endeavors just because the price is high in terms of patience and perseverance. Nor can we turn away from the pursuit of human rights because the goal remains distant. At his inaugural 17 years ago, John Kennedy asked Americans "to bear the burden of a long, twilight struggle, year in and year out . . . against the common enemies of man: tyranny, poverty, disease and war itself." The struggle is still on, and it is too early to say for sure who is winning it.

The Belgrade Conference, now nearing its

conclusion, however, gives me a change to illustrate the conduct of human rights policy as part of that long, frustrating, but crucial "twilight struggle." The first formal meeting of the 35 Eastern, Western and neutral states which signed the 1975 Helsinki accords on security and cooperation in Europe shows up all the problems of trying to keep a scorecard on human rights. It also demonstrates all the potential for gradual change that makes American policy one of hope and promise.

Let me go back over some basic, recent history to put the Belgrade talks in perspective. The Helsinki accords themselves were the outgrowth of a twenty-year-long Soviet effort to obtain formal recognition of the postwar boundaries of Europe. Moscow sought a peace treaty. It got instead a declaration of political resolve in which, as tradeoffs for the recognition of the sanctity of existing frontiers, the West insisted on provisions for "a freer flow of people and ideas"—another goal of President Kennedy—across those frontiers.

When the long negotiations ended at the Helsinki summit, most Western observers thought and said that the Soviets had gotten the best of the bargain. The West acceded to the legitimacy of Communist conquest in Europe. In return, the East made undertakings to respect human rights and dignity, but without the expectation that it could be held to the promises it made.

What happened, instead, was a remarkable turning of the tables. It was accomplished not by any brilliant strategists in Washington or at NATO, but by a small band of intrepid Soviet citizens who began to say out loud—so that the rest of the world could hear—that the Soviet Union must make good on its own laws and its Helsinki commitments. Their demands made us respond. It was they—members of what has come to be called the Soviet Helsinki Watch and, later, the signatories of Charter '77 in Prague—who made the West aware of the value of Helsinki.

A year ago yesterday when the Helsinki Commission held its first public hearings in Washington on human rights, former Ambassador Leonard Garment summed up what had happened. "The existence of a formal, written document, to which the Eastern regimes gave their public consent and their formal stamp of legitimacy, has made a difference.

The words matter and are beginning to move human minds," he testified. Then he added: "Perhaps we in the West, who pay such frequent tribute to the worth of ideas, should be a little embarrassed that at the time of Helsinki we entertained such a low opinion of their power."

By the time of Belgrade—the substantive part of which began last October—our opinion had changed. We in the West approached the conference as a significant test of our ability to give and get an account of the progress promised in the Final Act, the formal name of the Helsinki document. And from the East—in a few areas of Helsinki undertakings—we could already see surface gestures of compliance.

Those gestures were made with an eye to Belgrade, out of concern for what would be said there if there were no signs of movement. The gestures included the amnesty of political prisoners in Romania, Poland and, later, Yugoslavia. The rise in the emigration figures from the Soviet Union and other countries were also gestures toward the Helsinki promise to "facilitate" the reunification of divided families. The sale of a few more Western papers and magazines and the easing of travel restrictions on some Western journalists also constituted gestures in the field of information.

For the scattered positive signals, however, there were balancing negative acts. Journalists could get around with greater ease perhaps, but they could also be subjected—and were in the Soviet Union and Czechoslovakia—to outrageous harassment. New applicants for exit visas could be processed with greater speed, but many with applications long pending could be—and were in the USSR—treated with brutality and renewed contempt. Finally, and most tragically, 16 of the 43 members of the Soviet Helsinki Watch have been jailed for daring to raise their voices to demand domestic compliance with international human rights standards.

On the second anniversary of the signing of the Final Act, the U.S. Commission issued its comprehensive report on compliance. In a capsule judgment, it found: "Progress has been inadequate. Measured against either the hopes voiced at the Helsinki summit or the need for smoother and more stable relations among the signatories, the implementation of the Final Act has fallen short."

That judgment formed the background of the U.S. effort at Belgrade, an effort made up of two parts. The first part was simply to register our dissatisfaction with the pace and quality of progress under the Final Act, especially its human rights and humanitarian provisions. But beyond holding the Communist states to account for their nonperformance, the second American goal was to seek reaffirmation of the common Helsinki commitments themselves, to stimulate better behavior out of the examination of the imperfect past record.

The first goal has been fully met. In fact, the first eleven weeks of the conference brought a welcome bonus. In the period devoted to the review of Final Act implementation, the firm U.S. voice of Justice Arthur Goldberg—whose many distinctions include his being a Chicagoan—was joined by that of many Western and neutral spokesmen in a persuasive chorus of concern on the issue of human rights.

The Communist delegations tried to blunt this assault, but failed. They argued first that the Final Act itself made any criticism of their domestic conduct off limits, because the accords banned "interference" in internal affairs. The West, however, showed clearly that human rights are matters of international agreement, of specific Final Act pledges, and thus not purely issues of domestic competence.

Then when Justice Goldberg cited the treatment of specific individuals—Charter '77 signers jailed in Prague or Soviet dissenters such as Yuri Orlov, Aleksandr Ginsburg, Anatoli Shcharansky and Andrei Sakharov—the Soviets made a feeble attempt to rebut us with "you're-another" arguments. Guilty of racial discrimination, of imprisoning the Wilmington Ten, of letting millions go jobless—even, they said in apparent seriousness, of executing Sacco and Vanzetti 50 years ago—the United States had no right to lecture others on respect for human rights.

I do not claim that these exchanges make up a dialogue. Obviously, on both sides, there was much more give than take. But the Belgrade review period did something no other international meeting has done: it broke the silence barrier on human rights. Diplomats found themselves talking about a subject they generally prefer to duck, but having been confronted with the issue, they found no way to put it aside. Instead, because the Helsinki process is a continuing one and the Belgrade talk will be revived when the signatories meet again in Madrid in two years, human rights has won a place on the international agenda it should have had long ago.

I want to discuss the importance of that precedent in a moment, but first let us look at how far we have gotten with our second goal: reaffirming the Final Act's importance as a means of stimulating improved performance. Barring new developments today, the Belgrade Conference's concluding document has not yet been agreed upon. But it has now become obvious to all that the Soviet Union and its closest Warsaw Pact allies are inalterably opposed to a document of real substance. We have worked hard for such a document throughout the proceedings in the face of Soviet intransigence. At a minimum, the concluding document will note that delegates met and talked and that they will meet again in Madrid.

So brief a concluding document would be a disappointment to many. But I do not believe that the final communique should be considered the sole—or even the main—measure of the impact of the Belgrade meeting. Certainly it would have been better to have a conference document of real political substance that gave a candid assessment of implementation, reaffirmed the commitment to all provisions of the Helsinki Accords and marked out specific areas for improved performance. But given the rule of consensus, under which each country has effective veto power, a strong Belgrade concluding document was never in the cards.

Nevertheless, what has emerged has the potential for being just as valuable. After Belgrade comes Madrid, another occasion to insist on implementation of the Final Act, to hold up the record for candid review, to try and win the fresh commitments that could not be achieved at Belgrade. And after their experience at Belgrade—that of being forced to hear out their critics—the Communist states must be even more determined than before to avoid a second round of diplomatic embarrassment.

They have two roads to choose from. One is to renounce the Helsinki process, to boycott the Madrid meeting or so rewrite its rules that it become an empty exercise. The other is to show a measure of good-faith implementation between Belgrade and Madrid that deflates criticism and lightens the international atmosphere.

Neither alternative is attractive. The Helsinki accords were meant to be a capstone of the Brezhnev detente policy. To turn away from them is to pronounce that policy a failure.

The other choice—that of heeding the concerns voiced at Belgrade and moving to remedy the practices which drew such heavy fire—is not easy either. It would mean, over the long run, according the individual real protection against monopoly state power. To do so would be to invite more challenges against Communist rule in its present form, to tolerate that very diversity which every dictatorship must deny.

There is, of course, one other way for the Soviet Union to slip from between the rock and the hard place where, on the human rights—Helsinki issue, it is now held. That is for the West and the United States, in particular, to relax the pressure for Helsinki compliance so forcefully brought to bear in Belgrade.

We could slip into that path too easily. We could say that we asked too much from Belgrade, got too little and need to try another course. We could go further—in our impatience for results that can be totted up on a scorecard—and pronounce the whole push for human rights standards a profitless game. And thus we could let the Soviet Union, for one, off the hook.

But I said earlier that we had set an important precedent at Belgrade in legitimiz-

ing international, diplomatic treatment of concrete human rights issues. The precedent is one we must observe as well as insist that others acknowledge. If we change our signals now because of dissatisfaction with the Belgrade outcome, we lose the new ground onto which we moved ourselves and the East-West relationship.

The precedent set at Belgrade is only as valuable as the follow-up to it. Having won the right to speak out on the importance of our values to our security and the ordering of a real détente, we cannot afford to turn away, back into silence.

We have found in Helsinki a framework in which to pursue a policy which both feels good and can do good. The patience to put up with the slow pace of results from that policy is something Americans have yet to learn.

Along the road we are certain to have anxious moments and even set backs of our own. But the road toward international respect for human rights is the right one for us to be traveling.

At Belgrade we began the trip with honor and realism. We are moving in the right direction.●

"SPAIN WEEK"

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 11, 1978

● Mr. RODINO. Mr. Speaker, for many generations New Jersey's 10th Congressional District has been an excellent example of the cultural diversity which has given America its unique strength. Our Hispanic citizens, with their strong family bonds and rich heritage, have been a vital part of the community ever since Spanish immigrants began settling in Newark in the last century.

Newark Mayor Kenneth A. Gibson and the city council have declared this week "Spain Week" in honor of the tremendous contributions of the Hispanic people to the city.

I am very proud to join in this salute and I would like to place in the CONGRESSIONAL RECORD the following article on this special occasion which appeared in the Newark Star-Ledger's Sunday, September 10, 1978, edition.

NEWARK PLANS HONORS FOR ITS HISPANICS

(By Al Post)

More than 10,000 descendants of Spanish immigrants, who first began arriving in Newark's Ironbound section in the 1880s, will be honored tomorrow as Mayor Kenneth Gibson and the City Council proclaim "Spain Week" in Newark.

The Spanish Consul General of New York, several members of his staff, Essex County Judge John Dios, Newark Councilman Henry Martinez and many Newark residents of Spanish descent will take part in the proclamation signing at 10 a.m. in the mayor's office.

Joseph Vasquez, president of Club Espana—the largest Spanish civic and social club in Newark—said the Spanish tradition of strong family ties has helped the ethic community to grow in Newark during the past century.

"Although our exploits do not make the public press very often," Vasquez said, "we feel strongly that Spanish nationals and their descendants have contributed greatly to the cultures of both Newark and America."

The "work ethic," a key feature in the Spanish heritage, is one of the reasons so many persons of Spanish origin settled in Newark, Vasquez said.

"The Spanish community is here to stay. Members of our community plan to live here, work here and die here. We do not plan to retire and move back to our ancestors' homeland," he said.

Club Espana's 1,200 members are vitally interested in the future of the Spanish children of Newark, said Ramon Venero, club vice president.

The club sponsors a school that emphasizes Spanish language, culture and traditions. In addition, the club and one of its members—attorney Bernard Escandon—sponsor college scholarships of $1,000 and $500 for Spanish youths.

The club has three teachers to instruct three levels of classes—beginners, intermediate and advanced—which are based on academic skills, not on age.

In the school the students are taught to have pride in Spain's role in American history.

Some of the key aspects include Spain's role in the discovery of the New World, Ponce de Leon's discovery of the area that is now Florida, Spanish colonists establishing the town of St. Augustine (the first permanent white settlement in the United States), the Spanish government's $5 million loan to the colonists during the Revolution, and the sale of Florida to the United States.

A map of the United States showing the period when Spanish influence was at its peak has been put on display in the club by Rafael Gonzalez, public relations officer.

The map depicts Spanish colonies across the southern United States—from the Atlantic to the Pacific—and as far north as Montana.

In addition to history, the teachers also instruct the students in playing the bagpipes (similar to those used by the Colts in northern Spain) and flamenco dancing (similar to the style popular in southern Spain).

Because of the school program, the club's youth activities and the stress placed on respect for parents, juvenile delinquency is not a major problem in the Spanish community, Venero said.

When a young member of the Spanish community steps out of line, Venero said, an adult usually takes him aside.

The mini-lectures usually bring favorable responses from most youths because few want to bring disgrace to their families, Venero said.

Another of Club Espana's successful projects is its championship soccer team, which won the title of the Schaefer League of North Jersey in 1970 and 1976.

The club and the team both made history last month, when they joined the first flight from Newark International Airport to Spain.

Acting on the invitation of the Sporting Ciudad—a soccer team sponsored by the city of LaCoruna, Spain—the Newark club made a 10-day tour of the Spanish city and nearby areas.

LaCoruna city fathers passed a resolution asking Newark officials to establish a "sister city" relationship.

While in Spain the Newark soccer team played three exhibition games with local Spanish teams, winning one of the three.

The club has grown since its founding in 1964 and now has a three-story headquarters on New York Avenue.

The club's women's auxiliary has aided many of the unit's civic and social projects since its inception.

"And to prove that we could be modern as well as traditional," Vazquez said, "we just elected Linda Fernandez—our club's treasurer—as the first woman member of our board of directors."

THE GENERAL DYNAMICS AND LITTON INDUSTRIES SHIPBUILDING DISPUTES—SETTLEMENT, BUT AT WHAT PRICE?

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 11, 1978

● Mr. DOWNEY. Mr. Speaker, on Thursday, August 10, I introduced resolutions of disapproval regarding two Navy contract settlements with General Dynamics Electric Boat Division and Litton Industries, Ingalls Boat Yard. If passed by the House, these resolutions would block implementation of contractual reformations totaling over $900 million—the largest shipbuilding claims settlement in U.S. history.

In order to facilitate the understanding of the important issues contained in the settlements and to explain my rationale for introducing disapproval resolutions, I would like to include in the RECORD at this time a short statement and an expanded background paper:

STATEMENT BY HON. THOMAS J. DOWNEY

I introduced resolutions of disapproval in the General Dynamics and Litton Industries contract reformations for a variety of reasons involving the particulars of each settlement. However, my main concern was to insure that the reformations received a full and complete review by Congress and that the implications of these agreements were seriously weighed and evaluated before the Government commits itself to this course of action.

At the present time, I remain unconvinced that the settlements are in the best interest of Navy shipbuilding or the national defense. The Navy proposes to pay close to a billion dollars to General Dynamics and Litton Industries when only a fraction of this amount may constitute the actual liability of the Government. Additionally, the use of "extra-contractual" relief in these situations may have undesirable ramifications for future Government contracting.

I believe the settlements present a crucial juncture for both Navy shipbuilding in specific and federal procurement law as a whole. We are faced with a sensitive situation in which the Government must balance the pursuit of its contractual rights versus the national interest in "getting the ships built".

With the scales poised as they are, I feel we must be careful not to give in to the pressures of the moment. Instead, the ultimate effect of these settlements must be measured in dollars and in the precedent that these reformations will set. There are important questions of policy which must be accurately defined and resolved.

We simply cannot afford to "bail-out" contractors who find themselves in a loss position due to their own actions. We cannot compensate companies for their own inefficiencies. Congress has a duty to the public to make sure that the Government receives full value for the tax dollars it spends.

Thus, in the situation before us, I feel Congress must send a message to the defense industry that all extra-contractual relief will be heavily scrutinized. It must be communicated that such relief will be approved in only the truly exceptional circumstance—when it will indeed be in the national interest to forgo the Government's contractual rights and when there is no other viable alternative to secure contract performance.

In both the General Dynamics and Litton settlements, the Government could have pursued other legal alternatives instead of the extra-contractual provisions of P.L. 85-804 which were utilized.

With regard to General Dynamics, it was possible for the Government to exercise the default clause in the contract, seek a court order to compel performance, or buy the Electric Boat facility and operate it as a Government-owned, contractor-operated facility.

In Litton's situation, the Government similarly could have terminated for default, continued litigation before the ASBCA, or negotiated a settlement on the LHA claim using ordinary forms of contractual relief.

For various reasons, the Navy rejected each of these alternatives in favor of a P.L. 85-804 settlement. Although analysis of each of the alternatives is a complex task—I believe that the Navy might have too readily embraced P.L. 85-804.

While the pursuit of legal rights through the judicial system may be a long and arduous course, I feel it may be seen as the duty of the Government. Indeed, in most instances, the relinquishment of contractual rights should be the last alternative chosen. Involved is the integrity of Government contracts and the reasonable expectations of the public regarding Government expenditures. These considerations cannot be lightly brushed aside.

AN OVERVIEW OF ISSUES IN THE GENERAL DYNAMICS AND LITTON INDUSTRIES CONTRACT DISPUTES

I. THE SETTLEMENT AMOUNTS

The Navy has repeatedly pointed out that both General Dynamics and Litton Industries will assume massive losses in the settlement agreements. In the case of General Dynamics, the settlement provides that the company will absorb a $359 million fixed loss, an amount which is said to wipe out all Electric Boat profits back to 1959. With regard to Litton Industries, the settlement fixed loss has been placed at $200 million.

While these amounts are certainly staggering, there are several factors which blunt their impact. First, the present I.R.S. Code allows both corporations to offset these contract losses against earned income before taxes. Assuming that the loss figures are correct and that the corporate income tax is still 48% in the year that the General Dynamics' contract are completed—it is possible that General Dynamics may realize a tax benefit of $172 million on its $359 million loss. With respect to Litton—given similar assumptions, it is possible that the corporation may realize a tax benefit of $96 million on its $200 million loss.

Additionally, it should be remembered that both corporations may benefit by underrunning the estimated loss figure. In the case of General Dynamics, the settlement agreement provides that it will benefit from 50% of cost underruns. As for Litton, that corporation will receive 80% of cost underruns while the Government's share will only be 20%.

Further, although the settlements are intended to be an encompassing agreement—neither General Dynamics or Litton is prevented from submitting more claims on the contracts based on events occurring after the settlement date. Thus, it is at least theoretically possible that both corporations could reduce their fixed loss through submission of contractual claims at some point in the future.

Moreover, despite the enormity of the losses, it appears that neither General Dynamics or Litton is faced with immediate bankruptcy in the event it had to absorb the full amount of cost overruns. While Litton's financial position is somewhat less secure than General Dynamics, an independent audit of General Dynamics concluded in part that the corporation "should be able to sustain even a $774 million loss and remain solvent if its lenders would agree to either waive or revise certain existing minimum loan covenants".

With respect to the settlement amounts, Secretary Claytor has stated that the fixed losses assumed by the corporations "reflect the shipbuilder's problems primarily in controlling manpower and associated productivity". The Secretary has affirmed that the settlements "closely approximate the Navy's best evaluation of the responsibility shared" for such things as design changes, late Government Furnished Information and Materials and productivity and manpower problems.

However, there are still those who assert that the proposed settlements are a "bail-out" and that the amounts arrived at do not reflect the relative responsibilities for the cost overruns.

A former Industrial Relations Manager for Electric Boat has stated that productivity is still much below an acceptable level at the shipbuilding facility and that Electric Boat was forewarned of the "impossibility" of securing adequate manpower by outside consulting firms. In his opinion, the amounts contained in the General Dynamics settlement are unwarranted given the company's handling of its labor force.

With respect to Litton Industries, allegations were made as early as 1970 that the company intentionally underbid on the DD-963 destroyer contracts. Senator Margaret Chase Smith questioned at that time whether a last minute change in the contract provisions "may have permitted a contractor to take irregular advantage of regulations to lower estimated cost with the full knowledge that cost can be negotiated upward several years later after the award at a small sacrifice in profit—but at the expense of another substantial overrun to the Government".

II. GOVERNMENT LIABILITY

Responsibility or "fault" for the overruns is a complex issue. In one sense, the actual liability of the Government is a question which can only be resolved after years of litigation in the courts. Contractual liability is dependent upon both factual and legal determinations which have traditionally been considered the province of the judiciary.

However, since the proposed settlements seek to circumvent the judicial process and established fixed obligations on the part of the government and the contractors—the question must be raised now and answered by the situations as they presently appear.

In this regard, many general allegations have been made as to government liability. Both the Navy and the contractors have laid much emphasis on "overly optimistic projections" of the work involved and man-hours needed to construct the ships. The flow of Government information and materials has been criticized as a component of the unanticipated price increases and it has been claimed that some deliveries of information and materials were not in compliance with normal expectations. Additionally, it has been asserted that excessive design and contract changes were required by the Navy.

Nevertheless, none of these general allegations provides an accurate guage of liability. Although the Navy has claimed that the settlement amounts reflect relative responsibilities—it must be remembered that the settlements were the product of long negotiations. Thus, it is reasonable to suspect that some amount of compromise took place as to the end settlement amounts.

Interposed in the vagueness surrounding the proposed settlements, though, is the Navy's own analysis of General Dynamics and Litton contract claims. While the proposed settlements were based on the estimated cost of completing the contracts (as opposed to the formally submitted claims of General Dynamics and Litton) the determination of these claims yield some interesting figures.

In the General Dynamics situation, analysis of that company's $544 million claim produced a figure of $125 million as the amount of General Dynamics' "entitlement". However, fully $29 million of the $125 million entitlement figure is attributable to sums allocated for "litigative costs" and "litigative risk". These amounts do not indicate a finding of liability but rather represent subjective judgements as to the prospects and projected outcome of possible litigation.

The history of Litton claims present an even more disturbing situation. In 1973, a contracting officer decision allowed no increase in the contract price for Litton claims totalling $475 million. Moreover, after two years of analysis, the NAVSEA claims team arrived at a $312 million determination of $1.088 million in Litton claims, $18 million of which is attributable to litigative cost.

Thus, the only available analysis of government responsibility other than the settlements has produced a determination which suggests a liability figure of less than $400 million (excluding additional claims which have been mentioned but not submitted by General Dynamics). Although these determinations do not establish the liability present in the proposed settlements—they do represent years of expert claims analysis. As such, they are at least relevant to the ultimate liability question.

III. SPECIFICS IN THE GENERAL DYNAMICS SETTLEMENT

A. Costs incurred

The proposed settlement is based on the estimated cost of completing the SSN 688 contracts. Involved in this figure are "costs incurred" or the amount of expenditures that Electric Boat claimed were allocable to its contract performance to the date of the settlement.

The costs claimed to have been incurred by Electric Boat in the construction of the 688 class total $1.341 million (as of 12/24/77). However, GAO testimony noted that neither the independent audit of Coopers and Lybrand or the DCAA reviewed the accuracy of this figure until the GAO suggested this action in the spring of this year.

After analysis by the DCAA, $36.8 million of the reported costs incurred were questioned (although a final determination of the allowability of these costs rests with the contracting officer, ASBCA, or the courts). The GAO then suggested that the proposed settlement be adjusted to reflect the unallowable costs—but the Navy refused feeling it was too late.

Thus, the present settlement is based on figures which may include $36.8 million in unallowable costs, according to the DCAA and GAO. While this amount may be relatively small when compared to the overall cost of the contracts—it is still a significant figure which should not be overlooked. If indeed the $36.8 million is an unallowable cost, it would appear to negate claims that the settlements closely approximate responsibility for cost overruns.

B. Projected cost of completion

In its review of the General Dynamics settlement, the GAO commented:

"General Dynamics' independent auditors . . . found that several of the assumptions upon which the labor hours and labor rates are based are optimistic in light of the contractor's recent experience. The estimate of the cost at completion was compiled assuming 7 percent labor rate increases each year. Recent Electric Boat wage settlements have averaged 10.7 percent annually. The difference between the recent labor increase experience and the 7 percent rate used to estimate the completion costs amounts to over *$110 million* for labor and overhead". (Emphasis added)

Although the 7 percent figure was used to conform to Administration predictions of inflation—such a finding has critical import. That is, if the estimated cost to complete the General Dynamics contracts is too low, the Navy will become obligated for substantial sums above the previously projected figures.

In this regard, under the settlement if the actual cost to complete the contracts exceeds $100 million or more and if the labor and overhead escalation rate through the construction period exceeds 7 percent, the Navy may be required to pay General Dynamics *$50 million* more than the $484 million figure the Navy is committed to under the settlement. Further, for every 1 percent increase in labor and overhead escalation rates over the 7 percent rate provided for in the settlement—the Navy will have to pay an additional *$31 million* (if, again, the cost to complete the contract exceeds the estimated cost by $100 million).

Thus, altogether the Navy's end liability in the settlement could vary considerably from the cited figure of $484 million although at the present time it would appear impossible to predict exactly how much the Navy will be obligated. However, given that the cost of a single SSN 688 has risen from an initial ceiling price of $71 million to an estimated construction cost of $148 million so far—further increases might seem likely over the remaining six years of the contracts.

IV. SPECIFICS IN THE LITTON SETTLEMENT

A. Cost estimates

The DCAA has audited the costs incurred on the Litton LHA and DD-963 contracts and has termed them reasonable. Additionally, an independent audit has confirmed the cost of completion figures for both contracts. Thus, given these audits and the rather advanced stage of the contract performance, cost variances would seem less likely in the Litton reformations than in the General Dynamics' settlement.

However, unlike the 50/50 sharing provision of the General Dynamics' settlement—if Litton underruns the estimated cost figure of the settlement, it will benefit from 80% of the saved costs while the Navy will only receive 20%. This sharing arrangement is an unusual provision in that it provides Litton with a much greater share of underrun savings than in most other government contracts.

The Navy has justified this arrangement on the basis that—in their opinion—an underrun will be difficult to achieve and therefore greater incentive must be provided to Litton. However, $720 million of the costs of the Litton contract have yet to be incurred. While the Navy claims this amount is rather definite—it must still be considered a significant sum in which variance is possible. Thus, the 80/20% sharing provision has at least the potentiality to measurably diminish Litton's fixed loss under the settlement.

B. "Buy-in" allegations

The initial target price of an LHA unit was $112.5 million. This price was supposedly a reasonable estimate of the cost to build an LHA unit according to the information available at the time of bidding. However, under the proposed settlement the estimated cost for an LHA unit has been placed at $260 million.

Similarly, the initial target price for a DD-963 destroyer was $59.6 million. At present, though, the estimated cost of a DD-963 is projected to be $107.5 million.

While contractual and design changes along with inflation have certainly increased the cost of these vessels—the enormity of the cost overruns is, at a minimum, disturbing. Moreover, when the history of the LHA and DD-963 contracts is examined, more cause for concern is produced.

In 1970, Senator Margaret Chase Smith cited a last minute $270 million drop in Litton Industries' DD-963 bid as possible evidence of a "buy-in". (I.e., Up until the last round of bidding Litton's proposal had been almost identical to its nearest competitor—but with a contractual change involving future repricing, Litton's bid dropped substantially more than its competitors). Although this allegation was never explicitly proven or confirmed—its existence is certainly relevant to the presently proposed settlements in light of the massive cost increases that have taken place.

V. THE USE OF PUBLIC LAW 85-804

In the General Dynamics and Litton contracts, the Navy Secretary invoked his "residual powers" under Public Law 85-804 in order to negotiate the settlements. Historically, P.L. 85-804 has been primarily utilized in comparatively "minor" contract disputes, although in 1976 there was an aborted attempt to invoke the statute in these same contracts. Thus, the General Dynamics and Litton settlements present a major precedent for the future role of Public Law 85-804 and the implications of its use need to be carefully analyzed.

With regard to General Dynamics, an independent analysis of that firm's financial position concluded in part that the company should be able to sustain the full loss under the existing contracts depending on the actions of its creditors. In Litton's case, while the firm would sustain serious cash flow problems if it absorbed the full loss—immediate bankruptcy was not predicted. Thus, the question that must be asked is whether P.L. 85-804 *should* be used in a situation where it appears a contractor may be able to survive a loss that could possibly be imposed under the contract and the Government could use other means to secure performance.

The invocation of residual powers bears with it the potentiality to make payments out of line with the financial necessities of a particular contractor on the vague justification that such action will "facilitate the national defense". In this instance, we have the assurances of the Navy that the P.L. 85-804 settlement is necessary and that the proposed payments are the product of lengthy and acrimonious negotiation. However, the question still remains—what sort of precedent are we establishing?

The Navy has contended that given the large losses assumed by General Dynamics and Litton in the settlements "it would be unreasonable for anyone to conclude that another contractor would in his right mind venture down a similar road to obtain the kind of relief that these settlements provide for". Possibly this is a valid assertion. However, I would ask whether the settlements would provide more incentive for a contractor in a loss position to raise the specter of massive litigation in the hope of attaining a generous P.L. 85-804 settlement.

Indeed, the avoidance of massive litigation has been cited as a justification for the proposed settlements. In this a proper consideration on which the government should abandon its contractual rights? If so, what are its limits? There have been no assurances made by either of the contractors that they will not pursue massive claims again in the future. If that occurs will the Government be forced to implement extra-contractual measures once again?

Additionally, it must be investigated whether the proposed settlements are merely a temporary solution to a particularly pressing problem—or whether they will foster a new era of Navy/shipbuilder co-operation as has been claimed. It is woefully possible that we could extend $900 million for these settlements and not learn from the experience.

In all, the Navy Secretary has stated that it is "impossible" to predict the future utility and specific application of P.L. 85-804 authority and that there are no specified limits to negotiation under the statute other than the facilitation of the national interest. Such a power is, by understatement, incredibly broad. Thus, I feel Congress needs to analyze the use of Public Law 85-804 with reference to its application in the General Dynamics and Litton contracts and in terms of the policy that is sought to be pursued by the statute's existence. Although similar questions have been asked before by the House Armed Services Committee, I believe the extent of the present settlements and the possible ramifications for defense contracting demand further consideration of the issues.

VI. APPENDIX: BACKGROUND INFORMATION

General Dynamics contracts

The first contracts for the production of SSN 688-class submarines were awarded in January 1971. Under the contracts, the Electric Boat Division of General Dynamics was awarded seven SSN 688s while Newport News received four. (Newport News had previously been designated as the design agent for the SSN 688 as well as being awarded a contract for the lead ship of the 688 class.)

In October 1973, Electric Boat was awarded a second flight contract for an additional seven 688s and received an option for four more of the submarines less than two months later. The second flight contract and the option brought the total number of SSN 688 submarines awarded Electric Boat to 18, or about 80 percent of the total construction program authorized at that time.

Both of the Electric Boat (EB) contracts were fixed-price-incentive type and provided for escalation payments over and above the contract price. The original contract ceiling prices were $428 million for the first group of 7 boats and $847 million for the second group of 11 boats for a total of $1.275 billion—or an average price of about $71 million per submarine.

Presently, the ceiling prices for the 688s have been increased to $1.476 billion as the result of a $97 million claim settlement, adjudicated contract changes and a provisional payment of $66.5 million on EB's most recent claims. In addition, as of May 31, 1978, $252

million has been provided in escalation. However, General Dynamics estimates that the ultimate cost of the 18 688s will amount to $2.688 billion (or over twice the initial ceiling price contained in the contracts). Barring further cost increases, the estimated loss under the contracts is projected to be $843 million.

Electric Boat claims

The history of claims concerning the 688 contracts is long and complex but basically involves two major sets of claims which have been formally filed and notification to the Navy regarding the preparation of a third set.

Electric Boat submitted its first major claim in February 1975 for $220 million based on defective and late Government furnished design data and additional work. This claim was settled about a year after submission for $97 million plus an 84 month extension of ship delivery dates. In December 1976, EB filed further claims of $544 million based on delay and disruption to the first and second contracts resulting from design changes and delays experienced on the first contract. This claim has been evaluated at $125 million by the Navy Claims Settlement Board (although this figure should not be taken to be equivalent to "actual" government liability).

Additionally, during the course of negotiations with EB this spring the Navy was notified that General Dynamics was preparing claims totalling $750 million. These claims have not been formally submitted at the present time, however, and it should be noted that the proposed settlement would preclude a submission of claims based on events before June 1978.

Causes of increased costs in EB contracts

Although exactly who is responsible or liable for the increased costs of the 688 program is an issue that is in much dispute, there is general agreement as to the underlying causes of the cost escalation.

First, major problems were experienced with the build-up of the labor force at Electric Boat. With the award of 18 688-class submarines plus the first TRIDENT contract, it was necessary for Electric Boat to vastly expand its workforce. Thousands of new employees were required and an expansive job training program had to be established. In retrospect, it is evident that this build-up experienced severe problems and that training programs were in many cases inadequate for the highly technical needs of the EB shipyard.

Significant miscalculations were also made in the estimates of man-hours required to construct the 688-class. At the time the contracts were negotiated, it was apparently assumed that the 688-class would merely be an evolution of the SSN 637-class submarine previously constructed by Electric Boat. Such proved not to be the case and the complexity of the 688 demanded man-hours much in excess of those experienced in 637-class construction.

The flow of information to Electric Boat has also been cited for cost increases—although again the question of "fault" is at issue. Design drawings and specifications have been criticized as well as the delivery of Government-furnished equipment. Change orders effected in the contract have been a matter of dispute, but assuredly contributed to the cost overrun experienced. Concomitantly, the massive inflation of the mid-1970's undoubtably impacted upon the resulting costs of the program.

In all, the SSN 688 program was subject to overly optimistic projections. The contracts negotiated in 1971 and 1973 just did not accurately reflect the amount of man-hours and productive capability and organization required to build the 688-class.

The proposed Electric Boat settlement

The specific terms of the Electric Boat settlement and the various implications of the agreement are reflective of the nature of the dispute—they compose an intricate document achieved only after a long period of negotiation. However, the important aspects of the agreement and the basic elements of the settlement may be summarized as follows:

(1) The settlement was negotiated by the use of Public Law 85-804. This statute allows the modification of government contracts without regard to traditional contract law or liability when such modification is deemed to "facilitate the national defense".

(2) Of an estimated $843 million additional cost to complete the contracts—General Dynamics will assume a $359 million fixed loss over the three year remainder of the contract.

(3) The Navy will pay General Dynamics an estimated $484 million over the existing contract price.

(4) Should the allowable costs at completion prove greater than the current estimate (at a 7 percent labor and 6 percent material inflation rate) the Navy and General Dynamics will share such cost growth 50-50 percent up to $100 million, but above that figure General Dynamics will assume exclusive responsibility.

(5) Additional costs for the construction of 688 submarines, solely attributable to inflation rates, above the 7% labor and 6% material, will be the responsibility of the Navy.

(6) General Dynamics will release all claims on the 688 contracts, as well as for impact of those contracts on the TRIDENT contract, based on events prior to June 19, 1978. However, there are no restrictions on the submission of claims after that date.

(7) There is a shortfall of funds available to effect the contract reformations. The Navy has proposed to reprogram $325.6 million in FY1979 to cover the cost of the Electric Boat and Litton settlements (i.e. at least $207.6 million will be required just for the EB and Litton reformations, not considering any other contractor claims).

Litton Industries' contracts

Contracts for the LHA (helicopter assault carrier) and the DD-963 destroyers were signed in 1969 and 1970, respectively. The contracts were fixed-price-incentive, successive target type, with an initial target price of about $2.8 billion and an initial ceiling price of about $3.3 billion for 9 LHAs and 30 DD-963 ships.

With regard to the LHA contract, the initial target and ceiling prices were reset in 1973 when the contract was amended, eliminating 4 ships. Ceiling prices were also adjusted a total of $51.6 million in 1973 and 1978 to account for contractual changes. Thus, as of May 1978, the LHA target price was $827 million and ceiling price of $852 million for the five ships to be built under the amended contracts. This adjustment amounts to a target price increase from $112.5 million to $165.4 million per vessel and a ceiling price increase from $133.3 million to $170.4 million per vessel. (Note: Under the terms of the contract, Litton pays 20% of incurred costs between the target and ceiling price and the Government pays 80%.)

With respect to the DD-963 contract, the initial target and ceiling prices were increased in July 1975 and again in May 1978. The target price of the ships has been raised from $1.78 billion in 1970 ($59.6 million per ship) to $2.16 billion in 1978 ($72.2 million per ship). Corresponding to this, the ceiling price has been increased from $2.14 billion in 1970 ($71.3 million per ship) to $2.27 billion in 1978 ($75.6 million per ship). As with the LHA contract, there is a sharing arrangement for costs incurred between the target and ceiling price. However, in the DD-963 contract this sharing is on a 15/85% contractor/Navy basis.

Additionally, both the LHA and DD-963 contracts contain escalation provisions. In the LHA contract, an escalation of $161.8 million is provided and in the DD-963 contract this amount totals $790 million. Adding these sums to the current ceiling prices of the contracts yields a figure of $4.079 billion as the total allowable costs under the contract. This amounts to an allowable price tag of $202 million for each LHA and $101 million for each DD-963.

The present estimated cost of completion of the LHA and DD-963 contracts is projected to be $4.726 billion, $647 million more than the allowable costs under the contract. The estimated cost of an LHA unit under the P.L. 85-804 settlement presently proposed by the Secretary is $260 million and for a DD-963 unit is $107.5 million. This estimated cost involves a cost increase over the initial price ceiling of $127 million for each LHA unit built and $36 million for each DD-963 unit.

Litton Industries' claims

Litton initially submitted a claim on the LHA contract in March 1972 for an increase in the ceiling price of $475 million based on design changes and allegedly defective Government furnished information. A negotiated settlement on the claim failed in 1973 and the contracting officer (CO) issued a unilateral decision resetting the contract. The CO decision granted a 6 month delivery date extension but did not provide for an increase in price. Instead, the CO concluded that Litton had received about $55 million in excess progress payments (a decision which was later upheld on appeal to the Fifth Circuit U.S. Court of Appeals).

In April 1975, Litton updated and repriced its initial $475 million claim to $505 million. About two weeks after this action, the Deputy Secretary of Defense proposed P.L. 85-804 extra-contractual relief through reformation of the contract escalation provisions. The relief under the Secretary's proposal would have provided Litton with an additional $339 million in exchange for releases from current and future LHA and cross impact claims. Litton, however, considered this proposal inequitable and notified the Navy of its intent to discontinue LHA contract performance on August 1, 1976.

On August 3, 1976, however, the Navy obtained a preliminary injunction requiring Litton to continue work on the LHA contracts but also requiring the Navy to pay 91% of the weekly invoiced costs of performance. An agreement entered into in November 1977 subsequently modified this order to 75% of the actual costs of performance.

Between April 1975 and September 1977, Litton raised its claims to a total of $1.076 billion including $373 million for alleged impact on the DD-963 program. Further adjustments and repricing have increased this total claim figure to $1.088 billion.

A two year analysis by the Naval Sea Systems Command (NAVSEA) has valued the $1.088 claim at $312 million. It should be noted, however, that this $312 million figure contains sums for litigative cost and litigative risk (as does the Navy's $125 million determination of Electric Boat's $544 million claim:). Basically, litigative cost and litigative risk are subjective judgments made by the body determining the "claim value"

based on the projected cost of defending a suit by a contractor and the likelihood that a contractor will pursue his claims and be successful in the courts.

Causes of increased costs

Some of the same factors that aided the rise in Electric Boat's cost of completion on the SSN 688 contracts affected Litton's contracts with the Navy (although, again, responsibility for the causes of the increased costs are a matter of dispute). Overly optimistic original estimates as well as late delivery of Government furnished information and materials and contractual changes have been cited as reasons for the cost escalation. The impact of inflation is also considered a major factor.

With respect to Litton's particular situation, however, several specialized causes are alleged to have been factors in the increased costs. First, the concept of Total Package Procurement, under which a contractor assumes virtually full responsibility for the delivery of a weapons system meeting specified performance standards is claimed to have been a failure in the Litton contracts. Also, the attempt to construct the LHAs and DD-963s utilizing high-technology, modular techniques and material flow patterns in Litton's new West Bank yard appears to not have been as successful as projected.

In all, however, the broad category of "misjudgement" as to the productive capabilities of Litton and the ability to achieve a skilled manpower supply appears as the most central, albeit general, reason for the cost overruns.

The proposed Litton Industries' settlements

The Litton settlement (as the EB settlement) was negotiated under the Navy Secretary's Public Law 85-804 "residual powers". The "residual powers" of the Secretary have been used rather infrequently as compared to other P.L. 85-804 powers—but, significantly, they allow the widest use of discretion. Practically speaking, there are few limitations as to what type of settlement may be entered into under the powers. Otherwise, the basic elements of the Litton settlement may be summarized as follows:

(1) Of the estimated $647 million loss on the contracts, Litton will absorb $200 million.

(2) The Navy will pay $447 million of the loss, in addition to the $47 million it has already paid in provisional price increases and adjustment for delay.

(3) Should the aggregate allowable costs at completion prove less than the aggregate anticipated costs, Litton and the Navy will benefit from such a reduction in a proportion of 80/20%, respectively.

(4) Should the aggregate allowable costs at completion prove greater than the anticipated costs, the Navy and Litton will share cost growth 50/50% up to $100 million. Past $100 million in additional costs, Litton will assume responsibility for cost growth arising out of events prior to June 22, 1978.

(5) Litton agreed that no portion of the total $133 million it booked and identified as Manufacturing Process Development Costs (MPD) would be invoiced against the LHA or DD-963 contracts.

(6) Litton will release all claims and actions based on events occurring before June 22, 1978.●

AMENDMENTS TO H.R. 13850

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 11, 1978

● Mr. FRENZEL. Mr. Speaker, I have today filed nine amendments to H.R. 13850. They are Mr. WIGGINS' amendments which I have entered into the RECORD so that they will be protected in case the gentleman from California is absent when H.R. 13850 is called up.●

SURVEY SHOWS CITIES UNWILLING TO INCUR GREATER DEBT

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 11, 1978

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, the Subcommittee on Economic Stabilization of the Banking Committee has concerned itself for some time with various proposals for domestic "development banks." We have begun hearings on the administration proposal in this area and will return to the subject early in the new session of Congress.

The first problem in assessing the widely differing proposals for development banks is to define exactly what the bank is supposed to do—what credit gaps it is meant to fill. That leads directly to a central question: Should a domestic development bank lend to State and local governments or should it be confined to private sector economic development in designated "distressed" areas.

As part of our exploration of this issue, the subcommittee conducted a survey of large cities as a followup to a highly useful study by the Joint Economic Committee. I am placing the results of that survey in the RECORD today:

DEBT AND UNMET CAPITAL NEEDS IN LARGE CITIES

INTRODUCTION

In the spring of 1977 the Joint Economic Committee of Congress surveyed 67 of the nation's 75 largest cities to determine their fiscal condition. A summary of the replies was published as a Joint Economic Committee print in July of that year, covering various aspects of the fiscal problem.

Responses to one question in the survey, answered by 50 cities, identified "unmet capital needs" of $22.4 billion, for maintenance, upgrading and new construction, exclusive of housing. The Joint Committee survey, however, did not attempt to identify the constraints on the cities which prevented them from making these desired capital outlays.

The Subcommittee on Economic Stabilization of the House Committee on Banking, Finance and Urban Affairs was at the time considering, and continues to consider, various proposals for a "domestic development bank." Some versions of the bank, such as H.R. 8562, would contain a "window" for lending to state and local government to meet capital needs.

The Subcommittee, having in hand the results of the Joint Economic Committee survey, felt it woud be useful to have these large cities identify the reasons for their large backlog of unmet capital outlays. Such outlays are typically financed by borrowing. What was the problem?

The Subcommittee sent to the same cities a sample questionnaire with a checklist of possible reasons for the cities' inability or unwillingness to undertake the needed capital outlays. The finance officers were asked to check the item or items applicable to their cities and to add comments if desired.

Replies were received from 47 cities.* This Subcommittee staff report discloses the findings of the survey.

SUMMARY AND CONCLUSIONS

In the overwhelming majority of the cases capital outlays were held back by an inability or, more often, unwillingness to incur more debt. The problem was not a lack of access to the municipal bond market, though in a very few cases cities feared that additional bond issues might adversely affect their current satisfactory credit rating. Rather, the cities—or, where applicable, their voters—felt that the current level of debt service was as much as should be carried, given the existing levels of taxation and the claims of current operating expenditures on their budgets. The amount of new debt each year is evidently limited by these factors.

The results clearly raise questions about the usefulness of new Federal loans, as distinct from public works-type grants, for meeting urban capital needs. However, several points should be kept in mind.

The survey covered only large cities. The problem may be different in smaller communities.

There was no effort to explore the usefulness to these cities of deeply subsidized "soft" loans for capital purposes from the Federal Government or a new Federal "bank". By definition, these loans—with a very low rate of interest or very long maturity or both—would require less annual debt service. They would also, of course, constitute an important claim on the Federal budget and/or the capital market.

THE QUESTIONNAIRE

The cities were asked to check which of the following possible reasons for unmet capital needs were applicable:

1. Debt service already so large that further debt service claims on the budget would not be supportable except at the expense of needed current services.
2. Further debt would require a local tax increase for debt service, which the city is unable or unwilling to impose.
3. Further debt impossible without voter approval, and voters unlikely to approve.
4. No access at all to the municipal bond market.
5. Access to the municipal bond market, but rating so poor that interest cost is deemed insupportably high.
6. State or local constitutional limits on further debt.
7. Other—please specify.

In 11 of the 47 cases the cities checked only Item 7 and supplied verbal explanations. Some of the remaining 36, as would be expected, checked more than one item. The results for these 36 cities were as follows:

Item 1—12.
Item 2—25.
Item 3—16.
Item 4—0.
Item 5—1.
Item 6—8.

It should be noted that the verbal responses of the 11 cities that checked only Item 7 came to much the same thing—a limit for one reason or another on the willingness or ability to incur more debt for capital purposes.

As will be seen, the item checked most frequently is Item 2—"Further debt would require a local tax increase for debt sevice, which the city is unable or unwilling to impose." The questionnaire was sent out many months before the "taxpayer revolt" made the headlines following the results of the referendum on Proposition 13 in California, in which a large majority voted for an absolute reduction in local property taxes. Essentially the same problem is manifested by those cities that checked Items 3 and 6. Several checked Items 1 and 2 jointly, considering them simply two sides of the same coin.

Except where there are strict constitutional limits on new debt, it is evident that cities could finance more capital outlays if they were willing either to raise taxes or to cut current services. The constraint does not lie primarily in the ability to borrow, though that is the case for some cities under voter or constitutional constraints, but rather the willingness to borrow, with the accompanying rise in debt service claims on the budget.

The cities are in large measure masters of their own choice. Given current levels of taxation and the sentiment of their citizens, they have chosen to defer capital outlay in varying degrees.

This budgetary constraint would evidently apply regardless of the source of new borrowing, though it would be less if the loans were "soft". A number of cities commented and developments in the municipal bond market confirm—that they have been able to expand their borrowing through "revenue bonds" of various kinds: industrial, hospital, housing, pollution. But these all have earmarked revenues other than general taxes and are not normally available for ordinary municipal infrastructure.●

*The cities responding to the questionnaire, in alphabetical order, were: Albuquerque, Anaheim, Austin, Baltimore, Baton Rouge, Birmingham, Buffalo, Cincinnati, Colorado Springs, Columbus, Dallas, Dayton, Denver, Detroit, Fort Worth, Honolulu, Jacksonville, Kansas City (Mo.), Knoxville, Lexington (Ky.), Los Angeles, Memphis, Miami, Minneapolis, Mobile, Nashville, New Orleans, Norfolk, Oklahoma City, Philadelphia, Phoenix, Pittsburgh, Portland (Ore.), Richmond, St. Louis, St. Paul, San Antonio, San Diego, San Jose, Seattle, Syracuse, Toledo, Tucson, Virginia Beach, Washington, D.C., Wichita and Yonkers.

A STATEMENT COMMENDING THE SUCCESSFUL EFFORTS OF A YOUNG LADY TO GENERATE PATRIOTISM IN OUR COUNTRY

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 11, 1978

● Mr. RHODES. Mr. Speaker, too often news accounts only report on the unfortunate happenings of our Nation's youth when they are involved in crime or trouble, without highlighting some positive efforts that young people make to the betterment of their fellow man. An example of an outstanding youth who has worked very hard to promote freedom, free speech, and the traditional values that this country was founded upon, is a young lady from my congressional district back in Arizona, Miss Lori Cox.

Lori first received national recognition when she was in high school by campaigning to reinstate the practice of having the Pledge of Allegiance recited in the classroom. Lori was concerned about her generation's lack of knowledge of our country's origins and symbols. Consequently, she presented her idea for a National Patriotism Week to me.

For the past two terms of Congress, Lori and I have worked diligently to see National Patriotism Week become a reality. In that time, I am sure as a result of her efforts to draw attention to the need for a commemorative time period to honor America with public gatherings and activities at which people can celebrate and pay tribute to their country in an appropriate fashion, the Congress passed into law Honor America. This celebration commences on Flag Day and ends on Independence Day, a time period when our country has historically paid tribute to our national heritage and the freedoms we so greatly cherish.

I am sure you join with me in commending Miss Cox in her efforts to instill in all the people with whom she comes into contact a deep sense of pride in our country and its youth. Even though Lori's initial drive to have National Patriotism Week become law has been supplanted by Honor America, I am sure you will applaud with me her efforts to reestablish the traditional values on which this country was founded, and acclaim her efforts to honor America so that these values will never be forgotten.●

TRIBUTE TO EDWARD BRODY

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 11, 1978

● Mr. EILBERG. Mr. Speaker, this Thursday evening a well-deserved tribute will be paid to a man who has unselfishly devoted more than 30 years of service to Pennsylvania citizens needing long-term health care—Mr. Edward Brody.

The Health Care Facilities Association of Pennsylvania will honor Ed Brody for his leadership and his many accomplishments which have marked his distinguished career.

Sd Brody, Mr. Speaker, has been a nursing home administrator since 1947. He is a member of the Board of Examiners for Nursing Home Administrators, and is president of the American College of Nursing Home Administrators.

Mr. Brody earned his undersraduate degree in 1940 from the University of Pennsylvania. He served in the U.S. Army from 1943 to 1946, achieving the rank of 1st lieutenant in the Medical Administration Corps.

Early in his career, Ed Brody was a moving force in the founding of the Philadelphia Nursing Home Association, the forerunner of the Health Care Facilities Association of Pennsylvania. He served as both executive director and president of the group, and later went on to serve as a member of the board of directors and as secretary of the American Nursing Home Association.

In addition, he has served as a member of the long term institutional care advisory committee of the office of medical programs, Pennsylvania Department of Public Welfare, and has been a member of the nursing home research and development committee of the Philadelphia ombudsman program.

As an example of his innovative work in this field, Mr. Speaker, I might add that Ed Brody conceived of a voluntary recreation program cooperative for nursing homes. This enabled the participating facilities to offer recreation programs in a joint effort, until they were able to put programs into effect in their own institutions.

Mr. Speaker, I know that my colleagues will join with me in congratulating Ed Brody for his years of devoted labor, and the Health Care Facilities Association of Pennsylvania for the fine choice it has made in paying tribute to his citizenship and public service.●

THE TRUTH ABOUT AIRLINES PROFITS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 11, 1978

● Mr. ANDERSON of California. Mr. Speaker, lately we have heard much about soaring airline profits, and I am afraid that some uninformed people may believe that all is roses for the future as far as the airline industry is concerned. I therefore, would like to commend to my colleagues' attention the following commentary, which appeared in the current—September 18—edition of Business Week. I think it presents a true picture of the profit future for our airlines as we see it today.

WHY THE AIRLINES' RECORD PROFITS ARE BOUND TO FADE

A summer no one in the U.S. air transport industry is ever likely to forget had its final huge traffic peak over the Labor Day weekend. As schools start and the vacation season ends, airline passenger volume should now be merely robust, not overwhelming.

Even though September probably will show a sharp fall-off from July's 20.5 percent increase in revenue passenger-miles over July, 1977, this will not necessarily indicate a softening in demand for airline seats. It will reflect the fact that the air travel boom began in September a year ago, and from now on spectacular year-to-year gains will be harder to achieve. But even if the traffic gains do diminish somewhat, last year's base figures were so large and this autumn"s advance booking continue so strong that barring a catastrophe, the airline industry will have a super-record year.

Sardines. In all likelihood, the 23 scheduled U.S. passenger airlines belonging to the Air Transport Assn. (ATA) will carry 275 million passengers this year, up from 240 million in 1977. They should gross more than $23 billion from passenger operations, compared with roughly $18 billion a year ago, and net more than $1 billion, up from approximately $754 million in 1977. But lurking in these heady numbers are problems to which there are no easy solutions.

If the industry is to achieve the same $1 billion net profit in 1979, given probable increases in fuel, labor costs, and airport fees, says the ATA's economist, George W. James, the airlines will have to carry more than 10 percent additional traffic or 25 million to 30 million more passengers. As anyone who has flown or visited an airport this summer knows, there is simply no place to put these additional passengers. The airlines so far this year have been carrying 3 million more people a month than in 1977, and the result has been long waits to make reservations, to get tickets, to collect bags, and to get to and from airports, to say nothing of jammed, uncomfortable flights. But to keep

the present level of profitability, the airline industry must still accommodate 2.5 million more passengers a month.

Aside from simple capacity problems, the airlines have got themselves into a bind where half of their passengers are flying at promotional discount fares, and, as this percentage has climbed through 1978, the average amount per mile paid by each passenger—the yield—has declined. The industry's average yield is now about 3 percent below a year ago. Such a decline is acceptable only as long as traffic is growing. But there is little room for further traffic growth. On many days this summer, airlines were flying with 80 percent or more of their seats full systemwide, and that means that the most popular flights in dense markets were 100 percent filled.

Reverse leverage. So, if traffic growth falls short of 10 percent next year, as seems probable, and ends up at only 5 percent, and if costs continue to rise as yields fall, James sees many airlines showing losses quickly because the reverse leverage is so great. And the losses could be big ones.

Says Charles J. Simons, vice-chairman of Eastern Air Lines, Inc., "The dilution in yield, plus increases in essential operating costs, has driven our breakeven load factor to unprecedented highs." (A load factor is the percentage of total seats occupied by paying passengers.) In the second quarter of 1978, Eastern showed a 4.9 percent decrease in yield and a 17 percent increase in operating costs—and a record second-quarter profit of $24.2 million. "As long as we can maintain traffic volumes such as those at present, we can realize a fair profit," Simons adds. "But we must remain constantly diligent and be ready to adjust quickly if passenger volume slips below the breakeven point."

Price competition. The Civil Aeronautics Board, in an Aug. 28 decision, made things a little easier for the airlines. The board permitted them to reduce fares as much as 70 percent below existing full-fare levels (most discounts today are 35 percent to 40 percent below full fares) and to raise fares up to 10 percent in any market served by four airlines—without getting prior CAB approval. This would allow an increase in yields, which Julius Maldutis, airline analyst for Salomon Bros., says is "a must."

Beyond that, the airlines this fall will be trooping to the CAB asking for fare increases to forestall next year's profit problems. Their timing could not be worse, because third-quarter earnings will be so high that there is no way for the board to grant the request. But by giving airlines new freedom to raise and lower at least some of their fares without board approval, the CAB may be fostering something new for the airline industry: price competition. Since no two airlines have the same breakdown load factor, and since there may be more passengers demanding seats than there are seats available on some routes, airline management might decide not to match each other's fares in lock-step the way they always have in the past. What is more, the CAB seems determined to allow freedom of entry into markets that could mean different levels of quality of service, and this also could promote price competition.

Pan Am's move. Yet another solution to the airline industry's dilemma may be for individual carriers to walk away from markets if, despite higher fares, a given market remains unprofitable. This also would be a departure for airline management: the recognition that if a carrier cannot handle all the business that is proffered, it should concentrate its assets in the markets where it wants to keep its identity and where it makes the most money.

Pan American World Airways Inc. is about to make such a move. Faced with carrying hordes more passengers next summer than it carried this summer, and mindful of the number of passengers it turned away or delayed this summer because of full flights, Pan Am will shortly announce a severe pruning of its route structure. This will allow it to put jets where they will do the most good, both in terms of improving passenger service and of maximizing profits. It will also give foreign-flag airlines, such as Aeroflot, a monopoly in, for example, the Moscow-New York market.

Peak-time slots. A seemingly obvious solution for the airlines' problems—more aircraft—is not a solution at all, at least for next year. Even if they were ordered today, planes would not be ready by next summer. And, as a Delta Air Lines Inc. official puts it, "No one in his right mind would buy a jet today to carry passengers, 50 percent of whom are not meeting full costs." Airlines, burned by a surge of low-fare traffic for which they bought jets in the early 1970s, are still wary. Finally, airports can hardly accommodate the jets that are flying now. There are no more "slots" for landing and taking off at peak times at Washington National, New York's LaGuardia, Chicago's O'Hare, and Atlanta's Hartsfield airports, for example.

Ironically, airlines are in a vicious circle here. The more that promotional fares attract new passengers, the greater the hassle and the worse the service for frequent business travelers who are paying full fare, thus enhancing the attractiveness of corporate jets. The wave of corporate jet flying, meanwhile, exacerbates the airport slot problem.

But if coping with 1979 seems difficult, the early 1980s look to be worse. By then airlines will need an estimated $22 billion to $35 billion worth of new jets to replace today's aging planes and to handle the full-fare passenger traffic growth that is predicted. Another $6 billion will be required to satisfy expected antinoise legislation, and to finance all of this the industry needs an extended period of healthy, stable earnings. It is hard to see where they will come from. With the breakeven load factor going up dangerously close to the ceiling of total available capacity, and with yields going down, airlines will have to take Draconian measures. They are going to have to treat their full-fare passengers better, cut costs of handling discount-fare passengers, and devise a whole new fare structure that meets the needs of both while returning profit sufficient to enable the industry to renew itself and grow.●

RISING HEALTH COSTS

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 11, 1978

● Mr. PICKLE. Mr. Speaker, one of the most serious problems facing our Nation today is the problem of rising health costs. I would like to share with my colleagues a report from Texas hospitals on their efforts at cost containment.

It is obvious that substantial savings can be made when thorough planning and study is made. Perhaps some of the examples listed will be of interest to my colleagues.

The article is as follows:

HOSPITALS ARE SAVING MORE THAN LIVES—THE TEXAS VOLUNTARY EFFORT

(By R. William Warren)

For many years, the Texas Hospital Association has been actively promoting cost containment and cost effectiveness among its 600 member hospitals. Our membership's dedication to providing the highest quality of care at the lowest cost has resulted in an average cost per patient stay that is $307.00 lower than the national average ($1,323.00 U.S. average—$1,016.00 in Texas).

The cost containment activities currently being utilized in Texas hospitals are as numerous and diverse as the hospitals themselves. As you might expect, many Texas hospitals actively utilize and participate in one of the on-going programs at the Association; these programs include—among others—the Texas Hospital Association Management Engineering Services (THAMES), the Shared Electrical Safety Service (SHESS), the Texas Hospital Association Recruitment and Placement Service (THARPS), the Texas Hospital Insurance Exchange (THIE) and the Texas Hospital Association Statewide Hospital Productivity Center. Although the tangible results of these special programs are well known to you, some reiteration of their successes would seem appropriate in light of the current fervor for cost containment.

For example, Memorial Hospital in Marshall has recently completed a $6,000,000 expansion program. Part of its planning effort included a survey to indicate the needed staffing level for the expanded facility. However, after the expansion was completed and in service, a reexamination of necessary staffing levels indicated that fewer people (than originally forecast) would be needed to operate the additional facility. Additionally, through continual monitoring of staffing levels via the Productivity Management Report (PMR*) system, the hospital has been able to effect an annual savings of between 10–12% of its total labor cost.

Similarly, Brackenridge Hospital of Austin was able to save $1,921,000 in labor expense between September 1976 and August 1977. This savings was attributed to compliance with suggestions made in a number of staffing studies conducted by THAMES. Since the hospital's administration utilized these studies and the PMR to monitor the staffing productivity in the hospital, Brackenridge was able to hold its increase in labor cost for this period to one percent while the statewide average increase in wages and benefits amounted to 14.5%.

Additionally, the Texas Hospital Insurance Exchange (THIE) has been operational since July 1, 1976 and now writes professional liability insurance for 115 Texas hospitals representing a total of 6,460 beds. The liability insurance written by THIE is as much as $152.00 a bed less than the rates available from the Joint Underwriting Association of Texas (the pool of insurance companies required by law to provide the coverage). On the average THIE saves Texas hospitals $980,000 annually—representing a total of $1,960,000.00 during its first twenty-four months of operation.

Furthermore, Pasadena Memorial Hospital in Pasadena utilized the THA Recruitment and placement Service to provide the hospital with two additional physicians. In addition, THARPS has saved this hospital $14,000 in other recruitment fees.

Similar savings can be attributed to the other programs. However, the purpose of this column is not to "rest on the laurels" of past successes but to share ideas and programs that have proven successful for other hospitals. The following programs are currently operative and producing savings in Texas hospitals:

Hopkins County Memorial Hospital in Sulfur Springs conducted an in-depth study of

* NOTE.—The Productivity Management Report is a computerized system based on time standards specifically adapted to the cost centers of the individual hospital, resulting in a monthly management report useful in determining the level of productivity for the hospital.

hospital utilities patterns and reviewed suggestions on how to make better use of their utility expenditures. This hospital found that, heretofore, it had been using 100 percent fresh air in the operating room, the intensive care unit, all labor and delivery rooms and in the nurseries—whether or not these facilities were in use. Simply by connecting the fresh air handling system to the light switch in these rooms, the system now circulates regular and recycled air in those rooms when they are not in use. However, when the room is occupied (as indicated by the use of the lights) the system cycles 100 percent fresh air; the hospital estimates that this system alone nets savings of many thousands of dollars each year in heating and cooling costs.

The administration of Community Hospital of Brazosport in Freeport has established a strong working relationship with the business and industrial community in the area served by their hospital. This liaison has afforded the hospital the use of a wide variety of experts to solve special problems. For example, Dow Chemical Company is the major industry in Freeport and often lends support to the hospital. Bill Smith, hospital administrator, has indicated that on many occasions when he has a problem, he will ask the management of Dow Chemical Company to loan him the use of one or more of their experts to help solve that problem. By utilization of this industry's expertise, a number of problems have been resolved in a way that is best cost-effective and advantageous to the hospital. Similar liaisons are possible in many other situations.

Memorial Medical Center in Corpus Christi has established a program that looks to the future and provides a foundation for continued cost containment efforts. The hospital, a teaching facility, provides educational programs for resident physicians. As part of their training, the residents are involved in a continuing course in cost containment; the course is designed to raise cost consciousness among these future doctors. For example, the instructor might ask the students to write up a set of treatment orders for a hypothetical patient. A bill is then compiled for the prescribed orders and possible alternative treatments discussed. Hopefully, these discussions lead to more economical ways of providing the same high quality treatment.

The programs presented here are just a sample of cost containment efforts being made statewide. If we are to continue our successes in the area of cost containment and maintain our lower than average cost per patient stay, we must share our ideas and programs. Therefore, each member hospital is invited to submit to THA information concerning savings programs that are now in use. As is the case with each of the above, we need your permission to use your data as a basis for future columns.●

SMALL BUSINESS AND SCIENTIFIC AND TECHNOLOGICAL INNOVATION

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 11, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, I previously mentioned in this space that a joint House-Senate Small Business hearing revealed an unpublished and unimplemented 1977 report prepared by the White House Office of Management and Budget. The interagency study, headed by Jacob Rabinow, shows that Federal agencies in effect discriminate against small business in awarding research and development contracts, despite the fact that small businesses are far more innovative and cost effective than large corporations.

These conditions the Congress and the administration must rectify.

The following is a March 10, 1977, memorandum from the Office of Management and Budget, testifying to the overwhelming importance of small business to the innovative process. Included are several attachments in the form of reports summing up the countless contributions small business has made to the advancement of science and technology in this century.

For reasons which are not clear, this report was not made public until released on August 9 at a joint hearing held by my Small Business Subcommittee on Antitrust, Consumers and Employment and the Senate Small Business Committee.

MEMORANDUM FOR CERTAIN OFPP AGENCY CONTACT POINTS

Subject: Increased Use of Small Technology Based Firms

The importance of small business firms in our American private enterprise system has been accepted for many years within the Federal Government. Passage of the Small Business Act of 1953, coverage in the Armed Services Procurement Act of 1947 and the Federal Property and Administrative Services Act of 1949, and advocacy by the Commission on Government Procurement in its Report of 1972 are some of the many ways the importance of small business has been recognized. Special legislation and programs of emphasis have attempted to improve the capabilities of small firms to operate effectively in the marketplace. Although the success—or lack of success—of these actions frequently cannot be measured, there are strong indications that more attention needs to be given to the support of small firms.

Federal Government contracting for research and development is one area in which small firms are inadequately used—less than four percent of research and development expenditures are with small firms. Recognizing this, the Office of Federal Procurement Policy established an interagency panel in early 1976 to consider ways of increasing the utilization of small technology based firms. The panel was chaired by Jacob Rabinow of the National Bureau of Standards. Other members were from the National Science Foundation, the Department of Defense, the National Aeronautics and Space Administration, the Energy Research and Development Administration, and the Office of Federal Procurement Policy.

In establishing the panel, we noted the increasing concern that our Country will lose significant high technology capabilities absent a concerted effort to increase small business research and development awards by the Government. The report of the panel, which is attached, confirms this concern. As a means to bring the recommendations of the panel to the attention of executive branch agencies, we have drafted the attached memorandum on which we would appreciate your views. Comments on this proposed action are requested by April 1, 1977.

ROBERT F. TRIMBLE,
Assistant Administrator for Contract Administration.

ATTACHMENT

Mr. Edmund Alvarez, Director, Office of Operations, Department of Agriculture, Washington, D.C. 20250.

Mr. Dale R. Babione, Deputy Assistant Secretary of Defense (Procurement), OASD (I&L), The Pentagon, Room 3E760, Washington, D.C. 20301.

Mr. William E. Mathis, Director, Contracts Management Division (PM 214), Environmental Protection Agency, 401 M Street, S.W., Room 2003, Washington, D.C. 20460.

Mr. Michael J. Tashjian, Director of Procurement, Energy Research and Development Administration, Washington, D.C. 20545.

Mr. Paul A. Stone, Deputy Assistant Secretary for Grants and Procurement Management, Department of Health, Education, and Welfare, Room 513-4, South Portal Bldg., Washington, D.C. 20201.

Mr. James E. Johnson, Assistant Director for Procurement, Office of Management Services, Department of the Interior, Washington, D.C. 20240.

Mr. Stuart J. Evans, Assistant Administrator for Procurement, NASA, Washington, D.C. 20546.

Mr. Eldon Taylor, Assistant Director for Administration, National Science Foundation, 1800 G Street, N.W., Room 525, Washington, D.C. 20550

Mr. Harold K. Fletcher, Associate Administrator for Procurement, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

Mr. Barnett M. Anceleitz, Director, Installations & Logistics, Department of Transportation, Washington, D.C. 20590

MEMORANDUM FOR HEADS OF EXECUTIVE BRANCH DEPARTMENTS AND AGENCIES

Subject: Increased Use of Small Technology Based Firms

Federal law requires that a "fair proportion" of Government procurement go to small business. This Administration is committed to that principle and to efforts that support and assist the small business community.

The Office of Federal Procurement Policy has advised me that there is need to strengthen our efforts with respect to small business participation in Federal research and development activities. There is considerable evidence that the small proportion of Federal research and development work that is being awarded to small technology based firms is contributing to a serious loss of high technology capabilities in our Nation. Less than four percent of Federal research and development expenditures are with small firms.

Implementation of the measures set forth in the recommendations of the Office of Federal Procurement Policy would, I am confident, significantly increase Federal research and development awards to small businesses. I urge that you undertake an aggressive program to apply the guidance contained in these recommendations. Further, I request that you monitor the progress made in increasing the small business share of research and development awards in your organization. It is important that we see some real progress within the first 18 months of this Administration.

Thank you for your assistance in the important matter.

Director.

SMALL FIRMS AND FEDERAL RESEARCH AND DEVELOPMENT

[A Report to Office of Federal Procurement Policy Office of Management and Budget by Ad Hoc Interagency Panel]

Jacob Rabinow, Chairman, National Bureau of Standards.

Frank Peneranda, National Aeronautics and Space Administration.

George Sutherland, Department of Defense.

Richard Sutz, Energy Research & Development Administration.

Donald Templeman, Small Business Administration.

William Wetmore, National Science Foundation.

Robert Trimble, Office of Federal Procurement Policy, OMB.

INTRODUCTION

There is increasing concern that the capability of the United States to continue its historic successes in technology is in a serious decline. While astonishing achievements have occurred since World War II, there is now considerable evidence that product innovation has either leveled off or declined in many industries. Predictions of a weakened military posture and a less favorable economic position in world trade are associated with analyses showing that the U.S. is losing a significant part of its capability to invent new products essential for the country's defense and for its international sales market.

Analysis of technological capability is an exceptionally complex matter affected by many diverse factors involving individual and organisational motivations, economics, and governmental actions. Since the Federal Government is the biggest source of research and development (R&D) ($26.3 billion proposed for expenditure in 1978), Government acquisition procedures have a large impact on the country's utilization of its best technical and management talents.* One part of the problem—the role and difficulties of the small firm in selling R&D to the Government—was given particular attention by an ad hoc interagency panel under Mr. Jacob Rabinow, nationally known inventor, lecturer and writer, in 1976. The Panel was composed of representatives from the National Science Foundation, Department of Defense, National Space and Aeronautics Administration, Energy Research and Development Administration, Small Business Administration, and the Office of Federal Procurement Policy.

To assist the Rabinow Panel in its inquiry, the services of Mr. William K. Scheirer, an economist, were obtained to perform a literature search and analysis of the role of small firms in fulfilling Government contractual requirements for research and development. Significant findings of Mr. Scheirer are summarized below. His report, with an extensive bibliography, is available for inspection at the National Technical Information Service, Department of Commerce, as Report Number OMB/OFPP/CA-77/1, and in the Office of Federal Procurement Policy.●

*"A Government Takeover of R. and D.?" Richard Morse, Pres., MIT Development Foundation, N.Y. Times, Dec. 19, 1976.

RAILROAD CAR STORAGE

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 11, 1978

● Mr. SIMON. Mr. Speaker, Prof. Walter J. Wills is a specialist in the field of economics who teaches at the School of Agriculture at Southern Illinois University in Carbondale.

Recently he wrote about the railroad car shortage, and I am reprinting his comments in the RECORD because what he has to say makes a great deal of sense.

I would particularly call the attention of the members of the House and Senate to the fact that he points out the deterioration of the railroad beds. One of the fundamental problems in the railroad car shortage is that we have let the railroad beds deteriorate to the point where they move much too slowly. In fact, if we had good railroad beds, we probably would not have a railroad car shortage.

I hope my colleagues on committees where they have responsibilities in connection with the railroads will particularly note his comments.

RAILROAD CAR SHORTAGE

(By Walter J. Wills)

The press has recently had a number of articles concerning the rail car shortage to move grain. For nearly two years this shortage has been evident nearly every week. This shortage has been chronic since at least the mid-sixties.

Each year the railroads assure shippers there will be no shortage. Then at harvest they assure shippers the situation is only temporary. But when a shortage is reported 45 weeks a year there is reason to doubt this is a temporary situation.

The present situation did not develop overnight. A solution will not be quick and easy. However, it is time railroads and government started being honest with the public and took a look at the magnitude and causes of the problem. Treating symptoms may have some politically cosmetic benefits but it doesn't move grain.

There are many reasons government and the public should be concerned with an efficient transportation system for U.S. grain from the producing areas to the consuming areas and the ports.

1. Food and feed grains and oil seeds are a major ingredient either directly or indirectly in U.S. food.

2. These products are a major export product to help reduce the U.S. balance of trade deficit.

3. For humanitarian reasons U.S. food production potential must be available to help alleviate world hunger in case of production disasters in other countries.

Many alleged authorities suggested if farmers built adequate storage there would not be a transportation shortage. The object of production is to move the grain to places where it can be used, not storage. Farmers built storage. But as new crop years appear on the horizon and price indicates the market wants the product are farmers to continue to build more storage because the transportation network is unable to handle the product?

There are three necessary ingredients for moving product: power (energy), shipping facilities, and facilities to move the grain (roadbed, highway, water). Energy consumption will become an ever increasingly more important consideration. Freight cars, trucks and barges are expensive storage facilities. Highways are rapidly deteriorating and many railroad beds are already seriously deteriorated. There is need to use existing facilities more efficiently.

Transportation availability and price determines market outlets available, price farmers receive and where economic activity occurs. There is need for more consideration to moving product and less concern with who moves it. Obviously there is a substantial volume of product for all firms to move.

The solutions that evolve will be an important factor in determining the amount and type of competition in the grain industry. Train load movements and barge tows can use transportation facilities more efficiently than 3-5 car shipments. But only large firms can originate and/or receive train loads (in excess of 300,000 bushels) or 15 barge tows (about 750,000 bushels). Are the U.S. and State governments concerned with maintaining some semblance of competition in the grain industry? The public has a right to expect the government to foster competitive marketing. But historically in the U.S. economic power also is able to exert political power!

It is generally conceded railroad cars, barges and trucks make money (assuming rates are compensatory) for their owners only when moving loaded. Railroad data suggest cars on the average move less than 60 miles a day. There obviously must be some inefficiencies in traffic control that permits this situation to persist.

If the railroad provides clean cars in condition to load and picked the cars up when loaded; and if the cars were unloaded when delivered to the siding there would be an opportunity for more loaded ton miles of movement of available cars each year. If circuitous routings were discouraged cars could make more trips each year.

Even casual observers have seen empty cars on sidings for many days, weeks or even months. This, at a time when shippers are pleading for cars. Except in the railroad industry, most businesses are concerned with how they can meet the demands of their customers!

It has been suggested shippers should own more cars. Each month shippers are placing more cars in service. This scarcely absolves the railroads of the responsibility to also provide more cars. In remote rural areas there are sidings filled with bad order cars. Many have been there for months or years. This suggests railroad management may not be particularly concerned with developing facilities to serve customers or increase stockholder returns.

CONCLUSIONS

The rail car shortage is persistent. Governments and the rail industry continue to treat symptoms and not causes. The brush fire approach to problem solving seldom contributes to a workable solution.

Any solution that concentrates only on large volume shipments will have devastating and irreversible consequences on competition in the grain industry.

The short run solution must consider:

1. More loaded miles per time period per car.
2. Less circuitous billing.
3. Less time loading and unloading.
4. Rapid return of empty cars.
5. Delivery of clean serviceable cars.

The long run solution must consider:

1. More concern with moving product.
2. Greater coordination and cooperation between modes.
3. Expanded improvement of road beds, highways and waterways.
4. Production of cars and barges.
5. An improved, effective program to repair bad order equipment.
6. Further improve on system to keep accurate control on car movement. Then take the necessary steps to correct inefficiencies such a system would reveal.●

PROBLEMS ASSOCIATED WITH A NITRITE BAN

HON. JIM LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 11, 1978

● Mr. LEACH. Mr. Speaker, American livestock and poultry producers are vitally concerned about a possible ban on the use of nitrite in cured meats. One of America's leading agricultural spokesmen Richard Lyng, president of the American Meat Institute, recently prepared an extensive editorial comment on problems related to insuring the continued safe supply of American meat and poultry products. His comments are worthy of congressional attention and I urge my colleagues to read his statement which follows:

STATEMENT BY RICHARD LYNG

The last rat died in March 1977. That's fifteen months ago.

Nothing much happened, at least publicly, to note that rodent's passing until about 6:30 p.m. on Friday, August 11, 1978, when, in a great disorganized rush, the USDA and the FDA announced that a Massachusetts Institute of Technology rat feeding study "strongly suggests that nitrite produces cancer of the lymphatic system in test animals." These two mammoth agencies then ponderously stated that they had not yet decided what to do about it and would let us all know.

It is hard to put a finger on when this classic example of bureaucratic ineptness actually started. It is even harder to predict where it will end, but—wow!—what a problem it has created for the U.S. meat industry. Meat people have found themselves almost defenseless against what appears to be a case of government regulators gone wild.

After last Friday's peculiarly timed and even more peculiarly worded USDA–FDA announcement it might have been expected that the next thing we'd hear would be the promised decision about what they were going to do.

No such luck. On Wednesday, August 16, the press was given copies of a "secret plan" to "ban nitrites completely." Who gave away the secret? That's a secret too, but it had to be someone from USDA or FDA. Was it a policy decision? Sometimes such leaks are deliberate. Regardless, it was a super leak which got massive media coverage nationwide.

When the affected meat industry called USDA and FDA asking for a copy of the "secret plan" they were told that it was not available because it was only a "working document." Yet, media continued to use the "working document," sometimes in scare stories about cured meat products. The Wall Street Journal started its headline "U.S. Plans Total Ban of Use of Nitrites. . ."

Congressmen Wampler (R., Va.) and Martin (R., N.C.) called a joint press conference at noon on Thursday, August 17, to announce that legislation was being introduced which would delay any action to ban nitrites until mid-1979. Congressman Martin, who holds a Ph.D. in organic chemistry, pointed out: "In the case of nitrite we believe the risks from banning it far outweigh the moderately small risk derived at worst from this new evidence."

Late on Thursday afternoon, August 17, at about 5:30 p.m., USDA and FDA released another hurried announcement presumably designed to cool the situation. Assistant Secretary of Agriculture Carol Tucker Foreman and Commissioner of Food and Drug Administration Donald Kennedy in a vaguely worded statement said that "regulatory action on nitrite is not contemplated while Congress is out of town. Even if that were our intention—and we repeat that it is not—it would not, under law, be possible to propose, publicize, order and implement such action before Congress returns in January."

Theoretically, this should now lead to a quiet period while FDA and USDA scientists, lawyers, administrators, and political appointees study the laws, the scientific facts, the options they have, and then make a proposal for public comment.

Fat chance! If past experience tells us anything at all we should be prepared for leaks from both agencies in which dire predictions for hog farmers, meat processors, and consumers will be widely circulated.

The harm from this kind of regulatory amateurism is hard to measure precisely. But it is huge, perhaps totaling billions of dollars.

It is so sad, because it is unnecessary. The facts should be publicly disclosed as quickly as they are available. This is supposed to be an "open" administration. The agencies should not give their horseback opinions—("strongly suggests")—until they have completed their analysis and are ready to make a recommendation. And as they study, no comments or speculation should be made.

The facts are:

1. The MIT study is solid research, but it is inconclusive and must not be used as a basis for recommending a nitrite ban. The final paragraph of the report itself says:

"While these observations require some consideration, the data are only suggestive and the biological significance of nitrite associated lesions of the lymphoreticular system is unclear. There are suggestions, however, of sufficient magnitude and the study used sufficient animals to raise questions about the widespread use of relatively high concentrations in our food supply."

2. There is a more recent MIT human study which concludes that no more than 2 percent of the human exposure to nitrites comes from cured meats. The other 98 percent comes from other foods or is produced in the body itself.

3. The MIT rat study does raise some questions which seem to call for further research, especially since its results are quite the opposite of other earlier feeding studies.

4. The whole area of rat studies needs to be evaluated. These were specially sensitive rats, fed diets which do not resemble human diets, and were given huge nitrite quantities. Is this sufficient to make decisions having the impact of a nitrite ban? Or should it call for more study, especially of epidemiological data?

5. Virtually all cured meats also contain vitamin C in one form or another in quantities greater than nitrites. The diet of the MIT rats contained no vitamin C!

The wrongs done to the meat industry by FDA and USDA are the result of either malice or ineptness born of inexperience. Assuming that it is the latter, let's hope that they can somehow begin to understand the obligations they have to be responsible in their pronouncements. And let's pray that somehow they acquire the wisdom to make valid judgments.

As this wearying week in August comes to a close we look back incredulously at what happened and ask, in wonderment, why such a great fuss right now, in the summer of 1978, when the last rat died in March of 1977.●

UNITED STATES-ARGENTINE RELATIONS

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 11, 1978

● Mr. YATRON. Mr. Speaker, during during the course of hearings recently held by the Subcommittee on Inter-American Affairs which I chair, I became more convinced than ever that present policy is seriously threatening the future of United States-Argentine relations.

At the end of this month, an embargo will enter into force, prohibiting all military sales, credits, and export licenses for Argentina. Approved by the Congress as an amendment to the International Security Assistance Act of 1977, this measure will effectively end a United States-Argentine military cooperation relationship of long standing. As a result, our ability to protect the sea lines of communication in the south Atlantic, vital to U.S. interests in both the Middle East and Europe, will be seriously compromised.

In addition, the Department of State has carried the intent of the Congress to the point of refusing Export-Import Bank loans for strictly commercial U.S. business transactions in Argentina. These arbitrary decisions not only deprive American companies of business in Argentina today and in the future; they deprive the Argentine economy of needed investment and the Argentine people of a higher standard of living.

In a recent speech in Washington, Dr. Jose Rafael Trozzo, a prominent Argentine financier and businessman, commented on the state of United States-Argentine relations. His statement provides valuable insight into the reaction of the Argentine people to present U.S. policy which I feel is particularly relevant. I would like to share Dr. Trozzo's comments with our colleagues.

The comments follow:

I want to close my speech by talking to you a little bit about Argentine-American commercial relations.

The United States expanded because of its technical supremacy after World War II. You have billions of dollars invested in Argentina and we have purchased billions more in plants and spares.

The balance of payments is heavily in your favor as it regards trade between our two countries.

Hopefully with our bank in the United States we will reverse that! Or at least we will try to do so.

But today as Argentina emerges as a society based on a system that is best for us—where we are giving great emphasis to private initiative—there is a problem between our two nations which affects not only our banking and commercial business but is affecting the relations between our people and I believe it must be corrected.

I believe it is a transitory situation and being a profound optimist I know it will change.

But it would not be right for me to be here today and not touch on it as a businessman.

There is a trade embargo against Argentina caused by what the papers have referred to as the "State Department Group on Human Rights". Some papers have given it names but I do not wish to personalize the situation.

The embargo has caused what I am told is over $2 billion of American exports to be sitting and waiting to be shipped to Argentina, with no export licenses approved. I said $2 billion. The Export-Import Bank has not granted a license for Boeing planes to an airline of Argentina that has previously bought 15 Boeing; it has denied a license to export $290 million in equipment from Allis Chalmers for a dam and I am told that spare parts to repair American-made military planes are also embargoed, which will mean that other nations will do the business of repairing them and you in the U.S. will not have the business.

We do not understand this, as it is illogical.

Here is a nation, Argentina, where all people are seeking good trade relations, something that has not occurred for a long time, where there is a mutual admiration by the people of our two nations, where we have common roots and heritage and political

ideologies and where the United States does not have to give aid or go to war with us—where the balance of your trade shows an enormous deficit, where the value of your dollar touches a new low each day against the pound, the yen and the mark, where the value of gold climbs each day—and where Argentina is seeking to rebuild a friendship with you and a trade which will result in more trade for both our nations—and Argentina is singled out for a trade embargo because we, for some reason, are not considered as important as Korea, Viet Nam or Russia. It makes no sense politically or economically.

I am hopeful that with closer contacts in the commercial field which will be exemplified by our bank being here in Washington the people in charge of this policy will begin to get a better idea of what Argentina is and what she is trying to do in the commerce area, and to reconstruct the great nation she once was, and I hope that we can help in this educational process, because the problem is, in my opinion, a lack of experience in knowing our nation. That is partially our fault and partially your fault. With these closer commercial contacts, maybe we can correct that problem.

In many ways Americans and Argentines are remarkable people. We are tough when we need to be, and resilient. But both qualities are tempered by a capacity for caring—caring enough to constantly struggle for a better life for more people.

We as an Argentine nation and people are in a reconstruction and reeducation period—and we have to build a society where our children can live in peace and tranquility with hope for the future and using their knowledge in the pursuit of their jobs or professions uninterrupted by war or battles or the threat of foreign ideologies which we do not want . . .●

HIGH FOOD PRICES: GAO SAYS FARMERS ARE NOT TO BLAME

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 11, 1978

● Mr. NOLAN. Mr. Speaker, the General Accounting Office has just released a 3-year-long study of reasons behind the widening gap between prices farmers receive for their production and the prices consumers pay for the same product on supermarket shelves. The conclusion? When food prices go up, the Nation's farmers are definitely not to blame.

The 154-page report, entitled "What Causes Food Prices To Rise and What Can Be Done About It," cites general inflation, high labor and processing costs, and high transportation costs as the main culprits behind a $76 billion increase, since 1970, in the amount of money Americans are paying for food actually produced in the United States. Since 1973, according to GAO, "Higher marketing charges accounted for $54 billion, or 71 percent of the increase."

The report, which Congressmen FRED RICHMOND and JOHN JENRETTE requested along with me in December of 1975, makes it inherently clear that it is simplistic and terribly unjust for anyone—inside or outside of government—to suggest that higher farm market prices and higher farm suoport prices automatically cause higher consumer prices—unless the other components of the food industry use farm prices as the excuse and the opportunity to raise prices to consumers. Indeed, the food processors, the wholesalers, and the retailers have continued to make substantial profits—$8 billion in 1977. As a result, 1977 was the first year that the value of the marketing process of the food we produce in America exceeded the farm value of the food—$62 billion to $57 billion.

The report, in our judgment, clearly strengthens our case for parity prices for farmers by proving that higher farm market prices would have only an infinitesimal effect on consumer prices.

What follows is the official summary of the GAO report, including specific recommendations to the Congress. I trust my colleagues will take note, and join us in upcoming new efforts to curb rising retailing, processing, and transportation costs within the food industry.

[Comptroller General's Report to the Congress]

WHAT CAUSES FOOD PRICES TO RISE? WHAT CAN BE DONE ABOUT IT?

DIGEST

Food prices:

How are they determined?

What makes them change?

Why don't retail prices decline when farmers get less for commodities?

Do Department of Agriculture food price statistics really tell Americans what they pay for food?

What of the future?

These questions are on the tips of everyone's tongues these days; and GAO attempts to answer them in this report. In doing so, GAO offers recommendations to the Congress and to the heads of a number of Federal departments and agencies on steps it believes, after a long and careful review, should be taken by all concerned.

From 1970 through 1977 consumer expenditures for U.S. farm-produced food increased 72 percent—41 percent of this increase occurring in 1973 and 1974 when there was a worldwide grain shortage and pervasive domestic inflation.

These sharp price increases and the continuing increases or lack of decreases have brought charges of unfair pricing policies in the food industry; caused consumers to be concerned with the rate at which food prices increases; and led farmers to complain that the prices they receive are too low compared with their production costs.

FOOD PRICE ECONOMICS

Food prices rise generally because farm prices of raw agricultural commodities rise and/or the costs and profits to market these commodities as finished food products rise

Farm prices of raw agricultural commodities are influenced largely by rather unpredictable natural forces such as the weather, pests, and crop disease. Farm prices and food prices are influenced also by other factors that affect supply, such as Federal programs for cropland set-aside, commodity disposal, export sales, storage, and marketing orders; production costs; and the length of the production cycles of most agricultural commodities.

Consumer expenditures for U.S. farm-produced food increased by $76 billion from 1970—$106 billion—to 1977—$182 billion. Higher marketing charges accounted for $54 billion, or 71 percent of the increase. Of the $22 billion increase in the farm value, 55 percent occurred in a single year—1973. Since 1973, 87 percent of the increase in consumer expenditures thas been caused by higher marketing charges.

The largest food marketing cost is labor. In 1977, for the first time, food marketing labor costs ($62 billion) exceeded the farm value ($57 billion) of the commodities marketed. From 1970 through 1977, food marketing industry profits both before and after taxes rose as much as or more than any other cost element on a percentage basis; however, the amount of 1977 before-tax profits (approximately $8 billion) was relatively insignificant when compared with the labor costs of $62 billion. Food industry profits, therefore, cannot logically be cited as a major reason for food price increases.

Does inflation cause high food prices or do high food prices cause inflation? The truth seems to be that one feeds on the other. In April 1978 the President announced plans to moderate inflation through a number of Government actions aimed at achieving voluntary wage and price restraints, reduction of crude oil imports, greater economy and productivity in Government, and an appropriate fiscal and monetary balance in economic policy.

The proper balance and administration of Government programs affecting the supply of agricultural commodities can do much to stabilize domestic food prices.

WHY FOOD PRICES DON'T ALWAYS DECLINE WHEN THE FARMER GETS LESS FOR THE RAW COMMODITY

There are four principal reasons:

When a product's farm value represents a small percentage of its retail price—such as in the case of canned goods, which require a high degree of processing, or fresh produce, which requires special handling—a drop in farm value may have little or no impact on the retail price.

A decrease in a product's farm value may be partially, completely, or more than offset by increases in food marketing costs—the costs of assembling, transporting, processing, wholesaling, and retailing products.

Various retail pricing methods, such as following competitors' prices, setting gross profit margins by department rather than for each product, letting retail margins increase somewhat when wholesale or farm prices fall and absorbing some of the cost increases when prices rise, and running specials at lower prices or offering cents-off coupons rather than reducing the established prices, are based on factors other than just product cost and may result in no reduction in a particular product's regular retail price in response to a drop in its farm price.

In areas where a few manufacturers, retail stores, or food chains account for a high percentage of total food sales, price competition may be limited and there is less likelihood that a drop in a commodity's farm price will be passed on to the consumer.

Various possible combinations of these conditions and lack of specific and timely data on changes in the cost and profit components at the various levels of the food industry make it difficult, if not impossible, to determine precisely why a product's price does not decline when the farmer gets less for the raw commodity.

The total farm value of U.S. farm-produced food remained relatively stable from 1975 through 1977. Total consumer expenditures for food for the period, however, increased 22 percent, or about $33 billion. Most of the increase was received by the food industry.

Legislation has been proposed to provide for an agency or commission to monitor food prices or study the food industry. However, the legislation does not provide for the agency or commission to have access to the records of the food industry. Such access would facilitate checking the validity of reported food price information.

WAYS TO STABILIZE FOOD PRICES IN THE FUTURE

At what rate will food prices rise in the future? Answering this question definitively is obviously difficult because of the unpredictability of so many key variables—inflation, weather, crop disease, pests, technology, and Government policies and programs.

There are things that the Government and the food industry could do, however, to help lower food price levels or slow the rate of price increases. These include—the relaxation of certain Federal transportation regulations which cause truckers to travel many miles with empty trucks and thus serve to increase food distribution costs and more rapid adoption by the food industry of available technology such as computerized checkout systems at the retail level, methods to decrease the amount of food loss or spoilage, and standardization of food containers.

Also, Government decisionmakers need to consider the effects of their proposed actions on food industry costs and thus on food prices. Among actions now being discussed or formulated by the Congress and/or the executive branch are nutritional labeling of all food and food products, drained weight labeling, percent of characterizing ingredients labeling such as the amount of beef in beef stew, mandatory unit pricing, mandatory open dating, and more stringent noise and water pollution standards.

Because all or part of the costs of such actions are invariably passed along to the consumer, both their beneficial and detrimental effects need to be considered in deciding whether to implement them.

FEDERAL FOOD PRICE STATISTICS NEED IMPROVING

The Department of Agriculture, using information obtained from various sources, produces several statistics on food prices and the food industry. During the period covered by GAO's review, these included the farm value—retail price spread, percentage of disposable income spent for food, the retail cost of a market basket of food commodities, and the marketing bill. In addition, the Bureau of Labor Statistics, from which Agriculture obtains certain of its information, publishes a monthly Consumer Price Index, which includes a measurement of food price changes.

Although these statistics are considered the best available information on these subjects, several problems have limited their reliability and usefulness. For example, one of Agriculture's most widely used statistics has been the farm value-retail price spread which represents that part of a product's retail price which goes to the food marketing industry. GAO found that:

Retailer specials were not adequately considered in the retail price computations of either the Bureau or Agriculture.

Farm prices were not collected on a statistically sound basis.

The lag between the time a product is sold by a farmer and the time it is displayed on a retailer's shelf was not considered in computing the spreads.

Recently, because of a change in the Bureau's retail price collection method and a delay in developing a revised method to calculate nationwide average retail prices used in the spreads, Agriculture has temporarily discontinued publishing spreads for most individual foods. A Bureau official said that it would take 6 months to 1 year to determine if prices are being collected for a sufficient number of like items to calculate nationwide average retail food prices.

Until 1977 Agriculture used Department of Commerce disposable personal income and food expenditure statistics to calculate and publish the percentage of disposable income spent for food. Many Government and private organizations' studies found, however, that the percentage was not representative of food expenditures by low-income families.

Because of such complaints, Agriculture stopped publishing the percentage, although it continues to publish disposable personal income and food expenditure totals. Information on food expenditures by income level and/or family size would be helpful in monitoring the Nation's economy and in the Federal decisionmaking process, although an Agriculture official said that the expense involved might be prohibitive. Agriculture has not, however, studied the data needs and costs of data collection.

The market basket and marketing bill published by Agriculture and the Consumer Price Index published by the Bureau are frequently misused. Neither agency has been very successful in educating users about the statistics' limitations and uses.

RECOMMENDATIONS TO THE CONGRESS

Bills to establish a permanent Bureau of Agricultural Statistics (House bills 256, 497, and 3132) or a temporary National Commission on Food Production, Processing, Marketing, and Pricing (S. 1223) are now being considered by the Congress. To facilitate gathering and verifying information, GAO recommends that if such a bureau or commission is to be established, the Congress provide (1) it with the authority needed to assure access to food industry records and (2) for adequate safeguards to protect the confidentiality of such records.

If the Bureau of Labor Statistics is unable to revise its method of computing nationwide average retail prices because of changes in its retail price collection procedures, GAO recommends that the Congress direct the Bureau to institute a retail price collection program which would allow (1) the Bureau to resume publishing nationwide average retail prices for many individual commodities and (2) Agriculture to resume publishing farm value-retail price spreads.

RECOMMENDATIONS TO THE EXECUTIVE BRANCH

The Secretaries of Agriculture and Transportation and the Chairman of the Interstate Commerce Commission should initiate and coordinate an indepth study of the problem of haulers of raw agricultural commodities driving many miles with empty trucks. The study should ascertain the extent of, reasons for, and extra costs caused by the problem. The Secretaries and the Chairman should develop and propose legislation to modify existing regulations if the study indicates such a need.

The Secretary of Transportation and the Chairman of the Interstate Commerce Commission should also provide for a study of the projected effect of authorizing intercorporate hauling—compensated transportation between related companies—including a determination of the (1) net benefits to the trucking industry and (2) effect on consumer prices.

The Director, Office of Management and Budget, should direct his staff to implement and oversee a coordinated Federal effort to assist the food industry in implementing those efficiency-increasing actions discussed in this report.

The Secretary of Agriculture should provide for an assessment of the possible ways in which the food marketing industry could be required to submit monthly data on cost and profit margins. Upon completion of this assessment, the Secretary should develop proposed legislation to accomplish this.

The Secretary of Agriculture should also direct the Economics, Statistics, and Cooperatives Service to:

Improve the method for computing farm value-retail price spreads by better adjusting retail prices for the effect of retailers' special prices and instituting a system which considers time lags in computing the spreads;

Determine the data needs and cost of data collection required to calculate and publish the percentages of disposable personal income spent for food by income level and/or family size and, if found to be feasible and economical, initiate gathering and analyzing the data and publishing the resultant percentages; and

Increase efforts to inform users of its statistics on the retail cost of a market basket and the marketing bill what these statistics show and their uses and limitations.

The Secretary of Labor should direct the Bureau of Labor Statistics to:

Determine the additional labor and cost necessary to institute a retail price collection system which would note quantities sold at regular and special prices and, if found to be practicable and economical, institute such a system and

Increase efforts to inform users of the food portion of the Consumer Price Index what the Index shows and its uses and limitations.

The Secretaries of Agriculture and Labor should direct their staffs to identify areas of common data needs and explore the feasibility of adjusting data collection and data presentation methods to better accommodate both users.

Also, the Secretary of Labor and the Director, Office of Management and Budget, should further consider updating the Consumer Price Index more often than every 10 years to recognize shifts in consumer buying patterns.

AGENCY COMMENTS

The Departments of Agriculture and Transportation and the Interstate Commerce Commission provided written comments, while Labor and the Office of Management and Budget provided oral comments. Their comments are discussed where appropriate in the report.

Agriculture generally agreed with the recommendations to improve food price statistics but pointed out several problems that would be encountered in implementing the recommendations. The Office of Management and Budget and Labor generally disagreed with the need for improved food price statistics.

Agriculture, Transportation, the Office of Management and Budget, and the Interstate Commerce Commission generally agreed with the need for studies to determine the impact of and possible alternatives to certain transportation regulations.●

FARMING IS A BUSINESS

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, September 11, 1978

● Mr. AuCOIN. Mr. Speaker, every Member of the Congress who represents an agricultural area understands that the operation of a farm is very similar to any other business. The farmer must buy supplies, meet a payroll, and produce and sell a product.

Like any other business, it is important for the farmer to be able to obtain operating loans as quickly, easily, and cheaply as possible. Yet at the present time, Federal law inhibits quick and easy access to loans.

The Truth in Lending Act requires that time-consuming full disclosure provisions apply to agricultural loans under $25,000. This requirement does not apply to similar commercial loans.

I do not want to diminish the importance of the protections provided by the Truth in Lending Act. The occasional borrower, having little experience with finance, should be provided with a state-

ment of the estimated finance charge, annual percentage rate and a repayment schedule. But farmers can hardly be classified as inexperienced occasional borrowers. Farmers normally receive a substantial amount of income only once a year at harvest so borrowing to meet interim operating expenses is an important aspect of their business. And because farmers borrow frequently, they usually know well the smalltown banker with whom they do business.

There are two other reasons why I think the requirement for agricultural loans is excessive.

First, the disclosure required by the act for agricultural loans are often misleading and meaningless. Because of the unique nature of the farmer's business, it is impossible to predict accurately the likely costs of credit. The farmer simply does not know when he will need disbursements of loan funds or for what length of time.

Second, agricultural loans are extended on different terms and conditions than consumer credit. Consumers typically borrow under a standardized financial package. Agricultural loans, on the other hand, are financing packages tailored to meet the needs of the specific borrower. When the consumer loan-oriented requirements of the Truth in Lending Act are applied to agricultural loans, the result is a complicated and time-consuming disclosure process.

Mr. Speaker, it is clear that farmers are experienced borrowers who deal frequently with lenders and have financial requirements that are very unlike those of ordinary consumers. In sum, the rationale for applying the Truth in Lending Act requirements is not present in the case of agricultural borrowers.

Every Member of this House knows how important it is to cut excessive and duplicative redtape whenever possible. We have an opportunity to do just that by approving an exemption of agricultural loans from coverage by the Truth in Lending Act.●

MIA SIGHTINGS AND THE MONTGOMERY MISSION

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 11, 1978

● Mr. DORNAN. Mr. Speaker, last Friday morning I received a copy of the report of the Special Committee on Southeast Asia, detailing the opinions of my colleagues on their recent sojourn to the Socialist Republic of Vietnam. I can only say that the report was, at the very least, intriguing. Like so many of these documents, they are a sound record of impressions, rather than a disciplined geopolitical analysis. The content and conclusion must, in justice, be viewed in that light.

However, I still cannot help thinking that the report itself will serve as a relevant "period piece" in some future academic text on our Southeast Asian foreign policy in the post-Vietnam era. It breathes with the spirit of reconciliation, an understandable sentiment. It reflects the pervasive sense of American policymakers that we ought to "put Vietnam behind us" and get on with the business of the world.

It is precisely this tone, this spirit, that is, I think, dangerously naive.

The leadership of Communist Vietnam is a revolutionary military elite, hardened by long years of brutal conflict. No one has better estimated the character of the regime's personnel than my colleague, HENSON MOORE, in his addendum to the Montgomery special report:

> The Vietnamese are tough and dedicated people. They are led by shrewed and capable leaders. We can be sure that their every concern is for what is in their best interests. Our relations with them are unrealistic if we perceive their motive as anything more.

So different is Mr. MOORE's realistic observation from the tenor of the Montgomery report. I am unable to fathom whether this spirit and tone is based on unguarded optimism or merely a wishful assessment of future United States-Vietnamese relations. Consider the evaluations of the committee.

The report states that the Communist Vietnamese attitudes have radically changed in the post-war calm. In the explicit language of the report:

> It is our opinion that there has been a dramatic and fundamental change in the attitudes by the Vietnamese Government toward the United States.

The committee goes on to state that there are "compelling reasons" for this change of mind, which are directly related to Vietnam's internal and external problems. According to the committee, the first of these is the recent change in Sino-Vietnamese relations. The second is the current Vietnamese need for: "food, raw materials, insecticides, fertilizers, machinery, technical help, and equipment by means of full-scale and open trade." In other words, the Communist regime in Vietnam is in trouble.

It can be surely no surprise to anyone familiar with the history of Southeast Asia politics that there has been a traditional enmity between the Chinese and the Vietnamese. These antagonisms are rooted deep in Asian history. Periodic eruption into diplomatic and even military hostility is understandable. There is no reason to believe that the heirs of Chairman Mao have lost the imperial visions of the ancient Middle Kingdom. Vietnam had best beware.

Mr. Speaker, given these severe domestic and foreign problems, we have at our disposal the perfect leverage for influencing Vietnamese behavior. If my reading of the report is correct, we have here an historically unique opportunity to pursue profitable diplomatic initiatives. Vietnamese leaders speak of their need to reduce the dangerous tensions with the Chinese Communists to the north, to develop their oil and natural gas resources along their coast, and to repair the internal damage to the agricultural and industrial sectors of their economy. We have here the very condition that we need to pursue, to our satisfaction, an honorable resolution of the issue of our personnel missing in action.

As I have said before on the floor of this House, there is no effort we should spare in the resolution of this issue to the satisfaction of all Americans, most especially the families of those men listed as missing in action. If the Vietnamese would be totally forthcoming on this matter, I am sure that very few, if any, Members of this Congress would object to taking a new view on the entire question of Vietnamese-United States relations.

It is the frightening possibility of missing this opportunity that greatly concerns me, second only to the question itself of the status of those brave men listed as missing in action. The committee report is not comforting in this regard. The committee merely tells us that the Vietnamese deny holding any POW's. Moreover, the special committee informs us, that in discussions with representatives of the U.N., various church groups, and officials of the International Red Cross, there is widespread "feeling," get that word "feeling," that no Americans are being held alive. The committee report, then, goes on to say that it is in agreement that no American is alive in Southeast Asia and recommends a "status change"—a presumption of death—of approximately 1,330 listed as MIA's.

Please note, Mr. Speaker, this recommendation is officially based, on, among other things: First, Vietnamese denials and second, the "feelings" of assorted groups. Feelings. Do Vietnamese formal denials in and of themselves, formally constitute a basis for any valid conclusion on the MIA issue? Is Mr. MONTGOMERY and company really saying to us, between the lines, that if the Communist Vietnamese were holding living Americans for all of these years, they would admit it? Come on. I know, who are we to question the ethical integrity of the Communist leadership of Vietnam? The very idea.

Mr. Speaker, the truly amazing thing is that the committee was prepared to agree with the conclusion that there were no Americans being held alive and that we should go ahead with a change of status, after being told—point blank—by Vu Hoang, chairman of the Missing Persons Search Committee in Vietnam, that international search teams would not even be allowed to come into the country. What kind of cooperation is this? What evidence of good faith can be discerned here?

The situation is similar in Laos. According to the report, the Laotians said that the search for MIA's was seriously compromised by the presence of unexploded bombs and other ordnance. They said that they had lost 50 persons by virtue of such "bomb accidents" occurring hither and yonder in the Laotian countryside. The Laotians told the committee that they wanted assistance in bomb disposal equipment, but not bomb disposal technicians. I, for one, cannot believe that the Vietnamese and the Laotians are acting in good faith in resolving this issue when they prohibit qualified international search teams and technicians from even entering the critical territory for the sole purpose of expediting the recovery of MIA remains.

The Vietnamese, according to the report, oppose the imposition of any conditions precedent to normalizing relations. Of course, they do. Because the conditions are there; they are there for us to use in our own diplomatic initiatives. If the economic problems in Vietnam are chaotic; if the relations with Red China are diplomatically and militarily precarious; if war and the current threats of war have fatigued her people, then it seems to me that we have every opportunity to move decisively now to resolve the MIA issue to our own satisfaction. It is certainly not an opportunity that we should allow to slip through our diplomatic fingers. It is certainly not enough for us to rely upon Vietnamese denials or the starkly subjective feelings of either well or ill-intentioned people on the status or the condition of men listed as missing in action.

As I have already said, if we could get the Vietnamese to agree to our terms for the full resolution of this MIA problems, I cannot imagine many of us in this House or even in the Senate opposing a positive reassessment of our current relationship with Vietnam. But that is precisely the option that the committee is prepared to forego. In the language of the report:

> The Committee feels that the recovery of remains by countries in Southeast Asia is a humanitarian issue and should never be linked with other matters between the United States and the Vietnamese and Lao.

"Never?" Such a strong word. An irrevocable condition. Even the Vietnamese Communists, according to the report, say they are willing to be "flexible." But the special committee says "never." We are being asked, in other words, to abandon any and all political, economic, or diplomatic leverage on Hanoi in the final resolution of the MIA problem, the problem that is most important to the people of this Republic.

Mr. Speaker, the committee can recommend to this House anything it wants. But this House has no cause to honor such recommendations while there is even a flicker of hope that the MIA issue can be resolved to our satisfaction, including the satisfaction of the families of these brave men. Reports of "live sightings" of Americans held in Southeast Asia continue to appear. Each and every one must be thoroughly checked and cross-checked and double checked again.

Mr. Speaker, Mrs. Le Thi Ahn, leader of the Vietnamese community in the United States and an interpreter for the Natural League of Families, has transmitted to me copies of letters from Vietnamese refugees who claim to have actually seen or heard of Americans being held captive in Vietnam after the end of the war. These letters were written in response to an ad in "Trang Den," a Vietnamese language newspaper circulating in the West, asking for such information. I have turned over copies of this critically important information and untranslated letters to the Defense Intelligence Agency. For those appearing below, I have sanitized previously translated refugee letters, deleting names and addresses, in order to protect the identities of the authors and their families. Of course, I fear retaliation by the Vietnamese Government.

Mr. Speaker, I cannot vouch for the truth of these letters. No one can until the proper interviews by responsible authorities have been completed. But I do think that the emergence of these documents is ample ground for calling a halt to premature recommendations of a change of status of those listed as MIA's. I appreciate the work of the members of the special committee; but I must respectfully disagree with the report's overall naive tenor and most of the conclusions. Printed below are the first of a series of memos by Mrs. Ahn and letters I will be inserting into the RECORD. The two items below are translations by Mrs. Ahn of the relevant portions of letters she recently received. I ask that my colleagues give these documents their closest attention:

AUGUST 20, 1977.

REPORT ON SEEING MIAS ALIVE IN XEO RO, RACH-GIA SOUTH-VIETNAM BY LATE 1975

Name of reporter: (delted).

Born on 1952 in Phong Phu, Phong Dinh province.

Place of residence before escape: Xeo Ro, Dong Yen, An Bien, Rach-Gia.

Position under the former regime: Sergeant.

(Deleted) has spent several periods in re-education camps, totaling more than 8 months. On Jan. 18, 1977, he bribed his way out of detention by giving (through a family member) 20 taels of gold to the (deleted) District commissar. He then bought new identity papers and traveling documents and fled to Phu-Quoc Island.

(Deleted) left Phu Quoc by fishing boat on the morning of March 27 1977 and arrived in Leasing, Thailand, on April 2, 1977.

He was admitted to the U.S. on July 77. His present address is: (deleted.)

REPORT ON MIA

(Deleted) live at that time in Xeo Ro, Rach-Gia; Xeo Ro is a remote district near Chuong Thien province. He has seen two White Americans at the Xeo Ro dock during the month of October 1975; the prisoners were on their way to the U-Minh forests. They lay in a motor sampan, their heads were shaven like monks; their wrists were tied with ropes behind their backs.

One man was very thin and tall, the other also very thin, was of medium height. Their escorts encouraged the curious gathered to see them to throw accusations and insults at the prisoners and even to beat them with small sticks. The sampan later continued its journey South, towards the thick, swampy forests. Asked if other witnesses can be cited, (deleted) replied that all people living around the Xeo Ro dock have seen the prisoners. They would testify, if their lives were safe afterwards.

A friend of (deleted), named (deleted), a recent escapee, previously in a Thai refugee camp, now in Australia has seen MIAs in the U-Minh forests (Ca-Mau province). A number of Americans, both Blacks and Whites were being detained in a forced labor camp. Communist authorities completely isolated the area and forbade local people to come near the camp. Nevertheless, many people have sighted the tall Americans. The U-Minh (meaning Darkness and endless) Forest is a thick mangrove and palm tree forest.

(Deleted) also explained that the Viet Communists used the tactic known as "making noise in the East and strike the West." They know that people assume that they keep American prisoners in the North, so they move them to the South and keep them in a place where no one suspect it.

REPORT ON THE SIGHTING OF THREE MIA'S GRAVES

We put an ad on the Trang-Den Newsmagazine and received a letter from a recent escapee who left Vietnam July 1977. His name is (deleted). His address is (deleted).

In his first letter, (deleted) wrote: My sister, you ask about the Americans. Yes, I have seen them, but they were no longer living when I saw them, so is there any point in talking about them now?

I answered (deleted) and told him that if he has seen Americans, even dead, he should tell me when and where and under which circumstances he saw them.

He wrote back. Following is a translation of the main points in his second letter.

"MARCH 22, 1978.

"My sister:

"I believe those unfortunate men who lay in those tombs were our friends, they were our allies and share our ideals in the struggle against Communism, therefore I don't mind telling you the truth about what I saw.

"The sighting took place maybe nine months ago, in June 1977 I was called upon to do forced labor for what they called the 'Socialist Republic of Vietnam.' We were sent to do land clearing in a jungle and mountain area named Nui-Ba-Vien in the Q.N.D.N. province. (It is, as you know, the new name of the province; before 1975, it had another name.)

"The jungle was thick, yet it had a lot of bomb craters. I found out that the area we were ordered to clear was the site of a Viet-Cong small hospital. The hospital is now destroyed. Clearing the jungle there was very hard work because the soil was full of rocks and stones.

"There were a number of graves around the hospital. A number of those graves, the Communist cadres who supervised our work told us to build them up and to take good care of them. We knew the dead who laid there were their men. There were other graves which the cadres told us not to bother clearing the weed around, let them go to hell, they said. . . .

"Days after days, we worked from dawn to dusk clearing the jungle. One day, we discovered three tombs a little farther away from the hospital, all the three were well on their way to be flattened by the rain. We knew at once they were American tombs because of the helmet, the clothes and shoes we found on the tombs. On each of those, a piece of wood was planted as a tombstone. I took one of the helmets and saw that inside there was a plastic lining to cushion the shock when the soldier wore it in combat. The lining bore the name of the dead person in English language. I do not read English, and I'm sorry I don't remember the names of the dead. The clothings have deteriorated, but still very recognizable; still no ID that we could see.

"We reported the 3 American tombs to the cadres but they used even harder words against those tombs and told us not to do anything about them. We thought, well, the dead are dead, all is finished and we must treat them with kindness, so my friends and I we sneakingly gather the stones around the tombs. I'm sorry that I do not remember the names.

"The jungle we cleared was later planted with manioc (tapioca). By mid-June, I was released from the labor camp because my time was up. In July, I escaped from Vietnam. That is what I saw. I don't know whether my words are of any help to the families of those still missing in Vietnam.

"Signed (deleted)."

This morning March 26, 1978, we received a call from a friend in (deleted). A woman refugee in this city has seen a white American prisoner being paraded through the city of Rach-Gia about five months after the fall of Saigon. I am getting in touch with

her and will have more detailed information on her sighting.

According to (deleted) a friend of his, a young woman who recently escaped from Phu-Quoc Island and is now in the U.S.A. may know a great deal about MIAs. She is the daughter of (deleted). We are trying to trace her now.

A Vietnamese (deleted) now living in (deleted), has written about a POW he has seen in a cage along the Ho Chi Minh trail during the war. A detailed description of the POW was in his (deleted).●

THE COMPROMISE NATURAL GAS BILL—WHERE LIE ITS MERITS?

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 11, 1978

● Mr. STARK. Mr. Speaker, it is understandable that the President has attempted to switch the focus of debate on the compromise natural gas bill away from its impact on energy use in the United States and toward its impact on our international prestige and the foreign exchange value of the dollar. Admittedly, it is difficult to sell a bill whose cost to the American consumer will be almost $30 billion by 1985 and which will not produce any additional supply of natural gas. Neither is the bill's overwhelming complexity a strong selling point—it creates over 20 categories of gas and, according to the Office of Enforcement within the Federal Energy Regulatory Commission, "the proposal is so complex, ambiguous and contradictory that it would be virtually impossible for this Commission to enforce it in a conscientious and equitable manner." Clearly, the merits of the bill must lie outside of its effects at home.

Unfortunately, the statements emanating from the White House about the bill's importance in arresting the decline of the dollar's value in foreign money markets do not hold up under examination. Few economists are persuaded by Mr. Carter's argument and believe it has anything more than political value. Robert Slighton, a vice-president of Chase Manhattan Bank, stated in an internal memo that,

> It is by no means clear that the market will perceive the compromise bill as resulting in an enhanced long-run supply of natural gas in the U.S. and an enhanced long-run balance of payments outlook.

Similarly, a study by the Federal Reserve Bank of St. Louis concludes that,

> The increased value of U.S. oil imports has not caused the U.S. balance of payments deficit and the declining foreign exchange value of the dollar . . . Thus, policies directed toward reducing oil imports will have little effect on the current trend of the dollar's declining foreign exchange value.

I am submitting for the record an article from Saturday's Washington Post entitled "Changing Face of 'Centerpiece' Gas Bill." It pinpoints the changes which have been made in the bill since it was proposed by the President last year and the ever-so flexible administration rationale which accompanied it. I commend it to my colleagues attention.

[From the Washington Post, Sept. 9, 1978]

CHANGING FACE OF "CENTERPIECE" GAS BILL

(By Robert G. Kaiser and J. P. Smith)

The natural gas legislation that President Carter has transformed into the life-or-death "centerpiece" of his beleaguered energy program is a far cry from the gas program he first proposed last year.

Indeed, this legislation is much closer to what the president once denounced as "war profiteering" than it is to the administration's original gas plan.

Instead of maintaining price control of gas as originally proposed, the new legislation provides for the complete deregulation of new gas by 1985.

In addition, the new legislation lacks some provisions Carter proposed to tilt the anticipated price increases so that more would be borne by industry, less by homeowners.

These two changes in the bill would have two results.

First, prices paid by homeowners would rise more than under Carter's original plan, while those paid by industry would rise less.

Second—partly because industry would not face such large price increases—overall U.S. consumption of gas would not be curtailed as Carter first intended.

Instead of conserving gas, in fact, the bill is now presented as a way of increasing production of natural gas to substitute for imported oil.

The original Carter plan would have eliminated the present two-tier market, in which the price of gas is limited when it is sold across state lines and unlimited when it is sold within the state where it is produced. When demand is high, this system encourages producers to sell gas intrastate, creating shortages like the crippling ones of 1976–77 in nonproducing states.

The compromise now before Congress would not guarantee that such shortages could not recur, according to Energy Secretary James R. Schlesinger, Jr., although it would make them less likely.

To help explain many of these changes, the administration now offers new rationales for its policies and provides new statistics—some of which have been changed repeatedly—to support its argumentation.

Last November, Carter's press secretary, speaking for the president, said, "No bill would be better than a bad bill." Today, administration officials say the compromise measure is not a good bill, but the best obtainable, and that passage of some bill—this one—is crucial to the country's image aboard and to the future of the dollar.

When Carter declared "the moral equivalent of war" in April 1977, he unveiled a plan to reduce U.S. oil consumption—and thus oil imports—in two main ways. The first was to increase prices by a new tax on domestically produced crude oil. The second was a series of devices to encourage industry to switch from gas and oil to coal.

Today, the crude oil tax is regarded as dead in the Capitol, and the coal conversion measures have been weakened. Now a major projected saving the administration is predicting would come from the new gas legislation. (In April 1977, the administration predicted that its original gas program would not save any imported oil at all.)

For months Carter called the crude oil tax the central element of his energy program, but he has not advanced that view in many weeks. Now he says that the compromise gas bill is the centerpiece of the energy program.

Indeed, only once before has Carter embraced a piece of legislation as fervently as he has this compromised and recompromised gas legislation—the other example was the Panama Canal treaties. The White House has engaged the entire Cabinet and every ally it can find—including some oil companies Carter once vilified—to press for passage of the gas bill, which is scheduled to come before the Senate Monday.

The strongest argument the administration is now making for the gas bill is that the world is waiting for a sign that America can take strong action to solve its "energy crisis." Without such a sign, the administration warns, the dollar will take a new beating in world exchange markets.

Carter has called the bill "a symbol of our national will."

Carter has also criticized the gas compromise as imperfect, acknowledging its substantial differences with his original plan. Special Ambassador Robert S. Strauss, a leading administration campaigner for the legislation, has repeatedly criticized it. In one meeting with steel executives, Schlesinger began to argue that the bill was actually a good one, but Strauss cut him off, saying it is not a good bill, but it is the only bill available, according to a source present.

As the content of the gas bill has been altered by House and Senate action, then the secret deliberations of a long-deadlocked conference committee, the statistics used to justify or explain the measure's provisions have shifted, too. These changes in the figures have been a major source of the continuing controversy surrounding the legislation.

For example:

Soon after publication of the compromise gas bill at the end of July, the administration circulated briefing papers on Capitol Hill that said the bill would save 1 million barrels of oil a day by 1985. Soon after that claim was circulated, Carter and Schlesinger told businessmen at the White House that the sayings would be 1.4 million barrels a day.

Gas industry spokesmen say both figures are essentially guesses that cannot be confirmed. Such predictions depend on elaborate assumptions about the growth of the economy, inflation, industrial use of energy and other variables, none of which can really be predicted, according to many industry officials.

"Any firm prediction is bull," said one gas industry lobbyist.

Schlesinger last year repeatedly told Congress that raising the gas price above $1.75 per thousand cubic feet would be useless, since that price would induce the maximum possible production out of gas producers.

When Carter assailed the oil and gas companies last fall for "potential wartime profiteering," he said: "If we tripled the price of oil and natural gas there could be no substantial increase in the rate of exploration" for new supplies.

By last month, however, Schlesinger was arguing that the compromise bill—which would put prices well above $1.75—would result in higher drilling rates "putting more gas in the interstate market."

Schlesinger's reassessment stems from an alteration of the Department of Energy's basic assumptions about future gas production that was made earlier this year after the gas bill became deadlocked in the House-Senate conference.

The Energy Department's quasi-independent Energy Information Administration has altered its projections about gas prices to make the new compromise appear more favorable to consumers.

Last July the EIA said the compromise bill would raise the price of residential gas to $3.31 per thousand cubic feet—$.34 higher than the price would have been under total deregulation of new gas.

This figure alarmed Rep. John D. Dingell (D-Mich.), an architect of the compromise, and he prodded EIA to recalculate its figures, using new assumptions. A subsequent EIA "further evaluation" concluded that the compromise bill would establish a price for residential gas $.31 lower than total deregulation.

Changes in the administration's objectives began to become evident in December of last year, during the Senate filibuster against the Pearson-Bentsen total deregulation bill. At the outset of that filibuster, Carter was telephoning senators, urging them to defeat Pearson Bentsen in favor of something close to the original administration plans.

When pro-administration forces concluded that they could not defeat Pearson-Bentsen outright, the White House abandoned its previous position and began to look for compromises. The process of compromise led finally to the unusually complex and detailed compromise bill that comes before the Senate Monday.●

UNNEEDED GUN LAWS

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 11, 1978

● Mr. FINDLEY. Mr. Speaker, the June 29, 1978 issue of the Gazette-Times, Virginia, Ill., gave the most persuasive case I have yet seen against new laws to register, license, and control firearms.

It is written by an outdoorsman, Jack French, whose trade is carpentry but whose love is nature. I commend it to my colleagues, especially those who may not have had the opportunity to reflect on the importance of firearms to people who live in rural areas.

NEW GUN LAWS: NOT NEEDED

(By Jack French)

Those of us that belong to the National Rifle Association and other gun-related associations have noticed a lot of new firearm laws being proposed in Washington the last few years. A new one came up May 22, 1978; a type of national gun registration system which would cost several million dollars just to put into effect. But, Congress moved against it, at least for the time being. Some lawmakers would like to register all firearms while others suggest banning all handguns, except for military or police use. Some would even like to confiscate them all, saying it would make our country a safer place to live.

First, the gun laws are only obeyed by the honest citizen, so what good do they do? Can you see a criminal registering his gun? Certainly not. But you can believe he would be in favor of any gun laws that would make his illegal entries safer.

Should I have been raised in a large city and the only place I'd have seen a gun was either in the back of some dresser drawer or hanging from some policeman's belt, maybe my views on gun control would be different.

I, like most of you readers, was raised in a rural area where a gun hanging above the door was just part of the household furnishings. It was used to put wild game on the table, rid the garden of pests, and I even remember one night Grandad retrieved a couple gunny sacks of chickens that the thieves dropped after he sprinkled their old truck with birdshot.

Gun control certainly isn't crime control. This has been proven too many times. New York City has one of the strictest gun control systems in our nation and it is continuing to fail miserably. It's nearly impossible to own a firearm there unless you are a thief or mugger!

Firearms were once an important part of our country when Colt & Winchester were household words and these old guns were used to furnish food and protection to our pioneer families.

Now it seems the general public isn't interested in guns anymore. You don't see much coverage on the T.V. about good guys in the news. For instance, do you know who won the Grand American Trapshoot? Or even where the Grand American is held? Do you know that we have dedicated, hard-working shooters on our Olympic shooting teams?

I read once where a writer stated that handguns were manufactured for the sole reason to shoot people. I assume he wasn't aware of the many thousands that are made for serious target shooters and the many, many thousands more made for the collectors, investors, and the casual target shooter, and the hunter.

It's true that a lot of guns are bought for protection. In our county, crime is pretty well kept to a minimum compared to other counties I know of, thanks to our good peace officers. But another factor is involved, I'm sure. In rural communities such as ours there are very few homes without a gun of some kind. This I'm sure, gives a thief second thoughts.

I would be the first to admit that in our modern day living we do need gun laws. The Federal Gun Control Act of 1968 prohibits the transfer or receipt of firearms or ammunition in interstate or foreign commerce by any person who has been convicted of a crime punishable by more than one year imprisonment; is a fugitive from justice; is an unlawful user of drugs or has been committed to any mental institution. This 1968 Act makes it illegal for persons under 21 to buy handguns or handgun ammunition and you must be over 18 to buy a rifle or shotgun. It even means if you are under 21 you can't buy a box of .22 cartridges (.22's are now classified as handgun ammunition). With existing laws such as these it wouldn't seem we need more. Some say just enforce the ones we have instead of adding new ones.

One state seems to think this paid off. Florida has a three-year mandatory sentence without parole for anyone convicted in using a handgun in a felony. The first year, armed robberies dropped 20 percent. The second year, I traveled Florida's roads and saw the large full-sized billboards along the highway spelling out the three-year mandatory sentences. That year armed robberies dropped 40 percent, gun homicides dropped 21 percent, chainstore robberies dropped 20 percent and so on. There are 11 states that have similar laws and Illinois is one of them.

Most of my police officer friends say that no laws will keep criminals from getting guns, no more than they stopped the flow of moonshine in the Prohibition days.

I have hunted with a pistol or revolver most of my life. I carry one on back-country hunting and fishing trips if for no other reason than a signal gun. A series of three evenly spaced shots is a well-known signal that will bring help to a troubled woodsman from within hearing distance. I have never aimed or fired a gun in fear or anger, but the presence of my old Colt protruding from beneath my fishing vest didn't do any harm a couple times I'm sure. Once when I rounded a bend and saw an undesirable looking person watching my wife from a willow thicket as she fished a remote mountain stream and another time when we were driving down a narrow teen road returning from a high mountain lake when we approached a pile of watermelon sized rocks blocking the road in front of a hippie-type camp. The rock pile wasn't there when we went up a few hours earlier.

Gun confiscation allowed German leaders to turn that country into a land of total dictatorship once. Other European countries had gun registration laws allowing the enemy forces to merely check the records and take the privately owned guns. Some say that gun control is people control. I haven't said this yet. Some of the lawmakers, I'm sure, are aware of the importance of an armed nation.

I have a couple guns set aside for my young grandsons, and when they are old enough I hope they will be able to enjoy shooting and hunting as much as I have, although I'm beginning to wonder.

Living out here in rural communities, where no matter how efficient a police officer is, he still may be 15 minutes away, it is comforting to know you've got something available besides a golf club as you answer the knock on a door at 2 a.m., hoping it's a troubled motorist and not a troublemaker.●

LOOKING BACK

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 11, 1978

● Mr. FRENZEL. Mr. Speaker, over the past couple of years I have noted mounting protectionist pressures on the Congress from many different areas of our economy. I have always thought such pressures to be extremely detrimental to U.S. interests at a time when promotion of our own exports has become so important. As a little history lesson and reminder of what can happen when protectionism runs rampant, I attach a copy of an editorial which appeared in the July 29 Houston Post. I am sure none of us wants to return to the economic destruction of the Smoot-Hawley days, and I think a reminder of those days may be enlightening to all of us. The article follows:

LOOKING BACK

After World War I, Americans and most of the world, except for Germany, rode a wave of economic euphoria for several years. But as the 1920s neared their end, financiers, bankers and economists saw trouble ahead. Land booms fizzled. Unemployment grew. And at that point, with the best of intentions, President Hoover asked Congress to provide just a little protection for farmers and a few industries. As the legislation developed, every industry feeling any pinch put in a bid. By the time the Smoot-Hawley Act was passed, Congress had added 1,250 amendments to protect various products. Tariffs were raised by an average of 53 percent.

Over 1,000 economists petitioned President Hoover to veto the bill. Our world trade partners pointed out that if their goods no longer sold on the American market, they would have no dollars with which to buy our goods. Businessmen and investors foresaw what the law would do and backed away from an already shaky stock market. And of course our foreign trade partners reacted in kind, raising high tariff walls against American goods to make them expensive in their stores.

Within three years, our industrial exports had dropped 73 percent, our farm exports by 67 percent. As we lost foreign trade, plants closed down, more jobs were lost and the Great Depression deepened. President Franklin Roosevelt pushed through the Reciprocal Trade Act of 1934 to get our foreign trade moving again. Ever since, the U.S. has worked to make world trade freer.

We need to remember this history amid the rising cries for just a little protection here and there. The U.S. exports one-sixth of all it manufactures, a third of its farm products. We exported $120 billion in goods and services last year, and this trade directly or in-

directly supported 4.5 million jobs in this country. To try the kind of protectionism that started on a small scale and ended in the Smoot-Hawley Act would be flirting with danger and economic destruction.

What we need is a continuing and vigilant system of negotiating, country by country, product by product, to insure fair trade for us and our trading partners. As Rep. Stephen L. Neal, D-N.C., points out, "Indiscriminate protectionism would * * * deprive consumers of the wide choices and lower prices made available by imports. It would accelerate inflation by eliminating export competition. * * * It would poison our relationships with the emerging countries of the Third World, who need trade to survive, to pay debts, to modernize and—significantly—to be able to buy our products." Through negotiations, we can oppose dumping of foreign products on our shores at prices less than those paid in the home market. We will yield trade concessions only to those willing to make concessions in return. We can be tough but selective. Protectionism is a bulldozer in an operation where a scalpel is needed.●

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 11, 1978

● Mr. OTTINGER. Mr. Speaker, today, along with my distinguished colleagues from Florida (Mr. FUQUA) and North Carolina (Mr. ROSE), I am introducing legislation to develop inexpensive satellite communications technology and begin applying that technology to the social development and public interest uses for which it has great potential.

This legislation will direct the Department of Commerce and the National Aeronautics and Space Administration to undertake an experimental program to develop a low-cost, interactive satellite communications system for public service uses. Just over 1 year ago, the National Academy of Science's National Research Council recommended that NASA undertake such a development program.

"There are a number of potential communications services, such as for health care delivery, educational services, search and rescue, electronic mail, teleconferencing, and environmental data collection which apparently cannot readily or economically be provided using the technology available to the common carriers for producing conventional telephone and television services. If the option to initiate some of these services is to remain open in the future, then advances must be made in needed technology by undertaking research and development programs now." Federal Research and Development for Satellite Communications, National Academy of Sciences, 1977.

The applications of advanced satellite communications systems to public service needs has been experimentally employed on a limited basis using the high-cost systems presently available. One example is the network established by 36 Veterans' Administration hospitals in the West that went into operation last November. Recently, Congress, itself experimented with satellite videoconferencing, and the participants lauded the potential and "great significance for the future" made possible by interactive satellite communications. However, the available satellite communications channels will soon be filled by the increasing demand. Even if the public service users could afford such high cost systems, most would soon find themselves priced out of the available channels.

The Federal Government ended its involvement in the satellite communications research and development field in 1973. The previously mentioned NASA report notes:

> Following the withdrawal of the Federal Government from satellite communications R. & D. there have been no commercial satellites to test new techniques and concepts or to permit users to experiment with new services.

British scientist Eric Burgess, in a recent "working paper" on the development of a public interest satellite and information system comments on the lack of advanced private-sector R. & D. "Research and development costs for advanced technology applications are so great that they cannot be accommodated in corporate budgets without some support from the Federal Government or the user. So far the users of communications satellites have been common carriers who in good faith cannot justify to their stockholders research and development that could very well put them out of business."

Advanced satellite technology, such as large-antenna, multibeam satellites paired with low-power and inexpensive ground facilities, could potentially be available by the late 1980's. Such satellites could reduce the user cost by possibly a factor of 100, and increase the efficiency of our use of the available communications spectrum by a similar factor. This would expand existing communications channels, open new channels, and make thousands of new uses for satellite communications possible.

Some other countries, particularly Japan and Canada, have programs underway for the research and development of advanced interactive communications systems. Before NASA's departure from the satellite R. & D. field, many of the component parts of such a system were tested. However, they were never all put together.

The communications field has long been a stronghold of American technology. Many of our exports relate directly or indirectly to advanced technology information and communications systems. If we desire to maintain our lead in this area, we must pickup where NASA left off in 1973, and undertake the research and development program outlined in the legislation I am introducing today.

The "Public Service Satellite Communications Act" would authorize the Department of Commerce and the National Aeronautics and Space Administration to define, develop, and test such an advanced communications satellite within the context of a public service communications system. Commerce and NASA would cooperatively manage the program, and in advance detail their respective areas of responsibility. The exact division of telecommunications responsibilities between these two agencies is currently under discussion by the administration. This proposal would allow flexibility to accommodate any final division of responsibilities which is reached, while still assuring that such a specific breakdown of authority is carried out for this program.

NASA and Commerce would have the responsibilities of developing both a new technology and a communication system to service social and community needs. It is the intention of this proposal to limit the involvement of the Federal Government to the areas of higher risk which cannot be met alone by the private sector. Once this technology is developed, the deployment of any additional satellites would be solely carried out by the private sector. It is therefore important that the private sector be closely involved in the research and development of this technology.

It is equally important that the communications system which the initial satellite will service be developed under the guidance of the public service community, and that it be designed with the foresight and imagination necessary to fully utilize the abilities of advanced technology to meet social and community needs. The identification and aggregation of the public service user community is a critical element of this approach, since one of the greatest obstacles to applying advanced satellite technology to social and community needs—besides cost—has been the fragmentation and lack of knowledge of potential users.

A parallel concern which must be addressed is the radio frequency spectrum requirements necessary to assure the development and operation of such a satellite communications system at the least possible cost to users and to society.

In September of 1979, representatives of the world's government will meet in Geneva at the World Administrative Radio Conference (WARC) to apportion the frequency spectrum and the positions used for satellites in geosynchronous orbit. It is important that the WARC Conference, and the U.S. delegation to it, understand and make provision for the development and operation of high-power multibeam satellites paired with small low-power ground facilities.

The program carried out by NASA and Commerce would follow the four-phase decision process recommended by the National Academy of Sciences. At each phase the Congress would receive an evaluation of the outcome of the previous phase with an outline of the projected actions for the next phase. Briefly, the four decision phases would be conceptualization, experimentation, acceptability—transition to operational—and early operational.

Finally, the user community and individuals with appropriate expertise from industry, universities, and the administration would serve on an advisory council to advise the administrator of NASA and the Secretary of Commerce in carrying out this program.

The United States has led the world in communications technology. By undertaking this program, we will be insuring our lead in this technological field for possibly the rest of this century. At the same time, we will be providing for significant advances in health care, education, and other services to the public—services which will not only improve the condition of the American public, but of people throughout the world. This low-cost technology has the potential, too, of bringing advanced health care and education to many areas of the Third World which are now inaccessible or which existing technology cannot service economically.

I urge my colleagues to join in cosponsoring this important legislation. Following is the text of the bill:

H.R. —

A bill to provide for a research, development, and demonstration program to establish an experimental public service satellite communications system

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Public Service Satellite Communications Act of 1978".

FINDINGS AND POLICY

SEC. 2. (a) The Congress finds that—

(1) it is in the public interest to encourage the planning and development of noncommercial communications satellite services in such areas as health care delivery, education, search and rescue, electronic mail, teleconferencing, and environmental data collection which cannot presently be made available at affordable cost by technology now being used by common carriers for producing conventional telephone and television services;

(2) the introduction of affordable, noncommercial communications satellite services for public service depends upon the development of new communications technologies and the judicious use of scarce natural resources, including technology for utilizing both existing and new portions of the radio frequency spectrum, employing larger and more sophisticated spacecraft antenna, utilizing a satellite as a switchboard in space, and advancing technology to drive down the cost of small earth station technology for both the transmission and reception of communications signals;

(3) since the economic risks involved in developing the sophisticated space technology required to provide affordable noncommercial communications satellite services is too great for the private sector to bear, there is an appropriate and immediate role for the Federal Government to assume in the encouragement and support of the requisite technology for public service use;

(4) it is necessary and appropriate for the Federal Government to assist in the aggregation of potential public service users, both government (including the Federal Government and State and local governments) and private, and to support the development of a comprehensive system plan designed to assure that the interactive, two-way, communications needs of public service can be met at affordable costs; and

(5) the earliest possible establishment of affordable, noncommercial communications satellite services depends on the development of a cooperative and working relationship between the Federal Government and the public service user community, including the public service licensees of Instructional Television Fixed Service systems that presently own and operate terrestrial microwave communications systems for educational, medical, and other public service purposes.

(b) The Congress declares that it is the policy of the Federal Government—

(1) to pursue an experimental program to define, develop, and test a new public service satellite communications system; and

(2) to develop and test advanced satellite communications and associated large antenna, multispot beam spacecraft technology for an experimental public service satellite system.

ESTABLISHMENT OF PROGRAM

SEC. 3. (a) There is hereby established a public service communications satellite research, development, and demonstration program to carry out the policy of this Act.

(b) There is hereby established within the National Aeronautics and Space Administration an office to manage the program, in cooperation with the Secretary of Commerce, in accordance with the provisions of this Act.

(c) The program shall be carried out jointly by the Administrator of the Administration (acting through the office established in subsection (b)) and the Secretary. The Administrator and the Secretary shall jointly prescribe rules which shall specify the manner in which the program will be carried out, including rules which detail the authority and specific areas of responsibility of the Administrator and the Secretary in connection with carrying out the program.

(d) Funding requests for the program shall be specifically identified.

INITIAL RESEARCH AND DEVELOPMENT

SEC. 4. (a) The Administrator and the Secretary shall initiate the program by conducting research and development in advanced satellite communications and associated large antenna, multi-spot beam spacecraft technology and by defining, developing, and testing an experimental public service satellite communications system. Such testing shall include flight demonstrations.

(b) In connection with, or as part of, the actions specified in subsection (a), the Administrator and the Secretary (acting in accordance with rules prescribed under section 3(c)) shall—

(1) assess and aggregate user needs, technology projections, service concept development, and program design with the close participation of the ultimate user community, inculding public service agencies of the Federal Government and of State and local governments and private, public service entities;

(2) consider the available competencies and resources of the private sector;

(3) consider the full range of equipment and operational aspects of such a satellite communications system; and

(4) assess the radio frequency spectrum requirements to assure the development of such a satellite communications system at the least possible cost to users and to society.

CONDUCT OF PROGRAM

SEC. 5. To implement and carry out the program, the Administrator and the Secretary (acting in accordance with rules prescribed under section 3(c)) shall—

(1) apply a four-phase decision process consisting of—

(A) a conceptualization phase involving needs assessments, technology projections, service concept development, and program design;

(B) an experimentation phase using communications satellites developed and launched by the Administration and, where appropriate or necessary, available commercial communications satellites in an experimental system, including formulation of criteria by which the experiments may be judged for acceptability and worthiness for transfer to operational status;

(C) an acceptability phase in which the transition to an operational system is initiated and implemented; and

(D) an early operational phase;

(2) report to the President and the appropriate committees of the Congress their evaluations of the outcome of each phase, along with an outline of their projected actions for the next phase; and

(3) take such other actions as may be necessary or appropriate for the effective conduct and administration of the program, including assuring that the option for dedicated frequency spectrum is preserved immediately for a future, operational, large antenna, multi-spot beam communications satellite system for public service.

COMPREHENSIVE PLANNING AND PROGRAMMING

SEC. 6. The Administrator and the Secretary (acting in accordance with rules prescribed under section 3(c)) shall transmit to the Congress not later than September 30, 1979, a comprehensive plan for the program which shall be designed to meet the policy of this Act. Such plan shall identify—

(1) the basic elements of the program;

(2) the program schedule;

(3) a series of decision points within the program at each of which the program may be evaluated to determine that the values of services and technology to be developed will justify the investment being made, without prejudice to slow but promising developments; and

(4) the funding required to carry out each major element of the program in each fiscal year of the program.

ADVISORY COUNCIL

SEC. 7. (a) There is hereby established a council to be known as the Public Service Satellite System Advisory Council.

(b) The Council shall advise the Administrator and the Secretary in the performance of their duties under this Act.

(c) The Council shall consist of representatives of the prospective user community, and individuals with appropriate expertise drawn from the Administration, the Department of Commerce, industry, and universities.

(d) The President may appoint not more than 12 individuals to serve as members of the Council, one of whom he shall designate as its chairman. Not less than one-half of all individuals serving on the Council shall be members of the potential user community.

(e) Members of the Council appointed under this section shall be appointed for the life of the Council.

(f)(1) Except as otherwise provided in this subsection, members of the Council shall serve without pay.

(2) Members of the Council who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the Council.

(3) While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the service of the Federal Government are allowed expenses under section 5703 of title 5, United States Code.

(g) The Council may secure directly from any Federal agency information necessary for it to carry out its responsibilities under this Act. Upon request of the Chairman, the head of such agency shall furnish such information to the Council.

(h) The Council may use the United States mails in the same manner and upon the same conditions as Federal agencies.

(i) The Administrator of General Services shall provide to the Council on a reimbursable basis such administrative support services as the Council may request.

(j) The Council shall cease to exist two years after the date of the enactment of this Act.

DEFINITIONS

Sec. 8. For purposes of this Act—

(1) the term "Administration" means the National Aeronautics and Space Administration;

(2) the term "Administrator" means the Administrator of the Administration;

(3) the term "common carrier" has the meaning given it in section 3(h) of the Communications Act of 1934;

(4) the term "Council" means the Public Service Satellite System Advisory Council established in section 7(a);

(5) the term "program" means the public service communications satellite research, development, and demonstration program established in section 3(a); and

(6) the term "Secretary" means the Secretary of Commerce.

AUTHORIZATION OF APPROPRIATIONS

Sec. 9. There is hereby authorized to be appropriated, to carry out this Act, $10,000,000 for fiscal year 1980, and such sums as may hereafter be authorized by law for subsequent fiscal years.

BALANCE(S) OF POWER SERIES BOOK II (H)(1) POLITICAL CULTURE

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 11, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, continuing with the strategic balance portion of the ongoing Balance of Power series, today's selection addresses the factor of political culture. An understanding of Soviet political culture, like national character, as analyzed in the previous entry, is important in assessing accurately the relative strengths and weaknesses of their country and ours.

The sorts of strengths which political culture may present include breadth of consensus, stability in crisis and succession, and active involvement in and popular support for Government decisions. Weaknesses, on the other hand, may occur as a result of rapid change or patterns of popular alienation from ruling elites.

Today's article, "Generations and Politics in the U.S.S.R.," suggests that the legitimacy of the Soviet Government has grown in the eyes of some Russians (the masses), while shrinking in the eyes of the more active citizens. The author, Walter D. Connor, finds reason to believe that the broader base of more diverse political activities will make possible a leadership succession after Brezhnev with less instability than many have foreseen. It remains for U.S. leadership to reflect on the strategic importance of this political trend in the Soviet Union.

This article first appeared in Problems of Communism, September-October 1975, issue of the American Sociological Review. The first part of Professor Connor's article follows:

GENERATIONS AND POLITICS IN THE U.S.S.R.

(By Walter D. Connor)

The "collective leadership" which displaced Nikita Khrushchev in 1964, and which in its early phase evoked so much speculation about the viability of committee rule in the USSR, has endured a decade and more—an impressive record in a period of global political instability. But whether one is inclined to persist in calling it "collective" rule or chooses to refer to "Brezhnev's Politiburo" (he, at least, restored its old name), the members of the ruling body of the Communist Party of the Soviet Union (CPSU), the watchdog of the Soviet state and society, have aged. Gradually but inevitably, they will leave the scene, making way for their successors.

This essay is not a venture in "Kreminology." I do not proposed to wade in surnames or to assess the durability of a Kirilenko succession in the face of claims by a Kulakov or by others more junior. Nor is it my intention to explore the factors militating for the inclusion or exclusion, in an emergent new leadership, of particular personalities among those eligible.[1] What the following discussion will attempt to do is to clarify some important aspects of contemporary Soviet political reality—mainly the problem (or nonproblem) of "generations" and the properties of Soviet political culture—as they relate to the politics and consequences of succession. Consideration of these matters will not enable us to predict the main personalities in the succession (at least I do not see how it can). What it may yield are some reasoned judgments, grounded in historical experience, concerning the path any new Politburo, whatever its composition, can be expected to follow, and how it will probably cope with both inherited problems and new ones.

GENERATIONS AND CHANGE

One might as well, at the outset, surrender to the temptation to use the term "generation"—but not without a caveat. The temptation is especially strong for Western analysts because the tenure of the Brezhnev-Kosygin "regime," whose passing is now anticipated in the near future, coincides roughly with an epidemic of youthful alienation, student revolt, and other manifestation of generational cleavage in the industrial West—a once seemingly "endless crisis" that peaked in 1968 and has only recently shown signs of abatement.[2] The Soviet Union was apparently free of such tensions, although they did affect Poland, Yugoslavia, and Czechoslovakia. But were they, perhaps, smoldering beneath the tranquil surface? If generational chasms open wide everywhere else, why should the USSR, despite its impressive apparatus of internal control, remain untouched? And if "youth" vs. "age" is not the critical confrontation there, it is not still reasonable to surmise that the convictions and expectations of the "middle-aged"—the educated, "industrial" generation—may differ greatly from those of the "gerontocracy" in the Politburo?

In trying to assess whether generational differences exist and, if so, what their political impact is, or is likely to be, we should beware of confusing our own hopes and expectations with reality, or with evidences of what we assume to be reality. This is an easy danger to succumb to, especially when we have the convenient peg of "generations"[3] (for we know that one generation must succeed another) on which to hang our expectations, and the danger should be recognized as such. Perhaps, after all, it is not the seeming gap between generations, but rather the impregnable solidity of the Soviet system, the stability of the Soviet "way of life" as it involves masses, elite, and the political process, that is the datum—the reality rather than the appearance. At least, raising this possibility provides a starting point for posing questions about Soviet "generations" and their relevance to the prospects for political change in the USSR.

These generational questions involve two distinct groups. First, there is Soviet "youth," i.e., the under 30 population. Does a broad gap divide it from the Brezhnev generation; and if so, what is the gap about, and will it make a difference to the future of the Soviet politics? Second, there is the generation of presumptive Politburo "successors," those no longer "young," but younger than the current leadership. Do its members view their current rulers across some sort of chasm, and if so, is the nature of the chasm such that their succession to power can be expected to make a difference?

The question of "youth" can be handled in relatively short order. Western journalists and analysts are still inclined, on occasion, to point to the dissatisfaction of Soviet young people with the lack of consumer goods, to their desire for more rock music, miniskirts, blue jeans, etc., as evidences of a generation gap, and—more important—they view this gap as the portent of a transformed political future. It is understandable enough that they should be impressed by such manifestations of youthful discontent. One must gather impressions from someone, and Soviet young people are much more ready than their elders to talk freely to Westerners. However, the political implications are open to question, for such a gap—between youth who yearn for a certain lifestyle and their parents and political leaders who often deplore it—has demonstrably little to do with politics. (To paraphrase Andrei Amalrik, socialism with bare knees does not equal socialism with a human face.)

The fact is that Soviet youth in the mass is less differentiated from its elders along critical political lines than is its counterpart in the West. The combined machinery of tightly-controlled youth organizations and a traditional, nonpermissive educational system focused on the "adult" concern of preparation for the world of work, rather than on providing a hiatus between infancy and maturity in which one "explores" one's feelings, beliefs and needs, has had its effect. The social space in which Soviet youth might develop its own group consciousness, its own set of political orientations, has been tightly circumscribed by that machinery. Also, material affluence and a modicum of privacy, which have been essential to the development of youth cultures in the West, are still lacking in the USSR. Whatever generation gap does exist there, it does not involve a politicized "youth culture."

Even if such a culture did exist, it could have no near-term political effect since it is not from youth's ranks that the successors to today's "gerontocracy" will come. Unlike the US Congress, the mechanisms of Soviet government have not yet reached the point of welcoming those in their late twenties and early thirties to a share of the seats of power. Thus, the relevance of the current political convictions of Soviet youth, whether they be oppositional (unlikely) or conformist-apolitical (more likely), lies only in the distant future, by which time those convictions may or may not have changed but will certainly no longer be the convictions of "youth."

More relevant, surely, are questions about those who will succeed to power, and what we may expect from them as the iron law of the actuary works to change the composition of the Politburo in their favor. Here, if there is a "gap" which will have a marked effect on the conduct of Soviet politics, it must, in the author's view, be of a particular type. Certainly we may anticipate gaps—in styles of management, in readiness to rely on "technical" expertise, in propensity to employ Marxism-Leninism as a rationalization for actions—that arise from career differences. An older generation whose educational/-professional credentials were often attained after their potential leadership ability was noted by the party and a younger one whose

Footnotes at end of article.

similar credentials were their "ticket" of admission into the lower ranks of the elite can doubtless be expected to behave differently in some cases. But these differences, however significant, are not the stuff of which political transformations are made. The gap must come in the realm of "political culture" itself—in that region where questions about the purposes and uses of politics are explicitly raised. This being the case, it is well now to turn to an examination of political culture in the contemporary USSR.

SOVIET POLITICAL CULTURE

Years ago, one of the pioneering students of political culture argued that it was the product of "both the collective history of a political system and the life histories of the individuals who currently make up the system . . ."[4] Considering what those histories have been in the USSR, it is hardly surprising that an astute analyst of Soviet affairs quite recently characterized the political culture of the Soviet Union as "almost unbelievably aberrant and deviant."[5] The Soviet political culture is clearly rooted in the extraordinary history of Russia over the last 60 years, portions of which, greater or smaller, have shaped the consciousness of both the elites and the masses. Without attempting an exhaustive inventory, I would argue that three major, historically-rooted elements characterize the current political culture: apoliticality, the conviction of impotence, and expectancy.

Apoliticality. It might seem paradoxical to assert that in a society so evidently "politicized," where such a wide range of behavior is accorded political significance by the regime, the overwhelming mass of the population is apolitical. Yet the paradox is only apparent. It is all very well to emphasize the heavily politicized content of the educational processes and the mass media, to which all Soviet citizens are exposed. It is, however, a very different thing to assert that this exposure results in a politicized population. If anything, the major effects—and probably the main purposes—of official socialization and communications efforts have been and are, on the one hand, to assure the public that there are no more major domestic political issues (these having all been resolved correctly and immutably in the course of Soviet history) and, on the other, to depoliticize social and economic issues such as housing, incomes policy, environmental preservation, and access to education, in order to prevent dicussions of these matters from reaching the point where any kind of political change might be entertained, even hypothetically, as a necessary step toward their solution. If indeed these have been the purposes of the regime's virtual monopoly of education, communications, and extra-familial socialization, they have been pursued with vigor—and effectiveness—for the more than 40 years since Stalin initiated the "second revolution."

To say that most Soviet citizens are apolitical is not to say that they are "parochials," as were, no doubt, many of the inhabitants of the Russian Empire, to whom the state was little more than taxgatherer. Today's citizens are quite aware that they have a central government (they could scarcely escape such awareness); they are oriented toward it; indeed, in some generalized sense, they are in large measure loyal to it. But the face of that government as a political mechanism, as an arena in which conflicts at high levels are resolved, with consequences for those citizens, remains vague and blurred. Nor do most Soviet citizens, at least to the author's knowledge, find this strange. To them, "politics," insofar as its existence is perceived, is the business of the leaders, not of the common folk. Enough for them to identify with the system and to focus their grumblings about the vicissitudes of everyday life on the middle- and low-level bureaucrats (whom they see excoriated with monotonous regularity anyway on the pages of Pravda and Izvestia).[6] Notwithstanding all the complaints of Agitprop about inadequate idealogical training, low levels of political consciousness, etc., on the part of the masses, the Soviet leadership is probably quite satisfied, on balance, that it has such a docile population to deal with, presenting little need at the moment for the regime to resort to coercion to keep it in line. Those who view the complaints of Agitprop and idealogical specialists about "shortcomings" as the tip of an iceberg whose submerged mass contains widespread, smoldering resentment forget that, like any bureaucratic organization, Agitprop must justify its continued existence, expenditures, and personnel demands. The line that, in spite of great progress to date, there is yet "more to be done" is a conventional way of doing this.

Of course, the threat of coercion also plays a role in encouraging apoliticality. If one were to paraphrase Anthony Downs[7] and attempt to construct an "economic theory" of Soviet "post-totalitarianism," one element would be the costs of political participation going beyond the permissible limits prescribed by the system. In a democracy, citizens may remain politically uninvolved because they feel the system works tolerably well; or, alternatively, because they may calculate that the costs of political action to remedy the defects that they perceive are too high—in terms of energy, time, money, and foregone opportunities for other, nonpolitical gratifications—when balanced against the potential benefits to be gained. For citizens in a polity of the Soviet type, the costs of engaging in unsponsored political activity are high, and they are clear—harassment, loss of job, imprisonment—while the potential benefits are few and doubtful. The cost-benefit calculus is thus much clearer in the East than in the West, and it is one that leads many citizens of Soviet-type policies to prefer a safe apoliticality to a risky political activism.

(It is precisely this calculus that Solzhenitsyn has in mind in his recent writings when he urges people to withdraw support from the "official lie." Addressing himself to the intelligentsia, he argues that one cannot fight for change without costs, on "weekends and in our spare time, without giving up our scientific research institutes." Moreover, he warns that each citizen will stand alone, "in chilling isolation," at least at the outset; yet he invites his countrymen to brave the punishment they will receive for even the nonviolent, "spiritual," but open resistance he encourages:

"A society to vicious and polluted . . . can only be cured and purified by passing through a spiritual filter. And this filter is a terrible one, with holes as fine as the eye of a needle, each big enough for only one person. And people may pass . . . only one at a time, by squeezing through.

"By deliberate, voluntary sacrifice."[8]

If not utopian, Solzhenitsyn's exhortation certainly idealistic. It asks much, perhaps too much, of a people for whom the consequences of open opposition have been only too clear.)

These observations may throw the particular "heresy" of Soviet dissidents into sharper relief. It is rooted not so much in opposition as in laying claim to participation. To be a dissident is to enter politics without a license, to participate without official sponsorship. It is to attempt (as do the writings of the Solzhenitsyns, Medvedevs, and Sakharovs) to restore "politics" as a weighing of alternatives. This is the major crime of the dissenters; their break with the apoliticality of the mass political culture.

The Conviction of Impotence. A different matter from "apoliticality" is an individual's socially-conditioned assessment of his own political efficacy. Concerned he may or may not be about politics—but if he were concerned, could he have any effect? Were he to translate generalized feelings of support or opposition into action, would his acts strengthen or weaken the system in any way, or are the levers of power so far removed from reach as to make such efforts pointless?

This is a broad question, but the answer, in my view, is fairly clear. The Soviet citizen, whether comfortable or not with the feeling, experiences a sense of his own powerlessness. Though writing in the different context of the "Sovietization" of Eastern Europe, the Polish émigré writer Juliusz Mieroszewski captures this point well when he notes that the "goal (of Sovietization) is acceptance—not of the system (the party does not depend on this) but of one's own impotence." And indeed, the whole history and experience of the Soviet population could scarcely have had any other effect. They have been "mobilized" for industrial and agricultural efforts, for defense and reconstruction—and always from the top, whence their revolution emanated. Though sometimes consultative in style (for example, when discussions on public issues are conducted in the press with "broad representation" of public views), Soviet politics has been manipulative and perspective in substance. The great political decisions of Soviet history—ranging from Stalin's commitment to the rigors of coercive and rapid modernization, through Khrushchev's denunciation of the Stalin cult, to the current leadership's decision to pursue détente—may have been received with pain or pleasure by the masses, but they did not emanate from any structured participation by the masses in determining the course of policy.

No less able than other peoples to distinguish reality from appearance, the Soviet people have drawn the proper conclusions from such historical examples as to their place in the system. If we accept the view of Valery Chalidze that the regime has in any case convinced the population at large that it is the only possible regime and that, whatever flaws it may possess, "any other conceivable regime would be frightful,"[10] then such conclusions may not be painful for the majority. For the minority who harbor the germs of a "participant" orientation, for the "middle class" which has much to gain from legality, predictability, and rationality, the conviction that they are powerless, that to protest is to beat one's head against a wall, is no doubt agonizing, but it is nonetheless a real conviction.[11]

What Soviet political culture lacks, in a sense, is a citizenry, in the normative sense of a collectivity of persons with "participant" orientations toward politics adequate to support movement toward what Gabriel A. Almond and Sidney Verba have called the "civic culture"—i.e., toward democracy. As these authors noted, democracies do not rely on "participants" alone; they require subjects and parochials as well, in a viable mix.[12] But when "participants" are in such short supply as they are today in the USSR, the prospects for democracy seem bleak indeed—even if a liberalizing regime were to plant the appropriate seeds.[13] The contemporary mass political culture may not require the type of government the USSR now possesses. It could tolerate and support a wider range of authoritarian or totalitarian, looser or tighter political structures—but hardly stable democracy. The point is not only that the older Soviet generations have been trained to the garrison disciplines of totalitarianism, but also that no generation has been socialized into the disciplines of democratic participation.[14]

Although the general scheme formulated by Almond and Verba provided a framework for examining specifically democratic polities, one element of their characterization of a

Footnotes at end of article.

"subject-participant" culture is suggestive in the Soviet case:

"Because participant orientations have spread among only a part of the population, and because their legitimacy is challenged by the persisting subject subculture and suspended during authoritarian interludes, the participant-oriented stratum of the population cannot become a competent, self-confident, experienced body of citizens." [15]

FOOTNOTES

[1] For a perceptive recent discussion of these factors and other aspects of the succession, see Grey Hodnett, "Succession Contingencies in the Soviet Union," *Problems of Communism* (Washington, D.C.), March–April 1975, pp. 1–21.

[2] A characteristic Western (or American) response to such problems (and one that provides evidence of a significant difference between the Western and Soviet political cultures) is to organize a widely-publicized conference, such as the one in Princeton, N.J., in December 1968, which produced *The Endless Crisis: A Confrontation on America in the Seventies* (edited by François Duchêne), New York, Simon and Schuster, 1970.

[3] "Generation" is of course, an exceedingly slippery and imprecise term. People are born "all the time," not at intervals convenient for grouping under such terms. It is used here in a very loose sense, bearing in mind its deficiencies as well as its familiarity.

[4] Lucien W. Pye, "Introduction," in Lucien W. Pye and Sidney Verba, Eds., *Political Culture and Political Development*, Princeton, N.J., Princeton University Press, 1965, p. 8.

[5] Robert Conquest, "A New Russia? A New World?," *Foreign Affairs* (New York), April 1975, p. 483.

[6] Roy Medvedev, in the revised English-language version of his treatise on socialist democracy, which came to hand after the bulk of this essay was written, makes somewhat similar points about apoliticality ("the majority of the people and a large part of the intelligentsia are politically passive—indifference, or even a conscious rejection of politics, has become an ingrained habit, a form of self-protection"); about the purposes of political socialization as conceived by the "dogmatists" ("to assure us that the general development of the country is proceeding correctly, that basically it was always moving in the right direction"); and finally about the popular view of the government ("an assumption by the common people . . . that those in charge are pursuing a correct policy, that the leadership is composed of people best qualified to interpret Marxism"). (Regarding this last, however, I would scarcely agree that the common people's assumptions about their leaders' adequacy in interpreting Marxism are a major component in the legitimacy the leadership is accorded.) See Roy A. Medvedev, *On Socialist Democracy*, New York, Alfred A. Knopf, 1975, pp. 172, 197, 298, respectively.

[7] See Anthony Downs, *An Economic Theory of Democracy*, New York, Harper, 1957.

[8] From "The Smatterers," in Alexander Solshenitsyn *et al.*, *From Under the Rubble*, Boston, Little, Brown, 1975, p. 272.

[9] "The Political Thought of *Kultura*", in Leopold Tyrmand, Ed., *Kultura Essays*, New York, Free Press, 1970, p. 309.

[10] *To Defend These Rights: Human Rights in the Soviet Union* (Translated by Guy Daniels), New York, Random House, 1974, p. 149.

[11] See Andrei Amalrik's remarks on this in "Will the USSR Survive Until 1984?" in *Survey* (London), Autumn, 1969, pp. 54–55.

[12] *The Civic Culture*, Princeton, N.J., Princeton University Press 1963, p. 20.

[13] It was evidently in the "participant" sense that the Czech writer Ludvik Vaculik understood the word "citizen" when he said (at the Czechoslovak Fourth Writers' Congress in June 1967): "I believe that there are no citizens in our country any more." Yet, a year later, the "reserves" of the Czechoslovak democratic tradition *had* reasserted themselves in the Prague Spring. There *were* citizens; they had emerged from hiding. However, the vastly different traditions and history of Soviet Russia would make the "responsiveness" of the masses there to democratic-participatory stimuli from a liberalizing regime a matter of some doubt. For a summary of Vaculik's address, see Barbara Wolfe Jancar, *Czechoslovakia and the Absolute Monopoly of Power*, New York, Praeger, 1971, pp. 73–75.

[14] Many Soviet dissidents have characterized the mass political "mind" in their country in terms suggesting that democratic procedures, if allowed, could not flourish. Nadezhda Mandelstam sees much of the population as "mentally ill" and observes that no one could be "normal" after fifty years of Soviet history (*Hope Abandoned*, New York, Atheneum, 1974, p. 479). Solzhenitsyn, in his *Letter to the Soviet Leaders*, New York, Harper and Row, 1974, p. 52, argues that over the last fifty years "Russia's preparedness for democracy, for a multiparty parliamentary system, could only have diminished."

[15] Almond and Verba, *op. cit.*, p. 25. Frederick Barghoorn has characterized the Soviet political culture as "subject-participatory," using these terms in a slightly different sense from their connotation in the Almond-Verba conceptualization of a "subject-participant" culture (see his *Politics in the USSR*, 2nd ed., Boston, Little Brown, 1972, pp. 20 ff; and his essay "Soviet Russia: Orthodoxy and Adaptiveness," in Pye and Verba, *op. cit.* pp. 450–511.)●

HOUSE ACTION STRENGTHENS DOMESTIC AIRLINES

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 11, 1978

● Mr. JONES of Oklahoma. Mr. Speaker, during the 95th Congress, the Ways and Means Committee has taken two significant actions to insure that our airline industry remains a viable force in our Nation's transportation system.

Both actions had caused a certain amount of controversy, but the solutions drafted by the committee should be supported by all Members of Congress who seek fairness in our transportation policies.

The first action concerns the taxation of so-called "fringe benefits" received by employees of airlines. As you may recall, the Internal Revenue Service circulated proposed rules in 1976 that would provide for the taxation of airline employees' flight passes.

This attempt by the IRS to reverse years of tax policy in this area was both unwarranted and unwise. First of all, the taxation of such passes would be incredibly difficult to administer from the IRS's point of view. Second, it would be most difficult for airline employees to calculate the amount of benefit received from passes for purposes of filing their taxes. Third, these flight passes are used to encourage the best qualified personnel to enter the airline industry. Oftentimes, the salaries paid by airlines are not commensurate with other occupations. The existence of limited free or reduced flying privileges is a great incentive for the airlines to retain and keep the best personnel possible to insure the safe trips of thousands of Americans aboard our air carriers.

Mr. Speaker, as you know, the Ways and Means Committee became active in this area of fringe benefits. We held hearings, and questioned the administration on the reason for this change of policy. We passed H.R. 9251, which I authored, which prevented the IRS from changing long-standing tax policy in this area and other areas of fringe benefits. The committee recently passed yet another bill that reaffirmed my position that the Congress, not the bureaucracy, will make the rules by which citizens are governed.

The second action the committee considered and passed was a provision dealing with aircraft noise reduction. The committee worked out an equitable provision that would earmark a portion of the excise tax currently collected on the sales of tickets and freight for purposes of reducing noise due to the operations of commercial aircraft.

A little over a year ago, the Federal Aviation Administration declared that many of the present aircraft flown by U.S. airlines violated Government noise control standards. This FAA declaration forced many airlines to either abandon their present fleet of airplanes, or expend large sums of money to retrofit present aircraft for less noisy operation.

The Ways and Means Committee studied the current excise tax on tickets and freights, and decided that the airlines should be allowed to use a portion of the funds derived from this tax to offset the cost of such conversion. I think it is important to keep in mind that the Federal regulations are the cause of this conversion, and considering the financial picture of most of the airline companies, I think it is proper to fund part of the cost from the current excise tax. If this is not done, airline customers will pay for the conversions anyway through higher air fares.

Mr. Speaker, American Airlines is the largest civilian employer in the State of Oklahoma. It is true that much of the noise conversion work for American will be done in my district. I would not be truthful if I did not say American's presence in my district did not affect my vote on the noise bill, for I am charged with representing the best interests of my constituents. Nevertheless, I hope my other colleagues will also share my opinion that the noise reduction bill is an equitable solution to a problem placed on the airlines in part due to the Government's environmental policy. I hope they will join me in supporting this legislation and working for its passage in this Congress.

These two actions by the Ways and Means Committee—the fringe benefit tax treatment bill and the noise reduction bill—should be supported by the Congress. I urge continued support for our efforts to fashion a fair and workable policy toward our airline industry.●

AIRLINE PASSENGERS OPPOSE NOISY AIRCRAFT BILL AS A $3 BILLION GIVEAWAY OF TREASURY FUNDS TO THE AIRLINES

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 11, 1978

● Mr. VANIK. Mr. Speaker, the opposition to the $3 billion Treasury giveaway program to the airlines continues to grow. In a letter that appeared in the Washington Post of September 11, Harold J. Salfen of the Airline Passengers Association outlined why the airline traveling public opposes the bill. The letter follows:

THIS YEAR'S TREASURY AIR RAID

The Airline Passengers Association agrees with your Aug. 8, editorial "This Year's Treasury Air Raid." APA, as the representative of over 40,000 frequent airline travelers, is strongly opposed to the financing proposal of the Airline Noise Reduction Bills as a giveaway of over $3 billion to U.S.-certificated airlines.

Currently, there is an 8 percent domestic passenger-ticket tax, a 5 percent domestic air-freight tax, and an international passenger-departure tax, which the airline passenger and shipper agreed to pay because the funds to be collected would be placed in a trust fund and used to improve airport and aviation safety. APA opposes the financing proposal, which provides for diversion to the airlines of a portion of these safety taxes to pay for quieter airplanes or engines to re-

APA's position is that, first, taxes should not be utilized to pay for improvements in aircraft owned by private airline companies. The current record of airline earnings should enable the airlines to comply with the federally mandated noise standards without federal assistance.

Second, APA opposes the precedent that would be set by the federal government's providing funds through a dedicated tax to a private industry to pay for environmental changes. If this legislation passes, any industry required to make changes as a result of a federal requirement will have strong precedent to demand that the federal government pay for such changes.

APA understands that if this taxing proposal is not enacted, then some carriers will have to raise fares to finance the new aircraft or engines to meet the new noise standards, and under the new regulatory environment this would be a great deal easier. However, many well-managed airlines have already re-equipped or replaced much of their aging jet fleets, and they would be in a position to reduce fares when they have completed their retrofit replacement programs. APA feels that this is a more equitable situation than a giveaway of a portion of the safety ticket tax.

HAROLD J. SALFEN,
Executive Director, Consumer Affairs, Airline Passengers Association.

The airline passengers are adding their voices to the chorus that opposes the bill. I urge my colleagues vote against the closed rule so that amendments which would reduce the airline passenger tax and deny the airline industry and investment tax credit on the Treasury gift may be considered.

The airline passengers want to keep the cost of their tickets down and do not want their tax dollars going to pay the airlines' bills. We cannot afford to disagree with them.●

REFORM OF TRANSPORTATION PLANNING REQUIREMENTS

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 11, 1978

● Mr. EDGAR. Mr. Speaker, during the course of my service on the Public Works and Transportation Committee I have watched impatiently as group after group has come before the Surface Transportation Subcommittee to request more money for this need or that need. In many cases, the need for more funding is genuine, but the facts show that much of the transportation funding now authorized by law is not being spent. What are the causes of this spending lag, especially in view of pressing bridge, highway repair, and public transportation needs in our communities?

I have attempted to look at how these programs operate down at the local and State levels. From this perspective one can see clearly the impact of all of the redtape various well-intentioned Federal acts have created over the years. State highway programs are throat-deep in redtape; it is impossible for a lay person to understand how Federal highway funds are allocated and spent. The Federal urban mass transportation program, by and large, seems better run but no less complicated. All of the transit funds we appropriate are being committed to projects, but the lag between commitment and expenditure is distressingly long.

One of the things this Congress can do to improve this situation is reform and streamline the Federal transportation planning requirements that now apply to urban areas.

Under the current system, urban highway funds are received by States but passed through to urbanized areas; local officials initiate projects and prepare the areawide highway improvement programs. Transit funds are sent directly to applicants within urbanized areas; again the local officials initiate projects and prepare programs for public transportation improvements. Highway planning and mass transit planning is supposed to be unified, and an elaborate system of institutional arrangements has been created to accomplish this.

Current Federal planning requirements call for an areawide transportation plan, a "prospectus" summarizing the plan, a "transportation improvement plan" which is really a program, an "annual element" listing TIP projects for the coming year, a "transportation system management element" proposing alternative strategies to make better use of existing transportation resources, and finally—under a new agreement between the Transportation Department and the Environmental Protection Agency—a "transportation control plan" that links all of the above documents to the EPA-mandated "State Implementation Plan" for air quality improvements.

All of this has gotten out of hand. Just try to explain the process to a citizen interested in monitoring transportation planning in his community. If we can not explain this process, it is time to change it.

Working with several advisers at the local level, and with the benefit of comments from many individuals here in Washington, I have developed an amendment to this year's surface transportation legislation, H.R. 11733, to reform the urban transportation planning process.

This amendment replaces several overlapping planning sections now found in the transportation statutes. The six-step planning process is replaced by a two-step process: under my amendment, urban areas would prepare one transportation plan with two components: long-range and short-range. As under current law, the Secretary must approve these plans before planning certification is granted. Funds for projects in any given year cannot be spent until planning certification is granted for that year. This central fact remains the same, but for the first time we would be giving the Secretary of Transportation guidelines by which to judge the plans submitted to him under this process.

Currently, under section 4(a) of the Urban Mass Transportation Act, plans submitted to the Secretary must "meet criteria established by him." This blanket authority is a carte blanche to the rule writers, and I recommend that we repeal it. Instead, I propose a system where, every 2 years instead of annually, the Secretary reviews urban transportation plans, granting certification in all cases except where local officials propose programs that are plainly inappropriate to six basic, national goals:

First. The urban area transportation system should be coordinated with the statewide transportation system;

Second. Transportation plans should be consistent with areawide land use plans—as adopted by the local officials;

Third. Transportation improvement costs should be minimized by making more efficient use of existing transportation resources;

Fourth. Energy consumption should be reduced, and air quality improved, by reducing single-passenger automotive travel to and from major centers of employment during rush hours;

Fifth. Traffic fatalities should be reduced, and other aspects of transportation safety improved; and

Sixth. Mobility should be improved for all people, with special efforts made in meeting the needs of the transportation-disadvantaged.

These are sensible goals for the Federal transportation program in urban areas. These goals would not be used, and it is important to emphasize this, as an axe over individual highway or transit projects proposed by local officials. Rather, my amendment stipulates that the project decisions of local officials must be certified by the Secretary unless, in the aggregate, the program of projects does not promote these national goals. It is actually a weak test, but it can be effective in promoting sound use of Federal transportation resources.

In summary, my amendment reduces planning requirements from a six-step to a two-step process. It puts the process on 2-year rather than an annual cycle. It repeals open-ended authority in current law, and states six modest but important goals by which the Secretary is instructed to review the plans submitted to him.

The current planning requirements are based on the following sections of Federal law, which are printed here for easy reference by congressional staff. Today I am inserting in the RECORD the amendment which I hope will replace

these overlapping sections. The amendment is listed under H.R. 11733. Here are the planning sections of current law:

URBAN MASS TRANSPORTATION ACT OF 1964

SECTION 3(a)(2) It is declared to be in the national interest to encourage and promote the development of transportation systems embracing various modes of transport in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective the Secretary shall cooperate with the States in the development of long-range plans and programs which are properly coordinated with plans for improvements in other affected forms of transportation and which are formulated with due consideration to their probable effect on the future development of urban areas of more than fifty thousand population. The development of projects in urbanized areas under this section shall be based upon a continuing, cooperative, and comprehensive planning process covering all modes of surface transportation and carried on by the States and the governing bodies of local communities in accordance with this paragraph. The Secretary shall not approve any project in an urbanized area after July 1, 1976, under this section unless he finds that such project is based on a continuing comprehensive transportation planning process carried on in conformance with the objectives of this paragraph.[10 11]

SECTION 4. (a) No [22] Federal financial assistance shall be provided pursuant to subsection (a) of section 3 unless the Secretary determines [24] that the facilities and equipment for which the assistance is sought are needed for carrying out a program, meeting criteria established by him, for a unified or officially coordinated urban transportation system as a part of the comprehensively planned development of the urban area, and are necessary for the sound, economic, and desirable development of such area.[25] Such program shall encourage to the maximum extent feasible the participation of private enterprise. Where facilities and equipment are to be acquired which are already being used in mass transportation service in the urban area, the program must provide that they shall be so improved (through modernization, extension, addition, or otherwise) that they will better serve the transportation needs of the area. The Secretary, on the basis of engineering studies, studies of economic feasibility, and data showing the nature and extent of expected utilization of the facilities and equipment, shall estimate what portion of the cost of a project to be assisted under section 3 cannot be reasonably financed from revenues—which portion shall hereinafter be called "net project cost." The Federal grant for any such project to be assisted under section 3 shall be in an amount equal to 80 per centum of the net project cost.[26] The remainder of the net project cost shall be provided, in cash, from sources other than Federal funds. Such remainder may be provided in whole or in part from other than public sources, and any public or private transit system funds so provided shall be solely from undistributed cash surpluses, replacement or depreciation funds or reserves available in cash, or new capital. No refund or reduction of the remainder of the net project cost shall be made at any time unless there is at the same time a refund of a proportional amount of the Federal grant.[27]

(g)(1) It is declared to be in the national interest to encourage and promote the development of transportation systems, embracing various modes of transport in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective the Secretary shall cooperate with the States in the development of long-range plans and programs which are properly coordinated with plans for improvement in other affected forms of transportation and which are formulated with due consideration to their probable effect on the future development of urban areas of more than fifty thousand population. The development of projects in urbanized areas under this section shall be based upon a continuing, cooperative, and comprehensive planning process covering all modes of surface transportation and carried on by the States and the governing bodies of local communities in accordance with this paragraph. The Secretary shall not approve any project in an urbanized area after July 1, 1976, under this section unless he finds that such project is based on a continuing comprehensive transportation planning process carried on in conformance with the objectives stated in this paragraph.

(2) The Governor or designated recipient shall submit to the Secretary for his approval a program of projects for utilization of the funds authorized, which shall be based on the continuing comprehensive planning process of paragraph (1). The Secretary shall act upon program submitted to him as soon as practicable, and he may approve a program in whole or in part.

(3) An applicant for assistance under this section (other than a Governor) shall submit the program or programs to the Governor of the State affected, concurrently with submission to the Secretary. If within thirty days thereafter the Governor submits comments to the Secretary, the Secretary shall consider such comments before taking final action on the program or programs.

Title 23, United States Code (Highways):

§ 134. Transportation planning in certain urban areas

(a) It is declared to be in the national interest to encourage and promote the development of transportation systems, embracing various modes of transport in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective the Secretary shall cooperate with the States, as authorized in this title, in the development of long-range highway plans and programs which are properly coordinated with plans for improvements in other affected forms of transportation and which are formulated with due consideration to their probable effect on the future development of urban areas of more than fifty thousand population. After July 1, 1965, the Secretary shall not approve under section 105 of this title any program for projects in any urban area of more than fifty thousand population unless he finds that such projects are based on a continuing comprehensive transportation planning process carried on cooperathis section. No highway project may be constructed in any urban area of fifty thousand population or more unless the responsible public officials of such urban area in which the project is located have been consulted tively by States and local communties in conformance with the objectives stated in and their views considered with respect to the corridor, the location and design of the project.●

SENATE COMMITTEE MEETINGS

Title IV of the Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, September 12, 1978, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 12

8:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To resume hearings to examine the Federal Government's role in food safety and quality, with emphasis on the nitrite situation.
322 Russell Building

9:00 a.m.
Judiciary
Administrative Practice and Procedures Subcommittee
To continue hearings on S. 2011, proposed Regulatory Reduction and Congressional Control Act.
2228 Dirksen Building

9:30 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

10:00 a.m.
Finance
To continue markup of H.R. 13511, to reduce income taxes.
2221 Dirksen Building

Foreign Relations
To meet in closed session to receive a briefing on the current situation in Nicaragua from Assistant Secretary of State Viron Vaky.
S-116, Capital

Governmental Affairs
Permanent Investigations Subcommittee
To resume hearings with regard to the widespread nature of arson-for-profit, including evidence of the role of organized crime.
3302 Dirksen Building

11:00 a.m.
Conferees
On H.R. 12936, making appropriations for the Department of Housing and Urban Development and certain independent agencies for FY 79.
H-140, Capitol

1:00 p.m.
Conferees
On H.R. 11445, authorizing funds for programs administered by the Small Business Administration.
2359 Rayburn Office Building

2:00 p.m.
Conferees
On H.R. 12255, authorizing funds through FY 1980 for programs administered under the Older Americans Act.
H-328, Capitol

SEPTEMBER 14

8:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To continue hearings to examine the Federal Government's role in food safety and quality, with emphasis on the nitrate situation.
322 Russell Building

9:30 a.m.
Judiciary
To hold hearings on the nomination of Bruce S. Jenkins to be U.S. district judge for the district of Utah.
2228 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings on S. 1699, proposed Diesel Fuel and Gasoline Conservation Act.
235 Russell Building

Energy and Natural Resources
To hold hearings on S. 3283, proposed State Energy Management and Planning Act.
3110 Dirksen Building

Finance
To continue markup of H.R. 13511, to reduce income taxes.
2221 Dirksen Building

Governmental Affairs
Permanent Investigations Subcommittee
To continue hearings with regard to the widespread nature of arson-for-profit, including evidence of the role of organized crime.
3302 Dirksen Building

Rules and Administration
To further consider S.J. Res. 142, authorizing the FDR Memorial Commission to proceed with construction of FDR Memorial in West Potomac Park, and on other pending legislation.
301 Russell Building

Select on Intelligence
To meet in closed session to receive a briefing by CIA officials.
S-407, Capitol

2:00 p.m.
Appropriations
To mark up H.R. 1291, making appropriations for FY 79 for foreign assistance programs, and H.J. Res. 1088, to provide for loan guarantee authority for New York City and appropriations in the case of any eventual default.
S-128, Capitol

Select on Ethics
To hold a closed followed by an open business meeting.
S-207, Capitol

3:00 p m.
Conferees
On H.R. 7577, extending through FY 1981 certain programs administered under the Economic Opportunity Act.
H-328, Capitol

3:30 p.m.
Select on Intelligence
To hold a closed business meeting.
6226 Dirksen Building

SEPTEMBER 15

8:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To continue hearings to examine the Federal Government's role in food safety and quality with emphasis on the nitrite situation.
322 Russell Building

SEPTEMBER 18

10:00 a.m
Finance
To resume mark up of H.R. 13511, to reduce income taxes.
2221 Dirksen Building

Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To resume hearings to examine alleged abuses in the GSA's contracting and procurement divisions.
3302 Dirksen Building

SEPTEMBER 19

9:00 a.m.
Judiciary
Constitution Subcommittee
To resume hearings on S. 1845, to prevent unwarranted invasions of privacy by prohibiting the use of polygraph type equipment for certain purposes.
6226 Dirksen Building

9:30 a.m.
Human Resources
Labor Committee
To hold hearings on S. 3060, proposed National Workers' Compensation Standards Act.
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To mark up S. 3485, to provide for the maintenance of reserves for certain financial institutions, to require the imposition of charges for certain services by Federal Reserve banks, and to authorize the payment of interest on reserves held in Federal Reserve banks.
5302 Dirksen Building

Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 3392, to accelerate the use of solar energy as a source of electricity.
3110 Dirksen Building

SEPTEMBER 20

9:00 a.m.
Judiciary
Administrative Practice and Procedures Subcommittee
To resume hearings on S. 2011, proposed Regulatory Reduction and Congressional Control Act.
2228 Dirksen Building

9:30 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Human Resources
Labor Subcommittee
To continue hearing on S. 3060, proposed National Workers' Compensation Standards Act.
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue mark up of S. 3485, to provide for the maintenance of reserves for certain financial institutions, to require the imposition of charges for certain services by Federal Reserve banks, and to authorize the payment of interest on reserves held in Federal Reserve banks.
5302 Dirksen Building

2:00 p.m.
Commerce, Science, and Transportation
To hold hearings on the objectives a national tourism policy should seek to achieve.
235 Russell Building

SEPTEMBER 21

9:00 a.m.
Judiciary
Constitution Subcommittee
To resume hearings on S. 1845, to prevent unwarranted invasions of privacy by prohibiting the use of polygraph type equipment for certain purposes.
5110 Dirksen Building

9:30 a.m.
Select Small Business
To resume hearings to explore problems concerning capital formation of small independent enterprises.
424 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on the use of export controls and export credits for foreign policy purposes.
5302 Dirksen Building

Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on S. 2062, proposed Regulatory Control Act.
2228 Dirksen Building

SEPTEMBER 22

9:30 a.m.
Human Resources
Labor Subcommittee
To resume hearings on S. 3060, proposed National Workers' Compensation Standards Act.
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings on the use of export controls and export credits for foreign policy purposes.
5302 Dirksen Building

SEPTEMBER 25

8:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To resume hearings to examine the Federal Governments' role in food safety and quality, with emphasis on the nitrite situation.
322 Russell Building

SEPTEMBER 26

10:00 a.m.
Banking Housing, and Urban Affairs
To hold oversight hearings on problems of small business defense contractors.
5302 Dirksen Building

Environment and Public Works
Nuclear Regulation Subcommittee
To hold hearings to receive testimony on nuclear reactor safety systems from NRC Chairman Hendrie.
4200 Dirksen Building

Finance
Public Assistance Subcommittee
To hold hearings on H.R. 10848 and H.R. 12972, to modify the disability aspects of the Supplemental Security Income program.
2221 Dirksen Building

2:00 p.m.
Commerce, Science, and Transportation
To resume hearings on the objectives a national tourism policy should seek to achieve.
235 Russell Building

SEPTEMBER 27

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on financing of future energy needs.
5302 Dirksen Building

SEPTEMBER 28

10:00 a.m.
Banking Housing, and Urban Affairs
To continue oversight hearings on financing of future energy needs.
5302 Dirksen Building

2:00 p.m.
Commerce, Science, and Transportation
To resume hearings on the objectives a national tourism policy should seek to achieve.
235 Russell Building

OCTOBER 3

9:30 a.m.
Human Resources
Labor Subcommittee
To hold oversight hearings on the administration of the Occupational Safety and Health Administration Act (P.L. 91-596).
4232 Dirksen Building

Select Small Business
To resume hearings to explore problems concerning capital formation of small independent enterprises.
424 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the Council on Wage and Price Stability.
5302 Dirksen Buiding

OCTOBER 4

9:30 a.m.
Human Resources
Labor Subcommittee
To continue oversight hearings on the Administration of the Occupational Safety and Health Administration Act (P.L. 91-596).
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the Council on Wage and Price Stability.
5302 Dirksen Building

OCTOBER 5

9:30 a.m.
Human Resources
Labor Subcommittee
To continue oversight hearings on the Administration of the Occupational Safety and Health Administration Act (P.L. 91-596).
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To hold oversight hearings on International housing programs
5302 Dirksen Building

OCTOBER 6

10:00 a.m.
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To continue oversight hearings on international housing programs.
5302 Dirksen Building

CANCELLATIONS

SEPTEMBER 14

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on the FBI Charter and its overall policy.
2228 Dirksen Building

SENATE—*Tuesday, September 12, 1978*

(Legislative day of Wednesday, August 16, 1978)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by Hon. PAUL G. HATFIELD, a Senator from the State of Montana.

PRAYER

The Reverend Monsignor John J. Murphy, director, the National Shrine of the Immaculate Conception, Washington, D.C., offered the following prayer:

Let us pray:

Father of everlasting goodness, our origin and guide, be close to all of us assembled here and hear our prayers of praise.

Accept our humble thanks and praise for the opportunity to make Your noble concept of sacred trust a visible sign of Your influence upon our lives.

Deepen our faith in the mystery of Your presence, strengthen our hope for eternal life with You, and let our love for You bear cheerful and joyous witness to the works of righteousness.

Open our eyes to the wonders this world sets before us, that we may serve You free from fear and address You as God, our Father.

We ask this in the name of Jesus, the Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 12, 1978.
To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PAUL G. HATFIELD, a Senator from the State of Montana, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. PAUL G. HATFIELD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NATIONAL AQUACULTURE POLICY ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1091.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3408) to provide for the development of aquaculture in the United States, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, I wish only to advise the majority leader that that item on our calendar is cleared and we have no objection to proceeding to its consideration.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Agriculture, Nutrition, and Forestry and the Committee on Commerce, Science, and Transportation, jointly, with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "National Aquaculture Policy Act of 1978".

FINDINGS

SEC. 2. Congress finds and declares that—

(1) Through intensive applications of science and technology, agriculture has met man's needs for food supplies and for other renewable resources by extensive husbandry of terrestrial plants and animals, but similarly extensive husbandry of aquatic animals or plants has not been achieved.

(2) Many segments of the world population are now facing serious nutritional deficiencies and food shortages due to environmental degradation, adverse climatic conditions, and the steady growth of population. These problems will become more severe. The resulting demand for increased food production will have to be met in part through the application of scientific and technological advances from research on aquaculture and other underused food production systems.

(3) The world demand for seafood is increasing, but the harvest of some natural populations of fish and shellfish has exceeded levels of optimum sustainable yield.

(4) Aquaculture is contributing to world food supplies with production equal to 10 percent of current landings of seafoods, and that production has the potential for significant increase before the end of this century.

(5) Certain stocks of fish and shellfish of importance to the United States are declining, or are depleted, which has had an undesirable effect on both commercial and recreational fisheries.

(6) There is an extensive market for seafood in the United States, but the United States imports more than 50 percent of its fish and shellfish for human consumption (and those imports are 10 times greater than the level of exports). This dependence on imports results in balance of payment deficits and uncertainty and often inequality of supplies.

(7) Less than 3 percent of current United States fisheries production results from aquaculture, but there is good potential for expanding aquacultural production in the United States so that such production can equal or exceed the worldwide average. This would help to provide domestic consumers with a stable supply of high quality aquatic foods and assist the United States in its balance of payments.

(8) Aquatic plants are a source of food for human and animal consumption, a source of industrial materials and pharmaceuticals, a potential source of energy, and can be used to assist pollution control and abatement efforts.

(9) The rehabilitation and enhancement of the publicly owned fish and shellfish resources are desirable applications of aquaculture technology as a means to ensure the

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

general public benefits to be derived from the use of these common property resources.

(10) Aquaculture in the United States has traditionally been concentrated on a few species, but many other aquatic species have a potential for commercial culturing and other uses. While many scientific and technological problems are unsolved, there is sufficient knowledge to further the development of aquacultural production systems for additional species of fish, shellfish, and plants. Congress recognizes the importance of developing aquaculture of both plant and animal species.

(11) The application of aquacultural technology offers opportunities for the recovery of wasted thermal energy, nutrients, and other resources.

(12) Water areas, whether fresh, brackish, or marine, which are suitable for aquaculture are, in many cases, underused, and their total acreage is diminishing as such areas are put to other uses or destroyed.

(13) In those areas of the United States that are suitable for aquaculture but have land-use or water-use management policies that may inhibit the development of aquaculture facilities, consideration should be given to changing those policies so that aquaculture will be considered along with the other possible uses of such areas.

(14) The development of aquaculture in the United States has been inhibited by many economic, legal, and production factors; these include inadequate credit, diffused legal jurisdiction, lack of management information for such stocks as are available, or the lack of reliable supplies of seed stock.

(15) Government programs that help to reduce the risks associated with production of agricultural commodities have not been generally available to producers of aquatic species.

(16) Current efforts to develop aquaculture in the United States are numerous, but sometimes diffuse; a strong commitment by the Federal Government will bolster and consolidate these efforts and make aquaculture more viable, thereby stimulating private and public investment and development.

(17) Much knowledge of and many initiatives for aquacultural development exist at the State and local levels that should be used to assist any Federal effort in fostering cooperation between individuals and institutions to improve the aquaculture industry.

(18) The principal responsibility for the development of aquaculture in the United States must rest with the private sector.

PURPOSE

SEC. 3. It is the purpose of this Act to promote aquaculture in the United States by—

(1) declaring a national aquaculture policy;

(2) establishing and implementing a national plan for aquaculture; and

(3) developing programs and encouraging activities in both the public and private sectors of the economy that will result in increased aquaculture, the coordination of domestic aquaculture efforts, the conservation and enhancement of aquatic resources, the creation of new industries and job opportunities, and other national benefits.

DEFINITIONS

SEC. 4. As used in this Act, unless the context otherwise requires the term—

(1) "aquaculture" means the propagation and rearing of aquatic species in controlled or selected environments, including ocean ranching, except private ocean ranching of Pacific salmon for profit.

(2) "aquaculture facility" means any land, structure, or other appurtenance, if such land, structure, and appurtenance is located within the United States and is used for aquaculture, including, but not limited to, any laboratory, hatchery, rearing pond, raceway, pen, incubator, or other equipment.

(3) "aquatic species" means any natural species, native or introduced, or any variety of species produced by selective reproduction of finfish, mollusk, or crustacean or other aquatic invertebrate, amphibian, reptile, or aquatic plant.

(4) "Director" means the Director of the Office of Science and Technology Policy establishing under the National Science and Technology Policy Organization and Priorities Act of 1976.

(5) "fund" means the Federal Aquaculture Assistance Fund established under section 13 of this Act.

(6) "person" means any individual who is a citizen or national of the United States and any corporation, partnership, association, Indian tribe, or other entity (including, but not limited to, any community development corporation, producer cooperative, or fishermen's cooperative) organized or existing under the laws of any State.

(7) "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other commonwealth, territory, or possession of the United States.

(8) "United States", when used in a geographical context, means all States.

NATIONAL AQUACULTURE POLICY

SEC. 5. Congress finds and declares that aquaculture has the potential for augmenting existing commercial and recreational fisheries and producing other renewable resources, thereby assisting the United States in meeting its future food needs and contributing to the solution of world resource problems. It is, therefore, in the national interest, and it is the national policy, to encourage the development of aquaculture in the United States.

AQUACULTURE ASSESSMENT AND NATIONAL AQUACULTURE DEVELOPMENT PLAN

SEC. 6. (a) Within 1 year after the date of enactment of this Act, the Director, in cooperation with the Secretary of Agriculture, the Secretary of Commerce, the Secretary of the Interior, other Federal departments or agencies, State aquaculture agencies (designated under section 7 of this Act) and appropriate Regional Fishery Management Councils established under section 302 of the Fishery Conservation and Management Act of 1976, shall make a comprehensive assessment of aquaculture in the United States and shall by regulation establish a National Aquaculture Development Plan (hereinafter in this Act referred to as the "Plan").

(b)(1) The Director shall give interested persons an opportunity to participate in the development and establishment of the Plan in accordance with the provisions of section 553 of title 5, United States Code.

(2) The Secretaries of Agriculture, Commerce, and the Interior, shall provide such clerical assistance and staff personnel as may be required by the Director to carry out the provisions of this section.

(3) At the earliest possible time in the development of the Plan, the Director shall hold public hearings; the number and location of such hearings shall be determined on the basis of the following criteria:

(A) geographical proximity of States to one another;

(B) similarity of States in aquacultural activities and potential; and

(C) other relevant factors.

(c) The assessment of aquaculture in the United States required to be made under subsection (a) of this section shall include—

(1) a complete profile of the United States aquacultural industry as to incidence, size, and status of commercial aquacultural enterprises;

(2) identification of private and public institutions and organizations involved in aquacultural research, extension, credit, and market development;

(3) identification of the various aquatic species currently being cultured and a description of the status of commercial development with respect to each such species;

(4) to the extent possible, identification of aquacultural production regions, species, and markets that have significant potential for development;

(5) a catalog and description of all Federal programs and activities that directly or indirectly encourage, support, or assist aquaculture;

(6) a consideration of the need and appropriateness of designating a single Federal lead agency for all matters relating to aquaculture;

(7) identification of legal, regulatory, economic, physical, and social constraints that inhibit the development of aquaculture in the United States;

(8) a determination of the adequacy of Federal guarantees for loans for the construction, repair, expansion, or improvement of aquaculture facilities, disaster loans for persons engaged in aquaculture, and property and stock insurance for aquaculture facilities; and

(9) an exposition of the major policy issues that need to be addressed by the Plan and the presentation of policy alternatives in a manner that will facilitate both the formulation and implementation of the Plan.

(d) The Director shall submit a report with respect to the status of aquaculture in the United States to the President and Congress upon completion of the assessment conducted under subsection (a) of this section, but in no event more than 12 months following the date of enactment of this Act.

(e) The Director shall use the assessment conducted under subsection (c) of this section as a basis for developing the Plan that shall consist of a series of development programs for those aquatic species that the Director determines to have a potential for culturing on a commercial or other basis.

(f) The Plan shall set forth those actions that the Director determines should be undertaken, and the period of time within which each such action should be completed, with respect to—

(1) the implementation of each development program, including the research and development, technical assistance, demonstration, extension education, and training that may be necessary and appropriate with regard to—

(A) aquaculture facility design and operation;

(B) water quality management;

(C) use of waste products (including thermal effluents);

(D) nutrition and the development of economical feeds, including natural food sources;

(E) life history, behavior, genetics, physiology, pathology, and disease control (including research regarding organisms that may not be harmful to fish and shellfish but are injurious to humans);

(F) processing and market development;

(G) production management and quality control; and

(H) the development of adequate supplies of seed stock;

(2) research on the effect of aquaculture on estuarine and other water areas, and the management of such areas for aquaculture;

(3) the identification and analysis of any legal or regulatory constraints that may affect a development program;

(4) the construction, purchase, lease, or acquisition of necessary developmental aquaculture facilities; and

(5) such other actions relating to research and development, technical assistance,

demonstration, extension education, and training as the Director deems necessary and appropriate.

(g) The Plan shall include the allocation of funds appropriated under section 14 of this Act, in such amounts as the Director deems appropriate, to the Secretary of Agriculture, the Secretary of Commerce, and the Secretary of the Interior for implementation of the aquaculture development programs under their respective jurisdictions.

(h) In preparing an aquaculture development program and in reviewing any such program under subsection (j), the Director shall, to the extent practicable, take into account any significant action which has been, or that is proposed to be, undertaken by any other Federal agency, any State agency, or any person, and that may affect the accomplishments of the program.

(i) Each action under an aquaculture development program prepared under this section shall be implemented, either individually, jointly, or collectively, by the Secretary of Agriculture, the Secretary of Commerce, or the Secretary of the Interior, as specified by the Director in the program. The Director shall determine which Secretary or Secretaries are to have responsibility for implementing any such action on the basis of—

(1) the responsibilities conferred on the respective Secretaries by law or any executive action having the effect of law (including, but not limited to, Reorganization Plan Number 4 of 1970); and

(2) the experience, expertise, and other appropriate resources that each department may have with respect to the action required under the program.

(j) The Plan shall provide for its revision, following review on a biennial basis to determine—

(A) if there are any aquatic species not currently identified in the Plan that have potential for aquaculture; and

(B) whether the actions specified in the Plan are being accomplished on a successful and timely basis.

(k)(1) The Director, in consultation with the Secretary of Agriculture, the Secretary of Commerce, and the Secretary of the Interior, shall establish and appoint an advisory committee to assist in the assessment and in the development of the Plan.

(2) The Advisory Committee shall consist of 15 members who shall not be employees of the Federal Government, and at least 8 of such members (of whom at least 1 shall be from each area over which each Regional Fishery Management Council has authority) shall be engaged in private aquacultural enterprises.

(3) The members of the committee, while away from their homes or regular places of business in the performance of services for the committee, shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

STATE AQUACULTURE AGENCIES

SEC. 7. (a) Any State wishing to participate in any national aquaculture development program under section 10 or 11 of this Act and authorized under this Act shall designate a single agency of such State to carry out such program in such State.

(b) Any State wishing to participate in the formulation of the Plan, but wishing to defer designation of an aquaculture agency for the State, may designate an aquaculture planning agency for the State as an interim measure.

(c) Any grants made to or contracts entered into with any agncy of a State, or any agency of any political subdivision of a State, under section 10 of this Act, shall be made only with the approval of the aquaculture agency designated for such State, and such approval shall be an indication to the Federal sponsor of compliance with all State and local regulations that apply to that action.

(d) The Director shall inform the Governors of all the States of the povisions of this section and shall consult as the Director determines appropriate with representatives of the State aquaculture agencies during the development of the plan.

FUNCTIONS AND POWERS

SEC. 8. (a) In implementing the aquaculture development program prepared under section 6 of this Act for any aquatic species, the Secretary of Agriculture, the Secretary of Commerce, or the Secretary of the Interior, as the case may be, shall—

(1) provide advisory, educational, and technical assistance (including training), with respect to aquaculture of such species to interested public and private organizations and individuals, but in providing such assistance, shall, to the maximum extent practicable, avoid duplication of similar assistance provided by other Federal or State agencies;

(2) consult and cooperate with interested persons, Federal, State, and local government agencies, regional commissions, educational institutions, and Indian tribes regarding the development of aquacultual technology;

(3) prescribe such regulations as may be necessary to carry out such a program; and

(4) encourage the implementation of aquacultural technology in the rehabilitation and enhancement of publicly owned fish and shellfish stocks (including such enhancement by private non-profit enterprises), as well as in the promotion of private commercial aquacultural enterprises.

(b) In implementing any aquacultue development program, the Secretary of Agriculture, the Secretary of Commerce, or the Secretary of the Interior, as the case may be, may—

(1) conduct scale tests of any aquaculture system for the purposes of assessing the biological and economic feasibility of the system;

(2) produce, under the authority of section 11 of this Act, and sell at cost, seed stock for commercial aquatic species when privately produced seed stock is unavailable, unreliable, or insufficient in quantity to meet production needs;

(3) develop methods to enhance aquatic species stocks by aquaculture;

(4) conduct such studies and research with respect to aquatic species as may be appropriate, regardless of whether such species is or has been identified as a commercial species; and

(5) conduct such other tests or analyses or take such other actions as such Secretary deems necessary and appropriate.

(c) In addition to performing such other functions as are required under this Act, the Secretary of Agriculture, the Secretary of Commerce, and the Secretary of the Interior shall jointly—

(1) establish and maintain an aquaculture information center that shall function as a national clearinghouse for the collection, selection, analysis, and dissemination of scientific, technical, lethal, and economic information relating to each aquaculture development program that is their individual, joint, or collective responsibility;

(2) conduct appropriate surveys, in coordination with other agencies, of public and private aquaculture activities being conducted in the United States for the purpose of acquiring information on acreages, water use, production, culture techniques, and other relevant matters;

(3) arrange for the mutual exchange of information relating to aquaculture with foreign nations;

(4) conduct a continuing study to determine whether existing capture fisheries could be adversely affected by competition from products produced by commercial aquacultural enterprises and include in such study (A) an assessment of the economic effect by species and by geographical region on such fisheries, and (B) recommended measures to ameliorate any adverse effect; and

(5) report to Congress on the findings made under the study provided for under clause (4) of this subsection in the biennial status report required by section 9(b)(4) of this Act.

(d) Any production information submitted under clause (2) of subsection (c) of this section to the Secretary of Agriculture, the Secretary of Commerce, or the Secretary of the Interior shall be confidential and shall not be disclosed except to each other or to the advisory committee that may be appointed under section 6(k) of this Act or when required under court order. The Secretaries shall by regulation prescribe such procedures as may be necessary to preserve such confidentiality, except that such Secretaries may release or make public any such information in any aggregate or summary form that does not directly or indirectly disclose the identity or business of any person who submits such information.

(e)(1) The Secretary of Agriculture, the Secretary of Commerce, and the Secretary of the Interior are each authorized to accept any gift, temporary donation, or devise or bequest of real or personal property, or the proceeds from the sale or other disposition of such property or interests therein, for use in performing any function that such Secretary may have under this Act. Any such acceptance may be subject to the terms of any restrictive or affirmative covenant, or condition of servitude, if such terms are deemed by the Secretary concerned to be in accordance with law and compatible with the purpose for which acceptance is sought.

(2) Any gift or bequest of money, and proceeds from the sale of other property received as a gift or bequest under this subsection, shall be deposited in a separate account in the Treasury of the United States and shall be disbursed upon the order of the Secretary concerned.

COORDINATION OF NATIONAL ACTIVITIES REGARDING AQUACULTURE

SEC. 9. (a) There is established the Interagency Aquaculture Coordinating Committee (hereafter in this section referred to as the "Committee") that shall be composed of the following representatives or their designees:

(1) The Director of the Office of Science and Technology Policy, who shall be the Chairman of the Committee unless, after the Plan is established, the President wishes to designate another member of the Committee as Chairman.

(2) The Secretary of Agriculture.

(3) The Secretary of Commerce.

(4) The Secretary of the Interior.

(5) The Secretary of Energy.

(6) The Administrator of the Environmental Protection Agency.

(7) The Chief of Engineers.

(8) The Commissioner of Food and Drugs.

(9) The Assistant Secretary of Labor for Occupational Safety and Health.

(10) The Administrator of the Small Business Administration.

(11) The Governor of the Farm Credit Administration.

(12) At least five representatives to be appointed by the Chairman of the Committee from the various State aquaculture agencies designated pursuant to section 7 of this Act.

(b) The functions of the Committee shall be—

(1) to ensure that there is a continuing exchange of information among the agencies represented on the Committee with respect to the nature and status of the programs or projects being conducted by such agencies

that relate, or that may relate, to aquaculture in general or to the implementation of the Plan;

(2) to review on a continuing basis the relevant programs and projects of all Federal agencies to determine whether such programs are being conducted in compliance with subsection (c) of this section; and

(3) to ensure that the aquaculture information center established under section 8(c)(1) of this Act is functioning in conformance with the policy expressed in section 5 of this Act;

(4) to submit a biennial report to Congress on the status of aquaculture in the United States, including an explanation of any revision to the Plan made pursuant to section 6(j) of this Act; the first such biennial report shall be completed not later than 2 years after the date of submission to Congress of the Director's report as specified in section 6(d) of this Act.

(c) Each Federal agency that has functions or responsibilities with respect to aquaculture or has jurisdiction over any activity that affects, or may affect, the achievement of the purposes of this Act, shall, in consultation with the Committee and to the maximum extent practicable perform such function, responsibility, or activity in a manner that is consistent with the purposes of this Act.

(d) Nothing in this Act shall be construed to amend, repeal, or otherwise modify the authority of any Federal officer or any Federal agency to perform any functions relating to aquaculture that are authorized under any other provision of law.

CONTRACTS AND GRANTS

SEC. 10. (a) The Secretary of Agriculture, the Secretary of Commerce, or the Secretary of the Interior may carry out any function of this Act, other than demonstration projects undertaken pursuant to section 11 of this Act, relating to any aquaculture development program that such Secretary is directed to implement under the Plan, through grants to, or contracts with, any other Federal agency, any agency of any State, any agency of any political subdivision of a State, any Indian tribe, any regional commission, any educational institution, or any person.

(b) Any contract entered into, or any grant made, under subsection (a) of this section shall contain such conditions and limitations as the Secretary concerned shall by regulation prescribe as being necessary and appropriate to protect the interests of the United States, except that no such contract may be entered into, and no such grant may be made that is in violation of any applicable State or local law.

(c) The amount of any grant made under subsection (a) of this section may not exceed an amount equal to one-half the estimated cost of the project for which the grant is made.

(d) Any State agency, any political subdivision of a State, or any person who receives a grant or contract under this section shall make available to the Secretary concerned and to the Comptroller General of the United States, for purposes of audit and examination, any books, documents, papers, and records that are pertinent to the funds received by such agency, political subdivision, or person under such grant or contract.

AQUACULTURE DEMONSTRATION PROJECTS

SEC. 11. (a) In order to promote the development of aquaculture, the Secretaries of Agriculture, Commerce, and the Interior are authorized jointly to distribute funds to promote the establishment and operation of aquaculture demonstration projects within each State that has established a State aquaculture agency pursuant to section 7 of this Act, and to conduct the activities described in subsections (b), (c), (d), and (e) of this section. Upon a determination by the Secretaries that a proposed demonstration project (1) demonstrates phases of aquaculture that are useful and beneficial to the State and aquacultural producers, and (2) is not duplicative of demonstration projects in the State or region involved, such funds shall be distributed, in the case of any State, to one or more of the following: the State aquaculture agency of such State, the State cooperative extension service of such State, the State agricultural experiment station of such State, and any university of such State eligible to receive funds under the sea grant program. The amount of funds distributed in any State for any demonstration project may not exceed an amount equal to one-half of the estimated cost of such project.

(b) The recipient in any State of any funds distributed under subsection (a) of this section shall—

(1) establish at least one aquaculture demonstration project within the State;

(2) sell the products of the demonstration project established under clause (1) of this subsection and pay to the United States a proportion of the proceeds equal to the proportion that the grants under this section bear to the total cost of operating the project, which payments shall be deposited in the fund;

(3) provide tours of the demonstration project to aquaculture producers and other interested groups and individuals and, upon request, provide such producer groups and individuals with information concerning the operation of the project;

(4) determine the total income and the total cost of the project; and

(5) annually compile a report concerning income, costs, operating difficulties, and producer interest with respect to the demonstration project, and submit the report to the Secretaries concerned along with any recommendations concerning project changes. The production of seed stock shall be a possible demonstration project.

(c) The results obtained from each demonstration project conducted under this section that prove economically practical shall be extended to aquacultural producers in each State through the State cooperative extension service and the Sea Grant Marine Advisory Program of each State as part of the ongoing education programs of such service.

(d) Two or more States may cooperate in the designation of a regional project, in which event the sums assignable to all the cooperating States shall be paid to the agency or institution responsible for the operation of the demonstration project.

GUARANTEES OF OBLIGATIONS ISSUED FOR AQUACULTURE FACILITIES

SEC. 12. (a)(1) The Secretary of Agriculture and the Secretary of Commerce (further reference in this section to the "Secretary" shall mean the Secretary concerned) may, subject to the provisions of this section, guarantee or make a commitment to guarantee, the payment of interest on, and the principal amount of, any obligation issued by an obligor for any of the following purposes:

(A) the financing of the construction, reconstruction, or reconditioning of any aquaculture facility (including the financing of the purchase cost of any aquaculture facility to be reconstructed or reconditioned), except that no obligation may be guaranteed under this section later than 2 years after the date of the completion of the construction, reconstruction, or reconditioning of the aquaculture facility involved;

(B) the acquisition of stocks of aquatic species in all stages of development necessary to initiate any aquaculture facility;

(C) the financing of the initial operating expenses of any aquaculture facility;

(D) the financing of marketing operations exclusively for aquacultural products; or

(E) the refinancing of any existing obligation issued for any of the purposes specified in subparagraph (A), (B), (C), or (D) of this paragraph, whether or not guaranteed under this section, including, but not limited to, any short-term obligation incurred for the purpose of obtaining temporary funds for refinancing.

Guarantees and commitments to guarantee may be made under this section without regard to section 3679(a) of the Revised Statutes of the United States (31 U.S.C. 665 (a)).

(2) The full faith and credit of the United States is pledged to the payment of all guarantees made under this section with respect to both principal and interest, including any interest, if provided for in the guarantee, that may accrue between the date of default under a guaranteed obligation and the payment in full of the guarantee.

(3) Any guarantee, or commitment to guarantee, made by the Secretary under this section shall be conclusive evidence of the eligibility of the obligation for such guarantee, and the validity of any guarantee, or commitment of guarantee, so made shall be incontestable.

(4) The aggregate unpaid principal amount of all obligations guaranteed under this section and outstanding at any one time shall not exceed $100,000,000.

(b)(1) Obligations guaranteed under this section—

(A) shall have an obligor approved by the Secretary as being responsible and possessing the ability, experience, financial resources, and other aquaculture necessary for the adequate operation and maintenance of the aquaculture facilities;

(B) shall be in an aggregate principal amount that does not exceed 90 percent of the obligation involved;

(C) shall have maturity dates satisfactory to the Secretary, but not to exceed 25 years;

(D) shall provide for payments by the obligor satisfactory to the Secretary; and

(E) shall bear interest (exclusive of charges for the guarantee and service charges, if any) at rates not to exceed such per annum percentage on the unpaid principal as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the Secretary.

(2) In guaranteeing any obligation under this section, the Secretary shall give preference to any person with 40 or fewer employees who, together with such person's affiliates, is primarily engaged in the business of aquaculture or commercial harvesting or gathering of aquatic species.

(3) No obligation may be guaranteed under this section unless the obligor conveys or agrees to convey to the Secretary such security interest as the Secretary may reasonably require to protect the interests of the United States.

(c)(1) The Secretary may charge a fee for any obligation guaranteed under this section, the amount of which shall be established by the Secretary by regulation not to exceed one-half of 1 percent per annum of the outstanding principal balance of the obligation. Fee payments shall be made by the obligor to the Secretary when moneys are first advanced under a guaranteed obligation and at least 60 days before each anniversary date thereafter.

(2) The Secretary shall charge and collect from the obligor such amounts as the Secretary may deem reasonable for the investigation of the application for any guarantee, for the appraisal of properties offered as security for any guarantee, and for the inspection of such properties during construction, or reconditioning, except that such charges shall not aggregate more than one-half of 1 percent of the original principal amount of the obligation to be guaranteed.

(3) All fees and other amounts received by the Secretary under the provisions of this subsection shall be deposited in the fund.

(4) Obligations guaranteed under this sec-

tion, and agreements relating thereto, shall contain such other provisions with respect to the protection of the security interests of the United States (including acceleration and subrogation provisions and the issuance of notes by the obligor to the Secretary), liens and releases of liens, payments of taxes, and such other matters as the Secretary may prescribe.

(d)(1) In the event of a default, which has continued for 90 days, in any payment by the obligor of principal or interest due under any obligation guaranteed under this section, the obligee or the obligee's agent shall have the right to demand, at or before the expiration of such period as may be specified in the guarantee or related agreements, but not later than 180 days from the date of such default, payment by the Secretary of the unpaid principal amount of said obligation. Within such period as may be specified in the guarantee or related agreements, but not later than 30 days from the date of such demand, the Secretary shall promptly pay to the obligee or his agent the unpaid principal amount of the obligation and unpaid interest thereon to the date of payment; except that the Secretary shall not be required to make such payment if before the expiration of such period the Secretary finds that there was no default by the obligor in the payment of principal or interest or that such default has been remedied before any such demand.

(2) Payments required to be made by the Secretary under paragraph (1) of this subsection shall be made by the Secretary from the fund.

(3) In the event of any payment by the Secretary under paragraph (1) of this subsection, the Secretary shall have all rights in any security held by him relating to his guarantee of such obligations as are conferred upon him under any security agreement with the obligor. Notwithstanding any other provision of law relating to the acquisition, handling, or disposal of property by the United States, the Secretary may, under such terms and conditions as the Secretary prescribes or approves, complete, recondition, reconstruct, renovate, repair, maintain, operate, or sell any property acquired by the Secretary pursuant to a security agreement with the obligor.

(4) After any default referred to in paragraph (1) of this subsection, the Secretary shall take such action against the obligor or any other parties liable thereunder that, in the Secretary's discretion, may be required to protect the interests of the United States. Any suit may be brought in the name of the United States or in the name of the obligee and the obligee shall make available to the United States all records and evidence necessary to prosecute any such suit. The Secretary may accept a conveyance of title to and possession of property from the obligor or other parties liable to the Secretary and may purchase the property for an amount not greater than the unpaid principal amount of such obligation and interest thereon. In the event the Secretary receives through the sale of property an amount of cash in excess of any payment made to an obligee under paragraph (1) of this subsection and the expenses of collection of such amounts, the Secretary shall pay such excess to the obligor.

(5) Whoever, for the purpose of obtaining any loan or advance of credit from any person with the intent that an obligation relating to such loan or advance of credit shall be offered to or accepted by the Secretary to be guaranteed, or for the purpose of obtaining any extension or renewal of any loan, advance of credit, or mortgage relating to an obligation guaranteed by the Secretary, or the acceptance, release, or substitution of any security on such loan, advance or credit, or for the purpose of influencing in any way the action of the Secretary under this section, makes, passes, utters, or publishes, or causes to be made, passed, uttered, or published any statement, knowing the same to be false, or alters, forges, or counterfeits, or causes or procures to be altered, forged, or counterfeited, any instrument, paper, or document, or utters, publishes, or passes as true, or causes to be uttered, published, or passed as true, any instrument, paper, or document, knowing it to have been altered, forged, or counterfeited, or willfully overvalues any security, asset, or income shall be punished by a fine of not more than $5,000, or by imprisonment for not more than 2 years, or both.

(e) The Secretary of Agriculture and the Secretary of Commerce shall each promulgate such rules and regulations as they deem necessary or appropriate to carry out the purposes and provisions of this section.

(f) For purposes of this section, the term—

(1) "actual cost" of an aquaculture facility, as of any specified date, means the aggregate, as determined by the Secretary, of—

(A) all amounts paid by, or for the account of the obligor with respect to such facility on or before that date; and

(B) all amounts that the obligor is then obligated to pay from time to time thereafter, for the construction, reconstruction, or reconditioning of such facility;

(2) "construction", "reconstruction", or "reconditioning" includes, but is not limited to, designing, inspecting, outfitting, and equipping of the aquaculture facility involved;

(3) "depreciated actual cost" means the actual cost depreciated on a straightline basis over the useful life of the property involved as determined by the Secretary;

(4) "obligation" means any note, bond, debenture, or other evidence of indebtedness issued for one of the purposes specified in subsection (a) of this section;

(5) "obligee" means the holder of any obligation; and

(6) "obligor" means any person primarily liable for payment of the principal of or interest on any obligation.

FEDERAL AQUACULTURE ASSISTANCE FUND

SEC. 13. (a) There is established in the Treasury of the United States a Federal Aquaculture Assistance Fund. The fund shall be available to the Secretaries of Agriculture, Commerce, and the Interior: (further reference in this section to the "Secretary" shall mean the Secretary concerned) as a revolving fund for the purpose of carrying out, and administering, sections 11 and 12 of this Act. The fund shall consist of—

(1) any sums appropriated to the fund;

(2) any fees received by the Secretary from the sale of products from demonstration projects as provided in section 11 of this Act;

(3) any fees received by the Secretary in connection with any guarantee made under section 12 of this Act;

(4) recoveries and receipts received by the Secretary under security, subrogation, and other rights and authorities under section 12 of this Act.

All payments made by the Secretary to carry out the provisions of section 12 (including reimbursements to other Government accounts) shall be paid from the fund, only to the extent provided in appropriation Acts. Sums in the fund that are not currently needed for the purposes of section 11 or section 12 of this Act shall be kept on deposit or invested in obligations of or guaranteed by the United States.

(b) If at any time the moneys in the fund are not sufficient to pay any amount the Secretary is obligated to pay under section 12, the Secretary shall issue to the Secretary of the Treasury notes or other obligations (only to such extent and in such amounts as may be provided for in appropriation Acts) in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury prescribes. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations to be issued hereunder, and for such purpose the Secretary may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under that Act, are extended to include any purchases of such notes and obligations. The Secretary of the Treasury at any time may sell any of the notes or other obligations acquired by the Secretary of the Treasury under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Moneys borrowed under this subsection shall be deposited in the fund and redemptions of such notes and obligations shall be made by the Secretary from the fund.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 14. (a)(1) For purposes of carrying out the provisions of this Act, there are authorized to be appropriated, notwithstanding any authorization for appropriations in any other Act in effect before the date of the enactment of this Act:

(A) $10,000,000 for the fiscal year 1980;

(B) $20,000,000 for the fiscal year 1981; and

(C) $30,000 for the fiscal year 1982.

(2) The authorization for the fiscal year 1980 is not to exceed:

(A) $4,000,000 to the Department of Agriculture;

(B) $4,000,000 to the Department of Commerce; and

(C) $2,000,000 to the Department of the Interior.

(3) The authorization for the fiscal year 1981 and the fiscal year 1982 shall be allocated as provided in section 6(g).

(4) Not less than 50 percent of the funds appropriated to the Departments under this section shall be used for the purposes of section 10 and section 11 of this Act; and of such funds 3 percent shall be available to the Departments for administrative purposes.

(b) Commencing with fiscal year 1980, there are authorized to be appropriated, without fiscal year limitation, to the fund such sums as may be necessary and appropriate for purposes of carrying out section 12; but not to exceed $100,000,000.

EFFECTIVE DATE

SEC. 15. The provisions of this Act shall become effective October 1, 1978.

Mr. LEAHY. Mr. President, I strongly support S. 3408, the National Aquaculture Policy Act of 1978.

Many of my fellow Senators may not be familiar with aquaculture. A concise description of aquaculture comes from Dr. H. R. Schmittou, the aquaculture program coordinator at the Department of Agriculture. Dr. Schmittou's description is as follows:

Aquaculture is agriculture. It's the raising of animals and plants in a controlled water environment. That's similar to raising cattle, only you do it in the water. It's animal husbandry.

Aquaculture is not a new idea. Its roots can be traced back to 4,500 years ago in China. The United States is a relative newcomer in this field having started to practice aquaculture about 100 years ago. Today, aquaculture in the United States produces salmon, catfish, trout, oysters, mussels, shrimp, clams, and other species. Despite the great potential of aquaculture as an energy-efficient means of food production, its growth has been much slower, and levels of production are much lower, than elsewhere in the world.

Jurisdiction over aquaculture in the Senate is shared by the Committee on Agriculture, Nutrition, and Forestry, which has authority over food from fresh waters, and the Committee on Commerce, Science, and Transportation, which has authority over marine fisheries. The Subcommittee on Agricultural Research and General Legislation, of which I am chairman, has a continuing interest in insuring the viability of and expanding opportunities for aquaculture in this country.

There is a tremendous potential for aquaculture in this country. In recognition of this potential, the Food and Agriculture Act of 1977 made aquaculture one of the four basic functions of the Department of Agriculture, along with agriculture, rural development, and human nutrition.

The 1977 law did not, however, remove the major barriers to successful fish farming in this country. These barriers include:

First. Inadequate technical and economic information;

Second. Inadequate funding for aquaculture research;

Third. Inadequate marketing practices of aquaculture species;

Fourth. Inadequate credit and financing;

Fifth. The existence of local, State, and Federal laws that prohibit or inhibit the development of aquaculture; and

Sixth. Duplication and lack of coordination among governmental agencies responsible for conducting aquacultural programs.

S. 3408 addresses these barriers. The bill provides for an assessment and development of a national aquaculture plan to support and encourage aquaculture. A national aquaculture coordinating committee composed of State and Federal officials responsible for aquaculture or related areas would be established. Demonstration projects would be carried out in the various States and regions to demonstrate the technology and viability of aquaculture. A guaranteed loan program and a Federal aquaculture assistance fund would be established under the bill.

This bill may not solve all of the present or potential problems that face aquaculture. However, it states our commitment to and provides the means for the further development of this important food supply.

I praise Senator DICK STONE for his leadership in this regard and I thank the distinguished majority leader for bringing it up for action. I urge its passage

● Mr. STONE. Mr. President, I strongly support S. 3408, the National Aquaculture Policy Act of 1978, which was reported by the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Commerce, Science, and Transportation.

The purpose of this bill is to encourage the development of aquaculture in the United States by establishing a national acquacultural policy.

When we talk about aquaculture we are talking basically about the production of food, especially high quality protein. This is true of aquaculture in fresh, marine, and brackish waters. However, aquaculture, which is as old as civilization, going back at least 4,000 years in China, has languished in this Nation.

The potential for expanded contribution is enormous. This is particularly true of our Nation since we have never had coordinated support or encouragement for aquaculture.

The importance of aquaculture has become evident in the last few years with the world food crisis, and the serious scarcity of high quality protein. We also are beginning to recognize the potential of aquaculture to supplement our declining fisheries, reduce our balance of payments deficit, and afford the Nation a new viable economic activity.

However, we must get our house in order. In fact, the fragmented and disorganized approach to aquaculture by the Federal Government is one of the principle barriers to aquacultural development in the United States. This, to a large extent, has been because we never fully recognized the importance of aquaculture. Further, the fragmented industry, Government programs, and legislative initiatives have contributed to a devisiveness within aquaculture.

The need for unification and coordination and development of a national policy became even more evident this year when our committees considered five legislative initiatives including two that were exclusively referred to the Committee on Commerce, two exclusively referred to the Committee on Agriculture, and one referred jointly to the two committees.

The development of aquaculture must be our final objective, not jurisdictional battles. To find a way to support aquaculture meant we had to find a way to resolve the split jurisdiction within the Congress and the executive agencies.

Mr. President, under the leadership of Chairman TALMADGE and Chairman CANNON our committees were able to do this.

We proceeded with our hearings separately but with full awareness and concern about all aspects of all bills. We then began developing means to bring together the thinking and needs of all aspects of aquaculture. The ways this was finally achieved was through the development of a new bill that incorporated much of what had previously been introduced as well as some new. Most important, the new bill does this in, I believe, an acceptable and meaningful way for all concerned.

The leadership in developing this new bill was assumed by Senator INOUYE, a member of the Committee on Commerce, Science and Technology. I want to commend Senator INOUYE for his efforts in helping us find a workable solution.

Mr. President, at this point I would like to have included in the RECORD a short explanation of the National Aquacultural Policy Act of 1978.

The explanation follows:

SHORT EXPLANATION

The National Aquaculture Policy Act of 1978 declares a national policy to promote aquaculture in the United States.

S. 3408, as reported, would—

(1) Provide for an assessment of aquaculture in the United States. The assessment would be completed within 1 year under the leadership of the Director of the Office of Science and Technology Policy in cooperation with the Secretaries of Agriculture, Commerce, and the Interior, and other Federal, State, and regional entities interested in aquaculture. The assessment would provide a complete profile of aquaculture in the United States, including the identification of private and public institutions involved in acquaculture research, extension, credit, and market development; identification of species being cultured or that could be cultured; identification of legal, regulatory, economic, physical, and social constraints that inhibit aquaculture in the United States. The Director would submit a report on the status of aquaculture to the President and the Congress within 12 months after enactment. This assessment shall be the basis for development of the National Aquaculture Plan;

(2) Provide for the development of a national aquaculture plan to support and encourage aquaculture, including development programs to be carried out by various Secretaries and departments. These programs would focus on problems with regard to aquaculture facilities, water quality, use of waste products, nutrition, processing, and marketing, biological aspects of various species, management, and development of adequate seed stocks;

(3) Provide for an advisory committee of 15 members to assist in the development of the national Plan. It would be disbanded after the Plan is completed. At least eight members of the advisory committee would be directly involved in private aquaculture enterprises;

(4) Encourage the development of State aquaculture agencies to coordinate aquaculture activities at the State level;

(5) Establish a national aquaculture coordinating committee chaired by the Director of the Office of Science and Technology Policy and include the Secretaries of Agriculture, Commerce, the Interior, and Energy; the Administrator of the Environmental Protection Agency, the Chief of Engineers, the Commissioner of Food and Drugs, the Assistant Secretary of Labor for Occupational Safety and Health, the Administrator of the Small Business Administration, the Governor of the Farm Credit Administration, and at least five representatives to be appointed from various State aquaculture agencies. The responsibility of this coordinating body would be to ensure the exchange of information, compliance of various programs with the national policy, to prevent duplication of effort, and to develop biennial reports for Congress and the President on the status of aquaculture;

(6) Provide for contracts and grants that permit the various Secretaries with authorities under the bill to contract with other Federal agencies, States, Indian tribes, universities, or individuals to carry out any of the activities or functions of the bill;

(7) Provide for demonstration projects to be carried out in the various States or regions to demonstrate the technology and viability of aquaculture;

(8) Provide for a guaranteed loan program with a limit on the maximum amount of guaranteed loans at any one time of $100 million. The loans would be available for financing various aquacultural activities and the Secretaries of Agriculture and Commerce could draw on the loan guarantee authority;

(9) Provide for a Federal Aquaculture Assistance Fund, as a revolving fund, for the purpose of carrying out the demonstration projects and loan guarantee programs; and

(10) Authorize appropriations, effective for the fiscal year 1980, at the rate of $10 million, $20 million in 1981, $30 million in 1982. In the first year the funds will be allocated as follows: 40 percent to the Department of Agriculture, 40 percent to the Department of Commerce, and 20 percent to the Department of the Interior. However, not less than 50 percent of the funds allocated in any given year would be used for contracts, grants, or demonstration projects as provided in the bill.

Mr. President, the potential of aquaculture is evident in the remarkable growth that we have seen the last 10 years in the trout and catfish industries. However, we have barely scratched the surface of the potential in these industries. Further, there are significant opportunities in other areas. These opportunities and potentials can only be realized with a coordinated and effective aquaculture policy.

The bill provides the flexibility for the various departments that are involved in aquaculture programs to respond individually or jointly to the needs of specific segments of the overall aquaculture industry. But in all cases it assures coordination of the ongoing programs.

The bill also will bring the State and regional aquaculture interests into the planning process as well as private sector people. This will insure that our national programs are responsive in solving the problems that have been identified as being major inhibitors of aquacultural development.

Mr. President, aquaculture and agriculture are the two hands of food production. Unfortunately, one hand has not been developed. I see this bill as giving the stimulus to aquaculture similar to that which we have given to agriculture in the past by providing a national agricultural policy. It will permit the great potential of aquaculture to be realized. It also provides the basis for other economic activities in aquaculture that exists and can provide our Nation with significant benefits.

I am pleased to be able to report this bill on behalf of the two committees and I urge my colleagues to pass this legislation.

Mr. President, I wish to make one further statement. There are innumerable people from the two committees who deserve special note. However, I believe we should take time to note the interest and support of the late Senator James Allen for aquaculture. He was a longtime champion of aquaculture who gave significant support to the development of a national aquaculture policy. I think this bill will be a tribute to Senator Allen's interest.●

● Mr. GRAVEL. Mr. President, I strongly urge passage of S. 3408, the National Aquaculture Policy Act of 1978. As a cosponsor of this measure I have been intimately involved in its fashioning for some time now and I believe the time is right for passage of legislative encouragement for aquaculture activity in the United States.

Aquaculture activities throughout the United States are at once too scarce and too poorly coordinated. Those projects that do exist suffer from a lack of integration with other similar projects. This legislation will help to overcome both of these deficiencies.

To encourage increased activity in aquaculture a guaranteed loan program is instituted with a guarantee fund of $100 million. This money will be available for financing various aquacultural activities and will be made available through the Departments of Commerce and Agriculture.

To coordinate various existing aquaculture activities throughout the country as well as to encourage new ones in the future, a national aquaculture assessment will be undertaken. This assessment will identify present activities, interests and possibilities for aquaculture coordination and expansion.

Mr. President, my home State of Alaska has been involved in the activity of aquaculture for practically a century. With greater than 50 percent of the entire U.S. coastline located within Alaska, one can understand my enthusiasm for this legislation. The possibilities for aquaculture activities within my State are truly staggering.

In that regard, three aspects of this bill are particularly significant to Alaskans. All three were originally introduced as parts of S. 2762, the aquaculture bill I introduced. They have been lifted from my bill and transferred to this final Senate compromise version of which I am now a cosponsor. Each is especially important to the unique Alaskan approach to aquaculture. They are:

First, the national plan will not be formulated at the national level as originally proposed. Local input will be gathered from regional hearings and State aquaculture agencies. This will guarantee that Alaska's unique activities with respect to aquaculture will not be disregarded.

Second, the enhancement and rehabilitation of traditional publicly owned fish stocks is a major goal to be addressed by this legislation. This will insure that in addition to encouraging development of commercial aquaculture for the private sector, we will not overlook the desirability of rehabilitating the numerous depleted fish stocks which are of vital importance to the public sector.

Third, this legislation identifies the land and water access problems so often met in the attempt to find a suitable aquaculture facility location. The bill mandates that aquaculture must be viewed as a significant activity that must be given appropriate consideration among competing land and water use activities.

Mr. President, this legislative encouragement for aquaculture has been much too long in coming. The numerous benefits to be gained—commercial, nutritional and conservational—to name but three, fully justify passage of this legislation before another day passes. I urge my fellow colleagues to support this measure and enact today the National Aquaculture Organic Act of 1978.●

● Mr. WEICKER. Mr. President, I would like to congratulate the Senate for passing H.R. 9370, the National Aquaculture Policy Act of 1978.

This is landmark legislation that will prove to be of great value to this Nation.

I am pleased that the Senate bill has included Senator INOUYE's version containing major parts of my bill, S. 2582, which I introduced earlier in the year. I believe that the stimulus which this bill will provide is the only way in which aquaculture will get a solid foothold in the United States.

The various bills, both in the Senate and House, all provide provisions for obligation loan guarantees to the small aquaculture businessman. Large industrial interests are not included, but will also benefit by aquaculture legislation in terms of scientific knowledge and improved communications.

Presently, aquaculture is only contributing about 3 percent of U.S. production of foodfish. In view of the growing market for all kinds of seafood worldwide, and the resultant pressure on many stocks of living resources, this low yield from aquaculture must be increased.

It is my understanding, and quite surprisingly, that imports of fish and fish products are the third highest contributor to our national trade deficit. It alone amounts to over $2 billion.

The domestic fisheries can do much to this tremendous inequality, but will not likely be able to cut the deficit completely.

A comprehensive national aquaculture policy and industry stimulus can significantly increase our production of seafood in the near future, thereby contributing to the decrease in this debilitating trade deficit.

Several species of both food and industrial living marine resources are being overfished to the point that commercial extinction is possible. These species have traditionally been the mainstay of the consumer markets and only a shift in consumer interest or increased stocks can solve the problem. I believe that a national aquaculture program can and should address such problems by first providing for increased availability of such species as cod, haddock, lobster, and so forth. This can be done by either raising these animals in captivity to marketable size or to enhance the natural populations through stocking techniques in the wild.

It is my firm hope that some form of legislation in the Senate, House or compromise version, goes to the President for his signature.

The time is right for such legislation. Aquaculture must be put in the proper prospective before it becomes a critical necessity, and I believe that aquaculture will be a necessity in the not-too-distant future. Our production from landbase agriculture has reached a peak, so has agricultural technology. It is doubtful that great new innovative agricultural techniques will be realized for some time. As a matter of fact, the alarming rate in which our farms are giving way to development and the increasing problems with soil erosion and pesticide ineffectiveness will decrease our agricultural productivity.

The time is right to nurture the fledgling aquaculture industry, the small

businessman, and give encouragement to larger industry interests such as Coca Cola and Weyerhaeuser. Aquaculture is considered a high-risk, capital-intensive industry and Federal help to get things started make good economic sense.

The time is also right to help upgrade the nutritional base of our country. Seafood is one of the best sources of protein possible containing little fat and calories.

Even though we are still the richest country in history, our overall nutrition is below a healthy balanced diet. I look to our fisheries and a growing aquacultural system to help bring the right foods to our tables.

Mr. President, I hope that whatever the complexity of a national aquaculture bill, it will maintain the $100-million ceiling for obligation guarantee loans and not contain provisions for disaster loans and all-risk insurance.

My bill embraced these restrictions for reasons of not giving the industry too much Federal help at one time and involving all of its redtape and regulations. I believe that the industry needs Federal assistance only in the form of scientific data, information dissemination, and loan guarantees and only until the industry gets on its feet. Too much Federal involvement could be inhibiting and have a softening effect in the long run. The $100-million figure should be enough for the next few years to give the needed boost to the industry.

Disaster loans are already provided by the Small Business Administration and rather than duplicate their efforts, the SBA should be given a congressional mandate to increase their involvement in aquaculture ventures.

With the exception of stock insurance, other forms of insurance—property, liability—is available to the industry and should be no harder to obtain than is available to other industries within the same geographic confines. Once the industry starts to grow, private insurance should become more involved.

I would like to further express my gratitude to the Commerce, Science, and Transportation, and Agriculture, Nutrition, and Forestry Committees for resolving the jurisdictional problems of the bill. I am looking forward to the growth of our aquaculture industry and anticipate some fine dining on the fruits of our efforts.●

● Mr. MAGNUSON. Mr. President, I strongly support the passage of H.R. 9370, the National Aquaculture Policy Act of 1978, which was unanimously reported by both the Committee on Commerce, Science, and Transportation and the Committee on Agriculture, Nutrition, and Forestry. The bill is the result of months of discussion between the committees, and this bill represents a resolution of the issues discussed which is acceptable to all concerned.

The aquaculture industry in the United States is currently very small, but it has tremendous potential for increasing this country's food supplies. In the past, the Department of Commerce has done excellent work in promoting marine aquaculture, and the Department of Agriculture has done excellent work in promoting fresh-water aquaculture. However, there has been little overall planning or coordination of these efforts. It is therefore the purpose of this bill to provide for that planning and coordination so that the departments involved can continue their work in a more effective and efficient manner.

The bill also provides funding for contracts and grants to carry out the purposes of the bill, encourages the States to play a more active role in aquaculture development while preserving their rights to prohibit certain types of aquaculture, authorizes the Departments involved to guarantee loans for aquaculture development, and encourages the use of aquaculture for the enhancement of natural fisheries resources. The bill therefore represents a strong commitment by the Federal Government to the development of aquaculture, and I urge that the bill pass.●

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1168), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

SHORT EXPLANATION

The National Aquaculture Policy Act of 1978 declares a national policy to promote aquaculture in the United States.

S. 3408, as reported, would—

(1) Provide for an assessment of aquaculture in the United States. The assessment would be completed within 1 year under the leadership of the Director of the Office of Science and Technology Policy in cooperation with the Secretaries of Agriculture, Commerce, and the Interior, and other Federal, State, and regional entities interested in aquaculture. The assessment would provide a complete profile of aquaculture in the United States, including the identification of private and public institutions involved in aquacultural research, extension, credit, and market development; identification of species being cultured or that could be cultured; identification of legal, regulatory, economic, physical, and social constraints that inhibit aquaculture in the United States. The Director would submit a report on the status of aquaculture to the President and the Congress within 12 months after enactment. This assessment shall be the basis for development of the national aquaculture plan;

(2) Provide for the development of a national aquaculture plan to support and encourage aquaculture, including development programs to be carried out by various Secretaries and departments. These programs would focus on problems with regard to aquaculture facilities, water quality, use of waste products, nutrition, processing, and marketing, biological aspects of various species, management, and development of adequate seed stocks;

(3) Provide for an advisory committee of 15 members to assist in the development of the national plan. It would be disbanded after the Plan is completed. At least eight members of the advisory committee would be directly involved in private aquaculture enterprises;

(4) Encourage the development of State aquaculture agencies to coordinate aquaculture activities at the State level;

(5) Establish a national aquaculture coordinating committee chaired by the Director of the Office of Science and Technology Policy and include the Secretaries of Agriculture, Commerce, the Interior, and Energy; the Administrator of the Environmental Protection Agency, the Chief of Engineers, the Commissioner of Food and Drugs, the Assistant Secretary of Labor for Occupational Safety and Health, the Administrator of the Small Business Administration, the Governor of the Farm Credit Administration, and at least five representatives to be appointed from various State aquaculture agencies. The responsibility of this coordinating body would be to insure the exchange of information, compliance of various programs with the national policy, to prevent duplication of effort, and to develop biennial reports for Congress and the President on the status of aquaculture;

(6) Provide for contracts and grants that permit the various Secretaries with authorities under the bill to contract with other Federal agencies, States, Indian tribes, universities, or individuals to carry out any of the activities or functions of the bill;

(7) Provide for demonstration projects to be carried out in the various States or regions to demonstrate the technology and viability of aquaculture;

(8) Provide for a guaranteed loan program with a limit on the maximum amount of guaranteed loans at any one time of $100 million. The loans would be available for financing various aquacultural activities and any of the three Secretaries could draw on the loan guarantee authority;

(9) Provide for a Federal aquaculture assistance fund, as a revolving fund, for the purpose of carrying out the demonstration projects and loan guarantee programs; and

(10) Authorize appropriations, effective for the fiscal year 1980, at the rate of $10 million, $20 million in 1981, $30 million in 1982. In the first year the funds will be allocated as follows: 40 percent to the Department of Agriculture, 40 percent to the Department of Commerce, and 20 percent to the Department of the Interior. However, not less than 50 percent of the funds allocated in any given year would be used for contracts, grants, or demonstration projects as provided in the bill.

PURPOSE

S. 3408 would encourage the development of aquaculture in the United States by establishing a national policy to encourage the development of aquaculture; requiring the development of a national aquaculture development plan; providing funding for contracts and grants and for demonstration projects to carry out the national aquaculture development plan; establishing an interagency aquaculture coordinating committee; and providing authority to guarantee loans for aquacultural activities.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be discharged for further consideration of the bill H.R. 9370.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 9370.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 9370) to provide for the de-

velopment of aquaculture in the United States, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. ROBERT C. BYRD. Mr. President, I move to strike out all after the enacting clause of H.R. 9370 and substitute the language of S. 3408, as amended, in lieu thereof.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The ACTING PRESIDENT pro tempore. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The bill (H.R. 9370) was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 3408 be indefinitely postponed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 a.m. tomorrow morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I intend to yield my time allotted to me under the special order for this morning to the distinguished Senator from Arizona.

Mr. President, I have no need for my time under the standing order and I yield that time plus the time under the special order allotted to me this morning to the distinguished Senator from Arizona.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. The Senator from Arizona is recognized.

Mr. GOLDWATER. I thank my leader very much. I doubt that I will need all of my time. I will return what I do not use.

GOLD

Mr. GOLDWATER. Mr. President, it is shameful and tragic to note the current lack of confidence, worldwide, in our dollar. I cannot remain silent in this critical period in our history. Our Nation, the most powerful on Earth, has a printing press, flat money, dollar, so beset by inflation that it has to bow to the German mark, the Japanese yen and the Swiss franc. How humiliating.

Of course, this monetary development is no surprise to those who have followed, apprehensively, since 1934 fashionable and popular Keynesian economics. The end result is the ruinous inflation plaguing the Nation and an extraordinary rise in the price of gold to over $200 per ounce. Who would have dreamed it a few years ago? Even higher prices are envisaged.

This should bring joy and happiness to those Government officials in Treasury and elsewhere who have advocated and put into force the policy of reducing gold to commodity status domestically and internationally.

The latest Government sale of gold was at $185 per ounce, a marvelously high market price. Had it been delayed a few weeks longer, over $200 per ounce could have been obtained. Indeed, the prospect is good for still higher prices as a dollar not redeemable in gold prevails, and the budget continues to be deplorably unbalanced. Perhaps there may be a spell of devaluations, in time, under the currently respectable practice of modern "coin clipping."

After all, look at the profit, in paper, made by the New Deal back in 1934, when the dollar was devalued by raising the price of gold from $20 to $35 following the confiscation of the gold holding of the citizens so they could not profit. The Government made over $2 billion on the deal, an easy way to profit. The late Adrian Massie, chairman of the Chemical Bank, has termed that devaluation one of the most tragic episodes in American financial history. I concur.

There was a price to pay. A grave moral issue was raised involving the sanctity of contracts. Senator Carter Glass, chairman of the Banking Committee, said,

> It's dishonor, sir. This great government, strong in gold, is breaking its promise to pay gold to widows and orphans to whom it has sold government bonds with a pledge to pay gold coin of the present standard of value. It is breaking its promise to redeem its paper money in gold coin of the present standard of value. It's dishonor, sir.

Some Supreme Court Justices stated the devaluation was counterfeiting when the issue reached the Court.

The moral issue permeates deeply the world's monetary mess. This is nothing new for mankind. It reminds me of the conclusion reached by the Federalist Papers authors when they examined the reason for hostility between nations. They sought to subdue the possibility of strife between the States and observed that "men are ambitious, vindictive and rapacious." I do not wish to pursue this thought any further but the evidence of its truth is all around us. It illustrates the difficulty of establishing sound and honest money.

I am confident Americans desire to have the finest kind of money ever conceived. What is it? Experience for countless years shows that, above all, while people may not be knowledgeable about monetary principles, they can readily distinguish good money from bad. They respect the store-of-value quality in any money. By this test, no wonder gold is No. 1 money today, and always has been. Despite the incredible policy of our Government to reduce gold to commodity status and to eliminate its use as money domestically and internationally, the effort has been utterly futile.

Ask yourself the question, which is the better dollar, one redeemable in gold, or the current fiat, printing-press variety that is not? The answer is obvious.

I do not profess to be a monetary expert nor do I have to be one to understand the plight of our dollar. For guidance and enlightenment, we need merely turn to our superb Constitution. It specifies only gold and silver coin as money. No reference to paper. Why? Because the Founders of our Nation knew firsthand the sad result accruing to government using flat money such as the bankruptcy of France caused by John Law's paper money, or our own experience with the complete erosion of the continental currency.

Our Nation, comparatively young in history, nevertheless can profit from the lesson of five troublesome inflations. All were related closely to increased paper money supplies. First, the Revolutionary War inflation, then that of the War of 1812, followed years later by the tragic Civil War with its paper greenbacks. Then came World War II, and nowadays the heritage of the Vietnam war, the reason for gigantic Government expenditure to cover both guns and butter simultaneously. The deficit is with us today.

The Civil War example showed that when the paper greenbacks became redeemable in gold in 1879 after a long depression, and against the opposition of numerous legislators, the Nation began the greatest period of commodity stability and steady growth in its history, only to have it end when World War I erupted.

In the light of that record, I cannot understand antipathy to gold as money. It demonstrated the power of gold to discipline Government expenditure, a discipline absent now. The sky is the current limit to Government disbursement, especially as the statutory limit on the gold reserve behind Federal reserve deposits and notes was removed by the Congress in 1965 and 1968, respectively.

Currently, people are helpless, nationally, in curbing government expenditure for they have lost the power of the purse which they possessed when they could redeem their dollars in gold.

The people are not helpless in the 50 States of the Union, however, as the Californians demonstrated recently with proposition 13. Nationally, the job is different and tough because all the Federal Government need do if it requires funds is, under the Federal Reserve System, to send its bonds to the System and receive dollars in return. This is known as monetizing the debt. It was not always thus. The Federal Reserve System was designed, originally, to facilitate the flow of commercial transactions, not the financing of the Government. That important change was brought about by World War I which required vast amounts of Federal funds. Taxing the citizens would have been unpalatable.

This history suggests one remedy for our devastating inflation—return to the original premise of the Fed so that the Government would have to go to the marketplace, as industry has to do, for the funds it requires. My main recommendation, based upon our own experience, is an early return to an honest dollar which means the gold standard.

I am conscious of the fact that the road may be rough and long to attain a sound dollar. Five years were required to make the Civil War greenbacks redeemable in gold.

Fortunately, two important steps have already been taken. The first was a restoration of the right to own gold coin or bullion. Imagine, it took 40 years to reachieve that basic freedom. The second step, which occurred last November, was congressional action permitting the use of the gold clause in contracts.

The next step is fundamental and largely political. It is to balance the budget and reduce our horrendous deficit. I am confident there is general agreement on the merit of that needed action. How to do it in the absence of the discipline of gold, and the current loss of the power of the purse by the people, is something requiring early attention.

As Thomas Jefferson wisely stated:

> I place economy among the first and most important virtues, and public debt as the greatest of dangers to be feared . . . to preserve our independence, we must not let our rulers load us with public debt . . . we must make our choice between economy and liberty or profusion and servitude.

One highly pertinent suggestion made to me is to curb the ability of the Federal Reserve System to monetize the public debt, to which I have already alluded.

Another recommendation is to return to the States some or all of the welfare load carried by Federal authority. I have an idea the end result would be beneficial all around.

Still another suggestion, after the budget has been balanced, is to note the open market price for gold and, at a specified interval, which need not be long, declare paper dollars once again redeemable in gold, at a price close to the market.

Our dollar has a serious responsibility as the most favored money to settle international commerce, having displaced the pound sterling many years ago. This brings added urgency to restoring confidence in our dollar.

My emphasis is on the quality of the dollar, not its quantity; in other words, furnishing the world with the best store-of-value monetary unit. I stand by the precept of our Constitution. Our forefathers had thousands of years of human experience with money to guide them. They settled on gold. Let us return to it as speedily as possible so we no longer have to be chagrined at the entire world's current attitude to our paper money.

From the time of President Franklin Roosevelt, intellectuals drawn from universities to Washington officialdom have had undreamed of influence. Under popular Keynesianism, they apparently believed that if sufficient power was placed in the hands of Government they could cure the ills of our society, unemployment, and so forth.

For example, observe the following remedy for inflation offered by a former Government adviser, Prof. Gardiner Ackley of the University of Michigan. He has stated:

> Finally, we must accept the necessity for a permanent and prominent government authority which will actively and continuously monitor important wages and prices and be equipped with specific legal powers to strengthen the ability to get at the facts and to influence private decisions. It might also be given limited power to impose temporary control over any wage or price.

This monetary medicine to cure inflation appalls me. Goodby, free enterprise. It is completely unnecessary for a people who cherish their freedom. Jawboning has already been shown to be futile.

Nowadays, it is popular to place the blame for inflation on corporate greed, labor, bankers, or other scapegoats, whereas it is the Government which sits in the driver's seat. The correct answer, to my mind, was given by one of the greatest, if not the greatest, economists of the century. He was a valiant and incorrigible battler against omnipotent government and devoted to fostering free markets. He is the late Ludvig Von Mises. This is what he has to say about gold and inflation:

> The eminence of the gold standard consists in the fact that it makes the determination of the monetary unit's purchasing power independent of the measures of governments. It wrests from the hands of the 'economic tsars' their most redoubtable instrument. It makes it impossible for them to inflate. That is why the gold standard is furiously attacked by all those who expect they will benefit by bounties from the seemingly inexhaustible government purse.

Although the financial world, for the first time in history, floats on a sea of paper money, the gold standard continues to function, strange as it may seem, but on a seriously crippled basis. This is because a yardstick is absolutely indispensable in money, just as standards of measurement are fundamental to commerce and every day life. All governments show gold on their balance sheets. The prevailing extraordinary high price is a rough measure of inflation in commodities.

As part of my ongoing research in money, a fascinating experience, I have resurrected a profound statement on money and gold by the late great European banker, Per Jacobsson which he made before the American Philosophical Society many years ago. Here is what he said:

> In the first place, the alignment of currencies to gold gives a certain stability to the world's monetary system which cannot be ignored—gold cannot be arbitrarily created as credit can, and from the point of view of stability, the guarantee given by gold is therefore felt to be superior to that of credit as a means of payment.
>
> Secondly, when international liabilities are settled in gold, this is a definite and final settlement, leaving no credit nexus as in the case when settlement is made in other ways. Gold payments are less complicated, and this is an advantage.
>
> Thirdly, in a world in which we live with so many beliefs and, I must admit, prejudices inherited from past generations, the possession of gold inspires confidence in a way that the possession of no other monetary asset can. Given human beings as they are, they need "props" for their confidence to be sustained, and gold still proves useful in this respect.
>
> Fourthly, the use of gold as the well-nigh universal basis of money may not by itself give cohesion to the world's monetary system but it greatly facilitates the task and it would not be easy to establish the same degree of cohesion in any other way.
>
> And, fifthly, the current gold output, insofar as it becomes available for monetary purposes, gives a certain impetus to financial expansion and an increase in international liquidity.

Per Jacobsson became the first president of the International Monetary Fund. As you doubtless know, the IMF is the creator of special drawing rights, paper gold, a far cry from the Jacobsson declaration. Indeed, the IMF has been busy disposing of some of its gold in part to be returned to original subscribers. The proceeds of some sales are to aid underdeveloped nations. The IMF has been termed an engine of inflation.

I could go on but I had better conclude with the word of an exemplary and great American, a former President of the United States, renowned for his relief to the suffering of mankind caused by war. He never took a cent for his service to the Nation while in office. Contrast this with the recent congressional action raising salaries of legislators $13,000 annually without a record vote. That President was, of course, Herbert Hoover. He states in his memoirs:

> Currency convertible into gold of the legal specifications is a vital protection against economic manipulation by the government. As long as currencies are convertible, governments cannot easily tamper with the price of goods, and therefore the wage standards of the country. They cannot easily confiscate the savings of the people by manipulation of inflation and deflation. They cannot easily enter into currency expansion for government expenditures. Once free of convertible standards, the executives of every "managed-currency" country had gone on a spree of government spending, and the people thereby lost control of the public purse—their first defense against tyranny.

These are words of monetary wisdom, in violent opposition of fiat money Keynesianism, so popular currently. I urge my colleagues, regardless of party, to find the time, difficult as it may be, to penetrate an apparently bewildering, but vital topic to the future of our Nation; how to restore quality and integrity to the dollar. That is what I have been doing.

I believe they may find, as I have, that our Constitution is the best guide, as it always has been, to protect our liberties and to restore confidence in our dollar. I repeat, it only specifies gold and silver coin as money, not paper.

It is clear to me that if we do not get back to honest money, the gold standard, we must anticipate even more turmoil in every direction than we have today.

Mr. President, if I have any time left, I am glad to yield it back.

NATURAL GAS POLICY ACT OF 1978—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume its consideration of the conference report on H.R. 5289, which the clerk will report.

The second assistant legislative clerk read as follows:

An act (H.R. 5289) for the relief of Joe Cortina of Tampa, Florida.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FORD. Mr. President, I ask the Senator from Ohio how much longer it will be before he will be prepared, and if he has anything else, so we might schedule something.

Mr. METZENBAUM. I am ready.

Mr. FORD. Is the Senator now ready to go on?

Mr. METZENBAUM. I am.

Mr. FORD. I am delighted to yield the floor to the Senator from Ohio.

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise this morning to address myself to the question of the impact of the pending legislation and the need for that legislation with respect to the value of the dollar.

We have heard a good deal of comment and a good deal of pressure brought on many Senators on the basis that we need this bill, the conference committee bill, because, if we do not pass it, it will somehow have a negative impact upon the value of the dollar and it will look bad for us throught the world.

I do not know too many economists, but I know one that I consider a great authority in the whole field of economics, the value of the dollar, the stock market. He is carried by a tremendous number of newspapers in this country as an authority.

So I picked up the telephone yesterday and I asked Eliot Janeway for his view with respect to this subject.

I now read his telegraphed answer to my inquiry:

Answering your inquiry, it is my considered judgment that passage of the pending gas bill will make no contribution whatever toward restabilizing the dollar. On the contrary it will advertise the strangulation of our regulatory procedures in red tape and it will accelerate the liquidation of independent gas producing enterprises. Thereby weakening the dollar further it is reassuring to have your reaffirmation of top priority for the goal of strengthening the dollar.

Sincerely,

ELIOT JANEWAY.

Mr. Janeway's opinion must be and has to be a respected one. He is considered one of the top economists in the entire Nation.

Is he alone in his view? No, he is not alone in that view. There are others who have arrived at the same conclusion.

Yesterday, I addressed myself to the letter written by the senior vice president for international economic analysis of the Chase Manhattan Bank. Although I did not respond to my good friend from Kentucky, it is a fact that he was not speaking of the position of the Chase Manhattan Bank, but, rather, was speaking his own independent position, a position that is certainly credible. The man is the senior economic analyst for international economic matters for the Chase Manhattan Bank.

Are there others who have arrived at the same conclusion that this bill has nothing to do with the value of the dollar overseas?

Mr. DOMENICI. Mr. President, will the Senator yield for a question?

Mr. METZENBAUM. Not at this point.

In a recent article in the Christian Science Monitor, dated Tuesday, September 5, 1978, under the heading of "Financial," "Taking Oil Imports Off the Hook as Dollar's Nemesis," by David R. Francis, this subject is addressed.

I say to the Senator from New Mexico that as soon as I conclude, I will be happy to respond to his question, but I would not like to lose my train of thought.

The article reads as follows:

The reason for the fall in the foreign exchange value of the dollar is the huge increase in oil imports.

Right?

No! Wrong!

"Balance-of-payments deficits and weak currencies are monetary phenomena, resulting from excess money growth in the country with the deficit relative to money growth abroad," maintain Douglas R. Mudd and Geoffrey E. Wood in the August Review of the Federal Reserve Bank of St. Louis.

That's a view obviously not shared by the Carter administration. President Carter has often blamed the declining dollar on the rise in oil imports, to $45 billion last year. He uses this argument to persuade Congress to pass his energy legislation.

Abroad, Chancellor Helmut Schmidt of West Germany and some other national leaders berate the United States for its high rate of oil consumption. It is politically handy to be able to blast the U.S. with impunity because the U.S. Government welcomes such criticism. And perhaps Mr. Schmidt and others even believe that the dollar decline is oil-related.

Whatever, some economists—especially those of the monetarist school—hold that such charges are nonsense.

Says New York's Citibank: "Even if the United States became a net exporter of oil, as Norway is today, the dollar would probably be weak, just as Norway's krone is—provided the United States, like Norway, clung to a monetary policy that was persistently more expansionary than other countries."

Citibank and the St. Louis Fed economists use two levels of argument to buttress their position that oil imports should not be blamed for the sliding dollar.

First, Messrs. Mudd and Wood note, the U.S. has imported less oil as a percentage of its gross national product (total national expenditures on goods and services) than either Germany or Japan each year from 1970 through 1977.

Last year, for instance, U.S. oil imports amounted to 2.2 percent of GNP. In Germany the comparable percentage was 2.9 percent and in Japan, 3.4 percent.

Nonetheless, both the Deutsche mark and the Japanese yen have been rising in value against the dollar and almost every other currency in the world.

Moreover, U.S. imports of oil from the members of the organization of petroleum exporting countries have been self-financing a commerce department study shows that from 1974 through 1977 the U.S. ran a $36 billion deficit on transactions in goods and services with OPEC. But over the same period, cumulative capital inflows from these countries into the U.S. totaled $38 billion.

"So," Citibank says, "whatever caused the dollar's decline, it seems likely that petrodollars did not."

The St. Louis Fed economists make the same point, though not quite so successfully, by looking at 1977 figures alone. The U.S. balance-of-trade deficit with the oil-exporting countries that year was $16.9 billion. These oil-rich countries made net purchases of U.S. corporate stocks and bonds and U.S. Government securities of about $7 billion. And they increased their deposits in U.S. commercial banks by about $400 million. So these capital inflows offset about 45 percent of the U.S. trade deficit with oil-exporting countries.

A decline in the value of the dollar, these economists say, results from an excessive supply of dollars in the foreign exchange market. The trade balance is only one factor in that supply-and-demand picture.

Also important to the exchange rate is capital flows, both private and governmental.

Most important to the supply of dollars is how many of them the U.S. creates. Messrs. Mudd and Wood explain: "If the U.S. money stock, for example, exceeds the amount people are willing to hold, given the structure of interest rates and income levels—that is, there is an excess supply of money—then people will increase their spending as they attempt to reduce their holdings of money to desired levels. Spending on foreign goods, services, and securities, as well as domestic spending, will rise. As a result, the amount of dollars supplied on the foreign exchange market will increase."

If that increase in dollars is greater relative to the increase in foreign currencies, the dollar will decline in value.

Moreover, the two argue; if the U.S. decreased its imports of oil without changing the supply of new money, that extra new money would merely flow into the purchase of other imports of domestic goods that would otherwise be exported, and into foreign capital assets. The U.S. would be no further ahead in its balance of payments.

Thus, these economists conclude, to stop the decline of the dollar, the U.S. must not create so many new dollars.

Mr. President, we now have on one side the President of the United States and Helmut Schmidt, and I guess you have to include Jim Schlesinger and Bob Strauss. On the other side, you have Elliot Janeway, senior vice president for international economic analysis of the Chase Manhattan Bank; the St. Louis Federal Reserve Bank economists; New York City Bank; and later today I expect to address myself to an article in the London Economist on the same issue.

What about some other people in this country? One of the people who have been going around the halls lobbying and twisting arms and trying to tell Members of the Senate how important it is to vote

for this bill in order to save the dollar, in order to make us appear good around the world, is none other than the Chairman of the Federal Reserve Board. Let us see what he said the other day, when he was before the Finance Committee.

Senator RIBICOFF said to Mr. G. William Miller:

As you go around the world talking to your fellow bankers, those who are responsible for making policy and determining the value of the dollar, please explain why that gas bill has become the symbol of America's intention to do something about inflation and, if I may be so bold and ask you to comment, do you think that the Congress of the United States has abdicated its responsibility in this field to do something about inflation?

Mr. MILLER. Senator Ribicoff, the world for whatever reason, has built up the question of the energy bill as an almost essential element in our determination to cope with our problem of inflation and the problem of the dollar, and particularly the problem of the dollar.

I cannot say it is logical. It perhaps is a result of our own actions of perhaps raising expectations and creating the impression ourselves, but more than that, it has been a dramatic element in all of the international conferences I have attended or heard about in terms of the viewpoints and perception of foreigners, and I am sure it has a great influence on the foreign exchange markets.

I do not have the remainder of that quotation.

Mr. FORD. Mr. President, I would be glad for the Senator to have unanimous consent to put the remainder of that statement into the RECORD. It is an awfully good statement for our side.

Mr. METZENBAUM. I intend to do that, and I will offer the remainder of the statement.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. METZENBAUM. Subsequently in the same hearing, Senator LONG questioned Mr. Miller:

Senator LONG. I must say, for my part, the the potential for that tax has become increasingly discouraging, and I think I find myself more and more agreeing with those sophisticated people overseas.

In other words, the sophisticated people overseas having to do with the COET tax.

Senator LONG continued:

Now, if they are smart enough to see that the COET tax is not going to pass, how long do you think we are going to fool them with a gas bill that says we are going to do a lot about gas, only to find out that very little is going to happen?

Mr. MILLER. I do not think we can fool anybody very long. If we do not get production, the decision to pass the gas bill will have turned out to be not able to accomplish its purpose, then it will be necessary to pass another gas bill.

Mr. President, I agree with Mr. Miller. I agree with Senator LONG. You cannot fool people. This bill, even at the best, is a question of symbolism. Nobody rates it a good bill. I am not sure whether Mr. Strauss calls it a C-minus or a C-plus bill, but it is really quite irrelevant. Nobody says it is an answer. Nobody says it is going to cause great amounts of new gas to be forthcoming from the ground.

It is said that it would give us 3.5 percent more gas by 1985. Great—3.5 percent more gas. You can pick your figure—$11 billion or $41 billion. That amounts to anywhere from $16 to 60 per mcf, compared to the present price of $1.50.

Does anybody really think that 3.5 percent more gas 7 years from now is going to solve the gas problems of this country or the energy crisis?

The bill also does something we have not touched upon yet. It causes industrial users to use more natural gas, not less.

When the Senate bill and the House bill went to the conference committee, it provided that residential users would be paying the lower amount. But when it came back from the conference committee, the ball game had changed and it was made better for the industrial users.

When the President sent a letter to every Member of the Senate, he proudly pointed that out. Well, I say to the President and I say to those in the conference committee who agreed to that language in the bill, "You did a disservice." We do not want more industrial gas being used. We want coal.

We want coal to be burned in this country. And my good friend from Kentucky, who is handling the bill at the moment in the Chamber, knows that the emphasis up until this conference committee report has been to get people to go from oil and gas to coal. That is the reason we have an oil and gas users tax that this Senate passed and the House of Representatives is still holding back in the conference committee as is the Finance Committee of this body.

But the fact is we do not want more industries to use more gas. We want them to turn to coal. But somehow the President in his letter to us emphasized the fact that this will make industrial use more and now they are saying to us what a great thing that is going to be because we are going to save so much oil as a consequence.

That is not in the national interest. The national interest is to get people to go from oil and gas to coal because coal is very adequate in this country and there is plenty of it. It is to get them to turn to alternative energy sources.

The Department of Energy has been in business for almost 20 months. What have they done about developing alternative energy sources? What have they done about coal gasification? What have they done about liquefying coal? What have they done about developing solar energy? They have not done much because they have been too busy lobbying the Members of the Senate and House of Representatives in order to get a conference bill through even if the bill is not any good. That is the kind of legislation we are talking about.

Someone, somewhere, thinks we are going to fool those people over there in Japan, Switzerland, and Germany, and they are going to suddenly say: Great. We just passed an energy bill.

We could have passed an energy bill almost a year ago, if the administration and the House of Representatives had not decided upon a course of action to hold back three parts of the bill, and that they have done, hold back three parts as hostage in order to get a natural gas bill. They thought if they got a natural gas bill and put enough billions of dollars in the pockets of the oil and gas producers then maybe they could get through their wellhead tax and all their other taxing measures.

That plan has failed.

Mr. President, I think we have heard enough arguments about what this means to the dollar. I think we have heard enough arguments about the symbolism that this bill will create.

This bill is a meaningless piece of legislation, with the exception of the fact that it will not be meaningless to the consumers of America, to the people who use gas in their homes—over 50 percent of the homes in this country do use gas to heat with—to heat and energy for their stoves for them to cook with.

If we pass this bill, it will be meaningless to America as far as world trade is concerned, as far as the dollar is concerned, but it will not be meaningless to the American people who will pay the price. And it will not be meaningless to the oil and gas producers who will be enriched by whatever number you want to pick, $11 billion, $20 billion, $41 billion, but the money will go directly from the American people into the pockets of the oil and gas producers.

Mr. FORD. Mr. President, I always enjoy listening to the Senator from Ohio. He gets reasonably worked up and gives at least the few of us who are here the opinion that we are debating the bill somewhat, and it is typical for him and others to select economists that favor their position. It would be our direction to select economists that favor our position.

So, Mr. President, I wish to say that the Irving Trust Co., New York, Mr. Gordon T. Wallis, chairman of the board, supports this legislation, and I wanted to be sure that the distinguished Senator from Ohio knew that at least there is one bank, and I suspect there are a great many more that do support this legislation.

I always thought that John C. Sawhill is a fairly decent economist. I believe he is president of the New York University, and he has sent me a cover letter on the executive summary on the Aspen Institute study, and I wish to just quote one paragraph from Mr. Sawhill's cover letter:

Immediately following our White House presentation I expressed at press briefing my personal views of strong support for the natural gas pricing compromise, the cornerstone of the administration's national energy plan. I believe it represents a vital step to the future of gaseous energy, enabling gas to make its optimum contribution to the Nation's total energy mix, which was the principal thrust of the Aspen conference conclusions. I think at the present time, viewed from both the national and international perspectives, it is overwhelming in our Nation's best interest that the energy bill be immediately adopted.

He offers to discuss this with anyone who wishes to discuss it.

I am not an economist. I do as best I can to pay my bills, pay my monthly payments on my mortgages, and have something remain at the end of the month.

But if I am reasonably correct as to what this compromise will do, in placing

additional natural gas into the interstate pipeline, some 2 trillion feet in 1985 without Alaska gas, this I think would save approximately a million barrels of oil per day and, if you save the purchase from foreign sources of a million barrels of oil per day, that is 365 million barrels of oil that will not be purchased from foreign countries. That is $5.4 billion, if my figures are reasonably correct, and I always will stand corrected, because I think I am in the ballpark, that we would not pay foreign sources.

What is wrong? What is wrong with giving the American producer an opportunity to go out and try to find additional sources of energy? I cannot see why we wanted to prevent a scale of natural gas pricing over the next 7 years that would give the American producer, whether he is the smallest wildcatter or the largest oil company, an opportunity to secure new sources of energy and allow them then to have a steady incline or increase in price over the next 7 years. They will know what the price is going to be. They will be able to develop their future. They will be able to have some capital. They will be able to hire Americans to work for them. And I just think it is important that we follow down this path of taking care of the American economy and not worrying about the foreign sources of energy.

In fact, I am sure the foreign sources of production of energy have economists and they say to this country that we are purchasing too much outside sources of energy.

Mr. President, in 1973, after the embargo, began in my humble judgment the largest transfer of funds from one area of the world to another and those transfers of funds were American dollars to other countries, instead of leaving them here. And let me say something to Mrs. Smith or Mrs. Jones when she turns on her stove in Ohio to heat the soup for the evening meal. If the production of natural gas declines in this country the cost to her will go up, because of the fixed price and her ability to have gas to heat her evening meal or whatever will decline.

She cannot win. Talk about consumers, the housewife cannot win unless we have this piece of legislation, and I would be very hopeful that when we phase in this cost, we will be able to say to Mrs. Smith or Mrs. Jones, "We are doing what is right to see that you have what is necessary to make life somewhat easier".

My distinguished colleague from Ohio talks about the additional cost of natural gas. He has a great deal of statements that are associated with the EIA and their analysis, he leans on them pretty hard, and I have listened to him use the EIA study. He said the reason it is going to cost more is that under this bill we will have more to use. That $2.2 billion in 1981, if that figure is close to right, $1.6 billion of that is new natural gas produced by American producers. He stands up and says that the Energy Department has not done anything to try to find new sources of energy.

Well, I want to disagree with him just a little bit. The coal in Ohio that he pushes so hard to sell—and I do not fault him for that, I want people to buy Kentucky coal every chance they get—but the contracts have been signed for preliminary design for SRC-2, and SRC-1 which give us two sources of energy from coal.

He says they are not doing anything. I can give him point after point after point. You see, in this argument you pick the side that favors you and you forget about those who are just as smart, just as qualified, just as capable, who have the ability to make some decisions.

You know, if you are going to save $5.4 billion from going overseas, it seems to me that is going to strengthen the dollar at home. The Senator says the oil companies or the gas companies are going to get the money in America. What is wrong with that? What is wrong with paying American producers money? Is the Senator against profit? Is the Senator against the American producer having an opportunity?

Let me go back here and just give a little example. Under the proposal of this bill they want to stay with the old law, they do not want any new law. I was right concerned about the distinguished Senator from Texas (Mr. TOWER) yesterday when he stood there and on three separate occasions said:

> Yes, Senator, I am for moving intrastate gas out of my State into the other States.

That brought home to me that there is going to be trouble in River City trying to get a recommitment statement that will go along with the motion to recommit, because when the Senator analyzed it last night and analyzes it this morning he will regret that he made that statement last night that he is going to take intrastate gas out.

But the Senator from Ohio says, "I want the present law. Send it back. Give them a little authority to move this gas out."

Under the conference agreement compare the current law and we stay the same and we have to take it on that basis, and there are just 9 cents difference per Mcf over 7 years to the residential user. The Senator quotes EIA lots of times, and there it is, and I am just quoting from here, 9 cents more per Mcf at the end of the next 7 years.

Commercial prices will go up only 23 cents; raw material up about 17 cents, industrial up about 23 cents. So somewhere along the way those who make these decisions must be given a little credit.

Mr. METZENBAUM. Mr. President, will the Senator from Kentucky yield for a question?

Mr. FORD. The Senator would not yield to the distinguished Senator from New Mexico a while ago, and I think I will just continue with where I am going, and after I am through the Senator from Ohio can stand there and ask me questions all day, because I think we are going to have a lot of time, and if we have a lot of time you just sit there and relax and listen to me for a while. I did not interrupt the Senator.

He talked about Mr. Miller. He did not get to finish his statement a while ago, but what he read—I thought he ought to get the balance of the statement in, because it was not making him look too good—Mr. Miller, the Chairman of the Federal Reserve Board, his statement was excellent that the Senator read into the RECORD. It really substantiated, I thought, what he was able to read about our position and Mr. Bosworth, Chairman of the Council on Wage and Price Stability kind of favors this piece of legislation.

The Senator brought up the name of Robert Strauss. OK. If there is anybody I want on my side, it is Robert Strauss. I do not know where the Senator wants him to be. If the Senator wants him to be against him that is fine, but I want Robert Strauss on my side.

Mr. METZENBAUM. You have him.

Mr. FORD. I want to tell the Senator when Robert Strauss says this bill is a "C" bill, it is a pretty doggone good bill because Bob Strauss has high expectations. He does not have anything flimsy, and when he rates it, he rates it with a very critical eye. So if this is a "C" bill in Bob Strauss' estimation, then, in my opinion, it is a good bill, and it is a good bill, because Robert Strauss does not have his sight set very low. He does not have his sights set low at all.

I know the distinguished Senator from New Mexico wants to ask some questions or the Senator from Ohio, one, but I want to say to the Senator from Ohio yesterday he said this conference committee bill has no constituency—it is in the RECORD, and it is what the Senator said—has no constituency——

Mr. METZENBAUM. Except the League of Women Voters.

Mr. FORD. The Lord have mercy, do you not want the women on your side? Yes, I do. And the General Federation of Women's Clubs. I want them on my side.

Mr. METZENBAUM. I do not know if they took a position.

Mr. FORD. Senator, you do not have the floor; I do.

So I just want to put something in the RECORD to show the Senator that what he said yesterday was wrong. He already mentioned some people who favor the bill, people like Bob Strauss and Chairman Miller. I will take those.

I would like to give the Senator the letter from the R. J. Reynolds Industries which favors this bill. It is signed by Frank D. Gorham III. Somewhere along the way the farming community of this country is very interested in this piece of legislation. They do not have many people percentagewise, but, boy, they sure are important to this country, and I want the Senator from Ohio to look at this list of farm groups, food processors, even chocolate candymakers out of Pennsylvania that are supporting this piece of legislation.

So, Mr. President, I ask unanimous consent that the telegram that I hold in my hand listing 15 major groups around this country, and some from Ohio, I say to the Senator, I think you would like to know about, be printed in the RECORD.

There being no objection, the Mailgram

was ordered to be printed in the RECORD, as follows:

AUGUST 28, 1978

Hon. WENDELL H. FORD,
U.S. Senate,
Washington, D.C.

We, the undersigned groups involved in agricultural production, processing and distribution, after long and careful consideration of the final language of the natural gas compromise find the following:

The compromise will produce more gas than the status quo;

The compromise contains provisions to protect the agricultural sector, from production to the point of last sale, from unduly higher costs;

The compromise contains provisions that are equitable and reasonably provide for the essential needs of agricultural production during periods of curtailment;

The gas pricing sections represent a reasonable compromise between the advocates of immediate deregulation and the advocates of extended price controls;

The incremental pricing provisions are adequate to insure that residential consumers are protected from higher gas prices while still providing adequate incentives for new exploration, development and production.

Consequently, we the undersigned strongly urge you to support the bill and oppose attempts to modify the agreement. The organizations listed below will be in contact with your office to give you additional details during the next few days.

American Bakers Association, Robert Wager, 296-5800.

American Feed Manufacturers Association, Gerald Karstens, 524-0810.

American Frozen Food Institute, Thomas B. House, 821-0770.

Chocolate Manufacturers Association, Tim Rugh, 790-5011.

Corn Refiners Association, Kyd Brenner, 331-1634.

International Association of Ice Cream Manufacturers/Milk Industry Foundation, Robert Mulligan, 296-4250.

National Agricultural Chemicals Association, Jack Early, 296-1585.

National Association of Wheat Growers, Jerry Rees, 466-8630.

National Broiler Council, George Watts, 296-2622.

National Council of Farmers Cooperatives, Kenneth D. Naden, 659-1525.

National Food Processors Association, Leonard Lobred, 331-8151.

National Grange, John Scott, 628-3507.

National Milk Producers Federation, Patrick B. Healy, 393-8151.

Society of American Florists and Ornamental Horticulturists, Timothy Burne, 836-6700.

United Fresh Fruit & Vegetable Association, Llewellyn Gerson, 293-9210.

Mr. FORD. We have no constituency for this legislation is what the Senator said. Who is closer to the consumer and the voter than the mayor or a county judge? Who lives with them every day? Who gets the phone calls at night which say, "Somebody forgot to pick up my garbage yesterday?" Who knows more about the consumer and the individual than the mayor, and who is for this bill? The National Conference of Mayors has endorsed this piece of legislation. Mr. President, I ask unanimous consent that the telegram from the mayor of Denver be included in the RECORD in support of this piece of legislation.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
September 8, 1978.

Hon. WENDELL H. FORD,
Senate Office Building,
Washington, D.C.

"On behalf of the U.S. Conference of Mayors and our Nation's cities, I urge that you approve pending energy legislation at the earliest possible moment. This Nation needs an energy policy without further delay."

W. H. MCNICHOLS,
President, U.S. Conference of Mayors.

Mr. FORD. Mr. President, I wish to file telegrams from 13 independent Texas producers; a telegram from the Great Atlantic & Pacific Tea Co., better known as A&P; a telegram from the Fairbanks Industrial Development Corp., and also a letter from Associated Industries of Kentucky, all in support of this conference report.

I would also like to add that the U.S. Association of Journeymen and Apprentices of the Plumbing and Pipefitters of the United States and Canada, AFL-CIO are in favor of this conference report.

Mr. President, let me file this entire list and ask unanimous consent that all of this material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Senator WENDELL H. FORD.

The undersigned are active, aggressive explorers for natural gas. There are many opinions being voiced about the Natural Gas Policy Act. We are of the opinion that although this is not a perfect bill the pluses of the bill are much greater than the minuses and it does provide certainty and should be passed by the U.S. Senate.

For 30 years we have been attempting to get decontrol of natural gas. This bill gives us decontrol in 1985 which is much better than the status quo.

We urge you to support the Natural Gas Policy Act.

Jack Blanton, George Brown, Joe Foy, Neil Hanson, Allan King, George Mitchell, Pat Rutherford, J. N. Warren, George Watford, Jim Wooten.

Senator WENDELL H. FORD,
Dirksen Senate Office Building,
Washington, D.C.

Hon. WENDELL H. FORD: Quintana Petroleum Corporation has been actively involved in oil and gas exploration for many years, there are many opinions being voiced about the Natural Gas Policy Act of 1978, because of increased regulation and uncertainties caused by confusing provisions, this is by no means a perfect bill. However, the bill does provide some degree of certainty and its passage will cause an increase in drilling activity and additional supplies of natural gas.

We also foresee that without passage of this bill Congress will not again consider a natural gas policy act for some time except in an extreme emergency, in such an event, the results could possibly be much more stringent control.

We believe that despite the shortcomings, this bill is preferable to the alternatives. We urge you to "support" the natural gas policy act of 1978.

JOHN B. BROCK, III.

Senator WENDELL H. FORD,
Dirksen Senate Office Building,
Washington, D.C.

Hon. WENDELL H. FORD: I have been actively involved in oil and gas exploration for many years. There are many opinions being voiced about the Natural Gas Policy Act of 1978. Because of increased regulation and uncertainties caused by confusing provisions, this is by no means a perfect bill. However, the bill does provide some degree of certainty and its passage will cause an increase in drilling activity and additional supplies of natural gas.

We also foresee that without passage of this bill Congress will not again consider a natural gas policy act for some time except in an extreme emergency, in such an event, the results could possibly be much more stringent control.

We believe that despite the shortcomings, this bill is preferable to the alternatives. We urge you to "support" the natural gas policy act of 1978.

HARRY CULLEN.

Senator WENDELL H. FORD,
Dirksen Senate Office Building,
Washington, D.C.

HON. WENDELL H. FORD: Quintana Petroleum Corporation has been actively involved in oil and gas exploration for many years. There are many opinions being voiced about the Natural Gas Policy Act of 1978. Because of increased regulation and uncertainties caused by confusing provisions, this is by no means a perfect bill. However, the bill does provide some degree of certainty and its passage will cause an increase in drilling activity and additional supplies of natural gas.

We also foresee that without passage of this bill Congress will not again consider a natural gas policy act for some time except in an extreme emergency. In such an event, the results could possibly be much more stringent control.

We believe that despite the shortcomings, this bill is preferable to the alternatives. We urge you to "support" the Natural Gas Policy Act of 1978.

CORBIN J. ROBERTSON, Sr.

Senator WENDELL H. FORD,
Capitol Hill, Washington, D.C.

It is our understanding that the natural gas pricing compromise, which has recently been signed by the Senate and House conferees will come before the Senate soon. This bill is of vital importance to Alaska and the nation's economy. Since the price of Alaska North Slope gas is determined by this legislation, the Alaska gas pipeline project will be substantially delayed unless an early decision on pricing is reached. The pending legislation would provide a pricing arrangement which assures marketability of the gas in the lower 48. Without this rolled in pricing mechanism in the gas compromise bill, we are deeply concerned that the project sponsors will find it difficult. If not impossible, to obtain financing for the project. The Prudhoe Bay pool accounts for approximately 10 percent of the nation's domestic gas reserves. Production of this great resource and bringing it to market would reduce oil imports and help stabilize the value of the dollar. On behalf of the member firms of the nonprofit Fairbanks Industrial Development Corporation that provide more than ten thousand local nongovernment jobs. We urge you to pass the energy bill and help bring Alaska's much needed gas to market.

WILLIAM R. WOOD,
Executive Vice President.

Hon. WENDELL H. FORD,
Senate Office Building,
Washington, D.C.

DEAR SENATOR FORD: A and P urges your support for the natural gas legislation (H.R. 5289) which is scheduled for a vote during the week of September 11.

We appreciate that some of the provisions in the legislation are controversial ones.

Although not perfect, passage of this compromise legislation now would be, in our

opinion, a step in the direction of a more comprehensive, coordinated energy policy.

From the perspective of the food industry this legislation is important to all phases of agriculture from seed to table in that it insures the availability of reasonably priced natural gas for agricultural users during times of shortages.

Respectfully,

THOMAS K. ZAUCHA,
National Director of Government Affairs.

Sen. WENDELL H. FORD,
Dirksen Senate Office Building,
Washington, D.C.

Re: Compromise on Natural Gas Bill.

This is to convey to you the endorsement of Associated Industries of Kentucky of the compromise that has been hammered out on natural gas deregulation and to urge your support of same.

While the committee compromise falls far short of our desire for complete deregulation, it seems to be the only step that it is possible to take at this time, because of the various pressures that are at work.

Lest it seem a little strange that an organization representing employers would favor something that might entail some cost increase, I should explain that our members are sophisticated enough to realize that continued, steady availability of supply is equally important . . . and that the interplay of market forces themselves will result in a fair price if those forces are allowed to work.

In this connection I have heard both producers and users alike complain that government interference years ago caused much of the problem in the first place.

At any rate, this is to express appreciation for the work you have done to get SOMETHING accomplished and to let you know that AIK backs the compromise despite its shortcomings.

Sincerely,

S. RAYBURN WATKINS,
President.

GROUPS SUPPORTING NATURAL GAS COMPROMISE

American Bakers Association.
American Feed Manufacturers Association.
American Frozen Food Institute.
American Gas Association.
Aspen Institute Committee on Energy (John Sawhill, Chairman).
Atlantic Richfield Company.
Bank of America.
Building and Construction Trades Council, AFL–CIO.
Burlington Industries.
Chemical Bank.
Chocolate Manufacturers Association.
Corn Refiners Association.
Corning Glass.
DuPont Industries (Irving Shapiro, Chairman).
Exxon Corporation.
Gas Appliance Manufacturers Association.
Gulf Oil Corporation.
Independent Gas Producers Committee.
International Association of Ice Cream Manufacturers/Milk Industry Foundation.
Interstate Brands.
Interstate Natural Gas Association.
Irving Trust Company (Gordon T. Wallis, Chairman of the Board).
League of Women Voters.
Mobil Oil Company.
National Agricultural Chemical Association.
National Association of Wheat Growers.
National Broiler Council.
National Conference of State Legislatures.
National Council of Farmer Cooperatives.
National Food Processors Association.
National Milk Producers Association.
National Steel.
Phillips Petroleum Company.
R. J. Reynolds, Inc.
Shell Oil Company.
Society of American Florists and Ornamental Horticulturalists.
Solar Energy Industry Association.
Union Oil Company of California.
United Fresh Fruit and Vegetable Association.
U.S. Association of Journeymen and Apprentices of the Plumbing and Pipefitters of the United States and Canada, AFL–CIO.
U.S. Conference of Mayors.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. FORD. I will be glad to yield. I have got some more constituents I want to get in here. They just keep coming. And I just want the Senator from Ohio to know we do have some support. Including the Bank of America.

I yield to the Senator from New Mexico.

Mr. DOMENICI. I want just a couple of minutes, and then I have to go to a markup, as the Senator knows.

Mr. FORD. I give you 2 minutes, without losing my right to the floor.

(Mr. HOLLINGS assumed the chair.)

Mr. DOMENICI. I just want to make a couple of comments about the statement of my good friend from Ohio. I say to my good friend—sometimes we agree and sometimes we disagree, on this floor and in committee; on this issue we very seldom agree, obviously, but I wonder if the Senator asked the economist whom he quoted, Mr. Janeway, what would happen if we had no bill. I wonder if he asked him would we be better off if we followed the approach Senator METZENBAUM wants to take on natural gas.

That is the issue, no bill or the kind of bill he wants, which is another 50 years of regulation of the marketplace by Federal bureaucracy, and then, at the same time, he wonders why we are not doing things in other energy fields, when it is well known that in the American economy you cannot perform miracles.

When natural gas is three or four times cheaper than solar energy, you expect Dr. Schlesinger, out of the Department of Energy, to have the American people buy solar energy, and then you get up here and complain because he is not producing it.

The issue is not whether or not someone is interested in solar energy or geothermal or coal. The issue is that we have a natural gas policy in this country right now that totally distorts the interstate market, and you know it distorts the price, diminishes the research, and cuts the production, and yet you want the other sources of energy to come on board and compete with it, when it is the cheapest energy, a good three times as cheap as electricity produced from coal.

But you stand here and say, "I have asked the economists if this bill will solve the financial problems of the world." Of course it will not, all by itself. But the real issue is, does America need an energy policy? That is one. The second is, is it significantly better than the one we have? The answer is yes. Those are the questions that should be asked.

And, since you are an opponent of this measure, you ought to lay your proposal for natural gas before us, and then ask them what they think of what you like. If you asked them what they thought of your approach, they would probably say it is ruinous, and that with that plan we will never bring the other sources on line.

When we in conference had a political position to adopt deregulation and a political position to adopt several regulatory schemes, and when we felt conscience-bound to produce a bill for the American people that, somewhere in the middle, protects the consumer and will bring new gas on board, if regulation is going to be there for this whole period—it can be there for 9 years after 6 months, we know, and you know that; and if that is working, you know that 9 years is plenty of time for Congress to take another look.

What I am suggesting is that it is very easy, with no alternative proposal, to ask people to be critical of this one, but it is only fair that you ask those same people about your proposal, what you have in mind for natural gas pricing for America. Ask those same people what they think about your ideas on it. I am sure you would get a very positive answer about it being ineffective, about it doing nothing for the American dollar, about it doing nothing to bring other energy on board. And I assume all of those combined would be good for the American dollar. I assume they would say, "Oh, that will have a great beneficial impact on the problems we have in this country."

The facts of the matter are that we have to do something, and in this body and the other body we can only do the doable. We cannot perform miracles. Somewhere in between those two political positions represented here on the floor, one by you, who seemed to love the idea that the Federal Power Commission ought to fix the price on every bit of gas that comes across this country—24,000 cases pending before that body now, with little ideas on abandonment, certification, and pricing, and you stand up and say this bill is too complicated.

Let us talk about solar energy for just a minute, and then I will sit down. You criticize the Department of Energy for not bringing solar energy on board.

The last report produced by an independent body on solar energy said the only way to really bring solar energy on board, in an abundant way, I mean, is to price natural gas today at its present-day value, and to get rid of all the vintaging, that is, bringing old gas on and rolling it in with new. They said if you did that, you would have solar energy in abundance.

Do not misunderstand; I am not here advocating that, because that is about as silly a political approach as anyone can have; but what they are saying is that when you mix old 9-cent, 10-cent, and 30-cent gas with new $1.40 gas, the price is still too cheap for solar energy to be brought on. It is not fair to stand here and say that research can solve that problem, that the Department of Energy can solve that problem. You are standing here criticizing the President for saying that industry is going to pay more for natural gas. Is that not what you want, if you want them to convert to coal? You expect them to convert to coal as we continue the present policy of letting them buy that rolled-in mixture of old and new natural gas, and just burn it at that cheap price?

What will bring coal on for American industry? The coal conversion bill plus this bill, which will make their gas higher, and yet leave the residential user at a lower rate. That will bring coal on probably faster than anything else.

I conclude by just saying this: You know you and I agree on many things and disagree on many others.

Mr. FORD. Mr. President, will the Senator yield to me for an observation as relates to solar energy?

Mr. METZENBAUM. A point of order, Mr. President. One Senator may not yield the floor to another Senator.

Mr. DOMENICI. I will yield for a question to the Senator from Kentucky.

Mr. FORD. Do you know the position of the solar energy industry on this legislation?

Mr. DOMENICI. I do not. I would suspect they favor it.

Mr. FORD. They do, and I have a statement here which shows they support the natural gas bill, that the solar energy people are very much for it.

Mr. DOMENICI. I would suspect that, and it seems to me they might even have favored total deregulation, because they are very much aware of the fact that they cannot get into the marketplace until the price of gas is somewhere near its replacement cost.

I think one thing in the President's energy message, one point that he makes that has been overlooked rather frequently—and I am not one to say that that entire 481-page package on energy was a good package—but there is one statement in it that we ought to put at the top of the page, and as we go through these debates we ought to remember it. The President made one bold statement. He said, "Sooner or later, and the sooner the better, the American people are going to have to pay the replacement cost of energy."

That was the goal of his entire energy package. We cannot do that overnight. We cannot do it next week. We cannot do it in the field of natural gas in 2 years. It is politically not doable. But basically what this bill is trying to do is say that at the end of 7 years, or 8, or 9, we will be getting close, for new natural gas, to its replacement cost. And as soon as we can get there in every field of energy, and only then, will the alternatives we have been waiting on for so long in this country come on board.

Let me conclude by saying this: People ask, "Why don't we convert that shale up in Colorado and Utah to crude oil, and use it?"

(Mr. METZENBAUM assumed the chair.)

Mr. HOLLINGS. Mr. President, will the Senator yield?

Mr. DOMENICI. Let me finish this one thought, and I will be delighted.

The Senator wants to criticize the administration, the Department of Energy, and industry for not bringing that shale on board.

It is just this simple: The lowest estimates are that it will cost $20 a barrel; the highest estimates are $22 or $23 a barrel, against the price of old domestic crude oil, which is frozen at $5 a barrel, with new crude oil at $12 and $13, and imported oil at about $15. Are we going up there and produce that shale at $22 or $23, against those prices? Who is going to take the risk of producing it, to assure that it will be used? And we have the same pattern across the board, as far as the use of alternatives is concerned.

Until those two basic energies have some common sense approach attached to them, America will continue to be dependent on them.

I truly believe in the final analysis that this conference committee report, with Congress able to watch it for 7 years, with the price of both inter and intra regulated at reasonable prices, will bring all the natural gas possible on board in those years. Whatever we bring in addition to what we are bringing on now moves us toward independence, saves crude oil, and ultimately saves the consumers of America billions of dollars because if they do not use it they use something that is now, today, two, three, and four times higher. Electrical energy from coal is at least three times as high as natural gas.

It appears to me the issue is not to be totally critical of this report, but to ask of those who are, what are they for? What constructive approach are they for? If they are asking economists and experts about this approach, then ask them about their approach and see what they say about it.

I am one who obviously had a difficult time with this bill. I come from a producing State. Eighty-five percent of our production is exported to other States. Out-of-State consumers continue to buy it there far cheaper than my own constituents can buy it in my State. And we continue to produce less and less for the interstate market as a result of price controls on the interstate market.

I believe this bill will bring gas on as fast as we can in the next 7 years, at prices that are realistic.

For those who have a criticism, about the only thing they can say is that it is complicated—and it is. But I remind those who are living under the existing law that it is certainly not absent and void of complications. It is not void of litigation. There are more lawsuits pending over the existing policy than almost any law in this land. There are more cases pending before this commission than almost any commission in history.

I do believe, after a couple of years, when some of the questions in this get shaken out, relying on our States to make determinations as they must under this bill, the independent producers will find that there is significant revenue in this for them to produce, and the American consumer is not going to be hurt. He will be protected by price, protected by more supply. I just honestly believe it is time for us to show our people and the world that on something as complicated as this grown people can agree.

I thank the Senator.

Mr. HOLLINGS. Will the Senator yield?

The PRESIDING OFFICER (Mr. METZENBAUM). The Chair recognizes the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I was going to engage in colloquy with my good friend from New Mexico. I had come in, obviously, to preside. But then I heard him talking about solar energy and then he picked up on a couple of other subjects with respect to crude oil and realistic prices.

It interested me when the Senator in one breath was talking about solar energy and a discussion relative to the fact that we ought to be bringing in more solar energy, or someone was blaming the Department of Energy for not bringing on solar energy. The Senator said that the way to do that, someone had suggested, was to go ahead and bring the price of natural gas up to its true value and not have this, and not take it 8, 10—I see the Senator's head nodding. The reporter cannot get that in the RECORD, but I would like to have it in the RECORD.

Mr. DOMENICI. I am nodding that that is what I said.

Mr. HOLLINGS. I thank the Senator. Anyway, you would not have that cheap gas. But, the Senator said, that was one of the politically silliest suggestions that had ever been made, just asking for the higher prices.

Then in a minute the distinguished Senator from Kentucky got up and asked, "Do you know who is endorsing this conference report? It is the solar energy crowd."

Does it not strike the Senator that that is the exact reason why they do endorse it, because of that silly political idea of just putting gas up to an exorbitant price?

Mr. DOMENICI. Absolutely not.

Mr. HOLLINGS. What was the silly political idea of not having what this calls for?

Mr. DOMENICI. What I was saying was that the report I was referring to says that the method of utility ratemaking in the United States as far as natural gas is concerned, for decades has taken into consideration for the consumer a mix of the new and the old, which is vintaged, as the Senator knows, and a few years later it goes up a few cents, but that is also mixed with that old, which is cheaper. So the ultimate price does not represent today's market but, rather, the mix of all. I said this report suggests the way to bring solar energy on is to do away with all of that.

Mr. HOLLINGS. By doing away with all of that, you mean doing away with the vintage?

Mr. DOMENICI. Vintage, on all the old. I am saying that that is not in this bill, that is not doable. No one ever suggested deregulating old natural gas. That is what I was referring to as being not doable. Obviously, this moves in the direction for the future, I say to my good friend, 10 or 15 years out, in a direction that obviously they would prefer we move in to bring on solar energy. It is only in that context that I referred to it.

Mr. HOLLINGS. I understand. At least the Senator from New Mexico and the Senator from South Carolina agree that

it would be a silly political idea to deregulate old natural gas.

Mr. DOMENICI. Absolutely.

Mr. HOLLINGS. If we read this conference report on what they describe as new gas, I can show you a lot of old natural gas that becomes deregulated.

Mr. FORD. Name one.

Mr. HOLLINGS. Well, I can get all of these definitions by siphoning and everything else.

Mr. FORD. Does the Senator know how many categories of natural gas we now have on board?

Mr. HOLLINGS. How many are there in the conference report?

Mr. FORD. Seventeen.

Mr. HOLLINGS. Seventeen.

Mr. FORD. Does the Senator know how many are on board now? At least 700.

Mr. HOLLINGS. That is right.

Mr. FORD. We are reducing it to 17. It seems like that would be a pretty feasible way to go. We are trying to reduce the cost of Government, trying to reduce the bureaucracy up here. We reduce it from 700 categories down to 17. It seems like that is pretty good.

Mr. HOLLINGS. I would say to the Senator from Kentucky it is not the numbers game that I am going to engage in but what really has been old gas, siphoning and putting another straw in the soda and characterizing that same old gas now as new gas.

Mr. FORD. No.

Mr. HOLLINGS. It is one of those 17

Mr. FORD. No.

Mr. HOLLINGS. Well, I have been reading the news reports. I used to be in this for many years. I know that they want to try to characterize as new gas. At least we agree on that proposition.

But why does the solar crowd come for the natural gas bill? Because they want gas priced up so high—and I am back to my original points—that it makes solar energy cheap. That is the first point.

The Senator was talking again with the expression that we were going to save crude oil. Does the Senator from New Mexico really think that is the purpose of the natural gas bill, to save crude oil? I heard the Senator from New Mexico just a minute ago in his closing comments remembering the President a year ago going to war or the moral equivalent of war, and everyone to their battle stations. He said it was not going to save any crude oil. Does this not change that completely? We have a gas bill in order to save oil. I wonder does the Senator, since he is from a producing State, think we have domestically more oil left in the United States or more gas left?

My point is, are we trying to conserve gas with a gas bill or are we trying to conserve oil?

(Mr. METZENBAUM assumed the chair.)

Mr. DOMENICI. At this particular point, we are saying that if this bill works as planned, it will produce somewhere between two and six trillion cubic feet of new natural gas that would not otherwise be produced and, to the extent that industry uses it instead of imported crude oil, our estimates are that we would use about a million barrels a day less of crude oil.

Mr. HOLLINGS. I thank the distinguished Senator, because that is one of the big changes that I think comes about in the mind of those who have been dealing over the years with this particular problem. Until this conference report hit this Congress, we never had that idea in mind in either House, that we are going to save crude oil. There is a geologist named King Hubbert, whose work has finally been recognized and who received the Rockefeller Award in July. He estimated that we had in the vicinity, give or take 5 years, of a 25- to 35-year supply of gas left in the United States—onshore, offshore and domestic gas, proved and unproved. And if you meaned it out, a 30-year supply of gas, and about a 45-year supply of oil; that it was finite.

The whole thrust of the energy policy that you and I have been trying to promulgate here on the floor of the U.S. Senate was one of conservation, it was one to save—not to get what they called a realistic price, or what the solar crowd would call for as a realistic price. What is realistic to them is so high that it is uneconomic. Solar is pretty good except for the economics of it. Everyone knows that. But if you can get it up high enough, you can go in, as the Senator was just talking about—tertiary recovery, shale, or everything else, $22 a barrel oil. Is it the Senator's intent to get the gas up so that we make economic then the recovery of shale oil at the cost of $22 a barrel? Is that the new policy?

I am beginning to wonder. That is what is bothering me. I did not bring my notes—I shall have to get up a talk on this. But, it seems like the poor general has battle fatigue. He has lost the front line. I am talking about the conference committee and the President having gotten battle fatigue. They have lost the front line and they are turning now and firing on their own troops.

Last year, when the President submitted that particular program, it was going to conserve gas. Now, we are forgetting about the conservation of gas and we are, all of a sudden, going to conserve oil.

I am glad to yield.

Mr. FORD. The Senator must know that the Alaska pipeline is in this piece of legislation. If it goes down, then we have the problem of trying to have another piece of legislation. Otherwise, if it continues as it is, we shall get a trillion cubic feet a day down to the Lower 48. That is bound to give some stimulation to the reduction of sending our money overseas. I do not believe the Senator wants to send any more of our money overseas to foreign countries.

Mr. HOLLINGS. That is clever. I always hear my Senator friend from Kentucky say he is not a lawyer, but he sure acts like one. He has changed the subject. If we want to worry about the money overseas, I have asked the President personally to act on this, by letter, in the office, and on the White House tennis court——

Mr. FORD. Oh, the Senator plays tennis?

Mr. HOLLINGS. Yes, I get there. We hit them.

I said, please impose an excise tax on imported oil. I have asked for that. If the Senator wants to try to reestablish the value of the dollar, and cut out the outflow of American dollars and everything else, fine—but let us get back to gas and not the pipeline and the dollar situation. I want to get back to where we were starting on a gas bill for this country.

Mr. FORD. I want the Senator to understand that I am talking about the gas pipeline now, not about the oil.

Mr. HOLLINGS. I know about that.

Mr. FORD. I want to be sure that he understands that he is talking about gas and I was talking about gas.

Mr. HOLLINGS. We can take care of that. Do not worry about the Alaska pipeline.

Mr. FORD. We are not doing it very well. It is in this bill and that is about the only way it is going to be done.

Mr. HOLLINGS. Oh, no, we have all kinds of ways to take care of that. If we waited on this bill to take care of anything, we would all be dead and gone. This bill the Senator is talking about has done absolutely nothing. We seem to be moving at least in the right direction. Let us talk about that.

The right direction, because the Senator from New Mexico is a most reasonable fellow and he should have been here in the day and time when we had the Phillips 66 team and we had the dollar-an-mcf natural gas—just 3 years ago. Let me fix in the Senator's mind right here and now what it costs for gas, the most expensive gas. My friend talks of the Alaska pipeline. I have something even more expensive than that: Algerian liquefied natural gas. They bring it all the way from Algiers. Do you realize that? They are doing that right now. And after they liquefy the gas and they bring it in by way of vessel——

Mr. DOMENICI. Why do they bring it?

Mr. HOLLINGS. They can really sell it cheaper. Ha, ha, ha, the Senator asked the wrong question. The Senator wants me to say because there is a shortage. Oh, no. Oh, no, they are going to bring it in, I say, because it is cheaper than the Senator's New Mexico gas. That is why they are bringing it in.

The Senator has tripped up now. Let me give him the story. I am going to tell him. Southern Natural out of Birmingham, Ala., has a long-term contract with Algiers. They liquefy that gas and get it for $1. The transport cost to Savannah, Ga.—if that fellow keeps whispering, the Senator cannot hear—costs them 30 cents. Then they bring it back to the form of its gaseous state and put it back in the pipeline and deliver it to South Carolina today for a total cost of $1.60.

Somebody write that down—$1.60 for Algerian gas and this crowd comes out, what a great compromise they have, at $1.93, and they wonder why people oppose a conference report of this kind.

We are taking foreign gas into the country, bringing it in costly tankers into the ports of the United States of America, gasifying it and putting it in the

pipelines, and selling it for cheaper than this starting point. That is my problem, the conference report. That is why I say to do nothing is a good policy rather than to accept the conference report.

That is why I say, do you know, Senator from New Mexico, that we picked up the shortage? They are talking about the emergency. We picked it up with a better Federal Power Commission, with the new group that went over there. (I hate that name, FERC—Federal Energy Regulatory Commission.)

When we got Mr. CURTIS and his crowd over there, they cut out a loophole. And when they cut that loophole out, they actually brought in gas by administrative procedure. But talk about the 24,000 cases. Take the conference report and we will have 224,000 cases. We can all retire and be gas lawyers, I can tell you that right now.

But let us not get off on that subject. Let us talk about just producing gas with proper administration. They closed that offshore gas coming in and being treated as intrastate gas in Texas and Louisiana. Now we have in excess of what we had with the shortage two winters ago, when we put in S. 2410, the emergency bill. They are on both sides. That is your bill. That is in the other side's bill, which wants to defeat the conference report and recommit it and have the United States continue on its present policy at $1.46, with every right to come in for inflation and everything else, and with the stated purpose and conviction that we are going to conserve gas in this country and stated no later than last December by the Secretary of Energy, Mr. Schlesinger, that all of our $1.75 would not bring in an extra mcf of gas.

Where we differ, the Senator's formula and equation and the Senator from Kentucky's formula and equation, the bigger the money, the bigger the gas; the more the money, the more the gas.

That is not necessarily true. We reach a plateau where only so much gas comes in and the rest of it is windfall. We have a pretty good idea what windfall there is because we have got the testimony of those in the gas business.

In 1972, the principal witness for the gas industry was testifying. He was Mr. Richard A. Rosan, senior vice president of Columbia Gas Systems, the largest integrated natural gas system in the United States. At that time, the industry was recommending that the price be increased from 26 cents to "35 cents to 40 cents." But I was trying to learn what effect the bill would have at 26 cents:

> Senator HOLLINGS. Suppose the price stays the same and you pass this bill?
>
> Mr. ROSAN. At 26 cents?
>
> Senator HOLLINGS. Yes.
>
> Mr. ROSAN. The area rate?
>
> Senator HOLLINGS. Yes, and you pass this bill. How much more exploration would we get in your opinion?
>
> Mr. ROSAN. I think there would be more exploration. Of course, there cannot be until we get more leases by the Federal Government because there are just a few places to drill. But I think that standing by itself it would increase the incentive to explore for gas. I have no way of giving you a better measure than that, sir.
>
> Senator HOLLINGS. Increase it substantially, or minimally, or what?
>
> Mr. ROSAN. I would say significantly.

So, when I come to the floor in 1978, I have a certain historical feel about it, from those hearings and going back even to the hearings I chaired in 1967, following the blackouts and brownouts. I have been talking and others have been talking about the shortage and conservation and pricing, trying to find where is that price level at which, like the Mafia, they cannot any longer refuse it but would have to bring it in? And where, over and above that price, is there a windfall?

Now that price has gradually gone up, of course. But in 1972, we were told that exploration could increase significantly at 26 cents an Mcf. Today 6 years later, the industry refuses to agree to many times that amount.

The Senator is updated on these figures. What is the average price of interstate gas in the pipeline today?

Mr. FORD. The Senator is doing very well; I will let him quote his figures.

Mr. HOLLINGS. All right. I would like to be accurate. I think it is slightly over $1. I think intrastate used to be $1.30 only a couple of years ago, about 18 months ago, about $1.30. That is up to about $1.60.

I think that is where, again, the $1.60 comes out with the imported gas in the intrastate, that both are around $1.60. That is what makes this economically possible.

Mr. FORD. I know the Senator wants to be correct.

Mr. HOLLINGS. Now we should be corrected.

Mr. FORD. No.

Mr. HOLLINGS. I appreciate it.

What is the average price of interstate gas?

Mr. FORD. The Senator is confusing average prices and new prices.

Mr. HOLLINGS. No. Average. I never did mention new.

Mr. FORD. Well, the new price there is $1.33 or $1.45. That is for new gas, not the average price in the interstate pipeline. I do not have that figure, but I will get it for the Senator.

Mr. HOLLINGS. Average is the new and the old.

Mr. FORD. Correct. But the Senator is talking about the $1.30 and $1.40 as if that is the price.

Mr. HOLLINGS. Yes.

Mr. FORD. Now, average interstate, in my judgment, is around 90 cents.

Mr. HOLLINGS. Less than $1.

Mr. FORD. The average intrastate, somewhere around $1.

Mr. HOLLINGS. Intrastate has got to be above $1.

Mr. FORD. No, average. The Senator is talking about new price. $1.80 is the new price and the short-term contract intrastate.

Mr. HOLLINGS. I remember something, just by way of memory——

Mr. FORD. Mine is not very good.

Mr. HOLLINGS. Yes.

We went into the intrastate market and were pleased to get $3 and $4 gas in the emergency. At that particular time, contracts were being made below that, obviously, but the average intrastate price was about $1.30. I think it is over that, up around $1.60 now.

Mr. FORD. The new gas we take intrastate now is about $1.80. It has fluctuated somewhere between that and over $2, and this is not—nonregulated gas.

Mr. HOLLINGS. Right.

Let me try to complete a thought because I came and I was listening, and we started talking about saving crude oil.

I am looking for a gas bill that will save gas. That is what I am looking for. I know supply is finite and I know that the energy market should be competitive.

I wish we had a Secretary of Energy and Administration that would carry out its promises. When I understood the President was promising the Senator from Idaho a breeder reactor, I said, "Well, I ought to be able to get something for my vote."

So I thought perhaps I ought to get a promise he would carry out his promise for horizontal divestiture, because this gas bill is not a linchpin or centerpiece for the international charade, or whatever he is talking about. It is one of the important, substantial factors in a national energy policy, if the national energy policy can possibly be promulgated, in part, by this Congress. We participated in the offshore drilling bill, the conservation bill, the automobile fuel economy bill that I coauthored and which is now part of the law under the Energy Policy Conservation Act of 1975, the coal conversion bill, the refurbishing of our railroads, the prohibition against the waste of natural gas under boiler fuel use, the excise tax or fee on imported oil, and a natural gas bill, all culminated into what we call a policy.

But let us not come with a gas policy talking about saving oil, and let us not eliminate the competition, the little that does remain.

I remember as a governor when we used to, as Governor Ford would, solicit industry and try to bring it to our State. The cost of energy was one of the competitive factors, along with the industrial base, wage scales, productivity of the workers, the business climate, the balanced budget of our General Assembly. All these things we used to consider. Oil was the most expensive, coal the second most expensive, and gas was the cheapest fuel.

In fact, I wish someone would go and find out what the cost of natural gas was from the North Sea.

I have a Senator from Louisiana friend and every time he gets a group in, he starts digging way down. He says, "These are not 500 or 5,000 foot wells we are going into now. He shakes his head, and says, "We are going down 10,000 and 15,000 feet, and going down costs money."

Then everybody jumps around—it costs money. I want them to go down into the North Sea and find out what the British have got and factor it out for as the cost of an mcf. It used to be 26 cents. There might be some inflationary rise.

However, talking about the competition we are in, they want to eliminate competition. They are trying to dicker around with crude oil. They have given an unrealistic price that was not in the President's word, I believe, when he said it last year. They are not going to bring in an additional mcf of natural gas.

I went home, and everybody was making speeches about proposition 13 and

inflation. Nobody wants to talk about inflation, including business. They do not want wage controls and price controls. But this would be one of the biggest reasons I know of for fueling our inflation.

This is the biggest inflationary bill we have had this year, I say to the Senator, and I say that respectfully. If inflation is on the Senator's mind, he and I are going back to the Budget Committee again at 3 o'clock this afternoon. We are trying to hold back and cut the budget. We took President Carter's $60 billion deficit in January and cut it in the first concurrent resolution to $50.1 billion. In the second one, which we are working on, we are to bring it down to $42.3 billion. The Appropriations Committee and their subcommittees are cutting.

I do not know where the Senator from Wisconsin stands on this. I want to hear his talk on inflation with respect to this conference report. I imagine he would be with us. He tries to be consistent.

I wish I had brought the Congressional Budget Office report. Talk about a bunch of children getting together—it is like the king who wore no clothes. He is just garmented in the most beautiful garment you could possibly find. They get the CBO to take prices that go jumping, zooming up.

If we take the Senator from Kentucky's figure of 90 cents for interstate and a little more than a dollar for intrastate, and let us talk of the dollar right now, they want to carry it, bam, with the bill to $2, and if they have CBO write me and say that is not inflationary, that begs the commonsense and judgment of all of us. We just take judicial notice that the report is not worth reading. We will get with those economists, Mr. President, in the Budget Committee. I listen to all these economists. On the one hand, you follow them, and it is like drawing a line in the dirt, and they have my attention. About the time I understand it, they say, "But on the other hand." All my life I have looked for a one-armed economist. Somehow or other, that crowd always has been wrong. It is that little Annie song: "Tomorrow, tomorrow, you always are a day away."

All I knew was that when they came in January, whatever they said in the most persuasive fashion was going to be wrong. I did not know how to guess what was going to be right, but I should have guessed it on inflation. When they said 6 percent, I should have doubled that in my mind and said 12 percent; because it is nearing that right now, Senator, for this year. The Senator and I had to listen to those economists.

The Senator from Washington (Mr. JACKSON) has worked on this. I would like him to come and tell me how this dollar going up immediately to $2, and in the next several years to more than $3, is not inflationary.

I think the inflationary cost has been estimated to be almost $29 billion on up. I know that the President was using the $70 billion figure last year, when we were talking about conserving gas; and that had come out of not the CBO but the Library of Congress or the Congressional Research Service, one or the other.

Let me get back to a conference we were having on the Interior Department bill. It just came about in my little time here as presiding officer. I beg my colleagues, as they consider this measure, that we get back to the fundamentals. Gas is short in this country. We will have to do our level best to stretch it out and give time for solar energy to develop, which we favor, and nuclear and all the alternative fuels. We are the only industrialized country, along with Canada, that has gone nuclear.

According to this morning's newspapers, the Shah of Iran has troubles, but he is thinking years ahead on energy. They are building light-water reactors and reprocessing plants.

All you have to do is go to the people who have the oil. They know it is not finite. They would not legislate a conference report of this kind, which is sold on the basis that we are going to consume more gas and therefore save more oil.

I never before heard of that in the entire debates we have had around here for the last 12 years. They are off on the wrong track. I said earlier that they lost because of battle fatigue on the front line. They have turned and they are firing on their own troops. I do not know why. I think the gentleman is confused.

Let them go ahead with an excise tax on imported oil; let the Federal Energy Regulatory Commission continue to administer. The old Federal Power Commission never did take cognizance of the additional cost for rediscovery when they set that price of the cost of gas plus a 15-percent guarantee.

No one has lost money on natural gas in America—no one. I made money on it. I made money on this—more on gas than anything else. It is a delightful investment, Senator. The Senator should try it sometime. It is really windfall. It is delightful. No one has lost on this.

Let me go back to the proposition that we are trying to save the gas, that we are trying to get a realistic price, as the Senator says, when you are up with a new Commission now that has it at $1.48, when the Commission will now include the added cost of exploration and replace that new gas that is being sold—in other words, take cognizance of inflation—plus the guaranteed profit.

Whether it is $1.60 or $1.75, there has been good debate. The President was anxious. He thought in April, when he gave that much, that it was over and above the $1.40 that the Federal Power Commission had at that particular time; and he knew it was 75 cents over and above the $1 that the gas people were talking about only 18 months previously, which would bring in all the gas.

So, like me, he thought he was making them an offer they could not refuse. But there it is. We have reached that price, and now we have come and broken ranks and put in an administrative hiatus, so that instead of 24,000, it is going to be 224,000 regulations. Instead of actually increasing the production, it would stultify and award withholding.

If I am Hollings Natural Gas—and everybody will say that is a good name for me—if I am Hollings Gas, Inc., and if I know that if I hold my gas back and next year I am going to get an increased price, and get even more the following year, then I am not anxious. I did not organize the business to go out of business in 30 years, and we could be running out of gas. So I am going to have to start getting the highest price possible and looking for diversification.

So the present conference report, sold in the name of conservation, really is going to cause increased reckless consumption. It was sold in the name of trying to be realistic and in the face of inflation would take care of that factor, but actually it is more inflationary than any other bill we will face on the floor of the U.S. Senate this year. It was sold in the name of a good measure that would constitute policy instead of administrative hiatus. It should not be called a bill or a policy at all. I hate to say it that way, but I am trying to be respectful.

I think the best thing we can do is recommit this bill and put it back out with the emergency provisions and any others that the conferees think would be necessary, if Alaska is in there, or whatever it is.

But I have one particular thought that the American people should really appreciate. Natural gas has prospered in America as the result of regulation. Back in the thirties they were burning this gas off in the noonday sun, and Sam Rayburn and the Texas boys came and said:

> Look, if you can protect our investment, the heavy costs of these pipelines up East, we will invest, but you have to protect that with a monopoly. We do not mind you fixing the price. We have to get a guaranteed profit. If you will regulate us and regulate everyone else, so our monopoly is protected, then we will go ahead with that investment.

And the Texas crowd and the Oklahoma group were the ones who came and asked for the regulation.

I ask, in a similar fashion, is there any electric utility back in your home town that, having gotten its monopoly and certificate for public convenience and necessity, having built its powerlines and brought the electricity into the homes and industries around, developed the market and everything else, would walk into the Senator's office and say, "Now let us do away with the Public Service Commission and regulations and have what they call competition?"

What kind of competition is that? It would be a little bit of competition because they have some public and private power companies to cause some of it. But here there is none of it. And, on the contrary, we are regulated by the OPEC Congress, not the U.S. Congress. We do not have anything to do with this.

The Senator is asking us to come to the OPEC cartel. He is saying when they meet in December, let them set the price.

We have no input at all. They meet in those little tents with their hairdos, and they will come out and say 5 percent, 10 percent, whatever percent it is.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. HOLLINGS. No. I wish to get through with the thought.

When they get through all of that pricing, then we will all run dutifully back to the Senate Chamber and say:

> Please, bring gas up to the price that the sheiks in their tents have set that would be realistic, that would be in the national interest, that would help the dollar and have nothing to do with inflation. It would be just a nice thing that we could finally get up to the OPEC cartel price.

Is that not a great policy? That is what they are asking us to do.

Mr. FORD. Mr. President, will the Senator just yield?

Mr. HOLLINGS. Can you imagine that as a national policy?

Mr. FORD. Instead of the Hollings Gas Co., it is the Hollings Theatrical Group.

Mr. HOLLINGS. No.

Mr. FORD. I want the Senator to know that the basic reason for this bill is to set the price for the next 7 and possibly 9 years so we will not get trapped in that way. But the Senator wants to let us get trapped. He wants us to go back free and open with the old bill.

Mr. HOLLINGS. No. As I understand the recommittal motion of the Senator from Ohio——

Mr. FORD. The Senator has not seen the recommittal motion because the Senator from Ohio has not put it together and no one knows what that recommittal motion is going to be. It is speculative.

Mr. HOLLINGS. We both looked at its elements.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. HOLLINGS. I am going to yield to the distinguished Senator in a minute.

I get the Washington Post, and the newspaper says he is going to move to recommit with the emergency provisions, and there is something else about an intermix, I think; but in any event it would put us to regulation. It would put us under the Federal Energy Regulatory Commission where we are right now, where we have abundant gas right now, where we have just increased the supplies, with the administrative rulings that they cannot commit that offshore gas to the intrastate market.

Excuse me. I yield now to the Senator.

Mr. MELCHER. I thank the Senator for yielding because I wanted to get in on the sheik part the Senator was referring to in purchases of natural gas.

Mr. HOLLINGS. Yes.

Mr. MELCHER. I was extremely interested in my office just a few moments ago listening to the distinguished Senator from South Carolina speak about a gas contract that Southern Gas Co. has.

Mr. HOLLINGS. That is Southern Natural.

Mr. MELCHER. Southern Natural purchased liquefied natural gas based on a contract from Algeria where the total price was $1.60 per thousand cubic feet, and a very attractive price that is for liquefied natural gas.

I checked to find out when the contract was signed. It became effective in 1970. That is almost ancient history in terms of natural gas contracts. That is when oil was selling at $2.50 to $3.25 a barrel.

Now the whole energy deal has changed. That for natural gas from Algeria was signed at 30 cents per thousand cubic feet FOB Algeria with the additional costs of liquefaction and transportation bringing it to $1.60 delivered in the United States.

To build facilities that are necessary, to contract for natural gas now from Algeria, Saudi Arabia, or any other Arab country, is going to put it into the United States somewhere between $3 and $4 per thousand cubic feet. That would be the case now to deliver liquefied natural gas from any other country in Africa, Europe or Asia.

It is hardly relevant to be talking about how nice liquefied natural gas is, when you can get it to the United States from Algeria and it only costs $1.60, based on a contract in 1970, when energy costs were a fraction of what they are now, and relate that to the existing costs of new contracts several times higher. That does not solve our problem now.

It does not. It is $3 to $4, if you want to sign the contract today. If you want to sign it next year it is probably going to be higher than that for liquefied natural gas delivered to the United States from another contract.

Mr. HOLLINGS. I appreciate the Senator's question.

Mr. President, I do not want to infringe on your good nature much longer. I am supposed to be there presiding.

Let me say this to the distinguished Senator from Montana: I do not know why, when we are talking about the average cost and talking about energy, we do not take into account gas contracts which are all for 20 years. When you go home and if you use gas in your home in Washington, Langley, Va., Maryland, wherever the distinguished Senator lives, and you turn it on, it is under a 20-year contract. I am willing to make a bet on it. I am willing to bet—I do not know what year it is in—they might have made it just last week—but if he had to talk about averaging that was made over 10 years ago, it is all very relevant. All of this is relevant. Do not worry about that 1970. Did they tell the Senator since he ran over here so dutifully? That gas crowd is pretty alert. They send someone over right away. I am glad to meet the gentleman. Let me just say this: Did they tell the Senator how long the contract ran?

Mr. MELCHER. I say to the Senator from South Carolina that is a good price and that it probably runs for at least 20 years, but I hope it is longer for the sake of the consumers who are going to use it.

Mr. FORD. I have the information in the Chamber. No gas company came to call me. I have been sitting here with the Senator. I have all the information. It is $1.66 to $1.81. It was in 1969 for 25 years. What is the next contract? Does the Senator know of the next contract from the same people he was talking about? He does not know about that. It goes to $2.82. That is the same people, the same contract, only the contract is in 1975 for only 20 years.

This is what the Senator has been talking about. I hope that he would get his facts straight.

Mr. HOLLINGS. I have my facts straight.

Mr. FORD. I have them here.

Mr. HOLLINGS. Do not tell me about the facts. Whether the Senator liked that or not, the president of that company and gentlemen came in my office and told me those facts I have given.

Mr. FORD. $1.66 and $1.81.

Mr. HOLLINGS. I do not care what the Senator is reading from.

Mr. FORD. I admit those. The Senator does not go to the next phrase.

You do not go to the next phrase.

Mr. HOLLINGS. Do not take me to the next phrase.

Mr. FORD. No.

Mr. HOLLINGS. There you go, lawyer Ford. You say you are not a lawyer, and here you are on another phrase.

Mr. FORD. I said $1.60, Senator.

Mr. HOLLINGS. Wait a minute, the Senator from South Carolina has the floor. It is piling on another phrase, and he is going back to the year 1970, and I am going to try to keep up with both of you as best I can.

Mr. FORD. The Senator quoted $1.60 himself.

The PRESIDING OFFICER. The Senator from South Carolina has the floor.

Mr. HOLLINGS. The $1.60 is the price, and I have not misquoted the President.

Mr. FORD. And I said the Senator has not.

Mr. HOLLINGS. The Senator from Kentucky says he agrees with that.

Mr. FORD. I agreed with that in the beginning, Senator.

Mr. HOLLINGS. All right, wait a minute.

Mr. FORD. In 1969, 25 years, I agree with that.

Mr. HOLLINGS. We will go to other phases.

Mr. FORD. I agree with the Senator. I did not dispute his word. I said he was accurate and correct, so now do not blame me for getting off.

Mr. HOLLINGS. All right. Let us stick to the facts and let us stick——

Mr. FORD. That is what I am trying to do is get the Senator to stick to the facts.

Mr. HOLLINGS. What we are really trying to do—and, Mr. President, I will yield in just a minute so I can get back there—I thank the distinguished Presiding Officer for this opportunity.

Natural gas is an awfully complicated subject, and obviously you have got to keep up with the various nuances and changes and policies and everything else. I am trying to impart in some way a feel to the particular debate relative to how we got regulated at the request of the gas industry, how the regulation has worked extremely well, extremely profitably. Many a company stretched its luck on interruptible contracts that made just that, interruptible contracts. Let me cite another particular incident. When we had the emergency a couple of years ago I went to a conference of business leaders in my State and there was one particular gas company president, the

president of Piedmont Natural, who insisted that the allocation for South Carolina had been diverted to New Jersey, and the reason for the shortage in South Carolina was a political decision by the diversion of the Federal Power Commission of South Carolina's gas up to the State of New Jersey.

He went on and on. He did not want to admit that he had made some contracts that were interruptible, and at times of shortage they were interrupted. They were not firm contracts. The average contract in the Northeast is firm for a shorter term. They are not for as much gas. They do not rely on it as much as we do in the Southeast, but in the Northeast they have got firm contracts, and when you have to cut back, their firms apply almost like a hospital contract.

We had many interruptibles, a lot of new industries, and they make a lot of new contracts, they wing it economically, if you might characterize it that way. But it has not been because of political decisions.

I had to stand him down and I said, "All right. we have got another company in this State, the Carolina Pipeline." They happen to deliver more gas than any other gas servicing company in the State of South Carolina. I told him I would be delighted to try to jump out of that window on the 14th floor if he could prove that Carolina Pipeline was curtailed a single mcf during the crisis, during the shortage, during the emergency.

Yes, we had cut back in my State. Was that political? Was that a defect of the regulation or were those business decisions they were trying to blame on the politicians?

Let us thank heavens that the regulation, in a sense, was complicated, because with that particular complication I can tell the Senator here and now maybe we have held back on excessive consumption, maybe as a result of the bureaucracy and administrative procedures we have not accelerated and facilitated more, and maybe in that inverted sense the Federal Power Commission has helped us to conserve.

Whatever the facts are, let us say we have got not more than 25 or 30 years left. Let us not come in with a bill or a conference report that promotes increased consumption, that promotes inflation, that promotes it when we are talking about regulation and, heavens, everybody has got in a bill, and we go back home and say, "I am against inflation; oh, yes, I am against inflation. I want you all to know I am working hard up in Washington against regulation."

Well, heavens above, in addition to being the most inflationary Senator from Ohio, you are right that this particular measure will constitute more regulation than all the other bills we will pass in the Congress this year. Everybody connected with it knows it, they know it from Senator JACKSON on down.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. HOLLINGS. I will be glad to yield.

Mr. McCLURE. I thank the Senator for yielding, because I wanted to make just two points in regard to what he had been urging: One, with respect to the concept of imported LNG. It is true contracts that were signed 8, 10, 12 years ago are relatively low-priced, but we have seen since that time the Federal Power Commission turn down an application for $2.35 LNG, and the renegotiated contract came in very much above that figure. The pending projects now are in the $4 to $4.50 per thousand cubic feet of gas for LNG projects. So if it is to be inflationary, it would seem to me it would be far more inflationary to place our reliance and our faith upon the uncertain sources of LNG from overseas at far higher prices.

With respect to the regulatory burden, I am not happy with the regulatory complexity of this bill, and I would like to get rid of it. But if you want to look at regulatory complexity, look at the existing law. You know this conference report has been criticized for having maybe 17, maybe 20, maybe 22 classes of gas. But we have several hundred classes of gas now and we will be adding at least one new class each quarter under the existing law.

So you are adding four new classes to the dozens, hundreds, we have now under existing law.

That is no great dream about doing away with regulatory complexity.

So I would share with my friend the desire to achieve more relief from the regulatory complexity, but we are not getting it under the existing law and we might hold out for a better one. But I suggest that, perhaps, some want one kind of a better law, another wants another kind of a better law, and there is not a majority in favor of either one, so a year or two or three from now we come back to about where we are now.

Mr. HOLLINGS. Mr. President, I thank the Senator for the question.

Now that we have assistants going out and getting these additional bits of information, let me ask the distinguished Senator from Montana and the distinguished Senator from Idaho to please go and learn, if they will, the cost of natural gas out of the North Sea. You all can run and get them. I do not know how the network works, but you can all run to the back and see if we can find out what North Sea gas costs.

Mr. MELCHER addressed the Chair.

Mr. HOLLINGS. Wait a minute, I will not yield just now.

Now, we heard about 1970 and $1.60. It is coming in now, but they are turning down $2.35. That is not disputed. This thing is inflationary as all-get-out. I am telling you what is happening right now. I am telling you what could have happened if we would have held the line on the cost of natural gas. I am telling you what could be the case if we could dispel the idea for some reason that gas ought to cost the very same thing as oil. I resist, I resent, that idea.

Why, amongst millions of reasons, I do not like that crowd I cannot control or cannot influence—the OPEC cartel—from setting that oil price. Once I agree to that premise that the price of oil ought to fix the price of gas, I am lost, I am finished. My good industrialized economy of the United States that does not have a wage advantage, does not have an hourly work advantage, does not have a safety advantage or social security or unemployment compensation or any of the other advantages, does have an energy advantage that has caused us increased productivity, it has allowed us to compete and, by Jove, I am tired of this crowd that does not want to compete on defense. They go around here talking about rough equivalency. I want to compete, I want to be in a winning position. When it comes to the economy I want to compete and I want to be in a winning position.

The other side is organized, they have mailouts and speakers and all the rest. I have not mailed out anything on gas or energy, and have not had the time. But the others are organized. I will never forget the Platt report.

Some 2 years ago, I went down to Houston to make a report, and Ed Bragg and others had sent out 200 speakers against me. They went to the Rotary, the Kiwanis, and everywhere else. We could not get through the Bicentennial without an oil company saying, "This is the way it was." They wrapped themselves in the American flag. The prices were going up. They had the airwaves, the newspapers, the Rotary clubs, the civic clubs, the national Congress all singing the same song: "It costs like the devil, and you better hurry up and get the gas price up to the oil level."

That is why I tested this, I resist it. But the conference report does it, and that is why I cannot vote for it.

I should congratulate you all for not agreeing to that. Let us congratulate the conference and the conferees, the distinguished presiding officer (Mr. BUMPERS) and others, for not agreeing to that for the last year, or 16 months, or whatever it is. They ought to get some kind of an award for resistance. Maybe they have got battle fatigue, too. I do not blame them. I would not have wanted to be on that conference. I readily agree to that.

They have changed Jim Schlesinger from horizontal divestiture now, and he does not care any more about competition. Where he said, "We are not going to bring in or even save any oil consumption," in April of 1977, now he says we are going to save a million barrels. Where he said that this was not the centerpiece, but the crude oil equalization tax provision was the centerpiece, now this measure becomes the centerpiece, and where it was not going to bring in a single additional mcf over $1.75, now all of a sudden it is deemed solely to be bringing in all the additional.

Where are our Senators in this thing? You cannot get enough Senators or staff to go around and bring all the facts to the American people.

Mr. MELCHER. Mr. President, will the Senator yield?

Hr. HOLLINGS. Yes, I will be glad to yield.

Mr. MELCHER. The Senator asked the Senator from Idaho or myself what the

additional price of gas in the North Sea would be.

Mr. HOLLINGS. Yes.

Mr. MELCHER. Let me say that the price for natural gas in the North Sea will be comparable to the price for natural gas at the wellhead for Prudhoe Bay natural gas, which is in Alaska, a part of our own domestic gas supply.

The fact of the matter is that with——

Mr. HOLLINGS. What is that price, Senator? I really do not know. I would guess at it if I had even a dim memory. I remember at one time they had a meeting of the bureau of the industry, back in 1969 or 1970, and the ministry met, and they were trying to fix a price for gas, and at the time they fixed, in the ministry in London, a 26-cent price, because that was the U.S. price.

If they were emulating the United States then, maybe they have emulated us by going up now. I seriously do not know, but I doubt if it is very high. I risked the question because I was willing to risk the answer. I do not believe it is very high; I do not believe it is any $1.93.

Mr. MELCHER. No, I would agree with the Senator; I think it is substantially lower at the wellhead than that.

The reason why I say it is comparable to Alaskan Prudhoe Bay natural gas is that British Petroleum, the owner with their subsidiary Standard of Ohio (Sohio) of about 51 percent or 52 percent of the Prudhoe Bay oil and natural gas, are also involved in the North Sea, involved with the Government of England, and so, when the gas price is established, in Alaska, I believe it will be comparable to North Sea natural gas.

But it is not going to mean a lot to our consumers if that natural gas price is established at around a dollar to a dollar and a quarter, at Prudhoe Bay on Alaska's North Slope unless there is a pipeline to bring it down to the lower 48 States. And we have gone through two relevant bills in the last several years that deal with this. The first of all had to deal with the oil pipeline, so the oil could be pumped down to the Lower 48. Then we rather belatedly passed the Alaskan Natural Gas Pipeline Act, which was procedural, to allow the expediting of the permitting and the decisionmaking on where the selected and preferable route would be, and what method it should be.

El Paso, which was one of three companies making a proposal for that pipeline, was not found to be acceptable. They would have brought the natural gas down paralleling the oil pipeline to Valdez or some point on the coast of Alaska, perhaps farther down the coast, and then liquified it and then by tankers to California to put it into the pipeline distribution system of the lower 48 States.

But that route was not selected. The route that was selected, if we can get the Government of Canada and the Provinces to agree, and they seem to be agreeing, looks to be the most practicable. The route would follow the oil pipeline down to about Fairbanks, and then follow the Alcan Highway through the rest of Alaska, and then through Canada coming into the lower 48 States in my State of Montana, and then bringing it on east.

But McMillan's company, Northwest Alaska Pipeline Co., that has the preferred route, very sincerely tells every Member of the Senate—and I suppose every Member of the House, too—that without some change in the basic law that would permit rolling in the wellhead price with the transportation cost, into the eventual price consumers would pay, that without that provision enacted into law they cannot approach the money market to sell bonds to finance construction of their pipeline.

So, while the wellhead price when fixed for Prudhoe Bay natural gas may be a dollar or a dollar and a quarter, which is the best guess, I think. By the time it gets down here and you have rolled in the cost of construction of that pipeline to get it down to consumers in the Lower 48, I suspect we are talking about $3.50 to $4 or $4.25 per thousand cubic feet.

So we are back to the same position we would be if we would get gas from the North Sea or from Saudi Arabia, or more from Algeria: By the time you build the facilities to handle it, to liquefy it, and then to bring it to the continental United States, the Lower 48, and then go through the process of putting it back to the state of natural gas, we are talking about $4 per thousand cubic feet of natural gas, and that is what we talk about with Alaska, too.

The Alaskan natural gas would have the advantage of being domestic, and presumably could not be interrupted, whereas a change in government in Algeria, or some problem from Saudi Arabia with shipping, might cause liquefied natural gas to be interrupted.

We could mention war as another factor. God forbid any of these things happen, but there would be some comfort in knowing that if we are going to have consumers paying that kind of a high price for natural gas it would be more comfortable to know that it is domestically produced and would be under our control, and would help our balance of payments.

Mr. HOLLINGS. I thank the Senator from Montana for his observations and the Senator from Ohio, particularly, for his courtesy in yielding. Let me find out some of these facts and figures, and then I might come back again, if anybody else wants to debate this thing.

Mr. METZENBAUM. Mr. President, I enjoyed listening to the Senator from South Carolina so much that I hope he will be back. It was my privilege to relieve him in the Chair for the purpose of his remarks. I know he has been a leader in this battle over a period of many years, and it is not a new subject to him; and when his voice, his experience, and his knowledgeability on the subject are brought to the Senate floor, it has been extremely helpful, and I am particularly pleased that I had the opportunity to relieve him in the Chair so that he could come to the floor to make those remarks.

Mr. HOLLINGS. I thank the Senator very much.

Mr. FORD. Mr. President, I have enjoyed listening to the distinguished Senator from South Carolina for the last hour and 20 minutes. I do think I tried to agree with him a few moments ago about his pricing, but I did want to correct him. It seems as if it is a typical operation as we debate this piece of legislation to take whatever arguments benefit one side or the other.

I tried to agree with the distinguished Senator from South Carolina a few moments ago as to the price that he said was going into the pipeline from LNG. I wanted to bring to his attention that this was a contract that was signed in 1969. I have extensive information about pending LNG projects, including the receiving terminals, I have the producing country, I have the contract date and length of the contract, I have the amounts for the initial delivery date, I have the annual volume to be expected, and what the Federal regulatory status might be. I could have given him all this if he had given me some little attention to answer his question.

The distinguished Senator from South Carolina failed to mention that the new contract dated in 1975 for 20 years makes that gas go to $2.82. That is almost $1 more than the initial price for American-produced natural gas. I wonder what the Senator from South Carolina was trying to shield or what kind of smokescreen he was trying to put up, saying what a great thing it was.

Sure, I told him the average cost of interstate pipeline gas now was about 90 cents, and the average price of intrastate gas in the pipeline was something in excess of $1. But today if we go to the intrastate producing States, the new gas price is somewhere between $1.80 and $2.

It is all right to live in 1969 for your own purposes, but we have to live with 1978 and beyond in order to accommodate the constituents we are representing.

The Senator talked about withholding gas. The distinguished Senator mentioned "I am going to hold gas back. I have been in the gas business. I have made more money in the gas business than anything I have ever done."

Fine, I am glad the distinguished Senator from South Carolina is in the gas business, that he understands what natural gas is, that he is making money off of it, that he is making a profit. That is fine.

He said that less than an hour ago, that that is the most money he has ever made in his life, that he ought to quit the Senate and go into the courtroom and make more money than he is making here to argue the case under this bill.

Well, it is obvious that the distinguished Senator from South Carolina has not read the bill because this bill protects the consumer from producer withholdings.

You cannot withhold and get the new gas price. It is subject to a price penalty. The distinguished chairman of the conference committee, Mr. STAGGERS from West Virginia, said this was one thing that must be in the conference bill or he would never approve it. He got what he wanted. We said it was wrong to withhold natural gas.

He said he wished he had his facts with him and the papers. I wish he had had his facts and papers with him, too.

The Senator said he did not know what the Congressional Budget Office position would be. Obviously, he does not read the mail which comes to his office. Senator MUSKIE, the chairman of the Budget Committee, in that "Dear Colleague" letter, signed by some dozen or more distinguished Members of this body, quoted the Congressional Budget Office on the inflationary impact of this legislation.

I will quote from their study and their report, marked Economic Impacts:

> Depending on the extent to which increased producer revenues are funneled into productive investments, the overall effects could be either slightly positive or slightly negative. However, in a $2 trillion economy the effect would be relatively small in any event.

That is what the Congressional Budget Office reported.

I wish the Senator from South Carolina were here to listen to these things. I hope he reads the RECORD tomorrow so that he can know these things.

He quoted one fellow—I could not quite understand him, but I think he said King Hubbert. Well, King Hubbert is known as a man who has made a report on natural gas reserves. He claimed he got the Rockefeller award. What is the Rockefeller award? I do not know whether it is a liberal award or a conservative award or a moderate award. I do not know. It sounds like a political award.

But King Hubbert said that the years of natural gas and oil reserves that were available in the future were based on the prices paid at the time he made the judgment.

That means that that was several years ago, like in the 1969 Algerian contracts.

I am not in favor of paying $4.50 to Algeria while they harbor the hijackers, and not paying the American producer to go out and try to find energy and keep our money at home.

The Senator from South Carolina brags—he stood on the Senate floor and bragged—about buying LNG in Algeria. I disagree with him on that.

The Senator from South Carolina, along with other Senators, is unaware today what will be in the recommital motion because those on that side are now calling around saying, "Would you be for us if we put in the Alaskan pipeline?"

They do not know what they are going to put in. They are going to try to get some votes.

It is just like the distinguished Senator from Texas said yesterday, that he was for letting them take away their intrastate gas. He said it on three separate occasions yesterday afternoon.

I do not believe that is going to be a very favorable prospect back home.

Mr. DOMENICI. Will the Senator yield for a question on the Algerian gas?

Mr. FORD. I would be glad to yield for just a few minutes. I was just beginning to get worked up. I thought I would try theatrics like some others.

Mr. DOMENICI. The Senator was speaking of Algerian and foreign gas. I could not agree more wholeheartedly with the Senator's last statement, when he said he was not for paying Algerians $4.50 for natural gas and paying American producers far less. The Senator should also remind the Senate that under this conference report that $4.50 Algerian gas is not going to get a break any more because it is not going to get rolled in with the American cheap, old natural gas, thus making it appear to be a good price. Because under this proposal, the only kind of foreign LNG like the Algerian that will get rolled in and get the benefit of all the years of our old gas is that kind for which approval is pending or has already been granted or the plants are already built, the expenditure made, or financial and contractural commitments made. In the future, they are going to bring that $4.50 gas in and it is going to be incrementally priced and it is not going to be such a bonanza for them to sit on the outside and mix it in with American natural gas and say, "The consumer does not know it because it is mixed in the rest and we will charge whatever we want."

That is another good point in this bill. The Senator from South Carolina should have been here to hear that point. That will not happen any more, either, in the future under this bill.

Mr. FORD. There are some questions that are in my mind that are bothersome. They worry me a little bit. How will the motion to recommit provide a wellhead price for natural gas transported through the Alaska gas pipeline? The conference report does so in section 109 of the bill.

How will the motion to recommit settle the incremental pricing issue? Under existing law, FERC could require incremental pricing for our Alaskan gas. The conference report provides rolled-in pricing for the Alaska gas pipeline under section 203.

So let us not do anything, let us just leave it as it is. I think this legislation gives stability to the industry. It gives stability to the industry so they will know what the price will be and they know what it is going to be when they go out and look for it. They know that they can plan 7 to 9 years in advance.

You know, Henry Clay was not a bad fellow. He came from my great Commonwealth of Kentucky. Henry Clay was a compromiser. I was told, in my days before I ever entered into politics, that you could be in a room with a group of people and those on the right side were just as dedicated, just as sincere, in one way; those on the left-hand side were just as sincere and just as dedicated, but in the opposite way, and somehow, if you make a political decision, you would make both sides mad, but you would help the general public. I want Mrs. Smith and Mrs. Jones in Ohio or Kentucky or New York or Massachusetts, or wherever, to be able to turn her stove on, heat her soup, and cook her meal for her family at night, knowing that this Senator and others have made a sincere and dedicated effort to say to the smallest wildcatter in this country or the largest producer in this country, "We want you to have the incentive to go find that energy if we have it so that that will go into the pipeline and it will get to Mrs. Smith and Mrs. Jones."

I remember the Senator from South Carolina referred to when he was Governor, how he worked hard to have industrial development in his State. And I did, too. I was Governor during the oil embargo in 1973. That put somewhat of a damper on my ability to bring new industry in. I think we all had a setback at that time. But I also recall, as Governor, when we had our crisis in 1973 and 1974, that I had to shift the use of natural gas to industry because that was the only fuel they could use in order to keep people working. So the community college shifted their natural gas to industry and that community college started using oil.

There are 20,000 employees at one industrial complex in Louisville, Ky. They kept everyone working in that operation, as I recall, without any layoff, as there has been in some other States, those who are not on my side, those States were harder hit than my State. But by providing the emergency operation, by doing the things that were necessary, those people continued to work. When we sat down and chatted with them and we whittled on the country store porch, they much preferred to pay a few more cents per mcf for natural gas so they could draw their paycheck. I think that is what we are looking forward to here.

I might say to those who complain about the complexity of this bill, there are over 700 decisions under the Natural Gas Act now. This bill provides only 17 distinct categories. What are we going to pay the new price for? What is going up? The new price will go to new gas that is found. That is basically it. The price they talk about, $1.98 or $2.09, whatever it might be, is only paid for new-found natural gas. Under the oil price law, we have been able to reduce, by about 2 billion barrels, the consumption of oil shipped in from overseas by deregulating small oil wells, under 10 barrels. They have uncapped these old wells and three to five or six barrels of oil per day are now financially feasible to bring out of the ground.

Under this bill, we say to the small gas wells that are now capped, 60,000 cubic feet, if you have a well like that, uncap it; it is deregulated.

And we have special incentive prices for other gas. In my county and others, there is the Devonian shale, geopressurized brine, new wells drilled 15,000 feet down, where most of the reserves are. That is deregulated.

We have made an attempt in this bill to find a balance. There is no way you can give in totally, one way or the other. So what are we doing? We are trying to compromise so that the consumer can have his gas and the employee can work. I just do not see how both sides can be right. There is no way that both sides can be right. I do not believe that this body wants to leave all the decisions to the Federal Energy Regulatory Commission. I just do not believe they want to do that.

Somewhere, sometime, we shall find

somebody that can give us all the answers. You work hard to find them, you take the best advice available, you pray a little, and hope—hope with all the fervor you can—that the decision you made is correct. I would be more than pleased to find someone that could give us the answer and we would know that it would be true.

The only thing I know is that we have 20–20 hindsight. I do not think there is anybody—anybody—who has 20–20 foresight.

Mr. President, I have rambled on some. I do not know whether there are others who wish to make some remarks as it relates to the bill. I do not know whether anyone wants to make any statements.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MELCHER). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, there have been some things said in the debate this morning that I think should be responded to. My good friend from Kentucky offered some figures from the Department of Energy, the Energy Information Administration, relative to the fact that in 1985 the extra cost of the residential users will only be something like 11 cents; that is, the cost between the residential and the industrial users.

Mr. President, there is a report out to that effect, but I think we ought to go back and talk about circumstances surrounding that report.

At an earlier point, the Department of Energy, Energy Information Administration, made available a comprehensive report as to the impact of the conference committee bill. Under that report, they pointed out that although in the House bill and the Senate bill there would have been very little variation in the residential and industrial users costs, with the special kind of concern being given residential users, that when the bill came back from the conference committee, the differences had changed mightily.

Under those new conclusions, the residential users will pay $3.28 per mcf and the industrial users will pay $2.44 for 1985, or a difference of 84 cents per mcf.

Mr. President, what happened thereafter is interesting. The Department of Energy did not like those figures, those higher ups, and there were certain people who were concerned about the passage of this energy bill who were great supporters of it, who had put their names on the line for this conference committee report. They said, "Oh, no, that is not the way it should be, that doesn't sound right, because those who are opposed to the bill are pointing out that what we have done in this conference committee bill is place the burden on the residential users of this country and taken it off the backs of the industrial users, and the industrial users would have a chance, as we all know, to make it a part of their costs and make it tax deductible."

So they went back to the Department of Energy and they said, "Make these new assumptions, if you do this and if you do that, what will be the answer?"

Lo and behold, when they changed the assumptions, then they came out with the conclusions as indicated by my good friend from Kentucky.

Let me say, I find no fault with his using those figures. I might point out it was not he who went back to the Department of Energy, it was Members of the House. But the fact is that when the Department of Energy, Energy Information Administration, was called upon to give unbiased, impartial, objective figures based upon reasonable assumptions, they concluded that this bill will cost the residential consumers 84 cents per mcf more than the industrial users.

That, Mr. President, is what is in this bill, not what somebody else decided ought to be the new assumption, not the changing of the rules in midstream, and that is what we are dealing with in this legislation. Every time we have had any relationship with the Department of Energy since it has been created, if the facts did not come out the way they wanted them to come out, they somehow adjusted them so that they did. When they had to tell us about all the crises of oil imports and how there was going to be a problem in the future, they even came up with some CIA figures about foreign imports and Soviet production, all of which afterwards was changed.

Mr. President, this bill is so complicated that in order to try to get it passed, even the President of the United States, in my opinion, has arrived at a wrong and contrary conclusion and emphasis to that which his own people were saying not too many months earlier. In the letter he sent around to all the Senators, dated August 31, 1978, he says the following:

> Significantly, under the incremental pricing provision, the price of natural gas to industrial users will be lower than the price would have been under the Senate-passed deregulation bill.

Well, what is so great about that? We do not want to cut prices for industrial users. I thought we wanted the price to go up for industrial users so they would turn to coal, a major product of the State of the Senator who is handling the bill, a major product of my State.

When I say that they have changed their emphasis, let us go back and look at what they were saying early on when they talked about the national energy plan and they were trying to sell the oil and gas users tax. On page 54 of that plan, it reads as follows:

> In addition to these wellhead pricing changes, taxes would be levied on the use of oil and gas by industry and utilities, in order to encourage conservation and conversion to coal and other fuels.

That was the emphasis then, back when the national energy plan was formulated.

On page 63 of the same report, what do they say on the same subject?

> Oil and natural gas are scarce, and generally they are needed more by other sectors of the economy. Industry and electric utilities can convert to other energy sources more readily than can other users; therefore, a large-scale conversion by industry and utilities from oil and gas to more abundant resources is needed.

That is exactly what the emphasis was and had been, until now the President tells us that we are reducing the price for industrial users. Great. That ought to cause them to use more natural gas. That will accomplish a lot for the national energy plan.

As the distinguished Senator from South Carolina stated, he thought the purpose of this legislation was to get people to quit using natural gas. He did not think the purpose was to get them to use more natural gas in order to cut the importation of oil. That is a new argument.

When the natural gas hearings were held by the Energy Committee of the Senate, Mr. John O'Leary appeared, and what did he say? He said:

> The tax is coordinated and slightly below a similar tax on oil so as to prevent gas-to-oil switches that would increase imports. It is estimated that these taxes will encourage the switching of approximately 3.5 tcf of gas per year to 110 million tons of coal by 1985.

Mr. FORD. There is no tax in this bill.

Mr. METZENBAUM. There is no tax in this bill. The Senator from Kentucky is 100 percent accurate. If the administration had their way, there would be taxes all over the place. There is no tax in this bill, but I am pointing out to the Senator from Kentucky that from the very inception, the administration told us, day in and day out, whether it was taxes, whether it was coal conversion, whether it was a natural gas bill, that the implication, the thrust, the direction, the concern was to get people away from oil and gas and get them into coal.

Mr. FORD. By taxes?

Mr. METZENBAUM. By taxes and by this bill. By taxes, by the gas bill, and by the coal conversion bill—in every part of the legislation.

Mr. FORD. Let me——

Mr. METZENBAUM. I have the floor, Mr. President, and I do not intend to be interrupted.

Mr. FORD. I will ask the Senator to yield after a while.

Mr. METZENBAUM. On page 50 of the natural gas hearings, held on June 7, 1977, Mr. O'Leary stated, in an additional comment:

> By establishing incentive prices that emphasize the development of harder to find new supplies, eliminating the split market, and encouraging the conversion from natural gas to coal, the President's program does not favor any single interest but rather calls on all parties in this debate to compromise in the interests of a balanced, reasonable energy policy that can break the 24-year-old deadlock between natural gas producers and consumers.

In the same hearing, I asked Mr. O'Leary the following question:

> We have a coal utilization bill. Can we achieve the same objectives without bringing the price of natural gas up as you indicate?
>
> Mr. O'LEARY. I don't think we can. Our studies indicate—first of all, the need for internal reform. To motivate a consumer that continues to use gas, that is to say

who gradually replaces his inefficient burning equipment with efficient burning equipment, and to get him to switch over to coal, and that is the direction we want him to go, is going to take the price increase.

Mr. O'Leary says we need the price increase to cause them to switch over. The President of the United States says that this is a good bill because it reduces the price of coal to industrial users. Which is it? Do we want the price to go down? Do we want it to go up? I think that if we have a real belief in and concern for a national energy plan, we want the price for industrial users to go up, so that they will switch to coal.

Mr. President, I think that is what this whole issue is about. But in the anxiety, in the enthusiasm, in the determination to get a gas bill, any kind of bill, they are now telling us that it is better to cut the price for industrial users, exactly contrary to what Mr. O'Leary was telling us on June 7, 1977. He said:

> . . . that is to say who gradually replaces his inefficient burning equipment with efficient burning equipment, and to get him to switch over to coal, and that is the direction we want him to go, is going to take the price increase.

Mr. O'Leary, of the Department of Energy, is for the price increase. The President of the United States says this is a good bill because there is a price decrease for industrial users.

Mr. President, I ask unanimous consent, on behalf of Senator DURKIN, that Phil Swink, of his staff, have the privilege of the floor during the natural gas debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I wish the distinguished Senator from Ohio would argue the merits of the bill, instead of getting into a confrontation with the administration, which he has supported 95 percent of the time.

It is strange when the people on the same side argue different courses. I was amused today to listen to the distinguished Senator from Ohio talk about reducing the cost of natural gas to industry, whereas yesterday afternoon, on this floor, the distinguished Senator from South Dakota (Mr. ABOUREZK) read a UPI story which stated how harsh the load was going to be on industry.

Now we have people from the same side arguing different ways. The only thing I want to point out to them is that under this bill, there is approximately a 30-percent increase in natural gas to industry and approximately a 10-percent increase to residential users.

Mr. President, I hope that in the future we can keep the debate as it relates to this legislation, rather than getting into confrontation and little frills in other places. I thought I should correct the Senator on that point. I knew that he would want me to correct him when he was so wrong.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FORD). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, it appears that few Senators are apparently in a position at the moment to either debate the conference report or to listen to the debate. I see five Senators in the Chamber, including the Presiding Officer, Mr. FORD, of Kentucky, and it appears that the Senate is just wasting its time right now waiting. There is no other bill that can be taken up right now with a time agreement on it. So I believe there are indications that the best thing right now to do is to recess for about an hour.

RECESS UNTIL 2 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 2 p.m. today.

There being no objection, the Senate, at 1:05 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. NELSON).

Mr. TALMADGE. Mr. President, natural gas is a major energy source to agriculture and the food and fiber system. It is essential that a dependable supply of reasonably priced natural gas be assured to power this sector. To do otherwise would cause utter chaos.

The use of natural gas in the agricultural production, processing, and distribution sectors is widespread. Many of the inputs farmers use depend upon natural gas. Natural gas provides the energy to manufacture the nitrogen fertilizer and chemical pesticides which are essential for efficient food production. Also, for the farmer, it powers his irrigation pumps in the Southwest, it dries his crops in the Midwest, and it is used to condition his cotton for ginning in the South.

For the food processor, it is the major energy source for processing the multitude of food items that this Nation enjoys. Canneries, meat, and dairy processing plants rely heavily on this energy source. Bakeries with open flame ovens depend on this clean burning fuel to impart no residues that could be health hazards. For the food retailing sector, it provides energy for warehouse storage to assure food quality maintenance and operation of retail outlets.

As chairman of the Committee on Agriculture, Nutrition, and Forestry, I have an obligation to protect agriculture's interest concerning the establishment of a natural gas policy. While it is my understanding that this bill provides adequate protection for agriculture, I have some questions that will clarify this issue.

First. It is my understanding that this bill directly affects agriculture in two primary ways. First, section 206(b) assures agriculture the same high priority accorded households and small businesses in protection against sharply high natural gas prices by exempting agricultural users from the incremental pricing features of the bill. Second, section 401 provides an exemption against natural gas supply curtailment for essential agricultural uses. Am I correct that these two features are a part of the bill?

Mr. JACKSON. The Senator is correct. Agriculture is accorded a high priority in this bill.

I might say to my good friend from Georgia that we follow the basic rule that we followed, of course, in connection with the Oil Allocations Act in which the Senator will recall agriculture was given top priority. The whole thrust of it is in that same vein.

Mr. TALMADGE. I appreciate that.

Second. Concerning the agricultural exemption for incremental price increases, does this mean that farmers, processors, food warehousemen, and fertilizer, and other agricultural chemical manufacturers will not experience the higher price increases that will bring in new supplies of natural gas? If so, this should help farmers and others in their struggle with the cost-price squeeze by minimizing the cost of increases of some major production inputs.

Mr. JACKSON. There will be, as the Senator is aware, price increases. But the significant point, and that is what I gather my friend is addressing himself to, is that those increases will not be as great as boiler fuel or other industrial price increases.

There is no guarantee to anyone that there will not be price increases, but agriculture will be accorded that benefit which basically runs to the residential and small business user.

Mr. TALMADGE. Third. Concerning the provisions of this bill that apply to an exemption against natural gas supply curtailment for essential agricultural uses, what does this really mean? It is my understanding that section 401 requires the Secretary of Agriculture to certify the essential needs for natural gas for agriculture to assure that full food and fiber production continues. The Secretary of Energy then prescribes a rule that incorporates this certified need so that interstate pipelines may not curtail supplies to these end users.

It is also my understanding that the conferees indicated that the definition of essential uses in agriculture should be interpreted in the broadest possible concept so that our food and fiber production continues without impairment. Am I correct in my assessment of this section?

Mr. JACKSON. The Senator is correct.

Mr. TALMADGE. Fourth. In recent winters we have seen dairy processing plants denied natural gas and without an overall effort to replace the supplies, some 3,000 dairy farmers at one plant were within hours of having to dump their milk. Fertilizer plants have been curtailed and during the winter of 1973–74 curtailments seriously shorted supplies and fertilizer prices rose to record levels. Will section 401 prevent repetition of such curtailments and eliminate the prospects of curtailments of even greater magnitude?

Mr. JACKSON. The answer is, yes. What we have done is to protect essential agricultural uses.

Mr. TALMADGE. Fifth. As I comprehend it, however, the Federal Energy Regulatory Commission has the authority, in consultation with the Secretary of Agriculture, to deny exemption from curtailment if it can prove that there are alternative fuels which are both economically practicable and reasonably available. In such instances, food system participants would be denied the exemption from curtailment and encouraged to switch to the alternative fuels. Does this leave too much discretion so that millions of farmers and ranchers would be placed under the thumb of the Federal Energy Regulatory Commission—a Government body that might force farmers and ranchers to switch to high-cost alternatives without fully understanding the situation?

Mr. JACKSON. Might I just read from page 114 of the conference report:

> The Commission, in consultation with the Secretary of Agriculture, will determine if alternative fuels are economically practicable and reasonably available to meet the needs of agricultural uses as certified by him.

So that is an unusual step.

Then, on down that same page I read as follows:

> The conference agreement specifically includes authority for the Secretary of Agriculture to intervene before the Commission in curtailment proceedings implementing this section. The conferees do not intend that anything in this Act shall give the Secretary of Agriculture authority to exercise, or limit the performance of his duties under this section for the purpose of restricting production of any crop or crops.

Mr. TALMADGE. And, lastly, No. 6, moreover, as I am told, the Federal Energy Regulatory Commission, or its predecessor, has been buried in a backlog of cases to be processed. Is there any chance that crops could perish in the field while applications for priority allocation of natural gas for crop drying or irrigation languish in some bureaucrat's files?

Mr. JACKSON. Let me say, first of all, there is a big backlog that the Senator referred to, but agricultural cases will be given top priority in the consideration of those matters.

Second, I would point out that the procedures here—addressing myself now both to this specific area and to the whole conference report—have been substantially simplified in comparison with the existing law. So the procedural aspect of it, I think, will be far more effective in bringing early adjudicatory results.

Mr. TALMADGE. I am grateful indeed to my distinguished friend from Washington, who is always cognisant of our food needs in this country, the most important thing, of course, in the Nation. None of us can survive without adequate food.

I appreciate the clarification the distinguished manager of the conference report has made in providing for this agricultural priority.

Mr. JACKSON. Mr. President, I want to express my appreciation to the distinguished chairman of the Committee on Agriculture, the senior Senator from Georgia, for raising these questions because I feel they are very important in light of the comprehensive nature of the bill.

I want to thank my good friend from Georgia.

Mr. TALMADGE. I thank my distinguished friend.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. RIEGLE). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAVEL). Without objection, it is so ordered.

The Senator from Connecticut.

Mr. WEICKER. Mr. President, the natural gas pricing conference report before us today is meant to represent a major step by this country in solving its energy problems. However, this report, rather than being a step forward toward a brighter energy future represents a step backward deeper into the morass of regulation and farther from our goal of energy independence.

I would support this compromise if I thought it could provide additional gas supplies. But it will not. Production incentive depends on price and on freedom from uncertain and complex regulation. This compromise will provide neither.

In the intrastate market, which has provided the bulk of new gas finds, this bill will impose price controls for the first time, and will impose a totally untried system of price categories and determinations.

In the interstate market, under the current system, anyone who drills knows he will get at least the current new gas price, without undergoing the incredibly complex process laid down in this compromise for categorizing gas prices; under the compromise, much new drilling would get considerably less than the "new gas" price.

Over the past 20 years, we have had a dual natural gas market. We have had this regime of controls in the interstate market and we have had a system of freedom in the intrastate market. We have now seen the results of that comparison. It is not freedom that has failed, it has been control.

Year after year, the intrastate market has discovered the reserves necessary to replace gas consumption. The interstate market has not. Month after month, since we began discussing gas legislation, intrastate production has exceeded the levels of the previous year while interstate production has continued to fall.

This difference is the basic reason that I have supported deregulation, it is the basic reason that the Senate as a whole voted for deregulation, yet the essence of today's proposal is not deregulation but rather an extension of controls. That is, possible deregulation in 7 years—more likely 9—but an extension of controls now.

So the first question that has to be asked is that if deregulation is the correct and proper economic theory 7 or 9 years hence, then why is it not correct now?

The extension of controls to the one gas market that has worked is bad enough, but this pompromise then adds insult to injury by further complicating the pricing system to the extent that no one—consumer, producer, or energy regulator, and, more importantly, U.S. Senators—can understand the system. It is hard enough to get a majority of people in this country to agree on any major policy and in the energy area it is almost impossible to do so, but I cannot understand how the supporters of this compromise expect the American public to endorse so complex and contorted a measure.

The only way they could do it would be to abandon all fact contained in the measure and substitute for it the very simple statement, "We need an energy bill." At the conclusion of my prepared remarks, I would like to go further into that type of reasoning because it could certainly apply to any legislation that comes before the Congress of the United States. Forget the substance, emphasize the form.

I realize we are getting a little lazy as far as this Nation is concerned, in the sense of legislation, in the sense of our adherence to obeying the laws, or in our devotion to the Constitution, and we like to substitute form for substance, and increasingly so. But then I think it should be pointed out as to what it is we are doing, and that is my intention here on the floor this afternoon.

Even the administrators have their doubts. The Director of Enforcement of the FERC, Sheila Hollis, says:

> The legislative framework envisioned by the final Conference Report is exceptionally complex and intricate. Administration and enforcement of this highly technical bill could be undertaken only with substantial additional staff and other resources committed to the Commission.

Tomorrow or the next day, when this very important vote on recommittal is taken, I can guarantee that there will not be a half-dozen Senators on this floor voting that can understand what it is they are voting on. Nobody knows the consequences of what it is that we are about to either pass or defeat, including those at the Department of Energy, and certainly including those at the White House.

But the slogan under which passage is demanded by the President is that "we need a bill."

There will be over 20 new categories of gas with separate pricing systems for each. What a nightmare. What production incentive is there for the producers who, to get the higher prices, have to incur enormous costs just to understand and comply with these regulations.

But compliance is only the beginning. As we have seen in recent years, the new controls get cranked up and in a few years every firm is in court for violations of one kind or another, because no one understands the regulations in the early years. So the taxpayer has to ab-

sorb not only the higher costs of new energy but the legal costs of these lawsuits, paying both sides—in tax dollars for the Federal regulators and in higher costs for the producers. Now where is the sense in all of that?

The incremental pricing provisions in this compromise provide another example of its shortsightedness. If industries in the gas-consuming States are to suffer the provisions of incremental pricing while those in the gas-producing States are not, then there is bound to be a flow of jobs away from consuming areas. The impact on jobs and economic prosperity is obvious, but what about the effect on energy prices throughout the Nation? As companies and industries shift away from a consuming State, the cost of energy to those citizens and businesses increases as the fixed distribution costs have to be spread among those left.

The chairman of the Public Service Commission in Wisconsin, a consuming State, has perhaps put it best. He says that—

> This bill is not really a gas deregulation bill that closes the gap between inter- and intrastate markets. It is an industrial gas conversion bill, a higher priced forced residential gas conservation bill, and an incentive for jobs to move from gas consuming to producing states.

He concludes that this bill will tend to cause industry to convert toward, not away, from oil because of price and uncertainty of supply.

The President and supporters of this so-called compromise see it as the savior of the U.S. dollar. Without a gas bill, they tell us, the dollar will continue to decline against the major currencies of the world. They tell us that the international financial community is watching us, waiting to see if this country can forge an energy policy that will lead it back to something approaching balance in its international trade.

The world is not waiting to see whether or not we forge an energy policy. The world economic community is waiting to see whether or not we can engage in acts of self-discipline. Self-discipline—not in exercises of rhetoric saying that we have a bill.

Unfortunately, in an economic sense, there have been no acts of self-discipline, either in our domestic fiscal policies or our international fiscal policies.

Yes, there is no energy bill, and there is no question about the fact that the lack of an energy policy is at the root of our economic difficulties. But saying that you have a policy does not substitute for the substance of that policy.

It was almost 4 years ago that I stood on this floor with the then majority leader, Mike Mansfield, of Montana, one of the giants of the U.S. Senate, a man of enormous courage. The two of us said then, at the imposition of the Arab oil embargo, that this Nation needed to impose upon itself mandatory fuel conservation. There was not another Democrat and there was not another Republican who stood with us on that issue back in 1974.

So, for 4 years, the people of this Nation and their representatives in the U.S. Senate have rationed by price—in effect, have rationed the poor of this country, have rationed the elderly of this country, have rationed the lower income segments of our population; they to bear the energy cross for all of us. That is because none of us wanted to go ahead and change our lifestyle.

Yet, if we had changed that lifestyle back in 1974 with an act of self-discipline, rather than the volutarism that has led us to increase our consumption of oil and gas—if we had engaged in an act of self-discipline in 1974, there would have been respect for the President of the United States on his recent visit to Bonn. But nobody wanted to incur the slightest discomfort, and nobody wanted to inform their constituency of the discomforts required. So the conservation aspects of energy in this country went out the window.

The figures have been rehashed many times. What is our bill from Saudi Arabia? It is up some 1,000 percent in the last 4 years. Gas consumption is up. Oil consumption is up. We say we are doing well with the cars, and all of a sudden we are all using vans, and they use twice as much gas. Any suggestion that there be an act of self-discipline in the conservation sense, and everybody runs out of this Chamber.

That is what was at issue at Bonn, not the fact that we did not have a bill.

America, for quite some time, has not shown its willingness to make the substantive changes and to take the substantive measures which will bring us into fiscal soundness, a fiscal soundness on which the world relies, since the dollar is the premier currency.

Leaving conservation aside for a minute let us look at the complexity of this compromise. Twenty different categories of gas pricing. Why is it that we have to so contort ourselves? The reason is very simple. As I stated on the floor the other day, in putting together this compromise, producing interests have been consulted, consuming interests have been consulted, the Southwest has been consulted, the Northeast has been consulted, liberals have been consulted, conservative interests have been consulted, Republican interests and Democratic interests have been consulted.

But nowhere in the bill is there an attempt to consider the American interests, that one common bond which can produce a common solution—the free market.

I find it ironic that those who speak for the principles of the free market, of deregulation and decontrol, have to explain why it is that we feel the Nation once again should go back to that system. Ask the individual on the street why supplies are short and prices are high. It did not come to pass by virtue of a system of deregulation or decontrol. It did not come to pass, because of the free market. We have not had that in the last 4 years. It has been a system of controls.

Yet, it is those who advise a change in the game plan who somehow have to do the explaining, rather than those who have built the most horrendous track record in the history of our free enterprise system.

The American people were promised that with controls there would be lower prices. Question: Are the prices lower?

In essence, I suppose it has been the philosophical attitudes of most of the Members of the two major parties that have prevented any sort of realistic solution. In the main, Democrats have been opposed to deregulation and decontrol; so there has been no incentive to get additional supplies. Hence, the supply portion of the equation of the law of supply and demand has made it impossible to do anything to try to resolve our energy crisis. No incentive, no supplies.

Republicans, in the main, have been opposed to any form of mandatory conservation. So it has been impossible to do anything with the demand side of that equation.

So you are stymied on the one hand, unable to do anything with the demand, unable to do anything with supply on the other, and everybody wonders why there has been no resolution to the energy crisis.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. WEICKER. I do not want to be rude to the Senator. I would like to finish my comments, and I will be glad to yield.

Mr. MELCHER. I want to join the Senator from Connecticut in encouraging an increase in supply.

Mr. WEICKER. If the Senator would like to speak later, it would be a matter of his convenience. I will be finished in a few minutes.

Mr. MELCHER. I will withhold. There have been points raised by the Senator from Connecticut with which I agree.

Mr. WEICKER. I thank the distinguished Senator.

So, really, the roots of this problem were recognized clearly by all hands 4 years ago. Frankly, there was not a majority leader running around the floor saying that we have to have a bill. There was a majority leader who said we have to conserve and we have to do it in a mandatory way. That is a big difference in the exercise of leadership right there. Form rather than substance. Politics rather than reality. That is why we are in the present impasse.

The dollar is going to recover, but only when we come up with an energy policy that makes sense.

I think anyone who has read even a summary of the provision or any of the debate on this issue will realize that this compromise does very little to address the real problems we face in this part of the energy spectrum. If anything, it probably will worsen our trade balance by forcing industries to convert to other fuels, probably oil.

Why? Because it will push gas prices up until oil becomes an attractive substitute for gas. So let us not kid ourselves thinking that the international financial community, not to mention the American public, is going to be fooled by believing we are going to have a sensible "energy policy" by passing this bill.

The dollar, as I said, will recover when we do come up with an energy policy that makes sense, that has substance to it, and that substance is to provide for

more domestic production and for tough steps to reduce consumption and encourage conservation.

I stand on the floor of this U.S. Senate in the year 1978 saying exactly what I said in my reelection campaign of 1976. It is a rather oddball platform to run for election on, but I said it in the State of Connecticut: Rationing on the consumption side; deregulation, decontrol of free market on the supply side. And for whatever inconvenience that might be caused for a few months or a few years we will come out of the woods together not having penalized just a segment of our population but each one of us having borne the burden required to make the solution meaningful. We will not talk our way out of this crisis. We will not armtwist our way out of the crisis. More gas, more oil, and less use of the same—it is as simple as that, and we do not need 190 pages to satisfy the egos in this Chamber and down on Pennsylvania Avenue to tell us that.

If any member of the American public is fooled into thinking that this is going to resolve our problem and give us lower prices and stable supplies, then I say this afternoon: Should the bill pass, watch what happens for the next year or so, because that is the other part of the political strategy. All will be forgotten a year from now, 2 years from now, by the American public.

So, while this bill is worse than the status quo, we all recognize the current situation in the consuming States is difficult, and we must do what we can to improve it. That is why my colleagues and I support certain portions of the conference report which are generally agreed upon and which will provide some production in supply for the interstate market. The free market has worked so well in the intrastate market that an excess of gas is available, at least at certain times of the year.

The provisions already agreed upon will allow that gas to flow to the interstate market at reasonable prices without bringing the sellers under FERC control. Together with provisions similar to the Emergency National Gas Act of 1977, which worked quite well, but which now expired, our motion to recommit will actually improve the current situation, as opposed to the conference report, which will lock up into an interminable web of regulation and control.

Throughout the natural gas debate I have always supported a bill that would provide for deregulation at some reasonable time and certain point in the future. I think it should be tomorrow. I recognize the necessity of compromise in this business called Government. But as to the 7 years, 9 years possibly, as is contained in this bill, do Senators know what that is for? That is to let the politicians down easily who have for the last 4 or 5 years been saying that controls would give us those lower prices and those stable supplies, which predictions have proved to be incorrect. It is not 7 or 9 years to achieve an orderly transition in an energy sense, but 7 to 9 years to allow my colleagues in the House of Representatives and the Senate to prepare escape routes to make provision for other employment.

Indeed, if we agree on the bill as it now stands, we will still need a national energy policy, and every day we continue to embrace the pretense that we have one will take us 1 day further from achieving our goal of energy independence.

The real difficulty is that should the legislation be passed by the House of Representatives and the Senate and signed by the President the assumption will be made by the man on the street that the United States has an energy policy, and that probably is the greatest danger contained in this legislation, for regardless of what your point of view is on regulation or deregulation or on consumption, believe me what is contained in here after the title is nothing. And there will be no pressure to do anything further. If, indeed, all the pressure that has been generated in 4 to 5 years has wrought nothing except this monstrosity, what will happen when the country thinks we have an energy bill or at least is able to point to something that was signed into law? There will be no demand for conservation. There will be no incentive for additional production. There will be the standard comeback: "We have an energy policy. Why don't you find out? Let us just see how it works for the next 7 to 9 years."

This country cannot afford 7 to 9 years of the profligacy in energy in which we are now engaged.

I am fully aware of the fact that my views bring me much into conflict with most of my colleagues. I really do not know anyone who is both for mandatory conservation and for deregulation. But that is the honest answer, and all I can say is that, however, it will hurt, it will only hurt for a little while. As it is now, too many people have been hurt for too long. For 4 years shortages of supply in the gas field have put people out of work. People have actually frozen to death. These are not just dramatic footnotes that are figments of my imagination. It has happened. The tragedies are already there.

Everyone said when the gas lines went away in 1974:

> Fantastic. I don't have to wait in line any more at the gas pump. There is not even that inconvenience, no more waiting at the gas pump. So the crisis is gone.

Just ask the elderly who have gotten their utility bills over the past 4 years whether or not the crisis is gone. I have had them in my office, Mr. President. And given a choice between a rise in social security or some alleviation of the prices they have to pay for their light and their heat, they would choose the latter. It is that bad. Or take the individual who cannot get to work. Maybe since we have achieved a great degree of affluence for so many Americans, people do not think about the price of gasoline anymore. But many of our citizens do, because unfortunately wages and all the rest of it has not gone up correspondingly with the artificial price of energy imposed upon us by the OPEC nations.

So there was a price to pay. That was not standing in line at the gas pump. But it was death, it was joblessness, it was the fright of not being able to have utilities or the fear of not being able to pay the bills. This has been a part of American life for too many Americans over the past 4 or 5 years.

So we did not get away scot-free. The failure of Congress or the President of the United States to enact an energy bill, the chicken politics that have been played on this issue, have exacted, I think, a very painful toll.

I suppose there are those who are going to argue, "Well, all that is behind you. We have an energy bill here which is not going to pinch anybody's toe in an election year, so you can vote for it. You can go home and say, 'I voted for an energy bill.' Believe me, there will be nothing there which will ruffle your constituents." But if you accept that argument, you are, in effect, saying that you are satisfied with the situation as it exists today, and I just do not believe in that.

I believe we can have stable supplies, and I believe there should always be the prospect of prices going down. Under this bill there is no such prospect. Do not forget that a free market involves that possibility, whereas under this so-called "deregulation" bill the price always goes up every year. It is going to go up to a price that apparently is acceptable to some of our producers.

Where in the bill does it provide for prices to go down over the next 7 to 9 years? It does not. It cannot, because you are talking about a controlled economy in this matter.

So, first of all, let the administration explain to the American people on natural gas that the extension of controls or the gradual phasing in of deregulation guarantees only one thing, that the price is going to go up, whereas the price under total deregulation in a free market, can go down if the supply is too great.

Mr. President, not wishing to step on partisan toes, I have some partisan comments to make. Maybe I ought to stop at this juncture and let my good friend from Montana have his say on this matter, a man whom I greatly respect and, I might add, a successor to the distinguished former majority leader of whom I have spoken so affectionately and so admiringly.

I yield temporarily to the distinguished Senator from Montana.

Mr. MELCHER. I want to thank my good friend, the Senator from Connecticut. I want to say there are many points the Senator from Connecticut has raised with which I agree. However, I do not agree with the need for gasoline rationing. Indeed, despite what my very good friend and very great predecessor believed in, in that regard it was totally unacceptable in our State.

But when the Senator from Connecticut speaks out about the need for conservation, I totally agree with him. I know from our experience together on the Senate Energy Committee that we think alike on the subject.

I also join the Senator from Connecticut in advocating very strongly an opportunity for increasing production of oil and gas in this country, and I agree with him that the incentives have been re-

moved. That is why both he and I voted for the Pearson-Bentsen proposal that received a majority of the votes here in the Senate when we dealt with this subject last fall.

But we split here, the Senator from Connecticut and myself, on this proposition, because while this has presented not nearly as much as I wanted in terms of Pearson-Bentsen, in terms of deregulation, it is, in my judgment, better to have this, and to have it now, than to delay until some future time, so indefinite that it is impossible to calculate, when both the House and the Senate would pass another type of gas bill called gas deregulation or gas regulation for at least this does have some deregulation in it.

There is something in this bill, and something connected with it, that I do not believe the Senator from Connecticut has considered.

We can talk about what will be in a motion for recommittal.

Mr. McCLURE. Mr. President, will the Senator yield for just one comment?

Mr. MELCHER. Yes.

Mr. McCLURE. I think it deserves some comment at this point about the alleged complexity of the bill, because of the number of classes of gas.

Mr. MELCHER. I was going to get to that, I can tell the Senator.

Mr. McCLURE. I would just like for the record, unless the Senator would prefer to do it himself, to state there are actually under this proposal fewer classes of gas for regulation purposes than there are under existing law, because it establishes essentially four classes of new gas wells. There would be the new, there are wells with on-chart production, deregulated high-cost gas, and wells which do not qualify for either, and those would be the new gas wells, and the old gas wells which are divided into three categories: Stripper wells, and you have to do something to deal with the question of what do you do on interstate roll-over contracts and intrastate roll-over contracts? What do you do when a contract expires and they must negotiate for a new price? That is the seven classes of gas that are established under this bill.

A great number of people have said, "There have been 17 or 22 or 23 or 26." I would say to the Senator there are probably some 300 to 400 classes of gas now being administered by the Federal Energy Regulatory Commission, and they must, under existing law, establish for new gas, on a quarterly basis for new wells, a new price in a separate proceeding under each application, and they are losing ground under those applications. That will be true during all of the period of time in the future until the law is changed.

Mr. WEICKER. I only respond to my good friend from Idaho by saying that I have never—I do not believe the Senator from Idaho has either—used the present system as a model either of workability or of philosophy or good economics.

Mr. McCLURE. Mr. President, will the Senator yield to me? Certainly I do not intend to convey that the present law is the very best we can have nor do I contend that the proposed conference report is the best law that could be written. I am saying that the choice we have confronting us now is between the existing law and the conference report, and the hope that we might somehow do something better. Those are the only choices we have.

I think any objective assessment of the difficulty of passing the law, passing a new law, to improve where we are now must rest upon a judgment, and it is a political judgment, it is not an economic or factual judgment, but a political judgment, about whether or not Congress is in the future more likely to enact better law than they are to do so right now.

I would just point out that the Pearson-Bentsen bill passed this last year in the Senate by a margin of only four votes. At the time we voted on it before, the margin was six votes.

In the House last year it failed of passage by a margin of 13 votes. The last time it had been voted on before that, in 1975, it failed of passage in the House by only three votes.

The reason I mention those things is that I am not sure that the trend in Congress is away from deregulation of gas but may, as a matter of fact, have reached a high point during the aftermath of the gas shortages which saw factories, homes, and schools running without a sufficient supply of natural gas. Congress, in its usual tendency to run from crisis to crisis, very nearly responded affirmatively in the immediate aftermath of that crisis. But as we moved farther away from it the tendency on the part of Congress to correct the obvious inequity and obvious faults of the existing law diminished.

My assessment, for whatever value there may be in my own personal assessment, would be that the likelihood of passing a better bill next year is less than the likelihood of being able to correct it this year.

Mr. WEICKER. I would like to ask the distinguished Senator from Idaho a question: If, as he maintains, the categories are less complex in the bill before the Senate than the present system, how does he explain—I will repeat the statement of the Director of Enforcement referred to—how does the Senator explain the statement that SHEILA HOLLIS made, that "the legislative framework envisioned by the final conference report is exceptionally complex and intricate. Administration and enforcement of this highly technical bill could be undertaken only with substantial additional staff and other resources committed to the Commission."?

Mr. McCLURE. She has made that statement. The simple answer is that they started out 9 months ago with a 14,000-case backlog, that the backlog of unresolved issues now exceeds 20,000, and is nearly 23,000 at the present time, and they will need additional personnel and resources to carry out their functions under existing law.

It is her opinion that they will need additional personnel. I would invite the Senator, if he would like, to read the fuller statement of the Chairman of the Federal Regulatory Commission that appears in the same memorandum, in which he says that as a matter of fact under existing law they could well require less personnel, and I could read about three pages of his comments as to various ways in which regulatory complexity under this bill could well be less than the regulatory complexity under existing law; and I refer the Senator to pages 10, 11, 12, and 13 of the section-by-section analysis from which he has just quoted one sentence.

Mr. MELCHER. Well, the Senator from Idaho is correct in stating the cases of the categories, and I would like to read what Charles Curtis, the chairman of the Federal Energy Regulatory Commission, stated on about September 8:

> There has been a great deal of discussion in the press concerning the number of pricing categories, production classifications, and other administrative determinations under the proposed NGPA. There is no single response to these various claims. The answer is keyed to how narrowly or broadly you construct the categories. For example, the staff has identified approximately 11 different and specific price levels permissible under the Act. Of this number, four derive from the incorporation of currently effective Commission determined just and reasonable rates and two others result from the creation of a statutory equivalent to previously determined just and reasonable rates.

Those 11 categories are set out on the next page, and I will mention a couple of them and incorporate all of them in my remarks. I ask unanimous consent that the 11 rate categories be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

(1) $2.09 rate with both inflation adjustment and escalation (described in section 108(a)).

NEW CATEGORY—STRIPPER WELLS

(2) $1.75 base rate with both inflation adjustment and escalation (described in section 102(b)).

NEW CATEGORY—NEW GAS

(3) $1.75 base rate with inflation adjustment only (described in section 103(b)).

NEW CATEGORY—IN FIELD GAS

(4) $0.93 base rate established by Opinion No. 770–A as incorporated and modified by section 104(b)(1)(A).

OLD CATEGORY—(UNDER FPC-CODIFICATION)

(5) $0.295 base rate established by Opinion No. 749 as incorporated and modified by section 104(b)(1)(A).

OLD CATEGORY—(UNDER FPC-CODIFICATION)

(6) $0.52 base rate with $.01 annual escalation under Opinion Nos. 699 and 770 with inflation adjustment beginning in the month following the effective date of the rollover for those rollover contracts which were executed on or after January 1, 1973 and before the date of enactment.

OLD CATEGORY—(UNDER FPC-CODIFICATION)

(7) $0.54 base rate with inflation adjustment described by section 106(a)(2).

OLD CATEGORY—(UNDER FPC-CODIFICATION)

(8) $1.00 base rate with inflation adjustments, described by section 106(b)(1).

NEW CATEGORY—FOR CERTAIN OLD INTRA-STATE GAS

(9) $1.45 base rate with inflation adjustment described in section 109(b). This rate is equivalent to the $1.42 base rate established by Opinion No. 770–A as incorporated and modified by section 104(b)(1)(A).

OLD CATEGORY—OLD FPC-CODIFICATION

(10) Various special relief or optional procedure rates prescribed by the Commission after April 20, 1977 and before enactment, covered by section 104(b)(1)(A) or (B).

OLD CATEGORY—OLD FPC-CODIFICATION

(11) Special incentive price for high cost natural gas. Section 107(b).

New category—high-cost new gas (such as western shale). Incentive price.

Mr. MELCHER. The first one is a $2.09 per thousand cubic feet base rate, with both inflation adjustment and escalation, for stripper gas wells.

This fits into two of the points that the Senator from Connecticut and I agree on completely. You can look at a stripper gas well as new production if it will increase the production and get something out of there you would not have otherwise gotten out of it. And you can look at it on the basis of conservation, because if it is a producer, if you have the well and it has been producing, it is in the stream of supplying gas, and if you do not get the gas out, you are wasting it.

So I think the Senator from Connecticut would agree with me that we need something in the law to allow an incentive price for stripper gas wells, just as we have had for several years an incentive for stripper oil wells. It has worked for stripper oil wells; we knew it worked when we first adopted it, the very first time. We modified it several times, and now we have incorporated it into this conference report as a part of this bill for stripper gas wells. I think it makes sense. I think the Senator from Connecticut would very much agree with me on the necessity for having that modification in the present law.

Now, there is another basis for incentive in the 11th one of these 11 different categories. It is a special incentive price for high-cost natural gas.

That high-cost gas could be something like Western shale. If it is there, and if there is a feasible way that meets the practical question of satisfying the market demand for natural gas at a price that people are willing to pay, then we ought to allow under the law for such an incentive price. I think the Senator from Connecticut would agree with me on that, too.

Then there is another point about talking about increasing production within the United States. We have got the oil flow from Prudhoe Bay in Alaska on the North Slope. The gas is there, which is being reinjected now into the wells as it comes out with the oil. For a period of time that can be successfully done without incurring additional costs.

But I think the Senator from Connecticut would envision that the natural gas from Alaska should add to our domestic supply here in the Lower 48. It is not much use sitting up there in Prudhoe Bay, and we need to have it brought down here. We have established the conditions for right-of-way permits and agreed on a route for the natural gas pipeline from Alaska. Yet it will not come about unless we adopt a law to require the rolling in not only the wellhead price, but of transportation costs; and that is in the bill, too.

Mr. WEICKER. Mr. President, what the Senator is saying to me is that if we can only get that natural gas into the United States, then we have the possibility for lower prices. Believe me, we do not have the possibility for lower prices in the United States under this legislation, not at least for the next 7 to 9 years.

Mr. MELCHER. No, Senator, I am not making that claim, that natural gas coming down from Alaska would assure us of lower natural gas prices. We may find that even though we allow that gas to come down here, by allowing the rolling in not only of the wellhead price but of the transportation price so that pipeline company can sell the bonds to get the money to build that pipeline, it may well be that it will be at such a price that no one wants to buy it.

I am not saying that Alaskan gas, when it comes down to the Lower 48 States will sell at an attractive price. I do not know; if it were here today it might not be too attractive, because we are looking at $4 a thousand cubic feet, and that must compete with a lot of resources that are cheaper than that.

No, I would not attempt to make that case.

Mr. WEICKER. But then it is also fair to state to the consuming public that under this bill there is no possibility, regardless of the supply of gas, of the price going down.

Mr. MELCHER. Yes, there is. Let me tell the Senator why there is.

Mr. WEICKER. How? I am talking about the next 7 to 9 years.

Mr. MELCHER. These are only approximations. The escalation only applies to the maximum. Let me tell the Senator why this may lead to cheaper prices in the future. Alberta adjoins Montana. The way they run the province there, the Canadian Energy Board in partnership with the province runs the production. It is one where they do not want to export oil or gas. In the situation with oil it seemed to work out all right with them for a while because they have been steadily decreasing their sales of oil to the United States. They have it down to quite a small amount now. But at the same time they were trying to utilize the gas in the Alberta gas field for themselves and not sell any new contracts to the utility companies in the United States, they found that they needed to have more gas sales. The price was increased and it is up to right around $2.13 to $2.30 per thousand cubic feet right now.

When that time came, when they allowed that added price, there were hundreds of new gas wells brought in in Alberta. I am advised by people familiar with the market there, familiar with the natural gas market there, that the current contracts that they have in the Canadian Province of Alberta, and which the Canadian companies have now, are about $2.13, which look very good to them. At this moment they have not had sufficient buyers in the area to absorb all of the gas they think they are going to be able to sell on contract during the next year or two.

A slight increase in the price, we would call it slight now though it was quite a dramatic increase at the time, allowing that price to get above $2 increased drilling, brought in more gas wells, and, for their market, has made a substantial quantity of natural gas available. They are now exporting more than they really planned on or thought they would a few years ago,

Mr. WEICKER. I have no argument with the Senator from Montana on that point at all.

Mr. MELCHER. I know the Senator agrees with me on that. But in a small way, in a much smaller market, a slight increase—and believe me I am not trying to say that going from $1.25 up to $2 is not a big percentage increase but $2 natural gas sounds attractive to us now—by doing that they brought in a lot more natural gas.

Under the terms of this, getting above $2, which it will in 1979 for new gas, it could probably bring in a lot more gas than we could envision at this time. So we might reach the point of additional supply. I know the Senator agrees with me that that is ideal, if that happens. I cannot say it will happen. I would like to think we have a shot at it.

Mr. WEICKER. I have no arguments whatsoever with the distinguished Senator from Montana on the additional price producing additional exploration and a greater amount of gas. But still left unanswered, however, is the last question: With the additional exploration and the additional gas, once onstream has the price gone down? Apparently there is no proof to that point.

Mr. BUMPERS. Will the Senator yield?

Mr. WEICKER. If I might complete my comments with regard to the comments of the Senator from Montana, then I will yield.

To respond to the distinguished Senator from Idaho, whose point is to the complexity of the provisions of this bill, may I repeat a letter that was written by the chairman of the Federal Energy Regulatory Commission, the letter of September 8? I will read the whole paragraph so as not to try to give any tilt to my response to the statement of the Senator from Idaho.

> As you will note, the conference report is set out in elaborate detail. If one accepts the policy conclusions of the conferees as given, the question still remains whether the Act can be effectively administered and enforced. It is my basic conclusion that it can be. I could not have made the same judgment with respect to the July 31 draft.

This is obviously Chairman CURTIS trying to respond to the statement of unenforceability. But that is not the point that I raised with the Senator from Idaho. That point is now discussed by Chairman CURTIS when he says:

> I must responsibly point out, however, the task of administration and enforcement of the statutory scheme will be most difficult. The legislation will necessitate an augmentation of Commission personnel and financial resources.

Augmentation of personnel resources? Why do you augment your personnel and your resources if the regulations are simple? It is an ambiguity, a contradiction.

He goes on:

a sustained and dedicated effort by members of the Commission and its staff and a high degree of cooperation of the various State and Federal agencies who are assigned responsibilities under it.

I might add indeed there will be increasing regulatory problems at the Federal level, and much of this will also be thrust on the shoulders of the various State regulatory agencies.

I do not see how it can possibly be argued here on the floor of the Senate that the legislation before us is going to simplify that which we already have. The only simplification which could occur which would be meaningful would be to go to a free market, to deregulate, total deregulation and decontrol. There you indeed would go ahead and simplify the process.

I realize that that is an impossibility, that there has to be some sort of a transition stage. Indeed, Pearson-Bentsen went ahead and complicated that in the course of the 2- and 5-year deregulation and decontrol. But 7 to 9 years, maintaining all the existing categories as they apply to old gas, changing really only the basic ground rules for new gas, and someone is going to stand on the floor here and say this actually simplifies? I do not care how you want to categorize. That is an argument in semantics. Believe me, when people say the bill is complex, it is complex and its enforcement is going to be complex. That is by the judgment of two people who sit on the agency responsible for that enforcement.

Now, Mr. President, I realize that partisan minds are every which way on this legislation, be it my Republican colleagues who have come out in support of the bill, in support of the President's position, or Democratic Senators opposed to the President, but there are a few political facts of life which I believe are worth mentioning. These are not directed, I might add, to any of my colleagues, but a rather general political situation which has existed without our Government for the past 4 to 5 years.

It could be argued back in 1974 that any sort of energy bill would be difficult to obtain in the sense that there was a split of authority between a Republican White House and a Democratic Congress. Indeed, I remember the tremendous efforts put forth by President Ford to go ahead and get everyone together. I might add, they were efforts which were joined in by both the majority leader of the House and of the Senate, both Albert and Mansfield. It was the inability to go ahead and deliver, so far as the troops were concerned in the House and the Senate, that had that matter fall apart.

In any event, no energy policy was achieved. We had arrived at that stalemate in our political system where the authority was split.

I do not think it improper to point out that of the politics in this country, and specifically the two-party system, which everybody likes to toot their horn about, every time I step up here and suggest we ought to expand our campaign financing and Federal communication laws, and all the rest, to encompass more than our two political parties, I get this big spiel from my colleagues about the importance of the two-party system.

"That is the way we have accountability. We do not want a fragmented system as in Europe."

The argument is not always new. Whenever I try to open up our political processes to see if be it in terms of being heard or terms of money, or all the rest, whether politics in this country really belongs not to two political parties but to everyone, the argument is used that the reason for having the two-party system is that we have accountability.

I do not accept that argument. I think it would be the greatest thing in the world to have a few more political parties around here and have a little more competition going. But for the purposes of what I am going to say, I will accept it.

Accountability—the greatness of the two-party system. Well, here it is, 2 years after the elections of 1976. No longer do we have that split in authority as between a Democratic Congress and a Republican President. We have a Democratic White House, and we have 2-to-1 majorities in the House and the Senate, of the same party. And after 2 years, the President has to go running around this town, using as the basis of his argument to pass the bill, "We need a bill." Two years have gone by and it is only in the last 3 weeks that the President of the United States has involved himself in the energy crisis. Those of us who sit on that conference—and I sit on that conference—did not hear a word from the White House for nigh onto 3 months—October, November, December. Finally, at the end of December, there was a little murmur out of the Energy Department, but no involvement whatsoever.

I think that, in terms of this accountability that we like to talk about in the two-party system, somebody has dropped the ball and, quite frankly, I am not anxious to go ahead and pick it up to, in terms of the quote of the day, "Let's have a bill." The President, when he went off to Bonn, said he points to the Congress. In a political sense, I do not think there is any question of the fact that a little effort, a little placing of this item high on the list of priorities, rather than delivering sermons out of the White House, rather than dividing our society by ripping various aspects of it apart—whether they are doctors, lawyers, or what have you—a little concentration on the homework at hand was in order. But none for 2 years. Now a mad scrambling around, just so he can say that he has a bill, when the political power has been there all along to make sure that we not only had a bill, but that it was a good bill.

I was not much in favor of the excuses of my own party when our administration could not produce a valid energy effort, but certainly, if I were critical of my own party or my own administration at this time—and I was—I am going to be doubly critical when it comes to an administration that enjoys the majorities that that administration enjoys, both in the House and in the Senate.

Again, I repeat, my criticism of the legislation before us is not on a partisan basis. I have supported this President in many of his initiatives and his endeavors—Panama Canal, human rights, many other measures on this floor. But this fails. This fails as to what it says, what it does, and, indeed, in terms of accountability, the President fails.

(Mr. SASSER assumed the chair.)

Mr. WEICKER. The dollar will be strengthened when we balance our budget at home. The dollar will be strengthened when Europe knows that we have our own energy supplies, that we have changed our lifestyle to cut down our energy consumption.

Parenthetically, to my good friend from Montana, when he says that rationing is abhorrent in the State of Montana, I say it is abhorrent in the State of Connecticut, also. That is the whole difficulty. Nobody wants to tread on anybody's toes around here.

Mind you, I did not advocate a repetition of World War II rationing. I recommended some system where you have a 6-day week for the automobiles, with a colored sticker on your windshield for the day of the week that that vehicle is not going to be in operation. I asked people to change ther lifestyle for 1 day a week, to keep that car off the road 1 day a week. I exempted agriculture and commercial vehicles so that we in no way stop the wheels of commerce in this country. I asked this country, for 1 day a week, to change our lifestyles to that extent. Even there, the answer comes out a loud "No."

No successful energy policy is going to be production alone. It has to be conservation. I realize that conservation is not in the bill before us, but neither is it in any bill coming up behind. It is miniscule. It will nowhere near do the job, either in terms of gas or oil, or anything else.

The bottom line of all this, Mr. President, is whether or not we shall have truly resolved the various problems posed to this country in an energy sense through the passage of this legislation. It is special-interest legislation. It satisfies some producers. I might add that I do not think there are many great marks that are going to be handed out to American business in their performance on this legislation. I have seen telegrams and letters from some of the large corporations in this country, saying, "For God's sake, pass it; pass it."

Where were these corporations—if I fault the President for his silence for 2 years, where have these corporations been for 4 years? Now, just at the last minute, something, some little glimmer out there, 7 to 9 years hence, in the large corporate scheme of things, is better than nothing, regardless of the hardships it will impose upon people during the course of those 7 to 9 years. So, maybe a corporation will not feel it, but believe me, the individual will.

Even among the energy companies now, there is a waffling going on. They feel that these guaranteed prices in the bill enable them to make some profit, with the prospect of a great deal more beyond that. I did not go ahead and

argue for deregulation and decontrol to satisfy them entirely. I argued for it because I felt it would bring a greater supply on stream and eventually lower the price. But there is enough in here, in this bill, for some corporations. So they are for it, albeit reluctantly so.

There is enough here for the philosophical and political types so that they can claim victory in either a philosophical or a political way.

For those that have espoused the theory of controls, they are not forced to admit they are wrong. They are allowed to tiptoe out of the room, so this bill is OK.

It is a patchwork of concessions to special interests. And now, speaking, as I said before, in the partisan sense, I am not willing to make the final concession to give a political—a political—victory to this President when I know it will be accomplished at the expense of the men and women out there who have suffered long enough with instability of supply and high prices. He talks sacrifice; yet he does not ask it, either of himself or his administration or of the voters in any meaningful way.

At one time, the centerpiece of his energy policy was the COET. Now he knows he has more than his match in our distinguished colleague from Louisiana and feels that possibly, that tax will not pass. Have you noticed how it is no longer the centerpiece of his energy package? It is now the natural gas bill that is the centerpiece of his energy package.

I might add, on the equalization tax, and hopefully, it will not pass, all that does is, instead of having the money go into the free market and to private enterprise, who would produce more, it goes into the hands of the politicians here in Washington, to send as they see fit. We do not need more politics, we need more energy. Fortunately, the scheme has been bared for what it is and so it will not be the centerpiece of his energy policy; it will be the rear end, if that.

My opposition to this bill is that it does nothing, in a physical sense, to give us credibility abroad, it does nothing in the sense of energy to assure that the people of this country will be able to escape from under the blackmail threat of foreign nations, it does nothing to enhance our national security in the sense of energy.

It might be a politician's dream come true, but it is going to be a consumer's nightmare.

I yield the floor, Mr. President.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I wanted to take this time to make my decision known on what I intend to do on this bill. Some of my colleagues will recall I was one of the leaders on the floor when this was debated here. I fought strenuously for a bill more in keeping with the House provision to keep rather rigid regulations on natural gas pricing.

The so-called Pearson-Bentsen bill which we debated here and which the Senate finally accepted would have deregulated natural gas at a very rapid rate. I thought it was wrong, and at that time I expressed my reservations about the very fact I did not think it would produce any more gas, no matter how high the price. We were not going to get a lot of gas because every rig in the country was busy. The industry was then looking for natural gas and oil with picks and shovels because the price was adequate, and I so stated.

Since that time, certain things have changed, and I will talk about those in a moment. But I want to point out, we are living in the real world as it is and not as we would like it to be.

I do not take a great deal of pride in this bill, even though I helped mold this so-called compromise in those months of tedious, laborious negotiations. It is not a work which I want to leave to my grandchildren as one of my great legacies during my tenure in the Senate. But, as I say, we are dealing with things as they are.

We had a very tenuous coalition of about 10 Senators, and, many times, when as many as 2 opposed any proposal, we had to back up and start all over again because it takes 9 Senators to report a bill.

So it was a very unhappy and uncomfortable place for me to be all those months. Nevertheless, I stuck with it because, as long as it did not offend my conscience, it was in the best interest of this country and, certainly, better than doing nothing. About that time, I finally psyched myself up to become a rather ardent proponent of the bill. Then there is this brouhaha that the President has got a deal on breeder reactors with my distinguished colleague from Idaho, which dampened my enthusiasm considerably.

But I finally concluded it would not be fair to my constituents or to the Nation, to hold this bill hostage to my strong opposition to liquid metal fast breeder reactors and to what I thought was at inappropriate arrangement between the administration and the Senator from Idaho.

Suporting liquid metal fast breeder reactors is like saying that everybody in the country ought to have 20 pounds of plutonium in his back yard to use as he sees fit.

So, I finally concluded we were really talking about apples and oranges. even though I want to say here that my vote for this bill should not ever be construed as an approval of the deal the White House made with the Senator from Idaho, and, believe me, I have heard several versions of it and I do not know which one is right.

But, as I say, I decided to face that issue somewhere down the pike. It will be back before our Committee on Energy. I will talk to the President, the Vice President, and others about that later.

But I want to talk just briefly about the state of the Nation, especially in the field of energy.

If I were President of the United States and I was going to the House of Representatives tonight to address a joint session about the state of the Nation on energy, I would have to say that it is very poor. Nothing is going on. Consumption is up, imports of petroleum remain steady despite a million barrels a day coming down from Alaska, trade deficits will equal last year's devastating $27.6 billion or more, and inflation continues to run unabated, now at an annual rate of about 9 percent during the first 8 months of this year, almost double digit for the first 9 months.

We have seen the popularity rating of the President, which was 65 to 70 percent after his nomination in 1976, continually degenerate and deteriorate since that time until now it is something like 35 percent to 38 percent, maybe less.

I guess the press asked me as much as any other single question, "How do you account for this?"

Well, I do not know how to account for it, but I can state some of the thoughts I have. It is not because some of the initiatives he has taken have not been eminently correct. I even agreed with him on some of the water projects. My distinguished colleague from Colorado, of course, convinced me water is, indeed, the life blood of the West, and perhaps the President was wrong on some of those projects. He was certainly right about the one in my State.

But what else has he done? He torpedoed the B-1 bomber and the defense authorization bill. He was for the Panama Canal Treaties. He was for raising the embargo on Turkish arms. He was for the social security tax increase. He was for selling airplanes to Saudi Arabia and Egypt.

He was eminently right on those and a lot of other points. So why is his popularity so low? Well, because most of those things are not relevant in people's lives in this country. It has nothing to do with going to the grocery store day after day and seeing the price of everything going up at a high rate.

They have a tough time paying utility bills. They have a tough time paying grocery bills. Inflation is the only game in town to about 98 percent of the people of this country, and our President has simply not been able to deal with that problem in a meaningful way.

He has sent a tax reform bill to the Congress with which we have not dealt. He has sent a welfare bill with which we have not dealt. He has sent a stringent energy bill over here with which we have not dealt.

Those are the things that are relative in people's lives, and Congress has not dealt with a single one of them.

When he says that the tax system of this country is a disgrace to the human race, he could not be more right.

Mr. President, here is a chance for Congress to make a small beginning in doing something that is relevant in people's lives and dealing with a very critical issue. But to what have we been committed? What is this country committed to right now? We are not committed to anything, if Congress is any manifestation of popular thought across this country. We have continued to act as though there is no tomorrow, and that there is indeed a free lunch.

I will tell you what we act like. We act like that old saw. I say to the Senator

from California: We know the price of

industry, because the one thing we have

are a great gas producer, but the truth

from California: We know the price of everything and the value of nothing.

This bill, as I said, certainly leaves plenty to be desired. A moment ago, the Senator from Connecticut talked about the complexity of it. It is indeed a complex bill.

I saw that famous memo from the Federal Energy Regulatory Commission—saying that it is an administrative nightmare, and I will not disagree with that. We did address some of those problems before this conference report was signed.

But let me ask this: How does the nightmarish potential for administering this bill compare to the absolutely bizarre batch of regulations that the Federal Power Commission is trying to implement now? It certainly cannot be any worse. They are sitting over there on 20,000 cases. They do not have the manpower to solve them, and they do not know how to solve them, because their own regulations are confusing. How could this bill possibly be any worse than a backlog of 20,000 cases which they cannot deal with right now because of their own regulations? It is Byzantine.

Do you know what the people in the business community in my State say to me when I go home? They say, "Senator, you know, we can take a lot of things. We may disagree with the government; we may disagree with your votes on a lot of things; but the one thing we need and want more than anything else is certainty. Just tell us what we have to live with, and we will live with it."

This bill is complex. It does not fit the purposes of any ideology of which I know. If you are a total regulator or if you are a total deregulator, this bill will not please you. If you believe that incentive can be furnished only by an exorbitant price or a decontrolled price, vote against the bill. If you think that you can hold gas prices down to what they have been for the past 20 years and solve the energy problems of this country, vote against the bill. It does not do either of those things.

The interesting Catch-22 situation here politically is that it does not make any difference how you vote. You are going to get it. Gas prices are going to go up. They are going to go up if we defeat the bill, and they are going to go up if we pass the bill. You just book that.

When you go home next winter, your constituents are going to be mad if you voted for this bill and it passes, because they are going to say that is what raised their utility bills. If you vote against this bill and it passes, you can always say, "I voted against that bill, so don't blame me." But if you vote against the bill and it fails, you get it again. They are going to say, "If you had voted for that energy bill, my rates wouldn't be so high. But you tried to kill the President's energy bill, and you did it, and now look at my rates."

Do you know from whom you are going to hear that the most? You are going to hear that from industry—not the gas industry. I am talking about manufacturers. You are going to hear it from manufacturers and from the commercial industry, because the one thing we have done in this bill is to put in a political provision called incremental pricing.

Do you know what incremental pricing is designed to do? It is designed to protect residential customers. When gas prices go up, these price increases will first be borne by industry, and residential homeowner will be the last one to absorb these increases in prices.

If we defeat this bill, the homeowner gets no protection from increased prices. If we pass the bill, they at least get the provisions of incremental pricing. So there you are.

I listened to the debate earlier between the distinguished Senator from Connecticut (Mr. WEICKER) and the distinguished Senator from Montana (Mr. MELCHER), and the Senator from Connecticut said there is no way for prices to go down if this bill is passed. That is not true.

I will say this: I worried when we were setting these prices that we were setting a floor instead of a ceiling, because if there is a glut of gas in this country in the next 2 years—and some of the opponents of this bill say there is a glut now—the assumption is that gas will continue to bring the price that is set out in this bill, anyway. Do not believe it. Prices can go down, and they will go down, just as they have gone down in the intrastate market.

A year ago, intrastate gas contracts were running around $2.10 to $2.20 a thousand cubic feet. Today, they are running about $1.75 to $1.80. Why? It is simple. It is a glut of gas on the intrastate market.

Incidentally, that brings me to another point. Do you know that agriculture is the first one that gets curtailed? Every winter since I have been in the Senate, the people who are in the soybean-drying business and the rice-drying business in my State come running up here and say, "Would you please call the Federal Power Commission for us? We have a case over there. We are trying to get them to give us more gas. They have our gas company curtailed, and they say they can't give us gas, and we can't dry rice." Therefore, they cannot export rice, and the farmers cannot get the money for their crop.

There is not a Senator in this body from an agricultural State who has not dealt with the same situation.

So what do we have in this bill? We have created a priority for agriculture. They are going to be the last ones curtailed in the future, as they should be. That is a little feature of the bill that some of the Senators from agricultural States should be thinking about.

Mr. President, there is another little point that many people do not realize. When I started out on this bill last year, I said that we should capture the gas that is in the intrastate market. As Senators know, one of the gross inequities in this country is that only about four States produce gas—Louisiana, Texas, Oklahoma, and California. I do not want to slight the State of Wyoming, I say to the Senator, but Wyoming is just not that big a producer. We produce in my State. The people in my State think we are a great gas producer, but the truth of the matter is that we import 80 percent of the gas we use in our State. Those four States produce 90 to 95 percent of the gas produced in this country.

What happens to it? Forty-two percent of all the gas in this country is being retained in those States, and it is being used in those States. The people in this body should understand one thing: 42 percent of all the gas being produced in this country, virtually every cubic foot of it, is being used in those four States.

Ninety percent of the electricity in Texas is generated with natural gas. We quit generating electricity with natural gas the first year I was Governor, and that is so long ago I cannot remember it. These producing States continue to use it for the most wasteful, profligate reasons.

What have we done? We were not able, because we could not get the votes, to say that this gas must be sold in interstate commerce. So we set up a pricing mechanism. There would be no incentive to keep it there.

There is a trillion to two trillion cubic feet in Louisiana and Texas right now that is being capped and being held and is not going to be sold in the intrastate market because the price is depressed. When this bill passes, that gas should move into the into the interstate market.

I will tell Senators something. If that does not shock a lot of Senators in this body and people across this country, I do not know what does. Think about 42 percent of all the natural gas in this country being held in four States because of a pricing mechanism.

So, if the Secretary of Energy is right and if the Department of Energy is right, this gas is going to start flowing across State lines and it is going to go into the Midwest and Ohio where the schools, hospitals, and everything else had to shut down the winter before last because it was not available in a lot of those Midwestern States, it will replace petroleum products that we are now importing from OPEC nations and helping build this $27 billion trade deficit which, in turn, is one of the principal contributors to inflation in this country.

It is only an embryonic beginning to save 350,000 barrels a day while we are using 17 to 18 million. Hopefully by 1985 we will save a million and a million and a half barrels a day. And that is a beginning.

I talked about the 42 percent of the gas that is being held in about four States. Of the other 60 percent that is traveling in interstate commerce, 40 percent of that is traveling at deregulated rates today. Why? Because we have a little loophole in the law. You send a form over to the Federal Energy Regulatory Commission and you say: "This is an emergency. I have a chance to sell this gas." And the buyer says: "I have to buy this gas. If I do not get it I am going to have to shut my plant down."

This is an emergency. And you can get those 30-, 60-, and 90-day permits as fast as the printing press will grind them out. The Federal Energy Regulatory Commission may be at fault. I am not defending this program. I am telling what the real

world is right now. I am telling that they are permitting those things as fast as they are filed, and 40 percent of the remaining 60 percent of the Nation's gas supply is traveling in interstate commerce right now at a deregulated rate. It is not totally deregulated. There is a $2.25 cap on it. But it is selling as high as $1.75 to $2.25.

So what are we doing? How are we damaging the country and the consumer so terribly when 42 percent of the gas is deregulated already because it is in intrastate commerce and 40 percent of the remainder is deregulated because it is being sold under these emergency contracts.

Mr. President, I was over at the White House the other morning and incidentally I have been getting invited over there regularly lately. While I was over there the other morning, William Miller, Chairman of the Federal Reserve System, made an interesting statement.

I think that economics is about the most imprecise science there is. I heard Mark Russell say one time he was up in Canada and he found out that the members of the separatist movement in Quebec refused to speak English. Mark Russell said, "We've got the same crowd down in our country. Only we call them economists."

William Miller is not an economist. He is a businessman. Apparently he has put the pencil to this. He says that for every 10 percent in the decline of the dollar, inflation goes up 1 percent.

The reason I keep tabs on this is because I have a son who goes to college in Germany. He is costing me a lot more money now than he did when he started. But if you compare the dollar with the German mark and all the other Western European currencies, in the past 18 months there has been a 20-percent decline. Against the Japanese yen there has been a 33⅓-percent decline. The Japanese yen right now is about 195 to a dollar. A little over a year ago it was 302.

That is the reason we have a $7 billion trade deficit against Japan, and we do not buy a barrel of oil from Japan. But we bought $7 billion worth more from them last year than they bought from us.

Talk about an insidious thief. Talk about the possibility of this bill causing an inflation increase of a quarter to a half percent. Let me tell Senators so they know what it costs the American consumer. Let me give some statistics.

This year we are going to import $160 billion worth of goods from all other countries. Of that amount, let us just say, for hypothetical reasons $50 billion of that is oil. That leaves $110 billion of all products except oil. If the dollar goes down 20 percent in 1 year, and that decline is reflected in increased prices of that $110 billion, we are paying $22 billion more at the end of this year for just those imports, $22 billion in 1 year for those imports than we would have paid if we had an even trade deficit and the dollar had been stable.

Senators come in here and say, "My gosh, this bill is going to cost $9 billion between now and 1985."

That is less than half the inflated price we are paying for merchandise in 1 year because of the decline of the dollar.

Other Senators say: "Do not think these foreign bankers and these foreign countries are idiots. They have good economists. They know what this bill is. Do not think for an instant we are going to pass off some cosmetic piece of product or piece of goods like this as a really good beginning toward curbing consumption habits and dealing with energy. They are not going to be fooled."

I am not asking them to be fooled. I think more of the bill than that. I think the bill is a beginning and a beginning we must make.

I tell Senators finally that if we do not pass this bill we can just forget it until after the 1980 election. I know the politics of the thing and everyone in this body knows the politics of the thing.

There will not be an energy bill of any substance until after 1980 unless we do it now.

The Senator from Colorado had the courage and the good sense to get up here in the Senate the other day and put the solar energy tax credits on a rather innocuous tax bill because we all know the so-called uncertainties of the President's energy policy. The crude oil equalization tax is not going to pass. I hope they stand up in conference.

That brings me to another point. Until we get this bill passed, we are not going to pass coal conversion, we are not going to pass utility rate reform, and we are not going to pass the conversion bill. They are vital. They are important, and they will make a very significant impact on this country's problems.

Mr. President, I intend to vote for this bill. I have not reached this decision lightly or easily. I think it will be much better for us to correct whatever inequities there are in this bill next year and the year after than it will be to start again in 1981. So far as I am concerned, the cow is not only going to be out of the barn but she is going to be out of sight by 1981.

We can deal with it if there is something there. This is a chance for this body to do something that is relevant in people's lives.

I yield the floor, Mr. President.

Mr. HART addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. Mr. President, like the Senator from Arkansas I intend to support and vote for this bill. I think it is unfortunate that the statement which the Senator from Arkansas has just made will not be more widely available not only to our colleagues but also to the people of our country because I think it is one of the best arguments I have heard on any side of this issue in the last year and a half, and I wish to commend him for his remarks and to associate myself with them.

Mr. President, the issue, as difficult as it is before the Senate, is not whether to deregulate natural gas. The issue is whether the Government of the United States can work.

If I had any convictions whatsoever that the parties-in-interest to this legislation had moved one iota toward each other and indicated any willingness to find any common ground between the producers, on the one side, and the consumers, on the other, that would produce a consensus that all those warring factions could live with, and that this country could go forward with in its economy and in its energy program, then I would vote against this bill.

But right there today and for the last week or two in the reception room of the Senate we have had representatives of the major oil companies, we have had representatives of every consumer group, we have had representatives of most of organized labor demanding that we vote against this bill, saying what a horrible, terrible bill it is.

Well, they produced it. It is the factions in this country that cannot get themselves together that have to take a lot of the responsibility for the kind of legislation they claim they do not like.

If there were any suggestion at all to the Senators in this body that those factions that have divided themselves so deeply, not only within the course of the last few weeks but in the last 2 years on this issue, could get together on some common principles of what they think a good natural gas bill should be, then I for one, would vote against this bill tomorrow.

But there is no indication of that.

The big oil and petroleum and natural gas companies are as far away from the consumers as they were 2 years ago. The consumers are as committed to keeping the price unrealistically low as they were 2 years ago. Many of the producers are committed to getting immediate and total, unequivocal, deregulation as they were 2 years ago. You can go on and on about every group that has lobbied every Senator here and every Member of Congress.

I say, Mr. President, this bill is a classic piece of representative legislation. If it is a hodgepodge it is because the poor conferees attempted in the best way they knew how to accommodate everybody, and if I had been one of those conferees I would probably have done just the same thing. There is something for the producers, there is something for the consumers, there is something for this group, there is something for labor, and then every one of those factions comes in and says, "Yes, but it is a complex bill." Well, I wonder why.

I found in my 4 years in the Senate almost that when you are doing what somebody wants you to do, you are representing them the way they think you should. When you are doing something that they do not want you to do and they do not like, then suddenly you have abandoned your connection with your constituency, you have no concern for the electorate; you do not care about the people you represent, and all the rest of it.

Well, this bill is not perfect. The Senator from Arkansas, I think, has pointed out in what ways it is not, and the opponents have pointed out the way in which it is not perfect. But in many ways, Mr. President, it does what needs to be done. It deregulates natural gas,

which is what needs to be done, but it does it over a period of time so the shock on the economy is not so great as to send this country into a tailspin.

It has a variety of categories of natural gas—probably too many. But it offers more certainty and more guidelines to the people who have to administer it than the people have today.

It will not encourage as much production of natural gas as, perhaps, some other piece of legislation, but it will encourage a lot more production.

We could go on and on about what this bill will not do but, Mr. President, I think it goes a long way toward doing what needs to be done.

On the matter of natural gas, on energy or the economy or anything else that has this country so deeply divided and has this reception room packed with representatives of one faction or another on every issue we face, until we learn how to sit down and reconcile our differences among each other in a better way than we are doing it today, this Government is going to continue to stumble along, and this country is going to continue to stumble along.

I, for one, am sorely pressed to be sympathetic with groups that say they do not like this bill or that bill. And they had as much to do with the product as any of us had in terms of their pressure and their lobbying and all the rest of it.

The real test before the Senate is not whether we can pass a natural gas bill; I think the real test is whether this country can be governed.

Our job is to try to point out to people how they can get together; but until those people are willing to get together on this issue or any one of a hundred of others we are not going to be the kind of country we ought to be, and I think that is a shame.

Mr. President, I think the issue is whether this Senate can decide, whether it can act, whether it can make a decision, and whether it can move on. We can do better. We can do a better job than we did on this bill. But I do not think we can do it without the support of all of those groups that have played a role in the framing of this legislation, better support really than we have gotten, more accommodation and more consensus, and that is my hope on energy and economic issues and foreign policy issues for the future.

Mr. President with regard to natural gas legislation presently before us, the specific issue is whether to support an extremely complex bill, which eventually deregulates the price of natural gas. Support for this bill cannot be based solely on what is in the bill, however. That support must also take into account likely energy and economic events if the bill is defeated.

My vote in favor of this natural gas compromise legislation is based on belief that it is preferable to maintenance of the status quo. I wish Congress could have developed a better proposal, but I believe this bill is superior to the situation we have now. It does resolve some of the problems which have plagued both producers and consumers, and it gives an important and strong signal to nations around the world that we are committed to reducing our dependence on foreign oil and our profligate energy consumption.

As we learn to live with this bill and the new policy it puts forward, we may find areas which need clarification and improvement. I am committed to help insure that Congress takes any necessary steps in the future to accommodate this legislation to changing circumstances.

KEY PROVISIONS OF THE BILL

Before discussing the broad issues, I would like to discuss the provisions of the bill itself. There are three key criteria to judge natural gas pricing and regulation proposals. First, the price of gas must be high enough to assure maximum supply to consumers.

Current prices for newly discovered natural gas are approximately 40 percent below the price of fuel oil. Current price regulations, in effect, prohibit a gas producer from marketing gas which may cost more than current supplies, but is still cheaper than imported oil. This situation is not logical during today's need to rely more on domestic energy and less on imported oil and gas. It is in the consumers' interest to substitute domestically produced for imported oil.

The natural gas bill before us today improves the pricing situation for new gas. This bill would gradually decontrol the price of newly discovered gas over a period of 7 years. To maximize the search for new gas supplies, I would personally prefer that newly discovered reserves, which require great risk to find, be deregulated immediately. However, the bill before us is an improvement over the status quo. It will result in some additional new supplies.

The second criterion for a sensible natural gas policy is that the price of previously discovered gas be kept in proportion to the cost of producing it; that is, cost-based. Consumers should continue to be protected by regulations which prevent the price of old, inexpensive gas from rising to the price of new, hard-to-find gas.

This bill maintains cost-based prices on most old gas. The exceptions to this rule occur primarily in the form of higher prices for old gas previously sold only in the State where it was produced. This legislation offers a price higher than costs for old intrastate gas as old contracts expire, but is in fact a relative bargain.

Without this legislation, when contracts expire, the old intrastate gas might instead be sold at a higher, deregulated price. Also, gas from new wells in previously discovered reservoirs will get a very high price. With this bill, consumers in States like Colorado and Ohio will be able to buy gas which otherwise would remain in States like Texas and Louisiana. While these categories of gas may be priced above its cost in the State where produced, the gas will still cost less than substitutes such as oil in the State where consumed. Thus, again the bill in question is an improvement over the status quo.

The third criterion is that a single, national market be created for newly discovered gas supplies. Currently, producers of new gas tend to sell it mostly in the producer States where unregulated prices are higher. This creates an excess supply of gas in some States and shortages in others.

The proposed legislation corrects this situation by regulating the price of intrastate sales, as well as the price of interstate sales, until 1985. During this period producers will have equal incentives to sell in all States where consumers are willing to pay the controlled price.

Another major question about this bill is its enforceability. This bill is extremely complicated, because it contains about two dozen different categories of gas. However, complicated enforcement is different from weak enforcement. This bill contains extensive details and guidelines so regulatory bodies and producers will be able to determine the appropriate price for a given sale of gas. The bill also contains strong enforcement measures to assure strict compliance.

The Chairman of the Federal Energy Regulatory Commission, Charles Curtis, said this week that the mechanisms to enforce this legislation are more substantial than those presently available. Mr. Curtis has stated that he believes this legislation can be administered and enforced effectively. I truly hope that he is right, but I will be ready to sponsor improving legislation if it becomes necessary.

EFFECTS ON PRODUCERS AND CONSUMERS

As a result of the higher gas prices under this legislation, we can expect that the current high rate of drilling will continue for many years, and more new reservoirs will be discovered. Our energy supply situation will probably not be greatly changed by this legislation, but this legislation should allow our country at least to maintain its current level of gas production for a decade or two. Without new reserve discoveries, we would run out of gas in a decade.

The higher prices in this bill will also give all consumers greater incentives to conserve gas, and to shift to more abundant fuels such as coal and solar energy where they can. In the near future, this bill is actually quite minimal in its impact on residential consumers, agricultural users, and on small industrial boilers. These categories of consumers will not pay the higher gas prices for some time. Instead, the higher gas prices will be allocated to large industrial boilers, until these prices rise to the equivalent price of fuel oil. Only then will the higher prices for new gas be averaged in with the price of old gas used by residential, agricultural, and other commercial users.

This gradual approach is particularly good because it allows time for households, farmers, and most businessmen and women to plan for higher gas prices and to adjust their use accordingly.

OTHER MAJOR CONSIDERATIONS

To decide on this bill, one must also consider what would happen if this bill fails. Based on extensive discussion with my colleagues in the Senate and in the administration, I truly believe that this is the only chance for passage of major

gas legislation for several years. If this fails, we would be left with the status quo, which not only deprives consuming States of needed gas, but also deprives producers of adequate incentives to maximize new supplies. Failure to pass this bill will not resolve the issue for anyone. Failure to act is not a solution. Nor is recommittal. With the status quo, producers will continue to push for complete deregulation, and many Members of Congress will try to achieve that. This unsettled situation will also encourage some producers to postpone the search for new reserves until they can be assured a deregulated price. Thus, we need this gas bill to give producers the certain information now that the risks of searching for new reserves will be rewarded with higher prices in the mid 1980's.

Another major consideration is the bill's symbolic meaning for the world money market. Currently, the price of the dollar is declining in relation to European and Japanese currencies. This decline is due to a fundamental imbalance in our trade, particularly in energy, steel, agriculture, and automobiles. Passage of this gas bill will not improve our energy trade imbalance for several years. However, it will give a strong signal to the world's bankers that the United States is taking medicine which will put us on the road to recovery from our addiction to imported oil. This will provide at least a temporary boost to the willingness of international bankers to hold dollar reserves. As a consequence of this legislation, sales of the dollar should decline, and the value of the dollar in relation to other currencies should stabilize.

COMPARISON WITH STATUS QUO

All of these arguments in favor of this bill are compared to the status quo. If I could be given reasonable assurances that the status quo could otherwise be improved, I would be less inclined to support this legislation. However, the current interpretation of the Natural Gas Act of 1938 is that intrastate gas sales cannot be regulated, and that interstate sales must be. This law, in effect, established a dual gas market which is sorely in need of correction.

Similarly, if I could be assured that the interests of gas consumers and gas producers would coalesce on an improved gas bill during the next year, I would also be less inclined to support this particular bill. However, consumers interests seem to be more intent on keeping gas prices low during the next 5 to 10 years than on encouraging more supply or the developing of domestic substitutes which will be cheaper and more plentiful than imports.

Domestic producer interests seem to be more intent on receiving higher prices for new wells drilled into fairly well known areas than on taking risks on drilling into truly frontier areas. These conflicting interests do not appear willing to compromise and, given this inflexibility, I doubt that a better gas bill can be passed in Congress within the next 5 years.

SUMMARY

In summary, I will vote to accept this natural gas bill as the preferred alternative to inaction. Otherwise, continued regulation and continued price uncertainty will slow the search for new reserves and the transition to greater conservation of this precious national resource.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. HART. I yield.

Mr. ROBERT C. BYRD. I want to thank the Senator for a cogent, lucid, persuasive, well-reasoned and courageous statement.

I have listened to his reasoning and I have found it to be excellent, able, and clear. I compliment the Senator on the decision he has made, and I also commend him on the rationale on which he has based his decision.

It is not a single proposition; it is for a number of excellent reasons which he has well articulated, and I again commend him.

Mr. HART. I thank the majority leader, Mr. President, for his kind remarks, and I appreciate the sentiments behind them.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I, too, have listened with interest to the remarks and the reasoning of the Senator from Arkansas and the Senator from Colorado. I have to say that I find myself in disagreement with them, and cannot, for the life of me, come in front of the Senate and say that because I disagree I think that I, and others who feel the same way, ought to somehow or other apologize for the posture that we take.

It seems to me that the process that the Government of this country was designed to provide to the American people is the process we are indulging in right now. I do not think it is all a question of whether or not we can be governed. This is the act of governing, and the decisions before this body are more than just to accept and roll over and take a compromise constructed by people who basically have no interest in the result in terms of either their States or the country or whether we, who have parochial and nationwide interests, are allowed to participate in this debate with our heads in the air. I do not see any reason to apologize for having a different view from that of the Senator from Colorado or the Senator from Arkansas.

Their arguments were lucid, but I just happen to disagree with them, and I do not find that a reason to apologize either to the Senate or to the country.

Mr. HART. Mr. President, will the Senator yield?

Mr. WALLOP. Yes, I am happy to yield.

Mr. HART. First of all, I do not attempt to speak for the Senator from Arkansas, but I do not think there was anything in the remarks I made or the intent behind them that suggested everyone should agree with me, or that if anyone did not, they should apologize.

I was commenting on the fact that this bill was being heavily lobbied against on the ground that it was not very good, by people who have not taken one step toward the people they have been tilting with for 2 years to start putting out something better. This body has labored, the House has labored, and heaven knows the conference has labored mightily to achieve this result, and now people come in and say that since we have tried and failed, in their judgment, they have to vote against this measure.

If those same people who have been working on the House, working on the Senate, and working on the conferees showed one degree of reconciliation with each other, I would vote against this measure, but I have seen not one degree of reconciliation between producers and consumers in the last 2 years.

The Senator does not need to apologize. All I am saying is that until we approach this problem of cementing this society back together, we are going to keep stumbling along. I do not think an apology is necessary.

Mr. WALLOP. I think that is very adequate democracy, stumbling along. That is the legislative process. We are involved in the very thing we are designed to be involved in.

All I am saying is that the Senate came up with something which, in my judgment, was unfortunately better when it left this body in the first place, but saying that those in opposition to this are intransigent and have very little alternative to offer is hardly a derogation of the democratic process.

Mr. HART. It is not that the people who oppose it do not have alternatives. It is they cannot sell those alternatives to the people who disagree with them. Of course, everyone has alternatives. I have a perfect natural-gas bill, but I cannot get a consensus for it. The producers have their solution to the problem, but they cannot get a consensus for it.

Mr. WALLOP. Is a consensus required, simply because we are at this time in history? Do we take a piece of paper like this, regardless of what it contains, stamp it with big red letters "energy bill," and then say we can hold up our heads in the world, or do we try to achieve what those of us on this side of the issue believe is in the best interests of the country?

Mr. HART. What indication does the Senator from Wyoming see that anything has changed in 2 years? What indication is there?

Mr. HANSEN. Mr. President, will the Senator yield to me for a moment?

Mr. WALLOP. I will be happy to.

Mr. HANSEN. If I may give the Senator one little ray of hope, I would say he should direct that question to the junior Senator from Washington. He has been on record, and has said so repeatedly on this floor for a number of years, as being opposed to deregulation. And now who has shepherded this compromise through secret sessions, despite the fact that he was the one who first came forward and said we are going to legislate in the sunlight, we are going to let the American people know what goes on behind closed doors and in smoke-filled rooms?

It was he who said we are going to lay it all out in the open, and it is he who, today and on previous days, has been on this floor saying that now, reluctantly, he has come around to the conclusion that

we are going to have deregulation. That is Senator JACKSON.

Now, maybe that gives no encouragement to my friend from Colorado, for whom I have the greatest respect, but it does indicate to the Senator from Wyoming—and I suspect maybe to both Senators from Wyoming—that it is just possible, as Cromwell said, we must consider there is the possibility that we could have been wrong, you know, or that someone else may have been wrong.

I think what we are seeing today is the frustration and, indeed, the anger of Americans in seeing we have followed a procedure for some 25 years or more that has insured low prices, but what it has also insured has been shortages, has been discouragement of those in the field of drilling. We have witnessed about 75 percent of the wildcatters going out of business simply because there were better ways of making money. Now I think that is what the Senator from Washington is reflecting when he champions this bill that says we will have deregulation 7 years away. Of course, as I pointed out, and as has my colleague from Wyoming, actually right today 48 percent of the gas is deregulated.

These are not my figures; they come from the Energy Information Administration of the Department of Energy. And the interesting thing is that by their own examination of the facts——

Mr. FORD. Mr. President, will the Senator yield?

Mr. HANSEN. Not for just a moment yet, because I want to tell you what the facts are.

Mr. FORD. I want to help you keep them straight.

Mr. HANSEN. And I want to keep you straight.

Mr. HART. Will the Senator yield, before he gets into the facts? You two can argue the facts; all I want to say is this: If there were more Senators like the Senator from Washington, who had to concede on a point, and the Senator from Kansas, who had to concede on a point, then we would get somewhere. It is the people who will not concede anything who are holding things up. And I am not talking about any Senator; I am talking about the fuel men in this country. So I applaud the Senator from Washington and I applaud the Senator from Kansas, who fought as hard as they could in the Senate for deregulation.

Mr. WALLOP. If we are talking about the process of legislation and the processes of democracy, when there is a person against deregulation and a person for it both saying "This is the best we can do" that is the kind of thing we are talking about.

Mr. HANSEN. If my good friend and colleague from Wyoming will yield, and I do not wish to intrude on his time——

Mr. WALLOP. I will be happy to yield.

Mr. HANSEN. I just want to make this point: I am just saying that this so-called deregulation will not in reality deregulate anything for at least 7 years. It will impose total regulation of one kind or another on all of the gas, all of the gas in this country, from the time that it becomes law, if indeed it does become law, until 7 years down the road, and then, by the admission of the Energy Information Administration of the Department of Energy, only 37 percent—only 37 percent—of the gas 7 years down the road will be deregulated, as contrasted with 48 percent which is not now deregulated.

I want to join my colleague from Wyoming in saying that it seems strange—and I have done it, and I have great respect for my good friend from Colorado—but it seems strange that when people do not agree with us, we get up on the floor of the Senate and deplore the situation. We always seem to question the ability of the country, as my good friend from Colorado has said, to govern ourselves.

I think what we are engaged in right now is that act of governing. We are doing what my colleague from Wyoming says this institution is designed to do. I do not see anything wrong with that.

You know, I remember one of the first times I was in the Senate, when the late great senior Senator from Illinois, Everett Dirksen, stood where my distinguished colleague from Wyoming now stands, and said that in time there is a way that this body comes around to the right decisions.

The reason we are here today is that we would hope that when more Senators are aware of what the facts are, when more Senators understand that despite our futile efforts time after time after time to repeal the laws of supply and demand, we cannot repeal them. As we have pursued a policy of natural gas regulation, to say the laws of supply and demand do not work, all we found out that we have encouraged excessive use of natural gas; we have discouraged American entrepreneurs and American drillers from going out and trying to find more natural gas; we have increased our dependence upon foreign sources of supply; we have brought about a great outflow of dollars in this country, simply to buy gas and oil abroad that we could have been purchasing here more cheaply, employing Americans here in more and more jobs, adding to the strengths of this economy, insuring the security of this Nation by decreasing our relative dependency upon foreign sources, simply because I think we have been too hard-headed to recognize what the facts are.

I thank my colleague from Wyoming. I say to him that I have enjoyed very much working with him these last 2 years. As I anticipate leaving this body, I do so with the full confidence that the State of Wyoming is going to be extremely well-represented in one MALCOLM WALLOP. I thank my friend.

Mr. FORD. Will the junior Senator yield for a question?

Mr. WALLOP. If the Senator from Kentucky has anything half as nice to say as that, I would be happy to yield.

Mr. FORD. Well, I am not going to say anything real nice, but I am not going to say anything real bad.

Mr. WALLOP. OK, I would be happy to yield on that rather nebulous basis.

Mr. FORD. Well, it is nebulous, but that is about as good as you can get, I guess. Are you going to vote for recommittal?

Mr. WALLOP. I intend to vote for recommital.

Mr. FORD. Do you know what you are going to vote on?

Mr. WALLOP. How do you mean that?

Mr. FORD. You do not know what the recommittal motion is going to be?

Mr. WALLOP. To the extent I have read it, the recommittal motion will bear instructions with it.

Mr. FORD. But they are changing it now. They are calling Senators asking, "Would you vote for this if we add this onto it?" We have not seen the recommittal motion. You have not seen the final recommittal motion. But you are committed to vote for recommittal.

Mr. WALLOP. I would say this to my friend from Kentucky: If there was an unsatisfactory recommittal motion, I would vote to kill the conference report as it lies right now because I think it is destructive to the future of this country.

Mr. FORD. But the point I want to make is we are going to get a recommittal motion tomorrow or Thursday, and the Senator is committed to voting for something he has not seen.

Mr. WALLOP. Does the Senator from Kentucky say he is going to vote against recommittal?

Mr. FORD. I do not know. I have not seen it. I do not know what is in it. I cannot make a judgment, but you have.

Mr. WALLOP. I can make a judgment to say this, that I would sooner recommit this bill than to see it go forth and become law. If the recommittal motion is not satisfactory, I will join the Senator from Kentucky in voting against that and just vote to kill this conference report.

Mr. FORD. I think we ought to vote up or down on the conference report.

Mr. HANSEN. Will my colleague yield for one further observation?

Mr. WALLOP. I would be happy to yield.

Mr. HANSEN. I would like to say to my good friend from Kentucky that I hope he will not impose the same standard that he has just suggested to my colleague from Wyoming on all Members of this body because if he does my guess is that there will not be very many people voting for this bill. I venture to say that not more than as many Members of this body as I have fingers on one hand know what is in this bill. I say further that when they got it all signed on and when they got the signatures affixed to it, they had some further difficulty. They had to go back and change the language on 119 pages. What was a work report, a tentative work draft, insofar as I know, has never yet been finalized.

I say also to my friend from Kentucky that my colleague from Wyoming and I have had several conversations on what likely will be contained in a recommittal motion. I think it begs the question to have the kind of question asked that my friend from Kentucky asked. When someone writes me and asks will I vote for this bill or that bill, oftentimes, on the basis of experience, it has been my duty and responsibility to say, "Well, you know, I am not going to tell you categorically that I will vote for the bill."

I remember when the senior Senator from Massachusetts (Mr. KENNEDY) one time offered a bill, and we had some

inquiries from Wyoming people wanting to know how I was going to vote on that bill. I told them. Before that bill finally was voted upon in this Chamber, it had been amended and changed to the extent that the Senator from Massachusetts had to speak against his own bill.

I think it is cute, it is interesting, to ask my friend from Wyoming if he knows what is in the bill. Obviously, until it has been put on the floor and any amendments may be put to it, I would defy anybody to say precisely what is in it.

I can say one thing: My good friend from Wyoming has a pretty good concept of what we are talking about. There may be some changes made. There may be some more changes made. I suspect that we are going to incorporate, if needed, into that recommittal motion enough ideas that will be appealing to enough people that we would hope that it can pass. It is on that basis that I think he and I are going to be working in that direction.

I thank my friend from Wyoming.

Mr. FORD. Will the Senator yield for one additional point?

Mr. WALLOP. I am happy to yield.

Mr. FORD. The senior Senator from Wyoming has a great deal of experience. He is articulate, intelligent, and very forceful in his statements. He has been on many conference committees, many more than I have been on. I have only been on a few in the 4 years I have been here. But the senior Senator from Wyoming must know that the document that was sent around was a draft to see if those on the conference agreed with the language. There was not 100-percent agreement. I am sure he has read a draft before and wanted to change a word or two. There were changes when the draft went around. No one had signed at the time the draft was sent around and the changes were made.

I just want the Senator from Wyoming to understand that, yes, there were some changes, but I thought it was the usual procedure that was used as a result of a conference report and a conference bill and would be similar to those on which he has served in the past.

Mr. HANSEN. There is just one exception, if I could take one more moment, and I apologize to my good friend from Wyoming. This really was not a conference report. It was a star chamber production that carried on over several month's time, meeting in secret session, without all of the conferees even being there. I would have to say that that is most unusual, as far as I know. That is the first time that I have been a member of a conference and have been excluded by selected conferees and was told repeatedly I was not welcome, that I could not participate because this kind of deal required backroom finagling.

They had, so I am told, the Secretary of Energy there; they had, at times, the Chairman of the Federal Energy Regulatory Commission there; they had administration officials coming and going. But they did not have all of the conferees there. So I have not read it. I think I have a fair idea of what is in it. I would have to say that you can say this is a common procedure if you want to, but it is a most uncommon procedure so far as I know. It is the first time to my knowledge that this kind of backroom, star chamber, secret-session-in-the-dark-of-the-Moon deal has been worked out without all of the conferees who were legally entitled to be there being permitted to participate. I shall not impose further.

Mr. WALLOP. I will say to my good friend from Wyoming that it has been kind of a Halloween sort of arrangement, and in some respects would bear on the questions and arguments of the Senator from Colorado that he had not seen any give on the part of those who were opposing it. It is pretty hard to give when you are not allowed to go to the party.

Mr. FORD. Will the Senator yield on that?

Mr. WALLOP. I would be happy to yield one more time. Before I yield, I would just say one other thing, that the standard that the Senator from Kentucky suggests, that everybody know exactly what is in that motion before they commit to it, is an admirable standard and I only wish the Senate would follow it on everything.

Mr. FORD. I try. I only want to say that on every conference every conferee was notified and invited to every meeting of the conference. I do not think the senior Senator from Wyoming will deny that every conferee was notified and invited to every meeting of the conference.

Mr. WALLOP. It is funny how the stories change. I would not suggest there was any way that perhaps the conference was not conferring, that the deal was made before the conference got there. I think that probably more accurately describes it than saying every Member was invited to the conference and had the opportunity to participate in the thing that lies in front of us.

Mr. President, I have some other concerns with the legislation to the extent that we know about it. Admittedly, it is a funny deal that we have to sit here and argue about something that is still held secret, but apparently, that is the face that we are required and requested to accept. But to the extent that the knowledge about it is out, I should like to express the reservations that I feel.

The Natural Gas Act of 1938 was a piece of New Deal legislation designed to insure that consumers paid "fair" prices for gas sold by a natural gas monopoly—for example, the pipeline industry—which was just beginning to develop at the time of passage. In many producing areas, single pipeline buyers were often able to dictate Federal prices. As initially interpreted by the Federal Power Commission, only the pipelines' transportation tariffs were regulated.

Wellhead prices paid to gas producers were excluded in this early interpretation by a section of the act which states,

> The provisions of this act . . . shall not apply . . . to the production or gathering of natural gas.

The FPC operated under this interpretation of the Natural Gas Act until 1954, when the Supreme Court, ignoring the language in the act, ruled in the Phillips case that the FPC indeed had regulatory responsibility for production and gathering. In a dispute with Phillips Petroleum, the Wisconsin Public Service Commission successfully sued the FPC to force them to take jurisdiction over the sale of natural gas in interstate commerce.

In 1956, Congress lifted this court imposed mandate by passing the Harris-Fulbright Act. But the act was vetoed by President Eisenhower, who sympathized with its content but felt compelled to do so because of "arrogant lobbying" for its passage and allegations of bribery.

The FPC, which became the Federal Energy Regulatory Commission (FERC) in 1977, regulates interstate natural gas by setting and enforcing nationwide rate schedules. Although exceptions exist, there are basically two operating rate categories. "New" gas—discovered from wells where drilling commenced after January 1, 1975—brings $1.50 per thousand cubic feet (Mcf) at the wellhead. "Old" gas from expiring contracts is allowed a rate of about $0.50 per Mcf. All rates are subject to adjustments for Btu content, State severance tax reimbursement, and gathering allowances.

The intrastate market, which consists of natural gas produced and consumed within State boundaries, is regulated by State statute. New Mexico is the only producing State that has placed wellhead price controls on intrastate gas.

President Carter rekindled interest in the natural gas issue by making it a part of his campaign promise. In a letter to the Governors of producing States he supported deregulation, then reversed himself when he introduced his national energy plan. Under his post campaign proposal, the Federal Government would continue price controls on gas sold in the interstate market and, for the first time, regulate the intrastate market.

The House agreed with that concept, but as we all recall, in the Senate we did not.

Voting last year, by a narrow margin, the Senate chose to remove price controls on "new" natural gas and to continue to prohibit Federal regulation of the intrastate market. Price controls on "old" interstate gas continued under both bills.

When members of the House-Senate conference committee met several months ago to resolve their differences in approach, they had to answer one question: Should price controls on new natural gas be lifted or continued? Their answer has to astonish anybody who takes a look at it: To create 17 new definitions of natural gas, each of which could be priced differently. After 1985, some gas would be deregulated. Several new rate categories were established. To "new" and "old" gas, the conferees added; "incentive" gas, "stripper" gas, "high cost" gas, and four categories of "roll over" gas. "Roll over" rates are price ceilings placed on expired contracts that are being renegotiated. This should not be confused with "roll-in" pricing which enables the cost of more expensive gas to be averaged (or rolled-in) with less expensive gas.) It

could best be describe as "How to complicate friends and influence no one."

But the conferees made the pricing even more complicated than merely creating new rate categories. They compounded the regulatory problem by inventing several more tests to establish how gas would qualify for different rate categories. The old dividing line was simply the date that drilling began on the well. Under the "compromise" a maze of new factors comes into play. They include whether or not gas is offshore or onshore, interstate or intrastate, and from old or new reservoirs. Other factors which determine the price are; the depth of the well, the date of drilling, the date the lease was signed, the type of formation, the distance from existing wells, the rate of flow, and the date gas was discovered. FERC is to digest all of this information and then assign the gas to one of the rate categories. Oddly, the factors have little scientific or geological significance. They exist primarily in the conferees' minds.

Traditionally, the Federal Government limited its role to setting the price that interstate pipelines purchased gas at the wellhead. The resale (or burner tip) price has been approved by State public utility commissions. That, too, will change under the "compromise."

This legislation orders the States to incorporate an incremental pricing mechanism into their ratemaking process. Incremental pricing, a mixed blessing, is one of the most controversial measures in the bill. It puts the burden of higher costs on only industrial users.

Previously, expensive gas was "rolled-in" with less expensive gas and an average rate was established. That rate was then shared by all users on a pipeline system industrial, agricultural, small business, schools and hospitals, and residential.

By way of illustration, assume that equal amounts of $0.50 Mcf "old" gas and $1.50 Mcf "new" gas are available to an interstate pipeline system. Under existing law, the two categories would be blended together—rolled-in—to establish an average wellhead cost of about $1 per Mcf for all of the customers on the system. Under incremental pricing, industrial users must buy all of the "new" gas at $1.50 per Mcf. The rate for other users would remain at $0.50 per Mcf.

The intent of this provision, which is to discourage large volume consumers from using natural gas, is understandable. But there is an albatross that has been overlooked in the "compromise." Although many industrial users will indeed be forced off natural gas, environmental constraints may prevent them from switching to coal. If that is the case, their other option would be fuel oil—a move that would increase our dependence on foreign oil. The whole idea—now lost to us—was to relieve our thirst for imports.

As more and more industrial users abandon a pipeline system, other problems arise. The fixed costs of operating a line are left to the remaining customers. A half-full line has about the same fixed cost as a full one. If the industrial users make a small percentage of the total load—the impact will be minimal.

However, in Wyoming, 50 percent of the gas consumed in the State is by industrial users. Naturally, some residential growth would occur to offset the loss of the industrial sector. But it is still likely that the Wyoming result of incremental pricing will be a more expensive and inefficient distribution system.

FIVE KEY QUESTIONS

WHAT IS THE IMPACT ON CONSUMERS?

It is difficult to evaluate the cumulative impact on residential consumers. Charts and graphs have been displayed in abundance during the debates but none have produced an accurate prediction of the nationwide impact.

As already noted, incremental pricing could burden homeowners, and small businesses in interstate systems. Yet the most immediate jolt will be felt by consumers served by major intrastate pipeline companies, including residential consumers in Wyoming.

New rate increases will be precipitated by a contract phenomenon known as a "most-favored-nation" clause. Under this type of contract, a producer automatically escalates his rates whenever FERC permits any other producer in the area a higher rate. For example, producer A may have a supply of gas that only qualifies for an "old" gas rate category if sold in the interstate market. But, if he is operating under a "most-favored-nation" clause, he is entitled to the highest rate category granted to any producer in the area. If a neighbor, producer B, qualifies for a "new" gas rate, producer A also qualifies.

In many cases, intrastate pipeline companies do not have access to a large quantity of inexpensive gas. Producers prefer not to make long term commitments to the intrastate market unless they are assured of at least the going interstate rate. Hence, the "most-favored-nation" clause was born.

Interstate pipelines, on the other hand, have several categories of gas available because Federal pricing policies link wellhead price to the date a well was discovered or the date drilling began. This vintaging concept allows interstate pipelines to blend—roll-in—all types of gas to produce a composite rate which is usually lower than the intrastate market.

Because the "compromise" will establish higher rate schedules, "most-favored-nation" clauses will be activated. For Wyoming consumers dependent on intrastate lines, that translates into a jump in wellhead price from approximately $1.50 per Mcf to $1.96 per Mcf—a 30 percent hike. It is probable that Wyoming gas will cost more in Wyoming than it will in distant States.

It is probable that that same Wyoming gas will cost more in Wyoming than it will in Kansas, Nebraska, Minnesota, or even Kentucky, if it gets that far, and I do not see how my people can be expected to make that kind of sacrifice when we are not a net exporter of natural gas.

WILL IT PRODUCE MORE GAS?

For producers selling in the interstate market, it is doubtful whether the incentive they receive from higher rate schedules will be offset by the growth in the regulatory burden. Because Federal price controls are placed on the intrastate market for the first time, the "compromise" would reduce the incentive to drill for gas in this market.

One of the few positive notes in the bill is the stimulus it will have in bringing Alaskan gas to the Lower 48. Provisions in the bill allow transportation costs for Prudhoe Bay gas to be "rolled-in" to the cost of other natural gas and spread among all consumers. The provision enables the sponsors of the project to obtain financing by guaranteeing a competitive market for their gas.

IS IT ENFORCEABLE?

The Federal Energy Regulatory Commission, operating under existing law, already has a backlog of 20,000 rate cases—some as old as 21 years. Today, the average case requires 41 months to process and that time will undoubtedly skyrocket if the "compromise" is enacted, simply because of the incredible additional volume of requests for processing and ratesetting.

Utilities, producers, consumers, and industrial users will be placed in eternal limbo while FERC wades through the puzzle of new regulations created by this compromise.

WHAT IS THE EFFECT ON THE VALUE OF THE DOLLAR?

Some of the world's foremost experts on U.S. monetary policy, including Nobel Prize winning economist, Milton Friedman, and former Secretary of the Treasury, Bill Simon, have expressed loud dismay at the administration's contention that this bill would help the value of the dollar. Since no other part of our economy feels the daily fluctuation of the dollar than our international business community, it is appropriate to quote Robert L. Slighton, vice president of Chase Manhattan Bank:

> The argument that passage of the compromise gas bill would play an important role in halting the decline in the dollar and strengthening the US balance-of-payments outlook is at best highly exaggerated and at worst just plainly wrong. Adoption of the proposed legislation would probably result in a modest strengthening of the dollar in the short run, but this improvement would not be permanent. In the longer run, the legislation could actually result in some weakening of the dollar as foreign exchange markets come to perceive that the long-run exchange supply of natural gas in the US is as likely to be reduced as increased under the new regulatory regime.

The dollar is weak because of bad domestic policy. Policy which consistently hampers this country's creativity with excess regulation, excess taxation, excess inflation, excess Government spending, and excessive creation of money. Ironically, Germany and Japan, which have strong international currencies and little domestic inflation, import essentially all of their energy.

IS THERE AN ALTERNATIVE?

The status quo presents the most attractive alternative at the moment. Consumers, producers, and regulators are at least familiar with the rules of the game.

In addition, under existing law FERC is required to publish an updated rate

schedule to compensate producers for the increased drilling and exploration costs that have accrued since 1975.

Moreover, in the event of severe winter shortages, the President has the ability to facilitate the transfer of surplus and emergency gas from the intrastate system to the interstate system. Such power was granted to the President by the Emergency Natural Gas Act of 1977. That authority has since expired, but can be renewed.

The potential for 26 trillion cubic feet of Alaskan gas cannot be overlooked by Congress. The "roll-in" pricing section for Prudhoe Bay gas is worthy of support as an amendment to existing law.

No other issues exemplifies the lack of a national consensus on energy than the natural gas bill. Throughout the debate, there have been emotional exchanges between those who fear consumers cannot absorb price increases and others who realize producers must have more incentives to provide future supplies. The administration has added to the confusion by vacillation and seeking to wear all hats.

It is difficult to outline all the complexities of the "compromise" in the limited space of this backgrounder. Nevertheless, it is important to emphasize that the bill contains all the disadvantages of deregulation and none of the advantages of deregulation.

Some have argued that even a bad bill is better than no bill at all. I disagree. Congress has taken positive steps in solving the energy crisis by passing three good measures—energy conservation, utility rate reform, and the coal conversion bill.

The natural gas "compromise" cannot be considered as a positive step. It is plagued with too many flaws. Foremost among them is the problem of "most-favored-nation" clauses. There are several pockets in Wyoming where people will continue to pay disproportionately high utility rates because this has been ignored in the "compromise."

There are areas of the country where incremental pricing is a good idea. But the controversial issue is far too complex to be congressionally mandated to cover widely varying local conditions across the country. In each case, a sensitive trade-off must be made between industrial users, residential rate structure, and subsequent impacts to the employment market. There is room for Federal support, but the final arbitrator must be the State governments, not Washington.

Perhaps the strongest argument against passage of the "compromise" is the revealing action by the agency that would administer the bill, the Federal Regulatory Commission. Last month, an internal memo from FERC's enforcement division was leaked to the press. It disclosed that the "compromise" was "too complicated to administer."

The memo sparked a flurry of action and brought about some minor clarifications in the bill. Later, a "revised" evaluation from FERC stated they could effectively administer the "compromise" but only if Congress appropriated funds for more regulatory personnel. The extra personnel were needed, FERC continued to explain, because it may take years of litigation to establish what the new bill really means.

Their energy policy can only be described as this: What this country really needs is a good, healthy increase in the bureaucracy. Sadly, it is a scenario that is all too familiar.

While we are talking energy options and the opportunity of this country to do something in the energy field, let me just say that a number of good ideas are being held hostage by the administration, pending passage of this natural gas compromise. In fact, you could say that the administration has more bills held hostage than the Bader-Meinhoff gang.

Just take the larger issues waiting in the wings while we are fiddling and telling each other we cannot get our energy act together. The energy conservation bill, the utility rate bill, the coal conversion bill, 533 sales, the Southland decision, steel imports, breeder reactors, the Alaska natural gas pipeline, and the emergency natural gas sales are being held hostage by the administration.

We have things to do out there in the energy field, waiting for us, while we fiddle and create a new bureaucracy, demanding hundreds of extra people who climb on the economy of this country, get in the way of it, pour paper on it, and refuse to make decisions for it. While we wait and fiddle with that, the real portions of the Energy Act, which could do something for the country, are lying dormant, held hostage to the tactics of this bill.

Mr. President, I have no more to add right now. It remains to be seen, as the Senator from Kentucky says, as to what is in the motion to recommit and with what instructions. But I can say this much: Everything that is known about this secret message is not satisfactory enough to make me support it, even though the motion to recommit may not be entirely satisfactory as well.

Mr. FORD. Mr. President, the distinguished Senator from West Virginia wants to make a statement, and I would like to have 60 seconds, if I may.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. FORD. There are two points I would like to make as they refer to the junior Senator from Wyoming.

They keep referring to the expired emergency gas bill that would be reinstated. The expired emergency gas bill did not allocate intrastate gas. I am wondering if the——

Mr. WALLOP. Mr. President, if the Senator will yield on that, it certainly mandated the interconnection between interstate and intrastate.

Mr. FORD. No, sir. The Senator from Wyoming has to go back to the legislation and read it. He is absolutely wrong. The expiring emergency gas bill did not allocate intrastate gas.

Mr. WALLOP. Did it not provide a means by which it could get into the interstate system?

Mr. FORD. Transportation, and that is all.

Mr. WALLOP. Sure, but it was there, and we got it.

Mr. FORD. How are you going to allocate it?

Mr. WALLOP. They got it because they were able to pay for it. Did they not get it?

Mr. FORD. Some did.

Mr. WALLOP. They did get it.

Mr. FORD. No, because 42 percent was retained in the four States that used it.

Another thing I want to point out to the Senator from Wyoming: He used Chase Manhattan Bank again, and that has been going on here for 2 days. The Senator used it and I have used it.

Here is a telegram to the senior Senator from Wyoming:

> I am in receipt of your memorandum of August 30 addressed to the staff assistants of your Senate colleagues with regard to an alleged Chase position on the compromise gas legislation. I want to take this opportunity to clear the record on this important matter.

It is signed by Willard C. Butcher, president of Chase Manhattan.

Mr. WALLOP. I say to the Senator that I did not propound a position of the Chase Manhattan Bank. I took an exact quotation from an officer of that bank, in which he said nothing about whether or not he was for or against this bill. He simply said that there was no way they could make a claim that it would have any effect on the value of the dollar.

Mr. FORD. I yield to the Senator from West Virginia. He is probably more articulate than both of us.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, the Senator from West Virginia will be in good humor, and, of course, in good purpose, as are my colleagues the Senator from Kentucky (Mr. FORD) and the Senator from Wyoming (Mr. WALLOP), and even our good friend the senior Senator from Wyoming (Mr. HANSEN), who has been a part of this three-way colloquy.

Mr. President, the conference report on the Natural Gas Policy Act of 1975 perhaps should be the single issue which can determine whether or not the United States of America will have an energy plan during the 95th Congress.

I hope it is not presumptuous for me to indicate that this is a subject that I understand and of which I have been a part, for many, many years.

I recall when I felt it was necessary to pass the Synthetic Liquid Fuels Act, in 1944. With the Senator from Wyoming, Mr. O'Mahoney, we coauthored a measure. It provided funds to take coal, and oil shale, and process it into liquid fuels to provide the energy supplies which would have and frankly would now have made America energy independent had we moved ahead with that program.

I became convinced of the value of synthetic fuels in 1943, when with another young man by the name of Arthur C. Hyde of Moorefield, W. Va., we took the regular aviation fuel from a single-engine Stinson plane at Morgantown, W. Va., and poured in the aviation fuel processed from West Virginia coal. That again was in 1943, November 6.

We flew 175 miles across the Allegheny and Blue Ridge Mountains into this Nation's Capital, and I was met there by Senator O'Mahoney and others of the Senate and the House of Representatives. It was an indication that we could do in this country what had been done by the German Luftwaffe.

Let us remember an actual, let us say careful reading of the facts will indicate that the Luftwaffe did not run out of aviation fuel when bombing London and environs. The Luftwaffe had made within the hierarchy, the decision to have only 50 percent of their aircraft in attack status. There were those who argued, but lost the argument, that it should be 80 percent attack aircraft and 20 percent of the other types of planes in the Luftwaffe. The Germans were using coal, Mr. President, using coal with which they made their aviation fuel.

They were also moving their trucks and tanks and other materials and implements of war with synthetic fuels.

We had a problem here in World War II, with oil imports. The German U-boats were prowling up and down the east coast and in New England waters and blocking the shipping lanes used for petroleum shipments coming into our country at that time.

The synthetic fuels program in this country was scrapped even though we had spent almost all of the funds appropriated for that initiative. In place of a strong synthetic fuels effort, today the U.S. Government and taxpayers of the United States of America are currently committed to spending $12.5 billion to do what? To just store, by and large, imported petroleum as a protective measure, against another possible Mideast embargo. I returned to the Senate, in November 1958 with my able colleague, the leader of the Senate, ROBERT BYRD. We both took formal office in January; however, I actually started my duties in the Senate in November 1958 because of serving out the unexpired term of M. M. Neely of West Virginia.

The first legislation that I introduced in 1959 was a Commission to create a fuels and energy policy for the United States of America, emphasizing, in testifying before the Interior and Insular Affairs Committee now the Energy and Natural Resources Committee, "that each year we delay perhaps brings us one year nearer to disaster." That was not an overstatement. It was true.

But nothing happened. I will not detail what took place later except to say that subsequent, administration did not take energy with a seriousness of purpose. I still have the letter from President Nixon in which he said he would refer the Commission proposal to the Domestic Council. It is representative of the attitude of official Washington at that particular time in our national life.

Then I began to think of other ways to create the Commission and we brought into being legislation that created an overall group within seven or eight committees, and we were working under an umbrella of cooperation among committees, and we established a task force in the Senate of the United States on energy policy.

What were our objectives? To find ways to begin, and solve, at least in part, the energy problems of this country that affect not only our own people but the peoples of the world.

In 1954 the Federal Government initiated control of the well-head price of gas moving in interstate commerce. The Members of the Senate since that time have held strong positions on what steps to take on pricing natural gas. On October 4, 1977 I voted for the Senate version of natural gas pricing, the Pearson-Bentsen amendment, which would have deregulated onshore natural gas in 2 years and offshore gas in 5 years.

This, however, was not the first time the Senate had considered the question of deregulating natural gas.

On December 10, 1973, the Senate considered a bill (S. 2776) to provide for the management of national energy programs during the energy emergency that then existed. In considering that legislation, the issue of natural gas deregulation surfaced. Senator Buckley from New York, and I sponsored an amendment at that time to immediately deregulate the price of new natural gas in the interstate market. The amendment to the Natural Gas Act was tabled by a narrow margin of 45 to 43 on a rollcall.

On October 22, 1975, the Senate considered an amendment to a bill (S. 2310), providing temporary provisions to assure the availability of natural gas supply, which would have also quickly deregulated natural gas. This time the vote was 50 to 41 in favor of deregulating natural gas. This measure was later defeated in the House. All votes on deregulation of natural gas have been close but in general, as indicated in 1975 and 1977, support for expedited deregulation in the Senate has solidified.

The conference agreement on natural gas pricing does not embrace the level of deregulation or the range of pricing incentives which I previously endorsed. A deregulation measure which does not take full effect for 7 years is less than a firm policy decision. Many of my colleagues who voted for decontrol last October, because of methods of negotiations with the House, the time frame involved in achieving deregulation, the intrastate provisions, and the Federal regulatory potential now feel the conference report represents the principles of deregulation without carrying them forward.

The conference report, however, is one which Senators such as myself who have worked for energy production incentives should support, and I commend Senator JACKSON and my colleagues on the Energy and Natural Resources who worked and cooperated with him in forming the basic structure of the compromise.

I admit that the conference report represents reregulation for an 8-year period and not deregulation. It does, however, represent a step toward that goal. If the Senate fails to take this first step after 13 months of work on the issue, I feel the country may never see the deregulation of natural gas prices. Again, this compromise represents an initial effort toward the position the Senate took last October 4. It does not represent a final solution to natural gas pricing. Specifically, I anticipate Congress will have to reassess, before 1985, the many definitions of natural gas and the paperwork associated with those increased Federal regulatory responsibilities along with emergency gas allocation measures contained in the bill.

I often use in my remarks a quotation, about redtape and Government. Senators will note that the quotation is very clear on the effects of redtape and should also give attention to the fact the quote was made some 15 generations ago, speaking of the government of the Roman Empire.

The quotation follows:

If all the skies were parchment
If all the seas were ink
If all the reeds were pens
And all men could write
They still could not match the Red Tape of this government.—Talmudic scholar of the Roman Government, 14 to 15 centuries ago.

So redtape has surrounded us for more than the past few months or years in this country.

My analysis of the work done by the energy conferees on natural gas pricing is for the most part positive. The definition of "new gas" and "new reservoirs" are basically fair and reasonable and should allow small and medium gas producers to increase their drilling activity. The allowance for special development incentive gas from new wells within an old reservoir and within a 2.5-mile radius will help to offset negative aspects of the "new gas" definition. According to the West Virginia Oil and Natural Gas Association investment in new natural gas wells is continuing to rise. An expected 1,400 new wells will be drilled in West Virginia this year showing an investment of $125.6 million. Provisions which allow stripper wells already producing less than 60,000 cubic feet per day a starting price of $2.09 per mcf should also encourage drilling activities.

When I say mcf, that is thousand cubic feet. I was once an investor in a company called the MCF Gas Co. in West Virginia. I was an investor in that company, and wells were drilled in my home county of Randolph, to the number of 18. Other companies, these little companies, came in and drilled their wells, and almost all of them are producing, of long life though not of great volume.

Yet I remember this chance we took in our State.

I have heard many comments the last 2 days inferring that all independent oil and gas producers are against passing this conference report. This is just not true.

Mr. President, I would like to read into the RECORD a letter which I received today from Mr. David Taylor, president of the Allegheny Land and Mineral Co., located in West Virginia. He is one of the most respected and active independent gas producers in our State. He states in his letter:

As you know, I have been engaged in the production of natural gas in the Appalachian basin since 1952. I founded Allegheny Land and Mineral Company in 1956 and served as

its President and Chairman of the Board and still remained a member of its Broad of Directors. I have, also, been a member of the Independent Oil and Gas Association of West Virginia since its inception. However, in this communication I am expressing my personal conclusions and opinions.

The bill on natural gas which has been released from the conference committee of the House and Senate is now before your senatorial body for consideration is not everything that can be desired. I am sure it is not exactly what you had in mind in your letter to Senator Long at the beginning of this legislative effort. Nevertheless, the conference bill is better for your constituents among the producers of natural gas in the Appalachian basin than the existing law. I believe you will be serving the producers and consumers in West Virginia well by supporting the conference bill.

I would also like to point out that while the U.S. Chamber of Commerce opposes the natural gas pricing report, the West Virginia Chamber of Commerce, in a letter to me dated September 2, endorsed the natural gas compromise as an indispensable component of the national energy plan.

(Mr. STEVENSON assumed the chair.)

Mr. RANDOLPH. The bill would also deregulate, in one year, gas found in new wells deeper than 15,000 feet. This provision would also help producers in states like West Virginia because it includes high cost gas which would be freed from price controls in one year. High cost gas includes gas from expensive sources such as devonian shale, methane from coal seams, and geopressurized methane. This alone would encompass 34 percent of the known natural gas reserves. The agreement also will give the Federal Energy Regulatory Commission power to authorize special price provisions for gas supply which are difficult to extract, including low permability gas methane.

During September and October of last year when we spent 2 arduous weeks debating the natural gas issue, I saw scores of conflicting reports on the effect of deregulating natural gas. Much uncertainty surrounded statistics on total reserves possible shortages, and consumer prices. Much rhetoric was heard on contrived hoax, ripoffs, and obscene profits. After studying the issues and listening to the debate the Senate voted to approve deregulation 50 to 46.

Now we have a report from the Energy Information Administration concluding the proposed compromise might mean higher residential prices and lower industrial prices because of incremental pricing. The conference report using an economic model with different assumptions than those used by the EIA states that industrial use of natural gas will not increase and not deprive residential customers of gas supplies. This body is now faced once again with members comparing differing studies and projections to prove a political point. The result will again be to delay resolution of our national energy problem. I submit this type of activity is not in the public interest but only serves to confuse all concerned on whether we really have a national energy crisis, merely for the sake of a press story or mention on a news broadcast.

I am willing to stand by figures developed by the staff of Members working on the National Energy Act, which show that gas costs would increase about $20 a year for a family of four between now and 1985, with incremental pricing provisions in place. This means a residential consumer in 1985, would pay $3.36–$4.80 per mcf under the conference agreement compared to $4.70 under the continued regulatory process we have now. In West Virginia the average home heating bill for the residential user is about $268 per year. The $13 to $20 per year increase could allow for about 1.25 trillion cubic feet more gas to be produced on an annual basis and will keep transportation costs for moving this fuel at a lower rate. I believe the conference version of the gas bill will eliminate some of the need for imposition of higher cost of alternative fuels (electric, fuel oil, and synfuels) and the possibility of long term shortages affecting residential as well as industrial users. It is interesting to note that gas today should sell at $3.85 per thousand cubic feet to put oil and gas producers in the same comparative competitive position they were in before 1954.

We need assurances of a stable rate of production and supply. This will not be accomplished by relying on high prices from liquid natural gas from such countries as Algeria, Mexico, and Indonesia. Such reliance would be the same mistake we made on oil imports. The U.S. Geological Survey indicates that only 2 percent of the domestic rock containing oil and gas has been drilled to date. Only one-fiftieth of the gas reserves in Appalachia have been tapped.

Necessary incentives must be provided to both major producers and independents. As elected representatives we need to have some degree of confidence and credibility in those private concerns in the gas and oil business. West Virginia's independent production is 0.9 percent of the national domestic gas production, with potential new supplies in deep geological formations that could be developed under provisions of the act. While we make the necessary adjustments to convert to coal, gas and oil will still be included in the major mix of fuels at least for the next 7 to 8 years.

Mr. President, for more than 50 years natural gas has been clean, cheap, and abundant. It is still clean, the most desirable form of primary energy because of near-ideal combustion characteristics. And it is still cheap, when compared on an energy-content basis with most energy sources—and it is competitive with all. The inplace transmission, storage, and distribution system, built at a cost of $50 billion and literally irreplaceable today, is available to serve these markets. The Natural Gas Policy Act of 1978 is a well-reasoned attempt to assure that all producers and consumers do their share in using wisely a energy fuel which is no longer in overabundance.

Mr. President, the natural gas compromise will result in more exploration and production, more gas flowing into the interstate systems needing it most, lower energy costs for consumers, and reduced imports of foreign energy. These considerations must override the objections of those who have taken extreme positions on either side of this issue during the past 6 months of debate.

These considerations must override the objections of those well-meaning Senators, but ill advised, who have taken opposing positions.

I am against polarization. The able minority leader of the Senate and those in the committee which I chair, in which he is an active and helpful member, know that I often speak against polarized positions. We have to take our stands, but we have to work together if we are to bring a measure into this body and have it appeal to people of varying views and then become a piece of legislation that expresses, in part, at least, the opinions and convictions of the membership.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield.

Mr. BAKER. I thank the distinguished Senator from West Virginia for his remarks and observations. I want to say that it has been a distinct pleasure for me to serve under his chairmanship in the Environment and Public Works Committee. The Senator is a man of great perception and great courtesy. I wanted to observe that he has given this matter, I am sure, the same careful attention he has always given to matters before his committee. While we have ended up on opposite sides on this issue, he nonetheless has my deepest respect.

Mr. RANDOLPH. If my colleague, my friend, will remain for this moment, the characteristics which his father-in-law, Senator Everett Dirksen, had in such abundance are shared in full measure by him. To have had the friendship of Everett and now to have the friendship of HOWARD—different generations to be sure, but with the dedication to public service—is enjoyed. It is very unusual if not completely unique that two Senate Members from different generations but the same family ties, have both risen to the top minority leadership positions in the U.S. Senate.

Mr. BAKER. I also enjoy our association.

Mr. RANDOLPH. The differing views of public servants sometimes cause an issue to die when it should live is implicit in this conference report. This Senator recognizes the responsibility which we cannot and should not shirk. And when the rollcall comes. Although the compromise is not the 100-percent agreement which I wanted and others would have completely approved of, we must make a decision; and the decision, I hope and believe, must be in the interest of America and our people regardless of party, place of residence, or political preference.

I thank the Chair.

Mr. FORD. Mr. President, it is my understanding that there are no further statements to be made relative to the natural gas conference report. I do not have anyone on my side that wants any more time. Therefore, Mr. President, I yield to the majority leader so that we may call it an evening.

Mr. ROBERT C. BYRD. Mr. President,

I thank the distinguished Senator from Kentucky and commend him on his good floor work today and his excellent debate on the pending conference report.

● Mr. GRAVEL. Mr. President, it almost goes without saying that the natural gas conference report is the most complicated and controversial energy measure Congress has ever dealt with. There is no need to relate the efforts that have been made to bring this measure to final consideration by the Senate. There is no reason to repeat the types of difficult questions each of us is being asked to answer as we come closer to rollcall votes. I merely wish to share with my colleagues my reason for supporting the conference report, and the importance I see in passage of this measure.

Mr. President, last fall President Carter decided, and Congress concurred in the decision, that a natural gas pipeline should be built from Prudhoe Bay, Alaska, to Dwight, Ill., to carry some 26 trillion cubic feet of domestically produced natural gas. Construction of the Alaska Highway gas line would provide the further benefit of bringing to the Midwest and East additional supplies of supplemental gas from Canada in 1980. Before construction can begin, however, certain legislative provisions are necessary to assure private financing of the gas line. Put simply, the natural gas conference report includes those essential provisions. At this point, there is no other viable vehicle available which can resolve these essential issues to assure financing. Passage of the conference report will enable financing of the project.

Let me explain to my colleagues what the natural gas conference report does provide concerning Prudhoe Bay natural gas.

First, the legislation sets the maximum wellhead price to be paid for gas from the Prudhoe Bay unit at $1.45 per million Btu's as escalated by the annual inflation adjustment factor as of April 20, 1977. The report of the Senate Committee on Energy and Natural Resources states that a legislative pricing provision is essential. Failure to so provide would add at least a year's delay and consequent increased costs. Establishment of the relatively low wellhead price will help insure the marketability of the gas in the Lower 48.

Second, the legislation assures that the wellhead price and transportation costs of Prudhoe Bay gas will be priced on a rolled-in basis. In addition, that portion of Alaska State severance taxes in effect as of December 1, 1977, will also be rolled in. Costs of conditioning the gas may be incrementally priced. While we would have preferred to have all costs rolled in, the legislation rolls in the majority of the costs, thus enabling financing of the line, and marketability of the gas.

Third, the legislation enables Federal Energy Regulatory Commission to make adjustments to the ceiling price of Prudhoe Bay gas for recovery of costs of compressing, gathering, processing, treating, liquifying, or otherwise "conditioning" the gas.

Finally, the legislation assures early completion of a portion of the Alaska natural gas transportation system and early delivery of gas from Canada in 1980. Under the legislation, deliveries of this gas pursuant to contracts entered into prior to May 1, 1978, will be placed on a rolled-in basis.

Thus, passage of the conference report will assure passage of provisions necessary to financing of the line and enabling construction of the line, without creating unnecessary and costly delays. It is a simple fact that gas sales contracts will not be executed until these provisions are passed, and that the pipeline system cannot be financed until such measures are available.

What are the benefits of including the provisions in the conference report on Alaska gas pricing—what are the benefits of assuring completion of the Alaska natural gas transportation system? There are many, and they have been discussed at great length in this body. Let me summarize them.

First, construction of the line will assure a valuable and needed source of domestically produced supplemental gas. At its initial operation, the Alaska gas line will transport at least 2 billion cubic feet per day. That figure will increase, even assuming no further discoveries and production on the North Slope of Alaska. That is a total of at least 0.7 trillion cubic feet per year of domestically produced gas.

The House Subcommittee on Energy and Power published in June of this year a report prepared by the Congressional Research Service on supplemental sources of natural gas. The report identifies several potential sources of supplemental gas that may be used to meet gas demand in the 1980's and 1990's. It analyzes those sources on the basis of 10 criteria. North Slope gas stacks up very well indeed against all other sources of supplemental gas. For example, the report concludes that Alaskan gas is a secure supply, not subject to diversion from domestic markets. It is less likely to be subject to price fluctuation than foreign sources. The technology for development and delivery of Alaska gas is essentially available today. It is a safe source of supplemental gas. It is environmentally preferable to a number of other supplemental sources because the route selected is along existing transportation corridors. There will be massive economic benefit to the Nation as a result of construction and operation of the Alaska line.

Second, gas from Prudhoe Bay will have favorable impact on use of imported oil and our balance of payments picture. It is estimated that some 150 million barrels of imported oil per year can be replaced, helping to reduce our deficit in balance of payments by some $2 billion per year (assuming current prices).

Third, early deliveries of Canadian gas will become available to the gas consumers in the Midwest. The lower portion of the gasline will be completed by 1980, allowing transport of Albertan gas to some 34 States in the Lower 48. That should provide some assurance to the gas consumers of this Nation that we do not intend to rely on warm winters and cooler summers as an answer to gas shortages in the near future.

Fourth, construction of the line will provide additional incentive for further exploration and production of natural gas on the North Slope of Alaska. Current proven reserves on the North Slope amount to some 26 trillion cubic feet, as determined by the U.S. Geological Survey (USGS). However, the USGS currently estimates that the undiscovered recoverable resources of natural gas onshore on the North Slope of Alaska range from 14 to 49 trillion cubic feet. Offshore estimates range from 5 to 50 trillion cubic feet. That is a projection of some 20 to 132 trillion cubic feet that may still be discovered and delivered. No one really knows. But until there is a system capable of removing any gas that has already been discovered, there is absolutely no incentive to find any additional gas. It should be noted that the gas pipeline would be available to deliver other gas from the remainder of Alaska as well.

Fifth, the project will provide great national net economic benefit. Simply stated, that means jobs and tax dollars. Of the $10 to $14 billion cost of construction, some 70 percent will be expended in the United States, nearly equally divided between Alaska and the rest of the areas of construction in the Lower 48. At the peak of construction, some 20,300 people will be employed in construction. Several thousand miles of pipe will have to be made in American steel plants. Countless thousands of related jobs and products will be needed to supplement construction. Regardless of how you figure it, the construction of the gasline will provide significant economic stimulus.

Finally, inclusion of Alaskan gas in the domestic supply in 1985 will actually decrease the weighted average price of domestic production. You have heard that Alaska gas will be expensive and you have even heard proponents of both the conference report and the gasline say that, "Well, it may be more expensive, but it will be a necessary addition to our supply picture." It will be a necessary addition, but it will also have the additional salutary effect of driving down the average price of gas in the United States when it is delivered to the markets in the Lower 48 in 1985. Read the analysis done by the Energy Information Administration. Look at table XI. The overall retail price of gas in 1985 will be less with North Slope gas on line than without. The reason is simple: Without Alaskan gas, some source of new gas will be necessary to provide what Alaska would have supplied. Without Alaska gas, the average price of new gas under the compromise will be 15 cents per mcf higher.

Mr. President, it is obvious to me that the pipeline to deliver gas from our North Slope must be built, and built soon. The conference report will provide the necessary measures to permit financing to be completed and to allow construction to begin. Without those provisions, we will add $1 billion to the cost of construction for every year of delay. That is pointless. I support the conference report so that

this project, which Congress authorized last year, may begin.●

● Mr. RIBICOFF. Mr. President, for almost a year and a half the effort to formulate a comprehensive national energy policy has dominated the Congress and public affairs more than any single domestic issue. The enactment of a broad-based national energy program has been a top legislative priority throughout the 95th Congress. This goal has yet to be achieved.

Today we continue to debate a key element of the President's energy proposal, the natural gas compromise. The world is watching and waiting to see how we act on this controversial measure. Our trading partners in Western Europe and Japan are anxious to know whether we have the will and ability to deal with our energy challenges in an affirmative manner. Americans throughout the country look to us to take meaningful steps to curb and reverse the inflationary spiral which has been fueled by our indecision on an energy policy.

As consideration of the natural gas conference report begins I want to share with my colleagues the article by Senator MUSKIE which appears in this morning's Washington Post. In a most cogent and well-reasoned fashion, the distinguished chairman of the Senate Budget Committee outlines the major issues involved in the natural gas debate. Senator MUSKIE focuses on the impact this legislation will have in restoring world confidence in the value of the dollar and its impact in controlling inflation at home. I believe Senator MUSKIE's article very successfully sums up why the natural gas compromise warrants our support and I commend it to my colleagues' attention. I ask that the article be inserted in the RECORD.

The article follows:

[From the Washington Post, Sept. 11, 1978]

NATURAL-GAS COMPROMISE: THE COST OF DELAY

(By Edmund S. Muskie)

Two things are certain about the natural-gas compromise. First, it is nowhere near so bad as the opponents claim. Second, if the Senate does not approve it, the consequences are likely to be much worse than learning to live with the new policy.

The country is so evenly split between energy-importing states and energy exporters that finding a satisfactory compromise is almost impossible. But compromise we must. In the 16 months the Senate has wrestled with the price of gas, we have been playing economic roulette. We are losing.

Very little else is certain about the bill or its consequences, although "facts" are abundant. No one really knows what will happen to energy prices and supplies if we pass the bill, or even if we defeat it.

But the compromise is infinitely preferable to doing nothing at all. The bill will bring some desperately needed certainty to the question of natural-gas prices. People who were laid off or cold the last two winters cannot be enthusiastic about the present policy. Neither should the Senate be.

And the present uncertainty clearly affects business decisions as well as the average family's budgeting. Here at home this "confidence factor" is difficult to measure. But internationally we do have a yardstick: the value of the dollar.

The dollar's value on the international market is in one sense almost purely a measure of the confidence the international community has in the dollar's long-term value. That judgment is based on perceptions of American economic policy. Since the natural-gas debate began, the dollar has lost 10 percent of its value against all other currencies. Against stronger currencies like the West German mark and Japanese yen, the dollar's value has plummeted by as much as 30 percent.

The overall 10 percent decline has increased inflation here at home by about 1 percent. That means American consumers are already in the process of losing $15 billion to $20 billion in purchasing power in a single year—more than the natural-gas bill would cost in seven years.

There is abundant evidence that the lack of an energy policy is a prime cause, along with inflation, of the dollar's decline. The dollar has dropped 4 percent in value since the August summit on energy. The international community is less concerned with present policy than it is with the long-term trend. The international community must be convinced that America is indeed committed to an energy policy and to controlling inflation. If it remains unconvinced, it will continue to bet against the dollar. We must begin to prove the international community wrong.

If we do not, we face at least the possibility of more inflation, more restrictive interest rates and slower economic growth; an increase in the price of foreign oil; and growing demands from our allies for a voice in America's economic policy.

And the consequences could be much worse.

The bill itself is a moderate attempt to bridge the yawning gulf that has separated the House and Senate on the question.

Predictions are impossible in a highly complex and uncertain field. But from the information we do have, coupled with an independent review by the Congressional Budget Office, we can say this much about the natural-gas compromise:

1. It will allow prices to rise gradually enough to avoid serious consequences to our economy. CBO estimates that by 1985 the price of gas will be 5 to 8 percent higher under the bill than under current policy. With the gross national product approaching $4 trillion by then, the inflationary effect of that increase would be negligible.

The price increase will not be trifling to the individual consumer, but even by 1985 he will still be paying less for natural gas than he would pay for alternative fuels such as heating oil and electricity. In addition, the bill throws the bulk of the new cost on industrial users.

2. Supplies will increase and the supply will be more stable. The distinction between gas produced and consumed in a single state and gas on the interstate market will be abolished. There should be enough gas to avoid curtailments and allow increased residential use. Industrial users will be encouraged to switch to alternative fuels.

3. Finding a "quick fix" to replace the bill is impossible. If the question were easy we would have answered it by now. Congress is not being dilatory. Energy is the most difficult political, economic and social question to come before the Congress in our lifetime. The natural-gas compromise may not be perfect, but I am not so foolish as to think that given time much improvement could be made in it.

So I will vote for the natural-gas compromise. It is not perfect. It will not entirely satisfy anyone. It is by no means the last word on energy policy. But the consequences of our remaining mute are already costing us dearly.●

FEDERAL INFORMATION CENTERS ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar Order No. 1048.

Mr. BAKER. Mr. President, I have no objection to the request by the majority leader. This item is cleared on our calendar and we have no objection to proceeding to its consideration.

The PRESIDING OFFICER. Without objection, the clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 3259) to authorize the permanent establishment of a system of Federal Information Center.

The Senate proceeded to consider the bill.

UP AMENDMENT NO. 1829

Mr. ROBERT C. BYRD. Mr. President, I on behalf of Mr. CHILES, I send an amendment to the desk and ask that it be stated by the clerk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) for Mr. CHILES proposes an unprinted amendment.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Page 1, line 5, after Sec. 2 insert the following: "(a)"

Page 1, line 11, strike out "Information Centers" and insert in lieu thereof the following: "information centers"

Page 2, line 6, strike out "Information Centers" and insert in lieu thereof the following: "information centers"

Page 2, after line 10, insert the following:

"(b) The table of contents of the Federal Property and Administrative Services Act of 1949 is amended by inserting immediately after the item pertaining to section 111 the following new item:"

"Sec. 112. Federal Information centers."

Mr. ROBERT C. BYRD. This is a group of technical amendments.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and to be read a third time.

The bill was read the third time, and passed, as follows:

S. 3259

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Information Centers Act".

SEC. 2. (a) Title I of the Federal Property and Administrative Services Act of 1949 is amended by adding at the end thereof the following new section:

"FEDERAL INFORMATION CENTERS

"SEC. 112. (a) The Administrator is authorized to establish within the General Services Administration a nationwide network of Federal information centers for the purpose of providing the public with information about the programs and procedures of the Federal Government and for other appropriate and related purposes.

"(b) The Administrator is authorized to prescribe such rules and regulations as may

be necessary to the functioning of the Federal information centers.

"(c) There is hereby authorized to be appropriated $7,000,000 for the fiscal year ending September 30, 1980, and such sums as may be necessary for each succeeding fiscal year for carrying out the purposes of this section.".

(b) The table of contents of the Federal Property and Administrative Services Act of 1949 is amended by inserting immediately after the item pertaining to section 111 the following new item:

"Sec. 112. Federal information centers.".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1129), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE AND SUMMARY OF THE ACT

The purpose of S. 3259 is to establish legislative authority for a national system of Federal information centers.

Federal information centers provide direct help to citizens with questions about Federal Government services, programs and regulations. They provide better access to the Federal Government, cut redtape and reduce paperwork for many citizens who merely seek basic information about Government.

The Federal Information Centers Act authorizes the Administrator of the General Services Administration (GSA) to establish a nationwide network of Federal information centers. The centers are to provide the public with information about programs and procedures of the Federal Government.

The Administrator is further authorized to prescribe necessary regulations for managing the information centers. A sum of $7 million for fiscal year 1980 and such sums as may be necessary for succeeding fiscal years are also authorized to finance the program.

NEED FOR LEGISLATION

Federal Information Centers were first proposed by President Johnson in 1965. The first pilot center was opened in Atlanta, Ga., the following year. The GSA has developed a 12-year experience with this demonstration program.

Presently, information centers are located in 38 major metropolitan areas. An additional 47 cities are connected by toll-free tielines. (See appendix A.) In fiscal year 1977 more than 8 million inquiries were answered. Half of the Nation's population have the advantage of this service. While every segment of society has access to the centers, the principal beneficiaries were poor people least informed and knowledgeable about Government.

In early 1977, the Office of Management and Budget (OMB) conducted a study of the information centers program. (See appendix B for executive summary of study.) The OMB found that the centers operate at a high degree of responsiveness to the substantial volume and diversity of questions they receive.

The OMB further found that the centers could be improved through strengthened overall management, better information system design, improved support facilities and expansion of the population served.

The study concluded that before improvements should be undertaken, legislative authorization and separate appropriations should be sought from the Congress in order to better assure central control and accountability for center operations. Presently 17 agencies reimburse the GSA for the costs of the centers.

Permanent establishment of Federal information centers was also recommended by the Federal Paperwork Commission because of the frustration the Commission found many citizens experienced in just trying to obtain simple information about Government.

S. 3259 will meet the need to provide a permanent legislative basis for greater central control and accountability for center operations. The bill will also enable the program to expand and meet the needs of citizens in 22 States who do not have information centers today.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there are two other bills that are cleared for action by unanimous consent. They are Calendar Orders No. 1099 and 1105. I ask unanimous consent that the Senate proceed to consideration of those two orders.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Reserving the right to object, Mr. President, there is no objection. These items are cleared on our calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ISSUANCE OF SUBSTITUTE TREASURY CHECKS

The bill (H.R. 13087) to authorize the issuance of substitute Treasury checks without undertakings of indemnity, except as the Secretary of the Treasury may require, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1176), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

H.R. 13087 would authorize the Department of the Treasury to issue substitute checks to replace checks which have been received by the payee and subsequently lost, stolen, destroyed, mutilated, or defaced, except as the Secretary of the Treasury may require.

Under existing law, before a substitute check may be issued for an amount in excess of $200, the payee must agree to indemnify the United States by formally promising to repay the Treasury, in the event that both the original and the substitute checks are lawfully cashed.

Enactment of H.R. 13087 would eliminate this requirement, unless the Secretary of the Treasury determined that an undertaking of indemnity was necessary to protect the interests of the United States.

BACKGROUND

CURRENT LAW

Section 3646(a) of the Revised Statutes, as amended (31 U.S.C. 528(a)), requires that an undertaking of indemnity be obtained by the Secretary of the Treasury before a substitute Treasury check can be issued to replace an outstanding Treasury check where the check has been lost, stolen, destroyed, mutilated or defaced. In the undertaking, the claimant agrees to reimburse the Federal Government if both the original and substitute checks are cashed.

Section 3646(b) (31 U.S.C. 528(b)) lists five exceptions to the requirement for an undertaking of indemnity, but nevertheless authorizes the Secretary of the Treasury to require such an undertaking, even in the excepted situations if he deems it essential to the public interest.

Among the exceptions are loss of a check while in the custody of the Government prior to delivery to the payee, checks issued for $200 or less, and claims filed by the United States, a State, certain other political subdivisions, a foreign government, or a Federal Reserve bank.

EXPERIENCE UNDER CURRENT LAW

The Treasury Department has advised the committee that the current requirement that undertakings of indemnity be obtained unnecessarily delays for weeks, and even months, the settlement of valid claims from members of the public for relatively small amounts of money.

The Treasury Department advised further that at present, substitute check claims not included in the five exceptions in subsection (b) constitute between 7 and 8 percent of the claims processed by the Department. The undertakings which are obtained are generally without sureties, private or corporate, because of the small amounts involved. Therefore, the undertaking of indemnity provides only the promise of the claimant to reimburse the amount of any overpayment caused by the cashing of both the original and substitute checks.

Technically, the undertakings have some significance in view of the fact that they obligate the claimant to refund the proceeds of the checks whether or not he or she has received an overpayment. However, the Treasury states that they are not of practical significance because the Department does not as a rule seek reimbursement from a claimant who has not participated in the negotiation of the original check. Further, the Department does not use the undertakings as a legal basis for taking action against a claimant in the event of a double payment, but instead relies solely upon the grounds of the overpayment itself.

The Treasury Department advises that of the exceptions appearing in subsection (b), only that which excepts checks issued for $200 or less is of concern, since the other exceptions are of limited applicability and the Department does not now and would not in the future use Treasury's discretionary authority to require bonds of indemnity in the situations described in the other exceptions.

The $200 or less exception was established in 1945 when it was raised from $50. In the intervening 30 years, the dollar amount of checks has escalated dramatically. In a survey taken in August 1975, 1,500 checks were chosen at random, and 41.4 percent of them exceeded $200. Thus, what was, in 1945, a small percentage of checks has now become nearly a majority. The same survey revealed that 2.5 percent of the checks exceed $500, 1.3 percent exceed $750, and 0.9 percent exceed $1,000.

The Department concluded that these figures indicate the need to eliminate the requirement for undertakings of indemnity, except in the discretion of the Secretary of the Treasury, rather than to raise the amount of the exception provided. The Department concluded further that a newly established amount would soon become outdated if check amounts continue to escalate.

NEED FOR LEGISLATION

In requesting enactment of this legislation, the Treasury Department has stated that (1) a total of $18,000 is expended annually for clerical time and supplies in the procurement of undertakings of indemnity for a relatively small number of cases; (2) settlement actions on over 12,000 valid claims per year are unnecessarily delayed for long periods of time because of the indemnification requirement; (3) a 1978 survey revealed that over 50 percent of Treasury claims were for checks in excess of $200—a dollar limit originally set in 1945 when claims in this amount were relatively rare; (4) since the Federal Government receives no benefit whatever from the undertakings of indemnity, the administrative burden involved in handling them is unwarranted; and (5) since the Secretary of the Treasury has the authority under section 3646(d) of the Revised Statutes to issue regulations, if the subject bill is enacted, the Secretary would exercise that authority to establish the criteria for undertakings of indemnity.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CMDR. EDWARD WHITE RAWLINS

The Senate proceeded to consider the bill (H.R. 1445) conferring jurisdiction upon the U.S. Court of Claims to hear, determine, and render judgment upon the claim of Comdr. Edward White Rawlins, U.S. Navy (retired), which had been reported from the Committee on the Judiciary with an amendment on page 2, beginning with line 15, insert the following:

SEC. 3. If such court renders judgment in favor of such claim, such court may award, in addition to any amount awarded for retroactive active-duty pay and allowances and retirement pay, reasonable litigation costs, and a reasonable attorney's fee in an amount not to exceed five percent of the amount awarded for retroactive active-duty pay and allowances and retirement pay.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1182), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to waive applicable limitations, lapses of time or laches and to confer jurisdiction upon the U.S. Court of Claims to hear, determine and render judgment upon the claim of Comdr. Edward White Rawlins, U.S. Navy (retired) of Washington, D.C., for retroactive active-duty pay and allowances and retirement pay for his nonpromotion to the grade of captain, such nonpromotion allegedly being the probable consequence of improper and inequitable actions within the Department of Navy. The bill, as amended, stipulates that any suit instituted under its provisions must be brought within 1 year of the date of enactment and that its enactment does not constitute an inference of liability on the part of the United States.

FACTUAL SUMMARY

Comdr. Edward White Rawlins, U.S. Navy, retired, [hereinafter, "claimant"], now 76, was graduated from the U.S. Naval Academy on June 4, 1924. Effective the following day, he was appointed to the grade of ensign, U.S. Navy, and served continuously on active duty until July 1, 1951, when he was retired in the grade of commander upon his own application, pursuant to the provisions of section 6, act of February 21, 1946, 60 Stat. 26, 27, as amended 34 U.S.C. 410(b) (1952); see 10 U.S.C. 6323 (1970). During his active service, claimant received the following promotions: Lieutenant (junior grade), June 5, 1927; lieutenant, June 30, 1942; lieutenant commander, May 22, 1939; and commander (temporary), August 30, 1942.

In June 1942, just prior to claimant's last promotion in grade, supra, the Department of the Navy instituted a "panel" system to review roster of names submitted by the Secretary for temporary promotions to commander and captain. Each panel member, who was one of a number of senior naval officers at both domestic and foreign duty stations selected by the Secretary, would review the roster of names and check off those names of eligible candidates who he felt were "qualified for temporary promotion."[1] Once the rosters were returned, the "votes" were tabulated and a composite list of nominees was prepared for the President's approval. Claimant, along with other line commanders, was considered for temporary promotion to the grade of captain by three such panels, convened during the following periods: August–November 1943; June–August 1944; and January–April 1945. Claimant failed to be nominated for promotion in all three instances.

At the close of 1945, the Navy utilized at least one "administrative board" in effecting promotions. That type of board, consisting of some 15 members (8 Regular Navy and 7 Naval Reserve officers), also considered commanders for temporary promotion to the grade of captain. Members of the Board, which convened in Washington, D.C., were furnished the names and records of officers (Regular and Reserve) eligible for such promotions and were instructed to recommend "only those officers who are considered qualified to assume the responsibilities of the higher rank."[2] In November–December 1945, one such board considered, but did not recommend, claimant for promotion.

By letter dated June 9, 1947, claimant petitioned the Secretary of the Navy for promotion, with the "lineal position" he would have occupied had he been nominated by the first panel, for "reasons of equity and justice as supported by the facts set forth" in his letter. His request was denied, in substance on the ground that, between 1943 and 1945, four duly constituted selection boards had considered his "name and official record" and had failed to recommend him and further that there was no evidence of unfairness or partiality in the history of the case.

Twice in 1950, once in January and again in October, claimant's eligibility for promotion was passed upon by statutory selection boards convened pursuant to the Officer Personnel Act of 1947, 61 Stat. 795, as amended. He was not selected for promotion by either Board and, in 1951, submitted his application for retirement in lieu of mandatory retirement which was accepted.

[1] It was never established whether panel members on foreign duty had regular access to complete personnel files for record review purposes. Rather, overseas panel members were "'authorized to confer with a senior officers in two areas as desired in making your selections.'" *Rawlins* v. *United States*, 197 Ct. Cl. 972, 980 (1972).

[2] Rawlins, *supra*, n. 1, at 981–83.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TECHNICAL AND CLERICAL CORRECTIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendment to H.R. 9370.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1566.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1566) entitled "An Act to amend title 18, United States Code, to authorize applications for a court order approving the use of electronic surveillance to obtain foreign intelligence information", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Foreign Intelligence Surveillance Act of 1978".

TABLE OF CONTENTS

TITLE I—ELECTRONIC SURVEILLANCE WITHIN THE UNITED STATES FOR FOREIGN INTELLIGENCE PURPOSES

Sec. 101. Definitions.
Sec. 102. Authorization for electronic surveillance for foreign intelligence purposes.
Sec. 103. Jurisdiction.
Sec. 104. Application for an order.
Sec. 105. Issuance of an order.
Sec. 106. Use of information.
Sec. 107. Report of electronic surveillance.
Sec. 108. Congressional oversight.
Sec. 109. Penalties.
Sec. 110. Civil liability.
Sec. 111. Authorization during time of war.

TITLE II—CONFORMING AMENDMENTS

Sec. 201. Amendments to chapter 119 of title 18, United States Code.

TITLE III—EFFECTIVE DATE

Sec. 301. Effective date.

TITLE I—ELECTRONIC SURVEILLANCE WITHIN THE UNITED STATES FOR FOREIGN INTELLIGENCE PURPOSES

DEFINITIONS

SEC. 101. As used in this title:

(a) "Foreign power" means—

(1) a foreign government or any component thereof, whether or not recognized by the United States;

(2) a faction of a foreign nation or nations, not substantially composed of United States persons;

(3) an entity that is openly acknowledged by a foreign government or governments to be directed and controlled by such foreign government or governments;

(4) a group engaged in international terrorism or activities in preparation therefor;

(5) a foreign-based political organization,

not substantially composed of United States persons; or

(6) an entity that is directed and controlled by a foreign government or governments.

(b) "Agent of a foreign power" means—

(1) any person other than a United States person, who—

(A) acts in the United States as an officer, member, or employee of a foreign power; or

(B) acts for or on behalf of a foreign power which engages in clandestine intelligence activities in the United States contrary to the interests of the United States, when the circumstances of such person's presence in the United States indicate that such person may engage in such activities in the United States, or when such person knowingly aids or abets any person in the conduct of such activities or knowingly conspires with any person to engage in such activities; or

(2) any person who—

(A) knowingly engages in clandestine intelligence gathering activities for or on behalf of a foreign power, which activities involve or may involve a violation of the criminal statutes of the United States;

(B) pursuant to the direction of an intelligence service or network of a foreign power, knowingly engages in any other clandestine intelligence activities for or on behalf of such foreign power, which activities involve or are about to involve a violation of the criminal statutes of the United States;

(C) knowingly engages in sabotage or international terrorism, or activities that are in preparation therefor, for or on behalf of a foreign power; or

(D) knowingly aids or abets any person in the conduct of activities described in subparagraph (A), (B), or (C) or knowingly conspires with any person to engage in activities described in subparagraph (A), (B), or (C).

(c) "International terrorism" means activities that—

(1) involve violent acts or acts dangerous to human life or property that are or may be a violation of the criminal laws of the United States or of any State, or that might involve a criminal violation if committed within the jurisdiction of the United States or any State;

(2) appear to be intended—

(A) to intimidate or coerce a civilian population;

(B) to influence the policy of a government by intimidation or coercion; or

(C) to affect the conduct of a government by assassination or kidnapping; and

(3) occur totally outside the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to coerce or intimidate, or the locale in which their perpetrators operate or seek asylum.

(d) "Sabotage" means activities that involve or may involve a violation of chapter 105 of title 18, United States Code, or that might involve such a violation if committed against the United States.

(e) "Foreign intelligence information" means—

(1) information that relates to and, if concerning a United States person, is necessary to the ability of the United States to protect against—

(A) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

(B) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

(C) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or

(2) information with respect to a foreign power or foreign territory that relates to and, if concerning a United States person, is necessary to—

(A) the national defense or the security of the United States; or

(B) the conduct of the foreign affairs of the United States.

(f) "Electronic surveillance" means—

(1) the acquisition by an electronic, mechanical, or other surveillance device of the contents of any wire or radio communication sent by or intended to be received by a particular, known United States person who is in the United States, if the contents are acquired by intentionally targeting that United States person, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes;

(2) the acquisition by an electronic, mechanical, or other surveillance device of the contents of any wire communication to or from a person in the United States, without the consent of any party thereto, if such acquisition occurs in the United States;

(3) the intentional acquisition by an electronic, mechanical, or other surveillance device of the contents of any radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes, and if both the sender and all intended recipients are located within the United States; or

(4) the installation or use of an electronic, mechanical, or other surveillance device in the United States for monitoring to acquire information, other than from a wire or radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes.

(g) "Attorney General" means the Attorney General of the United States (or Acting Attorney General) or the Deputy Attorney General.

(h) "Minimization procedures", with respect to electronic surveillance means—

(1) specific procedures, which shall be adopted by the Attorney General, that are reasonably designed in light of the purpose and technique of the particular surveillance, to minimize the acquisition, retention, and dissemination of nonpublicly available information concerning unconsenting United States persons consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information;

(2) procedures that require that nonpublicly available information, which is not foreign intelligence information, as defined in subsection (e)(1), shall not be disseminated in a manner that identifies any individual United States person, without such person's consent, unless such person's identity is necessary to understand foreign intelligence information or assess its importance;

(3) notwithstanding paragraphs (1) and (2), procedures that allow for the retention and dissemination of information that is evidence of a crime which has been, is being, or is about to be committed and that is to be retained or disseminated for the purpose of preventing the crime or enforcing the criminal law; and

(4) notwithstanding paragraphs (1), (2), and (3), with respect to any electronic surveillance approved pursuant to section 102 (a), procedures that require that no contents of any communication to which a United States person is a party shall be disclosed, disseminated, or used for any purpose or retained for longer than twenty-four hours unless a court order under section 105 is obtained or unless the Attorney General determines that the information may indicate a threat of death or serious bodily harm to any person.

(i) "United States person" means a citizen of United States, an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act), an unincorporated association a substantial number of members of which are citizens of the United States or aliens lawfully admitted for permanent residence, or a corporation which is incorporated in the United States, but does not include a corporation or an association which is a foreign power, as defined in subsection (a) (1), (2), or (3).

(j) "United States", when used in a geographic sense, means all areas under the territorial sovereignty of the United States and the Trust Territory of the Pacific Islands.

(k) "Aggrieved person" means a person who is the target of an electronic surveillance or any other person whose communications or activities were subject to electronic surveillance.

(l) "Wire communication" means any communication while it is being carried by a wire, cable, or other like connection furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the transmission of interstate or foreign communications.

(m) "Person" means any individual, including any officer or employee of the Federal Government, or any group, entity, association, corporation, or foreign power.

(n) "Contents", when used with respect to a communication, includes any information concerning the identity of the parties to such communication or the existence, substance, purport, or meaning of that communication.

(o) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and any territory or possession of the United States.

AUTHORIZATION FOR ELECTRONIC SURVEILLANCE FOR FOREIGN INTELLIGENCE PURPOSES

SEC. 102. (a)(1) Notwithstanding any other law, the President, through the Attorney General, may authorize electronic surveillance without a court order under this title to acquire foreign intelligence information for periods of up to one year if the Attorney General certifies in writing under oath that—

(A) the electronic surveillance is solely directed at—

(i) communications exclusively between or among foreign powers, as defined in section 101(a) (1), (2), or (3); or

(ii) the acquisition of technical intelligence from property or premises under the open and exclusive control of a foreign power, as defined in section 101(a) (1), (2), or (3); and

(B) the proposed minimization procedures with respect to such surveillance meet the definition of minimization procedures under section 101(h); and

if the Attorney General shall report such minimization procedures and any changes thereto to the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence at least thirty days prior to their effective date, unless the Attorney General determines immediate action is required and notifies the committees immediately of such minimization procedures and the reason for their becoming effective immediately.

(2) An electronic surveillance authorized by this subsection may be conducted only in accordance with the Attorney General's certification and the minimization procedures adopted by him.

(3) With respect to electronic surveillance authorized by this subsection, the Attorney General may direct a specified communication common carrier to—

(A) furnish all information, facilities, or technical assistance necessary to accomplish the electronic surveillance in such a manner as will protect its secrecy and produce a minimum of interference with the services that such carrier is providing its customers; and

(B) maintain under security procedures approved by the Attorney General and the Director of Central Intelligence any records concerning the surveillance or the aid furnished which such carrier wishes to retain. The Government shall compensate, at the prevailing rate, such carrier for furnishing such aid.

(b) Applications for a court order under this title are authorized if the President has, by written authorization, empowered the Attorney General to approve applications to a United States district court, and a judge to whom an application is made may, notwithstanding any other law, grant an order, in conformity with section 105, approving electronic surveillance of a foreign power or an agent of a foreign power for the purpose of obtaining foreign intelligence information, except that the court shall not have jurisdiction to grant any order approving electronic surveillance directed solely as described in paragraph (1)(A) of subsection (a) unless such surveillance may involve the acquisition of communications of any United States person.

JURISDICTION

SEC. 103 (a) The United States district courts shall have jurisdiction to receive applications for court orders under this title and to issue orders under section 105 of this title.

(b) Proceedings under this title shall be conducted as expeditiously as possible. If any application to the United States district court is denied, the court shall record the reasons for that denial, and the reasons for that denial shall, upon the motion of the party to whom the application was denied, be transmitted under seal to the United States court of appeals.

APPLICATION FOR AN ORDER

SEC. 104. (a) Each application for an order approving electronic surveillance under this title shall be made by a Federal officer in writing upon oath or affirmation to a judge having jurisdiction under section 103. Each application shall require the approval of the Attorney General based upon his finding that it satisfies the criteria and requirements of such application as set forth in this title. It shall include—

(1) the identity of the Federal officer making the application;

(2) the authority conferred on the Attorney General by the President of the United States and the approval of the Attorney General to make the application;

(3) the identity, if known, or a description of the target of the electronic surveillance;

(4) a statement of the facts and circumstances relied upon by the applicant to justify his belief that—

(A) the target of the electronic surveillance is a foregn power or an agent of a foreign power; and

(B) each of the facilities or places at which the electronic surveillance is directed is being used, or is about to be used, by a foreign power or an agent of a foreign power;

(5) a statement of the proposed minimization procedures;

(6) a detailed description of the nature of the information sought and the type of communications or activities to be subjected to the surveillance;

(7) a certification or certifications by the Assistant to the President for National Security Affairs and an executive branch official or officials designated by the President from among those executive officers employed in the area of national security or defense and appointed by the President with the advice and consent of the Senate—

(A) that the certifying official deems the information sought to be foreign intelligence information;

(B) that the purpose of the surveillance is to obtain foreign intelligence information;

(C) that such information cannot reasonably be obtained by normal investigative techniques;

(D) that designates the type of foreign intelligence information being sought according to the categories described in section 101(e); and

(E) including a statement of the basis for the certification that—

(i) the information sought is the type of foreign intelligence information designated; and

(ii) such information cannot reasonably be obtained by normal investigative techniques;

(8) a statement of the means by which the surveillance will be affected;

(9) a statement of the facts concerning all previous applications that have been made to any judge under this title involving any of the persons, facilities, or places specified in the application, and the action taken on each previous application;

(10) a statement of the period of time for which the electronic surveillance is required to be maintained, and if the nature of the intelligence gathering is such that the approval of the use of electronic surveillance under this title should not automatically terminate when the described type of information has first been obtained, a description of facts supporting the belief that additional information of the same type will be obtained thereafter; and

(11) whenever more than one electronic, mechanical or other surveillance device is to be used with respect to a particular proposed electronic surveillance, the coverage of the devices involved and what minimization procedures apply to information acquired by each device.

(b) Whenever the target of the electronic surveillance is a foreign power, as defined in section 101(a) (1), (2), or (3), and each of the facilities or places at which the surveillance is directed is owned, leased, or exclusively used by that foreign power, the application need not contain the information required by paragraph (6), (7)(E), (8), and (11) of subsection (a), but shall contain such information about the surveillance techniques and communications or orther information concerning United States persons likely to be obtained as may be necessary to assess the proposed minimization procedures.

(c) The Attorney General may require any other affidavit or certification from any other officer in connection with the application.

(d) The judge may require the applicant to furnish such other information as may be necessary to make the determinations required by section 105.

ISSUANCE OF AN ORDER

SEC. 105. (a) Upon an application made pursuant to section 104, the judge shall enter an ex parte order as requested or as modified approving the electronic surveillance if he finds that—

(1) the President has authorized the Attorney General to approve applications for electronic surveillance for foreign intelligence information;

(2) the application has been made by a Federal officer and approved by the Attorney General;

(3) on the basis of the facts submitted by the applicant there is probable cause to believe that—

(A) the target of the electronic surveillance is a foreign power or an agent of a foreign power: *Provided*, That no United States person may be considered a foreign power or an agent of a foreign power solely upon the basis of activities protected by the first amendment to the Constitution of the United States; and

(B) each of the facilities or places at which the electronic surveillance is directed is being used, or is about to be used, by a foreign power or an agent of a foreign power;

(4) the proposed minimization procedures meet the definition of minimization procedures under section 101(h); and

(5) the application which has been filed contains all statements and certifications required by section 104 and, if the target is a United States person, the certification or certifications are not clearly erroneous on the basis of the statement made under section 104(a)(7)(E) and any other information furnished under section 104(d).

(b) An order approving an electronic surveillance under this section shall—

(1) specify—

(A) the identity, if known, or a description of the target of the electronic surveillance;

(B) the nature and location of each of the facilities or places at which the electronic surveillance will be directed;

(C) the type of information sought to be acquired and the type of communications or activities to be subjected to the surveillance;

(D) the means by which the electronic surveillance will be effected;

(E) the period of time during which the electronic surveillance is approved; and

(F) whenever more than one electronic, mechanical, or other surveillance device is to be used under the order, the authorized coverage of the devices involved and what minimization procedures shall apply to information subject to acquisition by each device; and

(2) direct—

(A) that the minimization procedures be followed;

(B) that, upon the request of the applicant, a specified communication or other common carrier, landlord, custodian, or other specified person furnish the applicant forthwith and all information, facilities, or technical assistance necessary to accomplish the electronic surveillance unobstrusively and in such manner as will protect its secrecy and produce a minimum of interference with the services that such carrier, landlord, custodian, or other person is providing that target of electronic surveillance;

(C) that such carrier, landlord, custodian, or other person maintain under security procedures approved by the Attorney General and the Director of Central Intelligence any records concerning the surveillance or the aid furnished that such person wishes to retain; and

(D) that the applicant compensate, at the prevailing rate, such carrier, landlord, custodian, or other person for furnishing such aid.

(c) Whenever the target of the electronic surveillance is a foreign power, as defined in section 101(a) (1), (2), or (3), and each of the facilities or places at which the surveillance is directed is owned, leased, or exclusively used by that foreign power, the order need not contain the information required by subparagraphs (C), (D), and (F) of subsection (b)(1), but shall generally describe the information sought, the communications or activities to be subjected to the surveillance, and the type of electronic surveillance involved, including whether physical entry is required.

(d)(1) An order issued under this section may approve an electronic surveillance for the period necessary to achieve its purpose, or for ninety days, whichever is less, except that an order under this section shall approve an electronic surveillance targeted against a foreign power, as defined in section 101(a) (1), (2), or (3), for the period specified in the application or for one year, whichever is less.

(2) Extensions of an order issued under this title may be granted on the same basis as an original order upon an application for an extension and new findings made in the

same manner as required for an original order, except that an extension of an order under this chapter for a surveillance targeted against a foreign power, as defined in section 101(a) (4), (5), or (6), may be for a period not to exceed one year if the judge finds probable cause to believe that no communication of any individual United States person will be acquired during the period.

(3) At the end of the period of time for which electronic surveillance is approved by an order or an extension, the judge may assess compliance with the minimization procedures by reviewing the circumstances under which information concerning United States persons was acquired, retained, or disseminated.

(e) Notwithstanding any other provision of this title, when the Attorney General reasonably determines that—

(1) an emergency situation exists with respect to the employment of electronic surveillance to obtain foreign intelligence information before an order authorizing such surveillance can with due diligence be obtained; and

(2) the factual basis for issuance of an order under this title to approve such surveillance exists;

he may authorize the emergency employment of electronic surveillance if a judge having jurisdiction under section 103 is informed by the Attorney General or his designee at the time of such authorization that the decision has been made to employ emergency electronic surveillance and if an application in accordance with this title is made to that judge as soon as practicable, but not more than twenty-four hours after the Attorney General authorizes such surveillance. If the Attorney General authorizes such emergency employment of electronic surveillance, he shall require that the minimization procedures required by this title for the issuance of a judicial order be followed. In the absence of a judicial order approving such electronic surveillance, the surveillance shall terminate when the information sought is obtained, when the application for the order is denied, or after the expiration of twenty-four hours from the time of authorization by the Attorney General, whichever is earliest. In the event that such application for approval is denied, or in any other case where the electronic surveillance is terminated and no order is issued approving the surveillance, no information obtained or evidence derived from such surveillance shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such surveillance shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information may indicate a threat of death or serious bodily harm to any person. A denial of the application made under this subsection may be reviewed as provided in section 103.

(f) Notwithstanding any other provision of this title, officers, employees, or agents of the United States are authorized in the normal course of their official duties to conduct electronic surveillance not targeted against the communications of any particular person or persons, under procedures approved by the Attorney General, solely to—

(1) test the capability of electronic equipment, if—

(A) it is not reasonable to obtain the consent of the persons incidentally subjected to the surveillance;

(B) the test is limited in extent and duration to that necessary to determine the capability of the equipment; and

(C) the contents of any communication acquired are retained and used only for the purpose of determining the capability of the equipment, are disclosed only to test personnel, and are destroyed before or immediately upon completion of the test;

(2) determine the existence and capability of electronic surveillance equipment being used by persons not authorized to conduct electronic surveillance, if—

(A) it is not reasonable to obtain the consent of persons incidentally subjected to the surveillance;

(B) such electronic surveillance is limited in extent and duration to that necessary to determine the existence and capability of such equipment; and

(C) any information acquired by such surveillance is used only to enforce chapter 119 of title 18, United States Code, or section 605 of the Communications Act of 1934, or to protect information from unauthorized surveillance; or

(3) train intelligence personnel in the use of electronic surveillance equipment, if—

(A) it is not reasonable to—

(i) obtain the consent of the persons incidentally subjected to the surveillance;

(ii) train persons in the course of surveillances otherwise authorized by this title; or

(iii) train persons in the use of such equipment without engaging in electronic surveillance;

(B) such electronic surveillance is limited in extent and duration to that necessary to train the personnel in the use of the equipment; and

(C) no contents of any communication acquired are retained or disseminated for any purpose, but are destroyed as soon as reasonably possible.

(g) Certifications made by the Attorney General pursuant to section 102(a) and applications made and orders granted under this title shall be retained for a period of at least ten years from the date of the application and shall be stored at the direction of the Attorney General under security procedures approved by the Director of Central Intelligence.

USE OF INFORMATION

SEC. 106. (a) Information acquired from an electronic surveillance conducted pursuant to this title concerning any United States person may be used and disclosed by Federal officers and employees without the consent of the United States person only in accordance with the minimization procedures required by this title. No otherwise privileged communication obtained in accordance with, or in violation of the provisions of this title shall lose its privileged character. No information acquired from an electronic surveillance pursuant to this title may be used or disclosed by Federal officers or employees except for lawful purposes.

(b) No information acquired pursuant to this title shall be disclosed for law enforcement purposes unless such disclosure is accompanied by a statement that such information, or any information derived therefrom, may only be used in a criminal proceeding with the advance authorization of the Attorney General.

(c) Whenever the Government intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, against an aggrieved person, any information obtained or derived from an electronic surveillance of that aggrieved person pursuant to the authority of this title, the Government shall, prior to the trial, hearing, or other proceeding or at a reasonable time prior to an effort to so disclose or so use that information or submit it in evidence, notify the aggrieved person and the court or other authority in which the information is to be disclosed or used that the Government intends to so disclose or so use such information.

(d) Whenever any State or political subdivision thereof intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of a State or a political subdivision thereof, against an aggrieved person any information obtained or derived from an electronic surveillance of that aggrieved person pursuant to the authority of this title, the State or political subdivision thereof shall notify the aggrieved person, the court or other authority in which the information is to be disclosed or used, and the Attorney General that the State or political subdivision thereof intends to so disclose or so use such information.

(e) Any person against whom evidence obtained or derived from an electronic surveillance to which he is an aggrieved person is to be, or has been, introduced or otherwise used or disclosed in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, a State, or a political subdivision thereof, may move to suppress the evidence obtained or derived from such electronic surveillance on the grounds that—

(1) the information was unlawfully acquired; or

(2) the surveillance was not made in conformity with an order of authorization or approval.

Such a motion shall be made before the trial, hearing, or other proceeding unless there was no opportunity to make such a motion or the person was not aware of the grounds of the motion.

(f) Whenever a court or other authority is notified pursuant to subsection (c) or (d), or whenever a motion is made pursuant to subsection (e) and the Government concedes that information obtained or derived from an electronic surveillance pursuant to the authority of this title as to which the moving party is an aggrieved person is to be, or has been, introduced or otherwise used or disclosed in any trial, hearing, or other proceeding, the Government may make a motion before the court to determine the lawfulness of the electronic surveillance. The motion may not be heard by a judge who granted or denied an order or extension involving the surveillance at issue. Such motion shall stay any action in any court or authority to determine the lawfulness of the surveillance. In determining the lawfulness of the surveillance, the court shall, notwithstanding any other law, if the Attorney General files an affidavit under oath with the court that disclosure would harm the national security of the United States or compromise foreign intelligence sources and methods, review in camera the application, order, and such other materials relating to the surveillance as may be necessary to determine whether the surveillance of the aggrieved person was lawfully authorized and conducted. In making this determination, the court may disclose to the aggrieved person, under appropriate security procedures and protective orders, portions of the application, order, or other materials if there is a reasonable question as to the legality of the surveillance and if disclosure would likely promote a more accurate determination of such legality, or if such disclosure would not harm the national security.

(g) Except as provided in subsection (f), whenever any motion or request is made pursuant to any statute or rule of the United States or any State before any court or other authority of the United States or any State to discover or obtain applications or orders or other materials relating to surveillance pursuant to the authority of this title or to discover, obtain, or suppress any information obtained from electronic surveillance pursuant to the authority of this title, and the court or other authority determines

that the moving party is an aggrieved person, if the Attorney General files with the United States court of appeals an affidavit under oath that an adversary hearing would harm the national security or compromise foreign intelligence sources and methods and that no information obtained or derived from an electronic surveillance pursuant to the authority of this title has been or is about to be used by the Government in the case before the court or other authority, the Special Court of Appeals shall, notwithstanding any other law, stay the proceeding before the other court or authority and review in camera and ex parte the application, order, and such other materials as may be necessary to determine whether the surveillance of the aggrieved person was lawfully authorized and conducted. In making this determination, the court of appeals shall disclose, under appropriate security procedures and protective orders, to the aggrieved person or his attorney portions of the application, order, or other materials relating to the surveillance only if necessary to afford due process to the aggrieved person.

(h) If the court pursuant to subsection (f) or the court of appeals pursuant to subsection (g) determines the surveillance was not lawfully authorized and conducted, it shall, in accordance with the requirements of the law, suppress the evidence which was unlawfully obtained or derived from electronic surveillance of the aggrieved person or otherwise grant the motion of the aggrieved person. If the court pursuant to subsection (f) or the court of appeals pursuant to subsection (g) determines the surveillance was lawfully authorized and conducted, it shall deny the motion of the aggrieved person except to the extent that due process requires discovery or disclosure.

(i) Orders granting or denying motions or requests under subsection (h), decisions under this section as to the lawfulness of electronic surveillance, and, absent a finding of unlawfulness, orders of the district court or court of appeals granting or denying disclosure of applications, orders, or other materials relating to a surveillance shall be final orders and binding upon all courts of the United States and the several States except the court of appeals and the Supreme Court.

(j) In circumstances involving the unintentional acquisition by an electronic, mechanical, or other surveillance device of the contents of any radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes, and if both the sender and all intended recipients are located within the United States, such contents shall be destroyed upon recognition, unless the Attorney General determines that the contents may indicate a threat of death or serious bodily harm to any person.

(k) If an emergency employment of electronic surveillance is authorized under section 105(e) and a subsequent order approving the surveillance is not obtained, the judge shall cause to be served on any United States person named in the application and on such other United States persons subject to electronic surveillance as the judge may determine in his discretion it is in the interest of justice to serve, notice of—

(1) the fact of the application;

(2) the period of the surveillance; and

(3) the fact that during the period information was or was not obtained.

On an ex parte showing of good cause to the judge the serving of the notice required by this subsection may be postponed or suspended for a period not to exceed ninety days. Thereafter, on a further ex parte showing of good cause, the court shall forego ordering the serving of the notice required under this subsection.

REPORT OF ELECTRONIC SURVEILLANCE

SEC. 107. In April of each year, the Attorney General shall transmit to the Administrative Office of the United States Courts and to Congress a report setting forth with respect to the preceding calendar year—

(a) the total number of applications made for orders and extensions of orders approving electronic surveillance under this title; and

(b) the total number of such orders and extensions either granted, modified, or denied.

CONGRESSIONAL OVERSIGHT

SEC. 108. (a) On a semiannual basis the Attorney General shall fully inform the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence concerning all electronic surveillance under this title. Nothing in this title shall be deemed to limit the authority and responsibility of those committees to obtain such additional information as they may need to carry out their respective functions and duties.

(b) The Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate may periodically review the information provided under subsection (a). If either such committee determines that an electronic surveillance of a United States person under this title has produced no foreign intelligence information and that the disclosure of the fact of such surveillance to such United States person would not harm the national security, such committee shall inform such person of the fact of such surveillance and that no foreign intelligence information was derived from such surveillance.

PENALTIES

SEC. 109. (a) OFFENSE.—A person is guilty of an offense if he intentionally engaged in electronic surveillance under color of law except as authorized by statute.

(b) DEFENSE.—It is a defense to a prosecution under subsection (a) that the defendant was a law enforcement or investigative officer engaged in the course of his official duties and the electronic surveillance was authorized by and conducted pursuant to a search warrant or court order of a court of competent jurisdiction.

(c) PENALTY.—An offense described in this section is punishable by a fine of not more than $10,000 or imprisonment for not more than five years, or both.

(d) JURISDICTION.—There is Federal jurisdiction over an offense under this section if the person committing the offense was an officer or employee of the United States at the time the offense was committed.

CIVIL LIABILITY

SEC. 110. CIVIL ACTION.—An aggrieved person, other than a foreign power or an agent of a foreign power, as defined in section 101 (a) or (b)(1)(A), respectively, who has been subjected to an electronic surveillance or whose communication has been disseminated or used in violation of section 109 shall have a cause of action against any person who committed such violation and shall be entitled to recover—

(a) actual damages, but not less than liquidated damages of $1,000 or $100 per day for each day of violation, whichever is greater;

(b) punitive damages; and

(c) reasonable attorney's fees and other investigation and litigation costs reasonably incurred.

AUTHORIZATION DURING TIME OF WAR

SEC. 111. Notwithstanding any other law, the President, through the Attorney General, may authorize electronic surveillance without a court order under this title to acquire foreign intelligence information for periods up to one year during a period of war declared by the Congress.

TITLE II—CONFORMING AMENDMENTS

AMENDMENTS TO CHAPTER 119 OF TITLE 18, UNITED STATES CODE

SEC. 201. Chapter 119 of title 18, United States Code, is amended as follows:

(a) Section 2511(2)(a)(ii) is amended to read as follows:

"(ii) Notwithstanding any other law, communication common carriers, their officers, employees, and agents, landlords, custodians, or other persons, are authorized to provide information, facilities, or technical assistance to persons authorized by law to intercept wire or oral communications or to conduct electronic surveillance, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978, if the common carrier, its officers, employees, or agents, landlord, custodian, or other specified person, has been provided with—

"(A) a court order directing such assistance signed by the authorizing judge, or

"(B) a certification in writing by a person specified in section 2518(7) of this title or the Attorney General of the United States that no warrant or court order is required by law, that all statutory requirements have been met, and that the specified assistance is required,

setting forth the period of time during which the provision of the information, facilities, or technical assistance is authorized and specifying the information, facilities, or technical assistance required. No communication common carrier, officer, employee, or agent thereof, or landlord, custodian, or other specified person shall disclose the existence of any interception or surveillance or the device used to accomplish the interception or surveillance with respect to which the person has been furnished an order or certification under this subparagraph, except as may otherwise be required by legal process and then only after prior notification to the Attorney General or to the principal prosecuting attorney of a State or any political subdivision of a State, as may be appropriate. No cause of action shall lie in any court against any communication common carrier, its officers, employees, or agents, landlord, custodian, or other specified person for providing information, facilities, or assistance in accordance with the terms of an order or certification under this subparagraph.".

(b) Section 2511(2) is amended by adding at the end thereof the following new provisions:

(e) Notwithstanding any other provision of this title or section 605 or 606 of the Communications Act of 1934, it shall not be unlawful for an officer, employee, or agent of the United States in the normal course of his official duty to conduct electronic surveillance, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978, as authorized by that Act.

"(f) Nothing contained in this chapter, or section 605 of the Communications Act of 1934, shall be deemed to affect the acquisition by the United States Government of foreign intelligence information from international or foreign communications by a means other than electronic surveillance as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978, and procedures in this chapter and the Foreign Intelligence Surveillance Act of 1978 shall be the exclusive statutory means by which electronic surveillance, as defined in section 101 of such Act, and the interception of domestic wire and oral communications may be conducted.".

(c) Section 2511(3) is repealed.

(d) Section 2518(1) is amended by inserting "under this chapter" after "communication".

(e) Section 2518(4) is amended by inserting "under this chapter" after both appearances of "wire or oral communication".

(f) Section 2518(9) is amended by striking out "intercepted" and inserting "inter-

cepted pursuant to this chapter" after "communication".

(g) Section 2518(10) is amended by striking out "intercepted" and inserting "intercepted pursuant to this chapter" after the first appearance of "communication".

(b) Section 2519(3) is amended by inserting "pursuant to this chapter" after "wire or oral communications" and after "granted or denied".

TITLE III—EFFECTIVE DATE

EFFECTIVE DATE

SEC. 301. The provisions of this Act and the amendments made hereby shall become effective upon the date of enactment of this Act, except that any electronic surveillance approved by the Attorney General to gather foreign intelligence information shall not be deemed unlawful for failure to follow the procedures of this Act, if that surveillance is terminated or an order approving that surveillance is obtained under title I of this Act within ninety days following such date of enactment.

Amend the title so as to read: "An Act to authorize electronic surveillance to obtain foreign intelligence information.".

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate disagree to the amendments of the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO HOLD H.R. 12026 AT DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that if and when H.R. 12026 is received from the other body, it be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business not to extend beyond 30 minutes, with statements therein limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 9:35 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 3107. An act to amend the Bankruptcy Act to provide for uniform supervision and control of employees of referees in bankruptcy.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. PAUL G. HATFIELD).

At 12:12 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the Speaker has appointed Mr. THOMPSON, Mr. GAYDOS, and Mr. BUCHANAN on the part of the House as additional conferees in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 11445, an act to amend the Small Business Act and the Small Business Investment Act of 1958, solely for the consideration of sections 117 and 118 (OSHA).

The message also announced that the House has passed the following bill with amendments in which it requests the concurrence of the Senate:

S. 1566. An act to amend title 18, United States Code, to authorize applications for a court order approving the use of electronic surveillance to obtain foreign intelligence information.

At 1:08 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the Speaker has signed the following enrolled bills:

H.R. 8112. An act to repeal chapter 27 of title 44, United States Code;

H.R. 9471. An act to amend title 5, United State Code, to provide that Japanese-Americans shall be allowed civil service retirement credit for time spent in World War II internment camps; and

H.R. 12915. An act to amend section 2310 of title 44, relating to the National Archives Trust Fund Board.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. PAUL G. HATFIELD).

At 1:56 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House has passed the following bill, without amendment:

S. 3454. An act to amend the Act of August 29, 1974 (88 Stat. 795; 10 U.S.C. 8202 note), relating to the authorized numbers for the grades of lieutenant colonel and colonel in the Air Force and to authorize the President to suspend certain provisions of law when he determines that the needs of the Armed Forces so require, and for other purposes.

The message also announced that the House disagrees to the amendments of the Senate to H.R. 12936, an act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1979, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. BOLAND, Mr. TRAXLER, Mr. BAUCUS, Mr. STOKES, Mr. BEVILL, Mrs. BOGGS, Mr. BURLISON of Missouri, Mr. ALEXANDER, Mr. MAHON, Mr. COUGHLIN, Mr. MCDADE, Mr. YOUNG of Florida, and Mr. CEDERBERG were appointed managers of the conference on the part of the House.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, September 12, 1978, he presented to the President of the United States the following enrolled bill:

S. 3107. An act to amend the Bankruptcy Act to provide for uniform supervision and control of employees of referees in bankruptcy.

ORDER FOR STAR PRINT OF REPORT NO. 95-1175

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a star print be made on the report on H.R. 2329, the Fish and Wildlife Improvement Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC-4296. A communication from the Director, Office of Mangement and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on rescissions and deferrals, September 1978; to the Committee on the Budget, the Committee on Appropriations, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Foreign Relations, the Committee on Armed Services, the Committee on the Judiciary, the Committee on Human Resources, the Committee on Governmental Affairs, the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, and the Committee on Finance, jointly, pursuant to order of January 30, 1975.

EC-4297. A communication from the Director, Office of Legislative Affairs, Department of the Navy, reporting, pursuant to law, of the intention of the Department to donate certain surplus property to the Japanese Foundation for the Promotion of Maritime Science, Tokyo, Japan, a nonprofit educational organization under the jurisdiction of the Japanese Government's Ministry of Transportation; to the Committee on Armed Services.

EC-4298. A communication from the Secretary of Housing and Urban Development, reporting, pursuant to law, on the late submission of a report on the progress of states and units of general purpose local government in adopting and enforcing energy conservation standards; to the Committee on Banking, Housing, and Urban Affairs.

EC-4299. A communication from the Vice President, Governmental Affairs, National Railroad Passenger Corporation, transmitting, pursuant to law, a report on (1) total itemized revenues and expenses; (2) revenues and expenses of each train operated; and (3) revenues and total expenses attributable to each railroad over which service is provided, for the month of May 1978; to the Committee on Commerce, Science, and Transportation.

EC-4300. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting,

pursuant to law, a report on changes in the market shares of the statutory categories of retail gasoline marketers; to the Committee on Energy and Natural Resources.

EC-4301. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report on changes in the refiner distribution and market shares of the statutory categories of refined petroleum products; to the Committee on Energy and Natural Resources.

EC-4302. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report on changes in the market shares of the statutory categories of retail gasoline marketers; to the Committee on Energy and Natural Resources.

EC-4303. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties hereafter entered into by the United States within sixty days of the execution thereof; to the Committee on Foreign Relations.

EC-4304. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "What Causes Food Prices to Rise: What Can Be Done About It?" September 8, 1978; to the Committee on Governmental Affairs.

EC-4305. A communication from the Chairman, National Advisory Council on Adult Education, transmitting, pursuant to law, the Council's 1978 annual report; to the Committee on Human Resources.

EC-4306. A communication from the Commissioner of Education, Department of Health, Education, and Welfare, transmitting, pursuant to law, the 27th annual report of the Commissioner of Education on the administration of Public Laws 81-874 and 81-815, 81st Congress, as amended, for the fiscal year which ended on September 30, 1977; to the Committee on Human Resources.

EC-4307. A communication from the Secretary of Labor, tranamitting, pursuant to law, a report on the 1978 Summer Youth Jobs Programs; to the Committee on Human Resources.

EC-4308. A communication from the U.S. Commissioner of Education, Department of Health, Education, and Welfare, transmitting, pursuant to law, a report on Graduate Fellowships and Assistance for Fiscal Year 1977; to the Committee on Human Resources.

EC-4309. A communication from the President of the United States, transmitting a proposed reduction in fiscal year 1978 supplemental appropriations in the amount of $200,000,000 and an amendment to the request for appropriations for the fiscal year 1979 in the amount of $1,831,640,000 for International Monetary Programs; to the Committee on Appropriations.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM-786. A resolution adopted by the Council of the American Library Association, relating to funding for the Library of Congress; ordered to lie on the table.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary, with amendments:

S. 1147. A bill to relieve the liability for the repayment of certain erroneously made contributions by the United States (Rept. No. 95-1183).

By Mr. EASTLAND, from the Committee on the Judiciary, without amendment:

H.R. 1427. An act for the relief of Marie Grant (Rept. No. 95-1184).

H.R. 3460. An act for the relief of William J. Elder and the estate of Stephen M. Owens, deceased (Rept. No. 95-1185).

H.R. 5097. An act for the relief of Doctor Daryl C. Johnson (Rept. No. 95-1186).

H.R. 6760. An act for the relief of Charles M. Metott (Rept. No. 95-1187).

FEDERAL PESTICIDE ACT OF 1978—CONFERENCE REPORT

Mr. LEAHY, from the committee of conference, submitted a report on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1678) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (Rept. No. 95-1188).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation:

Gloria Schaffer, of Connecticut, to be a member of the Civil Aeronautics Board, for the remainder of the term expiring December 31, 1978, and for the term of 6 years expiring December 31, 1984.

(The above nomination from the Committee on Commerce, Science, and Transportation was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Edith Huntington Jones Dobelle, of Massachusetts, for the rank of Ambassador during her tenure of service as Chief of Protocol for the White House.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: Edith J. Dobelle.
Post: U.S. Chief of Protocol.
Contributions, amount, date, and donee:
1. Self, all contributions were joint.
2. Spouse, Evan S. Dobelle, $15.00, 1977, Lt. Gov. Thomas O'Neil, Massachusetts; $50.00, 1977, Mayor Paul Brindle, Pittsfield, Mass.; $200.00, 1976, Jimmy Carter for Pres.; and $200.00, 1975, Evan S. Dobelle for Mayor of Pittsfield, Mass.
3. Children and Spouses, none.
4. Parents, Mary C. and Hays Jones, none.
5. Grandparents, Not living.
6. Brothers and Spouses, Hays Jones, none.
7. Sisters and Spouses, Alice and Alexander Chorin, Mary Ellen Jones, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. SPARKMAN, from the Committee on Foreign Relations:

William H. Luers, of Illinois, to be Ambassador Extraordinary and Plenipotentiary of the United States to Venezuela.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: William H. Luers.
Post: U.S. Ambassador to Venezuela.
Contributions, (If none, write none), amount, date, and donee:
1. Self, William H. Luers, none.
2. Spouse, Jane F. Luers, none.
3. Children and Spouses, Mark B., David L., William F., Amy L., none.
4. Parents, deceased.
5. Grandparents, deceased.
6. Brothers and Spouses, none.
7. Sisters and Spouses, Mr. and Mrs. Richard Phelps, $25.00, Fall 1976, Jimmy Carter; (brother-in-law), $100.00, Fall 1976, Misc. Massachusetts; and Dr. and Mrs. John J. McCaffrey, none, State and Local officials.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BUMPERS:

S. 3492. A bill for the relief of Ahmad Shuja Khan McGuire, to the Committee on the Judiciary.

By Mr. NELSON:

S. 3493. A bill to amend the Internal Revenue Code of 1954 to provide simplification, reform, and relief for small business; to the Committee on Finance.

By Mr. NELSON (for himself and Mr. PERCY):

S. 3494. A bill to amend title 44 to insure the preservation of and public access to the official records of the President, and for other purposes; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NELSON:

S. 3493. A bill to amend the Internal Revenue Code of 1954 to provide simplification, reform, and relief for small business; to the Committee on Finance.

SMALL BUSINESS DEPRECIATION REFORM ACT OF 1978

● Mr. NELSON. Mr. President, I am introducing today a bill to reform the depreciation system for small business.

This bill would permit any business to recover more rapidly the capital which it has invested in machinery and equipment by allowing depreciation deductions to be taken over a 3-year period for purchases of up to $100,000 of such property each year. This provision would be optional, and those firms which elected it would apply only straight-line depreciation, so that this system would make available a massive simplification of depreciation for the 97 percent of the 14 million U.S. businesses which are defined as small business.

With one significant exception, this bill is identical to a bill I introduced earlier this year, S. 2742. The major difference is that this bill will allow all companies to recover their capital investment faster and still receive the full benefit of the 10-percent investment tax credit.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3493

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Depreciation Reform Act of 1978".

SEC. 2. DEPRECIATION REFORM.

Section 167 of the Internal Revenue Code of 1954 (relating to depreciation) is amended by adding at the end thereof the following new subsection:

"(q) THREE-YEAR USEFUL LIFE, STRAIGHT-LINE DEPRECIATION.—

"(1) GENERAL RULE.—In the case of a taxpayer who has made an election under this subsection for the taxable year, the term 'reasonable allowance' as used in subsection (a) means (with respect to property which has a useful life of 36 months or more) an allowance based on a useful life of 36 months computed under the straight-line method (within the meaning of subsection (b)(1)).

"(2) $100,000 BASIS LIMITATION.—For purposes of this subsection, the basis (as determined under subsection (g)) of property placed in service during the taxable year shall, to the extent that such basis exceeds $100,000 for the taxable year, not be taken into account.

"(3) ELECTION.—An election under this subsection for any taxable year shall be made at such time, in such manner, and subject to such conditions as may be prescribed by the Secretary by regulations.".

SEC. 3 Subsection (c) of section 46 is amended by adding at the end thereof the following new paragraph:

"(6) APPLICABLE PERCENTAGE IN THE CASE OF THREE-YEAR USEFUL LIFE, STRAIGHT-LINE DEPRECIATION.—

Notwithstanding subsection (c) (2), in the case of property with respect to which an election under section 167(q) applies, the useful life of any such property for purposes of this subpart shall be the useful life determined without regard to section 167(q).".

SEC. 4. EFFECTIVE DATE.

The amendment made by sections 2 and 3 of this Act shall apply in the case of property acquired after the date of enactment of this Act and placed in service in taxable years ending after the date of enactment of this Act.●

By Mr. NELSON (for himself and Mr. PERCY):

S. 3494. A bill to amend title 44 to insure the preservation of and public access to the official records of the President, and for other purposes; to the Committee on Governmental Affairs.

PRESIDENTIAL RECORDS ACT OF 1978

● Mr. NELSON. Mr. President, for myself and Mr. PERCY, I am today introducing a revised version of the Presidential Records Act of 1978. This legislation will assert public ownership of the documentary materials created or received by future Presidents and their staffs and establish procedures governing retention of those documents and access to them and would take effect in January 1981.

This bill is similar to H.R. 13364, which was introduced on June 29, 1978, in the House by Congressmen PREYER, BRADEMAS, and ERTEL and which has been reported by the House Government Operations Committee, and is now awaiting action by the full House. The bill reflects a compromise between the so-called Freedom of Information Act and historical records approaches to the issue of public ownership of Presidential records. These approaches were embodied in H.R. 10998 and H.R. 11001/S. 2596 respectively. I believe that the present legislation incorporates the best aspects of the previous bills and represents a balanced and reasonable approach to this difficult problem.

This bill is being cosponsored by the ranking minority member of the Committee on Governmental Affairs, the distinguished senior Senator from Illinois, Mr. PERCY. The administration has cooperated fully with us in developing this bill, which, in its present form, will have the President's support.

On February 27, 1978, I introduced S. 2596. At that time I spoke at some length on the need for legislation to provide for public ownership of Presidential papers. I reviewed the past practices of Presidents under the system of private ownership of Presidential papers, the recommendations of the National Study Commission on Records and Documents of Federal Officials, upon which I served, and the constitutional issues which must be dealt with when legislating in this area.

My conclusions were that legislation to assert public ownership was essential, but that the legislation must be carefully drawn to insure protection of the President's constitutional rights to privacy and freedom of association and to safeguard the confidentiality of the White House decisionmaking process. I believe that the legislation which I am introducing today meets these criteria and is worthy of the support of all who believe that the documentary materials of future Presidencies should be preserved and should find their way into the public domain under the rule of law.

The legislation would divide "Presidential papers" into two categories. "Personal records," as defined in the bill, would remain the personal property of those who create them. "Personal records" are defined as all documentary materials of a purely private or nonpublic character which do not relate to or have an affect upon the carrying out of the constitutional, statutory, or other official or ceremonial duties of the President. Diaries, journals, personal notes, and materials relating to private political associations of the President or his aides would be included under this definition. It is hoped that allowing former Presidents considerable leeway in the definition of "personal records" will encourage those Presidents to make available those records after a reasonable length of time.

"Presidential records," which the legislation defines as documentary materials created or received by the President, his immediate staff, or a unit or individual of the Executive Office of the President whose function it is to advise and assist the President in carrying out of his official duties, would become public property. "Presidential records" would include any documentary materials relating to the political activities of the President or members of his staff, but only if such activities related to or had a direct effect upon the carrying out of constitutional, statutory, or other official or ceremonial duties of the President. At the conclusion of a President's term of office, the Archivist of the United States would assume control over these records.

The line between "personal" and "Presidential" records cannot be drawn with absolute certainty. The bill's definitions provide guidance to the Archivist in making individual determinations, but leave the necessary flexibility which allows for the exercise of informed professional judgment.

The bill grants to the outgoing President the right to impose restrictions on access to the Presidential records of his administration for a period not to exceed 13 years within one or more of the following categories:

(1)(A) Records specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense of foreign policy and (B) in fact properly classified pursuant to such Executive order;

(2) Records relating to appointments to executive or judicial positions;

(3) Records specifically exempted from disclosure by statute (other than the Freedom of Information Act), provided that such statute (A) requires that the material be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of material to be withheld;

(4) Records containing trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Records concerning confidential communications requesting or submitting advice, between the President and his advisors, or between such advisors; or

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and

(7) Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel.

The legislation provides that a former President could waive a previously imposed restriction and that restrictions would be lifted on any Presidential record placed in the public domain by publication by a former President.

Any Presidential record which is left

unrestricted by an outgoing President would be exempt from disclosure until the earlier of (A) the date which is 5 years after the date on which the Archivist obtains custody of such records or (B) the date on which the Archivist completes the processing and organization of such records.

The legislation's essential concern is with the treatment of Presidential records once a President leaves office. However, the condition of these records will depend on the manner in which the President maintains the records of his administration while in office. The degree to which outsiders can or should interfere with White House recordkeeping while a President is in office has been a source of considerable controversy among those concerned with the question of Presidential papers. The approach to this problem chosen in this legislation is a straightforward one. The President is merely enjoined not to dispose of those of his Presidential records which have administrative, historical, informational, or evidentiary value and the bill provides that the Archivist shall advise the President about the potential value of Presidential records proposed for disposal.

The legislation also provides that the Archivist will establish guidelines to determine the types of Presidential records deemed to have administrative, historical, informational or evidentiary value. The bill also requires the Archivist to provide guidance to the President concerning records whose value may be difficult to assess.

During the period of restricted access, the legislation provides that decisions concerning the proper classification of documents shall be made by the Archivist, though the former President may challenge any decision of the Archivist in U.S. district court. Here again, the intent is to provide for a sensible balance between the public interest and the rights of the former President.

At the conclusion of the period of restricted access, Presidential records shall be administered as agency records under the terms of the Freedom of Information Act, 5 United States Code section 552. Under the terms of the FOIA, properly classified materials pertaining to national security would continue to be protected from disclosure until the need for their classification had lapsed.

Also, after the 13 years were concluded, the Archivist would retain discretion under the FOIA to prevent the disclosure of materials whose disclosure would violate other statutes and could maintain the confidentiality of trade secrets, investigatory records and the like.

Mr. President, this legislation is fair to all parties concerned and will insure the creation of a fully documented, rich historical record of all future Presidencies. It will also contribute to the achievement of greater governmental accountability to the people than presently exists. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3494

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Presidential Records Act of 1978".

RECORDS MANAGEMENT, PRESERVATION, AND PUBLIC AVAILABILITY

SEC. 2. (a) Title 44 of the United States Code is amended by adding immediately after chapter 21 the following chapter:

"Chapter 22.—PRESIDENTIAL RECORDS

"Sec.
"2201. Definitions
"2202. Ownership of Presidential records.
"2203. Management and custody of Presidential records.
"2204. Restrictions on access to Presidential records.
"2205. Exceptions to restrictions on access.
"2206. Regulations.
"2207. Vice-Presidential records.

"Sec. 2201. Definitions

"As used in this chapter—

"(1) The term 'documentary material' means all books, correspondence, memorandums, documents, papers, pamphlets, works of art, models, pictures, photographs, plats, maps, films, and motion pictures, including, but not limited to, audio, audiovisual, or other electronic or mechanical recordations.

"(2) The term 'Presidential records' means documentary materials created or received by the President, his immediate staff, or a unit or individual of the Executive Office of the President whose function is to advise and assist the President, in the course of conducting activities which relate to or have an effect upon the carrying out of the constitutional, statutory, or other official or ceremonial duties of the President. Such term—

"(A) includes any documentary materials relating to the political activities of the President or members of his staff, but only if such activities relate to or have a direct effect upon the carrying out of constitutional, statutory, or other official or ceremonial duties of the President; but

"(B) does not include any documentary materials that are (i) official records of an agency (as defined in section 552(c) of title 5, United States Code); (ii) personal records; (iii) stocks of publications and stationery; or (iv) extra copies of documents produced only for convenience of reference, when such copies are clearly so identified.

"(3) The term 'personal records' means all documentary materials of a purely private or nonpublic character which do not relate to or have an effect upon the carrying out of the constitutional, statutory, or other official or ceremonial duties of the President. Such term includes—

"(A) diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal which are not prepared or utilized for, or circulated or communicated in the course of, transacting Government business, and

"(B) materials relating to private political associations, and having no relation to or direct effect upon the carrying out of constitutional, statutory, or other official or ceremonial duties of the President.

"(4) The term "Archivist' means the Archivist of the United States.

"(5) The term 'former President', when used with respect to Presidential records, means the former President during whose term or terms of office such Presidential records were created.

"Sec. 2202. Ownership of Presidential records

"The United States shall reserve and retain complete ownership, possession, and control of Presidential records; and such records shall be administered in accordance with the provisions of this chapter.

"Sec. 2203. Management and custody of Presidential records

"(a) Through the implementation of records management controls and other necessary actions, the President shall take all such steps as may be necessary to assure that the activities, deliberations, decisions, and policies that reflect the performance of his constitutional, statutory, or other official or ceremonial duties are adequately documented and that such records are maintained as Presidential records pursuant to the requirements of this section and other provisions of law.

"(b) Documentary materials produced or received by the President, his staff, or units or individuals in the Executive Office of the President the function of which is to advise and assist the President, shall, to the extent practicable, be categorized as Presidential records or personal records upon their creation or receipt and be filed separately.

"(c)(1) During his term of office, the President may not dispose of those of his Presidential records which have administrative, historical, informational, or evidentiary value. The Archivist shall advise the President about the potential value of Presidential records proposed for disposal.

"(c)(2) The Archivist shall promulgate guidelines to establish the types of Presidential records which shall be deemed to have administrative, historical, informational, or evidentiary value. The President shall be governed by these guidelines in determining whether or not Presidential records scheduled for disposal ought to be retained. The Archivist may specify categories of Presidential records whose potential administrative, historical, informational, or evidentiary value may be difficult to assess. The President may dispose of Presidential records which fall within any such category only after he obtains the views, in writing, of the Archivist concerning the proposed disposal of such records. The Archivist may review any such records prior to submitting his views.

"(d)(1) Upon the conclusion of a President's term of office, or if a President serves consecutive terms upon the conclusion of the last term, the Archivist of the United States shall assume responsibility for the custody, control, and preservation of, and access to, the Presidential records of that President.

"(2) The Archivist shall deposit all such Presidential records in a Presidential archival depository or another archival facility operated by the United States. The Archivist is authorized to designate, after consultation with the former President, a director at each depository or facility, who shall be responsible for the care and preservation of such records.

"(3) The Archivist is authorized to dispose of such Presidential records which he has appraised and determined to have insufficient administrative, historical, informational, or evidentiary value to warrant their continued preservation. Notice of such disposal shall be published in the Federal Register at least 60 days in advance of the proposed disposal date. Publication of such notice shall constitute a final agency action for purposes of review under chapter 7 of title 5, United States Code.

"SEC. 2204. Restrictions on access to Presidential records

"(a) Prior to the conclusion of his term of office or last consecutive term of office, as the case may be, the President shall specify durations, not to exceed 13 years, for which access shall be restricted with respect to information, in a Presidential record, within one or more of the following categories:

"(1)(A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) in fact properly classified pursuant to such Executive order;

"(2) relating to appointments to Federal office;

"(3) specifically exempted from disclosure by statute (other than sections 552 and 552b of title 5, United States Code), provided that such statute (a) requires that the material be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of material to be withheld;

"(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

"(5) confidential communications requesting or submitting advice, between the President and his advisers, or between such advisers; or

"(6) personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

"(7) investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel;

"(b)(1) Any Presidential record or reasonably segregable portion thereof containing information within a category restricted by the President under subsection (a) shall be so designated by the Archivist and access thereto shall be restricted until the earlier of—

"(A)(i) the date on which the former President waives the restriction on disclosure of such record, or

((ii) the expiration of the duration specified under subsection (a) for the category of information on the basis of which access to such record has been restricted; or

"(B) upon a determination by the Archivist that such record or reasonably segregable portion thereof, or of any significant element or aspect of the information contained in such record or reasonably segregable portion thereof, has been placed in the public domain through publication by the former President.

"(2) Any such record which does not contain information within a category restricted by the President under subsection (a), or contains information within such a category for which the duration of restricted access has expired, shall be exempt from the provisions of subsection (c) until the earlier of—

"(A) the date which is 5 years after the date on which the Archivist obtains custody of such record pursuant to section 2203(d)(1); or

"(B) the date on which the Archivist completes the processing and organization of such records or integral file segment thereof.

"(3) During the period of restricted access specified pursuant to subsection (b)(1), the determination whether access to a Presidential record or reasonably segregable portion thereof shall be restricted shall be made by the Archivist, in his discretion, after consultation with the former President, and, during such period, such determinations shall not be subject to judicial review, except that initiated by such President. The Archivist shall establish procedures whereby any person denied access to a Presidential record because such record is restricted pursuant to a determination made under this paragraph, may file an administrative appeal of such determination. Such procedures shall provide for a written determination by the Archivist or his designee, within 30 working days after receipt of such an appeal, setting forth the basis for such determination.

"(c) Subject to the limitations on access imposed pursuant to subsections (a) and (b), Presidential records shall be administered in accordance with section 552 of title 5, United States Code, and for the purposes of such section such records shall be deemed to be records of the National Archives and Records Service of the General Services Administration. Access to such records shall be granted on nondiscriminatory terms.

"(d) Upon the death or disability of a President or former President, any discretion or authority the President or former President may have had under this chapter shall be exercised by the Archivist unless otherwise previously provided by the President or former President in a written notice to the Archivist.

"(e) The United States District Court for the District of Columbia shall have jurisdiction over any claim of the former President that a determination made by the Archivist of the United States made after the period of Presidentially-imposed restrictions violates his rights or privileges.

"Sec. 2205. Exceptions to restricted access

"Notwithstanding any restrictions on access imposed pursuant to section 2204—

"(1) the Archivist and persons employed by the National Archives and Records Service of the General Services Administration who are engaged in the performance of normal archival work shall be permited access to Presidential records in the custody of the Archivist;

"(2) subject to any rights, defenses, or privileges which the United States or any agency or person may invoke, Presidential records shall be made available—

"(A) pursuant to subpoena or other judicial process issued by a court of competent jurisdiction for the purposes of any civil or criminal investigation or proceeding;

"(B) to an incumbent President if such records contain information that is needed for the conduct of current business of his office and that is not otherwise available; and

"(C) to either House of Congress, or, to the extent of matter within its jurisdiction, to any committee or subcommittee thereof if such records contain information that is needed for the conduct of its business and that is not otherwise available; and

"(3) the Presidential records of a former President shall be available to such former President or his designated representative.

"Sec. 2206. Regulations

"The Archivist shall promulgate in accordance with section 553 of title 5, United States Code, regulations necessary to carry out the provisions of this chapter. Such regulations shall include—

"(1) provisions for advance public notice and description of any Presidential records scheduled for disposal pursuant to section 2203(d)(3); and

"(2) provisions for providing notice to the former President when materials to which access would otherwise be restricted pursuant to section 2204(a) are to be made available in accordance with section 2205(2).

"Sec. 2207. Vice-Presidential records.

"Vice-Presidential records shall be subject to the provisions of this chapter in the same manner as Presidential records. The duties and responsibilities of the Vice President, with respect to Vice-Presidential records, shall be the same as the duties and responsibilities of the President under this chapter with respect to Presidential records. The authority of the Archivist with respect to Vice-Presidential records shall be the same as the authority of the Archivist under this chapter with respect to Presidential records, except that the Archivist may, when the Archivist determines that it is in the public interest, enter into an agreement for the deposit of Vice-Presidential records in a non-Federal archival depository. Nothing in this chapter shall be construed to authorize the establishment of separate archival depositories for such Vice-Presidential records.".

(b)(1) The table of chapters for title 44, United States Code, is amended by inserting immediately after the item relating to chapter 21 the following new item:

"22. Presidential Records ..... 2201".

(2) Section 2107 of title 44, United States Code, is amended by adding at the end thereof the following new sentence: "This section shall not apply in the case of any Presidential records which are subject to the provisions of Chapter 22 of this title.".

(3) Section 2108(c) of title 44 is amended by adding at the end thereof the following: "Only the first two sentences of this subsection shall apply to Presidential records as defined in section 2201(2) of this title.".

EFFECTIVE DATE

SEC. 3. The amendments made by this Act shall be effective with respect to any Presidential records (as defined in section 2201(2) of title 44, as amended by section 2 of this Act) created during a term of office of the President beginning on or after January 20, 1981.

SEPARABILITY

SEC. 4. If any provision of this Act is held invalid for any reason by any court, the validity and legal effect of the remaining provisions shall not be affected thereby.●

ADDITIONAL COSPONSORS

S. 2388

At the request of Mr. JAVITS, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 2388, the Employee Education Assistance Act.

S. 2978

At the request of Mr. MCCLURE, the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of S. 2978, a bill to amend the Occupational Safety and Health Act of 1970 to prohibit restrictions on work rules in locations in which there is hunting, fishing, or shooting sports, and for other purposes.

SENATE JOINT RESOLUTION 153

At the request of Mr. ANDERSON, the Senator from Nevada (Mr. CANNON) was added as a cosponsor of Senate Joint Resolution 153, to authorize the President to proclaim the third week in June, 1979, as "National Veterans Hospital Week."

SENATE JOINT RESOLUTION 155

At the request of Mr. ZORINSKY, the Senator from Colorado (Mr. HASKELL), the Senator from North Dakota (Mr. YOUNG), the Senator from North Dakota (Mr. BURDICK), and the Senator from Alabama (Mrs. ALLEN) be added as cosponsors of Senate Joint Resolution 155, to increase the price support for milk, wheat, corn, soybeans, and cotton to not less than 90 percent of the respective parity prices therefor, and for other purposes.

AMENDMENT NO. 3437

At the request of Mr. LEAHY, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of amendment No. 3437 intended to be proposed to S. 2584, the Nuclear Regulatory Commission authorization.

AMENDMENT NO. 3478

At the request of Mr. NELSON, the Senator from Colorado (Mr. HART) was added as a cosponsor of amendment No. 3478, intended to be proposed to H.R. 5285, the Medicare-Medicaid Reform Act.

SENATE RESOLUTION 557

At the request of Mr. ROTH, the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Utah (Mr. GARN), the Senator from Michigan (Mr. GRIFFIN), the Senator from Utah (Mr. HATCH), the Senator from Virginia (Mr. SCOTT), and the Senator from Texas (Mr. TOWER) were added as cosponsors of Senate Resolution 557, requesting the President of the United States to appoint a Special Prosecutor in connection with the General Services Administration.

AMENDMENTS SUBMITTED FOR PRINTING

REVENUE ACT OF 1978—H.R. 13511

AMENDMENT NO. 3585

(Ordered to be printed and referred to the Committee on Finance.)

Mr. BAKER (for himself, Mr. BELLMON, Mr. RIBICOFF, and Mr. DANFORTH) submitted an amendment intended to be proposed by them, jointly, to H.R. 13511, an act to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes.

JOB CREATION CREDIT

Mr. BAKER. Mr. President, on behalf of Senators BELLMON, RIBICOFF, DANFORTH and myself, I send to the desk an amendment to H.R. 13511, the bill presently pending before the Senate Finance Committee, and ask that it be so referred.

Mr. President, in March of this year Senators BELLMON, RIBICOFF, DANFORTH and I introduced a welfare reform bill which was called the Job Opportunities and Family Security Act of 1978. As the title indicates, major emphasis was placed upon unemployment, with particular attention to the creation of private sector jobs for the structurally unemployed.

Although an employment tax credit has been in existence for almost a year, it is not targeted upon any particular class of unemployed individuals. I consider that a major drawback to the provision and called for a targeted employment tax credit last December.

Since then, the administration has endorsed a targeted employment tax credit and Members of this body have proposed various targeted tax credits. The employment tax credit amendment which we offer today represents a revision and improvement upon the tax credit provision in S. 2777, the so-called Baker-Bellmon welfare bill.

Mr. President, I ask unanimous consent that a summary of that amendment, as well as the text of the amendment, be printed in the RECORD at the conclusion of my remarks.

There can be no doubt, Mr. President, that a targeted employment tax credit has broad support in both the House and the Senate. In light of that support and the need for an effective incentive for private employers to hire structurally unemployed, I hope that the Senate Finance Committee will give our amendment, and those which are similar to it, the most careful consideration.

There being no objection, the amendment and summary were ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 3585

On page 76, beginning with line 1, strike out all through page 91, line 8, and insert in lieu thereof the following:

JOB CREATION CREDIT

SEC. 315. (a) IN GENERAL.—Section 51 (relating to amount of credit for employment of certain new employees) is amended to read as follows:

"SEC. 51. AMOUNT OF CREDIT.

"(a) DETERMINATION OF AMOUNT.—The amount of the credit allowable by section 44B for any taxable year shall be equal to the sum of—

"(1) one dollar multiplied by the number of qualified first-year new employee hours for such year, and

"(2) 50 cents multiplied by the number of qualified second-year new employee hours for such year.

"(b) $100,000 OR 20 PERCENT PER YEAR LIMITATION ON CREDIT.—The amount of the credit determined under this subpart for any employer (and the amount of the credit allowable by section 44B to any taxpayer) with respect to any calendar year shall not exceed the greater of—

"(1) $100,000, or

"(2) an amount equal to 20 percent of the taxpayer's total employee hours.

"(c) DEFINITIONS.—For purposes of this subpart—

"(1) NEW EMPLOYEE.—The term 'new employee' means any individual employed after December 31, 1978, who is certified by the designated agency of the State in which he is employed as being an individual who—

"(A) is receiving aid to families with dependent children provided under a State plan approved under part A of title IV of the Social Security Act;

"(B) is receiving supplemental security income benefits under title XVI of the Social Security Act (including supplemental security income benefits of the type described in section 616 of such Act or section 212 of Public Law 93-66); or

"(C) is an unemployed youth who has attained 18 years of age (or graduated from secondary school) but not 25 years of age and whose family income does not exceed 70 percent of the lower living standard income level published by the Bureau of Labor Statistics.

"(2) EMPLOYEE HOURS.—The term 'employee hours' means the number of hours of employment for which the taxpayer compensates an employee at a rate of pay not less than the prevailing rate for the occupation and job classification of individuals employed by the same employer but only to the extent such hours exceed 30 hours and are not more than 40 hours in any full calendar week. An employee whose compensation is not determined on an hourly basis shall be considered, for purposes of this paragraph, to be compensated for not more than 40 hours of employment for each full calendar week he is employed.

"(3) QUALIFIED FIRST-YEAR NEW EMPLOYEE HOURS.—The term 'qualified first-year new employee hours' means, with respect to any new employee, the number of employee hours during the 1-year period beginning with the day such employee begins work for the employer.

"(4) QUALIFIED SECOND-YEAR NEW EMPLOYEE HOURS.—The term 'qualified second-year new employee hours' means, with respect to any new employee, the number of employee hours during the 1-year period beginning on the day after the last day of the 1-year period described in paragraph (3).

"(5) DESIGNATED AGENCY OF A STATE.—The term 'designated agency of a State' means—

"(A) the State agency administering the State plan under part A of title IV of the Social Security Act, or

"(B) the State employment agency, and which is selected by the chief executive officer of the State to certify employees under this subpart.

"(d) RULES FOR APPLICATION OF SECTION.—For purposes of this subpart—

"(1) REMUNERATION MUST BE FOR TRADE OR BUSINESS EMPLOYMENT WITHIN UNITED STATES.—Remuneration paid by an employer to an employee during any calendar year shall be taken into account only if more than one-half of the remuneration so paid is for services performed in the United States in a trade or business of the employer.

"(2) SPECIAL RULE FOR CERTAIN DETERMINATIONS.—Any determination as to whether paragraph (1) of this subsection applies with respect to any employee for any calendar year shall be made without regard to subsections (a) and (b) of section 52.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsections (a) and (b) of section 52 (relating to special rules in determining credit for employment of new employees) are amended by striking out "unemployment insurance wages" and inserting in lieu thereof "new employee hours".

(2)(A) Section 52 (relating to special rules for computing credit for employment of certain new employees) is amended—

(i) by striking out subsections (c), (e), and (j), and

(ii) by redesignating subsections (d), (f), (g), (h), and (i) as subsections (c), (d), (e), (f), and (g), respectively; and

(iii) by adding at the end thereof the following new subsection:

"(h) CERTAIN DISMISSALS.—If any employer dismisses any employee for the purpose of securing (or increasing) a credit under section 44B for any taxable year, the amount of the credit allowable under section 44B for such year (determined without regard to this subsection) shall be decreased by an amount equal to 2 times any increase in such credit which would (but for this subsection) have resulted in whole or in part by reason of such dismissal.".

(B) Subsection (e)(3) of section 52 (as redesignated by subparagraph (A)) is amended—

(i) by striking out "$100,000" the first place it appears; and

(ii) by striking out "$100,000" the second place it appears and inserting in lieu thereof "such amount".

(C) Subsection (g) of section 52 (as so redesignated) is amended—

(i) by striking out "$50,000" in the heading; and

(ii) by striking out "$50,000 in lieu of $100,000" and inserting in lieu thereof "one-half of the amount specified in such section".

(3) AMENDMENT OF SECTION 53.—Section 53 (relating to limitation based on amount of tax) is amended by striking out subsection (b) and by redesignating subsection (c) as subsection (b).

(4) (A) Section 280C (relating to portion of wages for which credit is claimed under section 44B) is amended—

(i) by inserting "attributable to qualified first-year and second-year new employee hours" after "year"; and

(ii) by inserting "with respect to such hours" before "determined".

(B) (i) The heading for section 280C is amended by striking out "PORTION OF WAGES" and inserting in lieu thereof "AMOUNT".

(ii) The table of sections for part IX of subchapter B of chapter 1 is amended by striking out "Portion of wages" in the item relating to section 280C and inserting in lieu thereof "Amount".

(c) Effective Date.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to amounts paid or incurred after December 31, 1978, in taxable years ending after such date.

(2) TRANSITIONAL RULE.—In the case of a taxable year which begins in 1978 and ends after December 31, 1978, the amount of the credit allowable by section 44B of the Internal Revenue Code of 1954 (determined without regard to section 53 of such Code) shall be the sum of—

(A) the amount of the credit which would be so allowable without regard to the amendments made by this section, plus

(B) the amount which would be so allowable by reason of the amendments made by this section.

SUMMARY OF AMENDMENTS TO THE TAX BILL

EMPLOYMENT TAX CREDIT

We would propose an employment tax credit with the following provisions:

(1) Private and non-profit employers would be provided a tax credit equal to $1 per hour of employment for one full year and $.50 per hour for the second year;

(2) The individuals who would be eligible for this credit consist of employable AFDC recipients, employable SSI recipients, and unemployed youth (age 18–24) from families whose income does not exceed 70 percent of the BLS lower living standard income level;

(3) The States would have the option of selecting between the state welfare agency or the state employment agency as the administering agency with primary responsibility for certifying eligibility;

(4) There would be a ceiling of $100,000 per firm each year or 20 percent of the firm's employees, whichever is higher;

(5) There would be a requirement that employers sign a statement affirming that no non-subsidized salary employee performing comparable work at a comparable salary was laid off within the previous 60 days in order to hire a tax credit eligible employee (an appropriate penalty should be included); and

(6) Employers would be required to reduce their business expense deductions for wages by the amount of the credit claimed.

TARIFF TREATMENT OF FILM, STRIPS, SHEETS, AND PLATES OF CERTAIN PLASTICS OR RUBBER—H.R. 5285

AMENDMENT NO. 3586

(Ordered to be printed and to lie on the table.)

Mr. BUMPERS (for himself, Mr. SPARKMAN, Mr. BROOKE, Mr. BENTSEN, Mr. TOWER, Mr. MATHIAS, Mr. STONE, Mr. FORD, Mr. SARBANES, Mr. HODGES, Mrs. ALLEN, Mr. HUDDLESTON, Mr. ANDERSON, Mr. GLENN, Mr. SASSER, Mr. DECONCINI, Mr. RIEGLE, Mr. MCINTYRE, Mr. RANDOLPH, Mr. MAGNUSON, Mr. CHILES, Mr. LUGAR, Mr. CURTIS, and Mr. SCHWEIKER) submitted an amendment intended to be proposed by them, jointly, to H.R. 5285, an act to amend the Tariff Schedules of the United States with respect to the tariff treatment accorded to film, strips, sheets, and plates of certain plastics or rubber.

● Mr. BUMPERS. Mr. President, I am submitting an amendment that will repeal a portion of section 227 of Public Law 92–603, which was passed in 1972 and changed the method of medicare reimbursement for physicians in teaching hospitals from a fee-for-service to a cost basis.

Regulations have been proposed by the Department of Health, Education, and Welfare pursuant to section 227. This section was to have become effective in 1973, but Congress has postponed the effective date several times. Unless Congress takes action, regulations implementing section 227 will be implemented on October 1, 1978.

A further delay in the implementation date does not solve the problem facing teaching hospitals. Therefore, I am proposing to repeal a section of the law which, if implemented, would create a two-class system of care based on the patient's ability to pay.

The amendment that I am introducing to H.R. 5285 does not repeal those sections of section 227 providing that hospitals may elect to be reimbursed on a cost basis. Only 27 teaching hospitals have elected this method of payment, but my amendment will not disturb their election.

If section 227 is implemented, it will have the following effects on teaching hospitals:

First. The change to a cost-based method of reimbursement will result in an inability to retain the services of the teaching physicians who now provide direct and personal patient care, regardless of the patients' ability to pay. In the end the patients would suffer most, since these physicians would be forced to leave the teaching faculty and join a non-teaching hospital in order to remain eligible for reimbursement for medicare patients.

Second. All medical school faculties are supported in some part by professional fee revenues; a reduction in revenues will result in the need to identify replacement revenue, reduce faculty, reduce faculty time in intern-resident supervision, and reduce faculty time in patient care.

Third. Any reductions in the number of house staff positions might fall in the needed primary care specialties because training in ambulatory care is expensive but contributes relatively little to hospital revenues.

Fourth. The effect of the fiscal test restriction will be to force teaching hospitals into one of two categories: To become either a hospital for indigents or a hospital for paying patients. The current highly desirable situation in which both classes of patients are served would be impossible.

Mr. President, since implementation of Section 227 will create these inequities, I propose an amendment, and I ask unanimous consent to have the amendment printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 3586

At the end of the bill insert the following new section:

PAYMENT FOR SERVICES OF PHYSICIANS RENDERED IN A TEACHING HOSPITAL

SEC. 26. (a) Section 1861(b)(7) of the Social Security Act is amended to read as follows:

"(7) a physician where the hospital has a teaching program approved as specified in paragraph (6), if (A) the hospital elects to receive any payment due under this title for reasonable costs of such services, and (B) all physicians in such hospital agree not to bill charges for professional services rendered in such hospital to individuals covered under the insurance program established by this title.".

(b) Section 1832(a)(2)(B)(i)(II) of such Act is amended to read as follows:

"(II) a physician to a patient in a hospital which has a teaching program approved as specified in paragraph (6) of section 1861 (b) (including services in conjunction with the teaching programs of such hospital whether or not such patient is an inpatient of such hospital), where the conditions specified in paragraph (7) of such section are met, and".

(c) Section 1861(v)(1)(C) of such Act is amended by inserting after "services as such hospital," the following: "and where the conditions of subsection (b)(7) have been met,".

(d) The amendments made by this section shall apply with respect to accounting periods beginning on or after October 1, 1978.

On page 3, amend the table of contents by adding at the end thereof the following:

SEC. 36. Payment for services of physicians rendered in a teaching hospital.●

REVENUE ACT OF 1978—H.R. 13511

AMENDMENT NO. 3587

(Ordered to be printed and referred to the Committee on Finance.)

Mr. BUMPERS submitted an amendment intended to be proposed by him to H.R. 13511, an act to amend the Internal Revenue Code of 1954, to reduce income taxes, and for other purposes.

● Mr. BUMPERS. Mr. President, all of us from time to time receive letters from constituents calling our attention to various inequities and omissions in the Internal Revenue Code—precisely the kind of complaint that led President Carter, during his campaign for election, to refer to the code as "a disgrace to the human race." I can associate myself with this characterization without reservation, and I would like to offer for the edification of my colleagues a particularly glaring example that has been called to my attention by one of my constituents, Mr. Joe Redding of North Little Rock, Ark. There are many ironies in his case, not the least of which is that Mr. Redding, before he was compelled to retire on account of permanent and total disability, served the Internal Revenue Service as an agent for 25 years.

In 1954, when the Internal Revenue Code was enacted, Congress wisely saw fit, in section 105, to recognize the special situation in which ill, injured, or disabled citizens find themselves. Under this provision, which was substantially unchanged for 22 years, an employee could exclude from income up to $100 a week received under wage-continuation plans when he was absent from work on

account of injury, sickness, or disability. Persons in this category obviously have special problems and special demands on their resources. The sick-pay exclusion, as section 105 came to be called, is a recognition of these problems much like the deduction for medical and hospital expenses.

The Congress and President Ford then enacted the so-called Tax Reform Act of 1976. I say "so-called" because the title of this act is a complete misnomer. As a matter of fact, I joined 21 other Senators in voting to strike the word "Reform" from the title of the bill, but unhappily the motion failed. In any case, section 505 of this act, which is now Public Law 94–455, repealed the sick-pay exclusion and provided in its place an exclusion of up to $5,200 a year for retirees under age 65 who are permanently and totally disabled. This exclusion is to be phased out dollar for dollar for adjusted gross income in excess of $15,000, the theory being, I suppose, that people with income in that range do not need the exclusion so much.

In view of the tremendous costs that illness and disability can bring, I question the validity of this premise, but the portion of the act that has attracted my attention is even more unfair. New section 105(d)(4), as added by the 1976 act, requires married taxpayers to file a joint return if they are to get any benefit from the exclusion. The purpose of this requirement is unhappily clear. It is simply to attribute to a taxpayer whatever income his or her spouse may have for purposes of computing the $15,000 phaseout level. A taxpayer will lose the benefit of the exclusion, in other words, just as surely if his spouse has income as if he has income himself. No showing is required that the taxpayer actually benefits from his spouse's income, nor is account taken of the fact that the spouse also may be disabled or ill, with high medical expenses.

Furthermore, Mr. President, the law goes on to say that a married taxpayer can get the benefit of the exclusion, even if he does not file a joint return, if he and his spouse live apart at all times during the taxable year.

I cannot imagine a clearer financial incentive for the separation of families. The provision is especially cruel because the incentive, by definition, applies only to taxpayers who are permanently and totally disabled.

In other words, Mr. President, a permanently and totally disabled citizen can exclude his disability payments from gross income regardless of what his spouse earns if he gets a divorce or separates himself from her completely. But if he continues to live with his family, and if his spouse works and earns a living, he loses the benefit of this important exclusion. No doubt there are many quirks in the Internal Revenue Code and many inequities, but I defy my colleagues to come up with one so striking as this. Those who wrote the 1976 act probably thought that by adding section 105(d)(4) they were protecting the public revenues, and there is no doubt that revenue probably will be increased, to some extent, because this provision is in the statute. I cannot believe, however, that the minuscule increase to the Treasury is worth the hardship and suffering, mental and economic, that this kind of law can provoke. I am therefore, Mr. President, today submitting an amendment for appropriate reference to repeal section 105(d)(4) of the Internal Revenue Code. The general rule that sick-pay exclusion phases out at $15,000 of adjusted gross income will remain untouched. The only effect of my amendment will be to restore to taxpayers their customary election whether to file a joint or separate return, and the amendment will also, of course, remove one of those incentives, with which the Internal Revenue Code is strangely full, for the splitting up of families.

Mr. President, I ask unanimous consent that the text of my amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 3587

At the appropriate place in the bill, add the following new section:

"SEC. . (a) Paragraphs (4) and (6) of subsection (d) of section 105 of the Internal Revenue Code of 1954, as amended by subsection (a) of section 505 of the Tax Reform Act of 1976, Public Law 94–455, approved October 4, 1976, are hereby repealed.

(b) Paragraphs (5) and (7) of subsection (d) of section 105 of the Internal Revenue Code of 1954, as amended by subsection (a) of section 505 of the Tax Reform Act of 1976, Public Law 94–455, approved October 4, 1976, are hereby renumbered (4) and (5).

(c) The amendments made by this section shall be effective as of the effective date of section 505 of the Tax Reform Act of 1976, Public Law 94–455, approved October 4, 1976.●

NOTICES OF HEARINGS

COMMITTEE ON GOVERNMENTAL AFFAIRS

● Mr. PERCY. Mr. President, I wish to announce that the Committee on Governmental Affairs will hold a hearing on September 15, 1978, concerning the Presidential Records Act of 1978, Senate bill 3494. The hearing will be at 1 p.m. in room 3302, Dirksen Building.●

SUBCOMMITTEE ON CIVIL SERVICE AND GENERAL SERVICES

● Mr. SASSER. Mr. President, I wish to announce that the Subcommittee on Civil Service and General Services will hold a hearing on September 27, 1978 at 9 a.m. in room 3302 of the Dirksen Senate Office Building regarding S. 1390 which would authorize certain national guard employment to be credited for civil service retirement.●

SUBCOMMITTEE ON CIVIL SERVICE AND GENERAL SERVICES

● Mr. SASSER. Mr. President, I wish to announce that the Subcommittee on Civil Service and General Services will hold a hearing on September 27, 1978 at 10 a.m. in room 3302 of the Dirksen Senate Office Building regarding S. 1821 which would provide paid leave for a Federal employee participating in certain athletic activities as an official representative of the United States.●

AUTHORITY FOR COMMITTEES TO MEET

PERMANENT INVESTIGATIONS SUBCOMMITTEE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the permanent Investigations Subcommittee of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, September 13, 1978 and Thursday, September 14, 1978 to hold a hearing on arson for profit.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet during the session of the Senate on Friday, September 15, to discuss legislation dealing with Presidential papers.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, September 14, 1978 to consider Senate Joint Resolution 142, the Franklin Delano Roosevelt project, and other legislative matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENT

HEALTH CARE

● Mr. BUMPERS. Mr. President, an article that appeared in the September 10 issue of the Washington Post pointed out most dramatically the effect of competition on the health care delivery system. I have supported the initiatives of the administration to encourage the development of health maintenance organizations. However, until we review the experience in Minneapolis-St. Paul, we may not understand the end result of these efforts. The health-care delivery experience in the Twin Cities is one of the most encouraging illustrations of the proper way to reduce health-care costs—through competition.

Mr. President, I ask that the article by John Iglehart be printed in the RECORD.

The article follows:

COMPETITION CUTS MEDICAL COSTS: TRADITIONAL PLANS MEETING CHALLENGE OF HMOS IN MINNESOTA

MINNEAPOLIS-ST. PAUL.—While Government repeatedly has failed to impose cost controls on the burgeoning medical industry, physicians here have clamped mandatory constraints on their own prices without government uttering a word.

The phenomenon does not stem from greater altruism among the 1,700 physicians in the Twin Cities orbit; rather, it is one consequence of a mounting struggle for patients in an area where doctors, hospitals and private purchasers of health care are demonstrating that medicine is susceptible to economic competition.

Consider these developments: seven health maintenance organizations now compete for customers against conventional health

insurance plans on the basis of price, convenience of service and benefit coverage.

These health maintenance organizations, or HMOs, now serve 224,000 people, 11.6 percent of the area's population, and all have experienced substantial growth in the past year as more employers offer their employes a choice between HMOs and traditional insurance coverage.

HMOs have stimulated competitive responses from Blue Cross and Blue Shield of Minnesota and the Hennepin County Medical Society, the local affiliate of the American Medical Association. The Blues and the medical society formed their own HMOs to counter the loss of patients.

With their emphasis on keeping the rate at which they hospitalize patients to an absolute minimum, the Twin Cities' HMOs are adding to an already serious community problem, a surplus of hospital beds.

Doctors who plunged into the rivalry for patients against HMOs never dreamed that the initial result would be fiscal chaos and, ultimately, the imposition of strict cost controls to save their own HMO, Physicians Health Plan, from bankruptcy. But that is what happened when physicians created their plan and thought they could compete effectively without changing their traditional practices. "We kept telling doctors they could practice medicine as they always had," said Dr. Richard Simmons, chairman of the Physicians Health Plan, "but we found out we were wrong."

Health maintenance organization was the label former President Nixon attached to his administration's effort to inject marketplace economics into health care. Unlike in most economic markets, consumer choice plays only a limited role in medicine, and price competition is not very important because insurance makes the buyer less conscious of its cost.

In traditional medicine, the consumer pays for care on a piecemeal basis, depending on the number of times he or she visits the doctor. There is no limit on how much a consumer can pay. HMOs, on the other hand, provide services for a fixed monthly fee.

This prepaid feature, as Nixon noted when he first promoted HMOs in 1971 as an answer to soaring medical costs, reverses the "illogical incentive" of traditional medicine, in which "the more illnesses [doctors] treat and the more services they render, the more their income rises."

HEW Secretary Elliot L. Richardson testified in 1971 that, by 1976, the department expected 1,700 HMOs to be in operation, serving some 40 million members. But today, owing to HEW's mismanagement of the program over its seven-year history and a reticence on the part of medicine and the public to chance the cottage industry approach to medical care, there are only 175 HMOs serving 6.5 million members.

When President Carter assumed office in January 1977, his administration strongly embraced the HMO concept. HEW Secretary Joseph A. Califano Jr., has sought to develop more HMOs by upgrading the program from a tiny bureaucratic outpost to a more central position in the department.

REMARKABLE GROWTH

Ironically, the federal government has had little to do with HMO growth in Minnesota, but HEW officials point to the Twin Cities as one of the few areas in the country where the kind of HMO incentives the administration advocates actually are being demonstrated in the medical marketplace.

HEW Secretary Hale Champion, addressing the 20th annual meeting of the oldest and largest (114,156 members) HMO in the area, Group Health Plan Inc., noted the "remarkable [enrollment] growth in the Twin Cities—from 2 to 11.6 percent of the population—in just seven years. . . HMO competition inspires healthy change leading to the formation of more HMOs. This area now has seven. And third-party insurers, Blue Cross particularly, are instituting cost controls and offering fuller benefit packages. Also, physicians are changing their behavior—in some cases moving voluntarily to mandatory cost controls such as preadmission certification, length-of-stay reviews and limitations on fees and charges per visit."

Dr. Paul M. Ellwood Jr., the physician who sold the HMO concept to the Nixon administration and continues to work with HEW to nurture it, also underscored the significance of the Twin Cities' experience. "The idea of a competitive medical care environment where consumers have a real choice and where most providers are competing with each other on price and other considerations has until now been an attractive but largely theoretical goal. But the Twin Cities appears to be the first large-scale health-care market in which one could say there is active price competition involving a majority of the area's 20 hospitals and approximately 1,700 doctors. If this community is a fair test, then the competitive market strategy appears to work."

The progressive environment of Minneapolis-St. Paul has been an important ingredient in fostering HMO development. Paul L. Parker, executive vice president of General Mills Inc., which is based in Minneapolis, said: "Corporate leaders are reasonably liberal on social issues here. They don't raise the specter of communists around every corner."

In fact, 57 local employers now offer their workers a choice between HMOs and conventional insurance plans, and most health care providers are vying for this business.

Among major employers offering a choice are Cargill Inc., Control Data Corp., Dayton Hudson Corp., General Mills, Honeywell Inc., International Multifoods Corp., Minnesota Mining and Manufacturing Co., Pillsbury Co. and the Prudential Insurance Co. Significantly, more than half of the employes here of Prudential, a major indemnity insuror, have opted for HMO coverage because of its broader benefits and lower cost.

The first step in the competitive struggle for HMOs is to convince employers to offer their workers this choice. "HMO administrators and marketing agents identify the enthusiasm of the employer as a primary factor determining the ability of HMOs to enroll employes," said Jon B. Christianson, an economist at InterStudy, a private health policy research organization based here and headed by Ellwood. "They believe that when employers allow HMOs to market directly to employe groups, the HMO enrollment share is substantially increased for initial enrollments," Christianson wrote in a study last April.

General Mills provides the clearest example of what can happen when corporate leadership pushes the HMO idea. Sixty per cent of the company's employes here, 1,600 salaried, nonunion workers, have opted for HMO coverage. General Mills provides company time for HMOs to explain their plans.

In other General Mills plants, such as those in Chicago and northern California, HMO penetration has been much lower, around 5 percent. Employes there who are unionized have less rapport with management, and it is more difficult to provide company time in a production plant for HMO education sessions, Parker said. "One sticking point is moving into an area where it might look like management is trying to play Big Brother," he added.

COMPARATIVE COSTS

Because HMO benefit packages are more extensive than those generally offered by traditional insurers, the monthly premium is sometimes, but not always, higher. The major items covered by HMOs, but not by indemnity plans are routine visits to a physician's office, physical examinations, immunization and other preventive services.

In 1977, for example, Minnesota state employes were given a choice between the Blue Cross-Blue Shield high option plan for $94.78 a month, the Macollet-Ethel HMO for $92.24 and Group Health Plan for $87.26.

In selected instances, HMOs that once were more expensive are now less so, because rising costs have impacted more severely on indemnity coverage.

At General Mills, for example, the corporation first offered its employees an HMO option in March 1973. Family HMO coverage cost the worker $9 a month, while the regular insurance plan required no employee contribution.

Today, however, General Mills foots the entire bill for both forms of coverage, $103 per family per month for indemnity coverage and $93 for HMO membership. But eventually, Parker said, the company will have to decide whether it should permanently subsidize the employe who selects the more expensive health insurance coverage or require the worker to pay the extra cost.

In calculating their rates, HMOs are no more altruistic than the private insurance business. They are able to offer members more health care per dollar because they aggressively control the rate at which they hospitalize their members, a lesson that Physicians Health Plan learned only after flirting with bankruptcy.

HMOs in the Twin Cities have hospital utilization rates ranging from 375 to 650 days per 1,000 members a year. The annual hospital bed rate for the metropolitan population is 1,350 days per 1,000 individuals.

Thomas Hoban, executive director of the Hennepin County Medical Society, said: "Without the competition, we could not have imposed those controls. The doctors would not have tolerated those controls, but they're willing to go along with the system because they feel it is important to have a stake in the HMO market. Nearly every major industry in town has made a commitment to offer the HMO option."

The HMO movement has by no means transformed the Twin Cities into a marketplace mecca, where supply matches demand for medical services with any precision. Indeed, the area has an acknowledged surplus of hospital beds, more doctors than the medical society says are needed, and a prestigious health complex at the University of Minnesota that has all but ignored the competitive struggle.

Major parties with a stake in the economics of health care, including government and organized labor, have not been heard from or, at best, have played only limited roles in the struggle for the private health dollar here.

Federal and state laws helped shape the competitive environment by requiring employers of 25 or more to offer their employes, on request, a choice between HMO and indemnity insurance coverage. But neither level of government has nurtured the HMO concept by purchasing services directly from these facilities, a shortcoming that afflicts HMOs throughout the country.

HMOs here have virtually no members who receive care under Medicare or Medicaid, which finance the medical care of some 50 million elderly and poor individuals. Medicare reimburses HMOs for medical care rendered on a basis that provides such facilities little financial incentive to enroll elderly patients, who generally need health care about twice as often as younger individuals.

The state of Minnesota has not aggressively pressed HMOs to enroll beneficiaries of Medicaid, a federal-state program that underwrites the health care of poor families. Without the enrollment of a segment of society's most vulnerable citizens, HMOs can hardly lay claim to being the answer to the health cost problem.

Howard Veit, director of the federal HMO program, said several weeks after he visited here to discuss developments with area HMO directors, "Our basic view of the Twin Cities is that it represents in many ways the prototypical community for the future development of HMOs."

The HMO saga here remains only partially written. Thus far, Blue Cross-Blue Shield and the commercial insurors like Prudential have suffered the most in lost business. The first time Honeywell offered its Twin Cities employes an option in 1977, one-third of its workers, about 4,000 people, dropped the conventional Blue Cross coverage and chose an HMO plan. "The growth of our traditional insurance program would have been a lot higher without the HMOs here, there's no doubt about that," said George Halvorsen, director of affiliated services for Blue Cross and Blue Shield of Minnesota.●

PUERTO RICO

● Mr. SASSER. Mr. President, on August 28, the Governor of Puerto Rico testified before the Committee on Decolonization of the United Nations. His statement is an eloquent affirmation of the freedom that American citizens, including Puerto Ricans, cherish.

Without taking a position on the question of Puerto Rico's statehood, I would like to join with my colleague, Senator DOLE in commending the statement of Gov. Carlos Romero-Barceló to my colleagues. I ask that the testimony be printed in the RECORD.

The testimony follows:

TESTIMONY BY THE HONORABLE CARLOS ROMERO-BARCELÓ, GOVERNOR OF PUERTO RICO

Mr. Chairman, members of the Committee: My name is Carlos Romero-Barceló. I am the Governor of Puerto Rico, elected to a four-year term by the people of Puerto Rico on November 2, 1976.

In 1946, during the United Nations' first full year in existence, the United States of America offered voluntarily to submit annual reports on the status of its non-self-governing territories, in keeping with the spirit of Article 73 of the United Nations Charter. Those territories then included Alaska, Guam, Hawaii, Puerto Rico, American Samoa, and the United States Virgin Islands. Annual reports on Alaska and Hawaii were discontinued upon their admission in 1959 as the forty-ninth and fiftieth of the United States of America.

A quarter of a century ago, the United Nations Committee on Information from Non-Self-Governing Territories—also known as the Fourth Committee—determined that the people of Puerto Rico enjoyed a full measure of self-government. In response to that determination, the United Nations General Assembly, at its Eighth Session, adopted on November 27, 1953 its Resolution 748, wherein it relieved the United States of America from any responsibility for filing annual reports concerning Puerto Rico's political status, and wherein the General Assembly declared that, and I quote, "in the framework of their Constitution and of the compact agreed upon with the United States of America, the people of the Commonwealth of Puerto Rico have been invested with attributes of political sovereignty which clearly identify the status of self-government attained by the Puerto Rican people as that of an autonomous political entity." End of quote.

That was twenty-five years ago.

Since then, the people of Puerto Rico have elected a total of five different men from among two different political parties to lead them as Governor. During that interval, the people of Puerto Rico have also held a plebiscite on their political status.

During that period of time, not one of the island's five governors has come before any instrumentality of the United Nations to register a complaint against the United States, nor to request any review or reconsideration of Resolution 748 of the Eighth General Assembly Session. Indeed, until today, no Governor of Puerto Rico had ever formally approached the United Nations on any matter related to our island's relationship with the United States.

Nevertheless, despite the absence of any initiative on the part of any duly elected Government of Puerto Rico, your Committee has since 1972 been discussing "the Puerto Rico question" on a regular basis.

These discussions have been held at the behest of an adversary of the United States, in support of a political faction in Puerto Rico whose electoral strength has remained at less than seven percent of the voting public for two decades.

During our twenty-five years as a community enjoying "a full measure of self-government," Puerto Rico's democratic institutions have received the enthusiastic support of the island's inhabitants. From three to six political parties have appeared on the ballot in each general election. An average of four-fifths of Puerto Rico's eligible voters have participated in each election. Both men and women possess the right to vote, and in 1970 the minimum voting age was lowered from twenty-one to eighteen years.

But perhaps the most eloquent demonstration of the strength and integrity of Puerto Rico's democratic system of government has been the fate of incumbent Administrations: in each of the last three quadrennial elections held in Puerto Rico, the political party in power has gone down to defeat; moreover, the last five elections in Puerto Rico have elevated no less than five different men to the governorship, even though the Puerto Rican Constitution permits an incumbent Governor to seek re-election to an indefinite number of terms. And I might add that each change of Administration was effected lawfully and peacefully.

As we survey the Puerto Rican people's aggressive and responsible exercise of their electoral prerogative over the past quarter-century, one highly significant fact stands out clearly: each and every time the Puerto Rican people have removed from office an incumbent Governor and/or political party, they have chosen a new Governor and/or political party which, like their predecessors, firmly espoused the principle of permanent union between Puerto Rico and the United States of America.

In each of these elections, candidates advocating Puerto Rico's independence participated freely, energetically, and without constraint. And in each election they were resoundingly defeated. In 1976, even the local Communist faction took its case to the electorate. Calling itself the Puerto Rico Socialist Party, it campaigned throughout the island, yet won only seven-tenths of one percent of the total vote, and elected no candidates. The non-Communist Puerto Rico Independence Party elected two Representatives and one Senator in 1972, but lost all three seats in 1976.

Just as is the case in Puerto Rico, I am confident that virtually all of the twenty-four nations here represented contain within their borders political factions which are firmly opposed to the policies of the government in power. As is not the case in Puerto Rico, however, opposition political factions in some of these twenty-four nations are severely inhibited—and in some instances officially prohibited—from working openly and freely to enlist broad public support for their causes, and from seeking peacefully to have the ruling party removed from power.

Should an opposition faction within any of the twenty-four nations here represented solicit the assistance of a foreign power in bringing its case before the United Nations, I strongly suspect that the government of the nation in question—regardless of its political system, regardless of its economic system, regardless of its alignment or non-alignment vis-a-vis the major world powers—would firmly oppose United Nations involvement, on the grounds that the matter at issue constituted a strictly internal affair, over which no international body whatsoever had any claim to jurisdiction.

Nevertheless, this Committee has repeatedly agreed to entertain discussion of the political status of Puerto Rico under precisely the above circumstances: the separatist political faction in Puerto Rico has solicited the assistance of a foreign power—in this case Cuba—to urge United Nations intervention in the internal affairs of the people of Puerto Rico.

All five elected Governors of Puerto Rico have until now abstained from involvement in these discussions. We have done so because we too recognize the issue to be strictly an internal matter, to be debated and resolved within Puerto Rico itself, in consultation with the Government of the United States, the nation of which we are all citizens.

Among the five elected Governors of Puerto Rico, there is no unanimity of opinion as to what our island's ultimate political destiny should be; we differ considerably among ourselves on both large and small aspects of the question. We are, however, fully in agreement regarding the capacity of the Puerto Rican people to reach a final decision independently. Moreover, we recognize that a decision of such magnitude not only can be reached independently, but must be reached in such a manner, if it is to be valid and permanently binding upon the people of our island

If, as is true, we have not yet reached a final decision, then the responsibility for our inaction lies with us and with us alone. We have the means to change our political status. Whether and how we shall use those means is for us and us alone to decide. All three political status alternatives—statehood, independence, and commonwealth—appeared on the ballot in our 1967 plebiscite, and Puerto Rico's voters elected to retain commonwealth status. I have publicly stated on numerous occasions that I believe a new plebiscite should be held after the 1980 general election, to allow our people to express themselves once again. And if I am re-elected to the governorship, the holding of such a plebiscite will be a firm commitment of my Administration's second term.

So long as we continue to possess the means to determine our own destiny, however, we shall neither welcome nor tolerate outside interference in this ongoing process.

So it is that I come before you today not to request that you intervene, but rather to explain why I believe you should not even consider attempting to intervene.

I come before you in the knowledge that most of you are devoting your time and energy to the Puerto Rico question with the best of good intentions. I am sure you are all aware of the ulterior motives that have prompted one member of your Committee to bring this issue before you. Nevertheless, I have no doubt that most of you are acting in the best of faith in giving it your consideration. I thank you for that, despite my firm conviction that intervention by this Committee is neither necessary nor appropriate, and is totally unacceptable to the people of Puerto Rico.

In the past, this Committee has reaffirmed Puerto Rico's right to self-determination. No one in Puerto Rico—myself included—disputes that principle, so long as it is clearly understood that the concept of self-determi-

nation includes the right to move from commonwealth to statehood as well as the right to move from commonwealth to independence.

Were I to conclude that Puerto Rico were in any way being impeded from exercising its right to self-determination, then I would not hesitate for a moment to seek the support of this Committee, or any other responsible international institution, in helping our people to re-establish beyond doubt our right to self-determination.

I have the highest admiration for the United Nations. It is a pioneer confronting enormous obstacles in a slow and painful quest toward a goal upon which hinges the survival of our species: peaceful cooperation and coexistence among the enormously diverse peoples and philosophies which exist in even-increasing interdependence upon this planet. As must be expected in a pioneering venture, tangible progress has been achieved neither easily nor quickly. In its finest hours, the universal human emotions which fuel this noble institution are hope, purposefulness, and good will. All three are indispensable if it is to succeed in its mission. Both now and in the future, I shall always be available to contribute whatever I can to further the goals so eloquently set forth in the United Nations Charter.

Indeed, it is in part for that very reason that I appear before you now: in the hope that I may perhaps be of assistance to you in your important work.

Setting aside for a moment the hemispheric rivalries and/or international ideological struggles which, in reality, we all know are responsible for the presence of the Puerto Rico issue on the agenda of this Committee, allow me to examine with you now the seemingly legitimate concerns that might prompt those who are truly impartial members of this Committee to regard the Puerto Rico question as a matter worthy of study on its own merits.

Basically, I submit that these concerns are three.

Foremost among them, without doubt, must be the undeniably ambiguous nature of the island's present political status. Neither a sovereign nation nor a fully integrated unit of the United States of America, Puerto Rico occupies an ill-defined middle ground; which might understandably arouse the curiosity—if not the suspicion—of an impartial international observer.

Coupled with this is the apparent imbalance in political leverage between a medium-sized Caribbean island and a continental super-power. Here again, the disinterested outsider might understandably have occasion to wonder whether the smaller partner in this relationship could truly be at liberty to chart its own course toward a final political destiny.

And finally, there are obvious cultural and linguistic disparities, which might prompt the observer to wonder whether there can really be an authentic social, psychological, or spiritual basis for the existence of a harmonious political union between Puerto Rico and the fifty existing United States.

To the above points I should add a fourth consideration: that there is evident dissatisfaction with the status quo among the people of Puerto Rico themselves. At these hearings will appear Puerto Ricans of widely differing viewpoints; yet most, if not all, of them will agree that Puerto Rico's current political status does not in its present form adequately fulfill the legitimate aspirations of the Puerto Rican people.

Given the above facts, I can readily appreciate that a fair-mined member of this Committee could reasonably conclude that the case of Puerto Rico might well merit investigation.

Indeed, I myself am on record to the effect that Puerto Rico's relationship with the United States retains vestiges of colonialism.

Yet I do not come before you to solicit your intervention.

Why?

Because I believe such intervention can never be either appropriate, relevant, or in the least degree effective until and unless it can be demonstrated that Puerto Rico lacks the wherewithal to freely determine its own destiny.

For most of this decade, this Committee has annually given consideration to the political status of Puerto Rico. Yet at no time has this Committee undertaken to investigate firsthand the extent to which the Puerto Rican people have the capacity to exercise for themselves their inalienable right to self-determination.

I cordially invite this Committee to conduct just such an investigation. I cordially invite the delegates of each nation here represented to visit Puerto Rico. Come whenever you wish, stay as long as you like; talk to whomever you please; study our institutions for yourselves.

The Government of Puerto Rico does not fear the consequences of such an inspection. On the contrary, we would welcome it.

If you come, you will hear a variety of opinion, just as you will hear a variety of opinion during these hearings. That is because Puerto Rico is an open society, in which every citizen is entitled to express himself, and in which any citizen or group of citizens is entitled to work peacefully to effect change.

We have no illusions, however. We are all aware that Puerto Rico is an imperfect society, as is every society of human beings in every community on earth. Nevertheless, we are a people who take great pride in the progress we have made—economically, politically, and socially—during the twentieth century.

It is no accident that Puerto Rico's per capita income and standard of living are markedly higher than those to be found anywhere else in the Caribbean, or in Central or South America. Despite our island's very high population density of more than nine hundred persons per square mile, despite our severe shortage of mineral resources, and despite the massive poverty which existed in Puerto Rico only a few decades ago, we have in recent years emerged as a people blessed not only with free institutions of government, but also with the extraordinary increase in prosperity that only hard work and a private enterprise economy can make possible.

Today, each child born in Puerto Rico has a statistical life expectancy that actually exceeds that of the average American citizen born elsewhere in the Nation. Moreover, the per capita enrollment of our young people in colleges and universities exceeds the United States national average.

Puerto Rico's spectacular advances in health care, education, in economic opportunity, and in democratic self-government have been accomplished by the Puerto Rican people themselves, through our determination to leave to our children and grand children a better way of life than we ourselves knew as children and young adults.

Because of Puerto Rico's small size, dense population, and limited resources, much of our recent progress would have been extremely difficult, if not impossible, to achieve without the friendship and cooperation of fellow American citizens from other parts of the Nation, and without the comprehension and financial support of the United States Government.

The Puerto Rico of today is still not especially wealthy; we are not mighty; our people do not live in total internal harmony. Nevertheless, ladies and gentlemen, we do enjoy, individually and collectively, the basic human rights which define a free society. And believe me, the people of Puerto Rico appreciate with every fiber of their being how rare and how precious a blessing freedom is.

Moreover, we know why we are free.

We know that we are free precisely because we are natural-born citizens of the freest and most open and most culturally diverse nation in the history of mankind: the United States of America.

We are free, if we so desire, to continue enduring the vestiges of colonialism that characterize our so-called commonwealth relationship with the United States. We are free to declare ourselves an independent nation, and to have that decision respected by the United States. And we are free to incorporate our island fully into the Republic as the fifty-first of those United States.

Should the day come when the people of some future date choose to do so, I recognize that it has the military might to act illegally and immorally to abrogate those freedoms. We have no illusions in that regard, either. Although the overwhelming majority of our people have demonstrated at every opportunity that we treasure our United States citizenship and our permanent political union with the United States, we all recognize that, like our own and like every other community on earth, the United States too is an imperfect society.

Should the day come when the people of Puerto Rico were to find themselves oppressed by the United States, it would not be necessary for a totalitarian adversary of the United States to bring the matter to the attention of this Committee: I can assure you that the freedom-loving people of Puerto Rico would virtually lay siege to this building in their clamor for redress of grievances. And I should emphatically add that I myself would not hesitate to stand at the forefront of such a movement.

Yet I remain fully confident that no such action will ever be necessary. Because, for all its occasional faults, the Government of the United States has by and large conducted itself with grace and with fairness in its relationship with the American citizens of Puerto Rico. And I have every reason to believe that it will continue to do so.

Individuals and groups of individuals within every state of the United States have, at one time or another, expressed indignation at, and intense opposition to, actions or inactions for which they perceived the Federal Government to be responsible. In nearly every instance, these conflicts have gradually been resolved through compromise and consensus, and a resumption of cordial relations between the parties involved has followed. And thus it has been also with Puerto Rico.

Although the people of Puerto Rico cherish our identity as a unique community within the American nation, we likewise cherish our right to participate in the process by which our nation as a whole arrives at decisions in the common interests of all.

It is no accident that I address you today in the Spanish language. For more than four centuries Spanish has been the first language of the people of Puerto Rico. It will continue to be our first language, regardless of the changes we may make in our political status. Our cultural heritage as a people has not been, and shall not be, an obstacle to the exercise of our rights as United States citizens. So long as we remain true to the principles of governance that bind our Nation together, we shall always remain free to exercise our inalienable human right to life, liberty, and the pursuit of happiness in accordance with the specific personal traits which define us as Puerto Ricans.

On December 31, 1976, when President Gerald Ford announced his support for the admission of Puerto Rico to the Union of States, he did not attach any cultural or linguistic provisos. His call was unconditional. He was prepared to accept us as Puerto Ricans.

On July 25, 1978, President Jimmy Carter issued a proclamation in observance of the 26th anniversary of the adoption of Puerto Rico's local Constitution. In that proclamation he said to the Puerto Rican people, and I quote, "Since 1898, and as American citizens since 1917, you have made a rich contribution to the life of the United States, while preserving your own unique culture and traditions within the broader community . . . My administration will respect the wishes of the people of Puerto Rico and your right to self-determination. Whatever decision the people of Puerto Rico may wish to take—statehood, independence, commonwealth status or mutually-agreed modifications in that status—it will be yours, reached in accordance with your own traditions, democratically and peacefully . . . The people of the United States are proud of our cultural and political associations with Puerto Rico over the last eighty years. We know that we can best honor our friendship, and our own democratic principles, by respecting your free choice about your own future." End of quote.

Not only did President Carter not attach cultural conditions, he underscored clearly the United States Government's acceptance of and commitment to the defense of the inherent right of the Puerto Rican people to retain and enhance our individual qualities as a people.

How can this be possible?

Simply because that is the tradition of the American nation. Tolerance of individual differences is a cornerstone of American freedom. Instances of individual intolerance exist everywhere on earth. So do instances of institutional intolerance—even in the United States.

But the overwhelming majority of all United States citizens understand fully that the acceptance of diversity—racial, cultural, religious, regional, ethnic, linguistic—is fundamental to the existence of liberty in a nation whose population is the product of immigration from every corner of the globe.

And because the people of Puerto Rico have the self-confidence and the determination to demand that our rights as United States citizens be recognized and respected, we look to the future with optimism, certain of our ability to resolve our political destiny in an environment characterized by civil debate, unconditional self-determination, and respect for the rights of the individual.

Before I continue, I should like to invite your attention to one especially blatant example of the hypocrisy of the separatists' position.

In regard to the question of language and culture, they firmly oppose the teaching of English in Puerto Rico. They oppose having our people become fully bilingual. They say it would undermine our identity as a people.

What is ironic, however, is that these same separatists are without exception bilingual themselves. They know English, and yet their sense of identity as Puerto Ricans seems not to have been impaired in the slightest. Indeed, they regard themselves as the purest of Puerto Rican patriots. Can it be, therefore, that their true motivation is not the preservation of our identity as a people, but rather the preservation of their own elite status as self-appointed bilingual spokesmen for our people? Why else would they propose to deny to the rest of the Puerto Rican people an advantage they themselves enjoy? It is something to think about.

It is these individuals—the separatist elements within Puerto Rican society—who year after year have sought United Nations intervention in our internal affairs. This too reflects their hypocrisy.

Let me explain.

We must keep in mind not only that, within Puerto Rico itself, the separatist forces have been massively and repeatedly repudiated at the polls, but that these same elements have never at any time seriously challenged our elections as fraudulent. They know they have been defeated fair and square.

That they have responded to their internal rejection by seeking support for their cause outside of Puerto Rico demonstrates eloquently their own cynical disregard for the principle of self-determination for our people.

Instead of respecting the clearly and repeatedly expressed will and wisdom of the Puerto Rican electorate, they resort to maneuvers in the international arena, hoping to have their political status preference imposed upon Puerto Rico from outside. Why? Obviously it is because they realize that within Puerto Rico itself they have been making no headway whatsoever.

In 1952, the year our commonwealth constitution took effect, political parties favoring independence for Puerto Rico polled a total of 19 percent of the vote in the island-wide general election. Political parties favoring statehood polled only 12.9 percent of the vote that year.

In our most recent election—in November 1976—independence parties polled only 6.4 percent of the vote—just one-third of their electoral strength twenty-four years earlier. In dramatic contrast, the pro-statehood political party which I lead won that 1976 election with 48.3 percent of the vote, nearly four times the pro-statehood total of 1952.

It has been this indisputable trend within the Puerto Rican electorate which has prompted the pro-independence forces to seek refuge in international forums, and to mount a calculated betrayal of the principle of self-determination by turning their backs on their own people as the sole legitimate judges of the course Puerto Rico should set for itself.

Where are Puerto Rico's political exiles? There are none.

Separatist Puerto Ricans operate openly from within Puerto Rico itself. They travel the world preaching their gospel, carrying United States passports. They run for elective office in Puerto Rico, and their political parties—despite their lack of significant voter support—receive regular allotments of public funds, equal in amount to those received by non-separatist political parties. Separatists speak out virtually every day on television and radio news and panel discussion programs, and their pronouncements are given ample coverage in every daily newspaper. In addition, some of them publish their own newspapers.

Separatist Puerto Ricans take full advantage of Federal law, federally-funded programs, and the protection of the Federal courts. Like many other American citizens in other parts of the Nation, Puerto Rican separatists have invoked the recently-enacted Federal Freedom of Information Law to search for evidence of abuses they allege have been perpetrated against them in the past by the Federal Bureau of Investigation.

Wherever they may have occurred, within Puerto Rico or elsewhere in the United States, such abuses are contemptible and I repudiate them unequivocally. But it must never be overlooked that the same government which may have been guilty of abuses also provides the mechanisms for bringing them to light, and for correcting them. And of course it is precisely this extraordinary capacity for self-criticism and self-improvement which makes the United States of America a source of wonder and inspiration for the many peoples residing in nations which are less free and less blessed with effective democratic institutions of government.

During four centuries of Spanish rule, dissident Puerto Ricans were often summarily jailed or exiled. Indeed, my own great-grandfather was jailed and exiled by Spain for advocating the abolition of slavery. The American citizens of Puerto Rico are not ignorant of the liberating changes that have occurred on our island during the eight decades since the United States flag was first raised over Puerto Rico's shores.

Where are Puerto Rico's political prisoners?

There are none. Those Puerto Ricans dubbed political prisoners by our separatist elements are individuals tried and convicted in open court for the commission of such violent crimes as murder, attempted murder, kidnapping, arson, or assault. No Puerto Rican has ever been defined as a "prisoner of conscience" by the Nobel Prize-winning human rights organization Amnesty International.

Ladies and gentlemen, not only do Puerto Ricans not flee the island because of alleged political persecution, but, on the contrary, the exact opposite occurs: tens of thousands of persons from foreign countries—including over thirty thousand from Cuba alone—have in recent years fled to Puerto Rico precisely to escape political persecution in their homelands.

This then is a small part of the panorama that is Puerto Rico's contemporary political reality. As I mentioned earlier, you are cordially invited to examine it for yourselves. Not on a carefully sanitized government tour, but as individual men and women, free to go where you wish and to talk to whomever you please: not just to politicians and ideologues, but to housewives, students, laborers, shopkeepers and farmers.

In the meantime, we the people of Puerto Rico shall continue to advance toward a final decision on our political destiny, free of outside pressure and secure in the knowledge that our decision will be respected by the Executive, Legislative, and Judicial branches of the Federal Government, as well as by our fellow American citizens in the fifty existing United States of America.

Thank you.●

CRIME VICTIM COMPENSATION

● Mr. BIDEN. Mr. President, yesterday the Senate passed S. 551, as amended. The amendment offered by Senator KENNEDY to S. 551 yesterday was the result of several weeks of negotiations between the staff of the Subcommittee on Criminal Laws which I chair and the staffs of members who had concerns about this bill, including Senators HUMPHREY, MATSUNAGA, WALLOP, and MCCLURE.

The result in an excellent compromise between those who feel that the States should have the prerogative to design their own programs and those who are concerned that certain uniform standards should apply to these programs as a precondition to Federal financing. At the heart of the compromise is a provision that gives any State which has a crime victims compensation program until the end of the next State legislative session to seek any necessary conforming amendments.

Another important feature of the amendment offered today is an effort to take into account the unique problems faced by elderly victims of crime. S. 551 was processed by the Criminal Laws Subcommittee before I was named its chairman and once the bill was reported to the floor it was brought to my attention that at least in one respect the bill

might be strengthened as it relates to elderly victims.

We worked with the National Council of Senior Citizens and other senior citizen groups to improve the bill through the amendment offered by Senator KENNEDY today. The most important feature of the amendment as it relates to senior citizens is the provision that relaxes the minimum claim requirement of $100 for older Americans.

Over 40 percent of senior citizens are at or below the poverty level. As a recent report of the House Select Committee on Aging pointed out, the loss of $20 can represent a much greater relative loss to a senior citizen whose only source of income is his or her social security check. A $20 loss can deprive the elderly person of food, essential drugs or cause a utility bill to go unpaid.

In conclusion I might point out that the concept of a crime victimization program was first experimented in the States not the Federal Government. Indeed Delaware was one of the first States to develop such a program and this legislation is modeled in large part after the Deleware program. Furthermore, Delaware is one State which has a program which is entirely consistent with the proposed Federal statute and if it is enacted Delaware will be immediately eligible for Federal assistance.●

INTERNATIONAL AIRCRAFT SALES

● Mr. STEVENSON. Mr. President, the Department of the Treasury has responded to two letters from Senators PROXMIRE, BROOKE, HEINZ and myself, concerning excessive and unfair foreign government intervention in international aircraft sales. In several recent cases foreign governments have taken, or are alleged to have taken, actions which violate the letter or spirit of international understandings limiting government measures to secure export sales. Such actions harm U.S. producers and exporters, and can provoke further wasteful competition in government subsidization of export sales.

The Treasury Department has told the foreign governments involved that the United States will insist upon fair trade practices with respect to export sales. The OECD "Standstill" agreement on aircraft sales and the International Arrangement on Export Credits must be strengthened and negotiations to that end are underway. The United States will be prepared to take effective countermeasures if unfair official export credit competition is not curbed.

The International Finance Subcommittee of the Senate Banking Committee, which I chair, has held extensive hearings on export competition and the need for a comprehensive U.S. export policy to meet foreign government-supported export competition. S. 3077, the legislation to extend and enlarge the Export-Import Bank, will strengthen the U.S. negotiating position by providing sufficient authority to meet foreign official credit competition when necessary. I expect the bill to be called up for floor consideration soon and hope the Senate will act promptly in a manner that leaves no doubt abroad that this country will not tolerate foreign volations of international understandings limiting official export credits and other export subsidies.

Mr. President, I ask that the correspondence to which I referred be printed in the RECORD.

The correspondence follows:

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, D.C., June 7, 1978.

Hon. W. MICHAEL BLUMENTHAL,
Secretary of the Treasury
Washington, D.C.

DEAR MR. SECRETARY: We urge you to exercise your authority under section 303 of the Tariff Act of 1930, as amended by section 331 of the Trade Act of 1974, to initiate a formal investigation of two recent cases in which foreign governments appear to have subsidized, directly or indirectly, the sale of aircraft and aircraft engines to U.S. airlines. The two cases to which we refer are the purchase by Eastern Airlines of 23 A-300-B4 aircraft from Airbus Industrie and the purchase by Pan American World Airways of 12 Lockheed L-1011-500 aircraft.

According to information obtained by the International Finance Subcommittee, Eastern Airlines purchase was arranged by means of a 15-year lease offered by Airbus Industrie in addition to an initial "free trial" period of six months for four of the aircraft. The leasing arrangements and other financing provided by Airbus Industrie would not have been possible without extensive financial underwriting of Airbus Industrie by European governments.

In the case of the Pan American purchase of the Lockheed aircraft, the Subcommittee has been informed that the British Government furnished guarantees of 15-year debt for the full purchase price of the aircraft although the Rolls Royce engines are the only British components of the aircraft. The British Government appears to have violated the terms of the OECD standstill agreement of 1975 with respect to aircraft.

The subsidies provided by foreign governments in both cases may constitute a bounty or grant within the meaning of the statutes which provide for the imposition of countervailing duties upon imports fostered by such bounties or grants. If your investigation reveals that domestic industries have in fact been subjected to unfair competition, we trust you will act promptly to remedy that situation.

The U. S. companies involved, as you know, are reluctant to initiate action in these cases because they fear that foreign governments will find ways to retaliate against the companies' operations abroad. U. S.-headquartered multinational corporations cannot be relied upon to protect our national interests when their international offices and sales are the implicit hostages of foreign governments bent upon capturing U. S. markets at any cost. The responsibility for ensuring that fair trading practices are observed by our foreign competitors rests with public officials.

We hope that you will give prompt attention to this matter. Rumors abound that U. S. aircraft and engine manufacturers are giving fresh consideration to shifting major portions of their production abroad in order to enjoy the benefits of foreign subsidies of international aircraft sales.

With best wishes,
Sincerely,

H. JOHN HEINZ, III,
Ranking Minority Member.

THE SECRETARY OF THE TREASURY,
Washington, D.C., August 28, 1978.

DEAR MR. CHAIRMAN: In the Secretary's absence I want to assure you that he and I are in complete sympathy with your letter of June 7, 1978 concerning what we believe to be the danger of excessive government intervention in international trade. The two cases you cited—the sale of Airbus Industrie of A-300's to Eastern Airlines and the sale of Rolls Royce engines to Pan American World Airways for installation on Lockheed L-1011 aircraft—have caused us great concern and are matters which emphasize the need for a broadened and strengthened International Arrangement on Export Credits. Moreover, as you know, we continue to hope for, and work diligently to achieve, international agreement on the use of production and export subsidies affecting trade in the context of the MTN. These cases well illustrate the need for the code we are negotiating.

Whatever terms may have been offered by private industry competitors to Rolls Royce, we do not believe those terms provide a basis for the action taken by the British Government. As you know, the U.K. export credit agency provided a 15-year loan guarantee (which we understand may be reduced to 10 years) for 100 percent of the value of the Rolls Royce engines and a financial guarantee for 100 percent of the value of the Lockheed airframe on the sale to Pan American. Our strong feelings on this matter were conveyed to the British authorities as soon as we found out about it. Subsequently, Secretary Blumenthal discussed our views with Prime Minister Callaghan during his visit here on June 1, 1978.

The British Government formally told us that they hope and trust this instance will prove to be unique. In my reply, I told them that if this should turn out not to be the case, we will have no choice but to initiate a countervailing duty investigation or take other action under our trade laws as we consider appropriate.

With regard to the sale of the A-300 in the United States, we have consistently stated that the Government support of Airbus Industrie sales should be in accordance with the terms of OECD understandings. However, this case is but one being discussed with the Europeans in the light of the general question of aircraft financing and the need to improve the International Arrangement on Export Credits. Secretary Blumenthal strongly emphasized the need for such negotiations at the OECD Ministerial Conference on June 15. On that occasion, he advised the OECD Ministers of our views that the recently concluded International Arrangement on Export Credits—while good in its way—only goes part way to meet the need for eliminating destructive competitive practices in official export financing activities. This Arrangement came into effect in April of this year, but it needs to be strengthened and expanded. The Secretary urged the Ministers to negotiate this year to obtain the necessary substantive improvements.

He left no doubt that if there are no restraints on unfair official export credit competition, and such competition continues to escalate, there will be swift and effective U.S. reaction. One possible action we could take would be recourse to the remedies available under the U.S. Countervailing Duty Law which you cited. The fact that a particular export finance transaction violates an international credit arrangement does not *per se* make the aid a "bounty or grant" under our law. The possible violation of international understandings, however, such as those involved here, provides us with a basis for further examination of the facts and issues.

In this case, we must of course always consider the possibility of foreign retaliation, a matter of particular concern in the aircraft industry where U.S. dominance is perceived abroad—in part due to alleged past U.S. Government subsidies—and where our own sales of aircraft to foreign airlines are enormous. We also must take into account the in-depth discussions occurring in Geneva and in other international forums which are

focusing on these problems. While we stand willing and able to take unilateral action should any of these talks yield no comprehensive resolution to the issues, we must insure that premature unilateral actions do not jeopardize the chances for more satisfactory and long-term solutions.

Sincerely,

ROBERT CARSWELL,
Acting Secretary.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Wahington, D.C., August 11, 1978.

Hon. W. MICHAEL BLUMENTHAL,
Secretary of the Treasury,
Washington, D.C.

DEAR MR. SECRETARY: We have received reports that the French have offered China Airlines landing rights in Paris in exchange for the purchase of the Airbus A-300. Landing rights tied to an aircraft sale would violate the OECD understanding with respect to the sale of aircraft.

We urge you to investigate the allegation and take appropriate action. Aircraft sales should be based on fair competition in conformity with the international rules previously agreed upon by the principal exporting countries.

We look forward to receiving the results of your investigation.

With best wishes,
Sincerely,

WILLIAM PROXMIRE,
Chairman, Committee on Banking, Housing, and Urban Affairs.

EDWARD W. BROOKE,
Ranking Minority Member.

ADLAI E. STEVENSON,
Chairman, Subcommittee on International Finance of the Committee on Banking, Housing, and Urban Affairs.

H. JOHN HEINZ,
Ranking Minority Member.

THE SECRETARY OF THE TREASURY,
Washington, D.C., August 30, 1978.

Hon. ADLAI E. STEVENSON,
Chairman, Subcommittee on International Finance of the Committee on Banking, Housing and Urban Affairs, United States Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter of August 11 to Secretary Blumenthal. As he is out of town, I have taken the liberty of answering for him. We appreciate the concern which you and Senators Brooke, Heinz and Proxmire expressed over the reported offer by the French to grant landing rights to China Airlines in exchange for the purchase of the Airbus A-300. As you know, there have been several reports that certain foreign governments may be engaging in unfair competitive practices in the export of aircraft. Such practices are of particular concern to me, and have been under investigation by Treasury staff.

The report that China Airlines has decided to purchase the Airbus is particularly distressing inasmuch as they—according to a press report—had previously considered the Airbus a "third choice" behind the DC-10 and the L-1011. The decision to buy the Airbus would certainly suggest the possibility that special concessions had been offered to make the A-300 more appealing.

Treasury has, therefore, undertaken to investigate the validity of the press and industry reports. Information from our Embassy in Taipei indicates that Airbus Industrie representatives offered to intercede with the French Government to obtain landing rights in Paris. The French, however, have denied that they would offer landing rights in linkage with aircraft sales. They further state that an offer of landing rights would in fact be harmful to their relations with the People's Republic of China. Nevertheless, we are watching developments in this case closely. Should the Airbus sale to Taiwan materialize and be followed by approval of landing rights in Paris for China Airlines, there would be a valid presumption of a linkage.

We have impressed upon the Taiwanese that any linkage of landing rights and aircraft purchases would introduce unfair competition into the market place and thus violate the spirit of OECD understandings on aircraft sales. At present the OECD Aircraft Standstill does not prohibit the use of such special inducements, although they are against the stated policy of both the United States and France. We intend to seek an agreement to broaden and strengthen the International Arrangement on Export Credits, including a better understanding on sales of aircraft, so that only market considerations—price, quality and service—will influence the choice of aircraft by an airline. We hope we have your support in this.

For the present, our approaches through diplomatic channels are intended to encourage both the French and Taiwanese governments to recognize the impropriety of linking landing rights to aircraft sales and to reconsider the wisdom of such offers. If developments in this case are not satisfactory to us, we would intend to take further action.

I want to assure you of our continuing efforts to guarantee an equal competitive opportunity for the American aircraft industry by insisting on fair trade practices by foreign governments in the world market.

Sincerely,

ROBERT CARSWELL,
Acting Secretary.●

COLUMBIA, THE GEM OF SOUTH CAROLINA

● Mr. HOLLINGS. Mr. President, in the September edition of "Nation's Business" magazine, there appears an article entitled "Columbia, The Gem of South Carolina," which I commend to my colleagues.

It was written by Mr. W. D. Workman, Jr., an old friend and a perceptive observer of the political, economic, and social development of our native State. Bill Workman currently serves as editorial analyst of the State newspaper in Columbia, and for many years he has enjoyed a well-deserved reputation as an outstanding journalist. No one could be better qualified to write about our capital city, and he has done a splendid job in this article.

We hear so much these days about the "New South" and the "Sunbelt" that it seems, at times, as though the South has arrived at its present condition through an almost magical combination of events.

But if the South—and South Carolina—has arrived at the mainstream of American life in the decade of the 1970's, there has been little magic involved. Its strength and security today were not inevitable or automatic consequences. What has moved the South is what has moved Columbia, S.C., for so many years: commonsense government, a hard-working citizenry, an imaginative approach to educational and industrial development, and a dedication to the future.

Though the article describes Columbia as "The Gem of South Carolina," it could just as well be called "The Gem of the South," because it is representative of what is happening everywhere. I congratulate Bill Workman on the article and "Nation's Business" for presenting it, and I ask that it be printed in the RECORD for the benefit of the Senate.

The article follows:

[From Nation's Business, Sept. 1978]

THE GEM OF SOUTH CAROLINA

(By W. D. Workman, Jr.)

Long before Congress created the District of Columbia and engaged the noted French engineer, Pierre L'Enfant, to design the nation's capital, another planned city called Columbia was taking shape in South Carolina. In 1786, the general assembly decided to move the state's seat of government from the historic port city of Charleston to a central site.

Exercising a foresight still appreciated almost two centuries later, the legislators directed Columbia's builders "to lay off a tract of land of two miles square, near Friday's Ferry, on the Congaree River, including the plain of the hill whereon Thomas and James Taylor, Esquires, now reside, into lots of half an acre each, and the streets shall be of such dimensions, not less than 60 feet wide, as they shall think convenient and necessary, with two principal streets, running through the centre of the town at right angles, of 150 feet wide. . . ."

RAVAGED BY FLAMES

By 1790, when Congress initially established the District of Columbia, South Carolina's legislature was convening in Columbia.

There is another parallel between Columbia and the District of Columbia: Both capitals were ravaged by flames after being overrun by invading armies. Washington's ordeal by fire came in 1814 from the British; Columbia's came in 1865 during a brief visitation by the Union forces under Gen. William Tecumseh Sherman. After what might be called an early federal urban renewal program, Columbia rose from the ashes and began a pattern of growth that is best described as progress by design.

Much of that progress can be attributed to favorable climatic, physical, and political features. Columbia's location in the center of the state makes it a natural marketing center, easily reached from the mountains or the sea. The central location also affords Columbians convenient vacation spots along the Atlantic coast or within the Blue Ridge mountains.

"We can be at the beach in two hours with no crowds," says Mrs. Ruth MacLean, who, with her doctor husband, came to Columbia from Canada five years ago. Dr. Lloyd MacLean, a urologist at Lexington County Hospital, used to have to drive more than 100 miles to go hunting. Now he travels only a few miles into the mountains to pursue one of his favorite pastimes.

As the seat of state government, Columbia has a stable tax income, direct and indirect. This is not an unmixed blessing, however, because property owned by the state produces none of the ad valorem taxes needed to sustain city and county services.

A similar mix of gain and loss characterizes the considerable acreage occupied by colleges and universities within the Columbia area. The venerable University of South Carolina, charactered in 1801, accounts for 222 acres of untaxed land immediately adjacent to the capitol complex. But, on the positive side, the univerally's enrollment of 23,500 students at the Columbia campus, coupled with a faculty of 1,350, constitutes a continuing and predictable economic asset.

Besides the economic benefits, USC contributes meaningfully to the intellectual, social, cultural, and recreational life of Columbians, as do other institutions of higher learning in the area, including Columbia College, the Lutheran Theological Southern

Seminary, Columbia Bible College, Allen University, and Benedict College.

"It's exciting living in a university town," says Rhonnie Newton, who moved to Columbia when her husband, Will, became general agent for Connecticut Mutual Life Insurance Co.

"The university attracts people skilled in many areas. We really enjoy being in an academic community where things are happening, and new ideas are whirling."

TRAINING FOR TODAY

Another category of higher education is that state's technical education. Conceived in 1961, that system was designed to provide workers with the technical training demanded by modern industry. Today, 16 Technical Education Centers—some identified as TEC college—operate throughout the state. Altogether, they have trained about 700,000 South Carolinians—male and female, young and old, black and white—for jobs in fields ranging from air conditioning to nuclear engineering.

Midlands Technical College has one Metropolitan Airport in Lexington County, and a third opening this winter in Harbison on the northwestern fringe of metropolitan Columbia. A fourth campus is projected for 22 acres near the intersection of U.S. 21 and Interstate 77 northeast of Columbia.

One notable feature of the TEC program is the tailoring of special training courses for particular industries. While a new plant is being constructed, its work force is being trained—through state and corporate cooperation—in the technologies required to operate the plant. More than 480 industrial establishments have benefited from this special feature.

EXPLOSIVE GROWTH

Through its Economic Development Commission, Columbia has shared substantially in South Carolina's industrial development. The annual industrial product for the Columbia Standard Metropolitan Statistical Area increased from $170.5 million in 1960 to $1.16 billion in 1976.

A significant aspect of this increase is the growth of industries other than textile plants which have long dominated the South Carolina scene. Today, textiles make up about eight percent of the Columbia area's total industrial product, compared to 29 percent only 18 years ago.

A brief roll call of some of the larger industries in the two counties discloses some familiar names. Anchor Continental, Inc. Hewitt-Robins, Hobart Manufacturing, Rockwell International Corp., Stone Manufacturing Co., Inc., Square D Co., and Westinghouse are in Richland County.

Allied Chemical Corp., Burlington Industries, Inc., Mepco/Electra, Inc. (a subsidiary of North American Philips Corp.), Canron, Ltd., Colite Industries, Inc., Horsman Dolls, Inc., Monroe Calculator, and NCR Communications Division are in Lexington County.

Nassau Recycle Corp., a Western Electric affiliate and recent addition to that list, moved its corporate headquarters as well as plant to the Columbia area. So did Artex Hobby Products, Inc., and Wheel Trueing Tool Co.

"Our employees relate very much to our plant and are genuinely interested in its being a success. As a result, they have a great attitude, which results in excellent productivity. This attitude and pride are very common in the area and contribute to the success of most companies that have located here."

Simultaneous with this industrial movement has been a series of continuing economic studies to determine how Columbia and the metropolitan area might improve municipal services, involve the total community in progressive development, and avoid the urban blight and fiscal crises which have plagued many American cities.

SURVEYS OF PROGRESS

Columbians periodically survey their assets and liabilities, weigh progress against potential, and attempt to reconcile past planning with contemporary conditions. In 1905, for example, landscape architects from Boston were brought in to assess how much Columbia was deviating from its original pattern and to devise a plan for land use and urban development compatible with a "new kind of tomorrow."

Similar surveys have been conducted repeatedly ever since, especially in the past two decades. The sponsoring organizations have changed, but almost always the groups have involved both public and private sectors in the two-county area.

In 1959, the Columbia-Richland County Industrial Development Commission engaged an economic research firm to assess the development potential of the Columbia area. Two years later, the Columbia City Planning Commission produced its own comprehensive report, "In Step With Tomorrow."

TRANSPORTATION NEEDS

The year 1965 brought forth another survey, the "Citizens' Design for Progress," which involved hundreds of Columbia's business, professional, civic, and government leaders. Within six months, yet another report, this one called "The Economy of Metropolitan Columbia," was in circulation.

A study of the area's transportation needs was made in 1966; by then the spectacular growth of the two-county region had spawned traffic and parking problems. The Columbia Area Transportation Study sought not only to cope with the burgeoning development but also to anticipate future growth patterns.

Another specialized study was made in 1969, this one on the continued viability of the downtown area in the face of proliferating and attractive shopping centers and malls around the perimeter of Columbia. Local architects, engineers, and planners were involved in the study, which became known as the Doxiadis report. Recommendations ranged from the obvious to the imaginative, from short-range to long-term, and from the generally acceptable to the highly problematical.

The most spectacular consequence of the Dioxiadis report has been the revamping of Main Street, a costly project which converted a conventional main drag into an artistic thoroughfare replete with flowers, trees, floodlights, and a mall atmosphere which caters to both pedestrian and vehicular traffic, although buses and other through traffic have been diverted away from Main Street.

Other goals include the concentration of city, county, and federal government offices in a complex at the other end of Main Street from the capitol complex.

More distant goals are the development of the large tract between the central business district and the Congaree waterfront, the channeling of railroad and vehicular traffic into corridors, and the provision of middle and upper-income housing in the downtown area.

There is increasing interest in converting the upper floors of stores on Main Street and nearby into apartments for those people who want to live downtown. Along with this interest is a continuing project to refurbish the facades of the Main Street stores. The Capital City Development Foundation provided much help toward these goals in directing the Main Street renovation. But, in recent months, the foundation has gone out of business.

J. Willis Cantey, the banker who headed the organization during its restructuring of Main Street, feels that its own mission has been accomplished. He wants the foundation leadership and staff to turn to other projects suggested in the Doxiadis and similar reports.

SYMPTOM AND STIMULUS

The spectacular increase in air traffic at Metropolitan Airport, which is served by Delta, Eastern, Southern, and Piedmont airlines is a symptom and a stimulus of the area's growth.

The annual passenger flow in and out of the airport has increased by more than 100,000 since 1975 and now exceeds 800,000 a year. The tonnage of mail and cargo has also increased.

In the course of its growth since the end of World War II, Columbia has gained intermittent national recognition. In 1951, Columbia was designated an All-American City in the competition sponsored by the National Municipal League. In 1964, there was a repeat performance. Broadcast executive Charles A. Batson, then president of the Greater Columbia Chamber of Commerce, praised the city for again winning national laurels. But he reminded his fellow citizens that there remained another Columbia, which needed constant attention to stave off urban blight, raise per capita income, increase civil facilities, and meet the challenge of a burgeoning metropolitan area.

"Let's enjoy to the fullest this wonderful All-American recognition," he said. "Then let's get back to work."

Back to work it was, with the goal of convincing the nation that Columbia was, in the words of then Mayor Lester L. Bates, "the South at its best." During the next decade, the Columbia area became one of the leaders of the emerging Sunbelt. Just last May, Columbia was listed eighth among the top ten U.S. cities with the most favorable growth prospects.

One Columbian deeply involved with the city's achievements and challenges is John T. Campbell, who served two terms as mayor (1970–78) after two four-year terms on the city council. A pharmacist and drugstore proprietor, Mr. Campbell is proud not only of Columbia's dramatic growth but also of the city's ability to hold the line on taxes.

LOW TAX INCREASES

"During the eight years that I was mayor," he says, "we had only two small increases—nothing like the rate of inflation. We have had less tax increase in Columbia than any city in the Southeast.

"I received some criticism for using federal revenue sharing money to help operate the city, but, after all, those federal funds were designed to help local people, and I don't know of any better way to help them than to keep taxes down. We made a lot of capital improvements, too, but we tried to keep the costs of government to a minimum."

The former mayor sees one major obstacle to further development of the central city. An essential element of the Doxiadis report is conversion of the acreage fronting on the Congaree River into a residential area, with recreational facilities. Such a conversion close to downtown Columbia would help to rejuvenate the central city.

The big roadblock is the location in the riverfront area of the grim and gray state prison known as CCI (Central Correctional Institution).

"Once we get CCI out of that location," says Mr. Campbell, "we'll see the entire area west of Main Street blossom into a tremendous development. Those 28 acres occupied by CCI are holding up the whole thing. It all depends on what the state does."

LOBBYING IN WASHINGTON

Columbia's present mayor, Kirkman Finlay, Jr., has some ideas of his own on that subject. He sees the need for closer coordination with state and Federal governments.

"We need someone to lobby systematically for our best interests, and I intend to do that—not just with our state legislators but with those who represent us in Washington."

Mayor Finlay will need that kind of help with the long-range goal of rechanneling the railroad tracks which penetrate the city. The costs involved in such a massive undertaking will require much more money than can reasonably be expected from the city and from the railroads, which have no financial incentive to invest the large sums needed.

Mayor Finlay shows even greater enthusiasm, however, for the development of 1,000 under-utilized acres between the main business district and the Congaree riverfront. He believes that this area has great potential for residential and commercial use. Development would include a green belt of parkland extending from the river almost to Main Street.

The mayor is convinced that Columbia can continue to gain population, productivity, and reputation without sacrificing the city's historic assets. He sees a positive developmental opportunity in restoring and revitalizing the many historical residences and other structures in the central city area. Already, a number of former residences have been converted into legal, medical, or business offices, thus preserving the traditional appearance of the structures while providing needed work space.

PRESERVING HISTORY

Much credit for this rehabilitation rather than demolition goes to the Historic Columbia Foundation, an organization supported by 1,000 individuals, corporations, and civic and professional groups. The foundation raised $700,000 in the early 1960's to restore the handsome Classic Revival house designed in 1823 by Robert Mills, an architect and engineer who also designed the Washington Monument and the Old Treasury Building in the nation's capital.

Today, the Mills house is visited annually by 15,000 to 20,000 people, many of whom also see the Tuscan villa-style residence nearby where President Woodrow Wilson lived as a boy.

Columbia's cultural appetitie has long been satisfied—and whetted—by the Columbia Museum of Art. Its exhibits, lectures, and classes have been matched in another cultural realm by the Columbia Music Festival Association's presentation of ballet, lyric opera, and symphonic music.

Ultimately, Columbia hopes to have its own center for the performing arts. Current expectations hinge on the admittedly ambitious prospect of establishing such a center in the area scheduled for development along the Congaree riverfront.

The underdeveloped potential of that riverfront is one of the major concerns of the new president of the Greater Columbia Chamber of Commerce. Robert L. Gandy, Jr., president of the Richtex Corp., wants the chamber to play a major role in bringing about such development.

CONSOLIDATION CONSIDERED

As another major objective, Mr. Gandy wants to develop greater coordination, perhaps leading to consolidation, of the municipalities in the greater Columbia area. That possibility has long been discussed—and cussed—by city and county political leaders, but prospects are much improved today. Columbia City Council and Richland County Council are conferring about specifics such as providing fire protection, sewer and water lines, and other services to the urban areas outside the city limits.

Whatever the obstacles and the opportunities, the business, civic, and governmental leadership of the two-county community is determined that the Columbia area will continue its progress by design.●

OLD DEFENDERS DAY

Mr. MATHIAS. Mr. President, September 12 is Old Defenders Day in Maryland. It is one of the State's most significant holidays because it marks the anniversary of the battles of North Point and Fort McHenry where the resolute and gallant citizens of Baltimore successfully defended the city against the British onslaught. Those battles were a turning point in the War of 1812. They are a proud chapter in the history of Baltimore, of Maryland and of our country.

As we celebrate Old Defenders Day, it is sweet to reflect on these past glories. But we would badly serve the memory of the heroic men and women who defended North Point and Fort McHenry if, on Old Defenders Day, we did not also consider contemporary questions of defense as well.

Today, there is no more serious defense issue on our national agenda than the SALT II agreement being negotiated at Generva. And that treaty is in trouble.

SALT is under attack from a number of directions, but it suffers especially because the administration has not made a strong case for it. The President, of course, is hampered in this by not having a completed agreement to defend. But it is not really necessary for the President to go into the details of this particular agreement in order to let the American people know that the issue itself is absolutely vital. A world with the capacity for the ultimate crime of total genocide should not hesitate too long before renouncing that fatal course. For the sober, the prudent, the wise, the courageous, all know there is no alternative to a cooperative effort to end the arms race.

My greatest hope for this Old Defenders Day 1978 is that the President of the United States will take the lead in moving this country toward the conclusion of a SALT II agreement that will enhance our national security. Otherwise, there may some day be something far worse than those old-fashioned "bombs bursting in air" above Fort McHenry as they did 166 years ago today.

CENSORSHIP OF ADMIRAL HOLLOWAY

Mr. THURMOND. Mr. President, administration efforts to suppress the views of our military leaders reached a new high this summer when attempts were made to muzzle the retiring Chief of Naval Operations, Adm. James L. Holloway III, in his farewell address at the Naval Academy July 1.

Columnists Rowland Evans and Robert Novak reported on these events in the September 4, 1978 issue of the Washington Post newspaper under a heading entitled "Washington's Naval Battle."

This article reveals previously unreported events by the Carter administration to muzzle the Navy's leadership in their determination to maintain U.S. Naval supremacy against arms control advocates in the Pentagon, White House, and Arms Control and Disarmament Agency.

First, President Carter denied Admiral Holloway the usual end of tour courtesy visit by a retiring Chief of a military service apparently because the Admiral insisted on his final speech including the words "maritime superiority."

Evans and Novak reported in their column that when Admiral Holloway submitted his farewell remarks for review he was informed that five references to "maritime superiority" must be eliminated or softened. Holloway appealed this ruling making clear he would talk about "maritime superiority" with or without approval. All but one of the changes was then rescinded.

Mr. President, this column also reveals the blanket opposition within the Navy to the administration's shipbuilding policies. It further points out the pressure being placed on the new Chief of Naval Operations, Adm. Thomas Hayward, to support the administration drive to ax the nuclear carrier and cut back on earlier supported shipbuilding plans.

In announcing his veto of the nuclear carrier President Carter made the statement that not one of his advisers favored it. When one looks at his advisers, this is not a surprising statement. The military leaders with experience in these matters are being shut out. They are not only being denied access to the President, they are also being censored within the Pentagon itself.

These events are similar to those of the days of former Defense Secretary Robert McNamara who put such a muzzle on military leaders Congress eventually held hearings aimed at breaking this effort. While civilian authority must be supreme once decisions are made, military leaders must be free to give their views to the President rather than shut out as was done in the case of Admiral Holloway.

Many of the McNamara appointees are back in the Pentagon in key positions. Their influence has damaged our already weak defense programs in the past 2 years, and they would be doing more if they thought they could get away with it. Now is the time for Congress to send them a message that such policies will not be tolerated.

Mr. President, I ask unanimous consent that the Evans and Novak article cited earlier be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WASHINGTON'S NAVAL BATTLE

President Carter's effort to put a short leash on his admirals has run into their determination to maintain U.S. naval supremacy against arms-control pressures inside the administration.

Adm. Thomas B. Hayward, newly installed Chief of Naval Operations, is caught in the middle. On Aug. 18, he gave verbal orders to senior officers not to speak out against the president's veto of the defense bill (which authorized a new nuclear aircraft carrier of the Nimitz class). But those orders evoked such anger in the Navy that Hayward's private memo to flag officers a week later was an exercise in ambiguity that avoided clear support of the president.

In truth, the naval brass clearly support an override of the president's veto with nothing less at stake than naval superiority—not mere equivalence with the Soviet fleet. Arms-control advocates dominating the national-security bureaucracy oppose naval supremacy as inimical to U.S.-Soviet strategic balance. To admirals and arms controllers alike, the

nuclear carrier is integral to naval supremacy.

The conflict resulted in peculiar circumstances attending the retirement of Hayward's predecessor, Adm. James L. Holloway III, two months ago. Holloway, who advocates a nuclear carrier, was denied the visit with the president traditionally accorded to a military chief completing his term.

Even more revealing was Holloway's experience in making farewell remarks at Annapolis July 1. Submitting prepared remarks to the office of the secretary of defense June 28, the admiral was informed that five references to "maritime superiority" must be eliminated or softened. An aide to Holloway snapped that Pentagon civilians would have midshipmen exhorting their football team to "tie Army" next year.

Holloway appealed the blue-pencilling, making clear he would talk about "maritime superiority" at Annapolis, with or without approval. Deputy Assistant Secretary of Defense Tom Lambert rescinded all but one of the changes but insisted on keeping one.

Hayward had been no less an advocate than Holloway of naval supremacy and the nuclear carrier, but encountered new White House determination to leash the Joint Chiefs of Staff. That resolve hardened after the defense-bill veto became a centerpiece of the president's campaign for political rehabilitation.

Accordingly, meeting with several assistant chiefs and other flag officers at the Pentagon Aug. 18, Hayward supported the veto and ordered the officers not to help the override. His motives seem clear: not to jeopardize White House backing for a conventionally powered (non-nuclear) carrier next year. Besides, the president's veto then seemed sure to be sustained.

But Hayward was rocked by criticism from naval officers over his capitulation to Mr. Carter just as support for the override was building in Congress. The result was an Aug. 25 "confidential" memorandum from Hayward (signed "Tom") for "eyes only" of the Navy's flag officers. It is a masterpiece of obfuscation.

"Our fundamental goal at this point must be to preserve the momentum already obtained for the early authorization and funding of a follow-on carrier to replace [the] Midway," Hayward told his fellow admirals. "My position has been, and remains, that we must start as soon as possible on a replacement for Midway, and that the replacement must be at least as capable as the ship replaced." This Delphic utterance falls obviously short of Defense Secretary Harold Brown's desire that a conventional carrier be endorsed.

Nor does Hayward's memo flatly instruct the admirals to stay clear of the veto override fight, saying instead: "It is important that we refrain from any actions that could jeopardize the existing basic support for a follow-on carrier, or diminish our influence over decisions relating to it." This could be interpreted as follows: If you lobby to override the veto, don't get caught.

Although hard-nosed admirals feel Hayward abandoned naval interests, it is doubtful whether he could do more under the intense pressure he faces—as when he attended the Armed Forces Policy Council meeting Aug. 28. Deputy Defense Secretary Charles Duncan instructed all present to help sustain the president's veto (informing them they would be coordinated by Richard Moe, political aide to Vice President Mondale).

The admirals view such activity as incompatible not only with traditions of American naval strategy, as laid down by Adm. Alfred Mahan, but with Defense Department Directive 5100.1 instructing the Navy "to gain and maintain general naval supremacy." In a difficult hour, Hayward's memo avoids violating that trust.

U.S. POLICY TOWARD ARGENTINA

Mr. THURMOND. Mr. President, U.S. foreign policy must not be structured in such a way as to drive friendly governments into situations where they become easy prey for a Communist takeover.

Recent testimony before Congress by Assistant Secretary of State Patricia Derian was most damaging to continuance of friendly relations with Argentina as well as other South American allies.

Secretary Derian, a key proponent of President Carter's human rights policy, is using this policy in such a way that the effect is to encourage revolutionary forces and possible Communist takeovers in South America.

While every American is concerned about the human rights of all people, most of us know that human rights amounts to zero if the Communists gain control. If our human rights policy leads to or encourages Communist takeovers the end result is to reduce those values we all cherish for many people in foreign lands.

Mr. President, a column by Rowland Evans and Robert Novak entitled "Undiplomatic Incident" on this subject appeared in the September 6, 1978, issue of the Washington Post newspaper. I ask unanimous consent it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

"UNDIPLOMATIC" INCIDENT

A thrice-repeated but unsubstantiated indictment of Argentina by Assistant Secretary of State Patricia Derian testifying publicly before Congress reveals the shattering impact on U.S. foreign policy of human-rights crusading.

Under questioning Aug. 9 by the House inter-American affairs subcommittee, human-rights chief Derian responded with language seldom used by one friendly power to another, accusing the Argentine regime of killings, kidnappings and torture. So harsh was her language that the State Department tried to expunge it from the record. But apart from being undiplomatic, there is considerable doubt of accuracy.

The impact could prove tragic for U.S.-Argentine relations and perhaps for Argentina itself. Moderate and pro-U.S. elements within the Argentine junta have been weakened; deterioration of the U.S. position in the strategic southern corner of South America has been accelerated.

This cannot be dismissed as merely unfortunate ardor by an idealist unfamiliar with diplomacy. Deterioration of U.S. relations with Brazil, Chile and now Argentina too closely follows the scenario of Latin American specialists in the Carter administration who privately predicted the human-rights crusade would foster the left in the Western Hemisphere.

Concern that the human-rights tail is wagging the foreign-policy dog is spreading in both the administration and Congress. On Capitol Hill, growing attention is paid to the imminent loss of up to $1.4 billion in sales to Argentina—including $620 million in Export-Import Bank transactions.

So, when Derian testified Aug. 9, she was asked by subcommittee chairman Gus Yatron (D-Pa.) why her human-rights office recommended against the Export-Import Bank loans. Even Derian's own aides were taken aback by her answer.

"The reason for our advice was the continuing violation of basic human rights by Argentina. The systematic use of torture, summary execution of political dissidents, the disappearance and the imprisonment of thousands of individuals without charge, including mothers, churchmen, nuns, labor leaders, journalists, professors and members of human-rights organizations."

Moments later, Derian repeated her indictment, adding "kidnappings" and "unwarranted killings" this time. In her soft Mississippi accent, she read the litany a third time, concluding, "We see nothing to indicate that there is a genuine trend toward human rights."

Horrified officials in the State Department's Inter-American Bureau crossed out Derian's indictment in the transcript, but it was too late. Word had gone to Argentina, where Pat Derian has become a household word. The U.S. ambassador in Buenos Aires was called in for a stiff protest; the Argentine ambassador in Washington was called home.

The tragedy is that Derian's outburst may well weaken the junta's relatively moderate elements headed by the president, Gen. Jorge Rafael Videla, and strengthen the extreme right. While President Carter's human-rights admonitions probably have improved conditions in Argentina, the point of diminishing returns has been reached.

Apart from undiplomatic ravages, was Derian telling the truth? Her office insists the Argentine junta has "executed 3,000 persons since seizing power in 1976 and at least another 5,000 persons are missing." But those figures come from private sources of dubious reliability. U.S. government bureaus with vastly more experience than Derian's say the figures cannot be verified and seem inflated.

Actually, the junta, in confronting bloody far-left revolt in 1976, used an iron fist to prevent a communist takeover. But many killings and kidnappings are traceable to rightist paramilitary groups not under government control and should not be counted as government "executions." Moreover, objective observers agree that Argentina's human-rights record has improved markedly in the past year.

Those nuances are disregarded by Derian's office. While unable to draw distinctions between moderates and extremists inside the junta, the human-rights crusaders claim that military rule in Argentina cannot last much longer and that the United States should disengage from the Junta. Such a prospect is rejected by Latin American experts, whatever their ideology.

But behind the naiveté, a pattern emerges. Before Carter took office, a prediction was made by Brady Tyson, now with the U.S. mission to the United Nations, that human rights would be used to support revolutionary forces in the hemisphere. An identical prediction was made privately last year by Robert Pastor of the National Security Council staff. Derian's undiplomatic incident could help fulfill those prophecies.

THE MIDDLETON FAMILY AND MIDDLETON PLACE

Mr. THURMOND. Mr. President, I find it most heartening in these days when we are struggling to find solutions for today's problems in this great Nation that there are still those American citizens who serve us well by reminding us again of the great leadership and sacrifices of the Founding Fathers of this Nation. My particular reference here is to an article written by Mr. Horace Sutton of United Press International and appearing in the Washington Post on September 10, 1978. The article is titled, "A Place Worth a Detour."

Mr. Sutton's article is directed primarily to describing the beauty and the history of Middleton Place, including its gardens of unusual splendor and beauty, near Charleston, S.C. It is indeed a glorious place to visit and to feel again the grandeur and historical significance of this cradle of earliest America. The gardens were begun in 1741 by Henry Middleton, the president of the First Continental Congress.

Middleton Place is a centerpiece of southern American history and threaded through it all is the Middleton family. Edward Middleton emigrated from England to Barbados and then on to South Carolina in 1678, 300 years ago. It was his grandson, Henry Middleton, who represented South Carolina at the First Continental Congress and who actively opposed the British. One of the signers of the Declaration of Independence was Henry's son, Arthur.

Mr. President, the courage, loyalty, and responsibility of these great American leaders is an inspiration to all of us as we attempt to serve this Nation today.

The attached article by Mr. Sutton provides additional information about Middleton Place and the illustrious Middleton family.

Mr. President, I ask unanimous consent that the article to which I have referred be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A PLACE WORTH A DETOUR

(By Horace Sutton)

MIDDLETON PLACE, S.C.—Plantation life in the Old South may evoke images of Tara, "Aunt Jemimah" cooks in white aprons and red kerchiefs scurrying about the halls, and field hands picking cotton. But the serenity and the elegance that come to life here at Middleton Place are of a different sort.

The soft hand of style is everywhere, and the grandeur of European influence is surely reflective of what its creators had seen in the great gardens of France and England. It is a sight that remains today as purely refined as anything on the continent. In the imperative words of Michelin, that French arbiter of taste, style and public interest, Middleton Place is worth a detour.

Fourteen miles from downtown Charleston, and nearer still to the airport that serves the city, Middleton Place is a broad expanse of splendid gardens, a family seat that watched over the fortunes of 20 other rice plantations. It still maintains the stableyards, and the Gentlemen's Guest Wing, a handsome red brick house that after the Civil War served as the family residence.

Threaded through it all is the Middleton family, an illustrious lot that served government, country and region as loyalty and responsibility dictated. It was Henry Middleton, the president of the First Continental Congress, who began the gardens in 1741. The use of slaves in the English colonies was common then, and it took over 100 workers more than a decade to create the ornamental lakes, the velvet green terraces and the grand allees that cover 65 acres of formal gardens.

Visitors who come now park near the long Reflection Pool. From there one can promenade through allees like green tunnels perfumed in January and February with camellias.

The 19th-century azaleas come in March and April, then the magnolia, the roses and the mountain laurel. Crepe myrtle is summer's bloom, and through it all, as a green backdrop, are the pines, the palmetto and the live oak.

The Great Middleton Oak, beyond the formal Sundial Garden, is a huge canopy of a tree reputed to be over more than 900 years old, a growing relic that had its origins in Indian days and survived good and bad through Middleton's historic years. It stands 85 feet high, its limbs reaching out for 145 feet, a growing, living symbol of durability.

Middleton Lake commands a site above the Ashley River, flowing by and providing the irrigation for the rice fields, for Rice Mill Pond and for the Butterfly Lakes, those delicate ornamental ponds spread like wings just below the broad green terraces, descending from the ruins of the Great House.

Edward Middleton started it all, emigrating from England to Barbados and then on to South Carolina in 1678. His son Arthur was an activist who begat Henry. Middleton Place was part of the dowry of Henry's wife, Mary Williams. It was Henry who represented South Carolina at the First Continental Congress and Henry who rebuffed the British.

His son Arthur, educated in England, and both cultivated and radical, signed the Declaration of Independence. Arthur's son, the so-called second Henry, served in the state legislature, became governor of South Carolina and then America's first minister to Russia.

Henry's friends, the French botanist Andre Michaux, brought the first camellias to Middleton in 1786. Williams Middleton, Henry's son, signed the Ordinance of Secession, and so when Sherman's troops came through, they put the torch to the plantation. Only the Gentlemen's Wing survived and it became the main house.

Restored now to much of its glory, Middleton Place fairly throbs with southern American history—the riches brought by rice, indigo and cotton, the battle against the British and the civil struggle.

The stableyards have been recreated and enlivened with farm animals. There is a fowl house and hog crawl and a blacksmith shop as well as sheep, goats, rabbits, peacocks and a wagon pulled by mules.

All sorts of events are celebrated on the grounds at Middleton Place—a Greek festival in spring, a Highland gathering in late September, a lancing tournament in October and plantation days in November. But best of all is Arthur Middleton's birthday, celebrated in June with colonial lawn games, a concert of 18th-century music he'd by the Butterfly Lakes and a torchlight tour of the gardens.

A fife and drum corps parades in revolutionary rig on Arthur's birthday, and muskets are fired when the field music is played. It pleases the revolutionary bones of Arthur Middleton, buried on the grounds in a shady glen.

MODERN WAR TECHNOLOGY NECESSITATES A GENOCIDE TREATY

Mr. PROXMIRE. Mr. President, for the past several years I have urged ratification of the Genocide Convention. The purpose of the treaty is to make the "intent to destroy, in whole or in part, a national, ethnical, racial, or religious group" an international crime.

Today the threat of genocide is greater than ever before. The numbers of people and conflicting beliefs continue to grow. The biggest and most frightening development, however, has been in the weapons of war. Modern technology has given us a wide array of techniques which make it easier than ever to selectively eliminate particular groups.

Biological warfare, particularly germ warfare, can be selectively targeted. In the French and Indian War, masses of Indians were purposely killed by giving them blankets infected with smallpox. The tragedy of this genocidal use of biological warfare is increased when we consider the many other tactics available to make genocide an easy feat. Chemical warfare and nuclear warfare are grave tools of war. We cannot forget the instant destruction of Hiroshima and Nagasaki. Add to these methods of warfare, conventional weaponry, which Hitler proved unquestionably effective in wiping out millions of innocent people.

It is obvious that the world's rapidly advancing war technology compels us to act. We have no hesitancy about working from the strategic end—the SALT talks. Why then are we so hesitant to condemn the actions which would make use of weaponry? The Genocide Convention is a treaty which gets at the core of the issue; it condemns genocide and genocidal attempts and morally obligates those who sign it to do all they can to prevent these heinous murders. The United States has not done this. What must the rest of the world think of us?

Mr. President, 82 other countries have ratified the Genocide Convention because they know it is a valuable foundation for international harmony, an expression of international morality we all can, and must, share in order to survive.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER (Mr. STEVENSON). The Chair, on behalf of the President pro tempore of the Senate, pursuant to Public Law 94-201, appoints Mr. Clement John Sobotka, Jr., to the Board of Trustees of the American Folklife Center, effective January 3, 1979, for the remainder of the term which expires March 1982, in lieu of Mr. John Voight.

SPECIAL ORDER FOR THURSDAY, SEPTEMBER 14, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Thursday, after the two leaders have been recognized under the standing order, Mr. KENNEDY be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESUMPTION OF CONFERENCE REPORT ON NATURAL GAS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees are recognized under the standing order tomor-

row, the Senate resume its consideration of the conference report on natural gas pricing.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS TO 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 10 o'clock tomorrow morning.

The motion was agreed to; and at 6:33 p.m. the Senate recessed until tomorrow, Wednesday, September 13, 1978, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 12, 1978:

INTERNATIONAL MONETARY FUND

G. William Miller, of California, to be U.S. Alternate Governor of the International Monetary Fund for a term of 5 years, vice Arthur F. Burns.

CIVIL AERONAUTICS BOARD

Marvin S. Cohen, of Arizona, to be a member of the Civil Aeronautics Board for the remainder of the term expiring December 31, 1979, vice G. Joseph Minetti.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Armando M. Rodriguez, of California, to be a member of the Equal Employment Opportunity Commission for the term expiring July 1, 1983, vice Lowell W. Perry.

DEPARTMENT OF STATE

Ambler Holmes Moss, Jr., of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Panama.

HOUSE OF REPRESENTATIVES—*Tuesday, September 12, 1978*

The House met at 12 o'clock noon.

Father Warren F. Braun, State chaplain, State of Florida Veterans of Foreign Wars, Pompano Beach, Fla., offered the following prayer:

Let us pray.

We ask Your blessing, Almighty God, on this opening session of Congress and beg that this blessing continue as long as the people act so as to deserve good men representing them in a government operating under God's grace. Relying on the purity of their intentions, the justice of their cause, and the integrity and intelligence of the people, our Founding Fathers established the Congress of the United States under an overruling providence which has so singularly protected our country to this very moment. Divine being, supreme over all, patron of order, fountain of justice, continue Your blessing on this Nation and the men responsible for its laws so their acts may always be consistent with the ends of Your providence. Amen.

CALL OF THE HOUSE

Mr. ASHBROOK. Mr. Speaker, under clause 1, rule I, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. WRIGHT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 753]

Ambro	Dickinson	Ireland
Ammerman	Diggs	Johnson, Colo.
Andrews, N.C.	Dingell	Kasten
Archer	Dodd	Kemp
Armstrong	Drinan	Kostmayer
Ashley	Edwards, Calif.	Krueger
Barnard	Fary	Leach
Bellenson	Fish	Leggett
Breaux	Fithian	Lehman
Brown, Mich.	Flowers	Long, Md.
Brown, Ohio	Ford, Tenn.	McCloskey
Burke, Calif.	Forsythe	McDonald
Burke, Fla.	Fraser	McKinney
Burton, John	Frey	Mathis
Butler	Fuqua	Meeds
Byron	Garcia	Mikulski
Cederberg	Gibbons	Miller, Calif.
Chisholm	Goldwater	Mitchell, Md.
Clawson, Del	Hansen	Murphy, N.Y.
Clay	Harrington	Ottinger
Cochran	Harsha	Pepper
Conyers	Heckler	Pursell
Davis	Holtzman	Quie
Delaney	Huckaby	Railsback
Rangel	Shuster	Traxler
Richmond	Skubitz	Tsongas
Risenhoover	Spellman	Tucker
Rodino	St Germain	Udall
Rudd	Stockman	Van Deerlin
Santini	Stokes	Vander Jagt
Sarasin	Stratton	Waggonner
Sawyer	Stump	Wiggins
Scheuer	Symms	Young, Alaska
Shipley	Teague	Zeferetti

The SPEAKER. On this rollcall 330 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 8112. An act to repeal chapter 27 of title 44, United States Code; and

H.R. 12915. An act to amend section 2301 of title 44, relating to the National Archives Trust Fund Board.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3816) entitled "An act to amend the Federal Trade Commission Act to expedite the enforcement of Federal Trade Commission cease and desist orders and compulsory process orders; to increase the independence of the Federal Trade Commission in legislative, budgetary, and personnel matters; and for other purposes."

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 3447. An act to strengthen the economy of the United States through increased sales abroad of American agricultural products.

FATHER WARREN F. BRAUN

(Mr. YOUNG of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YOUNG of Florida. Mr. Speaker, in the absence of my colleague, J. HERBERT BURKE, I would like to introduce Father Warren F. Braun who offered the opening prayer for the U.S. House of Representatives today. Father Braun is the State chaplain of Florida's Veterans of Foreign Wars. He retired to Florida for health reasons after many years of service in the Youngstown, Ohio, diocese, and despite his health problems has been vigorously active in community affairs.

Father Braun was born and raised in the Pittsburgh, Pa., area, the son of a professional baseball player. He attended Duquesne College and St. Mary's of the West and enjoyed a career as a professional dancer for seven seasons prior to being ordained in the Catholic Church.

He has always been active in veterans organizations. He is a past national chaplain of the Veterans of Foreign Wars and chaplain emeritus of the VFW in Ohio. Although Father Braun is now a Floridian, many of you may know him from Ohio or Pennsylvania or from his fine work with the VFW.

His accomplishments have been many and his friends are legion. It is an honor and privilege to know this man of God and I hope you will make him welcome in Congressman BURKE's absence. The Florida primary is today and regrettably Congressman BURKE will not be able to hear Father Braun's prayer, but I know he will read it when it is published.

MILITARY POST EXCHANGE PRIVILEGES

(Mr. DAN DANIEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAN DANIEL. Mr. Speaker, for a number of years now, military personnel and critics of the Department of Defense have questioned that there is a financial advantage from shopping at post exchanges. Recently I have obtained the results of a survey showing Armed Forces personnel save an average of 22 percent on items purchased from Army-Air Force Exchange Service. The pilot retail price

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

comparison survey, conducted by the A. C. Nielsen Co., lays that question to rest.

This survey was commissioned by AAFES to develop methods and procedures for documenting the savings provided by the exchange service and for determining the relative position of AAFES pricing in order to evaluate the need for revisions in pricing procedures. The individual markets surveyed were Fort Dix-McGuire AFB, N.J., area, Fort Lewis-McChord AFB, Washington area, San Antonio area, and Fort Benning, Ga.

After applying standard sampling techniques, Nielsen's local market observers checked prices at 41 stores in the Tacoma, Wash., area around Fort Lewis and McChord AFB, and at 53 stores in the Wrightstown, N.J., shopping area serving the Fort Dix-McGuire market. In San Antonio, 48 stores were checked and in Columbus, Ga., serving Fort Benning, a total of 48 stores were surveyed.

In all, 3,203 comparative prices were collected in the civilian stores in August, and "prices of the day"—including specials and other promotions—were reported for comparison against identical items sold by AAFES.

Nielsen called AAFES prices "very competitive" and said the survey showed that prices were higher on only 9 percent of the observations and that 89 percent of the observations were lower; 2 percent were the same.

Each month it becomes more difficult for the military services to attract and retain the quality of personnel needed for the maintenance of defense. Repeatedly, I have been told by these fine men and women that they feel they have been "had" insofar as the nonpay items which they have been promised are concerned. PX privileges and prices are among these items. I believe it is important that enlistees and careerists be made aware of the dollar value realized in this area.

MEMBERS URGED TO REJECT OFFER OF FINANCIAL ASSISTANCE IN EXCHANGE FOR VOTE ON JARVIS PLAN

(Mr. CORMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CORMAN. Mr. Speaker, in what appears to be tantamount to a bribe, Howard Jarvis, as chairman of the American Tax Reduction Movement, sent wires to many Members of the House pledging financial support to candidates favoring his Freedom for Taxpayers National Tax Plan.

The wire briefly sketches a meat ax-like approach to cut Federal spending, and gives no indication of how or where meaningful and reasonable cuts could be made.

Mr. Jarvis espouses that his proposal is the only one that would bring relief to taxpayers, and threatens to publicly portray any congressional candidate not supporting his plan as an "opponent" of tax fairness and reform.

His message is not merely an attempt to rally support for his proposal, but rather a blatant effort to coerce candidates to succumb to bribery. According to Mr. Jarvis' mailogram a candidate pledging support for his tax plan could receive financial and/or media assistance in the November election from the Tax Reduction Movement Political Action Committee. Any offer of financial assistance in return for support of any legislative action is illegal, as is acceptance of such an offer.

Section 201(b) of title 18, United States Code, makes it an offense for any person to directly or indirectly, corruptly give, offer, or promise anything of value to any public official or person elected to any public office to influence an official act. It is clear that the message of the wire holds out an offer of financial assistance to those Members of this body and other candidates who are willing to take certain legislative actions. It raises serious questions of propriety either as a violation of the Federal statute or at the very least an attempt to improperly influence the Members of this body.

As chairman of the Democratic Congressional Campaign Committee and an individual Member of the House, I believe the Jarvis attempt to bribe public officials and pressure them into possible misconduct must be crushed. This can be accomplished by rejecting this offer of financial support or public endorsement and any other contribution which attaches similar illicit conditions. No candidate should ever fall victim to a threat of dire political consequences because he or she does not support specific legislation.

Public financial support and determination to maintain honest and ethical political action committees are shattered by the Jarvis effort to subvert funds for the purpose of bribery. It prostitutes the entire PAC system, and places a heavy cloud over the integrity of all political action committees.

FOURTH CONGRESSIONAL DISTRICT STUDENTS OF INDIANA WELCOMED

(Mr. QUAYLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. QUAYLE. Mr. Speaker, it is my pleasure to welcome the second group of fourth congressional district students from Indiana to the House of Representatives. Mr. Speaker, these students were selected on a nonpartisan, competitive basis and I commend them for their success and enthusiasm.

The purpose of the program is to stimulate student interest in our Government. As the adage says "the youth of today are the leaders of tomorrow." These high school students are getting an inside look at Washington which may encourage them or their friends to seek public service at some juncture in their career.

The congressional student program is an annual event with the funding and operations of the program derived from a nonpartisan, not-for-profit organization.

The following list of students are this year's participants:

Jim Nolan, Leo High School.
Pamela Lynne Geiger, Bishop Dwenger High School.
Byron S. Collier, Elmhurst High School.
Mark E. Kiefer, South Side High School.
Deborah Reynolds, Fort Wayne Christian School.
Tony L. McCarrol, Wayne High School.
Gigi Salij, Paul Harding High School.
Larry Stoller, Woodlan High School.
Beth Bechler, Carroll High School.
Keith E. Schuman, Whitko High School.
Randall L. Stump, Churubusco High School.
Barry Eppley, Southwood High School.
Jennefer Kay Shockley, Huntington North High School.
Elizabeth Boone, Fremont High School.
Keith Howard, Hamilton High School.
Miriam Graham, Eastside High School.
Kelly Sue Odell, Lakeland High School.
Denise L. Smolek, Central Noble High School.
Amy Hartzler, West Noble High School.

Again, Mr. Speaker, it is my honor to welcome these students and insert for the RECORD their presence in the House this afternoon.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 12934, DEPARTMENTS OF STATE, JUSTICE, COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS

Mr. SLACK. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight, Tuesday, September 12, 1978, to file a conference report on the bill (H.R. 12934) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1979, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 12936, HUD APPROPRIATIONS

Mr. BOLAND. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 12936) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1979, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts? The Chair hears none, and appoints the following conferees: Messrs. BOLAND, TRAXLER, BAUCUS, STOKES, and BEVILL, Mrs. BOGGS, and Messrs. BURLISON of Missouri, ALEXANDER, MAHON, COUGHLIN, MCDADE, YOUNG of Florida, and CEDERBERG.

AMENDING ARMED FORCES ACT OF AUGUST 29, 1974

Mr. NICHOLS. Mr. Speaker, I ask unanimous consent to take from the

Speaker's table the Senate bill (S. 3454) to amend the Act of August 29, 1974 (88 Stat. 795; 10 U.S.C. 8202 note), relating to the authorized numbers for the grades of lieutenant colonel and colonel in the Air Force and to authorize the President to suspend certain provisions of law when he determines that the needs of the Armed Forces so require, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

Mr. MITCHELL of New York. Mr. Speaker, reserving the right to object, I do so only to provide the chairman of the Subcommittee on Military Compensation, the gentleman from Alabama (Mr. NICHOLS) an opportunity to explain what we are attempting to do here.

The SPEAKER. May the Chair ask the gentleman from Alabama if he has cleared this with the leadership on both sides? The Chair has no knowledge of this bill being brought up.

Mr. NICHOLS. Mr. Speaker, it has been cleared with the leadership on both sides.

Mr. Speaker, will the gentleman from New York yield?

Mr. MITCHELL of New York. I yield to the gentleman from Alabama.

Mr. NICHOLS. Mr. Speaker, H.R. 5503—the Defense Officer Personnel Management Act (DOPMA)—passed earlier this year by the House will not be acted on by the Senate during this Congress. As a result of the National Emergencies Act of 1976, on September 14, 1978, certain powers and authorities of the President to act under a period of national emergency terminate.

Severe problems will arise if action is not taken to extend some of these authorities. Most of the required actions were included in the House-passed version of DOPMA. The Senate has taken the most urgent provisions and incorporated them in S. 3454.

A periodic problem that the Congress has faced in the past is the temporary extension of authority for the Air Force to exceed the grade limitations imposed under title 10, United States Code, section 8202. The Officer Grade Limitation Act of 1954 established ceilings on the number of Air Force lieutenant colonels and colonels significantly below their cohorts in the other services. This was done at that time recognizing that the Air Force was a young service and required fewer senior officers. Of course, as the Air Force matured, the Congress has passed temporary relief from these grade limitations. The current authority for temporary grade ceilings expires on September 30, 1978. DOPMA would have solved this problem permanently.

As a result of the National Emergencies Act of 1976 (Public Law 94-412), on September 14, 1978, certain powers and authorities of the President to act under a period of national emergency terminate. Severe problems will arise—particularly in the Navy—if action to extend some of these authorities is not taken. Most of the required actions were included in the House-passed version of DOPMA.

Those provisions that are affected by the National Emergencies Act are as follows:

A 2-year sea duty requirement for promotion of certain naval officers to lieutenant commander or above would be reinstated. Because of rotational problems, this requirement has been suspended since 1964. If the suspension is not continued, considerable personnel turbulence would be caused as the Navy attempts to order officers back to sea in order to qualify for promotion.

Below the zone selection for regular Navy and Marine Corps officers would be made inconsistent with the other services. Consistency has been maintained since 1970. If current authority is not extended approximately 20 limited duty officers would revert in grade, regular officers would have a 5 percent limitation placed on below the zone selection, and reserve officers would have no limitation.

Time in grade requirements for establishing promotion eligibility for Navy and Marine Corps officers would be reinstated. The requirements for different grades have been suspended beginning at various times since 1954. If current authority is not extended, promotion opportunity would be increased to fill the expected vacancies.

Spot promotion of Navy lieutenants serving in critical lieutenant commander engineering billets would be terminated. Approximately 140 officers would revert in grade if authority for these temporary promotions is not extended.

Membership on Marine Corps Major General Selection Boards would be restricted to require that each major general serve on the board every other year.

Members with less than 8 years of service would not be eligible for disability retirement unless the disability were incurred as a proximate result of the performance of active duty. Presently the disability system covers individuals if the disability is incurred in line of duty.

Recognizing that DOPMA would not be passed in this Congress, the Senate passed S. 3454, which would:

First. Extend the authorization—for 1 year—of an increase in the number of Air Force lieutenant colonels and colonels;

Second. Authorize the President to suspend the application of certain laws—currently suspended—through September 30, 1979, thereby maintaining current personnel practices for the military in these areas.

Third. Extend authority for 1 year to allow temporary promotions of certain junior officers, to allow below the zone promotion for Navy limited duty officers, and to allow temporary Marine Corps major generals to sit on the Major General Selection Boards.

Mr. MITCHELL of New York. Mr. Speaker, because all the provisions are simple 1-year extensions of existing law, and because there is nothing new in this legislation at all, and because of the urgency associated with the legislation and extreme disruptions which could take place if we delay action on this legislation, I support the provisions of the Senate bill and withdraw my reservation of objection.

Mr. ASHBROOK. Mr. Speaker, further reserving the right to object, I understand the need for the bill.

I just want the assurance from my colleague that there is nothing in the Senate bill that would not have been germane under the House rules.

Mr. MITCHELL of New York. I am sure there is not.

Mr. ASHBROOK. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3454

An Act to amend the Act of August 29, 1974 (88 Stat. 795; 10 U.S.C. 8202 note), relating to the authorized numbers for the grades of lieutenant colonel and colonel in the Air Force and to authorize the President to suspend certain provisions of law when he determines that the needs of the Armed Forces so require, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of August 29, 1974 (88 Stat. 795; 10 U.S.C. 8202 note), is amended by striking out "through September 30, 1978" and inserting in lieu thereof "through September 30, 1979".

SEC. 2. (a) For the period beginning on September 15, 1978, and ending on September 30, 1979, the President is authorized to suspend application of the following provisions of title 10, United States Code:

(1) Section 5707(c).

(2) Section 5751 (a), (b), and (e).

(3) Section 5779.

(b) No suspension invoked by the President under authority of subsection (a) shall be effective after September 30, 1979.

SEC. 3. Effective only for the period beginning September 15, 1978, and ending September 30, 1979—

(1) Section 1201(3) of title 10, United States Code, is amended as follows:

(A) striking out the word "or" at the end of subclause (B)(ii);

(B) striking out the period at the end of subclause (B)(iii) and inserting in lieu thereof a semicolon and the word "or"; and

(C) adding at the end of subclause (B) a new item as follows:

"(iv) the disability was incurred in line of duty during the period beginning on September 15, 1978, and ending on September 30, 1979, except that the condition provided for in this item shall not be effective during such period unless the President determines that such condition should be effective during such period and issues an Executive order to that effect.".

(2) Section 1203(4)(A) of such title is amended by—

(A) striking out the word "or" at the end of item (i);

(B) striking out the semicolon at the end of item (ii) and inserting in lieu thereof a comma and the following: "or (iii) incurred in line of duty during the period beginning on September 15, 1978, and ending on September 30, 1979, except that the condition provided for in this item shall not be effective during such period unless the President determines that such condition should be

effective during such period and issues an Executive order to that effect;".

(3) Section 1203(4)(C) of such title is amended by striking out "the proximate result of performing active duty nor incurred in line of duty in time of war or national emergency" and inserting in lieu thereof "(i) the proximate result of performing active duty, (ii) incurred in line of duty in time of war or national emergency, nor (iii) incurred in line of duty during the period beginning on September 15, 1978, and ending on September 30, 1979, except that the condition provided for in this item shall not be effective during such period unless the President determines that such condition should be effective during such period and issues an Executive order to that effect".

SEC. 4. (a) Chapter 545 of title 10, United States Code, is amended by inserting after section 5787c a new section as follows:

"§ 5787d. Navy lieutenants: temporary promotion

"(a) Line officers not restricted in the performance of duty in the grade of lieutenant, possessing skills in a critical shortage and serving in lieutenant commander billets requiring such skills, may be temporarily promoted to lieutenant commander under such regulations as the Secretary of the Navy may prescribe. Temporary appointment under this section shall be made by the President alone.

"(b) Temporary appointments under this section do not change the permanent, probationary, or acting status of members so appointed, prejudice them in regard to other promotions or appointments, or abridge their rights or benefits.

"(c) Temporary promotions under this section may be made only upon the recommendation of a board of officers convened for that purpose. In addition to recommending officers for promotion, a board so convened shall make the report required by section 6384 of this title.

"(d) Each temporary appointment under this section, unless expressly declined, is, without formal acceptance, regarded as accepted on the date made, and the member so appointed is entitled to the pay and allowances of the grade to which promoted from that date.

"(e) Temporary appointments under this section will terminate upon an officer's detachment from a qualifying billet so designated by the Secretary of the Navy. When an officer, whose name is on a promotion list as a result of selection to lieutenant commander other than under this section, is detached, an appointment will be issued to include the interim period between the subject officers' detachment from the qualifying billet and the date of promotion as a result of selection board action.

"(f) When his temporary appointment under this section is terminated or expires, each member of the naval service on active duty shall have the grade he would hold if he had not received any such appointment.

"(g) No appointments may be made under this section after September 30, 1979.".

(b) The table of sections at the beginning of chapter 545 of such title is amended by inserting

"5787d. Navy lieutenants: temporary promotion."

below

"5787c. Navy and Marine Corps, warrant officers: temporary promotion.".

SEC. 5. Section 5504(d) of title 10, United States Code, is amended by inserting "or 5787d" after "5787".

SEC. 6. (a) Section 5786(c) of title 10, United States Code, is amended by inserting "or 5787d" after "5787".

(b) Section 5791(a) of such title is amended by inserting "and 5787d" after "5787".

SEC. 7. Section 6325(b) of title 10, United States Code, is amended by inserting "or 5787d" after "5787".

SEC. 8. (a) Section 6384(a) of title 10, United States Code, is amended by inserting "and each board of officers convened under section 5787d" after "under chapter 543".

(b) Section 6385 of such title is amended by striking out "or 5787" and inserting in lieu thereof "5787, or 5787d".

(c) The catchline of such section is amended by striking out "and 5787" and inserting in lieu thereof "5787, or 5787d".

(d) The table of sections at the beginning of chapter 573 of such title is amended by striking out "and 5787" in the item relating to section 6385 and inserting in lieu thereof "5787, or 5787d".

SEC. 9. Section 905(h) of title 37, United States Code, is amended by inserting "or 5787d" after "5787".

SEC. 10. (a) Section 5703(a)(1) of title 10, United States Code, is amended to read as follows:

"(1) A board to recommend brigadier generals for promotion to the grade of major general, consisting of nine officers serving in the grade of major general or above.".

(b) The amendment made by subsection (a) shall be effective only for the period beginning on September 15, 1978, and ending on September 30, 1979.

SEC. 11. (a) Section 5787c of title 10, United States Code, is amended to read as follows:

"§ 5787c. Navy and Marine Corps; warrant officers and officers designated for limited duty; temporary promotion

"(a) Warrant officers may be temporarily promoted to higher warrant officer grades under such regulations as the Secretary of the Navy may prescribe.

"(b)(1) Officers designated for limited duty may be temporarily promoted to a higher grade under such regulations as the Secretary may prescribe.

"(2) No promotion may be made under this subsection under September 30, 1979.".

(b) The table of sections at the beginning of chapter 545 of such title is amended by striking out the item relating to section 5787c and inserting in lieu thereof

"5787c. Navy and Marine Corps; warrant officers and officers designated for limited duty: temporary promotion.".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions, to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

The Chair hopes that the Members will take into consideration that there are 14 primaries, that about 100 Members, including some from each side, are running, and that there are about 100 Members absent according to the latest quorum.

RHODE ISLAND INDIAN LAND CLAIMS SETTLEMENTS

Mr. RONCALIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12860) to settle Indian land claims within the State of Rhode Island and Providence Plantations, and for other purposes, as amended.

The Clerk read as follows:

H.R. 12860

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Rhode Island Indian Claims Settlement Act".

CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

SEC. 2. Congress finds and declares that—

(a) there are pending before the United States District Court for the District of Rhode Island two consolidated actions that involve Indian claims to certain public and private lands within the town of Charlestown, Rhode Island;

(b) the pendency of these lawsuits has resulted in severe economic hardships for the residents of the town of Charlestown by clouding the titles to much of the land in the town, including lands not involved in the lawsuits;

(c) the Congress shares with the State of Rhode Island and the parties to the lawsuits a desire to remove all clouds on titles resulting from such Indian land claims within the State of Rhode Island; and

(d) the parties to the lawsuits and others interested in the settlement of Indian land claims within the State of Rhode Island have executed a Settlement Agreement which requires implementing legislation by the Congress of the United States and the legislature of the State of Rhode Island.

DEFINITIONS

SEC. 3. For the purposes of this Act, the term—

(a) "Indian Corporation" means the Rhode Island nonbusiness corporation known as the "Narragansett Tribe of Indians";

(b) "land or natural resources" means any real property or natural resources, or any interest in or right involving any real property or natural resource, including but not limited to, minerals and mineral rights, timber and timber rights, water and water rights, and rights to hunt and fish;

(c) "lawsuits" means the action entitled "Narragansett Tribe of Indians v. Southern Rhode Island Land Development Co., et al., C.A. No. 75-0006 (D.R.I.)" and "Narragansett Tribe of Indians v. Rhode Island Director of Environmental Management, C.A. No. 75-0005 (D.R.I.)";

(d) "private settlement lands" means approximately nine hundred acres of privately held land outlined in red on the map marked "Exhibit A" attached to the Settlement Agreement that are to be acquired by the Secretary from certain private landowners pursuant to sections 5 and 6 of this Act;

(e) "public settlement lands" means the lands described in paragraph 2 of the Settlement Agreement that are to be conveyed by the State of Rhode Island to the State Corporation pursuant to legislation as described in section 7 of this Act;

(f) "settlement lands" means those lands defined in subsection (d) and (e) of this section;

(g) "Secretary" means the Secretary of the Interior;

(h) "settlement agreement" means the document entitled "Joint Memorandum of Understanding Concerning Settlement of the Rhode Island Indian Land Claims", executed as of February 28, 1978, by representatives of the State of Rhode Island, of the town of Charlestown, and of the parties to the law-

suits, as filed with the Secretary of the State of Rhode Island;

(i) "State Corporation" means the corporation created or to be created by legislation enacted by the State of Rhode Island as described in section 7 of this Act; and

(j) "transfer" includes but is not limited to any sale, grant, lease, allotment, partition, or conveyance, any transaction the purpose of which was to effect a sale, grant, lease, allotment, partition, or conveyance, or any event or events that resulted in a change of possession or control of land or natural resources.

RHODE ISLAND INDIAN CLAIMS SETTLEMENT FUND

SEC. 4. There is hereby established in the United States Treasury a fund to be known as the Rhode Island Indian Claims Settlement Fund into which $3,500,000 shall be deposited following the appropriation authorized by section 11 of this Act.

OPTION AGREEMENTS TO PURCHASE PRIVATE SETTLEMENT LANDS

SEC. 5. (a) The Secretary shall accept assignment of reasonable two-year option agreements negotiated by the Governor of the State of Rhode Island or his designee for the purchase of the private settlement lands: *Provided*, That the terms and conditions specified in such options are reasonable and that the total price for the acquisition of such lands, including reasonable costs of acquisition, will not exeed the amount specified in section 4. If the Secretary does not determine that any such option agreement is unreasonable within sixty days of its submission, the Secretary will be deemed to have accepted the assignment of the option.

(b) Payment for any option entered into pursuant to subsection (a) shall be in the amount of 5 per centum of the fair market value of the land or natural resources as of the date of the agreement and shall be paid from the fund established by section 4 of this Act.

(c) The total amount of the option fees paid pursuant to subsection (b) shall not exceed $175,000.

(d) The option fee for each option agreement shall be applied to the agreed purchase price in the agreement if the purchase of the defendant's land or natural resources is completed in accordance with the terms of the option agreement.

(e) The payment for each option may be retained by the party granting the option if the property transfer contemplated by the option agreement is not completed in accordance with the terms of the option agreement.

APPROVAL OF PRIOR TRANSFERS AND EXTINGUISHMENT OF CLAIMS AND ABORIGNAL TITLE INVOLVING THE NARRAGANSETT TRIBE AND THE TOWN OF CHARLESTOWN, RHODE ISLAND

SEC. 6. (a) If the Secretary finds that the State of Rhode Island has satisfied the conditions set forth in section 7 of this Act, he shall publish such findings in the Federal Register and upon such publication—

(1) any transfer of land or natural resources located anywhere within the United States from, by or on behalf of the Indian Corporation or any other entity presently or at any time in the past known as the Narragansett Tribe of Indians, or any predecessor or successor in interest, member or stockholder thereof, and any transfer of land or natural resources located anywhere within the town of Charlestown, Rhode Island, by, from, or on behalf of any Indian, Indian nation, or tribe of Indians, including but not limited to a transfer pursuant to any statute of any State, shall be deemed to have been made in accordance with the Constitution and all laws of the United States that are specifically applicable to transfers of land or natural resources from, by, or on behalf of any Indian, Indian nation or tribe of Indians (including but not limited to the Trade and Intercourse Act of 1790, Act of July 22, 1790, ch. 33, sec. 4, 1 Stat. 137, and all amendments thereto and all subsequent versions thereof), and Congress does hereby approve any such transfer effective as of the date of said transfer;

(2) to the extent that any transfer of land or natural resources described in subsection (a) may involve land or natural resources to which the Indian Corporation or any other entity presently or at any time in the past known as the Narragansett Tribe of Indians, or any predecessor or successor in interest, member or stockholder thereof, or any other Indian, Indian nation, or tribe of Indians, had aboriginal title, subsection (a) shall be regarded as an extinguishment of such aboriginal title as of the date of said transfer; and

(3) by virtue of the approval of a transfer of land or natural resources effected by this section, or an extinguishment of aboriginal title effected thereby, all claims against the United States, any State or subdivision thereof, or any other person or entity, by the Indian Corporation or any other entity presently or at any time in the past known as the Narragansett Tribe of Indians, or any predecessor or successor in interest, member or stockholder thereof, or any other Indian, Indian nation, or tribe of Indians, arising subsequent to the transfer and based upon any interest in or right involving such land or natural resources (including but not limited to claims for trespass damages or claims for use and occupancy) shall be regarded as extinguished as of the date of the transfer.

(b) Any Indian, Indian nation, or tribe of Indians (other than the Indian Corporation or any other entity presently or at any time in the past known as the Narragansett Tribe of Indians, or any predecessor or successor in interest, member or stockholder thereof) whose transfer of land or natural resources was approved or whose aboriginal title or claims were extinguished by subsection (a) of this section may, within a period of one hundred and eighty days after publication of the Secretary's findings pursuant to section 6, bring an action against the State Corporation in lieu of an action against any other person against whom a cause may have existed in the absence of this section. In any such action, the remedy shall be limited to a right of possession of the settlement lands.

FINDINGS BY THE SECRETARY

SEC. 7. Section 6 of this Act shall not take effect until the Secretary finds—

(a) that the State of Rhode Island has enacted legislation creating or authorizing the creation of a State chartered corporation satisfying the following criteria:

(1) the corporation shall be authorized to acquire, perpetually manage, and hold the settlement lands;

(2) the corporation shall be controlled by a board of directors, the majority of the members of which shall be selected by the Indian Corporation or its successor, and the remaining members of which shall be selected by the State of Rhode Island; and

(3) the corporation shall be authorized, after consultation wih appropriate State officials, to establish is own regulations concerning hunting and fishing on the settlement lands, which need not comply with regulations of the State of Rhode Island but which shall establish minimum standards for the safety of persons and protection of wildlife and fish stock; and

(b) that the State of Rhode Island has enacted legislation authorizing the conveyance to the State Corporation of land and natural resources that substantially conform to the public settlement lands as described in paragraph 2 of the Settlement Agreement.

PURCHASE AND TRANSFER OF PRIVATE SETTLEMENT LANDS

SEC. 8. (a) When the Secretary determines that the State Corporation described in section 7(a) has been created and will accept the settlement lands, the Secretary shall exercise within sixty days the options entered into pursuant to section 5 of this Act and assign the private settlement lands thereby purchased to the State Corporation.

(b) Any moneys remaining in the fund established by section 4 of this Act after the purchase described in subsection (a) shall be returned to the general Treasury of the United States.

(c) Upon the discharge of the Secretary's duties under sections 5, 6, 7, and 8 of this Act, the United States shall have no further duties or liabilities under the Act with respect to the Indian Corporation or its successor, the State Corporation, or the settlement lands; Provided, however, That if the Secretary subsequently acknowledges the existence of the Narragansett Tribe of Indians, then the settlement lands may not be sold, granted, or otherwise conveyed or leased to any one other than the Indian Corporation, and no such disposition of the settlement lands shall be of any validity in law or equity, unless the same is approved by the Secretary pursuant to regulations adopted by him for that purpose: Provided, however, That nothing in this Act shall affect or otherwise impair the ability of the State Corporation to grant or otherwise convey (including any involuntary conveyance by means of eminent domain or condemnation proceedings) any easement for public or private purposes pursuant to the laws of the State of Rhode Island.

APPLICABILITY OF STATE LAW

SEC. 9. Except as otherwise provided in this Act, the settlement lands shall be subject to the civil and criminal laws and jurisdiction of the State of Rhode Island.

FEDERAL BENEFITS PRESERVED

SEC. 10. Nothing contained in this Act or in any legislation enacted by the State of Rhode Island as described in section 7 of this Act shall affect or otherwise impair in any adverse manner any benefits received by the State of Rhode Island under the Federal Aid in Wildlife Restoration Act of September 2, 1937 (16 U.S.C. 669–669(i)), or the Federal Aid in Fish Restoration Act of August 9, 1950 (16 U.S.C. 777–777(k)).

AUTHORIZATION OF FUNDS

SEC. 11. There is hereby authorized to be appropriated $3,500,000 to carry out the purposes of this Act.

LIMITATION OF ACTIONS

SEC. 12. Notwithstanding any other provision of law, any action to contest the constitutionality of this Act shall be barred unless the complaint is filed within one hundred and eighty days of the date of enactment of this Act. Exclusive jurisdiction over any such action is hereby vested in the United States District Court for the District of Rhode Island.

APPROVAL OF PRIOR TRANSFERS AND EXTINGUISHMENT OF CLAIMS AND ABORIGINAL TITLE OUTSIDE THE TOWN OF CHARLESTOWN, RHODE ISLAND, AND INVOLVING OTHER INDIANS IN RHODE ISLAND

SEC. 13. (a) Except as provided in subsection (b)—

(1) any transfer of land or natural resources located anywhere within the State of Rhode Island outside the town of Charlestown from, by, or on behalf of any Indian, Indian nation, or tribe of Indians (other than transfers included in and approved by section 6 of this Act), including but not limited to a transfer pursuant to any statute of any State, shall be deemed to have been made in accordance with the Constitution and all laws of the United States that are specifically applicable to transfers of land or natural resources from, by, or on behalf of any Indian, Indian nation, or tribe of Indians (including but not limited to the Trade and Intercourse Act of 1970, Act of July 22, 1970 (ch. 33, 1 Stat. 137), and all amendments thereto and all subsequent versions thereof), and Congress does hereby approve any such transfer effective as of the date of said transfer;

(2) to the extent that any transfer of land or natural resources described in paragraph (1) may involve land or natural resources to which such Indian, Indian nation, or tribe of Indians had aboriginal title, paragraph (1) shall be regarded as an extinguishment of such aboriginal title as of the date of said transfer; and

(3) by virtue of the approval of such transfers of land or natural resources effected by this subsection or an extinguishment of aboriginal title effected thereby, all claims against the United States, any State or subdivision thereof, or any other person or entity, by any such Indian, Indian nation, or tribe of Indians, arising subsequent to the transfer and based upon any interest in or rights involving such land or natural resources (including out not limited to claims for trespass damages or claims for use and occupancy), shall be regarded as extinguished as of the date of the transfer.

(b) This section shall not apply to any claim, right, or title of any Indian, Indian nation, or tribe of Indians that is asserted in an action commenced in a court of competent jurisdiction within one hundred and eighty days of the date enactment of this Act: *Provided*, That the plaintiff in any such action shall cause notice of the action to be served upon the Secretary and the Governor of the State of Rhode Island.

The SPEAKER. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Wyoming (Mr. RONCALIO) and the gentleman from California (Mr. LAGOMARSINO) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, H.R. 12860 provides for the settlement of the Narragansett Indian claims to lands in the town of Charlestown, R.I. These claims are for possession of the lands and for monetary damages for trespass to such lands.

The claims are based upon alleged violation of the Indian Trade and Intercourse Act of 1790, as amended and supplemented, when the State of Rhode Island acquired these lands from the Indians in 1880. This act provides that any sale or conveyance of Indian-owned lands to any party other than the United States, without the consent of the United States, is null and void.

Before getting into details of the bill, let me make four points very clear.

One, this bill implements a settlement agreement involving the State of Rhode Island; the town of Charlestown; the individual non-Indian defendants; and the Indian tribe. As amended, the bill has the full support of the Rhode Island congressional delegation and the administration and the Senate has already passed a nearly identical bill.

Two, the administration has already determined that the legal claims of the tribe are credible and not at all frivolous.

Three, the State of Rhode Island is sharing in this settlement by contributing 900 acres of State-owned lands, which has been appraised at between $1,000,000 and $2,000,000.

Four, if this bill passes, it will cost the United States $3,500,000.

The bill provides for the creation of a State-chartered, Indian-controlled corporation to administer the land settlement. The State will transfer the 900 acres of State lands to this corporation.

The United States would appropriate $3,500,000 for the purpose of purchasing approximately 1,000 acres of private lands subject to the suit for transfer to the State corporation. The State corporation would administer the settlement lands primarily for conservation purposes.

In return for this settlement, the Narragansett Indian tribe would agree and the act provides that any and all claims they may have to lands or interests in lands in the town of Charlestown and in the rest of the State would be extinguished. In addition, the bill provides for the extinguishment of any claims any other Indian tribe or group may have to lands in the State of Rhode Island.

Mr. Speaker, I am pleased to bring this negotiated settlement to the House for legislative ratification and hope that it is a precursor of other settlements of like claims in other eastern States.

However, I would like to make this last general comment.

There has been a growing resentment and antagonism against the Indian tribes for asserting their claims to lands and other resources or rights. We have seen that resentment evident in the deliberations and debates in this House.

But these Indians are not asserting any rights or claims based upon their laws and in their courts. They are asserting claims and rights based upon the Constitution and laws of the United States in the courts of the United States. If we can act to deny them their right to pursue their claims under the laws of our Nation, and if we can close our courts to them, then it will not be long before our laws and our courts are set against any view which is unpopular in our eyes.

Mr. Speaker, the parties to this dispute have reached an amicable accord which requires legislative ratification by the Congress. This bill provides that ratification and I urge the passage of the bill.

Mr. Speaker, I assure my colleagues, including the gentleman from Washington, that this is not an Indian claim act or such. It is substantively a request for a congressional act putting a stamp of approval upon a negotiated settlement between three negotiating parties: First, the corporation or town of Charleston; second, the State of Rhode Island and its involvement; and third, the individual non-Indian defendants, and the Indians whose ancestors were in this group.

The lawsuit has been pursued since it was filed in May of 1963. As the litigation proceeded toward trial, negotiations began, and a settlement was arrived at then that could be speedily and amicably arranged. About 1,800 acres would be involved in the settlement of this claim.

First, the bill implements a settlement agreement involving these entities: the State of Rhode Island; the town of Charlestown; the individual non-Indian defendants; and the Indian tribe. As amended, the bill has the full support of the Rhode Island congressional delegation and the administration, and the Senate has already passed a nearly identical bill.

The administration has already determined that the legal claims of the tribe are credible and not at all frivolous.

The State of Rhode Island is sharing in this settlement by contributing 900 acres of land owned by the State of Rhode Island appraised at between $1 and $2 million in value.

If this bill passes, it will cost the United States $3.5 million.

The bill provides for the creation of a State-chartered, Indian-controlled corporation to administer this land settlement. The State will transfer the 900 acres of State lands to this corporation plus the 900 acres they would otherwise acquire.

This will cost the United States about $3,500,000. It will probably cost the United States of America that much anyway, either by judgment of a court of law or by this approval of the Congress.

In return for the settlement, the Narragansett Indian Tribe agrees to extinguish all claims on lands—and, Mr. Speaker, I must interrupt to say that I have not had a memory like this since World War II days. You know, I was an infantryman in World War II, and I began in North Africa. I can remember crawling around on my belly with my rifle, and once in a while I could catch a German helmet in my gunsight, running around from place to place and then it would duck and I would put my rifle down again, and I can recall those times in World War II as I see the gentleman from Washington (Mr. CUNNINGHAM), and the gentleman from Maine (Mr. COHEN), heads up, staring at me, I am reminded of my days in World War II.

But, Mr. Speaker, to get back, in return for this bill we have an amicable settlement of the claims. I believe I could not more strongly recommend the passage of the simple piece of legislation for the approval of this settlement as a most wise and appropriate act of this Congress.

It is inconceivable to me to find anybody who may object to this, the above named Members excepted.

Now I will yield to the two gentlemen.

Mr. COHEN. Mr. Speaker, if the gentleman will yield, I wonder if the gentleman would like to clarify his statement that he feels as if he were emerging from the trenches in World War II in looking at the gentleman from Maine, I was not sure exactly what the import of that statement was.

Mr. RONCALIO. The fact that I have had such great success in handling Indian legislation recently, and for Hawaiian natives just last week, I feel much like a soldier who has been fired at.

Mr. CUNNINGHAM. Mr. Speaker, if the gentleman will yield, and I appreciate the gentleman yielding, I would like to assure my colleague, the gentleman from Maine (Mr. COHEN), that I am sure the gentleman in the well in his

remarks meant that it was nice to see a friendly face.

So, if the gentleman will yield further for the purpose of a question, I understand from the report that the specifics of the claims have really not been adjudicated and no one has made a determination stating that there is a claim or not; is that correct?

Mr. RONCALIO. I do not believe it is correct. I believe the specifics of the claims have been negotiated and the claim has been found not to be frivolous.

Mr. CUNNINGHAM. Mr. Speaker, if the gentleman will yield still further.

Mr. RONCALIO. I yield further.

Mr. BEARD of Rhode Island. Mr. Speaker, will the gentleman yield?

Mr. CUNNINGHAM. The gentleman in the well has control of the time.

Mr. RONCALIO. I yield to the gentleman from Rhode Island.

Mr. BEARD of Rhode Island. Mr. Speaker, if the gentleman will yield to me so that I might answer the question directly, since I come from the State of Rhode Island, the Department of Interior has reviewed the entire claim, and they say it is correct and accurate.

Mr. CUNNINGHAM. If the gentleman in the well would yield still further, it is my understanding that this arises from the threat of a suit but that the suit has not been resolved, is that correct?

Mr. RONCALIO. It has been filed, there may be a threat of a judgment, but it has not proceeded to judgment, a final appealable order.

Mr. CUNNINGHAM. If the gentleman will yield further, it is my understanding that this bill originally said, as proposed by the administration, when advised about this compromise worked out by the State of Maine, that the Secretary would not pay this until he had made a determination. My understanding is that section has been deleted, is that correct?

Mr. RONCALIO. That is correct.

Mr. CUNNINGHAM. So what I am really saying, if the gentleman would yield further, is that the State of Maine, in recognizing that there is——

Mr. RONCALIO. The State of Rhode Island, not the State of Maine.

Mr. CUNNINGHAM. I stand corrected, these are concerns of the State of Rhode Island.

Mr. RONCALIO. The gentleman has to go south a little bit in New England.

Mr. CUNNINGHAM. The State of Rhode Island, in trying to respond to a suit that was filed, but not yet adjudicated in this case, has proposed that the State of Rhode Island resolve the suit through settlement in which the State is giving approximately $2½ million worth of land, 1,000 acres, is that correct?

Mr. RONCALIO. Plus 900 acres.

Mr. CUNNINGHAM. And they have volunteered the Federal Government to cough up $3½ million and therefore the suit can be settled out of court, is that correct?

Mr. RONCALIO. That is a pretty rough, roughly, roughly. The $3½ million goes towards purchasing additional land, you have about a 1,800 acre tract which will be acceptable by the parties involved in lieu of the 3,200 acres that they asked for originally.

Mr. CUNNINGHAM. Mr. Speaker, if the gentleman will yield further, by concern is whether we are volunteering to get involved before we have been properly and legally mandated to be involved, and we have other similar claims in other States, such as Massachusetts and Maine, to be specific, on virtually the same issue.

I wonder whether the gentleman would care to comment as to whether he feels that we are setting a precedent.

Mr. RONCALIO. Precedential legislation? I do not think we are setting a precedent as such. But the Congress has put its stamp of approval upon settlements of complaints in virtually every year of its 200-year existence, so to the extent that we are being used as a final arbiter between citizens, the answer is not, it is not precedential.

I hope that it is precedential, if it will lead toward amicable settlements of disputes and put them to rest. I would assume that the gentleman from Washington (Mr. CUNNINGHAM) would join me in that hope.

Mr. CUNNINGHAM. I agree with the gentleman in the well that settlements are always advantageous, but I would hope, from the point of legislative intent and for legislative history, that we are not suggesting the U.S. Congress is going to take taxpayers' dollars and get involved in settlements that have yet to go the full legal course, as part of our Constitution says they will do.

Mr. RONCALIO. Let me answer that twofold.

I practiced law for much of my adult life. If I can make a fair albiet poor settlement, I would rather do it any day for my client than to win a good case in court. My client would be better off money-wise, and in spirit with that kind of disposition of his case. That has been proven; it is irrefutable.

If we are going to settle this claim by acquiring 900 acres of land today for $3.5 million, I believe history will show that we are much wiser than to wait until a judgment issues and then we try to buy the land for that $3.5 million.

I have just been through 10 years of watching land acquisitions for national parks; and every time we wait a few years, we pay that much more. It is tremendous in its exponential growth of costs of land.

The town of Charlestown, R.I., has an interest in these lands; and if the Indians involved have come to a negotiated settlement, and if the court feels that that terminates the litigation, I do not think it would be in order for any of us to vote against this type of settlement. The stamp of approval of Congress is necessary.

Mr. CUNNINGHAM. If the gentleman will yield further, one of the things which concerns me is that I understand that some of the litigants we have today are third-and fourth-generation persons. In the future they could question the legal authority of their ancestors to enter into these claim settlements, and I certainly wonder whether in this case, without going the full legal course, we are leaving that possible door ajar again.

With that, Mr. Speaker, I thank the gentleman for yielding very much.

Mr. MARLENEE. Mr. Speaker, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from Montana.

Mr. MARLENEE. Mr. Speaker, I certainly compliment the gentleman from Wyoming (Mr. RONCALIO) on the amount of work that has been gotten out of that subcommittee this year.

In the gentleman's opening statement he said that this was merely a stamp of approval on a negotiated settlement. Is it the gentleman's opinion that this will not set a precedent and not be used as a case history in settling other land or territorial claims by these Indians?

Mr. RONCALIO. I would be happy to respond. Insofar as the use of an act of Congress as a means of stamp of approval of pending negotiated settlements is concerned, it is not a precedent; in the fact that it is used now on a particular Indian claim, that may be a precedent. I hope it will be a precedent if it means that a good settlement of a claim will resolve these disputes once and forever, rather than dragging claims out interminably in courts of law, and rather than seeing them almost paralyze the cities of an area by clouding land titles, and rather than seeing title company people put out of business. I would much rather see a good precedent set. That is my answer.

Mr. MARLENEE. However, each case would be studied on its own merits; is that correct?

Mr. RONCALIO. Of course, just as any other case is considered on a new set of facts.

Mr. MARLENEE. Mr. Speaker, I thank the gentleman.

Mr. RONCALIO. Mr. Speaker, I yield such time as he may consume to the gentleman from Rhode Island (Mr. BEARD).

Mr. BEARD of Rhode Island. Mr. Speaker, it has been mentioned today that there are approximately 100 Members of the House missing because of the various elections across the Nation. I also have a primary in Rhode Island, but I consider this to be extremely important—extremely important legislation for the State of Rhode Island. First of all, we are the smallest State in the union. We are approximately 50 miles in length and about 30 miles in width. It is a very small State. This legislation affects a good portion of the southern part of the State of Rhode Island. We are not trying to set a precedent for other States. What we are trying to do is unscramble problems since 1790 in the State of Rhode Island.

We have a bipartisan agreement on this. Senator CHAFEE, a Republican Senator from Rhode Island, supported it in the U.S. Senate. Senator CLAIBORNE PELL has supported it. The gentleman from Rhode Island of this Chamber, Mr. ST GERMAIN, has supported this legislation. We have support from the Narragansett Indians. We have support from the residents who cannot sell their land or buy land in such a dilemma in the Charlestown area. We have support of the Governor of the State of Rhode Island in this. We have support of the Republican and Democrat members of the General Assembly in Rhode Island. We have support of the administration. I know very few people who openly really oppose this particular bill. It is important. It is 1800 acres.

We are asking the Federal Government to put the stamp of approval on what has already been approved out of court. The parties have agreed in Rhode Island. They have agreed that this is right. If I have ever been bugged in the 4 years that I have been in Congress with telephone calls, it has been on this legislation. I can report to the Members that we have a tremendous amount of cooperation from every segment of Rhode Island in support of this legislation.

They are waiting to hear from me when this vote takes place because of its importance to the State of Rhode Island.

It has not been too often in the 4 years that I have taken the floor, and I have never had too many opportunities, to really speak on one piece of legislation for the smallest State of the Union. But today I am here fighting for an awful lot of people back home who need the Members' cooperation and their support.

As I said in the beginning, we are not setting a precedent. Every State, every situation is different, but please remember our dilemma. Please remember the size of our State, and please remember that all parties have agreed.

Mr. Speaker, I yield back the remainder of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in the absence of the gentleman from Colorado (Mr. JOHNSON) who is the ranking member of the Subcommittee on Indian Affairs and Public Lands, who is in strong support of this legislation, I rise in support of H.R. 12860 which provides for settlement of the claims of the Narragansett Indian Tribe against the State of Rhode Island and other parties. The claims of the tribe arise from alleged violations of the Trade and Intercourse Act of 1790 occurring in 1880 when the State of Rhode Island allowed illegal transfer of tribal lands. This bill provides the mechanism whereby those claims will be extinguished, thereby relieving the cloud which hangs over the titles to the acreage involved. The lawsuits which claim some 3,200 acres of land as being in violation and, therefore, subject to the rights of the Indians were consolidated into a single action. And I think this is a very important point. The tribe won a favorable ruling on a preliminary motion to strike certain defenses raised by the State. To paraphrase, perhaps, what my colleague, the gentleman from Wyoming (Mr. RONCALIO) has pointed out, in the practice of law it is often said—and this was one of the first things I was told when I started practicing law; I did not necessarily always follow it, sometimes to my regret—that a poor settlement is better than a good lawsuit for both sides. I think that this bill, which as has already been pointed out, provides for a total transfer of 1,800 acres to the Narragansett Tribe, 900 owned by the State and 900 by private owners is a good one. The Federal Government, in the interest of promoting an equitable settlement of Indian claims, and to assist in the restoration of economic vitality to the local community—which I understand is in dire straits as a result of this claim—will contribute $3.5 million for the purchase of private lands, and the State will contribute the 900 acres that it owns free across-the-board with no claim or no compensation at all.

All claims of the Narragansett Tribe will be extinguished. As has already been pointed out by the gentleman from Rhode Island, the agreement has the support of all interested parties, including the Federal Government, the State, the tribe, and private parties.

The Rhode Island delegation supports the bill and I believe it will provide an excellent model, if not a precedent, for future and fair settlement of claims under the Trade and Intercourse Act. I think the Federal Government does have a moral, if not a legal obligation here, because the Federal Government was involved, as I understand, in the ratification of the land transfers that gave rise to this claim that is now before us.

Mr. Speaker, I urge my colleagues to vote for the bill, H.R. 12860.

Mr. RONCALIO. Mr. Speaker, I yield 2 minutes to my friend, the gentleman from Washington (Mr. MEEDS), who will be taking leave of these Chambers in a few months.

Mr. MEEDS. Mr. Speaker, I thank the gentleman from Wyoming for yielding this time.

Mr. Speaker, I am not as familiar with the Narragansett claim as I would like to be. I do not know all the facts of this aboriginal claim, but I do know some things.

First of all, I know that I might not even agree with the original claim. I have some substantial disagreement with a lot of the claims that have been made in the Northeast under the Nonintercourse Act. I will not go into the details of that disagreement, but I do want the House to know in the final aspect I might not even agree with the Narragansett claim. But I do know the Narragansett claim has clouded title on substantial acres of Rhode Island land and townships, particularly in one town which has been under clouded title for some time. They have been unable to convey their land and it has caused a very substantial problem.

I know, second, that the Narragansetts have won a very important preliminary legal skirmish, when they won some very crucial motions on this; so at this time, as a lawyer, I would have to say they have the better side of this lawsuit, at least at this time.

I know, third, that this settlement before us will be shared equally by the Federal Government, which is putting up money to secure 900 acres and the State of Rhode Island is going to provide 900 acres. It is an equally shared settlement, and if there was fault under the Nonintercourse Act, it should be borne equally by the State and by the Federal Government.

The SPEAKER. The time of the gentleman from Washington has expired.

Mr. RONCALIO. Mr. Speaker, I yield 1 additional minute to the gentleman from Washington (Mr. MEEDS).

Mr. MEEDS. Mr. Speaker, I know, fourth, and most importantly, that this agreement has been agreed upon by everyone in a position of authority in the State of Rhode Island, by everyone in a position of authority representing the State of Rhode Island in the Congress, by the administration, by this subcommittee and, indeed, everyone who has dealt with this in any substantial regard has agreed to this settlement.

Now, while I do not know all about the claim, I know that if that set of facts were presented to me as a Member, knowing a lot about some claims in the State of Washington, and if there were a settlement that was agreed upon by all the parties, as this has been agreed upon, I would think it would be a good resolution of the problem. I hope this bill passes.

Mr. LAGOMARSINO. Mr. Speaker, I yield 5 minutes to the gentleman from Maine (Mr. COHEN).

Mr. COHEN. Mr. Speaker, first, I would like to indicate to the chairman of the subcommittee of the Committee on the Interior and Insular Affairs that I would hope that while over the years we have served in Congress together, while we may not always have been on the same side, we have been adversaries on an intellectual basis only and certainly I took the gentleman's comments in jest when the gentleman suggested that the gentleman felt that he was popping his head out of a trench in World War II looking at an enemy across the line.

The gentleman and I have had many occasions to engage in debate, and we have always done so in a very positive and constructive spirit.

So by taking this position today, I hope I can convey the sincerity with which I am going to reluctantly oppose this particular measure. I do so on two counts.

First, as has been pointed out, there are over 100 Members missing from this body today. I do so on the basis that we are bringing up a matter of this magnitude under suspension, which normally is reserved for noncontroversial matters.

I also point out to my good friend, the gentleman from Rhode Island (Mr. BEARD), that he said we are trying to unravel the problems going all the way back to 1790, and here we are trying to resolve an issue that has been with us since 1790 on a primary day, under suspension, with approximately 100 Members missing. We are doing this under a procedure which is normally reserved for noncontroversial matters.

Mr. BEARD of Rhode Island. Mr. Speaker, will the gentleman yield?

Mr. COHEN. I will yield to the gentleman when I finish.

Mr. Speaker, the second point on which I object is the basis on which we ought to be considering these claims under the Nonintercourse Act. They should be considered on a comprehensive rather than

a piecemeal basis. As pointed out when the question was asked by the gentleman from Washington (Mr. CUNNINGHAM), the question is whether or not this is going to set a precedent.

I would note that the committee report points out this bill is the first legislation submitted in Congress to resolve Indian land claims under the 1790 Nonintercourse Act, and it will serve as a landmark for the resolution of other land claims by the Eastern tribes under the 1790 act.

It has been pointed out previously that these are a number of cases pending. It is my understanding, as a matter of fact, that there are at least 10 States that now have similar claims pending. Rhode Island is one. Other States are Florida, Louisiana, my own State of Maine, Massachusetts, Nevada, New York, Oklahoma, and South Carolina, as well as Rhode Island. They all have similar claims or at least they have an issue involving a similar statute as the Nonintercourse Act of 1790.

I would also question the statement that it is always better to settle out of court under any circumstances rather than going through to full litigation in a matter of this magnitude. I would point out, for example, that that certainly did not apply to the State of Massachusetts, which has endured a similar type of difficulty over the past year or so. The matter to which I refer has gone to suit, and serious financial harm has been caused to the town of Mashpee. Yet they went to court and were successful in court.

Under this particular settlement arrangement, if it is going to serve as a landmark. I would like to call the attention of my colleagues to exactly what is involved here, because this is the way it works out: Perhaps my mathematics is wrong, but it works out to a payment of about $4,000 an acre for the purchase of that land.

In the State of Maine we have an issue that will be coming up, if not in this session, surely in the next session, that encompasses two-thirds of the land area in the State of Maine, some 12 million acres of land. Certainly if we apply the figure of $4,000 an acre, we can see how much would be involved for the Federal Treasury if we would settle on a similar basis even assuming the claims were confined to 500,000 acres of land.

That brings me to the point about this being a model for other States to follow. Here we have a 50–50 settlement basis, one-half by the State and one-half by the Federal Government. Let me tell the Members what has happened as far as settlement goes in the State of Maine.

The White House Task Force has recommended a settlement to resolve the issue currently before the State of Maine by extinguishing the claim of two tribes to all privately owned land in exchange for a payment of $25 million by the Federal Government. This would result in extinguishing claims to the people who own land under 50,000 acres. For all those who own over 50,000 acres, they would have the following voluntary option:

They would have the option of selling to the Federal Government 300,000 acres of their land, not at $4,000 an acre but at $5 an acre. That is the White House proposal to the State of Maine, to take the large landowners of the State of Maine and give them an option of divesting themselves of 300,000 acres at $5 an acre.

The SPEAKER pro tempore (Mr. SISK). The time of the gentleman from Maine (Mr. COHEN) has expired.

Mr. LAGOMARSINO. Mr. Speaker, I yield 4 additional minutes to the gentleman from Maine (Mr. COHEN).

Mr. COHEN. Mr. Speaker, those landowners, of course, would have an option of giving up another 200,000 acres at the fair market value. The State of Maine would either have to contribute $25.5 million over a 15-year period or be sued for all its holdings, and the private landowners who refused to settle under the White House's proposed plan would then be subject to suit for all 3 million acres of their holdings.

So we can seen that it is not always the most desirable thing to settle under any circumstances in order to avoid litigation.

The basic point I would make here is that I understand the issue and I am totally sensitive to what Rhode Island has been enduring, because indeed the one factor that is involved is that it does place a cloud on the title of real estate. It prohibits the purchase of homes and the sale of homes, and it has an effect upon the bond markets of local and State governments. I am certainly sensitive to that issue as far as Rhode Island is concerned.

The course on which we are embarking today is going to set a precedent which I believe we will come to regret. I would only hope that we would reject setting that precedent under a procedure which is ordinarily classified as noncontroversial. We would in fact be setting a landmark or a precedent for the other 10 States involved to follow and which I think will prove to be quite costly.

Mr. BEARD of Rhode Island. Mr. Speaker, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Rhode Island.

Mr. BEARD of Rhode Island. I thank the gentleman for yielding.

When I first arrived in Congress I was embarrassed to find out that when I looked at the weather map that they did not even have Rhode Island on the weather map. I had to call the Weather Bureau. In speaking for all of us in the State, all we are saying to the strangers, all of you on the outside of the State of Rhode Island, is that you give us an equitable decision for Rhode Island, for all of the parties. We are just asking to resolve this thing on a proper basis or we are in serious trouble.

Mr. COHEN. Let me just respond to my colleague, the gentleman from Rhode Island, that, as I indicated, I am truly sensitive to the economic pressure under which the State of Rhode Island has been operating. I see my colleague from Massachusetts, who has been laboring under a similar problem in his State. What I am suggesting today is that there are a number of other States who are going to be under similar threats of lawsuits or the actual filing of lawsuits, which will cause havoc with their economic climate, much as has occurred in the gentleman's own State. What I am suggesting is that, rather than handling these particular claims on a piecemeal basis, the Congress does have the responsibility of resolving the disputes surrounding the applicability of the 1790 Nonintercourse Act. It is my belief, based on extensive research, that this act was never designed to apply to eastern States. I have suggested one way, perhaps, of resolving all of these claims, and that would be to allow a direct suit to the Supreme Court, and if we had a ruling by the Court perhaps these matters could be settled on a compromise or a settlement basis. But to take these cases one by one and say that these should be settled out of court or to say that this is a landmark settled on a 50–50 basis, we are committing ourselves to a course that in the years ahead we will regret.

For these reasons, I would urge the Members to reject this measure.

Mr. RONCALIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to use the remainder of my time to make a few statements in rebuttal to the statements made by my dear friend and colleague, the gentleman from Maine.

First of all, it is a noncontroversial matter, compared to the many things that we labor with here week after week in the House of Representatives. If we allow 20 minutes of debate on each side in a matter involving 9 million acres and millions of dollars, then we ought to be spending 6 months on legislation such as the appropriations bill passed last week. We vote to spend trillions of dollars in this body, and I believe it is not inappropriate that we spend only a few minutes on this matter. In my opinion, it is fair to make the observation that if the other 10 claims similarly passed can be settled as readily, and as easily, and as amicably to the local economy and to the well-being of all the people, as this matter is being asked to be settled, then we are indeed a fortunate nation to be able to so resolve our Indian disputes.

There may be a precedent value in it, but it is not on all fours with every other similar dispute. Obviously, a State as small as Rhode Island is unique, as compared to a large State like Wyoming or like a State such as Alaska. I think each case has to be settled on its own merits, but I think in order to have balance you have to have something that is just and equitable.

I think this is a good case which can be solved with a comparable contribution from the State and the Federal Government, and that seems to be the best way to do it.

Mr. COHEN. Mr. Speaker, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from Maine.

Mr. COHEN. Mr. Speaker, once again the gentleman has slipped into the use of wartime jargon. I submit, by referring to the troops over here on this side. I would have the gentleman take note that I have indeed supported a number of

claims during the past few years, and have not rejected each and every one out of any sense of arbitrariness or lack of understanding of the issues.

But, I would ask the gentleman from Wyoming as to whether or not, if we should settle these other cases, if we could do so on the same or comparable basis, would he support the allocation of $4,000 per acre on the settlement of the Maine case?

Mr. RONCALIO. No, I do not know enough about the relative values of land, in the two States and I do not know enough about the relative merits in each case.

Mr. LAGOMARSINO. Mr. Speaker, I yield 5 minutes to the gentleman from Washington (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, I thank the gentleman for yielding. I sympathize with my colleague from Rhode Island and know of his desire to try to resolve this particular problem. I appreciate the position of the gentleman from Wyoming, but I must agree with my colleague from Maine that we should recognize that we have this specific problem in 10 other States, and we are wrong to go about it in a piecemeal fashion.

In the State of Washington we have many problems, as the Members have heard before, arising from judicial interpretations, but at least we have gone to the courts. I would strongly suggest that this should go to the courts, and we should not preempt the judicial solution that is a constitutional guarantee to all of us. Admittedly, Rhode Island has gone ahead and has made a settlement. Fine. Let them settle it. They can settle this whole thing without involving us one iota.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman with Wyoming.

Mr. RONCALIO. That is precisely the point. If the courts could settle it without congressional approval, it would be done. But Congress—the United States—is the guardian of the Indians, and they are our wards. There is no way to settle without the approval of the U.S. Congress. That is why we are here, so the argument of the gentleman falls.

Mr. CUNNINGHAM. Would the gentleman respond to this question: Is it our stamp of approval or our 3.5 million taxpayer dollars that they really need?

Mr. RONCALIO. I think they need the approval of the Congress to the specifics of their settlement.

Mr. CUNNINGHAM. Then why was this bill not brought up so that we could strike the appropriation, so that it could be amended and delete the $3.5 million?

Mr. RONCALIO. We did request a rule. We cannot do everything perfectly in this committee; you know that. We are like the gentleman on his side; we do the best we can.

Mr. CUNNINGHAM. I agree with the gentleman that we do not do everything perfectly, but at the same time my colleague should understand that using these dollars, if the solution in Maine is arrived at in similar fashion, the taxpayers of the United States—using these figures on the 50–50 participation—stand to have a liability of $25 billion.

Mr. BEARD of Rhode Island. Mr. Speaker, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Rhode Island.

Mr. BEARD of Rhode Island. Mr. Speaker, would it not be a lot better, what we are trying to do here is, we are trying to spend some money, some Federal dollars to help a State on something that we have all agreed on. There are a lot of arguments every week here. For instance, when we talk about foreign aid to foreign countries. We are talking about a very small State, an individual situation, and I do not think it is too much to ask because it is something the Federal Government missed the boat on many, many years ago. That is why we are in this dilemma today.

Mr. CUNNINGHAM. I appreciate the gentleman's comments and charges, but frankly, coming from the State of Washington, I would rather work with my colleagues and others who have similar problems to reach a universal and fair solution rather than this piecemeal approach.

Mr. RONCALIO. I would wish the gentleman well and hope that he could achieve a universal and correct solution for all Indian claims, but that is almost an impossibility.

For half a moment, let me correct the gentleman's main analogy. Maine would not come down to $25 billion in cost. This administration offered $25 million (not billion), and the Indians were willing to accept that for the Federal portion of the Maine dispute, but the negotiations were derailed. That is a vast difference. I do not think we can take the gentleman's argument and measure with that yardstick the other 10 cases. Each case must be reviewed on its own unique merits and differing facts.

Mr. CUNNINGHAM. I appreciate the gentleman's viewpoint, but just mathematically, price times acreage times 50 percent does come out to that figure.

Mr. LAGOMARSINO. Mr. Speaker, I yield 1 minute to the chairman of the committee, the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, H.R. 12860 is a legislative ratification of a negotiated settlement of the land claims of the Narragansett Tribe of Indians against the State of Rhode Island and several private landholders in the town of Charleston, R.I.

As many of the Members know, there are several of these kinds of land claims by Indian tribes along the eastern seaboard. These claims relate to the transfer of tribal lands to various eastern States under conditions alleged to be in violation of the Indian Trade and Intercourse Act of 1790. This act and its later versions prohibit such conveyances without the consent of the United States. Where transfers of lands have been made by Indian tribes to States or other parties without the consent of the United States, the conveyances are null and void and the underlying title of the Indians is unaffected.

The various claims which have been filed by Indian tribes seek possession of the lands and damages for past trespasses to the land.

Mr. Speaker, it is difficult to assess the validity of these claims. Ultimately, that is a matter for the courts. We do know that, in some of the cases including the Narragansett claim, the administration has determined the claims to be legally credible.

We also know that, while these claims may be ancient and the existing land titles of longstanding duration, the Indians have a clear legal right to pursue their claims under our laws and in our courts.

Finally, we know that because of alleged violation of a Federal law by the States in the early 19th century, the land titles, the economy, and the society in the communities subject to these claims have been severely disrupted and isolated cases of extreme hardship have resulted.

It is clear that the United States has no legal liability to the States or the non-Indian defendants because of these claims. However, since the United States did not act to prevent the alleged illegal transfers or to ratify the transfers contemporaneous with the conveyances, some moral responsibility attaches to the United States to prevent undue hardship.

In addition, if these land titles are ever to be fully clear, Congress, under the law, must act.

It is with this background that we bring this legislation to the House for approval. The parties have negotiated a settlement, with each one giving up a part of its claims or defense as a contribution to the settlement.

The State is contributing 900 acres of State lands.

The private parties have agreed to sell some of their lands to the Indians by way of compromise.

The tribe has agreed to drop its suit and have its title extinguished in return for the settlement lands which will be administered by them primarily for conservation purposes.

The contribution of the United States, which is supported by all the parties and by the administration, is the amount of $3,500,000 to be used to purchase the private held lands for the benefit of the Indian party.

Mr. Speaker, I urge the Members to vote for passage of this bill.

Mr. LAGOMARSINO. Mr. Speaker, I would like to add a few more words in closing.

I think it would be very nice too if we could have a comprehensive settlement of all Indian claims, but I do not think that is a very practical thing to aspire to at this time. Look how long it has taken us to get to the base of a settlement of a relatively simple claim like this where all parties agree. But how much longer will it take when the properties are different and the claims are different and the interests of the people involved are different? It seems to me in this case, where

the administration recognizes that the Indians do have a credible claim and the court has recognized that by its ruling on the motion that was made, and where all the parties as in this case can agree, it behooves the Federal Government to go along and assist in settling this matter.

If we drag it out I think the Federal Government is going to be not only responsible for a lot of economic chaos in Rhode Island but also we may be ultimately responsible for a lot more money that might be required to settle this.

Mr. COHEN. Mr. Speaker, if the gentleman will yield, I would like to point out that in some of the other cases the land is different and the facts are different and the claims are different and therefore this has no precedential value, in the gentleman's opinion, does it?

Mr. LAGOMARSINO. I think where all parties agree and the Federal Government agrees there is a valid claim and where perhaps the courts have made an initial determination, that is a pretty good pattern to follow. I agree it is not a precedent for all.

Mr. COHEN. But the fact that there is an initial court ruling that indicates the claim is not frivolous does not mean that it is a valid claim. What it means is there is a justiciable issue. but it does not mean they have a valid claim, which may be one reason why we might want to refer there matters to the Court of Claims for a judicial review of the merits and therefore perhaps an award of monetary value for the claims may be made eventually.

● Mr. ST GERMAIN. Mr. Speaker, I rise in support of this legislation, which I have cosponsored. It is intended to settle once and for all the claims of aboriginal title being asserted by the Narragansett Indians to lands in the town of Charles Town on the grounds that past transfers of those lands were made in violation of the Nonintercourse Act.

The bill is drawn against the background of an agreement reached by the State of Rhode Island, the southern Rhode Island Land Development Co. and the Narragansett Indians at the culmination of a 3-year dispute. Under this agreement the State of Rhode Island must contribute approximately 900 acres of land to a State-chartered corporation to be established to hold the land in trust. In addition, the agreement calls for the acquisition of an additional 900 acres of land from private owners who are willing to sell their lands at the fair market value.

The funding for this additional 900 acres is to be provided by the Federal Treasury. The bill before us today performs this function. It authorizes the payment of $3.5 million to the State chartered corporation for the purpose of purchasing property from private landowners who are willing to sell their lands. If enacted, this legislation would effectively implement the settlement reached by all parties involved.

Mr. Speaker, I have mentioned that this legislation is intended to aid in resolving a dispute which is 3 years old. Throughout these 3 years this dispute has brought economic hardship not only to those parties directly involved, but to all of the citizens of the town. It has created a cloud on the validity of the real property titles of those directly involved, resulting in their inability to sell, mortgage, or develop their lands. Likewise, due to the fear that subsequent claims on the other land in Charles Town might be asserted by the Narragansett tribe, citizens who are not directly involved in the present dispute find that the titles to their lands are also clouded. The result has been economic stagnation for the entire town. This unfortunate situation will continue for some time unless this legislation is enacted.

The bill was drafted with the help of the White House, the Interior Department, and the appropriate committee counsels in both the House and Senate. It will eliminate the uncertainty which now exists for the defendents in the litigation and the private landowners in the town of Charles Town. Because all parties are currently in agreement as to the resolution of this problem, I believe that this bill is a matter of some urgency and must be passed without delay. Therefore, I hope that my colleagues here in the House will look favorably upon this measure and vote for its passage.●

The SPEAKER pro tempore (Mr. SISK). The question is on the motion offered by the gentleman from Wyoming (Mr. RONCALIO) that the House suspend the rules and pass the bill, H.R. 12860, as amended.

The question was taken.

Mr. EMERY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

PORTS AND WATERWAYS SAFETY AMENDMENTS

Mr. BIAGGI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13311) to amend the Ports and Waterways Safety Act of 1972, and for other purposes, as amended.

The Clerk read as follows:

H.R. 13311

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Port Safety and Tank Vessel Safety Act of 1978".

SEC. 2. PORTS AND WATERWAYS SAFETY AND PROTECTION OF THE MARINE ENVIRONMENT

The Ports and Waterways Safety Act of 1972 (Public Law 92-340, 86 Stat. 424) is amended to read as follows:

"SECTION 1. STATEMENT OF POLICY.

"The Congress finds and declares—

"(a) that navigation and vessel safety and protection of the marine environment are matters of major national importance;

"(b) that increased vessel traffic in the Nation's ports and waterways creates substantial hazard to life, property, and the marine environment;

"(c) that increased supervision of vessel and port operations is necessary in order to—

"(1) reduce the possibility of vessel or cargo loss, or damage to life, property, or the marine environment;

"(2) prevent damage to structures in, on, or immediately adjacent to the navigable waters of the United States or the resources within such waters;

"(3) insure that vessels operating in the navigable waters of the United States shall comply with all applicable standards and requirements for vessel construction, equipment, manning, and operational procedures; and

"(4) insure that the handling of dangerous articles and substances on structures in, on, or immediately adjacent to the navigable waters of the United States is conducted in accordance with established standards and requirements; and

"(d) that advance planning is critical in determining proper and adequate protective measures for the Nation's ports and waterways and the marine environment, with continuing consultation with other Federal agencies, State representatives, affected users, and the general public, in the development and implementation of such measures.

"SEC. 2. VESSEL OPERATING REQUIREMENTS.

"(a) IN GENERAL.—Subject to the requirements of section 3, the Secretary of the department in which the Coast Guard is operating (hereinafter referred to as "Secretary") may—

"(1) in any port or place under the jurisdiction of the United States, in the navigable waters of the United States, or in any area covered by an international agreement negotiated pursuant to section 9, establish, operate, and maintain vessel traffic services, consisting of measures for controlling or supervising vessel traffic or for protecting navigation and the marine environment and can include, but need not be limited to one or more of the following: reporting and operating requirements, surveillance and communications systems, routing systems, and fairways;

"(2) require vessels which operate in an area of a vessel traffic service to utilize or comply with that service;

"(3) require vessels to install and use specified navigation equipment, communications equipment, electronic relative motion analyzer equipment, or any electronic or other device necessary to comply with a vessel traffic service: *Provided*, That the Secretary shall not require fishing vessels under 300 gross tons or recreational vessels 65 feet or less to possess or use the equipment or devices required by this subsection solely under the authority of this Act;

"(4) control vessel traffic in areas subject to the jurisdiction of the United States which the Secretary determines to be especially hazardous, or under conditions of reduced visibility, adverse weather, vessel congestion, or other hazardous circumstances by—

"(A) specifying times of entry, movement, or departure;

"(B) establishing vessel traffic routing schemes;

"(C) establishing vessel size, speed, draft limitations and vessel operating conditions; and

"(D) restricting operation, in any hazardous area or under hazardous conditions, to vessels which have particular operating characteristics or capabilities which he considers necessary for safe operation under the circumstances; and

"(5) require the receipt of prearrival messages from any vessel, destined for a port or place subject to the jurisdiction of the United States, in sufficient time to permit advance vessel traffic planning prior to port entry, which shall include any information which is not already a matter of record and which the Secretary determines necessary for the control of the vessel and the safety of the port and the environment.

"(b) SPECIAL POWERS.—The Secretary may order any vessel, in a port or place subject to the jurisdiction of the United States or in the navigable waters of the United States, to operate or anchor in a manner he directs if—

"(1) he has reasonable cause to believe such vessel does not comply with any regulation issued under this Act or any other applicable law or treaty;

"(2) he determines that such vessel does not satisfy the conditions for port entry set forth in section 7; or

"(3) by reason of weather, visibility, sea conditions, port congestion, other hazardous circumstances, or the condition of such vessel, he is satisfied that such directive is justified in the interest of safety.

"(c) PORT ACCESS ROUTES.—

"(1) In order to provide safe access routes for the movement of vessel traffic proceeding to or from ports or places subject to the jurisdiction of the United States, and subject to the requirements of paragraph (3) hereof, the Secretary shall designate necessary fairways and traffic separation schemes for vessels operating in the territorial sea of the United States and in high seas approaches, outside the territorial sea, to such ports or places. Such a designation shall recognize, within the designated area, the paramount right of navigation over all other uses.

"(2) No designation may be made by the Secretary pursuant to this subsection, if such a designation, as implemented, would deprive any person of the effective exercise of a right granted by a lease or permit executed or issued under other applicable provisions of law: *Provided*, That such right has become vested prior to the time of publication of the notice required by clause (A) of paragraph (3) hereof: *Provided further*, That the determination as to whether the designation would so deprive any such person shall be made by the Secretary, after consultation with the responsible official under whose authority the lease was executed or the permit issued.

"(3) Prior to making a designation pursuant to paragraph (1) hereof, and in accordance with the requirements of section 3, the Secretary shall—

"(A) within six months after date of enactment of this Act (and may, from time to time thereafter), undertake a study of the potential traffic density and the need for safe access routes for vessels in any area for which fairways or traffic separation schemes are proposed or which may otherwise be considered and shall publish notice of such undertaking in the Federal Register;

"(B) in consultation with the Secretary of State, the Secretary of the Interior, the Secretary of Commerce, the Secretary of the Army, and the Governors of affected States, as their responsibilities may require, take into account all other uses of the area under consideration (including, as appropriate, the exploration for, or exploitation of, oil, gas, or other mineral resources, the construction or operation of deepwater ports or other structures on or above the seabed or subsoil of the submerged lands or the Outer Continental Shelf of the United States, the establishment or operation of marine or estuarine sanctuaries, and activities involving recreational or commercial fishing); and

"(C) to the extent practicable, reconcile the need for safe access routes with the needs of all other reasonable uses of the area involved.

"(4) In carrying out his responsibilities under paragraph (3), the Secretary shall proceed expeditiously to complete any study undertaken. Thereafter, he shall promptly issue a Notice of Proposed Rulemaking for the designation contemplated or shall have published in the Federal Register a notice that no designation is contemplated as a result of the study.

"(5) In connection with a designation made pursuant to this subsection, the Secretary—

"(A) shall issue reasonable rules and regulations governing the use of such designated areas, including the applicability of rules 9 and 10 of the International Regulations for Preventing Collisions at Sea, 1972, relating to narrow channels and traffic separation schemes, respectively, in waters where such regulations apply;

"(B) to the extent that he finds reasonable and necessary to effectuate the purposes of the designation, make the use of designated fairways and traffic separation schemes mandatory for specific types and sizes of vessels, foreign and domestic, operating in the territorial sea of the United States and for specific types and sizes of vessels of the United States operating on the high seas beyond the territorial sea of the United States;

"(C) may, from time to time, as necessary, adjust the location or limits of designated fairways or traffic separation schemes, in order to accommodate the needs of other uses which cannot be reasonably accommodated otherwise: *Provided*, That such an adjustment will not, in the judgment of the Secretary, unacceptably adversely affect the purpose for which the existing designation was made and the need for which continues; and

"(D) shall, through appropriate channels, (i) notify cognizant international organizations of any designation, or adjustment thereof, and (ii) take action to seek the cooperation of foreign States in making it mandatory for vessels under their control to use any fairway or traffic separation schemes designated pursuant to this subsection in any area of the high seas, to the same extent as required by the Secretary for vessels of the United States.

"(d) EXCEPTION.—Except pursuant to international treaty, convention, or agreement, to which the United States is a party, this Act shall not apply to any foreign vessel that is not destined for, or departing from, a port or place subject to the jurisdiction of the United States and that is in——

"(1) innocent passage through the territorial sea of the United States, or

"(2) transit through the navigable waters of the United States which form a part of an international strait.

"SEC. 3. CONSIDERATIONS BY SECRETARY.

"In carrying out his duties and responsibilities under section 2, the Secretary shall—

"(a) take into account all relevant factors concerning navigation and vessel safety and protection of the marine environment, including but not limited to—

"(1) the scope and degree of the risk or hazard involved;

"(2) vessel traffic characteristics and trends, including traffic volume, the sizes and types of vessels involved, potential interference with the flow of commercial traffic, the presence of any unusual cargoes, and other similar factors;

"(3) port and water configurations and variations in local conditions of geography, climate, and other similar factors;

"(4) the need for granting exemptions for the installation and use of equipment or devices for use with vessel traffic services for certain classes of small vessels, such as self-propelled fishing *vessels* and recreational vessels;

"(5) the proximity of fishing grounds, oil and gas drilling and production operations, or any other potential or actual conflicting activity;

"(6) environmental factors;

"(7) economic impact and effects;

"(8) existing vessel traffic services; and

"(9) local practices and customs, including voluntary arrangements and agreements within the maritime community; and

"(b) at the earliest possible time, consult with and receive and consider the views of representatives of the maritime community, ports and harbor authorities or associations, environmental groups, and other parties who may be affected by the proposed actions.

"SEC. 4. WATERFRONT SAFETY.

"(a) The Secretary may take such action as is necessary to—

"(1) prevent damage to, or the destruction of, any bridge or other structure on or in the navigable waters of the United States, or any land structure or shore area immediately adjacent to such waters; and

"(2) protect the navigable waters and the resources therein from vessel or structure damage, destruction, or loss. Such action may include, but need not be limited to—

"(A) establishing procedures, measures, and standards for the handling, loading, unloading, storage, stowage, and movement on the structure (including the emergency removal, control, and disposition) of explosives or other dangerous articles and substances, including oil or hazardous material as those terms are defined in section 4417a of the Revised Statutes, as amended;

"(B) prescribing minimum safety equipment requirements for the structure to assure adequate protection from fire, explosion, natural disaster, and other serious accident or casualty;

"(C) establishing water or waterfront safety zones, or other measures for limited, controlled, or conditional access and activity when necessary for the protection of any vessel, structure, waters, or shore area; and

"(D) establishing procedures for examination to assure compliance with the requirements prescribed under this section.

"(b) Nothing contained in this section, with respect to structures, prohibits a State or political subdivision thereof from prescribing higher safety equipment requirements or safety standards than those prescribed by regulations hereunder.

"SEC. 5. PILOTAGE.

"The Secretary may require federally licensed pilots on any self-propelled vessel, foreign or domestic, engaged in the foreign trade, when operating in the navigable waters of the United States in areas and under circumstances where a pilot is not otherwise required by State law. Any such requirement shall be terminated when the State having jurisdiction over the area involved establishes a requirement for a State licensed pilot and has so notified the Secretary.

"SEC. 6. INVESTIGATORY POWERS.

"(a) SECRETARY.—The Secretary may investigate any incident, accident, or act involving the loss or destruction of, or damage to, any structure subject to this Act, or which affects or may affect the safety or environmental quality of the ports, harbors, or navigable waters of the United States.

"(b) BOARD.—The National Transportation Safety Board shall, upon its request, be made a party in interest, with all the rights attendant thereto, in the investigation of any transportation-related incident conducted pursuant to this section.

"(c) POWERS.—In an investigation under this section, the Secretary may issue subpenas to require the attendance of witnesses and the production of documents or other evidence relating to such incident, accident, or act. If any person refuses to obey a subpena, the Secretary may request the Attorney General to invoke the aid of the appropriate district court of the United States to compel compliance with the subpena. Any district court of the United States may, in the case of refusal to obey a subpena, issue an order requiring compliance with the subpena, and failure to obey the order may be punished by the court as contempt. Witnesses may be paid fees for travel and attendance at rates not exceeding those allowed in a district court of the United States.

"SEC. 7. CONDITIONS FOR ENTRY TO PORTS OF THE UNITED STATES.

"No vessel, subject to the provisions of

section 4417a of the Revised Statutes, as amended, shall operate in the navigable waters of the United States or transfer cargo or residue in any port or place under the jurisdiction of the United States, if such vessel—

"(1) has a history of accidents, pollution incidents, or serious repair problems which, as determined by the Secretary, creates reason to believe that such vessel may be unsafe or may create a threat to the marine environment; or

"(2) fails to comply with any applicable regulation issued under this Act, under section 4417a of the Revised Statutes, as amended, or under any other applicable law or treaty; or

"(3) discharges oil or hazardous material in violation of any law of the United States or in a manner or quantities inconsistent with the provisions of any treaty to which the United States is a party; or

"(4) does not comply with any applicable vessel traffic service requirements; or

"(5) is manned by one or more officers who are licensed by a certificating state which the Secretary has determined, pursuant to section 4417a(11) of the Revised Statutes, as amended, does not have standards for licensing and certification of seafarers which are comparable to or more stringent than United States standards or international standards which are accepted by the United States; or

"(6) is not manned in compliance with manning levels as determined by the Secretary to be necessary to insure the safe navigation of the vessels; or

"(7) while underway, does not have at least one licensed deck officer on the navigation bridge who is capable of clearly understanding English:

Provided, That clauses (1), (2), (3), and (4) shall not apply if the owner of such vessel proves, to the satisfaction of the Secretary, that such vessel is no longer unsafe or a threat to the marine environment, and is no longer in violation of any applicable regulation, law, treaty, or condition, as appropriate: *Provided further*, That clauses (5) and (6) shall become applicable eighteen months after the effective date of this section.

"SEC. 8. APPLICABILITY.

"This Act shall not apply to the Panama Canal. The authority granted to the Secretary under sections 2, 3, 4, and 5 of this Act shall not be delegated with respect to the Saint Lawrence Seaway to any agency other than the Saint Lawrence Seaway Development Corporation. Any other authority granted the Secretary under this Act shall be delegated to the Saint Lawrence Seaway Development Corporation to the extent he determines such delegation is necessary for the proper operation of the Saint Lawrence Seaway.

"SEC. 9. INTERNATIONAL AGREEMENTS.

"(a) TRANSMITTAL OF REGULATIONS.—The Secretary shall transmit, via the Secretary of State, to appropriate international bodies or forums, any regulations issued under this Act, for consideration as international standards.

"(b) Agreements.—The President is authorized and encouraged to—

"(1) enter into negotiations and conclude and execute agreements with neighboring nations, to establish compatible vessel standards and vessel traffic services, and to establish, operate, and maintain international vessel traffic services, in areas and under circumstances of mutual concern; and

"(2) enter into negotiations, through appropriate international bodies, and conclude and execute agreements to establish vessel traffic services in appropriate areas of the high seas.

"(c) OPERATIONS.—The Secretary, pursuant to any agreement negotiated under subsection (b) which is binding upon the United States in accordance with constitutional requirements, may—

"(1) require vessels in the vessel traffic service area to utilize or to comply with the vessel traffic service, including the carrying or installation of equipment and devices as necessary for the use of the service; and

"(2) waive, by order or regulation, the application of any United States law or regulation concerning the design, construction, operation, equipment, personnel qualifications, and manning standards for vessels operating in waters over which the United States exercises jurisdiction if such vessel is not en route to or from a United States port or place, and if vessels en route to or from a United States port or place are accorded equivalent waivers of laws and regulations of the neighboring nation, when operating in waters over which that nation exercises jurisdiction.

"SEC. 10. REGULATIONS.

"(a) In accordance with the provisions of the Administrative Procedure Act, as amended, the Secretary shall issue, and may from time to time amend or repeal, regulations necessary to implement this Act.

"(b) The Secretary, in the exercise of this regulatory authority, shall establish procedures for consulting with, and receiving and considering the views of—

"(1) interested Federal departments and agencies,

"(2) officials of State and local governments,

"(3) representatives of the maritime community,

"(4) representatives of port and harbor authorities or associations,

"(5) representatives of environmental groups,

"(6) any other interested parties who are knowledgeable or experienced in dealing with problems involving vessel safety, port and waterway safety, and protection of the marine environment, and

"(7) advisory committees consisting of all interested segments of the public when the establishment of such committees is considered necessary because the issues involved are highly complex or controversial.

"SEC. 11. PENALTIES.

"(a) CIVIL PENALTY.—

"(1) Any person who found by the Secretary, after notice and an opportunity for a hearing, to have violated this Act or a regulation issued hereunder shall be liable to the United States for a civil penalty, not to exceed $25,000 for each violation. Each day of a continuing violation shall constitute a separate violation. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

"(2) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

"(3) If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General of the United States, for collection in any appropriate district court of the United States.

"(b) CRIMINAL PENALTY.—

"(1) Any person who willfully and knowingly violates this Act or any regulation issued hereunder shall be fined not more than $50,000 for each violation or imprisoned for not more than a year, or both.

"(2) Any person who, in the willful and knowing violation of this Act or of any regulation issued hereunder, uses a dangerous weapon, or engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce the provisions of this Act or the regulations issued hereunder, shall, in lieu of the penalties prescribed in paragraph (1), be fined not more than $100,000, or imprisoned for not more than ten years, or both.

"(c) IN REM LIABILITY.—Any vessel subject to the provisions of this Act, which is used in violation of this Act or any regulations issued hereunder, shall be liable in rem for any civil penalty assessed pursuant to subsection (a) and may be proceeded against in the United States district court for any district in which such vessel may be found.

"(d) INJUNCTION.—The United States district courts shall have jurisdiction to restrain violations of this Act or of regulations issued hereunder, for cause shown.

"(e) DENIAL OF ENTRY.—The Secretary may, subject to recognized principles of international law, deny entry into the navigable waters of the United States or to any port or place under the jurisdiction of the United States to any vessel not in compliance with the provisions of this Act or the regulations issued hereunder.

"(f) WITHHOLDING OF CLEARANCE.—The Secretary of the Treasury shall withhold or revoke, at the request of the Secretary, the clearance, required by section 4197 of the Revised Statutes of the United States, as amended (46 U.S.C. 91), of any vessel, the owner or operator of which is subject to any of the penalties in this section. Clearance may be granted in such cases upon the filing of a bond or other surety satisfactory to the Secretary.".

SEC. 3. STUDY OF MONITORING SYSTEMS.

(a) CONTENT.—The Secretary, in consultation with the Secretary of Commerce and other appropriate departments or agencies of the Federal Government, shall study possible shore-station systems for monitoring vessels, including fishing vessels, within the Fishery Conservation Zone as defined in section 3(8) of the Fishery Conservation and Management Act of 1976. Each system examined shall be capable of reporting vessel position, identification, course, and speed using either a land, sea, or space monitoring technique.

(b) REPORT.—Within two years after the date of the enactment of this Act, the Secretary shall report his findings to the Congress. This report shall describe the capabilities, limitations, and cost effectiveness of each monitoring system examined from the standpoint of both the Federal Government and any vessel owners who would be affected by the imposition of each approach. The report shall also include the Secretary's recommendations for a single, comprehensive, cost effective shore-station system for monitoring vessels within the Fishery Conservation Zone.

(c) APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for the purposes of this section, not to exceed $500,000 for the fiscal year ending September 30, 1980, and not to exceed $500,000 for the fiscal year ending September 30, 1981.

SEC. 4. IMPROVED PILOTAGE STANDARDS.

Section 4442 of the Revised Statutes of the United States (46 U.S.C. 214) is amended to read as follows:

"SEC. 4442. (a) The Secretary of the department in which the Coast Guard is operating shall, in accordance with subsection (b) of this section, establish eligibility requirements for the issuance of a Federal license to pilot any steam vessels.

"(b) No person may be issued a Federal license to pilot any steam vessel unless he—

"(1) is at least twenty-one years of age;

"(2) is of sound health and has no physical limitations which would hinder or prevent the performance of a pilot's duties;

"(3) agrees to have a thorough physical examination each year while holding such license;

"(4) demonstrates, to the satisfaction of the Secretary, that he possesses the requisite general knowledge and skill to hold such license;

"(5) demonstrates proficiency in the use of electronic aids to navigation;

"(6) maintains adequate knowledge of the waters to be navigated and knowledge of regulations for the prevention of collisions in such waters;

"(7) has sufficient experience, as determined by the Secretary, to evidence his ability to handle any vessel of the type and size which he may be authorized to pilot; and

"(8) meets any other requirement which the Secretary considers reasonable and necessary.

"(c) No Federal license to pilot a steam vessel shall be valid for a term longer than five years. Upon expiration of any such license, the holder may reapply for an additional term and may be reissued a license if he meets the requirements specified under subsection (b) of this section.".

SEC. 5. VESSELS CARRYING CERTAIN CARGOES IN BULK.

Section 4417a of the Revised Statutes of the United States, as amended (46 U.S.C. 391a), is further amended to read as follows:

"SEC. 4417a. (1) STATEMENT OF POLICY.—The Congress hereby finds and declares—

"(A) that the carriage by vessels of certain cargoes in bulk or in residue creates substantial hazards to life, property, the navigable waters of the United States (including the quality thereof) and the resources contained therein and to the adjoining land, including but not limited to fish, shellfish, and wildlife, marine and coastal ecosystems, and recreational and scenic values;

"(B) that existing standards for the design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of all such vessels, which use any port or place subject to the jurisdiction of the United States or which operate in the navigable waters of the United States, must be more stringent and comprehensive for the mitigation of the hazards to life, property, or the marine environment;

"(C) that existing international standards for inspection and enforcement are incomplete, that those international standards that are in existence are often left unenforced by some flag states, and that there is a need to prevent substandard vessels from using any port or place subject to the jurisdiction of the United States or from operating in the navigable waters of the United States, for the mitigation of the hazards to life, property, or the marine environment;

"(D) that standards developed through regulations shall incorporate the best available technology and shall be required unless clearly shown to create an adverse economic impact which is not outweighed by the benefits to navigation and vessel safety or protection of the marine environment;

"(E) that standards developed through regulations shall not impede or interfere with the right of innocent passage or any legitimate use of the high seas in accordance with recognized principles of international law; and

"(F) that the United States should continue to actively support and encourage efforts to obtain international agreements concerning navigation and vessel safety and protection of the marine environment.

"(2) DEFINITIONS.—As used in this section, unless the context otherwise requires—

"(A) 'Discharge' includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping, however caused.

"(B) 'Foreign vessel' means any vessel of foreign registry or operated under the authority of any nation other than the United States.

"(C) 'Hazardous material' means any liquid material or substance which is—

"(i) flammable or combustible; or

"(ii) designated a hazardous substance under section 311(b) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321); or

"(iii) designated a hazardous material under section 104 of the Hazardous Material Transportation Act (49 U.S.C. 1803).

"(D) 'Marine environment' means the navigable waters of the United States and the land and resources therein and thereunder; the waters and fishery resources of any area over which the United States asserts exclusive fishery management authority; and the seabed and subsoil of the Outer Continental Shelf of the United States, the resources thereof and the waters superjacent thereto.

"(E) 'Oil' includes oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.

"(F) 'Person' means any individual (whether or not a citizen or national of the United States), or any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

"(G) 'Public vessel' means a vessel which—

"(i) is owned, or chartered by demise, and operated by the United States or any foreign government; and

"(ii) is not engaged in commercial service.

"(H) 'Commercial service' means all types of trade or business involving the transportation of goods or persons, excluding the service performed by combatant vessels.

"(I) 'Secretary' means the Secretary of the department in which the Coast Guard is operating.

"(J) 'State' includes each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgin Islands, the Trust Territories of the Pacific Islands, the Commonwealth of the Northern Marianas, and any other commonwealth, territory, or possession of the United States.

"(K) 'United States', when used in a geographical context, means all the States thereof.

"(L) 'Vessel of the United States' means any vessel documented or numbered under the laws of the United States.

"(M) 'Tanker' means a vessel constructed or adapted primarily to carry oil or hazardous materials in bulk in the cargo spaces.

"(N) 'Crude oil tanker' means a tanker engaged in the trade of carrying crude oil.

"(O) 'Product carrier' means a tanker engaged in the trade of carrying oil, other than crude oil, or hazardous materials.

"(P) 'Major conversion' means a conversion of an existing vessel which substantially alters the dimensions or carrying capacity of the vessel; or changes the type of vessel; or substantially prolongs its life; or which otherwise so alters the vessel that it is essentially a new vessel, as determined by the Secretary.

"(Q) 'New' means, with respect to various types of vessels subject to subsection (7), a vessel—

"(i) for which the building contract is placed after June 1, 1979; or

"(ii) in the absence of a building contract, the keel of which is laid, or which is at a similar stage of construction after January 1, 1980; or

"(iii) the delivery of which is after June 1, 1982; or

"(iv) which has undergone a major conversion, which is contracted for after June 1, 1979, or construction work of which is begun after January 1, 1980, or completed after June 1, 1982.

"(R) 'Existing' means, with respect to various types of vessels subject to subsection (7), a vessel which is not a new vessel.

"(S) 'Crude oil' means any liquid hydrocarbon mixture occurring naturally in the earth, whether or not treated to render it suitable for transportation, and includes crude oil from which certain distillate fractions may have been removed, and crude oil to which certain distillate fractions may have been added.

"(3) APPLICABILITY.—Except as provided in subsections (4) and (5), this section shall apply to any vessel—

"(A) regardless of tonnage, size, or manner of propulsion;

"(B) whether self-propelled or not;

"(C) whether carrying freight or passengers for hire or not;

"(D) which is a vessel of the United States, or which operates on or enters the navigable waters of the United States, or which transfers oil or hazardous materials in any port or place subject to the jurisdiction of the United States; and

"(E) which carries oil or any hazardous materials in bulk as cargo or in residue.

Any such vessel shall be deemed to be a steam vessel for the purpose of title 52 of the Revised Statutes of the United States and shall be subject to the provisions thereof.

"(4) EXCEPTION.—This section shall not apply to—

"(A) any public vessel; or

"(B) any vessel of not more than 500 gross tons, documented in the service of oil exploitation, which is not a tanker and which would be subject to this section only because of the transfer of fuel from fuel supply tanks of such vessels to offshore drilling or production facilities, if the crew member in charge of such transfer is certificated as a tankerman; or

"(C) cannery tenders, fishing tenders, and fishing vessels of not more than 500 gross tons, used in the salmon or crab fisheries of the State of Oregon, Washington, and Alaska, when engaged exclusively in the fishing industry; or

"(D) any foreign vessel not destined for, or departing from, a port or place subject to the jurisdiction of the United States that is in innocent passage through the territorial sea of the United States or in transit through the navigable waters of the United States which form a part of an international strait.

"(5) FISH PROCESSING VESSELS.—This section shall not apply to vessels of not more than 5,000 gross tons used in the processing and assembling of fishery products in the fisheries of the States of Oregon, Washington, and Alaska, and such vessel shall be allowed to have on board flamable or combustible liquid cargo in bulk to the extent authorized, and upon such conditions as may be required, by regulations issued by the Secretary.

"(6) REGULATORY AUTHORITY.—

"(A) In accordance with the provisions of the Administrative Procedure Act, as amended, the Secretary shall issue, and may from time to time amend or repeal, regulations for the design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, or manning of vessels to which this section applies, as may be necessary for protection against hazards to life and property, for navigation and vessel safety, and for protection of the marine environment. The regulations issued by the Secretary under this subsection shall be in addition to any other regulations, issued under other provisions of law, that may apply to such vessels. The regulations issued by the Secretary under this subsection shall include, but need not be limited to, requirements relating to—

"(i) superstructures, hulls, cargo holds or tanks, fittings, equipment, appliances, propulsion machinery, auxiliary machinery, and boilers;

"(ii) the handling or stowage of cargo, the manner of such handling or stowage of cargo, and the machinery and appliances used in such handling or stowage;

"(iii) equipment and appliances for life-saving, fire protection, and prevention and mitigation of damage to the marine environment;

"(iv) the manning of such vessels and the duties, qualifications, and training of the officers and crew thereof, in accordance with subsections (9), (10), and (11);

"(v) improvements in vessel maneuvering and stopping ability and other features which reduce the possibility of collision, grounding, or other accidents;

"(vi) the reduction of cargo loss in the event of a collision, grounding, or other accident; and

"(vii) the reduction or elimination of discharges during ballasting, deballasting, tank cleaning, cargo handling, or other such activity.

"(B) In issuing regulations under paragraph (A), the Secretary shall give due consideration to the kinds of grades of cargo permitted to be on board such vessel.

"(C) The Secretary, in the exercise of this regulatory authority, shall establish procedures for consulting with, and receiving and considering the views of—

"(i) interested Federal departments and agencies,

"(ii) officials of State and local governments,

"(iii) representatives of the maritime community,

"(iv) representatives of port and harbor authorities or associations,

"(v) representatives of environmental groups, and

"(vi) any other interested parties who are knowledgeable or experienced in dealing with problems involving vessel safety, port and waterways safety, and protection of the marine environment.

"(7) MINIMUM STANDARDS.—In issuing regulations pursuant to subsection (6), the Secretary shall require that any self-propelled vessel shall, as a minimum—

"(A) if a new crude oil tanker of 20,000 deadweight tons or above, be equipped with—

"(i) segregated ballast tanks which are protectively located;

"(ii) a crude oil washing system; and

"(iii) a cargo tank protection system, consisting of a fixed deck froth system and a fixed inert gas system;

"(B) if a new product carrier of 30,000 deadweight tons or above, be equipped with segregated ballast tanks which are protectively located;

"(C) if a new product carrier of 20,000 deadweight tons or above, be equipped with a cargo tank protection system consisting of a fixed deck forth system and a fixed inert gas system or, if such a product carrier carries dedicated products which are incompatible with such a cargo tank protection system, an alternate protection system as authorized by the Secretary;

"(D) if an existing crude oil tanker of 40,000 deadweight tons or above, not later than June 1, 1981, be equipped with—

"(i) segregated ballast tanks; or

"(ii) a crude oil washing system:

Provided, That compliance many be delayed for vessels operating with dedicated clean ballast tanks if of 70,000 deadweight tons or above until June 1, 1983, or until June 1, 1985, for all other such vessels;

"(E) if an existing crude oil tanker of 20,000 deadweight tons or above but less than 40,000 deadweight tons, fifteen years or older, not later than January 1, 1986, or the date on which it reaches fifteen years of age, whichever is later, be equipped with segregated ballast tanks or a crude oil washing system;

"(F) if an existing crude oil tanker of 20,000 deadweight tons or above, not later than June 1, 1985, be equipped with an inert gas system: *Provided*, That for a crude oil tanker of less than 40,000 deadweight tons not fitted with high capacity tank washing machines, the Secretary may grant an exemption, if the vessel's owner can clearly show that compliance would be unreasonable and impracticable due to the vessel's design characteristics: *Provided further*, That an existing crude oil tanker of 70,000 deadweight tons or above must be in compliance herewith not later than June 1, 1983;

"(G) if an existing product carrier of 40,000 deadweight tons or above, not later than June 1, 1981, be equipped with segregated ballast tanks or, in lieu thereof, may operate with dedicated clean ballast tanks;

"(H) if an existing product carrier of 20,000 deadweight tons or above but less than 40,000 deadweight tons, fifteen years or older, not later than January 1, 1986, or the date on which it reaches fifteen years of age, whichever is later, be equipped with segregated ballast tanks or may operate with dedicated clean ballast tanks;

"(I) if an existing product carrier of 40,000 deadweight tons or above, or an existing product carrier of 20,000 deadweight tons or above but less than 40,000 deadweight tons, which is fitted with high-capacity tank washing machines, not later than June 1, 1985, be equipped with an inert gas system: *Provided*, That an existing product carrier of 70,000 deadweight tons or above must be in compliance herewith not later than June 1, 1983;

"(J) if of 10,000 gross tons or above, not later than June 1, 1979, be equipped with—

"(i) a dual radar system, one with short-range and one with long-range capabilities and each with true-north features;

"(ii) an electronic relative motion analyzer;

"(iii) an electronic position fixing device;

"(iv) adequate communications equipment;

"(v) a sonic depth finder;

"(vi) a gyrocompass; and

"(vii) up-to-date charts:

Provided, That the effective date of compliance with the requirement of clause (ii) shall be July 1, 1982 or such earlier date as agreed to internationally and accepted by the United States;

"(K) if a new tanker of 10,000 gross tons or above, be equipped with—

"(i) two remote steering gear control systems operable separately from the navigating bridge;

"(ii) main steering gear control in the steering gear compartment;

"(iii) means of communication and rudder angle indicators on the navigating bridge, remote steering gear control station, and the steering gear compartment;

"(iv) two or more identical and adequate power units for the main steering gear;

"(v) an alternative and adequate power supply, either from an emergency source of electrical power or from another independent source of power located in the steering gear compartment; and

"(vi) means of automatic starting and stopping of power units with attendant alarms at all steering stations;

"(L) if an existing tanker of 10,000 gross tons or above, not later than June 1, 1981, be equipped with—

"(i) two remote steering gear control systems operable separately from the navigating bridge;

"(ii) main steering gear control in the steering gear compartment; and

"(iii) means of communications and rudder angle indicators on the navigating bridge, remote steering gear control station, and the steering gear compartment;

"(M) if an existing crude oil tanker of 20,000 deadweight tons and above, which is engaged in the transfer of oil from an offshore oil exploitation or production facility on the Outer Continental Shelf of the United States, not later than June 1, 1979, be equipped with segregated ballast tanks or may operate with dedicated clean ballast tanks; and

"(N) in accordance with relevant international agreements to which the United States is a party, exempt vessels from the minimum requirements established in this subsection for segregated ballast, dedicated clean ballast, or crude oil washing if he determines that shore-based reception facilities are a preferred method of handling dirty ballast, and that adequate facilities are readily available.

In prescribing minimum requirements, unless otherwise required by law, the Secretary shall apply standards which are consistent with the International Convention for Prevention of Pollution from Ships, 1973, and the International Convention for Safety of Life at Sea, 1974, as modified by the respective Protocols of 1978 relating thereto. After the effective date of this subsection, the installation of segregated ballast tanks, a crude oil washing system, or an inert gas system, required by regulations issued hereunder, on a vessel which is entitled to engage in coastwise trade in accordance with section 27 of the Merchant Marine Act of 1920 (46 U.S.C. 883) shall be effected within the United States, its territories (not including trust territories), or its possessions, and vessels which fail to comply with this requirement shall thereafter not have the right to engage in the coastwise trade.

"(8) EVIDENCE OF COMPLIANCE.—

"(A) No vessel of the United States to which this section applies shall have on board oil or hazardous materials in bulk as cargo or in residue until it has a Certificate of Inspection, issued under the provisions of title 52 of the Revised Statutes of the United States, and such certificate has been endorsed to indicate that the vessel is in compliance with the regulations issued under this section. If any such vessel is found not to be in compliance, the Secretary shall notify the owner or agent of the vessel and indicate how the vessel may be brought into compliance.

"(B) No foreign vessel to which this section applies shall operate on or enter the navigable waters of the United States, or transfer oil or hazardous materials in any port or place under the jurisdiction of the United States, unless such vessel has been issued a Certificate of Compliance by the Secretary. The Secretary shall not issue such certificate until the vessel has been examined by the Secretary and found to be in compliance with the provisions of this section and the regulations issued hereunder. If such vessel is found not to be in compliance, the Secretary shall notify the owner or agent of the vessel and indicate how the vessel may be brought into compliance. The Secretary may allow provisional entry for the purposes of conducting examinations.

"(C) The Secretary may accept, in whole or in part, a certificate, endorsement, or document issued by any foreign nation pursuant to any treaty, convention, or other international agreement to which the United States is a party, as a basis for issuance of a Certificate of Compliance.

"(D) No vessel may carry any kind or grade of oil or hazardous materials in bulk as cargo or in residue unless its certificate is endorsed to allow such carriage. No such certificate may allow any vessel to carry any material prohibited by section 4472(3) of the Revised Statutes, as amended (46 U.S.C. 170).

"(E) A certificate issued under this section

shall be valid for a period not to exceed twenty-four months and may be renewed as specified by the Secretary. The Secretary may issue a temporary certificate under this section in appropriate circumstances; except that the temporary certificate shall be valid for not more than thirty days. Any certificate shall be revoked or suspended if the Secretary finds that the vessel involved no longer complies with the conditions upon which the certificate was issued.

"(9) PERSONNEL AND MANNING STANDARDS FOR VESSELS OF THE UNITED STATES.—The Secretary shall prescribe standards for the manning of any vessel of the United States subject to the provisions of this section and the duties, qualifications, and training of the officers and crew thereof, including, but not limited to, standards relating to—

"(A) instruction in vessel and cargo handling and vessel navigation under normal operating conditions in coastal and confined waters and on the high seas;

"(B) instruction in vessel and cargo handling and vessel navigation in emergency situations and under accidental or potential accident conditions;

"(C) license qualifications by specific type and size of vessels;

"(D) qualification for licenses by use of simulators for the practice or demonstration of marine-oriented skills;

"(E) minimum health and physical fitness criteria for various grades of licenses and certificates: *Provided*, That the Secretary shall waive the applicability of such criteria to any individual holding a license or certificate in effect on the effective date of this subsection, including subsequent renewals thereof: *Provided further*, That, when such a waiver is granted, the Secretary may prescribe conditions or limitations to the license or certificate, or the renewal thereof, as he may find reasonable and necessary for the safety of any vessel on which the individual may be employed;

"(F) periodic retraining, and special training for upgrading positions, changing vessel type or size, or assuming new responsibilities; and

"(G) determination of licenses and certificates, conditions of licensing or certification and period of licensing or certification by reference to experience, amount of training completed, and regular performance testing.

"(10) TANKERMAN REQUIREMENTS.—

"(A) Any vessel of the United States having on board oil or hazardous materials in bulk as cargo or in residue shall have a specified number of the crew certificated as tankerman, as may be required by the Secretary, and such requirement shall be so noted on the Certificate of Inspection issued to the vessel.

"(B) Any foreign vessel having on board oil or hazardous materials in bulk as cargo or in residue shall have a specified number of personnel certificated as tankerman, or equivalent, as may be required by the Secretary, when the vessel transfers oil or hazardous materials in any port or place subject to the jurisdiction of the United States; and such requirement shall be noted in applicable terminal operating procedures. No transfer operations may take place unless the crew member in charge is capable of clearly understanding instructions in English.

"(C) The Secretary shall prescribe procedures, standards, and qualifications for the issuance of certificates or endorsements as tankerman, stating the kinds of oil or hazardous materials that can be handled with safety to the vessel and the marine environment.

"(D) Certificates or endorsements as tankerman shall be subject to suspension and revocation on the same grounds and in the same manner as provided for under the provisions of section 4450 of the Revised Statutes of the United States, as amended (46 U.S.C. 239).

"(11) PERSONNEL AND MANNING STANDARDS FOR FOREIGN VESSELS.—The Secretary shall issue regulations and procedures for the verification of manning, training, qualification, and watchkeeping standards promulgated by the certificating state of any foreign vessel which operates on or enters the navigable waters of the United States, and transfers oil or hazardous materials in any port or place under the jurisdiction of the United States. Such regulations and procedures shall include, but need not be limited to, provisions relating to—

"(A) the receipt through the Inter-Governmental Maritime Consultative Organization or from the certificating state of the English text of laws, decrees, orders, regulations, specimen licenses and certificates, and other pertinent documents pertaining to manning, training, qualification, and watchkeeping of seafarers;

"(B) the publication and distribution of, or otherwise making available to the public and appropriate enforcement personnel, copies of materials received as provided for in paragraph (A);

"(C) the evaluation, at intervals of not less than five years, of each foreign state's system for licensing and certification of seafarers, including study course content and duration, examination requirements and prerequisites for licensing and certification, and related controls;

"(D) determination, after the evaluation required by clause (C), of whether or not the foreign state, whose system for licensing and certification of seafarers was evaluated, has standards which are comparable to or more stringent than United States standards or international standards which are accepted by the United States;

"(E) publication in the Federal Register of each determination made pursuant to clause (D), together with a brief explanation of the reasons therefore; and

"(F) manning levels, based on vessel size and type of operation, when operating in the navigable waters of the United States, or in the safety zone in connection with utilization of deepwater ports.

"(12) MODIFICATIONS.—The Secretary may modify any regulation or standard prescribed under this section to conform to the provisions of an international treaty, convention, agreement, or an amendment thereto, which is ratified by the United States.

"(13) PROHIBITED ACTS.—

"(A) It is unlawful for any person—

"(i) to violate any provision of this section or any regulation issued under this section; or

"(ii) to refuse to permit any officer, authorized by the Secretary to enforce the provisions of this section, to board any vessel or to enter any shore area, place, or premises, under such person's control for purposes of inspection under this section; or

"(iii) to refuse to obey any lawful directive issued under this section.

"(B) It is unlawful for any vessel subject to the provisions of this section—

"(i) to operate in or on the navigable waters of the United States, or to use any port or place subject to the jurisdiction of the United States, while not in compliance with any provision of this section or any regulation issued hereunder; or

"(ii) to fail to comply with any lawful directive issued pursuant to this section.

"(14) PENALTIES.—

"(A) CIVIL PENALTY.—

"(i) Any person who is found by the Secretary, after notice and an opportunity for a hearing, to have violated this section or a regulation issued hereunder shall be liable to the United States for a civil penalty, not to exceed $25,000 for each violation. Each day of a continuing violation shall constitute a separate violation. The amount of such civil penalty shall be assessed by the Secretary, shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

"(ii) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

"(iii) If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General of the United States, for collection in any appropriate district court of the United States.

"(B) CRIMINAL PENALTY.—

"(i) Any person who willfully and knowingly violates this section or any regulation issued hereunder shall be fined more than $50,000 for each violation or imprisoned for no more than a year, or both.

"(ii) Any person who, in the willful and knowing violation of this section or any regulation issued hereunder, uses a dangerous weapon, or engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce the provisions of this Act or the regulations issued hereunder, shall, in lieu of the penalties prescribed in subparagraph (i), be fined not more than $100,000, or imprisoned for not more than ten years, or both.

"(C) IN REM LIABILITY.—Any vessel subject to the provisions of this section, which is used in violation of this section or any regulation issued hereunder, shall be liable in rem for any civil penalty assessed pursuant to paragraph (A) and may be proceeded against in the United States district court for any district in which such vessel may be found.

"(D) INJUNCTION.—The United States district courts shall have jurisdiction to restrain violations of this section or of regulations issued hereunder, for cause shown.

"(E) DENIAL OF ENTRY.—The Secretary may, subject to recognized principles of international law, deny entry into the navigable waters of the United States or to any port or place subject to the jurisdiction of the United States to any vessel not in compliance with the provisions of this section or the regulations issued hereunder.

"(F) WITHHOLDING CLEARANCE.—The Secretary of the Treasury shall withhold or revoke, at the request of the Secretary, the clearance, required by section 4197 of the Revised Statutes of the United States, as amended (46 U.S.C. 91), of any vessel, the owner or operator of which is subject to any of the penalties in this subsection. Clearance may be granted in such cases upon the filing of a bond or other surety satisfactory to the Secretary.

"(15) INSPECTION.—

"(A) NATIONAL PROGRAM.—

"(i) The Secretary shall establish a national program for inspection of any vessel subject to this section. Each such vessel shall be inspected or examined at least once each year. Any such vessel over ten years of age shall undergo a special and detailed inspection of structural strength and hull integrity, as specified by the Secretary.

"(ii) An inspection or examination may be conducted by any officer authorized by the Secretary. If any such officer is not reasonably available, the Secretary may contract for the conduct of inspections or examinations in the United States and in foreign countries. Under such contract, an inspector may be authorized to act on behalf of the Secretary, except that no such inspector may issue a Certificate of Inspection or Certificate of Compliance, but may issue a temporary certificate.

"(iii) Notwithstanding the provisions of

section 1 of the Act of June 19, 1886, as amended (46 U.S.C. 331), the Secretary shall prescribe by regulation reasonable fees for any inspection or examination which is conducted pursuant to this section outside the geographical limits of the United States, or which, involving a foreign flag vessel, is conducted pursuant to the contract authority provided for in subparagraph (ii) of this paragraph. The owner or operator of any vessel inspected or examined by the Secretary or his designee shall be liable for such fees. Amounts received as fees shall be credited to the General Treasury.

"(B) VESSEL DOCUMENTS.—Any vessel subject to provisions of this section shall have on board such documents as the Secretary deems necessary for inspection or enforcement under this section, including, but not limited to, documents indicating—

"(i) the kind, grade, and approximate quantities of any cargo on board;

"(ii) the shipper and consignee of the cargo;

"(iii) the points of origin and destination of the vessel; and

"(iv) the name of an agent in the United States authorized to accept legal process.

"(16) MARINE SAFETY INFORMATION SYSTEM.—

"(A) IN GENERAL.—The Secretary shall establish a marine safety information system which shall contain information with regard to any vessel subject to this section which operates on or enters the navigable waters of the United States, or which transfers oil or any hazardous materials in any port or place under the jurisdiction of the United States. The Secretary may, by regulation, require any such vessel to furnish such data or other information as he deems necessary, in order to carry out the purposes of this subsection, including, but not limited to—

"(i) the names of any person with an ownership interest in such vessel;

"(ii) details of compliance with the financial responsibility requirements of applicable statutes or regulations;

"(iii) registration information, including all changes in the name of the vessel;

"(iv) the history of accidents or serious repair problems of the vessel; and

"(v) a record of all inspections or examinations of a vessel conducted under subsection (15).

"(B) INTERAGENCY COOPERATION.—The head of each department or agency of the Federal Government shall, upon a written request from the Secretary, furnish any available information which the Secretary deems necessary to confirm the information received pursuant to paragraph (A).

"(17) LIGHTERING.—

"(A) IN GENERAL.—After the effective date of regulations issued by the Secretary pursuant to paragraph (B), no vessel may transfer oil or hazardous materials in a port or place subject to the jurisdiction of the United States, if the cargo has been transferred from another vessel in the navigable waters of the United States or in the marine environment unless—

"(i) the transfer was conducted in accordance with regulations issued by the Secretary, and

"(ii) both the delivering and receiving vessels had, on board at the time of transfer, a Certificate of Inspection or a Certificate of Compliance, as would have been required under subsection (8), had the transfer taken place in a port or place subject to the jurisdiction of the United States.

"(B) REGULATIONS.—The Secretary shall issue, and may from time to time, amend or repeal regulations for the transferring of oil or hazardous materials in the navigable waters of the United States or in the marine environment when such oil or hazardous material is destined for a port or place subject to the jurisdiction of the United States. Such regulations shall include, but need not be limited to—

"(i) minimum safe operating conditions, including sea state, wave height, weather, proximity to channels or shipping lanes, and other similar factors;

"(ii) prevention of spills;

"(iii) equipment for responding to any spill;

"(iv) prevention of any unreasonable interference with navigation or other reasonable uses of the high seas, as such uses are defined by treaty, convention, or customary international law;

"(i) establishment of lightering zones; and

"(vi) requirements for communication and pre-arrival messages.

"(18) TANK WASHINGS.—

"(A) No vessel may transfer cargo in a port or place subject to the jurisdiction of the United States, if the vessel has discharged tank washings containing oil or hazardous materials in violation of any law of the United States or in a manner or quantities inconsistent with the provisions of any treaty to which the United States is a party, in preparation for loading cargo in any port or place subject to the jurisdiction of the United States.

"(B) The Secretary shall establish effective control and supervisory measures to implement the provisions of this subsection.

"(19) REPORT.—Within six months after the end of each calendar year, the Secretary shall submit to the Congress—

"(A) a report on the administration of this section during the preceding calendar year;

"(B) a summary of inspection and enforcement activities during the preceding calendar year; and

"(C) recommendations to the Congress for any additional legislative authority necessary to improve navigation and vessel safety and protection of the marine environment.".

SEC. 6. SAVINGS CLAUSE.

(6) Regulations previously issued under statutory provisions which are amended by section 2 of this Act shall continue in effect as though issued under the authority of the Ports and Waterways Safety Act of 1972, as amended by this Act, until expressly abrogated, modified, or amended by the Secretary. Any proceeding under title I of Public Law 92-340 for a violation which occurred before the effective date of this Act may be initiated or continued to conclusion as though such public law had not been amended by this Act.

(b) Regulations previously issued under statutory provisions which are amended by section 5 of this Act shall continue in effect as though issued under the authority of section 4417a of the Revised Statutes of the United States, as amended by this Act, until expressly abrogated, modified, or amended by the Secretary. Any proceeding under the provisions of section 4417a of the Revised Statutes of the United States, as it existed prior to amendment by this Act, for a violation which occurred before the effective date of this Act, may be initiated or continued to conclusion as though such section had not been amended by this Act.

(c) If a provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

The SPEAKER pro tempore. (Mr. SISK). Is a second demanded?

Mr. RUPPE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. BIAGGI) and the gentleman from Michigan (Mr. RUPPE) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from New York (Mr. BIAGGI).

Mr. Speaker, before I make my comments in connection with the bill, I would like to take this opportunity to commend the members of the Subcommittee on Coast Guard and Navigation of the full Committee on Merchant Marine and Fisheries, the staff, and all those responsible, for their commitment, dedication, and diligence in producing this product.

Mr. Speaker, I urge the support of the House in passing H.R. 13311—a landmark piece of maritime safety legislation—which concerns itself with the safety of our ports and waterways—the safety of tank vessels—and the protection of the marine environment.

As you no doubt are aware, many Members of the House—as well as many of our colleagues in the Senate—have been and continue to be gravely concerned over these major issues and the problems they have created.

Early in this Congress, more than two dozen bills were introduced in the House reflecting these congressional concerns. Many involved proposals for oil pollution liability and compensation—which, I am happy to state, resulted in the passage by the House of H.R. 6803—now pending in the Senate.

Other proposals were related to the safety of our ports and the vessels themselves. In preparing for the consideration of these bills—as chairman of the Subcommittee on Coast Guard and Navigation—I held a series of oversight hearings for a number of days on the overall marine safety program of the Coast Guard.

The subcommittee also held 5 days of hearings on specific legislative proposals—including S. 682, a similar bill which had been passed by the Senate during the first session.

Since the President, in his March 17, 1977 message to the Congress, placed heavy emphasis on the international aspects of tank vessel safety—I felt it necessary to provide delegation representation to the International Conference on Tanker Safety and Pollution Prevention held in London during February of this year—and to await a review of the conference results.

The subsequent hearings culminated in 6 days of markup—with considerable opportunity to air all matters of controversial concern. I believe we have accommodated most of the concerns which have been expressed—while also reflecting and accommodating the concerns of many of our colleagues in both Houses.

As you no doubt are aware, the need to amend the "Ports and Waterways Safety Act of 1972" and the "Tank Vessel Act of 1936" resulted from the fact that existing law has not been completely satisfactory.

The general concern which resulted in the 1972 enactment arose from:

The increasing growth of maritime traffic in the ports and harbors of the U.S.;

The increased congestion resulting therefrom;

The increase in the size of vessels involved; and

The increasing number of marine casualties.

Since 1972, the maritime traffic has continued to expand—marine casualties have continued to occur—and the marine environment has been increasingly damaged by pollution. In addition, there has been a severe problem with the control of foreign tank vessels using our ports.

Also, since 1972, there has been a massive increase in the importation of oil and oil products—particularly crude oil—with the United States now importing more than 8 million barrels of crude oil per day. This movement of crude oil means that approximately 35 tank vessels enter U.S. ports every day—and this number of tanker movements is expected to continue at a high level for many years to come.

This shipping activity obviously increases the potential for marine casualties—which run the gamut from simple groundings and minor collisions to more serious groundings, major collisions, and disastrous explosions and fires.

I need not remind you of the most noteworthy of a series of casualties during the winter of 1976-77 involving the Liberian tank vessel *Argo Merchant* which grounded in international waters about 28 miles southeast of Nantucket Island in the early morning hours of December 15, 1976.

While the casualty resulted with no loss of life and no personal injuries, the resulting oil pollution involved some 204,000 barrels of heavy heating oil destined for the Boston area.

I would also like to point out that the report of the Liberian Marine Board of Investigation which inquired into this tragedy made certain recomendations which are strikingly similar to some of the conclusions contained in the President's March 1977 message to the Congress on tanker safety and oil pollution. They are also similar to various legislative initiatives before us today.

Another noteworthy casualty which occurred in December 1976 involved the Liberian tank vessel *Sansinena*—which suffered an explosion and fire while taking on ballast and fuel at an oil terminal in Los Angeles Harbor.

In addressing some of these problems, H.R. 13311 will provide for greater supervision and control over all types of vessels—foreign and domestic—which operate in our waters or ports.

It will also provide for an effective inspection and compliance program for all tank vessels—foreign and domestic—which transport or transfer oil or hazardous cargoes in ports or places subject to the jurisdiction of the United States.

With specific reference to tank vessels, this bill includes many actions endorsed by the administration and the international maritime community concerning standards for new and existing tank vessels—with respect to segregated ballast—crude oil washing systems—inert gas systems—steering gear systems—and navigation equipment.

It provides a stringent and comprehensive program dealing with the design, construction, alteration, repair, maintenance, operation, equipping, personnel qualifications, and manning of all vessels which desire to use our ports to transfer cargoes of oil and hazardous materials.

This legislation has widespread support—and a number of the controversial issues have been accommodated. However, it is the consensus of many that something had to be done to cover the international maritime community's failure to address construction and oil pollution prevention standards for the smaller existing tank vessels—those of 20,000 deadweight tons or above, but less than 40,000 deadweight tons.

We have recognized the technical difficulty—the cost of redesign and retrofit—and the need for continuing international cooperation by requiring compliance with certain standards within a reasonable and realistic timeframe.

These smaller vessels will have to be equipped with segregated ballast tanks—or a crude oil washing system—if they are 15 years or older—not later than January 1, 1986 or the date on which the vessel reaches 15 years of age, whichever is later.

It is my belief that the dates agreed to will provide sufficient lead time to enable vessel owners to make valid judgments with respect to retrofit, layup, scrapping, replacement, or reassignment. I also believe it will provide the international community with the time necessary to evaluate what must be done to upgrade these smaller tankers.

I believe this is an absolutely necessary requirement when you realize that somewhere near 80 percent of the tankers using our ports are within this tonnage range.

I want to make it very clear that—in developing this requirement for the lower tonnage tank vessels—there was and remains a general recognition of the excellent results which were achieved by international agreement—and also recognition of the dedicated efforts of the U.S. delegation during the February 1978 conference on tanker safety and pollution prevention.

The bill also includes regulatory authority over areas not previously covered—such as participation with neighboring nationals in coordinated vessel traffic systems in boundary waters—and the control of dumping of tank washings at sea in preparation for loading cargoes in U.S. ports.

It also provides, for the first time, regulatory control over lightering operations—that is, the offshore transfer of oil or hazardous cargoes from large vessels to smaller ones for delivery to our shallow-water ports.

It also permits the development of improved personnel qualifications—as well as realistic manning standards for all tank vessels using our ports.

Finally, H.R. 13311 also provides for the initiation of a study looking into comprehensive cost-effective shore station systems for monitoring vessels operating off our coasts.

Mr. Speaker, in this comprehensive port safety and tank vessel safety legislation, it is my firm belief that we have reported a bill which will accommodate domestic concerns—as well as meet international objectives within a flexible framework.

It is my opinion that the bill meets the President's overall objective when—on March 17, 1977, in his message to Congress—he announced a number of measures to be adopted, designed to reduce the risks associated with the marine transportation of oil.

I, therefore, urge all Members to support the passage of H.R. 13311—as developed by the Subcommittee on Coast Guard and Navigation—and as reported by the Committee on Merchant Marine and Fisheries.

Mr. RUPPE. Mr. Speaker, I yield myself so much time as I may consume.

Mr. Speaker, I would like to join my colleagues in supporting H.R. 13311, the "Port Safety and Tank Vessel Safety Act of 1978."

In recent years the volume of vessel and tanker traffic off our coasts, and in our ports, has increased significantly. To a large extent this is the result of the dramatic increase in the importation of oil into the United States. This increase in vessel traffic creates a serious potential for marine casualties such as groundings, collisions, and disastrous explosions and fires.

During December 1976, there was a rash of serious tanker casualties. Most noteworthy was the grounding and subsequent breakup of the SS *Argo Merchant* off Nantucket, Mass. and the explosion of the SS *Sansinena* at an oil terminal in Los Angeles Harbor. Marine casualties such as these brought about a demand, both nationally and internationally, for improved marine safety standards.

On March 17, 1977, the President announced his initiative on marine oil pollution. This initiative directed the Secretary of Transportation to prepare, within 60 days, proposed new regulations governing tanker construction and equipment. The initiative also instructed the Department of State to begin diplomatic efforts to improve the international system of inspection and certification of tankers and called for an early convening of an International Conference of Training and Certification of Seafarers. These international efforts culminated in the International Conference on Tanker Safety and Pollution Prevention of February 1978, and the International Conference on Training and Certification of Seafarers of June 1978.

H.R. 13311 amends the Ports and Waterways Safety Act of 1972, the Tank Vessel Act of 1936 and 46 United States Code 214 concerning pilotage.

The Ports and Waterways Safety Act Amendments would, among other things, authorize the Coast Guard to establish vessel operating requirements. This

would include vessel traffic services in waters subject to U.S. jurisdiction and, in accordance with negotiated international agreements, in areas of the high seas. The Secretary can also establish necessary fairways and traffic separation schemes and provide safe access routes for U.S. ports.

The Ports and Waterways Safety Act Amendments also authorize the Coast Guard to establish conditions of entry for tank vessels into U.S. ports. A tank vessel can be denied entry if it: has a history of accidents, pollution incidents, or serious repair problems; does not comply with applicable laws or treaty; discharges oil or hazardous material in violation of U.S. laws or treaties; does not comply with the applicable vessel traffic service; or is improperly manned.

Recognizing that tankers do not transit areas of particular concern in isolation, the Secretary is also directed to study and report on the feasibility of shore-based monitoring systems for all vessels trafficking within the Fishery Conservation Zone.

The principal amendment to the Tank vessel can be denied entry if it: Has a construction standards for United States and foreign tankers, product carriers, and other vessels which enter U.S. navigable waters or use any port or place under U.S. jurisdiction. These minimum construction standards are in most respects consistent with the provisions of the International Conference on Tanker Safety and Pollution Prevention. Depending on vessel size, and whether the vessel is new or old, these standards include: segregated ballast tanks; a crude oil washing system; an inert gas system; or dedicated clean ballast tanks.

The Coast Guard is also directed by the tank vessel act amendments to establish minimum personnel and manning standards for U.S. tank vessels and for foreign vessels entering the U.S. navigable waters for the discharge of oil or hazardous materials in any port or place under U.S. jurisdiction.

Finally, the amendment to 46 United States Code 214 directs the Coast Guard to establish eligibility requirements and sets certain minimum standards for the issuance of a Federal pilot's license.

I believe we have a good bill, one that is comprehensive and takes a systems approach to the problems at hand. It provides for minimum safe operating, construction, personnel and manning, and pilotage standards. I strongly urge your support of its passage.

Mr. Speaker, I would like to congratulate the gentleman from New York (Mr. BIAGGI), the chairman of the subcommittee, for the gentleman's long and very careful work in insuring what I think is a complete and very satisfactory bill which is before us today.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California (Mr. MCCLOSKEY).

Mr. MCCLOSKEY. Mr. Speaker, I take this time, because in the report on this bill, the minority views that I submitted to that report indicated my concern that the provisions of the bill, as then written, went beyond the IMCO agreement which was so painfully negotiated by our representatives in London. The IMCO agreement was the subject of a breakthrough in February which finally achieved tough international standards at the instance of the United States. Those standards were relatively close to the provisions of this bill.

Mr. Speaker, I would like to commend the gentleman from New York (Chairman BIAGGI), the gentleman from Massachusetts (Mr. STUDDS), and the gentleman from Louisiana (Mr. TREEN) for the incredibly long and painful process they went through in drafting this bill and to state clearly that after examining the provisions of IMCO and discussing it with our representatives at IMCO, I am satisfied there are no serious differences of substance between this bill and the terms of the IMCO agreement. Because the bill appears to be reasonably consistent in matters of substance with the IMCO Treaty, I do not think it is an act of bad faith, as was once suggested by the Secretary of Transportation before the bill was amended.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. MCCLOSKEY. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I know the gentleman has acted as a congressional liaison in the Law of the Sea Conference and has been actively engaged in discussing some of the waterways safety regulations at that conference.

Is the gentleman also satisfied this bill meets some of those problems that have been raised in the Law of the Sea Conference and the proposed treaty our Nation has been urging?

Mr. MCCLOSKEY. Mr. Speaker, I do not think this agreement in any way conflicts with the Law of the Sea Treaty. There still remains a difference between our position at the Law of the Sea negotiations and the Ports and Waterways Safety Act; but this bill does not intrude in any way on that position, so far as I can tell.

Mr. GILMAN. Mr. Speaker, I thank the gentleman.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. MCCLOSKEY. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Speaker, I want to thank the gentleman from California for these kind comments; but even more importantly, the gentleman's invaluable contribution. As the gentleman well knows, it is the purpose of our subcommittee and the chairman, under whom I serve on that subcommittee, to meet the objective, the stated goal, and try to accommodate all the concerns, without losing sight of the primary objective.

I daresay that it has been an arduous road. We are embarking on new areas, but I am satisfied that the solution we offer all Members and our country is a satisfactory one. It should produce the kind of relief and safeguards that we have been clamoring for and that the Nation as well as the world needs.

Mr. Speaker, once again let me say we are grateful for the gentleman's contribution.

Mr. MCCLOSKEY. Mr. Speaker, I want to thank the gentleman from New York (Mr. BIAGGI) and again congratulate him upon achieving the delicate balance between what we could achieve by international negotiations and what our own people expected us to impose as pollution control standards for tankers entering U.S. waters. It seems to me the gentleman has crafted a very fine compromise.

The concern that has been expressed by certain foreign nations that the differences between the precise language of IMCO and the precise language of this bill result in differences in substance has not been proven to me, and I am hopeful that Congress will enact the bill into law.

Mr. BIAGGI. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Speaker, I rise in support of H.R. 13311, the Port Safety and Tank Vessel Safety Act of 1978.

Mr. Speaker, I also want to commend the Committee on Merchant Marine and Fisheries, its chairman the gentleman from New York (Mr. MURPHY), our colleague, the gentleman from New York (MARIO BIAGGI), as well as the minority member of that committee, the gentleman from Michigan (Mr. RUPPE). I also commend the members of my own committee, the Committee on International Relations, including the gentleman from Massachusetts (Mr. STUDDS), for their efforts on this particular piece of very necessary legislation.

Mr. Speaker, this bill was sequentially referred to the Committee on International Relations on July 21, for consideration of subsections (A) and (B) of section 9. On August 3, by voice vote, the committee ordered the bill favorably reported with amendments.

The committee believes that section 9 of the Ports and Waterways Safety Act of 1972, which deals with international agreements, is an important provision. This section encourages the President to enter into negotiations with neighboring states and within international bodies to establish appropriate international standards to prevent and control pollution. The committee amendments to the section make explicit the President's authority not only to negotiate, but also to conclude and execute international agreements with respect to vessel standards and vessel traffic services.

The International Relations Committee has had a continuing interest in the efforts of international organizations to solve the global problem of prevention and control of marine pollution. The committee also has a general concern for the implications that domestic legislation to control marine pollution may have for U.S. foreign relations, particularly U.S. policy in multilateral agencies such as the Intergovernmental Maritime Consultative Organization (IMCO). The committee would like to congratulate the U.S. delegation to the recent IMCO Conferences for their hard work in successfully negotiating new international agreements in two important areas: One on tanker safety and pollution prevention, and the other on standards of training and certification of seafarers.

Mr. Chairman, I would like to add that the Committee on International Relations recently received an aide memoire concerning this bill from the Governments of Belgium, Denmark, Finland, Italy, Japan, the Netherlands, and the United Kingdom. These governments expressed their concern that certain provisions of H.R. 13311 go beyond the recently negotiated IMCO Agreement on tanker safety and pollution prevention, to which the United States was party. While the committee supports the bill in its present form, as amended, it is incumbent on the International Relations Committee that these concerns be made known. I, therefore, include the text of the aide memoire in the RECORD at this point.

DEPARTMENT OF STATE,
Washington, D.C., September 1, 1978.

Hon. CLEMENT J. ZABLOCKI,
Chairman, Committee on International Relations,
House of Representatives

DEAR MR. CHAIRMAN: I have been asked by representatives of Belgium, Denmark, Finland, Italy, Japan, the Netherlands, and the United Kingdom to transmit to you the enclosed Aide Memoire to the Department of State concerning H.R. 13311.

In the Aide Memoire, the above-mentioned governments expressed their concern that the bill's provisions differ substantially from those agreed internationally at the February 1978 Intergovernmental Maritime Consultative Organization Conference on Tanker Safety and Pollution Prevention, to which the United States was party.

Thank you for your consideration.

Sincerely,

J. BRIAN ATWOOD,
Acting Assistant Secretary for Congressional Relations.

AIDE MEMOIRE

The Governments of Belgium, Denmark, Finland, Italy, Japan, the Netherlands and the United Kingdom refer to Bill HR13311 entitled the "Port Safety and Tank Vessel Safety Act of 1978", approved by the House of Representatives Committee on Merchant Marine and Fisheries on 22 June and 8 August and the Committee on International Relations on 3 August.

The above-mentioned Governments have noted with concern that the Bill contains provisions which go beyond the standards agreed internationally at the February 1978 Inter-Governmental Maritime Consultative Organisation Conference on Tanker Safety and Pollution Prevention. The agreements reached at that Conference, which was convened primarily in response to a timely initiative by the President of the United States, mark a noteworthy achievement in responsible international cooperation in IMCO and should lead to significant improvements in tanker safety and pollution prevention. The above-mentioned Governments therefore consider that it would be regrettable if the United States, on return from an international meeting at which its delegation (which included Congressional observers) participated fully in discussions with delegations of other nations, were to adopt different standards, applicable to foreign-flag tankers, in its national legislation. Such action would impede the free movement of international shipping, could not but undermine the value of international discussion in IMCO to which the President attaches importance, and might create a precedent for similar action by other nations.

The above Governments have welcomed the testimony presented by the Departments of State and Transportation and other witnesses on 27 July before the Subcommittees of the International Relations Committee, expressing concern about the unilateral provisions in HR13311 which parallels their own. They welcome the changes to the Bill made on 8 August, which they understand may have been in response to this testimony. Nevertheless, they still consider that there are differences of substance between the provisions of the Bill and those contained in the IMCO Protocol of February 1978, and express the hope that, in the light of the considerations outlined above, the Government of the United States will not enact national standards at variance with those agreed in IMCO.

Mr. BIAGGI. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Speaker, I would like to ask the distinguished gentleman from New York (Mr. BIAGGI) whether in this legislation there is any requirement that there be special fire control systems or navigational procedures for vessels that are bringing into our ports highly explosive or volatile materials.

More and more the people from whom we are buying oil are going to insist that some of it come in here in processed, in gasoline, naphtha and in other forms.

As these shipments increase into this country, with refining going on offshore, what insurance do we have that these ships are capable of resisting and controlling a fire or an explosion that might break out on a vessel carrying highly inflammable or explosive materials?

Mr. BIAGGI. If the gentleman will yield, one of the purposes of the bill is to incorporate the type of design that would minimize the possibility of any inadvertent development, any catastrophe, any untoward incident.

The gentleman asks, further, what can we do in the event of an explosion. I would suggest at that point that we say a prayer. But on a more serious note, we are dealing with the law.

Mr. VANIK. I pray that we might write proper law here today.

Mr. BIAGGI. The gentleman's question dealt with the question of an explosion. If we are talking about design, design deals with structure, as far as carrying capacity, the safety and the ability to carry that oil safely and also the prevention of any possible fire and explosion. The ship would have to incorporate in its design the necessary firefighting equipment. But the important thing is, for the first time these vessels will be required, as a matter of law—not just a matter of proper seaman's practice, but as a matter of law—to have the proper kind of design, the proper kind of prevention equipment and procedures; and, of course, the proper type of firefighting ability. But if we are talking about the kind of explosion we see periodically, that it just goes up in the air, that is one of the things I do not know if we can deal with.

Mr. VANIK. Mr. Speaker, I commend the gentleman's committee and I commend the gentleman's efforts. Will there be any provision or any authority to provide that such vessels would probably operate at times of little commercial transport?

In other words, by allocating their movement to and from ports during times when there might be a minimum hazard of collision, a minimum hazard of exposure to the other vessels such as we do when we transport flammable and explosive material over bridges. On bridges we allow special security coverage, and at times when there is a minimal amount of other traffic, so that the hazard is reduced for that kind of catastrophe.

Mr. BIAGGI. The gentleman makes a valid point, and his theory is a substantial one. The Coast Guard has already embarked on this type of program in many ways. We are talking in terms of carrying hazardous substances, very volatile substances. In Boston, when that occurs all vessel traffic stops. The only vessel permitted to go is that vessel. We have a vessel-traffic control system which is being put into effect in the major ports of our Nation, a separate and distinct Coast Guard program, which should produce the kind of safe conditions we want.

Mr. RUPPE. Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana (Mr. TREEN), the distinguished ranking member of the subcommittee that has developed this legislation.

Mr. TREEN. Mr. Speaker, first of all, I want to commend the chairman of the subcommittee, the gentleman from New York (Mr. BIAGGI), for his very diligent efforts and competent work in presenting this bill to the full committee and to the floor, the gentleman from Massachusetts (Mr. STUDDS), who brought his usual wisdom in the crafting of this bill, and the staff of both the majority and the minority, who have worked diligently on this bill.

Mr. Speaker, I join my colleagues in supporting H.R. 13311, the Port Safety and Tank Vessel Safety Act of 1978.

The use of petroleum has played a major role in the development of the U.S. economy. The continued need for oil for the foreseeable future is unquestioned. Currently, the United States imports about 43 percent of its oil requirements. Most of the oil imported into the United States comes by vessel, with over 96 percent imported on foreign vessels.

The amount of oil we import will increase. The United States presently imports over 7.7 million barrels of petroleum products a day. By 1980, the total should reach 10 million barrels a day. This constitutes a 71 percent increase in foreign imports between 1975 and 1980, and it is estimated will increase port calls by over 89 percent. These figures no not include the amount of petroleum which is not imported but moved by vessels in the domestic trade.

This increase in shipping activity will result in an increase in the danger of marine casualties resulting from groundings, collisions, and fires and explosions.

During the month of December 1976, a series of tanker casualties occurred. This included the grounding of the SS *Argo Merchant* 28 miles southeast of Nantucket which released an estimated 204,000 barrels of oil, and the massive

explosion of the SS *Sansinena* in Los Angeles harbor.

As a result of these incidents, the Secretary of Transportation established a special departmental task force to undertake a comprehensive review of marine safety and oilspill regulations. This review, and a subsequent interdepartmental review, constituted the basis for the President's initiatives on marine oil pollution of March 17, 1977.

Part of the President's initiative called for diplomatic efforts to improve the international system of inspection and certification of tankers, and for an early convening of the International Conference on Training and Certification of Seamen. These efforts resulted in the International Conference on Tanker Safety and Pollution Prevention of February 1978, and the International Conference on Training and Certification of Seafarers of June 1978.

H.R. 13311 amends the Ports and Waterways Safety Act of 1972, the Tank Vessel Act of 1936, and 46 U.S.C. 214 (concerning pilotage). The bill authorizes the Secretary of the Department in which the Coast Guard is operating to: Establish vessel operating requirements, including traffic services; establish fairways and vessel traffic separation schemes; establish conditions of entry into U.S. ports; provide for waterfront safety; provide for eligibility requirements for federally licensed pilots; establish a Marine Information System; regulating lightering; establish minimum manning standards for United States and foreign vessels; and establish minimum construction standards for large tankers, product carriers and other vessels which enter or use any port or place in U.S. jurisdiction. The minimum construction standards adopted by H.R. 13311 are basically the same as those adopted at the International Conference on Tanker Safety and Pollution Prevention. Depending on the size of the vessel, the minimum standards may include: Segregated ballast tanks; a crude oil washing system; and inert gas system; and dedicated clean ballast tanks.

Rather than discuss each individual provision of the bill. I would like to highlight several sections I feel are of significance.

MINIMUM CONSTRUCTION STANDARDS

Vessels engaged in the U.S. coastwise trade are protected by law from competition from foreign vessels. In return for this protection, the vessels must be built in the United States and owned by U.S. citizens. The coastwise trade laws also provide that any vessel entitled to engage in coastwise trade which is "rebuilt" will lose that privilege unless the "entire rebuilding, including the construction of any components of the hull or superstructure of the vessel" is done in the United States, its territories, or possessions.

H.R. 13311 will require the installation of segregated ballast tanks, a crude oil washing system or an inert gas system on certain vessels. The Coast Guard has ruled that the installation of this equipment on vessels entitled to engage in coastwise trade is not "rebuilding" within the intent of the coastwise trade laws. This is perplexing, since the U.S. Customs has also ruled that the installation of this equipment on U.S. vessels in foreign shipyards would be regarded as a rebuilding through an alteration of the hull and, therefore, not dutiable as a "repair of equipment" under the Tariff Act of 1930.

H.R. 13311 makes it clear that the installation of this required equipment on vessels entitled to engage in the coastwise trade must be effected within the United States, its territories or possessions. Vessels which fail to comply with this provision lose the privilege of engaging in the coastwise trade.

PILOTAGE

Under the admiralty and martime jurisdiction of the United States, Congress clearly has the authority to determine whether pilotage will be regulated by the Federal or State government, and under what terms or conditions. However, except for pilotage in the coastwise trade and on the Great Lakes, Congress has, since 1978, felt it best to leave the regulation of local pilotage areas to the various States. This was because different conditions existed in each State with regard to its harbors, ports and waterways and, therefore, it was best to allow the States to promulgate different rules based on local knowledge of these conditions. For the same reason, it was thought best to allow the States to determine the competency of pilots to navigate these local conditions.

Recently, the Coast Guard has sought to exercise disciplinary authority over pilots. This is particularly true with regard to Federal licenses which are required as a condition of a State pilot's license. However, the courts have denied the Coast Guard this authority.

Several individuals who testified before the Committee on Merchant Marine and Fisheries stated that "statistics" indicated a need for Federal regulation of State pilotage. However, when asked for these statistics, none were forthcoming. On the other hand, the American Pilot's Association submitted to the committee a letter from the Chief of the Coast Guard's Office of Merchant Marine Safety which states that based on spot checking "the actions of the State pilot commissioners are about the same as the (Coast Guard's) administrative law judges."

The State pilots feel that only they have the specialized knowledge of local waters and conditions necessary to regulate pilotage properly. They also feel that over the years they have done a very good job. Since this system of pilotage has been in existence since 1789, I feel we should have strong proof that the system is no longer functioning properly before we change it. That proof was simply not presented. H.R. 13311 upholds State regulation of pilotage by providing that the Federal Government may require a federally licensed pilot on a vessel engaged in foreign trade only where "not otherwise required by State law."

LIGHTERING

Lightering is the practice of transferring cargoes at sea from a large deep-draft vessel to a shallow-draft vessel for subsequent transfer ashore. The practice of lightering oil from large crude tankers, or "superships," to smaller tankers at sea has increased greatly due to the inability of most new large tankers to enter the relatively shallow ports of the United States. This transfer may occur very close to our shoreline, or as far offshore as 100 or 200 miles. Testimony indicated that as much as 1 million barrels of oil are lightered daily in my area of the country, the Gulf of Mexico, alone.

Currently, the practice of lightering is not regulated when it occurs beyond our territorial jurisdiction. The oil industry testified that lightering has been going on for many years under strict industry guidelines, and that its safety record was excellent. However, there is always the possibility that less reputable operators may become involved in lightering operations. H.R. 13311 will provide legislative authority to control lightering operations by prohibiting any tanker, which has engaged in lightering, from unloading any cargo of oil or hazardous material in any port or place under the jurisdiction of the United States unless the lightering is performed in accordance with regulations isued by the Secretary of Transportation. These regulations would apply to lightering in the navigable waters of the United States; waters over which the United States asserts exclusive management authority; and waters superjacent to the Outer Continental Shelf.

I believe this bill is a good bill and I urge its passage.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. TREEN. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Speaker, I would like to thank the gentleman from Louisiana (Mr. TREEN), the ranking minority member of the subcommittee, for his kind comments; but even more importantly, for his diligence and his contribution, the absence of which would have resulted in a lesser bill for our consideration today.

Mr. TREEN. I thank the gentleman.

Mr. RUPPE. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. PRITCHARD).

Mr. PRITCHARD. Mr. Speaker, I rise in support of H.R. 13311, an amendment to the Ports and Waterways Safety Act which will provide for an overall reduction of the risk associated with the marine transport of oil. Chairman BIAGGI has been diligent in putting together a package of legislation which meets our Nation's need to provide greater protection for the marine environment.

In the Puget Sound area many of the citizens are reluctant to see any increase in the level of oil transport because of such incidents as the *Argo Merchant* and the *Torrey Canyon* disasters. In Puget Sound, being a deepwater estuary, a large oil spill could have drastic impacts on marine life. Therefore, it is essential that we enact this legislation which will provide clear guidelines for safe tanker

operations. This legislation would provide for an improved vessel traffic safety system, by applying available technology. This legislation includes standards for new and existing vessels with respect to segregated ballasts, crude oil washing systems, inert gas systems, steering gear systems, and navigation equipment. It also provides for improved personnel qualifications and manning standards for all oil tankers using U.S. ports. This legislation is important in that it encourages the application of existing and new technologies to the marine transport of oil. There are many available technologies which could significantly reduce the risk of oilspills in the marine environment. Given the importance which fishermen, recreationists, and others attach to an unspoiled marine environment, I think it essential that we begin to invest in reducing the risk of oilspills. I feel that this bill is a major move in this direction and I strongly support it.

Mr. RUPPE. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I rise in support of H.R. 13311, a bill to amend the Ports and Waterways Safety Act of 1972, and commend the gentleman from New York (Mr. BIAGGI), the chairman of the subcommittee of the Committee on Merchant Marine and Fisheries, and the ranking minority member, the gentleman from Louisiana (Mr. TREEN) for their diligence in bringing this measure to the floor of the House.

H.R. 13311 is part of a concerted effort by the United States to join with other nations of the world in an effort to prevent pollution of the marine environment. This much-needed legislation will help provide for the safety of U.S. ports and waterways, the safety of tank vessels, and the protection of the marine environment.

In recognition of the fact that marine pollution resulting from oilspills is a global problem, section 9 of this bill encourages the President to enter into negotiations with neighboring states and within international bodies to establish appropriate international standards to prevent and control pollution.

In this regard, some concern was expressed by the executive branch about the implications of this legislation since some provisions contained in it exceed international standards agreed upon by the United Nations' Intergovernmental Maritime Consultative Organization (IMCO). I share these concerns as they relate to our efforts to gain international cooperation, but I feel that the overall positive effect of this legislation requires our support. Marine pollution knows no boundaries. To be effective, we must approach the problem in a global fashion. The legislation before us, H.R. 13311, provides the tools to coordinate U.S. efforts in the international arena.

As our distinguished chairman of the Committee on International Relations (Mr. ZABLOCKI) noted, on September 1, 1978, the representatives of Belgium, Denmark, Finland, Italy, Japan, the Netherlands, and the United Kingdom transmitted an aide memoir with regard to this legislation. While those nations welcomed the action of the Congress to join in support of the agreements reached at the IMCO meetings, they expressed their concern about the unilateral enactment of national standards at variance with those IMCO agreements.

It was in response to such international concerns that our Committee on International Relations added language to authorize the President not only to negotiate, but to conclude and execute international agreements with respect to vessel standards and vessel traffic services.

Accordingly, Mr. Speaker, I urge my colleagues to join with me in support of this important legislation.

Mr. RUPPE. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of the bill H.R. 13311, the Port Safety and Tank Vessel Safety Act of 1978. This legislation is sorely needed to protect the Nation's waterways, harbors, fisheries resources, and coastal communities from tragic marine transportation accidents. From the *Torrey Canyon* to the *Amoco Cadiz* we have, I hope, learned valuable lessons about the critical need to improve safety standards among American flag vessels and foreign vessels entering American waters, improve traffic management systems, and conditions in the Nation's harbors to eliminate wherever possible the threat of potential disasters. As the size of the massive vessels used to transport the Nation's energy supplies continues to increase, the problem, and the potential magnitude of tanker accidents grows. We must act and I am pleased that today we have such a responsible bill before us.

I would like to commend the gentleman from New York (Mr. BIAGGI) and the subcommittee for their tireless efforts to deal constructively and effectively with the substantial and complex problems of tanker and harbor safety. The bill before us today is a good one and one which I urge my colleagues to support it.

At this time, I would like to take a few minutes and outline for the benefit of my colleagues the basis for my strong support and interest in H.R. 13311.

Mr. Speaker, my congressional district encompasses the Santa Barbara Channel and adjoining coastal areas which have the dubious distinction of experiencing the first major oilspill in the United States. In fact, many believe that the 1969 oilspill, which poured millions of gallons of crude oil into the channel, was the catalyst for the environmental movement. Following the massive spill of 1969, we are perhaps more sensitive to the dangers inherent to offshore energy activities—both OCS exploration and production, and marine transportation systems. Yet at the same time, we recognize this Nation's need for increased domestic energy supplies and have not sought unilaterally to put a halt to all energy activities which impact the channel. We do expect, however, that we make these kinds of activities as safe and as environmentally compatible as is reasonably possible. Concrete steps can, and must, be taken to lessen the potential hazards and environmental impacts which result from offshore energy activities without unduly restricting domestic energy production, transportation, or distribution. That is the purpose of the bill before us today and I believe the legislation meets this criteria.

It would be my hope that efforts to improve and enhance tanker safety and marine transportation systems would not stop with this bill. While this legislation makes a serious and important step to deal with tanker safety we must continue to identify, analyze, and deal constructively with potential problems which threaten public safety and environmental integrity. It is my hope that the Congress and the Coast Guard would identify hazardous and congested shipping traffic patterns and implement a higher level of traffic management—before accidents happen. The magnitude of a supertanker accident and the potential for environmental property and commercial damage clearly should prompt us to increase the level of safety to prevent accidents and not just to respond to them after they happen and the damage is done. One way to fulfill our responsibilities is to increase the level of traffic management systems in and around hazardous shipping lanes.

The Coast Guard has recently implemented a navigational system in Puget Sound in Washington which allows them to monitor and communicate with all traffic in the area. The system operates much the same way as the sophisticated traffic management capabilities of the Nation's commercial airways. Individual vessels can be monitored and alerted to potential danger in time to take evasive action. A vessel communication system is also now in use in San Francisco Bay. I believe we should seriously consider expanding these systems to other areas of the Nation's waterways to improve safety and help alleviate the danger of tanker accidents.

I was pleased to be able to participate in the development of this legislation, through hearings which the subcommittee, chaired by my colleague and friend from New York, Mr. BIAGGI, held in Santa Barbara this summer. At the hearings, testimony was offered indicating the desirability of establishing a vessel traffic monitoring system in the Santa Barbara Channel. Several companies carrying taps crude have volunteered to cooperate in such a study, in an effort to determine the feasibility, assets and liabilities of using different routes through this area. Such a test would aid immensely in deciding the safest and best way to handle this traffic. Specifically, I would like to establish: First, continuous radar monitoring of the Point Conception—Point Fermin and Gulf of Santa Catalina traffic separation schemes; second, establish a suitable radio network to permit communication with all vessels

using the traffic separation schemes; third, undertake field tests examining the various tanker routing options available off southern California and the merits of various electronic aids; and fourth, require a report of Congress on the results of these tests and related actions.

I would like to ask my colleague, the gentleman from New York (Mr. BIAGGI), whether the subcommittee will continue to work with me and my staff and the Coast Guard in order to resolve this issue to the satisfaction of all the interested parties?

Mr. BIAGGI. If the gentleman will yield, as the gentleman knows we did respond to his initial request by going to Santa Barbara and making firsthand observations and listening to the testimony of the witnesses.

Of course there is a problem which requires further attention, and I pledge to the gentleman that our committee and our staff will continue to work closely in attempting to find some suitable solution.

Mr. LAGOMARSINO. I thank the gentleman.

But that is in the future. Today, we have an opportunity to take concrete action now to help improve safety on the shipping lanes and in the harbors. I urge adoption of the bill H.R. 13311.

Mr. RUPPE. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. STUDDS), who has worked probably harder than anyone else to see that we have before us an effective bill on the floor today.

Mr. STUDDS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of H.R. 13311, the proposed Port Safety and Tank Vessel Safety Act of 1978.

This legislation was promised to the American people in the aftermath of the *Argo Merchant* and other tanker accidents two winters ago. Its primary purpose is to reduce the amount of oil pollution resulting from tanker traffic in American ports and waterways in future years.

Accordingly, this legislation will establish a series of minimum construction and operating safety standards for tankers which must be met as a condition of entry into a U.S. port. These include:

The installation of segregated ballast tanks or a crude oil washing system on all new crude oil tankers over 20,000 deadweight tons, on all existing tankers which exceed 40,000 dwt., and on existing tankers between 20,000 to 40,000 dwt., which are more than 15 years old beginning in 1986;

All crude oil tankers over 20,000 tons, new and existing, will be required to install a gas inerting system, to prevent explosions during loading and unloading operations;

All tankers above 10,000 gross tons will be required to have on board a collision avoidance system, an electronic position fixing device, adequate communications equipment, a sonic depth finder, a gyrocompass, and up-to-date charts;

All crude oil tankers above 5,000 dwt. which are carrying oil from an offshore oil facility to shore will be required to have segregated ballast tanks; and

No tanker will be allowed in a U.S. port if it does not have at least one licensed deck officer on the navigation bridge who is capable of clearly understanding English, or if it comes from a country whose crew training standards have been found by the Secretary of Transportation to be inferior to those of the United States.

The major controversy surrounding this legislation has involved the extent to which it differs from the international tanker safety agreement negotiated earlier this year in Geneva. This agreement—called the IMCO agreement—represents a major step forward in international cooperation on marine pollution issues, and the Coast Guard deserves high praise for the success which has been achieved.

The primary failure at IMCO, however, was the decision of the negotiators to refrain from requiring new construction standards on existing oil tankers of less than 40,000 dwt. The Merchant Marine and Fisheries Committee, while giving due attention to the international agreement in most areas, wisely chose to extend segregated ballast requirements to those tankers which are between 20,000 to 40,000 dwt., and which are more than 15 years of age. Due to administration objections, this requirement will not go into effect until 1986.

The importance of the committee's decision should not be minimized, for without it, this tanker safety bill would be little more than a sham. If the Congress chose, as did the international negotiators, to ignore tankers below 40,000 dwt., particularly the older tankers in this category, we would be ignoring the primary reason for this legislation. The *Argo Merchant*, for example, was a 28,000 dwt. vessel of more than 15 years, which would probably not have been operating at all if the provisions of this bill had been in effect 2 years ago. The international agreement, however, would not have affected the *Argo Merchant*, or comparably sized rustbuckets flying the flag-of-convenience banners of Liberia, Panama, or Greece, at all.

The statistics speak for themselves:

About one-half of all tanker pollution incidents in our waters are caused by tankers over 15 years old;

Fifty-seven percent of Panama's crude oil tankers and 68 percent of their product carriers entering U.S. ports in 1976 were over 15 years old; similar percentages apply with respect to the Liberian and Greek fleets;

Thirty-nine percent of Panama's tankers and 66 percent of their product carriers entering U.S. ports are under 40,000 dwt; similar percentages apply with respect to the Greek and Liberian fleets;

Tankers from Liberia, Greece and Panama accounted for 59 percent of all entries into U.S. ports in 1976; and

Well over 50 percent of tanker pollution incidents in U.S. waters are from tankers below 40,000 dwt.

Any meaningful tanker safety legislation must deal with the tankers which are responsible for the bulk of the tanker accidents. I am grateful that H.R. 13311 meets this standard.

The oil transportation safety problem is an extremely important one for the coastal regions of the United States, and, indeed, for the entire country. Our continued dependence on foreign oil, the expansion of offshore oil drilling operations into new areas of the country, and the beginning of the Alaska pipeline trade, all contribute to the expanding tanker and barge traffic which threatens our coastlines.

The recent *Amoco Cadiz* spill off the coast of France has resulted in the virtual destruction of the economy of an area very similar in its beauty and value to the coast of Cape Cod. If the prevailing winds had been different, the entire cargo of the *Argo Merchant* might have washed up on the shores of Nantucket and Martha's Vineyard. Smaller spills, from barges operating in the Cape Cod Canal and Chesapeake Bay, have decimated shellfish populations, closing commercial operations for months and years at a time. The need for tanker safety legislation is urgent. H.R. 13311 is a significant improvement over existing law; it represents the best possible bill which can be approved by the House this session; it is long overdue, and it ought to become law before this Congress adjourns.

Mr. Speaker, there is something singularly nonpartisan about an oilspill, or about an explosion in a tanker, or about one's intense concern for the integrity and the sanctity of the marine environment.

I have enjoyed immensely my experience in the past 2 years in working with this committee and this subcommittee on the oilspill liability and the tanker safety legislation, both of which bills were aptly characterized by the chairman of the subcommittee as "landmark."

The island of Nantucket, 27 miles off whose shores the *Argo Merchant* grounded two winters ago, is in my district. The legislation we are about to pass today is in response to that incident, and in response to the tragic oilspill off the coast of Brittany in northwestern France earlier this year, and it is my fervent hope that the Port Safety and Tank Vessel Safety Act, along with the oilspill liability legislation, will be passed this fall and will become the law of the land.

Let me also say that we owe a deep debt of gratitude to the gentleman from New York (Mr. BIAGGI), the gentleman from Louisiana (Mr. TREEN), and other members of both majority and minority who have worked so long and so hard in bringing forth this effective legislation.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. STUDDS. I am happy to yield to the gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. Mr. Speaker, I rise in strong support of the Port Safety and Tank Vessel Safety Act of 1978.

I am proud to be a cosponsor of this

legislation. It is one of the major environmental measures being considered by the 95th Congress. It represents a landmark in our efforts to protect the Nation's shorelines and coastal waters from the devastation of a major oilspill.

The need for the legislation is readily apparent to anyone who has followe the news reports of the *Argo Merchant*, the *Amoco Cadiz*, and the other major oilspills in the last couple years. The *Amoco Cadiz* spill, for example, covered miles of the French coastline with oil slicks, not only creating a terrible mess on the beaches, but wiping out valuable shellfish beds and killing waterfowl as well. The daily traffic along our coasts of vessels carrying hundreds of thousands of gallons of oil makes it clear that a tanker safety bill is necessary.

The need for legislation is also borne out by a study by the National Academy of Sciences. According to the study, the marine transportation of oil and petroleum products is the greatest single source of oil pollution in the world's oceans. Tanker accidents, normal tanker operations—cleaning and deballasting, drydocking, bilges, and terminal operations are the major cause of oil entering ocean waters, accounting for approximately 35 percent of oil pollution in marine waters, the study reports.

Consequently, it is noteworthy that this legislation establishes a broad program to prevent the pollution of our waters by tankers and their operations. The bill sets in statute tough new standards for the design, construction, operation, and manning of all tankers, foreign and domestic, that use our ports and navigable waters. Under the bill, tankers must make use of the best available technology to prevent pollution, unless the economic impact of such technology clearly outweighs its benefits. In addition, the bill calls for an effective inspection and enforcement program for these tankers.

One of the major initiatives in the bill is its focus on the serious problems caused by tankers between 20,000 and 40,000 deadweight tons that are at least 15 years old. To be candid, many of these aging vessels are nothing more than rustbuckets. Moreover, in terms of oil spilled, these vessels are, by far, the greatest threat to our marine environment. It is thus significant that the legislation requires that, by January 1, 1986, these vessels must be refittted with either segregated ballast or crude oil washing systems. Otherwise, they must be taken out of service altogether.

In another major initiative, the legislation grants the Coast Guard the authority to prohibit foreign vessels with histories of unsafe operations from entering our ports and navigable waters. This is the first time the Coast Guard has been given this authority by statute. The authority also enables the Coast Guard to bar entry to foreign vessels that illegally discharge oil or hazardous materials, violate applicable vessel traffic service requirements, or fail to have a crew adequately trained and qualified in accordance with the Tank Vessel Act.

Another significant initiative in the bill has a special importance to south Jersey, the area I am privileged to represent in the Congress. About 60 miles off the shores of south Jersey, a number of oil companies are engaged in exploratory drilling for oil and gas. If successful, the exploratory drilling will lead to actual production in the next several years. Under the bill, any tanker over 20,000 deadweight tons transporting oil produced from a facility on the Outer Continental Shelf will be required to have segregated ballast tanks or be operated with dedicated clean ballast tanks. This requirement, I feel, will strongly encourage the oil companies to transport oil and gas ashore through pipelines, a method with much less risk to the environment.

The provisions I have just described, along with the many other initiatives in the bill, will provide needed protection to our oceans and coastal environment. The legislation is stringent but fair, and fully deserves the support of this House.

I urge my colleagues to vote for it.

● Mr. MURPHY of New York. Mr. Speaker, H.R. 13311 is a bill to improve the safety of our ports and waterways, to improve the operation of tankers transiting our waters and to improve the protection of the marine environment from the threat of pollution.

The United States is the greatest trading nation in the world, and billions of tons of cargo move into and out of our ports each year. Ever larger vessels ply our waters, carrying every imaginable type of raw material and finished product to meet the needs of our economy and send goods to our trading partners overseas.

As more and more traffic moves through our ports, it is obvious that the increased congestion creates problems brought on by the increased risk of accidents to the vessels involved, and it is a continuing battle to devise means to reduce the likelihood of those potential accidents, which not only threaten injury and loss of life, but also economic loss resulting from damage to vessels and cargo, and environmental damage ensuing from the release of polluting materials into the marine environment.

The list of laws involving the construction, operation, and manning of vessels is a long one, going all the way back to the founding of our Nation. In almost each case, the enacted law addressed new measures necessary to control specific problems involved in changed methods of operation or the adoption of new technologies, such as the change from sail to steam, or the later development of the gasoline engine.

The needs are continuing ones, and the latest involve the increased congestion in our waters, the ever increasing number of foreign vessels calling at our ports, the ever larger vessels being built, the increased reliance on sophisticated equipment, the numerical explosion in the types of exotic cargoes being transported, and the increased need to preserve the quality of our marine environment from massive deterioration through pollution.

One of the laws addressed to the most recently perceived needs was the Ports and Waterways Act of 1972 whose enactment, I am proud to say, was one with which I was involved. That act was an extremely significant one. For the first time, it created permanent authority in the Secretary of Transportation to address the problems of port safety. It authorized him to begin the creation of vessel traffic systems in our waterways designed to reduced vessel collisions and assist in maintaining an orderly flow of marine traffic to the benefit of the marine industry and the country. It also made more specific his authority over the construction, operation, and manning of the increasing number of vessels carrying cargoes in bulk which were either flammable or combustible, or otherwise hazardous, constituting a threat to the safety of their personnel and to the surrounding areas through which they passed.

The Ports and Waterways Act has served us well, but its implementation has demonstrated the need for some refinement and expansion. H.R. 13311 accomplishes that purpose.

The bill, in effect, amends and reenacts the Ports and Waterways Safety Act of 1972 and the Tank Vessel Act of 1936, already amended several times, most recently by the Ports and Waterways Act, itself. In so doing, H.R. 13311 incorporates provisions to remove ambiguities from present law and to mandate new requirements to improve the safety of vessels and to lessen their threat to the marine environment. While I would not describe the changes as massive, they are necessary and significant.

In relation to vessel traffic systems, the Secretary of the Department in which the Coast Guard is operating first, is given broadened authority to establish traffic services in certain areas outside the territorial limits, pursuant to international agreements—which the President is authorized and encouraged to negotiate; second, is authorized to require certain advance information for vessels destined for the United States; and third, is given more positive control to terminate the movement of vessels which he has reason to believe are in violation of law or regulation, until the matter is clarified. In addition, the Secretary is authorized to establish safe access routes for vessels proceeding to and from U.S. ports and to issue regulations governing the use of such routes.

In connection with the entry of vessels into U.S. waters, specific requirements are listed which are designed to insure that the vessel is not likely to constitute a danger to the United States, including the necessary furnishing of advance information which will be useful to the Secretary to make appropriate determinations, both as to likely condition of the vessel and of value in responding to any incident in which the vessel might become involved.

In developing necessary regulations, the Secretary is specifically directed to establish procedures, in addition to the rulemaking process, which should guarantee that such regulations are developed with full cognizance of the views of all

interested parties, including Federal agencies, State, and local officials, all segments of the marine transportation industry, environmental groups, and concerned individuals.

In amending the Tank Vessel Act, the bill establishes minimum standards that are mandatory for certain vessels, varying between vessels according to their size, the types of cargo being carried, and whether the vessel is a new or existing one. Some of the features involved are segregated ballast tank construction, protectively located, crude oil tank washing systems, cargo tank protection systems, dual radars, steering gear control systems with backup features, and specific navigational and communications equipment. In addition, there are specific requirements related to personnel licenses, qualifications, training, competence, physical fitness, and specific duties.

While the approach taken to personnel on foreign vessels is somewhat different from that taken to those on U.S. vessels, essentially the Secretary is given broadened authority to insure that any foreign vessel operating in U.S. waters, and any U.S. vessel operating anywhere, is manned with a sufficient crew, competent and adequately trained. Foreign vessels operating in U.S. waters are also required to meet the same construction, equipment, and operating standards as are applicable to U.S. vessels.

The bill also requires the Secretary to establish an expanded national inspection program designed to insure compliance with applicable laws and regulations and to issue certificates of inspection or compliance attesting to such compliance. He is also directed to establish a marine safety information system which will contain data, promptly retrievable, relating to any tank vessel operating in the navigable waters of the United States, including details of its ownership, a history of its accidents or repair problems, a record of its inspections or examinations, and details of its compliance with applicable financial responsibility requirements. Finally, the amendments provide regulatory authority in relation to offshore lightering operations and impose specific sanctions for violations of law involving dumping of tank washings at sea, in preparation for loading at a U.S. port.

The bill resulted from long and careful consideration of the issues. It received a large part of its impetus from the rash of tanker accidents in December 1976, starting with the grounding and breakup of the tanker *Argo Merchant*, off Nantucket Island, in the early morning hours of December 15, resulting in a massive pollution of the surrounding waters with fuel oil. With total loss of ship and cargo and an indeterminate damage to the fisheries resources of the area, it was followed shortly thereafter with several other accidents, including the explosion and fire on board the tanker *Sansinena* loading fuel in Long Beach, Calif., with attendant loss of life and extensive damage to port facilities. These accidents made it even more obvious that tightened requirements relating to tankers, particularly foreign flag tankers, should be carefully considered.

In early 1977, the Subcommittee on Coast Guard and Navigation felt what was even more crucial was the establishment of a comprehensive liability and compensation fund, created to protect damaged parties, legislation that had been considered in the 94th Congress but was not finally enacted as it was overtaken by time in the waning days of that Congress. Immediate attention was given to that aspect of the problem and on September 12, 1977, this House passed H.R. 6803, establishing such a fund. Hopefully, the other body will complete action on that bill shortly, and we can carry that legislation to final conclusion.

In the meantime, early in the present Congress, the other body addressed its first attention to the issues addressed by this bill and passed S. 682, which is now pending in this House. Upon completion of this bill, it is my intention to move to take that bill up for immediate consideration and amend it with the language contained in this bill.

Action on the various House bills and on S. 682 were postponed to await the outcome of international negotiations, held in London at the instigation of the United States to carry out the President's declared intention to solve the problems, if at all possible, through international action. The results of the February Conference on Tanker Safety and Pollution Prevention and those of the June–July Conference on Training and Certification of Seafarers reflect great credit on those governments participating, in reaching international solutions, and the U.S. delegation is to be commended for achieving many of its goals.

The bill before you today has incorporated those agreements as minimum standards which the Secretary must apply by regulation, without waiting for them to come into force. In addition, the bill includes requirements for tankers between 20,000 and 40,000 tons, 15 years old which, by 1986, must meet certain standards in order to call in U.S. waters. While this requirement does, technically, go somewhat beyond the requirements of the international agreement, it is consistent with the goals announced in one of the conference resolutions directed to dealing with all existing tankers of comparable size by 1986. Because the older, smaller tankers constitute such a large part of those transporting oil cargoes in our waters, the committee felt it imperative to address the problem, at least in some measure, now, without awaiting the final international solution. Should a reasonable alternative develop internationally, by 1986, we can, of course, act to bring our requirements into conformity.

When the original report on the bill was filed, included was an expression of minority views by one member, indicating an intention to propose certain amendments on the floor. Consideration of his views resulted in some changes, adopted by the committee, which meets his basic concerns. Those changes have been incorporated in the committee amendments to the bill, enabling us to bring that bill up under suspension of the rules, rather than adding further to the long list of bills awaiting hearings before the Committee on Rules.

In addition, the Committee on International Relations, to whom the bill was sequentially referred, has proposed some strengthening of the language relating to negotiations on international agreements. Those amendments are also included in the bill before us today, and I wholeheartedly support them.

The bill is a comprehensive bill, an effective bill, a well reasoned bill, and a badly needed one. I ask for your support in its passage.●

● Mr. LEGGETT. Mr. Speaker, as chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment—and as a member whose district borders on one of the greatest waterways and port areas of this great Nation—the San Francisco Bay—I join my colleagues on the Merchant Marine and Fisheries Committee in the House to support passage of H.R 13311.

I have been, and continue to be, gravely concerned over the safety of our ports and the protection of our marine environment. I need not remind you that not only have the Northeast and Southwest suffered tank vessel casualties and marine pollution incidents—as a result of marine disasters and ineffective enforcement and control—but so have many other ports along our massive coastline. The collision of the tankers *Arizona Standard* and *Oregon Standard* in San Francisco Bay on January 18, 1971 still remains fresh in the memories of many of my constituents and many other Americans concerned with protecting our environment and interested in marine safety.

Existing law has not been completely satisfactory for a number of reasons, and we hope that this bill will close the loopholes and provide for aggressive supervision and control of all tank vessels—foreign and domestic. We can only provide the administration with the tools to do the job, and we certainly hope that the enforcers, the Coast Guard, will now pursue a vigorous policy which assures the denial of port access to vessels which are substandard. These deteriorating and inadequately maintained vessels, and those that are inadequately or incompetently maintained, pose the greatest hazards to our marine environment and to other ships and crews.

Mr. Speaker, the legislation before the House is the result of 3 years of work by the Merchant Marine and Fisheries Committee. We have worked closely with the administration and have watched closely the proceedings of the International Conference on Tanker Safety and Pollution Prevention held in London in February 1978. Our bill is a reasonable effort to place the United States at the forefront of the international community in this area, a move I believe all Americans will support who have witnessed the effects of oilspills in the last several years.

Since 1972, there has been a massive increase in the importation of oil and oil products, particularly crude oil. The United States is now importing more than 8 million barrels of crude oil every day—or more than a quarter of the total oil moving in worldwide trade. Approximately 35 tank vessels enter U.S. ports every day. Even if the President's energy package is passed and the rate of increase in imported oil slows down, the volume of tanker movements in U.S. ports will continue at a high level for many years to come.

If the United States is to protect itself against damaging oilspills and promote marine safety, a comprehensive national policy is needed. The framework for such a policy is contained in this legislation.

Mr. Speaker, the Port Safety and Tank Vessel Safety Act of 1978 contains in statutory language for the first time a prohibition against unsafe vessels and vessels with a past history of violations for carrying oil or other hazardous material in the navigable waters of the United States. In another strong section of the bill, this measure requires the Secretary of Transportation to adopt minimum construction and equipment standards for ships operating in American waters. Such a requirement goes beyond vague directions that the Secretary promulgate regulations creating such standards. The Merchant Marine and Fisheries Committee, after lengthy consideration, and consultation with all concerned parties, has placed these standards in the statute. I believe this vigorous policy will clearly signal our intentions to the international merchant marine community and insure that firm action is taken by the administration to implement his legislation.

I would also point out that the standards adopted by the committee in almost all instances mirror those agreed upon by the London conference. Should the basic convention agreed upon by the participating nations be adopted by 15 states with a total of 50 percent of the world's gross tonnage on the vessels covered, the convention's requirements would become applicable to all participants. The target date for entry into force of the Safety of Life at Sea Convention was established as June 1979, and the target date for entry into force of the Marine Pollution Convention was established as June 1981. By adopting this legislation today, the Congress will create the mechanism for U.S. participation in this convention and allow our Coast Guard to energetically enforce its requirements. Additionally, we will signal the international community that the United States takes tanker and port safety quite seriously and passage of this legislation will place the United States at the forefront of maritime nations in the area of established strict, yet sanely drafted, laws governing maritime safety and pollution requirements.

As chairman of the subcommittee which has primary jurisdiction over the 200-mile fishery conservation zone, it might appear that I do not have any sympathy or understanding for the international aspects of maritime and tank vessel safety. Quite to the contrary, I do recognize the problems of the international maritime community, and I believe we have accommodated their concerns. We have, in this bill, also indicated our concern over the need to move the international community along at a faster pace—and the need to consider broader and wider international standards. I believe this is a very responsible position.

Mr. Speaker, before I close, I would like to highlight one section of this bill, section 3, addressing the 200-mile fishery conservation zone, which I consider to be very important and which quite possibly may lead to further advances in our ability to control the ocean just off our coastline. Section 3 of the bill directs the Secretary of Transportation to initiate, in consultation with other Federal departments and agencies, a study looking toward a comprehensive shore-station system for monitoring vessels operating within 200 miles of our coasts. He is directed to report his findings to the Congress within 2 years after enactment of the act, describing certain features as to each possible approach, together with his recommendations for a single, comprehensive, cost-effective system. A thorough reasonable authorization for appropriations of $500,000 for each of the fiscal years 1979 and 1980 is provided.

Our efforts to monitor our 200-mile fishing zone with currently available ships and aircraft needs strengthening. Unless we are prepared to spend substantial more funds on the Coast Guard, the type of system this study is commissioned to develop is sorely needed. Even though I will have retired from the Congress when this study is complete, I want to assure my colleagues that it will receive my close attention upon completion and I trust that you also will weigh the results of this study seriously.

Three years ago, the Congress reviewed the progress of the Law of the Sea Conference and its deliberations on appropriate national fishing limits. We chose to get out front and mandate a 200-mile fishery conservation zone for the United States. Despite some warnings that we should wait for the international community to act first, the Congress wisely chose to enact H.R. 200. Other nations followed our lead shortly thereafter and I believe we will all agree that in retrospect our action in 1976 was neither hasty nor ill-conceived.

A similar opportunity faces the Congress this afternoon. Should we act favorably on this bill, we will demonstrate our commitment to more stringent port and tanker safety requirements to the world community and spur action to adopt and implement the London convention.

Mr. Speaker, I urge my colleagues to join with the members of the Merchant Marine Committee in making this commitment to safer ports and safer ships through enactment of H.R. 13311.●

The SPEAKER pro tempore (Mr. MURTHA). The question is on the motion offered by the gentleman from New York (Mr. BIAGGI) that the House suspend the rules and pass the bill H.R. 13311, as amended.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

INDIAN PEAKS WILDERNESS AREA

Mr. RONCALIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12026) to create the Indian Peaks Wilderness Area and the Arapaho National Recreation Area and to authorize the Secretary of the Interior to study the feasibility of revising the boundaries of the Rocky Mountain National Park as amended.

The Clerk read as follows:

H.R. 12026

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Indian Peaks Wilderness Area, the Arapaho National Recreation Area and the Oregon Islands Wilderness Area Act".

FINDINGS AND PURPOSES

SEC. 2. The Congress finds that it is in the national interest—

(1) to include the land within the Arapaho and the Roosevelt National Forests known as the Indian Peaks Area in the National Wilderness Preservation System so as to protect the area's enduring scenic and historic wilderness character and its unique wildlife and to preserve the area's scientific, educational, recreational, and inspirational resources and challenges; and

(2) to create the Arapaho National Recreation Area within the Arapaho and the Roosevelt National Forests and the Colorado Big Thompson project so as to preserve and protect the natural, scenic, historic, pastoral, and wildlife resources of the area and to enhance the recreational opportunities provided.

INDIAN PEAKS WILDERNESS AREA

SEC. 3. (a) An area of land comprising approximately seventy thousand acres located in Boulder and Grand Counties, Colorado, within the Arapaho and the Roosevelt National Forests (as generally depicted as the "Indian Peaks Wilderness Area" on a map entitled "Indian Peaks Wilderness Area and Arapaho National Recreation Area", dated July 1978) is designated for purposes of the Wilderness Act (16 U.S.C. 1131–1136) as a wilderness area and shall be known as the Indian Peaks Wilderness Area.

(b) The Indian Peaks Wilderness Area shall be administered by the Secretary of Agriculture (hereafter in this Act referred to as the "Secretary") pursuant to those provisions of the Wilderness Act which govern areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

ARAPAHO NATIONAL RECREATION AREA

SEC. 4. (a) An area of land comprising approximately thirty-six thousand two hundred thirty-five acres located in Grand County, Colorado, within the Arapaho and the Roosevelt National Forests and the Colorado Big Thompson project (as generally depicted as the "Arapaho National Recreation Area" on a map entitled "Indian Peaks Wilderness Area and Arapaho National Recreation Area", dated July 1978) is established as the Arapaho National Recreation Area.

(b) The Secretary shall administer the Arapaho National Recreation Area, in accordance with the laws and regulations applicable to the national forests, in such a manner as will best provide for—

(1) public recreation and enjoyment;

(2) the conservation and development of the scenic, natural, historic, and pastoral values of the area;

(3) the management, utilization, and disposal of natural resources such as timber

grazing, and mineral resources so that their utilization will not substantially impair the purposes for which the recreation area is established; and

(4) The management of water quality in the recreation area consistent with the development of needed water supply and wastewater systems, including the control of aquatic vegetation in the streams, lakes, and reservoirs within the recreation area.

(c) The Secretary shall develop an overall management plan for the Arapaho National Recreation Area. This plan shall be developed in consultation with State and local political subdivisions and other interested persons.

RECREATION AREA

SEC. 5. (a)(1) The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, exchange, or bequest, any lands or lesser interests therein, including mineral interests and scenic easements, which the Secretary determines are needed to establish and manage the Arapaho National Recreation Area. In determining what private property is needed to establish and manage the Arapaho National Recreation Area the Secretary shall utilize the approved county zoning plan to identify those properties whose use or intended use is not in conformance with the overall intent of this Act.

(2) As used in this section, the term "scenic easement" means the right to control the use of land in order to carry out this Act, but shall not preclude the continuation of any use that is compatible with the overall management plan for the Arapaho National Recreation Area developed pursuant to subsection (c) of section 4.

(b) In exercising the authority conferred by this section to acquire lands, the Secretary shall give prompt and careful consideration to any offer made by an individual owning any land, or interest in land, within the Arapaho National Recreation Area. In considering any such offer, the Secretary shall take into consideration any hardship to the owner which might result from any undue delay in acquiring the property. Purchases made under this authority shall be made on a willing buyer, willing seller basis.

(c) In exercising the authority conferred by this section to acquire property by exchange, the Secretary may accept title to any non-Federal land, or interests therein, located within the Arapaho National Recreation Area and the Secretary may convey in exchange therefor any federally owned lands or interests in lands within the State of Colorado which are classified by the Secretary as suitable for exchange and which are under the Secretary's administrative jurisdiction. The values of any lands or interests in lands so exchanged shall be approximately equal, or if they are not approximately equal, they shall be equalized by the payment of cash to the grantor or to the Secretary so long as payment does not exceed 25 per centum of the total value of the land or interest in land. In utilizing cash equalization in exchanges the Secretary shall try to reduce the amount of the payment of money to as small an amount as possible. In the exercise of his exchange authority, the Secretary may utilize authorities and procedures available to him in making exchanges of national forest lands.

(d) Any land or interest in land owned by the State of Colorado or any of its political subdivisions may be acquired only by donation or exchange.

(e) Notwithstanding any other provision of law, any Federal lands or interests in lands located within the Arapaho National Recreation Area shall be transferred without consideration to the administrative jurisdiction of the Secretary for use by the Secretary in carrying out this Act. Lands within the Arapaho National Recreation Area acquired by the Secretary or transferred to the Secretary's administrative jurisdiction shall become part of that recreation area and of the national forest within or adjacent to which they are located: *Provided, That* the operation and facilities of the Colorado Big Thompson project shall remain under the jurisdiction of the United States Bureau of Reclamation.

HUNTING AND FISHING IN THE ARAPAHO NATIONAL RECREATION AREA

SEC. 6. The Secretary shall permit hunting and fishing on lands and waters under the Secretary's jurisdiction within the boundaries of the Arapaho National Recreation Area in accordance with the laws of the United States and the State of Colorado, except that the Secretary may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, area general administration, or public use and enjoyment. Except in emergencies, any regulations made by the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate State fish and game department.

PERMITS FOR FACILITIES AND SERVICES IN THE ARAPAHO NATIONAL RECREATION AREA

SEC. 7. The Secretary shall cooperate with other Federal agencies, with State and local public agencies, and with private individuals and organizations in the issuance of permits for facilities and services in the Arapaho National Recreation Area and the development and operation of those facilities and services.

APPLICATION OF STATE WATER LAWS TO THE ARAPAHO NATIONAL RECREATION AREA

SEC. 8. The jurisdiction of the State of Colorado and the United States over waters of any stream included in the Arapaho National Recreation Area shall be determined by established principles of law. Nothing in this Act shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from State water laws.

FILING OF MAPS

SEC. 9. As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and legal description of the Indian Peaks Wilderness Area and the Arapaho National Recreation Area with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives and such description shall have the same force and effect as if included in this Act, except that correction of any clerical or typographical errors in such map and description may be made. Such map and the map entitled "Indian Peaks Wilderness Area and Arapaho National Recreation Area", dated July 1978, shall be on file and made available for public inspection in the offices of the Chief of the Forest Service, Department of Agriculture.

STATE CIVIL AND CRIMINAL JURISDICTION

SEC. 10. Nothing in this Act shall diminish, enlarge, or modify any right of the State of Colorado, or any political subdivision thereof, to exercise civil and criminal jurisdiction within the Indian Peaks Wilderness Area or the Arapaho National Recreation Area or of rights to tax persons, franchises, or property, including mineral or other interests, in or on lands or waters within those areas.

AUTHORIZATION OF APPROPRIATIONS

SEC. 11. Effective October 1, 1979, there are authorized to be appropriated to carry out sections 1 through 10 of this Act $5,000,000 for the acquisition of lands and interests in lands and $5,000,000 for water quality and recreation development. Moneys appropriated from the Land and Water Conservation Fund shall be available for the acquisition of lands and interests therein within the Arapaho National Recreation Area.

OREGON ISLANDS WILDERNESS

SEC. 12. (a) In accordance with subsection 3(c) of the Wilderness Act (78 Stat. 892), certain lands in the Oregon Islands National Wildlife Refuge, Oregon, which comprise approximately four hundred fifty-nine acres, which are depicted on a map entitled "Oregon Islands Wilderness—Proposed", dated June 1972 (revised July 1972), is hereby designated as wilderness and shall become a part of the existing "Oregon Islands Wilderness".

(b) As soon as practicable after this Act takes effect, the Secretary of the Interior shall file a map and legal description of the Oregon Islands Wilderness with the Committee on Energy and Natural Resources of the Senate and the Interior and Insular Affairs Committee of the House of Representatives and such map and description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made. A map and legal description of the Oregon Islands Wilderness shall be on file and available for public inspection in the Office of the Director, Fish and Wildlife Service, Department of the Interior.

(c) The lands designated by this Act as the Oregon Islands Wilderness shall be administered in accordance with the applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act and, where appropriate, any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

ROCKY MOUNTAIN NATIONAL PARK STUDY

SEC. 13. Within one year of the date of enactment of this Act, the Secretary of Agriculture and the Secretary of the Interior shall jointly develop and submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a comprehensive report studying and evaluating the suitability of revising the boundaries of Rocky Mountain National Park to include all or part of the Indian Peaks Wilderness Area as established by this Act and examining the possible addition or deletion of other lands designated as "Park Study Area" on a map entitled "Indian Peaks Wilderness Area and Arapaho National Recreation Area" dated July 1978: *Provided,* That regardless of the ultimate administration of the areas to be studied under this section, the seventy thousand-acre Indian Peaks Wilderness Area established by this Act shall remain as a component of the National Wilderness Preservation System.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wyoming (Mr. RONCALIO) and the gentleman from California (Mr. LAGOMARSINO) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Speaker, I yield myself such time as I may consume, not to exceed 10 minutes.

Mr. Speaker, it is with great pleasure that I rise in support of H.R. 12026, which will provide permanent legislative protection for the natural values of one of Colorado's most spectacular and accessible mountain regions. Protection for the Indian Peaks area has been proposed since the establishment of Rocky Mountain National Park in 1915, and has gained broad public support in recent years with the rapid growth of the Denver metropolitan area.

The 70,000-acre Indian Peaks wilderness proposed by H.R. 12026 lies contiguous to the southern boundary of Rocky Mountain National Park and like much of the land within the park, retains its primeval wilderness character of outstanding scenic values, glaciers, numerous pristine streams and lakes, and abundant wilderness-related wildlife species. Because both the park and the proposed Indian Peaks wilderness are within a short drive of the Denver metropolitan area, the Indian Peaks present one of the finest remaining opportunities in the Lower 48 States to preserve a nearby wilderness experience for several million Americans. This potential was legislatively recognized in 1972 when Congress directed the Secretary of Agriculture to formally study the Indian Peaks for inclusion in the National Wilderness Preservation System. That study has been completed, with the administration recommending the 70,000-acre wilderness boundary of H.R. 12026. In addition, the question of whether all or part of the proposed wilderness (plus some other areas contiguous to Rocky Mountain National Park) should be added to the park to complete a logical park ecosystem, needs to be addressed. To that end, H.R. 12026 directs the Secretaries of Interior and Agriculture to undertake a 1-year review of the park boundaries with a view toward establishing final boundaries which make the most sense from an environmental and administrative standpoint.

The desirability of the Indian Peaks wilderness is heightened by the fact that the proposed wilderness has virtually no conflicts with other resource uses. Whereas other wilderness proposals often require intense scrutiny and difficult decisions to reach a balance between wilderness protection versus resource development, the Indian Peaks wilderness values are clearly paramount, and wilderness will not jeopardize other uses. For example, timber resources in the proposed wilderness are insignificant, and the Forest Service has kept the bulk of the area off limits to off road vehicles for many years to protect its fragile terrain and outstanding solitude. Indeed, enactment of H.R. 12026 will involve the closure of less than 1 mile of a rapidly deteriorating primitive road on which off-road vehicle use is currently allowed. A recent joint study by the U.S. Geological Survey and the Bureau of Mines further reveals that the area "contains no known mineral deposits that can be mined profitably now or in the foreseeable future".

To minimize other possible resource conflicts, the committee amended H.R. 12026 to exclude some 2,500 acres in the vicinity of Devils Thumb for a potential future winter sports site, and 2,500 acres on Niwot Ridge for the creation of a Niwot Ridge international biosphere reserve. It is the understanding of all parties involved that the 2,500-acre Niwot Ridge exclusion will be managed by Forest Service to strictly protect its terrain and vegetation for scientific research and educational purposes, and I would point out that this may require the Forest Service to restrict or prohibit any recreational use of the 2,500-acre proposed biosphere reserve.

During our committee's deliberations on H.R. 12026, it was also brought to our attention that the proposed wilderness contains several small water impoundments which are used for water supply and downstream power generation. I note that such small impoundments are present in many existing wilderness areas, and that ample precedent exist for access to, and operation and maintenance of, these facilities. Congress has determined on numerous occasions that the operation and maintenance of small water impoundments (including the operation of hydroelectric facilities in the Desolation Wilderness as established by Public Law 91-82) is not inconsistent with wilderness values, and the committee's report on H.R. 12026 elaborates on the issue. In this regard, I would mention that the impoundment at Lake Isabelle, as well as any others which may not be specifically mentioned in the committee's report, are certainly intended to be covered by the language on page 10 of the report discussing Jasper and Skyscraper Reservoirs.

While the establishment of the Indian Peaks wilderness will serve the increasing demand for wilderness-oriented recreation, the need for developed recreation facilities on Federal lands near the Denver metropolitan area is also growing. The 36,235-acre Arapaho National Recreation Area proposed by H.R. 12026 fills this need perfectly. Composed of lower elevation forested lands, open spaces, and several large lakes which form the existing Shadow Mountain National Recreation Area, the area is already highly popular, and receives heavy use, especially during the summer months. Creation of the Arapaho National Recreation Area will expand the Shadow Mountain Recreation Area to promote developed recreation use, while at the same time preserving the area's magnificent scenic and natural values by the use of scenic easements or land acquisitions, where necessary. The bill also provides funding to facilitate the maintenance and improvement of the water quality in the heavily used lakes.

In summary, Mr. Speaker, it is my feeling that the proposed Indian Peaks wilderness, when combined with the contiguous Arapaho National Recreation Area, will provide a land management direction that will unquestionably constitute the highest and best use of over 100,000 acres of Federal lands that are vital to the aesthetic and recreational interests of both the citizens of Colorado's Front Range as well as the Nation. This is an extremely well-balanced piece of legislation, and one that is deserving of my colleague's unconditional support.

In addition to the Colorado lands, section 12 of H.R. 12026 would add 58 islands in the Oregon Islands Wildlife Refuge, comprising some 459 acres, to the existing Oregon Islands wilderness. These islands are a haven for hundreds of thousands of petrel, cormorants, murres, puffins, and other sea birds, as well as sea lions, sea otters, and harbor seals. Wilderness will insure that important nesting and breeding sites remain undisturbed and unaltered by man's activities, and I am informed that Senator HATFIELD has agreed to the inclusion of these islands in H.R. 12026.

Finally, I should note that the bill we are asking be approved contains two changes from the bill reported by the committee. The first change is a technical change requested by the Forest Service, and adds language to clarify the bill's intention that Land and Water Conservation moneys be available for the acquisition of lands within the Arapaho National Recreation Area. The second change deletes a sentence in section 8 which might possibly be read by some water law experts to inject ambiguity or confusion into the delicate area of State versus Federal water rights. This certainly was not the intention of the sentence, but water law experts on both the House and Senate committees, as well as Forest Service legal counsel have recommended that the language be stricken so as to avoid any controversy.

I urge swift passage of H.R. 12026.

Mr. Speaker, I yield such time as he may consume to the gentleman from Colorado (Mr. WIRTH).

Mr. WIRTH. Mr. Speaker, I thank the gentleman for yielding.

At this point I would like to again note for the record the splendid leadership which the gentleman from Wyoming (Mr. RONCALIO) has given to all of us in the Rocky Mountain region. Further, I would like to state again how much we are going to miss him here in the Congress, particularly as he is such a great spokesman for the interests of the Rocky Mountain area.

Mr. Speaker, I thank the gentleman from Wyoming (Mr. RONCALIO) very much.

I wanted to point out that the history of this legislation goes back to Teddy Roosevelt, who was the first individual who proposed the protection of the Indian Peaks area.

Since then, there have been controversies surrounding mineral, timber, and cattle interests in the area. Over the last decade, all of these have been resolved. The USGS has studied the area extensively. There are no known mineral reserves in the area. There is no commercially valuable timber, and the cattle grazing rights have been deeded back to the Federal Government. Therefore, there are no commercial interests or controversies in the area which might further delay the protection of the area.

After the commercial questions were solved, the next question became how large the Indian Peaks area should be and who should manage that area.

We put together in Colorado an Indian Peaks Advisory Committee representing just about every interest involved in and concerned about the Indian Peaks area. They came back with a recommendation which is essentially H.R. 12026, which is a combination, as the gentleman from Wyoming (Mr. RONCALIO), the chairman, pointed out, of approximately 70,000 wil-

derness acres on the eastern side of the Continental Divide and approximately 36,000 acres of national recreation area on the western side of the Continental Divide, the former in the district which I represent, and the latter in the district represented by the gentleman from Colorado (Mr. JOHNSON).

Both of those received the unanimous support of the Boulder County commissioners on the eastern side and the Grand County commissioners on the western side, Governor Lamm, and any number of other groups.

During the hearings that we held in July under the chairmanship of the gentleman from Colorado (Mr. RONCALIO) four questions came up, and I wonder if I might, Mr. Speaker, just highlight the five issues and how the committee took care of those.

The first related to water resources and Lake Isabell in questions that were raised in particular by the people of the city of Longmont and by the Longmont Chamber of Commerce.

The wilderness boundaries of H.R. 12026 as reported by the committee, encompass several existing reservoir sites. My question to the gentleman concerns Lake Isabell. Will this wilderness designation impair the access to, or operation and maintenance of this reservoir?

Mr. RONCALIO. Mr. Speaker, the answer is "No." As is pointed out in my statement, small water impoundments are located in many existing wilderness areas, and wilderness does not interfere with their operation and maintenance. While congressional and Forest Service policy would certainly encourage access and maintenance by nonmechanized methods where practical, the use of mechanized equipment for the operation and maintenance of small water impoundments is entirely permissible within wilderness areas where it is necessary.

Mr. WIRTH. Sometimes an area of land proposed for wilderness classification impacts persons or organizations who represent uses which might be in conflict with wilderness. How would this wilderness designation affect the motorized recreational vehicle interests?

Mr. RONCALIO. Hardly at all. The bulk of the proposed wilderness has been closed to off-road vehicle use for many years in order to protect the area's fragile terrain and solitude. In addition, some of the off-road vehicle users who testified at our hearings on H.R. 12026 pointed out that the lands we are proposing to set aside in wilderness are not those lands which are heavily used for snowmobiling or other off-road vehicle use. The lands which are heavily used by motorized recreationists lie within proposed Arapaho National Recreation Area, and national recreation area status should help promote off-road vehicle use and other developed recreation facilities. The committee also included language in its report on H.R. 12026 requesting the Secretary of Interior to examine the possibility of allowing snowmobile use on a presently closed trail on the east shore of Shadow Mountain Lake to facilitate the linking up of several popular snowmobile routes.

Mr. WIRTH. I will ask the gentleman from Wyoming, How did the committee reconcile the 2,200 acres in the Devil's Thumb area that might be used for a ski area?

Mr. RONCALIO. The committee deleted approximately 2,500 acres in the Devil's Thumb area to allow for a potential winter sports site.

Mr. WIRTH. The Forest Service recommended that the wilderness boundary be adjusted to exclude the research facilities on Niwot Ridge. Who, then, is to manage and protect this area and its terrain and vegetation?

Mr. RONCALIO. All parties have agreed that the Forest Service will strictly manage the area so as to preserve its terrain and vegetation unimpaired for scientific research and educational purposes. This is to be done even in the event a proposed international biosphere reserve is not created on the 2,500 acres of Niwot Ridge. However, I should add that it is our firm expectation that such a biosphere reserve will be established in the near future.

Mr. WIRTH. My last question, Mr. Chairman, concerns the park study provision. The Indian Peaks Advisory Committee has recommended that H.R. 12026 contain provisions for a park suitability study of the entire Indian Peaks and adjoining areas. Who will be conducting the study, and what criteria should the park study take into consideration?

Mr. RONCALIO. The Secretaries of Interior and Agriculture will jointly study the issue of park expansion. The criteria for the study are listed on page 9 of the committee's report on H.R. 12026 (H. Rept. No. 95–1460).

Mr. WIRTH. I thank the gentleman from Wyoming very much for his answers to those questions and the resolution of the five issues that came up during those hearings.

Mr. Speaker, I urge my colleagues to support H.R. 12026.

Mr WIRTH. Mr. Speaker, I would like to comment further on H.R. 12026, which would create a wilderness area in the Indian Peaks area of Colorado. As the principal author of this important piece of legislation, I would like to share with you some of the background and history of this bill.

The proposal to create a wilderness area at Indian Peaks represents an example of what involved citizens can do when we open up the Government and allow them to get involved. The combined effort and testimony from the Indian Peaks Advisory Committees, sportsmen, environmental, and other groups, and the fair, nonpartisan examination given by the subcommittee and full committee makes this piece of legislation a significant victory for a broad-based coalition of involved citizens.

I can say unequivocally that without the selfless work of a great many Coloradans—and others who have grown to love this beautiful area—we would not be able to vote on this bill today. There is a degree of controversy involved in the establishment of any wilderness area. But I have never seen a proposal which received the endorsement of so many diverse interests and groups. This point was underscored by the subcommittee chairman during the hearings in Colorado earlier this summer, when he said he had never witnessed before such a vast consensus of special interest groups toward a proposed protected area.

In the early 20th century, when then-President Theodore Roosevelt was visiting Colorado, the subject of protecting the Indian Peaks area was first discussed. Since that time, countless Coloradans and others have urged that the area receive the protection it so rightly deserves. But until today, the Congress has not had an opportunity to create an Indian Peaks Wilderness Area. We now have that opportunity. Following the introduction of the bill by me, with cosponsorship by my distinguished colleague from Colorado (Mr. JOHNSON), the subcommittee held extensive hearings in Boulder and Grandby. We had an opportunity to hear testimony and a variety of points of view from many Coloradans. This thorough groundwork has developed almost universal support for the bill. Support for this legislation was voiced by Governor Lamm, the Grand County commissioners, the Boulder city council, the Boulder County commissioners, numerous civic organizations, and hundreds of interested citizens of Colorado.

H.R. 12026 establishes the Indian Peaks Wilderness Area in the Arapaho and Roosevelt National Forests of Colorado, and directs the Secretary of Interior to study the feasibility of revising the boundaries of Rocky Mountain National Park. In addition, the bill establishes a national recreation area, to the West of Indian Peaks, on land which is more appropriate for recreational emphasis.

Finally, I would like to share with you my own personal experiences in the Indian Peaks area. Just this past month, I went camping with my wife and two children in the eastern section of the area. We started midday and hiked for several miles along a trail that slowly twisted its way up the mountain. At about 11,000 feet we called a halt to the day's activity. Our campsite featured a shallow pond, clumps of snow lingering from the previous winter, and a view that must be one of the most spectacular panoramas I have ever seen. By the time we finished dinner, washed the dishes and set up camp, the down jackets we packed became the most precious item on the trip. It was so cold that when we got up the next morning, I half expected to see a fresh layer of snow on the ground. We were spared the snow, but the pond had been topped by a layer of thin ice. Breakfast was brief, and the descent brought us some warmth. This wilderness experience renewed my commitment to seeing this legislation passed during the current session of Congress. My only regret is that I am unable to describe the natural beauty of this setting—but perhaps some of you might be able to visit Indian Peaks in the future, and share this experience with me.

Mr. WIRTH. Mr. Speaker, will the gentleman yield further?

Mr. RONCALIO. I yield to the gentleman from Colorado.

Mr. WIRTH. I thank the gentleman for yielding.

The gentleman from Wyoming noted the park study. At this point I also want to note for the record the great cooperation of the gentleman from California (Mr. PHILLIP BURTON) in helping to move this legislation through the Committee on Interior and Insular Affairs, and to resolve the issue of the park study.

Mr. RONCALIO. I thank the gentleman.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in the absence of the gentleman from Colorado (Mr. JOHNSON) who is the ranking member of the subcommittee that considered this legislation, I rise in support of H.R. 12026 which, as has been pointed out, designates a 70,000-acre wilderness in the Arapaho and Roosevelt National Forest in Colorado. It also establishes an adjoining national recreation area of about 36,000 acres.

By designating both the wilderness area and a recreation area, this bill recognizes the competing interests for which this land may be used. For the residents of Denver, the Indian Peaks wilderness will provide an opportunity for a primitive experience less than 2 hours from the heart of the city.

At the same time, the Arapaho Recreation Area will provide opportunities for other recreational uses and development which are incompatible with wilderness, but just as much in the public interest.

This bill has the strong support of both the gentleman from Colorado (Mr. JIM JOHNSON), ranking member of the Subcommittee on Public Lands, and the gentleman from Colorado (Mr. TIM WIRTH), the two Members whose districts would be affected. It has been the result of considerable study and input on both the national and local levels.

I would like to note that included in these studies were findings by the U.S. Geological Survey and Bureau of Mines that no substantial mineral, oil, or gas potential exists. In addition, the area is not suitable for commercial timber use.

There is some concern when we talk about wilderness area about private inholdings and, as the report points out, the Wilderness Act itself provides such rights as may be necessary to assure adequate access to State-owned and private-owned land, so the people in the area will continue to have access to them.

In addition, the Wilderness Act prohibits the Secretary from acquiring such publicly owned lands, unless the owner concurs in such acquisition.

Mr. Speaker, I believe that this bill represents a fair compromise of "people" use of the land and I urge my colleagues to join me in support.

Mr. RONCALIO. Mr. Speaker, I yield such time as he may consume to my colleague, the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I just want to commend the chairman of this subcommittee, the gentleman from Wyoming (Mr. RONCALIO) and his colleagues on the subcommittee for bringing out this bill and for doing an outstanding job in this legislation.

A year ago last July when the Interior Subcommittee on Alaska Lands was holding hearings in Denver, I took the occasion on the day following the hearings, Sunday, to go up to the Indian Peaks area and get a sort of bird's eye view of the whole area. It is an exceptionally beautiful natural area, and particularly important, because of its nearness to Denver and the Denver metropolitan area.

I certainly think that it merits study for inclusion in the Rocky Mountain National Park. I would hope that that study will eventually produce that result. I commend the gentleman from Wyoming for providing also for that in this legislation, as well as the other members of the committee who participated in it.

Mr. LAGOMARSINO. Mr. Speaker, I reserve the balance of my time.

Mr. RONCALIO. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Speaker, this legislation extends tax jurisdiction into the new territory that is acquired. I would like to ask the gentleman from Wyoming what does this refer?

Mr. RONCALIO. I would not have the faintest idea, unless it means cranking in the payments in lieu of taxes each year, the fact that more land goes into the national interest category, and is lost from potential tax rolls.

Mr. VANIK. I was reading from the provision in the bill, in the statement in the report it says that in addition Colorado would retain the right to exercise civil, criminal, and tax jurisdiction within both the Indian Peaks Wilderness Area and the Arapaho National Recreation Area.

I would suppose that would probably apply to the imposition of State taxes to any business operations that were authorized in the area?

Mr. RONCALIO. I should think so.

Mr. VANIK. Making those operations subject to items like sales taxes?

Mr. RONCALIO. With the retention of the jurisdiction which they already have.

Mr. VANIK. Yes, and which is normally in the State's jurisdiction.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, my recollection from visiting the area is that there are some private inholdings, vacation homes, and that sort of thing.

When I read this, I assumed that that was the kind of property over which the jurisdiction that was being retained. Perhaps the gentleman from Colorado (Mr. WIRTH) has some information he could reveal to us.

Mr. WIRTH. Mr. Speaker, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from Colorado.

Mr. WIRTH. Mr. Speaker, on page 9 of the report there is carefully detailed a description of the private inholdings and that was also outlined by the gentleman from California (Mr. LAGOMARSINO).

The purpose of this is to make sure that even though they have inholdings within the jurisdiction of the recreational area or the wilderness, they are still not exempt from taxes.

Mr. VANIK. Including State taxes?

Mr. WIRTH. That is right.

● Mrs. SCHROEDER. Mr. Speaker, I was delighted by the House passage of H.R. 12026, the Indian Peaks wilderness bill. House passage smooths the way for wilderness designation of 70,000 acres of national forest land adjacent to Rocky Mountain National Park. An additional 36,000 acres would be set aside as a recreation area. This land, some of the most spectacular in the Rockies, straddles the Continental Divide and offers abundant opportunities for camping, hiking, and other outdoor activities.

The bill reflects the best in Colorado politics and is the product of the careful work of Representatives TIM WIRTH and JIM JOHNSON. The sponsors represent very different parts of the State, but they worked together to insure that the areas will remain for the benefit of all Colorado residents, as well as visitors nationwide.

The bill provides for a 1-year study by the Interior and Agriculture Departments to determine whether the wilderness portion of Indian Peaks should be added to Rocky Mountain National Park. I hope the Departments opt for full wilderness protection. There are no resource conflicts within the wilderness itself, and the recreation area provides opportunities for development that can boost the local economy while providing visitors with additional options for enjoying the land.●

The SPEAKER pro tempore (Mr. SISK). The question is on the motion offered by the gentleman from Wyoming (Mr. RONCALIO) that the House suspend the rules and pass the bill H.R. 12026, as amended.

The question was taken.

Mr. VOLKMER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

MISCELLANEOUS REVENUE ACT OF 1978

Mr. ULLMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12578) to amend the Internal Revenue Code of 1954 to make certain technical changes, as amended.

The Clerk read as follows:

H.R. 12578

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Miscellaneous Revenue Act of 1978".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 2. DIVIDENDS PAID AFTER CLOSE OF TAXABLE YEAR BY CERTAIN PERSONAL HOLDING COMPANIES.

(a) IN GENERAL.—Subsection (b) of section 563 (relating to dividends paid after close of taxable year) is amended to read as follows:

"(b) PERSONAL HOLDING COMPANY TAX.—

"(1) IN GENERAL.—In the determination of the dividends paid deduction for purposes of the personal holding company tax imposed by section 541, a dividend paid after the close of any taxable year and on or before the date prescribed by law for filing the return of tax under this chapter for the taxable year (including extensions thereof) shall, to the extent the personal holding company elects in its return for the taxable year, be considered as paid during such taxable year. The preceding sentence shall apply with respect to any dividend only if the person receiving the dividend agrees, in a consent filed with the return of the personal holding company in accordance with regulations prescribed by the Secretary, to treat the dividend as received on the last day of the taxable year of the personal holding company.

"(2) LIMITATION.—The amount allowed as a dividend by reason of the application of this subsection with respect to any taxable year shall not exceed the undistributed personal holding company income of the corporation for the taxable year, computed without regard to this subsection."

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (c) of section 563 (relating to dividends considered as paid on last day of taxable year) is amended by striking out "and on or before the 15th day of the third month following the close of the taxable year"

(2) Clause (ii) of section 543 (a)(2)(B) (relating to rents) is amended by striking out "(as limited by the second sentence of section 563(b))".

(c) EFFECTIVE DATE. The amendments made by this section shall apply to taxable years ending on or after December 31, 1978.

SEC. 3. SUBCHAPTER S ELECTION NOT TERMINATED BY BANKRUPTCY OF SHAREHOLDER

(a) IN GENERAL.—Section 1371 (relating to definitions for purposes of subchapter S) is amended by adding at the end thereof the following new subsection:

"(g) BANKRUPTS' ESTATES.—For purposes of subsection (a), the estate of an individual in a proceeding under the Bankruptcy Act may be a shareholder."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1978.

SEC. 4. PAYMENT OF INTEREST WHERE LEVY HAS BEEN WRONGFULLY MADE AND MONEY RECEIVED BY UNITED STATES

(a) IN GENERAL.—Section 6343 (relating to release of levy and return of property) is amended by adding at the end thereof the following new subsection:

"(c) INTEREST.—Interest shall be allowed at an annual rate established under section 6621—

"(1) in a case described in subsection (b)(2), from the date the Secretary receives the money to the date of return, or

"(2) in a case described in subsection (b)(3), from the date of the sale of the property to the date of return."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to levies made after the date of the enactment of this Act.

SEC. 5. REPEAL OF REQUIREMENT THAT TRANSFERORS OF CERTAIN PROPERTY TO EXEMPT ORGANIZATIONS MUST FILE RETURNS.

(a) GENERAL RULE.—Section 6050 (relating to returns relating to certain transfers to exempt organizations) is hereby repealed.

(b) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking out the item relating to section 6050.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

SEC. 6. SIMPLIFICATION OF PRIVATE FOUNDATION RETURN AND REPORTING REQUIREMENTS.

(a) AMENDMENT OF SECTION 6033.—Section 6033 (relating to returns by exempt organizations) is amended by redesignating subsection (c) as subsection (e) and by inserting after subsection (b) the following new subsections:

"(c) ADDITIONAL PROVISIONS RELATING TO PRIVATE FOUNDATIONS.—In the case of an organization which is a private foundation (within the meaning of section 509(a))—

(1) the Secretary shall by regulations provide that the private foundation shall include in its annual return under this section such information (not required to be furnished by subsection (b) or the forms or regulations prescribed thereunder) as would have been required to be furnished under section 6056 (relating to annual reports by private foundations) as such section 6056 was in effect before the enactment of this subsection,

"(2) a copy of the notice required by section 6104(d) (relating to public inspection of private foundations' annual returns), together with proof of publication thereof, shall be filed by the foundation together with the annual return under this section, and

"(3) the foundation managers shall furnish copies of the annual return under this section to such State officials and other persons, at such times, and under such conditions, as the Secretary may by regulations prescribe.

Nothing in paragraph (1) shall require the inclusion of the name and address of any recipient (other than a disqualified person within the meaning of section 4946) of 1 or more charitable gifts or grants made by the foundation to such recipient as an indigent or needy person if the aggregate of such gifts or grants made by the foundation to such recipient during the year does not exceed $1,000.

"(d) SECTION TO APPLY TO NONEXEMPT CHARITABLE TRUSTS AND NONEXEMPT PRIVATE FOUNDATIONS.—The following organizations shall comply with the requirements of this section in the same manner as organizations described in section 501(c)(3) which are exempt from tax under section 501(a).

"(1) NONEXEMPT CHARITABLE TRUSTS.—A trust described in section 4947(a)(1) (relating to nonexempt charitable trusts).

"(2) NONEXEMPT PRIVATE FOUNDATIONS.—A private foundation which is not exempt from tax under section 501(a)."

(b) PUBLIC INSPECTION OF PRIVATE FOUNDATIONS' ANNUAL RETURNS.—

(1) IN GENERAL.—The first sentence of subsection (d) of section 6104 (relating to public inspection of private foundations' annual reports) is amended to read as follows: "The annual return required to be filed under section 6033 (relating to returns by exempt organizations) by any organization which is a private foundation within the meaning of section 509(a) shall be made available by the foundation managers for inspection at the principal office of the foundation during regular business hours by any citizen on request made within 180 days after the publication of notice of its availability."

(2) CONFORMING AMENDMENTS.—Such subsection (d) is amended—

(A) by striking out "ANNUAL REPORTS" in the heading and inserting in lieu thereof "ANNUAL RETURNS"; and

(B) by striking out "annual report" each place it appears in the second and third sentences and inserting in lieu thereof "annual return".

(c) REPEAL OF PRIVATE FOUNDATION ANNUAL REPORTING REQUIREMENTS.—Subpart D of part III of subchapter A of chapter 61 (relating to information concerning private foundations) is hereby repealed.

(d) TECHNICAL AMENDMENTS.—

(1) Section 6034 (relating to returns by trust described in section 4947(a) or claiming charitable deductions under section 642(c)) is amended—

(A) by striking out "section 4947(a)" in subsection (a) and inserting in lieu thereof "section 4947(a)(2)";

(B) by adding at the end of subsection (b) the following new sentence: "This section shall not apply in the case of a trust described in section 4947(a)(1).";

(C) by striking out "EXCEPTION" in the heading of subsection (b) and inserting in lieu thereof "EXCEPTIONS";

(D) by striking out "SECTION 4947(a)" in the section heading and inserting in lieu thereof "SECTION 4947(a)(2)".

(2)(A) The first sentence of section 6652 (d)(3) (relating to annual reports) is amended to read as follows: "In the case of a failure to comply with the requirements of section 6104(d) (relating to public inspection of private foundations' annual returns), on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing to meet such requirement, $10 for each day during which such failure continues, but the total amount imposed hereunder on all such persons for such failure with respect to any one annual return shall not exceed $5,000."

(B) The heading of paragraph (3) of section 6652(d) is amended by striking out "REPORTS" and inserting in lieu thereof "RETURNS".

(3) Subsection (b) of section 6104 (relating to inspection of annual information returns) is amended by striking out "6056,".

(4) Section 6685 (relating to assessable penalties with respect to private foundation annual reports) is amended to read as follows:

"SEC. 6685. ASSESSABLE PENALTIES WITH RESPECT TO PRIVATE FOUNDATION ANNUAL RETURNS.

"In addition to the penalty imposed by section 7207 (relating to fraudulent returns, statement, or other documents), any person who is required to comply with the requirements of section 6104(d) (relating to private foundations' annual returns) and who fails to so comply with respect to any return, if such failure is willful, shall pay a penalty of $1,000 with respect to each such return."

(5) Section 7207 (relating to fraudulent returns, statements, or other documents) is amended by striking out "sections 6047 (b) or (c), 6506, or 6104(d)" and inserting in lieu thereof "subsection (b) or (c) of section 6047 or pursuant to subsection (d) of section 6104".

(e) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by striking out "4947(a)" in the item relating to section 6034 and inserting in lieu thereof "4947(a)(2)".

(2) The table of subparts for part III of subchapter A of chapter 61 is amended by striking out the item relating to subpart D.

(3) The table of sections for subchapter B of chapter 68 is amended by striking out "reports" in the item relating to section 6685 and inserting in lieu thereof "returns".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978.

SEC. 7. TREATMENT OF CERTAIN INTERESTS HELD BY DECEDENT'S FAMILY FOR PURPOSES OF THE EXTENSION OF TIME FOR PAYMENT OF ESTATE TAX PROVIDED BY SECTION 6166.

(a) INTEREST HELD BY MEMBER OF DECEDENT'S FAMILY TREATED AS HELD BY DECEDENT.—Paragraph (2) of section 6166(b) (relating to definitions and special rules) is amended by adding at the end thereof the following new subparagraph:

"(D) CERTAIN INTERESTS HELD BY MEMBERS OF DECEDENT'S FAMILY.—All stock and all partnership interests held by the decedent or by any member of his family (within the meaning of section 267(c)(4)) shall be treated as owned by the decedent."

(b) ELECTION FOR PURPOSES OF THE 20-PERCENT REQUIREMENTS WITH RESPECT TO PARTNERSHIP INTERESTS AND STOCK WHICH IS NOT READILY TRADABLE.—Subsection (b) of section 6166 (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(7) PARTNERSHIP INTERESTS AND STOCK WHICH IS NOT READILY TRADABLE.—

"(A) IN GENERAL.—If the executor elects the benefits of this paragraph (at such time and in such manner as the Secretary shall by regulations prescribe), then—

"(i) for purposes of paragraph (1)(B)(i) or (1)(C)(i) (whichever is appropriate) and for purposes of subsection (c), any capital interest in a partnership and any nonreadily-tradable stock which (after the application of paragraph (2)) is treated as owned by the decedent shall be treated as included in determining the value of the decedent's gross estate,

"(ii) the executor shall be treated as having selected under subsection (a)(3) the date prescribed by section 6151(a), and

"(iii) section 6601(j) (relating to 4-percent rate of interest) shall not apply.

"(B) NON-READILY-TRADABLE STOCK DEFINED.—For purposes of this paragraph, the term 'non-readily-tradable stock' means stock for which, at the time of the decedent's death, there was no market on a stock exchange or in an over-the-counter market."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the estates of decedents dying after the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. FRENZEL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro temoore. The gentleman from Oregon (Mr. ULLMAN) will be recognized for 20 minutes, and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 12578 contains miscellaneous technical amendments to the Federal tax laws These amendments have been developed from a list of legislative recommendations submitted by the Treasury Department, the American Bar Association, the American Institute of Certified Public Accountants, and various other groups including State and local bar and accounting associations.

Mr. Speaker, I yield the balance of my time to the distinguished chairman of the subcommittee, the gentleman from Louisiana (Mr. WAGGONNER), who will handle both the remainder of the time and the measure.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Speaker, I yield myself such time as I may consume.

The bill contains provisions relating to: First, the treatment of dividends paid by a personal holding company after the close of a taxable year; second, the eligibility of an estate of an individual in bankruptcy as a shareholder in a subchapter S corporation; third, the payment of interest to a person whose property is wrongfully seized by the Internal Revenue Service; fourth, the elimination of the reporting requirement for certain transfers of property to an exempt organization; fifth, the simplification of private foundation return and reporting requirements; and sixth, the treatment of business interests held by members of a decedent's family as held by the decedent for purposes of qualifying for extensions of time for the payment of estate tax attributable to a closely held business.

All witnesses, including representatives of the Treasury Department, who testified at the hearings on this bill recommended its adoption.

It is estimated that the provisions of the bill will not have any significant revenue effect.

Mr. Speaker, this bill will improve a number of miscellaneous requirements of the tax laws. I urge that H.R. 12578 be adopted.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 12578.

Mr. Speaker, I concur in the description given by the distinguished chairman of the subcommittee, the gentleman from Louisiana (Mr. WAGGONNER).

The bill makes some miscellaneous and technical changes. The ideas did not spring full-blown from the forehead of the subcommittee. They were brought to us by professional organizations and by the Treasury. All of them are approved by the Treasury.

I would also call attention to the statement of the chairman of the subcommittee that the net budget effect of this bill is nil, and it is expected to be nil during the 5-year period for which the analysis was made. The Treasury concurs in this estimate.

Mr. Speaker, I hope the bill will be swiftly passed. I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and pass the bill H.R. 12578, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds have voted in the affirmative.

Mr. VOLKMER. Mr. Speaker, on that I demand the yeas and nays.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. VOLKMER) demands the yeas and nays. All those in favor of taking this vote by the yeas and nays will rise and remain standing until counted.

Not a sufficient number have risen.

PARLIAMENTARY INQUIRY

Mr. VOLKMER. Mr. Speaker, I have a parliamentary inquiry.

Is the requirement one-fifth of the Members present?

The SPEAKER pro tempore. Yes. The Chair will state that the requirement is that one-fifth of the Members present be standing for the yeas and nays, and there is not one-fifth of the Members standing.

Mr. VOLKMER. Mr. Speaker, I count four Members standing.

The SPEAKER pro tempore. In the opinion of the Chair, an insufficient number have arisen.

The Chair will be glad to count, if the gentleman desires.

Mr. VOLKMER. Would the Chair count, please? I believe there are only 25 Members here.

The SPEAKER pro tempore. The Chair will count. Thirty Members are present.

Two-thirds having voted in the affirmative, the rules are suspended and the bill, as amended, is passed, and without objection, a motion to reconsider is laid on the table.

There was no objection.

EXTEND DUTY SUSPENSION ON WASTE AND SCRAP METALS

Mr. VANIK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12165) to extend until the close of June 30, 1981, the existing suspension of duties on certain metal waste and scrap, unwrought metal, and other articles of metal, as amended.

The Clerk read as follows:

H.R. 12165

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

(1) by striking out the colon at the end of the superior heading to items 911.10, 911.11, and 911.12 and inserting in lieu thereof "or to be processed by shredding, shearing, compacting or similar processing which renders them fit only for the recovery of the metal content:"; and

(2) by striking out "6/30/78" in each of items 911.10, 911.11, and 911.12 and inserting in lieu thereof "6/30/81".

SEC. 2. The amendments made by the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after June 30, 1978.

The SPEAKER pro tempore. Is a second demanded?

Mr. STEIGER. Mr. Speaker, I demand a second.

PARLIAMENTARY INQUIRY

Mr. SEIBERLING. Mr. Speaker, is it in order to appeal the ruling of the Chair on the last vote?

The SPEAKER pro tempore. (Mr. SISK). The Chair will state to the gentleman that no appeal lies on the count of the Chair.

Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. VANIK) will be recognized for 20 minutes, and the gentleman from Wisconsin (Mr. STEIGER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of H.R. 12165 is to extend until June 30, 1981, the existing suspension of the rates of duty on certain metal waste and scrap, unwrought metal, and other articles of metal.

H.R. 12165 was introduced by our colleague, Mr. VANDER JAGT of Michigan.

The column 1 (MFN) and column 2 (applicable to Communist countries) tariffs applying to the articles of interest (for copper articles and scrap, only column 1) have been suspended, usually for 2-year periods, almost continuously since 1942. Such articles were initially transferred from the dutiable to the free list to assist steel producers in some sections of the country to obtain adequate supplies of one of their raw materials. The conditions which led to the suspension of the duties continue to exist.

A favorable report was received from the Department of Treasury, and reports with no objections were received from the Departments of State and Commerce.

The bill was amended to extend the suspension of the duty now provided on articles of metal—except certain enumerated articles—which are imported to be used in remanufacture by melting, to include articles of metal that are imported to be processed by shredding, shearing, compacting, or similar processing which renders them fit only for the recovery of the metal content.

The committee was unanimous in reporting H.R. 12165, as amended, and I urge its passage.

Mr. STEIGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join my colleague in supporting passage of H.R. 12165, a bill to continue through June 30, 1981, the existing suspension of duty on the importation of certain metal waste and scrap.

The bill merely continues for another 3-year period the tariff status that has applied to metal waste and scrap, unwrought metal, and other articles of metal almost continuously since the duty on these items was first lifted in 1942. The duty suspension applies to both column 1 and column 2 rates, except in the case of copper where imports from Communist countries, or column 2 entries, will continue to have the duty levied.

Public hearings held in May of this year affirmed the fact that conditions which warranted suspension of the duties over these many years still exist. Domestic smelters continue to depend on imported metal scrap in the same way as domestic producers of primary metals depend on imported metal ores. Metal scrap is an important raw material for which there is a longstanding shortage in this country. If the duty suspension is not continued, steel producers will have to turn solely to higher priced ores which also have to be imported.

In addition, when H.R. 12165 was considered by the Trade Subcommittee, the duty suspension was expanded somewhat. Now included on the free list would be metal articles to be remanufactured by methods other than melting, to which the original suspension applied exclusively. Thus, the duty suspension would apply to metal waste and scrap imported for remanufacture by methods other than melting if entered in such a state that "renders them fit only for the recovery of the metal content."

Mr. Speaker, the Ways and Means Committee unanimously agreed that H.R. 12165 is justified at this time. The administration supports the legislation and no objection to it has been heard from any source. I urge my colleagues to approve the measure unanimously.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VANIK. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. VANIK) that the House suspend the rules and pass the bill H.R. 12165, as amended.

The question was taken; and on a division (demanded by Mr. VOLKMER) there were—yeas 13; nays 1.

Mr. VOLKMER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

TEMPORARY SUSPENSION OF DUTY ON FLUORSPAR

Mr. VANIK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5265) to provide for the temporary suspension of duty on the importation of fluorspar, as amended.

The Clerk read as follows:

H.R. 5265

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting immediately after item 909.01 the following new item:

" 909.05	Fluorspar (provided for in items 522.21 and 522.24, part 1J, schedule 5)	Free	No change On or before 6/30/80 ".

SEC. 2. The amendments made by the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse, on or after the date of enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. STEIGER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. STEIGER) will be recognized for 20 minutes.

Mr. STEIGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join my colleague in supporting enactment of H.R. 5265, a bill to temporarily suspend the duty on the importation of fluorspar.

As previously described by the gentleman from Ohio, the bill suspends until June 30, 1980 the duty on column I entries of both acid grade and metallurgical grade fluorspar. Fluorspar is a mineral, composed of calcium fluoride, that is used in the production of both aluminum and steel.

Hearings held early last year on this bill revealed that domestic production of fluorspar meets less than 25 percent of domestic demand for its use. Consuming industries, therefore, must import a substantial portion of the fluorspar they need. Currently, Mexico is the primary supplier of imported fluorspar.

Although, in the case of aluminum production, a particular industrial byproduct acid can be used as a substitute for fluorspar, such a substitute does not begin to compensate for the huge amount of fluospar that now must be imported. Consequently, both aluminum and steel processors are placed at a competitive disadvantage to the extent that they must use imported fluorspar. Of course, it is the consumer who ultimately pays the bill.

One U.S. company that produces fluorspar for domestic use has objected to the duty suspension because they have access to a large deposit of undeveloped ore from which fluorspar can be extracted. However, market conditions make development of the ore impractical at the present time or in the near future. The temporary nature of the suspension will permit the Congress to review this situation, along with other factors, after a period of about 2 years.

In general, the domestic fluorspar industry does not oppose suspension of the duty in this instance if on a temporary basis. A protective tariff means little since they are unable at this time to increase their production by any significant degree. The administration has expressed support for the legislation.

Mr. Speaker, the Trade Subcommittee has reviewed this legislation twice over the past 2 years and believes it to be meritorious. I urge unanimous approval of H.R. 5265 at this time.

Mr. JEFFORDS. Mr. Speaker, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Speaker, it is my understanding this will allow the temporary suspension of duty on fluorspar and in the event it becomes feasible to produce the fluorspar the effort will be made to reimpose the duty. Is that it?

Mr. STEIGER. I will say to the gentleman from Vermont, and my colleague, the chairman of the Trade Subcommittee, might wish to enter into this—this is a temporary suspension of duty. It is fairly clear the Trade Subcommittee will look very carefully at what in fact has happened within the domestic industry. If there is an increase of production available from domestic sources and therefore an adequate supply to meet the needs of the aluminum and steel industries, I think it is fairly clear the Trade Subcommittee would not attempt to continue the suspension unless it were further justified. We are doing it on a temporary basis because of that concern that has been raised and because of the potential for further domestic fluorspar development.

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Speaker, I want to say I heartily concur in what my colleague, the distinguished gentleman from Wisconsin, said. That is absolutely correct. We must recall that this suspension is for a very short time for the specific purpose of letting us measure the status of domestic production and the effect it has on the domestic producer.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. Let me say first—and then I will yield to my friend, the gentleman from Illinois, who circulated a "dear colleague" letter on this—Members will notice the date is June 30, 1980. That is different from the date we have had on all the other suspensions, just for this one reason, because we do want to take a look at it. The other suspensions, both last year and this year, I think all go to 1981. So we will look at it from that standpoint.

I yield now to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Speaker, I thank the gentleman for yielding.

If I could respond to my colleague further, there is in fact an ample domestic supply. The question is: Do we want to put out of business that 20 percent of the fluorspar industry that is in business now?

In response to my colleagues, the gentleman from Ohio and the gentleman from Wisconsin, it seems to me we should measure the impact before we take off the duty, rather than measure the impact after we take off the duty.

What we are doing with a very strategic mineral is moving somewhat precipitously without any kind of reciprocal action on the part of the other nations. Ordinarily on this kind of thing we would enter into GATT or some other form of negotiations. We ought to know the impact on the domestic industry before we move. And we should get movement by other countries.

Why would some of the fluorspar companies—and I stress it is some of them—be interested in having this duty removed? One of the reasons is that some of them are owned by the aluminum companies and the steel companies and some are in the international field, and they can make more money producing fluorspar in South Africa than they can in Vermont or Illinois.

Mr. STEIGER. May I comment to my friend, the gentleman from Illinois, there are about 11 domestic producers of fluorspar. Of that 11, 2 of them express concern about the bill. It is true that there are at least 2, maybe 3 multinational companies that are involved in here, which supply the bulk, 80 percent, if my figures are correct, of that 25 percent.

So you have an interesting kind of situation.

I must say I do not concur with the gentleman from Illinois (Mr. SIMON) when he says that this temporary suspension will put the domestic industry out of business. That is not the position taken by the domestic industry, the bulk of it, nor is it the position taken by the administration that urged the bill to be passed.

Mr. JEFFORDS. Mr. Speaker, if the gentleman will yield still further, I am somewhat reassured but not yet convinced.

Mr. STEIGER. Mr. Speaker, I reserve the balance of my time.

Mr. VANIK. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Speaker and my colleagues in the House, I thank the Members for their attention to this relatively small item that affects one mineral that most people have not even heard of and that affects about 1,000 jobs around this Nation, but those 1,000 jobs are important and this mineral is extremely important.

The States that will be adversely impacted if this bill passes are Illinois, Kentucky, Colorado, Texas, Arizona, Nebraska, Utah, and Montana and potentially some others, particularly Tennessee and Alaska where there are sizable deposits of fluospar.

Fluorspar is an essential ingredient in the production of steel and aluminum and fissionable uranium and in fluorine chemicals.

We now import—and my good colleague, the gentleman from Wisconsin (Mr. STEIGER) uses the figure of 75 percent, but the figure I have is 81 percent. Precisely which is correct, I do not know—but somewhere between 75 and 81 percent right now is imported.

We ought to look at what our national security interests are here. Is it desirable to be virtually totally dependent on those foreign imports?

We have in this Nation what we call national stockpile objectives where we stockpile certain essential minerals. There are two types of fluorspar. One type we have is the metallurgical, and we have one-sixth of the national stockpile objective there, and the other is the acid grade, which is a little over one-half of the national stockpile objectives.

One of the questions we have to face as we move on this legislation is that fundamental question: Should we become solely dependent on foreign sources for our fluorspar? The second question is the matter of domestic employment. Do we simply go ahead and then measure the impact afterwards as has been suggested?

So we have about 1,000 people involved and if my good friend, the gentleman from Wisconsin (Mr. STEIGER) is correct, only the marginal fluorspar mines are going to be put out of business. The only problem is that almost all the fluorspar mines are marginal in the United States. Also the places where we put people out of jobs happen to be places where right now there already is high unemployment.

In my district fluorspar miners live in three counties, unemployment is high in all those three counties. Pope County has 14.1 percent unemployment. Hardin County has 9.2 percent unemployment. And Massac County has 10.6 percent unemployment.

Further, what benefit do the American taxpayers get out of all of this, and the American consumers?

We are talking about an import duty that on every $100 worth of aluminum, steel or uranium means two-thirds of 1 percent, or 2 cents on every $100 worth of steel and aluminum.

We have to balance that against the number of people we are going to put out of work and who are going to be on welfare or unemployment compensation. We have a lot of other things which we have to take a look at. The lost revenue will be somewhere between $3 million and $6 million a year. The lost revenue will be experienced through the passage of this bill, and we also adversely impact the balance of payments. I do not need to tell the Members that the balance of payments is already bad.

Mr. Speaker, who benefits? That is a very interesting question. The beneficiaries are, No. 1, South Africa. South Africa is increasingly the major source of outside fluorspar, and in South Africa we have three corporations, one British and two American, who will be the beneficiaries. They have thousands of tons of fluorspar stockpiled, just ready for this bill to pass, which will enable them to flood the market and make a good, healthy profit.

Who loses? Our security, I think, is impaired.

The SPEAKER pro tempore. The time of the gentleman from Illinois (Mr. SIMON) has expired.

Mr. VANIK. Mr. Speaker, I yield 2 additional minutes to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Speaker, I thank the gentleman for yielding.

Our security is impaired. We are increasingly dependent on foreign fluorspar and on a source that might not be a reliable source for fluorspar in the future. We are going to have Americans put out of work, and we do it contrary to the usual pattern of negotiating. If we got some kind of reciprocal action by other countries, that would be one thing.

Interestingly enough—and my colleague, the gentleman from Nevada (Mr. SANTINI), pointed this out to me—we now have a 2-year study going on on what our policy ought to be on basic minerals. Here is a basic mineral, and we are not considering the strategic impact of it. We are moving ahead despite the fact that the beneficiaries are not going to be the people of the United States.

Mr. Speaker, I would hope that we will get one-third of the Members of the House who will vote against this bill and not move ahead in this area.

Mr. VANIK. Mr. Speaker, I yield myself such time as I may consume.

I just want to point out to my colleague, the gentleman from Illinois (Mr. SIMON), that given the present demand pressure which there is for fluorspar, there should be no problem with the domestic fluorspar industry. I think we should be able to use all that is produced in this country.

The duty suspension is only for a limited time, and we expect to very carefully monitor the level of imports, domestic supplies, and help the domestic industry.

I want to point out to my distinguished colleague, the gentleman from Illinois, that I share his concern with respect to the domestic industry and jobs in America. However, the request for this suspension did not come from foreign producers; it came from other domestic industries in this country who claim that they desperately need this fluorspar in order to carry on their normal production.

Again, we are going to very carefully monitor these imports. I want to assure my distinguished colleague, the gentleman from Illinois (Mr. SIMON), that if we find that the importation is indeed not necessary or injurious to the American sources of supply, I think we can take appropriate action at that particular time.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I want to ask the gentleman this question: Does this bill merely lift a duty or a quota along with the duty?

Mr. VANIK. It just suspends a duty.

Mr. VOLKMER. It just suspends a duty?

Mr. VANIK. Temporarily.

Mr. VOLKMER. I understand that, but I understand that fluorspar is used primarily in this country in the steel and aluminum industries; is that correct?

Mr. VANIK. That is correct.

Mr. VOLKMER. For manufacturing?

Mr. VANIK. That is correct.

Mr. VOLKMER. With the duty on it, United States Steel, Bethlehem Steel or Kaiser Aluminum or anybody else is not prevented from acquiring all the fluorspar they want to acquire from any producer; is that correct?

Mr. VANIK. No, excepting that it is added to the cost of producing steel and reduces the competitiveness of the American industry.

One of our problems today is the extremely vigorous competition there is the world. We are endeavoring to keep our industry competitive by doing such things as we can to hold down the cost of production in America, to which a great many other jobs are related.

Mr. VOLKMER. And with the duty removed——

Mr. VANIK. Suspended.

Mr. VOLKMER [continuing]. Or suspended, or removed for the period of the suspension, the cost of imported fluorspar will be less than domestically produced fluorspar; is that not correct?

Mr. VANIK. Yes; it will come in at a lower price.

Mr. VOLKMER. And they can acquire all they need from foreign producers; is that correct?

Mr. VANIK. As I indicated in my colloquy with the distinguished gentleman from Illinois (Mr. SIMON), if we find that our steel industry is not consuming all of the supplies of domestic fluorspar we can take some action.

If we find that they are favoring the imported fluorspar over that which is produced in the United States, then I think I will be among the first Members of this body to do something about correcting the situation.

Mr. VOLKMER. Would it not have been better to provide in the bill for a quota that could be acquired from foreign nations to insure that our domestic producers are not out of business, because we have seen enough of our domestic producers of all kinds of commodities put out of business? I am sure that United States Steel, the steel industry and the aluminum industry, can more readily absorb the cost rather than the domestic producing fluorspar industry. What I am afraid of is we are putting a lot of people or at least a thousand people out of jobs in favor of someone else, and that bothers me to a great extent.

Mr. VANIK. I want to say to the gentleman that we import 86 percent of our consumption today.

Mr. VOLKMER. It has gone up to 86 percent. It was 75 percent. Then it was 81 percent.

Mr. VANIK. No, no.

Mr. VOLKMER. Over on this side it was 75 percent. On the minority side it was 75 percent. The gentleman from Illinois said 81 percent. Now the majority leader side says 86 percent. If we keep going once more on the Republican side, we might get 90 percent.

Mr. VANIK. The gentleman knows the figures depend on what one uses as a criterion, whether one uses value or whether one uses quantity. Let me say this, the percent of imports related to apparent consumption is as follows: In 1972, 83 percent; 1973, 83 percent; 1974, 87 percent; 1975, 90 percent; 1976, 83 percent; 1977, 86 percent.

Mr. VOLKMER. Is that value or total?

Mr. VANIK. That is quantity.

Mr. VOLKMER. That is quantity.

Mr. VANIK. In value, the value was 74 percent in 1972; 75 percent in 1973; 82 percent in 1974; 85 percent in 1975; 77 percent in 1976; and 79 percent in 1977. The source of these figures is from the official figures of the U.S. Department of the Interior. The imports and exports are compiled from the official records of the U.S. Department of Commerce.

Mr. SIMON. Mr. Speaker, will my colleague, the gentleman from Ohio, yield?

Mr. VANIK. I will be happy to yield to the gentleman from Illinois.

Mr. SIMON. I thank the gentleman for yielding. It is important to talk about that 86 percent of imports—and the gentleman says how healthy the industry is. I happen to know they are barely surviving. The gentleman said the demand for this is not coming from foreign countries or foreign companies; it is coming from domestic industries. Let us be candid. The domestic industry that is demanding this most is the domestic industry that was referred to by my good colleague, the gentleman from Missouri, United States Steel. Who is one of the three corporations in South Africa who is going to be the major beneficiary of this legislation? Why, lo and behold, it is that domestic corporation called United States Steel, which has fluorspar mines in South Africa.

Let us face it. We are not passing this for the consumers of this Nation; we are passing it for one substantial corporation and two other corporations are going to be major beneficiaries also.

Mr. VANIK. Let me just point this out, that most of the fluorspar we use comes from Mexico and Spain and Italy. Of the total consumption of $75 million worth in 1976, $7 million came from South Africa.

Mr. SIMON. Will my colleague yield?

Mr. VANIK. I yield to the gentleman from Illinois.

Mr. SIMON. What country has been going up strongly in sales and has now surpassed Mexico? Mexico was No. 1, is now No. 2 in the importation of fluorspar.

Mr. VANIK. I really cannot tell the gentleman.

Mr. SIMON. It is South Africa. South Africa has hundreds of thousands of pounds of fluorspar waiting until this bill passes, and if this bill passes, South Africa is going to come into the United States with a massive supply of fluorspar.

Then one final point, if my colleague will yield.

Mr. VANIK. I would be happy to yield.

Mr. SIMON. Mr. Speaker, the gentleman mentioned we are temporarily suspending the duties—and we temporarily suspend the jobs in the meantime while we temporarily suspend the duties—and then the gentleman says the Committee on Ways and Means is going to "carefully monitor" what happens in the fluorspar industry.

I do not mean any disrespect to my

colleague from Ohio. I am usually with the gentleman and, in fact, later tomorrow afternoon I will be with the gentleman in a fight; but the gentleman has his hands full with a thousand and one things to do and the gentleman simply is not going to have time to monitor what happens in the fluorspar industry.

Mr. VANIK. Mr. Speaker, I would like to respond to the gentleman on that score. We are now in a situation where we are monitoring almost all the imports to the United States. We have established through the Customs Service and the Department of Commerce a very, very accurate monitoring and early warning system. We are endeavoring to check the level of all imports to this country; so if anything rises at an extraordinary level it is going to trigger our attention and we are going to try to determine the reasons why.

We are very distressed about our imbalance in trade and the factors that contribute to that imbalance. I want to assure the gentleman that I think for the first time, at least in my recollection, we are establishing very firm and accurate accounting handles on the levels of imports and those things that contribute to a sudden urge.

Mr. SIMON. Mr. Speaker, will my colleague yield once again?

Mr. VANIK. I am happy to yield.

Mr. SIMON. Mr. Speaker, the gentleman mentioned his careful concern about the balance of trade. Is not this bill going to adversely affect the balance of trade?

Mr. VANIK. Well, every import affects the balance of trade and we have to deal with the whole spectrum, from fluorspar to steel, to automobiles, to television sets, to the whole spectrum of commercial goods and agricultural products.

Mr. SIMON. But this action is taken unilaterally by our Nation without any reciprocal action and it adversely affects our balance of trade.

Mr. VANIK. I would say by all analyses we anticipate no increase in the level of imports, and if there is an increase in imports injurious to the gentleman's community, I will be happy to have this matter reviewed, I will assure the gentleman of that.

Mr. SIMON. Mr. Speaker, I wish I were as sanguine as my colleague from Ohio.

Mr. CHARLES H. WILSON of California. Mr. Speaker, will the gentleman yield?

Mr. VANIK. I am happy to yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I am inclined to support the bill; but I would like to ask the gentleman, What will happen in the event this bill will not pass? What is the serious effect?

Mr. VANIK. Well, the duty will be added. The same amount of imports will occur. It is a 13-percent duty and it is going to be added to the cost of everything that is produced in the steel and aluminum industry. The American consumer is going to be very heavily impacted by the added cost which will result from the imposition of the duty. Our effort to suspend the duty relates from our belief that the consumer in America generally will suffer less by this action than he will if the duty is not suspended.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I would be interested in knowing how the proponents feel about that.

Mr. STEIGER. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, somebody around the floor said it must be the time of the full moon. In all the time we have had the chance to debate trade issues, I have rarely heard one so uniquely twisted by the kind of arguments used by those opposing this bill. I have profound respect for my able Lincoln scholar from Illinois; but the gentleman is absolutely wrong in the kind of approach the gentleman has used and the analyses the gentleman has given. The gentleman is not talking about 50 States or 1,000 jobs. The gentleman is talking about one producer of 6 percent of the production that is worried about what will happen.

The gentleman is not talking about cutting off the domestic industry and cutting off the supply from foreign sources. What the gentleman is talking about is whether or not we temporarily suspend the duty on fluorspar and allow the domestic steel and aluminum industry to have an adequate supply; thus, to reduce the price to the consumer and, thus, help our anti-inflation campaign.

Mr. Speaker, I will be darned if I will sit here idly by and watch that kind of debate go on. The bill is a good bill, and it is supported by the administration. It ought to be passed.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. STEIGER. Mr. Speaker, I yield back the balance of my time.

Mr. VOLKMER. Does the gentleman from Ohio (Mr. VANIK) have any time left?

● Mr. JEFFORDS. Mr. Speaker, while the discussion I have had with my colleague from Wisconsin (Mr. STEIGER) has clarified several points for me, I am still opposed to H.R. 5265 which is before us. This legislation, which would temporarily suspend the duty on imported fluorspar, would be seriously detrimental to our domestic fluorspar industry. The chief argument I hear from my colleagues on the Ways and Means Committee is that the current duty serves to increase the cost to consuming industries, primarily the steel and aluminum industries, with little compensating benefits to our domestic fluorspar industry. It is maintained that enactment of this measure would place U.S. steel producers, as well as other consumers of fluorspar, in a better competitive position vis-a-vis foreign producers.

This legislation was brought to my attention by Umont Mining, Inc., a small mining exploration company located in my State of Vermont. They have pointed out to me that the benefit to the U.S. steel industry would be on the order of only 15 cents per ton of steel produced. This is a very small savings when taking into account the fact that this legislation may result in the total elimination of domestic production of fluorspar, which is listed as a strategic and critical mineral. The following represents an analysis of the impacts of this legislation which was developed by Umont Mining, Inc. I hope my colleagues will seriously examine the potential impacts of this legislation and join me in opposing it. I urge defeat of this measure:

NOTES ON U.S. FLUORSPAR RESERVES AND ECONOMICS

The steel companies are urging the passage of H.R. 5265 which would remove the tariff on fluorspar (a non-metallic flux mineral essential to making steel). The removal of the duty would result in a reduction of only 15¢ in the manufacture of one ton of steel.

Here is background on what this action would mean:

1. At present, even with the present duty imposed, our few operating fluorspar producers have great difficulty in competing with foreign sources, mainly Mexico, Africa, and Thailand. Our present spar resources are limited and marginal. Exploration for this non-metalic mineral would come to a standstill.

2. Spar is essential to the making of steel, aluminum, refrigerants, fluorine.

3. Approximately 80% of our supply is foreign due to the relatively low price of imports (even when including the present duty).

4. In the making of steel and aluminum a very small percentage of spar is used as a flux (thus the low cost for spar (15¢) per ton of steel).

5. Fluorspar is on this U.S. list of 34 strategic minerals. It is also on the "critical" list.

6. To reduce the price of spar from $91 per ton to $71 per ton, for example, would virtually kill U.S. exploration and production of this vital mineral resource, all for a miniscule saving in the cost per ton of end product.

7. Umont Mining, a small exploration company, has worked on the development of a fluorspar discovery in the Bayhorse District of Idaho for seven years. Approximately $2,000,000 of private capital has been spent on this project. The end result so far is a proven four million ton fluorspar orebody of excellent grade, with the likelihood of its being increased in the future to much larger tonnage. As a result of this, in the opinion of a number of geologists, the Bayhorse District in Idaho may have the largest fluorspar reserves in the nation.

8. At present no mining company is willing to invest in a mine and mill at Bayhorse because of high freight rates. Removal of the tariff certainly would kill this project and very probably also the few remaining producers of fluorspar in the United States.

9. The end result of this short range thinking is more and more dependence on foreign nations for a not generally understood but critical natural resource.

10. Question: Are we willing to destroy an industry (fluorspar production) for a fifteen cent saving per ton in the cost of steel?

COST CALCULATION

Assume 15 lbs. national average CaF_2 (fluorspar) used per ton of steel.

$91.00 imported cost per ton fluorspar (July, 1978 price of 70% effective metallurgical grade flourspar).

At a price of $91.00 per ton CaF_2 would cost 68.25¢ per ton steel (15×4.55¢)

At a price of $71.00 per ton (no tariff) CaF_2 would cost 53.25¢ (15×3.55¢)

Difference: 68.25¢−53.25¢=15¢ saving per ton of steel.●

The SPEAKER pro tempore. All time has expired.

The question is on the motion offered by the gentleman from Ohio (Mr. VANIK) that the House suspend the rules and pass the bill, H.R. 5265, as amended.

The question was taken; and on a division (demanded by Mr. VOLKMER) there were—yeas 8, nays 4.

Mr. SIMON. Mr. Speaker, I demand the yeas and nays.

The SPEAKER pro tempore. The Chair will state that there is a question as to the gentleman from Illinois (Mr. SIMON) having been timely on his feet.

Is the gentleman's demand for the yeas and nays?

Mr. SIMON. Yes, Mr. Speaker, the demand is for the yeas and nays.

The SPEAKER pro tempore. All those in favor of taking this vote by the yeas and nays will rise and remain standing until counted.

Evidently a sufficient number have arisen, and the yeas and nays are ordered.

Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

CONCURRING IN SENATE AMENDMENTS TO H.R. 1337, EXCISE TAXES ON CERTAIN TRUCKS, BUSES, TRACTORS, ET CETERA

Mr. CORMAN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1342) providing that immediately upon the adoption of this resolution the bill (H.R. 1337) to amend the Internal Revenue Code of 1954 with respect to excise tax on certain trucks, buses, tractors, et cetera, together with the Senate amendments thereto, be taken from the Speaker's table to the end that; First, the Senate amendment to the title of the bill be agreed to; and second, the Senate amendment to the text of the bill be agreed to with amendments.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 1342

Resolved, That immediately upon the adoption of this resolution the bill (H.R. 1337) to amend the Internal Revenue Code of 1954 with respect to excise tax on certain trucks, buses, tractors, et cetera, together with the Senate amendments thereto be, and the same is hereby, taken from the Speaker's table to the end that (1) the Senate amendment to the title of the bill be, and the same is hereby, agreed to; and (2) the Senate amendment to the text of the bill be, and the same is hereby, agreed to with the following amendments:

Page 3, line 25, of the Senate engrossed amendments, insert a comma after "18 years of age".

Page 4 of the Senate engrossed amendments, strike out lines 1 through 3 and insert the following:

age (if any) established by law applicable in the locality in which the household is situated at which beer may be sold to individuals, whichever is greater."

Page 4, line 19, of the Senate engrossed amendments, strike out "illegally produced beer" and insert in lieu thereof "to illegally produced beer".

Page 8, line 7, of the Senate engrossed amendments, strike out "paragraph (4)" and insert in lieu thereof "paragraph (4))".

Page 8, beginning in line 12, of the Senate engrossed amendments, strike out "the first section of this Act" and insert in lieu thereof "this section".

Page 8 of the Senate engrossed amendments, strike out line 16 and all that follows down through line 9 on page 13, and insert:

SEC. 4. PARTIAL ROLLOVERS OF LUMP SUM DISTRIBUTIONS.

(a) PARTIAL ROLLOVER FROM EMPLOYEES' TRUSTS PERMITTED.—Paragraph (5) of section 402(a) of the Internal Revenue Code of 1954 (relating to rollover amounts) is amended to read as follows:

"(5) ROLLOVER AMOUNTS.—

"(A) GENERAL RULE.—If—

"(i) the balance to the credit of an employee in a qualified trust is paid to him in a qualifying rollover distribution,

"(ii) the employee transfers any portion of the property he receives in such distribution to an eligible retirement plan, and

"(iii) the amount so transferred consists of the property (other than money) distributed,

then such distribution (to the extent so transferred) shall not be includible in gross income for the taxable year in which paid.

"(B) MAXIMUM AMOUNT WHICH MAY BE ROLLED OVER.—In the case of any qualifying rollover distribution, the maximum amount transferred to which subparagraph (A) applies shall not exceed the fair market value of all the property the employee receives in the distribution, reduced by the employee contributions.

"(C) TRANSFER MUST BE MADE WITHIN 60 DAYS OF RECEIPT.—Subparagraph (A) shall not apply to any transfer of a distribution made after the 60th day following the day on which the employee received the property distributed.

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) QUALIFYING ROLLOVER DISTRIBUTION.—The term 'qualifying rollover distribution' means 1 or more distributions—

"(I) within 1 taxable year of the employee on account of a termination of the plan of which the trust is a part or, in the case of a profit-sharing or stock bonus plan, a complete discontinuance of contributions under such plan, or

"(II) which constitute a lump sum distribution within the meaning of subsection (e)(4)(A) (determined without reference to subsection (e)(4)(B)).

"(ii) EMPLOYEE CONTRIBUTIONS.—The term 'employee contributions' means—

"(I) the excess of the amounts considered contributed by the employee (determined by applying section 72(f)), over,

"(II) any amounts theretofore distributed to the employee which were not includible in gross income.

"(iii) QUALIFIED TRUST.—The term 'qualified trust' means an employees' trust described in section 401(a) which is exempt from tax under section 501(a).

"(iv) ELIGIBLE RETIREMENT PLAN.—The term 'eligible retirement plan' means—

"(I) an individual retirement account described in section 408(a),

"(II) an individual retirement annuity described in section 408(b) (other than an endowment contract),

"(III) a retirement bond described in section 409,

"(IV) a qualified trust, and

"(V) an annuity plan described in section 403(a).

"(E) SPECIAL RULES.—

"(i) TRANSFER TREATED AS ROLLOVER CONTRIBUTION UNDER SECTION 408.—For purposes of this title, a transfer described in subparagraph (A) to an eligible retirement plan described in subclause (I), (II), or (III) of subparagraph (D)(iv) shall be treated as a rollover contribution described in section 408(d)(3).

"(ii) SELF-EMPLOYED INDIVIDUALS AND OWNER-EMPLOYEES.—An eligible retirement plan described in subclause (IV) or (V) of subparagraph (D)(iv) shall not be treated as an eligible retirement plan for the transfer of a distribution if any part of the distribution is attributable to a trust forming part of a plan under which the employee was an employee within the meaning of section 401(c)(1) at the time contributions were made on his behalf under the plan."

(b) PARTIAL ROLLOVER OF ANNUITY CONTRACTS PERMITTED.—Subsection (a) of section 403 of such Code (relating to taxability of beneficiary under a qualified annuity plan) is amended by striking out paragraph (4) and (5) and inserting in lieu thereof the following new paragraph:

"(4) ROLLOVER AMOUNTS.—

"(A) GENERAL RULE.—If—

"(i) the balance to the credit of an employee in an employee annuity described in paragraph (1) is paid to him in a qualifying rollover distribution,

"(ii) the employee transfers any portion of the property he receives in such distribution to an eligible retirement plan, and

"(iii) the amount so transferred consists of the property (other than money) distributed,

then such distribution (to the extent so transferred) shall not be includible in gross income for the taxable year in which paid.

"(B) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of subparagraphs (B) through (E) of section 402(a)(5) and of paragraph (6) of section 402(a) shall apply for purposes of subparagraph (A)."

(c) TAXATION OF PORTION NOT ROLLED OVER.—

(1) IN GENERAL.—Paragraph (6) of section 402(a) of such Code (relating to special rollover rules) is amended by adding at the end thereof the following new subparagraph:

"(C) TREATMENT OF PORTION NOT ROLLED OVER.—If any portion of a lump sum distribution is transferred in a transfer to which paragraph (5)(A) applies, paragraph (2) of subsection (a), and paragraphs (1) and (3) of subsection (e) shall not apply with respect to such lump sum distribution."

(2) CONFORMING AMENDMENTS.—Paragraph (6) of section 402(a) of such Code is amended—

(A) by striking out "For purposes of paragraph (5)(A)(i)",

(B) by striking out "A complete" in subparagraph (A) and inserting in lieu thereof "For purposes of paragraph (5)(D)(i), a complete", and

(C) by inserting "For purposes of paragraph (5)(D)(i)—" after "ASSETS.—" in subparagraph (B).

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (c) shall apply with respect to taxable years beginning after December 31, 1974.

(2) VALIDATION OF CERTAIN ATTEMPTED ROLLOVERS.—If the taxpayer—

(A) attempted to comply with the requirements of section 402(a)(5) or 403(a)(4) of the Internal Revenue Code of 1954 for a taxable year beginning before the date of the enactment of this Act, and

(B) failed to meet the requirements of such section that all property received in the distribution be transferred,

such section (as amended by this section) shall be applied by treating any transfer of property made on or before December 31, 1978, as if it were made on or before the 60th day after the day on which the taxpayer received such property. For purposes of the preceding sentence, a transfer of money shall be treated as a transfer of property received in a distribution to the extent that the amount of the money transferred does not exceed the highest fair market value of the property distributed during the 60-day period beginning on the date on which the taxpayer received such property.

Mr. CORMAN (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the House amendments to the Senate amendments be dispensed with, and that they be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Is a second demanded on the resolution?

Mr. STEIGER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. CORMAN) will be recognized for 20 minutes, and the gentleman from Wisconsin (Mr. STEIGER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. CORMAN).

Mr. CORMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1337, as passed by the Senate, is a combination of three small bills which have been passed by the House plus several Senate amendments.

The first section of the bill provides that the use of the administratively developed "cost floor" rule is specifically prohibited as an alternative tax base for purposes of computing the excise tax on trucks, buses and other highway equipment sold by manufacturers at retail. Under a Senate amendment to the House bill, the September 30, 1977, effective date was changed so that this rule will apply prospectively beginning with the first calendar quarter which begins more than 30 days after enactment.

In this connection, I want to emphasize that the intent of the Committee on Ways and Means concerning the constructive sale price percentage for a type of taxable article is that the percentage is to be determined by reference to a comparison between the price at which these articles are sold at retail and the price at which these articles are predominately sold at other than retail, even though these latter sales may comprise a minority of the total sales of such articles.

The second section of the bill deals with excise taxes on beer and wine. It corrects problems in interpreting present law so that an adult may brew beer or make wine in limited quantities for personal and family use without incurring beer or wine excise taxes or being subject to certain penalties. Under a Senate amendment to the House-passed provisions, which were contained in H.R. 2028, the treatment of homebrewing is made parallel to the treatment of home winemaking so that homebrewers will be able to brew up to 200 gallons of beer each year without being subject to the 30-gallon-on-hand limitation and the registration requirement contained in the House bill. However, there are several clarifying amendments that are made to conform the language contained in the Senate amendment to that of the House bill.

The third section of the bill expands the farming exemption from fuel taxes to enable an aerial crop duster who uses fuel for farming purposes to claim the tax refund or credit. A Senate amendment to the House-passed provision, which was contained in H.R. 2852, requires that the farmer must waive his right to refund or credit in order for the crop duster to claim it. A technical amendment is made to correct the effective date as contained in the Senate amendment.

The fourth section of the bill is a Senate provision which would allow tax-free treatment for any portion of a lump-sum distribution from a qualified retirement plan which is deposited in an individual retirement account or another qualifying plan. There is also a special makeup rule for individuals who previously attempted to make a rollover deposit but failed to transfer the required amount.

In addition to various technical amendments, an amendment is made which is necessary to this Senate amendment to extend the relief provided by the bill to plans funded by annuity contracts. A similar makeup rule would apply to individuals who previously attempted to roll over distributions from annuity plans, but failed to transfer the entire amount of the distribution.

The final section of the Senate-passed bill deals with supplemental security income and is identical to H.R. 13814, which was favorably reported by the Committee on Ways and Means on August 16. It addresses a problem which has recently arisen regarding the SSI program in California.

The Senate amendment contained in section 5 of H.R. 1337 amends section 8(d) of Public Law 93-233. It provides that, upon the request of the State of California, the Secretary of Health, Education, and welfare would make a monthly cash payment equal to the minimum food stamp allotment for an eligible one-person household ($10) to noninstitutionalized, SSI recipients who do not have an eligible spouse. This additional payment would be included in or with the individual's SSI check. Eligible SSI individuals would receive this $10 monthly cash payment in place of food stamps. These cash payments in lieu of food stamps could not be made before October 1, 1978 nor continue beyond September 30, 1979.

This amendment is identical to a bill, H.R. 13814, that has been approved by the Committee on Ways and Means and is scheduled to be considered by the House under a supsension of the Rules.

The purpose of the Senate amendment and the Committee approved bill is to provide eligible SSI individuals in California with a Federal payment equivalent to their food stamp entitlement in a manner that reduces administrative procedures and costs. Under both, noninstitutionalized SSI individuals in the State would receive a monthly $10 cash payment in lieu of food stamps. The amendment would allow California to resume the "cash-out" status for SSI recipients that has been in effect since the SSI program was implemented in January of 1974.

The Congressional Budget Office (CBO) estimates that, for fiscal 1979, the payments provided under this amendment will cost approximately $60 million; $57 million for benefits and $3 million for administration. CBO estimates that if this amendment is not enacted, and SSI recipients in California remain eligible for food stamps, annual Federal food stamp cost will increase by $50 million, $30 million of which would be for benefits and $20 million for the Federal share of administrative expenditures. Since States pay half the food stamp administrative costs, the CBO estimate indicates that California would pay an additional $20 million in yearly administrative costs if SSI recipients remain eligible for food stamps. In other words, it would cost approximately $40 million ($20 million Federal and $20 million State) to administer $30 million in food stamp benefits. Whereas, under this Senate amendment and the committee bill, it would cost only $3 million to administer $57 million in benefits. Almost twice as many needy aged, blind, and disabled individuals would receive the Federal benefits to which they are entitled at a fraction of the administrative cost, and at a comparable total cost to the Federal Government.

Mr. Speaker, I urge adoption of this resolution, which will allow the House to return H.R. 1337 to the Senate with the modifications we have just described.

Mr. STEIGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1337 as passed by the other body consolidates three House-passed bills (H.R. 1337, H.R. 2028, and H.R. 2852), one Ways and Means Committee passed bill (H.R. 13814) and a provision concerning pension rollovers.

The original House-passed bill dealt with the issue of the proper method of computation of the 10-percent excise tax on trucks and buses. The excise tax normally is applied on the manufacturer's wholesale price. In situations where the manufacturer is also its own retailer, the IRS deems the wholesale price to be the higher of the cost of manufacture or a certain percentage of the retail sales price. H.R. 1337 prohibits the IRS from using the cost of manufacture as the basis for imposing the excise tax.

Mr. Speaker, H.R. 1337 contains provisions to make technical modifications in the way in which truck and trailer manufacturers compute excise tax on their sales to consumers. It is not intended to raise revenues or lose revenues, but merely to assure that a manufacturer's sale at retail will have about the same tax base as the sale of the same article at wholesale. It is intended to reflect the discount between retail sales to consumers and sales at other than retail to wholesale distributors or dealers. If the preponderance of nonretail sales in a particular industry is to wholesale distributors, the discount should be the difference between the highest retail price and the highest price to wholesale distributors in the ordinary course of

trade. If the preponderance of nonretail sales is to dealers, the IRS should set the discount at the difference between the retail price and the lowest price to retailers.

Since publication of revenue ruling 54-61, the retail discount has been 25 percent. Today that discount rate for trucks and trailers is somewhat between 10 and 20 percent, depending upon which industry is affected, trucks, truck bodies, tractors, trailers, or buses. While it is clear that IRS is authorized under this bill to alter the discount, it should not do so until it has thoroughly investigated each affected industry to determine what an average and reasonable rate should be to govern each industry and assure itself that the change will not have an inflationary impact.

H.R. 1337 contains an expanded version of House-passed H.R. 2028, dealing with the excise tax treatment of home producers of beer or wine. It permits households of two or more adults to produce up to 200 gallons per year of beer or wine without incurring any alcohol tax or penalties. The other body removed both the requirement that beer producers register with the Treasury Department and the 30-gallon limitation on beer in storage. Originally, the registration of beer producers was directed at monitoring possible moonshine whiskey operations, but the procedure has proven to be more of a nuisance than a useful enforcement tool.

The third House-passed bill contained in H.R. 1337 as passed by the other body is H.R. 2852. This provision permits agricultural aerial crop sprayers to claim the refund for the excise tax on gasoline used in agricultural operations. Under present law the farmer must apply for the refund. However, in situations where a farmer hires a crop duster to service his fields, he often fails to claim the refund. This provision would permit the crop duster to claim the refund if the farmer waives his right to claim it.

A new provision added by the other body concerns the issue of lump-sum pension distributions. Under present law, a person receiving a lump-sum distribution from a qualified retirement plan is required to deposit the entire sum in another qualified plan account in order to obtain tax-free rollover treatment. Situations have occurred where a person received the lump-sum pension distribution and reinvested all but a small amount in a qualified pension account. Nevertheless, the entire lump-sum amount was taxed. The amendment would permit partial rollovers, that is, the portion of a lump-sum distribution reinvested in a qualified plan would receive tax-free rollover treatment, while the amounts not so reinvested would be taxed. The effective date is January 1, 1975. The present operation of the law is a glaring anomaly and the other body's amendment will help bring equitable relief to the person who might otherwise be harmed.

Finally Mr. Speaker, one of the Senate amendments to H.R. 1337 has unique interest and application in the State of California. Its intent is to permit the continuation of payments of cash in lieu of food stamps to California SSI recipients, as has been the practice in that State since the inception of the SSI program. Without the adoption of this provision, SSI recipients there will become entitled to apply for food stamps because the State, as a result of decisions reached in the wake of proposition 13, is no longer complying with one of two statutory conditions of Public Law 94-379 under which it has been permitted since 1976, to maintain its "cash-out" status.

The Congressional Budget Office has estimated that the $10 bonus payments which the Federal Government would provide under this bill to noninstitutionalized SSI individuals not having an eligible spouse will cost approximately $60 million, $57 million of which will be for benefits. CBO has estimated that without the enactment of this measure, Federal food stamp benefit costs will increase by $30 million and Federal administrative costs by $20 million, despite a projected participation rate of less than 50 percent.

The Ways and Means Committee reported legislation identical to this measure on August 17 of this year. The provision's net cost over that of the otherwise unavoidable alternative—the increase in food stamp costs—is estimated at $10 million.

It should be emphasized that this legislation's life is limited to a single year. We must more carefully study the broader ramifications of the SSI food stamp cash-out, and closely monitor the special California situation, before reaching a more lasting judgment as to the procedure to be followed there and elsewhere.

Mr. Speaker, I support H.R. 1337, as amended by the other body. It consolidates several House bills together with correcting a glaring anomaly in the tax treatment of pension rollovers.

Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, last Thursday, September 7, when this bill came up in the form of a unanimous-consent request of the gentleman from California (Mr. CORMAN), I expressed concern about the procedure being used because of one of the five sections of the bill added in the other body. I do not have any less apprehension today about the procedure being used.

I think the House ought to have a chance to vote separately on whether we wish to agree to this particular amendment. It is the custom to hang ornaments on the tree, in some fashion or the other, when Ways and Means bills are sent over to the other body. And this bill has some rather attractive ornaments on it. The precedent embodied in section 5 is what I am worrying about. Because of the situation in California we are in fact stepping in and bailing out the State of California's current government which does not, obviously, wish to comply with the previous law the Congress passed giving special treatment to California under the food stamp program. Under that law which was passed, I believe, about 2 years ago, Congress set certain conditions in Federal law that California had to meet in order to qualify for the special treatment. And after proposition 13, the legislature refused to comply with that special law that Congress passed. So now we are faced with the question today of whether or not we will step in and bail them out by financing the action that they refused to take. It may well be that the administrative cost and the actual benefit cost only results in about a net added cost of about $10 million, but we are not kidding anybody. The California voters who voted on proposition 13 are going to pay Federal taxes in the same numbers as they would have before, and their money will be used to pay for this, as will all other U.S. taxpayers.

It seems to me that the State of California obligation is the one that ought to be taken care of by their own government and not by the Federal taxpayers at large. Worse than that, I can see the possibility that if other States follow in passing tax and spending limitation amendments, all of them will come to Congress and ask for this sort of assistance, and there should be none.

This is the first time this body has faced this issue, and if we are really concerned about saving taxpayers' money, then we ought to vote no on this resolution.

Mr. CORMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Maryland (Mr. BAUMAN) is as inaccurate as he is articulate in his analysis of this matter. He claims California has received special treatment. In fact, California has for several years received fewer Federal dollars per capital for SSI recipients than other States because, at the State's option, SSI recipients in the State have been ineligible for food stamps. In place of food stamps, at an additional cost to the State, California has included in its State SSI supplement an amount in cash generally equal to the food stamp benefit. This action by the State, which the gentleman from Maryland (Mr. BAUMAN) refers to as special treatment, has saved the Federal Government many millions of dollars in food stamp benefits over the past 4 years and has cost the State an equivalent amount. I do not think this is accurately characterized as special treatment.

SSI recipients in Maryland receive the Federal SSI benefit, just as do those in California, but in addition in Maryland they receive food stamps which are federally funded. Now, because California could not supplement the Federal SSI payment as much this year as they had the prior years, SSI recipients in the State—as the SSI recipients in Maryland—are entitled to the Federal SSI cash payment plus food stamps. It should be clear, however, that SSI recipients in California will not be eligible for as much in food stamps as those in Maryland because Maryland has been less generous in providing for its needy, aged, blind, and disabled.

The pertinent fact is that, as of September 1, certain Californians drawing SSI are also entitled to $10 worth of food stamps, and that will cost the Federal Government $10 for the benefit plus whatever it costs to administer the program. Food stamp administrative costs are divided equally between the Federal Government and the State. The gentleman may harangue all he wants about bailing out California. The fact of the matter is that it is going to cost the Federal Government $50 to $60 million for food stamps if we do nothing. This bill simply converts those food stamps to cash, and thereby saves substantial administrative costs for both the State and the Federal Government.

These are the pertinent facts of the matter, and I hope the House will adopt this motion.

Mr. Speaker, I reserve the balance of my time.

Mr. STEIGER. Mr. Speaker, I yield an additional 1 minute to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I regret that the gentleman from California disagrees with my characterization of the situation, but I do not agree with his implication that I am inaccurate in what I am saying. The fact of the matter is, in 1976 Congress did pass a Federal law that granted a special status for California, and according to the gentleman's own committee staff memorandum—which I am sure he has read at some point; it is a well-written memorandum—California received this special treatment, allowing the cash out, only so long as the legislature passed through to the SSI recipients any cost-of-living increases provided in Federal benefits.

Second, the law provided a yearly cost-of-living increase in the State's SSI payments. California did not live up to the second of those two Federal criteria, because of proposition 13. In an effort to cut welfare spending, the legislature decided not to grant that cost-of-living increase. Now, the State government comes to Congress and asks us to pass this law today to give them special treatment and $60 million. If that is inaccurate, the gentleman can correct me. We should not grant this request.

Mr. Speaker, for the further edification of the gentleman from California, I include as part of my remarks, a copy of the pertinent part of the staff memorandum regarding this matter:

5. Section 5 of the Senate amendments is virtually identical to H.R. 13814 as reported by the Ways and Means Committee on August 17, 1978. The section would permit the continued payment of cash in lieu of food stamps to California SSI recipients.

First as an SSI "hold harmless" State, but since 1976 under the specific authority of P.L. 94-379, California has been able to provide SSI recipients with an additional amount of cash generally equivalent to, and in place of, food stamps. Under P.L. 94-379, California was permitted to do this so long as it met two conditions: (1) it had to pass through to SSI recipients any cost-of-living increases provided in the Federal SSI benefits; and (2) it had to provide a yearly cost-of-living increase in the State supplementary payment. California has met these two conditions until now, but beginning September 1, will not be in compliance with No. 2. This stems from the State's decision with respect to holding the line on welfare costs in the wake of Proposition 13.

If Congress does not act at this time, food stamps will be made available to California SSI recipients. As of the first of the year, this will have to be done on a case-by-case basis, as categorical eligibility will no longer be utilized in the food stamp program. It is thought that most noninstitutionalized aged or disabled individuals (who do not have an eligible spouse) will qualify for the minimum food stamp allotment of $10 value per month, but SSI couples and most single, blind recipients will not qualify because of the level of their SSI payments. Institutionalized SSI recipients will not qualify because they do not constitute a household under the food stamp law.

CBO estimates that if food stamps become effective for these persons, Federal food stamp benefit costs will increase by $30 million, and administrative costs by $20 million. Participation rates can be projected to be quite low (perhaps below 50%). The cost of the proposed solution is $60 million, $57 million of which would be for benefits. The net Federal cost of the legislation over food stamps is $10 million, according to CBO. California's own estimates project an even lesss favorable food stamp benefit vs. administrative cost ratio.

Under the Senate amendment and H.R. 13814, the Federal Government would include an additional $10 in the SSI benefit checks of noninstitutionalized SSI individuals not having an eligible spouse. They would receive this $10 in lieu of food stamps. These payments could not continue beyond September 30, 1979; Congress would have the opportunity to monitor the California situation and examine the broader issues involved, before continuing this beyond the one-year time frame.

The basic question which someone might raise is why Congress should make yet another special accomodation for California, when that State, by virtue of its own decision in the wake of Proposition 13, has failed to comply with the conditions of the original special arrangement. But it should be borne in mind that Federal costs will increase without the adoption of this measure due to increases in food stamp costs. The net Federal cost of $10 million must be weighed against the State's having to depart from the practice it has followed, with respect to these SSI recipients, throughout the history of that program.

Mr. CORMAN. Mr. Speaker, I yield myself such time as I may consume.

The fact remains, under existing law approximately 500,000 SSI recipients in California became eligible for food stamps as of September 1, at Federal expense. It is cheaper to give them this Federally financed benefit in cash. I hope we will soon provide cash in place of food stamps for SSI recipients in all States. I hope that we pass this today.

Mr. STEIGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just simply say that I recognize the argument made by the gentleman from Maryland. My hope is, however, given the fact that we are doing the bill in the way that we are, the Members will understand that an aye vote is important notwithstanding this dispute about California. I hope the bill is passed, and I urge its adoption.

● Mr. PICKLE. Mr. Speaker, H.R. 2852 modifies the procedure for obtaining refunds of Federal excise taxes on aviation fuels used for agricultural spraying and crop dusting. Today this refund is available to the individual farmer. This bill merely puts the aerial aircraft operators in place of the farmers to obtain gasoline tax refund for use on farm land.

The Senate added an amendment to the bill that requires that the farmer must waive his right to the refund or credit in writing in order for the crop duster to claim it. I want to be sure that this is handled in some simple fashion so that it does not result in a lot of complicated bookkeeping. The amount that an individual farmer would have collected is not that large—for example, the refund per acre would be one-fourth cent or $1.40 for a 100-acre farm. This hardly justifies much paperwork. It would be silly to make an applicator go banging on doors looking for farmers to get a $2 refund.

It seems to me that the logical way to handle this is just to include on the bill "I hereby waive my right to collect the refund of the Federal excise taxes on aviation fuels used for this agricultural spraying and crop dusting." This could easily be added to the statement and would fulfill the requirement.

Today more and more of our farm operations are being handled by air. Planting as well as spraying are increasingly done by air. It saves fuel, is more efficient and faster and uses less manpower. This bill will help the aerial operator by giving him, the person who buys the gasoline, the gasoline exemption already available to the farmer.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. CORMAN) that the House suspend the rules and agree to the resolution (H. Res. 1342).

The question was taken.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

U.S. CODE AMENDMENTS FOR FEDERAL DISTRICT COURTS

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13331) to amend title 28 of the United States Code to make certain changes in the places of holding Federal district courts, in the divisions within judicial districts, and in judicial district dividing lines, as amended.

The Clerk read as follows:

H.R. 13331

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal District Court Organization Act of 1978".

PLACES OF HOLDING COURT

SEC. 2. (a) The last sentence of section 97 (a) of title 28, United States Code, is amended to read as follows:

"Court for the Eastern District shall be held at Ashland, Catlettsburg, Covington, Frankfort, Jackson, Lexington, London, Pikeville, and Richmond.".

(b) The last sentence of section 104(a)(1) of title 28, United States Code, is amended to read as follows:

"Court for the eastern division shall be at Aberdeen, Ackerman, Corinth.".

DIVISIONS WITHIN JUDICIAL DISTRICTS

SEC. 3. (a) Section 98(c) of title 28, United States Code, is amended to read as follows:

"Western District

"(c) The Western District comprises the parishes of Acadia, Allen, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Caldwell, Cameron, Catahoula, Claiborne, Concordia, Jefferson Davis, De Soto, East Carroll, Evangeline, Franklin, Grant, Iberia, Jackson, Lafayette, La Salle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Saint Landry, Saint Martin, Saint Mary, Tensas, Union, Vermilion, Vernon, Webster, West Carroll, and Winn.

"Court for the Western District shall be held at Alexandria, Lafayette, Lake Charles, Monroe, Opelousas, and Shreveport.".

(b) Section 114 of title 28, United States Code, is amended—

(1) in paragraph (2), by striking out "Sheridan, Steele, Stutsman, and Wells" and inserting in lieu thereof "Steele, and Stutsman";

(2) in paragraph (3), by striking out "Bottineau," "McHenry,", and "Pierce,"; and

(3) by amending paragraph (4) to read as follows:

"(4) The Northwestern Division comprises the counties of Bottineau, Burke, Divide, McHenry, McKenzie, Mountrail, Pierce, Renville, Sheridan, Ward, Wells, and Williams.".

JUDICIAL DISTRICT DIVIDING LINES

SEC. 4. (a) Section 89 of title 28, United States Code, is amended—

(1) in the first paragraph of subsection (a), by inserting "Madison," immediately after "Liberty,"; and

(2) in the first paragraph of subsection (b), by striking out "Madison,".

(b)(1) Section 93 of title 28, United States Code, is amended to read as follows: "§ 93. Illinois

"Illinois is divided into three judicial districts to be known as the Northern, Central, and Southern District of Illinois.

"Northern District

"(a) The Northern District comprises two divisions.

"(1) The Eastern Division comprises the counties of Cook, De Kalb, Du Page, Grundy, Kane, Kankakee, Kendall, Lake, La Salle, McHenry, and Will. "Court for the Eastern Division shall be held at Chicago.

"(2) The Western Division comprises the counties of Boone, Carroll, Jo Daviess, Lee, Ogle, Stephenson, Whiteside, and Winnebago.

"Court for the Western Division shall be held at Freeport and Rockford.

"Central District

"(b) The Central District comprises the counties of Adams, Brown, Bureau, Cass, Champaign, Christian, Coles, De Witt, Douglas, Edgar, Ford, Fulton, Greene, Hancock, Henderson, Henry, Iroquois, Knox, Livingston, Logan, McDonough, McLean, Macaupin, Marshall, Mason, Menard, Mercer, Montgomery, Morgan, Moultrie, Peoria, Piatt, Pike, Puntnam, Rock Island, Sangamon, Schuyler, Scott, Shelby, Stark, Tazewell, Vermilion, Warren, and Woodford.

"Court for the Central District shall be held at Danville, Peoria, Quincy, Rock Island, and Springfield.

"Southern District

"(c) The Southern District comprises the counties of Alexander, Bond, Calhoun, Clark, Clay, Clinton, Crawford, Cumberland, Edwards, Effingham, Fayette, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jasper, Jefferson, Jersey, Johnson, Lawrence, Madison, Marion, Massac, Monroe, Perry, Pope, Pulaski, Randolph, Richland, St. Clair, Saline, Union, Wabash, Washington, Wayne, White, and Williamson.

"Court for the Southern District shall be held at Alton, Benton, Cairo, and East Saint Louis."

(2) Section 133 of title 28, United States Code, is amended by striking out the item relating to Illinois and inserting in lieu thereof the following:

"Illinois:

"Northern	13
"Central	2
"Southern	2".

(c) Section 112 of title 28, United States Code, is amended—

(1) in the first paragraph of subsection (a), by inserting "Columbia," immediately after "Clinton,", by inserting "Greene," immediately after Fulton,", and by inserting "Ulster," immediately after "Tompkins,"; and

(2) in the first paragraph of subsection (b), by striking out "Columbia,", "Greene,", and "Ulster,".

EFFECTIVE DATE

SEC. 5. (a) The amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

(b) Nothing in this Act shall affect the composition or preclude the service of any grand or petit juror summoned, empaneled, or actually serving in any judicial district on the effective date of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. RAILSBACK. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. KASTENMEIER) and the gentleman from Illinois (Mr. RAILSBACK) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Wisconsin (Mr. KASTENMEIER).

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill which the Judiciary Committee brings to the floor today is a noncontroversial, heavily supported measure which is designed to keep the Federal judicial system up-to-date with demographic and societal changes in several of its districts.

In brief, the legislation creates two new places of holding Federal district court. First, it authorizes Ashland as a place of holding court in the eastern district of Kentucky. Second, it authorizes Corinth as a place of holding court in the northern district of Mississippi.

The legislation also abolishes the judicial divisions in the western district of Louisiana and realines the four divisions in the judicial district of North Dakota.

Lastly, the legislation realines district dividing lines in three States. In Florida one county—Madison—is transferred from the middle district to the northern district. In Illinois the three judicial districts are realined to better respond to the needs of that State. In New York three counties—Columbia, Greene, and Ulster—are taken from the southern district and placed in the northern district. All of these changes result in closer access to the Federal courthouse doors for the lawyers and litigants involved.

H.R. 13331 is an omnibus package. It is the view of my subcommittee that the processing of district court legislation is more efficiently, fairly, and expeditiously dealt with in this manner. In this regard, I can attest to the Members present that H.R. 13331 is a noncontroversial proposal, with no opposition. It is enthusiastically supported by the Administrative Office of the U.S. Courts, the U.S. Department of Justice and the congressional delegations involved.

I note that on August 21, 1978, a virtually identical bill (S. 3375) unanimously passed the Senate by voice vote. I ask your support for this legislation and I strongly recommend its passage.

Now, I would like to defer to several of my colleagues who introduced various sections of H.R. 13331 and who can address themselves to situations in their home States.

Mr. RAILSBACK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to join with the chairman of the subcommittee in voicing my support for H.R. 13331. This bill, as it affects Illinois, corresponds to S. 2838 which was introduced earlier by Senator CHARLES H. PERCY and ADLAI E. STEVENSON III of Illinois.

Presently, Illinois is divided into three judicial districts: The northern, eastern, and southern districts. Because of changing demographic and economic patterns, the existing judicial structure has not kept pace with recent needs resulting in several defects.

H.R. 13331 would provide for the realinement of the existing eastern and southern districts into central and southern districts respectively, with a common boundary running east to west. As a result, the new central and southern districts would be geographically compact and cohesive, eliminating much of the unnecessary cost and inconvenience now confronted by the residents of Illinois.

The redistricting has the support of the active Federal judges in the southern and eastern districts of Illinois and the Judicial Council of the Seventh Circuit. It is important to note that there are no disadvantages or costs associated with the redistricting of the downstate Illinois Federal district courts. I urge my colleagues to support H.R. 13331.

Mr. KASTENMEIER. Mr. Speaker, before I yield, briefly I should also add that this is an ongoing exercise. There are a number of other proposals before the subcommittee affecting other courts in the country which may not have been quite as noncontroversial. Some issues may have been raised respecting these other districts. These are possibilities for future enactment. As a matter of fact even at this time the subcommittee is processing a piece of legislation involving several other situations which can be rectified.

I say this to inform the membership that if a particular proposal they assumed was going forward is not included in this bill that it may be in these later bills.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. Mr. Speaker, I would like to join with my colleague from Illinois in supporting H.R. 13331 which provides for the redistricting of the downstate Illinois Federal district courts.

Various areas of the State have a commonality of interests. However, the present district lines split these local regions. This would be corrected by the new district lines and benefit all the citizens of downstate Illinois. The litigants, jurors, and lawyers would not have to travel as far to the courthouse. For example, most grand juries in the eastern district of Illinois are convened in East St. Louis. The grand jurors come from all over the district, including Danville and Kankakee which are over 200 miles away. This is a substantial burden to place on Illinois citizens. With the new district lines citizens will not have to travel as far to serve on the grand jury and, by the same token, the grand jurors will have a better sense of the community where the suspected crimes took place.

The elongated eastern district of Illinois also places a burden on the judges and reduces the time that they otherwise would spend deciding cases. For example, Judge Wise, who is stationed in Danville, has frequently had to travel to Benton, 200 miles away, to try cases.

The new district lines will cure these and other problems caused by the present boundary lines.

I urge my colleagues to support H.R. 13331, as it will help the citizens of Illinois and greatly aid the administration of justice.

Mr. KASTENMEIER. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. PATTISON). The gentleman from New York (Mr. PATTISON) was interested in his own district and in the State of New York and is to be congratulated on his contribution to the legislation.

Mr. PATTISON of New York. Mr. Speaker, I thank my colleague, the gentleman from Wisconsin (Mr. KASTENMEIER) for yielding me this time, and I thank and compliment my former colleagues on the Committee on the Judiciary for passing this legislation.

Section 4 of the legislation deals with two counties in my congressional district and one county in the congressional district of my colleague to the south, the gentleman from New York (Mr. FISH). It realines those three counties so that they will be part of the northern district of New York, the main courtroom for which is in Albany, N.Y. Those counties are culturally part of the Albany scene as opposed to the New York City scene so that it is almost impossible for litigants or lawyers from the two counties in my district and diffcult at least for lawyers and litigants from the one county in Congressmen FISH's district to take their cases to the southern district of New York which has its headquarters in New York City.

So the passage of this legislation will really open up the Federal courts for people from those three counties for the first time.

They are rural counties. There is not a great deal of Federal court business, but they surely should have the option of using those courts where appropriate.

I circulated this proposal 3 years ago before I introduced this legislation among the members of the bar of the two counties that I represent and the gentleman from New York (Mr. FISH) also circulated the proposal among the members of the bar of Ulster County. In the two counties that I represent, the response was 100 percent in favor of realinement of these three counties to the northern district of New York.

So I am delighted that this is finally being done and once again thank my colleagues for preparing this legislation and getting it to the point where it will become law this year.

Mr. RAILSBACK. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Speaker, I thank the gentleman for yielding time to me.

At the outset, Mr. Speaker, I would like to express my appreciation both to the chairman of the subcommittee, the gentleman from Wisconsin (Mr. KASTENMEIER) and the ranking member of the committee, the gentleman from Illinois (Mr. RAILSBACK) for their care and study in this matter and their consideration of the wishes of both the lawyers and the litigants in the realinement of these districts because at present, residents of Columbia, Greene, and Ulster Counties of New York on Federal court business must travel a considerable distance to downtown New York City. Yet all three counties are much closer to Albany, the principal place of holding court in the northern district. Ulster was added at my request responding to a resolution adopted by the Ulster County Bar Association favorable to the transfer.

The committee found that—

> People from Columbia, Greene and Ulster Counties have centered their lifestyles around Albany and not New York City. Moreover, the three counties are part of the Third Judicial District of New York State and the attorneys from there often travel to Albany on judicial business.

According to the chief judge of the northern district, James T. Foley—

> The new litigation that will be caused by this addition can be managed and disposed of efficiently and with reasonable dispatch if the judicial manpower here is increased.

A pending omnibus judgeship bill gives the northern district an additional judge, so it will have no difficulty in handling its increased caseload.

Both lawyers and litigants will be better served by Ulster County's transfer to the northern district.

Mr. Speaker, I again wish to express my deep appreciation to the chairman of the subcommittee, the gentleman from Wisconsin (Mr. KASTENMEIER) and the ranking minority member, the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I am pleased to join with the gentleman from New York in urging that Ulster County, N.Y., be transferred from the southern judicial district of New York to the northern district of New York.

In the interests of geographic proximity and the efficient administration of justice, I urge the adoption of this Federal District Court Organization Act proposal—a proposal which will benefit and which is supported by both the bar and the public of Ulster County, the portion of which I represent.

Mr. RAILSBACK. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. O'BRIEN).

Mr. O'BRIEN. Mr. Speaker, I thank the gentleman for yielding.

I recognize the strain and effort which have gone into the business of putting together new Federal court districts. However, I rise to speak for lawyers, judges, and litigants in one county of my district, the county of Kankakee.

I do not know what consultation took place with regard to the preference of the attorneys and judges who work and serve the Kankakee area. I, for one, have spoken to a Kankakee attorney, who is the immediate past president of the Illinois State Bar Association; to the current president of the Kankakee County Bar Association; to five different lawyers of all political fidelities; and to a highly respected senior State judge from the county of Kankakee. We have made contact with approximately 100 people on the fringe and in the body of the legal profession. Not one of them favors the inclusion of this particular county in the northern division of Illinois.

Mr. Speaker, they have heretofore appeared in the Federal court sitting in Danville, Ill., which is a normal downstate habitat for them. And they have been quite content with this situation over the years. To change their way of life now and send them to Chicago is an adjustment more than just not to their liking; it is abhorrent to them.

Therefore, Mr. Speaker, with all due respect to the efforts that have gone into this complex bill, my district has been seriously detrimented by it, and I vigorously oppose it.

The SPEAKER pro tempore (Mr. SISK). The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER) that the House suspend the rules and pass the bill H.R. 13331, as amended.

The question was taken.

Mr. GEPHARDT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII and the Chair's prior announcement, further

proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order, all by yeas and nays:

H.R. 12860;
H.R. 13311;
H.R. 12026;
H.R. 5265;
H. Res. 1342; and
H.R. 13331.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

RHODE ISLAND INDIAN LAND CLAIMS SETTLEMENTS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 12860, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wyoming (Mr. RONCALIO) that the House suspend the rules and pass the bill H.R. 12860, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 249, nays 122, not voting 61, as follows:

[Roll No. 754]

YEAS—249

Abdnor
Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Aspin
AuCoin
Bafalis
Baldus
Baucus
Beard, R.I.
Bedell
Bellenson
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Buchanan
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Carr
Chappell
Clausen, Don H.
Clay
Collins, Ill.
Conte
Corman
Cornell
Cornwell
Cotter
Danielson
Davis
Dellums
Dent
Derrick
Derwinski
Dodd
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Ertel
Evans, Colo.
Fascell
Fenwick
Fish
Fisher
Flippo
Flood
Florio
Ford, Tenn.
Fountain
Fow'er
Gaydos
Gephardt
Giaimo
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gudger
Hall
Hamilton
Hanley
Hannaford
Harkin
Harris
Hawkins
Heckler
Hefner
Hightower
Holland
Horton
Howard
Hughes
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Keys
Kildee
Kostmayer
Krebs
LaFalce
Lagomarsino
Le Fante
Leach
Lederer
Leggett
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lujan
Luken
Lundine
McCloskey
McFall
McHugh
McKay
McKinney
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Mattox
Meeds
Metcalfe
Meyner
Mikva
Milford
Mineta
Minish
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Pa.
Moss
Motti
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pickle
Pike
Pressler
Preyer
Price
Pursell
Quillen
Rahall
Rangel
Reuss
Rinaldo
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Ryan
Santini
Sawyer
Schroeder
Sebelius
Seiberling
Sharp
Shipley
Sikes
Simon
Sisk
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stark
Steed
Steers
Stokes
Studds
Thompson
Thornton
Traxler
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walsh
Watkins
Waxman
Weaver
Weiss
Whalen
White
Whitley
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wright
Yates
Yatron
Young, Mo.
Young, Tex.
Zablocki

NAYS—122

Anderson, Ill.
Archer
Ashbrook
Badham
Bauman
Beard, Tenn.
Bennett
Bonker
Broomfield
Brown, Mich.
Broyhill
Burgener
Burleson, Tex.
Butler
Caputo
Carter
Cederberg
Cleveland
Cohen
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Crane
Cunningham
Daniel, Dan
Daniel, R. W.
de la Garza
Devine
Dicks
Dingell
Dornan
Duncan, Tenn.
Edwards, Okla.
Emery
English
Erlenborn
Evans, Del.
Evans, Ga.
Findley
Fithian
Flynt
Foley
Forsythe
Frenzel
Gammage
Gilman
Goodling
Gradison
Grassley
Green
Guyer
Hagedorn
Hammer-schmidt
Harsha
Heftel
Hillis
Hollenbeck
Holt
Hyde
Ichord
Jones, Okla.
Kelly
Kemp
Kindness
Latta
Lent
Livingston
Lott
McClory
McCormack
McDade
McDonald
McEwen
Madigan
Marriott
Martin
Mathis
Mazzoli
Michel
Miller, Ohio
Mitchell, N.Y.
Moorhead, Calif.
Myers, Gary
Myers, John
O'Brien
Pettis
Poage
Pritchard
Quayle
Railsback
Regula
Rhodes
Roberts
Robinson
Rousselot
Runnels
Satterfield
Schulze
Shuster
Skelton
Smith, Nebr.
Snyder
Spence
Stangeland
Stanton
Steiger
Stockman
Symms
Taylor
Thone
Treen
Trible
Waggonner
Walker
Wampler
Whitehurst
Wo'ff
Wydler
Wylie
Young, Fla.

NOT VOTING—61

Addabbo
Ammerman
Armstrong
Ashley
Barnard
Breaux
Brown, Ohio
Burke, Calif.
Burke, Fla.
Byron
Cavanaugh
Chisho'm
Clawson, Del
Cochran
Conyers
D'Amours
Delaney
Dickinson
Diggs
Evans, Ind.
Fary
Flowers
Ford, Mich.
Fraser
Frey
Fuqua
Garcia
Gibbons
Hansen
Harrington
Holtzman
Hubbard
Huckaby
Ireland
Johnson, Colo.
Kasten
Krueger
Lehman
Long, Md.
Mikulski
Miller, Calif.
Mitchell, Md.
Murphy, N.Y.
Quie
Richmond
Risenhoover
Rodino
Rudd
Ruppe
Sarasin
Scheuer
Skubitz
St Germain
Stratton
Stump
Teague
Tsongas
Vander Jagt
Wiggins
Young, Alaska
Zeferetti

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Armstrong.
Mr. Mitchell of Maryland with Mr. Ruppe.
Mr. Richmond with Mr. Quie.
Mr. Delaney with Mr. Vander Jagt.
Mr. Zeferetti with Mr. Wiggins.
Mr. Teague with Mr. Frey.
Mr. St Germain with Mr. Barnard.
Mr. Ashley with Mr. Brown of Ohio.
Mr. Ammerman with Mr. Hansen.
Mr. Rodino with Mr. Hubbard.
Mr. Byron with Mr. Kasten.
Mr. Fary with Mr. Long of Maryland.
Mr. Krueger with Mr. Stump.
Ms. Mikulski with Mr. Skubitz.
Mr. Fuqua with Mr. Burke of Florida.
Mr. Garcia with Mr. Cochran of Mississippi.
Ms. Holtzman with Mr. Dickinson.
Mrs. Chisholm with Mr. Tsongas.
Mr. Murphy of New York with Mr. Sarasin.
Mr. Ford of Michigan with Mr. Rudd.
Mr. Breaux with Mr. Fraser.
Mrs. Burke of California with Mr. Del Clawson.
Mr. Conyers with Mr. Huckaby.
Mr. Diggs with Mr. Flowers.
Mr. Ireland with Mr. Young of Alaska.
Mr. Harrington with Mr. Scheuer.
Mr. Gibbons with Mr. D'Amours.
Mr. Miller of California with Mr. Cavanaugh.
Mr. Lehman with Mr. Risenhoover.
Mr. Stratton with Mr. Evans of Indiana.

Messrs. YOUNG of Florida, GREEN, McCLORY, CAPUTO, CORCORAN of Illinois, STEIGER, and KEMP changed their vote from "yea" to "nay."

Messrs. SLACK, CHARLES H. WILSON of California, MOTTL, GAYDOS, WHITTEN, CHAPPELL, MURTHA, LEACH, AMBRO, WATKINS, MILFORD, HALL, GLICKMAN, and MANN changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. RONCALIO. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 3153) to settle Indian land claims within the State of Rhode Island and Providence Plantations, and for other purposes, a bill similar to the bill just passed.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

Mr. ASHBROOK. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b)(3) of rule XXVII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

PORTS AND WATERWAYS SAFETY AMENDMENTS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 13311, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BIAGGI) that the House suspend the rules and pass the bill H.R. 13311, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 366, nays 6, not voting 60, as follows:

[Roll No. 755]

YEAS—366

Abdnor
Akaka
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Aspin
AuCoin
Badham
Bafalis
Baldus
Baucus
Bauman
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Mich.
Broyhill
Burgener
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Clausen, Don H.
Clay
Cleveland
Cohen
Coleman
Collins, Ill.
Conable
Conte
Corcoran
Corman
Cornell
Cornwell
Cotter
Coughlin
Cunningham
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dicks
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Gammage
Gaydos
Gephardt
Giaimo
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Harkin
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Horton
Howard
Hughes
Hyde
Ichord
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kemp
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lott
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mikva
Milford
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Motti
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Rinaldo
Roberts
Robinson
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Runnels
Russo
Ryan
Santini
Sarasin
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shuster
Sikes
Simon
Sisk
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stangeland
Stanton
Steed
Steiger
Stokes
Stokes
Studds
Stump
Symms
Taylor
Teague
Thompson
Thone
Thornton
Traxler
Treen
Trible
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walker
Walsh
Wampler
Watkins
Waxman
Weaver
Weiss
Whalen
White
Whitehurst
Whitley
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki

NAYS—6

Collins, Tex.
Crane
Kelly
McDonald
Symms
Waggonner

NOT VOTING—60

Addabbo
Ammerman
Armstrong
Ashley
Barnard
Beard, R.I.
Breaux
Brooks
Brown, Ohio
Burke, Calif.
Burke, Fla.
Byron
Chisholm
Clawson, Del
Cochran
Conyers
D'Amours
Delaney
Dickinson
Diggs
Fary
Fraser
Frey
Fuqua
Garcia
Gibbons
Harrington
Holtzman
Hubbard
Huckaby
Ireland
Johnson, Colo.
Kasten
Krueger
Lehman
Long, Md.
Mikulski
Miller, Calif.
Mitchell, Md.
Murphy, N.Y.
Quie
Richmond
Risenhoover
Rodino
Rudd
Ruppe
Sarasin
Scheuer
Skubitz
St Germain
Stratton
Stump
Teague
Tsongas
Vander Jagt
Wiggins
Young, Alaska
Zeferetti

The Clerk announced the following pairs:

Mr. Mitchell of Maryland with Mr. Armstrong.
Mr. Addabbo with Mr. Hansen.
Mr. Ammerman with Mr. Quie.
Ms. Holtzman with Mr. Ruppe.
Mr. Zeferetti with Mr. Kasten.
Mr. Brooks with Mr. Del Clawson.
Mr. Breaux with Mr. Vander Jagt.
Mr. Risenhoover with Mr. Rudd.
Mr. Richmond with Mr. Johnson of Colorado.
Mr. Murphy of New York with Mr. Burke of Florida.
Mr. Fuqua with Mr. Cochran of Mississippi.
Mrs. Chisholm with Mr. Dickinson.
Mr. Byron with Mr. Hubbard.
Mr. Diggs with Mr. Frey.
Mr. Conyers with Mr. Fraser.
Mr. D'Amours with Mr. Sarasin.
Mr. Miller of California with Mr. Scheuer.
Mr. Krueger with Mr. Skubitz.
Mr. Teague with Mr. Stump.
Mr. Fary with Mr. Wiggins.
Mrs. Burke of California with Mr. Young of Alaska.
Mr. Tsongas with Mr. Gibbons.
Mr. Rodino with Mr. Barnard.
Mr. Ashley with Mr. Beard of Rhode Island.
Mr. Lehman with Mr. Brown of Ohio.
Mr. Garcia with Mr. Huckaby.
Mr. Ireland with Mr. Long of Maryland.
Mr. St Germain with Mr. Flowers.
Mr. Delaney with Ms. Mikulski.
Mr. Stratton with Mr. Harrington.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries and the Committee on International Relations be discharged from further consideration of the Senate bill (S. 682) to amend the Ports and Waterways Safety Act of 1972, and for other purposes, a bill similar to the bill just passed by the House, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate bill as follows:

S. 682

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Tanker and Vessel Safety Act of 1977".

SEC. 2. DECLARATION OF POLICY AND DEFINITIONS.

The Ports and Waterways Safety Act of 1972 (33 U.S.C. 1221 et seq.) is amended by inserting the following new sections immediately after the first section thereof and immediately before title I:

"SEC. 2. FINDINGS, PURPOSES, AND POLICY.

"(a) FINDINGS.—The Congress finds and declares the following:

"(1) Navigation and vessel safety and protection of the marine environment are matters of major national importance. Increased vessel traffic in the Nation's ports and waterways creates substantial hazard to life, property, and the marine environment.

"(2) International standards for navigation and vessel safety and protection of the marine environment are incomplete and fail to provide adequate protection of the marine environment. The Federal Government should seek to require more stringent standards for any vessel using (A) any port of the United States or (B) operating in the navigable waters of the United States.

"(3) Standards developed through regulations under this Act shall incorporate the best available technology. Such standards shall be required unless clearly shown to create undue economic hardship which is not outweighed by environmental benefits.

"(4) Increased inspection and enforcement efforts by the Federal Government are necessary to reduce the possibility of vessel or cargo loss, or damage to life, property, or the marine environment.

"(b) PURPOSES.—It is therefore the purposes of Congress in this Act—

"(1) to authorize a comprehensive inspection and enforcement program for increased navigation and vessel safety and enhanced protection of the marine environment:

"(2) to direct the Federal Government to establish stringent standards for the design,

construction, equipment, maintenance, alteration, repair, operation, and manning of all vessels which (A) use any port of the United States or (B) operate in the navigable waters of the United States; and

"(3) to establish a program to prevent any substandard vessel from (A) using any port of the United States or (B) operating in the navigable waters of the United States.

"(c) POLICY.—It is further declared to be the policy of the Congress in this Act—

"(1) to authorize no impediment to, or interference with, the right of innocent passage or any recognized legitimate use of the high seas; and

"(2) to support and encourage continued active United States efforts to obtain international agreements concerning navigation and vessel safety and protection of the marine environment.

"SEC. 3. DEFINITIONS.

"As used in this Act, unless the context otherwise requires:

"(1) The term 'discharge' includes, but is not limited to, any spilling, leaking, pumping, pouring, or emptying, however caused.

"(2) The term 'domestic trade' means trade between ports or places in the United States, its territories or possessions, either directly or via a foreign port, including trade on the navigable waters of the United States.

"(3) The term 'foreign trade' means any trade other than the domestic trade.

"(4) The term 'foreign vessel' or 'vessel of a foreign nation' means any vessel documented or numbered under the laws of any nation other than the United States.

"(5) The term 'hazardous material' means any material or substance which is—

"(A) flammable or combustible;

"(B) designated a hazardous polluting substance under section 311(b) of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1321); or

"(C) designated a hazardous material under section 104 of the Hazardous Material Transportation Act (49 U.S.C. 1803).

"(6) The term 'high seas' means all waters beyond the territorial sea of the United States and beyond the territorial sea of any foreign nation, to the extent that such sea is recognized by the United States.

"(7) The term 'marine environment' means the coastal zone, defined in section 304(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(1)); the seabed, subsoil, natural resources, and waters of the territorial sea of the United States; the waters of the contiguous zone; the waters and fishery resources of any zone over which the United States asserts exclusive fishery management authority; the waters of the high seas; and the seabed and subsoil of the Outer Continental Shelf of the United States.

"(8) The term 'oil' means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.

"(9) The term 'person' means any individual (whether or not a citizen or national of the United States), or any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

"(10) The term 'public vessel' means a vessel which—

"(A) is owned, or chartered by demise, and operated by the United States or any foreign government; and

"(B) is not engaged in commercial service.

"(11) The term 'Secretary' means the Secretary of Transportation.

"(12) The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and any other commonwealth, territory, or possession of the United States, including the Trust Territory of the Pacific Islands.

"(13) The term 'United States', when used in the geographical context, means all the States thereof.

"(14) The term 'vessel' means every description of watercraft or other artifical contrivance used, or capable of being used, as a means of transportation through or on water.

"(15) The term 'vessel of the United States' means any vessel documented or numbered under the laws of the United States.".

SEC. 3. NAVIGATIONAL AND VESSEL SAFETY AND PROTECTION OF THE MARINE ENVIRONMENT.

Title I of the Ports and Waterways Safety Act of 1972 (33 U.S.C. 1221–1227) is amended to read as follows:

"TITLE I—NAVIGATION AND VESSEL SAFETY AND PROTECTION OF THE MARINE ENVIRONMENT

"SEC. 101. VESSEL TRAFFIC SERVICES.

"(a) IN GENERAL.—The Secretary, in accordance with section 103, may, in the ports, harbors, navigable waters of the United States and in any area covered by any international agreement negotiated pursuant to section 303—

"(1) establish, operate, and maintain vessel traffic services;

"(2) require any vessel except self-propelled fishing or recreational vessels under 300 dead weight tons, which operates within waters subject to any vessel traffic service, to utilize or comply with any such service, including requiring the installation and use of any electronic or other device necessary for such utilization or compliance;

"(3) control vessel traffic by—

"(A) specifying times of entry, movement, or departure;

"(B) establishing vessel traffic routing schemes;

"(C) establishing vessel size and speed limitations and vessel operating conditions; and

"(D) restricting operation, in any hazardous area or under hazardous conditions, by any vessel which has particular operating characteristics or capabilities, in a manner deemed necessary for safe operation under the circumstances.

The Secretary shall publish and distribute any relevant information with regard to actions taken under this section to all interested persons, including citizens of any foreign country.

"(b) SPECIAL POWERS.—The Secretary may order any vessel to operate or anchor in a manner he directs if—

"(1) he has reasonable cause to believe such vessel does not comply with any regulation promulgated under this Act or any other applicable law or treaty;

"(2) he determines that such vessel does not satisfy the conditions for port entry set forth in section 106; or

"(3) by reason of weather, visibility, sea conditions, or the condition of such vessel, he is satisfied that such directive is justified in the interest of safety.

"(c) EXTENDED SERVICES.—The Secretary shall, in accordance with section 103, establish advisory vessel traffic services in appropriate areas of the high seas. The Secretary shall take appropriate action to have any routing measures associated with such services adopted by the relevant international organization.

"(d) EXCEPTION.—This title shall not apply to any vessel of any foreign nation (1) that is in transit through the navigable waters of the United States which form a part of any international strait, and (2) that is destined for any port outside the United States, except pursuant to international treaty, convention, or agreement.

"SEC. 102. WATERFRONT SAFETY.

"The Secretary, in cooperation with the Secretary of the Army, may take such action as is necessary (1) to prevent damage to, or the destruction or loss of, any dock, bridge, or other structure on or in the navigable waters of the United States, or any structure on land, or any shore area, immediately adjacent to any such waters; and (2) to protect the navigable waters and the resources therein from vessels operation damage, destruction or loss or from structure damage, destruction or loss. Such action may include, but need not be limited to—

"(A) establishing procedures, measures, and standards for the handling, loading, unloading, storage, stowage, and movement on any such structure (including the emergency removal, control, and disposition) of any oil or hazardous material;

"(B) prescribing minimum safety equipment requirements for any such structure to assure adequate protection from fire, explosion, natural disasters, and other serious accidents or casualties;

"(C) establishing water or waterfront safety zones, or other measures for limited, controlled, or conditional access and activity of vessels when necessary for the protection of any vessel, structure, waters, or shore area; and

"(D) establishing procedures for inspection to assure compliance with minimum safety requirements for such structures.

"SEC. 103. CONSIDERATIONS BY SECRETARY.

"The Secretary shall, in carrying out his duties and responsibilities under section 101, take into account all relevant factors concerning navigation and vessel safety and protection of the marine environment, including, but not limited to—

"(1) the scope and degree of the risk or hazard involved;

"(2) vessel traffic characteristics and trends, including traffic volume, the sizes and types of vessels involved, potential interference with the flow of commercial traffic, the presence of any unusual cargoes, and other similar factors;

"(3) port and waterway configurations and variations in local conditions of geography, climate, and other similar factors;

"(4) the proximity of fishing grounds, oil and gas drilling and production operations, or any other potential or actual conflicting activity;

"(5) environmental factors;

"(6) economic impact and effects;

"(7) existing vessel traffic services;

"(8) local practices and customs, including voluntary arrangements and agreements within the maritime community; and

"(9) the Secretary shall establish procedures for consulting with, and receiving and considering the views of, officials of State and local governments, and persons within the maritime community, who are knowledgeable about and experienced in dealing with local problems of vessel traffic.

"SEC. 104. PILOTAGE.

"The Secretary may require a pilot on (1) any self-propelled vessel of the United States engaged in the foreign trade, and (2) any foreign vessel, operating in the navigable waters of the United States in areas and under circumstances where a pilot is not otherwise required by State law. Such pilot may be required until the State involved establishes a requirement for a pilot in any such area or under the circumstances involved.

"SEC. 105. INVESTIGATORY POWERS.

"(a) SECRETARY.—The Secretary may investigate any incident, accident, or act which—

"(1) results in any loss or destruction of, or damage to, any structure or area referred to in section 102, or any vessel; or

"(2) affects, or may affect, vessel safety or environmental quality in any port, harbor, or the navigable waters of the United States.

"(b) BOARD.—(1) The National Transportation Safety Board may investigate any transportation-related incident, accident, or act which—

"(A) results in any loss or destruction of, or damage to, any structure or area referred to in section 102, or any vessel; or

"(B) affects, or may affect, transportation or vessel safety in any port, harbor, or the navigable waters of the United States.

"(2) Investigations conducted by the Board under this section shall be for the purpose of determining the facts, circumstances, and the cause or probable cause, of any accident, incident, or act investigated under paragraph (1).

"(c) POWERS.—In any such investigation, the Secretary or the Board may issue subpenas to require the attendance of any witness and the production of any document or other evidence relating to any such incident, accident, or act. If any person refuses to obey any such subpena, the Secretary or the Board may request the Attorney General to invoke the aid of the appropriate district court of the United States to compel compliance with such a subpena. Any of the district courts of the United States may, in the case of such refusal to obey such a subpena, issue an order requiring compliance with such subpena, and any failure to obey such order may be punished by the court as a contempt thereof. Witnesses may be paid fees for travel and attendance at such rates not exceeding those allowed in a district court of the United States.

"SEC. 106. CONDITIONS FOR ENTRY TO PORTS OF THE UNITED STATES.

"(a) IN GENERAL.—No vessel which carries, or is designed to carry, oil or any hazardous material in bulk as cargo shall operate in the navigable waters of the United States, or transfer cargo in, any port or place under the jurisdiction of the United States if such vessel—

"(1) has a history of accident, pollution incidents, or serious repair problems which, as determined by the Secretary, creates reason to believe that such vessel may (A) be unsafe or (B) create a threat to the marine environment;

"(2) fails to comply with any applicable regulation issued under this Act or any other law or treaty;

"(3) discharges any oil in violation (A) of any treaty to which the United States is a party or (B) of any law of the United States; or

"(4) does not comply with any vessel traffic service established by the Secretary under section 101;

unless and until the owner of such vessel proves, to the satisfaction of the Secretary, that such vessel is (A) no longer unsafe or a threat to the marine environment, or (B) complies with the applicable regulation, law, or treaty, as appropriate.

"(b) EFFECTIVE DATE.—This section shall become effective on the date of enactment of the Tankers and Vessels Safety Act of 1977, except subsection (a)(3) shall not become effective until January 1, 1979, unless before such date, the Secretary, by regulation, provides that such subsection will become effective before January 1, 1979, in which case, such subsection (a)(3) shall become effective on the date provided by the Secretary.

"SEC. 107. MARINE SAFETY INFORMATION SYSTEM.

"(a) IN GENERAL.—The Secretary shall establish a marine safety information system. Such system shall contain information with regard to any vessel (which carries, or is designed to carry, oil or any hazardous material in bulk as cargo) which enters, or transfers cargo in, any port or place under the jurisdiction of the United States. Such information shall include, but need not be limited to—

"(1) the names of any person with an ownership interest in any such vessel, in accordance with regulations prescribed by the Secretary;

"(2) financial responsibility information, if required for any vessel under section 311 (p) of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1321);

"(3) registration information, including all changes in the name of any such vessel;

"(4) the history of accidents or serious repair problems of any such vessel;

"(5) a record of all inspections or examinations of any such vessel conducted under section 202; and

"(6) any other data or information which the Secretary deems appropriate to carry out the purposes of this Act.

"(b) INTERAGENCY COOPERATION.—The head of each department, agency, or other instrumentality of the Federal Government shall, upon a written request from the Secretary, furnish any available data or information which the Secretary deems necessary to carry out the provisions of this Act.

"SEC. 108. LIGHTERING.

"(a) IN GENERAL.—After June 30, 1978, no vessel may unload any cargo of oil or hazardous material at any port of the United States if such cargo has been transferred from another vessel on the high seas or in the navigable waters of the United States, unless such transfer was conducted in accordance with regulations prescribed by the Secretary pursuant to subsection (b).

"(b) REGULATIONS.—The Secretary shall, by June 30, 1978, prescribe, and may amend or repeal, regulations for transferring, in whole or in part, any cargo of oil or hazardous material on the high seas or in the navigable waters of the United States. Regulations prescribed by the Secretary under this subsection shall include, but need not be limited to, standards for—

"(1) minimum safe operating conditions, including sea state, wave height, weather, proximity to channels or shipping lanes, and other similar factors;

"(2) prevention of oil spills;

"(3) equipment for responding to any oil spill;

"(4) prevention of any unreasonable interference with international navigation or other reasonable uses of the high seas, as defined by treaty, convention, or customary international law; and

"(5) other matters which the Secretary deems necessary to promote navigation and vessel safety and protect the marine environment.

"(c) PROHIBITION.—No transfer of cargo at sea may be authorized under this section if such transfer is engaged in for the purpose of aiding the avoidance of standards relating to the design, construction, equipment, maintenance, alteration, repair, operation or manning of vessels promulgated under this Act or section 4417a of the Revised Statutes of the United States.

"SEC. 109. APPLICATION OF TITLE.

"This title shall not apply to the Panama Canal. The authority granted the Secretary under this title may be delegated to the Saint Lawrence Seaway Development Corporation to the extent the Secretary determines such delegation is necessary for the proper operation of the Seaway.".

SEC. 4. VESSELS CARRYING CERTAIN CARGOES IN BULK.

Section 4417a of the Revised Statutes of the United States (46 U.S.C. 391a) is amended to read as follows:

"SEC. 4417a. (1) APPLICABILITY.—Except as provided in subsections (2) and (3), this section shall apply to any vessel—

"(A) regardless of tonnage, size, or manner of propulsion;

"(B) whether self-propelled or not;

"(C) whether carrying freight or passengers for hire or not;

"(D) which is documented or numbered under the laws of the United States, which operates in the navigable waters of the United States, or which transfers cargo in any port or place under the jurisdiction of the United States; and

"(E) which carries, or is designed to carry, oil or any hazardous material in bulk as cargo.

Any such vessel shall be deemed to be a steam vessel for the purposes of title 52 of the Revised Statutes of the United States and shall be subject to the provisions thereof.

"(2) EXCEPTIONS.—This section shall not apply to—

"(A) any public vessel;

"(B) any vessel of not more than 500 gross tons documented in the service of oil exploitation which are not tank vessels and which would be subject to this section only because of the transfer of fuel from fuel supply tanks of such vessel to offshore drilling or production facilities; or

"(C) any vessel of any foreign nation (i) that is in transit in navigable waters of the United States which form a part of any international strait and (ii) that is destined for any port or place outside the United States.

"(3) FISHING VESSELS.—Notwithstanding the other provisions of this section, cannery tenders, fishing tenders, and fishing vessels of not more than 500 gross ton used in the salmon or crab fisheries of the State of Oregon, Washington, or Alaska, when engaged exclusively in the fishing industry, shall be allowed to have on board inflammable or combustible cargo in bulk to the extent and upon conditions as may be required by regulations promulgated by the Secretary.

"(4) STANDARD-SETTING AUTHORITY.—(A) The Secretary shall issue, and may from time to time amend or repeal, regulations, containing standards for the design, construction, alteration, repair, operation, manning, or maintenance of vessels to which this section applies, as may be necessary for increased navigation and vessel safety and enhanced protection of the marine environment. The standards issued by the Secretary under this subsection shall be in addition to any other standards, promulgated under other provisions of law, that may apply to such vessels. The standards issued by the Secretary under this subsection shall include, but need not be limited to, standards relating to—

"(i) superstructures, hulls, cargo holds or tanks, fittings, equipment, appliances, propulsion machinery, auxiliary machinery, and boilers;

"(ii) the handling or stowage of cargo, the manner of such handling or stowage of cargo, and the machinery and appliances used in such handling or stowage;

"(iii) equipment and appliances for life saving, fire protection, and prevention and mitigation of damage to the marine environment;

"(iv) requirements for the manning of such vessels and the duties and qualifications of the officers and crew, in accordance with subsection (7);

"(v) improvements in vessel maneuvering and stopping ability and other features which reduce the possibility of collision, grounding, or other accidents;

"(vi) the reduction of cargo loss in the event of a collision, grounding, or other accident;

"(vii) the reduction or elimination of discharges during ballasting, deballasting, cargo handling, or other such activity; and

"(viii) the reduction or elimination of discharges aboard vessels during cargo handling, tank cleaning, ballasting, deballasting, and other such activity.

"(B) In establishing standards under paragraph (A), the Secretary shall give due consideration to the kinds and grades of cargo permitted to be on board any such vessel.

"(5) MINIMUM STANDARDS.—In addition to any standards prescribed by the Secretary pursuant to subsection (4), or pursuant to any other law, any self-propelled vessel in excess of 20,000 dead weight tons which carries, or is designed to carry, oil in bulk, as cargo shall—

"(A) not later than June 30, 1979, be equipped with—

"(i) a dual radar system, one with short-range and one with long-range capabilities and each with true-north features;

"(ii) a collison avoidance system;

"(iii) a long-range navigation aid;

"(iv) adequate communications equipment;

"(v) a fathometer;

"(vi) a gyrocompass;

"(vii) up-to-date charts; and

"(B) not later than June 30, 1983, be equipped with—

"(i) a segregated ballast system;

"(ii) a transponder, or such other appropriate position-fixing equipment as the Secretary determines to be appropriate;

"(iii) a gas inerting system; and

"(iv) for any vessel the construction of which is contracted for, or actually commenced, after January 1, 1980, a double bottom (fitted throughout the cargo length of such vessel).

The Secretary may prescribe standards to substitute for any standard listed above if such substitute standard provides, as appropriate, equivalent or improved navigation accuracy, vessel safety, or environment protection Such equivalency or improvement shall be determined by the Secretary on the record after a hearing in accordance with section 553 of title 5, United States Code.

"(6) EVIDENCE OF COMPLIANCE.—(A) No vessel of the United States to which this section applies, shall have on board oil or hazardous materials in bulk as cargo until (i) it has been issued a certificate of inspection issued under the provisions of title 52 of the Revised Statutes of the United States, and (ii) such certificate has been endorsed to indicate that the vessel is in compliance with the rules and regulations established under this section. If any vessel is found not to be in compliance, the Secretary shall notify the owner of the vessel and indicate how the vessel may be brought into compliance.

"(B) No foreign vessel to which this section applies, shall operate in the navigable waters of the United States or transfer cargo in any port or place under the jurisdiction of the United States unless such vessel has been issued a certificate of compliance by the Secretary. The Secretary shall not issue such certificate until the vessel has been examined by the Secretary and found to be in compliance with the provisions of this section and the rules and regulations promulgated hereunder. If any such vessel is found not to be in compliance, the Secretary shall notify the owner of the vessel and indicate how the vessel may be brought into compliance. The Secretary may allow provisional entry for the purposes of conducting the examination.

"(C) The Secretary may accept, as evidence of compliance with this section (in whole or in part), a certificate, endorsement, or document issued by any foreign nation pursuant to any treaty, convention, or other international agreement to which the United States is a party.

"(D) No vessel may carry any kind or grade of cargo unless its certificate of compliance is endorsed to allow such carriage. No such endorsement may allow any vessel to carry any material prohibited by section 4472(3) of this title.

"(E) A certificate of compliance, or an endorsement, issued under this subsection shall be valid for a period not to exceed 1 year, as specified by the Secretary, and may be renewed. The Secretary may issue a temporary certificate of compliance, or a temporary endorsement, under this subsection in appropriate circumstances; except that such temporary certificate or endorsement shall be valid for not more than 30 days. Any certificate or endorsement shall be revoked or suspended if the Secretary finds that the vessel involved no longer complies with the conditions upon which such certificate or endorsement was issued.

"(7) RETROFIT OF CERTAIN MANDATORY REQUIREMENTS.—(A) On and after July 1, 1980, the Secretary shall not issue a certificate of compliance to any vessel to which subsection (5) applies, unless—

"(i) such vessel has a segregated ballast system (as required under subsection (5)(B)(i)) and a gas inerting system (as required under subsection (5)(B)(iii); or

"(ii) the Secretary determines that tanks in such vessel have been designated for, and are used only for carrying ballast water alone; and the owner of such vessel has paid a retrofit incentive fee levied on such vessel by the Secretary.

"(B) the Secretary shall determine the amount of the retrofit incentive fee applicable to any vessel (according to classes of vessels based on size, displacement, and configuration) by determining for vessels in each such class the estimated annualized cost of compliance with the requirements of subsections (5)(B)(i) and (5)(B)(iii). The Secretary shall estimate the annualized cost of compliance, based on a retrofit technique that he determines would enable typical vessels in each class to comply with such requirements, taking into account planning and design costs, equipment costs (including purchase, transportation, installation, and start-up or testing), operating and maintenance costs, cost of capital, inflation, taxes, and other relevant costs. The Secretary shall propose retrofit incentive fees for each class of vessels not later than July 1, 1979, and shall adopt fees, in accordance with section 553 of title 5, United States Code, not later than January 1, 1980. The Secretary may by regulation adjust the fee for a class of vessels if he determines that the fee varies significantly from the actual or probable annualized costs of compliance with such requirements, and he may provide for the automatic adjustment of a fee based on the performance of a suitable index or indices. The Secretary may, in his discretion, waive the fee if he determines that a good faith effort has been made to comply with the provisions of this paragraph.

"(C) Any interested person may seek judicial review of the action taken by the Secretary under paragraph (B) to establish retrofit incentive fees by filing a petition therefor in the Court of Appeals of the United States for the circuit in which such person resides. Such petition shall be filed within 90 days after the date of such action, or, if such petition is based solely on grounds which arose after such ninetieth day, any time thereafter. Action by the Secretary with respect to which review could have been obtained under this paragraph shall not be subject to judicial review in any civil or criminal proceeding relating to enforcement or collection of the fee established by such action. In any action brought under this paragraph, no court shall grant any stay, injunction or other similar relief before final judgment by such court in such action.

"(D) the Secretary shall prescribe, and may from time to time modify or repeal, such regulations as he deems necessary to carry out this subsection. Such regulations may include, but need not be limited to, requirements respecting—

"(i) submission of technical and cost information relating to compliance with the requirements of subsections (5)(B)(i) and (5)(B)(iii);

"(ii) marking areas designated as ballast areas for easy identification; and

"(iii) reporting of information relating to the designation of areas as ballast areas and the installation of segregated ballast and gas inerting systems.

"(E) Any retrofit incentive fee which is not paid in a timely basis shall be subject to a late payment penalty in an amount determined by the Secretary, but which shall not be more than 20 percent of the amount of such fee unpaid.

(F) If any person or vessel fails to comply with any provision of this subsection, in addition to denying certification (as provided in paragraph (A) of this subsection), assessing a late payment penalty (as provided in paragraph (E) of this subsection), and assessing a civil penalty (as provided in section 203(a) of the Ports and Waterways Safety Act of 1972), the Secretary may pursue any other appropriate remedy authorized by any other applicable provision of law.

"(8) MANNING AND TRAINING REQUIREMENTS.—The Secretary shall prescribe standards for the manning of any vessel subject to the provisions of this section and the duties, qualifications, and training of the officers and crew thereof, including, but not limited to, standards relating to—

"(A) instruction in vessel and cargo handling and vessel navigation under normal operating conditions in coastal and confined waters and on the high seas;

"(B) instruction in vessel and cargo handling and vessel navigation in emergency situations and under accident or potential accident conditions;

"(C) license qualifications by specific class and size of vessels;

"(D) measurement of qualifications for licenses by use of simulators developed for the training of marine-oriented skills;

"(E) health and physical fitness criteria for all personnel;

"(F) periodic retraining, and special training for upgrading positions, changing vessel class or size, or assuming new responsibilities;

"(G) determination of licenses, conditions of licensing, and period of licensing by reference to experience, amount of training completed, and regular performance testing; and

"(H) recordation of safety and pollution control violations on licenses.

"(9) MODIFICATIONS.—The Secretary may modify any regulation or standard prescribed under this section to conform to an international treaty, convention, agreement, or an amendment thereto, which is ratified by the United States.".

SEC. 5. IMPROVED PILOTAGE STANDARDS.

(a) Section 4442 of the Revised Statutes of the United States (46 U.S.C. 214) is amended to read as follows:

"SEC. 4442. (a) The Commandant of the United States Coast Guard shall, in accordance with subsection (b) of this section, establish eligibility requirements for the issuance of a license to pilot any steam vessel.

"(b) No person may be issued a license to pilot any steam vessel unless he—

"(1) is at least 21 years of age;

"(2) is of sound health and has no physical limitations which would hinder or prevent the performance of a pilot's duties;

"(3) agrees to have a thorough physical examination each year while holding a pilot's license;

"(4) demonstrates, to the Commandant's satisfaction, that he possesses the requisite general knowledge and skill to hold a pilot's license;

"(5) maintains adequate knowledge of the waters to be navigated as a pilot;

"(6) has sufficient experience, as determined by the Commandant, to evidence his ability to handle any vessel of the type and size which he may be endorsed to pilot; and

"(7) meets any other requirement which the Commandant considers reasonable and necessary.

"(c) No license to pilot any steam vessel shall be valid for a term longer than 5 years. Upon expiration of any such license, the holder may reapply for an additional term and may be reissued a license if he meets the requirements specified under subsection (b) of this section.

"(d) The Commandant may revoke or suspend any license to pilot any steam vessel, after notice and an opportunity for a hearing, upon satisfactory evidence of—

"(1) negligence;

"(2) unskillfulness;

"(3) failure to adhere to any requirements for a license;

"(4) willful violation of title 52 of the Revised Statutes; or

"(5) other just cause related to the performance of pilot duties, including conduct when acting solely under the authority of a State pilot license.

"(e) The Secretary shall develop and shall seek adoption by the States of uniform, minimum standards relating to the regulation of pilotage at least equal to those required of federally licensed pilots.".

(b) Section 304(a)(9)(B) of the Independent Safety Board Act of 1974 (49 U.S.C. 1903 (a)(9)(B)) is hereby amended by replacing the final period with a semicolon, and adding: "or section 4442 of the Revised Statutes of the United States (46 U.S.C. 214).".

SEC. 6. INSPECTION AND ENFORCEMENT.

Title II of the Ports and Waterways Safety Act of 1972 (33 U.S.C. 1221 et seq.) is amended to read as follows:

"TITLE II—INSPECTION AND ENFORCEMENT

"SEC. 201. PROHIBITED ACTS.

"It is unlawful—

"(1) for any person—

"(A) to violate any provision of this Act or any regulation issued pursuant to this Act or section 4417a of the Revised Statutes of the United States;

"(B) to refuse to permit any officer authorized by the Secretary to enforce the provisions of this Act or section 4417a of the Revised Statutes of the United States to board any vessel, or enter any shore area, place, or premises, under such persons' control for purposes of inspection pursuant to this Act or section 4417a of the Revised Statutes of the United States; or

"(C) to refuse to obey any lawful directive issued pursuant to this Act or section 4417a of the Revised Statutes of the United States; and

"(2) for any vessel subject to the provisions of this Act or section 4417a of the Revised Statutes of the United States—

"(A) to operate in the navigable waters of the United States while not in compliance with any provision of this Act or any regulation issued pursuant to this Act or section 4417a of the Revised Statutes of the United States; or

"(B) to fail to comply with any lawful directive issued pursuant to this Act or section 4417a of the Revised Statutes of the United States.

"SEC. 202. INSPECTION.

"(a) NATIONAL PROGRAM.—(1) The Secretary shall establish a national program for inspection of any vessel subject to section 4417a of the Revised Statutes of the United States. Each such vessel shall be inspected or examined at least once each year. Any such vessel over 10 years in age shall undergo a special and detailed inspection of structural strength and hull integrity, as specified by the Secretary.

"(2) An inspection or examination may be conducted by any officer authorized by the Secretary. If any such officer is not reasonably available, the Secretary may contract for the conduct of inspections or examinations in the United States and in foreign countries. Under such contract, an inspector may be authorized to act on behalf of the Secretary; except that no such inspector may issue a certificate of inspection or compliance, but may issue a temporary such certificate.

"(3) The Secretary shall prescribe by regulation reasonable fees for any inspection or examination conducted pursuant to this section based on the cost incurred. The owner of any vessel inspected or examined by the Secretary or his designee shall be liable for such fee. Amounts received as fees under this paragraph shall be credited to the appropriations bearing the cost of such inspection or examination.

"(b) VESSEL DOCUMENTS.—Any vessel subject to the provisions of this section shall have on board such documents as the Secretary deems necessary for inspection or enforcement under this Act, including, but not limited to, documents indicating—

"(1) the kind, grade, and approximate quantities of any cargo on board such vessel;

"(2) the shipper and consignee of such cargo;

"(3) the points of origin and destination of such vessel; and

"(4) the name of an agent in the United States authorized to accept legal process.

"(c) RECIPROCITY.—The Secretary may accept, as evidence of compliance with the provisions of this Act, any certificate or document issued by any foreign nation pursuant to any treaty, convention, or other international agreement to which the United States is a party.

"SEC. 203. PENALTIES.

"(a) CIVIL PENALTY.—(1) Any person who is found by the Secretary, after notice and an opportunity for a hearing to have committed an act prohibited by this Act or by section 4417a of the Revised Statutes of the United States shall be liable to the United States for a civil penalty, not to exceed $25,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

"(2) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this subsection.

"(3) If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General of the United States, for collection in any appropriate district court of the United States.

"(b) CRIMINAL PENALTY.—(1) A person is guilty of an offense if—

"(A) in reckless disregard of the risk that his conduct would cause damage to property, he commits any act prohibited by subparagraphs 202(1)(A) or 202(2)(A); or

"(B) he willfully and knowingly commits any other act prohibited by section 202.

"(2) Any offense described in paragraph (1) is punishable by a fine of not more than $50,000, or imprisonment for not more than 6 months, or both; except that if in the commission of any such offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any officer authorized to enforce the provisions of this Act, or places any such officer in fear of imminent bodily injury, the offense is punishable by a fine of not more than $100,000, or imprisonment for not more than 10 years, or both.

"(3) As used in this subsection, a person's state of mind is 'reckless' with respect to:

"(A) an existing circumstance if he is aware of a risk that the circumstance exists but disregards the risk; and

"(B) a result of his conduct if he is aware of a risk that the result will occur but disregards the risk.

The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that a reasonable person would exercise in such a situation.

"(c) FEDERAL JURISDICTION.—There is a Federal jurisdiction over any offense described in this section.

"(d) IN REM LIABILITY.—Any vessel subject to the provisions of this Act and found to be in violation of this Act shall be liable in rem and may be proceeded against in the United States district court for any district in which such vessel may be found.

"(e) INJUNCTION.—The United States district courts shall have jurisdiction to restrain violations of this Act or regulations issued hereunder, for cause shown.".

SEC. 7. MISCELLANEOUS PROVISIONS.

The Ports and Waterways Safety Act of 1972 (33 U.S.C. 1221 et seq.) is amended by adding the following new title at the end thereof:

"TITLE III—MISCELLANEOUS PROVISIONS

"SEC. 301. REGULATIONS.

"The Secretary is authorized to issue, amend, or repeal regulations to carry out the purposes and provisions of this Act, in accordance with the provisions of section 553 of title 5, United States Code. In preparing such regulations, the Secretary shall provide an opportunity for full consultation and cooperation with all other interested Federal agencies and departments (in particular the Environmental Protection Agency, the Department of Commerce, and the Department of State), and the States, and for consideration of views presented by any members of the general public, including representatives of the maritime community, environmental groups, consumer organizations, and persons concerned with navigation and vessel safety and protection of the marine environment.

"SEC. 302. REPORT.

"Within 6 months after the end of each fiscal year, the Secretary shall submit to the Congress (1) a report on the administration of this Act during the preceding fiscal year; (2) a summary of inspection and enforcement activities during the preceding fiscal year; and (3) recommendations to the Congress for any additional legislative authority necessary to improve navigation and vessel safety and protection of the marine environment.

"SEC. 303. INTERNATIONAL AGREEMENTS.

"(a) TRANSMITTAL OF REGULATIONS.—The Secretary and the Secretary of State shall undertake international negotiations, utilizing the appropriate international bodies or forums, to achieve acceptance of regulations promulgated or required under this Act as international standards.

"(b) NEGOTIATIONS.—The Secretary of State may—

"(1) enter into negotiations, in cooperation with the Secretary, with Canada and Mexico, and any other neighboring nation, to establish compatible vessel standards and vessel traffic services in appropriate areas and circumstances;

"(2) enter into negotiations through appropriate international bodies—

"(A) to establish mandatory vessel traffic services in appropriate areas of the high seas, and

"(B) to prohibit any discharge of oil in appropriate areas of the high seas;

"(3) enter into negotiations, in cooperation with the Secretary, with Canada and Mexico, and any other neighboring nation to establish, operate, and maintain inter-

national vessel traffic services in appropriate areas; and

"(4) enter into such other negotiations as may be necessary and appropriate to further the purposes, policy, and provisions of this Act.

"(c) OPERATIONS.—The Secretary, pursuant to any agreement negotiated under subsection (b), may—

"(1) require vessels to utilize or to comply with the vessel traffic service, including the carrying or installation of electronic or other devices necessary for the use of the service; and

"(2) waive, by order or regulation, the application of any law or regulation concerning the design, construction, manning, and equipment standards of vessels operating in waters over which the United States exercises jurisdiction if such vessel is not en route to or from a United States Port, and if vessels en route to or from ports of the United States are accorded equivalent waivers of laws and regulations of the foreign nation.

"SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

"Beginning October 1, 1977, there are authorized to be appropriated to the Secretary, for the purpose of carrying out the provisions of this Act, such sums as may be necessary.".

SEC. 8. SAVINGS CLAUSE.

Regulations previously issued under statutory provisions repealed, modified, or amended by this Act shall continue in effect as though promulgated under the authority of section 4417a of the Revised Statutes of the United States (46 U.S.C. 391a) or the Ports and Waterways Safety Act of 1972 as amended by this Act, as the case may be, until expressly abrogated, modified, or amended by the Secretary. Any proceeding under section 4417a of the Revised Statutes of the United States or the Ports and Waterways Safety Act of 1972 for a violation which occurred before the effective date of this Act may be initiated or continued to conclusion as though such section or Act had not been amended thereby.

SEC. 9. STUDY OF MONITORING SYSTEMS.

(a) CONTENT.—The Secretary of Transportation, in consultation with the Administrator, the Secretary of Commerce, and other appropriate agencies or instrumentalities of the Federal Government, shall evaluate various shore-station monitoring systems of vessels, including fishing vessels, within the fishery conservation zone as defined in section 3(8) of the Fishery Conservation and Management Act of 1976. Each system examined shall be capable of reporting vessel position, identification, course, and speed using either a land, sea, or space monitoring technique.

(b) REPORT.—Within 2 years after the date of the enactment of this Act, the Secretary shall report his findings to Congress. This report shall describe the capabilities, limitations, and cost effectiveness of each monitoring system examined from the standpoint of both the Federal Government and any vessel owners who would be affected by the imposition of each approach. The report shall also include the Secretary's recommendation for a single, comprehensive, cost effective shore station monitoring system within the fishery conservation zone.

SEC. 10. AUTHORIZATION FOR APPROPRIATIONS.

There are authorized to be appropriated to the Secretary for the purposes of section 9, not to exceed $500,000 for the fiscal year ending September 30, 1978, and not to exceed $500,000 for the fiscal year ending September 30, 1979.

MOTION OFFERED BY MR. BIAGGI

Mr. BIAGGI. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BIAGGI moves to strike out all after the enacting clause of S. 682 and to insert in lieu thereof the provisions of H.R. 13311, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 13311) was laid on the table.

GENERAL LEAVE

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, H.R. 13311.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

INDIAN PEAKS WILDERNESS AREA

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 12026, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wyoming (Mr. RONCALIO) that the House suspend the rules and pass the bill H.R. 12026, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 360, nays 9, not voting 63, as follows:

[Roll No. 756]

YEAS—360

Abdnor
Akaka
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Aspin
AuCoin
Badham
Bafalis
Baldus
Baucus
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Clausen, Don H.
Clay
Cleveland
Cohen
Coleman
Collins, Ill.
Conable
Conte
Corcoran
Corman
Cornell
Cornwell
Cotter
Coughlin
Cunningham
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Dellums
Dent
Derrick
Derwinski
Devine
Dicks
Dingell
Dodd
Dornan
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Gammage
Gaydos
Gephardt
Giaimo
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Green
Gudger
Guyer
Hagedorn
Hamilton
Hammer-schmidt
Hanley
Hannaford
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Horton
Howard
Hughes
Hyde
Ichord
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kelly
Kemp
Ildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lott
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mikva
Milford
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Rinaldo
Roberts
Robinson
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Runnels
Ruppe
Russo
Ryan
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shuster
Sikes
Simon
Sisk
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Stangeland
Stanton
Steed
Steers
Steiger
Stokes
Studds
Taylor
Thompson
Thone
Thornton
Traxler
Treen
Trible
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walker
Walsh
Wampler
Watkins
Waxman
Weaver
Weiss
Whalen
Whitehurst
Whitley
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki

NAYS—9

Bauman
Collins, Tex.
Crane
Evans, Ind.
Hall
Jacobs
McDonald
Symms
Waggonner

NOT VOTING—63

Addabbo
Ammerman
Armstrong
Ashley
Barnard
Beard, R.I.
Breaux
Brown, Ohio
Burke, Calif.
Burke, Fla.
Byron
Chisholm
Clawson, Del
Cochran
Conyers
D'Amours
Delaney
Dickinson
Diggs
Drinan
Fary
Flowers
Fraser
Frey
Fuqua
Garcia
Gibbons
Hansen
Harrington
Holtzman
Hubbard
Huckaby
Ireland
Johnson, Colo.
Kasten
Keys
Krueger
Leggett
Lehman
Long, Md.
Mikulski
Miller, Calif.
Mitchell, Md.
Murphy, N.Y.
Murphy, Pa.
Myers, Gary
Myers, John
Nedzi
Nix
Nowak
Obey
Pattison
Pepper
Pettis
Pike
Pressler
Price
Pritchard
Pursell
Quayle
Quillen
Regula
Reuss
Rhodes
Rinaldo
Roberts
Robinson
Roe
Rogers
Rosenthal
Rostenkowski
Rousselot
Runnels
Ruppe
Russo
Ryan
Santini
Satterfield
Sawyer
Schulze
Selberling
Sharp
Sikes
Sisk
Skelton
Smith, Iowa
Snyder
Solarz
Spellman
Spence
Stangeland
Stanton
Steed
Steers
Steiger
Stockman
Symms
Taylor
Thornton
Traxler
Treen
Trible
Tucker
Ullman
Van Deerlin
Vanik
Vento
Waggonner
Walgren
Walsh
Wampler
Weaver
Whitehurst
Whitley
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wylie
Yatron
Young, Fla.
Zablocki

NAYS—166

Akaka
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Applegate
Ashbrook
Aspin
Baldus
Baucus
Beard, Tenn.
Bedell
Bevill
Biaggi
Blouin
Boggs
Bonior
Brademas
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Broyhill
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Carr
Carter
Clay
Cleveland
Cohen
Collins, Ill.
Corcoran
Cornwell
Coughlin
Davis
Dellums
Dent
Dodd
Downey
Drinan
Edgar
Edwards, Calif.
English
Erlenborn
Evans, Colo.
Fascell
Flippo
Flood
Florio
Ford, Tenn.
Forsythe
Fountain
Fowler
Hall
Hannaford
Harkin
Hawkins
Hefner
Heftel
Hightower
Holland
Hughes
Howard
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kazen
Kildee
Kostmayer
Lederer
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Luken
McEwen
McKay
Maguire
Mahon
Mann
Markey
Mazzoli
Metcalfe
Michel
Mikva
Milford
Minish
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moss
Mottl
Murphy, Ill.
Murtha
Myers, Michael
Natcher
Neal
Nichols
Nolan
Oakar
Oberstar
Ottinger
Panetta
Patten
Patterson
Pease
Perkins
Pickle
Poage
Preyer
Rahall
Railsback
Rangel
Roberts
Roe
Rogers
Rosenthal
Rousselot
Roybal
Russo
Ryan
Santini
Schroeder
Sebelius
Shipley
Shuster
Simon
Slack
Smith, Nebr.
Staggers
Stark
Stokes
Studds
Thompson
Thone
Udall
Volkmer
Walker
Watkins
Waxman
Weiss
Whalen
White
Whitten
Wydler
Yates
Young, Mo.
Young, Tex.

NOT VOTING—61

Addabbo
Ammerman
Armstrong
Ashley
Barnard
Beard, R.I.
Breaux
Brown, Ohio
Burke, Calif.
Burke, Fla.
Byron
Chisholm
Clawson, Del
Cochran
Conyers
D'Amours
Delaney
Dickinson
Diggs
Fary
Flowers
Fraser
Frey
Fuqua
Garcia
Gibbons
Hansen
Harrington
Holtzman
Hubbard
Huckaby
Ireland
Johnson, Colo.
Kasten
Krueger
Lehman
Long, Md.
Mathis
Mattox
Mikulski
Miller, Calif.
Mitchell, Md.
Murphy, N.Y.
O'Brien
Quie
Richmond
Risenhoover
Rodino
Rudd
Sarasin
Scheuer
Skubitz
St Germain
Stratton
Stump
Teague
Tsongas
Vander Jagt
Wiggins
Young, Alaska
Zeferetti

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Hansen.
Mr. Mitchell of Maryland with Mr. Frey.
Mr. Richmond with Mr. O'Brien.
Mr. Zeferetti with Mr. Quie.
Ms. Holtzman with Mr. Rudd.
Mr. Fary with Mr. Kasten.
Mr. Breaux with Mr. Brown of Ohio.
Mr. Ashley with Mr. Burke of Florida.
Mr. Ammerman with Mr. Del Clawson.
Mr. Fuqua with Mr. Long of Maryland.
Mr. Garcia with Mr. Young of Alaska.
Mr. Ireland with Mr. Skubitz.
Mr. St Germain with Mr. Sarasin.
Mr. Stratton with Mr. Armstrong.
Mr. Rodino with Mr. Cochran of Mississippi.
Mr. Murphy of New York with Mr. Dickinson.
Mr. Risenhoover with Mr. Wiggins.
Mr. Teague with Mr. Vander Jagt.
Mr. Tsongas with Mr. Stump.
Mr. Mathis with Mr. Scheuer.
Mr. Miller of California with Mr. Fraser.
Mr. Delaney with Mr. Gibbons.
Ms. Mikulski with Mr. Hubbard.
Mrs. Burke of California with Mr. Beard of Rhode Island.
Mrs. Chisholm with Mr. Byron.
Mr. D'Amours with Mr. Conyers.
Mr. Flowers with Mr. Diggs.
Mr. Lehman with Mr. Mattox.
Mr. Krueger with Mr. Harrington.
Mr. Barnard with Mr. Huckaby.

Messrs. MURPHY of Illinois, DAVIS, and BRADEMAS changed their vote from "yea" to "nay."

Mr. WEAVER changed his vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Armstrong.
Mr. Mitchell of Maryland with Mr. Frey.
Mr. Rodino with Mr. Quie.
Mr. Zeferetti with Mr. Brown of Ohio.
Mr. Teague with Mr. Hansen.
Mrs. Chisholm with Mr. Rudd.
Mr. Fary with Mr. Burke of Florida.
Mr. Fuqua with Mr. Kasten.
Mr. Garcia with Mr. Sarasin.
Ms. Holtzman with Mr. Del Clawson.
Mr. Risenhoover with Mr. Long of Maryland.
Mr. Richmond with Mr. Skubitz.
Mr. Murphy of New York with Mr. Cochran of Mississippi.
Mr. St Germain with Mr. Hubbard.
Mr. Stratton with Mr. Stockman.
Mr. Miller of California with Mr. Leggett.
Mr. Diggs with Mr. Wiggins.
Mr. Conyers with Mr. Young of Alaska.
Mr. Delaney with Mr. Vander Jagt.
Mr. Breaux with Mr. Stump.
Mr. Ashley with Mr. Dickinson.
Mr. Ammerman with Mr. Beard of Rhode Island.
Mr. D'Amours with Mr. Drinan.
Mr. Byron with Mr. Gibbons.
Mr. Ireland with Mr. Flowers.
Ms. Keys with Mr. Krueger.
Mr. Harrington with Mr. Lehman.
Ms. Mikulski with Mr. Tsongas.
Mr. Roybal with Mr. Scheuer.
Mr. Barnard with Mrs. Burke of California.
Mr. Huckaby with Mr. Fraser.

So (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to create the Indian Peaks Wilderness Area and the Arapaho National Recreation Area, to authorize the Secretary of the Interior to study the feasibility of revising the boundaries of the Rocky Mountain National Park, and to add certain lands to the Oregon Islands Wilderness."

A motion to reconsider was laid on the table.

TEMPORARY SUSPENSION OF DUTY ON FLUORSPAR

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 5265, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. VANIK) that the House suspend the rules and pass the bill H.R. 5265, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 205, nays 166, not voting 61, as follows:

[Roll No. 757]

YEAS—205

Abdnor
Alexander
Ambro
Andrews, N. Dak.
Annunzio
Archer
AuCoin
Badham
Bafalis
Bauman
Bellenson
Benjamin
Bennett
Bingham
Blanchard
Boland
Bolling
Bonker
Bowen
Brinkley
Buchanan
Burgener
Butler
Caputo
Carney
Cavanaugh
Cederberg
Chappell
Clausen, Don H.
Coleman
Collins, Tex.
Conable
Conte
Corman
Cornell
Cotter
Cunningham
Daniel, Dan
Daniel, R. W.
Danielson
de la Garza
Derrick
Derwinski
Devine
Dicks
Dingell
Dornan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
Evans, Ind.
Fisher
Fithian
Foley
Ford, Mich.
Frenzel
Gaydos
Gephardt
Giaimo
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Grassley
Green
Hagedorn
Hamilton
Hammer-schmidt
Hanley
Harris
Harsha
Heckler
Hillis
Hollenbeck
Horton
Hyde
Ichord
Jenkins
Kastenmeier
Kelly
Kemp
Kindness
Krebs
Lagomarsino
Latta
Leach
Lent
Livingston
Lott
Lujan
Lundine
McClory
McCloskey
McCormack
McDonald
McEwen
McFall
McKay
McKinney
Madigan
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Meyner
Michel
Mikva
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, Pa.
Myers, Gary
Myers, John
Nedzi
Nix
Nowak
Obey
Pattison
Pepper
Pettis
Pike
Pressler
Price
Pritchard
Pursell
Quayle
Quillen
Regula
Reuss
Rhodes
Rinaldo
Roberts
Robinson
Roe
Rogers
Rose
Rosenthal
Rostenkowski
Rousselot
Runnels
Ruppe
Russo
Ryan
Santini
Satterfield
Sawyer
Schulze
Selberling
Sharp
Sikes
Sisk
Skelton
Smith, Iowa
Snyder
Solarz
Spellman
Spence
Stangeland
Stanton
Steed
Steers
Steiger
Stockman
Symms
Taylor
Thornton
Traxler
Treen
Trible
Tucker
Ullman
Van Deerlin
Vanik
Vento
Waggonner
Walgren
Walsh
Wampler
Weaver
Whitehurst
Whitley
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wylie
Yatron
Young, Fla.
Zablocki

NAYS—166

Akaka
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Applegate
Ashbrook
Aspin
Baldus
Baucus
Beard, Tenn.
Bedell
Bevill
Biaggi
Blouin
Boggs
Bonior
Brademas
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Broyhill
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Carr
Carter
Clay
Cleveland
Cohen
Collins, Ill.
Corcoran
Cornwell
Coughlin
Davis
Dellums
Dent
Dodd
Downey
Drinan
Edgar
Edwards, Calif.
English
Erlenborn
Evans, Colo.
Fascell
Flippo
Flood
Florio
Ford, Tenn.
Forsythe
Fountain
Fowler
Hall
Hannaford
Harkin
Hawkins
Hefner
Heftel
Hightower
Holland
Hughes
Howard
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kazen
Kildee
Kostmayer
Lederer
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Luken
McEwen
McKay
Maguire
Mahon
Mann
Markey
Mazzoli
Metcalfe
Michel
Mikva
Milford
Minish
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moss
Mottl
Murphy, Ill.
Murtha
Myers, Michael
Natcher
Neal
Nichols
Nolan
Oakar
Oberstar
Ottinger
Panetta
Patten
Patterson
Pease
Perkins
Pickle
Poage
Preyer
Rahall
Railsback
Rangel
Roberts
Roe
Rogers
Rosenthal
Rousselot
Roybal
Russo
Ryan
Santini
Schroeder
Sebelius
Shipley
Shuster
Simon
Slack
Smith, Nebr.
Staggers
Stark
Stokes
Studds
Thompson
Thone
Udall
Volkmer
Walker
Watkins
Waxman
Weiss
Whalen
White
Whitten
Wydler
Yates
Young, Mo.
Young, Tex.

NOT VOTING—61

Addabbo
Ammerman
Armstrong
Ashley
Barnard
Beard, R.I.
Breaux
Brown, Ohio
Burke, Calif.
Burke, Fla.
Byron
Chisholm
Clawson, Del
Cochran
Conyers
D'Amours
Delaney
Dickinson
Diggs
Fary
Flowers
Fraser
Frey
Fuqua
Garcia
Gibbons
Hansen
Harrington
Holtzman
Hubbard
Huckaby
Ireland
Johnson, Colo.
Kasten
Krueger
Lehman
Long, Md.
Mikulski
Miller, Calif.
Mitchell, Md.
Murphy, N.Y.
O'Brien
Quie
Richmond
Risenhoover
Rodino
Rudd
Sarasin
Scheuer
Skubitz
St Germain
Stratton
Stump
Teague
Tsongas
Vander Jagt
Wiggins
Young, Alaska
Zeferetti

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Hansen.
Mr. Mitchell of Maryland with Mr. Frey.
Mr. Richmond with Mr. O'Brien.
Mr. Zeferetti with Mr. Quie.
Ms. Holtzman with Mr. Rudd.
Mr. Fary with Mr. Kasten.
Mr. Breaux with Mr. Brown of Ohio.
Mr. Ashley with Mr. Burke of Florida.
Mr. Ammerman with Mr. Del Clawson.
Mr. Fuqua with Mr. Long of Maryland.
Mr. Garcia with Mr. Young of Alaska.
Mr. Ireland with Mr. Skubitz.
Mr. St Germain with Mr. Sarasin.
Mr. Stratton with Mr. Armstrong.
Mr. Rodino with Mr. Cochran of Mississippi.
Mr. Murphy of New York with Mr. Dickinson.
Mr. Risenhoover with Mr. Wiggins.
Mr. Teague with Mr. Vander Jagt.
Mr. Tsongas with Mr. Stump.
Mr. Mathis with Mr. Scheuer.
Mr. Miller of California with Mr. Fraser.
Mr. Delaney with Mr. Gibbons.
Ms. Mikulski with Mr. Hubbard.
Mrs. Burke of California with Mr. Beard of Rhode Island.
Mrs. Chisholm with Mr. Byron.
Mr. D'Amours with Mr. Conyers.
Mr. Flowers with Mr. Diggs.
Mr. Lehman with Mr. Mattox.
Mr. Krueger with Mr. Harrington.
Mr. Barnard with Mr. Huckaby.

Messrs. MURPHY of Illinois, DAVIS, and BRADEMAS changed their vote from "yea" to "nay."

Mr. WEAVER changed his vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

CONCURRING IN SENATE AMENDMENTS TO H.R. 1337, EXCISE TAXES ON CERTAIN TRUCKS, BUSES, TRACTORS, ET CETERA

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution (H. Res. 1342).

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The

question is on the motion offered by the gentleman from California (Mr. CORMAN) that the House suspend the rules and agree to the resolution (H. Res. 1342) on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 304, nays 69, not voting 59, as follows:

[Roll No. 758]

YEAS—304

Abdnor
Akaka
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Applegate
Aspin
AuCoin
Baldus
Baucus
Bellenson
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breckinridge
Brodhead
Brooks
Broomfie'd
Brown, Calif.
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Clausen, Don H.
Clay
Cohen
Coleman
Collins, Ill.
Conable
Conte
Corcoran
Corman
Cornell
Cornwell
Cotter
Coughlin
Danielson
Davis
de la Garza
Dellums
Dent
Derrick
Derwinski
Dicks
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Frenzel
Gaydos
Gephardt
Giaimo
Gilman
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Green
Gudger
Guyer
Hagedorn
Hamilton
Hanley
Hannaford
Harkin
Harris
Harsha
Hawkins
Heckler
Heftel
Hightower
Hillis
Holland
Hollenbeck
Horton
Howard
Hughes
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kasen
Kemp
Keys
Kildee
Kostmayer
Krebs
LaFalce
Lagomarsino
Le Fante
Leach
Lederer
Leggett
Lent
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lujan
Luken
Lundine
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Mann
Markey
Marks
Marriott
Martin
Mathis
Mattox
Meeds
Metcalfe
Meyner
Michel
Milford
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Moss
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, John
Myers, Michael
Natcher
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pettis
Pickle
Pike
Presler
Preyer
Price
Pritchard
Pursell
Quayle
Rahall
Rallsback
Rangel
Regula
Reuss
Rinaldo
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
Santini
Sawyer
Schroeder
Sebelius
Seiberling
Sharp
Shipley
Sikes
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Spence
Staggers
Stangeland
Stanton
Stark
Steed
Steers
Steiger
Stockman
Stokes
Studds
Thompson
Thone
Thornton
Traxler
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Waxman
Weaver
Weiss
Whalen
White
Whitley
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Mo.
Zablocki

NAYS—69

Andrews, N.C.
Archer
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Bedell
Bennett
Brinkley
Burleson, Tex.
Butler
Cleveland
Collins, Tex.
Crane
Cunningham
Daniel, Dan
Daniel, R. W.
Devine
Edwards, Ala.
Edwards, Okla.
Evans, Ind.
Flynt
Fountain
Fowler
Gammage
Ginn
Grassley
Hall
Hammer-schmidt
Hefner
Holt
Hyde
Ichord
Jenkins
Kelly
Kindness
Latta
Levitas
Livingston
Lott
McClory
McDonald
McEwen
Maguire
Mahon
Marlenee
Mazzoli
Mikva
Miller, Ohio
Moore
Mottl
Myers, Gary
Neal
Poage
Quillen
Rhodes
Roberts
Robinson
Satterfield
Shuster
Snyder
Symms
Taylor
Treen
Tribie
Whitehurst
Young, Fla.
Young, Tex.

NOT VOTING—59

Addabbo
Ammerman
Armstrong
Ashley
Barnard
Beard, R.I.
Breaux
Brown, Ohio
Burke, Calif.
Burke, Fla.
Byron
Chisholm
Clawson, Del
Cochran
Conyers
D'Amours
Delaney
Dickinson
Diggs
Fary
Flowers
Fraser
Frey
Fuqua
Garcia
Gibbons
Hansen
Harrington
Holtzman
Hubbard
Huckaby
Ireland
Johnson, Colo.
Kasten
Krueger
Lehman
Long, Md.
Mikulski
Miller, Calif.
Mitchell, Md.
Murphy, N.Y.
Quie
Richmond
Risenhoover
Rodino
Rostenkowski
Rudd
Sarasin
Scheuer
Schulze
St Germain
Stratton
Stump
Teague
Tsongas
Vander Jagt
Wiggins
Young, Alaska
Zeferetti

The Clerk announced the following pairs:

Mr. Mitchell of Maryland with Mr. Frey.
Mr. Addabbo with Mr. Hansen.
Mr. Richmond with Mr. Quie.
Mr. Rostenkowski with Mr. Rudd.
Ms. Holtzman with Mr. Vander Jagt.
Mr. Breaux with Mr. Wiggins.
Mr. Teague with Mr. Hubbard.
Mr. Ashley with Mr. Armstrong.
Mr. Fuqua with Mr. Brown of Ohio.
Mr. Rodino with Mr. Kasten.
Mr. Murphy of New York with Mr. Long of Maryland.
Mr. St Germain with Mr. Schulze.
Mr. Delaney with Mr. Sarasin.
Mrs. Chisholm with Mr. Cochran of Mississippi.
Mr. Byron with Mr. Del Clawson.
Mr. Ammerman with Mr. Dickinson.
Mrs. Burke of California with Mr. Young of Alaska.
Mr. Conyers with Mr. Stump.
Mr. Fary with Mr. Scheuer.
Mr. Diggs with Mr. Burke of Florida.
Mr. Harrington with Mr. Fraser.
Mr. Tsongas with Mr. Lehman.
Mr. Stratton with Mr. D'Amours.
Mr. Krueger with Mr. Gibbons.
Mr. Garcia with Mr. Flowers.
Mr. Beard of Rhode Island with Mr. Barnard.
Mr. Ireland with Mr. Huckaby.
Ms. Mikulski with Mr. Miller of California.
Mr. Zeferetti with Mr. Risenhoover.

Messrs. FOUNTAIN, McCLORY, ARCHER, and NEAL changed their vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

UNITED STATES CODE AMENDMENTS FOR FEDERAL DISTRICT COURTS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 13331, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER) that the House suspend the rules and pass the bill, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device and there were—yeas 362, nays 9, not voting 61, as follows:

[Roll No. 759]

YEAS—362

Abdnor
Akaka
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Aspin
AuCoin
Badham
Bafalis
Baldus
Baucus
Bedell
Bellenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Clausen, Don H.
Clay
Cleveland
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cornell
Cornwell
Cotter
Coughlin
Cunningham
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Dellums
Dent
Derrick
Derwinski
Devine
Dicks
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Gammage
Gaydos
Gephardt
Giaimo
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Horton
Howard
Hughes
Hyde
Ichord
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kasten
Kemp
Kelly
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lott
Lujan
Luken
Lundine
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
McClory
McDonald
McEwen
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mikva
Milford
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pettis
Pickle
Pike
Presler
Preyer
Price
Pritchard
Pursell
Quayle
Quie
Quillen
Rahall
Rallsback
Rangel
Regula
Reuss
Rhodes
Rinaldo
Roberts
Robinson
Roe
Rogers
Rooney
Rose
Rosenthal
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
Santini
Sarasin
Sarasin
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shuster
Sikes
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stangeland
Stanton
Stark
Steed
Steers
Steiger
Stockman
Stokes
Studds
Stump
Stratton
St Germain
Symms
Taylor
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tribie
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vander Jagt
Vento
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Waxman
Weaver
Weiss
Whalen
White
Whitehurst
Whitley
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Young, Tex.
Young, Alaska
Zablocki
Zeferetti

NAYS—9

Bauman
Crane
Holt
Jacobs
McDonald
Mottl
O'Brien
Oakar
Symms

NOT VOTING—61

Addabbo
Ammerman
Armstrong
Ashley
Barnard
Beard, R.I.
Beard, Tenn.
Breaux
Brown, Ohio
Burke, Calif.
Burke, Fla.
Byron
Chisholm
Clawson, Del
Cochran
Conyers
D'Amours
Delaney
Dickinson
Diggs
Fary
Flowers
Fraser
Frey
Fuqua
Garcia
Gibbons
Hansen
Harrington
Hubbard
Huckaby
Ireland
Johnson, Colo.
Kasten
Krueger
Lehman
Long, Md.
Mikulski
Miller, Calif.
Mitchell, Md.
Moffett
Murphy, N.Y.
Quie
Richmond
Risenhoover
Rodino
Rostenkowski
Sarasin
Scheuer
St Germain
Stratton
Stump
Teague
Tsongas
Vander Jagt
Wiggins
Young, Alaska
Zablocki
Zeferetti

The Clerk announced the following pairs:

Mr. Richmond with Mr. Hansen.
Mr. Addabbo with Mr. Quie.
Mr. Mitchell of Maryland with Mr. Wiggins.
Mr. Zeferetti with Mr. Dickinson.
Mr. Zablocki with Mr. Del Clawson.
Mr. Ashley with Mr. Stump.

Mr. Rodino with Mr. Sarasin.
Mr. Miller of California with Mr. Hubbard.
Ms. Mikulski with Mr. Rudd.
Mr. Delaney with Mr. Beard of Tennessee.
Mr. D'Amours with Mr. Brown of Ohio.
Mr. Fary with Mr. Cochran of Mississippi.
Mr. Byron with Mr. Long of Maryland.
Mrs. Chisholm with Mr. Vander Jagt.
Mr. Teague with Mr. Scheuer.
Mr. Stratton with Mr. Frey.
Mr. St Germain with Mr. Armstrong.
Ms. Holtzman with Mr. Conyers.
Mrs. Burke of California with Mr. Diggs.
Mr. Breaux with Mr. Burke of Florida.
Mr. Beard of Rhode Island with Mr. Gibbons.
Mr. Ammerman with Mr. Barnard.
Mr. Flowers with Mr. Fraser.
Mr. Fuqua with Mr. Huckaby.
Mr. Garcia with Mr. Kasten.
Mr. Krueger with Mr. Lehman.
Mr. Ireland with Mr. Young of Alaska.
Mr. Harrington with Mr. Moffett.
Mr. Tsongas with Mr. Risenhoover.
Mr. Rostenkowski with Mr. Murphy of New York.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 3375) to amend title 28 of the United States Code to make certain changes in the places of holding Federal district courts, in the divisions within judicial districts, and in judicial district dividing lines, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3375

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal District Court Organization Act of 1978".

PLACES OF HOLDING COURT

SEC. 2. (a) The last sentence of section 97 (a) of title 28, United States Code, is amended to read as follows:

"Court for the Eastern District shall be held at Ashland, Catlettsburg, Covington, Frankfort, Jackson, Lexington, London, Pikeville, and Richmond.".

(b) The last sentence of section 104(a)(1) of title 28, United States Code, is amended to read as follows:

"Court for the eastern division shall be held at Aberdeen, Ackerman, and Corinth.".

DIVISIONS WITHIN JUDICIAL DISTRICTS

SEC. 3. (a) Section 98(c) of title 28, United States Code, is amended to read as follows:

"Western District

"(c) The Western District comprises the parishes of Acadia, Allen, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Caldwell, Cameron, Catahoula, Clairborne, Concordia, Jefferson Davis, De Soto, East Carroll, Evangeline, Franklin, Grant, Iberia, Jackson, Lafayette, La Salle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Saint Landry, Saint Martin, Saint Mary, Tensas, Union, Vermilion, Vernon, Webster, West Carroll, and Winn.

"Court for the Western District shall be held at Alexandria, Lafayette, Lake Charles, Monroe, Opelousas, and Shreveport.".

(b) Section 114 of title 28, United States Code, is amended—

(1) in paragraph (2), by striking out "Sheridan, Steele, Stutsman, and Wells" and inserting in lieu thereof "Steele, and Stutsman";

(2) in paragraph (3), by striking out "Bottineau," "McHenry," and "Pierce,"; and

(3) by amending paragraph (4) to read as follows:

"(4) The Northwestern Division comprises the counties of Bottineau, Burke, Divide, McHenry, McKenzie, Mountrail, Pierce, Renville, Sheridan, Ward, Wells, and Williams.".

JUDICIAL DISTRICT DIVIDING LINES

SEC. 4. (a) Section 89 of title 28, United States Code, is amended—

(1) in the first paragraph of subsection (a), by inserting "Madison," immediately after "Liberty,"; and

(2) in the first paragraph of subsection (b), by striking out "Madison,".

(b) (1) Section 93 of title 28, United States Code, is amended to read as follows:

"§ 93. Illinois.

"Illinois is divided into three judicial districts to be known as the Northern, Central, and Southern Districts of Illinois.

"Northern District

"(a) The Northern District comprises two divisions.

"(1) The Eastern Division comprises the counties of Cook, De Kalb, Du Page, Grundy, Kane, Kankakee, Kendall, Lake, La Salle, McHenry, and Will.

"Court for the Eastern Division shall be held at Chicago.

"(2) The Western Division comprises the counties of Boone, Carroll, Jo Daviess, Lee, Ogle, Stephenson, Whiteside, and Winnebago.

"Court for the Western Division shall be held at Freeport and Rockford.

"Central District

"(b) The Central District comprises the counties of Adams, Brown, Bureau, Cass, Champaign, Christian, Coles, De Witt, Douglas, Edgar, Ford, Fulton, Greene, Hancock, Henderson, Henry, Iroquois, Knox, Livingston, Logan, McDonough, McLean, Macon, Macoupin, Marshall, Mason, Menard, Mercer, Montgomery, Morgan, Moultrie, Peoria, Piatt, Pike, Putnam, Rock Island, Sangamon, Schuyler, Scott, Shelby, Stark, Tazewell, Vermilion, Warren, and Woodford.

"Court for the Central District shall be held at Danville, Peoria, Quincy, Rock Island, and Springfield.

"Southern District

"(c) The Southern District comprises the counties of Alexander, Bond, Calhoun, Clark, Clay, Clinton, Crawford, Cumberland, Edwards, Effingham, Fayete, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jasper, Jefferson, Jersey, Johnson, Lawrence, Madison, Marion, Massac, Monroe, Perry, Pope, Pulaski, Randolph, Richland, St. Clair, Saline, Union, Wabash, Washington, Wayne, White, and Williamson.

"Court for the Southern District shall be held at Alton, Benton, Cairo, and East St. Louis.".

(2) Section 133 of title 28, United States Code, is amended by striking out the item relating to Illinois and inserting in lieu thereof the following:

"Illinois:

"Northern	13
"Central	2
"Southern	3".

(c) Section 112 of title 28, United States Code, is amended—

(1) in the first paragraph of subsection (a), by inserting "Columbia," immediately after "Clinton,", by inserting "Greene," immediately after "Fulton,", and by inserting "Ulster," immediately after "Tompkins,"; and

(2) in the first paragraph of subsection (b), by striking out "Columbia,", "Greene," and "Ulster,".

EFFECTIVE DATE

SEC. 5. (a) The amendments made by this Act shall take effect one hundred and eighty days after the date of enactment of this Act.

(b) Nothing in this Act shall affect the composition or preclude the service of any grand or petit juror summoned, empaneled, or actually serving in any judicial district on the effective date of this Act.

MOTION OFFERED BY MR. KASTENMEIER

Mr. KASTENMEIER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. KASTENMEIER moves to strike all after the enacting clause of the Senate bill S. 3375 and to insert in lieu thereof the text of the bill H.R. 13331, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 13331) was laid on the table.

CONFERENCE REPORT ON S. 1678, FEDERAL INSECTICIDE, FUNGICIDE AND RODENTICIDE ACT

Mr. FOLEY submitted the following conference report and statement on the Senate bill (S. 1678) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended:

CONFERENCE REPORT (H. REPT. No. 95-1560)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1678) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

DEFINITIONS

SECTION 1. Section 2 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) adding at the end of subsection (c)(1) the following: "Any applicator who holds or applies registered pesticides, or use dilutions of registered pesticides consistent with section 2(ee) of this Act, only to provide a service of controlling pests without delivering any unapplied pesticide to any person so served is not deemed to be a seller or distributor of pesticides under this Act.";

(2) in subsection (e)(3), striking out "a certified" and inserting in lieu thereof "an";

(3) in subsection (g)(1), striking out the period at the end of clause (G), inserting "; or" in lieu thereof, and adding a new clause (H) as follows:

"(H) in the case of a pesticide not registered in accordance with section 3 of this Act and intended for export, the label does not contain, in words prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) as to render it likely to be noted by the ordinary individual under customary conditions of purchase and use, the following: 'Not Registered for Use in the United States of America'.";

(4) in subsection (w), inserting "or active ingredient used in producing a pesticide" immediately after "or device" wherever that phrase appears therein;

(5) adding at the end of subsection (w) the following: "The dilution by individuals of formulated pesticides for their own use and according to the directions on registered labels shall not of itself result in such individuals being included in the definition of 'producer' for the purposes of this Act.";

(6) in subsection (dd), inserting "or active ingredient used in producing a pesticide" immediately after "or device"; and

(7) adding at the end thereof a new subsection (ee) as follows:

"(ee) TO USE ANY REGISTERED PESTICIDE IN A MANNER INCONSISTENT WITH ITS LABELING.—The term 'to use any registered pesticide in a manner inconsistent with its labeling' means to use any registered pesticide in a manner not permitted by the labeling: *Provided*, That the term shall not include (1) applying a pesticide at any dosage, concentration, or frequency less than that specified on the labeling, (2) applying a pesticide against any target pest not specified on the labeling if the application is to the crop, animal, or site specified on the labeling, unless the Administrator has required that the labeling specifically state that the pesticide may be used only for the pests specified on the labeling after the Administrator has determined that the use of the pesticide against other pests would cause an unreasonable adverse effect on the environment, (3) employing any method of application not prohibited by the labeling, or (4) mixing a pesticide or pesticides with a fertilizer when such mixture is not prohibited by the labeling: *Provided further*, That the term also shall not include any use of a pesticide in conformance with section 5, 18, or 24 of this Act, or any use of a pesticide in a manner that the Administrator determines to be consistent with the purposes of this Act: *And provided further*, That after March 31, 1979, the term shall not include the use of a pesticide for agricultural or forestry purposes at a dilution less than label dosage unless before or after that date the Administrator issues a regulation or advisory opinion consistent with the study provided for in section 27(b) of the Federal Pesticide Act of 1978, which regulation or advisory opinion specifically requires the use of definite amounts of dilution.".

USE OF DATA TO SUPPORT REGISTRATION; ADDITIONAL DATA TO SUPPORT EXISTING REGISTRATION

SEC. 2. (a) Section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) amending subsection (c)(1)(D) to read as follows:

"(D) except as otherwise provided in subsection (c)(2)(D) of this section, if requested by the Administrator, a full description of the tests made and the results thereof upon which the claims are based, or alternatively a citation to data that appear in the public literature or that previously had been submitted to the Administrator and that the Administrator may consider in accordance with the following provisions:

"(i) with respect to pesticides containing active ingredients that are initially registered under this Act after the date of enactment of the Federal Pesticide Act of 1978, data submitted to support the application for the original registration of the pesticide, or an application for an amendment adding any new use to the registration and that pertains solely to such new use, shall not, without the written permission of the original data submitter, be considered by the Administrator to support an application by another person during a period of ten years following the date the Administrator first registers the pesticide: *Provided*, That such permission shall not be required in the case of defensive data;

"(ii) Except as otherwise provided in subparagraph (D)(i) of this paragraph, with respect to data submitted after December 31, 1969, by an applicant or registrant to support an application for registration, experimental use permit, or amendment adding a new use to an existing registration, to support or maintain in effect an existing registration, or for reregistration, the Administrator may, without the permission of the original data submitter, consider any such item of data in support of an application by any other person (hereinafter in this subparagraph referred to as the 'applicant') within the fifteen-year period following the date the data were originally submitted only if the applicant has made an offer to compensate the original data submitter and submitted such offer to the Administrator accompanied by evidence of delivery to the original data submitter of the offer. The terms and amount of compensation may be fixed by agreement between the original data submitter and the applicant, or, failing such agreement, binding arbitration under this subparagraph. If, at the end of ninety days after the date of delivery to the original data submitter of the offer to compensate, the original data submitter and the applicant have neither agreed on the amount and terms of compensation nor on a procedure for reaching an agreement on the amount and terms of compensation, either person may initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint an arbitrator from the roster of arbitrators maintained by such Service. The procedure and rules of the Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings, and the findings and determination of the arbitrator shall be final and conclusive, and no official or court of the United States shall have power or jurisdiction to review any such findings and determination, except for fraud, misrepresentation, or other misconduct by one of the parties to the arbitration or the arbitrator where there is a verified complaint with supporting affidavits attesting to specific instances of such fraud, misrepresentation, or other misconduct. The parties to the arbitrations shall share equally in the payment of the fee and expenses of the arbitrator. If the Administrator determines that an original data submitter has failed to participate in a procedure for reaching an agreement or in an arbitration proceeding as required by this subparagraph, or failed to comply with the terms of an agreement or arbitration decision concerning compensation under this subparagraph, the original data submitter shall forfeit the right to compensation for the use of the data in support of the application. Notwithstanding any other provision of this Act, if the Administrator determines that an applicant has failed to participate in a procedure for reaching an agreement or in an arbitration proceeding as required by this subparagraph, or failed to comply with the terms of an agreement or arbitration decision concerning compensation under this subparagraph, the Administrator shall deny the application or cancel the registration of the pesticide in support of which the data were used without further hearing. Before the Administrator takes action under either of the preceding two sentences, the Administrator shall furnish to the affected person, by certified mail, notice of intent to take action and allow fifteen days from the date of delivery of the notice for the affected person to respond. If a registration is denied or canceled under this subparagraph, the Administrator may make such order as the Administrator deems appropriate concerning the

continued sale and use of existing stocks of such pesticide. Registration action by the Administrator shall not be delayed pending the fixing of compensation;

"(iii) after expiration of any period of exclusive use and any period for which compensation is required for the use of an item of data under subparagraphs (D)(i) and (D)(ii) of this paragraph, the Administrator may consider such item of data in support of an application by any other applicant without the permission of the original data submitter and without an offer having been received to compensate the original data submitter for the use of such item of data;"; and

(2) amending subsection (c)(2) by—

(A) inserting "(A)" immediately after "(2)";

(B) inserting immediately after "kind of information" in the second sentence the following: "under subparagraph (B) of this paragraph,";

(C) striking out "subsection (c)(1)(D) of this section and" from the third sentence; and

(D) adding at the end thereof a new subparagraph (B) as follows:

"(B) ADDITIONAL DATA TO SUPPORT EXISTING REGISTRATION.—

"(i) If the Administrator determines that additional data are required to maintain in effect an existing registration of a pesticide, the Administrator shall notify all existing registrants of the pesticide to which the determination relates and provide a list of such registrants to any interested person.

"(ii) Each registrant of such pesticide shall provide evidence within ninety days after receipt of notification that it is taking appropriate steps to secure the additional data that are required. Two or more registrants may agree to develop jointly, or to share in the cost of developing, such data if they agree and advise the Administrator of their intent within ninety days after notification. Any registrant who agrees to share in the cost of producing the data shall be entitled to examine and rely upon such data in support of maintenance of such registration.

"(iii) If, at the end of sixty days after advising the Administrator of their agreement to develop jointly, or share in the cost of developing, data, the registrants have not further agreed on the terms of the data development arrangement or on a procedure for reaching such agreement, any of such registrants may initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint an arbitrator from the roster of arbitrators maintained by such Service. The procedure and rules of the Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings, and the findings and determination of the arbitrator shall be final and conclusive, and no official or court of the United States shall have power or jurisdiction to review any such findings and determination, except for fraud, misrepresentation, or other misconduct by one of the parties to the arbitration or the arbitrator where there is a verified complaint with supporting affidavits attesting to specific instances of such fraud, misrepresentation, or other misconduct. All parties to the arbitration shall share equally in the payment of the fee and expenses of the arbitrator.

"(iv) Notwithstanding any other provision of this Act, if the Administrator determines that a registrant, within the time required by the Administrator, has failed to take appropriate steps to secure the data required under this subparagraph, to participate in a procedure for reaching agreement concerning a joint data development arrangement under this subparagraph or in an arbitration proceeding as required by this subparagraph, or to comply with the terms of an agreement or arbitration decision concerning a joint data development arrangement under this subparagraph, the Administrator may issue a notice of intent to suspend such registrant's registration of the pesticide for which additional data is required. The Administrator may include in the notice of intent to suspend such provisions as the Administrator deems appropriate concerning the continued sale and use of existing stocks of such pesticide. Any suspension proposal under this subparagraph shall become final and effective at the end of thirty days from receipt by the registrant of the notice of intent to suspend, unless during that time a request for hearing is made by a person adversely affected by the notice or the registrant has satisfied the Administrator that the registrant has complied fully with the requirements that served as a basis for the notice of intent to suspend. If a hearing is requested, a hearing shall be conducted under section 6(d) of this Act: Provided, That the only matters for resolution at that hearing shall be whether the registrant has failed to take the action that served as the basis for the notice of intent to suspend the registration of the pesticide for which additional data is required, and whether the Administrator's determination with respect to the disposition of existing stocks is consistent with this Act. If a hearing is held, a decision after completion of such hearing shall be final. Notwithstanding any other provision of this Act, a hearing shall be held and a determination made within seventy-five days after receipt of a request for such hearing. Any registration suspended under this subparagraph shall be reinstated by the Administrator if the Administrator determines that the registrant has complied fully with the requirements that served as a basis for the suspension of the registration.

"(v) Any data submitted under this subparagraph shall be subject to the provisions of subsection (c)(1)(D) of this section. Whenever such data are submitted jointly by two or more registrants, an agent shall be agreed on at the time of the joint submission to handle any subsequent data compensation matters for the joint submitters of such data.".

(b) The amendment to section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act made by this section shall apply with respect to all applications for registration approved after the date of enactment of this Act.

MINOR USE REGISTRATIONS

SEC. 3. Section 3(c)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act, as redesignated by section 2 of this Act, is further amended by inserting immediately after the second sentence the following: "The Administrator, in establishing standards for data requirements for the registration of pesticides with respect to minor uses, shall make such standards commensurate with the anticipated extent of use, pattern of use, and the level and degree of potential exposure of man and the environment to the pesticide. In the development of these standards, the Administrator shall consider the economic factors of potential national volume of use, extent of distribution, and the impact of the cost of meeting the requirements on the incentives for any potential registrant to undertake the development of the required data.".

SIMPLIFIED REGISTRATION PROCEDURES; EXEMPTION FROM REQUIREMENTS FOR SUBMISSION OF DATA

SEC. 4. Section 3(c)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act is further amended by adding at the end thereof new subparagraphs (C) and (D) as follows:

"(C) SIMPLIFIED PROCEDURES.—Within nine months after the date of enactment of this subparagraph, the Administrator shall, by regulation, prescribe simplified procedures for the registration of pesticides, which shall include the provisions of subparagraph (D) of this paragraph.

"(D) EXEMPTION.—No applicant for registration of a pesticide who proposes to purchase a registered pesticide from another producer in order to formulate such purchased pesticide into an end-use product shall be required to—

"(i) submit or cite data pertaining to the safety of such purchased product; or

"(ii) offer to pay reasonable compensation otherwise required by paragraph (1)(D) of this subsection for the use of any such data.".

WAIVER OF DATA REQUIREMENTS PERTAINING TO EFFICACY

SEC. 5. Section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by adding at the end thereof the following: "In considering an application for the registration of a pesticide, the Administrator may waive data requirements pertaining to efficacy, in which event the Administrator may register the pesticide without determining that the pesticide's composition is such as to warrant proposed claims of efficacy. If a pesticide is found to be efficacious by any State under section 24(c) of this Act, a presumption is established that the Administrator shall waive data requirements pertaining to efficacy for use of the pesticide in such State.".

REGISTRATION UNDER SPECIAL CIRCUMSTANCES; INTERIM ADMINISTRATIVE REVIEW

SEC. 6. Section 3(c) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by adding at the end thereof new paragraphs (7) and (8) as follows:

"(7) REGISTRATION UNDER SPECIAL CIRCUMSTANCES.—Notwithstanding the provisions of subsection (c)(5) of this section—

"(A) The Administrator may conditionally register or amend the registration of a pesticide if the Administrator determines that (i) the pesticide and proposed use are identical or substantially similar to any currently registered pesticide and use thereof, or differ only in ways that would not significantly increase the risk of unreasonable adverse effects on the environment, and (ii) approving the registration or amendment in the manner proposed by the applicant would not significantly increase the risk of any unreasonable adverse effect on the environment. An applicant seeking conditional registration or amended registration under this subparagraph shall submit such data as would be required to obtain registration of a similar pesticide under subsection (c)(5) of this section: *Provided*, That, if the applicant is unable to submit an item of data because it has not yet been generated, the Administrator may register or amend the registration of the pesticide under such conditions as will require the submission of such data not later than the time such data are required to be submitted with respect to similar pesticides already registered under this Act.

"(B) The Administrator may conditionally amend the registration of a pesticide to permit additional uses of such pesticide notwithstanding that data concerning the pesticide may be insufficient to support an unconditional amendment, if the Administrator determines that (i) the applicant has submitted satisfactory data pertaining to the proposed additional use, and (ii) amending the registration in the manner proposed by the applicant would not significantly increase the risk of any unreasonable adverse effect on the environment. Notwithstanding the foregoing provisions of this subparagraph, no registration of a pesticide may be amended to permit an additional use of such pesticide if the Administrator has issued a notice stating that such pesticide, or any ingredient thereof, meets or exceeds risk criteria associ-

ated in whole or in part with human dietary exposure enumerated in regulations issued under this Act, and during the pendency of any risk-benefit evaluation initiated by such notice, if (i) the additional use of such pesticide involves a major food or feed crop, or (ii) the additional use of such pesticide involves a minor food or feed crop and the Administrator determines, with the concurrence of the Secretary of Agriculture, there is available an effective alternative pesticide that does not meet or exceed such risk criteria. An applicant seeking amended registration under this subparagraph shall submit such data as would be required to obtain registration of a similar pesticide under subsection (c)(5) of this section: *Provided*, That, if the applicant is unable to submit an item of data (other than data pertaining to the proposed additional use) because it has not yet been generated, the Administrator may amend the registration under such conditions as will require the submission of such data not later than the time such data are required to be submitted with respect to similar pesticides already registered under this Act.

"(C) The Administrator may conditionally register a pesticide containing an active ingredient not contained in any currently registered pesticide for a period reasonably sufficient for the generation and submission of required data (which are lacking because a period reasonably sufficient for generation of the data has not elapsed since the Administrator first imposed the data requirement) on the condition that by the end of such period the Administrator receives such data and the data do not meet or exceed risk criteria enumerated in regulations issued under this Act, and on such other conditions as the Administrator may prescribe: *Provided*, That a conditional registration under this subparagraph shall be granted only if the Administrator determines that use of the pesticide during such period will not cause any unreasonable adverse effect on the environment, and that use of the pesticide is in the public interest.

"(3) INTERIM ADMINISTRATIVE REVIEW.—Notwithstanding any other provision of this Act, the Administrator may not initiate a public interim administrative review process to develop a risk-benefit evaluation of the ingredients of a pesticide or any of its uses prior to initiating a formal action to cancel, suspend, or deny registration of such pesticide, required under this Act, unless such interim administrative process is based on a validated test or other significant evidence raising prudent concerns of unreasonable adverse risk to man or to the environment. Notice of the definition of the terms 'validated test' and 'other significant evidence' as used herein shall be published by the Administrator in the Federal Register.".

CLASSIFICATION PRIOR TO REREGISTRATION; CHANGE IN CLASSIFICATION FROM RESTRICTED USE TO GENERAL USE

SEC. 7. Section 3(d) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) inserting in paragraph (1)(A) immediately after the first sentence the following: "Pesticide uses may be classified by regulation on the initial classification, and registered pesticides may be classified prior to reregistration.";

(2) striking out "30 days" in paragraph (2) and inserting in lieu thereof "forty-five days"; and

(3) adding a new paragraph (3) at the end thereof as follows:

"(3) CHANGE IN CLASSIFICATION FROM RESTRICTED USE TO GENERAL USE.—The registrant of any pesticide with one or more uses classified for restricted use may petition the Administrator to change any such classification from restricted to general use. Such petition shall set out the basis for the registrant's position that restricted use classification is unnecessary because classification of the pesticide for general use would not cause unreasonable adverse effects on the environment. The Administrator, within sixty days after receiving such petition, shall notify the registrant whether the petition has been granted or denied. Any denial shall contain an explanation therefor and any such denial shall be subject to judicial review under section 16 of this Act.".

REREGISTRATION

SEC. 8. Section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by adding at the end thereof of new subsection (g) as follows:

"(g) REREGISTRATION OF PESTICIDES.—The Administrator shall accomplish the reregistration of all pesticides in the most expeditious matter practicable: *Provided*, That, to the extent appropriate, any pesticide that results in a postharvest residue in or on food or feed crops shall be given priority in the reregistration process.".

AUTHORITY OF ADMINISTRATOR TO CERTIFY APPLICATORS

SEC. 9. Section 4(a) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by inserting in paragraph (1) immediately after "(1) FEDERAL CERTIFICATION.—" the following: "In any State for which a State plan for applicator certification has not been approved by the Administrator, the Administrator, in consultation with the Governor of such State, shall conduct a program for the certification of applicators of pesticides: *Provided*, That such program shall conform to the requirements imposed upon the States under the provisions of subsection (a)(2) of this section and shall not require private applications to take any examination to establish competency in the use of pesticides. Prior to the implementation of the program, the Administrator shall publish in the Federal Register for review and comment a summary of the Federal plan for applicator certification and shall make generally available within the State copies of the plan. The Administrator shall hold public hearings at one or more locations within the State if so requested by the Governor of such State during the thirty days following publication of the Federal Register notice inviting comment on the Federal plan. The hearings shall be held within thirty days following receipt of the request from the Governor. In any State in which the Administrator conducts a certification program, the Administrator may require any person engaging in the commercial application, sale, offering for sale, holding for sale, or distribution of any pesticide one or more uses of which have been classified for restricted use to maintain such records and submit such reports concerning the commercial application, sale, or distribution of such pesticides as the Administrator may by regulation prescribe.".

EXPERIMENTAL USE PERMITS

SEC. 10. Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) amending subsection (a) to read as follows:

"(a) ISSUANCE.—Any person may apply to the Administrator for an experimental use permit for a pesticide. The Administrator shall review the application. After completion of the review, but not later than one hundred and twenty days after receipt of the application and all required supporting data, the Administrator shall either issue the permit or notify the applicant of the Administrator's determination not to issue the permit and the reasons therefor. The applicant may correct the application or request a waiver of the conditions for such permit within thirty days of receipt by the applicant of such notification. The Administrator determines that the applicant needs such permit in order to accumulate information necessary to register a pesticide under section 3 of this Act. An application for an experimental use permit may be filed at any time."; and

(2) in subsection (f), striking out the word "may" the first time it appears in the first sentence and inserting in lieu thereof "shall".

ALTERNATIVE TO CANCELLATION

SEC. 11. Section 6(b) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by inserting in the last sentence immediately after "In taking any final action under this subsection, the Administrator" the following: "shall consider restricting a pesticide's use or uses as an alternative to cancellation and shall fully explain the reasons for these restrictions, and".

CANCELLATION OF CONDITIONAL REGISTRATION

SEC. 12. Section 6 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by redesignating subsection (e) as subsection (f) and inserting after subsection (d) a new subsection (e) as follows:

"(e) CONDITIONAL REGISTRATION.—

"(1) The Administrator shall issue a notice of intent to cancel a registration issued under section 3(c)(7) of this Act if (A) the Administrator, at any time during the period provided for satisfaction of any condition imposed, determines that the registrant has failed to initiate and pursue appropriate action toward fulfilling any condition imposed, or (B) at the end of the period provided for satisfaction of any condition imposed, that condition has not been met: *Provided*, That the Administrator may permit the continued sale and use of existing stocks of a pesticide whose conditional registration has been canceled under this subsection to such extent, under such conditions, and for such uses as the Administrator may specify if the Administrator determines that such sale or use is not inconsistent with the purposes of this Act and will not have unreasonable adverse effects on the environment.

"(2) A cancellation proposed under this subsection shall become final and effective at the end of thirty days from receipt by the registrant of the notice of intent to cancel unless during that time a request for hearing is made by a person adversely affected by the notice. If a hearing is requested a hearing shall be conducted under subsection (d) of this section: *Provided*, That the only matters for resolution at that hearing shall be whether the registrant has initiated and pursued appropriate action to comply with the condition or conditions within the time provided or whether the condition or conditions have been satisfied within the time provided, and whether the Administrator's determination with respect to the disposition of existing stocks is consistent with this Act. A decision after completion of such hearing shall be final. Notwithstanding any otehr provision of this section, a hearing shall be held and a determination made within seventy-five days after receipt of a request for such hearing.".

REGISTRATION OF ESTABLISHMENTS

SEC. 13. Section 7 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) in subsection (a), inserting "or active ingredient used in producing a pesticide subject to this Act" immediately after "any pesticide subject to this Act";

(2) in subsection (c)(1), inserting "and, if applicable, active ingredients used in producing pesticides" immediately after "pesticides"; and

(3) in subsection (d), inserting "other than the names of the pesticides or active ingredients used in producing pesticides produced, sold, or distributed at an establishment" immediately after "pursuant to subsection (c)".

INSPECTION OF BOOKS AND RECORDS

SEC. 14. Section 8(b) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by adding at the end thereof the following: "Before undertaking an inspection under this subsection, the officer or employee must present to the owner, operator, or agent in charge of the establishment or other place where pesticides or devices are held for distribution or sale, appropriate credentials and a written statement as to the reason for the inspection, including a statement as to whether a violation of the law is suspected. If no violation is suspected, an alternate and sufficient reason shall be given in writing. Each such inspection shall be commenced and completed with reasonable promptness.".

TRADE SECRET AMENDMENTS

SEC. 15. Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) in subsection (b), inserting immediately after "Notwithstanding any other provision of this Act" the following: "and subject to the limitations in subsections (d) and (e) of this section"; and

(2) adding at the end thereof new subsections (d), (e), (f), and (g) as follows:

"(d) Limitations.—

"(1) All information concerning the objectives, methodology, results, or significance of any test or experiment performed on or with a registered or previously registered pesticide or its separate ingredients, impurities, or degradation products, and any information concerning the effects of such pesticide on any organism or the behavior of such pesticide in the environment, including, but not limited to, data on safety to fish and wildlife, humans and other mammals, plants, animals, and soil, and studies on persistence, translocation and fate in the environment, and metabolism, shall be available for disclosure to the public: *Provided*, That the use of such data for any registration purpose shall be governed by section 3 of this Act: *Provided further*, That this paragraph does not authorize the disclosure of any information that—

"(A) discloses manufacturing or quality control processes,

"(B) discloses the details of any methods for testing, detecting, or measuring the quantity of any deliberately added inert ingredient of a pesticide, or

"(C) discloses the identity or percentage quantity of any deliberately added inert ingredient of a pesticide, unless the Administrator has first determined that disclosure is necessary to protect against an unreasonable risk of injury to health or the environment.

"(2) Information concerning production, distribution, sale, or inventories of a pesticide that is otherwise entitled to confidential treatment under subsection (b) of this section may be publicly disclosed in connection with a public proceeding to determine whether a pesticide, or any ingredient of a pesticide, causes unreasonable adverse effects on health or the environment, if the Administrator determines that such disclosure is necessary in the public interest.

"(3) If the Administrator proposes to disclose information described in clause (A), (B), or (C) of paragraph (1) or in paragraph (2) of this subsection, the Administrator shall notify by certified mail the submitter of such information of the intent to release such information. The Administrator may not release such information, without the submitter's consent, until thirty days after the submitter has been furnished such notice: *Provided*, That where the Administrator finds that disclosure of information described in clause (A), (B), or (C) of paragraph (1) of this subsection is necessary to avoid or lessen an imminent and substantial risk of injury to the public health, the Administrator may set such shorter period of notice (but not less than ten days) and such method of notice as the Administrator finds appropriate. During such period the data submitter may institute an action in an appropriate district court to enjoin or limit the proposed disclosure. The court shall give expedited consideration to any such action. The court may enjoin disclosure, or limit the disclosure or the parties to whom disclosure shall be made, to the extent that—

"(A) in the case of information described in clause (A), (B), or (C) of paragraph (1) of this subsection, the proposed disclosure is not required to protect against an unreasonable risk of injury to health or the environment; or

"(B) in the case of information described in paragraph (2) of this subsection, the public interest in availability of the information in the public proceeding does not outweigh the interests in preserving the confidentiality of the information.

"(c) DISCLOSURE TO CONTRACTORS.—Information otherwise protected from disclosure to the public under subsection (b) of this section may be disclosed to contractors with the United States and employees of such contractors if, in the opinion of the Administrator, such disclosure is necessary for the satisfactory performance by the contractor of a contract with the United States for the performance of work in connection with this Act and under such conditions as the Administrator may specify. The Administrator shall require as a condition to the disclosure of information under this subsection that the person receiving it take such security precautions respecting the information as the Administrator shall by regulation prescribe.

"(f) PENALTY FOR DISCLOSURE BY FEDERAL EMPLOYEES.—(1) Any officer or employee of the United States or former officer or employee of the United States who, by virtue of such employment or official position, has obtained possession of, or has access to, material the disclosure of which is prohibited by subsection (b) of this section, and who, knowing that disclosure of such material is prohibited by such subsection, willfully discloses the material in any manner to any person not entitled to receive it, shall be fined not more than $10,000 or imprisoned for not more than one year, or both. Section 1905 of title 18 of the United States Code shall not apply with respect to the publishing, divulging, disclosure, or making known of, or making available, information reported or otherwise obtained under this Act. Nothing in this Act shall preempt any civil remedy under State or Federal law for wrongful disclosure of trade secrets.

"(2) For the purposes of this section, any contractor with the United States who is furnished information as authorized by subsection (c) of this section, or any employee of any such contractor, shall be considered to be an employee of the United States.

"(g) DISCLOSURE TO FOREIGN AND MULTINATIONAL PESTICIDE PRODUCERS.—(1) The Administrator shall not knowingly disclose information submitted by an applicant or registrant under this Act to any employee or agent of any business or other entity engaged in the production, sale or distribution of pesticides in countries other than the United States or in addition to United States or to any other person who intends to deliver such data to such foreign or multinational business or entity unless the applicant or registrant has consented to such disclosure. The Administrator shall require an affirmation from any person who intends to inspect data that such person does not seek access to the data for purposes of delivering it or offering it for sale to any such business or entity or its agents or employees and will not purposefully deliver or negligently cause the data to be delivered to such business or entity or its agents or employees. Notwithstanding any other provision of this subsection, the Administrator may disclose information to any person in connection with a public proceeding under law or regulation, subject to restrictions on the availability of information contained elsewhere in this Act, which information is relevant to a determination by the Administrator with respect to whether a pesticide, or any ingredient of a pesticide, causes unreasonable adverse effects on health or the environment.

"(2) The Administrator shall maintain records of the names of persons to whom data are disclosed under this subsection and the persons or organizations they represent and shall inform the applicant or registrant of the names and affiliations of such persons.

"(3) Section 1001 of title 18 of the United States Code shall apply to any affirmation made under paragraph (1) of this subsection.".

EXEMPTION FROM THE UNLAWFUL ACTS PROVISION

SEC. 16. Section 12(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by inserting immediately before the semicolon at the end of subparagraph (F) the following: ": *Provided*, That it shall not be unlawful to sell, under regulations issued by the Administrator, a restricted use pesticide to a person who is not a certified applicator for application by a certified applicator".

CIVIL PENALTIES FOR CERTAIN APPLICATORS; PROCEDURE FOR DETERMINING THE AMOUNT OF CIVIL PENALTIES

SEC. 17. Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) inserting immediately before the period at the end of paragraph (2) the following: ": *Provided*, That any applicator not included under paragraph (1) of this subsection who holds or applies registered pesticides, or use dilutions of registered pesticides, only to provide a service of controlling pests without delivering any unapplied pesticide to any person so served, and who violates any provision of this Act may be assessed a civil penalty by the Administrator of not more than $500 for the first offense nor more than $1,000 for each subsequent offense";

(2) striking out the last sentence in paragraph (3);

(3) redesignating paragraph (4) as paragraph (5); and

(4) inserting after paragraph (3) a new paragraph (4) as follows:

"(4) DETERMINATION OF PENALTY.—In determining the amount of the penalty, the Administrator shall consider the appropriateness of such penalty to the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation. Whenever the Administrator finds that the violation occurred despite the exercise of due care or did not cause significant harm to health or the environment, the Administrator may issue a warning in lieu of assessing a penalty.".

PESTICIDES AND DEVICES INTENDED FOR EXPORT

SEC. 18. (a) Section 17 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) amending subsection (a) to read as follows:

"(a) PESTICIDES AND DEVICES INTENDED FOR EXPORT.—Notwithstanding any other provision of this Act, no pesticide or device or active ingredient used in producing a pesticide intended solely for export to any foreign country shall be deemed in violation of this Act—

"(1) when prepared or packed according to the specifications or directions of the for-

sign purchaser, except that producers of such pesticides and devices and active ingredients used in producing pesticides shall be subject to sections 2(p), 2(q)(1)(A), (C), (D), (E), (G), and (II), 2(q)(2)(A), (B), (C), (1) and (iii), and (D), 7, and 8 of this Act; and

"(2) in the case of any pesticide other than a pesticide registered under section 3 or sold under section 6(a)(1) of this Act, if, prior to export, the foreign purchaser has signed a statement acknowledging that the purchaser understands that such pesticide is not registered for use in the United States and cannot be sold in the United States under this Act. A copy of that statement shall be transmitted to an appropriate official of the government of the importing country."; and

(2) adding at the end of subsection (b) the following: "Such notification shall, upon request, include all information related to the cancellation or suspension of the registration of the pesticide and information concerning other pesticides that are registered under section 3 of this Act and that could be used in lieu of such pesticide.".

(b) The amendment made by subsection (a)(1) of this section shall become effective one hundred and eighty days after the date of enactment of this Act.

DISPOSAL OF PESTICIDES

SEC. 19. Section 19 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by adding at the end thereof a new subsection (c) as follows:

"(c) PROVISIONS FOR UNUSED QUANTITIES.—Notifications of cancellation of any pesticide shall include specific provisions for the disposal of the unused quantities of such pesticides.".

RESEARCH AND MONITORING ACTIVITIES

SEC. 20. Section 20 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) in the first sentence of subsection (a), striking out all after the phrase "and he shall" down through the end of the sentence and inserting in lieu thereof the following: "conduct research into integrated pest management in coordination with the Secretary of Agriculture"; and

(2) amending subsection (c) to read as follows:

"(c) MONITORING.—The Administrator shall undertake such monitoring activities, including, but not limited to, monitoring in air, soil, water, man, plants, and animals, as may be necessary for the implementation of this Act and of the national pesticide monitoring plan. The Administrator shall establish procedures for the monitoring of man and animals and their environment for incidental pesticide exposure, including, but not limited to, the quantification of incidental human and environmental pesticide pollution and the secular trends thereof, and identification of the sources of contamination and their relationship to human and environmental effects. Such activities shall be carried out in cooperation with other Federal, State, and local agencies.".

STATE COOPERATION, AID, AND TRAINING

SEC. 21. Section 23 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended to read as follows:

"SEC. 23. STATE COOPERATION, AID, AND TRAINING.

"(a) COOPERATIVE AGREEMENTS.—The Administrator may enter into cooperative agreements with States and Indian tribes—

"(1) to delegate to any State or Indian tribe the authority to cooperate in the enforcement of this Act through the use of its personnel or facilities, to train personnel of the State or Indian tribe to cooperate in the enforcement of this Act, and to assist States and Indian tribes in implementing cooperative enforcement programs through grants-in-aid; and

"(2) to assist States in developing and administering State programs, and Indian tribes that enter into cooperative agreements, to train and certify applicators consistent with the standards the Administrator prescribes.

Effective with the fiscal year beginning October 1, 1978, there are authorized to be appropriated annually such funds as may be necessary for the Administrator to provide through cooperative agreements an amount equal to 50 percent of the anticipated cost to each State or Indian tribe, as agreed to under such cooperative agreements, of conducting training and certification programs during such fiscal year. If funds sufficient to pay 50 percent of the costs for any year are not appropriated, the share of each State and Indian tribe shall be reduced in a like proportion in allocating available funds.

"(b) CONTRACTS FOR TRAINING.—In addition, the Administrator may enter into contracts with Federal, State, or Indian tribal agencies for the purpose of encouraging the training of certified applicators.

"(c) INFORMATION AND EDUCATION.—The Administrator shall, in cooperation with the Secretary of Agriculture, use the services of the cooperative State extension services to inform and educate pesticide users about accepted uses and other regulations made under this Act.".

PESTICIDES FORMULATED FOR DISTRIBUTION AND USE WITHIN A STATE

SEC. 22. Section 24 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended to read as follows:

"SEC. 24. AUTHORITY OF STATES.

"(a) A State may regulate the sale or use of any federally registered pesticide or device in the State, but only if and to the extent the regulation does not permit any sale or use prohibited by this Act.

"(b) Such State shall not impose or continue in effect any requirements for labeling or packaging in addition to or different from those required under this Act.

"(c)(1) A State may provide registration for additional uses of federally registered pesticides formulated for distribution and use within that State to meet special local needs in accord with the purposes of this Act and if registration for such use has not previously been denied, disapproved, or cancelled by the Administrator. Such registration shall be deemed registration under section 3 for all purposes of this Act, but shall authorize distribution and use only within such State.

"(2) A registration issued by a State under this subsection shall not be effective for more than ninety days if disapproved by the Administrator within that period. Prior to disapproval, the Administrator shall, except as provided in paragraph (3) of this subsection, advise the State of the Administrator's intention to disapprove and the reasons therefor, and provide the State time to respond. The Administrator shall not prohibit or disapprove a registration issued by a State under this subsection (A) on the basis of lack of essentiality of a pesticide or (B) except as provided in paragraph (3) of this subsection, if its composition and use patterns are similar to those of a federally registered pesticide.

"(3) In no instance may a State issue a registration for a food or feed use unless there exists a tolerance or exemption under the Federal Food, Drug, and Costmetic Act that permits the residues of the pesticide on the food or feed. If the Administrator determines that a registration issued by a State is inconsistent with the Federal Food, Drug, and Cosmetic Act, or the use of a pesticide under a registration issued by a State constitutes an imminent hazard, the Administrator may immediately disapprove the registration.

"(4) If the Administrator finds, in accordance with standards set forth in regulations issued under section 25 of this Act, that a State is not capable of exercising adequate controls to assure that State registration under this section will be in accord with the purposes of this Act or has failed to exercise adequate controls, the Administrator may suspend the authority of the State to register pesticides until such time as the Administrator is satisfied that the State can and will exercise adequate controls. Prior to any such suspension, the Administrator shall advise the State of the Administrator's intention to suspend and the reasons therefor and provide the State time to respond.".

AUTHORITY OF ADMINISTRATOR—REGULATIONS; SCIENTIFIC ADVISORY PANEL

SEC. 23. Section 25 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) in subsection (a)(1), striking out the period at the end of the second sentence and adding the following: "and differences in environmental risk and the appropriate data for evaluating such risk between agricultural and nonagricultural pesticides.";

(2) adding at the end of subsection (a)(2)(B), the following: "In taking any final action under this subsection, the Administrator shall include among those factors to be taken into account the effect of the regulation on production and prices of agricultural commodities, retail food prices, and otherwise on the agricultural economy, and the Administrator shall publish in the Federal Register an analysis of such effect.";

(3) in subsection (d), striking out the third sentence and inserting in lieu thereof the following: "The Administrator shall also solicit from the advisory panel comments, evaluations, and recommendations for operating guidelines to improve the effectiveness and quality of scientific analyses made by personnel of the Environmental Protection Agency that lead to decisions by the Administrator in carrying out the provisions of this Act. The comments, evaluations, and recommendations of the advisory panel and the response of the Administrator shall be published in the Federal Register in the same manner as provided for publication of the comments of the Secretary of Agriculture under such sections. The Chairman of the advisory panel, after consultation with the Administrator, may create temporary subpanels on specific projects to assist the full advisory panel in expediting and preparing its evaluations, comments, and recommendations."; and

(4) adding at the end of subsection (d) the following: "The advisory panel established under this subsection shall terminate September 30, 1981. In performing the functions assigned by this Act, the panel shall consult and coordinate its activities with the Science Advisory Board established under the Environmental Research, Development, and Demonstration Authorization Act of 1978.".

STATE ENFORCEMENT; IDENTIFICATION OF PESTS; COOPERATION WITH DEPARTMENT OF AGRICULTURE'S PROGRAM; ANNUAL REPORT

SEC. 24. The Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) redesignating sections 26 (severability) and 27 (authorization for appropriations) as sections 30 and 31, respectively; and

(2) inserting after section 25 new sections 26 through 29 as follows:

"SEC. 26. STATE PRIMARY ENFORCEMENT RESPONSIBILITY.

"(a) For the purposes of this Act a State shall have primary enforcement responsibility for pesticide use violations during any period for which the Administrator determines that such State—

"(1) has adopted adequate pesiticide use laws and regulations: *Provided*, That the Administrator may not require a State to have pesticide use laws that are more stringent than this Act:

"(2) has adopted and is implementing adequate procedures for the enforcement of such State laws and regulations: and

"(3) will keep such records and make such reports showing compliance with paragraphs (1) and (2) of this subsection as the Administrator may require by regulation.

"(b) Notwithstanding the provisions of subsection (a) of this section, any State that enters into a cooperative agreement with the Administrator under section 23 of this Act for the enforcement of pesticide use restrictions shall have the primary enforcement responsibility for pesticide use violations. Any State that has a plan approved by the Administrator in accordance with the requirements of section 4 of this Act that the Administrator determines meets the criteria set out in subsection (a) of this section shall have the primary enforcement responsibility for pesticide use violations. The Administrator shall make such determinations with respect to State plans under section 4 of this Act in effect on the date of enactment of the Federal Pesticide Act of 1978 not later than six months after that date.

"(c) The Administrator shall have primary enforcement responsibility for those States that do not have primary enforcement responsibility under this Act. Notwithstanding the provisions of section 2(e)(1) of this Act, during any period when the Administrator has such enforcement responsibility, section 8(b) of this Act shall apply to the books and records of commercial applicators and to any applicator who holds or applies pesticides, or use dilutions of pesticides, only to provide a service of controlling pests without delivering any unapplied pesticide to any person so served, and section 9(a) of this Act shall apply to the establishment or other place where pesticides or devices are held for application by such persons with respect to pesticides or devices held for such application.

"SEC. 27. FAILURE BY THE STATE TO ASSURE ENFORCEMENT OF STATE PESTICIDE USE REGULATIONS.

"(a) Upon receipt of any complaint or other information alleging or indicating a significant violation of the pesticide use provisions of this Act, the Administrator shall refer the matter to the appropriate State officials for their investigation of the matter consistent with the requirements of this Act. If, within thirty days, the State has not commenced appropriate enforcement action, the Administrator may act upon the complaint or information to the extent authorized under this Act.

"(b) Whenever the Administrator determines that a State having primary enforcement responsibility for pesticide use violations is not carrying out (or cannot carry out due to the lack of adequate legal authority) such responsibility, the Administrator shall notify the State. Such notice shall specify those aspects of the administration of the State program that are determined to be inadequate. The State shall have ninety days after receipt of the notice to correct any deficiencies. If after that time the Administrator determines that the State program remains inadequate, the Administrator may rescind, in whole or in part, the State's primary enforcement responsibility for pesticide use violations.

"(c) Neither section 26 of this Act nor this section shall limit the authority of the Administrator to enforce this Act, where the Administrator determines that emergency conditions exist that require immediate action on the part of the Administrator and the State authority is unwilling or unable adequately to respond to the emergency.

"SEC. 28 IDENTIFICATION OF PESTS: COOPERATION WITH DEPARTMENT OF AGRICULTURE'S PROGRAM.

"The Administrator, in coordination with the Secretary of Agriculture, shall identify those pests that must be brought under control. The Administrator shall also coordinate and cooperate with the Secretary of Agriculture's research and implementation programs to develop and improve the safe use and effectiveness of chemical, biological, and alternative methods to combat and control pests that reduce the quality and economical production and distribution of agricultural products to domestic and foreign consumers.

"SEC. 29. ANNUAL REPORT.

"The Administrator shall submit an annual report to Congress before February 16 of each year and the first report shall be due February 15, 1979. The report shall include the total number of applications for conditional registration under sections 3(c)(7)(B) and 3(c)(7)(C) of this Act that were filed during the immediately preceding fiscal year, and, with respect to those applications approved, the Administrator shall report the Administrator's findings in each case, the conditions imposed and any modification of such conditions in each case, and the quantities produced of such pesticides.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 25. Section 31 of the Federal Insecticide, Fungicide, and Rodenticide Act, as redesignated by section 24 of this Act, is amended by striking out "and for the period beginning October 1, 1976, and ending March 31, 1977, the sum of $23,600,000", and inserting in lieu thereof the following: "and for the period beginning October 1, 1976, and ending September 30, 1977, the sum of $46,636,000, and for the period beginning October 1, 1977, and ending September 30, 1978, the sum of $54,500,000, and for the period beginning October 1, 1978, and ending September 30, 1979, such sums as may be necessary, but not in excess of $700,000,000".

REVISION OF FIFRA TABLE OF CONTENTS

SEC. 26. Section 1(b) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended to read as follows:

"(b) TABLE OF CONTENTS.—

"Section 1. Short title and table of contents.
"(a) Short title.
"(b) Table of contents.
"Sec. 2. Definitions.
"(a) Active ingredient.
"(b) Administrator.
"(c) Adulterated.
"(d) Animal.
"(e) Certified applicator, etc.
"(1) Certified applicator.
"(2) Private applicator.
"(3) Commercial applicator.
"(4) Under the direct supervision of a certified applicator.
"(f) Defoliant.
"(g) Desiccant.
"(h) Device.
"(i) District court.
"(j) Environment.
"(k) Fungus.
"(l) Imminent hazard.
"(m) Inert ingredient.
"(n) Ingredient statement.
"(o) Insect.
"(p) Label and labeling.
"(1) Label.
"(2) Labeling.
"(q) Misbranded.
"(r) Nematode.
"(s) Person.
"(t) Pest.
"(u) Pesticide.
"(v) Plant regulator.
"(w) Producer and produce.
"(x) Protect health and the environment.
"(y) Registrant.
"(z) Registration.
"(aa) State.
"(bb) Unreasonable adverse effects on the environment.
"(cc) Weed.
"(dd) Establishment.
"(ee) To use any registered pesticide in a manner inconsistent with its labeling.
"Sec. 3. Registration of pesticides.
"(a) Requirement.
"(b) Exemptions.
"(c) Procedure for registration.
"(1) Statement required.
"(2) Data in support of registration.
"(3) Time for acting with respect to application.
"(4) Notice of application.
"(5) Approval of registration.
"(6) Denial of registration.
"(7) Registration under special circumstances.
"(8) Interim administrative review.
"(d) Classification of pesticides.
"(1) Classification for general use, restricted use, or both.
"(2) Change in classification.
"(3) Change in classification from restricted use to general use.
"(e) Products with same formulation and claims.
"(f) Miscellaneous.
"(1) Effect of change of labeling or formulation.
"(2) Registration not a defense.
"(3) Authority to consult other Federal agencies.
"(a) Reregistration of pesticides.
"Sec. 4. Use of restricted use pesticides; certified applicators.
"(a) Certification procedure.
"(1) Federal certification.
"(2) State certification:
"(b) State plans.
"(c) Instruction in integrated pest management techniques.
"Sec. 5. Experimental use permits.
"(a) Issuance.
"(b) Temporary tolerance level.
"(c) Use under permit.
"(d) Studies.
"(e) Revocation.
"(f) State issuance of permits.
"(g) Exemption for agricultural research agencies.
"Sec. 6. Administrative review: suspension.
"(a) Cancellation after five years.
"(1) Procedure.
"(2) Information.
"(b) Cancellation and change in classification.
"(c) Suspension.
"(1) Order.
"(2) Expedite hearing.
"(3) Emergency order.
"(4) Judicial review.
"(d) Public hearings and scientific review.
"(e) Conditional registration.
"(f) Judicial review.
"Sec. 7. Registration of establishments.
"(a) Requirements.
"(b) Registration.
"(c) Information required.
"(d) Confidential records and information.
"Sec. 8. Books and records.
"(a) Requirement.
"(b) Inspection.
"Sec. 9. Inspection of establishments, etc.
"(a) In general.
"(b) Warrants.
"(c) Enforcement.
"(1) Certification of facts to Attorney General.
"(2) Notice not required.
"(3) Warning notices.
"Sec. 10. Protection of trade secrets and other information.
"(a) In general.
"(b) Disclosure.
"(c) Disputes.
"(d) Limitations.
"(e) Disclosure to contractors.
"(f) Penalty for disclosure by Federal employees.
"(g) Disclosure to foreign and multinational pesticide producers.
"Sec. 11. Standards applicable to pesticide applicators.
"(a) In general.
"(b) Separate standards.

"Sec. 12. Unlawful acts.
"(a) In general.
"(b) Exemptions.
"Sec. 13. Stop sale, use, removal, and seizure.
"(a) Stop sale, etc., orders.
"(b) Seizure.
"(c) Disposition after condemnation.
"(d) Court costs, etc.
"Sec. 14. Penalties.
"(a) Civil penalties.
"(1) In general.
"(2) Private applicator.
"(3) Hearing.
"(4) Determination of penalty.
"(5) References to Attorney General.
"(b) Criminal penalties.
"(1) In general.
"(2) Private applicator.
"(3) Disclosure of information.
"(4) Acts of officers, agents, etc.
"Sec. 15. Indemnities.
"(a) Requirement.
"(b) Amount of payment.
"(1) In general.
"(2) Special rule.
"Sec. 16. Administrative procedure; judicial review.
"(a) District court review.
"(b) Review by Court of Appeals.
"(c) Jurisdiction of district courts.
"(d) Notice of judgments.
"Sec. 17. Imports and exports.
"(a) Pesticides and devices intended for export.
"(b) Cancellation notices furnished to foreign governments.
"(c) Importation of pesticides and devices.
"(d) Cooperation in international efforts.
"(e) Regulations.
"Sec. 18. Exemption of Federal agencies.
"Sec. 19. Disposal and transportation.
"(a) Procedures.
"(b) Advice to Secretary of Transportation.
"(c) Provisions for unused quantities.
"Sec. 20. Research and monitoring.
"(a) Research.
"(b) National monitoring plan.
"(c) Monitoring.
"Sec. 21. Solicitation of comments; notice of public hearings.
"Sec. 22. Delegation and cooperation.
"(a) Delegation.
"(b) Cooperation.
"Sec. 23. State cooperation, aid, and training.
"(a) Cooperative agreements.
"(b) Contracts for training.
"(c) Information and education.
"Sec. 24. Authority of States.
"Sec. 25. Authority of Administrator.
"(a) (1) Regulations.
"(2) Procedure.
"(3) Congressional committees.
"(b) Exemption of pesticides.
"(c) Other authority.
"(d) Scientific advisory panel.
"Sec. 26. State primary enforcement responsibility.
"Sec. 27. Failure by the State to assure enforcement of State pesticide use regulations.
"Sec. 28. Identification of pests; cooperation with Department of Agriculture's program.
"Sec. 29. Annual report.
"Sec. 30. Severability.
"Sec. 31. Authorization for appropriations.".

STUDIES

SEC. 27. (a) The Administrator of the Environmental Protection Agency shall perform a study examining the feasibility of assessing and collecting fees from persons applying to register, or amend the registration of, pesticides to cover the costs incurred by the Environmental Protection Agency in processing such applications under the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act. The Administrator shall complete this study and submit a report setting forth the findings of the study and recommendations for the implementation of these findings to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture, not later than nine months after the date of enactment of this Act.

(b) The Administrator, in cooperation with the Secretary of Agriculture, and after consultation with appropriate State officials, shall review available scientific information dealing with issues involved in the methods of pesticide application, including, but not limited to, the advisability of ultra-low-volume methods of application, and shall recommend to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture such changes as the Administrator may deem necessary in existing law relative to provisions of the Act pertaining to the use of a registered pesticide in a manner inconsistent with its labeling. The report shall be submitted as soon as practicable, but not later than six months after the date of enactment of this Act.

(c) The Administrator shall submit an updated study examining the problems of minor uses of pesticides not specifically permitted by labeling. The Administrator shall complete this study and submit a report setting forth the findings of the study and recommendations for the implementation of these findings to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture, not later than nine months after the date of enactment of this Act.

EFFECTIVE DATES

SEC. 28. Section 4 of the Federal Environmental Pesticide Control Act of 1972 is amended by—

(1) in subsection (b), striking out the colon immediately after the second "thereunder" and all that follows down through the end of the subsection and substituting in lieu thereof a period;

(2) in subsection (c), striking out paragraph (2), and redesignating paragraphs (3), (4), and (5) as (2), (3), and (4), respectively; and

(3) in subsection (c)(3)(B), as redesignated, striking out "Within four years after the enactment of this Act each" and inserting in lieu thereof "Each".

SHORT TITLE

SEC. 29. This Act may be cited as the "Federal Pesticide Act of 1978".

And the House agree to the same.

THOMAS S. FOLEY,
E DE LA GARZA,
GEORGE E. BROWN, JR.,
IKE SKELTON,
JOHN B. BRECKINRIDGE,
JACK HIGHTOWER,
GLENN ENGLISH,
FLOYD FITHIAN,
JOHN W. JENRETTE, JR.,
RAY THORNTON,
JOSEPH S. AMMERMAN,
BILL WAMPLER,
CHARLES THONE,
MARGARET M. HECKLER,
CHUCK GRASSLEY,
RON MARLENEE,
Managers on the Part of the House.

HERMAN E. TALMADGE,
JAMES O. EASTLAND,
GEORGE MCGOVERN,
DICK STONE,
PATRICK LEAHY,
BOB DOLE,
S. I. HAYAKAWA,
DICK LUGAR,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1678) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report. The differences between the Senate bill and the House amendment and the substitute agreed to in the conference are noted in the following outline, except for conforming, clarifying, and technical changes:

1. USE INCONSISTENT WITH LABELING

A. The *Senate* bill provides that the term "to use any registered pesticide in a manner inconsistent with its labeling" means to use any registered pesticide in a manner not permitted by labeling, with several listed exceptions.

The *House* amendment provides that the term means to use any registered pesticide in a manner not permitted by the labeling, *or not authorized by the Administrator of the Environmental Protection Agency, or not authorized by a State under section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)*, with several listed exceptions. [Section 24(c) of FIFRA authorizes States to register pesticides formulated for distribution and use within that State to meet special local needs.]

The *conference* substitute adopts the *House* provision with a modification to make clear that the term "to use any registered pesticide in a manner inconsistent with its labeling" does not include any use of a pesticide in conformance with section 5, 18, or 24 of FIFRA, or any use in a manner that the Administrator determines consistent with the purposes of FIFRA. Such determination by the Administrator may be made by regulation or by authorization in any other manner the Administrator may deem appropriate.

B. The *Senate* bill provides that the term "to use any registered pesticide in a manner inconsistent with its labeling" does not include, among other things, application of a pesticide against any target pest not specified on the labeling if the application is to the crop, animal, or site specified on the labeling.

The *House* amendment provides that the term does not include application of a pesticide against any target pest not specified on the labeling if the application is to the crop, animal, or site specified on the labeling *unless the Administrator has required that the label specifically state that the pesticide may be used only for the pests specified on the label after a determination that use against other pests would cause an unreasonable adverse effect on the environment.*

The *conference* substitute adopts the *House* provision.

C. The *Senate* bill provides that the term "to use any registered pesticide in a manner inconsistent with its labeling" does not include, among other things, "mixing a pesticide with a fertilizer not prohibited by the labeling".

The *House* amendment provides, instead, that the term does not include "mixing a pesticide or *pesticides* with a fertilizer *when such mixture* is not prohibited by the labeling".

The *conference* substitute adopts the *House* provision.

2. USE AT A DILUTION LESS THAN LABEL DOSAGE

The *House* amendment provides that prior to March 31, 1979, the use of a pesticide for agricultural and forestry purposes at a dilution less than label dosage (i.e., a stronger concentration than that specified on the label) will not be deemed a use inconsistent with the label. After March 31, 1979, no such use will be deemed inconsistent with the label unless and until the Administrator has

issued a regulation in accordance with FIFRA that specifically requires the use of definite amounts of dilution.

The *Senate* bill contains no comparable provision.

The *conference* substitute adopts the *House* provision with a modification that provides that after March 31, 1979, the use of a pesticide for agricultural or forestry purposes at a dilution less than label dosage will not be deemed to be a use inconsistent with the labeling unless before or after such date the Administrator issues a regulation or advisory opinion consistent with the study of pesticide application methods provided in section 27(b) of the bill, which regulation or advisory opinion specifically requires the use of definite amounts of dilution.

It is the intent of the *conferees* that articles designated as general use pesticides may be used at a lower dilution than that specified on the labeling unless such lower dilution is prohibited by the labeling or regulation or advisory opinion of the Administrator referred to above. While it would obviously be dangerous to permit more concentrated solutions of restricted use pesticides to be used, the *conferees* recognize the the need to apply the standard of use inconsistent with the labeling in a commonsense manner. Thus, for example, the use of pesticide solutions in lower amounts for aerial spraying, when determined to be safe, should be permitted.

3. STUDY OF PESTICIDE APPLICATION METHODS

The *House* amendment requires the Administrator, in cooperation with the Secretary of Agriculture and after consultation with appropriate State officials, to conduct a study of methods of pesticide application, including ultra-low-volume methods of application. It also directs the Administrator to make recommendations to the agriculture committees of Congress for changes in existing law that the Administrator may deem necessary relative to provisions in FIFRA pertaining to the use of a pesticide in a manner inconsistent with its labeling. The report must be submitted as soon as practicable, but not later than 6 months after the date of enactment of the bill.

The *Senate* bill contains no comparable provision.

The *conference* substitute adopts the *House* provision.

4. STATEMENT IN SUPPORT OF REGISTRATION

The *Senate* bill retains existing law, which requires applicants for registration of a pesticide to file with the Administrator a statement that includes, if requested by the Administrator, a full description of tests made and the results thereof on which claims for the pesticide are based.

The *House* amendment also retains this provision, but, in addition, provides that, as an alternative to describing tests made and results thereof, the applicant may cite data (1) that appear in the public literature or (2) that previously had been submitted to the Administrator by the original data submitter if the exclusive use and data compensation provisions are met.

The *conference* substitute adopts the *House* provision.

5. USE OF APPLICANT'S DATA

A. The *Senate* bill provides that restrictions on the use by an applicant for registration of a pesticide of another applicant's data will apply to data *generated, collected, or developed by, or at the expense of, and originally submitted in support of* an application by, the original applicant

The *House* amendment provides that the restrictions will apply to data *submitted* by the original data submitter.

The *conference* substitute adopts the *House* provision. The *conferees* intend that the exclusive use and data compensation provisions of FIFRA should apply only for those data submitters who are entitled to exclusive use or compensation, either because they generated the data, paid for its generation, or otherwise have legal ownership of the data.

B. The *Senate* bill provides that the restrictions on use will apply to data orginally submitted in support of an application for registration.

The *House* amendment contains the same provision, but also provides that the restrictions will apply to data submitted to support an application for an experimental use permit or to satisfy a request by the Administrator.

The *Senate* bill deletes the provision in existing law with respect to compensation for use of another applicant's data submitted to the Administrator on or after January 1, 1970, and provides instead, that no data may, without the written permission of the original data submitter, be considered by the Administrator in support of another person's application for registration within the 7-year period commencing on the date the data were first submitted to the Administrator, unless the applicant submits an offer to compensate the original data submitter for use of the data.

The *House* amendment also deletes provisions of existing law on data compensation and provides, instead, that data first submitted to the Administrator after January 1, 1970, may not, without the written permission of the original data submitter, be considered by the Administrator to support an application by another person with the following exceptions:

(1) In the case of data originally submitted to support an application for an experimental use permit or for registration of a new pesticide product, the Administrator may consider the data to support another person's application for registration after passage of a period of 5 years following the date the Administrator first issues a registration, to the extent the person has complied with the data compensation requirements.

(2) In the case of data submitted in support of an application for an amendment adding a new use or uses to an existing registration, and that pertains solely to such new use, the Administrator may consider such data in support of another person's application for registration after passage of a period of 5 years following the date the Administrator first registered the pesticide (and not 5 years after the date the Administrator registered the new use under this clause), to the extent the person has complied with the data compensation requirements.

(3) In the case of data requested by the Administrator and first submitted to support or maintain in effect an existing registration or to support reregistration, the Administrator may consider the data to support another person's application for registration after passage of a period of 5 years following the date of submission, to the extent the person has complied with the data compensation requirements.

The *House* amendment provides that—during the 5-year period commencing immediately upon the expiration of a period of exclusive use for an item of data—the Administrator may, without the permission of the original data submitter, consider such item of data in support of an application for registration only if the applicant has submitted to the Administrator an offer to compensate the original data submitter for the use of such data.

The *House* amendment specifically provides that after expiration of any period of exclusive use and any period for which compensation is required for the use of an item of data, the Administrator may consider such item of data in support of an application for registration by any other applicant without the permission of the original data submitter and without an offer having been received to compensate the original data submitter for the use of such data.

The *conference* substitute provides that—

(1) all test data submitted after December 31, 1969, will be compensable for a period of 15 years from the date the data are submitted;

(2) in the case of pesticides registered after the date of enactment of this provision, there will be a period of exclusive use for data submitted in support of the registration of a product containing a new active ingredient running for 10 years from the date the product is registered, except that there will be no exclusive use for defensive data; and

(3) there will be a period of exclusive use for data submitted in support of the new use registration of a product equal to the time of exclusivity remaining under any 10-year exclusive use period of the product.

The *conferees* intend that the term "defensive data" as used in the *conference* substitute means any data or information relating to a pesticide registered prior to the date of enactment of the *conference* substitute and submitted to the Administrator as required to support the continued registration of such a pesticide, or that concern an active ingredient in such a pesticide and are required by the Administrator when considering registration actions involving that ingredient. Therefore, data that concern an active ingredient that is contained in a pesticide registered prior to the date of enactment of the *conference* substitute are defensive data when they are submitted in connection with a new product or new use registration or in any other application or submission and, in each case, they relate only to that active ingredient.

Similarly, the *conferees* intend that the term "defensive data" also includes supplemental data (other than data submitted to satisfy the terms of a conditional registration and otherwise entitled to exclusive use) that support the continued registration of a pesticide first registered after the date of enactment of the *conference* substitute.

When data supporting the registration of a pesticide first registered after the date of enactment of the *conference* substitute that are given exclusive use protection under section 3(c)(1)(D)(i) of FIFRA are used within the 10-year period of exclusive use to support the registration of a different product, such data shall continue to have exclusive use protection for the balance of the 10-year period. If such data are used to support the registration of a different product after the expiration of the 10-year period of exclusive use, such data shall not be eligible for any additional period of exclusive use.

Data that concern the unique characteristics of several pesticide ingredients in combination would not be considered defensive data if submitted in support of the initial registration of the combination product. Such data or data supporting additional uses of the combination product would be eligible for exclusive use treatment to the extent otherwise provided by the *conference* substitute.

Whenever the Administrator imposes a new data requirement on any applicant that is also applicable to other pesticides, he shall do so by modifying the guidelines promulgated under section 3(c)(2) of FIFRA.

Data or information submitted to support a conditional registration under section 3(c)(7) of FIFRA are entitled to whatever exclusive use or compensation that would apply to data supporting a registration under section 3(c)(5).

Data submitted in support of a request for an experimental use permit for a pesticide containing a new active ingredient registered after the date of enactment of the bill or a new use for such pesticide will be considered as data to support the pending registration of such pesticide or new use.

Accordingly, such data will not be available to other applicants without the consent of the original data submitter for a period of 10 years from the date the product is initially registered.

ARBITRATION ON DATA COMPENSATION

A. The *Senate* bill provides that, in the event of arbitration to determine the terms and amount of compensation for use of another applicant's data, the findings and determination of the arbitrator shall be *binding and conclusive.*

The *House* amendment provides that the findings and determination of the arbitrator shall be *binding and not subject to further appeal.*

The *conference* substitute adopts the *House* provision with a modification to provide that the findings and determination of the arbitrator will be final and conclusive, and no official or court of the United States will have power or jurisdiction to review any such findings and determination, except for fraud, misrepresentation, or other misconduct by one of the parties to the arbitration or the arbitrator where there is a verified complaint with supporting affidavits attesting to specific instances of such fraud, misrepresentation, or other misconduct.

B. The *Senate* bill provides that the Administrator must furnish notice of intent to take action in response to failure by a person to reach agreement on compensation or to arbitrate, and allow 15 days for the affected person to respond.

The *House* amendment contains the same provision but requires that such notice be *in writing and by certified mail* and allows 15 days *from the date of furnishing the notice* for the affected person to respond.

The *conference* substitute adopts the *House* provision with a modification to provide that the 15-day period for response to a notice of intent to take action will begin on the date of *delivery* of the written notice.

7. ADDITIONAL DATA TO SUPPORT EXISTING REGISTRATIONS—CANCELLATION

The *Senate* bill provides that if the Administrator determines that a registrant (1) has failed to take appropriate steps to secure additional data to support an existing registration as required by the Administrator, or (2) with respect to any joint data development arrangement among the registrants of a pesticide, has failed to participate in a procedure for reaching agreement on the terms of the arrangement or in an arbitration proceeding, or (3) has failed to comply with the terms of the arrangement or an arbitration decision on the terms of the arrangement, the Administrator must cancel the registrant's registration of the pesticide for which additional data is required. This cancellation is to be made without further hearing, except that the Administrator must first furnish the affected person notice of intent to cancel and allow 15 days for such person to respond.

The *House* amendment contains the same provision requiring cancellation of the registration, but prescribes a different procedure for cancellation. The cancellation is to be made in accordance with section 6(b) of FIFRA.

The *conference* substitute authorizes the Administrator to enforce a defensive data requirement, or compliance with the terms of an agreement or arbitration decision concerning a joint data development arrangement, by instituting a procedure to suspend the registrant's registration until such time as the data are received or compliance obtained.

Any suspension proposed under this provision will become final and effective at the end of 30 days from receipt by the registrant of a notice of intent to suspend, unless during that time a request for hearing is made by a person adversely affected by the notice or the registrant has satisfied the Administrator that the registrant has complied fully with the requirements that served as a basis for the notice of intent to suspend. If a hearing is requested, a hearing will be conducted pursuant to section 6(d) of FIFRA. The only matters for resolution at that hearing will be whether the registrant has failed to take the action that served as the basis for the notice of intent to suspend concerning the pesticide for which additional data is required, and whether the Administrator's determination with respect to the disposition of existing stocks is consistent with FIFRA. If a hearing is held, a decision after completion of such hearing will be final. The hearing will be held and a determination made within 75 days after receipt of a request for such hearing. Any registration suspended under this provision will be reinstated upon the Administrator's determination that the registrant has complied fully with the requirements that served as a basis for the suspension of the registration.

The *Conferees* are concerned that in certain instances some registrants may fail to cooperate with other registrants in agreeing "to develop jointly, or share in the cost of developing", data to maintain in effect a registration. The *conferees* intend that certain registrants should not be permitted to "freeze-out" other registrants by refusing to agree to develop jointly or share in the cost of developing such data, and that no registrant should be permitted to obtain windfalls from delaying tactics employed in entering into such agreements. However, nothing in FIFRA prevents any single registrant from developing such data independently.

8. SIMPLIFIED REGISTRATION PROCEDURES

The *Senate* bill provides that the Administrator must by regulation prescribe simplified procedures for registration of pesticides.

The *House* amendment contains the same provision, but further requires that the regulations be issued within 9 months after the date of enactment of the bill.

The *conference* substitute adopts the *House* provision. The *conferees* do not intend that the simplified registration procedures (or the regulations issued under section 3(c)(2)(C) of FIFRA) negate rights otherwise enforceable under section 3(c)(1)(D) of FIFRA.

9. EXEMPTION FROM REQUIREMENTS FOR SUBMISSION OF DATA

The *Senate* bill provides that no applicant for registration who proposes to purchase a *registered pesticide* from another producer in order to formulate the purchased pesticide into an end-use product shall be required to (1) submit data pertaining to the safety of the purchased product or (ii) offer to pay reasonable compensation otherwise required for the use of such data.

The *House* amendment contains a similar provision. It provides that no applicant for registration of a pesticide who proposes to purchase a registered *basic pest control chemical* from another producer in order to formulate the purchased pesticide into an end-use product shall be required to (i) submit *or cite data* pertaining to the safety of the *basic pest control chemical as opposed to the safety of the formulated pesticide,* or (ii) offer to pay reasonable compensation otherwise required for the use of such data. The term "basic pest control chemical" is defined to mean a pesticide that is not intended to be applied for pest control purposes without further formulation, but is intended to be used in producing a formulated pesticide; and the term "formulated pesticide" is defined to mean a pesticide that is intended to be applied for pest control purposes without further mixing or formulation, or after mixing with water or other diluent by the applicator.

The *conference* substitute adopts the *Senate* provision with a modification to permit citation of data as well as submission of data.

10. WAIVER OF DATA REQUIREMENTS PERTAINING TO EFFICACY

The *House* amendment provides that, if a pesticide is found to be efficacious by any State in connection with the registration by that State of a pesticide formulated to meet special local needs, a presumption is established that the Administrator shall waive data requirements pertaining to efficacy for use of the pesticide in such State.

The *Senate* bill contains no comparable provision.

The *conference* substitute adopts the *House* provision with a modification to clarify that if the Administrator waives data requirements pertaining to efficacy, the Administrator has the discretion to register the pesticide without determining that the pesticide's composition is such as to warrant proposed claims of efficacy.

In those instances in which the efficacy of a pesticide cannot be determined without submission of data, the *conferees* consider that this provision authorizes the Administrator to waive review of efficacy data on such pesticides provided that test protocols and data requirements are established or approved by the Administrator, data from a reliable testing facility that supports the application for registration are submitted, and the applicant provides a certified summary stating that the product passes the required tests for efficacy.

11. CONDITIONAL REGISTRATION

A. The *Senate* bill authorizes the Administrator to conditionally register or register products in certain situation, even though certain of the data that are required for complete registration or reregistration have not yet been generated, or, if on file with the Administrator, have not yet been reviewed for validity or sufficiency. Three kinds of conditional registrations would be authorized: conditional registration of pesticides identical or substantially similar to currently registered pesticides; conditional amendments to current registrations to add new uses; and conditional registration of pesticides containing active ingredients not contained in any currently registered pesticide.

The *House* amendment contains the same provisions, but, in addition, authorizes conditional registration, subject to specified conditions, if—with respect to pesticides identical or substantially similar to currently registered pesticides and proposal amendments to current registrations to add new uses—the applicant is unable to submit an item of data because it is an item of data to which the exclusive use or compensation requirements apply.

The *conference* substitute adopts the *Senate* provision.

B. The *Senate* bill prohibits the Administrator from granting conditional registration of a pesticide for additional uses, if—

(1) the Administrator has issued a notice that the pesticide, or any of its ingredients, meets or exceeds risk criteria related to human dietary exposure, and during the pendency of any risk-benefit evaluation initiated by the notice; and

(2) the additional use involves a minor food or feed crop and the Administrator determines that there is available an effective alternative pesticide that does not meet or exceed such risk criteria.

The *House* amendment contains the same provision, but also requires the concurrence of the Secretary of Agriculture that there is an effective alternative pesticide available.

The *conference* substitute adopts the *House* provision.

C. The *Senate* bill provides that the Administrator may conditionally register a pesticide containing an active ingredient not contained in any currently registered pesticide, subject to certain conditions: *Provided,* That the Administrator may grant such registration only if the Administrator determines that (1) use of the pesticide during such period will not cause any unreasonable adverse effect on the environment, *and (2) use of the pesticide is required in the public interest.*

The *House* amendment contains the same provision, except that it does not require the Administrator's determination that the use of the pesticide is in the public interest.

The *conference* substitute adopts the *Senate* provision with a modification providing for the Administrator to determine as a condition to granting the registration that use of the pesticide is in the public interest and not, as in the *Senate* provision, *required* in the public interest.

The *conferees* have agreed to the inclusion of new sections 3(c)(7)(A), (B), and (C) in FIFRA to authorize the Administrator to register pesticides conditionally on a case-by-case basis. This authorization is intended to apply, with respect to conditional registrations of pesticides containing new ingredients, to situations, among others, where such a pesticide may be conditionally registered for a period sufficient to obtain the data required by the Administrator.

12. INTERIM ADMINISTRATIVE REVIEW

The *House* amendment provides that the Administrator may not initiate a public interim administrative review process to develop a risk-benefit evaluation of the ingredients of a pesticide or any of its uses (a rebuttable presumption against registration (RPAR)) prior to initiating a formal action to cancel, suspend, or deny registration of such pesticide, required under FIFRA, unless such interim administrative process is based on a validated test raising prudent concerns of unreasonable adverse risk to man or to the environment.

The *Senate* bill contains no comparable provision.

The *conference* substitute adopts the *House* provision with a modification providing that the interim administrative review process must be based on a validated test or other significant evidence raising prudent concerns of unreasonable adverse risk to man or the environment and that notice of the definitions of such test and significant evidence will be published by the Administrator in the Federal Register.

The Administrator shall insure that pesticides shall be subject to the RPAR process only on the basis of a validated test or other significant evidence (and not on the basis of unsubstantiated claims), that the term "validated test" be defined as a test conducted and evaluated in a manner consistent with accepted scientific procedures, and that the term "other significant evidence" be defined as evidence that relates to the use of a pesticide and their adverse risk to man or to the environment. It is the intent of the *conferees* that "other significant evidence" of adverse risk means factually significant information and is not to include evidence based only on misuse of the pesticide.

Under the *conference* substitute, the Administrator is directed to notify in writing the registrant of a pesticide product under special review of the exact scope and nature of any alleged unreasonable adverse effects to human health or the environment, prior to initiating an RPAR process. Such notification will be by private communication and afford the registrant a reasonable opportunity to correct or clarify through the submission of data any such risk associated with its pesticide product. This in turn could obviate the need for an RPAR to issue. This notification process will furnish a greater degree of protection for the property rights of pesticide registrants and ameliorate the indictment-like characteristics of the RPAR process.

Human exposure to pesticides through any medium or pathway is a central issue in evaluating the unreasonable adverse effects of pesticide products. Where this issue can be resolved without an RPAR being initiated, it shall be.

To avoid the time-consuming RPAR process, the Administrator is therefore directed to establish suitable scientific protocols for the development of human exposure data; to work cooperatively with the registrants in the assembling and collection of such data; and then to evaluate and weigh such data prior to initiating an RPAR process. If humans or their environment are not at risk or the potential for exposure is minimal, the Administrator is directed to forego the RPAR process and proceed with the reregistration of the pesticide product.

13. CLASSIFICATION PRIOR TO REREGISTRATION

The *House* amendment provides that, if the Administrator determines to change a pesticide from general to restricted use, the Administrator shall notify the registrant at least *60 days* before making the change.

The *Senate* bill continues existing law, under which a registrant in such circumstances must be given at least *30 days* notice.

The *conference* substitute requires that the registrant receive *45 days* notice of a proposed change in classification of a pesticide from general use to restricted use.

14. CHANGE IN CLASSIFICATION FROM RESTRICTED USE TO GENERAL USE

The *House* amendment provides that a registrant of a pesticide with one or more uses classified for restricted use may petition the Administrator to change any such classification from restricted use to general use with the requirement that the petition establish that reclassification would not cause unreasonable adverse effects on the environment. It also requires that the Administrator act upon the petition within 60 days and, in case the petition is denied, provide the registrant an explanation of the denial. It also provides that any denial of the petition is subject to judicial review under section 16 of FIFRA.

The *Senate* bill contains no comparable provision.

The *conference* substitute adopts the *House* provision with a technical amendment authorizing the Administrator to classify pesticide uses by regulation on the initial classification.

15. AUTHORITY OF THE ADMINISTRATOR TO CERTIFY APPLICATORS

A. The *Senate* bill requires the Administrator, in consultation with the Governor of the State, to conduct a program for the certification of applicators of pesticides in any State for which a State plan for applicator certification had not been approved by the Administrator by *October 20, 1977.*

The *House* amendment contains the same provision, but requires the Administrator to conduct the program *only if it is practicable* for the Administrator to do so, and if the State plan had not been approved by *February 20, 1978.*

The *conference* substitute adopts the *Senate* provision authorizing the Administrator to certify applicators in any State without an approved plan with a modification deleting the cutoff date.

B. The *Senate* bill provides that prior to implementation of any Federal certification program, the Administrator must publish in the Federal Register, for review and comment, a summary of the Federal plan, make copies of the plan generally available in the State, and hold public hearings within the State if requested by the Governor.

The *House* amendment contains no comparable provision.

The *conference* substitute adopts the *Senate* provision.

C. The *House* amendment provides that the Federal certification program must conform to requirements for State plans for applicator certification imposed under the provisions of section 4(a)(2) of FIFRA and must not require the private applicator to take any examination to establish competency in the use of pesticides.

The *Senate* bill contains no comparable provision.

The *conference* substitute adopts the *House* provision.

16. FEDERAL COST SHARING

The *House* amendment requires, effective with the fiscal year beginning October 1, 1978, that the Administrator share with each State on an equal basis the cost to that State of conducting an applicator certification program.

The *Senate* bill contains no comparable provision.

The *conference* substitute amends section 23 of FIFRA to assist States in developing and administering State programs, and Indian tribes entering into cooperative agreements, for the training and certification of applicators consistent with standards prescribed by the Administrator. The *conference* substitute provides that effective with the fiscal year beginning October 1, 1978, there are authorized to be appropriated annually such funds as may be necessary for the Administrator to provide through cooperative agreements an amount equal to 50 percent of the anticipated cost to each State and Indian tribe, as agreed to under such cooperative agreement, of conducting training and certification programs. If funds sufficient to pay 50 percent of the costs for any year are not appropriated, the share of each State and Indian tribe will be reduced in a like proportion in allocating available funds.

17. ALTERNATIVE TO CANCELLATION

The *Senate* bill amends existing law with respect to cancellation of registrations by providing that, in taking final action to cancel or change the classification of a pesticide, the Administrator *may* consider restricting a pesticide's use or uses as an alternative to cancellation.

The *House* amendment provides that the Administrator *shall* consider restricting a pesticide's use or uses as an alternative to cancellation and fully explain the reasons for such restrictions.

The *conference* substitute adopts the *House* provision.

18. TRADE SECRETS—INFORMATION AVAILABLE FOR DISCLOSURE

A. The *Senate* bill provides that, with certain exceptions, all information concerning the objectives, methodology, results, or significance of any test or experiment performed on or with a registered or previously registered pesticide or its separate ingredients, impurities, or degradation products, and any information concerning the effects of such pesticide on any organism or the behavior of the pesticide in the environment, will be available for disclosure to the public.

The *House* amendment contains the same provision, but adds examples of data on the behavior of pesticides in the environment that will be disclosed, to include data on safety to fish and wildlife, humans and mammals, plants, animals, and soil, and studies on persistence, translocation and fate in the environment, and metabolism.

The *conference* substitute adopts the *House* provision.

B. The *House* amendment specifically provides that such data as are authorized for release to the public, if used for any registration purpose, will be subject to the exclusive use and compensation provisions added to existing law by the bill.

The *Senate* bill does not add such specific provision to FIFRA. However, the provisions in FIFRA dealing with data compensation, as amended by the *Senate* bill, do not exclude information released to the public from the requirement for compensation.

The *conference* substitute adopts the *House* provision.

19. TRADE SECRETS—PROCEDURE FOR RELEASE OF CERTAIN INFORMATION

A. Both the *Senate* bill and the *House* amendment provide that the authority to make information concerning tests and experiments performed on or with pesticides, their ingredients, impurities, and degradation products, the effects of pesticides on organisms, and the behavior of pesticides in the environment available to the public does not authorize the disclosure of any information that—

(1) discloses manufacturing or quality control processes,

(2) discloses the details of any methods for analyzing the quantity of deliberately added inert ingredients of pesticides, or

(3) discloses the identity or percentage quantity of any deliberately added inert ingredient of a pesticide.

The *House* amendment further provides that, if the Administrator proposes to disclose such information, the Administrator must notify, in writing and by certified mail, the submitter of information of the intent to release the information. The information may not be released, without the submitter's consent, until 30 days after notice is given. However, where the Administrator finds that the disclosure of such information is necessary to avoid or lessen an imminent and substantial risk of injury to the public health, he may set such shorter period of notice (but not less than 10 days) and use such method of notice as he finds appropriate.

The *Senate* bill contains no comparable provision requiring notification and waiting periods prior to release of such information.

The *conference* substitute adopts the *House* provision.

B. The *Senate* bill requires notification and a 30-day waiting period with respect to the disclosure at a public proceeding, if necessary in the public interest, of trade secret information concerning production, distribution, sale, or inventories of a pesticide.

The *House* amendment contains the same provision, but provides for a shorter waiting period, of not less than 10 days, if the Administrator finds that disclosure is necessary to avoid or lessen an imminent and substantial risk of injury to the public health.

The *conference* substitute adopts the *House* provision.

C. The *House* amendment further provides that during the waiting period for the release of (1) manufacturing and ingredient information and (2) information concerning production, distribution, sale, or inventories of a pesticide, any data submitter may institute an action in an appropriate Federal district court to enjoin or limit the proposed disclosure. The court is required to give expedited consideration to any such action and may enjoin disclosure or limit the disclosure or the parties to whom disclosure is made to the extent that—

(1) in the case of the manufacturing and ingredient information, the proposed disclosure is not required to protect against unreasonable risk of injury to health or the environment; or

(2) in the case of information concerning production, distribution, sale, or inventories of a pesticide otherwise entitled to confidential treatment, the public interest in availability of the information in the public proceeding does not outweigh the interests in preserving the information's confidentiality.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

20. TRADE SECRETS—DISCLOSURE TO CONTRACTORS

A. The *Senate* bill authorizes the Administrator to disclose to contractors trade secret or commercial or financial information otherwise protected from disclosure under section 10(b) of FIFRA.

The *House* amendment authorizes the Administrator to disclose to contractors information that is exempt from disclosure under the Freedom of Information Act as trade secrets or as commercial or financial information obtained from a person and that is privileged or confidential.

The *conference* substitute adopts the *Senate* provision.

B. The *Senate* bill provides that such disclosure may be made to contractors with the United States and employees of such contractors if, in the opinion of the Administrator, such disclosure is necessary for the satisfactory performance by the contractor of work under the contract in connection with FIFRA and under such conditions as the Administrator may specify.

The *House* amendment provides that such disclosure may be made to persons other than officers or employees of the Environmental Protection Agency if the Administrator determines that the person requires the information in connection with an activity (1) that is undertaken under contract with the Administrator, (2) that relates to the administration of FIFRA, and (3) with respect to which the Administrator (or an officer or employee of the agency) is not prohibited from using such information. The Administrator is required to ensure that persons receiving such information take such security precautions to protect the information as may be prescribed by regulation.

The *conference* substitute adopts the Senate provision with a modification to include the last sentence of the *House* provision requiring that persons receiving information take such security precautions to protect the information as prescribed by the Administrator in regulations.

21. TRADE SECRETS—PENALTY FOR DISCLOSURE BY FEDERAL EMPLOYEES

The *Senate* bill provides that the willful disclosure to unauthorized persons by present or former Government employees of information protected from disclosure by the trade secret provisions of FIFRA, as amended by the bill, with knowledge that the disclosure of the material is so prohibited, will be a misdemeanor, punishable by imprisonment for up to 1 year, or by a fine of not more than $5,000, or by both such imprisonment and fine.

The *House* amendment contains the same provision except that the maximum fine is set at $10,000.

The *conference* substitute adopts the *House* provision setting the maximum fine at $10,000 with a modification providing that nothing in FIFRA shall preempt any civil remedy under State or Federal law for wrongful disclosure of trade secrets.

22. TRADE SECRETS—DISCLOSURE TO FOREIGN AND MULTINATIONAL PESTICIDE PRODUCERS

The *House* amendment provides that the Administrator may not knowingly disclose information submitted by an applicant or registrant under FIFRA to any employee or agent of any business or other entity engaged in the production, sale, or distribution of pesticides in countries other than the United States, or in addition to the United States, or to any other person who intends to deliver such data to such foreign or multinational business entity, unless consent is given for such disclosure. The Administrator must require written affirmation from persons inspecting data that they do not seek access thereto for the purpose of delivering it or offering it for sale to any such business or entity or its agents or employees, and that they will not purposefully deliver, or negligently cause such data to be delivered to such business or entity or its agents or employees. The provisions of 18 U.S.C. 1001—the false statement statute—apply to the affirmations signed by persons inspecting data. In addition, the Administrator must maintain records of persons to whom data are disclosed as well as their affiliations, and this information will be provided to the registrant.

The *Senate* bill contains no comparable provision.

The *conference* substitute adopts the *House* provision with a modification providing that the Administrator may disclose information to any person in connection with a public proceeding conducted under law or regulations, subject to restrictions on the availability of information that are provided elsewhere in FIFRA, which information is relevant to a determination by the Administrator with respect to whether a pesticide, or any ingredient of a pesticide, causes unreasonable adverse effects on health or the environment.

23. ENFORCEMENT RESPONSIBILITY—PESTICIDE USE VIOLATIONS

A. The *Senate* bill requires the Administrator to delegate to the States the primary responsibility for the enforcement of the provisions of FIFRA relating to pesticide use violations.

The *House* amendment contains a similar requirement, but also provides that, in order to qualify for this enforcement responsibility, a State must—

(1) have a State plan for State certification of pesticide applicators that is approved by the Administrator; or

(2) have pesticide use laws and regulations no less stringent than those under FIFRA, adopt and implement adequate procedures for the enforcement of State pesticide use regulations, and keep required records and make required reports, as determined by the Administrator.

Also, the *House* amendment specifically provides that if a State does not have enforcement responsibility, because it neither has an approved State plan nor meets the other qualifications, the Administrator will have enforcement responsibility in the State.

The conference substitute adopts the *House* provision with modifications that would change the criteria in section 26(a)(1) of FIFRA, as added by the *House* amendment, concerning State laws and regulations that would qualify a State for primary enforcement responsibility. Rather than requiring the State laws and regulations to be as stringent as FIFRA, they would be required to be adequate for enforcement purposes. Under this provision, the Administrator could not require State laws and regulations to be more stringent than FIFRA. The *conference* substitute would also provide primary enforcement responsibility to those States that have entered into cooperative enforcement agreements with the Administrator under section 23 of FIFRA. In addition, with respect to other States, there would be a rapid evaluation, to be completed no later than 6 months after the date of enactment of the *conference* substitute, of State applicator certification and training plans approved by the Administrator under section 4 of FIFRA. Those States that are determined to have section 4 plans adequate for enforcement purposes would also have primary enforcement responsibility for pesticide use violations.

The Administrator may not use the cooperative agreements entered into under section 23 of FIFRA to obtain dual enforcement responsibility with the States.

B. The *House* amendment provides that effective with the 1979 fiscal year, the Administrator is to bear half the costs incurred by States in meeting their primary enforcement responsibilities for pesticide use violations.

The *Senate* bill contains no comparable provision.

The *conference* substitute deletes the *House* provision.

C. The *House* amendment requires the Administrator to refer complaints of pesticide use violations to appropriate State officials in States exercising primary enforcement responsibility. If the State does not act on the complaint within 30 days, the Administrator will be authorized to commence action on the complaint.

The *Senate* bill contains no comparable provision.

The *conference* substitute adopts the *House* provision with a modification so that the Administrator could enforce FIFRA on the basis of any complaint or other information alleging or indicating a significant violation of the pesticide use provisions of FIFRA, in the absence of action by the State within 30 days after such matter has been referred to the State.

The *conference* substitute also clarifies provisions of the *Senate* bill and *House* amendment under which the Administrator shall notify the State that has primary enforcement responsibility if he determines that the State is not carrying out its responsibility, to include explicitly those cases where the State authority cannot carry out its responsibility due to lack of adequate legal authority. Under the *conference* substitute, if the State does not correct a deficiency in 90 days, the Administrator may rescind, in whole or in part, the State's primary enforcement responsibility.

D. The *Senate* bill provides that nothing in section 14 of the bill shall limit the Administrator's authority to enforce FIFRA in situations in which the Administrator determines that conditions exist that require action by the Administrator.

The *House* amendment contains a similar provision, but states that nothing in section 26 of FIFRA will limit the Administrator's overriding authority to enforce FIFRA and restricts such authority to *emergency* situations that require *immediate* action.

The *conference* substitute provides that neither new section 26 nor 27 of FIFRA will limit the authority of the Administrator to enforce FIFRA, when he determines that emergency conditions exist that require immediate action on the part of the Administrator and the State authority is unwilling or unable adequately to respond to the emergency.

24. USE OF COOPERATIVE STATE EXTENSION SERVICES

The *Senate* bill *authorizes*, but does not mandate, the Administrator to use the cooperative State extension services to inform and educate pesticide users about accepted uses for pesticides and other regulations under FIFRA.

The *House* amendment *requires* the Administrator to use the services of the cooperative State extension services for the conduct of this educational program.

The *conference* substitute adopts the *House* provision. Under this provision, the Administrator would not be prevented from using services of agencies other than the cooperative State extension services in conducting educational programs under FIFRA.

25. REGULATIONS UNDER FIFRA

A. The *House* amendment adds a new requirement that regulations prescribed by the Administrator to carry out FIFRA must take into account the differences in environmental risk and the appropriate data for evaluating such risk between agricultural and nonagricultural pesticides. (The Administrator is required, under existing law, to take into account "the difference in concept and usage between various classes of pesticides".)

The *Senate* bill contains no comparable provision.

The *conference* substitute adopts the *House* provision. In order to accelerate the overall registration process, the Administrator should expedite efforts to establish appropriate safety, efficacy, and labeling guidelines, as well as appropriate hazard evaluation criteria to distinguish between agricultural and nonagricultural pesticides.

B. The *House* amendment requires the Administrator to take into account, in taking final action on regulations to carry out FIFRA, the effect of such final action on production and prices, of agricultural commodities, retail food prices, and otherwise on the agricultural economy. The Administrator is also required to publish simultaneously an analysis of this effect in the Federal Register.

The *Senate* bill contains no comparable provision.

The *conference* substitute adopts the *House* provision.

26. CONGRESSIONAL VETO OF REGULATIONS

The *House* amendment provides that no rule or regulation under FIFRA may become effective if (1) within 90 days of continuous session after the date of promulgation both Houses of Congress adopt a concurrent resolution of disapproval, or (2) within 60 calendar days of continuous session after the date of promulgation one House of Congress adopts such a concurrent resolution and such resolution is not disapproved within 30 calendar days of continuous session thereafter by the other House. If, within 60 calendar days of continuous session after the date of promulgation, no committee of either House has reported or been discharged from further consideration of a concurrent resolution of disapproval, the rule or regulation may go into effect immediately. The *House* amendment also provides that congressional inaction or rejection of a resolution of disapproval is not deemed an expression of approval.

The *Senate* bill contains no comparable provision.

The *conference* substitute deletes the *House* provision.

27. SCIENTIFIC ADVISORY PANEL

A. The *House* amendment requires the Administrator to solicit from the scientific advisory panel established under FIFRA comments, evaluations, and recommendations for operating guidelines to improve the effectiveness and quality of scientific analyses by Environmental Protection Agency personnel that lead to decisions by the Administrator. The comments, evaluations, and recommendations, and the Administrator's response, are to be published in the Federal Register.

The *Senate* bill contains no comparable provision.

The *conference* substitute adopts the *House* provision.

B. The *House* amendment authorizes the chairman of the scientific advisory panel to create temporary subpanels on specific projects to assist the full panel in expediting and preparing its evaluations, comments, and recommendations.

The *Senate* bill contains no comparable provision.

The *conference* substitute adopts the *House* provision.

C. The *Senate* bill extends the life of the scientific advisory panel to January 1, 1981.

The *House* amendment makes the panel permanent.

The *conference* substitute adopts the *Senate* provision with a modification extending the life of the scientific advisory panel to September 30, 1981.

D. The *House* amendment requires that the scientific advisory panel consult and coordinate its activities with the Science Advisory Board established under the Environmental Research, Development, and Demonstration Authorization Act of 1978.

The *Senate* bill contains no comparable provision.

The *conference* substitute adopts the *House* provision.

28. EFFECTIVE DATES

A. The *House* amendment extends from October 20, 1977, through April 20, 1978—

(1) the effective date for any requirements that may be imposed under FIFRA that a pesticide be registered for use only by a certified pesticide applicator; and

(2) the deadline for the completion of certification of pesticide applicators.

The *Senate* bill contains no comparable provision.

The *conference* substitute deletes the *House* provision.

B. The *House* amendment also eliminates the October 20, 1976, deadline for the submission to the Administrator of State plans for applicator certification programs.

The *Senate* bill contains no comparable provision.

The *conference* substitute adopts the *House* provision.

29. PROFESSIONAL OR COMMERCIAL APPLICATORS

A. The *Senate* bill amends FIFRA to establish "professional applicators" as a class of persons separate from "sellers" and "distributors". (Professional applicators are now considered as sellers or distributors for the purposes of enforcing FIFRA.) Specifically, the *Senate* bill adds to section 2 of FIFRA a definition of "professional applicator" to mean an applicator who applies pesticides for hire; and amends other sections of FIFRA to make professional applicators subject to the unlawful acts provisions, the stop sale, use, or removal order provisions, and the criminal and civil penalties in FIFRA.

The *House* amendment contains no comparable provision, but adds to the definition of "certified applicator" in FIFRA a provision that any certified applicator who holds and applies pesticides only to provide pest control service without delivering unapplied pesticides to any person so served is not to be deemed a "seller" or "distributor". Commercial applicators would normally fit this exception. The *House* amendment also expands the definition of "commercial applicator" in FIFRA to include noncertified as well as certified applicators. This has the effect of expanding the coverage of the penalty provisions of FIFRA to all persons who apply restricted use pesticides commercially, not just applicators certified under FIFRA.

The *conference* substitute adopts the *House* provision with a modification in the sentence added to the definition of "certified applicator" in section 2(e)(1) of FIFRA to provide that any *applicator* who holds or applies *registered pesticides, or use dilutions of registered pesticides consistent with section 2(ee) of FIFRA*, only to provide a service of controlling pests without delivering any unapplied pesticide to any person so served, is not a "seller" or "distributor" of pesticides under FIFRA.

This has the effect of providing that if there is a violation of FIFRA by an applicator who holds or applies an *unregistered pesticide*, or a use dilution of any such pesticide, solely to provide a service of controlling pests without delivering any unapplied pesticide to any person so served, such person would be considered a distributor of pesticides and would be subject to the higher penalties set forth in sections 14(a)(1) and 14(b)(1) of FIFRA. Likewise, such persons who violate FIFRA while using pesticides registered for *restricted* use are considered commercial applicators and subject to the same higher penalties. Any such person who holds or applies a pesticide registered for *general use*, or a use dilution of a pesticide registered for general use, who violates FIFRA, would be subject to the lower penalties as set forth in sections 14(a)(2) and 14(b)(2) of FIFRA.

The *conference* substitute amends the civil penalties in section 14(b)(2). If there is a violation by a person who commercially applies a pesticide registered for general use, or use dilution of such pesticide, a civil penalty of up to $500 may be imposed for the first offense and up to $1,000 for each subsequent offense.

B. The *Senate* bill amends section 1(a) of FIFRA to authorize the Administrator, in any State where the Administrator conducts a certification program, to require professional applicators to maintain records and submit reports concerning professional applications of the pesticide as the Administrator may prescribe.

The *House* amendment, in States where the Administrator conducts a certification program, applies to commercial applicators the same recordkeeping and reporting requirements as the *Senate* bill imposes on professional applicators.

The *conference* substitute adopts the *House* provision.

C. The *Senate* bill amends sections 8(b) and 9(a) of FIFRA to permit the Administrator, in enforcing FIFRA, to inspect the books and records, and enter the premises, of professional applicators.

The *House* amendment in section 26(c) of FIFRA, as added by the bill provides that the Administrator does not have authority to inspect the books and records, and enter without a warrant the establishments, of commercial applicators under sections 8(b) and 9(a) of FIFRA, except when the Administrator, rather than the State, has primary enforcement authority with respect to the pesticide use provisions of FIFRA.

The *conference* substitute adopts the *House* provision with an amendment to section 26(c) of FIFRA to make clear that when the Administrator has primary enforcement authority, the Administrator may inspect the books and records and the establishments of applicators who apply pesticides or use dilutions of pesticides commercially, regardless of whether the pesticide is unreciistered or registered for general use or restricted use. The *conference* substitute also makes clear that the pesticides held by such applicators that may be examined and sampled include pesticides mixed or developed by the applicator as well as unopened packages labeled by a registered producer. (This provision does not apply to private applicators.)

30. PESTICIDES AND DEVICES INTENDED FOR EXPORT

A. Both the *Senate* bill and the *House* amendment provide that pesticides, devices, and active ingredients used in producing pesticides, intended solely for export, will be subject to the provisions of section 2(q) of FIFRA, which, as amended by the bill, states that a pesticide is to be considered "misbranded" if any of the 12 misbranding situations described in section 2(q) occur.

The *Senate* bill applies all 12 of the misbranding situations in section 2(q) to these export items.

The *House* amendment, which is to become effective 180 days after date of enactment, applies only some of the misbranding situations to export items.

The misbranding situations covered by both the *Senate* bill and the *House* amendment are as follows:

(1) false representations on the label;

(2) the pesticide is an imitation of another pesticide;

(3) the label of the pesticide does not bear the registration number of the establishment in which it was produced;

(4) if the pesticide is not registered under FIFRA and intended for export, the label does not contain a conspicuous statement that the pesticide is not registered for use in the United States;

(5) the label does not contain an ingredient statement;

(6) the container does not bear a label providing the name and address of the producer, the name, brand, or trademark under which the pesticide is sold, the net weight or measure of the contents of the container, and the registration number assigned to the pesticide, except that the *House* amendment does not require inclusion on such label of the name, brand, or trademark, or the registration number; and

(7) if the pesticide is highly toxic, the label does not bear the skull and crossbones, and the word "poison" in red, and an antidote.

The *House* amendment does not include the following situations:

(8) the pesticide is not contained in a package conforming to the Administrator's standards (which are to be consistent with those established under the Poison Prevention Packaging Act);

(9) the statements on the pesticide's label required by FIFRA are not conspicuous and in terms as making them likely to be read and understood by the ordinary individual;

(10) the label does not contain directions for use;

(11) the label does not contain necessary warning or caution statements; and

(12) the label does not contain a statement of use classification ("general use" or "restricted use") under which the product is registered (except that in the case of a pesticide not registered under section 3 and intended for export both the *Senate* bill and *House* amendment provide as stated in item A (4) above).

The *conference* substitute adopts the *House* provision with a modification to include three of the "misbranding" situations included only in the *Senate* bill as follows:

(1) the statements on the pesticide's label required by FIFRA are not conspicuous and in terms as making them likely to be read and understood by the ordinary individual:

(2) the label does not contain necessary warning or caution statements; and

(3) the label does not contain a statement of use classification ("general use" or "restricted use") under which the pesticide is registered.

B. The *House* amendment adds a provision to FIFRA, effective 180 days after the date of enactment, requiring foreign purchasers of unregistered pesticides to sign, prior to export, a statement that they understand that the pesticide is not registered for use in the United States and cannot be sold in the United States under FIFRA. A copy of the statement must be transmitted to an appropriate official of the government of the importing country.

The *Senate* bill contains no comparable provision.

The *conference* substitute adopts the *House* provision.

C. The *House* amendment expands the notification required to be sent to governments of other countries of the cancellation or suspension of a pesticide registration to include, upon request (1) all information related to the cancellation or suspension, and (2) information on registered pesticides that might be used as a substitute for the canceled or suspended pesticide.

The *Senate* bill contains no comparable provision.

The *conference* substitute adopts the *House* provision.

31. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1979

The *Senate* bill authorizes appropriations to carry out FIFRA for fiscal year 1979. The appropriation is set at not to exceed $70 million.

The *House* amendment contains no comparable provision.

The *conference* substitute adopts the *Senate* provision.

32. STUDY OF MINOR USES OF PESTICIDES NOT SPECIFICALLY PERMITTED BY LABELING

The *House* amendment requires the Administrator to submit an updated study examining the problems of minor uses of pesticides not specifically permitted by labeling. Not later than 9 months after the date of enactment of the bill, the study is to be completed and submitted, with recommendations for the implementation of the findings, to the agriculture committees of Congress.

The *Senate* bill contains no comparable provision.

The *conference* substitute adopts the *House* provision.

33. REVISION OF THE TABLE OF CONTENTS

The *Senate* bill revises the table of contents of FIFRA.

The *House* amendment contains no comparable provision.

The *conference* substitute adopts the *Senate* provision with necessary conforming changes.

34. PROVISIONS RELATING TO "PESTS"

A. The *House* amendment adds a new section 28 to FIFRA requiring the Administrator, in coordination with the Secretary of Agriculture, to establish and maintain a list of pests in order of priority that need to be brought under control to assure improved agricultural production. The list is to be organized by agricultural product and geographic area. The Administrator is also required to coordinate and cooperate with the research and implementation programs of the Secretary of Agriculture to develop and improve the safe use and effectiveness of chemical, biological, and alternative methods of controlling pests that reduce the quality and economical production and distribution of agricultural products.

The *Senate* bill contains no comparable provision.

The *conference* substitute adopts the *House* provision with a modification to provide that the Administrator, in coordination with the Secretary of Agriculture, shall identify those pests that must be brought under control.

B. The *House* amendment amends the definition of "pest" to mean any form of plant or animal life, or virus, bacteria, or other microorganism that (1) is injurious to food or agricultural production, processing, storage, or transportation, or to health or the environment, and (2) the Administrator, after coordination with the Secretary of Agriculture, establishes as a pest under new section 28 (list of pests).

The *Senate* bill retains existing law under which the term "pest" means any such life form that is (1) injurious to health or the environment and (2) declared by the Administrator to be a pest.

The *conference* substitute deletes the *House* provision.

35. DEFINITION OF PRODUCER

The *House* amendment provides that the dilution by individuals of a formulated pesticide for their own use and according to the directions on registered labels will not of itself result in those individuals being included in the definition of "producer" of pesticides.

The *Senate* bill contains no comparable provision.

The *conference* substitute adopts the *House* provision.

36. EXPERIMENTAL USE PERMITS

A. The *House* amendment amends section 5 of FIFRA, which provides for the issuance of experimental use permits. Provisions are added to section 5 requiring the Administrator to review applications, and, not later than 90 days following receipt of an application and supporting data, either to issue the permit or notify the applicant that the application is being denied and supply the reasons for the denial. Also, provisions are added allowing an applicant to correct the application or request a waiver of conditions for the permit within 30 days of receipt of the Administrator's notification. Finally, the *House* amendment amends provisions of existing law that authorize issuance of an experimental use permit if the Administrator determines that the applicant needs the permit to obtain information necessary to register the pesticide, so as to make it clear that an experimental use permit may be issued *only* if the Administrator makes such a determination.

The *Senate* bill contains no comparable provision.

The *conference* substitute adopts the *House* provision with a modification to extend from 90 days to 120 days the time for the Administrator to act on applications for experimental use permits.

B. The *House* amendment *requires* the Administrator, under such terms and conditions as the Administrator prescribes by regulation, to authorize States to issue experimental use permits for pesticides.

The *Senate* bill retains existing law under which this provision is permissive rather than mandatory.

The *conference* substitute adopts the *House* provision.

37. INSPECTION OF BOOKS AND RECORDS

The *House* amendment requires Environmental Protection Agency employees or officers, undertaking to inspect the books and records of establishments pursuant to section 8(b) FIFRA, to present to the owner, operator, or agent in charge of the establishment appropriate credentials and a written statement as to whether a violation of law is suspected. If no violation of law is suspected, an alternate and sufficient reason is to be given in writing for the inspection. Each inspection must be commenced and completed promptly.

The *Senate* bill contains no comparable provision.

The *conference* substitute adopts the *House* provision.

38. UNLAWFUL ACTS—SALE OF RESTRICTED USE PESTICIDES

The *House* amendment provides that the sale of a restricted use pesticide to a person who is not a certified applicator for application by a certified applicator is not illegal.

The *Senate* bill contains no comparable provision.

The *conference* substitute adopts the *House* provision with a modification to provide that the sale of restricted use pesticides to uncertified persons may be made only "under regulations issued by the Administrator".

39. DISPOSAL OF PESTICIDES

The *House* amendment requires the Administrator to include specific provisions for the disposal of unused quantities of a pesticide in the notification of cancellation of any pesticide.

The *Senate* bill contains no comparable provision.

The *conference* substitute adopts the *House* provision. The *conferees* intend that costs for disposal of the canceled pesticides not be borne by the Federal Government.

40. PESTICIDE RESEARCH

The *House* amendment requires the Administrator to coordinate research necessary to carry out the purposes of FIFRA with the Secretary of Agriculture, who shall give priority to research to develop biologically integrated alternatives for pest control.

The *Senate* bill retains existing law requiring the Administrator to give priority to research to develop biologically integrated alternatives for pest control.

The *conference* substitute provides that the Administrator will be required to conduct research into integrated pest management in coordination with the Secretary of Agriculture. The *conferees* consider that integrated pest management is the balanced use of such measures, cultural, biological, and chemical, as are most appropriate to a particular situation in the light of careful study of all the factors involved.

41. MONITORING ACTIVITIES

The *House* amendment amends monitoring requirements in existing law to require the Administrator to establish procedures for monitoring man, animals, and their environment for incidental pesticide exposure, including procedures for quantification of incidental human and environmental pesticide pollution and the secular trends thereof, and the identification of sources of contamination and their relationship to human and environmental effects.

The *Senate* bill contains no comparable provision.

The *conference* substitute deletes the *House* provision.

42. SOLICITATION OF COMMENTS

The *House* amendment requires the Administrator to solicit the views of the broad scientific community at an early stage of the Administrator's decisionmaking process in connection with any cancellation, suspension, or other action authorized under FIFRA.

The *Senate* bill contains no comparable provision.

The *conference* substitute deletes the *House* provision. Insofar as practicable and consistent with existing law, the *conferees* intend that the Administrator solicit the views of the scientific community at an early stage in the decisionmaking process. The *conferees* are of the opinion that the Environmental Protection Agency will be greatly aided by the wide range of scientific expertise that exists outside the Agency.

43. AUTHORITY OF STATES—PESTICIDES FORMULATED FOR DISTRIBUTION AND USE WITHIN A STATE

A. The *House* amendment modifies provisions of FIFRA that authorize the States to regulate the sale or use of pesticides and devices in the State, to restrict the authority to *federally registered* pesticides and devices.

The *Senate* bill contains no comparable provision.

The *conference* substitute adopts the *House* provision.

B. The *House* amendment changes the term "labeling" in section 24(b) of FIFRA to "label". The terms "labeling" and "label" are separately and differently defined in FIFRA.

The *Senate* bill contains no comparable provision.

The *conference* substitute deletes the *House* provision.

C. The *House* amendment repeals the condition in existing law that a State must be certified by the Administrator as capable of exercising adequate control over pesticides before the State can register pesticides formulated for distribution and use within the State to meet special local needs.

The *Senate* bill retains provisions of existing law.

The *conference* substitute provides in lieu of existing law that if the Administrator finds in accordance with standards set forth in regulations issued under section 25 of FIFRA that a State is not capable of exercising adequate controls to assure that such registration will be in accord with the purposes of FIFRA or has failed to exercise adequate controls, the Administrator may suspend the authority of the State to register pesticides until such time as the Administrator is satisfied that the State can and will exercise adequate controls. Prior to any such suspension, the Administrator will advise the State of the Administrator's intention to suspend and the reasons therefor and provide the State time to respond.

D. The *House* amendment provides that a State shall not be prohibited from registering ingredients or uses that are undergoing benefit-risk evaluation prior to a decision by the Administrator to cancel, suspend, or not to reregister. The *House* amendment also deletes provisions of existing law providing that distribution and use of a pesticide registered for special local needs within a State shall not be effective for more than 90 days if disapproved by the Administrator within that period.

The *Senate* bill contains no comparable provision.

The *conference* substitute provides that a registration issued by a State under section 24(c) of FIFRA will not be effective for more than 90 days if disapproved by the Administrator within that period. Prior to disapproval, the Administrator will advise the State of the Administrator's intention to disapprove and the reasons therefor, and provide the State time to respond.

The Administrator may not prohibit or disapprove a registration issued by a State on the basis of lack of essentiality of a pesticide, or if its composition and use patterns are similar to those of a federally registered pesticide. State registrations involving changed use patterns—changes from nonfood to food use, outdoor to indoor use, terrestrial to aquatic use, and nondomestic to domestic use—are considered by the *conferees* as not involving similar uses and thus subject to disapproval of the Administrator within a 90-day period. Other State registrations of federally registered pesticides will be considered as being similar in use and composition patterns to those of federally registered pesticides, except to the extent that the Administrator determines that they are not similar in accordance with standards that are set forth in regulations issued under section 25 of FIFRA after notice to the congressional agriculture committees, the United States Department of Agriculture, and the scientific advisory panel.

Notwithstanding the foregoing provisions, in no instance may a State issue a registration for a food or feed use unless there exists a tolerance or exemption under the Federal Food, Drug, and Cosmetic Act that permits the residues of the pesticide on the food or feed. If the Administrator determines that a registration issued by a State is inconsistent with the Federal Food, Drug, and Cosmetic Act, or the use of a pesticide under a registration issued by a State constitutes an imminent hazard, he may immediately disapprove the registration.

THOMAS S. FOLEY,
E DE LA GARZA,
GEORGE E. BROWN, JR.,
IKE SKELTON,
JOHN B. BRECKINRIDGE,
JACK HIGHTOWER,
GLENN ENGLISH,
FLOYD FITHIAN,
JOHN W. JENRETTE, JR.
RAY THORNTON,
JOSEPH S. AMMERMAN,
BILL WAMPLER,
CHARLES THONE,
MARGARET M. HECKLER,
CHUCK GRASSLEY,
RON MARLENEE,
Managers on the Part of the House.

HERMAN E. TALMADGE,
JAMES O. EASTLAND,
GEORGE MCGOVERN,
DICK STONE,
PATRICK LEAHY,
BOB DOLE,
S. I. HAYAKAWA,
DICK LUGAR,
Managers on the Part of the Senate.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO MEET TOMORROW AND THURSDAY DURING 5-MINUTE RULE

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may meet tomorrow and Thursday, September 13 and 14, 1978, notwithstanding the 5-minute rule.

The SPEAKER pro tempore. Is there

objection to the request of the gentleman from California?

Mr. ROUSSELOT. Mr. Speaker, I reserve the right to object.

Mr. Speaker, could the gentleman from California restate the necessity for meeting during the 5-minute rule when we have such important legislation before us on the floor tomorrow?

Mr. DANIELSON. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from California.

Mr. DANIELSON. Mr. Speaker, we have a backup of several rather important bills in the Judiciary Committee and it is becoming impossible to meet the tight schedule.

Among them are the Federal Tort Claims Act amendments, the Olympic games bill, the Tris bill. That is three that occur to me as I stand here.

There seems to be no way that we are going to be able to consider these unless we are going to have a chance to meet during the 5-minute rule.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, why is that the Committee on the Judiciary has not been able to handle these bills prior to this time?

Mr. DANIELSON. Because we have not had the opportunity to meet and to go into these bills for a number of weeks.

My understanding is that I know that there has been other business considered by the committee, but these we have not been able to take up.

I will respond to any other questions. I thought I had answered the pending question.

Mr. BEARD of Tennessee. Mr. Speaker, further reserving the right to object, in other words we are talking about the possibility of three or so more bills that will be coming out of the Committee on the Judiciary, is that correct? I thought the Committee on Rules had closed up shop.

We have got CETA, we have got all these other bills. When on Earth are we going to get around to these?

Mr. DANIELSON. Will the gentleman yield?

Mr. BEARD of Tennessee. Yes, certainly.

Mr. DANIELSON. We have a few bills which seem to be of great importance to some of the Members, at least they have contacted me and have asked when we are going to move them out.

I know there was a little bit of noise on the floor when I mentioned the bills that had occurred to me that needed attention and perhaps the gentleman from Tennessee might not have heard them and might be interested in say the Tris bill involving the treatment of fabrics which has resulted in a number of textile mills being compelled to close down their production. Then there is the bill regarding the Olympic games. I am sure the gentleman knows that we are reorganizing the Olympic Games Committee. That is one of the bills, and there are others such as the Federal Tort Claims Act amendments, and there are others and, as I stand here, as I say, I do not remember all of them, but those are the three principal bills.

Mr. ASHBROOK. Mr. Speaker, further reserving the right to object, and I am going to object, but I want to tell you in advance why I am going to object, Mr. Speaker, we were in session last night until 11:30 or later. We have a backlog, there are all sorts of discussions going on on the floor, there are Members here talking about adjournment on the 20th of October. I do not think any of these bills are of such character that they cannot wait until next year.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. Certainly I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, I was wondering if the request were made that we sit until 12 o'clock noon in order that the committee might consider the Olympic games sports bill, so that would enable us perhaps to complete action on that bill.

I am convinced that we will never get through the whole list of bills on the agenda, but if the gentleman would make his request in that way, and if the gentleman from Ohio would not feel constrained to object, then I think we might be able to continue work of the Committee on the Judiciary until noon and yet be here for amendments on the civil service reform bill.

Mr. DANIELSON. Mr. Speaker, if the gentleman will yield further, I think I heard the request of the gentleman from Illinois (Mr. McCLORY), but I am not sure that I did. Was the request of the gentleman that I change my request that we be permitted to sit until 12 o'clock noon?

Mr. McCLORY. Yes.

Mr. DANIELSON. Then, Mr. Speaker, I would amend my request and ask unanimous consent that we be permitted to meet until 12 o'clock noon on tomorrow and Thursday.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ASHBROOK. Mr. Speaker, further reserving the right to object, it is my understanding that the civil service reform bill will be up tomorrow morning. That was the order of the business as I understood it at about midnight last night when we left here on Monday. I have the greatest admiration for my hardworking friend and colleague, the gentleman from Illinois (Mr. McCLORY), but if that bill is going to come up tomorrow, I am constrained to object and I do object.

The SPEAKER pro tempore. The Chair will state that it takes 10 Members to object, and the objectors will have to remain standing until counted.

An insufficient number have arisen.

Therefore, the request is granted.

Mr. ASHBROOK. Mr. Speaker, I appeal the ruling of the Chair.

The SPEAKER pro tempore. The Chair will state that no appeal is in order in a matter of this kind.

TRANSFER OF U.S. REAL PROPERTY TO DISTRICT OF COLUMBIA REDEVELOPMENT LAND AGENCY

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3119) to transfer certain real property of the United States to the District of Columbia Redevelopment Land Agency, and to consider this Senate bill in lieu of H.R. 13224, a similar bill, which is on the list of District of Columbia bills to be considered today, and I also ask unanimous consent that the Senate bill be considered in the House as in the Committee of the Whole.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the requests of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in accordance with the provisions of this Act, the Mayor of the District of Columbia, consistent with the approval by the Council of the District of Columbia of the urban renewal plan requiring such action, is authorized and directed on behalf of the United States to transfer to the Redevelopment Land Agency all right, title, and interest of the United States in and to the following real property in the District of Columbia:

A tract of land known for the purposes of assessment and taxation as lot 803 in square 493 and described as follows:

Beginning for the same at a point in the west line of Fourth Street Southwest, 269.0 feet south of the south line of C Street Southwest, and running thence due south, with said west line of Fourth Street Southwest, 169.34 feet;

thence northwesterly 603.44 feet to the east line of Sixth Street Southwest;

thence, with said east line of Sixth Street Southwest due north 20.75 feet;

thence southeasterly 201.17 feet;

thence due east 374.0 feet to the point of beginning, containing 40,927.75 square feet, all as shown on a plat survey recorded in the Office of the Surveyor for the District of Columbia in survey book 18 at page 91.

SEC. 2. The Redevelopment Land Agency is hereby authorized in accordance with the District of Columbia Redevelopment Act of 1945 (D.C. Code, secs. 5–701 through 5–719), to lease or sell, as an entirety or parts thereof separately, to one or more redevelopment companies or other lessees or purchaser, such real property as may be transferred to such Agency under the authority of this Act.

SEC. 3. No transfer or donation of any interest in real property under the authority of this Act shall constitute a local grant-in-aid connection with any urban renewal project being undertaken with Federal assistance under title I of the Housing Act of 1949, as amended.

SEC. 4. As used in this Act, the terms "lessee", "purchaser", "real property", and "redevelopment company" shall have the respective meanings provided for such terms by section 3 of the District of Columbia Redevelopment Act of 1945 (D.C. Code, sec. 5–702).

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members

may be permitted to revise and extend their remarks on the Senate bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DELLUMS. Mr. Speaker, I move to strike the last word.

Mr. Speaker, the bill authorizes the mayor to transfer title of a parcel of land adjacent to the Southwest Urban Renewal Project Area C to the D.C. Redevelopment Land Agency (RLA). The fee simple title is currently held by the United States.

The parcel, once an abandoned lot, was part of a larger parcel of land that was granted use by the United States to the surrounding railroads for work and storage areas in consideration for the exchange and transfer to the United States of certain lands then owned by the railroads. The railroads paid taxes to the District Government.

In view of the value of the land which the railroads transferred to the United States for the right to use the parcels in question, it was the opinion of the Government's appraisers that the value of the railroad's rights and interests in the parcels was equivalent to the value of the land had the legal title been held by the railroads.

The urban renewal plan for Southwest Project Area C requires that the RLA acquire these lands for commercial development. The RLA acquired the right and interests in the property from the railroads in 1970, but the United States still holds title. No development can occur until the United States transfers title to the District of Columbia.

The triangular-shaped property between 4th and 6th Streets SE., is surrounded by a public street on one side, a railroad on the second side, and an RLA parcel on the third side. The only appropriate use of the land is to develop it with the adjacent RLA parcel.

A development proposal for the parcel described and adjacent parcels includes an office building, parking facility, and motel for a cost of $40 to $50 million. Construction could commence this fall if the bill is passed.

In short, this is a pro forma transfer of title. The Federal Government has already received full value for its interests. The bill passed the House the last Congress by a unanimous vote.

Mr. Speaker, I yield to my distinguished colleague, the gentleman from Connecticut (Mr. McKINNEY), the ranking member of the committee.

Mr. McKINNEY. Mr. Speaker, I rise in support to S. 3119 and urge its adoption. S. 3119 involves transfer of bare legal title of a small triangular parcel of land in southwest Washington from the United States to the District of Columbia Redevelopment Land Agency. This land, and the land adjacent to it, was originally controlled by two railroad companies which subsequently sold the adjacent land and all rights and interest in the subject properties to the District of Columbia Redevelopment Land Agency.

The urban renewal plan for Southwest Project Area C calls for this land to be acquired by the RLA and sold or leased to private enterprise for development. However, without legal title to this particular piece of land this goal cannot be accomplished.

Because the land is of a triangular shape and is bordered by RLA property on one side, a sheer drop to the street on another side, and the railroad on the third side, the only appropriate way to use the land appears to be a use in conjunction with the other RLA property.

The District government testified that, given legal title, construction could begin almost immediately on this site. The planned development is to include motel facilities and office and parking space.

I would also assure my colleagues that transfer of title to the land would result in no costs to be incurred by either the District or Federal Governments. In fact, upon disposal, the city will receive from the private developer the full market value of the land, and the land will be put back on the city tax rolls.

● Mr. DIGGS. Mr. Speaker, the purpose of the bill (S. 3119)—which was requested by the mayor of the District of Columbia—is to direct the mayor to transfer title to certain real property in southwest Washington, between fourth and Sixth Streets, just north of the railway tracks, from the United States to the District of Columbia Redevelopment Land Agency (RLA). The RLA intends to sell or lease the land to a developer in accordance with the urban renewal plan for Southwest project area C.

Currently, a development proposal for the parcel described, and adjacent parcels, includes the building of a major office building, a parking facility, and a large motel, which is projected to cost between $40 and $50 million. A developer has been selected for this project, who advises that construction could commence on the project in the fall of 1978, depending upon the transfer of title to the parcel described in the bill.

The origin of this property goes back to the so-called "Union Station Acts" of Congress, approved on February 12, 1901 (31 Stat. 767) and on February 29, 1903 (32 Stat. 909), by which certain public streets in Southwest Washington were vacated and abandoned, and perpetual use of these areas was granted by the United States to the Philadelphia, Baltimore & Potomac Railroad Co., the Baltimore & Ohio Railroad Co., and the Terminal Co., in consideration for the exchange and transfer to the United States of certain lands in the District then owned by the railroads. When granting the uses referred to, the United States, however, retained title to the lands.

For many years, these lands were used by the railroads for such purposes as switch tracks, loading platforms, open air storage, truck-loading areas, and produce scales. During this time, the railroads paid taxes on these lands to the District of Columbia.

The RLA, under the urban renewal plan for Southwest Project Areas C, acquired the railroads' rights and interests in the subject property by negotiation in 1970 for $451,300. However, it is still necessary for the RLA to obtain the title to this property, now held by the United States.

When the RLA disposes of the land for private redevelopment, it will receive from the redeveloper the full fair market value of the land, thus compensating the government for the cost of acquiring the railroads' rights and interests. The property described in this bill is 41,000 square feet, and the property is adjacent to 145,000 square feet of property already held by the RLA.

Passage of S. 3119 by the Congress in order to enable transfer of title to the property in question is necessary, since it concerns property of the United States. While the Council of the District of Columbia has already approved an urban renewal plan which authorizes the RLA to dispose of the subject property (once title is acquired), the Council under section 602(c)(3) of the Home Rule Act is powerless to legislate as to property of the United States.

No expressions in opposition to the legislation have been received by the committee, at the hearings in the 94th and in the present Congress.

The departmental reports in support of the legislation are set forth in the committee report.

A similar bill (H.R. 9958) was passed by the House in the last Congress by a recorded vote of 341 to 0, but was not reached for action in the other body before adjournment.

The enactment of S. 3119 will involve no added costs to the Federal Government.●

Mr. DELLUMS. Mr. Speaker, I move the previous question on the Senate bill.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 354, nays 1, not voting 77, as follows:

[Roll No. 760]

YEAS—354

Abdnor	Badham	Boland
Akaka	Bafalis	Bolling
Alexander	Baldus	Bonior
Ambro	Baucus	Bonker
Anderson, Calif.	Bauman	Bowen
	Beard, Tenn.	Brademas
Anderson, Ill.	Bedell	Breckinridge
Andrews, N.C.	Bellenson	Brinkley
Andrews, N. Dak.	Benjamin	Brodhead
	Bennett	Brooks
Annunzio	Bevill	Broomfield
Applegate	Biaggi	Brown, Mich.
Archer	Bingham	Broyhill
Ashbrook	Blanchard	Buchanan
Aspin	Blouin	Burgener
AuCoin	Boggs	Burke, Mass.

Burleson, Tex.
Burlison, Mo.
Burton, John
Butler
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Clausen, Don H.
Clay
Cleveland
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cornell
Cornwell
Cotter
Coughlin
Crane
Cunningham
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Dellums
Dent
Derrick
Derwinski
Devine
Dicks
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fascell
Fenwick
Findley
Fisher
Fithian
Flippo
Flood
Florio
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Gammage
Gaydos
Gephardt
Giaimo
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Horton
Howard
Hughes
Hyde
Ichord
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kemp
Keys
Kildee
Kindness
Kostmayer
Krebs
Lagomarsino
Latta
Le Fante
Leach
Lederer
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lott
Lujan
Luken
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Metcalfe
Meyner
Michel
Mikva
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Motl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Rinaldo
Roberts
Robinson
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rousselot
Roybal
Runnels
Russo
Ryan
Santini
Satterfield
Sawyer
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shuster
Sikes
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stangeland
Stanton
Stark
Steed
Steers
Steiger
Stockman
Studds
Symms
Taylor
Thompson
Thone
Traxler
Treen
Trible
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walker
Walsh
Wampler
Watkins
Waxman
Weaver
Weiss
Whalen
White
Whitehurst
Whitley
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki

NAYS—1

Kelly

NOT VOTING—77

Addabbo
Ammerman
Armstrong
Ashley
Barnard
Beard, R.I.
Breaux
Brown, Calif.
Brown, Ohio
Burke, Calif.
Burke, Fla.
Burton, Phillip
Byron
Caputo
Chisholm
Clawson, Del
Cochran
Conyers
D'Amours
Delaney
Dickinson
Diggs
Fary
Fish
Flowers
Fraser
Frey
Fuqua
Garcia
Gibbons
Hansen
Harrington
Holtzman
Hubbard
Huckaby
Ireland
Johnson, Colo.
Kasten
Krueger
LaFalce
Leggett
Lehman
Livingston
Long, Md.
Lundine
Meeds
Mikulski
Milford
Miller, Calif.
Mitchell, Md.
Murphy, N.Y.
Pritchard
Quie
Richmond
Risenhoover
Rodino
Rostenkowski
Rudd
Ruppe
Sarasin
Scheuer
Schroeder
St Germain
Stokes
Stratton
Stump
Teague
Thornton
Tsongas
Vander Jagt
Waggonner
Whitten
Wiggins
Wilson, C. H.
Young, Alaska
Young, Tex.
Zeferetti

The Clerk announced the following pairs:

Mr. Mitchell of Maryland with Mr. Wiggins.
Mr. Zeferetti with Mr. Stump.
Mr. Addabbo with Mr. Sarasin.
Mr. Richmond with Mr. Hansen.
Mr. Rostenkowski with Mr. Frey.
Mr. Stratton with Mr. Armstrong.
Mr. Waggonner with Mr. Brown of California.
Mr. Phillip Burton with Mr. Caputo.
Mrs. Chisholm with Mr. Del Clawson.
Mr. Breaux with Mr. Kasten.
Mr. Ammerman with Mr. Johnson of Colorado.
Mr. Ashley with Mr. Cochran of Mississippi.
Mr. Ireland with Mr. Dickinson.
Ms. Mikulski with Mr. Fish.
Mr. Murphy of New York with Mr. Leggett.
Mr. Tsongas with Mr. Livingston.
Mr. Teague with Mr. Long of Maryland.
Mr. St Germain with Mr. Thornton.
Mr. Rodino with Mr. Ruppe.
Mr. Risenhoover with Mr. Rudd.
Mr. Fuqua with Mr. Quie.
Ms. Holtzman with Mr. Vander Jagt.
Mr. Beard of Rhode Island with Mr. Young of Alaska.
Mr. Barnard with Mr. Whitten.
Mrs. Burke of California with Mr. Milford.
Mr. Byron with Mr. Fraser.
Mr. Delaney with Mr. Burke of Florida.
Mr. Fary with Mr. Brown of Ohio.
Mr. Conyers with Mr. Gibbons.
Mr. Diggs with Mr. Hubbard.
Mr. LaFalce with Mr. Meeds.
Mr. Garcia with Mr. Pritchard.
Mr. Charles H. Wilson of California with Mr. Scheuer.
Mr. D'Amours with Mr. Lehman.
Mr. Flowers with Mr. Huckaby.
Mr. Miller of California with Mr. Harrington.
Mrs. Schroeder with Mr. Krueger.
Mr. Stokes with Mr. Lundine.

So the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 13224) was laid on the table.

HOME RULE CHARTER AMENDMENTS

Mr. DELLUMS. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 12116) to amend the District of Columbia Self-Government and Governmental Reorganization Act to repeal the authority of the President to sustain vetoes by the Mayor of the District of Columbia of acts passed by the Council of the District of Columbia and repassed by two-thirds of the Council, to change the period during which acts of the Council of the District of Columbia are subject to congressional review, and for other purposes, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the District of Columbia Self-Government and Governmental Reorganization Act is amended as follows:

(1) Subsection (e) of section 404 is amended—

(A) in the fourth sentence, by striking out the period and inserting in lieu thereof "unless the Council by a recess of 10 days or more prevents its return, in which case it shall not become law."; and

(B) by striking out "be transmitted by the Chairman" in the fifth sentence and all that follows in such subsection and inserting in lieu thereof "become law subject to the provisions of section 602(e).".

(2) Section 602(c)(1) is amended—

(A) in the first sentence—

(i) by striking out "(and with respect to which the President has not sustained the Mayor's veto)";

(ii) by striking out "and every" and inserting in lieu thereof "each"; and

(iii) by striking out the period and inserting in lieu thereof ", and each initiated act and act subject to referendum which has been ratified by a majority of the registered qualified electors voting on the intiative or referendum."; and

(B) in the second sentence, by striking out "either House is not in session" and inserting in lieu thereof "neither House is in session because of an adjournment sine die, a recess of more than 3 days, or an adjournment of more than 3 days".

(3) Amendment No. 1 (relating to initiative and referendum) to title IV (the District Charter) is amended—

(A) by striking out sections 5 and 6 and inserting in lieu thereof the following:

"SEC. 5. If a majority of the registered qualified electors voting in a referendum approve an act or adopt legislation by initiative, then the adopted initiative or the act approved by referendum shall be an act of the Council upon the certification of the vote on such initiative or act by the District of Columbia Board of Elections and Ethics, and such act shall become law subject to the provisions of section 602(c).."; and

(B) by redesignating sections 7 and 8 as sections 6 and 7, respectively.

(4) Section 412(a) is amended by inserting "(other than an act to which section 446 applies)" in the third sentence after "Each proposed act".

SEC. 2. (a) Except as provided in subsection (b), the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b)(1) The amendment made by subparagraph (A) of paragraph (1) of the first section of this Act shall apply with respect to acts of the Council of the District of Columbia presented to the Mayor of the District of Columbia after the date of the enactment of this Act.

(2) The amendment made by subparagraph (B) of paragraph (2) of the first section of this Act shall apply with respect to acts of the Council of the District of Columbia transmitted by the Chairman of the Council to the Speaker of the House of Representatives and the President of the Senate under section 602(c) of the District of Columbia Self-Government and Governmental Reorganization Act after the date of the enactment of this Act.

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members may be permitted to revise and extend their remarks on the bill before the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DELLUMS. Mr. Speaker, I move to strike the last word.

Mr. Speaker, the purpose of the bill (H.R. 12116) is to amend the Home Rule Act in order: First, to grant the Mayor authority to exercise a pocket veto; second, to repeal Presidential review of Council acts vetoed by the Mayor and overridden by the Council; third, to shorten and make more predictable the congressional-review period for acts passed by the Council; fourth, to conform the newly enacted referendum and initiative process to the congressional review procedures; and fifth, to increase the Council's review period for budget acts.

After 3 years of home rule it has become apparent that certain sections of the charter work unreasonable hardships on the city or are unnecessary. Many of the problem areas were discussed during meetings of the President's Task Force on the District of Columbia. Vice President MONDALE, the Task Force Chairman, stated that the administration wanted to reduce or eliminate Federal intrusion in local decisions. Among the recommendations were eliminating the Presidential veto and shortening the congressional review period.

CONGRESSIONAL REVIEW PERIOD

At present, only those days when both Houses of Congress are in session are counted in the review period, making the effective layover time an average of 60 days. One Council act took 7 months to become law. The bill provides that days when either House is in recess for less than 3 days may be counted, thus making the process more predictable.

ELIMINATING PRESIDENTIAL VETO

The precedent for including the Presidential veto in the Home Rule Act, according to testimony presented by Council Chairperson Tucker, was that at one time the President did have the power to sustain a veto of territorial Governors who were Presidential appointees. However, the President no longer has this power over territories with an elected government. The committee agreed with the task force and city officials that this provision should be eliminated for the District of Columbia.

MAYOR'S POCKET VETO

Under the Home Rule Act, the Mayor has 10 days in which to approve or disapprove a Council bill. If the Council adjourns prior to the expiration of that review time, a Council bill automatically becomes an act. This is contrary to Federal law and laws in Maryland and Virginia, wherein no bill can become law without the President's or Governor's signature. The committee agreed with the Mayor's request for pocket veto power to reduce the large number of bills sent to him by the Council during the last days of a legislative session when insufficient review time remains for thorough review by him, and to respond to the Legislative Counsel's opinion on the status of bills that become acts without the Mayor's signature.

COUNCIL'S REVIEW OF BUDGET

Another problem of timing involves the Council's consideration of the Mayor's budget. Section 446 of the charter requires the Council to adopt the budget by act. The effect of this is to reduce the 50-day budget review period to approximately 36 days since an act must have two votes held 13 days apart. The committee agreed with Council testimony that this is insufficient time to review complex legislation. H.R. 12116 eliminates the requirement for a second reading, thereby giving the Council an additional 13 days review time.

INITIATIVE AND REFERENDUM

Charter amendment No. 1 (approved by the Congress on March 10, 1978) allows a majority of the voters of the District of Columbia to approve an act by referendum or adopt an act by initiative. Such acts are considered acts of the Council and are subject to the Congressional review process of section 602(c) of the Home Rule Act. H.R. 12116 conforms the charter amendment to the Home Rule Act.

Mr. McKINNEY. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I would simply say to the gentleman from Maryland that actually the great length of time now sort of subverts the review period process of Congress, because the City Council has a right to pass 90-day emergency legislation, which is what they have been doing, which does not come to us for review.

Mr. Speaker, H.R. 12116 presents us with an opportunity to reflect on the experience of the District Government to date with the procedures set up by the Home Rule Act in 1973, and in taking account of that experience, make needed improvements in those procedures.

Many of the changes proposed in this legislation are a result of discussions at meetings of President Carter's Task Force on the District of Columbia. H.R. 12116 is totally in line with the will of that task force and the administration to "reduce, and eliminate, where possible, Federal intrusion in decisions that are of purely local concern * * *."

Two provisions of H.R. 12116 in particular were included in the task force's recommendations. The first shortens and streamlines the rather burdensome process of congressional review over acts passed by the City Council. Currently, an act of the Council becomes law if during a 30-day period not including Saturdays, Sundays, and holidays, and days during which either House is not in session, a resolution of disapproval is not passed in both Houses of Congress. Due to the many days where either House of Congress is not in session as a result of recesses, District work periods and the like, the congressional review period can stretch out for as long as 7 months. The long delays lend considerable confusion to the legislative processes of the District. H.R. 12116 amends this provision so the review period is 30 days not including Saturdays, Sundays, and holidays, days when both Houses are not in session for more than 3 days, and adjournment sine die.

Another recommendation of the task force implemented by H.R. 12116 is the elimination of the Presidential veto of acts which have been repassed by the Council over the Mayor's veto. Neither Presidents Ford nor Carter availed themselves of this power, and the Carter administration, as well as the Ford administration before it, support this measure.

In addition to these provisions, H.R. 12116 provides that when the Council has adjourned before the end of the 10-day period in which the Mayor must sign or veto a Council act, the bill would not become law unless the Mayor signed it. This "pocket veto" authority is similar to that provided the President and the Governors of the 50 States. This amendment was added at the request of the Mayor and with the consent of the City Council.

H.R. 12116 also amends the budget review procedures of the Council to provide additional time to consider budget legislation. Currently, section 446 of the Home Rule Act requires the Council to adopt the budget by act 50 days after its receipt from the Mayor. Because Council acts require two legislative readings separated by a 13-day period, the effective review time for the Council is reduced to 36 days, which has proved to be inadequate. H.R. 12116 would remedy this by eliminating the requirement for a second reading of the budget and, thus, would provide for an additional 13 days of review time.

Finally, H.R. 12116 conforms the recently passed charter amendments providing for recall, referendum and initiative to the provisions of the Home Rule Act.

Passage of H.R. 12116 would do much to streamline the governmental processes of the District of Columbia and provide the citizens of the District with more efficient and timely government. Therefore, I urge my colleague's support for this bill.

● Mr. FAUNTROY. Mr. Speaker, I rise in support of H.R. 12116, a bill which seeks to amend the District of Columbia Self-Government and Governmental Reorganization Act.

After more than 3 years of home rule, it has become apparent that certain sections of the Home Rule Act either work

an unreasonable hardship on the local government's legislative process or are unnecessary to the process. H.R. 12116 will correct these deficiencies and undue burdens by:

First. Shortening and making more predictable the congressional layover period for acts passed by the District of Columbia Council;

Second. Repealing the authority of the President to sustain a Mayor's veto which has been overridden by the District of Columbia Council;

Third. Allowing the District of Columbia Council more time to review the Mayor's budget submission;

Fourth. Granting the Mayor the authority to exercise a pocket veto; and

Fifth. Conforming the newly enacted referendum and initiative process to the congressional review procedures.

Two of the proposed amendments were recommended by the President's Task Force on the District of Columbia. "To reduce and eliminate, where possible, Federal intrusion into decisions that are of purely local concern," the President's task force urged the repeal of the authority which now permits the President to review and overturn District of Columbia Council overrides of mayoral vetoes. In changing the congressional layover period for review of District of Columbia Council acts from 30 "legislative" days in which both the House and Senate are in session to 30 "calendar" days, we also follow the task force recommendation that, "where substantial Federal interests may be involved, [it is best] to streamline and simplify review procedures where possible." Although the task force recommended a review period of 60 calendar days, the committee believes that 30 calendar days allows sufficient time for Congress to act on a resolution of disapproval should one be introduced. Weekends, holidays, recesses, or adjournments over 3 days will of course be excluded. It should be noted that 30 calendar days would have accommodated any disapproving resolutions previously introduced.

The amendment to permit pocket vetoes by the Mayor would make the Home Rule Act similar to the pocket veto provisions of the Constitution of the United States and of the States of Maryland and Virginia. The amendment would prevent a Council act from becoming law merely because the Council, by adjourning, prevents the Mayor from vetoing and returning the act to the Council. Under H.R. 12116, the Mayor may pocket veto any bill presented to him if the Council by a recess of 10 days or more prevents him from returning the act to the Council.

The amendment to give the District of Columbia Council additional time to review the Mayor's budget submission is necessary because section 446 of the Home Rule Act requires the Council to adopt the budget by act. The result is that rather than the 50-day budget review period, the Council actually has only 36 days since an act must have two identical readings (votes) held 13 days apart. H.R. 12116 eliminates the requirement for a second reading, thereby giving the Council an additional 13 days review time.

The final amendment would subject the initiative and referendum authority recently enacted by the District of Columbia Council and approved by Congress to the same congressional review process required for council acts generally.

Mr. Speaker, each of these amendments will help to insure that the local government runs effectively and efficiently. No added costs to the Federal Government are involved. I urge passage of H.R. 12116.●

● Mr. DIGGS. Mr. Speaker, H.R. 12116 would amend the charter of the Home Rule Act to: First, grant the Mayor authority to exercise a pocket veto; second, repeal Presidential review of Council acts vetoed by the Mayor and overridden by the Council; third, shorten and make more predictable the congressional review period for acts passed by the Council; fourth, conform the newly enacted referendum and initiative process to the congressional review procedures; and fifth, increase the Council's review period budget acts.

The amendment to permit "pocket vetoes" by the Mayor, of Council acts, would conform the Home Rule Act to the pocket veto provisions of the Constitution of the United States and of the States of Maryland and Virginia. The amendment would prevent a Council act from becoming law merely because the Council, by adjourning, prevents the Mayor from vetoing and returning the act to the Council. If H.R. 12116 becomes law, the Mayor may sign such an act, or give same a pocket veto if the Council by adjourning has prevented him from returning the act to the Council.

The repeal of the authority for the "President's review" of Council overrides of mayoral vetoes of Council acts is recommended by the President's Task Force on the District of Columbia "to reduce and eliminate, where possible, Federal intrusion in decisions that are of purely local concern."

Changing the "congressional layover period" for review of Council acts from 30 legislative days when both Houses are in session, to 30 calendar days, excluding weekends, holidays, recesses, or adjournments over 3 days, gives ample time and certainty for congressional review of Council acts.

The remaining two amendments would give the Council additional time (13 days) to review the Mayor's budget, and would subject the initiative and referendum authority (H. Con. Res. 464) recently enacted by the Council to the same congressional review process required for Council acts generally.

At the hearing on this legislation before the Subcommittee on Fiscal and Government Affairs, representatives of the District of Columbia government (Chairman of the Council, and the special assistant to the Mayor) testified in support of the proposed legislation. No opposition thereto was then expressed or has since been received by the committee.●

Mr. DELLUMS. Mr. Speaker, I move the previous question on the bill.

The previous question was ordered.

There was no objection.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ENLARGING CONTRACTING AUTHORITY OF COMMISSION ON FINANCIAL OVERSIGHT

Mr. DELLUMS. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the Senate bill (S. 3120) to enhance the flexibility of contractual authority of the Temporary Commission on Financial Oversight of the District of Columbia, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3120

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections 2(c) and 3(c) of the Act entitled "An Act to provide for an independent audit of the financial condition of the government of the District of Columbia", approved September 4, 1976 (Public Law 94-339, 90 Stat. 1205), are each amended by striking out "fixed price".

SEC. 2. Section 2 of such Act is amended by adding at the end thereof the following new subsections:

"(h) The Commission may select the government of the District of Columbia as a qualified person under subsection (a), and the chairman of the Commission may enter into contracts with the government of the District of Columbia under subsection (c).

"(i)(1) The Commission is entitled, through an authorized representative, to inspect the facilities and audit the books and records of any contractor performing a contract under this Act, and any subcontractor performing any subcontract under a contract made by the Commission under this Act.

"(2) Each contract entered into under this Act shall provide that the Comptroller General and his representatives are entitled, until the expiration of three years after final payment, to examine any pertinent books, documents, papers, or records of the contractor or any of his subcontractors engaged in the performance of and involving transactions relating to such contract or subcontract.

"(j) Payments made by the Commission to the government of the District of Columbia under contracts entered into pursuant to the authority of this Act shall be available for matching purposes under any federally funded grant program provided that the grant is for a purpose similar to any purpose specified in section 3(a) of this Act.".

SEC. 3. Sections 3 and 4 of such Act are amended by striking out "1979" each place it appears therein and inserting in lieu thereof "1982".

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members may be permitted to revise and extend their remarks on the Senate bill S. 3120, now before the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DELLUMS. Mr. Speaker, I move to strike the last word.

Mr. Speaker, Members of the House, the purpose of S. 3120 is to enhance the flexibility of contractual authority of the Temporary Commission on Financial Oversight of the District of Columbia. Those amendments to the Audit Commission were recommended by the General Accounting Office (GAO).

The legislation, already passed by the Senate, would allow the Commission to negotiate "cost plus" contracts if the Director felt it was preferable. Current law provides that the Commission can only enter into "fixed priced" contracts.

The Commission Director testified that the Commission was having difficulty attracting enough qualified firms to bid on fixed price. They either refuse to bid or insert numerous conditions in proposals that make comparions of proposals impossible. The Director would continue to use fixed fee when feasible.

The bill would also allow the Commission to enter into contracts with the District of Columbia. The District already has underway, with the assistance of Federal matching grants, several system improvement projects, including one to control welfare eligibility and payments. The Commission could save money if it were permitted to contract with the city and pay only half of the cost. Both the Commission and GAO would monitor all contractors' and subcontractors' work.

The final section of the bill would change to 1983 the date of the first audit conducted by the District of Columbia. The Commission is responsible for the first three audits, and the GAO believes the first audit will not be feasible until 1980.

Mr. McKINNEY. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I rise in support of S. 3120, a bill to enhance the flexibility of the contractual authority of the Temporary Commission on Financial Oversight of the District of Columbia.

To discharge its responsibility of designing and implementing new financial management and accounting systems for the District of Columbia, the Commission needs the added flexibility provided by this bill. The Commission is currently authorized to enter into negotiated fixed price contracts only for the design and implementation of the new systems. However, the Commission is meeting with some resistance from many potential bidders on the necessary contracts because of the difficulty that exists in estimating the costs associated with this type of work. The utilization of fixed price contracts in these circumstances could lead to fairly substantial overpayments or underpayments, as the case may be, which would not be in the best interests of either the Commission or the contractors.

One of the main provisions of this bill would remove the words "fixed price" from the enabling act, Public Law 94-399, which gave birth to the Commission. Consequently, the Commission would be empowered to award "cost-type" contracts wherever appropriate, although we have been assured by the Executive Director of the Commission that fixed price contracts would continue to be used for the majority of the projects currently contemplated.

S. 3120 also clarifies the authority of the Commission to finance that segment of any joint project between the District of Columbia and Federal Governments which was not financed by a Federal grant agency. Any such project that would be affected by this provision of the bill would have to have been undertaken by the Commission in any event under the requirements of the enabling act. To permit the Commission to combine its funds with Federal grant funds would thus provide the Commission with the added flexibility to stretch its funds and to meet the time constraints under which it is currently operating.

Finally, the bill authorizes the Commission to pay for audits of the District of Columbia's finances for fiscal years 1980, 1981, and 1982. The enabling act originally called for payment of audits of the District of Columbia's finances for fiscal years 1977, 1978, and 1979. However, due to unavoidable delays in the startup of the Commission's work, audits of the District's finances cannot take place prior to fiscal year 1980.

This legislation is noncontroversial and will provide the Commission with the flexibility it needs to carry out its task in an efficient and orderly manner. I therefore urge my colleagues to join me in supporting this measure.

● Mr. DIGGS. Mr. Speaker, the purpose of this Senate-passed bill (S. 3120) is to enhance the flexibility of contractual authority of the Temporary Commission on Financial Oversight of the District of Columbia so as to facilitate restructuring of the District's financial management systems and accomplish an audit of the District's financial position on an annual basis.

Specifically, S. 3120, if enacted, would amend Public Law 94-399, approved September 4, 1976 (90 Stat. 1205) entitled "An act to provide for an independent audit of the financial condition of the government of the District of Columbia", to authorize the Temporary Commission on Financial Oversight of the District of Columbia (so-called Audit Commission): First, to award cost-type contracts; second, to contract with the District of Columbia government; third, to audit the books and records of its contractors and subcontractors; fourth, to provide funds to the District government to meet matching requirements for certain Federal grants; fifth, to contract for annual audits of the financial operations of the District government through fiscal year 1982; and sixth, would also authorize the Comptroller General of the United States to examine pertinent books, documents, papers, or records of the Commission's contractors and subcontractors.

In the last Congress the District of Columbia Committee reported and the Congress enacted Public Law 94-399 after studies by the General Accounting Office and Arthur Anderson & Co., conducted respectively for the House and Senate District Committees, demonstrated the need for substantial improvement in the financial management systems of the District of Columbia government. The act was designed to help the District become more self-sufficient under the Home Rule Charter and established the specific requirement for the District's financial position to be audited annually by a certified public accountant.

The Audit Commission, which was set up by Public Law 94-399, requested the pending legislation (supported by the GAO) in order to give the Commission added flexibility in its contractual authority in negotiating its contracts, and to provide better procurement; to use the D.C. government and its agencies by contracting directly with them; and to move closer to the date when a complete and thorough independent audit of the District's financial conditions can be had.

This legislation, the committee states, well implements the machinery which the Congress created to improve the financial planning, reporting, and control systems of the D.C. government, and to assure the Congress that the city's management systems and financial situation are sound.

The enactment of S. 3120 will involve no added costs to the Federal Government, nor to the District of Columbia government.●

● Mr. FAUNTROY. Mr. Speaker, I rise in support of S. 3120. The General Accounting Office, in a meeting with Commission and congressional staff, has recommended the changes incorporated in this bill. The legislation already passed by the Senate would enhance the flexibility of contractual authority of the Commission, by allowing it to negotiate other types of contracts than fixed-price contracts, if the Director felt that it was preferable.

According to Bruce Rohrbacher, Executive Director of the Commission, they are finding it difficult to get enough qualified firms to bid at a fixed price. Mr. Rohrbacher will continue to use a fixed fee when appropriate, but the Commission needs the flexibility of negotiating other types of contracts.

In addition, the legislation would allow the Commission to enter into contracts with the District of Columbia; with payments from such contracts allowed for matching Federal grant programs. The Commission and the General Accounting Office would monitor all contractors' and subcontractors' work.

Finally, the General Accounting Office advised the committee that the first audit will not be feasible until fiscal year 1980. The bill changes the date for the first audit to be conducted by the city to fiscal year 1983. I move favorable consideration of the measure.●

Mr. DELLUMS. Mr. Speaker, I move the previous question on the Senate bill.

The previous question was ordered.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REVENUE BONDS FOR HOUSING FINANCE AGENCY

Mr. DELLUMS. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill H.R. 13243 to amend the District of Columbia Self-Government and Governmental Reorganization Act to authorize the Council of the District of Columbia to delegate its authority to issue revenue bonds for undertakings in the area of housing to any housing finance agency established by it and to provide that payments of such bonds may be made without further approval, and ask unanimous consent that the bill be considered in the House as in Committee of the Whole.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 13243

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 490 of the District of Columbia Self-Government and Governmental Reorganization Act, relating to revenue bonds and other obligations, is amended by adding after subsection (f) the following new subsection:

"(g)(1) The authority of the Council under subsection (a) to issue revenue bonds, notes, and other obligations to borrow money to finance or assist in the financing of undertakings in the area of housing may be delegated by the Council to any housing finance agency established by it. Any such housing finance agency shall exercise by resolution any such authority delegated to it under the preceding sentence, and any such resolution shall not be considered to be an act of the Council.

"(2) The fourth sentence of section 446 shall not apply to (A) the expenditure of funds derived from the sale of any revenue bond, note, or other obligation issued by a housing finance agency established by the Council to which a delegation has been made under paragraph (1), or (B) the payment (as to either principal or interest or both) of any such bond, note, or other obligation.".

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members may revise and extend their remarks on the bill H.R. 13243, which is before the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DELLUMS. Mr. Speaker, I move to strike the last word.

Mr. Speaker, the purpose of H.R. 13243 is to amend the Home Rule Charter to authorize the Council of the District of Columbia to delegate its authority to issue revenue bonds to finance a housing finance agency established by the Council and to exempt principal and interest from the bonds from the congressional appropriations process. At present, the District is not eligible to receive certain Federal housing grants that are channeled only through State housing finance agencies.

This legislation is necessary for two reasons: First, the District of Columbia Corporation Counsel ruled that, under present law, the Council does not have authority to delegate power to issue revenue bonds to a housing finance agency, and second, a housing finance agency could not sucessfully market bonds if principal and interest were subject to a line item veto by Congress.

Standard & Poor's, in a letter to the subcommittee chairperson, stated:

> . . . We expect revenue bonds to be secured by a pledged revenue stream not requiring appropriations by any other government unit. . . ."

The District's bond counsels, Willkie Farr & Gallagher and Hudson & Leftwich, stated that legislation authorizing the D.C. government to establish an independent agency authorized to issue revenue bonds and exempting its assets and revenues from the appropriations process was a necessary prerequisite for the Council to establish a housing finance agency.

Although the Corporation Counsel questioned the council's authority to delegate the issuance of revenue bonds to an agency, it is the opinion of the committee that this authority is implicit in section 490 of the Home Rule Charter and in the legislative history. The bill before us merely reiterates the congressional intent that the Council's power to delegate authority to issue revenue bonds does exist.

The need for decent, safe, affordable housing in the District is great. A 1974 Washington Center for Metropolitan Studies survey found 27,000 low income families, including 9,000 elderly, living in substandard or overcrowded housing. The cost of single family homes in the District, according to the Federal Home Loan Bank Board, rose 63 percent in the last 5 years while median household income between 1974 and 1977 rose only 30 percent.

In addition, the District has experienced a loss of 13,000 units, primarily rental housing, since 1970; and the cost of available units has become increasingly expensive. As a result, the District has the highest proportion of rental-occupied units of the 20 largest cities—70 percent—and a very low vacancy rate.

The Council's Commission on Housing found that from 1977 to 1985 demand for residential units will exceed supply by nearly 20,000 units. To make up the shortage, net production will have to increase almost 4,000 units per year 1981 through 1985.

At present 41 States have established housing finance agencies to provide for low and moderate income housing. The lack of an agency in the District of Columbia has deprived the city of special HUD section 8 set-asides that are available only through housing finance agencies.

The Council has been considering a housing finance agency since May of 1977. Bills were introduced by Council Chairperson Sterling Tucker and Council Members Nadine Winter and John Wilson. After a series of roundtable discussions, bill sponsors agreed to a compromise bill that was passed by the Committee on Housing and Urban Development. The Council bill, 2–161, passed its first reading unanimously on July 25, 1978, and will have its second reading September 19 when the Council returns from its recess.

Under 2–161, the proposed housing finance agency will be empowered to participate in the construction or rehabilitation of singly-family and multifamily residential housing units for sale or lease, including apartments, townshouses and detached houses, condominiums, and cooperatives. The agency would issue revenue bonds and notes which are exempt from Federal and District of Columbia income taxes, but the agency would have the flexibility to issue taxable obligations.

Bonds and notes of the agency would not be debts or obligations of the District of Columbia, and the faith and credit of the District would not be pledged to pay the notes and bonds of the agency. It is important to note that the bonds would not be guaranteed by the Federal Government.

The city would have no legal liability for agency debts and all expenses of the agency would be payable solely from funds derived from assisted projects.

Mr. Speaker, if I have any time remaining, I would like to yield to my distinguished colleague, the ranking minority member, the gentleman from Connecticut (Mr. McKINNEY).

Mr. McKINNEY. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I rise in support of H.R. 13243 and I would like to commend the gentlemen from Michigan and California for moving so expeditiously in reporting this measure to the floor. H.R. 13243 is a vital part of the effort to ease the severe housing problems in the District of Columbia.

This bill serves a dual purpose. First, it clarifies the ability of the Council of the District of Columbia to delegate its revenue bonding authority to an independent housing finance agency. This was requested by the District's Corporation Counsel and its Bond Counsel who felt that the Council did not have this authority under the Home Rule Act. While it was the committee's opinion that the Home Rule Act does not bar such a delegation, the bill was amended by the subcommittee to remove any doubt.

Second, H.R. 13243 amends the Home Rule Act to allow the expenditure of funds derived from the sale of revenue bonds by a housing finance agency and the payment of principal and interest on these bonds without further congressional action. This is similar to legislation passed by the Congress last year allowing the transfer of moneys derived from revenue bonds for the District's private colleges and universities.

It should be made clear at this point that these revenue bonds do not carry a

pledge of credit of either the District or Federal Governments. These bonds are secured only by the revenues derived from the projects they finance. This is the key to their marketability. If the payment of principal and interest of revenue bonds are in any way subject to the vagaries of the legislative process, their marketability declines drastically. Brentan Harries, President of Standard and Poor's credit rating agency wrote the committee that in determining the rating of a particular bond issue, "We expect revenue bonds to be secured by a pledged revenue stream not requiring appropriations by any other governmental unit * * *." And according to our former colleague Thomas Rees, "There is not a legislative body in the country that stands between the repayment of a revenue bond issue and the holders of the revenue bonds * * *."

This legislation is urgently needed to enable the District Council to create a housing finance agency. Many States and major cities have had excellent success with similar types of agencies. Further, because of the lack of a housing finance agency, the District has lost special HUD section 8 set-aside moneys which are available to such agencies.

The housing situation in the District is critical. While the District has suffered a large decline in available housing since 1970, the vacancy rate continues to be unusually low. Housing prices all over the Washington Metropolitan Area are alarming, but the situation is even worse in the District, where 53 percent of the region's poor reside and the median income is significantly lower than that of the surrounding areas. The problem is exacerbated by the dislocation of many of the city's lower income renters due to the recent trend toward restoration and renovation in the District.

Without a functioning housing finance agency, the District Government has few tools to combat its housing problems. A housing finance agency, with its ability to offer tax-free bonds, can generate a large pool of low cost loan money to be used to finance low and moderate income housing, thereby reducing some of the price pressure in the local housing market. Therefore, not only will this agency serve a useful social purpose, it will have an anti-inflationary impact as well.

None of this can happen, however, until Congress enacts H.R. 13243. I strongly urge that this body promptly pass this bill.

● Mr. FAUNTROY. Mr. Speaker, this is a clean bill which reflects the thinking of the Fiscal Affairs Subcommittee. It is rather narrowly drawn to assure that a D.C. Government Housing Finance Agency (HFA) has the ability to pay those obligations derived from the sale of revenue bonds and that the revenue bonds which may be issued by the HFA will be used only for housing. It is the subcommittee's position that the Congress must provide the delegation to the HFA to issue revenue bonds and that thinking is specifically reflected on page 2 at lines 1–9 of the bill.

I introduced H.R. 13243 to complement a measure which the D.C. Council has undertaken. H.R. 13243 does the following:

First. Amends section 490 of the District of Columbia Self-Government and Governmental Reorganization Act, relating to revenue bonds and other obligations.

Second. Exempts from the Congressional Appropriations process all proceeds derived from the sale of revenue bonds, notes or other obligations issued to finance the activities of any housing authority established by the D.C. City Council.

The District of Columbia Council's Committee on Housing and Urban Development has unanimously approved and favorably reported a bill creating a District of Columbia Housing Finance Agency.

With the passage of H.R. 13243 and the D.C. Council's Housing Finance Agency bill, the D.C. government will be authorized to:

Make direct payments of annual principal and interest to purchasers of revenue bonds.

Borrow money and issue low-interest tax-exempt revenue bonds and notes and pass on savings to stimulate the housing market for low and moderate income residents.

Make loans to sponsors for the financing, construction, reconstruction, or rehabilitation of residential housing for eligible persons.

Assign, encumber, sell or otherwise dispose of any real estate or personal property acquired by the agency.

To invest any funds not required for immediate disbursement, including funds held in reserve, in investments lawful for the District.

To consent to any modification with respect to rate of interest, time and payment of any installment of principal or interest, security or any other term of any contract, mortgage, mortgage loan, or contract agreement of any kind to which the agency is a party.

To sell, at public or private sales, with or without public bidding, any mortgage or other obligation held by the agency.

The bill anticipates the raising of funds through the sale of revenue bonds. It is important to note that the Council's General Counsel has observed that investors would certainly be cautious of any proposal that subjected annual principal and interest payment to the appropriation process.

H.R. 13243 would remove the element of uncertainty from the minds of bond purchasers and make more secure the financial institutions that would play a prime role in the granting of credit to be secured by the projects financed.

H.R. 13243 will enable the D.C. Housing Finance Agency to generate funds from private sources to increase the supply and lower the cost of funds available for residential mortgages and construction loans and help alleviate the critical shortage of adequate housing in D.C.●

● Mr. DIGGS. Mr. Speaker, the purpose of H.R. 13243 is to amend the D.C. Home Rule Act: First, to authorize the Council of the District of Columbia to delegate its authority to issue revenue bonds for undertakings in the area of housing to any housing finance agency established by it, and second, to provide that the expenditure of funds derived from the sale of such bonds and the payments of principal and interest on such bonds may be made without further approval of the Congress.

NEED FOR THIS LEGISLATION

The need for this legislation (H.R. 13243) is clearly stated by bond counsel for the District of Columbia, that such legislation is a prerequisite to the Council establishing an independent agency with authority to issue revenue bonds to finance the development of housing, and to provide that the expenditure of such revenues or assets shall be exempt from the appropriation process by the Congress.

BACKGROUND

During the last 15 years, 39 States and some cities have created housing finance agencies as mechanism to provide low- and moderate-income housing.

These agencies issue revenue bonds, the proceeds of which are utilized by the agency to finance the construction, rehabilitation, conversion, and purchase of multi- and single-family residential structures which are consonant with stated public purposes of the agency. Primary among these purposes is provision of low- and moderate-income housing.

The need for a housing finance agency in the District of Columbia has been officially recognized for a number of years, beginning with the report of the Commission on the Organization of the Government of the District of Columbia (the Nelson Commission) issued in 1972.

In summary, the District's ability to respond to its housing problems is substantially handicapped by the lack of housing financing agency, and the creation of such an agency has broad-based support from all segments of the community.

COST

The Congressional Budget Office estimates no additional costs to the Government as a result of the enactment of this bill.

The legislation was approved, by voice vote, by the Subcommittee on Fiscal and Governmental Affairs (after hearing), and by the Full Committee.●

Mr. DELLUMS. Mr. Speaker. I move the previous question on the bill.

The previous question was ordered.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DISTRICT OF COLUMBIA RECIPROCAL TAX COLLECTION ACT

Mr. MAZZOLI. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the Senate bill (S. 1103) to permit States the reciprocal right to sue in the Superior Court of the District of Columbia to recover taxes due the State, and ask unanimous consent that the Senate bill be considered

in the House as in the Committee of the Whole.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1103

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Any State, territory, or possession, by and through its lawfully authorized officials, shall have the right to sue in the Superior Court of the District of Columbia to recover any tax lawfully due and owing to it when the reciprocal right is accorded to the District by such State, territory, or possession, whether such right is granted by statutory authority or as a matter of comity.

SEC. 2. The certificate of the secretary of state or other authorized official of any State, territory, or possession, or subdivision thereof, to the effect that the official instituting the suit for collection of taxes in the Superior Court of the District of Columbia has the authority to institute such suit and collect such taxes shall be conclusive proof of that authority.

SEC. 3. For the purposes of this title, the term "taxes" shall include—

(1) any and all tax assessments lawfully made, whether they be based upon a return or other disclosure of the taxpayer, or upon the information and belief of the taxing authority, or otherwise;

(2) any and all penalties lawfully imposed pursuant to a taxing statute, ordinance, or regulation; and

(3) interest charges lawfully added to the tax liability which constitutes the subject of the suit.

SEC. 4. In any State, territory, or possession, or subdivision thereof, in which the District of Columbia is authorized under the laws of such State, territory, or possession, to bring suit for the purpose of recovering of such taxes, the Corporation Counsel or any of his assistants is authorized to bring such suit in the name of the District of Columbia in the courts of such State, territory, or possession, or subdivision. The Mayor of the District of Columbia is authorized, in connection with any such suit, to procure professional and other services, at such rates as may be usual and customary for such services in the jurisdiction concerned.

SEC. 5. This title may be cited as the "District of Columbia Reciprocal Tax Collection Act".

With the following committee amendments:

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "District of Columbia Reciprocal Tax Collection Act".

SEC. 2. (a) Any State, acting through its lawfully authorized officials, shall have the right to sue in the Superior Court of the District of Columbia to recover any tax lawfully due and owing to it in any case in which such reciprocal right is accorded to the District of Columbia by such State, whether such right is granted by statutory authority or as a matter of comity.

(b) The certificate of the secretary of state, or of any other anuthorized official, of such State, or any subdivision thereof, to the effect that the official instituting a suit auhorized under subsection (a) for collection of taxes in the Superior Court of the District of Columbia has the authority to institute such suit and collect such taxes shall be conclusive proof of such authority.

SEC. 3. (a) In any State, or any subdivision thereof, in which the District of Columbia is authorized under the laws of such State to bring suit for the purpose of recovering taxes lawfully due and owing the District of Columbia, the Corporation Counsel is authorized to bring such suit in the name of the District of Columbia in the courts of such State, or any subdivision thereof.

(b) In connection with any such suit, the Mayor of the District of Columbia is authorized to secure professional and other services at such rates as may be usual and customary for such services in the jurisdiction involved.

SEC. 4. For the purposes of this Act:

(1) The term "taxes" means—

(A) any tax assessment lawfully made, whether based upon a return or any other disclosure of the taxpayer or upon the information and belief of the taxing authority involved;

(B) any penalty lawfully imposed pursuant to any law, ordinance, or regulation which imposes a tax; or

(C) any interest charge lawfully added to the tax liability which constitutes the subject of any suit brought under section 2 or 3.

(2) The term "State" means any of the several States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

Mr. MAZZOLI. Mr. Speaker, I move to strike the last word.

Mr. Speaker, on July 17, 1978, the District of Columbia Committee by unanimous voice vote reported out S. 1103, a bill to permit States the reciprocal right to sue in Superior Court of the District of Columbia to recover taxes due the State.

The purpose of this bill is to authorize the several States of the United States to sue in the Superior Court of the District of Columbia to recover any taxes lawfully due that State, if a reciprocal right is accorded to the District of Columbia. At present, 44 States grant each other the reciprocal right to sue for taxes owing that State in courts of other States. There is no such law in the District of Columbia. The Congress has been requested to grant such a right on a reciprocal basis by the District of Columbia government. It is the District's belief that the passage of this legislation would aid the enforcement of the tax laws of the District of Columbia.

Therefore, Mr. Speaker, I urge all of my colleagues to vote for this bill.

Mr. Speaker, I yield the balance of my time to the gentleman from Connecticut (Mr. McKINNEY).

Mr. McKINNEY. Mr. Speaker, I rise in support of the bill S. 1103, which will permit an authorized official of any State, territory, or possession of the United States the right to sue in the Superior Court of the District of Columbia to recover taxes due the jurisdiction if such other jurisdiction permit the District to bring similar suits in their courts.

There are currently 44 States in the Union which have such reciprocity agreements. Ironically, the District of Columbia, with its uniquely tri-State geography and large amount of individual movement back and forth across its boundaries, does not have such an arrangement.

It is unfortunate that the District government cannot itself enact such legislation for the improvement of its own fiscal position and practices, for it has been a part of the Mayor's legislative program for enactment by both the 94th and 95th Congresses, with no result. Enactment of this bill is long overdue.

S. 1103 will significantly aid the enforcement of the District's tax laws, and improve the revenue-raising ability of the District. I urge that S. 1103 be adopted, as amended, so that the District can take advantage of the reciprocal provisions in other State laws as they apply to the collection of taxes.

The SPEAKER pro tempore (Mr. McHUGH). The question is on the committee amendments.

The committee amendments were agreed to.

● Mr. FAUNTROY. Mr. Speaker, I support S. 1103, a bill which seeks to grant the District of Columbia the right to enter into reciprocity arrangements for the purpose of collecting taxes.

This proposed legislation would authorize the several States of the United States to sue in the Superior Court of the District of Columbia to recover any taxes, lawfully due that State, if a reciprocal right is accorded to the District of Columbia.

Specifically, the legislation:

First. Authorizes any State, territory, or possession to bring suit in the Superior Court of the District of Columbia to recover any tax lawfully due and owing to it, if a reciprocal right is accorded to the District by such State, territory, or possession.

Second. Provides for authorization by a certificate issued by the Secretary of State or other authorized official of a State, territory, or possession. Proof to the effect that the official bringing suit is so authorized by the State shall be conclusive proof of that authority.

Third. Defines taxes to include (a) tax assessments, (b) penalties lawfully imposed, and (c) interest charges lawfully added to the tax liability.

Presently, 44 States grant each other the reciprocal right to sue for taxes owing that State in the courts of the other States. There exists no such law in the District of Columbia. It is felt that passage of this legislation would aid in the enforcement of the tax law of the District of Columbia.

Enactment of the proposed legislation will incur no added costs to the D.C. government nor the Federal Government.

I urge passage of this bill—S. 1103.●

● Mr. DIGGS. Mr. Speaker, the purpose of this Senate-passed bill (S. 1103), which was introduced at the request of the Mayor of the District of Columbia, is to authorize any State to bring suit in the Superior Court of the District of Columbia to recover any tax lawfully due and owing to it, if a reciprocal right is accorded to the District by such State.

The bill also would authorize the Corporation Counsel of the District of Columbia to bring suit for the purposes of recovering D.C. taxes, in those States authorizing the District of Columbia to so litigate.

The bill defines taxes to include: first, tax assessments, second, penalties lawfully imposed, and third, interest charges lawfully added to the tax liability. It also defines the term "State" to include not only the several States but also the U.S. territories and possessions.

BACKGROUND

Individuals move out of the District of Columbia each year leaving unpaid District income taxes. In some instances, corporations, organizations, or individuals, located or operating outside the District, incur liability for District taxes. Some are able to evade compliance with District tax laws because they are not within the jurisdiction of the District for normal enforcement proceedings. It is the judgment of the committee that the passage of this legislation would aid significantly in the enforcement of the tax laws of the District of Columbia and the collection of revenue therefrom.

PRECEDENTS FOR THIS LEGISLATION

At the present time, 45 States—which are listed in the Committee Report (H. Rept. 95–1360)—grant each other full or partial reciprocity to sue for taxes owing that State in the courts of the other States. There is no such law in the District of Columbia. Only five States have no reciprocal statutes providing tax suits reciprocity, namely, Florida, Georgia, Montana, Nevada, and Utah.

The bill was favorably reported, by voice vote, by both the Subcommittee on the Judiciary—after hearing—and by the full committee. No expressions in opposition to the bill have been presented to the committee.

The enactment of S. 1103 will involve no added costs to the Federal or District of Columbia government.●

Mr. MAZZOLI. Mr. Speaker, I move the previous question on the Senate bill.

The previous question was ordered.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: An act to permit any State the reciprocal right to sue in the Superior Court of the District of Columbia to recover taxes due such State.

A motion to reconsider was laid on the table.

DISTRICT OF COLUMBIA PRETRIAL SERVICES AGENCY

Mr. MAZZOLI. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the Senate bill (S. 2556) to change the name of the District of Columbia Bail Agency, and ask unanimous consent that the Senate bill be considered in the House as in the Committee of the Whole.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2556

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1301 of title 23, D.C. Code, is amended by deleting "District of Columbia Bail Agency" and inserting in lieu thereof "District of Columbia Pretrial Services Agency".

SEC. 2. Any law, rule, regulation, documents or record of the United States in which reference is made to the District of Columbia Bail Agency referred to in the first section of this Act shall be deemed to be a reference to the District of Columbia Pretrial Services Agency.

With the following committee amendments:

Strike out all after the enacting clause and insert the following:

That (a) the text of section 23–1301 of title 23, District of Columbia Code, is amended by striking out "District of Columbia Bail Agency" and inserting in lieu thereof "District of Columbia Pretrial Services Agency".

(b) The heading of such section is amended to read as follows:

"§ 23–1301. District of Columbia Pretrial Services Agency".

SEC. 2. (a) The heading of subchapter I of chapter 13 of title 23, District of Columbia, is amended to read as follows:

"SUBCHAPTER I.—DISTRICT OF COLUMBIA PRETRIAL SERVICES AGENCY".

(b) The item relating to subchapter I in the table of sections at the beginning of such chapter is amended to read as follows:

"Subchapter I—District of Columbia Pretrial Services Agency".

(c) The item relating to section 23–1301 in such table is amended to read as follows:

"23–1301. District of Columbia Pretrial Services Agency.".

(d) The heading of such chapter is amended to read as follows:

"CHAPTER 13.—PRETRIAL SERVICES AGENCY AND PRETRIAL DETENTION".

(e) The item relating to chapter 13 in the table of chapters at the beginning of such title is amended to read as follows:

"13. Pretrial Services and Pretrial Detention ---------- 23–1301".

SEC. 3. Any reference in any law, rule, regulation, document, or record of the United States or the District of Columbia to the District of Columbia Bail Agency shall be deemed to be a reference to the District of Columbia Pretrial Services Agency.

Mr. MAZZOLI. Mr. Speaker, I move to strike the last word.

Mr. Speaker, on July 17, 1978, the District of Columbia Committee by unanimous voice vote reported out S. 2556, a bill which changes the name of the District of Columbia Bail Agency to the District of Columbia Pretrial Services Agency.

The purpose of the bill is to give the agency a name that more appropriately reflects its function within the legal community. Even though the services provided by the agency have been expanded and refined to meet the needs of the Superior Court, the agency does not post monetary bonds for pretrial detainees. The present name of the agency has led to much confusion in that regard within the local community. The director of the bail agency, in requesting that Congress enact this legislation, deems the name change necessary to alleviate confusion as to the proper function of the agency.

Mr. Speaker, I urge all of my colleagues to vote for this bill.

Mr. Speaker, I yield to the gentleman from Connecticut (Mr. McKINNEY).

Mr. McKINNEY. Mr. Speaker, I rise in support of the bill S. 2556, which would change the name of the District of Columbia Bail Agency to the Pretrial Services Agency.

This action was requested by the Director of the District of Columbia Bail Agency in order to give that organization a title which more accurately reflects its present functions. In the years since its inception, the agency's services have evolved far beyond simple bond transactions to include pretrial detention, personal recognizance, and third-party custody as other viable pretrial alternatives. In addition, such a change would conform the agency's organizational title to that of other identical agencies created by Congress and modeled after the D.C. Bail Agency in 10 Federal districts.

It is unfortunate, however, that valuable congressional time should be spent on a local matter of this nature and points out the need for full home rule for the District of Columbia. Because of a prohibition contained in the District of Columbia Home Rule Charter, the City Council cannot amend title 23 of the D.C. Code, dealing with criminal procedure of which the designation of the name of the agency is a part. Consequently, congressional action is needed to legislate the name change.

I therefore urge my colleagues' support for this noncontroversial but necessary measure.

GENERAL LEAVE

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that all Members may be permitted to extend their remarks in explanation of the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the committee amendments.

The committee amendments were agreed to.

● Mr. FAUNTROY. Mr. Speaker, I support S. 2556, a bill which provides for changing the title of the D.C. Bail Agency.

In 1971, the bail agency's statute was amended to increase the agency's services and its functions so as to keep in step with changing methods of dealing with criminal defendants. At the time of the amendment other concerns precluded attention to the subtle and seemingly insignificant matter of its name. S. 2556 will correct this deficiency by:

First, Changing the title of the D.C. Bail Agency to D.C. Pretrial Services Agency.

Second. D.C. Bail Agency in printed matter shall be interpreted to be a reference to D.C. Pretrial Services Agency.

The present Director of the D.C. Bail Agency has requested this legislation because it would offer a more accurate description of the functions of the organization.

In addition, the present name of the Agency has resulted in some confusion on the part of the public and some employees in the criminal justice system as to the services available.

Moreover, in title 18, section 3152, of the United States Code, Congress created ten (10) Federal districts modeled after the D.C. Bail Agency. Each of these organizations are named "Pretrial Services Agency." The present legislation would make the District of Columbia title consistent with those other, identical agencies, as well as provide a more accurate and less confusing title.

Mr. Speaker, this bill will help to insure that the local government runs effectively and efficiently. There is no opposition to the name change and it appears that no additional cost to the Government would be incurred as a result of the enactment of this bill. I urge passage of S. 2556.

The purpose of S. 2556 is to change the name of the District of Columbia Bail Agency to the Pretrial Services Agency. The present Director of the District of Columbia Bail Agency requests this legislation because it would effect a more accurate description of the function of the organization. The character of the Agency's services and its functions have expanded over the years to include other methods of dealing with criminal defendants prior to trial.

In addition, the present name of the Agency has resulted in some confusion on the part of the public and some employees in the criminal justice system as to the services available.

Moreover, in title 18, section 3152, et seq., of the United States Code, Congress created 10 Federal districts modeled after the District of Columbia Bail Agency. Each of these organizations is named "Pretrial Services Agency." The present legislation would make the District of Columbia organizational title consistent with those other, identical agencies, as well as provide a more accurate and less confusing title.

There is no opposition to the name change and it appears that no additional cost to the Government would be incurred as a result of the enactment of this bill.●

● Mr. DIGGS. Mr. Speaker, the purpose of this Senate-passed bill (S. 2556) is to change the name of the District of Columbia Bail Agency to the District of Columbia Pretrial Services Agency.

The District of Columbia Bail Agency was created by the District of Columbia Bail Agency Act (Public Law 89–519, approved July 26, 1966) to implement the Federal Bail Reform Act of 1966 (Public Law 89–456; 80 Stat. 214).

The character of the Agency's services and its functions have evolved, over the years, to keep in step with the changing methods of dealing with criminal defendants prior to trial. Money bond, or bail, is no longer the only way of assuring the attendance of persons at their trials. Personal recognizance, third-party custody, and pretrial detention are only a few of the alternatives available to the court today. The research and information provided by the Agency have been expanded and refined to meet the needs of District of Columbia Superior Court judges.

In addition, the present name of the Agency has caused confusion on the part of the public and some employees in the criminal justice system as to the services it offers.

Finally, in title 18, section 3152, et seq., of the United States Code, Congress created 10 pilot agencies in 10 Federal districts modeled after the District of Columbia Bail Agency. Each of these organizations is to be named "Pretrial Services Agency." This bill would make the District of Columbia organization's title consistent with those other identical agencies, as well as provide a more accurate and less confusing appellation.

The relevant offices in the District of Columbia involved in proceedings of the Bail Agency, namely, that of the Mayor, the Corporation Counsel, the District of Columbia Court of Appeals and the Superior Court, the U.S. attorney, the Metropolitan Police Department, and the U.S. attorney's office, support the bill S. 2556. No opposition to this bill has been expressed to the committee.

The enactment of this proopsed legislation will involve no added costs to the Federal Government, nor to the District government.●

Mr. MAZZOLI. Mr. Speaker, I move the previous question on the Senate bill.

The previous question was ordered.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: An act to change the name of the District of Columbia Bail Agency to the District of Columbia Pretrial Services Agency.

A motion to reconsider was laid on the table.

AMENDING THE DISTRICT OF COLUMBIA REDEVELOPMENT ACT OF 1945

Mr. DELLUMS. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 10311) to amend the District of Columbia Redevelopment Act of 1945, and for other purposes, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 10311

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 12 of the District of Columbia Redevelopment Act of 1945 (D.C. Code sec. 5–711) is amended by deleting the first proviso thereof and substituting therefor the following: "*Provided,* That any such modification which affects the use or development of an area or part thereof which has been sold or leased, as governed by the area redevelopment plan as theretofore approved, shall not become effective as to such area or part without the consent in writing of the purchaser or lessee thereof:"

(b) The amendment made by this section shall be effective with respect to any approved project area redevelopment plan, regardless of the effective date or date of approval of such plan.

SEC. 2. In implementation of the authority reserved under section 21(a) of the District of Columbia Redevelopment Act of 1945 (D.C. Code sec. 5–718(a)), the Congress hereby amends the urban renewal plan for Southwest urban renewal area project "C" by adopting and approving the following modifications to the plan:

(1) Amendment numbered 22 (pertaining to parcel 76), as adopted by the National Capital Planning Commission on March 7, 1974, and approved by the Council of the District of Columbia on May 7, 1974; and

(2) Amendment numbered 23 (pertaining to parcel D–2–B), as adopted by the National Capital Planning Commission on May 30, 1974, and approved by the Council of the District of Columbia on August 30, 1974.

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members be permitted to revise and extend their remarks in explanation of the bill before us.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DELLUMS. Mr. Speaker, I move to strike the last word.

Mr. Speaker, the purpose of the bill is to clarify an ambiguity in the District of Columbia Redevelopment Act of 1945, and to approve certain amendments to the urban renewal plan for Southwest urban renewal project area C in the District of Columbia. Presently, the provision regarding modification of an approved project in the redevelopment plan is unclear. The question is whether consent is required from all owners and lessees of property in the area who may deem themselves affected by the modification or whether consent is required only from the particular owner or lessee of the property whose planned use is being modified. The bill amends the District of Columbia Redevelopment Act to make clear that only the owner or lessee of the particular parcel of land whose use is being modified is required to give consent under the statute. In addition, the bill approves two urban renewal plan amendments in Southwest Washington.

In 1974, prior to home rule, the District of Columbia Redevelopment Land Agency (RLA), amended, in accordance with the RLA Act of 1945, the Southwest Washington urban renewal project area C to allow low- and moderate-income housing to be built on land previously planned for a church and allow the Channel Inn to expand from 100 to 150 rooms.

L'Enfant Plaza Properties, Inc., and a group of homeowners brought suit against RLA alleging that the law to modify an approved plan required the written consent of all landowners or lessees within the projected area.

The RLA argued that only the owners or lessees whose property is being modified are required to sign a consent. For others likely to be affected by the change, the law requires they be mailed a notice

of a public hearing by the D.C. Council. The RLA contends that since Congress specifically provided that neighboring landowners have an opportunity to testify at a public hearing, Congress did not intend that the owners be required to give consent.

The district court granted RLA's motion for summary judgment and dismissed the complaint. The homeowners and L'Enfant Plaza appealed and the suit was reversed and remanded back to the courts for trial. The judge ruled that the intent of Congress concerning plan modifications was not clear. No trial date has been set. H.R. 10311 responds to the court's suggestion for the need to clarify the ambiguity in D.C. Code, section 5–711.

The committee gave careful consideration to the problem because it affects the ongoing process of urban renewal not only in the Southwest Washington urban renewal project area C, but also in all other urban renewal areas in the District of Columbia. Urban renewal plans commonly control land use for long periods of time. The Southwest Washington project area plan, for example, extends for 40 years. It is unreasonable to expect that an urban renewal plan, once adopted, will remain unchanged throughout its duration. We heard testimony that the "freezing" of two urban renewal projects under the present ambiguous wording of D.C. Code section 5–711 seriously interferes with the primary goals of urban renewal in the District of Columbia; that is, the replacement of blighted residential and commercial neighborhoods with decent, affordable housing and an appropriate mix of commercial development.

Mr. Speaker, I would like now to yield to my distinguished colleague, the coauthor of the legislation, the gentleman from Wisconsin (Mr. REUSS).

Mr. REUSS. Mr. Speaker, I thank the gentleman for yielding and for the gentleman's leadership on this bill, which as I understand was unanimously reported out and enjoys bipartisan support.

Mr. Speaker, in a nutshell, one-fourth of the District of Columbia, Southwest Washington, was planned in the 1950's. There was just one thing wrong with the master plan of the thinkers who dreamed it up. There were hovels for the poor known as public housing. They were and are a disgrace. There were luxury apartments and townhouses for the affluent, which makes very nice living, indeed. I and a number of our colleagues are fortunate enough to live in them. My particular townhouse happens to be almost a mile from parcel 76 and about half a mile from Channel Inn, the motel which seeks to add on to its present number of rooms.

The SPEAKER. The time of the gentleman from California (Mr. DELLUMS) has expired.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for an additional 5 minutes.)

Mr. DELLUMS. Mr. Speaker, I yield further to my colleague, the gentleman from Wisconsin (Mr. REUSS).

Mr. REUSS. Mr. Speaker, the community agencies of the Southwest, the community leaders, the Community Housing, the Southwest Assembly and others decided that some use ought to be found for parcel 76, which as you can see in the picture is a weed-infested, tin-can strewn, semilegal parking lot, and they conceived the idea that it would be nice to have some moderate-income, middle-income, nonprofit homeownership housing, so that middle-income people could leaven the rich and poor lump of the Southwest; so they proceeded and went to an agency set up by the Congress. It is a public semiprivate agency, the National Housing Partnership, which designed some excellent two- and three-story townhouses with prices which moderate-income people could afford.

All was well. The change was put through after the fullest due process by the District of Columbia Redevelopment Land Commission, by the District of Columbia Council, and then enter the Rochefellers. Well, the Rochefellers own L'Enfant Plaza and the gentleman who helps them on with their overcoats is our friend, Gen. Pete Quesada, and they decided they ought to fill it with all the tea in China; namely, a monopoly that might work in the District of Columbia and they got together with others in this lawsuit to stop the motel—not really competition, it was a mile away—from putting on 50 extra rooms and to stop the neighbors from putting moderate-income housing in parcel 76.

The circuit court of appeals not so long ago in the lawsuit I described said that the law Congress wrote in 1954 maybe had a little ambiguity in it and, if so, it would not be the first ambiguity which we have perpetrated; but there was a simple action which the Congress could take, namely, the bill before us, to say that only the owner of the property affected could say "Aye," "Yes," or "No," to a change in the redevelopment plan and that someone who lived a mile away or any of the other 8,000 assorted property owners in Southwest Washington cannot arbitrarily veto the thing.

So I hope this bill will overwhelmingly pass and thus show that the Congress is interested in a community in which wealthier people and poor people and, above all, moderate middle-income people can live harmoniously. That is what it is all about and I congratulate Chairman DELLUMS and the committee for bringing the bill before us.

Mr. DELLUMS. Mr. Speaker, I thank my distinguished colleague, the gentleman from Wisconsin (Mr. REUSS), for his sensitive and eloquent remarks.

Mr. MCKINNEY. Mr. Speaker, will the gentleman yield?

Mr. DELLUMS. I yield to my distinguished colleague, the ranking minority member of the committee, the gentleman from Connecticut (Mr. MCKINNEY).

Mr. MCKINNEY. Mr. Speaker, I rise in support of H.R. 10311 and urge its adoption. There is probably no more pressing issue in the District than the lack of adequate and reasonably priced housing. H.R. 10311 would aid the District government's efforts to effectively address this issue.

H.R. 10311 does two things. First, it clarifies an ambiguity contained in the Redevelopment Act of 1945 concerning whose consent is necessary to make changes in a District of Columbia urban renewal plan. This ambiguity has led to litigation which has held up a much needed low- and moderate-income housing project in southwest for 4 years.

In essence the Redevelopment Act is unclear as to whether consent is required from all owners and lessees of property in the urban renewal plan area being modified or only from the specific owner of the property in the area being modified. According to the U.S. Court of Appeals for the District of Columbia in a decision remanding the pending lawsuit back to the U.S. district court for further hearing, the law can be read either way.

In order to clarify the congressional intent with regard to local procedures for modifying urban renewal plans, section 1 to H.R. 10311 utilizes Congress' reserved power under the act to directly modify District urban renewal plans to effect the changes in the southwest urban renewal plan so that construction on the low- and moderate-income housing in southwest can begin without further delay.

What we are saying is that Congress will directly effect this transfer now so that construction on this desperately needed housing can get underway, and at the same time will clarify the procedures for the local government to effect such changes in the future.

In view of the housing situation in the District, I believe that H.R. 10311 is important for the city, and I urge my colleagues to support this measure.

Mr. HARRIS. Mr. Speaker, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from Virginia.

Mr. HARRIS. Mr. Speaker, I rise in support of the legislation.

The subcommittee hearings indicated that it is indeed unfortunate that this legislation was delayed to the extent it has been. I think it is important to get the legislation enacted.

Mr. KINDNESS. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I would like to direct a question to any Member who would care to respond on behalf of the committee.

It is my understanding from the explanation which has been given that there would not be the necessity for the consent of any adjoining property owners to a change of use if this legislation is to become law; is that correct?

Mr. DELLUMS. Mr. Speaker, if the gentleman will yield, they would be allowed to participate in the hearings and to testify as to their feelings with respect to the modification, but their consent is not required nor are they capable of vetoing the modification.

Mr. KINDNESS. They would be entitled to notice of hearings?

Mr. DELLUMS. That is correct. That is mandated by the law.

Mr. KINDNESS. Mr. Speaker, I have one further question, if the gentleman will respond.

Is there any right at all that an adjoining property owner might be able to assert to keep a use from changing to

the detriment of that adjoining landowner?

Mr. DELLUMS. They could protest or reflect their views before the RLA or they could register their views with the Council, and if that did not work or if the Council decided to act in opposition to their concerns, they could go to court.

Mr. MATTOX. Mr. Speaker, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Texas.

Mr. MATTOX. Mr. Speaker, I think it is not accurate to say that they have any basis on which to go to court. They have no right at all to go to court, and they have no justification for a suit.

I am concerned that this legislation is before us, because basically what is happening in this legislation is that they are adopting a procedure that is different from any other zoning procedure in the entire country. Generally, when they engage in spot zoning—and that is in effect what this is—the property owners in the general area have a right to raise their objections. Property owners whose property is located perhaps 100 feet, 200 feet, or may be 300 feet away have a right to object to that spot zoning. If their objections are not heard or are not upheld and they are overruled by the governing body, then they have a right under ordinary circumstances to go to court.

But that would not be the fact in this particular circumstance. The agency can run roughshod right over the individual, and he or she has no rights to litigate. They can litigate, but they have no property rights to defend. In effect, this entire change in the law would modify the covenant agreement that exists between the Redevelopment Agency and those property owners around parcel 76 after they have developed their property.

Mr. KINDNESS. The gentleman is quite correct, and it concerns me that we may be treating this a little bit too quickly or lightly, in that the people who have developed or redeveloped properties in parcel C have done so in reliance on mutual covenants as to restricting the use of land to fit in with the redevelopment plan.

Obviously, that plan cannot remain constant forever, and I certainly do not mean to imply that there ought not be a procedure that could accommodate change, but I do feel that this bill may go too far in depriving adjoining property owners of the right to rely on the nature of the redevelopment of the property that adjoins them.

Mr. DELLUMS. Mr. Speaker, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from California.

Mr. DELLUMS. I thank the gentleman for yielding.

Mr. Speaker, as I understand the consultation with our legal staff, that common law and property law would give standing in any court if, indeed, people felt that their property rights were being violated or that there was waste involved. After the administrative remedies have been exhausted, they then do have standing in the court, given common law and property law, on those two points, property rights and waste.

Mr. KINDNESS. Mr. Speaker, the gentleman is absolutely correct that, if there is a nuisance created on an adjoining property, there might be such a right, on that basis, in court, and if the adjoining property was to be further developed as to cut off light, some of the more ancient common law principles might be applied. But in a redevelopment area we are talking about reliance on adjoining properties being developed in accordance with a plan of redevelopment of a whole area, and I believe people have a right to rely on that to some degree. I believe we may be overreacting to a situation in which other property owners just may be getting in the way of what may be a very proper redevelopment in these parcels.

Mr. MATTOX. Mr. Speaker, I move to strike the requisite number of words, and I rise in opposition to this legislation.

Mr. Speaker, let me announce to the body at this time that I am, in effect, a property owner. My house is directly across the street from this redevelopment, so I speak with some interest about it. I think that the most important thing to point out is that this particular piece of legislation is a piece of legislation that changes basic zoning and covenant-type law in respect to parcel 76. I doubt if any Member of this House can cite me one single piece of zoning legislation or zoning ordinance in this entire country that allows only the individual who is selling the property to have the impact that is taking place in this legislation. I do not think anyone can cite it to me. The reason that that is the case, in effect, is that this redevelopment agency establishes a covenant with all of those people who developed the property around and in compliance with that particular plan. Then to summarily come in and change the plan, in effect, does not allow those property owners to carry out their property rights.

I think it is improper for that to take place. I suspect that this body and the committee here will probably pass this legislation, and I think that that would be improper, particularly when there is a lawsuit that is now pending and legal actions are still going on, to usurp the power of that court to formulate a decision. I think this is particularly true when those individuals out there are trying to carry out their property rights.

The part about the common law and what action you have in common law, you can sue anybody in common law, but if you pass this legislation, though, you are going to do away with your common law rights of the individuals, and I would hope that this body would reject this piece of legislation.

● Mr. FAUNTROY. Mr. Speaker, I rise in support of H.R. 10311, a bill amending the District of Columbia Redevelopment Act of 1945. I would also like to thank the chairmen of both the subcommittee and the full committee for their diligent work on this bill. This is a simple bill which seeks to do two things:

First. Clarify an ambiguity in the District of Columbia Code which presently may have as its effect the grant of a veto every owner or lessee in a designated urban renewal area over any plan amendment in the urban renewal area. This reading, which has been put upon the statute, creates an unworkable urban renewal process and is presently, with respect to the Southwest Urban Renewal Project Area C, preventing two projects, which have all of the other approvals necessary, from going forward and being implemented. If allowed to continue, this statutory ambiguity will have an adverse impact upon every other urban renewal district in this city. This bill aims to remove that ambiguity.

Second. Through the exercise of a right which is reserved exclusively and absolutely to the Congress itself, approve the two plan amendments which authorize the construction of housing on parcel 76 and an extension to a waterfront inn on parcel D-2-B. This is a right which the Congress may exercise with or without the consent being given by the other lessees or owners in such urban renewal areas. In this case, it will terminate the need for further litigation that has arisen over this ambiguity and permit the construction of housing which has been approved by all involved agencies and which was, in fact, a part of the original urban renewal plan. It will also permit a waterfront inn to construct an additional 50 rooms to which there is no expressed opposition from any of the parties in litigation as evidenced by the correspondence between them.

This leads me, Mr. Speaker, to my final point. We have, in this instance, an opportunity to assure that our goal of intermixing low-, moderate-, and upper-income housing can be fulfilled. Housing for persons of low and moderate income is an important component of successful urban renewal programs. The Southwest Urban Renewal Project is one of the oldest—both locally—and in the Nation. What this Congress does to implement the urban renewal project will largely determine whether or not other urban renewal undertakings purportedly aiding those with low and moderate incomes will have a chance to succeed.

This bill is important to me not only because it ends the ambiguity of the law, thus, permitting the completion of these important projects, but also because it reaffirms our decision that those with low and moderate incomes are an integral part of successful urban renewal projects in this Nation.●

● Mr. DIGGS. Mr. Speaker, the purposes of the bill (H.R. 10311) are first, to clarify an ambiguity in the District of Columbia Redevelopment Act of 1945, and second, to approve certain amendments to the urban renewal plan for Southwest Urban Renewal Project Area C in the District of Columbia.

Presently, there is an ambiguity concerning the scope of the class of persons whose written consent is required to effectuate a modification of an approved project area redevelopment plan. The ambiguity is whether consent is required from all owners and lessees of property in the area who deem themselves affected

by the modification, or whether consent is required only from the particular owner or lessee of the property whose planned use is being modified.

The bill would amend the District of Columbia Redevelopment Act to reaffirm the intent of the Congress that only the owner or lessee of the particular parcel of land whose use is being modified is required to give consent thereof under the statute. This was the intent when the Congress enacted the Redevelopment Act of 1945, and this is still the proper interpretation of the act, in the judgment of the Committee on the District of Columbia which authored the legislation in question.

Congress was the prime mover, starting in the District of Columbia, in slum clearance and redevelopment projects in our major cities. Hence, the enactment of the legislation authorizing the District of Columbia Redevelopment Land Agency to acquire and clear land in blighted and substandard areas, and sell it to private redevelopers for development in accordance with an areawide plan.

These land clearance and redevelopment projects of necessity involve long-range planning, and the RLA Act specifically details procedures therefor, adoption of an approved urban renewal plan, and provisions for modifications necessitated by desirable changes suggested or recommended by interested parties during prolonged hearings and consideration by the agencies delegated to study and approve the end project.

The committee report outlines some of the detailed efforts that have been a part of the "Parcel 76" proposed rehabilitation of the southwest District of Columbia area involved herein.

The committee, as stated in its report, finds it is unreasonable to expect an urban renewal plan, once adopted to remain unchanged throughout its duration.

So with proposed "modifications," parties in interest have a legitimate concern. But it is not responsible for them to assume that all property owners in an urban renewal area must consent to, and thus in effect, have the right to veto, all modifications for the duration of an urban renewal plan.

Hence, the clarifying change offered by the committee to enable the RLA to proceed toward its goals for the southwest area under what the committee feels is the proper interpretation of the 1945 act.

H.R. 10311, in addition, approves two urban renewal plan amendments in southwest Washington by authorizing first, a low- and moderate-income housing development, and second, a waterfront inn expansion project.

These proposals have already been the subject of lengthy hearings and study by the council, the National Capital Planning Commission, and the D.C. Redevelopment Land Agency.

The amendments will permit the District of Columbia to accomplish its objectives of providing much-needed housing on Parcel 76 in the southwest, and permitting long-delayed commercial expansion of the waterfront to proceed, thus contributing to the city's economic strength and vitality.

Adoption of H.R. 10311 will help measurable to start the pace of urban renewal in southwest Washington zoning again.●

Mr. DELLUMS. Mr. Speaker, I move the previous question on the bill.

The previous question was ordered.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 3075, INTERNATIONAL SECURITY ASSISTANCE ACT OF 1978

Mr. ZABLOCKI. Mr. Speaker, I call up the conference report on the Senate bill (S. 3075) to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see Proceedings of the House of September 7, 1978.)

Mr. ZABLOCKI (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. ZABLOCKI) will be recognized for 30 minutes, and the gentleman from Michigan (Mr. BROOMFIELD) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Speaker, I yield myself such time as I may consume.

The major purpose of the conference report on S. 3075 is to authorize the appropriation of funds to finance U.S. international security asssistance programs for fiscal year 1979.

First, concerning our international security assistance programs for fiscal year 1979, as agreed to by the conferees on August 15, the report authorizes an appropriation for international security assistance of $2,817,500,000. Including the economic support fund, amounts for which the House authorized in the International Development and Food Assistance Act of 1978 (H.R. 12222), the total authorization represents a reduction of $36,800,000 from the amounts authorized by the House on August 2, a decrease of $32.5 million in the Senate figure, and an increase of over $28.2 million the amount requested by the executive branch.

The specific authorizations contained in the bill are as follows: $133.5 million for grant military assistance; $31.8 million for international military education and training; $1,902 million for the economic support fund; $30.9 million for peacekeeping operations; $674.3 million for foreign military sales financing. This amount will finance the sale of $2,085,500,000 worth of defense articles and defense services during fiscal year 1979; $5 million for the contingency fund; $40 million for international narcotics control programs.

On other items of major interest, the conference report also:

Lifts the Turkish arms embargo. The conference report follows the House provision which provided that the embargo on the export of arms to Turkey embodied in section 620(x) of the Foreign Assistance Act would be of no further force and effect. That fact would be contingent upon a Presidential determination and certification to the Congress covering two points: First, that resumption of full military cooperation with Turkey is in the national interest of the United States and in the interest of NATO; and second, that the Government of Turkey is acting in good faith to achieve a just and peaceful settlement of the Cyprus problem.

Those in the House who had strong views on the Turkish arms embargo question and who worked diligently to uphold their position can be assured that the House conferees succeeded in protecting their interests. This issue was carefully resolved by preserving more of the House provision than the Senate approach which involved a flat repeal of section 620(x). Further, the conference report stresses that Congress will continue to assess and examine how it can best promote political and military stability in the eastern Mediterranean, reduce tensions between Greece and Turkey, and help promote progress toward a Cyprus settlement.

Concerning the authorization for a transfer of military equipment to Korea, the committee of conference authorized the President to transfer defense articles and services to Korea only in conjunction with the withdrawal of the 2d Infantry Division and support forces. Thus, the rate and proportion of defense articles transferred shall correspond to the rate and proportion of the troop withdrawals. Further, the authorization of this equipment transfer in no way diminishes the expression of serious concern about the troop withdrawal program. Finally, it stipulates the expectation of full consultation in advance of further troop withdrawals.

Concerning the Rhodesia embargo, the House conferees kept in mind the strong sentiments of the House as expressed in the Ichord amendment. We therefore did our utmost to stay as close as possible to the House position.

The conference report provides that the United States shall not enforce sanctions against Rhodesia after December 31, 1978, provided that the President determines first that the Government of Rhodesia has demonstrated its willingness to negotiate in good faith at an all-parties conference held under international auspices on all relevant issues; and second, that a government has been in-

stalled chosen by free elections in which all political and population groups have been allowed to participate freely, with observation by impartial, internationally recognized observers.

This compromise provision thus embodies the following key features of the Ichord amendment, as opposed to the Case-Javits amendment:

The provision enables a permanent lifting of the embargo after a set date as in the Ichord amendment, rather than a temporary lifting during a limited period of time.

The Presidential determination regarding a peace conference and free elections is obligatory upon fulfillment of the conditions set forth in the law, as opposed to the Senate version which did not require a determination.

As is obvious, the language itself is predominantly taken from the language of the Ichord amendment and the overall structure, language and approach of the conference report is much closer to the straightforwardness of the Ichord amendment.

Mr. Speaker, the conference report on S. 3075 also contains important provisions aimed at improving the information available to the Congress concerning arms sales. For example:

A new reporting requirement was added for arms sales proposals which must be submitted to Congress by November 15 of each year. It will set forth the most authoritative estimate of major sales which the executive branch contemplates for possible submission to the Congress during the fiscal year.

A new quarterly report on security assistance surveys authorized during the preceding calendar quarter was added.

A new requirement for additional information relevant to major arms sales proposals submitted under 36(b) was added.

As mentioned earlier, the conference report authorizes $1,902 million for the Economic Support Fund. In the past, this program was designated "security supporting assistance." The conferees agreed that the term "economic support fund" more properly reflects its nature and purpose. It is economic assistance in areas of particular importance to the security and political interests of the United States.

Mr. Speaker, perhaps the most volatile region in the world today is the Middle East. Elusive as the prospects for a lasting peace seem, every effort must continue to be made toward a just settlement in that troubled area.

In an effort to help in this process toward peace, the conference committee recommends the use of $1,776 million from the economic support fund.

Of this amount, $785 million is earmarked for Israel, $750 million for Egypt, $93 million for Jordan.

In addition, it is the intent of the Committee of Conference that $90 million be provided for Syria, and $50 million for the Maqarin Dam project.

The total amount earmarked for Israel may be available as a cash transfer if the President insures that it does not have an adverse impact on U.S. nonmilitary exports to Israel.

Furthermore, to insure that the sentiments of Congress concerning the situation in the Middle East remain clear, the bill contains a policy statement that the United States should continue to promote negotiations and encourage other Arab states to enter into negotiations, and that the United States should be responsive to Israel's economic needs and defense requirements including the provision of additional advanced aircraft to maintain Israel's defense capability which is essential to peace.

With regard to the economic support fund assistance for southern Africa, the conference report authorized $60 million.

Finally, $15 million was earmarked in the conference report for refugee relief and reconstruction for Cyprus.

Mr. Speaker, this is a good conference report. It is the product of long hours of hard work and honest negotiation. House conferees were diligent and determined in upholding House interests and positions. In the judgment of the conferees, it combines the best features of both the House- and Senate-passed bills.

It fully merits support and I therefore urge my colleagues to approve the conference report.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report to S. 3075—the International Security Assistance Act of 1978. The conference report preserves principal provisions of the security assistance legislation initially passed by the House and warrants our support.

In particular, the report we have before us provides for the maintenance of our overall security interests—and as a result—acts as an important counter to the ever-growing Soviet military threat.

As my colleagues well know, the projection of Soviet power in the eastern Mediterranean poses numerous problems to our good friends and allies on the southern flank of NATO. In this regard, I believe that the conference report we have before us today will help to encourage an accommodation in the eastern Mediterranean which will be in the best interests of all parties to the Atlantic Alliance. In particular, the $35 million earmarked for grant military assistance to Greece, which was included in the House-passed legislation and agreed to by the Senate conferees, is intended to maintain a balance in total security assistance for the eastern Mediterranean. In this way, the structure of NATO will be further strengthened against the Soviet threat. Also, conferees agreed to earmark $15 million for sorely needed refugee relief and reconstruction on Cyprus.

As my colleagues are aware, the Soviets, with growing military strength, are intent upon outflanking our near Eastern friends and jeopardizing our oil supplies. In this regard, the conference helps to offset the Soviet Union's increasing encirclement of the Middle East by providing essential support to our friends in that region of the world. The Senate conferees, for example, adopted the House position on the authorization of foreign military sales credits, which provides for a $1 billion foreign military sales program for Israel alone. This assistance is fundamental to Israel's security needs and will provide Israel with confidence in negotiating with its Arab neighbors for peace in the Middle East.

The conference also agreed to include an economic support fund, which was in the Senate Security Assistance bill and transferred from the House Economic Assistance bill. This fund earmarks money for Israel, Egypt, and Jordan. In relation to the economic support fund, the House adopted a provision of the Senate bill which would provide at least $65 million authorized for Egypt to be used for the development and encouragement of private enterprise.

Although the conference report is important in countering the ominous Soviet military threat worldwide—it does little to offset the Communist threat to our internal security, namely the influx of Communists into the United States. I was particularly disturbed when the Senate conferees failed to successfully defend its nonimmigrant visa provision as introduced by Senator BAKER and adopted on the Senate floor. This provision, which repealed the McGOVERN amendment, would have had the effect of keeping members of proscribed organizations out of the United States unless the State Department requests a waiver to admit them.

To be sure, our policy toward the Soviet Union should be predicated to some extent on the Soviets' willingness to maintain their commitments as signatories to international agreements. While the Soviet Union continues to flagrantly violate human rights and has been far from fully satisfying the movement of people as provided by the Helsinki accords, I believe that the Baker provision would have been the more effective response, not only in potentially keeping Communist agents out of the United States, but also members of the Palestinian Liberation Organization.

Overall, however, the Committee of Conference retains a number of provisions initially approved by the House while at the same time providing for the achievement of important national and international security objectives. For these reasons, I urge my colleagues to approve the conference report to S. 3075—the International Security Assistance Act of 1978.

Mr. BROOMFIELD. Mr. Speaker, at this time I yield 2 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I rise for a number of reasons in opposition to this conference report, but I also want to ask some questions of the chairman regarding at least two sections of the bill.

First, let me point out to the membership that section 22 of the conference report contains an entirely new

authorization for foreign travel by Members of Congress and their staffs. In effect, this new section allows a perpetual authorization for the Secretary of the Treasury to purchase foreign currencies to be used for congressional travel expenses, without any of this money having to be appropriated by the Congress. I personally opposed this permanent appropriation and regret that an annual authorization was not required.

This section does contain, however, certain amendments which I offered requiring that any such expenditure of foreign currency by Members or their staff be reported within 30 days of their return and that each calendar quarter these records be made available in the RECORD. They will also be public as soon as they are filed. Perhaps this may act as a needed restraint on any excesses which may occur.

Now, Mr. Speaker, I would like to address some questions to the distinguished gentleman from Wisconsin (Mr. ZABLOCKI).

As the gentleman well knows, on page 6 of the conference report, the southern African program, funding is provided in the amount of $60 million. The other body had provided amounts of money earmarked for humanitarian assistance and establishment of educational and other training programs in Rhodesia. My concern stems from the statement appearing on page 45 of the report, which says that this assistance will be available to refugees "from or in Rhodesia," and shall be channeled through international organizations. I am concerned that in some manner or means these moneys may in fact go to the guerrilla forces or in some way be used to assist those who are fighting against the current transitional Government of Rhodesia. I think that is the last thing that we would want American tax dollars to be doing.

Mr. ZABLOCKI. Mr. Speaker, if the gentleman will yield, I can assure the gentleman that there are no funds for the guerrilla forces.

I might add that the other body had earmarked funds, for Rhodesia. The conference report we bring back does not earmark those funds as the language on page 6 will confirm.

As to the gentleman's question on page 45, the assistance to refugees "from or in Rhodesia" would be to bona fide refugees, and those programs would be administered by appropriate international organizations. If the Rhodesian Government, for example, would have an adequate and legitimate refugee program, then the answer that I presume the gentleman seeks would be yes and these funds would be available to the Rhodesian Government, in my opinion, for Rhodesian refugees.

Mr. BAUMAN. So that not only is it the intention of the conferees to prevent this money from assisting the guerrilla activities, but, in fact, there is no prohibition against direct aid to the current Government of Rhodesia for refugee purposes.

Mr. ZABLOCKI. If they were for refugee purposes, and, hopefully the Government of Rhodesia also would agree that whatever is available through international organizations, that they would support such a program.

The SPEAKER. The time of the gentleman has expired.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 additional minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for yielding me this additional time.

The other question I wanted to ask the gentleman is in regard to the language lifting the embargo, on page 30 of the conference report. In my view there is no question that the President is obligated to make a determination upon the occurring of the two events, that is, the willingness to negotiate on the part of the government and the holding of free elections on the part of the current government.

This report seems to indicate that any number of people, the phrase used is "many people may express their opposition to the internal settlement by voluntarily refraining from voting," might lend itself to an excuse not to determine that, in fact, these events had occurred. I would hope that this would not be used as an excuse to refuse to lift the embargo.

Mr. ZABLOCKI. That is the intention of the conferees, and it is not intended that the language the gentleman refers to in the statement of managers on page 30 "that many people may express their opposition," that is an exception, but by many people we do not mean two or three, it would have to be thousands before the President would consider a negative Presidential determination.

Mr. BAUMAN. I also assume that none of the international groups that are mentioned here that may supervise or deal with the funds I just mentioned, would include groups that have, in fact, shown partiality to the guerrilla groups, like the World Council of Churches.

Mr. ZABLOCKI. We would expect the international organization that would administer the refugee fund to be sympathetic to the refugees.

Mr. BAUMAN. I thank the gentleman for his responses, although I would like to see the immediate lifting of the embargo particularly in view of the guerrilla attack on the Rhodesian airliner in the last few days. This atrocity is only the latest in a lengthy chain of murderous acts committed by the guerrillas against blacks and whites, young and old, so that thousands have died at their hands.

It is clear that the use by the guerrillas of heat-seeking missiles against a defenseless civilian airliner is still more evidence of the Soviet involvement in Rhodesia. Only today I have heard rumors of the massing of Cuban troops on the borders of Rhodesia. And all this activity is directed against the official interim government which is headed by three blacks and one white, all seeking a peaceful transition to majority rule.

To me it is the shame of this administration that they have sided with the murderers and Communists, against those who seek a peaceful solution. By lifting the embargo now we could at least assist those who share our goals for a peaceful Africa in which the rights of all races are protected.

Mr. ZABLOCKI. Mr. Speaker, I yield 5 minutes to the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. Mr. Speaker, I appreciate the gentleman's yielding.

I take this time for the purpose of further establishing a legislative record on the compromise Rhodesian amendment.

As the gentleman from Maryland (Mr. BAUMAN) and the chairman have stated, my amendment, which was adopted by the House, provided for lifting sanctions on December 31, 1978, unless the President found that certain things did not exist. The language of the compromise provides for a lifting of sanctions on December 31, 1978, provided the President finds that certain conditions do exist.

I do agree with the distinguished chairman of the committee. The compromise language is a distinct improvement over the original Case-Javits amendment, which was extremely ambiguous. However, I find that there is still some ambiguous language in my own mind; and I think that a clarification should be made for the record.

Therefore, Mr. Speaker, I would ask the distinguished chairman this question: It is the chairman's understanding, is it not, that prior to December 31, 1978, the President, under the conference committee language, under the compromise, is obliged to make a determination based upon the conditions set forth and that the basis of such a determination would be transmitted to both Houses of Congress for review?

Mr. ZABLOCKI. If the gentleman will yield, Mr. Speaker, I would say to the gentleman that the Rhodesian embargo would be lifted, and the United States would not enforce sanctions against Rhodesia after December 31, 1978, unless the conditions enumerated in the legislation are not met.

Mr. ICHORD. The compromise language provides that the sanctions shall be lifted on December 31, 1978, provided that the Government of Rhodesia has demonstrated its willingness to negotiate in good faith at an all-parties conference held under international auspices.

Let us suppose that the U.N. or the international body referred to does not choose to oversee the conferences, and also that they did not provide observers for the free elections provided therein. Would that be considered as making the conditions null and void?

Mr. ZABLOCKI. If the gentleman will yield further. I would say no. In my judgment, the United States and the British, acting as observers, would satisfy the requirement for international observers as included in the language which is presented in the conference report at page 17.

Mr. ICHORD. Would the distinguished chairman define for me the phrase "will-

ingness to negotiate?" It says that the sanctions shall be lifted provided the President determines that the Government of Rhodesia has demonstrated its "willingness to negotiate."

What I am asking is, What must the Rhodesian Government do to satisfy this precondition?

Mr. ZABLOCKI. It is my judgment that a willingness to negotiate would be satisfied once the Rhodesian Government has shown a readiness to go to the conference table on this issue; in other words, to attend and participate in the conference in good faith. That would, in my opinion, satisfy the requirement to which the gentleman refers, the "willingness to negotiate."

Mr. ICHORD. I would quote to the gentleman from the Washington Post. This morning's Washington Post quotes Nkomo as saying that the British-American plan for an all-parties conference to end the Rhodesian war is now dead and buried.

The SPEAKER pro tempore. The time of the gentleman from Missouri (Mr. ICHORD) has expired.

Mr. ZABLOCKI. Mr. Speaker, I yield 5 additional minutes to the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. To continue, Mr. Speaker, it says that he would meet Rhodesian Prime Minister Ian Smith only at a surrender conference.

How is this going to affect the compromise amendment? Apparently Nkomo is not willing to have an all-parties conference as proposed by the British-American plan.

Mr. ZABLOCKI. I, unfortunately, have not read the article. It is my understanding, I will say to the gentleman, that Ian Smith has expressed the desire to cooperate and negotiate, and although Nkomo has taken a hard line in this matter he is only one person. The situation is moving so rapidly in Rhodesia that one cannot foresee what will happen. In my judgment Nkomo's position as reported in the Washington Post is not necessarily the final word.

Mr. ICHORD. The chairman would agree that it would not bar—that action of Nkomo as read from the Washington Post—the fulfilling of that condition.

Mr. ZABLOCKI. I would, yes.

Mr. ICHORD. As a final point, I would like to ask the chairman to define the term "relevant issues." The condition says the Government of Rhodesia has demonstrated its willingness to negotiate in good faith at an all-parties conference held under international auspices on all relevant issues. How would the chairman define the term "relevant issues"?

Mr. ZABLOCKI. Will the gentleman yield?

Mr. ICHORD. Yes, I yield to the gentleman.

Mr. ZABLOCKI. The report on page 30 clearly states under subsection (e)—

"All relevant issues" to be considered at an all-parties conference include, among other things, the terms of majority rule, the protection of minority rights, the Anglo-American plan, and the terms of the Salisbury Agreement.

The gentleman knows and is familiar with the explanation that I have just read from the statement on the part of the managers, in addition I would like to say to the gentleman that this is neither an all-inclusive or final list that I have read. It is illustrative of the issues which the conferees thought would be inherent in any discussion of a peaceful settlement of that conflict. In addition, I would say that it would also include other economic and political matters which would be of interest to the people of Rhodesia, including the white population, such as property and voting rights.

Mr. ICHORD. I appreciate the gentleman's clarifying the record on what I consider to be some of the ambiguous terms of the compromise. I realize that the position of the Senate conferees was very adamant, but I would still express the concern to the House that we put conditions upon the transitional government, but nowhere do we mention any conditions on the Patriotic Front, which is, of course, dedicated to achieving power at the point of a gun and a force responsible for the indiscriminate killing and raping and mutilating of innocent Rhodesians, both black and white. I particularly refer to Mugabe's forces, not so much to Nkomo's forces, because I think that Nkomo probably, or under certain conditions at least, would be willing, although he stated he would not, to sit down and negotiate. I can only hope that this language will help to bring about a government that truly represents the best aspirations of the Rhodesian people, both black and white.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. ZABLOCKI. Mr. Speaker, I yield myself 1 additional minute just to comment on the gentleman's observations. We all abhor the atrocities that are occurring in that area of the world. The conferees intend to establish the conditions in which cooperation in the area can develop. We have included in our conference report almost verbatim the gentleman's amendment, and I am sure we are just as sincere as he is to see that the right thing is done in that area of the world.

Mr. BROOMFIELD. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, I urge my colleagues to support the conference report to S. 3075—the International Security Assistance Act of 1978. This report retains important provisions of security assistance legislation originally passed by the House.

Moreover, the conference report is fundamental to our national and international security interests—and will help to offset the current Soviet threat.

The Soviet Union continues to escalate its arms buildup and to project its naval power worldwide. In particular, the Soviets are now threatening to encircle our good friends and allies in the eastern Mediterranean.

In this regard, the conference report earmarks $35 million in grant military assistance to Greece. This amount of grant assistance to Greece was included in the House-passed legislation and was agreed to by the Senate conferees. To be sure, the grant military assistance to Greece will help to strengthen the structure of NATO and counter the Soviet threat.

The conference report to S. 3075 also provides necessary suprort to our Middle East friends. The conference, for example, provided for a $1 billion foreign military sales program for Israel and earmarked economic support fund moneys for Israel, Egypt, and Jordan.

Furthermore, the conference report to S. 3075 addresses U.S. security concerns in Asia. The conference authorized the transfer to Korea of U.S. defense equipment as the President withdraws U.S. forces from Korea. It also maintained the initially passed House position that the President shall submit a report to the Congress on the effect of any proposed withdrawal plan prior to further withdrawal. The committee of conference also adopted the position that proposed policy changes affecting the Mutual Defense Treaty with the Republic of China shall be a matter for prior consultation with the Congress—and not simply the Senate.

While this legislation is important in meeting the external Communist threat, it does not meet the problem of Communists and representatives of other proscribed organizations entering the United States under the guise of trade unionism. Unfortunately, the Senate conferees abandoned Senator BAKER's nonimmigrant visa provision which was adopted by the full Senate.

To some extent, I was also disturbed over the fact that the conference did not provide the executive branch with more flexibility by increasing the amount of the contingency fund, consistent with my amendment.

I believe that overall, however, the committee of conference adequately provides for the meeting of important national and international security objectives. As a result, I urge a favorable vote on the conference report to S. 3075.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I urge the defeat of the conference report on S. 3075, the International Security Assistance Act for fiscal year 1979. My objection centers on the provisions regarding Rhodesia.

I believe the House acted wisely when it approved the Ichord amendment on August 2. This important amendment would lift economic sanctions against Rhodesia once that nation holds free elections and a freely elected government is installed.

Unfortunately, the conferees have adopted language much closer to the Senate version. Sanctions would be lifted only if the President determines that a freely elected government is installed and that Rhodesia demonstrates its willingness to negotiate in good faith at an all-parties conference held under international auspices. What we are left with is language basically upholding President Carter's plan of imposing Patriotic Front rule in Rhodesia.

We have seen all too well the brutal activities of the Patriotic Front's black guerrillas. These pro-Communist terrorists use hit-and-run raids to slaughter innocent civilians.

A few weeks ago we saw photographs of the bloody massacre of a dozen British missionaries. We have seen pictures of women and their babies killed by these so-called liberation forces. And now this week they admittedly shot down a civilian Rhodesian airliner. After the crash, 10 of the 18 survivors were rounded up and executed by machine-gun fire and bayonet thrusts.

How long will we stand back and watch such activities continue? It is time to remove economic sanctions against Rhodesia and support the moderate internal settlement.

The conference report, however, backs the concept of an all-parties conference. Such a conference is dead. Let me quote what the radical guerrilla leader Joshua Nkomo said yesterday. As far as he is concerned, the British-American plan for an all-parties conference to end war is "dead now and buried." He will meet with Smith only at a "surrender" conference.

Why are we still insisting that Rhodesia show its good faith to participate in an all-parties conference while the leader of the black guerrillas has no intention of participating in any such conference? Our position is absurd.

Again, it is time to end our support for the terrorists and guerrillas. We should defeat the conference report and insist on language such as the Ichord amendment.

● Mr. YOUNG of Missouri. Mr. Speaker, because of a prior commitment I will be unable to cast my vote on the conference report on the International Security Assistance Act of 1978.

I supported the House version of this legislation, and I also support this conference report. Under the bill, the State of Israel would receive about $785 million in economic support funds as well as a substantial amount in military credit and sales. In addition, the report contains strong language in support of the continued U.S. military and economic assistance for Israel.

I believe it is essential for this Nation to continue it traditional commitment to Israel, and I believe that this conference report reflects that policy.●

● Mrs. LLOYD of Tennessee. Mr. Speaker today Members of the House of Representatives were asked to make a difficult decision about this country's ability to continue our international security assistance programs for fiscal year 1979. I opposed this funding because I do not feel that we can continue to ask taxpayers to sponsor deficit spending in this fashion. We no longer have the fiscal capability to meet both domestic and international needs solely from our limited national resources.

We cannot afford to give as freely and generously as we have in the past and the countries into which we have poured billions of dollars must face that fact now. We now find ourselves in the position of borrowing money to give it away, and it is unconscionable for the Government to expect American taxpayers to accept this type of fiscally irresponsible spending.

As long as there are serious domestic needs here in our country, I will not support the expenditure of our tax dollars on foreign needs. To begin moving toward a balanced budget we must make cuts in Government spending elsewhere. I would rather see decreases in our foreign assistance programs as opposed to cutting the budget in areas which will directly deprive American citizens of programs which are vitally important to them.

I deeply regret that by voting against this bill I am in the position of voting against assistance to Israel, a nation which has borne the brunt of its own defense. Israel is a nation determined to fight for its existence, a fight which, without the outside interference of the Soviet Union, it would easily win.

President Carter, Prime Minister Begin and President Sadat are at this time meeting in an effort to move ahead on the road to achieving peace in the Middle East. This type of personal interchange is extremely important in the resolution of this three-decade old Arab-Israeli conflict. I feel that it is critical that this summit meeting now indicates that the United States has moved to become a full partner in achieving this peace.

In light of these circumstances, I feel that continued U.S. assistance to Israel is fully justified and deserved, and I would support such a proposal if offered independently of this bill. Since this was not the case, I reluctantly voted against the International Security Assistance Act of 1978 conference report.●

Mr. BROOMFIELD. Mr. Speaker, I yield back the balance of my time.

Mr. ZABLOCKI. Mr. Speaker, I have no further requests for time.

Mr. Speaker, I move the previous question on the conference report.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

Mr. BROOMFIELD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 225, nays 126, not voting 81, as follows:

[Roll No. 761]

YEAS—225

Akaka
Alexander
Ambro
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Aspin
AuCoin
Baldus
Baucus
Beard, Tenn.
Bellenson
Benjamin
Biaggi
Bingham
Blanchard
Boggs
Boland
Bonker
Brademas
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Buchanan
Burgener
Burlison, Mo.
Burton, Phillip
Carney
Carr
Cavanaugh
Cederberg
Clay
Cohen
Coleman
Collins, Ill.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Danielson
Dent
Derrick
Derwinski
Dicks
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Erlenborn
Evans, Colo.
Evans, Del.
Fascell
Fenwick
Findley
Fisher
Flood
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Gaydos
Giaimo
Gilman
Glickman
Gonzalez
Gore
Gradison
Green
Hagedorn
Hamilton
Hanley
Hannaford
Harris
Heckler
Heftel
Hightower
Hillis
Holland
Hollenbeck
Horton
Howard
Hyde
Jeffords
Johnson, Calif.
Jordan
Kazen
Kemp
Keys
Kildee
Kostmayer
LaFalce
Lagomarsino
Le Fante
Leach
Lederer
Lent
Levitas
Livingston
Lloyd, Calif.
Long, La.
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marsoli
Metcalfe
Meyner
Michel
Mikva
Milford
Mineta
Minish
Mitchell, N.Y.
Moakley
Mollohan
Moore
Moorhead, Pa.
Murphy, Ill.
Murtha
Myers, Michael
Natcher
Nedzi
Nix
Nowak
O'Brien
Oberstar
Obey
Ottinger
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pettis
Pickle
Preyer
Price
Pritchard
Quayle
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Rinaldo
Roberts
Roe
Rogers
Rooney
Rosenthal
Ruppe
Ryan
Santini
Sawyer
Schulze
Seiberling
Sharp
Shipley
Sikes
Simon
Sisk
Skelton
Skubitz
Smith, Iowa
Snyder
Solarz
Spence
Staggers
Stanton
Steers
Steiger
Stockman
Thompson
Thornton
Traxler
Treen
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Walgren
Walsh
Waxman
Whalen
White
Whitehurst
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Zablocki

NAYS—126

Abdnor
Anderson, Calif.
Andrews, N.C.
Applegate
Archer
Ashbrook
Badham
Bafalis
Bauman
Bedell
Bennett
Bevill
Blouin
Bonior
Bowen
Brinkley
Broyhill
Burke, Mass.
Burleson, Tex.
Burton, John
Butler
Carter
Chappell
Clausen, Don H.
Cleveland
Collins, Tex.
Cornell
Crane
Cunningham
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Dellums
Devine
Duncan, Tenn.
Edwards, Ala.
Emery
English
Evans, Ga.
Evans, Ind.
Fithian
Flippo
Flynt
Forsythe
Fountain
Gammage
Gephardt
Ginn
Goodling
Grassley
Gudger
Guyer
Hall
Hammer-schmidt
Harkin
Harsha
Hefner
Holt
Hughes
Ichord
Jacobs
Jenkins
Jenrette
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kelly
Kindness
Kreba
Latta
Lloyd, Tenn.
Lott
Lujan
McDonald
Marienee
Marriott
Martin
Mathis
Miller, Ohio
Moffett
Montgomery
Moorhead, Calif.
Mottl
Murphy, Pa.
Myers, Gary
Myers, John
Neal
Nichols
Oakar
Panetta
Pike
Poage
Pressler
Pursell
Quillen
Robinson
Rose
Rousselot
Roybal
Runnels
Russo
Satterfield
Schroeder
Sebelius
Shuster
Slack
Smith, Nebr.
Stangeland
Stark
Steed
Stokes

Studds	Waggonner	Whitley
Taylor	Walker	Wylie
Thone	Wampler	Young, Fla.
Trible	Watkins	
Volkmer	Weaver	

NOT VOTING—81

Addabbo	Flowers	Murphy, N.Y.
Ammerman	Fraser	Nolan
Armstrong	Frenzel	Quie
Ashley	Frey	Richmond
Barnard	Fuqua	Risenhoover
Beard, R.I.	Garcia	Rodino
Bolling	Gibbons	Roncalio
Breaux	Goldwater	Rostenkowski
Brown, Ohio	Hansen	Rudd
Burke, Calif.	Harrington	Sarasin
Burke, Fla.	Hawkins	Scheuer
Byron	Holtzman	Spellman
Caputo	Hubbard	St Germain
Chisholm	Huckaby	Stratton
Clawson, Del	Ireland	Stump
Cochran	Johnson, Colo.	Symms
Conyers	Kasten	Teague
Cornwell	Krueger	Tsongas
D'Amours	Leggett	Vander Jagt
Delaney	Lehman	Weiss
Dickinson	Long, Md.	Whitten
Diggs	Mattox	Wiggins
Edwards, Okla.	Meeds	Wilson, C. H.
Ertel	Mikulski	Young, Alaska
Fary	Miller, Calif.	Young, Mo.
Fish	Mitchell, Md.	Young, Tex.
Florio	Moss	Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Addabbo for, with Mr. Mitchell of Maryland against.

Mr. Richmond for, with Mr. Conyers against.

Mr. Fary for, with Mr. Teague against.

Mr. Krueger for, with Mr. Miller of California against.

Mr. Ashley for, with Mr. Risenhoover against.

Mrs. Chisholm for, with Mr. St Germain against.

Mr. Fuqua for, with Mr. Beard of Rhode Island against.

Mr. Garcia for, with Mr. Whitten against.

Mr. Hawkins for, with Mr. Breaux against.

Ms. Holtzman for, with Mr. Roncalio against.

Mr. Weiss for, with Mr. Stump against.

Mr. Zeferetti for, with Mr. Hansen against.

Mr. Young of Missouri for, with Mr. Byron against.

Until further notice:

Mr. Ammerman with Mr. Frenzel.

Mrs. Burke of California with Mr. Goldwater.

Mr. Cornwell with Mr. Kasten.

Mr. Fraser with Mr. Fish.

Mr. Florio with Mr. Sarasin.

Mr. Murphy of New York with Mr. Rudd.

Mr. Tsongas with Mr. Quie.

Mr. Stratton with Mr. Symms.

Mrs. Spellman with Mr. Wiggins.

Mr. Rodino with Mr. Edwards of Alabama.

Mr. Barnard with Mr. Dickinson.

Mr. D'Amours with Mr. Del Clawson.

Mr. Delaney with Mr. Caputo.

Mr. Diggs with Mr. Brown of Ohio.

Mr. Ertel with Mr. Armstrong.

Mr. Rostenkowski with Mr. Frey.

Mr. Nolan with Mr. Hubbard.

Mr. Harrington with Mr. Long of Maryland.

Ms. Mikulski with Mr. Vander Jagt.

Mr. Meeds with Mr. Cochran of Mississippi.

Mr. Flowers with Mr. Burke of Florida.

Mr. Gibbons with Mr. Huckaby.

Mr. Ireland with Mr. Leggett.

Mr. Lehman with Mr. Mattox.

Mr. Moss with Mr. Scheuer.

Mr. Charles H. Wilson of California with Mr. Young of Alaska.

Messrs. BONIOR, EMERY, MARRIOTT, and JENKINS changed their vote from "yea" to "nay."

Mr. DORAN and Mrs. COLLINS of Illinois changed their vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 11545, LIMITATIONS ON IMPORTATION OF MEAT PRODUCTS

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Report 95-1562) on the resolution (H. Res. 1343) providing for consideration of the bill (H.R. 11545) to modify the method of determining quantitative limitations on the importation of certain articles of meat and meat products, to apply quantitative limitations on the importation of certain additional articles of meat, meat products, and livestock, and for other purposes, which was referred to the House Calendar and ordered to be printed.

FUELS TRANSPORTATION SAFETY AMENDMENTS OF 1978

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1311 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1311

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11622) to amend the Natural Gas Pipeline Safety Act of 1968 to provide for the safe operation of pipelines transporting natural gas, petroleum, petroleum products, and certain other materials, to provide standards with respect to the siting, construction, and operation of liquefied natural gas and liquid petroleum gas facilities, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment, and said substitute shall be read for amendment by titles instead of by sections. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 11622, the Committee on Interstate and Foreign Commerce shall be discharged from the further consideration of the bill S. 1895, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 11622 as passed by the House.

The SPEAKER pro tempore. (Mr. DUNCAN of Oregon). The gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Illinois (Mr. ANDERSON) pending which I yield myself such time as I may consume.

Mr. Speaker, the resolution (H. Res. 1311) makes in order the consideration of the bill (H.R. 11622) to amend the Natural Gas Pipeline Safety Act of 1968 to provide for the safe operation of pipelines transporting natural gas, petroleum petroleum products, and certain other materials, to provide standards with respect to the siting, construction, and operation of liquefied natural gas and liquid petroleum gas facilities, and for other purposes.

It is a 1-hour open rule which contains several provisions customarily included in rules when a committee has reported an amendment in the nature of a substitute. These noncontroversial provisions are primarily designed to protect the rights of the minority and simply insure that Members will have all the rights available in the case of a clean bill.

The rule also provides that, after the passage of the bill (H.R. 11622) it will be in order to call up the companion bill referred from the other body (S. 1895) and insert the text of the House passed bill. This is a routine procedural motion, normally handled by unanimous consent, which enables the measure to go to conference.

This vital legislation would provide the fiscal year 1979 authorization for pipeline safety programs of the Department of Transportation, primarily the Office of Pipeline Safety Operations. The bill also makes several amendments to the laws applicable to pipeline operation designed to insure greater hazard protection to workers and to the general public.

Mr. Speaker, although there is some disagreement, the Committee on Rules believes that the rule provides a fair and orderly procedure for the consideration of this important legislation and I urge prompt and favorable House action.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 5 minutes to the gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. Mr. Speaker, this rule should be entitled the "now you see it, now you don't" rule. This is the second rule that has been issued on this bill, the second version. Actually the first version, or the first rule should be the one before us instead of the one we have.

The Committee on Rules originally met on July 25, 1978 and passed a normal regular open rule. I have no objection to that rule. The first rule was, as I say, a simple rule. It was a fair rule. It was a rule that no one could object to. The rule we have before us today is a very unusual rule. The second part of the rule provides that after passage of the bill. H.R. 11622, it shall then be in order to substitute the text of H.R. 11622 for the text of the Senate bill S. 1895, which is a simple authorization bill passed by the other body on May 3, 1978. This essentially forces the Senate Commerce Committee into conference with the House Commerce Committee on a bill that the Senate has never considered.

The House bill that we are going to be considering, if this rule is in order, H.R. 11622, contains very profound legislation which the Senate never considered.

This rule circumvents the legislative process by denying adequate consideration by the other body of these profound changes in the law.

The Senate bill is nothing more than a simple authorization bill containing no substantive amendments to the Natural Gas Pipeline Safety Act. The House bill is a pervasive scheme of regulations over liqufied natural gas facilities and substantively amends the Pipeline Safety Act in numerous respects.

Mr. Speaker, the Senate Commerce Committee has held neither hearings on the provisions of this bill, nor any of the issues contained in the House bill. There is a promise that they will in the future, but those hearings have not yet been held; and they will not have an opportunity to do anything with this bill as it will go straight to conference.

As I said, the Committee on Rules originally refused to issue the rule which we are considering today on July 25, 1978. They gave a proper rule. Under that rule the chairman of the Subcommittee on Energy, of which I am a member, the gentleman from Michigan (Mr. DINGELL), returned to the House Committee on Interstate and Foreign Commerce and requested the markup of the Senate bill. On two occasions he was thwarted in the full Committee on Interstate and Foreign Commerce in taking up that bill. That caused him to go back before the Committee on Rules to ask them to reverse their action of July 25, 1978, and to issue the rule they had turned down. In fact, this took place on August 10, 1978. The first version of the rule was overturned, and we now have the second version of the rule which had been refused by the Committee on Rules in its first meeting.

Consequently, Mr. Speaker, this rule is really a travesty of the legislative process. We have a very simple authorization bill from the Senate, with the Senate having no hearings or no information on this bill. We have the very pervasive and new schemes of law and regulations with respect to natural gas distribution and liquefied petroleum gas now before us under this bill which the Senate will never get to see except in the committee of conference.

Mr. Speaker, that is no way to write law; that is no way to bring a bill to the House floor. This rule was changed because it is known that there are provisions of this bill which would not stand the light of day in the Senate committee or on the Senate floor. In order to circumvent the Senate's having that opportunity, a rule is forced upon us which circumvents one House of a two-House legislative process.

Mr. Speaker, I urge that this "Now you see it, now you don't" rule on this broad bill be defeated.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1311 is a 1-hour open rule making in order the consideration of H.R. 11622, the Fuel Transportation Safety Amendments Act of 1978. The rule provides for the consideration of the committee amendment in the nature of a substitute, now printed in the bill, as an original bill for the purpose of amendment, and the substitute shall be read by titles instead of by sections for amendment under the 5-minute rule.

The other distinct feature of this rule is that it provides for inserting the language of the House-passed bill under S. 1895 which would be discharged from the Committee on Interstate and Foreign Commerce immediately upon passage of the House bill. The purpose of this provision in the rule, of course, is to facilitate going to conference with the Senate.

I think it should be pointed out that while this is the kind of rule requested by the Interstate and Foreign Commerce Committee, when the Rules Committee originally met on this matter on July 25, 1978, it adopted a rule deleting the request to insert the House-passed language under the Senate bill. That rule was never filed, however, and the Rules Committee subsequently met on the matter again on August 10 at the request of the chairman of the Energy Subcommittee (Mr. DINGELL), and the chairman of the full Committee on Interstate and Foreign Commerce (Mr. STAGGERS). In a letter to the Rules Committee dated August 8, Chairman STAGGERS wrote, and I quote:

> Because of the recent propane gas pipeline explosion in southeastern Iowa last Friday morning and the propane tank car explosion in Collins, Illinois, on Sunday, it is more urgent than ever that the Congress move quickly on this proposed legislation. Accordingly, I request that the Committee on Rules after further hearing grant the rule originally requested for H.R. 11622.

The gentleman from Michigan (Mr. DINGELL) repeated this argument before the Rules Committee on August 10 and the committee subsequently adopted the requested rule by voice vote.

Appearing in opposition to the rule requested by the committee was the gentleman from Louisiana (Mr. MOORE) who argued that the procedure would force the Senate into conference before it had an opportunity to evaluate the provisions of the House bill. As Mr. Moore pointed out, the Senate bill, S. 1895, is a simple extension of the Natural Gas Pipeline Safety Act of 1968, only 13 lines in length. The House bill, on the other hand, H.R. 11622, "establishes a pervasive scheme of regulations over liquefied natural gas facilities and substantively amends the Pipeline Safety Act in numerous respects," according to Mr. MOORE's testimony Indeed, the House bill runs some 40 pages and 950 lines, compared to the 2-page, 13-line Senate bill. I do not think there is any question that the House bill is not germane to the Senate bill since it obviously goes far beyond the scope of the bill passed by the Senate. And yet we are in effect being asked to do to the other body that which we so often complain about it doing to us, and that is tacking nongermane amendments on to the originally passed bill.

Mr. Speaker, I think the complaint of the gentleman from Louisiana is well taken, especially at this late hour in the session when there is not adequate time to hold hearings and carefully examine new matter being sent over by another House. In this case we were treating the Senate unfairly. But in so doing, we were only inviting the same kind of treatment for ourselves in the future. For these reasons I opposed this rule in the Rules Committee, though I do not see any realistic prospect of turning this around on the floor. I nevertheless felt the Members should be apprised of the circumstances surrounding the adoption of this rule in the Rules Committee.

Mr. Speaker, I have no further requests for time, and reserve the remainder of my time.

Mr. MOAKLEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. DINGELL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11622) to amend the Natural Gas Pipeline Safety Act of 1968 to provide for the safe operation of pipelines transporting natural gas, petroleum, petroleum products, and certain other materials, to provide standards with respect to the siting, construction, and operation of liquefied natural gas and liquid petroleum gas facilities, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11622, with Mr. HUGHES in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Michigan (Mr. DINGELL) will be recognized for 30 minutes, and the gentleman from Lousiana (Mr. MOORE) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, I yield 5 minutes to my good friend and colleague, the gentleman from Massachusetts (Mr. MARKEY) to lead off debate, because of the outstanding job the gentleman did in working on this particular bill.

Mr. MARKEY. Mr. Chairman, it is with great pleasure that I rise in support of H.R. 11622, the Fuels Transportation Safety Amendments Act of 1978. At the outset, I want to express my thanks and commendations to my good friend and subcommittee chairman, JOHN DINGELL. It has been an honor and an education for me to work with him on this bill. I also want to thank our distinguished committee chairman HARLEY STAGGERS, and the committee staff: Michael Barrett, Michael Kitzmiller, Christopher Dunne, and Peter Hunt for their tireless and creative efforts.

The bill before us today is the product of many months of work by the Energy and Power Subcommittee and the Interstate and Foreign Commerce Committee. In May of last year, Chairman DINGELL and I introduced H.R. 6844, the Liquified Natural Gas Facility Safety Act. Subsequently, that bill was incorporated into H.R. 11622 which was the subject of over 40 hours of hearings.

In both subcommittee and full committee markups of this bill, a great many changes were made. H.R. 11622 is thus truly the result of careful consideration and compromise. I believe that it is a consensus bill with broad support.

This legislation is a very significant measure. First, the bill authorizes appropriations for the pipeline safety activities of the Department of Transportation and its Office of Pipeline Safety Operations (OPSO). Second, it seeks to coordinate the safety regulation activities of OPSO into a coherent package and to close existing gaps in these safety regulations. The importance of so doing can easily be seen from the following: in 1976 alone, 63 people were killed, 366 injured and millions of dollars of property damage occurred as a result of fires and explosions along the more than 1.4 million miles of natural gas, petroleum, and petroleum product pipelines in this Nation. H.R. 11622 establishes mechanisms which seek to prevent such accidents from occurring. I believe its passage will save lives.

In addition, this legislation mandates strict new national safety standards with respect to the location, design, construction, operation, and maintenance of liquefied natural gas facilities. LNG is a very useful source of energy, but its transportation and storage present extraordinary hazards to public safety.

In 1944, 130 persons were killed by a series of fires which followed the rupture of an LNG storage tank in Cleveland. Federal studies of that accident led to recommendations that future LNG facilities be located away from populated areas. Thirty-four years later, no such action has been taken. It is time for us to take that action.

LNG is created by supercooling natural gas to a temperature of minus 260° Farenheit. At that temperature, natural gas is compressed in volume over 600 times, thus making possible its storage as well as its marine and truck transportation.

If an LNG truck or storage tank were ruptured, however, a cloud of LNG vapor would be created. This vapor cloud would hug the ground, go down into sewers, subways, and basements through any available opening. Widespread explosions and fires could easily be ignited, since the vapor is so combustible that it could be set off even by the spark generated by an automobile horn.

Under the provisions of this legislation, the Department of Transportation will be required to establish standards regulating the siting and design of any new LNG facility or any construction at an existing facility. These standards would require remote siting to the maximum extent possible. In addition, all LNG facilities will be required to comply with strict new operating standards covering areas such as antiterrorist security and firefighting capabilities.

Mr. Chairman, the hazards associated with LNG, LPG (liquified petroleum gas) and natural gas pipeline transportation are clear. Recent LPG tragedies in Tennessee, Iowa, Spain, and Mexico have greatly heightened public awareness of the extraordinary hazards associated with these fuels. The public has a right to expect that Congress will require that the Federal Government develop a coordinated policy to assure the greatest possible safety in the transportation and storage of these fuels. The public has a right to expect that Congress will pass H.R. 11622, for its enactment will mean a significant enhancement of the public health and safety.

As the Christian Science Monitor has stated in an editorial:

> Congress ought not to wait for a disaster to drive them to enact these needed precautions.

Mr. Chairman, I urge passage of this vital legislation.

Mr. MOORE. Mr. Chairman. I yield myself such time as I may consume.

Mr. Chairman, the bill before us represents a vast and unnecessary intrusion of Federal bureaucracy over the pipeline transportation industry. This intrusion will cost American natural gas consumers millions of dollars without any assurances of increased safety. For this reason, I strongly oppose H.R. 11622 in its present form.

The most disturbing aspect of this bill is that it will require liquid petroleum gas and natural gas pipeline operators to gather and report to the Federal Government a massive amount of essentially useless information. No evidence exists that this information will contribute to pipeline safety.

As now drafted, section 102 of the bill would require the reporting of data on the location, type, age, manufacturer, and method of construction of each foot of pipeline; the nature, sequence, and pressure of materials transported; climatic and geological conditions of the area in which the facilities are located; the population density, and patterns of such areas, and such other information as the Secretary may consider appropriate.

Mr. Chairman, anyone who knows anything about the pipeline industry should know that on many older pipelines, records simply do not exist which would indicate the manufacturer of the pipe. In any event, witness after witness who testified on this bill before the Energy and Power Subcommittee indicated that much of the information required to be reported had little or no relevance to increased pipeline safety. In addition, the Secretary of DOT now has authority to gather much of this information if he thinks it is necessary.

The impact of these burdensome and useless information-gathering and reporting requirements will fall particularly hard on small municipally owned natural gas distribution systems. Letters I have received from several small municipal systems serving areas of my State indicate that their costs, and thus those of their consumers, will increase significantly as a result of these reporting requirements. One municipal system indicated that it could cost as much as 15 percent of their present gross sales to comply with the provisions of this bill. Another estimated it would have to double or triple its present staff to comply.

Because of my concern over the burdens imposed by these provisions on small municipal systems, I offered an amendment which was adopted by the committee, which would require the Secretary of the Department of Transportation to exempt any person or class of persons from any or all of the gathering and reporting requirements if he finds that the costs of being covered would significantly increase consumer rates or charges. In addition, the Secretary is required to provide an exemption if he finds that the financial or administrative burdens of being covered are not justified by the safety benefits.

Although these possible exemptions give the Secretary an opportunity to ease the reporting requirement on those unable to afford them, they are in the discretion of the Secretary and presume a rule of reasonableness. It has been my experience that this sort of discretion usually leads to burdensome and unreasonable regulations. Once again, we have a classic example of Congress creating yet another program to protect the American people from themselves. In the process, we have created another layer of Federal paperwork at great expense to the consumer. We are repeatedly told by our constituents that they oppose increased Government intervention in their lives and businesses. No proof exists that this additional layer of bureaucracy will improve pipeline safety; rather what is known is that it will increase consumers' utility bills. For these reasons, I urge defeat of this bill.

Mr. DINGELL. Mr. Chairman, I yield

5 minutes to the distinguished chairman of the Committee on Interstate and Foreign Commerce, the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Chairman, I rise in support of H.R. 11622, the Fuels Transportation Safety Amendments Act. This is the first comprehensive revision and extension of the authorities vested in the Department of Transportation by the Natural Gas Pipeline Safety Act of 1968 since that legislation was enacted 10 years ago.

Under this authority, the safety of more than 1.4 million miles of pipeline serving some 44 million U.S. consumers is regulated.

A very significant contribution of H.R. 11622 is to bring the safety regulation of facilities for liquefied petroleum gas, such as propane and butane and related products or mixtures or combinations thereof, under the civil procedures provided for natural gas facilities. Heretofore, the safety regulation of LPG has been carried out under the criminal procedures of title 18. As a practical matter, this has meant that there has been no regulation of these products which account for only 10 percent of the fuel accidents, but cause 66 percent of the deaths and 48 percent of the injuries. Only this month we had dramatic evidence of the urgent need for action on this provision. On July 11, a liquefied petroleum product exploded in Spain, burning 170 people to death and injuring 75 more. Just 5 days later, a similar explosion in Mexico burned 20 to death and seriously injured 150. There is no adequate regulatory mechanism for protecting U.S. citizens at this time, but H.R. 11622 would create one.

H.R. 11622 also sets criteria for citing of liquid natural gas storage facilities and directs the Secretary to study and assure the financial responsibility of the persons operating LNG facilities.

In light of the age and extent of our natural gas pipeline system and of the rapid increase in demand for LPG and LNG as alternative energy sources—and the even more dramatic increases projected for the near future—the Interstate Foreign Commerce Committee feels that the programs authorized in H.R. 11622 are particularly timely and appropriate.

Finally, H.R. 11622 authorizes the appropriation of $13.5 million for fiscal year 1979 for the Department of Transportation to assure effective safety regulation in the storage and transportation by pipeline of fuels and hazardous materials.

Mr. Chairman, this legislation is the culmination of more than 40 hours of hearings and 2 years of work by the Interstate and Foreign Commerce Committee. It is sound and reasonable legislation that will make an important contribution to assuring the safety and welfare of the American people. I urge its enactment.

Mr. MOORE. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. MOORHEAD).

Mr. MOORHEAD of California. Mr. Chairman, there are many sections of this bill about which I have great concerns, because my State is so dependent upon natural gas, and we are going to be more dependent on LNG as time goes on.

I have a few questions I would like to ask the gentleman from Michigan (Mr. DINGELL).

In exercising the authority given the Department of Transportation by section 6 of this legislation to approve a new LNG facility, is it intended that the Department will be required to prepare an environmental impact statement?

Mr. DINGELL. Mr. Chairman, will the gentleman from California yield?

Mr. MOORHEAD of California. I am happy to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, the Department of Energy already has comprehensive permitting jurisdiction over proposed LNG facilities and, as part of its consideration of applications to construct and operate such facilities, prepares environmental impact statements as required by NEPA. It would continue to act as the lead agency. We do not intend that the Department of Transportation duplicate the efforts of the Department of Energy, such as supply, demand and economics, will remain with that Department.

Mr. MOORHEAD of California. This legislation appears to authorize the Secretary of DOT to approve the site of any proposed LNG facility. As you are aware, the DOE is required to consider siting as part of the comprehensive proceedings it conducts in connection with proposed LNG facilities under the Natural Gas Act. Would this legislation require the Department of Transportation to duplicate the Department of Energy's review of proposed LNG sites?

Mr. DINGELL. No. The Department of Energy will continue to be the lead agency in the LNG application and approval process. Siting, as used in this legislation, refers only to the safety aspects of siting. The Department of Transportation will be required by this legislation to promulgate minimum safety standards for siting, construction, and operation of LNG facilities. The intent of H.R. 11622 is that DOT will review the initial design plans of a proposed facility to determine if the plans comply with the safety standards promulgated by DOT pursuant to this legislation.

Mr. MOORHEAD of California. I thank the gentleman.

Mr. DINGELL. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, thank you for the opportunity to explain the contents and purposes of H.R. 11622, the Fuels Transportation Safety Amendments Act of 1978.

Since 1968, the Department of Transportation has been overseeing the safety of natural gas pipelines throughout the United States. This program enlists the assistance of the several States in the conduct of safety inspections of over 1 million miles of natural gas pipelines and the implementation of a number of safety-related programs. This is done through a grant-in-aid program in which the Federal Government may match State expenditures for qualified programs. Every State but Alaska is now actively participating in this joint Federal-State program.

The purposes of H.R. 11622 include:

First. Authorizing appropriations for pipeline safety programs;

Second. Expanding and strengthening the authority of the Secretary of Transportation to gather information about the safety—or lack thereof—of pipeline operations and related facilities; and

Third. Extending the grant-in-aid program to cover pipelines carrying LPG—that is, propane and butane.

As we know from the terrible tragedies which occurred earlier this year in Waverly, Tenn., and in Spain and Mexico, LPG is extremely dangerous. However, the regulations covering these very hazardous LPG pipelines are worse than inadequate, because they give the appearance, but not the reality of safety. States cannot have a consistent LPG safety program supported by matching Federal funds without this bill.

The bill H.R. 11622 also represents the first major Federal effort at addressing the problems and hazards associated with liquefied natural gas—LNG. One LNG accident alone caused more than 130 deaths and over $100 million in property damage in Cleveland in 1944. This one catastrophe slowed the further use of this fuel nearly another 20 years. However, the General Accounting Office and administration officials now have provided the committee with data showing that LNG will become an increasingly important factor in our Nation's future energy needs—estimates range from 8 to 20 percent of our national gas consumption by 1985.

As the Cleveland incident demonstrated and as other evidence before our committee has shown, LNG is an extremely dangerous fuel requiring special care and handling. H.R. 11622 would permit the establishment of safety regulations before any more of these hazardous facilities are constructed. It also provides a mechanism for insuring that all LNG facilities will be operated and maintained safely. Incorporating this within the pipeline inspection program of DOT allows the widest range of inspection, either through the existing grant-in-aid program or through direct Federal inspection. But it will be done. We are also requiring that the DOT actually approve—in advance—the safe construction and operation of all new facilities.

The bill—H.R. 11622—represents the first major review and legislative revision of the pipeline safety program since it was enacted in 1968. It is based upon extensive hearings by the Subcommittee on Energy and Power in 1976, 1977, and 1978. During this 3-year period, subcommittee members and staff investigators spent many hours with the DOT officials responsible for administering the program. They have interviewed numerous pipeline construction and operating personnel. They have met with State officials associated with the program. Finally, the subcommittee held hearings in all of those years on the pipeline safety program, and during Feb-

ruary, March, and April of this year we conducted extensive hearings on this legislation. We received testimony from more than 70 witnesses. These included gas company officials, both from interstate pipeline companies and local distribution companies, and gas producers and various industry trade associations. We heard testimony from the National Fire Prevention Association, and State and local fire chiefs and the National Association of Regulatory Commissioners. Environmental groups, such as the Environmental Policy Center and the Friends of the Earth, participated as well as various State and local officials. The General Accounting Office and the Office of Technology Assessment also appeared as experts during those hearings.

The General Accounting Office recently completed a thorough review of the Department of Transportation's pipeline safety program and made a number or recommendations, including more complete and effective pipeline safety regulations, strengthened State pipeline safety programs, improved compliance efforts, more effective data analyses, and increased attention to staffing requirements. H.R. 11622 covers all these points. In addition, the GAO issued a report on liquefied energy gases safety. H.R. 11622 provides a regulatory mechanism within the Department of Transportation for implementing the recommendations of that report.

I would also like to add that in approving H.R. 11622 Congress intends its provisions to be binding upon the Secretary in regard to the handling of LNG and LPG rather than the more general provisions of H.R. 13311 which was approved earlier today.

The result is a good bill that will improve the operation of our Nation's natural gas and LPG pipelines and insure the safety of LNG facilities as more and more of them are constructed. The bill is timely. It is not unduly burdensome. Further delay could mean that additional LNG plants will be constructed before we have adequate legislation and regulations to protect the public safety.

Mr. Chairman, my distinguished colleague from New York (Mr. WEISS) who is compelled to be absent on busing was asked two very important questions about H.R. 11622, which I would like to present to my colleagues and answer the gentleman from New York notes that recently the United States has begun to import substantial amount of liquefied natural gas (LNG). The Department of Energy (DOE) predictions indicate that imports will increase to the point that three giant LNG tankers carrying as much as 150,000 cubic meters of LNG each will be entering U.S. waters every day by 1985. Unfortunately, it is not always possible to transport LNG from the import terminals by pipeline so that increasing amounts of LNG are being transported—still liquified—in trucks. Even more unfortunately, by virtue of the location of import terminals in or near busy ports and the urban demand for the product, these trucks are being driven though streets in densely populated urban areas. So far we have been lucky. There have been no accidents, but continuing to rely on luck is reckless—shooting craps with destiny that will eventually lead to a major disaster. The awesome explosive power of LNG was amply demonstrated when a small LNG storage facility in Cleveland, Ohio, failed in 1944 and the resultant explosions killed 128, injured 300, and devastated many blocks of Cleveland doing $100 million in damage as measured in 1944 dollars. That storage facility only contained 6,200 cubic meters of LNG. I know that LNG trucks regularly travel the elevated highways and streets of Boston. My colleague from New York has been informed that trucks are carrying LNG through the streets of Manhattan. As the representative of the West Side of Manhattan and the Riverdale section of the Bronx, among the most densely populated neighborhoods in the Nation, he wants to assure that his constitutents are not exposed to the hazards of an LNG explosion. He would like to ask how H.R. 11622 would come to grips with this problem.

The gentleman from New York raises an extremely serious issue and one to which the committee gave much thought and concern. Under H.R. 11622, the Secretary of Transportation would have the authority to promulgate safety regulations regarding the shipment of LNG by truck. It is the express intent of the committee that the regulations should forbid the transportation of LNG by truck through or near urban areas wherever possible. It is a source of deep regret to me that due to the delay in effecting safety regulations regarding LNG there are several situations where the only way to get some of the product to the market that needs it is by truck. Since the interruption of this supply could cause hardship and additional expense to consumers, it was the intent of the committee that in such a situation the Secretary should promulgate regulations to minimize to the utmost degree the danger of an LNG accident and should work to see that alternative means of transporting the fuel are developed as quickly as possible. Let me stress that it was the intent of the committee to see that LNG is not transported by truck through or near populated areas and the committee intends to exercise vigorous oversight to see that its purpose is carried out.

Finally, my distinguished colleague has asked whether New York City is an area where continued transportation of LNG is necessary?

I am pleased to be able to respond that to the best of our knowledge there is no reason or justification for transporting LNG through the streets of New York City and H.R. 11622 may not be construed in any fashion as authorizing such transportation.

Mr. Chairman, our good friend, Mr. MURPHY of New York, has expressed to me his very strong concerns about how this bill might impact upon a facility in his district. About 4 years ago an LNG import terminal was built on Staten Island without the approval of the Department of Transportation or of the Federal Power Commission. Mr. MURPHY has questioned whether section 6(h) of the bill dealing with Federal preemption on State laws on interstate LNG terminals would allow this terminal in Staten Island to become operational. In response, I would like to emphasize that it is the understanding of the committee that no authority granted under this act shall be used by the Secretary to authorize the construction or use of any LNG facilities on Staten Island or in the New York City area that are presently forbidden to be built or used under New York law and the Congress in enacting this law will do so with that clear understanding. In other words, there will be no retroactive approval of an existing facility that has not yet received the necessary State, local, or Federal approvals.

It is also clear that in approving H.R. 11622 Congress intends its provisions to be binding upon the Secretary in regard to the handling of LNG and LPG rather than the more general provisions of H.R. 13311 which was approved earlier today.

Mr. MOORE. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Chairman, many times in the course of this session I have felt that we were passing unneeded legislation, and I feel that tonight we are hitting a high point in what America needs least, and that is a pipeline safety bill.

We are interested in Americans' safety, and this evening when I had dinner down in the House restaurant I sat around, and everyone was talking about a reducing plan which has been very successful. It is known as the Scarsdale plan, and one after another had been losing 20 pounds or so. Maybe the gentleman from New York is familiar with this. It is gaining a national reputation. They have been losing 20 and 30 pounds by following that Scarsdale plan.

What is important about that? I do not know much about safety, but I do know something about the way to keep people living a long time, and that is to lose weight. What we have done in a practical way was to see Members of this body that have gone out and started reducing. We are talking here about 42 fatalities in the course of a year, most caused by human error.

This must be the safest industry in the country. I have never heard of an industry as safe as this one. Instead of worrying about 42, we should be worrying about things like heart trouble, because every year 1 million die from heart trouble—1 million. Most of them die because they are overweight. Overweight is a real problem. I have never seen us do anything on the floor about overweight, yet by getting the word going around about a reducing plan, they are going to do something about the million people who have a real problem.

In our committee, we spent considerable time recently worrying about blowouts on tires. We have found that in the past 6 years they located 34 automobiles where they had fatalities, and they had blowouts of tires, which very much concerned the committee. The interesting thing is that during this same 5-year period, there have been 100,000 people killed in automobile accidents that involved DWI.

I am not worried about a blowout of tires because when we check these cases out we find over half the time the fellows were going over 80 miles an hour, but I am worried about the DWI because, although I do not drink, the chances are that in a DWI I will get killed while the DWI is getting himself killed.

Let me tell the Members about this national safety group that runs the studies all the time. They have been studying and studying and studying, but they have not been attempting a study of the DWI's, which is a major cause of automobile fatalities.

Going along as we overlook the problem of the heart trouble and the DWI's, we have found a place to concentrate on, and that is on pipeline safety. These pipelines we have go back and forth across the United States and cover miles and miles. It is easy to spot a leak. Where there is a leak in the gas line, all the grass above it is going to die. The lines are surrounded by dirt.

These continental gas lines are very simple to control. It has been proved really all the accidents were caused by human mistakes.

I would like to move into some of my general views, because it is plain that this plan which was started for safety has developed under H.R. 11622 into a bureaucratic complex. Of all the industry groups in America, the pipeline group probably has the best safety record of all. Last year, considering the millions and millions of pipelines that go from coast to coast, they had only 42 deaths. Most of these were due to human error. Just compare this to one recent accident in West Virginia where 51 people were killed on one construction site. When one construction site loses 51 people, why is Congress legislating a system on pipelines which are our safest industry? It will be most expensive and will lead to increased costs for all gas consumers because all these costs are going to be passed on the consumers.

Let me give an example of the regulations required under this bill. On page 5, it states that on pipeline location and characteristics, the Secretary is by regulation required to prepare and maintain a general description of the pipeline facility, including the location of the pipeline, the type, age, manufacturer, and method of construction of such pipeline.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. MOORE. Mr. Chairman, I yield the gentleman from Texas 5 additional minutes.

Mr. COLLINS of Texas. Mr. Chairman, it goes on to say they will include the climatic and geological conditions associated with the area and such other information as the Secretary may consider appropriate. These data will also be furnished to the State and local areas as well as to be available for public inspection. Just imagine the havoc that this section is going to wreak on small communities that have small staffs. This is confusing, costly, and unnecessary.

This bill has such requirements as the Secretary shall by regulation require a report of any pipeline leak of which such person knew or reasonably should have known. Now, if you are sitting there and have not yet reported on something you should have known, how do you know that you have not reported on what you should have known?

Basically, the pipeline leaks are not difficult to spot. Small leaks let gas seep out into the soil, and the gas kills the grass above the leaks and the grass turns yellow. We have planes flying overhead and checking the pipelines for these bad sections, and repair crews immediately check them out. On top of this, the gas pipeline pressure is constantly checked on the lines and if there is any drop in gasline pressure they immediately know that there must be a leak.

This bill calls for $6 million for the basic funding and then for special provisions adds $4.5 million more, and then adds $1 million for an electronic data processing program for identifying hazardous equipment. It has also added $2 million to sections 6 and 7 as an appropriation making a total of $13.5 million. What this total appropriation does not show is how much it is going to cost industry to furnish all these records. A few bureaucrats can issue one page edicts that will cause the pipeline facilities to dedicate entire divisions of people to prepare these statistics that are needed. These statistics do not operate the business and these statistics do not operate the pipelines. With the best safety record of any industry, why do we need all these statistics?

The enforcement standards are such that everyone in the pipeline business will have all of their best people keeping their records. It reminds us of the experience we have had in hospitals. The chief nurse keeps the records and the one that handles the pots and pans is doing most of the nurse duty today.

Supervisors are afraid of what happens to them if they do not have their records completely current.

We agree with the provision that states that any person who willfully destroys pipeline facilities shall be fined $15,000 or given 15 years in prison. But then it moves in strong on innocent people. It says here that there are three ways you can get an innocent person that is in the pipeline business in trouble. In the first place they have civil penalties that go up to $50,000, and that is in addition to the other penalties. They have criminal penalties for any person that can be $50,000, and they can get 5 years in prison to go with that. That is in addition to all these civil penalties. But they also have the Bananza Citizen Civil Action, whenever such action constitutes a case or controversy, it can be brought forward without regard to the amount in controversy. It is obviously essential that any pipeline company have all of the chief executives keeping the records, and the big question is: Who is going to run the pipeline?

There is no justification for this increased bureaucratic regimentation. In America today, most Americans think we have too much government, too much regulation, and too many bureaucrats. They also resent the fact that their taxes are going up, and this plan, what it will do, will guarantee higher taxes and higher utility rates. Statistics do nothing for safety.

For the people back home that have told you that they want to have less government, ask yourself: Is this plan necessary?

Let us vote to recommit it.

Mr. MOORE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in closing the debate, obviously, Mr. Chairman, we can say that this legislation is well-intentioned. If it were possible to legislate the end of all possible natural gas storage or transportation accidents certainly no one would object to such a bill. The question you have to ask yourselves is: Is a new, complex system of reporting going to do that?

We have seen no information in our committee that this is going to happen. We the simply in the process of increasing the cost to consumers of natural gas, and they are already complaining about the high cost of energy fuels. We are simply adding to that cost without being able to show that we can substantially or in any way reduce accidents.

The second item is the fact that to my knowledge this is the first time Congress has ever told an energy facility that it was in interstate commerce and where it can be located.

These LNG facilities that we have supplied provisions for in this bill are, in my opinion, interstate so that Congress has no constitutional authority to say where they might be located. We have always said that was the authority of the States. But if we say that then the Congress has the authority to say where a dynamite plant can be located, or to say where a chemical plant can be located, or any other dangerous facilities can exist in an industrial atmosphere all across this Nation, but we have left that up to the local police powers of the States, and it should be in this case.

So, Mr. Chairman, I commend the authors of the bill in trying to come up with something to prevent accidents. If they were successful, then we would support them. My conclusion is that they are not successful and that they are setting a dangerous constitutional precedent. They are increasing the cost to the consumers of natural gas, therefore, in my opinion, we must oppose the bill.

I yield back the balance of my time.

Mr. DINGELL. Mr. Chairman, I yield 4 minutes to my good friend and colleague, the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Chairman, I thank the gentleman from Michigan (Mr. DINGELL) for his excellent work on this legislation and for allowing me this time to speak.

I first became interested in pipeline safety legislation when a house in Hastings-on-Hudson in my district in New York blew up and killed all the residents.

It appeared that a leak had been reported, but nothing was ever done about it.

Consequently, Mr. Chairman, I became very actively involved in the formulation of the Natural Gas Pipeline Safety Act of 1968. At that time workers from the Oil, Chemical, and Atomic Workers Union came forward and testified at the hearings we had on that legislation. They brought with them sections of pipe which they had dug up in the course of their operations. The pipes were full of holes, and they pointed out that the pipeline systems, particularly in the older established communities of our country, in many cases were put in place 50 or more years ago and that they were generally unsafe. As a matter of fact, we have here some of the samples of actual pipe which was dug up. The Members can see that this pipe is just full of holes, making this a tremendous hazard to workers on a pipeline and to all people in the vicinity. Pipeline workers have a good number of their members killed or injured on jobs where such problems exist.

Mr. Chairman, at the time the 1968 legislation was passed, I filed separate views indicating that I thought there were inadequacies in that legislation in that it did not provide for the degree of safety to which I think the people of the United States are entitled. This bill fills in most of those inadequacies.

It provides, first of all, that the companies must file plans as to where their pipes are, and that is particularly important in the case of construction where a good percentage of the accidents occur. It also provides that they report leaks because we found, as in the case of the family I referred to in Hastings-on-Hudson, when a resident reports evidence of leaks to a company, frequently action is not taken to correct the leaking condition. The bill before us also provides for citizens suit enforcement, and it provides for liability coverage which will see to it that these kinds of problems are taken care of.

Mr. Chairman, I think the committee has done an excellent job in formulating this legislation. For the first time there are meaningful LNG and LPG siting and safety provisions. LNG and LPG create grave safety problems. In Staten Island in the New York metropolitan area there is a major LNG facility which has not yet been activated, but which, if proper safety regulations are not provided, could well blow up a substantial part of the area and do horrendous damage.

Unfortunately, Mr. Chairman, the gentleman who represents that area, the gentleman from New York (Mr. MURPHY), is involved in a primary this evening, and he cannot be here. He has been very active with respect to this legislation to assure that we have adequate safety provisions with respect to LNG facilities.

The Department of Transportation has just been deplorable with respect to enforcing the existing laws. This law provides that comprehensive safety standards have to be adopted, with a timetable for their adoption and criteria are set out for the standards; and it provides for the enforcement which I think will give us the safety we so badly need.

Mr. Chairman, in reply to the gentleman from Texas (Mr. COLLINS) and his observations with respect to the Scarsdale plan, I represent the community of Scarsdale in Congress. I assure the Members that the Scarsdale plan will do nobody any good if the people interested in it are in danger of being blown up in their homes. We want to make sure that the Scarsdale plan is effective and that people who want to do it will not be subjected to a safety hazard with respect to the pipeline which feeds their homes.

I strongly urge adoption of this legislation.

Mr. DINGELL. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. LUKEN).

Mr. LUKEN. Mr. Chairman, I rise in support of H.R. 11622, the Fuels Transportation Safety Amendments Act. We cannot delay any longer in passing legislation which will help insure the safety of our citizens from the threat of holocaust from an explosion of liquefied natural gas or liquefied petroleum gas.

The National Gas Pipeline Safety Act of 1968 was designed to protect citizens from dangers associated with natural gas transport, but did not protect the public from the hazards of LEG pipelines. LPG accounts for almost 10 percent of the pipeline transportation accidents, and I believe that it is important that this legislation now recognizes this, and includes the liquefied gasses in its coverage.

We are all aware of the grave danger liquefied energy gas presents: The threat of holocaust from an explosion of LEG now looms over every person in this country. Every community through which liquefied natural gas or liquefied petroleum gas is transported, whether that be by pipelinne, rail, or truck, faces the possibility of a major disaster similar to that which killed 12 people in Waverly, Tenn., earlier this year, or that which killed over 200 people in Spain in July. We do not want to wait for a domestic disaster of the magnitude of the Spanish tragedy to enact laws in hindsight which would cover this potentially catastrophic substance.

GAO released an alarming report last month detailing the dangers of LPG. It said that if the liquid gas spreads through a city through sewers, subways, of other underground conduits, or if a massive burning cloud is blown along by a strong wind, a city may be faced with a very large number of ignitions and explosions across a wide area. It said that gas escaping from a storage tank or from the accidental crash of a railroad car or tank truck could result in an explosion or fire far beyond the capability of existing firefighting agencies.

The Energy and Power Subcommittee should be commended for studying this problem and taking action in the form of this legislation. In the area of LNG and LPG, the committee has taken action to amend for the inaction in DOT's Office of Pipeline Safety, which has failed to forcefully and effectively carry out the responsibility for setting standards for safe design, construction, operation, and maintenance of liquid and natural gas pipelines, and related facilities. With these amendments, there will be stricter requirements on all of these aspects of liquefied energy transport safety. And, enforcement will be easier, since transportation of LPG will be subject to the same sections in the civil code as natural gas. This will improve the current situation, in which the law allows highly volatile LPG to be regulated as other, much less dangerous, petroleum products.

Mr. Chairman, I urge that the House pass this vitally important legislation. The safety of our citizens from the senseless dangers of LPG depends on what action we take today.

● Mr. DON H. CLAUSEN. Mr. Chairman, I want to lend my support to H.R. 11622 known as the Fuels Transportation Safety Amendments Act of 1978.

As ranking minority member of the Interior Subcommittee on Special Investigations, I am familiar with the safety features on the trans-Alaska pipeline system.

In June of 1977, our subcommittee issued a report finding that the safety features of the trans-Alaska pipeline had been properly installed, tested and put into operation.

The subcommittee felt the end result of TAPS was a safe and well-constructed line capable of withstanding all natural disturbances that could reasonably be expected.

However, the subcommittee pointed out and I am now quoting from the report:

Although an extensive security system with accompanying procedures is now in place, it should be understood that this pipeline was not intended in its present configuration to withstand acts of sabotage or terrorist attacks. Should such actions become likely, the subcommittee strongly recommends that additional precautions be taken to insure that the Alaskan environment is adequately protected.

Mr. Chairman, all of us are well aware of several sabotage attempts to the TAPS since the publishing of our subcommittee report. Due to the quick action of Alyeska personnel, Alaska State police, Department of the Treasury Agents and the FBI, the effect of the sabotage was minimal and those responsible were arrested expeditiously.

H.R. 11622 adds a little muscle to our law enforcement agencies for it makes any person who willfully damages or destroys—or attempts such acts—an interstate pipeline facility subject to criminal penalties of up to $15,000 and/or 15 years imprisonment.

Mr. Chairman, I urge my colleagues to vote in favor of H.R. 11622.●

● Mr. GARY A. MYERS. Mr. Chairman, almost precisely 2 months ago a tank truck loaded with liquefied propylene gas exploded in a camposite near Tarragona, Spain. The resultant fireball and subsequent series of bottled cooking gas explosions killed more than 170 human beings and terribly burned scores more.

We all hope that the debate here today will produce legislation lessening the

chances of similar catastrophes here in our Nation. As the Commerce Committee has noted in the Fuels Transportation Safety Amendments Act of 1978, an important tool in preventing these diseases is a thorough understanding of transportation processes and hard data on hazardous materials, the characteristics of which are only partially known in many cases.

One action we should be taking to build up our data base and increase our ability to foresee possible hazards is the study of overseas catastrophes like that in Tarragona, Spain, last July. I was encouraged to see that the National Transportation Safety Board, at the invitation of the Spanish Government, participated actively in the investigation of the Tarragona accident. We should encourage all Federal agencies with responsibility for regulating hazardous materials transportation to thoroughly study incidents in foreign nations which might teach us important lessons at a cost of man-hours instead of lives.●

Mr. DINGELL. Mr. Chairman, I have no further requests for time, and I yield back the remainder of my time.

The CHAIRMAN. The gentleman from Louisiana (Mr. MOORE) having yielded back the remainder of his time, pursuant to the rule, the Clerk will read by titles the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 11622

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. (a) This Act may be cited as the "Fuels Transportation Safety Amendments Act of 1978".

(b) The table of contents for this Act is as follows:

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.
Sec. 2. References to Natural Gas Pipeline Safety Act of 1968.
TITLE I—FUELS TRANSPORTATION GENERALLY
Sec. 101. Hazardous pipeline facilities.
Sec. 102. Information on pipeline location and characteristics.
Sec. 103. Reporting of pipeline leaks.
Sec. 104. Coverage of pipeline transportation of liquefied petroleum gas.
Sec. 105. Coverage of gas distributed in connection with rental or lease of real property.
Sec. 106. Coverage of certain nonpipeline facilities.
Sec. 107. Pipeline safety inspectors.
Sec. 108. Technical Pipeline Standards Committee.
Sec. 109. Appropriations authorization.
TITLE II—SITING AND SAFETY OF LNG FACILITIES
Sec. 201. Definitions.
Sec. 202. Siting and safety standards.
Sec. 203. Financial responsibility.
Sec. 204. Enforcement of standards and financial responsibility requirements.
Sec. 205. Appropriations authorization.
TITLE III—MISCELLANEOUS PROVISIONS
Sec. 301. Willful destruction of interstate pipeline transmission or LNG facilities.
Sec. 302. Citizens' civil action.
Sec. 303. Appointments of Director of Pipeline Safety Operations and Director of Materials Transportation Bureau.
Sec. 304. Technical, clerical, and conforming amendments.

REFERENCES TO NATURAL GAS PIPELINE SAFETY ACT OF 1968

SEC. 2. Except as otherwise expressly provided, whenever in this Act, any reference, amendment, or repeal is expressed in terms of a reference or amendment to, or repeal of, a section or other provision, it shall be considered to be made to a section or other provision of the Natural Gas Pipeline Safety Act of 1968.

TITLE I—FUELS TRANSPORTATION GENERALLY

HAZARDOUS PIPELINE FACILITIES

SEC. 101. (a) Section 8 is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b)(1) If the Secretary finds, after reasonable notice and an opportunity for hearing, that any pipeline facility is hazardous to life or property, he shall, by order, require the person operating the facility to take necessary corrective action. Such corrective action may include physical inspection, testing, repair, replacement, or other action, as appropriate.

"(2) The Secretary may find a pipeline facility to be hazardous under paragraph (1)—

"(A) if under the facts and circumstances he determines the particular facility is hazardous to life or property, or

"(B) if the pipeline facility or a component thereof has been or is proposed to be constructed or operated with any equipment, material, or technique which he determines is hazardous to life or property, unless the operator involved demonstrates to the satisfaction of the Secretary that under the particular facts and circumstances involved such equipment, material, or technique is not hazardous to life or property.

"(3) In making a determination under paragraph (2), the Secretary shall consider—

"(A) the characteristics of the pipe and other equipment used in the pipeline facility involved, including its age, manufacturer, physical properties (including its resistance to corrosion and deterioration), and the method of its manufacture, construction, or assembly;

"(B) the nature of the materials transported by such facilities (including their corrosive and deteriorative qualities), the sequence in which such materials are transported, and the pressure required for such transportation;

"(C) the aspects of the areas in which the pipeline facilities are located, in particular the climatic and geologic conditions (including soil characteristics) associated with such areas, and the population density and population and growth patterns of such areas; and

"(D) such other factors as the Secretary may consider appropriate.

"(4) The Secretary may waive any requirements for hearing and a period of reasonable notice and provide for expeditious issuance of an order under this subsection in any case in which he determines that the failure to do so would result in the likelihood of serious harm to life or property.".

(b) Section 3(b) is amended by striking out the fourth sentence.

(c) The first sentence of section 5(a) is amended by striking out "the fourth sentence of section 3(b)," and inserting in lieu thereof "section 10(b),".

INFORMATION ON PIPELINE LOCATION AND CHARACTERISTICS

SEC. 102. (a) Section 12 is amended by redesignating subsection (d) as subsection (f) and by inserting after subsection (c) the following new subsection:

"(d)(1) The Secretary shall, by regulation, require any person operating a pipeline facility to—

"(A) prepare and maintain a general description of the pipeline facility, including—

"(i) the location of the pipeline and the pipeline facilities;

"(ii) the type, age, manufacturer, and method of construction of such pipeline and facilities;

"(iii) the nature of the materials transported, the sequence in which they are transported, and the pressure at which they are transported;

"(iv) the climatic and geologic conditions (including soil characteristics) associated with the areas in which the pipeline facilities are located, and the population density and patterns of such areas; and

"(v) such other information as the Secretary may consider appropriate;

"(B) prepare, maintain, and submit to State and local entities authorized to approve demolition, excavation, tunneling, or construction activities in the areas in which the pipeline facilities are located a detailed description of the pipeline's location; and

"(C) submit to the Secretary a report containing the information prepared and maintained under subparagraph (A).

"(2) Information prepared and maintained under paragraph (1)(A)(i) of this subsection shall, on request and for good cause shown, be made available for public inspection.

"(3) The requirements of subparagraph (B) of paragraph (1) shall be deemed to be satisfied in the case of any pipeline facility operator participating in a public safety program established under State or local law or regulation—

"(A) under which—

"(i) notice is required to be provided to pipeline facility operators of proposed demolition, excavation, tunneling, or construction near or affecting such facility; and

"(ii) such operators are required to identify specific pipeline facilities which may be affected by the proposed demolition, excavation, tunneling, or construction, or to supervise such demolition, excavation, tunneling, or construction, for the purpose of preventing damage to such facilities; and

"(B) which the Secretary determines is being carried out in a manner adequate to assure protection against the hazards of demolition, excavation, tunneling, or construction near or affecting such facilities.

"(4) The Secretary shall—

"(A) not later than 180 days after the date of the enactment of this subsection, publish proposed regulations required to be prescribed under paragraph (1), and provide an opportunity (of not less than 60 days' duration) for oral and written public comment on such proposed regulations; and

"(B) as soon as possible after the public comment period under subparagraph (A) but not later than 270 days after the date of the enactment of this subsection, prescribe the final regulations.

"(5) The Secretary shall, by order or regulation, provide for an exemption for any person or category of persons from all or part of the requirements under this subsection if the Secretary finds—

"(A) that the financial and administrative burdens of being covered by such requirements are not justified by the benefits resulting from that coverage; or

"(B) the costs to such persons or persons by being covered by such requirements would significantly increase consumer rates or charges and such exemption would not endanger the public health or safety.

"(6) Information shall not be required to be prepared or reported under the regulations under this subsection before January 1, 1982.

"(7) Not later than 3 years after the date

of the enactment of this subsection, the Secretary shall establish and thereafter maintain a program, for use in an electronic data-processing system, which processes and maintains—

"(A) information obtained under this subsection;

"(B) information on pipeline leaks reported under subsection (e);

"(C) information on accidents and incidents reported under section 5; and

"(D) such other information as the Secretary determines appropriate;

for the purpose of identifying hazardous equipment, materials, and techniques involved in the construction or operation of pipeline facilities.".

(b)(1) Section 5(a) is amended—

(A) by inserting after "(3) is enforcing each such standard;" the following: "(4) has adopted and is administering a reporting and disclosure program substantially meeting the requirements of the reporting and disclosure program established by regulation under section 15(d)(1);";

(B) by redesignating paragraphs (4) and (5) thereof as paragraphs (5) and (6), respectively;

(C) by striking out "excavation" in paragraph (5), as redesignated, and inserting "demolition, excavation, tunneling, or construction" in lieu thereof;

(D) by striking out "and (iv)" and inserting in lieu thereof "(iv) information obtained by the State agency under a program described by paragraph (4) of this subsection; and (v)".

(2) Certification and information requirements established by regulation under the amendments made by paragraph (1) of this subsection shall not apply with respect to annual certifications under section 5 during the 3-year period which begins on the effective date of such regulation.

(c) Section 12(f), as redesignated by subsection (a) of this section, is amended by striking out "or (c)" and inserting in lieu thereof "(c), or (d)".

(d) Section 16 is amended by inserting "(a)" before "Each peron" and by adding at the end thereof the following new subsection:

"(b) In addition to the program under subsection (a) of this section, each person engaged in pipeline transportation shall establish a program for the education of the public of the hazards of demolition, excavation, tunneling, or construction activity conducted near pipeline facilities, and the methods by which information on the location of underground pipelines may be obtained by the public.".

REPORTING OF PIPELINE LEAKS

SEC. 103. (a) Section 12, as amended by section 102 of this Act, is further amended by inserting after new subsection (d) the following new subsection:

"(e)(1) The Secretary shall, by regulation, require that any person owning or operating pipeline facilities shall report, at such time and in such manner as the Secretary shall require, any pipeline leak of which such person knew or reasonably should have known. Any such report shall include—

"(A) the specific location of the pipeline leak;

"(B) a description of the pipeline facilities at which the pipeline leak occurred, including any information described in subsection (d)(1)(A) which the Secretary may require under such regulation;

"(C) a description of any personal injury or property damage resulting from such pipeline leak; and

"(D) a description of the steps taken to prevent the leak from continuing or recurring.

"(2) The Secretary shall, by order or regulation, provide for an exemption for any person or category of persons from all or part of the requirements under this subsection if the Secretary finds that the financial and administrative burdens of being covered by such requirements are not justified by the benefits resulting from that coverage.

"(3) For the purposes of this subsection, the term 'pipeline leak' means any condition resulting in the escape of material from pipeline facilities during pipeline transportation, or during treatment of such material during the course of pipeline transportation, which is not caused by operation, inspection, or adjustment procedures which were properly carried out. Such term does not include any condition which does not pose a threat to public health and safety, as determined in accordance with regulations prescribed by the Secretary.".

(b) Section 12(f) (as amended by section 102 of this Act) is amended by striking out ", or (d)" and inserting in lieu thereof "(d), or (e)".

(c) The amendments made by this section shall not apply with respect to any pipeline leak (within the meaning of section 12(e)(3), as amended by this section) occurring before the effective date of the regulation initially prescribed under such amendments.

COVERAGE OF PIPELINE TRANSPORTATION OF LIQUEFIED PETROLEUM GAS

SEC. 104. (a) Section 2(3) is amended—

(1) by striking out "Transportation of gas" and inserting in lieu thereof "Pipeline transportation"; and

(2) by inserting after "interstate or foreign commerce" the following: ", or the transmission or distribution (but excluding the gathering) of liquefied petroleum gas by pipeline, in interstate or foreign commerce".

"(b) Section 2 is amended by redesignating paragraphs (3) through (10) as paragraphs (4) through (11), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) 'Liquefied petroleum gas' means propane, butane, any related product, or any mixture or combination thereof;".

(c) Section 2(2) is amended by inserting ", but such term does not include liquefied petroleum gas" after "toxic or corrosive".

(d) Section 2(4), as amended and redesignated, is further amended by inserting after "distribution of gas" the following: "(whether in a gaseous or nongaseous state)".

(e) Section 12(a) is amended by inserting "(a)" after "SEC. 2." and by adding at the end thereof the following new subsection:

"(b) Any storage facility, or category of storage facilities, physically connected to any pipeline facility, or facilities, used for the transmission or distribution of liquefied petroleum gas shall be included by the Secretary, by regulation, within the meaning of subsection (a)(5) if—

"(1) the Secretary finds that such inclusion would further the purposes of this Act; and

"(2) such facility has a storage capacity of 30,000 gallons or more, or is used in connection with one or more other storage facilities at the same site which have, in the aggregate, a storage capacity of 30,000 gallons or more.".

(f) Section 3 is amended by adding at the end thereof the following new subsection:

"(f)(1) Standards, or amendments to standards, required under this section by reason of the enactment of the Fuels Transportation Safety Amendments Act of 1978 shall be prescribed not later than 36 months after the date of the enactment of such Act.

"(2) As soon as practicable but not later than 3 months after the enactment of such Act, the Secretary shall, by order, adopt interim minimum Federal safety standards for pipeline facilities and pipeline transportation to the extent not covered by this Act immediately before the date of the enactment of the Fuels Transportation Safety Amendments Act of 1978. Such standards shall, to the extent the Secretary determines appropriate, be the State standards regulating pipeline facilities and pipeline transportation within such State on such date on enactment. In any State in which no such standards are in effect, the Secretary shall, by order, establish interim Federal safety standards for such pipeline facilities and pipeline transportation in such State which shall, to the extent the Secretary determines appropriate, be such standards as are common to a majority of States having safety standards for pipeline facilities and pipeline transportation on such date. Interim standards shall remain in effect until amended or revoked pursuant to this section. Any State agency may adopt such additional or more stringent standards for pipeline facilities and pipeline transportation not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, or the Interstate Commerce Act, as are not incompatible with the Federal minimum standards, but may not adopt or continue in force after the interim standards provided for above become effective any such standards applicable to interstate transmission facilities.".

(g)(1) The following provisions are amended by striking out "the transportation of gas" each place it appears and inserting in lieu thereof "pipeline transportation":

(A) section 2(a)(5) and (9), as redesignated by subsection (a);

(B) section 3(b) and (e);

(C) section 4(b);

(D) section 8(a);

(E) section 11;

(F) section 12(a);

(G) section 13(b); and

(H) section 14(a)(4).

(2) The following provisions are each amended by striking out "transportation of gas" each place it appears and inserting in lieu thereof "pipeline transportation":

(A) section 2(a)(10), as redesignated by subsection (a);

(B) section 5(b)(3); and

(C) section 10(a).

(3) The following provisions are each amended by striking out "gas pipeline" each place it appears and inserting in lieu thereof "pipeline":

(A) section 3(e);

(B) section 4(a); and

(C) section 14(b).

(4) Section 2(a)(4), as redesignated and amended, is further amended by striking out "or its storage" and inserting in lieu thereof ", or its storage in connection with such gathering, transmission, or distribution,".

(5) Section 5(c)(1) is amended—

(A) by striking out "gas safety programs" and inserting in lieu thereof "pipeline safety programs", and

(B) by striking out "date of enactment of this section," and inserting in lieu thereof the following: "date of enactment of the Fuels Transportation Safety Amendments Act of 1978,".

(6) The short title set forth in the first section is amended to read as follows: "Fuels Transportation Safety Act".

COVERAGE OF GAS DISTRIBUTED IN CONNECTION WITH RENTAL OR LEASE OF REAL PROPERTY

SEC. 105. Section 2, as amended by section 104(e), is further amended by adding at the end thereof the following new subsection:

"(c)(1) Unless paragraph (2) applies, there shall be included within the meaning of subsection (a)(4) any pipeline distribution of gas by any person in connection with the rental or lease of real property by that person to others, whether or not—

"(A) a separate charge is made for such gas;

"(B) the distribution to each rental or lease unit is separately metered; and

"(C) the person distributing such gas is otherwise treated as being engaged in local distribution of gas.

"(2) The Secretary shall, by regulation, provide that the provisions of paragraph (1) not apply in cases in which the public health and safety are adequately protected by reason of the existence and enforcement of appropriate building or housing codes or similar laws.".

COVERAGE OF CERTAIN NONPIPELINE FACILITIES

SEC. 106. (a) Section 2, as amended by this Act, is further amended by adding at the end thereof the following new subsection:

"(d)(1) If the Secretary finds that the purposes of this Act would be furthered, he may, by regulation, require that the provisions of this Act shall apply with respect to any specified type or class of facility or equipment used in the transportation on land of gas or liquefied petroleum gas, in interstate or foreign commerce, or storage in connection with such transportation, to the same extent and in the same manner as such provisions apply with respect to pipeline facilities.

"(2) This subsection (or any action hereunder) shall not be construed to relieve any person from having to meet standards or meeting other requirements under any other Federal law; except that, if any regulation under this subsection results in the imposition of a standard or other requirement relating to any matter that the Secretary finds is covered by any other standard or requirement pursuant to any provision of law under the jurisdiction of the Secretary, the Secretary shall so state in such regulation, and that standard or requirement shall supersede and preempt the standard or requirement pursuant to such other provision of law to the extent such matter is covered under the regulation under this subsection.".

(b) Section 5(a) is amended by inserting "section 2(c)," after "Except for".

PIPELINE SAFETY INSPECTORS

SEC. 107. (a)(1) Section 3(b) is amended by inserting after paragraph (4) the following new sentence: "Standards under this subsection which relate to inspection and other enforcement shall set forth minimum training and educational requirements for pipeline inspectors.".

(2) Section 5(c) is amended by adding at the end thereof the following new paragraph:

"(5) The Secretary may not make any payment under this subsection to a State agency for any calendar year beginning after December 31, 1981, unless such State agency has demonstrated that from the payments to such agency for such year funds will be applied for the training and education of pipeline safety inspectors of such State agency in order to enable them to better perform their responsibilities. The amounts to be applied for such purposes are to be adequate to assure that the pipeline safety inspectors maintained by such State agency comply with any standards established under section 3(a) for training and education of pipeline inspectors.".

(b) Section 5(f) is amended to read as follows:

"(f)(1) The Secretary shall determine, after reasonable notice and opportunity for hearing, the minimum number of pipeline safety inspectors which must be maintained by a State agency in order to assure adequate monitoring of compliance with applicable safety standards within such State.

"(2) No State agency shall be considered to meet the requirements for certification under subsection (a), nor may the Secretary enter into any agreement under subsection (b) or allow a State to act as his agent with respect to interstate transmission facilities, unless the State agency involved has demonstrated that such agency has and will continue to maintain no less than the minimum number of pipeline inspectors determined by the Secretary under paragraph (1) to be required for such State.".

TECHNICAL PIPELINE STANDARDS COMMITTEE

SEC. 108. Section 4(b) is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following: "The Secretary shall submit to the Committee any proposed standard under this Act, or any proposed amendment to a standard under this Act, for their consideration. Within 90 days after receipt of any proposed standard or amendment, the Committee shall prepare a report on the technical feasibility, reasonableness, and practicality of such standard or amendment. The Secretary may prescribe a final standard or final amendment to a standard at any time after the 90th day after its submission to the Committee, whether or not the Committee has prepared a report on such standard or amendment.";

(2) by inserting after "published by the Secretary and" the following ", if timely made,"; and

(3) by inserting before the last sentence thereof the following new sentence: "The Committee shall meet with the Secretary (or his designee) not less frequently than once every 6 months.".

APPROPRIATIONS AUTHORIZATION

SEC. 109. Section 15 is amended to read as follows:

"APPROPRIATIONS AUTHORIZED

"SEC. 15. (a) There are authorized to be appropriated $6,000,000 for the fiscal year ending September 30, 1979, for the purpose of carrying out the provisions of this Act, other than provisions for which funds are authorized to be appropriated under subsection (b).

"(b)(1) For the purpose of carrying out the provisions of section 5(c) and (f) of this Act, there are authorized to be appropriated, $4,500,000 for the fiscal year ending September 30, 1979.

"(2) For the purpose of carrying out the electronic data-processing program under section 15(d)(7) for identifying hazardous equipment, materials, and techniques, there are authorized to be appropriated $1,000,000 for the fiscal year ending September 30, 1979.".

TITLE II—SITING AND SAFETY OF LNG FACILITIES

DEFINITIONS

SEC. 201. Section 2(a), as redesignated, is amended by striking out "and" at the end of paragraph (10) (as redesignated), by striking out the period at the end of paragraph (11) (as redesignated) and inserting a semicolon in lieu thereof, and by adding at the end thereof the following new items:

"(12) 'LNG' means natural gas in a liquid, semisolid, or solid state;

"(13) 'LNG facility' means any storage tank, pipeline, or other structure or equipment used for the transportation, storage, or use of LNG, or for LNG conversion, in interstate or foreign commerce, but does not include any structure or equipment (or portion thereof) located in navigable waters (as defined in section 3(8) of the Federal Power Act (16 U.S.C. 796(8)));

"(14) 'LNG conversion' means conversion of natural gas into LNG (liquefaction or solidification) or the conversion of LNG into natural gas (vaporization);

"(15) 'Construction' means construction, reconstruction, or erection, and includes, with respect to any LNG facility, any act which the Secretary determines would result in the creation or substantial increase of capacity of such facility for transporting or storing LNG or for LNG conversion;

"(16) 'Existing LNG facility' means any LNG facility for which an application for the approval of the siting, construction, or operation of such facility was filed before March 1, 1978, with—

"(A) the Department of Energy or any predecessor organization of the Department, or

"(B) the appropriate State agency, in the case of any facility not subject to the jurisdiction of the Department of Energy under the Natural Gas Act,

except that such term does not include any facility the construction of which commences on or after the date of the enactment of this paragraph and such construction is not pursuant to such an approval;

"(17) 'New LNG facility' means any LNG facility other than an existing LNG facility;

"(18) 'LNG accident' means any release, burning, or explosion of LNG resulting from—

"(A) a rupture or other failure of a storage tank, pipeline, or other LNG facility;

"(B) natural hazards (including earthquakes, hurricanes, and high winds);

"(C) sabotage; or

"(D) any other cause; and

"(19) 'Interstate or foreign commerce' means any trade, traffic, transportation, exchange, or other commerce—

"(A) between any State and any place outside of such State, or

"(B) which affects any trade, transportation, exchange, or other commerce described in subparagraph (A).".

SITING AND SAFETY STANDARDS

SEC. 202. (a) The Act is amended by redesignating sections 6 through 17 as sections 8 through 19, respectively, and by inserting after section 5 the following new section:

"STANDARDS FOR LNG FACILITIES

"SEC. 6. (a)(1) After the date standards first take effect under this section, no new LNG facility may be constructed, unless the Secretary approves such construction, and then only to the extent that such construction is in accordance with the applicable standards prescribed under subsection (b) and such other terms and conditions as the Secretary determines are appropriate to assure that the facility will be constructed and operated in compliance with standards under subsection (b).

"(2) The Secretary shall not approve construction of any LNG facility under this subsection unless the person seeking such approval submits a contingency plan which sets forth those steps which are to be taken in the event of an LNG accident or supply interruption and which the Secretary determines to be adequate.

"(3) The standards under this subsection shall not apply in the case of siting or construction with respect to which an application for approval was filed before March 1, 1978, with—

"(A) the Department of Energy or any predecessor organization of the Department; or

"(B) the appropriate State agency, in the case of any facility not subject to the jurisdiction of the Department under the Natural Gas Act.

"(b) Not later than 180 days after the date of the enactment of this section, the Secretary shall establish—

"(1) minimum standards for determining the location of any new LNG facility which is to be stationary,

"(2) minimum standards for the construction of any new LNG facility, and

"(3) minimum standards for the operation of any new LNG facility.

Any standard under this section shall be in addition to, and not in lieu of, standards under section 3 which are not inconsistent with such standard.

"(c) Not later than 270 days after the date of the enactment of this title, the Secretary shall establish minimum stand-

ards to be maintained with respect to the operation of any existing LNG facility.

"(d) In prescribing standards under subsections (b) and (c), the Secretary shall take into consideration—

"(1) with respect to standards relating to the location of any stationary new LNG facility—

"(A) the nature of the use of the facility;

"(B) criteria to be used in determining the number and characteristics of other sites to be considered as alternative locations for such LNG facility;

"(C) the existing and projected population and demographic characteristics associated with each location considered;

"(D) the existing and proposed land uses near each such location;

"(E) the meteorological, geological, topographical, and other natural physical aspects of each such location;

"(F) the medical, law enforcement, and fire prevention capabilities existing near each such location to cope with risks created by such a facility;

"(G) the costs of constructing and operating such LNG facility at each such location, including the costs to the United States and to State and local governments which are associated with such construction and operation; and

"(H) the need to encourage remote siting;

"(2) with respect to standards applicable to the construction of any new LNG facility—

"(A) the thermal resistance and other characteristics of materials to be used in the construction of such facility as compared to alternative materials;

"(B) design factors (such as multiple diking, insulated concrete, and vapor containment barriers);

"(C) the characteristics of the LNG to be stored or converted at, or transported by, such facility (for example, whether it is to be in a liquid, semisolid, or solid state); and

"(D) the public safety factors of the design as compared to alternative designs (particularly the ability under such a design to prevent and contain an LNG spill); and

"(3) with respect to standards for the operation of any LNG facility—

"(A) the conditions, features, and type of equipment and structures which comprise, or which are used in connection with, such facility;

"(B) the fire prevention and containment equipment at such facility;

"(C) the security measures to be used with respect to the operation of such facility for the prevention of sabotage or other intentional acts which could cause an LNG accident;

"(D) maintenance procedures and equipment;

"(E) the training of personnel with respect to the equipment, structures, measures, and procedures described in subparagraphs (A), (B), (C), and (D); and

"(F) other factors and conditions relating to the safe handling of LNG.

"(e) At any time after the effective date of standards initially prescribed under subsections (b) and (c), the Secretary shall, on his own motion or on the motion of any person, amend such standards to the extent he considers necessary to reflect changes in technology or to otherwise carry out the purposes of this section.

"(f) Any standards prescribed under this section, and amendments thereto, shall become effective 30 days after the date of issuance of such standards unless the Secretary, for good cause recited, determines an earlier or later effective date is required as a result of the period reasonably necessary for compliance and such date is specified in the order establishing or amending such standard.

"(g) The provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to all orders establishing, amending, or revoking, any standard established under this section. The Secretary shall afford interested persons an opportunity to participate fully in the establishment of such safety standards through submission of written data, views, or arguments with opportunity to present oral testimony and argument.

"(h) Any State agency may adopt additional or more stringent standards for intrastate LNG facilities if such standards are compatible with the Federal minimum standards. No State agency may adopt or continue in force any such standards applicable to interstate LNG facilities after the Federal minimum standards become effective.".

(b)(1) Section 2(a)(4), as redesignated, is amended by striking out "or affecting".

(2) Section 2(a)(10), as redesignated, is amended by inserting ", LNG facilities," after "pipeline facilities" the first place it appears therein.

(3) Section 3(d), as redesignated, is amended—

(A) by inserting "or LNG facilities" after "pipeline facilities"; and

(B) by inserting after "in the same manner" the following: "and to the same extent".

(4) Section 4(b) (relating to Pipeline Transportation Safety Committee) is amended by inserting ", LNG facilities," after "pipeline facilities".

(5) Section 9 (relating to cooperation), as redesignated, is amended—

(A) by inserting "or LNG facility" after "affected pipeline facility" and after "gas pipeline"; and

(B) by inserting "or LNG facilities" after "pipeline facilities".

(6) Section 10 (relating to compliance), as redesignated, is amended by inserting "LNG facilities" after "pipeline facilities".

(7) Section 13 (relating to injunction and jurisdiction), as redesignated, is amended by inserting after "pipeline facility" the following: "or LNG facility".

(8) Section 14 (relating to inspection and maintenance plans), as redesignated, is amended—

(A) by inserting after "facilities" the following: "or LNG facilities" each place it appears;

(B) by striking out "pipeline safety" each place it appears and inserting in lieu thereof "pipeline and LNG facility safety"; and

(C) by inserting in paragraph (2) after "pipeline transportation" the following: "or LNG facility".

(9) Section 15 (relating to records, etc.), as redesignated, is amended by inserting after "pipeline facilities" each place it appears the following: "and LNG facilities".

(10) Section 17(a)(2) (relating to annual report), as redesignated, is amended by inserting after "pipeline" the following: "or LNG facilities".

(11) Section 17(a)(4) (relating to annual report), as redesignated, is amended by striking out "and pipeline facilities" and inserting in lieu thereof ", pipeline facilities, and LNG facilities,".

FINANCIAL RESPONSIBILITY

SEC. 203. The Act, as amended by section 202 of this Act, is further amended by inserting after the new section 6 the following new section:

"FINANCIAL RESPONSIBILITY FOR CERTAIN LNG ACTIVITIES

"SEC. 7. (a) Not later than 9 months after the date of the enactment of this section, the Secretary shall—

"(1) conduct a study of the risks associated with the production, transmission, and storage of LNG and the methods of assuring adequate financial responsibility for those engaged in such activities; and

"(2) prepare and transmit to each House of the Congress a report on the results of such study, together with the recommendations of the Secretary for such legislative or administrative action as he considers appropriate.

"(b)(1) Whenever the Secretary has reason to believe that any operator of an LNG facility is not maintaining adequate insurance or otherwise does not have adequate financial responsibility with respect to such facilities, he shall issue and serve upon such operator notice thereof, together with a statement of the amount of the financial responsibility that the Secretary would consider adequate.

"(2) Any person issued notice under paragraph (1) shall have a right to hearing on the record in accordance with section 554 of title 5, United States Code, to be held not later than 30 days after notice under paragraph (1), at which such person has the right to show cause as to why an order should not be issued by the Secretary requiring such person to demonstrate and maintain financial responsibility at or above the amount indicated in the notice under paragraph (1).

"(3) After an opportunity for hearing under paragraph (2), the Secretary may, if he determines it is justified in the public interest, order the person issued notice of such hearing to demonstrate and maintain financial responsibility at or above an amount determined appropriate by the Secretary, taking into account any information, data, and views presented in such hearing.

"(4)(A) Any person aggrieved by an order issued under paragraph (3) may seek judicial review of such order only by filing a petition for review in the appropriate court of appeals of the United States within 60 days after such order is issued.

"(B) Upon receipt of notice of the filing of such petition, the Secretary shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code. Upon such filing, the court may affirm, modify, remand, or set aside the order of the Secretary, and may enforce the order to the extent that such order is affirmed and issue such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public pendente lite. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

"(C) The judgment and decree of the court shall be final, except that such judgment and decree shall be subject to review by the Supreme Court upon certiorari, as provided in section 1254 of title 28, United States Code.

"(c) For purposes of subsection (b) of this section, financial responsibility may be maintained by any one of, or a combination of, the following methods acceptable to the Secretary:

"(1) evidence of insurance,

"(2) surety bonds,

"(3) qualification as a self-insurer, or

"(4) other evidence of financial responsibility.".

ENFORCEMENT OF STANDARDS AND FINANCIAL RESPONSIBILITY REQUIREMENTS

SEC. 204. (a) Section 11(a) (relating to civil penalty), as redesignated by section 202 of this Act, is amended by inserting "(1)" before "Any person" and by adding at the end thereof the following new paragraph:

"(2) Any person who violates the provisions of section 6 or any order under section 7(b) shall be subject to a civil penalty of not to exceed $50,000, which penalty shall be in addition to any other penalties to which such person may be subject under this subsection.".

(b) The Act is further amended by redesignating sections 12 through 19 (as redesignated) as sections 13 through 20, respectively, and by inserting after section 11 the following new section:

"CRIMINAL PENALTY

"SEC. 12. Any person who willfully and knowingly violates the provisions of section 6 or any order issued under section 7(b) shall, on conviction thereof, be punished by a fine of not more than $50,000, or by imprisonment for not more than five years, or both.".

APPROPRIATIONS AUTHORIZATION

SEC. 205. Section 18(b) (relating to appropriations authorization), as redesignated, is amended by adding at the end thereof the following new paragraph:

"(3) There are authorized to be appropriated to carry out sections 6 and 7 of this Act for the fiscal year ending September 30, 1979, not to exceed $2,000,000.".

TITLE III—MISCELLANEOUS PROVISIONS

WILLFUL DESTRUCTION OF INTERSTATE PIPELINE TRANSMISSION OR LNG FACILITIES

SEC. 301. Section 12 (as added by section 204 of this Act), is amended by inserting "(a)" after "SEC. 12." and by adding at the end thereof the following new subsection:

"(b) Any person who willfully injures or destroys, or attempts to injure or destroy—

"(1) any pipeline facility for the interstate transmission of gas, liquefied petroleum gas, or petroleum, including any facility or equipment covered under this Act under section 2(b) or (d) used in the interstate transmission of gas or liquefied petroleum gas, or

"(2) any liquefied gas facility to which section 6 applies,

shall be fined not more than $15,000 or imprisoned not more than fifteen years, or both.".

CITIZEN'S CIVIL ACTION

SEC. 302. Section 20 (relating to citizen civil suits), as redesignated, is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"SEC. 20. (a) Except as provided in subsection (b), any aggrieved person may commence a civil action for equitable relief as a citizen whenever such action constitutes a case or controversy—

"(A) against any person (including (i) the United States, and (ii) any other governmental instrumentality or agency to the extent permitted by the 11th amendment to Constitution) alleged to be in violation of any provision of this Act, any order or regulation issued under this Act, or any condition of approval pursuant to section 6 of this Act; or

"(B) against the Secretary where there is alleged a failure of the Secretary to perform any act or duty under this Act, which is not discretionary with the Secretary.

"(2) Any action brought against the Secretary under paragraph (1)(B) shall be brought in the district court for the District of Columbia or for the judicial district in which the facility involved is located or proposed to be located.

"(3) In suits brought under this section, the district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce any provision of this Act or any condition of approval pursuant to section 6 of this Act or to order the Secretary to perform such act or duty, as the case may be.

"(b) No civil action may be commenced under this section—

"(1) under subsection (a)(1)(A)—

"(A) prior to 60 days after the plaintiff has given notice of the violation (i) to the Secretary (or to the applicable State agency in the case of a State which has been certified under section 5(a) and in which the violation is alleged to have occurred) and (ii) to any alleged violator; or

"(B) if the Secretary (or such State agency) has commenced and is diligently pursuing administrative proceedings or the Attorney General (or the chief law enforcement officer of such State) has commenced and is diligently prosecuting a civil or criminal action with respect to such matters in a court of the United States but in any such action any person may intervene as a matter of right; or

"(2) under subsection (a)(2) prior to 60 days after the plaintiff has given notice of such action to the Secretary (or such State agency).

Notice under this subsection shall be given in such a manner as the Secretary shall prescribe by regulation.".

APPOINTMENTS OF DIRECTOR OF PIPELINE SAFETY OPERATIONS AND DIRECTOR OF MATERIALS TRANSPORTATION BUREAU

SEC. 303. (a) Notwithstanding any other provision of law—

(1) no individual may serve for more than 180 days (in the aggregate) in an acting capacity in a position the principal duties of which were identified as of March 1, 1978, as assigned to the Director of the Office of Pipeline Safety Operations, Department of Transportation, or may serve as the Acting Director of the Materials Transportation Bureau, Department of Transportation, and

(2) if a person is not appointed to such position within 180 days agter a vacancy occurs in that position, the Secretary shall personally carry out the functions of such position until an appointment is made to that position and all delegations of authority under the Fuels Transportation Safety Act shall be suspended until such appointment is made.

(b) In the case of any vacancy in such positions on the date of the enactment of this Act, periods of service before the date of enactment shall not be taken into account for purposes of subsection (a).

TECHNICAL, CLERICAL, AND CONFORMING AMENDMENTS

SEC. 304. (a) Section 3, as amended by this Act, is further amended by striking out subsection (a) and by redesignating subsections (b) through (f) as subsections (a) through (e), respectively.

(b) Section 3(b), as redesignated by subsection (a), is amended by inserting after "period reasonably necessary for compliance" the following: "and such date is specified in the order establishing or amending such standard".

(c) Clause (ii) of section 5(a) is amended by inserting after "property damage exceeding $1,000" the following: "(whether or not sustained by a person subject to the safety jurisdiction of the State)".

(d) Section 5(a) is amended by striking out ": except that a State agency may file a certification under this subsection without regard to the requirement of injunctive and monetary sanctions under State law for a period not to exceed five years after the date of enactment of this Act".

(e) Section 11(a)(1) (relating to civil penalties), as redesignated, is amended by striking out ": Provided, That for a reasonable period of time, not to exceed one year after the date of the enactment of this Act, such civil penalties shall not be applicable to pipeline facilities existing on such date of enactment".

(f) Section 17(a)(3) (relating to annual reports), as redesignated by sections 202 and 204 of this Act, is amended by striking out "section 3(e)" and inserting in lieu thereof "section 3(d)".

(g) The following provisions are each amended by striking out "Federal Power Commission" and inserting in lieu thereof "Federal Energy Regulatory Commission".

(1) section 2(a) (9) and (10), as redesignated;

(2) section 9 (relating to cooperation), as redesignated, including the section heading; and

(3) section 16(b) (relating to administration), as redesignated.

(h) Paragraphs (9) and (10) of section 2(a), as redesignated, are each amended by inserting "or the Interstate Commerce Act" after "the Natural Gas Act".

(i)(1) Section 5(a) is amended by striking out "section 12(b)", "section 12", "section 11", "sections 9 and 10" and inserting in lieu thereof "section 15 (b) and (e)", "section 15 (a), (b), (c), and (f)", "section 14", and "sections 11 (other than subsection (a)(2) thereof) and 13", respectively.

(2) Section 5(a) is further amended by inserting "section 20," before "and except as otherwise provided in this section".

(3) Section 5(b)(2) is amended by striking out "section 11" and inserting in lieu thereof "section 14".

(4) Section 5(c)(2) is amended by striking out "section 15(b)" and inserting in lieu thereof "section 18(b)(1)".

(5) Section 10 (relating to compliance), as redesignated, is amended by striking out "section 11" and "section 12" and inserting in lieu thereof "section 14" and "section 15", respectively.

(6) Section 13 (relating to injunction and jurisdiction), as redesignated, is amended by striking out "section 9" each place it appears and inserting in lieu thereof "section 11 or 12".

(7) Section 11(a)(1) (relating to civil penalty), as redesignated, is amended by striking out "section (8)(a)" and inserting "section 10" in lieu thereof.

(j) Section 17(a) (relating to annual report), as redesignated, is amended by striking out "March 17" and inserting in lieu thereof "June 1".

(k) Any reference in any other provision of law, rule, regulation, or order to the Natural Gas Pipeline Safety Act of 1968 shall be considered to refer to the Fuels Transportation Safety Act.

Mr. DINGELL (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. Are there any amendments to the bill?

AMENDMENT OFFERED BY MR. COLLINS OF TEXAS

Mr. COLLINS of Texas. Mr. Chairman, I offered an amendment.

The Clerk read as follows:

Amendment offered by Mr. COLLINS of Texas: On page 56, after line 11, add the following new paragraph:

"(3) Nothing in this subsection shall be interpreted to provide the Secretary with authority over any specified type or class of facility or equipment used in the transportation on land of gas or liquefied petroleum gas, in interstate or foreign commerce, or storage in connection with such transportation, unless the Secretary has authority over such facilities, equipment, or storage under any other provision of law."

Mr. COLLINS of Texas. Mr. Chairman, my amendment is straightforward and technical in nature. Its purpose is to

clarify the intent of section 106 to assure that this provision is only meant to plug loopholes in existing and overlapping laws, and that it should not be interpreted as providing the Secretary with a separate grant of authority over any facility or equipment over which he does not now have authority.

As section 106 is now written, it arguably could allow the Secretary of Transportation to extend provisions of this act to require new standards for the design, installation, maintenance, operation of or reporting on, residential, farm, commercial, or industrial user LPG storage facilities of under 30,000 gallons capacity and not meeting the other requirements of section 104(b). This was not the committee's intention when it adopted this bill. In fact, the committee's intention was clearly stated to the contrary.

Language identical to that contained in my amendment was supposed to have been included in the committee report accompanying this bill. Unfortunately, due to an inadvertent drafting error, this language was misplaced in the committee report and now appears under the explanatory material accompanying master meters. For this reason my amendment is necessary to clarify the seemingly broad grant of authority contained in section 106. I urge all Members to support this amendment which brings the language of section 106 into conformity with the intentions of its supporters.

Mr. DINGELL. Mr. Chairman, would the gentleman from Texas yield?

Mr. COLLINS of Texas. I will be glad to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, we have had a copy of the amendment made available to us. I find no objection to the amendment.

Mr. MOORE. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Louisiana.

Mr. MOORE. Mr. Chairman, we on the minority side have looked at the amendment and find it very meritorious and have no objection to it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. COLLINS).

The amendment was agreed to.

Mr. MOORE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time to enter into a colloquy with the distinguished chairman of the subcommittee, the gentleman from Michigan.

Mr. Chairman, I ask the gentleman, will section 102 of H.R. 11622 require natural gas distribution and pipeline companies to dig up their pipeline systems if that is the only way they can obtain the information required to be reported under section 102?

Mr. DINGELL. Mr. Chairman, would my good friend, the gentleman from Louisiana yield?

Mr. MOORE. I yield to the distinguished chairman of the committee.

Mr. DINGELL. Mr. Chairman, I would like to comment that my friend from Louisiana is a most valuable Member of the subcommittee and we have worked together harmoniously on this matter, despite our differences.

In response to the basic question, the answer is no. Our intention is to allow the reporting requirements of section 102 to be satisfied by reporting such information as is available from the records of the person operating the pipeline or through the gathering of information obtainable through normal maintenance procedures. Unless the Secretary finds that there is a clear and present hazard threatening public safety, there is no intent to require pipeline and distribution companies to undertake extraordinary excavation activity to obtain section 102 information.

Mr. Chairman, I would also point out that there are other methods whereby a large part of the information can be gotten and it is anticipated that those methods will be used first before any resort is undertaken as regards digging.

Mr. MOORE. Mr. Chairman, I thank the distinguished chairman of the subcommittee for these comments. Those are my understandings and observations of this section as well.

I think we now have the record complete to the point we are not placing an onerous and unreasonable burden of digging up these pipelines if there is no other way to obtain the information.

Mr. DINGELL. Mr. Chairman, if the gentleman will yield further, that is correct.

Mr. ROBERTS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, Shakespeare had the proper description of this: "Much Ado About Nothing."

Mr. Chairman, I am amazed to see that such legislation comes before the House and to my friend, the gentleman from Michigan (Mr. DINGELL), I offered to bet the gentleman a dollar that the gentleman did not know what propane and butane was, and I did not get a call.

Every house in the rural areas in my part of the country burns propane or butane. Probably in the 40 years they have been doing it, they had two homes explode because somebody forgot to shut the stove off; but butane and propane basically are produced accidentally in the refining process. They are the residual that drops down when you get through.

Twenty years ago we paid people to haul it off, burn it, do anything to get rid of it. It got up to 2 cents a gallon and poor people burned it at home.

Then when we got in an energy crunch, it got up to about 35 cents a gallon and now the poor folks that live out in the country, their fuel bill is far more than their grocery bill.

When we talk about all these safety provisions, now, very little of it is transported by pipeline. We ought to have pipeline safety and I commend the gentleman for trying to have pipeline safety; but what are we going to do about nitrate fertilizer? One bag of nitrate fertilizer has more explosive in it than 100 gallons of propane or butane. Are we going to stop them from fertilizing?

This is patently something we ought not to be fooling with. It is not going to do any good. It is going to cost a lot of money and instead of 30 cents a gallon, you are going to have poor folks on the farm that cannot get any other fuel paying 50 cents a gallon for their heating fuel.

It is safe if handled properly. We burn it in our automobiles. We burn it in our trucks.

We use it in our tractors, and I have heard of one of them blowing up. Of course, they can blow up. You can have explosions in anything, but the worst explosions we have had have been from nitrate fertilizers—for instance, the one in Texas City. I presume next we will have a bill that says a farmer cannot haul fertilizer out to his farm.

AMENDMENT OFFERED BY MR. EDGAR

Mr. EDGAR. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EDGAR: Page 56, after line 11, delete "." and insert the following:

"(3) Not later than 1 year after the date of the enactment of this subsection, the Secretary shall conduct a study, and submit a report thereon to the Congress, on the effects which would result from including within the coverage of this Act various types and classes of facilities and equipment used in the transportation on land of gas or liquefied petroleum gas in interstate or foreign commerce, or storage in connection with such transportation.".

Mr. EDGAR. Mr. Chairman, I rise to offer an amendment to the Fuels Transportation Safety Act of 1978.

The purpose of my amendment is to remedy a dangerous situation which threatens the lives and property of thousands of our constituents who live near liquid petroleum gas storage and/or transportation facilities.

On January 25, 1978, 40 families in the borough of Marcus Hook, Pa., had to be evacuated when a fire swept through a residential area bordering an oil refinery. Five homes were severely damaged, and three others were made uninhabitable. Only luck and courageous action by local officials prevented what could have been a tragedy of major proportions.

Mr. Chairman, it took many hours before it could be determined that the fire resulted from a leak of butane vapor from a 250,000-barrel underground storage cavern owned and operated by the Sun Co.

I and my staff worked closely with local, State and Federal officials to cope with this disaster. After bickering and buck-passing among various State and Federal agencies, a task force was finally formed to advise the borough and aid the residents. Marcus Hook mayor, Wayne Curtis Weldon, has compiled a detailed account of this disaster. A review of this fascinating document leads one to at least this striking conclusion—there is virtually no regulation of these storage facilities at the State or Federal level. When a fire did occur, no State or Federal agency assumed responsibility for the area.

Incredibly, the borough of Marcus Hook, could not find Federal or State

aid in analyzing the leaking gas which was fueling the fire, and was forced to hire the services of an independent laboratory.

On April 13, Mayor Weldon testified before the House Subcommittee on Energy and Power on H.R. 11622. In his testimony, the mayor shared his experiences and frustrations in responding to a situation which threatened the safety of the 3,000 residents of the borough. During his testimony, Mayor Weldon offered specific recommendations which he felt were necessary to avoid a repetition of the January 28th disaster at any of the approximately 75 similar underground LPG storage facilities in this country.

I would like to share with my colleagues these recommendations:

RECOMMENDATIONS

(1) A thorough investigation should be implemented on the full geological conditions necessary for successful use of underground storage facilities. This study should include possible natural or man-made causes of breaking desirable natural conditions as well as what outcomes could be expected from materials stored within the cavern facility.

(2) The construction and operation of underground storage facilities used for petroleum products should be placed under the authority of the Office of Pipeline Safety Operations.

(3) All existing underground storage caverns should be thoroughly inspected with special emphasis upon the particular safety devices in operation on each. Standards for these devices should be developed and implemented.

(4) Underground storage caverns should not be used in any residential area. Minimally safe distances should be established in standards. Where such caverns must be located in the proximity of residential areas, extra safety precautions should be implemented for completely safe operation.

(5) A national energy hot-line number should be established for any incident involving such products as LPG, LNG and should be readily available to municipalities and their fire and safety officials.

(6) Proof of financial stability must be established by any company involved with LPG, LNG facilities for possible recourse in time of disaster.

Provisions of H.R. 11622 included by the Commerce Committee take the first step to assure the responsible regulation of LPG storage facilities. Section 104 of this legislation amends the Natural Gas Pipeline Safety Act of 1968 to permit the Secretary of Transportation to include liquid petroleum gas storage facilities among the facilities which can be regulated under the act.

There are two conditions under which such regulations can be promulgated. First, the Secretary must find that including LPG facilities would further the purposes of the act. Second, facilities which could be regulated must have a capacity of at least 30,000 gallons, or an aggregate of 30,000 gallons for more than one facility at the same site.

A second provision of this legislation, as reported, also relates to LPG facilities. Section 106 amends the 1968 act to provide that the Secretary may require that certain LPG storage facilities be regulated in the same manner as other facilities covered by the act, provided that he determines that the purposes of the act would be furthered.

I wish to compliment the committee and subcommittee for approving the above provisions. However, I fear that the language does not require affirmative action by the Secretary to look at the problem of LPG storage regulation. The Secretary may feel that this issue is not a priority, or that despite the need for regulation, there are inadequate staff and resources to take an initiative in this area.

My amendment would correct this possible flaw by requiring the Secretary to take a look at this problem. The amendment provides that the Secretary must study the effects of regulating LPG storage facilities. A report on the study would have to be submitted to the Congress not later than one year following the enactment of this bill.

Since the General Accounting Office has just completed (July 31, 1978) a massive study entitled "Liquid Energy Gases Safety," the Secretary's task should be a relatively simple one. If the study demonstrates the need for regulation, then the Secretary would be authorized by provisions already in this bill to issue regulations which would apply some or all of the provisions of the 1968 act to these facilities.

Regulation which could apply to LPG storage facilities would include setting standards for the design, installation, inspection, emergency plans and procedures, testing, construction, extension, operation, replacement, and maintenance of them. Standards affecting design, installation, construction, initial inspection and initial testing would not apply to facilities in existence when standards are adopted.

Minimum training and education requirements for inspectors would be specified. Nothing would prohibit States from adopting more stringent standards than the Federal minimum standards, provided that the State standards were compatible with the Federal standards.

Standards could be waived on a case-by-case basis if the Secretary of Transportation determined, after notice and opportunity for public hearing, that the standard would not be inconsistent with safety.

Standards relating to financial responsibility for certain LNG activities could also be applied to LPG storage activities if the Secretary determined in his study that such standards would further the purposes of the act.

Mr. Chairman, I find it unfortunate that we often become concerned about dangerous circumstances only when there is a disaster. As long as there are headlines about explosions of liquid natural gas trucks, oil spills at sea, or even long lines at the gas pumps, we are able to focus our attention on responsible measures to minimise the probability of a replay. While there are no headlines today about accidents involving LPG storage facilities, it is certainly not because State and Federal regulations have been protecting our citizens. My amendment could prevent a reoccurrence of what is known as the "Green Street Disaster," and I urge my colleagues to approve this amendment.

Mr. DINGELL. Mr. Chairman, will my good friend and colleague, the gentleman from Pennsylvania, yield?

Mr. EDGAR. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I want to pay tribute to the distinguished gentleman from Pennsylvania (Mr. EDGAR) for his offering of the amendment and for the careful way in which he has approached this problem here in the House.

I would observe that we have had an opportunity to review the amendment, and I am thoroughly sympathetic with it. The gentleman is to be congratulated for offering it, and I find no objection to it on this side.

Mr. EDGAR. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. EDGAR).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore. (Mr. NATCHER) having assumed the chair, Mr. HUGHES, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11622) to amend the Natural Gas Pipeline Safety Act of 1968 to provide for the safe operation of pipelines transporting natural gas, petroleum, petroleum products, and certain other materials, to provide standards with respect to the siting, construction, and operation of liquefied natural gas and liquid petroleum gas facilities, and for other purposes, pursuant to House Resolution 1311, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro temoore. The question is on the passage of the bill.

The bill was passed.

The title was amended so as to read: "A bill to amend the Natural Gas Pipeline Safety Act of 1968 to provide for the safe operation of pipelines transporting

natural gas and liquefied petroleum gas; to provide standards with respect to the siting, construction, and operation of liquefied natural gas facilities, and for other purposes.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DINGELL. Mr. Chairman, I ask unanimous consent that all members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. Pursuant to the provisions of House Resolution 1311, the Committee on Interstate and Foreign Commerce is discharged from the further consideration of the Senate bill (S. 1895) to amend the Natural Gas Pipeline Safety Act of 1968 to authorize appropriations for fiscal year 1979.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DINGELL moves to strike out all after the enacting clause of the Senate Bill (S. 1895) and to insert in lieu thereof the text of H.R. 11622, as passed by the House, as follows:

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. (a) This Act may be cited as the "Fuels Transportation Safety Amendments Act of 1978".

(b) The table of contents for this Act is as follows:

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.
Sec. 2. References to Natural Gas Pipeline Safety Act of 1968.
TITLE I—FUELS TRANSPORTATION GENERALLY
Sec. 101. Hazardous pipeline facilities.
Sec. 102. Information on pipeline location and characteristics.
Sec. 103. Reporting of pipeline leaks.
Sec. 104. Coverage of pipeline transportation of liquefied petroleum gas.
Sec. 105. Coverage of gas distributed in connection with rental or lease of real property.
Sec. 106. Coverage of certain nonpipeline facilities.
Sec. 107. Pipeline safety inspectors.
Sec. 108. Technical Pipeline Standards Committee.
Sec. 109. Appropriations authorization.
TITLE II—SITING AND SAFETY OF LNG FACILITIES
Sec. 201. Definitions.
Sec. 202. Siting and safety standards.
Sec. 203. Financial responsibility.
Sec. 204. Enforcement of standards and financial responsibility requirements.
Sec. 205. Appropriations authorization.
TITLE III—MISCELLANEOUS PROVISIONS
Sec. 301. Willful destruction of interstate pipeline transmission or LNG facilities.
Sec. 302. Citizens' civil action.
Sec. 303. Appointments of Director of Pipeline Safety Operations and Director of Materials Transportation Bureau.

Sec. 304. Technical, clerical, and conforming amendments.

REFERENCES TO NATURAL GAS PIPELINE SAFETY ACT OF 1968

SEC. 2. Except as otherwise expressly provided, whenever in this Act, any reference, amendment, or repeal is expressed in terms of a reference or amendment to, or repeal of, a section or other provision, it shall be considered to be made to a section or other provision of the Natural Gas Pipeline Safety Act of 1968.

TITLE I—FUELS TRANSPORTATION GENERALLY

HAZARDOUS PIPELINE FACILITIES

SEC. 101. (a) Section 8 is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b)(1) If the Secretary finds, after reasonable notice and an opportunity for hearing, that any pipeline facility is hazardous to life or property, he shall, by order, require the person operating the facility to take necessary corrective action. Such corrective action may include physical inspection, testing, repair, replacement, or other action, as appropriate.

"(2) The Secretary may find a pipeline facility to be hazardous under paragraph (1)—

"(A) if under the facts and circumstances he determines the particular facility is hazardous to life or property, or

"(B) if the pipeline facility or a component thereof has been or is proposed to be constructed or operated with any equipment, material, or technique which he determines is hazardous to life or property, unless the operator involved demonstrates to the satisfaction of the Secretary that under the particular facts and circumstances involved such equipment, material, or technique is not hazardous to life or property.

"(3) In making a determination under paragraph (2), the Secretary shall consider—

"(A) the characteristics of the pipe and other equipment used in the pipeline facility involved, including its age, manufacturer, physical properties (including its resistance to corrosion and deterioration), and the method of its manufacture, construction, or assembly;

"(B) the nature of the materials transported by such facilities (including their corrosive and deteriorative qualities), the sequence in which such materials are transported, and the pressure required for such transportation;

"(C) the aspects of the areas in which the pipeline facilities are located, in particular the climatic and geologic conditions (including soil characteristics) associated with such areas, and the population density and population and growth patterns of such areas; and

"(D) such other factors as the Secretary may consider appropriate.

"(4) The Secretary may waive any requirements for hearing and a period of reasonable notice and provide for expeditious issuance of an order under this subsection in any case in which he determines that the failure to do so would result in the likelihood of serious harm to life or property.".

(b) Section 3(b) is amended by striking out the fourth sentence.

(c) The first sentence of section 5(a) is amended by striking out "the fourth sentence of section 3(b)," and inserting in lieu thereof "section 10(b),".

INFORMATION ON PIPELINE LOCATION AND CHARACTERISTICS

SEC. 102. (a) Section 12 is amended by redesignating subsection (d) as subsection (f) and by inserting after subsection (c) the following new subsection:

"(d)(1) The Secretary shall, by regulation, require any person operating a pipeline facility to—

"(A) prepare and maintain a general description of the pipeline facility, including—

"(i) the location of the pipeline and the pipeline facilities;

"(ii) the type, age, manufacturer, and method of construction of such pipeline and facilities;

"(iii) the nature of the materials transported, the sequence in which they are transported, and the pressure at which they are transported;

"(iv) the climatic and geologic conditions including soil characteristics) associated with the areas in which the pipeline facilities are located, and the population density and patterns of such areas; and

"(v) such other information as the Secretary may consider appropriate;

"(B) prepare, maintain, and submit to State and local entities authorized to approve demolition, excavation, tunneling, or construction activities in the areas in which the pipeline facilities are located a detailed description of the pipeline's location; and

"(C) submit to the Secretary a report containing the information prepared and maintained under subparagraph (A).

"(2) Information prepared and maintained under paragraph (1)(A)(i) of this subsection shall, on request and for good cause shown, be made available for public inspection.

"(3) The requirements of subparagraph (B) of paragraph (1) shall be deemed to be satisfied in the case of any pipeline facility operator participating in a public safety program established under State or local law or regulation—

"(A) under which—

"(i) notice is required to be provided to pipeline facility operators of proposed demolition, excavation, tunneling, or construction near or affecting such facility; and

"(ii) such operators are required to identify specific pipeline facilities which may be affected by the proposed demolition, excavation, tunneling, or construction, or to supervise such demolition, excavation, tunneling, or construction, for the purpose of preventing damage to such facilities; and

"(B) which the Secretary determines is being carried out in a manner adequate to assure protection against the hazards of demolition, excavation, tunneling, or construction near or affecting such facilities.

"(4) The Secretary shall—

"(A) not later than 180 days after the date of the enactment of this subsection, publish proposed regulations required to be prescribed under paragraph (1), and provide an opportunity (of not less than 60 days' duration) for oral and written public comment on such proposed regulations; and

"(B) as soon as possible after the public comment period under subparagraph (A) but not later than 270 days after the date of the enactment of this subsection, prescribe the final regulations.

(5) The Secretary shall, by order or regulation, provide for an exemption for any person or category of persons from all or part of the requirements under this subsection if the Secretary finds—

"(A) that the financial and administrative burdens of being covered by such requirements are not justified by the benefits resulting from that coverage; or

"(B) the costs to such person or persons by being covered by such requirements would significantly increase consumer rates or charges and such exemption would not endanger the public health or safety.

"(6) Information shall not be required to be prepared or reported under the regulations under this subsection before January 1, 1982.

"(7) Not later than 3 years after the date of the enactment of this subsection, the Secretary shall establish and thereafter maintain a program, for use in an electronic data-processing system, which processes and maintains—

"(A) information obtained under this subsection;

"(B) information on pipeline leaks reported under subsection (e);

"(C) information on accidents and incidents reported under section 5; and

"(D) such other information as the Secretary determines appropriate;

for the purpose of identifying hazardous equipment, materials, and techniques involved in the construction or operation of pipeline facilities.".

(b)(1) Section 5(a) is amended—

(A) by inserting after "(3) is enforcing each such standard;" the following: "(4) has adopted and is administering a reporting and disclosure program substantially meeting the requirements of the reporting and disclosure program established by regulation under section 15(d)(1);";

(B) by redesignating paragraphs (4) and (5) thereof as paragraphs (5) and (6), respectively;

(C) by striking out "excavation" in paragraph (5), as redesignated, and inserting "demolition, excavation, tunneling, or construction" in lieu thereof;

(D) by striking out "and (iv)" and inserting in lieu thereof "(iv) information obtained by the State agency under a program described by paragraph (4) of this subsection; and (v)".

(2) Certification and information requirements established by regulation under the amendments made by paragraph (1) of this subsection shall not apply with respect to annual certifications under section 5 during the 3-year period which begins on the effective date of such regulation.

(c) Section 12(f), as redesignated by subsection (a) of this section, is amended by striking out "or (c)" and inserting in lieu thereof "(c), or (d)".

(d) Section 16 is amended by inserting "(a)" before "Each person" and by adding at the end thereof the following new subsection:

"(b) In addition to the program under subsection (a) of this section, each person engaged in pipeline transportation shall establish a program for the education of the public of the hazards of demolition, excavation, tunneling, or construction activity conducted near pipeline facilities, and the methods by which information on the location of underground pipelines may be obtained by the public.".

REPORTING OF PIPELINE LEAKS

SEC. 103. (a) Section 12, as amended by section 102 of this Act, is further amended by inserting after new subsection (d) the following new subsection:

"(e)(1) The Secretary shall, by regulation, require that any person owning or operating pipeline facilities shall report, at such time and in such manner as the Secretary shall require, any pipeline leak of which such person knew or reasonably should have known. Any such report shall include—

"(A) the specific location of the pipeline leak;

"(B) a description of the pipeline facilities at which the pipeline leak occurred, including any information described in subsection (d)(1)(A) which the Secretary may require under such regulation;

"(C) a description of any personal injury or property damage resulting from such pipeline leak; and

"(D) a description of the steps taken to prevent the leak from continuing or recurring.

"(2) The Secretary shall, by order or regulation, provide for an exemption for any person or category of persons from all or part of the requirements under this subsection if the Secretary finds that the financial and administrative burdens of being covered by such requirements are not justified by the benefits resulting from that coverage.

"(3) For the purposes of this subsection, the term 'pipeline leak' means any condition resulting in the escape of material from pipeline facilities during pipeline transportation, or during treatment of such material during the course of pipeline transportation, which is not caused by operation, inspection, or adjustment procedures which were properly carried out. Such term does not include any condition which does not pose a threat to public health and safety, as determined in accordance with regulations prescribed by the Secretary.".

(b) Section 12(f) (as amended by section 102 of this Act) is amended by striking out ", or (d)" and inserting in lieu thereof "(d), or (e)".

(c) The amendments made by this section shall not apply with respect to any pipeline leak (within the meaning of section 12(e)(3), as amended by this section) occurring before the effective date of the regulation initially prescribed under such amendments.

COVERAGE OF PIPELINE TRANSPORTATION OF LIQUEFIED PETROLEUM GAS

SEC. 104. (a) Section 2(3) is amended—

(1) by striking out "Transportation of gas" and inserting in lieu thereof "Pipeline transportation"; and

(2) by inserting after "interstate or foreign commerce" the following: ", or the transmission or distribution (but excluding the gathering) of liquefied petroleum gas by pipeline, in interstate or foreign commerce".

"(b) Section 2 is amended by redesignating paragraphs (3) through (10) as paragraphs (4) through (11), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) 'Liquefied petroleum gas' means propane, butane, any related product, or any mixture or combination thereof;".

(c) Section 2(2) is amended by inserting ", but such term does not include liquefied petroleum gas" after "toxic or corrosive".

(d) Section 2(4), as amended and redesignated, is further amended by inserting after "distribution of gas" the following: "(whether in a gaseous or nongaseous state)".

(e) Section (2) is amended by inserting "(a)" after "SEC. 2." and by adding at the end thereof the following new subsection:

"(b) Any storage facility, or category of storage facilities, physically connected to any pipeline facility, or facilities, used for the transmission or distribution of liquefied petroleum gas shall be included by the Secretary, by regulation, within the meaning of subsection (a)(5) if—

"(1) the Secretary finds that such inclusion would further the purposes of this Act; and

"(2) such facility has a storage capacity of 30,000 gallons or more, or is used in connection with one or more other storage facilities at the same site which have, in the aggregate, a storage capacity of 30,000 gallons or more.".

(f) Section 3 is amended by adding at the end thereof the following new subsection:

"(f)(1) Standards, or amendments to standards, required under this section by reason of the enactment of the Fuels Transportation Safety Amendments Act of 1978 shall be prescribed not later than 36 months after the date of the enactment of such Act.

"(2) As soon as practicable but not later than 3 months after the enactment of such Act, the Secretary shall, by order, adopt interim minimum Federal safety standards for pipeline facilities and pipeline transportation to the extent not covered by this Act immediately before the date of the enactment of the Fuels Transportation Safety Amendments Act of 1978. Such standards shall, to the extent the Secretary determines appropriate, be the State standards regulating pipeline facilities and pipeline transportation within such State on such date on enactment. In any State in which no such standards are in effect, the Secretary shall, by order, establish interim Federal safety standards for such pipeline facilities and pipeline transportation in such State which shall, to the extent the Secretary determines appropriate, be such standards as are common to a majority of States having safety standards for pipeline facilities and pipeline transportation on such date. Interim standards shall remain in effect until amended or revoked pursuant to this section. Any State agency may adopt such additional or more stringent standards for pipeline facilities and pipeline transportation not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, or the Interstate Commerce Act, as are not incompatible with the Federal minimum standards, but may not adopt or continue in force after the interim standards provided for above become effective any such standards applicable to interstate transmission facilities.".

(g)(1) The following provisions are amended by striking out "the transportation of gas" each place it appears and inserting in lieu thereof "pipeline transportation":

(A) section 2(a) (5) and (9), as redesignated by subsection (a);
(B) section 3 (b) and (e);
(C) section 4(b);
(D) section 8(a);
(E) section 11;
(F) section 12(a);
(G) section 13(b); and
(H) section 14(a)(4).

(2) The following provisions are each amended by striking out "transportation of gas" each place it appears and inserting in lieu thereof "pipeline transportation":

(A) section 2(a)(10), as redesignated by subsection (a);
(B) section 5(b)(3); and
(C) section 10(a).

(3) The following provisions are each amended by striking out "gas pipeline" each place it appears and inserting in lieu thereof "pipeline":

(A) section 3(e);
(B) section 4(a); and
(C) section 14(b).

(4) Section 2(a)(4), as redesignated and amended, is further amended by striking out "or its storage" and inserting in lieu thereof ", or its storage in connection with such gathering, transmission, or distribution,".

(5) Section 5(c)(1) is amended—

(A) by striking out "gas safety programs" and inserting in lieu thereof "pipeline safety programs", and

(B) by striking out "date of enactment of this section." and inserting in lieu thereof the following: "date of enactment of the Fuels Transportation Safety Amendments Act of 1978.".

(6) The short title set forth in the first section is amended to read as follows: "Fuels Transportation Safety Act".

COVERAGE OF GAS DISTRIBUTED IN CONNECTION WITH RENTAL OR LEASE OF REAL PROPERTY

SEC. 105. Section 2, as amended by section 104(e), is further amended by adding at the end thereof the following new subsection:

"(c)(1) Unless paragraph (2) applies, there shall be included within the meaning of subsection (a)(4) any pipeline distribution of gas by any person in connection

with the rental or lease of real property by that person to others, whether or not—

"(A) a separate charge is made for such gas;

"(B) the distribution to each rental or lease unit is separately metered; and

"(C) the person distributing such gas is otherwise treated as being engaged in local distribution of gas.

"(2) The Secretary shall, by regulation, provide that the provisions of paragraph (1) not apply in cases in which the public health and safety are adequately protected by reason of the existence and enforcement of appropriate building or housing codes or similar laws.".

COVERAGE OF CERTAIN NONPIPELINE FACILITIES

SEC. 106. (a) Section 2, as amended by this Act, is further amended by adding at the end thereof the following new subsection:

"(d)(1) If the Secretary finds that the purposes of this Act would be furthered, he may, by regulation, require that the provisions of this Act shall apply with respect to any specified type or class of facility or equipment used in the transportation on land of gas or liquefied petroleum gas, in interstate or foreign commerce, or storage in connection with such transportation, to the same extent and in the same manner as such provisions apply with respect to pipeline facilities.

"(2) This subsection (or any action hereunder) shall not be construed to relieve any person from having to meet standards or meeting other requirements under any other Federal law; except that, if any regulation under this subsection results in the imposition of a standard or other requirement relating to any matter that the Secretary finds is covered by any other standard or requirement pursuant to any provision of law under the jurisdiction of the Secretary, the Secretary shall so state in such regulation, and that standard or requirement shall supersede and preempt the standard or requirement pursuant to such other provision of law to the extent such matter is covered under the regulation under this subsection.

"(3) Nothing in this subsection shall be interpreted to provide the Secretary with authority over any specified type or class of facility or equipment used in the transportation on land of gas or liquified petroleum gas, in interstate or foreign commerce, or storage in connection with such transportation, unless the Secretary has authority over such facilities, equipment, or storage under any other provision of law.

"(4) Not later than 1 year after the date of the enactment of this subsection, the Secretary shall conduct a study, and submit a report thereon to the Congress, on the effects which would result from including within the coverage of this Act various types and classes of facilities and equipment used in the transportation on land of gas or liquified petroleum gas in interstate or foreign commerce, or storage in connection with such transportation.".

(b) Section 5(a) is amended by inserting "section 2(c)," after "Except for".

PIPELINE SAFETY INSPECTORS

SEC. 107. (a)(1) Section 3(b) is amended by inserting after paragraph (4) the following new sentence: "Standards under this subsection which relate to inspection and other enforcement shall set forth minimum training and educational requirements for pipeline inspectors.".

(2) Section 5(c) is amended by adding at the end thereof the following new paragraph:

"(5) The Secretary may not make any payment under this subsection to a State agency for any calendar year beginning after December 31, 1981, unless such State agency has demonstrated that from the payments to such agency for such year funds will be applied for the training and education of pipeline safety inspectors of each State agency in order to enable them to better perform their responsibilities. The amounts to be applied for such purposes are to be adequate to assure that the pipeline safety inspectors maintained by such State agency comply with any standards established under section 3(a) for training and education of pipeline inspectors.".

(b) Section 5(f) is amended to read as follows:

"(f)(1) The Secretary shall determine, after reasonable notice and opportunity for hearing, the minimum number of pipeline safety inspectors which must be maintained by a State agency in order to assure adequate monitoring of compliance with applicable safety standards within such State.

"(2) No State agency shall be considered to meet the requirements for certification under subsection (a), nor may the Secretary enter into any agreement under subsection (b) or allow a State to act as his agent with respect to interstate transmission facilities, unless the State agency involved has demonstrated that such agency has and will continue to maintain no less than the minimum number of pipeline inspectors determined by the Secretary under paragraph (1) to be required for such State.".

TECHNICAL PIPELINE STANDARDS COMMITTEE

SEC. 108. Section 4(b) is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following: "The Secretary shall submit to the Committee any proposed standard under this Act, or any proposed amendment to a standard under this Act, for their consideration. Within 90 days after receipt of any proposed standard or amendment, the Committee shall prepare a report on the technical feasibility, reasonableness, and practicability of such standard or amendment. The Secretary may prescribe a final standard or final amendment to a standard at any time after the 90th day after its submission to the Committee, whether or not the Committee has prepared a report on such standard or amendment.";

(2) by inserting after "published by the Secretary and" the following ", if timely made,"; and

(3) by inserting before the last sentence thereof the following new sentence: "The Committee shall meet with the Secretary (or his designee) not less frequently than once every 6 months.".

APPROPRIATIONS AUTHORIZATION

SEC. 109. Section 15 is amended to read as follows:

"APPROPRIATIONS AUTHORIZED

"SEC. 15. (a) There are authorized to be appropriated $6,000,000 for the fiscal year ending September 30, 1979, for the purpose of carrying out the provisions of this Act, other than provisions for which funds are authorized to be appropriated under subsection (b).

"(b)(1) For the purpose of carrying out the provisions of section 5(c) and (f) of this Act, there are authorized to be appropriated, $4,500,000 for the fiscal year ending September 30, 1979.

"(2) For the purpose of carrying out the electronic data-processing program under section 15(d)(7) for identifying hazardous equipment, materials, and techniques, there are authorized to be appropriated $1,000,000 for the fiscal year ending September 30, 1979.".

TITLE II—SITING AND SAFETY OF LNG FACILITIES

DEFINITIONS

SEC. 201. Section 2(a), as redesignated, is amended by striking out "and" at the end of paragraph (10) (as redesignated), by striking out the period at the end of paragraph (11) (as redesignated) and inserting a semicolon in lieu thereof, and by adding at the end thereof the following new items:

"(12) 'LNG' means natural gas in a liquid, semisolid, or solid state;

"(13) 'LNG facility' means any storage tank, pipeline, or other structure or equipment used for the transportation, storage, or use of LNG, or for LNG conversion, in interstate or foreign commerce, but does not include any structure or equipment (or portion thereof) located in navigable waters (as defined in section 3(8) of the Federal Power Act (16 U.S.C. 796(8)));

"(14) 'LNG conversion' means conversion of natural gas into LNG (liquefaction or solidification) or the conversion of LNG into natural gas (vaporization);

"(15) 'Construction' means construction, reconstruction, or erection, and includes, with respect to any LNG facility, any act which the Secretary determines would result in the creation or substantial increase of capacity of such facility for transporting or storing LNG or for LNG conversion;

"(16) 'Existing LNG facility' means any LNG facility for which an application for the approval of the siting, construction, or operation of such facility was filed before March 1, 1978, with—

"(A) the Department of Energy or any predecessor organization of the Department, or

"(B) the appropriate State agency, in the case of any facility not subject to the jurisdiction of the Department of Energy under the Natural Gas Act,

except that such term does not include any facility the construction of which commences on or after the date of the enactment of this paragraph and such construction is not pursuant to such an approval;

"(17) 'New LNG facility' means any LNG facility other than an existing LNG facility;

"(18) 'LNG accident' means any release, burning, or explosion of LNG resulting from—

"(A) a rupture or other failure of a storage tank, pipeline, or other LNG facility;

"(B) natural hazards (including earthquakes, hurricanes, and high winds);

"(C) sabotage; or

"(D) any other cause; and

"(19) 'Interstate or foreign commerce' means any trade, traffic, transportation, exchange, or other commerce—

"(A) between any State and any place outside of such State, or

"(B) which affects any trade, transportation, exchange, or other commerce described in subparagraph (A).".

SITING AND SAFETY STANDARDS

SEC. 202. (a) The Act is amended by redesignating sections 6 through 17 as sections 8 through 19, respectively, and by inserting after section 5 the following new section:

"STANDARDS FOR LNG FACILITIES

"SEC. 6. (a)(1) After the date standards first take effect under this section, no new LNG facility may be constructed, unless the Secretary approves such construction, and then only to the extent that such construction is in accordance with the applicable standards prescribed under subsection (b) and such other terms and conditions as the Secretary determines are appropriate to assure that the facility will be constructed and operated in compliance with standards under subsection (b).

"(2) The Secretary shall not approve construction of any LNG facility under this subsection unless the person seeking such approval submits a contingency plan which sets forth those steps which are to be taken in the event of an LNG accident or supply interruption and which the Secretary determines to be adequate.

"(3) The standards under this subsection shall not apply in the case of siting or construction with respect to which an application for approval was filed before March 1, 1978, with—

"(A) the Department of Energy or any predecessor organization of the Department; or

"(B) the appropriate State agency, in the case of any facility not subject to the jurisdiction of the Department under the Natural Gas Act.

"(b) Not later than 180 days after the date of the enactment of this section, the Secretary shall establish—

"(1) minimum standards for determining the location of any new LNG facility which is to be stationary,

"(2) minimum standards for the construction of any new LNG facility, and

"(3) minimum standards for the operation of any new LNG facility.

Any standard under this section shall be in addition to, and not in lieu of, standards under section 3 which are not inconsistent with such standard.

"(c) Not later than 270 days after the date of the enactment of this title, the Secretary shall establish minimum standards to be maintained with respect to the operation of any existing LNG facility.

"(d) In prescribing standards under subsections (b) and (c), the Secretary shall take into consideration—

"(1) with respect to standards relating to the location of any stationary new LNG facility—

"(A) the nature of the use of the facility;

"(B) criteria to be used in determining the number and characteristics of other sites to be considered as alternative locations for such LNG facility;

"(C) the existing and projected population and demographic characteristics associated with each location considered;

"(D) the existing and proposed land uses near each such location;

"(E) the meteorological, geological, topographical, and other natural physical aspects of each such locations;

"(F) the medical, law enforcement, and fire prevention capabilities existing near each such location to cope with risks created by such a facility;

"(G) the costs of constructing and operating such LNG facility at each such location, including the costs to the United States and to State and local governments which are associated with such construction and operation; and

"(H) the need to encourage remote siting;

"(2) with respect to standards applicable to the construction of any new LNG facility—

"(A) the thermal resistance and other characteristics of materials to be used in the construction of such facility as compared to alternative materials;

"(B) design factors (such as multiple diking, insulated concrete, and vapor containment barriers);

"(C) the characteristics of the LNG to be stored or converted at, or transported by, such facility (for example, whether it is to be in a liquid, semisolid, or solid state); and

"(D) the public safety factors of the design as compared to alternative designs (particularly the ability under such a design to prevent and contain an LNG spill); and

"(3) with respect to standards for the operation of any LNG facility—

"(A) the conditions, features, and type of equipment and structures which comprise, or which are used in connection with, such facility;

"(B) the fire prevention and containment equipment at such facility;

"(C) the security measures to be used with respect to the operation of such facility for the prevention of sabotage or other intentional acts which could cause an LNG accident;

"(D) maintenance procedures and equipment;

"(E) the training of personnel with respect to the equipment, structures, measures, and procedures described in subparagraphs (A), (B), (C), and (D); and

"(F) other factors and conditions relating to the safe handling of LNG.

"(e) At any time after the effective date of standards initially prescribed under subsections (b) and (c), the Secretary shall, on his own motion or on the motion of any person, amend such standards to the extent he considers necessary to reflect changes in technology or to otherwise carry out the purposes of this section.

"(f) Any standards prescribed under this section, and amendments thereto, shall become effective 30 days after the date of issuance of such standards unless the Secretary, for good cause recited, determines an earlier or later effective date is required as a result of the period reasonably necessary for compliance and such date is specified in the order establishing or amending such standard.

"(g) The provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to all orders establishing, amending, or revoking, any standard established under this section. The Secretary shall afford interested persons an opportunity to participate fully in the establishment of such safety standards through submission of written data, views, or arguments with opportunity to present oral testimony and argument.

"(h) Any State agency may adopt additional or more stringent standards for intrastate LNG facilities if such standards are compatible with the Federal minimum standards. No State agency may adopt or continue in force any such standards applicable to interstate LNG facilities after the Federal minimum standards become effective.".

(b)(1) Section 2(a)(4), as redesignated, is amended by striking out "or affecting".

(2) Section 2(a)(10), as redesignated, is amended by inserting ", LNG facilities," after "pipeline facilities" the first place it appears therein.

(3) Section 3(d), as redesignated, is amended—

(A) by inserting "or LNG facilities" after "pipeline facilities"; and

(B) by inserting after "in the same manner" the following: "and to the same extent".

(4) Section 4(b) (relating to Pipeline Transportation Safety Committee) is amended by inserting ", LNG facilities," after "pipeline facilities".

(5) Section 9 (relating to cooperation), as redesignated, is amended—

(A) by inserting "or LNG facility" after "affected pipeline facility" and after "gas pipeline"; and

(B) by inserting "or LNG facilities" after "pipeline facilities".

(6) Section 10 (relating to compliance), as redesignated, is amended by inserting "LNG facilities" after "pipeline facilities".

(7) Section 13 (relating to injunction and jurisdiction), as redesignated, is amended by inserting after "pipeline facility" the following: "or LNG facility".

(8) Section 14 (relating to inspection and maintenance plans), as redesignated, is amended—

(A) by inserting after "facilities" the following: "or LNG facilities" each place it appears;

(B) by striking out "pipeline safety" each place it appears and inserting in lieu thereof "pipeline and LNG facility safety"; and

(C) by inserting in paragraph (2) after "pipeline transportation" the following: "or LNG facility".

(9) Section 15 (relating to records, etc.), as redesignated, is amended by inserting after "pipeline facilities" each place it appears the following: "and LNG facilities".

(10) Section 17(a)(2) (relating to annual report), as redesignated, is amended by inserting after "pipeline" the following: "or LNG facilities".

(11) Section 17(a)(4) (relating to annual report), as redesignated, is amended by striking out "and pipeline facilities" and inserting in lieu thereof ", pipeline facilities, and LNG facilities,"

FINANCIAL RESPONSIBILITY

SEC. 203. The Act, as amended by section 202 of this Act, is further amended by inserting after the new section 6 the following new section:

"FINANCIAL RESPONSIBILITY FOR CERTAIN LNG ACTIVITIES

"SEC. 7. (a) Not later than 9 months after the date of the enactment of this section, the Secretary shall—

"(1) conduct a study of the risks associated with the production, transmission, and storage of LNG and the methods of assuring adequate financial responsibility for those engaged in such activities; and

"(2) prepare and transmit to each House of the Congress a report on the results of such study, together with the recommendations of the Secretary for such legislative or administrative action as he considers appropriate.

"(b)(1) Whenever the Secretary has reason to believe that any operator of an LNG facility is not maintaining adequate insurance or otherwise does not have adequate financial responsibility with respect to such facilities, he shall issue and serve upon such operator notice thereof, together with a statement of the amount of the financial responsibility that the Secretary would consider adequate.

"(2) Any person issued notice under paragraph (1) shall have a right to hearing on the record in accordance with section 554 of title 5, United States Code, to be held not later than 30 days after notice under paragraph (1), at which such person has the right to show cause as to why an order should not be issued by the Secretary requiring such person to demonstrate and maintain financial responsibility at or above the amount indicated in the notice under paragraph (1).

"(3) After an opportunity for hearing under paragraph (2), the Secretary may, if he determines it is justified in the public interest, order the person issued notice of such hearing to demonstrate and maintain financial responsibility at or above an amount determined appropriate by the Secretary, taking into account any information, data, and views presented in such hearing.

"(4)(A) Any person aggrieved by an order issued under paragraph (3) may seek judicial review of such order only by filing a petition for review in the appropriate court of appeals of the United States within 60 days after such order is issued.

"(B) Upon receipt of notice of the filing of such petition, the Secretary shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code. Upon such filing, the court may affirm, modify, remand, or set aside the order of the Secretary, and may enforce the order to the extent that such order is affirmed and issue such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public pendente lite. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

"(C) The judgment and decree of the court shall be final, except that such judgment and decree shall be subject to review by the Supreme Court upon certiorari, as provided in section 1254 of title 28, United States Code.

"(c) For purposes of subsection (b) of this section, financial responsibility may be maintained by any one of, or a combination of, the following methods acceptable to the Secretary:

"(1) evidence of insurance,

"(2) surety bonds,

"(3) qualification as a self-insurer, or

"(4) other evidence of financial responsibility.".

ENFORCEMENT OF STANDARDS AND FINANCIAL RESPONSIBILITY REQUIREMENTS

SEC. 204. (a) Section 11(a) (relating to civil penalty), as redesignated by section 202 of this Act, is amended by inserting "(1)" before "Any person" and by adding at the end thereof the following new paragraph:

"(2) Any person who violates the provisions of section 6 or any order under section 7(b) shall be subject to a civil penalty of not to exceed $50,000, which penalty shall be in addition to any other penalties to which such person may be subject under this subsection.".

(b) The Act is further amended by redesignating sections 12 through 19 (as redesignated) as sections 13 through 20, respectively, and by inserting after section 11 the following new section:

"CRIMINAL PENALTY

"SEC. 12. Any person who willfully and knowingly violates the provisions of section 6 or any order issued under section 7(b) shall, on conviction thereof, be punished by a fine of not more than $50,000, or by imprisonment for not more than five years, or both.".

APPROPRIATIONS AUTHORIZATIONS

SEC. 205. Section 18(b) (relating to appropriations authorization), as redesignated, is amended by adding at the end thereof the following new paragraph:

"(3) There are authorized to be appropriated to carry out section 6 and 7 of this Act for the fiscal year ending September 30, 1979, not to exceed $2,000,000.".

TITLE III—MISCELLANEOUS PROVISIONS

WILLFUL DESTRUCTION OF INTERSTATE PIPELINE TRANSMISSION OR LNG FACILITIES

SEC. 301. Section 12 (as added by section 204 of this Act) is amended by inserting "(a)" after "SEC. 12." and by adding at the end thereof the following new subsection:

"(b) Any person who willfully injures or destroys, or attempts to injure or destroy—

"(1) any pipeline facility for the interstate transmission of gas, liquefied petroleum gas, or petroleum, including any facility or equipment covered under this Act under section 2 (b) or (d) used in the interstate transmission of gas or liquefied petroleum gas, or

"(2) any liquefied gas facility to which section 6 applies,

shall be fined not more than $15,000 or imprisoned not more than fifteen years, or both.".

CITIZENS' CIVIL ACTION

SEC. 302. Section 20 (relating to citizen civil suits), as redesignated, is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"SEC. 20. (a)(1) Except as provided in subsection (b), any aggrieved person may commence a civil action for equitable relief as a citizen whenever such action constitutes a case or controversy—

"(A) against any person (including (i) the United States, and (ii) any other governmental instrumentality or agency to the extent permitted by the 11th amendment to the Constitution) alleged to be in violation of any provision of this Act, any order or regulation issued under this Act, or any condition of approval pursuant to section 6 of this Act; or

"(B) against the Secretary where there is alleged a failure of the Secretary to perform any act or duty under this Act, which is not discretionary with the Secretary.

"(2) Any action brought against the Secretary under paragraph (1)(B) shall be brought in the district court for the District of Columbia or for the judicial district in which the facility involved is located or proposed to be located.

"(3) In suits brought under this section, the district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce any provision of this Act or any condition of approval pursuant to section 6 of this Act or to order the Secretary to perform such act or duty, as the case may be.

"(b) No civil action may be commenced under this section—

"(1) under subsection (a)(1)(A)—

"(A) prior to 60 days after the plaintiff has given notice of the violation (i) to the Secretary (or to the applicable State agency in the case of a State which has been certified under section 5(a) and in which the violation is alleged to have occurred) and (ii) to any alleged violator; or

"(B) if the Secretary (or such State agency) has commenced and is diligently pursuing administrative proceedings or the Attorney General (or the chief law enforcement officer of such State) has commenced and is diligently prosecuting a civil or criminal action with respect to such matters in a court of the United States but in any such action any person may intervene as a matter of right; or

"(2) under subsection (a)(2) prior to 60 days after the plaintiff has given notice of such action to the Secretary (or such State agency).

Notice under this subsection shall be given in such a manner as the Secretary shall prescribe by regulation.".

APPOINTMENTS OF DIRECTOR OF PIPELINE SAFETY OPERATIONS AND DIRECTOR OF MATERIALS TRANSPORTATION BUREAU

SEC. 303. (a) Notwithstanding any other provision of law—

(1) no individual may serve for more than 180 days (in the aggregate) in an acting capacity in a position the principal duties of which were identified as of March 1, 1978, as assigned to the Director of the Office of Pipeline Safety Operations, Department of Transportation, or may serve as the Acting Director of the Materials Transportation Bureau, Department of Transportation, and

(2) if a person is not appointed to such position within 180 days after a vacancy occurs in that position, the Secretary shall personally carry out the functions of such position until an appointment is made to that position and all delegations of authority under the Fuels Transportation Safety Act shall be suspended until such appointment is made.

(b) In the case of any vacancy in such positions on the date of the enactment of this Act, periods of service before the date of enactment shall not be taken into account for purposes of subsection (a).

TECHNICAL, CLERICAL, AND CONFORMING AMENDMENTS

SEC. 304. (a) Section 3, as amended by this Act, is further amended by striking out subsection (a) and by redesignating subsections (b) through (f) as subsections (a) through (e), respectively.

(b) Section 3(b), as redesignated by subsection (a), is amended by inserting after "period reasonably necessary for compliance" the following: "and such date is specified in the order establishing or amending such standard".

(c) Clause (ii) of section 5(a) is amended by inserting after "property damage exceeding $1,000" the following: "(whether or not sustained by a person subject to the safety jurisdiction of the State)".

(d) Section 5(a) is amended by striking out "; except that a State agency may file a certification under this subsection without regard to the requirement of injunctive and monetary sanctions under State law for a period not to exceed five years after the date of enactment of this Act".

(e) Section 11(a)(1) (relating to civil penalties), as redesignated, is amended by striking out ": *Provided*, That for a reasonable period of time, not to exceed one year after the date of the enactment of this Act, such civil penalties shall not be applicable to pipeline facilities existing on such date of enactment."

(f) Section 17(a)(3) (relating to annual reports), as redesignated by sections 202 and 204 of this Act, is amended by striking out "section 3(e)" and inserting in lieu thereof "section 3(d)".

(g) The following provisions are each amended by striking out "Federal Power Commission" and inserting in lieu thereof "Federal Energy Regulatory Commission":

(1) section 2(a) (9) and (10) as redesignated;

(2) section 9 (relating to cooperation), as redesignated, including the section heading; and

(3) section 16(b) (relating to administration), as redesignated.

(h) Paragraphs (9) and (10) of section 2 (a), as redesignated, are each amended by inserting "or the Interstate Commerce Act" after "the Natural Gas Act".

(i)(1) Section 5(a) is amended by striking out "section 12(b)", "section 12", "section 11", "sections 9 and 10" and inserting in lieu thereof "section 15 (b) and (e)", "section 15 (a), (b), (c), and (f)", "section 14", and "sections 11 (other than subsection (a)(2) thereof) and 13", respectively.

(2) Section 5(a) is further amended by inserting "section 20," before "and except as otherwise provided in this section".

(3) Section 5(b)(2) is amended by striking out "section 11" and inserting in lieu thereof "section 14".

(4) Section 5(c)(2) is amended by striking out "section 15(b)" and inserting in lieu thereof "section 18(b)(1)".

(5) Section 10 (relating to compliance), as redesignated, is amended by striking out "section 11" and "section 12" and inserting in lieu thereof "section 14" and "section 15", respectively.

(6) Section 13 (relating to injunction and jurisdiction), as redesignated, is amended by striking out "section 9" each place it appears and inserting in lieu thereof "section 11 or 12".

(7) Section 11(a)(1) (relating to civil penalty), as redesignated, is amended by striking out "section (8)(a)" and inserting "section 10" in lieu thereof.

(j) Section 17(a) (relating to annual report), as redesignated, is amended by striking out "March 17" and inserting in lieu thereof "June 1".

(k) Any reference in any other provision of law, rule, regulation, or order to the Natural Gas Pipeline Safety Act of 1968 shall be considered to refer to the Fuels Transportation Safety Act.

Amend the title so as to read: "A bill to amend the Natural Gas Pipeline Safety Act of 1968 to provide for the safe operation of pipelines transporting natural gas and liquefied petroleum gas, to provide standards with respect to the siting, construction, and operation of liquefied natural gas facilities, and for other purposes.".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to amend the Natural Gas Pipeline Safety Act of 1968 to provide for the safe operation of pipelines transporting natural gas and liquefied petroleum gas, to provide standards with respect to the siting, construction, and operation

of liquefied natural gas facilities, and for other purposes.".

A motion to reconsider was laid on the table.

A similar House bill (H.R. 11622) was laid on the table.

CORRECTION OF SECTION NUMBERS, PUNCTUATION, AND CROSS-REFERENCES IN ENGROSSMENT OF H.R. 11622

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill H.R. 11622, the Clerk be authorized to correct section numbers, punctuation, and cross-references to reflect the action of the House just taken in amending the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

NATURAL GAS POLICY ACT

(Mr. ANDERSON of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ANDERSON of Illinois. Mr. Speaker, I have received a copy of a letter under date of September 8, 1978, addressed to the distinguished chairman of the Energy Committee, the gentleman from Ohio (Mr. ASHLEY), from the chairman of the Federal Energy Regulatory Commission, Mr. Charles B. Curtis. In the letter Mr. Curtis says that "the task of administration and enforcement of the statutory scheme" for regulation under the so-called natural gas bill "will be most difficult."

Continuing to quote from his letter, he says, "The legislation will necessitate an augmentation of Commission personnel and financial resources" at a time when regulatory reform is one of the crying needs of this Congress.

This administration is pushing a piece of legislation in the other body and, ultimately, perhaps, before this body, as well, which admittedly is going to require more regulation, more regulatory personnel, at the very time when they are claiming that it would bring about deregulation. What a strange inconsistency is involved in this particular act.

Mr. Speaker, the text of the letter of Mr. Curtis is as follows:

FEDERAL ENERGY REGULATORY COMMISSION,
Washington, D.C., September 8, 1978.

Hon. THOMAS L. ASHLEY,
Chairman, Ad Hoc Committee on Energy, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In the last few weeks, a number of members have questioned whether the proposed Natural Gas Policy Act (NGPA) can be effectively administered and enforced by the Federal Energy Regulatory Commission. These concerns, in large measure, arise from an August 14, 1978 memorandum from the Director of the Commission's Office of Enforcement which concluded that the July 31 draft of the conference report would be impossible to enforce or administer in a conscientious and equitable manner.

The Congress, indeed each agency of government, has the responsibility to assure that the laws of the United States are workable and capable of effective administration. As you may know, I have received requests from several of your colleagues to state my views on this matter and to prepare an analysis of the final conference report (S. Rep. No. 95-1126). That task has been recently completed and I am pleased to provide you with a copy of the analysis. You may also be interested in reviewing a copy of a memorandum prepared by the Director of the Commission's Office of Enforcement concerning this subject, which is also enclosed.

The enclosed analysis is not intended, nor should it be viewed, as a comment on the policy considerations which are involved in the proposed resolution of the natural gas pricing controversy. Instead the attempt has been made to focus solely on administrative and enforcement considerations.

As the section-by-section analysis indicates, a detailed review of this character tends to focus on the problems encountered in statutory interpretation. For the most part, however, it should be acknowledged that the legislative draftsmen have done a truly outstanding job in giving statutory expression to the conference agreement.

From an administrative and enforcement standpoint, the final conference report is substantially improved when compared to the July 31 draft. Under the NGPA, the Commission is to be vested with an array of administrative and enforcement devices traditionally given to regulatory agenices. Principal among these are the enforcement mechanisms which will allow the Commission to compel compliance with the Act through injunctive actions in the courts and to impose civil and criminal penalties for violations of the requirements of the Act or regulations of the Commission. In a number of respects, these mechanisms are more substantial than those available to the Commission at present under the Natural Gas Act. Moreover, the Commission has been given certain administrative powers, which exceed those currently available to the Commission under existing laws. Most importantly, the authority to gather information and to conduct necessary on-site inspections is more flexible and significantly broader in scope. I would also call your attention to the opportunity to delegate certain functions to a State agency, with its concurrence, under Section 501(c); and provisions of Section 506(b) which limits a reviewing court's ability to stay or otherwise postpone the effectiveness of Commission rules and orders pending conclusion of the review proceedings.

As you will note, the conference report is set out in elaborate detail. If one accepts the policy conclusions of the conferees as given, the question still remains whether the Act can be effectively administered and enforced. It is my basic conclusion that it can be. I could not have made the same judgment with respect to the July 31 draft.

I must responsibly point out, however, that the task of administration and enforcement of the statutory scheme will be most difficult. The legislation will necessitate an augmentation of Commission personnel and financial resources, a sustained and dedicated effort by members of the Commission and its staff and a high degree of cooperation of the various State and Federal agencies who are assigned responsibilities under it.

The NGPA will undoubtedly engender a significant number of court actions before the full expression of the statutory requirements are defined and understood. One must recall that this is a highly litigius subject and many millions of dollars and substantial volumes of one of this Nation's most precious resources are at stake. Extensive court litigation is most likely to attend any legislative effort to resolve the natural gas pricing controversy, however detailed or carefully written it may be. For example, the Natural Gas Act has been a part of the laws of the United States for 40 years, yet it still accounts for a large part of the work of the Supreme Court and the United States Court of Appeals. You may be interested to know that as of September 1, 1978 the Commission is currently involved as a litigant in four cases before the Supreme Court involving Natural Gas Act issues; 84 cases in the Courts of Appeals; and nine cases before the District Courts.

As the section-by-section analysis indicates, the legislation is not problem free. But on balance, assuming that the Congress will appropriate adequate resources to the Commission and that I am correct in my interpretation of the breadth and flexibility of the administrative mechanisms which have been woven into the proposed legislation, it is my view that the Commission will be able to effectively administer the NFGA and give effect to the policy conclusions which it embodies.

Sincerely,

CHARLES B. CURTIS,
Chairman.

LOOK WHO ANDY YOUNG SUPPORTS

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, under the leadership of Andrew Young, this country has gone beyond condoning terrorism. We are now rewarding it. The Carter administration will not accept the present Rhodesian Constitution, despite the fact that it provides for a transition to majority rule. The reason we will not accept it is because it leaves out the Communist terrorists. I have inserted Jeffrey Hart's national column for July 24, 1978, which describes one of the hundreds of murderous attacks which, according to Young and Carter, give these Communists the right to power in Rhodesia. When reading it, it is important to remember that Marxist terrorism did not begin in Rhodesia, and it will not end there.

The Cuban and Soviet regimes, which are training and equipping these so-called guerrillas to attack defenseless people, do not actually believe the U.S. Government to be any more legitimate than that of Rhodesia. The Cuban troops whom Mr. Young sees as "a stabilizing influence" in Africa will, once Rhodesia is out of the way, be available for training and arming terrorists in the United States and Western Europe.

These are not "Rhodesian revolutionaries" that Mr. Young and Mr. Carter are insisting on imposing on the people of Rhodesia. These are world revolutionaries, with ambitions for antigovernment terror worldwide. Commenting on our support of them, Mr. Hart says "Never has U.S. policy been so morally and politically bankrupt." I could not agree more.

The article follows:

LOOK WHO ANDY YOUNG SUPPORTS

(By Jeffrey Hart)

Guerrilla murderers under the leadership of the Marxist Robert Mugabe entered Rhodesia and perpetrated one of the most brutal

atrocities ever recorded. These guerrillas—so goes U.S. policy—must be brought into a Rhodesian government, even though they have scant support inside the country, and even though the government emerging under the "internal settlement" is probably the freest regime on the entire African continent.

We have been instructed several times by our man at the U.N., Ambassador Andrew Young, that these guerrilla groups are just fine. To coin a phrase, by their fruits you shall know them. Take a moment to meditate on these details, taken from the front page account of this massacre of the innocent. To coin another phrase, it shall live in infamy. The report comes from Vumba "Rhodesia" a few miles from the Mozambique border. Mozambique provides sanctuary for Mugabe and his murderers, who, of course, are backed by the Soviets and their Cuban chums.

"Twelve people, including teachers at a mission school here and their young children, were killed last night in a terrorist attack.

"The 12, all whites, were battered and bayonetted to death. . . .

"By late morning, as reporters arrived here from Salisbury, Rhodesia's capital, aboard flights arranged by the Rhodesian Air Force, the victims still lay on the ground, evidently in the same positions where they had been slain the night before. They were in three groups, about 150 yards apart in a glen near an acacia grove. The victims were three men, their wives, another woman and five children.

"One of the dead men had his hands tied behind his back with clothesline. A woman, dressed in a bathrobe with her hair in curlers, had an axe embedded in her neck. Four children—a boy 4 years of age, two sisters aged 4 and 8, and another girl of 5—lay huddled close together. All were dressed in pajamas, and like the other victims they had all been struck on the head with clubs. Some also had stab wounds. One of the girls had the imprint of a boot on the side of her face.

"Nearby lay the body of a woman, her arm encircling her dead 3-week-old daughter. Near them was a heavy wooden limb with blood on it. The woman's engagement ring was turned with the jewel to her palm, perhaps in an attempt to keep it from being taken by men she thought were looters."

According to first reports, the women apparently had been sexually assaulted.

Okay, Young, these are the people who are trying to shoot their way into power in Rhodesia. They have had your support and the political support of Carter administration foreign policy. They are armed and supplied by our delightful partners in detente, the masters of the Gulag archipelago. They lack the guts to attack tough Rhodesian farmers. They prefer to rape and murder women and children at a defenseless mission school.

Never has U.S. policy been so morally and politically bankrupt.

MAKING DECISIONS ON HEALTH POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GOLDWATER) is recognized for 5 minutes.

● Mr. GOLDWATER. Mr. Speaker, over the past several weeks one matter which has occupied a great amount of my time is the planning and delivery of health services in Los Angeles County, where I reside. The health systems agency which was set up to serve the area which I represent here in Congress has been the focus of considerable attention because of its failure to comply with organizational guidelines established by HEW.

Several weeks ago I held a meeting in my Woodland Hills, Calif., office to discuss the complacency of officials in the county HSA. A GAO audit had pointed up many irregularities in the management of the agency, and many professionals from the medical community in my district had contacted me with complaints about HSA activities.

Over the past weekend, while visting constituents, I learned that the regional office of HEW had terminated the existence of the Los Angeles County Health Systems Agency, because of its inability to initiate the federally mandated reforms necessary to carry out its successful operation.

On the one hand, I am disappointed that the agency did not meet the standards called for. There was potential to address the regional concerns for health care in an effective way. On the other hand, I am satisfied that tax dollars will not be spent with such a lack of qualified management.

Still, it is of the highest priority that proper decisions be reached on the implementation of a responsible health care plan for Los Angeles County. At a time when the Congress is considering several proposals for a nationwide health care policy, I think it would be wise for those of us in a position to act on these proposals, to present to the American public a health care policy which will reverse the trend in rising health care costs, and provide the highest possible quality of services.

Health care in our country is much improved than it was, say, 20 or 30 years ago. Technological advancements have been the major reason for this situation, but the increased cost to consumers of health care has placed a heavy financial burden on them. Although 90 percent of Americans are covered by some type of health insurance, there are still 22 million people without any insurance coverage for health, and an equal number with only minimal participation in a health insurance plan. Taking advantage of health services, for them, would wipe them out financially, and put them in debt for a long time.

It is for this sizable slice of the population that national health insurance programs have been advocated. From my evaluation of the problem, I have some most serious reservations about taking this approach on such a broad scale. All indications are that health care costs would only increase. Medicare, when originally conceived, was to cost us $1.5 billion in its first year. It ended up costing $3.5 billion. This year we will top the $19 billion mark. I will urge this House to proceed with extreme caution in considering proposals which have come to us from Senator KENNEDY, Congressman CORMAN, Secretary Califano, and President Carter. There is little doubt in my mind that Government involvement on such a grand level will only take a bigger bite out of our gross national product.

Already, the purchase of all consumer goods and services indirectly takes into account the cost of providing health insurance to the working class. An estimate by Ford and General Motors projects that $120 and $160 respectively, in every vehicle purchase, goes to pay for the health benefits of its company employees.

The outlook for continued growth in the health care industry is almost frightening. There are alternatives to the liberal democratic solution to the health care issue. Keeping tighter controls over costs is one way. Encouraging competitiveness is another. Taking measures to prevent health risks is another. No one of these alternatives is the perfect answer, but neither is the costly approach of a comprehensive national health insurance plan.

With the Health Systems Agency in Los Angeles County about to close its shop, I think it would be a good idea to take this opportunity to organize the health care community there, to entertain their views on how we can best meet the needs of our health services consumers. It is my intention to convene a meeting of these individuals, and anyone else who may be able to make a worthwhile contribution in this effort, to see if we can formulate an effective, cost efficient method of keeping health care costs down, and making these services accessible to the many residents of the Los Angeles County area.●

ANOTHER TRAGEDY IN SOUTH AFRICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. HOLLENBECK) is recognized for 5 minutes.

● Mr. HOLLENBECK. Mr. Speaker, it was 1 year ago today that South African civil rights activist Steve Biko died in his jail cell. There is no need for me to repeat to you and to my colleagues the mysterious circumstances that surround that death, or the hollow claims advanced by the Government of South Africa to disguise those circumstances.

Instead, I would like to point out to my colleagues that the death of Steve Biko is not an isolated event. Since then we have heard reports of other activists dying under similar mysterious circumstances. We have heard of others forced into house arrest or banning, and we have heard of newspapers being closed down for the "crime" of disagreeing with the government.

The Washington Post today carried an article outlining further cases of torture and abuse:

S. AFRICA PROSECUTES DETECTIVES IN DEATH, BEATING OF PRISONERS

BLOEMFONTEIN, SOUTH AFRICA.—Eight men, six of them police detectives, went on trial here yesterday in the death of one black prisoner and the alleged beating of five others last March.

Mistreatment of blacks held by South African authorities has drawn world attention since the death last year of black leader Steve Biko, who was severely beaten while in detention. At least 26 blacks have died while in police custody in South Africa in the last two years.

Two white and four black detectives and two white civilians pleaded innocent to murder and assault charges here yesterday.

Prosecutor A. R. Erasmus said that those charged had suspended six naked black prisoners by chains from a ceiling and subjected them to beatings and electric shock treatment after arresting them on suspicion of burglary.

Eight days after the alleged beatings, one of the prisoners, Jankie Mahlomola Matobako, died in a hospital.

After the six had been arrested, Erasmus' statement said, "they were hanged naked by their wrists. As they hung, they were hit with a leather whip and hose pipe."

Erasmus said wires then were applied to their bodies for electric shocks.

A surgeon who examined Matobako in the hospital testified that "he was in a state of shock and pain. He had 18 long bruises on his back and eight on his chest.

"There was swelling on his arms, forearms and head, and bruises on his left shoulder and at the top of both legs. There was swelling and bruising of his whole face and one eye."

It is especially ironic that today, on the anniversary of Steve Biko's death, we are on the brink of another tragedy in this troubled land. The South African Government is preparing to destroy the squatters' town of Crossroads.

This crude and dirty collection of makeshift shelters, as dismal as it may seem to outsiders, is, nevertheless, the home of some 20,000 people. They have built this town because the South African Government's policies force men to leave their families in order to find employment. It is to avoid this separation that thousands of South Africans have moved to Crossroads. Here, in spite of the poverty, the hardships, and the squalor, they are affirming the basic need of people everywhere—the need to share in a family life. It is also a striking example of the ability of people to triumph over their environments. For in Crossroads, 73 percent of the men are formally employed, in addition to 25 percent of the women. Another 11 percent of the men and 20 percent of the women are employed informally. The residents have made plans for the introduction of sanitary facilities and other improvements to make their lives a bit less dismal.

In the face of this outpouring of human spirit and energy, the South African Government has decided to rid itself of Crossroads. They have arrested over 400 residents and continue attempts to force the residents out. The Government says there is nothing they can do about Crossroads—that the settlement is on land reserved for white settlers, and that the conditions in the town make it a danger to the public's health, safety, and welfare. Unfortunately, there may be nothing that can be done this time. But what about next time? Will the South African Government learn anything from this, or will they continue to bury their heads in the sand, ignoring the changing world until it is too late?

Mr. Speaker, I want to warn the South African Government that it is in danger. It is in danger not only from building tensions from within their country, but is in danger of losing what little respect it still has in the eyes of the world. No nation can survive alone. South Africa is no exception. Her people must realize that the patience of the world is not unlimited. We will not continue to countenance her repression, or to support it through commerce and foreign assistance unless she begins to make the changes that must be made. Avoiding another Crossroads would be a good place to start.

I urge my Republican colleagues to take heed of the situation and add their voices and support to those whose plight we discuss today.●

THE NATURAL GAS COMPROMISE: A CLASSIC CASE OF ORWELLIAN DOUBLE-THINK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 15 minutes.

● Mr. KEMP. Mr. Speaker, in the English novelist, George Orwell's "1984" the Ministry of Truth devised three slogans under which all society functioned:

War is peace. Freedom is slavery. Ignorance is strength.

The process from which those slogans were devised was known as double-think. It was the art of saying one thing, meaning exactly the opposite, and getting the citizenry to believe it.

That is the context in which the so-called natural gas companies has been brought before the House and the Senate. Those who have devised it and support it would have the American people believe that:

Regulation is deregulation. Disincentive is incentive. Status quo is change. Intrastate is interstate. And much more.

The truth is, Mr. Speaker, that this so-called compromise: Will increase consumer prices without additional supplies. Is hopelessly complex and confusing, layering on massive additional regulation.

So unfairly penalizes industrial users in the Northeast and Midwest which are dependent on interstate supplies that a significant relocation of factories and jobs out of the regions could occur.

Does not provide for deregulation. May wipe out half the independent producers. Is anti-competitive, leading to further economic concentration in the industry. Is opposed by the AFL–CIO. Is opposed by most all of the consumer action groups.

In short, widens the energy wedge, that portion of total effort applied by energy producers which never reaches the consumers, being devoted instead to compliance with regulations and paying the cost of same. It is what the consumers do not get for what they do get.

Let me deal with these points.

INCREASE IN CONSUMER PRICES WITHOUT ADDITIONAL SUPPLIES

The only acceptable justification for higher prices to the consumers is that the retained earnings from higher prices will be applied to increasing production and supply. It is supply that the American people feel they need, especially to assure an uninterruption in jobs in areas heavily dependent on interstate supply during winter months, and they are willing to pay a higher price for such supply. The compromise gives them the worst of both worlds: Higher prices and no assurance of greater supply.

If our Nation's dependence on foreign energy is to be limited, the oil and gas industry will need to spend almost $230 billion between now and 1985 to drill a total of more than half a million new oil and gas wells. With capital outlays and drilling at those levels, more than 165 trillion cubic feet of additional natural gas could be produced.

But under the pricing provisions of the compromise, the capital available to the industry would amount to roughly $134 billion. That is 41-percent less than needed. The result of that would be 32-percent fewer wells drilled. That shortfall would mean 18 trillion cubic feet of natural gas lost to the American consumer. It also would mean having to continue reliance on insecure imports of high-priced oil and liquefied natural gas.

There is another facet to this area of higher consumer prices which must be brought out. The compromise provides for a mandatory incremental pricing scheme. That means that instead of spreading out the costs of higher priced gas among all the users, the increment, that is the price over the basic price, is paid by one type of user. Under the compromise, the industrial-commercial users will pay this higher price.

That means the residential users will pay less, right? Wrong. As the price of natural gas paid by these industrial-commercial users increases, they will be encouraged to convert from natural gas to another source. This compromise envisages a conversion to coal, a domestic resource. But that is not what is happening or will happen. The conversion will be to oil, another imported fuel.

This will have multiple effects.

First, as they leave the use of natural gas, fewer and fewer industrial-commercial users will remain using it. That means those remaining will pay higher and higher and higher prices, passing them along to consumers as higher prices for the goods they manufacture and the services they provide.

Second, as fewer industries and businesses remain with natural gas, the allocable charges for transmission costs for residential users will increase, then soar. Wellhead prices for natural gas are only about one-tenth the cost at the burner tip. The total cost is derived from wellhead cost, transmission cost—which is major, and so forth. Those total transmission cost are more or less fixed, so as the industrial-commercial users decline, the residential users are stuck with greater percentages of those transmission, pipeline-related costs.

Third, in that the shift is to oil, mostly imported, and not coal, we will continue with the foreign energy source dependence and balance of trade problems this bill was supposedly designed to help solve.

The only way to bring enough supply on line, with higher prices in the short range, but then driving back down those prices as supply reaches then surpasses an adequate level, is to deregulate.

Does the compromise do that? No.

NATURAL GAS WILL BE EVEN MORE REGULATED

Though widely publicized as a "deregulation" proposal, the compromise in fact would increase regulation. It would extend Federal regulation to the intrastate market—gas sold within the State where it is produced—for the first time. It would establish a complex web of controls on at least 17—and some think 23—different categories of gas that have been defined arbitrarily and on irrational criteria.

How would these new layers of regulation affect supply? Independent explorer-producers find nearly two-thirds of the natural gas reserves in the United States and drill over 85-percent of the producing gas wells. They account for 77 percent of the new gas fields found and 62 percent of the natural gas reserves discovered. These 10,000 independents are the dominant force in providing 42 million residential gas consumers and industrial users with adequate future supplies.

But this sector of the natural gas industry is in bad shape if this compromise passes.

These people do not have the resources to handle the vast legal complexities which will arise if the compromise becomes law. Many will leave the business, because they cannot afford to hire the lawyers, accountants, and lobbyists that the majors can. I have seen estimations that as many as 5,000—that is 50 percent—may leave this type of business and turn to other enterprises. Perhaps this is why Exxon, Mobil, Shell, Arco, and Chevron are for this compromise bill.

This is no way to assure additional supply. And it is certainly no way to assure greater competition in this industry.

The truth of the matter is that without a new bill, by 1985 some 45 percent of the gas would be regulated, whereas under the bill, 56 percent will be regulated. Since 60 percent of gas is regulated today, the bill really provides no deregulation.

Of the minimum of 17 different pricing categories that would be established, only 6 involving a very small volume of gas would ever be relieved of price controls, and those for only 6 months after 1985. Controls over virtually all gas are to remain in effect until at least January 1, 1985, and possibly until 1989. How? At any time between June 30, 1985, and July 1, 1987, either Congress or the President, subject to congressional veto, could reimpose controls for 18 months, thus potentially extending controls until January 1, 1989.

HOPELESSLY COMPLEX AND CONFUSING

The compromise puts forth a regulatory maze that is unprecedented in its complexity. It would impose on the Federal Energy Regulatory Commission—FERC, the State regulatory commissions, and the producers the responsibility of determining whether production from existing and future wells falls into production categories that are based on geographic distances, geologic depths, commencement dates of drilling, underground reservoir determinations, arbitrary selling prices, and contract provisions, costs, marginality of production, contract expiration provisions, leaving provisions, and so forth.

The compromise would, in fact, establish between 17 and 23 different tiers of gas prices. The number depends on how different people read the legislation. FERC would have to approve the price at each well.

Think about that. There are now 165,000 marker wells, with 11,000 added annually. If that does not panic you, consider this: FERC now has 20,000 cases backlogged in disputes over prices under the present regulatory scheme.

Will the proposed regulatory scheme resolve this matter? Make it easier? Not at all. In order to get the compromise, one insider has said, the bill's drafters had to purposefully be contradictory from one section to another, appealing thereby to all groups, but leaving it to the bureaucrats and to the courts to sort things out after it becomes law. Thus, we will see an even greater backlog, even more lawsuits, and that means more delay in bringing gas onto line.

Even FERC realizes how bad this compromise bill may be. I quote from an August 14, 1978, memo from Sheila Hollis, director of the Office of Enforcement:

> The office has concluded that the proposal is so complex, ambiguous and contradictory that it would be virtually impossible for this commission to enforce it in a conscientious and equitable manner.

This bill will be a bureaucratic nightmare, causing untold delay at a time when that is the last thing we want to happen in developing adequate energy supplies for our industries, offices, schools, and homes.

WHAT OUGHT TO BE DONE?

Mr. Speaker, if the content of the compromise is disturbing, take a look at how that content came about.

Here, we have a classic example of big business getting in bed with big government, the effect of which is to push the little guys out of the industry and frustrate the wishes of the people. The majors in the natural gas industry, acting separately and through their trade association, are giving aid and comfort to a broadening of the energy wedge to which I referred, supporting the most onerous and burensome set of regulations ever written for an industry by government.

And that aid and comfort is being justified, rationalized, by the most distorted—and clearly in error—reasoning I have seen in my service in this House. With the lure of a little more money for the gas they already have in reserves, plus the promise of distant deregulation a decade from now, the majors have decided that they can put up with the old and new regs by adding more lawyers, accountants, and lobbyists. The majors make a small adjustment here or there, ignoring or caring little that the independents are capsized by their wake. It smacks of mercantilism or worse, for the big companies will benefit at the expense of the little ones. Instead of working together to help everyone—and to meet the Nation's needs—they have chosen a policy that will be ultimately destructive to everyone.

The argument is heard that this is the best the industry and the majors' trade association can hope to get from this administration and this Congress. But there will be another Congress next year and another administration in 1981. If the so-called compromise passes this year, those of us who truly believe in deregulation—along with 74 percent of the people—will still be fighting for deregulation next year and in 1981, but much of the enthusiasm and pressure will have receded and nothing further will be done. We will all be stuck with this terrible legislation for a decade and probably beyond.

Once a bad law is put in place, and a segment of the industry is wiped out, the rest adjust and get it in their heads that because they lived through it they now deserve to be protected by it. They do not want things opened up, because it will mean new, more agressive competition. What they do not see is how the whole people is impoverished by destructive wedges—tax wedges, energy wedges—imposed by government. The people of Buffalo certainly know there is no way they can benefit by a law that wipes out half the independent producers, those who do more than half the exploration for new supplies.

I may not understand "conventional economics," the kind practiced in the Carter administration, but I do understand incentives. Do not the major producers understand incentives? Do not their trade association? How can they do this—throw in the towel with the opposition after such a long struggle? Do they, does it, have a secret hope that if it plays ball with the Government, with the Department of Energy, and the administration, that the regulators will be nice to them, to it? If they do, they are hopelessly naive.

I do not think this fight should be ended with the acceptance of this compromise. I think the compromise should be defeated, and I think we should proceed at once toward a new approach, a new bill. I think the producers, all of them, should come back into the political arena of the active fight and work to get a bill which will give the consumers the supplies they demand. It is not too late.●

GEN. VON STEUBEN—REVOLUTIONARY WAR HERO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, the anniversary of the birth of General Friedrich Wilhelm von Steuben is on September 17, and on Saturday, September 16, the United German-American Societies of Greater Chicago will sponsor the General Von Steuben parade. The parade will step off at 12:30 p.m., and I look forward to joining with Chicago Americans of

German descent on the reviewing stand in celebrating the contributions of this outstanding man in winning America's War of Independence, as well as the contributions of German-Americans throughout the entire history of our country to our liberty, well-being, and greatness. A banquet will take place in the evening at Chicago's Palmer House Hotel. Karl C. Laschet is serving as the general chairman and grand marshal of the parade, and Hon. Michael A. Bilandic, mayor of Chicago, is serving as the honorary grand marshal.

In his early career, General von Steuben served in the Prussian Army with distinction, and in high tribute to his professional standing, King Frederick the Great appointed him to general staff duty at royal headquarters. At the age of 47, he arrived in America in late 1777, having volunteered for service in General Washington's Revolutionary Army, and reported for duty on February 23, 1778. Then at Valley Forge, Washington appointed von Steuben acting inspector general with responsibility for the professional training of the Army.

Von Steuben's personal popularity and dedication enabled him to make rapid and astounding progress in molding an effective American fighting force, and his success has been called "perhaps the most remarkable achievement in rapid military training in the history of the world." As a result, on April 30, 1778, General Washington appointed him Inspector General of the Army with the rank of major general.

Throughout the long war, the practicality and skill of von Steuben's reforms proved themselves over and over again, as the men of the Continental Army showed themselves equal in discipline and organization to the best British regular troops. During the winter of 1778–79, von Steuben wrote his "Regulations for the Order and Discipline of the Troops of the United States," an important manual on the basics of drill and field service regulations, which outlined the essentials of military procedure especially adapted for the American citizen-soldier. This "blue book," as it became known, served as the official Army manual until 1812. Also during this period, von Steuben developed a system of property accounting that went a long way toward stopping the waste of precious Army provisions and material.

In appreciation for his services, the State of New York awarded General von Steuben a 16,000 acre estate, and Congress granted him a pension of $2,500 for the rest of his life. Just before he retired from his leadership in the Army, General George Washington wrote to von Steuben congratulating him as follows:

TO BARON STEUBEN

ANNAPOLIS, 23 DECEMBER, 1783.

MY DEAR BARON,

Although I have taken frequent opportunities, both in public and private, of acknowledging your great zeal, attention, and abilities, in performing the duties of your office; yet I wish to make use of this last moment of my public life to signify, in the strongest terms, my entire approbation of your conduct, and to express my sense of the obligations the public is under to you, for your faithful and meritorious services.

I beg you will be convinced, my dear Sir, that I should rejoice if it could ever be in my power to serve you more essentially, than by expressions of regard and affection; but, in the meantime, I am persuaded you will not be displeased with this farewell token of my sincere friendship and esteem for you.

This is the last letter I shall write, while I continue in the service of my country. The hour of my resignation is fixed at twelve to day; after, which, I shall become a private citizen on the banks of the Potomac, where I shall be glad to embrace you, and testify the great esteem and consideration with which I am, my dear Baron, &c.

Mr. Speaker, the members and officers of the United German-American Societies of Greater Chicago are outstanding leaders and dedicated participants in the betterment of their individual communities, and I congratulate them for their resourceful service in our city of Chicago. I also congratulate Grand Marshal Karl C. Laschet, and all the members of the General von Steuben parade committee who are working so hard to make this grand event a success. Their names follow:

Joseph Gies, Honorary Gen. Chairman, Horst Seyferth, Karl Heumann, Co-Chairmen.

Committee: Felix Bachmeier, Melvin Brandt, Stefan Dams, Ludwig Erdbeer, Willi Folimer, Fred Marunde, Josef Matzer, Siegfried Reinke, Willi Scharpenberg, Nick Schneider, Alfred Schmitke, Frank Workman, Willi Kraemer.

Paula Zottmann, Treasurer; Helen Meissner, Parade Treasurer.

Trustees: Joseph Zottman, Betty Center, Louise Jochem.

Paula Zottman, Cornflower Chairlady; Clara Winkler, Recording Secretary; Marianne Gies, Coresp. Secretary; Virginia Vazzano, Coordinator; Katie Piechota, Assistant Coordinator.

Directoren: Joseph Anetsberger, Betty Center, Peter Foehnrich, Josef Frieberger, Helmut Koch, Alfons Schneeman, Karl Kurz, Josef Zottmann, John Sebastian.

Finanzcommittee: Sarah Brantsch, Josef Matzer, Elisabeth Kraus, Gustav Pohl, Friedrich Zeeck.●

I extend my greetings and best wishes to German-Americans in the 11th District of Illinois, which I am honored to represent, in the city of Chicago and all over the Nation who are commemorating the birth of that Revolutionary War hero, General von Steuben, and the German contribution to American greatness.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. FOUNTAIN) is recognized for 5 minutes.

● Mr. FOUNTAIN. Mr. Speaker, because of a death in the family, my brother, I was absent from the House for a portion of the session of Wednesday, August 16, after 6:30 p.m., and for the session of Thursday, August 17. Had I been present I would have voted as follows on the roll call votes which I missed:

WEDNESDAY, AUGUST 16

Rollcall No. 711. House Concurrent Resolution 683, second budget resolution, Levitas amendment to reduce budget authority and outlays by $753 million by eliminating funds for proposed countercyclical programs, "aye."

Rollcall No. 712. House Concurrent Resolution 683, Rousselot amendment to provide a balanced budget, "aye."

Rollcall No. 713. House Concurrent Resolution 683, final passage, "nay."

THURSDAY, AUGUST 17

Rollcall No. 715. H.R. 13467, second supplemental appropriations, conference report, "nay."

Rollcall No. 716. H.R. 13467, Mahon motion to concur in a Senate amendment regarding funds for the extension to the New Senate Office Building, "nay."

Rollcall No. 717. H.R. 12935, legislative branch appropriations, conference report, "yea."

Rollcall No. 718. H.R. 12927, military construction appropriations, conference report, "yea."

Rollcall No. 719. H.R. 13468, District of Columbia appropriations, conference report, "yea."

Rollcall No. 720. S. 9, Outer Continental Shelf, conference report, "yea."

Rollcall No. 721. H.R. 12240, intelligence authorization, conference report, "yea."

Rollcall No. 722. H. R. 1321, rule providing for the consideration of H.R. 10898, USRA authorization, "yea."

Rollcall No. 723. H.R. 10898, final passage, "yea."●

FIRST ANNIVERSARY OF THE DEATH OF STEVE BIKO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DIGGS) is recognized for 5 minutes.

● Mr. DIGGS. Mr. Speaker, it is with both sadness and hope that we commemorate the first anniversary of Steve Biko's death: Sadness, because South Africa, Africa, and the world lost one of its young leaders, a man of considerable courage, fortitude, and magnanimity; hope, because the goals for which he stood and fought are goals which his death alone will not destroy. His dreams for his nation's future live on in the hearts and minds of those people all over the world who stand for justice, human equality before the law, and man's quest for freedom.

Those who believe that by killing Steve Biko they could kill his dream are ignorant of the lessons of history. They forget Martin Luther King, Nat Turner, and John Brown. They forget Samori Toure, Patrice Lumumba, and Amilcar Cabral. Steve Biko joins the growing list of men and women who have fought colonialism and racism on the African Continent and whose voices have been stilled by the forces of oppression. But the strength of the message of men like Steve Biko is such that the message itself could not be destroyed.

We in the United States, both within and outside the Congress, who believe that Steve Biko's goals were worthy of every man, will not falter in our efforts to see his goals realized. For his goals are ours. As long as over 20 million blacks, coloureds, and Asians in South Africa are not free, we are not free. Until the last vestiges of white minority rule in Southern Africa are removed, we shall not rest. Within the Congress, we shall

continue our efforts to disassociate the American Government and the American people from the obnoxious practices of apartheid which are the very essence of the racist regime in Pretoria. And we shall continue our efforts to inform the American public of the true nature of that regime and to show our people the distortions of the propaganda being distributed in this country by the South African Government and its agencies.

Steve Biko's death only momentarily interrupted the momentum of those who fight for the liberation of South Africa. We paused a year ago as we pause today to pay him tribute. But to honor him in a fitting manner, we must not hesitate to pick up the cause of freedom where he was forced to lay down his burden. If anything, we must—and we shall—redouble our efforts to make Steve Biko's dream a reality. For if we do not, his dream, like that of so many other martyrs of African freedom, will be shattered by those who, ironically enough, fail to realise that his dream was a means to their own salvation.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 5 minutes.

● Mr. DRINAN. Mr. Speaker, during a series of recorded votes earlier today on legislation being considered under suspension of the rules, I inadvertently failed to cast my vote on rollcall No. 756, passage of H.R. 12026, the Indian Peaks Wilderness Area, the Arapaho National Recreation Area, and the Oregon Islands Wilderness Area Act. I had intended to vote "aye."●

SUSPENSION SCHFDULE FOR MONDAY, SEPTEMBER 18, 1978

(Mr. WRIGHT asekd and was given permission to address the House for 1 minute and to include extraneous matter.)

Mr. WRIGHT. Mr. Speaker, I take this time simply that I might list here in the CONGRESSIONAL RECORD those bills which are scheduled for suspension of the rules on next Monday. It seems approoriate that Members should have this advance notice of the 25 bills which are scheduled to be brought up for motions to suspend the rules and pass on Monday next.

Under leave to extend my remarks, I list herewith those bills:

1. H.R. 7106—Tariff Amendments for Yankee Dryer Cylinder Rolls.
2. H.R. 8755—Tariffs for Ball or Roller Bearings, Flanges, Cartridges, etc.
3. H.R. 9628—Duty Suspensions on Certain Nitrocellulose.
4. H.R. 9911—Continue Duty Suspensions on Certain Forms of Zinc.
5. H.R. 10265—Suspend Duty on Natural Graphite.
6. H.R. 11409—Duty Free Importation of Dyeing and Training Materials.
7. H.R. 12739—Duty Suspension on Live Worms.
8. H.R. 13097—Medicare Amendments of 1978.
9. H.R. 13817—Health Programs Amendments (SSI).
10. H.R. 10792—Authorize Smithsonian to Acquire Museum of African Art.
11. H.R. 13675—Agriculture Act Amendments for Interest on Cotton Loans.
12. H.R. 9496—International Tin Buffer Stock Authorizations.
13. H.R. 11488—Health Planning and Resources Development Amendments.
14. H.R. 12460—Health Centers Amendments of 1978.
15. H.R. 13611—Child Health Assurance Act.
16. H.R. 12008—Psychotropic Substances Act of 1978.
17. H.R. 12349—Drug Abuse Prevention Authorizations.
18. H.R. 12326—Developmental Disabilities Act Authorizations, FY '78.
19. H.R. 12303—Nurse Training Amendments of 1978.
20. H.R. 11871—Hazardous Materials Transportation Authorizations.
21. H.R. 10965—Revise U.S. Code, Title 49, Transportation Laws.
22. H.R. 13349—Expatriation Provisions of Immigration and Nationality Act.
23. H.R. 11887—Increase Compensation for Needy Parents of Veterans.
24. H.R. 12258—Increase Veterans Burial Allowance.
25. S. 274—Prohibit Union Organizations in Armed Forces.

ONE-YEAR ANNIVERSARY OF DEATH OF STEVEN BIKO

Mr. MAGUIRE. Mr. Speaker, I was not in the Chamber a moment ago when my special order called. I ask unanimous consent that I may be recognized for the purpose of that special order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

GENERAL LEAVE

Mr. MAGUIRE. Mr. Speaker, I ask unanimous consent also that all Members may have 5 days in which to extend their remarks on the subject of my special order and to include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. MAGUIRE) is recognized for 45 minutes.

Mr. MAGUIRE. Mr. Speaker, 1 year ago today a black South African leader by the name of Steven Biko died. He died in prison at the hands of the security police. He was one of South Africa's greatest intellectual and political leaders. I have taken this special order tonight and my colleague, the gentleman from New York (Mr. DOWNEY) has also taken a special order tonight in order to provide Members of the House an opportunity to recall Mr. Biko's contributions and to express their own feelings about the circumstances under which Mr. Biko died and the implications of those facts and the current situation in South Africa not only for the people of South Africa, but also for Americans as well.

Before proceeding with my own remarks, Mr. Speaker, I would like at this time to yield to the distinguished gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Speaker, I thank my distinguished colleague, the gentleman from New Jersey (Mr. MAGUIRE) for yielding to me and I applaud the gentleman for taking this very important special order. I would like to indicate further, Mr. Speaker, and Members of the House, and to my distinguished colleague, the gentleman in the well, Mr. MAGUIRE, that while today, September 12, 1978, is the first anniversary of the tragic death of Steve Biko, and as this tragic event focused international attention on the oppressive activities of the South African Government, so today I bring before you yet another potential tragedy.

It has come to my attention that the existence of the squatters' community, Crossroads, located near Capetown, South Africa, is being threatened with imminent destruction.

Because of the South African Government's intolerable apartheid policies, certain areas of the country are reserved for white occupation exclusively. This forces African workers to leave their families and travel long distances in order to work. Crossroads was established in 1975 for squatters in the Capetown region in order that these men could reside with there families. Crossroads is unique in that unlike other such communities there has been a courageous effort by the members of the community to continually improve the conditions of their lives.

The tragedy of Crossroads is that the government will not allow it to survive. The 20,000 African residents of this community are continually being harassed by the police and government in their efforts to force the families of these men to return to the "Homelands." The South African Government is crushing Crossroads.

It is especially intolerable on a day commemorating the death of Steve Biko, a day to honor this man's contribution to the human movement of South Africa, that we must face yet another flagrant disregard of human dignity. The people of the United States, the Congress, the executive branch, and the world must unite in an effort to end this atrocious oppression.

Again, Mr. Speaker, I wish to thank my distinguished colleague, the gentleman from New Jersey (Mr. MAGUIRE) for taking this important and sensitive special order, and to thank the gentleman for yielding me this time.

Mr. MAGUIRE. I now yield to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Speaker, I too want to applaud the gentleman for having asked for this special order which I believe is most appropriate and to compliment him for recognizing the life and activities of a brave and courageous man who died for a cause which I think we all stand for, that is humanity and justice.

Mr. MAGUIRE. I thank the distinguished gentleman.

Mr. Speaker, I wish to state that the remarks of the distinguished gentleman from Illinois (Mr. ANDERSON) who is not able to be present with us tonight, will be included at the conclusion of my special order.

Mr. Speaker, I was glad that my friend the gentleman from California (Mr. DELLUMS) called the attention of this body to the situation at Crossroads, a town of some 20,000 black South Africans and what South Africans refer to as colored South Africans, a town which the Government of South Africa says exists illegally and, despite the fact that 90 percent of the people there have their families with them, in spite of the fact that the great majority of them have legal positions of employment in the Capetown area, despite the fact that this town of some 20,000 people has a spirit of progress and cooperation and has provided all sorts of facilities and services for the families in the community, despite all of that, the Government of South Africa has indicated in the next few weeks its intention of destroying that town.

Mr. Speaker, we will be holding a press conference tomorrow with the key participation of the gentleman from Indiana (Mr. BRADEMAS), the gentleman from Illinois (Mr. ANDERSON), and the gentleman from Maryland (Mr. MITCHELL), and the gentleman from New Jersey (Mr. RODINO) to talk at greater length about the Crossroads situation. The destruction of Crossroads is an example of oppression which Steve Biko would have worked to prevent, the kind of community which Steve Biko would have sought to preserve—the town and its people—and it is a time when, in commemorating his memory, we ought to look at what is happening in South Africa today, and we ought certainly to try to exert our influence in advance of another disaster occurring rather than simply wringing our hands in anguish afterward. That is the intention of the press conference tomorrow.

Mr. Speaker, Steve Biko, as I said earlier—and I think the whole world understands that this is the case—was killed by the security police while in detention, without charges, without trial, incommunicado, in South Africa. This notwithstanding the fact that an inquest was held and that a finding was made which did not assign responsibility for Mr. Biko's death to any individual person or persons.

Mr. DOWNEY. Mr. Speaker, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from New York.

Mr. DOWNEY. Mr. Speaker, I would like the gentleman to respond to a claim I often hear by South African authorities that the inquest into the death of Steven Biko was in the finest traditions of South African democracy, and that all issues were explored and developed in detail, and that the inquest stands as an example, if you will, of the South African Government's rule of law in particular on this matter, and that our claims on occasion, to the contrary notwithstanding, we should understand that there still is a society of laws there, and this inquest is a shining example of that society.

Could the gentleman respond to that particular claim?

Mr. MAGUIRE. Surely. In this connection, there are some very interesting reports and conclusions made by some outside observers of the inquest. I would cite first the opinion rendered by Sir David Napley, the past president of the Law Society in the United Kingdom, who observed the inquest. His conclusion was as follows:

> In short, I was left in no doubt that Mr. Biko died as a result of brain injury inflicted on him by one or more unidentified members of the Security Police at some time prior to and reasonably proximate to 0715 hours on the morning of 7 September 1977.

I should add that in addition to the findings by Sir David Napley of the circumstances he concluded surrounded Mr. Biko's death, that the Lawyers Committee for Civil Rights Under Law also had an observer at the inquest in South Africa, Louis H. Pollack, dean of the University of Pennsylvania School of Law. He went to South Africa representing the Lawyers Committee, as well as the Lawyers Association of New York and the American Bar Association. Mr. Pollack agreed with Mr. David Napley about the circumstances surrounding Mr. Biko's death.

Mr. MAGUIRE. Mr. Speaker, I would also point to a book called "Biko," written by Donald Woods, which indicts the South African Government and all supporters of apartheid for the death of Mr. Biko and for the other systematic violations of every principle of law which we are familiar with in the West.

Among the things which Mr. Woods says is the following:

> It is true that any South African citizen can still win a civil or criminal case, provided one has a great deal of money, one has the right judge or magistrate, and one is free to institute special proceedings.

He goes on to say the following:

> Today there are few independent judges or magistrates in South Africa where political cases are concerned. Police, magistrates, judges, prosecutors, few, indeed, are completely free to pursue objective standards of justice. Most judges in South Africa adhere to the belief that their function in regard to statute law is solely to interpret it and apply it, which means, in effect, in many cases, to implement apartheid regardless of the principles of justice.

Beyond that, I think it is correct to say that in a system in which a majority of 4 million people make the laws, administer those laws, and in which there is no bill of rights and on recourse to the courts with respect to any acts taken by the Parliament, and where there are 22 million nonwhite persons, we have not a rule of law, but a system of oppression.

In fact, I have found in my own visits to South Africa and in discussions with knowledgeable people both inside and outside South Africa that what we have in South Africa is a police state with respect to that majority of 22 million persons who are not permitted to participate in making the decisions in the society. Of course, there is a whole range of oppressive and repressive laws, as the gentleman so well knows, because he has studied these matters in great depth as well, which results in the government being able to deprive citizens of life, liberty, and the pursuit of happiness, to deprive them all of rights, of all recourse to lawyers, to the courts, to hold them without charges for incredible periods of time, up to 513 days in some instances without contact with their families, without anyone knowing where they are or what their circumstances are. Of course, under those circumstances, as the record so clearly shows, many political prisoners, more than 20 since 1976 and more than 45 or so since 1963, have in fact died under suspicious circumstances while in the hands of the security police.

It is my view that the government at the present time and for 30 years past has in fact followed a policy of intimidating, harassing, driving into exile, if necessary detaining, and sometimes killing at the hands of the security police, persons whom they regard as political threats.

Mr. DOWNEY. Mr. Speaker, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from New York.

Mr. DOWNEY. I thank the gentleman for yielding.

It has been my experience that since we formed the monitoring group to engage in thoughtful discussion a number of leaders from South Africa, that we were able to discuss the details of the racial policy with the South African Minister, Mr. Connie Mulder, who was, I think, next in line to Vorster in power in his own party and highly touted as the potential ruler for South Africa, and who today is their Minister for Race Relations. In my discussions with this minister, he told me that the oppressive accounts that I have read of or that I have read in books and articles about South Africa were incorrect and that it really would serve me to be educated by coming to South Africa to learn firsthand what the problems were, to determine that the people, black and colored and white alike, enjoy the regime. I found this almost amazing, that this system that deprives unilaterally blacks an opportunity to earn the same wages as whites, to live where they choose, was anything that the black people could accept.

It is my understanding that the gentleman from New Jersey has recently gone to South Africa and has spent 2 weeks there. Would the gentleman agree with Mr. Mulder that the blacks and coloreds enjoy their relationship with the majority government and that they have no particular reason to change?

Mr. MAGUIRE. I certainly would not. I might say that I also had the opportunity to meet with the Minister of Telecommunications, Mr. de Klerk, when I was there, along with a number of other Americans and Europeans who were participating in a conference on "Options for the Future of South Africa and Implications for the West," a conference sponsored in South Africa by the South African Institute of International Affairs and in this country by the World Peace Foundation. It was saddening to me that at the end of a long discussion with Mr. de Klerk, and under some pressure from the questions of those present, including our former Attorney Gen-

eral of the United States Nicholas Katzenbach, who were part of our delegation, Mr. de Klerk reverted to the device of appealing to our observation of black people walking around in the streets with smiling faces as his last resort in defending the apartheid system and making essentially the same point that the gentleman has pointed out that Minister Mulder also made. Of course, the facts are that we have a situation in which there is no formal process of consultation for all South Africans about the future of their country and about how their country is to be governed now.

As I indicated, a small minority of 4 million freezes out the 22 million others that live in the country—not only freezes them out of any participation, but oppresses them in every conceivable fashion.

In addition to that, one has to conclude after studying the record with respect to arrests and imprisonment that there is no rule of law as we understand it in the West. It is a police state with respect to nonwhites and the government systematically suppresses and oppresses and attempts to eliminate black leadership.

Beyond that, there is, of course, the fact we are not going to have needed political change in this situation. We are not going to have an end to apartheid until we get beyond the fraudulent formulations of separate development and so on, which are just new terms for apartheid and until all South Africans are included in the political process, constitutionally, legislatively, politically, socially, and economically.

I came back very, very depressed and very discouraged and very pessimistic about the future of South Africa and about the prospects for peaceful change there; so I would certainly want to say to the gentleman that my experience while I was there in talking to people whom I met and the South Africans I met outside the country is that South Africans are increasingly angry and upset and discouraged about the situation in which they find themselves. They are sick and tired of having a government tell them that they cannot participate.

We have since 1976, I think, a new mood where even students are taking leadership and saying they want full participation and they are not going to settle for the status quo.

May I emphasize that we also have in all racial groups—whites, coloreds, Asians, blacks—people of good will, of enormous desire for change and improvement; but they do not hold power. The power is held by the Nationalist Party. The power of the Nationalist Party is held by the caucus. A very small group of people making decisions there have all the powers that go with the state, the security police, the military power, and any effort to question government decisions is quickly suppressed.

We have had cases just recently of Nthato Motlana, the chief spokesman of the Committee of Ten in Soweto who was banned before he could make a speech at the University of the Witswatersrand. Even members of the family and associates of Steve Biko were detained on the eve of this first anniversary of Steve Biko's death.

The fact is that the government is unwilling to embark on a policy of accommodation or even of discussion and so, therefore, the descriptions that we have heard from Mr. Mulder and Mr. DeKlerk are in my judgment and the judgment of most observers absolutely dead wrong and are themselves illustrations of the problem.

Mr. BONKER. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Washington.

Mr. BONKER. Mr. Speaker, I would like to ask the gentleman, in light of the actions in South Africa in recent weeks to arrest approximately 500 men, women, and children, in Crossroads, which is outside Capetown, whether the gentleman had any experience on any occasion to visit the so-called Crossroads while the gentleman was in South Africa?

Mr. MAGUIRE. Yes. I thank the gentleman for his question. I did have an opportunity to spend some time in Crossroads on the last Sunday in July. At the same time, it was a time when a prayer meeting was being held which brought people of all races together for the afternoon and the leadership from every denomination of the church, Protestant, Catholic, and Jewish.

All were there—blacks and whites—to commit themselves to the survival of Crossroads and the lives and well-being of the 20,000 individuals and the many thousands of families who live in Crossroads.

I had an opportunity on that occasion to talk with many people of all races who are themselves involved in this effort, and I know the gentleman shares with me the hope that this community will be permitted to survive, and that the people there will not be sent back with one-way railroad tickets to places all over the country that they may not have seen for 20 years—places where they would have no possibility of earning a livelihood, where they have no homes, and where their families would be split up and their community destroyed.

Mr. BONKER. Mr. Speaker, will the gentleman yield?

Mr. MAGUIRE. I would be happy to yield to the gentleman from Washington.

Mr. BONKER. Mr. Speaker, just for the record, Crossroads is one example in South Africa where rural blacks come into the city to find employment, but the price of that is separation from their families.

In recent years the family members have attempted to come into these communities that are called squatter communities, because the families want to integrate and want to come together, and under the present situation in South Africa it is very difficult, if not impossible, for families to have that union.

I had understood that the South African Government had plans to bulldoze this community and others like it to try to break up this attempt to integrate the families. I think it is appalling that a 20th century country such as South Africa is incapable of developing an environment where families, whether they are white or black, can come together and enjoy a natural family existence.

So I would hope that on this special occasion we would focus special attention on the so-called squatter villages and call upon the South African Government to allow these people to live a life of dignity so that their families can come together and enjoy the one basic human right of all—and that is the right to be together.

Mr. MAGUIRE. Mr. Speaker, I thank the gentleman for his comments.

Mr. Mulder, who was referred to earlier, has stated that there is no possible way that Crossroads can survive, and other ministers and officials have indicated that it must be destroyed, because it is illegal and all squatters will have to be dealt with, et cetera.

I might point out to the gentleman that there are some 400,000 black men working in the urban areas in South Africa who do not have the ability to have their families with them. The gentleman may also know that more than 250,000 persons in the Capetown area alone are individuals who are in the category the gentleman has mentioned. They are people who have no legal residence there. Many of them have legal jobs, but they cannot live there.

This is one of the most inhumane and utterly unacceptable aspects of apartheid.

Mr. Speaker, I thank the gentleman from Washington (Mr. BONKER) for making his point.

Mr. HARKIN. Mr. Speaker, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Iowa.

Mr. HARKIN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I wish to compliment the gentleman from New Jersey (Mr. MAGUIRE) for taking this special order to commemorate the anniversary of the death of Steve Biko.

It has been my observation in the past and also today that if there is one thing that the entrenched regime of South Africa would like to see happen, it is to have the rest of the world forget about what happened in South Africa, especially regarding the death of Steve Biko. But that is not surprising. That is the attitude that all regimes of that nature who are suppressing the legitimate human rights of their people have. They hope the rest of the world will watch silently, and that the incidents of terrorism against the people will be forgotten, and in that way they can go on about their own business.

I would like to take this occasion, the commemoration of the death of Steve Biko, to focus attention on a subject that is perhaps a little broader than just South Africa. It seems that many of us—and perhaps it is true of even the Members of this House of Representatives—get a certain picture many times when we talk about terrorism and terrorists. What that conjures up, I believe, in most Americans' minds is a picture of someone with a plastic bomb or with a submachine gun or with a hand grenade going into a place that is crowded with

women and children and shooting it up or blowing it up and killing innocent people. Or perhaps it conjures up the blowing up of an airplane and that kind of thing. Certainly that is terrorism, and those people who engage in those acts are terrorists.

But by focusing on that kind of terrorism, perhaps we too often gloss over and forget the other larger terrorism that is taking place in the world—and that is the terrorism that is inflicted on people by entrenched regimes, autocratic governments, both on the left and on the right, who see no duty to enforce human rights or uplift the human rights of their people. And one of the things, of course, is torture. I think too often we forget that torture is in fact a means of terrorizing people. Steve Biko was not tortured, because he had some secret information that the government wanted to extract. He was not put to death, because he did not divulge that secret information. There was only one reason he was tortured, and that was to inflict terror on the rest of the black people of South Africa, to terrorize them so that they would not speak out for their legitimate rights.

And we see the same thing happen in country after country after country in the world, the same kind of process—torture and death, death usually through some kind of disappearance—being used to terrorize people. That is every bit as much terrorism as the lone individual with the plastic bomb. In fact, in many cases it is worse, because that kind of terrorism is cloaked with the dignity, if you can use that word, of the law of the entrenched powers of the government which happens to be inflicting the torture upon the people, such as the South African regime.

So I think we in this country have to broaden our focus on terrorism, look at it for what it is, and look at torture for what it is. Torture is a means of terrorism—the kind of torture that was inflicted upon Steve Biko.

I have one further observation I would like to make, if the gentleman will yield to me for 1 minute.

Mr. MAGUIRE. The gentleman has all of the time the gentleman needs.

Mr. HARKIN. I thank the gentleman.

That observation has something to do with how we in this country view our relations with these governments, not only on a government-to-government basis, but on the basis of international commerce.

Mr. Speaker, I happened to catch a glimpse of the replay of "Roots" that played over the networks here in the last couple of weeks, and I was struck by one sequence where Kunta Kinte gets off of the boat in America. He is put on the block. There is an Englishman—I forget his name, but he was all dressed up in his finest garments and he had a nice white handkerchief, that sort of thing—and someone made a comment about the kind of trade he was involved in—the slave trade. And he sniffed haughtily and said it was the Crown's commerce. And he was excused for that. "It is the Crown's commerce, it is my business, and don't mess with my business."

I think many times in this country we tend to gloss over the business dealings that go on between commerce in this country, businesses in this country, and businesses that support the countries like the South African regime. By the very fact of engaging in that kind of commerce they not only add credibility to the regime and support it, but they give it the economic means by which it can maintain itself in power and inflict this kind of terrorism upon its people.

So I am hoping that we in this country will begin to look at our business dealings abroad, both on a government-to-government basis and on a business-to-business or a business-to-government basis, always keeping in mind that the end result of all of our dealings abroad, just as the end result of all of our dealings in this country, ought to have as a final goal the promotion and the enhancement of the basic human rights. And if businesses are not doing that, if they are not taking that into account, then we in the Congress, I believe, have an obligation under our powers to mandate that private businesses in this country that deal with these autocratic regimes, such as the Government of South Africa, have to take into account the human rights situation in that country in which they are doing business, so that, rather than upholding the government that is in power that is violating the human rights of its citizens, that business can join with our Government in trying to change its government to one that is more democratic and one that certainly respects the basic human rights of its people.

Mr. Speaker, again I compliment the gentleman in the well for taking this special order. I am always reminded and I am mindful of the cry of the Jewish race after the Second World War—"never again." And I believe that ought to be our watchword as we look upon the world scene today and we see government after government violating the basic human rights of its people, torturing and putting people to death, and we too ought to look at our own philosophical heritage in this country, our Bill of Rights, our Declaration of Independence, our Constitution, and say that never again are we in this country going to stand idly by while people like Steven Biko are put to death by their government.

Mr. Speaker, I thank the gentleman.

Mr. MAGUIRE. I thank the gentleman for his comments. He mentioned the analogy to the situation in Hitler's Germany. I am prompted at this point to quote briefly from Donald Woods' book "Biko" on that point. Mr. Woods says:

> Just as Hitler's "Final Solution to the Jewish problem" was the ultimate consequence of earlier Nazi policy, so deaths such as those of Steve Biko are inevitably the appropriate result of the apartheid policy since its inception. Having to wear a yellow armband and having to die in a gas chamber at Auschwitz were but two links in the same chain of racism. These two links might have been at opposite ends of the chain—but the chain was the same. Having to carry a "pass" and having to die of assault in detention are similarly two links of the same chain.
>
> If you feel impelled to enforce at all costs the wearing of armbands, you have to end up herding people into gas chambers. And if you feel impelled to enforce at all costs a separation of races, you have to end up killing people.

Mr. BUCHANAN. Mr. Speaker, will the gentleman yield?

Mr. McGUIRE. I yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Speaker, I would like to thank the gentleman in the well for taking this special order. It is fitting and proper that the Congress of the United States should pause to remember Steve Biko, because there is a kinship stronger than blood ties between all those who have given their lives that others might be free.

This country has as its raison d'etre, its reason for being, the inalienable rights of man. Thomas Jefferson and his fellows spoke of the inalienable rights of man to life, liberty, and the pursuit of happiness, rights by which they were endowed by their Creator, and that governments were instituted among men to preserve and protect those rights.

In our own country it has taken us more than 200 years to fulfill our own great dream. It was only in this century, with the civil rights movement in the United States, that we began to fulfill our own high destiny in becoming what, as I believe we were always intended to be, a nation of equality, of justice, a nation where all men were free and equal. As we were emancipated in this century from the shackles of yesterday, and as we continue to strive for the fulfillment of our own dream of freedom, nothing to me is more important than that we shall pit our enormous strength on the side of individual rights, human rights, human freedom, self-determination among the peoples of other lands.

In Africa we have not only our own long-term political and economic best interests involved in aligning ourselves with those forces in Africa which shall say no forever to all the vestiges of racism, of apartheid, of colonialism, but we have, in my own judgment, what we most basically are as a nation on the line, and where we aline ourselves in Africa; because the United States must be a place in every generation that is so identified with the cause of human rights and human freedom that forever more, where on this Earth one human heart beats free, America shall live and never die.

Mr. Speaker, I thank the gentleman for yielding to me.

Mr. MAGUIRE. Mr. Speaker, I thank the gentleman from Alabama for his most eloquent statement, one which I am sure is concurred in by many, if not all, Members of the House.

The gentleman from Alabama has referred to the great ideals of human rights and democracy and freedom. The gentleman from Iowa referred to terrorism sanctioned by the power of the state.

In remembering Steve Biko, we should recall his 4½ days of testimony at a trial in May 1976 in which he was called as a witness. This was a trial of a number of defendants who had been active in the South African Students Organization (SASO) and the Black People's Convention, known as the BPC. Mr. Biko was the

founder of SASO and was the honorary president of the Black People's Convention. He was subpenaed to testify at this trial.

The testimony has been collected with a most moving and cogent introduction by Millard Arnold, in a book entitled "Steve Biko—Black Consciousness," which will soon be published by Random House. Mr. Arnold is the director of the Southern Africa project for the prestigious U.S. Lawyers' Committee for Civil Rights Under Law.

A reading of the testimony by Mr. Biko over that 4½-day period reveals a brilliant—a brilliant—performance under tough cross-examination and it lays out as in perhaps no other single place Mr. Biko's philosophy, and it demonstrates his greatness as a thinker and as a human being.

He talks about white violence in South Africa, the real terrorism which is asserted by the power of the state inside South Africa. He talks about the fear that whites have of blacks and of the fear felt by black people in the face of the system. He talks about the need for overcoming the psychological oppressions of those fears and of course at great length he explains what black conciousness is all about in the South African context, how it differs from black consciousness in America, what its implications are for the future of South Africa. He diagnoses the evil of the system and its effects on both whites and blacks and he talks compellingly about the hope that he has for bargaining and negotiations leading to a future for the country of South Africa and for all South Africans.

This amazing and eloquent testimony by Mr. Biko is juxtaposed in these trials to the prosecution's attempt to prove that writings and political activities, which are familiar and customary to all Americans and which are fully protected by our Bill of Rights are crimes in the State of South Africa punishable by death.

There is also in this account the surprisingly, if I may say, dense, ill-informed, at times childish questions and comments by the magistrate for the court in his attempt to justify apartheid and to justify his opposition to any alternatives to it.

When we talk about the trial of persons for writing and for the kind of community and political activity which is fully protected in this country, we have to look at the kind of law under which people are prosecuted, and I refer in particular at this point to the Terrorism Act of 1967, surely the worst of all.

It was under the Terrorism Act of 1967 that Mr. Biko was held, and many others have been held without justice, without trial, without any recourse to family, to any court of law. It is under section 6 of the Terrorism Act of 1967 that so many black leaders have died at the hands of the security police.

It is important that we remember when we talk about these laws that there is no bill of rights in South Africa. And in a famous court case, Sachs against Minister of Justice, 1934, the court found that Parliament "may make any encroachment it pleases upon the life, liberty, or property of any individual subject to its sway, and it is the function of courts of law to enforce its will."

In the South African Constitution we find the following sentence:

> No court of law shall be competent to inquire into or pronounce upon the validity of any act passed by Parliament.

So Parliament passed the Terrorism Act. It is not subject to any judicial review or judicial process and certainly not its implementation because it specifically provides that the only persons who shall have anything to say about who is or is not detained under the Terrorism Act, or under what conditions or circumstances that person will be held, or for how long, is the Prime Minister and the Minister of Justice. I am talking about Mr. Vorster and Mr. Kruger.

The Terrorism Act says not that the state shall prove that certain acts were committed, acts of terrorism, but rather the defendant is put in the position of proving that any act that he may be alleged to have committed, did not have any 1 of 12 possible effects, or results, including "embarrassing" the Government.

The SPEAKER pro tempore. The time of the gentleman has expired.

FIRST ANNIVERSARY OF THE TRAGIC DEATH OF STEVE BIKO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. DOWNEY), is recognized for 40 minutes.

Mr. DOWNEY. Mr. Speaker, at this time I yield to the distinguished gentleman from New Jersey (Mr. MAGUIRE), for the purpose of continuing his remarks made during his special order.

Mr. MAGUIRE. Mr. Speaker, I thank the gentleman from New York (Mr. DOWNEY), for yielding to me.

Mr. Speaker, to continue with what I was saying, under the Terrorism Act you may be prosecuted, you may be convicted, you may be given the ultimate penalty of death for not being able to prove that some act that you are alleged to have committed did not, in fact, embarrass the administration of government or did not contribute in some way to racial hostility, or what have you.

This is a situation which any student of legal tradition in the West would find utterly appalling. And there is another example:

When I was in South Africa, I attended the opening of a trial very similar to the one that I referred to earlier where Mr. Biko testified in May of 1976. It was the opening of a trial of 11 young men and women, students from Soweto, active in the Student Representative Council of Soweto, who are now on trial for their lives for what the Government calls terrorism and for sedition, for having organized students to express their views, for peacefully demonstrating against the imposition in their schools of a system of instruction in which they would be required to learn their subjects in the Afrikaans language, for arguing that the Government should change its policies.

Of course, the state points out that some property was destroyed; and the state points out that the cost to the administrative unit in the Transvaal was such and such. The government fails to point out, of course, that some 600 or 700 young students were killed in the streets by the police, and that as a result there were problems in Soweto and across the country for a series of months.

These young men and women are now on trial for their lives in the Supreme Court of South Africa. I attended the opening of that trial in July in Randburg. The trial will continue later this month and will probably go on for 6 or 8 or 10 or 12 months.

Mr. Speaker, I find in looking at the indictment, of which I have a complete copy, that the students frequently are being charged not with acts which they may themselves necessarily have committed, but with consequences which are alleged to have resulted from those acts. Of course, the acts in most cases are either writing something about the situation in which they were involved relating to the languages in the schools, to the plight of black people, et cetera, to having meetings and electing officers to the Student Representative Council.

The language of the indictment says, "Reckless as to the said consequences thereof," et cetera. There is a lot about prohibited gatherings and so on.

However, this indictment is, as far as I am concerned, an indictment of the state and of the whole system of justice. I had a great deal of difficulty in understanding in that courtroom where there was a judge, where the prosecutor was sitting, where the defense attorney was, and where the dock was in which prisoners were being held; I had a great deal of difficulty in understanding that this was not, in fact, a court of law in the sense that we understand a court of law in this country, but that it was something very different. It was, in fact, an instrument of oppression being wielded by the power of the state against students who did the sort of thing which would have been protected in this country.

Mr. Speaker, I say to the South African Government, if you have an example of arson, if you have an example of somebody throwing a rock, if you have an example of somebody committing a violent act, then prosecute the person on that act and do not have this trumped-up set of charges about terrorism and sedition and overthrowing the government by force and so on, when you are talking about children who were ages 16 to 20 at the time the acts occurred, in 1976.

Mr. Speaker, I thank the gentleman from New York (Mr. DOWNEY) for the time.

Mr. MARKEY. Mr. Speaker, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Speaker, I thank the gentleman for yielding.

I wanted to make a brief statement to reiterate the thoughts of the gentleman from Iowa, New York, and New Jersey. I compliment them on their summation of what is, in a sense, a moral question.

The ironical thing is that we do not even know upon which day we should be commemorating this tragedy because of the unfortunate circumstances which surrounded the death of Steven Biko at that time a year ago.

However, I think that the repression of human rights is a tragedy which is encountered worldwide, but massive denial of human rights based solely on race is a situation unique to South Africa. By taking actions against blacks, against civil libertarians, and against the press, the force of government has demonstrated its contempt for those who value human life. These oppressive policies are abhorrent to the instinct of every American. It is our duty as a nation, a nation whose purpose and resolve depend on freedom and equality, to voice our strong disapproval.

After the massive crackdown on what is being called Black Wednesday, the blacks and nonwhites in South Africa are now more separate and less equal than ever before. We see in the newspaper only last Wednesday that the South African Government placed a 1-month banning order on the generally recognized leader, popular leader of the sprawling black township of Soweto, and the banning order, which prohibits Motlana from attending any gathering and specifically any meeting at which principles of government are discussed or criticized, was handed to the 52-year-old physician Wednesday, hours before he was to address an audience at a university.

I hope that forceful actions will be taken by the United States to insure that we remain credible as a nation concerned with human rights.

I personally experienced outrage at the senseless, violent murder of Steve Biko, Steve Biko, who was considered by many as a moderate voice, a leader of his people and until his death a potential leader of his country. I noted the news of his arrest last August 8 with alarm, but I was totally shocked at the notice of his death and the circumstances by which he died. The information at the time that Biko was but one of 20 political detainees who had died while in police detention that year further heightened my desire to participate with the gentleman from New Jersey (Mr. MAGUIRE) and the gentleman from New York (Mr. DOWNEY) in some kind of demonstration of disgust with their government.

In the wake of a series of predawn dragnet raids, highly reminiscent of Gestapo tactics, the South African Government swept into its jails and publicly silenced its most dedicated and creative leadership. Clearly, the Vorster regime decided, and has continued to decide, that it can no longer afford freedom of political expression because it can no longer afford the truth to be told. But if we condone our country through our silence the inhuman wrongs of the Vorster Government, then the United States and this House merit no stature in the world community as champions of human rights and human dignity.

The continuing repressive measures by the South African Government will, in the short run, have its desired effect. A powerful but frightened authority has always found it easier to cope with opposition by silencing its leaders rather than listening to their grievances. But in the long run these grievances appear to be so fundamental that any solution short of a transformation of the entire political system will be no solution at all.

The inescapable restrictions of the apartheid system control every aspect of life for the nonwhite community in South Africa. It is the only country that determines where you will work, what you will do, and what you will be paid, solely on the basis of the color of your skin. This must change. There is a minimal standard of human rights which cuts across national boundaries. South Africa's conduct has so deteriorated that their actions defy an international set of values which transcend their own internal political system. On this, the first anniversary of Steve Biko's death, the United States, as the moral leader of the free world, must not and cannot stand idly by while the rights of millions are systematically destroyed. I urge that we use Steve Biko's death and the escalation of repression in South Africa to demonstrate to the world at large that our dedication to the principle of human rights is sincere, total, and unequivocal.

I yield back the remainder of my time.

Mr. DOWNEY. I thank the gentleman.

It is a strange position, indeed, to be able to control the time the gentleman from New Jersey speaks—and delightful—and I yield to him at this time.

Mr. MAGUIRE. I thank the gentleman. I want to commend the gentleman from Massachusetts for a most eloquent statement.

I might say at this point that I think we should include in the RECORD the names of all of those who have died since 1963 while in the hands of the security police of the Government of South Africa. The list is reproduced below:

L. Ngudle died in Pretoria on September 5, 1963 (suicide by hanging).

B. Merhope died in Worcester on September 19, 1963 (causes undisclosed).

J. Tyitya died in Port Elizabeth on January 24, 1964 (suicide by hanging).

S. Saloojie died in Johannesburg on September 9, 1964 (fell seven floors during interrogation).

N. Gaga died in Transkei on May 7, 1965 (natural causes).

P. Hoye died in Transkei on May 8, 1965 (natural causes).

J. Hamakwayo died in Pretoria in 1966 (suicide by hanging).

H. Shonyeka died in Pretoria on October 9, 1966 (suicide).

L. Leong Pin died in Pretoria on November 19, 1966 (suicide by hanging).

A. Ah Yan died in Pretoria on January 5, 1967 (suicide by hanging).

A. Madiba died in an undisclosed prison on September 9, 1967 (suicide by hanging).

J. Tubakwe died in Pretoria on September 11, 1967 (suicide by hanging).

An unnamed person died on an unknown day in 1968 (death disclosed under questioning in Parliament on January 28, 1969).

N. Egoathe died in Pretoria on February 4, 1969 (slipped in shower).

S Modipane died in prison on February 28, 1969 (slipped in shower).

J. Lenkoe died in Pretoria on March 10, 1969 (suicide by hanging).

C. Mayekiso died in Port Elizabeth on June 17, 1969 (suicide).

J. Monakgotla died in Pretoria on September 10, 1969 (thrombosis).

Imam A. Haron died in Cape Town on September 27, 1969 (fell down stairs).

M. Cuthsela died in undisclosed prison on January 21, 1971 (natural causes).

A. Timol died in Johannesburg on October 27, 1971 (leapt from tenth-floor window during interrogation).

J. Mdluli died in Durban on March 19, 1976 (fell against chair during scuffle).

M. Mohapi died in Kei Road on August 8, 1976 (suicide by hanging).

L. Maswembe died in Cape Town on September 2, 1976 (suicide by hanging).

D. Mbatha died in undisclosed prison on September 25, 1976 (suicide by hanging).

E. Msolo died in Johannesburg on October 1, 1976 (no details given).

W. Tshwane died on October 14, 1976 (no details given).

E. Mamasila died on November 18, 1976 (no details given).

T. Mosala died in Butterworth on November 26, 1976 (no details given).

W. Tshazibane died on December 11, 1976 (no details given).

G. Botha died in Port Elizabeth on December 14, 1976 (fell down stairwell).

Dr. N. Ntahuntaha died on January 9, 1977 (no details given).

L. Ndzaga died on January 9, 1977 (no details given).

E. Maiel died on January 20, 1977 (no details given).

M. Mabelane died on February 15, 1977 (no details given).

T. Joyi died on February 15, 1977 (no details given).

S. Malinga died in Maritzburg on February 22, 1977 (natural causes).

R. Khoza died in Maritzburg on March 26, 1977 (suicide by hanging).

J. Mashabane died on June 5, 1977 (suicide).

P. Mabija died in Kimberley on July 7, 1977 (fell six floors during interrogation).

E. Loza died in Cape Town on August 1, 1977 (no details given).

Dr. H. Haffejee died in Durban on August 3, 1977 (no details given).

B. Emzini died on August 5, 1977 (no details given).

F. Mogatusi died on August 28, 1977 (suffocation in epileptic fit).

S. Biko died in Pretoria on September 12, 1977 (injured in scuffle).

Mr. Biko is the last person on that list so far, but there are three names which must be added because three more have died since Mr. Biko died—all three people in the hands of the security police. Those names are: Sipho Bonaventura Malaza, November 1977, a student by the way; Mzukisi Nobhadula, December 20, 1977; and Lungile Tabalaza, July 10, 1978. Mr. Tabalaza "jumped" from the fifth floor of the security building in Port Elizabeth, which, by the way, is the same facility at which Mr. Biko sustained his fatal injuries.

Mr. MAGUIRE. Mr. Speaker, would the gentleman yield further and permit me to continue?

Mr. DOWNEY. Absolutely.

Mr. MAGUIRE. Mr. Speaker, a moving poem was written by Millard Arnold on the death of Steve Biko. The poem was read by Mr. Arnold at the annual meeting of the NAACP, at which it was decided that the humanitarian award, the Stevie Wonder Humanitarian Award would be given to Mr. Biko posthumously. I would also like to insert, together with the poem, Mr. Wonder's statement on the granting of the award.

POEM

(Written and read by the Southern Africa Project Director, Millard W. Arnold, in acceptance of the Stevie Wonder Humanitarian of the Year Award on behalf of the Stephen Bantu Biko family, June 9, 1978.)

They tell me Steve Biko is dead—
To persuade me perhaps that his strong but sensitive voice can be stilled by hatred and fear.

They tell me Steve Biko is dead—
To show me perhaps that humanity and dignity can be bludgeoned into submission.

They tell me Steve Biko is dead—
To convince me perhaps that courage and compassion can be somehow compromised.

But what they are afraid to tell me is that Steve Biko lives.

That the spirit, the ideals, the dreams, the glory of Steve Biko lives.

That it lives in Soweto, that it lives in watts,

That it lives in Harlem, that it lives in the minds of all those oppressed.

Steve Biko lives because the aspirations of a people cannot be denied.

Steve Biko lives because violence and repression will not quench the thirst for freedom and decency.

Steve Biko lives because his special sense of humanity and integrity cannot be forgotten.

But they, they would have me, they would have you believe that Steve Biko is dead.

You and I—we—we know better.

STATEMENT OF STEVIE WONDER

For many years, now, I have been a silent observer of the plight of Black people and their political situation in South Africa. In giving the NAACP/Stevie Wonder Humanitarian of the Year Award to Steve Biko, I have given an award to a man who symbolizes the courageous struggle waged by Black people in South Africa. Steve Biko, however, was just one of the twenty million oppressed Blacks in South Africa. But, he is important, and I have chosen him as the Humanitarian of the Year because he more than any single individual has raised the consciousness of Black people both in South Africa and here in America. It is rare that a person receives an award solely because of who they are or for what they have accomplished.

In recognizing Steve Biko with the Humanitarian of the Year Award, I recognize all Black people in South Africa who have given their lives for freedom or who daily continue to fight against oppression. In recognizing Steve Biko, I have recognized more than a man, I have recognized a struggle. And despite the death of the man, the struggle will continue.

I would like to express my sincerest appreciation to Congressman Andrew Maguire for his efforts in delivering the award to the Biko family on my behalf, and for his recognition of the struggle of Black people in South Africa.

I had the honor of carrying with me to South Africa in July the NAACP award which I presented on behalf of the NAACP and I think, frankly, on behalf of all Americans, to the family and associates of Mr. Biko.

I met with Mrs. Nobandile Mvovo, the sister of Mr. Biko, who was detained last night without charges and without trial, and with Mr. Malusi Mpumlwana, one of Mr. Biko's associates in the black consciousness movement.

While the award was physically received by Mrs. Mvovo and Mr. Mpumlwana, the award was kept for presentation, on his release from detention, to Mr. Kenneth Rachidi, the most recent president until his banning on October 19 of last year, of the Black Peoples Convention, one of the organizations that Steve Biko inspired by his life and his work.

The Ad Hoc Committee on South Africa, which the gentleman and I have the honor to cochair is a group of more than 30 Congressmen who joined together in the wake of Steve Biko's death to form a group which would focus attention on and monitor developments in South Africa.

I think this would be an appropriate point to include the correspondence in the RECORD that we initiated with, first, the South African Ambassador to the United States, Ambassador, Sole, and subsequently with the Prime Minister himself.

I think many of us felt that if we had had such a group operating prior to Mr. Biko's confinement, his torture, the assault upon him bv the police, and his death, that he might, in fact, be alive today.

HOUSE OF REPRESENTATIVES,
Washington, D.C., October 12, 1977.

H'is Excellency DONALD B. SOLE,
Ambassador, Embassy of South Africa, 3051 Massachusetts Ave., Washington, D.C.

DEAR AMBASSADOR:

We, the undersigned Members of the House of Representatives, wish to thank you for meeting with a delegation of 11 of our colleagues on September 23 to express our concern over the death of Steve Biko. We greatly appreciate the opportunity to make our concerns known in a direct meeting between elected representatives of the American people and representatives of your government.

We share the delegation's disappointment that you did not agree with the suggestion that an independent international organization such as the International Red Cross, which has in the past been granted some access to your prisons, be allowed to conduct an autopsy on Mr. Biko's body to determine the cause of death. We were encouraged, however, by Counsellor Beukes statement that legal proceedings would establish beyond any doubt what happened in the Biko case.

We urge that the South African government reconsider its position against outside participation in an investigation of the circumstances of Mr. Biko's death. We also urge your government to seek a prompt and full judicial inquiry into all facts pertaining to the death of Mr. Biko, including fixing responsibility for his death.

We are equally concerned about the well-being of Mr. Peter Jones, the publicity secretary of the Black People's Convention, who was arrested with Mr. Biko in Grahamstown. There is no word as to the whereabouts of Mr. Jones—neither where he is being detained nor on what charges he is being held. In fact, one month after his arrest, Mr. Jones' mother is unable to obtain any information about the health or well-being of her son.

The press has reported that at least 20 other political detainees have died in detention in the past 18 months beginning with the death of Joseph Mdluli in March, 1976. We would appreciate a reply from your government detailing with regard to each of these previous cases: 1) The stated cause of death; 2) Whether an autopsy was conducted; 3) Whether an inquest was held; 4) Was the matter referred to a prompt judicial inquiry or verification by an impartial international body; 5) What information as to the cause of death, and responsibility for the death, was made public by your government; 6) Whether any administrative or criminal action was taken against any person who may have been responsible for or contributed to each death.

We share the Congressional delegation's concern that the Terrorism Act, and other laws, deny due process to thousands, indeed millions, of South Africans, white as well as black. The Biko case has clearly focused the world's attention on human rights in South Africa. We are concerned that in creating a separate class of political offenders, and by depriving them of due process of law, South Africa has created conditions which will lead to further deterioration inside South Africa and increasing isolation from other nations.

We therefore further urge the South African government to invite an appropriate public or private international body such as the Red Cross, the International Commission of Jurists, Amnesty International, or an appropriate body of the United Nations, to examine South Africa's laws and practices relating to detention and to make recommendations.

We, the undersigned, are firmly committed to our government's policy of furthering the cause of human rights internationally. We hope the South African government will display increased sensitivity to this issue.

We look forward to your early reply.

Thomas Downey, Edward Markey, Richard L. Ottinger, Morris Udall, Andrew Maguire, Helen Meyner, Bob Edgar, William Lehman.

Don Bonker, Carroll Hubbard, Les AuCoin, Bob Traxler, Don Fraser, Robert J. Cornell, Benjamin S. Rosenthal, Gladys Spellman, Berkley Bedell, Lester L. Wolff, Augustus F. Hawkins, Charles H. Wilson (California), Doug Walgren.

Lee H. Hamilton, Norman Dicks, Charles C. Diggs, Henry S. Reuss, Joseph Addabbo, John F. Seiberling, Dale E. Kildee, Bob Carr, Charles B. Rangel, Dan Glickman, Charles Wilson (Texas), Fred Richmond, Frank Thompson Jr.

Charles Rose, Christopher Dodd, James M. Jeffords, Joseph Ammerman, David L. Cornwell, Albert Gore, Jr., Robert Roe, John Conyers, Louis Stokes, Thomas A. Luken.

John Brademas, Jim Lloyd, Silvio Conte, Anthony C. Beilenson, Bruce Vento, Les Aspin, Mario Biaggi, Nick Rahall, Abner Mikva, Millicent Fenwick, Harold L. Volkmer.

Peter W. Rodino, Michael Harrington, Pete McCloskey, Richard A. Gephardt, Leon Panetta, Henry J. Nowak, Henry A. Waxman, William M. Brodhead, Henry C. Hollenbeck, Ted Weiss, Barbara A. Mikulski, Richard Nolan, Norman Mineta.

Yvonne Burke, Thomas Downey, John Burton, Peter H. Kostmayer, John Cavanaugh, Hamilton Fish, Jr., Ned Pattison, Stan Lundine, Ted Harkin, Floyd J. Fithian, John Krebs, Matthew F. McHugh, Joseph A. Le Fante.

David E. Bonior, Ralph H. Metcalfe, Ronald V. Dellums, James H. Scheuer, Harold Ford, William L. Clay, Elizabeth Holtzman, Jim Guy Tucker, Margaret Heckler, Baltasar Corrada, Andrew Jacobs, James Weaver.

Phillip Burton, Philip Sharp, Timothy E. Wirth, Pat Schroeder, Dante B. Fascell, Joseph Minish, Robert N. C. Nix, Marc L. Marks, Don Edwards, James Mattox, Donald J. Pease, Jonathan Bingham, Pete Stark.

Butler Derrick, Toby Moffett, Steve Solarz, Matthew J. Rinaldo, Stewart B. McKinney, Lawrence Coughlin, Gary A. Myers, William Stanton, William S. Cohen, Paul Tsongas, Parren J. Mitchell.

John B. Anderson, Herbert E. Harris Jr., Joseph L. Fisher, Melvin Price, Michael Blouin, Shirley Chisholm, Robert F. Drinan, Walter E. Fauntroy, Herman Badillo, George E. Brown Jr.

EMBASSY OF SOUTH AFRICA,
Washington, D.C., October 17, 1978.

Hon. ANDREW MAGUIRE,
Longworth House Office Building,
Washington, D.C.

DEAR MR. MAGUIRE: I acknowledge receipt of your letter of October 12, signed by members of the House of Representatives, which you have addressed to me as a follow-up to our meeting on September 23. The contents of your letter have been brought to the attention of the appropriate authorities.

As regards your inquiry about Mr. Peter Jones, the only official information I have is that he has been detained in terms of the relevant provisions of South Africa's anti-terrorism legislation. However, while you state in your letter of October 12, ". . . one month after his arrest, Mr. Jones' mother is unable to obtain any information about the health or well-being of her son," it is noted in an earlier letter which you signed, dated October 7, that "Press reports indicate that Mr. Jones has been allowed to see his family recently."

With reference to your appeal to the South African Government ". . . to seek a prompt and full judicial inquiry into all facts pertaining to the death of Mr. Biko, including fixing responsibility for his death," the first step in terms of South African practice is the holding of the official inquest which will take place once the report of the team of pathologists who conducted the autopsy has been completed.

While anxious to be of assistance in responding to your enquiries, I do not believe that a constructive dialogue can take place as a follow-up to the meeting which I already had with you and several of your colleagues until the results of the autopsy are known and the Government's decisions thereanent have been announced—if the autopsy results indicate the need for additional action on the part of the Government.

Yours sincerely,

D. B. SOLE.

HOUSE OF REPRESENTATIVES,
Washington, D.C., October 25, 1977.

Hon. JOHN VORSTER,
Prime Minister,
Government of South Africa,
Pretoria, South Africa

MR. PRIME MINISTER: Enclosed you will find copies of a letter to Ambassador D. B. Sole dated October 12 and signed by 128 Members of the United States Congress—including important committee chairmen of the Armed Services, Banking, Judiciary and International organization such as the International from both the Democratic and Republican parties—together with the Ambassador's reply of October 17.

You will note that the Ambassador's reply is not responsive to most of the content of our letter, which prompts us now to write to you directly.

Specifically, the Ambassador's letter does not respond to our request for information on the 20 or more political detainees who have died in detention in the past 18 months. It does not tell us where Mr. Peter Jones is being held now and on what charges if any. It does not comment on our renewed suggestion that an independent international orgaization such as the International Red Cross be permitted to participate in ascertaining the facts with respect to the cause and the circumstances of Mr. Steve Biko's death. It does not comment on our suggestion that your government invite an appropriate public or private international body to examine and make recommendations on South Africa's laws and practices relating to detention.

Since our October 12 letter was written, your government has closed down newspapers and religious, social and cultural organizations and arrested or banned scores of additional people, including editors, writers, religious, and community leaders. We cannot but agree with the statement of the South African Institute of Race Relations that:

"This is an act of ruthless tyranny, it is an act insensate in its stupidity, tragic in its dimensions, and incalculable in the harm it does the people of this country, and the republic's international relationships."

We believe that even by South African standards the actions your government has taken do not represent an incremental change, but rather a major turning point in South African history. The pretense is gone; all that remains is the mailed first of repression based on the racist principle that blacks shall forever be ruled by whites, through whatever forms of tyranny are necessary. It is our judgment, therefore, that this must also be a major turning point in our bilateral relations and in South Africa's relations with the rest of the international community.

Mr. Prime Minister, a group of 29 Congressmen have formed an ad hoc group to monitor, using all possible sources of information, the identity, whereabouts and condition of all those people whom your government has detained without charges, without access to family or legal counsel, without due process of law, without any semblance of the rule of law. Should you choose to assure us and the world as to their numbers and identity, their whereabouts, safety, and condition, your intentions with respect to them, and any charges which have since been entered against them, we would appreciate receiving a listing of same.

ANDREW MAGUIRE.
TOM DOWNEY.

OCTOBER 27, 1977.

Hon. TOM DOWNEY, ANDREW MAGUIRE,
Longworth House Office Building,
Washington, D.C.

DEAR MR. DOWNEY AND MR. MAGUIRE: Please refer to your letter of October 25 to the South African Prime Minister, a copy of which you sent to me. I thank you for this courtesy and write to let you know that I am available for discussions at any mutually convenient time, should you so wish, under the understanding that, since you have now written directly to the Prime Minister, I cannot of course, prejudge how he will reply to your communication.

I would simply comment at this stage that your contention that it is South African government policy that "Blacks shall forever be ruled by whites, through whatever forms of tyranny are necessary" is completely contrary to my understanding of that policy.

Yours sincerely,

D. B. SOLE.

LONGWORTH HOUSE OFFICE BUILDING,
Washington, D.C., July 25, 1978.

The Honorable, MINISTER OF JUSTICE,
Union Buildings, Pretoria,

DEAR SIR: On behalf of the ad hoc Congressional Monitoring Group on South Africa and of the Lawyers Committee for Civil Rights under Law, I request the following information from you relative to the persons listed below:

1. Daniel Sechaba Montsisi
2. Jan Tugwane
3. Nana Ethel Sibeko
4. Joseph Thiolos
5. Sibongela Khubheka
6. Deborah (Debe) Matahobe
7. Sipho Pityana

I would be pleased if you would let me have the following information with regard to each of the persons abovementioned.

(i) The date on which each person was arrested and the place thereof;

(ii) The section and law under which the person is presently being detained;

(iii) When it is anticipated that the person will be brought to court and the nature of the charges that will be proferred against him/her;

(iv) What is the state of health of the persons concerned;

(v) Where each person is presently being detained.

As I will be in the Republic of South Africa until the 1st August, 1978 and if this information requested can be given to me before I leave the Republic you may communicate with me care of the United States Embassy in Pretoria, telephone 48-4366.

As the organizations abovementioned are particularly concerned about the fate of the persons named your urgent responses to this matter and answers to each of the questions requested will be appreciated.

I look forward to your responses.

Yours faithfully,

ANDREW MAGUIRE.

At this point in the RECORD, Mr. Speaker, if the gentleman from New York (Mr. DOWNEY) will permit, I would also like to insert some additional items, including an article summarizing my findings upon my return from my South African trip, an article that appeared in the Record, a New Jersey newspaper.

I would also like to summarize at some greater length in the RECORD the material included in the final chapter called "Indictment" in Donald Woods' book, "Biko."

The article follows:

[From the RECORD, Aug. 4, 1978]

MAGUIRE: PRESSURE SOUTH AFRICANS MORE

(By Bob Cunningham)

WASHINGTON.—Returning from a two-week tour of South Africa, Rep. Andrew Maguire said yesterday that the United States and American corporations with interests there should increase their pressure on that country's white minority government.

The Bergen Democrat said the students, black leaders, lawyers, and religious leaders he met confirmed tales of torture, mass killings, and unjust imprisonment of black South Africans.

"I am accusing the government of South Africa of suppressing and attempting to eliminate black leaders," Maguire said. "Whether we succeed in influencing that government or not, we ought to dissociate ourselves from it.

"I would like to level off our investments and pull back our involvements in a phased way so the government can see the consequences," he said. "In the past, our economic and political relationships have given them the feeling that they could continue what they are doing."

A spokesman for General Motors, which with Ford Motor Co. ranks behind three European and Japanese auto manufacturers in South African trade, said he doubted that companies would pull out of the country voluntarily. One reason is that other foreign manufacturers would take up the slack.

Maguire acknowledged that some South African leaders would rather do without United States trade than change their apartheid policies. He said other governments could also impose trade sanctions. Britain, for example, has more money invested in black African countries than in South Africa, and Maguire said it must protect those investments.

Maguire relayed one story told by a young man who said he had been in Soweto two years ago when hundreds of students were killed by police when they demonstrated against laws requiring that they be taught in Africaans, the language of the minority government.

The man said he had been standing beside a young girl who was shot by police. He did not know what to do with her body, Maguire said, so he asked the police.

"He was immediately himself locked up and kept for days," Maguire said. "Each day when the police vehicles would bring in young bodies, he was taken out to the spot where they were unloaded and stood there to watch. A policeman told him, 'That is what White Power does to Black Power.'

"This government is not a democracy," Maguire said. "It is in fact a police state with respect to nonwhite people. I left South Africa enormously discouraged about the future of the country. It is on a suicidal course."

The congressman has been following South African problems since his days as a student at London University's School of Oriental and African Studies. He also worked on African affairs at the United States Mission to the United Nations.

He was invited on the African tour by the World Peace Foundation because he is the coordinator of Ad Hoc Committee on South Africa in Congress.

Maguire presented a humanitarian award on behalf of the NAACP in memory of Steven Biko, the black South African leader who died in police custody last fall.

Biko's family did not accept the award but asked that it be given to another black leader, Kenny Rachidi, now in prison. An associate of Rachidi accepted the award.

Maguire was refused permission to visit jails, including the one in which Biko died.

Mr. Speaker, the material to which I referred is as follows:

6: THE INDICTMENT

Since the State has not seen fit to indict anyone for the death of Steve Biko, it becomes necessary to indict the State. By the State is meant, in this instance, the minority regime that has ruled South Africa for thirty years, with ever-increasing contempt for democratic values and with evergrowing arrogance toward all who hold such values to be paramount. And since the Nationalist Party government has consistently identified itself with the State, has claimed that it represents the State, and has accused its most zealous critics of being enemies of the State, let it now therefore be regarded as the personification of the State for purposes of indictment.

This means that the Vorster government and all its supporters bear the responsibility for what happened to Steve Biko.

But precisely who struck the fatal blows is relatively unimportant. All these men mentioned so far are petty offenders in the scale of outrage. The real killer was the System—and all its representatives involved in this tragedy. Two members of the Nationalist cabinet are most responsible for the circumstances under which Steve Biko died—Police Minister J. T. Kruger and Premier B. J. Vorster.

More than anyone else, these two men created the conditions, the climate of opinion, the statutes and the state of mind of the Security Police which led to this particular killing.

Just as Hitler's "Final Solution to the Jewish problem" was the ultimate consequence of earlier Nazi policy, so deaths such as those of Steve Biko are inevitably the appropriate result of the apartheid policy since its inception.

Having to wear a yellow armband and having to die in a gas-chamber at Auschwitz were but two links in the same chain of racism. These two links might have been at opposite ends of the chain—but the chain was the same. Having to carry a "pass" and having to die of assault in detention are similarly two links of the same chain.

If you feel impelled to enforce at all costs the wearing of armbands, you have to end up herding people into gas chambers. And if you feel impelled to enforce at all costs a separation of races, you have to end up killing people.

The death of Steve Biko requires a reaction of outrage to be shouted to the four corners of the earth. It has finally and incontrovertibly been established that the policy of apartheid is the most outrageous affront to all humanity that has ever been devised by collective decision since the dawn of procedural government.

The obscene laws which constitute apartheid are not crazed edicts issued by a dictator, nor the whims of a megalomanic monster, nor the one-man decisions of a fanatical ideologue. They are the result of polite caucus discussions by hundreds of delegates in sober suits, after full debate in party congresses. They are passed after three solemn readings in a parliament which opens every day's proceedings with a prayer to Jesus Christ.

There is a special horror in that fact.

It is the most contentious moral crisis in the world today, and those who refuse to interest or involve themselves in it are giving tacit approval to it. No human being of conscience can remain neutral in a moral crisis of conscience. Apartheid exists in defiance of this and this is why, today, it has now become a real threat to world peace.

Apartheid is a carefully calculated, meticulously planned network of racist laws whose viciousness is equalled only by the deliberation of the process which gave birth to each one of them. The Vorster government should not boast of South Africa's long tradition of parliamentary lawmaking. The fact of that trading does not mitigate apartheid; it condemns it all the more.

One of the final claims made in its favor by the Nationalist government is that South Africa has a fair system of administration and justice and an independent judiciary. This claim, also, is no longer true. The Nationalists have finally destroyed the entire basis of the system of law inherited in 1948 from the Roman-Dutch legal tradition. All that is left is a tiny vestige of that once-proud legal tradition.

It is true that any South African citizen can still win a civil or criminal case—provided one has a great deal of money; one has the right judge and magistrate; and one is free to institute such proceedings. Today there are few independent judges or magistrates in South Africa where political cases are concerned.

Police, magistrates, judges, prosecutors, few indeed are completely free to pursue objective standards of justice. Most judges in South Africa adhere to the belief that their function in regard to statute law is solely to interpret and apply it—which means in effect, in many cases, to implement apartheid regardless of the principles of justice.

Apartheid is not simply a regrettable localized aberration of importance only to South Africa. It is a universal moral crisis and no nation can in conscience stand back and adopt a neutral or passive attitude to it. Apartheid is an affront to every single member of the family of mankind.

Apartheid is therefore a challenge to every citizen of every country on earth. It is a challenge that should be met with all the ingenuity and idealism of which all people of principle are capable.

If I could speak to every person on this globe, I would speak of my friend Steve Biko, who died naked on the floor of a prison cell after suffering torture and torment at the hands of men who represent an especially horrible form of evil—the evil of racism, which inflicts hatred and rejection upon its victims for being born with a dark skin. I would tell of how the society that bred such a system then exonerated his killers, condoned the laughter with which their superiors greeted the news of his death, and voted the man chiefly responsible for it back into office with an increased majority.

I would tell of how Steve Biko's death, although especially tragic for me, was by no means the first of its kind in South Africa, nor the last, and that it was but the most publicized, most heightened dramatization of the ultimate effect of unbridled apartheid.

Steve Biko's death could be regarded as a symbolic representation of the sufferings of all black South Africans under the apartheid system. His death was physical. Most of the deaths caused by apartheid are spiritual. There are countless deaths of morale and hope and self-esteem.

For many of his fellow-citizens, Steve Biko ended such deaths of morale. He shattered many of the psychological bonds that used to shackle young blacks in South Africa. In terms of the spiritual self-esteem of young blacks in South Africa, particularly, he was a breaker of chains.

Perhaps that, far more than any other, was the reason why the System killed him.

Mr. Speaker, the gentleman from New York (Mr. DOWNEY) and I have shared a concern about U.S. policy toward South Africa in the light of these events and all we know about what is going on there, and we have shared a concern about the expression of U.S. interests.

Mr. Speaker, I do not know whether this is the time really to pursue a lengthy discussion of that matter, but I know the gentleman shares my concern that the U.S. Government has not done nearly enough to match its words with action.

Mr. DOWNEY. Mr. Speaker, I think the gentleman from New Jersey (Mr. MAGUIRE) is absolutely correct.

As was pointed out in a detailed study done by the Foreign Relations Committee of the other body on American involvement, there is, for instance, the loan exposure. The loan exposure of American banks and other interest amounts to more than $2.2 billion, and that has in fact since 1970 helped fuel the arms buildup in South Africa and has helped the South African Government to acquire numerous weapons from abroad.

I do not think there is any question, from conversations I have had with South African black leaders, as well as from conversations that the gentleman from New Jersey (Mr. MAGUIRE) has had, that they would like to see an end to this American involvement, and that they full well recognize that the 70,000 or more blacks who are employed and who receive better wages than the average black in South Africa will be the first to suffer in the event that the United States should remove its presence, both privately and publicly, in South Africa.

But they see that as one of the prices that they must pay to achieve the sort of regime in which they would be able to participate fully.

Mr. Speaker, I want to make one other point with the gentleman. We have often heard it stated on this floor that we single out South Africa while on that continent there is a host of other countries in which human rights are systematically trampled under foot, and that it is unfair and unreasonable to select South Africa as a whipping boy. People will cite the Central African Republic

and the preposterous regime of Mr. Amin in Uganda.

I would like to know how the gentleman from New Jersey (Mr. MAGUIRE) responds to these arguments. I simply respond by saying that this is a society in which there is a Dutch and English tradition, a tradition of freedom and a tradition of law, and when a society has those traditions, one expects a great deal from it. But they have not lived up to those traditions, and it is preposterous to hold one's self out as a 20th century democracy and yet continue a policy of apartheid.

I would be curious to know how the gentleman from New Jersey responds to people who ask: "Why single out South Africa when there are so many other countries on that continent that deprive individual citizens of their basic human rights?" Could the gentleman offer us his feelings on that subject?

Mr. MAGUIRE. Mr. Speaker, if the gentleman will yield further, I would certainly be glad to do that.

I think the answer is that South Africa is the only country on the face of the Earth in which institutionalized racism, enshrined in law and backed by force, is the determining factor in every aspect of the life of the country. South Africa is utterly unique in that respect.

I might again refer to Donald Woods and quote him as follows:

> The death of Steve Biko requires a reaction of outrage to be shouted to the four corners of the earth. It has finally and uncontrovertibly been established that the policy of apartheid is the most outrageous affront to all humanity that has ever been devised by collective decision since the dawn of procedural government.

Mr. DOWNEY. Mr. Speaker, I think that rather summarizes it well.

Is the gentleman from New Jersey (Mr. MAGUIRE) desirous of using more time?

Mr. MAGUIRE. Mr. Speaker, I would like to add just one or two more things, if the gentleman will permit.

Mr. DOWNEY. I yield to the gentleman from New Jersey.

I think it would be appropriate to include at this point in the RECORD a copy of a letter which was sent by the gentleman and myself, and a number of other Members of Congress, just a few days ago, to the President of the United States, Mr. Jimmy Carter, with respect to the proposed destruction of Crossroads. In addition to the signatures of the gentleman from New York (Mr. DOWNEY) and myself, the following letter contains the signatures of the gentleman from Iowa (Mr. HARKIN), the gentleman from Michigan (Mr. CONYERS), the gentleman from Massachusetts (Mr. TSONGAS), the gentleman from Michigan (Mr. BRODHEAD), the gentleman from Minnesota (Mr. FRASER), the gentlewoman from New Jersey (Mrs. MEYNER), the gentleman from New York (Mr. OTTINGER), the gentleman from California (Mr. EDWARDS), the gentleman from Pennsylvania (Mr. EILBERG), the gentleman from Ohio (Mr. STOKES), the gentleman from Iowa (Mr. BEDELL), the gentleman from New Jersey (Mr. HOLLENBECK), and the gentleman from Massachusetts (Mr. MARKEY):

AUGUST 21, 1978.

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR PRESIDENT CARTER: The South African government is once again about to demonstrate its lack of concern for basic human rights of the black residents of its country. We are informed that soon bulldozers will demolish the peaceful squatters' community of Crossroads, in Capetown.

Crossroads is the home of over 20,000 blacks who have developed the area into their own community, with their own schools and facilities. These families live quietly. Some people work in Capetown's industries, but because of government policy few jobs are available to blacks, and those that are are in unskilled menial positions.

The government plans to relocate these people either in homelands many miles away or to let them live in the surrounding sand flats. Their 3,000 "pondokkies" (shanties) will be obliterated by bulldozers.

One leader of the Congressional Ad Hoc Monitoring Group, Congressman Maguire, recently visited Crossroads and returned convinced of the importance of its existence. We believe that although it may be too late for the United States to intervene in the situation, it is important for the United States to respond to this atrocity through high level expressions of concern. Many times your administration has voiced its disapproval of the repressive policies of the South African government. But the United States must act on this disapproval. This is only one in a chain of oppressive events which we cannot allow to continue.

On Friday, August 18, you were sent a copy of a telegram Congress Maguire sent to Prime Minister Vorster expressing his concern for the Crossroads situation. We hope that you will also convey your concern for this most recent atrocity, and that you will keep it in mind as you continue to refine our policy towards South Africa.

Sincerely,

ANDREW MAGUIRE.
THOMAS DOWNEY.

In addition, I sent a telegram to Prime Minister John Vorster, as follows:

> Mr. Prime Minister: During my recent visit to South Africa I visited residents of the community called Crossroads in Capetown. They told me of the plans to destroy the community and send the people to live in Homelands. I now learn that you intend to go ahead with the plans to bulldoze the community next week. I am appalled at the idea of the destruction of this peaceful community where over 20,000 blacks have lived during the past 20 years. This action will destroy thousands of families and ruin thousands of lives. It should not be allowed to occur. The destruction of Crossroads is an outrage to humanity. I want to inform you that many members of Congress have joined me and Representative Thomas Downey and the ad hoc monitoring group on South Africa, which we co-chair, in alerting President Carter to this action. This is another in the series of repressive actions committed against blacks in South Africa. Be assured that we will continue to monitor the acts of your government closely, and that we will do all that we can to inform the American people of the continuing deprivation of human rights which continues to occur. Congressman Andrew Maguire.

We are on the verge of yet another South African tragedy. We have written you previously about the squatters community of Crossroads, outside of Capetown. This village, which is the home of over 20,000 Africans, may soon be destroyed.

It is the policy of the South African Government that certain areas of the country be reserved for white occupation only. African workers are forced to migrate great distances and to leave their families for long periods of time, in order to work. They are paid substandard wages and are refused Government assistance in finding housing. Often, their only housing choice is a dormitory with up to 30 other men in one room. They are able to see their families only 3 weeks during the year.

Crossroads was established in 1975 for squatters who have lived, on the average, in the western cape region for over a decade. Some Crossroads residents have lived around Capetown for over 25 years. Most of the residents moved to the community after being evicted from squatters' camps in the area.

They moved to Crossroads to be able to live with their wives and children. In June 1976, Crossroads was recognized as an "emergency camp." Water lines leading to a communal tap were installed, a health clinic was set up, and basic refuse removal began. The settlement now has two schools, with classes, arts groups, sports clubs and cooperative self-help programs. Over 73 percent of the men at Crossroads and 25 percent of the women are formally employed. Informal employment adds another 11 percent of the men and 20 percent of the women. The residents of Crossroads are gainfully involved in the prosperity of the Capetown region.

Yet the residents are also under constant torment and harassment. Just last week, the South African police moved in and arrested over 400 residents. The government tries constantly to force them to leave their homes to return the women to the "Homelands." But the residents have vowed to remain until they are physically removed from their homes.

More often than not, a squatters' camp is a sordid and dismal place for a human being to be forced to live. In Crossroads, as in all other squatters' camps, the community exists to serve the basic human needs of a family—the basic need of sharing human life with those one loves. But Crossroads is also something different. The residents have made a courageous attempt to convert something of baseness into something of beauty. Plans for the introduction of sanitary facilities and for urban development were begun to make the intolerable slightly more adequate.

Crossroads' flourishing existence speaks with great clarity of the resolve of human dignity and the decency of these people. Its imminent destruction speaks with the same clarity of the stupidity and cruelty of human folly and of the fear of the government leaders.

The South African Government says that there is nothing that can be done to save Crossroads. Perhaps they are right. But we must meet this forthcoming action of the South African Government with an even stronger resolve toward an American policy calling for full political participation of all groups and an end to oppression and racial discrimination in South Africa.

So, on this, the anniversary of the death—while in detention—of Steve Biko, we honor the contribution he made to the black consciousness movement in South Africa, and add our voices to the

growing clamor against the apartheid policies of the South African Government.

Mr. Speaker, I thank the gentleman very much for his forebearance, and I appreciate the opportunity to participate in his special order.

Mr. DOWNEY. Mr. Speaker, let me just say to the gentleman that it is my privilege to be associated with him. He is a constant and vigilant reminder of what it is we have come here to serve in this House of Representatives, and I think that the 1 hour and 15 minutes that we pay homage to one of the great world leaders is very little time to spend indeed.

Mr. Speaker, I thank the gentleman for his thoughtful presentation. It is a fitting tribute.

I want to take a few moments and join my colleagues in some personal reflections about the death of Steve Biko who died 1 year ago at the hands of South African security police.

Steve Biko's death was both a personal and political tragedy for South Africa. As Ambassador Young stated at the time "no nation can afford to lose its most dedicated and creative leadership and yet prosper."

Steve Biko was a moderate South African leader whose crime in the eyes of the Nationalist Government was that he believed that blacks and whites are equal. For preaching those beliefs, he died.

Based on my limited experience with South Africa I believe that time is running out for a peaceful racial settlement in that country.

The Nationalists are reaping what they sow. A systematic attempt to wipe-out the emerging black leadership, regardless of political persuasion, will only guarantee guerrilla warfare in South Africa. For example: the 1963 Sharpeville massacre helped force the African National Congress, for 50 years a nonviolent expression of black rights, into taking up arms. The 1976 Soweto uprising saw thousands of young blacks flee the country for guerrilla training. The 1977 death of Steve Biko and the October 19 mass arrests sent more blacks across South Africa's borders into guerrilla camps.

As we reflect on the death of Steve Biko today, I think it is also important for us to reexamine the U.S. role in South Africa. Sadly, we are not a force for change. Within a few weeks a black squatter community of some 20,000 people outside of Cape Town will probably be razed. When it is, U.S.-made bulldozers guarded by Army jeeps manufactured by Ford Motor Co. will probably be in evidence. What inference is the black South African supposed to draw from this? U.S. economic and political ties only serve to prop-up the racism South African Government against 18 million blacks and 3 million nonwhites.

Steve Biko's death a year ago was certainly a watershed for South Africa. His tragic death signaled that the security police would stop at nothing to suppress black political leadership. I hope that Steve Biko's death represents a benchmark here in the United States too. I think that it is past time that we stop U.S. export-import loan guarantees to South Africa. It is past time that we started limiting U.S. investment in South Africa. The Carter administration must exert strong pressure on South Africa to save the Cape Town Crossroads community.

The lesson of Steve Biko's death is that the future foreign policy of the United States must learn from its past mistakes. Benevolent cries of protest will not stop South African police from killing future Steve Bikos. The United States must begin to exert real political and economic pressure on South Africa or Steve Biko will have died in vain.

● Mr. ANDERSON of Illinois. Mr. Speaker, I am pleased to join in this special order of the gentleman from New Jersey (Mr. MAGUIRE) to commemorate the first anniversary of the mysterious death of Steve Biko in a South African prison. We take this occasion not only to mark the anniversary of the death of the black, South African youth leader, but to help refocus American and world attention on the intolerable conditions in South Africa's apartheid society which surrounded the detention and death of Steve Biko.

Steve Biko and other youth leaders were rounded up and detained following the South African Government's brutal reaction to the peaceful demonstration by Soweto school students on June 16, 1976, against instruction conducted in Afrikaans. The Soweto massacre and immediate aftermath left 600 Africans and coloureds dead. The death of Steve Biko last year only accelerated popular protests against the South African Government's policies. On October 19, 1977, the Government took sweeping measures to repress all dissent by closing down newspapers, outlawing various peaceful, religious and social groups, and detaining and banning South African white and black citizens opposed to apartheid.

The reported arrest yesterday of Steve Biko's sister and her friends, and the imminent destruction of the squatters community of Crossroads, are but further evidence that the South African Government is stepping up its suppression of basic human rights in that country.

Mr. Speaker, I would remind my colleagues that last October 31 this body voted overwhelmingly, 347 to 54, for a resolution denouncing these repressive acts committed by the Republic of South Africa. That resolution went on to urge the President "to take effective measures against the Republic of South Africa in order to register the deep concern of the American people about the continued violation of human rights in that country."

Let us take the occasion of this first anniversary of Steve Biko's death to rededicate ourselves to the eradication of such human rights violations wherever they may occur, and especially to the cause of racial peace and justice within South Africa. Hopefully, our continued vigilance and voice will encourage the forces of reason and moderation within South Africa to reverse this trend of repression and being the march toward full equality for all that country's citizens.●

GENERAL LEAVE

Mr. DOWNEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include therein extraneous matter, on the subject of the special order today of the gentleman from New Jersey (Mr. MAGUIRE).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

THE NOISY AIRCRAFT BILL DECIBELS OF JOY TO THE AIRLINES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, when the rule on the Noisy Aircraft Revenue and Credit Act is considered tomorrow, it should be voted down so that an open rule could be adopted to provide for a full and proper analysis of the proposal. The modified closed rule "protects" the $3 to $4 billion trust fund giveway from any meaningful review.

First of all, the revenue loss from the trust fund estimated at $3 billion—will probably exceed $4 billion. Increased airline passenger use and higher revenues will boost the give-away to the airlines to well over $4 billion.

The FAA has estimated that the cost of compliance with noise regulations by 1984 will cost under a billion dollars—about 950 million. Why give the airlines 400 percent more than will be needed for noise retrofit?

The airlines will buy new planes for expansion of their fleets but not for compliance. The credit for new plane purchases is not contingent upon the retirement of noisy aircraft which will fly the friendly skies until 1985 or until they disintegrate with decibel shock.

According to the Air Traffic Association, $2½ billion Federal dollars will be spent to replace 414 DC-8's and 707's with new planes. The old planes have an average age of 18 years by 1985. For tax purposes these planes were written off 8 to 10 years ago. The CAB predicts that all of these planes will be retired by 1985 simply because they are no longer economic. These planes would have to be phased out by obsolescence—even if the noise regulations were dropped. The noisy aircraft revenue and credit bill simply pays the airlines to do what they must do in any circumstance.

Economic reasons mandate the purchase of new aircraft. Escalating costs of energy demand greater fuel efficiency. Without this $4 billion bonanza, America's airlines would move forward on their plane purchase orders.

The commercial airline industry in America has never been in better health. Planes are filled in all directions, profits are soaring; capital for investment is increasing. This is not a failing industry which requires an infusion of $4 billion Federal taxpayer dollars. This legislation constitutes an aid program to one of America's healthiest industries. If we do

this for the airlines—who will be next in line for Federal largess.

The case has not been made for a $4 billion gift to the commercial airline industry.●

PERSONAL EXPLANATION

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. MIKVA. Mr. Speaker, I was unable to be present on the House floor for rollcall votes 715 through 743, because of prior commitments in the 10th Congressional District. Had I been present I would have voted as follows.

On Thursday, August 17: "Yes," on rollcall 715, the conference report on H.R. 13467, the Supplemental Appropriations Act; "No," on rollcall 716, a motion to recede and concur in Senate amendments to the supplemental appropriations bill to provide funding for the new Senate office building; "Yes," on rollcall 717, conference report on H.R. 12935, Legislative Branch Appropriations; "Yes," on rollcall 718, conference report on H.R. 12927, DOD military construction appropriations; "Yes," on rollcall 719, the conference report on H.R. 13468, District of Columbia Government Appropriations; "Yes," on rollcall 720, the conference report on S. 9, Outer Continental Shelf Lands Act Amendments of 1978; "No," on rollcall 721, the conference report on H.R. 12240, Intelligence Authorization; "Yes," on rollcall 722, rule providing for consideration of the U.S. Railway Association appropriations; and "Yes," on rollcall 723, H.R. 10898, the U.S. Railway Association appropriations.

On Wednesday, September 6: "No," on rollcall 725, the Treen amendment to the Civil Rights Commission Authorization Act, prohibiting the Commission from investigating abortion issues; "Yes," on rollcall 726, the New York City aid appropriations, House Joint Resolution 1088; "No," on rollcall 727, McClory amendment to the Foreign Surveillance Act, allowing electronic surveillance of non-U.S. persons with the certification of the Attorney General; and "No," on rollcall 728, the Ertel amendment to the Foreign Surveillance Act, eliminating language providing for a special court to have jurisdiction over orders of surveillance.

On Thursday, September 7: "No," on rollcall 731, the motion to agree to the Senate amendment to the Treasury-Postal Service appropriations bill, prohibiting the imposition of oil import fees; "No," on rollcall 733, the Kemp amendment to the Foreign Surveillance Act that sought to require the President to inform both House and Senate Intelligence Committees when he has reason to believe that an individual with diplomatic immunity is engaging in electronic surveillance in the United States; "No," on rollcall 734, the amendment to the Foreign Surveillance Act in the nature of a substitute that sought to strike the requirement for obtaining a warrant for electronic surveillance; "No," on rollcall 735, on reconsideration of the amendment by Representative MCCLORY to the Foreign Surveillance Act. That was passed the previous day by a 178 to 176 margin (the amendment dealt with electronic surveillance of non-U.S. persons); "No," on rollcall 736, the motion to recommit H.R. 7308, the Foreign Surveillance Act, to the Select Committee on Intelligence; "Yes," on rollcall 737, final passage of H.R. 7308, the Foreign Surveillance Act; "Yes," on rollcall 738, to resolve into the Committee of the Whole for further consideration of Civil Service Reform Act, H.R. 11280; and "Yes," on rollcall 739, to table the motion to reconsider the previous vote, rollcall 738.

On Friday, September 8: "Yes," on rollcall 740, the rule under which the bill H.R. 11711, Adjustment Assistance Act; "No," on rollcall 741, the motion to recommit the Hawaiian Natives Claims Act; "Yes," on rollcall 742, the committee amendment providing for an alternative eligibilty requirement which permits workers to qualify on the basis of 40 weeks of employment in one or more trade-impacted firms in the preceding 2 years; and "Yes," on rollcall 743, final passage of H.R. 11711, Adjustment Assistance Act.

On Monday, September 11: "Yes," on rollcall 749, the Leach amendment to the civil service reform bill, that set a statutory ceiling on the total number of Federal employees in the executive branch; "No," on rollcall 750, the Collins amendment that sought to permit the FBI to place 140 positions in GS 16–18, without regard to the provisions placing limitations on executive level positions; "No," on rollcall 751, the Erlenborn amendment to the civil service reform bill, that sought to strike the labor-management and employee relations language from the bill: and "No," on rollcall 752, the motion that the Committee of the Whole House rise and report the bill H.R. 11280 back to the House, with the reconsideration that the enacting clause be stricken.●

POLITICAL STATUS OF PUERTO RICO

Mr. CORRADA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. CORRADA. Mr. Speaker, the Decolonization Committee of the United Nations is currently considering the case of the political status of Puerto Rico. At the insistence of Cuba this debate has become a yearly affair since 1972.

In an excellent and comprehensive testimony, the Governor of Puerto Rico, the Honorable Carlos Romero-Barceló, enunciates our position that the Decolonization Committee has absolutely no right or power to intervene in what is, in reality, an internal matter between the people of Puerto Rico and the United States. Governor Romero-Barceló has already announced that a plebiscite on the political status issue will be held after the 1980 general election. The true actors in this matter will be our people, Congress, and the President and not the United Nations.

Mr. Speaker, I include Governor Romero-Barceló's testimony before the Decolonization Committee of the United Nations in the RECORD and reprinted in full:

TESTIMONY BY THE HONORABLE CARLOS ROMERO-BARCELÓ, GOVERNOR OF PUERTO RICO

Mr. Chairman, members of the Committee: My name is Carlos Romero-Barceló. I am the Governor of Puerto Rico, elected to a four-year term by the people of Puerto Rico on November 2, 1976.

In 1946, during the United Nations' first full year in existence, the United States of America offered voluntarily to submit annual reports on the status of its non-self-governing territories, in keeping with the spirit of Article 73 of the United Nations Charter. Those territories then included Alaska, Guam, Hawaii, Puerto Rico, American Samoa, and the United States Virgin Islands. Annual reports on Alaska and Hawaii were discontinued upon their admission in 1959 as the forty-ninth and fiftieth of the United States of America.

A quarter of a century ago, the United Nations Committee on Information from Non-Self-Governing Territories—also known as the Fourth Committee—determined that the people of Puerto Rico enjoyed a full measure of self-government. In response to that determination, the United Nations General Assembly, at its Eighth Session, adopted on November 27, 1953 its Resolution 748, wherein it relieved the United States of America from any responsibility for filing annual reports concerning Puerto Rico's political status, and wherein the General Assembly declared that, and I quote, "in the framework of their Constitution and of the compact agreed upon with the United States of America, the people of the Commonwealth of Puerto Rico have been invested with attributes of political sovereignty which clearly identify the status of self-government attained by the Puerto Rican people as that of an autonomous political entity." End of quote.

That was twenty-five years ago.

Since then, the people of Puerto Rico have elected a total of five different men from among two different political parties to lead them as Governor. During that interval, the people of Puerto Rico have also held a plebiscite on their political status.

During that period of time, not one of the island's five governors has come before any instrumentality of the United Nations to register a complaint against the United States, nor to request any review or reconsideration of Resolution 748 of the Eighth General Assembly Session. Indeed, until today, no Governor of Puerto Rico had ever formally approached the United Nations on *any* matter related to our island's relationship with the United States.

Nevertheless, despite the absence of any initiative on the part of any duly elected Government of Puerto Rico, your Committee has since 1972 been discussing "the Puerto Rico question" on a regular basis.

These discussions have been held at the behest of an adversary of the United States, in support of a political faction in Puerto Rico whose electoral strength has remained at less than seven percent of the voting public for two decades.

During our twenty-five years as a community enjoying "a full measure of self-government," Puerto Rico's democratic institutions have received the enthusiastic support of the island's inhabitants. From three to six political parties have appeared on the ballot in each general election. An average of four-fifths of Puerto Rico's eligible voters have participated in each election. Both men and women possess the right to vote, and in 1970 the minimum voting age was lowered from twenty-one to eighteen years.

But perhaps the most eloquent demonstration of the strength and integrity of Puerto Rico's democratic system of government has been the fate of incumbent Administrations: in each of the last three quadrennial elections held in Puerto Rico, the political party in power has gone down to defeat; moreover, the last five elections in Puerto Rico have elevated no less than five different men to the governorship, even though the Puerto Rican Constitution permits an incumbent Governor to seek re-election to an indefinite number of terms. And I might add that each change of Administration was effected lawfully and peacefully.

As we survey the Puerto Rican people's aggressive and responsible exercise of their electoral prerogative over the past quarter-century, one highly significant fact stands out clearly: each and every time the Puerto Rican people have removed from office an incumbent Governor and/or political party, they have chosen a new Governor and/or political party which, like their predecessors, firmly espoused the principle of permanent union between Puerto Rico and the United States of America.

In each of these elections, candidates advocating Puerto Rico's independence participated freely, energetically, and without constraint. And in each election they were resoundingly defeated. In 1976, even the local Communist faction took its case to the electorate. Calling itself the Puerto Rico Socialist Party, it campaigned throughout the island, yet won only seven-tenths of one percent of the total vote, and elected no candidates. The non-Communist Puerto Rico Independence Party elected two Representatives and one Senator in 1972, but lost all three seats in 1976.

Just as is the case in Puerto Rico, I am confident that virtually all of the twenty-four nations here represented contain within their borders political factions which are firmly opposed to the policies of the government in power. As is not the case in Puerto Rico, however, opposition political factions in some of these twenty-four nations are severely inhibited—and in some instances officially prohibited—from working openly and freely to enlist broad public support for their causes, and from seeking peacefully to have the ruling party removed from power.

Should an opposition faction within any of the twenty-four nations here represented solicit the assistance of a foreign power in bringing its case before the United Nations, I strongly suspect that the government of the nation in question—regardless of its political system, regardless of its economic system, regardless of its alignment or non-alignment vis-a-vis the major world powers—would firmly oppose United Nations involvement, on the grounds that the matter at issue constituted a strictly internal affair, over which no international body whatsoever had any claim to jurisdiction.

Nevertheless, this Committee has repeatedly agreed to entertain discussion of the political status of Puerto Rico under precisely the above circumstances: the separatist political faction in Puerto Rico has solicited the assistance of a foreign power—in this case Cuba—to urge United Nations intervention in the internal affairs of the people of Puerto Rico.

All five elected Governors of Puerto Rico have until now abstained from involvement in these discussions. We have done so because we too recognize the issue to be strictly an internal matter, to be debated and resolved within Puerto Rico itself, in consultation with the Government of the United States, the nation of which we are all citizens.

Among the five elected Governors of Puerto Rico, there is no unanimity of opinion as to what our island's ultimate political destiny should be; we differ considerably among ourselves on both large and small aspects of the question. We are, however, fully in agreement regarding the capacity of the Puerto Rican people to reach a final decision independently. Moreover, we recognize that a decision of such magnitude not only can be reached independently, but must be reached in such a manner, if it is to be valid and permanently binding upon the people of our island.

If, as is true, we have not yet reached a final decision, then the responsibility for our inaction lies with us and with us alone. We have the means to change our political status. Whether and how we shall use those means is for us and us alone to decide. All three political status alternatives—statehood, independence, and commonwealth—appeared on the ballot in our 1967 plebiscite, and Puerto Rico's voters elected to retain commonwealth status. I have publicly stated on numerous occasions that I believe a new plebiscite should be held after the 1980 general election, to allow our people to express themselves once again. And if I am re-elected to the governorship, the holding of such a plebiscite will be a firm commitment of my Administration's second term.

So long as we continue to possess the means to determine our own destiny, however, we shall neither welcome nor tolerate outside interference in this ongoing process.

So it is that I come before you today not to request that you intervene, but rather to explain why I believe you should not even consider attempting to intervene.

I come before you in the knowledge that most of you are devoting your time and energy to the Puerto Rican question with the best of good intentions. I am sure you are all aware of the ulterior motives that have prompted one member of your Committee to bring this issue before you. Nevertheless, I have no doubt that most of you are acting in the best of faith in giving it your consideration. I thank you for that, despite my firm conviction that intervention by this Committee is neither necessary nor appropriate, and is totally unacceptable to the people of Puerto Rico.

In the past, this Committee has reaffirmed Puerto Rico's right to self-determination. No one in Puerto Rico—myself included—disputes that principle, so long as it is clearly understood that the concept of self-determination includes the right to move from commonwealth to statehood as well as the right to move from commonwealth to independence.

Were I to conclude that Puerto Rico were in any way being impeded from exercising its rights to self-determination, then I would not hesitate for a moment to seek the support of this Committee, or any other responsible international institution, in helping our people to re-establish beyond doubt our right to self-determination.

I have the highest admiration for the United Nations. It is a pioneer confronting enormous obstacles in a slow and painful quest toward a goal upon which hinges the survival of our species: peaceful cooperation and coexistence among the enormously diverse peoples and philosophies which exist in ever-increasing interdependence upon this planet. As must be expected in a pioneering venture, tangible progress has been achieved neither easily nor quickly. In its finest hours, the universal human emotions which fuel this noble institution are hope, purposefulness, and good will. All three are indispensable if it is to succeed in its mission. Both now and in the future, I shall always be available to contribute whatever I can to further the goals so eloquently set forth in the United Nations Charter.

Indeed, it is in part for that very reason that I appear before you now: in the hope that I may perhaps be of assistance to you in your important work.

Setting aside for a moment the hemispheric rivalries and/or international ideological struggles which, in reality, we all know are responsible for the presence of the Puerto Rico issue on the agenda of this Committee, allow me to examine with you now the seemingly legitimate concerns that might prompt those who are truly impartial members of this Committee to regard the Puerto Rico question as a matter worthy of study on its own merits.

Basically, I submit that these concerns are three.

Foremost among them, without doubt, must be the undeniably ambiguous nature of the island's present political status. Neither a sovereign nation nor a fully integrated unit of the United States of America, Puerto Rico occupies an ill-defined middle ground, which might understandably arouse the curiosity—if not the suspicion—of an impartial international observer.

Coupled with this is the apparent imbalance in political leverage between a medium-sized Caribbean island and a continental super-power. Here again, the disinterested outsider might understandably have occasion to wonder whether the smaller partner in this relationship could truly be at liberty to chart its own course toward a final political destiny.

And finally, there are obvious cultural and linguistic disparities, which might prompt the observer to wonder whether there can really be an authentic social, psychological, or spiritual basis for the existence of a harmonious political union between Puerto Rico and the fifty existing United States.

To the above points I should add a fourth consideration: that there is evident dissatisfaction with the status quo among the people of Puerto Rico themselves. At these hearings will appear Puerto Ricans of widely differing viewpoints; yet most, if not all, of them will agree that Puerto Rico's current political status does not in its present form adequately fulfill the legitimate aspirations of the Puerto Rican people.

Given the above facts, I can readily appreciate that a fair-minded member of this Committee could reasonably conclude that the case of Puerto Rico might well merit investigation.

Indeed, I myself am on record to the effect that Puerto Rico's relationship with the United States retains vestiges of colonialism.

Yet I do not come before you to solicit your intervention.

Why?

Because I believe such intervention can never be either appropriate, relevant, or in the least degree effective until and unless it can be demonstrated that Puerto Rico lacks the wherewithal to freely determine its own destiny.

For most of this decade, this Committee has annually given consideration to the political status of Puerto Rico. Yet at no time has this Committee undertaken to investigate firsthand the extent to which the Puerto Rican people have the capacity to exercise for themselves their inalienable right to self-determination.

I cordially invite this Committee to conduct just such an investigation. I cordially invite the delegates of each nation here represented to visit Puerto Rico. Come whenever you wish; stay as long as you like; talk to whomever you please; study our institutions for yourselves.

The Government of Puerto Rico does not fear the consequences of such an inspection. On the contrary, we would welcome it.

If you come, you will hear a variety of opinion, just as you will hear a variety of opinion during these hearings. That is because Puerto Rico is an open society, in which every citizen is entitled to express himself, and in which any citizen or group of citizens is entitled to work peacefully to effect change.

We have no illusions, however. We are all aware that Puerto Rico is an imperfect society, as is every society of human beings in every community on earth. Nevertheless, we are a people who take great pride in the progress we have made—economically, politically, and socially—during the twentieth century.

It is no accident that Puerto Rico's per capita income and standard of living are markedly higher than those to be found anywhere else in the Caribbean, or in Central or South America. Despite our island's very high population density of more than nine hundred persons per square mile, despite our severe shortage of mineral resources, and despite the massive poverty which existed in Puerto Rico only a few decades ago, we have in recent years emerged as a people blessed not only with free institutions of government, but also with the extraordinary increase in prosperity that only hard work and a private enterprise economy can make possible.

Today, each child born in Puerto Rico has a statistical life expectancy that actually exceeds that of the average American citizen born elsewhere in the Nation. Moreover, the per capita enrollment of our young people in colleges and universities exceeds the United States national average.

Puerto Rico's spectacular advances in health care, in education, in economic opportunity, and in democratic self-government have been accomplished by the Puerto Rican people themselves, through our determination to leave to our children and grandchildren a better way of life than we ourselves knew as children and young adults.

Because of Puerto Rico's small size, dense population, and limited resources, much of our recent progress would have been extremely difficult, if not impossible, to achieve without the friendship and cooperation of fellow American citizens from other parts of the Nation, and without the comprehension and financial support of the United States Government.

The Puerto Rico of today is still not especially wealthy; we are not mighty; our people do not live in total internal harmony. Nevertheless, ladies and gentlemen, we do enjoy, individually and collectively, the basic human rights which define a free society. And believe me, the people of Puerto Rico appreciate with every fiber of their being how rare and how precious a blessing freedom is.

Moreover, we know why we are free.

We know that we are free precisely because we are natural-born citizens of the freest and most open and most culturally diverse nation in the history of mankind: the United States of America.

We are free, if we so desire, to continue enduring the vestiges of colonialism that characterize our so-called commonwealth relationship with the United States. We are free to declare ourselves an independent nation, and to have that decision respected by the United States. And we are free to incorporate our island fully into the Republic as the fifty-first of those United States.

Should the United States Government at some future date choose to do so, I recognize that it has the military might to act illegally and immorally to abrogate those freedoms. We have no illusions in that regard, either. Although the overwhelming majority of our people have demonstrated at every opportunity that we treasure our United States citizenship and our permanent political union with the United States, we all recognize that, like our own and like every other community on earth, the United States too is an imperfect society.

Should the day come when the people of Puerto Rico were to find themselves oppressed by the United States, it would not be necessary for a totalitarian adversary of the United States to bring the matter to the attention of this Committee: I can assure you that the freedom-loving people of Puerto Rico would virtually lay siege to this building in their clamor for redress of grievances. And I should emphatically add that I myself would not hesitate to stand at the forefront of such a movement.

Yet I remain fully confident that no such action will ever be necessary. Because, for all its occasional faults, the Government of the United States has by and large conducted itself with grace and with fairness in its relationship with the American citizens of Puerto Rico. And I have every reason to believe that it will continue to do so.

Individuals and groups of individuals within every state of the United States have, at one time or another, expressed indignation at, and intense opposition to, actions or inactions for which they perceived the Federal Government to be responsible. In nearly every instance, these conflicts have gradually been resolved through compromise and consensus, and a resumption of cordial relations between the parties involved has followed. And thus it has been also with Puerto Rico.

Although the people of Puerto Rico cherish our identity as a unique community within the American nation, we likewise cherish our right to participate in the process by which our nation as a whole arrives at decisions in the common interests of all.

It is no accident that I address you today in the Spanish language. For more than four centuries Spanish has been the first language of the people of Puerto Rico. It will continue to be our first language, regardless of the changes we may make in our political status. Our cultural heritage as a people has not been, and shall not be, an obstacle to the exercise of our rights as United States citizens. So long as we remain true to the principles of governance that bind our Nation together, we shall always remain free to exercise our inalienable human right to life, liberty, and the pursuit of happiness in accordance with the specific personal traits which define us as Puerto Ricans.

On December 31, 1976, when President Gerald Ford announced his support for the admission of Puerto Rico to the Union of States, he did not attack any cultural or linguistic provisos. His call was unconditional. He was prepared to accept us as Puerto Ricans.

On July 25, 1978, President Jimmy Carter issued a proclamation in observance of the 26th anniversary of the adoption of Puerto Rico's local Constitution. In that proclamation he said to the Puerto Rican people, and I quote, "Since 1898, and as American citizens since 1917, you have made a rich contribution to the life of the United States, while preserving your own unique culture and traditions within the broader community . . . My Administration will respect the wishes of the people of Puerto Rico and your right to self-determination. Whatever decision the people of Puerto Rico may wish to take—statehood, independence, commonwealth status or mutually-agreed modifications in that status—it will be yours, reached in accordance with your own traditions, democratically and peacefully. . . . The people of the United States are proud of our cultural and political associations with Puerto Rico over the last eighty years. We know that we can best honor our friendship, and our own democratic principles, by respecting your free choice about your own future."

Not only did President Carter not attach cultural conditions, he underscored clearly the United States Government's acceptance of and commitment to the defense of the inherent right of the Puerto Rican people to retain and enhance our individual qualities as a people.

How can this be possible?

Simply because that is the tradition of the American nation. Tolerance of individual differences is a cornerstone of American freedom. Instances of individual intolerance exist everywhere on earth. So do instances of institutional intolerance—even in the United States.

But the overwhelming majority of all United States citizens understand fully that the acceptance of diversity—racial, cultural, religious, regional, ethnic, linguistic—is fundamental to the existence of liberty in a nation whose population is the product of immigration from every corner of the globe.

And because the people of Puerto Rico have the self-confidence and the determination to demand that our rights as United States citizens be recognized and respected we look to the future with optimism, certain of our ability to resolve our political destiny in an environment characterized by civil debate, unconditional self-determination, and respect for the rights of the individual.

Before I continue, I should like to invite your attention to one especially blatant example of the hypocrisy of the separatists' position.

In regard to the question of language and culture, they firmly oppose the teaching of English in Puerto Rico. They oppose having our people become fully bilingual. They say it would undermine our identity as a people.

What is ironic, however, is that these same separatists are without exception bilingual themselves. They know English, and yet their sense of identity as Puerto Ricans seems not to have been impaired in the slightest. Indeed, they regard themselves as the purest of Puerto Rican patriots. Can it be, therefore, that their true motivation is not the preservation of our identity as a people, but rather the preservation of their own elite status as self-appointed bilingual spokesmen for our people? Why else would they propose to deny to the rest of the Puerto Rican people an advantage they themselves enjoy? It is something to think about.

It is these individuals—the separatist elements within Puerto Rican society—who year after year have sought United Nations intervention in our internal affairs. This too reflects their hypocrisy.

Let me explain.

We must keep in mind not only that, within Puerto Rico itself, the separatist forces have been massively and repeatedly repudiated at the polls, but that these same elements have never at any time seriously challenged our elections as fraudulent. They know they have been defeated fair and square.

That they have responded to their internal rejection by seeking support for their cause outside of Puerto Rico demonstrates eloquently their own cynical disregard for the principle of self-determination for our people.

Instead of respecting the clearly and repeatedly expressed will and wisdom of the Puerto Rican electorate, they resort to maneuvers in the international arena, hoping to have their political status preference imposed upon Puerto Rico from outside. Why? Obviously it is because they realize that within Puerto Rico itself they have been making no headway whatsoever.

In 1952, the year our commonwealth constitution took effect, political parties favoring independence for Puerto Rico polled a total of 19 percent of the vote in the island-wide general election. Political parties favoring statehood polled only 12.9 percent of the vote that year.

In our most recent election—in November 1976—independence parties polled only 6.4 percent of the vote—just one-third of their electoral strength twenty-four years earlier. In dramatic contrast, the pro-statehood political party which I lead won that 1976 election with 48.8 percent of the vote, nearly four times the pro-statehood total of 1952.

It has been this indisputable trend within the Puerto Rican electorate which has

prompted the pro-independence forces to seek refuge in international forums, and to mount a calculated betrayal of the principle of self-determination by turning their backs on their own people as the sole legitimate judges of the course Puerto Rico should set for itself.

Where are Puerto Rico's political exiles? There are none.

Separatist Puerto Ricans operate openly from within Puerto Rico itself. They travel the world preaching their gospel, carrying United States passports. They run for elective office in Puerto Rico, and their political parties—despite their lack of significant voter support—receive regular allotments of public funds, equal in amount to those received by non-separatist political parties. Separatists speak out virtually every day on television and radio news and panel discussion programs, and their pronouncements are given ample coverage in every daily newspaper. In addition, some of them publish their own newspapers.

Separatist Puerto Ricans take full advantage of Federal law, Federally-funded programs, and the protection of the Federal courts. Like many other American citizens in other parts of the Nation, Puerto Rican separatists have invoked the recently-enacted Federal Freedom of Information Law to search for evidence of abuses they allege have been perpetrated against them in the past by the Federal Bureau of Investigation.

Wherever they may have occurred, within Puerto Rico or elsewhere in the United States, such abuses are contemptible and I repudiate them unequivocally. But it must never be overlooked that the same government which may have been guilty of abuses also provides the mechanisms for bringing them to light, and for correcting them. And of course it is precisely this extraordinary capacity for self-criticism and self-improvement which makes the United States of America a source of wonder and inspiration for the many peoples residing in nations which are less free and less blessed with effective democratic institutions of government.

During four centuries of Spanish rule, dissident Puerto Ricans were often summarily jailed or exiled. Indeed, my own great-grandfather was jailed and exiled by Spain for advocating the abolition of slavery. The American citizens of Puerto Rico are not ignorant of the liberating changes that have occurred on our island during the eight decades since the United States flag was first raised over Puerto Rico's shores.

Where are Puerto Rico's political prisoners?

There are none. Those Puerto Ricans dubbed political prisoners by our separatist elements are individuals tried and convicted in open court for the commission of such violent crimes as murder, attempted murder, kidnapping, arson, or assault. No Puerto Rican has ever been defined as a "prisoner of conscience" by the Nobel Prize-winning human rights organization Amnesty International.

Ladies and gentlemen, not only do Puerto Ricans not flee the island because of alleged political persecution, but, on the contrary, the exact opposite occurs: tens of thousands of persons from foreign countries—including over thirty thousand from Cuba alone—have in recent years fled *to* Puerto Rico precisely to *escape* political persecution in their homelands.

This then is a small part of the panorama that is Puerto Rico's contemporary political reality. As I mentioned earlier, you are cordially invited to examine it for yourselves. Not on a carefully sanitised government tour, but as individual men and women, free to go where you wish and to talk to whomever you please: not just to politicians and ideologues, but to housewives, students, laborers, shopkeepers and farmers.

In the meantime, we the people of Puerto Rico shall continue to advance toward a final decision on our political destiny, free of outside pressure and secure in the knowledge that our decision will be respected by the Executive, Legislative, and Judicial branches of the Federal Government, as well as by our fellow American citizens in the fifty existing United States of America.

Thank you.●

TRIBUTE TO THE LATE LUCILLE H. BLAKE

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PERKINS. Mr. Speaker, it is with great sadness that I take this occasion to record the passing of Miss Lucille H. Blake, who served as my executive secretary here in Washington for nearly a quarter of a century.

Miss Blake died August 27 in her hometown of Fargo, N.D., to which she had returned just a few weeks ago. Although she had retired in 1973, she had continued to live in Washington until she was incapacitated by a stroke this past spring.

She was born in Green Isle, Minn., on April 7, 1916, but grew up in Fargo and attended schools there, including the Sacred Heart Academy and the Interstate Business College.

Lucille, as she was affectionately known by hundreds of people who visited my office and who knew her voice on the telephone, came to Washington during World War II and worked on the staff of the late Senator William Langer for 2 years. She also was on the staff of the late Congressman Charles Raymond Robertson of North Dakota.

After my own election in 1948, Miss Blake became the first employee in my office and was my faithful and tireless assistant for the next 24 years.

A jolly, outgoing, genuinely warm person, Lucille took a personal interest in the case work she handled—particularly the service and veterans' cases. And she was a model of efficiency as well.

I pay tribute to her today as typical of that hardworking, dedicated breed of congressional staff assistants without whom we could not function in our duties. They are unsung, but they are indispensable. And they are appreciated.

It was a great blow to me when failing health finally forced Lucille to retire 5 years ago, and even after that long period of time, we still miss her.

Services were held on August 29 in Fargo, with interment following in Holy Cross Cemetery there. May she rest in peace.●

THE WORLD ACCORDING TO ANDREW YOUNG

(Mr. ASHBROOK asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. ASHBROOK. Mr. Speaker, I would like to take this time to read into the RECORD an excellent article which appeared in the August 1978 Commentary. Written by Carl Gershman, it gives a fine overview of this foreign policy disaster named Andrew Young who continues as an embarrassment to President Carter and the United States.

The article follows:

THE WORLD ACCORDING TO ANDREW YOUNG

(By Carl Gershman)

Andrew Young is unquestionably a prominent figure in American politics today, and one of growing international importance as well. Before his remarkably rapid rise—owing largely to the role he played in Jimmy Carter's presidential campaign—Young served as Congressman from Atlanta's 5th District, and before that as Executive Director of Martin Luther King's Southern Christian Leadership Conference. In both these capacities he was known as a skilled negotiator—tough, but also conciliatory when necessary—and a racial moderate; he was the only black Congressman who voted to confirm Gerald Ford as Vice President, for example. It is only since his appointment as United States Ambassador to the United Nations that Young has seemingly gone out of his way to court political controversy and to adopt the provocative, outspoken manner that has become his trademark in office.

From the beginning, Young has seen that appointment as something more than just a diplomatic assignment. He has referred time and again to its symbolic significance, calling it a sign of America's racial progress and the harbinger of a new relationship between the U.S. and the countries of the Third World. He seems to see himself as a kind of diplomatic avenging angel, called upon to right the wrongs of past American foreign policy, to put the United States on the "right side of the moral issues in this world," and to "repair the damage" which was done during the years when America supported the "worst leadership groups" and became party to a "vast network of oppression" instead of siding with "oppressed people everywhere."

The torrent of controversy provoked by Young during his first months in office seemed designed to call attention to his new stance which it presumably symbolized, crusading role and to the new American Conor Cruise O'Brien has observed that Young "knows how to be indiscreet and makes his indiscretions work in his favor," and this assessment is probably right. Though Young outraged many people by calling Cuban troops in Angola "a force for stability," or advising Americans not to be "paranoid" about "a few thousand" Communist soldiers in Africa, or by hurling indiscriminate charges of racism at U.S. allies, adversaries, past Presidents, and even the borough of Queens, he also strengthened his credibility at the UN by saying such things and enlarged his popularity among many American blacks. Not long after Young took office, the Nigerian foreign minister called him the "symbol of a new and constructive United States policy toward Africa," and three leaders of the NAACP, including Roy Wilkins, praised him for speaking the "brutal, unvarnished truth" about racism in America and urged President Carter not to let the "enemies of racial progress" sway him from supporting Young.

President Carter has needed no such urging. He has been almost reverential toward Young, calling him the "finest elected official" and the "best man" he has ever known, as well as a "national treasure" and "Third World hero." Repeatedly, the President has made a point of affirming his "complete faith" in the way Young has gone about

fulfilling his diplomatic responsibilities.* In token of all this, Young is the first U.S. Ambassador to have his own full-time staff on the seventh floor of the State Department—down the hall from Secretary of State Vance; he is the only U.S. diplomat permitted to engage in fund-raising activities on behalf of Democratic candidates; and his advice is solicited on many vital policy questions having nothing to do with Africa or the Third World. Carter's initial decision to stop development of the neutron bomb, for example, was reportedly influenced by Young, who feared that production of the bomb would make the U.S. position difficult to defend at the special UN. session on disarmament.

Is it then the case that the views which Young has been articulating so freely during his tenure at the UN reflect the policies of the United States government? Young himself suggests as much. Whenever he creates a furor, he defends himself by claiming first that his remarks have been taken out of context and, second, that they represent a fairly accurate reflection of policy—a policy that is in process of changing to become "much more in tune with the thinking of the rest of the world."

Lately, of course, the President has been expressing views about the activities of the Russians and the Cubans in Africa that diverge sharply from those of Young. Nevertheless, it remains unclear whether or to what extent Young speaks for himself or on behalf of the administration. Whatever the answer to that question may turn out to be, Young's political attitudes, as represented by his public utterances during the year-and-a-half since he took office, do indeed, as he himself says, point toward a fundamental revision of American foreign policy—though a revision with very different moral implications from those he ascribes to it. Young's views may or may not be consonant with those of President Carter. But if they are, then the conception of human rights articulated by the Carter administration is a sham, put forward to disguise a rather cynical accommodation to a world in which Communist totalitarianism is the dominant reality.

To understand Young's thinking, one must understand that all his political judgments are made from the vantage point of the American civil-rights movement of the 1960's. When an interviewer commented on "how often you interpret world events through your own civil-rights experience," Young answered: "It's true. I mean, it's all I got. Everybody is determined by his own experience." That experience, in Young's view, is relevant not only to America but to all sorts of countries and situations no matter how far removed they may be from the specific conditions that existed in the American South under segregation. Whether he is speaking in Lagos to a World Conference on Action Against Apartheid, or in Maputo at a conference in support of black nationalist movements in Namibia (South West Africa) and Zimbabwe (Rhodesia), Young continually draws a parallel between the struggles fought in the 50's and 60's against Jim Crow in the South and the struggle currently being fought against white minority rule in Africa.

And it is not only Africa that elicits this parallel. Young is no less hesitant in drawing comparisons between the American civil-rights movement and the current dissident movement in the Soviet Union. He has said for example, that the Shcharansky and Ginzburg trials "remind me very much of my own days in the civil-rights movement." Repression in Mississippi, he has also said, "just made more people more determined," and "[t]he same things will happen in Russia." Furthermore, "as the Soviet Union becomes more prosperous, as more and more people are exposed to any kind of art and culture," especially through the medium of television, there will be a "human-rights explosion that will not be unlike our civil rights movement." Young's experience in the civil-rights movement even provides a model for his approach to the politics of the United Nations. Just as the black movement in the U.S. built a broad coalition for change, so too, he says, is it necessary at the world body "to build coalitions that cross racial and geographic and ideological lines."

So central is the civil-rights movement in Young's scheme of things that he credits it with having started a "political revolution" that brought about a "radical reformation of American foreign policy." In his speech to the Maputo conference in May 1977, Young explained to his African audience how the civil-rights movement evolved into the anti-war protest movement, which in turn created a "new approach to the problems we face everywhere in the world." Thanks to this "new approach," which grew "out of a concern for the end to racism, and an end to militarism and imperialism," American foreign policy is now profoundly different from what it was during "the tragedy of the past twenty years," when American tax dollars were used "not to develop, not to feed the hungry, but essentially as part of an apparatus of repression in many places on the face of the earth." At long last, the cold war is behind us, and what used to be "an adversary relationship between East and West . . . is giving way to much more cooperation. . . ."

Of course, Young is aware that the transformation is not yet total. The U.S. still spends "close to $100 billion a year [sic] on so-called military preparedness," and many Americans still persist in seeing a "so-called 'clear and present danger'" in Communism as a result of a "massive education campaign run by the government and private agencies." But the outlook is improving. Americans are gradually coming to acknowledge the past racism of our government, and to recognize the truth of W.E.B. Du Bois's dictum that "the problem of the 20th century is the problem of the color line." At a conference in Lagos against apartheid, Young noted approvingly that though much of the "imperialism, neocolonialism, capitalism, or what have you" of the United States is still present, the situation is in the process of being transformed by the Carter administration.

Given this general view of the world, it is not surprising to discover that Young sees no reason for the U.S. to oppose Communism militarily, or even to confront it ideologically. He simply does not believe that the Soviet Union and its allies pose a military or strategic threat to the United States. The whole question of the Horn of Africa, for example, is in Young's opinion vastly exaggerated, and he pronounces it "ridiculous" to find "this enormous strategic significance in a thousand miles of sand." Indeed, if there are strategic interests at stake at all in the Horn of Africa, the United States has only benefited from the Soviet action, for it will prove to be "the Soviet Union's Vietnam"—"the Russians have done more to hurt themselves than we could have ever done to hurt them."

Nor, according to Young, does the fact that Cuba is a Communist regime allied with the Soviet Union have any bearing on the situation. "Cubans are people," he said after Cuban advisers arrived in Ethiopia. "They might do good things. They might do bad things. Let's wait and see before we jump to conclusions." When asked on Meet the Press whether he was for, against, or neutral toward the Cuban presence in Africa, Young replied: "I think I would treat the Cuban presence just like I would treat the Israeli presence or the French presence or the American presence. I would ask the question: What are they doing?"

What, then, are the Cubans doing in Africa in Young's opinion? The answer has varied on different occasions, but always the motives imputed have been honorable ones. When the Cubans first arrived in Angola, Young thought that "they were essentially opposing racism, and driving the South Africans out"; later, when the civil war was over and the Neto regime installed in power, Young explained that the Cubans were "basically doing technical assistance," and in fact representing our own interests by protecting Gulf Oil's installations in Cabinda. Whatever their motives, crass political expediency was not among them: "I don't believe that Cuba is in Africa because it was ordered there by the Russians. I believe that Cuba is in Africa because it really has shared a sense of colonial oppression and domination."

It was only when the Cubans (for reasons not quite covered by Young's analysis) "used military means to try to resolve a conflict of Angolans themselves" that he was ready to condemn "that military role." But even while he expressed concern about "the continuation of death and destruction almost everywhere there is a Cuban military presence," he did not feel that any kind of U.S. military response was called for, and he continues to oppose any such response whether in Angola, in the Horn of Africa, in Zaire, or in Rhodesia. To reply with force would, in the first place, only compound the violence ("I don't think it's right for us to become a destructive force because they are a destructive force") and in the second place would never work "because the Soviets are willing to put so much more in weaponry into a situation in Africa," while "[t]he American people have sort of determined that our foreign policy for the near future, anyway, ought to avoid any military involvement in which the shores of the United States are not threatened." And this is all for the best, according to Young, since in any case the U.S. "fares better in the world through peaceful economic competition wherever possible." "The sooner the fighting stops and the trading starts," he has declared, "the quicker we win."

If Young sees no strategic grounds for opposing Communist advances, neither does he see any moral ones, for he does not feel qualified to pass judgment on the Communist system of government. Concerning Angola, for example, he has said that "There's nothing wrong with their deciding to live under a socialist [sic] system," though he did not quite explain what "deciding" meant in this connection. He himself, as he once explained it, would not want to live in a place like Mozambique, for example, yet in the course of a visit there he "found that in the midst of that liberation movement there was in addition to the Communist social structure a movement of humanism . . . I say they are Communist but they are also humanist."

The question of human rights, too, according to Young, is relative rather than absolute, in the sense that it is "understandable that people in different circumstances should have different perceptions of what

*Young has been equally lavish in his praise of Carter. According to Young, the President is "free of racism" and "has the capacity as President of the United States to do more to put an end to racism than anybody since Martin Luther King." This is remarkable praise from Young, all the more so since Carter admittedly took no part in the civil-rights movement and used racially questionable tactics in his 1970 gubernatorial race in Georgia. But Carter is an avowedly repentant sinner and this may account for what *Newsweek* has called the "almost mystical friendship" between the President and Young.

human rights are." In a speech delivered at the Riverside Church in New York on Human Rights Sunday, Young urged Americans to broaden their definition of human rights to take account of these "different perceptions," and to understand that for the poor people of the world, the most pressing concern is overcoming poverty, not political freedom. In effect, therefore, "For most of the world, civil and political rights . . . come as luxuries that are far away in the future." Applying this "different-perceptions" theory to the Soviet Union, Young explained rather ingeniously how under that particular style of government, human rights—redefined, of course—have been preserved. In part, this appears to have been due to differences in climate:

. . . we must recognize that they are growing up in circumstances different from ours. They have, therefore, developed a completely different concept of human rights. For them, human rights are essentially not civil and political, but economic. . . . One lives in a land where, in most of that land, the sun sets as early as three o'clock in the afternoon, and where the planting season is minimal. Under those circumstances the struggle for human rights inevitably becomes far more economic in its expression than it would in a country such as ours, where we almost take it for granted that anything can grow almost anywhere year 'round.

But even the acknowledged defects of Communism do not grant us the right to judge it, in Young's opinion, because our own record on human rights is far from clean. While it is true that there is no political liberty in the Soviet Union, "we unfortunately have been very reluctant to accept the concept of economic responsibility for all of our citizens." And while it is true that the Soviet Union represses its dissidents, "many of our own students were shot down on their own campuses" as a result of their political activities against the war in Vietnam. And even if we do not go in for literal torture, as some other countries do, the United States "still has subtle but very strong systems of intimidation at work that inhibit the possibilities of our poor, our discriminated against, and our dissidents, from speaking fully to address themselves." To illustrate this point, he has observed that a young black in America "is much more likely to go to jail and find himself abused there" than is a young white; and that the poor find it more difficult than the rich to gain adequate legal representation. No wonder, then, that at a meeting of the UN Commission on Human Rights, a body which includes some of the harshest despotisms on the planet, Young said, "I see my country as vulnerable as anybody else's around the table." He made a similar point during the Shcharansky trial when he said that there are "hundreds, perhaps even thousands of people whom I would call political prisoners" in the United States.

Young's willingness to give certain countries the benefit of the doubt extends even to Uganda. He acknowledges that there have been "massive violations of human rights and destruction of people" in that country, but is not sure how much violence is "done as a matter of government policy and how much is done as a result of an imminent kind of chaos." Then, too, Western nations have no right to be sanctimonious about Idi Amin, since they "contributed to overthrowing" the government of Milton Obote (a "left-leaning intellectual") and thereby paved the way for Amin's tyranny. Uganda, therefore, "is not just an African problem, [but] a Western one . . . as a result of the excesses of both colonialism and neocolonialism."

There is, of course, a limit to Young's moral relativism. It does not extend to South Korea, Iran, Chile, the Philippines, or any of the other countries belonging presumably to that "vast network of oppression" to which we became a party in past years. Nor does it extend to South Africa, which Young has singled out from among all the countries of the world for unique moral condemnation. Here, for once, the question of human rights is paramount and there is not a trace of that hesitation to pass judgment which Young so frequently displays toward other governments that deny their citizens democratic rights. Here, and only here, "the whole conscience of the world is . . . on trial."

Appearing on Face the Nation on May 21, 1978, only a few days after Communist-backed forces invaded Zaire's Shaba province and had reportedly launched a major offensive in Eritrea, Young assessed the African situation: "I think our policy is doing very well," he said, "and frankly, I think we are much better off in Africa now . . . than we have been for the last decade." Considered in light of the preceding week's events—and indeed, in light of events that have taken place over the entire period since Young and Carter took charge of our African policy—Young's reply was well-nigh staggering.

There are now Cuban military personnel and civilian "advisers" stationed in some fifteen African countries, most of them concentrated in southern Africa and the Horn, the two zones where military conflict on the continent is most intense. The 25,000-man Cuban force in Angola, which is financed by the Soviet Union at a rate of $2½ million a day, is greater by one-quarter than it was when Carter took office, and serves the double purpose of securing the Communist hold on Angola and aiding pro-Soviet insurgents in neighboring countries. The Cubans guard the Cabinda oilfields (the source of yearly revenues of close to $1 billion which keep the MPLA regime afloat); fight a continuing war in the countryside against the guerrilla forces of UNITA and FNLA (the two nationalist movements defeated in the civil war); and maintain order in the capital city of Luanda, where they put down an attempted coup in May of last year. From their Angolan base, the Cubans train SWAPO and ZAPU guerrillas in the use of Soviet weapons for an eventual takeover in Namibia and Zimbabwe. Here, too, they have trained and armed the Congolese National Liberation Front, the rebel group that invaded Shaba province this past May (the second such invasion in fourteen months) in an effort to topple the Mobutu government. In addition to the Angola operation, Moscow has also stepped up arms shipments to the Patriotic Front in Zambia and Mozambique, and flown groups of Malawian recruits to Cuba for military training. Reviewing these efforts in a joint communiqué issued on April 24, 1978, the Soviet Union and Cuba pledged to increase "assistance and support" to all the pro-Moscow insurgencies in the region.

In the Horn, 12,000 Cuban troops, 1,000 Soviet "advisers," and $1 billion of Soviet weapons enabled Ethiopia to drive Somali forces out of the Ogaden desert in March of this year. Not content with this victory, and despite implicit assurances to Washington that the Somali withdrawal would be followed by "substantial reductions" in Cuban and Soviet forces in Ethiopia, Moscow soon sought to establish its control over the entire Horn. On April 9, just three days after Ethiopian President Mengistu returned from a hasty visit to Moscow, there was an abortive coup against the government of Somali President Mohammed Siad Barre, which Somalia charged had been instigated by the Soviet Union and Cuba. Not long after, Ethiopian troops backed by an enlarged Cuban force of 17,000 (and, according to Mengistu, backed also by forces from the Soviet Union, East Germany, and South Yeman) stepped up their offensive against the Eritrean secessionist movement.

In short, during the first year and a half of the Carter Presidency, two areas of considerable strategic importance—southern Africa, with its vase mineral deposits, and the Horn of Africa, with its proximity both to the vital sea routes through the Red Sea and the Indian Ocean and to the world's largest oil reserves in Saudi Arabia—have fallen under increasing assault from the Soviet Union and its allied forces. While all this has been going on, Young has retained his equanimity and urged Americans not to overreact, in accordance with his well-earned reputation in the Carter administration as a "cool-it person." There have, however, been occasions when even Young has lost his equanimity. This happened, for example, when it was announced that an internal settlement had been reached in Rhodesia between the Smith government and three black leaders, Bishop Abel Muzorewa, the Reverend Ndabaningi Sithole, and Senator Jeremiah Chirau. Young was obviously taken by surprise and refused to believe it at first ("Our intelligence reports [said] that this would not happen, certainly not soon"). Then he went on to say that the settlement—which would guarantee the white 4 percent of the population 28 percent of the seats for ten years in a parliament elected by universal suffrage—would not work because it did not "address the issues that have some 40,000 people fighting" (the actual number is closed to 10,000). Comparing it to the "three or four internal settlements in Vietnam" which failed to stop the fighting there, Young predicted that the settlement would lead to a "black-on-black civil war," followed by a "massive commitment of Soviet weapons." He added that even if the U.S. and other Western countries recognized the new Salisbury government (which "would be very difficult"), such recognition would not mean much unless they were willing to send troops in to back it up, if necesary. "I don't think we are ready to do that," Young concluded, thereby announcing in advance that the United States would abstain from any action in the situation, and virtually inviting the Soviet Union and Cuba to intervene.

Young is against the internal settlement, which envisions independence before the end of the year, free and fair elections open to all parties (including the guerrillas who would be encouraged to return and to participate on an equal basis in the new order), on the ground that it is insufficiently representative (though in fact it would be one of the most democratic states in Africa). Instead, he supports the Anglo-American plan which requires all parties to agree to a settlement—the white majority, the Internally-based black groups, and the two wings of the Patriotic Front led by Joshua Nkomo and Robert Mugabe—after which a free election will take place to determine the composition of a new government. But this assumes, first of all, that both Nkomo and Mugabe really want a free election—in which, most observers feel, they would not do very well—and secondly, that a consensus could be reached by all the parties involved not only about the terms for a settlement, but about a future democratic state as well. Hard as it was to reach a compromise between the white minority and the moderate black internal leaders, it is impossible to imagine a compromise between Ian Smith and Mugabe (who has said that there should be no amnesty for "war criminals"). It is also exceedingly difficult to imagine that a consensus could ever be reached between Mugabe, who has opposed multiparty democracy as a "luxury" and has called for a "one-party state," and Muzorewa, the most popular of the internal leaders, who has called for a multiparty, multiracial, constitutional democracy with a bill of rights, an independent judiciary, and a "mixed type of economy."

Indeed, the irreconcilability of these two positions, held by two black leaders, is an ironic commentary on Young's belief, which he has expressed so often at the United Nations and which is such an integral part of

his total outlook, that the East-West conflict between totalitarianism and democracy has come to an end, and that race is the main dividing line in the world today. In fact, however, the decisive issue in Rhodesia is not the imperfections of the democracy envisioned by the internal settlement, or even the resistance to white minority rule, which the settlement would end. Rather, it is whether or not the future Zimbabwe will be democratic or totalitarian.

One need not accept Muzorewa's contention that Young has been "terribly brainwashed by the Patriotic Front and the so-called front-line states" to notice his clear bias in their favor. Indeed he has asserted, in a recent BBC interview, that "We are on the side of the front-line presidents in the Rhodesian situation." In consonance with this, he has spoken of the guerrillas with extreme deference. "People who are engaged in negotiated settlements," he told the Maputo conference in support of the Front, "hardly have the moral right to tell the people who are engaged in armed struggle how to run their paths and determine their freedom." And in further token of his admiration, Young publicly implored "my brother Robert Mugabe . . . not to think of us in the same context as our involvement in Vietnam now in 1977."

In adopting this ingratiating stance toward the Patriotic Front, and by opposing a course that would seek to strengthen its democratic opponents, Young is no doubt motivated in part by the wish to maintain his "credibility" with such Front supporters in Africa as Samora Machel of Mozambique, Agostinho Neto of Angola, and Julius Nyerere of Tanzania. At the same time, there is little to suggest, in light of his overall political point of view, that he would regard the installation of a Mugabe-type regime in Zimbabwe as cause for concern. Certainly it would be no more harmful to U.S. interests, from his point of view, than a Neto regime in Angola, and it might even be helpful. After all, Rhodesia under Mugabe would be "stable," the U.S. could trade with it (importing its chrome, for example, without political embarrassment), and, like Mozambique, it might even be "humanistic" as well as Communist.

In the end, it is Young's apparent lack of commitment to political freedom, and his ability to turn a blind eye to oppression if it is carried out by African and other Third World regimes in the name of a progressive ideology, that is the most troubling aspect of his thought and of his performance at the United Nations. More is at issue than a mere disagreement over policy when Young finds it possible to assert, for example, that the "success" of Mozambique "makes East and West alike look to this nation with new hope and with new courage." Leaving aside the FRELIMO regime's disastrous economic performance, it would be an understatement to say that it has not respected the principle of majority rule, given the fact that Machel has pledged to "liquidate abrasive forces in the service of imperialism" and is currently holding some 100,000 people in forced-labor camps on suspicion of opposing the regime's policies.

And Mozambique is only one example of Young's indifference to the issue of political freedom in Africa except insofar as it pertains to the question of white minority rule. He has also spoken of the "impressive leadership" of SWAPO, the Namibian "liberation" movement, and conferred upon it the "Freedom Now" slogan, without, however, mentioning the arrest and detention in Zambia and Tanzania (under conditions marked by what the New Republic has called "unspeakable cruelties") over 1,000 SWAPO dissidents, whose only crime was calling for a democratic party congress.

Young seems equally unconcerned about the fate of freedom elsewhere in the Third World, so long as the regime in question calls itself "progressive." On the very day that Young was welcoming Vietnam into the United Nations in the most lyrical terms, for example, the New York Times published an article by Henry Kamm containing extensively detailed accounts by refugees of the harsh political persecution which had led them to flee Vietnam by boat, at great risk to their lives. Young has expressed his admiration for "Vietnam's struggle for independence," and in a statement delivered by an aide in Bangkok this March, he observed, in an obvious reference to America's role in the Vietnam war, that "no part of the world has borne more tragic witness than Asia to the devastation of modern man's technology and intolerance of other socioeconomic systems." But nowhere in this speech about "basic human needs" did he mention the plight of refugees from Communist Indochina or, for that matter, the holocaust taking place across the border in Cambodia.

To understand how Young can have evolved into an advocate of U.S. acquiescence in a new system of tyranny, one must again turn to the formative political experience of his life, the civil-rights movement of the 50's and 60's. In a sense, that movement was innocent about international affairs. Though influenced by, and in turn influencing, the anti-colonialist movements of Africa, the civil-rights movement never really had much interest in international questions. Justifiably preoccupied with solving problems in this country, it did not feel called upon to develop a perspective on American foreign policy, which during this period was concerned above all with the containment of Communism. To the degree that the issue of Communism impinged on the civil-rights movement, it did so in one of two ways: the opponents of integration sought to discredit the movement by calling it Communist, and the American Communist party, posing as a dedicated opponent of racial injustice, sought to use the movement to further its own political objectives. Neither attempt was new, and neither was particularly successful.* But perhaps inevitably, a tendency developed to view "the enemy of my enemy as my friend," and some in the civil-rights movement began to identify anti-Communism with opposition to racial progress and to view Communism as a sincere ally of the black freedom struggle. Young in his civil-rights days may have been influenced by this misperception of the role of Communism. Only recently he referred to Paul Robeson—an inveterate apologist for Stalinism—as "the hero of my youth," and he continues to see no contradiction between Robeson's defense of black freedom and his support for Stalinist totalitarianism.

Apart from all this, Young's insistence that the civil-rights movement in America can serve as a paradigm for such differing phenomena as the racial conflict in South Africa and the dissident movement in the Soviet Union reveals a parochialism that accounts in some measure for his failure to understand the nature of totalitarianism. It also accounts for his nonchalant attitude toward political democracy, whose virtues are difficult to appreciate fully without understanding what their absence would entail. In his Reflections on Gandhi, George Orwell wrote: "It is difficult to see how Gandhi's methods could be applied in a country where the opponents of the regime disappear in the middle of the night and are never heard of again. Without a free press and the right of assembly, it is impossible not merely to appeal to outside opinion, but to bring a mass movement into being, or even to make your intentions known to your adversary." Ironically, by looking at the world strictly in terms of his own experience in the civil-rights movement, Young not only misperceives different political situations, but also fails to understand why his own movement was able to appeal so successfully to the conscience of America.

The same parochialism which explains Young's failure to distinguish sufficiently between democracy and totalitarianism also accounts for his inability to see any distinction between authoritarian and totalitarian societies. Referring recently to the restoration of democracy in Portugal, Spain, and Greece, Young said that "totalitarian states and oppressive regimes fall suddenly and without much warning." He did not seem to understand that the right-wing regimes in these countries could be replaced as quickly and as smoothly as they were precisely because they were not totalitarian in the sense of controlling every aspect of human existence. For this same reason, the prospects for a democratic political evolution in South Africa—despite its perilous racial situation and its despicable policy of apartheid—are more hopeful than they are in the Soviet Union or Vietnam. To condemn this society more strongly than any other, as Young has done, bespeaks something less than a consistent moral standard on human rights.

But to attribute Young's political views simply to a naiveté born of a parochial view of the world is insufficient. His objection to anti-Communism, his denunciation of U.S. "militarism" and "imperialism," his opposition to the use of American military power under any circumstances, his readiness to justify Soviet despotism as a product of Russian economic backwardness or to blame Amin's tyranny on Western colonialism, his benignly relativistic attitude toward Third World dictatorships of the Left, in contrast to his absolutistic assurance about rightwing dictatorships—all these bespeak a political perspective that has much more in common with the New Politics movement of the past decade than with the civil-rights movement of the decade before that. This more recent movement has had an impact on American political culture no less far-reaching (though infinitely less constructive) than the civil-rights movement had on the nation's racial attitudes; and it now finds itself well represented in the Carter administration's foreign-policy establishment, especially among the younger members. In virtually every one of his political attitudes Young reflects the conventional wisdom of the New Politics and its two key ideas: that the East-West conflict has now given way to the North-South "dialogue," and that Communism does not constitute a threat to the West.

Obviously this point of view, with its downgrading of political freedom, is well calculated to make Young popular in a forum dominated, as the UN is, by member states which are not democratic. Just as obviously it is indispensable to the role Young wishes to play of chief intermediary between black Africa and the United States. Yet in his eagerness to demonstrate his solidarity with the new Marxist-Leninist elite of black Africa, Young finds himself today for the most part on the side not of the oppressed but of the oppressors. In Angola, for example, thousands of young people from rebel villages in the northern and central part of the country are being rounded up and shipped to Cuba's Oriente province where they are forced to cut sugar cane and undergo political indoctrination. At the same time, and in a far more comfortable setting, the sons and daughters of Angola's new ruling

* A full account of the long history of the relationship between the American Communist party and the racial protest movement in this country appears in Wilson Record's excellent volume, "Race and Radicalism: The NAACP and the Communist Party in Conflict" (Cornell University Press, 1964).

class are receiving technical and political training in Cuba's Isle of Pines at schools named after President Agostinho Neto. Here, in the division between slaves and slave masters, between the victims of the new order and those who rule over it, we have a true paradigm of revolutionary Africa.

President Carter has said that Andrew Young "has a great sensitivity about the yearnings" of Third World peoples, as well as an understanding of the reasons for their "animosities and hatred" toward the United States. "I think," said the President, "he's made great strides in repairing [the] damage that [has] been done." While it is no doubt true that Young has established friendly relations with some leaders who are otherwise hostile to America, he has done so at the expense of a retreat from the principles of liberty and democracy. Worse still, this retreat has involved a solidarity with totalitarian rulers in the Third World whose victims might well pray to be delivered from such "sensitivity" to their "yearnings." For their sake, as well as for our own, one can only hope that President Carter's recent warnings about Soviet-Cuban adventurism in Africa mean that Young is not the "point man" of this administration, as he has claimed to be, but rather the rearguard legacy of a political movement spawned by Vietnam and now on its way to being left behind.●

CONFERENCE REPORT ON H.R. 12934

Mr. SLACK submitted the following conference report and statement on the bill (H.R. 12934) making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending September 30, 1979, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 95-1565)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12934) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1979, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows: That the Senate recede from its amendments numbered 32, 42, 43, 53, 55, 59, 61, 62, 63, 64, 65, 74, 75, 95, 98, 108, 112, 119, and 123.

That the House recede from its disagreement to the amendments of the Senate numbered 20, 21, 46, 47, 49, 57, 58, 69, 70, 71, 72, 77, 79, 80, 81, 82, 83, 84, 85, 86, 87, 89, 93, 94, 97, 99, and 121, and agree to the same.

Amendment numbered 39: That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$646,488,000"; and the Senate agree to the same.

Amendment numbered 44: That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$34,900,000"; and the Senate agree to the same.

Amendment numbered 45: That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$49,286,000"; and the Senate agree to the same.

Amendment numbered 48: That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$16,430,000"; and the Senate agree to the same.

Amendment numbered 50: That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment insert: "$507,525,000: *Provided*, That any unobligated balance remaining in the account entitled "Financial and Technical Assistance" as of September 30, 1978, shall be merged with this appropriation: *Provided further*, That total obligations for new loans and guarantees under the "Economic Development Revolving Fund" shall not exceed $75,000,000"; and the Senate agree to the same.

Amendment numbered 52: That the House recede from its disagreement to the amendment of the Senate numbered 52, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$29,300,000"; and the Senate agree to the same.

Amendment numbered 54: That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$71,775,000"; and the Senate agree to the same.

Amendment numbered 60: That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$560,650,000"; and the Senate agree to the same.

Amendment numbered 68: That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$11,500,000"; and the Senate agree to the same.

Amendment numbered 76: That the House recede from its disagreement to the amendment of the Senate numbered 76, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$9,690,000"; and the Senate agree to the same.

Amendment numbered 107: That the House recede from its disagreement to the amendment of the Senate numbered 107, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$270,000,000"; and the Senate agree to the same.

Amendment numbered 118: That the House recede from its disagreement to the amendment of the Senate numbered 118, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$520,500,000"; and the Senate agree to the same.

Amendment numbered 120: That the House recede from its disagreement to the amendment of the Senate numbered 120, and agree to the same with an amendment, as follows: In lieu of the sum named by said amendment insert "$1,575,000"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 33, 34, 35, 36, 37, 38, 40, 41, 51, 56, 66, 67, 73, 78, 88, 90, 91, 92, 96, 100, 101, 102, 103, 104, 105, 106, 109, 110, 111, 113, 114, 115, 116, 117, 123, and 124.

JOHN M. SLACK,
NEAL SMITH,
JOHN J. FLYNT, JR.,
BILL ALEXANDER,
YVONNE BRATHWAITE BURKE,
JOSEPH D. EARLY,
GEORGE MAHON,
ELFORD A. CEDERBERG,
MARK ANDREWS,
Managers on the Part of the House.

ERNEST F. HOLLINGS,
WARREN G. MAGNUSON,
THOMAS F. EAGLETON,
DANIEL K. INOUYE,
QUENTIN N. BURDICK,
PATRICK J. LEAHY,
DENNIS DECONCINI,
DALE BUMPERS,
LOWELL P. WEICKER, JR.,
MARK O. HATFIELD,
TED STEVENS,
MILTON R. YOUNG,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12934) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1979, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

Amendment No. 1: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which inserts a heading.

Amendment No. 2: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

Salaries and expenses

For necessary expenses of the Department of State and the Foreign Service, not otherwise provided for, including allowances as authorized by 5 U.S.C. 5921–5925; expenses of binational arbitrations arising under international air transport agreements; expenses necessary to meet the responsibilities and obligations of the United States in Germany (including those arising under the supreme authority assumed by the United States on June 5, 1945, and under contractual arrangements with the Federal Republic of Germany); expenses of the National Commission on Educational, Scientific, and Cultural Cooperation, as authorized by sections 3, 5, and 6 of the Act of July 30, 1946 (22 U.S.C. 287o, 287q, 287r); hire of passenger motor vehicles; services as authorized by 5 U.S.C. 3109; dues for library membership in organizations which issue publications to members only, or to members at a price lower than to others; expenses authorized by section 2 of the Act of August 1, 1956 (22 U.S.C. 2669), as amended; refund of fees erroneously charged and paid for passports; radio communications; payment in advance for subscriptions to commercial information, telephone and similar services abroad; expenses necessary to provide maximum physical security in Government-owned and leased properties abroad; and procurement by contract or otherwise, of services, supplies, and facilities, as follows: (1) translating, (2) analysis and tabulation of technical information, and (3) preparation of special maps, globes, and geographic aids; $660,945,000: *Provided*, That passenger motor vehicles in possession of the Foreign Service abroad may be replaced in accordance with section 7 of the Act of August 1, 1956 (22 U.S.C. 2674), and the cost, including exchange allowance, of each such replacement shall not exceed $6,500 in the case of the chief of mission automobile at each diplomatic mission (except that four such vehicles may be purchased at not to exceed $9,000 each)

and such amounts as may be otherwise provided by law for all other such vehicles, except that right-hand drive vehicles may be purchased without regard to any maximum price limitation otherwise established by law: *Provided further*, That in addition, this appropriation shall be available for the purchase (not to exceed thirty-three), replacement, rehabilitation, and modification of passenger motor vehicles for protective purposes without regard to any maximum price limitations otherwise established by law.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amount provided in the amendment reflects a reduction of $55,000 from the amount proposed by the Senate. The reduction is to be applied to the Office of Human Rights including reduction of one position allocated to that office.

Representation allowances

Amendment No. 3: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $2,900,000.

Acquisition, operation, and maintenance of buildings abroad

Amendment No. 4: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $125,000,000 to remain available until expended and provides that not to exceed $2,544,000 may be used for administrative expenses during the current fiscal year.

Acquisition, operation, and maintenance of buildings abroad (Special Foreign Currency Program)

Amendment No. 5: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $6,025,000 to remain available until expended.

Emergencies in the Diplomatic and Consular Service

Amendment No. 6: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriated $2,350,000.

Payment to the Foreign Service Retirement and Disability Fund

Amendment No. 7: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $38,107,000.

International organizations and conferences

Amendment No. 8: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which inserts a heading.

Contributions to international organizations

Amendment No. 9: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $355,392,000 instead of $327,676,000 as proposed by the Senate. The text of the amendment is as follows:

In lieu of the matter proposed by said amendment, insert:

Contributions to international organizations

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties, conventions, or specific Acts of Congress, $355,392,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers note that the assessment scale for the United States contribution to the Organization of American States reflects a decrease in 1979 from 66% to 62%. The managers are particularly concerned that this decrease in assessment continue in view of the rapid growth in the OAS budget over the years. Accordingly, the Department of State is expected, in consultation with the appropriate Committees of Congress, to seek to continue this reduction in the U.S. assessment annually, so that within the next few years the United States assessment will be no more than 50% of the budget of the OAS and other Latin American organizations.

Contributions for international peacekeeping activities

Amendment No. 10: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $27,000,000.

Missions to international organizations

Amendment No. 11: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $12,000,000. The $12,000,000 is to be allocated as follows:

U.S. Missions to:	
United Nations	$4,037,000
International Organizations, Geneva	4,710,000
International Organizations, Vienna	1,036,000
International Civil Aviation Organization	290,000
Organization of American States	914,000
United Nations Educational, Scientific and Cultural Organization	420,000
The Food and Agriculture Organization	210,000
United Nations Environment Program	143,000
U.S. Congressional groups to:	
Interparliamentary Union	90,000
North Atlantic Assembly	50,000
Canada-U.S. Interparliamentary Group	50,000
Mexico-U.S. Interparliamentary Group	50,000
Total	12,000,000

International conferences and contingencies

Amendment No. 12: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $8,000,000, to remain available until expended, of which not to exceed $175,000 may be expended for representation allowances and official entertainment.

International trade negotiations

Amendment No. 13: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $4,717,000.

International commissions

Amendment No. 14: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which inserts a heading.

International Boundary and Water Commission, United States and Mexico

Amendments Nos. 15, 16, and 17: Reported in technical disagreement. The managers on the part of the House will offer motions to recede and concur in the amendments of the Senate which insert language regarding the use of funds provided to the Commission and appropriate $6,800,000 for "Salaries and Expenses" and $3,900,000 for "construction".

American sections, international commissions

Amendment No. 18: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriate $2,500,000 for expenses of the International Joint Commission and the International Boundary Commission.

International fisheries commissions

Amendment No. 19: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $6,600,000.

General provisions—Department of State

Amendment No. 20: Inserts section number.

Amendment No. 21: Changes section number.

TITLE II—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

Salaries and Expenses

Amendment No. 22: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $28,474,000 instead of $28,396,000 as proposed by the Senate. The text of the amendment is as follows:

In lieu of the matter proposed by said amendment, insert:

GENERAL ADMINISTRATION

Salaries and Expenses

For expenses necessary for the administration of the Department of Justice, including hire of passenger motor vehicles; and miscellaneous and emergency expenses authorized or approved by the Attorney General or the Assistant Attorney General for Administration; $28,474,000, of which $5,111,000 is for the United States Parole Commission and $1,700,000 is for the Federal justice research program, the latter amount to remain available until expended.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amount provided in the amendment includes funds for nondiscretionary increases as well as funds for five additional positions in the Office of Management and Finance, twelve additional positions for the U.S. Parole Commission, funds for increased travel expenses connected with Judicial Nominating Committees, and funds for additional staff years in the Offices of Public Information and Improvements in the Administration of Justice.

Legal activities

Amendment No. 23: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which inserts a heading.

Salaries and expenses, general legal activities

Amendment No. 24: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $90,550,000 instead of $90,526,000 as proposed by the Senate. The text of the amendment is as follows:

In lieu of the matter proposed by said amendment, insert:

Salaries and expenses, general legal activities (including transfer of funds)

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including miscellaneous and emergency expenses authorized

or approved by the Attorney General or the Assistant Attorney General for Administration; not to exceed $20,000 for expenses of collecting of evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and advances of public moneys pursuant to law (31 U.S.C. 529); $90,550,000: *Provided*, That not to exceed $105,000 may be transferred to this appropriation from the "Alien Property Fund, World War II", for the general administrative expenses of alien property activities, including rent of private or Government-owned space in the District of Columbia.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amount provided in the amendment includes the full amount of the budget request plus funds for 25 additional positions for the Land and Natural Resources Division.

The conferees have provided no funding for private counsel fees. In the event that any such funds are required, the conferees direct the Department to submit a reprogramming request before any funds may be obligated.

Salaries and expenses, antitrust division

Amendment No. 25: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $46,377,000 instead of $47,080,000 as proposed by the Senate. The text of the amendment is as follows:

In lieu of the matter proposed by said amendment, insert:

Salaries and expenses, antitrust division

For expenses necessary for the enforcement of antitrust, consumer protection and kindred laws, including $10,000,000 for antitrust enforcement grants to the States authorized by section 309 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, $46,377,000: *Provided*, That none of this appropriation shall be expended for the establishment and maintenance of permanent regional offices of the Antitrust Division.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Salaries and expenses, United States attorneys and marshals

Amendment No. 26: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $196,700,000, authorizes the lease of not more than 800 passenger motor vehicles from the General Services Administration of which not more than 570 shall be for police-type use, and provides that GSA may purchase not more than 100 replacement vehicles without regard to the purchase price limitation for the current fiscal year.

Support of United States prisoners

Amendment No. 27: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $25,100,000.

Fees and expenses of witnesses

Amendment No. 28: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $20,000,000 and provides that funds shall not be used to pay any witness more than one attendance fee for any one calendar day.

Salaries and expenses, Community Relations Service

Amendment No. 29: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $5,353,000.

FEDERAL BUREAU OF INVESTIGATION

Salaries and expenses

Amendment No. 30: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

Salaries and expenses

For expenses necessary for the detection and prosecution of crimes against the United States; protection of the person of the President of the United States and the person of the Attorney General; acquisition, collection, classification and preservation of identification and other records and their exchange with, and for the official use of, the duly authorized officials of the Federal Government, of States, cities, and other institutions, such exchange to be subject to cancellation if dissemination is made outside the receiving departments or related agencies; and such other investigations regarding official matters under the control of the Department of Justice and the Department of State as may be directed by the Attorney General; including purchase for police-type use without regard to the general purchase price limitation for the current fiscal year (not to exceed one thousand three hundred and seventy-four for replacement only) and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; firearms and ammunition; payment of rewards; benefits in accordance with those provided under 22 U.S.C. 1136(9)-(11) and 22 U.S.C. 1157, under regulations prescribed by the Secretary of State; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; $561,341,000

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amount provided in the amendment includes the full amount of the budget request plus the following additional amounts: (1) $1,000,000 for domestic security and terrorism investigations, (2) $1,000,000 for coordination of domestic security and terrorism investigations, and (3) $2,591,000 for bank robbery investigations.

It is the intention of the managers that the Federal Bureau of Investigation will not remove or further reduce the agent presence in those rural and heavily Indian populated areas that have been traditionally served and that those areas continue to receive the benefit of agents at the same levels of the past few years.

IMMIGRATION AND NATURALIZATION SERVICE

Amendment No. 31: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $299,350,000 instead of $299,800,000 as proposed by the Senate. The text of the amendment is as follows:

In lieu of the matter proposed by said amendment, insert:

IMMIGRATION AND NATURALIZATION SERVICE

Salaries and expenses

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including advance of cash to aliens for meals and lodging while en route; payment of allowances (at a rate not in excess of $1 per day) to aliens, while held in custody under the immigration laws, for work performed; payment of expenses and allowances incurred in tracking lost persons as required by public exigencies; payment of rewards; not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use without regard to the general purchase price limitation for the current fiscal year (not to exceed four hundred seven, of which two hundred ninety-eight shall be for replacement only) and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; firearms and ammunition, attendance at firearms matches; refunds of head tax, maintenance bills, immigration fines, and other items properly returnable, except deposits of aliens who become public charges and deposits to secure payment of fines and passage money; operation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto; acquisition of land as sites for enforcement fence and construction incident to such fence; reimbursement to the General Services Administration for security guard services for protection of confidential files; benefits in accordance with those provided under 22 U.S.C. 1136(9)-(11) and 22 U.S.C. 1157 under regulations prescribed by the Secretary of State; research related to immigration enforcement; $299,350,000, of which not to exceed $400,000 shall remain available for such research until expended: *Provided*, That of the amount herein appropriated, not to exceed $50,000 may be used for the emergency replacement of aircraft upon certificate of the Attorney General.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amount provided in the amendment reflects approval of all items proposed in the budget, but will provide funds for the 903 additional positions at a 50% lapse rate. In addition, funds are included for a reduction of lapse on existing positions, a new district office for the Carolinas, and fencing in the Yuma, Arizona sector ($1,500,000).

DRUG ENFORCEMENT ADMINISTRATION

Salaries and expenses

Amendment No. 32: Deletes proposal of the Senate which would prohibit establishment of a ceiling on full-time permanent positions for DEA at less than 4,075.

Federal Prison System

Amendment No. 33: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which inserts a heading.

Salaries and expenses, Bureau of Prisons

Amendment No. 34: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

Salaries and expenses, Bureau of Prisons

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including supervision and support of United States prisoners in non-Federal institutions; purchase of (not to exceed thirty-two of which twenty-four are for replacement only) and hire of law enforcement and passenger motor vehicles; compilation of statistics relating to prisoners in Federal penal and correctional institutions; assistance to State and local governments to improve their correctional systems; firearms and ammunition; medals and other awards; payment of rewards; purchase and exchange of farm products and livestock; construction of buildings at prison camps; and acquisition of land as authorized by section 4010 of title 18, United States Code; $315,200,000: *Provided*, That there

may be transferred to the Health Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

National Institute of Corrections

Amendment No. 35: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $9,920,000.

Buildings and facilities

Amendment No. 36: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $35,280,000.

Federal Prison Industries, Incorporated

Amendment No. 37: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which authorizes the Federal Prison Industries, Inc. to make such expenditures as may be necessary in carrying out the program set forth in the budget.

Limitation on administrative and vocational training expenses, Federal Prison Industries, Incorporated

Amendment No. 38: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which sets a limit of $2,041,000 on funds for administrative expenses and $3,040,000 on expenses of vocational training of prisoners.

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

Salaries and expenses

Amendment No. 39: Appropriates $646,488,000 instead of $641,488,000 as proposed by the House and $656,488,000 as proposed by the Senate. The amount agreed to by the conferees includes $50,000,000 for planning grants, $7,000,000 for community anticrime programs, $25,000,000 (plus $15,000,000 from carryover funds) for law enforcement education (LEEP), and $100,000,000 for juvenile justice and delinquency prevention.

Funds requested for an urban crime prevention program are not included within the amount recommended by the conferees. The conferees feel this item needs further review and would suggest consideration of the request in conjunction with other programs in the President's urban proposal.

General provisions—Department of Justice

Amendment No. 40: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which sets a ceiling of $18,500 on funds available for official reception and representation expenses.

Amendment No. 41: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which states that appropriations and authorizations made in this title which are available for attendance at meetings shall be expended in accordance with regulations prescribed by the Attorney General.

Amendment No. 42: Deletes proposal of the Senate to prohibit establishment of a ceiling on full-time permanent positions for the Department of Justice at less than 53,410.

Amendment No. 43: Deletes proposal of the Senate to prohibit us of funds to purchase, lease, or otherwise acquire message-switching equipment until approval is given by the Judiciary Committees of the House and Senate.

TITLE III—DEPARTMENT OF COMMERCE

GENERAL ADMINISTRATION

Salaries and expenses

Amendment No. 44: Appropriates $24,900,000 instead of $24,335,000 as proposed by the House and $25,025,000 as proposed by the Senate.

The amount provided includes $202,000 and 6 positions for an expanded congressional liaison staff. The amount also includes $370,000 and 10 positions which were not allowed by the House for the Office of Policy Development. The conferees are concerned about the number of staff for the Office. The conferees recommend that the Secretary review the functions and staff resources of the Office and transfer those positions which are not needed to other parts of the Department where they might be better utilized. The conferees expect the Secretary to report to the House and Senate Appropriations Committees on the progress of this effort.

BUREAU OF THE CENSUS

Salaries and expenses

Amendment No. 45: Appropriates $49,286,000 instead of $48,594,000 as proposed by the House and $49,835,000 as proposed by the Senate.

The amount provided includes $878,000 and 24 positions to develop a survey of income, assets and social program participation, and $125,000 to reimburse the Internal Revenue Service for collection of wage data in order to avoid duplicate requests for data on small firms.

Periodic censuses and programs

Amendment No. 46: Appropriates $196,800,000 as proposed by the Senate instead of $175,000,000 as proposed by the House.

Amendment No. 47: Inserts language proposed by the Senate which specifies that the exemption from the provisions of 29 U.S.C. 206 and 207 contained in the House bill for certain enumerators applies to the 1980 Decennial Census.

ECONOMIC AND STATISTICAL ANALYSIS

Salaries and expenses

Amendment No. 48: Appropriates $16,430,000 instead of $16,080,000 as proposed by the House and $16,875,000 as proposed by the Senate. The amount provided includes $350,000 and 10 positions for the Office of Federal Statistical Policy and Standards.

The conferees are agreed that the project to develop quarterly estimates of national defense purchases in constant dollars should continue to be financed on a reimbursable basis from the Department of Defense.

ECONOMIC DEVELOPMENT ADMINISTRATION

Economic development assistance programs

Amendment No. 49: Inserts language proposed by the Senate which makes the appropriation available for programs authorized by title II of the Public Works and Economic Development Act of 1965, as amended.

Amendment No. 50: Appropriates $507,525,000 instead of $484,325,000 as proposed by the House and $547,775,000 as proposed by the Senate and inserts language providing for a limitation of $75,000,000 on obligations for new loans and guarantees under the Economic Development Revolving Fund instead of a limitation of $58,000,000 on total obligations from such fund as proposed by the House and a limitation of $75,000,000 on obligations for business loans and guarantees from such fund as proposed by the Senate.

The following table summarizes the conference agreement:

Title and program:	Amount
Title I—Public Works Grants	$196,000,000
Title II—Business Loans and Guarantees	21,500,000
Economic Development Revolving Fund	(75,000,000)
Title III—Planning, Technical Assistance, Research and Information	81,425,000
Title IV—District Programs and Indians	30,000,000
Title IX—Special Economic Adjustment Assistance	88,500,000
Total, Public Works and Economic Development Act	417,425,000
Title II—Trade Act of 1974	90,100,000
Grand total	507,525,000

The conferees are agreed that the Economic Development Administration should allocate program funds to each regional office in fiscal year 1979 in amounts that are not less than what that region could expect to receive based on the fiscal year 1975–77 percent share of funds obligated in those regions under all regular EDA programs, excluding Sec. 304 allocations, drought, Title X and Local Public Works programs.

Local public works program

Amendment No. 51: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

Local public works program

For administrative expenses, including expenses for program evaluation by the Secretary of Commerce, necessary to carry out title I of the Public Works Employment Act of 1976 (Public Law 94–369), $10,000,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Administration of economic development assistance programs

Amendment No. 52: Appropriates $29,300,000 instead of $28,690,000 as proposed by the House and $29,950,000 as proposed by the Senate.

The amount provided includes funds for 25 staff years above the number requested in full-time permanent positions funded by rate to approximately 7%.

Amendment No. 53: Deletes language proposed by Senate that no ceiling shall be established at less than 878 on employment in full-time permanent positions funded by this appropriation.

INDUSTRY AND TRADE ADMINISTRATION

Operations and administration

Amendment No. 54: Appropriates $71,775,000 instead of $68,175,000 as proposed by the House and $71,900,000 as proposed by the Senate. The amount provided includes $1,200,000 and 52 positions to implement the 1977 amendments to the Export Administration Act and $2,400,000 for a computerized data system for matching textile imports against existing quotas and consultation levels.

The conferees have not agreed to the proposed reduction of $425,000 and 15 positions for field operations and expect this program to be maintained at the same level as provided for fiscal year 1978.

Amendment No. 55: Deletes language proposed by the Senate that no ceiling shall be established at less than 1,700 on employment in full-time permanent positions funded by this appropriation.

MINORITY BUSINESS ENTERPRISE

Minority business development

Amendment No. 56: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $57,955,000 and inserts language making the appropriation available for expenses of grants, contracts, or other agreements with public or private organizations.

Amendment No. 57: Provides for a limitation of $44,950,000 on funds which remain available until expended as proposed by the Senate instead of a limitation of $44,800,000 on such funds as proposed by the House.

Amendment No. 58: Provides for a limitation of $13,015,000 for program development and management as proposed by the Senate instead of $13,200,000 for this purpose as proposed by the House.

UNITED STATES TRAVEL SERVICE

Salaries and expenses

Amendment No. 59: Appropriates $13,500,000 as proposed by the House instead of $13,800,000 as proposed by the Senate.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Operations, research, and facilities

Amendment No. 60: Appropriates $660,650,000 instead of $651,770,000 as proposed by the House and $674,000,000 as proposed by the Senate.

The amount appropriated includes a total of $1,473,000 for expanded stock assessment surveys and analysis of data from menhaden fisheries surveys; $2,330,000 for construction of pollution abatement facilities at fish hatcheries on the Columbia River; $657,000 for operation of an enforcement information system and additional collection of data on marine recreational fisheries; $785,000 for expansion of the Puget Sound Marine Ecosystem Analysis Project; $510,000 for improving water quality sensors and diver effectiveness and safety; and $1,500,000 for purchasing a computer at the Geophysical Fluid Dynamics Laboratory. The amount provided also includes $200,000 for architectural and engineering design studies for a new fisheries laboratory at Manchester, Washington; $175,000 for additional recreational fisheries surveys; $400,000 for additional microconstituent research; $400,000 for an improved Geodetic Network program in South Carolina; $250,000 for initiating the Ocean Pulse project; $300,000 for additional support for aquaculture programs; and a total of $108,000 for restoration of the fiscal year 1978 levels for menhaden utilization research and the Northeast sea herring study.

The conferees are agreed that a total of $2,500,000 is to be allocated for support of the tuna fishing development programs of the Pacific Tuna Development Foundation from the permanent appropriation "Promote and develop fishery products and research pertaining to American fisheries."

Amendment No. 61: Provides that $5,000,000 shall be transferred to this appropriation from the fund entitled "Promote and develop fishery products and research pertaining to American fisheries" as proposed by the House.

Amendment No. 62: Deletes language proposed by the Senate which provides that no ceiling shall be established at less than 11,700 on employment in full-time permanent positions funded by this appropriation.

Coastal zone management

Amendment No. 63: Appropriates $57,200,000 as proposed by the House instead of $57,600,000 as proposed by the Senate.

Amendment No. 64: Deletes language proposed by the Senate which provides that no ceiling shall be established at less than 94 on employment in full-time permanent positions funded by this appropriation.

Coastal energy impact fund

Amendment No. 65: Deletes proposal of the Senate to appropriate $4,000,000, but provides language which establishes a limitation of $200,000,000 on obligations for payments pursuant to subsections 308 (c), (d), and (f) of the Coastal Zone Management Act of 1972, as amended, as proposed by the House instead of a limitation of $204,000,000 on such obligations as proposed by the Senate.

NATIONAL FIRE PREVENTION AND CONTROL ADMINISTRATION

Operations, research, and administration

Amendment No. 66: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $17,395,000 instead of $18,300,000 as proposed by the Senate. The text of the amendment is as follows:

In lieu of the matter proposed by said amendment, insert:

NATIONAL FIRE PREVENTION AND CONTROL ADMINISTRATION

Operations, research, and administration

For expenses necessary to carry out the provisions of the Federal Fire Prevention and Control Act of 1974, as amended, $17,395,000, to remain available until expended.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amount provided includes $500,000 for development of a residential sprinkler standard and $415,000 for a demonstration project on an arson early warning system. The conferees strongly support the efforts of the National Fire Prevention and Control Administration to develop anti-arson programs and encourage the allocation of additional resources to this area to the extent possible.

Science and technical research

Scientific and Technical Research and Services

Amendment No. 67: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment of the Senate $87,700,000 instead of $88,150,000 as proposed by the Senate. The text of the amendment is as follows:

In lieu of the matter inserted by said amendment, insert:

SCIENCE AND TECHNICAL RESEARCH

Scientific and technical research and services

For necessary expenses of the National Bureau of Standards, including the acquisition of buildings, grounds, and other facilities; and the National Technical Information Service; $87,700,000, to remain available until expended, of which not to exceed $3,300,000 may be transferred to the "Working Capital Fund", National Bureau of Standards, for additional capital.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amount provided includes a total of $11,416,000 to begin full implementation of the Federal computer standards program.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

Salaries and expenses

Amendment No. 68: Appropriates $11,500,000 instead of $10,965,000 as proposed by the House and $12,000,000 as proposed by the Senate.

MARITIME ADMINISTRATION

Amendment No. 69: Inserts heading.

Ship construction

Amendment No. 70: Appropriates $157,000,000, for construction-differential subsidies as proposed by the Senate.

Operating-differential subsidies

(Liquidation of Contract Authority)

Amendment No. 71: Provides $250,000,000 for payment of obligations incurred for operating-differential subsidies as proposed by the Senate.

Research and development

Amendment No. 72: Appropriates $17,500,000 for expenses of the research and development program of the Maritime Administration as proposed by the Senate.

Operations and training

Amendment No. 73: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides $57,150,000 for administrative expenses of the Maritime Administration, maintenance of the national defense reserve fleet, the cost of training at the U.S. Merchant Marine Academy, and Federal financial support to the State marine schools.

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

Amendment No. 74: Deletes Sec. 306 proposed by the Senate which provides that no ceiling on employment in full-time permanent positions funded by this title shall be established at less than 30,100.

TITLE IV—THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

Salaries and expenses

Amendment No. 75: Deletes proposal of the Senate to insert language authorizing the use of funds for the hire of automobiles for the Associate Justices.

Amendment No. 76: Appropriates $9,690,000 instead of $8,960,000 as proposed by the House and $9,718,000 as proposed by the Senate. This amount provides the full amount of the amended budget request, plus $260,000 to provide each justice with two additional stenographers.

Care of the building and grounds

Amendment No. 77: Appropriates $1,450,000 as proposed by the Senate instead of $999,600 as proposed by the House.

Amendment No. 78: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which amends the statutes by adding a subsection to permit funds to be used for expenses of heating and air-conditioning supplied by the Capitol Power Plant.

Courts of Appeals, District Courts and Other Judicial Services

Salaries of Supporting Personnel

Amendment No. 79: Appropriates $166,195,000 as proposed by the Senate instead of $164,300,000 as proposed by the House.

Amendment No. 80: Provides that the salary of secretaries to circuit and district judges shall not exceed the compensation for GS-11, as proposed by the Senate, instead of the compensation of GS-10, as proposed by the House.

Amendments No. 81 through 84: Increase limitations on the aggregate salaries which may be paid to secretaries and law clerks appointed by each judge, as proposed by the Senate.

Travel and miscellaneous expenses

Amendment No. 85: Appropriates $31,914,000 as proposed by the Senate instead of $31,700,000 as proposed by the House.

Salaries and expenses of magistrates

Amendment No. 86: Appropriates $19,411,000 as proposed by the Senate instead of $18,400,000 as proposed by the House.

Space and facilities

Amendment No. 87: Appropriates $98,400,000 as proposed by the Senate instead of $99,400,000 as proposed by the House.

Pretrial services agencies

Amendment No. 88: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $5,000,000, to remain available until expended.

TITLE V—RELATED AGENCIES

ARMS CONTROL AND DISARMAMENT AGENCY

Arms control and disarmament activities

Amendment No. 89: Appropriates $16,395,000, including not to exceed $15,000 for official reception and representation expenses, as proposed by the Senate.

BOARD FOR INTERNATIONAL BROADCASTING

Grants and expenses

Amendment No. 90: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which includes a limitation of $52,000 for official and representation expenses of a limitation of $65,000 as proposed by the Senate. The text of the amendment is as follows:

In lieu of the matter proposed by said amendment insert:

BOARD FOR INTERNATIONAL BROADCASTING

Grants and expenses

For expenses of the Board for International Broadcasting, including grants to RFE/RL, Inc., $85,000,000, of which $2,000,000, to remain available until expended, shall be available only for fluctuations in foreign currency exchange rates in accordance with the provisions of section 8 of the Board for International Broadcasting Act of 1973, as amended: *Provided*, That not to exceed $52,000 shall be available for official reception and representation expenses.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

COMMISSION ON CIVIL RIGHTS

Salaries and expenses

Amendment No. 91: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $10,752,000.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Salaries and expenses

Amendment No. 92: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $521,000 instead of $350,000 as proposed by the House.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Salaries and expenses

Amendment No. 93: Inserts the word "enforcement", as proposed by the Senate, so that the language reads "payments to State and local enforcement agencies".

Amendment No. 94: Appropriates $107,000,000 as proposed by the Senate instead of $110,000,000 as proposed by the House.

FEDERAL COMMUNICATIONS COMMISSION

Salaries and expenses

Amendment No. 95: Provides for a limitation of $3,000 for official reception and representation expenses as proposed by the House instead of a limitation of $5,000 for such expenses as proposed by the Senate.

Amendment No. 96: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which inserts language making not to exceed $35,000 available to provide commemorative stamp albums to delegates to the 1979 World Administrative Radio Conference.

Amendment No. 97: Appropriates $70,446,000 as proposed by the Senate instead of $68,535,000 as proposed by the House.

Amendment No. 98: Deletes language proposed by the Senate which provides that no ceiling shall be established at less than 2,283 on employment in full-time permanent positions funded by this appropriation.

FEDERAL MARITIME COMMISSION

Salaries and expenses

Amendment No. 99: Appropriates $10,550,000 as proposed by the Senate instead of $10,500,00 as proposed by the House.

FEDERAL TRADE COMMISSION

Salaries and expenses

Amendment No. 100: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $64,750,000 instead of $65,900,000 as proposed by the Senate. The text of the amendment is as follows:

In lieu of the matter proposed by said amendment: insert:

FEDERAL TRADE COMMISSION

Salaries and expenses

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $1,500 for official reception and representation expenses; $64,750,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amount provided includes funds for 1,719 staff years. It is the intention of the managers that none of the funds appropriated by this Act may be used to promulgate a trade regulation rule concerning television advertising to children.

The Commission has stated that it does not intend to issue any rule on children's advertising in fiscal year 1979, and the conference report on H.R. 3816 provides that all trade regulation rules of the Commission must be submitted for review by Congress and possible legislative veto, thus assuring that the proper authorizing committees will review any rule on children's advertising prior to its effective date.

None of the foregoing is intended to restrict the authority of the Federal Trade Commission to proceed under section 5 of the Federal Trade Commission Act on a case-by-case basis.

The conferees reaffirm their recognition that potential constitutional problems are raised by this proceeding. The conferees wish to reemphasize to the Commission that such questions are of overriding importance, and both the House and Senate Committees will review the Commission's performance in this area over the coming year.

The conferees wish to emphasize that public participation funds authorized by 15 U.S.C. 57a should be used in a fair and balanced manner to develop fully an accurate and factual record on such matters.

The conferees direct that any F.T.C. study of the structure, conduct and performance of the auto industry should fully include foreign producers. The conferees note that less than one-third of all automotive vehicles produced in 1977 were produced in the United States and that the import penetration of foreign manufacturers in the United States automobile market is substantial. The conferees believe that a study of the industry which fails to take account of competitive factors in the world market for automotive products would lack balance and objectivity. It is the intention of the conferees that, if such a study is to be continued, it must include major foreign producers to the same extent as domestic producers and be conducted in a manner that minimizes the problems pointed out by the reports of the House and Senate Appropriations Committees. The conferees realize that the requests for information may vary among producers.

INTERNATIONAL COMMUNICATION AGENCY

Amendment No. 101: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which inserts a heading.

Salaries and expenses

Amendment No. 102: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $368,000,000 of which $7,941,000 shall remain available until expended and $410,000 may be used for representation abroad.

Salaries and expenses (special foreign currency program)

Amendment No. 103: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $9,824,000, to remain available until expended.

CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST

Amendment No. 104: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $13,500,000.

ACQUISITION AND CONSTRUCTION OF RADIO FACILITIES

Amendment No. 105: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $19,685,000 to remain available until expended.

INTERNATIONAL TRADE COMMISSION

Salaries and expenses

Amendment No. 106: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $12,950,000 instead of $13,100,000 as proposed by the Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

LEGAL SERVICES CORPORATION

Payment to the Legal Services Corporation

Amendment No. 107: Appropriates $270,000,000 instead of $285,000,000 as proposed by the House and $255,000,000 as proposed by the Senate.

MARINE MAMMAL COMMISSION

Salaries and expenses

Amendment No. 108: Appropriates $702,000 as proposed by the House instead of $840,000 as proposed by the Senate.

COMMISSION ON GLOBAL HUNGER AND MALNUTRITION

Salaries and expenses

Amendment No. 109: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $1,300,000 instead of $1,500,000 as proposed by the Senate. The text of the amendment is as follows:

In lieu of the matter proposed by said amendment, insert:

COMMISSION ON GLOBAL HUNGER AND MALNUTRITION

Salaries and expenses

For necessary expenses of the Commission on Global Hunger and Malnutrition, includ-

ing services as authorized by 5 U.S.C. 3109, $1,300,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

RENEGOTIATION BOARD

Salaries and expenses

Amendment No. 110: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which authorizes the use of funds for termination and cessation of the activities of the Renegotiation Board.

Amendment No. 111: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $5,260,000 instead of $6,260,000 as proposed by the Senate, and $3,000,000 as proposed by the House.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amount provided in the amendment includes $2,260,000 for termination costs.

Amendment No. 112: Makes funds available until March 31, 1979, as proposed by the House instead of May 31, 1979 as proposed by the Senate.

Amendment No. 113: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: ": Provided, That all property (including records) of the Board shall be transferred to the Administrator, General Services Administration, upon cessation of the Board's activities, or on March 31, 1979, whichever first occurs.".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

SECURITIES AND EXCHANGE COMMISSION

Salaries and expenses

Amendment No. 114: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $64,650,000 for salaries and expenses of the Commission.

SMALL BUSINESS ADMINISTRATION

Salaries and expenses

Amendment No. 115; Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "$167,000,000, and in addition $13,000,000 for disaster loanmaking activities shall be transferred to this appropriation from the "Disaster Loan Fund".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The conference agreement is in lieu of $180,000,000 as proposed by the House, and $193,000,000 as proposed by the Senate.

The amount recommended by the conferees will provide for the additional 321 positions for finance and investment as well as all other increases to the budget provided in the House bill. In addition, the increase over the budget estimate reflects the conferee's belief that SBA should place a greater emphasis on the advocacy, economic research procurement assistance, technical assistance, and management assistance programs. The conferees direct SBA to allocate greater portion of its resources and personnel to these non-lending activities.

Specifically, the conferees direct SBA to fund these programs at the following levels for Fiscal Year 1979:

1. Procurement Assistance	$16,700,000
2. Technology Assistance	2,172,000
3. Management Assistance	21,965,000
4. Small Business Development Centers	8,650,000
5. 7(j) Management Assistance for Minority business	12,000,000
6. Economic Research	4,000,000
7. Advocacy	2,064,000
8. Public Communications	657,000
9. Data Management	4,500,000

The amount recommended includes $1,000,000 to further develop the small business data base as well as 16 additional positions to carry out a pilot decentralized 8(a) program in Region IV.

Amendment No. 116: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed to be stricken and inserted by said amendment, insert: ": Provided, That no part of this appropriation shall be used to fund any small business development center or university business development center pilot program, or any combination thereof, in any state in excess of $300,000 per state until enactment into law of H.R. 11445, or similar legislation.".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

White House Conference on Small Business Amendment No. 117: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $4,000,000 instead of $4,500,000 as proposed by the Senate. The text of the amendment is as follows:

In lieu of the matter proposed by said amendment, insert:

WHITE HOUSE CONFERENCE ON SMALL BUSINESS

For necessary expenses of the White House Conference on Small Business, $4,000,000, to remain available until expended.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

BUSINESS LOAN AND INVESTMENT FUND

Amendment No. 118: Appropriates $520,500,000 instead of $641,500,000 as proposed by the House and $368,780,000 as proposed by the Senate.

The amount agreed to by the conferees is to carry out loan programs under the Business Loan and Investment Fund at the following levels:

[Amounts in millions]

7(a) Business Loans:	
Direct & Imm. Part	$220,000
Guaranteed	3,300,000
7(h) Handicapped Loans:	
Direct & Imm. Part	16,000
Guaranteed	6,000
7(i) Economic Opportunity Loans:	
Direct & Imm. Part	64,000
Guaranteed	64,000
Development Company Loans:	
Direct & Imm. Part	45,000
Guaranteed	50,000
Investment Company Assistance:	
Direct & Imm. Part	22,000
Guaranteed	125,000
7(l) Energy Loans:	
Direct & Imm. Part	5,000
Guaranteed	1,000

SURETY BOND GUARANTEES REVOLVING FUND

Amendment No. 119: Appropriates $35,000,000 as proposed by the House instead of $40,000,000 as proposed by the Senate.

UNITED STATES METRIC BOARD

Salaries and expenses

Amendment No. 120: Appropriates $1,575,000 for salaries and expenses of the Metric Board instead of $1,800,000 proposed by the Senate.

The amount provided includes funds for 25 staff positions for the Board.

TITLE VI—GENERAL PROVISIONS

Amendment No. 121: Deletes proposal of the House which would withhold from obligation or expenditure two percentum of the total budget authority in the Act on payments not required by law.

Amendment No. 122: Deletes proposal of the Senate which would prohibit the use of funds to purchase transportation on foreign flag carriers if similar service is available on United States carriers.

Amendment No. 123. Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 605. It is the sense of the Congress that—

(1) the Government of the United States should give special consideration to the plight of refugees from Democratic Kampuchea (Cambodia) in view of the magnitude and severity of the violations of human rights committed by the Government of Democratic Kampuchea (Cambodia); and

(2) the Attorney General should exercise his authority under section 212(d)(5) of the Immigration and Nationality Act to parole into the United States—

(A) for the fiscal year 1979, 7,500 aliens who are nationals or citizens of Democratic Kampuchea (Cambodia) and who are applying for admission to the United States; and

(B) for the fiscal year 1980, 7,500 such aliens.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 124: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which changes the section number from 607 to 606. The provision prohibits the availability of funds appropriated or otherwise made available by this Act for the Advisory Committee on the Bureau of the Census or any other advisory committee to the Department of Commerce with similar duties unless such committee has filed a charter before July 1, 1978, in accordance with section 9 of the Federal Advisory Committee Act.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Position ceilings

The conferees have deleted the minimum position ceilings inserted by the Senate in 14 different instances in the bill. It is not the intention to indicate a lack of concern about the imposition of arbitrary ceilings, but instead return to the traditional policy that the number of personnel to be employed should be governed by the amount appropriated. Over the last several years the Office of Management and Budget has broken this long-standing policy by establishing personnel ceilings at levels lower than the number that could be funded by the appropriation. There is no problem when the ceilings are established on the basis of good, prudent, and efficient management. However, there is substantial evidence that the ceilings, for example in the case of the National Atmospheric and Oceanic Administration, have been employed in order to minimize Federal employment by contracting out functions at a higher cost to the government. The conferees expect the ceilings to be established in conformance with the amount appropriated and not in an arbitrary fashion.

Format of budget estimates

The conferees agree with the comments in the Senate report concerning the format of budget estimates.

The revised budget presentations of the Law Enforcement Assistance Administration and the Economic Development Administration for fiscal year 1979 were not satisfactory. Both of these agencies are of significant congressional and public interest. It was difficult to respond to this interest in the absence of the traditional budget structure that was based on the authorization acts of these agencies. The conferees are agreed that until the authorizations are revised to reflect the new operating structures, the budget estimates for these two agencies must conform to the current structure of the authorizing legislation.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1979 recommended by the Committee of Conference, with comparisons to the fiscal year 1978 amount, the 1979 budget estimates, and the House and Senate bills for 1979 follow:

New budget (obligational) authority for the fiscal year 1978	$10,681,876,400
Budget estimates of new (obligational) authority fiscal year, 1979	[1] 8,660,076,000
House bill, fiscal year 1979	4,681,543,600
Senate bill, fiscal year 1979	8,436,480,000
Conference agreement	8,543,070,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1978	−2,138,806,400
Budget estimates of new (obligational) authority, fiscal year 1979	−117,006,000
House bill, fiscal year 1979	+3,861,526,400
Senate bill, fiscal year 1979	+106,590,000

[1] Includes $21,562,400 of budget estimates not considered by the House.

JOHN M. SLACK,
NEAL SMITH,
JOHN J. FLYNT, JR.,
BILL ALEXANDER,
YVONNE BURKE,
JOSEPH D. EARLY,
GEORGE MAHON,
ELFORD A. CEDERBERG,
MARK ANDREWS,
Managers on the Part of the House.

ERNEST F. HOLLINGS,
WARREN G. MAGNUSON,
THOMAS F. EAGLETON,
DANIEL K. INOUYE,
QUENTIN N. BURDICK,
PATRICK J. LEAHY,
DENNIS DECONCINI,
DALE BUMPERS,
LOWELL P. WEICKER, JR.,
MARK O. HATFIELD,
TED STEVENS,
MILTON R. YOUNG,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. RISENHOOVER (at the request of Mr. WRIGHT), for September 12, 13, 14, and 15, on account of official business.

Mr. MCKINNEY (at the request of Mr. RHODES), for today from 6:30 p.m., on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GOODLING) to revise and extend their remarks and include extraneous material:)

Mr. BOB WILSON, for 5 minutes, today.
Mr. GOLDWATER, for 5 minutes, today.
Mr. HOLLENBECK, for 5 minutes, today.
Mr. KEMP, for 15 minutes, today.

(The following Members (at the request of Mr. SHARP) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO for 5 minutes today.
Mr. GONZALEZ for 5 minutes today.
Mr. PEPPER for 5 minutes today.
Mr. FOUNTAIN for 5 minutes today.
Mr. BINGHAM for 5 minutes today.
Mr. DIGGS for 5 minutes today.
Mr. DRINAN for 5 minutes today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. CORRADA, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,149.75.

Mr. ASHBROOK, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $1,150.

(The following Members (at the request of Mr. GOODLING) and to include extraneous matter:)

Mr. FORSYTHE.
Mr. ANDERSON of Illinois.
Mr. BOB WILSON in two instances.
Mr. MCCLORY.
Mr. MICHEL.
Mr. COUGHLIN in two instances.
Mr. WAMPLER.
Mr. LAGOMARSINO in two instances.
Mr. CORCORAN of Illinois.
Mr. COLLINS of Texas in three instances.
Mr. VANDER JAGT.
Mr. FRENZEL in two instances.
Mr. DERWINSKI in two instances.
Mr. JEFFORDS.
Mr. MARRIOTT.
Mr. MILLER of Ohio in three instances.
Mr. DORNAN.
Mr. MARKS.
Mr. KEMP.

(The following Members (at the request of Mr. SHARP) and to include extraneous matter:

Mr. BLANCHARD in two instances.
Mr. ROE.
Mr. SIMON.
Mr. GONZALEZ in three instances.
Mr. ANDERSON of California in three instances.
Mr. SANTINI.
Mr. DODD.
Mr. YOUNG of Missouri.
Mr. MCDONALD in five instances.
Mr. HAWKINS in two instances.
Mr. HUBBARD.
Mr. PATTISON of New York.
Mr. BRECKINRIDGE in four instances.
Mr. VENTO.
Mr. MINETA.
Mr. CAVANAUGH in two instances.
Mr. KASTENMEIER.
Mr. ROSE.
Mrs. LLOYD of Tennessee in two instances.
Mr. DOWNEY.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 8112. An act to repeal chapter 27 of title 44, United States Code;

H.R. 9471. An act to amend title 5, United States Code, to provide that Japanese-Americans shall be allowed civil service retirement credit for time spent in World War II internment camps; and

H.R. 12915. An act to amend section 2301 of title 44, relating to the National Archives Trust Fund Board.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills of the House of the following title:

H.R. 8112. To repeal chapter 27 of title 44, United States Code;

H.R. 9471. To amend title 5, United States Code, to provide that Japanese-Americans shall be allowed civil service retirement credit for time spent in World War II internment camps; and

H.R. 12915. To amend section 2301 of title 44, relating to the National Archives Trust Fund Board.

ADJOURNMENT

Mr. DOWNEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 2 minutes p.m.) under its previous order, the House adjourned until Wednesday, September 13, 1978, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4965. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Air Force's proposed sale of certain defense articles and services to Canada (transmittal No. 78-97), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

4966. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense articles and services to Canada (transmittal No. 78-97), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. JOHNSON of California: Committee on Public Works and Transportation. S. 1029. An act to authorize the Smithsonian Institution to construct museum support facilities; with amendment (Rept. No. 95-1559). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee of Conference. Conference report on S. 1678 (Rept. No. 95-1560). Ordered to be printed.

Mr. ULLMAN: Committee on Ways and Means. H.R. 12852. A bill to amend the Internal Revenue Code of 1954 to provide that income from certain railroad rolling stock shall be treated as income from sources within the United States; with amendment (Rept. No. 95-1561). Referred to the Committee of the Whole House on the State of the Union.

Mr. PEPPER: Committee on Rules. House Resolution 1343. Resolution providing for the consideration of H.R. 11545. A bill to modify the method of determination quantitative limitations on the importation of certain articles of meat and meat products, to apply quantitative limitations on the importation of certain additional articles of meat, meat products, and livestock, and for other purposes (Rept. No. 95-1562). Referred to the House Calendar.

Mr. FOLEY: Committee on Agriculture. H.R. 13635. A bill to authorize the establishment of an international emergency wheat reserves, and for other related purposes (Rept. No. 95-1564, Pt. I.) Ordered to be printed.

Mr. SLACK: Committee of conference. Conference report on H.R. 12934 (Rept. No. 95-1565). Ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FOLEY: Committee on Agriculture. H.R. 12556. A bill for the relief of Batavia Turf Farms, Inc.; with amendment (Rept. No. 95-1563). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BLANCHARD (for himself, Mr. ENGLISH, Mr. HILLIS, Mr. KOSTMAYER, Mr. BENJAMIN, Mr. BLOUIN, Mr. CORNELL, Mr. CORRADA, Mr. DAVIS, Mr. DOWNEY, Mr. DUNCAN of Tennessee, Mr. EDWARDS of California, Mr. ETTEL, Mr. EVANS of Georgia, Mr. EVANS of Indiana, Mr. FRENZEL, Mr. GRASSLEY, Mr. HANNAFORD, Mr. HARKIN, Mr. HEFTEL, Mr. ICHORD, Mr. JONES of Tennessee, Ms. KEYS, Mr. KINDNESS, and Mr. LAFALCE):

H.R. 14056. A bill to require authorization of new budget authority for Government programs at least every 10 years, and for other purposes; jointly, to the Committees on Rules, and Government Operations.

By Mr. LEACH (for himself, Mr. CORCORAN of Illinois, Mr. QUIE, Mr. LAGOMARSINO, Mr. PRICE, Mr. LLOYD of California, and Mr. SIMON):

H.R. 14057. A bill to provide for the striking and public sale of a series of gold medallions commemorating outstanding individuals in the American arts; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MICHEL (for himself, Mr. MINETA, Mr. BALDUS, Mr. BIAGGI, Mr. COCHRAN of Mississipoi, Mr. CORMAN, Mr. DIGGS, Mr. EDWARDS of California, Mr. GLICKMAN, Mr. GREEN, Mr. HEFTEL, Mr. OTTINGER, Mr. PATTISON of New York, Mr. PRICE, Mr. SPENCE, Mr. WHITEHURST, Mr. WHITTEN, and Mr. YOUNG of Missouri):

H.R. 14058. A bill to promote and coordinate amateur athletic activity in the United States, to recognize certain rights for U.S. amateur athletes, to provide for the resolution of disputes involving national governing bodies, and for other purposes; to the Committee on the Judiciary.

By Mr. MOTTL (for himself, Mr. AUCOIN, Mr. BOWEN, Mr. FARY, Mr. HYDE, Mr. LAGOMARSINO, Mrs. LLOYD of Tennessee, Mr. MARRIOTT, Mr. MURPHY of Pennsylvania, Mr. RAHALL, Mr. RINALDO, Mrs. SPELLMAN, and Mr. WHITEHURST):

H.R. 14059. A bill to authorize the appropriation of the funds necessary to enable the Inspector General, as the supervisory authority in the investigative operations of the Department of Health, Education, and Welfare, to perform his congressionally mandated functions in combating fraud and abuse in programs administered by that Department; to the Committee on Government Operations.

By Mr. MOTTL (for himself, Mr. ROGERS, and Mr. MURPHY of Illinois):

H.R. 14060. A bill to provide for the issuance of a commemorative postage stamp in honor of Gen. Casimir Pulaski and Americans of Polish descent; to the Committee on Post Office and Civil Service.

By Mr. MOTTL (for himself, Mr. AUCOIN, Mr. BOWEN, Mr. D'AMOURS, Mr. FARY, Mr. HYDE, Mr. LAGOMARSINO, Mrs. LLOYD of Tennessee, Mr. MARRIOTT, Mr. MURPHY of Pennsylvania, Mr. RAHALL, Mr. RINALDO, Mrs. SPELLMAN, and Mr. WHITEHURST):

H.R. 14061. A bill to amend the Internal Revenue Code of 1954 and the Social Security Act to allow the disclosure of the mailing address of an individual for use in collecting certain unpaid student loans and for use in verifying information given by an applicant for such a student loan, and for other purposes; to the Committee on Ways and Means.

By Mr. MOTTL (for himself, Mr. AUCOIN, Mr. BOWEN, Mr. FARY, Mr. HYDE, Mr. LAGOMARSINO, Mrs. LLOYD of Tennessee, Mr. MARRIOTT, Mr. MURPHY of Pennsylvania, Mr. RAHALL, Mr. RINALDO, Mrs. SPELLMAN, and Mr. WHITEHURST):

H.R. 14062. A bill to amend part A of title IV of the Social Security Act to provide increased Federal matching of State expenditures for management information systems and fraud control units under the aid to families with dependent children program; to the Committee on Ways and Means.

H.R. 14063. A bill to amend the Social Security Act to broaden and regularize State and Federal matching of records for purposes of the various welfare programs and certain related programs; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. MOTTL (for himself, Mr. AUCOIN, Mr. BOWEN, Mr. D'AMOURS, Mr. FARY, Mr. HYDE, Mr. LAGOMARSINO, Mrs. LLOYD of Tennessee, Mr. MARRIOTT, Mr. MURPHY of Pennsylvania, Mr. RAHALL, Mr. RINALDO, Mrs. SPELLMAN, and Mr. WHITEHURST):

H.R. 14064. A bill to direct the Secretary of Health, Education, and Welfare to more effectively obtain records of deaths for the purpose of preventing fraud and waste in payments under the Social Security Act; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. ROSE:

H.J. Res. 1136. Joint resolution proposing an amendment to the Constitution of the United States to provide that the level of total expenditures of the United States for any fiscal year shall not exceed the level of total revenues of the United States for such fiscal year and for the disposition of subsequent deficits, and that the gross Federal debt be reduced by open-market operations; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. PHILLIP BURTON:

H.R. 14065. A bill for the relief of Barry David Tombs; to the Committee on the Judiciary.

By Mr. DERWINSKI:

H.R. 14066. A bill for the relief of Richard B. Port; to the Committee on the Judiciary.

By Mr. EDWARDS of Oklahoma:

H. Res. 1344. Resolution refering the bill for the relief of Amis Construction Co., to the Court of Claims; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1

By Mr. ETTEL:

(To the amendment offered by Mr. DANIELSON.)

—Page 8, immediately after line 2, insert the following:

(7) In the case of a Member, each instance in which the Member knowingly allows the use of a designation or insignia which appears, or purports to appear, to indicate that it is an official communication, document, or other material of the Congress; except that the Member is not required to list instances in which the Member uses such designation or insignia in fund-raising activities for his own campaign.

H.R. 1

By Mrs. SCHROEDER:

(Amendments to the amendment in the nature of a substitute.)

—Page 29, after line 10, insert the following:

(h) The Director of the Office of Government Ethics shall determine by regulation under what conditions income, property, liabilities, or other items attributable to any partnership, corporation, association, or trust (other than a blind trust) shall be required to be reported as if directly attributable to the reporting individual or his spouse or dependent child.

—Page 33, after line 23, insert the following: "Such remedy shall be in addition to any other remedy available under statutory or common law.".

—Page 34, strike out line 14 and all that follows down through line 23 and insert in lieu thereof the following:

REVIEW OF REPORTS

SEC. 206. (a) Each designated agency official or Secretary concerned shall make provisions to ensure that each report filed with him under this part shall be reviewed within 60 days after the date of such filing, except that the Director of the Office of Government Ethics only shall review those reports transmitted to him under this part within 60 days after the date of transmittal.

(b)(1) If after reviewing any report under subsection (a), the Director of the Office of Government Ethics, Secretary concerned, or designated agency official, as the case may be, is of the opinion that on the basis of information contained in such report the individual submitting such report is in compliance with applicable laws and regulations, he shall state such opinion on the report, and shall sign such report.

(2) If the Director of the Office of Government Ethics, Secretary concerned, or designated agency official, after reviewing any report under subsection (a)—

(A) believes additional information is required to be submitted, he shall notify the individual submitting such report what additional information is required and the time by which it must be submitted, or

(B) is of the opinion, on the basis of information submitted, that the individual is not in compliance with applicable laws and regulations, he shall notify the individual, afford him a reasonable opportunity for a written or oral response, and after consideration of such response, reach an opinion as to whether or not, on the basis of information submitted, the individual is in compliance.

(3) If the Director of the Office of Government Ethics, Secretary concerned, or designated agency official reaches an opinion under paragraph (2)(B) that an individual is not in compliance with applicable laws and regulations, he shall notify the individual of that opinion and, after an opportunity for personal consultation (if practicable), determine and notify the individual of which steps, if any, would in his opinion be appropriate for assuring compliance with such laws and regulations and the date by which such steps should be taken. Such steps may include, as appropriate—

(A) divestiture,

(B) restitution,

(C) the establishment of a blind trust,

(D) request for an exemption under section 208(b) of title 18, United States Code, or

(E) voluntary request for transfer, reassignment, limitation of duties, or resignation.

The use of any such steps shall be in accordance with such regulations as the Director of the Office of Government Ethics or a Secretary concerned, as the case may be, may prescribe.

(4) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by an individual in a position (other than in the uniformed services), appointment to which requires the advice and consent of the Senate, the matter shall be referred to the President for appropriate future action.

(5) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by a member of the uniformed services, the Secretary concerned shall take appropriate future action.

(6) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by any other officer or employee the matter shall be referred to the head of the appropriate agency for further appropriate action; except that in the case of the Postmaster General or Deputy Postmaster General, the Director of the Office of Government Ethics shall recommend to the Governors of the Board of Governors of the United States Postal Service the further action to be taken.

(7) For purposes of assisting employees in avoiding situations in which they would not be in compliance with applicable laws and regulations, each Secretary concerned and designated agency official (including the President in the case of the individuals employed in the Executive Office of the President) shall maintain a list of those circumstances or situations which have or may result in noncompliance with such laws or regulations. Such list shall be periodically published, and shall be furnished to those individuals employed within the agency who are required to file reports under this part. The absence of any situation or circumstance from such a list shall not be construed as an indication that an individual in such circumstance or situation would be in compliance with such laws or regulations.

(8) The preceding provisions of this subsection shall not apply in the case of the President or Vice President, or a candidate or nominee for such office.

—Page 35, line 6, after "part." insert "Section 205 (a), (b), and (d) shall not apply with respect to any such report.".

—Page 35, after line 18, insert the following:

AUTHORITY OF COMPTROLLER GENERAL

SEC. 208. The Comptroller General shall have access to financial disclosure reports filed under this part for the purposes of carrying out his statutory responsibilities.

Page 35, line 20, strike out "208." and insert in lieu thereof "209.".

Page 36, line 2, strike out "209." and insert in lieu thereof "210."

Page 66, line 10, strike out "209" and insert in lieu thereof "210".

—Strike out part B of title II (beginning on page 39, line 21, and ending on page 44, line 9) and insert in lieu thereof the following new part:

PART B—OFFICE OF GOVERNMENT ETHICS

OFFICE OF GOVERNMENT ETHICS

SEC. 221. (a) Chapter 11 of title 5, United States Code, is amended by adding at the end thereof the following:

"Subchapter II—Office of Government Ethics

"1111. Establishment of Office of Government Ethics

"(a) There is established in the Office of Personnel Management an office to be known as the Office of Government Ethics.

"(b) There shall be at the head of the Office of Government Ethics a director (hereinafter in this chapter referred to as the 'Director'), who shall be appointed by the President, by and with the advice and consent of the Senate.

"1112. Functions of Office

"(a) The Director shall provide overall direction of executive branch policies relating to preventing conflicts of interest on the part of employees within the executive branch.

"(b) The responsibilities of the Director shall include—

"(1) monitoring and investigating compliance with the provisions of part A of title II of the Ethics in Government Act of 1978 by individuals appointed or employed (other than in the uniformed services) in the executive branch;

"(2) auditing on a random basis financial reports submitted by such individuals under part A of title II of such Act for the purpose of determining whether such reports are complete and accurate;

"(3) establishing a program under which advisory opinions relating to conflicts of interests may be provided, on request, to any person by the Director or designated agency official;

"(4) supervising and defining the duties and responsibilities of ethics counselors;

"(5) evaluating the effectiveness of the provisions of laws and regulations relating to conflicts of interest and reporting to the Office of Personnel Management for transmittal to the Congress any recommendations for legislative or administrative action he considers appropriate;

"(6) establishing, after consultation with the Attorney General, an effective system for reporting allegations of violations of conflict-of-interest laws to the Attorney General, as required by section 535 of title 28; and

"(7) providing information on and promoting understanding of ethical standards in the executive branch.

"1113. Administrative provisions

"At the request of the Director, each agency in the executive branch is directed to—

"(1) make its services, personnel, and facilities available to the Director and ethics counselors to the greatest practicable extent for the performance of his functions; and

"(2) except when prohibited by law, furnish to the Director or any ethics counselors all information and records in its possession which the Director may determine to be necessary for the performance of his duties.

"1114. Ethics counselors

"(a) Such ethics counselors as the Director may determine necessary (not to exceed 75 positions) shall be appointed by and subject to the control of the Director. Such counselors shall be assigned between and among the various agencies in the executive branch on a rotating basis. One such counselor may be assigned to two or more of such agencies in circumstances in which the Director determines it appropriate to do so. One ethics counselor assigned to an agency shall serve as that agency's designated agency official.

"(b) Ethics counselors shall—

"(1) be appointed without regard to section 3503(a) of this title, and

"(2) be subject to removal only under the procedures under section 7521 of this title, relating to administrative law judges.

"1115. Regulations relating to disclosure of financial interest and conflicts of interest

"(a)(1) Subject to paragraph (3) of this subsection—

"(A) any regulation under part A of title II of the Ethics in Government Act of 1978, and

"(B) any regulation relating to conflicts of interest applicable to employees or classes of employees within the executive branch,

shall, except as provided in paragraph (2), be prescribed only by the Director and shall be prescribed in accordance with section 553 of this title, notwithstanding any exception therein for matters relating to agency management or personnel.

"(2) Paragraph (1) of this subsection shall not apply with respect to—

"(A) any exercise of authority vested in and performed by the President; or

"(B) any exercise of authority vested in a Secretary concerned.

"(3)(A) Regulations to which paragraph (1) of this subsection applies shall not take effect unless approved by the Director of the Office of Personnel Management. Unless disapproved by the Director of the Office of Personnel Management within 30 days after transmittal of the proposed regulations to them, such regulations shall be deemed approved.

"(B) In addition to the approval required under subparagraph (A) of this paragraph, any regulation to which paragraph (1) of this subsection applies shall not take effect unless the Director transmits to the Congress a copy of such regulation, as approved under subparagraph (A) of this paragraph, and before the close of the 60-day period of continuous session beginning on the date of such transmittal neither House of the Congress has adopted a resolution the matter after the resolving clause of which states: 'That the hereby disapproves the regulation transmitted to the Congress by

the Director of the Office of Government Ethics on ., the blank spaces therein being filled in appropriately.

"(C) For the purpose of subparagraph (B) of this paragraph—

"(i) continuity of session is broken only by an adjournment of Congress sine die; and

"(ii) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period.

"(b) Any interested person may seek judicial review under chapter 7 of this title of any regulation to which subsection (a)(1) of this section applies."

(b)(1) Chapter 11 of title 5, United States Code, is further amended by inserting after section 1101 the following:

"Subchapter II—Office of Personnel Management".

(2) The analysis for chapter 11 of title 5, United States Code, is amended—

(A) by inserting before the item relating to section 1101 the following:

"Subchapter I—Office of Personnel Management"; and

(b) The analysis for chapter 11 of title 5, United States Code, is amended by inserting at the end thereof the following:

"Subchapter II—Office of Government Ethics

"Sec.
"1111. Establishment of Office of Government Ethics.
"1112. Functions of Office.
"1113. Administrative provisions.
"1114. Ethics counselors.
"1115. Regulations relating to disclosure of financial interests and conflicts of interest.".

(2) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(144) Director of the Office of Government Ethics, Office of Personnel Management.".

(c) No individual employed by the Government on the date of the enactment of this Act shall be separated or reduced in grade, rank, or compensation by reason of the transfer of any duties resulting from the amendments made by this title.

(d)(1) There are authorized to be appropriated, for each of the fiscal years 1979, 1980, and 1981, such sums as are necessary for the compensation of ethics counselors appointed under section 1114 of title 5, United States Code (as added by this Act).

(2) There is authorized to be appropriated, for each of the fiscal years 1979, 1980, and 1981, the sum of $1,000,000 to carry out the purposes of the amendments made by this section and section 201 of this Act, other than purposes for which appropriations are authorized in paragraph (1) of this subsection.

(e) Not later than one year after the date of the enactment of this Act, the Director of the Office of Government Ethics shall—

(1) conduct a comprehensive review of existing laws and regulations relating to conflicts of interest; and

(2) submit to the Congress a report on such review, together with such recommendations for legislative or administrative action as the Director considers appropriate.

(f) Section 1308(a) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (3),

(2) by striking out the period at the end of paragraph (4) and inserting "; and" in lieu thereof; and

(3) by adding at the end thereof the following new paragraph:

"(5) a report to be prepared by the Director of the Office of Government Ethics which shall include—

"(A) a summary of the activities of the Director and ethics counselors appointed under section 1114 of this title in carrying out the functions of the Office of Government Ethics; and

"(B) any recommendations of the Director for legislative or administrative action considered to be appropriate by the Director.".

H.R. 11280

By Mr. SNYDER:

(Amendment in the nature of a substitute to the Leach amendment.)

—Page 337, after line 2, insert the following:

"7124. Air traffic controllers

"An air traffic controller shall not—

"(1) willfully hinder or impede his own work performance, productivity, or discharge of duties or that of any other employee; or

"(2) engage in a strike, work stoppage, or slowdown."

H.R. 12005

By Mr. SEIBERLING:

—On page 14, immediately after line 18, insert the following new section:

SEC. . Using sums authorized to be appropriated by this Act, the Federal Bureau of Investigation shall in its Uniform Crime Reports classify arson as a Part 1 offense.

H.R. 12161

By Mr. MOFFETT:

—On the first page, beginning on line 5, strike out "$2,300,000,000" and insert in lieu thereof "$1,800,000,000".

On the first page, line 9, strike out "$2,300,000,000" and insert in lieu thereof "$1,800,000,000".

Page 2, line 9, strike out "$3,300,000,000" and insert in lieu thereof "$2,800,000,000".

—Page 2, immediately after line 3, insert the following new section:

SEC. 2. (a) Section 305(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 745(a)) is amended by inserting immediately after the first sentence thereof the following new sentence: "In addition, any State in the region may submit a proposal for a supplemental transaction to the Secretary, and in any such case the Secretary shall, within 60 days after the date of such submission, forward such proposal, with a recommendation whether such proposal is consistent with the goals of the Final System Plan, to the Association."; and

(b)(1) The third sentence of section 305(a) of such Act is amended by striking out "(other than a proposal developed by the Association) shall be submitted in writing to the Association and";

(2) The last sentence of section 305(a) of such Act is amended by striking out "developed by the Secretary" and inserting in lieu thereof "submitted by the Secretary";

(3) Section 305(d) of such Act is amended—

(A) in the second sentence of paragraph (1), by striking out "made by the Secretary" and inserting in lieu thereof "developed by the Secretary"; and

(B) in the fourth sentence of paragraph (2), by striking out "developed by the Secretary" and inserting in lieu thereof "submitted by the Secretary".

—Page 2, immediately after line 3, insert the following new section:

SEC. 3. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726 (b)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) After the date of enactment of this paragraph, the Association shall not make any additional purchases of debentures or series A preferred stock of the Corporation in any fiscal year unless the Corporation demonstrates to the Association that—

"(i) no officer, director, or employee of the Corporation who is compensated at a rate in excess of $40,000 per year received, during the preceding fiscal year, but not including amounts paid prior to April 1, 1978, any form of compensation as an incentive or bonus (including stock option programs, allowances for life insurance, membership in country clubs or other private clubs, or use of automobiles) in addition to such individual's regular salary; and

"(ii) no such officer, director, or employee received, during the preceding fiscal year, but not including increases granted prior to enactment of this section, an increase in salary greater in percentage than the overall percentage of the adjustment in the rates of pay for Federal employees under the General Schedule, as established for such fiscal year under chapter 53 of title 5, United States Code, unless such officer, director, or employee was promoted to a higher position within the corporation.

"(B) The provisions of this section shall cease to apply when the Corporation has, for two consecutive quarters, net positive funds.

—Page 2, immediately after line 3, insert the following new section:

SEC. 4. Section 307 of the Regional Rail Reorganization Act is amended by inserting after subsection (b) a new subsection (c) as follows:

"(c) Monitoring of the Corporation. (1) The Association shall also report to the Congress, in accordance with this subsection, the policies of the Corporation and the results of such policies with respect to operations, cost containment, and marketing.

"(2) Within 90 days after the date of enactment of this subsection, the Association shall (A) subdivide each such policy area into constituent parts or groups of parts which are specific and significant, (B) identify the most appropriate indicia to reflect accurately such parts or groups of parts, and (C)(i) determine any and all deficiencies in data used to compute the values of such indicia including consistency and clarity of definitions, timeliness of data entry, editing and validation of input data, and processing, and (ii) outline the efforts of the Association and and Corporation to correct the deficiencies and the results of such efforts. On or before the end of such 90 day period, the Association shall submit to the Congress such methodological information and additional information which the Association deems necessary or appropriate to further the purposes of this title.

"(3) Using such indicia, the Association shall report on (A) the relationship of each constituent part or groups of parts to the Corporation's revenue and capital and operating expenses, (B) the extent to which such parts or groups of parts contributes to profits or losses, (C) the efforts of management to contain or reduce the contribution of such part or group of parts to losses, (D) the results of such efforts, and (E) such other information as the Association deems necessary or appropriate.

"(4) The Association shall (A) transmit to the Congress the first such monitoring report pursuant to paragraph (3) at the end of the first calendar quarter which begins after the end of the 90 day period for preparation and submission of the methodological information pursuant to paragraph (2), (B) report such monitoring information to the Congress at the end of the first quarter of each calendar year thereafter, (C) update methodological and monitoring information periodically as the Association deems necessary or appropriate, but in no case less frequently than once a year, and (D) where the results of such updating are statistically significant or relevant to Congressional policy-making, report them and the reasons for their significance at the end of the calendar quarter in which the updating occurred."

H.R. 12611

By Mr. JOHN L. BURTON:

—Page 71, lines 21 and 22, strike out "Secretary of Transportation" and insert in lieu thereof "Administrator".

Page 71, line 23, before the period insert the following: "and full evaluation of any report or recommendation submitted under section 107 of this Act".

—Page 78, line 2, insert "and of the Effects of Implementing the Air Service Improvement Act of 1978 on the Level of Air Safety" after "Transportation".

Page 78, line 5, strike out "section" and insert in lieu thereof "sections".

Page 79, line 2, strike out the quotation marks and the second period, and after such line insert the following new section:

"STUDY OF THE EFFECTS OF IMPLEMENTING THE AIR SERVICE IMPROVEMENT ACT OF 1978 ON THE LEVEL OF AIR SAFETY

"Report

"SEC. 107. (a) Not later than January 31, 1980, and by each January 31 thereafter, the Administrator shall prepare and submit to the Congress and the Board a comprehensive annual report on the extent to which the implementation of the Air Service Improvement Act of 1978 has, during the preceding calendar year, affected the level of air safety. Each such report shall, at a minimum, contain an analysis of each of the following:

"(1) All relevant data on accidents and incidents occurring during the calendar year covered by such report in air transportation and on violations of safety regulations issued by the Administrator occurring during such calendar year.

"(2) Current and anticipated personnel requirements of the Administrator with respect to enforcement of air safety regulations.

"(3) Effects on current levels of air safety of changes or proposals for changes in air carrier operating practices and procedures which occurred during the calendar year covered by such report.

"(4) The adequacy of air safety regulations taking into consideration changes in air carrier operating practices and procedures which occurred during the calendar year covered by such report.

"Recommendations

"(b) Not later than January 31, 1980, and by each January 31 thereafter, the Administrator shall submit to the Congress and the Board recommendations with respect to the level of surveillance necessary to enforce air safety regulations and the level of staffing necessary to carry out such surveillance. The Administrator's recommendations shall include proposals for any legislation needed to implement such recommendations."

Page 79, strike out the quotation marks and the period at the end of the matter below line 6, and after such matter insert the following:

"Sec. 107. Study of the effects of implementation of the Air Service Improvement Act of 1978 on the level of air safety.

"(a) Report.

"(b) Recommendations."

—Page 116, line 6, strike out "In promulgating such" and all that follows through the period at the end of line 9 and insert in lieu thereof the following: "Such safety standards shall become effective not later than the last day of the eighteenth month which begins after such date of enactment and shall impose requirements upon such commuter air carriers to assure that the level of safety provided to persons traveling on such commuter air carriers is, to the maximum feasible extent, equivalent to the level of safety provided to persons traveling on air carriers which provide service pursuant to certificates issued under section 401 of this title."

H.R. 13750

By Mr. JEFFORDS:

—At the end thereof, add the following:

TITLE V—TAX INCENTIVES FOR THE PRODUCTION AND CONSERVATION OF ENERGY AND FOR CONVERSION TO ALTERNATIVE ENERGY SOURCES

SEC. 501. RESIDENTIAL ENERGY CREDIT.

(a) GENERAL RULE.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting after section 44B the following new section:

"SEC. 44C. RESIDENTIAL ENERGY CREDIT.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) the qualified energy conservation expenditures, plus

"(2) the qualified renewable energy source expenditures, plus

"(3) the qualified hydrogen energy expenditures.

"(b) QUALIFIED EXPENDITURES.—For purposes of subsection (a)—

"(1) ENERGY CONSERVATION.—In the case of any dwelling unit, the qualified energy conservation expenditures are 20 percent of so much of the energy conservation expenditures made by the taxpayer during the taxable year with respect to such unit as does not exceed $2,000.

"(2) RENEWABLE ENERGY SOURCES.—In the case of any dwelling unit, the qualified renewable energy source expenditures are the following percentages of the renewable energy source expenditures made by the taxpayer during the taxable year with respect to such unit:

"(A) 30 percent of so much of such expenditures as does not exceed $2,000, plus

"(B) 20 percent of so much of such expenditures as exceeds $2,000 but does not exceed $10,000.

"(3) HYDROGEN ENERGY.—In the case of any dwelling unit, the qualified hydrogen energy expenditures are 20 percent of so much of the hydrogen energy expenditures made by the taxpayer during the taxable year with respect to such unit as does not exceed $2,000.

"(4) PRIOR EXPENDITURES BY TAXPAYER ON SAME RESIDENCE TAKEN INTO ACCOUNT.—If for any prior taxable year a credit was allowed to the taxpayer under this section with respect to any dwelling unit by reason of energy conservation expenditures or renewable energy source expenditures, paragraph (1), (2), or (3) (whichever is appropriate) shall be applied for the taxable year with respect to such dwelling unit by reducing each dollar amount contained in such paragraph by the prior year expenditures taken into account under such paragraph.

"(5) MINIMUM DOLLAR AMOUNT.—No credit shall be allowed under this section with respect to any return for any taxable year if the amount which would (but for this paragraph) be allowable with respect to such return is less than $10.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ENERGY CONSERVATION EXPENDITURE.—The term 'energy conservation expenditure' means an expenditure made on or after 20, 1977, by the taxpayer for insulation or any other energy-conserving component (or for the original installation of such insulation or other component) installed in or on a dwelling unit—

"(A) which is located in the United States, the Virgin Islands, or Guam,

"(B) which is used by the taxpayer as his principal residence, and

"(C) the construction of which was substantially completed before April 20, 1977.

"(2) RENEWABLE ENERGY SOURCE EXPENDITURE.—

"(A) IN GENERAL.—The term 'renewable energy source expenditure' means an expenditure made on or after April 20, 1977, by the taxpayer for renewable energy source properly installed in connection with a dwelling unit—

"(i) which is located in the United States, the Virgin Islands, or Guam, and

"(ii) which is used by the taxpayer as his principal residence.

"(B) ITEMS INCLUDED.—The term 'renewable energy source expenditure' includes only expenditures for—

"(i) renewable energy source property, or

"(ii) labor costs properly allocable to the onsite preparation, assembly, or installation of renewable energy source property.

"(C) SWIMMING POOL, ETC., USED AS STORAGE MEDIUM.—The term 'renewable energy source expenditure' does not include any expenditure properly allocable to a swimming pool used as an energy storage medium.

"(3) HYDROGEN ENERGY EXPENDITURES.—

"(A) IN GENERAL.—The term 'hydrogen expenditures' means an expenditure made on or after April 20, 1977, by the taxpayer for hydrogen energy property and installation installed in connection with a dwelling unit—

"(i) which is located in the United States, the Virgin Islands, or Guam, and

"(ii) which is used by the taxpayer as his principal residence.

"(B) ITEMS INCLUDED.—The term 'hydrogen energy expenditures' includes only expenditures for—

"(i) hydrogen energy property, and

"(ii) labor costs properly allocable to the onsite preparation, assembly, or installation of hydrogen energy property, or to the modification of conventional property for the use of hydrogen as a fuel.

"(4) INSULATION.—The term 'insulation' means any item—

"(A) which is specifically and primarily designed to reduce when installed in or on a dwelling (or water heater) the heat loss or gain of such dwelling (or water heater),

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 3 years, and

"(D) which meets the performance and quality standards, if any, which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the item.

"(5) OTHER ENERGY-CONSERVING COMPONENT.—The term 'other energy-conserving component' means any item (other than insulation)—

"(A) which is—

"(i) a replacement furnace or boiler designed to provide more efficient energy utilization by improving heat generation or lowering heat losses,

"(ii) a furnace replacement burner designed to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

"(iii) a device for modifying flue openings designed to increase the efficiency of operation of the heating system,

"(iv) an electrical or mechanical furnace ignition system which replaces a gas pilot light,

"(v) a storm or thermal window or door for the exterior of the dwelling,

"(vi) an automatic energy-saving setback thermostat,

"(vii) caulking or weather stripping of an exterior door or window,

"(viii) a heat pump which replaces an electric resistance heating system,

"(ix) meters which display the cost of energy usage,

"(x) a replacement fluorescent lighting system,

"(xi) an evaporative cooling device,

"(xii) an item (other than a fireplace) which is designed to use wood and peat as a fuel for space heating, the heating of water or cooking of food, or any combination thereof, including any controls, ducts, stovepipes, footing or other item (other than a chimney) necessary for the safe and efficient operation of any such item, or

"(xiii) an item of the kind which the Secretary specifies by regulations as increasing (by conversion or otherwise) the energy efficiency of the dwelling,

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 3 years, and

"(D) which meets the performance and quality standards, if any, which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the item.

In establishing regulations under this paragraph, the Secretary shall prescribe (i) guidelines setting forth the criteria which are used in the determination of whether an item is an energy-conserving component, and (ii) a procedure under which a manufacturer of an item may request the Secretary to specify or certify that item as an energy-conserving component.

"(6) RENEWABLE ENERGY SOURCE PROPERTY.—The term 'renewable energy source property' means property—

"(A) which, when installed in connection with a dwelling—

"(i) uses solar energy, by means of an active solar system or a passive solar system, or a combination thereof, to heat or cool such dwelling or to provide hot water for use within such dwelling, or to provide electricity,

"(ii) uses wind energy for nonbusiness residential purposes,

"(iii) is necessary to distribute or use geothermal deposits (as defined in section 613(e)) which provide geothermal energy to heat or cool such building or provide hot water for use within such building, or

"(iv) uses any other form of renewable energy which the Secretary specifies by regulations,

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 5 years, and

"(D) which meets the performance and quality standards, if any, which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the property.

"(7) HYDROGEN ENERGY PROPERTY.—The term 'hydrogen energy property' means property—

"(A) which, when installed in connection with a dwelling—

"(i) uses hydrogen as a fuel for the purposes of heating or cooling such dwelling or providing hot water for use within such dwelling, or

"(ii) is used in the electrolysis of water for the production of hydrogen,

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 5 years, and

"(D) which meets the performance and quality standards, if any, which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the property.

"(8) CONSULTATION IN PRESCRIBING STANDARDS.—Performance and quality standards shall be prescribed by the Secretary under paragraphs (4), (5), (6), and (7) only after consultation with the Secretary of Energy, the Secretary of Housing, and Urban Development, and other appropriate Federal agencies.

"(9) WHEN EXPENDITURES MADE; AMOUNT OF EXPENDITURES.—

"(A) Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when original installation of the item is completed.

"(B) In the case of renewable energy source expenditures in connection with the construction or reconstruction of a dwelling, such expenditures shall be treated as made when the original use of the constructed or reconstructed dwelling by the taxpayer begins.

"(C) The amount of any expenditure shall be the cost thereof.

"(D) If less than 80 percent of the use of an item is for nonbusiness residential purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness residential purposes shall be taken into account. For purposes of the preceding sentence, use for a swimming pool shall be treated as use which is not for residential purposes.

"(10) PRINCIPAL RESIDENCE.—The determination of whether or not a dwelling unit is a taxpayer's principal residence shall be made under principles similar to those applicable to section 1034, except that—

"(A) no ownership requirement shall be imposed, and

"(B) the period for which a dwelling is treated as the principal residence of the taxpayer shall include the 30-day period ending on the first day on which it would (but for this subparagraph) be treated as his principal residence.

"(11) ENVIRONMENTAL RESTRICTIONS ON CERTAIN WOOD AND PEAT BURNING ITEMS.—No credit shall be allowed under subsection (a) for expenditures with respect to any item described in paragraph (5)(A)(xii) which are to be installed in any metropolitan or other area after the date on which—

"(A) the Administrator of the Environmental Protection Agency certifies to the Secretary that the emissions from such items would cause air quality in such area to be in violation of any Federal law, or

"(B) the Secretary of Agriculture certifies to the Secretary that additional consumption of wood in connection with such items would endanger forests in that area.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a principal residence by 2 or more individuals—

"(A) the amount of the credit allowable under subsection (a) by reason of energy conservation expenditures or by reason of renewable energy source expenditures (as the case may be) made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as one taxpayer whose taxable year is such calendar year; and

"(B) each of such individuals shall be allowed a credit under subsection (a) for the taxable year in which such calendar year ends (subject to the limitation of paragraph (5) of subsection (b)) in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

"(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who holds stock as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

"(3) CONDOMINIUMS.—

"(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which he owns, such individual shall be treated as having made his proportionate share of any expenditures of such association.

"(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph 1 of section 528(c) other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

"(e) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(f) CARRYOVER OF UNUSED CREDIT.—If the amount of the credit determined under this section for the taxable year exceeds the liability for the taxpayer for the tax under this chapter for the taxable year, the excess shall be carried over to each of the 2 taxable years succeeding that taxable year. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 2 taxable years to which it may be carried, and then to the succeeding taxable year to the extent that it may not be added for a prior taxable year to which it might be carried.

"(g) TERMINATION.—This section shall not apply to expenditures made after December 31, 1985.".

(b) INSPECTION.—To the extent not presently authorized and utilized by any agency of the United States in the assessment and collection of income taxes, no procedure or practice which utilizes onsite inspection of the residence of an individual shall be employed to determine if that individual is entitled to a credit under section 44C of the Internal Revenue Code of 1954, as added by subsection (a), unless such procedure or practice provides that such inspection shall take place only with the written consent of such individual.

(c) TECHNICAL AND CLERICAL AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 44B the following new item:

"Sec. 44C. Residential energy credit.".

(2) Subsection (c) of section 56 of such Code (defining regular tax deduction) is amended by striking out "credits allowable under—" and all that follows and inserting in lieu thereof "credits allowable under subpart A of part IV other than under sections 31, 39, 43, and 44C."

(3) Subsection (a) of section 1016 of such Code (relating to adjustments to basis) is amended by inserting after paragraph (20) the following new paragraph:

"(21) to the extent provided in section 44C(e), in the case of property with respect to which a credit has been allowed under section 44C;".

(4) Subsection (b) of section 6096 of such Code (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44B" and inserting in lieu thereof "44B, and 44C".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after April 20, 1977.

EXTENSIONS OF REMARKS

BALANCE(S) OF POWER SERIES BOOK IV(E)—SOVIET APPROACH TO NEGOTIATIONS

HON. JOHN B. BRECKINRIDGE
OF KENTUCKY
IN THE HOUSE OF REPRESENTATIVES

Monday, September 11, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, today's article in Book IV of the Balance(s) of Power Series, which sets forth Soviet Intentions and Doctrine, is concerned with the Soviet approach to negotiation. Entitled, "The Technique for Dealing With Russia," and written in 1946 by one of America's foremost diplomats, George F. Kennan, this issue sets forth a set of rules for dealing with the Stalin regime. While Kennan argues that these principles can only partly apply in the post-Stalin era, he does insist that Russian historical experience has provided the Russian mind with no concept of permanent friendly relations between states, and that it is within this milieu that present negotiations must be viewed. Nothing in the post-Stalin experience significantly alters this historic view, as noted by the author in 1967.

The article follows:

THE SOVIET APPROACH TO NEGOTIATION—SELECTED WRITINGS

(Compiled by the Subcommittee on National Security and International Operations (Pursuant to S. Res. 24, 91st Cong.) of the Committee on Government Operations U.S. Senate)

[From *Memoirs 1925–1950*. Copyright 1967 by George F. Kennan. Little, Brown and Company in association with Atlantic Monthly Press. Reprinted by permission.]

THE TECHNIQUE FOR DEALING WITH RUSSIA

(1946)

(By George F. Kennan, Member American Embassy Staff in Moscow, 1944–46; Later U.S. Ambassador to the USSR and to Yugoslavia; Now Member, Institute for Advanced Studies, Princeton)

It is axiomatic in the world of diplomacy that methodology and tactics assume an importance by no means inferior to concept and strategy. Over the eighteen months I had now spent on this assignment in Moscow, I had experienced unhappiness not only about the naïvéte of our underlying ideas as to what it was we were hoping to achieve in our relations with the Soviet government but also about the methods and devices with which we went about achieving it. The two aspects of our diplomacy were, of course, closely related. Methodology was itself in large measure a reflection of the image we had formed of the Soviet leadership and of the manner in which it could be expected to react to various stimuli. But methodology was nevertheless a subject that deserved attention in its own right. Perhaps it was the visit of Secretary Byrnes to Moscow that caused the pot of my patience to boil over with relation to this area of our diplomacy, as it had boiled over with respect to so many others. My reaction to this boiling over was, in any case, the usual one of reaching for my pen; and at some time in the winter of 1946 I produced the first three sections of what was intended as another *magnum opus*, directed this time to the specific problem of Soviet-American relations. It was never finished. Being unfinished, my recollection is that it was never used in any way. I include . . . an excerpt from it, on the subject of the technique of dealing with Russia, which represents a crude attempt, but one of the first of its kind (the first in my recollection, at any rate), to draw up a useful set of rules for dealing with the Stalin regime. . . . (I reiterate) the *Stalin* regime. (This was, after all, the only Russian regime with which I had then had personal experience.)

The student of Soviet-American relations who reads these rules today will have, no doubt, two questions in his mind as he completes the reading of them. One is whether they have been observed in the subsequent years and continue to be observed today. The other is whether they are still applicable now that Stalin is dead and the world situation has changed in important ways. My answer to both these questions would be: only partly. . . .

The Soviet approach to negotiation

[Excerpt from the United States and Russia (Winter 1946)]

Historically, the foreign affairs of Russia have developed along lines entirely different from those of the United States. Our most important foreign relations, historically speaking, have been along the lines of peaceable overseas trade. These have set the pattern of our thinking on foreign affairs. The Russians, throughout their history, have dealt principally with fierce hostile neighbors. Lacking natural geographical barriers, they have had to develop, in order to deal with these neighbors, a peculiar technique (now become traditional and almost automatic) of elastic advance and retreat, of defense in depth, of secretiveness, of wariness, of deceit. Their history has known many armistices between hostile forces; but it has never known an example of the permanent peaceful coexistence of two neighboring states with established borders accepted without question by both peoples. The Russians therefore have no conception of permanent friendly relations between states. For them, all foreigners are potential enemies. The technique of Russian diplomacy, like that of the Orient in general, is concentrated on impressing an adversary with the terrifying strength of Russian power, while keeping him uncertain and confused as to the exact channels and means of its application and thus inducing him to treat all Russian wishes and views with particular respect and consideration. It has nothing to do with the cultivation of friendly relations as we conceive them.

We would find it much easier to deal with Russia if we would recognize frankly in our own minds the fact that its leaders are, by their own choice, the enemies of all that part of the world they do not control, and that this is a recognized principle of thought and action for the entire Soviet machine. Let us also remember that in the Soviet Union decisions are rarely taken by individuals. They are taken by collective bodies. These collective bodies are required to proceed on the theory that the outside world is hostile to Russia and would be incapable of a generous or unselfish act toward the Russian state or people. It follows from this that no act of a foreign government could be officially recognized as an act of good will. Any Soviet official who would dispute this principle and try to demonstrate in a Soviet body that a foreign state had gone out of its way to be nice to the Soviet Union and deserved credit for it would risk—at the least—his job. Everyone in the Soviet government must assume that foreign governments act only in their own interests, and that gratitude and appreciation are unknown qualities in foreign affairs.

In this way, the machinery by which Soviet foreign affairs are conducted is capable of recognizing, and reacting to, only considerations of concrete Soviet interest. No one can argue any proposition in the councils of the Soviet government unless he can show concretely how the interests of the Soviet Union stand to gain if it is accepted or to suffer if it is rejected. This principle is applied with the most serene objectivity. In examining a position taken by a foreign state, the Russians make no effort to look at it from the standpoint of the foreign state in question or from any fancied community of aims on the part of themselves and the state involved. They assume it is dictated by purposes which are not theirs, and they examine it only from the standpoint of its effect on them. If the effect is favorable, they accept it without gratitude; if it is unfavorable, they reject it without resentment. We could make it much easier for them and for ourselves if we would face these facts.

In the light of the above, I would like to suggest the following rules to govern our dealings with the Russians:

A. Don't act chummy with them.

This only embarrasses them individually, and deepens their suspicions. Russian officials abhor the thought of appearing before their own people as one who has become buddies with a foreigner. This is not their idea of good relations.

B. Don't assume a community of aims with them which does not really exist.

There is no use trying to swing Russians into line by referring to common purposes to which we may both have done lip service at one time or another, such as the strengthening of world peace, or democracy, or what you will. They had their own purposes when they did lip service to these purposes. They think we had ours. For them it's all a game. And when we try to come at them with arguments based on such common professions, they become doubly wary.

C. Don't make fatuous gestures of good will.

Few of us have any idea how much perplexity and suspicion has been caused in the Soviet mind by gestures and concessions granted by well-meaning Americans with a view to convincing the Russians of their friendly sentiments. Such acts upset all their calculations and throw them way off balance. They immediately begin to expect that they have overestimated our strength, that they have been remiss in their obligations to the Soviet state, that they should have been demanding more from us all along. Frequently, this has exactly the opposite effect from that which we are seeking.

D. Make no requests of the Russians unless we are prepared to make them feel our displeasure in a practical way in case the request is not granted.

We should be prepared as a matter of principle to accompany every expression of our wishes by some action on our part proving that Russian interests suffer if our wishes are not observed. This requires imagination, firmness, and coordination of policy. If we cannot find these qualities in our foreign affairs, then we should begin to prepare for serious trouble.

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

E. Take up matters on a normal level and insist that Russians take full responsibility for their actions on that level.

Requests should not, as a rule, be taken to higher levels just because we have failed to get satisfaction on a lower level. This merely encourages the Russian bureaucracy to be uncooperative and causes our relations with high-level Soviet authorities to be encumbered with matters of second-rate importance. Instead of this, we should take our retaliatory or corrective action promptly and unhesitatingly when we do not obtain satisfaction on the lower level. It is only in this way that we can teach the Russians to respect the whole range of our officials who must deal with them. By failing to back up our subordinate officials in their dealings with the Russians, we make it difficult for ourselves to accomplish anything in the intervals between high-level meetings. This works in the interests of the Russians and prejudices our interests. This is a very important point and goes to the heart of many of our failures of the last two or three years. The top level is physically incapable of encompassing the whole range of our dealings with the Soviet government and of assuring the collaboration which we are seeking. Agreements reached there can be—and frequently are—sabotaged successfully and with impunity on the lower levels. We must train the Russians to make their whole machine, not just Stalin, respond sensibly to our approaches.

F. Do not encourage high-level exchanges of views with the Russians unless the initiative comes at least 50 percent from their side.

Russians can be dealt with satisfactorily only when they themselves want something and feel themselves in a dependent position. It should be a matter of technique with us to see that they are not dealt with on a high level except when these conditions prevail.

G. Do not be afraid to use heavy weapons for what seem to us to be minor matters.

This is likewise a very important point, and one which many Americans will receive with skepticism. In general, it may be bad practice to take a sledgehammer to swat a fly. With the Russians it is sometimes necessary. Russians will pursue a flexible policy of piecemeal presumption and encroachment on other people's interests, hoping that no single action will appear important enough to produce a strong reaction on the part of their opponents, and that in this way they may gradually bring about a major improvement in their position before the other fellow knows what's up.

In this way, they have a stubborn tendency to push every question right up to what they believe to be the breaking point of the patience of those with whom they deal. If they know that their opponent means business, that the line of his patience is firmly established and that he will not hesitate to take serious measures if this line is violated even in small wave and at isolated points, they will be careful and considerate.

They do not like a showdown unless they have a great preponderance of strength. But they are quick to sense and take advantage of indecision or good-natured tolerance. Whoever deals with them must therefore be sure to maintain at all times an attitude of decisiveness and alertness in the defense of his own interests.

H. Do not be afraid of unpleasantness and public airing of differences.

The Russians don't mind scenes and scandals. If they discover that someone else does mind them and will go out of his way to avoid them, they will use this as a form of blackmail in the belief that they can profit from the other fellow's squeamishness. If we are to reestablish our prestige with the Soviet government and gain respect in Russia we must be prepared to undertake a "taming of the shrew" which is bound to involve a good deal of unpleasantness. On the other hand, we need not fear that occasional hard words will have permanent bad effect on our relations.

The Russian is never more agreeable than after his knuckles have been sharply rapped. He takes well to rough play and rarely holds grudges over it. Let us not forget Stalin's first reaction when he met Ribbentrop. It was to joke good-naturedly and cynically about the bitter propaganda war which had been waged for so many years between the two countries. The Russian governing class respects only the strong. To them, shyness in dispute is a form of weakness.

I. Coordinate, in accordance with our established policies, all activities of our government relating to Russia and all private American activities of this sort which the government can influence.

The Russians are quick to take advantage of conflicts, inconsistencies, and the seeking of private aims on the part of our nationals or agencies of our government. Their own system is designed to produce the maximum concentration of national energies. We cannot face them effectively unless we do all in our power to concentrate our own effort.

J. *Strengthen and support our representation in Russia.*

The American embassy in Moscow is the symbol of our country to the Russians. It is watched intently by many people. It must be not only the representation of our society but also a guiding brain center of our policy toward Russia. In the face of frequent neglect and discouragement, always the object of attacks by jealous self-seekers and discontented liberals, never enjoying the full backing or understanding of people in Washington, never properly staffed or properly housed, it has nevertheless managed to become a pioneering establishment in the American Foreign Service and the most respected diplomatic mission in Moscow.

It could do far more and play a far greater role in the Soviet Union if it received proper support. This means that failure of the Soviet government to grant quarters and other facilities for the performance of diplomatic work in Moscow must sooner or later be made an open issue between the governments and pressure must be brought to bear to improve these conditions. It means that the mission must be adequately staffed with American personnel.

Finally it means that the mission must at all times be led by someone capable of and prepared for hard and tedious work over a long period of time, someone who has in high degree the qualities of modesty and patience, who is animated solely by devotion to the interests of our country, and is generally fitted by personality and background to earn the respect of a nation unexcelled in the psychological analysis of the human individual. In the case of Ambassador Harriman, I can sincerely say that I consider these prerequisites fulfilled.

But I make this observation with an eye to the future. The post of ambassador to Moscow is not a sinecure which can be lightly disposed of, and the department must be prepared to use its influence to see that it is effectively filled. The Moscow mission works, and has always worked, under strain, in the face of multitudinous obstacles. A vain, fussy, and ignorant ambassador is capable of breaking its back, and of doing lasting (if not readily apparent) damage to the fabric of Russian-American relations.●

TAX CUT BILL

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues a well-expressed editorial which appeared in the Press-Courier on Wednesday, August 23, 1978, concerning the House-passed tax cut bill and President Carter's concerns about it.

The editorial follows:

[From the Press-Courier, Aug. 23, 1978]

HOUSE POINTS WAY

The $16.3 billion tax cut approved recently by the House clearly offers more for the taxpayer than the larger and conceptually defective package proposed by President Carter in January.

The President dislikes the House-passed bill for several reasons. He is unhappy that 72 percent of the benefits of the cut would go to those earning $20,000 a year or more. He also prefers a smaller capital gains tax reduction, and he favors inclusion of a laundry list of revenue-generating "reforms," including lowered deductions for the "three-martini" business lunches and smaller write-offs for real estate depreciation.

However, there is ample evidence that reductions in personal income taxes for upper-income earners—including the millionaires Carter finds such convenient targets—actually lead to increases in collected taxes plus a dampening of inflation. That is precisely the record of the 1964 and 1965 tax cuts. And because upper middle income earners will be hardest hit in January by higher Social Security taxes, an income tax cut this year is abundantly fair.

Reductions in capital gains tax rates will help pump needed investment dollars into an economy nearly everyone agrees faces an acute shortage of investment capital.

When the Senate considers the House's tax cut, it should think carefully about avoiding the risks of high inflation. Additional investment credits would be one way to fatten the tax cut without ballooning inflation.

Not everything is perfect about the House-approved bill. Lawmakers declined to adopt indexing for personal income tax rates, a true reform that would adjust income tax brackets to protect taxpayers from purely inflationary tax hikes.

Fortunately, however, the House did widen the tax brackets by 6 percent, thus decreasing the amount of income subject to higher taxes. That, and an indexing provision for capital gains taxes—including the $100,000 exemption for homeowners—ought certainly to remain in the bill.

The House has pointed the way to an acceptable tax cut package. All it needs is a little fine tuning in the Senate to make it even better.●

ECONOMIC EFFECTS OF PLANNED NITRITE PHASEOUT

HON. WILLIAM C. WAMPLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. WAMPLER. Mr. Speaker, the proposed action by the Secretary of Agriculture and HEW (Food and Drug Administration) to phase out the use of nitrites as a food preservative in processed meats, poultry and fish needs to be examined long and hard by Congress.

Not only is the risk of cancer from nitrites greatly overstated by USDA and HEW, there is a much greater risk that humans will die from botulism or get seriously ill from food poisoning if nitrites are not used to preserve processed meats.

Apart from establishing the risk of using or not using nitrites, and deciding whether to ban or phase out nitrites, is the economic impact of either action on the agricultural sector. An immediate ban would bring rapid economic chaos to American meat and poultry farmers and processors. A phaseout would amount to a slicing-away—which I call salami tactics—stretching chaos over a longer period of time.

This slicing-away process may have already begun, as pointed out on August 21 by Ed Clark, staff editor in Feedstuffs.

Mr. Speaker, I request permission to include the Feedstuffs article in the RECORD at this point.

[From Feedstuffs, Aug. 21, 1978]

ATTACKS ON NITRITE MAY BE HURTING HOG EXPANSION, GARNER SAYS

(By Ed Clark)

The hog market responded to news reports Thursday of a gradual government ban on nitrites, with a limit up move in pork bellies. Although no ban has been proposed, traders normally use them and any other market rumor to drop the bottom out of the pork belly market.

It's not that traders like to make jokes about losing bacon or sausage, however. "We've been through this before," said Don Schwartz, an analyst with Cargill Investor Services, Inc., in Chicago. "It's just like hearing shouts of 'freeze, freeze' in the grain business. We hear reports of nitrite bans," he said.

Traders are watching with keen interest what the government does about the Massachusetts Institute of Technology study, however, which found a link between nitrites and cancer in rats. And justifiably so, since 60–65% of pork has nitrite in it.

Few have yet examined the entire study, but another MIT scientist was somewhat critical of the experiments, done by Dr. Paul Newberne. Dr. Steven Tannenbaum, professor of food chemistry at MIT, said the strain of rats used in the study have a very high incidence of lymphomas, tumors of the lymph glands.

"It's traditional in testing of this type not to use an animal that has a natural high rate of the tumors, because it is difficult to interpret what a small increase means," he said.

The 8.4 percent rate of tumors in the control group is "extremely high," Tannenbaum noted, and is "almost unheard of in a rat that is specifically susceptible to this sort of tumor. This tends to color the nature of the results. It's an experiment which bears repeating."

Tannenbaum said one reason so much attention was put on the study by the media was the way the FDA news release was worded in the first paragraph.

"If you would have read the article and read past the the headlines to the second and third paragraphs it came out reading quite a bit differently. The government statements show a clear bias against nitrite from the very start," he said.

A USDA scientist said he is annoyed that the MIT study was not published and kept "so close to the chest that scientists could not look at it." Although unable yet to examine the study, he is suspicious of it since 10 or more years of using nitrite in research has found no carcinogens in it.

Marvin Garner, executive vice president of the National Pork Producers Council, said there were no real surprises in the FDA statement. The basic results of the MIT study were public and known since early May, he said.

"When Assistant Secretary of Agriculture Carol Tucker Foreman advised us of the news release and its contents, it was apparent that government officials are now equally concerned with the threat to human health of totally withdrawing the use of nitrite before proven protection against botulism is assured," he said.

When 80 percent of the nitric intake comes from sources other than processed meat, "we wonder if the emphasis on use of nitrite in meat is not out of proportion," Garner said.

The talk of a proposed ban on nitrites is not very supportive of normal growth in the pork industry, Garner said. During the last three years, the industry has had a profit level which pointed toward more expansion, he said, but governmental regulation in part has caused that not to happen.

Banks are less likely to go out on a limb and give loans out on a 10-year basis to pork producers if they think nitrite will be banned, Garner said. Energy needs also would be much greater if all meat must be kept at 40°, he said, which will require increased refrigeration at all levels.

Curt Daniels, a Mingo, Iowa, hog farmer and lawyer, said he hardly would put the MIT study on nitrites on the same plane as the surgeon general's warning on cigarettes. The connection between smoking and cancer was studied years and years before the surgeon general's report, he said, compared with only a minimum amount of research on nitrites and cancer.●

HOPES OF WHALING BAN SPIKED BY PANAMA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. McDONALD. Mr. Speaker, one of the really endangered species in this world of ours has been the whale. Today, only two nations really conduct whaling on a large scale: The U.S.S.R. and Japan. Judging by the bumper stickers one sees on the streets, many persons are aware that Japan is a major whaler, but unaware of the heavy Soviet activity in this regard. Recently yet another attempt was made to effect a moratorium on whaling and it failed. The main reason for this failure, according to the London Daily Telegraph of June 27, 1978, was that Panama withdrew its support from the effort at the behest of Japan, over a threat to withdraw a lucrative sugar agreement. This should tell us about the present Government of Panama. The story follows:

HOPES OF WHALING BAN SPIKED BY PANAMA

(By Godfrey Brown)

A demand for a 10-year "ceasefire" to save the world's whales from the threat of extinction was withdrawn yesterday when the International Whaling Commission meeting opened in London.

It will probably be another year before the proposal can resurface.

The conservationists' hopes are now pinned on reductions in the catch quotas being agreed by the Commission during its meetings which continue until Friday.

The ten-year moratorium on commercial whaling was to have been tabled by Panama, but was withdrawn among allegations of commercial pressure by Japan, one of the big two whaling nations.

Eco, a newspaper run by Friends of the Earth, claimed that Japan had threatened to cancel a £5 million sugar deal with Panama if it tabled its proposal.

The withdrawal followed the apparent "sacking" of Panama's original commissioner to the meeting, Mr. Fortom-Gouin, who had been instrumental in the proposal. He has been demoted to simply an adviser to his delegation, and replaced by Panama's ambassador, Mr. Roger Decerega.

Mr. Decerega strongly denied that Panama had responded to Japanese pressure. The proposal had been withdrawn "because we believe a moratorium would be counterproductive."

Last year eight countries outside the 17-nation commission killed more than 7,000 whales, compared with the Commission countries' tally of about 23,000.

After Panama's proposal was formally withdrawn, the Argentine delegation asked whether another country could adopt it. But Mr. Arthur Bollen, Commission chairman, from Australia, said that under Commission rules once an item had been removed from the agenda, it could not be replaced for 60 days.●

CLAYTON FRITCHEY POINTS TO INFLATION FACTOR

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. SIMON. Mr. Speaker, Clayton Fritchey recently had an excellent column in the Washington Post about the relevance of the military budget to inflation.

He would be the first to suggest that simply to assign inflation totally to the military budget would be a distortion, just as others who assign it to a variety of things distort the reality.

But it is an important factor that generally is overlooked.

Clayton Fritchey is an experienced, seasoned newsman who combines years with wisdom, and I hope my colleagues who did not read the original column will take the time to read it now:

INFLATION'S ROOTS ARE IN THE MILITARY BUDGET

(By Clayton Fritchey)

Everybody agrees that inflation is now Public Enemy No. 1, but unfortunately there is little agreement on what causes it.

It's blamed on countless things. The White House has one list, Congress another, and the Federal Reserve Board still another. The business community also has a list of its own. Yet, in a negative way, they are all alike in that they uniformly shrink from putting the finger on the single most inflationary factor in our society: the huge, wasteful, non-productive, U.S. military colossus, along with the staggering deficits that have accompanied it.

It is a pipe dream to keep on talking about licking inflation and balancing the budget as long as military spending continues unbridled. Wage and price controls might help, but it's doubtful that even they could keep inflation effectively in check if defense expenditures go on as projected.

When Carter was campaigning for the presidency, he rightly said, "When you spend money for defense you don't spend it on education, on health, or other services or goods. And I think the shift away from weapons toward peaceful goods and services in the long run is favorable for world peace, and also you get more jobs per dollar spent."

He promised to cut the defense budget (then running around $100 billion a year) by 5 percent, but now it is 1978 and the budget calls for $126 billion. Carter has turned thumbs down on the B1 bomber and a new nuclear carrier, but he has added new weapons of his own. In the next fiscal year the Pentagon budget is expected to be in the $133 billion to $139 billion range. By 1983 it will probably be $173 billion or more. The authoritative Center for Defense Information (CDI) foresees a figure of $180 billion by then.

Instead of raising additional revenues to pay for those soaring expenditures, Congress and the president have cut taxes, ensuring further deficits exceeding the peak ones of World War II. Nobody understood better than then-President Eisenhower the inflationary costs of such a policy. "The military establishment," he said, "not productive of itself, necessarily must feed on the energy, productivity and brain power of the country, and if it takes too much, our total strength declines."

The Center for Defense Information notes that, over the years, the United States has been spending a smaller portion of the military budget on the defense of America. About 70 percent of that budget, the CDI reports, "now goes to defend our allies and project our power overseas." Actually, there are currently 27,000 more U.S. servicemen and women abroad than a year ago.

One reason the inflation rate in Japan and West Germany is so well in hand is that they spend so much less on defense than the United States. In relation to gross national product, the Japanese military expenditure is about one-fifth of America's.

The ever-rising U.S. defense budget today reflects not so much congressional fear of Russia as fear of unemployment and the closing of costly but needless military installations in their states and districts. Most economists, however, see military spending as a poor job-creator, compared with equal expenditures on civilian needs.

The growth of U.S. inflation is easy to trace. It began with the Vietnam War. Prior to that, in the earlier Kennedy-Johnson years, the range of inflation was merely 1 to 3 percent. It started climbing when Lyndon Johnson, fearing public hostility to higher taxes to pay for his unpopular war, quietly turned to deficit financing on a large scale.

President Nixon did the same, only on a more grandiose scale. Even after U.S. withdrawal from Vietnam, the military budget kept rising, generating an unprecedented deficit of $175 billion in the last years of the Nixon-Ford era. Meanwhile, the inflation rate went steadily up, finally reaching double-digit proportions and a record rate of 12 percent. The ensuing recession reduced it some, but today it is still hovering near the dangerous double-digit level.

Can the fat in the military budget be cut without impairing the muscle? Only a few days ago the Brookings Institution found that the Pentagon could save over $900 million a year by eliminating overpayment of its blue-collar workers. A presidential commission recently called for an overhaul of the military pension system, saying $10 billion per year could be saved that way.

Pentagon officials themselves admit that Navy finances are in a shambles, with cost overruns on new ships totaling more than $6 billion. Another recent study by two former high Pentagon officials found that $40 billion could be saved over the next few years by selective reduction of forces and cancellation of certain new weapons systems.

The really significant savings, however, will not be realized until the "momentum of the arms race" has been arrested. That means, first, the restoration of détente, then new agreements with Russia that substantially cut back strategic arms and finally, serious attention to general disarmament, which some experienced statesmen believe is not as impractical as it may sound.●

LIQUID NATURAL GAS STORAGE—A NEVADA PROBLEM

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. SANTINI. Mr. Speaker, the Fuels Transportation Safety Act is of particular concern to 6,000 of my constituents who live in and around Dayton, Nev.

These people are descended from the generations of Nevadans who helped settle the State and as such, are not easily given to acting out of alarm over any situation. Nor are they reactionary to progress or new ideas. Dayton, in fact, exemplifies many other communities around this Nation that may soon face construction of multimillion gallon liquid natural gas storage facilities literally in their backyards.

These people are concerned citizens expressing their reservations over a system of storage of potentially dangerous gas. To them, the questions of safety have not been adequately answered. As a result, front page news stories are appearing in newspapers, such as the Mason Valley News, around the area. Even the Reno Evening Gazette, 50 miles away, has published an editorial expressing support for the residents of Dayton, and citing regional concerns about LNG storage. These amendments offer us the opportunity to increase safety precautions and calm the fears of our constituents.

I would, therefore, urge my colleagues to read the following newspaper excerpts and support the amendments mandating safer standards for storage of this volatile gas:

DAYTON RESIDENT PROTEST: LNG PLANT "A WORLD OF HURT" FOR DAYTON VALLEY

Approval of a proposed liquefied natural gas storage tank facility would mean "nothing but a world of hurt for Dayton Valley".

That seemed to be the popular consensus among the estimated 125-150 Dayton area residents who attended a public hearing with the Board of Lyon County Commissioners held at the Dayton Elementary School Wednesday evening.

Eight rows of 15 people each plus many more who wound around and even out the doorways voiced the opinion that Dayton just does not want a valley site for the LNG facility proposed by Southwest Gas Corp.

Moderated by Commissioner John Poll, the lengthy hearing began with a long, detailed presentation by Southwest Gas. Dr. Hal Wesson offered slides, photographs, and described fire restrictions. David Rayney and Vic Lafave of El Paso Gas demonstrated the properties of natural gas and LNG.

A very detailed talk given to show the safety involving LNG on ships brought humor to the audience and many whispered asides.

Ivan LaFave of Chicago Bridge and Iron, the company scheduled to construct the facility, explained the safety factors of the proposed tank.

After a 5 minute break, a host of speakers—all against placing the tank at the present suggested site—spoke up.

Bonnie Brown, chairman of the residents protest committee, spoke first and was followed by John Giomi, attorney for the Dayton Valley Residents Defense Committee. Cliff Frederick, Ken Yuhaulgh and Gary Peterson spoke next and were followed by June Trese who said. "We have the right to elect a president. Don't we have anything to say about a gas company?"

Bob Ray, whose remark that he was glad to hear how safe the ships were as they would go up the Carson River brought laughter from the audience, said, "We were here first. I think we have a priority. You are going to ruin us in Dayton, Mark Twain, and Stagecoach."

Mark Tuffo of Yerington questioned who had done the research on the safety aspects of the plant. The Japan and the United Kingdom—not the U.S. government—was the reply. It was brought out that Japan is putting such tanks underground.

Joan Williams of Moundhouse was given a figure of 2,000 Lyon County customers now using natural gas. That figure was disputed by residents in the vicinity of the proposed site, none of whom are getting this gas or have any prospect of getting the gas because of the large lot sizes and the resultant cost of piping.

Resistance continues to stiffen as Southwest Gas Corp. pushes harder for the completion of a liquid natural gas shortage facility near the town of Dayton.

There appear to be two major differences of opinion at this point in time where late-blossoming opposition has succeeded in getting a two-month continuance in the Public Service Commission's consideration of the project.

First item of contention is Southwest Gas' definition of Dayton as an "undeveloped" area. There are in fact some 6,000 people living in the area between Dayton and Silver Springs, 20 miles to the east. The Dayton townsite, itself, is one of several outlying communities programmed for "sudden city" status. Ten miles to the east of Carson City, Dayton is a likely candidate to catch most of the capital city's future population growth as aggressive controls continue to hold down expansion there. Some 7,000 units of residential construction have already been approved for the Dayton area. A new high school is proposed on a site three miles away from where the tank would be located.

The second arena of combat is the discussion over just how safe (or dangerous) the facility will be. Described as a gigantic thermos bottle, the $19.2 million facility will stand 116 feet high and will hold 12 million gallons of liquid natural gas (LNG). Southwest Gas has proposed installation about 10 miles east of Dayton along U.S. Highway 50. Daytonites, who are unanimously opposed to the project, wow one another with gruesome tales of creeping banks of escaped gas and fiery holocausts.

Southwest Gas spokesmen pooh-pooh the fears but the astonishing fact is: accepted fire controls and emergency procedures involving LNG are pretty much untried or simply beyond current technology.

U.S. Sen. Howard Cannon, D-Nev., has called for a five-year, $50 million study of the hazards involved in the storage and transportation of LNG. The study would be made by the Department of Energy and would get underway as early as Oct. 1. The testing would take place on Frenchman Flat, an area of the Nevada Test Site that has been unused since above-ground atomic bomb tests were halted back in the 1950s.

Although Cannon has declined to suggest that the Dayton LNG storage project should wait until tests are completed, he has noted that "there is much we don't know about the hazards involved with handling LNG." He adds the observation that storage facilities such as the one planned for Dayton are numerous in densely populated eastern cities and he doesn't perceive the hazards to be "unacceptable" ones.

Once adequately assessed, it is likely that all the possible hazards and shortcomings can be anticipated and adequately accommodated. Hazards are relative. If you drop it from a point high enough, crash into it with enough mass and speed or pack enough dynamite underneath it, you can achieve a tank rupture no matter how massively it's constructed. But if catastrophe strikes, there should be adequate planning and equipment present in the area to cope with it. Southwest Gas people are disturbingly short on information in those areas.

Finally, it is not clear why they should necessarily pick the Dayton area for a project that literally begs for insolation. For reasons that escape logic, the desert foothills along Highway 50 are booming with growth and expansion at a rate second only to the Reno-Sparks-Carson City areas.

A simpler solution would be to pick an isolated area (Nevada still abounds in this commodity) to build. And those who would move in around the facility later would understandably be doing so at their own risk.

LNG storage facilities are a reasonable answer to the energy crisis. The fact may be they are relatively harmless and would be innocuous neighbors which would guarantee plentiful fuel supplies in the dead of winter. But as far as we can see, Southwest Gas does not have sufficient safety data to insist it be allowed to install the Dayton facility without further delay.

If the Frenchman Flat research project unearths any bad news, Daytonites would probably rather hear about it BEFORE their LNG tank is constructed—and not after.●

PERSONAL EXPLANATION

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. CORCORAN of Illinois. Mr. Speaker, due to a previous commitment in my district, I was absent during part of yesterday's proceedings on H.R. 11280, the civil service reform bill. I would like to include in the RECORD at this time my voting record for those votes which I missed.

Rollcall No. 746: Bonior amendment which sought to extend veterans preference for Vietnam-era veterans for 15 years from the date of separation or until December 31, 1985, for Vietnam-era veterans who served in the Vietnam war (paired for).

Rollcall No. 747: Hanley amendment which retains existing veterans preference standards (paired against).

Rollcall No. 749: Leach amendment which sets a statutory ceiling on the total number of Federal employees in the executive branch, "yes."

Rollcall No. 750: Collins amendment which sought to permit the FBI to place 140 positions in GS 16–18 without regard to the provisions placing limitations on executive-level positions, "yes."

Rollcall No. 751: Erlenborn amendment which sought to strike title VII (labor-management and employee relations language) from the bill in its entirety, "yes."

Rollcall No. 752: Wilson of California motion that the Committee of the Whole rise and report the bill back to the House with the recommendation that the enacting clause be stricken, "no."●

NEED FOR A STRONG MERCHANT MARINE

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. BOB WILSON. Mr. Speaker, we have discussed at length in this chamber the need for a strong Navy in the face of the ever-increasing Soviet threat. But a part of that naval strength, and of our future strategy should an emergency arise, is a strong merchant marine. However, as our dependence on seaborne commerce from other countries rises, the number of U.S.-flag vessels has dwindled alarmingly.

In an article for the Naval Academy Alumni Association magazine Shipmate, Rear Adm. George H. Miller, USN (ret.), who has long been a student of naval warfare and is an expert in merchant marine affairs, details the importance of a strong merchant marine, and warns of the perilous seas we may be sailing without one.

The article follows:

NEEDED—A U.S. MARITIME STRATEGY

(Rear Admiral George H. Miller, U.S. Navy (Ret.)

In the history of the more successful—more lasting—civilizations of the past—Greece, Carthage, Rome, Spain, England, to cite a few examples, one notes a common threat. Their early years, the growth years, were characterized by the development of an expanding foreign trade, a trade carried to distant lands by merchant ships. Rival peoples built navies to protect—and disrupt—this trade. Thus the growth phase of these civilizations might be characterized as the maritime phase.

Eventually, as these civilizations stabilized, they began to send armies overseas to maintain stability and protect distant trading markets from intrusion. Getting mired down in overseas land wars bled nations of their wealth and manpower, and decline accelerated.

Navies take on the characteristics of the nations they serve. Growing nations, the traders, had what might be called maritime navies, whose primary concern was protection of shipping and control of the sea-lanes. Civilizations in the affluent, declining stage had what might be called land-war navies, whose primary occupation was to supply and support overseas land wars.

The rapid growth of Soviet foreign trade, along with their merchant marine and navy, is clear evidence that the Soviets understand how trade and maritime strength built many of the most successful and lasting civilizations of the past. The Soviets have carefully avoided committing Soviet forces to overseas land wars. Instead, they use foreign trade and their merchant marine to spearhead expansion, which is proceeding on a scale and at a rate unprecedented in history.

Meanwhile, the United States has thus far proved unable to cope with the maritime strategy of the Soviet Union. Instead, U.S. decision makers seem to occupy themselves with preparing for Soviet armies to storm the ramparts of NATO. But the land attack does not come. The Soviets are busy conquering the world without war. They find it cheaper and safer to conquer foreign trade with merchant ships than to conquer territory with troops.

The fact is that the United States, since World War II, has adopted a land-war strategy, very similar to that adopted by notable civilizations of the past in their declining years.

The U.S. Defense establishment, since passage of the National Security Act of 1947, has been structured primarily for land war. It is based principally on the theory that each of the Armed Services—Army, Air Force and Navy-Marine Corps—must have its share of the budget, its share of the action. So structured, the United States can employ its armed forces only when land war is involved. The United States at present has no maritime alternative to land war.

For those nations which think primarily in terms of land wars, it is easier for budget purposes to plan for short wars than for long ones. The usual procedure is to create a scenario for a land war, select an area where the war could logically occur, assume certain weaponry, together with quantities and capabilities on both sides, and run it through the war-gaming procedure, computerized or otherwise. One comfortable aspect of war-gaming a short land war, or sea war for that matter, is that our side usually wins. People who participate in these exercises usually don't address the uglier possibilities.

Short war planning also creates the rationale for buying missiles, tanks, aircraft and other land-war equipment and for avoiding the purchase of ships, which require longer construction lead-time and more money than land-war weaponry.

The campaigns of World Wars I and II were delayed again and again primarily because of a shortage of merchant ships. The United States embarked on massive emergency shipbuilding programs upon entry into both World War I and World War II. Many of those ships, however, were not completed before the wars ended. Fortunately, in those days, strong allies held off the opponents while we organized and prepared. Today, the rapid growth of the Soviet Navy and Merchant Marine is clear evidence that the Soviets give high priority to the construction of both navy and merchant ships. Their shipbuilding program also suggests that they are preparing for a long war and do not intend to accommodate to the short war thinking of U.S. planners.

The record of the short war planners is not very good. Something goes wrong; people miscalculate; the opponent does not realize that the war is supposed to be short and fails to surrender according to the wargame scenario. One common characteristic of short war planners is that they almost invariably make a case for more land war forces and weaponry; they rarely make a case for more ships of any kind. A common conclusion among U.S. short war planners has been that we always have enough ships.

The German short war planners were proved wrong in World War I. They were wrong again in World War II. U.S. short war planners were wrong in the Korean war. They were wrong again in the Vietnam war. Those who think in terms of future short wars are probably just as wrong now, unless the U.S. itself plans to surrender according to the scenario.

A protracted war turns primarily into a sea war of attrition, a struggle for world resources, human and material. A sea war turns on who has the ships, on who can load those ships and shepherd them to the strategically and geographically important areas of the world. A sea war means persuading the populations of the world and the

resources they control to join the struggle. It is the side with the ships, the side with the ability to keep those ships afloat and moving, the side with the persistence to carry on, that usually wins the protracted struggle, a principle which land war strategists historically have seemed unable to comprehend. The nuclear war, hypothesized by today's land war scenarists, looks suspiciously like a warmed-over version of the blitzkreigs of World Wars I and II.

The fact is that since the late 1940s, the U.S. has had a tendency to become involved in land wars, wars which have bled America of her treasure and her potential young leaders and competitors, wars which have undermined public confidence in our government's ability to provide for the common defense.

The U.S. Constitution and the U.S. Merchant Marine Act of 1936 do contain language which, if supported by the responsible government officials, provides the means to develop a U.S. maritime strategy alternative to land war.

The Constitution states that the Congress shall provide and maintain a Navy. It goes on to state that Congress shall raise and support armies but no appropriation for this purpose shall be for longer than two years. This raises a question concerning present Defense Department policy of giving higher priority to procurement of land war weaponry than to the procurement of ships.

The Merchnat Marine Act of 1936–1970 states that a U.S. Merchant Marine is necessary for national defense and development of U.S. foreign and domestic commerce. The Merchant Marine Act specifies that the United States shall have a Merchant Marine sufficient to carry its domestic water-borne commerce and a substantial portion (interpreted as at least 50 percent) of the foreign waterborne export and import commerce of the United States, and to provide shipping service essential for maintaining the flow of such domestic and foreign waterborne commerce at all times. The Merchant Marine Act goes on to state that the U.S. Merchant Marine shall be capable of serving as a naval and military auxiliary in time of war and national emergency; that it is the policy of the United States to foster development and encourage the maintenance of such a merchant marine.

Under the Merchant Marine Act the Secretary of Commerce is responsible for carrying out the foregoing national policy and for adopting a long-range program for replacements and additions to the American merchant marine. The Act further directs the Secretary of Commerce to cooperate closely with the Secretary of Defense and the Secretary of the Navy on a number of matters concerning the U.S. Merchant Marine.

On the other hand, the National Security Act makes no mention of the Merchant Marine, or of need for cooperation between the Navy and Merchant Marine. The National Security Act makes no provision for development of a national maritime strategy to serve the Nation's interests without resort to land war. But the National Security Act does make the Navy responsible for "prompt and sustained combat incident to operations at sea." The National Security Act also makes the Navy generally responsible for protection of shipping.

Today, the U.S. has only 470 Navy ships and 877 merchant ships, capable of carrying only 6 percent of U.S. export and import trade, only 3 percent of U.S. petroleum imports. By comparison, the Soviet Union has 1919 Navy ships and 2420 merchant ships capable of carrying over 50 percent of Soviet export and import trade. This gives the Soviet Union an overall total of 4339 Navy and merchant ships, as compared to the U.S. total of a little over a thousand, a Soviet superiority of 4 to 1. As an example of how desperately short we are of ships, over 1700 merchant ships served as part of the U.S. Navy in World War II, over 100 of them as auxiliary aircraft carriers.

In World War II, the United States served as the arsenal of democracy. Today, however, the United States must import unprecedented quantities of petroleum and other critical raw materials. Interruption of the inflow of U.S. critical materials in time of war could force our war industries to shut down and could prevent U.S. armed forces from operating overseas. The Soviet Union, on the other hand, is virtually self-sufficient in critical raw materials.

America's post-World War II policy of neglecting shipbuilding and favoring large nuclear retaliation and land war forces has raised the possibility of defeat of the United States. The Soviet nuclear buildup assures destruction of the U.S. in event of a nuclear exchange. At the same time, the Soviet Union avoids a direct attack on areas occupied by U.S. land forces. With U.S. armed forces thus stalemated, the Soviet Union has been free to use its foreign trade and merchant marine assets in an organized campaign to achieve world domination.

Meanwhile, the U.S. has a paralyzing shortage of shipping, with neither plans nor organization capable of rebuilding and marshalling its maritime and foreign trade assets in the national interest.

It is a fact that foreign trade is now and always has been a major factor in a nation's world influence, economic strength and national security. Why is it then that almost any foreign flag ship can participate in U.S. seaborne trade, while foreign air transports can participate in U.S. airborne trade only on a *quid pro quo* basis under agreements negotiated by the U.S. Government? The current practice of squandering America's enormous seaborne foreign trade assets, with scant consideration for the national interest, offers little organized competition to the Soviet campaign of world conquest.

U.S. international efforts over the past three decades have been characterized by rationalized accommodation and retreat. Shall we go on frightening ourselves with the raised-in-America specter of instant nuclear retaliation? Shall we continue to accommodate to Soviet-inspired "wars of national liberation," in Southeast Asia, in the Middle East and Africa, in Central America? Or shall we forge an integrated, no-nonsense political-economic-maritime strategy to compete with Soviet imperialism now?

Land war strategy is contributing to the decline of U.S. world influence, economic strength and public confidence. The most important national security issue confronting the U.S. Government today is how to organize, develop and put into motion a U.S. maritime strategy. If Americans still prefer liberty to bondage, there may yet be time to turn the tide.●

NO COMPROMISE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. McDONALD. Mr. Speaker, while the bankrupt African policy of President Carter and Andy Young grinds on, spreading chaos and blood everywhere, we are treated to the spectacle of the so-called Patriotic Front shooting down a Rhodesian airline plane, looting it, and butchering the survivors. These then are the people your friendly State Department feels ought to be the architects of yet another Marxist dictatorship of Africa. The Richmond Times-Dispatch ran an excellent editorial on September 6, relative to this incident and the decay of the West. I commend this to the attention of my colleagues. The editorial follows:

NO COMPROMISE

Joshua Nkomo, one of the leaders of the Patriotic Front guerrillas in Rhodesia, has admitted that his forces shot down an Air Rhodesian airliner with 56 persons aboard but he has denied that his men murdered 10 of the 18 survivors.

But someone gathered the survivors on the pretext of giving them water and medical aid and then gunned them down in cold blood. Someone bayoneted one of the women after first shooting her. Someone looted the airplane and the bodies.

The plane crashed in an area near Zambia that is thick with Mr. Nkomo's guerrillas. We recall that when several white missionaries were butchered near the Mozambique border recently, Robert Mugabe, Mr. Nkomo's partner in the Patriotic Front, denied that his men had committed that atrocity even though it occurred near their headquarters and there were eyewitnesses who identified the guerrillas.

Little doubt can reasonably be entertained that those who savagely killed the survivors of the plane crash were the same people who knocked the plane out of the sky in callous disregard of human life.

The Patriotic Front is the same outfit that the World Council of Churches has just given $85,000 on the clear-headed theory that aiding these black guerrillas in murdering whites, including church missionaries, will "combat racism." It is the same organization that President Carter and Ambassador Andrew Young have tilted toward, as opposed to the internal settlement among moderate blacks and whites in Rhodesia. This kind of Western pressure led Prime Minister Ian Smith, a party to the internal agreement, to meet secretly with Mr. Nkomo last month to explore any possibilities of compromise.

But in the aftermath of the massacre of plane crash survivors, Chief Jeremiah Chirau, one of the black leaders of Rhodesia's interim government, expressed the outlook most realistically and eloquently. Said Mr. Chirau:

"If the Western world continues to support such people, who can only be described as rabid animals, then I can only believe that Western democracy as we know it is a thing of the past."

The only kind of "compromise" the Patriotic Front has shown any interest in is one that would turn over Rhodesia to these Marxist-oriented murderers lock, stock and barrel. And once in power this outfit could be expected to be every bit as bloodthirsty as it has been in opposition.●

POLITICAL PARTIES NEED STRENGTHENING

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. ANDERSON of Illinois. Mr. Speaker, I have just read in this morning's Chicago Sun-Times a perceptive article by our colleague DAVE OBEY drawing the connection between weak political parties and legislative stalemate. The argument, to me, is a compelling one: A myriad of interest groups have stepped

into the vacuum left by the parties and pulled Congressmen in every which way but the political center. As a consequence, it becomes increasingly difficult to fashion programs that attract majority support, without just pasting together a tenuous coalition of narrow interest groups. In the process, it is all too easy to lose sight of broader considerations—such as what, in fact, is best for the country.

The parties need strengthening, to countervail the disproportionate influence of single-issue groups that may represent only the smallest fraction of the population. But this begs the question of how the parties are to be improved. The answer seems clear enough: They should be made to stand for things that have broad appeal, so that they will again be listened to, and so that they will again make themselves heard.

Mr. Speaker, I place the Obey article at this point in the RECORD.

[From the Chicago Sun-Times, Sept. 11, 1978]

WHY GOVERNMENT GETS SO LITTLE DONE NOWADAYS

(By DAVID R. OBEY)

Why is government getting so little done today? Why has it become so difficult for any President to effectively lead the country? One reason is that our political system has changed over the last two decades.

When I entered politics 15 years ago, it was fairly easy on almost any issue to find a consensus around which the majority could rally. Even if that weren't possible, public opinion generally coalesced around a few major approaches to our most difficult problems. But today there is almost no way of addressing any issue that generates majority support.

This fragmentation stems in part from two developments: the growing influence of one-issue groups and the declining strength of the major political parties. Both have serious consequences.

In the last 10 years, there has been a geometric explosion in the number of interest groups organized around a single issue with a single goal: groups to kill the B–1 bomber and others to save it; groups to stop nuclear power development and others to promote it; groups that decide if they like government solely on the basis of what it does about tuition tax credits, labor law reform, abortion, endangered species or capital gains taxes. Politicians have little protection against the unbending demands of these groups because what used to be their first line of defense—their party—is no longer capable of protecting the political center.

One of the most critical functions parties used to perform was to pull together floating coalitions of interest groups. They took into account competing proposals, separate good from bad and, most important, fashioned majorities—majorities that determined what the key issues were and what was to be done about them.

Today the centers of both parties have narrowed to the point of ineffectiveness. With no real center of gravity left in the system, each group pulls its own way. The result: Many of our social and political institutions—including the government itself—are frozen in the ice of internal division.

When they have been strong enough, parties have been able to overcome that kind of inertia and get things moving again. If the public didn't like the direction in which it was moving, it could bring in the other party and try a new one.

But today government has nearly been brought to a standstill because both parties have been so weakened that neither is functioning as an effective instrument of power. Therein lies one key to the current disaffection with government; it's not that government is doing things people don't like, but that it is perceived as being weak, ineffectual and incapable of dealing with problems people face.

It has been fashionable over the last decade to say the parties have become "unresponsive."" The fact is they have become too responsive to the single-minded demands of narrow interest groups.

Strong parties used to be able to strike compromises on major political issues by balancing the demands of constituent groups with the needs of the country and party. Today, with the gravitational pull of the center weakened, each group is able to demand a higher price for its support. There is less pressure on each to compromise for "the good of the order" or to get on the bandwagon before it leaves without them.

Because the parties are so weak, many politicians have begun going outside them. In building-block fashion they add up lists of 2-per-cent-of-the-population interest groups to whom they will not say no, until they have put together their own personal majorities.

Because each politician has a different constituent base, members of the same party are locked in on both sides of almost every issue. That means there is very little "give" in the system of the sort the major parties once provided—the kind of give or flexibility necessary to build majority support for solutions to our problems. The result—whether on energy, tax policy or the conduct of foreign affairs—is chaos.●

PERSONAL EXPLANATION

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. FORSYTHE. Mr. Speaker, due to illness, I missed several votes on September 6 and September 7. I would like to take this opportunity to advise my colleagues and friends how I would have voted if I had been present:

Rollcall No. 724: Quorum, September 6, 1978.

Rollcall No. 725: H.R. 12432, Civil Rights Commission, September 6, 1978. Treen amendment to prohibit the Commission on Civil Rights from appraising or studying and collecting information about laws and policies of the Federal Government, or any other governmental authority, with respect to the issue of abortion. I would have voted "no."

Rollcall No. 726: House Joint Resolution 1088, New York City loan guarantees, September 6, 1978. Adoption of joint resolution to permit the secretary of the Treasury to guarantee up to $1.65 billion in New York City bonds, as authorized under the New York City Loan Guarantee Act of 1978 and to appropriate funds necessary to pay guaranteed loans if the city defaulted on them. I would have voted "yea."

Rollcall No. 727: H.R. 7308, foreign intelligence surveillance, September 6, 1978. McClory amendment to allow wiretapping of non-U.S. persons without a warrant, provided that a certificate was issued by the Attorney General and a designated executive branch official in the area of national security who had been confirmed by the Senate. I would have voted "yea."

Rollcall No. 728: H.R. 7308, foreign intelligence surveillance, September 6, 1978. Ertel amendment to eliminate a provision in the bill to establish a special court to hear Government applications for warrants to conduct electronic surveillance in the foreign intelligence area. I would have voted "no."

Rollcall No. 729: Quorum, September 7, 1978.

Rollcall No. 732: Quorum, September 7, 1978.

Rollcall No. 738: Motion to resolve into the Committee of the Whole House September 7, 1978. I would have voted "yea."

Rollcall No. 739: Quorum, September 7, 1978.●

EIGHT RECOMMENDATIONS SUBMITTED TO AID HANDICAPPED

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. COUGHLIN. Mr. Speaker, I am pleased to submit for the RECORD a summary of eight recommendations for Government action to assist handicapped American citizens.

The summary is in the form of a letter published in the spring 1978 Harvard Law School Bulletin and written by Rudolph V. Lutter, Jr., a constituent who has been active for years on behalf of handicapped individuals.

Mr. Lutter, Harvard Law School class of 1960, is a native of Philadelphia who earned his bachelor of arts degree in sociology, with a minor in government, from Pennsylvania State University. He has worked in Washington since 1962.

An attorney adviser to the Federal Communications Commission, Mr. Lutter served as an official observer for me at the 1977 White House Conference on Handicapped Individuals. He is visually handicapped, suffering from an ailment that reduces his central vision but does not affect his peripheral vision.

Mr. Lutter has been working to assist the handicapped for the past 13 years. He is president of the Volunteers for the Visually Handicapped, and serves as board member for the National Capital Area, Coalition of Citizens with Disabilities, D.C., and the Overbrook School for the Blind and its alumni association, Philadelphia.

I believe Mr. Lutter succinctly yet forcefully states the case for his eight recommendations to aid the handicapped.

Mr. Lutter's letter:

PROPOSALS FOR THE HANDICAPPED

In December of 1977, a three-volume report was issued by the staff of the first White House Conference on Handicapped Individuals. It contained 797 pages, 287 issues and 3,522 proposed solutions to those issues. In view of this and the fact that the Conference dealt with matters affecting 36 million Americans, I am submitting the following eight recommendations for necessary government action with respect to the handicapped which I made to several members of

Congress whom I represented at the Conference as an official observer. They are based on material gathered at the White House Conference, and my personal experience as a handicapped individual and with government.

(1) Research in preventive and rehabilitative medicine must be amply funded.

(2) A national medical insurance program must be established to cover the costs of physical and mental illness for all citizens. Mental illness is specifically mentioned in this recommendation because of the emotional strains that come to handicapped citizens as a result of their economic and social exclusion from our society.

(3) The state rehabilitation offices, who receive a major part of their funding from the U.S. Department of HEW, must be forced to revise their personnel practices so as to employ rehabilitation officers and other staff who will be more able to wisely guide and assist handicapped citizens at a crucial time in their lives.

(4) The Education for All Handicapped Children Act of 1975 should be amended in order to guarantee parents the option of sending their children to schools designed solely for the education of the handicapped. The law presently looks toward educating handicapped children along with unhandicapped children in public schools (mainstreaming). While such a method may be comparable in academic and vocational training to the traditional education of handicapped students in specialized schools and may have some advantages, it is suggested that the vital learning of self-confidence, available in a specialized school through full participation in all extra-curricular, social and athletic activities of the school, irrespective of a handicap, is most important. Too, the alumni associations of specialized schools can provide an additional and desirable source of lifelong friends with similar experiences.*

(5) The exercising of the right to vote must be facilitated for handicapped citizens. Pending Senate Bill 1345 and House Bills 4119 and 6295 look toward the making of polling places physically accessible and the simplifying of the method of casting an absentee ballot.

(6) The Civil Rights Act of 1964 should be amended to include the handicapped as a protected minority. Pending Senate Bill 2504 proposes such an amendment.

(7) Since unemployment is the key to economic independence and since economic strength provides a path to social integration, it is recommended that Section 501 of the Rehabilitation Act of 1973, which requires the federal government to take affirmative action with respect to the employment and promotion of handicapped citizens, be amended to provide for (a) the provision of a private, civil cause of action for its enforcement in the federal courts; (b) the payment of attorney's fees in cases where a violation of the Act is found; (c) back pay and retroactive promotion where a violation of the Act is found; and (d) the establishment of a mechanism of censoring government officials who are held to have violated the Act. The development of a model program of employment of handicapped citizens in the federal government will advance the implementation of Section 503 of the Act which mandates affirmative action in employment of the handicapped by private enterprise receiving federal contracts.

(8) Since existing law or new law is useless unless enforced, it is recommended that a legal ombudsman be established as a part of the federal government, to encourage the forthright enforcement of federal laws concerning the handicapped by the appropriate federal agencies.

Rudolph V. Lutter, Jr. '60
Washington, D.C.●

*I do not believe my judgment to be tainted in this recommendation; however, in evaluating it, it should be known that I am on the boards of the Overbrook School for the Blind and its Alumni Association.

THE EXIMBANK AND SOUTH AFRICA

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. BLANCHARD. Mr. Speaker, it has become apparent that the continent of Africa will be the focus of close scrutiny and important policy decisions for our country in the immediate future. Indeed, we have debated several bills this year which concern our policies toward the nations of Africa.

One bill which I was involved with as a member of the Committee on Banking, Finance and Urban Affairs was the Export-Import Bank bill. The question of whether the United States should impose economic sanctions through the Eximbank on South Africa because of their apartheid policies was raised when the bill was considered both in committee and on the floor of the House.

Mr. Mitchel Kehetian, who is the managing editor of the Macomb Daily newspaper in my district, spent 3 weeks in South Africa earlier this summer. He wrote a five-part series on the situation there, encompassing interviews that he had with people in various walks of life in South Africa, as well as some of his own reactions. I found the series very informative and interesting. Mr. Kehetian's point of view is different from so much of what is written these days about South Africa.

Therefore, in view of the very difficult questions that are involved in our policy decisions regarding South Africa, I want to give all of my colleagues an opportunity to read Mr. Kehetian's series of articles. Because of space limitations, I am inserting only the first article in his series. However, I would be happy to provide copies of the remaining articles in the series to any interested party.

The article follows:

[From the Macomb Daily, May 22, 1978]

COMMUNISM, NOT APARTHEID IS GREATEST FEAR

(By Mike Kehetian)

PRETORIA.—While white South Africans grope in search of a compromising solution to rid their land of cancerous racial policies, they stand determined to protect "the fatherland" from the growing Red Tide sweeping through the Dark Continent.

The white South African pleads for "more time" to resolve the country's apartheid dilemma, for his greatest fear is being engulfed by communism.

He points to Moscow's proxy army—more than 40,000 armed Cuban troops; and the Marxist takeovers in Angola, Mozambique and threatened intrusion into the internal affairs of Zaire and South West Africa.

As the South African glances across the border into Rhodesia, a once white-ruled nation soon to transfer the power base to black majority rule, he predicts the outcome: "A Marxist takeover with the blessing of President Jimmy Carter and Ambassador Andrew Young."

But he expresses a faint glimmer of hope that neighboring Rhodesia may still escape a Marxist takeover, a hope rekindled by Gerald Ford when the former president assailed the Carter Administration for supporting the "wrong side" in Rhodesia.

Carter contends the transfer of power by Ian Smith's white minority government to a multi-racial government must include representation from the Patriotic Front—a devout Marxist backed terrorist group fueled and supplied with Cuban and Soviet weaponry.

How real is the communist threat?

Maj. Gen. Douglas Ralston, the No. 2 man in South Africa's defense ministry, says it is real.

The huge wall chart of Africa in his tight-security ministry office in Pretoria is dotted with "red pins," with a question mark tacked to the future safety of the Cape of Good Hope oil route—which he labels as the "life-line" for the "naive western powers."

When pressed if South African troops are offering aid to anti-Marxist guerillas in southern Angola, the military leader insists "we're not in Angola."

Yet, two days after granting an interview, South African ground and air force units struck with lightning precision at a Swapo terrorist base in southern Angola. The raid inflicted heavy losses on the Swapo camp, appropriately given the code name "Moscow."

Defense Minister P. W. Botha said the limited military strike was directed against Swampo terrorists, and to put an end to Swapo's extensive campaign of terror in South West Africa.

The country of South West Africa (Namibia), a former German colony, was awarded to South Africa as a protectorate after World War I by the then League of Nations. Its independence is expected later this year, through a western power—South African compromise.

Swapo insists it should decide the eventual fate of the emerging African state.

As to the defense of the Cape Sea oil route, Ralston insists South Africa no longer will assume the role of defending the "Panama Canal of the Indian and Atlantic Oceans."

"Henceforth, we will take a neutral stand on defending the Cape Sea route for western Europe and America. We will think of our own safety, first and foremost," he repeated.

Each day, no less than 60 oceanplying ships slip past the Cape. At least 17 are oil tankers heading for Europe and America.

When the Suez Canal was blocked during the 1967 Israeli-Egyptian war, the flow of oil tankers using the Cape, route tripled in number.

South African aerial photos taken of ships plowing the Cape waters also spotlight Soviet vessels, mostly in attack training exercises.

"If that day ever comes, the Soviets will be experts at hitting any oil tanker bound for the west—and without oil, western Europe collapses," Ralston warns, grimly.

On the subject of his nation's ability to wage combat against Cuban troops, Ralston firmly states: "We took care of Cuba in Angola, even with a small force of 2,000 against their 19,000. But we had to withdraw when your Henry Kissinger and the CIA broke their promise of help if we went in to stop the Marxist takeover of Angola in 1976."

Then there is Douglas H. McClure, an expert on Soviet strategy at South Africa's Institute of International Affairs, who boasts of his academic days at the University of Michigan and that his mother is an American.

"You (America) are the ultimate target. If all of Africa succumbs to Moscow, then the western world will be at the mercy of Soviet expansion. You need our resources, and you will need the Cape Sea oil route," McClure stresses.

To lend credence to his concern, McClure unfolded exhibits and stats to confirm that more than 2,000 Cuban troops were air-lifted to Mozambique during the Marxist takeover of that former Portuguese colony.

When quizzed about South Africa's capability to ward off a full-scale communist attack, without western support and weaponry, McClure smiled: "We launched the development of nuclear war-heads in 1970, and by now we should have that ability. And we've got the French Mirage to deliver it—if necessary to survive."

As to the country's search for sophisticated weaponry to counter the Soviet build-up in southern Africa, McClure said: "We trade heavily with Israel. Israel also fears that America will let her down to satisfy selfish interests. I guess the one common trait we have with the Israeli is the will to survive against large numerical odds."

During Israel's 30th anniversary of statehood, South African Jews held rallies in this country's large cities—and with the blessing and participation of government officials and conservative newspapers.

With the demise of the Ford-Kissinger administration, McClure said "most South Africans placed great faith when Mr. Carter pledged to stand fast against communist expansion. Instead he and Andy Young refer to the presence of Soviet-backed Cuban troops in Angola as a stabilizing force. How can you call oppression a stabilizing force."

In the opinion of Harvey Tyson, editor of the influential Johannesburg Star, a frequent critic of government policies, the "communist threat is real," though he places equal concern over the country's apartheid policies.

The communist threat is one shared by a majority of white and black South Africans interviewed—from Pretoria to the southern tip of the country at Cape Town.

Solomon Ngobese, the mayor of Umlazi in the KhaZulu Homeland, while citing the black South African struggle for economic independence and self-government, adamantly states: "We don't need any help from Russia."

"I've seen what the communists have done to Angola, Mozambique and how they now threaten Ethiopia, Zaire and Rhodesia. As long as the communists are kept out of South Africa, we will achieve our ultimate goal. If the communists win, we all perish—whites and blacks."

The leader of South Africa's nearly one million Hindu and Muslim Indian community in the Natal Province was more to the point. "South Africa needs the west, and don't be misled that by sacrificing this country you will stop the communists. It will not work."

Equally rough on American policies in Africa was Lennox Sebe, the chief minister of the Ciskie Homeland. "Get rid of your Vietnam fear. Be bold against communism. Help our emerging black homelands to be strong economically and you defeat the seeds of communism."

Meanwhile, the man on the street continues to scoff at Carter's warnings to Cuba and the Soviets. "The Cuban and the Russian knows you still bleed from the Vietnam era, and they will not stop until they capture the minds of all Africans," is their story to visiting Americans.

Is the communist threat a real threat?

Ask any South African, be he white, black, Asian or colored and he'll respond with a concerned note.

As Ralston said: "If communism wins—then all our people face certain destruction."

But he counters, confidently: "We won't run away. We've been here for 300 years. We will fight to the end. This is our homeland."

(In tomorrow's report, Kehetian writes about South Africa's racial dilemma as seen by the ruling white political structure, urban blacks holding quasi-government posts and those who weathered the 1976 riots that swept through Soweto.)●

"REASONABLE CAUSE" RULING AGAINST OSHA

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. HANSEN. Mr. Speaker, in May I informed you of the Supreme Court decision regarding the case of Bill Barlow, a small contractor from Pocatello, Idaho, and his victory over the Occupational Safety and Health Administration's warrantless inspection regulations. At the time there was a great deal of pessimism among the members of the press that the Court did not provide a strong "reasonable cause" ruling. This, however, is not the case as I have continually maintained. My hopes and contentions have been significantly reinforced and the Barlow decision has been strengthened substantially in a recent Federal court decision in the U.S. District Court for the Eastern District of Wisconsin. OSHA once again was dealt a devastating blow.

The hapless safety agency had forced an inspection of a Weyerhaeuser facility with only an administrative warrant which came under legal challenge. The case was the first to be considered in the wake of the Barlow decision that a businessman does not have to settle for anything less than a warrant based on probable or reasonable cause.

Thus the Barlow decision continues to assume an increasing importance in American history, because it sets a constructive precedent for necessary protective guidelines for citizen rights in the face of Government activities. Heretofore, the businessman and farmer have been the victims of a recent trend in reverse justice where the citizen is assumed guilty until he can prove his innocence.

The Barlow court ruling places the burden of proof back on the Government where it belongs. OSHA can now come to inspect as before but the businessman can demand that they have a search warrant properly obtained from a magistrate, and the warrant itself can be challenged by the citizen if he wishes to question the grounds upon which the warrant was issued and the scope of the proposed search—thus resting the burden of proof on the Government where it should have been all along.

The Weyerhaeuser decision has upheld my hopes and contentions and significantly reinforced the Barlow ruling. I would like to call my colleague's attention to my remarks in the CONGRESSIONAL RECORD of July 25, 1978.

Additionally, Senate and House conferees are now considering H.R. 11445, amendments to the Small Business Act. One of the amendments to this bill offered by Senator DEWEY BARTLETT of Oklahoma will exempt most small businesses, those with 10 or fewer employees, from coverage under the controversial Occupational Safety and Health Act. Certain small businesses considered hazardous, because of high injury-illness rates, would remain subject to the provisions of the act.

Over the past few years Congress and more recently the administration have become increasingly aware of the burdensome impact that OSHA has had on small businesses. As a result, some effort has been made to reduce the harsh effects that OSHA has had on them. Most notably were recent announcements by the Labor Department of its intentions to delete 1,100 admittedly nitpicking regulations and later to eliminate unnecessary paperwork and reporting requirements affecting some 40,000 nonhazardous small businesses. The Department originally announced its intentions to delete the 1,100 regulations last December. Unfortunately, however, after many months no action has been taken to implement even the earliest decision to eliminate unnecessary regulations. Additionally, by legislative action we are already exempting farms with 10 or fewer employees from OSHA coverage and eliminating penalties in inspections of small businesses with 10 or fewer employees.

The benefit to the Nation's small businesses from the Bartlett amendment could be tremendous. Primarily affected are those small businesses already exempted from fines when there are 10 or fewer nonserious citations, such as the wholesale and retail trade, finance, insurance, real estate, and service industries. The injury-illness rate for this group is less than 3 per 100 fulltime workers. A statistic far better than that used by OSHA as indicating high-risk industries.

Mr. Speaker, I strongly urge House conferees and all House Members to accept the Senate amendment and "do something for the little guy who is finding the overlapping and burdensome requirements of Government from a multitude of agencies almost more than he can bear."

I include at this point in the RECORD material involving OSHA's lack of followthrough on announced intentions to relieve small businesses of excessive and unnecessary regulations and requirements. The articles follow:

[From the National Journal Aug. 12, 1978]

THE "FACTS" ABOUT OSHA'S 1,100 REVOKED REGULATIONS

Erroneous "facts" sometimes take on a life of their own in Washington. Once sanctified by official pronouncement and dignified in print, they have a way of becoming ingrained in the official lore of the town. The government's assertion last year that there was an impending swine flu crisis comes to mind.

So it is now with the case of the vanishing safety and health regulations.

Somehow it's believed, by President Carter and Newsweek, among others, that the Labor Department's Occupational Safety and Health Administration (OSHA) excised with a single blow some 1,100 regulations—unnecessary, nit-picking rules that irritated industry and did not protect the health and safety of workers.

No such luck. Not a single OSHA regulation has been repealed.

The fictional excision got a push on its way to becoming a "fact" when President Carter, speaking in Beaumont, Texas, on June 24, launched into the cut-down-on-government-regulation part of his standard inflation-fighting spiel. "We have got too much government regulation," he said. "It has got to be cut down." The White House transcript records that the crowd applauded.

"We are beginning to eliminate the worst nit-picking regulations in agencies like . . . OSHA," Carter continued. "In one day last year, 1,100 different regulations were wiped off the books. And the ones that we do have are being written in clear English so a peanut farmer can understand them." More applause.

Arguably, the OSHA excisions took on the character of a half-truth when Carter thus cited them. And if that's so, then the other half was added, and the excisions became a Washington "fact," when Newsweek reported in June that OSHA, "perhaps the most reviled of all watchdogs, has repealed 1,100 of its more than 10,000 rules."

But the fact about the "fact" is that it is not a fact.

What OSHA now calls its "standards deletion project" was launched with much fanfare on Dec. 5, 1977. Labor Secretary Ray Marshall held a press conference to announce the plan to cancel 1,100 regulations, citing such well-known absurdities as OSHA's standard requiring open-front toilet seats and another specifying how many inches above the floor fire extinguishers had to be hung.

"This project has taught me an important and sobering lesson," Marshall said then. "In working with [OSHA administrator] Eula Bingham and her staff on removing these 1,100 nit-picking provisions, I discovered that the system makes it much easier for the government to promulgate new regulations than to get rid of outmoded or ineffective ones." Little knowing how true that last statement was, Marshall continued: "Things are not impossible, however. Our efforts today indicate that with enough determination and creativity it is possible to beat the system."

But to date, the score is: The System, 1,100: Marshall, 0.

OSHA spokesmen explain that the process used to delete a rule is the same as that used to promulgate a rule. Proposals must be published in the Federal Register, and time allowed for public comment. Then, if a hearing is demanded, it usually must be held.

The rules OSHA targeted for delegation were in five categories: those that were obsolete, were meant only to promote comfort and convenience (as with the toilet seats), were designed to protect personal property, agency, or duplicated existing industry standards.

OSHA was surprised to find that many of the regulations had public constituencies. "A lot of people seem to have a stake in them," said a spokesman. "The unions want to make sure their members won't have to give up something they like."

So comments have been flowing in, and some requests for hearings have been filed, though OSHA is resisting holding any.

Christopher B. Graybill, an OSHA spokesman, said that the people working on the standards deletion project "aren't giving a target date" on when the first standard might bite the dust or when the whole project might be completed. "We couldn't even give you a guess for the record; it wouldn't be accurate enough," he said. "But our new director of safety standards has the project near the top of his priority list."

So the Washington "fact" is not a fact at all, and the 1,100 standards remain on the books.

There is one last fact, heartening to businesses, to end the story. OSHA says it has directed its inspectors not to vigorously enforce most of the standards targeted for excision. Verbal warnings will be delivered, but no written notices and no penalties will follow. Perhaps that returns the Washington "fact" to the status of a half-truth.—Timothy B. Clark.

[From the Washington Post, Aug. 12, 1978]

OSHA BACKPEDALS ON ITS PLAN TO BANISH "NITPICKING" RULES

(By Loretta Tofani)

The Occupational Safety and Health Administration has found it's easier to ignore regulations than get rid of them, and even President Carter is confused.

Last December, OSHA announced an ambitious plan to take 1,100 "nitpicking and obsolete" regulations off the books, such as one specifying how high off the floor fire extinguishers had to be hung.

During a political swing in Texas in June, Carter, attacking excessive federal regulation, pointed to the OSHA action with pride. "In one day last year, 1,100 different regulations were wiped off the books," he told a crowd in Beaumont.

But National Journal, the weekly on politics and government, reports in its latest issue that the regulations are still on the books.

"Some unions told us these regulations were important protections," a safety spokesman said. "They felt their situations in factories might be worse without them."

A safety spokesman said the organization still intends to get rid of the regulations, but probably not all 1,100 originally intended for excision. He would not say when the regulations would be deleted, only that the project is a "top priority."

He said officials must examine comments from labor unions and industry before deciding which regulations can go. In the meantime, inspectors will not enforce most of the 1,100 regulations. "The employer won't be cited," the spokesman said. "He won't be fined or get a written notice. It'll just be pointed out to him that he violated the standard."

The rules that were to be banished were obsolete, designed to protect personal property, duplicated the regulations of other federal agencies, or were meant only to promote comfort and convenience.

Labor Secretary Ray Marshall announced the agency's intention to take the regulations off the books at a December press conference.

"In working with [OSHA administrator] Eula Bingham and her staff on removing these 1,100 nitpicking provisions," Marshall had said, "I discovered that the system makes it much easier for the government to promulgate new regulations than to get rid of outmoded or ineffective ones. Things are not impossible, however. Our efforts today indicate that with enough determination and creativity it is possible to beat the system."

SCHOOL MEMORIAL DEDICATED TO THE LATE ADM. HOWARD YEAGER

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. McCLORY. Mr. Speaker, this Sunday, September 17, I shall participate in a memorial service to a man I called a friend, the late Rear Adm. Howard A. "Red" Yeager. Admiral Yeager was commandant of the 9th Naval District at Great Lakes, Ill., in my 13th Congressional District.

He was much honored. His courage, his intelligence, his diplomatic skills, his decency brought him recognition from not only his own country, but from others. He loved the Navy. He was incredibly proud of serving his country as a part of the U.S. Navy.

But "Red" Yeager was not a one-dimensional man. He cared about the world in which he lived and part of that caring was his outreach to others. During his service at Great Lakes, he was actively involved in youth work in North Chicago, the community of which Great Lakes is a part.

So valued were his contributions and so well remembered his enthusiasms that after his tragic death in 1967 in a fire at the commandant's home at Great Lakes, North Chicago named a school for him.

Mr. Speaker, this Sunday there will be a memorial dedicated to Admiral Yeager at the North Chicago Yeager School. Adm. Thomas W. McNamara, present commandant of the 9th Naval District, will present the ship's bell from the U.S.S. *Cannon*, once under Admiral Yeager's command.

The Sea Cadets Honor Guard, sponsored by the Navy League of the United States, will present a Navy flag, and I am privileged to present an American flag that has flown over the U.S. Capitol.

Mr. Speaker, many public servants will be on hand Sunday, including my good friend, North Chicago Mayor Leo Kukla. But, perhaps even more important will be those other guests—many of the nearly 300 students at the Howard Yeager School and their parents.

I think I knew "Red" Yeager well enough to say that these are the ones he would care most about.

I have said little of Admiral Yeager's Navy career. Records speak eloquently of them. He was a great naval hero. A man of courage and dedication to the Navy and to our Nation. What I have tried to portray here is the spirit of a man who cared enough to give of himself.

And the two major speakers Sunday may tell us more about that. His son, Navy Comdr. Howard B. Yeager, and Navy Capt. Donald R. Yeager, his brother, will be the honored guests.

Mr. Speaker, to all those who helped arrange Sunday's ceremony—among them Michael Penich, Jr., Yeager School principal; Mrs. Patricia Stewart, Parent Teacher Organization president; Dr. Charles Thomas, school superintendent; and Mrs. Marjorie Hart, school board president—my thanks and the thanks of all of us who called Howard Yeager friend.●

SMALL BUSINESS AND SCIENTIFIC AND TECHNOLOGICAL INNOVATION

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, today's material concludes a series of memorandum and reports on the importance of small business to the scientific and technological process, and the frustration of its efforts by governmental agencies. Included are recommendations and executive summary of the OMB Rabinow report:

SUMMARY OF REPORT OF WILLIAM K. SCHEIRER

IMPORTANCE OF SMALL R. & D. FIRMS

Many analysts believe that small firms have a better record for innovation than large firms. Richard Morse recently wrote that "a disproportionate number of innovative ideas emanate from our smaller technically based companies."* The reasons for this phenomenon are varied. Some believe that managers of small R&D firms have a greater incentive to innovate while conversely, in some cases, the marketing plans of large firms dictate that technical improvements to their products be held to a minimum. There also is a possibility that researchers in large firms tend to overspecialize to a greater extent than researchers in small firms. Mr. Rabinow has observed that, "when one narrows his specialization, he probably comes up with fewer ideas. If one loads the dice in favor of a certain art, one cuts off analogous arts, which I think are important. The more an inventor can pull out of related and unrelated arts, the more original his ideas are likely to be."

Empirical evidence indicates that in a comparison of firms with less than 1,000 employees and those with over 1,000 employees:

Firms with less than 1,000 employees accounted for almost one-half of major U.S. innovations during 1953–73.

The ratio of innovations to sales is about one-third greater in firms with less than 1,000 employees.

Firms of less than 1,000 employees have a ratio of innovations to R&D employment which is approximately four times greater.

The cost per R&D scientist or engineer is almost twice as great in firms of over 1,000 employees.

FEDERAL GOVERNMENT UTILIZATION OF SMALL FIRM CAPABILITIES

A striking disparity appears to exist between the capabilities of small technology based firms and their utilization by Federal agencies. Data collected by the National Science Foundation and supplemented by the Office of Federal Procurement Policy shows that only eight percent of Federal R&D contract awards to industry and only about three and one-half percent of obligations to all R&D performers** were made to small firms in FY 1975; that Government R&D obligations to industrial firms vary from less than one-half of one percent for the Department of Agriculture to 62 percent for the Department of Defense; and that reliance on industry for Federal R&D has declined from 59.6% in 1966 to 50.7% in 1976 in current dollars.

The overwhelming percentage of the dollars in Federal R&D goes to development as opposed to research (basic and applied). Although the industry share of development is substantial, most of this goes to large businesses capable of performing very large development contracts. On the other hand, in the research area where its capability is high, small firms lose awards to colleges and universities, federally funded research and development centers (FFRDCs), as well as to large firms.

Summary conclusions reached are that (i) Federal agencies tend to use sources other than industrial firms for basic and applied research; (ii) a significant portion (64%) of Government R&D is for development normally involving large industrial firms; and (iii) the percentages of both total expenditures for R&D and R&D contract awards to small firms are very low.

SMALL FIRM IMPEDIMENTS

As indicated above, large firms are favored in the award of development contracts on the basis that they are essential for the production phase of the program. However, this is not the only restriction to a greater use of small firms. Mr. Scheirer found that policies and procedures followed by Federal buying activities also restrict the use of small technology based firms. Following are some of the more significant impediments encountered by small companies:

It is difficult to identify and respond to Government R&D requirements. On a competitive basis, large firms have a greater capability to determine what the Government is interested in researching and to unravel the complexities of "Requests for Proposals" for R&D work.

Preparation of proposals is expensive and time-consuming to a point frequently exceeding the capabilities of small firms.

A bias in favor of large firms can exist when awarding R&D contracts. The tendency is to consider awards to large well-established firms "safer" than to small firms.

Funding for Federal R&D work frequently lacks stability. This condition strains the financial capabilities of small firms.

Submittal of unsolicited proposals is frequently discouraged.

Burdensome administrative requirements for contract solicitation, evaluation, award, and performance impair the ability and desire of small firms to compete for R&D contracts.

CONCLUSIONS

Though the responsibility for retention of a high technology capability in the United States is shared by both the private and public sectors, the large annual Federal expenditures for R&D places a unique responsibility on Federal agencies. New techniques must be devised to encourage innovation by all sources, with particular emphasis on small R&D firms. In the placement of R&D work, Government managers should carefully consider the ultimate beneficial effect of using small firms and not give undue consideration the immediate security that may appear to exist by awarding R&D contracts to large firms.

RECOMMENDATIONS OF AD HOC INTERAGENCY PANEL

The interagency panel chaired by Mr. Rabinow developed the following recommendations based on its analysis of this problem:

1. Federal agencies should develop formal programs which encourage the increase of Federal R&D awards to small technology based firms.

2. Large research and technology programs should be divided where feasible into discrete parts to permit solicitation of proposals and award of contracts to small technology based firms in lieu of making a limited number of awards with consolidated requirements that only large firms can accomplish.

3. Subcontracting to small firms should be encouraged in contract solicitations, source selection criteria, and negotiations for R&D work. A prime contractor's record in subcontracting to small technology based firms should be a factor in fee awarded in award fee and incentive type contracts.

4. Intensive efforts should be made by Federal agencies to reduce or compensate for impediments experienced by small technology based firms. These efforts may include but not be limited to the following:

(a) Early identification and publication of agency R&D requirements.

(b) Coordination of R&D requirements with Small Business representatives early in the acquisition process.

(c) Use of the *Commerce Business Daily* to provide advance information on anticipated contractual requirements for R&D.

(d) Providing methods for small technology based firms to obtain an understanding of requirements which may not be possible through the written solicitation. For example, some buying activities currently provide research and technology libraries, catalogs for technical requirements, and special briefings to explain their research and technology needs.

(e) Providing sufficient time for firms to prepare and submit proposals.

(f) Reducing to the extent feasible the time and supplemental data required between receipt of proposals and award of contracts.

(g) Providing agency R&D points of contact for small firms.

5. Agency policies and procedures should encourage unsolicitated proposals. Contracts should be awarded for research and technology efforts based upon the merit of such proposals without converting the requirements to competitive solicitations.

6. The agencies, including the Small Business Administration, should use more technically trained personnel to serve as advocates for and advisors to small technology based firms. Special emphasis should be given by such persons to the advance procurement planning process for R&D requirements.

7. Profit-making firms should not be excluded from making proposals or receiving awards on R&D work that is not assigned to in-house laboratories.

8. Agencies should consider allowing greater amounts of independent research and development and bid and proposal costs than currently authorized when negotiating contracts with small technology based firms.

9. Methods should be developed for collecting and reporting data on small business share of R&D contract awards.

10. Establish small business set-asides similar to those for supplies.

EXECUTIVE SUMMARY

Findings

1. Small firms have compiled a striking record of innovation in the private sector:

Firms with less than 1,000 employees accounted for almost ½ of major U.S. innovations during 1953–73.

The ratio of innovations to sales is about ½ greater in firms with less than 1,000 employees than in firms of over 1,000 employees.

Firms of less than 1,000 employees have a ratio of innovations to R&D employment which is approximately four times greater compared to firms with more than 1,000 employees.

The cost per R&D scientist or engineer is almost twice as great in firms of over 1,000 employees than in firms with less than 1,000 employees.

2. Small firms receive 8% of Federal R&D awards to industry and about 3½% of obligations to all performers, including in-house performers of R&D. The share of companies with less than 1,000 employees in total company R&D funds, including subcontracts, is ½ greater than their share of Federal R&D funds.

3. Small firms face impediments in the Federal R&D procurement process, not found in the private sector, in the following areas:

Stability and efficiency of R&D funding.
Administrative requirements.
Nature and timing of RFPs.
Treatment of proposals.
Contact with technical personnel.●

---

* Op Cit.

** Industry, in-house laboratories, educational institutions, and federally financed R&D centers.

A NEW ROUND OF BARGAINING

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. MICHEL. Mr. Speaker, the Washington Post, September 10, 1978, carried an article which reminds us that we are entering a crucial period in the fight against inflation. Only 3 months are left before next year's major new round of union contract bargaining begins. The lines are clearly drawn: If this new round of bargaining produces a major rise in the rate of inflation, we may well not be able to save the American economy. It is as simple—and as dangerous—as that. Accompanying the article is a chart showing the dates of the major contracts to be negotiated. That chart should be labeled "storm warnings."

As the article points out, there is a growing sentiment for imposed wage and price controls. If the polls are reflecting public sentiment accurately it should come as no surprise. When presented with the simple question: "Do you favor wage and price controls to stop inflation?" many people will answer in the affirmative. But the question, asked that way, is only half the story. Wage and price controls lead inevitably to shortages, to "exceptions" to the controls, to loss of incentive, and to a drop in productivity. Is this the price we must pay to stop inflation? I hope not. But surely we are headed in that direction if the administration does not do something quickly.

I had hoped that the administration would take the lead by cutting Government spending, the prime cause of inflation. But the administration has failed. I now hope that responsible union leaders will modify their wage demands in line with the Government's efforts. But they say that they do not want to make sacrifices unless everyone else does. So we are back where we started.

Someone, somewhere, has to start the fight against inflation. I do not believe it is possible for that fight to truly begin unless the President announces a plan to cut Government spending dramatically over the next 2 years. He must do so before, not after, the new round of bargaining starts.

Union members should remember that the wage increases gained in 1 year will be eaten up in the next by inflation. Union members must also remember that of it comes to wage and price controls there will be drastic shortages of necessities and, eventually, damage to the productivity of the American economy.

Is this what union members want? I do not think so. But they have a right to expect the Government to show its seriousness over inflation. I can well understand that no worker wants to ask for less than he believes will be necessary to fight off inflation. But this becomes a vicious cycle in which each preventive wage-hike becomes a cause not a solution of continuing inflation.

What we need is leadership. We need it in the White House, in the board rooms, in the union halls. And we are not getting it. That is the tragedy of our time.

At this point I wish to insert in the RECORD, "Deadline Near for Voluntary Anti-Inflation Plan," including the accompanying chart of major contract expirations, from the September 10, 1978, Washington Post. It is my hope that the chart will be used by every Member as a kind of tracking device for the inflationary trends that will inevitably come unless restraint and patriotism combine to stop this seemingly unending inflation:

DEADLINE NEAR FOR VOLUNTARY ANTI-INFLATION PLAN

(By Frank Swoboda)

Time is running out on the Carter administration's efforts for voluntary control of inflation.

After nearly two years of false starts with a variety of voluntary anti-inflation programs, the White House has only three months left to come up with an effective plan for holding down wage and price increases before the start of next year's major new round of union contract bargaining.

The Carter administration has now reached the same point in the three-year cycle of contract bargaining that the Nixon administration waited for in 1971 before imposing wage and price controls. The current lull between the end of the bargaining round that began in 1976 and the start of next year's new negotiating cycle is the only opportunity the White House has of intervening in contract negotiations during the President's first term without creating explosive wage inequities among the major unions.

The biggest concern of both the White House and most major union leaders is next year's negotiations between the Teamsters and the trucking industry over a new national trucking agreement. The outcome of these negotiations will basically set the wage pattern for the next three years.

"We've already told the administration that our members care a whole lot more about what the Teamsters do (at the bargaining table) than they do about what the government has to say about controlling inflation," says one key union leader involved in next year's bargaining round.

In addition to the 528,000 Teamsters whose contracts expire in the trucking industry March 31, major contracts expire next year in the petroleum, construction, rubber, clothing, electrical manufacturing, meatpacking and auto industries.

The wage "patterns" set in next year's contract negotiations will then serve as the target for all other industries—including basic metals—during the next two years. And this is what clearly worries administration economists.

From almost the first day of the Carter administration two years ago, the major anti-inflation target has been the Teamsters. In his earliest public interviews, Charles L. Schultze, chairman of the President's Council of Economic Advisers, has talked of the need to break the "wage momentum" in the next round of contract bargaining.

Since then, however, the administration has been unable to have any meaningful discussions with organized labor about an effective anti-inflation policy. "We could never even agree on the basic causes of inflation," says an administration official.

In the meantime, the administration has basically sat back and watched while the United Mine Workers, after a long strike, reached agreement on a new contract calling for wage increases of nearly 40 percent over the life of the contract and settlements totaling 35 percent for the major railroad unions.

The AFL–CIO has steadfastly insisted that the administration would first have to demonstrate its willingness to deal with rising prices before it would consider cooperating with the government on a wage control policy. Noting the fast rise in prices earlier this year, the labor federation warned in its policy statement on the economy last Spring that: "Price increases . . . are the principal economic fact of life which govern the wage levels unions must seek."

The policy resolution went on to note that "we candidly told the President and his economic advisers that the administration's success in encouraging American business and the banking community to hold the line on prices and interest rates will be naturally reflected in collective bargaining settlements."

The Teamsters, the nation's largest independent union, has also warned that it will be watching the administration's efforts to control prices as a measure of its demands at the bargaining table. But the Teamsters present the administration with another major problem that is bound to have a spillover effect on the upcoming negotiations.

For the past two years, the Labor Department has been trying to clean up the union's scandal-ridden pension funds. The clean up effort has resulted in a variety of legal actions and could eventually produce indictments against some union leaders involved in the pension fund. That investigation has resulted in an almost total breakdown in the relationship between the government and the Teamsters.

As a result of the government's pension investigations, the union has had little to do with Labor Secretary Ray Marshall and the White House has publicly shunned Teamster President Frank E. Fitzsimmons. The consequence has been an almost total absence of any coherent labor relations policy toward the upcoming trucking negotiations, according to administration officials.

"How the hell are you going to get a settlement with the Teamsters when Fitz wants an invitation to the White House and Marshall wants to send him to jail," says a veteran government labor relations expert.

Adding to the White House problems are the deteriorating relationship between the administration and organized labor in general over the President's failure, in the eyes of many union leaders, to deliver on his campaign promises for social legislative changes as well as labor's own special interest goals.

That deterioration has already forced the administration to abandon earlier hopes of creating an anti-inflation program patterned after the Korean War controls experience. Under such a program, the White House hoped to set up a series of tri-partite committees in major industries that would be used to help labor and management work out their problems with the government in exchange for wage and price moderation.

The White House was also counting on the help of the United Auto Workers union and its president, Douglas Fraser, in the push for wage moderation. But Fraser has since become disenchanted with the administration for its failure to push for the social programs outlined in the Democratic Party platform and is in no mood to help.

With the industry committee avenue now closed, the administration is talking about a program of wage and price guidelines patterned after the program used by the Kennedy and Johnson administrations in the 1960s. For wages the administration is considering a guideline tied to the rise in the cost of living.

So far, however, labor is having no part of the guidelines. After a briefing by administration economists this week, union leaders

remained privately adamant in their opposition to any attempt at setting a national wage standard.

And a negotiator for a major corporation coming up for contract renewal next year warned: "The administration is crazy if it thinks any company will even consider offering increases less than the cost of living plus something for productivity."

Without commenting on this week's meeting at the White House, a top union economist repeated the warning that the administration would have to do something about recently rising prices before it could expect any help from labor. "Most of the price increases this year have little relationship to wages," he said, citing the sharp rise in interest rates and the cost of food and energy.

Another key union official called the latest anti-inflation proposals the act of "desperate men." He said his union has already told the White House it would be willing to make wage sacrifices only if there was evidence that other areas of the economy were also being forced to make sacrifices.

The administration has scheduled a series of meetings with key labor leaders in the next few weeks in an effort to convince the union officials of the need for cooperation to curb inflation. So far, however, the outlook for cooperation is bleak.

That bleakness was reflected by the administration in its meetings last week with labor. After making a plea for cooperation on a voluntary basis, one top White House adviser warned labor that unless the unions cooperated the administration might have to seek a "political solution." He then, according to others at the meeting, noted that recent public opinion polls showed a growing support for wage and price controls as a way to deal with inflation.

SUMMARY OF MAJOR CONTRACT EXPIRATIONS, CALENDAR YEAR 1979

Industry	Companies	Unions	Workers covered	Expiration date
Petroleum refining.	Texaco, Standard Oil Co. (Amoco), Atlantic Richfield, Shell, Mobil, Exxon, and others.	Oil, Chemical and Atomic Workers (OCAW), and others.	43, 200	Jan. 7.
Construction	General Contractors American (light and heavy construction) (multistate) (106 agreements).	Various construction unions.	208, 250	Feb.–Dec.
Trucking	Over-the-Road and Local Cartage.	Teamsters	528, 150	Mar. 31.
Rubber	Goodyear, Firestone, Uniroyal, Goodrich.	Rubber Workers	82, 650	Apr. 19.
Clothing	Affiliated Dress Manufacturers, Greater Blouse, Skirt & Undergarment Association, National Skirt and Sportswear, and others.	Garment Workers	182, 700	May 30–31.
Electrical products.	General Electric, Westinghouse.	Electrical Workers (IUE, UE).	153, 300	June 30–July 15.
Meatpacking	Armour, Swift, Wilson, Rath, Oscar Mayer, John Morrell, Dubuque.	Meatcutters	31, 750	Aug. 31.
Automobile	General Motors, Ford, Chrysler.	Auto Workers	661, 400	Sept. 14.
Farm implements.	International Harvester, Deere, Caterpillar, Allis Chalmers.	Auto Workers	94, 400	Sept. 30.

●

AMERICANS STILL WORRY ABOUT JOBS

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. HAWKINS. Mr. Speaker, the Labor Department recently released the results of an important survey of the public's attitude toward unemployment and related issues—unemployment, Government, and the American people. As we move toward final House consideration of legislation to reform the CETA system, H.R. 12452, I appreciate the opportunity to share with the Members some of the findings of this survey. This study was conducted for the Department of Labor by the Roper organization and the data was analyzed by Public Research Inc.

The American public expresses serious concern with the Nation's economic situation, particularly inflation and taxes, and diminished confidence about the economic future. The public has a strong and continuing concern about the problem of unemployment and is aware of the serious adverse social and economic consequences of the continued high level of joblessness. Simultaneously, there is significant support for an active role by the Federal Government to provide jobs and thus reduce the welfare burden and provide needed community services, as the CETA program does.

Despite recent statistics that claim improvement in the official unemployment rate, in general, the public feels that Government unemployment statistics understate the actual level of unemployment and that the situation actually has worsened. Among the reasons selected for causing unemployment, was the lack of job skills.

Overall, the public supports the concept of the Federal Government taking the lead in providing jobs and training to the unemployed. The American public firmly holds the belief that people should be able to work if they want to and a clear plurality of 47 percent feels that it is the responsibility of Government to provide a job for everyone who wants to work. This result is significant when one considers that four other alternatives were presented: Creating jobs through business expansion; encouraging job creation through a personal income tax cut; providing tax breaks for corporations who hire the hard-to-employ; or letting things take their course. Of the five alternatives nearly half of those surveyed support a strong Federal role.

When asked about their concerns about the Nation's economic situation, those polled mentioned inflation most often but reducing unemployment is seen as a more important need than peace, lower taxes, and reducing crime. Importantly, concern with reducing unemployment is shared by one-third to one-half of all Americans and not just those who are currently seeking work.

Some specifics:

Sixty-four percent of those surveyed agree that it is the government's responsibility to help the unemployed by providing jobs that pay people enough to "make ends meet".

Fifty-four percent say the government should provide job training for the unemployed.

Only 20 percent of the public feels that the government should *not* provide jobs for the unemployed.

Sixty-six percent of the public feels that public service jobs are doing something useful.

I recommend further reading of the study to Members desiring further information.●

PLACING THE COMPROMISE NATURAL GAS BILL IN PERSPECTIVE

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. VENTO. Mr. Speaker, I am submitting for the RECORD an article which appeared in the September 1, 1978, St. Paul (Minn.) Dispatch titled "The Natural Gas 'Ripoff'." I think it illustrates the problem the President's energy program and the compromise natural gas bill face today. More importantly, it points out the best alternative from the public's perspective. I commend this article to my colleagues' attention.

THE NATURAL GAS "RIPOFF"

About all that is left of President Carter's energy program is the compromise natural gas bill devised by a conference committee. That, too, may fall by the wayside, but if it does the nation won't lose a thing. The only damage would be to Mr. Carter's ego.

The nation already has a natural gas policy that provides better protection for the consumer while stimulating the production of natural gas. It is working so well, in fact, that more gas was added to the nations reserves last year than in any year in the last decade.

Sen. James Abourezk, D-S.D., says, "The Administration has turned to massive misrepresentation and heavy political coercion to portray a simple, public ripoff as a necessary 'energy policy.' He points out that judicious enforcement of the existing Natural Gas Act by the Federal Energy Regulatory

Commission can accomplish more than the bill being pushed by the White House

The current policy is to allow cost-based drilling. This has resulted in a gradual increase in prices, but the current regulated price of $1.45 is far below what is envisioned under the bill now before Congress. What's more, producers have stated a willingness to sell at that price, unless, of course, Congress provides them with a windfall by passing the bill.

Current law also provides that all newly discovered offshore gas must go to interstate users at regulated prices. Most future gas discoveries are expected to be offshore. And if higher prices are needed to spur production, the commission has the authority to raise them to the point where new gas supplies can be marketed profitably.

This puts a lot of pressure on the commission, but the bill in Congress would put a lot of pressure on the consumer. So far, the FERC has been functioning quite successfully and it can be expected to continue to do so unless Congress buries it.

The natural gas bill has little to recommend it. It would do nothing to reduce the nation's energy consumption; it merely would raise gas prices to the point where users would be encouraged to switch to imported oil, thus further exacerbating our balance of payments problem.

We have said before that the President's proposed energy program has been reduced to such shambles by Congress that it would be better to pass nothing at all this year and start over in 1979. There is nothing in the natural gas compromise to cause us to change that opinion.●

TRIBUTE TO VOLUNTEER FIREFIGHTERS

HON. MARC L. MARKS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. MARKS. Mr. Speaker, there have been historic haopenings in the firefighting field in the 24th District of Pennsylvania that have recently been brought to my attention. I should like to share the information with my colleagues.

First, it has been well established that the Meadville fire police organization is perhaps the original and pioneer group of its type in the United States. Because of its early inception and continuing success, it has become a model for others to follow. Records show that it was in 1842 that the first appointment was made to the fire police, and it has been in continuous service to the community ever since.

Just recently, one of its members, Trace Braymer, who is 98 years young was honored as not only the oldest active fire policeman, but also as the oldest active fireman in the State of Pennsylvania. Trace is first on the list of volunteers and most recently, I met him in his uniform, handling his usual traffic-directing chores at a Crawford County event.

It has also been noted in a recent editorial in the Titusville Herald, that it was in the Crawford County community of Pleasantville that the first crew of forest firefighters in Pennsylvania was organized.

I point out these facts, because I think it important that persons like Trace Braymer and the many, many others who are volunteers in the fire police and in firefighting in general receive the recognition that is due them. They perform a vital function in their desire to help others, and I congratulate them.●

THE VOTE TO SUSTAIN PRESIDENT CARTER'S DEFENSE AUTHORIZATION VETO

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. HUBBARD. Mr. Speaker, one of the most important votes of the current session of Congress occurred last Thursday, September 7, when the House of Representatives voted by a margin of 191 to 296 to sustain President Carter's veto of the 1979 defense authorization bill, which included a $2 billion nuclear carrier. This was a most difficult and complicated issue. I would like to share with my colleagues an editorial printed in the September 7 issue of the Courier-Journal of Louisville, which was perhaps a decisive influence in my decision to vote to sustain the President's veto. The editor and publisher of this highly respected Kentucky newspaper is Mr. Barry Bingham, Jr., and its opinion page editor is Robert T. Barnard. The editorial, written by Associate Editor John Hart, is as follows:

[From the Courier-Journal, Sept. 7, 1978]

CARTER VETO SHOULD BE SUSTAINED; ANOTHER CARRIER ISN'T NEEDED

(By John Hart)

Congressional critics, who have been dive-bombing President Carter for his veto of a defense spending bill that included $2 billion for a nuclear-powered carrier, have scored several hits. Still, it appears that the veto will be sustained when the House takes up the issue today.

The veto should be sustained. Mr. Carter admittedly has made himself vulnerable by exaggerating the adverse short-term impact of the nuclear carrier on other defense programs and by proposing that a conventionally powered carrier be built instead. But the case for another big-deck carrier, whatever its power plant, is much less compelling than the need for improved U.S. ground and air forces in Europe, for a larger number of less expensive ships for the Navy, and for accelerated weapons research and development.

Each of these needs would be slighted, to some extent, to pay for another big carrier, plus its planes and escort vessels. But just how much other programs would be affected by the carrier is still being debated.

Critics argue that the $37 billion procurement bill Mr. Carter vetoed doesn't differ substantially from spending the administration proposed. They observe, for instance, that half the money to be spent on the carrier would be made available by delaying purchase of a Trident missile-launching submarine, a delay the administration accepted because the Trident program already is far behind schedule.

But this misses an important point. The nation needs missile-launching submarines and will continue to buy them, whatever the current troubles with the Trident. The nation doesn't, in an age of precise and relatively inexpensive anti-ship missiles, need another carrier that can be disabled or destroyed by a salvo of such weapons.

This point is far more important than the charge by Mr. Carter's critics that he vetoed the procurement bill merely to appear tough and decisive. Perhaps the President's action was intended partly to improve his tarnished political image. What counts, however, is that the veto, if sustained, will free $2 billion that can be better spent on other defense needs.

Whether, in fact, the money will be spent more wisely remains to be seen. Even if the veto is sustained, Congress and Mr. Carter seem likely to continue butting heads over defense priorities. It's interesting, for instance, that one of Mr. Carter's allies on the carrier question is Barry Goldwater, perhaps the Senate's staunchest hawk. He agrees that another nuclear carrier isn't needed. But he'd prefer to see the money spent on the B-1 bomber, a project Mr. Carter halted last year.

Disagreements between Capitol Hill and the White House are inevitable, partly because Congress has gained considerable expertise on defense and some lawmakers are convinced their judgment is superior to that of the administration—of any administration. Then there always are the pork-barrel pressures that can be brought to bear by key lawmakers whose states or districts would benefit economically from Pentagon contracts.

These conflicts and pressures are part of the policy-making game any president has to play. Compromises sometimes are necessary, even when they distort the defense budget and are downright wasteful. But there comes a time when the stakes are simply too high and confrontation unavoidable.

This is such a time. Congress has committed the nation to a course that is appallingly expensive (the proposed carrier, including its planes and electronic protective gear, would cost more than $5 billion) but would contribute little to national security. Mr. Carter had no choice but to veto it.

Though there are sure to be hard feelings all round, Congress should sustain the veto. And next year, when the carrier issue again steams into view, Mr. Carter should avoid the mistake of offering to build an oil-burning carrier as a compromise.●

TRIBUTE TO MR. AND MRS. WILLIAM KAHN

HON. ROBERT A. YOUNG

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. YOUNG of Missouri. Mr. Speaker, tomorrow, September 13, has been proclaimed "William Kahn Day" by the city and county of St. Louis. William and Shirlee Kahn will be leaving the St. Louis area after 20 years of service. I would like to take this opportunity to recognize the great contributions they have made to the St. Louis community.

As executive vice president of the Jewish Community Centers Association, Mr. Kahn has played a leading role in the construction of major cultural and recreational facilities. His activities for the center have included creating day care facilities, providing housing for senior adults, and establishing family life education programs. The physical plant and programing of the center has been used as a model by other communities throughout the country and around the world.

Mr. Kahn's wife Shirlee has worked as a psychiatric social worker for the county mental health facility. In this capacity, she too has made a significant contribution to the general welfare of the community.

The Kahns have shown that they are devoted to the enrichment of the quality of life, without discrimination toward any person for any reason. I commend them for their contributions to the St. Louis area, and I wish them the best of luck and continued success in their new home.●

BASIC RESEARCH—AN ESSENTIAL FOR THE LONG TERM

HON. EDWARD W. PATTISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. PATTISON of New York. Mr. Speaker, we are frequently reminded by a variety of sources that basic research can often be difficult to explain to our constituents. It is difficult because many research projects seem, at first glance, to be ridiculous. Often there appears to be no connection between a specific subject of inquiry and any useful result.

The fact is that most scientific and technological advances begin with some inquiry in an obscure area of knowledge. Frequently, the scientist doing the research hasn't the vaguest idea at the outset what the ultimate ramifications of his research will be.

George Low, the former director of the NASA Space program, is now the President of Rensselaer Polytechnic Institute in Troy, N.Y., one of the foremost technological universities in the world. He has provided me with a copy of a paper written by him which explores the function of basic research and especially its relationship to productivity.

Mr. Low indicates that a decrease in our research and development (R. & D.) spending is followed, in about 5 years, by a decline in the domestic productivity growth rate. For example, an 11.3 percent increase in annual R. & D. spending from 1953 to 1961 was followed by a 3 percent productivity growth rate from 1958 to 1966, while a 3.7 percent increase in R. & D. spending from 1962 to 1970 was reflected in a 1967 to 1975 productivity growth rate of only 1.3 percent.

The paper is brief and well written. I commend its reading to my colleagues.

The article follows:

THE IMPERATIVE OF BASIC RESEARCH

(by George M. Low)

The United States is in a period of economic and industrial decline, both in an absolute sense, and relative to other industrial nations. Although it is difficult to pinpoint and to obtain complete agreement on all of the causes for this decline, it is a generally accepted fact that the slowdown in U.S. innovation and the resultant slowdown in the rate of productivity increase is a major factor—perhaps even the most important factor.

For nearly a century, from 1873 to 1971, we were a net exporting nation. Now, in the 1970's, we are incurring huge trade deficits. We are inclined to blame these on oil imports, and of course we are in dire need of an energy policy to do something about those. But we are also losing ground in our traditional area of strength—in our exports (and in concurrent foreign imports) of high technology manufactured goods—this in spite of a substantial devaluation of the dollar since 1971. Is this not proof enough of the effects of the lag in innovation?

When I speak of innovation, I mean the entire spectrum of a process which begins with scientific discovery, includes experimental or exploratory applications, and ends with commercialization to meet the needs of the marketplace. Each step in this process depends on research and development.

A few years ago, while I was with the National Aeronautics and Space Administration (NASA), I studied the realtionship between the rate of spending on research and development, and the rate of growth in productivity. The results showed a direct correlation between the two, with the decline in productivity lagging the decrease in R&D spending rate by about five years. There is no doubt that there exists a direct tie between innovation and productivity, and, hence, a direct relationship between innovation and economic growth.

The process of innovation is complex, and perhaps the last step—that of commercialization—is the most complex of all because it depends on so many factors, including economic incentives, government rules and regulations, societal pressures, and the combination of all of these as it affects the willingness to take risks and the probability of profit.

In this paper, however, I will address the first step in the innovative process, commonly called basic research, because it is this step which is most influenced by what happens in the university. Today 55 percent of basic research is carried out in universities; the remainder in industry and in national laboratories. Although U.S. basic research expenditures in current dollars have increased since 1960, in constant dollars these expenditures have declined in total since 1968, and just barely held their own in the university sector. Specifically, in constant dollars, university expenditures increased on the average 15.5 percent compounded annually from 1960 to 1968, but have been constant since 1968. The largest portion of the funds for these expenditures comes from the federal government.

Unfortunately, we are in a business where staying constant is not nearly good enough. It takes real growth to promote innovation; it takes an increase in the rate of R&D spending to promote an increase in the rate of productivity.

There are many reasons for this. Basic research is becoming more complex, requiring larger research teams, increasing sophistication in equipment and instrumentation, and special facilities. On top of these fundamental factors there is a plethora of new rules and regulations having to do with environmental standards, occupational health and safety, protection of animal and human test subjects, access for the handicapped, the hiring of minorities and females, privacy programs—mostly highly desirable programs which we support, but which do bring about much added paper work (which we do not support) and significant added costs.

A most serious concern is that there has been a cutback in the funds available for graduate fellowship programs. NASA had a farsighted program along these lines in the 1960's, at the height of its activities, but had to discontinue it at the end of the apollo program. To my knowledge, none of the newer agencies, those now working on the forefront of current problems, has followed suit. Yet if we are to stop the decline in innovation, as I think we must, the most important factor will be an increasing supply of trained scientists and engineers. Instead, we are now taking steps toward creating a shortage.

The education of engineers and scientists is expensive, and tuition charges alone cannot begin to cover all of the costs. We strive to educate young men and women to solve problems and find practical solutions, to make decisions, to be the innovators of the future. This requires a great deal of laboratory instruction. Modern teaching laboratories require up-to-date instrumentation and equipment, highly complex equipment which generally becomes obsolete in five to seven years. A recent study by thirteen independent (private) engineering colleges has shown that the cost of keeping our laboratories up-to-date is $1,350 per bachelor's degree granted. In addition to that expense, RPI is now in the process of installing a new, large computing system—a machine which we believe is essential in our educational process. The cost of this machine, amortized over its seven-year life, is an additional $1,000 per degree granted.

Sponsored research has become an essential ingredient of the educational process at technological universities. It helps attract faculty members, allows them to do scholarly work in the mainstream of current activity, provides research experience and essential financial support for graduate students, and adds an additional degree of realism to the undergraduate curriculum. In short, it is the lifeblood of modern scientific and engineering training.

The level of research funding is therefore doubly important. It directly affects the output of research in terms of scientific discoveries and their practical application. But of far greater importance, it also affects the output of people—scientists and engineers—people we must count on for the innovations of the future. The net result is that the pace at which some of our most pressing problems are addressed—problems having to do with energy and materials, health care and food, housing and transportation, communications and information handling—is much slower than it should be.

As I mentioned before, basic research is only the first step in the process of technological innovation—but a most important step in the process of economic growth, international competition, and in meeting the domestic needs of our society.●

HUBERT H. HUMPHREY HIGHWAY

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. FRENZEL. Mr. Speaker, I am warmed and delighted that the Jewish National Fund, with the extensive help of the Minnesota Council, has chosen to honor our beloved former Senator Hubert H. Humphrey by naming a major highway of the American Bicentennial Park in Israel after him as a joint Israeli-American endeavor.

The fact that this highway will serve as a vital link between important areas in Israel will constantly remind its users what an important role Senator Humphrey played in bringing together many different elements and conflicting inter-

ests of our own country. I know that Hubert would be proud to know that this largest tribute to his memory was launched by all of his friends in Israel and in the Jewish National Fund here in the United States. We all know what a strong supporter he was of the people of Israel. And, we know how hard he worked to insure the survival and the prosperity of the State of Israel.

Hubert loved the Hubert H. Humphrey Forest in Israel, dedicated to the Humphreys in 1961, and visited it often. How wonderful it would have been if he could have traveled the Hubert H. Humphrey Parkway as well.

I am grateful to the Jewish National Fund for this remembrance, which will have international significance. I have been honored to have been a part of the national committee involved with establishing the parkway. I know the dedication ceremony in Jerusalem on January 5, 1979 will be a great success and a tribute to a man whose shoes cannot be filled.●

MYTHS ABOUT OLDER WORKERS SHOULD BE RETIRED; NOT THE OLDER WORKERS

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. HAWKINS. Mr. Speaker, earlier this year the Congress passed and the President signed into law a bill which raises the mandatory retirement age from 65 to 70 years of age as of January 1, 1979. While there has been some concern expressed in the business community about the potential impact of this legislation, a number of companies have had long-established policies allowing employees to select their own retirement ages. Bankers Life and Casualty is one such company which has had a non-mandatory retirement policy for over 30 years. The company recently released a study entitled, "Bankers' Experience With Over-65 Workers" which recaps their long experience with employing workers who are in their 60's, 70's and 80's. Mr. Speaker, I would like to share this study with my colleagues:

BANKERS' EXPERIENCE WITH OVER-65 WORKERS

WHEN IT'S UP TO EMPLOYEES, HOW MANY STAY ON THE JOB?

Bankers Life and Casualty Company has had a non-mandatory retirement policy for over 30 years.

In that time we might have seen a takeover of the company by older employees. We might be burdened with more employees 65 and over doing less work. We might have younger employees leaving because there is no way for them to advance.

None of that has happened!

Instead, 1976 was the first year the percentage of employees 65 and over rose above 3%. In fact, it was 3.6%. By March, 1978, the percentage of employees age 65 and over was slightly less at 3.5%. At 65 more Bankers employees choose continuing to work over retiring. But our company doesn't become top-heavy because we have employees retiring at other ages.

Table I shows what Bankers people do when they reach 65.

In each of the past five years more than 70% of employees reaching 65 chose to stay on the job. In 1975, 95% stayed.

However, some of our employees do choose to retire. But, they also know they can return to work if they want and, of course, if they're qualified. Since Bankers didn't force their retirement, both company and employee have the option to change their minds—and some of our retirees have done just that. They've returned to work for us after a period of retirement.

TABLE I.—NUMBER OF BANKERS LIFE & CASUALTY CO. WORK FORCE REACHING 65 WHO CHOOSE TO RETIRE/WORK

Year	Total number employed reaching age 65	Number choosing to— Retire	Remain at BLC
1977	38	8	30
1976	36	6	30
1975	43	2	41
1974	32	4	28
1973	30	8	22
1972	23	3	20

WHEN DO BANKERS' EMPLOYEES RETIRE?

Table II shows at what age Bankers employees *voluntarily* left the company.

TABLE II.—BANKERS EMPLOYEES AGE 65 AND OVER

[By age at retirement]

Year	64 and under	65	66–70	71–75	76–80	81 and over	Total retired
1977	17	8	18	2	1	1	47
1976	22	8	11	0	1	0	40
1975	18	6	9	4	2	2	37
1974	17	6	16	4	3	0	44
1973	20	8	17	2	3	1	51
1972	14	8	12	5	0	1	35

Some employees retire before 65 and they tend to balance out those who decide to stay. This table also shows that most people retire by age 70. It supports the opinion of Dr. K. Warner Schair, a gerontologist at the University of Southern California. He says that "if a chronologically meaningful retirement age were to be selected today, it would have to be made at least a decade later than would have made sense 20 years ago."[1]

BANKERS' OVER-65 EMPLOYEES, AGENTS: A MATTER OF CORPORATE RESPONSIBILITY

At the end of March, 1977, 137 employees over 65 were working at Bankers. This represents 3.5% of the company's home office work force of 3,909. And 6.8% of the 3,940 agents active in the field were 65 or older.

The majority of these people have been with us a long time, but Bankers policy also extends to hiring qualified people over 65.

Frances Stapleton, 71, is one of them. She was forcibly retired from another insurance company where she had been secretary to the president for 20 years. In the five years she has been with us, Mrs. Stapleton has received three promotions and is currently secretary to one of our divisional directors.

Arnold Rosenberg, 72, has worked for Bankers 4 years. He applied for a job in the mailroom after seeing an ad in the paper and was both pleased and surprised to be told to report for work.

Dr. Pedro Salazar was a Cuban refugee who had been in the United States 1½ years when he came to Bankers. That was in 1966 and, today, at the age of 77, Dr. Salazar is still with us.

"Bankers was the first place I applied," says Dr. Salazar. "If they had said, 'You're too old,' I don't know what I'd have done."

Many positions lend themselves to the interests, experience and abilities of older people. We believe every business has a responsibility to employ the best workers they can attract, and to match their employees with the jobs that their interests, experience and abilities best suit them for. When color, sex, or age influence this important management task, the result is costly inefficiency that consumers have to pay for.

ABSENTEEISM AND BANKERS' OVER-65 EMPLOYEES

Opponents of non-mandatory retirement often point to absenteeism rates as an important efficiency factor. They suggest that absenteeism among older workers is greater than it is among younger employees.

Time magazine reported that studies done by the National Council on Aging discovered it was not. Edmund W. Fitzpatrick, the council's director of pre-retirement planning, said: ". . . workers over 65 have less absenteeism and suffer fewer accidents than those, say, in the 30-to-40 age group."[2]

"My experience in working with these people," says Jim Gawne, Personnel Director at Bankers, "is that people who continue working are in good health and are absent only when it's absolutely necessary."

TABLE III.—NUMBER OF DAYS ABSENT[1] FOR FIRST 6 MONTHS OF 1977

Number of days	Number of occurrences: Under 65	Over 65
0.5	41	18
1.0	157	185
1.5	7	7
2.0	55	128
2.5	2	3
3.0	6	19
3.5	4	0
4.0	6	7
4.5	1	0
5.0	3	11
10.0	4	3
15.0	4	3
20.0	3	2
25.0	1	0
30.0	0	2
40.0	0	1
50.0	1	2
60.0	0	0
70.0	1	0

[1] Days absent include time off work due to illness, personal business, and leave of absence.

To compare absenteeism rates. Bankers did a study using 128 employees 65 or over and a group of 128 employees under 65.

In some instances, the figures seem to show that the older group is prone to higher absenteeism. However, several interesting facts appeared in our study.

Only 13 people in the under-65 group had perfect attendance, and there were more than twice as many half-day absences in this group as there were in the over-65 group. Thirty-four of the 128 employees 65 and over had perfect attendance. This represents ¼ of that group. Most people were absent two or less days regardless of age. And long term absences over 10 days occurred with the same frequency for both groups.

Bankers hopes these statistics will relieve some of the fears of rampant absenteeism among older employees. If all the occurrences of absenteeism are added together and divided by the number of employees in the sample, the arithmetic mean for the under-65 group is 5.3 days absent per employee as compared to 7.5 days for the over-65 group.

"To some degree," notes Jim Gawne, "the higher overall rate is due to a small number of people 65 and over who are absent longer or more often than most employees. Take those few people out of the sample and I believe the averages would be comparable."

Do agents and employees in the over-65 group believe their absenteeism is high enough to justify an "across-the-board" mandatory retirement age?

Footnotes at end of article.

Douglas Wyka, 69, has been an agent with Bankers for 25 years. "As long as a person has good health I don't see why he can't work," says Wyka. "As far as absenteeism goes, I think older people are more reliable because their work is their life. They don't want to loaf; they want something to do."

"I'm not ill more than two or three days a year," asserts Fran Stapleton, "and time off for personal business is nil."

HEALTH AND THE OVER-65 WORKER

As a group, the health of people in their sixties and seventies is better than most people assume. Declining health is the reason given by most men who leave their jobs prior to 65. But, the majority of men who stop work at 65 claim compulsory retirement as the main reason for leaving the work force. Most say they are free of any health problems affecting ability to work, and only two in five say they would have chosen retirement.[3]

Eighty-six per cent of people 65 and over have one or more chronic ailments. Heading the list are high blood pressure, arthritis, diabetes, heart disease and arteriosclerosis.[4]

On the other hand, many of these illnesses are controllable. Four out of every five people over 65 get along without physical assistance. And when you consider the fact that 72 per cent of those age 45–64 are afflicted with one or more of the chronic ailments listed above, it becomes evident that people don't suddenly deteriorate physically at 65.[5]

MEASURING PRODUCTIVITY AND MATCHING ABILITIES WITH JOBS

Who is to say if a 65-year-old employee is less productive than his younger counterpart? While a younger person may possess physical vitality, what about the expertise and patience an older worker has acquired through experience?

Bankers' policy is to hire full-time employees who meet job specifications. When employment is on that basis, then there are guidelines for determining a person's productivity. Age doesn't enter into it.

But age can be a consideration in matching a person to a job. For example, we wouldn't hire an 80-year-old accountant to lift heavy cartons on a loading dock. And we wouldn't make a recent high school graduate a vice president. either.

Much of the work done at Bankers is of an administrative nature. Tests have shown that physical abilities do decline with age, but mental abilities are not necessarily affected.

OVER-65: THE PRODUCTIVE YEARS?

An interesting phenomenon has been observed among those who remain healthy and able to work in their fields. Their important contributions are often made at ages that many of us are too ready to characterize as the "twilight" or "declining" years of life.

Goethe was over 80 when he completed Faust. Schweitzer received the Nobel Peace Prize at 68. Clara Barton founded the American Red Cross when she was 60 and served as its president for the next 23 years.

At Bankers we have older people making significant contributions. They may not be as dramatic as the contributions of Goethe, Schweitzer and Barton, but they're important contributions to Bankers Life and Casualty Company.

Ed Getting, 66, came to work for us 19 years ago. Today he is Vice-President in Charge of Accounting and Purchasing.

"I'm opposed to mandatory retirement," Getting told us. "I don't think that just because a person reaches a certain age he loses the ability to do something for the company for which he works. It depends entirely on the individual and not on a certain age.

"I continue working because I find my work interesting. Every day there are new challenges and I like that," he says.

Molly Greenberg, 71, echoes that sentiment: "For me it's wonderful to work. I get up in the morning and feel great that I'm important to something. I come here and some days they say to me 'I'm going to teach you something new today.' Imagine! At this stage of my life I'm being taught something new. It's a challenge."

"Mandatory retirement isn't good," asserts Ben Rubenzik, 82. I worked 51 years at a bank and was forced to retire. I couldn't get a position any place until Bankers put me on the payroll. I've been here 10 years and still have no plans to retire."

THE OLDER WORKER: PERFORMANCE AND EVALUATION

The older employee is very conscious of performance. He or she wants to measure up and our workers express their feelings about what they'll do when they can't.

"When the day comes that people expect less of me, I'll say 'God-bye' and walk out the door," commented Len Chrosniak, 65.

"It's hard to tell an older person when they're not doing their job," agreed Fran Stapleton. "But then it's hard to tell anyone that. As for me, I'll know when it's time."

At Bankers the decision of when to retire is not made solely on an employee's perceptions. Every six months, each employee—regardless of age—receives an employee performance evaluation with his or her supervisor. If performance has slipped, there may be person-to-person counseling with the supervisor or with someone in the personnel department.

No employee is ever reduced from full-time to part-time status. But efforts are made to transfer an employee to a department more suitable to his or her abilities.

Such situations require astute management skills. Advocates of mandatory retirement say it saves embarrassment because personnel managers don't have to tell older workers their performance has slipped.

We believe a compassionate and competent personnel team can handle this problem. It is done regularly with younger employees; why should it be a bigger problem with older ones?

HEALTH/PENSION PLANS AND THE OLDER WORKER

What does a non-mandatory retirement policy do to a company's health and pension plans?

Frank Angerame, Insurance and Retirement Consultant at Bankers, explains: "Once a person reaches 65 he or she is eligible for Medicare whether working or not. This definitely reduces our plan's liability, although our 65 and over employees are kept in the health benefits program as a supplement to Medicare benefits. But, as a matter of fact, we find it more costly when a younger employee gets ill."

Angerame also commented on the pension plan picture. "If these people weren't working for us, Bankers would be paying both pension benefits and the salary of the replacement employee. Added to that are the costs involved in training the new employee. It just has to be more economical to have a non-mandatory retirement policy."

IT'S NOT AGE THAT COUNTS

As our population shifts, more and more people will be over 65. We believe we're ahead of the game by treating this age group like any other. If they want to work, we say "Work for us. Add your knowledge and experience to ours, and we all benefit. It's not your age that counts. It's you!"

FOOTNOTES

[1] "Retirement: Later Rather Than Sooner?", *Morgan Guaranty Survey*, (Jan. 1977), p. 11.

[2] "Now, the Revolt of the Old," *Time* (October 10, 1977), p. 26.

[3] United States Department of Health, Education and Welfare, *Reaching Retirement Age*, Research Report No. 47 (Washington, D.C.: U.S. Government Printing Office, 1976), p. 51.

[4] Robert N. Butler, *Why Survive? Being Old in America* (New York: Harper and Row, 1975), p. 174.

[5] *Ibid.*●

PERSONAL EXPLANATION

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mrs. LLOYD of Tennessee. I was absent from House proceedings from August 8 through August 17, during which time I was given an official leave of absence due to illness. Because of my absence on those days, I did not vote on rollcall votes No. 656–668, No. 670–676, No. 678–681, No. 683–700, No. 702–705, No. 707–713, No. 715–723. If I had been present, I would have voted as follows:

Rollcall No. 656—no.
Rollcall No. 657—yes.
Rollcall No. 658—no.
Rollcall No. 659—yes.
Rollcall No. 660—no.
Rollcall No. 661—no.
Rollcall No. 662—no.
Rollcall No. 663—yes.
Rollcall No. 664—yes.
Rollcall No. 665—yes.
Rollcall No. 666—no.
Rollcall No. 667—no.
Rollcall No. 668—yes.
Rollcall No. 670—yes.
Rollcall No. 671—yes.
Rollcall No. 672—yes.
Rollcall No. 673—yes.
Rollcall No. 674—no.
Rollcall No. 675—yes.
Rollcall No. 676—no.
Rollcall No. 678—yes.
Rollcall No. 679—yes.
Rollcall No. 680—yes.
Rollcall No. 681—no.
Rollcall No. 683—no.
Rollcall No. 684—yes.
Rollcall No. 685—yes.
Rollcall No. 686—yes.
Rollcall No. 687—yes.
Rollcall No. 688—yes.
Rollcall No. 689—yes.
Rollcall No. 690—yes.
Rollcall No. 691—yes.
Rollcall No. 692—yes.
Rollcall No. 693—yes.
Rollcall No. 694—yes.
Rollcall No. 695—yes.
Rollcall No. 696—yes.
Rollcall No. 697—yes.
Rollcall No. 698—yes.
Rollcall No. 699—yes.
Rollcall No. 700—no.
Rollcall No. 702—no.
Rollcall No. 703—no.
Rollcall No. 704—yes.
Rollcall No. 705—no.
Rollcall No. 707—yes.
Rollcall No. 708—yes.
Rollcall No. 709—yes.
Rollcall No. 710—yes.
Rollcall No. 711—yes.
Rollcall No. 712—yes.
Rollcall No. 713—no.
Rollcall No. 715—yes.

Rollcall No. 716—no.
Rollcall No. 717—yes.
Rollcall No. 718—yes.
Rollcall No. 719—yes.
Rollcall No. 720—yes.
Rollcall No. 721—yes.
Rollcall No. 722—yes.
Rollcall No. 723—yes.●

SUPPORT FOR RETAINING LIMITATION ON OUTSIDE EARNED INCOME FOR MEMBERS OF CONGRESS

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. KASTENMEIER. Mr. Speaker, on March 2, 1977, the House approved a new Code of Ethics. By a vote of 344 to 79, the House retained a key provision of the new Code which limits, beginning January 1, 1979, the outside earned income of Members of Congress of 15 percent of their annual salary. This is an essential ingredient to making that Code work to eliminate potential and real conflicts of interest in the Congress.

When the House considers H.R. 1, the Ethics in Government Act, an effort will be made to repeal the outside earned income limitation before it has even gone into effect. The new Code of Ethics was designed to overcome public mistrust of the Congress. Repealing the limit on outside earned income would further undermine the public's confidence in the Congress.

Mr. Speaker, I urge my colleagues to support the limitation on outside earned income. I further recommend to my colleagues that they read a number of editorials from around the country which call upon the House to hold firm in the action it took when we voted to limit the amount of outside earned income.

[From the Chicago Daily News, Dec. 20, 1977]

LEAVE ETHICS CODES ALONE, CONGRESSMEN

We knew that a torrent of opposition flowed beneath the overwhelming majorities wrung out of the House (402 to 22) and Senate (86 to 9) last spring in favor of congressional ethics codes. But we thought that having taken the plunge, congressmen would grin and bear the new standards they had imposed on themselves. It appears we were just dreaming.

Common Cause, the national citizens lobby that has been in the forefront of government reform, reports moves are afoot to delete the limit on outside earnings, which Congress swallowed to help the public digest the $12,900-a-year raise it had given itself. The limit is 15 percent of the congressional salary, or $8,625.

A House committee has recommended exempting from disclosure any gifts of travel, entertainment and the like that representatives receive in foreign countries. A Senate committee wants to exempt all travel and related entertainment expenses from the $100 limit on gifts from lobbyists. The Senate's ban on slush funds, which had provided a detour around campaign contributions laws, also is under attack.

Congress voted for these and other reforms largely because it had taken a nosedive in public opinion. But those would seem like days of wine and roses compared to the days of public outrage Congress would trigger if it dilutes its ethics codes. We hope the grumblers will reconsider.

[From the Raleigh (N.C.) News and Observer, Jan. 5, 1978]

DON'T BACKSLIDE ON CONDUCT CODES

When members of Congress accepted a $12,900 annual pay hike last spring, they also accepted another recommendation from a presidential commission and adopted new, stronger rules of conduct. The catch is that what lawmakers put together back then now appears in danger of coming unraveled.

Common Cause, the citizens' lobby group, reports that in various committees some lawmakers have been hacking away at the new rules, hoping to weaken them when Congress reconvenes later this month.

For example, certain members of the House Rules Committee are trying to eradicate the limit on outside, earned income of representatives (who, like senators, now draw annual legislative salaries of $57,500). Meanwhile, the Senate Ethics Committee has been considering a major weakening of that chamber's 1977 ban on large gifts from special interests. The change would make room once again for such extracurricular treats as foreign travel financed by lobbyists.

Maybe the demolition workers marching against the new codes of conduct believe that American citizens have short memories. Perhaps so—but not quite that short. With Mr. Tongsun Park still in the headlines, it is impossible to forget that a principal pressure behind the move for the codes was the unseemly lapping up of Korean favors by lawmakers. Nor has the public so swiftly forgotten those legislative hunting trips financed by big defense contractors, those fat honoraria paid to lawmaker-speechmakers by industry lobbying groups and similar items that led to enactment of the conduct rules.

When the codes were voted on last year, they passed by overwhelming margins: 402–22 in the House, 86–9 in the Senate. Some backsliding is to be expected. But surely from those big majorities there remains enough backbone to resist the undoing in 1978 of what was accomplished in 1977.

[From the New York Times, May 18, 1978]

POOR CONGRESSMEN

What does "poor" now mean in America? Washington's officially defined poverty level was raised recently; for an urban family of four it is now $6,200. Meanwhile, some members of the House of Representatives would have us believe that for them, the poverty level is $66,125 and, they are entitled to more. Can they be serious?

Members of Congress voted to increase their own pay last year, to $57,500. Correctly anticipating heated reaction and responding to widely held cynicism about Capitol Hill ethics, both Houses also voted a kind of advance penance. For the first time, they imposed a limit on how much outside income members would earn—15 percent of the new pay, or $8,625, bringing maximum allowable income to $66,125.

In creating the outside-income limit, Congress seemed to recognize that permitting unlimited earnings from, for example, law firms or speech sponsers, was to invite suspicion of sly contributions from special interests. Now, however, some members of the House Rules Committee—who have earned as much as $120,000 in outside income—seem intent on trying to rescind the limit.

It is not fair, the argument goes, to limit earned income when wealthy members can continue to receive unlimited unearned income from investments. There seems to us to be a clear distinction between the potential influence of regular returns from coupon-clipping and of receiving a fat check today from a group interested in a vote tomorrow. That does not wholly meet the point; there is something to the argument in terms of even-handedness. But even-handedness is not the issue. If the members believe their present salaries are inadequate, the answer is to raise them, not, in effect, to seek subsidies from this client or that audience. In any case, we thought Congress had settled the point last year. What has changed in 13 months? Do the Congressmen involved here think the public has lost interest in Congressional salaries or Congressional ethics? We doubt it. The only poverty in the House we're able to take seriously is that of shame.

[From the Christian Science Monitor] Dec. 22, 1977]

CONGRESS'S ETHICS OPPORTUNITY

That valuable watchdog, Common Cause, is barking again, and we hope it wakes everybody up. This time the citizens organization warns that some people in Congress are already trying to whittle down the codes of ethics accepted so resoundingly last spring when the legislators were justifying their $12,000 pay raise.

Here is a prime opportunity for representatives and senators to prove that their display of concern for ethics was more than a spring fashion. They can do so by resisting efforts to repeal the House code's requirement to disclose munificence from foreign countries, for example, and the Senate code's ceiling on travel and entertainment gifts from lobbyists.

The extent of the challenge may be indicated by Common Cause's information that only two members of the six-man Senate Ethics Committee now defend the Senate's code. Seven out of 16 members of the House Rules Committee were already against the House code's limit on outside earnings back in March. Such opponents may seek elimination of the earnings limit as the price of sending to the floor a bill that would give the House code's financial disclosure requirements the force of law.

Granted that most members of Congress do not or should not need organizational codes of ethics to keep them straight. There is no substitute for a personal code so firmly ingrained that evasion is no temptation.

What the passage of Congress's code did was to help legislators resist the kind of private and foreign influences that some succumbed to in the past and to assure the public that there were agreed standards on which Congress was ready to police itself. There could be wisdom in revising ethics codes, just as much as any other congressional product, but it would be hard to convince the public that weakening these still new codes would be a step forward. Our expectation, is that Congress, with a little help from its leaders—and from Common Cause—will see the right thing to do.

[From the Washington Star, Apr. 26, 1978]

BACKSLIDING ON ETHICS

Members of Congress took a $12,900 pay raise last year with the distinct understanding that a strict code of ethics and a limit on outside earnings would be imposed on themselves. There seems to be some doubt now about how well the understanding will be honored.

Pending legislation would write into law the House rules on disclosure of financial interests that were approved overwhelmingly in March 1977. In addition to covering members of Congress, the legislation would extend the disclosure provisions to the executive and judicial branches. Federal judges and employees of all three branches compensated at a GS–16 salary level and above would be covered.

The bill, which had been scheduled for debate this week but was pulled from the House calendar Monday, would require annual reports on amounts and sources of income, gifts totaling $100 or more a year, free entertainment valued at $250 or more a year from a single source, real estate worth more than $1,000, personal property worth more than $1,000 that is held for investment or income production, debts that exceed $2,500 and transactions in securities or commodities futures that exceed $1,000.

Although the House last year passed its rules of financial conduct, which include a limit on outside earnings to take effect in 1979, by a vote of 402 to 22, there appears to be considerable backsliding. Their pay raise in hand and the volume of publicity from scandals (except for the Korean influence buying probe) abated, the enthusiasm for ethics reforms seems to have dropped off. The House last fall defeated a proposal to overhaul internal administrative procedures that would have tightened up accounting practices.

Although the House rules approved 13 months ago would remain in effect if the bill is defeated, the rules lack the civil and criminal penalties embodied in the bill making them a part of the federal law. In addition, the coverage would not be extended to the executive and judicial branches.

It appears that the bill was pulled off the House floor by Speaker O'Neill because so many amendments were threatened that the outcome was uncertain. Supporters hope that the four committees involved in handling various sections of the legislation can reach a better understanding before it is brought back for floor action.

Complicating the situation was a Rules Committee decision to allow debate on a "non-germane" proposal to strike the House rule that limits members' outside earned income to 15 percent of their annual congressional salary—or $8,625 based on their current salary of $57,500. The limit was designed to reduce conflicts of interest and to keep members from spending so much time away from their congressional duties. The earnings limit is not part of the disclosure bill but is part of the ethics package that the House voted last year to impose on itself (a similar restriction was voted in the Senate).

Opponents of the 15 percent limit argue that it is unfair to restrict members from "earning" outside income but not to restrict earnings from investments. Proponents contend investment income is less likely to involve members in conflict of interest situations and less likely to keep them off the job. After thorough debate in March 1977, the earnings limitation was approved by the House 344 to 79.

The danger in reopening the earnings issue during debate on the disclosure bill is that it might create such antagonism and confusion on the floor that it could affect the vote on the disclosure bill. One might wonder what the motive of the Rules Committee was in allowing the earnings issue to be taken up with the disclosure bill.

Ethics Committee Chairman Richardson Preyer, D–N.C., fears that if the House doesn't pass the disclosure bill "we will appear to be backing down on our commitment to pass a tough ethics bill after we accepted a pay raise . . . We'll look like we're taking the sugar without the pill."

Actually that pill had two parts—financial disclosure and the earnings limit. They were parts of the bargain struck more than a year ago when Congress wanted to get a fat pay raise and try to clean up its image at the same time.

The disclosure bill ought to be passed and the earnings limitation ought to remain in the House—and Senate—rules. A bargain is a bargain.

[From the La Grange (Ga.) News, May 10, 1978]

PERKS

About a year ago, members of the U.S. House of Representatives, in accepting an increase in their pay to $57,500, agreed to limit the outside income members of Congress can earn to 15 percent of their salaries, or $8,625.

It's now possible that the agreement may be voided before it becomes effective Jan. 1, 1979.

The House Rules Committee recently supported an amendment to the financial disclosure bill, H.R. 1, to repeal or weaken the earnings limit. That decision clears the way for a House vote on the amendment and indicates at least some representatives are ready to junk the restriction.

Common Cause President David Cohen has said such action by members of the House would be "a clear betrayal" of the pledge they took last year when they accepted their pay raise.

Common Cause lobbied hard for the restriction, contending it diminishes conflicts of interest and potential influence-buying.

Those arguments are still good. Members of Congress are adequately paid, with healthy expense allowances in addition. We see no reason congressmen should collect extensive outside income. That's just cashing in on their positions of influence.●

CONGRESSIONAL SALUTE TO NEW JERSEY'S FAMILY DAY '78 COMMITTEE AND THE LEBRON FAMILY OF CLIFTON, FAMILY OF THE YEAR, EIGHTH CONGRESSIONAL DISTRICT, STATE OF NEW JERSEY

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. ROE. Mr. Speaker, on Sunday, September 17, residents of my congressional district and State of New Jersey will celebrate Family Day 1978 at Rutgers Stadium, Piscataway, N.J., where a gala program sponsored by the New Jersey Family Life Directors, Rutgers the State University, and the Family Life Board of Governors in Paterson has been planned to demonstrate faith in the family as the very basic foundation of our society in preserving our human values, nurturing our children, developing respect and understanding for others, caring for our elderly and perpetuating our cultural and spiritual heritage.

Mr. Speaker, at the outset may I commend to you and our colleagues the outstanding work being carried on in my congressional district in the Family Life Movement by the Reverend Finbarr M. Corr, Ed. D., director of the Diocese of Paterson, Family Life Bureau, Paterson, N.J., who is the coordinator of Family Day 1978 in New Jersey and the distinguished members of the New Jersey Family Day 1978 Committee, as follows:

The Honorable:

Chairman—William E. Simon.

Vice-Chairpersons: Rev. Carl J. Arico, Lavinia Bryan, John M. Cooney, Sue Corroon, Robert L. Marcalus, Betty Ann O'Brien, Raymond O'Brien, Claire Papp, Jack Papp, and David "Sonny" Werblin.

Members: Mr. and Mrs. John Cohley, Rev. Joseph V. DiMauro, Mr. and Mrs. Sam Fornaro, Mary Hammonds, Mr. and Mrs. Gus Hoffman, William Huber, Monsignor Leo A. Kelty, William T. Kenny, Rev. John M. Morley, John O'Hara, Owen M. O'Sullivan, Rabbi David Panitz, Mr. and Mrs. John Reid, Sister Catherine Reilly, Mr. and Mrs. John Schrift, and Rev. Paul Stagg.

Consultants: Sam Levenson and Bishop Frank J. Rodimer.

Coordinator: Rev. Finbarr M. Corr.

Mr. Speaker, we are especially proud and applaud my congressional district's "Family of the Year,"—the parents, Mary and Lee Lebron, and their three children, George Pierce, Mariana, and Gregory—who were selected to represent our district by distinguished citizens and community leaders of New Jersey whom I also wholeheartedly commend to you, as follows:

The Honorable: Leo Fichtelberg, Director of Paterson Public Library; Rabbi Dr. Eugene Markowitz, Director of Clifton Jewish Center; Karen Hutchcraft, Assistant to Director of Metropolitan Campus Life; Robert Corrado, Boro Attorney for Totowa; John Fiorello, Attorney—Wayne; Ansel Payne, Secretary of Board of Education Passaic County Vocational and Technical High School; and Robert Lauten, Principal of North Jersey Training School.

Mr. Speaker, it is the consensus that a Nation is only as strong as its family life. America has gained its strength and fiber through the tradition of a strong family life which has truly enriched the educational, cultural, social, and economic well being of our communities, State, and Nation. The Lebron family is representative of the family groups of our United States of America whose varied expressions of familial solidarity have contributed to the richness of the quality of our American way of life.

Mr. Speaker, with your permission I would like to insert at this point in our historical journal of Congress a news article that appeared in one of New Jersey's most prestigious newspapers, the News, headquartered in the city of Paterson, which most eloquently depicts the unique gifts of family tradition and family caring and sharing that the Lebron family extend naturally and lovingly in their day-by-day pursuits which have truly enriched our community, State and Nation. This byline authored by a highly talented and gifted News correspondent, Rosalie Longo, reads, as follows:

AN IDEAL CLIFTON FAMILY PROSPERS HELPING OTHERS

(By Rosalie Longo)

CLIFTON.—The self-centeredness that psychiatrist Robert Coles—winner of the 1973 Pulitzer Prize for volumes two and three of his book "Children in Crisis"—speaks of could apply to many Americans who overindulge themselves today. But not to Mary and Lee Lebron of Clifton.

Because of their unselfish giving to others, the devout Catholic parents and community workers have been chosen to represent the 8th Congressional District as Family of the Year. In September the couple will compete for state honors at a Family Day 1978 celebration to be sponsored by the New Jersey Family Life Directors and Family Life Board of Governors, in cooperation with Rutgers University, at Rutgers Stadium in Piscataway.

According to the Rev. Finbarr Corr of Paterson, coordinator of the event, Family Day is being planned to reaffirm the concept of social, cultural and spiritual family life, especially at a time when scientists predict that family life is about to die.

Says Father Corr: "We have chosen to demonstrate our faith in the family as the basic cell of democracy and a permanent divine institution. A nation is only as strong as its family life."

In the eyes of the Family Day selection committee members, Mary and Lee Lebron were chosen for their "naturalness" and unselfishness in reaching out to help others in the community while faced with obligations of their own at home.

"Lee and Mary," says Father Corr, "have found mutual growth in their commitment to others."

Despite what scientists predict, the Lebrons feel family life will definitely survive and continue to grow in the future.

"To be without (the) family, would be contrary to nature," says Mary Lebron. "It would be like a man without a country.

"But in family life today," she says, "there is too much emphasis on the acquisition of material things.

"When I was growing up, you were given things with limitation. Not everyone had a television set. It was considered a luxury.

"There also wasn't that much emphasis on what to do or where to go.

"Today it's much different. Many kids seem more interested in acquiring things for pleasure than personal accomplishment."

The mass media, she says, is partly responsible for putting pressure on people by telling them what's important in life. Most times, Mary Lebron says, the accent, isn't on things that should be meaningful.

"I don't think parents are intentionally permissive today; they're unknowingly permissive. Often they act without guidance. I'm not against giving a child the right to make a decision, but I am against giving it carte blanche."

Lee Lebron feels the biggest problem of being a parent today is not having enough time to prepare a child for adulthood at age 18. "Years ago," he says, "a parent was able to sit back comfortably knowing what his or her child was being exposed to. Now, he has to sit down and do a lot more research to learn."

What worries Lebron most about his future years as a parent is whether or not he'll be able to maintain a communication pattern with his children. In his opinion, a communication pattern has to be set early enough if it is to work.

Mary Lebron says she doubts very much if she will change her ideas on morals when her children, now 6, nearly 7 and almost 8, are teenagers.

"I may worry about adjusting to the times, but I'll still be staunch in my feelings about not wanting my children to drink at 18," she says. "I don't feel 18-year-olds should drink. They're not able to cope with the responsibility that goes with it. And full responsibility has to be accepted.

"Getting a driver's license," she notes, "doesn't entitle a person to go out and drive recklessly. Some may be able to handle drinking at 18, but by in far, many are making a big game of it."

Responsibility, she says, is also a necessary ingredient in marriage. Therefore, she sees no point in young people living together without being married.

"I can't see what can be gained from this type of arrangement," she says. "It may allow two people to get to know each other, but other than that, nothing is accomplished. At least in marriage, you continue to grow."

According to Father Corr, Mary and Lee Lebron have attained growth not only in their own marriage but in their commitment to people outside their home.

Even before their marriage, both were involved in helping others. When they met, both were Catholic Alumni Club volunteers helping tutor inner city children in New York. Mary was working as a teacher and Lee was serving with the Air Force at the time.

The greatest challenge of their own marriage was in surviving when Lee returned to school full time to get his master's degree in social work. It would be an advanced degree to help him serve others more effectively in his job as a paraprofessional at the Mount Carmel Guild in Newark.

"Those days were rough," says Mary, "because we used all of our savings. We also had three children to support and, because they were small, I couldn't go out and get a job. On top of that, Lee had to travel to school (Rutgers in Newark) 80 miles a day."

Now a psychiatric social worker with the Passaic Mental Health Clinic, Lee works in the Paterson Diocese's deaconate program for Spanish deacons and serves at the mental health clinic at St. Mary's Hospital. He also volunteers his time to help others in the Family Life Bureau's drug program and serves on the Social Action Committee of the Paterson Diocese.

"My role is to be supportive," says Mary. "Being a deacon's wife means that I must realize that my husband will not be available to paint the extra room. His time that possibly could have been used to make our life more comfortable by a second job goes to our commitment to other people."

Now that all of their children are in school Mary has gone back to work, teaching chemistry to 11th graders in Elmwood Park. Even though her duties at home and on the job keep her busy round the clock, she still finds time to serve as a class leader and Home-School Association member at St. Paul's School as well as assist in Little League affairs.

"I'm shocked that we were chosen Family of the Year," she says. "We never thought about doing things for honors or citations. This is simply the kind of life we have chosen to lead."

"We're just little drones doing our job day to day," says Lee. "When you help your neighbor, you help yourself. I think my feelings are the result of the legacy given me by my father some 20 years ago. It's somewhat dog-eared and faded now, but I still carry it with me in my wallet every day.

"It says:

'Help me Lord to use my little skill as best as I can to do your Holy will.

'Give me patience, charity and most of all humility.

'Let me find the peace of mind that comes to those who serve mankind."

The Lebrons seem to know that peace.

Mr. Speaker, Better Homes and Gardens conducted a random sampling of 10,000 respondents among their magazines subscribers with a questionnaire entitled "What's Happening to the American Family?". The questionnaire appeared in the September and October 1977 issues of Better Homes and Gardens, and a sample of 5,000 respondents was taken from each. I believe their summary and highlights of this survey afford considerable thought-provoking conclusions on family life which may be of interest to all of us, as follows:

SUMMARY AND HIGHLIGHTS

Looking at their own families, respondents to the questionnaire find them reassuringly sound. Their families are structured in a traditional, closely knit relationship in which parental discipline is firm, belief in a Higher Being is important, education is valued, and the work ethic is stressed. Thrift and avoidance of debt—although considered outmoded by some segments of society—are strongly endorsed by the respondents. They also believe in:

A life in which physical well-being, raising children, and intellectual and spiritual growth are far more important than recognition by others, influence over others, or social status.

A lifetime marriage commitment to one spouse with love the main reason for staying married.

A husband-wife relationship in which the partners are in agreement about their marriage goals, are having their expectations of happiness fulfilled, and are sharing their personal problems.

But despite the positive feeling respondents have about their own families, they see much in today's society that gives them concern:

A majority of respondents say American family life is in trouble, and they place much of the blame on inattentive parents and the absence of a religious and spiritual foundation.

The high rate of marriage failure disturbs respondents, who attribute the increase to the marriage partners' immaturity, selfishness, and lack of mutual interests and goals.

The elderly are generally forgotten by their families, say many respondents, and young children are growing up today without enough contact with older people.

Television programming and movies are sources of concern because of poor quality and overemphasis on sex and violence. Also, respondents feel there is to much emphasis on sex and youth in all aspects of society.

Although respondents view with alarm a number of problems in today's society, their attitudes and opinions in several areas clearly reflect the changes that have taken place in this country during the past five years, such as:

A rejection of the stereotyped roles of the husband as breadwinner and the wife as homemaker. In respondents' families, there is greater freedom for each spouse to participate as an equal partner within the marriage relationship.

Awareness of women's rights. Many respondents say that this awareness has significantly altered the husband-wife relationship.

Smaller families. The ideal number of children for the typical respondent family has decreased.

The Better Homes and Gardens family that emerges from this study represents a combination of tradition and change. In their responses to the questionnaire, readers indicate they are holding on to those values they feel to be important to their way of life and altering those they feel are no longer appropriate. Thus, the family is an ongoing, evolving units with a demonstrated ability to adjust to society's changes while still maintaining the strengths of the past.

Mr. Speaker, as we celebrate Family Day 1978 in New Jersey to help reaffirm our belief in family life and demonstrate our support for the concepts of family life, I would like to direct your attention to my resolution House Joint Resolution 1062 which I introduced to proclaim our strongest support of the Family Life Movement in New Jersey and throughout our Nation through the designation of Sunday, September 17, 1978, as "National Family Day," which reads as follows:

H.J. RES. 1062

Whereas America has gained its strength and fiber through the tradition of a strong family life which has truly enriched the educational, cultural, social, and economic well-being of our communities, States, and Nation; and

Whereas the very basic foundation of our society in preserving our human values, nuturing our children, developing respect and understanding for others, caring for our elderly and perpetuating our cultural and spiritual heritage stems from family life;

Whereas our United States of America is comprised of family groups from all over the world, bringing varied expressions of familial solidarity which have been adopted by our people, adding to the quality of our American way of life; and

Whereas the family life movement in many areas throughout our Nation is celebrating Sunday, September 17, 1978, as "Family Day" to celebrate and honor the family, which has contributed in large measure to America's evolution as a nation that has achieved global preeminence as a shining example of a united and compassionate family which continues to extend a helping hand to families in need throughout the world; and

Whereas it is indeed appropriate to honor the contributions and special place in America of families and those who labor to create the wealth and destiny of our country: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Sunday, September 17, 1978, be designated as "National Family Day" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day to reflect upon and reaffirm our belief in family life, demonstrate our support for the concepts of family life, and provide a forum for the sharing of the cherished values of our heritage and the unique gifts of family tradition amongst all of our people.

Mr. Speaker, I appreciate the opportunity to call your attention to New Jersey's observance and celebration of Family Day 1978 and know that you and our colleagues will want to join with me in saluting New Jersey's Family Day 1978 Committee with special plaudits to my congressional district's "Family of the Year," the Lebron family of Clifton, N.J. We are indeed proud of America's families and the opportunity to honor and celebrate the richness of their outstanding contribution to the wealth and destiny of our country.●

TWO CHINAS?

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the well-expressed article written by Ray S. Cline of the Georgetown Center for Strategic Studies. This editorial appeared in the Washington Post on Tuesday, September 12, 1978.

The article follows:

THE DILEMMA OF TWO CHINAS: WHY NOT BOTH?

(By Ray S. Cline)

Premier Hua Kuo-feng of the Communist People's Republic of China has been tripping through Central Europe and Iran, trying to whip up antagonism to the Soviet Union. Audiences in those areas clearly enjoy hearing somebody lambaste Soviet imperialism in terms seldom used by more discreet American and European officials. Hua's anti-superpower rhetoric certainly irritates the Russians. It is hard to tell, however, whether Hua is the celebrated "China card" being played by the Carter administration or whether he is playing his own "American card." Peking clearly hopes to build up its prestige, get access to European and American technology with financial credit, and to lock the United States in deeper confrontation with the Soviet Union.

President Carter and his national security adviser, Zbigniew Brzezinski, act as if they ought to pay off the People's Republic for doing what is very much in its own interest. They also seem to regard its feeble economy and the poorly equipped Chinese armies as assets that somehow can help the United States strategically against the infinitely more powerful U.S.S.R. The fact is that increased Soviet hostility can hurt us—and the People's Republic—more than Peking can help us. A Soviet-oriented military incident on the Chinese border, for example would quickly sober both Hua and Carter about the risks they are taking.

The real trouble with the Carter administration's China policy, nevertheless, is that we are already paying a high strategic cost in damage to our relations with valuable allies in East Asia. This damage will not be offset by envisaged benefits of the "China card" that at best will be limited and at worst may needlessly exacerbate American dealings with the Soviet Union across the board. It is one thing to flatter the leaders of the People's Republic to encourage them in their anti-Soviet stance. It is quite another to destabilize our western Pacific alliance system in the process.

The heart of the mistake the Carter administration is making is its inclination to commit itself to diplomatic recognition of the People's Republic as the rightful rulers of all China, including the populous and prosperous island of Taiwan, which Peking considers simply one of its provinces that must be "liberated" some day, by military force, if necessary. Limited conciliatory moves toward the People's Republic make some strategic sense for Washington; breaking off U.S. ties with the strong, tough Republic of China on the island of Taiwan makes no sense whatever for American interests in the western Pacific and Northeast Asia.

The administration party line is being voiced by Sen. Edward M. Kennedy, who unwisely is carrying the burden for Carter and the State Department in selling an unpopular China policy. He asserts that the United States can guarantee "the security of the people in Taiwan and the peaceful resolution of the relationship between the island and the mainland" after dropping the formal treaty ties, relying on the forbearance of Peking and some sort of pronouncement by the White House or Congress about maintaining trade and selling arms to Taiwan. Nobody in Asia would believe tacit assurances from Peking or flimsy "sense of the Senate" statements from Washington to be anything but temporary and unreliable expedients, if not downright deception. The State Department has been unable to come up with any formula providing the substance of a security guarantee that would be at all credible in the aftermath of breaking a formal defense treaty.

Only wishful thinkers doubt that this act of appeasement to Peking contemplated by the Carter administration will result in economic weakening and diplomatic isolation of Taiwan. After a "decent interval," political and economic instability is likely to lead to capture by Peking in one way or another. In this event, the Chinese society of 17 million people on Taiwan, which embodies the best mixture of Asian and American political philosophies and technologies achieved anywhere, will be submerged in the inert mass of one billion Chinese struggling to modernize under the totalitarian dictatorship on the mainland.

This prospect is already causing puzzlement and dismay, not only in the Republic of China, but also in Japan and the Republic of (South) Korea. Each of those nations is fearful of domination by either the People's Republic or the Soviet Union; and as a mutually reinforcing triangle in the northwestern Pacific, they constitute a major regional element of the American alliance system. Together they are much more powerful than all of mainland China in economic strength and modern military forces—in fact, in every respect except extent of territory and size of population.

The credibility of the United States as guarantor of the defense of its worldwide allies is the critical element in American foreign policy today. It is bound to be damaged badly if the Carter administration pulls the rug out from under Taiwan, the southern strong point in the chain of Northeast Asian allies built up with so much investment of American efforts,/lives and money over the past 30 years.

The irony is that there is no assurance that Peking's smiles toward the outside world will not vanish abruptly as they have in the past when domestic political issues supervene. It does not even now pay the slightest lip service to human rights or, for that matter, endorse permanent friendship with the United States. The new Chinese Communist Party constitution makes it clear that both the Soviet Union and the United States must eventually be destroyed, with the United States enjoying a reprieve because it is less feared and may be used as a temporary ally against the more powerful enemy.

Carter has a track record of espousing unrealistic, self-destructive defense and foreign-policy positions and then postponing or backing off when the costs belatedly come home to him. In this case, the line of retreat is an easy and honorable one. The United States should adopt a policy of willingness to extend de facto recognition to both existing Chinese governments until history resolves their rival claims. Peking's demands concerning breaking diplomatic and security ties with Taiwan should be coolly rejected. If Peking refuses closer ties with the United States on these terms, it will be the loser, not Washington. We can live quite comfortably with the status quo in Asia. There is no reason we have to choose between the two Chinas. Why not both?●

BRUCE CATTON—HIS LARGEST LEGACY IS THE MEMORY OF HIS GENEROSITY AS A MAN AND SCHOLAR, WHICH TOUCHED ALL WHO KNEW HIM OR HIS WORK

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. VANDER JAGT. Mr. Speaker, late last month, on August 28, our Nation lost one of its famous writers and historians, Bruce Catton, a long-time resident of Benzonia, a beautiful little town in our Ninth Congressional District in Michigan. I was honored to know that Mr. Catton was a constituent and to serve him in Congress.

A winner of the Pulitzer Prize and the National Book Award for his powerful book of the Civil War, "A Stillness at Appomattox," perhaps his highest award that he treasured was the Medal of Freedom Award, the Nation's highest civilian award, presented to him on January 10, 1977, by fellow Michigander, President Gerald Ford.

Much has been written on Mr. Catton since his passing. I think that Bill McCulloch, staff writer for the Record-Eagle, Traverse City, Mich., presented a marvelous story on this outstanding man. It was entitled "Night Train Comes For Historian Catton." The story is included along with a truly fine editorial

from the September 1, 1978, edition of the Washington Post.

Bruce Catton has left this world. But, his great works will live on and will serve millions of future citizens of the world.

The articles follow:

[From the Traverse City Record-Eagle, Sept. 6, 1978]

NIGHT TRAIN COMES FOR HISTORIAN CATTON

(By Bill McCulloch)

BENZONIA.—In terms of the national recognition he received during his lifetime, Bruce Catton was probably the most illustrious of Benzie County's native sons. He was a writer and historian of the first rank, a two-time Pulitzer-Prize winner, a National Book Award recipient.

As a historian, Catton possessed a rare ability to breathe life into the characters and events he chronicled. He did this naturally, convincingly, without resort to literary contrivance. In his later years, he suggested that this ability might have been a function of his upbringing. He said he always felt as though he had grown up in the era about which he did most of his writing.

His biographies say he was born in Petoskey in 1899. But that was only because his mother's family lived in Petoskey at the time. She traveled there in the fall of 1899 for the express purpose of giving birth to her second child.

The Catton home in those years was located in Benzie County. And Bruce Catton did most of his growing up in the small village of Benzonia, where his father served as acting president of struggling Benzonia College during the final two years of its existence. Catton's recollections of his days in Benzie County later served as the basis for a book, his next-to-last, "Waiting for the Morning Train," published in 1972 by Doubleday.

The Benzonia that he knew in his youth, Catton wrote, was an anomaly. Founded as a college town in 1858 by men of strong Christian belief, the town became an outpost of temperence and piety in the middle of northern Michigan's prodigal lumber boom. Catton likened his boyhood to "growing up with the Twelve Apostles for next-door neighbors."

"In a way this was uncomfortable," he conceded. "To meet the nagging problems of this world while you are thinking about the requirements of the next one does not always come easily. . . ."

But the world problems and general social upheaval of the early 1900s were not well understood in Benzonia. Years later, Catton would look back and see his home town as a place where time, for a little while at least, had stood still. "We were out of date without knowing it," he wrote. "The country was moving out from under us before we realized that anything in particular had changed. Just when a wholly materialistic culture was becoming dominant we were shaping our lives according to the requirements of the culture it was displacing."

In this sense, Catton said, he could almost claim that he had grown up in the days that preceded the Civil War. And this was probably one of the reasons that tumultuous period in American history always seemed so real to him, he said.

Catton's fascination with the Civil War was fueled by his contacts with men like Elihu Linkletter, Lyman Judson, John Van Deman, Cassius Judson and John Morrow—veterans who'd actually fought on the legendary battlefields at Gettysburg, Atlanta, the Wilderness, Shiloh. Most of these men were well into their 70s when young Catton got to know them; to a small boy, they seemed positively heroic.

From time to time, Catton and his young playmates used to re-enact the Civil War on the West Campus, a 12-acre expanse of green near the center of Benzonia. "We were invariably the Union army," he wrote, "and we never lost. Johnny Reb died by the platoon and the battalion before our unerring musketry."

In sum, Benzonia was a good place for a young boy to be in the early years of the 20th Century. "Life was unhurried and unworried . . ." Catton recalled. "There was nothing to do but grow up, and we could take our time about it."

Unlike many other pioneer college towns in Michigan, though, Benzonia never amounted to much. The village had drawn much of its early vitality from the lumber boom. And that prosperity came to an abrupt end when the trees were gone. As a result, Caton wrote: Benzonia seemed to pass from adolescence to senility in one uneasy step.

After Benzonia College folded in 1900, Caton's father began selling insurance for a living. And when Catton was 6 years old, his family moved to Boyne City, where his father worked briefly as the manager of a new insurance company office.

Boyne City at that time was one of the last strongholds of the logging industry. It was a boom town, not much like Benzonia at all, with several sawmills, a blast furnace, a major shipping harbor, a railroad and 13 saloons. Day after day, Catton watched trains hauling pine logs to the mills where huge gang saws were kept busy ripping out millions of board feet of lumber. Living near the Boyne River, he also witnessed the spring log drives—tens of thousands of logs drifting downstream from the winter logging camps to the sorting grounds at the river's mouth.

When he grew older, Catton came to understand that what he had seen in Boyne City was a reflection of modern man's unwillingness to restrain his dominance of the environment. The timber resource was once thought to be inexhaustible. But technology soon provided the machines that made it possible to strip the land bare. And once it became possible to do so, Catton said, there was no turning back, no way to stop short of the ultimate objective. In less than the span of a single lifetime, a priceless resource was consumed. And the big lumber companies went elsewhere in search of trees.

Catton's stay in Boyne City was short. In 1906, his family moved back to Benzonia, and his father became principal of Benzonia Academy, a prep school that had replaced the failed Benzonia College. Catton attended a regular village school through the seventh grade, then skipped the eighth grade and entered the academy as a freshman in the fall of 1912, just before his 13th birthday.

That year also saw Catton begin to form some definite notions about his life. It all started with his father reading news accounts of the 1912 Republican National Convention and observing that newspapermen certainly must lead interesting lives.

A year or two later, a local resident asked Catton what he planned to be when he grew up. "As far as I can remember I had not consciously made any choice," Catton wrote, "but now that the question was asked I replied unhesitatingly: "I am going to be a journalist."

Except for one brief period during which he aspired to become a concert violinist, it appears that Catton never wandered too far from his early resolve to go into newspaper work. The lesson to be learned from that, Catton later observed, is that fathers should always be careful what they say to their impressionable children.

Catton graduated from Benzonia Academy in the spring of 1916, just two years before it went under, and that fall joined the freshman class at Oberlin College. When the United States entered World War I, though, Catton interrupted his education and joined the Navy. He returned to Oberlin after the war, but left again after his junior year to take up the career he'd been thinking about since he was 13 years old.

From 1920 to 1926, Catton worked as a reporter, first for the Cleveland News, then the Boston American and the Cleveland Plain Dealer. In 1926 he became a Washington correspondent for the Newspaper Enterprise Association, a job he held until 1941.

While he was working for the association, Catton found time to turn out a couple of novels, both of which he later dismissed as totally worthless. Apparently, neither work was ever published.

In 1942 Catton became director of information for the War Production Board, then held similar posts after the war with the Department of Commerce and the Interior Department. His wartime experiences led to his first published book, "The War Lords of Washington."

After that, Catton turned his attention to the subject that had fascinated him ever since his boyhood: the Civil War. With only one exception—the largely autobiographical "Waiting for the Morning Train"—his writing over the next 25 years focused on the war between the states.

His first book on the Civil War, published in 1951, was "Mr. Lincoln's Army," followed in 1952 by "Glory Road." Neither book attracted much attention at first. But in 1953, Catton published "A Stillness at Appomattox," completing his now-famous trilogy on the Union Army of the Potomac. That book won the 1954 Pulitzer Prize for history and also earned Catton the National Book Award.

In 1960 he won his second Pulitzer for the narrative that accompanied "The American Heritage Picture History of the Civil War."

In all, Catton produced more than 15 volumes on the Civil War, including one for youngsters: "Banners at Shenandoah."

Starting in the 1930s, Catton spent most of his vacations in the county where he had grown up. And it was here in Benzie County that he died of an undisclosed respiratory illness on Aug. 28. He was 78.

Catton had been 73 when he finished his autobiography. In it, he observed that early youth is just like old age in one respect—"It is a time of waiting before a big trip to an unknown destination. The chief difference is that youth waits for the morning limited and age waits for the night train."

Benzonia, he reflected, had been a good place to wait for the morning train.

[From the Washington Post, Sept. 1, 1978]

BRUCE CATTON

If Lee did not surrender to Grant the way Bruce Catton described it in "This Hallowed Ground," he should have. Like two other great historians of the Civil War, Douglas Freeman and Allen Nevins, Mr. Catton was first a journalist; and he lived by the journalist's imperative—which is the fiction writer's, too—to make the reader see. Because Mr. Catton made more people see "his" war than ever before, he was tainted with the name of "popularizer," which merely meant that he saw history as art as well as facts. Yet, as other first-rate historians such as David Donald of Harvard attest, Mr. Catton was a first-rate historian—the first to use regimental histories as a source. And he was a workhorse. Less than half a life of writing books (he began at age 49) produced 17 major works, the last being a state history of Michigan, where he was born in a small town that, temperamentally, he never left.

His small-town background must have helped shape his approach toward his subject. Mr. Catton grew up hearing the tales of Union vets, and he understood the war more as a clash of people than as a clash of forces and ideas. Once, in reply to a question from his friend and researcher, E. B. Long, he said: "I don't know; maybe I was there"—accounting for his descriptive sense. But there was also the perpetual presence of the war in his mind. He belived, too, in the perpetual presence of the war in *our* minds, that "whatever the American people might hereafter do would in one way or another take form and color from this experience."

Part of Mr. Catton's legacy is the idea—which many historians have since adopted—that one can best grasp the momentous actions of men by learning the significant details of their lives—what they wore, how they sounded. Part, too, is the publication "American Heritage," to which Mr. Catton contributed so much, and with which he placed the study of history in the public domain. His largest legacy is the memory of his generosity as a man and scholar which touched all who knew him or his work.●

APPLYING THE BRAKES TO THE 121 SAFETY STANDARD

HON. DAN MARRIOTT

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. MARRIOTT. Mr. Speaker, years ago Charlie Chaplin made a movie called "Modern Times" that highlighted the perils and pleasures of mechanized society. Often in the recent past we have seen that modern technology can as often be a boondoggle as a boon. We have seen drugs like thalidomide which deformed newborn children, fire retardants which are found to cause cancer, and pollution control devices which produce more toxic poisons than the older model's exhaust. We have become more sophisticated in viewing all changes as progress. The bottom line results are what we must look to.

The people of the United States have been subjected to a constant danger on the highways for the last 3 years. This is a silent threat which lashes out arbitrarily and suddenly to take life, limb, and property. While this danger has persisted, the agency that brought us mandatory locking seat belts and air bags has thumbed its nose at the public interest. This agency which has made a habit of being a law unto itself is the National Highway Traffic Safety Administration.

It took an act of Congress to stop the seat belt interlock system. It took an act of Congress to stop mandatory air bags. And it will take an act of Congress to undo the mischief of the 121 regulation. Every other Government agency which has taken a look at the 121 brakes has raised fundamental problems with the regulation requiring these costly and unsafe brakes.

What then is the bottom line for the 121 air brakes?

In the case of the 121 air brakes, it is clear that these highly touted brakes have never lived up to the expectation of their advocates. Indeed, they have created many opponents who fear for their own lives and those of the public. The national PTA has come out firmly against use of the brakes on school buses as well as on any other vehicle.

John B. Schnell, manager of research for the American Public Transit Association, said on July 19, 1978:

The real problem is NHTSA's unwillingness to properly consider the test data supplied by APTA, bus and component manufacturers (prior to mandating the 121 system), which data conclusively proved that the 121 system was not ready for use.

That is not a reassuring evaluation of this agency's performance.

The Ninth Circuit U.S. Court of Appeals, after taking 2 years to evaluate the information submitted by the parties in Paccar against NHTSA, found:

In view of substantial evidence received by NHTSA that the "in use" performance of vehicles equipped with antilock was not consistent with the performance required by the Standard, and in some circumstances may have been more hazardous than the performance of pre-Standard vehicles, the agency's failure to conduct more intensive testing of trucks and tractor-trailers certified under the Standard was not only unreasonable, but also a legal abuse of discretion * * * the comprehensive data before us indicates that there is a strong probability that the performance of a substantial number of vehicles whose braking systems have been altered to include overpowered front axles and antilock devices has created a potentially more hazardous highway situation than existed before the standard became operative.

My very capable colleague, Representative SHUSTER of Pennsylvania, has referred to the history of 121 brakes as criminal behavior by NHTSA. Such irresponsibility is inexcusable. The arrogance of NHTSA on this issue seems to be boundless. All criticisms are banished by NHTSA with shallow characterizations like "rhetorical" and "anecdotal." Mr. Speaker, that will not wash. Such highhandedness with the public good can no longer be tolerated. The editor of a trucking magazine referred to NHTSA as having "arrogance not to be believed, an arrogance the likes of which have not been seen in the western world since kings stopped ruling by divine right."

I am pleased that the Public Works and Transportation Committee voted without objection to impose a 2-year moratorium on the enforcement of this irresponsible regulation. It is a credit to the House that it will fulfill its constitutional duty to supervise the executive branch's performance. In this area that performance has been greatly lacking. I am glad that H.R. 11733 will begin to do something about it.

I would like to submit for the RECORD the following letter and article:

APPLYING THE BRAKES TO THE 121 SAFETY STANDARD

(By S. Scott Rohrer)

The furor over brake standards for trucks and buses shows the frustrating paradox facing government officials who try to put out regulations in the "public interest.")

Federal Motor Vehicle Safety Standard 121. Relatively obscure, yet extremely controversial, this standard has placed the National Highway Traffic Safety Administration (NHTSA) in a lot of hot water.

While public furor over the standard has been dwarfed by the agency's ongoing bureaucratic battle over air bag systems, the controversy exemplifies a frustrating paradox facing government officials who try to put out regulations that are seemingly in the "public interest."

In addition, the case provides another example of Congress trying to work its will on the executive branch by putting restrictions on the use of federal funds.

In this case, the agency and participants in the debate agree on the need for a tougher standard for bus and truck braking capability. But they disagree sharply on how that should be achieved.

In response to the brewing controversy, bills have been introduced in the House and Senate that would suspend the standard for a year; legislation is pending that would prohibit the Transportation Department from enforcing the standard; and the independent National Transportation Safety Board is preparing to investigate the traffic safety addministration as legislation that would compel the probe moves through Congress.

Of even greater concern to agency officials is a ruling on the standard last April by the U.S. Court of Appeals for the 9th Circuit that they believe sets a dangerous precedent. In its decision, the court overturned the braking standard on technical, rather than procedural grounds—a judgment, agency officials feel, it is not qualified to make.

The agency is appealing the decision to the Supreme Court but until the Court decides whether to hear the case, the standard will remain in effect.

Regardless of the Court's decision, however, agency officials and opponents of the standard agree that the 121 affair has damaged the agency's effectiveness and hurt its credibility.

THE STANDARD

When the 121 standard became effective in early 1975, it required that all new buses and trucks be able to stop within 217 feet when traveling at 60 miles per hour; the previous standard required only that these vehicles be able to stop within 400 feet at that speed. By comparison, most cars can stop within 200 feet.

Since it was issued, the standard has been amended several times to its current level of 293 feet.

The standard also requires that new vehicles be able to stay within a 12-foot-wide lane while braking without the wheels locking.

Most buses have been able to meet the requirement without additional equipment. But trucks have required a computer-controlled, anti-skid braking system in order to comply with the standard. The system—which costs about $100 per axle—supplements conventional brakes and operates when sudden stops are necessary. A mini-computer attached to each axle senses when the wheels are beginning to lock and momentarily releases the brakes to gain traction. The total cost of additional brake equipment comes to about $1,500 per truck.

NHTSA officials think the computer system is the answer for improving brake standards and, at the same time, preventing vehicles from jackknifing. But opponents of the system believe that it is unreliable, difficult to maintain—and extremely dangerous. They contend that the brake system is responsible for 18 deaths since the new standard went into effect.

PROBLEMS

Most of the major trucking firms say they have had nothing but problems with the new system. They point out that computers, which are very delicate and sophisticated, are subject to a tremendous beating on the nation's roads.

MHTSA "is asking a system to do something in an environment that it can't live in," George D. Green, vice president of Breeze Corps. Inc., manufacturer of a cable that prevents jackknifing, said in an interview.

"Of great concern also are the deficiencies that were found in the anti-lock electronic components of the 121-equipped vehicles," E. E. Kynaston, assistant chief of the Cali-

fornia Highway Patrol, told the Senate Governmental Affairs Subcommittee on Governmental Efficiency and the District of Columbia last Dec. 7.

The newness and complexity of computer brakes have led to another problem—a shortage of trained mechanics to repair the systems. Indeed, this maintenance problem was one factor in convincing NHTSA to exempt school buses from the standard since it was first issued.

Donald K. Strout, vice president of maintenance for Wilson Freight Co., wrote in a statement to the Senate subcommittee: "The quantity of brake failures and complaints are too numerous to tabulate. Parts to repair and replace the computerized modulating systems are extremely difficult to obtain. Service on the road and even at major cities is virtually non-existent."

Kynaston added that the malfunctioning of the computer brakes adversely affects conventional brakes. Instead of improving braking distances, the standard, he said, "has resulted in more vehicles having their brakes out of adjustment, which will lead to longer stopping distances and control instability."

Critics of the new brake system also say it is dangerous because when it does fail, it takes two to ten seconds before the conventional brake system starts functioning again. Within that time, a truck could go as far as 610 feet if traveling at 55 mph.

NHTSA has investigated almost every major accident that critics say has been caused by the new brake system. "We have never found [the system] to be the cause of a serious accident," Howard J. Dugoff, deputy administrator of NHSTA, said in an interview. "We've tried to track it down but it's turned out to be nothing but smoke."

Joan T. Claybrook, administrator of the agency, told the Senate subcommittee that the agency's investigations have been a "frustrating experience because it's very easy to make an allegation and very hard to conduct these investigations."

It has been difficult to pinpoint whether the system is at fault in accidents because of its nature or the reactions of individual drivers.

Rep. Dan Marriott, R-Utah, sponsor of a bill (HR 10562) that would impose a one-year moratorium on enforcement of the standard, said: "That's the trouble with 121. The system is so inconsistent—it works, then it doesn't work." That's why, he added, it is hard to pin the blame for the accidents. Marriott became involved in the controversy when the brake system was blamed for a truck-car crash in his district that left four persons dead. Sen. Orrin G. Hatch, R-Utah, is sponsoring a similar bill (S 2850) in the Senate.

NHTSA admits there were problems with the new system when it went on the market, but it contends that the bugs have been worked out and the system is becoming more reliable.

As evidence, it cites a preliminary study completed by the University of Michigan's Highway Safety Research Institute that found that trucks with the system had 20 per cent fewer accidents than trucks without it.

But Strout of Wilson Freight remains unconvinced. Since they began using the system, he said, the firm's drivers have had twice as many accidents and four times as many jackknife accidents. In addition, four drivers were killed.

"There may be some area of doubt whether all four can be laid to the [standard] and maybe there was only two or three, but we had not even had the average of one driver per year getting killed until we accepted 121 vehicles. Now we have four drivers in one year, "Strout testified at the December hearings.

Because of the increase in accidents, Wilson Freight disconnected its computerized brake systems late last fall. Strout said in an interview that "absolutely," without question, accidents have decreased considerably since then. A number of other firms have also disconnected the brakes and the Transportation Department's Bureau of Motor Carrier Safety, a part of the Federal Highway Administration, has stopped checking trucks to see if the brakes are in compliance.

Critics of the standard are exasperated at NHTSA's refusal to rescind the regulation in light of what they consider to be overwhelming evidence on their side.

Rep. Bud Shuster, R-Pa., ranking minority member of the House Public Works and Transportation Subcommittee on Surface Transportation, said: "When an agency promulgates a regulation that possibly causes 18 deaths and when an agency promulgates with reckless disregard, then there is a question of criminal negligence."

The full committee has approved a Shuster amendment to the Surface Transportation Assistance Act (H.R. 11733) that would bar the Motor Carrier Safety Bureau from spending funds for enforcing the standard. The House Ways and Means Committee approved the financial aspects of the bill on Aug. 1 and sent it to the House floor.

Said Marriott of NHTSA: "Nobody over there, including Joan Claybrook, has the best interest of the public in mind. They're all just trying to save their hides. They don't have the courage to admit they're wrong."

NHTSA's Dugoff said such charges "are just not true." And Claybrook told the Senate subcommittee: "We do not want to remove a system which, from the best evidence that we have at this moment, seems to be improving. The warranty data show that it is getting more and more reliable. Yet if we were to remove the standard, there would be no incentive for the supplier industry to improve the capability of their systems."

Dugoff said agency officials are frustrated with the trucking industry's opposition. But he concedes the agency is partly to blame for the resistance because the first version of the standard turned out to be too strict.

The agency is not alone in its frustration—the manufacturers of the brakes feel their product is getting a bum rap.

"We feel we have a good product," said Roy Nagel, an engineer for the environmental activities staff of General Motors Corp.

Opponents dismiss that belief. "If this is a better brake," said Geoff Myers, a lawyer representing the Truck Equipment and Body Distributors Association, which is fighting the standard, "you wouldn't need a federal mandate" to force acceptance of it.

Surveying the whole controversy, Dugoff commented, "The nature of the debate has become very politicized. The facts are not really being debated anymore."

COURT DECISION

Even more is at stake for NHTSA because of the Court of Appeals ruling in April.

"The decision really shook us up," said Dugoff, "because its precedential implications are immense."

The court ruled that although the standard is necessary and the new system may be reliable one day, the standard should be rescinded until there is evidence that it can be met safely.

The decision also shook up NHTSA's sister agency, the Bureau of Motor Carrier Safety. "It's a bad precedent," said Kenneth L. Pierson, deputy director of the bureau, because the courts "will be substituting their own regulation for the agency's." Pierson and Dugoff said the courts lack the technical background to make such decisions.

If the Supreme Court does not overturn the decision, Dugoff said, "it will be a real blemish on the agency's reputation."

Some say that has happened already. "The real tragedy [of the 121 controversy]," said Shuster, "is that it just discredits the whole highway safety effort. Who will believe them when they come out with their next regulation?"

SEPTEMBER 12, 1978.

HON. DAN MARRIOTT,
Longworth House Office Building,
Washington, D.C.

DEAR MR. MARRIOTT: Since December of 1977 the National PTA has studied the serious problems caused by inadequate field testing of computer-operated brakes on school buses, commercial buses and highway trucks.

The PTA continues to believe that the Bureau of Motor Carrier Safety, as regulated by the Federal Aid to Highway Act, should declare a complete moratorium on all computer-operated air brakes until adequate field testing and subsequent product adjustment has declared such antilock braking regulation safe.

We join the Utah PTA and other concerned citizen groups in urging members of Congress to vote for the complete ban on computer-operated air brakes, the 121 antilock regulation, as specified in H.R. 11733, the Surface Transportation Bill.

Very truly yours,

GRACE BAESINGER,
President.●

TV NEWS POLICIES

HON. CHARLES ROSE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. ROSE. Mr. Speaker, a valuable analysis of the role of television news in situations involving terrorism has been published in the August 26 to September 1 issue of TV Guide, America's television magazine.

In his article, "When Hostages' Lives Are at Stake," John Weisman, TV Guide's Washington bureau chief, examined the complex question of when TV reporters should rush in to pursue news or desist to protect the lives of hostages.

As chairman of the Evaluations Subcommittee of the House Committee on Intelligence, I have participated in hearings on the threat of terrorist activities in this country. Accordingly, I am concerned about the problems inherent in television news policies.

Mr. Weisman and TV Guide have rendered a timely public service by examining an aspect of the awesome challenge confronting television.

The article may assist the television industry and the public in the evolution of ethical values in the context of unprecedented news events in which terrorists seek to manipulate and exploit the media.

TV Guide's article follows:

WHEN HOSTAGES' LIVES ARE AT STAKE

(By John Weisman)

Hostages. That word makes law-enforcement officials very nervous these days. But there is another word, too. One that makes cops, FBI men and security people equally jittery. And that word is television. "Combine the two in the wrong way," says a U.S. Department of Justice official, "and you could have real trouble on your hands."

In the past three years, the United States has experienced scores of hostage-taking incidents. Most, fortunately, have been resolved without loss of life. But during the tense hours of waiting and negotiating, the greatest disagreement, antagonism and conflict

often have not been between hostage-takers and the police, but between the cops and the news media—especially TV.

So far as anyone can tell, no hostage has yet been killed because of something a broadcaster put on the air. Some TV newsmen call that skill. "But it is just damn luck," says a former Los Angeles police chief, Edward M. Davis. Others in law enforcement agree with him. So do dozens of former hostages, many of whom feel that broadcast coverage of their own situations had actually put their lives in jeopardy.

What some in law enforcement call a textbook example of the kinds of mistakes broadcasters can make took place in Washington, D.C., in March 1977. There, 12 Hanafi Muslims occupied three buildings for 39 hours. More than 140 hostages were captured in the siege. Eight in the District Building, two blocks from the White House, 11 in the city's Islamic Center, right in the heart of Embassy Row, and 123 at the national headquarters of B'nai B'rith.

It was, one reporter said at the time, a story made for television. But in the scramble for news, and the competition for scoops, the broadcast media made mistakes. Enough of them, in fact, to cause 70 percent of the listeners in a subsequent radio poll to say that media coverage might have threatened the lives of the hostages. Broadcast coverage was given an even more dismal rating by the Hanafis' hostages themselves. Virtually all thought that the media had had no regard for their lives at one time or another.

What mistakes were made by broadcast journalists during the Hanafi siege?

During an on-the-air interview, Hamaas Abdul Khaalis, leader of the Hanafis, was asked by one broadcast journalist whether or not he felt that he could trust the police negotiators.

A radio reporter mistakenly referred to the Hanafis as "Black Muslims." Word came back to the station that unless an on-air apology was made, several hostages would be decapitated. (The apology was made.)

Another broadcaster, during an interview with Khaalis, asked whether or not the Hanafi leader had "set any deadlines yet." Fortunately, Khaalis overlooked the question.

A minicam unit started setting up in a building just across from the eighth floor area Khaalis occupied. One of the terrorists spotted it. According to Hank Siegel, a hostage at the B'nai B'rith site, the Hanafi said, "Oh, great—television. We'll hang a couple of old men out the window by their ankles. Let 'em take pictures of that!"

Hostage Alan Grip recalls a broadcast reporting that a fire ladder was being erected outside the District Building and police were going up the ladder. "The reporter implied—although he didn't say it directly—that they were about to rush the room where we were being kept. One of the gunmen just went crazy. He screamed, 'You tell those police to take the ladder away or we're gonna start blowing people away.' "

Dr. Frank Ochberg, a psychiatrist at the National Institute of Mental Health, currently serves as a consultant to the FBI on terrorism and hostage taking. "The problem," he says, "is that you're pitting newsmen's First Amendment rights against the managing of life-and-death situations. What you've got is an almost impossible situation. And the hostages are caught right in the middle of it all."

Despite a history of mutual mistrust, there are some places in which the police and the news media have come to an understanding. New York City is one of them. NYPD formed a hostage-negotiating unit shortly after the 1972 Munich Olympics. It was headed by Dr. Harvey Schlossberg, a career police officer who until his recent retirement ran the NYPD's Department of Psychological Services; and Capt. Frank Bolz, a 22-year veteran working out of police headquarters. Both Schlossberg and Bolz characterize their relations with the media as good; a sentiment echoed by a number of New York's TV reporters. But they learned to deal with the media through mistakes.

"I remember our first hostage-negotiating job," says Schlossberg. "The John & Al Sporting Goods store in Brooklyn. Four terrorists holding 14 hostages. Our first mistake was we wanted a news blackout. So we told the press, 'You can't have nothing.' That made 'em good and mad.

"Then we shut off the electric power in the area, so cameramen couldn't use their lights. So the TV stations sent portable generators down to the site, and the next thing you know the criminals were in the dark and the cops were all lit up nice and bright."

Schlossberg's negotiating team managed to rescue the hostages and persuade the terrorists to surrender without a shot being fired. But during the after-siege critique that is part of the NYPD negotiating team's routine, most of the police officers' questions revolved around the media. "We had spent so much time arguing with the media," says Schlossberg. "We knew that neither party was malicious. I decided that it was just a question of misunderstanding."

The NYPD decided to remedy the situation. Bolz and Schlossberg started to include reporters in the same training sessions used by NYPD hostage negotiators (more than 75 reporters have gone through the program so far). "We try to take away the mystique," says Bolz. "If they understand what we do, we think they'll honor our requests."

Why are on-air interviews with hostage-takers such a sore point with law-enforcement officers? One reason, says Bolz, is that "reporters don't know if the question they're asking will set the terrorist off.

"Sometimes," adds Bolz, "reporters are just stupid. A Canadian reporter once called in to a hostage-taker. The perpetrator told him he wanted to trade the hostages for narcotics. So the reporter says, 'Don't be stupid—if you give up all your hostages, you won't have anything to deal with'."

Another reason law-enforcement people dislike detailed coverage is that it tends to harden the position on both sides. Dr. Robert Shellow, who was the principal social scientist for the National Advisory Commission on Social Disorders, puts it this way: "The more the situation becomes public, the more it loses fluidity. It's like labor negotiations or politics. The President and the Congress can argue in private and make progress—each side giving, each taking. But once the press reports where each stands, the positions are set in stone. The same dynamic holds for hostage situations."

"The telephone is a two-edged sword," says Bill Small, senior vice president of CBS News. "Sometimes, I think, it's therapeutic for the terrorist to talk, to tell his story. On the other hand, it's very possible for a reporter to infuriate the terrorist by asking the wrong question."

CBS, the first network to issue written guidelines to its news staff regarding hostage situations, does not rule out making phone calls to terrorists. But, the guidelines continue, "CBS News representatives should endeavor to contact experts dealing with the hostage situation to determine whether they have any guidance on such questions as phraseology to be avoided [or] what kind of questions or reports might tend to exacerbate the situation."

One hostage, who asked to go unidentified, suggests that the networks are not so much at fault in their reports as local TV stations, which tend to send less experienced reporters out to cover hostage situations. The point is echoed by Murray Schwartz, president of Merv Griffin Productions, who was a hostage of Palestinian terrorists at Entebbe. Schwartz adds: "There may also be too much concern on the press's part about the holders, and not enough about the hostages."

NBC has written guidelines for its staff, according to NBC News president Lester Crystal. ABC does not have any, however. Neither do most local stations—the first, usually, to send reporters onto the scene. Indeed, many local stations do not *want* guidelines. James Snyder, news director of WDIV-TV, Detroit, who directed coverage of the Hanafis when he worked in Washington, says, "I'll be happy to sit down and write a whole set on what to do the next time somebody named Khaalis takes over three buildings within two miles of the White House. But I'm not so sure that I can write them to cover every terrorist act that comes up."

Harvey Schlossberg disagrees. Sure, he says, there are several different forms of hostage-taking. "But all of these situations can be reduced to some pretty basic psychological dynamics," says Schlossberg. "What we're doing is talking about people who consider themselves losers. But instead of lying on the floor and kicking their feet or holding their breath, they do something powerful—they take hostages. It's a way for them to manipulate the world. You might say that hostage-taking is a problem-solving device for one with an inadequate personality.

"Now I'm not talking about censorship in any way," Schlossberg insists. "But reporters have got to know that they're part of the dynamics too. These hostage-takers go from obscurity to world power in two minutes just by holding a gun to somebody's head. So you've got to be careful about how much media coverage you give them. Not enough and they're liable to do something outrageous. Too much and they become insatiable."

It would make many law-enforcement officials happy to see the press formulate guidelines that would rule out such elements of hostage coverage as telephone calls to the criminals, broadcasts describing police tactics, live reports and interviews with the hostage-taker's family.

Many reporters, however, feel that the public's right to know is absolute. "No one is out to jeopardize a hostage's life if the police say that putting this or that on the air will do that," says WDVM-TV (Washington) reporter Susan King. "But we must let the community know what is going on. What I report may turn out for good, or it may turn out for evil. Either way, I have no choice: I have to report, and let the editors make the choice about whether to use it or not."

While most former hostages disagree with King, one who does not is Charles Fenyvesi. Fenyvesi, the editor of the National Jewish Monthly, was captured by Hamaas Khaalis at the B'nai B'rith building. And despite his harrowing experience, Fenyvesi insists that, as a reporter, he would feel obligated to call up a terrorist in the course of covering a hostage situation.

"Sure, there are dangers in calling in. But it's also a way to allow the hostage-taker to let off steam. I remember Khaalis coming in and telling us, 'The whole world is watching me; the whole world is calling me!' It was his moment of glory. Instead of killing us, that became his high point."

Is there any answer to the problem of covering hostage-takers? The most frequently heard one is training. But former hostage Fenyvesi adds some cautionary words: "Face it—as reporters, we all thrive on crisis. But somewhere along the line, reporters have got to be told that their primary assignment is to protect life. The media have got to take life over scoop.

"I can tell you, as a former hostage, that no one has really redefined the assignment of covering hostage situations in that way, yet. I just hope that they—that we do it, and soon."●

TAXFLATION AND THE WORKING PEOPLE: WHY TAXES FOR BLUE COLLAR WORKERS ARE GOING UP

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. KEMP. Mr. Speaker, during the August 10 debate on the Revenue Act of 1978, the tax bill, and my attempt, through a motion to recommit with instructions to report back that bill to the House immediately with an amendment including individual income tax rate reductions of about 30 percent over the next 3 years, I stressed the critical importance of that motion and those lower rates to the working people of this country.

My pleas, and those of others equally committed to restoring income growth, went unheeded as the House rejected the motion and then passed the Revenue Act. But that Revenue Act will mean those working people will pay more taxes next year, not less. Under the guise of a tax reduction, that bill allows a major tax increase to go forward.

For example, the average family of four with an adjusted gross income of $12,900 next year will be $7 more, not less, in taxes. Maybe that is not much, but it is when you consider the Kemp amendment would have provided a $73 tax reduction for an $80 difference between the bill and the amendment. If that family makes $18,275 next year, the difference is even more dramatic. The bill provides an $18 reduction, but the Kemp amendment would have provided a $146 one, for $164 difference.

But it is when you stretch out the effects of the bill and the Kemp amendment to 3 years down the road that you see the biggest differences. That family making $12,900 next year will be paying $234 more in taxes in 1981, in contrast with $87 less in taxes if the Kemp amendment had been adopted. The $18,275 family next year will be paying $208 more in taxes in 1981, instead of the $330 less if the Kemp amendment were law. I put tables, showing the difference between the bill and the Kemp amendment for all lower and middle income categories for 1979, 1980, and 1981 in the RECORD of August 17, pages 26816–26818.

During the August district work period an article appeared in the Boston Herald American, written by Warren T. Brookes, a specialist in economic affairs, making this point: The impact the Kemp-Roth legislation, the Kemp amendment, would have in offsetting the higher inflation-pushed and higher social security taxes over the next 3 years.

Mr. Brookes has taken the average American factory worker and the average American middle-income professional worker and has shown the impact of taxflation—the inflation-pushed higher taxes—and higher social security, as well as higher State and local taxes, on those workers.

This very important piece follows:

THE CASE FOR THE KEMP-ROTH TAX CUT—TAXFLATION AND THE WORKING MAN

(By Warren T. Brookes)

George J. is a factory worker in Brockton. On January 1, 1976, he was earning $200 a week—about the national average of $5 an hour. (See Table I)

After taking out for Federal, state and local taxes (including the property tax on his house) and for Social Security, he was taking home $161.69, to spend.

Thirty months later, in June of 1978, George's weekly gross pay had risen, through his union contract and cost of living increases, to $246—again, about the national average of $6.15 per hour.

It was a husky increase of 23 percent in gross pay in 2½ years—or about 9 percent a year—slightly above the national average of income growth.

Unfortunately, since January 1976, George's total tax bill (federal, state and local) has risen 43.2, nearly twice as fast as his income has grown.

As a result his net after-tax income increased only 18 percent—not 23 percent. During this same 30-month period, the nation's consumer price index (CPI) rose 17.2 percent.

This means that, in constant dollars, George's after tax income in June 1978, came to only $163.07, or a net real gain in that entire period of only $1.38 a week! (See Table I)

To put it another way, taxes and inflation ate up 97 percent of George's entire increase in a 2½-year period—which means that his marginal "taxflation" rate is 97 percent.

George, like all other middle American working people, is on a terrible treadmill—the more he earns, it seems, the less he seems to get. The harder he works, the further behind he falls. No wonder productivity in the U.S. is at lowest growth in history.

This is why George, and millions like him are suddenly climbing on the bandwagon for a massive federal tax cut, similar to the one now being proposed by Kemp-Roth bill. (Unfortunately, the House under Speaker O'Neill's urging, narrowly defeated the Kemp-Roth proposal last week.)

Workers understand Congressman Jack Kemp when he talks to them about "the loss of incentive," and the loss of the ability for people like George to save, and to put away for their future.

As Kemp points out, the whole process of inflation is driving folks like George into higher and higher tax brackets, even while inflation is taking away the real value of their praises.

Thus, as George's income rose 23 percent, his federal income tax on that income rose by 80 percent, and his Social Security tax, rose by 27 percent.

The Kemp-Roth tax cut act would cut George's total Federal income tax liability by 41 percent, or about $380 a year (See Table IV)—and would mean that George would have obtained a net increase after taxes and inflation of $8.88 per week, instead of the $1.38 he actually got.

While this doesn't seem like much comfort, its 529 percent more than he is now getting—and George is ready for any favors he can get.

Take the case of William R. who is a $15,000 a year accounting clerk in a Boston insurance company. This year he is receiving a 10 percent increase in pay because of a promotion.

Of that $1,500 increase, 38 percent will go to Federal, state and local taxes, for an additional tax bill of $570 over what he is now paying.

And, another $1,050 of that will go down the drain as a result of the inflation rate of 7 percent, which affects his entire income base.

The result is that, after his $1,500 raise, William will be $120 worse off than he was before he got the raise.

This means his "marginal taxflation" rate is 108 percent! That's the kind of rates that Sweden charges its wealthiest class.

This same process is now at work up and down the income spectrum, with the greatest impact on the group from $15,000 to $30,000 in income, and particularly on white collar workers whose gross incomes have not even kept pace with inflation.

We know a man (Lawrence, K.) who is in his middle age, and holds down a middle management professional job paying about $27,700 a year, up 50 percent from the income he drew in a professional job in middle management back in 1967 (See Table II)

Unfortunately, in that 10-year period his total tax bill has risen from $4136 a year to $9554, a rise of 130 percent—or nearly 2½ times as much as his income!

Worse still, he has watched the CPI (inflation) rise by 95.3 percent. The result is that his after tax income has dropped, in real terms by nearly $5000—or—35 percent, even though his gross income has risen by 50 percent.

Unfortunately, there are many middle income Americans like Lawrence K., whose incomes have grown nowhere near as fast as taxes and inflation—and their living standard has steadily declined.

They are paying marginal "taxflation" rates of from 85 to 120 percent on their every raise—and in the process are falling steadily behind the nation. This is why so many of their spouses are being forced into the labor forces, just to keep up their family standard-of-living—and this is one of the main causes on our 6 percent unemployment rate, at a time when we are employing the highest share of our adult work force in history (58 percent).

Small wonder, when Jack Kemp debated his proposal on the Public Education program "The Advocates" recently, 3500 of its largely upper-middle-income liberal audience wrote in their ballots, 87.5 percent in favor of the Kemp-Roth cut—a vote of 7 to 1 in favor.

This, in spite of very strong charges that the Kemp-Roth proposal was "snake-oil" economics, with disastrous consequences in huge deficits and added inflation.

While we have some reservations about the Kemp-Roth advocates' claims that their 30 percent across the board tax cut will quickly "pay for itself," in increased economic growth, and real savings, we have no doubt either of the fairness, or the necessity of a major across the board tax cut approach, such as they suggest.

What few Americans realize is that, without a major tax cut proposal like Kemp-Roth, they face a total increase of $286 billion, in additional taxes between now and 1983—or the next five years. (See Table III). This is a 107 percent growth in individual and payroll taxes in five years!

Of this, some 114 billion will be in Social Security hikes, alone, while another $172 billion is just from "taxflation" effect on the Federal income tax. This means that without Kemp-Roth the Federal tax burden on individuals will grow 65 percent faster than our personal incomes over the next five years.

Unless something like the Kemp-Roth bill is enacted, this nation is faced with 10–20 years of stagflation—caused by declining productivity growth (now the lowest in the free world) weak capital formation—and a nation of working middle income folks disillusioned by their inability to rise above the mounting tide of government taxflation.

TABLE I.—"TAXFLATION" AND THE AMERICAN FACTORY WORKER

	January 1976	June 1978	Change (percent)
Gross weekly pay	$200.00	$246.00	23
Federal income tax	10.42	18.85	80
Social security tax	11.69	14.88	27
State and local taxes	16.20	12.15	31
Net after taxes	161.69	191.12	18
CPI (inflation) index	166.7	195.3	17.2
After inflation (1976 dollars)	161.69	163.07	.8

Note: Net change in income out of $46 gross pay increase=$1.38. Marginal "taxflation" rate; 97 percent.

TABLE II.—ACTUAL MIDDLE INCOME PROFESSIONAL WORKER (LAWRENCE K.)

	1967	1978	Percent change
Gross annual income	$18,414	27,694	50
Federal income tax	2,835	4,865	72
Social security tax	277	1,071	286
Property tax	560	1,850	230
Sales and excise taxes	46	760*	1,552
State income tax	418	1,008	141
Net	14,278	18,140	27
Inflation index	100	195.3	95.3
Net constant income	14,278	9,288	−35.09
Net loss		(−4,990)	

TABLE III.—TAX INCREASES PLANNED FOR 1979–83

[In billions of dollars]

	1979	1980	1981	1982	1983	Total
Social security	9.5	12.7	24.2	32.6	35.3	114.3
"Taxflation" in income tax	13.4	22.4	32.8	44.9	58.7	172.2
Total	22.9	35.1	57.0	77.5	94.0	286.5

Source: Congressional Budget Office.

TABLE IV.—IMPACT OF KEMP-ROTH ON FAMILY OF 4

Income	Present tax	Proposed tax	Tax cut	Percent cut
$ 8,000	$120	$12	$108	90
$10,000	446	218	228	51
$12,500	917	539	378	41
$15,000	1,330	811	519	39
$17,500	1,745	1,092	653	37
$20,000	2,180	1,388	792	36
$25,000	3,150	2,047	1,103	35
$30,000	4,232	2,781	1,451	34
$35,000	5,464	3,589	1,875	33
$40,000	6,848	4,512	2,336	33

Mr. Speaker, the opponents of Kemp-Roth, the Kemp amendment, upon reading and studying these figures, have said that we should not be concerned about 1980 and 1981, for Congress still has time to enact individual income tax rate reductions in future years.

I have several comments.

First, the importances of individual income tax rate reductions to the economy is not only the dollar impact but also the signal it sends.

Does it send the signal that it wants to lower taxes—a signal that will restore taxpayer confidence in their own economic futures, which cumulatively add to a restoration of confidence in the entire economy? Or does Congress want to raise or keep in place unnecessarily high rates—a signal that makes the future look bleak? Congress' signal on August 10 was that it was for higher taxes. It sent the second, and that is the wrong one.

Second, the likelihood of Congress passing another tax bill in 1979 is slight. There are a number of reasons for this.

Historically, Congress does not pass tax bills back-to-back, because it feels it needs more time to see the economic effects. Congress usually begins the consideration of tax measures in odd-numbered years—the offering of administration and alternative proposals, public hearings, and so forth—but usually does not consider them in final form until the following, even-numbered years, which happen to be election years too. Thus, we are talking about 1980.

Further, as reflected in this year's bill, when Congress does act in an even-numbered year—the next is 1980—the tax changes become effective the succeeding year—which would be 1981. Now, take a look at the tax increases we are going to have between now and 1981 and tell me this is what the Congress wants to saddle the taxpayers with. I cannot believe it, but this is what looks like will happen unless the Senate now incorporates the Kemp-Roth provisions, making them applicable in 1979.●

OCCUPATIONAL CANCER STUDY

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. ANDERSON of California. Mr. Speaker, most of our colleagues know of my long concern for the problems created by occupational exposure to asbestos. I hope each Member of this body reads the article in this morning's Washington Post on the subject of work-related cancer.

According to a study recently conducted by the National Cancer Institute and the National Institute of Environmental Health Sciences, at least 20 percent of all cancer cases in the United States will come from exposure to carcinogens on the job.

The article cites the study as indicating that occupational exposure to asbestos alone may result in 2 million premature cancer deaths in the next 30 years. This would account for 17 percent of all cancer deaths in the Nation. The total figure also surpasses that of every man, woman, and child in any four of the districts which we represent.

About 67,000 people a year will get cancer caused by asbestos. Yet the study says, "There is no sound reason to assume that the future consequences of present-day exposure to carcinogens in the workplace will be less than those of exposure in the recent past." Clearly, we must not allow the present-day exposure level to continue.

On October 9, 1975, new Government standards on asbestos were proposed, reducing the standard on allowable levels of asbestos in the workplace from 2 fibers per cubic centimeter, to 0.5 fibers per the same measure. More recently, the National Institute for Occupational Safety and Health has recommended an asbestos standard based on 0.1 fibers per cubic centimeter. However, neither of these proposed standards have been adopted. Given everything we know, the present 2.0 standard is clearly unacceptable, and I have urged that the appropriate Federal agency propose a standard that will assure the health and safety of American workers and the families. With a stronger standard, the figure of 2 million people who will die from asbestos—and they are people, not just statistics—can be greatly reduced.

A particularly tragic aspect of this problem is the fact that a large number of these workers who will die are Federal employees. And a great many of these are defense employees working in our country's shipyards. I have contacted each member of the House Armed Services Committee, urging that the vetoed defense authorization bill be amended to include a requirement for a study evaluating present standards of permissible levels of asbestos in the shipyards and the need for asbestos in new ships, the feasibility and cost-effectiveness of removing asbestos in presently commissioned ships, and promulgating a possible timetable for implementing this removal.

Mr. Speaker, it is an important first step for this Nation to finally recognize the menacing proportions of occupational exposure to asbestos. It is a frightening problem that will not go away by itself. And the time to act is now.●

BALANCE(S) OF POWER SERIES BOOKS II (H) (ii)—POLITICAL CULTURE

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, in the past issue of the CONGRESSIONAL RECORD I inserted the first part of an article entitled "Generations and Politics in the U.S.S.R.," by Prof. Walter D. Connor, appearing in the September-October 1975 Problems of Communism. The conclusion of Professor Connor's article follows:

Many of the Soviet dissidents have a full participant orientation, but they are a miniscule part of the population. Their demands meet resistance and incomprehension from the persisting "subject" culture, shared by rulers and ruled alike. And the "authoritarion interlude," I would argue, extends over the whole of Soviet history.

What is most interesting—and potentially relevant—here is the connection of Soviet elites, including the "successors," to the mass political culture. As children, young adults, and persons commencing their careers, they imbibed that mass culture with its reflections of official dogma—*i.e.*, the "demonology" of the encircling capitalist world and the roseate picture of a remote Communist future—and with its clear indications of penalties awaiting those who might aspire to political participation on any but its own terms.

Their entrance into the "elite" political culture involves further socialization—into the uses and pleasures, the problems and risks, of power. The power they now possess makes them anything *but* impotent. Yet, their intermediate, pre-elite socialization—as wielders of derivative power on the lower levels of party and state bureaucracies—can scarcely have done other than impress upon them the endurance, the "immutability" of the Soviet polity and its game rules. From such material, one does not anticipate the emergence of personalities who will transform the political system in any fundamental way.

Expectancy.—This term admittedly lacks precision; if anything, it is distinguished mainly by its crudity. Yet it connotes an important fact, namely, that Soviet citizens, despite their apoliticality and convictions of impotence, are strongly oriented toward their polity's "outputs." Subjects and *not* parochials, they expect things of the state. And herein lies one of the main sources of the stability of the system—but also a source of potential danger, for the edge of expectancy can cut both ways.

Delivery of expected output, or delivery of the unexpected but welcome good or service, has been as critical a part of the Soviet mass experience of governmental performance as the deprivations the regime has imposed. The high evaluations placed by Soviet citizens on the provision of socialized medical care and universal basic education, as well as on the career and upward mobility opportunities afforded by the expansion of higher education, were major stimuli of social support for the

regime even in the Stalin years, as mass interviewing of the refugees of that era demonstrated.[16] Largesse is scarcely the rationale for governmental provision of such services and opportunities: an industrializing regime needs to provide them in order to develop, mobilize, and maintain a more "modern" population and labor force. But the Soviet population, with a historically low level of expectancy (or output-orientation), may experience them as "goods" freely allocated, to be balanced against the rigors and deprivations of a totalitarian regime. Chalidze spoke recently to this point, blaming "ideologues" for not informing the population that "the payment of pensions or the allocation of new apartments is not something for which the government should be thanked, but rather something that should be viewed as an obligation of the government under the Soviet economic system."[17] His criticism is no doubt well-warranted, but the critical point here is that the ideologues may and probably have succeeded quite well in convincing the population that the government is to be thanked for such benefits.

(The relative modernation of Soviet mass expectations despite lifelong exposure to utopian rhetoric also contributes to stability. Modest but steady improvements in housing, the availability of consumer durables, in the provision of food, have apparently been sufficient to keep the rank and file from Minsk and Omsk satisfied with their lot until that day when "communism achieved" will banish scarcity.[18] Although, by Western standards, Soviet life is still mean and shabby, one of the greatest accomplishments of the regime, as "manager" of its subjects' expectations, has been to insure that Western standards do not become a critical reference point.)

This, however, is only one side of the coin: expectancy may also prove a source of weakness. To the degree that I am correct in arguing here that public expectations are a stable and important part of Soviet mass political culture, they can be potentially dangerous in the event that they are abruptly violated.

Recent Soviet history provides us with examples of these dangers. The violent civil disturbances in Novocherkassk in 1962, evoked by sudden rises in the cost of foodstuffs the population *expected* to continue receiving at relatively stable prices, is a well-known one—and I doubt that any serious student would believe this to have been the *only* such disturbance that has occurred for such reasons. Andrei Amalrik underscored precisely these considerations in his "1984" essay.

He argued that working-class irritations and discontent, though real, were neutralized to a considerable degree by material progress, but speculated that a break in that progress, "an abrupt slowdown in the growth of prosperity, a halt or a move backwards, would evoke such strong outburst of dissatisfaction, combined with violence, as would previously have been impossible."[19]

Other evidence, of a different sort, points to the powerful effect of the socialization processes in developing a certain level of "expectancy" among Soviet citizens. Some Soviet émigré arrivals in Israel, it seems, find the adjustment to a life and economy with less structured and formalized allocative mechanisms difficult. Even professionals alienated from the Soviet system—artists, doctors, scientists, etc.—seem in retrospect to have been "well-adjusted" in the sense that their expectations with regard to a guaranteed market for their canvases and services, guaranteed facilities for their work, etc., had been met in the USSR, so that they found the absence of these advantages in Israel a source of difficulty.

Today, as Western nations face severe economic problems and domestic turmoil, the Soviet Union, as usual, seems quite stable—no doubt owing, in part, to an acceptable performance in meeting the mass expectations of the Soviet people. Yet, the USSR has no guarantee that it can manage to do so indefinitely. If circumstances should reduce its output capacity, the expectancies built into the political culture, which now *support* the regime, could well turn against it.

The risks inherent in building stability on capacity to "deliver" reflect the fact that virtually *all* the socialist regimes in the Soviet orbit—albeit in varying degrees—have moved "from utopia to pragmatism" as a central legitimating principle. Their claim on mass loyalties is rooted, now more than ever before, in their ability to "deliver the goods" within a demand structure that they can seek to moderate but cannot transform substantially or suppress.[20]

The Soviet political culture has been fashioned by history—by the history of the system (the blueprint of which is still so much the product of Stalin), by the life histories of Soviet citizens, and indeed by the history of pre-Soviet Tsarist Russia, as well. There is thus the force of *inertia* behind it, a tremendous inertia which must be taken into account in any attempt to anticipate political change in the USSR, and which should make us wary of speculations that rely too heavily on an inexorable "logic" of development of the Soviet system or on the "necessity" of change due to the difficulty of carrying out coordinating and integrative tasks in an increasingly complex USSR.

The impact of history, as we see it in the political culture it has formed, should not be slighted in answering the questions raised at the start about "generation gaps." Some of the answers that relate to the short-term prospects for change are implied in this section. Explicit answers may be deferred until after we have examined some forces which may militate for long-term change—in particular, the various currents of dissent that have emerged in the last ten years and seem to point toward a differentiation of the political culture.

DISSENT: ALTERNATIVE SUBCULTURES

When the history of the Soviet Union of the 1960's and 1970's is written, dissent will figure as a major phenomenon. On the other hand, the system's phenomenal stability, its failure to crack or to change in character under the assaults of the politically alienated, will provide an equal amount of grist for the historian's mill.

Despite the stability of the system, dissent has nonetheless demonstrated the rise of differentiated political "subcultures" in the USSR, or at least shown that the seeds of such subcultures do exist. If the concrete manifestations of dissent might have been unpredictable, the emergence of the underlying attitudes could have been foreseen.

The manifold problems arising from a policy of coordinating the relations between the polity and the specialized functional sectors of an increasingly complex system—i.e., between apparat and "functional elites"—in accordance with predominantly command rather than exchange criteria[21] have worked to alienate some of those elites and even to cause them to deny the legitimacy of the system.

However, a complementary phenomenon, pinpointed by Rudolf Tökés in a recent essay,[22] complicates any projections one might make on the basis of this alienation: while the regime since the mid-1960's has lost legitimacy in the eyes of many members of functional elites, its legitimacy has probably grown for the masses as a whole. As suggested above, the main reason for this is very likely that the regime has "delivered the goods" in material terms, thereby responding to the "secularized" criteria of legitimacy by which the masses measure governmental performance.

Dissent, then, has been generally—though not totally—an enterprise of the elite. Occupational status, education, and the remnants of a critical tradition among the intelligentsia have made the elites—scientific, technical, and creative—the logical carriers of "pure" political dissent, that is, of dissent which challenges the system as a whole. This kind of dissent requires the ability to construct and manipulate abstract ideas, to conceptualize political alternatives, to ask basic questions about the goals of the policy as well as its methods, whether in a "moral absolutist" or an "instrumental-pragmatic" framework.[23]

The dissenters' prescriptions for change are diverse—ranging from Sakharov's advocacy of liberal democracy, through Solzhenitsyn's appeal for a benevolent and depoliticized authoritarianism (the furthereste he deems the current leadership capable of going), to Medvedev's return to "true" Leninism—but all represent alternative systems, not simply "adjustment" in the polity of today. This may even be the case with some of the neonationalist, "Russite" dissent, which supports new forms of authoritarian politics as desirable in themselves.

Two points are worth making with regard to the potential of this variety of dissent. First, it involves only a small minority of those who belong to functional elites. The majority are presumably willing to accept the micro-level "exchange" relationship which exists between themselves and their political superiors and which assures them of relative affluence and security in return for competent service and political quiescence, though it denies them a role in setting goals.

Second, the issues raised by the minority of dissenters seem to have little root in, and little resonance with, the concerns of the masses. Indeed, the absence of a link between the elite and the masses is one of the weaknesses of the "democratic movement" that have enabled the regime to contain it and to be flexible in coping with it.

The specter of dissident members of the elite helping to generate, and then articulating, active resentments among the masses is one which must at times haunt Soviet leaders, but at present the latter have little reason to worry about so improbable a development.[24]

Very different from "programmatic" political dissent, with its alternatives to the current system, are the national-ethnic and religious forms of dissent. The issues that these kinds of dissent raise do concern members of the Soviet masses. At the mass level, "rights" such as the right to worship, to speak a given language, to keep one's identification with a given group, to live in one's own "home" within Soviet borders, mean more than the right to choose between electoral candidates; they are more than "abstractions" that concern the intelligentsia alone.

Here, there is a commonality of concern that links dissident elites and the masses in a common enterprise—the protection and advancement of national and religious identity. But such demands differ from those of the primarily "political" dissenters in that they could for the most part be accommodated without major change in Soviet political structures, although they would imply changes in the substance of politics. In the ethnic and religious spheres, what the dissenters are demanding, essentially, are immunities, not from Soviet law as it is written, but from the systematic violation of legal guarantees that has been an operative principle of the system in action.

It is an interesting irony that the rise of dissident political subcultures around issues of ethnicity and religion is, to a significant degree, the product of Soviet mobilization successes over the past fifty years. Soviet modernization, as manifested particularly in economic development, in the extension of universal basic education and literacy, even in the development of the state administrative network itself, has moved the non-Russian nationalities far from their predominantly "parochial" political culture of

Footnotes at end of article.

Tsarist times. Among the ethnic masses, there has developed a subject culture in which they are concerned with government "outputs," and at the same time at least the germs of a participant culture have been planted among the ethnic elites. Could peasant illiterates "mobilize" in the way the Crimean Tatars have done? Similarly, could traditional agrarian populations, Russian or non-Russian, organize the networks of communication and action in defense of religious identity that groups ranging from the Evangelical-Baptists to the Lithuanian Catholics have? The answer is clearly negative. But the process of modernization has distributed to national and religious groups, elite and mass alike, a modicum of resources for initiating unconventional political action. These resources, diffused and limited as they are, can hardly be compared to the centralized coercive resources at the disposal of the regime, but they are more than nothing. They have enabled mixed populations of elite and masses to develop a shared political language and consciousness around certain issues of joint interest; to break, at leat partially, with the apoliticality and feeling of impotence of the dominant political culture; and to assert expectations not officially "legitimized." They, like the dissidents whose focus is on the broader issues of political structure, have contributed to the restoration of "politics" in the USSR.

PRESENT AND FUTURE

The past decade has witnessed change in the internal landscape of Soviet political life, change that has emerged, not because of, but despite the regime's preferences. Manifested in ways ranging from nonviolent demonstrations on Pushkin Square to the creation of the now rich literature of dissent, it amounts to an open assumption by a small but committed stratum of people of a "participant" orientation toward politics. In no sense, however, has this change been legitimized and incorporated into the system. The boundaries of the system have remained stable despite the change in the landscape dissent has been contained, though not rooted out.[25]

Various analyses during the same decade have offered differing diagnoses of the Soviet system's health. These have ranged from prescriptions that the system must change its ways or die[26] to conclusions that, afflicted though it undoubtedly is by various maladies to which any complex system may be subject, it still "works" effectively enough to rule out any diagnosis of terminal illness.[27] Certainly, there have been grounds for both kinds of diagnoses, but more, it seems for the latter.

On balance, the Soviet Union has weathered the past decade rather well. Economic reform has been very modest by East European standards, and economic problems persist; but the economy has survived, even with a much smaller influx of Western technology and investment than the regime has eagerly sought. The relationship between the polity and the specialized functional sectors of society has changed little, if at all, but no evidence of consequent instability has yet emerged. In the international arena, the USSR has been the beneficiary of a certain amount of luck, but it has also drawn on its own resources to maximize its advantages. Almost a decade has now passed since some Western analysts saw the alternatives the system faced as transformation or degeneration. It has faced them and has done neither—and it has survived.

Thus, it would appear that those who expect striking changes from the inevitable succession process will be disappointed. Yet it is often hard to temper rhetoric and expectations with recognition of current realities: one analyst suggests that changes to come in the Politburo will be "sweeping and important," but several lines later, in discussing differences in the "formative political experiences" of the current leaders and their presumptive successors, he finds "no strong grounds for believing that they are of major significance."[28] In my own view, any likely newcomers to the Politburo in the next few years have already been sufficiently exposed to the mass and elite variants of the political culture to guarantee that they will resemble their seniors. It is, after all, the only political culture they know, and given their ages, they began learning it in the Stalin era, have witnessed its durability in the Khrushchev years, and seen it support the regime since 1964.

The extreme centralization of power in the Soviet system—a fact inexplicably overlooked by many whose reading of "popular" moods leads them to expect change—provides an additional guarantee of continuity. Even if we had strong evidence of "generational" fissures in the mass political culture, there is no reason to assume that Politburo (and Central Committee) recruitment policies must reflect them. The regime does not engage in random sampling to seek its successors. Those successors are the survivors of a process spanning their prior party-state career, during which those noted by their seniors for incompetence, failures, or manifestations of heterodox ideas and "instability" have gradually been sifted out. The survivors are consequently all the more likely to lack such "negative" characteristics and to be more like their superiors than not. Moreover, until those superiors themselves move on, they can still demote and remove their presumptive successors. They retain the power to do so, and they will use that power.

There is still a further reason for being chary of placing undue importance on generational differences in the context of the political succession. "Leaders" are by definition atypical, unrepresentative of the age groups from which they are drawn. This is so in the Soviet Union as well as elsewhere, and there is no reason to assume that it will change. (Many Western scholars have by now spent substantial periods in the USSR, especially in universities.

Possibly one can read the Soviet future there, but it is not written on the faces of the "typical" students with whom one may have a good deal of contact, but rather on those of the Komsomol activists, with whom one has rather less contact overall.

On balance, then, the Politburo of 1980 or thereabouts should resemble in its dynamics—both in the "united" face it presents to the world and in the bureaucratic log-rolling, interest brokerage, and in-fighting it hides—the Politburo of 1975. This is not to say that a "1980-model" Politburo will not introduce important changes in various policies, but only to suggest that it will "operate" in much the same manner as its predecessor has, combining incrementalism and sudden changes in unequal proportions "Liberalization" or "tightening" in domestic life are alternative possibilities, as are movements "backward" or "forward" on a number of economic issues; yet, whatever turn decisions on policy issues may take, there seems little warrant to expect that they will be reached more openly, or be based on broader "consultative" practices, than has been the case in the last few years.

A new Politburo will inherit the advantage of a mass political culture which has found regime demands tolerable, and output satisfactory, in the post-1953 period. Whoever the main "personalities" may be (a matter of speculation, which I leave to others), they will likely maintain a firm grip on the monopoly of power in the face of potential domestic challengers. If events on the global scale do not disturb military security and economic performance, the successors should manage to continue "delivering" in accord with mass expectancies as in the recent past, and their legitimacy, secularized as it may be, will remain secure. If, on the other hand, a military conflict with China should develop and be prolonged to the point of excessive strain on economic and human resources (despite the popular support such a "defensive" war would initially engender), or if a change in the Middle East situation should lead to a large-scale involvement of troops and materiel abroad, "history" is likely to reassert itself, posing critical questions about the viability of the system under stress.

Then, aspects of the political culture which have been sources of stability could work instead to weaken the system. A regime which rests on the apolitically of the masses in "good" times cannot be sure of the continuing support of apolitical masses in bad times. A regime secure by virtue of convictions of political impotence on the part of the masses cannot be confident of security if its coercive resources, which in the final analysis insure that impotence, are overstretched to deal with foreign enemies. And a regime which has, for all its ideological rhetoric, gained support largely through a thoroughly "secular" satisfaction of the everyday expectations of most of its subjects, can lose such support should the expectations grow to the point where they could no longer be met.

FOOTNOTES

[16] See Alex Inkeles and Raymond A. Bauer, *The Soviet Citizen*, Cambridge, Mass., Harvard University Press, 1961.

[17] *Op. cit.*, p. 19.

[18] Paul Hollander deals perceptively with the moderation of mass expectations in *Soviet and American Society:* A Comparison, New York, Oxford University Press, 1973, pp. 338 ff.

[19] Amalrik, *loc. cit.*, p. 61.

[20] For a discussion of such "secularization" in a related context, see this author's "From 'Utopia' to the 'Pragmatic' Society: Social Consequences of Economic Reform in Eastern Europe," *Revue d'Etudes Comparatives Est-ouest* (Paris), March 1975, pp. 107–41 (paper originally presented at the International Slavic Conference in Banff, Canada, September 1974).

[21] An earlier piece by the author in this journal dealt with the relevance of different modes of integration to the potential for political dissent. See "Dissent in a Complex Society: The Soviet Case," *Problems of Communism*, March–April, 1973, pp. 40–52.

[22] See Rudolf L. Tökés. "Dissent: The Politics for Change in the USSR," in Henry W. Morton and Rudolf L. Tökés, Eds., *Soviet Politics and Society in the 1970's*, New York, Free Press, 1974, p. 8.

[23] These are Tökés's terms, *op. cit.*

[24] Barghoorn (*Politics* . . ., pp. 60–61) sees such potential dissident elite-mass linkage as a matter of concern, albeit remote, for the regime. And indeed, such "unorthodox" tactics as stuffing Moscow mailboxes with *samizdat* appeals to "workers" to consider their distinctly underprivileged economic situation may be conducive to Politburo nightmares. But, as Chalidze (*op. cit.*, p. 170) indicates, people have learned their lesson well and are as likely as not to turn over such unauthorized material to the KGB.

[25] Despite the "tightening of the screws" on dissidents over the past two years, the outflow of *samizdat* has apparently not abated, nor has the earlier suppression of the "Chronicle of Current Events" proved permanent. See Albert Boiter, "Samizdat Review: Summer 1974," Radio Liberty, *Dispatch* (Munich), 342/74, Oct. 25, 1974; and "Samizdat Review for Autumn 1974," Radio Liberty, *Research* (Munich), 49/75, Jan. 30, 1975.

[26] This was the general thrust of many of the pieces on the Soviet future published in this journal from 1966 through 1968 and collected in Zbigniew Brzezinski, Ed., *Dilemmas of Change in Soviet Politics*, New York, Columbia University Press, 1969.

[27] The writings of Jerry Hough, especially, point up the adaptiveness and stability of the system. See "The Soviet System: Petrification

or Pluralism?" *Problems of Communism* March-April, 1972, pp. 25–45; and *The Soviet Projects: The Local Party Organs in Industrial Decision-Making*, Cambridge, Mass., Harvard University Press, 1969.

[2] See Terry McNeill, "Some Reflections on the Soviet Political Leadership," Radio Liberty, *Dispatch*, 299/74, Sept. 20, 1974, p. 17.●

DISCREPANCIES IN NAVY STATEMENTS CONCERNING THE GENERAL DYNAMICS SETTLEMENT

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. DOWNEY. Mr. Speaker, I have obtained a copy of an internal Navy document which critically analyzes the Navy's official memorandum of decision issued in the General Dynamics shipbuilding dispute.

The memorandum of decision, transmitted to Congress on June 19, 1978, purported to set out the factual background of the General Dynamics settlement as well as the terms of that agreement. However, this document, dated July 19, 1978, discloses some serious inaccuracies and misrepresentations in the official memorandum. Among the discrepancies outlined are:

(1) While the Memorandum terms the $2.668 million estimate to complete the General Dynamics' contracts "realistic"—NAVSEA considers this projection to be "optimistic" and estimates that the cost of completing the contracts could be as much as $100 million more than the figure cited in the settlement agreement.

(2) Although the Memorandum stated that the first 23 SSN 688 submarines "were governed by contracts which provided inadequate flexibility to cope with abnormal inflation"—it was commented in the internal document that "Claims evaluation on all SSN 688 contracts has substantiated that delay and manhour overruns not 'double digit' inflation, are the overwhelming cause of escalation/inflation cost growth".

(3) While the Navy claimed that "shipbuilding uniqueness and complexity connected with the new SSN 688 attack submarine were intensified by the severely restrictive contractual structure"—a critique of this statement expressed that "The SSN 688 was (particularly from a shipbuilder standpoint) evolutionary and similar to the SSN 637 Class. Differences, where they existed, were obvious from study of the bid package . . ."

(4) Although the Memorandum stated "Choice of an alternative design source resulted in significant costs to EB despite efforts by the Navy to make this an effective process"—the internal document noted that "There are no indications that the alternate i.e. Newport News design source inherently caused increased costs to EB".

(5) In reaction to a Memorandum statement that "The initial issue of detailed design drawings was completed in March 1976"—the document commented "This is misleading if not inaccurate. By the end of 1973 more than 90 percent of the total first flight SSN 688 Class drawings had been issued".

I find these inaccuracies and misrepresentations to be deeply disturbing. This internal Navy commentary raises several factual issues regarding the responsibilities to be shared for the massive overruns experienced in the General Dynamics 688 contracts. In order to let others judge for themselves, I would like to include the whole Navy document in the RECORD at this time:

MEMORANDUM

Subject: *Memorandum of Decision*, Department of the Navy—General Dynamics Corporation of 19 June 1978.

Enclose: (1) Inaccurate Statements on Subject Paper; (2) Misrepresentations on Subject Paper.

1. PMS 393 was verbally tasked to identify any inaccuracies associated with subject paper.

2. Enclosure (1) contains two inaccurate statements associated with the 19 June 1978 decision. Enclosure (2) contains statements considered to be misrepresentations of the actual situation portrayed in the decision paper. Since, in many cases, there is human judgment involved, the label of misrepresentation vice inaccuracy has been attached.

Very respectfully,

C. E. MASALIN.

INACCURATE STATEMENTS ON SUBJECT PAPER

Statements and comments are "keyed" to the Memorandum of Decision by page and paragraph. Pages with an "A" designation refer to the attachment number 1.

STATEMENTS

"The Navy elected to develop an alternate design capability for submarines after exclusive use of EB design talent for almost 20 years." Page 1, paragraph 7.

"EB had been the submarine Design Agent for all nuclear submarines from the early 1950s until the SSN 688 program came along in 1970." Page 7A, paragraph 2.

"*Second*, Newport News was designated Design Agent for the SSN 688, whereas EB had served in this capacity for all previous nuclear submarines." Page 2A, paragraph 7.

"This changed with the SSN 688 because EB suddenly was just a builder rather than a designer/builder. It is true that the Navy instituted controls in an attempt to make the Newport News/EB interface work. However, there can be no question that there were serious problems associated with this new arrangement."

COMMENT

The Navy has not used EB exclusively for the design of nuclear submarines nor was the role of follow shipbuilder new to EB. Mare Island Naval Shipyard has performed as a nuclear submarine designer as has Portsmouth Naval Shipyard, which designed the SSN 593 Class in which specific case EB was a follow shipbuilder.

Regarding the Newport News Design Agent interface communications with EB, it is a matter of record that open and direct communications were established at the outset of the SSN 688 program. These communications which included NAVSEA, EB and Newport News (designer and builder) included bidder's questions, mock-up visits, Liaison Action Requests (LAR), Design Agent Shipbuilder Conferences and complete availability to EB of all Design Agent prepared data. In addition EB had their own on-site representatives at the Design Agent's plant on a full-time basis.

Further, EB as a submarine Design Agent and follow builder on SSN 593 Class, was completely familiar with design yard/follow yard relationship and how to work under it.

STATEMENT

"EB delivered SSN 637 ships an average of 2.4 months ahead of schedule while the other shipbuilders delivered on an average of 5.3 months late." Page 7A, paragraph 4.

COMMENT

EB delivered its SSN 637 Class ships an average of 5.7 months late from original contract delivery. It did deliver the last 8 of 14 ships of this Class on or ahead of schedule. Newport News, follow builder of the SSN 637 Class, delivered ships an average of 4½ months late to schedule. Further, Newport News delivered its first SSN 637 Class ships, USS *Queenfish* (SSN 651), prior to EB delivering the first ship of the Class, USS *Sturgeon* (SSN 637).

MISREPRESENTATIONS ON SUBJECT PAPER

(Comments on Memorandum of Decision Department of the Navy, General Dynamics Corporation dated 19 June 1978).

Statements and comments are "keyed" to the Memorandum of Decision by page and paragraph. Pages with an "A" designation refer to the attachment number 1. The statements have been arranged in five basic subject groups which are considered most significant and which are repeated throughout the memorandum. The comments are not necessarily meant to "go forward" but are intended to: (1) alert ourselves and management to possible factual disagreement and (2) create possible questions (and answers) that the Command may face in upcoming hearings.

FINANCIAL

STATEMENTS

"Independent financial verification confirms magnitude of the anticipated unreimbursed costs." Page 1, paragraph 3."

"Coopers and Lybrand, a firm of independent public accountants retained by the Navy, has concluded, based on their comprehensive review, that General Dynamics employed reasonable procedures in arriving at this amount." Page 2, paragraph 6.

"The financial analysis confirmed that General Dynamics faced a loss of $843 million on the two SSN 688 contracts. This loss projection assumes what both parties believe to be realistic, an average labor inflation of 7 percent per annum and a material inflation of 6 percent per annum over the remaining six years necessary to complete the two contracts."

At the Navy's request, the independent accounting firm evaluated the impact of the probable loss, verified that the financial data provided by General Dynamics was accurate and reached the conclusion that it would remain a viable corporate entity if it absorbed a fixed loss in the order of magnitude ultimately agreed to—$359 million." Page 1A, paragraph 4.

"In February 1978 EB reported that the projected program loss for both SSN 688 contracts could be as high as $981 million. At the same time EB issued a revised delivery schedule which contained substantial slippages. Also included were schedule slippages on TRIDENT. In its April 1978 public financial statements for its fiscal year 1977, GD revised the projected loss to $843 million on the basis of a lower and what both parties believe to be a more realistic estimate of labor and material inflation." Page 5A, paragraph 3.

"The $2,668 million estimate to complete is considered realistic and has been reviewed by the previously mentioned accounting firm, Coopers and Lybrand, as well as by the independent auditors of General Dynamics (Arthur Andersen & Company). This included the estimate of the manhours required to finalize construction of the SSN 688 submarines." Page 12A, paragraph 2.

COMMENT

The above statements deal primarily with cost estimates at completion ($2,668 million) and the resulting loss ($843 million). Ship cost estimating (distinct from financial verification) is clearly outside the technical scope of any accounting/financial firm.

Another concept tied into these statements is that the revised projected loss of $843 million is on the basis of lower and more realistic estimates of labor and material inflation, which "both parties agree to." The Navy agreeing to lower rates may be in conflict with present NAVY/OSD projections of inflation.

Based on analysis of cost at completion, NAVSEA considers estimate at completion of $2,668 million optimistic. NAVSEA currently considers the cost at completion could be as much as $100 million more.

INFLATION/ESCALATION

STATEMENTS

"Given the above factors the protection against inflation afforded by the first two SSN 688 contracts proved inadequate under conditions of schedule slippages and during the double digit era of 1974–1975." Page 3, paragraph 6.

"Fifth, the first SSN 688 contract contained an escalation clause that had proved adequate for economic protection during the stable 1960s but would prove to be woefully inadequate during a period of double digit inflation and under conditions where schedules were radically altered through Navy and contractor related causes, as well as factors beyond the control of either party." Page 3A, paragraph 3.

"Contractually the SSN 688 was a transition phase in defense procurement policies. The first 23 ships (18 under 2 EB contracts and 5 under 2 Newport News contracts) were governed by contracts which provided inadequate flexibility to cope with abnormal inflation." Page 6A, paragraph 4.

"The risks of inflation, inadequately covered in the two SSN 688 contracts, are fully anticipated by the terms of the contract, reformation the settlement provides for (Attachment 2, para. 7)."

COMMENT

The "inadequacies" (if any) of the escalation provisions of the two SSN 688 Class EB contracts is apparent only in the event there is ship construction/delivery delay. Compensation is based on the Bureau of Labor Statistics (BLS) indices which also reflect "double digit" inflation. Claims evaluation on all SSN 688 contracts has substantiated that delay and manhour overruns not "double digit" inflation, on the overwhelming causes of escalation/inflation cost growth.

SSN 688 CLASS VICE SSN 637 CLASS

STATEMENTS

"The Navy entered the 1970s with an urgent demand for a new class of nuclear attack submarines that would embody significant advances in submarine technology." Page 1, paragraph 5.

"The SSN 637 Class nuclear attack submarine, dating back to the early 1960s, had been an extremely successful program due in large measure to excellent performance by Electric Boat, the designer and major producer of this Class. Page 1, paragraph 6.

On the basis of assumptions that history would later portray as overoptimistic, the SSN 688 program was considered to be merely an evolution from the SSN 637. In retrospect, significant misjudgments were made by both the Navy and industry."

"The following extract from the Navy preaward survey regarding construction of the first flight of SSN 688s reveals a basic fallacy: Page 2A, paragraph 3–5.

"The requirements are generally *sufficiently similar to previous SSN 637 Class* and 671 construction requirements to merit the conclusion that EBDIV, with proper management preplanning, etc., can meet the production requirements." (Emphasis added)

COMPETITIVE ENVIRONMENT FOR SSN 688 FIRST FLIGHT (1971)

Hindsight underscores five key aspects of the competition for the first SSN 688 construction contract:

"First, was the stated optimism which viewed the SSN 688 as an evolutionary development, just as the SSN 637 Class was an evolution from the USS PERMIT (SSN 594) Class."

STATEMENTS

"Shipbuilding uniqueness and complexity connected with the new SSN 688 attack submarine were intensified by the severely restrictive contractual structure, the inadequate productivity of a rapidly multiplying work force, and the extraneous forces of unforeseen inflation." Page 3, paragraph 7.

"It gradually became apparent that the SSN 688 was considerably more than just a larger SSN 637." Page 6A, paragraph 3.

COMMENT

These statements dispute and contradict the Navy's technical judgements regarding comparisons of SSN 688 Class with the previous SSN 637 Class submarines. The SSN 688 was (particularly from a shipbuilder standpoint) evolutionary and similar to the SSN 637 Class. Differences, where they existed, were obvious from study of the bid package data—drawings, specifications and lists of Government Furnished Equipments and full scale mock-ups, all of which were available to EB prior to building SSN 688 Class submarines.

EB was in a particularly good position to assess the "evolutionary" aspect of the differences between SSN 637 and SSN 688 designs. EB was directly involved in similar past evolutions in submarine design such as that from Nautilus to Skate and Skate to Skipjack.

With regard to statement from the preaward survey, NAVSEA notes the purpose of this survey was to determine if EB had the capacity and capability to build SSN 688 ships. This EB has done. NAVSEA questions conclusion that reference to similarity to SSN 637 Class reveals a "basic fallacy."

SECOND FLIGHT PRICING/NEGOTIATIONS

STATEMENTS

"Second flight negotiations were significantly influenced by SSN 637 experience and early first flight experience, primarily estimates rather than actuals." Page 2, paragraph 4.

"Government and contractor optimism still ran high. EB cost reports and the first flight manhour estimates were the primary basis for second flight pricing. First flight manhour estimates to complete showed little change from those proposed and accepted in January 1971 when that flight was awarded." Page 3A, paragraph 6.

"In effect, the Navy was in a sole source position with Electric Boat." Page 4A, paragraph 2.

"The second flight (11 ships) bidding posture by EB is a key to an understanding of the critical situation which later developed. A basic premise for the bid was the very favorable SSN 637 experience, together with more reliance on the then meager first flight experience than was warranted." Page 6A, paragraph 1.

COMMENT

The second flight negotiations were not influenced by SSN 637 experience. Although the shipbuilder utilized SSN 637 Class data in his proposal preparation, the negotiations were based exclusively on SSN 688 requirements with particular emphasis placed on the EBDIV direct manhour estimates (as contained in EB cost reports) to construct the first flight ships. SSN 637 experience performance was not discussed.

DESIGN AGENT

STATEMENT

"Choice of an alternative design source resulted in significant costs to EB despite efforts by the Navy to make this an effective process." Page 3, para. 4.

COMMENT

There are no indications that the alternate i.e. Newport News design source inherently caused increased costs to EB.

STATEMENT

"The initial issue of detailed design drawings was completed in March 1976." Page 12A, para. 4.

COMMENT

This is misleading if not inaccurate. By the end of 1973 more than 90 percent of the total first flight SSN 688 Class drawings had been issued. Those not issued were essentially minor drawings such as stowage lockers or were associated with HMR's which were authorized later in the construction period.

MISCELLANEOUS

STATEMENT

"By implementing the foregoing basic elements of the Agreement between the Navy and General Dynamics, the Navy will, by strict analysis, pay a competitive price for the 18 SSNs constructed by General Dynamics." Page 4, paragraph 7.

COMMENT

It is not clear what is meant by "strict analysis" or "competitive price." The only competitor is Newport News where a final price has not been established. However, based on current Navy estimates, it appears that EB ships (including the proposed settlement) are significantly more costly than those at Newport News.

STATEMENT

"Fourth, the primary award criteria were based on ceiling price. The result of this radical technique was inordinately to lower the spread between target and ceiling in a fixed-price-incentive contract and reduce virtually to the point of disappearance the flexibility for absorbing cost increases within the terms and conditions of the contract. This technique was used by the Naval Sea Systems Command only on the SSN 688 first flight contract and, as a matter of Naval policy, has not and will not be used again." Page 3A, paragraph 2.

COMMENT

Award of the SSN 688 Class follow ship contracts was based on the objective of obtaining the lowest total cost to the Navy. Contractually, ceiling price is the maximum Government cost exposure. Therefore, ceiling price was determined by the Navy to be the best method for evaluating the first SSN 688 Class bids. All three bidders were clearly on notice of this bid evaluation method prior to submitting their bids. The spread between target and ceiling was set by the shipbuilders in their proposals.

STATEMENT

"Newport News" turned out to be essentially noncompetitive in the second flight bidding. Proposed prices were high and many exceptions were taken to the terms and conditions of the request for proposal. This was a period of deteriorating relations between the Navy and Newport News." Page 4A, paragraph 2.

COMMENT

Agreement was reached with Newport News on terms and conditions. The award was based solely on price. It had nothing to do with deteriorating relations between the Navy and Newport News.

STATEMENT

"The delay and disruption caused by late GFI furnished by the Navy Design Agent warrant recognition beyond that obtained through strict claims analysis. The inherent difficulties of documenting and analyzing disruption are well understood in Government and in the shipbuilding industry. The lateness of GFI early in the program, particularly as it impacted EB as the follow-on shipbuilder, undoubtedly created a disruption problem that is real despite an inability to quantify this with desired precision." Page 10A, paragraph 5.

COMMENT

The Navy by claims and analysis and quantification paid for a major percentage of the claimed delay and disruption caused by late GFI.●

MIA LIVE SIGHTINGS II

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. DORNAN. Mr. Speaker, in yesterday's CONGRESSIONAL RECORD (p. 28838), I asked the Members of this House to oppose any premature declarations of death for Americans listed as missing in action in Southeast Asia. When I consider the possibility, the awful possibility of living, imprisoned Americans I am reminded of the mental anguish of the dethroned King of France in Dumas' great fictional work, "The Man in the Iron Mask". In the depths of despair the forlorn prisoner cries: Does anyone know I am here? I imagine the horror. I am appalled by the realization that the fate of some of our missing men could be the same. It compels me to ask Members of this House, again and again, to favor the pursuit of every avenue, to unravel every shred of evidence, to bring this issue to a satisfactory conclusion.

I hope that some men are alive. I know that many honorable Members of this House, in all sincerity, do not hold out the possibility for that hope. I know that, with the deepest convictions, they believe that every American lost and unaccounted for in Southeast Asia is dead—and that we should put the issue to rest and close the final chapter of our anguished involvement in Vietnam. But that is just the point: It is a matter of belief. And, in any case, belief—no matter how strongly held—one way or the other, is simply not enough; belief does not substitute for sound, empirical evidence. It does not substitute for hard investigation, diplomatic pressure, or the most extensive analysis of testimony and the cross-examination of refugees who claim to have seen Americans living in Southeast Asia in the aftermath of the Vietnamese War.

Mr. Speaker, once again, I beg the indulgence of this House. I ask Members to be aware that the possibility exists that Americans may, indeed, be alive in Southeast Asia. I cannot vouch for the truth of the information given to me. As I mentioned in my remarks yesterday, we cannot accept mere claims as hard evidence, any more that we can simply accept Vietnamese Communist denials to the contrary. Each should be thoroughly investigated.

I have received and sent the relevant information and untranslated letters to the Defense Intelligence Agency for analysis. Yesterday, I inserted letters "one" and "two." Today, I am inserting letters "three," "four," and "five." They are again properly sanitized of names for the protection of Vietnamese family members from official Communist retaliation.

I ask my colleagues, once again, to give these documents their closest attention.

The letters follow:

LETTER No. 3

(Transcript of a letter by (female), Japan, Mar. 25, 1978)

DEAR MRS. LE THI ANH: My name is (deleted). I'm presently in a refugee camp in Japan. I escaped from Vietnam and arrived in Japan on October 17, 1977. I'm waiting for my turn to be admitted to the U.S.A.

Today, I was surprised to read in the Trang Den magazine your ad re: information about the MIAs. The ad gave the address to contact as your name and address. So, I decided I should write to you immediately to let you know about the Americans who are still in Vietnam. Mrs. Anh, I believe there is quite a number of them in Vietnam and not just a few.

I know it because I have seen them on a TV show, which the Communists showed to an audience of cadremen, officials and government employees. The Communists accused the Americans of crimes and they denounced the men's crimes on the show. Mrs. Anh, the poor men, I felt so sorry for them, their faces were pale, thin and haggard, their eyes were hollow like the bottom of ricebowls. And while they showed the film, the commentator said "those imperialists must be severely punished, we shall do so until their government pays for the war damage and rebuilds in full for Vietnam, especially the areas they have bombed and destroyed."

Mrs. Anh, I also know more thanks to a friend of ours, a Vietnamese doctor who have been released from a prison camp in North-Vietnam. Because this doctor was interned in the same camp as my cousin who was an artillery officer captured during the year 1971. My cousin was still in the camp so he sent words to us through the doctor who came to see us right away after his return.

The Dr. said today there are still many American prisoners of war who are still being interned in North-Vietnam, as well as Vietnamese POWs. I asked him if they gave the same ration to the Vietnamese POWs and the Americans POWs and he said that the Vietnamese received less foods than the Americans, because they wanted to feed the Americans properly to keep them in good health in order to claim for reparation payments from their government.

Mrs. Anh, I was among those who were shown on the TV program because at the time I was a government employee in charge of controlling merchandises. After three months, I came under investigation because they found out that I belonged to a "family which collaborated with the imperialists," they fired me so I managed to escape. Now I arrived here, I'm all by myself, without any friends or relatives. I have to stop here because I have to go and teach a course for refugees. I swear that all what I write to you today is the truth.

Signed, (deleted).

LETTER No. 4 MAY 6, 1978.

DEAR MRS. ANH: My name is (deleted), I was an officer of the former Republic of Vietnam. I did not report to the new authorities and my family and I left our home on (deleted) and went into hiding until we finally succeeded to escape from Vietnam on July 7, after several unsuccessful attempts.

I lived under Communist rule for over 15 months and have seen or hear about the following MIA cases:

(1) I have seen an American on Ky-Dong St. in Saigon about June 75, he was in dirty clothes, Japanese rubber sandals, thin emaciated and he look fearful. It was nightfall when I saw him.

(2) A nephew of my wife who came to see us on about Feb. or March 1977 and he told us that there was an American hiding in his wife's family home in the area of Truong Minh Giang St. and that the Communists didn't know about him yet.

(3) My wife's brother who came from North Vietnam and he came to visit us. He told us that his son was a doctor serving with the Hanoi government. The doctor has served a number of years in the highlands in the North, and he has seen a village in which most inhabitants were Americans, some of those have married Vietnamese women.

I'm sorry that I did not hear or do not remember the name of the place where those unfortunate men were being held.

Signed, (deleted).

LETTER No. 5, MELBORNE, *December 23, 1977.*

DEAR UNCLE AND AUNT: I received your letter yesterday at about 2 p.m., but had to go to class so I can answer your letter only today.

Following, I shall recount the circumstances of my sighting of the two Americans about 2 years ago that was I believe, 4 or 5 days after the Communists took Saigon. It was about 8 a.m. on 02-05-1975, I and a friend of mine by the name of (deleted) we were sitting in a cafe in the Xeo Ro marketplace (village of Dong Yen, district of Kien An, Rach-Gia, now Kien-Giang, province).

While my friend and I were sitting there sipping coffee and talking we suddenly saw people running in the direction of the (river) dockside. We were surprised and so we followed the crowd to see what was the matter. We found that people ran up to see two Americans. Both Americans were sitting in the middle of a motorized sampan, both had their hands tied behind their backs with a Vietnamese cotton striped scarf. There were 7 people on the sampan, including the two Americans; two Communist cadremen sat on the front of the sampan and three sat on the rear and the Americans sat in between. At that very moment, two communists ran up to the city hall of Dong Yen for something I do not know what.

One of the two Americans was a white man of about 30 years old, quite thin. The other was a Black man of about the same age, but not too black and the latter was a little bit fatter and more solidly built.

Because I stood not too near so I could not guess their height, by my estimates are that they were about 7 or 8 centimeters taller than you, uncle. I didn't pay any attention to the color of their eyes.

The two men apparently cried, and cried a lot, because traces of tears were still on their faces, their eyes were red, and their faces showed fear, sorrow and worry.

The Communists said something, but I'm sorry I do not remember. Most people in Xeo Ro felt sorry for the unlucky men. Most of the local people were families of the former Saigon Army and Administration personnel so they were rather sympathetic to the prisoners.

Afterward, the Communists took the two men on in the direction of Kien An which meant they were heading deeper into the U-Minh forest. The sampan stopped for about 20 minutes at the Xeo Ro dock.

I believe those two men were military men because of their military garbs.

Signed, (deleted).●

PRESIDENT'S VETO OF DEFENSE AUTHORIZATION BILL REFLECTS GOOD BUDGETARY AND MILITARY JUDGMENT

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. DODD. Mr. Speaker, last Thursday, I joined the 206 members of the House of Representatives who voted to sustain the President's veto of the defense authorization bill.

The President was right on target in insisting that $2.1 billion for a nuclear-powered aircraft carrier be deleted from the bill. The inclusion of the nuclear carrier, I believe, actually weakened our national defense because other more important programs were cut to pay for the carrier.

Funding for a fifth nuclear aircraft carrier would also continue what I believe to be a shortsighted and unwise policy of spending huge amounts of money to build just a few very expensive ships. I am concerned that for too long, our Navy has been evolving into a smaller and smaller force of larger, more expensive vessels. It makes more sense to build larger numbers of smaller ships which would be less vulnerable in the event of war. Modern surveillance techniques and new, more sophisticated missiles are rapidly making aircraft carriers—already high value targets—extremely vulnerable to successful enemy attack. Instead of investing the taxpayers' money in a few, large vulnerable ships, it would be preferable to make our fleet less vulnerable to attack by building a greater number of less expensive ships.

I might point out that the United States could build and operate three conventionally-powered aircraft carriers for the price of two nuclear-powered carriers. If we decide that our Navy does need more aircraft carriers, then smaller conventional carriers, which can operate with existing aircraft, should be built. In the not too distant future, I am certain that the versatile vertically launched, (V/STOL), planes will become the mainstay of our carrier aircraft. As these planes need very little deck space to take off and land, it seems foolish to spend exorbitant sums of money on a large carrier, the main advantage of which is its enormous deck area. The United States is already going to have four large nuclear carriers; we do not need yet another one.

I recognize that some people are worried that another oil embargo might hamper the operation of conventional, oil-powered carriers. However, I should point out that our armed services have the highest priority on fuel and could easily operate on the large quantities of domestic oil or on the vast amounts of oil already reserved for the Navy.

I should add that increasingly the mission of our Navy is sea control, or the ability to keep our vital lines of communication and supply open to Europe and the Pacific. This ability to control the seas depends on our success in insuring that our adversaries' naval forces, and especially their submarines, cannot interdict our maritime supply and communication lines. Nuclear-powered aircraft carriers add little to the sea control mission. Their primary mission is power projection. But in an era of intercontinental ballistic missiles and missile-firing submarines, it is highly doubtful that we would consider using our carriers to carry out nuclear strikes against another nation. And as we move away from an era of intervention in Third World countries, the need for yet another nuclear carrier for the power projection mission also diminishes.

In conclusion, Mr. Speaker, I believe that the President's veto of the defense authorization bill, because of its addition of a fifth nuclear aircraft carrier, reflects not only good budgetary sense, but a sound recognition of the changing requirements of the U.S. fleet as well. It was for these reasons that I supported the President's veto.●

TRAGIC SITUATION IN LEBANON

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. DERWINSKI. Mr. Speaker, I wish to direct the attention of the Members to a report I received from Our Lady of Lebanon Roman Catholic Maronite Rite Church in Hillside, Ill. This report represents the deep concern of Lebanese-Americans over the tragic situation that exists in Lebanon.

Under my amendment to the foreign assistance appropriations bill, Syria will be denied $90 million in assistance. A similar bill in the Senate has gained much support.

The massacre and forced migration of Christians in Lebanon is approaching genocide and calls for condemnation and action by the United States and the world community.

The report follows:

DO YOU REALLY CARE ABOUT YOUR FELLOW CHRISTIAN?

Has it ever occured to you my friend that, in the twentieth Century, you could be massacred just because you are a Christian?

The Lebanese Christian Community is facing this threat today Their residential areas of Beirut are being pounded indiscriminately with bombs and rockets. Hundreds of thousands of Christians are without food, water and electricity, tucked in shelters awaiting for the christian world to help them. Do you care my friend?

In the years 745 A.C. the Christians of Lebanon have been massacred at the hands of the Khalif Marwan. . .

In the years 1860 A.C., once again hatred and fanaticism swept their death sword across the Lebanese Christian Community. . .

And since 1975 until this very minute, the Christians of Lebanon are enduring the most savage systematic annihilation plot since World War II. . . The Only Christian Community in the Middle-East, and the Oldest one in the world is facing the danger of extermination. Will you help?

Lebanon needs your help my friend, Lebanon needs more than ever your Prayers, your Moral Support, and a little share in the Human Rights you have been advocating proudly. and God Bless You.

"The righteous will grow like the cedars of Lebanon"—Psalm 92/13.

I. INTRODUCTION

(a) Lebanese society is: a free society, pluralistic society, and democratic society.

(b) Lebanon has always served as a land of refuge for the oppressed people in the Middle East.

(c) 7,000 years of history back the above.

II. FACTS

(a) Plot against the Christians:

1. Arab states are not willing to absorb the palestinians within their society. They had to impose them on the most open one.

2. The Syrians who took part in the 2-year war in Lebanon, are now "peace-keepers" (?) which is a highly abnormal situation.

3. The Syrians, who came in as peace-keepers according to the "Riyadh agreement", and, who supposedly are under the explicit command of the President of Lebanon, became the aggressors.

4. The Syrians were supposed to disarm the terrorists, as a first stage; the Christians agreed to surrender their arms to the Lebanese Army, as a second stage; return of power to the Central Government with the withdrawal of the Syrians, as a third stage. They failed in their first stage. In addition, they started their harrassment campaign against the Christians. They never took their orders from the President of Lebanon. All cease-fire requests had to go to the President of Syria. They fomented differences between Christian parties by subversive activities such as massacres, killings and plain genocidal actions (Bekaa recently).

5. There are enough indications that the Syrians are acting on a plan, entirely different from the one they agreed upon, openly.

(b) Present situation:

1. The Syrians are no longer operating legally in Lebanon.

2. The President of Lebanon is a mere puppet caught in his own net by the Syrians. The Christians are the lamb of sacrifice of the whole game.

3. The Syrians are shelling indiscriminately the Christian residential areas of Beirut (including all hospitals), for the sole purpose of forcing the Christian citizens to contained neighboring areas, and the plan calls for complete dismantling of the Christians' self-defense. The Christians are definitely fighting for their survival and the survival of the only democratic Christian community in the Orient, and more specifically, in the Arab world. The hate of the Syrians to the Christian minority, is only equal to their hate to the Jewish community, the only two minorities in the Middle East.

III. CONCLUSION

1. Request from President Carter to use all his influence and means to stop immediately those violations of human rights in Lebanon and put an end to the genocidal scheme perpetrated by the Syrians and Palestinians, and their immediate withdrawal from Lebanon.

2. Request that the Palestinian population problem not be resolved by sacrificing the only free country in the Middle East.

3. The Arab states must absorb the majority of the Palestinian burden, until a final settlement with Israel is reached.

4. The state of Lebanon has been created for the sole purpose of preserving the few Christian and other minorities in the Middle East, and must remain so.

5. Whatever décisions are taken by President Carter, bearing in mind the human rights and the virtues on which our Nation stands, will be irrevocably accepted by the Lebanese people.

6. The American-Lebanese community cannot accept that Lebanon be used for appeasing temporarily the emotional thirst of the Arabs, because Lebanon has always been the bar-in-the-wheel for any Russian influence in the Middle East. By dumping Lebanon, killing its resistance and forcing its people to migrate, the U.S. will be in the long-run playing the exact game the Russians want them to play. In such a short time, the security of Israel and the rest of the Arab states, as far as communism is concerned, will be in jeopardy.

7. The Lebanese community, in its way of life, is ideologically anti-communist. Thru the years, it has proven that communism could not find roots in Lebanon. And, this particular characteristic, is not available in other Arab states. Lebanon is considered as a key-stone factor for any communist expansion in the Middle East.●

NEED FOR SCRUTINY OF D.C. CONSTITUTIONAL AMENDMENT

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. DERWINSKI. Mr. Speaker, while I appreciate the fact that the House and

Senate have worked their will on the issue of congressional representation for the District of Columbia, the amendment now must be objectively studied by the legislatures of the 50 States.

The distinguished columnist, George F. Will directs special attention to the responsibility of the States in ratifying this proposed constitutional amendment in an article in today's Chicago Sun-Times. The article follows:

[From the Chicago Sun-Times, Sept. 12, 1978]

D.C. AMENDMENT BADLY FLAWED

(By George F. Will)

WASHINGTON.—The nation owes a full measure of gratitude to the legislatures of California and Delaware for their dignified abstinence from haste. They have refused to ratify without scrutiny the recently proposed constitutional amendment to give congressional representation to the District of Columbia "as if it were a state."

The Constitution has been changed four times in the last 18 years, and today two more amendments are before the states. If this is not itself evidence of a too casual approach to the Republic's fundamental law, the tactics used by some who favor the amendments are such evidence.

When the Equal Rights Amendment was sent to the states, Hawaii rushed to ratify it the first day. Nebraska, scrambling to be second ratified it improperly and had to do it again six days later. Twenty states ratified it within three months, most wtihout hearings or other evidence of thought.

ERA supporters tried to generate a moral tidal wave by insisting that ERA is a "simple" matter of being "for women," a matter about which intelligent people could not honorably disagree. Today people trying to create a stampede toward ratification of the District of Columbia representation amendment argue that it is (in the words of a California stampeder) a "black issue."

Such assertions were sufficient to propel the amendment through California's Assembly, which evidently is not a deliberative body. California's Senate refused to rubber-stamp the amendment, so Californians will have an opportunity to note that the issue is constitutional, not racial.

As he frequently does, Rep. M. Caldwell Butler (R-Va.) has defined a position to which moderate people of good will can rally. He notes that the Constitution provides for three kinds of entities: states, territories and the District of Columbia. Today the District has three electoral votes in presidential elections and a nonvoting delegate in the House of Representatives.

The proposed amendment would give the District voting representation in the House based on population; give Senate representation "as though it were a state"; grant participation in the electoral college substantially as a state, and grant participation in the process whereby the Constitution is amended. Of these four, says Butler, only the first is proper.

As regards the amending process, note that under the law granting the District "home rule," the city council remains an agent of Congress subject to Congress' veto. That is, the law is consistent with the Constitution's provision that Congress shall "exercise exclusive legislation, in all cases whatsoever" over the District. But what this means is that were the city council to function as the equivalent of a state legislature in the amendment process, Congress would submit amendments for the approval of its own agent.

As regards participation in the electoral college, the weight of the District vote should be registered by electors equal in number to the members of the House allocated according to population (perhaps two after the 1980 census). But the District should not have two additional electoral votes as states do, because the District should not have senators.

As Butler says, the Founders made a distinction that should not be blurred—a distinction between the House, in which people are represented, and the Senate, in which states are represented. States are the fundamental entities of this federal system. Senators represent geographical regions containing diverse interests.

But the District is only a city of moderate size, and because of restrictions on its growth, it will steadily descend the list of largest cities as other cities grow.

Were the District to elect senators, they would be the only two representing no rural interests whatever. So state legislatures with strong rural representation will be reluctant to ratify the proposed amendment, which would dilute their Senate power even more seriously than it would dilute the power of other states. That is not the most elevated reason for doing the right thing, but rejecting this proposed amendment's approach to District representation is the right thing to do.

Because the Constitution stipulates that Congress must have final responsibility for the District, residents of the District have a special interest in congressional representation. But that fact about final responsibility is one reason why it would violate the essence of American federalism to grant to the District representation in the Senate, a body that expresses the principle of a union of sovereign states.●

CIVIL SERVICE REFORM

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. BOB WILSON, Mr. Speaker, I was very sorry to miss the vote yesterday on the Hanley amendment to the Civil Service reform bill. This bill had been rescheduled repeatedly and, unfortunately, several long-standing commitments in my district yesterday made it impossible for me to return to Washington in time. I would have voted for the amendment offered by Mr. HANLEY and am deeply gratified by the outcome.

Those who were peddling major revisions in veterans' preference told us that the principal beneficiaries would be Vietnam-era veterans. A quick review of the facts, however, showed this argument to be specious.

The committee bill provided that nondisabled veterans would have a one-time, five point veterans' preference usable only within the first 15 years after their date of discharge—and I want to emphasize those words: "date of discharge"—not the date of the enactment of this legislation. Thus, in 1980, a half million young men and women who served during the Vietnam era and were discharged in 1965 would lose their veterans' preference. That figure escalates rapidly over the next few years, so that by 1987 the cumulative total of Vietnam-era veterans who would have lost their employment preference status would be more than 6 million. Yet, this was a bill which purported to help the Vietnam-era veteran.

You also heard the argument that those who oppose changes in veterans' preference are only so-called "old-line" veterans' organizations which do not represent the Vietnam generation. Again, the facts belie this situation.

The Veterans of Foreign Wars, for example, are strongly opposed to revising veterans' preference; 30 percent of their membership served in Vietnam or contiguous waters. Another opponent is the Non-Commissioned Officers' Association, 190,000 strong; Vietnam-era participants compromise 90 percent of their membership. Other veterans' groups reflect a similar make-up and a similar stance in opposition.

With the passage of time, it is too easy to forget the incredible experience of Vietnam. For many of the veterans of that conflict, however, the memory is still all too vivid. When Johnny came home from Saigon, Da Nang, and the Mekong Delta, he was not greeted with cheers, confetti, and ticker-tape parades. He, more probably, was met with suspicion, mistrust, even hatred, by a public which tended to link the debacle of the war itself with the intrinsic worth of the young men who served there. While in recent years we have made some progress in healing the Nation's wounds and reassimilating these young veterans into the mainstream of American life, we are not yet home free. This is particularly the case for minority veterans who have experienced staggeringly high rates of unemployment. It is interesting to note that minority veterans comprise only 8.5 percent of the U.S. veterans population, but make up 19 percent of the veterans employed by the Federal Government.

Aside from the basic question of getting a job, there is also the problem of retaining it during periods of belt tightening. The changes proposed by this legislation would have put the Vietnam veteran at a disadvantage in this arena, too.

The committee bill eliminated all preference for retention purposes after 8 years from the date of initial appointment to a Federal position. This meant that, when a "RIF" came a decade after employment, the young man or woman who gave 2 or more years to the service of his or her country would now be at a susbtantial disadvantage in comparison to a contemporary who managed to avoid military service and went directly to work for the Federal Government. The ultimate irony on this situation is that the nonveteran may well have actively dodged the draft!

I certainly do not impugn the intentions of those who wish to restructure the veterans' preference system nor their goal of opening up greater employment opportunities within the Federal Government for women. I must take strong issue with their methodology. In years of peace, it is all too easy to forget the debt of gratitude which we owe to those who put aside their private pursuits and went into the service of their country. Veterans' preference is one small compensation for that service, which I feel strongly that we should retain.

I want to commend my House colleagues for their overwhelming vote yesterday in support of the Hanley amendment.●

UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 95th CONGRESS
SECOND SESSION

VOLUME 124—PART 22

SEPTEMBER 13, 1978 TO SEPTEMBER 20, 1978

(PAGES 29091 TO 30558)

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1978

J
11
.R
v.124
pt.22

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 95th CONGRESS, SECOND SESSION

SENATE—*Wednesday, September 13, 1978*

(Legislative day of Wednesday, August 16, 1978)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT MORGAN, a Senator from the State of North Carolina.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Thou who art holy and just, full of grace and mercy, new every morning is Thy love. Draw near to us this moment and keep us penitent and reverent through the changing scenes of this day. Guard us from being surprised or trapped by unworthy compromises, by unholy alliances, by betrayals of integrity or by disobedience to conscience. Spare us from scoring a point but missing a principle. So often when we would do good, evil is present with us, and we know it not.

In winning keep us humble, in losing make us magnanimous, and in the changing vicissitudes of life keep us ever close to Thee, for Thou art our light and our salvation, the strength of our lives, in whom we trust now and forever. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 13, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT MORGAN, a Senator from the State of North Carolina, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. MORGAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The majority leader, the Senator from West Virginia, is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, there are four nominations on the Executive Calendar which I believe have been cleared. I ask unanimous consent that the Senate go into executive session, only for 2 minutes, to consider those nominations.

Mr BAKER. Mr. President, reserving the right to object—and I will not object—I wish only to advise the majority leader that the nominations that he identifies are cleared on our calendar as well, and we have no objection to proceeding to their consideration and their confirmation.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations will be stated.

CIVIL AERONAUTICS BOARD

The second assistant legislative clerk read the nomination of Gloria Schaffer, of Connecticut, to be a member of the Civil Aeronautics Board for the remainder of the term expiring December 31, 1978.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The second assistant legislative clerk read the nomination of Gloria Schaffer, of Connecticut, to be a member of the Civil Aeronautics Board for the term of 6 years, expiring December 31, 1984.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMBASSADOR

The second assistant legislative clerk read the nomination of Edith Huntington Jones Dobelle, of Massachusetts, to be Ambassador during her tenure of service as Chief of Protocol for the White House.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF STATE

The second assistant legislative clerk read the nomination of William H. Luers, of Illinois, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Venezuela.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield 2 minutes to Mr. PROXMIRE.

Mr. PROXMIRE. I thank the distinguished majority leader.

EDUCATING OURSELVES TO RATIFY THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, less than 5 months ago the U.S. Senate by unanimous vote proclaimed April 16 "Education Day—U.S.A." in honor of Rabbi Menachem M. Schneerson. At that time Rabbi Schneerson said:

> Education must put greater emphasis on the promotion of fundamental human rights.

Education, not to earn more money but education for a better society. Education that builds character, that teaches moral and ethical values.

Mr. President, I could not agree with Rabbi Schneerson more. For over 30 years this body has failed to ratify an important human rights treaty—the Genocide Convention—which seeks to guarantee the most basic of rights: the right to live.

Its aim is simple: to prevent mass murder. Yet, year after year, the Senate refuses to consider the merits of this treaty by taking an up-and-down vote.

But why, Mr. President? Why?

Have we forgotten the context in which this treaty was drafted? Over 6 million Jews lie dead. The world, stunned by these brutal atrocities, resolved to take action. And they have. More than 80 countries across the world have ratified this human rights convention, including nearly all our allies.

But what about the U.S. Senate? Why were we not in the forefront of this effort? Perhaps we need some re-education ourselves. We have prided ourselves on our prowess in science, technology, and business. But what about moral and ethical values?

Have they been sacrificed in the educational process?

I certainly hope not.

But Rabbi Schneerson has called attention to our need for constant vigilance.

The type of vigilance that will continue our fine domestic record of respect for human rights.

The type of vigilance that may someday give respect for human rights the primacy it deserves in our foreign affairs.

The type of vigilance, Mr. President, which demands the ratification of the Genocide Convention.

RECOGNITION OF LEADERSHIP

Mr. ROBERT C. BYRD. Mr. President, does any other Senator wish me to yield time from my time at this moment? If not, I yield back my time.

The ACTING PRESIDENT pro tempore. The minority leader, the Senator from Tennessee, is recognized.

Mr. BAKER. Mr. President, I have no requirement for my time under the standing order, and I have no requests for it. If there are none at this time, I will be happy to yield it back. I yield back my time under the standing order.

NATURAL GAS POLICY ACT OF 1978—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the pending business, the conference report on H.R. 5289, which will be stated by title.

The legislative clerk read as follows:

> Conference report on H.R. 5289, an act for the relief of Joe Cortina of Tampa, Fla.

THIRTY-MINUTE RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate, at 10:07 a.m., recessed until 10:37 a.m.; whereupon, the Senate reassembled when called to order by the Acting President pro tempore (Mr. MORGAN).

The ACTING PRESIDENT pro tempore. The absence of a quorum being noted, the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS UNTIL 11:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 11:30 a.m. today.

There being no objection, the Senate, at 10:40 a.m., took a recess until 11:30 a.m., whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. BURDICK).

Mr. ROBERT C. BYRD. Mr. President, I hope that Senators will come to the floor and debate the natural gas conference report. I had a meeting on yesterday afternoon and again this morning in an effort to reach a time agreement. The principals who have been attending the meetings for the purpose of getting a time agreement wanted some additional time—well, those who opposed the conference report want some additional time—which is, I think, understandable. But, in the meantime, I recessed the Senate now until 11:30, and I hesitate to continue to recess it, because I have a feeling that those who wanted additional time to discuss the time agreement did not mean to take until 2 o'clock, at which time we expect to meet again for that discussion.

So I think the Senate can very well be debating the conference report at this time. I understand the Senator from Texas is so prepared, and I yield the floor to the Senator from Texas.

Mr. TOWER. Mr. President, I might say to the distinguished majority leader that an agreement might be at hand, and that should brighten the Senator's day.

Mr. ROBERT C. BYRD. It will brighten my day.

Mr. TOWER. The administration has argued that the gas bill is needed to save the U.S. dollar. The argument is that the gas bill would reduce oil imports, thereby reducing the trade deficit and thereby strengthening the U.S. dollar. This argument is misleading for the following reasons:

There is no relationship between oil imports and changes in a currency's exchange rate.

Oil imports account for only 30 percent of all U.S. imports. Oil imports account for a higher percentage of imports in Japan and Germany, and oil imports account for a higher percentage of the gross national product in both of those countries than in the United States. Yet, the Japanese yen and the German mark have appreciated against the U.S. dollar and most other major currencies.

The gas bill will not reduce oil imports enough to eliminate the trade deficit.

The U.S. trade deficit totaled $27 billion in 1977. In order to eliminate a trade deficit of this magnitude, oil imports would have to be cut by about 60 percent, which would not be accomplished by the gas bill.

A reduction in oil imports this year has not prevented the dollar from depreciating.

Oil imports declined 10 percent in the first 6 months of this year, but the dollar has continued to decline in foreign exchange markets.

There is no clear-cut relationship between the U.S. trade deficit and the dollar's exchange rate.

What is important is the total amount of dollars supplied in foreign exchange markets through trade and capital flows. A trade deficit could be completely offset by an inflow of capital from abroad, resulting in no exchange in the dollar's exchange rate. To some extent this has occurred, with almost 50 percent of the U.S. trade deficit with oil-exporting nations being offset by capital inflows from oil-exporting countries.

The dollar has declined because the supply of dollars has exceeded the demand for dollars in foreign exchange markets.

The problem is that there is an oversupply of U.S. dollars. The Federal Reserve has been increasing the money supply too rapidly. Even if all U.S. oil imports were eliminated, this rapid growth in money would result in increased spending by U.S. citizens for other imported goods or for goods that otherwise would be exported. In either case, the trade deficit would remain unchanged.

The U.S. trade deficit has occurred for other reasons than oil imports.

The trade deficit reflects the fact that the U.S. economy has been expanding more rapidly than the economies of its major trading partners. This has encouraged U.S. imports and discouraged U.S. exports.

The trade deficit reflects an imbalance among products other than oil. A growing trade imbalance has emerged in manufactured goods, where imports exceeded exports by more than $5 billion during the first 6 months of this year, accounting for one-third of the trade deficit during that period.

The trade deficit reflects the declining competitiveness of U.S. business abroad. Between 1974 and 1977, the share of all exports by major industrialized nations accounted for by the United States dropped from 18½ percent to less than 17 percent. The U.S. share of these exports to Japan declined from 52 percent to 48 percent during that period, and the share going to the European community declined from 11 percent to 10 percent. The share of U.S. exports going to developing nations fell from 27 to 25 percent.

The trade deficit has occurred because the United States has been pricing itself out of foreign markets, making it difficult to remain competitive abroad. The rate of inflation in Japan over the 12 months ending this past June was only 3.6 percent. It was 2.7 percent in West Germany. The rate of inflation in the United States during that period was 7½ percent. Indeed, the U.S. dollar has depreciated against the currencies of countries with lower rates of inflation. The higher rate of inflation in the United States reflects the slowdown in productivity, high unit cost of production and the lag in technological developments across a broad range of products.

The decline in the dollar reflects the higher rate of inflation in the United States and the fear of more inflation in the future.

The dollar has declined against the currencies of other nations with lower rates of inflation. Inflation erodes the purchasing power, and rapid monetary growth in the United States has raised the fear of more inflation, encouraging dollar holders abroad to sell dollars, causing in turn the dollar to decline in foreign exchange markets.

The decline in the dollar is a serious problem. It has caused a great deal of uncertainty in international financial markets, raised the cost of imports and thereby added to the rate of inflation and increased the prospects for another oil price increase by the OPEC nations.

However, it is a monetary phenomenon caused by an excess supply of dollars relative to demand, and it can only be solved by bringing the growth in money down to a noninflationary rate—a goal that is yet to be achieved by the Federal Reserve.

I think, therefore, to repeat, that the argument of the administration that this energy bill is needed to save the dollar is not a valid argument. It would not reduce oil imports; it would not reduce the trade deficit; it would not strengthen the dollar. Indeed, I think it would have virtually no impact on the value of the dollar abroad.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CULVER). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. I ask unanimous consent that Kathryne Bruner of Senator HAYAKAWA's staff be permitted access to the floor during the consideration and debate of the energy conference report, and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I wish to state my position respecting the current natural gas compromise conference report which is now before us.

Mr. President, in all my years in Congress, few pieces of legislation have been marked by the controversy that surrounds the natural gas bill. The financial stakes involved are enormous, with billions of dollars hanging on the outcome of our actions here. Not surprisingly, every conceivable interest group that will be affected by this bill—producers, consumers, industry, regional interests, and so on—has fought as hard as possible to see to it that its particular goals are incorporated in the compromise. That is the normal legislative process, and I do not view it negatively. However, in this case, with so much at stake and so many interests heavily involved, the result has been a lengthy stalemate on a vital piece of energy legislation, at a time when this country cannot afford such delay.

I believe the time has come to ask one question about this compromise: Is it good for the Nation? The country and the Congress have well nigh torn themselves apart asking whether this compromise is good for producers, or whether it is good for consumers, or even whether it is good for each particular State. Parochialism, regionalism, and just plain greed have all had a field day at the expense of the national interest.

I am not an expert or even very experienced in natural gas—it will be recalled that I did not take too active a part in the debate on the natural gas bill here—but I have examined the compromise carefully. It is far from the best we ought to have done. I am familiar with the serious questions that have been raised by its opponents.

Indeed, Mr. President, I believe they serve the country in the challenging questions which they ask and in putting the strong proponents to their proof.

Nonetheless, having examined it carefully, I support this compromise. I think it is important not to lose sight of the fact that this compromise is a package and will be adopted as such. Thus, we must ask whether, despite problems with particular sections, such as emergency allocation, incremental pricing, complexity of administration, the compromise as a whole is worthy of support. Second, I believe we must ask whether, given the economic situation in our Nation and in the world today, an immediate resolution of the gas regulation controversy is essential. This question is critical to me as I do have some expertise in this area.

Mr. President, I answer both questions in the affirmative. Despite the difficulties and injustices which may inure in particular sections, the compromise as a whole, I think, is worthy of support, and, it is highly essential and in the national interest that this question be resolved now.

As I answer both questions in the affirmative. I believe that the basic question—is this bill good for the Nation—must also be answered in the affirmative, and I do so.

This is not a step that I take lightly. In the past, I have opposed legislation designed to deregulate natural gas. Although this bill is not, strictly speaking, a deregulation bill, it moves us there after some years. Nevertheless, I believe that changed circumstances, brought on by the sharp decline in the U.S. dollar, our own and the world's precarious monetary situation, and our continued heavy dependence on imported oil at a highly uneconomic price and unstable political conditions in the area from which most of it comes, requires us to reexamine our position.

There are several aspects of this compromise that, were it first coming before the Senate, would have to be revised to win my support.

For example, the bill does not adequately combine the interstate and intrastate gas markets into a unified national system; it does not streamline the regulatory process, indeed it makes it more complicated; nor does it give proper priority to the home consumer. But the report before us today is a compromise, and the nature of compromise is that no one can be entirely satisfied.

Accordingly, despite my personal reservations, I believe this bill to be in the national interest for the following reasons:

First, it recognizes what has been a fact for at least 5 years now—that the era of cheap energy is over. This country wastes a tremendous amount of energy every year, and the replacement cost of that energy is far above what we charge for it—and it is now coming right out of our financial bone and sinew. More realistic pricing will result in conservation of our natural gas resources, and, very importantly, should also encourage the development of alternate technologies.

This Nation does not take kindly, apparently, to voluntary conservation efforts. In this way, through the natural gas compromise, some degree of conservation will be conferred.

Second, passage of the compromise would provide a degree of certainty to producers, investors, and consumers that is essential to the proper development of our national economy. The continued uncertainty over the price and availability of gas that would result from failure to pass this compromise is against the national interest.

Mr. President, as I say, in the economic field I do claim some competence. It is my profound conviction that what has been troubling our economy the most is

the state of complete uncertainty faced by the business community in its forward decisionmaking.

Third, incentives in the report will result in increased domestic production of natural gas, and thus will have an effect—perhaps not decisive but an effect nonetheless—on our oil imports. Lessening our dependence on foreign source of oil is of paramount importance to the Nation. The Department of Energy has estimated that the compromise will save 1.4 million barrels of oil a day by 1985, but even if the full amount is not saved, the compromise will still make a significant contribution.

Fourth, the world economic community of which we are the most important element and which also controls us, like it or not, perceives our failure to enact meaningful energy legislation so far as one of the root causes of the dollar's precipitous decline. We can argue whether this perception is accurate or not, but nonetheless, it is a fact. If we reject the compromise, and in effect announce to the world that the Congress of the United States, after nearly 18 months of consideration is still unable to agree on an energy policy—and this gas measure is its centerpiece—I believe the effect on the declining dollar would be catastrophic.

Mr. President, this compromise is not a panacea for the energy crisis. Standing by itself, it does not guarantee that we will have the natural gas we need or that heavy oil imports will no longer be required; or that the dollar will be started on the way back to its real value. But it is a step in that direction, a step I believe we must take now. I suspect that no one in this Chamber is satisfied with every provision of the compromise. But I believe it is a workable solution, a solution that is in the national interest, and a solution whose time has come and which will not wait. I must be for it in the interests of our Nation and of the 18 million New Yorkers who sent me here because they had confidence I could use my head in difficult situations!

I believe the world's perception of the importance of this bill cannot be underestimated. Mr. President, we lawyers have an adage which says it is not what the facts are; rather, it is what the judge thinks they are that counts. I have heard many of the arguments on the floor of the Senate holding that the decline of the dollar is not going to be affected by a natural gas compromise. Mr. President, that may well be true on the basic facts and merits. But the dollar will be affected by the degree confidence is restored in the world by the appearance that we know what we are doing here, and that we are not fumbling and we are not mired in indecision and uncertainty and delay and that we in Congress are not powerless to act and to act effectively.

Mr. JACKSON. Will the Senator yield?

Mr. METZENBAUM. Will the Senator yield?

Mr. JAVITS. Not yet.

I might say to my colleagues that it is my profound conviction, and I have been around here a while, that nothing good is going to happen from delay. I think we shall get more mired, more embroiled in more difficulties, and it will be a long time, and the result is very unlikely to be any better and will probably be worse than the compromise before us now. That is my judgment as to the future.

I now want to yield both to Senator JACKSON and to Senator METZENBAUM.

Mr. JACKSON. Mr. President, I commend the distinguished senior Senator from New York for his statement. I think he has put his finger on one of the key elements of the problem that we face. One can argue that, in fact, there is no relationship between this bill and the dollar. However, the perception in the world is that if this bill goes down, we are unwilling or unable to deal with one of the principal problems that we face in any kind of an energy program—namely, are we going to do something to cut imports? It is a problem of perception. Is that not what the Senator is saying?

Mr. JAVITS. Exactly.

Mr. JACKSON. That goes to the heart of the problem. One can live in a community where there is a very fine bank, totally solvent, but if the rumor is that the bank is insolvent, there is a run on the bank and the bank goes under. I think the same analogy, to a lesser extent, applies in connection with what is going on with relation to the dollar in the world.

I commend the distinguished Senator from New York for addressing himself to one of the key problems that we face. I think, finally, in this connection, I say if someone has a better program to offer that will tackle the problem of supply, protect the consumer, and give us some integrity vis-a-vis the dollar, I should like to see it. We do not have it.

Mr. JAVITS. Also one that can be agreed on, which is the criterion to me.

Mr. JACKSON. Absolutely, one that can be approved by Congress.

I have been here all the time the Senator from New York has in connection with the debate over natural gas. Going back to Mr. Truman's day, when they tried to take away the power of the Federal Power Commission to deal with gas, down to the present time, we have not been able to get a truly effective natural gas statute. I think the existing law is totally inadequate. We have struggled all these years to get one. This is the first time that we have presented to Congress, with an assurance that it is going to be signed by the President, a statutory proposal that will update our effort in this field.

I commend the Senator from New York for a fine statement.

Mr. JAVITS. I thank the Senator. I shall yield in a minute to Senator METZENBAUM, but I want to add this:

I took the pains before the Bonn summit, because I was very interested in another matter—the development of the developing countries to afford greater markets to the industrialized countries—to visit with every one of the major leaders, except for the Prime Minister of Canada, who participated in that summit.

Really, I found, without in any way disclosing conversations which should be personal and confidential, that one of the principal problems which these leaders face is whether the United States could ever act—not how it acted. It is like businessmen who tell you, look, give us any rules so long as we know what they are. That has been a very critical factor in my appraisal of this situation.

I yield, of course.

(Mr. SPARKMAN assumed the chair.)

Mr. METZENBAUM. Mr. President, it is with some reservation that I speak after the distinguished Senator from New York and the distinguished Senator from Washington on this subject having to do with perception, symbolism, and what it appears to be, because both of them are so experienced and so knowledgeable and travel so much and have such great respect from others that it is difficult for me to stand on the floor and say what I know about them and their perception. It is difficult for me to say to both of them that I cannot really believe that they honestly believe that we can pass a piece of legislation that Robert Strauss describes as being a C-minus bill, that investment bankers and economic analysts are describing as really having no impact upon the dollar, a bill that, at best, its proponents claim would only increase natural gas production in extremely small amounts, and that they really believe that the Japanese, the Germans, the Swiss, and all others who have an interest in the economy of the United States—and I guess that has to include the Arabs as well—are really going to be taken in by this kind of a piece of legislation.

I agree that Helmut Schmidt has said that we need energy legislation. But he cannot draft an energy bill for us. This energy bill is not going to solve any problems. You can talk about it possibly saving so much in oil imports. The best bankers are now saying that that is really not the problem with our economy and the value of our dollar, but, rather, that the whole problem of inflation is our problem.

I really have difficulty understanding how anybody can argue for a piece of legislation that everyone knows will not do the job, that somehow, we are going to kid them and we are going to make them believe that, well, at least, we have an energy bill. We cannot overlook the fact that if we just want an energy bill, we could have had three parts of it almost a year ago. The utility rate reform bill, the coal conversion bill, and the conservation measure have all been awaiting passage for periods ranging from October of last year to November of last year. The conferees have been in agreement but the House, with the approval of the administration, has been unwilling to bring them forth. They held those bills hostage so that we might get a natural gas bill.

But this natural gas bill is not going to solve our problems internationally. I know of almost no prominent economist who claims that it will. Yes, George Ball, who is not an economist but who is on the telephone constantly these days to Senators, is saying that it is a question of perception. With a man such as that, from a large investment banking house,

Lehman Brothers, I am not sure what his special interests are, what his special concerns are. I am not sure whether he really wants that energy bill or whether he has other motivations. But when you talk to people like Eliot Janeway, whose telegram I read to the Senate yesterday, when you check with people such as City Bank of New York or the senior vice president for economic affairs with Chase Manhattan Bank, or the authorities who spoke for the Federal Reserve Board out in St. Louis, rather recently, on this same subject, none of them claimed that we are going to help the dollar. Many will tell you frankly that the issue of oil imports did have an impact on the value of the dollar within the past couple of years but that that issue is behind us and that now, the spending that is being done in this country with those oil dollars is offsetting that factor and the real problem in our economy comes about by reason of inflation. This bill is inflationary.

Alice Rivlin can say that is one-half of 1 percent or whatever the CBO has said; but all you have to do is ask the consumers of America whether they think it is inflationary to get a gas bill where the fuel cost adjustment rate went from 19 cents per mcf in January of 1977 to 34 cents per mcf in June of 1978. They will tell you that it is not one-half of 1 percent; they will tell you that is inflation that they understand.

Now, beyond the question of this whole matter of the perception overseas, I think we have to concern ourselves with the impact in our own country.

I am sure that I reflect the concerns of the distinguished Senator from New York when I point out that there has been much movement of industry from the northeastern part of the Nation and the midwestern part of the Nation to the southwestern part of the Nation.

Unfortunately, this bill which comes back from the conference committee does something that neither the House nor the Senate intended it to do. This bill makes it possible for industrial users in the producing States to buy natural gas at a lower price than industrial users in all other States in the Nation.

As a matter of fact, that is exactly opposite to the situation as it presently exists. Today, industrial users in the producing States are paying more for natural gas and those in the consumer States, which is under regulation, are paying less.

This bill is like sending a message out to the industries in Ohio, to industries in New York, to industries in Maine—not Maine, necessarily—to industries in Indiana, to all those States where industrial users consume a lot of natural gas, and saying to them, "Move to the Southwest, move down to those States where they are producing natural gas and you will be able to operate your business at a lower cost and better competitive advantage than those industries that continue to operate in the consuming States."

That, to me, is a great disadvantage and there is no argument that that is what this measure does.

In addition to that, I cannot believe that the distinguished Senator from New York really believes there is an advantage to shifting the burden of natural gas costs from industrial users to residential users.

When the bill left the House and the Senate, the burden was placed upon industry and the residential users were protected from incremental pricing. But, contrary to the intent of either the House or Senate, when the bill came back that burden had shifted according to the Energy Information Administration of the Department of Energy.

Now, I recognize that there is a question of symbolism. But it is not enough to have a piece of legislation that is not much more than a charade, not much more than a piece of paper, that winds up costing the American people between $29 billion and $41 billion between now and 1985.

That cannot be justified in order to somehow satisfy the concerns of Helmut Schmidt because he is too smart, and he is too wise, and his economists will point out to him that this bill will not do that which some are pretending it will do and that which some are representing that it will do.

It will not solve the energy problems of this Nation, it will not solve the dollar problems, but it will place a tremendous burden on the American people. It will certainly enrich the gas and oil producers of this country.

Mr. JAVITS. Mr. President, I am very grateful to the Senator for a review of his side of this case. I will do my utmost to present my case, which is exactly what he has done in quoting all the authorities which favor him and none of the authorities which favor the other side.

But, if he will forgive me, I will tell him I am distinctly unimpressed. The reason I am distinctly unimpressed, Mr. President, is that inflation is already with us. There is no question about that. The question is, how can we abate it? In my judgment, one of the major ways in which it can be abated is to demonstrate to ourselves and to the world that we know how to govern and that we have stopped being paralyzed.

Mr. President, in my judgment, the biggest thing about this compromise that commends it is it gets the United States Congress off the dime. We have been disgracing ourselves until the people think that 80 percent of us are out of our minds.

They give Congress a 20-percent rating as to its value to the country. And why? Because we cannot seem to decide.

Mr. President, if we go the Senator's route, we will never decide. I would like to give an analogy based upon a prior experience of mine.

When I came here, Mr. President, I succeeded one of the most venerable, one of the most marvelous, human beings who ever lived—Herbert Lehman of New York.

Mr. President, the water of Niagara floated over the brink at Niagara for 7 years without one bit of power going to the State of New York because my revered and beloved predecessor felt he just could not agree to any bill which would not guarantee to any municipality that wanted public power a first priority on power from Niagara. He just could not get a bill.

A man sat almost where Senator METZENBAUM is sitting named Bob Kerr of Oklahoma. He was not a dictator, but he could persuade enough people in the Senate so that there would be no Niagara bill.

When I came along with the same philosophy I am using in respect of this compromise, I said, if we lived to be a hundred years of age, how much power would these municipalities get from Niagara, and the answer was 25 percent.

So I said to Bob Kerr, "Bob, will you make a deal for 25 percent? That is going to be the limit of the municipality wheeling of power?" He said, "OK, you've got a bill." And power flowed in 2 years. Now, one could have said that was perception, too.

Senator METZENBAUM, I love you, you are a fighter. I really mean it. I am not kidding. You are a fighter. You never give up. You are in there and we need you. You are just as vital as anyone here.

But some of us have to come to a conclusion sometimes. We have to get off the dime.

Let me give an example of what I mean. I have served in the other body, too. I served in the other body for 8 years, enough to get to know what it is all about. What the Senator says about the rationality of accepting the three pieces of the House bill which we passed in the way of the energy program makes unquestioned sense. Let us pass those, get them done, and then we will fight about this one. But that is not the way they want to play, and unless we change the Constitution, that is their attitude. They could be right. They could be wrong.

In any event, the question of whether we can or cannot get what can be called a U.S. energy policy now centers upon the two remaining pieces of legislation; this one and the crude oil equalization tax. I think the crude oil tax is dead. I think that is generally agreed. So that leaves this one.

On this one, if we pass it, something can happen. If we do not pass it, I believe—and again I could be dead wrong—nothing will happen for a long time, and time is of the essence.

I might tell my colleague, and here I do not claim the expertise in natural gas he has, I fully yield to him on that, but when we speak of the economy of our country, and the economy of the world, I do claim some expertise.

I would like to tell my colleagues and my colleague from Ohio that what he feels about the discrimination in the bill against northeastern and Ohio manufacturers because of this bill is peanuts compared to what is going to happen to us and what is at stake if we do not straighten out this international monetary situation.

Whether or not a man will work his fingers to the bone for 25 or 30 years because we give him a promise that in 35 or 50 years we are going to give him x return depends on his confidence in the system.

Confidence is what I am talking about, and this legislation is very important to that confidence. The importance of the world economic community's perception of this bill, and the importance of certainty to the business and the economic community of the country, is the basis for my support of this conference report.

I might point out that I have an estimate from my own State—to get down to the finite details—which shows that in the period in which this bill will run, if we accept the conference report, the aggregate cost to my State is going to be $1.726 billion. These figures are given to us by the New York State Energy Office.

If the Senate bill had passed, with its decontrol, it would have cost New York $4.332 billion. Senator METZENBAUM and I fought against the Senate bill. He fought actively, as I do in many other things. He carried the ball for me and many others in this Chamber.

There is little question about the fact that my State is disadvantaged, as is the Senator's State and other States, by the fact that we do not have adequate control over the price differential on intrastate gas sold to industrial users. But it also is a fact that the situation would be even more precarious if there were immediate decontrol instead of the controls contained in the compromise. Further the price differential which will now be the rule, will go on for a short enough period—to wit, until 1985—so that it hardly pays for any appreciable concern to pick up and move on that account, even if the gas price were the determining factor.

So, taking what New York has with respect to economic viability—its banking, its commerce, its insurance, its transportation, its tourism—and comparing it with this disadvantage—it is a disadvantage, and it is an unfair part of the bill—I still feel that, on balance, I am serving my people best if I approve this compromise.

I deeply believe that I was sent here to use my head. The acid test on this bill is when the vote is counted. When the vote is counted, the compromise cannot pass except with a majority of the Senate and a majority of the House. I am deciding that, if a majority can be constructed, I want to be part of it because I think that, everything taken together, the compromise is better than doing nothing.

I will say this to the Senator: I am confident that we would not be here with what we have if it were not for Senator METZENBAUM. I think this wave of deregulation, like proposition 13, would have swept us right over the precipice. Sure, you are against this compromise—and bless you—but I do not think you would even have had any continued Federal vote in natural gas pricing if it had not been for the sterling, powerful, effective, and very clever opposition to this bill which you mounted with your colleague from South Dakota.

Mr. METZENBAUM. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. METZENBAUM. Mr. President, I thank the distinguished Senator from New York for his kind comments. I truly have tremendous respect for him, and very seldom does the occasion arise that we are on opposite sides of the issue. Once in a while we are on opposite sides of the tennis court, but not opposite sides of the issue.

The Senator would do me a great favor if he would make it possible for me to have the same power on the Senate floor as did Senator Kerr when he occupied either this seat or one nearby. It would be helpful on some days.

Mr. JAVITS. It would be in good hands.

Mr. METZENBAUM. I thank the Senator.

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. RIBICOFF. Mr. President, I came into the Chamber toward the end of the Senator's remarks, and I associate myself completely with the distinguished Senator from New York.

Later this afternoon, I, too, intend to speak about the necessity for the conference report being approved. It is my feeling, as it is the feeling of the Senator from New York, that I have always been against and voted against deregulation of natural gas. But we have reached the stage in this country today, with our economic problems of inflation and the value of the dollar, that this conference report has become a symbol. It can be said that it is not a reality, but sometimes a symbol is more important than the reality.

In speaking to world leaders, economic leaders, across this globe, to them the American will and the ability to deal with its economic problem is now riding on the way they conceive the ability of Congress and the executive branch to start to solve its energy problem.

I associate myself with the distinguished Senator from New York.

Mr. JAVITS. It is very gracious of the Senator from Connecticut, and I thank him very much.

Mr. President, I yield the floor.

Mr. MELCHER. Mr. President, I think the value of this discussion of the natural gas bill has been diluted somewhat during the past 3 days because not enough specifics have been debated. The so-called greatest debating body in the world—the U.S. Senate—often finds itself involved with repetitious discussion of each side.

I think it perhaps would be of some advantage in this discussion if there were some specific rebuttal at times to the comments made on one side or the other; and if the Senator from Ohio is willing, I would like to provide some sort of colloquy on some of the points the Senator from Ohio established as his side of the argument.

The Senator spoke of a telegram from Eliot Janeway, whom I admire greatly and whose usually long article is published in newspapers across the country. It usually appears in the Washington Star on Sunday, and I like to read it. I think the experience of Mr. Janeway during, let us say, the past four decades entitles him to address very astutely some of the economic questions of this country.

I am just reviewing now Eliot Janeway's telegram to the Senator from Ohio, and I point out that a key sentence reads:

> On the contrary, the bill will advertise the strangulation of our regulatory procedures and red tape, and it will accelerate the liquidation of independent gas producing enterprises.

Eliot Janeway and thousands of other people in this country have addressed this problem of strangulation by redtape.

The Senator from Ohio talked about this bill and said that until it is passed, the other parts of the President's energy package which have been agreed to in conference are held hostage. He listed some of those pertinent aspects in those bills. What he did not list is that contained in one of those bills, in the regulatory rate reform, is the expediting procedures for such an oil pipeline—an oil pipeline—as Northern Tier pipeline, which, if we do not pass those expediting procedures, will leave Northern Tier pipeline in the redtape strangulation that Eliot Janeway is talking about.

Mr. METZENBAUM. Mr. President, will the Senator from Montana yield for a question?

Mr. MELCHER. I yield.

Mr. METZENBAUM. The Senator from Montana has mentioned the pipeline on several occasions, and there is no secret about it. There is considerable sentiment among a number of Members of the Senate to provide support for the pipeline, and it is a fact, as the Senator probably is aware, that in a Dear Colleague letter that I and some other Senators signed recently we indicated that there is a consensus of support in Congress for the Alaska pipeline and even if it were not included herein it could be passed under suspension of the rules because I know of no particular opposition to it.

Does the main reason for support of this legislation of the Senator from Montana come about by reason of the containment of the Alaska pipeline in the measure, or is it based upon other considerations?

Mr. MELCHER. It is based on other considerations also. But I wish to clarify the point that the northern tier pipeline is a proposed oil pipeline across the northern tier States into the Midwest. In talking about pipelines, we often find that what we are saying is misinterpreted as this is obviously misinterpreted.

Mr. METZENBAUM. I stand corrected. The Senator is talking about the northern tier pipeline, the oil pipeline. I thought he was referring to the Alaska gas pipeline.

Mr. MELCHER. That is right.

Mr. METZENBAUM. I appreciate the clarification.

Mr. MELCHER. The northern tier pipeline, of course, if it is permitted both by Federal Government and by State governments and gets constructed over a 2-year construction period, will relieve the oil glut on the west coast that we are now enduring.

Mr. METZENBAUM. I misunderstood the Senator. I will not interrupt the Senator further.

Mr. MELCHER. No. The Senator is right on target as far as I am concerned

because the next point I wish to bring out is the fact that the Alaskan Northwest pipeline, which is the pipeline that the Senator was referring to, a proposed pipeline from Prudhoe Bay to Fairbanks and following the Alcan Highway down to the Lower 48 and into the Midwest, will, when constructed, transport natural gas from the Prudhoe Bay Alaskan oil and gas fields.

Yes, the conference report as presented does provide the statutory relief that will permit that pipeline company to go into the money market and say because we have it fixed into law now we can roll in not only the price of the gas at wellhead but the construction costs which are substantial into the final price of the gas that will be transported over that pipeline down to the Lower 48.

If that is not passed into law, the Northwest Alaskan pipeline will not be able to start the procedure in the money market to prepare themselves to sell bonds to pay for the construction so they can start construction.

I say to the Senator from Ohio that is one reason to support this conference report. But specifically if this conference report fails could we reasonably be sure that another piece of legislation just for that purpose could be passed by the Senate and the House of Representatives this fall?

From my own standpoint, I say my best guess is that the Senate would pass it quickly, and my best judgment is that when it got to the House of Representatives, or a like bill was introduced in the House of Representatives, it would have a real tough time. It probably could not be passed easily in the House of Representatives.

The Senator from Ohio knows, I think, as well as I do that some of the Congressmen and some of the Congressmen in the House of Representatives who have jurisdiction over this subject are adamantly opposed to relaxation in the law to amend the law which will permit rolling in the construction costs along with the wellhead price costs of natural gas to arrive at the final figure for the sale of natural gas.

Under those conditions, will the Senator from Ohio advise me if he has more recent information of the position of a number of people in the House of Representatives on this point and has he ever been assured that they would treat it as a single piece of legislative affirmatively?

Mr. METZENBAUM. I have no other information as to what the House of Representatives will do this afternoon let alone what they might do tomorrow, so I am in no position to advise my good friend from Montana what the House of Representatives will do. But in view of the fact that they have already accepted the concept of the Alaskan pipeline and since I have not heard of any strong opposition to it, I guess they would accept a separate piece of legislation and it would move with dispatch because I think everyone wants that gas to flow from Alaska into the lower 48.

Mr. MELCHER. I would hope that were the case, but I have to face up to the realities that exist, and the fact is that the House conferees only got a majority on the basis that they would accept this part solely to get a comprehensive bill, and the comments that have been made by the conference leaders of the House conferees on the bill, and I think I can quote rather accurately, are that it is virtually a certainty that in the event of recommittal there will be no bill. But that is quoting only.

Mr. METZENBAUM. Mr. President, will the Senator from Montana yield on that question?

Mr. MELCHER. I yield.

Mr. METZENBAUM. I simply wish to say to him and to those who make these comments, and it is not he who makes these threats, but I heard that threat made now over and over again, that there will be no bill if this is not the bill.

I believe that as 1 Member out of 100 here in the Senate I have a responsibility and part of that responsibility is to be responsible.

I believe that those who say that, "If you do this there will be no bill," indicate a kind of irresponsible attitude. I cannot believe that 435 Members of the House of Representatives would like to be a party to killing the Natural Gas Pricing Act which we hope to send them if and when the motion to recommit is agreed to by this body.

I cannot believe that they want to be a party to killing it, sounding its death knell.

Those of us who are proposing the motion to recommit are saying that the President should have emergency power as he had until it expired. We are saying that the Federal Energy Regulatory Commission should have the authority to permit the movement of surplus gas in the intrastate market into the interstate market. We are saying that we want to take a responsible position.

When somebody gets up on the floor or calls a press conference and says, "If you do not take this bill there will be no bill," then I say, well, first of all, I do not react very well to threats; second of all, I do not believe that is responsible; third of all, I do not believe that will be their position; and, fourth of all, I cannot believe that 435 Members of the House of Representatives want to go home and say they were the ones who killed the Natural Gas Pricing Act.

The fact is if we send it back to them, as I hope we will do on the motion to recommit, it will be an affirmative alternative as proposed by the U.S. Senate. It will indicate that we want a bill but we do not want to pay $29 to $41 billion for it.

I am not willing to accept these statements that are made and repeated over and over again that if we do not take this bill there will be no bill. I am confident that the chairman of the Senate Energy Committee, in spite of his public protestations to the contrary, will reverse his position and will fight and do the will of this body.

The Senator from Washington is probably one of the most responsible of this body, and if it is the will of this body that we want a bill stripped of any pricing provisions and giving the President emergency powers and giving other powers with respect to the movement of gas from the intrastate market into the interstate market I feel confident he will provide the necessary leadership.

I am not convinced that there are any leaders in the House of Representatives who are prepared to sink a bill just out of pique, just out of obstinacy, and I believe there will be a bill; and if there is not, then those who will have killed it will have to accept the responsibility. It is unfair to ask Members of the Senate to act on that basis of what might happen tomorrow or next week or next month.

Mr. MELCHER. Well, the Senator makes some very good points. Permit me to say that I, too, hope that if the bill is recommitted it would not sound the death knell for the natural gas bill.

But would the Senator from Ohio want to include in that motion to recommit, because the motion to recommit with instructions is a lot different from a motion to recommit, because the motion to recommit with instructions infers that only those points included in the instruction would be taken up by the conferees—would the Senator from Ohio be willing to accept it, if the provision was contained in the conference report before us for stripper gas well pricing?

Mr. LEAHY. I apologize to the Senator from Montana for distracting the attention of the Senator from Ohio, and I hope he will excuse the intrusion.

Mr. MELCHER. Indeed I excuse it because I am delighted to see the Senator from Vermont listening to some of the points that might be included in the motion to recommit with instructions.

Mr. LEAHY. I wish to assure the Senator from Montana that I have listened to virtually every word of it either here on the floor or back in my office during the past couple of days.

Mr. MELCHER. I well realize the Senator from Vermont has a huge capacity for absorbing the information that is discussed on the Senate floor, and is one of our truly bright minds.

Mr. METZENBAUM. Did the Senator from Montana ask a question?

Mr. MELCHER. Yes. I asked the Senator from Ohio in this motion to recommit with instructions which, after all, is a very firm mandate for the conferees and limits the conferees to doing only what is in the motion to recommit, and coming back, if possible, and reporting to the Senate just on those points after the conference is concluded, if it is concluded, would the Senator from Ohio advocate that the motion to recommit also contain a provision for stripper gas well pricing, which is in the conference report, remembering that stripper oil wells have been relieved of price restraints on old oil?

Mr. METZENBAUM. Not with my approval.

Mr. MELCHER. It would have the Senator's approval?

Mr. METZENBAUM. Not with my approval. If stripper wells were relieved of pricing not with my approval.

Mr. MELCHER. Then here we are in a quandary. I would have assumed that one

feature on stripper gas wells would be something that all 100 of the Senate would approve.

Mr. METZENBAUM. Why?

Mr. MELCHER. Because we are all for conservation and we ought to all be for increased production.

Mr. METZENBAUM. We can agree on that. Why should we be for increasing the price and relieving stripper gas wells from price control, which is what the Senator is asking?

Mr. MELCHER. Absolutely.

Mr. METZENBAUM. And which was in the conference committee report.

Mr. MELCHER. Absolutely. Might I point out to the Senator from Ohio if he is willing to mandate in those instructions to the conferees to come back with a final bill that will say the Northwest Alaskan pipeline can have relief from existing law and will be capable of rolling in not only the wellhead price but constructions costs—and we are talking about natural gas that will cost consumers well above $4 a thousand cubic feet—I do not know how much above, but it would be $4-plus per thousand cubic feet—if you are willing to do that why would not the Senator from Ohio be willing to allow stripper gas wells to get $2.19 on the basis of escalation and whatever inflationary factors that follow from that?

Mr. METZENBAUM. Well, as a matter of fact, what the Senator is really saying is why do I not support the idea of all of the changes that are made in the conference committee report which would provide for relief from price controls for rollover contracts, for gas that is more than 15,000 feet deep, for gas where you sink a hole in the ground a little bit differently from the place where the present hole is.

Mr. MELCHER. No, I believe this is a special situation. I believe stripper gas wells are much different than what the Senator is referring to.

Mr. METZENBAUM. Let me say this: I think there are unquestionably people who are supporting the motion to recommit who would totally agree with the Senator. But I happen to come from a posture and a firm belief that the gas producers of this country are doing extremely well as is, too well, and I was impressed by the arguments of the distinguished Senator from South Carolina yesterday, Senator Hollings, when he spoke to the point of about how he had an investment in gas and it was a great place to invest.

I think those who have stripper wells and those who have all kinds of gas have done extremely well in the economy. I know it was not too many years ago that the gas industry indicated that at 26 cents they would agree to settle a case before the Federal Power Commission, and they could make out extremely well at that figure. I think, if my recollection serves me right, it was in the New Orleans case or something of that kind.

Then I know at a later point the Federal Power Commission set a figure—I cannot remember that figure, but I think it was something like 42 cents or something in that area—which was based on giving the industry a return of 15 percent on their investment after taxes. That was not too bad.

But now we are at about $1.50. This bill will go to $1.93, and then better than 10 percent per year thereafter, and this bill will say that those of us who represent consumer States or our constituents will be paying more for natural gas, and those who come from the producer States will wind up paying less for natural gas.

I just believe we ought not to let the bars down at all. There is a lot of argument and there are a lot of differences of opinion as to whether stripper wells or wells that are more than 15,000 feet deep or newly developed wells that are more than 2½ miles—I am not even sure of the mileage figure because they kept changing and they did not show me the bill every time they made a change—more than 2½ miles from the place where the well was producing—there are all sorts of exceptions.

But when you get all done, there is one simple bottom line, and that is that the American consumers, the American people, will pay more and more and more.

So, therefore, when I say to my good friend from Montana, "No, I would not agree to any special exception for the stripper wells," it is because I do not believe that is necessary.

Mr. MELCHER. When you said——

Mr. METZENBAUM. Let me finish my thought; then I will yield the floor.

When you ask me about the Alaska situation, I think it is a fact that there is a tremendous supply of natural gas there. You cannot get that natural gas into the lower 48 unless you have a pipeline. We know it cannot just be picked up and carried. We know you cannot build a pipeline unless you have a tremendous investment of capital, and you have to have a return on that capital.

Therefore, I think you make a different case out, really, for the Alaska pipeline than you do for the stripper wells, some of which are presently operating and some of which will be new, but I think they can operate very well and are doing extremely well under the present law, and do not need any additional relief.

(Mr. HART assumed the chair.)

Mr. MELCHER. Well, the Senator is telling me that it is all right for my State of Montana to pay, as Montana Power has to pay under the newest contracts for Alberta gas, about $2.16 per thousand cubic feet, but that it would not be all right to allow a bill to be passed that would provide stripper gas well production at the basis of $2.09 per thousand cubic feet. The Senator is saying, "You do not have to worry about it, because there are a lot of gas companies that have got contracts at 26 cents per thousand cubic feet."

Well, they are not available to us now. Whatever contract Montana Power Co. has, or Montana-Dakota Utility Co. has, which distributes gas in Montana, they are old; they are going to expire. If they have contracts at such low figures, well and good. But when they have to replace those contracts, they cannot replace them at $2 for stripper gas, but must pay more than that for imported gas. Now, where is the sense in that?

On the other hand, the Senator from Ohio tells us that it is all right to go ahead and build the northwest Alaskan pipeline to bring down Prudhoe Bay gas, and go right through Montana; it will be all right for us to have that there, at $4-plus per thousand cubic feet, but we cannot have any stripper production in Montana at $2.09, or stripper production in Wyoming at $2.09 per thousand cubic feet, that could be brought into our State through Montana Power or Montana-Dakota Utilities.

I think this is an example of that fact that when you make a motion to recommit with instructions, there will not be much of an agreement on that motion to recommit with instructions that carries out a balanced approach at all, even of the very strong and good points that are not argued much on the floor of the Senate or in the House of Representatives, or among the members of the American public who are looking at this proposition.

I daresay that the Senator from Ohio would like to ask Eliot Janeway or almost anybody who was dealing with the economics of energy that specific question: "Do you believe that we ought to allow some price incentive for stripper gas wells?"

About 90 percent of those people would say, promptly and firmly, "Yes. Absolutely." We are faced with paying a higher price than $2.09 per thousand cubic feet for Alberta gas that is purchased by utility companies in my State or other States, and consumed by the American public. We are faced, if our Federal Government permits the gas companies to buy from Mexico, with a price of about $2.65 per thousand cubic feet. That is substantially higher than the $2.09 for stripper gas wells.

They would point out that liquefied natural gas brought in under current contracts sells for about $4 per thousand cubic feet. They would point out that all of these purchases are part of the drain on the American dollar, and create a problem of balance of payments for the United States, that it would be good for the economy to have that gas production here within the United States, and entirely reasonable from an economic standpoint.

But let me go to the other aspect of stripper gas wells. It is entirely practical and necessary from a conservation standpoint. They have got the well there, in many instances, and it has petered out. There are methods to enhance recovery of the gas that is still there. Now, that is conservation; to enhance that recovery and get it is true conservation. That is different from drilling a new gas well that is only going to produce a very small amount of gas. I want to emphasize that difference, because the conservation end of it comes in producing out of an existing gas field that gas that is locked below, using the enhancement recovery features that are available to recover the gas that is there in the field,

that has already been opened up and part of it has been taken.

In addition, when the Senator from Ohio returns, perhaps he would like to address himself to whether or not one of the instructions to the conferees should be that something should be done about the nonprice regulations contained in section 4 of the Natural Gas Act, and whether or not the requirement of the overwhelming paperwork of the 30-day monthly reporting by gas producers should be left in the law as it is now. Would the Senator from Ohio care to respond to that, whether one of the instructions to the conferees should be that the nonpricing regulations requirement under section 4 in the existing law, the Natural Gas Act, should be amended whether the overwhelming paperwork requirement of very detailed 30-day reporting should be retained in the law, or whether there should be relief granted, as has been recommended by the Federal Energy Regulatory Commission Chairman and by the conferees?

Mr. METZENBAUM. I must confess that the Senator from Montana inquires of me about a specific as to which I am not familiar. I will be glad to check into the matter and attempt to respond prior to this matter being finally disposed of.

Mr. MELCHER. I thank the Senator. I would draw his attention to the fact that there has been a great deal of discussion on the Senate floor the past 3 days on the chairman of the Federal Energy Regulatory Commission's comment that the existing case load under section 4 is overwhelming, and is bogging them down in paper.

Mr. METZENBAUM. I would say to my good friend from Montana that perhaps it would be helpful to him in learning about the answers to some of these questions to know that the chairman of the Federal Energy Regulatory Commission has been summoned by the chairman of the Subcommittee on Administrative Practice and Procedure of the Judiciary Committee, the Senator from South Dakota (Mr. ABOUREZK) and will appear before his subcommittee tomorrow to discuss exactly how many additional employees will be required by passage of this legislation; and at that time I am certain that the Senator from Montana could sit in the meeting and perhaps the Senator would find a direct answer to that particular inquiry.

Will the Senator yield?

Mr. MELCHER. I yield to the Senator from Ohio. I ask unanimous consent to do so.

Mr. METZENBAUM. I just want to come over and talk to you for a minute.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

Mr. MELCHER. I ask that the Senator withhold that, if he would.

Mr. FORD. Mr. President, I withhold my request.

Mr. MELCHER. The Senator from Ohio, speaking about the oversight hearing before Senator ABOUREZK of the subcommittee of the Judiciary Committee, was very timely. I am sure that the chairman of the Regulatory Commission will inform that subcommittee that (a) relief under section 4 of the Natural Gas Act will relieve them of a tremendous amount of paperwork. To the extent that relief is granted, the Federal Energy Regulatory Commission can relieve themselves of an overwhelming burden. They have reported to us that in fiscal 1976 alone there are 28,407 cases under section 4 of the Natural Gas Act.

Let us view how huge that figure is. Fiscal 1978 is going to end a few days from now, and they have accumulated that many cases. They have to dispose of them under section 4 of the Natural Gas Act.

Let me say, it is not just a question of how many people the Federal Energy Regulatory Commission has to have employed to handle those cases. Let me say that there are tens of thousands of other employees throughout this country working for the gas companies which have to report, who are employed for that specific purpose.

If we want to truly address one of the pertinent parts of what is in this conference report now before us, it would serve the interests of the proposers of the recommittal motion to include that in their motion to recommit with instructions. To ignore it would be to ignore not only commonsense; it would be to ignore a responsibility that had been well outlined and verified by not only the Federal employees but by industry as being a waste of time, serving no useful purpose, requiring such detail that nobody wants to read it, and requiring storage capabilities which are an outrage, just for those reports required under section 4 of the Natural Gas Act.

I think it is clear that the motion to recommit will not contain the provision to accept the incentives for stripper gas well production.

Perhaps the motion to recommit will contain the proviso, the amendment to existing law, which will permit the northwest Alaskan pipeline to roll-in the cost of construction. If it does, I am all for that particular feature. I think it would be wise for them to include it, but I think it is obvious that it might have extreme difficulty in the House of Representatives.

Some of the leaders in the House of Representatives who have jurisdiction over this subject matter have made very explicit the provision to allow the rolling in of construction costs of that gas pipeline proposed from Alaska down to the Lower 48 was a concession, a concession that they were willing to swallow in terms of getting out a bill. "Do not give it back to us with that in it if you are not going to have a bill."

I will repeat what I have said earlier in the course of the debate on this subject that while the proposal is not entirely satisfactory to me, it is the only game in town. If we want a bill this fall we better go with this one because there really is not much likelihood that there is going to be another bill.

Mr. STONE. Will the Senator yield?

Mr. MELCHER. I yield.

Mr. STONE. I thank the distinguished Senator from Montana.

Mr. President, after careful study of the conference report on natural gas, hammered out after months of hard work by the Senate-House Energy Conference, I have decided to vote for its passage. I intend to vote for the conference report because it offers increased incentives for new domestic gas exploration and production. It is the only realistic, effective policy alternative at the present time to no bill at all.

As an original cosponsor and active supporter of the Pearson-Bentsen bill—adopted by the Senate—I am disappointed that the conference report does not go even further in providing more incentives for greater domestic natural gas production. I am also disappointed that the conference report continues and extends the heavy hand of Federal regulation in this area.

Nevertheless, Mr. President, this conference report does not offer the prospect of significant increases in domestic natural gas production. Most experts predict that this bill will result in almost 8 Tcf of additional production over present law, and result in a reduction of oil imports of over 1 million barrels per day in 1985. The legislation has the additional features of deregulating within 1 year high cost gas resources. Estimates of increased production vary, but there is no question that this bill means more domestic natural gas and less dependence on foreign energy sources than would otherwise be the case under present law. It offers a breakthrough in the right direction after months of debate, disagreement, and delay. And Mr. President, a breakthrough in developing a national energy policy is critical to our national well-being.

While this legislation, if adopted, will be just the beginning toward a comprehensive energy policy, it is a reasonable compromise on a policy matter which has divided the Congress for decades. This is the first time a natural gas bill has been conferenced and reported to the floor since 1956. The conference report represents the culmination of a legislative process which began in October, 1975 when the Senate passed by a vote of 50 to 41, S. 2310. This measure provided emergency relief for high priority gas consumers in the short-term. In the long-term, S. 2310 phased out onshore controls for new natural gas effective April 5, 1976 and for new natural gas offshore effective January 1, 1981.

In December 1975, the House Interstate and Foreign Commerce Committee passed H.R. 9464 a measure designed only to provide short-term emergency relief. A substitute proposal similar to S. 2310 was rejected 205 to 201 as the House instead adopted a proposal to end price controls for small gas producers, but which increased regulation for major producers. An attempt to recommit this bill and substitute a deregulation proposal also failed 198 to 204. These two votes effectively insured that there would be no gas pricing legislation in the 94th Congress.

Congressional debate on natural gas pricing resumed in the 95th Congress with the President's energy proposals and the introduction of the Pearson-Bentsen bill of which I was a cosponsor. The House of Representatives narrowly adopted the President's proposal for con-

tinued and expanded natural gas regulation. In the Senate, the deadlocked Energy Committee rejected the President's original proposal without recommendation or amendment.

As we all remember, a full-scale, extended Senate debate on natural gas pricing resulted. After weeks of procedural votes and intense debate, the Senate approved the Pearson-Bentsen substitute 50 to 46. Subsequently, the Senate-House Energy Conference has worked tirelessly in search of a workable and acceptable compromise.

The choice for the Congress is not between this compromise conference report and another compromise; the choice is between this compromise bill and no bill at all. To have no natural gas bill at all after all these months of debate would be a great set-back in our efforts to develop a comprehensive national energy program.

Mr. President, I ask unanimous consent that the attached Miami Herald Editorial of August 19, 1978, relating to this subject, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

ENERGY BILL MUST BE PASSED TO CHECK THE DOLLAR'S SLIDE

President Carter's belated, nick-of-time rescue of the natural-gas legislation from a deadlocked House-Senate conference committee raises hope, at least, that an energy bill can be passed this year. With that hope a parachute is attached to the plummeting American dollar, and a gust of confidence could elevate it to a plateau of stability for a time at least.

There were times this week when world confidence in the intention of the U.S. Government to do something—almost anything—to bolster the dollar was so low that a crisis nearing panic was nigh.

On Monday and again on Tuesday the dollar dropped to new post-World War II lows in Japan, Germany, Switzerland, and the Netherlands. Even in England, which reported its own trade-deficit problems were worse, the dollar fell, making the pound worth more than $2 for the first time in 29 months.

On Wednesday, as the Swiss Cabinet met to discuss the dollar's frailty and the resultant disarray among other currencies, there was no apparent concern evident within our own Government. Treasury Secretary Blumenthal's office said it would intervene only when there were "conditions that make for a disorderly market."

Lo and behold, that afternoon President Carter said he detected disorder in the market and would ask his economic advisers for remedies.

The effect was electric and immediate. Even such a slight sign of concern and interest by the Administration resulted in the dollar opening higher in Tokyo, Frankfurt, Zurich, London, Paris, Brussels, Amsterdam, and Milan. Then when Mr. Carter announced no firm rescue plans at his press conference Thursday afternoon all bets on recovery were off.

Overnight, however, the breakthrough on the energy legislation changed everything again. Whether Mr. Carter used arm-twisting, sweet talk, or an appeal for the greater good of the country, it worked. The mere possibility of passing an energy bill ranks as good news after bleak months of no hope at all.

If a threatened Senate filibuster against the compromise on gas develops, pressure on the dollar will return. But now that the Administration has moved in the one area, perhaps the pressure can be offset by movement in other areas. The giant imbalance in trade, caused greatly by oil imports, can be eased by Japan's agreement to cut exports to this country and to increase U.S. purchases.

At base, however, the Administration has to get an effective handle on inflation. While the economy grew at a rate of 8 per cent during the second quarter, figures released Friday show inflation crept even higher to 10.7 per cent. Increased consumer spending, and a rush to buy homes before the price goes even higher, indicates the public's lack of confidence that the dollar will be worth as much tomorrow as it is today, thus building in inflation.

The Administration's efforts to cool the economy by voluntary restraints have produced few volunteers and fewer restraints. Because nothing else has worked, the people, according to this month's Gallup Poll, now believe wage-price controls are the answer. The sentiment in that direction is up to 52 per cent now from 44 per cent in February. We do not favor such controls, nor does Mr. Carter, who must devise other, better solutions.

The question comes back, now, to the President: Why not the best?

That's what the dollar used to be.

Mr. STONE. Mr. President, I yield the floor.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MELCHER). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, there has been delay, and it is obvious that very few Senators are present—none except the Chair and I. Several meetings are going on. The leadership on both sides are meeting with the policy committees. Senators will be on the floor in a few moments.

I had anticipated making a motion for a recess but will not do that, because when the committees finish, there will be some action on the Senate floor.

I wanted to get the doors opened back here and bring everybody out, to see what I was going to do.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that Stuart Brahs, of my staff, be granted the privilege of the floor during debate and votes on the Natural Gas Act conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, this is an important debate. For almost 18 months the question of a U.S. energy policy has tied the President, the Congress, and the Nation in knots. This top legislative priority has, however, proved an elusive goal and a disaster.

The past two winters have brought home to most Americans the reality of our energy problem—that it will not disappear. Too often the energy challenges facing the Nation have been treated as short-term difficulties. This is a dangerous fallacy.

The Arab oil embargo showed us just how vulnerable we are. Both the 1973–74 embargo and the 1977–78 natural gas crisis provided ample evidence that we are neither conserving our energy resources nor producing enough for a growing economy.

No one expected the creation of a national energy policy to be easy. After all, the natural gas controversy has been around for nearly 40 years. The national energy plan submitted by President Carter in April 1977 contained over 100 interdependent proposals. Grappling with these complex parts truly tested our political skills.

Throughout this debate the world has waited and watched to see if the United States has the capacity and the will to deal with her energy problems. Our trading partners in Western Europe and Japan have been especially interested in the progress—or the lack of it—on the energy question. Our failure to take affirmative action on the energy front has been an important factor in the dollar's decline; it has been a major cause of our record trade deficits. Treasury Secretary Blumenthal stated last year, for example, that in a 5-year period "the cost to us of imported oil has increased tenfold * * * from $4.7 billion in 1972 to $45 billion estimated for this year * * *." Because of the increase in purchases of imported oil, the United States has had to export 2 percent of its GNP to pay for them. Over the past 10 years we have had to pay almost $5 billion for imported natural gas alone.

And further, this failure to take decisive and hard action is a symbol to the rest of the world. There is a growing belief that the United States does not have the political will to develop and to implement an energy program, but we lack the capacity of a President or a Congress working together to solve our basic problems. Some believe that we have abandoned our world leadership role—and thus the strength of our international economic position has been undermined. In the absence of a meaningful energy program, there is fear that oil imports will accelerate; that the large trade deficits will continue well into the next decade, and that the dollar will fall still further.

This international atmosphere adds a new dimension to the natural gas compromise before us today. As Federal Reserve Board Chairman Miller recently testified before the Finance Committee:

> The world, for whatever reason, has built up the question of the energy bill as almost the essential element in our determination to cope with our problem of inflation and the problem of the dollar. . . .

If we reject this natural gas agreement—an agreement hammered out over many long months—the world will read it as a sign that America is unable or unwilling to make the hard choices—to develop an energy policy. It will be a sign that the United States cannot be relied upon to exercise world leadership in this critical area. This is a dangerous consequence of disastrous proportions.

Mr. President, no one believes that the natural gas compromise alone will solve America's energy problems. This compromise is not even the final resolution of the natural gas issue. It is, however, a step forward and a concrete action to show the world that the United States wants to act and that it is capable of reaching agreement on a course of action. Approval of this conference report will be proof that the Congress and the President are not impotent in this important area. We cannot fail to take the steps necessary to deal with the energy crisis.

As approval of the natural gas compromise has a favorable impact on the value of the dollar, it will help to break the inflationary spiral now gripping our economy. The depreciation of the dollar feeds domestic inflation. It has been established that every 10 percent decrease in the value of the dollar adds eight-tenths of 1 percent to the Consumer Price Index. Our economy simply cannot sustain such increases for long.

This natural gas compromise will permit interstate pipelines to compete with intrastate pipelines for new supplies of natural gas, thereby increasing supplies for the interstate market and preventing future shortages. Prices will be less than that of alternative fuels such as expensive foreign oil, liquid natural gas (LNG) and synthetic natural gas (SNG). The Connecticut Energy Office advises me, for example, that natural gas prices in my State will actually be lower under the compromise than under the status quo. The Connecticut Natural Gas Co. presently pays about $5.10 to $5.20 per thousand cubic feet for synthetic natural gas (SNG) which is made from naphtha, a petroleum product. It also pays about $3 to $4 per thousand cubic feet for liquefied natural gas (LNG). With decontrol, less of these expensive alternate gases will be used. Average residential gas prices will rise at a compounded annual rate of only 8 percent between now and 1985. Thus, Connecticut consumers would benefit from the increased supply of lower priced regular natural gas. Based on preliminary estimates, the State energy office anticipates a $20 million annual saving under the compromise.

Mr. President, the failure to enact an energy program is an economic tragedy. We are hemorrhaging with the problems of inflation and the deterioration of the dollar—both of which are worsened by the $42 billion annual bill for imported oil. The Department of Energy anticipates a $6 to $8 billion-a-year reduction in our trade deficit should the natural gas compromise be adopted. In addition, Secretary Schlesinger estimates the savings of approximately 1.4 million barrels per day from this bill, which is equal to the savings from all the other parts of the national energy plan combined.

Certainly this conference report is not a perfect piece of legislation. It is not the program the President originally envisioned. It is not what those opposed to any deregulation or those supporting the industry desire. It is a compromise and is an important start. It serves as a base on which we can build.

No compromise satisfies everyone but let us not ignore the positive aspects of this conference report. In addition to those benefits I have already mentioned, we should note that—

The outmoded dual market system is abolished and a single national gas market is created;

The construction of a pipeline to carry new supplies of natural gas from Alaska to the Lower 48 States will be undertaken;

Through the incremental pricing mechanism the initial burden of increased gas prices will be placed on industrial users while residential and small commercial users will be shielded from sudden increases;

An estimated 30 percent increase in interstate gas will be realized by 1985;

Incentives for exploration and production of new natural gas will be increased;

Burdensome Federal Energy Regulatory Commission regulatory requirements on all new natural gas will be removed;

Substantial quantities of gas for new home connections will be provided; and

The increase in the price of gas to the level of competing fuels will persuade industry to convert to more plentiful coal supplies—a major objective of the national energy plan.

Mr. President, the time has come to make those hard decisions on the manner in which we will produce, use, and conserve energy in this country. We must put aside theory, rhetoric, and regional differences. We must face the issue and demonstrate to the world that we have the ability and the determination to deal with energy questions in an orderly and reasonable manner.

Failure to act on this compromise would constitute a failure of Government. The impasse of the past 16 months has caused a serious loss of standing in the international community and has gravely damaged our own economic well-being. Let us stop doodling and dawdling. Let us give the American people results.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HODGES). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair, but for not to exceed 1 hour.

There being no objection, the Senate, at 2:03 p.m., took a recess, subject to the call of the Chair.

The Senate reassembled at 2:57 p.m., when called to order by the Presiding Officer (Mr. SPARKMAN).

Mr. BELLMON. Mr. President, I rise in opposition to the natural gas pricing conference report, and I wish to register, also, the opposition of natural gas producers as well as the consumers, and by far, the majority of the citizens of my State of Oklahoma.

As I look around this Chamber and note with some amazement those of my colleagues who stand in opposition to this extension of Federal regulation, I can only wonder who, besides President Carter, is for it. Certainly no one who cares about the consumer. Certainly no one who cares about the producer. Certainly, no one who thinks Government is already too big, too intrusive, too expensive.

When you consider any commodity, any product, whether it be wheat, natural gas, or widgets, there are three actors in the picture; producers, consumers, and Government: producers produce, consumers consume, Government meddles.

Experience in many fields shows that the more that Government meddles, the worse we all are for it. If Government successfully comes to the aid of the producer, we get a surplus. If Government aids the consumer by unrealistically holding down prices, then we get a shortage. If Government is especially inept, or so large and unwieldy that the right hand does not know what the left hand is doing, it is even possible for Government to accomplish a shortage and a surplus of a commodity at the same time. Aside from being tragically amusing, the cost of Government accomplishing shortages and surpluses at the same time is enormous.

Federal regulation has already been responsible for feast and famine in my own State. Federal regulation is responsible for the simultaneous surplus and shortage of natural gas in Oklahoma. This bill, if enacted, will make that situation even worse.

Mr. President, I wish to refer to the fact that the Federal Government, by its unrealistic controls, has produced a shortage of natural gas in the interstate market and at the same time, because of the heavy-handed bureaucracy which makes many producers unwilling to sell gas in the interstate market, we have a surplus in the intrastate market.

If we only had to debate the merits of this bill, the debate would be ridiculously one-sided. There is no one to argue for the bill on its merits, for the simple reason that it has very few.

The only reason we are debating the bill at all is that it has become symbolic—symbolic of the President's leadership. It is also symbolic of the resolution of the Congress to "do something" about the energy problem. Actually, it is not even the energy problem that is at issue. It is the dollar.

The dollar has been falling against the currency of countries that import all their oil. We import a lot of oil, too. The advocates of this bill, such as they are, would have us believe that vastly increasing Federal regulation of production and sales of natural gas will check the fall of the dollar. The advocates of this bill, such as they are, would have us believe that more meddling in the affairs of producers and consumers of natural gas will result in a decrease in the amount of

oil this country imports. There is only one thing that this bill is guaranteed to do, if enacted—that is to increase the amount of oil this country imports.

The only way a gas bill could reduce the amount of oil this country imports would be for it to cause consumers to shift from oil to gas.

This bill, and the Coal Conversion Act we have just passed, will cause consumers to shift from natural gas to oil. This bill will have just the opposite effect from what its advocates claim. If industry, if electric utilities, shift from natural gas, there will be a Government-contrived surplus of gas. If there is a surplus of gas, prices will fall. If prices fall, exploration activity will decrease. If exploration activity decreases, additions to proven reserves will cease. If additions to proven reserves cease, more consumers will shift to a more reliable source of energy. And so on. And so on. The more reliable source of energy they will shift to is oil. The demand for oil will increase. The importation of oil to this country will increase.

How do I know that producers—especially industrial consumers—will shift to oil if this bill passes? Because they tell me so. Who am I to say they are wrong. They want a dependable supply of energy. Most of them have standby capability to burn oil now. If this bill passes, they will simply burn oil all the time. They can no longer afford to rely on Government which places their energy needs last among all consumers. And there is no law forbidding their making that shift to oil. For example, Armco, Inc.'s Baltimore plant has a million gallon storage tank now for oil and will use oil all the time if it becomes cheaper.

How do I know that producers—especially wildcatters—will reduce their exploration activity for natural gas if this bill passes? Because they tell me so. Who am I to say that they are wrong. They want to make a living. Right now, a lot of gas could be sold in the federally regulated market—could be, but it is not being sold. There is no law requiring a producer to submit to Federal regulation and there are many independent producers who would prefer not producing to submitting to massive bureaucratic regulation of their lives. They will simply forsake the risky business of drilling wells hoping to find gas and invest their time and money elsewhere. This is what has already helped in the interstate gas market.

Many of my colleagues, some of whom voted for the Pearson-Bentsen bill, who were persuaded that an unregulated gas market was best for the consumer, have stated their intention to vote for this conference report. They have chided some of us for refusing to compromise on gas deregulation, some who want deregulation and some who oppose deregulation. Well, this conference report is not a compromise. That is why you see before you agreement. Agreement between the proponents of gas deregulation and the opponents of gas deregulation. We are in absolute agreement that this bill is worse than no bill at all.

Will my colleagues not be influenced by the producers that practically plead with us not to pass this bill. I am aware that there are others, on their knees, pleading with you to pass the bill. But they don't know much about gas production. Will my colleagues not be influenced by the consumer organizations that practically plead with us not to pass this bill. If my colleagues are not influenced by either producers or consumers, who will they be influenced by? We have an agreement between proponents and opponents of gas deregulation. That agreement is to recomit this bill to the conference, with or without instructions. It is agreement.

How is it possible that President Carter, against all evidence to the contrary, claims that this bill will result in increased gas production, increased consumption, and shifts from oil to gas?

It comes because this bill was originally designed to get industry and many other consumers off natural gas. It was well designed to accomplish that result. It certainly would do that. The President's proposals were originally based upon his belief that the sky is falling. He used to believe, and must surely still believe, that there is no more oil or natural gas to be found in this country. His entire energy package was based upon this belief. And yet, he advocates this gas pricing bill. He claims that it will result in increased gas production and shifts from oil to gas by consumers. It will do just the opposite, which is what he originally intended. Why then has he changed his tune?

We all know the answer. He thinks he needs a bill—an energy bill—any energy bill—a bill that will result in reduced oil imports. Never mind that this bill was designed to cause shifts from gas to alternative fuels. Never mind that this bill actually result in increased oil imports. The Senate has to show resolution to the world by passing a bill—any bill that can be labeled an "energy bill." Mr. President, I submit that this attitude is an insult to the intelligence of the American people as well as to the leaders of foreign countries.

I think President Carter still believes the "sky is falling." I think he still believes that there is no more oil or gas to be found in this country at any price. He will not allow price controls on domestically produced oil or gas to expire until he is somehow convinced that doing so would result in increased domestic production. Maybe we can convince him if we defeat this bill. If producers and consumers can convince him that this bill is the wrong thing for America, maybe he can then see what is right.

What we have to convince the President is that the laws that will solve this energy problem, the import problem, the dollar problem—are already on the books. The laws of supply and demand have been on the books for a long time. We must begin to obey those laws, rather than trying to repeal them. We must reduce Government meddling. If the President cannot be convinced, then let the Senate demonstrate again as when we passed S. 256 that we are convinced. Let us return to the picture. Producers produce. Consumers consume. Government meddles. It aids producers by raising the price above that consumers will pay. When Government aids producers in this manner, a surplus results. The law of supply tells us production will increase if the price increases. Government aids consumers by limiting the price that consumers are allowed to pay. When Government aids consumers in this manner, a shortage results. The law of demand tells us consumption will increase if the price decreases.

Together the laws of supply and demand tell us that the actions of government in the marketplace will be to provide either a surplus or a shortage. It can even contrive, at times, to produce both. It can happen when the left hand of Government does not know what the right hand is doing. Who can deny that an administration that pushes a bill like this, which will cause shifts from gas to oil and a bill that will reduce oil imports, knows its right from its left.

The evidence of what will happen if this bill passes is already before us. I urge my colleagues to look at it. The laws of supply and demand have not been repealed. The sky is not falling. We are not running out of gas next week. In those markets where the Government has not meddled, our proven reserves are increasing year by year.

The evidence that President Carter refuses to believe, is there, in the unregulated market. Natural gas used to be found almost as a byproduct of oil exploration. A large amount of proven reserves existed almost by accident. Production and consumption rose until the proven reserves fell to only a 10-year supply. At that time, the need for additional reserves was seen and, in the unregulated market, the price began to rise. Proven reserves dedicated to the unregulated market began to rise as a result. Each year more is added to reserves than is produced. The law of supply say that will continue to happen so long as the price rises, provided the resource base is present which it is.

A trap that a lot of people have fallen into is confusing resource with proven reserves. Proven reserves are the amount of a resource, for example of natural gas, that industry or the USGS, which polls the industry and then exercises its independent judgment knows can be produced at a profit at current prices.

(Mr. SASSER assumed the Chair.)

Mr. BELLMON. When OPEC jacked up the price of their oil fourfold, many people looked at the proven reserves appropriate to the old oil price and promptly announced that the sky was falling. But the proven reserves that go with the old price of oil is not the same as the proven reserves that go with a fourfold price increase. The first time that our Government tried to get a handle on how much energy was in the proven reserves category as a function of price occurred last spring, just after President Carter announced to the world that the sky was falling. The first attempt took place within the planning office of ERDA. The estimate was so embarrassing that it was

suppressed. Then industry and government met together at the USGS office in Reston, Va.—May 24–26, 1977—for the purpose of getting a better estimate. The resource base, the amount obtainable at some price, was determined to be more than ten times the amount of proven reserves at pre-OPEC prices.

Mr. President, I cannot emphasize that point too much. Using the higher prices that came as a result of the OPEC action, the resource base, which is to say the amount of fossil fuel available in this country, was realized to be 10 times the amount of proven reserves at the pre-OPEC prices.

In particular, the amount of oil that could be produced at $15/barrel was more than 3 times the amount that could be produced at $5/barrel. The amount of gas that could be produced at $3/MCF was substantially greater than three times the amount that could be produced at $1/MCF.

This all makes a great deal of commonsense, but a lot of people have not stopped to think about it, and unfortunately President Carter is one of those.

Senator JACKSON, who was on the floor a moment ago but seems to have left the Chamber at the moment, in his opening defense of this bill, gave estimates of the amount of gas that would become available if this bill became law, from Tight Sands and Devonian Shale, from coal seams, and from geopressurized zones. The amount of gas is immense and I will not quarrel with his estimates. But it is not the passage of this bill that will make those reserves producible. If anything, this bill makes those reserves less producible. That gas will not be produced until it is economical to produce it. The market will dictate when geopressurized zones will be produced. And if this bill is enacted, the market may never get a chance to provide incentive for that gas. The bill will cause shifts to oil, because of the incremental pricing provisions. If consumers shift, the demand for gas will fall. If demand falls, the price will fall. If the price falls, less gas will be added to proven reserves.

The price of natural gas in the unregulated market in Oklahoma has stabilized. You can buy all the natural gas you want in Oklahoma if you are willing and are allowed to pay the price. The average price in the unregulated market in Oklahoma is less than the price ceiling in this conference report.

Mr. President, I emphasize that again: Our current price in the unregulated market in Oklahoma is less than the price ceiling in this report. Some producers want more. Some will take less.

But even though many consumers in Oklahoma, and in other States, are willing to pay $1.75/MCF, they are not allowed to. The Federal Government will not let them. The Federal Government "aids" them. It will not allow them to pay more than $1.50/MCF, and not many producers are willing to sell for that. So consumers either have to shift to oil or shut down their plants.

Even in the regulated market, there is some evidence that the law of supply has not been repealed. Until 1975, the Federal Government would not allow any customer they controlled to pay more than 52 cents/MCF. Not many producers were able to find and sell gas for that price and were certainly not about to go looking for more gas to dedicate to the federally regulated market. Then, the Federal Power Commission, in a hotly contested (by consumer interest groups) ruling, based upon cost of production, allowed a new ceiling price of $1.40/MCF. That price increase, even though not certain to survive court challenge, caused producers to start drilling for more gas to dedicate to the regulated market. For a number of years when the regulated price was 50 cents/MCF, no new onshore gas was added to proven reserves dedicated to the regulated market. Now that the new FPC price has begun to take hold, 2.8 TCF was added in 1976, and 8.7 TCF was added in 1977. So even in the regulated market, when the ceiling is raised high enough, some producers will find it worthwhile to look for more gas.

Some of you may wonder why I oppose this bill, since the regulated ceiling price that will take effect is about $2/MCF, which is considerably higher than the current Federal ceiling price, and even higher than the average price in the presently uncontrolled market in Oklahoma. So, if the demand is there, producers will look for gas, and find it, and add to our proven reserves. Why, then, do I oppose it.

I oppose it because it is a completely unnecessary and costly regulatory nightmare. If this bill is enacted, much less gas will be produced and consumers will have to pay far more for it. Because the cost of regulation has to be deducted from the price a producer gets, he will produce less. Because the cost of regulation is included in the price a consumer pays, he will consume less. Some consumers will quit using gas altogether because this bill would require them to bear the price of the highest priced gas produced. This bill will cause them to shift to oil.

I oppose it because experience has shown once regulation begins, pressures on regulators make deregulation impossible. I oppose it because economics refuse to obey the preconceived notions of politicians. Imbalances are certain to result. I oppose it because the intrastate market has been free of controls and their supplies have been abundant and we should apply this policy nationally rather than abandon it for the bankrupt policy of bureaucratic meddling and control.

You may think that the regulatory cost will not be very high. It will be very high. Prohibitively high. Anyone who has any acquaintance with the DOE entitlements program knows how high the regulatory costs are there. It will be much higher for gas if this bill passes.

Regulatory costs do more than add to the price of gas. Some of the factors of production, such as the willingness of the producer to put up with the bureaucratic nitpicking, are difficult to evaluate in terms of price. But there comes a point where producing gas is not worth the hassle. It is unquestionably true that there is gas being sold in the unregulated market that would not be sold at all if DOE got into the act. Many producers have told me that they would get out of the business if this bill passes. One of the reasons that large oil and gas producers have not been more vehement in their opposition to this bill is that they are already so browbeaten by the regulators in their oil operations that they figure things cannot get much worse. The entitlements program is already a nightmare. "How bad can nightmares be?" And so they resign themselves to what they feel is inevitable.

Large oil can have platoons of attorneys and accountants to cope with regulators. This bill does not hurt big oil so much. It does hurt independents who find most oil and gas in the United States. They cannot afford big legal staffs and platoons of accountants because their operations do not justify that kind of expense.

And I might say that, being rugged individualists, many of them resent this kind of meddling, and on that basis alone will probably look for other places to invest their time and money.

The solution is not to compound nightmares. The solution is to wake up. It should be recognized that the laws of supply and demand are still operative. Obey the law; do not try to repeal it. Reduce regulation; do not extend it.

It is not generally realized that a lot of gas that is consumed in producing States, such as Oklahoma, is already controlled by Federal regulators * * * that is gas that is sold to a federally regulated pipeline, but is then sold by pipelines to consumers before leaving the State. There have been curtailments to these Oklahoma customers (ordered, I might say, by Federal regulators) even though there is plenty of gas to be had all around them.

The pipelines can buy all you want at $1.75/MCF, but the DOE would not let you pay but $1.50/MCF. The people of Oklahoma do not understand why the Federal Government is performing this wonderful service of cutting off their gas for them. But they understand one thing very well. This is a Government service they could do without.

I am convinced that consumers nationwide are going to learn this same lesson. Consumers have proven again and again that they much prefer to pay production costs of gas than to do without. Gas is not only the cheapest fuel available, it is the cleanest, safest and most dependable. President Carter thinks the present situation is intolerable. He wants to control all gas. As a candidate, he preached deregulation of natural gas but he sent us a bill which would institute control over all gas, and that is what we have before us.

There can be no doubt as to why there is plenty of gas in the unregulated market and shortages in the regulated market. There is plenty of gas in the unregulated market because that market is unregulated. It is that simple. There is a shortage of gas in the regulated market because that market is regulated. Seldom is any affliction so easily diagnosed. Seldom is any remedy so easily prescribed. The affliction is Federal regu-

lation. The remedy is to end Federal regulation.

Having diagnosed the disease and prescribed the remedy, you might think the President would thank me and proceed to end Federal regulation of oil and gas. Yet, he does just the opposite. He proposes to extend Federal controls on oil and gas and to keep those controls on indefinitely. Why?

The simplest answer is that there are more voters in nonproducing States than there are in producing States. Besides, he did not carry Oklahoma, anyway. But I am afraid the answer is more subtle and more disturbing. Let me quote from page 50 of the President's national energy plan, a document put out by the Executive Office of the President, a document that accompanied the energy bills he sent the Congress to pass.

> In 1973–74, the oil-producing countries raised the world oil prices fourfold. Deregulation of oil and gas prices would make the U.S. producers the beneficiaries of those arbitrary price rises and yield windfall profits from the increased value of oil and gas in existing fields. The producers have no equitable claim to that enhanced value because it is unrelated to their activities or economic contributions.

First of all, the oil-producing countries did not raise the world oil price fourfold. The OPEC cartel raised the OPEC price fourfold. At the time, the United States was an oil-producing country, and our price was substantially greater than the OPEC price. In fact, imports of OPEC oil were restricted because it was so much cheaper. What the OPEC cartel did was realize that they were selling their oil at less than its true replacement cost. They did not choose an arbitrary price to post their oil. They determined, as well as they could, what the true replacement cost of the non-OPEC world was. They have not been able to keep that price up. Inflation and the falling dollar have resulted in a 1978 price (in 1973 dollars) of about $7 a barrel. The reason they have not been able to keep that high price in effect is that a lot of oil has been discovered that they did not count on (in the North Sea, in Alaska, in Mexico, in Indonesia). The important point to be made here is that the free market price is the true replacement cost and that the OPEC cartel cannot make an arbitrary price stick for long.

But returning to the President's statement I quoted, the most disturbing part is where he says that oil and gas producers should not, and will not be allowed to, realize a gain on their assets. That is an incredible view for the President of the world's premier capitalistic country to have. If there is anything that is critical to our future health and development—and not just in the energy field—it is to have an assured growth in capital formation. The OPEC cartel demonstrated to the world that they, and we, had vastly undervalued our gas and oil resources.

If oil and gas producers are to find and produce oil and gas, they must have capital. Their only source of capital is the sale of the oil and gas they have already found. If they cannot get a price for a barrel of oil sufficient to find and add to proven reserves another barrel of oil, then they will not have gotten the true replacement cost for that oil. They have not been allowed true replacement costs for the oil and gas that they produce and predictably our proven reserves in oil and in gas dedicated to the federally controlled interstate market, have declined in recent years. But, in the uncontrolled intrastate market, free market prices have been allowed and proven reserves have been increasing in recent years.

The view of this administration that producers "have no equitable claim to the enhanced value" of their assets is folly. They claim it would not be "fair." Maybe not. But it would result in a solution to the energy problem. That is what we are supposed to be doing, is it not? In any event, if the price is high, enhanced supplies and reduced consumption resulting from an uncontrolled market will soon bring the price down.

Sometimes you wonder what this administration is up to. It is not just the gas bill. It is not even just the whole Carter energy package. It is the basic approach to this Nation's policies, both foreign and domestic. He preaches fine. Unfortunately, some of his actions do not live up to his words. It seems to me at times that he would rather go down with the ship than save it. Let me quote a recent editorial from the Wall Street Journal.

Mr. President, I believe it makes the point much better than I can. I am not going to take the time of the Senate to read the entire article. We simply have to get away from this notion that we are running out of oil.

To go on with the editorial, it says:

> The Europeans would be just as happy with price deregulation. This would also "solve" their mythical problem, which derives from an unthinking belief that consumer prices on energy are set on an average instead of on the margin. But Mr. Carter thinks this will cost consumers billions of dollars that will go to energy producers, which he believes the American people would rather have going, in tax dollars, to building a bigger and better Department of Energy.
>
> Our friendly advice to the President having been systematically ignored these past 17 months tempts us to replace advice to him with mere comment. But that would be giving up. Instead, we advise that he watch his step on that slippery summit. He has slipped a long way in the esteem of his constituents. But he can slide further still.

Mr. President, I ask unanimous consent that the full text of this editorial be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SLIPPERY SUMMIT

The collapse of public confidence in President Carter's performance, as evidenced by his record-breaking lows in the opinion polls, will not be reversed at the European "summit" meeting he will attend next week. Like the fellow who doubles his speed when he loses sight of his goal, Mr. Carter seems intent on pursuing strategies that the man in the street knows are destructive.

What is the point of the summit? To coordinate the economic plans among the major industrial nations, we are told. What is the deal the Carter people are seeking? Our trading partners are asked to expand their economies, and in return Mr. Carter pledges austerity. Specifically, West Germany promises a $6 billion tax cut. Mr. Carter wants to promise that he will be successful in taxing the daylights out of the U.S. economy, specifically on its use of energy. What a deal.

The root of the problem is not that Mr. Carter turns out to be some kind of Manchurian Candidate, who somehow slipped into the Oval Office intent on perversity. It is that he continues to believe in the notion of resource scarcity. Amid a world-wide energy glut, Mr. Carter believes the world is running out of the stuff.

Not a cab driver in Brooklyn, not a steelworker in Buffalo, not a banker or businessman in Los Angeles believes this. Nor do we. The only substantial support Mr. Carter has is among people who possess energy amid the glut and would like to dispose of it before new producers find even more, which would be the inevitable result if incentives were restored to the independent oil and gas snoopers.

The centerpiece of Mr. Carter's strategy had been his energy bill, which in original form would have taxed American energy consumption so heavily that the citizens would have to ponder life in the caves. The bill has been dead in Congress for months, but Energy Secretary Schlesinger still pretends it is alive by placing fresh flowers around the casket every day. Sen. Russell Long is to be congratulated for doing everything he can to kill it.

The people President Carter represents, the American people, want him to deregulate oil and gas, as he promised he would. Again, the evidence is the 2-to-1 margin in the opinion polls that widens month by month. Instead, Mr. Schlesinger talks about rationing two gallons of gas per motorist, slapping import duties on imported oil or dictating quotas.

All this to strengthen Mr. Carter's hand at the summit. The Europeans, the Carter people keep saying, are demanding that we do something about energy. These phantom Europeans, we suggest, should be produced in Washington. They should be invited to read the several hundred pages of fine print in Mr. Carter's energy bill before taking a walking tour of the fun house that would have to administer it, the Department of Energy. They would, we are sure, return to Europe and clam up.

There are no doubt Europeans who have been sold on the erroneous idea that the United States is subsidizing oil consumption by holding the price down via government regulation. They think this gives us a competitive edge that should be taxed away. But why should our President agree with the prescription, even if he accepts their view of the problem?

The Europeans would be just as happy with price deregulation. This would also "solve" their mythical problem, which derives from an unthinking belief that consumer prices on energy are set on an average instead of on the margin. But Mr. Carter thinks this will cost consumers billions of dollars that will go to energy producers, which he believes the American people would rather have going, in tax dollars, to building a bigger and better Department of Energy.

Our friendly advice to the President having been systematically ignored these past 17 months tempts us to replace advice to him with mere comment. But that would be giving up. Instead, we advise that he watch his step on that slippery summit. He has slipped a long way in the esteem of his constituents. But he can slide further still.

Mr. BELLMON. The editorial I have just quoted, made reference to a 17-month campaign. A campaign to enlighten Mr. Carter. I have read and applauded and hoped that Mr. Carter would be enlightened by the editorials of that 17-month campaign. They make

interesting reading, even today. They were consistent. They were convincing. They were dead right.

It may be that at some appropriate time I will want to read more of these articles and perhaps place others in the RECORD, but for the moment I am going to forego that opportunity.

I would like to say in conclusion that if, for some reason, and I cannot imagine what that reason might be, there are those in the Senate who have not listened to what I have said today, I hope they will get a copy of these editorials and read them at their leisure.

Mr. President, to conclude, I would simply say that I strongly urge that the Senate vote to recommit this bill. I feel that the conferees, while they have worked over a long period of time and worked very hard, have not had the advantage of the kind of enlightened leadership they need from the administration on this question.

The President seemed to be persuaded from the beginning that our resource base was limited, that we simply did not have the opportunity to increase our reserves of oil and gas, and he has fashioned his entire energy program on that premise. It is a premise that will not stand close examination. I am convinced that, especially now in the natural gas area, with these large surpluses we have in the intrastate market, if Congress and the President will simply allow the price mechanism to work, there will not be sharp upward adjustments in the natural gas price, and that such adjustments as do come over time will be of such a gradual nature that they will have a very minor impact on the Nation's economy.

I am concerned that if we go along with the compromise, so-called, that the House and Senate conferees have brought before us, we will put in place a system of regulation of all types of oil and gas and we shall never get rid of it.

We know the so-called EPCA bill was supposed to bring oil prices up to such a point that those controls would be removed as of next May, but I shall make a guess that there is practically no chance that that will happen. My concern is that if we go ahead and put controls on intrastate gas, even though those who fashioned this so-called compromise may expect those controls to go off 8 years from now, that will simply not happen. Having gotten a bureaucracy in place to administer those controls and having persuaded a lot of people that controls are needed, Congress will find it pretty impossible to get rid of them when the years have run their course and the law is expected to expire.

Mr. President, I strongly urge that this bill be recommitted, that it be brought back without controls on the intrastate market, and that we set the stage for consideration of total decontrol when the EPCA expires next spring.

Mr. HANSEN. Mr. President, if the Senator from Ohio, who, I know, is eager to speak, will yield to me for just a moment, I should like to compliment our colleague from Oklahoma. I think he has uttered some very profound and lasting truths and I hope that Senators who may have been importuned by the administration to vote for the so-called compromise will take time to read the Senator's comments. I certainly would be persuaded by the logic and the clarity of his convictions.

Mr. BELLMON. I thank my friend from Wyoming.

Mr. President, I yield the floor.

PROPOSED MOTION TO RECOMMIT

Mr. METZENBAUM. Mr. President, there has been considerable discussion about a motion to recommit that a number of us expect to file and call up at an appropriate time in connection with the debate on this particular subject. There have been a number of inquiries made as to what exactly is the language that will be contained in that motion to recommit.

In order to make it possible for all the Members of the Senate to be advised sufficiently in advance of the actual calling up of the motion as to the language that it is anticipated will be in that motion, I ask unanimous consent that a motion to recommit which will be proposed at an appropriate time by myself and Senators ABOUREZK, KENNEDY, BARTLETT, TOWER, and others be printed prior to its being filed at the desk and that it not be subject to being called up except by one of the sponsors.

Mr. FORD. Will the Senator from Ohio allow me to ask him a question? I shall not object.

Mr. METZENBAUM. Yes.

Mr. FORD. Is there any need for him to have it printed? Could it not be just in the RECORD and let us read the RECORD, rather than go to all the trouble and expense of having it printed?

Mr. METZENBAUM. It is just a one-page amendment and I think——

Mr. FORD. If it is going in the RECORD—it will not be in the RECORD, is that it?

Mr. METZENBAUM. I just have the feeling that people normally look at an amendment that they talk about and they do not go to the RECORD to find it.

Mr. FORD. I notice you kept in the incremental pricing and did not put in wellhead price. Is that correct?

Mr. METZENBAUM. I know the Senator would like to discuss the merits of it at this point.

Mr. FORD. I merely asked the question, could we not save the expense of having an amendment printed and we could just have it in the RECORD and let everybody read the RECORD?

The Senator is going to oppose this motion?

Mr. METZENBAUM. I know the Senator from Kentucky is very cost conscious, but I would say the cost of printing this would not be more than $25 and I would suggest doing it.

Mr. FORD. $25 is $25 and it will buy a couple of pounds of coffee and maybe a little natural gas in Ohio this fall.

Mr. President, I withdraw the objection if the Senator wants to print it.

Mr. STEVENS. Mr. President, reserving the right to object, I ask the Senator from Ohio if the motion that will be filed will contain the same provisions that apply to the Alaska natural gas pricing and the treatment of Alaska natural gas as they currently appear in the conference committee report, and if those provisions will be included in the Senator's motion now?

Mr. METZENBAUM. In response to the Senator from Alaska, he is correct that in the past there has been considerable discussion along that line. It is not included, but it is my understanding that various Senators have indicated their intent to move to amend the motion to recommit with instructions to include language pertaining to the Alaska pipeline.

Mr. STEVENS. May I inquire if the Senator would object if I move to amend his motion at this time to make that inclusion?

Mr. METZENBAUM. I cannot object to his doing it, nor can I agree to it, since I do not have the motion that is filed at this moment. I am merely asking for the matter of its being printed.

I should like to suggest to my good friend from Alaska that he indicate for the RECORD, as certain other Members of of the Senate have also indicated—I believe it is Senator HUMPHREY and Senator BAYH—that they intend to offer such an amendment. I had understood that the Senator from Alaska was possibly going to join them in that respect.

I do say to the Senator from Alaska that if such an amendment is offered at a subsequent point in time to that when we offer this particular motion, the Senator from Ohio has no intention to object to its being added. I think it would be premature at this moment, since I have not actually offered any motion, so I cannot very well agree to an amendment to something I have not offered.

Mr. STEVENS. I understand the Senator's position. I ask the Chair if it might be in order for me to make a similar request to have an amendment offered to the recommittal motion suggested by the Senator from Ohio. The amendment language would be that language contained in the conference report presently before us relating to the pricing and treatment of Alaska gas.

The PRESIDING OFFICER. (Mr. MATSUNAGA). A unanimous-consent request may be made after the pending request has been disposed of.

Mr. FORD. Is this another $25 on top of the other $25? We have gone to $50, now, you see.

Mr. STEVENS. I say to my good friend from Kentucky that it is my understanding that the Senator from Minnesota (Mrs. HUMPHREY) and the Senator from Indiana (Mr. BAYH) had intended to be here to raise the question. I am delighted to see the interest in the Alaska gas provisions. I make no indication to the Senator from Ohio that should the provision be in there, I would support the motion. However, I do state that I will move to amend the motion to recommit by adding an instruction to include in the bill to be reported out, should it be approved, the same provisions for pricing and treatment on Alaska gas as appear in the conference report. I think that will save the $25.

The PRESIDING OFFICER. Is there objection?

Mr. JACKSON. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. Would the distinguished Senator from Ohio restate the unanimous-consent request?

Mr. METZENBAUM. Certainly.

I ask unanimous consent that a motion to recommit, which will be proposed at an appropriate time by myself and Senators ABOUREZK, KENNEDY, HANSEN, BARTLETT, TOWER, and others, be printed prior to its being filed at the desk and that it not be subject to being called up except by one of the sponsors.

Mr. JACKSON. In other words, if I may ask my friend from Ohio, what he is asking is that it be printed as an amendment—in this case, a motion to recommit——

Mr. METZENBAUM. Yes.

Mr. JACKSON. A motion to recommit which will be available as a printed motion to recommit and that such motion to recommit cannot be called up except by the authors of the motion to recommit.

Now, he is not asking that when it is called up it not be subject to a motion to table?

Mr. METZENBAUM. At this point, I am not. When and if a time agreement might be reached with the entire subject, it is entirely likely that subject might be on the agenda.

But I thought it inappropriate at this point and premature to make that suggestion.

Mr. JACKSON. Might I also ask that he amend his unanimous-consent request to state that the motion to recommit be printed in the RECORD at this point so that Members will be able, in reading the RECORD, to have it available?

Mr. METZENBAUM. I was only concerned about the cost of doing that. But as long as the Senator from Kentucky has no concern, I have not.

Mr. FORD. All this talk going on now, $25, $50, $75, it does not make a lot of difference to me.

Mr. JACKSON. I am willing to accept that cost.

Mr. FORD. I will accept the cost, too.

But will the Senator yield? I want a little parliamentary procedure here, if I may.

The PRESIDING OFFICER. The Senator from Washington has the floor.

Mr. JACKSON. I yield to the Senator from Kentucky.

Mr. FORD. Am I correct in parliamentary procedure now that this is a motion the Senator intends to make, only if the sponsors make it? This is a motion to recommit with various numbers, and I see the incremental pricing is still in it; the Alaskan pipeline is not.

Is it the parliamentary procedure that the Senator could alter or change his motion any time he wants to or whenever he brings it up? Is it subject to change?

Mr. METZENBAUM. First, let me correct my good friend from Kentucky.

Mr. FORD. I want to be corrected. I want to be correct.

Mr. METZENBAUM. To the best of my knowledge, and certainly in accordance with our intent, and incremental pricing is not in the motion to recommit, and it specifically provides it is to be reported back with all references to the pricing of natural gas deleted therefrom.

Now, if the incremental pricing is in, then it is by reason of an error of draftsmanship.

But, answering the Senator's question more directly, I think he is asking whether or not we might change it.

Mr. FORD. The authors might change it.

Mr. METZENBAUM. That is correct. The authors might.

Let me respond to my good friend from Kentucky, because in the last several days on several occasions he kept talking about the fact that he did not know what we intended to do.

Mr. FORD. I still do not know and the Senator cannot tell me now what the motion is going to be.

Mr. METZENBAUM. I am trying to apprise the Senator and keep him as up to date and well informed as we are.

This is what we intend to do as of this moment, but that does not mean any of us in the Senate are duty-bound or obligated in any way not to change our position, including the Senator from Kentucky, who might even join our side at some point.

Mr. FORD. It is going to have to be the bill before I join it.

I have no objection, Mr. President.

The PRESIDING OFFICER. Is there objection?

The Chair hears none.

Mr. HANSEN addressed the Chair.

The PRESIDING OFFICER. Is the Senator from Wyoming making a reservation on the unanimous-consent request?

Mr. HANSEN. No; I am not.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the motion to recommit follows:

Mr. METZENBAUM (for himself, Mr. ABOUREZK, Mr. KENNEDY, Mr. HANSEN, Mr. BARTLETT, and Mr. TOWER) submitted the following motion intended to be proposed in connection with the conference report on H.R. 5289, an Act for the relief of Joe Cortina of Tampa, Fla.:

I move that the conference report on H.R. 5289, the Natural Gas Policy Act of 1978, be recommitted to the Committee on Conference with instructions, that it be reported back with all references to the pricing of natural gas deleted therefrom, and that it embody the language contained in titles III, V, and VI of the conference report with such conforming language and/or definitions as may be required. The conferees are specifically instructed to report back with the following sections excluded from the conference report: Sections 101 through 208; section 303(d); sections 401 through 404; sections 502(d), 503, 504(a)(1), 504(b)(3), 505, 506(d), 507, and 508; and sections 601 (a)(1)(A), 601(a)(1)(B), 601(a)(1)(E), 601 (b)(1)(A), 601(b)(1)(E), 601(c)(1), 601(c) (2)(B), and 602(a).

Mr. METZENBAUM. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. METZENBAUM. Did the Senator from Alaska get his consent agreement agreed to, because it seemed to me——

The PRESIDING OFFICER. He has not made his unanimous consent.

Mr. STEVENS. If the Senator will yield, Mr. President——

The PRESIDING OFFICER. Does the Senator from New Hampshire yield to the Senator from Alaska?

Mr. McINTYRE. Yes.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I might state to the Senator from Ohio, I merely announced the intention to offer the amendment on my behalf and on behalf of the Senator from Indiana and the Senator from Minnesota when the Senator's recommital motion is offered.

I am hopeful both sides of this controversy will understand the situation, that those provisions that appear in the conference report regarding pricing and treatment of Alaskan North Slope gas, will appear in both bills, no matter which one prevails. I only want to assure that this subject will be treated the same way the conference committee originally agreed it would be treated.

I thank the Senator.

Mr. HANSEN. Mr. President, would the Senator from New Hampshire yield me not to exceed 2 minutes?

I do have a very brief statement I would like to offer in order to better clarify this.

Mr. McINTYRE. Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from Wyoming for 2 minutes without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wyoming is recognized.

Mr. HANSEN. I thank my friend from New Hampshire.

Mr. President, there are basically two portions of the conference report as now before us. The first part, the wellhead pricing provisions and the associated incremental pricing provisions of titles I and II, along with the administrative and coordination portions of titles V and VI that apply to them are the results of the months of negotiations, secret meetings, and painful step-by-step haggling that has resulted in the creature that is now before us.

The second portion of the conference report, however, contains other provisions, primarily in title III on which there was little controversy. If this were a normal legislative situation and not a conference report, our course would be simple. We could simply move to amend the portions of the bill that were bad and unworkable and leave the remainder. However, as this is a conference report, with amendments not permitted, the only road available to this same end is a motion to recommit with instructions.

When those of us who would like to see something salvaged from the debacle of the past year decided on this course, we were united in the belief that we would prefer not simply to kill the conference report.

In this vein, we realize that if the conference committee needed considerable

additional haggling over controversial issues, this could not be accomplished. Therefore, we initially resolved that the motion to recommit with instructions would include instructions to adopt only such sections as we could ascertain among the Senators would be genuinely noncontroversial. This was because we had no desire to kill the bill by tying it up in a conference committee.

We had originally been able to ascertain that the provisions for Presidential emergency authority, for permitting the sale and assignment of surplus intrastate gas, and for allowing authority for expeditious transportation of gas by both intrastate and interstate pipelines were in that category. We were also resolved we had no objection in principle to adding other provisions which might be useful and noncontroversial.

I would note that I initially felt, and still feel, that the Alaskan pipeline can be built in the absence of these provisions. The President so assured the Congress when he sent up his Presidential decision on the Alaska pipeline in late 1977, and certainly the Congress in ratifying that decision was not of the impression that it was being asked to do a useless act. We have become convinced, however, that a situation has arisen where the adoption of the Alaskan provisions of this bill would add some additional certainty, and expedite the building of the pipeline under optimal conditions. I am pleased to state my support and the support of all GOP signers in our original group of 24.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. McINTYRE. Mr. President, it is time to resolve the conflict over natural gas pricing policy.

During the debate nearly a year ago, I was against the proposal to decontrol the price of natural gas. Instead, I favored a policy that would have provided incentives to the natural gas industry to bring in more gas, yet at the same time protect consumers from unwarranted increases and the inflationary effects of sudden price increases.

Now the compromise has reached the Senate floor, and I am disturbed that we as a deliberate body seem to be stalemated; we seem to be locked into the same extreme positions that forced the Senate to the extended debate last fall, and put the energy conferees through months of intense negotiation and bargaining over this one section of the energy program.

Moreover, this stalemate has a new and even more frustrating twist: The two opposing sides seem to be united against a solution.

Gas producers want Congress to defeat this bill; they expect that next year they can win the fight and bring about an end to all controls on natural gas.

They did not have any program to protect consumers against sudden price increases nor any plan to prevent the gouging that has become the trademark of big oil—and they have no such plan now.

On the other side, consumer lobbyists want the price of gas rolled back to correct the excesses perpetrated by the oil and gas lobby with the help of compliant bureaucrats in the past. And they rightly want to see the gas that is now being held from the public in the oil and gas States brought under Federal control.

No one knows better than I what the excesses of the oil and gas industries have been. No one wants to see the big petroleum and gas companies put in their place more than I.

And yet, my friends in the consumer lobby have not shown me a program that will produce enough oil and gas to end the shortages.

Clearly we need a compromise between these two extremes. Clearly we must establish a Federal policy that protects consumers and at the same time provides assurances and incentives to gas producers. Congress as a whole and the energy conferees have labored for nearly 17 long months to come up with a bill that provides this policy. They have put their collective wisdom into the compromise bill that is now before us.

It is apparent to all of us that the compromise is not perfect. Some of its flaws are obvious. For example, both the Senate and the House passed so-called incremental pricing provisions to protect residential consumers of gas from being hit with the biggest increases. Somehow, the compromise ended up with an incremental pricing provision that protects residential consumers less than either the Senate or House bill.

And it is argued that this compromise is extremely complex—a regulatory nightmare.

But the Chairman of the Federal Energy Regulatory Commission has told the Senate that the compromise can be enforced, given sufficient resources. And let us not forget that the regulatory system it is replacing, has created a backlog of some 15,000 cases.

I have no doubt that, given time, Congress could eventually come up with a marginally better bill. But if we spent the entire next 4 weeks on this bill, and the entire next Congress on it, I doubt that we would have a bill that would be a whole lot better. Furthermore, if we were to take all that time, we might risk losing what little remains in public confidence that we can do the job.

Granted, this bill is not perfect. But let us look at what it does do, and what it does not do.

First, it is not the "decontrol" bill that the gas and oil lobbies are trying to force on us. The compromise does deregulate new natural gas and some old, hard-to-produce gas after 1985. In the interim, it does provide price increases for both old and new gas.

It also extends regulations. For the first time, it brings large volumes of so-called intrastate natural gas—that is, the gas now sold within gas-producing States—under Federal controls.

In addition, it provides emergency authority to allocate natural gas in case of winter emergencies like those of 1976–77 and 1977–78. And it provides price relief necessary for the construction of the Alaskan gas pipeline, which will bring new supplies of natural gas to the Eastern United States.

On the negative side, it increases the revenues of gas producers by $29 billion over the next 7 years, according to the calculations of the Energy Information Administration.

To many of us, this seems like a gigantic raiding of the public pocketbook. But that $29 billion translates into less than a 6-percent increase in the average citizen's gas bill across the Nation—not 6 percent per year but 6 percent cumulatively between now and 1985. Under present law, average residential prices would rise to $3.14 per million Btu of gas; under the compromise, the price would rise to $3.31.

And what does the bill give consumers in return for prices 6 percent higher than they would be without the legislation?

First, it is projected that existing surpluses of a trillion cubic feet of gas per year would be made available to consumers. These surpluses are now being held back in the gas-producing States outside Federal regulation.

Second, it is projected that higher prices will stimulate a 12-percent increase in production in the lower 48 States.

Third, it is projected that this legislation will bring in an additional 800 billion cubic feet of gas a year from Alaska by 1983—a 5-percent increase in the national supply from this source alone.

Together, these three actions will increase supplies available to consumer States by 32 percent, according to the Department of Energy.

In addition, these increases in domestic production will result in 33 percent less gas being imported by 1985 than would be imported under present law. And petroleum imports would be 300,000 barrels per day less than without this legislation.

The production increases projected under this bill can wipe out the national shortage of natural gas by 1985; they can end the layoffs and plant closings that have characterized our last two winters; and they can help make us immune to threats from petroleum producers abroad.

To get these results, families across the Nation are asked to pay, on the average, less than 6 percent more for natural gas than they would be expected to pay under existing law.

This compromise is of particular advantage to New Hampshire. While gas users elsewhere would have to pay slightly more, gas users in New Hampshire are expected to save $3 million because we would be able to buy more domestic gas at lower prices than we now pay for imported gas and synthetic gas.

Because New Hampshire is at the end of the gas pipeline, our local gas utilities have had to supplement the gas they buy from the pipeline with synthetic gas and imported liquefied natural gas. These supplemental supplies cost from $4.00 to $6.00 per million BTU—which is double to triple the price of gas in the unregulated Texas market today.

If domestic production is increased, gas can be delivered to New Hampshire at prices of $2.80 to $3.50, according to calculations made at my request by the Department of Energy. This gas, even at

$3.50 is a bargain compared to the $4 to $6 we now must pay for supplemental gas supplies.

The Department of Energy estimates that this compromise bill could save New Hampshire consumers $3 million per year by 1985, compared to what we would be paying under existing regulations. New England as a whole could have $100 million per year by then.

But even if my State did not receive special benefits from this legislation, I would vote for it.

What is most important about this and the other energy bills awaiting congressional action is that the American people want—and have the right to expect—an energy program. They have the right to expect a whole energy program, not three-fifths or four-fifths of an energy program. Five years after the Arab oil embargo, and 17 months after President Carter proposed an energy program, Congress is still debating a bill that is long past due.

And if we defeat this compromise, what policy will we put in its place for the long run? Are we to cave in to full decontrol, which would create about as much new supply as this bill, but at substantially higher cost? That is what the gas lobby is hoping for. That is why they are prowling the halls of Congress. And the other opponents of this compromise—the consumer organizations, whom I count as my friends—they want to defeat the compromise in the hope that the Federal bureaucracy will roll back gas prices and will on its own begin regulating the gas that producers are now keeping in their own States.

But this is Congress job. The time has come for this body to put aside regional differences and partisan bickering. Both sides of the debate in this Congress have fought hard for what each thought was best. We now have before us a gas bill that gives neither side all that it wants. But this compromise does provide certainty; it does provide a unified Federal policy for the first time. It does provide substantial incentives for the production of more domestic natural gas. And at the same time it provides a measure of protection for consumers from sudden and unwarranted price increases.

It is not a perfect policy. But it is also not the disaster that its detractors in the gas and oil lobby want us to believe it is, and it provides far more assurance to consumers than the hope that Federal bureaucrats will do right by consumers without guidance from Congress.

The public has given Congress a mandate to resolve divisive issues and create a national energy policy. This bill, despite its imperfections, is the cornerstone of that policy, and I will cast my vote for it.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. McINTYRE. I am happy to yield to the Senator from Washington.

Mr. JACKSON. Mr. President, as chairman of the Senate Committee on Energy and Natural Resources, which has the responsibility of managing this bill in conference, and as one who, like the Senator from New Hampshire, has supported strong regulation, I commend him for the statement he has just made on this bill.

The distinguished Senator from New Hampshire has outlined the basic issues very well and has made clear what our choices are.

I can sum it all up by saying that I must reemphasize to the Senate that this bill—on which we hope we will be voting before long—is a better bill than we have at the present time, in terms of the existing Natural Gas Act. I point out that the consumer will be better off, and we will have a better supply, and the dollar will be better off in terms of the international monetary problem.

Mr. McINTYRE. I thank the distinguished chairman of the Energy Committee, and I yield the floor at this time.

Mr. JACKSON. Mr. President, last Friday, September 8, I received two analyses of the administrative and enforcement aspects of the Natural Gas Policy Act conference report. The analyses were prepared by the chairman of the Federal Energy Regulatory Commission, the Honorable Charles B. Curtis, and the Director of the Commission's Office of Enforcement, Ms. Sheila S. Hollis.

I believe these analyses will lay to rest the charges that the conference report is an administrative nightmare. I recognize that the Natural Gas Policy Act is not problem free. But we must remember that the Natural Gas Act is certainly not problem free.

The FERC chairman's analysis graphically describes the problems with the current law as follows:

> FERC's current caseload is substantial, its backlog unacceptably large. This circumstance derives from a number of causes. First, the regulatory scheme, as presently implemented, is particularly cumbersome and appears incapable of keeping pace with the dynamics of the market. Second, this Commission's predecessor, the Federal Power Commission, was singularly unsuccessful in obtaining from the Congress adequate resources to perform the Commission's duties. Third, the evolution of the various producer-price methodologies, changing from producer-by-producer regulation to area rates, and lastly, to national rates for different gas vintages has created its own set of administrative problems and uncertainty in the marketplace. But perhaps the most difficult aspect which attends the administration of the current regulatory system is grounded in the bimodal character of the market and the limited regulatory reach of the Commission under the Natural Gas Act. These deficiencies place great stress on the regulatory system and add substantially to the administrative and enforcement duties of the Commission.

It is important to note the Commission chairman's conclusion that, "If one accepts the policy conclusions of the conferees as given, the question still remains whether the Natural Gas Policy Act can be effectively administered and enforced. It is my basic conclusion that it can be."

Contrary to the assertions of the opponents of the legislation, the conference report will actually greatly simplify the administrative duties of FERC and reduce the onerous burden of current regulations on natural gas producers and pipelines. The chairman's memorandum concludes that:

> Generally speaking, except for gas which is committed or dedicated to interstate commerce on the day before the date of enactment, the current utility-type regulatory mechanisms would be terminated. Thus, it would no longer be incumbent on producers to obtain certificate authorization for new sales in interstate commerce, dedications of new gas reserves would not be required nor would a producer need abandonment permission from the Commission to allow it to sell gas to another upon the conclusion of the contractual term. Also, in the case of sales of gas not previously committed or dedicated to interstate commerce occurring after date of enactment, tariff filings and rate increase applications would be dispensed with. This would also be true in the case of production from new onshore producing wells, new gas wells, and high-cost wells even if the gas is currently committed or dedicated. . . . It is reasonable to expect that the Commission's present caseload attributable to functions now conducted under the Natural Gas Act will significantly diminish in future years.

The memorandums discuss several areas in the conference report and accompanying joint statement of managers that may be ambiguous and would benefit from further clarification.

Because of the very wide differences in approach between the House and Senate passed natural gas bills, the conferees were faced with a considerable task in attempting to reconcile the two bills. We chose to proceed by developing an outline of a proposed compromise rather than working with statutory language. After we concluded our deliberations, the staff was instructed to draft the conference report and joint statement of managers. On July 31, 1978, the chairman of the conference, the Honorable HARLEY O. STAGGERS, circulated the staff's draft. That draft was reviewed by Mr. Curtis and Ms. Hollis, among others. Ms. Hollis and the general counsel of the Commission, Mr. Robert Nordhaus, participated with members of the staff in the further development of the final version of the conference report. It is that final version which has been presented to the Senate for its consideration.

The draft conference report and joint statement of managers were revised significantly during the course of the review process. In many areas the conferees had not discussed some of the details that the staff found it necessary to resolve in the course of drafting the documents. The staff, in essence, had to guess how the conferees would have filled in the details of the statute had they thought about them. The conferees specifically requested that the staff attempt a complete draft for circulation prior to its being reviewed by the conferees, the Commission, or anyone else. Upon review of that draft, the conferees determined that certain changes were to be made in the staff's draft documents. This somewhat unusual procedure was developed to expedite the completion of the documents.

Both Mr. Curtis and Ms. Hollis mention various revisions in the draft document which were made prior to the final version's presentation and consideration. I want to stress that the conferees do not—and I stress the words—do not intend that changes made in the draft are to be given any significance by the Commission or the courts in interpreting the

Congress intent. The draft which was circulated was simply that: a draft.

With this background in mind, I want to comment upon and resolve those areas of ambiguity and uncertainty which are discussed in the FERC memorandums. I do so at this time so that my colleagues will have an opportunity to understand and evaluate the intent of the conferees with as much clarity and as litle ambiguity as possible prior to voting in the conference report. My comments appear in the same order in which the referenced sections appear in the conference report.

SECTION 2—DEFINITION OF NATURAL GAS

The Natural Gas Policy Act does not intend to change the rule of law that synthetic gas comes under the jurisdiction of the Commission only when it is mixed with natural gas in interstate commerce. However, the regulation of synthetic gas commingled with natural gas would occur only under the Natural Gas Act, and not under the Natural Gas Policy Act. As the joint statement of managers points out, synthetic gas would not be regulated under the Natural Gas Policy Act, even if commingled.

SEC. 2—DEFINITION OF NEW LEASE

A "new lease" is a lease of submerged acreage on the Outer Continental Shelf entered into with the Secretary of Interior on or after April 20, 1977. Any OCS acreage which was leased prior to April 20, 1977, can qualify under the definition of "new lease" only if the old lease was terminated with the Secretary of the Interior. There is not intent to allow one party to "swap" or otherwise trade leases with another party, for the purpose of attempting to qualify under the definition of new lease.

SEC. 101(B)(5)—SALES QUALIFYING UNDER MORE THAN ONE PROVISION

This provision stands for the proposition that a producer may claim or apply for the highest price to which he is entitled. It does not imply an administrative duty to compel a State or Federal agency to search through the various price classifications under the act and find the highest permissible price.

SEC. 104 AND SEC. 109—MAXIMUM LAWFUL PRICES

The maximum lawful price computed in accordance with subsection 104(b) is the same as the maximum lawful price computed in accordance with subsection 109(b). The base rate used in both computations is subject to an inflation adjustment. In other words, the just and reasonable rates set by the Federal Power Commission and in effect as of April, 1977 are frozen as of that date and the inflation adjustment provided under this Act is to be added from that date forward. For example, the new gas rate set in FPC Opinion No. 770–A applicable to certain eligible producers was $1.45 in April, 1977.

Thus, $1.45 would be the base rate applicable to certain eligible producers subject to section 104 and for all gas subject to section 109. The conferees do not intend to allow both the escalators of 1 cent each calendar quarter provided by Opinion No. 770–A, and the inflation adjustment provided by this act, to operate. Only the inflation adjustment provided by this act will be allowed to operate after April, 1977.

SEC. 105 (b)(3)(A)—INTRASTATE ROLLOVERS

This subsection deals with price increases resulting from indefinite price escalator clauses in existing intrastate contracts. It is intended to apply only to contracts that were intrastate in nature prior to the date of enactment of the act. Some existing interstate contracts also contain indefinite price escalator clauses. However, operation of those clauses is prohibited by current Commission regulations. There is no intent to change or otherwise modify that prohibition.

SEC. 107(d)—TAX CREDITS

Subsection 107(d) is intended to dovetail the Natural Gas Policy Act high-cost natural gas maximum lawful prices with pending energy tax legislation that may be enacted. In the absence of approval of the tax bill, subsection 107(d) has no effect.

SEC. 311—AUTHORIZATION OF CERTAIN SALES AND TRANSPORTATION

Subparagraphs (b)(6)(A)(ii) and (b)(7)(B) are intended to apply only to contracts that an intrastate pipeline enters into with its suppliers after the date of enactment. The prohibition is not intended to apply to existing contracts between intrastate pipelines and suppliers.

SEC. 315(b)—RIGHT OF FIRST REFUSAL

Paragraph 315(b)(1) is not intended to restrict the authority of the Commission under section 7 of the Natural Gas Act to consider, among other factors, relative need for natural gas in certificating the transportation of natural gas produced from the Outer Continental Shelf.

SECTION 510(B)—GENERAL RULEMAKING AUTHORITY

The conference report and joint statement of managers provide the Commission authority to define additional terms as necessary for the purpose of implementing the act. As is indicated on page 69 of the joint statement of managers, it is the clear intent that the Commission shall have authority to define additional terms not defined in the act, and to further define or refine the definitions provided in the act, so long as the Commission does so in a manner that is consistent with the definitions provided.

SECTION 503(E)—INTERIM COLLECTION OF MAXIMUM LAWFUL PRICE

Subsection 503(e) contains two drafting errors which must be corrected by concurrent resolution before the legislation is signed into law. First, the procedure for collection of the section 109 price for new wells provides in subsection (e)(1)(B)(ii) that the seller must file a petition to a Federal or State agency for a determination of eligibility "within 90 days after the date of enactment of this act." The phrase should read "within 90 days after the date of enactment, or, if later, before any collection is made." This correction is in accord with the intent as expressed in the joint statement of managers—page 119. Second, the Commission's authority to order a refund with interest under subsection (e)(3)(B) appears to be limited to those cases in which it determines that the applicable maximum lawful price is "lower than that provided under section 109." It is not intended to be so limited. The phrase should read "lower than that charged and collected."

SEC. 503(b)(2)—REMAND ON BASIS OF COMMISSION INFORMATION

The Commission is permitted to remand a State or Federal agency determination if the Commission finds that the State or Federal determination "is not consistent with the information contained in the public records of the Commission, and which was not part of the record upon which such determination was made." The conferees recognize that the Commission maintains some confidential records and documents which are not presently a part of the public records of the Commission. There is no intention to prevent a Commission remand based upon information which was previously confidential, if the Commission makes the information public at the time of the remand. However, this does not confer any new authority on the Commission to make public any documents it is otherwise required to keep confidential.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I understand the distinguished Senator from Vermont wishes to make some remarks, and I yield to him.

The PRESIDING OFFICER. The Senator from Vermont seeks recognition. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, being from the most energy-conscious area of the country and from one of the country's most energy-conscious States, I have weighed my decision on the natural gas conference report with a great deal of concern.

I have talked with strong supporters of the conference report, but I have talked with equally articulate opponents. I have studied its potential effects on my State and my country and the effect U.S. action will have on the world.

But ultimately, of course, the decision as a Senator from Vermont has to be my own.

I have decided to vote for the conference report and, Mr. President, to actively support it. Every Member of this body could disagree with some aspects of the report. Certainly I can. Every one of us could draft a bill more to his or her liking, and certainly I could. But we do not have the luxury of 100 bills or 435 more in the other body. We have one conference report.

The United States could speak with one voice on energy, and this has become more than a local issue, more than a national issue. It is an international issue. The world is asking whether our President can exercise leadership on

energy that the free world needs from its greatest member.

The country is asking whether the Senate can support the President in that leadership role. As a Senator from Vermont I answer yes on both counts.

Mr. President, as I said, this has not been an easy decision. If I were to think of the three or four most difficult votes I have cast or I planned to cast in the time that I have been in the Senate, certainly this would fall in that small handful.

I think the first decision I have to make is on the question of whether I would vote for cloture because of a filibuster, and that is easy. I always vote for cloture because I feel that, many times, we have a propensity to speak overly long on issues.

So let me come to the question of whether we should vote to recommit with specific instructions, a proposal made by some of my very good friends here in this body.

I considered that, Mr. President, and I considered their reasons. Some of the reasons appealed to me greatly, and some of the instructions on a motion to recommit appeal to me greatly. But when I looked at that plan, one thing became crystal clear, and that is that a motion to recommit was a motion to kill. There is no question in my mind that there would not be enough time for the conferees to get back together, report out another conference report, and have it voted on by the House and Senate.

So I decided, whether I was going to support the conference committee report or not, I could not support a motion to recommit because I felt, on an issue of this enormous import, the U.S. Senate had a duty to stand up and vote, either vote for the conference report or against it, but vote it up-or-down. The President of the United States has every right to expect that degree of cooperation from the legislative body, one of the three coequal branches of Government.

So, having made that decision, Mr. President, I came to the final decision of, whether we got past the filibuster and whether we got past the motion to recommit, how I would vote on the conference committee report itself. Once again I am faced with a decision which has to be made, which is a personal one, certainly one that I can live with not only with my conscience but following my duties as I see them under my oath of office.

It is a decision I have to make, keeping in mind the duties to my constituents, to my native State of Vermont, the people I represent and the people I love so dearly. But I also vote as a Member of a national body, a body which I feel is the greatest legislative body in the world.

In that regard, it becomes a duty to the United States and also a duty the United States owes to the rest of the world. I do not think I overstate the case, Mr. President, when I say this is an issue that falls into those major categories.

We vote on big issues and we vote on little issues here. We vote many times on little issues we try to make big issues, but we all know they have importance only of a passing moment. But this is not a matter of minuscule moment. This is a matter of great moment. It is a matter of great concern to the rest of the world, as it is to this country.

So, as I have said, Mr. President, not only will I vote for the conference committee report but I will work very actively to help those who are in support of it.

I might also say, Mr. President, I have talked at least three times longer than I had intended to.

I yield to the Senator from Washington.

Mr. JACKSON. Mr. President, will the Senator yield? I want to commend the distinguished Senator from Vermont for an excellent statement. I would point out that in many ways the people in my State have similar problems that the Senator from Vermont had to face in making this decision. We are a consuming State. We get a lot of our gas, incidentally, from Canada, and I believe you get a certain amount of gas——

Mr. LEAHY. All of it.

Mr. JACKSON [continuing]. All of it from Canada. We get 80 or 90 percent of it.

I am anxious to protect our consumers and, at the same time, make sure they have an adequate supply and are not caught in a difficult supply situation.

In all the 26 years I have been in the Senate I have supported strong regulation. I want to say to my good friend from Vermont that I am convinced in my own mind that our consumers are going to be a lot better off with the conference report bill than with the existing law. I would mention that under existing law the price of natural gas for new gas since 1970 has gone from 17 cents to $1.50.

I think the stand taken by the Senator from Vermont is the kind of action that is going to be helpful to his people as consumers, and it is going to be helpful to the people of Vermont and all of the United States in terms of strengthening the dollar and to demonstrate to the world that the Senate and the Congress of the United States are prepared to take action in the field of energy.

I want to commend the Senator.

Mr. LEAHY. I thank my friend from Washington.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

(Mr. LEAHY assumed the chair.)

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATSUNAGA. Mr. President, the conference report before the Senate addresses without doubt the most comprehensive and important domestic issue faced by the 95th Congress. H.R. 5289, the Natural Gas Policy Act of 1978, will long be remembered as the most significant accomplishment by this Congress in response to the call for action voiced by the President more than 16 months ago.

During these many months of intense and often emotion-laden debate over the issue of natural gas pricing, virtually every segment of our society has had the opportunity to have its views heard. If anything clear has emerged from the debate, it is that almost everyone can find some feature in the bill in which to disagree. The truth of the matter is that the measure before us will require burdens and sacrifices from all of us in the common interest of our Nation.

Mr. President, we must begin by recognizing that our country faces a serious energy crisis which imperils the future well-being of our Nation. Failure to enact this legislation could lead to disastrous consequences for our economic and national security.

On the international front, we see alarming evidences of a weakness in our economy, for which the lack of a strong energy policy must take much of the blame. Our trade deficit is headed toward being the highest in our Nation's history with payments for imported petroleum now running at an annual rate of over $42 billion.

At the same time, the value of the dollar has plunged to record depths in relation to other currencies. The dollar's value has declined 16 percent against the German mark, 34 percent against the Swiss franc, and 31 percent against the Japanese yen, all since the President declared the normal equivalent of war on our energy problem last year.

In recent months, Mr. President, as a member of this great body, I have had the opportunity to confer with many leaders of other nations—leaders of the European economic community, leaders of Japan, and leaders of other Asian nations as well. They have, on their own initiative, urged me as a member of the Energy and National Resources Committee to do all that I can within my influence to get the energy legislation passed, because it was their view that unless the United States resolves its energy problem, the dollar will continue to deteriorate, the United States will lose leadership in the world economy, and when that happens the United States will also lose leadership in maintaining the world's security. And when that happens, Mr. President, we will, of course, jeopardize our own national security. Our ability to defend ourselves and to maintain our national security depend upon maintaining a strong military defense. That, of course, cannot be done without a strong national economy. Our Nation's ability to pursue its foreign policy objectives as a free and independent nation is determined not only by our national will, but also by the strength of our economy.

More imminently, here at home, inflation is becoming a disease which threatens to get out of hand. We simply cannot afford to continue the present rate of double-digit inflation without eventually suffering severe dislocations in our economy.

Mr. President, the problems of our Nation here and abroad grow more serious each day and will continue to worsen unless we come to grips with the energy crisis.

It should not be surprising to find controversy surrounding natural gas pricing policy, an issue which has been debated for over 20 years in our search for the elusive solution.

On the contrary, it is surprising that any agreement at all was reached by the conference committee, considering the deep division which has existed among the members. I believe the compromise solution is the result of sincere and dedicated efforts by the majority of the conferees, and represents the best that could be realistically expected during this Congress. The alternative is to have no solution at all.

I, too, find myself in disagreement with some parts of the compromise. But I support the conference report because it is far better to have this legislation in the aggregate than to reject it for any particular provision contained therein. Mr. President, the moment has come in which we must look at the overall impact of the bill and leave the narrow issues behind. This is the nature of a conference report which forces us to agree to accept the whole or nothing.

I am convinced that the compromise will, on the whole, be good for the Nation, for a number of good reasons:

First. It will produce more gas than the status quo.

Second. It will remove the current inequities between the interstate and intrastate markets.

Third. It will insure construction of the Alaska gas pipeline, increasing interstate gas supplies by as much as 30 percent by the year 1990.

Fourth. It will maintain prices for homeowners and industrial users well below the cost of any other substitute fuel.

Fifth. It will save over 1 million barrels of imported oil per day by 1985, with savings of $5 to $8 billion a year in our balance of payments.

While consumer prices will rise under the bill, they will continue to be far below the cost of replacement gas, a condition which in itself calls for alarm. Natural gas consumers will also continue to pay the lowest price for the highest quality, cleanest and most valuable energy source. Last year, the average cost of gas for homeowners amounted to one-third less than the equivalent cost of oil, and in 1985, natural gas will continue to be priced well below the equivalent cost of oil and one-quarter the price of electricity.

Mr. President, no one would suggest that the conference report is a perfect document. But I urge my colleagues to support it because we can no longer afford to delay in meeting our responsibility of enacting a national energy program, of which this is a key part, in the face of a grave energy crisis. Passage of this legislation will be a demonstration of our willingness to accept the risks and sacrifices required in order to safeguard our economic freedoms and security for the generations to come.

Mr. President, I suggest the absence of a quorum.

Mr. FORD. Will the Senator withhold that suggestion?

Mr. MATSUNAGA. I do.

Mr. FORD. Mr. President, I compliment the distinguished Senator from Hawaii. As usual, he has made a decision, not necessarily one that he thinks is 100 percent, but in the spirit of what we are doing here he has made a decision which, in his opinion, is in the best interests of this country. I compliment him on a very fine statement and would like to associate myself with his remarks.

Mr. MATSUNAGA. I thank the distinguished Senator from Kentucky for his kind remarks. In turn, I congratulate and commend him for the strong leadership which he has continuously shown in the energy issue. Without his leadership I am certain we would not be in the position we are today to take this conference report through passage.

Mr. FORD. I thank the Senator.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HATHAWAY). Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, while we are waiting for other Senators to come over here, I want to take this opportunity to announce that I will hold a hearing tomorrow morning at 10 o'clock of the Administrative Practice and Procedure Subcommittee of the Judiciary Committee, in room 228 of the Dirksen Office Building, which will concern the feasibility of administration of the Natural Gas Act.

The primary witness will be Mr. Charles Curtis, who is the chairman of the Federal Energy Regulatory Commission. Other witnesses will testify on this aspect as well.

Mr. President, we have come across new evidence that indicates the estimated size and magnitude of the bureaucracy that would be created if this act were to become law, and we will take testimony in that regard tomorrow.

Mr. METZENBAUM. Mr. President, will the Senator yield for a question?

Mr. ABOUREZK. I am happy to yield for a question.

Mr. METZENBAUM. Does the Senator think that, based upon this new evidence, he may be persuaded to be opposed to the natural gas compromise bill?

Mr. ABOUREZK. I am not announcing my position on the bill yet. I want to say that my mind is open on the question; and if the evidence warrants it tomorrow, I may announce my position on the natural gas bill.

Mr. METZENBAUM. I know the Senator is always objective in viewing legislation.

Mr. BAKER. I am sure the country will await with anticipation the disclosure of that.

Mr. ABOUREZK. Of my decision? I thank the Senator.

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. ABOUREZK. I yield.

Mr. BARTLETT. Since we had a sort of debate yesterday, has there been any change in the position of the Senator since that debate?

Mr. ABOUREZK. On the natural gas bill?

Mr. BARTLETT. Yes.

Mr. ABOUREZK. No. My mind is still open.

[Laughter.]

Mr. BARTLETT. Well, so is mine.

Mr. GRIFFIN. Mr. President, I decided that I will vote in support of the conference report.

Mr. President, during 22 years of service in Congress, I have been confronted with a lot of difficult decisions. Few have been as tough as the call on this conference report.

Recently Robert Samuelson wrote in the National Journal:

> So Congress can choose between the disaster of passing an atrocious bill and the calamity of rejecting an "energy plan." It is a chapter straight from Dante.

The compromise plan we have before us is not as bad as opponents say, nor as good as supporters claim. But it is all we have—and it is the best we are going to get. Although it is not the kind of a bill I wish we were voting on, we are voting on it—and I will be among those voting "aye."

Were this merely a matter of politics, I would vote "no." But the interests of my State—and the interests of our Nation—transcend the "easy out" of a narrow political decision.

As distasteful as some provisions of this bill are, on balance, I believe it will be good for Michigan. It will increase energy supplies for consumers and industry through conservation and increased production; it will provide some needed certainty over the next 6 years; and it will protect supplies of natural gas for homeowners at little or no increase in cost.

As distasteful as some provisions of this bill are, on balance, I believe it will be good for the United States. It will reduce our dependence on foreign oil; it will improve our balance of trade; and it will help to reverse serious erosion of the dollar.

As a member of the Foreign Relations Committee, I cannot ignore the fact that the failure of this country to develop an "energy policy" is viewed as a sign of American weakness in the world community.

I am concerned that defeat of this conference report would intensify that world view; failure to adopt it would tend to make the United States the laughing stock of Europe, the whipping boy of OPEC, the easy mark of Japan.

I, for one, cannot stand by, nor stand silent, while that happens.

I realize that this bill is not adequate in all respects. But it is a long and important step in the right direction—and it is highly symbolic, both at home and abroad, of our national resolve to cope with our energy problems. It will stimulate increased conservation and production of natural gas, and I believe it will ease some of the severe economic pressures that are nudging us relentlessly

toward recession. In the final analysis, the choice we have is between this policy—or no policy at all. I believe the Senate should adopt this conference report.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. If we cannot get order, Mr. President, will the big, husky, Sergeant at Arms get order in the Senate? I have confidence that Nordy Hoffman can get order.

Mr. ABOUREZK. Get the Sergeant at Arms to sit down, first.

Mr. JACKSON. If not, we should take him out of the Hall of Fame.

[Laughter.]

Mr. ROBERT C. BYRD. Mr. President, numerous efforts have been made to secure an agreement which would allow the Senate to vote up or down on a motion to recommit the conference report on natural gas pricing, with instructions; and that failing, if it should, an agreement on a vote up or down on the conference report itself, at a specified date and time.

These meetings have been attended by proponents and opponents of the conference report. There have been give and take discussions, and we have arrived at what we hope will be an agreement that will meet with the approval of the Senate.

First, before I present that agreement, let me thank the distinguished minority leader, Mr. BAKER; the distinguished manager of the conference report, Mr. JACKSON; the distinguished Senator from Kentucky (Mr. FORD), who is a member of the conference; the distinguished Senator from New Mexico (Mr. DOMENICI), who is a member of the conference on the part of the Senate; the distinguished Senator from Idaho (Mr. MCCLURE), who also is a conferee on the part of the Senate; Mr. METZENBAUM, who is a very worthy Senator and is opposed to the conference report; Mr. ABOUREZK, who is a very worthy antagonist—

[Laughter.]

Mr. ABOUREZK. Is that the same as an unworthy opponent?

[Laughter.]

Mr. ROBERT C. BYRD. No, a very worthy opponent.

Also, Mr. LONG, who is chairman of the Committee on Finance; Mr. HANSEN, who is a very able member of the conference on the part of the Senate; and Mr. TOWER, who is a very worthy opponent of the conference report.

I believe that just about completes the list of those who have been in the conferences, but they have represented both sides of the aisle and both sides of the issue.

It is felt that with the workload that confronts the Senate and inasmuch as hope springs eternal from the human Senate breast that the Senate can complete its work by mid-October and hope-elections, and realizing that the debate has gone on now for quite a number of fully not have to return following the months, the time should come when the Senate votes up or down on the motion to recommit and up or down on the conference report and that everyone do his best to marshal support for his point of view. Every Senator will be on notice as to the hour of the vote and we will all approach high noon knowing that, win or lose, the matter will be disposed of.

So, with that being the basis of our discussions, we have arrived at the following tentative agreement which I now present:

UNANIMOUS-CONSENT REQUEST

Mr. President, I ask unanimous consent that a vote on a motion to recommit the conference report with instructions occur next Tuesday at 2:15 p.m. and that should the motion to recommit fail of recommittal a vote then occur on the conference report up or down at the hour of 5:15 p.m. with the time for debate to be equally divided between the manager of the conference report, Mr. JACKSON, and Mr. HANSEN, the distinguished Senator from Wyoming, also a member of the conference, and that the time for debate begin running following the adoption of this agreement, with the understanding that should Senators between this date and next Tuesday decide that they did not at that time wish to debate the conference report then other measures cleared for action on both sides could be called up. But anyhow that is the request.

And it will be understood, Mr. President, that there will be no motion to table the motion to recommit that would be in order and that the Senator from Ohio (Mr. METZENBAUM) could call up his motion at any time and he would be assured that no motion to table that motion to recommit would be in order and that similarly no motion to table the conference report would be in order at any time.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, I join with the majority leader in submitting this request to the Senate.

I very much hope there will not be an objection. I do not believe, in all-candor, that either side has 50 votes on the motion to recommit. I think the issue is still up in the air. Only time will tell. Time is of the essence at this point in this session of the Senate.

While I oppose this conference report and while I will vote for the motion to recommit, I believe that it has a chance to prevail, and if it does not prevail I will vote against the conference report. These facts notwithstanding, I do believe it best serves the interests of those of us who oppose the report of the Senate and the country to get on with the business of deciding this issue.

With that in mind, then, Mr. President, I have consulted with many Senators on this side and I am hopeful that the unanimous-consent request will be granted.

I have asked the Republican cloakroom to notify all Senators on this side that this request would be made at this time so that everyone could be present. I believe the distinguished majority leader may have done the same.

I want it clearly understood, however, that in agreeing to this, those of us who oppose the conference report, the distinguished Senator from Texas, the distinguished Senator from Wyoming, and others who have been involved, in no way are suggesting that we have diminished our optimism or enthusiasm for trying to recommit this conference report in order to improve it, because I believe if we do recommit it we can significantly improve it and that it will come back and we will do a better service for the country.

In any event, I do not believe an extended debate beyond next Tuesday would serve anyone's best interests. I do not object.

Mr. ABOUREZK. Mr. President, reserving the right to object, I direct a question to the leader.

Was it part of the majority leader's request that there be 3 hours of debate or debate until 5:15 p.m.?

Mr. ROBERT C. BYRD. No. The debate would be until 5:15 pm.

Mr. ABOUREZK. Will the majority leader amend that to read 3 hours of debate, because there is a 15-minute rollcall?

Mr. ROBERT C. BYRD. Yes. I will so modify the request, which would mean that the first vote which would begin at 2:15 p.m. would end at 2:30 p.m. and then the second vote would begin at 5:30 p.m.

Mr. ABOUREZK. The second question I shall direct to the distinguished chairman of the Energy Committee.

I did not see anything in the press, but I was told by one of my staff that the distinguished chairman of the Energy Committee, Senator JACKSON, held a press conference yesterday saying that if this conference report were recommitted with instructions, he and the House of Representatives would not hold the conference meeting any further, that they themselves could kill the bill.

Will the distinguished chairman verify that or deny it?

Mr. JACKSON. I did not hold a press conference. There have been a lot of rumors around there was going to be a press conference. I did not hold one. I indicated to the press that it is my information that if the bill is recommitted to the conference it is dead. I think that is right. I have been so advised by the three leading principals on the House side of the conference.

That is just the reality of the situation. Obviously we cannot recommit a conference report with instructions to the House of Representatives to adopt it. We can recommit it to the conference and then we are going to be, of course, at the mercy, especially of the House of Representatives. The Speaker has made it clear previously that if a bill is recommited to the conference on this subject the chances of any action are nil. I think that is correct.

Mr. ABOUREZK addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me first?

Mr. JACKSON. I yield.

Mr. ROBERT C. BYRD. Does he not agree that is a matter for the House of Representatives to decide?

Mr. JACKSON. That is a matter for the House of Representatives to decide.

Mr. ROBERT C. BYRD. We in the

Senate cannot say that the House of Representatives will not meet.

Mr. JACKSON. All I am passing on is what they have informed me.

Mr. ABOUREZK. Mr. President, I have one further question. Does the Chairman of the Energy Committee, Senator JACKSON, intend to try to kill the entire bill if it is recommitted?

Mr. JACKSON. If it is recommitted with instructions, I will do my duty. I will bring it back to the conference. That does not require me, of course, to indicate that we should or should not. I will simply give to the conferees the instructions that have been mandated to me by the Senate if that should be the will of the Senate.

I think this body should know, and every Member, I mean Members, of this body should know that if they vote to recommit what the likelihood will be of any action on the part of the conference. I am passing on only that which I have received informally from the leaders on the House side.

Mr. ABOUREZK. The Senator certainly does not support what the House will try to do——

Mr. JACKSON. I will——

Mr. ABOUREZK. Let me finish—their attempt to kill even an emergency allocation bill?

Mr. JACKSON. I follow the instructions of the Senate. But I think Members of this body ought to know what the House is apt to do, and I am passing on what they have informed me they will do.

Mr. ABOUREZK. We cannot control what the House does, obviously.

Mr. JACKSON. This is not like a referral back to a committee. That is an entirely different matter. This is a referral to a bi-representative system and not to a unirepresentative system.

Mr. METZENBAUM. Mr. President, reserving the right to object——

Mr. BARTLETT. Mr. President, reserving the right to object, and I will object, first, let me say I was part of a few here on the floor who were not at the meeting, and I do not feel slighted at all. I did talk to our minority leader, and I would like the minority leader's attention. I did talk to him today, however, and I think I did convey before I knew of this unanimous-consent discussion request at 5 o'clock my concerns about this same matter.

I am of the opinion that if the recommittal motion would fail to pass that, perhaps, another recommittal motion with different instructions extracted from the conference report might pass, might meet the approval of this body, and I would like to have that opportunity to take a good look at the conference report to see if we think we can get some kind of report for such action.

So after you, Senator BYRD, our distinguished majority leader, and Senator JACKSON and everyone else have had an opportunity of saying what they like about my objection, I shall object.

Mr. BAKER. Mr. President, will the Senator withhold his objection for the moment so that I can respond?

Mr. BARTLETT. I am just reserving my right so that I can object and I am not recording my objection.

Mr. BAKER. If I might be recognized, Mr. President, at this point, on my reservation?

The PRESIDING OFFICER. Does the Senator from Oklahoma yield?

Mr. BAKER. Mr. President, will the Senator yield to me so that I can have a colloquy with him on this point?

Mr. BARTLETT. Of course.

Mr. BAKER. The Senator from Oklahoma did call me and indicated that he was in conference with the House of Representatives on another matter and that he had understood a request would be propounded sometime this afternoon. He requested that I protect him until he could reach the floor, which I would certainly want to do, and I represented to him that I would do so.

He has indicated to me since that time, and since he has reached the floor, that he felt inclined to object to this request. I think I breach no confidence when I say that I indicated to the Senator from Oklahoma that I was kind of hoping he would not object. But, of course, that is his privilege.

What I would like to do now, Mr. President, is to ask the distinguished Senator from Oklahoma if there is some way we can accommodate to his additional requirements.

For instance, I wonder if we might consider modifying the unanimous-consent request to provide a little additional time in the event the motion to recommit fails initially? May I reiterate, Mr. President, and to my friend from Oklahoma that I do not believe the motion to recommit will fail, and I do not agree with my esteemed friend and colleague from Washington that if it is recommitted we will never see it again. I believe we will because I think it is important to have a bill, and I have said that from the very outset. But in any event, is there some way by which we can address the particular concern the Senator from Oklahoma is expressing?

Mr. BARTLETT. I will say to my distinguished colleague, the Senator from Tennessee, our minority leader, that I feel very strongly we could vote on this matter tomorrow—I am talking about a motion to recommit which has been suggested—or the next day or the next day we are in session. I am ready to vote. I am not trying to hold up a vote, but I would like to keep our options open and I would like to keep the opportunity open without the unanimous-consent request, so I shall object.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Ohio wanted to reserve the right to object, and I yield to him.

Mr. METZENBAUM. Mr. President, reserving the right to object, and I will not object, I have for a considerable period of time now indicated that I thought we ought to move forward with a motion to recommit.

I think, I still believe, we should move forward with respect to a motion to recommit. I think my good friend from Oklahoma has a valid point that there may be modifications thereof that he would like to suggest after the original motion to recommit, and I would guess that the majority leader would be amenable to accepting that kind of time element.

I am only concerned at the moment that we try to work out something to move forward and bring this matter to a conclusion. I think there is much work which has been done, as much as can possibly be done, with various members of the Senate.

I do wish to inquire of the majority leader, and I am certain he had intended to indicate, and certainly implied he did indicate, that the motion to recommit, which is the subject under consideration, is that motion which I and various other Senators are propounding or some variation thereof, and that it will be no other person's or group of persons' motion to recommit about which we are speaking, the motion that Senator HANSEN, Senator BAKER, Senator TOWER, Senator ABOUREZK, Senator KENNEDY, Senator BARTLETT, and others have joined in?

Mr. HANSEN addressed the Chair.

Mr. ROBERT C. BYRD. I beg the Senator's pardon. What is the question?

Mr. METZENBAUM. I just want to tie down the motion we are talking about is that motion that is being considered by myself and a group of other Senators or something similar to it which we will have under our control.

Mr. ROBERT C. BYRD. That is what I had in mind, and I believe I indicated it was being offered by the distinguished Senator from Ohio (Mr. METZENBAUM) and the other Senators.

Mr. METZENBAUM. I appreciate that.

Mr. BAKER. Mr. President, if the Senator will yield to me, I can illuminate that a little. The distinguished majority leader asked me if this particular motion to recommit with instructions was what we had in mind, and I suggest to him an alternative, that it be a motion to recommit with instructions, and I had in mind it would be this or something similar to this.

Mr. METZENBAUM. I just wanted to be certain there would be no question in the RECORD but that it was that motion which those of us who are propounding the motion to recommit have under our control. I know the majority leader intended that.

Mr. ROBERT C. BYRD. Yes, absolutely. That is what we discussed in our meetings.

Mr. METZENBAUM. I have no objection.

Mr. ROBERT C. BYRD. Mr. President, may I say, I understand objection has been made, Mr. President, that I want to pursue this a little further.

I would like to call attention to the fact that a motion to recommit and instruct would be open to modification and change and the distinguished Senator from Oklahoma would certainly have an opportunity to contribute to the verbiage of that motion to recommit and, perhaps, something can be worked out whereby he would have that opportunity. He would have it anyhow. He can discuss it with

the Senator from Ohio. He can make whatever contribution he has in mind to that very motion and include it in that motion to recommit with instructions.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. DOLE. Could you have another separate motion to recommit?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum—I withhold that suggestion.

Mr. HANSEN. Mr. President, if I could, I would like to be recognized to address some questions to my friend, the chairman of the Energy Committee, if I might, in order that I might clarify my thinking and, hopefully, clarify a little bit of what the situation is.

If the Senate were, by a majority vote, to recommit the bill with instructions, would that be illegal or inappropriate, insofar as the Senator from Washington understands?

Mr. JACKSON. Of course not. If the Senate instructs the Senate conferees to take a certain course of action, obviously that would be done.

Mr. HANSEN. That would be done, you say?

Mr. JACKSON. Yes, there is no question.

Mr. HANSEN. And under your leadership, too?

Mr. JACKSON. Yes. Well, I do not have any leadership. Whatever I am supposed to do, I will do. But I felt obligated to tell various Members of this body that I have been advised by the leaders on the House side that if there is a motion to recommit, they are going to be in serious trouble; the House is simply not going to entertain it. That is just being truthful.

Mr. HANSEN. A further question. When you speak of the leaders on the House side, you are speaking of the Democratic leadership on the House side; am I correct in that?

Mr. JACKSON. I am referring to the leaders on the House side of the conference. The House is not bound, as the Senator knows.

Mr. HANSEN. I am not trying to be impertinent, but when you speak of the leaders, of whom are you speaking?

Mr. JACKSON. I am referring to the chairmen of the three subcommittees, or the three committees, specifically.

Mr. HANSEN. A further inquiry. I know that Senator JACKSON has been humble, honest, and in my opinion very fair in trying to handle this conference; but as one who was not a participant in a great number of the sessions, I guess technically they were not meeting as a conference committee, because it lacked that special imprimatur that would have given them that special status, and made possible fewer numbers than the full membership of the conference to participate.

But my next question, then, to my friend from Washington is, what would he consider the responsibility of the Senate conferees to be, if we were to be instructed to recommit the bill and to take instructions with us to the conference between the Senate and the House as regards the wishes of the Senate? Would it be the duty of each and every one of us to try to see that that position was to prevail between the House and Senate conferees?

Mr. JACKSON. Our obligation would be to present it to the conference as a whole, after having appropriately notified the chairman of the conference and the members of the conference of the action taken by the Senate; and then, of course, it is up to them if they will even meet, as the Senator knows.

Mr. HANSEN. Yes.

Mr. JACKSON. I would discharge, obviously, any instructions voted by the majority of this body.

Mr. HANSEN. Well, if I could, then, pursue one further question: Assuming that the Senate were to instruct the conferees that a scaled-down version of the conference report which would include specific items, such as an extension of the President's emergency powers and title III of the bill, but would permit the movement of gas from areas where it is in surplus to areas where it might be needed, would the Senator from Washington, the chairman of the Energy Committee, make a prediction as to what might be the consensus of the Senate conferees in trying actively to pursue the achievement of those instructions coming from the Senate?

Mr. JACKSON. Let me say to my good friend I do not want to discuss the substance of purely suppositious motions to recommit with instructions. I can only say that I have been advised that if this proposition comes back on a motion to recommit to the conference, after all these months, and in the closing days of the session, they have indicated to me that they are simply not going to entertain any action on the part of the House conferees, that is, the majority of the House conferees.

I assume that they would take a vote to ascertain what the views are, but that, again, is up to the House conferees.

Mr. HANSEN. Would the Senator from Washington speculate on what the action of the Senate conferees might be if we were instructed by a majority vote to suoport a scaled down version of this bill?

Mr. JACKSON. This Senator is quite conservative on these matters, and he does not like to speculate.

Mr. HANSEN. Then, if I mav say so, Mr. President, I think what really must be obvious here is that while the Senator has refrained from any speculation, I would be more encouraged enthusiastically to support, as I have earlier indicated I would, this scenario which would assure a precise time for voting on a bill, if I had assurances from the chairman of the Senate conferees that he indeed would try to see that the conference between the House and the Senate reflected the position that had earlier been indicated as that of the Senate, by a majority vote.

I do not know if we are going to be faced with the situation that a fair majority of the Senate conferees, despite the precise instructions which would follow, if this motion to recommit with instructions were to be passed—if that is not going to have the support of a majority of the conferees, it would seem to me that there is some indication as to where the responsibility would lie if we do not get a gas bill this year.

I think there is a lot of merit in that, and it would seem to me that if the Senate, by a majority vote, instructed us to go back to conference, and if we were supposed to try to push for those specific items contained in that instruction, I would say that there certainly would be some question as to the sincerity of our effort if I failed to hear from those who take a different view than I have on this bill that no matter what we say in the way of instructions, it will not matter anyway.

Mr. JACKSON. What the Senator is trying to propose here, and I do not see any point in trying to push this any further——

Mr. HANSEN. Well, I do not blame you.

Mr. JACKSON. No, wait a minute. What the Senator is trying to overcome is a rather difficult and impossible situation indeed, and that is to try to instruct the House conferees.

Mr. HANSEN. No, I did not say that at all. All I said was——

Mr. JACKSON. No, but it takes two to tango. It takes two to tango, and the so-called motion to recommit will not have much meaning if the other side is not going to cooperate.

I tried to do the decent thing, Senator. I tried to find out what the House position would be on a motion to recommit, and I have indicated the information that I have received from them. If there is any doubt about it, I suggest that my colleagues call Representative DINGELL, Representative STAGGERS, and Representative ASHLEY. They have to make the decision, as I related to you.

I think I would be dishonest and misleading to the Senate if I stood up here and said, obviously, that if the motion to recommit has been agreed to and is adopted, and we go over there, the House is going to go along with it. I think I have an obligation to convey to the Members of this body the fact that if we move to recommit we run the risk of killing it, not having it come back again. That is all I am saying.

Mr. HANSEN. Mr. President, I want to make this point——

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a moment?

Mr. HANSEN. Yes, I yield, but I would like, if I may, to respond, before we get clear off base on this point.

Mr. ROBERT C. BYRD. Yes. Mr. President, I would hope we can get an agreement. That is the first place we have to go. I would hope we could get an agreement as to a time and date. I know Mr. BARTLETT has objected, and I am not going to press for that any further today, but I would hope we could get an agreement as to a time for a vote up or down on a motion to recommit with instructions, and that—Mr. President, may we have order in the Senate? The Senator from Wyoming has graciously yielded to me; I hope we may have order.

Mr. President, I am waiting on order in the Senate, and if the Senator from

Wyoming will allow me, I will not proceed until we get order.

The PRESIDING OFFICER. The Senate will be in order. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I understand the apprehension with respect to what may happen if a motion to recommit with instructions carries.

I understand that. That motion will be made whether we get an agreement or not. That motion will be made, I am sure. Somebody will make that motion. We will have to take our chances then.

Obviously, a motion to recommit with instructions is only a motion to instruct Senate conferees. I have no doubt of the sincerity of the Senate conferees, that if they are instructed to take a certain position they will do their best to take that position. But I would hope that we would concentrate at this point, as much as possible, on our endeavor to get an agreement, to vote on a certain date at a certain time on a motion to recommit with instructions, and a vote for a certain time and date to vote on the conference report. Then we can debate up and down the aisle on the instructions. I have seen a motion at the desk, but it can be changed and undoubtedly will be changed.

I do not think we ought to get too involved in what may happen once they get back to the conference, if they are sent back there. First they have to be sent back by the Senate. I would like to see us reach a time and a date on a vote for that. Once they are sent back, we will see what happens, if that happens. I have no doubt of their sincerity, none at all.

The motion to recommit with instructions is merely advisory. It is not mandatory. But I have no doubt about the sincerity of the Senate Members to take their instructions.

We cannot say what the House conferees may do. Today they might say one thing and tomorrow something else. It is up to the House to determine, and those conferees over there to determine, whether or not they will accept a motion to recommit. They have not seen what we are going to recommit. It would seem to me they would like to see what will be recommitted and what the instructions are.

Mr. ABOUREZK. Will the Senator yield?

Mr. HANSEN. If I may, I would like to say one other thing. To me, this is the crux of the whole matter. I have never asked the Senator from Washington to guarantee me what the House conferees might do. I know, though certainly not as well as he, that there is no way on Earth that anyone in this Chamber can say what the House may decide to do. I did not ask that question. I simply asked the question which I thought was fairly simple and straightforward. What would be the position of the Senate conferees?

Realistically and candidly there is not much point in us going through the charade of trying to persuade a majority of the Members of this body that there is merit in recommitting the bill with instructions if we do not have an indication from the chairman of the Senate conferees that he is going to follow through in good faith and say to the House Members, "This is our position."

If we cannot leave this body knowing that the Senate conferees—and there are 17 of us, I believe—are not willing to say, "We will go in good, earnest purpose to the House and try to persuade them that there is merit in looking at a scaled-down version of the bill, and if we all agree in this country that we do need an energy package, that this is one on which people can agree," then I would say let us leave up to the House the decision and the burden of responsibility if they decide that they want to kill the whole bill.

I did not ask for any guarantee as to what the House might do, but it seems unreasonable to say that under this scenario I would hope that the majority of the Senate conferees, at least, would keep faith with the Senate and say, "This is our offer." Let them turn us down, if they want to, but for heaven's sakes let us not go over there and say no matter how we may be instructed there will be a majority of Senate conferees voting against it anyway. If that is the deal, then I must say I think that is a display of less than full faith in what the Senate instructed us to do, and I would not be quite so enthusiastic about it.

Mr. JACKSON. Will the Senator yield?

Mr. HANSEN. I will be happy to yield.

Mr. JACKSON. I want to reiterate what I said. I said I would act in good faith. I will remind my friend that in accordance with the Senate procedures, I am quoting from Dr. Riddick's book on Senate procedure, 1974, so we know what the precedents are, on page 310——

Mr. HANSEN. As of that time, 1974. We have made quite a few changes since then.

Mr. JACKSON. Could I read the precedents? I do not know of anything later than that.

Conferees are not bound by instruction; "the conferees could even ignore the instruction."——

Mr. HANSEN. And they have.

Mr. JACKSON. To continue:

and the report would not be subject to a point of order.

I am saying if the conferees on our side are instructed, as chairman on the Senate side I will act in good faith on those instructions.

Mr. ABOUREZK. Will the Senator yield?

Mr. HANSEN. I will be happy to yield in a moment.

We passed the so-called Pearson-Bentsen bill, granted by a small majority but we did pass it. Yet, with everyone having a perfect right to do as his own conscience indicated and dictated he should do, we came up with a different result. I am not complaining about that. I am saying now if we want to make a good faith effort, I think it is incumbent on us as Senators who are concerned with representing our constituencies, being fair to the Senate and keeping faith with the country, to try to follow through and keep with what might be instructions coming out on the issue. I am happy to yield to my friend from South Dakota.

Mr. ABOUREZK. I will try to answer the question on what would the conference committee do if we recommit the bill with instructions. The conference committee, in my view, will do exactly what President Carter and James Schlesinger tell them to do because that is exactly what has been going on. At least a bare majority of the conference will do that. I have talked to any number of the conferees after they have come out of their secret meetings. The ones I have talked to have said, "Well, we do not like this bill but, you know, the President wants it. He is hung out on a limb on this bill. We have to try to help the President."

That is what will happen. Let us not try to fool anybody. I think Scoop is right, the House probably did tell him that they would not come back with a bill, that the bill would be dead. But I do not believe what the House is saying, and I do not think Scoop believes it.

I think what is going to happen if we recommit it is they will come back out so fast you will not be able to blink your eyes with anything that has "Energy Bill" written on top of it so that they can pass it and get the President off that limb that he got himself onto. That is exactly what is going to happen. Let us not try to fool anybody to get votes against recommittal by saying we are going to kill the bill. We know it will not kill the bill.

Mr. LONG. Will the Senator yield?

Mr. HANSEN. I yield.

Mr. LONG. I believe the Senator from Wyoming as well as many other Senators have had experience in going back with a conference report. I submit it is somewhat disappointing to have the Senate turn you down on a conference report, but in my view, to say that the House will not talk to the Senate about a conference report, if we vote to recommit with instructions, is ridiculous.

This is a bill of great significance. The House passed a bill which was more or less oriented toward the consumer. The Senate passed a bill which is generally perceived to be more a producer-oriented bill. The conference then sent back a bill that does not please the producer or the consumer. This bill pleases only those people who were inside the room in the closed meetings, that is, the bureaucracy. They are tickled pink with it. They are the only people who are pleased with the bill.

Mr. President, what the conferees have sent back to the Senate is a counterproductive, administrative nightmare.

So they compelled LONG to get in bed with ABOUREZK. I never planned on that situation. But then they compelled LONG to get in bed with METZENBAUM. "My goodness, save us. What next?" We are not particularly concerned with who saves us at this point, but certainly if we recommit this bill with instructions we can make considerable improvement.

In my view, now that consumer groups and producers have attempted to digest what is in this bill, concessions may be much more easily achieved. Many producers would be willing to make some

concession on price if we just "save them from the bureaucracy."

So, the conference can send us back a bill where the producers and consumers come to terms. I submit that a compromise is in reach if we recommit this bill with instructions.

What is the alternative? To ram through something where the best argument for it is, "we have to do something," or "it is this or nothing." That is their only real good argument, that it is this bill or nothing. But that is a very poor argument. The only defense of that argument is they do not have any better one for their conference report. And they do not have a better one.

They cannot defend the conference report. It is a monstrosity from the administrative point of view. The enforcement office at the FERC, whose job it is to administer bills, have been highly critical of this bill.

So we asked them: "Tell us what you want," and what they wanted was even more bureaucracy to administer this morass of redtape.

What some of us want is the opportunity, to vote on a motion to recommit; if that does not carry, we would like to see if we cannot attempt to make a broader agreement, that is, to accept more of the things in the conference report.

Frankly, I can find enough things in the conference report to make a good bill provided you leave the rest of them out. I think those on the consumer side will be able to agree.

It seems to me, Mr. President, that to say, "I hate to say it fellows, but my best argument is that if you don't take this bill as is, nothing can be done"—that is pretty ridiculous. Everybody agrees we need to pass a bill to do something to increase gas production. Everybody knows we need to pass a bill that is going to make it possible to move gas from intrastate commerce into the interstate market, and that we need to do things that will expedite production. We all know that. We all know that, in doing so, we are going to have to accommodate the consumer interests. We know that.

To say that the House will not talk to us if the Senate votes to recommit this conference report just does not make a lot of sense. The fact is that the House wants to legislate just as much as we do. What the House would like is an expression from the Senate.

What would the Senate like to do? I do not have the slightest doubt that you will find one or two committee people who would say, "If they don't do what I say, there will be no bill." The day when the committee chairman was supreme and ruled the House absolutely is gone. It is gone in the Senate and it is gone in the House of Representatives. Today, the majority rules. When the majority wants a bill, we can get a bill. In fact, Mr. President, it is possible to work out a gas bill without any conferees. Just send the House a bill, saying what we would like to do, and let them amend it and send it back. Then we could send it back with a further indication of what we would like to do and let them amend it again. So, therefore, it could be worked out without conferees. But to say, "You have to accept this and nothing else can be considered, it is this or nothing"—that old saw has been worn out.

When we pass something of such great significance, a matter of great significance to the President, the Senate, the House, the country, and the entire world, it is ludicrous to say "Oh, we have to do it this way or that particular committee chairman or that subcommittee chairman won't even talk to us." Mr. President, that just does not make sense in this type of situation.

In this type of situation, if the Senate can agree to some reduced version of a gas bill that the producers, the consumers, labor, and business would prefer, there is no reason why the Senate cannot express itself. It is utterly ridiculous to say the House would not consider our proposition. If they do not want to consider it, we can put it on the tax bill or the debt limit bill and send it back to them. It is easy enough to get their attention.

Mr. BARTLETT. Mr. President, when the majority leader is finished with his discussion, is anybody else going to have a chance to comment on this?

Mr. ROBERT C. BYRD. I was only going to go to morning business, but I yield.

Mr. BARTLETT. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, before I make this consent request, may I suggest that we do what we can overnight to meet, visit, and, in the morning, get together to see if we can possibly come up with an agreement that meets with everybody's approval?

Mr. BAKER. Mr. President, there are very few subjects which have consumed more time in this body than the debate over a national energy policy. No one doubts the need for a policy which is effective, coherent, and comprehensive; but we part company over how such a policy should be devised and what its components should be.

After emphasizing the need for a national energy policy and characterizing the situation as "the moral equivalent of war," the President sent his troops into the field with a battle plan that would spell defeat for even the best battalions. Simply put, the administration's proposal guaranteed higher prices to consumers with no concomitant increase in the domestic supply. The fact that the House of Representatives passed the bill basically intact is more a tribute to the legislative skills of the Speaker than it is to the merits of the proposals.

Fortunately, the Senate passed a much improved bill which would provide some of the incentives necessary to increase the domestic supply of natural gas while protecting consumers from an assortment of so-called conservation taxes.

I have long advocated the deregulation of natural gas because it is necessary to establish a market price at which the extraordinary costs of finding and producing natural gas are offset by the price received for the sale of the fuel. However, I have also long supported adoption of a "plowback" provision which would require producers to either plow much of their pretax income back into exploration or pay inordinately high tax rates on it. That position was advocated by the Republican Conference over a year ago.

However, the gas bill which passed the Senate did not include a plowback provision or any significant excess profit tax. To its credit though, it did include phased decontrol of interstate natural gas prices. There were many other improvements upon the House bill enacted by the Senate.

The conferees worked long and hard on resolving the differences over the House and Senate bills. In my judgment, they deserve very high praise for attempting to resolve this problem before the end of the present Congress. But they should know that if we fail to enact the so-called compromise which they have developed, it is not because some lack the will to face a tough problem and try to solve it, but rather because the solution proposed is worse than no solution at all.

Therefore, Mr. President, I plan to oppose the gas conference report and support the motion to recommit it with instructions, when that motion is made.

The reasons for my decision are numerous. They stem from the anticipated impact of the conference report upon both the natural gas industry and the consuming public. The effects of this bill would include an extension of controls over prices paid for both interstate and intrastate gas, a sharp increase in the regulatory or administrative burden imposed upon both the Federal Government and the producers, and, finally, little or no increase in the supply of domestic gas. Let us look at the bill from the standpoint of the industry, then from the standpoint of the consumer, and finally from the vantage of the dollar overseas.

The conference report would increase the amount of regulation that exists in the industry by extending the regulatory powers of the Federal Government to the intrastate market. It would not provide for rapid decontrol of the price of natural gas but rather would extend controls and regulation until 1985. At that point, only about 40 percent of the gas supply would be sold at decontrolled prices.

Thus, this measure would not allow the market system, which is the backbone of our economy, to dictate the supply of gas, but rather would rely upon administrative regulation. In my judgment, until we restore the free market system in this area, we will never be able to insure the supply of natural gas necessary to meet our present and future needs.

It has been effectively proven over the past year and a half that a sufficient increase in the price allowed for natural gas will increase the supply available. And yet, this bill would simply perpetuate the present price setting mechanisms while not insuring that even in 1985 there would be a removal of price controls. Such uncertainty breeds apprehension on the part of producers, and uncertainty as to the cost of gas for the consumers of this Nation.

It is, and has been, my desire to provide the necessary incentives for natural gas producers that will insure an ample supply of gas for the consuming public. But this measure simply would not guarantee that.

In the course of this debate, I have heard some repeat the old adage that "It's better to have half a loaf than no loaf at all." But, what if the loaf is lacking in nutritional value and would actually be unhealthy for the body as a whole? That is precisely the type of "half loaf" that this compromise report represents. It provides little nourishment to the market system and would be unhealthy for producers and consumers alike.

In addition to the extension of price controls over more of the gas industry, this bill would create a regulatory nightmare. It would establish between 17 and 23 new categories of gas to be overseen by both the Federal Energy Regulatory Commission (FERC) and the States' public service commissions.

Conflicting memoranda have surfaced from within the Government regarding the administrative feasibility of the bill. But regardless of which memorandum one believes, the fact remains that the creation of so many new complex categories of gas flies in the face of the effort to deregulate the industry. It is difficult to see how doubling or tripling the burden of paperwork and redtape imposed upon the producer, coupled with the extension of price controls to intrastate gas is going to encourage new exploration and production. Indeed, I am afraid that it will have just the opposite effect.

From the standpoint of the consumer, there is even less to be gained from the conference report. Any proposal which would increase the price of gas paid to the producer in order to encourage exploration and production is going to cost the consumer money. The question is how to devise a plan so as to maximize the increase in the discovery and production of new domestic gas reserves for every dollar increase in the consumer's fuel bill.

According to the Energy Information Agency, the bill passed by the Senate last year would have had a net cost to the consumer which was less than is now projected under the pending conference report. Moreover, it has been shown that this bill would not increase the gas supply in future years over what could be achieved by simply permitting the Federal Energy Regulatory Commission to set a new, higher price for natural gas. In other words, the conference report will cost consumers an estimated $41 billion in additional costs between now and the end of 1985, with no commensurate increase in the domestic supply.

Finally, it is worth reviewing the effect of the compromise bill from the vantage of the dollar overseas. The administration and others have argued that enactment of the bill is necessary to bolster the sagging dollar and reduce our balance of payments deficit. While I will readily concede that passage of this bill, or any other significant bill, would have a positive, and perhaps stabilizing, effect upon the dollar, I am convinced that the effect would be temporary.

While leaders of the industrialized world might be encouraged by the fact that the United States finally adopted an energy policy, I seriously doubt it would engender much confidence in the dollar once it was realized that the policy would do very little to increase the domestic supply of gas and, therefore, reduce dependence on foreign imports. Moreover, many economists and bankers believe that the problems facing the dollar abroad are not so much the result of an excessive dependence upon imported oil, but rather an inability to come to grips with the problem of inflation and Government spending. I share that view and find the arguments in favor of the conference report based upon the status of the dollar unpersuasive.

For those reasons, Mr. President, I intend to oppose the pending gas conference report and support the motion to recommit.

The merits of the motion to recommit the report with instructions are several. The intrastate market would remain free of controls, thereby creating the optimum incentive for greater gas production. In times of emergency, the President could order allocation of certain gas, and could permit sales at unregulated prices, but still under his control. Interstate and intrastate pipelines would be able to move gas for each other without bringing any new parties under general Federal regulation. The Federal Energy Regulatory Commission would set the price for interstate gas based upon 1977–78 data. And finally, retail gas pricing would be left to the State regulatory commissions.

In my judgment, Mr. President, the motion to recommit the conference report with instructions to report back with the bill just outlined is a far better way to address the energy situation confronting this country. It would maximize the increase in the supply of domestic gas at a justifiable cost to the consumer. It represents a solution that we can be proud of both at home and abroad.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with the statements therein limited to 5 minutes, and that the period not extend beyond 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 10:37 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bills without amendment:

S. 3119. An act to transfer certain real property of the United States to the District of Columbia Redevelopment Land Agency; and

S. 3120. An act to enhance the flexibility of contractual authority of the Temporary Commission on Financial Oversight of the District of Columbia.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3075) to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act, and for other purposes.

At 3:29 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed the bill S. (3375) to amend title 28 of the United States Code to make certain changes in the places of holding Federal district courts, in the divisions within judicial districts, and in judicial district dividing lines, with an amendment in which it requires the concurrence of the Senate.

The message also announced that the House has passed the following bills, each with amendments in which it requests the concurrence of the Senate:

S. 1103. A bill to permit States the reciprocal right to sue in the Supreme Court of the District of Columbia to recover taxes due the State;

S. 1895. A bill to amend the Natural Gas Pipeline Safety Act of 1968 to authorize appropriations for fiscal year 1979; and

S. 2556. A bill to change the name of the District of Columbia Bail Agency.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 10311. An act to amend the District of Columbia Redevelopment Act of 1945, and for other purposes;

H.R. 12116. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to repeal the authority of the President to sustain vetoes by the Mayor of the District of Columbia of acts passed by the Council of the District of Columbia and repassed by two-thirds of the Council, to change the period during which acts of the Council of the District of Columbia are subject to congressional review, and for other purposes;

H.R. 12165. An act to extend until the close of June 30, 1981, the existing suspension of duties on certain metal waste and scrap, unwrought metal, and other articles of metal; and

H.R. 13243. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to authorize the Council of the District of Columbia to delegate its authority to issue revenue bonds for undertakings in the area of housing to any housing finance agency established by it and to provide that payments of such bonds may be made without further approval.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

S. 3075. An act to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize international security assistance programs for fiscal year 1979, and for other purposes;

S. 3119. An act to transfer certain real property of the United States to the District of Columbia Redevelopment Land Agency;

S. 3120. An act to enhance the flexibility of contractual authority of the Temporary Commission on Financial Oversight of the District of Columbia;

S. 3454. An act to amend the Act of August 29, 1974 (88 Stat. 795; 10 U.S.C. 8302 note), relating to the authorized numbers for

the grades of lieutenant colonel and colonel in the Air Force and to authorize the President to suspend certain provisions of law when he determines that the needs of the Armed Forces so require, and for other purposes; and

H.R. 13067. An act to authorize the issuance of substitute Treasury checks without undertakings of indemnity, except as the Secretary of the Treasury may require.

The enrolled bills were subsequently signed by the President pro tempore (Mr. EASTLAND).

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 10311. An act to amend the District of Columbia Redevelopment Act of 1945, and for other purposes; to the Committee on Governmental Affairs;

H.R. 12116. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to repeal the authority of the President to sustain vetoes by the Mayor of the District of Columbia of acts passed by the Council of the District of Columbia and repassed by two-thirds of the Council, to change the period during which acts of the Council of the District of Columbia are subject to congressional review, and for other purposes; to the Committee on Governmental Affairs;

H.R. 12165. An act to extend until the close of June 30, 1981, the existing suspension of duties on certain metal waste and scrap, unwrought metal, and other articles of metal; to the Committee on Finance; and

H.R. 13243. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to authorize the Council of the District of Columbia to delegate its authority to issue revenue bonds for undertakings in the area of housing to any housing finance agency established by it and to provide that payments of such bonds may be made without further approval; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MUSKIE, from the Committee on the Budget, without amendment:

S. Res. 544. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to consideration of H.R. 11092, a bill to amend the act of December 22, 1974 (88 Stat. 1712), relating to the Navajo and Hopi Indian Relocation Commission (Rept. No. 95–1189).

S. Res. 549. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to consideration of S. 2083 (Rept. No. 95–1190).

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

S. Res. 560. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 7700. Referred to the Committee on the Budget.

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment:

H.R. 7700. An act to amend title 39, United States Code, to insure the continuation of public services performed by the United States Postal Service, and for other purposes (together with additional views of the Committee on Commerce, Science, and Transportation) (Rept. No. 95–1191).

By Mr. MOYNIHAN, from the Committee on Finance, with an amendment and an amendment to the title:

H.R. 4007. An act to amend the Internal Revenue Code of 1954 to designate the home of a State legislator for income tax purposes, and for other purposes (Rept. No. 95–956).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Rules and Administration:

John Warren McGarry, of Massachusetts, to the Federal Election Commission (together with additional and minority views) (Ex. Rept. No. 95–28).

(The above nomination from the Committee on Rules and Administration was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. DANFORTH:

S. 3495. A bill for the relief of Alexis Maria Davaraj; to the Committee on the Judiciary.

By Mr. DOLE (for himself, Mr. BAYH, Mr. CASE, Mr. DECONCINI, Mr. DOMENICI, Mr. HATCH, Mr. PAUL G. HATFIELD, Mr. GARN, Mr. MATHIAS, Mr. MARK O. HATFIELD, and Mr. METZENBAUM):

S. 3496. A bill to amend title 35 of the United States Code, to establish a uniform Federal patent procedure for small businesses and nonprofit organizations; to create a consistent policy and procedure concerning patentability of inventions made with Federal assistance; and for other related purposes; to the Committee on the Judiciary.

By Mr. MOYNIHAN:

S. 3497. A bill to amend the Internal Revenue Code of 1954 to allow a taxpayer who does not itemize his deductions to deduct amounts paid as State and local income taxes from gross income; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE (for himself, Mr. BAYH, Mr. CASE, Mr. DECONCINI, Mr. DOMENICI, Mr. HATCH, Mr. PAUL G. HATFIELD, Mr. GARN, Mr. MATHIAS, Mr. MARK O. HATFIELD, and Mr. METZENBAUM):

S. 3496. A bill to amend title 35 of the United States Code, to establish a uniform Federal patent procedure for small businesses and nonprofit organizations: to create a consistent policy and procedure concerning patentability of inventions made with Federal assistance; and for other related purposes; to the Committee on the Judiciary.

SMALL BUSINESS NONPROFIT ORGANIZATION PATENT PROCEDURE ACT

● Mr. DOLE. Mr. President, today Senator BIRCH BAYH and I and others are introducing the "Small Business, Nonprofit Organization Patent Procedures Act. This bill will not only remove an unfortunate bottleneck in the flow of technology to the public, it will also underscore the need for the public and private sectors to work in partnership on the many problems facing this Nation.

FEDERAL PATENT POLICY BOTTLES UP INNOVATIONS

Inventions developed with Government support at this country's major universities and research institutes are wasting away on the shelves of bureaucracies all across Government. The present Government policy mandates the Government to take title to all inventions it has had a hand in funding. The policy discourages participation by the private sector, with the end result being that the innovation will never be brought to the marketplace for use by the public. Inventions that could make the difference for this Nation's most pressing problems of jobs, inflation, energy, and health are being relegated to the scrap heap.

Why is the Government willing to bottle up much of this country's most important technological innovations? Rather than acknowledging the need for the public and private sectors to work in partnership on the many problems facing this Nation, we maintain policies that foster an adversary relationship between Government and private industry. I can assure you that this attitude will not encourage startups of new small businesses, nor will it enhance economic growth, nor increase employment, nor trade competitiveness, nor solve our energy shortage.

It is time we stop paying lip service to the contributions of the private sector. Although patents may be but a small factor in establishing meaningful private-public collaborations, it does provide an opportunity for the Government and private sectors to display mutual trust and willingness to work together on common problems.

To this end Senator BIRCH BAYH and I are introducing today the Small Business, Nonprofit Organization Patent Procedures Act. The bill provides to universities, nonprofit organizations, and small businesses patent rights to inventions they have made with Government grant and contract support. The intent of the bill is to provide the incentives necessary to unleash the creative energies of the private sector in tackling the societal challenges of health, energy, and urban decay.

SUPPRESSION OF TECHNOLOGY IN HEW

Nowhere are the problems raised by Government patent policy more catastrophic than in the biomedical research programs of the Department of Health, Education, and Welfare. At this moment, people are being condemned to needless suffering because of the refusal of HEW to release the rights to medical devices and pharmaceuticals developed with Government support.

For more than a year now, potentially lifesaving medical technology from the world's most renowned medical research laboratories supported by the National Institutes of Health has been shut down. HEW has decided to pull the plug on development of biomedical research, and withhold from the American public potential cures and revolutionary new diagnostic techniques for treating such diseases as cancer, arthritis, hepatitis, and emphysema.

In August when I raised this issue on the floor of the Senate, I was informed

by the General Counsel of HEW, Mr. Peter Lebassi, that the delay in the release of the more than 30 cases was only a matter of paperwork. But now another month has gone by and still nothing has been released by HEW. We are not witnessing in HEW "an unavoidable bureaucratic delay," but a calculated policy of "search and destroy" aimed at innovations from this country's scientific research programs.

THE DEMISE OF A LIFE SAVING INVENTION

Let me illustrate the attitude of some of the zealous bureaucrats in HEW who are now determining the policies for this country. Yesterday, I was informed by the legal counsel of the Weissman Institute of Israel, one of the world's most prominent medical research centers, that the petition for ownership rights submitted by its president, Professor Sella, who is a renowned scientist in cancer research, had been denied. Under a contract from NCI for an investigation of carcino-embryonic antigens (CEA) as a diagnostic marker for cancer, Dr. Sella invented a revolutionary new blood test for detecting cancer of the breast, digestive tract, and pancreas. From all indications it appears to be superior to all presently available procedures, and is especially important for postoperative followup diagnosis and prognosis of these dreaded cancers. Clinical trials of this marvelous new discovery that were to take place in collaboration with a private pharmaceutical firm have been canceled in light of the decision by HEW. I fear we will never know how many lives this invention would have saved.

What possibly could have prompted the HEW General Counsel to reach the decision to deny to Dr. Sella the rights to his own invention? I can only wonder who is served by HEW's policy? Certainly not the taxpayers who pay for this country's medical research. Certainly not Dr. Sella who has devoted so much of his life to conquering cancer. And certainly not the hundreds of thousands of us unfortunate enough to be stricken with cancer who need this technology to sustain life.

Rarely have I witnessed a more unfortunate example of overmanagement by the bureaucracy. In the anticipation of a presently nonexistent abuse, or perhaps out of a preoccupation with the rising cost of health care, HEW is willing to shut down the innovative process.

We must not allow this unfortunate state of affairs to be repeated. Legislation of a Government-wide patent policy is needed, and it is needed now.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3496

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Small Business Nonprofit Organization Patent Procedures Act."

AMENDMENT OF TITLE 35, UNITED STATES CODE, PATENTS

SEC. 2. Title 35 of the United States Code is amended by adding after Chapter 17, a new chapter as follows:

Chapter 18—PATENTABILITY OF INVENTIONS MADE WITH FEDERAL ASSISTANCE

Sec.
200. Policy and Objective.
201. Definitions.
202. Disposition of Rights.
203. March-in Rights.
204. Return of Government Investment.
205. Preference for United States Industry.
206. Confidentiality.
207. Background Rights.
208. Relationship to Anti-trust Laws.
209. Uniform Clauses.
210. Foreign Patent Protection and Federally Owned Patents.
211. Regulations Governing Federal Licensing and Small Business Preference.
212. Coordination of Federal Licensing Practices.
213. Restrictions on Exclusive and Partially Exclusive Licenses of Federally Owned Patents.
214. Precedence of Chapter.
215. Effective Date.

POLICY AND OBJECTIVE

SEC. 200. It is the policy and objective of the Congress to use the patent system to promote the utilization of inventions arising from Federally-supported research or development by nonprofit organizations and small business firms; to encourage maximum participation of small business firms in Federally-supported research and development efforts; to promote collaboration between commercial concerns and nonprofit organizations, including universities; to insure that inventions made by nonprofit organizations and small business firms are used in a manner to promote free competition and enterprise; to promote the commercialization and public availability of inventions made in the United States by United States industry and labor; to insure that the Government obtains sufficient rights in Federally-supported inventions to meet the needs of the Government and protect the public against nonuse or unreasonable use of inventions; and to minimize the costs of administering policies in this area.

DEFINITIONS

SEC. 201. As used in this Chapter—

(a) The term "Federal agency" means any "executive agency", as defined in 5 USC 105, and the military department, as defined by 5 USC 102,

(b) The term "funding agreement" means any contract, grant, or cooperative agreement entered into between any Federal agency and any person for the performance of experimental, developmental, or research work funded in whole or in part by the Federal Government, such term includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as herein defined.

(c) The term "subject inventor" means any person that is a party to funding agreement.

(d) The term "subject invention" means any invention of the subject inventor conceived or first actually reduced to practice in the performance of work under a contract.

(e) The term "practical application" means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are to the extent permitted by law or government regulations available to the public on reasonable terms from the subject inventor or licensee or assignee of the subject inventor.

(f) The term "made" when used in relation to any invention means the conception or first actual reduction to practice of such invention.

(g) The term "small business firm" means a small business concern as defined at section 2 of Public Law 85–536 (15 USC 632) and implementing regulations of the Administrator of the Small Business Administration.

(h) The term "nonprofit organization" means universities and other institutions of higher education and organizations of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 USC 501(a)).

DISPOSITION OF RIGHTS

SEC. 202. (a) Each nonprofit organization or small business firm may, within a reasonable time, elect to retain title to any subject invention; provided, however, that each Federal agency may promulgate regulations otherwise (i) when the subject invention is made under a contract for the operation of a Government-owned research or production facility, (ii) when such election to retain title might cause disclosure of classified information or otherwise impair national security; or (iii) in exceptional circumstances when it is determined by the agency that restriction or elimination of the right to retain title will better promote the policy and objective of this Chapter. The rights of the nonprofit organization or small business firm shall be subject to the provisions of paragraph (b) of this section and the other provisions of this Chapter.

(b) The subject inventor shall disclose to each Federal agency which is a party to a funding agreement under which the subject invention was made within a reasonable time after the making of a subject invention, and in any event at least 6 months before public disclosure thereof, the subject matter of the subject invention and whether the subject inventor intends to retain title to the subject invention or to relinquish title to the Government. The subject inventor shall file United States patent applications where appropriate within a reasonable time from making such disclosure and not later than six months after filing such United States applications shall inform the Federal agency as to the foreign countries in which the subject inventor intends to file patent applications.

(c) Each funding agreement with a small business firm or nonprofit organization shall contain appropriate provisions to effectuate the following:

(1) The right of the Federal Government upon request, to receive title to any subject invention not reported to the Federal agency within such times as are prescribed in Section 202(b) hereof and in the regulations promulgated hereunder.

(2) The right of the Federal Government, upon request, to receive title to any subject inventions in the United States or other countries in which the subject inventor has not filed patent applications on a subject invention within such times as are prescribed in Section 202(b) and in the regulations promulgated hereunder.

(3) The right of the Federal Government, upon request, to receive title to any subject invention in which the subject inventor does not elect to retain rights or fails to elect rights within such times as are prescribed in Section 202(b) and in the regulations promulgated hereunder.

(4) With respect to any invention in which the subject inventor elects rights, the Federal agency shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States any subject invention throughout the world, and may, if provided in the funding agreement, have additional rights to sublicense any foreign government pursuant to foreign policy considerations or any existing or future treaty or agreement.

(5) The right of the Federal agency to re-

quire periodic reporting on the utilization or efforts at obtaining utilization that are being made by the subject inventor or his licensees or assignees; provided that any such information may be treated by the Federal agency as commercial and financial information obtained from a person and privileged and confidential and not subject to disclosure under the Freedom of Information Act.

(6) An obligation on the part of the subject inventor, in the event a United States patent application is filed by or on its behalf or by any assignee of the subject inventor, to include within the specification of such application and any patent issuing thereon, a statement specifying that the invention was made with Government support and that the Government has certain rights in the invention.

(7) In the case of a nonprofit organization, (a) a prohibition upon the assignment of rights to a subject invention in the United States without the approval of the Federal agency, except where such assignment is made to an organization having prior approval of the Federal agency which has as one of its primary functions the management of inventions and which is not, itself, engaged in the manufacture or sale of products or processes that might utilize the invention or be in competition with embodiments of the invention and provided that such assignment is made subject to regulations promulgated hereunder governing rights in inventions and assignments of subject inventions; (b) a prohibition against the granting of exclusive licenses under United States Letters Patent in a subject invention by the Contractor or by a person deriving rights directly or indirectly from the Contractor for a period in excess of the earlier of five years from first commercial sale or use of the invention or eight years from the time before regulatory agencies necessary to date of the exclusive license excepting that obtain premarket clearance unless, on a case-by-case basis, the Federal agency approves a longer exclusive license. Exclusive field of use licenses may be granted and commercial sale or use in one field of use shall not be deemed to end the exclusive period as to unrelated fields of use; (c) a requirement that the balance of any royalties or income earned by the subject inventor with respect to subject inventions, after payment of expenses (including any payments to inventors) incidental to the administration of subject inventions, be utilized for the support of scientific research or education.

(8) If a subject inventor does not elect to retain title to a subject invention in cases subject to this Chapter, the Federal agency may consider and grant requests for retention of rights by the inventor subject to the provisions of this Act and regulations promulgated hereunder.

(9) In any case when a Federal employee is a co-inventor of any subject invention under this Chapter, the Federal agency employing such co-inventor is authorized to transfer or assign whatever rights it may require in the subject invention from its employee to a subject inventor electing to acquire rights hereunder subject to the conditions set forth in this Chapter.

MARCH-IN RIGHTS

SEC. 203. With respect to any subject invention in which a small business firm or nonprofit organization has acquired title under this Chapter, the Federal agency under whose funding agreement the subject invention was made shall have the right, in accordance with such procedures as are provided in regulations promulgated hereunder to require the subject inventor, an assignee or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are resonable under the circumstances, and if the contractor, assignee or exclusive licensee refuses such request, to grant such a license, itself, if the Federal agency determines either—

(a) That such action is necessary because the subject inventor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use; or

(b) That such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the subject inventor, assignee, or their licensees; or

(c) That such action is necessary to meet requirements for public use satisfied by the contractor, assignee, or licensees.

RETURN OF GOVERNMENT INVESTMENT

SEC. 204. (a) If a nonprofit organization or small business firm receives $250,000 in after tax profits from the licensing of any subject invention, in a period of ten years following reporting of the invention the United States shall be entitled to a share, to be negotiated, of up to 50 percent of all net income during said period from licensing received by contractor above $250,000; provided, however, that in no event shall the United States be entitled to an amount greater than that portion of the Federal funding under the funding agreement under which the subject invention was made which was expended on activities related to the making of the invention.

(b) In addition, if a nonprofit organization or small business firm receives after tax profits in excess of $2,000,000 on sales of products embodying or manufactured by a process employing a subject invention, during a period of ten years commencing with commercial exploitation of the subject invention, the Government shall be entitled to a share, to be negotiated, of all additional income accruing from such sales up to the amount of the portion of the Government funding under the contract under which the invention was made which was expended on activities related to the making of the invention less any amounts received by the Government in accordance with paragraph (a) of this section 204.

(c) The Director of the Office of Federal Procurement Policy is authorized and directed to revise the figures of $250,000 and $2,000,000 in paragraphs (a) and (b) of this section at least every three years in light of changes to the consumer price index or other indices which he considers reasonable to use.

PREFERENCE FOR UNITED STATES INDUSTRY

SEC. 205. (a) Notwithstanding any other provision of this Chapter, no small business firm or nonprofit organization which receives title to any subject invention and no person which receives an assignment of the subject invention shall assign the right to practice such invention in the United States or grant an exclusive license to practice the invention in the United States to any foreign corporation or any other organization substantially owned or controlled by foreign interests. However, in individual cases, this restriction may be waived by the Federal agency under whose funding agreement the invention was made.

(b) Notwithstanding any other provision of this Chapter, no small business firm or nonprofit organization which receives title to a subject invention and no person which receives an assignment of the subject invention from them shall assign the right to practice the invention outside the United States or grant an exclusive license to practice the invention outside the United States to any foreign corporation or any other organization substantially owned or controlled by foreign interests unless it shall have first undertaken reasonable efforts, as defined by regulations promulgated pursuant to this Chapter, to interest domestic United States organizations or corporations in such foreign rights.

CONFIDENTIALITY

SEC. 206. Any report of a subject invention under this Chapter may be treated by the Federal agency as a record exempt from disclosure pursuant to 5 USC 552 (b)(4) unless (i) a United States patent application describing the invention has been filed (provided that copies of the actual patent application may be treated by the Federal agency as records exempt from disclosure pursuant to 5 USC 552 (b)(4)), (ii) a description of the invention has been published elsewhere by the inventor, (iii) the subject inventor has not elected to retain title and/or a subject inventor or inventor has not requested the retention of title or other commercial rights, or (iv) the subject inventor has not elected to retain title and/or the Federal agency has denied the request of the subject inventor to retain title or other commercial rights.

BACKGROUND RIGHTS

SEC. 207. Nothing in this Chapter shall be deemed to preclude a Federal agency from obtaining rights in any background invention of a subject inventor or other contractor.

RELATIONSHIP TO ANTI-TRUST LAWS

SEC. 208. Nothing in this Chapter shall be deemed to convey to any person immunity from civil or criminal liability, or to create any defenses to actions, under any antitrust law.

UNIFORM CLAUSES

SEC. 209. The Office of Federal Procurement Policy, after receiving recommendations of the Office of Science and Technology Policy, may issue regulations which may be made applicable to Federal agencies establishing standard funding agreement provisions required under this chapter.

FOREIGN PATENT PROTECTION AND FEDERALLY OWNED PATENTS

SEC. 210. Each Federal agency is authorized to—

(1) apply for, obtain, and maintain patents or other forms of protection in the United States and in foreign countries on inventions in which the Federal Government owns a right, title, or interest;

(2) promote the licensing of inventions covered by federally owned patent applications, patents, or other forms of protection obtained with the objective of maximizing utilization by the public of the inventions covered thereby;

(3) grant nonexclusive, exclusive, or partially exclusive licenses under federally owned patent applications, patents, or other forms of protection obtained, royalty-free or for royalties or other consideration, and on such terms and conditions, including the grant to the licensee of the right of enforcement pursuant to the provisions of chapter 29 of title 35, United States Code, as determined in the public interests;

(4) make market surveys and other investigations for determining the potential of inventions for domestic and foreign licensing and other forms of utilization, acquire technical information, and engage in negotiations and other activities for promoting the licensing and for the purpose of enhancing their marketability and public utilization;

(5) withhold publication or release to the public information disclosing any invention in which the Federal Government owns or may own a right, title, or interest for a reasonable time in order for a patent application to be filed;

(6) undertake all other suitable and necessary steps to protect and administer rights to inventions on behalf of the Federal Government either directly or through contract;

(7) transfer custody and administration, in whole or in part, to the Department of

Commerce or to another Federal agency, of the right, title, or interest in any invention for the purpose of carrying out the provisions of paragraphs (1) through (4), without regard to the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471); and

(8) designate the Department of Commerce as recipient of any or all funds received from fees, royalties, or other management of federally owned inventions authorized under this Act.

REGULATIONS GOVERNING FEDERAL LICENSING AND SMALL BUSINESS PREFERENCE

SEC. 211. The Administrator of General Srevices is authorized to promulgate regulations specifying the terms and conditions upon which any federally owned invention may be licensed on a nonexclusive, partially exclusive, or exclusive basis. First preference in licensing federally owned inventions shall go to small business firms.

COORDINATION OF FEDERAL LICENSING PRACTICES

SEC. 212. The Secretary of Commerce is authorized in cooperation with other Federal agencies to—

(1) coordinate a program for assisting all Federal agencies in carrying out the authority set forth in section 210;

(2) publish notification of all federally owned inventions that are available for licensing;

(3) evaluate inventions referred by Federal agencies, and patent applications filed thereon, in order to identify those inventions with the greatest commercial potential and to insure promotion and utilization by the public of inventions so identified;

(4) assist the Federal agencies in seeking and maintaining protection on inventions in the United States and in foreign countries, including the payment of fees and costs connected therewith;

(5) accept custody and administration, in whole or in part, of the right, title, and interest in any invention for the purposes set forth in paragraphs (1) through (4) of section 210, with the approval of the Federal agency concerned and without regard to the provisions of the Federal Property and Administrative Service Act of 1949 (40 U.S.C. 471);

(6) receive funds from fees, royalties, or other management of federally owned inventions authorized under this Chapter, but such funds shall be used only for the purposes of this Chapter; and

(7) undertake such other functions directly or through such contracts as are necessary and appropriate to accomplish the purposes of this title.

RESTRICTIONS ON EXCLUSIVE AND PARTIALLY EXCLUSIVE LICENSES OF FEDERALLY OWNED PATENTS

SEC. 213. (a)(1) Each Federal agency may grant exclusive or partially exclusive licenses in any invention covered by a federally owned domestic patent or patent application only if, after public notice and opportunity for filing written objections, it is determined that—

(A) the interests of the Federal Government and the public will best be served by the proposed license, in view of the applicant's intentions, plans, and ability to bring the invention to practical application or otherwise promote the invention's utilization by the public;

(B) the desired practical application has not been achieved, or is not likely expeditiously to be achieved, under any nonexclusive license which has been granted, or which may be granted, on the invention;

(C) exclusive or partially exclusive licensing is a reasonable and necessary incentive to call forth the investment of risk capital and expenditures to bring the invention to practical application or otherwise promote the invention's utilization by the public; and

(D) the proposed terms and scope of exclusivity are not greater than reasonably necessary to provide the incentive for bringing the invention to practical application or otherwise promote the invention's utilization by the public.

(2) A Federal agency shall not grant such exclusive or partially exclusive license under paragraph (1) of this subsection if it determines that the grant of such license will tend substantially to lessen competition or result in undue concentration in any section of the country in any line of commerce to which the technology to be licensed relates, or to create or maintain other situations inconsistent with the antitrust laws.

(b) After consideration of whether the interests of the Federal Government or United States industry in foreign commerce will be enhanced, any Federal agency may grant exclusive or partially exclusive licenses in any invention covered by a foreign patent application or patent, after public notice and opportunity for filing written objections, except that a Federal agency shall not grant such exclusive or partially exclusive license if it determines that the grant of such license will tend substantially to lessen competition or result in undue concentration in any section of the country in any line of commerce to which the technology to be licensed relates, or to create or maintain other situations inconsistent with the antitrust laws..

(c) The Federal agency shall maintain a record of determinations to grant exclusive or partially exclusive licenses.

(d) Any grant of an exclusive or partially exclusive license shall contain such terms and conditions as the Federal agency determines appropriate for the protection of the interests of the Federal Government and the public, including provisions for the following:

(1) periodic written reports at reasonable intervals including, when specifically requested by the Federal agency, the extent of the commercial or other use by the public that is being made or is intended to be made of the invention;

(2) a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for the Federal Government the licensed invention throughout the world by or on behalf of the Federal Government (including any Federal agency), and the additional right to sublicense any State or domestic local government or to sublicense any foreign government pursuant to foreign policy considerations, or any treaty or agreement if the Federal agency determines it would be in the national interest to retain such additional rights;

(3) the right of the Federal agency to terminate such license in whole or in part unless the licensee demonstrates to the satisfaction of the Federal agency that the licensee has taken effective steps, or within a reasonable time is expected to take such steps, to accomplish substantial commercial or other use of the invention by the public; and

(4) the right of the Federal agency, commencing three years after the grant of a license, to require the licensee to grant a nonexclusive or partially exclusive license to a responsible applicant, upon terms reasonable under the circumstances to terminate the license in whole or in part, after public notice and opportunity for a hearing, upon a petition by an interested person justifying such hearing, if the Federal agency determines, upon review of such material as it determines relevant and after the licensee or other interested person has had the opportunity to provide such relevant and material information as the Federal agency may require, that such license has tended substantially to lessen competition or to result in undue concentration in any section of the country in any line of commerce to which the technology relates, or to create or maintain other situations inconsistent with the antitrust laws.

PRECEDENCE OF ACT

SEC. 214. This Chapter shall take precedence over any other act which would require a disposition of rights in subject inventions in a manner that is inconsistent with this Chapter, including but not necessarily limited to the following:

(1) Section 10(a) of the Act of June 29, 1935, as added by Title 1 of the Act of August 14, 1946 (7 USC 427l(a); 60 Stat. 1085);

(2) Section 205(a) of the Act of August 14, 1946 (7 USC 1624(a); 60 Stat. 1090);

(3) Section 501(c) of the Federal Coal Mine Health and Safety Act of 1969 (30 USC 951(c); 83 Stat. 742);

(4) Section 106(c) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 USC 1935(c); 80 Stat. 721);

(5) Section 12 of the National Science Foundation Act of 1950 (42 USC 1871(a); 82 Stat. 360);

(6) Section 152 of the Atomic Energy Act of 1954 (42 USC 2182, 68 Stat. 943);

(7) Section 305 of the National Aeronautics and Space Act of 1958 (42 USC 2457);

(8) Section 6 of the Coal Research Development Act of 1960 (30 USC 666; 74 Stat. 337);

(9) Section 4 of the Helium Act Amendments of 1960 (50 USC 167b; 74 Stat. 920);

(10) Section 32 of the Arms Control and Disarmament Act of 1961 (22 USC 2572; 75 Stat. 634);

(11) Subsection (e) of section 302 of the Appalachian Regional Development Act of 1965 (40 USC App. 302(e); 79 Stat. 5);

(12) Subsection (a)(2) of section 216 of title 38, United States Code;

(13) Section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 USC 5901; 88 Stat. 1978);

(14) Section 3 of the Act of June 22, 1976 (42 USC 1959d, note; 90 Stat. 694);

(15) Subsection (d) of section 6 of The Saline Water Conversion Act of 1971 (42 USC 1959(d); 85 Stat. 161);

(16) Section 303 of the Water Resources Research Act of 1964 (42 USC 1961c-3; 78 Stat. 332);

(17) Section 5(d) of the Consumer Product Safety Act (15 USC 2054 (d); 86 Stat. 1211);

(18) Section 3 of the Act of April 5, 1944 (30 USC 323; 58 Stat. 191); and

(19) Section 8001 of the Solid Waste Disposal Act (42 USC 6981; 90 Stat. 2829).

The Act creating this Chapter shall be construed to take precedence over any future Act unless that Act specifically cites this Act and provides that it shall take precedence over this Act.

EFFECTIVE DATE

SEC. 215. This Chapter shall take effect 180 days after the date of enactment of this Chapter, except that the regulations referred to in Section 209, or other implementing regulations, may be issued prior to that time.●

● Mr. BAYH. Mr. President, I am pleased today to join in introducing the University and Small Business Patent Procedures Act. This bill is the result of a substantial amount of investigation and consultation involving both Senator DOLE and his staff and me and my staff. I am pleased to join in the leadership of this bipartisan effort with my distinguished colleague from Kansas, and

I am pleased also that our colleagues, Senators MATHIAS, DECONCINI, PAUL HATFIELD, GARN, HATCH, MARK HATFIELD, METZENBAUM, and DOMENICI have joined us as cosponsors.

The bill addresses a serious and growing problem: Hundreds of valuable medical, energy, and other technological discoveries are sitting unused under Government control, because the Government, which sponsored the research that led to the discoveries, lacks the resources necessary for development and marketing purposes, yet is unwilling to relinquish patent rights that would encourage and stimulate private industry to develop discoveries into products available to the public.

The cost of product development exceeds the funds contributed by the Government toward the initial research by a factor of at least 10 to 1. This together with the known failure rate for new products, makes the private development process an extremely risky venture, which industry is unwilling to undertake unless sufficient incentives are provided.

The problem is substantial in HEW, the Department of Defense, the Department of Agriculture, and the National Science Foundation. But nowhere is the patent situation more disturbing than in the biomedical research programs. Many people have been condemned to needless suffering because of the refusal of agencies to allow universities and small business sufficient rights to bring new drugs and medical instrumentation to the marketplace.

For example, Department of Energy and Department of Health, Education, and Welfare procedures of reviewing all of the requests for patent rights from universities are resulting in delays of almost 2 years. In many cases these inventions could make significant contributions to the health and welfare of the American people, but are being frustrated by this present patent policy.

The bill that we are introducing today strikes a careful balance between the rights of the Federal Government to use for itself and the public good inventions arising out of research that the Federal Government helps to support, and the equally important rights of the inventor and the public to see that the inventions receive their full potential in the marketplace and reach the people they may benefit. This bill will allow universities, nonprofit organizations, and small businesses to obtain limited patent protection on discoveries they have made under Government-supported research, if they spend the additional private resources necessary to bring their discoveries to the public. Our experience has shown that unless inventors, universities, small businesses, and the private sector generally are given sufficient incentives to work together and bring inventions to the public, new technology is likely to languish.

This bill addresses part of a larger problem that I find very disturbing, namely, that America seems to be falling behind in technological innovation and inventiveness.

In a two-part series which appeared in the Washington Post on September 3, and September 10, 1978, Mr. Bradley Graham pointed out a number of indicators that something is going wrong with American industry's long-recognized ability to lead the world in technological developments. Mr. Bradley mentions several troubling statistics:

The number of U.S. patents issued per year to U.S. inventors reached a peak in 1971 and has declined steadily since. But the number granted to foreign inventors has increased steadily since 1963. In 1977, foreigners claimed 35 percent of all patents issued in the U.S. across a broad range of fields.

The U.S. balance of trade has worsened, due not only to increased oil imports, but also to more imports of foreign manufactured goods.

Productivity, which is partly a function of technological innovation, has slumped severely. In the past decade, the rate of growth in U.S. productivity has averaged only half of what it was the previous 20 years. In contrast, productivity growth rates in Europe and Japan have been on the rise.

From 1953 to 1966, U.S. investment in research grew at an impressive rate of 10 percent annually in inflation-adjusted dollars. However, investment in research by all sectors in the U.S. over the past 10 years has shown essentially no growth in constant dollars. Further, a number of major U.S. corporations have announced recently they intend to spend even less on long-term basic research and more on development of short-term, quick-profit products.

There are, of course, a number of theories which have been offered to explain this situation. Some observers have cited the dropoff in Government-supported research, the nature of the modern corporation, changes in lifestyle, the entrance into the work force of inexperienced workers, and overregulation of businesses by the Government. Others have said that this technological lag is merely a misperception, and that new technological developments are being made, but that they are of necessity not as exciting as the unprecedented technological breakthroughs that followed World War II.

I do not wish to speculate on these theories beyond saying that many of our prominent scientists, educational leaders and businessmen believe that this problem is a very real one, one in fact so serious that it strikes at the traditional heart of the American economy—our ability to adapt to a changing world.

A September 4, 1978 column by Jack Anderson and a July 3, 1978 article in Business Week discuss the unique problems facing small businesses with respect to our declining national role in technological innovation. I ask unanimous consent that all four of these articles be printed at the conclusion of my remarks.

It is time that we start identifying the causes of this troubling trend, and seek solutions. One such area where I am confident progress can be made immediately is with inventions arising from federally supported university and small business research. That is why we are introducing the University and Small Business Patent Procedures Act. In many cases research efforts of small businesses and universities are being frustrated by the policy of the Government of retaining patent rights in most cases, on inventions arising out of research funded in whole or in part by the Federal Government. Small businesses and our universities have been among the most innovative sectors of our economy and have a proven capacity to develop the sort of bold, new inventions that our country needs to maintain its leadership in the world economic community.

The University and Small Business Patent Procedures Act is designed to meet this aspect of the larger problem of lagging technological innovation.

Mr. President, I would like to outline some of the important sections of the bill. I would particularly like to draw the attention of my colleagues to section 204 which provides that if the invention achieves a certain level of success payment must be made back to the Government until this payment equals that amount invested in the invention by the Government.

Section 202 provides that each nonprofit organization (defined in the bill to include universities) and small business shall have a reasonable amount of time to elect to retain title to subject inventions. The federal agency may retain title if the invention is made under a contract for operation of a government owned research or production facility, might cause the disclosure of classified information or imperil national security, or if granting patents would not be in the public interest in terms of the purpose to be served by this legislation.

Section 202(c) provides that each funding agreement shall contain provisions to: (1) insure the right of the federal government to receive title to any subject invention not reported to it within the prescribed times of the contract; (2) insure the government's right to receive title to inventions when the inventor does not intend to file for patent rights; and (3) provide that the agency shall have a nonexclusive, nontransferable, paid-up license to use the invention.

Section 202(c)(7) prohibits nonprofit institutions from assigning rights without the approval of the federal agency; prohibits granting such rights in excess of the earlier of 5 years from the date of first commercial use or 8 years from the date of invention, whichever comes first; and provides that all proceeds shall be used to support scientific research or education.

Section 203 gives the federal agency the right to require the subject inventor or his assignee to grant additional licenses if the agency feels that sufficient steps are not being taken to achieve commercialization. Additional licensing may also be required to alleviate health and safety needs, or under provisions for public use as specified by federal regulations.

Section 204 provides that if the patent holder receives $250,000 in after tax profits from licensing any subject invention during a ten-year period, or receives in excess of $2,000,000 on the sales of products embodying or manufactured by a process employing the subject invention within the ten-year period, that the government shall be entitled to collect up to 50% of all net income above those figures until such time as the amount of government research money has been repaid.

Section 205 specifies that no foreign owned or controlled firm shall be eligible to receive patent rights under this Act unless the federal agency determines that this is the only available means of achieving commercialization; a similar provision covers licensing the invention outside the U.S.

Section 210 will allow federal agencies to grant exclusive, partially exclusive, or nonexclusive licenses on government owned patents to achieve commercialization; the Department of Commerce is authorized to receive patents held by other agencies and to make the necessary steps to determine the market potential of the patent and to receive any fees or royalties due to the government.

Section 211 authorizes the Administrator of GSA to issue regulations regarding such licenses and gives first preference in licensing federal patents to small businesses.

Section 213 specifies that federal licenses be issued only after public notification and opportunity for filing objections and that exclusive or partially exclusive licenses not be granted if the result would be a lessening of competition; the agency has the right to require more licensing if it feels that this is necessary after three years and to require periodic written reports on progress toward commercialization.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 3, 1978]

SOMETHING'S HAPPENED TO YANKEE INGENUITY

(By Bradley Graham)

It's been 89 years since Angus Campbell put the first automatic cotton picker to work, 70 years since Henry Ford gassed up his first Model T, 39 years since Du Pont introduced a super fiber called nylon and 30 years since Edwin H. Land marketed the first instant picture camera.

All of which helps recall a time America's inventive spirit seemed unbounded and unceasing. Ideas flowed to the marketplace as fast and furious as mountain rapids flow downhill.

But what was once thought to be an endless stream of U.S. inventions has of late been trickling out less startling and less competitive products. Meantime, adding pain to the drain, the inventive powers of foreign nations have been in ascendance. The question, once raised in a whisper, is now asked in loud and urgent tones. Has American enterprise lost its innovative touch?

Consider the facts.

The number of U.S. patents issued per year to U.S. inventors reached a peak in 1971 and has declined steadily since. But the number granted to foreign inventors has increased steadily since 1963. In 1977, foreigners claimed 35 percent of all patents issued in the U.S. across a broad range of fields.

The U.S. balance of trade has worsened, due not only to increased oil imports, but also to more imports of foreign manufactured goods.

Productivity, which is partly a function of technological innovation, has slumped severely. In the past decade, the rate of growth in U.S. productivity has averaged only half of what it was the previous 20 years. In contrast, productivity growth rates in Europe and Japan has been on the rise.

From 1953 to 1966, U.S. investment in research grew at an impressive rate of 10 percent annually in inflation-adjusted dollars. However, investment in research by all sectors in the U.S. over the past 10 years has shown essentially no growth in constant dollars. Further, a number of major U.S. corporations have announced recently they intend to spend even less on long-term basic research and more on development of short-term, quick-profit products.

In a world where power and progress are often measured in terms of technological breakthroughs and scientific prowess, such trends are indeed disturbing.

For a nation that has always prided itself on its tinkerers—on those lone souls who brought forth from their garages and basement labs such revolutionary devices as power steering, the office copier and the zipper—they are downright depressing.

From boardroom to research lab, there is a deepening sense that something has happened to the once unchallengeable Yankee ingenuity. Just what, though, no one quite knows.

Some insist it is in rapid decline, choked by an unfavorable economic climate, government regulation and, perhaps, by the lethargy and shortsightedness of big business. Others say it has simply taken new forms, becoming more subtle and incremental in nature than grand and revolutionary. Either way, the country's genius for invention does not appear, at least, to be what it once was.

Alarm bells are going off all over. First, Michael Boretsky, a senior policy analyst in the Commerce Department: "All the indicators imply that the rate of U.S. innovation is measurably down. It's very disconcerting."

Next, Dr. Alden Bean, director of research for the National Science Foundation: "There's no solid evidence to suggest that the U.S. is going to hell in a handbasket in science and technology. But there is serious cause for concern about some trends we've seen."

After several years of arm-waving and shouting about waning U.S. innovation, the nation's research establishment finally caught the ear of the White House. Several months ago, the Carter administration launched a major policy review of things to be done to foster innovation in private industry. The study is being coordinated by the Commerce Department and involves more than 15 agencies. A final report, including recommendations for the president, is expected by April.

But many experts say another study is hardly necessary. The worrisome state of innovation in America has been assessed and reported on many times since the first major policy review conducted by Commerce in 1967. In the interim, the problems only have become more obvious.

For one, the economic climate for innovation is poor. The financial incentives that in the past encouraged the rich and the bold to risk their money on slim-chance projects no longer exist, thanks to increases in the capital gains tax and tighter rules on stock options. Inflation, too, has put the squeeze on capital investment by existing corporations.

Also, with the winding down of space and defense programs, government support of industrially performed research has diminished. Throughout the 1950s, the government annually supported more than one-third of industrial research activity. This level of support reached almost 40 percent in 1962, but has been falling consistently and is 25 percent today.

Increased government regulation, too, has increased operating costs and shrunk the share of profits formerly available for research. So has the higher cost of energy.

Together, these developments have forced a shift in industrial research activities from the offensive to the defensive. "Major effort is being diverted into defensive research," said Howard Nason, president of the Industrial Research Institute in St. Louis. "Much more emphasis is being placed on short-term cost reductions than on long-term product and process improvements."

But as important as such external economic factors may be in explaining the innovation slump, there are certain features about the internal structure of corporate America today which some say have had a debilitating effect on innovation.

Writing in the July-August issue of the Harvard Business Review, Alfred Rappaport, professor of business at Northwestern University, blames the research lag on the increasing emphasis American business places on short-term results. Rappaport asserts that management incentive programs are biased toward quick profits at the expense of perhaps smarter long-term investment.

"American business would do well to reexamine its own self-administered incentive systems," Rappaport concludes.

Industrial research today is dominated by a small number of very large corporations. The top 10 percent of those firms doing R&D in 1976 performed almost 70 percent of the total U.S. R&D effort. Ten firms accounted for more than 36 percent of all expenditures that year. This concentration may itself work against innovation.

"A large part of the blame for the lack of innovation lies with the oligopoly nature of American industry," said Mark Green, director of Ralph Nader's Congress Watch. "Big companies get habituated to their products and there is a reluctance to break through. If you already dominate an industry, where is the incentive to take a chance on a new and costly approach?"

But the history of innovation in America is ambiguous on this point. Studies done on whether big business or little business is more inventive have come to no conclusive end as a whole.

Certainly, many major innovations have come from outside an established industry. The ballpoint pen, for instance, was invented by a sculptor, the dial telephone by an undertaker. It took an electrical engineer employed by a shipbuilding firm in the 1930s to develop the automatic transmission, called by some the last major innovation of the auto industry. IBM's disk memory unit, the heart of today's computer, was not the logical outcome of a decision made by IBM management—rather, it was developed in one of its labs as a bootleg project, over the stern warning from management that the project had to be dropped because of budget difficulties.

At the same time, certain large firms in the fields of electronics, pharmaceuticals, telecommunications and computers have been highly innovative.

In their seminal study in 1958 on the sources of invention, Harvard professor John Jewkes and his colleagues said they could not conclude that inventions flow primarily from any one source. When the study was revised in 1969, the authors stated only the obvious; that inventions can come from firms of varying size.

Business leaders, of course, refute the charge that they are less innovative today than in the past. "There's no lack on the part of big business to be innovative," said General Motors Corp. Chairman Thomas Murphy in a phone interview. "It's a big country, so we have to be big. We couldn't do all of the things we do if we weren't as large as we are."

To the public, a car may still look like a car. But auto officials say the changes which have taken place inside during the past five years have been as revolutionary as anything which has come before.

"There's a perception problem," said Thomas J. Feaheny, the man in charge of car engineering for Ford Motor Co., where "better ideas" were once not only a management dictum but a successful ad slogan. "We've never been as innovative as we are now. But the things we're doing aren't as glamorous and aren't noticed much by the consumer."

Critics note, however, that what the auto industry heralds as advances in development (the catalytic converter, on-board use of minicomputers to govern fuel efficiency and control pollution, greater use of aluminum and other lightweight durable materials) are, in fact, only more logical applications of off-the-shelf technologies rather than breakthroughs in the state of the art.

Of even greater concern, though, than what has or hasn't happened is the prospect for the future. Many major corporations have tailored research budgets to yield more practicable and immediate results. In 1958, industry allocated as much as 38 percent of its R&D dollar to the "R" part. By last year, this had dropped to 25 percent.

Corporations say the reasons for this shift from research into development have noth-

ing to do with being too big or too comfortable. The reasons, basically, are greater pressures from government regulators to meet health, safety and environmental standards as soon as possible, and greater uncertainty about the likely profitability of longer-term, riskier ventures.

"It used to be much easier to bring new products to market," said Du Pont Chairman Irving Shapiro in an interview. "If you hit something, you'd have more time to develop it. Now it's more difficult.

"Also, the pot of gold at the end of the rainbow just isn't there. The economic environment has changed. Our thinking has had to change, too. It's become more short range."

Added Richard Hechert, Du Pont's senior vice president for R&D: "We're not exploring wholly new areas. We're concentrating instead on opportunities for research in established areas. . . . We are less able to take risks. We have to concentrate on surer projects."

The degree of such thinking does vary from company to company and industry to industry. Certain high-technology fields (instrumentation, computers and electronics) remain rooted in innovation and continue to churn out impressive new products. In other industries, though—particularly those most apt to be subject to regulation and high energy costs (steel, chemicals, paper, packaged goods and autos)—product innovation has levelled.

Part of the difficulty in deciding what to do about the innovation lag is figuring out how to define it. To begin with, innovation defies measurement.

"There are no indicators which you can look at to measure the advancement of knowledge," said NSF's Dr. Bean. "Some people count patents, but that's unreliable in part because some firms don't like to patent things and would rather rely on trade secrets rather than disclose important discoveries. Others count citations in the research literature, but that's unreliable, too."

But even without sure data, many have not hesitated to push the panic button. "You can't use statistics to say there's a problem," said Jordan J. Baruch, the assistant Secretary of Commerce who is directing the government's innovation policy review. "But you'd have to be blind not to see it."

Urgency about the problem is all the greater because America seems uniquely stricken. Western Europe and Japan grow more inventive, or so it appears, while U.S. firms age. Examples abound of foreign firms taking the lead in both new and traditional product areas. The Japanese, for instance, totally eclipsed the American communications industry in the development of video tape recorders. The Germans and Swiss now set the pace in textiles. Inventiveness in the steel industry has centered in Belgium and Austria. Some U.S. cities are even going abroad to scout for new ways to handle old problems. (The Council for International Urban Liaison here publishes a monthly newsletter called Urban Innovations Abroad that goes to 5,000 city officials in the U.S.)

Moreover, U.S. productivity rates have been in a rut for a decade—and that has serious consequences for everyone's real income and for the nation's overall standard of living. Of course, technological change by itself does not make or break productivity. There are other contributing factors, most important among them being capital investment and improved labor skills. But technology is an important ingredient in the mix.

With industry's current bent toward the here and now, there is concern that the U.S. may be cutting its innovative bridges. Some economists, notably Charles P. Kindleburger at MIT, have drawn disturbing parallels between the way U.S. firms are responding to America's battered competitive leads and the responses of British firms in the twilight of the English empire. British firms, just as American firms now, became defensive—that is, rather than redoubling efforts to generate innovations, they curtailed investment and demanded government protection against imports.

Does the current emphasis on small, incremental kinds of advances rather than on big breakthrough threaten the dominant position the U.S. still holds?

No one is sure. Despite all the studies of innovation and productivity, no one can say whether there is an optimum rate of invention a society should adhere to, or how much innovation is enough.

There does seem to be general agreement, though, on this. The rapid technological growth which the U.S. experienced during the first two decades after World War II was unusual and is not likely to be repeated.

"We made an enormous investment in the war, made some great technological advances during it, and came out of it with a great belief in the power of technological progress," said J. Herbert Hollomon, director for the Center of Policy Alternatives at MIT. "We also were handed an accidental lead, in having survived the war better than anyone else. But one of the things that is increasingly going to be the case is that new technological innovations are going to happen outside the U.S."

Holloman said that American business has in the past displayed an NIH (not-invented-here) complex, meaning that U.S. managers have been arrogant toward anything not thought up first in America and slow to embrace it. This is one of the things that he said will have to change if American firms hope to continue to compete in world markets. American businesses must learn to be quick to adapt to exploit foreign inventions as well as their own, he warned.

"The problem is not with basic science," Holloman said. "The problem really is how effective we can be in adjusting and adapting."

Some have argued that U.S. multinationals may themselves have hastened this competitive bind on America by transferring their best technologies to foreign markets in recent years. Those who say this also urge legislation that would restrict further transfers of technology.

But most who have studied the innovation problem say the solution lies in fostering a innovation at home—through more liberal tax policy, a relaxed regulatory policy, less aggressive antitrust practices and, in general, a more cooperative spirit between business and government such as exists in Japan and the leading Western European countries.

And above all, they argue for greater certainty in government policy. "I think that more than an increase in government support of R&D or a reduction in regulation, what private industry people are interested in is a reduction in uncertainty about government action," said Dr. Bean. "Look, there's enough economic uncertainty in the R&D process without the government."

[From the Washington Post]

U.S. PRODUCTIVITY: GOLDEN DAYS OVER

(By Bradley Graham)

(NOTE.—This is the second of two articles discussing whether, as is widely perceived today, the dynamic vitality of the American economy is faltering. Last week's piece examined the lag in U.S. innovation. This week's describes the forces behind the nation's productivity slump.)

Like a movie that changes from fast- to slow-motion and then gets stuck on a single frame, America's productivity rate is creeping closer and closer to a dead stop.

For two decades following World War II, the productivity in the U.S. sprinted up the growth charts untiringly. Spurred by a labor force anxious to get back to peaceful industrial employment and by a string of technological breakthrough that gave the U.S. a commanding lead in product markets around the world, the American economy seemed unfailing and unstoppable.

But the rise began to slacken about a decade ago. In the past 10 years, productivity gains averaged 1.6 percent a year, only half the rate of the golden-growth days. This year, productivity has taken an even sharper turn for the worse, showing almost no increase at all.

Barry Bosworth, director of the President's Council on Wage and Price Stability, told a congressional committee recently: "We're turning into the British situation of the early '70s when they had almost no productivity growth." Calling the slowdown "a real puzzle," Bosworth said the U.S. has practically stopped showing gains in output per hour worked.

Moreover, the slump has been widespread. About two-thirds of the 67 industries regularly surveyed by the government have registered productivity declines. What makes the slowdown even more critical is that while productivity has been falling in the United States, it has been rising in Europe and Japan. Since 1967, the productivity rate has surged ahead 105 percent in Japan, 54 percent in Italy and France, and 39 percent in Canada. Even Great Britain topped America, edging past the U.S., 25 percent to 24 percent.

The meaning of all this is simple enough—and deeply disturbing. Without a gain in productivity:

Inflation will be more difficult—probably impossible—to control.

America's ability to compete in world markets will continue to weaken.

Real wealth in America will shrink effectively strangling the campaign against poverty and eroding everyone's standard of living.

But what is behind the slump is much less simple and less certain. Some say it is the result of basic shifts in the economy—we have been transformed, so the story goes, from a nation of industrial workers to one of lawyers, insurance agents and real estate brokers. Others blame the lag in productivity on environmental and safety rules which have redirected business investment into less productive (though perhaps more socially desirable) ends. Still others cite a change in both worker and management attitudes—people, they say, don't want to work as hard as they used to, and corporate managers have lost the sense of adventure and the willingness to take risks that was once their mark in trade.

In any case, the sense of desperation mounts as productivity indicators slide. The national doomsayers club has never had so many illustrious members.

"America's economic survival will depend on its ability to increase its rate of productivity advance to former levels," General Motors Corp. Chairman Thomas Murphy said in a recent interview. "That is no exaggeration."

"You've got to be worried," said Irving Shapiro, chairman of Du Pont. "You can't be comfortable about the future, you can't be sure your earnings will be real earnings without gains in productivity."

The term "productivity" has different meanings to different people. It is often associated with other words like "efficiency," "automation" and "hard work." In some minds, it conjures up images of a production line running faster and faster.

But basically the productivity rate is a measurement of outputs divided by inputs, computed quarterly by the Bureau of Labor Statistics. It is, simply, what you can get out (automobiles, ice cream cones and so on) for what you put in (labor, capital and other resources).

Despite all the fuss over what's happened to U.S. productivity, no one on the national level appears to be doing much to meet the

emergency. The one federal agency specifically charged with attacking the problem is going out of business at the end of this month. Established in 1970 to find ways of improving productivity, the National Center on Productivity and the Quality of Working Life runs out of money on Sept. 30, with both Congress and the White House content to see it go. Underfunded and politically orphaned from the start, the center was ruled ineffective and expendable in a General Accounting Office report this year.

George Kuper, the center's director, calls it a mistake to eliminate the center without providing something in its place. "Productivity growth is not automatic," Kuper said. "In view of the dismal productivity record of the American economy over the past ten years, there is an urgent need for a concerted effort to bolster the forces that sustain productivity growth."

But administration officials contend that the productivity problem is not something the government can solve by creating a center. "The best thing we can do for productivity is to create a healthy climate for private investment," said one administration official. "In the final analysis, productivity is basically the responsibility of the private sector."

A few businesses and industries have made encouraging efforts to spur efficiency on their home turf. Methods tried range from streamlining production lines and reorganizing work teams to fattening up compensation plans and instituting so-called "flextime" programs that allow employes some latitude in setting working hours.

On the whole, though, the self-help record of American industry on this score is sadly deficient. Spoiled by the ease with which productivity gains flowed during in the early postwar period, managers have been slow to respond to the current crisis.

"They figured it was something that would always be there," said C. Jackson Grayson, former business school dean and head of the wage and price council during the Nixon administration. "Managers have ignored productivity and played the game of money and demand management. Most companies have no explicit program to improve productivity."

To foster greater national awareness of the problem, and to help corporations establish their own productivity improvement programs, Grayson last year set up his own center on productivity in Houston founded on $8.5 million contributed by more than 80 companies.

But the reason for management's sluggishness in tackling this issue may have more to do with a lack of inspiration than with any lack of awareness. The mood of the American business community today is characterized more by despair than by diligence, and the sense of malaise is worsening.

Surveys by the Conference Board, a New York-based economic research group, show business confidence in the economy has declined steadily since the surveys began two years ago. This lack of faith has translated into a reluctance on the part of many managers to invest in new equipment and larger plants. Termed by some a "capital strike," such lag in investment has been a major contributor to the slowdown in productivity growth in recent months.

The malaise feeds on itself because, without new investment, business processes age, productivity declines, profits shrink and industries grind to a halt. It is true that unemployment has dropped to record lows in recent months. But what this suggests is that output has been increased by putting more people on payrolls, not by improving each person's capacity to produce. This can go on only so long.

What accounts for management's depressive state of mind? "A heritage of economic trauma of the past decade," said Edgar Fiedler, director of research for the Conference Board, who proceeded in an interview to tick off a list of economic jerks and jolts that have shaken the confidence American managers once had in their economic machine, leaving members of the business community scurrying or their security blankets.

His list included the acceleration of inflation, the erosion of profits, the aid to the old international exchange rate system, shortages of goods and resources, the first peacetime wage and price controls, the oil embargo and two recessions. "Little wonder that everyone is feeling shaky about the future," Fiedler concluded.

But sagging confidence and a falloff in capital investment only go part way in explaining what might be behind the slump in productivity. A good bit of the slowdown, say the experts, may have been inevitable.

Edward Denison, a Brookings Institution economist and one of the nation's leading authorities on productivity, says some of the steam was bound to run out of the U.S. economic engine. He notes two forces—the migration of farmers to factory jobs and the mass education of society—that initially powered America's postwar industrial drive have now run their course. Also, he says, the influx of relatively inexperienced teenagers and women into the work force has acted as a productivity depressant, albeit a temporary one.

Beyond these, Denison blames the growth of government regulation for squeezing out much of the productive energy that was left.

Of course, productivity alone neither makes nor breaks a nation. It is just one element—although an important one—in the overall growth equation. Other factors include a nation's resource base, its entrepreneurial spirit, and its rate of savings and investment.

Also, in weighing political choices, a nation often finds itself balancing certain quality-of-life goals such as cleaner air and guaranteed safety against the moneyed concerns of efficiency and economic growth. To the extent American industry's slower growth is the natural outcome of ensuring greater health and safety for consumers, it is plainly and simply the peoples' choice.

Denison, however, is worried that the trade-off might have tilted too far, particularly in recent months. "The outlook is extremely uncertain," he said. "I've never seen a period like this before."

Part of the uncertainty reflects not only confusion about the source of the downward trend, but also misgivings about the numbers themselves. The situation may not be as alarming as the figures suggest.

This is because the methods used to collect national input/output data leave room for inaccuracies. Also, the traditional way of measuring productivity ignores many social welfare gains and only incompletely accounts for improvements in quality.

Still, the figures always have been subject to such qualifications. Many experts say what counts in the current debate is not so much the accuracy of the measurements but their startling, stubborn slide relative to the way they always have been computed.

In any case, there is cause for hope. As the negative effect of the influx of unskilled workers reverses itself, and as industry becomes accommodated to regulatory standards, U.S. productivity should climb again. The Bureau of Labor Statistics estimates that it will be back to about the 2.5 percent rate by the early 1980s.

But few experts believe America will return to its postwar rate of more than 3 percent. As Denison put it, "In the long sweep of history, the high postwar rate is an aberration."

Many businessmen tend now to write off the economy's stumbling performance during the Seventies as a costly learning experience, a period of expensive adjustment from which American managers soon will emerge with renewed vigor and a stronger sense of direction. "The Seventies had an enormously revolutionary impact," said Du Pont's Shapiro. "It's been one of those periods. Now we have a whole new ball game."

With the old forces that propelled America's postwar blastoff now on the wane, the nation's productive future rests on two principle factors: the ability to innovate and, as it has been put, the ability to "work smarter."

Innovation will cue off of an improved economic climate for risk capital, though not everyone agrees on how best to achieve this. Business is arguing for lower taxes and less regulation. Labor says that if tax cuts go anywhere, they should go to consumers to spur spending and, in that way, improve general business conditions. Congress and the White House are debating what the mix should be.

There also is no easy way to get people to "work smarter." Observers note that U.S. business generally has been good at harnessing intelligence.

Much of the internal challenge that corporations faced in the last decade concerned adjusting to a change in employee attitudes toward work and the work place. The robot theory of mass production is out; in its place has risen the "quality of worklife" program, stressing teamwork and giving workers a greater voice in determining what they do and how they do it.

Such changes can lead to a happier, more productive plant. But movement here generally has been sluggish, slowed both by management resistance and union reluctance.

"You can't do the things you did before," said GM's Murphy of the change in labor-management relations. "It's not enough today to follow the old Army tradition of 'do as we say and don't ask questions.' But what do you do? It's always been a difficult thing to find the better way."

[From the Washington Post, Sept. 4, 1978]

SMALL FIRMS STINTED ON RESEARCH

(By Jack Anderson)

Following their epochal 1903 Kitty Hawk flight, the Wright brothers got a five-year runaround from Washington before receiving any government financial help to pursue their aeronautical research. Small-time inventors and innovative businessmen today are getting the same short shrift, even though billions are being doled out by the federal government for research and development.

Butter-fat corporations lap up the cream from the research subsidies, even though they're interested more in profits and cost-cutting than new inventive breakthroughs. Small companies with fewer than 1,000 employees get skim milk from the federal churn.

Yet the little enterprising businesses rather than the corporate giants have been responsible for such developments in this country as insulin, zippers, power steering, ball point pens and self-winding watches. This was in keeping with the tradition of individual inventive geniuses symbolized by the Wright brothers, Alexander Graham Bell, Samuel Morse and Thomas Edison.

The superiority of small business research has been cited in a study which the Office of Management and Budget strangely never published. The study credited firms having than 1,000 employes with almost half of the industrial innovations between 1953 and 1973.

According to the study, 16 small technology firms created 25,558 jobs for American workers during the 20-year period because they came up with new ideas. Yet the budget office was advised that small firms were drawing inadequate funding from the government, getting less than 4 percent of the research and development layouts.

Spurred by the report, the budget office drafted a memo intended for all federal agencies, urging vigorous efforts to channel more of the research to small businesses "which are having difficulty in competing in the big leagues."

The memo added, "there is considerable evidence that the small proportion of federal research and development work that is being awarded to small technologically based firms is contributing to a serious loss of high technology capabilities in our nation. It is important that we see some real progress within the first 18 months of the administration."

This ringing call for a new deal was never sent to the agencies. Les Fettig, head of the office that was supposed to be directing the crusade, said the report and the memo were news to him until we asked what happened. He explained that the documents "fell through the cracks" during the transition period between the Ford and Carter administrations.

Fettig said his office is alert to the problem and is taking steps to make it easier for small businesses to get research and development help.

Footnote: Investigation shows that the Energy Department under James Schlesinger has been perhaps the worst offender in government in encouraging research at the Little League level. The department claimed it awarded 10.3 percent of its research contracts to small operators in the 1977 fiscal year. The General Accounting Office has challenged the statistic. GAO auditors found the amount was about 2.6 percent, because the Energy Department has counted subcontracts that trickle down from the big corporations.

[From Business Week, July 3, 1978]

VANISHING INNOVATION

A grim mood prevails today among industrial research managers. America's vaunted technological superiority of the 1950s and 1960s is vanishing, they fear, the victim of wrongheaded federal policy, neglect, uncertain business conditions, and shortsighted corporate management. They complain that their labs are no longer as committed to new ideas as they once were and that the pressures on their resources have driven them into a defensive research shell, where true innovation is sacrificed to the certainty of near-term returns. Some researchers are bitter about their own companies' lax attitudes toward innovation, but as a group they tend to blame Washington for most of their troubles. "[Government officials] keep asking us, 'Where are the golden eggs?'" explains Sam W. Tinsley, director of corporate technology at Union Carbide Corp., "while the other part of their apparatus is beating hell out of the goose that lays them."

That message—and its implications for the overall health of the U.S. economy—is starting to get through. Following months of informal but intense lobbying led by such executives as N. Bruce Hannay, vice-president for research and patents at Bell Telephone Laboratories Inc., and Arthur M. Bueche, vice-president for research and development at General Electric Co., the White House has ordered up a massive, 28-agency review of the role government plays in helping or hindering the health of industrial innovation. "Federal policy affecting industrial R&D and innovation must be carefully reconsidered," wrote Stuart E. Eizenstat, the White House's domestic policy adviser, in a recent memo outlining the review's intent.

One thing that the study clearly will not accomplish is a quick fix for the deepening innovation crisis. The problem is regarded as immensely complex by the Administration, and is inextricably tied to other economic dilemmas now facing Carter's White House.

"Historically, the government's role has been to buy more science and R&D," says Martin J. Cooper, director of the strategic planning division at the National Science Foundation (NSF). "Now maybe we better go with investment incentives." Says Jordan J. Baruch, Assistant Commerce Secretary for science and technology, who will be the review's day-to-day manager: "This study developed in an environment of people concerned about economics, business, and technology."

The Administration's concern is underscored by the fact that it is organized as a domestic policy review, the highest sort of attention a problem can receive within the executive branch. Among its objectives, such a review must produce options for corrective action by the President. According to Ruth M. Davis, Deputy Under Secretary of Defense for research and development, "this is the only such review at the policy level in 20 years that transcends the interests of more than one agency."

The White House also seems determined not to conduct the study in a governmental vacuum. Baruch is soliciting input from groups such as the Industrial Research Institute (IRI), the Business Roundtable, and the Conference Board. "We want both CEOS and R&D vice-presidents," says a White House official. Labor groups have been asked to participate, too, along with public-interest groups. Congressional leaders such as Senator Adlai E. Stevenson (D.-Ill), chairman of the Senate subcommittee on science, technology, and space, have been brought into the early planning. And the 28 agencies involved extend beyond obvious candidates, such as the Environmental Protection Agency, to the Justice Dept. and even the Small Business Administration.

The study's scope is so sweeping, in fact, that some Federal officials are talking about a "thundering herd" approach to policymaking. But one government science manager demurs. "It beats having one guy write a national energy program in three months," he sniffs.

Philip M. Smith, an assistant to Presidential science adviser Frank Press and an early organizer of the study, concedes that "a lot of people have told us that we are likely to fail." But such skepticism, he believes, does not take into account the considerable clout of those involved in the effort. Commerce Secretary Juanita M. Kreps, for example, is chairing the study, and she heads a coordinating committee whose members include Charles L. Schultze, chairman of the Council of Economic Advisers, Administration inflation fighter and chief trade negotiator Robert S. Strauss, and Zbigniew Brzezinski, Carter's national security adviser. Even more important is the support of Eizenstat, who, says Smith, "is very interested in this particular review."

FINDING "NEW DIRECTION"

On the other hand, there is already grumbling within the Agriculture Dept., which was left off Kreps's committee. "We are red-faced," says a high-ranking Agriculture official. "We are out of the project because this Administration and those before it do not place any priority on agricultural reesarch." However, Jordan Baruch insists that the department will play a role in the study. Agriculture experts point out that farm commodity exports of over $24 billion play a key role in the U.S. balance of payments. They note also that superior technology is the basis of the commanding American position among world food exporters.

Whatever its outcome, the White House policy review is being undertaken at a time when, as Frank Press puts it, "we badly need some new directions." Many experts view with alarm the declining federal dollar commitment to R&D, which has dropped from 3% of gross national product in 1963 to just 2.2% this year. For its part, industry as a whole has more or less matched the inflation rate and then some with its own spending. But such macroscale indicators do not tell all. "We've got to find out what the story is sector by sector, because each industry is going to be different," says Press. "We also have to find out what's going on abroad."

Better data on the relationship between industrial innovation and the health of the economy are becoming available. According to a 1977 Commerce Dept. report, for instance, technological innovation was responsible for 45% of the nation's economic growth from 1929 to 1969. The study went on to compare the performance of technology-intensive manufacturers with that of other industries from 1957 to 1973, and found that the high-technology companies created jobs 88% faster than other businesses, while their productivity grew 38% faster.

The numbers help to establish the central role of industrial innovation in stimulating economic development, but they also are beginning to reveal the changing character of industrial research. The amount of basic research that industry performs, for instance, has dropped to just 16% two years ago from 35% of the national total in 1955.

And a new IRI survey of member companies for the National Science Foundation demonstrates how federal policy has directly altered the nature of the research effort in another way, making it more and more defensive. The study shows that surveyed companies increased R&D spending devoted to proposed legislation by a striking 19.3%, compounded annually, from 1974 to 1977. And the rate was 16% a year for R&D devoted to Occupational Safety & Health Administration (OSHA) requirements. "When overall R&D spending is not growing nearly this fast," note the survey's authors, George E. Manners Jr. and Howard K. Nason, "other categories of effort—especially research—must be suffering."

Other observers compare the viability of industrial innovation in the U.S. with that of foreign countries. One expert is J. Herbert Hollomon, director of the Center for Policy Alternatives at Massachusetts Institute of Technology. According to Hollomon, a reason the U.S. is losing its leadership is that "we're arrogant—we have an NIH [not invented here] complex at the very time a majority of technological advances is bound to come from outside the U.S." Consequently, he argues, the U.S. has not organized itself to capitalize on these advances, as foreign countries have done for years with American knowhow. Since as much as two-thirds of all R&D is now conducted by foreign laboratories, Hollomon says, it should be no surprise that they have taken the lead in such technologies as textile machinery and steel production.

"We essentially prohibited West Germany and Japan from defense and space research," says Hollomon. "So it's no accident they concentrated on commercial fields." He adds: "I believe other nations better understand that the innovation process is important."

Says a research director for one high-technology company: "For a country like ours, the technology leader of the world, what has been happening is downright embarrassing." Indeed, even the presumed sources of strength in a consumer-oriented society are today under intense pressure. "Our experience with Japan in the consumer electronics industry—namely televisions, radios, audio, and transceiver equipment—shows some of our weaknesses," testified Gary C. Hufbauer, a Deputy Assistant Treasury Secretary, before a congressional subcommittee. In 1977, he said, "we had a $3.6 billion trade deficit with Japan in high-technology goods, and

about two-thirds of this was accounted for by imports of consumer electronic goods."

THE ROLE OF REGULATION

The cumulative response to these developments has been alarm. "The system has now sharpened its pencils in a way that discourages changes that are major," worries Robert A. Frosch, head of the National Aeronautics & Space Administration. "We have been so busy with other things that we may have inadvertently told the people who think up ideas to go away."

Even labor unions, which historically have left R&D decision-making up to corporate board rooms, now are complaining about lack of innovation. "Having helped to develop and pay for this technology," says Benjamin A. Sharman, international affairs director of the International Association of Machinists, "American workers have a right to demand government responsibility for using it to create new products, more jobs, better working conditions, and general prosperity." And Charles C. Kimble, research director of the Electrical, Radio & Machine Workers union, goes so far as to suggest that labor should now have a say in how industrial research money is spent.

Among research managers themselves, excessive or contradictory federal regulatory policy is the single greatest complaint. Hannay of Bell Labs points to Food & Drug Administration requirements as a case in point. According to one study, says Hannay, a 1938 application for adrenaline in oil was presented to the FDA in 27 pages. In 1958, a treatment for pinworms took 439 pages to describe. "By 1972," he says, "a skeletal muscle relaxant involved 456 volumes, each 2 in. thick—76 ft. in total thickness and weighing one ton."

Regulation, says Tinsley of Union Carbide, has put a bottleneck on new-product development in the chemical industry and has so added to the cost of getting any new chemical approved that only those targeted at a vast, assured market are attempted today. Food and drug industry researchers echo that complaint. "Today," says Al S. Clausi, director of technical research at General Foods Corp., "our industry does work that is fostered by unreal and invalid public concerns."

But regulation can have less obvious impacts, such as forcing an industry to stick with old technology rather than to experiment with new approaches to problems. "The overall effect of regulations on the auto industry has been to build an envelope around the internal-combustion device and the whole car structure," says Harvard Business School Professor William J. Abernathy, who specializes in technology management. "'Don't do anything really new, don't change.' That's what these regulations say." Paul F. Chenea, vice-president for research at General Motors Corp., agrees. "You just don't have time to explore wild new ideas when a new rule is so closely coupled to your current business," he says.

"THE SCIENCE OF THE MATTER"

In Congress, where the regulatory laws are written, such thinking has so far found a small audience. "A great number of the regulations that we would call environmental . . . may actually be self-defeating," muses Harrison H. Schmitt, the former astronaut from New Mexico who is the ranking Republican on Stevenson's Senate subcommittee. "Instead of looking at pollution controls, if we were looking at building a more efficient and therefore less-polluting engine, we would not only be solving our environmental problems, but we would be producing a new thing for export."

Schmitt is one of only three federal legislators with the semblance of a science background. "We probably have exercised very poor judgment in the past," he says, "because the Congress overall—members as well as staff—have not been able to understand what is possible technologically and what is not, and therefore not been able to relate the costs [of legislation]."

Jason M. Salsbury, director of the chemical research division at American Cyanamid Co., pleads, "Before the lawyers write the legislation, let them know the science of the matter." Not only may some mandates be beyond what industry can legitimately perform, he says, but the rules force a conservative approach to science. One key indicator of this trend is the increasing number of toxicologists now employed in chemical company research labs. "Toxicologists don't innovate," notes Frank H. Healey, vice-president for research and engineering at Lever Bros. Co.

Then there is the regulatory bias against new ideas. In the EPA's grant programs for waste-water treatment at the municipal level, for instance, equipment specifications must be written so that gear can be procured from more than one source. That means a company with a unique process is discriminated against. What is more, the mandate for cost effectiveness precludes trying out innovative approaches whose value can only be measured if someone is willing to gamble on them.

If the domestic policy review is to solve such questions, it will depend in large part on the willingness of regulators to see matters in a new light. According to Philip Smith, there is "a sense that people like [EPA Administrator] Doug Costle and [FDA Administrator] Don Kennedy want to work with industry, and they don't want to fight all the time. I think we have a team of people now in government that may be able to do something."

THE INVESTMENT CLIMATE

But industry should not expect a major overhaul of regulatory practices to emerge from the study. EPA Administrator Douglas M. Costle concedes "a tremendous growth in the last decade in health and safety regulations—13 major statutes in our area alone." Though Costle agrees that the economic impact of such rules should be more closely quantified, he contends that "this rapidly widening wedge of regulation has been a response to a massive market failure—failure of the marketplace to put an intrinsically higher value on pollution-free processes."

Most regulators agree that not enough research has been done on the true nature of the environmental problems they are empowered to combat, but they also argue that regulation has led to cost-saving practices, especially in the area of resource recovery, where closed-cycle processes now help capture reusable material. OSHA officials also cite examples where the agency has laid down rules that have led to cost-cutting innovations. But Eula Bingham, the OSHA administrator, emphasizes that the "legislatively determined directive of protecting all exposed employees against material impairment of health or bodily function" requires tough regulation without quantitative weighing of costs and benefits. "Worker safety and health," she insists, "are to be heavily favored over the economic burdens of compliance."

Bingham and her boss, Labor Secretary Ray Marshall, may represent an increasingly isolated view, however. Economic issues have come to dominate thinking within the Carter Administration, and it is precisely these questions that industry has stressed in its discussions with science adviser Press and other White House officials. Just over a month ago, Treasury Secretary W. Michael Blumenthal told a meeting of financial analysts in Bal Harbour, Fla., "We are now devoting a very sizable chunk of our private investment to meeting government regulatory standards . . . and in some of these areas we may well be reaching a breaking point." Blumenthal also noted: "Our technological supremacy is not mandated by heaven. Unless we pay close attention to it and invest in it, it *will* disappear."

A month before the Blumenthal speech, GE's Bueche suggested to an American Chemical Society gathering that "we step back and look at R&D for what it really is, an investment. It is an investment that, like more conventional investments, has become increasingly less attractive."

Bueche, along with most other research managers, rejects the idea of direct federal subsidies to industrial R&D. Instead, he points out that "perhaps 90% of the total investment required for a successful innovation is downstream from R&D [and thus] it becomes . . . clear why we must concentrate on the overall investment climate." Bueche attacks Administration proposals to eliminate special tax treatment of long-term capital gains, plumps for more rapid investment write-offs, and says "it is extremely important to provide stronger incentives for technological innovation by making permanent and more liberal the 10% investment tax credit."

CRITICS IN INDUSTRY

Bueche's arguments suggest the broad—yet often indirect—way in which federal policy runs counter to the best interests of innovation. Fear of antitrust moves from the Federal Trade Commission or the Justice Dept., for instance, has prevented many companies from sharing research aimed at a problem common throughout an industry—including new technology aimed at solving regulatory questions. At General Electric, the legal staff must now be notified if a competitor visits a company research facility, even if no proprietary material is involved.

For their part, Justice Dept. trustbusters claim that fears that their policies stifle innovation are not justified. They say they are flexible enough to recognize the differences in the pace of innovation from industry to industry, and that is why they allow a fair number of mergers among electronics companies. "That's an industry where you don't have to worry about someone cornering the market," says Jon M. Joyce, an economist in the Justice Dept.'s antitrust division. "There's just a lot of guys out there with good ideas."

Industry further claims that the inability to secure exclusive licenses on government-sponsored research leaves much good technology on the shelves, while federal attempts to market new products are often silly at best. Richard A. Nesbit, director of research at Beckman Instruments Inc., recalls a government circular that waxed rhapsodic over the federal commitment of billions of dollars to R&D. Included with the letter was a syringe for sampling fecal matter, and the suggestion that Beckman might want to license the technology. "I wondered if they spent billions to develop that," Nesbit recalls. "The contrast was ludicrous."

Even national accounting procedures draw criticism from industry. A major target is the 1974 ruling by the Financial Accounting Standards Board that stipulated that R&D spending could no longer be treated as a balance sheet item, but must be listed as a direct profit or loss item in the year spent. R. E. McDonald, president and chief operating officer at Sperry Rand Corp., recently told an executive management symposium, "The ramifications of that rule change are quite complex, but the next effect has been to dry up a lot of potential venture capital investments. . . . I can say quite candidly that Univac would not be here today if we had not had the advantage of the old rule for so many years."

The shortage of risk capital has had a tremendous impact on small, technology-oriented companies trying to arrange new

public financing. According to a Commerce Dept. survey, 698 such companies found $1.367 billion in public financing in 1969. In 1975, only four such companies were able to raise money publicly, and their numbers rose to just 30 in 1977. Equally ominous is the experience at Union Carbide, which, according to Tinsley, has not been able to compete for venture capital and has thus canceled plans to start a number of small operations built around interesting new technology. Years ago, says Tinsley, Carbide was reasonably successful at getting such funding. "And you must remember that these ideas are perishable," he says. "They don't have much shelf life."

The Treasury Dept., in fact, has an ongoing capital-formation task force that will be integrated into the policy review under the direction of Deputy Secretary Robert Carswell. Carswell notes that "you can't draw a clear line" between R&D support and investment in general, but "if it turns out that we find some form of capital formation gives the economy a greater multiplier effect than another form, we at the Treasury would not shy away from whatever policy would help most."

WASHINGTON'S CHANGING ROLE

Even as it has pursued policies detrimental to industrial R&D, the federal government has withdrawn as a major initiator of innovation. Research managers generally believe that companies are better equipped than government to bring new technology to society because they are more attuned to market pull. But Lawrence G. Franko of Georgetown University, an international trade expert, recently pointed out to a congressional committee that the U.S. government has in the past played an important role "as a source of demand for new products and processes, and as a constant, forbearing customer in computers, semiconductors, jet aircraft, nuclear-power generation, telecommunications, and even some pharmaceuticals and chemicals. . . ."

According to the Defense Dept.'s Davis, both Defense and NASA "have faded" in this role, the result of the Vietnam war and concerns over the military-industrial complex. "The consumer marketplace and other government agencies have not been able to pick up where DOD and NASA left off," she says. "The Department of Energy should be able to help with this, but it hasn't yet. And the Department of Transportation just never blossomed in this role." An unreleased IRI study for the Energy Dept. summed up industry's views. The company officers interviewed said government could spur industry's energy R&D only by creating a national energy policy, increasing its managerial competence, and offering financial incentives rather than massive contracts.

On the other hand, there have been some recent, notable government efforts to spur the innovation process. "We've talked to the leading semiconductor companies about our hopes for their innovation," says Davis. She says that the Defense Dept. expects to program $100 million over the next five years for industrial innovation in optical lithography, fabrication techniques involving electron-beam technology, better chip designing and testing to meet military specifications, and system architecture and software implementation.

At the Transportation Dept., chief scientist John J. Fearnsides wants to involve the private sector much earlier in the government's R&D process, thereby allowing industrial contractors to develop technology alternatives instead of having to cope with rigid specifications at the outset. Such a policy, some believe, might have resulted in major savings for the Bay Area Rapid Transit system, for instance. "It is more expensive to fund a wider range of choices, but only at first," says Fearnsides.

The NSF also has announced a new industry-university grant program for cooperative exploration of "fundamental scientific questions." The aim is to make "a long-term contribution toward product and/or process innovation."

THE FAILURES OF BUSINESS

While agreeing on the need for federal policies that bolster innovation, those knowledgeable about industrial research think that the companies themselves share some of the blame for stagnation and must be willing to examine their practices critically. Alfred Rappaport, a professor of accounting and information systems at Northwestern University's graduate school of management, believes that one reason the U.S. lags in R&D is that the incentive compensation systems that corporate executives live under tend to deter intelligent risk-taking. "Incentive programs are almost invariably accounting-numbers oriented and based on short-term earnings results," he says. "That puts management emphasis on short-term business considerations." Another criticism has been of the haphazard way in which companies have launched new R&D programs. In essence, industry should try to learn how to weed out bad ideas early on, say the detractors. To that end, Dexter Corp. has instituted an eight-factor "innovation index" approach to research management that weighs questions such as effectiveness of communications, competitive factors, and timing, and comes up with an "innovation potential" for new ideas. At Continental Group Inc., D. Bruce Merrifield, vice-president of technology, says that "constraint analysis" of new ideas now means that eight of 10 projects that survive the review will generate cash flow within two to four years. That contrasts with accepted estimates that only one in 50 ideas that come out of research labs even generates cash flow, and not for seven to 10 years.

Large companies often fail to exploit their own resources effectively. In the 1950s and 1960s, some companies set up centralized research facilities, but many of these did not yield the hoped-for synergism—in many cases, apparently, because the different parts of the company were in businesses too unrelated to one another.

On the other hand, Raytheon Co. was highly successful in transferring its microwave expertise to its newly acquired Amana appliance subsidiary in 1967, resulting in the counter-top microwave oven. That was done through a new-products business group set up specifically for such purposes. And more recently, this group, headed by Vice-President Palmer Derby, brought the company's microwave talent to bear on its Caloric subsidiary's product line, resulting in a new, combination microwave-electric range.

In such ways, industry can maximize its potential for innovation in the most adverse environment. But the future health of the nation's economy, many experts believe, requires a much more benign environment for industrial R&D than has existed over the past decade. And Jordan Baruch, the enthusiastic leader of the multi-agency federal study, believes that such an environment is likely to emerge as a result of the Administration's concern.

"We may have bitten off more than we can chew," notes Frank Press, "and it may be that we can't get much done in a year. But even if it takes three or five or 10 years, I think it is historically very important." ●

● Mr. MATHIAS. Mr. President, I welcome the opportunity to join Senator DOLE, Senator BAYH and others in introducing the "University and Small Business Patent Procedures Act."

The patent system has served this country well since the beginning of the Republic. It protects and nurtures the creative genius of our inventors, and accounts in great measure for the industrial might of the country. Not only does it give the inventor a chance to make a profit from his discoveries, but it gives his competitors a chance to "invent around" his discovery—refining it, improving it, even making it obsolete.

Abraham Lincoln observed that the patent system "added the fuel of interest to the fire of genius." Our bill will restore the fuel that the Department of Health, Education, and Welfare has cut off.

I say this because of the freeze the Department has imposed on the granting of greater rights in inventions that were made under Department-funded grants and contracts to universities that do not hold Institutional Patent Agreements with the Department.

Specifically, I have been informed that the Johns Hopkins University petitioned the Department for greater rights in two such inventions over a year ago and that, to date, no determination has been made. One of the inventions is a pharmaceutical composition that is contemplated to be useful in the treatment of various liver disorders. In fact, related drugs invented under Department-funded grants by the same investigator have been licensed in a number of countries and are already being marketed in Europe. The Johns Hopkins University is apprehensive that failure to obtain greater rights in the invention could jeopardize efforts to commercialize the drug, resulting in loss of its benefit to the public.

Our bill will solve this problem by allowing universities, nonprofit organizations, and small businesses to obtain limited patent protection on discoveries they have made under Government-supported research if they spend the additional private resources necessary to bring their discoveries to the public. It will restore that "fuel or interest" that Abraham Lincoln thought so important.

The bill is a good one, Mr. President, and I urge all of our colleagues to support it.●

By Mr. MOYNIHAN:

S. 3497. A bill to amend the Internal Revenue Code of 1954 to allow a taxpayer who does not itemize his deductions to deduct amounts paid as State and local income taxes from gross income; to the Committee on Finance.

Mr. MOYNIHAN. Mr. President, I am today introducing a bill which addresses a problem of great seriousness to millions of taxpayers—the problem of ever-increasing State and local income taxes.

State and local income taxes have more than doubled as a percentage of personal income in the last two decades, and have risen much more quickly than Federal income taxes. Since the inception of the graduated income tax in 1913, State and local taxes have been deductible from income for Federal tax purposes. However, as the zero bracket amount has risen, fewer and fewer taxpayers find it advantageous to itemize deductions. As a result, fewer and fewer Americans are in fact able to deduct State and local income taxes on their Federal tax returns. With State and local income taxes rising, it is obvious that many Americans are very much caught in this crunch.

My bill would allow all taxpayers to deduct their State and local income taxes, regardless of whether they itemize deductions. Most of the benefits of this bill will go to taxpayers earning under $30,000, many of whom have seen their tax burden increase significantly in the last few years.

I urge my colleagues to support this measure.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3497

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 193. STATE AND LOCAL INCOME TAXES.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a deduction for the taxable year within which paid or accrued State and local income taxes (within the meaning of section 164(a) (3)).

"(b) APPLICATION WITH SECTION 164.—No deduction shall be allowed under this section for any taxable year for which the taxpayer claims the deduction allowed by section 164 (relating to taxes).".

(b) Section 62 of such Code (relating to definition of adjusted gross income) is amended by inserting after paragraph (13) the following new paragraph:

"(14) STATE AND LOCAL INCOME TAXES.—The deduction allowed by section 193.".

(c) (1) Paragraph (1) of section 57(b) of such Code (defining adjusted itemized deductions) is amended—

(A) by inserting "(determined without regard to paragraph (14) of section 62" after "adjusted gross income" in subparagraph (A), and

(B) by striking out "the taxpayer's adjusted gross income for" and inserting in lieu thereof "the taxpayer's adjusted gross income (determined without regard to section 193) for".

(2) Subparagraph (E) of section 170(b)(1) of such Code (relating to definition of contribution base) is amended by inserting "and without regard to section 193" after "section 172".

(3) Paragraph (1) of section 213(a) of such Code (relating to allowance of deduction for medical, dental, etc., expenses) is amended by inserting "(determined without regard to paragraph (14) of section 62)" after "adjusted gross income".

(4) Subsection (b) of section 213 of such Code (relating to limitation with respect to medicine and drugs) is amended by inserting "determined without regard to paragraph (14) of section 62)" after "adjusted gross income".

(5) Subparagraph (A) of section 3402 (m)(2) of such Code (defining estimated itemized deductions) is amended by striking out "paragraph (13)" and inserting in lieu thereof "paragraphs (13) and (14)".

(d) The table of sections for part VI of subchapter B of chapter 1 of such Code is amended by inserting after the item relating to section 192 the following new item:

"SEC. 193. State and local income taxes.".

SEC. 2. The amendments made by the first section of this Act shall apply to taxable years beginning after December 31, 1978.

ADDITIONAL COSPONSORS

S. 1845

At the request of Mr. BAYH, the Senators from Minnesota (Mrs. HUMPHREY and Mr. ANDERSON), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Colorado (Mr. HART), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Montana (Mr. MELCHER), the Senator from Illinois (Mr. PERCY), the Senator from Maryland (Mr. MATHIAS), and the Senator from Alaska (Mr. GRAVEL) were added as cosponsors of S. 1845, a bill to control the use of polygraphs in employment.

SENATE JOINT RESOLUTION 159

At the request of Mr. WALLOP, the Senator from Kansas (Mr. DOLE), and the Senator from New Mexico (Mr. SCHMITT) were added as cosponsors of Senate Joint Resolution 159, providing for disapproval of implementation of national water resources policies, and for other purposes.

SENATE RESOLUTION 560—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. GLENN, from the Committee on Governmental Affairs, reported the following original resolution, which was referred to the Committee on the Budget:

SENATE RESOLUTION 560

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 7700. Such waiver is necessary because the bill would authorize expenditures estimated at between $25 million and $33.2 million for Fiscal Year 1979 and the Committee was unable to report on H.R. 7700 by May 15, 1978. H.R. 7700 was referred to the Committee on April 11, 1978, and a companion bill on which the Committee amendment is based was introduced in the Senate on June 23, 1978. Consideration of the legislation was deferred by the Committee's consideration of other priority legislation, including Civil Service Reform (S. 2640) and because the Committee believed it advisable to defer action until the U.S. Postal Service and representatives of its bargaining unit employees had substantially completed negotiations for a new labor-management agreement pursuant to Chapter 12 of title 39, United States Code.

SENATE RESOLUTION 561—SUBMISSION OF A RESOLUTION WAIVING CONGRESSIONAL BUDGET ACT

Mr. RIBICOFF submitted the following original resolution, which was referred to the Committee on the Budget:

S. RES. 561

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such act are waived with respect to the consideration of S. 2, the Program Reauthorization and Evaluation Act of 1978. Such waiver is necessary because the bill authorizes the enactment of appropriations in fiscal year 1979 and the Committee on Rules and Administration did not report S. 2 until July 13 (legislative day, May 17) 1978. The Committee on Governmental Affairs reported S. 2 on July 1, 1977.

The Congressional Budget Office estimates that the cost of implementing the provisions of S. 2 which go into effect in Fiscal Year 1979 would be approximately $1 million, an amount so small that its consideration will not significantly affect the Federal budget. Because the requirements of S. 2 effective in Fiscal Year 1979 which were reported by the Committee on Rules and Administration are nearly identical to the provisions of S. 2 as reported by the Committee on Governmental Affairs the authorization for this activity clearly could have been contemplated to be part of the national budget to the exent that it has any significant fiscal impact.

● Mr. RIBICOFF. Mr. President, I am submitting today a resolution to waive section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2, the Program Reauthorization and Evaluation Act of 1978.

This legislation was reported unanimously by the Committee on Governmental Affairs on July 1, 1977. We are asking a waiver of the Budget Act provisions, however, so that S. 2 may be considered by the Senate in light of the fact that the Committee on Rules and Administration was unable to report this measure until July 13, 1978.

The Congressional Budget Office has estimated that the cost of implementing the provisions of S. 2 which would go into effect in fiscal year 1979 would be approximately $1 million, an amount so small that its consideration would not significantly affect the Federal budget.

Because the requirements of S. 2 as reported by the Rules Committee which go into effect in fiscal year 1979 are nearly identical to the provisions of S. 2 as reported by the Committee on Governmental Affairs, it is fair to say that the authorization for this activity clearly could have been contemplated to become part of the national budget to the extent that it will have any significant fiscal impact.●

AMENDMENTS SUBMITTED FOR PRINTING—DEPARTMENT OF EDUCATION—S. 991

AMENDMENT NO. 3566

(Ordered to be printed and to lie on the table.)

Mr. STEVENS (for himself, Mr. YOUNG, Mr. GOLDWATER, Mr. CHILES, Mr. ANDERSON, Mr. BARTLETT, Mr. CHURCH, Mrs. HUMPHREY, Mr. HANSEN, Mr. BURDICK, Mr. JACKSON, Mr. GRAVEL, and Mr. MATHIAS) submitted an amendment intended to be proposed by them, jointly, to S. 991, a bill to establish a Department of Education, and for other purposes.

Mr. STEVENS. Mr. President, on behalf of myself and Senators YOUNG, GOLDWATER, CHILES, ANDERSON, BARTLETT, CHURCH, HUMPHREY, HANSEN, BURDICK, JACKSON, GRAVEL, and MATHIAS, I submit an amendment to S. 991, a bill to establish a Department of Education, and for other purposes, and ask that it be printed.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table.

NOTICES OF HEARINGS

SUBCOMMITTEE ON FEDERAL SPENDING PRACTICES AND OPEN GOVERNMENT

● Mr. CHILES. Mr. President, the Subcommittee on Federal Spending Practices and Open Government is announc-

ing the continuation of hearings on the General Services Administration contract fraud investigation on Monday, September 18, at 10 a.m., in 3302 Dirksen Senate Building.

Any inquiries regarding the hearing should be directed to Mr. Ronald Chiodo, subcommittee chief counsel and staff director (244-0211).●

SUBCOMMITTEE ON THE CONSTITUTION

● Mr. BAYH. Mr. President, the Subcommittee on the Constitution has scheduled 2 additional days of hearings on S. 1845 proposing legislation to protect the rights of individuals guaranteed by the Constitution of the United States and to prevent unwarranted invasion of their privacy by prohibiting the use of polygraph type equipment for certain purposes, for Tuesday, September 19, 1978, beginning at 9 a.m. in room 6226, Dirksen Senate Office Building, and Thursday, September 21, 1978, beginning at 9 a.m. in room 5110, Dirksen Senate Office Building.

Any persons wishing to submit written statements for the hearing record should send them to the Subcommittee on the Constitution, suite 102-B, Russell Senate Office Building, Washington, D.C. 20510.●

SUBCOMMITTEE ON ADMINISTRATIVE PRACTICE AND PROCEDURE

● Mr. ABOUREZK. Mr. President, I wish to announce that the Subcommittee on Administrative Practice and Procedure of the Committee on the Judiciary, will hold a hearing Thursday, September 14, 1978, at 10 a.m., concerning the feasibility of administering the natural gas conference report. Hearing will be in room 2228, Dirksen Building.●

ADDITIONAL STATEMENTS

ALCOHOL FUELS IN BRAZIL

● Mr. BAYH. Mr. President, there has been quite a bit of publicity given recently to the Brazilian Government's strong support of the use of alcohol fuels in that country. Earlier this summer, the Wall Street Journal published an article on the subject, which I reprinted in the RECORD for the information of my colleagues.

Recently, Mr. President, the Washington Post also contained an article on the use of alcohol—both in pure form and in blends with gasoline—by Brazilians in their automobiles. There are still those who say that alcohol fuels cannot work, or are economically feasible, but the Brazilian experience is proving them wrong.

Mr. President, I ask that the Washington Post article entitled "Gas Guzzlers Becoming Alcoholics in Brazil," be printed in the RECORD at this point.

The article follows.

GAS GUZZLERS BECOMING ALCOHOLICS IN BRAZIL

(By Larry Rohter)

SAO PAULO, BRAZIL.—For the last year, hundreds of state-owned cars with stickers saying "This Vehicle Is Powered by Alcohol" have been driven around this city of more than 8 million people.

Local auto parts shops sell a $200 kit to run on pure alcohol.

A nearby industrial center has just ordered a fleet of non-polluting alcohol-powered buses. In half a dozen major cities, Brazilians now fill the tanks of their car with "gasohol"—a mixture of 80 percent gasoline and 20 percent ethyl alcohol.

That mixture requires no engine modification. By 1980, when alcohol production is to reach 1 billion gallons annually, all pumps are to offer only gasohol or alcohol.

The president of the Brazilian Automobile Manufacturers' Association, Mario Carrero, has predicted that by 1981 more than 16 percent of all cars built here—currently 1 million per year—will come equipped with engines that burn pure alcohol.

Only a few years ago, none of these projects would have been considered practical. In the heady days of Brazil's economic upsurge in the early 1970s, planners here followed the example of the United States and other industrialized countries and looked to cheap gasoline to fuel the booming economy. They gave little thought to "nonconventional" energy sources.

Today, however, Brazil imports 83 percent of its petroleum, costing $4 billion yearly—the largest oil import bill in the Southern Hemisphere. Now, Brazil is seeking its salvation in one of the oldest and most plentiful substances known to man: alcohol distilled from sugar cane, manioc and other tropical plants that grow abundantly in this giant land.

The effort is already far enough along that energy experts consider Brazil the world leader in using alcohol as a motor fuel. This year alone, Brazil's alcohol program will result in the consumption of 635 million gallons of ethyl alcohol either as a gasoline substitute or supplement.

"This is one area of energy research and development in which the Brazilians have an advantage not only over us, but over everybody else," said a White House aide during President Carter's March visit here, when the United States and Brazil agreed on an energy information exchange program. "There are really a lot of things for us to learn from them."

The process by which vegetable material—or "biomass," as it is technically known—is transformed into alcohol fuel is simple. Brazilians have been converting sugar cane into alcohol by fermentation since colonial days, and ethyl alcohol was mixed with gas as early as the 1930s, when record low prices of sugar brought on by the worldwide depression forced Brazil to divert part of its bumper crop into fuel.

But systematic investigation of the large-scale use of alcohol as a gasoline substitute or additive began only with the advent of the international energy crunch in 1973. In the last five years Brazil's National Alcohol Commission has approved some 170 projects and earmarked $800 million for biomass conversion and engine modification efforts.

"The emphasis has been not so much on research and development as on the expansion and implementation of programs that already existed on paper," says an American official in Brasilia. "They've mostly done things like modernize old sugar mills and improve their distribution system."

But at the aerospace and technology Center, a government research facility near here, scientists have undertaken 34 different programs to design engines that will run on pure alcohol or to convert gasoline engines to alcohol at minimum cost. Elsewhere, agronomists are engaged in genetic research in an attempt to increase yields of crops that will be distilled into alcohol.

Thus far, sugar cane alcohol has received more attention from the Brazilians, but Petrobras, the giant state oil monopoly, has recently begun operating a manioc distillery near the industrial city of Belo Horizonte that turns out 16,000 gallons of manioc alcohol daily.

Experimental programs conducted in major cities have shown that alcohol, whether derived from sugar cane or manioc, has several major advantages over ordinary gasoline. Although it leaves a slight odor, it burns cooler, cleaner and more efficiently, giving virtually the same mileage as gasoline, but without leaving lead or sulphur pollutants. Hydrocarbon residues "can be lowered to negligible levels," according to a recent study.

While alcohol engines are harder to start than ones that run on gasoline, this is less of a problem in Brazil's tropical climate than it would be in the temperate United States. The Brazilians attach a gadget to the motor that starts the car each day on a small quantity of pure gasoline. After that, they say, the residual heat is sufficient for the pure alcohol to catch without difficulty.

The converted cars use normal gas tanks and the experts say they have encountered no problems with evaporation. For all the interest in alcohol as fuel, the government—which is pouring billions of dollars into nuclear and hydroelectric energy programs—has proven more reluctant to take what one foreign energy expert calls "the big leap" to pure alcohol.

"There are no technological reasons whatsoever to prevent alcohol from eventually taking the place of gasoline," said Professor Jose Goldemberg of the University of Sao Paulo, president of the Brazilian Society of Physics and one of the strongest advocates of the biomass program. "What's holding them back are political and economic considerations."

"Petrobras opposes the alcohol program because the pump price it charges for gasoline is a purely artificial one that is four times the actual cost," Goldemberg said. "Since alcohol currently costs twice as much to make as gasoline, that means both Petrobras' profits and government tax revenues would drop if a crash program to replace gasoline with alcohol were put into effect."

Proponents of the alcohol program say these economic shortcomings are offset by other gains. In widely publicized speeches recently, two influential government ministers argued that a full-scale pure alcohol effort would generate jobs in Brazil and that all expenses incurred would be in cruzeiros not dollars—thus avoiding adverse effects on Brazil's uncertain balance-of-payments situation.

In the long run, say both foreign and Brazilian energy experts, there is no doubt that alcohol will emerge as an economically attractive source of energy, both for Brazil and for other nations.

"The trend seems to be that while oil prices will rise, the price of alcohol will continue to drop, perhaps by as much as 20 percent as methods of production become more efficient," says a U.S. official.

Some Brazilian officials are already looking ahead a decade and predicting that their nation will be able to export alcohol and alcohol technology to Africa, Latin America and perhaps even the industrialized world. Patents have already been taken out by Brazil on engine modifications and distillers improvements that have been developed here.

"Biomass energy just may be the wave of the future," says the U.S. official. "If it is, the Brazilians are going to have the jump on the rest of us."

Biomass fuels were once associated with underdevelopment and Brazilians have had to overcome their pride to enter the field. They note, however, that others are following West German and Scandinavian scientists have bought the results of Brazil's studies.●

NATIONAL GALLERY DESERVES KUDOS FOR HIRING VIETNAM-ERA VETERANS

● Mr. CRANSTON. Mr. President, I would like to take this opportunity to bring to the attention of my colleagues the efforts being made by the National Gallery of Art to hire Vietnam-era veterans under the veterans readjustment appointments (VRA) authority in section 2014 of title 38, United States Code. As Members know, VRA appointments are excepted appointments in the Federal civil service designed to help veterans who served on active duty during the Vietnam era and who have less than 14 years of education find suitable employment during the year following their release from the service. The VRA program has provided employment opportunities for over 100,000 Vietnam-era veterans since the program's inception in 1970.

As my colleagues are aware, on June 1, 1978, the new East Wing of the National Gallery was opened to the public. In anticipation of the opening, the National Gallery began increasing its security staff in January 1978; and, between January 1 and May 31, 62 Vietnam-era veterans received VRA appointments as security guards.

These veterans were actively recruited by the Gallery's personnel office, which placed advertisements in the local newspapers describing the eligibility requirements for a VRA appointment. In addition, the Gallery asked the Department of Manpower of the District of Columbia and the Civil Service Commission for lists of VRA eligibles. Finally, persons applying for security guard positions at the National Gallery were questioned to determine their eligibility for a veterans readjustment appointment.

Mr. President, as chairman of the Committee on Veterans' Affairs, I would like to congratulate the National Gallery for its policy of hiring educationally disadvantaged Vietnam-era veterans under the VRA program and to express thanks and appreciation for a job well done to those officials of the National Gallery who are responsible for this policy.●

SENATOR KENNEDY AND THE SOVIET UNION

● Mr. RIBICOFF. Mr. President, during the past several months our relations with the Soviet Union have been difficult. I have shared with many of my colleagues a sense of apprehension that we and the other great super power might be entering a period of rising tension. Lately there have been signs that give cause for some encouragement. The most recent is the successful trip to the Soviet Union by the distinguished senior Senator from Massachusetts.

In November Senator BELLMON and I will lead a delegation of 13 Senators to the Soviet Union.

Mr. President, I believe that the United States and the Soviet Union must learn to live with each other.

Senator KENNEDY returned to the United States with the welcome news that 18 families will be allowed to emigrate; all 18 had previously been denied permission to leave the Soviet Union. There are some other signs which could be cause for hope that relations are improving. The release of International Harvester official Francis Crawford, despite the dubious grounds for arresting him in the first place, is welcome news. And the decision to relegate to a minor issue the accusations against reporters from the Baltimore Sun and the New York Times suggest the realization that such treatment of reporters is not conducive to good relations.

Mr. President, we are indebted to our colleague from Massachusetts for a productive week in the Soviet Union, for having renewed the basis for cooperation between the Soviets and Americans. His statement upon returning from the Soviet Union is an account of the positive directions we should be pursuing. I ask that the statement be printed in the RECORD.

Today's Washington Post has an editorial entitled "Senator KENNEDY and the Kremlin" which underscores the importance of this mission to Moscow. The Post observes that "The Senator played his part expertly." I ask that this editorial be printed in the RECORD.

The material follows:

STATEMENT OF SENATOR EDWARD M. KENNEDY ON HIS VISIT TO THE SOVIET UNION

I returned yesterday evening from a one-week visit to the Soviet Union, where I had the opportunity to raise a number of major issues in the areas of health care, foreign policy and human rights.

The purpose of this visit was to attend an international conference on primary health care in Alma Ata, which was attended by representatives of over 100 nations. The conference was sponsored by WHO and UNICEF, and the United States delegation was headed by Assistant Secretary of Health Julius Richmond.

As a member of the delegation, I addressed the conference on the issues of international health priorities in the industrial world and the developing nations. Each year, tens of millions of people, particularly children and the elderly, die of curable diseases. The industrial nations have an obligation to do far more than they are now doing to alleviate this needless worldwide tragedy. The Alma Ata Conference was an important step in helping all nations to understand this challenge and move forward to meet it.

I was also able to visit the Soviet cities of Samarkand and Tashkent, where I had the opportunity to meet with students and health professionals and to visit urban and rural clinics. One of the most impressive aspects of my visits to these cities was the overwhelming desire for peace expressed by the many Soviet people I met. They often emphasized their friendship for the United States, and spoke with great feeling of the loss of over 20 million Soviet lives in their common cause with America in World War II.

In Moscow, I met for two hours with President Brezhnev and was also able to meet with other Soviet officials. The primary emphasis of our discussions was on arms control and military deployments, the political issues between our two nations, and the issue of human rights.

The relationship between the United States and the Soviet Union today is more tense and difficult than when I last met with President Brezhnev in 1974. He indicated to me, however, that he is strongly committed to an effective and equitable SALT II agreement, to the rapid negotiation of a comprehensive nuclear test ban, and to other agreements to end the nuclear and conventional arms races.

While obvious obstacles remain in the way of satisfactory U.S.-Soviet relations, this commitment to ending the arms race is shared by the Carter Administration and by the overwhelming majority of the American people. The prevention of nuclear war is too important to the fate of our two nations and the world to be made hostage to other political issues between us.

This does not mean, of course, that we must ignore the other issues that divide us. In particular, in my discussions with President Brezhnev, I emphasized three other areas of deep concern—the need for military restraint by the Soviet Union around the globe, the need for greater political cooperation between our two nations on issues that divide us and the need for greater respect for human rights and social justice.

First, I stressed the concern of the United States about destabilizing military deployments that fuel the arms race. Examples on their side are th SS-18 heavy strategic missile, the SS-20 intermediate-range missile, and the Soviet tank deployments in Central Europe. They stressed to me their concern about our cruise missiles and our M-X and MAP options for strengthening our ICBM forces.

Second, I emphasized the need to develop a more constructive, predictable and enduring relationship between our two nations. I suggested as examples the desirability of greater cooperation in reaching just and comprehensive settlements in the Middle East and Southern Africa. They emphasized to me their perception of a global, anti-Soviet campaign in which their interests and responsibilities are undermined. They stressed, for example, that they would have no objection to normalization of relations between the United States and the People's Republic of China. But they warned sharply against any anti-Soviet manipulation by the United States of our developing relations with China.

Third, I spoke of the strong commitment of the American government and the American people to human rights and social justice. I emphasized the depth of concern in the United States and other Western nations for Soviet dissidents, especially as symbolized by the trials of Anatoly Shcharansky and other Soviet men and women of conscience sentenced over the past few months.

At the same time, I welcome the high emigration rates permitted by the Soviet Union thus far this year. I emphasized that Soviet actions facilitating the emigration process for those desiring to leave—including dissidents already sentenced—would make a profound contribution to detente and cooperation between our two countries. Although I was disappointed with the conviction of Francis Crawford, I was pleased with his release by the Soviet authorities while I was in Moscow.

The most important tangible result of the visit came in the discussions concerning the refuseniks. While in the Soviet Union I raised a large number of cases involving individuals wishing to emigrate. Some of these cases will be pursued over the longer term.

But I am pleased to be able to report that the Soviet Government has already agreed to reconsider the cases of 18 specific families. I have every expectation that all of these families will be permitted to leave for the United States or Israel in the very near future.

One of these cases involves Dr. Benjamin Levich and his wife. Dr. Levich is a world-renowned physical chemist and a member of the Soviet Academy of Sciences. He has been invited to accept an appointment as a professor on the faculty of the Massachusetts Institute of Technology, and he has also been offered positions in numerous other distinguished universities in the United

States and overseas. Permission for Dr. Levich and his wife to emigrate will be an extraordinary gesture by the Soviet Government and will, I believe, contribute to the improvement of relations between our nations.

In addition, it is my expectation that Mr. and Mrs. Boris Katz and their daughter Jessica will be permitted to join their relatives in Massachusetts. The Katz family has attracted special concern in the United States because of Jessica's inability to digest normal food. It will be particularly appropriate if she and her family are permitted to emigrate in the aftermath of the international health conference in Alma Ata.

In addition to these two cases, there are 8 additional cases of divided families who will be permitted to join their relatives in Massachusetts, and eight cases of families who will be permitted to emigrate to Israel.

All 18 of these families represent individuals who have been denied permission to emigrate for periods as long as eight years. In many cases, members of these families had demonstrated, unsuccessfully, for the right to emigrate as recently as last spring.

On the night before leaving Moscow, I was able to meet privately with Andrei Sakharov and both the mother and brother of Anatoly Scharansky. Boris Katz was also a member of the group, and others included Jacob Alpert, Ellen Bonner, Eitan Finkelstein, Alexander and Juliet Lerner, Naom Meman, Abe Stolar and Victor Yelistratov.

The meeting was extremely moving. These brave people spoke eloquently and with great passion about their plight and about their commitment to human rights. They also spoke with deep feeling of their appreciation for the continuing support they have received from the American people, the Congress and the Administration.

Almost all of the dissidents agreed with Dr. Sakharov that our two nations have an obligation to make progress on arms control. They urged us to conclude the SALT II agreement as soon as possible, on its own merits. They felt strongly not only that the agreement would be in the highest interest of peace, but also it would create a more favorable environment to pursue our concerns about human rights.

This is a critical time for our two countries. Tensions and areas of confrontation have increased in recent years, and they have reached a peak this summer.

But both nations must see the danger of continued confrontation. As the only two nations with the power to destroy the world, the United States and the Soviet Union have a special obligation to reduce the risk of confrontation, to enhance the cause of peace, and to lay the groundwork for greater cooperation in the future.

In recent weeks, there have been positive signals from the Soviet Union. These developments offer hope that the recent downward spiral of Soviet-American relations may be at an end, and that an opportunity for progress may be available.

I have expressed my views to the Carter Administration and I continue to give my strong support to the Administration's efforts on SALT and in other areas. My hope is that both Congress and the Administration will be able to seize the moment and use the current fragile thaw to achieve the successful conclusion of the long-awaited SALT agreement and to move forward on all the other areas that concern us.

The 18 family cases are listed on the following page.

LIST OF EIGHTEEN FAMILY CASES CITED BY SENATOR KENNEDY

FAMILY EXPECTED TO LEAVE THE SOVIET UNION

Dr. and Mrs. Benjamin Levich, Soviet Academy of Sciences.

PERSONS EXPECTED TO LEAVE THE SOVIET UNION AND JOIN RELATIVES IN MASSACHUSETTS

1. Mr. Jonas Cijunelis of Vilnuis, Lithuania to join Mrs. Glayds Cijunelis, Mother, Brockton, Mass.
2. Mr. and Mrs. Boris Katz and daughter Jessica of Moscow to join Mr. Victor Katz, Cambridge, Mass.
3. Mr. and Mrs. Mikhail Alexandrovich Kochergin of Moscow to join Mrs. Eita Sheinin, Mother, Brighton, Mass.
4. Ms. Erna Kirkums of Latvia to join Ms. Arvids Kirkum, Sister, Westwood, Mass.
5. Mr. and Mrs. Stepan Mounjoukian and Family Members of Yerevan, Armenia to join Ms. Katherine Keshishian, Daughter Malden, Mass.
6. Mrs. Daiva Sabina Puzauskiene of Vilnuis, Lithuania to join Ms. Kazys Tamosaitis, Aunt, South Boston, Mass.
7. Mrs. Rachil Lvovna Shechtmar of Moscow to join Mrs. Emanuel Borok, Daughter, Newton Center, Mass.
8. Mr. Antanas Stuoka of Kaunas, Lithuania to join Mr. Longines Svenlis, Cousin, Needham, Mass.
9. Mrs. Vera Zarins of Latvia to join Mr. Leonids Tomsons, Brother-in-law, Jamaica Plain, Mass.

PERSONS EXPECTED TO LEAVE THE SOVIET UNION AND JOIN RELATIVES IN ISRAEL

1. Ms. Regina Isaacouna Berman, Moscow.
2. Mr. Alexander Amos Bolshoi, Moscow.
3. Ms. Galena Gregory Niznyekova, Moscow.
4. Ms. Gegagena Jacob Rezker, Moscow.
5. Mr. Lev David Roytburg, Odessa.
6. Ms. Olga Constantinovna Serova, Moscow.
7. Mr. Vadim Eusay Struzman, Leningrad.
8. Mr. Michael Anatole Zinberg, Moscow.

SENATOR KENNEDY AND THE KREMLIN

It's hard to exaggerate the extent to which relations between the Soviet Union and the United States rise and fall on readings and misreadings of the other country's domestic political scene. In the last 18 months, for instance, President Carter overloaded the Soviet political circuit, which consists of about a dozen people, with excessive public demands for major internal changes and "deep" cuts in strategic arms. Meanwhile, the Soviet leadership sent waves of distaste and alarm through the American political community by its human-rights violations, African adventures and arms-building programs. More recently, both countries have seemed aware that if they did not act more carefully toward each other, all prospect of substantive improvement in their relations would have to be put off for an indefinite time. Yet a narrowing of the gap sufficient to allow them to work effectively on their most important piece of common business, a strategic arms limitation treaty, has seemed to lie beyond their grasp.

Precisely here lies the potential importance of Senator Edward Kennedy's visit to Moscow. He went (ostensibly to a health conference) at a moment when the Kremlin was surely grateful to find a prominent American politician, one closely identified with a moderate viewpoint, ready to breach the no-visits line imposed by the administration after the Kremlin's recent human-rights trials. Presumably, the Kremlin also has heard that Mr. Kennedy may some day run for the presidency.

The senator played his part expertly. With a discretion contrasting sharply with the up-front moralistic tones of Jimmy Carter, he asked Leonid Brezhnev about Soviet Jews denied permission to emigrate. As a result, not only the families he asked about, but also a number of families he had not asked about, were assured of release. The Soviet authorities obviously were ready to show that, if their pride and sense of the proprieties are respected, they can behave more flexibly on human rights. Mr. Kennedy's tactful approach let them show it.

On the strategic arms the senator seems to have taken the most responsible course a "liberal" in such circumstances could take. Rather than merely profess his desire for détente, he tried to convey a sense of the political difficulties that have been created in Washington for both the negotiation and ratification of SALT by the Soviet Union's own policies. That let Mr. Brezhnev express his concern over the United States' new high-technology weapons programs. He also expressed his belief, shared by his guest, that a failure to consummate a mutually acceptable SALT agreement soon would have harmful results extending considerably beyond strategic arms.

The Carter-Kennedy relationship is the stuff of endless popular fascination. In this instance, the senator, by acting in his own way, was in an excellent position to make the administration's point that progress in SALT hinges in large measure on the Kremlin's readiness to "disarm" the American right by conducting a reasonable policy. That does not mean that the strategic equation itself is of no consequence. It means that the political equation is of great consequence. That is what "linkage" is all about. The evidence of the Kennedy visit is that Moscow is getting the message.●

ERA

● Mr. BAYH. Mr. President, on August 15, the House of Representatives approved House Joint Resolution 638, a resolution to extend the deadline for ratification of the ERA by a vote of 233 to 189. In the days ahead, I am confident that the Senate will approve this necessary legislation as well.

In considering the resolution to extend the deadline for the ERA, the House of Representatives relied strongly on the majority views of the House Judiciary Committee. So that my colleagues in the Senate may share these views on this important topic, I ask that the majority views as reported in House Report No. 95-1405 be printed in the RECORD at this point.

REPORT NO. 95-1405—PROPOSED EQUAL RIGHTS AMENDMENT EXTENSION

The Committee on the Judiciary, to whom was referred the joint resolution (H.J. Res. 638) extending the deadline for the ratification of the equal rights amendments, having considered the same, report favorably thereon with an amendment and recommend that the joint resolution as amended do pass.

The amendment is as follows:

On the first page, beginning in line 8, strike out "within" and all that follows through line 10, and insert in lieu thereof "not later than June 30, 1982.".

EXPLANATION OF AMENDMENT

The committee amendment to reduce from 7 years to approximately 3 years and 3 months the extension of time being granted was adopted because the committee believes the shorter time reflects a more reasonable extension than the original proposal for 7 additional years. The extended period—approximately 3 years and 3 months—is more in keeping with this Congress' view of the contemporaneous consensus required for valid ratification of a constitutional amendment.

The original ratification period designated by the 92d Congress for the equal rights amendment will end on March 22, 1979. This date coincides with the anniversary of the amendment's final passage by the Congress. The final date for ratification was changed by the amendment from March 22 to June 30

in order to coincide with State legislative sessions in the unratified States in 1982 and thereby give those States an opportunity to consider the amendment in 1982.

PURPOSE

The purpose of House Joint Resolution 638 is to extend the ratification period for the proposed equal rights amendment until June 30, 1982. The current ratification period ends on March 22, 1979.

HISTORY OF LEGISLATION

On October 26, 1977, House Joint Resolution 638 was introduced to extend the ratification period for the proposed equal rights amendment an additional 7 years beyond the 7 years previously provided for in the original resolution passed by the 92d Congress in 1972. The resolution was referred to the Subcommittee on Civil and Constitutional Rights of the House Committee on the Judiciary which conducted 6 days of hearings. The subcommittee took testimony from 19 witnesses, including the U.S. Department of Justice and three panels of constitutional experts, as well as State legislators and individuals and organizations involved in the ratification process. The subcommittee also solicited comments from a number of additional constitutional scholars and received statements from dozens of individuals and organizations.

On June 5, 1978, the subcommittee recommended House Joint Resolution 638 for favorable action by the full committee. The full committee met on July 18, 1978, to consider the joint resolution and, on that day, ordered it reported favorably to the House, with an amendment. The full committee vote on House Joint Resolution 638, as amended, was 19 yeas and 15 nays.

GENERAL STATEMENT

The equal rights amendment was first introduced in Congress in 1923. It took nearly 50 years for the amendment to win congressional approval. But when it finally came, that approval was overwhelming: On October 12, 1971, the House passed the resolution proposing the amendment to the States (H.J. Res. 208) by a vote of 354 to 23. The Senate passed the resolution on March 22, 1972, by a vote of 84 to 8. The resolution reads as follows:

"HOUSE JOINT RESOLUTION 208

"Proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

"*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein)*, That

"The following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

"SECTION 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

"SECTION 3. This amendment shall take effect two years after the date of ratification."

Since the amendment was first proposed in 1972, 35 States have ratified it. At the present time, three more are necessary to achieve the three-fourths required by the Constitution before the amendment can become a permanent part of our fundamental law.[1]

HISTORY OF THE TIME LIMITATION ON RATIFICATION OF THE ERA

As has become customary in recent constitutional amendments, House Joint Resolution 208 contains a 7-year period for ratification in its proposing clause.[2] This period expires on March 22, 1979, 7 years to the day after final passage of the amendment by the Congress.

There is little record of the reasons for including a time limitation in the resolution. As originally introduced in 1923, the equal rights amendment contained no limitation. Indeed, during the 91st Congress, prior to passage of House Joint Resolution 208, the House adopted a resolution proposing the amendment to the States which did not contain a time limit for ratification. On August 10, 1970, during the floor debate immediately prior to passage of this earlier version of the amendment, House Joint Resolution 264, Congressman Emanuel Celler, then chairman of the House Judiciary Committee, pointed to the absence of a time limit for ratification as one of the reasons for his opposition to the amendment (116 Cong. Rec. 28012). Nevertheless, the resolution was passed by a two-thirds vote in the House without a deadline for ratification (116 Cong. Rec. 28036-37).

On October 9, 1970, as the Senate considered House Joint Resolution 264, Senator Marlow Cook, one of the Senate sponsors of the amendment, addressed himself to a number of objections to the resolution, among them the absence of a time limit (116 Cong. Rec. 35956). He included in his statement a letter from Prof. Thomas I. Emerson, of Yale Law School, which argued that such a provision was not needed.

Nevertheless, objections to the absence of a time limitation continued and later in the session amendments were proposed by Senator Sam Ervin and others adding a 7-year deadline for ratification. In proposing the deadline, Senator Ervin stated that:

"My other proposed alteration of the original purpose of the resolution would require that this resolution be ratified by three-fourths of the States within 7 years after submission by Congress to them for consideration. This is necessary because we still have floating around some unratified amendments that were submitted at the time of the original submission of the Bill of Rights. We have some other amendments that have been floating around since about 1860. There is no date for their expiration, no time limit for their ratification, and they could be ratified at any time. I do not think it is wise for Congress to submit a proposed constitutional amendment to the States without a time limit for its ratification." [116 Cong. Rec. 36302.]

However, despite the attempts to compromise, no final vote on the resolution was taken by the Senate during the 91st Congress.

In the 92d Congress, the House passed House Joint Resolution 208, containing a 7-year ratification period in the proposing clause. No discussion of the inclusion of this provision appears in the floor debates on the date of passage, October 12, 1971, 117 Congressional Record 35782-35815, but it appears that the provision was added to meet the arguments of the amendment's critics in both the House and the Senate. On March 22, 1978, the Senate passed House Joint Resolution 208 with no further discussion of the time limit. See generally 117 Congressional Record 9517-9596.

Although there was very little discussion on the addition of a deadline for ratification of the amendment on the floor of either House, apart from the few instances mentioned above, there were some references to the issue during the hearings on House Joint Resolution 208 held by the Subcommittee on Civil and Constitutional Rights of this committee in March and April of 1971. These references indicate that the amendment's sponsor, Representative Martha Griffiths, had no objection to a time limit, although she believed none was necessary.

The legislative history reveals no reason for inclusion of the deadline provision other than that such a provision had become customary and several influential Members of both Houses objected to its absence strongly enough that it was eventually added. In addition, the 7-year limitation had received a stamp of approval from the Supreme Court in *Dillon v. Gloss*, 256 U.S. 368 (1921). In that case the Court had held that with regard to the deadline in the 18th amendment, Congress had the authority under article V to fix a reasonable time for ratification after the proposal of an amendment. This authority was found to be incident of congressional power to designate the mode of ratification. With regard to the specific 7-year time period involved, the Court simply stated that "it is not questioned that 7 years * * * was reasonable * * *" 256 U.S., at 376.

AUTHORITY OF CONGRESS TO EXTEND

Introduction

The question whether Congress has the authority to extend the time for ratification in the manner proposed, is one of first impression and involves issues of significant constitutional magnitude. Those issues apply not only to House Joint Resolution 638 or the proposed equal rights amendment but to all constitutional amendments, to the role of the Congress in proposing them, and to the role of the States in ratifying them.

Consideration of this resolution by the committee raised an issue no less significant than the extent of the power of Congress under article V of the Constitution. In order to answer this question, the committee's inquiry focused on the existing judicial, congressional, and historical precedents. In addition, the committee consulted a number of constitutional scholars and compiled an extensive record based on the efforts of some of the country's ablest legal minds. Some of the most eminent students of American constitutional law were placed on the record regarding the issues raised by the resolution. The committee also relied heavily on the legal opinion and advice of the Office of Legal Counsel of the U.S. Department of Justice. The Department's opinion was presented to the committee in the form of a legal memorandum prepared for Robert J. Lipshutz, Counsel to the President, in response to a request from the White House for the Justice Department's views on the authority of Congress to extend a time limit for ratification of a constitutional amendment.

The committee concluded that, based on the reasoning in the two relevant Supreme Court cases[3] and the broad powers granted to Congress under article V, the authority of Congress to extend a time limit once established may be implied, if the time limit is reasonable and if the action of the 92d Congress in proposing the original time limit is not binding on subsequent Congresses. In favorably reporting House Joint Resolution 638 to the full House, the committee resolves both of those questions in the affirmative and endorses the principle that the Congress has the authority to extend the time period within which the proposed 27th amendment to the Constitution may be ratified.

Discussion of legal authority

Under article V of the Constitution, the Congress has broad authority over the amendment process. The Supreme Court has recognized that as an incident to its article V power to propose amendments to the Constitution, Congress has the power to set a time limit for ratification in order to assure that an amendment has been ratified "within some reasonable time after the proposal" and that the amendment reflects the reasonably contemporaneous "expression of the approbation of the people" in three-fourths of the States. *Dillon v. Gloss*, 256 U.S., at 375. The Court considered the question of timeliness of ratification to be one of several "subsidiary matters of detail,"

Footnotes at end of article.

matters which do not go to the substance of the proposed amendment, but which necessarily are delegated to Congress as an incident of its control over the ratification process More specifically, according to *Dillon*, it is the power of Congress under article V to designate the mode of ratification which gives rise to its authority to determine such matters of detail as a reasonable time for ratification. The Court went on to state that Congress may settle this matter of detail in such manner as "the public interests and changing conditions may require."

If it is the power of Congress to designate the mode of ratification from which the power to determine the question of timeliness, it may also be inferred that the exercise of this authority requires only a majority vote. The Constitution is quite explicit about those few instances in which the extraordinary procedure of super majority vote is required. In all other situations, the Founding Fathers clearly intended the principle of majority rule to govern. For example, article V of the Constitution provides, in pertinent part, that—

"Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution or, on the Application of the Legislatures of two thirds of the Several States, 'shall call a Convention for proposing Amendments."

The language of article V thus requires a two-thirds vote for action by Congress in proposing an amendment and in calling a Convention in response to the applications of two-thirds of the State legislatures. Article V goes on to provide that, whether an amendment is being proposed by Congress or a convention called to propose an amendment, the amendment "shall be valid to all Intents and Purposes, as Part of the Constitution, when ratified by the Legislatures of three-fourths of the several States, or by Conventions of three-fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress." Thus, article V authorizes Congress to propose a "mode of ratification," and does not specify, or even intimate, that Congress must do so by more than a simple majority vote of each House.

It follows that the period for an amendment's ratification lies exclusively within congressional control, to be disposed of by a simple majority of each House.[4] Of course, if a proposed article of amendment contains a time limitation as one of the terms in the text of the amendment itself, a decision by Congress to extend that period after the date would be an attempt retroactively to change the character of an amendment on which other states had already voted. In such cases, based on our reading of the concurring opinion in *Coleman*, some Justices of the Supreme Court might well hold that the matter is one left exclusively to Congress as a non-justiciable political question, but it is possible that a court would decide it had jurisdiction to rule a retroactive alteration in the very terms of an already submitted amendment to be beyond the power of Congress.

The critical consideartion here is that *this is not such a case*. For the proposed 27th amendment, like the 23d, 24th, 25th, and 26th amendments, contained *no* time limitation in its own terms but instead was proposed through a joint resolution whose proposing clause contained the 7-year limitation.

In *Dillon*, the Court was upholding against constitutional challenge the authority of Congress to include a time limitation in the text of a proposed amendment (the 18th amendment—the first to ever contain such a limitation). In a subsequent case, *Coleman* v. *Miller*, 307 U.S. 433 (1939), the Court reaffirmed its holding in *Dillon* and also held that, after an amendment has been proposed and sent to the States for ratification without a specific time limit, Congress has the authority to determine the reasonableness of the intervening time period in deciding the validity of the ratification of the amendment once three-fourths of the States have actually ratified. Thus, in *Coleman*, the Court confirmed the prerogative of Congress to consider and resolve the question of timeliness when "the time arrives for the promulgation of the adoption of the amendment."

In short, the Supreme Court has held that Congress may deal with timeliness as a threshold matter, as *Dillon* held, or as an ultimate question as *Coleman* stated. The question presented to the Congress by House Joint Resolution 638 is whether a middle course may also be pursued. The committee concluded that when the original time limitation was not contained in the text of the amendment itself, and the legislative history does not indicate that the 92d Congress intended the 7-year limitation to be immutable, such a middle course may be pursued. This conclusion was based upon the reasoning set forth above and an analysis of the historical understanding of the previous Congresses which have made use of the time limit device.

History of time limits in constitutional amendments generally

Article V is silent on the subject of time limitations for ratification of constitutional amendments. Congress did not provide for such limitations at any time during the first 125 years of our constitutional history.

The first amendment to contain a time limitation for ratification was the 18th (prohibition), proposed by the 65th Congress in 1917. The legislative history of that amendment indicates that a time limit was added primarily because of the concern expressed by some Members of Congress about a number of unratified amendments which had been pending for over 100 years. In first proposing that a time limitation be added to the amendment, Senator Ashurst made the following statement during the Senate debate:

"Mr. President, it is startling to investigate and then reflect for a moment as to the abuses that have come and that may in the future come by a failure or a refusal to set a time within which an amendment may be adopted. * * *

"On September 15, 1789, 12 constitutional amendments were presented by the first Congress to the various States for their adoption or their ratification. * * *

"The first two amendments were not adopted.

"The other 10, numbered from 3 to 12, inclusive, became a part of our governmental system and a part of our Constitution, and and they may be found on page 97 of the First Statute. Opposite amendments Nos. 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 is marked by the early printers the word "Adopted"; "Adopted"; and so forth; but after the first two that were proposed to the Constitution there is a blank, indicating to us, of course, that those two amendments are still pending. They are before the American people now and have been for 128 years, and are subject to ratification or rejection by the States. And now, Mr. President, after those two proposed amendments, to wit, Nos. 1 and 2, had been in nubibus, 'in the clouds,' for 84 years, the State Senate of the State of Ohio in 1873 resurrected amendment No. 2, that was proposed in 1789, and passed a resolution of ratification through the Senate of the State of Ohio. It would seem to me that a period of 128 years or 84 years within which a State may act is altogether too long, and I am prepared to and will support an amendment limiting the time in the case of this amendment or any other amendment to 10, 12, 14, 16, 18, or even 20 years, so that we will not hand down to posterity a conglomerate mass of amendments floating around in a cloudy, nebulous, hazy way, which a State here may resurrect and ratify and a State there may galvanize and ratify. I believe that we ought to have a homogeneous, constant, united exertion and certainly a contemporaneous action with reference to these various proposed amendments." 55 Cong. Rec. 5556–57 (1917).]

Despite Senator Ashurst's initial suggestion of 10 to 20 years, the time limit eventually agreed on was 7 years. Since that time, with the exception of the 19th amendment (women's suffrage), which contained no time limit, each subsequent amendment to the Constitution has contained a 7-year ratification period.[5] The legislative history regarding time limits after the 18th amendment is quite sketchy, but 7 years appears to have been chosen largely as a matter of custom and because the original 7-year limit in the 18th amendment had received the stamp of approval of the Supreme Court in *Dillon* v. *Gloss*, referred to above.

In recent years, Congress has altered the manner in which it has handled time limitations. The 18th, 20th, 21st, and 22d amendments provided for ratification within 7 years in the text of the amendments themselves. Thus, in each of those cases, the time limit was ratified by the States when they ratified the amendments. From the 23d amendment to the present proposed equal rights amendment, the time period has appeared in the proposing clause, rather than the actual amendment. The legislative history of the 23d amendment indicates that the reason for the change was a desire on the part of Congress to avoid "cluttering up" the Constitution with language that had no bearing on the substance of the amendment itself, or on the merits of the issue the States were being asked to consider.[6]

In deciding that it was more appropriate to deal with such matters as time limits in the proposing clause of a proposed amendment, than to place them in the text of the amendment itself, where, once ratified, they would remain for all time, a permanent part of our Constitution, Congress made a decision with significant legal consequences. In so treating the time limit, Congress separates the question of appropriate time limits and the issue of what constitutes contemporaneous approval from the initial decision of Congress to propose an amendment. By separating the time limit from the body of the amendment itself, Congress retains authority to review the limit should the circumstances so warrant.

In examining the legal consequences of this separation, the committee found persuasive the testimony of the Department of Justice:

"*Dillon* and *Coleman* make clear that this determination of the time period for reasonably contemporaneous ratification is a separate and distinct question from the decision of the Congress which proposed the amendment.

"The question of timeliness of ratification is, in the words of the *Dillon* case, a question of detail that does not go to the substance of the amendment. Congress had the power to make the time period a substantive part of the amendment by including the time limit within the text of the amendment itself. However, Congress did not do so. Instead, the 92d Congress stated in the proposing resolution that the States should have at least 7 years within which to consider the equal rights amendment. * * *

"The effective operation of that clause was a determination by the 92d Congress that 7 years was a reasonable time; that the States should have at least 7 years within which to consider ratification of this amendment. That did not, under our analysis, foreclose

Footnotes at end of article.

the Congress from exercising its power and its responsibility as found by the decision in *Coleman* at a later time to reexamine the circumstances, the changed circumstances, from the time of adoption of the amendment to determine at that time whether those circumstances were such that the ratifications that had taken place during this period were in fact valid. * * *

"The question of timeliness, the period of time, is a question qualitatively different from the question of the text of the amendment itself.

"The language that * * * referred to here that setting a time period is a matter of detail to be dealt with as necessary by the Congress. That, as distinguished from the requirement of two-thirds vote, or of three-fourths ratification, or the text of the amendment itself, is a separate matter to be decided by the Congress. * * *

"[T]hat matter of detail could be in my opinion elevated to a matter of substance by the inclusion of that matter of detail in the text of the amendment itself. * * *

"[I]t is possible as did several Congresses before with respect to three amendments, to take this matter of detail and elevate it to a matter of substance by putting it in the text. However, when that is not done, then it remains in my view within the power of Congress to regulate that detail, that question of timeliness."

Thus, when the committee recently considered House Joint Resolution 554, to provide for representation for the District of Columbia in Congress, an amendment was adopted to add the time limit language into the body of the proposed amendment. The stated purpose of this amendment was to clarify that this Congress intends to set a binding 7-year limitation in which the State legislatures may ratify this proposed constitutional amendment. The basis for this change was a recognition on the part of the committee that unless the language appeared in the body of the proposed amendment it may not be controlling on subsequent Congresses or on the State legislatures.

Reasonableness of time limit

In answering the question as to how Congress is to determine the reasonableness of the time limit, the Court in *Coleman* v. *Miller* set out a number of factors for Congress to consider. Congress must determine whether the conditions giving rise to the amendment in question have so far changed since its submission to the States as to make the proposal no longer responsive to the needs which inspired it or whether conditions are such as to intensify the feeling of need and the appropriateness of the proposed remedial action. Congress must make this determination by taking into consideration all the political, social and economic conditions which have prevailed during the period since the submission of the amendment.

In order to make that determination in this instance, Congress must assess whether the proposed equal rights amendment remains a vital political issue on which public debate and state legislative consideration should be allowed to continue. More specifically, the Court in *Coleman* referred to the following factors to be considered by Congress in determining a reasonable time for ratification of an amendment and, accordingly, the validity of that ratification:

"Where are to be found the criteria for such a judicial determination? None are to be found in Constitution or statute. In their endeavor to answer this question petitioners' counsel have suggested that at least 2 years should be allowed; that 6 years would not seem to be unreasonably long; that 7 years had been used by the Congress as a reasonable period; that 1 year, 6 months and 13 days was the average time used in passing upon amendments which have been ratified since the first 10 amendments; that 3 years, 6 months and 25 days has been the longest time used in ratifying. To this list of variables, counsel add that "the nature and extent of publicity and the activity of the public and of the legislatures of the several States in relation to any particular proposal should be taken into consideration." That statement is pertinent, but there are additional matters to be examined and weighed. When a proposed amendment springs from a conception of economic needs, it would be necessary, in determining whether a reasonable time had elapsed since its submission, to consider the economic conditions prevailing in the country, whether these had so far changed since the submission as to make the proposal no longer responsive to the conception which inspired it or whether conditions were such as to intensify the feeling of need and the appropriateness of the proposed remedial action. In short, the question of a reasonable time in many cases would involve, as in this case it does involve, an appraisal of a great variety of relevant conditions, political, social and economic * * * [T]hese conditions are appropriate for the consideration of the political departments of the Government. The questions they involve are essentially political * * * [T]hey can be decided by the Congress with the full knowledge and appreciation ascribed to the National Legislature of the political, social, and economic conditions which have prevailed during the period since the submission of the amendment." [307 U.S. 433, 453–4 (1939).]

In reporting the resolution favorably, the committee finds that the standards set out in *Coleman* are met. The committee does not believe it appropriate to debate the merits of the proposed amendment in deciding whether extension is either permissible or appropriate. That debate has already taken place; the decision has already been made. At most, we need only examine the current political, legal, and economic situation and determine whether the amendment is still vital, whether the need for the amendment still exists and whether it still represents an appropriate solution to the problems it was originally designed to solve. Nothing the committee or subcommittee heard in its hearings and debates indicated other than an affirmative response to those questions.

Moreover, as Professor Tribe pointed out:

"It bears emphasis that the only issue posed here is the power of the Congress to extend the time for ratifying an amendment whose terms themselves contain no time limit. The committee need not be concerned with the initial power of Congress to impose a time limit outside an amendment's text; if no such power existed, then the 7-year limit in this case would be void even without a time extension. Further, the committee need not consider the power to amend a time limit contained in the text of a pending amendment; no such time limit was contained in the text of the proposed 27th amendment. Nor need the committee address the validity of a State's attempt to reverse a prior ratification or rejection * * * And, above all, the committee has no occasion to consider the wisdom of the proposed amendment itself. In any given case, a judgment that more time should be allowed for the States to choose between ratification and rejection ought to reflect Congress' determination of the conditions needed to permit full and fair consideration of the amendment rather than Congress' current views on whether or not the amendment should be approved. Even more clearly, one's answer to the question whether Congress has constitutional authority to determine that more time is needed in a given case should reflect an assessment about the amendment process and not an evaluation of this proposed amendment, or even of this proposed extension of time."

RESCISSION

Throughout the committee's deliberations on the resolution, the question was raised as to whether the determination that the resolution is constitutional turns in some way on whether an extension would free ratifying States to rescind their ratifications. Although the witnesses disagreed on the political wisdom of accepting or rejecting rescission, there was virtual unanimity among the constitutional scholars that extension of the time period for ratification does not automatically give rise to a constitutional right of rescission. Several believed that extension of the time period makes the argument for rescission stronger, but none felt it was dispositive.[7] Moreover, a majority of the witnesses felt that Congress should do nothing at this point to indicate to the States that they might have the power to rescind.

Prof. William Van Alstyne stated that to do so would be profoundly ill-advised constitutional policy. He went on to say:

"The ratification of constitutional amendments is not a poker game. No State ought to consider an amendment to the Constitution under the misimpression from this body that it may do it with some sort of celerity or spontaneity because it will always have this interval of additional years while other States are looking at it to reconsider.

"That, in my view, is an atrocious way to run a Constitution. The policy that the States may consider at several times, within a reasonable time reject or table or put it over, but that when done, it is done irrevocably, is terribly important, it seems to me, to the integrity of the role of Congress and the States."

The resolution as it is currently written is silent on the issue. It neither permits nor prohibits it.[8] There was general agreement among the constitutional experts that for the committee to establish mechanical rules that Congress must accept rescissions or that Congress must reject them would be inappropriate and unwise. They generally agreed that the decision as to whether rescissions are to be counted is a decision solely for the Congress sitting at the time the 38th State has ratified, as part of its decision as to whether an amendment has been validly ratified. Any action taken by a Congress prior to that time would be premature, misleading, and not binding. In the committee's view, Prof. Laurence Tribe best described the role of Congress in dealing with rescission:

"The power to rescind is the power on the part of a State to advise the Congress that, in determining whether an amendment has been validly ratified, the State is no longer in favor of the amendment; how Congress treats that action by the most recent legislature is a matter of delicate congressional judgment, depending on a wide variety of facts and circumstances in each case.

"It seems to me unwise to say, as a matter of some mechanical per se rule, either that Congress must always accept rescissions, or that Congress can never accept them. It seems to me that Congress must decide what the significance of the rescission was in light of all the circumstances. And that is a power, under *Dillon* v. *Gloss*, and *Coleman* v. *Miller*, that Congress plainly has a duty to exercise.

"I think it [the resolution before us] should be regarded as leaving that issue to the Congress which finally has to determine, perhaps 7 years after this resolution is voted, whether three-fourths of the States are in favor of the resolution.

"It seems to me that this sort of judgment can only be made finally at the time a given Congress votes to decide whether an amendment has been validly ratified. Once

Footnotes at end of article.

that action is taken, the amendment becomes a part of the Constitution, and it is no longer open to a Congress simply to retract it by majority vote. Until then, it is a matter of congressional judgment."

Although the decision most properly belongs to a subsequent Congress to determine the efficacy of any attempted withdrawals of ratifications of the proposed equal rights amendment, nevertheless the committee believes it important to point out that its own analysis of this issue revealed that past congressional and judicial precedent stand for the proposition that rescissions are to be disregarded. Over the years Congress has taken the position that a State's attempt to rescind is ineffectual, both when confronted with actual rescissions, as in the case of the 14th amendment, and when drafting legislation clarifying the amendment process.

14th amendment

The 14th amendment was submitted by Congress to the States in June 1866. By July 1868, 29 States had ratified that amendment. At that time there were 37 States: 28 constituted the three-fourths majority required by the Constitution for ratification. However, the legislatures of 2 States, Ohio and New Jersey, had passed a resolution withdrawing their prior ratification of the amendment. On July 8, 1868, the Senate adopted a resolution requesting the Secretary of State to transmit to the Senate a list of the States which had ratified the amendment. In reporting to the Senate in compliance with the resolution, the Secretary drew attention to the actions of the Ohio and New Jersey Legislatures. Subsequently, the Secretary published a document reciting ing the 29 States which had ratified, including Ohio and New Jersey. With respect to those two States, he observed:

"* * * It is deemed a matter of doubt and uncertainty whether such resolutions are not irregular, invalid, and therefore ineffectual for withdrawing the consent of the said 2 State * * * to the * * * amendment."

He then certified that:

"If the resolutions of the Legislatures of Ohio and New Jersey ratifying the aforesaid amendment are to be deemed as remaining of full force and effect, notwithstanding the subsequent resolutions of the legislatures of those States, which purport to withdraw the consent of said States from such ratification, then the aforesaid amendment has been ratified in the manner hereinbefore mentioned, and so has become valid, to all intents and purposes, as a part of the Constitution of the United States."

He thus indicated that the effectiveness of the amendment was contingent on the power of the State legislatures to withdraw their consent from the ratification.

The following day, July 21, 1868, Congress adopted a resolution declaring that the 14th amendment had been ratified.[9] The resolution stated that whereas the 14th amendment had been ratified by the legislatures of 29 States (listing Ohio and New Jersey among them), the amendment was "hereby declared to be a part of the Constitution of the United States and it shall be duly promulgated as such by the Secretary of State."

Seventy years later, in its opinion in *Coleman* v. *Miller, supra*, the Supreme Court recited the historical facts surrounding congressional treatment of Ohio and New Jersey's attempts to rescind their ratifications of the 14th amendment and observed that this "decision by the political departments of the government as to the validity of the adoption of the 14th amendment has been accepted." [307 U.S., at 450.] The Court found the 14th amendment precedent to be an example of "a political question pertaining to the political departments, with the ultimate authority in the Congress in the exercise of its control over the promulgation of the adoption of the amendment." *Id.* This view was subsequently approved by the Court in *Baker* v. *Carr*, 369 U.S. 186 (1962).

Over the years, subsequent Congresses have reaffirmed the view that State withdrawals of approval of constitutional amendments are invalid. In 1924, Senator Wadsworth of New York and Congressman Garrett of Tennessee introduced an amendment to article V which would have enabled States to rescind their ratifications of constitutional amendments. Both sponsors conceded that their proposal was contrary to existing law and was in fact designed to remedy what they considered to be a defect in the Constitution.

The issue arose again in connection with legislation drafted and introduced by Senator Ervin of North Carolina in the 90th and 93rd Congresses to establish procedures for calling Constitutional Conventions. In the report accompanying the legislation, the Senate Judiciary Committee conceded that, under existing law, a State would not rescind its ratification of a constitutional amendment, but took the position that the law should be changed. Senator Ervin's legislation passed the Senate twice but was never voted on in the House of Representatives.

There appear to be two primary arguments in the favor of permitting rescission in connection with enacting the extension. The first is that failure to provide for rescission would permit an amendment to be ratified without the "contemporaneous consensus" required by the Constitution, as interpreted by the Supreme Court in *Dillon* v. *Gloss, supra*. The second argument that article V permits rescission during an extension is based on the idea that State legislatures may have relied on the original 7-year period established in House Joint Resolution 208. In its analysis of these arguments, the committee found itself most persuaded by the response of the Department of Justice:

"[The first argument] confuses two issues that should * * * be sharply differentiated in the consideration of House Joint Resolution 638. First is the issue whether the period of 14 years proposed in House Joint Resolution 638 is "reasonable" in view of the interpretation placed on article V in *Dillon* v. *Gloss* and with which we are in agreement. If 14 years or possibly a lesser period is, in the judgment of Congress, 'reasonable,' then the question of the power of States to rescind in the last 7 years of the 14-year period is irrelevant. The second issue is, of course, whether the States may rescind a prior ratification during the extension period because the will of its people has in fact changed since initial ratification. This argument would appear to reduce to the proposition that a 7-year extension can be viewed as "reasonable" only if no substantial number of States actually attempt to rescind their ratifications during the extension period. Under this view, the power to rescind functions as a sort of escape valve permitting the States themselves to determine what is or what is not a 'reasonable' period of time by acts of rescission.

"We are unable to agree with that analysis. In our view, the lesson of history, including prior congressional interpretation of article V with regard to the 14th amendment, is that States may not rescind a ratification. And we think *Dillon* v. *Gloss* and *Coleman* v. *Miller* and equally dispositive in rejecting any possibility that States, rather than Congress, are to have the final say concerning whether an amendment has been ratified within a 'reasonable' time.

In response to the second argument regarding reliance on the initial 7-year period, the Justice Department examined the 35 certifications of ratification submitted to the General Services Administration and were unable to conclude that any such reliance was indicated. Moreover, the Department devoted a substantial portion of its opinion to the question whether, even assuming such reliance could be shown, that reliance had any legal or constitutional significance. The Justice Department found that it did not. In a letter to the subcommittee chairman, the Assistant Attorney General for the Office of Legal Counsel explained the Justice Department's view:

"It is true * * * that everyone at the [subcommittee's] hearings assumed that 35 States had ratified the text of the proposed ERA rather than the text of the entire resolution. House Joint Resolution 208 * * * proposing that text. This assumption was then and is presently justified because article V of the Constitution provides for States to ratify amendments to the Constitution. It does not provide for ratification of language in so-called proposing clauses. The fact that no language in proposing clauses has ever been thought to be part of the substance of an amendment to the Constitution is, we think, conclusive on this point."

PRESIDENTIAL SIGNATURE

The question was raised during the committee's deliberations on House Joint Resolution 638, whether the President's signature is required, particularly in the absence of a requirement that the resolution be enacted by a two-thirds vote of both Houses. The consensus of the witnesses testifying before the subcommittee was that Presidential approval is not constitutionally mandated. The amendment process is no less than a redefinition of the basic compact of our political union. The President is merely a creature of that compact, whose only functions derive from the terms of the compact. Those functions do not include a substantive role in the compact's initial formation or its subsequent alteration. The duty, power, and accompanying obligation to alter the basic compact—to propose an amendment to the Constitution—is reserved solely to Congress under article V of the Constitution. The Supreme Court opinion in *Hollingsworth* v. *Virginia*, 3 Dall. 378 (1798), reaffirmed in subsequent decisions, e.g. *Hawks* v. *Smith*, 253 U.S. 221 (1920), supports this view of the role of the Congress vis-a-vis the Executive in the amendment process. *Hollingsworth* held that the President's signature was not needed on a constitutional amendment. The opinion is generally cited for the proposition that the Executive plays no role in the amendment process.

It seems clear that the President has no role in originally proposing the mode of ratification; under article V that responsibility belongs exclusively to Congress. For the President to be involved in that decision would be unnecessary. It is no more necessary for the President to be involved subsequently. However, history shows that the President has played a symbolic role in the amendment process, in signing a proposed amendment (in the case of President Lincoln and the 13th amendment) and in signing certifications of ratification (in the case of President Johnson and the 24th and 25th amendments). Such a role is not improper, nor does it detract from the role of Congress.

FOOTNOTES

[1] Four State legislatures have attempted to withdraw their previous approval of the amendment. The efficacy and validity of their action is in doubt. House Joint Resolution 638 takes no position on the validity of the rescissions, nor does this committee feel it is appropriate for it to take a position at this time.

[2] It should be noted that throughout the subcommittee's hearings on House Joint Resolution 638, the witnesses and members of the committee used the terms "resolving clause" and "preamble" interchangeably to describe that portion of House Joint Resolution 208 containing the time limit and the mode of ratification. Technically, the resolving clause of House Joint Resolution 208 is that portion of the resolution which states: "*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein)*, That * * *." The portion immediately following the resolving clause, but preceding the substance of the proposed amendment itself is technically referred to as the text of the resolution preceding or prior to the text of the amendment. That is the portion of House Joint Resolution 208 to which the subcommittee's witnesses and the members of the committee normally are referring when they speak of the "resolving clause" or "preamble" of House Joint Resolution 208. That language read as follows: "The following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress. * * *" For the sake of simplicity, that language will hereinafter be referred to as the "proposing language" of House Joint Resolution 208.

[3] *Dillon* v. *Gloss*, supra, and *Coleman* v. *Miller*, 307 U.S. 433 (1939).

[4] The question as to whether an extension should require a two-thirds vote or a simple majority of the House was put to the committee in the form of a question of consideration. Pursuant to rule XVI of the rules of the House, the question of consideration was demanded in the committee after the motion to recommend House Joint Resolution 638 to the House was made.

The purpose of raising the question of consideration was to focus on the issue of whether an extension of a ratification deadline requires a two-thirds vote by the Congress or whether it can be accomplished by a simple majority. The issue was presented in this matter because the resolving clause of House Joint Resolution 638 on its face appears to require only a simple majority and the resolving clause may not be amended. Thus, the only way to indicate that a two-thirds vote of the House may be required was for the committee to recommend a different resolution containing a resolving clause requiring a two-thirds vote by the House. Such a resolution could be considered and recommended by the committee only if the committee did not agree to consider recommending House Joint Resolution 638. The committee vote on the question of consideration (to continue consideration of House Joint Resolution 638 in lieu of an alternative requiring a two-thirds vote) was 28 ayes and 8 nays.

[5] When the 66th Congress came to propose the 19th amendment, the congressional fears expressed in the previous Congress with regard to the 18th amendment were apparently put aside. The issue of a time limit never arose until an attempt to include a 7-year limit was made and without debate, rejected. [58 Cong. Rec. 93 (1919).]

In addition, the proposed child labor management, submitted to the States in 1924, contained no time limit. That amendment, never ratified by three-fourths of the States, was the subject of the dispute giving rise to the Supreme Court's opinion in *Coleman* v. *Miller*, supra.

[6] The argument was made that Congress could not extend the time limit for ratification of the proposed 27th amendment because States may have relied on the time limit in ratifying the amendment, that their approval of the amendment may have been conditioned on the time limit. Thus, to extend the time period would be to alter the terms of the agreement made by the Congress in submitting the amendment to the States. The committee found that argument unpersuasive. If the time limit had been contained in the amendment itself, then to change it would be an attempt to alter the subsance of the amendment—a resubmission of a new amendment to the States. Such retroactive alteration of the very terms of an already submitted amendment may well be beyond the power of Congress, at least in the absence of a two-thirds vote of both Houses. But the critical fact here is that we are not presented wih such a case. The amendment itself, as voted on by the States, contains no time limit. Thus, in the words of Prof. Laurence Tribe: it cannot be said that a congressional vote to extend . . . the time for the 27th amendment's ratification beyond March 22, 1979, would retroactively alter the terms of an amendment upon which votes had already been taken. It follows that a decision by Congress to alter the ratification period would prejudice no State that has already voted and would not affect the validity of any prior State vote. * * * Only a time limit that is expressly included in the text of the amendment being voted on by a State can form a nonspeculative basis for that State's claim of reliance.

Thus, the committee emphasizes that House Joint Resolution 638 is not a resubmission of the amendment to the States, or an alteration of the terms of the amendment itself. It is an extension of the time period during which the States may continue to consider the proposed equal rights amendment.

[7] This was during consideration of a 7-year extension; most of the witnesses agreed that a shorter time period would substantially weaken the argument for accepting rescissions.

[8] An amendment to permit rescission was offered during the committee's consideration of House Joint Resolution 638. The amendment was rejected by a vote of 13 ayes to 21 nays, reflecting the committee's conclusion that the appropriate time in which to consider the validity of rescissions is when the time comes for Congress to determine whether in fact three-fourths of the States have ratified the amendment.

[9] The resolution adopted was a concurrent resolution not presented to the President and apparently requiring only a simple majority.●

"HEE HAW"

● Mr. SASSER. Mr. President, I would like to call to the attention of my colleagues the 10th anniversary of the nationally syndicated television show "Hee Haw." As my fellow Senators know, "Hee Haw" is produced in Nashville, and, as they say on the show, we Tennesseans are "right proud" of the show, the performers and the staff.

The 10th anniversary show of "Hee Haw" is scheduled to be aired on October 22 on the NBC television network. This appearance will mark a return to network television for "Hee Haw" which began as a CBS network television show in 1969. In that year, the show rose to the number 16 position in the national ratings. Despite that rating, the first year show was cancelled by the network.

The following year, the creators of "Hee Haw," Frank Peppiatt and John Aylesworth, along with their partner, Nick Vanoff, decided to create their own network to air the series, which after a year of network exposure had a well-earned national following. At great personal risk and expense, these gentlemen financed the entire cost of production for "Hee Haw's" second year.

The foresight of the producers of "Hee Haw" has paid off many times over. The show has consistently been, by rating and demographic standards, one of the most successful syndicated television series. It is seen 52 times a year on 220 stations in the United States and Canada.

Mr. President, the people of Nashville and Tennessee are justly proud of "Hee Haw." The show has brought recognition of Tennessee's contributions to the Nation's music industry and it has shown that quality television shows can be produced in Tennessee.

I am proud of "Hee Haw" and of its Tennessee origin, and I want to take this opportunity to commend and congratulate the producers of the series, the production staff, the stars of the show, the guest artists, and all those other people who have contributed so much to the success of this all American television show. I look forward to viewing the 10th anniversary show of "Hee Haw" on October 22.●

PROPOSED ARMS SALES

● Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD at this point the notification I have just received.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C. September 12, 1978.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 78-97, concerning the Department of the Air Force's proposed Letter of Offer to Canada for defense articles and services estimated to cost $95 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Lt. Gen. ERNEST GRAVES,
Director, Defense Security Assistance Agency.

TRANSMITTAL NO. 78-97

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Canada.

(ii) Total Estimated Value:

	Million
Major Defense Equipment*	$0.0
Other	95.0
Total	95.0

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services

Offered: Data processing and display equipment, software, and associated USG and contractor services for fielding two (2) Region Operations Control Centers (ROCCs).

(iv) Military Department: Air Force.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: September 12, 1978.●

POLYGRAPHS IN EMPLOYMENT

● Mr. BAYH. Mr. President, next Tuesday and Thursday, September 19 and 21, the Subcommittee on the Constitution is reopening hearings on S. 1845, a bill to control the use of polygraphs and similar equipment in employment. In November of last year, testimony before the subcommittee indicated that, at least in some segments of our country's business community, taking a "lie detector" test has become a condition of getting or keeping a job for a great percentage of Americans. A large part of these employees, it was learned, are nonunion, and placed in lower level jobs. From representatives of the polygraph and voice analyser industries themselves the subcommittee heard that refusal to take a test almost invariably means that the employee is either not hired or is fired. An article on the personal business page of the Business Week of September 4, therefore, is of twofold interest. For one, that the article is addressed to the readers of Business Week indicates that the problems and dilemmas presented by the lie detector have now become of personal, firsthand concern to management and professional employees. Second, and more importantly, the message of the article in brief is, if you have to take a polygraph, do not. The implications of both of these factors have potentially far reaching effect on the future of "lie detection" in American business.

Mr. President, I would like to have the September 4 Business Week article printed in the RECORD.

The article follows:

LIE DETECTORS: WHAT TO DO WHEN ASKED TO TAKE THE TEST

As an employee or prospective employee, you have little to gain when a company asks you to take a lie detector test. Agree to it, and the consequences range from loss of privacy to loss of a job. Decline, and as it now stands in all but 16 states, you could get fired from a job or turned down as an applicant.

Your best course depends on the circumstances, but firm resistance to the polygraph—up to reasonable limits—may do you the least overall harm.

If a company asks you to take a lie detector test, check your legal standing. No federal law restricts polygraph use. Some states have weak laws on it. But New Mexico and Vermont, at least, limit lines of questioning. Alaska, Connecticut, Delaware, Minnesota, and New Jersey all say employers can't require it. Massachusetts and Rhode Island ban all jobs-related lie detecting.

USES AND ABUSES OF POLYGRAPHS

Check whether you can be denied state unemployment compensation when you get fired for not taking a lie detector test. Also see if your state allows your boss to tell other employees about your aversion to the polygraph.

If your state offers no protection, find out why the test is being given. "Each year in this country, hundreds of thousands of ordinary workers and job applicants are forced to submit to mass lie detector sweeps," says Senator Birch Bayh (D-Ind.), whose judiciary subcommittee on the Constitution will hold hearings on polygraph abuse on Sept. 19 and 21. Some companies test all employees, including high executives, on vague security grounds. Other employers use lie detectors only when wrongdoing has been alleged.

"I would not, as an innocent person, want my fate to rest on a lie detector test," says psychology Professor David Lykken of the University of Minnesota. "A truthful person has an especially high chance of flunking." But reputable polygraph operators differ sharply with such assessments. John E. Reid, a Chicago polygrapher, claims "90% to 95% accuracy" for his exams.

Apart from the controversy over polygraph accuracy is the question of polygraph abuse. Senator Bayh's subcommittee has evidence of companies using lie detectors to determine the political views, religion, and sexual preferences of job applicants. And while 23 states license polygraph operators, the requirements are often lax. In most states, anyone with a $1,500 polygraph machine can hang out a shingle as a professional polygraph operator.

WHAT DO RESULTS REALLY MEAN?

But your greatest polygraph risks stem from the fact that few company supervisors are qualified to evaluate the findings. Careers can be destroyed by unfair use of test results—while the fibs of favored employees go overlooked. "Lie detector tests are like Russian roulette," says Professor Edgar A. Jones Jr., an expert on labor law at the University of California at Los Angeles. "Innocent employees are found to be deceptive; guilty employees come up innocent—there is simply no reliable correlation."

If you must take a lie detector test, ask that the operator be a member of the American Polygraph Assn., a group of about 1,400 testers who maintain high standards. Also demand a written release. Make sure it expressly prevents both the examiner and your company from divulging any aspect of your test to any other parties without your consent.

Be sure you get some trial runs before your responses are recorded. The polygraph operator should review all the test questions with you and let you eliminate any that you find impertinent or offensive. Surprise questions are strictly for detective stories. Also bring up any questions you find touchy. A good examiner can sometimes rephrase them to minimize confusion.

Dr. Martin Orne, a psychiatrist at the University of Pennsylvania, warns that "highly socialized" people, individuals with a well-developed moral sense, do worse than the general populace on lie detector tests. But he holds, "If you have nothing to hide, and the examiner is competent, your odds of being determined a liar are very small."

Professor Lykken says you might beat the machine by biting your tongue or tensing a muscle during the test, but Orne says competent examiners can spot such trickery. If you do fail a polygraph exam, get a second opinion, and keep copies of both tests. You may have the makings of a malpractice suit.●

WELFARE REFORM OR WELFARE EXPANSION?

● Mr. HATCH. Mr. President, President Carter's welfare reform program is dead for this session of Congress, and it is important that we understand its defects before a similar program is introduced again next session. Martin Anderson provides a clear analysis of the program in his article in the summer issue of "Policy Review."

Anderson explains that Carter's welfare reform program was actually a welfare expansion program, since it would cost $20 billion more a year than our current system. And the bulk of these $20 billion would not go to the poor, but would be distributed mostly to people in the middle-income brackets. Nowhere in the program, however, were there any plans to add work incentives or deal with the problems concerning medicaid or public housing. And the overall complexity of the welfare bureaucracy would be compounded.

I ask that Martin Anderson's article "Why Carter's Welfare Reform Plan Failed" be printed in the RECORD.

The article follows:

WHY CARTER'S WELFARE REFORM PLAN FAILED

(By Martin Anderson)

Congressional leaders informed President Carter on June 22, 1978 that his proposed welfare reform plan was dead for this session of Congress. There was not even enough support in the House to pass a compromise bill costing less than half the $20 billion price of the original bill.

Why did this much-heralded "reform" plan fail? The core of any valid welfare reform is the number of people affected and how they are affected. One of the first items the Congressional Budget Office (CBO) tackled when it began its analysis of President Carter's Program for Better Jobs and Income (PBJI) was what it called the program's "distributive impact," namely (1) how the program would affect "the distribution of (welfare) recipients and benefits by income level," and (2) "the number and types of families that would gain or lose benefits relative to the current welfare system."

The preliminary results were astonishing. According to the estimates of the CBO, approximately 44 million people in the United States currently receive some form of welfare aid from such programs as Aid to Families with Dependent Children, Supplemental Security Income, state general assistance, the earned income tax credit, and food stamps. Carter's welfare reform proposal would have increased by almost 22 million the number of Americans receiving some form of welfare. Once President Carter's PBJI was in full operation some 66 million Americans would be receiving welfare. That is just about one-third of the nation.

This would be massive welfare expansion, not welfare reform. Some $20 billion more would be spent on welfare by the federal government every year and that raised some serious questions. The massive increase in welfare spending during the past decade has dramatically reduced poverty in the United States—so much so that there are few poor people left. Would Carter's plan have substantially increased welfare payments to the poor? The answer is no.

The welfare changes proposed by President Carter would have had an unexpected effect. The vast majority of the people who would have received welfare checks for the first time came from the middle-income group. A few came from the upper-income group. The number of people from families with pre-welfare incomes of less than $5,000 a year would have increased only slightly (5 percent) under the proposed reform. As we move up into the higher-income classes, however, Carter's welfare reform would have a greater impact. The number of people included in families earning between $5,000 and $10,000 a year would have increased by 36 percent.

But the greatest impact was to be in the income brackets between $10,000 and $25,000. Carter's plan would have given welfare benefits, including earned income tax "credits," to 11.6 million more Americans who come from families earning between $10,000 and

$15,000 a year, an increase of 322 percent in the number of families. And 4 million Americans who now receive no welfare and come from families with incomes between $15,000 and $25,000 a year would also have benefited a 154 percent increase.

The CBO's analysis of how the distribution of welfare benefits would have changed under Carter's proposed welfare reform clearly and dramatically shows that most of the new beneficiaries under PBJI would have come from America's middle-income class. There was to have been a minimal effect on people in poverty. Of the almost 22 million additional people who would have received welfare under Carter's plan 74 percent would have come from families having incomes of over $10,000 a year. And more than 94 percent of them would have been from families with incomes that exceed $5,000 a year. Carter's welfare plan, in its broad thrust, would have focused on aiding people not now receiving any welfare.

In summation, the welfare reform that President Carter originally proposed in 1977 would have probably cost somewhere in the neighborhood of $20 billion a year more than our current welfare system. Nearly 22 million more Americans would have received some form of welfare. Effective marginal tax rates would continue to remain very high and act as a serious disincentive to work. The administrative complexity of welfare would have been compounded and more welfare workers would have probably been needed to handle the increased caseload.

The problems caused by the separate existence of medicaid, day care, and housing assistance programs were ignored. An examination of the gainers and losers under PBJI shows clearly that those who need welfare the least would have gained in the greatest numbers. Those who cannot truly care for themselves and are on welfare now would have benefited little. The thrust of Carter's plan was to further the idea of a guaranteed income, expanding welfare into the heart of the middle class of America. This is not welfare reform. This is a potential social revolution of great magnitude, a revolution that, if it should come to pass, could result in social tragedy.

Those who followed past efforts at radical welfare reform were not surprised that President Carter's plan failed like the rest. From past experience, however, one can with some confidence predict that a new plan will soon spring, phoenix-like, from the intellectual ashes of the old ones.

DISTRIBUTION OF WELFARE RECIPIENTS BY PREWELFARE FAMILY INCOME CLASSES UNDER CURRENT WELFARE POLICY AND UNDER PRESIDENT CARTER'S WELFARE REFORM PLAN (PBJI)

Family income class	Number of people receiving benefits under—		Number of people added by Carter's reform plan	Percent increase
	Current welfare policy [1]	Carter's reform plan		
Less than $5,000	[2] 25,600,000	26,900,000	1,300,000	5
$5,000 to $9,999	12,000,000	16,300,000	4,300,000	36
$10,000 to $14,999	3,600,000	15,200,000	11,600,000	322
$15,000 to $24,999	2,600,000	6,600,000	4,000,000	154
More than $25,000	600,000	1,000,000	400,000	67
Total	44,400,000	66,000,000	21,600,000	49

[1] Includes aid to families with dependent children, supplemental security income, State general assistance, food stamps, and the earned income tax credit.

[2] Number of people rounded to nearest 100,000.

Source: Robert D. Reischauer, Assistant Director for Human Resources and Community Development, Congressional Budget Office, statement to task force on distributive impacts of budget and economic policy, Committee on the Budget, "Preliminary Analysis of the Distributional Impacts of the Administration's Welfare Reform Proposal," Oct. 13, 1977, p. 13, table 2(c). Preliminary estimates as of Oct. 12, 1977. Based on earlier CBO studies, an average family size of 2.824 was used to convert numbers of families to people.●

ANOTHER RHODESIAN TRAGEDY

● Mr. DOLE. Mr. President, 1 week ago the world witnessed an event of tragic proportions, when members of a Rhodesian guerrilla unit shot down a civilian passenger aircraft, and then methodically murdered most of the survivors. The death of these 38 innocent Rhodesian citizens—all civilians—was not the first atrocity of this unfortunate conflict, but, by its nature, was perhaps one of the most chilling crimes committed by members of opposition terrorist forces.

The barbaric act took place in the wake of yet another unsuccessful effort to open some avenue of communication between the Salisbury government and opposition guerrillas, in the form of a private meeting between Prime Minister Ian Smith and "Patriotic Front" Leader Joshua Nkomo. The transition government has earnestly sought to accomplish a peaceful transition to majority rule in Rhodesia since it was established last March. But, in the face of continuing rebuff from Marxist-inspired guerrilla forces, the chances for accomplishing peaceful transition grow more slim with each passing week.

Prime Minister Smith's declaration of martial law in portions of Rhodesia indicates that there may be little alternative left but full scale conflict—conflict that will benefit no race and no political faction in the long run.

RHODESIA ALONE

One cannot help but wonder whether the support of the United States, Great Britain, and other Western powers for the Salisbury transition government might have prevented or at least discouraged the atrocities and conflicts that have become such a reality. An inescapable conclusion is that the withholding of our Government's support for peaceful transition has only played into the hands of guerrilla groups. Time is on their side, and time is running out for the present Government of Rhodesia. It is possible that by withholding support, Western nations have even encouraged guerrillas to fight on, knowing that the Government of Rhodesia lacks the economic and moral support that it needs to survive.

The more openly violent the situation in Rhodesia becomes, the more difficult it will be for the internal settlement to survive, or for responsible Rhodesian leaders to deal with guerrilla leaders as they have attempted to do with Joshua Nkomo. At the very least, our own leaders should condemn the irresponsible and barbaric acts of cruelty that so typify Rhodesian guerrilla activity, and lament its victims.

WHERE IS PROTEST?

At a memorial service last week for the victims of the airline disaster, attended by more than 2,000 mourners, the Dean of Salisbury, Rev. John Da Costa, expressed horror at the bestiality of the terrorists involved and condemned the lack of protest in the West.

Rev. De Costa stated that—

This bestiality, worse than anything in recent history, stinks in the nostrils of heaven. But are we deafened with the voice of protest from nations which call themselves civilized? We are not like men in the story of the good Samaritan, they pass on the other side. One listens for loud condemnation by Dr. David Owen, himself a medical doctor, trained to extend mercy and help to all in need. One listens and the silence is deafening. One listens for loud condemnation from the President of the United States, himself from the Bible Baptist Belt, and again the silence is deafening. One listens for loud condemnation by the Pope, by the Chief Rabbi, by the Arch Bishop of Canterbury, by all who love the name of God. Again the silence is deafening.

Finally, the dean condemned the United Nations and the World Council of Churches, saying:

Each parades a pseudo-morality which, like all half truths, is more dangerous than the lie direct. From the safety and comfort of New York and Geneva, high moral attitudes can safely be struck. For us in the sweat, the blood, the suffering, it is somewhat different.

They are thoughts for all of us to reflect upon.●

GOVERNMENT SUPPORTS ECONOMIC STAGNATION

● Mr. HATCH. Mr. President, I would like to bring to the attention of my colleagues an article by George Gilder in Harper's magazine.

Mr. Gilder provides some insightful remarks about tax policy. He points out that by taking the side of economic stagnation instead of fostering economic growth, the U.S. Government is rigging the odds against America. If the Senate were to examine its own activities, it would find itself subsidizing problems, shoring up essentially moribund patterns of economic and social activities, and creating incentives for unemployment, inflation, family breakdown, housing decay, and municipal deficits. In short, we make problems worse by making them profitable. And, of course, it is these problems which feed the growth of Government.

I ask that Mr. Gilder's article be printed in the RECORD.

The article follows:

PROMETHEUS BOUND

(By George Gilder)

RIGGING THE ODDS AGAINST AMERICA

John Maynard Keynes, the General Theory of Employment, Interest, and Money: "Enterprise only pretends to itself to be mainly actuated by the statements in its own prospectus, however candid and sincere. Only a little more than an expedition to the South Pole is it based on an exact calculation of benefits to come. Thus, if the animal spirits are dimmed and the spontaneous optimism falters, leaving us to depend on nothing but a mathematical expectation, enterprise will falter and die."

To many people, the past seems inevitable and the future impossible. History is seen to have arisen not from unpredictable flows of genius and heroism, but more or less inevitably, from preordained patterns of natural resources and population. For those who doubt the decisive role of genius, courage, and chance in history, the future always appears impossible; they can see no way for free nations to escape a fate of decline, decay, and coercion, as their growing populations press against a closing frontier.

These attitudes lead to distortions of vision and policy. Strangely enough, the man who sees a future blighted by coercion and scarcity also tends to believe that the present can be made as free of risk and uncertainty

as the past, receding reassuringly in the reliable lenses of hindsight. He calls upon government to create an orderly and predictable economy, with known energy reserves always equaling prospective needs; with jobs always assured in current geographic and demographic patterns; with monetary demand always expanding to absorb expected output of current corporate goods; with disorderly foreign intruders banished from the marketplace or burdened by tariffs and quotas; with invention and creativity summoned by bureaucrats for forced marches of research and development; with inflation insurance in every contract and unemployment insurance in every job; with all windfall wealth briskly taxed away and unseemly poverty removed by income guarantees. In this view, risk and uncertainty are seen to be the problem and government the solution in the fail-safe quest for a managed economy of steady and predictable long-term growth.

These follies of false security and rationality are the characteristic delusion of the modern age. Abstractions everywhere are confused with things. But despite a pretense of scientific objectivity, the vision of a comfortably calculable world has been almost completely abandoned by serious thinkers in the hard sciences. While modern physicists begin to concede freedom to microscopic particles, social scientists still begrudge it to human beings. While chemists and mathematicians accept chance and uncertainty, politicians and sociologists cling to the determinist dream of an orderly, predictable, and risk-free world.

CAPITAL LOSS

Most of our ideological debates revolve around the attempt to banish danger and uncertainty from human affairs. A vivid current example is the dispute over tax policy. Early this spring, Washington underwent a small legislative upheaval on the issue of how much to tax the profits of speculative investment.

A young Republican Congressman on the House Ways and Means Committee sought to reverse the high levies imposed by the Nixon Administration, only to meet with the fierce hostility and resistance of the present Administration. Joining President Carter against the Congressman's idea were the Chairman of Ways and Means, the House Democratic leadership, the united forces of organized labor, the Business Roundtable—speaking for the executives of some 190 major corporations—and the editorial boards of both the New York Times and the Washington Post. It has been some time since the works of Richard Nixon have enjoyed so fervent and prestigious a defense.

One might assume that the fight was over before it began. Rising in support of the young Republican from Wisconsin, however, were powers nearly as impressive: a majority of the Ways and Means Committee; more than sixty U.S. Senators; and an interesting motley of others, including Rep. Ron Dellums of Berkeley, California, and other young Democrats, the editorial board of the Wall Street Journal, and virtually every American organization of small businessmen and venture capitalists.

The Wisconsin Congressman was William Steiger, and the proposal that created this strange but illuminating cleavage was reversal of Nixon's tax reform on capital gains. Capital gains are profits derived from the sales of assets or equity, such as real estate or corporate securities. In order to protect incentives for risky but possibly productive investment, many countries, like Germany and Japan, refrain from taxing capital gains at all, and even socialist Sweden taxes them at less than half the American level. As part of a tax reform signed by Nixon in 1969, however, the statutory top rate, as later impacted by minimum tax provisions, was lifted from 25 to 49 percent in the United States. Even this high nominal rate sometimes understated the effective rates. Not only are capital gains also taxed by some states, but during an inflationary period, the apparent increase in the value of an asset may well be illusory. Thus, the government may be taxing ostensible gains in companies that have declined in actual value. Partly because of this interplay of inflation and taxes, new stock issues by smaller firms plummeted in the early 1970s from several hundred annually to exactly four in 1975. Yet in 1978, President Carter proposed to raise the tax again, to a top rate of 52 percent, in order to prevent "windfalls for the rich."

The businessmen who were willing to accept such drastic taxation of rapid growth were all from mature and established companies. They preferred to cling to the Carter program of corporate and personal income tax reductions, an expanded investment tax credit, and accelerated depreciation.

This conflict appears minor: a technical choice among ways of lowering taxes and promoting enterprise. But the choice is anything but minor and technical. It embodies what Jane Jacobs has called the central conflict in every economy. This is not the split between capitalists and workers, technocrats and humanists, government and business, liberals and conservatives, rich and poor. It is the struggle between past and future, between the existing configuration of industries and the industries that someday will replace them. It is the conflict between the risk takers and the risk averters, established factories, technologies, formations of capital, and ventures that today may not even exist, that today may flicker only as ideas, or tiny companies, or obscure research projects, or fierce but penniless ambitions, that today are unidentifiable and incalculable from above, but which, in time, in a progressing economy, must rise up if growth is to occur. In fact, long-range growth may be defined as the replacement of current industries and techniques and products by better or more efficient ones.

Sir Henry Bessemer, the creator of the Bessemer method of large-scale steel production, vividly described such a nineteenth-century moment of discovery and displacement. After his first breakthrough in tests for making steel he wrote: "I could now see in my mind's eye, at a glance, the great iron industry of the world crumbling away under the irresistible forces of the facts so recently elicited." As economist Joseph Schumpter wrote in Capitalism, Socialism, and Democracy:

Creative destruction is the essential fact about capitalism . . .; it is by nature a form or method of economic change, and not only never is, but never can be stationary. . . . The fundamental impulse that sets and keeps the capitalist engine in motion comes from the new consumers' goods, the new methods of production or transportation, the new markets, the new forms of industrial organization that capitalist enterprise creates."

Progress absolutely depends on the willingness of government to allow the future to prevail.

As capitalist governments weave their tentacles ever more deeply into the economic fabric, however, their bureaus enlist more and more on the side of the established order, and thus on the side of stagnation as opposed to growth. A legislator usually supports the most powerful businesses in his district. Labor unions are deeply influential in politics, and they normally back the interests of the big companies that they have already organized. Bureaucracies often are closely allied with the industries they regulate or patronize, and in any case the regulations tend to favor the old ways of doing things. Even when governments choose to help business, they often act through investment credits, tariffs, quotas, and tax incentives that favor existing industries.

These government tendencies are reinforced by the media. While more than 300,000 small businesses involving many millions of jobs expire annually without notice, the death throes of a corporate leviathan provide a drama that captivates the press. Boeing loses the contract for a supersonic transport, and the networks descend on Seattle to depict that thriving city in images of the Great Depression because a few thousand well-paid technicians with ample unemployment insurance may be out of work for a while. The halls of Congress begin to ring with a rhetoric of emergency programs and subsidies.

Governments everywhere are torn between the clamor of troubled obsolescene and the claims of unmet opportunity; between the sufferers of aging pains and the sufferers of growing pains; between enterprises shrinking from competition or asking subsidies for their errors, and companies seeking human and capital resources to meet new demands.

The threatened industries of the past always turn to politics to protect them from change. Failure demands finance. A government preoccupied with the statistics of of crisis will often find itself subsidizing problems, shoring up essentially moribund patterns of economic and social activity, creating incentives for unemployment, inflation, family breakdown, housing decay, and municipal deficits, making problems worse by making them profitable.

Throughout Washington today, behind the inevitable rhetoric of innovation and progress, the facades of futurity, these forces of obstruction are gathering: an energy department exalting counterproductive new taxes and price controls; a department of housing promoting rent controls; even a National Center for Productivity forced to celebrate the least productive of all unions—both the steelworkers and the American Federation of State, County, and Municipal Employees.

Despite his best intentions, the government planner will tend to live in the past, for only the past is sure and calculable. In response to the inevitable crises of scarcity, he will prescribe, as progress, a series of faintly disguised anachronisms: a revival of canals and windmills, or a renaissance of consumer cooperatives, or a return to small-lot farming.

Current government programs, in fact, can be seen as a far-reaching and resourceful defense of the status quo against all emerging competitors. Economic policy focuses on stimulating aggregate demand for existing products rather than on promoting the supply of new ones. Investment credits and rapid depreciation allowances favor the re-creation of current capital stock rather than the creation of new forms of capital and modes of production. Antitrust activity is directed chiefly against successful competitors (IBM) rather than against industries that refuse to compete (the steel industry). Government regulatory policy rewards the company that follows prescriptions, rather than the company that avoids them with new techniques and products. Our floating exchange rates deal with U.S. lapses in international trade by depreciating the dollar rather than by forcing a competitive response of greater productivity or new products. Our taxation and subsidy systems artfully cushion failure (of businesses, individuals, and municipalities), reward the creativity and resourcefulness chiefly of corporate lawyers and accountants, and wait hungrily in ambush for all unexpected and thus unsheltered business success.

There is a similar bias in our social and employment programs. The civil service joins with affirmative-action rules to grant jobs and promotions on the basis of nearly immutable credentials like test scores, diplomas, race, and sex, rather than on competitive performance of work. The nation's employment policies are increasingly based on new forms of tenure and entitlement rather

than on expanding opportunities and new kinds of jobs.

Most of these policies are designed to protect businesses and individuals from risk and competition, inflation and unemployment. But the effort to escape inflation by indexing the incomes of favored groups and to fight unemployment by subsidizing outmoded jobs merely makes these problems worse, and foists them onto the unorganized majority: onto small businesses, onto nonunion workers, and onto the public at large in a stagnant economy. As Burton Klein has shown in his brilliant new book, "Dynamic Economics," the effect of the government's efforts to shield itself and its clients from uncertainty and risk is to place the entire system in peril. It becomes at once too rigid and too soft to react resourcefully to the new shocks and sudden challenges that are inevitable in a dangerous world.

Supporting the future is technically easy for government to do. It can perform economic miracles merely by enforcing the laws equally, by fighting monopoly, by removing barriers to trade, and by lifting the dead hand of taxation and bureaucracy. Only slightly more difficult is imposing a sensible structure of penalties and incentives on industries that pollute or defile the environment, protecting patents and property rights, promoting educational excellence—above all in science and technology—and maintaining a reasonable balance in its own accounts (in relation to the level of economic activity and employment). That is, government best supports the future by refraining as much as possible from attempting to shape it, for in a democracy the shape of government policy nearly always conforms with the current incidence of political power, which derives from the configuration of existing capital and labor: with an overlay of rhetoric and bureaucratic expansion in its name.

This is why the current debate over tax policy is so crucial and revealing. The distinctions are relatively simple. Cuts in the tax on capital gains chiefly benefit companies that expect to grow fast, i.e., new and innovating companies. The few that succeed will indeed "hit the jackpot," win "obscene windfall riches," if that rhetoric appeals. Cuts in corporate income taxes and enlargements in the investment tax credit, on the other hand, are less likely to bring such untoward results. The chief benefits will go to companies that are established and profitable, and subject to union pressures. The money will tend to be spent for higher wages and for the repair and reduplication of current capital formations rather than for the development of new ones—for inflation rather than innovation. Expansion will come through homogenous growth or through mergers. In recent years, in fact, the stock market has been largely preoccupied not with anticipating innovations and growth but with speculating on takeover attemps, as big companies give up on generating progress and try to avoid risk by diversification. When big companies avoid risk, however, they become reactionary, because all important progress and innovation is dependent on accepting risk and entering the realms of the unknown.

THE "HIDING HAND"

The damage of fail-safe policies is most vivid in the small and struggling economies of the Third World. With a passionate devotion to the ideals of welfare and central control and an undeniable need for public works and investments, the developing countries provide continuing lessons in the perplexities of planning. Economist Albert O. Hirchman has discovered in the trials and errors—and occasional successes—of these countries, a crucial principle of economic progress.

In an article in The Public Interest (winter, 1967), Hirschman recounted the story of a hydroelectric station that was built to stimulate industrial development in rural Uganda. No boom occurred, and five years later the project seemed a complete fiasco, until transmission lines were built to deliver the power first to neighboring Kenya and later to smaller towns elsewhere in Uganda. The station thus thrived, and when Hirschman studied it enlargement was underway. The hydroelectric station was a success, despite the fact that few of its expected effects or intended purposes were fulfilled.

Another case was the Karnaphuli pulp-and-paper mill in East Pakistan (now Bangladesh). Built in 1953 to exploit the vast bamboo forests along the upper reaches of the Karnaphuli River, the mill had been in fitful operation for several years and had passed into private hands, when the bomboo unexpectedly burst into flower—as bamboo does every sixty summers or so—and became useless. It turned out that many years would elapse before the seeds would grow into usable timber. The catastrophe was apparently total. But, instead, the network of East Pakistan's rivers and canals was used to transport random pulpwood from throughout the country. Not only was this approach a success for the mill, it also provided profitable activity in towns all over East Pakistan. In his article Hirschman offered similar examples from other Third World countries—successful results that totally failed to correspond to the plans and intentions that gave them birth—and proposed as a theory "the principle of the hiding hand." Leaders in less developed countries seem able to muster in themselves and their followers the confidence and willpower to commence a major undertaking only if its dangers and difficulties are obscured. This "hiding hand" takes the form of a vast overestimation of benefits and underestimation of difficulties. There is usually a pretense of planning and expertise that suggests that all problems have been anticipated and the solutions are known.

Such a "hiding hand" seems to have been active in the industrial development of the United States during the first half of the nineteenth century. Economic historian John Sawyer has observed that "miscalculation or sheer ignorance" of costs and difficulties was important in the launching of a number of great and ultimately successful businesses, from canals and railroads to mining and manufacture. Hirschman writes in his article:

"Creativity always comes as a surprise to us, therefore we can never count on it and we dare not believe in it until it has happened. . . . Since we necessarily underestimate our creativity, it is desirable that we underestimate to a roughly similar extent the difficulties. . . ."

Then we will undertake tasks—

"Which we can, but otherwise would not dare tackle. . . . The Hiding Hand is essentially a mechanism which makes a risk averter take risks and turns him into less of a risk averter in the process."

Of course, the entrepreneurs themselves will not see it this way. They will not imagine that they may have stumbled into their greatest achievements. As Hirschman puts it, in a linguistic aperçu: "We fall into error, but do not usually speak of falling into truth."

Hirschman has fallen into some of the most vital truths of human society, but does not quite dare to extend them beyond the less developed world. Things are different, he seems to assume, in modern economies, with their panoply of computers and econometric models, their coolly Galbraithian managers and entrepreneurs, their increasingly routinized research and development techniques, their new methods of market analysis and manipulation, their populations of "risk-taking, achievement-motivated men."

Hirschman implies (though he surely knows better) that in modern societies planning is successful: costs are correctly estimated and benefits clearly foreseen. Yet it seems obvious that if Hirschman had directed his attentions to contemporary modern societies, he would have discovered the same pattern that he found in nineteenth-century America and in the Third World: Planning sometimes succeeds in manipulating markets or governments, but rarely in generating new enterprise or substantial growth. From France to the Philippines, plans are propounded, given lip service, and flouted. Countries like Taiwan and the Ivory Coast, which leave room for uncontrolled private ventures, grow faster than their more centralized neighbors.

Governments and businesses must have some concept of goals and directions. Detailed blueprints can be useful in seeking gains through imitation. Nonetheless, the developing countries are littered with projects undertaken in the false assurance that any random river valley is a site for "another TVA" and that steel and auto industries can be copied by bureaucrats mobilized in military array. Progress and creativity cannot be forced or prescribed, except at costs far beyond the reach of any Third World country or of any competitive firm anywhere. There is no way to escape for long the necessity of openness and risk.

This truth is anathema to those who seek a risk-free scheme of development and growth, whether unlettered leftist generals assuming control of small nations or smooth-talking corporate leaders in the U.S. The rule of risk applies alike to national planning and private business, to advanced technical industries and even to the movies. John Gregory Dunne's extraordinary book *The Studio* tells of the foibles of planning during a year of high expectations under new leadership at Twentieth Century Fox. In preparation—and preoccupying the executives—were several colossal "sure things," including *Doctor Doolittle* with Rex Harrison, *Star!* with Julie Andrews (coming off her *Sound of Music* bonanza), and *Hello Dolly* with Barbra Streisand. The sure-thing superhits, however, would have brought the company near bankruptcy, if it had not been for an afterthought cheapie (several times nearly canceled in the interests of economy) named *Planet of the Apes*. *Star Wars* was later to perform a similar miracle for the studio.

The unpredictability that Hirschman took to be a malady of underdevelopment is, in fact, the incalculable condition of all economic progress. To deal with uncertainty, one must have enough faith in the future to take risks. Faith moves mountains, evokes commitments, and lowers interest rates; risk propels adventure and innovation.

To a great extent, plans are the mythology of a secular rationalist world; they are designed, paradoxically, to get the planners out of the way, to appease the bureaucrats and financiers, so work and faith and ingenuity can proceed. As clothing executive Richard Salomon told the Wall Street Journal, "Everybody praises carefully tested methods and long-range planning. Yet the most successful moves are often on-the-spot responses to completely unexpected situations, taking a company to places it never before imagined." When the planning is taken too seriously, as in totalitarian states, stagnation results and most creativity has to be imported in the form of goods from abroad.

RISK, FAITH, AND THE FRONTIER

The attempt of the welfare state to deny, suppress, and plan away the dangers and uncertainties of our lives—to domesticate the inevitable unknown—affronts human nature. Even the most primitive of men tend to invent forms of gambling (dice in most societies preceded the wheel) as well as religions (faith always precedes works). The government devoted to suppressing uncer-

tainty finds itself forever having to channel or suppress the human will to risk.

In this country, the impulse to gamble and risk is often driven from the economy, from serious life, into fantasy and frivolity—games and wagers—or diverted from productive activity into courtroom assaults against the productive. One of the best remaining ways to strike it rich—the best remaining scene for gambling, with the odds against the productive stacked ever higher by government—is the civil suit: malpractice, product liability, discrimination, antitrust, libel, pollution, whatever, the government has created a vast new sweepstakes open to the man willing to play for high stakes and to the law firms that join in the new champerty. In a good many cases the victim is a man of courage and faith who dares risk his own money to bring a new product or service to the public. Caveat productor is the new rule.

For citizens without the means or litigious bent to sue for a living, the state is widely setting up simpler lotteries of its own, opening on every block a storefront for the gambling impulse, advertising on billboards the government games. And everywhere it tells the incredible lie that its lottery affords a better deal ("where no one has a better chance than you"), a fairer opportunity than the real and continuing lotteries of lower-class life; that it is more promising to place your wagers on "The New York Bets" than in the U.S. economy. The effect is to trivialize and stultify the will to risk and work that is the only real hope of the poor. It is to deprive our economy of the new businesses and activities that the poor otherwise would engender by their hard work and enterprise.

A society that immobilizes its poor by excessive welfare and trivial games—government bread and circuses—removes a major source of economic growth and change. The economic history of America is largely the sage of successive generations of the poor, toughened by hardship, who overcame all odds to move up: launching new businesses and spurring the middle class into greater efforts and accomplishments. By pampering and demoralizing the poor, government impoverishes the whole society.

Similarly with the rich, the government makes the dubious claim that it can use wealth more productively than a free capitalist. So its tax policy raises the always adverse odds of enterprise to the point that they no longer invite the investor. While the poor man swings between welfare and the state lottery, the rich man alternates between personal gambling and municipal bonds. The stochastic margin of progress—the frontier of the economy—is being closed off by obtuse taxation and bureaucracy.

Most redistributive activity is based on serious misunderstandings of the nature and sources of wealth and innovation. Seeing the high levels of chance involved in each particular business success, many officials and intellectuals conclude that most large capital gains are in a sense both unearned and unanticipated, and no factor in either personal motivation or efficient allocation of resources. Two of the nation's leading thinkers on the Left, Lester C. Thurow and Christopher Jencks, ended their ambitious studies of inequality* with the conclusion that crucial in most fortunes, great and small, is luck. The beneficiary, like a raffle winner, was at the right place at the right time, and in a rational system should not be permitted to convert his luck into real economic power, any more than the myriad losers should suffer more limited liability for their losses.

Indeed, risk and faith do produce much more waste and inefficiency than any well-trained planner could tolerate or defend. Some 300,000 new businesses start every year in America, two-thirds fail within five years, and the median small businessman earns less than a New York City garbage collector. Of the thousands of plausible inventions, only scores are tested by business, and only a handful of these are an economic success. Perhaps 90 percent of trade hardcover books lose money for the publisher, and a still higher proportion represent a net loss for the author; an even greater number, comprising untold months or years of labor, are never published at all. But such waste and irrationality is the secret of economic growth. Because no one knows which venture will succeed, which number will win the lottery, a society rule by faith and risk rather than by ration calculus, a society open to the future rather than planning it, will call forth an endless stream of invention, enterprise, and art. The greatest irony of modern economics is that the kind of "economic man" at its center, the rational optimizer of wealth, could rarely create wealth, or dare invest in the frontier enterprises of growth.

The issue goes far beyond economics. Charles Peirce, perhaps America's greatest philosopher and leading theoretician of probability, has shown that chance not only is at the center of human reality, but also is the deepest source of reason and morality. "The idea that chance begets order is the cornerstone of modern physics," and, he might have added, of biology as well.

The movement of chance and probability toward order and truth, however, is not assured in any one lifetime. The odds are against each individual in the serial lotteries of his own life, which inevitably end, after all, in decline and death. Risk cannot be shown to work except in the long run of trial and error; in fact, a rational calculation of personal gain would impel an individual above all to avoid risk and seek security. In our world of fortunity, one would conclude, the invisible hand of self-interest would lead to an ever-enlarging welfare state—to stasis and sterility. This is the root of our crisis today.

The acceptance of risk implies a commitment to values that go beyond rational self-interest to embrace family and future. Progress springs ultimately from morality and faith, from beliefs, usually religious, that transcend the individual life and reach into the future of the race.

The narrow economic and sociological perspective engenders a despairing pessimism about our prospects as a free people. Economist Robert Heilbroner and anthropologist Marvin Harris speak for a consensus of security-minded intellectuals in arguing that the future cannot be mastered in freedom—that without authoritarian controls the race is doomed to a grim decline, as rising populations press against a wasting earth.

What they fail to comprehend is that the visibly possible achievements, the clearly available resources, are always limited. All plans based on the calculable present, on the existing statistics, necessarily presume a declining field of choice, a contraction of possibilities, an exhaustion of resources, a diminishing of returns—entropy and decay. The only unlimited resource, the one that can release us from all the others, is the imagination and creativity of free men.

The most dire and fatal hubris for any leader is to cut his people off from providence, from the miraculous prodigality of chance, by substituting a closed system of human planning. Innovation is always unpredictable, and thus an effect of faith and freedom.

In the United States today we are facing the usual calculus of impossibility, recited by the familiar aspirants to a master plan. It is said we must abandon economic freedom because our frontier is closed: because our biosphere is strained, because our resources are running out, because our technology is perverse, because our population is dense, because our horizons are closing in. We walk, it is said, in a shadow of death, depleted air, poisoned earth and water, a fallout of explosive growth showering from the clouds of our future in a quiet carcinogenic rain. In this extremity, we cannot afford the luxuries of competition and waste and freedom. We have reached the end of the open road; we are beating against the gates of an occluded frontier. We must tax and regulate and plan, redistribute our wealth and ration our consumption, because we have reached the end of openness.

But quite to the contrary, these problems and crises are in themselves the new frontier, are themselves the mandate for individual and corporate competition and creativity, are themselves the reason why we cannot afford the consolations of planning and stasis. The old frontier of the American West also appeared closed at first. Only in retrospect could the achievements of the past be seen as easy or inevitable. America became an open reservoir of wealth only in retrospect, because the pioneers dared to risk their lives and families in the quest for riches, looking for gold (of which there was relatively little in the U.S.) and eventually finding oil. Only in retrospect were the barrens of Texas and Oklahoma an energy cornucopia, the flat praries a breadbasket for the world, or Thomas Edison a catalytic genius and Henry Ford the salvation of capitalism in the grips of an earlier closing circle. The future is forever incalculable. Its challenges can be mastered only by those who are willing and permitted to enter the unknown.●

*Lester C. Thurow, *Generating Inequality*, 1975; Christopher Jencks, et al., *Inequality*, 1972.

ADDRESS BY SENATOR BELLMON ON ENERGY

● Mr. BARTLETT. Mr. President, my distinguished colleague and friend, HENRY BELLMON, recently presented an address at the fourth annual Department of Energy Symposium on Enhanced Oil and Gas Recovery at Tulsa, Okla. His remarks were well received by government and industry leaders in the technology of enhanced energy recovery. I concur wholeheartedly with what he had to say, and in order that my colleagues might benefit from reading his remarks, I ask that a copy be printed in the RECORD.

The address follows:

REMARKS OF SENATOR HENRY BELLMON

Thank you for asking me to this Fourth Annual DOE Symposium on Enhanced Oil & Gas Recovery. There seem to be a lot of you interested in Enhanced Recovery. I'm glad that there are so many of you here tonight If I were to confine my remarks to what I know about Enhanced Recovery, we would be out of here in no time.

Since you didn't ask me here to educate you about Enhanced Recovery, I conclude you're interested in knowing how the Congress feels about the work you're doing. Well, I think what you're doing is just fine. I wish you would do more of it.

It has seemed a shame to me that so much oil has been left in the ground. We know where it is and how much is there, and yet most of the oil (and a lot of the gas) we find is being left in the ground. Some of the reasons are technical. Some are economic.

In the Senate Appropriations Committee, I have been helping to get money for enhanced oil recovery research, development, and demonstration. The funny thing is, the government never wants to spend it. I don't know which is a stranger sight, old tight fisted Bellmon pushing money on a government agency, or a government agency that doesn't want any more money. For although the name of the agency has changed several times during the past five years, and some of the bureaucrats have changed, too, they never seem to want the enhanced recovery money. First, in 1973, it was the Bureau of Mines They didn't want the money. Then, later on, it was the Energy Research and Development Administration. They didn't want the money. Now, it's the Department of Energy. They still say they don't need any more money for Enhanced Recovery.

At first, you could understand why they didn't think Enhanced Recovery was something the government ought to get involved in. Oil was cheap. Arab oil was very cheap. In 1973, the Arabs hadn't realized that they were selling us their oil at less than our true replacement cost. When they finally did realize it, and jacked up their price to what they figured our true replacement costs were, we obliged them by slapping on our oil a price ceiling. That price ceiling was less than half the cost of any oil we might have produced by enhanced recovery. If it didn't make economic sense to enhance recovery before, it surely didn't afterwards!

Now the reason DOE says it doesn't need any more money is that they have already done all the necessary research and demonstration, and it's time for private industry to take the ball and run. (Which is exactly the same story I get from Secretary Schlesinger about oil shale.) I guess I must have dozed off and missed all that demonstration. For those of us who blinked twice, perhaps DOE will repeat a little of that demonstration with the funds we will supply in FY 1979.

This reluctance on the part of the Federal government to push enhanced oil and gas recovery has existed under three Presidents. But it is only since Jimmy Carter became President that our enhanced recovery policy . . . our energy policy . . . indeed, our economic and foreign policy, has taken on the aspects of a morality play. I want to talk about those aspects tonight, and I'll use the recently issued "DOE Additional Price Incentives for Tertiary Enhanced Recovery Techniques" to illustrate my points.

The actors in the morality play are: Producers, Consumers, and Government. Producers produce. Consumers consume. Government soars high above the stage, swooping down from time to time to correct injustice. Consumers play the part of the good guys. Producers play the part of the bad guys.

Injustice occurs, in this morality play, whenever Producer and Consumer agree on a price that Government doesn't consider "fair". What is "fair"? Let me quote from page 50 of President Carter's "The National Energy Plan", a document issued by the Executive Office of the President to accompany his Comprehensive Energy Bill.

"In 1973–74, the oil-producing countries raised the world oil prices four-fold. Deregulation of oil and gas prices would make U.S. producers the beneficiaries of those arbitrary price raises and yield windfall profits from the increased value of oil and gas in existing fields. The producers have no equitable claim to that enhanced value because it is unrelated to their activities or economic contributions."

Now that is the kind of statement that belongs front and center in our morality play. That quote is not just the view of some faceless bureaucrat concerning our existential situation. The evidence is all around that this view of the world is pervasive in this administration. It makes no difference that deregulation of oil and gas prices would probably solve the energy problem. Somebody might make a lot of money.

In the Moral Equivalent of War, oil and gas producers have become "War Profiteers". In the view of this Administration, and many supporters in Congress, all revenue becomes profit. Their eye is not on the doughnut (increased domestic production of oil and gas). Their eye is on the hole (producers' revenue).

Anyone in the Energy bureaucracy who knew anything about oil and gas (or had any reason to hope that the oil and gas industry would somehow make a profit) was run out of town on a rail. Experience became disqualifying. Anyone who knew anything about a subject was not allowed to be associated with it. But even after you decide what constitutes heresay, it is difficult to root out all the heretics. I am willing to believe that there are DOE officials (some of whom may be in this very room) who secretly hope this country can increase domestic production of oil and gas. There may even be some Closet Free-Marketers in DOE. How else to explain the reports DOE issues from time-to-time, then recalls, then re-issues full of blank pages.

The things that ought to be recalled, never are. From page 11 of Chapter II of the DOE "Price Incentives for Tertiary Recovery Techniques": "However, a tertiary enhanced recovery project does not qualify for the incentive merely because it falls within the description of one or more of the defined techniques. Such a project is eligible to receive the incentive only if it is qualified, i.e., 'is certified pursuant to (applicable certification procedures) as being uneconomic at the otherwise ceiling prices.' "

In other words, DOE will only allow you to get the free market price for the oil you produce using enhanced recovery if you would lose your shirt, otherwise. If it's a real loser, they'll even loan you some "up-front" money. But you've got to pay it back. Got to be fair about this.

Based upon what high DOE officials have testified to before the Appropriations Committee, I can only conclude that they think this "incentive" package is going to do the trick. I don't. And I don't think many people in industry or at lower levels in DOE think so, either. Suppose you want to employ an enhanced recovery technique. You better apply to DOE. It's not clear what happens if you go ahead without saying "May I?".

First, you've got to figure out how much oil you would produce if you didn't use an enhanced recovery technique.

Then, you've got to estimate how much additional oil you might produce if you used an enhanced recovery technique.

Next, you figure out how much money you'd lose if you went ahead and the government only allowed you the DOE ceiling price they would allow you if you only produced the oil you would have produced if you didn't employ an enhanced recovery technique.

Finally, you figure out how much you'll make (if anything) if you employ an approved technique and DOE allows you to get the fair market price for the additional oil you produce over what you would have produced if you didn't employ an enhanced recovery technique. That last figuring includes (1) a cost analysis, (2) a cash flow analysis, (3) a real rate-of-return analysis and (4) a risk and sensitivity analysis.

Are you all still with me?

Did you all remember to say "may I"?

Now, you have got to convince someone at the Economic Regulatory Administration (a semi-independent part of DOE) that you did all your figuring right. This is a different part of DOE from where there may yet be hiding some heretics who want, secretly, for this country to produce more oil and gas. This is the part where the Swoopers hang out.

Believe it or not, they (the ERA) do not consider themselves able to make a final judgment on so sensitive a matter, and so they turn over all your figurings to the "relevant cooperating Federal or State agency".

If everyone, including this mysterious "relevant cooperating Federal or State agency, "agrees that you would be a fool to go ahead with the project, an announcement to that effect is placed in the Federal Register. After thirty days has passed, you are authorized to take one giant stride. Unless . . . Unless someone objects (in writing) within that thirty days. (Like, for example, a frightened stockholder).

As you can imagine, not every producer is falling all over himself in the rush to sign up for this Federal program.

Since we know that this program is not going to result in much increased oil and gas production, lets go back and figure out what might. Consumers still consume. Only producers produce. But Government need not examine every transaction to see if it is "fair". If producer and consumer agree on a price, there is no injustice. No "probable violation".

(You know, when I got to Washington, I discovered that the Laws of Supply and Demand had already been enacted. That saved me a lot of trouble. Besides, President Carter might have tried to veto those laws if they came to his desk; some Congressmen have been trying to repeal them ever since they heard about them.)

But, knowing the Law of the Land, I can tell you what would happen if Government decided that the price producers and consumers agree upon is not the right price. Government could raise the price. (To do that, Government would have to get the difference between the higher price it sets and the price the consumers are willing to pay from someone. But let's not worry about that Budget problem right now. I worry enough about it when I'm in Washington.) If government were to be successful in arbitrarily raising the price producers actually get for their oil, they will produce more oil than consumers will buy. So if government raises the price for producers, a surplus results.

If, on the other hand, Government decides to lower the price consumers are allowed to pay to producers, producers will produce less oil. This Government action results in a shortage.

In the Carter morality play, the Laws of Supply and Demand don't exist. Higher prices for producers produce no new oil or gas. Only higher profits for producers. And that's Bad. Controlled prices for consumers don't result in less production. Only lower fuel bills for consumers. And that's Good.

I thought for a while that we were making some progress, educating President Carter about the real world. He has said on a number of occasions that our gas and oil has got to be priced at its true replacement cost. He is so right and I have applauded him for saying it. But it turns out that he doesn't mean the same thing by that. He means that it has to be priced at true replacement cost to the consumer. It has to hurt the consumer. He doesn't mean that it has to be priced at true replacement cost to the producer. It can't help the producer.

The critical value in the real world is what the producer winds up with. It is his net cash flow from operations that counts. Unless the amount of money the producer has in his possession after all expenses is enough to go out and find another barrel of oil, that barrel of oil has not been priced at it's true replacement cost.

In 1978, the true replacement cost for oil in this country is between $6 and $8 a barrel. That means for constant production to be maintained every barrel of oil will have to bring about $7 PLUS royalties, taxes, and production costs. A similar situation prevails for natural gas.

One point I am trying to make is that it will not be commercially economic to employ enhanced recovery techniques until the cost of finding and developing new reserves gets to be more than the production costs of

enhanced recovery. That is not usually the case today.

Another point is that increased domestic oil and gas production depends more than anything else upon the net cash flow from operations that actually gets into the hands of producers.

We already know what oil and gas producers do with the net cash flow from operations. They plough it back into the business. They go out and find more oil and gas. They will employ enhanced oil and gas recovery techniques if, and only if, the net cash flow from those operations can be reasonably expected to exceed the net cash flow from some other use of their available funds.

If we wish to increase domestic oil and gas production, we must see to it that Government does not lower the price to producers that consumers are willing to pay.

If we wish to increase the employment of enhanced oil and gas techniques in the near term, it will (in most cases) be necessary for government to subsidize producers. Producers cannot be expected to go for enhanced recovery in a big way until net cash flow from those operations equals (or exceeds) that from more conventional exploration and development. There are several possible approaches for this government action. There are three bills in the Senate for which hearings have already been held.

The Bentsen bill (S. 2623) would allow the free market price for all oil produced in an enhanced oil recovery project. The Bartlett bill (S. 3306) would allow the free market price for all oil produced in secondary and tertiary recovery projects. And you wouldn't have to say "May I?". The Hart bill (S. 2999) is more research oriented. It would supply loan guarantees for the up-front costs and price supports for production. A price of $25/barrel would be allowed for some limited production, and the world price would be allowed for subsequent production. I hope we can get at least one of these bills passed, because I don't think this DOE Incentive Package is going to do the job. It is too oriented toward making sure nobody gets away with anything. It doesn't offer enough incentive to make complying with the regulatory hassle worth while.

To you participants in this symposium, I can say that you are doing an important job. You are solving the technical problems. You are solving the economic problems. Keep up the good work. I hope that you can eventually get these known deposits of oil and gas out of the ground economically.

As far as the philosophic things I have had to say, they apply to many other fields. Because although most Americans may be consumers when it comes to oil and gas, they are producers when it comes to wheat, and steel, and furniture, and textiles . . . and widgets. The same problems, the same solutions I have talked about here, it is the same in those other fields.

There is entirely too much swooping down by Government. There are far too many bargains struck by Producer and Consumer that Government wants to change. It has gotten to the point that "profit" has become a dirty word. "Profit from" means for many "take advantage of". No wonder the stock market drifts listlessly. No wonder the dollar plummets.

Think about it. Think about the "little people" who get a royalty check once a month, or once a year, for their share of the production from the old family farm. Maybe there was a little oil or gas production from that well and the producer wants to re-work it. Maybe if the price was high enough it would pay to try to increase production. Well, those descendants are the people who "have no equitable claim to that enhanced value because it is unrelated to their activities or economic contributions."

When President Carter attacks as "war profiteers" the major oil and producers he attacks no less the little people who receive oil and gas royalty checks. They want to see that gas sold at a fair price as much as the majors do.

When he attacks those who profit from increased value of oil and gas, he is attacking no less those pensioners who hold stock in the nation's oil and gas companies. Or whose pension fund holds such stock. When Government swoops down on Producer and Consumer, who have long ago struck their bargain and gone their separate ways, it swoops down on royalty holders as well as on major oil companies. With dogged determination, Government follows these evil profiteers, follows them to the grave, and sometimes beyond. I had a cousin who got what the government thought was too much royalty. The last I heard, the Government was trying to get $48 from her heirs.

If I have seemed too harsh on President Carter, it was not my intention. We had short sighted, ill informed, and counterproductive government intervention in the market place and the affairs of all our citizens long before Jimmy Carter came to Washington. In fact, he got there in the first place by blasting that kind of government interference. But somehow, since he has been President, whenever he has had a chance to lessen government interference, he has ended up pursuing a policy that increases it. The Gas Bill he is urging us to pass in Congress right now is an example. He campaigned on a platform of deregulating natural gas. He wants a bill that regulates all gas, even that gas that was formerly unregulated.

It is my hope that we have reached the high-water mark in this flood of government intervention. I think a letter some of us Senators sent to our colleagues in the Senate about this Gas bill President Carter is pushing, reflects our having "had enough".

I'd like to close by reading a few paragraphs from that letter.

"DEAR COLLEAGUE: The Senate will soon be called upon to consider the Conference Report on the Natural Gas Bill. The Compromise which has been reported represents no coherent policy beyond a desire to say 'we have passed an energy bill.' The undersigned include both supporters and opponents of gas deregulation. But we are united in stating that this bill will lead to a situation worse than under the status quo.

"The arguments against the bill have been set forth at great length, but can be summarized as follows:

"The compromise will not produce more gas than the status quo.

"The regulatory complexities and the restrictions placed on the free intrastate market will reduce producer incentive.

"The compromise will also mean higher prices to consumers in the interstate market, without assuring additional supply.

"The incremental pricing provisions will seriously damage many industrial areas dependent on the interstate market without adequately protecting consumer interests."

It goes on. It's signed by Edward Kennedy of Massachusetts, Dewey Bartlett of Oklahoma, John Durkin of New Hampshire, John Tower of Texas, Muriel Humphrey of Minnesota, Clifford Hansen of Wyoming . . . and eighteen other Senators.

The point is that too much government intervention is viewed by a wide constituency as not being a good thing. For consumers. For Producers.

It was an honor to be asked to address you at this symposium. Thank you.●

THE ECONOMICS OF NATIONAL SURVIVAL

● Mr. HATCH. Mr. President, on July 13 the Honorable J. William Middendorf II made an important speech at the University of Virginia to the Invest-in-America National Council, Inc. Mr. Middendorf pointed out that our position in the world is directly related to the health of our economy. As goes the health of the economy, so goes our ability to provide a strong national defense.

Mr. Middendorf points out that:

U.S. companies, U.S. citizens and the world as a whole have lost confidence in the U.S. economy. Unfortunately, this lack of confidence is justified. The reputation of the U.S. economy as an engine for continually improving productivity through investment and technological development is rapidly disappearing. Our role as the world's leading innovator is being eroded. We cannot continue to trail the other industrialized nations of the world in investment, productivity and innovation and expect to survive as a world economic power. Nor can we expect our national defenses to remain strong if our economy is weak.

Mr. President, I believe that the Senate must pay more attention to this interrelationship. Although the reality is now different, we continue to assume that our economy has an inexhaustible economic strength that we can continue to abuse without suffering any adverse consequences. Thinking people no longer believe this and are becoming alarmed by our cavalier disregard of our economic base. Mr. Middendorf points out that Edward Denison of the Brookings Institution estimates that about 25 percent of the recent decline in productivity growth that our economy has suffered resulted directly from Government regulations. The Senate had to pass these productivity-destroying regulations. Did we realize the cost of these regulations in terms of lost productivity when we passed them? Who would admit that we knew this and consciously took action to reduce the living standards of the American people and the job opportunities of their children? On the other hand, if we deny that we knew, it amounts to an admission that we legislate without knowing what we are doing. Which admission do we prefer—that we consciously harm the people, or that we do not know what we are doing?

I ask that Mr. Middendorf's speech be printed in the RECORD.

The speech follows:

THE ECONOMICS OF NATIONAL SURVIVAL

(Speech by J. William Middendorf, II)

Ladies and Gentlemen:

It is a great pleasure to be here this morning to discuss "The Economics of National Survival." The title of this session may be perhaps a bit melodramatic, but it does point out an essential theme.

When we think of national survival we normally conjure up images of battleships, tanks, ICBM's and satellites. These are, of course, essential to our national defense. But investment, productivity, innovation, technology, trade, growth, employment and stability are the keys to our national economic health and our economic health is, in turn, the key to our survival as a world power. I can safely say without the slightest chance of exaggeration that the ability of our economy to efficiently marshal resources is at the very core of an effective national defense. Our position in the world is directly related to the health of our economy.

The economic history of the United States is truly remarkable. The list of our technological achievements that have transformed our economy and the world's way of life is

nearly endless. The telephone, the telegraph, the automobile, the airplane, the computer, the transistor, the semiconductor: these are just a few of the most familiar American innovations.

Perhaps even more dramatic is our seemingly unerring ability to bring these innovations into mass production—a technique also of American invention—and to bring their benefits to bear for the good of all our citizens. We also have shown a remarkable ability to save, to invest and to channel the individual investments of millions of Americans into the productive process.

The results are unparalleled in world history. The U.S. has achieved the highest standard of living in the world. Our ability to counter wage increases with improvements in productivity has normally kept our economy relatively free of inflation. For decades the U.S. dollar was the stable world currency, the standard against which other currencies, other economies and world trade was measured.

The strength of the U.S. economy allowed us not only to win two world wars but to do so with remarkably little economic distortion while later financing the recovery of our allies and former enemies alike.

By the 1960's, the United States appeared to the world as an unstoppable economic juggernaut of such power that our very success began to arouse nationalistic fears abroad. In 1968 the French author, editor and politician Jean-Jacques Servan-Schreiber wrote an influential study called "The American Challenge" in which he expressed the fears of many Europeans over the power of the U.S. economy.

"Fifteen years from now," he said, "it is quite possible that the world's third greatest industrial power, just after the United States and Russia, will not be Europe, but American industry in Europe."

Ten years ago when he wrote these words it seemed entirely possible that Servan-Schreiber would be proven right. We now see all too clearly, however, that the U.S. economy has not even come close to justifying these nationalistic fears. In fact, the strength of our economy—and therefore our position in the world—is in serious jeopardy.

Frankly, the picture of the U.S. economy today is not a pretty one:

Inflation, which remained under control through the 1950's and early '60's is now stuck at entirely unacceptable levels of six to nine percent per year, thus seriously distorting the entire economy.

Unemployment, particularly among the young and minorities, is a national disgrace.

Our balance of payments deficit set a new record last year—nearly six times the previous record. In spite of a slight decline in May, we seem destined to set another new record this year.

As a result of massive trade deficits and constant inflation the value of the dollar continues to decline, reflecting increasing lack of confidence in the U.S. economy.

Investment in new plant and equipment is well below necessary levels.

As a direct result of reduced investment and inflation, the growth of productivity over the past decade has been at the lowest level since World War II.

Individuals increasingly shy away from savings and investment, switching instead to consumption as the best method for beating inflation.

With decreasing supplies of private capital available for equity investment, and corporate profits essentially stagnant over the past 10 years, corporations increasingly are forced into financing essential new equipment by borrowing. Today, debt finances 60 percent of corporate capital spending versus 30 percent 10 years ago.

Taxes have risen sharply over the past decade, as inflation forces individuals into higher tax brackets, creates artificial capital gains and raises the value of our homes.

Yet in spite of rapidly rising taxes, the Federal government continues to mount massive annual budget deficits.

Why is the economy in such chaos?

It has become almost a cliche to blame our economic woes on government, but this is one cliche that is true. And for good reason.

Government, at all levels, now employs one out of every four U.S. workers.

Government spends over 40 percent of our total national annual income.

The mere fact that government is so big and so monolithic assures that whatever ails our economy must—by definition—be largely the responsibility of government.

That is perhaps a strong statement. But no other sector of our economy is big enough to stand up to government. Even those who are critical of big business, big labor or big agriculture will almost always admit that the enormous diversity within these economic sectors effectively prevents their holding sway over the prevailing health of the economy.

General Motors alone cannot influence the overall rate of investment in new plant and equipment.

The oil industry cannot control inflation.

Organized labor cannot reverse our balance of payments deficit or improve the productivity of workers.

Government, particularly the Federal government, through its taxation, spending and regulatory policies, must bear the blame for our economic problems and must be viewed as responsible for developing solutions. We in the private sector can suggest ideas, but government has now grown into such an overwhelming economic force that it alone can act effectively. The trouble is the Federal government seems unable to understand the problems and unwilling to effectively deal with them.

I think it is fair to say that the Federal government at least is coming to recognize its central role in our economy. It is a long way from recognizing the problem to effectively dealing with it, however.

Over the past decade, policy makers in Washington have tended to concentrate their efforts alternately on unemployment and inflation. Clearly both are troublesome. But it is essential to understand that both are symptoms of more serious underlying economic problems. There seems to be a strong belief in Washington that if unemployment exists, we should simply set up governmental bureaucracies to hire the unemployed. On the other hand, if inflation exists, government should set up bureaucracies to hold down wages and prices—either voluntarily or through outright controls.

I am convinced—as are most people in the private sector—that such programs simply will not work. Government employment programs help politicians get through the next election, but they don't create permanent, meaningful, productive jobs. Government wage and price controls may hold down inflation over a brief period, but without attacking the underlying causes of inflation, such controls only guarantee that both wages and prices will rise even more sharply in the future while very possibly leading the country into a recession.

So what are the underlying causes of our problems and how do we deal with them? That's exactly what I would like to discuss this morning, focusing specifically on two points:

The crisis of capital formation, which has led directly to inflation through cuts in productivity, and

The diversion of productive resources to nonproductive uses.

Let's take these issues one at a time and examine what they mean and how they cause and are caused by the more visible problems of inflation, unemployment and taxation.

THE CRISIS OF CAPITAL FORMATION

In its simplist terms, capital is formed when individuals or companies forego immediate consumption in favor of saving a part of their incomes, turning those savings to productive use through investment. The process involves literally putting money to work, earning an income in the same way individuals earn wages and make companies make profits.

The amount of capital formed depends on the incentives available to individuals and companies to encourage savings and investment rather than immediate consumption. These incentives, together, must fully compensate for any risk involved in the investment and must show promise of paying a real return great enough to compensate for giving up immediate consumption.

In the past, the stability and growth of the American economy has proven a uniquely effectively incentive for capital formation. In turn, capital formation led to continuous technological advancement which increased productivity, held down inflation and increased real wages, permitting both added consumption and added saving.

In short, our economy became a gigantic machine, constantly building on itself, forming new capital to serve as the foundation for future growth and continuously upgrading our standard of living. Unfortunately, the gears of this machine became fouled in the mid-1960's and today the growth of new capital has been reduced dramatically, slowing the increase in productivity, fueling inflation and threatening the stability of the U.S. economy.

The incentive and the ability of people and companies to save and invest is directly related to their confidence in the overall economy. Numerous surveys have shown that over the last several years the individual's confidence in the health of our economy has been severely shaken. They simply are no longer willing to risk investing in U.S. business.

Some startling statistics illustrate this lack of confidence:

In the last ten years, individuals have actually withdrawn a total of $42.6 billion from the capital stock of U.S. companies. In short, they have decided the stock market is too risky.

While individuals have been net buyers of corporate bonds and government securities, these purchases of less risky investments have, together, not kept up with the rate of inflation and have been outweighed by amounts held in savings accounts or invested in insurance policies and real estate. Clearly the public is becoming more conservative, increasingly seeking hedges against inflation. Rather than looking for profits through relatively higher risk investments, the aim of most private saving and investment is simply not to incur losses.

Worse yet, annual increases in individual savings available for investment have actually declined in real terms over the past ten years. In 1967, Americans saved nearly $41 billion. But in 1977, after deducting inflation, savings dropped nearly ten percent to $37.5 billion. Obviously a lot of people have decided that consumption is the best possible hedge against inflation.

If we look at the stock market, it's easy to see that lack of confidence in risk-oriented investment is well justified. From 1950 until 1970, the New York Stock Exchange composite index showed a nearly continuous upward trend. With only minor adjustments, stock prices rose over 400 percent in the 50's and 60's or about ten times the rate of inflation.

From 1969 through 1977, however, stock prices, on average, declined slightly even in inflated terms. Discounting inflation, the

real value of all stocks today is actually less than half of what it was in 1969.

Other than personal investing, the principal sources of corporate capital formation are corporate profits, borrowing, and equity investment by institutions—insurance companies, pension funds, mutual funds, bank trust departments, etc. But even here, the picture is gloomy. After discounting inflation, profits for non-financial corporations actually declined by about ten percent between 1967 and 1977, thus seriously eroding that vital source of new capital.

Needless to say, since continued replacement of plant and equipment is essential just to keep going, corporations have in recent years had no choice but to borrow in increasingly large amounts. Today, about 60 percent of all capital investment is made with borrowed funds versus 30 percent in 1964.

The results of declining confidence, reduced private investment, lower profits and increase corporate debt have, together, greatly weakened the economy and seriously threaten the future.

Productivity, which grew at a healthy 3.2 percent average annual rate between 1945 and 1965, declined to a growth rate of 1.6 percent after 1965 and only one percent in the past two years. That's bad news for both inflation and unemployment.

But the decline in capital formation is only part of the problem. The syphoning off of productive resources for nonproductive purposes only further weakens the economy.

DIVERSION OF PRODUCTIVE RESOURCES

This syphoning-off process comes in three basic areas:

Increased corporate and personal taxes which reduce income available for investment;

Massive government budget deficits which must be financed by borrowing in the public marketplace; and

Mushrooming government regulations which cost industry billions of dollars every year.

Since 1967, the effective corporate tax rate has climbed steadily from about 41 percent to over 49 percent. Total corporate taxes have increased for more than the rate of inflation while, as I mentioned, real corporate profits have actually declined.

Personal federal income taxes have performed about the same way, rising, on average, from 13.1 percent of personal income in 1967 to 14.8 percent in 1977. That may not look very dramatic but it amounts to an increase of 13 percent. And that's nothing compared to the total tax burden imposed by state and local entities as well as the federal government.

Taken altogether, taxes in the U.S. today eat up 41 percent of our total national income. As inflation continues to artificially pump up wages and real estate values, this percentage will almost definitely increase, taking ever larger amounts of our national income away from productive private investment.

Although government at all levels is devouring nearly half our national income, that obviously is not enough to satisfy the voracious appetite of Washington. The Federal government last completed a year with a budget surplus in 1969. Since then, the total national debt has nearly doubled, rising far faster than the rate of inflation. The President's budget for fiscal year 1979 calls for a deficit of over $60 billion—that's more than the entire federal budget in 1950! More important, that is $60 billion that will be diverted from the private capital market—$60 billion that could be far more productively used as investment capital for private industry.

It has become fashionable among some economists to praise large budget deficits, claiming that they pump up the economy, increase employment and provide a relatively cheap method of financing government expenditures since debt will be repaid in inflated dollars. In times of economic recession, this line of reasoning may have some validity. Deficit spending, however, has no place in our economy on a continuing basis.

First, as I mentioned, deficits unnecessarily divert capital from more productive uses.

Second, they contribute directly to inflation, and

Third, they act as a hidden tax by borrowing dollars at present value and repaying debt in less valuable dollars.

Finally, government is eating into our limited supply of productive capital in a relatively new way by forcing industry to spend billions of dollars annually to comply with federal health, safety, environmental and other regulations.

At first blush, the cost of regulation seems relatively modest; after all, only $4.8 billion or less than one percent of next year's budget is allocated to the various regulatory agencies. But that's just the tip of a gigantic iceberg. According to a study by Professor Murray Weidenbaum of Washington University in St. Louis, industry will spend nearly $100 billion in 1979 alone just to comply with various regulations. In case there is any doubt of the inflationary impact of these costs, Professor Weidenbaum estimates that regulations add $666 to the average price of a new car in 1978 and $1,500 to $2,500 to the cost of a new house. Just filling out government paperwork costs business $25 to $32 billion a year.

Obviously, these costs must be passed on to consumers in the form of higher costs and obviously this contributes to inflation. But these compliance costs are even more insidious. By diverting huge amounts of money, management time and research and development skill away from productive uses, regulations severely restrict future productivity gains, thus virtually assuring future inflation. As a matter of fact, Edward Denison of the Brookings Institute estimates that about 25 percent of the recent decline in productivity growth resulted directly from government regulations.

So not only are we having an increasingly difficult time building an adequate supply of capital, but those limited resources that could be put to productive use are being diverted by government policy.

Fortunately, we do not have to sit back and continue to watch our economy go downhill. We can learn from history. In 1962, President Kennedy faced a similar, though less severe, problem.

"The single most effective fiscal weapon available to strengthen the national economy is the federal tax policy," the President said. "The right kind of tax cut at the right time is the most effective measure this government could take to spur our economy forward. For the facts of the matter are that our present tax system is a drag on economic recovery and economic growth."

Against substantial opposition, President Kennedy persuaded Congress to enact a major tax cut for individuals and corporations in 1963. The result was very interesting. Prior to the cut, the Treasury Department estimated that the government would lose $89 billion in revenues over the next six years. In fact, revenues increased by $54 billion in the same period. The reason is remarkably simple. By placing substantial amounts of added disposable income into the hands of corporations and individuals the tax cut stimulated both consumption and investment, increasing employment and profits, thereby increasing overall taxes to the government while cutting taxes on each dollar of wages and profits. In short, relatively unproductive government spending was turned to more productive use in the hands of the private sector.

There is absolutely no reason to believe that we cannot accomplish the same thing today.

I am convinced that an immediate and substantial tax cut for individuals and corporations is essential to end our economic stagnation. Only a tax cut will encourage capital formation great enough to improve productivity gains. And only increased research, technological development and productivity will simultaneously cut inflation and unemployment while restoring both domestic and international confidence in our economy.

The only question is what kind of a tax cut, and I would like to briefly venture some suggestions.

First, we must reverse the disastrous 1969 tax increase that doubled the maximum tax on capital gains.

Second, we must eliminate the double taxation of dividends in an effort to bring individuals back into the stock market.

Third, we must increase both the size and scope of the investment tax credit, particularly for business investments in nonproductive technology required by government for compliance with regulations.

Fourth, we need a meaningful, across-the-board reduction in individual and corporate income tax rates.

The first two suggestions—reduced capital gains taxes and elimination of double taxes on dividends—are both designed to encourage individuals to invest in American companies by reducing the risks and increasing the return on such investments.

Until 1969, the maximum rate of taxation on capital gains was 25 percent. In that year the maximum tax was substantially increased. As a result, individual investors simply decided that stock purchases weren't worth it since much of their profit would be eaten up by taxes.

With the recent onslaught of inflation, the effect of the 1969 tax law has become even more severe, since capital gains taxes fail to recognize that much of any recent gain is entirely due to inflation. In other words, the government taxes gains from inflation, even though these gains may actually turn into losses in real terms.

Let me give you an example: Assume that in 1967 you had some money to invest for your child's education. You decided to buy a share of stock in each of five corporations—AT&T, Dupont, IBM, Kodak and General Motors. Let's also assume you bought those stocks at their lowest prices in 1967. Your total investment would have been $466.

Now your child is ready for college. To pay the tuition, you sold all the stock on June 27, 1978 for a total of $542.75. In theory, you made a taxable profit or capital gain of $76.75—a 16.5 percent return on your investment. That's not an enormous amount, but at least it's a profit, right?

Wrong.

In the same period that you owned your stock, the consumer price index increased by 82.5 percent. As a result, to simply stay even with inflation, your investment would have had to be worth $850.33 when you sold it. In fact, you would have to show a so-called "profit" of $307.58 just to break even. Actually, in real dollars, your profit of $76.75 suddenly became a loss of $230.83.

Yet the government doesn't agree. The tax law ignores inflation. Come tax time next April, you will owe a capital gains tax on that nonexistent profit of $76.75, thus increasing your actual loss even more.

Reducing capital gains taxes will not, itself, cure inflation—although I do believe all of my proposals, taken together will. But at least a reduction will assure investors that their real profits will not be largely eaten up by taxes.

And there's another reason for reducing capital gains taxes. Every dollar of capital gains taxes paid reduces the capital stock available for reinvestment. Thus again, government is found siphoning off scarce capital from productive investment. If you have made an investment profit of $1000 and pay $200 in capital gains taxes, you only have $800 of that profit left to reinvest.

Treasury Secretary Michael Blumenthal told the Senate Finance Committee the other day that the government will collect $10.3 billion in capital gains taxes in 1978. That's $10.3 billion that cannot be reinvested for productive purposes, and amounts to 15 percent of total personal savings last year.

Congressman William Steiger of Wisconsin has proposed repealing the 1969 capital gains tax increase. This is a vitally important step in the right direction and should be enacted without delay.

I strongly suspect that most individual investors do not realize it, but dividends they receive on their stock are actually taxed twice. First, dividends are taxed as profits of the corporation and then again as income to the individual. This double dipping by government must be stopped. Congressman Al Ullman, Chairman of the House Ways and Means Committee, has proposed a gradual phase-out of at least part of this double taxation, and his proposal also deserves prompt enactment.

Together, cutting capital gains taxes and double taxation of dividends will undoubtedly help to restore individual confidence in investment. Again, confidence is the key to capital formation and a strong economy.

The investment tax credit is an effective incentive for business to invest in new plant and equipment. It is clear, however, that today's credit is not sufficient to encourage an adequate level of investment.

First, the basic rate should be raised from 10 to 12 percent.

Second, the credit should be made applicable to 90 percent of corporate tax liability and not simply 50 percent, as is now the case.

Third, special recognition should be given to the unproductive facilities and equipment required to comply with federal regulations by allowing companies a 20 percent tax credit on such investments and allowing them to rapidly write off such investments and recover their capital for more productive uses.

This all sounds very technical, but the purpose is simple. Since investment tax credits are only available to companies that actually purchase new facilities and equipment, the credit must be seen as an investment in the growth and stability of our economy.

Finally, it is essential that we have an overall cut in tax rates for individuals and corporations similar to the cut proposed by President Kennedy in 1963. To a great extent, such a cut would simply recognize that inflation has increased everyone's tax burden. As wages have risen to cover inflation, workers have been kicked into higher tax brackets. As a result, many people now find that inflation plus higher taxes have *reduced* their real income, forcing an ever increasing percentage to be spent on consumption, while reducing savings and investment. President Carter has proposed a small tax cut, aimed basically at compensating for past and future increases in social security taxes. Frankly, this is not enough. We need meaningful cuts that will increase savings and investment, lead to higher employment, great productivity and, therefore, reduced inflation.

The chief criticism of tax cuts generally is that they would increase the current huge budget deficit and lead to greater inflation. But history shows the exact opposite to be the case. The Kennedy tax cut was opposed for the same reasons. Yet government revenues increased substantially. Budget deficits, while they continued, were reduced as a percentage of total government spending. Inflation continued at a very modest rate until the Vietnam War overheated the economy.

We can—in fact, we must—repeat the experience of the 1960's.

U.S. companies, U.S. citizens and the world as a whole have lost confidence in the U.S. economy. Unfortunately, this lack of confidence is justified. The reputation of the U.S. economy as an engine for continually improving productivity through investment and technological development is rapidly disappearing. Our role as the world's leading innovator is being eroded. We cannot continue to trail the other industrialized nations of the world in investment, productivity and innovation and expect to survive as a world economic power. Nor can we expect our national defenses to remain strong if our economy is weak.

In conclusion, I want to explode a very common myth, used by many to explain away all our problems. It is nearly impossible to go through any discussion of our economy without recent oil price increases and oil imports being blamed for everything. Frankly, this is nonsense. Of course, our increasing reliance on expensive foreign oil should be of concern. However, the reasons for inflation, huge balance of trade deficits and reduced confidence in our economy are to be found elsewhere. Keep one fact in mind. Japan imports virtually every drop of oil it uses while we import less than half of what we use. Yet Japan invests more than twice as large a percentage of national income as we do. Japan's growth in output per man-hour—or productivity—is nearly four times ours. Japan exported nearly 10 percent more than it imported last year. Industrial production in Japan has grown twice as fast as ours over the past 10 years. And unemployment in Japan is almost nonexistent.

Clearly, we do have economic problems and Band-Aids are not the answer. Small tax cuts to compensate for other tax increases will not spur investment. Nor will massively complex energy programs reduce our dependence on foreign oil. Government spending will not increase employment and will only add to inflation. Only a return to our traditional role as innovators will result in meaningful economic improvement. But so long as taxes remain so high as to discourage investment, innovation will not take place.●

ANTI-INFLATION STATEMENT

● Mr. BAKER. Mr. President, as we in the Congress discuss various programs and policies to deal with inflation, I believe it is important to heed the concerns of businesses who inevitably bear the burdens of Federal fiscal and regulatory policy. The National Lumber and Building Material Dealers Association, under the leadership of its 1978 president, Mr. Grady R. Haynes of Murfreesboro, Tenn., has recently formulated an anti-inflation policy which deserves the full consideration of the Senate. The association, which represents 15,000 dealer members from all parts of the country, has called for governmental action to control Federal spending and the size of the Federal bureaucracy, regulatory reform, a responsible energy policy, and improved management of public lands and resources. In addition, the NLBMDA has called upon its own members to help in the fight against inflation within their own businesses and by becoming involved at the local level.

I ask that the NLBMDA's anti-inflation statement be printed in the RECORD, and I urge my colleagues to review the association's recommendations carefully.

ANTI-INFLATION STATEMENT BY NATIONAL LUMBER AND BUILDING MATERIAL DEALERS ASSOCIATION

Inflation, increasingly, is a clear and present danger to our nation's economy and to our standard of living.

Public concern over inflation has intensified as the Consumer Price Index (CPI) climbed to double-digit levels. Predictions of further increases in wages are heard as the rising CPI threatens to trigger cost of living adjustment clauses in union contracts. Labor is estimated to aggrevate nearly three-quarters of the costs of U.S. production.

And so, inflationary "ratcheting" goes on.

The basic causes of the current inflationary surge include:

Socially-motivated, costly government programs resulting in increased Federal budget deficits approaching $60 billion for FY 1979, requiring new highs in government borrowings at greater interest costs.

Increased importation of oil (45% of our needs—and growing) at high prices (about $14.00 per barrel), while government policies tend to discourage production of domestic energy resources (domestic oil held to about $8.00 per barrel).

Recent laws and regulations establishing restrictive environmental and safety standards, as well as enlarged natural resource conservation programs have proved costly to business and to consumers.

As the general public comes to expect more inflation, the greater incentive it has to spend for current and anticipated needs. The cumulative effect of this is to put increased demands on supplies, creating shortages and escalating prices, thus creating more inflation.

The 15,000 retail lumber and building material companies which are members of this twenty-seven Association National Federation, recognize and are greatly concerned over the hardships and dangers inherent in this drift toward national financial ruin.

As concerned citizens and as responsible businessmen, our members are determined to resist factors contributing to inflation while seeking to enlist support for programs to restrain inflationary trends. Specifically, our Association urges:

1. A reordering of governmental expenditure priorities to the end that Federal budget balancing becomes a true national policy goal.

2. That each Federal government agency with regulatory authority be required to:

Review all its existing regulations to determine what changes would reduce their inflationary impacts, if any.

Screen all new regulations to ascertain their inflationary impacts, if any.

Hold public hearings and invite public comment on the inflationary impacts of both existing and new regulations and to issue detailed reports and conclusions on such hearings and comments.

3. Reduce government employment utilizing normal attrition and avoid increase in public employment except in situations where clear cost-benefit results can be demonstrated.

4. Develop governmental energy policies and programs providing no less emphasis on production of traditional and innovative energy resources than on energy conservation.

5. Implement policies for the improved management of public lands and resources; for example, with rising housing costs critically affected by the availability of timber from Federal lands, the President's recent call for an increase in the supply of that renewable resource as an anti-inflationary step should be implemented immediately. Of critical importance is the early completion,

preferably by the end of 1978, of the current Roadless Area Review Evaluation (RARE II) program.

Failure to take inflation-defensive actions eventually will lead some to recommend or to urge government economic controls. Such controls do not work; are counter-productive and serve only to fuel greater inflation when they are ultimately removed, as they must eventually be.

Our association urges building material dealer members and others in the private sector to:

First, resist all proposals to impose government economic controls of any nature.

Second, examine each and every cost increase for goods and services purchased to the end that only clearly justified increases may be accepted.

Third, establish methods to assure lowest possible operating costs consistent with needed public service and productivity.

Fourth, resist the assumption that inflation is inevitable.

Government efforts to enlist private sector cooperation by restraining price and/or salary adjustments are to be commended—as are reported actions by prominent companies such as AT&T and GM, in response to such government requests.

A cautionary note should be sounded. A proportion of the current inflation can be attributed to government actions or inactions in fiscal and monetary fields, as well as in the environmental and conservation areas. Private sector belt-tightening and restraint can not bail government out of its dilemma of trying to solve all of society's problems with tax devices or government subsidies.

No government budgetary slight-of-hand can obscure the inflationary effects of excessive budget deficits. As history demonstrates, no economy can indefinitely postpone the inevitable economic disaster resulting from excessive inflation.

Clearly, the time has come for government, labor, business, and all citizens to close ranks against this common threat to our national well-being.●

WASTE IN THE BUDGET: THE CASE OF HUD

● Mr. HATCH. Mr. President, during the debate on the Budget Resolution on September 6, I pointed out that there was enough waste in the Federal budget that it could be reduced 3 percent without sacrificing any worthy program. Again I was told, as I was last year, that there is no waste in the budget, that the Budget Committee had done their job and cut to the bare bone. Two days later an article appeared in the September 8 edition of the Washington Star entitled "HUD Spending Millions on Unnecessary Activities." Obviously the Budget Committee did not do its job.

The article stated that HUD's chief goal was "The elimination of substandard and other inadequate housing through the clearance of slums and blighted areas and providing a decent home and suitable living environment for every American family."

Yet, after spending $66 billion of the taxpayers' money since 1965, millions of Americans continue to live in grossly substandard housing. Realization of the goal seems to be nowhere in sight.

Since its inception, HUD and other agencies have financed construction of over a million "housing units." If the Government had simply purchased housing for the poor, it could have purchased over 1.3 million new $50,000 single-family homes.

Nonhousing overhead costs consume as much as 75 percent of the funds provided for HUD's activities, leaving as little as 25 percent to provide housing for the poor. It is apparent from these figures that the chief beneficiary of HUD programs is not the poor, but the bureaucracy and its minions.

How can Senators conscientiously argue that a budget reduction eliminating useless bureaucratic overhead is not in the national interest, as they did in the debate on the Budget Resolution?

I ask that the article from the Washington Star be printed in the RECORD, and I congratulate the Washington Star and UPI for dong the work that the Budget Committee has failed to do.

The article follows:

[From the Washington Star, Sept. 8, 1978]

HUD SPENDING MILLIONS ON UNNECESSARY ACTIVITIES

Since the department of Housing and Urban Development was established in 1965, it has spent nearly $66 billion in pursuit of the official national goal of decent housing for every American.

Thirteen years later, that goal still has not been reached. Millions of Americans continue to live in grossly substandard urban and rural housing.

Over the years, federal housing programs of HUD and other agencies have financed the construction of over a million housing units. Had the government simply spent HUD's $66 billion to purchase housing for the poor, it could have bought—at today's prices—1.3 million new $50,000 single-family homes.

HUD currently is spending $10 billion a year. A five-week examination by United Press International found that tens, perhaps hundreds of millions of dollars are being spent on activities that have done little to provide better housing or improved communities for the nation's disadvantaged.

The survey found that HUD has begun a $13 million public relations campaign to improve its image and promote its programs among the interests which benefit from them. The survey also found that:

HUD is spending more than $50 million a year on low-priority or unnecessary research which duplicates work already done or overlaps what other agencies are doing.

A significant chunk of HUD money appears to be benefiting, not the poor, but the banks, private investors, consulting firms and university researchers.

Overhead costs for community development grants, which the administration is increasing this year, in some instances are as high as 74 percent.

Although HUD already spends about $3 million a year on its public information activities, it has quietly begun work on a $13 million public relations campaign conceived by a Philadelphia consulting firm at a cost of $64,000.

The proposed "national communication program" would mount a massive public relations blitz at a time when the Carter administration is trying to curb public information programs.

The plan was drawn up after Systems Research, Inc., had interviewed 91 top HUD officials to solicit their views on the department's public image. Transcripts were turned over to HUD information officials, but Warren Dunn and Bill Wise, the assistant information chiefs overseeing the project, said they read only "two or three" of the interviews.

Rather than wade through what HUD's own top officials said about their public image, Dunn said he hired a second consultant to read the interviews conducted by the first.

"Too often," the report summarized, "the perception is that . . . the department is fragmented, scandal-ridden, inefficient and an agent of last resort whose clientele is on welfare."

The image-building campaign, which Dunn says has the full support of HUD Secretary Patricia Roberts Harris, includes a "nation-wide urban promotion encouraging community and private industry support" for the administration's expanded action grant program.

The plan further proposes a nation-wide communication effort "to disseminate basic energy conservation information," and "promotion of greater public awareness of assisted housing developments which are successes."

The campaign would run the entire gamut of public relations techniques, including fairs, expositions, conferences, symposia, exhibits, a speakers bureau, as well as broader use of the news media.

Other activities would include surveys of consumer attitudes toward HUD, plus a series of interviews with "important HUD constituency groups" to measure their attitudes toward HUD programs.

The plan also calls for development of "a new system to identify, categorize and prioritize primary audiences for messages needed to communicate HUD programs and products."

Said one HUD official who is familiar with the program, "This has got to be one of the biggest boondoggles around here."

HUD was created during the Johnson administration to pull together a number of housing and community development programs that, over many years, had been scattered throughout the government by Congress.

One of HUD's chief goals was outlined in the National Housing Policy Act of 1949: "The elimination of substandard and other inadequate housing through the clearance of slums and blighted areas, and the realization as soon as feasible of the goal of a decent home and a suitable living environment for every American family."

Toward that end, HUD is spending $522.3 million a year in public housing operating subsidies, more than $368 million a year in rental subsidies for low and moderate income people, and $850 million in housing assistance for the elderly.

But like other newly-created departments formed to coordinate scattered but related government programs, HUD's overhead costs, along with other budget items, have grown along with its programs.

Salaries now total $268 million a year for a fulltime staff of 18,052 which is authorized to rise by a full 15 percent—to 17,400—in fiscal 1979 beginning Oct. 1. At least 2,440 HUD employes currently earn more than $30,000 per year.

When rents, utilities and other overhead are added to salaries, HUD's yearly operating and administrative costs total more than $530 million.

The department is growing so fast, in fact, that it has already filled up a relatively new 10-story building which cost over $26 million—with no room to spare.

Spending $10 billion a year isn't as easy as it may sound, even with 15,000 people to help. But HUD bureaucrats constantly are coming up with new ideas.

A case in point is the $4.6 million "urban observatory program," launched by HUD to

fund research money to local universities for work on community problems.

Much of the money was spent in public opinion surveys conducted by telephone to produce reports like "the supply and demand for small boats and associated services in northeastern New Jersey." It said a survey of local marinas and boat manufacturers showed "a large demand exists for recreational boat facilities."

Other studies under this program overlapped responsibilities given to the Law Enforcement Assistance Administration and the Interior and Labor Departments, among others.

Many of the studies undertaken by HUD are referred to privately as "turkeys" by some of HUD's own employees. They say a significant proportion of the contracts let by HUD are either "misdirected or unnecessary."

One of them, for $184,000, was to study the feasibility of undertaking "post occupancy evaluations" of HUD-financed housing projects. The final report numbered 466 pages, almost 200 pages of which were nothing more than a list of persons and organizations with expertise in related fields.

Two on the list were dead, and others were listed with no address.

HUD officials say the report was mandated by Congress. But Al Ripskis, an official with the office of evaluation and one of HUD's persistent critics, says the study ignored what Congress wanted: A study of the special housing needs of the elderly and the handicapped, among others.

"The report is a complete waste of the taxpayer's money," says Ripskis. "It is nothing more than propaganda for post occupancy evaluations which under this proposal would be undertaken by consultants like the ones who prepared this report."

Such evaluations, if mandated by HUD, could cost as much as $750,000 each and "add considerable red tape and millions of dollars to housing costs," the HUD critic said.

Moreover, the proposal would violate HUD's own findings issued last May which found that "poorly conceived and cost-inducing regulation" was adding millions to housing costs.

HUD spends $8 million a year on printing, issuing a voluminous amount of reports, brochures and pamphlets, including literature about the uses of grasses and palm leaves in building huts, Europe's housing subsidy systems and "New Communities in the U.S.S.R."

The report on "Palms—Their Use In Building" reveals that among plants, "the palm family may be conceded to rank second only to the grass family from the standpoint of its usefulness to native tropical man."

Directories also are popular, such as the 175-page "Community Development Block Grant program" which lists every community in the country that got money under the program in fiscal 1977.

The book is useful in that it reveals how wealthy communities like Santa Barbara, Calif., and West Palm Beach, Fla., among others, get community development money. Community block grants—which the law says are intended "principally for persons of low and moderate income"—went to such well-to-do communities as Mount Kisco, N.Y. ($389,000) and Stamford, Conn. (more than $2 million).

It was for this reason that Sec. Harris proposed changing the program's formula so that 75 percent of the grants would be directed to the neediest communities. However, she was forced to back down when House members vigorously objected because some less deserving communities in their own districts would lose grant money.

Meanwhile, a House Appropriations subcommittee investigation into the $4 billion block grant program found that large portions of the funds often is eaten up by excessively high overhead costs.

In Houston, the panel found, nearly 47 percent of grant funds went for planning, management and administration. Nearly 75 percent of funds spent by Buffalo as of June 30, 1977 went for similar "nonprogram" costs. The District of Columbia spent over 51 percent of its funds in the same period for administrative and planning costs.

Is the community block grant program effective in improving conditions in some of America's poorest cities?

No one really knows. A two-year, 527-page study of the program by the Brookings Institution concluded that it could not answer that question because "different observers will interpret the history of a given program differently. . ."

HUD recently extended the Brookings contract for four years to continue evaluating the block grant program.

It is difficult to determine where most of HUD's resources go and who benefit most from its multi-billion dollar programs.

In terms of investment, HUD has been involved in more losing propositions than most government departments. In the last six years, HUD has had to pay out more than $7.6 billion to banks and other lenders for defaulted housing loans.

As a result of these loans alone, HUD in the past half dozen years has had to take over some 2,000 housing projects totaling more than 241,000 dwelling units.

As of June 1, HUD owned 28,658 single-family residences and 386 multi-family projects with 39,443 units.

At the beginning of this year, HUD had approximately $6 billion in outstanding loans.

Beyond that, there are numerous activities within HUD which appear either excessive or ineffectual.

The department, for example, spends more than $22 million a year on travel, an activity which one HUD officer who asked not to be identified said is "rampant with unnecessary trips."

Thirty-seven HUD employes are assigned fulltime to work on congressional liaison activities, costing nearly $1.3 million a year. HUD also operates an office of international affairs costing $600,000 which Office of Management and Budget officials say doesn't even belong in HUD.

OMB wants to either abolish the office or shift it to the State Department.●

PROPOSALS ON TAX REDUCTION AND TAX REFORM

● Mr. KENNEDY. Mr. President, this morning I had the opportunity to participate in the opening day of a 2-day Conference on Taxation sponsored by Time, Inc.

In the remarks I prepared for the conference I outlined a number of proposals with respect to the major tax reduction legislation pending in Congress, and I ask that my remarks may be printed in the RECORD.

The remarks follow:

REMARKS OF SENATOR EDWARD M. KENNEDY

(Time, Inc. Conference on Taxation, Madison Hotel, Washington, D.C., September 13, 1978)

One of the most important remaining tasks for the 95th Congress is the passage of the Revenue Act of 1978, the major tax reduction bill now pending in the Senate Finance Commitee.

As a member of the Senate with a special interest in tax policy, and particularly in tax reform, I wanted to use the opportunity this morning to outline my views on the most significant issues involved in that legislation.

Major tax bills are always major events in the life of a particular Congress, and the current tax bill is no exception. In fact, however, the pending legislation has a special additional importance, because of the precarious and beleaguered condition of the national economy. Working with the Carter Administration, Congress has an opportunity to take effective steps in fiscal policy to improve, not undermine, the health of the economy and ease the current pressure on the Federal Reserve—pressure that has been causing an ominous tightening of the screws of monetary policy.

Because the overriding economic challenge facing the United States today is inflation, the first priority of Congress in enacting responsible tax legislation is to adopt tax reductions of responsible size. And by that I mean tax reductions of the order of $15-20 billion in calendar year 1979. The reductions should be large enough to hold taxpayers harmless against both the payroll tax increase scheduled for next year and the inflation tax increase by which taxpayers with constant real incomes are pushed into higher tax brackets by inflation. But the reductions should also be small enough to prevent any significant effect of the tax cut in fueling our already unacceptable inflation.

The pending bill should also include a number of necessary tax reforms, in order to insure a fairer and simpler income tax law. In addition, it should make changes designed to improve the efficiency of our economic system in providing jobs and capital and improving productivity.

TAX SUBSIDIES TO COMBAT INFLATION

Ideally, the bill should include specific provisions as well to deal with the legitimate concerns of the American people about inflation. We now use the Internal Revenue Code to provide over one hundred twenty billion dollars a year in subsidies to encourage a vast array of economic and social activities. These provisions range from subsidies for home ownership, charitable gifts, or oil production, to incentives for taxpayers to purchase goods on credit, to subscribe to prepaid legal insurance programs, or even to contribute to the political candidates of their choice.

All of these tax subsidies—more than eighty in all—are now fertilizing the Internal Revenue Code. And they are all forms of federal spending. As I have stated on many occasions in the past, if we are concerned about federal spending, we also have to be concerned about tax spending. In fact, we should be even more concerned, because federal tax spending in recent years has grown even more rapidly than other forms of federal spending.

As chart 1 reveals, between 1971 and 1978, "direct" federal spending, as measured by annual budget outlays, grew from $211 billion to $448 billion, an increase of 112 percent. By contrast, federal tax spending rose from $51 billion to $124 billion, a gain of 141 percent.

The message of Proposition 13 is clear for federal as well as state and local spending. But so far, the cutting edge of Proposition 13 has seemed unnecessarily dull when federal tax spending is on the chopping block.

In fact, in many areas, there may well be more fat and waste—and even outright fraud—to be eliminated by cuts in tax spending than by cuts in other forms of federal spending.

Many of the existing tax subsidies are wasteful and inefficient. Some are little more than windfalls to favored constituents or well-endowed special interest groups with the muscle to persuade Congress to enact new tax loopholes at the expense of the hard-pressed average taxpayers who always have to pay the bill.

Strangely, however, one of the few areas where we have not adopted tax incentives is the area of most urgent concern today—the fight against inflation.

In recent weeks, a movement has been growing in Congress and the country to consider a tax-based incomes policy as a new weapon in the fight against inflation—that is, to use the tax code in much the same way we attempt to us it in myriad other areas, to encourage American taxpayers to engage in particular types of activity.

I believe this effort deserves serious consideration. At a time when we use the tax laws to subsidize an incredible range of different activities, it makes sense to explore the use of such subsidies in the most critical area of all—subsidies to encourage taxpayers to hold the line against inflation.

Unfortunately, in the several variations of "TIP" programs proposed so far, there are difficult substantive and political obstacles to overcome. As a result, it seems unlikely that any significant inflation-fighting tax incentive can be enacted as part of the pending legislation in the Senate. But I intend to pursue this issue closely in the future. At the very least, the Administration and the Federal Reserve should be asked to study such proposals and submit their recommendations for action by Congress early in 1979, so that possible action on TIP can become one of the top tax reform priorities of the 96th Congress that convenes next January.

DEFECTS IN THE HOUSE BILL

In July 1977, I put forward a tax reform package to deal with a large number of the other major issues in the federal income tax laws in a comprehensive fashion. In early 1978, President Carter sent to Congress an impressive and far-reaching set of tax reform and tax reduction proposals—one of the most significant such proposals ever submitted by any President to Congress.

Unfortunately, the House of Representatives did not take kindly to tax reform. Not only did the House fail to adopt many of the President's most important recommendations—but also, on some important issues, the House sought to turn back the clock and reverse the hard-won reforms achieved by Congress over the past ten years.

The bill as it came to the Senate is primarily a tax reduction bill. It is not a tax reform bill. But even the needed tax reductions are flawed. They provide inadequate tax relief against inflation for low and middle income taxpayers. As Table 1 reveals, the House bill does not even meet the basic test of holding low and middle income taxpayers harmless against inflation and the payroll tax increases—although the bill is thoroughly considerate of taxpayers earning $50,000 or more, who need the protection the least, but who are in fact completely protected against the twin tax ravages of inflation and higher payroll taxes.

Nor does the House bill provide fair and efficient measures to respond to the problems of unemployment, capital formation and inflation. Instead, particularly in the area of capital gains, it adopts an unsatisfactory approach that enjoys only threadbare support in the economics profession and that depends to an unacceptable degree on "wishful" methods of revenue estimating that do not bear serious or impartial scrutiny.

Because of the limited amount of time available to the Senate to consider the tax bill, the truly comprehensive tax reforms that I believe are essential cannot be achieved. Nonetheless, there are three important actions that can and must be taken by the Senate to insure that the Revenue Act of 1978 represents forward, not backward, motion:

First, the distribution of the income tax reductions for individuals should be modified to insure that middle and low income taxpayers do not experience a tax increase in 1979 from the combined effects of inflation and scheduled Social Security tax increases.

Second, the incentives for job creation and capital investment should be restructured to make them more efficient and to insure that they do not create new or added inequities in the tax system.

Third, at least a handful of significant tax reforms should be adopted, with emphasis on areas that have previously been considered by the Senate.

In my remarks today, I would like to outline the specific actions that the Senate should take to meet these objectives. It is my hope that, under the able leadership of Senator Long, the bill reported out by the Senate Finance Committee will include many of the measures I am recommending. And, of course, I will work with like-minded Senators when the bill reaches the Senate floor to obtain favorable action on needed additional amendments.

CORPORATE AND INVESTMENT TAXATION

The area of corporate and investment taxation requires the most extensive revision by the Senate. The House-passed bill reflects a genuine and overdue concern on important issues such as capital formation, unemployment and inflation. But the solutions adopted by the House are in too many instances ineffective, inefficient and inequitable.

To provide additional funds for business investment, the Senate should reduce the top tax rate on corporations to 44%—a major reduction of two additional percentage points in the basic corporate tax rate. This additional cut in rates should be adopted as a substitute for the capital gains tax reductions proposed in the House bill.

The corporate sector of our economy is the primary source of capital investment and is the area to which tax proposals to stimulate capital formation should be directed. As the attached chart indicates, and as has been ably demonstrated by Chairman Miller of the Federal Reserve Board, only a small portion of the benefits from reducing the capital gain tax rates actually flows into the corporate sector in the form of funds for additional capital investment. By contrast, direct corporate rate reductions will provide additional capital to corporations in an even-handed, efficient, and equitable manner.

It is a difficult, if not impossible, exercise in Congressional psychoanalysis to fathom how the well-known caterpillar of capital gains relief was transformed in this Congress into the dubious tax butterfly we know today. As Chart 2 reveals, the capital gains tax approach is a Rube Goldberg device if the goal is to promote capital formation. If the goal is to line the pockets of wealthy investors, of course—if ordinary, hard-headed business leaders have put their own portfolios and pocketbooks ahead of the interests of their corporations—then the approach is understandable, if not excusable.

In fact, according to the Random House Dictionary, the definition of "Rube Goldberg" is as follows:

" . . . 2. deviously complex and impractical; a Rube Goldberg scheme for reducing taxes. . ."

Whatever the explanation of the present situation, I believe that we can adopt a better approach to the goal I share of enhancing capital formation.

The Senate should reject, therefore, the House provisions reducing the tax on capital gains and indexing capital assets for inflation. It would be a serious reversal of tax reform progress over the past decade to weaken the minimum tax.

Only after passage of the 1976 Tax Reform Act have we finally begun to see a reduction in the number of wealthy individuals who pay no federal income tax at all. Secretary Blumenthal recently reported to the Senate Finance Committee that in 1976, the number of nontaxpaying individuals with over $200,000 income fell dramatically. No case has been made that justifies going back to the "bad old days," in which hundreds of taxpayers in this country each year enjoyed incomes of $200,000 or more, yet paid not a cent in federal income taxes.

The Senate should also reject the House proposal to index capital assets for inflation. The question of the proper response of the tax system to an inflationary economy is a serious and complex one. It deserves intensive study by the Treasury and the Congress. But the piecemeal approach in the House bill simply creates new inequities. And it does so in an extraordinarily complex fashion.

There are many other elements in an income tax system that are affected by inflation. For example, individuals with savings accounts suffer annual losses from inflation. So do individuals with savings in life insurance policies.

Why aren't these ordinary taxpayers given a deduction for their inflation-produced losses? If we move down the road of tax adjustments for inflation, these taxpayers have a far greater claim for relief than the owners of capital assets, who already receive substantial tax-preferred treatment.

Other problems also exist. To index a tax system for inflation in an equitable manner requires that we adjust the basis of assets for depreciation, adjust inventory valuations, and provide deductible losses for holders of debts. Moreover, in a true indexing system, borrowers would realize taxable income as they repay debts with deflated dollars.

All this suggests that it is unwise and unfair to proceed now with piecemeal inflation adjustments in the tax laws. The matter is too complex and too wide-ranging to accept a House provision that simply provides one more tax preference for already highly tax-preferred income. The House liberalization of the rules or capital gains has little to recommend it on capital formation grounds—and nothing at all to recommend it on equity grounds.

We can provide needed capital for the corporate sector more efficiently and more fairly. And a corporate rate reduction to 44 percent will do precisely that.

One caveat should also be stated here. The present minimum and maximum tax techniques are not the only means to insure that the preferential treatment of capital gains is not abused. Perhaps other, equally effective techniques can be developed by the Finance Committee. But alternative plans should receive favorable consideration by the Senate only if two general requirements are met:

First, the top tax rate on capital gains must be approximately the rate produced by the present minimum tax.

Second, any reduction in the rate on realized capital gains must be accompanied by introduction of an effective tax on all gains on property transferred by gift or at death—the so-called capital-gains-at-death proposal that I have made on previous occasions, and that President Kennedy proposed as long ago as 1963 in insisting that such a reform must accompany any additional reduction in the tax on capital gains.

DISC AND DEFERRAL

The revenues lost by reducing corporate tax rates to 44 percent will not be fully offset by the revenue gain obtained by dropping the ill-advised capital gains changes in the House bill. The Senate, therefore, should enact two additional reforms in the corporate area:

Repeal of DISC: The time has come to end this costly, unproductive and wasteful tax experiment designed to encourage exports. We have objective Treasury studies demonstrating that DISC does little to stimulate exports. And no one even claims any longer that DISC produces jobs. The Senate should adopt the Administration's proposal to phase out DISC over a three-year period.

Repeal of tax deferral for U.S.-controlled foreign subsidiaries. The Senate failed to adopt this proposal by a narrow margin in 1976. President Carter has strongly recommended that tax deferral be eliminated. The supposed benefits to the United States of the deferral privilege are speculative at best. But the losses in the form of jobs exported away from U.S. workers and in the form of needed capital funds held abroad are clear and tangible.

INVESTMENT TAX CREDIT

The investment tax credit has proved to be a valuable tool to encourage investment in machinery and equipment. Its benefits, however, have historically been denied to several important categories of investing firms—those businesses in the commercial sector, particularly new firms and rapidly growing firms, that are experiencing current losses, yet are obviously deserving of the benefits available under the investment credit subsidy; and charitable organizations in the non-profit sector, particularly universities and hospitals, which are often heavy investors in capital equipment.

The inequity inherent in the investment credit under current law occurs because the credit is limited to 50 percent of tax liability. Thus, newly started businesses, firms hit hard by recession, and non-profit organizations such as universities and hospitals are denied the credit, even though they need to make exactly the type of capital investment that the investment tax credit is designed to encourage and support. If the Commerce Department, for example, were managing this investment subsidy—as it ought to be—it is difficult to believe that the subsidy would be so arbitrarily denied to so many deserving firms.

To remedy this situation, I have proposed that the current investment credit be made refundable. The House bill moves in that direction, by raising the 50 percent limit and allowing the investment credit to offset 90 percent of tax liability. Senator Long has joined me in supporting this idea in the past, and the Senate should carry out the logic of the House position. After a reasonable transition period, the investment credit should be fully refundable, so that this important subsidy for investment may at last be widely available to all investing firms.

SMALL BUSINESS

The House bill contains some worthwhile changes designed to provide tax relief for small business. The most important of these changes is the increase and shift in the present $50,000 corporate surtax exemption to provide four tax brackets ranging from 17% on the first $25,000 of taxable income, to 40% on taxable income between $75,000 and $100,000.

I support the basic purpose of the House action. Small business needs a revised rate schedule and deserves it. Many of the same considerations that have long justified the progressive rate schedule for individuals also justify the application of a similar progressive taxation principle to corporations. I hope, therefore, that the Senate will approve lower corporate tax rates designed to help small business.

I am concerned, however, that the House bill contains no protective measures to insure that the benefits of the new rate schedule go only to genuinely "small" businesses and to firms who are using the corporate form for legitimate "business" purposes. With significant amounts of income to be taxed at rates of 17%, 20% and 30%, there may well be an irresistible temptation on the part of individuals in the upper tax brackets to use the corporate shell as a "tax shelter" to build up income in the corporation at low tax rates. Our experience in recent years indicates that this temptation can become a significant tax shelter problem.

It is not the purpose of those who advocate tax relief for small business to create a new tax shelter gimmick. What we seek instead is aid for the myriad small corporations that form the backbone of our economy. Therefore, the Senate should amend the House bill to insure that the new reduced tax rates are not used to convert the corporate form into tax shelters, and to insure that the benefits of the new schedule are targeted to small businesses.

EXPENSE ACCOUNT LIVING

The most visible source of tax abuse is produced by tax deductible expense account living. Some favored individuals pursue a lifestyle of luxury and elegance that is possible solely because the United States Treasury pays for 50% to 70% of the costs. The tax-subsidized high living of this privileged few is visible in many ways:

They always travel first class.

They eat in the most expensive restaurants.

They occupy the best box seats at sports events.

They enjoy front-center orchestra seats at every theatrical event.

By contrast, the average taxpayer pays for these costly enjoyments out of hard-earned after-tax dollars. He flies three-abreast in the coach section of the airplane. He sits in the bleachers at Fenway Park and in the third balcony at the theater—if he is fortunate enough to get tickets at all for major events.

There is no justification for permitting our tax laws to subsidize this type of elitist, caste system of entertainment, a system that is contrary to the basic principles of our democracy.

I have no objection to wealthy persons and corporate executives flying first class, eating at five-star restaurants, buying season tickets to professional football, or speeding to the Ali-Spinks fight in their Lear-jet luxury.

My only objection—and it is a strong one—is to the practice by which these undeserving taxpayers stick Uncle Sam for the cost of their profligate joyrides.

President Carter rightly called for an end to tax-subsidized "three martini lunch" living. The House declined to act. But it is not too late for the Senate to turn the tide, by adopting an amendment to:

Deny a tax deduction for the excess of first class air fare over coach fare.

Deny a tax deduction for meals (other than for the cost of meals of a person on business travel status).

Deny a tax deduction for entertainment facilities and the cost of tickets to sports events, theaters and other entertainment functions.

JOBS TAX CREDIT

The House bill includes a targeted jobs tax credit for hiring several categories of unemployed persons. The goal of the provision is praiseworthy and deserves support. It is based on President Carter's proposal to give Federal encouragement to hire persons who are now too often left behind in the job market.

The House-passed proposal, however, involves unnecessary duplication and excessive Federal bureaucracy. In order to obtain the tax credit, employers must obtain certificates of qualification—usually from the Secretary of Labor—specifying that the person employed in fact is a member of one of the tax groups. Then, the employer must claim the credit on his tax return, and thereby becomes subject to all the rules, regulations and audit procedures of the Internal Revenue Service.

This bureaucratic duplication is unnecessary, expensive and time-consuming for both employers and the government. The obvious question is: When the Secretary of Labor certifies that an employee is within one of the target groups, why does he not also issue the government subsidy check?

We have seen how unsatisfactory the duplication of Labor and Treasury Department efforts has been under ERISA. One department, one set of regulations, and one set of forms are all that should be involved. The House approach is simply a prescription for a new round of government paperwork that threatens to overwhelm many businesses.

The Senate should convert the targeted jobs tax credit into an identically-structured direct grant program administered only by the Labor Department. The necessary certifications, regulations, payments and audits of the program can then be carried out within one agency, the Department of Labor. Unnecessary paperwork and compliance problems can be eliminated. And the IRS can stick to its work of collecting taxes, without also being required by Congress to play Secretary of Labor and police this worthwhile jobs program.

INDIVIDUAL TAX REDUCTIONS

I fully support the recommendation of the President to provide badly needed tax cuts to individuals. But the distribution of the tax reduction benefits in the House bill is disturbing. I hope that the Senate Finance Committee will modify the House bill in two respects:

The tax cuts, primarily through rate reductions, should be aimed more heavily toward the $10,000–$50,000 income ranges than is true under the House bill.

Low income workers should be helped by expanding the earned income credit to single and married workers without dependents, other than full time students.

The earned income credit is an imaginative concept developed by Senator Long. But contrary to the direction in which Senator Long now proposes to move, I believe that the benefits of the credit should be broadened to cover all low income workers, before it is increased in amount for the greater benefit of the select few (those with dependents) who now enjoy it.

Both these actions will continue efforts of past Congresses to insure that first priority for tax reduction is given to those who need it most—the millions of low and middle income taxpayers.

OTHER AMENDMENTS

In addition, the Senate should adopt certain other amendments to improve items covered in the House bill. These include:

Investment credit for pollution control facilities. The five-year amortization deduction should be reduced by the amount of any investment credit taken. This action is necessary to prevent a double tax benefit, and is similar to techniques adopted with other credits in recent legislation.

Investment credit for rehabilitation of non-residential buildings. A five year termination date should be placed on this new provision, and the Treasury should be required to study and submit a report to Congress after four years on the actual effects of the measure.

Industrial development bonds. The "small issue" exemption should be confined to bonds issued for facilities located in economically distressed areas. The Treasury recommendations for repeal of the exemptions for pollution control bonds, private hospital bonds, and industrial park bonds should be adopted.

Accounting method for large farm corporations. Accrual accounting should be required for all farm corporations with annual gross receipts of $1 million or more. The House bill moves in the wrong direction, by making

permanent the special tax shelter benefits now temporarily granted to huge poultry farmers in the guise of tax relief for small enterprises. The change I propose would treat all large farm operations equitably, while providing a legitimate exception for small family farms.

Tax shelters. Finally, more effective techniques should be provided to enable the IRS to audit tax shelter partnership transactions.

The changes I have recommended will hardly convert the Revenue Act of 1978 into an ideal tax reform and tax reduction bill. They will, however, insure that Congress continues on the desirable course charted over the past two decades. We must carry on the endeavor to make our federal income tax system more equitable for all taxpayers and more efficient in all the areas where we use tax subsidies to achieve important national objectives.

TABLE 1.—*Effect of inflation, social security, and House tax cut on individual liability (1979).*

Total tax change (million)

Income:	
Below $5,000	+$183
$5,000–$10,000	+637
$10,000–$15,000	+343
$15,000–$20,000	+262
$20,000–$30,000	+429
$30,000–$50,000	+173
$50,000–$100,000	−226
$100,000–$200,000	−181
Over $200,000	−573

Inflation: $8.8 billion tax increase.
Social Security: $3.2 billion tax increase.
House tax cut: $10.9 billion tax decrease.

Chart 1 and chart 2 not included.●

FURTHER DESTABILIZATION OF THE PACIFIC BASIN

Mr. GOLDWATER. Mr. President, today it was my distinct honor to address the assembled members of the Army War College who are in Washington for their annual study. I took this occasion to address them on the subject of U.S. mistakes, past, present and continuing in Asia, particularly the far reaches of the Pacific. There will probably be another paper presented by me on this subject, but the one that I gave this morning is but a continuation of the argument that I started in my first presentation, namely, that if the United States wants to lose the Pacific, wants to really start problems that will lead to war, then we should continue with the administration's rather dismal, unintelligent and somewhat stupid suggestions that we abandon our relationship with our friends on Taiwan. I urge my colleagues to read this. It has been a subject of concern to me ever since World War II when I served in that general area, and it will continue to be.

I ask unanimous consent that my speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

FURTHER DESTABILIZATION OF THE PACIFIC BASIN

Recently, I made a speech on the Floor of the Senate and have repeated that speech elsewhere. The title was "The Destabilization of the Pacific Basin." My thesis on that occasion was that the abandonment of the Republic of China on Taiwan would be a disaster of immense proportions for the Pacific Basin and thus for the U.S.A. I contended that with our abandonment of the Republic of China, that country would be likely to establish a relationship with the U.S.S.R.

This relationship could bring Soviet naval power into a new and powerful posture in the Pacific Basin. It in turn could break the U.S.-Japanese alliance and especially could add to the current threat by the Soviets to the Peoples' Republic of China itself: the very nation that the Administration mistakenly assumes will be a U.S. aligned counterfoil to the Soviets. Today, I would like to continue with an extension of my first analysis. I will deal with yet further developments in the Pacific Basin which I believe will further destabilize the region.

Again, I will point out the vital role that Taiwan can play and appeal yet again to the American people to rise up in wrath at the Administration's policies as they are now unfolding and demand through Congress that the President cease and desist in his reckless jeopardization of our vital Pacific Basin interests—jeopardization which will arise should we pursue what seems to be the intended policy of the Administration to abandon the Republic of China.

We must now leave the varying locales of my first speech, that is Taiwan, the Peoples' Republic of China, Japan and Korea and travel to southeast Asia. Here, important events are unfolding. Now, I know that Americans as of today do not want to hear about southeast Asia. Most of us, each in his own way, would like to forget that sad and sorry example of twelve years of American folly, ineptitude, crass political and strategic incompetency—we would like to forget our ignorance and our strategic and political paralysis. But our shame and our guilt do not make southeast Asia go away.

They do not halt the political activity, local and international, that is unfolding in the region as of now. Neither does our shrinking away from a horrible experience obviate the potential consequences of developments now occurring in southeast Asia for the rest of the Pacific Basin.

Let us first briefly examine what has happened in Vietnam, Laos and Cambodia since the U.S. defeat. Poor little Laos! It is now a Vietnamese colony. Vietnamese Communist Party commissars, Vietnamese military officers and Vietnamese officials at all levels openly call the shots in terms of the Laotian economy, in terms of Laotian agriculture, transportation (such as it is), Laotian education, including the infamous reeducation camps, and in all political and military affairs. But the Vietnamese are no ordinary imperialists. They are much worse than that. They are surrogate imperialists. Basically, they do the job for the Russians.

One estimate claims there are 15,000 Russian "advisers" in Laos. A large Russian electronic installation can be seen from the air when one flies along the Thai side of the Mekong River. Presumably, this installation is to monitor the southern flank of China. The installation and others like it are expanding rapidly. Each night, refugees from Laos attempt to swim the Mekong River seeking refuge in Thailand.

By day, communist airplanes, American built and captured from us, can be seen strafing and napalming areas on the Laotian side of the river where refugees covertly assemble. Those refugees who make it are given refuge in Thailand and the Thai government has done a fine job with limited resources and under severe communist pressures.

Recently, a friend of mine visited one of these refugee camps. He talked with the Lao leader. "How many Lao would come across?", my friend asked. The elderly Lao looked surprised, even amused. "Why, the whole kingdom", he responded. In Laos, the domino did fall and not merely to the Vietnamese, but so it seems to the Soviet Union. But the fate of Laos is not the most important legacy of our defeat.

It is in Vietnam proper where the most interesting events are occurring. First, Vietnam's economy is in shambles. This potentially rich nation last year imported some 1.4 million tons of rice just to keep its people above starvation. The economy last year spent a billion dollars more than it took in in overseas exchange—an immense amount for such a tiny economy. Half of this shortfall was made good by the Soviets and about a quarter by the Peoples' Republic.

For reasons which I will recount shortly, the contribution from the Peoples' Republic has now been withdrawn. The situation promises to worsen. The deficit will be greater this forthcoming year and perhaps for many years to come because, in 1979, Hanoi plans to collectivize agriculture in the south. One can predict with some assurance what will happen as this occurs. First, there will be significant and chronic peasant unrest and perhaps revolt, as occurred in 1956 in the north, when collectivization was imposed. Second, production will fall. We can assume, therefore, the Soviets will be in a position to make Vietnam even more dependent and the Soviets have good reason to do this as we shall see shortly.

But events of even greater significance are unfolding in Vietnam. At the end of the war, it was confidently expected by nearly everybody, and especially by American liberals, that the north had a message for the south—that the north was uncorrupted and uncorruptible and that the north would bring righteous ways to those decadent southerners, depraved not only by their own rulers but by the example of American conspicuous consumption and other American vulgarities. Once again, the liberals are wrong. Nowadays, are they ever right?

It is the northern soldiers and officials who are being seduced by the southerners' better living standards and especially by the strong legacy and current penchant for freedom. Hanoi quickly saw that it had a serious problem on its hands. About three months ago, Hanoi began to act. They began a program of uprooting small business people, even in the north where a few still existed. They took away boats from small fishermen, transport from carriers, shops from merchants. They eliminated brokerage and middlemen. They took rice mills from rice millers.

They closed down cottage industries and attacked the black market, a cadre that had virtually, by itself, been keeping the economy going. These small business people and their families were usually shipped off to "new economic zones" which is a euphemism for a form of slavery in which, by hand power, humans develop jungle or mountain grasslands for agriculture.

The significant fact of this program, however, was not merely its economic upset. The significant fact was that the people most affected were, in the main, Chinese. As throughout all of southeast Asia, Chinese are the small businessmen and the entrepreneurs. In Vietnam, there are more than two million Chinese in the south alone and systematically, they are being uprooted and persecuted. Thus, over these past months, we have seen an exodus of Chinese from Vietnam. As usual, the media did not grasp what was happening.

They blamed the exodus on ancient Chinese and Vietnamese racial hostilities. These exist but they had nothing whatsoever to do with the present situation. The real reason was communist ideology reacting to a threat to that ideology: that is, the threat of freedom of persons to act in terms of a free economic system. The Soviets react in the same way in Russia. The communist ideology knows that it cannot survive where freedom exists. In all these ventures, we have circumstantial evidence that the Russians in Vietnam encouraged the oppression of the small business folk, who as I said were mainly Chinese. This in turn made the Vietnamese even more dependent on the Russians.

Before we put the various elements together, we must look at an even more interesting situation, that which currently exists in Cambodia. Once again, as regards Cambodia, I have to make a note in passing of the American liberals' incredible ability to practice selective moral indignation. Proportionately, we have witnessed in Cambodia genocide on a scale that surpassed Hitler, surpassed Stalin, and even Mao Tse Tung. Perhaps fifteen to twenty percent of the entire population of Cambodia has either been slaughtered or has died from disease and starvation induced by the new regime. Proportionately, that means the killing by their government of about forty million American citizens.

In the first twenty-four hours of the existence of the new communist regime in Cambodia, they killed more of their own people than the U.S.A. lost in the entire Vietnam war; and it still goes on. It is chilling, but no more so than the silence of the American liberals—those who marched, wrote and rhetoricized against America's actions in the Vietnam war. Admittedly, one of my Senate colleagues has come out against the Cambodian bloodbath and in a most hawkish way. But I should remind him that it was his past dovishness (and that of others like him), that condemned the Cambodian people to their present condition.

In terms of the future of the Pacific Basin, however, Cambodia is playing a particular and important role. It has a de facto alliance with the Peoples' Republic of China. Remember, it is the Soviet Union—the peoples' Republic enemy—that sets the pace in neighboring Vietnam. The Chinese are in Cambodia in strength and have been a key factor in the internecine war Cambodia is fighting with Vietnam. Thus, Vietnam and Cambodia have become surrogates for the Russo-Chinese conflict.

To amplify the paradox, it is virtually certain that former South Vietnamese troops and former Vietcong have joined hands, and in turn, are fighting alongside the Cambodians in the latter's conflict with the new Vietnam. And it is the People's Republic of China that is providing the aid, the weapons and the advisers to the Cambodian forces, because the Chinese are worried. When they view the Soviet intrusion in Vietnam, they have good reason to be worried. I wish we were.

There is evidence that the Soviets are pressuring the Vietnamese for the long term use of Camrahn Bay—that late great U.S. naval and logistics base. There is evidence that the Soviet Union is eyeing other Vietnamese ports and is looking for missile sites in Vietnam, presumably to deploy missiles aimed at China. Thus, if the U.S. persists in its various follies in Asia, we shall not have the Soviets in Taiwan but in Camrahn Bay and in other parts of Vietnam as well. The People's Republic of China will, of course, be noticeably disturbed by both the extension of Soviet naval power into Vietnam and particularly as regards the possibility of Soviet missiles in Vietnam. And beyond Vietnam, all that is needed is for the Soviet Union to obtain a base in Singapore. This would give the Soviets complete domination of the entire eastern littoral of Asia.

What the British Empire took more than a century to do, the USSR will have accomplished in a few years, and it will have been handed to them for nothing. It will have been handed to them simply as a result of this Administration's incompetence, perversity, and ignorance of the area and, above all, by this Administration's lack of will in foreign policy. And in passing, we should remember that the USSR hardly possesses the benignity of the late British Empire.

I believe there is little we can do about Camrahn Bay. The Vietnamese are certainly not going to give it back to the U.S., no matter how kind we may be to them, diplomatically or economically. The rot, however, that I foresee in southeast Asia will really begin with the abandonment of Taiwan. With the abandonment of Taiwan by the United States, we virtually invite Soviet expansion down the entire littoral of east Asia. A strong independent Republic of China allied to the United States, can, however, be the checkmate. Not only that but, as I said in my previous speech, in the end, the Peoples' Republic of China itself will be the greatest loser should this not occur. Again, let me repeat that it need not happen. It is the U.S.A. that has the leverage as long as we maintain our alliance with the Republic of China.

We must realize and always remember we do not have to abandon Taiwan. Rather, we must tell the people on the mainland that we will stay in Taiwan and that it is in their interests that we do so stay. It is in South Korea's interests, also. It is in Japan's interests, in Thailand's interests, and in the interests of the Philippines. It is in the interests of the stability of the entire Pacific Basin that the United States maintain its position on the east coast of Asia. But Taiwan is the key—the linchpin in our whole east Asia strategy. The Peoples' Republic is not stupid: they will listen and they will adjust to our posture of maintaining the alliance.

May I repeat—there is not much we can do about Vietnam. We cannot stop them from destroying their small business base and still less, their agriculture in the south in their pursuit of an ideology. I seriously doubt if we can counter the position of the Soviets in Vietnam, even in small degree. I said in the past that the defeat in Vietnam would bring a terrible consequence. That consequence is now beginning to unfold. If we persist in our folly, five or ten years from now I can see the U.S. as a beleaguered Pacific nation defending on its west coast.

Our real role, the role for which we are intended, is quite different. Our real role is to be a forward Pacific power, actively engaged with all other Pacific powers, in expanding trade and commerce and in the pursuit of peace in the region, a peace based upon American strength. Instead, we are charting another course. We are switching to the Peoples' Republic of China and seem to be willing to pay their price, that is the abandonment of Taiwan. There are people in this Administration who really believe that the Peoples' Republic of China is a substitute for all of our present Pacific Basin alliances and that the Peoples' Republic of China is a counter to the Soviet threat and will remain so.

The Peoples' Republic, however, is not a counter to the Soviet threat. It simply does not have the strength. More importantly, under communist ideology, the necessity to switch alliances, as self-interest demands, is paramount. The Peoples' Republic of China is rather playing the U.S. off against the Soviets in the traditional Chinese manner. They will do this while we retain some global strategic power. As this wanes, as it will if we abandon our position in east Asia, they will turn and rend us, to say nothing of our smaller ex-allies.

Thus, it is with this issue in mind that I suggest to you that in the present equation, Taiwan is not only the strategic linchpin but is also a symbol—a symbol of what America's position in the Pacific will be ten, twenty years from now. But we have a strange Administration. I do not understand the ebb and flow of its foreign policy. I even ask, "Does this Administration have a foreign policy?"

The Administration is hard to talk to because they know so little of foreign policy, least of all in Asia. As might be expected, they have all the stubbornness of insecure and ignorant persons. Before it is too late, I beg them to pause and reflect on the future of their country in the Pacific Basin. As of now, the portent for that future is a massive destabilization of that region as a result of the policies being formulated. As this results, the region will be fought over by China and Russia with the U.S. as either a beleaguered witness or dragged into a war we cannot control. Such an outcome endangers U.S. vital interests, if not survival.

The Administration will, I promise, if it asks for it, get the full cooperation of all Americans of all parties in doing whatever has to be done to prevent the scenario I have outlined from happening. We simply have to remain engaged in Asia—all of Asia.

The American continent is a world island with Europe on one side and Asia on the other. Neither side, Europe nor Asia, should command more attention, one as opposed to the other. We cannot afford to fix our gaze only one way. I demand that the Administration reassess its entire position in the world and, above all, develop a Pacific Basin policy which offers American power and American political example and American human rights examples to all who resist tyranny in the region. We should be a witness to all those who are not ideologically bound that American trade and commerce is for everyone's good, theirs and ours, and that America, with its power used properly, can maintain stability and peace in the Pacific Basin. Again, I assert, the Republic of China on the island of Taiwan, in alliance with the U.S.A., is the key factor in developing a policy such as I have outlined. Rhetoric to the contrary, the mainland in their hearts will also agree.

Thus, again, I urge all Americans to look to our country's future and demand retention of our alliance with our trusty, brave, dependable and progressive ally, the Republic of China.

"And, in particular, I ask the Administration not to take any action affecting the Defense Treaty with the Republic of China during the interval between the November elections and the convening of the new Congress. As I have attempted to show, the consequences of such a major policy change are so grave that this is a decision which the President should make only after the fullest consultation with and approval of Congress, and should not take on his own.

INTERNATIONAL SPORT AVIATION AND POLITICS DO NOT MIX

Mr. GOLDWATER. Mr. President, as everyone interested in aviation is aware, the United States for years has been sending teams of pilots qualified in different types of aircraft and different types of maneuvers to international competition all over the world. These teams and trips have not cost the American taxpayer $1. Once again, now, we see President Carter injecting his hand in what he considers to be the bettering of understanding between countries by removing three members of the helicopter team that was to compete this past month in Vitebsk, Russia. This is something that is beyond my ability to understand because the fact that three of the team members, the three who were not allowed to compete were military men, could not have carried any message to the Russians except that we have better military pilots than they have. When is our President and his administration going to learn that there are ways of capturing the hearts and minds of people around this world other than the constant prattling of human

rights which we do not even observe a hundred percent ourselves?

I ask unanimous consent that a statement made on this unfortunate incident by Vic Powell, executive director of the National Aeronautic Association, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

INTERNATIONAL SPORT AVIATION AND POLITICS DON'T MIX

(By Vic Powell)

The National Aeronautic Association sponsored and sanctioned the United States Team in the III World Helicopter Championships, held in Vitebsk, USSR, July 31 to August 4, 1978. Team members were selected earlier this year and underwent extensive training at the Bell Helicopter manufacturing plant in Fort Worth, Texas. The team was constituted of six male and four female members.

It is important to point out that the United States government bore no expense in preparing for U.S. participation in the event, nor in transporting the team or its attendance at the championships. It was entirely supported by U.S. citizens and the team members themselves. The National Aeronautic Association takes pride in the fact that members of all official U.S. sport aviation teams are unpaid volunteers. They compete against teams of foreign nations whose members are heavily subsidized by their governments. This fact often makes the competition tough for teams from the United States, but U.S. teams perform very well in international competition. The United States is the one to beat.

The amount of volunteer time by persons across this country in support of the teams is heartening. People from all walks of life come together to offer their help and do what they can to ensure the team has the necessary equipment and funds to attend. This is often accomplished at considerable personal sacrifice for the team members, sponsors, and supporters. They believe, however, that it is necessary and worthwhile. The effort is enormous. The results satisfying.

All of this is done totally outside the U.S. government. No tax dollars are expended in behalf of U.S. teams, no government personnel assigned to the effort. The members of the National Aeronautic Association believe this is the way it should be. It can provide a considerable psychological boost to our team members. They know they are backed by the people of this nation, not some government agency.

Winning an official international aviation championship has both a direct and indirect impact on U.S. industry. Equipment used by those who capture winning positions in competition will usually become a demanded item, and the manufacturer can enjoy a worldwide market for the product. But the international psychological impact of the winning team can also be profound. A win can help create a mind-set regarding how the winning nation's aviation industry as a whole is perceived. In this regard a win by a team not directly associated with a particularly aviation industry can have an impact on how that industry's products are regarded abroad. In this sense sport aviation can be very helpful to the entire aviation industry.

One would think therefore that the government would be cognizant of this situation and provide any help possible. Indeed, this is the basis of the substantial support many foreign sport aviation teams receive.

We were especially disappointed and disheartened recently when the Carter administration injected politics into the NAA sanctioned United States team attending the III World Helicopter Championships. Three of the eleven-member team were military pilots. The three had proven themselves to be leading pilots on the team. Their experience, ability and expertise were a decided asset, and we looked forward to providing stiff competition to the country that we regarded as a tough competitor, the Soviet Union.

The U.S. Team was equipped with the most up to date helicopter for the competition, a Bell Jet Ranger. It trained extensively at the Bell plant in Fort Worth flying the competition course. Under the leadership of coach Henry Gilliland, team manager Frank Cantwell, senior delegate Joseph Mashman, and support personnel, the team developed great spirit with a positive attitude and a desire to win.

The Carter administration reportedly desired to send a message to the Soviet Union regarding administration displeasure with a variety of developments with the USSR. It canceled some export sales to the Russians, eliminated funding for travel to conferences held in the USSR, made oil equipment sales subject to the U.S. Export Control Act, expressed itself in the media regarding its views toward the Soviet Union, and even went so far as to keep three individual military members of the U.S. Helicopter Team from attending a sport aviation championship, removing them from the team. The military members obeyed orders and did not attend. They received word that they were not to attend while the U.S. team was undergoing last minute training in West Germany.

The Carter administration knew who the team members were because the NAA had chosen to advise the State Department of the team members and the date and location of the world championships, as we attempt to do with all the U.S. teams. This is the first U.S. government interference with an American team in recent memory. We do not dispute the government's right to control its employees, but we regard it as heavy handed action by the Federal government against a private organization attempting to meet the lawful purposes to which it subscribes, and from which the country benefits.

The first goal of the Federation Aeronautique Internationale, the world body for sport aviation and which the NAA serves as the United States' exclusive representative, is "making evident the essentially international spirit of aeronautics as a powerful instrument for bringing all people closer, regardless of any political or racial consideration."

This is a goal to which the Carter administration, with its emphasis on human rights and morality, ought to find agreement. Regretably they chose to insert politics in an activity and organization that is working to keep political interference out. Politics and international championship aviation do not mix. It was true in 1905 when the FAI was formed, it is just as true today. The United States was one of five nations that originally joined to form the FAI. For the Carter administration to have taken its action against the U.S. Helicopter Team is an international embarrassment of this nation.

As individuals the members of NAA are sympathetic to the cause of human rights throughout the world, but I wonder if the message, as interpreted by the Russians, was the one the administration sought. The administration's action has led to providing the Soviet Union with an international propaganda tool that will undoubtedly be used all over the world.

The U.S. team members worked hard and invested their own and donated money to field the finest helicopter team the U.S. has ever had. The evidence of the excellence of the team is shown by the relative closeness of the score. If the entire U.S. team had been allowed to participate the U.S. would have been considerably stronger.

The eyes of the world will not know that the Carter administration prevented our most promising pilots from participating, they will only see that the Soviet * * * lowered U.S. prospects of winning the World Championship by forcing the withdrawal of the team's most effective competitors.

The Soviet Union's pilots captured top individual pilot awards and won first place in team, ahead of the United States by 313 points out of a total of 3,298—only 10%.

NAA, speaking for our members, those who donated to the team and the citizens who support the team extends thanks to the dedicated team members and the entire U.S. delegation who attended the championships and fought hard to win this event. They faced formidable odds attempting to abide by the Goals of the FAI, competing against the Soviet and other national teams, and their own government's interference.

NAA is proud to stand by our team, they battled well. And we are very proud of all those people who made it possible for the U.S. team to attend the World Championships.

OSHA VEXES BUSINESS

Mr. THURMOND. Mr. President, the Federal Government has experienced tremendous growth in recent years. Unfortunately, this growth of Government has not resulted in better service to American taxpayers. On the contrary, it has resulted in an increase in harassment of American citizens and American business.

The principal offender in governmental harassment has to be the Occupational Safety and Health Administration—OSHA. This agency, although only in existence for 6 years, has managed to issue thousands of regulations that have become an almost intolerable burden to American business.

Members of this body, as well as the House, have spoken out repeatedly about the bureaucratic domination of OSHA. Efforts have been made in the Senate to relieve small businesses from OSHA regulation. On August 2, 1978, the Senate adopted an amendment offered by Senator BARTLETT of Oklahoma to exempt businesses with 10 or less employees from OSHA regulation. Although this was a major step forward in trying to get OSHA off the backs of American businessmen, it does not appear to be adequate to ease this regulatory burden.

Mr. President, in the September 13, 1978, edition of the Greenville News there appeared an article by Mr. John Chamberlain pointing out the efforts of OSHA to carry out its regulatory enforcement policies against not only small business, but large industries as well.

OSHA agents, stung by the Supreme Court's decision in Marshall against Barlow—1978—have apparently stepped up efforts to assert their enforcement powers against large American corporations. Mr. Chamberlain's article points out just one example of this abuse of regulatory authority. He also notes that although the Supreme Court has stepped in to protect small businesses, it will be up to the Congress to prevent further OSHA abuses against American industry. I urge my colleagues to take heed of his warning.

Mr. President, I ask unanimous consent that the article referred to in my remarks be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OSHA VEXES BUSINESS

(By John Chamberlain)

NEW YORK.—The Occupational Safety and Health Administration (OSHA), which has not notably changed the safety statistics in its six years of existence as the scourge of American business, has had more than 4,000 regulations on its books. It has been a particular annoyance to small businessmen, who have lacked the resources to comply with its often niggling and absurd demands. Fortunately the "little man" got a break from the Supreme Court in the case of Marshall vs. Barlow. The case had been fought to the highest tribunal by Bill Barlow, a Pocatello, Idaho electrical and plumbing contractor who had refused entry to OSHA inspectors who had come unannounced to the door of his shop without a search warrant. When the Court decided that employers could stand on their Fourth Amendment right against "unreasonable" searches. OSHA, trying to repair its image, rescinded more than a thousand so-called Mickey Mouse regulations that had only the remotest connection with health and safety.

Respite from OSHA's bureaucratic tyrannies, however, seems to have been limited to the nation's smaller business establishments. Companies big enough to make the list of the Fortune 500 have tried to "go along" with OSHA just to protect their public images as good guys. But what do they have to show for their pains?

The experience of the United States Steel Corporation with OSHA inspectors is hardly reassuring. Questioned by an Iron Age reporter, Edgar Speer, the U.S. Steel chairman, told a sad tale of what, to his way of thinking, amounted to bully-ragging persecution. It was just a year ago that an OSHA team turned up at U.S. Steel's South Chicago works. The OSHA agents had come, they said, to look into three small complaints. Once inside the tent, however, the OSHA camel went berserk. It took three months for the OSHA team to complete its investigation.

The U.S. Steel plant management asked on a daily basis to be informed of violations so they could be corrected. But the OSHA inspectors waited for six months to file their bill of complaints, imposing a fine of $200,000. According to Speer, the agency was less interested in the safety of Big Steel's employees than it was in slapping a punitive fine on the company.

According to R. K. Scott, the editor of a fortnightly review called America's Future, the persecution of Big Steel has not been limited to the South Chicago area. U.S. Steel spends more than a billion dollars a year to comply with clean air standards. Its pollution control adds $265 million a year to operating costs. The company's captive coal mines are among the safest in the country. Yet these coal mines undergo some 5,000 government safety inspections a year. The effort to accommodate the inspectors in their frequently redundant interruptions has decreased the productivity of the coal mines by 22 percent over a 4-year stretch.

Instead of cutting down on the Mickey Mouse stuff when it comes to the bigger corporations, OSHA, along with other federal compliance agencies, is planning many additional regulations. The cost of the additions to the businessman and the consumer could come to a few more billions.

What the White House may intend to do about calling OSHA to account for adding billions to the general inflation is a question. Secretary of Labor Ray Marshall has pledged a "common sense" approach to protecting workers. And Charles Schultze, chairman of Jimmy Carter's Council of Economic Advisers, has said that OSHA has failed to touch the most important cause of industrial accidents, which come from employee turnover and inexperience. Workers' carelessness is the prime culprit when it comes to accidents—and OSHA's 1,400 compliance officers can have little effect in changing that.

In the Barlow decision the Supreme Court has done what it can to help the small manufacturer protect himself against OSHA. But it will take Congress to do something to curb OSHA's vindictiveness against the biggies.

TESTIMONY OF JOHN M. CAREY, NATIONAL COMMANDER, THE AMERICAN LEGION

Mr. THURMOND. Mr. President, on September 12, 1978, the national commander of the American Legion, Mr. John Carey, appeared before the Senate Committee on Veterans' Affairs and presented the Legion's legislative goals and initiatives for the 96th Congress.

The American Legion is the largest veterans' organization in the United States. There are 2.7 million legionnaires and nearly 1 million members of the American Legion Auxiliary. These men and women are the backbone of our society and reflect the views of a vast number of Americans. The policies, programs, and goals of the American Legion promote a better understanding of the principles of democracy and inculcate among all people an appreciation of the benefits of American citizenship.

Mr. President, attending this committee meeting were legionnaires from throughout the United States. South Carolina was well represented by Bill Weatherly, State commander; Jim Hamilton, State adjutant, his wife Dorothy; Jim Haynes, membership chairman; Bill Plowden, veterans' employment representative for South Carolina; and Abe Fennell, who is known as "Mr. Veteran of South Carolina" to thousands of my constituents.

Mr. President, I ask unanimous consent that the testimony of Commander Carey be printed in the RECORD for the benefit of my colleagues. I also urge my colleagues to consider carefully these recommendations for action during the 96th Congress.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT OF JOHN M. CAREY

Mr. Chairman and Members of the Committee: It is an honor and a great personal pleasure for me to have this opportunity to appear before this distinguished Committee of the Congress on what is virtually my first official appearance as National Commander of The American Legion.

Before I discuss with the Committee the legislative program of my organization in the field of veterans affairs, I consider it most important that I express to you Mr. Chairman, and to the Members of the Committee, the appreciation of 2,700,000 Legionnaires, and the nearly 1 million members of the American Legion Auxiliary for the consideration that is consistently given by the Committee to the problems of our nation's 26.5 million war veterans and their dependents and survivors.

Historically, it is to Congress that veterans have looked, for support, and for the concern that has expressed itself in beneficial legislation. We of The American Legion know that it is because of the Congress of the United States that our country today has the most comprehensive program of veterans benefits of any nation in the world.

Four times in the Twentieth Century, the American Government had led the nation into war. Four times the youth of the nation has responded. And following each of those conflicts, Congress has taken the lead in providing readjustment programs for the returning servicemen and women, and supportive programs for the service disabled, and for the survivors of those who have made the supreme sacrifice. The American Legion knows what Congress has done in these matters, and we are grateful.

In addition to these words of gratitude to the Committee, I believe it is appropriate and necessary for me to express a special word of thanks to the Chairman of this distinguished Committee. In all of the matters of serious import, relating to veterans affairs, that have required action this year, Senator Cranston has been stalwart in defending the best interests of the nation's veterans, with their dependents and survivors. I will be frank in saying that I do not like to think of what might have happened to the veterans benefits programs this year had it not been for the active role Senator Cranston has played in speaking out for veterans in the high councils of the government. For this support and assistance, I want everyone to know that The American Legion is grateful.

May I now proceed to present the views of The American Legion on certain matters affecting veterans legislation in this Congress, and looking ahead to the first session of the 96th Congress.

By reason of the work of this Committee, the Senate has adopted a number of significant measures affecting veterans. Many of these continue to await final action by both Houses before they can be sent to the President. We consider all the measures the Committee has reported to be important. We are most anxious that the bill to provide a needed increase in compensation and DIC rates be signed into law, to become effective with the beginning of the new Fiscal Year. Of all the entitlements of veterans, none has priority over the obligation of the nation to those who were disabled by reason of their service, and to the survivors of those who died by reason of service to their country. We know the Committee shares our concern in this regard, and we look forward to final action, leading to enactment of this important legislation.

PENSION REFORM

I would now like to discuss the matter of pension reform. As I appear here today, Congress has not taken final action on the pension reform legislation that has been under consideration throughout the current session.

The American Legion has long been committed to the need for reform of the death and disability pension program for veterans. The inadequacies of the present program are so well known that it is not necessary for me to repeat them in this statement.

Representatives of the Legion have worked closely with the Committee and its staff in developing remedial legislation. The present status of that legislation is that it awaits action by a Conference Committee of the House and Senate. We have prepared a document that will be presented to the members of the Conference Committee, detailing our appraisal of the matters that have to be resolved, and offering our recommendations.

We are most anxious that the legislation that is finally sent to the President shall resolve the major problems that have beset the pension program, and that the rates established will be sufficiently generous that they are meaningful in the degree of financial assistance they provide to the intended beneficiaries.

We know the Committee shares this desire with us, and we hope it will guide the action of the Conference Committee, and of the full Senate when the final bill is presented for approval.

We are aware that the pension reform legislation, in whatever form it is finally approved, will add a substantial amount to the Administration's Budget for Fiscal Year 1979. We do not believe the added cost is prohibitive, given the goal that will be achieved—long term alleviation of the serious economic problems that are affecting the increasingly large number of the aging veteran population.

We are aware that there are those who are increasingly vocal in begrudging this added measure of security for older veterans and their widows. Those to whom I refer are more openly expressing the opinion that veterans should be lumped in with other segments of society who have need for public support.

Those of us who represent the veteran constituency do not fail to recognize that these open attacks on veterans benefits always begin to manifest themselves in a time of peace. These outcries for economy in veterans programs are never heard in time of war. They are indeed a phenomenon of peacetime. We hope the Committee agrees with us that they are without merit.

With reference to final disposition of the legislation, I will say that we are most anxious that it become law, and we will appreciate the support of all those who share our concern for the problems of older veterans and their widows.

VETERANS ADMINISTRATION BUDGET

Thoughout this session of the Congress, those of us who are on the side of veterans have been engaged in the Battle of the Budget. It was immediately apparent, last January, that the Administration's proposed budget for veterans programs was substantially short of what is needed to fully fund those programs. Shortfalls in amounts provided for the medical care program were most notable, and engaged the immediate attention of The American Legion. With the support of the Chairman, and Members of this Committee, Congress has increased allocations, especially for medical care, and it is now our expectation that funding will be essentially adequate, to at least maintain what we now have.

I must say to this Committee, however, that in our judgment, the battle is not over. We have every expectation that the Administration's proposed budget for the Veterans Administration for Fiscal Year 1980 will be a tight one. And everything that spokesmen for the Administration are saying leads us to believe that the shortfalls in the FY 1979 Budget will be repeated in Fiscal Year 1980.

The President is talking economy. He has publicly stated that economy will be achieved in a variety of categories of government spending, including, and he used these words, in the field of veterans programs.

May I say that all of the members of The American Legion are taxpayers, and we are as anxious for economy in government as is the President, or anyone else. Our concern, however is that economy must not be achieved at the expense of the nation's veterans.

In our judgment, the President has his priorities wrong. The 26.5 million men and women who comprise the war veteran population responded to the call to arms when the nation went to war. This includes the 8.5 million who saw service during the Vietnam Era. And 2.8 million of those actually served in Southeast Asia.

While the wars of the Twentieth Century were being conducted, there was absolutely no call for economy at the expense of veterans programs. It's the same old story. When the guns begin to shoot, nothing is too good for the soldier. It is when peace returns that the cries for economy begin to rise.

We note, for example, that despite repeated protestations of concern for the needs and problems of Vietnam Era veterans, the President proposed absolutely nothing in his FY 1979 Budget in the way of increases in education and training allowances.

With all this in mind, the American Legion is not going to be silent when cutbacks are proposed in veterans programs, in the name of economy. In our judgment, there are plenty of places in the Federal Budget where economy can be practiced, before an effort is made to cut back on veterans programs.

We very much appreciate the support the Members of this Committee gave in seeking adequate funding for benefits and services to veterans during Fiscal Year 1979.

When the Administrative Budget for FY 1980 is released, we intend to do a careful analysis, and we shall then approach our friends in Congress with our evaluation and suggestions.

Our objective at all times is adequate funding for veterans programs. We hope for your continued support in that direction.

VETERANS ADMINISTRATION MEDICAL CARE PROGRAM

Discussion of the VA Budget inevitably leads me to remarks relating to the VA medical care program. There is no question in our minds that the VA Department of Medicine and Surgery is the heart and soul of the operations of the Veterans Administration. Remove the medical care program from the VA, and you really have no further need of the VA as a single agency for the administration of veterans programs. The development through the years of the VA system as the largest and finest medical system in the world today, is the cherished achievement of The American Legion, because we have made a significant contribution to that accomplishment. We prize the VA medical care program for veterans, and we are determined to defend it.

I use these terms because we know that the VA system is presently under attack from a variety of sources. It is not my purpose here to identify those sources, nor to present a detailed defense of the system. I believe this Committee joins with us in support of the VA program of medical care for veterans.

But I do want to make clear that we of the Legion believe that a successful defense of the VA system is absolutely essential to a successful defense of all other veterans benefit programs.

And we are apprehensive that we do not have an ally on this matter in the Administration. To justify that statement, I need only point to the serious shortfalls in the recommended Budget for VA medical programs in the Administration's FY 1979 Budget.

I refer to the proposed reduction of 3,200 beds, with a resulting loss of 1,500 staff personnel; the curtailing of VA research programs, at a time when the achievements of that program have been recognized by all the world; elimination of the only new hospital planned for the system, at Camden, New Jersey; and a variety of economy measures having the effect of slowing the pace of renovation and renewal that is constantly necessary in a system as large as the VA system is. All of these actions, which are included or not included, in the Administration's proposed Budget for FY 1979, do not engender a feeling of confidence in the Administration's commitment to the VA medical care program.

The American Legion, through the work of a special committee established for that purpose, continues to monitor the progress of the national debate on national health insurance. When legislation to provide some form of national health insurance takes shape, the Legion will come forward with recommendations for protective clauses to insure the continuation of the VA system as one maintained exclusively for the nation's veterans.

We must say, however, that we perceive a visible danger to health care for veterans, in the concept of national health insurance. Which is why the possible lack of commitment by the Administration to the VA program is a matter of concern to us. And, in the face of this concern, we turn, as we always have, to Congress, for the assistance needed to assure the maintenance of the VA system, not only as a viable one, but in such a condition that it will continue to be in the forefront of health care delivery in this nation.

EDUCATION AND TRAINING PROGRAMS FOR VIETNAM VETERANS

The proposed Budget for Fiscal Year 1979, included nothing in the way of increases in the education and training allowances for those Vietnam Era veterans who are still completing their readjustment. We believe this younger generation of veterans is well justified in asking of the Administration, where is the commitment of dollars to back up the protestations of concern?

It is our earnest request that an early priority of this Committee next year shall be the development of legislation to provide needed increases in the education and training allowances for all programs, generally referred to as GI Bill programs.

GI Bill allowances were last adjusted by Public Law 95-202, and were effective on October 1, 1977. Of course, inflationary pressures have continued unabated since that time, and are continuing today. It is not fair to the young men and women who are in training under these programs, to cause them to try to continue their education and training with the use of 1977 dollars.

The American Legion will strongly support legislation to improve the education and training allowances, at the earliest possible date in the 96th Congress.

We would further suggest, for early consideration in the forthcoming session, a needed revision to improve Vocational Rehabilitation programs under chapter 31 of title 38. It has been observed by many that these programs are much in need of updating, to insure their responsiveness to the problems of the service disabled. We will support legislation that may be developed in this direction.

PENSION PROGRAM FOR VETERANS OF WORLD WAR I

I shall now address a subject on which a National Commander of The American Legion has not previously spoken to this Committee. I refer to a special pension program for the surviving veterans of World War I.

At our recently concluded National Convention in New Orleans, the Delegates expressed overwhelming support for a pension program especially for these older veterans. This support took its form in Resolution No. 220 (Ohio), a copy of which is apepnded to this statement.

Presently, there are 685,000 veterans of World War I, surviving from the 4,750,000 who served during that conflict. They are at an average age of 83, and their mortality rate is high.

This generation of veterans not only served gallantly in the first World War; they also founded The American Legion; they survived the Great Depression; they lent their strength and support to the three wars of this century that followed theirs; it was they who developed the concept of readjustment programs for returning servicemen—a concept entirely new in the field of veterans benefits. The men and women of the first World War have not had an easy life. They

have come into their later years, in many cases without the level of economic security that most of the rest of us can expect to have when we retire from active work.

Many of these veterans are presently living in strictly reduced circumstances; and many of them feel they do not have either the attention or concern of the American people. For these reasons, The American Legion, speaking through the Delegates to its National Convention, believes it is time for a measure of special recognition for these veterans.

We will submit draft legislation in January, to implement Resolution No. 220. It is our earnest hope and request that this Committee will consider that legislation. The program we propose will be modest. We believe it will be within the bounds of fiscal possibility. The main point is, however, that we believe this strong and affluent nation can afford this modest gesture in the direction of these, our oldest veterans, to assure all of them a measure of economic security.

VETERANS PREFERENCE

There is a matter that is not directly within the jurisdiction of this Committee, but which calls for mention in this, my first appearance before a Congressional body. I refer to the proposals to modify veterans preference in Civil Service employment.

It is not my purpose or intent in this statement to recite again all the reasons The American Legion continues to defend veterans preference as it is presently codified in law. The views of The American Legion on this matter are well known. We believe our position has withstood the test of debate, and nothing that has been said by those who advocate change in this veterans benefit has persuaded us to change our views.

We consider ourselves to be reasonable people. If what our opposition is saying could be proved to be true, we would indeed consider a change in position. If the modifications proposed would, in fact, enhance the employment situation of the Vietnam generation of veterans—that would weigh heavily with us. But we are convinced the arguments advanced to this effect are faulty. The Vietnam veterans will receive the best chance to establish careers within the Civil Service by application of the law as it is now written, if the Executive Branch will just abide by it in spirit as well as in lip service.

We believe the application of veterans preference through the years since it was established in law by Congress in 1944, has worked to the great advantage both of veterns, and of the public service. Veterans make good government employees. And veterans include minorities and women. Their military service merely adds to their desire and to their ability to serve the government in a civilian capacity.

We appreciate the support veterans preference has received in Congress during the current debate, from the distinguished Chairman of this Committee and from many Members.

VETERANS EMPLOYMENT

It is an obvious fact that no veteran is readjusted or rehabilitated until he is economically self-sufficient. This means he must have stable employment in a job that pays a living wage. Veterans employment has always been a high priority among the programs of The American Legion. We have worked very hard, in seeking legislation that would strengthen veterans employment programs, and through the activities of the 16,000 American Legion posts in helping individual veterans with job placement in the community.

Statistics indicate the situation in veterans employment has improved with the strengthening of the nation's economy. However, there remains a substantial core of unemployed veterans, mostly young, under-educated and under-skilled, and many of them from minority groups. The plight of these veterans poses a challenge to both the Congress and the Executive Branch, and we of The American Legion accept is as a challenge as well.

There are, as a result of Congressional action, a number of employment programs for veterans, mostly administered by the Department of Labor and codified in title 38 of the United States Code. We applaud the attention of Congress to this problem as represented by these programs.

Our complaint is directed at the Department of Labor, and I include mention of it in this statement so that it will be a matter of record.

There is, in our judgment, a singular lack of sensitivity by the Department of Labor to veterans employment programs. A number of things that have occurred this year illustrate this point. Among them are the appointment, confirmation and resignation of the first Deputy Assistant Secretary of Labor for Veterans Employment and the abolition by the Department of Labor of the position of Director, Veterans Employment Service.

To remedy these errors, and to attempt to instill into the Department of Labor an appropriate sensitivity to the problems of unemployed veterans, The American Legion continues to advocate the establishment of the position of an Assistant Secretary of Labor for Veterans Employment, with the Veterans Employment Service as a separate agency. We do not believe the Department of Labor will proceed to fulfill its responsibilities in the area of veterans employment until and unless these things are done. Legislation to this end has been introduced in the Senate Committee on Veterans Affairs, and we are grateful to Senator Strom Thurmond and his colleagues for this bill. In view of the action of the Department of Labor in abolishing the position of Director, Veterans Employment Service, in spite of assurances to the contrary made to Congress, we are asking for legislation to require this position by statute.

The Department of Labor has also been lax in enforcing, in the case of Federal contractors, the requirement that they, as well as the Federal Government, must take affirmative action to hire and promote eligible disabled and Vietnam Era veterans. To broaden eligibility under this program, we are supporting legislation to delete the 30 percent disability requirement and to require only a 10 percent service-connected disability or more, and to delete a stipulation that Vietnam Era veterans must have been discharged within 48 months preceding application.

A recent reorganization of the Department of Labor's machinery for monitoring and enforcing compliance of Federal contractors will further weaken these provisions for affirmative action for veterans. An Office of Federal Contract Compliance, headed by an Assistant Secretary is needed to bring Federal contractors into full compliance with the law.

Mr. Chairman, and Members of the Committee, I have tried in this statement to provide the Committee with an appraisal of the condition of veterans affairs as we of The American Legion see them, as the 95th Congress completes its work, and all of us look forward to the 96th Congress which will convene in January.

In this Congress we have found, as we always have in the past that there resides here a concern for and interest in the problems of America's veterans that is not found anywhere else. We are grateful for that concern and interest.

And we are confident that as long as we have friends in this place, the nation, as it enters into a era of peace, will not forget those who served it in time of war.

Before I conclude, I wish to extend again, an invitation to all Members to join us at our Reception, at 5:30 this evening in Rooms B-338-339 & 340 of the Rayburn Bldg. There you will be able to greet Legionnaires from your own areas, who look forward to the opportunity to be with you, however briefly, on a social basis.

Thank you very much for your time and attention.

SENATE RESOLUTION 562—SUBMISSION OF A RESOLUTION TO INSTRUCT THE CONFEREE ON THE PART OF THE SENATE ON HOUSE CONCURRENT RESOLUTION 683

Mr. MUSKIE submitted the following resolution, which was placed on the calendar:

S. Res. 562

Whereas, H. Con. Res. 683, as adopted by the House of Representatives, contains funding of $2 billion for new public works spending in Function 450, and

Whereas, the Senate amendment to H. Con. Res. 683, as adopted by the Senate, contains no funds for this two billion dollars in new spending,

Resolved, that the conferees on the part of the Senate on H. Con. Res. 683 are instructed to insist on the Senate position.

Mr. MUSKIE. Mr. President, I send a resolution to the desk and ask unanimous consent that it go to the calendar.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, I rise only to say that this matter and this procedure accords with the desires of the ranking member of the Budget Committee, and we have no objection to that.

Mr. MUSKIE. Mr. President, I further ask unanimous consent that if and when the resolution is called up, it be subject to a time agreement in the usual form of 3 hours, to be equally divided between myself and Senator BELLMON.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I wonder if I can add this unanimous-consent request. Let me ask the Chair, would any motion to proceed to the consideration of this resolution be debatable?

The PRESIDING OFFICER. The answer is, it would be.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, under the circumstances, that the majority leader, after consultation with the chairman of the Budget Committee, Mr. BELLMON and Mr. BAKER, be authorized to call that resolution up without debate. The time agreement is on the resolution itself already.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That when the Majority Leader calls up S. Res. 562, a resolution instructing the Senate conferees on H. Con. Res. 683, which can be done by the Majority Leader without debate, debate on the resolution shall be limited to three hours to be equally divided and controlled by the Majority and Minority leaders or their designees; that time on the resolution may be yielded for the consideration of any amendment; and that no amendment not germane to the provisions of the resolution be in order.

● Mr. MUSKIE. Mr. President, I have good news and bad news from the conference now meeting on the second budget resolution for 1979.

The good news is that House and Senate conferees have resolved most differences in the conference.

The bad news is that one major policy difference—whether to agree to a new $2 billion-per-year public works program—has deadlocked the conference.

The House budget resolution would provide $2 billion in new spending next year alone for so-called "local public works."

A part of this massive new spending would be to pay for a pale shadow of the administration's "soft public works" program, which is intended to employ disadvantaged workers.

In fact, versions of this new spending program in both Houses could finance projects with money devoted to hiring the long-term unemployed. The bulk would go to regular construction workers at a time when construction employment has already reached record levels. The House position would finance public works programs costing nearly as much during the next 2 years as has been spent for antirecessionary public works since the depth of the recession 3 years ago.

The Senate resolution contains $1.9 billion in outlays for the existing public works program. But it contains no funding for this massive new program.

Mr. President, the budget resolution, reported by the Senate Budget Committee, contained no funding for this program because we considered it inappropriate in the current economic recovery, too expensive, and inflationary.

No amendment was offered to provide funding for such a program when our budget resolution was debated on the Senate floor.

The House conferees continue to insist that such a program must be financed in this budget resolution and the Senate conferees continue to resist that additional spending.

Agreement in the conference—which is so near on so many other issues—is frustrated by this single question of whether to have a massive new public works program.

I am making this statement to the Senate today to alert all Senators to the likelihood of a vote on instructions to the conferees in the next day or so. Your Senate conferees will be communicating with you further as to our detailed objections to the House version.●

● Mr. BELLMON. Mr. President, as our distinguished chairman, Mr. MUSKIE, has indicated, the conferees on the second budget resolution for fiscal year 1979 are unable to reach agreement with respect to the issue of public works funding. The House-passed budget resolution provides in function 450, community and regional development, $1 billion in budget authority and $100 million in outlays for a third round of local public works projects and $1 billion in budget authority and $100 million in outlays for the "soft" or "labor intensive" public works program proposed by the President as part of his urban initiatives. The second budget resolution passed by this body less than a week ago contains no funds for either of these programs. The House is, therefore, $2 billion in budget authority and $200 million in outlays above the Senate.

What is at issue between the two Houses is additional public works spending in an inflationary environment. With regard to a third round of local public works projects, the question before the Senate is whether to continue to spend money for a program we initiated on a temporary basis in 1976. It is the position of the majority of Senate conferees that countercyclical measures such as this program should be terminated as the economy improves. If this is not done, countercyclical programs become procylical in nature and inflationary in effect.

We will already be spending in fiscal year 1979 roughly $2 billion from prior year authority under this program, and we feel a new round of funding would be inflationary. The construction materials industry is operating at capacity. Employment in the construction industry is at an alltime high.

A new round of funding would only put upward pressure on prices in this industry, and these price hikes would ripple throughout other sectors of the economy.

With respect to the "soft" public works program, Mr. President, we consider this to be an extremely high-cost option for providing jobs for structurally unemployed. As now proposed by the administration, only 25 percent of the total 25,000 person-years of employment created under the program in the first year would go to the long-term unemployed. This would create jobs at an annual cost of $160,000 for each long-term unemployed worker affected by the program.

The Senate has shown its sensitivity to the problems of the structurally unemployed. The budget resolution assumes a $5 billion-a-year program to serve the structurally unemployed. When we passed the CETA reauthorization bill 3 weeks ago, we indicated that this group was to be one of our high-priority concerns. Clearly, we have the CETA mechanism available to assist these disadvantaged workers; the program under consideration for funding here would only add a duplicative, less effective, and less efficient program to the books.

The decision before the Senate today affects not only fiscal year 1979 but also the years which follow. In the report accompanying the second budget resolution, the Senate Budget Committee indicates a cumulative budget margin of $54 billion in the next 5 years for tax reductions or spending increases. Is the Senate willing at this time to commit $4 billion of these limited future resources to programs such as these? Or, alternatively, does the Senate wish to adopt a more cautious attitude with respect to mortgaging its future resources in funding today's programs whose economic impacts and consequences will first be felt in an economic environment which is unknown at this time. It appears to me, Mr. President, that countercyclical programs of this type are better held in reserve and brought forth when they are necessary.●

CROSS-FLORIDA BARGE CANAL PROJECT TERMINATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order 1090.

Mr. BAKER. Mr. President, reserving the right to object, I will not object. Once again, I reserve only for the purpose of advising the majority leader that this item is cleared on our Calendar. We have no objection to proceeding to its consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 3337) to terminate, in the year 1979, further construction of the Cross-Florida Barge Canal project, to adjust the boundary of the Ocala National Forest, Florida, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Environment and Public Works and the Committee on Agriculture, Nutrition, and Forestry, jointly, with an amendment on page 2, beginning with line 7, strike through and including page 3, line 15, and insert in lieu thereof the following:

SEC. 2. (a) The boundary of the Ocala National Forest, Florida, is hereby extended to include the lands north and west of the Oklawaha River as shown on the map dated July 1978, on file with the Chief of the Forest Service, Department of Agriculture, Washington, District of Columbia, and available to the public in the office of the appropriate regional forester, forest supervisor, and forest ranger.

(b) Within the boundary of the Ocala National Forest as extended by subsection (a) of this section, lands or interests in lands and improvements owned by the United States and administered by the Corps of Engineers, Department of the Army, shall be transferred to the Secretary of Agriculture to be administered and made a part of the Ocala National Forest, Florida, when the Secretary of the Army deems such action to be appropriate, but not later than the end of the fiscal year ending September 30, 1980: *Provided*, That the Secretary of the Army, acting through the Chief of Engineers, may operate and maintain the existing facilities of the Cross-Florida Barge Canal project within the extended boundaries of the Ocala National Forest pending further disposition.

(c)(1) The Secretary of Agriculture shall acquire lands and interests in lands held on the date of enactment of this Act by the Canal Authority of the State of Florida within the boundary of the Ocala National Forest, as extended, with donated or appropriated funds, by purchase, gift, or exchange. For acquisition of lands or interests in lands held by the Canal Authority of the State of Florida, the Secretary of Agriculture shall pay not less than the purchase price paid by the Canal Authority plus interest compounded annually at the average rate at which the Authority borrowed funds for project acquisition purposes over the total period of financial commitment by the Authority.

(2) There are authorized to be appropriated beginning with the fiscal year ending September 30, 1980, such sums as may be

necessary to carry out the provisions of this subsection.

So as to make the bill read:

S. 3337

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a), effective July 1, 1979, authority for further construction of a high-level lock barge canal from the Saint Johns River across Florida to the Gulf of Mexico in accordance with Public Law 675, Seventy-seventh Congress (56 Stat. 703), is terminated.

(b) The Secretary of the Army, acting through the Chief of Engineers, is authorized to operate and maintain the existing facilities and their appurtenant lands of the Cross-Florida Barge Canal project as he determines to be necessary, pending further disposition by law of the project and its facilities and lands.

SEC. 2. (a) The boundary of the Ocala National Forest, Florida, is hereby extended to include the lands north and west of the Oklawaha River as shown on the map dated July 1978, on file with the Chief of the Forest Service, Department of Agriculture, Washington, District of Columbia, and available to the public in the office of the appropriate regional forester, forest supervisor, and forest ranger.

(b) Within the boundary of the Ocala National Forest as extended by subsection (a) of this section, lands or interests in lands and improvements owned by the United States and administered by the Corps of Engineers, Department of the Army, shall be transferred to the Secretary of Agriculture to be administered and made a part of the Ocala National Forest, Florida, when the Secretary of the Army deems such action to be appropriate, but not later than the end of the fiscal year ending September 30, 1980: Provided, That the Secretary of the Army, acting through the Chief of Engineers, may operate and maintain the existing facilities of the Cross-Florida Barge Canal project within the extended boundaries of the Ocala Forest pending further disposition.

(c)(1) The Secretary of Agriculture shall acquire lands and interests in lands held on the date of enactment of this Act by the Canal Authority of the State of Florida within the boundary of the Ocala National Forest, as extended, with donated or appropriated funds, by purchase, gift, or exchange. For acquisition of lands or interests in lands held by the Canal Authority of the State of Florida, the Secretary of Agriculture shall pay not less than the purchase price paid by the Canal Authority plus interest compounded annually at the average rate at which the Authority borrowed funds for project acquisition purposes over the total period of financial commitment by the Authority.

(2) There are authorized to be appropriated beginning with the fiscal year ending September 30, 1980, such sums as may be necessary to carry out the provisions of this subsection.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1167), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

SHORT EXPLANATION

S. 3337—which was referred jointly to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Environment and Public Works—would (1) terminate, effective July 1, 1979, authority for further construction of a high-level lock barge canal from the Saint Johns River across Florida to the Gulf of Mexico, and (2) extend the boundaries of the Ocala National Forest in Florida.

BACKGROUND AND NEED

VIEWS OF THE COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

I.

Construction of the Cross-Florida Barge Canal began in 1964 and was halted by President Nixon in 1971 for environmental reasons. A restudy in 1977 by the Army Corps of Engineers concluded that further investment in the project was not warranted, pending review of the restudy results by Congress. Subsequently, President Carter, in his May 1977 environmental message to Congress, directed the Secretaries of Agriculture and the Army to make recommendations on alternatives for disposal of canal lands and structures and restoration of the Oklawaha River portion of the project. In February 1978, the Secretaries sent their report of alternatives to the President and recommended what was identified as the intermediate-level of restoration. The State of Florida was a participant in the studies and took part in formulating the recommendations that were made to the President.

The aspects of the intermediate level of restoration of major importance to the Department of Agriculture are: the extension of the Ocala National Forest boundary; the authority to acquire project related lands; and the study of the Oklawaha River as a potential wild and scenic river.

Currently, the western and northern boundaries of the Ocala National Forest follow the Oklawaha River. Extension of this boundary along these sides, along readily identified manmade or natural features, would encompass project lands or interests in lands acquired for canal purposes by the canal authority of the State of Florida and the Corps of Engineers. Some 29,000 acres of the total 32,800 acres recommended for acquisition are within the extended boundary. The remaining land is within the existing national forest boundary.

II.

The acquisition of the canal authority and Corps of Engineer lands on both sides of the Oklawaha River for national forest purposes is in the public interest for the following reasons:

It would place lands that are essential to the protection of the Oklawaha River area under single agency management and administration.

An essential part of the restoration of the Oklawaha River portion of the canal project is retention of the related lands in public ownership. Inclusion of these lands in the Ocala National Forest would avoid possible conflicts in management goals and policies and the duplication of organizations, if multiagency management prevailed.

The major objective in halting construction of the project is the protection and restoration to a near natural condition of the Oklawaha River area. If Federal acquisition of the river related lands is not undertaken, the lands would likely revert to private ownership and possibly to uses incompatible with the natural environment.

Acquisition of the lands by the Federal Government also would provide funds to the State of Florida for distribution on a prorata basis to the counties whose tax revenues financed the original acquisition of the canal authority lands.

VIEWS OF THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

The Cross-Florida Barge Canal was authorized by Congress in 1942 in order to promote the efficient flow of materials for military purposes between the Atlantic Intercoastal Waterway and the coast of Mexico. Implementation of the project, however, was not immediate. In 1956, the Army Corps of Engineers reevaluated the project and found it still economically feasible. Initial appropriations were made in 1963 and construction started in 1964. By 1971, nearly one-third of the project was completed and over $70 million was spent.

In January of that year President Nixon, by Executive order, halted further construction of the project. Congress, following this action, directed the Chief of Engineers to restudy the environmental, economic, and engineering factors associated with the construction of the barge canal.

A report by the Chief was submitted in February of 1977. The report concluded that while construction was feasible, the economic justification was marginal and adverse environmental problems would be severe. The report also recommended a study to determine how best to dispose of the lands associated with the project if in fact the project was deauthorized by Congress.

The Committee on Environment and Public Works, following introduction of S. 1562 by the Senators from Florida, held hearings on the proposed deauthorization in July of 1978. Following those hearings and the introduction of S. 3337, the committee by voice vote recommended the termination of all future construction on the Cross-Florida Barge Canal. This recommendation was made on the basis of the overwhelming evidence of the severe, adverse environmental problems associated with future construction. The committee also questioned the economic need for the project at this time with the cost-benefit ratio for the project equal to unity. The committee concurs with the recommendation of the Committee on Agriculture, Nutrition, and Forestry on the disposition of the lands associated with the project.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DISTRICT OF COLUMBIA PRETRIAL SERVICES AGENCY

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2556.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2556) entitled "An Act to change the name of the District of Columbia Bail Agency", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

That (a) the text of section 23-1301 of title 23, District of Columbia Code, is amended by striking out "District of Columbia Bail Agency" and inserting in lieu thereof "District of Columbia Pretrial Services Agency".

(b) The heading of such section is amended to read as follows:

"§ 23-1301. District of Columbia Pretrial Services Agency".

SEC. 2. (a) The heading of subchapter I of chapter 13 of title 23, District of Columbia Code, is amended to read as follows:

"SUBCHAPTER I.—DISTRICT OF COLUMBIA PRETRIAL SERVICES AGENCY"

(b) The item relating to subchapter I in the table of sections at the beginning of such chapter is amended to read as follows:

"Subchapter I—District of Columbia Pretrial Services Agency".

(d) The heading of such chapter is in such table is amended to read as follows: "23–1301. District of Columbia Pretrial Services Agency.".

(d) The heading of such chapter is amended to read as follows:

"CHAPTER 13.—PRETRIAL SERVICES AGENCY AND PRETRIAL DETENTION".

(e) The item relating to chapter 13 in the table of chapters at the beginning of such title is amended to read as follows:

"13. Pretrial Services Agency and Pretrial Detention..... 23–1301".

SEC. 3. Any reference in any law, rule, regulation, document, or record of the United States or the District of Columbia to the District of Columbia Bail Agency shall be deemed to be a reference to the District of Columbia Pretrial Services Agency.

Amend the title so as to read: "An Act to change the name of the District of Columbia Bail Agency to the District of Columbia Pretrial Services Agency.".

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate agree to the House amendments en bloc.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DISTRICT OF COLUMBIA RECIPROCAL TAX COLLECTION ACT

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1103.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1103) entitled "An Act to permit States the reciprocal right to sue in the Superior Court of the District of Columbia to recover taxes due the State", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

That this Act may be cited as the "District of Columbia Reciprocal Tax Collection Act".

SEC. 2. (a) Any State, acting through its lawfully authorized officials, shall have the right to sue in the Superior Court of the District of Columbia to recover any tax lawfully due and owing to it in any case in which such reciprocal right is accorded to the District of Columbia by such State, whether such right is granted by statutory authority or as a matter of comity.

(b) The certificate of the secretary of state, or of any other authorized official, of such State, or any subdivision thereof, to the effect that the official instituting a suit authorized under subsection (a) for collection of taxes in the Superior Court of the District of Columbia has the authority to institute such suit and collect such taxes shall be conclusive proof of such authority.

SEC. 3. (a) In any State, or any subdivision thereof, in which the District of Columbia is authorized under the laws of such State to bring suit for the purpose of recovering taxes lawfully due and owing the District of Columbia, the Corporation Council is authorized to bring such suit in the name of the District of Columbia in the courts of such State, or any subdivision thereof.

(b) In connection with any such suit, the Mayor of the District of Columbia is authorized to secure professional and other services at such rates as may be usual and customary for such services in the jurisdiction involved.

SEC. 4. For purposes of this Act:

(1) The term "taxes" means—

(A) any tax assessment lawfully made, whether based upon a return or any other disclosure of the taxpayer or upon the information and belief of the taxing authority involved;

(B) any penalty lawfully imposed pursuant to any law, ordinance, or regulation which imposes a tax; or

(C) any interest charge lawfully added to the tax liability which constitutes the subject of any suit brought under section 2 or 3.

(2) The term "State" means any of the several States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

Amend the title so as to read: "An Act to permit any State the reciprocal right to sue in the Superior Court of the District of Columbia to recover taxes due such State.".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent the Senate agree to the House amendments en bloc.

The PRESIDING OFFICER (Mr. NUNN). Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER TO EXTEND ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the period for the transaction of routine morning business be extended for not to exceed 1 hour, and that Senators may speak up to 30 minutes therein, if they wish.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. I am most appreciative, Mr. President.

The PRESIDING OFFICER. The Senator from New York.

U.N. COMMITTEE ON DECOLONIZATION CONDEMNS UNITED STATES-PUERTO RICO RELATIONS

Mr. MOYNIHAN. Mr. President, I rise to report to the Senate the somber and disagreeable news that the Committee on Decolonization, as it is known, of the General Assembly of the United Nations voted last evening 10 votes to 0, with 12 abstentions and 2 absentees voted—to condemn, in effect, the relationships between the United States and the Commonwealth of Puerto Rico. The committee, in effect, called for the immediate transfer of power, as it is put in the third article of the resolution, to the people of the territory by the Government of the United States; that is, it called for the separation of our two peoples.

This is a blow to the American feeling that our relations with the totalitarian world, and what is commonly known as the Third World, have somehow changed and been bettered in the course of recent years, in consequence of the very serious efforts of the President, the Secretary of State, and Permanent Representatives of the United Nations to bring about such a betterment.

It scarcely could be questioned that the United States has made such a good faith effort, and at times has gone to embarrassing lengths to do so. We now have been summarily informed of this decision. What little success we have had in changing any attitudes, save to worsen them, save to make our enemies more arrogant and those in between more concerned and perplexed. Our adversaries have no fear of insulting the fact of our democracy, of misrepresenting the most open and public of truths about our relations with the peoples of Puerto Rico, and to do so in the face of the solemn statement by the President of the United States that what the United Nations Committee has now said is not so.

The most recent event of this kind came when the Soviet Union chose to prosecute and to condemn and to imprison as a U.S. spy—as a spy of a foreign nation—a Soviet citizen whom the President of the United States specifically had said was not a spy. It was an act calculated with great effort. This most recent act was not less calculated. Only, I am sorry to say, it was not as well reported.

Mr. President, I am obliged by the traditions of the Senate to declare what is, in a sense, my own interest in this matter. I was the U.S. Permanent Representative to the United Nations in 1975, at a time the totalitarian Government of Cuba proceeded to attack the democratic Government of the United States for maintaining a colonial relationship with the peoples of Puerto Rico.

The Cuban resolution was brought up by its Stalinist ambassador between bouts of denying that there were any political prisoners in Cuba and releasing them for the delectation of visiting congressional delegations. (Why are there never any political prisoners in Cuba until a U.S. congressional delegation shows up to have some released? This is an amazing phenomenon to me.)

At that time, at my request, the Secretary of State sent a diplomatic note to the ambassador of the Decolonization Committee, as it is called, saying that we would consider it an unfriendly act to vote for the Cuban resolution. An unfriendly act in the language of diplomatic exchange is a very serious term. It is only to be exceeded by a hostile act.

In the aftermath of that note, the resolution was defeated by a vote of 11 noes, 9 yeas, and 2 abstentions.

The Government of Tanzania made a great stir about it in subsequent years; it published our note in its press, and expressed indignation that we could presume to ask it not to interfere in our internal affairs. One can imagine how the Government of Tanzania would feel if we suddenly revived an interest in the independence of Zanzibar—but we leave that aside.

The fact is that the United States said, "This is an internal matter, and we will not have an internal matter of our democracy kicked about by the dictatorships which dominate this committee, at the behest of one of the most brutal of all those dictatorships, the so-called Republic of Cuba."

Well, a number of years have passed; and this time, after long debate, the committee has acted once again. Last night, Mr. President, the Cuban dictator achieved his objective. The United States has been condemned by the Committee on Decolonization of the United Nations. And who chose to stand with us? What nation in the world chose to stand with us? Remember, just 3 years ago, 11 stood up and said, "No." What nation chose to stand with us? Not one. Not one nation chose to associate itself with the United States and thus to incur the displeasure of Cuba.

Listen to the names of the nations that voted to condemn us: Afghanistan, Bulgaria, China, Cuba, Czechoslovakia, Ethiopia, Iraq, Syria, Tanzania, and the Soviet Union.

In the Freedom House listing on the condition of freedom of the world, of those 10 countries, not one is listed as free; 9 are listed as absolutely not free; and only Syria, by some curious arrangement, is listed as partly free.

Nine dictatorships have condemned the free and democratic relationship of the United States with Puerto Rico. And where was Tanzania, whose President, Mr. Nyerere—that smiling dictator—came to this country last year, and who was feted at the White House and was told what a gentleman he is? It is said that the prisoners whom Mr. Nyerere keeps for Swapo are in perhaps more agreeable prisons than those in which they might otherwise find themselves.

But what have we now to confirm Mr. Nyerere's professions of friendship for us, and understanding? He sides with the dictatorship, as indeed he might; such is the political condition of his own country.

And what of those who abstained? Afghanistan evidently is now openly in the Soviet camp. China, which is forever telling us of the alarm we should feel about the aggressive intentions of the Soviet Union, sides with the Soviet Union.

Where are the countries that will not even stand up and tell them, "No"? Australia? It is heartbreaking. Three years ago, the Australians led the fight on our behalf in this committee, and a brilliant Australian representative carried the day.

India? How disappointing that our fellow democracy should not see this in the terms in which we present it and not make any effort to speak for us.

Yugoslavia? Let them come crawling for military aid, economic help, and God knows what to save their skins, the next time the Soviets start leering at them.

I recall very distinctly, one day in 1975—after the vote was taken and Yugoslavia had abstained—saying to the Yugoslavian Ambassador, on a social occasion, a luncheon, "We regard this as an internal matter. The Puerto Ricans are American citizens, just as New Yorkers and Vermonters and Hawaiians and Californians are."

I said to him, "How would you feel if we were suddenly to introduce in the United Nations a resolution about the right to separate and immediate independence for the people of Croatia?"

Well, he would not like it one bit. He turned several shades of purple. The next day, the U.S. Ambassador in Belgrade was called in and was asked what the U.S. Permanent Representative had meant by this statement. It was not a formal statement at all, just an informal statement at a social occasion.

Mr. HAYAKAWA. Mr. President, will the Senator yield for a question?

Mr. MOYNIHAN. I yield.

Mr. HAYAKAWA. I am very grateful to my learned friend, the distinguished Senator from New York, for informing us of this action of the Decolonization Committee of the United Nations. It is a piece of news that I had not heard. It distresses me enormously to learn of it.

However, since the Senator from New York has been Ambassador to the United Nations, I wonder if he would be kind enough to explain to me what an abstention means. I understand that there were 10 votes for the liberation of Puerto Rico.

Mr. MOYNIHAN. Exactly.

Mr. HAYAKAWA. And 12 abstentions. Why do not these 12 countries have the nerve to say "No," instead of abstaining? I have wondered about this in United Nations votes. There are abstentions, a refusal to take a position, which becomes, in effect, an invitation to totalitarian nations to drop over all the rest of us. I would like that explained.

Mr. MOYNIHAN. May I respond?

Mr. HAYAKAWA. Please. I wish that explained.

Mr. MOYNIHAN. I shall tell the Senator what abstention means in a moment.

A representative of a Communist dictatorship stands up before a committee and says that the people of Puerto Rico have been conquered and are ruled by the imperialist power of the United States, and then the Governor of Puerto Rico, the Honorable Carlos Romero Barcelo, comes before that Committee and says the following:

> The Puerto Rico of today is still not especially wealthy We are not mighty. Our people do not live in total internal harmony. Nevertheless, ladies and gentlemen, we do enjoy individually and collectively the basic human rights which define a free society. And believe me, the people of Puerto Rico appreciate with every fiber of their being how rare and how precious a blessing freedom is.
>
> Moreover, we know why we are free. We know we are free precisely because we are natural born citizens of the freest and most open and most culturally diverse nation in the history of mankind, the United States of America.
>
> We are free because we are part of the freest and most culturally diverse Nation in the history of mankind, the United States of America.

And to the dictators of Russia, China, Yugoslavia, and Cuba who say this is not so, and to the freely elected Governor of Puerto Rico who says it is, to abstain means not to decide one way or the other, not to have the courage to face the clear fact of the democratic condition in Puerto Rico and the Orwellian lies of the totalitarians. It recalls that great speech of John L. Lewis about President Roosevelt:

> It ill behooves one who has supped at labor's table and slept in labor's house to damn with fine impartiality both labor and its adversaries when they are locked in mortal embrace.

It is heartbreaking. It means that Sweden, faced with a Communist ambassador, says one thing about our democracy, and a Governor from our democracy says quite another. And the others say, "I will not choose."

Mr. HAYAKAWA. I thank the Senator from New York.

The Senator from California is still puzzled as to why they should put this much power in the hands of Communist dictatorships. Those nations which do abstain are not themselves Communist dictatorships, are they?

Mr. MOYNIHAN. I will tell the Senator the answer. If you cross the Soviet Union on something like this, you might have trouble and if you cross the United States you will not.

I hope that the American Ambassadors in all 22 of these nations would report to their Foreign Offices tomorrow morning to say, "We are offended. You can say what you want about our foreign policy, you can say all you want about our culture. You can be supportive or dismissive of our intellectual contributions and the attractions of our landscape, but you must not assault the honor of the American democracy and expect to do so with impunity."

They must understand there are things which we care deeply about.

"And you disparage at your peril."

They must be made to understand that there is a cost in saying certain irresponsible things about us—to say we lie when we say we have tried to maintain a democracy. It is not a perfect democracy. Our relationship with Puerto Rico was not ideal as it was settled. I know. The Puerto Ricans themselves are torn between statehood and the commonwealth status. The President of the United States has said they can have either. Puerto Rico arose from imperial times—that brief fling we had in the 1890's. Now it is past. We are not perfect. But we try to be democratic.

Mr. HAYAKAWA. I hate to see, Mr. President, these attacks by Communist dictatorships on the United States being supported, in effect, by the abstentions of many nations which are not Communist dictatorships. They give aid and comfort to those extremists of the right in my own State of California who have such a slogan as "U.S. of the U.N.," and since we do contribute heavily to the expense of that U.N., if the slogan were ever to carry weight because that slogan is so well justified by the actions of those very Communist dictatorships and the abstaining nations, the world itself would be in trouble, would it not?

Mr. MOYNIHAN. Exactly. Let me read the Senator another paragraph.

Mr. HAYAKAWA. Why do we stay in the U.N.?

Mr. MOYNIHAN. We have a responsibility to be there. But that responsibility

is fulfilled only when we take it seriously enough to respond properly.

There are people in the Department of State whose whole approach to this subject is what is called damage limitation, whose understanding of the modern age and the symbols of progress is so weak as to suppose these things do not matter. I do not know what cure there is for that. There are people who come into the administration who feel that we have not been understanding enough of the other dictatorships, who feel that if we showed ourselves to be more friendly to them, they would be more friendly to us.

What have they to show for this? We beat the Cubans 3 years ago. Last night we were beaten by them. We beat them 3 years ago when we said, "This matters to us," and we held. We had our way.

This time we did not.

Listen to this passage; listen to Romero Barcello. He said:

Should the day come when the people of Puerto Rico were to find themselves oppressed by the United States it would not be necessary for a totalitarian adversary of the United States to bring the matter to the attention of this committee. I can assure you that the freedom-loving people of Puerto Rico would virtually lay siege to this building in their clamor for redress of grievances. I should emphatically add that I myself would not hesitate to stand at the forefront of such a movement.

That is an honest voice. It admits the possibility of such an eventuality, and there is truth in that language. There is nothing but lies in the accusations against us. In the face of those lies, Iran—which God in Heaven knows will be after us in a hurry if they have another 5 days of riots—India, Sweden, and—God what a shame—Australia, say they are impartial. This in the face of lies about us, about democracy, about freedom in the world and its possibilities.

Mr. President, I do not wish to detain the Senate any further except to say I believe it might be useful for the Senate to adopt a resolution on this matter. I would hope, without in any way wishing to harass the Secretary of State, who has many things on his mind, to ask him if it is not the fact that a decent, manly concern for the good opinion of the rest of the world does not require that we protest this action, and in the absence of some acceptable response, that we respond in an appropriate way?

Mr. HAYAKAWA. Mr. President, I would be glad to support the Senator from New York in such a resolution whenever it is appropriate to be brought up.

Mr. MOYNIHAN. I thank my good friend, because he knows how much it matters to me. I thank the Chair and I appreciate the courtesy of the Chamber.

The PRESIDING OFFICER. Is there further morning business?

Mr. HAYAKAWA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. MOYNIHAN. It is my understanding that the Senator from Montana may wish the floor and, if that is the case, I am happy to yield to the Senator from Montana.

The PRESIDING OFFICER. Will the Senator from California withhold his request?

Mr. HAYAKAWA. By all means.

The PRESIDING OFFICER. Does the Senator from Montana desire to be recognized?

Mr. MELCHER. I do, Mr. President.

The PRESIDING OFFICER. The Senator from Montana.

EFFECTS OF ALASKAN NORTH SLOPE CRUDE OIL AND PRODUCTION AT ELK HILLS NAVAL PETROLEUM RESERVE

Mr. MELCHER. Mr. President, I will be very brief.

The General Accounting Office has finally released the report "Effects of Alaskan North Slope Crude Oil and Production at Elk Hills Naval Petroleum Reserve." The environmental requirements on the west coast as well as refinery configuration requires the importation of the sweet Indonesian crude oil or use of Elk Hills Stevens Zone oil in California refineries. Because of this, North Slope crude oil—which is sour and heavy gravity—will continue to be in surplus supply on the west coast.

The General Accounting Office has reaffirmed their position on the need to move this North Slope crude oil into the northern tier States through a west-east pipeline system. They said:

We continue to support the position taken in our recent report ("Potential For Deepwater Port Development in the United States," EMD-78-9, April 5, 1978) that assuming the surplus will be long term, the west-east pipeline system is the preferred transportation alternative for surplus North Slope crude oil. In that report, we recommended that the Congress enact legislation to expedite the issuance of required Federal approvals of transportation systems to move surplus crude oil to Northern Tier and other inland states.

The report referred to in that GAO document said last April:

It is highly unlikely that any of the proposed deepwater port and pipeline systems could be constructed by 1978 and used to move surplus Alaskan crude oil from the West Coast to domestic markets. Assuming the surplus will be long term, the construction of a west-to-east deepwater port and pipeline system would serve the national interest for distributing oil to midwestern and eastern markets.

Northern Tier Pipeline Co. has proposed just such construction from the State of Washington across the Northern Tier States to Minnesota. Their applications for Federal and State permits have been pending for 18 months. Expediting the necessary Federal permits for this 40-inch pipeline is required by one of the energy bills still in conference. Prompt action and passage is necessary on this provision to start to unravel this paradox of too much crude oil on the west coast and the shortage of crude supplies in the northern inland States. Construction of the Northern Tier pipeline will correct the situation by providing movement of up to 900,000 barrels per day of crude oil.

There are, of course, other methods of dealing with this crude surplus situation. We can shut in the production. This would increase our balance-of-payments problem by causing additional imports to replace the shut-in production. We could move the surplus to the east coast by tanker through the canal, or we could exchange the North Slope crude with foreign countries on a barrel-for-barrel basis. The GAO spoke to these alternatives and said:

Although some believe it is desirable for refiners to install additional desulfurization equipment or to retrofit present equipment, other constraints exist that discourage refiners from making these transitions, i.e., (1) high capital cost and (2) the lack of a market for residual fuel oil on the West Coast.

Short of shutting-in some production, there are alternatives for disposing of North Slope crude oil which is surplus to West Coast refinery requirements. The alternatives include (1) movement by overland pipeline to refineries in the midwest and southwest, (2) movement by tanker through the Panama Canal to refineries in the Gulf and East Coasts, and (3) exchange with foreign countries on a barrel-for-barrel basis. Because the overland pipelines have not been constructed, only options 2 and 3 can be exercised at this time. The administration decided against exchange with foreign countries, and North Slope crude oil surplus to West Coast needs is presently being shipped through the Panama Canal.

Although an exchange with Japan would result in transportation cost savings to the North Slope crude oil owners, these transportation savings may have to be shared with Japanese refiners to induce them into an exchange. DOE estimates the net gain from an exchange, considering transportation costs, crude oil quality adjustments, and import charges, would range from $0.54 to $1.34 per barrel. (See table in app. I on p. 9.)

According to DOE, in July 1977 the administration rejected the option to exchange surplus North Slope crude oil with Japan, despite the estimated transportation savings, for the following reasons:

It was not certain that refiners would pass to consumers much of the transportation cost savings from an exchange.

Temporary approval of exchanges might tend to lessen the incentives of oil companies and various State permitting authorities to proceed expeditiously with the approval and construction of needed west-to-east pipelines.

The belief that allowing exchanges would undermine the administration's efforts to make the public aware of the Nation's domestic energy supply shortage, and the need for conservation of those resources.

We believe that another important consideration is the effect an exchange agreement would have on our security of crude oil supplies. The United States would be giving up domestic supplies for an equalizing share of Japan's imported crude oil supplies. Although it is uncertain which country, or mix of countries, would provide the equalizing share, it is likely that the crude oil would come from either Saudi Arabia or Iran. These countries have contributed over 50 percent of Japan's crude oil imports each year over the last 4 years.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

BENJAMIN SONNENBERG

Mr. MOYNIHAN. Mr. President, if ever there was a life well lived and that might only be regarded as having been fully concluded by a warm, affectionate, and lengthy obituary in the New York Times it was the life of Benjamin Sonnenberg, that rare and incomparable citizen of the city of New York and, by

extension, the world, which he made his own so uniquely and individually.

The New York Times being in recess, I take the liberty, as I know he would wish me to have done, to find some sufficiently ingenious device of getting it into print.

I ask unanimous consent that the fine obituary of that incomparable man, an obituary by John L. Hess of the New York Times, be printed in the RECORD.

There being no objection, the obituary was ordered to be printed in the RECORD, as follows:

BENJAMIN SONNENBERG

(By John L. Hess)

NEW YORK.—Benjamin Sonnenberg, a Russian immigrant who became a legendary press agent and a friend of the rich and famous, died of a heart attack here Wednesday. He was 77 years old.

Following the lead of Ivy Lee, Sonnenberg was one of the great American press agents who imposed their own personalities on the public mind along with those of their clients.

He liked to call himself "a cabinetmaker who fashioned large pedestals for small statues." He was a small figure, round and bald, who made himself conspicuous in any company by his walrus mustache. His dark four-button tailored suits and a rich conversational stream reinforced by the names of famous people and by eligrams he had collected on well-thumbed index cards.

His pedestal has a mansion that Brendan Gill, the drama critic of the New Yorker and the chairman of the Municipal Art Society, has called "surely the greatest private house in New York." The five-story Georgian town house, at 19 Gramercy Park South, and a six-story house adjoining it, are filled with antique silver, brass and furniture, the walls lined with master drawings and paintings, nearly all of museum quality.

Here, several times a week for decades, Sonnenberg entertained a careful mix of industrialists, celebrities and useful media contacts. An elegant dinner would usually be followed by the showing of a new motion picture in the screening room on the top floor.

The decor and the entertainment were central to his public relations, and public relations was his life. He observed that articles about him stressing his way of life did not adequately treat the poverty of his beginnings.

Born in Brest-Litoven, Russia, on July 12, 1901, he immigrated with his family to New York in 1910. He grew up on the lower East Side, where his father sold cheap clothing from a stand in Grant Street. He graduated from DeWitt Clinton High School, worked and for a time lived at the Henry Street Settlement, spent a year at Columbia College on a scholarship, peddled door to door in the Middle West and worked briefly as a reporter on The Flint (Mich.) Daily Journal.

After returning to New York in 1921, Sonnenberg got a job at the Joint Distribution Committee, which led to an assignment with an American relief mission in Turkey and the Ukraine. Paradoxically, the contrast of his own relatively affluent situation there with the mass poverty around him appears to have determined his course from then on.

He came home in 1923 with little money but an elegant Continental wardrobe. He dabbled in writing and in acting, then drifted into freelance press agentry for nightclubs and theaters. In 1924, he married a Henry Street Settlement worker, Hilda Caplan. Their honeymoon, he said, was a 50-cent Chinese lunch, after which both returned to work.

Sonnenberg entered the big time with an engagement to publicize the new Fifth Avenue Hotel in 1926. He and his clients, who soon included other major hotels, found that the key to prominent play in the press was to promote the presence of newsworthy guests, paying or otherwise.

A great early coup was his mounting of a sort of parade up Broadway for Trader Horn, a peddler in Africa whose ghost-written memoirs became a best seller.

Ely Culbertson was another early client. Sonnenberg asserted that he had "sold" contract bridge as newsworthy to an editor of the New York Times, who first objected that "he play poker here" but who finally arranged for a telegraph line to the Waldorf-Astoria Hotel to report on a Culbertson match.

Adding the Hotel George V in Paris to his string, Sonnenberg became a friend and promoter of Prince Georges Matchabelli, the perfume seller, and through him Bergdorf Goodman and the Grand Duchess Marie of Russia, who came to work for the store.

In 1950, a New Yorker profile of Sonnenberg by his friend Geoffrey T. Hellman recounted that he soon found that he could make far more money representing a few big corporations and their chiefs than by promoting many smaller clients. He winnowed out his clientele accordingly.

Among the companies he enlisted were Lever Brothers, Lipton Tea, Squibb, Pan American World Airways, Sperry, Beech-Nut, CBS, Federated Department Stores and Philip Morris. Among the tycoons were Robert Lehman, Wild Bill Donovan, Samuel Goldwyn, David O. Selznick, Thomas Corcoran, William S. Paley and Albert Lasher.

A former employee of Sonnenberg's described his technique with admiration.

"Ben was capable of leading people to the mountaintop," he said, "Like getting an advance copy of a cover story in Time magazine that he hadn't had anything to do with. He'd send copies around with those big cards of his and a note, 'I thought you might be interested in this.' He wouldn't claim credit for it.

"A client of ours was the late John I. Snider of United States Industries. I remember arranging a dinner at Ben's for a few top editors. The point was to introduce John Snider. He did a hell of a job for him. He made him the principal spokesman for industrial responsibility toward workers displaced by automation. He was invited to address the AFL-CIO.

"I got up some great ads for United States Industries, but Ben just dropped them on the floor. He thought up the ad about 'the billion-dollar boards' listing the clout of the directors. It flattered the ego of every member of the board. That's the lesson I learned from Ben: The biggest factor is corporate ego."

Sonnenberg himself liked to recall that Samuel Goldwyn came to him with the reputation of "Mr. Malaprop," the butt of many a joke about Hollywood illiteracy. "I spent half a dozen years with Sam Goldwyn," Sonnenberg said. "When I got through, he lectured at Oxford."

A client who became a long and close friend was Robert Lerman. Together, they collected art, the banker buying works of great price, the press agent acquiring fine, fine master drawings and prints and antiques. Sonnenberg was fascinated by personalities of talent or high birth, and most of the pictures he collected are portraits of them. A brilliant selection was shown in 1971 at the Pierpont Morgan Library. Sonnenberg was an active benefactor of that institution, the New York Public Library and the Institute of Fine Arts.

His closest friends were writers and art collectors. Often, they urged him to write his memoirs. "I don't know how to write," he replied. "There's a differing between a gag and an essay."

Sonnenberg saw himself as the last of an old school of press agents. "It's a skill that has now been vulgarized and standardized," he said. "It's now done by machine. There's not a literate man in the business." One of his former assistants agreed. "We're all the poorer for it," he said. Mrs. Sonnenberg, who helped her husband in a self-effacing manner for more than half a century, survives, with their daughter, Helen, their son, Benjamin 2d, and six grandchildren.

COSMOPOLITANS FROM INDIA

Mr. MOYNIHAN. Mr. President, in the past decade, significant numbers of people from India have come to the United States. They have become an increasingly important element in our national life, for our country continues to benefit from their contributions to the arts, the sciences, business, and other professions. This is a significant development in American history, and not merely because immigrants from India are repeating a pattern of earlier settlers here. In fact, each national group brings to America its own heritage, its own particular ways of thinking and feeling, such that its encounter with American life produces new and interesting consequences.

This presents a challenge to sociologists, political scientists, and historians. It is a subject worthy of scholarly investigation. Accordingly, I wish to call attention to an article by Parmatma Saran, a promising assistant professor of sociology at Baruch College of the City University of New York. Professor Saran's examination of the Indian community of the Greater New York area is especially insightful. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE NEW IMMIGRANT WAVE: COSMOPOLITANS FROM INDIA

(By Parmatma Saran)

Some of the most moving documents in American history are those based upon immigrants' descriptions of their experiences after arriving in the United States. These documents were derived from an earlier wave of migration, primarily from Europe.

However, migration is not an historical process no longer relevant to the United States. With recent changes in the immigration laws and political and economic difficulties in many parts of the world, the flow of migrants to the United States, and in particular to the New York metropolitan area, has reemerged as a major social process. To allow this process to go unnoticed is to disregard a major event in contemporary American society.

There is an established body of theoretical and substantive writing about older immigrant groups (Italians, Jews, Irish, and so on), but there is also a concomitant lack of ethnographic data available about newer immigrants—especially East Indians. While some work is done on Indian immigrants in Great Britain, the West Indies, and Africa, there is none so far in the United States.

EMERGING NEW COMMUNITY

New York City has always had a small population of Indians (graduate students at various universities, people working for the Indian consulate and other official agencies, Air India, the United Nations, and similar organizations). However, this population has been transitory. Now, for the first time, there is evidence suggesting that a permanent In-

dian residential community is developing in the city.

As indicated above, the small Indian population in the city was transitory, scattered, and did not constitute a community in the functional sense. Starting in 1969 or 1970, because of the change in the immigration laws, scores of Indians came with their families to live and earn a living in this country. A large number of these immigrants live in and around New York City. They generally live in certain localities; this proximity allows close contact and constant interaction. The largest number of Indians are concentrated in Queens. Many of these newer immigrants live in Queens and the Bronx. It is estimated that close to 30,000 Indians are living in the tristate area.

In the last two years a clear trend has been evidenced among Indian immigrants. A good proportion of these immigrants are buying houses and moving to different places generally within fifty miles of New York City. The largest portion of them have moved to New Jersey, some to Westchester, and some to Long Island. However, the majority of this population still remains in Queens.

The Literary Guild of India (a local cultural and literary organization) recently published *India Guide* which gives a good deal of information about Indians and their varied activities in the city of New York. All these enterprises flourish because of the large Indian community—which is still growing. Another important indication of the growing Indian community is a directory of Indian immigrants published in 1975 in New York. Even though this directory includes Indians from all over the United States and Canada, it shows clearly that the heaviest concentration of Indians is in the New York metropolitan area. The directory also includes lists of Indian stores and businesses and generally gives the same figures as those of *India Guide*.

OCCUPATIONAL STRUCTURE AND ASSIMILATION

The East Indians who have come to the United States as immigrants starting in 1968–69 tend to be between the ages of 30 and 40. Those who come as students and then change their status to permanent residents are in most cases below 30 years of age. The majority of them come from middle-class backgrounds and lived in urban sectors. At least 90 percent of them have college degrees or professional diplomas. Wives, however, do not have the same educational background. In most cases they have some college education.

It must be pointed out that because of the immigration laws, Indians who come here are professionals or at least skilled people. The largest number of these immigrants are engineers and physicians; among other professionals are professors, accountants, and businessmen. In many cases wives and adult children also work. Some Indians are in skilled or semiskilled jobs. By these occupational indices the Indian community can be distinguished from many other ethnic groups in New York City. The average family income is above $15,000 per annum.

The profile of Indian immigrants provides an interesting phenomenon in the context of their structural assimilation. Perhaps because of their educational background, it is much easier for them to fit into the structural part of American society. For example, their earnings are high and they own property and live well. Gradually, through their organizational strength, they are also trying to exert themselves politically.

Their cultural assimilation, however, is minimal. A look at the Indian community clearly suggests that there is a strong desire to maintain its cultural heritage. The notion of ethnicity remains strong and is perceived as desirable.

Patterns of Indians' adaptations to their new environment encompass two arenas, social and psychobiological. The former includes family, religion, economics, education, and politics; the latter includes mental health, health-related issues, child-rearing practices, and food habits. We can look at each of these points in turn.

SOCIAL ADAPTATION: FAMILY

A large number of the Indians who migrate to the United States do not belong to joint-families. Even those who belong to a joint-family in most cases lived independently in India. Therefore, coming to the United States and living in a nuclear family does not pose any serious problems for Indians. However, a lack of primary group relationship and community support does create a sense of alienation for them. In order to examine patterns of adaptation of Indians in the context of the family, we should focus on patterns of relationship between spouses and patterns of relationship between children and parents.

In a traditional society like India—where family structure is essentially patriarchal, marriages are arranged, and the husband is the breadwinner—the supremacy of husbands generally prevailed. The wife remained contented with supervising household activities, maintaining close ties with the husband's family and relatives as well as her own relatives, and also found herself busy with neighbors and friends within the community. This in most cases contributed to a loving and stable relationship between husbands and wives.

After coming to the United States, both husbands and wives, especially wives, find themselves in a different environment. Many things which had kept wives busy and contented in India are simply not present in the new environment. This leads to a search for jobs on the part of wives, most of whom find some sort of employment. As a result of change in the status of wives, their roles also change. They simply are not able to keep up with the household work and care for husbands as they had done in India.

Husbands on their part find that their jobs are more taxing and demanding, coupled with long hours of commuting. At the same time, there is no community and social support for them. Their wives' economic independence also poses some concern and threat. These are some factors responsible for creating strain in the relationship pattern of husbands and wives. However, their early socialization, very strong commitment to marriage and the family, and greater tolerance help them deal with the new realities of life. With some exceptions (almost negligible) the relationship between husbands and wives remains amicable, and they are reasonably successful in maintaining stable relationships.

As we look into the patterns of relationships between children and parents, we find that these are not so smooth and often create serious confrontations. This is more apparent in those families where children have attained the age of 14 or 15. Parents want to maintain the traditional authority structure in their families and often ignore the fact that the child's socialization is highly influenced by the environment outside the family. Children also fail to understand why they should act as their parents want them to rather than as their peers do. In this case peer group influence is more dominant than the family influence.

Children also face a major identity crisis and find it very difficult to preserve their Indianness. As a result, the relationship between parents and children deteriorates. Because of the excessive love and affection for their children and perhaps better understanding on the part of mothers, and also the fact that in most of the families children are much younger (that is, below 10), the situation remains under control. However, there are some incidents which result in a complete breakdown of relationships and remain explosive.

RELIGION

One of the questions raised in the study of Indian immigrants is what happens to Hinduism and the religiosity of Hindus as they migrate to this country. There are many ways of looking at this phenomenon; one is to focus on both the formal and informal religious behavior of Hindu migrants.

There are at least five or six temples in the Queens, New York area alone. One of them, Hindu Temple, has a large membership and has been able to raise over $1 million for the construction of a new temple. People go to these temples in large numbers on weekends (especially Sundays) to join in services and offer their prayers.

Many social and cultural organizations are very particular about observing religious festivals, and see this as a good strategy to attract more people and increase their membership. There is a committee based in New York which draws more than 10,000 people to celebrate Durga-puja (the festival of the goddess Durga). The Sikh Gurudwara also draws large numbers of people during their annual feast.

On an individual level Indians also remain religious. Their religiosity does not decline in any way because of Western influences. To the contrary: there are more religious activities in many families than in India. In certain communities organizing private services at homes by inviting a priest and friends to participate is more frequent than in India. Priests are at a premium. It seems that religion and religious activity are perceived as very important aspects of life for Indian immigrants, and it is likely that they will grow even stronger.

ECONOMICS

We have already seen that the majority of Indians are professionals, or at least skilled. Consequently, they are able to find reasonably good jobs in their respective professions and have good incomes.

In terms of their economic behavior, they retain their traditional values and greatly emphasize saving. Their patterns of leisure activities center around family and friends; their standard of living is good but relatively low (compared to their American counterparts), which helps them a great deal in accumulating money over a short period of time. They are also property oriented, which has resulted in the purchase of property.

It is very clear that economically the Indian immigrants are successful. However, because of their value system, in many ways they are in an advantageous position which places them in a unique economic status. This population in terms of economic behavior and its economic strength is comparable to Jewish immigrants.

EDUCATION

In the sphere of education, too, Indians find themselves in an advantageous position. Even though the majority of them come with college degrees or professional qualifications, as soon as they settle down they go to American schools to enhance their qualifications. Since they have no language problem they do not face any serious handicap in the educational system here. They do face some difficulties, though because of their British educational background and their cultural values—which are quite distinct from those of the American system.

Children of these immigrants are also doing well in schools. Some of them have received New York Regents awards and various other scholarships. However, in some quarters there is doubt about their continued success because of the influence of

external factors. As they assimilate in the new society, they become more independent and act more in terms of their own values rather than the family tradition which is very strong in India. However, there are not sufficient data to give a clear picture at this time.

POLITICS

Considering the total Indian population in the United States, the number of Indian organizations is overwhelming. In the New York City area itself there are more than one hundred organizations. The majority are regional organizations, but a few represent the larger community,—that is, they are based neither on language, region, or religion. All of them claim to be nonpolitical. However, a close look at these organizations indicates that there is a clear recognition on the part of the leadership that these organizations are vital in order to have some influence in politics in this country.

The Association of Indians in America, which is considered to be broad based and professionally oriented, is trying to obtain a reclassification of Indians as "Asian-Indians" for the 1980 census. Presently Indians are classified as "Caucasians." The implication of this reclassification is that Indians will be eligible for "minority status" and also qualify for equal opportunity employment.

While many Indians privately concede that they would feel somewhat uncomfortable with the new "minority status," they also agree that the practical advantages outweigh this disadvantage. It is clear then that Indians are quite aware of the politics of a pluralistic society, are quite eager to exert strength as a pressure group, and increasingly are proving it by their deeds. However, it should be noted that only about 10 or 15 percent of Indian immigrants have become American citizens. In many informal interviews respondents have revealed that they are faced with the dilemma of changing citizenship. However, since barely 50 percent of them qualify to become citizens, it would be premature to make any judgment on this issue at this time.

PSYCHOBIOLOGICAL ADAPTATIONS: MENTAL HEALTH

Various studies have shown that there is some relationship between migration and mental disorder. Compared to the previous immigrant groups studied—such as Norwegians in Minnesota, Puerto Ricans in New York, West Indians in the United Kingdom, and various other European groups—the case of the East Indians is very different because of their distinct sociocultural background, coupled with their educational and economic status. However, it is clear that Indians too feel the strain of a highly competitive and impersonal way of life, even though they have close contacts within the Indian community. There are a few cases of divorce, mental illness, suicide, and similar pathologies.

Even though the Indian community is recent and small, it is very well organized and has developed organizations, institutional mechanisms, and a social network which provides tremendous social support and helps its members meet the crises that they confront in a new cultural setting. However, it should be pointed out that the level of tolerance is also very high, and the Indian community attaches a strong stigma to those who have psychological problems. As a result, the incidence of psychological problems reported by Indians is very small or nonexistent. The time factor involved, however, is short and does not really provide substantial data at this stage to suggest any future trends.

HEALTH-RELATED ISSUES

In an earlier study A.V.N. Sarma and I investigated the change of ecology and social environment and its effect on a small population of Indian students and physicians working in the New York City area. One of the most significant findings from an ecological point of view was an increase in the number of episodes of upper respiratory tract diseases associated with urban as well as congested neighborhoods.

A large number of Indian immigrants today are satisfied with the medical care they receive in the United States. However, they are divided insofar as preference for a doctor is concerned. Some feel that they have cultural and communication problems with American doctors; even more consult Indian medical friends before seeking professional help in case of illness. An overwhelming majority are more health conscious here than they were in India. They also go for periodic medical checkups.

CHILD-REARING PRACTICES

As we look at the profile of Indian immigrants, we find that there is some variation in terms of their patterns of adaptation and assimilation into American society.

Observation of Indian families reveals that to a great extent parents translated their own values in raising their children. The most prevalent assumption among Indian immigrants is that the first six or seven years of a human being's life are the most important in the making of the personality. Therefore, if the child-rearing practices center around traditional Indian values, the child is more likely to identify with those elements and maintain his Indian identity. However, while early experience does have a great impact on the child's personality and self-image, environmental factors outside the family have an equally important influence.

I have already indicated that children are often faced with this dilemma and sometimes respect those values which are transmitted by their parents. This area warrants closer observation to test certain hypotheses in the area of child-rearing practices of Indian immigrants. One thing, however, is clear: it is not easy for the parents to find a middle ground which is satisfactory to them and acceptable or desirable from the point of view of their children.

FOOD HABITS

Like their American counterparts, Indians also basically eat three meals a day. However, they do not eat as much for breakfast and lunch, but generally eat an elaborate, large dinner. A good number of the immigrants still have their evening tea with snacks, and therefore eat dinner usually after 8:00 P.M.

The majority of these Indians are nonvegetarians, but some—especially among the women—do not eat beef. Even those who are not vegetarians do not eat large portions of meat, and in some cases do not eat meat on a daily basis. For the most part they eat little for breakfast, and lunch is generally eaten out. Dinner is the most important meal of all and includes rice, bread, vegetables, meat, and salad. There is some variation because of regional backgrounds, but the main difference is that those who are vegetarians have additional items such as some yogurt preparation, tensils, and so on. Tea remains the most popular beverage, but some prefer coffee. Most of the Indians drink alcohol socially, but their consumption of alcoholic beverages, even on social occasions, is very small.

On the whole, the food habits of Indian immigrants have not changed much. Those who have come since 1969 have not found any difficulty in buying Indian groceries, spices, and the like, and they have therefore maintained their eating patterns. Children, however, are more exposed to American food and often prefer it.

LEISURE-TIME ACTIVITIES

Patterns of leisure-time activities for the Indian community center around friends and family. The pattern of visiting friends on weekends, without prior engagement, was common during the earlier phase of immigration (1969–72); however, it no longer is. People now generally make plans for the weekend and invite friends specifically for dinner or lunch. Meeting friends along with family for dinner or lunch remains the most important leisure activity.

Shopping on weekends also takes a good portion of leisure time. Even if they do not have much necessary shopping to do, wives often look for bargains. In recent times going to Indian movies on weekends is perhaps the most popular thing to do. Many Indian singers, dancers, and comedians are frequently visiting cities in the United States, and this seems to be catching the fancy of the Indian immigrants.

Eating out and going to Broadway plays or concerts is prevalent only among a very small proportion of the Indian immigrants. Participation in the activities of various organizations seems to be growing and is prevalent among most Indians irrespective of level of assimilation in American society.

INDIAN SUBCOMMUNITIES

It is interesting to note that religious, regional, linguistic, and caste factors still play an important role in the lives of the Indians living here. Indeed, subcommunities are built along these very lines.

As the community grows in size and complexity, Indians associate more and more with people of their own region, caste, and language. Thus the larger social network, also to a great extent, evolves along these lines. The emergence of regional associations strongly suggests that the regional associations serve the purpose of maintaining a separate Indian identity, plus providing a setting for meeting people coming from the same region who also speak the same language.

SOCIAL NETWORK AND IDENTITY MAINTENANCE

In most cases studies of ethnic groups clearly involve the study of networks. This approach is particularly applicable in the case of Indian immigrants living in New York City. The emergence of a large number of organizations, grocery stores, restaurants, movie showings, centers of cultural activities, temples, and similar activities and its relationship and meaning to the Indian community provide an interesting example of how these networks operate and serve as a means of identity maintenance.

Members of a given organization very often become personal friends and develop social contacts with one another. As a result, they establish a pattern of relationships with each other and develop a network system. Upon examination of many activities, both formal and informal, within the Indian community, we find that there exists a social network. Not all members would necessarily be part of a network, but most of them are. In regional associations especially networks are stronger and more prevalent.

These networks also develop informally. The owner of a grocery store or a travel agent or an insurance agent has direct contact with many members of the community and often serves as a link between those who themselves lack direct contact, and hence can support and maintain their identities through such networks.

FORMAL ORGANIZATION, INFORMAL ACTIVITIES

Beyond the problem of finding jobs and settling down, members of any immigrant group face a psychological crisis as a consequence of migrating, and that is the identity crisis. On the surface, it appears that various organizations within the Indian community have come into being for the purpose of organizing social, cultural, and religious functions. In fact, this is quite true. However, it goes beyond this and results in the maintenance of boundaries and identities.

There is a large number of organizations within the Indian community. When members of these organizations meet formally they are, of course, very conscious of their heritage and take a sense of pride in being part of these groups, which perhaps gives them great psychological satisfaction. Even when they meet informally, conversations very often center around these organizations. They have become very important in the lives of their members.

Many young Indians now attending college, whose parents emigrated much earlier than the new immigrants, have always identified with blacks and Spanish groups; that has been their identity. Since there were no Indian organizations when they were growing up, they never participated in any. As a result, they do not necessarily identify with Indians.

POLICYMAKING GUIDELINES

An examination of the Indian community in New York City gives many insights and provides a new direction in the study of ethnics, their patterns of adaptation, and processes of assimilation. Unlike older immigrant groups, structural assimilation for Indians is relatively smooth. Their behavior patterns and attitudes also suggest a strong sense of ethnicity and its desirability, and a growing support for cultural pluralism. A comparative study of the new immigrants—that is, East Indians, West Indians, Pakistanis, Filipinos, Vietnamese—is warranted to help scholars and administrators understand the implications of the new immigration and provide guidelines for policymaking.

SPECIAL ORDERS FOR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, are there any orders for the recognition of Senators on tomorrow?

The PRESIDING OFFICER. There are two special orders for 15 minutes each for Senator KENNEDY and Senator CHURCH.

ORDER FOR RECESS TO 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9:30 tomorrow morning.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

ORDER TO RESUME CONSIDERATION OF THE CONFERENCE REPORT ON NATURAL GAS PRICING ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the orders for the recognition of Senators tomorrow morning, the Senate resume its consideration of the conference report on natural gas pricing.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. MOYNIHAN. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 9:30 o'clock tomorrow morning.

The motion was agreed to; and at 6:35 p.m., the Senate recessed until tomorrow, Thursday, September 14, 1978, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 13, 1978:

CIVIL AERONAUTICS BOARD

Gloria Schaffer, of Connecticut, to be a member of the Civil Aeronautics Board for the remainder of the term expiring December 31, 1978.

Gloria Schaffer, of Connecticut, to be a member of the Civil Aeronautics Board for the term of 6 years expiring December 31, 1984.

AMBASSADOR

Edith Huntington Jones Dobelle, of Massachusetts, for the rank of Ambassador during her tenure of service as Chief of Protocol for the White House.

DEPARTMENT OF STATE

William H. Luers, of Illinois, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Venezuela.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Wednesday, September 13, 1978*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

In him who strengthens me I am able for anything.—Philippians 4: 13 (Moffatt).

Eternal Father, as we enter a new day and face the tasks ahead of us we come to Thee seeking the assurance of Thy presence and the guidance of Thy Spirit. We humbly acknowledge that we are concerned about the work that needs to be done. We are tempted to feel that we are not strong enough for the difficulties that trouble us, the differences that concern us, and the disagreements that worry us.

Grant unto us a faith great enough to lift the heavy burden of anxiety from our hearts, great enough to make us adequate for our tasks, and great enough to be truehearted and wholehearted, faithful and loyal in all our endeavors. With Thee may we walk worthily with firm faith and steady spirit, unashamed and unafraid. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 13087. An act to authorize the issuance of substitute Treasury checks without undertakings of indemnity, except as the Secretary of the Treasury may require.

The message also announced that the Senate disagrees to the amendments of the House to a bill of the Senate of the following title:

S. 1566. An act to amend title 18, United States Code, to authorize applications for a court order approving the use of electronic surveillance to obtain foreign intelligence information.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 7010. An act to provide for grants to States for the payment of compensation to persons injured by certain criminal acts and omissions, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 7010) entitled "An act to provide for grants to States for the payment of compensation to persons injured by certain criminal acts and omissions, and for other purposes," request a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, Mr. BAYH, Mr. BIDEN, Mr. METZENBAUM, Mrs. HUMPHREY, Mr. THURMOND, Mr. HATCH, and Mr. WALLOP to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 2376. An act to authorize withholding from salaries disbursed by the Secretary of the Senate and certain employees under the jurisdiction of the Architect of the Capitol for contribution to certain charitable organizations; and

S. 3002. An act to modify a portion of the south boundary of the Salt River Pima-Maricopa Indian Reservation in Arizona, and for other purposes.

The message also announced that Mr. Clement J. Sobotka, Jr., was appointed to the Board of Trustees of the American Folklife Center, effective January 3, 1979, for the remainder of the term which expires March 1982.

CIVIL SERVICE REFORM ACT OF 1978

Mr. UDALL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 11280, to reform the civil service laws.

The SPEAKER. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 328, nays 5, not voting 99, as follows:

YEAS—328

Abdnor
Addabbo
Akaka
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Aspin
AuCo'n
Badham
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, Tenn.
Bedell
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bonior
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Brooks
Brown, Mich.
Brown, Ohio
Broyhill
Burgener
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Carney
Carr
Carter
Cederberg
Chappell
Clausen, Don H.
Clay
Cleveland
Cohen
Coleman
Collins, Tex.
Conte
Corcoran
Corman
Cornell
Cornwell
Cotter
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dent
Derwinski
Devine
Dicks
Dodd
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Gammage
Gaydos
Gephardt
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harris
Harsha
Heckler
Hefner
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Hubbard
Hughes
Hyde
Ichord
Ireland
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kostmayer
Krebs
Lagomarsino
Latta
Le Fante
Leach
Lederer
Livingston
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McClory
McCormack
McDade
McEwen
McFall
McHugh
McKay
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mazzoli
Metcalfe
Meyner
Michel
Mikva
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Motti
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Perkins
Pettis
Pickle
Pike
Poage
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Rinaldo
Roberts
Robinson
Rodino
Rogers
Rooney
Rosenthal
Rostenkowski
Rousselot
Roybal
Rudd
Runnels
Russo
Ryan
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shuster
Sikes
Simon
Sisk
Skelton
Skubitz
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spence
Staggers
Stangeland
Stanton
Stark
Steed
Steers
Stelger
Stockman
Stokes
Stratton
Studds
Symms
Taylor
Thone
Thornton
Traxler
Treen
Trible
Tucker
Udall
Vanik
Vento
Volkmer
Walgren
Walker
Walsh
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—5

Lloyd, Calif.
Myers, Gary
Quayle
Wilson, Bob
Wilson, C. H.

NOT VOTING—99

Ambro
Ammerman
Anderson, Ill.
Armstrong
Ashley
Beard, R.I.
Bellenson
Blouin
Bolling
Breaux
Brodhead
Broomfield
Brown, Calif.
Buchanan
Burke, Calif.
Burke, Fla.
Byron
Caputo
Cavanaugh
Chisholm
Clawson, Del
Cochran
Collins, Ill.
Conable
Conyers
Dellums
Derrick
Dickinson
Diggs
Dingell
Dornan
Eckhardt
Fary
Fascell
Flowers
Fraser
Frenzel
Frey
Fuqua
Garcia
Giaimo
Gibbons
Harrington
Hawkins
Heftel
Hollenbeck
Huckaby
Jacobs
Johnson, Colo.
Kasten
Keys
Krueger
LaFalce
Leggett
Lehman
Lent
Levitas
McCloskey
McDonald
McKinney
Mathis
Mattox
Meeds
Mikulski
Milford
Miller, Calif.
Mitchell, Md.
Moss
Murphy, N.Y.
Nolan
O'Brien
Pepper
Pressler
Preyer
Quie
Richmond
Rosenhoover
Roe
Roncalio
Rose
Ruppe
Sarasin
Slack
Spellman
St Germain
Stump
Teague
Thompson
Tsongas
Ullman
Van Deerlin
Vander Jagt
Waggonner
Waxman
Whalen
Whitten
Wiggins
Young, Alaska
Young, Tex.

Mr. BONIOR changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 11280, with Mr. DANIELSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Monday, September 11, 1978, the Clerk had read through line 12 on page 348.

Pursuant to the motion agreed to on Monday, September 11, 1978, all debate on title VII and all amendments thereto is limited to 2 hours.

Are there any further amendments to title VII?

AMENDMENT OFFERED BY MR. COLLINS OF TEXAS

Mr. COLLINS of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COLLINS of Texas: Strike out title VII (beginning on line 12 of page 288, and ending on line 12 of page 348) and insert in lieu thereof the following new title:

TITLE VII—LABOR-MANAGEMENT RELATIONS

LABOR-MANAGEMENT RELATIONS

SEC. 701. (a) Subpart F of part III of title 5, United States Code, is amended by adding after chapter 71 the following new chapter:

"CHAPTER 73—FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS

"SUBCHAPTER I—GENERAL PROVISIONS

"Sec.
"7201. Findings and purpose.
"7202. Definitions; application.
"7203. Federal Labor Relations Authority; General Counsel.
"7204. Powers and duties of the Authority and of the General Counsel.

"SUBCHAPTER II—RIGHTS AND DUTIES OF EMPLOYEES, AGENCIES AND LABOR ORGANIZATIONS

"7211. Employees rights.
"7212. Recognition of labor organizations.
"7213. National consultation rights.
"7214. Exclusive recognition.
"7215. Representation rights and duties.
"7216. Unfair labor practices.
"7217. Standards of conduct for labor organizations.
"7218. Basic provisions of agreements.
"7219. Approval of agreements.

"SUBCHAPTER III—GRIEVANCES AND IMPASSES

"7221. Grievance procedures.
"7222. Federal Service Impasses Panel; negotiation impasses.

"SUBCHAPTER IV—ADMINISTRATIVE AND OTHER PROVISIONS

"7231. Allotments to representatives.
"7232. Use of official time.
"7233. Remedial action.
"7234. Subpenas.
"7235. Regulations.

"SUBCHAPTER I—GENERAL PROVISIONS

"§ 7201. Findings and purpose

"(a) The Congress finds that the public interest demands the highest standards of employee performance and the continued development and implementation of modern and progressive work practices to facilitate and improve employee performance and the efficient accomplishment of the operations of the Government.

"(b) The Congress also finds that, while significant differences exist between Federal and private employment, experience under Executive Order Numbered 11491 indicates that the statutory protection of the right of employees to organize, to bargain collectively within prescribed limits, and to participate through labor organizations of their own choosing in decisions which affect them—

"(1) may be accomplished with full regard for the public interest,

"(2) contributes to the effective conduct of public business, and

"(3) facilitates and encourages the amicable settlement between employees and their

employers of disputes involving personnel policies and practices and matters affecting working conditions.

"(c) It is the purpose of this chapter to prescribe certain rights and obligations of the employees of the Federal government subject to the paramount interest of the public and to establish procedures which are designed to meet the special requirements and needs of the Federal government in matters relating to labor-management relations.

"§ 7202. Definitions; application

"(a) For purposes of this chapter—

"(1) 'agency' means an Executive agency other than the General Accounting Office;

"(2) 'employee' means an individual who—

"(A) is employed in an agency;

"(B) is employed in a nonappropriated fund instrumentality described in section 2105(c) of this title;

"(C) is employed in the Veterans' Canteen Service, Veterans' Administration, and who is described in section 5102(c)(14) of this title; or

"(D) is an employee (within the meaning of subparagraph (A), (B), or (C)) who was separated from the service as a consequence of, or in connection with, an unfair labor practice described in section 7216 of this title;

but does not include—

"(i) an alien or noncitizen of the United States who occupies a position outside the United States;

"(ii) a member of the uniformed services (within the meaning of section 2101(3) of this title);

"(iii) for purposes of exclusive recognition or national consultation rights unless authorized under the provisions of this chapter, a supervisor, a management official, or a confidential employee;

"(3) 'labor organization' means any lawful organization of employees which was established for the purpose, in whole or in part, of dealing with agencies in matters relating to grievances and personnel policies and practices or in other matters affecting the working conditions of the employees, but does not include an organization which—

"(A) except as authorized under this chapter, consists of, or includes, management officials, confidential employees, or supervisors;

"(B) assists, or participates, in the conduct of a strike against the Government of the United States or any agency thereof or imposes a duty or obligation to conduct, assist, or participate in such a strike;

"(C) advocates the overthrow of the constitutional form of government of the United States; or

"(D) discriminates with regard to the terms or conditions of membership because of race, color, religion, national origin, sex, age, or handicapping condition;

"(4) 'agency management' means the agency head and all management officials, supervisors, and other representatives of management having authority to act for the agency on any matters relating to the implementation of the agency labor-management relations program established under this chapter;

"(5) 'Authority' means the Federal Labor Relations Authority established under section 7203 of this title;

"(6) 'General Counsel' means the General Counsel of the Federal Labor Relations Authority;

"(7) 'Panel' means the Federal Service Impasses Panel established under section 7222 of this title;

"(8) 'Assistant Secretary' means the Assistant Secretary of Labor for Labor-Management Relations;

"(9) 'confidential employee' means an employee who assists, and acts in a confidential capacity to, individuals who formulate and carry out management policies in the field of labor relations;

"(10) 'management official' means an employee having authority to make, or to influence effectively the making of, policy with respect to personnel procedures or programs which is necessary to an agency or an activity;

"(11) 'supervisor' means an employee having authority, in the interest of an agency, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of authority is not of a merely routine or clerical nature, but requires the use of independent judgment;

"(12) 'professional employee' means—

"(A) any employee engaged in the performance of work—

"(i) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or in a hospital, as distinguished from work requiring knowledge acquired from a general academic education, an apprenticeship, or training in the performance of routine mental, manual, or physical process;

"(ii) requiring the consistent exercise of discretion and judgment in its performance;

"(iii) which is predominantly intellectual and varied in character and not routine mental, manual, mechanical or physical work; and

"(iv) which is of such a character that the measurement of the output produced, or of the result accomplished, cannot be standardized by relating it to a given period of time; or

"(B) any employee who has completed the courses of specialized intellectual instruction and study described in subparagraph (A) and who is performing related work under the direction or guidance of a professional employee to qualify the employee to become a professional employee.

"(13) 'agreement' means an agreement entered into as a result of collective bargaining pursuant to the provisions of this chapter;

"(14) 'collective bargaining', 'bargaining', or 'negotiating' means the performance of the mutual obligation of the representatives of the agency and the exclusive representative as provided in section 7215 of this title;

"(15) 'exclusive representative' includes any labor organization which has been—

"(A) selected pursuant to the provisions of section 7214 of this title as the representative of the employees in an appropriate collective bargaining unit; or

"(B) certified or recognized prior to the effective date of this chapter as the exclusive representative of the employees in an appropriate collective bargaining unit;

"(16) 'person' means an individual, labor organization, or agency covered by this chapter; and

"(17) 'grievance' means any complaint by any person concerning any matter which falls within the coverage of a grievance procedure.

"(b) Except as provided in subsections (c), (d), and (e) of this section, this chapter applies to all employees of an agency.

"(c) This chapter shall not apply to—

"(1) the Federal Bureau of Investigation;

"(2) the Central Intelligence Agency;

"(3) the National Security Agency;

"(4) any agency not described in paragraph (1), (2), or (3), or any unit within any agency, which has as a primary function intelligence, investigative, or national security work, if the head of the agency determines, in the agency head's sole judgment, that this chapter cannot be applied in a manner consistent with national security requirements and consideration;

"(5) any unit of an agency which has as a primary function investigation or audit of the conduct or work of officers or employees of the agency for the purpose of insuring honesty and integrity in the discharge of official duties, if the head of the agency determines, in the agency head's sole judgment, that this chapter cannot be applied in a manner consistent with the internal security of the agency;

"(6) the United States Postal Service;

"(7) the Foreign Service of the United States;

"(8) the Tennessee Valley Authority; or

"(9) officers and employees of the Federal Labor Relations Authority, including the Office of General Counsel and the Federal Service Impasses Panel.

"(d) The head of an agency may, in the agency head's sole judgment and subject to such conditions as he may prescribe, suspend any provision of this chapter with respect to any agency, installation, or activity located outside the United States if the agency head determines that such suspension is necessary for the national interest.

"(e) Employees engaged in administering a labor-management relations law who are otherwise authorized by this chapter to be represented by a labor organization shall not be represented by a labor organization which also represents other employees covered by such law or which is affiliated directly or indirectly with an organization which represents such employees.

"§ 7203. Federal Labor Relations Authority; Office of General Counsel

"(a) There is established, as an independent establishment of the executive branch of the Government, the Federal Labor Relations Authority.

"(b) The Authority shall consist of three members, not more than two of whom may be adherents of the same political party and none of whom may hold another office or position in the Government of the United States except as provided by law or by the President.

"(c) Members of the Authority shall be appointed by the President, by and with the advice and consent of the Senate, and shall be eligible for reappointment. The President shall designate one member to serve as Chairman of the Authority. Any member of the Authority may be removed by the President.

"(d) The term of office of each member of the Authority is 5 years, except that a member may continue to serve beyond the expiration of the term to which appointed until the earlier of—

"(1) the date on which the member's successor has been appointed and has qualified, or

"(2) the last day of the session of the Congress beginning after the date the member's term of office would (but for this sentence) expire.

"(e) A vacancy in the Authority shall not impair the right of the remaining members to exercise all of the powers of the Authority. An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member such individual replaces.

"(f) The Authority shall make an annual report to the President for transmittal to the Congress and shall include in such report information as to the cases it has heard and the decisions it has rendered under this chapter.

"(g) There is established within the Authority an Office of General Counsel. The General Counsel shall be appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall be appointed for a term of 5 years and may be reappointed to any succeeding term. The General Counsel may be removed by the President. The General Counsel shall hold no other office or position in the Government of the United States except as provided by law or by the President.

"§ 7204. Powers and duties of the Authority and of the General Counsel

"(a) The Authority shall administer and interpret the provisions of this chapter, decide major policy issues, prescribe regulations, and disseminate information appropriate to the needs of agencies, labor organizations, and the public.

"(b) The Authority shall, in accordance with regulations prescribed by it—

"(1) decide questions submitted to it with respect to the appropriate unit for the purpose of exclusive recognition and with respect to any related issue;

"(2) supervise elections to determine whether a labor organization has been selected by a majority of the employees in an appropriate unit who cast valid ballots in the election;

"(3) decide questions with respect to the eligibility of labor organizations for national consultation rights; and

"(4) decide unfair labor practice complaints.

"(c) The Authority may consider, in accordance with regulations prescribed by it, any—

"(1) appeal from any decision on the negotiability of any issue as provided in subsection (e) of section 7215 of this title;

"(2) exception to any arbitration award as provided in section 7221 of this title;

"(3) appeal from any decision of the Assistant Secretary issued pursuant to section 7217 of this title;

"(4) exception to any final decision and order of the Panel issued pursuant to section 7222 of this title; and

"(5) other matters it deems appropriate in order to assure it carries out the purposes of this chapter.

"(d) The Authority shall adopt an official seal which shall be judicially noticed.

"(e) The Authority shall maintain its principal office in or about the District of Columbia but it may meet and exercise any or all of its powers at any time or place. Subject to subsection (g) of this section, the Authority may, by one or more of its members or by such agents as it may designate, make any inquiry necessary to carry out its duties wherever persons subject to this chapter are located. A member who participates in such inquiry shall not be disqualified from later participating in a decision of the Authority in the same case.

"(f) The Authority shall appoint an Executive Director, such attorneys, regional directors, administrative law judges, and other officers and employees as it may from time to time find necessary for the proper performance of its duties and may delegate to such officers and employees authority to perform such duties and make such expenditures as may be necessary.

"(g) All of the expenses of the Authority, including all necessary traveling and subsistence expenses outside the District of Columbia, incurred by members, employees, or agents of the Authority under its orders, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the Authority or by an individual it designates for that purpose and in accordance with applicable law.

"(h)(1) The Authority is expressly empowered and directed to prevent any person from engaging in conduct found violative of this chapter. In order to carry out its functions under this chapter, the Authority is authorized to hold hearings, subpena witnesses, administer oaths, and take the testimony or deposition of any person under oath, and in connection therewith, to issue subpenas requiring the production and examination of evidence as provided in section 7234 of this title relating to any matter pending before it and to take such other action as may be necessary. In the exercise of the functions of the Authority under this title, the Authority may request from the Director of the Office of Personnel Management an advisory opinion concerning the proper interpretation of regulations or other policy directives promulgated by the Office of Personnel Management in connection with a matter before the Authority for adjudication.

"(2) If a regulation or other policy directive issued by the Office of Personnel Management is at issue in an appeal before the Authority, the Authority shall timely notify the Director, and the Director shall have standing to intervene in the proceeding and shall have all the rights of a party to the proceeding.

"(3) The Director may request that the Authority reopen an appeal and reconsider its decision on the ground that the decision was based on an erroneous interpretation of law or of a controlling regulation or other policy directive issued by the Office of Personnel Management.

"(i) In any matter arising under subsection (b) of this section, the Authority may require an agency or a labor organization to cease and desist from violations of this chapter and require it to take such remedial action as it considers appropriate to carry out the policies of this chapter.

"(j)(1) The Authority shall maintain a record of its proceedings and make public any decision made by it or any action taken by the Panel under section 7222 of this title.

"(2) The provisions of section 552 of this title shall apply with respect to any record maintained under paragraph (1).

"(k) The General Counsel is authorized to—

"(1) investigate complaints of violations of section 7216 of this title;

"(2) make final decisions as to whether to issue notices of hearing on unfair labor practice complaints and to prosecute such complaints before the Authority;

"(3) direct and supervise all field employees of the General Counsel in the field offices of the Authority; and

"(4) perform such other functions as the Authority prescribes.

"(l) Notwithstanding any other provision of law, including chapter 7 of this title, the decision of the Authority on any matter within its jurisdiction shall be final and conclusive, and no other official or any court of the United States shall have power or jurisdiction to review any such decision by an action in the nature of mandamus on appeal of that decision or by any other means except that nothing in this section shall limit the right of persons to judicial review of questions arising under the Constitution of the United States.

"SUBCHAPTER II—RIGHTS AND DUTIES OF EMPLOYEES, AGENCIES AND LABOR ORGANIZATIONS

"§ 7211. Employees' rights

"(a) Each employee shall have the right freely and without fear of penalty or reprisal to form, join, or assist any labor organization, or to refrain from such activity, and each employee shall be protected in exercising such rights. Except as otherwise provided under this chapter, such rights include the right to—

"(1) participate in the management of a labor organization,

"(2) act for the organization in the capacity of a representative,

"(3) present, in such representative capacity, the views of the organization to agency heads and other officials of the executive branch of the Government, the Congress, or other appropriate authorities, and

"(4) bargain collectively, subject to the title, through representatives of their own choosing.

"(b) This chapter does not authorize—

"(1) a management official, a confidential employee, or a supervisor to participate in the management of a labor organization or to act as a representative of such an organization, unless such participation or activity is specifically authorized by this chapter, or

"(2) any employee to so participate or act if such participation or activity would result in any conflict of interest, or appearance thereof, or would otherwise be inconsistent with any law or the official duties of the employee.

"§ 7212. Recognition of labor organizations

"(a) An agency shall accord exclusive recognition or national consultation rights at the request of a labor organization which meets the requirements for such recognition or consultation rights under this chapter.

"(b) Recognition of a labor organization, once accorded, shall continue as long as the organization meets the requirements of this chapter for recognition.

"(c) Recognition of a labor organization shall not—

"(1) preclude an employee, regardless of whether the employee is in a unit of exclusive recognition, from exercising grievance or appellate rights established by law or regulation or from choosing the employee's own representative in a grievance or appellate action, except when the grievance or appeal is covered by and pursued under a negotiated procedure as provided in section 7221 of this title;

"(2) preclude or restrict consultations and dealings between an agency and a veterans organization with respect to matters of particular interest to employees in connection with veterans preference; or

"(3) preclude an agency from consulting or dealing with a religious, social, fraternal, professional, or other lawful association not qualified as a labor organization with respect to matters or policies which involve individual members of the association or are of particular applicability to it or its members. Consultations and dealings under paragraph (3) shall not assume the character of formal consultation on matters of general employee-management policy covering employees in that unit or extend to areas where recognition of the interests of one employee group may result in discrimination against or injury to the interest of other employees.

"§ 7213. National consultation rights

"(a) An agency shall accord national consultation rights to a labor organization which qualifies under criteria established by the Authority as the representative of a substantial number of employees of the agency. National consultation rights shall not be accorded for any unit if a labor organization already holds exclusive recognition at the national level for that unit. The granting of national consultation rights shall not preclude an agency from appropriate dealings at the national level with other organizations on matters affecting their members. An agency shall terminate national consultation rights if the labor organization ceases to qualify under the established criteria.

"(b) If a labor organization has been accorded national consultation rights, the agency shall notify representatives of such organization of proposed substantive changes in personnel policies that affect employees such organization represents and provide an opportunity for such organization to comment on the proposed changes. Such organization may suggest changes in the agency's personnel policies and have its views carefully considered. Representatives of such organization may consult, at reasonable times, with appropriate officials on personnel policy matters and may, at all times, present in writing the organization's views on such matters. An agency is not required to consult

with any such organization on any matter on which it would not be required to negotiate if the organization were entitled to exclusive recognition.

"(c) Any question with respect to the eligibility of a labor organization for national consultation rights may be referred to the Authority for decision.

"§ 7214. Exclusive recognition

"(a) An agency shall accord exclusive recognition to a labor organization if the organization has been selected as the representative, in a secret ballot election, by a majority of the employees in an appropriate unit who cast valid ballots in the election.

"(b) A unit may be established on an agency, plant, installation, craft, functional, or other basis which will assure a clear and identifiable community of interest among the employees concerned and will promote effective dealings and efficiency in the agency's operations. A unit shall not be established solely on the basis of the extent to which employees in the proposed unit have organized, nor shall a unit be established if it includes—

"(1) except as provided in section 701(b)(1) of the Civil Service Reform Act of 1978, any management official, confidential employee, or supervisor;

"(2) an employee engaged in Federal personnel work in other than a purely clerical capacity; or

"(3) both professional and nonprofessional employees, unless a majority of the professional employees vote for inclusion in the unit.

Any question with respect to the appropriate unit may be referred to the Authority for decision.

"(c) All elections shall be conducted under the supervision of the Authority or persons designated by the Authority and shall be by secret ballot. Employees eligible to vote shall be provided the opportunity to choose the labor organization they wish to represent them from among those on the ballot and, except in the case of an election described in paragraph (4), the opportunity to choose not to be represented by a labor organization. Elections may be held to determine whether a labor organization should—

"(1) be recognized as the exclusive representative of employees in a unit;

"(2) replace another labor organization as the exclusive representative;

"(3) cease to be the exclusive representative;

"(4) be recognized as the exclusive representative of employees in a unit composed of employees in units currently represented by that labor organization or continue to be recognized in the existing separate units.

An election not be held to determine whether an organization should become, or continue to be recognized as, the exclusive representative of the employees in any unit, or subdivision thereof, during the 12-month period after a valid election has been held under this chapter with respect to such unit.

"§ 7215. Representation rights and duties

"(a) If a labor organization has been accorded exclusive recognition, such organization shall be—

"(1) the exclusive representative of employees in the unit and is entitled to act for and negotiate agreements covering all employees in the unit;

"(2) responsible for representing the interests of all employees in the unit without discrimination and without regard to labor organization membership; and

"(3) given the opportunity to be represented at formal discussions between management and employees or employee representatives concerning grievances, personnel policies and practices, or other matters affecting general working conditions of employees in the unit.

"(b) An agency and an exclusive representative shall have a duty to negotiate in good faith and in exercising such duty shall—

"(1) approach the negotiations with a sincere resolve to reach an agreement;

"(2) be represented at the negotiations by appropriate representatives prepared to discuss and negotiate on all negotiable matters;

"(3) meet at such reasonable times and places as may be necessary; and

"(4) execute upon request of the agency or the organization a written document embodying the terms of, and take such steps as are necessary to implement, any agreement which is reached.

"(c) An agency and an exclusive representative shall, through appropriate representatives, negotiate in good faith as prescribed under subsection (b) of this section with respect to personnel policies and practices and matters affecting working conditions but only to the extent appropriate under laws and regulations, including policies which—

"(1) are set forth in the Federal Personnel Manual,

"(2) consist of published agency policies and regulations for which a compelling need exists (as determined under criteria established by the Authority) and which are issued at the agency headquarters level or at the level of a primary national subdivision, or

"(3) are set forth in a national or other controlling agreement entered into by a higher unit of the agency.

"In addition, such organization and the agency may determine appropriate techniques consistent with section 7222 of this title, to assist in any negotiation.

"(d) In prescribing regulations relating to personnel policies and practices and working conditions, an agency shall give due regard to the obligation to negotiate imposed by this section, except that such obligation does not include an obligation to negotiate with respect to matters concerning the number of employees in an agency, the numbers, types, and grades of positions or employees assigned to an organizational unit, work project or tour of duty, or the technology of performing the agency's work. The preceding sentence shall not preclude the parties from negotiating agreements providing appropriate arrangements for employees adversely affected by the impact of realignment of work forces or technological change.

"(e)(1) If, in connection with negotiations, an issue develops as to whether a proposal is negotiable under this chapter or any other applicable law, regulation, or controlling agreement, it shall be resolved as follows:

"(A) An issue which involves interpretation of a controlling agreement at a higher agency level is resolved under the procedures of the controlling agreement, or, if none, under regulations prescribed by the agency.

"(B) An issue not described in paragraph (1) which arises at a local level may be referred by either party to the head of the agency for determination.

"(2) An agency head's determination under paragraph (1) concerning the interpretation of the agency's regulations with respect to a proposal shall be final.

"(3) A labor organization may appeal to the Authority from a decision under paragraph (1) if it—

"(A) disagrees with an agency head's determination that a proposal is not negotiable under this chapter or any other applicable law or regulation of appropriate authority outside the agency, or

"(B) believes that an agency's regulations, as interpreted by the agency head, are in violation of this chapter or any other applicable law or regulation of appropriate authority outside the agency, or are not otherwise applicable to bar negotiations under subsection (c) of this section.

"§ 7216. Unfair labor practices

"(a) It shall be an unfair labor practice for an agency—

"(1) to interfere with, restrain, or coerce an employee in connection with the exercise of rights assured by this chapter;

"(2) to encourage or discourage membership in any labor organization by discrimination in regard to hiring, tenure, promotion, or other conditions of employment;

"(3) to sponsor, control, or otherwise assist any labor organization, unless such assistance consists of furnishing customary and routine services and facilities—

"(A) in a manner consistent with the best interest of the agency, its employees, and the organization, and

"(B) on an impartial basis to organizations (if any) having equivalent status;

"(4) to discipline or otherwise discriminate against an employee because the employee has filed a complaint, affidavit, petition, or given any information or testimony, under the provisions of this chapter;

"(5) to refuse to accord appropriate recognition to a labor organization qualified for such recognition; or

"(6) to refuse to consult or negotiate in good faith with a labor organization as required by this chapter.

"(b) It shall be an unfair labor practice for a labor organization—

"(1) to interfere with, restrain, or coerce an employee in connection with the exercise of the rights assured by this chapter;

"(2) to cause or attempt to cause an agency to coerce an employee in the exercise of rights under this chapter;

"(3) to coerce or attempt to coerce an employee, or to discipline, fine or take other economic sanction against a member of the labor organization, as punishment or reprisal or for the purpose of hindering or impeding work performance, productivity, or the discharge of duties of such employee;

"(4) to—

"(A) call, or participate in, a strike, work stoppage, slowdown, or picketing of an agency in a labor-management dispute if such picketing interferes or reasonably threatens to interfere with an agency's operations, or

"(B) condone any activity described in subparagraph (A) by failing to take action to prevent or stop it;

"(5) to discriminate against an employee with regard to the terms or conditions of membership in the organization because of race, color, religion, national origin, sex, age, or handicapping condition; or

"(6) to refuse to consult or negotiate in good faith with an agency as required by this chapter.

"(c) It shall be an unfair labor practice for a labor organization which is accorded exclusive recognition to deny membership to an employee in an appropriate unit unless such denial is for failure to meet reasonable occupational standards uniformly required for admission or for failure to tender initiation fees and dues uniformly required as a condition of acquiring and retaining membership. This subsection shall not preclude a labor organization from enforcing discipline in accordance with procedures under its constitution or bylaws which conform to the requirements of this chapter.

"(d) Issues which can properly be raised under an appeals procedure may not be raised as unfair labor practices prohibited under this section. Except for matters wherein, under sections 7221 (e) and (f) of this title, an employee has an option of using the negotiated grievance procedure or an appeals procedure, issues which can be raised under a grievance procedure may, in the discretion of the aggrieved party, be raised under that procedure or as an unfair labor practice under this section, but not under both procedures. Appeals or grievance decisions shall not be construed as unfair labor practice decisions under this chapter nor as a precedent for such decisions. All complaints

of unfair labor practices prohibited under this section that cannot be resolved by the parties shall be filed with the Authority.

"(e) Any question with respect to whether an issue can properly be raised under an appeals procedure shall be referred for resolution to the agency responsible for final decisions relating to those issues.

"§ 7217. Standards of conduct for labor organizations.

"(a) An agency shall only accord recognition to a labor organization that is free from corrupt influences and influences opposed to basic democratic principles. Except as provided in subsection (b) of this section, an organization is not required to prove that it is free from such influences if it is subject to governing requirements adopted by the organization or by a national or international labor organization or federation of labor organizations with which it is affiliated, or in which it participates, containing explicit and detailed provisions to which it subscribes calling for—

"(1) the maintenance of democratic procedures and practices, including provisions for periodic elections to be conducted subject to recognized safeguards and provisions defining and securing the right of individual members to participate in the affairs of the organization, to receive fair and equal treatment under the governing rules of the organization, and to receive fair process in disciplinary proceedings;

"(2) the exclusion from office in the organization of persons affiliated with communist or other totalitarian movements and persons identified with corrupt influences;

"(3) the prohibition of business or financial interests on the part of organization officers and agents which conflict with their duty to the organization and its members; and

"(4) the maintenance of fiscal integrity in the conduct of the affairs of the organization, including provisions for accounting and financial controls and regular financial reports or summaries to be made available to members.

"(b) Notwithstanding the fact that a labor organization has adopted or subscribed to standards of conduct as provided in subsection (a) of this section, the organization is required to furnish evidence of its freedom from corrupt influences or influences opposed to basic democratic principles if there is reasonable cause to believe that—

"(1) the organization has been suspended or expelled from, or is subject to other sanction, by a parent labor organization, or federation of organizations with which it had been affiliated, because it has demonstrated an unwillingness or inability to comply with governing requirements comparable in purpose to those required by subsection (a) of this section; or

"(2) the organization is in fact subject to influences that would preclude recognition under this chapter.

"(c) A labor organization which has or seeks recognition as a representative of employees under this chapter shall file financial and other reports with the Assistant Secretary, provide for bonding of officials and with trusteeship and election standards

"(d) The Assistant Secretary shall prescribe such regulations as are necessary to carry out the purposes of this section. Such regulations shall conform generally to the principles applied to labor organizations in the private sector. Complaints of violations of this section shall be filed with the Assistant Secretary. In any matter arising under this section, the Assistant Secretary may require a labor organization to cease and desist from violations of this section and require it to take such action as he considers appropriate to carry out the policies of this section.

"§ 7218. Basic provisions of agreements

"(a) Each agreement between an agency and a labor organization shall provide the following:

"(1) In the administration of all matters covered by the agreement, officials and employees shall be governed by—

"(A) existing or future laws and the regulations of appropriate authorities, including policies which are set forth in the Federal Personnel Manual,

"(B) published agency policies and regulations in existence at the time the agreement was approved, and

"(C) subsequently published agency policies and regulations required by law or by the regulations of appropriate authorities, or authorized by the terms of a controlling agreement at a higher agency level.

"(2) Management officials of the agency shall retain the right to determine the mission, budget, organization, and internal security practices of the agency, and the right, in accordance with applicable laws and regulations, to—

"(A) direct employees of the agency;

"(B) hire, promote, transfer, assign, and retain employees in positions within the agency, and to suspend, demote, discharge, or take other disciplinary action against employees;

"(C) relieve employees from duties because of lack of work or for other legitimate reasons;

"(D) maintain the efficiency of the Government operations entrusted to such officials;

"(E) determine the methods, means, and personnel by which such operations are to be conducted; and

"(F) take such actions as may be necessary to carry out the mission of the agency in situations of emergency.

"(b) Nothing in subsection(a) of this section shall preclude the parties from negotiating—

"(1) procedures which management will observe in exercising its authority to decide or act in matters reserved under such subsection; or

"(2) appropriate arrangements for employees adversely affected by the impact of management's exercising its authority to decide or act in matters reserved under such subsection,

except that such negotiations shall not unreasonably delay the exercise by management of its authority to decide or act, and such procedures and arrangements shall be consistent with the provisions of any law or regulation described in 7215(c) of this title, and shall not have the effect of negating the authority reserved under subsection (a).

"(c) Nothing in the agreement shall require an employee to become or to remain a member of a labor organization or to pay money to the organization except pursuant to a voluntary, written authorization by a member for the payment of dues through payroll deductions.

"(d) The requirements of this section shall be expressly stated in the initial or basic agreement and apply to all supplemental, implementing, subsidiary, or informal agreements between the agency and the organization.

"§ 7219. Approval of agreements

"An agreement with a labor organization as the exclusive representative of employees in a unit is subject to the approval of the head of the agency or his designee. An agreement shall be approved within 45 days from the date of its execution if it conforms to this chapter and other applicable laws, existing published agency policies and regulations (unless the agency has granted an exception to a policy or regulation), and regulations of other appropriate authorities. An agreement which has not been approved or disapproved within 45 days from the date of its execution shall go into effect without the required approval of the agency head and shall be binding on the parties subject to the provisions of this chapter, other applicable laws, and the regulations of appropriate authorities outside the agency. A local agreement subject to a national or other controlling agreement at a higher level shall be approved under the procedures of the controlling agreement or, if none, under agency regulations.

"SUBCHAPTER III—GRIEVANCES AND IMPASSES

"§ 7221. Grievance procedures

"(a) An agreement between an agency and a labor organization which has been accorded exclusive recognition shall provide a procedure, applicable only to the unit, for the consideration of grievances. Subject to the provisions of subsection (d) of this section and to the extent not contrary to any law, the coverage and scope of the procedure shall be negotiated by the parties to the agreement. Except as otherwise provided in this section, such procedure shall be the exclusive procedure available to the parties and the employees in the unit for resolving grievances which fall within its coverage.

"(b) Any employee or group of employees in the unit may present grievances falling within the coverage of the negotiated grievance procedure to the agency and have them adjusted without the intervention of the exclusive representative if the adjustment is not inconsistent with the terms of the agreement and the exclusive representative has been given an opportunity to be present at the adjustment.

"(c) A negotiated grievance procedure shall provide for arbitration as the final step of the procedure. Arbitration may be invoked only by the agency or the exclusive representative. Except as provided in subsection (g) of this section, the procedure must also provide that the arbitrator is empowered to resolve questions as to whether or not any grievance is on a matter subject to arbitration under the agreement.

"(d) A negotiated grievance procedure may cover any matter within the authority of an agency if not inconsistent with the provisions of this chapter, except that it may not include matters involving examination, certification and appointment, suitability, classification, political activities, retirement, life and health insurance, national security, or the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

"(e) Matters covered under sections 4303 and 7512 of this title which also fall within the coverage of the negotiated grievance procedure may, in the discretion of the aggrieved employee, be raised either under the appellate procedures of section 7701 of this title or under the negotiated grievance procedure, but not both. Similar matters which arise under other personnel systems applicable to employees covered by this chapter may, in the discretion of the aggrieved employee, be raised either under the appellate procedures, if any, applicable to those matters, or under the negotiated grievance procedure, but not both. An employee shall be deemed to have exercised his option under this subsection to raise a matter either under the applicable appellate procedures or under the negotiated grievance procedure at such time as the employee timely files a notice of appeal under the applicable appellate procedures or timely files a grievance in writing in accordance with the provisions of the parties' negotiated grievance procedure, whichever event occurs first.

"(f) An aggrieved employee affected by a prohibited personnel practice under section 2302(b)(1) of this title which also falls under the coverage of the negotiated grievance procedure may raise the matter under a statutory procedure or the negotiated procedure, but not both. An employee shall be deemed

to have exercised his option under this subsection to raise the matter under either a statutory procedure or the negotiated procedure at such time as the employee timely initiates an action under the applicable statutory procedure or timely files a grievance in writing, in accordance with the provisions of the parties, negotiated procedure, whichever event occurs first. Selection of the negotiated procedure in no manner prejudices the right of an aggrieved employee to request the Merit Systems Protection Board to review the final decision pursuant to subsections (h) and (i) of section 7701 of this title in the case of any personnel action that could have been appealed to the Board, or, where applicable, to request the Equal Employment Opportunity Commission to review a final decision in any other matter involving a complaint of discrimination of the type prohibited by any law administered by the Equal Employment Opportunity Commission.

"(g) An question that cannot be resolved by the parties as to whether or not a grievance is on a matter excepted by subsection (d) of this section shall be referred for resolution to the agency responsible for final decisions relating to those matters.

"(h) In matters covered under sections 4303 and 7512 of this title which have been raised under the negotiated grievance procedure in accordance with the provisions of subsection (e) of this section, an arbitrator shall be governed by the provisions of section 4303 (f) or 7701(d) of this title, as applicable.

"(i) Allocation of the costs of the arbitration shall be governed by the collective-bargaining agreement. An arbitrator shall have no authority to award attorney or other representative fees, except that in matters where an employee is the prevailing party and the arbitrator's decision is based on a finding of discrimination prohibited by any law referred to in section 7701(h) of this title attorney fees may be awarded and shall be governed by the standards applicable under the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e-5(k)).

"(j) Either party may file exceptions to any arbitrator's award with the Authority, except that no exceptions may be filed to awards concerning matters covered under subsection (e) of this section. The Authority shall sustain a challenge to an arbitrator's award only on grounds that the award violates applicable law, appropriate regulation, or other grounds similar to those applied by Federal courts in private sector labor-management relations. Decisions of the Authority on exceptions to arbitration awards shall be final, except for the right of an aggrieved employee under subsection (f) of this section.

"(k) In matters covered under sections 4303 and 7512 of this title which have been raised under the provisions of the negotiated grievance procedure in accordance with the provisions of subsection (e) of this section, the provisions of section 7702 of this title pertaining to judicial review shall apply to the award of an arbitrator in the same manner and under the same conditions as if the matter had been decided by the Merit Systems Protection Board. In matters similar to those covered under sections 4303 and 7512 which arise under other personnel systems and which an aggrieved employee has raised under the negotiated grievance procedure, judicial review of an arbitrator's award may be obtained in in the same manner and on the same basis as could be obtained of a final decision in such matters raised under applicable appellate procedures.

"§ 7222. Federal Service Impasse Panel; negotiation impasses

"(a)(1) There is established within the Authority, as a distinct organizational entity, the Federal Service Impasses Panel. The Panel is composed of the Chairman, and an even number of other members, appointed by the President solely on the basis of fitness to perform the duties and functions of the Office, from among individuals who are familiar with Government operations and knowledgeable in labor-management relations. No employee (as defined under section 2105 of this title) shall be appointed to serve as a member of the Panel.

"(2) At the time the members of the Panel (other than the Chairman) are first appointed, half shall be appointed for a term of 1 year and half for a term of 3 years. An individual appointed to serve as the Chairman shall serve for a term of 5 years. A successor of any member shall be appointed for terms of 5 years, except that an individual chosen to fill a vacancy shall be appointed for the unexpired term of the member whom such individual replaces. Any member of the Panel may be removed by the President.

"(3) The Panel may appoint an executive secretary and such other employees as it may from time to time find necessary for the proper performance of its duties. Each member of the Panel is entitled to pay at a rate equal to the daily equivalent of the maximum annual rate of basic pay currently paid, from time to time, under the General Schedule for each day the member is engaged in the performance of official business on the work of the Panel, including traveltime, and is entitled to travel expenses and a per diem allowance under section 5703 of this title.

"(b) Upon request, the Federal Mediation and Conciliation Service shall provide services and assistance to agencies and labor organizations in the resolution of negotiation impasses.

"(c) If voluntary arrangements, including the services of the Federal Mediation and Conciliation Service or other third-party mediation, fail to resolve a negotiation impasse, either party may request the Panel to consider the matter.

"(d) The Panel or its designee shall promptly investigate any impasse presented to it under subsection (c) of this section. The Panel shall consider the matter and shall either recommend procedures to the parties for the resolution of the impasse or assist the parties in arriving at a settlement through such methods and procedures, including fact finding and recommendations, as it may find appropriate to accomplish the purposes of this section. Arbitration, or third-party fact finding with recommendations to assist in the resolution of an impasse, may be used by the parties only when authorized or directed by the Panel. If the parties do not arrive at a settlement, the Panel may hold hearings, compel under section 7234 of this title the attendance of witnesses and the production of documents, and take whatever action is necessary and not inconsistent with the provisions of this chapter to resolve the impasse. Notice of any final action of the Panel shall be promptly served upon the parties and such action shall be binding upon them during the term of the agreement unless the parties mutually agree otherwise.

"SUBCHAPTER IV—ADMINISTRATIVE AND OTHER PROVISIONS

"§ 7231. Allotments to representatives

"(a) If, pursuant to an agreement negotiated in accordance with the provisions of this chapter, an agency has received from an employee in a unit of exclusive recognition a written assignment which authorizes the agency to deduct from the wages of such employee amounts for the payment of regular and periodic dues of the exclusive representative for such unit, such assignment shall be honored. Except as required under subsection (b) of this section, any such assignment shall be revocable at stated intervals of not more than 6 months.

"(b) An allotment for the deduction of labor organization dues terminates when—

"(1) the dues withholding agreement between the agency and the exclusive representative is terminated or ceases to be applicable to the employee; or

"(2) the employee has been suspended or expelled from the labor organization which is the exclusive representative.

"§ 7232. Use of official time

"Solicitation of membership or dues and other internal business of a labor organization shall be conducted during the nonduty hours of the employees concerned. Employees who represent a recognized labor organization shall not be on official time when negotiating an agreement with agency management, except that the negotiating parties may agree to arrangements which provide that the agency will authorize a reasonable number of such employees (not normally in excess of the number of management representatives) to negotiate on official time for up to 40 hours, or up to one-half the time spent in negotiations during regular working hours.

"§ 7233. Remedial actions

"If it is determined by appropriate authority, including an arbitrator, that certain action will carry out the policies of this chapter, such action may be directed by the appropriate authority if consistent with law, including section 5596 of this title.

"§ 7234. Subpenas

"(a) Any member of the Authority, including the General Counsel, any member of the Panel, and any employee of the Authority designated by the Authority may—

"(1) issue subpenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States or any territory or possession thereof, the Commonwealth of Puerto Rico, or the District of Columbia, except that no subpena shall be issued under this section which requires the disclosure of intramanagement guidance, advice, counsel, or training within an agency or between an agency and the Office of Personnel Management; and

"(2) administer oaths, take or order the taking of depositions, order responses to written interrogatories, examine witnesses, and receive evidence.

"(b) In the case of contumacy or failure to obey a subpena issued under subsection (a)(1), the United States district court for the judicial district in which the person to whom the subpena is addressed resides or is served may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(c) Witness (whether appearing voluntarily or under subpena) shall be paid the same fee and mileage allowances which are paid subpenaed witnesses in the courts of the United States.

"§ 7235. Regulations

"The Authority, including the General Counsel and the Panel, and the Federal Mediation and Conciliation Service shall each prescribe rules and regulations to carry out the provisions of this chapter applicable to them. Unless otherwise specifically provided in this chapter, the provisions of subchapter II of chapter 6 of this title shall be applicable to the issuance, revision, or repeal of any such rule or regulation.".

(b)(1) The amendments made by subsection (a) shall not preclude—

(A) the renewal or continuation of an exclusive recognition, certification of a representative, or a lawful agreement between an agency and a representative of its employees entered into before the effective date of this section; or

(B) the renewal, continuation, or initial according of recognition for units of management officials or supervisors represented by labor organizations which historically or traditionally represent management officials or supervisors in private industry and which hold exclusive recognition for units of such officials or supervisors in any agency on the effective date of this section.

(2) Policies, regulations, and procedures established, and decisions issued, under Executive Order Numbered 11491, or under the provision of any related Executive order in effect on the effective date of this section, shall remain in full force and effect until revised or revoked by Executive order or statute, or unless superseded by appropriate decision or regulation of the Federal Labor Relations Authority.

(c) Any term of office of any member of the Federal Labor Relations Authority and the General Counsel of the Federal Labor Relations Authority serving on the effective date of this section shall continue in effect until such time as such term would expire under Reorganization Plan Numbered 2 of 1978, and upon expiration of such term, appointments to such office shall be made under section 7203 of title 5, United States Code. Any term of office of any member of the Federal Service Impasses Panel serving on the effective date of this section shall continue in effect until such time as members of the Panel are appointed pursuant to section 7222 of title 5, United States Code.

(d) There are hereby authorized to be appropriated such sums as may be necessary to carry out the functions and purposes of this section.

(e) The table of chapters for subpart F of part III of title 5, United States Code, is amended by adding after the item relating to chapter 71 the following new item:

"72. Federal Service Labor-Management Relations ..... 7201".

(f) Section 5314 of title 5, United States Code, is amended by adding at the end thereof:

"(69) Chairman, Federal Labor Relations Authority.".

(g) Section 5315 of title 5, United States Code, is amended by adding at the end thereof:

"(124) Members (2), Federal Labor Relations Authority.".

(h) Section 5316 of title 5, United States Code, is amended by adding at the end thereof:

"(145) General Counsel, Federal Labor Relations Authority.".

REMEDIAL AUTHORITY

SEC. 702. Section 5596 of title 5, United States Code, is amended by striking out subsections (b) and (c) and inserting in lieu thereof the following:

"(b) An employee of an agency who, on the basis of an administrative determination or a timely appeal, is found by appropriate authority to have suffered a withdrawal, reduction, or denial of all or part of the employee's pay, allowances, differentials, or other monetary or employment benefits, or a denial of an increase in such pay, allowances, differentials, or other monetary or employment benefits, which would not have occurred but for unjustified or unwarranted action taken by the agency—

"(1) is entitled, on correction of the action—

"(A) to be made whole for all losses suffered less, in applicable circumstances, interim earnings, and

"(B) if appropriate, to reinstatement or restoration to the same or a substantially similar position, or promotion to a higher level position; and

"(2) for all purposes is deemed to have performed service for the agency during the period of the unjustified or unwarranted action, except that—

"(A) annual leave restored under this paragraph which is in excess of the maximum leave accumulation permitted by law shall be credited to a separate leave account for the employee and shall be available for use by the employee within the time limits prescribed by regulations of the Office of Personnel Management, and

"(B) annual leave credited under subparagraph (A) of this paragraph but unused and still available to the employee under regulations prescribed by the Office of Personnel Management shall be included in the lump-sum payment under section 5551 or 5552(1) of this title but may not be retained to the credit of the employee under section 5552(2) of this title.

"(c) For the purposes of this section—

"(1) 'unjustified or unwarranted action' includes—

"(A) any act of commission, either substantive or procedural, which violates or improperly applies a provision of law, Executive order, regulation, or collective bargaining agreement; and

"(B) any act of omission, or failure to take an action, or confer a benefit, which must be taken or conferred under a nondiscretionary provision of law, Executive order, regulation, or collective-bargaining agreement;

"(2) 'administrative determination' includes, but is not limited to, a decision, award, or order issued by—

"(A) a court having jurisdiction over the matter involved;

"(B) the Office of Personnel Management;

"(C) the Merit Systems Protection Board;

"(D) the Federal Labor Relations Authority;

"(E) the Comptroller General of the United States;

"(F) the head of the employing agency or an agency official to whom corrective action authority is delegated; or

"(G) an arbitrator under a negotiated binding arbitration agreement between a labor organization and agency management;

"(3) 'appropriate authority' includes, but is not limited to—

"(A) a court having jurisdiction;

"(B) the Office of Personnel Management;

"(C) the Merit Systems Protection Board;

"(D) the Federal Labor Relations Authority;

"(E) the Comptroller General of the United States;

"(F) the head of the employing agency or agency official to whom corrective action authority is delegated; or

"(G) an arbitrator under a negotiated binding arbitration agreement between a labor organization and agency management.

"(d) The provisions of this section shall not apply to reclassification actions nor shall they authorize the setting aside of an otherwise proper promotion by a selecting official from a group of properly ranked and certified candidates.

"(e) The Office of Personnel Management shall prescribe regulations to carry out this section. However, the regulations are not applicable to the Tennessee Valley Authority and its employees.".

Page 143, beginning on line 19, strike out "Section 7203 of title 5, United States Code (as redesignated in section 703(1) of this Act)" and insert in lieu thereof "Section 7153 of title 5, United States Code,".

Page 264, beginning on line 14, strike out "supervisor or management official (as defined in paragraphs (10) and (11) of section 7103 of this title, respectively)" and insert in lieu thereof "management official or supervisor (as defined in paragraphs (10) and (11) of section 7203 of this title, respectively)".

Page 376, beginning on line 1, strike out "before '7203' (as added in section 703(d)(2) of this Act)" and insert in lieu thereof "before '7153'".

Page 386, beginning on line 1, strike out "'7203, and 7204 (as redesignated in section 703(a)(1) of this Act)," and insert in lieu thereof "'7153, and 7154,".

Conform the table of contents accordingly.

Mr. COLLINS of Texas (during the reading). Mr. Chairman, I ask unanimous consent that my amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. COLLINS of Texas. Mr. Chairman, I am rising to offer an amendment for the committee's version of title VII, dealing with labor-management relations in the Federal civil service.

Under the provisions of the committee's bill, our longstanding policy toward labor relations between Federal employees and their government employer would be drastically altered. Knowing this, and afraid of the outcome when the committee's bill was brought to the floor, the Carter administration has been attempting to negotiate with various members of the committee in the hope of reaching some sort of compromise between what the administration wants and what the committee wants to give them.

Although I have not been a participant in these 11th-hour negotiations, I have a solution to the problem now facing the administration.

My amendment is virtually identical to the bill reported by the Senate Committee on Governmental Affairs before the Senate acted on S. 2640, and it reflects what I understand to be the administration's position on codifying our present Executive order program of labor-management relations.

The amendment establishes a Federal Labor Relations Authority and creates a legislated program for our labor-management relations, following the basic charter or our existing Executive order program.

My offering of what is the administration's requested language for this title of the bill, and what has already been agreed to by the Senate committee should go a long way in avoiding complications as we finish out this session and could well insure final passage of the Civil Service Reform Act itself.

I want to point out that my amendment does not give Federal employees the right to strike, does not allow for an agency shop arrangement, and does not require employees in a bargaining unit who choose not to belong to a union to pay any fees for union representation.

The new Authority, which will come into being between now and next January 1 by virtue of passage of Reorganization Plan No. 2 of 1978, will carry out the functions formerly performed by the Federal Labor Relations Council and the Assistant Secretary of Labor for Labor-Management Relations.

The amendment permits labor unions to bargain collectively over those personnel policies, practices and matters affecting working conditions that are within the authority of agency managers to agree to. It specifies those areas of decisionmaking which are reserved to man-

agement and may not be subject to the collective bargaining process.

The amendment also provides statutory permission allowing labor unions to bargain on the creation of arbitration mechanisms for resolving adverse actions—such as demotions and discharges—and other appealable matters—such as grievances.

There are several major areas where the amendment is different from the bill as reported by the House committee, because my amendment incorporates the administration's proposals:

SCOPE OF BARGAINING

The amendment permits bargaining only on those personnel policies, practices and matters affecting working conditions that are not limited by laws and excludes Government-wide regulations, as well as agency regulations for which "compelling need" exists.

The amendment sets up two categories of "management rights":

Bargaining would be permitted but not required on number of employees in agency; on the numbers, types, and grades assigned to a unit, project, or tour of duty; or on the technology of performing work.

Bargaining would be prohibited on mission, budget, organization, and internal security of agency; as well as one management's retained right in accordance with applicable laws and regulations to direct employees to hire, promote, transfer, assign, and retain employees; to suspend, demote, discharge, or take other disciplinary action against employees; relieve employees from duty because of lack of work; to maintain efficiency of operations; to determine methods, means and personnel for accomplishing work; and on ability to take necessary actions in emergencies.

The House committee bill, on the other hand, broadly defines scope of bargaining by saying that "conditions of employment" excludes only matter relating to discrimination, political activities, and those few specifically prescribed by law—for example, pay and benefits.

Under the committee's bill, all agency regulations and Government-wide regulations would be subject to bargaining, unless a compelling need is demonstrated for keeping them off the bargaining table.

The committee's bill sets up only one category of management rights:

Bargaining would be prohibited only on management's retained right to determine the mission, budget, organization and number of employees in an agency, and on the internal security of an agency. Management would only be able to direct employees, to assign work—including contracting out—and to determine personnel for conducting agency operations, and to take necessary actions in emergencies.

GRIEVANCE ARBITRATION

The amendment permits grievance arbitration to cover any matter within the authority of an agency to decide but such arbitration may not include matters involving examination, certification and appointment, suitability, classification, political activities, retirement, life and health insurance, national security or the Fair Labor Standards Act.

The committee bill defines the scope of grievance arbitration in a fashion similar to its definition of "condition of employment" and includes discrimination and classification as matters for grievance arbitration. The only items excluded from an arbitration process would be political activities, retirement, life and health insurance, and suspension or removal for national security reasons.

USE OF GRIEVANCE ARBITRATION

The amendment provides that any negotiated procedure will be the exclusive forum for use by employees in a bargaining unit on matters covered, except in adverse action and discrimination cases where employees may choose the negotiated arbitration procedure or the statutory appeal procedure, but not both.

The committee's bill provides no similar exclusivity. An employee may choose between the negotiated or statutory procedure on any matter covered.

JUDICIAL REVIEW OF FEDERAL LABOR RELATIONS AUTHORITY

My amendment provides that decisions and orders issued by the Federal Labor Relations Authority are final and enforceable by the Authority and are not subject to judicial review or enforcement—except that judicial review may be obtained on constitutional questions. Access to judicial review for adverse action and discrimination matters would continue under the substitute.

The committee's bill seriously weakens the Federal Labor Relations Authority by providing that all of its decisions and orders are subject to judicial review in any U.S. District court, which introduces the possibility of intolerable delays and unpredictable final decision by judges.

EXCLUSIVE RECOGNITION WITH AN ELECTION

The amendment continues our current procedures in requiring that an election must be held before exclusive recognition status can be granted by an agency to a union.

The committee's bill, however, departs substantially from our current practice by permitting the Federal Labor Relations Authority to grant exclusive recognition without an election simply on the basis of a showing by a labor organization that it represents a majority of employees in the unit. This could be accomplished on the basis of a "card check," or by a petition.

UNFAIR LABOR PRACTICES—PICKETING

The amendment includes a prohibition against picketing which interferes or threatens to interfere with agency operations, which is a continuation of our current Executive order prohibition.

The committee bill, on the other hand, is unclear on the subject of picketing. Its provisions on unfair labor practices, the committee bill does not include picketing as an unfair labor practice. I am uncertain if the exclusion would permit pickets in all circumstances, and if so, what recourse would an agency have if such picketing was not unfair labor practice?

DUES WITHHOLDING AND OFFICIAL TIME

The amendment allows unions to enter into dues withholding agreements with agencies, and the service charge for the work would be subject to bargaining. Under the voluntary dues withholding system, allotments are revocable at 6-month intervals. Both of these provisions are identical to our current program.

The committee bill, on the other hand, departs from our current program by requiring an agency to deduct dues at the request of an exclusion union. Allotments would be irrevocable for 1 year, and would be made free of charge to both the union and the employee.

The committee bill also allows for dues withholding arrangements for unions with 10 percent or more membership in bargaining units where there is no exclusive union.

AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. COLLINS OF TEXAS

Mr. UDALL. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. UDALL as a substitute for the amendment offered by Mr. COLLINS of Texas: Strike out title VII (beginning on line 12 of page 288 and ending on line 12 of page 348) and insert in lieu thereof the following:

TITLE VII—FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS

FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS

SEC. 701. So much of subpart F of part III of title 5, United States Code, as precedes subchapter II of chapter 71 thereof is amended to read as follows:

"Subpart F—Labor-Management and Employee Relations

"Chapter 71—LABOR-MANAGEMENT RELATIONS

"SUBCHAPTER I—GENERAL PROVISIONS
"Sec.
"7101. Findings and purpose.
"7102. Employees' rights.
"7103. Definitions; application.
"7104. Federal Labor Relations Authority.
"7105. Powers and duties of the Authority.
"7106. Management rights.
"SUBCHAPTER II—RIGHTS AND DUTIES OF AGENCIES AND LABOR ORGANIZATIONS.
"Sec.
"7111. Exclusive recognition of labor organizations.
"7112. Determination of appropriate units for labor organization representation.
"7113. National consultation rights.
"7114. Representation rights and duties.
"7115. Allotments to representatives.
"7116. Unfair labor practices.
"7117. Duty to bargain in good faith; compelling need; duty to consult.
"7118. Prevention of unfair labor practices.
"7119. Negotiation impasses; Federal Service Impasses Panel.
"7120. Standards of conduct for labor organizations.
"SUBCHAPTER III—GRIEVANCES, APPEALS, AND REVIEW
"Sec.
"7121. Grievance procedures.
"7122. Exceptions to arbitral awards.
"7123. Judicial review; enforcement.
"SUBCHAPTER IV—ADMINISTRATIVE AND OTHER PROVISIONS
"Sec.
"7131. Reporting requirements for standards of conduct.
"7132. Official time.
"7133. Subpenas.

"7134. Compilation and publication of data.
"7135. Regulations.
"7136. Continuation of existing laws, recognitions, agreements, and procedures.

"SUBCHAPTER I—GENERAL PROVISIONS

"§ 7101. Findings and purpose

"(a) The Congress finds that experience in both private and public employment indicates that the statutory protection of the right of employees to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them safeguards the public interest and contributes to the effective conduct of public business. Such protection facilitates and encourages the amicable settlement of disputes between employees and their employers involving conditions of employment. Therefore, labor organizations and collective bargaining in the civil service are in the public interest.

"(b) It is the purpose of this chapter to prescribe certain rights and obligations of the employees of the Federal Government and to establish procedures which are designed to meet the special requirements and needs of the Federal Government.

"§ 7102. Employees' rights

"Each employee shall have the right to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such right. Except as otherwise provided under this chapter, such right includes the right—

"(1) to act for a labor organization in the capacity of a representative and the right, in such capacity, to present the views of the labor organization to heads of agencies and other officials of the executive branch of the Government, the Congress, or other appropriate authorities,

"(2) to engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under this chapter, and

"(3) to engage in other lawful activities for the purpose of establishing, maintaining, and improving conditions of employment.

"§ 7103. Definitions; application

"(a) For the purpose of this chapter—

"(1) 'person' means an individual, labor organization, or agency;

"(2) 'employee' means an individual—

"(A) employed in an agency; or

"(B) whose employment in an agency has ceased because of any unfair labor practice under section 7116 of this title and who has not obtained any other regular and substantially equivalent employment, as determined under regulations prescribed by the Federal Labor Relations Authority;

but does not include—

"(i) an alien or noncitizen of the United States who occupies a position outside the United States;

"(ii) a member of the uniformed services;

"(iii) a supervisor or a management official; or

"(iv) an officer or employee in the Foreign Service of the United States employed in the Department of State, the Agency for International Development, or the International Communication Agency;

"(3) 'agency' means an Executive agency (including a nonappropriated fund instrumentality described in section 2105(c) of this title and the Veterans' Canteen Service, Veterans' Administration), the Library of Congress, and the Government Printing Office, but does not include—

"(A) the General Accounting Office;
"(B) the Federal Bureau of Investigation;
"(C) the Central Intelligence Agency;
"(D) the National Security Agency;
"(E) the Tennessee Valley Authority;
"(F) the Federal Labor Relations Authority; or
"(G) the Federal Service Impasses Panel;

"(4) 'labor organization' means an organization composed in whole or in part of employees, in which employees participate and pay dues, and which has as a purpose the dealing with an agency concerning grievances and conditions of employment, but does not include—

"(A) an organization whose basic purpose is entirely social, fraternal, or limited to special interest objectives which are only incidentally related to conditions of employment;

"(B) an organization which, by its constitution, bylaws, tacit agreement among its members, or otherwise, denies membership because of race, color, creed, national origin, sex, age, preferential or non-preferential civil service status, political affiliation, marital status, or handicapping condition; or

"(C) an organization sponsored by an agency;

"(5) 'dues' means dues, fees, and assessments;

"(6) 'Authority' means the Federal Labor Relations Authority described in section 7104(a) of this title;

"(7) 'Panel' means the Federal Service Impasses Panel described in section 7119(c) of this title;

"(8) 'collective bargaining agreement' means an agreement entered into as a result of collective bargaining pursuant to the provisions of this chapter;

"(9) 'grievance' means any complaint—

"(A) by any employee concerning any matter relating to the employment of the employee;

"(B) by any labor organization concerning any matter relating to the employment of any employee; or

"(C) by any employee, labor organization, or agency concerning—

"(i) the effect or interpretation, or a claim of breach, of a collective bargaining agreement; or

"(ii) any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment;

"(10) 'supervisor' means an individual employed by an agency having authority in the interest of the agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment, except that, with respect to any unit which includes firefighters or nurses, the term 'supervior' includes only those individuals who devote a preponderance of their employment time to exercising such authority;

"(11) 'management official' means an individual employed by an agency in a position the duties and responsibilities of which require or authorize the individual to formulate, determine, or influence the policies of the agency;

"(12) 'collective bargaining' means the performance of the mutual obligation of the representative of an agency and the exclusive representative of employees in an appropriate unit in the agency to meet at reasonable times and to confer, consult, and bargain in a good-faith effort to reach agreement with respect to the conditions of employment affecting such employees and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but the obligation referred to in this paragraph does not compel either party to agree to a proposal or to make a concession;

"(13) 'confidential employee' means an employee who acts in a confidential capacity with respect to an individual who formulates or affectuates management policies in the field of labor-management relations;

"(14) 'conditions of employment' means personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, affecting working conditions, except that such term does not include policies, practices, and matters—

"(A) relating to discrimination in employment on the basis of race, color, religion, sex, age, national origin, or handicapping condition, within an agency subject to the jurisdiction of the Equal Employment Opportunity Commission;

"(B) relating to political activities prohibited under subchapter III of chapter 73 of this title;

"(C) relating to the classification of any position; or

"(D) to the extent such matters are specifically provided for by Federal statute;

"(15) 'professional employee' means—

"(A) an employee engaged in the performance of work—

"(i) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital (as distinguished from knowledge acquired by a general academic education or from an apprenticeship, or from training in the performance of routine mental, manual, mechanical, or physical activities);

"(ii) requiring the consistent exercise of discretion and judgment in its performance;

"(iii) which is predominantly intellectual and varied in character (as distinguished from routine mental, manual, mechanical, or physical work); and

"(iv) which is of such character that the output produced or the result accomplished by such work cannot be standardized in relation to a given period of time; or

"(B) an employee who has completed the courses of specialized intellectual instruction and study described in subparagraph (A)(i) of this paragraph and is performing related work under apropriate direction or guidance to qualify the employee as a professional employee described in subparagraph (A) of this paragraph;

"(16) 'exclusive representative' means any labor organization which—

"(A) is certified as the exclusive representative of employees in an appropriate unit pursuant to section 7111 of this title; or

"(B) was recognized by an agency immediately before the effective date of this chapter as the exclusive representative of employees in an appropriate unit—

"(i) on the basis of an election, or

"(ii) on any basis other than an election, and continues to be so recognized in accordance with the provisions of this chapter;

"(17) 'firefighter' means any employee engaged in the performance of work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment; and

"(18) 'United States' means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and any territory or possession of the United States.

"(b) The President may issue an order excluding any agency or subdivision thereof from coverage under this chapter if the President determines that—

"(1) the agency or subdivision has as a primary function intelligence, counterintelligence, investigative, or security work, and

"(2) the provisions of this chapter cannot be applied to that agency or subdivision in a manner consistent with national security requirements and considerations.

"§ 7104. Federal Labor Relations Authority

"(a) The Federal Labor Relations Authority is composed of three members, not more

than 2 of whom may be adherents of the same political party. No member shall engage in any other business or employment or hold another office or position in the Government of the United States except as otherwise provided by law.

"(b) Members of the Authority shall be appointed by the President by and with the advice and consent of the Senate, and may be removed by the President only upon notice and hearing and only for misconduct, inefficiency, neglect of duty, or malfeasance in office. The President shall designate one member to serve as Chairman of the Authority.

"(c)(1) One of the original members of the Authority shall be appointed for a term of 1 year, one for a term of 3 years, and the Chairman for a term of 5 years. Thereafter, each member shall be appointed for a term of 5 years.

"(2) Notwithstanding paragraph (1) of this subsection, the term of any member shall not expire before the earlier of—

"(A) the date on which the member's successor takes office, or

"(B) the last day of the Congress beginning after the date on which the member's term of office would (but for this subparagraph) expire.

An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

"(d) A vacancy in the Authority shall not impair the right of the remaining members to exercise all of the powers of the Authority.

"(e) The Authority shall make an annual report to the President for transmittal to the Congress which shall include information as to the cases it has heard and the decisions it has rendered.

"(f)(1) The General Counsel of the Authority shall be appointed by the President, by and with, the advice and consent of the Senate, for a term of 5 years. The General Counsel may be removed by the President.

"(2) The General Counsel may—

"(A) investigate alleged violations of this chapter,

"(B) file and prosecute complaints under this chapter.

"(C) intervene before the Authority in proceedings brought under section 7118 of this title, and

"(D) exercise such other powers of the Authority as the Authority may prescribe.

"(3) The General Counsel shall have direct authority over, and responsibility for, all employees in the office of General Counsel, including employees of the General Counsel in the regional offices of the Authority.

"(4) If a vacancy occurs in the office of General Counsel, the President shall promptly designate an Acting General Counsel and shall submit a nomination for General Counsel to the Senate within 40 days after the vacancy occurs, unless the Congress adjourns sine die before the expiration of the 40-day period, in which case the President shall submit the nomination to the Senate not later than 10 days after the Congress reconvenes.

"§ 7105. Powers and duties of the Authority

"(a) The Authority shall provide leadership in establishing policies and guidance relating to matters under this chapter, and, except as otherwise provided, shall be responsible for carrying out the purpose of this chapter.

"(b) The Authority shall adopt an official seal which shall be judicially noticed.

"(c) The principal office of the Authority shall be in or about the District of Columbia, but the Authority may meet and exercise any or all of its powers at any time or place. Except as otherwise expressly provided by law, the Authority may, by one or more of its members or by such agents as it may designate, make any appropriate inquiry necessary to carry out its duties wherever persons subject to this chapter are located. Any member who participates in the inquiry shall not be disqualified from later participating in a decision of the Authority in any case relating to the inquiry.

"(d) The Authority shall appoint an Executive Director and such regional directors, administrative law judges under section 3105 of this title, and other individuals as it may from time to time find necessary for the proper performance of its functions.

"(e)(1) The Authority may delegate to any regional director its authority under this chapter—

"(A) to determine whether a group of employees is an appropriate unit;

"(B) to conduct investigations and to provide for hearings;

"(C) to determine whether a question of representation exists and to direct an election; and

"(D) to conduct secret ballot elections and certify the results thereof.

"(2) The Authority may delegate to any administrative law judge appointed under subsection (d) of this section its authority under section 7118 of this title to determine whether any person has engaged in or is engaging in an unfair labor practice.

"(f) If the Authority delegates any authority to any regional director or administrative law judge to take any action pursuant to subsection (e) of this section, the Authority may, upon application by any interested person filed within 60 days after the date of the action, review such action, but the review shall not, unless specifically ordered by the Authority, operate as a stay of the action. The Authority may affirm, modify, or reverse any action reviewed under this subsection. If the Authority does not undertake to grant review of the action under this subsection within 60 days after the later of—

"(1) the date of the action; or

"(2) the date of the filing of any application under this subsection for review of the action;

the action shall become the action of the Authority at the end of such 60-day period.

"(g) In order to carry out its functions under this chapter, the Authority may—

"(1) hold hearings; and

"(2) administer oaths, take the testimony or deposition of any person under oath, and issue subpenas as provided in section 7233 of this title.

"(h) The Authority shall, by regulation, establish standards which shall be applied in determining the amount and circumstances in which reasonable attorney fees and reasonable costs and expenses of litigation may be awarded under section 7118(a)(6)(C) or 5596(b)(1)(B) of this title in connection with any unfair labor practice or any grievance processed under a procedure negotiated in accordance with this chapter.

"(i) Except as provided in section 518 of title 28, relating to litigation before the Supreme Court, attorneys designated by the Authority may appear for the Authority and represent the Authority in any civil action brought in connection with any function carried out by the Authority pursuant to this title or as otherwise authorized by law.

"§ 7106. Management rights

"(a) Subject to subsection (b) of this section, nothing in this chapter shall affect the authority of any management official of any agency—

"(1) to determine the mission, budget, organization, number of employees, and internal security practices of the agency; and

"(2) in accordance with applicable laws—

"(A) to hire, assign, direct, lay off, and retain employees in the agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;

"(B) to assign work, to make determinations with respect to contracting out, and to determine the personnel by which agency operations shall be conducted;

"(C) with respect to filling positions, to make selections for appointments from—

"(i) among properly ranked and certified candidates for promotion; or

"(ii) any other appropriate source; and

"(D) to take whatever actions may be necessary to carry out the agency mission during emergencies.

"(b) Nothing in this section shall preclude any agency and any labor organization from negotiating—

"(1) at the election of the agency, on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work;

"(2) procedures which management officials of the agency will observe in exercising any authority under this section; or

"(3) appropriate arrangements for employees adversely affected by the exercise of any authority under this section by such management officials.

"SUBCHAPTER II—RIGHTS AND DUTIES OF AGENCIES AND LABOR ORGANIZATIONS

"§ 7111. Exclusive recognition of labor organizations

"(a) Exclusive recognition shall be accorded to a labor organization which has been selected by a majority of employees in an appropriate unit who participate in an election in conformity with the requirements of this chapter.

"(b)(1) If a petition is filed with the Authority—

"(A) by any person alleging—

"(i) in the case of an appropriate unit for which there is no exclusive representative that 30 percent of the employees in the appropriate unit wish to be represented for the purpose of collective bargaining by an exclusive representative, or

"(ii) in the case of an appropriate unit for which there is an exclusive representative that 30 percent of the employees in the unit allege that the exclusive representative is no longer the representative of the majority of the employees in the unit; or

"(B) by any person seeking clarification of, or an amendment to, a certification then in effect or a matter relating to representation;

the Authority shall investigate the petition, and if it has reasonable cause to believe that a question of representation exists, it shall provide an opportunity for a hearing (for which a transcript shall be kept) after reasonable notice. Except as provided under subsection (e) of this section, if the Authority finds on the record of the hearing that a question of representation exists, the Authority shall, subject to paragraph (2) of this subsection, conduct an election on the question by secret ballot and shall certify the results thereof. An election under this subsection shall not be conducted in any appropriate unit or in any subdivision thereof within which, in the preceding 12 calendar months, a valid election under this subsection has been held.

"(2)(A) If, after the 60-day period beginning on the date on which the petition is filed pursuant to paragraph (1) of this subsection, unresolved issues exist concerning—

"(i) the appropriateness of the unit in accordance with section 7112 of this title;

"(ii) the eligibility of one or more employees to vote in the proposed election; or

"(iii) other matters determined by the Authority to be relevant to the election;

the Authority shall direct an election by secret ballot in the unit specified in the petition and announce the results thereof.

"(B) After conducting an election under subparagraph (A) of this paragraph, the Authority shall expedite the resolution of any disputed issues described in subparagraph (A) of this paragraph. If the Authority determines that matters raised by the disputed issues did not affect the outcome of the election, the Authority shall certify the results of the election. If the Authority determines that the matters affected the outcome of the election, it shall conduct a new election by secret ballot in accordance with such requirements as are appropriate on the basis of its determination, and shall certify the results thereof.

"(c) A labor organization which—

"(1) has been designated by at least 10 percent of the employees in the unit specified in any petition filed pursuant to subsection (b) of this section;

"(2) has submitted a valid copy of a current or recently expired collective bargaining agreement for the unit; or

"(3) has submitted other evidence that it is the exclusive representative of the employees involved;

may intervene with respect to a petition filed pursuant to subsection (b) of this section and shall be placed on the ballot of any election under such subsection (b) with respect to the petition.

"(d) The Authority shall determine who is eligible to vote in any election under this section and shall establish rules governing any such election, which shall include rules allowing employees eligible to vote the opportunity to choose—

"(1) from labor organizations on the ballot, that labor organization which the employees wish to have represent them; or

"(2) not to be represented by a labor organization.

In any election in which no choice on the ballot receives a majority of the votes cast, a runoff election shall be conducted between the two choices receiving the highest number of votes. A labor organization which receives the majority of the votes cast in an election shall be certified by the Authority as the exclusive representative.

"(e) The Authority may, on the petition of a labor organization, certify the labor organization as an exclusive representative—

"(1) if, after investigation, the Authority determines that the conditions for a free and untrammeled election under this section cannot be established because the agency involved has engaged in or is engaging in an unfair labor practice described in section 7116(a) of this title; or

"(2) if, after investigation, the Authority determines that—

"(A) the labor organization represents a majority of employees in an appropriate unit;

"(B) the majority status was achieved without the benefit of any unfair labor practice described in section 7116 of this title;

"(C) no other person has filed a petition for recognition under subsection (b) of this section or a request for intervention under subsection (c) of this section; and

"(D) no other question of representation exists in the appropriate unit.

"(f) Any labor organization described in section 7103(a)(16)(B)(ii) of this title may petition for an election for the determination of that labor organization as the exclusive representative of an appropriate unit.

"(g) A labor organization seeking exclusive recognition shall submit to the Authority and the agency involved a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives.

"(h) Exclusive recognition shall not be accorded to a labor organization—

"(1) if the Authority determines that the labor organization is subject to corrupt influences or influences opposed to democratic principles;

"(2) in the case of a petition filed pursuant to subsection (b)(1)(A) of this section, if there is not credible evidence that at least 30 percent of the employees in the unit specified in the petition wish to be represented for the purpose of collective bargaining by the labor organization seeking exclusive recognition;

"(3) if there is then in effect a lawful written collective bargaining agreement between the agency involved and an exclusive representative (other than the labor organization seeking exclusive recognition) covering any employees included in the unit specified in the petition, unless—

"(A) the collective bargaining agreement has been in effect for more than 3 years, or

"(B) the petition for exclusive recognition is filed not more than 120 days and not less than 60 days before the expiration date of has been in effect for more than 3 years, or

"(4) if the Authority has, within the previous 12 calendar months, conducted a secret ballot election for the unit described in any petition under this section and in such election a majority of the employees voting chose a labor organization for certification as the unit's exclusive representative.

"(i) Nothing in this section shall be construed to prohibit the waiving of hearings by stipulation for the purpose of a consent election in conformity with regulations and rules or decisions of the Authority.

"§ 7112. Determination of appropriate units for labor organization representation

"(a)(1) The Authority shall determine the appropriateness of any unit. The Authority shall determine in each case whether, in order to ensure employees the fullest freedom in exercising the rights guaranteed under this chapter, the appropriate unit should be established on an agency, plant, installation, functional, or other basis and shall determine any unit to be an appropriate unit only if the determination will ensure a clear and identifiable community of interest among the employees in the unit and will promote effective dealings with, and efficiency of the operations of, the agency involved.

"(b) A unit shall not be determined to be appropriate under this section solely on the basis of the extent to which employees in the proposed unit have organized, nor shall a unit be determined to be appropriate if it includes—

"(1) except as provided under section 7136(a)(2) of this title, any management official or supervisor, except that, with respect to a unit a majority of which is composed of firefighters or nurses, a unit which includes both supervisors and employees may be considered appropriate;

"(2) a confidential employee;

"(3) an employee engaged in personnel work in other than a purely clerical capacity;

"(4) an employee engaged in administering the provisions of this chapter;

"(5) both professional employees and other employees, unless a majority of the professional employees vote for inclusion in the unit;

"(6) any employee engaged in intelligence, counterintelligence, investigative, or security work which directly affects national security; or

"(7) any employee primarily engaged in investigation or audit functions relating to the work of individuals employed by an agency whose duties directly affect the internal security of the agency but only if the functions are undertaken to ensure that the duties are discharged honestly and with integrity.

"(c) Any employee who is engaged in administering any provision of law relating to labor-management relations may not be represented by a labor organization—

"(1) which represents other individuals to whom such provision applies; or

"(2) which is affiliated directly or indirectly with an organization which represents other individuals to whom such provision applies.

"(d) Two or more units which are in an agency and for which a labor organization is the exclusive representative may, upon petition by the agency or labor organization, be consolidated with or without an election into a single larger unit if the Authority considers the larger unit to be appropriate. The Authority shall certify the labor organization as the exclusive representative of the new larger unit.

"(e) In the case of the reorganization of one or more units for which, before the reorganization, a labor organization was the exclusive representative of any such unit, the labor organization shall continue to be the exclusive representative for each such unit until new elections are held or a period of 45 days has elapsed, whichever first occurs.

"§ 7113. National consultation rights

"(a)(1) If, in connection with any agency, no labor organization has been accorded exclusive recognition on an agency basis, a labor organization which is the exclusive representative of a substantial number of the employees of the agency, as determined in accordance with criteria prescribed by the Authority, shall be granted national consultation rights by the agency. National consultation rights shall terminate when the labor organization no longer meets the criteria prescribed by the Authority. Any issue relating to any labor organization's eligibility for, or continuation of, national consultation rights shall be subject to determination by the Authority.

"(b)(1) Any labor organization having national consultation rights in connection with any agency under subsection (a) of this section shall—

"(A) be informed of any substantive change in conditions of employment proposed by the agency, and

"(B) be permitted reasonable time to present its views and recommendations regarding the changes.

"(2) If any views or recommendations are presented under paragraph (1) of this subsection to an agency by any labor organization—

"(A) the agency shall consider the views or recommendations before taking final action on any matter with respect to which the views or recommendations are presented; and

"(B) the agency shall provide the labor organization a written statement of the reasons for taking the final action.

"(c) Nothing in this section shall be construed to limit the right of any agency or exclusive representative to engage in collective bargaining.

"§ 7114. Representation rights and duties

"(a)(1) A labor organization which has been accorded exclusive recognition is the exclusive representative of the employees in the unit it represents and is entitled to act for, and negotiate collective bargaining agreements covering, all employees in the unit. An exclusive representative is responsible for representing the interests of all employees in the unit it represents without discrimination and without regard to labor organization membership.

"(2) Before any representative of an agency commences any investigatory interview of an employee in a unit concerning misconduct which could reasonably lead to suspension, reduction in grade or pay, or removal, the employee shall be informed of that employee's right under paragraph (3)

(B) of this subsection to be represented by an exclusive representative.

"(3) An exclusive representative of an appropriate unit in an agency shall be given the opportunity to be represented at—

"(A) any formal discussion between one or more representatives of the agency and one or more employees in the unit or their representatives concerning any grievance or any personnel policy or practice or other general condition of employment; or

"(B) any investigatory interview of an employee in the unit by a representative of the agency if—

"(i) the employee reasonably believes that such interview may result in disciplinary action against the employee; and

"(ii) the employee requests such representation.

Any agency and any exclusive representative of any appropriate unit in the agency, through appropriate representatives, shall meet and negotiate in good faith for the purpose of arriving at a collective bargaining agreement. The rights of an exclusive representative under the preceding provisions of this subsection shall not be construed to preclude an employee from being represented by an attorney or other representative, other than the exclusive representative, of the employee's own choosing in any appeal action under procedures other than procedures negotiated pursuant to this chapter.

"(b) The duty of an agency and an exclusive representative to negotiate in good faith under subsection (a) of this section shall include the obligation—

"(1) to approach the negotiations with a sincere resolve to reach a collective bargaining agreement;

"(2) to be represented at the negotiations by duly authorized representatives prepared to discuss and negotiate on any conditions of employment;

"(3) to meet at reasonable times and convenient places as frequently as may be necessary, and to avoid unnecessary delays;

"(4) in the case of an agency, to furnish to the exclusive representative involved, or its authorized representative, upon request and, to the extent not prohibited by law, data—

(A) which is normally maintained by the agency in the regular course of business;

"(B) which is reasonably available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining; and

"(C) which does not constitute guidance, advice, counsel, or training provided for management officials or supervisors, relating to collective bargaining; and

"(5) if agreement is reached, to execute on the request of any party to the negotiation a written document embodying the agreed terms, and to take such steps as are necessary to implement such agreement.

"§ 7115. Allotments to representatives

"(a) If an agency has received from an employee in an appropriate unit a written assignment which authorizes the agency to deduct from the pay of the employee amounts for the payment of regular and periodic dues of the exclusive representative of the unit, the agency shall honor the assignment and make an appropriate allotment pursuant to the assignment. Any such allotment shall be made at no cost to the exclusive representative or the employee. Except as provided under subsection (b) of this section, any such assignment may not be revoked for a period of 1 year.

"(b) An allotment under subsection (a) of this section for the deduction of dues with respect to any employee shall terminate when—

"(1) the agreement between the agency and the exclusive representative involved ceases to be applicable to the employee; or

"(2) the employee is suspended or expelled from membership in the exclusive representative.

"(c)(1) Subject to paragraph (2) of this subsection, if a petition has been filed with the Authority by a labor organization alleging that 10 percent of the employees in an appropriate unit in an agency have membership in the labor organization, the Authority shall investigate the petition to determine its validity. Upon certification by the Authority of the validity of the petition, the agency shall have a duty to negotiate with the labor organization solely concerning the deduction of dues of the labor organization from the pay of the members of the labor organization who are employees in the unit and who make a voluntary allotment for such purpose.

"(2)(A) The provisions of paragraph (1) of this subsection shall not apply in the case of any appropriate unit for which there is an exclusive representative.

"(B) Any agreement under paragraph (1) of this subsection between a labor organization and an agency with respect to an appropriate unit shall be null and void upon the certification of an exclusive representative of the unit.

"§ 7116. Unfair labor practices

(a) For the purpose of this chapter, it shall be an unfair labor practice for an agency—

"(1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;

"(2) to encourage or discourage membership in any labor organization by discrimination in connection with hiring, tenure, promotion, or other conditions of employment;

"(3) to sponsor, control, or otherwise assist any labor organization, other than to furnish, upon request, customary and routine services and facilities if the services and facilities are also furnished on an impartial basis to other labor organizations having equivalent status;

"(4) to discipline or discriminate against an employee because the employee has filed a complaint, affidavit, or petition, or has given any information or testimony under this chapter;

"(5) to refuse to consult, confer, or negotiate in good faith with a labor organization as required by this chapter;

"(6) to fail or refuse to cooperate in impasse procedures and impasse decisions as required by this chapter;

"(7) to prescribe any rule or regulation which restricts the scope of collective bargaining permitted by this chapter or which is in conflict with any applicable collective bargaining agreement; or

"(8) to otherwise fail or refuse to comply with any provision of this chapter.

"(b) For the purpose of this chapter, it shall be an unfair labor practice for a labor organization—

"(1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;

"(2) to cause or attempt to cause an agency to discriminate against any employee in the exercise by the employee of any right under this chapter;

"(3) to coerce, discipline, fine, or attempt to coerce a member of the labor organization as punishment, reprisal, or for the purpose of hindering or impeding the member's work performance or productivity as an employee or the discharge of the member's duties as an employee;

"(4) to discriminate against an employee with regard to the terms or conditions of membership in the labor organization on the basis of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition;

"(5) to refuse to consult, confer, or negotiate in good faith with an agency as required by this chapter;

"(6) to fail or refuse to cooperate in impasse procedures and impasse decisions as required by this chapter;

"(7)(A) to call, or participate in, a strike, work stoppage, or slowdown, or picketing of an agency in a labor-management dispute if such picketing interferes with an agency's operations, or

"(B) to condone any activity described in subparagraph (A) of this paragraph by failing to take action to prevent or stop such activity; or

"(8) to otherwise fail or refuse to comply with any provision of this chapter.

Nothing in paragraph (7) shall result in any informational picketing which does not interfere with an agency's operations being considered as an unfair labor practice.

"(c) For the purpose of this chapter it shall be an unfair labor practice for an exclusive representative to deny membership to any employee in the appropriate unit represented by such exclusive representative except for failure—

(1) to meet reasonable occupational standards uniformly required for admission, or

(2) to tender dues uniformly required as a condition of acquiring and retaining membership.

This subsection does not preclude any labor organization from enforcing discipline in accordance with procedures under its constitution or bylaws to the extent consistent with the provisions of this chapter.

"(d) Issues which may properly be raised under—

"(1) an appeals procedure prescribed by or pursuant to law; or

"(2) any grievance procedure negotiated pursuant to section 7121 of this title;

may, at the election of the aggrieved party, be raised either—

(A) under such appeals procedure or such grievance procedure, as appropriate; or

(B) if applicable, under the procedure for resolving complaints of unfair labor practices under section 7118 of this title.

An election under the preceding sentence shall be made at such time and in such manner as the Authority shall prescribe. Any decision under subparagraph (B) of this subsection on any such issue shall not be construed to be a determination of an unfair labor practice under this chapter or a precedent for any such determination.

"7117. Duty to bargain in good faith; compelling need; duty to consult

"(a)(1) Subject to paragraph (2) of this subsection, the duty to bargain in good faith shall, to the extent not inconsistent with any Federal law or any Government-wide rule or regulation, extend to matters which are the subject of any rule or regulation only if the rule or regulation is not a Government-wide rule or regulation.

"(2) The duty to bargain in good faith shall, to the extent not inconsistent with Federal law or any Government-wide rule or regulation, extend to matters which are the subject of any agency rule or regulation referred to in paragraph (3) of this subsection only if the Authority has determined under subsection (b) of this section that no compelling need (as determined under regulations prescribed by the Authority) exists for the rule or regulation.

"(3) Paragraph (2) of this subsection applies to any rule or regulation issued by any agency or issued by any primary national subdivision of such agency, unless an exclusive representative represents an appropriate unit including not less than a majority of the employees in the issuing agency or primary national subdivision, as the case may be, to whom the rule or regulation is applicable.

"(b)(1) In any case of collective bargaining in which an exclusive representative alleges that no compelling need exists for any rule or regulation referred to in subsection (a)(3) of this section which is then in effect and which governs any matter at issue in such collective bargaining, the Authority shall determine under paragraph (2) of this subsection, in accordance with regulations prescribed by the Authority, whether such a compelling need exists.

"(2) For the purpose of this section, a compelling need shall be determined not to exist for any rule or regulation only if—

"(A) the agency, or primary national subdivision, as the case may be, which issued the rule or regulation informs the Authority in writing that a compelling need for the rule or regulation does not exist; or

"(B) the Authority determines, after a hearing under this subsection, that a compelling need for the rule or regulation does not exist.

"(3) Any hearing under this subsection shall be expedited to the extent practicable and shall not include the General Counsel as a party.

"(4) the agency, or primary national subdivision, as the case may be, which issued the rule or regulation shall be a necessary party at any hearing under this subsection.

"(c)(1) Except in any case to which subsection (b) of this section applies, if an agency involved in collective bargaining with an exclusive representative alleges that the duty to bargain in good faith does not extend to any matter, the exclusive representative may appeal the allegation to the Authority in accordance with the provisions of this subsection.

"(2) The exclusive representative may, on or before the 15th day after the date on which the agency first makes the allegation referred to in paragraph (1) of this subsection, institute an appeal under this subsection by—

"(A) filing a petition with the Authority; and

"(B) furnishing a copy of the petition to the head of the agency

"(3) On or before the 15th day after the date of the receipt by the head of the agency of the copy of the petition under paragraph (2)(B) of this subsection, the agency shall—

"(A) file with the Authority a statement—

"(i) withdrawing the allegation; or

"(ii) setting forth in full its reasons supporting the allegation; and

"(B) furnish a copy of such statement to the exclusive representative.

"(4) On or before the 15th day after the date of the receipt by the exclusive representative of a copy of a statement under paragraph (3)(B) of this subsection, the exclusive representative shall file with the Authority its response to the statement.

"(5) The Authority shall expedite proceedings under this subsection to the extent practicable and shall issue to the exclusive representative and to the agency a written decision on the allegation and specific reasons therefor at the earliest practicable date.

"(d)(1) a labor organization which is the exclusive representative of a substantial number of employees, determined in accordance with criteria prescribed by the Authority, shall be granted consultation rights by any agency with respect to any Government-wide rule or regulation issued by the agency effecting any substantive change in any condition of employment. Such consultation rights shall terminate when the labor organization no longer meets the criteria prescribed by the Authority. Any issue relating to a labor organization's eligibility for, or continuation of, such consultation rights shall be subject to determination by the Authority.

"(2) A labor organization having consultation rights under paragraph (1) of this subsection shall—

"(A) be informed of any substantive change in conditions of employment proposed by the agency, and

"(B) shall be permitted reasonable time to present its views and recommendations regarding the changes.

"(3) If any views or recommendations are presented under paragraph (2) of this subsection to an agency by any labor organization—

"(A) the agency shall consider the views or recommendations before taking final action on any matter with respect to which the views or recommendations are presented; and

"(B) the agency shall provide the labor organization a written statement of the reasons for taking the final action.

"7118. Prevention of unfair labor practices

"(a)(1) If an agency or labor organization is charged by any person with having engaged in or engaging in an unfair labor practice, the General Counsel shall investigate the charge and may issue and cause to be served upon the agency or labor organization a complaint. In any case in which the General Counsel does not issue a complaint because the charge fails to state an unfair labor practice, the General Counsel shall provide the person making the charge a written statement of the reasons for not issuing a complaint.

"(2) Any complaint under paragraph (1) of this subsection shall contain a notice—

"(A) of the charge;

"(B) that a hearing will be held before the Authority (or any member thereof or before an individual employed by the Authority and designated for such purpose); and

"(C) of the time and place fixed for the hearing.

"(3) The labor organization or agency involved shall have the right to file an answer to the original and any amended complaint and to appear in person or otherwise and give testimony at the time and place fixed in the complaint for the hearing.

"(4)(A) Except as provided in subparagraph (B) of this paragraph, no complaint shall be issued based on any alleged unfair labor practice which occurred more than 6 months before the filing of the charge with the Authority.

"(B) If the General Counsel determines that the person filing any charge was prevented from filing the charge during the 6-month period referred to in subparagraph (A) of this paragraph by reason of—

"(i) any failure of the agency or labor organization against which the charge is made to perform a duty owed to the person, or

"(ii) any concealment which prevented discovery of the alleged unfair labor practice during the 6-month period,

the General Counsel may issue a complaint based on the charge if the charge was filed during the 6-month period beginning on the day of the discovery by the person of the alleged unfair labor practice.

"(5) The Authority (or any member thereof or any individual employed by the Authority and designated for such purpose) shall conduct a hearing on the complaint not earlier than 5 days after the date on which the complaint is served. In the discretion of the individual or individuals conducting the hearing, any person involved may be allowed to intervene in the hearing and to present testimony. Any such hearing shall, to the extent practicable, be conducted in accordance with the provisions of subchapter II of chapter 5 of this title, except that the parties shall not be bound by rules of evidence, whether statutory, common law, or adopted by a court. A transcript shall be kept of the hearing. After such a hearing the Authority, in its discretion, may upon notice receive further evidence or hear argument.

"(6) If the Authority (or any member thereof or any individual employed by the Authority and designated for such purpose) determines after any hearing on a complaint under paragraph (5) of this subsection that the preponderance of the evidence received demonstrates that the agency or labor organization named in the complaint has engaged in or is engaging in an unfair labor practice, then the individual or individuals conducting the hearing shall state in writing their findings of fact and shall issue and cause to be served on the agency or labor organization an order—

"(A) to cease and desist from any such unfair labor practice in which the agency or labor organization is engaged;

"(B) directing that a collective bargaining agreement be amended and that the amendments be given retroactive effect;

"(C) requiring an award of reasonable attorney fees;

"(D) requiring reinstatement of an employee with backpay in accordance with section 5596 of this title; or

"(E) including any combination of the actions described in subparagraphs (A) through (D) of this paragraph or such other action as will carry out the purpose of this chapter.

If any such order requires reinstatement of an employee with backpay, backpay may be required of the agency (as provided in section 5596 of this title) or of the labor organization, as the case may be, which is found to have engaged in the unfair labor practice involved.

"(7) If the individual or individuals conducting the hearing determine that the preponderance of the evidence received fails to demonstrate that the agency or labor organization named in the complaint has engaged in or is engaging in an unfair labor practice, the individual or individuals shall state in writing their findings of fact and shall issue an order dismissing the complaint.

"(b) In connection with any matter before the Authority in any proceeding under this section, the Authority may request from the Director of the Office of Personnel Management an opinion concerning the proper interpretation of rules, regulations, or other policy directives issued by the Office of Personnel Management. Any interpretation under the preceding sentence shall be advisory in nature and shall not be binding on the Authority.

"§ 7119. Negotiation impasses; Federal Service Impasses Panel

"(a) The Federal Mediation and Conciliation Service shall provide services and assistance to agencies and exclusive representatives in the resolution of negotiation impasses. The Service shall determine under what circumstances and in what manner it shall provide services and assistance.

"(b) If voluntary arrangements, including the services of the Federal Mediation and Conciliation Service or any other third-party mediation, fail to resolve a negotiation impasse—

"(1) either party may request the Federal Service Impasses Panel to consider the matter, or

"(2) the parties may agree to adopt a procedure for binding arbitration of the negotiation impasse, but only if the procedure is approved by the Panel.

"(c)(1) The Federal Service Impasses Panel is an entity within the Authority, the function of which is to provide assistance in resolving negotiation impasses between agencies and exclusive representatives.

"(2) The Panel shall be composed of a Chairman and at least six other members, who shall be appointed by the President, solely on the basis of fitness to perform the duties and functions involved, from among

individuals who are familiar with Government operations and knowledgeable in labor-management relations.

"(3) Of the original members of the Panel, 2 members shall be appointed for a term of 1 year, 2 members shall be appointed for a term of 3 years, and the Chairman and the remaining members shall be appointed for a term of 5 years. Thereafter each member shall be appointed for a term of 5 years, except that an individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced. Any member of the Panel may be removed by the President.

"(4) The Panel may appoint an Executive Director and any other individuals it may from time to time find necessary for the proper performance of its duties. Each member of the Panel who is not an employee (as defined in section 2105 of this title) is entitled to pay at a rate equal to the daily equivalent of the maximum annual rate of basic pay then currently paid under the General Schedule for each day he is engaged in the performance of official business of the Panel, including travel time, and is entitled to travel expenses as provided under section 5703 of this title.

"(5)(A) The Panel or its designee shall promptly investigate any impasses presented to it under subsection (b) of this section. The Panel shall consider the impasse and shall either—

"(i) recommend to the parties procedures for the resolution of the impasse; or

"(ii) assist the parties in resolving through whatever methods and procedures, including factfinding and recommendations, it may consider appropriate to accomplish the purpose of this section.

"(B) If the parties do not arrive at a settlement after assistance by the Panel under subparagraph (A) of this paragraph, the Panel may—

"(i) hold hearings;

"(ii) administer oaths, take the testimony or deposition of any person under oath, and issue subpenas as provided in section 7133 of this title; and

"(iii) take whatever action is necessary and not inconsistent with this chapter to resolve the impasse.

"(C) Notice of any final action of the Panel under this section shall be promptly served upon the parties, and the action shall be binding on such parties during the term of the agreement, unless the parties agree otherwise.

"§ 7120. Standards of conduct for labor organizations

"(a) A labor organization representing or seeking to represent employees pursuant to this chapter shall adopt, maintain, and enforce governing requirements containing explicit and detailed provisions to which it shall subscribe, which include provisions for—

"(1) the maintenance of democratic procedures and practices, including—

"(A) provisions for periodic elections to be conducted subject to recognized safeguards, and

"(B) provisions defining and securing the right of individual members to—

"(i) participate in the affairs of the labor organization,

"(ii) fair and equal treatment under the governing rules of the organization, and

"(iii) fair process in disciplinary proceedings,

"(2) the prohibition of business or financial interests on the part of labor organization officers and agents which conflict with their duty to the organization and its members; and

"(3) the maintenance of fiscal integrity in the conduct of the affairs of the labor organization, including provisions for accounting and financial controls and regular financial reports or summaries to be made available to its members.

"(b) This chapter does not authorize participation in the management of a labor organization or acting as a representative of a labor organization by a management official or a supervisor, except as specifically provided in this chapter, or by an employee if the participation or activity would result in a conflict or apparent conflict of interest or would otherwise be incompatible with law or with the official duties of the employee.

"SUBCHAPTER III—GRIEVANCES

"§ 7121. Grievance procedures

"(a) Any collective bargaining agreement shall provide procedures for the settlement of grievances, including questions of arbitrability. Any employee who has a grievance and who is covered by a collective bargaining agreement may elect to have the grievance processed under a procedure negotiated in accordance with this chapter.

"(b) Any negotiated grievance procedure referred to in subsection (a) of this section shall—

"(1) be fair and simple,

"(2) provide for expeditious processing, and

"(3) include procedures that—

"(A) assure an exclusive representative the right, in its own behalf or on behalf of any employee in the unit represented by the exclusive representative, to present and process grievances;

"(B) assure such an employee the right to present a grievance on the employee's own behalf, and assure the exclusive representative the right to be present during the grievance proceeding; and

"(C) provide that any grievance not satisfactorily settled under the negotiated grievance procedure shall be subject to binding arbitration which may be invoked by either the exclusive representative or the agency.

"(c) Any party to a collective bargaining agreement aggrieved by the failure, neglect, or refusal of the other party to proceed to arbitration pursuant to the negotiated grievance procedure provided in the agreement may file a petition in the appropriate United States district court requesting an order directing that arbitration proceed pursuant to the procedures provided therefor in the agreement. The court shall hear the matter without jury, expedite the hearing to the maximum extent practicable, and issue any order it determines appropriate.

"(d) The preceding subsections of this section shall not apply with respect to any grievance concerning—

"(1) any claimed violation of subchapter III of chapter 73 of this title (relating to prohibited political activities);

"(2) retirement, life insurance, or health insurance;

"(3) a suspension or removal under section 7532 of this title;

"(4) any examination, certification, or appointment; or

"(5) the classification of any position which does not result in the reduction in grade or pay of an employee.

"(e) The processing of a grievance under a procedure negotiated under this chapter shall not limit the right of an aggrieved employee to request the Equal Employment Opportunity Commission to review a final decision under the procedure—

"(1) pursuant to section 3 of Reorganization Plan Numbered 1 of 1978; or

"(2) where applicable, in such manner as shall otherwise be prescribed by regulation by the Equal Employment Opportunity Commission.

"§ 7122. Exceptions to arbitral awards

"(a) Either party to arbitration under this chapter may file with the Authority an exception to any arbitrator's award pursuant to the arbitration. If upon review the Authority finds that the award is deficient because—

"(1) it is contrary to any law, rule, or regulation;

"(2) it was obtained by corruption, fraud, or other misconduct;

"(3) the arbitrator exercised partiality in making the award; or

"(4) the arbitrator exceeded powers granted to the arbitrator;

the Authority may take such action and make such recommendations concerning the award as it considers necessary, consistent with applicable laws, rules, or regulations.

"(b) If no exception to an arbitrator's award is filed under subsection (a) of this section during the 60-day period beginning on the date of such award, the award shall be final and binding. An agency shall take the actions required by an arbitrator's final award. The award may include the payment of backpay (as provided in section 5596 of this title).

"§ 7123. Judicial review; enforcement

"(a) Any person aggrieved by a final order of the Authority under—

"(1) section 7118 of this title (involving an unfair labor practice);

"(2) section 7122 of this title (involving an award by an arbitrator); or

"(3) section 7112 of this title (involving an appropriate unit determination),

may, during the 60-day period beginning on the date on which the order was issued, institute an action for judicial review of the Authority's order in the United States court of appeals in the circuit in which the person resides or transacts business or in the United States Court of Appeals for the District of Columbia.

"(b) The Authority may petition any appropriate United States court of appeals for the enforcement of any order of the Authority and for appropriate temporary relief or restraining order.

"(c) Upon the filing of a petition under subsection (a) of this section for judicial review or under subsection (b) of this section for enforcement, the Authority shall file in the court the record in the proceedings, as provided in section 2112 of title 28. Upon the filing of the petition, the court shall cause notice thereof to be served to the parties involved, and thereupon shall have jurisdiction of the proceeding and of the question determined therein and may grant any temporary relief (including a temporary restraining order) it considers just and proper, and may make and enter a decree affirming and enforcing, modifying and enforcing as so modified, or setting aside in whole or in part the order of the Authority. The filing of a petition under subsection (a) or (b) of this section shall not operate as a stay of the Authority's order unless the court specifically orders the stay. Review of the Authority's order shall be on the record in accordance with section 706 of this title. No objection that has not been urged before the Authority, or its designee, shall be considered by the court, unless the failure or neglect to urge the objection is excused because of extraordinary circumstances. The findings of the Authority with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any person applies to the court for leave to adduce additional evidence and shows to the satisfaction of the court that the additional evidence is material and that here were reasonable grounds for the failure to adduce the evidence in the hearing before the Authority, or its designee, the court may order the additional evidence to be taken before the Authority, or its designee, and to be made a part of the record. The Authority may modify its findings as to the facts, or make new findings by reason by additional evidence so taken and filed. The Authority shall file its modified or new findings, which,

with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The Authority shall file its recommendations, if any, for the modification or setting aside of its original order. Upon the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the judgment and decree shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28.

"(d) The Authority may, upon issuance of a complaint as provided in section 7118 of this title charging that any person has engaged in or is engaging in an unfair labor practice, petition any United States district court within any district in which the unfair labor practice in question is alleged to have occurred or in which such person resides or transacts business for appropriate temporary relief or restraining order. Upon the filing of the petition, the court shall cause notice thereof to be served upon the person, and thereupon shall have jurisdiction to grant any temporary relief (including a temporary restraining order) it considers just and proper.

"SUBCHAPTER IV—ADMINISTRATIVE AND OTHER PROVISIONS

"§ 7131. Reporting requirements for standards of conduct

"The provisions of subchapter III of chapter 11 of title 29 shall be applicable to labor organizations which have been or are seeking to be certified as exclusive representatives under this chapter, and to the organizations' officers, agents, shop stewards, other representatives, and members to the extent to which the provisions would be applicable if the agency were an employer under section 402 of title 29. In addition to the authority conferred on him under section 438 of title 29, the Secretary of Labor shall prescribe regulations, with the written concurrence of the Authority, providing for simplified reports for any such labor organization. The Secretary of Labor may revoke the provision for simplified reports of any such labor organization if the Secretary determines, after any investigation the Secretary considers proper and after reasonable notice and opportunity for a hearing, that the purpose of this chapter and of chapter 11 of title 29 would be served thereby.

"§ 7132. Official time

"(a) Any employee representing an exclusive representative in the negotiation of a collective bargaining agreement under this chapter shall be authorized official time for such purposes, including attendance at impasse proceeding, during the time the employee otherwise would be in a duty status. The number of employees for whom official time is authorized under this subsection shall not exceed the number of individuals designated as representing the agency for such purposes.

"(b) Any activities performed by any employee relating to the internal business of a labor organization (including the solicitation of membership, elections of labor organization officials, and collection of dues) shall be performed during the time the employee is in a nonduty status.

"(c) Except as provided in subsection (a) of this section, the Authority shall determine whether any employee participating for, or on behalf of, a labor organization in any phase of proceedings before the Authority shall be authorized official time for such purpose during the time the employee otherwise would be in a duty status.

"(d) Except as provided in the preceding subsections of this section—

"(1) any employee representing an exclusive representative, or

"(2) in connection with any other matter covered by this chapter, any employee in an appropriate unit represented by an exclusive representative,

shall be granted official time in any amount the agency and the exclusive representative involved agree to be reasonable, necessary, and in the public interest.

"§ 7133. Subpenas

"(a) Any member of the Authority, the General Counsel, or the Panel, any administrative law judge appointed by the Authority under section 3105 of this title, and any employee of the Authority designated by the Authority may—

"(1) issue subpenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States; and

"(2) administer oaths, take or order the taking of depositions, order responses to written interrogatories, examine witnesses, and receive evidence.

"(b) In the case of contumacy or failure to obey a subpena issued under subsection (a)(1) of this section, the United States district court for the judicial district in which the person to whom the subpena is addressed resides or is served may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(c) Witnesses (whether appearing voluntarily or under subpena) shall be paid the same fee and mileage allowances which are paid subpenaed witnesses in the courts of the United States.

"§ 7134. Compilation and publication of data

"(a) The Authority shall maintain a file of its proceedings and copies of all available agreements and arbitration decisions, and shall publish the texts of its decisions and the actions taken by the Panel under section 7119 of this title.

"(b) All files maintained under subsection (a) of this section shall be open to inspection and reproduction in accordance with the provisions of sections 552 and 552a of this title.

"§ 7135. Regulations

"The Authority, the Federal Mediation and Conciliation Service, and the Panel shall each prescribe rules and regulations to carry out the provisions of this chapter applicable to each of them, respectively. The provisions of subchapter II of chapter 5 of this title shall be applicable to the issuance, revision, or repeal of any such rule or regulation.

"§ 7136. Continuation of existing laws, recognitions, agreements, and procedures

"(a) Nothing contained in this chapter shall preclude—

"(1) the renewal or continuation of an exclusive recognition, certification of an exclusive representative, or a lawful agreement between an agency and an exculsive representative of its employees, which is entered into before the effective date of this chapter; or

"(2) the renewal, continuation, or initial according of recognition for units of management officials or supervisors represented by labor organizations which historically or traditionally represent management officials or supervisors in private industry and which hold exclusive recognition for units of such officials or supervisors in any agency on the effective date of this chapter.

"(b) Policies, regulations, and procedures established under and decisions issued under Executive Orders 11491, 11616, 11636, 11787, and 11838, or under any other Executive order, as in effect on the effective date of this chapter, shall remain in full force and effect until revised or revoked by the President, or unless superseded by specific provisions of this chapter or by regulations or decisions issued pursuant to this chapter.".

BACKPAY IN CASE OF UNFAIR LABOR PRACTICES AND GRIEVANCES

SEC. 702. Section 5596(b) of title 5, United States Code, is amended to read as follows:

"(b) An employee of an agency who, on the basis of a timely appeal or an administrative determination (including a decision relating to an unfair labor practice or a grievance) is found by appropriate authority under applicable law, rule, regulation, or collective bargaining agreement, to have been affected by an unjustified or unwarranted personnel action which has resulted in the withdrawal or reduction of all or a part of the pay, allowances, or differentials of the employee—

"(1) is entitled, on correction of the personnel action, to receive for the period for which the personnel action was in effect—

"(A) an amount equal to all or any part of the pay, allowances, or differentials, as applicable, which the employee normally would have earned or received during the period if the personnel action had not occurred, plus 5 percent, less any amounts earned by the employee through other employment during that period; and

"(B) reasonable attorney fees and reasonable costs and expenses of litigation related to the personnel action which, with respect to any decision relating to an unfair labor practice or a grievance processed under a procedure negotiated in accordance with chapter 71 of this title, shall be awarded in accordance with standards established under section 7105(h) of this title; and

"(2) for all purposes, is deemed to have performed service for the agency during that period, except that—

"(A) annual leave restored under this paragraph which is in excess of the maximum leave accumulation permitted by law shall be credited to a separate leave account for the employee and shall be available for use by the employee within the time limits prescribed by regulations of the Office of Personnel Management, and

"(B) annual leave credit under subparagraph (A) of this paragraph but unused and still available to the employee under regulations prescribed by the Office shall be included in the lump-sum payment under section 5551 or 5552(1) of this title but may not be retained to the credit of the employee under section 5552(2) of this title.

For the purpose of this subsection, 'grievance' and 'collective bargaining agreement' have the meanings set forth in section 7103 of this title, 'unfair labor practice' means an unfair labor practice described in section 7116 of this title, and 'personnel action' includes the omission or failure to take an action or confer a benefit.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 703. (a) Subchapter II of chapter 71 of title 5, United States Code, is amended—

(1) by redesignating sections 7151 (as amended by section 312 of this Act), 7152, 7153, and 7154 as sections 7201, 7202, 7203, and 7204, respectively;

(2) by striking out the subchapter heading and inserting in lieu thereof the following:

"Chapter 72—ANTIDISCRIMINATION; RIGHT TO PETITION CONGRESS

"SUBCHAPTER I—ANTIDISCRIMINATION IN EMPLOYMENT

"Sec.
"7201. Antidiscrimination policy; minority recruitment program.
"7202. Marital status.
"7203. Handicapping condition.
"7204. Other prohibitions.

"SUBCHAPTER II—EMPLOYEES' RIGHT TO PETITION CONGRESS

"7211. Employees' right to petition Congress.";

and

(3) by adding at the end thereof the following new subchapter:

"SUBCHAPTER II—EMPLOYEES' RIGHT TO PETITION CONGRESS

"§ 7211. Employees' right to petition Congress

"The right of employees, individual or collectively, to petition Congress or a Member of Congress, or to furnish information to either House of Congress, or to a committee or Member thereof, may not be interfered with or denied.".

(b) The analysis for part III of title 5, United States Code, is amended by striking out—

"Subpart F—Employee Relations

"71. Policies..... 7101".

and inserting in lieu thereof

"Subpart F—Labor-Management and Employee Relations

"71. Labor-Management Relations... 7101

"72. Antidiscrimination; Right to Petition Congress..... 7201".

(3) Section 3302(2) of title 5, United States Code, is amended by striking out "and 7154" and inserting in lieu thereof "and 7204."

(c) (1) Section 2105(c) (1) of title 5, United States Code, is amended by striking out "7152, 7153" and inserting in lieu thereof "7202, 7203".

(3) Sections 4540(c), 7212(a), and 9540 (c) of title 10, United States Code, are each amended by striking out "7154 of title 5" and inserting in lieu thereof "7204 of title 5".

(4) Section 410(b)(1) of title 39, United States Code, is amended by striking out "chapters 71 (employee policies)" and inserting in lieu thereof the following: "chapters 72 (antidiscrimination; right to petition Congress)".

(5) Section 1002(g) of title 39, United States Code, is amended by striking out "section 7102 of title 5" and inserting in lieu thereof "section 7211 of title 5".

(d) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following clause:

"(124) Chairman, Federal Labor Relations Authority.".

(e) Section 5316 of such title is amended by adding at the end thereof the following clause:

"(145) Members, Federal Labor Relations Authority (2), and its General Counsel.".

MISCELLANEOUS PROVISIONS

SEC. 704. (a) Except as provided in subsection (b) of this section, the amendments made by this title shall take effect on the first day of the first calendar month beginning more than 90 days after the date of the enactment of this title.

(b) Sections 7104, 7105, and 7136 of title 5, United States Code, as added by section 701 of this title, shall take effect on the date of the enactment of this title.

(c) The regulation required under section 7105(h) of this title shall be prescribed and made effective by the Authority not later than 90 days after the date of the enactment of this Act.

(d) (1) The wages, terms, and conditions of employment, and other employment benefits with respect to Government prevailing rate employees to whom section 9(b) of Public Law 92-392 applies shall be negotiated in accordance with prevailing rates and practices without regard to any provision of—

(A) chapter 71 of title 5, United States Code (as amended by this title);

(B) chapters 51, 53, and 55 of title 5, United States Code; or

(C) any other law, rule, regulation, decision, or order relating to rate of pay or pay practices with respect to Federal employees.

(2) No provision of chapter 71 of title 5, United States Code (as amended by this title), shall be considered to limit—

(A) any rights or remedies of employees referred to in paragraph (1) of this subsection under any other provision of law or before any court or other tribunal; or

(B) any benefits otherwise available to such employees under any other provision of law.

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment offered as a substitute for the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Chairman, we are about to reach what I think is the final major controversy in this bill and one of the major points that occupied our time in the Committee on Post Office and Civil Service.

We decided on Monday night in a vote on the Erlenborn amendment that we were going to have a title VII. The question I hope we can resolve this morning is what kind of a title VII we will have. We have basically two alternatives now before us: The Collins amendment, which is a complete rewrite of this title, and the substitute amendment which I have just offered.

I appeal to my colleagues, as we debate and consider and resolve this issue, that we not let this be turned into some kind of a bitter replay of the debate that we have had in this House on labor-management bills earlier in this session. I hope this will not dissolve into a bitter labor-management fight because there is not any basis for it.

This is not the old right-to-work controversy, for example; it is not the old 14(b) controversy. There is a right-to-work provision on page 290 of the bill that is in my amendment and which would gladden the heart of the gentleman from Ohio, JOHN ASHBROOK, if he were here, and other Members who have engaged in this debate over the years. This is not situs picketing or it is not the Labor Reform Act of 1977, although some of these things are involved in our discussion.

There is nothing before us today in the substitute about the right of public employees to strike. As the gentleman from Michigan (Mr. FORD) said the other day, no one is seriously talking about that this year. That is outside the scope of this legislation entirely.

There is not really any argument in this bill or in this title about Federal collective bargaining for wages and fringe benefits and retirement—the kinds of things that are giving us difficulty in the Postal Service today. All these major regulations about wages and hours and retirement and benefits will continue to be established by law through congressional action. Major management rights to hire and fire and determine staffing are preserved in my amendment.

What we really do is to codify the 1962 action of President Kennedy in setting up a basic framework of collective bargaining for Federal employees. This was good enough and acceptable enough to all segments of our society that it was left unchanged during the 8 years of the Nixon and Ford administrations. Either one of those Presidents with a stroke of a pen could have eliminated this and chose not to have it.

So we are now going to put into the United States Code instead of the Federal Register this basic plan of President Kennedy's that has worked so well in the last 15 years. No one seems to be arguing much about that anymore.

The Federal employee unions do not get much out of this amendment process that is not already in the Executive order. They do gain in my substitute some guarantees about procedures that management must follow. They get to arbitrate some things that now go through a torturous appeal process—things involving various labor grievances.

It would be a mistake to view this title VII or my substitute as some kind of a labor bill that is attached to an unrelated bill dealing with management prerogatives in the Federal service. This is how I view what we are trying to do here: It moves to meet some of the legitimate concerns of the Federal employee unions as an integral part of what is basically a bill to give management the power to manage and the flexibility that it needs.

But I say this in two respects. One, it gives some balance. We are saying to the Federal employees that we are going to give management some broad new rights here in this legislation, we are going to enable them to move. And employee organizations are saying, in turn, that they are entitled to have a more independent, secure position from which to deal with management as it operates under this new freedom in the bill.

Second, the arbitration provision I view as much of a gain for management as for labor. The Federal managers now, instead of having to go through difficult, complex appeal procedures, will be able to submit them to arbitration, and this is a gain for management.

As I have said, Mr. Chairman, the President's program basically deals with strengthening management, Senior Executive Service, merit pay for supervisors and management, separating the operating functions of the Civil Service Commission from the judicial functions.

None of these basic management tools are affected by my amendment.

The CHAIRMAN. The time of the gentleman from Arizona (Mr. UDALL) has expired.

(By unanimous consent, Mr. UDALL was allowed to proceed for 1 additional minute.)

Mr. UDALL. Mr. Chairman, in conclusion, let me say that perhaps the best guide to what we come down to with the Udall substitute is that it is barely acceptable to people such as the gentleman from Michigan (Mr. FORD) and my friend, the gentleman from Missouri (Mr. CLAY), who have been outstanding spokesmen for the rights of the Federal employee groups. It is acceptable barely to the Business Roundtable, which represents 190 of our largest corporations. It does not really please the administration. But it is the balance point. It is the middle ground, and I think we can go forward and pass a good Senate bill if we would take this one final step here in title VII in adopting my substitute.

SECTIONAL ANALYSIS OF TITLE VII SUBSTITUTE

The substitute makes numerous changes in Title VII as reported by the Committee. These changes are designed to guarantee essential management prerogatives and flexibility, while safeguarding the fundamental rights of employees and their representatives. The bill section numbers and the code section numbers and headings are, with one small exception (the words "duty to consult" are added to the heading of Code section 7117), identical to those of the Committee's Title VII. Where no change is made in the provisions of a section as reported by the Committee, this is so stated. Any changes in the substance of a section are noted and explained. Minor changes in wording or punctuation which do not change the meaning of a section are not noted.

SECTION 7101

Section 7101. Findings and purpose: No change.

Section 7102. Employees' rights: No change.

Section 7103. Definitions; applications: Two changes are made. First, the definition of "conditions of employment" (subsection (a)(14)) is amended. Paragraph (A) is clarified to provide for the exclusion of policies, practices, and matters relating to discrimination in employment on the basis of race, color, religion, sex, age, national origin, or handicapping condition, "within an agency subject to the jurisdiction of the Equal Employment Opportunity Commission." The reported paragraph (C) is redesignated as paragraph (D). The new paragraph (C) excludes from conditions of employment" any policy, practice, or matter relating to the "classification of any position." The effect of this new exclusion would be to remove the classification of positions from collective bargaining. This change is designed to help ensure the continuation of classification uniformity throughout the Federal Government. The term "classification of any position" encompasses all positions and jobs, including white-collar and blue-collar.

The second change is to subsection (b), concerning the exclusion of agencies and agency subdivisions, for national security reasons, from coverage by the labor-management relations provisions to be created by Title VII. The reported bill requires an agency seeking such an exclusion to apply to the Federal Labor Relations Authority, which would review and investigate the matter, and then issue a decision either granting or denying the exclusion. The substitute's subsection (b) would give to the President the power to exclude agencies and agency subdivisions from coverage for national security reasons. The President could do this, in his or her sole discretion, by order.

Section 7104. Federal Labor Relations Authority: No change.

Section 7105. Powers and duties of the Authority: Two subsections are added. A new subsection (h) directs and empowers the Authority to establish, by regulation, standards to be applied in determining the amount and circumstances in which reasonable attorney fees and reasonable costs and expenses of litigation may be awarded in connection with any unfair labor practice or any grievance processed under a procedure negotiated in accordance with the provisions being established by Title VII of this bill.

A new subsection (i) would allow the Federal Labor Relations Authority to represent itself (except in litigation before the U.S. Supreme Court) in any civil action brought in connection with any function carried out by the Authority pursuant to title 5 of the United States Code or as otherwise authorized by law. Under this subsection, the Authority would not have to seek Justice Department approval or representation in carrying out its litigation-related responsibilities (except in the U.S. Supreme Court). This provision is designed to help ensure the independence which will be essential to the proper functioning of the Authority. It also will permit the Justice Department to represent agencies without the potential conflicts of interest that could arise if it also represented the Authority in the same case.

Section 7106. Management rights: Four changes increase the number of rights reserved to management. This substitute strengthens the "Management rights" section reported by the Committee, but it is still to be treated narrowly as an exception to the general obligation to bargain over conditions of employment.

Subsection (a)(2)(A) is expanded to reserve to management, the authority, in accordance with applicable law, to "hire, assign, direct, layoff, and retain employees in the agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees." The reported subsection (a)(2)(A) reserves only the right to "direct employees". The new language preserves management's right to make the final decisions in these additional areas, in accordance with applicable laws, including other provisions of chapter 71 of title 5. For example, management has the reserved right to make the final decision to "remove" an employee, but that decision must be made in accordance with applicable laws and procedures, and the provisions of any applicable collective bargaining agreement. The reserved management right to "remove" would in no way affect the employee's right to appeal the decision through statutory procedures or, if applicable, through the procedures set forth in a collective bargaining agreement.

Subsection (a)(2)(C) of the substitute adds a new provisions, guaranteeing management's right, with respect to filling positions, to make selections for appointments from among properly ranked and certified candidates for promotion, or from any other appropriate source. The intent of this provision is to preserve as bargainable (to the extent permitted by applicable laws and regulations) the standards, criteria, and procedures for establishing promotion certificates, while ensuring management's right to make the actual selection from the certificate, or to make the appointment from any other appropriate source.

The reported Title VII's subsection (a)(2)(C) is redesignated in the substitute as subsection (a)(2)(D), with one substantive change. Management is guaranteed the right to take whatever actions may be necessary to carry out the agency missing during emergencies. The reported bill reserves this right only in the case of national emergencies.

The reported subsections (b)(1) and (b)(2) are redesignated, with changes, as subsections (b)(2) and (b)(3). A new subsection (b)(1) is added to provide that nothing in the "Management rights" section shall preclude any agency and any labor organization from negotiating, at the election of the agency, on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work.

The amendment's subsections (b)(2) and (b)(3) provide that nothing in the section shall preclude negotiating the procedures which management officials of the agency will observe in exercising any authority under this section, or negotiating appropriate arrangements for employees adversely affected by the exercise of any authority under this section by such management officials.

The reported subsections (b)(1) and (b)(2) provide that nothing in the "Management rights" section shall preclude negotiating procedures management officials will observe in exercising their authority to determine the mission, budget, organization, number of employees, and internal security of the agency (the rights reserved in subsection (a)(1)), or appropriate arrangements for employees adversely affected by the exercise of management authority described in subsection (a).

Section 7111. Exclusive recognition of labor organizations: The substitute modifies the reported subsection (b)(2) by expanding the maximum time period during which secret ballot representation elections must be held from 45 days to 60 days.

The substitute also modifies the reported subsection (h)(3)(B) by changing the time period for filing a petition for exclusive recognition, where there is in effect a lawful written collective bargaining agreement, from "the 4-month period beginning on the 180th day before the expiration date" of the existing agreement, to "not more than 120 days and not less than 60 days before the expiration date" of the agreement.

Subsection (h)(4) of the substitute bars the according of exclusive representation to a labor organization where, within the previous 12 calendar months, the Authority has conducted a secret ballot election for the unit described in the petition, and in the election a majority of the employees voting chose a labor organization for certification as the unit's exclusive representative. The effect is to lend stability to the collective bargaining relationship by preventing challenges to incumbents by other unions for at least 12 months, while at the same time permitting elections in larger units during the 12-month period if no exclusive representative has been certified. The reported subsection (h)(4) bars the according of exclusive representation whenever an election involving any of the employees in the petitioned-for unit has been held during the previous 12 months.

Section 7112. Determination of appropriate units for labor organization representation: Subsection (c) of the substitute provides that any employee who is engaged in administernig any provision of law relating to labor-management relations may not be represented by a labor organization which represents other individuals to whom such provision applies, or which is affiliated directly or indirectly with an organization which represents other individuals to whom such provision applies. This provision, which is not found in the reported Title VII, is intended to help prevent conflicts of interest and appearances of conflicts of interest. For example, an employee of the National Labor Relations Board could not, under this provision, be represented by a labor organization which is subject to the National Labor Relations Act, or which is affiliated with an organization which is subject to the National Labor Relations Act.

Subsection (c) of the reported Title VII is redesignated as subsection (d) in the substitute, with two changes in substance. The new subsection (d) provides that two or more bargaining units in an agency for which a labor organization is the exclusive representative may, upon petition by the agency or labor organization, be consolidated with or without an election into a single larger unit if the Authority considers the larger unit to be appropriate. The Authority would then certify the labor organization as the exclusive representative of the new, larger unit. The analogous portion of the reported section 7112, subsection (c), requires that the labor organization be the exclusive representative of the existing, smaller units "by reason of election". It is also not specific as to the triggering of the consolidation process by petition, and the discretion of the Authority to direct or not to direct an election. The substitute's provisions should bet-

ter facilitate the consolidation of small units.

Subsection (d) of the reported section 7112 is redesignated, substance unchanged, as subsection (e) in the substitute.

Section 7113. National consultation rights: Subsection (b)(1)(A) of the substitute requires that any labor organization having national consultation rights in connection with any agency be informed of "any substantive change" in conditions of employment proposed by the agency. The reported subsection (b)(1)(A) required that the labor organization be informed of "any change".

Section 7114. Representation rights and duties: Two important provisions in the reported bill's section 7114 are modified by the substitute.

The right of an employee to request representation by the exclusive representative and the right of an exclusive representative to be present at certain types of management-employee meetings are set forth in subsections (a)(2) and (a)(3) of the substitute. Subsection (a)(2) provides that before any representative of an agency commences any investigatory interview of an employee in a bargaining unit, where the interview concerns misconduct which could reasonably lead to suspension, reduction in grade or pay, or removal, the employee must be informed of his or her right to be represented by the exclusive representative. Subsection (a)(3) provides that an exclusive representative has the right to be given the opportunity to be represented at: (1) any formal discussion between one or more representatives of the agency and one or more employees in the unit or their representatives concerning any grievance or personnel policy or practice or other general condition of employment; and (2), any investigatory interview of an employee in the unit by a representative of an agency if the employee reasonably believes that such interview may result in disciplinary action against the employee, and the employee requests such representation.

The reported section 7114 provides the right of representation for any discussion between one or more representatives of the agency and one or more unit employees or their representatives concerning any grievance, personnel policy or practice, or other conditions of employment. By inserting the word "general" before "conditions of employment", the substitute limits the right of representation to those formal discussions (other than grievance discussions) which concern conditions of employment affecting employees in the unit generally.

The reported sections also differs from the substitute in providing the right of representation for "any discussion between an employee in the unit and a representative of the agency if the employee reasonably believes that the employee may be the subject of disciplinary action." The substitute provides the right for investigatory interviews, and stipulates that the employee must request representation before the right attaches. The substitute also provides that the employee must be informed of the right of representation before the commencement of any investigatory interview concerning misconduct which would reasonably lead to suspension, or reduction in grade or pay, or removal.

The substitute's provisions concerning investigatory interviews reflect the U.S. Supreme Court's holding in *National Labor Relations Board* v. *J. Weingarten, Inc.*, 420 U.S. 251 (1975). In *Weingarten*, the Court upheld the Board's determination that the National Labor Relations Act provides a statutory "right of union representation at investigatory interviews which the employee reasonably believes may result in disciplinary action against him." 420 U.S. 251, at 267.

The Court also sustained the Board's shaping of "the contours and limits of the statutory right." 420 U.S. 251, at 256. First, the right inheres in the Act's "guarantee of the right of employees to act in concert for mutual aid and protection." Second, "the right arises only in situations where the employee requests representation." Third, "the employee's right to request representation as a condition of participation in an interview is limited to situations where the employee reasonably believes the investigation will result in disciplinary actions." Fourth, "exercise of the right may not interfere with legitimate employer prerogatives." And fifth, "the employer has no duty to bargain with any union representative who may be permitted to attend the investigatory interview." 420 U.S. 251, at 258, 257, 258, 259.

The *Weingarten* right, of course, is tied to the National Labor Relations Act's "guarantee of the right of employees to act in concert for mutual aid and protection." Other than this difference in derivation, the substitute's provisions differ from *Weingarten* only in providing that the employee must be informed of the right of representation prior to the commencement of any investigatory interview concerning misconduct which could reasonably lead to suspension, reduction in grade or pay, or removal.

The second area of change made by the substitute's section 7114 is in subsection (b)(4), concerning the obligation of an agency to provide data necessary for negotiations to the exclusive representative. The substitute qualifies this obligation by providing, in subsection (b)(4)(C), that data which constitutes "guidance, advice, counsel, or training provided for management officials or supervisors, relating to collective bargaining" need not be furnished to the exclusive representative.

Section 7115. Allotments to representatives: No change.

Section 7116. Unfair labor practices: The one change made adds a new labor organization unfair labor practice by expanding subsection (b)(7) to proscribe "picketing of an agency in a labor-management dispute if such picketing interferes with an agency's operations." A positive statement is added, however, after subsection (b)(8) to provide that nothing in subsection (b)(7) "shall result in any information picketing which does not interfere with an agency's operations being considered as an unfair labor practice."

Section 7117. Duty to bargain in good faith; compelling need; duty to consult: The substitute's section 7117 contains major changes effecting a significant alteration of the reported bill's scope of bargaining.

Under the reported bill, agency-wide rules or regulations are never a bar to negotiations, and any Government-wide rule or regulation may be removed as a bar to negotiations if there is no "compelling need" for the rule or regulation, as determined by the Federal Labor Relations Authority under the reported section 7117.

The substitute's section 7117 makes Government-wide rules or regulations an absolute bar to negotiations (subsection (a)(1)).

Subsection (a)(2) of the substitute provides that agency rules or regulations are a bar to negotiations, subject to subsection (a)(3), unless a finding of "no compelling need" for the rule or regulation is made by the Authority (as determined under regulations prescribed by the Authority).

Subsection (a)(3) states that the provisions of subsection (a)(2) apply to any rule or regulation issued by any agency, or issued by any primary national subdivision of such agency, unless an exclusive representative represents an appropriate unit which includes a majority of the employees in the issuing agency or primary national subdivision to whom the rule or regulation is applicable.

The net effect of the substitute's subsection (a)(3) is to make rules or regulations of agencies, or of primary national subdivisions of agencies, bars to negotiation, subject to the "compelling need" test, except in cases in which an exclusive representative represents a bargaining unit which includes a majority of the employees in the issuing agency or primary national subdivision to whom the rule or regulation is applicable. In those latter cases, the agency or primary national subdivision rule or regulation is not, for purposes of that unit, a bar to negotiations on the subject matter of the rule or regulation.

If, for example, the Department of the Treasury issues a regulation which applies to employees of the Department, and an exclusive representative represents a unit which includes a majority of the employees to whom the regulation applies, the regulation will not be a bar to negotiations for purposes of that unit. Similarly, if the Department issues a regulation which applies to employees of the Internal Revenue Service (a primary national subdivision of the Department) and an exclusive representative represents a unit which includes a majority of IRS employees to whom the regulation applies, the regulation will not be a bar to negotiations for purposes of that unit in IRS.

Subsection (b) of the substitute sets forth a procedure for "compelling need" determinations for agency or primary national subdivision rules or regulations. When an exclusive representative alleges that no compelling need exists for a rule or regulation which an agency or primary national subdivision has invoked as a bar to negotiations, the Federal Labor Relations Authority takes jurisdiction and determines whether a compelling need exists. The Authority will prescribe regulations governing compelling need determinations. A finding of "no compelling need" may be made only if the issuing agency or primary national subdivision informs the Authority in writing that no compelling need exists, or if the Authority determines after a hearing that there is no compelling need. The Authority's General Counsel shall not be a party to a "compelling need" hearing, but the issuing agency or primary national subdivision shall be.

Subsection (c) of the substitute provides an expedited appeals system for resolving negotiability disputes other than those involving "compelling need" determinations. The reported Title VII provides that such disputes be resolved through the unfair labor practice mechanism. The substitute provides that an exclusive representative may appeal an agency's allegation of non-negotiability to the Authority. The appeal may be filed, on or before the 15th day after the date on which the agency first makes its allegation, by filing a petition with the Authority and furnishing a copy to the head of the agency. On or before the 15th day after the agency head receives the copy of the petition, the agency must file a statement with the Authority either withdrawing the allegation or setting forth in full its reasons supporting the allegation. A copy is to be furnished to the exclusive representative, which then has 15 days to file a response with the Authority. The Authority shall expedite proceedings to the extent practicable and shall issue a written decision and supporting reasons at the earliest practicable date.

Subsection (d) of the substitute provides for consultation rights concerning Government-wide rules or regulations. A labor organization which is the exclusive representative of a substantial number of employees (as determined in accordance with criteria prescribed by the Authority) shall be granted consultation rights by any agency issuing a Government-wide rule or regulation effecting any substantive change in any condition of employment. Consultation rights shall terminate when the labor organization no longer meets the Authority's prescribed criteria. The Authority shall resolve issues relating to a labor organization's eligibility for, or continuation of, consultation rights.

A labor organization having consultation rights must be informed of any substantive change in conditions of employment proposed by the agency and must be permitted reasonable time to present its views and recommendations regarding the proposed changes. The agency must consider any views or recommendations so presented before taking final action on any matter with respect to which the views or recommendations are presented, and must provide the labor organization a written statement of the reasons for taking the final action.

Section 7118. Prevention of unfair labor practices: The one change from the provisions of the reported bill's section 7118 is in subsection (a)(6)(D). Instead of empowerpowers the Authority to require reinstatement of an employee "with backpay, together with interest thereon," the substitute empowers the Authority to require reinstatement of an employee with "backpay in accordance with section 5596 of this title." The applicable provision of section 5596, as amended by section 702 of this substitute, provides for backpay plus 5 percent, rather than "interest".

Section 7119. Negotiation impasses; Federal Service Impasses Panel: One change is made in the provisions of the reported bill's section 7119. In subsection (b)(2) of the reported section, the parties may agree to adopt a procedure for binding arbitration of a negotiation impasse. The substitute requires that the procedure agreed to by the parties is subject to approval by the Federal Service Impasses Panel.

Section 7120. Standards of conduct for labor organizations: No change.

Section 7121. Grievance procedures: In subsection (d), the substitute excludes additional matters from the scope of negotiated grievance procedures. Not grievable under negotiated procedures (in addition to those exclusions already in the reported section 7121) would be matters concerning examination, certification, or appointment, or the classification of any position which does not result in the reduction in grade or pay of any employee. The term "classification of any position" encompasses all positions and jobs, including white-collar and blue-collar.

Section 7122. Exceptions to arbitral awards: No change.

Section 7123. Judicial review; enforcement: No change.

Section 7131. Reporting requirements for standards of conduct: No change.

Section 7132. Official time: No change.

Section 7133. Subpenas: The substitute simplifies the reported section's subpena provision, and removes the immunity and criminal penalty provisions found in subsections (d) and (e) of the reported section 7133.

Subsection (a) of the substitute section provides that any member of the Authority, the General Counsel, or the Panel, any administrative law judge appointed by the Authority under section 3105 of title 5 of the United States Code, and any employee of the Authority designated by the Authority may: (1) issue subpenas requiring the attendance of and testimony of witnesses and the production of documentary or other evidence from any place in the United States; and (2), administer oaths, take or order the taking of depositions, order responses to written interrogatories, examine witnesses, and receive evidence.

Subsection (b) provides that in the case of contumacy or failure to obey a subpena issued under subsection (a), the United States district court for the judicial district in which the person to whom the subpena is addressed resides or is served may issue an order requiring such person to appear at any designated place to testify and to produce documentary or other evidence. The court may punish as contempt any failure to obey an order.

Subsection (c) provides that all witnesses be paid the same fee and mileage allowance which are paid subpenaed witnesses in Federal courts.

Section 7134. Compilation and publication of data: No change.

Subsection 7135. Regulations: No change.

Section 7136. Continuation of existing laws, recognitions, agreements and procedures: No change.

SECTION 702

Section 5596. Backpay in case of unfair labor practices and grievances: The substitute retains the modifications to the Backpay Act which would be made by the reported Title VII, with two changes.

First, the reported bill's modification of section 5596(b)(1)(A) is changed to provide for backpay "plus 5 percent, less any amount earned through other employment." The reported bill provides for backpay, less any amounts earned through other employment, plus "interest".

The substitute's section 5596(b)(1)(B) provides for reasonable attorney fees and reasonable costs and expenses related to the personnel action. With respect to any decision relating to an unfair labor practice or to a grievance processed under a procedure negotiated in accordance with chapter 71 of title 5 of the United States Code (Federal Service Labor Management Relations), attorney fees and reasonable costs and expenses of litigation shall be awarded in accordance with standards established by the Federal Labor Relations Authority under section 7105 (h) of title 5.

SECTION 703

No change.

SECTION 704

Subsection (c) of the reported section is redesignated as subsection (d) and a new subsection (c) is added, requiring that the regulation required under section 7105(h) of title 5 (standards for the awarding of attorney fees and reasonable costs and expenses of litigation in unfair labor practice and negotiated grievance procedure cases) be prescribed and made effective by the Authority not later than 90 days after the date of the enactment of the Civil Service Reform Act.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Kansas.

Mr. GLICKMAN. I thank the gentleman for yielding.

Mr. Chairman, I wonder if the gentleman might tell me the difference between his substitute and the Collins amendment with respect to the issue of the agency shop or the closed or union shop, and how that relates to the existing Executive order.

Mr. UDALL. There is no difference here. The unions have long wanted an agency shop. We do not give them that in the Udall substitute. They do not get the agency shop, they do not get the union shop in either one of the provisions.

Mr. Chairman, I will yield to my friend, the gentleman from Michigan, who can clarify this point.

Mr. FORD of Michigan. Mr. Chairman, this is one of the unfortunate things that can happen in the discussion of this matter. The agency shop issue has no place in this discussion. It has not been in this bill at any point, it is not in this bill directly, indirectly, back door, front door or side door, and the discussion of the agency shop is totally irrelevant.

Mr. UDALL. No one advocates it here in this debate. It is not in the bill.

Mr. ERLENBORN. Mr. Chairman, I rise in support of the Collins amendment and in opposition to the Udall substitute.

Mr. Chairman, let me say, however, that I am pleased to see the Udall substitute, which is moving in the direction of the Senate language and away from the House-reported language in title VII. The Collins amendment contains, I think, with little or no change, the language adopted by the Senate, and the Senate language is substantially the Executive order relative to labor and management relations. So obviously I am in favor of the Senate language embodied in the Collins amendment. But given the choice, if it should come to that, between the Udall substitute or the House-reported language, I certainly would prefer the Udall substitute. The Udall substitute moves in the right direction, in some respects, by narrowing the scope of bargaining, by expanding management's rights, and these are in relationship to the House-reported language, the committee-reported language. Moreover, some of the provisions of the Udall substitute recognize the uniqueness of the National Labor Relations Board. But it really goes much farther than title VII, as reported by the committee, in some respects. It permits informational picketing, except if the Federal labor relations authority determines that the picketing interferes with the agency's operations. It allows the Federal labor relations authority to consolidate units, even if neither of the unions has by free elections been certified as the major bargaining agent. It still, as does the committee-reported language, permits certification of a union without election.

It allows a dues checkoff form of union security. As a matter of fact, it requires negotiation by an agency with the union for the purpose of achieving an agreement relative to checkoff, with a union that has as little as 10-percent support among the employees of the unit. It delegates the Federal labor relations authority to the administrative labor law judges, something the so-called labor reform bill tried to do in the context of the National Labor Relations Act.

The Udall substitute allows the President to remove the general counsel at will, without cause. It permits an election after 60 days rather than 45 days when basic issues remain unresolved.

It does not recognize the conflict of interest to which the Federal Election Commission employees are subject and exposed. I will be offering an amendment in most of these areas. The first one I will offer will be on this area of the Federal Election Commission. The Commissioners asked this administration to give them some protection in this area

because it is altogether possible that the employees of the Commission could be members of the very same union that they are investigating and controlling under the Federal Election Act.

Lastly, the Udall substitute treats a strike as an unfair labor practice only. I think we should require a decertification of the union or a loss of union rights, but the substitute only treats this, as far as the union is concerned, as an unfair labor practice. Then, we have to look to other portions of the law to find the sanctions for the individuals who engage in a strike or support a strike. There are sanctions in the current law which, in our colloquy the day before yesterday, our experts from the Education and Labor Committee, Mr. FORD and Mr. THOMPSON, said remained undisturbed by this bill. I am pleased because, there are some severe sanctions, including a $1,000 fine for individuals who support a strike against a Government agency.

For these reasons, I think the Udall substitute is better than the House committee bill, but the Collins amendment is much more preferable. It would also make the job of the conferees a good deal easier, because we would adopt the Senate language. There would not be much to confer on.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(At the request of Mr. ROUSSELOT and by unanimous consent, Mr. ERLENBORN was allowed to proceed for 3 additional minutes.)

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I am happy to yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague yielding, and I appreciate his description of how the Collins substitute is superior to the Udall substitute.

I am interested in this new term "informational picketing." What is that?

Mr. ERLENBORN. Well, in answer to the gentleman, I believe informational picketing is a fairly well-known term. Informational picketing is one where the pickets are in place; they carry signs; they indicate their displeasure over some condition, but no labor dispute exists.

I will tell the gentleman, it is something he may have noticed here in the District of Columbia. It is where several restaurant unions have thrown up picket lines around restaurants and bars where none of the employees of those restaurants or bars are interested in joining the union, but the union thinks that they should be interested, and so they throw up a picket line around the restaurant or the bar for informational purposes. Of course, it goes a little bit beyond information, because once the information is given, then many people will decline to patronize the bar or restaurant because the pickets are there.

But, in the law they have no right to picket because of a labor dispute, because there is no labor dispute in that place of business.

Mr. ROUSSELOT. So it can be for anything. It could really just be a demonstration.

Mr. ERLENBORN. Usually the informational picketing is based upon the failure to observe so-called area standards which usually means union standards.

They will say that this employer does not live up to area union standards and is therefore unfair.

Mr. ROUSSELOT. Who makes the final determination under the Udall substitute as to whether or not informational picketing is legitimate?

Mr. ERLENBORN. My understanding is under the Udall bill it is the Federal labor relations authority rather than the unit of Government that is being picketed.

Mr. ROUSSELOT. So a unit of Government could really have no say as to whether this is a legitimate informational picketing operation?

Mr. ERLENBORN. They would certainly have no final say. They could complain to the Federal labor relations authority and that authority would have the final say.

Mr. ROUSSELOT. Let me make sure this point is clear: An agency could be subjected to "informational picketing" even though the picketing has nothing to do with employee grievances or other legitimate complaints of that particular agency.

Mr. ERLENBORN. It could be that there are none of the employees in that unit that are even interested in the union but the union pickets could picket that unit because of the area standards or some other reason.

Mr. ROUSSELOT. I appreciate the gentleman's information.

Mr. CLAY. Mr. Chairman. I move to strike the requisite number of words. and I rise in support of the Udall substitute.

Mr. Chairman, some in this body would have us believe that the Udall substitute was written by the headquarters of the AFL–CIO, but just the reverse is true, I believe. Not impugning the integrity of the gentleman from Arizona (Mr. UDALL) who offered the substitute, but it seems most of the substitute was written long ago by the Business Roundtable.

I do not view this as a fight between labor and business. I view this as a fight between what is right and what is wrong, between what is just and what is unjust. I think what the gentleman from Arizona (Mr. UDALL) is primarily attempting to do in his substitute is to get some balance between the now expanded rights of management and the lessened rights of the employees. It is in a sense a compromise.

It is still management oriented—too much, in my opinion. It still allows the administration flexibility—a little too much, in my opinion. It still permits the easy discharges of Federal employees—too much, in my opinion.

But, Mr. Chairman, the Udall substitute, even though it does not begin to reach the provisions that I and others on the subcommittee and committee approved of in title VII, does however represent the best that reasonable persons can expect under the present political circumstances.

Therefore I urge my colleagues to support the Udall substitute.

Mr. Chairman, at the time when the Committee of the Whole rose, on August 11, I expressed my disappointment that the administration—with whom I disagreed on several major ingredients of the Federal labor-management relations program, had not engaged in serious give-and-take with the committee in an effort to iron out these major differences. I indicated that, in view of the intransigence of the administration, it would be necessary for me to utilize every parliamentary device at my command to bring the intransigence of the administration to the attention of my colleagues.

Since that time, I am pleased that the administration sat down with representatives of the committee in what appears to have been a sincere effort to resolve our differences. The Udall substitute is the result of these extended negotiations.

I am not totally delighted with this final product because it does not begin to afford the rights to employees which, in my judgement are essential ingredients of any labor relations program. But the Udall substitute does represent a substantial improvement over what the administration originally proposed to the Congress. The Udall substitute does enjoy the support of the administration. Finally, the sad political reality is that given the antipublic employee mood of the Congress, I do not believe that the Nation is ready to accept much more than the provisions of the Udall substitute.

The Udall substitute provides for:

A statutory Federal labor-management program which cannot be universally altered by any President;

A truly independent Federal labor relations authority with judicial review and enforcement of Federal labor relations authority decisions and actions;

Binding arbitration for most statutory appeals and grievances;

Negotiation of agency-wide regulations under some circumstances;

Mandatory consultation on Government-wide regulations;

Attorneys' fees, litigation costs for employees;

Automatic dues withholding at no cost to unions; and

Mandatory official time for the negotiation of collective bargaining agreements.

Because the Udall substitute for title VII contains several departures from the version in the committee print, I would like to set out for the record the considerations that lay behind this compromise approach to labor-management relations in the Federal Government. The Udall substitute is the culmination of extension discussions between Mr. UDALL, the administration, Mr. FORD and others especially concerned with title VII, and myself. As the chairman of the Subcommittee on Civil Service, the sponsor of H.R. 13, and the cosponsor of H.R. 9094, I would like to state the rationale behind certain sections of the bill that has led me and others to work out and support the Udall substitute.

Title VII obviously represents congressional dissatisfaction with the state of labor-management relations in the Federal service under the various oversight bodies now established. The public and the taxpayer deserve the more effective and efficient Federal Government that is a predictable result of a meaningful labor-management program for Federal agencies. Unfortunately, the provisions of the order and, especially, the straitjacket interpretation of them by the Federal Labor Relations Council, have barred the development of such a program.

In enacting title VII, Congress will free both agency management and employee representatives from the strictures of the past and thereby encourage both management and labor to engage in the kind of relationship that, in the private sector, has fostered the single most productive economy in the world. An essential component of the new labor-management program mandated by title VII is the interplay between the obligation to bargain in good faith over conditions of employment and the reserved management rights set forth in section 7106. Since the Udall substitute contains several changes from the committee print's management rights clause, I would like to describe the background that led us to work out the Udall compromise and the current understanding that now prompts our agreement to the Udall substitute.

At no time either during the committee's deliberations or afterwards was it suggested that Federal employee labor organizations should be allowed to bargain over every conceivable topic. Initially, disagreement arose over whether the ultimate exercise of genuine management responsibility could best be protected, while also insuring meaningful negotiations on other topics, by inclusion of a management rights clause in title VII, as under the Executive order, or by a case-by-case development as under the National Labor Relations Act.

Many of us believed that a management rights clause was unnecessary. The National Labor Relations Board and the Federal courts have protected private sector management from union demands that "management rights" be bargained away. See, e.g., *Fibreboard Paper Products Corp.* v. *NLRB*, 379 U.S. 203, 235 (1964) (bargaining obligation does not extend to the method of investing capital, the goods to be produced, or the basic scope of the enterprise); *General Motors Corp.*, 191 NLRB 951, 952 (1971), aff'd 470 F.2d 422 (D.C. Cir. 1972) (the issue of whether a company should sell a dealership facility); and *Summit Tooling Co.*, 195 NLRB 479, 480 (1972) (partial closure of a company). Since this protection has been afforded private sector management without a management rights clause in the National Labor Relations Act, as amended, we believed that inclusion of such a clause in title VII was unnecessary and would invite the interpretative abuse reflected in the Council's decisions on the order.

We were persuaded, however, that a new independent agency, replacing the part-time management-oriented Council, would itself provide some insulation against the kind of decisional abuse that has hamstrung both agency managers and employee representatives in the past. Moreover, we have included in section 7136(a)(1) express recognition of our expectation that the new Federal Labor Relations Authority will issue decisions superseding those of the Council. (In the interest of continuity we also provide that Council decisions will continue in force until superseded.) We fully expect that the Authority will not repeat the mistakes of the Council, especially since the Authority is acting under a new statutory charter mandating a new approach to Federal labor-management relations.

In drafting the committee print version of title VII, the committee intended that the scope of collective bargaining under the act would be greater than that under the order as interpreted by the Council. (See House Rept. No. 95–1403 at pages 43–44.) The Udall substitute and its accompanying sectional analysis also embodies this approach. Title VII is remedial legislation designed to cure the problems caused primarily by the Council's misinterpretation of the Executive order. The approach in title VII constitutes a clear rejection of the Council's interpretative techniques, and we support the Udall substitute with the clear understanding that the Authority is in no way bound to the Council's past decisions, even where language in title VII is identical to that in the Executive order.

As the sectional analysis makes clear, the management rights clause is to be construed as a narrow exception to the general obligation to bargain in good faith. Although reviewing bodies under existing labor-management programs have sometimes adopted this approach, the Council has in large measure departed from this canon of construction in its haste to restrict the scope of bargaining. For examples of the approach mandated by title VII, see *Federal Employees Metal Trades Council of Charleston and U.S. Naval Supply Center*, Charleston, S.C. 1 FLRC 235, 244 (FLRC No. 71A–52) (1972); *Local Union No. 2219, International Brotherhood of Electrical Workers AFL–CIO and Department of the Army, Corps of Engineers, Little Rock District, Little Rock, Ark.*, 1 FLRC 219, 235 (FLRC No. 71A–46) (1972); *American Federation of Government Employees, National Joint Council of Food Inspection Locals and Officer of the Administrator, Animal and Plant Health Inspection Service, U.S. Department of Agriculture*, 1 FLRC 616, 620–21 (FLRC No. 73A–36) (1973), aff'd on remand 3 FLRC 324, 345–46 (1975); *AFGE Local 2595 and Immigration and Naturalization Service, U.S. Border Patrol, Yuma Sector (Yuma, Arizona)*, 1 FLRC 71, 73–74 (FLRC No. 70A–10) (1971); *Library of Congress and American Federation of State, County and Municipal Employees, Local Nos. 2477 and 2910*, 56–7 (Decision of the Labor-Management Umpire) (May 17, 1978) (slip opinion); and *AFSCME, Local 2910 and Library of Congress*, 2–4, 6–7 (Decision of the Labor-Management Umpire) (Sept. 5, 1978) (slip opinion).

The Udall substitute contains a management rights clause substantially enlarged beyond that in the committee print. An important element in our agreeing to entrust such an expanded management rights clause to the hands of the new Authority is the example of the protection afforded the collective bargaining process by conscientious scrutiny of management claims of infringements on management rights, especially as found in the two 1978 decisions above. If the new Authority is faithful to these interpretative guidelines, the ultimate exercise of the specified managerial responsibility, the only subject exempted from the bargaining obligation, will be protected and the general obligation to bargain over conditions of employment will be unimpaired. However, it is essential that only those proposals that directly and integrally go to the specified management rights be barred from the negotiations. (See the May 17, 1978 decision above at pages 5–7.)

Although more management rights have been added, the section has been revised to make clear that the exercise of any management rights in the section does not preclude negotiations over procedures or adverse effects involved in those rights.

In section 7117, the Udall substitute removes many Government-wide regulations from collective bargaining. We have agreed to this change with the understanding that the consultation rights accorded exclusive representatives are to be rigidly enforced. It should be clear from the contents of the agency statement required in subsection 7117(d)(3)(B) that the agency has in fact considered the views and recommendations of the labor organizations exercising consultation rights. A clear record is also necessary for later judicial review of the adequacy of the agency's proceedings that led to promulgation of the regulation.

Section 7103(a)(14)(D), removing from subjects of bargaining those matters specifically provided for by Federal statute, was adopted by the committee and retained in the Udall substitute with the clear undersanding that only matters "specifically" provided for by statute would be excluded under this subsection. Thus, where a statute merely vests authority over a particular subject with an agency official with the official given discretion in exercising that authority, the particular subject is not excluded by this subsection from the duty to bargain over conditions of employment.

Section 7114(a)(1) requires that a labor organization that has been accorded exclusive recognition shall be the exclusive representative for employees in its bargaining unit. Section 7114(a)(3)(A) specifically gives the exclusive representative the opportunity to appear at "formal discussions" between agency representatives and employees. In the Udall substitute the word "formal" was inserted before "discussions" in order to make clear the intention that this subsection does not require that an exclusive representative be present during highly personal, informal meetings such as counseling sessions—unless covered by

subsection 7114(a)(3)(B). Nothing in this section prohibits an agency from negotiating greater rights for exclusive representatives. Nor does this section authorize an agency to bypass the rights of the exclusive representative and engage in direct communications with unit employees. Section 7116(a)(8) makes it an unfair labor practice for an agency to violate any provision of title VII, including obviously the section requiring that a labor organization with exclusive recognition shall be the exclusive representative.

Section 7116(b)(7) of the compromise version adds "picketing in a labor-management dispute if such picketing interferes with an agency's operations" as an unfair labor practice by a labor organization. In *National Treasury Employees Union* v. *Fraser*, 428 F. Supp. 295 (D.D.C. 1976), the U.S. district court held that the Executive order's absolute ban on picketing was overbroad and violated the first amendment. The court specifically authorized nondisruptive informational picketing. We had recourse to the Federal Labor Relations Council policy statement in this area and, in view of the constitutional principles involved, adopted the language in this subsection.

Section 7132(b) of the Udall compromise bars the use of official time for conducting the internal business of a labor organization. The section also lists three such activities reflecting our intention that "internal business" be strictly construed to apply only to those activities regarding the structure and institution of the labor organization. Activities that involve labor-management contacts are not included in this section. Nor is preparation for such activities, such as grievances, bargaining, unfair labor practice proceedings, included within this section. Title VII imposes heavy responsibilities on labor organizations and on agency management. These organizations should be allowed official time to carry out their statutory representational activities just as management uses official time to carry out its responsibilities.

The purpose of title VII is to foster a successful labor-management program in the Federal service. Under the current system, many agencies have elected to ignore litigation before the Council and simply conclude agreements with employee representatives that benefit both agency management and employees. Since the Council's decisions have been too rigid even for agency management, there is a growing body of Federal contracts existing outside the realm of the Council's formal negotiability rulings. (See, e.g., "Assignment and Scheduling of Work in Federal Labor Agreements," USCSC/OLMR 76/14 (August 1976) and particularly clauses numbered 8, 13, 16, 29, 30, 31, 42, 43, 51, 52, 68, 103, and 113 therein.)

Section 7136(a)(1) provides that nothing in title VII will preclude the renewal or continuation of such agreements. In this way, we have sought to insure that our goal of bringing successful labor relations programs to other agencies will not impair the ongoing development of such programs in agencies where they already exist. This goal also requires great hesitancy in applying Council decisions, even where those decisions interpret language in the order identical to that found in title VII.

The whole structure and approach of title VII is in large part a repudiation of past Council practice. If we could not have been assured that identical language for management rights would be handled differently under the narrow construction mandated by title VII, the Udall compromise would never have been possible. That compromise is an important step in gaining House action on title VII and the bill in general. Many of us believe that the list of management rights is needlessly long, but we also believe that interpreted in accord with the clear principles enunciated in the legislative history the list of management rights will not impair a genuine collective bargaining relationship over meaningful issues. This last understanding is an essential element in all that we do in adopting the Udall compromise.

Section 7103(a)(14)(A) defines the term "conditions of employment" and the exceptions to the term. The general obligation of both management and labor to bargain in good faith is an obligation to bargain over "conditions of employment." Section 7103(a)(14)(A) was amended to clarify the intent that collective bargaining will not extend to matters of discrimination in agencies subject to the jurisdiction of the Equal Employment Opportunity Commission. Under section 11 of the Equal Employment Opportunity Act of 1972, Public Law 92-261, 86 Stat. 111, codified at 42 U.S.C. 2000e-16, the Civil Rights Act of 1964 was amended to include the prohibition of employment discrimination in the Federal Government. Under the act, the Civil Service Commission (CSC) was given oversight responsibility for equal employment and affirmative action programs in the Federal Government. A desire for more expert handling of such issues, and to some extent a dissatisfaction with the performance of CSC in this area, led to the transfer of CSC functions in the area of employment discrimination and affirmative action to the Equal Employment Opportunity Commission (EEOC). See Reorganization Plan No. 1 of 1978, effective May 6, 1978. The committee has added language to this subsection to make clear its intent that agencies and labor organizations do not engage in bargaining over matters subject to the EEOC's jurisdiction. Like the Civil Service Commission before it, the Equal Employment Opportunity Commission now has jurisdiction over all Federal employees covered by the 1972 act, except for those in the Library of Congress for whom the 1972 act precludes outside review of discrimination matters by another administrative agency.

I urge my colleagues to support this amendment.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the amendment is simply the administration's proposal for a flexible but orderly codification of the Executive orders which have successfully governed Federal labor-management relations since 1962. Four Presidents, two of each party, have managed to work with the guidelines embodied in this substitute, and now their successor has offered to codify the system into statutes which cannot, like Executive orders, be revoked by the White House at will.

The substance of this amendment closely resembles the original program established by President Kennedy.

First. Union membership and dues remain voluntary. Work slowdowns, stoppages or picket lines continue to be unfair labor practices.

Second. The President retains his right, within the law, to appoint and remove members of a bipartisan Federal Labor Relations Authority, whose General Counsel would investigate and prosecute unfair labor practies, as does the General Counsel of the National Labor Relations Board.

Third. The amendment would permit negotiated grievance arbitration on most matters, and the FLRA would have subpena powers to enforce final decisions, which would be subject to judicial review on constitutional questions.

Fourth. Under this substitute, an agency's mission, budget, organization and internal security practices would remain beyond the scope of collective bargaining, as would the wages, fringe benefits, and number of employees in an agency; the numbers, types and grades of positions or employees assigned to an organizational unit, work project or tour of duty; or the technology of performing the work of such projects.

The other provisions of this substitute are substantially identical to Executive Order 11491, as amended.

Fifth. The uniformed services, Foreign Service, Tennessee Valley Authority, national and internal security agencies, and non-executive agencies are excluded from coverage.

Sixth. National consultation rights at an agency-wide level are available to unions which represent a substantial number of agency employees, but are not recognized as the exclusive bargaining agent. Exclusive representation rights would be won by a union's receiving a majority of votes in elections by secret ballot.

Seventh. Agencies would be required to show a "compelling need" why an otherwise negotiable regulation should be kept off the bargaining table.

The Assistant Secretary of Labor for Labor-Management Relations would continue to issue standards of conduct for all labor organization in both the private and public sectors.

Mr. Chairman, I support the amendment.

Mr. COLLINS of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to point out the four major places where my amendment

differs from the Udall substitute. One is on exclusive recognition with a union election. My amendment continues our current procedure in requiring an election must be held before exclusive recognition status can be granted to a union. The committee bill and the Udall substitute, however, depart substantially from our current standard and permits the Federal Labor Relations Authority to grant exclusive recognition without an election simply on the basis of a showing by a labor organization that it represents a majority of the employees in the agency. This could be shown either on the basis of a card check or a petition. We differ on that point.

On picketing, my amendment includes a provision against picketing which interferes or threatens to interfere with an agency's operation, which is presently in the current Executive order prohibition. The committee bill, on the other hand, is unclear on the subject of picketing. It is also unclear in the Udall substitute. In its provisions on unfair labor practices, the committee bill does not include picketing as an unfair labor practice. I am uncertain if the exclusion would permit pickets in all circumstances and, if so, what recourse would an agency have if such picketing was not an unfair labor practice?

Another section on which we have a difference is that of dues withholding and official time.

My amendment allows unions to enter into dues withholding agreements with agencies, and the service charge for the work would be subject to bargaining. Under the voluntary dues withholding system, allotments are revokable at 6 month intervals. Both of these provisions are identical to our current program.

The committee bill and the Udall substitute, on the other hand, depart from our current program by requiring an agency to deduct dues at the request of an exclusive union. Allotments would be irrevocable for 1 year, and would be made free of charge to both the union and the employee.

The committee bill also allows for dues withholding arrangements for unions with 10 percent or more membership in bargaining units where there is no exclusive union.

The fourth point on which we do not agree, and which is of major concern is that of judicial review of Federal Labor Relations Authority.

My amendment, and I differ from the Udall substitute, provides that decisions and orders issued by the Federal Labor Relations Authority are final and enforceable by the Federal Labor Relations Authority and are not subject to judicial review for enforcement—except that judicial review may be obtained on constitutional questions. Access to judicial review for adverse action and discrimination matters would continue under my amendment.

The committee bill seriously weakens the Federal Labor Relations Authority by providing that all of its decisions and orders are subject to judicial review in any U.S. District Court.

What would happen under this judicial review is that one individual could go to court instead of bringing it before the Federal Labor Relations Authority, this when our courts are so overcrowded. Although we want everyone to have full recourse to judicial review, this would mean that it would go to the court system if one individual wished, and this would mean unending litigation and would make the paperwork on this unbearable.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I thank the gentleman for yielding. I want to congratulate him for this amendment.

Mr. Chairman, it just seems incomprehensible that at a time when we are talking about more democratic procedures, we are talking about the rights of the rank and file, we are talking about individuals becoming more active throughout the country that we would have a bill which would limit the right of an employee to make an expression of whether or not he wants to belong to a union.

The provision in title VII, as reported in the Udall substitute, is absolutely an invitation to blanket in union membership without a vote.

Mr. Chairman, one of the most fundamental American principles is that we should have votes and, indeed, secret ballots on very substantive issues. Whether one is going to be required to belong to a union or not is a very substantive issue, and to try to blanket such an issue with an overall designation that we can have the FLRA blanket members into a union without a vote runs against the tide of everything that we have been doing.

The CHAIRMAN. The time of the gentleman from Texas (Mr. COLLINS) has expired.

(By unanimous consent, Mr. COLLINS of Texas was allowed to proceed for 3 additional minutes.)

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield further?

Mr. COLLINS of Texas. I yield to the gentleman from Ohio.

Mr. ASHBROOK. To continue. Mr. Chairman, it runs against the tide of everything that we have been doing, and against all of the great liberal talk on the other side.

Mr. Chairman, if we look at this from the civil rights standpoint, this is as important a civil right as anyone could have in America. I am amazed to see the great civil rights advocates look the other way when it comes to forcing members into a union without a vote. If they want a vote and there is a majority, that is fine. We all agree with that. However, it certainly runs against the tide of civil rights to say that we are going to make a person belong to a union without a secret ballot, without an expression of the majority.

Mr. Chairman, the one thing which the gentleman from Illinois (Mr. ERLENBORN) and I have pointed out so frequently during the debate on the so-called Labor Reform Act is that often rank-and-file members of a union are denied the same democratic rights that others enjoy. Everyone would be astounded at the abuse of those rights if that happened anywhere else.

Mr. Chairman, I could cite examples of union members who have been fired for merely speaking out against the international officers. We had examples of unions fining members for having the audacity to run against an international president. They fine members for the exercise of constitutional rights that would be guaranteed to everyone else.

Somehow or other, on the other side they tend to look the other way. The great civil rights advocates of our time tend to look the other way when it comes to the basic constitutional rights of either union members or of workers who are about to be placed in the union, whether it is with their vote or without their vote. Our liberal friends just don't care. Their concern about civil rights has a water's edge and that is when unions are involved.

Mr. Chairman, I think the Collins amendment helps further some of the basic democratic rights which all of us in our speeches at home enunciate, except for those who look the other way when it comes to this vital area of recognition and whether or not a rank-and-file member should have a right to vote.

Mr. Chairman, I think it is basic that there should be a vote and there should be a secret vote. Any effort to force union membership on any employee, particularly a Federal employee, without a vote certainly runs against the tide of good public opinion and proper constitutional practice.

Again, Mr. Chairman, I certainly support the Collins amendment.

I think for all the reasons the gentleman pointed out, we could go through every section in order to have a much more balanced approach. I think we have to decide whether we want a balanced approach or whether we want the Federal unions to literally run the Federal service.

Mr. COLLINS of Texas. Mr. Chairman, the gentleman from Ohio (Mr. ASHBROOK) sums the matter up well in saying that every worker in America is entitled to freedom of choice and they should have the right to vote on whether they want to belong to a union; and based on their vote, they would be so governed.

This is a very serious flaw in the Udall substitute because it almost brings on mandatory unionism instead of giving all of the workers an opportunity to decide for themselves.

AMENDMENT OFFERED BY MR. RUDD TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. COLLINS OF TEXAS

Mr. RUDD. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. RUDD to the amendment offered by Mr. UDALL as a substitute for the amendment offered by Mr. COLLINS of Texas: Immediately after section 7103(a)(2)(iv), insert the following new paragraph:

"(V) any person who participates in a strike in violation of 5 U.S.C. 7311;".

Mr. RUDD (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. RUDD. Mr. Chairman, this slight but important addition to the exclusions from the definition of "employee," in the Udall substitute to Collins, amendment and, restates in clear and unequivocal language that strikes against the Federal Government are illegal and punishable.

By adding this exclusion, we will remove any doubt about the intent of this Congress and this legislation with regard to strikes by Federal employees.

The effect of this amendment is straightforward.

An employee who strikes is no longer eligible to work for the Federal Government.

Such a person would no longer enjoy the protections and benefits of this legislation.

This provision is consistent with the penalties already contained in title 5 of the United States Code.

It is, in fact, more lenient than the provisions of title 18, which allows fines and imprisonment for strikers.

These penalties are consistent with the provisions of Executive Order 11491.

But more importantly, this amendment is consistent with the original and overall intent of this legislation—to facilitate the removal of those employees who are inadequate in the performance of their jobs.

For there can be no more inadequate performance than total abandonment of job responsibilities in order to strike.

It has long been recognized that public employment is quite different than private sector employment.

These differences are most acute when it comes to labor relations in general, and strikes in particular.

Strikes deprive the public of services for which there is no alternative source of supply.

Some of these services, including many provided by the Federal Government, are so critical that their disruption threatens the public well-being.

Many other strikes by Federal employees would cause extreme hardship to individuals and businesses across this country.

Just this summer, we have seen too many American cities thrown into chaos by striking police, firefighters, garbagemen, and others seeking to force these cities to capitulate to their demands.

Such actions are nothing short of blackmail—the actions of a narrow-interest group holding public welfare hostage in order to achieve their own selfish ends.

There can be no question that we need to ban public sector strikes.

The threat to the public is unthinkable.

The tactic is intolerable.

Title VII of this bill must very clearly restate the intent of Congress that strikes against the Federal Government are illegal and punishable.

This amendment accomplishes that purpose.

I urge its adoption.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. RUDD. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, in a burst of good fellowship between Arizonans, if the gentleman wants to save time for other Members who have more contentious amendments, we are prepared to accept this one. It is already in the law.

Mr. RUDD. Mr. Chairman, I thank the gentleman very much. This amendment nails it down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona (Mr. RUDD) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment offered by the gentleman from Texas (Mr. COLLINS).

The amendment to the amendment offered as a substitute for the amendment was agreed to.

AMENDMENT OFFERED BY MR. ERLENBORN TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. COLLINS OF TEXAS

Mr. ERLENBORN. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN to the amendment offered by Mr. UDALL as a substitute for the amendment offered by Mr. COLLINS of Texas: Newly designated section 7112 of subpart F of part III of title V, United States Code, is amended by inserting after subsection (c), a new subsection (d) (and redesignating the subsequent subsections accordingly) which reads as follows:

"(d) Any employee who is engaged in the administration, interpretation and enforcement of the Federal Election Campaign Act of 1971, as amended, shall not be represented by any labor organization which maintains a political action committee or which is affiliated, associated, or connected with an organization which maintains a political action committee; nor shall such employees be represented by a labor organization which expressly advocates the election or defeat of any candidate for Federal Office.".

Mr. ERLENBORN (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with, and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ERLENBORN. Mr. Chairman, this amendment addresses what I consider to be a very serious problem, and that is the possible conflict that Federal Election Commission employees will face if they belong to and are represented by a labor union that is subject to supervision under the Federal Election Act. I do not stand alone, nor was I the one first to observe the problem, and I do not stand alone in looking for a solution.

I have here a letter dated July 20 of this year from the Federal Election Commission and signed by all of its members. The Commission itself and the members of the Commission are deeply concerned about this conflict. I will read it in part. The letter is addressed to the President and it says:

DEAR MR. PRESIDENT: The undersigned members of the Federal Election Commission, by this letter, urge that appropriate steps be taken to exempt the Federal Election Commission and its staff from collective bargaining with, and representation of employees by, labor unions which maintain political action committees or which endorse or support Federal candidates.

The letter goes on to ask that under the Executive order or through an amendment to the bill before us the Commission be exempt from having to recognize the union that they are supervising under the act. I think that is a reasonable request. I am surprised that the committee, knowing of the concerns of the Commission, did not respond and adopt in committee an amendment such as the amendment offered here.

The sole effect of my amendment is to say that unions that maintain political action committees or who endorse candidates for Federal office may not represent the employees of the Election Commission. The two conditions are conditions that would subject a union to supervision by the very people we are talking about here. I do not see any way we can reach any other conclusion than that there is a clear conflict of interest, if we have a member of the union investigating the very union that he belongs to.

I would hope that the committee would see fit to agree to this amendment.

Mr. FORD of Michigan. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, with all due respect to my colleague, the gentleman from Illinois (Mr. ERLENBORN), the purpose that his amendment purports to carry out is a laudable one and one on which we are in total agreement. But, unfortunately, to reach his end he is driving a tractor across the front lawn, and it really is not necessary; a lawnmower would do the job.

I am sure that the gentleman has no way of knowing about the background of this. First of all, consider that what we are talking about is a bargaining unit of 150 employees which last week held an election to determine whether or not they wanted to belong to a union, and in fact selected the union to which they would belong. Seventy-five percent of all the employees in the unit participated in the secret election, as the gentleman has indicated he would like the practice to be, and 80 percent of those who participated in the election voted to select the National Treasury Employees Union as their collective bargaining agent. So, in fact, we are now at the point today where the FEC is required under the existing Executive order, not under this bill but under the existing Executive order, to begin

bargaining with a union that has been selected by its employees to represent its employees. Furthermore, it should be noted that the FEC is coming to us, that group of people who I am sure all of us think so fondly of as having done a wonderful job with the attempts we have made in reforming the election law, with a unanimously passed resolution saying that their highly laudable purpose is simply to avoid a conflict of interest. Baloney! Their highly laudable purpose is that they have a work force that is sufficiently concerned about representation to have an 80-percent vote to select a union to represent them.

What union did they select? Not a union that represents blue collar workers, not a union that represents a wide spectrum of the Federal work force; in fact, not even a union affiliated with the AFL-CIO, but an independent union which has grown out of representing Internal Revenue agents.

What is amazing is that a union made up entirely of professionals, that includes every office of the Internal Revenue Service in the United States, cannot be trusted to conduct audits if they belong to a union, if they are working for the FEC; yet those employees that belong to that union audit you and I as citizens. They audit every union in this country. They audit every nonprofit organization in this country and they audit every corporation from General Motors on down.

Now, the FEC came to us and talked to us about this. We said, "Look, this can be solved," and we conferred with Chairman THOMPSON of the House Committee on Administration. The solution of the problem is in the Federal election law to provide that if a union representing the employees of the Federal Election Commission has a PAC and it comes within the purview of the law that that pact is to be audited, then the FEC would be required to go outside and get an independent auditor.

Now, how many times a year are they going to audit their own union PAC. Every month, every 2 months or every 10 years? Or only when they think there is some reason to audit them, or when they come up by the luck of the draw?

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(By unanimous consent, Mr. FORD of Michigan was allowed to proceed for 2 additional minutes.)

Mr. FORD of Michigan. Mr. Chairman, if this was the first attempt to prevent them, to save themselves from sitting down and bargaining in good faith with their employees, it would not be all that bad. What they first did was that the Federal Election Commission, 150 employees, was not under the existing Executive order as an appropriate bargaining unit and they tried to prevent their employees from joining a union by indicating they would not recognize that their employees constituted within the purview of the present Executive order a bargaining unit. That was appealed to the assistant secretary, who determined that, indeed, the employees of the Federal Election Commission were an appropriate bargaining unit under the Executive order that has been in effect since 1962. They then appealed to the administration and asked the White House to change the Executive order. In other words, after having determined that the rules provided that they could not prevent the employees from joining the union and bargaining with them, they then went around the process and attempted to change the rules by saying, "Take us out of the Executive order." They were refused.

Now, after those efforts to prevent the employees from joining a union and to save themselves from bargaining with their employees, the same as every other Federal agency, they now come to us under the guise of trying to protect the purity of their audits, to try to accomplish by indirection that which they could not accomplish directly.

I will pledge the gentleman from Illinois my full support before the House Committee on Administration and on this floor for clear language in the Federal election law amendments when they come to us that specifically lawfully requires that the Federal Election Commission seek outside independent audits on any occasion when the activity of a union representing its employees are involved. I think that is the proper way to do it. We should not leave here being accused of having literally ex post facto legislated out of existence a bargaining unit.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. FORD) has expired.

(On request of Mr. ERLENBORN, and by unanimous consent, Mr. FORD of Michigan was allowed to proceed for 2 additional minutes.)

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. Yes, I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, I appreciate what the gentleman from Michigan (Mr. FORD) has said, and I hope that that clear expression is forthcoming in the Federal election law or the report accompanying it.

But the gentleman is referring, I think, only to audits. There is the other question raised by this amendment, and that is as to employees belonging to a union that has endorsed a candidate for Federal office. Now, that means that we will have employees of the commission who may be investigating that very candidate or the committee supporting the candidate that they have endorsed or who may be investigating the opponent of the candidate they have endorsed. That goes beyond the question of audits.

How would the gentleman suggest that, without the adoption of an amendment such as this, we ward off that kind of conflict of interest?

Mr. FORD of Michigan. Mr. Chairman, I will say to the gentleman from Illinois (Mr. ERLENBORN) that I do not really think that we do that. What the latter part of the gentleman's amendment suggests is this—and I frankly did not allude to it—in addition to the other conditions, any "labor organization which expressly advocates the election or defeat of any candidate for Federal office."

Now, is it not rather interesting that of all the unions in this country representing employees in the private sector, in and out of right-to-work States, it has never occurred to anyone to change the National Labor Relations Act to affect the ability of the members of a group to belong to a union if in fact that union takes a position in elections?

This would make the FEC distinct and different from every other collective bargaining unit in the U.S. Government.

I am frankly ashamed of the fact that the Members of my party voted on FEC to ask for this kind of an amendment. I think it is the most undemocratic—with a small "d"—proposal I have ever heard. I think it is an absolute outrage, and it is an insult to every Member in this House who worked for election reform and for the purity of the electoral process.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. FORD) has again expired.

(On request of Mr. ERLENBORN, and by unanimous consent, Mr. FORD of Michigan was allowed to proceed for 2 additional minutes.)

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield further?

Mr. FORD of Michigan. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, let me point out that there are two portions of my amendment. One is as it applies to the political action committees and proscribes belonging to a union or a group that is affiliated with a union that maintains a political action committee.

Mr. FORD of Michigan. Mr. Chairman, if I might put the gentleman's mind to rest, I suspect there is a little jealousy in there someplace. The fact is that this is an independent union which got there "fustest with the mostest" and beat the AFL-CIO to the punch and got the bargaining unit. That might have something to do with some attitudes in this House about whether or not we want to protect what they have done.

They are not affiliated with any other union. They are an independent union, representing Treasury agents, IRS agents, and similar types of Federal employees.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. Yes, I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, I was going to point out that in the second part of my amendment the language is addressing the prohibition against belonging to a labor organization that expressly advocates the election or defeat of a candidate for Federal office, and we left out that portion about being "affiliated with."

So we could have in this instance a union local that is affiliated with the AFL-CIO, and the AFL-CIO could advocate the election or defeat of a candidate and not violate this particular amendment.

What we are saying is that the union local representing the FEC employees should not advocate the election or defeat of a candidate for office. I think it is quite apparent that they ought not

do that. We ought not have the regulators under our Federal election laws advocating the election or defeat of the very people who are running for office and subject to their jurisdiction.

Mr. SOLARZ. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask the gentleman from Illinois (Mr. ERLENBORN), the author of the amendment, a few questions.

I gather it is the purpose of this amendment to in effect deal exclusively with the FEC, and with no other Federal agency.

Mr. ERLENBORN. If the gentleman will yield, that is correct.

Mr. SOLARZ. If that is in fact the case, I wonder if the gentleman could explain what seems to me to be a potentially significant ambiguity in this amendment. As I read the amendment, it says that any employee who is engaged in the administration, interpretation, and enforcement of the Federal Election Campaign Act of 1971 shall not be represented by any labor organization which maintains a political action committee, and then it goes on. Now, it seems to me that this might very easily be interpreted to apply, for example, to employees in the Justice Department who have the responsibility for the enforcement of the criminal penalties in the FEC law, and that, in this sense, the gentleman's amendment might not only prohibit the employees of the FEC from being represented by a labor union, but might also prohibit, unintentionally and unwittingly, but nevertheless inescapably, employees of the Justice Department, who are engaged in the administration and enforcement of this law, from being represented by unions as well.

Mr. ERLENBORN. If the gentleman will yield, as the gentleman now calls my attention to it, that might very well be the interpretation. The language, by the way, of this amendment is not language that I drafted but, rather, is an amendment drafted by the Federal Election Commission and suggested by them.

Let me point out to the gentleman that the Udall substitute to which this amendment is being offered has language relative to the exclusion of a similar nature for those units of Government administering Federal labor-management relation laws. And let me quote. It excludes from any bargaining unit employees engaged in "administering any provision of law relating to labor-management relations."

I think, likewise, there you might have the Solicitor's office, or possibly even the Justice Department, administering in some fashion the criminal law, the criminal sections in the National Labor Relations Act. So the same sort of language is used by the committee and by the gentleman from Arizona (Mr. UDALL).

Mr. SOLARZ. This is the gentleman's amendment, and I do not think that it would be appropriate for us to pass an amendment of this nature unless we had a very specific idea of what it meant and what it did not mean.

Is it the gentleman's intention that this amendment apply solely to the FEC?

Mr. ERLENBORN. That is my intention.

Mr. SOLARZ. I thank the gentleman for that clarification. I think it makes the amendment less unfortunate than it otherwise would have been, but I do at this point, having received that clarification, nevertheless want to indicate that I support the observations made by the gentleman from Michigan. I urge my colleagues, this clarification notwithstanding, to vote against the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment offered by the gentleman from Texas (Mr. COLLINS).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ERLENBORN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 166, noes 217, not voting 49, as follows:

[Roll No. 763]

AYES—166

Abdnor
Andrews, N.C.
Andrews, N. Dak.
Archer
Ashbrook
AuCoin
Badham
Bafalis
Barnard
Baucus
Bauman
Beard, Tenn.
Biouin
Bowen
Breckinridge
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Carter
Cavanaugh
Cederberg
Clausen, Don H.
Cleveland
Cohen
Coleman
Collins, Tex.
Corcoran
Coughlin
Crane
Cunningham
D'Amours
Daniel, R. W.
de la Garza
Derwinski
Devine
Dickinson
Dornan
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlenborn
Ertel
Evans, Del.
Findley
Forsythe
Fountain
Frey
Gephardt
Glickman
Goldwater
Goodling
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hall
Hammer-schmidt
Hansen
Hefner
Hightower
Hillis
Holt
Horton
Hughes
Hyde
Ichord
Ireland
Jeffords
Jenkins
Jones, N.C.
Jones, Okla.
Kazen
Kelly
Kemp
Kindness
Kostmayer
Lagomarsino
Latta
Leach
Lent
Livingston
Lott
Lujan
Lundine
McClory
McCloskey
McDade
McDonald
McEwen
McKay
Madigan
Mahon
Mann
Marks
Marriott
Martin
Mazzoli
Michel
Milford
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Myers, Gary
Myers, John
Neal
O'Brien
Pease
Pettis
Poage
Pressler
Preyer
Pursell
Quayle
Quillen
Railsback
Regula
Rhodes
Rinaldo
Robinson
Rogers
Rose
Rousselot
Rudd
Runnels
Ryan
Santini
Satterfie'd
Sawyer
Schulze
Sebelius
Sharp
Shuster
Skubitz
Smith, Nebr.
Spence
Stangeland
Steiger
Stockman
Symms
Taylor
Thone
Treen
Trible
Waggonner
Walgren
Walker
Walsh
Watkins
White
Whitehurst
Whitley
Wilson, Bob
Winn
Wydler
Wylie
Young, Fla.
Young, Tex.

NOES—217

Addabbo
Akaka
Alexander
Anderson, Calif.
Annunzio
Applegate
Ashley
Aspin
Baldus
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boling
Bonior
Bonker
Brademas
Brinkley
Brodhead
Brooks
Brown, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Carr
Chappell
Chisholm
Clay
Collins, Ill.
Conte
Corman
Cornell
Cornwell
Cotter
Daniel, Dan
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Dicks
Diggs
Dingell
Dodd
Downey
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Evans, Colo.
Evans, Ga.
Evans, Ind.
Fascell
Fenwick
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Fraser
Fuqua
Gaimmage
Gaydos
Giaimo
Gilman
Ginn
Gonzalez
Gore
Green
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Heckler
Heftel
Holland
Holtzman
Howard
Hubbard
Jacobs
Jeffrette
Johnson, Calif.
Jones, Tenn.
Jordan
Kastenmeier
Keys
Kildee
Krebs
Le Fante
Lederer
Leggett
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Luken
McCormack
McFall
McHugh
Maguire
Markey
Mathis
Mattox
Meeds
Metcalfe
Meyner
Mikulski
Mikva
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Michael
Natcher
Nedzi
Nichols
Nix
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pepper
Perkins
Pickle
Pike
Price
Pritchard
Rahall
Rangel
Reuss
Roberts
Rodino
Roncalio
Rooney
Rosenthal
Rostenkowski
Roybal
Russo
Scheuer
Schroeder
Seiberling
Shipley
Sikes
Simon
Sisk
Skelton
Smith, Iowa
Snyder
Solarz
Spellman
Staggers
Stanton
Stark
Steed
Steers
Stokes
Stratton
Studds
Thompson
Thornton
Traxler
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Wampler
Waxman
Weaver
Weiss
Whitten
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—49

Ambro
Ammerman
Anderson, Ill.
Armstrong
Beard, R.I.
Breaux
Broomfie'd
Burke, Calif.
Burke, Fla.
Burleson, Tex.
Byron
Caputo
Clawson, Del
Cochran
Conable
Conyers
Fary
Flowers
Fraser
Frenzel
Garcia
Gibbons
Hawkins
Hollenbeck
Huckaby
Johnson, Colo.
Kasten
Krueger
LaFalce
Lehman
McKinney
Marlenee
Miller, Calif.
Nolan
Nolan
Richmond
Risenhoover
Roe
Ruppe
Sarasin
Slack
St Germain
Stump
Teague
Tsongas
Vander Jagt
Whalen
Wiggins
Young, Alaska

The Clerk announced the following pairs:

On this vote:

Mr. Breaux for, with Mr. Fary against.

Mr. Teague for, with Mr. Richmond against.

Mr. Broomfield for, with Mr. Hawkins against.

Mr. Burke of Florida for, with Mr. Krueger against.

Mr. Del Clawson for, with Mr. Ammerman against.

Mr. Frenzel for, with Mr. Garcia against.

Mr. Ruppe for, with Mr. St Germain against.

Mr. Vander Jagt for, with Mr. Beard of Rhode Island against.

Mr. Wiggins for, with Mr. Miller of California against.

Mr. Burleson of Texas for, with Mrs. Burke of California against.

Mr. Risenhoover for, with Mr. Conyers against.

Mr. EDGAR changed his vote from "aye" to "no."

Messrs. HIGHTOWER, WHITE, SHARP, D'AMOURS, BLOUIN, and GLICKMAN changed their vote from "no" to "aye."

So the amendment to the amendment offered as a substitute for the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there other amendments?

AMENDMENT OFFERED BY MR. ERLENBORN TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. COLLINS OF TEXAS

Mr. ERLENBORN. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN to the amendment offered by Mr. UDALL as a substitute for the amendment offered by Mr. COLLINS of Texas: Newly designated section 7104(f)(1) of subpart F of part III of title V, United States Code, is amended by inserting before the final period the words "only upon notice and hearing and only for misconduct, inefficiency, neglect of duty, or malfeasance in office".

Mr. ERLENBORN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ERLENBORN. Mr. Chairman, this amendment will add a requirement to the exercise of the authority by the President to remove the General Counsel for the Federal Labor Relations Authority. Under the National Labor Relations Act the Board has a General Counsel very similar to the General Counsel created by this act. In the instance of the General Counsel for the NLRB, he may be removed only upon notice and hearing and good cause. The members of the Federal Labor Relations Authority themselves are subject to removal for cause only. This amendment will merely add the language that is already in the act relative to the members of the Authority and apply it to the General Counsel so that the General Counsel could be removed only for cause.

I would hope that the amendment would be adopted.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield to me?

Mr. ERLENBORN. I will be happy to yield to the gentleman from Michigan.

Mr. FORD of Michigan. I thank the gentleman for yielding.

I must say to the gentleman that I believe that I offered a similar amendment in the committee, and it was defeated. I am honor bound by the agreement to support the compromise that has been worked out to vote against the gentleman's amendment, but I obviously have no quarrel with it in principle and wish that I had won in the committee.

Mr. ERLENBORN. If I understand the gentleman correctly, then he would be very pleased if the amendment were adopted. I hope the amendment will be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment offered by the gentleman from Texas (Mr. COLLINS).

The amendment to the amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. Are there other amendments?

AMENDMENT OFFERED BY MR. ERLENBORN TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. COLLINS OF TEXAS

Mr. ERLENBORN. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN to the amendment offered by Mr. UDALL as a substitute for the amendment offered by Mr. COLLINS of Texas: Newly designated section 7111(b) of Subchapter II of subpart F of part III of title V, United States Code is amended by striking "(b)(1)" and substituting therefore "(b)"; and is further amended by striking from presently designated 7111(b)(1)(B) the words "Except as provided under subsection (e) of this section, if" and substituting therefore "If", and by striking the words "subject to paragraph (2) of this subsection"; and by striking all of paragraph (2), including (2)(A) and (2)(B).

Mr. ERLENBORN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ERLENBORN. Mr. Chairman, the Udall substitute before us has a provision that would mandate the conduct of an election for recognition purposes even though there may be unresolved outstanding issues such as who is eligible to vote, what the proper unit is for conducting the election, and so forth.

The thrust of my amendment is to remove the requirement for the election under these circumstances so that the election would be held only when these unresolved issues have been resolved, and it would also be my understanding that there would be an expedited resolution of the outstanding issues so that we would not have a delay in the conduct of the election. It is not my purpose to add to any delay in conducting a recognition election, but rather to see that when the election is held we know what the proper unit is for conducting the election and who within that unit is eligible to vote, because should these questions be resolved in some way contrary to the way the election was conducted, it would throw the election out and merely delay matters and force the holding of another election anyhow. So this would have us resolve these questions in an expedited election and then hold the election in the best interests of all the parties.

I would hope that the amendment would be agreed to.

Mr. CLAY. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I will be happy to yield to the gentleman from Missouri.

Mr. CLAY. I thank the gentleman for yielding.

It is not the gentleman's intention to oppose expedited elections; is it?

Mr. ERLENBORN. In response to the gentleman, certainly not. I want these elections to be held within a reasonable period of time, but I want to see that the questions as to eligibility, and so forth, are resolved before the election is held.

Mr. CLAY. Mr. Chairman, if the gentleman will yield further, it would also be the gentleman's intention that the FLRA should do all within their power to expedite elections?

Mr. ERLENBORN. Yes, absolutely. I want the authority to expedite the resolution of these questions, so that the election may be held at an early day.

Mr. CLAY. Mr. Chairman, I have no objection to the amendment.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, would I be properly stating the intent of the gentleman's amendment to be predicated on the fact that under existing law and the law as it would remain with the passage of this bill, unlike the private sector, management, in this case the Federal Government, must remain neutral, completely neutral, and not participate in any way in encouraging or discouraging the acceptance or selection of a union by its employees and, therefore, the sense of concern that was in the Labor Reform Act does not exist here.

The gentleman intends that they should expedite the elections as early as possible, but the protection for the employer to have time to campaign is not necessary here, so that a specific time as we had set up in the bill really is unnecessary.

Mr. ERLENBORN. Mr. Chairman, I think the gentleman is correct. I would agree with that.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN) to the amendment offered by the gentleman

from Arizona (Mr. UDALL) as a substitute for the amendment offered by the gentleman from Texas (Mr. COLLINS).

The amendment to the amendment offered as a substitute for the amendment was agreed to.

AMENDMENT OFFERED BY MR. ERLENBORN TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. COLLINS OF TEXAS

Mr. ERLENBORN. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN to the amendment offered by Mr. UDALL as a substitute for the amendment offered by Mr. COLLINS of Texas: Newly designated section 7111(b)(1)(B) of subchapter II of subpart F of part III of title V, United States Code is amended by striking the words "Except as provided under subsection (e) of this Section, if", and substituting therefor "If"; and section 7111 is further amended by striking all of subsection (e) and redesignating the subsequent subsections accordingly.

Mr. ERLENBORN (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with, and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ERLENBORN. Mr. Chairman, this amendment strikes sections of the Udall substitute which allow certification of a labor organization without an election of the employees of the unit, where in the terms of the amendment a free election cannot be held because of unfair labor practices by an agency.

Now, first of all, it is very unlikely that you would find a Federal agency engaging in unfair labor practices prior to the holding of a certification election.

The amendment goes on to say in the second condition where the authority determines without an election, that the union has a majority. I think it is impossible for the authority to be able to find that a majority of the employees wish to belong to a union without the holding of an election.

The Udall substitute would allow the certification of a union under these circumstances without the holding of an election.

Mr. Chairman, so that I not be misunderstood, I am not addressing myself to a bargaining order. As far as I understand, the authority would still be able to order the agency to engage in bargaining with the union, even though an election had not been held, if they find these conditions exist; so that what we want to get to here is the certification, not a bargaining order. The certification, of course, carries with it certain rights to certain further recognition of the union. For instance, I understand if they are certified, that closes the question as to exclusive representation for a year. If there is a bargaining order, those same conditions do not prevail.

Mr. Chairman, I would be happy to yield to the gentleman from Michigan, if the gentleman has any comment or question.

Mr. FORD of Michigan. Mr. Chairman, as I understand the intent of the gentleman's amendment is not to reverse entirely what is here coming from the Supreme Court decision in NLRB against Gissell, but really to eliminate the card check provision in lieu of an election for the initial recognition; but that the gentleman does agree that in the event a Federal agency interfered in some fashion or did not cooperate in the holding of the election and going forward, that the labor authority would continue to have the authority to step in and tell them to start playing fair and issue bargaining orders and require the agency to begin bargaining with the union.

Mr. ERLENBORN. Yes. I would agree that the authority would have the right to find if there were an unfair labor practice by the agency, and as I understand it, they may even be able to order bargaining with the unit. But this gets only to the question of certification, and it does conflict with the Gissel decision.

Mr. FORD of Michigan. Mr. Chairman, I thank the gentleman. With that understanding, I have no objection to the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment offered by the gentleman from Texas (Mr. COLLINS).

The amendment to the amendment offered as a substitute for the amendment was agreed to.

AMENDMENT OFFERED BY MR. ELLENBORN TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT BY MR. COLLINS OF TEXAS

Mr. ERLENBORN. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN to the amendment offered by Mr. UDALL as a substitute for the amendment offered by Mr. COLLINS of Texas: Amend newly designated section 7103 of subpart F of part III of title V, United States Code by striking the "or" after subparagraph 7103(a)(4)(B); by inserting an "or" after subparagraph 7103(a)(4)(C); and by inserting the following new subparagraph 7103(a)(4)(D):

"(D) an organization which participates in the conduct of a strike against the Government of the United States or any agency thereof or imposes a duty or obligation to conduct, assist, or participate in such a strike;".

Mr. ERLENBORN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. FORD of Michigan. Mr. Chairman, reserving the right to object, I have a printed copy of the gentleman's amendment. I understand that the staff has worked out some change in its original typed copy. My copy does not show any changes.

Am I correct in my understanding?

Mr. ERLENBORN. Mr. Chairman, if the gentleman will yield, my understanding is not that there was any change in the wording of the amendment, but I think in the interpretation of the amendment it gets to the question as to whether decertification is automatic or not.

Mr. FORD of Michigan. Mr. Chairman, continuing under my reservation, counsel over here indicates that the words, "or" and "assists" were deleted.

Mr. ERLENBORN. Mr. Chairman, if the gentleman will yield further, let me amend my statement. I understand there is an agreement to remove the words, "assists, or". So the amendment will read: "an organization which participates in the conduct of a strike * * *"

I understand the amendment that was submitted at the desk has been so changed.

Mr. FORD of Michigan. Yes. Mr. Chairman, I thank the gentleman, and I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. CLAY. Mr. Chairman, reserving the right to object, so I may clarify the understanding, the agreement was to remove the words, "assist, or," is that correct?

Mr. ERLENBORN. Mr. Chairman, if the gentleman will yield, that is correct. The amendment at the desk has been so changed.

Mr. CLAY. Mr. Chairman, we have no objection to the amendment, and I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. FORD of Michigan. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to ask the gentleman this question: It is the understanding of the gentleman from Illinois (Mr. ERLENBORN) that it would still be up to the labor authority to determine whether or not this provision applies?

Mr. ERLENBORN. Mr. Chairman, if the gentleman will yield, yes, that is correct. This would leave the discretion in the FLRA as to whether or not the decertification should be applied. It will not happen automatically.

Mr. FORD of Michigan. Mr. Chairman, I thank the gentleman for his answer. We have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment offered by the gentleman from Texas (Mr. COLLINS).

The amendment to the amendment offered as a substitute for the amendment was agreed to.

AMENDMENT OFFERED BY MR. ERLENBORN TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. COLLINS OF TEXAS

Mr. ERLENBORN. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN to the amendment offered by Mr. UDALL as a substitute for the amendment offered by Mr. COLLINS of Texas: Strike newly designated section 7113 of subpart F of part III of title V, United States Code, and redesignate the subsequent sections accordingly; and amend newly designated section 7117 by striking all of subsection (d).

Mr. ERLENBORN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ERLENBORN. Mr. Chairman, let me initially say that I thank the gentleman from Michigan (Mr. FORD) for his cooperation, and I am certain that the Members of the House thank him for his cooperation in expediting the consideration of title VII. I am very pleased that I have been able to cooperate with the gentleman and that our staffs have worked together so well.

For the information of the House, this is the last amendment I am going to offer to title VII.

We have no agreement relative to this amendment, but I would like to have some colloquy so that we could understand what the bill and the Udall substitute mean in the section entitled, "National Consultation Rights."

Now, as I read this, a union representing a minority of the members may gain national consultation rights. Certain rights and privileges then attach to that union. One is that they must be informed before changes in pay and other working conditions are put into effect by the agency involved. My reading of this section of the Udall amendment and the bill would lead me to believe that this could happen: It may not be contemplated by the authors, but we could have national consultation rights attached to a minority union and then another union would be successful in a certification election and be certified as the exclusive bargaining agent, and thereafter the bargaining would take place. But before the agreement that was reached by the majority union and the agency could be put in place, the agency would have to go back to the minority union which is not certified as a bargaining agent and advise them and let them comment on the results of the negotiations.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, first, I would like to say, in response to the gentleman's very last statement, if there is an exclusive right to bargain, the consultation provision really is not applicable.

There are two ways in which the consultation works, and I should say to the gentleman that it is in the Udall substitute. I assume it is in the Collins substitute because it is in the existing executive order. This is in fact the law as it has been since 1962.

Mr. ERLENBORN. Could I ask the gentleman, is that what is commonly referred to as meet and confer?

Mr. FORD of Michigan. Meet and confer. It works in two ways. If, in a large agency, the agency promulgates an agencywide regulation, but a particular union, while it represents a majority of the people in a bargaining unit, does not represent the majority of the people in the total agency, the agency has no obligation to negotiate in any way with the union, but before promulgating an agencywide regulation that would affect the rights of that bargaining unit, they would meet and confer with the representatives of those employees. They could ignore what they say, but at least they would have to get their input and discuss it with them. They are not compelled to bargain over the issue, nor are they in any way bound by the results of that conference.

The second way in which it works is the situation where we have 26 or more unions representing Federal employees, plus a number of associations and organizations that stand in the place of unions and function in the same fashion, and they may represent individual agencies, and then it is proposed to promulgate a Government-wide regulation that would affect all employees. In that instance the individual unions will be called into consultation to hear what they have to say about the proposed regulation. Again, there is no requirement on the Government to negotiate the matter, simply advise them they are about to do it and hear what their reaction to it is. It really is nothing but meet and confer.

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman for the clarification of the committee's intent. I found this section difficult to understand, and I think this clarification will help in the interpretation.

Mr. Chairman, pursuant to our agreement, I ask unanimous consent to withdraw this amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. EDWARDS of Alabama. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to have the attention of the gentleman from Michigan (Mr. FORD) and/or the gentleman from Arizona (Mr. UDALL).

Mr. Chairman, I am directing my inquiry to section 7106 of the Udall substitute. I would like to refer, first, Mr. Chairman, to the Executive order from which this section was taken and modified, and I will read in part from the Executive order.

However, the obligation to meet and confer does not include matters with respect to the mission of an agency, its budget, its organization, the number of employees and the numbers, types and grades or positions of employees assigned to an organizational unit, work project, or tour of duty, the technology of performing its work, or its internal security practices.

Now, as I read the Udall substitute, that portion of the Executive order has been, in effect, split up into two parts. The Udall substitute says, under "management rights," section 7106:

"(a) Subject to subsection (b) of this section, nothing in this chapter shall affect the authority of any management official of any agency—

"(1) to determine the mission, budget, organization, number of employees, and internal security practices of the agency; and

Then it drops down in subsection (b) and says:

"(b) Nothing in this section shall preclude any agency and any labor organization from negotiating—

"(1) at the election of the agency, on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work;

My first question, then, to the gentleman from Michigan is, why was that particular part of the Executive order split into two parts, if the gentleman can give me an answer to that.

Mr. FORD of Michigan. I should say that the splitting of the two parts has no substantive effect on the status quo. In fact, we are picking up the language of the management rights clause, as it is referred to in the Executive order, by tailoring it to fit the structure of this bill so that it does not diminish the relative rights of either the employee organizations or the Government agency with respect to any of the contents of both sections the gentleman referred to.

Mr. EDWARDS of Alabama. The Executive order says that there shall be no obligation to meet and confer on "numbers, types, and grades of positions or employees assigned to an organizational unit, work project, or tour of duty," and so forth; in other words, down at the base level in the case of a defense facility, for example. Yet, in the Udall substitute it says they are not "precluded" from meeting and conferring which suggests that under the heat of bargaining they in fact could negotiate and bargain at that level. Is the Defense Department or any other Federal agency, for that matter, required to bargain on those particular subjects?

Mr. FORD of Michigan. Will the gentleman yield?

Mr. EDWARDS of Alabama. I yield.

Mr. FORD of Michigan. It is permissible, and it is in exactly the same status as the existing law. I might say that not only are they under no obligation to bargain, but in fact they can start bargaining and change their minds and decide they do not want to talk about it any more, and pull it off the table. It is completely within the control of the agency to begin discussing the matter or terminate the discussion at any point they wish without a conclusion, and there is no appeal or reaction possible from the parties on the other side of the table.

It is completely, if you will, at the pleasure and the will of the agency. Where an agency wants to resolve a particular problem with an organization and come to some agreement, it can choose to do so. There are circumstances

where that has been done, but very rarely.

Mr. EDWARDS of Alabama. Is it an issue that could go forward to the Impasse Board?

Mr. FORD of Michigan. No, it cannot.

Mr. EDWARDS of Alabama. So that, if I understand the gentleman correctly—and I will use the Defense Department again as an example—if the Defense Department chooses not to negotiate on the subject of "numbers, types and grades of positions or employees assigned to an organizational unit, work project, or tour of duty," and so forth, as provided in that subsection (b)(1), then there is no way that they can be forced to negotiate on those subjects?

Mr. FORD of Michigan. That is correct.

The CHAIRMAN. The time of the gentleman from Alabama has expired.

(At the request of Mr. FORD of Michigan and by unanimous consent, Mr. EDWARDS of Alabama was allowed to proceed for 2 additional minutes.)

Mr. EDWARDS of Alabama. And if they in fact start negotiating on those subjects and conclude at some point that they should not negotiate further, there is no way to force them to negotiate further?

Mr. FORD of Michigan. That is correct. It is completely within the discretion of one side of the table, and there is no appeal from their decision.

Mr. EDWARDS of Alabama. It is the gentleman's opinion, if I understand the gentleman correctly, that the intention of the drafters of this particular section of the Udall substitute is that, in practical effect, they have intended to carry out the original language of the Executive order, but have just rearranged it in a different way.

Mr. FORD of Michigan. I believe that those of my colleagues who have worked on the bill could concur with me that it was not our intention to substantively affect the status quo with respect to specific items contained in either of the sections involving items that are permissably negotiable.

Mr. EDWARDS of Alabama. I thank the gentleman.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Alabama. I yield to the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, I concur with the interpretations of the gentleman from Michigan and I would say regarding the management rights it may be argued that we should be moving more favorably toward the management rights than away from them.

Mr. EDWARDS of Alabama. I thank the gentleman.

Mr. LOTT. Mr. Chairman, I move to strike the last word, and I rise in support of the Collins amendment.

Mr. Chairman, I rise in support of this title VII amendment, which would continue the successful labor management program established by Executive order in 1962.

The language of the amendment is, with minor changes, identical to that of the Executive order and to the title VII approved by the Governmental Affairs Committee of the other body.

Title VII as reported to the House contains some extremely controversial material and cannot properly be called a mere codification of the Executive order. Title VII as reported would allow the FLRA, under certain conditions, to extend exclusive recognition to a union without an election by the employees concerned; it would allow a union with as little as 10 percent representation to negotiate with an agency for a voluntary dues checkoff; it would nullify the Executive order's decertification provisions against unions which condone or participate in strikes; and it would even allow the so-called "informational" picketing of an agency.

Mr. Chairman, these are not provisions which we can make consistent with the general principles of civil service reform. We should repeal them by passing this amendment. It has already been pointed out how much further title VII as reported goes beyond the Executive order, the President's initial request, and concessions granted by the other body in its bill. I just have some general remarks on the substance of title VII as reported and the need for replacing it with the Collins amendment.

I think most of us agree that Federal employee unionism cannot fairly be compared to collective bargaining in the private sector. The Federal Government is not a private corporation responsible to a few stockholders, but a sovereign entity responsible to all taxpayers, unionized or nonunionized. Picketing a private company whose products the public may buy or not buy is very different from picketing a Government agency which the law compels us to support with our tax dollars. The public has a right to uninterrupted, unimpeded enforcement of the people's laws, and the picketing of any agency should continue to be considered the unfair labor practice that it is.

This is done by the Collins amendment and I strongly urge its enactment.

Mr. TAYLOR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as most of the Members know, this title of the bill was one of the reasons most of us in the minority voted against reporting the bill to the floor from the committee.

I rise in support of the amendment offered by my colleague on the committee from Texas (Mr. COLLINS), and I would caution the Members to be wary of our distinguished committee vice chairman's substitute.

This is at least the second time that I know that he has taken on the role of "compromiser," offering language that supposedly strikes a "middle ground" between opposing points of view of the Carter administration and the various labor unions that operate in the Federal Government.

If the Members will refer to the individual and minority views in the committee report, they will see that the Committee's bill greatly increases the role of Federal employee unions and goes far beyond what the Carter administration originally proposed in the way of a legislated program for Federal labor-management relations.

We are being asked today to rewrite the bill; yet, the Udall substitute still contains provisions that will widen the scope of bargaining and will lead to increased unionization of Federal employees at the expense of the taxpayers.

I want to make it clear that I am not personally opposed to unions in the Federal Government. I support their efforts to improve collective bargaining, and I do believe that statutory protection of Federal employees' right to organize and bargain collectively through labor organizations is in the public interest.

But I do not believe it is in the public interest to have the taxpayer shoulder the burden of some of the incidental costs associated with maintaining a union.

The committee bill requires the deduction of union dues, and at no cost to the union or the employee. The Collins amendments continue our present arrangement of allowing—but not requiring—bargaining on this issue, and it is generally felt that agency management would negotiate a service charge of some sort for this service. The Udall substitute makes no change in the committee bill in this respect, and asks the taxpayer to help pay for unions of Federal employees.

In another area, the committee bill allows the new Federal Labor Relations Authority to certify a union as the exclusive representative without an election. The Collins amendments would require a secret ballot election in all cases where a union seeks exclusive recognition status for the first time, which I think is the fair way to go about it. The Udall substitute, on the other hand, makes no change in the committee bill and would be another area where union power would be increased.

I urge my colleagues to support the Collins amendment.

Mr. FORD of Michigan. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman and members of the committee, I sense that we are very close to the time for a vote on the substitutes and the bill itself and title VII.

I would like, as briefly as I can, to repeat some of the things I said the other night about how we got to where we are.

Along with our colleagues, the gentleman from Missouri (Mr. CLAY), the gentleman from New York (Mr. SOLARZ), and other members of the committee, I have worked with the gentleman from Arizona (Mr. UDALL) and representatives of the administration throughout consideration of this legislation from the time it was introduced by the President.

I should say that I have tried to be supportive of the efforts of the administration because I think that the purposes stated by the President, when he sent the legislation to us, are purposes we can all agree with. But, as I stated before, in attempting to give the executive

branch greater flexibility and greater power in terms of their ability to manage the Federal work force we have in fact, if we did nothing more than that, changed the balance that has established itself over a period of time between the employees' individual rights and their collective rights, vis-a-vis the powers and prerogatives of management.

For this reason, while considering the increased powers for management, we always had in mind that we would put together a totality here, a total package that we hoped—and obviously we had great disagreement during the months that we have considered this, on just what the final product should look like—that we hoped would represent a fair package of balanced authority for management, balanced with a fair protection for at least the existing rights the employees have.

I do not think that at this point, after all the hard work that has gone into this legislation, that we want to jeopardize the opportunity for this historic breakthrough in the reform of the American Government's backbone, its administrative work force, by letting it fall apart here in title VII.

For that reason, and not with great alacrity, I am going to support the Udall substitute even with the amendments that have been added by the gentleman from Illinois (Mr. ERLENBORN) which have been considerable.

I want you to know that my staff and I know how far we have moved from our original position to come to this position.

But I have to tell you, in all honesty, that I could not, in good conscience support moving any further because there really is not much left that we can represent to the Federal employees as a retention of fair play for them.

I think it is absolutely essential at this point that we reject the Collins of Texas amendment and adopt the Udall substitute, as amended by the Erlenborn amendments, so that at least it can be shown that we did the best that was possible here to compromise conflicting views between those who feel, for whatever their reasons, that Federal employees do not need the same kind of protection that other citizens in this country have.

There are those of us who believe that ultimately, some day, we will see the time when Federal employees are no longer second-class citizens.

Mr. Chairman, let me call the Members' attention to this further fact: When we were talking about the Senior Executive Service and the power of the administration to hire career and noncareer people and to shift them around and to change their careers in very dramatic ways, and when we were talking about merit pay to be given or withheld from employees in the mid-level positions as an incentive for more effective and efficient performance on their part, we were not talking about the people who were affected by title VII. That is why the bill has to be considered in its totality.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. FORD) has expired.

(By unanimous consent, Mr. FORD of Michigan was allowed to proceed for 3 additional minutes.)

Mr. FORD of Michigan. To continue, Mr. Chairman, the bill has to be considered as a totality because we are here talking about literally the workers themselves. These are not policymaking people. I might say that they are not bureaucrats. The complaint all across the land is against the Federal bureaucracy. They are not complaining about the people who maintain the plumbing and the electrical systems of our airbases and our military installations. These are the kinds of people we are talking about in title VII. We are talking about everybody from the janitor to the technician who keeps the airplanes operating, the people who are, in fact, keeping our Defense Establishment going day by day, who are ordinary working technicians, who do a job. They do not make decisions which affect the American public directly. They are not people within an "In" box full and an "Out" box empty on a desk occupied by a large bureaucrat. They are the people who actually do the work everyday, the work which keeps this Government operating. They are not the glamor jobs. They are just the people who take orders from almost everybody, all the way up to the President, and carry those orders out as best they can.

Mr. Chairman, what we are trying to say with title VII is that they should be reassured that their ability to function and that whatever rights the Congress from time to time gives them are protected and that they can protect themselves in their relationship with the several levels of management and that those protections are not in any way diminished and are, in fact, to a slight degree enhanced because we will be saying for the first time—and I think this is important and we ought to be very proud of it—that it is Congress that sets policy in this area. Of course, in 1962 John Kennedy took a great step forward when he issued an Executive order which said finally that Federal employees down at the level which we are describing could join a union and engage in collective bargaining with their employer in a fashion similar to, but far short of, of course, the fashion of their brothers and sisters in the private sector.

Mr. Chairman, from time to time that Executive order has been changed. We have had succeeding administrations from both parties who have found it possible to live with and operate under the conditions of the Executive order dealing with collective bargaining.

We are not here conferring for the first time on Federal employees a new right to collective bargaining; but what we are doing for the first time as a Congress is recognizing by statute that this is the same kind of right, although different in form and substance, as exists in the private sector.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. FORD) has expired.

(On request of Mr. UDALL and by unanimous consent, Mr. FORD of Michigan was allowed to proceed for 1 additional minute.)

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. Yes, I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I think we are going to do something historic and far-reaching and important for the country today if this bill is written into the law books, as I hope it will be.

Mr. Chairman, I just want to say as strongly as I can that the gentleman from Michigan (Mr. FORD) has made it possible. Perhaps more than anyone else in this House, he has played a key, critical role. The gentleman has one of the finest minds in this House. He is articulate, and I always like to be on his side when I can. However, he has been caught in a difficult position between his strong feelings about the rights of the common ordinary Federal worker to whom he has referred and his desire to see some changes made in the nature and the direction of efficiency.

Mr. Chairman, I want to tell him how proud I am of his work and how proud the House is and the country ought to be for the role he played in bringing us to the position in which we are today.

Mr. FORD of Michigan. Mr. Chairman, I thank the gentleman from Arizona (Mr. UDALL) for his remarks. Now, I am sure, the Members see why I am supporting the Udall substitute, even though I do not think it goes far enough.

It has been with great reluctance that I lent my support to the Udall substitute for title VII of H.R. 11280. As I said when we first had general debate on this bill, I felt that the bill as it was reported by the committee was a modest step forward in labor-management relations in the Federal sector. The Udall substitute is the product of long negotiations between the gentleman from Arizona, the administration, other Members with special interest in title VII and myself. This substitute represents an important step in getting the title and the bill passed, because it reconciles the differences between the administration's proposal and H.R. 9094, a bill with much support in this House.

While this substitute is a further compromise away from provisions that I believed to be reasonable and appropriate, there are some advances forward made in the bill over the present Executive order. It was only in light of these benefits over and beyond the Executive order that I have agreed to this amendment. In order to clarify my intentions in supporting this substitute, I would like to discuss, as a sponsor of H.R. 9094 and a major participant in the fashioning of this substitute of title VII, some specific sections of the title.

The revised management rights clause is an important element of the compromise approach by the Committee on Post Office and Civil Service and by Mr. CLAY and myself in working out and supporting the Udall compromise on title VII of H.R. 11280.

Experience under the Executive order and the interpretations of its management rights clauses by the Federal Labor

Relations Council has not been particularly successful for either agency management or employee.

Originally, the order was designed to achieve a balance. On the one hand, agencies were given broad authority—and required—to negotiate over working conditions and personnel policies and practices. On the other hand existed management prerogatives that were not to be bargained away by agency administrators.

Unfortunately, this balance was never struck. Instead, the Federal Labor Relations Council interpreted the order's management rights provisions in such a way as to eliminate many subjects of bargaining sought by both agency management and employees. In the hands of the Council, many of the management rights were interpreted so broadly that their existence in the order precluded flexibility and responsiveness needed by agency administrators.

Too often the Council interpreted the management rights clauses so broadly as to stifle an attempt by both management and employees to address commonly recognized problems. The original intention merely to insure that essential aspects of managing the agency were not subject to negotiations has been thwarted. Many agency administrators, however, found that this broad interpretation of the order prevented agency managers from addressing problems and concerns that they, as agency heads, believed required supervisory attention.

A developing trend involves sidestepping litigation before the Council in order to avoid its decisions which may be too rigid for management flexibility. Instead, agency administrators and employees representatives have simply reached agreement on contracts with provisions that were beneficial to both parties but unlikely to withstand rigid scrutiny by the Council.

Thus, agency administrators have proposed and agreed on contract terms such as flexible working schedules for employees, procedures preventing arbitrary assignment of work, standards for promotion that require performance at the next higher level for advancement. Agency administrators have determined that negotiating these non-monetary employee benefits have increased the effectiveness and the efficiency of the Government operations entrusted to them even though they implicate "management rights" as construed by the Council.

In drafting a revision of H.R. 9094 as title VII of this bill, Mr. CLAY and I attempted to alleviate these problems with the Executive order in three ways. First, some of the management rights listed in the order were omitted from title VII. Typically, these rights are those that have served to preclude agency flexibility in addressing problems recognized by both agency administrators and employees. Second, we expressly provided in the language of title VII itself that negotiations may occur over the adverse impact caused by exercise of any of the management rights in title VII and that procedures may be negotiated for the exercise of those rights. Third, we attempted to make clear that the purpose of the management rights clause is to preserve the ultimate exercise of the management functions listed. As such, the management rights clause operates as an exception to the general obligation to bargain in good faith over conditions of employment.

Adoption of this basic approach is an essential element in our working out the Udall compromise. The debate in drafting title VII focused on whether the pure exercise of an essential management function would better be protected by a case-by-case determination without statutory guidance, as under the National Labor Relations Act, or by inclusion of a management rights clause. We and the committee decided to include such a clause, but to make clear its intention that the scope of bargaining would be substantially broadened from that permitted agency management under the order. (See House Rept. No. 95–1403 at pp. 43–44.)

This approach specifically rejects the experience of the Federal Labor Relations Council and its broad interpretations of such clauses, interpretations that have tied the hands of agency management in effectively addressing agency concerns. While we very reluctantly support the Udall compromise, we do so with the clear understanding that the Authority will interpret the management rights clause within present and future labor-management realities and in no way is bound to the Council's past decisions.

A principal goal in revising the management rights clause is to change the current situation and, wherever possible, encourage both parties to work out their differences in negotiations. (See House Rept. No. 95–1403 at p. 44.) In retaining a management rights clause in our original draft of title VII, Mr. CLAY and I, as well as the committee intended however, that this section be read very narrowly. In agreeing to the Udall compromise of adding several more portions to this section, we fully intend that the committee's original position go unchanged and that this section be narrowly construed.

In adopting this course, in the Udall compromise, we implement the rationale of several decisions of relevant oversight agencies for Federal sector labor relations. The Federal Labor Relations Council, for example, has ruled that a proposal must directly relate to the "numbers, types, and grades of positions or employees" before that proposal can be ruled nonnegotiable because it infringes on the management right under the Executive order to determine those matters. Thus, the Council has stated:

> (I)t does not appear that the basic workweek for employees here proposed is integrally related in any manner to the numbers and types of employees involved. Absent this integral relationship to staffing pattern, the proposal does not conflict with section 11(b) . . . *Federal Employees Metal Trades Council of Charleston and U.S. Naval Supply Center, Charleston, South Carolina*, 1 FLRC 235, 244 (FLRC No. 71A–52) (1972).

Section 12(b)(4) of the Executive order makes nonnegotiable the management right "to maintain the efficiency of the Government operations entrusted to them." In interpreting this section of the order, the Federal Labor Relations Council has taken care to insure that this management right does not "swallow" the bulk of the bargaining obligation. Since some case can be made that virtually any change will reduce in some way the "efficiency of Government operations", the Council has required that management pass a balancing test in order to declare a proposal non-negotiable under this section. Thus, the Council has stated:

> In general, agency determinations as the negotiability made in relation to the concept of efficiency and economy in section 12(b)(4) of the Order and similar language in the statutes require consideration and balancing of all the factors involved, including the well-being of employees, rather than an arbitrary determination based only on the anticipation of increased costs. Other factors such as the potential for improved performance, increased productivity, responsiveness to direction, reduced turnover, fewer grievances, contribution of money-saving ideas, improved health and safety, and the like, are valid considerations. We believe that where otherwise negotiable proposals are involved the management right in section 12(b)(4) may not properly be invoked to deny negotiations unless there is a substantial demonstration by the agency that increased costs or reduced effectiveness in operations are inescapable and significant and are not offset by compensating benefits.

Local Union No. 2219, International Brotherhood of Electrical Workers AFL–CIO and Department of the Army, Corps of Engineers, Little Rock District, Little Rock Ark., 1 FLRC 219,225 (FLRC No. 71A–46) (1972). Accord, American Federation of Government Employes, National Joint Council of Food Inspection Locals and Office of the Administrator, Animal and Plant Health Inspection Service, U.S. Dept. of Agriculture, 1 FLRC 616, 620–21 (1973), *aff'd on remand* 3 FLRC 325, 345–46 (1975) (FLRC No. 73A–36). See also *AFGE Local 2595 and Immigration and Naturalization Service, U.S. Border Patrol, Yuma Sector (Yuma, Arizona)*, 1 FLRC 71, 73–74 (FLRC No. 7–A–10) (1971).

As the sectional analysis makes clear, the Udall substitute is drafted so as to embody in the statute the approach of these and similar decisions, decisions from which the Council has unfortunately departed in the main.

The management rights section if, loosely construed, as it has too often been under the order, could tie the agency's hands in dealing with any issue. The committee equally intended then that the listed management rights were to be narrowly construed exceptions to the general obligation to bargain in good faith over conditions of employment and that section 7106 "be read to favor collective bargaining whenever there is doubt as to the negotiability of a subject or proposal." Id. at 44. Title VII itself is remedial legislation and those supporting the Udall change in the management rights clause continue to fully intend title VII to be broadly construed to achieve these remedial objectives. These goals are also consistent with few decisions of the relevant oversight bodies for labor-management relations in the

Federal sector, as demonstrated by a recent decision of the Labor Relations Umpire in the Library of Congress.

The Library, of course, is not covered by Executive Order 11491. In 1975, the Library established by an internal regulation its own program patterned after the order and containing identical management rights clauses. However, the Library lacked statutory authority to vest final decisions in an agency outside the Library. The Library's regulation makes appropriate decisions of the Federal Labor Relations Council precedents in the Library's labor relations program.

In a recent decision, the Library's Labor-Management Relations umpire articulated, in the labor relations context of the Library, the general principles that we embodied in the substitute's management rights clause.

> (I)t is certainly appropriate to apply the (management rights) concept narrowly to effectuate its apparent purpose. This same approach is dictated by accepted principles of statutory construction. Plainly, Regulation 2026 is remedial in character, designed to grant rights to employees and to unions, in an effort to improve labor relations which became exacerbated under the Library's unilateral control. The coverage or scope of such a regulation should therefore be broadly construed. See, e.g., *McComb* v. *Super-A Fertilizer*, 165 F. 2d 824, 826 (ast Cir. 1948), and cases there cited. Conversely, any exception to the scope of the bargaining obligation created by Regulation 2026 must be narrowly and strictly construed, and be granted only to matters unmistakably within the terms and spirit of the exception. See *A. H. Phillips Co.* v. *Walling*, 324 U.S. 490, 493.
>
> * * * * *
>
> In approaching issues of negotiability therefore, the Umpire starts with the premise that the Library bears a heavy burden of establishing that a matter relevant to terms and conditions of employment is nevertheless removed from the scope of bargaining. Of course, proposals which directly and explicitly go to the number of employees assigned to an organizational unit, for example, will be held non-negotiable. Where the "non-negotiability" argument is strained, or where it is presented as a conceivable secondary or tertiary result of a union proposal, however, it will be rejected. Also, the tactic of negotiating over a subject and then belatedly discovering that it is "non-negotiable" is not calculated to inspire either confidence in the labor organizations as to the good faith of the past negotiations, or confidence in reviewing authorities that the claim of non-negotiability is anything more than an expression that the proposal is unacceptable on its merits. In a program initially flawed, at least in theory, by the retention of all final reviewing authority in the hands of top management, any abuse of the doctrine of "non-negotiability" would result in turning the Library's labor relations program into what Justice Jackson colorfully described as "only a promise to the ear to be broken to the hope, a teasing illusion like a munificent bequest in a pauper's will." *Edwards* v. *California*, 314 U.S. 160 at 186, concurring opinion.

Library of Congress and American Federation of State, County & Municipal Employees, Locals Nos. 2477 and 2910, 5, 6–7 (decision of the labor-management relations umpire, May 17, 1978) (slip option). The structure of the substitute's management rights clause dictates that the new authority will closely scrutinize agency claims of "management rights" at least to the degree the claims were analyzed in the above decision and in AFSCME, Local 2910 and Library of Congress, 2–4, 6–7 (decision of the labor-management relations umpire, September 5, 1978) (slip option).

It is our expectation and that of others supporting the substitute's management rights clause that such a clause will adequately protect genuine managerial prerogatives but that, construed strictly, such a clause will also allow the flexibility that is the hallmark of a successful labor-management program. Thus, although management has the right to direct the work force, proposals aimed at lessening the adverse impact on employees of an exercise, perhaps arbitrary, of that right are fully negotiable. Moreover, agency administrators are fully authorized to negotiate procedures for adequate supervision without avoiding the act. This eliminates the need for agency management to shunt the authority as it has sometimes shunned the Council and conclude an agreement without reference to the order because management cannot live with the straitjacket that many Council decisions impose on management bargaining.

Finally, it is hoped that the Federal Labor Relations Authority will oversee a flexible Federal labor-management program responsive to changing and particularized circumstances. The concept of negotiability is and must be a dynamic and growing one. If not, Federal sector labor relations must fail because the energies of management and labor will be diverted from consideration of important labor relations problems to the litigation of the scope of the exceptions to the general bargaining obligation. Years of public and private sector collective bargaining indicate this should not happen.

The compromise position in section 7117 was accepted with the understanding that the provision in subsection (a)(3) will be broadly construed such that the compelling need test will be permitted to be raised in only a limited number of cases. If an exclusive representative represents a unit including at least a majority of the employees affected by the issuance of a regulation, the compelling need test could not be raised. This would permit, for instance, overseas schoolteachers to negotiate all agency regulations (that at least specifically apply only to them), without the possibility of having the compelling need test raised by management.

By also permitting negotiation of matters that are the subject of agency regulations that are not Government-wide rules or regulations, problems such as those that have occurred with overseas schoolteachers should be eliminated. While these teachers are employees of the Defense Department, the Department of State has been given the authority, in some instances, to issue regulations regarding these teachers. The Defense Department has indicated that they could not negotiate on these matters, since they did not issue the regulations. The State Department will not negotiate on the matters, since the employees organizations representing these teachers do not have exclusive recognition with State. Title VII prevents management from continuing this practice or from extending this type of maneuver to other agencies in order to avoid the duty to bargain by making "matters" that are the subject of non-Government-wide regulations (as opposed to regulations themselves) negotiable. It is intended that the Authority shall not permit such a maneuver to derogate the obligation of management to bargain in good faith on these matters.

Again, an essential element in performance of the authority's responsibilities is an extremely close scrutiny of agency claims that proposals are barred by the management rights clause. The two decisions of the labor-management umpire contain the level of scrutiny we expect from the Authority as a minimum.

Section 7117 sets forth the duty to bargain in good faith, especially with respect to regulations. Under the compromise version, Government-wide rules and regulations are no longer subject to bargaining as they were under the committee print of title VII (except for those supported by a compelling need). In this fashion, Government-wide rules and regulations are thus a major exception to the duty to bargain. In making this change, however, the committee at no time expanded the definition of "Government-wide" as contained in the committee's report.

Section 7103(a)(14)(D) removes from the definition of "conditions of employment" those policies, practices and matters to the extent such matters are specifically provided for by Federal statute. The committee print of title VII contained the word "specifically," also found in the compromise version, in order to clarify the intention of the committee on the scope of this exception to conditions of employment. Where a Federal statute specifically establishes procedures and standards for a condition of employment, section 7103(a)(14)(D) bars negotiations in contravention of those procedures and standards. On the other hand, where a statute merely provides particular authority for an agency official (with that authority to be exercised at the official's discretion and in such manner as the official deems appropriate), that authority and its exercise are not included within the definition in section 7103(a)(14)(D) because it is not "specifically provided for by Federal statute."

Section 7113(b)(2) requires that an agency consider the views or recommendations of any labor organization with national consultation rights before taking final action on any matter for which the views or recommendations were presented. The action resulting in the compromise version of title VII with respect to negotiations over Government-wide and agency regulations reduces the scope of bargaining with respect to such regulations from that in the committee print of title VII. This action was agreed to in part because we believed that section 7113(b)(2) insured genuine consideration by agency officials of views and recommendations presented by la-

bor organizations. It is our intention that it ought to be obvious from the contents of the written statement required under subsection (b)(2)(B) that the agency has in fact considered the views and recommendations of the labor organizations. This aspect of the written statement is also necessary for the agency to establish an adequate record for later judicial review of the lawfulness of its promulgation of the regulation.

Section 7116(b)(7) contains language adopted in lieu of the Federal Labor Relations Council policy statement in this area.

Section 7114(a)(3)(A) specifically provides that an exclusive representative shall be given the opportunity to appear at formal discussion between agency representatives and employees. This subsection must be read in conjunction with subsection 7114(l)(1), requiring that a labor organization which has been accorded exclusive recognition is the exclusive representative for employees in its bargaining unit, and with subsection 7116(a)(8) which makes it an unfair labor practice for an agency to fail to comply with any provision of title VII, including the exclusivity rights of labor organizations with exclusive recognition. The compromise inserts the word "formal" before discussions merely in order to make clear that this subsection does not require that an exclusive representative be present during highly personal, informal meetings such as counseling sessions regarding performance. Of course, nothing in this section bars an agency and an exclusive representative from negotiating an agreement providing for a greater role for the representative than that minimally mandated by title VII. Moreover, nothing in this section authorizes agency management to bypass the rights of the exclusive representative and engage in direct communications with unit members.

Section 7132(b) of the compromise precludes the use of official time by employees for conducting the internal business of a labor organization. This subsection specifically provides that employees shall not solicit membership, engage in electioneering, or collect dues on official time. The inclusion of these three categories reflects the general intention that "the internal business of a labor organization" encompasses those activities directed to the institutional structure of such organizations. This section does not, therefore, apply to activities of labor organizations that involve an "interface" with agency management, such as negotiations, grievances, negotiability disputes, and unfair labor practices. Nor does this section apply to preparation for such "interface" activities. Management, of course, engages in all these activities, including preparation, on official time, and subsection 7132(d)(2) makes the use of official time by employees for these activities a subject of negotiated agreement between the agency and the exclusive representative.

Section 7136(l)(1) of the compromise version provides that nothing in title VII will preclude the renewal or continuation of an exclusive recognition or a lawful agreement. This subsection reflects the intention that successful ongoing labor-management relationships shall not be disputed by enactment of title VII. Since the purpose of this title is principally to encourage the development of successful labor-management programs, it would have been inappropriate for this new legislation, designed to encourage collective bargaining, to operate in such a way as to thwart successful collective bargaining programs already in existence. The intention is to encourage development of these already successful programs while at the same time encourage the development of such relationships between other agencies and labor organizations. Certainly, it is important in this regard to consider the past bargaining relationship in deciding how the new legislation impacts on labor-management relations within such an existing relationship.

Section 7136(b) provides that procedures and decisions issued under the enumerated Executive orders shall continue in effect until revised or revoked by the President or unless superseded by specific provisions of title VII or by regulations or decisions issued by the new Federal Labor Relations Authority.

A primary reason for this legislation in general is dissatisfaction with the state of labor-management relations in the Federal Government under the Executive order and its enforcement bodies. There was great concern that the new authority would simply "rubber-stamp" the decisions and procedures of the Federal Labor Relations Council that it replaces. The "superseded" language is intentionally included to make clear that the new authority, acting under its own statutory charter, is not to repeat past mistakes in the area of labor-management relations. Title VII as a whole, and the management rights clause in particular, mandates a new approach to labor relations in the Federal Government, an approach that will be more successful for both agency management and labor organizations.

This subsection is included as drafted because of the concern that the development by the new authority of the contours of the new labor-management program will necessarily take time. During that time, questions about the legal efficacy of existing regulations and decisions could prove quite disruptive. Consequently, this subsection provides that such regulations and decisions will continue in force until superseded by regulations and decisions issued under title VII.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Collins substitute for title VII, the so-called Labor-Management Relations title of the Civil Service Reform Act of 1978, and in opposition to the Udall substitute. Evidence has not been presented which would convince me that the current labor-management relations program in the Federal Service is in need of change.

As my colleagues know from reading the incisive, informative views of many of the minority members of the Post Office and Civil Service Committee, we were assured by the President, in personal meetings and through his surrogates, that the labor title of the Civil Service Reform Act would not go beyond the principles embodied in Executive Order 11491 and the current practice of labor-management relations in the civil service. While I realize that the President does not exercise complete control over House Members of his own party, we should follow through on his original request and codify the original Kennedy Executive order.

The substitute offered by my colleague from Texas (Mr. COLLINS), is a reasonable compromise between those seeking the continuation of present Federal labor-management relations (as provided by the Executive order) and those labor loyalists on the committee who sought expanded union rights and authority and a diminished management role. It is a compromise adopted by the Senate Governmental Affairs Committee and only slightly modified by the full Senate. It is a compromise acceptable to those who believe that the unions already have sufficient power to protect and promote the rights of their Federal members. The Collins substitute will further the cause of civil service reform. A vote for the committee version of title VII or the Udall substitute would be a vote for "nonreform".

The gentleman from Texas has carefully described the provisions of his substitute and its effect on the scope of bargaining; changes in grievance arbitration; judicial review of decisions of the Federal Labor Relations Authority; the exclusive recognition of unions; the definition of unfair labor practices and the prohibition against picketing; and the terms for dues withholding and use of appeal time for union activities. In many cases, this substitute merely codified the present program and grants some expansion of union rights. Hopefully, these changes will not seriously endanger the stability of the civil service or jeopardize the delivery of Government services to the public.

Supporters of title VII claim that the Congress must act to achieve equity between public and nonpublic employees. Federal employee unions have been pushing legislation which would supposedly "equalize" public sector and private sector labor relations. The basic problem with this argument is that the Government is not a business, and attempting to apply the labor practices of a competitive business just will not work.

The competitive marketplace of the private sector is absent in Government employment. Funds from which wages, salaries and money-related benefits are paid or extended to Federal employees come primarily from taxes. Through the budgetary process, the President and elected legislators are responsible for the allocation of such funds. Adding the right to bargain over wages, salaries and other money-related benefits to the free access public employees and their unions already have to Congress, would give Federal workers excess power which would inequitably subordinate the budgetmaking process to the worker's interests and against the interests of the American taxpayers.

The primary reason for Government services is to supply the public with certain essentials of life which cannot reasonably be supplied by the average citizen himself, or to him by private enterprise. Fundamentally, these essentials are usually police and fire protection, education, water, sewage, highways and the like (primarily reserved for State and local governments) and the public defense (reserved, constitutionally, for the Federal Government). Because these services are essential to the health, welfare and safety of the public, the expenditure of public funds for their provision becomes justifiable. Equally because they are so essential, it becomes intolerable that they be interrupted. Precisely because these services are not available from competing sources, as products or services in the private sector are, Federal labor-management relations are not comparable to private sector labor-management relations.

Public employees occupy a status entirely different from their counterparts in the private sector. Public employees are the agents of government, and in reality, exercise a part of the sovereignty entrusted to government. While serving a mission different from the private employee, the public employee enjoys benefits not necessarily available to the private employee. Governments do not go out of business. The public employee has, therefore, enjoyed a security of employment not assured to those in the private sector. In addition, by legislative enactment, the public employee has been guaranteed such things as employment and promotion on a merit basis, grievance procedures through which his complaints can be resolved, classification and pay plans assuring equal pay for equal work, liberal holiday and vacation schedules, sick leave programs rarely matched by private employers, and retirement systems more liberal than those commonly found in the private sector. And unlike the private sector, all of these benefits are protected by law in the public sector. It is my guess that many private employees would be willing to trade benefits with the average Federal employee and would not be overly concerned by the differences between public and private sector labor relations.

In October 1975, the Sacramento Bee printed an editorial admitting that the paper's earlier support for collective bargaining for public employees was wrong. I urge my colleagues to review with me the main points of this editorial and support efforts to maintain Federal labor-management relations on a level that will protect the responsible, dedicated employee and the taxpaying public which provides and pays for the jobs.

[From the Sacramento Bee, Oct. 19, 1975]

COLLECTIVE BARGAINING FOR PUBLIC EMPLOYEES IS WRONG

The recent collapse of law and order in San Francisco, brought on by an illegal policemen's strike, and numerous other strikes and threats of strikes by various municipal employes' unions require a major re-evaluation of the relationship between public employees and the public they are presumed to serve.

It is pertinent to mention that federal and state employees are performing their jobs without destructive and illegal upheavals. Why, then, have illegal municipal and school strikes spread like the bubonic plague throughout much of the nation, wreaking havoc on innocent school children, ordinary citizens and the very fabric of government?

The answer is pretty clear. There has been a growing acceptance that unions representing public employees should have the right to bargain collectively with government. And with this development has come the weakening of the civil service system and the placing of union leaders in positions where they can dictate to elected officials. When this happens decisions are made not on the basis of what is good for the public but rather what will satisfy the labor leaders and their followers. New York City's present financial debacle is the end result of leaders of municipal labor unions imposing their will on elected officials.

Recently The Bee supported a bill giving public employes the right to join together and bargain collectively. We also endorsed a bill specifically giving teachers the right to bargain collectively. It now seems clear our position in both instances was wrong.

The Meyers-Milias-Brown Act now requires municipal governments to "meet and confer" with employe groups. To a large degree, this has become the equivalent of a collective bargaining requirement. This law should be revised to halt the trend towards forced collective bargaining by municipalities.

The granting of collective bargaining to public employes is not necessary and dangerously weakens the public's ability to protect its most essential services, services that should not be poker chips traded back and forth between public officials and union leaders.

When an individual goes to work for a governmental unit, he is entering into a relationship that is entirely different from one getting a job in private enterprise. Civil service gives the government employe far greater job protection. His retirement pay and other fringe benefits generally are higher than in private enterprise.

Most important, the government worker has gone to work for the people. In accepting a job as a public servant, he has accepted a public trust. The idea of firemen, teachers, public health employes, policemen or city garbage collectors going on strike is an affront to that public trust. If an individual does not feel he is willing to trade the special benefits of government employment for a commitment to obey that public trust, then he should seek other employment.

No one can deny public employes the right to organize and lobby in behalf of their members. The California State Employes Association has done this ably and effectively for years. But the next step, giving an employes' group the right to bargain with government, is fraught with peril and should be avoided.

This is the primary lesson to be learned from the recent illegal strike of policemen in San Francisco. Mayor Joseph Alioto, after personally bargaining with the policemen's association and other labor leaders, caved in to their demands.

The dynamics of the bargaining situation, by its very nature, creates pressures on public officials they find difficult to withstand. Alioto's surrender probably was inevitable.

A recent statement by Legislative Analyst A. Alan Post strongly opposes collective bargaining for public employes. He said the state's present policy of "attempting to maintain parity with the results of collective bargaining in the more relevant private sector has been extraordinarily effective."

Possibly there must be refinements developed to ensure pay and working conditions are truly comparable to similar jobs in the private sector but only ill will come from putting the fate of critical public services in the hands of union negotiators.

Government is not in a position to successfully bargain collectively. If a private business enterprise is faced with wage demands so unreasonable that it will be forced out of business, the private business can say so, even if it means a strike. But government is different. Often unreasonable demands cannot be turned down by government because the public cannot tolerate the loss of essential public services.

The man negotiating for the public is not like the representative of a private company. He is a public servant, subject to political pressures. There is nothing to prevent him from caving in to threats. And when he does, he does not pay the bill. The bill simply will be handed on to the taxpayer who had no effective voice in the negotiations.

Generally, public employes have earned the respect of the public they serve. This is true whether you are talking about the city garbage collector, the state highway patrolman or a forest service ranger.

It would be tragic if the inevitably destructive consequences of collective bargaining are permitted to jeopardize the best interests of public employes and the public they serve.

The time is late but the issue is critical. The Bee believes the public, elected officials and public employes should pause before they turn their fate over to collective bargaining and labor leaders who sometimes care too much about power and too little about the general welfare.

Mr. Chairman, the Udall substitute differs from the Collins substitute and the Executive order in three major areas: Provisions allowing so-called informational picketing by Federal union members—which could be almost anything; the exclusive recognition of a union without an election; and provisions requiring an agency to deduct dues of members without cost to the exclusive union.

The Udall substitute provides that—

"§ 7115. Allotments to representatives

"(a) If an agency has received from an employee in an appropriate unit a written assignment which authorizes the agency to deduct from the pay of the employee amounts for the payment of regular and periodic dues of the exclusive representative of the unit, the agency shall honor the assignment and make an appropriate allotment pursuant to the assignment. Any such allotment shall be made at no cost to the exclusive representative or the employee. Except as provided under subsection (b) of this section, any such assignment may not be revoked for a period of 1 year.

So for the first time we are going to allow the Treasury to pay for union activity. This is certainly not the case in the private sector. But under the Udall substitute, we would allow these organizing and membership efforts to be financed out of the Federal Treasury. My colleagues who support the Udall substitute claim that this will provide equity between Federal union members and private sector union members. That is not true. We are giving more than equity—we are allowing Federal employee unions to dip into the Federal Treasury to provide for this dues checkoff.

Additionally, as I have mentioned, the Udall substitute allows, for the first time, informational picketing. As described in the substitute, this can mean almost anything.

My colleagues, the gentleman from Michigan (Mr. FORD) and the gentleman from Arizona (Mr. UDALL), claim

that there are no great differences between the Udall substitute and the Executive order. There are substantial differences, and I urge my colleagues to seriously consider the differences.

I know my colleague from Arizona, a supporter of this legislation, has had a difficult time negotiating compromises of the various differences among the Members. But his title VII substitute does plow new ground with regard to Federal labor-management relations, and it is not completely clear how his changes will affect the current practice of Federal labor-management relations.

So, I urge my colleagues to support the Collins substitute because it does exactly what my colleague from Michigan (Mr. FORD) is talking about—it provides for the basic concepts and codifies the Executive order originally issued by President John F. Kennedy and supported by all Presidents since, including the present incumbent, Mr. Carter. That is what President Carter asked for, and I think we should give him that by passing the Collins substitute.

I urge support of the Collins substitute.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the Members will recall that on Monday we had a very long session, but by and large it was a session marked by statesmanship and fine, high-level debate. But I must observe that with the return of the gentleman from California (Mr. ROUSSELOT) the debate today has risen to even greater heights of statesmanship, and his wisdom and his powers of observation are doing much to help expedite this bill.

I suggest, Mr. Chairman, that we have done a very fine job in amending the Udall substitute. I would point out, as the gentleman from California (Mr. ROUSSELOT) properly did, that the present Executive order is in fact what the gentleman from Texas (Mr. COLLINS) is proposing. So what we have really are two very fine amendments. Either way we are going to a great civil service reform.

Mr. COLLINS of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we have come a long way today and the gentleman from Illinois (Mr. ERLENBORN) has completed the amendments that are most important. Many of those were accepted, which made the substitute amendment of the gentleman from Arizona (Mr. UDALL) much stronger and much better legislation.

We still have three major differences that exist. I am impressed with how far we have gone with what the committee brought to the floor for us to consider. We still, of course, if civil service reform passes, have a conference; but I want to bring out three major differences that exist. One is on the matter of dues checkoff. It is proposed that this be a negotiable item. Under the substitute amendment of the gentleman from Arizona (Mr. UDALL), the gentleman states that the Government must pay for them. In other words, dues checkoff must be paid by the Government, that it is not a negotiable item. Normally this should be a negotiable item, in that dues checkoff will be made at no cost to the union or the employee. That is a tremendous concession and the gentleman asks that we go further which handicaps the civil service or any agency that is involved.

The second one that comes up; it seems to me in any type of voting for a union that the secret ballot election is absolutely essential. Under the substitute amendment of the gentleman from Arizona (Mr. UDALL), in one particular situation they can be declared a union. If an agency has created an unfair labor practice, they can declare a union, regardless. That is a tremendous move, to allow that a union be declared without a secret election.

The third issue, which still stands in the substitute amendment of the gentleman from Arizona (Mr. UDALL) is on this matter of picketing. The gentleman from Arizona provides that you can have informational picketing. Knowing how the courts are so broad in their interpretation, anything could be considered as informational picketing. We must remember that the people involved here in Civil Service are employees. They are dedicated professionals. These are the civil servants of the United States Government. There is a complete difference between working for the U.S. Government and being an employee working for a shirt factory or working in an automobile plant. These civil servants are working for the U.S. Government. To have them out picketing, whether they call it informational picketing or whatever it is, is completely contrary to the principles of the Constitution. In our country, the Government is supreme. The Government is the law of the land.

So I want to commend the gentleman from Arizona for the gentleman's broad-mindedness and openmindedness. I know how far the gentleman has gone to try to provide a workable solution. I would hope that in the conference, we could take up these three very serious issues that still stand in the gentleman's substitute amendment.

● Mr. BIAGGI. Mr. Chairman, I would like to emphasize, at this point, that the "Definition of Agency" provision of title VII, the "Labor-Management Relations" title of H.R. 11280, as written into the bill and reported by the House Committee on Post Office and Civil Service, represents a fair and equitable approach to labor-management relations for Federal employees. It therefore should remain in the final version of the bill. I strongly urge my colleagues to support this particular provision as it is currently written so that when this legislation becomes law, it will apply to all those Federal employees we in the House intended to include in its coverage.

Several Members have expressed their concern regarding the informational picketing provision in the Udall substitute. I would simply like to point out to them the case of NTEU against Fasser, 428 F. Supp. 295 (1976) in which the court found that "the absolute ban upon all picketing during any labor controversy contained in the decision and (executive) order is overly broad and violates the first amendment * * *" The court pointed out that "Picketing that is strictly informational, and limited in place and focus, does not in all situations create the probability of interference with Government functions sufficient to justify the limitation on free speech involved here." It did find, however, that even informational picketing "under certain conditions could easily be disruptive and so injure the Government that a ban could be lawfully imposed." The Udall substitute generally applies this standard and does not, as some Members have indicated, make a significant departure from the present state of the law. The Udall substitute only permits informational picketing, and then only when it does not disrupt agency operations.●

The CHAIRMAN. All time has expired.

The question is on the amendment, as amended, offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment offered by the gentleman from Texas (Mr. COLLINS).

The amendment, as amended, offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. COLLINS), as amended.

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. COLLINS of Texas. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 381, noes 0, answered "present" 1, not voting 50, as follows:

[Roll No. 764]

AYES—381

Abdnor	Brooks	Delaney
Addabbo	Brown, Calif.	Dellums
Akaka	Brown, Mich.	Dent
Alexander	Broyhill	Derrick
Ambro	Buchanan	Derwinski
Anderson, Calif.	Burgener	Devine
	Burke, Mass.	Dickinson
Anderson, Ill.	Burleson, Tex.	Dicks
Andrews, N.C.	Burlison, Mo.	Diggs
Andrews, N. Dak.	Burton, John	Dingell
	Burton, Phillip	Dodd
Annunzio	Butler	Dornan
Applegate	Byron	Downey
Archer	Carney	Drinan
Ashbrook	Carr	Duncan, Oreg.
Ashley	Carter	Duncan, Tenn.
Aspin	Cavanaugh	Early
AuCoin	Cederberg	Eckhardt
Badham	Chappell	Edgar
Bafalis	Chisholm	Edwards, Ala.
Baldus	Clausen, Don H.	Edwards, Calif.
Barnard		Eilberg
Baucus	Clay	Emery
Bauman	Cleveland	English
Beard, R.I.	Cohen	Erlenborn
Bedell	Coleman	Ertel
Bellenson	Collins, Ill.	Evans, Colo.
Benjamin	Collins, Tex.	Evans, Del.
Bennett	Conte	Evans, Ga.
Bevill	Conyers	Evans, Ind.
Biaggi	Corcoran	Fascell
Bingham	Corman	Fenwick
Blanchard	Cornell	Findley
Blouin	Cornwell	Fish
Boggs	Cotter	Fisher
Boland	Coughlin	Fithian
Bolling	Cunningham	Flippo
Bonior	D'Amours	Flood
Bonker	Daniel, Dan	Florio
Bowen	Daniel, R. W.	Flynt
Brademas	Danielson	Foley
Brinkley	Davis	Ford, Mich.
Brodhead	de la Garza	Ford, Tenn.

Forsythe	McCormack	Roe
Fountain	McDade	Rogers
Fowler	McDonald	Roncalio
Frey	McFall	Rooney
Fuqua	McHugh	Rose
Gammage	Madigan	Rosenthal
Garcia	Maguire	Rostenkowski
Gaydos	Mahon	Rousselot
Gephardt	Mann	Roybal
Giaimo	Markey	Rudd
Gilman	Marks	Runnels
Ginn	Marlenee	Ruppe
Glickman	Marriott	Russo
Goldwater	Martin	Ryan
Gonzalez	Mathis	Satterfield
Goodling	Mattox	Scheuer
Gore	Mazzoli	Schroeder
Gradison	Meeds	Schulze
Grassley	Metcalfe	Sebelius
Green	Meyner	Seiberling
Guyer	Michel	Sharp
Hagedorn	Mikulski	Shuster
Hall	Mikva	Sikes
Hamilton	Milford	Simon
Hammer-schmidt	Miller, Ohio	Sisk
	Mineta	Skelton
Hanley	Minish	Skubitz
Hannaford	Mitchell, Md.	Smith, Iowa
Hansen	Mitchell, N.Y.	Smith, Nebr.
Harkin	Moakley	Snyder
Harrington	Moffett	Solarz
Harris	Mollohan	Spellman
Harsha	Montgomery	Spence
Hawkins	Moore	St Germain
Heckler	Moorhead, Calif.	Staggers
Hefner		Stangeland
Heftel	Moorhead, Pa.	Stanton
Hightower	Moss	Stark
Hillis	Mottl	Steed
Holland	Murphy, Ill.	Steers
Hollenbeck	Murphy, N.Y.	Steiger
Holt	Murphy, Pa.	Stockman
Holtzman	Murtha	Stokes
Horton	Myers, Gary	Stratton
Howard	Myers, John	Studds
Hubbard	Myers, Michael	Symms
Hughes	Natcher	Taylor
Hyde	Neal	Thompson
Ichord	Nedzi	Thone
Ireland	Nichols	Thornton
Jacobs	Nix	Traxler
Jeffords	Nolan	Treible
Jenkins	Nowak	Tucker
Jenrette	O'Brien	Udall
Johnson, Calif.	Oakar	Ullman
Jones, N.C.	Oberstar	Van Deerlin
Jones, Okla.	Obey	Vanik
Jones, Tenn.	Ottinger	Vento
Jordan	Panetta	Waggonner
Kastenmeier	Patten	Walgren
Kazen	Patterson	Walker
Kelly	Pattison	Walsh
Kemp	Pease	Wampler
Keys	Pepper	Watkins
Kildee	Perkins	Waxman
Kindness	Pettis	Weaver
Kostmayer	Pickle	Weiss
Krebs	Pike	White
Lagomarsino	Poage	Whitehurst
Latta	Pressler	Whitley
Le Fante	Preyer	Wilson, Bob
Leach	Price	Wilson, C. H.
Lederer	Pritchard	Wilson, Tex.
Lent	Pursell	Winn
Levitas	Quayle	Wirth
Livingston	Quillen	Wolff
Lloyd, Calif.	Rahall	Wright
Lloyd, Tenn.	Railsback	Wydler
Long, La.	Rangel	Wylie
Long, Md.	Regula	Yates
Lott	Reuss	Yatron
Lujan	Rhodes	Young, Fla.
Luken	Rinaldo	Young, Mo.
Lundine	Roberts	Zablocki
McClory	Robinson	Zeferetti
McCloskey	Rodino	

NOES—0

ANSWERED "PRESENT"—1

Edwards, Okla.

NOT VOTING—50

Ammerman	Clawson, Del	Huckaby
Armstrong	Cochran	Johnson, Colo.
Beard, Tenn.	Conable	Kasten
Breaux	Crane	Krueger
Breckinridge	Fary	LaFalce
Broomfield	Flowers	Leggett
Brown, Ohio	Fraser	Lehman
Burke, Calif.	Frenzel	McEwen
Burke, Fla.	Gibbons	McKay
Caputo	Gudger	McKinney
Miller, Calif.	Shipley	Volkmer
Quie	Slack	Whalen
Richmond	Stump	Whitten
Eisenhoover	Teague	Wiggins
Santini	Treen	Young, Alaska
Sarasin	Tsongas	Young, Tex.
Sawyer	Vander Jagt	

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read title VIII.

The Clerk read as follows:

TITLE VIII—GRADE AND PAY RETENTION

GRADE AND PAY RETENTION

SEC. 801. (a)(1) Chapter 53 of title 5, United States Code, relating to pay rates and systems, is amended by inserting after subchapter V thereof the following new subchapter:

"SUBCHAPTER VI—GRADE AND PAY RETENTION

"§ 5361. Definitions

"For the purpose of this subchapter—

"(1) 'employee' means an employee to whom chapter 51 of this title applies, and a prevailing rate employee, as defined by section 5342(a)(2) of this title, whose employment is other than on a temporary or term basis;

"(2) 'agency' has the meaning given it by section 5102 of this title;

"(3) 'retained grade' means the grade used for determining benefits to which an employee to whom section 5362 or 5363 of this title applies is entitled;

"(4) 'rate of basic pay' means, in the case of a prevailing rate employee, the scheduled rate of pay determined under section 5343 of this title;

"(5) 'covered pay schedule' means the General Schedule, any prevailing rate schedule established under subchapter IV of this chapter, or the merit pay system under chapter 54 of this title;

"(6) 'position subject to this subchapter' means any position under a covered pay schedule; and

"(7) 'reduction-in-force procedures' means procedures applied in carrying out any reduction in force due to a reorganization, due to lack of funds or curtailment of work, or due to any other factor.

"§ 5362. Grade retention following a change of positions

"(a) Any employee—

"(1) who is placed as a result of reduction-in-force procedures from a position subject to this subchapter to another position which is subject to this subchapter and which is in a lower grade than the previous position, and

"(2) who has served for 52 consecutive weeks or more in one or more positions subject to this subchapter at a grade or grades higher than that of the new position,

shall be entitled, to the extent provided in subsection (b) of this section, to have the grade of the position held immediately before such placement be considered to be the retained grade of the employee in any position he holds for the 2-year period beginning on the date of such placement.

"(b) For the 2-year period referred to in subsection (a) of this section, the retained grade of an employee under such subsection (a) shall be treated as the grade of his position for all purposes (including pay and pay administration under this chapter and, chapters 54 and 55 of this title, retirement and life insurance under chapters 83 and 87 of this title, and eligibility for training and promotion under this title) except—

"(1) for purposes of subsection (a) of this section,

"(2) for purposes of applying any reduction-in-force procedures, or

"(3) for such other purposes as the Office of Personnel Management may provide by regulation.

"(c) The provisions of subsection (a) of this section shall cease to apply to an employee who—

"(1) has a break in service of one workday or more;

"(2) is demoted (determined without regard to this section) for personal cause;

"(3) is placed in, or declines a reasonable offer of, a position the grade of which is equal to or higher than the retained grade; or

"(4) elects in writing to have the benefits of this section terminate.

"§ 5363. Grade retention following position reclassification

"(a) An employee who is in a position subject to this subchapter and whose position has been reduced in grade is entitled to have the grade of such position before reduction be treated for all purposes (other than the application of reduction-in-force procedures) as the retained grade of such employee so long as such employee continues in such position.

"(b) The provision of subsection (a) of this section shall not apply with respect to any reduction in the grade of a position which had not been classified at the higher grade for a continuous period of at least one year immediately before such reduction.

"(c) The preceding provisions of this section shall cease to apply to an employee who—

"(1) has a break in service of one workday or more;

"(2) declines a reasonable offer of a position the grade of which is equal to or higher than the retained grade; or

"(3) elects in writing to have the benefits of this section terminate.

"§ 5364. Pay retention

"(a) Any employee—

"(1) who ceases to be entitled to the benefits of section 5362 of this title by reason of the expiration of the 2-year period of coverage provided under such section;

"(2) who is in a position subject to this subchapter and who is subject to a reduction or termination of a special rate of pay established under section 5303 of this title; or

"(3) who is in a position subject to this subchapter and who (but for this section) would be subject to a reduction in pay under circumstances prescribed by the Office of Personnel Management by regulation to warrant the application of this section;

is entitled to basic pay at a rate equal to (A) the employee's allowable former rate of basic pay, plus (B) 50 percent of the amount of each increase in the maximum rate of basic pay payable for the grade of the employee's position immediately after such reduction in pay if such allowable former rate exceeds such maximum rate for such grade.

"(b) For the purpose of subsection (a) of this section, 'allowable former rate of basic pay' means the lower of—

"(1) the rate of basic pay payable to the employee immediately before the reduction in pay; or

"(2) 150 percent of the maximum rate of basic pay payable for the grade of the employee's position immediately after such reduction in pay.

"(c) The preceding provisions of this section shall cease to apply to an employee who—

"(1) has a break in service of one workday or more;

"(2) is entitled by operation of this subchapter or chapter 51, 53, or 54 of this title to a rate of basic pay which is equal to or higher

than, or declines a reasonable offer of a position the rate of basic pay for which is equal to or higher than, the rate to which the employee is entitled under this section; or

"(3) is demoted for personal cause.

"§ 5365. Remedial actions

"Under regulations prescribed by the Office of Personnel Management, the Office may require any agency—

"(1) to report to the Office information with respect to vacancies (including impending vacancies);

"(2) to take such steps as may be appropriate to assure employees receiving benefits under section 5362, 5363, or 5364 of this title have the opportunity to obtain necessary qualifications for the selection to positions which would minimize the need for the application of such sections;

"(3) to establish a program under which employees receiving benefits under section 5362, 5363, or 5364 of this title are given priority in the consideration for or placement in positions which are equal to or greater than their retained grade or pay; and

"(4) to place certain employees, notwithstanding the fact their previous position was in a different agency, but only in circumstances in which the Office determines the exercise of such authority is necessary to carry out the purpose of this section.

"§ 5366. Regulations

"(a) The Office of Personnel Management shall prescribe regulations to carry out the purpose of this subchapter.

"(b) Under such regulations, the Office may provide for the application of all or portions of the provisions of this subchapter—

"(1) to any individual reduced to a grade of a covered pay schedule from a position not subject to this subchapter;

"(2) to individuals to whom such provisions do not otherwise apply; and

"(3) to situations the application to which is justified for purposes of carrying out the mission of the agency or agencies involved.

"§ 5367. Appeals

"(a)(1) In the case of the termination of any benefits available to an employee under this subchapter on the grounds such employee declined a reasonable offer of a position the grade or pay of which was equal to or greater than his retained grade or pay, such termination may be appealed to the Office of Personnel Management under procedures prescribed by the Office.

"(2) Nothing in this subchapter shall be construed to affect the right of any employee to appeal—

"(A) under section 5112(b) or 5346(c) of this title or otherwise, any reclassification of a position; or

"(B) under procedures prescribed by the Office of Personnel Managsment, any reduction-in-force action.

"(b) For purposes of any appeal procedures (other than those described in subsection (a) of this section)—

"(1) any action which is the basis of an individual's entitlement to benefits under this subchapter, and

"(2) any termination of any such benefits under this subchapter,

shall not be treated as appealable under such appeals procedures.".

(2) Sections 5334(d), 5337, and 5345 of title 5, United States Code, are hereby repealed.

(3)(A) Chapter 53 of title 5, United States Code, is amended—

(i) by redesignating subchapter VI as subchapter VII, and

(ii) by redesignating sections 5361 through 5365 as sections 5371 through 5375, respectively.

(B)(i) The analysis of chapter 53 of title 5, United States Code, is amended by striking out the items relating to subchapter VI thereof and inserting in lieu thereof the following:

"SUBCHAPTER VI—GRADE AND PAY RETENTION

"5361. Definitions.
"5362. Grade retention following a change of positions.
"5363. Grade retention following position reclassification.
"5364. Pay retention.
"5365. Remedial actions.
"5366. Regulations.
"5367. Appeals.

"SUBCHAPTER VII—MISCELLANEOUS PROVISIONS

"5371. Scientific and professional positions.
"5372. Administrative law judges.
"5373. Limitation on pay fixed by administrative action.
"5374. Miscellaneous positions in the executive branch.
"5375. Police force of National Zoological Park.".

(ii) The analysis of such chapter is further amended by striking out the items relating to sections 5337 and 5345, respectively.

(iii) Section 559 of title 5, United States Code, are each amended by striking out "5362." each place it appears and inserting "5372," in lieu thereof.

(C) Section 3104(b) of title 5, United States Code, as redesignated by this Act, is amended by striking out "section 5361" and inserting "section 5371" in lieu thereof.

(D) Section 5102(c)(5) of title 5, United States Code, is amended by striking out "section 5365" and inserting "section 5375" in lieu thereof.

(E) Sections 5107 and 8704(d)(1) of title 5, United States Code, are each amended by striking out "section 5337" and inserting in lieu thereof "subchapter VI of chapter 53".

(F) Section 5334(b) of title 5, United States Code, is amended by striking out "section 5337 of this title" each place it appears and inserting in lieu thereof "subchapter VI of this chapter".

(G) Section 5334 of title 5, United States Code, is amended by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(H) Section 5349(a) of title 5, United States Code, is amended—

(i) by striking out "section 5345, relating to retention of pay," and inserting in lieu thereof "subchapter VI of this chapter, relating to grade and pay retention,";

(ii) by striking out "section 5345 of this title" and inserting in lieu thereof "subchapter VI of this chapter"; and

(iii) by striking out "paragraph (2) of section 5345(a)" and inserting in lieu thereof "section 5361(1)".

(I) Sections 4540(c), 7212(a), and 9540(c) of title 10, United States Code, are each amended by inserting after "of title 5" the following: "and subchapter VI of chapter 53 of such title 5".

(J) Section 1816(a) of the Act of August 1, 1968 (Public Law 90–448; 15 U.S.C. 1715(a)), and section 808(e) of the Act of April 11, 1968 (Public Law 90–284; 42 U.S.C. 3608(b)), are each amended by striking out "5362," and inserting in lieu thereof "5372,".

(4)(A) The amendments made by this subsection shall take effect on the first day of the first applicable pay period beginning on or after the 90th day after the date of the enactment of this Act.

(B) An employee who was receiving pay under the provisions of section 5334(d), 5337, or 5345 of title 5, United States Code, on the day before the effective date prescribed in subparagraph (A) of this paragraph shall not have such pay reduced or terminated by reason of the amendments made by this subsection and, unless section 5362 or 5363 of such title 5 (as amended by subsection (a)(1) of this section) applies, such an employee is entitled to continue to receive pay as authorized by those provisions (as in effect on such date).

(b)(1) Under regulations prescribed by the Office of Personnel Management, any employee—

(A) whose grade was reduced on or after January 1, 1977, and before the effective date of the amendments made by subsection (a) of this section under circumstances which would have entitled the employee to coverage under the provisions of section 5362 or 5363 of title 5, United States Code (as amended by subsection (a) of this section) if such amendments had been in effect at the time of the reduction; and

(B) who has remained employed by the Federal Government from the date of the reduction in grade to the effective date of the amendments made by subsection (a) of this section without a break in service of one workday or more;

shall be entitled—

(i) to receive the additional pay and benefits which such employee would have been entitled to receive if the amendments made by subsection (a) of this section had been in effect during the period beginning on the effective date of such reduction in grade and ending on the day before the effective date of such amendments, and

(ii) to have the amendments made by subsection (a) of this section apply to such employee as if the reduction in grade had occurred on the effective date of such amendments.

(2) Under such regulations, any employee who—

(A) during the period beginning on January 1, 1977, and ending on the effective date of the amendments made by subsection (a) of this section was holding any position under a covered pay schedule when such position was reduced in grade; and

(B) after the date of such reduction in grade and before such effective date, changed to any other position under such a schedule (other than by reason of a demotion for personal cause) and is holding such position on such effective date;

is entitled to the benefits of section 5363 of title 5, United States Code (as amended by subsection (a) of this section) as if such employee had not changed positions.

(3) No employee covered by this subsection whose reduction in grade resulted in an increase in pay shall have such pay reduced by reason of the amendments made by subsection (a) of this section.

(4)(A) For purposes of this subsection, the requirements under paragraph (1)(B) of this subsection, relating to continuous employment following reduction in grade, shall be considered to be met in the case of any employee—

(i) who separated from service with a right to an immediate annuity under chapter 83 of title 5, United States Code, or under another retirement system for Federal employees; or

(ii) who died.

(B) Amounts payable by reason of subparagraph (A) of this paragraph in the case of the death of an employee shall be paid in accordance with the provisions of subchapter VIII of chapter 55 of title 5, United States Code, relating to settlement of accounts in the case of deceased employees.

(5) The Office of Personnel Management shall have the same authority to prescribe regulations under this subsection as it has under section 5366 of title 5, United States Code, with respect to subchapter VI of chapter 53 of such title, as added by subsection (a) of this section.

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that further reading of title VIII be dispensed with, and that it be printed in the

RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN. For the information of the committee, titles IX and X were stricken.

There being no amendments to title VIII, the Clerk will read title XI.

The Clerk read as follows:

STUDY ON DECENTRALIZATION OF GOVERNMENTAL FUNCTIONS

SEC. 1101. (a) As soon as practicable after the effective date of this Act, the Director of the Office of Personnel Management shall conduct a detailed study concerning the decentralization of Federal governmental functions.

(b) The study to be conducted under subsection (a) of this section shall include—

(1) a review of the existing geographical distribution of Federal governmental functions throughout the United States, including the extent to which such functions are concentrated in the District of Columbia; and

(2) a review of the possibilities of distributing some of the functions of the various Federal agencies currently concentrated in the District of Columbia to field offices located at points throughout the United States.

Interested parties, including heads of agencies, other Federal employees, and Federal employee organizations, shall be allowed to submit views, arguments, and data in connection with such study.

(c) On the completion of the study under subsection (a) of this section, and in any event not later than one year after the effective date of this Act, the Director of the Office of Personnel Management shall submit to the President and to the Congress a report on the results of such study together with his recommendations. Any such recommendation which involves the amending of existing statutes shall include draft legislation.

SAVINGS PROVISIONS

SEC. 1102. (a) Except as otherwise provided in this Act, all executive orders, rules, and regulations affecting the Federal service shall continue in effect, according to their terms, until modified, terminated, superseded, or repealed by the President, the Office of Personnel Management, the Merit Systems Protection Board, the Equal Employment Opportunity Commission, or the Federal Labor Relations Authority with respect to matters within their respective jurisdictions.

(b) No provision of this Act shall affect any administrative proceedings pending at the time such provision takes effect. Orders shall be issued in such proceedings and appeals shall be taken therefrom as if this Act had not been enacted.

(c) No suit, action, or other proceeding lawfully commenced by or against the Director of the Office of Personnel Management or the members of the Merit Systems Protection Board, or officers or employees thereof, in their official capacity or in relation to the discharge of their official duties, as in effect immediately before the effective date of this Act, shall abate by reason of the enactment of this Act. Determinations with respect to any such suit, action, or other proceeding shall be made as if this Act had not been enacted.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1103. There are authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this Act.

POWERS OF PRESIDENT UNAFFECTED EXCEPT BY EXPRESS PROVISIONS

SEC. 1104. Except as otherwise expressly provided in this Act, no provision of this Act shall be construed to—

"(1) limit, curtail, abolish, or terminate any function of, or authority available to, the President which the President had immediately before the effective date of this Act; or

"(2) limit, curtail, or terminate the President's authority to delegate, redelegate, or terminate any delegation of functions.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 1105. (a) Title 5, United States Code, is amended—

(1) in sections 5347, 8713, and 8911, by striking out "Chairman of the Civil Service Commission" and inserting in lieu thereof "Director of the Office of Personnel Management";

(2) in section 3304 by striking out "a Civil Service Commission board of examiners" and inserting in lieu thereof "the Office of Personnel Management";

(3) in sections 1301, 1302, 1304, 1308, 2105, 2951, 3110, 3304a, 3308, 3312, 3318, 3324, 3325, 3344, 3351, 3363, 3373, 3502, 3504, 4102, 4106, 4113–4118, 5102, 5103, 5105, 5107, 5110–5115, 5303, 5304, 5333, 5334, 5336, 5338, 5343, 5346, 5347, 5351, 5352, 5371, and 5372 (as redesignated in section 801(a)(3)(A)(ii) of this Act), 5374 (as redesignated in section 801(a)(3)(A)(ii) of this Act), 5504, 5533, 5545, 5548, 5723, 6101, 6304–6306, 6308, 6311, 6322, 6326, 7203, and 7204 (as redesignated in section 703(a)(1) of this Act), 7312, 8151, 8331, 8332, 8334, 8337, 8339–8343, 8345–8348, 8501, 8701–8712, 8714, 8714a, 8716, 8901–8903, 8905, 8907–8910, and 8913, by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management";

(4) in sections 1505–1508 and 3383 by striking out "Civil Service Commission" and "Commission" each place they appear and inserting in lieu thereof "Merit Systems Protection Board" and "Board", respectively;

(5) in section 1504 by striking out "Civil Service Commission. On receipt" and all that follows down through the end thereof and inserting in lieu thereof "Special Counsel of the Merit Systems Protection Board.";

"(6) in section 5335(c)—

"(A) by striking out "Commission" the first place it appears and inserting in lieu thereof "Office of Personnel Management";

"(B) by striking out "Commission" the second place it appears and inserting in lieu thereof "Merit Systems Protection Board";

"(C) by striking out "Commission" the third place it appears and inserting in lieu thereof "Office"; and

"(D) by striking out "Commission" the fourth place it appears and inserting in lieu thereof "Board";

(7) in section 8347(d), by striking out "Commission" the first time it appears and inserting in lieu thereof "Merit Systems Protection Board" and by striking out "Commission" the second time it appears and inserting in lieu thereof "Board";

(8) in section 552(a)(4)(F)—

(A) by striking out "Civil Service Commission" and "Commission" each place they appear and inserting in lieu thereof, "Special Counsel"; and

(B) by striking out "its" and inserting in lieu thereof "his";

(9) in section 1303—

(A) by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management Merit Systems Protection Board, and Special Counsel"; and

(B) by striking out "Commission" in paragraph (1) and inserting in lieu thereof "Office of Personnel Management";

(10) in section 1305, by striking out "For the purpose of sections 3105, 3344, 4301(2)(E), 5362, and 7521 of this title and the provisions of section 5335(a)(B) of this title that relate to administrative law judges the Civil Service Commission may" and inserting in lieu thereof "For the purpose of section 3105, 3444, 4301(2)(D) and 5372 of this title and the provisions of section 5335(a)(B) of this title that relate to administrative law judges, the Office of Personnel Management may, and for the purpose of section 7521 of this title, the Merit Systems Protection Board may";

(11) in section 1306, to read as follows: "The Director of the Office of Personnel Management and authorized representatives of the Director, may administer oaths to witnesses in matters pending before the Office.";

(12) in sections 1302, 1304, 1308, 2951, 3304a, 3308, 3312, 3317b, 3318, 3324, 3351, 3363, 3504, 4106, 4113–4115, 4117, 4118, 5105, 5107, 5110–5112, 5114, 5333, 5343, 5346, 5545, 5548, 5723, 6304, 6405, 7312, 8331, 8332, 8337, 8339–8343, 8345–8348, 8702, 8704–8707, 8709–8712, 8714a, 8716, 8901–8903, 8505, 8907, 8909, 8910, and 8913 (as such sections are amended in paragraph (3) of this subsection), by striking out "Commission" each place it appears and inserting in lieu thereof "Office";

(13) in sections 1303, 8713, and 8911 (as such sections are amended in paragraph (1) of this subsection), by striking out "Commission" and inserting in lieu thereof "Office";

(14) in section 8344(a), by striking out "Commission" and inserting in lieu thereof "Office of Personnel Management";

(15) in section 8906, by striking out "Commission" each place it appears and inserting in lieu thereof "Office of Personnel Management" the first time it appears and "Office" the other times it appears;

(16) in the section heading for section 2951 and in the item relating to section 2951 in the analysis for chapter 29, by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management"; and

(17) in the section heading for section 5112 and in the item relating to section 5112 in the analysis for chapter 51, by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management".

(b) Section 1307 of title 5, United States Code, is hereby repealed.

(c)(1) Section 5109(b) of title 5, United States Code, is hereby repealed.

(2) Section 5109 of such title is further amended by redesignating subsection (c) as subsection (b).

(d) The President or his designee shall, as soon as practicable, but in any event not later than 30 days after the date of the enactment of this Act, submit to the Committee on Post Office and Civil Service of the House of Representatives and the Committee on Governmental Affairs of the Senate a draft of any additional technical and conforming amendments to the provisions of title 5, United States Code, and any other provisions of law which have not been made by the provisions of this Act and which are necessary to reflect throughout such provisions the amendments to the substantive provisions of law made by this Act and by Reorganization Plan Numbered 2 of 1978.

EFFECTIVE DATE

SEC. 1106. Except as otherwise expressly provided in this Act, the provisions of this Act shall take effect 90 days after the date of the enactment of this Act.

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that this last title of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

AMENDMENTS OFFERED BY MRS. SCHROEDER

Mrs. SCHROEDER. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mrs. SCHROEDER: Page 383, after line 14, insert the following:

GENDER-BASED REFERENCES

SEC. 1102. (a)(1) Section 2108(3)(F) and (G) of title 5, United States Code, are each amended—

(A) by striking out "the mother" and inserting in lieu thereof "the parent",

(B) by striking out "her husband" and inserting in lieu thereof "such parent's spouse",

(C) by striking out "she" each place such term appears and inserting in lieu thereof "such parent",

(D) by striking out "from the father" and inserting in lieu thereof "from such individual's other parent", and

(E) by striking out "from her husband".

(2) Section 5561(3)(A) of title 5, United States Code, is amended by striking out "a wife" and inserting in lieu thereof "a spouse".

(3) Section 8332(j) of title 5, United States Code, is amended by striking out "widow" each place such term appears and inserting in lieu thereof "surviving spouse".

(b)(1) The heading for section 502 of title 5, United States Code, is amended by striking out "Reserves and National Guardsmen" and inserting in lieu thereof "members in the Reserves and National Guard".

(2) Section 2105(b) of title 5, United States Code, is amended by striking out "the midshipmen's laundry, the midshipmen's tailor shop, the midshipmen's cobbler and barber shops, and the midshipmen's store" and inserting in lieu thereof "the laundry, tailor shop, cobbler and barber shops, and store for individuals enrolled at the Academy".

(3) Section 2108(3) of title 5, United States Code, is amended—

(A) in subparagraph (D), by striking out "widow or widower" and inserting in lieu thereof "surviving spouse"; and

(B) in subparagraph (E), by striking out "wife or husband" and inserting in lieu thereof "spouse".

(4) Section 3110(a)(3) of title 5, United States Code, is amended by striking out "father" and all that follows down through "half sister" and inserting in lieu thereof the following: "parent, child, brother, sister, uncle, aunt, first cousin, nephew, niece, spouse, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepparent, stepchild, stepbrother, stepsister, half brother, or half sister.".

(5) The heading for section 3551 of title 5, United States Code, is amended by striking out "Reserves and National Guardsmen" and inserting in lieu thereof "members of the Reserves and National Guard".

(6) Section 5343(d)(2)(B) of title 5, United States Code, is amended by striking out "manpower" and inserting in lieu thereof "supply of personnel available and fitted for service".

(7) The hearing for section 5543 of title 5, United States Code, is amended by striking out "Reserves and National Guardsmen" and inserting in lieu thereof "members of the Reserves and National Guard".

(8) Section 5561(3(B) of title 5, United States Code, is amended by striking out "mother or father" and inserting in lieu thereof "parent".

(9) Section 5582(b) of title 5, United States Code, is amended by striking out "widow or widower" and inserting in lieu thereof "surviving spouse".

(10) Section 5583(a) of title 5, United States Code, is amended by striking out "widow or widower" and inserting in lieu thereof "surviving spouse".

(11) Section 5701(4) of title 5, United States Code, is amended by inserting "or stewardesses" after "stewards".

(12) Section 5723 of title 5, United States Code, is amended—

(A) in the heading, by striking out "manpower" and inserting in lieu thereof "personnel"; and

(B) in subsections (a)(1) and (d), by striking out "manpower shortage" each place the term appears and inserting in lieu thereof "shortage in personnel available and fitted for service".

(13) The hearing for section 6323 of title 5, United States Code, is amended by striking out "Reserves and National Guardsmen" and inserting in lieu thereof "members of the Reserves and National Guard".

(14) The heading for section 6324 of title 5, United States Code, is amended by striking out "firemen" and inserting in lieu thereof "firefighters".

(15)(A)(i) Section 8101(6) of title 5, United States Code, is amended to read as follows:

"(6) 'surviving spouse' means the spouse living with or dependent for support on the decedent at the time of his death, or living apart for reasonable cause or because of his desertion.".

(ii) Section 8101(11) of title 5, United States Code, is hereby repealed.

(B) Section 8109(a)(D) (i), (ii) and (iii) of title 5, United States Code, are each amended by striking out "widow or widower" and inserting in lieu thereof "surviving spouse".

(C) Section 8133 of title 5, United States Code, is amended—

(i) by striking out "widow or widower" each place it appears and inserting in lieu thereof "surviving spouse";

(ii) in subsection (a)(4), by striking out "widow, widower," each place it appears and inserting in lieu thereof "surviving spouse";

(iii) in subsection (a)(5), by striking out "widow, widower," and inserting in lieu thereof "surviving spouse,"; and

(iv) in subsection (b)(1), by striking out "widow, or widower" and inserting in lieu thereof "surviving spouse".

(D) Section 8135 of ttile 5, United States Code, is amended by striking out "widow or widower" each place it appears and inserting in lieu thereof "surviving spouse".

(16) Section 8110 of title 5, United States Code, is amended—

(A) by striking out paragraph (1);

(B) in paragraph (2)—

(i) by redesignating such paragraph as paragraph (1); and

(ii) by striking out "husband" and inserting in lieu thereof "spouse"; and

(C) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(17) Sections 8116(c), 8137(a)(1), and 8173 of title 5, United States Code, are each amended by striking out "workmen's" and inserting in lieu thereof "workers'".

(18) Section 8342(c) of title 5, United States Code, is amended by striking out "widow or widower" and inserting in lieu thereof "surviving spouse".

(19)(A) The heading for subchapter II of chapter 85 of title 5, United States Code, is amended by striking out "EXSERVICEMEN" and inserting in lieu thereof "FORMER MEMBERS OF THE ARMED FORCES".

(B) Section 8521(a)(2) of title 5, United States Code, is amended by striking "servicemen" and inserting in lieu thereof "members of the armed forces".

(C) The item in the chapter analysis of chapter 85 of title 5, United States Code, which relates to subchapter II is amended by striking out "EX-SERVICEMEN" and inserting in lieu thereof "FORMER MEMBERS OF THE ARMED FORCES".

(20) Section 8705(a) of title 5, United States Code, is amended by striking out "widow or widower" and inserting in lieu thereof "surviving spouse".

Page 383, line 16, strike out "Sec. 1102." and insert in lieu thereof "Sec. 1103.".

Page 384, line 15, strike out "Sec. 1103." and insert in lieu thereof "Sec. 1104.".

Page 384, line 21, strike out "Sec. 1104." and insert in lieu thereof "Sec. 1105.".

Page 385, line 7, strike out "Sec. 1105." and insert in lieu thereof "Sec. 1106.".

Page 390, line 16, strike out "Sec. 1106." and insert in lieu thereof "Sec. 1107.".

Revise the table of contents accordingly.

Mrs. SCHROEDER (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD, and that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

Mrs. SCHROEDER. Mr. Chairman, the amendments I am offering will remove the bias contained in certain sections of the Civil Service laws in title 5, United States Code.

The amendments make only changes which are necessary, because the rules for construction of the United States Code contained in title 1, section 1, of the Code do not cover them. That section is as follows:

SECTION 1. Words importing singular number, masculine gender, etc.; extended application. In determining the meaning of any Act or resolution of Congress, words importing the singular number may extend and be applied to several persons or things; words importing the plural number may include the singular; words importing the masculine gender may be applied to remales; the words "insane person" and "lunatic" shall include every idiot, non compos, lunatic, and insane person; the word "person" may extend and be applied to partnerships and corporations, and the reference to any officer shall include any person authorized by law to perform the duties of such office, unless the context shows that such words were intended to be used in a more limited sense; and a requirement of an "oath" shall be deemed complied with by making affirmation in judicial form. (R. S. § 1.)

Thus, my amendments make changes, such as replacing the words "husband" or "wife" with "spouse," and "mother" or "father" with "parent," and "widow" or "widower" with "surviving spouse," and "National Guardsman" with "member of the National Guard," which reflect the fact that citizens of both sexes are to be treated equally. I believe that many of these changes either reflect the law as interpreted by the courts, or would reflect the law if an appropriate case were brought. In addition, many of the changes are as beneficial to men as to women.

These modifications were suggested in a report of the U.S. Commission on Civil Rights which came out in April 1977 entitled "Sex Bias in the U.S. Code."

Mr. Chairman, I urge my colleagues' support of this reform.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman.

Mr. JOHN L. BURTON. Mr. Chairman, how does the gentlewoman handle "grandparents"?

Mrs. SCHROEDER. "Grandparents" is already neutered.

Mr. JOHN L. BURTON. Neutered?

Mrs. SCHROEDER. "Grandparents"? I am totally unaware of any sexual implication by the word "grandparents."

Mr. JOHN L. BURTON. But "grandmother" or "grandfather" would be changed to "grandparents"?

Mrs. SCHROEDER. That is right.

Mr. JOHN L. BURTON. And the same for "great grandparents"?

Mrs. SCHROEDER. That is right.

Mr. JOHN L. BURTON. I thank the gentleperson.

Mr. UDALL. Mr. Chairman, will the gentleperson yield?

Mrs. SCHROEDER. I would be delighted to yield to the gentleperson from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, I hate to break up a happy party, but I want to raise a serious question about this amendment. It really does two things, one is we get away from gender based references, and, in that respect, I support what the gentleperson is trying to do, and I think she is right on target, I think it is a good move. But, there have been no hearings held on this amendment and no study has been made of it. I am told by the staff that this could mean making a lot of substantive changes in the law, different laws relating to civil service. I am concerned about that and I want to raise that question.

For example, we now have a law which gives the mother of a disabled veteran a 5-point preference with respect to Federal employment. The father does not now have that preference. If we pass this amendment I am told by the staff we would make a change in that law, and there may be dozens of other Federal laws relating to benefits where major changes in policy would be affected. I would probably stand with the gentlewoman on those changes, but I am not sure that this is the right way, the right time, to be moving in that drastic a manner.

Mrs. SCHROEDER. Mr. Chairman, I do not think what we are doing here is drastic, because I think the consensus of the Civil Rights Commission, who did hold extensive hearings on this, and did make these recommendations, was that if any of this language was tested in the courts under the current laws that we have on the books, "mother" would be "parent." For example, the section you are talking about is where a mother who has a husband who is totally or permanently disabled, but what we are saying is that the parent of someone who was injured in the war, who is married to someone who is permanently disabled, so that neither parent could help themselves, so they would get that benefit.

The Civil Rights Commission seems to feel that in a court you could not sustain that anyway, that would be considered sex bias by U.S. law.

Mr. UDALL. If the gentleperson will yield further, I understand there are a lot of arguments made to the cases involving the civil service system, and that there might be a tremendous budget impact. I do not know how many millions of dollars are involved if we put fathers of disabled servicemen in the same status as we put mothers.

I would just suggest that maybe we go a little bit slower for the moment in passing such drastic changes as the amendment here well might.

But, so far as the gender references, I would have no problem with that, but I think that there may be major changes in national policy involved and I am concerned about that.

Mrs. SCHROEDER. I think you will find that in changing the gender references we are in accord with the law as interpreted by the Civil Rights Commission. So I do not think you will find we are really changing the laws, we are just conforming this in compliance with the law.

Mr. SEIBERLING. Mr. Chairman, will the gentleperson yield?

Mrs. SCHROEDER. I yield to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Could you incorporate a reverse grandparent clause so that it would not affect anybody or change their status at all?

The CHAIRMAN. The time of the gentlewoman has expired.

Mr. FORD of Michigan. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have taken this time in order to ask the gentlewoman from Colorado (Mrs. SCHROEDER) a question. I am informed there is some indication that there may be a problem of jurisdiction involved here in what we are doing so far as the Committee on Education and Labor is concerned, possibly affecting legislation within that committee and possibly having a substantive effect on the legislation.

Has this amendment been cleared on the jurisdictional question with that committee?

Mrs. SCHROEDER. I am not sure it has been cleared, but it clearly is title V of the bill and the Committee on Civil Service has full jurisdiction over title V. We are strictly dealing with the sex bias portion of the United States Code in title V dealing with people who are in civil service.

Mr. FORD of Michigan. I am not at all certain that that is what we are dealing with, although for the purpose of administering this law and a number of other laws, as a matter of fact, with respect to Federal employees, title V of this bill is operative since it deals with the classified service.

The fact is that in exercising their jurisdiction here to administer the law, they are administering laws under the jurisdiction of the Committee on Education and Labor, substantive laws; and we have no way of knowing whether the gender changes in the amendment, when read in the context of those existing statutes, to be administered with respect to Federal employees, constitute a substantive change in rights or not.

For example, we still—perhaps archaically, from the gentlewoman's point of view—refer to "widows" in legislation; and that is not a term that is without gender.

Mrs. SCHROEDER. If the gentleman will yield further, there are no substantive changes, I can assure the gentleman. In section 81 what we are talking about is surviving spouses rather than widows, but there are no substantive changes, per se. It is strictly within the confines of title V.

Mr. FORD of Michigan. Mr. Chairman, let me, at the risk of having somewhat cleansed my soul by voting for the extension of ERA and sounding like a sexist and a conservative at the same time—both labels I would not like to carry for very long—say that I would have to reluctantly oppose the gentlewoman's amendment, because we just cannot understand it well enough to be secure in adopting it at this time. I really think that as laudable as her objectives may be, it is not worth taking the risk.

For that reason, Mr. Chairman, I would urge a "no" vote on the gentlewoman's amendment.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have been looking at the RECORD since the gentleperson from Colorado had filed her amendment in the RECORD. There is a little more to it than just substituting "parent" for "wife" or "husband" and so forth.

I support the point made by the gentleman from Michigan (Mr. FORD) and the gentleman from Arizona (Mr. UDALL), that this amendment really could be a much more far-reaching amendment than we think. Therefore, I think it would be much wiser if we took a good, hard look at this amendment. Certainly there is no real opposition to the principle, but I think there should be some questions raised as to the real applications of the amendment.

The CHAIRMAN. The question is on the amendments offered by the gentlewoman from Colorado (Mrs. SCHROEDER).

The amendments were rejected.

PARLIAMENTARY INQUIRY

Mr. HARRIS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HARRIS. Mr. Chairman, I have an amendment to the bill which would amend the bill so as to establish a new title in the bill. If I understand the current parliamentary situation, we are still under title XI, and such an amendment would be in order after we had completed action on title XI. Am I correct in that interpretation, and are my rights reserved in offering an amendment for this title if I do not make that motion until after we finish title XI?

The CHAIRMAN. The gentleman's observation is correct. The committee is presently considering title XI; and if and when there are no further amendments

to title XI, it will be proper to offer an amendment, adding a new title.

Mr. HARRIS. I thank the Chair.

AMENDMENT OFFERED BY MR. COLLINS OF TEXAS

Mr. COLLINS of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COLLINS of Texas: Page 384, line 18: strike out "Act." and insert in lieu thereof the following: "Act, except that no part of any appropriation contained in this Act may be obligated or expended in connection with the issuance, implementation, or enforcement of any rule, regulation, standard, guideline, recommendation, or order which includes any ratio, quota, or other numerical requirement related to race, creed, color, national origin or sex, and which requires any individual or entity to take any action with respect to (1) the hiring or promotion policies or practices of such individual or entity, or (2) the admissions policies or practices of such individual or entity.".

Mr. COLLINS of Texas (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. COLLINS of Texas. Mr. Chairman, my amendment would deny funds for the purpose of initiating or continuing appointment or promotion programs based on criteria other than merit, as defined in the merit system principles of title I of this bill. The language of this amendment is virtually identical to that which the House accepted last June to H.R. 12929, the Labor-HEW appropriations bill, by a vote of 232 to 177. We have already spoken on this issue, and I believe we should make it clear, by adopting this amendment, that we are not altering our position in any way.

Specifically, this amendment would cut off funds for the so-called Sugarman plan to ignore merit principles and appoint Federal employees on what can only be called a quota basis. This amendment is necessary to preserve the essence of merit principles; namely, that Federal positions should be filled by the best qualified applicant, regardless of sex, or racial or ethnic background.

This bill states, in title I on page 133 and 134, that:

> * * * recruitment should be from qualified vancement should be determined solely on endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills.

My amendment would emphasize the crucial word "solely." In approving this amendment we would not be forbidding the search for qualified personnel from every segment of society, but we would deny funds to any initiative which implies that each of these segments should be represented, without regard to merit, on the Federal civilian payroll.

Because the Federal work force is responsible to all the people, and not merely to those of a particular racial or ethnic background, job appointments should go to the best qualified applicant and to no one else. We must choose between a quota system which would parcel out Government jobs to special groups in accordance with the latest census and a Federal civil service which administers all the people's laws and embodies the best available talent for each job.

My amendment would not affect the veterans preference laws and regulations established over the years and embodied in title III of this bill. Veterans' preference status is not a prejudicial exemption from merit principles, because the preference itself is based on meritorious service rendered to the Nation by persons of all backgrounds.

Mr. Chairman, I urge my colleagues to affirm the ideals which prompted them to deny taxpayer funds to quota systems within the HEW-Labor appropriations. I urge the House to accept this amendment.

SUGARMAN PLAN

One of the great strengths of our Civil Service System in the Federal Government is the removal of Government workers from partisan political influence.

The 19th century gave us numerous examples of the abuses when employment by the Federal Government was used as a political reward. Political connections, not qualifications, became the main factor in determining whether one individual or another secured a job or whether a person remained in a Government job or lost a Government job. The latter part of the 19th century brought us reform through the Pendleton Act, a measure which replaced the old spoils system with merit considerations for Federal employment. Stemming from political pressures on Federal employees in the 1930's, the Hatch Act was enacted. This measure prohibited Federal employees from participating in partisan political activities and served as a "bill of rights" to protect Federal employees from political pressures. The debate and discussion last year over changing the Hatch Act raised the issue of maintaining Federal employment free from political influence and political pressure.

Another grave threat to merit Federal employment surfaced last December when Washington, D.C., newspapers carried stories of a Civil Service Commission proposal to create a special emphasis program (SEP) or the so-called Sugarman plan which would apply to Federal civil service employees. The special emphasis program, in order to carry out the Federal Government's affirmative action program under title VII of the Civil Rights Act, would remove civil service coverage from a sizable number of middle and upper level Federal jobs. These jobs, specifically set aside for women, black Americans, Hispanic Americans, and other minorities, could be secured by the applicants without the necessity of these individuals taking competitive examinations with other Federal job applicants. This special class could be hired for these positions without regard to the regular civil service job registers and, once hired, could secure regular civil service status after 2 years.

The Civil Service Commission would have the power to determine the types of positions throughout the Federal Government which would be included in the program. The initial determination of the number of jobs set aside would come from a determination of the percentage of women and minority group members in the national work force as compared to the Federal Government in each job category. Women and minority group members graduating college and ready to enter the Federal work force would have these jobs set aside for them without having to take civil service exams. It could be possible that agencies could fill up to 20 percent of these jobs on a noncompetitive basis. The Civil Service Commission approved this approach in principle on December 21, 1977. A U.S. Civil Service Commission Bulletin of March 6, 1978, noted that the special emphasis program or Sugarman plan is testing "a 5-year experimental program the kinds of innovations and flexibilities that are essential to the further success of meaningful programs of affirmative action in the Federal Government." It noted that the results would be thoroughly evaluated "to determine whether it produces employees of equivalent competence to those hired through existing methods while at the same time lessening the adverse impact on women and minorities."

During the few months when this program first came to public attention, careful observers have taken a closer look at the implications of such a plan which would tamper with the very essence of our present civil service system—merit selection for Government jobs. Proponents insist merit considerations would be protected but the very procedure leaves this very much in doubt. Racial, sexual, and/or economic and social background will become the predominant consideration for filling these civil service positions and thus relegating merit to a secondary, or even an insignificant role. Civil Service Commission Chairman Alan K. Campbell and the plan's author, Civil Service Commission Vice Chairman Jule Sugarman, support the measure. It is being promoted as the Government's plan to promote "affirmative action" in Federal employment.

We should look at some of the obvious problems with the Sugarman plan and consider carefully if we wish to allow the Civil Service Commission to take this monumental change affecting Federal employment.

The removal of a large number of civil service jobs from competitive examinations would open up the possibility that jobs removed from merit competition could become political patronage positions. Jobs could be distributed to women and minority members for political favors performed, rather than as part of a procedure to eliminate discrimination. Thus, we would be granting governmental officials a wide discretionary power to appoint individuals to civil service positions without any merit test. An unscrupulous administration or a politically motivated administration could easily manipulate the system to fill governmental positions on a strictly partisan basis. Merit would be put aside under the guise of carrying out an "affirmative action" program. We need to avoid the opening of loopholes which once again could "politicize" governmental service.

Since those individuals under a Sugarman plan would be brought into Government at middle and upper levels for jobs, it would have a demoralizing job reaction since avenues of promotion would be restricted or closed off for those employees who are already in governmental service under the merit system. This limited access to promotion for merit civil service employees would hurt the very people designed to be aided by the Sugarman plan—women and members of minority groups.

Suspicion would become prevalent in the Federal employment system that certain individuals made their way to the top through merit while others made their way to the top through preferential treatment. We would have the establishment of two separate classes in governmental service. Two different standards would prevail with women and minority members being on the defensive to "prove" their merit. This plan would increase "racial consciousness" or "sexual consciousness" rather that diminish it.

There is also the very real problem of constitutionality which a Sugarman plan would raise. The Antidefamation Leauge, for example, has already served notice that it would challenge the plan in court charging that it would "inevitably lead to a constitutional confrontation on the issues of due process and equal protection." The Sugarman plan is doing exactly what it proposes to eliminate—authorizing discrimination on the basis of sex and race for Federal employment. The Civil Service Commission's Sugarman plan would not eliminate discrimination; it would promote, perpetuate, and encourage discrimination as part of the Civil Service system.

Although we are in agreement seeking to provide equal opportunity for all, this program would not accomplish the objectives its proponents seek.

We do not need nor do we want a Sugarman plan for the Federal Government service.

It would perpetuate discrimination.

It would upset the merit system in the Federal Government.

It would hurt, not help, women and members of minority groups.

Presently, the Civil Service Commission has postponed implementation until further hearings and further comment from the public. The proposed Sugarman Plan is alive and well and only has been postponed from its original June 1, 1978 implementation date.

I wish to point out to my colleagues the very perceptive comments on the special emphasis program or Sugarman Plan which is contained in the Department of Defense appropriation bill (1979) report (House Report 95–1398, page 84). It noted that while competitive programs needed to be reviewed on a continuous basis to insure freedom from bias, it added that aspects of the Sugarman Plan as presented "appear to violate not only longstanding traditions of selection based solely upon merit, but would open the Federal employment process to the very types of discriminatory abuses that the special emphasis program purports to eliminate." I quote directly from the report which discusses the problem that the Sugarman Plan would create in the Department of Defense:

> The Committee is concerned that if this "experiment" is tested in the Department of Defense, up to 200,000 jobs would be unprotected by the merit system, and could conceivably be filled on the basis of discrimination because of race, sex, national origin, religion, age, marital status, or handicapped condition. This plan also states that the granting of schedule A authority is permissive and would not require the agency to use the authority nor to select any specific number or type of individuals under the authority. In other words, a suspension of merit procedures could take place even if specific discriminatory practices did not exist, and even if discrimination were occurring, the expanded authority could be used to continue or even broaden the discrimination outside of established merit practices. Consequently, it is the expressed intent of this Committee that the Special Emphasis Program or any other new program of a similar nature without adequate non-discrimination and merit safeguards not be implemented or tested within the Department of Defense.

It is clear that the Sugarman Plan would not only create problems for merit service in the Department of Defense but all other Government agencies which would adopt this dubious "affirmative action" proposal. It is essential that we in the Congress protect the integrity of the merit aspects of the Civil Service System.

As a remedy for this threat to Federal merit employment, I am introducing a concurrent resolution which states clearly that in seeking to implement title VII of the Civil Rights Act of 1964 or any other law promoting equal employment it is the sense of Congress that the objective of equal employment does not require excepting positions from the competitive service in the Federal civil service and that compliance with such provisions should be accomplished by means which do not require adjusting the standards for examination, certification, and appointment in the Federal civil service.

It is time that we in Congress make our stand clear and resist some of the absurd and inane activities which go on under the name "affirmative action." While we support nondiscrimination and merit employment, we should not provide special privileges under an "affirmative action" program—special privileges which would undermine our Federal merit system and seriously erode the rights of all Federal employees.

I urge my colleagues to take speedy action in adopting this concurrent resolution which opposes a weakening of our Federal merit system for Government employment. The adoption of this resolution would reaffirm our commitment to merit employment for all regardless of race, color, creed, or sex.

Mr. FORD of Michigan. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, I would like to say to the gentleman from Texas at the outset that I am as strongly opposed to what I know about the alleged Sugarman plan as I think the gentleman is and probably for the same reasons. As a member of the committee, I will stand with the gentleman to consider anything that becomes necessary should they attempt to do anything as silly as I believe the proposal, from the limited knowledge I have, is. I think it would turn the Federal work force inside and out and destroy morale completely.

On the other hand, I am constrained to oppose the amendment, because I am afraid it goes much further than dealing specifically with that kind of a scheme.

We cannot really understand what the last two numbered sentences in the amendment mean; for example, denying the use of money for "the hiring or promotion policies or practices of such individual entity, or the admissions policies or practices of such individual entity."

That sounds like you might not be able to even engage in a recruitment plan to try to recruit minorities or try to recruit more women into a particular field or something of that kind, certainly something none of us would disagree with, and certainly not in the same ball park as the Sugarman plan.

On the other hand, it indicates a Federal official could not even make a recommendation with regard to Executive action.

As the gentleman from Arizona has indicated, we have imposed on the citizens of this country in an attempt to assure fair play for all citizens, regardless of race, creed, color or sex, Federal statutes that have been necessary by the fact that not everybody in our society always plays fair one with another. I do not think we want to go on record her as saying that we tell private enterprise to play by one set of rules with respect to their treatment of minorities, whether by race, creed, color or sex, and we are going to have a different set of rules for the Federal Government. If anything, we should be willing to go a step further than we ask private enterprise to go.

The EEOC law, for example, is made applicable to Federal employees. I read the gentleman's amendment to say that in spite of the fact that Federal managers have an obligation under the law that we pass on one day to enforce equal employment opportunity under that law, that they, nevertheless, would be prevented from doing their duty under that law by this provision.

Clearly, if we adopt this amendment, it would end up in court rather quickly. Perhaps if the House is ready to surrender its legislative judgment to the all-omnipotent Supreme Court across the way, we ought to vote for the amendment.

For myself, I think we ought to make

these decisions ourselves. For that reason, I oppose the gentleman's amendment and reassure the gentleman that I will be standing at his side should Mr. Sugarman try to get his plan through here.

I would like to point out to the gentleman from Texas an amendment that I offered during committee markup and which was passed. This amendment requires the office of personnel management to collect on a monthly basis job opening announcements from Federal Government agencies and to make this information available to the U.S. Employment Service. One of the greatest problems for all Americans seeking jobs with the Federal Government, but in particular for minorities, women and other underrepresented groups in the Federal workforce, is simply identifying job openings for which they might wish to apply.

In this age of computers and technology the dissemination of such material should have been provided long ago. We require the private employer to register job openings with the employment service and now under my amendment we will apply the same standard to the Federal Government. This small, but potentially significant change, will do more, I believe, in opening up competition for Federal jobs to all Americans. And this change will be viewed by all Americans as being a fair and logical way of dealing with our problems, as opposed to the so-called Sugarman Plan.

Mr. COLLINS of Texas. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Texas.

Mr. COLLINS of Texas. Mr. Chairman, would the chairman and the gentleman from Arizona assure us they will take the Sugarman plan and handle it as a separate piece of legislation? I realize it is too late this session, but do they believe we could face this issue early next year?

Mr. FORD of Michigan. The best information I have is that wiser counsel has prevailed and that is not a viable probability at this time, anyhow.

Mr. COLLINS of Texas. Mr. Chairman, if the gentleman will yield further, it will not come up this year.

Mr. UDALL. Mr. Chairman, if the gentleman will yield, my views are consistent with those of the gentleman from Michigan with regard to the merits of the Sugarman plan. I will stand with the gentleman to head that plan off or anything that has the same effect it has; but I am generally in accord with the analyses and the principle of the gentleman from Michigan.

Mr. COLLINS of Texas. Mr. Chairman, based on that assurance, I ask unanimous consent to withdraw this amendment so that it can be handled as a separate issue at a later time.

I put that in the form of a unanimous-consent request at this time.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas (Mr. COLLINS) to withdraw the amendment?

There was no objection.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: Page 385, after line 5, insert the following new section:

RETENTION OF SECURITY INVESTIGATION REPORTS

SEC. 1105. Except as may be provided under any law enacted after the date of the enactment of this Act—

(1) the reports of the investigations conducted under section 1304 of title 5, United States Code, by the Office of Personnel Management (or previously conducted under such section by the Civil Service Commission), and

(2) the security-investigations index required to be established under Executive order numbered 10450, and the reports and files of all investigations covered by the index and which were prepared by the Office or the Commission, including the Security Research Analysis Section Organizational Files,

shall be maintained in accordance with the provisions of such Executive order.

Mr. ASHBROOK. Mr. Chairman, throughout this debate my colleague and friend, the able gentleman from Arizona (Mr. UDALL), who is heading this bill to passage through this body, has continually stated that amendments should not be adopted without careful study. I tend to agree with that.

The purpose of this amendment is to prevent the Civil Service Commission from doing something without further study or until the action of this Congress. So I think the amendment is in the spirit of what the gentleman from Arizona (Mr. UDALL) has repeated time and time again.

I call the attention of the Members, although they probably are aware of it—at least those who are on the oversight Subcommittee on Civil Service—to hearings in the U.S. Senate on February 9, 1978. In those hearings they received the testimony of Mr. Campbell and of Robert J. Drummond, who is the head of the Bureau of Personnel Investigations in the Civil Service Commission. They clearly indicate the Civil Service Commission is proceeding with destroying all previous security files without the express authorization of Congress. That is precisely what I am trying to prevent. All I am saying is that we should retain all security investigation reports until the Congress decides on their disposition.

The purpose of this amendment, therefore, is simply to protect until further congressional review of the security files used by the Civil Service Commission in establishing the suitability of applicants for Federal service or for continued Federal employment.

The present Federal employee security program was established in 1953 by Executive Order 10450, which may soon be superseded by another Executive order now before the OMB. That may, of course, take care of this situation. Regardless of the provisions of another Executive order, all reports, files, and other materials maintained under EO-10450 should not be disposed of until Congress by statute makes provision for such materials.

There is a compelling justification for this amendment. In February of this year the Senate Subcommittee on Criminal Laws and Procedures had as a witness the Chairman of the Civil Service Commission, who informed the subcommittee—and I am sure the Members have read it—that the Commission intended to destroy organizational security files used in the Federal security program. Although the proposed action was subsequently postponed, the subcommittee chairman and the ranking minority member charged that—and I quote:

> Over the past five years or so, without the knowledge of Congress and contrary to statutory requirement and the Commission's own regulations, there has been a progressive dismantling of the Federal Employee Security Program—until today, for all practical purposes, we do not have a Federal Employee Security Program worthy of the name.

Again let me state that was the statement of the chairman and the ranking minority member.

Recent cases of terrorism and espionage point up the increasing dangers to free world governments from without and from within. My amendment, while not getting into the whole security issue and not suggesting there should be more security checks, simply says those records on file should not be destroyed until the Congress determines in its own wisdom what should be done with them.

As the Members might recall, we dismantled the Internal Security Committee, and the Congress directed that the files be turned over to the Archives, to be sealed for, I believe, something like 50 years.

Mr. Chairman, my amendment would prevent any further destruction of employees' security records until Congress can take another look. I urge the support of the Members of my amendment.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I would be glad to yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, there is concern on our side about the actual effect of this amendment.

On the one hand, I can see the argument the gentleman makes that the files ought to be retained until an orderly decision can be made under the Executive order as to their disposition. Certainly I would have no quarrel with that purpose.

On the other hand, it is believed on this side that perhaps the gentleman would inadvertently or maybe advertently amend the Privacy Act produced by the Government Operations Committee in a way that would deny individuals access to certain charges and information in their files, information that is now available to them under the Privacy Act as it was passed.

Does the gentleman intend just the preservation of the record, or is the gentleman trying to dispose of the access?

Mr. ASHBROOK. In response to my colleague's question: frankly, in looking at the amendment, I do not see how that would happen. That certainly is not my intention. The last part of the amendment says "* * * shall be maintained in accordance with the provisions of such Executive order."

I am only talking about preventing the destruction of files. As to the section the gentleman is talking about, I believe is section (E)(7) of the Privacy Act, I do not in any way intend to impinge in any way on the Privacy Act. My amendment

is merely to make sure they are not destroyed.

Mr. UDALL. If the gentleman will yield further, the interpretation comes from the use of the word "maintain," which means you maintain and make them accessible, and so on, in accordance with the law. Well, if you do that, you would tend to overrule the Privacy Act.

Would the gentleman use the words "disposed of" instead of "maintained"?

Mr. ASHBROOK. Shall not be destroyed, that is the intention. With that explanation, I would accept the gentleman's suggestion.

Mr. UDALL. Mr. Chairman, I ask unanimous consent that in the second line from the bottom of the gentleman's amendment the word "maintained" be changed to "disposed of."

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Chairman, with that change, I would accept the amendment.

Mr. ASHBROOK. I thank my colleague.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK), as modified.

The amendment, as modified, was agreed to.

AMENDMENT OFFERED BY MR. TRIBLE

Mr. TRIBLE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRIBLE: Page 390, insert after line 18 the following:

PREVAILING RATE EMPLOYEES; NIGHT DIFFERENTIAL

SEC. 1107. (a) Section 5334 of title 5, United States Code, is amended by adding at the end thereof the following:

"(g) A prevailing rate employee, as defined in section 5342(a)(2) of this title, who together with his position is brought within the purview of this subchapter and chapter 51 of this title at any time on or after January 1, 1966, and who within one year before, but not at the time of, such personnel action was receiving night differential on a regular night shift tour worked on a rotational basis or at regularly scheduled intervals or on an irregular basis shall be entitled to inclusion at the time of such personnel action of such night differential as a part of his basic pay, as a result of conversion to the General Schedule, to the same extent as if he was receiving such night differential on a regularly scheduled night shift at the time of such conversion.".

(b) The amendment made by this section shall apply with respect to pay periods beginning before, on, or after the effective date of this section. Any sums to which an individual is entitled under this section for pay periods ending before the effective date of this section and which have not been paid to such individual shall be paid to such individual in a lump sum.

Revise the table of contents accordingly.

Mr. TRIBLE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. TRIBLE. Mr. Chairman, I rise to offer an amendment to correct a gross injustice affecting 47 employees of the Langley National Aeronautics and Space Administration (NASA) at Hampton, Va. These hard-working individuals were the victims of an oversight in the laws governing the conversion of Wage Board to GS or General Schedule.

During the late 1960's and early 1970's, NASA converted the pay of many technicians at the Langley Research Center from Wage Board Schedule to General Schedule. Unfortunately, the method by which the General Schedule salaries were calculated left 47 of these employees earning less than their similarly situated coworkers.

These NASA workers rotate between three standard shifts—day, evening, and graveyard. A typical schedule would find employees working 1 week from 8 a.m. to 4 p.m., the next week from 4 p.m. to midnight, and the third week from midnight to 8 a.m. At the same time, other employees would rotate according to other schedules among the three shifts.

For working the day shift, employees would be paid the standard base pay for their positions. When employees worked the evening or second shift, they got the same base pay as the day crew plus an additional 7½ percent. When these employees worked the last shift, they received the base pay plus 10 percent. Thus, over a period of several weeks, the pay of one of these technicians could vary in a day to day comparison by as much as 10 percent, depending on which particular shift the employee was working on the days in question.

Unfortunately, when NASA decided to convert these employees from wage board to GS pay, the regulations for conversion did not allow for the unique rotating schedules which these technicians worked. Instead of averaging the pay of these employees over a true earning period, NASA converted their pay based on their earnings for a randomly selected day. As a consequence, the new salaries for many of these technicians significantly understated their true previous earnings. The inequity was most acute for those employees working the first shift on the day selected as the base date for converting the wages. These unfortunate workers received no credit for working a shift with a night differential of 7½ percent or 10 percent.

When the local employee representatives questioned the fairness of this practice, they were given sympathy but no additional pay for the affected employees.

I am here today seeking that back pay and an adjustment in the wages of these employees to assure they are paid properly in the future.

I am assured that the situation at the NASA Langley facility is unique—no other Federal employees have been similarly mistreated. Therefore, this one time only payment of back wages and adjustment in present salaries would cost no more than $300,000.

I realize some of my colleagues may support the purpose of this amendment but question the appropriateness of adding it to this bill. I can understand these reservations. However, I am also concerned that a "good time" for this amendment may never come.

This problem has existed for some of these employees since 1966. A number of the employees have retired and others have died waiting for more equitable treatment from their Government. In 1975, my predecessor, Congressman Thomas Downing, introduced a bill almost identical to the amendment under consideration, but no action was taken on it. Likewise, I introduced the same bill in this Congress and the press of other subcommittee business has prevented any action on it.

Mr. Chairman, I believe 12 years is long enough for these people to wait for a proper recalculation of their wages. I urge the adoption of this amendment.

Mr. LEACH. Mr. Chairman, will the gentleman yield?

Mr. TRIBLE. I yield to the gentleman from Iowa.

Mr. LEACH. I thank the gentleman for yielding.

Mr. Chairman, I have carefully looked over the amendment offered by the gentleman from Virginia (Mr. TRIBLE), and in the event it is deemed inappropriate for consideration at this time, I would be hopeful that the Subcommittee on Compensation and Employee Benefits of the Committee on Post Office and Civil Service will hold early hearings on the subject. Clearly this inequity should be corrected.

Mr. TRIBLE. Mr. Chairman, I thank the gentleman from Iowa for his comments.

Mrs. SPELLMAN. Mr. Chairman, will the gentleman yield?

Mr. TRIBLE. I yield to the gentlewoman from Maryland.

Mrs. SPELLMAN. I thank the gentleman for yielding.

Mr. Chairman, let me commend the gentleman for attempting to address what may very well be an instance of discrimination. I would pledge to the gentleman that at a very, early date we will take up this question. I do not believe that it belongs here in this bill, but I do want to commend the gentleman for addressing the matter. You can be sure we will attempt to assist in looking into the problem—in fact, you have my pledge to do so.

Mr. TRIBLE. I thank the gentlewoman for those words of commitment.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. TRIBLE. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I commend the gentleman for his concern about the possible injustice to these employees, and certainly, if it has merit, after study I would join him in trying to redress this inequity.

Mr. Chairman, I have been fighting here these past few days to keep from loading up the bill. I have been trying to unload Christmas tree ornaments.

Mr. TRIBLE. Mr. Chairman, if I might reclaim my time, based on the commitment of the gentlewoman from Maryland (Mrs. SPELLMAN), I would ask unanimous consent to withdraw this amendment.

Mr. UDALL. Mr. Chairman, I thank the gentleman for doing that.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The CHAIRMAN. Are there further amendments to title XI?

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: On page 390 after line 14, insert a new section 1106 and renumber accordingly:

"SEC. 1106. All employees covered by this act who are compensated at a pay grade in the General Schedule of Grade 13 or above shall be limited in outside earned income to not more than fifteen percent of their salary."

Mr. ASHBROOK. Mr. Chairman, members of the committee, a few moments ago I indicated that our friend and colleague from Arizona had indicated time and time again in opposing amendments that matters had not come before the committee, that they were new and not thought over. Yet, as legislators there are certain matters before the legislative body that are almost generic. We know what we are talking about when we have sunset laws. We know what we are talking about when we have earnings limitations. These are general matters that we apply broadly so I think we can debate those matters in the context of how we apply these same standards, these same provisions, to other bills, to other legislation before this body.

I do not believe I need to take 5 minutes to tell the Members what I am doing. I am simply saying, as a part of this reform movement, as a part of this new era, everybody says that Congressmen and high executives should have full-time jobs and limitations on outside income. All I am saying is that I think most Members would agree that if one is in the general schedule of grade 13 and above—I pick grade 13, because that is roughly $26,000 per year—one should be a full-time employee and one's outside earned income—I put the word "earned" in just as we have it applied to us—should be limited to 15 percent of the salary.

I think it is a matter of equity and fairness. The facts of life are that we all know that some of the lower-grade employees probably do moonlight. It is probably necessary. That is why I picked grade 13. I do not think we should apply the 15-percent standard to an employee coming on the job at $8,000, $9,000, or $10,000 a year with family obligations, if he wants to work and can work and can maintain the job. But at grade 13, or about $26,000 a year, I think it is proper at that point to have a limitation on outside earned income and that is precisely what this amendment would do.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague yielding to me. All the gentleman wants to do is apply the same standard that is applied to Members of Congress to people in grade 13 and above in the executive branch?

Mr. ASHBROOK. Precisely. That is the purport of this amendment.

Mr. ROUSSELOT. I think that sounds like an excellent idea. I do not think we have any reservations on this side.

Mr. ASHBROOK. I hope I get the same signal from the other side.

Mr. ROUSSELOT. They are all for reform.

Mr. UDALL. Mr. Chairman, I rise in opposition to the amendment.

I share the frustration of some of my colleagues on the subject of limitation on outside earned income, where rather heavy restrictions are imposed on Members of Congress and not on others in other branches of Government. We have been trying to avoid loading this bill up with pet grievances different Members have had. We have had considerable success.

May I point out three things to the gentleman from Ohio. One is that we had not a word of hearing on this in our deliberations in committee. There was no attempt to get the views of the Civil Service Commission, who would have to find some way to police and manage and control this situation. The second thing is, I would like to point out that this week the Ethics in Government Act is up, and it is before us for consideration. It would be a much more appropriate time and place to consider this matter in an orderly kind of way. The third thing I wanted to point out is that there is an Executive order on this question which, among other things, prohibits Federal employees from engaging in outside employment which is incompatible with the full and proper discharge of their duties and responsibilities, and it goes on to list some of the restrictions and constraints. That goes clear back to the Johnson administration.

So, I hope the gentleman would not ask us to legislate hastily at this time on this important side issue.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Ohio.

Mr. ASHBROOK. As to the matter of the ethics bill, I fully intend to offer this amendment to the ethics bill. It does seem, in the context of reform of the civil service, that it is an appropriate time at this point. I would only repeat my statement, that there are some things that are almost generic by nature.

And outside income is one. But I think every Member knows whether he wants to apply it specifically or generally, or use a shotgun or a rifleshot. So I do not think I am throwing in a ringer. I would hope my colleague would support it. I can understand why he might not, but I hope my colleagues will support it.

Mr. UDALL. I think under other circumstances I would be prepared to support an amendment of this kind but not on this bill at this time.

Mr. BAUMAN. Mr. Chairman, if the gentleman will yield, at the risk of cracking the conservative monolith on this side of the aisle, I would have to agree with the gentleman from Arizona that this amendment is inappropriate. For one thing it obviously should be amended to permit income from books civil servants might write or income from stock dividends or inheritances or various other incomes such as Members of Congress enjoy under House rules. We would not want to just apply an income limit to the income of working stiffs, but also to insurance income and dividends from stocks and bonds. Such outside income should have an exemption as is granted to our wealthy House colleagues.

I hope when the so-called Quillen amendment is offered to the ethics bill that the gentleman from Alabama and I would also agree that outside income should not be limited.

Mr. UDALL. Mr. Chairman, the gentleman from Maryland and I would stand stalwartly together on that.

Mr. ASHBROOK. Mr. Chairman, my friend, the gentleman from Maryland, went astray on this. I said in this the outside earned income, and the stock dividends, and other income to which the gentleman referred would be eliminated. It would be as for congressmen. It will say "earned income." It would apply to earned income.

Mr. BAUMAN. Let us reason together in private. I think we can work this out.

Mr. FORD of Michigan. Mr. Chairman. I move to strike the last word.

Mr. UDALL. Mr. Chairman, this is the greatest shock to the Nation's political system since Reagan picked SCHWEIKER to be his running mate.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count for a quorum.

Mr. UDALL. Mr. Chairman, if the gentleman will withdraw his point of order, I will join him in requesting a recorded vote.

Mr. ASHBROOK. Mr. Chairman, I withdraw my point of order.

The CHAIRMAN. The point of order has been withdrawn.

The gentleman from Ohio (Mr. ASHBROOK) demands a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 134, noes 254, not voting 44, as follows:

[Roll No. 765]

AYES—134

Abdnor	Byron	Duncan, Tenn.
Ambro	Carr	Edwar
Andrews, N.C.	Cavanaugh	Edwards, Okla.
Andrews, N. Dak.	Cederberg	Emery
	Clausen, Don H.	Evans, Ga.
Applegate		Evans, Ind.
Archer	Cohen	Fascell
Ashbrook	Corcoran	Fenwick
Aspin	Cornell	Fithian
AuCoin	Cornwell	Flippo
Bafalis	Cotter	Flynt
Baldus	Crane	Fountain
Barnard	D'Amours	Fowler
Bedell	de la Garza	Frey
Blouin	Delaney	Gammage
Bonior	Derrick	Gephardt
Brinkley	Devine	Ginn
Burleson, Tex.	Dickinson	Green

Gudger	Miller, Ohio	Schulze
Hagedorn	Minish	Sharp
Hall	Moffett	Smith, Nebr.
Hamilton	Moore	Spence
Harkin	Mottl	Stangeland
Hefner	Murphy, Pa.	Stratton
Hillis	Myers, Gary	Studds
Hollenbeck	Neal	Thone
Ichord	Nolan	Traxler
Ireland	Oberstar	Tucker
Jacobs	Obey	Vanik
Jenkins	Panetta	Vento
Johnson, Calif.	Pepper	Volkmer
Jones, N.C.	Pickle	Walker
Jones, Okla.	Poage	Watkins
Kelly	Pressler	Weaver
Kildee	Regula	Weiss
Kostmayer	Reuss	Whitley
Latta	Rhodes	Wilson, Bob
Leach	Roberts	Wilson, C. H.
Levitas	Robinson	Wolff
Lundine	Rogers	Wylie
McHugh	Rose	Yatron
Maguire	Rousselot	Young, Fla.
Mahon	Rudd	Young, Mo.
Marlenee	Santini	Zablocki
Marriott	Sawyer	
Martin	Schroeder	

NOES—254

Addabbo	Erlenborn	McDade
Akaka	Ertel	McDonald
Alexander	Evans, Colo.	McEwen
Anderson, Calif.	Evans, Del.	McFall
	Findley	McKay
Anderson, Ill.	Fish	Madigan
Annunzio	Fisher	Mann
Ashley	Flood	Markey
Badham	Florio	Marks
Baucus	Foley	Mathis
Bauman	Ford, Mich.	Mattox
Beard, R.I.	Ford, Tenn.	Mazzoli
Bellenson	Forsythe	Meeds
Benjamin	Fuqua	Meyner
Bennett	Garcia	Michel
Bevill	Gaydos	Mikulski
Biaggi	Giaimo	Mikva
Bingham	Gilman	Milford
Blanchard	Glickman	Mineta
Boggs	Goldwater	Mitchell, Md.
Boland	Gonzalez	Mitchell, N.Y.
Boling	Goodling	Moakley
Bonker	Gore	Mollohan
Bowen	Gradison	Montgomery
Brademas	Grassley	Moorhead, Calif.
Breckinridge	Guyer	
Brodhead	Hammer-schmidt	Moorhead, Pa.
Brooks		Moss
Brown, Calif.	Hanley	Murphy, Ill.
Brown, Mich.	Hannaford	Murphy, N.Y.
Broyhill	Hansen	Murtha
Buchanan	Harrington	Myers, John
Burgener	Harris	Myers, Michael
Burke, Mass.	Harsha	Natcher
Burlison, Mo.	Heckler	Nedzi
Burton, John	Heftel	Nichols
Burton, Phillip	Hightower	Nix
Butler	Holland	Nowak
Carney	Holt	O'Brien
Carter	Holtzman	Oakar
Chappell	Horton	Ottinger
Chisholm	Howard	Patten
Clay	Hubbard	Patterson
Cleveland	Hughes	Pattison
Coleman	Hyde	Pease
Collins, Tex.	Jeffords	Perkins
Conable	Jenrette	Pettis
Conte	Jones, Tenn.	Pike
Conyers	Jordan	Preyer
Corman	Kastenmeier	Price
Coughlin	Kazen	Pritchard
Cunningham	Kemp	Quayle
Daniel, Dan	Keys	Quillen
Daniel, R. W.	Kindness	Rahall
Danielson	Krebs	Railsback
Davis	LaFalce	Rinaldo
Dellums	Lagomarsino	Rodino
Dent	Le Fante	Roe
Derwinski	Lederer	Roncalio
Dicks	Leggett	Rooney
Diggs	Lent	Rosenthal
Dingell	Livingston	Rostenkowski
Dodd	Lloyd, Calif.	Roybal
Dornan	Lloyd, Tenn.	Runnels
Downey	Long, La.	Ruppe
Drinan	Long, Md.	Russo
Duncan, Oreg.	Lott	Ryan
Early	Lujan	Satterfield
Eckhardt	Luken	Scheuer
Edwards, Ala.	McClory	Sebelius
Edwards, Calif.	McCloskey	Seiberling
Eilberg	McCormack	Shipley
Shuster	Steed	Walgren
Sikes	Steers	Walsh
Simon	Steiger	Wampler
Skelton	Stockman	Waxman
Skubitz	Stokes	Whalen
Slack	Symms	White
Smith, Iowa	Taylor	Whitehurst
Snyder	Thompson	Wilson, Tex.
Solarz	Thornton	Winn
Spellman	Tribie	Wright
St Germain	Udall	Wydler
Staggers	Ullman	Yates
Stanton	Van Deerlin	Zeferetti
Stark	Waggonner	

NOT VOTING—44

Ammerman	Fraser	Richmond
Armstrong	Frenzel	Rosenhoover
Beard, Tenn.	Gibbons	Sarasin
Breaux	Hawkins	Sisk
Broomfield	Huckaby	Stump
Brown, Ohio	Johnson, Colo.	Teague
Burke, Calif.	Kasten	Treen
Burke, Fla.	Krueger	Tsongas
Caputo	Lehman	Vander Jagt
Clawson, Del	McKinney	Whitten
Cochran	Metcalfe	Wiggins
Collins, Ill.	Miller, Calif.	Wirth
English	Pursell	Young, Alaska
Fary	Quie	Young, Tex.
Flowers	Rangel	

Mr. FLORIO and Mr. SKUBITZ changed their vote from "aye" to "no."

Messrs. ROBERTS, EDGAR, CRANE, GAMMAGE, VENTO, and CORNWELL changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there other amendments to title XI?

If not, are there other amendments to the bill?

AMENDMENT OFFERED BY MR. HARRIS

Mr. HARRIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARRIS: Page 390, after line 18, insert the following new title.

BASIC WORKWEEK OF FIREFIGHTERS

SEC. 1201. (a) Chapter 61 of title 5, United States Code, relating to hours of work, is amended by inserting after section 6101 the following new section:

"§ 6102. Basic workweek of firefighters

"(a) The regularly scheduled administrative workweek of each firefighter shall be an average of 56 hours per week, computed on the basis of a period of 21 consecutive days. The duration and frequency of work-shifts occurring within such period shall be determined under regulations prescribed by the Office of Personnel Management.

"(b) For the purpose of this section 'firefighter' means an employee in an Executive agency, the duties of whose position are primarily to perform or to supervise work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment. Such term does not include any employee who has a regularly scheduled administrative workweek of 40 hours which is established under section 6101(a)(2)(A) of this title."

(b)(1) Section 5545 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(e)(1) Each firefighter with a regularly scheduled administrative workweek established under section 6102(a) of this title shall be entitled, in lieu of premium pay provided by other provisions of this subchapter (other than premium pay provided in paragraph (2) of this subsection), to premium pay equal to 25 percent of so much of his annual rate of basic pay as does not exceed the minimum rate of basic pay for GS-10.

"(2) Hours of work officially ordered or approved in excess of the regularly scheduled administrative workweek established under section 6102(a) of this title are overtime work and shall be paid for in accordance with the rates specified in section 5542 of this title.

"(3) For the purpose of this subsection, 'firefighter' has the meaning set forth in section 6102(b) of this title.".

(2) Section 5545(c)(1) of title 5, United States Code, is amended by inserting ", unless subject to subsection (e) of this section," after "shall receive".

(3) Section 5547 of title 5, United States Code, is amended by striking out "sections 5542, 5545(a)-(c), and 5546(a), (b)" and inserting in lieu thereof "sections 5542, 5545 (a)-(c) and (e), and 5546 (a) and (b)".

(4) Sections 5595(c), 8114(e), 8331(3)(C), and 8704(c) of title 5, United States Code, are each amended by striking out "section 5545(c)(1)" and inserting in lieu thereof "section 5545(c)(1) and (e)(1)".

(c) The analysis of chapter 61 of title 5, United States Code, is amended by inserting after the item relating to section 6101 the following new item:

"6102. Basic workweek of firefighters.".

(d) The amendments made by this section shall take effect at the beginning of the first applicable pay period which begins at least 60 days after the date of the enactment of this Act.

Mr. HARRIS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. HARRIS. Mr. Chairman, I am offering this amendment which creates a new title to the bill. The amendment is identical to the former title X of the bill which was eliminated by a point of order against both titles IX and XI.

My amendment simply reduces the scheduled working hours of the Nation's 11,500 Federal firefighters from 72 hours to 56 hours. The amendment is identical to H.R. 3161 which the House passed on April 12 on a bipartisan vote of 241 to 129. The Senate passed the bill on a voice vote on June 5. The President vetoed the bill on June 19, 1978.

It has been argued that firefighters' premium pay should be reduced if their hours are reduced. It must be understood that premium pay is designed to compensate for irregular working hours. Under this amendment, firefighters would still be required to work Sundays and holidays, and the concept of premium pay is still valid. Additionally, the computations of our committee show that firefighters will actually lose income. The following comparison shows what the average Federal firefighter, a GS-5, step 4 ($10,955 per year) earns under current policies and would earn under this amendment:

I. 72-hour weekly tour of duty (present schedule):	
Base pay for 40 hours	$210.80
25 percent premium pay	52.70
FLSA overtime for 18 hours	33.94
Total	296.44

II. 56-hour weekly tour under H.R. 3161:

Base pay for 40 hours	210.80
25 percent premium pay	52.70
FLSA overtime for 2 hours	4.72
Total	268.22
Loss in FLSA overtime pay	28.22

Administration has said that this legislation would require the Department of Defense to hire 4,600 additional employees, at an annual cost of $46.7 million. The Congressional Budget Office's report to our committee says that for 1979, governmentwide, adding new firefighters would cost $24.3 million. I do not understand the higher figures.

Finally, it has been said that the legislation would impair the ability of agency heads to manage the work force. Many efforts have been made in recent years to get the agencies to modify hours—with no success. Additionally, no one has ever argued that the standard 40-hour week impairs the ability to manage the work force. Firefighters, under any workweek, would have to be "on call" and the bill would not change this. Finally, since most municipal firefighters work 56 and 54 hours a week, it is imperative that working conditions for Federal firefighters be competitive.

The result of the current schedule has unfortunately been frequent turnover. Last year, about 23 percent of Federal firefighters left their jobs. This means, in essence, that the Federal Government is a training ground for municipal firefighters and we are losing talented individuals to protect our VA hospitals, military and other Federal installations.

This amendment has three basic provisions: First. It provides that the regularly scheduled workweek shall average 56 hours per week over a 21-day period. This would mean that overtime work in excess of 56 hours could not be regularly scheduled. Second. It provides—as does current law— that each firefighter is entitled to 25 percent premium pay in lieu of all other premium pay under title 5 for the 56-hour week. Third. It clarifies the overtime pay provision and provides that each firefighter is entitled to overtime pay under title 5 for all official hours of work over the 56-hour per-week standards.

It has been argued that this bill is somehow a salary windfall for Federal firefighters. Our committee's research has shown that not only do municipal firefighters work shorter hours, they also earn at least $500 more per year. Or stated another way, Federal fireghters now work 33 percent more hours each week than municipals but receive only 12.5 percent to 23 percent more. There is one further point I would like to make. The Civil Service Commission's pay comparisons are with cities with over 10,000 in population. True comparability would compare firefighter salaries with the actual locality, like our Federal blue-collar local prevailing rate system. In other words, in areas like Washington, D.C.—large metropolitan areas—municipal salaries are much higher than in a community of 10,000. It is not fair to lump all municipal salaries together in this fashion.

There are currently 12,500 Federal firefighters in all but a dozen or so States. The Department of Defense is the largest employer of firefighters, with approximately 10,500. The Department of Transportation, the Nuclear Regulatory Commission, the Veterans Administration and other agencies employ the remainder. These firefighters provide important protection for many Federal installations, standing guard at defense bases, veterans hospitals, some civilian airports and other Federal establishments.

While some would like to portray the firefighter as one who "stands idle" much of the time, firefighters actually have a variety of duties, including fire prevention and other fire-related services. A Federal firefighter must maintain a proficiency in a variety of subjects, ranging from the combustibilty of materials to general air traffic control techniques. Firefighters are subject to hazard and are often required to work on Sundays and holidays. Our pay, benefits, and working hours policies should reflect the fact that firefighters must be compensated for their knowledge, ability and the considerable risk they incur in protecting lives and property.

It has also been argued that this bill would set up a special class of Federal employees, that other employees, like nurses and medical technicians have to work off-hours or nonstandard hours. To this I answer these other groups of Federal employees are not engaged in potentially hazardous work, like firefighters. And if we should take a look at all hours and pay policies for these various groups, I invite the Civil Service Commission to submit legislation to the Congress. Speaking as one member of the Post Office and Civil Service Committee, I am sure our committee would welcome a proposal.

This legislation has been the subject of complete hearings in the committees and in both Houses of Congress. I hope today we can end this debate, look at the facts and approve the amendment.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, legislation reducing the basic workweek of Federal firefighters is an irrelevant appendage to the civil service reform bill. The hours firefighters work and the compensation they receive have nothing to do with revamping and reinvigorating the Federal bureaucracy.

Legislation to reduce the workweek of the firefighters was vetoed by the President on June 19. In his veto message, the President said:

> In extending unwarranted advantages to them (firefighters) H.R. 3161 offends the ideals of fairness that should guide this administration. I am not prepared to accept its preferential approach.

There has been no attempt to override the President's decision which, when measured against the weight of evidence, was a sound and responsible action. Instead, the legislation was added to the reform bill as title X.

Researchers at the Library of Congress have been unable to find a similar instance in modern times where a congressional committee majority amended major legislation of its own administration by adding language already vetoed by the President.

President Carter's approach to civil service reform struck the proper balance between equity and effectiveness in attempting to make the Federal bureaucracy more manageable. The inclusion of this title in the bill is a disruptive influence. It should be severed from H.R. 11280 without further delay.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Virginia.

Mr. HARRIS. I thank the gentleman for yielding.

Mr. Chairman, did my colleague describe this as an anti-Carter vote? Is that the way my colleague feels that it should be interpreted?

Mr. DERWINSKI. No. I just describe this amendment as one that would be expected of the gentleman representing the district across the river. I understand it in that respect.

Mr. HARRIS. Mr. Chairman, I want to disabuse my colleague across the aisle that this is an anti-Carter vote. I am sure a number of people might interpret it that way. It is not that at all. Of course, it is overturning the President's veto. But it is not an anti-Carter vote. It is a way of expressing to him that Congress sometimes may be in disagreement with him. We love our President, but we do disagree with him on this one issue.

Mr. DERWINSKI. If the gentleman will allow me to point out, if the membership of the House, the individual Members, have read the President's veto, as I am sure that all 435 of us have, we naturally would support the President and not the gentleman from Virginia.

Mr. UDALL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will be very brief, and I hope our colleagues will stay around for just a few minutes more. We are now down, I think, to this amendment, and our friend, HERB HARRIS, wants to get us all on record in connection with his 5½-percent pay cap, which is his last contribution to this bill today. He is an extremely valuable friend of mine, and I wish him well in everything he does. But it has been very clear from the beginning that he does not want a bill. He has tried to sink this bill two or three times. We ruled out the Hatch Act early on, which was part of the Christmas tree ornaments. Having taken firefighters pay bill off of the Christmas tree, he wants to get them back on. He wants to get us on record on this, and we will determine in a minute whether we will have a record vote. Most of us voted for the firefighters' bill. I voted for it. I think the firefighters are entitled to relief. But you are not helping this bill if you put this on; you are going to sink the bill.

My friend from Virginia is not going to be for it if we put this amendment on it, and his next amendment, and his next five amendments on it. He is still not going to be for the bill. We have got a good bill now. We took the Christmas tree ornaments off in the beginning. Let us not start loading it back up again.

This amendment is a gratuitous slap at the President. When the veto came back there were not enough votes to override to have a vote. It was sent back to the committee. Now, the suggestion is that we take up the cudgels on this bill and have another vote.

We are going to find ways to help the firefighters in later legislation, but this is not the place to do it. We are not going to help them on a pretty good civil service bill.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate the gentleman yielding to me.

Is the gentleman telling us, then, that if this amendment passes—which, by the way, I also supported in committee—the bill will be vetoed?

Mr. UDALL. No, I do not think it will be vetoed, but we will have great difficulty down the road.

Mr. ROUSSELOT. So those who do support the concept of reducing the firefighter's workweek and who also support the Civil Service Reform Act do not endanger the bill by voting for the Harris amendment.

Mr. UDALL. I do not know what will happen from this point on. A lot of Members on the gentleman's side were very anxious not to bring this bill to the floor with the Hatch Act, so we devised a strategy which took the Hatch Act off the Christmas tree and took the firefighters off. Having disposed of the Hatch Act, they are telling us now, "Let's put the firefighters back on." I think we ought to treat both of them separately.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I am not quite sure exactly where we go from here, because as I recall, I sat on the stage in Denver, Colo., at the firefighters convention where Mr. MONDALE assured us that it was the administration's position that they would do everything for the firefighters' bill. Based on that, that group had endorsed them.

I was in the subcommittee chair when we moved it through, and was most upset to read the veto message, because they had really paid no attention to our hearings, but apparently used hearings from some prior administration.

So, my concern is that maybe they somehow missed this. Did the administration really want to veto this? Perhaps they got it in the out box instead of the in box.

Mr. UDALL. Mr. Chairman, I have not been annointed as spokesman for the administration. I do think that in this case they are really not saying that. It is a limited issue. This has no place in this bill. If we can find some way to hold Mr. MONDALE to his promise other than doing it today, I would join that effort.

Mrs. SCHROEDER. I think we tried to hold him to his promise to us before in the act, and we thought maybe they had made a mistake by vetoing it. We thought this was a nice way to help them keep their word, so I guess it is a difference of opinion.

Mrs. SPELLMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, what we have here before us is a question we should answer here and now. It is not a White House decision until we have acted affirmatively and we should not be fervently looking to the White House for guidance. We either believe that 72 hours is a ridiculous work week for firefighters or we do not. The question was before us previously and we spoke to it.

We said, "Seventy-two hours constitutes undue hardship and we ought to lessen the burden." We had the courage at the time to do just that. Now, here we are again, considering the same question. Let's come to the same conclusion. There is no reason why this provision should not be in this bill. We in this House speak cryptically at times. The word "ornament" is used to designate any provision we don't approve. That same "ornament" is a vital part of the legislation to those who favor it. This measure, I feel, is a matter of justice and, therefore, does belong in the bill.

So, let us make the decision based on the merits. Let us not worry about what the reaction is going to be at the White House. Our Constitution spells out very clearly what our function is and what the President's function is. Our function today is to consider this question, and I would ask that we make the determination that 72 hours is a ridiculous number. Let us move right now to change that.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. HARRIS).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. HARRIS. Mr. Chairman, on that I demand a recorded vote, and pending that I make the point of order a quorum is not present.

The CHAIRMAN. The Chair will count. One hundred twenty-one Members are present, a quorum.

The pending business is the demand of the gentleman from Virginia (Mr. HARRIS) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. HARRIS

Mr. HARRIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. HARRIS: Page 390, after line 18, insert the following new title:
>
> TITLE XII—PAY COMPARABILITY
>
> PAY COMPARABILITY
>
> SEC. 1201. Section 5305(c)(1) of title 5, United States Code, is amended by striking out "or economic conditions" affecting the general welfare.
>
> Revise the table of contents accordingly.

Mr. HARRIS. Mr. Chairman, this is a very modest perfection, I think, of a law that has in fact given Congress a great deal of problems in the past. It is the pay comparability law. It was passed by many of my good colleagues before I came to the Congress.

I remember my chairman's great support of the notion of having a comparability law to take the pay raises out of politics and put them on an objective basis so that we were not constantly in a position of trying to determine what the pay raise should be. This was the notion of the comparability law. If the Members would read the debate on the comparability law they would see this. I could read a number of quotations from my chairman, the Honorable Mr. UDALL from Arizona, about how important it is that this law should work:

> The comparability law is a good law setting up a scientific method to compute what salaries and wage rates are in the private sector and to make adjustments in the public sector that would be comparable.

The problem is not what the House and what the Senate did on the law. In the last few minutes of the conference, a section was put into the law or actually 10 words were inserted that said "economic conditions affecting the national welfare." This amendment still gives the President discretion if there is a national emergency. All it does is remove the part that says: "or if there are economic conditions affecting the general welfare."

Obviously it has been these words that have been the mischiefmakers in the whole operation of the law.

I want the law to work like the Congress intended it to, like my colleague intended it to. I want it to work so it does come up with an objective method of computing Federal salaries except where there is a legitimate reason for not putting them into effect.

The amendment makes the law operative unless there is a national emergency, in order to make sure the law is implemented and that it no longer puts Congress in a position year after year after year to try to determine by congressional action whether a Presidential action is in accordance with the law or not.

This would correct the problem with it. It would set up the procedure. I urge my colleagues to support it.

Mr. UDALL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is the last amendment to the whole bill of which I am aware except for a unanimous-consent request I will have when we dispose of this. I do not think we need a great deal of discussion on it.

The comparability system has worked fairly well but it has worked fairly well because we had a little bit of flexibility in the President. The pay system works on the comparability figures determined and then before it takes effect the President of the United States has the opportunity to adjust the figures up and down in the light of all the economic conditions.

What this amendment does is strike out of the comparability law the flexibility the President now has. This year, I submit, if the amendment had been in the law there would be an additional billion and a half dollars added to the Federal payroll by the comparability adjustment.

So it is an unwise amendment. It has had no consideration, no hearings. The administration strongly opposes it. It was voted down in committee by a vote of 5 to 19.

I hope my colleagues will not want to go on record on this one again today. We will have an opportunity soon enough to vote on the 5.5 percent pay cap of the President without having an extra, unnecessary vote on this basic change in the law.

Mr. DERWINSKI. Mr. Chairman, if the gentleman will yield, I wish to associate myself with the comments of the gentleman from Arizona (Mr. UDALL). I think he has very properly analyzed this amendment. I would join him in recommending rejection of the amendment.

Mr. JOHN L. BURTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman and members of the committee, as we approach this vote on the most important domestic issue facing this nation of ours, more important than national health insurance, more important than full employment and that is the moral equivalent of the energy program, I think that we should all take a moment of silence to consider the ramifications of this important vote.

Thank you.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. HARRIS).

The amendment was rejected.

AMENDMENTS OFFERED BY MR. UDALL

Mr. UDALL. Mr. Chairman, I offer five amendments.

The Clerk read as follows:

Amendments offered by Mr. UDALL:

Page 212, line 21, strike out "and".

Page 212, line 23, strike out "executives." and insert in lieu thereof "executives;".

Page 212, insert after line 23 the following:

"(12) ensure career appointees and, to the greatest extent possible, noncareer appointees, protection from prohibited personnel practices;

"(13) provide for a professional management system which is guided by the public interest and free from improper political interference; and

"(14) ensure that, notwithstanding the provisions of section 3134 of this title authorizing up to 10 percent of Senior Executive Service positions to be filled by noncareer appointees, political appointments to such positions are minimized to the maximum extent possible.".

Page 227, line 3, insert "(1)" after "(a)".

Page 227, line 4, strike out "(1)" and insert in lieu thereof "(A)" and insert ", subject to paragraph (2) of this subsection," after "may".

Page 227, line 7, strike out "(2)" and insert in lieu thereof "(B)".

Page 227, after line 10, insert the following:

"(2) A career appointee may be reassigned to any Senior Executive Service position only if the career appointee receives a written notice of the reassignment—

"(A) at least 15 days in advance of such reassignment; and

"(B) containing a statement of the critical reasons for the reassignment.

Any career appointee who is reassigned in violation of subparagraph (A) of this paragraph may appeal the violation to the Merit Systems Protection Board."

Page 228, strike out lines 10 through 12 and insert in lieu thereof the following:

"(e)(1) Except as provided in paragraph (2) of this subsection, a career appointee in an agency may not be involuntarily reassigned—

"(A) within 120 days after an appointment of the head of the agency; or

"(B) within 120 days after the appointment in the agency of the career appointee's most immediate supervisor who—

"(i) is a noncareer appointee; and

"(ii) has the authority to reassign the career appointee.

"(2) Paragraph (1) of this subsection does not apply with respect to—

"(A) any reassignment under section 4314 (b)(3) of this title; or

"(B) in the case of any appointment referred to in paragraph (1) (A) or (B) of this subsection, any disciplinary action initiated before the appointment".

Page 232, line 12, strike out "A career appointee" and insert in lieu thereof "Except as provided in subsection (b) of this section, a career appointee".

Page 232, after line 19, insert the following:

"(b)(1) Except as provided in paragraph (2) of this subsection, a career appointee in an agency may not be involuntarily removed—

"(A) within 120 days after an appointment of the head of the agency; or

"(B) within 120 days after the appointment in the agency of the career appointee's most immediate supervisor who—

"(i) is a noncareer appointee; and

"(ii) has the authority to remove the career appointee.

"(2) Paragraph (1) of this subsection does not apply with respect to—

"(A) any removal under section 4314(b)(3) or this title or;

"(B) in the case of any appointment referred to in paragraph (1) (A) or (B) of this subsection, any disciplinary action initiated before such appointment".

Page 232, line 20, strike out "(b)" and insert in lieu thereof "(c)".

Page 228, insert after the line 12 the following:

"(f) A career appointee may be transferred only if—

"(1) he consents to the transfer; and

"(2) the transfer is part of a program designed to enlarge the responsibilities of the career appointee and to advance his career in the Senior Executive Service.

No adverse personnel action shall be taken against a career appointee who exercises his right under this subsection not to consent to a transfer. Any career appointee against whom an adverse personnel action is taken in violation of this subsection may appeal the personnel action to the Merit Systems Protection Board.

Page 245, after line 15, insert the following:

"(d) The rate of basic pay for any career appointee may be reduced from any rate of basic pay to any lower rate of basic pay only if the career appointee receives a written notice of the reduction—

"(1) at least 15 days in advance of the reduction; and

"(2) containing a statement of the critical reasons for the reduction.

Any career appointee whose rate of basic pay is reduced in violation of paragraph (1) of this subsection may appeal the violation to the Merit Systems Protection Board.

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendments be dispensed with, that they be printed in the RECORD, and that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Chairman, I have worked these amendments out with the gentleman from Illinois (Mr. DERWINSKI) and they take care of a problem we had the other night in connection with some of the Gilman amendments.

I would hope they would be adopted.

● Mr. GILMAN. Mr. Chairman, I thank the gentleman from Arizona for his unanimous-consent request to move to adopt my five amendments to title IV.

I know that the House, having had an opportunity to study my amendments and review my statement in explanation of them which appeared in the RECORD of September 11, will recognize their merit and the protection they provide in insuring against further politicization of the Senior Executive Service.

To further clarify the purpose of my amendments, I offer at this point in the RECORD a brief explanation of each of my five amendments to title IV:

My first amendment adds three important principles to guide the administration of the Senior Executive Service and to insure against further politicization of the Senior Executive Service. The first principle would insure that both career appointees and noncareer appointees enjoy protection from prohibited personnel practices. The second principle represents a policy statement advocating maximum utilization of career appointees. My final principle states a goal for the Senior Executive Service:

Goals for personnel management system and the necessity to assure career members protection from prohibited personnel practices.

My second amendment provides that a career appointee may not be involuntarily reassigned or removed from the Senior Executive Service within 120 days after either an appointment of the head of his or her agency or of a Presidential appointee to whom the career appointee reports, whichever is later in time.

My third and fourth amendments preclude arbitrary action by a Presidential appointee against a career appointee in the Senior Executive Service involving a change in either the career appointee's reassignment or reduction in pay.

My final amendment limits the right of the Director of the Office of Personnel Management or an executive department or agency to involuntarily transfer a career appointee without his or her consent.

Mr. Chairman, I urge the adoption of my amendments.●

The CHAIRMAN. The question is on the amendments offered by the gentleman from Arizona (Mr. UDALL).

The amendments were agreed to.

Mr. VOLKMER. Mr. Chairman, I move to strike the last word.

PERSONAL EXPLANATION

Mr. Chairman, I was absent on rollcall vote No. 764. I missed the vote while participating in the Forum on Regulation's telethon in the Longworth Building.

This telethon is a grassroots investigation of the Federal regulatory process. People throughout the country called in on toll free lines to express their views on the Federal Government and on regulations. This is a helpful means for Members of Congress and others in Washington to get a better idea of people's sentiment on the issues of regulatory reform.

Had I been present on rollcall vote No. 764, I would have voted "aye."

Mr. MICHEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as we conclude debate on this civil service reform legislation I want to first go on record commending the President for his initiative in pressing for this reform.

Second, I want the record to clearly show that not withstanding the overwhelming Democrat majority in this House, this legislation would have been dead and buried had it not been for the support we Republicans have given to the effort.

Our good friend and colleague ED DERWINSKI and his band of followers have done a superlative job in helping the genial gentleman from Arizona (Mr. UDALL) fashion this legislation.

Mr. DERWINSKI can be as caustically partisan as any one in this House if he wants to be, but as he is given to saying about himself, he is always willing to accept a proposition from the opposition if it is a good one.

We Republicans have felt the need for this legislation for a long time, but when we had the Presidency during the Eisenhower, Nixon, Ford years, we never controlled the Congress nor were we in the position of putting the act together.

When we did win the White House it was most frustrating to know that in all the vastness of the Federal bureaucracy, we could only change at most some 2,700 positions at the top.

That's just not enough for any administration to make any significant change in the direction and/or administration of any department of Government.

Let us face it Cabinet members, deputy secretaries, assistant secretaries and bureau chiefs have to spend so much of their time testifying before congressional committees, and in public appearances, they have little time to actually run their departments or agencies.

Without authority for a more broad sweeping change, we have the same bureaucrary running the show in every agency regardless of the mandate for change.

From a Republican partisan point of view, passage of this legislation may prove to work to our temporary disadvantage, but in the long run it is a good move for the country. As I said any partisan disadvantage for us is only temporary for within 26 months the advantage will be ours and the American people will then also applaud.

The Federal bureaucracy has become incestuous, stultified, and loath to change. It has to be shaken up from time to time. Good conscientious managers have got to be given incentives to do even better and we have to have the mechanism for firing the incompetent and establishing a truly bonafide merit system.

I am glad to give my wholehearted support to this bill and applaud all those on both sides of the aisle who have helped to put it all together. It will have to go down as a truly historical bipartisan victory for the people.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Chairman, I commend the gentleman from Illinois (Mr. MICHEL) for his statesmanship and for the nobility of his statement.

Mr. Chairman, in my view, the gentleman's position on this bill is so outstanding that it certainly warrants his being in charge of the majority in this House at some point in his service.

Mr. MICHEL. Mr. Chairman, I thank the gentleman.

● Mr. HANLEY. Mr. Chairman, during markup of the civil service reform legislation, the Committee on Post Office and Civil Service adopted an amendment I offered to assure that the complaints of Federal employees who discover wrongdoing are given serious attention. Under the administration's proposal, as strengthened by the amendment of the gentlewoman from Colorado (Mrs. SCHROEDER), Federal employees are protected from reprisal if they publically disclose evidence of violation of law, rule, or regulation, mismanagement, waste of funds, abuse of authority, or a substantial and specific danger to public health or safety. I strongly support this protection.

My amendment complements this protection by providing a mechanism through which those who discover wrongdoing can prompt a meaningful investigation and correction of the situation. Under its terms, an employee can disclose evidence of impropriety to the Special Counsel; the ability of the employee to go to a responsible official outside of his or her agency and separate from his or her chain of command is crucial to make this mechanism work. If the evidence warrants an investigation, the Special Counsel can order the agency which the information concerns to investigate itself.

To assure that the agency investigation is not biased, incomplete, or a whitewash, the report of the agency investigation is sent to the Special Counsel and to the General Accounting Office. The Special Counsel's review of the agency investigation is limited to scrutiny of the quality of the probe; the Special Counsel is not expected to conduct his or her own substantive inquiry. Without the Special Counsel and GAO oversight of agency investigations, employee allegations of illegality or wrongdoing could be ignored or covered up by an agency intent on continuing its improper conduct.

Hence, my amendment adds an internal, in-house dissent channel to allow Federal employees who discover wrongdoing to seek correction without having to go public. Although nothing prevents an employee from giving the information to a newspaper, my amendment encourages honest, dedicated employees to seek internal resolution. I believe that if most agencies are given an opportunity to clean their own houses, without the glare of publicity, they will do a good job. It is this goal which my amendment seeks.

Mr. Chairman, Federal employees can serve as a first line of defense against official wrongdoing. Ernest Fitzgerald alerted us to a huge cost overrun in the C-5A transport plane program. Dr. J. Anthony Morris spoke out against the swine flu vaccine program, warning of serious health dangers—dangers which proved all too real. Robert Tucker, Robert Sullivan, William Buckenhorst, and Arthur Palman all revealed widespread illegalities in the General Services Administration. Without these vigilant officials, illegality would not be stopped and Federal dollars would continue being wasted.

In passing H.R. 11280, the House is supporting a meaningful and workable mechanism to rid the Federal Government of waste, corruption and abuse.●

Mr. RUDD. Mr. Chairman, I will vote in favor of H.R. 11280, as amended in the Committee on the Whole.

In balance, I believe that this is a good bill. Congress desperately needs to reform the bureaucratic inefficiency and abuses that are rampant in the civil service system. We need to cut through the inaction and delays that make it virtually impossible to get rid of incompetent workers, to reward quality work, and to expedite personnel actions.

This bill is certainly not the answer to every problem with the Federal civil service. But it accomplishes a great deal of good. Creation of a personnel management office and Merit Protection Board, a senior executive service, an incentive system for pay increases based on performance rather than mere tenure, and a speedier disciplinary system are all urgently needed reforms.

The House has taken other action on this bill which I support, and which have led to my "yes" vote for this legislation. The proposed repeal of Hatch Act prohibitions against political activities of Federal employees has been removed from the bill, and properly so. Proposed changes in the veterans preference law have been dropped, and current veterans preference provisions will remain intact.

My amendment adding a firm anti-strike provision that will deny any protection or benefits under this bill for any striking Federal worker has been adopted. A similar provision governing labor unions exists in this and the Senate version of the bill.

Furthermore, the bill now includes an important provision requiring a cut of 112,000 employees from the over-bloated Federal workforce, so that total Federal Government civilian employment returns to the January, 1977, level.

Mr. Speaker, these are the good aspects of this bill. As I have said, in balance, the good far outweighs the bad, and that is why I am voting in favor of the bill. I am voting "yes," despite my strong disapproval of the legislation's statutory protection of unionization and collective bargaining for Federal employees.

Such protection does not belong in the statutes, and should not be Federal Gov-

ernment policy. But this is a battle that will have to be fought next year.

Unionization and collective bargaining for Federal Government workers are unnecessary, and create an undesirable adversary labor-management situation that has no place in Government, where service to the people is the first and only priority.

Federal workers are paid more, and receive more benefits, than just about any other employees, in or out of Government. They have no reason for collective bargaining, other than to protect the continued employment of less capable performers and to reap more benefits for themselves at the expense of the taxpayers.

Labor-management disputes resulting in lower quality or disrupted service to the people are inevitable when Government employee unionization and collective bargaining are allowed. Government service is unique, for which there is no alternative supply. Some of these services are so critical that their disruption threatens the public well-being and causes extreme hardship to our people and the economy.

Labor unions want unionization and collective bargaining for Federal employees, because this increases their own power and serves as a convenient vehicle for their own domination of Government and the legislative process.

This is dangerous to our democratic processes and institutions, and to our free society itself.

I am sorry that this bill gives statutory protection to Federal employee unions and collective bargaining. I am voting for the bill in spite of this provision, because of the need for the many good features of this legislation.

But I intend to work hard to reverse this policy in the future.

● Mr. FISHER. Mr. Chairman, civil service legislation is grounded in the belief that the public should be served by a professionally and impartially operated Government. Except for the top leadership which should be chosen freely by the President and subject to change at every election, the Government workers should be chosen for their ability alone and should serve as long as they perform well.

The Carter administration has proposed the first major overhaul of basic civil service legislation in nearly 100 years. The legislation attempts to recognize and encourage competent employees and to improve the system for assisting employees whose performance should be better and for removing employees who do not respond to help. In making these changes the administration hopes to enhance the ability of Government managers to manage.

The issues to be decided by Congress in debating and refining the original proposal include: First, whether the bill achieves its purpose of improving management and second, whether the proposal endangers the basic principle of neutrality and professionalism in Government service. The second issue overshadows the first because without confidence of the employees and the public in the impartiality of Government administration, the best management system in the world will not be good enough.

The bill, as amended by the Post Office and Civil Service Committee, does contain features which help to uphold the integrity of the civil service and protect employee rights. The bill will establish in law for the first time the principles on which the merit system should be operated and the personnel practices which are prohibited, including political coercion and discriminatory, unfair, and arbitrary actions in hiring and promotion.

The bill also will give whistleblowers—those who expose mismanagement and inefficiency and who disclose violations of Federal law by other employees—more protection against retaliation. The committee has improved the provisions dealing with employee rights to appeal adverse or disciplinary actions. However, the bill could still be stronger in protecting against the injection of political considerations into the civil service.

The section of the committee bill with the greatest potential for politicizing the civil service was the revision of the Hatch Act to permit partisan political activity by Federal employees. Fortunately, this section has now been deleted from the bill. I have opposed such revisions of the Hatch Act because I believe that it would expose employees to the possibility of undue, frequently subtle, political pressures. The danger would be increased when combined with the increased flexibility that the bill gives to supervisors—in hiring, assigning, disciplining, and so on. The Hatch Act revision would have made the civil service reform bill unworkable and I am pleased that it is no longer in the bill.

During consideration of the bill, I offered several amendments with the objective of providing a careful review of new programs, such as merit pay, and of the actions of political appointees, and also of keeping politics out of the career civil service. The merit pay system proposal in the bill will substitute merit pay increases and cash awards for superior performance to managers in grades GS 13–15 for the current automatic step increases. These managers will continue to receive annual comparability increases. This system would be an important change with the laudable purpose of providing an incentive for improved management. It is, however, untried and fraught with the possibility for favoritism and political abuse. To check on the feasibility of merit pay, I offered an amendment to test the concept for a 2-year period in three agencies. After evaluating reports by the Office of Personnel Management, Congress could either allow the merit pay system to go into effect governmentwide or could veto it through a concurrent resolution. Unfortunately, this amendment was not accepted by the House.

Another amendment which I offered, and which was accepted, dealt with rules and regulations put forward by the Office of Personnel Management. Under my amendment, the Merit Systems Protection Board will have the authority to review rules and regulations after they have been issued by the OPM. The MSPB itself, the special counsel, or an interested party can request the review. A finding of violation of merit principles or of prohibited personnel practices would be the grounds for invalidating a rule or regulation. This type of review would not interfere with the prerogatives of the OPM, but would make sure that it did not overstep legal bounds.

This legislation breaks new ground in personnel management. I believe that an objective review of these innovations should be conducted on a regular basis. The General Accounting Office should be required to monitor these new functions and report annually to Congress on their performance. I offered an amendment, which passed, to require this review. The specific requirement is necessary so that reviews are not delayed until a problem develops, but can in fact uncover problems before they get out of hand.

An additional amendment of mine, now included in the bill, makes clear that a nonpartisan board composed of career civil servants and outside experts will be reviewing the qualifications of candidates for the SES and certifying them as qualified. I think it is crucial that these top level managers be chosen objectively and without regard to partisan considerations. Without my amendment this critical function of certifying persons to serve in the SES could be done by boards with no members drawn from the ranks of career civil servants, or with outside experts chosen primarily for their partisan connections.

In addition to my amendment, the bill contains other protections against undue political influence in the SES. Only 10 percent of the positions in the SES will be filled by political appointees. No agency may have more than 25 percent of its SES positions filled by political appointees. In addition at least 70 percent of the SES employees must have at least 5 years experience in the Federal Government. I believe that taken together the SES provisions will allow a more challenging career to the upper level executives and offer the promise of better, more flexible management to the public.

Another major feature of the civil service reform bill is the labor-management relations section. A labor relations program already exists in the Federal Government, operating under a Presidential Executive order. As passed by the House by a unanimous vote, the new labor program codifies the existing program and adds a few new features. Through some carefully developed compromises, the Members who wanted to expand the role of employee unions and those who opposed this were able to resolve their differences. The bill that the House approved does not contain such controversial features as the right to strike or bargain for pay and benefits, both of which I oppose. It does contain safeguards such as secret ballot elections for union representation.

The veterans' preference in appointment and retention in Federal employment is left essentially as it is in existing law. The committee had proposed altering veterans' preference to limit its use for hiring to the first 15 years after discharge from the Armed Forces and

for retention to the first 8 years of civilian service. In effect the House voted against this approach when it rejected an amendment to strengthen the preference for Vietnam veterans only. Then the House went on to vote for retaining the present preference provisions.

The House added a provision placing a ceiling on Federal civilian employment which is over 112,000 below the current number of employees. The ceiling would have to be met by 1 year after the bill becomes law. I opposed this amendment and will be working to see that it is dropped in the House-Senate conference which will be resolving differences between the two bills. This limit on Federal employees was chosen arbitrarily and is a simplistic approach to the concern about "big" Government. Rather than leading to more efficiency, this limit could lead to less efficient Government by taking workers away from much needed tasks to satisfy an artificial ceiling. I hope and have been led to expect that this provision will be deleted from the final bill.

While this is not in all respects the bill I would have written to improve the civil service system, it is on balance a bill that I can support. After the new system goes into effect I hope that the Congress will keep a close watch on it and make the necessary additional improvements.●

● Mr. STOKES. Mr. Chairman, I rise in support of H.R. 11280, the Civil Service Reform Act of 1978, which will reorganize the Federal personnel system.

The Federal Civil Service System has existed for nearly 100 years and has served this country well. But the number of civil servants has grown during that period of time. In order to accommodate and properly manage such large numbers, there must be some changes in the existing structure.

The bill will cause the Government to function more effectively by improving the management and efficiency of the Federal work force and make it more responsive to the executive branch. This will be done by setting forth merit system principles, abolishing the Civil Service Commission and replacing it with a merit system protection board to handle employee appeals and an office of personnel management for administration. Additionally, a senior executive service would be created for top-level managers. Also the bill modifies veterans' preference standards to enhance the implementation of affirmative action programs.

It is on this last point, veterans' preference, that I would like to direct the thrust of my remarks. The Civil Service Reform Act of 1978 modifies veterans' preference to strengthen employment opportunities for disabled and Vietnam-era veterans, but to reduce it for others. As reported the bill would: First, limit veterans' preference to one successful use for 15 years from the date of separation for nondisabled veterans; second, protect the veterans from reductions in force for 8 years following appointment; third, eliminate preference for field grade and above retirees; fourth, limit below field grade retirees to 3 years of veterans' preference; and fifth, expand the number of disabled veterans eligible for noncompetitive appointment from 494,000 to 996,000.

It has been argued that the veteran preference limitation is unfair to the many veterans who have served this country during times of conflict on war. I disagree with this premise and I would like to explain why.

The Veterans' Preference Act of 1944 was created to aid those in the armed services who on their return to civilian life found themselves at a great disadvantage economically and sometimes physically. The conditions which precipitated this act still exist today—that the transition from life in the armed services to civilian life is a difficult one and that assistance should be given to those who serve our country in order to facilitate their readjustment to civilian life. The major privilege under veterans' preference concerns employment in the civil service and provides a 5-point preference to veterans with an honorable discharge and a 10-point preference to service related disabled veterans.

Though the intentions of the present system of lifetime preference for all veterans in Federal employment were good, it has unfortunately, worked to the detriment of blacks, minorities, and women who seek employment in the Federal sector. Such a negative impact is unacceptable in a federal government where minorities occupy less than 5 percent of the supergrade jobs and women less than 4 percent. And, as ironic as it sounds, the present system in some ways works against the 8 million-plus veterans of the Vietnam war.

The system makes preference points still available to the millions of World War II and Korean war veterans. Many of these veterans have made the adjustment back to civilian life. Additionally, the Civil Service Commission says one-third of those using their preference use it more than once—to switch jobs or to leave Government work and then return to it.

I believe that the limitation under H.R. 11280, is fair. The changes are not radical or unreasonable. A preference still exists * * * but it may only be used one time. The bill concentrates job preference on those who need it most; the disabled veteran and the 7 million Vietnam-era veterans.

Vietnam era veterans are facing insurmountable odds in finding employment. They must today compete on an equal footing with older veterans who have more extensive civilian or related job experience. As a result, over 50 percent of veteran job hires go to pre-Vietnam or to military retirees. Additionally, Vietnam-era veterans are placed at an unfair disadvantage today in having to compete for jobs with those earlier nondisabled veterans who continue to reuse their preference points. The current bill would give Vietnam-era veterans a more equitable chance to compete in the Government sector.

Additionally, the proposal continues to allow disabled veterans to have 10 points added to their passing scores and would allow disabled veterans to rise to the top of the employment registers on which they qualify.

Mr. Chairman, I particularly wanted to address the veteran preference issue because of my concern with the unemployment levels of post-Vietnam veterans, particularly minority veterans. Every person who served in the military sacrificed to be there and should be helped to overcome job barriers upon their return. This bill maintains that assistance, and yet makes the federal system more equitable to others.

Mr. Chairman, I urge my colleagues to join me in supporting the Civil Service Reform Act of 1978. The bill attains a balance between creating new management flexibilities and protecting the legitimate rights of Federal employees.●

The CHAIRMAN. Are there any other amendments to the bill?

If not, the question is on the Committee amendment in the nature of a substitute, as amended.

The Committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. DANIELSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 11280) to reform the civil service laws, pursuant to House Resolution 1307, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the Committee amendment in the nature of a substitute adopted by the Committee of the Whole?

Mr. EMERY. Mr. Speaker, I demand a separate vote on the so-called Hanley amendments.

The SPEAKER. Is a separate vote demanded on any other amendment?

If not, the Clerk will report the amendments on which a separate vote has been demanded.

The Clerk read as follows:

Amendments: Page 190, line 8, strike out "Section 2108" and insert in lieu thereof "Effective beginning October 1, 1980, section 2108".

Page 192, strike out line 3 and all that follows down through page 195, line 9.

Page 195, after line 9, inserting the following section heading:

"Appointments".

Page 195, line 10, strike out "(g)" and insert "Sec. 304." in lieu thereof.

Page 196, strike out line 11 and all that follows down through line 5 on page 199.

Page 199, line 7, strike out "306" and insert in lieu thereof "305".

Page 200, line 10, strike out "307" and insert in lieu thereof "306".

Page 200, line 13, strike out "308" and insert in lieu thereof "307".

Page 200, line 23, strike out "309" and insert in lieu thereof "308".

Page 201, line 19, strike out "310" and insert "309" in lieu thereof.

Page 203, line 3, strike out "311" and insert "310" in lieu thereof.

Page 206, line 5, strike out "312" and insert "311" in lieu thereof.

Page 209, strike out line 13 and all that follows down through line 20.

Conform the table of contents accordingly.

Mr. EMERY (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the amendments be dispensed with, and that they be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Maine?

There was no objection.

The SPEAKER. The question is on the amendments.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. EMERY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 327, nays 70, not voting 35, as follows:

[Roll No. 766]

YEAS—327

Abdnor
Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
AuCoin
Badham
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Benjamin
Bennett
Bevill
Biaggi
Blanchard
Boggs
Boland
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Butler
Byron
Carney
Carter
Cavanaugh
Cederberg
Chappell
Clausen, Don H.
Cleveland
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Cornell
Cornwell
Cotter
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dent
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dodd
Dornan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Okla.
Eilberg
Emery
English
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frey
Fuqua
Gammage
Gaydos
Gephardt
Giaimo
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harris
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Horton
Howard
Hubbard
Hughes
Hyde
Ichord
Ireland
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Lederer
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McKay
Madigan
Mahon
Mann
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Meyner
Michel
Milford
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Motti
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nowak
O'Brien
Oberstar
Obey
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Pettis
Pickle
Pressler
Preyer
Price
Pursell
Quayle
Quillen
Rahall
Railsback
Regula
Rhodes
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Rudd
Runnels
Ruppe
Russo
Ryan
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sharp
Shipley
Shuster
Sikes
Sisk
Skelton
Skubitz
Slack
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Steed
Steiger
Stockman
Stratton
Symms
Taylor
Thompson
Thone
Thornton
Traxler
Trible
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Weaver
White
Whitehurst
Whitley
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—70

Anderson, Ill.
Ashley
Aspin
Bedell
Bellenson
Bingham
Blouin
Bolling
Bonior
Burton, Phillip
Carr
Chisholm
Clay
Conyers
Corcoran
Corman
Dellums
Downey
Drinan
Edgar
Edwards, Calif.
Erlenborn
Evans, Colo.
Fascell
Fenwick
Garcia
Green
Harkin
Harrington
Hawkins
Holtzman
Jacobs
Jordan
Kastenmeier
Keys
Leach
Leggett
McHugh
Maguire
Markey
Mazzoli
Meeds
Mikulski
Mikva
Mineta
Mitchell, Md.
Moffett
Nolan
Oakar
Ottinger
Pattison
Pike
Poage
Pritchard
Rangel
Reuss
Roncalio
Scheuer
Schroeder
Seiberling
Simon
Smith, Iowa
Stark
Steers
Stokes
Studds
Waxman
Weiss
Whalen
Yates

NOT VOTING—35

Ammerman
Armstrong
Beard, Tenn.
Breaux
Broomfield
Burke, Calif.
Burke, Fla.
Caputo
Clawson, Del
Cochran
Fary
Flowers
Fraser
Frenzel
Gibbons
Huckaby
Johnson, Colo.
Kasten
Krueger
Lehman
McKinney
Metcalfe
Miller, Calif.
Quie
Richmond
Risenhoover
Sarasin
Stump
Teague
Treen
Tsongas
Vander Jagt
Wiggins
Young, Alaska
Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Fary for, with Mr. Richmond against.

Mr. Ammerman for, with Mr. Miller of California against.

Mr. Teague for, with Mrs. Burke of California against.

Until further notice:

Mr. Risenhoover with Mr. Beard of Tennessee.

Mr. Huckaby with Mr. Frenzel.

Mr. Krueger with Mr. Sarasin.

Mr. Metcalfe with Mr. Wiggins.

Mr. Tsongas with Mr. Young of Alaska.

Mr. Gibbons with Mr. McKinney.

Mr. Flowers with Mr. Kasten.

Mr. Breaux with Mr. Burke of Florida.

Mr. Lehman with Mr. Del Clawson.

Mr. Stump with Mr. Broomfield.

Mr. Fraser with Mr. Caputo.

Mr. Treen with Mr. Quie.

Mr. Vander Jagt with Mr. Cochran of Mississippi.

Ms. MIKULSKI and Mr. EDWARDS of California changed their vote from "yea" to "nay."

Mr. LAFALCE changed his vote from "nay" to "yea."

So the amendments were agreed to.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. ASHBROOK. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ASHBROOK moves to recommit the bill, H.R. 11280, to the Committee on Post Office and Civil Service.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

Mr. UDALL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 385, nays 10, not voting 37, as follows:

[Roll No. 767]

YEAS—385

Abdnor
Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Bedell
Bellenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clay
Cleveland
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Cornell
Cornwell
Cotter
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fascell
Feighan
Fenwick
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frey
Fuqua
Gammage
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holtzman
Horton
Howard
Hubbard
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kelly
Kemp
Keys
Kildee
Kindness
Kostmayer
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leach
Le Fante
Lederer
Leggett
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McCloskey
McCormack
McCory
McDade
McDonald
McEwen
McFall
McHugh
McKay
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Meyner
Michel
Mikulski
Mikva
Milford
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Rudd
Runnels
Ruppe
Russo
Ryan
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shuster
Sikes
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spence
St Germain
Staggers
Stangeland
Stanton
Steed
Steiger
Stockman
Stokes
Stratton
Studds
Symms
Taylor
Thompson
Thone
Thornton
Traxler
Trible
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Waxman
Weaver
Weiss
Whalen
White
Whitehurst
Whitley
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—10

Ashbrook
Davis
Harris
Holt
Mitchell, Md.
Moss
Myers, Gary
Spellman
Steers
Wilson, C. H.

NOT VOTING—37

Ammerman
Armstrong
Beard, Tenn.
Breaux
Broomfield
Burke, Calif.
Burke, Fla.
Caputo
Clawson, Del
Cochran
Fary
Flowers
Fraser
Frenzel
Gibbons
Huckaby
Johnson, Colo.
Kasten
Krueger
Lehman
Long, Md.
McCloskey
McKinney
Metcalfe
Miller, Calif.
Quie
Richmond
Risenhoover
Sarasin
Stump
Teague
Treen
Tsongas
Vander Jagt
Wiggins
Young, Alaska
Young, Tex.

The Clerk announced the following pairs:

Mr. Ammerman with Mr. Richmond.

Mr. Lehman with Mr. Metcalfe.

Mr. Krueger with Mr. Beard of Tennessee.

Mrs. Burke of California with Mr. Caputo.

Mr. Breaux with Mr. Vander Jagt.

Mr. Fary with Mr. Broomfield.

Mr. Flowers with Mr. Sarasin.

Mr. Teague with Mr. Del Clawson.

Mr. Risenhoover with Mr. Treen.

Mr. Huckaby with Mr. Burke of Florida.

Mr. Tsongas with Mr. Young of Alaska.

Mr. Gibbons with Mr. Wiggins.

Mr. Long of Maryland with Mr. Kasten.

Mr. Fraser with Mr. McCloskey.

Mr. Stump with Mr. Cochran of Mississippi.

Mr. Frenzel with Mr. McKinney.

Mr. Miller of California with Mr. Quie.

So the bill was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to reform the civil service laws, and for other purposes."

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

● Mr. SOLARZ. Mr. Speaker, during the separate vote in the full House on the Hanley veterans preference amendment, I mistakenly voted for that amendment. As was indicated by my vote against the same amendment during the Committee of the Whole's consideration of it, I am strongly in favor of modifying the existing law on veterans preference. I believe that the veterans preference should be used to help veterans readjust to civilian life and to compensate disabled veterans for the sacrifices they made.

The current veterans preference, however, serves as a real deterrent to the recruitment of qualified women to the civil service. The bill reported by the committee would have eliminated the negative aspects of the current veterans preference while maintaining the legitimate and necessary benefits for veterans who are in need of readjustment aid or who are disabled. I, therefore, would have preferred that the committee provision on this issue remain intact and unchanged. As a result, I should have been recorded "no" on the Hanley amendment.●

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 11280

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the Clerk, in the engrossment of the bill H.R. 11280, be authorized and directed to make such changes in section numbers, cross references, and other technical and conforming corrections as may be required.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill just passed, H.R. 11280.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

CIVIL SERVICE REFORM ACT OF 1978

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2640) to reform the civil service laws, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

MOTION OFFERED BY MR. UDALL

Mr. UDALL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. UDALL moves to strike all after the enacting clause of S. 2640 and insert in lieu thereof the provisions of H.R. 11280 as passed, as follows:

SHORT TITLE

SECTION 1. This Act may be cited as the "Civil Service Reform Act of 1978".

SEC. 2. The table of contents is as follows:

TABLE OF CONTENTS

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Findings and statement of purpose.

TITLE I—MERIT SYSTEM PRINCIPLES

Sec. 101. Merit system principles; prohibited personnel practices.

TITLE II—CIVIL SERVICE FUNCTIONS; PERFORMANCE APPRAISAL; ADVERSE ACTIONS

Sec. 201. Office of Personnel Management.
Sec. 202. Merit Systems Protection Board and Special Counsel.
Sec. 203. Performance appraisals.
Sec. 204. Adverse actions.
Sec. 205. Appeals.

TITLE III—STAFFING

Sec. 301. Volunteer services.
Sec. 302. Exceptions from the competitive service.
Sec. 303. Definitions relating to preference eligibles.

Sec. 304. Noncompetitive appointment of certain disabled veterans.
Sec. 305. Appointments.
Sec. 306. Training.
Sec. 307. Travel, transportation, and subsistence.
Sec. 308. Retirement.
Sec. 309. Extension of veterans readjustment appointment authority.
Sec. 310. Notification of vacancies in the civil service.
Sec. 311. Dual pay for members of the uniformed services.
Sec. 312. Minority recruitment program.
Sec. 313. Compensatory time off for religious observances.
Sec. 314. Temporary employment limitation.
Sec. 315. Interpreting assistants for deaf employees.

TITLE IV—SENIOR EXECUTIVE SERVICE

Sec. 401. General provisions.
Sec. 402. Authority for employment.
Sec. 403. Examination, certification, and appointment.
Sec. 404. Retention preference.
Sec. 405. Performance rating.
Sec. 406. Awarding of ranks.
Sec. 407. Pay rates and systems.
Sec. 408. Pay administration.
Sec. 409. Travel, transportation, and subsistence.
Sec. 410. Leave.
Sec. 411. Disciplinary actions.
Sec. 412. Retirement.
Sec. 413. Conversion to the Senior Executive Service.
Sec. 414. Limitations on executive positions.
Sec. 415. Effective date; experimental application.

TITLE V—MERIT PAY

Sec. 501. Pay for performance.
Sec. 502. Incentive awards amendments.
Sec. 503. Technical and conforming amendments.
Sec. 504. Effective date.

TITLE VI—RESEARCH, DEMONSTRATION, AND OTHER PROGRAMS

SUBTITLE A—RESEARCH PROGRAMS AND DEMONSTRATION PROJECTS

Sec. 601. Research programs and demonstration projects.

SUBTITLE B—INTERGOVERNMENTAL PERSONNEL

Sec. 611. Intergovernmental Personnel Act. amendments.

SUBTITLE C—MOBILITY PROGRAM

Sec. 621. Amendments to the mobility program.

SUBTITLE D—FEDERAL EMPLOYEES FLEXIBLE AND COMPRESSED WORK SCHEDULES

Sec. 631. Congressional findings.
Sec. 632. Definitions.
Sec. 633. Experimental program.

PART 1—FLEXIBLE SCHEDULING OF WORK HOURS

Sec. 641. Definitions.
Sec. 642. Flexible scheduling experiments.
Sec. 643. Computation of premium pay.

TITLE VII—FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS

Sec. 701. Federal service labor-management relations.
Sec. 702. Backpay in case of unfair labor practices and grievances.
Sec. 703. Technical and conforming amendments.
Sec. 704. Miscellaneous provisions.

TITLE VIII—GRADE AND PAY RETENTION

Sec. 801. Grade and pay retention.

TITLE IX—MISCELLANEOUS

Sec. 901. Study on decentralization of governmental functions.
Sec. 902. Savings provisions.
Sec. 903. Authorization of appropriations.
Sec. 904. Powers of President unaffected except by express provisions.
Sec. 905. Retention of security investigation reports.
Sec. 906. Technical and conforming amendments.
Sec. 907. Effective date.

FINDINGS AND STATEMENT OF PURPOSE

SEC. 3. It is the policy of the United States that—

(1) the merit system principles which shall govern in the competitive service and in the executive branch of the Federal Government should be expressly stated to furnish guidance to Federal agencies in carrying out their responsibilities in administering the public business, and prohibited personnel practices should be statutorily defined to enable Government officers and employees to avoid conduct which undermines the merit system principles and the integrity of the merit system;

(2) Federal employees should receive appropriate protection through increasing the authority and powers of the independent Merit Systems Protection Board in processing hearings and appeals affecting Federal employees;

(3) the authority and power of the Special Counsel should be increased so that the Special Counsel may investigate prohibited personnel practices and reprisals against Government employees for the lawful disclosure of certain information and may file complaints against agency officials and employees who engage in such conduct;

(4) the function of filling positions and other personnel functions in the competitive service and in the executive branch should be delegated in appropriate cases to the agencies to expedite processing appointments and other personnel actions, with the control and oversight of this delegation being maintained by the Office of Personnel Management to protect against prohibited personnel practices and the use of unsound management practices by the agencies;

(5) a Senior Executive Service should be established to provide the flexibility needed by agencies to recruit and retain the highly competent and qualified managers needed to provide more effective management of agencies and their functions, and the more expeditious administration of the public business;

(6) in appropriate instances, pay increases should be based on quality of performance rather than length of service;

(7) research programs and demonstration projects should be authorized to permit Federal agencies to experiment, subject to congressional review, with new and different personnel management concepts in controlled situations to achieve more efficient management of the Government's human resources and greater productivity in the delivery of service to the public; and

(8) the training program of the Government should include retraining of employees for positions in other agencies to avoid separations during reductions in force and the loss to the Government of the knowledge and experience that these employees possess.

TITLE I—MERIT SYSTEM PRINCIPLES

MERIT SYSTEM PRINCIPLES; PROHIBITED PERSONNEL PRACTICES

SEC. 101. (a) Title 5, United States Code, is amended by inserting after chapter 21 the following new chapter:

"Chapter 23—MERIT SYSTEM PRINCIPLES

"Sec.
"2301. Merit system principles.
"2302. Prohibited personnel practices.
"2303. Responsibility of the General Accounting Office.
"2304. Coordination with certain other provisions of law.

"§ 2301. Merit system principles

"(a) This section shall apply to—

"(1) an Executive agency;

"(2) the Administrative Office of the United States Courts; and

"(3) the Government Printing Office.

"(b) It is the policy of the Congress that in order to provide the people of the United States with a highly competent, honest, and productive Federal workforce reflective of the Nation's diversity, and to improve the quality of public service, Federal personnel management should be implemented consistent with the merit system principles.

"(c) The merit system principles are as follows:

"(1) Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.

"(2) All employees and applicants should receive fair and equitable treatment in all aspects of personnel management without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition, and with proper regard for their privacy and constitutional rights.

"(3) Equal pay should be provided for work of equal value, with appropriate consideration of both national and local rates paid by employers in the private sector, and appropriate incentives and recognition should be provided for excellence in performance.

"(4) All employees should maintain high standards of integrity, conduct, and concern for the public interest.

"(5) The Federal work force should be used efficiently and effectively.

"(6) Employees should be retained on the basis of the adequacy of their performance, inadequate performance should be corrected, and employees should be separated who cannot or will not improve their performance to meet required standards.

"(7) Employees should be provided effective education and training in cases in which education and training would result in better organizational and individual performance.

"(8) Employees should be—

"(A) protected against arbitrary action, personal favoritism, or coercion for partisan political purposes, and

"(B) prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for election.

"(9) Employees should be protected against reprisal for the lawful disclosure of information which the employees reasonably believe evidences—

"(A) a violation of law, rule, or regulation,

"(B) mismanagement, a waste of funds, or an abuse of authority, or

"(C) a substantial and specific danger to public health or safety.

"(d) The President shall take actions, including the issuance of rules, regulations, or directives, as the President determines are necessary to carry out the policy set forth in subsection (b) of this section.

"§ 2302. Prohibited personnel practices

"(a)(1) For the purpose of this title, 'prohibited personnel practice' means any action described in subsection (b) of this section.

"(2) For the purpose of this section—

"(A) 'personnel action' means—

"(i) an appointment;

"(ii) a promotion;

"(iii) an action under chapter 75 of this title or other disciplinary or corrective action;

"(iv) a detail, transfer, or reassignment;

"(v) a reinstatement;

"(vi) a restoration;

"(vii) a reemployment;

"(viii) a performance evaluation under chapter 43 of this title;

"(ix) a decision concerning pay, benefits, or awards, or concerning education or training if the education or training may reasonably be expected to lead to an appointment, promotion, performance evaluation, or other action described in this subparagraph; and

"(x) a substantial change in duties or responsibilities which may reasonably be expected to result in a reduction in pay or grade;

with respect to an employee in, or applicant for, a position in the competitive service in an agency or a position in the excepted service in an agency (other than a position which is excepted from the competitive service because of its confidential, policy—determining, or policy advocating character), or to a career appointee in the Senior Executive Service in an agency.

"(B) 'agency' means an Executive agency, the Administrative Office of the United States Courts, and the Government Printing Office, but does not include—

"(i) a Government corporation;

"(ii) the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, or any Executive agency or unit thereof which is designated by the President and which conducts foreign intelligence or counterintelligence activities; or

"(iii) the General Accounting Office.

"(3) If the President does not designate the Federal Bureau of Investigation, in its entirety, under paragraph (2)(B)(ii) of this subsection, functions of the Special Counsel relating to the enforcement of this section with respect to the Bureau, or any unit thereof, shall be carried out by the President (or his designee) notwithstanding any provision of law to the contrary.

"(b) Any employee who has authority to take, direct others to take, recommend, or approve any personnel action shall not, with respect to such authority—

"(1) discriminate for or against any employee or applicant for employment—

"(A) on the basis of race, color, religion, sex, or national origin, as prohibited under section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16);

"(B) on the basis of age, as prohibited under sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a);

"(C) on the basis of sex, as prohibited by the Equal Pay Act of 1963, 29 U.S.C. 206(d);

"(D) on the basis of handicapping condition, as prohibited under section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791);

"(E) on the basis of marital status or political affiliation, as prohibited under this title; or

"(F) on any basis prohibited under the provisions of any other law, rule, or regulation;

"(2) solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action unless the recommendation or statement is based on the personal knowledge or records of the person furnishing it and consists of—

"(A) an evaluation of the work performance, ability, aptitude, or general qualifications of the individual; or

"(B) an evaluation of the character, loyalty, or suitability of the individual;

"(3) coerce the political activity of any person (including the providing of any political contribution or service), or take any action against any employee or applicant for employment as a reprisal for the refusal of any person to engage in such political activity;

"(4) deceive or obstruct any person with respect to the person's right to compete for Federal employment;

"(5) influence any person to withdraw from competition for any position for the purpose of improving or injuring the prospects of any other person for employment;

"(6) grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any person for Federal employment;

"(7) appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position, any individual who is a relative (as defined in section 3110(a)(3) of this title) of an employee if the position is in the agency in which the employee is serving as a public official (as defined in section 3110(a)(2) of this title) or over which the employee exercises jurisdiction or control as a public official (as defined in section 3110(a)(2) of this title);

"(8) take or fail to take a personnel action with respect to any employee or applicant for employment as a reprisal for—

"(A) a disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences—

"(i) a violation of any law, rule, or regulation, or

"(ii) mismanagement, a waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, if such disclosure is not specifically prohibited by law or if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs; or

"(B) a disclosure to the Special Counsel of the Merit Systems Protection Board, or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures, of information which the employee or applicant reasonably believes evidences —

"(i) a violation of any law, rule, or regulation, or

"(ii) mismanagement, a waste of funds, or an abuse of authority, or a substantial and specific danger to public health or safety;

"(9) take or fail to take a personnel action with respect to any employee or applicant for employment as a reprisal for the exercise of any right of appeal granted by law, rule, or regulation;

"(10) discriminate for or against any employee or applicant for employment on the basis of conduct which does not adversely affect the performance of the employee or applicant or the performance of others, except that nothing in this paragraph shall prohibit an agency from taking into account in determining suitability or fitness any conviction of the employee or applicant for any crime of violence or moral turpitude under the laws of any State, of the District of Columbia, or of the United States; or

"(11) take or fail to take any personnel action on the basis of personal favoritism.

"(c)(1) The head of each agency shall be responsible for the prevention of prohibited personnel practices, the compliance with and enforcement of applicable civil service laws, rules, and regulations and other aspects of personnel management. Any individual to whom the head of an agency delegates authority for personnel management, or for any aspect thereof, shall be similarly responsible within the limits of the delegation.

"(2) In the case of employees and applicants for employment in the Federal Bureau of Investigation, disclosures described in subsection (b)(8)(A) of this section shall be made to the Attorney General or his designee. The Attorney General of the United States shall issue rules and regulations to protect employees and applicants for employment in the Federal Bureau of Investigation from the taking or failure to take any personnel action as a reprisal for such disclosure.

"(d) This section shall not be construed to extinguish or lessen any effort to achieve equal employment opportunity through affirmative action or any right or remedy available to any employee or applicant for employment in the civil service under—

"(1) section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16), prohibiting discrimination on the basis of race, color, religion, sex, or national origin;

"(2) sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a), prohibiting discrimination on the basis of sex;

"(3) under the Equal Pay Act of 1963 (29 U.S.C. 206(d)), prohibiting discrimination on the basis of sexy;

"(4) section 501 of the Rehabilitation Act of 1973 (9 U.S.C. 791), prohibiting discrimination on the basis of handicapping condition;

"(5) the provisions of this title, and rules and regulations thereunder, prohibiting discrimination on the basis of marital status or political affiliation; or

"(6) the provisions of any other law, rule, or regulation prohibiting discrimination on any such basis.

"§ 2303. Responsibility of the General Accounting Office

"(a) If requested by either House of the Congress (or any committee thereof), or if considered necessary by the Comptroller General, the General Accounting Office shall conduct audits and reviews to assure compliance with the laws, rules, and regulations governing employment in the executive branch and in the competitive service and to assess the effectiveness and soundness of Federal personnel management.

"(b) The General Accounting Office shall prepare and submit an annual report to the President and the Congress on the activities of the Merit Systems Protection Board and the Office of Personnel Management. Such report shall include a description of—

"(1) significant actions taken by the Board to carry out its functions under this title; and

"(2) significant actions of the Office of Personnel Management, including an analysis of whether or not the actions of the Office of Personnel Management are in accord with merit system principles and free from prohibited personnel practices.

"§ 2304. Coordination with certain other provisions of law.

"No provision of this chapter, or action taken under this chapter, shall be construed to impair the authorities and responsibilities set forth in section 102 of the National Security Act of 1947 (61 Stat. 495; 50 U.S.C. 403), the Central Intelligence Agency Act of 1949 (63 Stat. 208; 50 U.S.C. 403a and following), Public Law 86-36 (73 Stat. 63; 50 U.S.C. 402 note), and Public Law 88-290) 78 Stat. 168; 50 U.S.C. 831-835)."

(b)(1) The table of chapters for part III of title 5, United States Code, is amended by adding after the item relating to chapter 21 the following new item:

"23. Merit system principles..... 2301."

(2) Section 7203 of title 5, United States Code (as redesignated in section 703(a)(1) of this Act) is amended—

(A) by striking out "Physical handicap" in the section heading and inserting in lieu thereof "Handicapping condition"; and

(B) by striking out "physical handicap" each place it appears in the text and inserting in lieu thereof "handicapping condition".

TITLE II—CIVIL SERVICE FUNCTIONS; PERFORMANCE APPRAISAL; ADVERSE ACTIONS

OFFICE OF PERSONNEL MANAGEMENT

SEC. 201. (a) Chapter 11 of title 5, United States Code, is amended to read as follows:

"Chapter 11—OFFICE OF PERSONNEL MANAGEMENT

"Sec.
"1101. Office of Personnel Management.
"1102. Director; Deputy Director; Associate Directors.
"1103. Functions of the Director.
"1104. Delegation of authority for personnel management.
"1105. Reports to the Congress.
"1106. Administrative procedure.

"§ 1101. Office of Personnel Management

"The Office of Personnel Management is an independent establishment in the executive branch. The Office shall have an official seal which shall be judicially noticed and shall have as its principal office in the District of Columbia, and may have field offices in other appropriate locations.

"§ 1102. Director; Deputy Director; Associate Directors

"(a) There is at the head of the Office of Personnel Management a Director of the Office of Personnel Management appointed by the President, by and with the advice and consent of the Senate.

"(b) There is in the Office a Deputy Director of the Office of Personnel Management appointed by the President, by and with the advice and consent of the Senate. The Deputy Director shall perform such functions as the Director may from time to time prescribe and shall act as Director during the absence or disability of the Director or when the Office of the Director is vacant.

"(c) No person shall, while serving as Director or Deputy Director, serve in any other office or position in the Government of the United States except as otherwise provided by law or by the President.

"(d) There may be within the Office of Personnel Management not more than 5 Associate Directors, as determined from time to time by the Director. Each Associate Director shall be appointed by the Director.

"§ 1103. Functions of the Director

"(a) The following functions are vested in the Director of the Office of Personnel Management, and shall be performed by the Director, or subject to section 1104(a) of this title, by such employees of the Office as the Director designates:

"(1) securing accuracy, uniformity, and justice in the functions of the Office;

"(2) appointing individuals to be employed by the Office;

"(3) directing and supervising employees of the Office, distributing business among employees and organizational units of the Office, and directing the internal management of the Office;

"(4) directing the preparation of requests for appropriations for the Office and the use and expenditure of funds by the Office;

"(5) executing, administering, and enforcing—

"(A) the civil service rules and regulations of the President and the Office and the statutes governing the civil service; and

"(B) the other activities of the Office including retirement and classification activities;

"(6) reviewing the operations under chapter 87 of this title; and

"(7) the functions prescribed in part I of Reorganization Plan Numbered 2 of 1978.

"(b)(1) The Director shall publish in the Federal Register general notice of any proposed rule or regulation which affects any agency or its employees. Any such notice shall be in accordance with the notice requirements of section 553(b) of this title. Upon receipt of such notice of any proposed rule or regulation, the agency shall, under regulations which shall be prescribed by the Office of Personnel Management, post such proposed rule or regulation in such locations of such offices of the agency as the agency finds reasonably necessary to ensure notice to the maximum number of employees affected. The issuance of any such rule or regulation shall be in accordance with the rule making requirements of section 553(c) of this title. Any such rule or regulation shall be published in the Federal Register at least 60 days before its effective date.

"(2) Paragraph (1) of this subsection shall not apply to any proposed rule or regulation which is temporary in nature and which is necessary to be implemented expeditiously as a result of an emergency need.

"§ 1104. Delegation of authority for personnel management

"(a)(1) Subject to subsection (b)(3) of this section and notwithstanding any other provision of this title—

"(1) the President may delegate, in whole or in part, authority for personnel management functions, including authority for competitive examinations, to the Director of the Office of Personnel Management; and

"(2) the Director may delegate, in whole or in part, any function vested in or delegated to the Director, including authority for competitive examinations (except competitive examinations for administrative law judges appointed under section 3105 of this title), to the heads of agencies in the executive branch and other agencies employing persons in the competitive service; except that the Director may not delegate open competitive examination authority with respect to positions whose requirements are common to agencies in the Federal Government, other than in exceptional cases in which the interests of economy and efficiency require such delegation and in which such delegation will not weaken the application of the merit system principles.

"(b)(1) The Office of Personnel Management shall establish standards which shall apply to the activities of the Office or any other agency under authority delegated under subsection (a) of this section.

"(2) The Office shall establish and maintain an oversight program to ensure that activities under any authority delegated under subsection (a) of this section are in accordance with the merit system principles and the standards established under paragraph (1) of this subsection.

"(3) Nothing in subsection (a) of this section shall be construed as affecting the responsibility of the Director to ensure compliance with the civil service laws and regulations.

"(c) If the Office makes a written finding, on the basis of information obtained under the program established under subsection (b)(2) of this section or otherwise, that any action taken by an agency pursuant to authority delegated under subsection (a)(2) of this section is contrary to any law, rule, or regulation, or is contrary to any standard established under subsection (b)(1) of this section, the agency involved shall take any corrective action the Office may require.".

"§ 1105. Reports to the Congress

"Notwithstanding any other provision of law or any rule, regulation, or directive, the Director, or any employee of the Office of Personnel Management designated by the Director, may transmit to the Congress on the request of any committee or subcommittee thereof, by report, testimony, or otherwise, information and views on functions, responsibilities, or other matters relating to the Office, without review, clearance, or approval by any other administrative authority.

"§ 1106. Administrative procedure

"In the exercise of the functions assigned under this chapter, the Director shall be subject to subsections (b), (c), and (d) of section 553 of this title, notwithstanding subsection (a) of such section 553.".

(b)(1) Section 5313 of title 5, United States Code, is amended by inserting at the end thereof the following new paragraph:

"(24) Director of the Office of Personnel Management.".

(2) Section 5314 of such title is amended by inserting at the end thereof the following new paragraph:

"(68) Deputy Director of the Office of Personnel Management.".

(3) Section 5315 of such title is amended by inserting at the end thereof the following new paragraph:

"(122) Associate Directors of the Office of Personnel Management (5).".

(c)(1) The heading of part II of title 5, United States Code, is amended by striking out "THE UNITED STATES CIVIL SERVICE COMMISSION" and inserting in lieu thereof "CIVIL SERVICE FUNCTIONS AND RESPONSIBILITIES".

(2) The item relating to chapter 11 in the table of chapters for part II of such title is amended by striking out "Organization" and inserting in lieu thereof "Office of Personnel Management".

MERIT SYSTEMS PROTECTION BOARD AND SPECIAL COUNSEL

SEC. 202. (a) Title 5, United States Code, is amended by inserting after chapter 11 the following new chapter:

"Chapter 12—MERIT SYSTEMS PROTECTION BOARD AND SPECIAL COUNSEL

"Sec.
"1201. Appointment of members of the Merit Systems Protection Board.
"1202. Term of office; filing vacancies; removal; quorum.
"1203. Chairman; Vice Chairman.
"1204. Special Counsel; appointment and removal.
"1205. Powers and functions of the Merit Systems Protection Board and Special Counsel.
"1206. Authority and responsibilities of the Special Counsel.
"1207. Hearings and decisions on complaints filed by the Special Counsel.
"1208. Reports to Congress.

"§ 1201. Appointment of members of the Systems Protection Board

"The Merit Systems Protection Board is composed of 3 members appointed by the President, by and with the advice and consent of the Senate, not more than 2 of whom may be adherents of the same political party. No member of the Board may hold another office or position in the Government of the United States. The Board shall have an official seal which shall be judicially noticed. The Board shall have its principal office in the District of Columbia and may have field offices in other appropriate locations.

"§ 1202. Term of office; filing vacancies; removal; quorum

"(a) The term of office of each member of the Merit Systems Protection Board is 7 years.

"(b) A member appointed to fill a vacancy occurring before the end of a term of office of his predecessor serves for the remainder of that term. Any appointment to fill a vacancy is subject to the requirements of section 1201 of this title.

"(c) Any member appointed for a 7-year term may not be reappointed to any following term.

"(d) Members may be removed by the President only upon notice and hearing and only for misconduct, inefficiency, neglect of duty, or malfeasance in office.

"(e) Except as otherwise provided in this title, the Board shall act upon majority vote of those members present, and any 2 members present shall constitute a quorum for the transaction of business of the Board.

"§ 1203. Chairman; Vice Chairman

"(a) The President shall from time to time designate one of the members of the Merit Systems Protection Board as the Chairman of the Board. The Chairman is the chief executive and administrative officer of the Board.

"(b) The President shall from time to time designate one of the members of the Merit Systems Protection Board as Vice Chairman of the Board. During the absence or disability of the Chairman, or when the office of Chairman is vacant, the Vice Chairman shall perform the functions vested in the Chairman.

"§ 1204. Special Counsel; appointment and removal

"The Special Counsel of the Merit Systems Protection Board shall be appointed by the President, by and with the advice and consent of the Senate, for a term of 7 years. The Special Counsel may be removed by the President only upon notice and hearing and only for misconduct, inefficiency, neglect of duty, or malfeasance in office.

"§ 1205. Powers and functions of the Merit Systems Protection Board and Special Counsel

"(a)(1) Any member of the Merit Systems Protection Board, the Special Counsel, any administrative law judge appointed by the Board under section 3105 of this title, and any employee of the Board designated by the Board may administer oaths, examine witnesses, and received evidence.

"(2) Any member of the Merit Systems Protection Board, the Special Counsel, and any administrative law judge appointed by the Board under section 3105 of the title may—

"(A) issue subpenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States or any territory or possession thereof, the Commonwealth of Puerto Rico, or the District of Columbia, and

"(B) take or order the taking of depositions and order responses to written interrogatories.

"(b) In the case of contumacy or failure to obey a subpena issued under subsection (a)(1) of this section, the United States district court for the judicial district in which the person to whom the subpena is addressed resides or is served may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(c) Witnesses (whether appearing voluntarily or under subpena) shall be paid the same fee and mileage allowances which are paid subpenaed witnesses in the courts of the United States.

"(d)(1) At any time after the effective date of any rule or regulation issued by the Office of Personnel Management in carrying out its functions under section 1103 of this title, the Board shall review any provision of such rule or regulation—

"(A) on its own motion;

"(B) on the granting by the Board, in its sole discretion, of any petition for such review filed with the Board by any interested person, after consideration of the petition by the Board; or

"(C) on the filing of a written complaint by the Special Counsel requesting such review.

"(2) In reviewing any provision of any rule or regulation pursuant to this subsection the Board shall declare such provision—

"(A) invalid on its face, if the Board determines that such provision would, if implemented by any agency, on its face—

"(i) require any employee to violate section 2302(b) of this title; or

"(ii) is contrary to any merit system principle; or

"(B) invalidly implemented by any agency, if the Board determines that such provision, as it has been implemented by the agency through any personnel action taken by the agency or through any policy adopted by the agency in conformity with such provision—

"(i) has required any employee to violate section 2302(b) of this title; or

"(ii) has been contrary to any merit system principle.

"(3)(A) The Director of the Office of Personnel Management, and any agency implementing any provision of any rule or regulation under review pursuant to this subsection, shall have the right to participate in such review.

"(B) Any review conducted by the Board pursuant to this paragraph shall be limited to determining—

"(i) the validity on its face of the provision under review; and

"(ii) whether the provision under review has been validly implemented.

"(C) The Board shall require any agency—

"(i) to cease compliance with any provision of any rule or regulation which the Board declares under this subsection to be invalid on its face; and

"(ii) to correct any invalid implementation by the agency of any provision of any rule or regulation which the Board declares under this subsection to have been so invalidly implemented by the agency.

"(e) In addition to functions otherwise provided in this title, the Board shall have the functions prescribed in part II of Reorganization Plan Numbered 2 of 1978.

"(f) The Board shall conduct, from time to time, special studies relating to the civil service and to other merit systems in the executive branch, and report to the President and to the Congress as to whether the public interests in a civil service free of prohibited personnel practices is being adequately protected.

"(g) The Merit Systems Protection Board shall submit its request for annual appropriations to the Office of Management and Budget and to the Congress.

"§ 1206. Authority and responsibility of the Special Counsel

"(a)(1) The Special Counsel shall receive any allegation of a prohibited personnel practice and shall investigate the allegation to the extent necessary to determine whether there are reasonable grounds to believe that a prohibited personnel practice exists or has occurred.

"(2) If the Special Counsel terminates any investigation under paragraph (1) of this subsection, the Special Counsel shall prepare and transmit to any person on whose allegation the investigation was initiated a written statement notifying the person of the termination of the investigation and the reasons therefor.

"(3) In addition to authority granted under paragraph (1) of this subsection, the Special Counsel may, in the absence of an allegation, conduct an investigation for the purpose of determining whether there are reasonable grounds to believe that a prohibited personnel practice exists or has occurred.

"(b)(1) If the Special Counsel determines that there are reasonable grounds to believe—

"(A) that a personnel action was taken, or is to be taken, as a result of a prohibited personnel practice; and

"(B) except with regard to a prohibited personnel practice described in section 2302(b)(8) of this title, that the personnel action would have a substantial and adverse impact on the employee involved;

the Special Counsel may order a stay of the personnel action for 30 calendar days or any longer period the Board may prescribe under paragraph (2) of this subsection.

"(2) If the Board—

"(A) has received a petition of the Special Counsel for an extension of a stay ordered under paragraph (1) of this subsection, and

"(B) concurs in the determination of the Special Counsel under paragraph (1), after an opportunity is provided for oral or written comment by the Special Counsel and the agency involved,

the Board may extend the period of such stay for any period it considers appropriate. If the aggregate period of the stay, as proposed to be extended, will not exceed 60 days, the function of the Board under this paragraph may be performed by any one member of the Board.

"(c)(1) In any case involving—

"(A) any disclosure of information by an employee or applicant for employment which the employee or applicant reasonably believes evidences—

"(i) a violation of any law, rule, or regulation; or

"(ii) mismanagement, a waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

if the disclosure is not specifically prohibited by law and if the information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs; or

"(B) a disclosure by an employee or applicant for employment to the Special Counsel of the Merit Systems Protection Board, or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures, of information, other than foreign intelligence or counterintelligence information the disclosure of which is specifically prohibited by law or by Executive order, which the employee or applicant reasonably believes evidences—

"(i) a violation of any law, rule, or regulation; or

"(ii) mismanagement, a waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

the identity of the employee or applicant may not be disclosed without the consent of the employee or applicant during any investigation under subsection (a) of this section or under paragraph (2) of this subsection, unless the Special Counsel determines that the disclosure of the identity of the employee or applicant is necessary in order to effectively carry out the investigation.

"(2) Within 15 days after receiving any information under paragraph (1)(B) of this subsection, the Special Counsel shall determine whether the information warrants an investigation. If an investigation is determined to be warranted, the Special Counsel shall—

"(A) transmit the information to the head of the agency involved;

"(B) require the head of the agency to—

"(i) conduct an investigation of the information and any related matters transmitted by the Special Counsel to the head of the agency; and

"(ii) submit a written report to the Special Counsel and to the General Accounting Office setting forth the findings of the head of the agency within 60 days after the date

on which the information is transmitted to the head of the agency or within any longer period of time agreed to in writing by the Special Counsel; and

"(C) transmit a copy of the report to the employee or applicant for employment who disclosed the information.

"(3) Any report required under paragraph (2) of this subsection shall be reviewed and signed by the head of the agency and shall include—

"(A) a summary of the information with respect to which the investigation was initiated;

"(B) a detailed description of the conduct of the investigation;

"(C) a summary of any evidence obtained from the investigation;

"(D) a listing of any violation or apparent violation of any law, rule, or regulation; and

"(E) a description of any corrective action taken or planned as a result of the investigation, such as—

"(i) changes in agency rules, regulations, or practices;

"(ii) the restoration of any aggrieved employee;

"(iii) disciplinary action against any employee; and

"(iv) referral to the Attorney General of any evidence of a criminal violation.

"(4) In any case in which evidence of a criminal violation obtained by an agency in an investigation under paragraph (2) of this subsection is referred to the Attorney General, the agency shall notify the Office of Personnel Management and the Office of Management and Budget of the referral.

"(5) Upon receipt of any report of the head of any agency required under paragraph (2)(B)(ii) of this subsection, the Special Counsel shall review the report and determine whether—

"(A) the findings of the head of the agency are reasonable;

"(B) the agency's investigation was complete and unbiased; and

"(C) the corrective action taken or planned is sufficient in light of any violations found to have occurred.

"(6) Upon receipt of any report of the head of any agency required under paragraph (2)(B)(ii) of this subsection, the General Accounting Office shall review the report and determine whether the agency investigation involved was adequate and whether the corrective action, if any, taken or planned by the agency is adequate. The General Accounting Office shall report the results of its review to the Congress if it determines that the agency's investigation or any corrective action taken or planned by the agency is inadequate.

"(7) Except as specifically authorized under this subsection, the provisions of this subsection shall not be considered to authorize disclosure of any information by the Congress, any agency, or any person which is—

"(A) specifically prohibited from disclosure by any other provision of law; or

"(B) specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

"(8) The Special Counsel may, with the consent of the employee or applicant for employment involved, participate in any proceeding before the Merit Systems Protection Board under section 7701 of this title, to the extent the Special Counsel determines appropriate, if the Special Counsel believes the personnel action which is the subject of the proceeding involves a reprisal for a disclosure of information described in paragraph (1)(A) or (B) of this section.

"(9) In any case under subsection (c)(1)(B) of this section involving foreign intelligence or counterintelligence information the disclosure of which is specifically prohibited by law or by Executive order, or in any case in which the Special Counsel, in consultation with the head of an agency under subsection (d)(3) of this section, determines that information involved is prohibited from disclosure by law or by Executive order requiring that information be kept secret in the interest of national defense or the conduct of foreign affairs, the Special Counsel shall transmit such information to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

"(d)(1) If, in connection with any investigation under this section, the Special Counsel determines that there are reasonable grounds to believe that a prohibited personnel practice exists or has occurred which requires corrective action, the Special Counsel shall report the determination together with any findings or recommendations to the Merit Systems Protection Board, the agency involved, and to the Office of Personnel Management, and may report the determination, findings, and recommendations to the President. The Special Counsel may include in the report recommendations as to what corrective action should be taken, but the final decision on the corrective action to be taken shall be made by the Merit Systems Protection Board after opportunity for comment by the agency concerned and the Office of Personnel Management.

"(2) If, in connection with any investigation under this section, the Special Counsel determines that there is reasonable cause to believe that a criminal violation by an employee has occurred, the Special Counsel shall report the determination to the Attorney General and to the head of the agency involved, and shall submit a copy of the report to the Director of the Office of Personnel Management and the Director of the Office of Management and Budget.

"(3) If, in connection with any investigation under this section, the Special Counsel determines that there is reasonable cause to believe that any violation of any law, rule, or regulation has occurred which is not referred to in paragraph (1) or (2) of this subsection, the violation shall be reported to the head of the agency involved. The Special Counsel shall require, within 30 days of the receipt of the report by the agency, a certification by the head of the agency which states—

"(A) that the head of the agency has personally reviewed the report; and

"(B) what action has been, or is to be, taken, and when the action will be completed.

The Special Counsel shall maintain and make available to the public a list of noncriminal matters referred to heads of agencies and their certifications under this paragraph, except that prior to including any information in a public list, the Special Counsel shall consult with the head of the agency involved to determine if any of the information to be contained therein is prohibited from disclosure by law or by Executive order requiring that information be kept secret in the interest of national defense or the conduct of foreign affairs, in which case the information shall not be included in such a public list.

"(e)(1) In addition to the authority otherwise provided in this section, the Special Counsel shall, except as provided in paragraph (2) of this subsection, conduct an investigation of any allegation concerning—

"(A) political activity prohibited under subchapter III of chapter 73 of this title, relating to political activities by Federal employees;

"(B) political activity prohibited under chapter 15 of this title, relating to political activities by certain State and local officers and employees;

"(C) arbitrary or capricious withholding of information prohibited under section 552 of this title, except that the Special Counsel shall make no investigation under this subsection of any withholding of foreign intelligence or counter-intelligence information the disclosure of which is specifically prohibited by law or by Executive order;

"(D) activities prohibited by any civil service law, rule, or regulation, including any activity relating to politcal intrusion in personnel decisionmaking; and

"(E) involvement by any employee in any prohibited discrimination found by any court or appropriate administrative authority to have occurred in the course of any personnel action.

"(2) The Special Counsel shall make no investigation of any allegation of any prohibited activity referred to in paragraph (1)(D) or (1)(E) of this subsection if the Special Counsel determines that the allegation may be resolved more appropriately under an administrative appeals procedure.

"(f) During any investigation initiated under subsection (a), (c), or (e) of this section, no disciplinary action shall be taken against any employee for any alleged prohibited activity under investigation or for any related activity without the approval of the Special Counsel.

"(g)(1) Except as provided in paragraph (2) of this subsection, if the Special Counsel determines that disciplinary action should be taken against any employee—

"(A) after any investigation under this section, or

"(B) on the basis of any knowing and willful refusal or failure by an employee to comply with an order or requirement of the Special Counsel under subsection (b), (c), or (d)(3) of this section or an order of the Merit Systems Protection Board,

the Special Counsel shall prepare a written complaint against the employee containing his determination, together with a statement of supporting facts, and present the complaint, and statement to the employee and the Merit Systems Protection Board in accordance with section 1207 of this title.

"(2) In the case of an individual appointed by the President, by and with the advice and consent of the Senate (other than an individual in the Foreign Service of the United States), the complaint and statement referred to in paragraph (1) of this subsection shall be presented to the President for appropriate action in lieu of being presented under section 1207 of this title.

"(h) The Special Counsel may appoint the legal, administrative, and support personnel necessary to perform the functions of the Special Counsel.

"(i) The Special Counsel may prescribe regulations relating to the receipt and investigation of matters under the jurisdiction of the Special Counsel. Such regulations shall be published in the Federal Register.

"(j) The Special Counsel shall not issue any advisory opinion concerning any law, rule, or regulation (other than an advisory opinion concerning chapter 15 or subchapter III of chapter 73 of this title).

"(k) The Special Counsel shall prepare and submit an annual report to the President and to the Congress on—

"(1) the investigation and disposition of each case considered by the Special Counsel during the annual period covered by the report; and

"(2) actions by the Special Counsel on each case referred by the Special Counsel to the President during the annual period covered by the report.

"§ 1207. Hearings and decisions on complaints filed by the Special Counsel

"(a) Any employee against whom a complaint has been presented to the Merit Systems Protection Board under section 1206 (g) of this title shall be entitled to—

"(1) a reasonable time to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

"(2) be represented by an attorney or other representative;

"(3) a hearing before the Board, an administrative law judge appointed under section 3105 of this title and designated by the Board, or any other employee of the Board designated by the Board to conduct the hearing;

"(4) have a transcript kept of any hearing under paragraph (3); and

"(5) a written decision and reasons therefor at the earliest practicable date including a copy of any final order imposing disciplinary action.

"(b) A final order of the Board may impose disciplinary action—

"(1) in the case of political activity prohibited under subchapter III of chapter 73 of this title, as provided in section 7327 of this title; or

"(2) in any other case, consisting of removal, reduction in grade, debarment from Federal employment for a period not to exceed 5 years, suspension, reprimand, or an assessment of a civil penalty not to exceed $1,000.

"(c) There may be no administrative appeal from an order of the Board. An employee subject to a final order imposing disciplinary action under this section may obtain judicial review of the order in the United States district court for the judicial district in which the employee resides.

"(d) In the case of any State or local officer or employee under chapter 15 of this title, the Board shall consider the case in accordance with the provisions of such chapter.

"§1208. Reports to the Congress

"Notwithstanding any other provision of law or any rule, regulation or directive, any member of the Board, or any employee of the Board designated by the Board, may transmit to the Congress on the request of any committee or subcommittee thereof, by report, testimony, or otherwise, information and views on functions, responsibilities, or other matters relating to the Board, without review, clearance, or approval by any other administrative authority.".

(b) Any term of office of any member of the Merit Systems Protection Board serving on the effective date of this Act shall continue in effect until the term would expire under section 1102 of title 5, United States Code, as in effect immediately before the effective date of this Act, and upon expiration of the term, appointments to such office shall be made under sections 1201 and 1202 of title 5, United States Code (as added by this section).

(c)(1) Section 5314(17) of title 5, United States Code, is amended by striking out "Chairman of the United States Civil Service Commission" and inserting in lieu thereof "Chairman of the Merit Systems Protection Board".

(2) Section 5315(66) of such title is amended by striking out "Members, United States Civil Service Commission" and inserting in lieu thereof "Members, Merit Systems Protection Board".

(3) Section 5315 of such title is further amended by adding at the end thereof the following new paragraph:

"(123) Special Counsel of the Merit Systems Protection Board.".

(4) Paragraph (99) of section 5316 of such title is hereby repealed.

(d) The table of chapters for part II of title 5, United States Code, is amended by inserting after the item relating to chapter 11 the following new item:

"12. Merit Systems Protection Board and Special Counsel.....1201".

PERFORMANCE APPRAISAL

SEC. 203. (a) Chapter 43 of title 5, United States Code, is amended to read as follows:

"Chapter 43.—PERFORMANCE APPRAISAL

"SUBCHAPTER I—GENERAL PROVISIONS

"Sec.
"4301. Definitions.
"4302. Establishment of performance appraisal systems.
"4303. Actions based on unacceptable performance.
"4304. Responsibilities of Office of Personnel Management.
"4305. Regulations.

"§ 4301. Definitions

"For the purpose of this subchapter—

"(1) 'agency' means—

"(A) an Executive agency;

"(B) the Administrative Office of the United States Courts; and

"(C) the Government Printing Office;

but does not include—

"(i) a Government corporation;

"(ii) the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, or any Executive agency or unit thereof which is designated by the President and which conducts foreign intelligence or counterintelligence activities; or

"(iii) the General Accounting Office;

"(2) 'employee' means an individual employed in or under an agency, but does not include—

"(A) an employee outside the United States who is paid in accordance with local native prevailing wage rates for the area in which employed;

"(B) an individual in the Foreign Service of the United States;

"(C) a physician, dentist, nurse, or other employee in the Department of Medicine and Surgery, Veterans' Administration, whose pay is fixed under chapter 73 of title 38;

"(D) an administrative law judge appointed under section 3105 of this title;

"(E) an individual in the Senior Executive Service; or

"(F) an individual appointed by the President; and

"(3) 'unacceptable performance' means performance of an employee which fails to meet established performance standards in one or more critical elements of such employee's position, which shall include, but not be limited to conduct that demonstrates a pattern of recurring discourtesy to the public, including discourteous conduct confirmed by an immediate supervisor's report of four such instances within any one year period and any other pattern of discourteous conduct.

"§ 4302. Establishment of performance appraisal systems

"(a) Each agency shall develop one or more performance appraisal systems which—

"(1) provide for periodic appraisals of job performance of employees;

"(2) encourage employee participation in establishing performance standards;

"(3) use the results of performance appraisals as a basis for training, rewarding, reassigning, promoting, reducing in grade, retaining, and removing employees;

"(4) shall be the basis, notwithstanding any other provision of law, for promotions of one or more grades during any 12-month period in individual cases of exceptionally meritorious performance.

"(b) Under regulations which the Office of Personnel Management shall prescribe, each performance appraisal system shall provide for—

"(1) establishing performance standards which will permit the accurate evaluation of job performance on the basis of objective criteria related to the job in question for each employee under such system;

"(2) as soon as practicable, but not later than October 1, 1981, with respect to initial appraisal periods, and thereafter at the beginning of each following appraisal period, communicating to each employee the performance standards and the critical elements of the employee's position;

"(3) evaluating each employee during the appraisal period on such standards;

"(4) recognizing and rewarding employees whose performance so warrants;

"(5) assisting employees in improving unacceptable performance;

"(6) reassigning, reducing in grade, or removing employees who continue to have unacceptable performance; and

"(7) promoting employees one or more grades during any 12-month period, notwithstanding any other provision of law, in individual cases of exceptionally meritorious performance, subject to limitations prescribed by the Office of Personnel Management on the number or proportions of such promotions.

"§ 4303. Actions based on unacceptable performance

"(a) Subject to the provisions of this section, an agency may reduce in grade or remove an employee for unacceptable performance.

"(b)(1) An employee whose reduction in grade or removal is proposed under this section is entitled to—

"(A) 30 days' advance written notice of the proposed action which identifies—

"(i) each instance of unacceptable performance by the employee on which the proposed action is based; and

"(ii) the critical elements of the employee's position involved in each instance of unacceptable performance;

"(B) be represented by an attorney or other representative;

"(C) a reasonable time to answer orally and in writing;

"(D) an opportunity during the notice period to demonstrate acceptable performance; and

"(E) a written decision which—

"(i) in the case of a reduction in grade or removal under this section, specifies the instances of unacceptable performance by the employee on which the reduction in grade or removal is based, and

"(ii) unless proposed by the head of the agency, has been concurred in by an employee who is in a higher position than the employee who proposed the action.

"(2) An agency may, under regulations prescribed by the head of such agency, extend the notice period under subsection (b)(1)(A) of this section for not more than 30 days. An agency may extend the notice period for more than 30 days only in accordance with regulations issued by the Office of Personnel Management.

"(c) The decision to retain, reduce in grade, or remove an employee—

"(1) shall be made within 30 days after the date of the expiration of the notice period, and

"(2) in the case of a reduction in grade or removal, may be based only upon those instances of unacceptable performance by the employee—

"(A) which occurred during the 1-year period ending on the date of the notice under subsection (b)(1)(A) of this section in connection with the decision; and

"(B) for which the notice and other requirements of this section are complied with.

"(d) If, because of performance improvement by the employee during the notice period, the employee is not reduced in grade or removed, and the employee's performance continues to be acceptable for 1 year from the date of the advance written notice provided under subsection (b)(1)(A) of this section, any entry or other notation of the unacceptable performance for which the action was proposed under this section shall be removed from any agency record relating to the employee.

"(e) Any employee who is a preference eligible or is in the competitive service and who has been reduced in grade or removed under this section is entitled to appeal the action to the Merit Systems Protection Board under section 7701 of this title.

"(f) This section does not apply to—

"(1) the reduction to the grade previously held of a supervisor who has not completed the probationary period under section 3321 (a)(2) of this title,

"(2) the reduction in grade or removal of an employee in the competitive service who is serving a probationary or trial period under an initial appointment or who has not completed 1 year of current continuous employment under other than a temporary appointment limited to 1 year or less, or

"(3) the reduction in grade or removal of an employee in the excepted service who has not completed 1 year of current continuous employment in the same or similar positions.

"§ 4304. Responsibilities of the Office of Personnel Management

"(a) The Office of Personnel Management shall make technical assistance available to agencies in the development of performance appraisal systems.

"(b) If the Office of Personnel Management determines that a performance appraisal system does not meet the requirements of this subchapter (including regulations prescribed under section 4305 of this title), the Office of Personnel Management shall direct the agency to implement an appropriate system or to correct operations under the system, and the agency shall take any action so directed.

"§ 4305. Regulations

"The Office of Personnel Management may prescribe regulations to carry out the purpose of this subchapter.".

(b) The item relating to chapter 43 in the table of chapters for part III of title 5, United States Code, is amended by striking out "Performance Rating" and inserting in lieu thereof "Performance Appraisal".

ADVERSE ACTIONS

SEC. 204. (a) Chapter 75 of title 5, United States Code, is amended by striking out subchapters I, II, and III and inserting in lieu thereof the following:

"SUBCHAPTER I—SUSPENSION FOR 14 DAYS OR LESS

"§ 7501. Definitions

"For the purpose of this subchapter—

"(1) 'employee' means an individual in the competitive service who is not serving a probationary or trial period under an initial appointment or who has completed 1 year of current continuous employment in the same or similar positions under other than a temporary appointment limited to 1 year or less; and

"(2) 'suspension' means the placing of an employee, for disciplinary reasons, in a temporary status without duties and pay.

"§ 7502. Actions covered

"This subchapter applies to a suspension for 14 days or less, but does not apply to a suspension under section 7521 or 7532 of this title or any action initiated under section 1206 of this title.

"§ 7503. Cause and procedure

"(a) Under regulations prescribed by the Office of Personnel Management, an employee may be suspended for 14 days or less for such cause as will promote the efficiency of the service, including conduct that demonstrates a pattern of recurring discourtesy to the public, including discourteous conduct confirmed by an immediate supervisor's report of four such instances within any one year period and any other pattern of discourteous conduct.

"(b) An employee against whom a suspension for 14 days or less is proposed is entitled to—

"(1) an advance written notice stating the specific reasons for the proposed action;

"(2) a reasonable time to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

"(3) be represented by an attorney or other representative; and

"(4) a written decision and the specific reasons therefor at the earliest practicable date.

"(c) An agency may provide, by regulation, for a hearing which may be in lieu of or in addition to the opportunity to answer provided under subsection (b)(2) of this section.

"(d) Copies of the notice of proposed action, the answer of the employee if written, a summary thereof if made orally, the notice of decision and reasons therefor, and any order effecting the suspension, together with any supporting material, shall be maintained by the agency and shall be furnished to the Merit Systems Protection Board upon its request and to the employee affected upon the employee's request.

"§ 7504. Regulations

"The Office of Personnel Management may prescribe regulations to carry out the purpose of this subchapter.

"SUBCHAPTER II—REMOVAL, SUSPENSION FOR MORE THAN 14 DAYS, REDUCTION IN GRADE OR PAY, OR FURLOUGH FOR 30 DAYS OR LESS

"§ 7511. Definitions; application

"(a) For the purpose of this subchapter—

"(1) 'employee' means—

"(A) an individual in the competitive service who is not serving a probationary or trial period under an initial appointment or who has completed 1 year of current continuous employment under other than a temporary appointment limited to 1 year or less; and

"(B) a preference eligible in an Executive agency in the excepted service, and a preference eligible in the United States Postal Service or the Postal Rate Commission, who has completed 1 year of current continuous service in the same or similar positions;

"(2) 'suspension' has the meaning as set forth in section 7501(2) of this title;

"(3) 'grade' means a level of classification under a position classification system;

"(4) 'pay' means the rate of basic pay fixed by law or administrative action for the position held by an employee; and

"(5) 'furlough' means the placing of an employee in a temporary status without duties and pay because of lack of work or funds or other nondisciplinary reasons.

"(b) This subchapter does not apply to an employee—

"(1) whose appointment is made by and with the advice and consent of the Senate;

"(2) whose position has been determined to be of a confidential, policy-determining, or policy-advocating character by—

"(A) the Office of Personnel Management for a position that it has excepted from the competitive service; or

"(B) the head of an agency for a position which is excepted from the competitive service by statute.

"(c) The Office of Personnel Management may provide for the application of this subchapter to any position or group of positions excepted from the competitive service by regulation of the Office of Personnel Management.

"§ 7512. Actions covered

"This subchapter applies to—

"(1) a removal;

"(2) a suspension for more than 14 days;

"(3) a reduction in grade;

"(4) a reduction in pay; and

"(5) a furlough of 30 days or less;

but does not apply to—

"(A) a suspension or removal under section 7532 of this title,

"(B) a reduction in force action under section 3502 of this title,

"(C) the reduction in grade of a supervisor who has not completed the probationary period under section 3321(a)(2) of this title if such reduction is to the grade held immediately before becoming such a supervisor,

"(D) a reduction in grade or removal under section 4303 of this title, or

"(E) an action initiated under section 1206 or 7521 of this title.

"§ 7513. Cause and procedure

"(a) Under regulations prescribed by the Office of Personnel Management, an agency may take an action covered by this subchapter against an employee for such cause as will promote the efficiency of the service, including for conduct that demonstrates a pattern of recurring discourtesy to the public, including discourteous conduct confirmed by an immediate supervisor's report of four such instances within any one year period and any other pattern of discourteous conduct.

"(b) An employee against whom an action is proposed is entitled to—

"(1) at least 30 days' advance written notice, unless there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed, stating the specific reasons for the proposed action;

"(2) a reasonable time, but not less than 7 days, to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

"(3) be represented by an attorney or other representative; and

"(4) a written decision and the specific reasons therefor at the earliest practicable date.

"(c) An agency may provide, by regulation, for a hearing which may be in lieu of or in addition to the opportunity to answer provided under subsection (b)(2) of this section.

"(d) An employee against whom an action is taken under this section is entitled to appeal to the Merit Systems Protection Board under section 7701 of this title.

"(e) Copies of the notice of proposed action, the answer of the employee when written, a summary thereof when made orally, the notice of decision and reasons therefor, and any order effecting an action covered by this subchapter, together with any supporting material, shall be maintained by the agency and shall be furnished to the Merit Systems Protection Board upon its request and to the employee affected upon the employee's request.

"§ 7514. Regulations

"The Office of Personnel Management may prescribe regulations to carry out the purpose of this subchapter.

"SUBCHAPTER III—ADMINISTRATIVE LAW JUDGES

"§ 7521. Actions against administrative law judges

"(a) An action may be taken against an administrative law judge appointed under section 3105 of this title by the agency in which the administrative law judge is employed only for good cause established and determined by the Merit Systems Protection Board on the record after opportunity for hearing before the Board.

"(b) The actions covered by this section are—

"(1) a removal;

"(2) a suspension;

"(3) a reduction in grade;

"(4) a reduction in pay;

"(5) a furlough of 30 days or less; and

"(6) a written reprimand or admonition based on the performance or nonperformance of adjudicatory duties;

but do not include—

"(A) a suspension or removal under section 7532 of this title;

"(B) a reduction in force action under section 3502 of this title; or

"(C) any action initiated under section 1206 of this title.".

(b) So much of the analysis for chapter 75 of title 5, United States Code, precedes the items relating to subchapter IV is amended to read as follows:

"Chapter 75.—ADVERSE ACTIONS

"SUBCHAPTER I—SUSPENSION OF 14 DAYS OR LESS

"Sec.
"7501. Definitions.
"7502. Actions covered.
"7503. Cause and procedure.
"7504. Regulations.

"SUBCHAPTER II—REMOVAL, SUSPENSION FOR MORE THAN 14 DAYS, REDUCTION IN GRADE OR PAY, OR FURLOUGH FOR 30 DAYS OR LESS

"7511. Definitions; application.
"7512. Actions covered.
"7513. Cause and procedure.
"7514. Regulations.

"SUBCHAPTER III—ADMINISTRATIVE LAW JUDGES

"7521. Actions against administrative law judges.".

APPEALS

SEC. 205. Chapter 77 of title 5, United States Code, is amended to read as follows:

"Chapter 77.—APPEALS

"Sec.
"7701. Appellate procedures.
"7702. Judicial review of decisions of the Merit Systems Protection Board.

"§ 7701. Appellate procedures

"(a) An employee, or applicant for employment, may submit an appeal to the Merit Systems Protection Board from any action which is appealable to the Board under any law, rule, or regulation. An appellant shall have the right—

"(1) to a hearing for which a transcript will be kept; and

"(2) to be represented by an attorney or other representative.

Appeals shall be processed in accordance with regulations prescribed by the Board.

"(b) The Board may hear any case appealed to it or may refer the case to an administrative law judge appointed under section 3105 of this title or other employee of the Board designated by the Board to hear such cases. The Board, administrative law judge, or other employee (as the case may be) shall make a decision after receipt of the written representations of the parties to the appeal and after opportunity for a hearing under subsection (a)(1) of this section. A copy of the decision shall be furnished to each party to the appeal and to the Office of Personnel Management.

"(c)(1) Subject to paragraph (2) of this subsection, the decision of the agency shall be sustained under subsection (b) only if the agency's decision is supported by a preponderance of evidence.

"(2) Notwithstanding paragraph (1), the agency's decision may not be sustained under subsection (b) of this section if the employee or applicant for employment—

"(A) shows harmful error in the application of the agency's procedures in arriving at such decision;

"(B) shows that the decision was based on any prohibited personnel practice described in section 2302(b) of this title; or

"(C) shows that the decision was not in accordance with law.

"(d)(1) Except as provided in subsection (e) of this section, any decision under subsection (b) of this section shall be final unless—

"(A) a party to the appeal or the Director of the Office of Personnel Management petitions the Board for a review within 30 days after the receipt of the decision; or

"(B) the Board reopens and reconsiders a case on its own motion.

The Board, for good cause shown, may extend the 30-day period referred to in subparagraph (A) of this paragraph. One member of the Board may grant a petition or otherwise direct that a decision be reviewed by the full Board. The preceding sentence shall not apply if, by law, a decision of an administrative law judge is required to be acted upon by the Board.

"(2) The Director of the Office of Personnel Management may petition the Board for a review under paragraph (1) of this subsection only if the Director is of the opinion that the decision is erroneous and will have a substantial impact on civil service laws, rules, or regulations under the jurisdiction of the Office of Personnel Management.

"(e) The Equal Employment Opportunity Commission may delegate to the Merit Systems Protection Board the authority to provide an employee or applicant with a preliminary determination on the issue of discrimination whenever, as part of a complaint or appeal before the Merit Systems Protection Board on other grounds, the employee or applicant involved alleges a violation of section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16), the Equal Pay Act of 1963 (29 U.S.C. 206(d)), the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a), or section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791). Nothing in the subsection shall be construed to authorize the Equal Employment Opportunity Commission to delegate the function of making a final determination concerning the issue of discrimination.

"(f) The Board, or an administrative law judge or other employee of the Board designated to hear a case, may—

"(1) consolidate appeals filed by two or more appellants, or

"(2) join two or more appeals filed by the same appellant and hear and decide them concurrently,

if the deciding official or officials hearing the cases are of the opinion that the action could result in the appeals' being processed more expeditiously and would not adversely affect any party.

"(g)(1) Except as provided in paragraph (2) of this subsection, the Board, or an administrative law judge or other employee of the Board designated to hear a case, may require payment by the agency involved of reasonable attorney fees incurred by an employee or applicant for employment if the employee or applicant is the prevailing party and the Board, administrative law judge, or other employee, as the case may be, determines that payment by the agency is warranted.

"(2) If an employee or applicant for employment is the prevailing party and the decision is based on a finding of discrimination prohibited under section 2302(b)(1) of this title, the payment of attorney fees shall be in accordance with the standards prescribed under section 706 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(k)).

"(h) The Board may, by regulation, provide for one or more alternative methods for settling matters subject to the appellate jurisdiction of the Board which shall be applicable at the election of an applicant for employment or of an employee who is not in a unit for which a labor organization is accorded exclusive recognition, and shall be in lieu of other procedures provided for under this section. A decision under such a method shall be final, unless the Board reopens and reconsiders a case at the request of the Office of Personnel Management under subsection (d) of this section.

"(i) The Merit Systems Protection Board may prescribe regulations to carry out the purpose of this section.

"§ 7702. Judicial review of decisions of the Merit Systems Protection Board

"(a) Any employee or applicant for employment adversely affected or aggrieved by a final order or decision of the Merit Systems Protection Board may obtain judicial review of the order or decision.

"(b) A petition to review a final order or decision of the Board shall be filed in the Court of Claims or a United States district court as provided in chapters 91 and 85, respectively, or title 28 except that cases of discrimination shall be filed under section 717(c) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16(c)) under section 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(c)), section 16(b) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 216 and 217), as applicable. Notwithstanding any other provision of law, any petition for review must be filed within 30 days after the date the petitioner received notice of the final order or decision of the Board.

"(c) The court shall review the record for the purpose of determining whether the findings are in accordance with law, and whether the procedures required by statute and regulations were followed, except that in a case of discrimination brought under 42 U.S.C. 2000e–16(c), 29 U.S.C. 633a(c), or 29 U.S.C. 216 and 217, the proceeding shall be de novo. The findings of the Board are conclusive if supported by the evidence in the record. If the court determines that further evidence is necessary, it shall remand the case to the Board. The Board, after such further proceedings as may be required, may modify its findings, and shall file with the court the record of such proceedings. The findings of the Board are conclusive if supported by the evidence in the record as supplemented.

"(d) If the Director of the Office of Personnel Management determines, in his sole discretion, that the Board erred in interpreting a civil service law, rule, regulation, or policy directive affecting personnel management and that the Board's final decision or order will have a substantial impact on any civil service law, rule, or regulation, the Director may file a petition for judicial review of the order or decision in the United States District Court for the District of Columbia. In addition to the named respondent, the Board and all other parties to the proceedings before the Board shall have the right to appear in the proceeding before the court. The granting of the petition for judicial review shall be at the discretion of the court.".

TITLE III—STAFFING

VOLUNTEER SERVICES

SEC. 301. (a) Chapter 31 of title 5, United States Code, is amended by adding at the end thereof the following new section:

§ 3111. Acceptance of volunteer service

"(a) For the purpose of this section, 'student' means an individual who is enrolled, not less than half-time, in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution. An individual who is a student is deemed not to have ceased to be a student during an interim between school years if

the interim is not more than 5 months and if the individual shows to the satisfaction of the Office of Personnel Management that the individual has a bona fide intention of continuing to pursue a course of study or training in the same or different educational institution during the school semester (or other period into which the school year is divided) immediately after the interim.

"(b) Notwithstanding section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)), the head of an agency may accept, subject to regulations issued by the Office of Personnel Management, voluntary service for the United States if the service—

"(1) is performed by a student, with the permission of the institution at which the student is enrolled, as part of an agency program established for the purpose of providing educational experiences for students;

"(2) is to be uncompensated; and

"(3) would not, under the facts and circumstances involved, be performed by an employee in the absence of voluntary service under this section.

"(c) Any student who provides voluntary service under subsection (b) of this section shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of this title (relating to compensation for injury) and sections 2671 through 2680 of title 28 (relating to tort claims).".

(b) The analysis for chapter 31 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"3111. Acceptance of volunteer service.".

EXCEPTIONS FROM THE COMPETITIVE SERVICE

SEC. 302. (a) Section 2103 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(c)(1) The President may, by Executive order, except any position from the competitive service if the President determines that—

"(A) the duties of such position—

"(i) require significant involvement in the advocacy of Presidential administration programs and support of their controversial aspects,

"(ii) require significant participation in the determination of major policies of such administration, or

"(iii) principally involve serving as a personal assistant to or advisor of a Presidential appointee, or serving in a confidential relationship directly under such a personal assistant or advisor; or

"(B) it would be impracticable to apply competitive examination procedures in the filing of such position because of—

"(i) national security,

"(ii) statutory or other significant requirements establishing special employment conditions,

"(iii) the unusual nature of the duties of such position,

"(iv) duration and frequency of service,

"(v) work location, or

"(vi) inadequate number of applicants.

"(2) Periodically (but not less than 2 years), the President shall review exceptions from the competitive service under Presidential authority, and shall revoke an exception if the President determines that, because of changed circumstances, the exception is no longer appropriate under the provisions of paragraph (1) of this subsection.

"(3) The President shall periodically review exceptions from the competitive service in the Executive agencies made by or under statute, and shall prepare and transmit a report on each such review to each House of the Congress containing such legislative and administrative changes as the President considers appropriate.".

(b) Section 3302(1) of title 5, United States Code, is amended by inserting ", to the extent authorized under section 2103(c) of this title," after "necessary exceptions".

DEFINITIONS RELATING TO PREFERENCE ELIGIBLES

SEC. 303. Effective beginning October 1, 1980, section 2108 of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by inserting in paragraph (3) after "means" the following: ", except as provided in paragraph (4) of this section";

(3) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(4) by adding at the end thereof the following new paragraphs:

"(4) except for the purposes of chapters 43 and 75 of this title, 'preference eligible' does not include a retired member of the armed forces unless—

"(A) the individual is a disabled veteran; or

"(B) the individual retired below the rank of major is its equivalent; and

"(5) 'retired member of the armed forces' means a member or former member of the armed forces who is entitled, under statute, to retired, retirement, or retainer pay on account of service as a member.".

NONCOMPETITIVE APPOINTMENT OF CERTAIN DISABLED VETERANS

SEC. 304. (a) Chapter 31 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 3112. Preference eligibles; disabled; noncompetitive appointment

"Under regulations prescribed by the Office of Personnel Management, an agency may make a noncompetitive appointment leading to conversion to career or career-conditional employment of a disabled veteran who—

"(1) has a compensable service-connected disability of 30 percent or more, or

"(2) is enrolled in or has successfully completed a course of job related training prescribed by the Administrator of Veterans' Affairs under chapter 31 of title 38.".

(b) The analysis for chapter 31 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"3112. Preference eligibles; disabled; noncompetitive appointment.".

APPOINTMENTS

SEC. 305. Section 3321 of title 5, United States Code, is amended to read as follows:

"§ 3321. Competitive service; probations; period of

"(a) The President may take such action, including the issuance of rules, regulations, and directives, as shall provide as nearly as conditions of good administration warrant, for a period of probation—

"(1) before an appointment in the competitive service becomes final; and

"(2) before an initial appointment as a supervisor or manager becomes final.

"(b) An individual—

"(1) who has been transferred, assigned, or promoted from a position to a supervisory or managerial position, and

"(2) who does not satisfactorily complete the probationary period under subsection (a)(2) of this section,

shall be returned to a position of no lower grade and pay than the position occupied by the individual immediately before the transfer, assignment, or promotion of the individual to the supervisory or managerial position. Nothing in this section prohibits the taking of an action against an individual serving a probationary period under subsection (a)(2) of this section for cause unrelated to supervisory or managerial performance.".

TRAINING

SEC. 306. Section 4103 of title 5, United States Code, is amended by inserting "(a)" before "In order to increase" and by adding at the end thereof the following new subsection:

"(b)(1) Notwithstanding any other provision of this chapter, an agency may train any employee of the agency to prepare the employee for placement in another agency if the head of the agency determines that the employee will otherwise be separated under conditions which would entitle the employee to severance pay under section 5595 of this title.

"(2) Before undertaking any training under this subsection, the head of the agency shall obtain verification from the Office of Personnel Management that there exists a reasonable expectation of placement in another agency.

"(3) In selecting an employee for training under this subsection, the head of the agency shall consider—

"(A) the extent to which the current skills, knowledge, and abilities of the employee may be utilized in the new position;

"(B) the employee's capability to learn new skills and acquire knowledge and abilities needed in the new position; and

"(C) the benefits to the Government which would result from retaining the employee in the Federal service.".

TRAVEL, TRANSPORTATION, AND SUBSISTENCE

SEC. 307. Section 5723(d) of title 5, United States Code, is amended by striking out "not".

RETIREMENT

SEC. 308. Section 8336(d)(2) of title 5, United States Code, is amended to read as follows:

"(2) voluntarily, during a period when the agency in which the employee is serving is undergoing a major reorganization, a major reduction in force, or a major transfer of function, as determined by the Office of Personnel Management, and the employee is serving in a geographic area designated by the Office;".

EXTENSION OF VETERANS READJUSTMENT APPOINTMENT AUTHORITY

SEC. 309. Section 2014(b) of title 38, United States Code, is amended to read as follows:

"(b) To further this policy, veterans of the Vietnam era shall be eligible, in accordance with regulations which the Office of Personnel Management shall prescribe for veterans readjustment appointments and subsequent career-conditional appointments, under the terms and conditions of Executive Order Numbered 11521 (March 26, 1970), except that these appointments may be made up to and including GS-7 of the General Schedule described in section 5104 of title 5, or its equivalent, and, for disabled veterans, the fourteen years of education limit shall not apply. Notwithstanding any limitations with respect to the period of eligibility as prescribed in Executive Order Numbered 11521, a veteran of the Vietnam era who was eligible for appointment under such Executive order on April 9, 1970, or a veteran of the Vietnam era who was separated on or after such date, may be appointed at any time. No veterans readjustment appointment may be made under the authority of this subsection after September 30, 1980.".

NOTIFICATION OF VACANCIES IN THE CIVIL SERVICE

SEC. 310. Chapter 33 of title 5, United States Code, is amended by inserting at the end thereof the following new section:

"§ 3327. Notification of vacancies in the civil service

"(a) For the purpose of this section—

"(1) 'agency' has the meaning set forth in section 5102 of this title; and

"(2) 'vacant position' means a position in an agency which is considered by the agency to be available for employment.

"(b) Each agency shall promptly notify the Office of Personnel Management of—

"(1) each vacant position in the agency together with the address to which requests for information concerning the position may be sent; and

"(2) each position of which the Office was notified under paragraph (1) of this subsection and which has since been filed or is otherwise no longer considered by the agency to be available for employment.

"(c) The Office shall transmit to the United States Employment Service, and make available to each employment office established by the Service, a comprehensive listing of all vacant positions and addresses of which the Office has been notified under subsection (b)(1) of this section. The Office shall revise the listing each month in accordance with the notifications of filled or otherwise unavailable positions received by the Office under subsection (b)(2) of this section and shall promptly transmit to the Service each revision.".

(b) The analysis for chapter 33 of title 5, United States Code, is amended by inserting after the item relating to section 3326 the following new item:

"3327. Notification of vacancies in the civil service.".

DUAL PAY FOR RETIRED MEMBERS OF THE UNIFORMED SERVICES

SEC. 311. Section 5532 of title 5, United States Code, relating to retired officers of the uniformed services, is amended by striking out so much of such section as precedes subsection (c) and by inserting in lieu thereof the following:

"§ 5532. Employment of retired members of the uniformed services; reduction in pay

"(a) If any member or former member of a uniformed service is receiving retired or retainer pay and is employed in a position the annual rate of basic pay for which, when combined with the member's annual rate of retired or retainer pay, exceeds the rate of basic pay then currently paid for level V of the Executive Schedule, such member's retired or retainer pay shall be reduced by an amount computed under subsection (b) of this section. The amounts or the reductions shall be deposited to the general fund of the Treasury of the United States.

"(b) The amount of each reduction under subsection (a) of this section allocable for any pay period in connection with employment in a position shall be equal to the retired or retainer pay allocable to the pay period, except that the amount of the reduction may not result in the amount of retired or retainer pay allocable to the pay period after being reduced, when combined with the basic pay for the employment during the pay period, being at a rate less than the rate of basic pay then currently paid for level V of the Executive Schedule.".

(b) Section 5531 of title 5, United States Code relating to definitions, is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) 'member' has the meaning given such term by section 101(23) of title 37;";

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(3) 'retired or retainer pay' means retired pay, as defined in section 8311(3) of this title, determined without regard to subparagraphs (B) through (D) of such section 8311(3); except that such term does not include an annuity payable to an eligible beneficiary of a member or former member of a uniformed service under chapter 73 of title 10.".

(c) Section 5532(c) of title 5, United States Code, is amended—

(1) by striking out "subsection (b) of";

(2) by striking out "or retirement" each place it appears and inserting in lieu thereof "or retainer";

(3) by striking out "a retired officer of a regular component of a uniformed service" and inserting in lieu thereof "a member or former member of a uniformed service who is receiving retired or retainer pay"; and

(4) in paragraph (1), by striking out "whose retirement was" and inserting in lieu thereof "whose retired or retainer pay is computed, in whole or in part,".

(d) Section 5532(d) of title 5, United States Code, is amended by inserting in lieu thereof the following:

"(d) The Office of Personnel Management may authorize exceptions to the restrictions in subsections (a) and (b) of this section only when necessary to meet special or emergency employment needs which result from a severe shortage of well qualified candidates in positions of medical officers which otherwise cannot be readily met.".

(e) The item relating to section 5532 in the analysis for chapter 55 of title 5, United States Code, is amended to read as follows: "5532. Employment of retired members of the uniformed services; reduction in pay."

(f)(1) The amendments made by this section shall apply only with respect to pay periods beginning after the effective date of this Act and only with respect to members of the uniformed services who first receive retired or retainer pay (as defined in section 5531(3) of title 5, United States Code (as amended by this section)), after the effective date of this Act.

(2) The provisions of section 5532 of title 5, United States Code, as in effect immediately before the effective date of this Act, shall apply with respect to any retired officer of a regular component of the uniformed service who is receiving retired pay on or before such date in the same manner and to the same extent as if the preceding subsections of this section had not been enacted.

MINORITY RECRUITMENT PROGRAM

SEC. 312. Section 7151 of title 5, United States Code, is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"§ 7151. Antidiscrimination policy; minority recruitment program";

(2) by inserting after such section heading the following new subsection:

"(a) For the purpose of this section—

"(1) 'underrepresentation' means a situation in which the number of members of a minority group designation (determined by the Equal Employment Opportunity Commission in consultation with the Office of Personnel Management, on the basis of the policy set forth in subsection (b) of this section) within a category of civil service employment constitutes a lower percentage of the total number of employees within the employment category than the percentage that the minority constituted within the labor force of the United States, as determined under the most recent decennial or mid-decade census, or current population survey, under title 13, and

"(2) 'category of civil service employment' means—

"(A) each grade of the General Schedule described in section 5104 of this title;

"(B) each position subject to subchapter IV of chapter 53 of this title;

"(C) such occupational, professional, or other groupings (including occupational series) within the categories established under subparagraphs (A) and (B) of this paragraph as the Office determines appropriate.";

(3) by inserting "(b)" before "It is the policy"; and

(4) by adding at the end thereof the following new subsection:

"(c) Not later than 180 days after the date of enactment of the Civil Service Reform Act of 1978, the Office of Personnel Management shall, by regulation, implement a minority recruitment program which shall provide, to the maximum extent practicable—

"(1) that each Executive agency conduct a continuing program for the recruitment of members of minorities for positions in the agency to carry out the policy set forth in subsection (b) in a manner designed to eliminate underrepresentation of minorities in the various categories of civil service employment within the Federal service, with special efforts directed at recruiting in minority communities, in educational institutions, and from other sources from which minorities can be recruited; and

"(2) that the Office conduct a continuing program of—

"(A) assistance to agencies in carrying out programs under paragraph (1) of this subsection, and

"(B) evaluation and oversight of such recruitment programs to determine their effectiveness in eliminating such minority underrepresentation.

"(d) Not later than 60 days after the date of the enactment of the Civil Service Reform Act of 1978, the Equal Employment Opportunity Commission shall—

"(1) establish the guidelines proposed to be used in carrying out the program required under subsection (c) of this section; and

"(2) make determinations of underrepresentation which are proposed to be used initially under such program; and

"(3) transmit to the Executive agencies involved, to the Office of Personnel Management, and to the Congress the determinations made under paragraph (2) of this subsection.

"(e) Not later than January 31 of each year, the Office shall prepare and transmit to each House of the Congress a report on the activities of the Office and of Executive agencies under subsection (c) of this section, including the affirmative action plans submitted under section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16), the personnel data file maintained by the Office of Personnel Management, and any other data necessary to evaluate the effectiveness of the program for each category of civil service employment and for each minority group designation, for the preceding fiscal year, together with recommendations for administrative or legislative action the Office considers appropriate.".

COMPENSATORY TIME OFF FOR RELIGIOUS OBSERVANCES

SEC. 313. (a) Subchapter V of chapter 55 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"5550a. Compensatory time off for religious observances

"(a) Not later than 30 days after the date of the enactment of this section, the Office of Personnel Management shall prescribe regulations providing for work schedules under which an employee whose personal religious beliefs require the abstention from work during certain periods of time, may elect to engage in overtime work for time lost for meeting those religious requirements. Any employee who so elects such overtime work shall be granted equal compensatory time off from his scheduled tour of duty (in lieu of overtime pay) for such religious reasons, notwithstanding any other provision of law.

"(b) In the case of any agency described in subparagraphs (C) through (G) of section 5541(1) of this title, the head of such agency (in lieu of the Office) shall prescribe the regulations referred to in subsection (a) of this section.

"(c) Regulations under this section may provide for such exceptions as may be nec-

essary to efficiently carry out the mission of the agency or agencies involved.".

(b) The analysis for chapter 55 of title 5, United States Code, is amended by adding after the item relating to section 5550 the following:

"5550a. Compensatory time off for religious observances.".

TEMPORARY EMPLOYMENT LIMITATIONS

SEC. 314. Effective one year after the date of the enactment of this Act the number of individuals employed in or under an Executive agency shall not exceed the number of individuals so employed on January 1, 1977.

(b) The President shall prescribe regulations to carry out the purpose of this section, including regulations to ensure that no increase in the procurement of personal services by contract occurs by reason of the enactment of this section.

(c) In administering this section an individual employed on a part-time career employment basis shall be counted as a fraction which is determined by dividing 40 hours into the average number of hours of such individual's regularly scheduled workweek.

(d) For the purpose of this section, "Executive agency" has the meaning set forth in section 105 of title 5, United States Code.

(e) The provisions of this section shall not apply during a time of war or during a period of national emergency declared by the Congress or the President.

(f) The provisions of this section shall terminate at noon on January 20, 1981.

INTERPRETING ASSISTANTS FOR DEAF EMPLOYEES

SEC. 315. (a) Section 3102 of title 5, United States Code, is amended—

(1) by redesignating paragraph (4) of subsection (a) as paragraph (5), by striking out "and" at the end of paragraph (3), and inserting after paragraph (3) the following new paragraph (4):

"(4) 'deaf employee' means an individual employed by an agency who establishes, to the satisfaction of the appropriate authority of the agency concerned under regulations of the head of that agency that the employee has a hearing impairment, either permanent or temporary, so severe or disabling that the employment of an interpreting assistant or assistants for the employee is necessary or desirable to enable such employee to perform the work of the employee; and";

(2) in subsection (b), by inserting "and interpreting assistant or assistants for a deaf employee" after "or assistants for a blind employee", and amending the last sentence to read as follows:

"A reading assistant or an interpreting assistant, other than the one employed or assigned under subsection (d) of this section, may receive pay for services performed by the assistant by and from the blind or deaf employee or a nonprofit organization, without regard to section 209 of title 18."

(3) in subsection (c), by inserting "or deaf" after "blind"; and

(4) by inserting at the end thereof the following new subsection:

"(d) The head of each agency may also employ or assign, subject to section 209 of title 18 and to the provisions of this title governing appointment and chapter 51 and subchapter VIII of chapter 53 of this title governing classification and pay, such reading assistance for blind employees and such interpreting assistants for deaf employees as may be necessary to enable such employees to perform their work.".

(b)(1) The analysis of chapter 31 of title 5, United States Code, is amended by striking out the item relating to section 3102 and inserting in lieu thereof the following:

"3102. Employment of reading assistants for blind employees and interpreting assistants for deaf employees.".

(2) The caption for section 3102 of title 5, United States Code, is amended to read as follows:

"§ 3102. Employment of reading assistants for blind employees and interpreting assistants for deaf employees".

(c) Section 410(b)(1) of title 39, United States Code, is amended by inserting after "open meetings)" a comma and "3102 (employment of reading assistants for blind employees and interpreting assistants for deaf employees),".

TITLE IV—SENIOR EXECUTIVE SERVICE

GENERAL PROVISIONS

SEC. 401. (a) Chapter 21 of title 5, United States Code, is amended by inserting after section 2101 the following new section:

"§ 2101a. The Senior Executive Service

"The 'Senior Executive Service' consists of Senior Executive Service positions (as defined in section 3132(a)(2) of this title).".

(b) Section 2102(a)(1) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by adding "and" at the end of subparagraph (B); and

(3) by adding at the end thereof the following new subparagraph:

"(C) positions in the Senior Executive Service;".

(c) Section 2103(a) of title 5, United States Code, is amended by inserting before the period at the end thereof the following: "or the Senior Executive Service".

(d) Section 2108(3) of title 5, United States Code (as amended in section 302 of this Act), is further amended—

(1) by striking out the period at the end thereof and inserting in lieu thereof a semicolon; and

(2) by adding at the end thereof the following:

"but does not include applicants for, or members of the Senior Executive Service.".

(e) The analysis for chapter 21 of title 5, United States Code, is amended by inserting after the item relating to section 2101 the following new item:

"2101a. The Senior Executive Service.".

AUTHORITY FOR EMPLOYMENT

SEC. 402. (a) Chapter 31 of title 5, United States Code, is amended by inserting after section 3112 (as added by section 303(a) of this Act), the following new subchapter:

"SUBCHAPTER II—THE SENIOR EXECUTIVE SERVICE

"§ 3131. The Senior Executive Service

"(a) It is the purpose of this subchapter to establish a Senior Executive Service to ensure that the management of the Government of the United States is responsive to the needs, policies, and goals of the Nation and otherwise is of the highest quality. The Senior Executive Service shall be administered so as to—

"(1) provide for a compensation system, including salaries, benefits, and incentives, and for other conditions of employment, designed to attract and retain highly competent senior executives;

"(2) ensure that compensation, retention, and tenure are contingent on managerial success which is measured on the basis of individual and organizational performance (including such factors as improvements in quality of work or service, cost efficiency, and timeliness of performance);

"(3) recognize exceptional accomplishment;

"(4) enable the head of an agency to reassign senior executives to best accomplish the agency's mission;

"(5) provide for severance pay, retirement benefits, and placement assistance for senior executives who are removed from the Senior Executive Service for non-disciplinary reasons;

"(6) protect senior executives from arbitrary or capricious actions;

"(7) provide for program continuity and policy advocacy in the management of public programs;

"(8) maintain a merit personnel system free of improper political interference;

"(9) ensure accountability for honest, economical, and efficient Government;

"(10) ensure compliance with all applicable civil service laws, rules, and regulations including those relating to equal employment opportunity, political activity, and conflicts of interest;

"(11) provide for the initial and continuing systematic development of highly competent senior executives;

"(12) ensure career appointees and, to the greatest extent possible, noncareer appointees, protection from prohibited personnel practices;

"(13) provide for a professional management system which is guided by the public interest and free from improper political interference; and

"(14) ensure that, notwithstanding the provisions of section 3134 of this title authorizing up to 10 percent of Senior Executive Service positions to be filled by noncareer appointees, political appointments to such positions are minimized to the maximum extent possible.

§ 3132. Definitions and exclusions.

"(a) For the purpose of this subchapter—

"(1) 'agency' means an Executive agency, the Administrative Office of the United States Courts, and the Government Printing Office, but does not include—

"(A) a Government corporation;

"(B) the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, or any Executive agency or unit thereof which is designated by the President and which conducts foreign intelligence or counterintelligence activities; or

"(C) the General Accounting Office;

"(2) 'Senior Executive Service position' means any position (other than a position in the Foreign Service of the United States or an administrative law judge position under section 3105 of this title) in an agency which is in GS-16, 17, or 18 of the General Schedule or in level IV or V of the Executive Schedule, or an equivalent position, which is not required to be filled by an appointment by the President by and with the advice and consent of the Senate, and in which an employee—

"(A) directs the work of an organizational unit;

"(B) is held accountable for the success of one or more specific programs or projects; or

"(C) supervises the work of employees other than personal assistants;

"(3) 'senior executive' means a member of the Senior Executive Service;

"(4) 'career appointee' means an individual in a Senior Executive Service position whose appointment to the position or previous appointment to another Senior Executive Service position was based on—

"(A) approval by the Office of Personnel Management of the managerial qualifications of such individual; and

"(B) selection through a merit staffing process consistent with Office of Personnel Management regulations;

"(5) 'limited term appointee' means an individual appointed under a nonrenewable appointment for a term of 3 years or less to a Senior Executive Service position the duties of which will expire at the end of such term;

"(6) 'limited emergency appointee' means an individual appointed under a nonrenewable appointment, not to exceed 18 months, to a Senior Executive Service position established to meet a bona fide, unanticipated, urgent need;

"(7) 'non career appointee' means an individual in a Senior Executive Service position who is not a career appointee, a limited term appointee, or a limited emergency appointee;

"(8) 'career reserved position' means a position which is required to be filled by a career appointee and which is designated under subsection (b) of this section; and

"(9) 'general position' means any position, other than a career reserved position, which may be filled by either a career appointee, noncareer appointee, limited emergency appointee, or limited term appointee.

"(b)(1) For the purpose of paragraph (8) of subsection (a) of this section, the Office of Personnel Management shall prescribe the criteria and regulations governing the designation of career reserved positions. The criteria and regulations shall provide that a position shall be designated as a career reserved position only if the filling of the position by a career appointee is necessary to ensure impartiality, or the public's confidence in the impartiality, of the Government. The head of each agency shall be responsible for designating career reserved positions in such agency in accordance with such criteria and regulations.

"(2) A position for which a designation is in effect under this subsection may be held only by a career appointee.

"(3) The Office of Personnel Management shall periodically review general positions to determine whether the positions should be designated as career reserved. If the Office determines that any such position should be so designated, it shall order the agency to make the designation.

"(4) Not later than March 1 of each year, the head of each agency shall publish in the Federal Register a list of positions in the agency which were career reserved positions during the preceding calendar year.

"(c) An agency may file an application with the Office of Personnel Management, setting forth reasons why it, or a unit thereof, should be excluded from any provision or requirement of this subchapter. The Office of Personnel Management shall—

"(1) review the application and stated reasons,

"(2) undertake an investigation to determine whether the agency or unit should be excluded from any provision or requirement of this subchapter, and

"(3) upon completion of its review and investigation, recommend to the President whether the agency or unit should be excluded from any provision or requirement of this subchapter.

If the Office recommends that an agency or unit thereof be excluded from any provision or requirement of this subchapter, the President may, on written determination, make the exclusion to the extent and for the period determined by the President to be appropriate.

"(d) The Office of Personnel Management may at any time recommend to the President that any exclusion previously granted to an agency or unit under subsection (c) of this section be revoked. Upon recommendation of the Office, the President may revoke, by written determination, any exclusion made under subsection (c) of this section.

"(e) If—

"(1) any agency is excluded under subsection (c) of this section, or

"(2) any exclusion is revoked under subsection (d) of this section,

the Office of Personnel Management shall, within 30 days after the action, transmit to the Congress a report concerning the exclusion or revocation.

"§ 3133. Authorization of positions; authority for appointment

"(a) During each odd-numbered calendar year, each agency shall—

"(1) examine its needs for Senior Executive Service positions for each of the 2 fiscal years beginning after such calendar year; and

"(2) submit to the Office of Personnel Management a written request for a specific number of Senior Executive Service positions for each of such fiscal years.

"(b) Each agency request submitted under subsection (a) of this section shall be based on—

"(1) the anticipated type and extent of program activities of the agency for each of the 2 fiscal years involved; and

"(2) such other factors as may be prescribed from time to time by the Office of Personnel Management.

"(c) The Office of Personnel Management, in consultation with the Office of Management and Budget, shall review the request of each agency and shall authorize, for each of the 2 fiscal years covered by requests required under subsection (b) of this section, a specific number of Senior Executive Service positions for each agency.

"(d)(1) The Office may, on a written request of an agency or on its own initiative, make an adjustment in the number of positions authorized for any agency. Each agency request under this paragraph shall be submitted in such form, and shall be based on such factors, as the Office of Personnel Management shall prescribe.

"(2) The total number of positions in the Senior Executive Service may not at any time during any fiscal year exceed 105 percent of the total number of positions authorized under subsection (c) of this section for such fiscal year.

"(e) Appointments to the Senior Executive Service may be made by appropriate appointing authorities of agencies subject to the requirements and limitations of this title.

"§ 3134. Limitations on noncareer appointments

"(a) During each calendar year, each agency shall—

"(1) examine its needs for employment of noncareer appointees for the fiscal year beginning in the following year; and

"(2) submit to the Office of Personnel Management, in accordance with regulations prescribed by the Office, a written request for authority to employ a specific number of noncareer appointees for such fiscal year.

"(b) The number of noncareer appointees in each agency will be determined annually by the Office of Personnel Management on the basis of demonstrated need of the agency. The total number of noncareer appointees in all agencies may not exceed 10 percent of the total number of Senior Executive Service positions in all agencies.

"(c) The number of Senior Executive Service positions in any agency which are filled by noncareer appointees may not at any time exceed the greater of—

"(1) 25 percent of the total number of Senior Executive Service positions in the agency; or

"(2) the number of positions in the agency which were filled on the date of the enactment of the Civil Service Reform Act of 1978 by—

"(A) noncareer executive assignments under subpart F of part 305 of title 5, Code of Federal Regulations, as in effect on such date, or

"(B) appointments to level IV or V of the Executive Schedule which were not required to be made by and with the advice and consent of the Senate.

This subsection shall not apply in the case of any agency having fewer than 4 Senior Executive Service positions.

"§ 3135. Biennial report

"(a) The Office of Personnel Management shall submit to each House of the Congress, at the time the budget is submitted by the President to the Congress during each even-numbered calendar year, a report on the Senior Executive Service. The report shall include—

"(1) the number of Senior Executive Service positions authorized for the then current fiscal year, in the aggregate and by agency, and the projected number of Senior Executive Service positions to be authorized for the next two fiscal years, in the aggregate and by agency;

"(2) a description of each exclusion in effect during the preceding calendar year under section 132(c) of this title;

"(3) the authorized number of career appointees and noncareer appointees, in the aggregate and by agency, for such fiscal year;

"(4) the number of limited term appointees, in the aggregate and by agency, employed during the preceding calendar year;

"(5) the titles of career reserved positions designated for such fiscal year;

"(6) the percentage of senior executives at each pay rate, in the aggregate and by agency, employed at the end of the preceding calendar year;

"(7) the distribution and amount of performance awards, in the aggregate and by agency, paid during the preceding calendar year; and

"(8) such other information regarding the Senior Executive Service as the Office of Personnel Management considers appropriate.

"(b) The Office of Personnel Management shall submit to each House of the Congress, at the time the budget is submitted to the Congress during each odd-numbered calendar year, an interim report showing changes in matters required to be reported under subsection (a) of this section.

"§ 3136. Regulations

"The Office of Personnel Management shall prescribe regulations to carry out the purpose of this subchapter.".

(b) Section 3109 of title 5, United States Code, is amended by inserting at the end thereof the following new subsection:

"(c) Positions in the Senior Executive Service may not be filled under the authority of subsection (b) of this section.".

(c) The analysis for chapter 31 of title 5, United States Code, is amended—

(1) by striking out the heading for chapter 31 and inserting in lieu thereof the following:

"Chapter 31—AUTHORITY FOR EMPLOYMENT

"SUBCHAPTER I—EMPLOYMENT AUTHORITIES";

and

(2) by inserting at the end thereof the following:

"Subchapter II—The Senior Executive Service

"Sec.
"3131. The Senior Executive Service.
"3132. Definitions and exclusions.
"3133. Authorization of positions; authority for appointment.
"3134. Limitations on noncareer appointments.
"3135. Biennial report.
"3136. Regulations.".

EXAMINATION, CERTIFICATION, AND APPOINTMENT

SEC. 403. (a) Chapter 33 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER VIII—APPOINTMENT, REASSIGNMENT, TRANSFER, AND DEVELOPMENT IN THE SENIOR EXECUTIVE SERVICE

"§ 3391. Definitions

"For the purpose of this subchapter, 'agency', 'Senior Executive Service position',

'senior executive', 'career appointee', 'limited term appointee', 'limited emergency appointee', 'noncareer appointee', and 'general position' have the meanings set forth in section 3132(a) of this title.

"§ 3392. General appointment provisions

"(a) Qualification standards shall be established by the head of each agency for each Senior Executive Service position in the agency and shall be in accordance with requirements established by the Office of Personnel Management.

"(b)(1) An individual may be appointed to a Senior Executive Service position only if the appointing authority has determined in writing that the individual meets the qualification requirements of the position.

"(2) Not more than 30 percent of the individuals serving at any time in Senior Executive Service positions may have served less than an aggregate of 5 years in the civil service, unless the President certifies to the Congress that the limitation would hinder the efficiency of the Government.

"(c) If a career appointee is appointed by the President, by and with the advice and consent of the Senate, to a civilian position in the executive branch which is not in the Senior Executive Service, and the rate of basic pay payable for which is equal to or greater than the rate payable for level V of the Executive Schedule, the career appointee may elect (at such time and in such manner as the Office of Personnel Management may prescribe) to continue to have the provisions of this title relating to basic pay, performance awards, awarding of ranks, severance pay, leave, and retirement apply as if the career appointee remained in the Senior Executive Service position from which he was appointed. Such provisions shall apply in lieu of the provisions which would otherwise apply—

"(1) to the extent provided under regulations prescribed by the Office, and

"(2) so long as the appointee continues to serve under such Presidential appointment.".

"§ 3393. Career appointments

"(a) Each agency shall establish a recruitment program, in accordance with guidelines which shall be issued by the Office of Personnel Management, which provides for recruitment of career appointees from—

"(1) all groups of qualified individual applicants within the civil service; or

"(2) all groups of qualified individual applicants whether or not within the civil service.

"(b) Each agency shall establish one or more executive resources boards, as appropriate, the members of which shall be appointed by the head of the agency from among employees of the agency. The boards shall, in accordance with merit staffing requirements established by the Office of Personnel Management—

"(1) review the qualifications of candidates for appointment as career appointees; and

"(2) make written recommendations concerning candidates to the appropriate appointing authorities.

"(c)(1) The Office of Personnel Management shall establish one or more qualifications review boards, as appropriate. It is the function of the boards to certify the managerial qualifications of candidates for entry as career appointees into the Senior Executive Service in accordance with regulations prescribed by the Office of Personnel Management. Of the members of each board—

"(A) At least one-half shall be appointed from among career appointees; and

"(B) Up to one-half may be appointed from outside the civil service.

Appointments to such boards shall be made on a non-partisan basis, the sole selection criterion being the professional knowledge of public management and other appropriate occupational fields of the intended appointee.

"(2) The Office of Personnel Management shall, in consultation with the various qualification review boards, prescribe criteria for establishing managerial qualifications for appointment to the Senior Executive Service. The criteria shall provide for—

"(A) consideration of demonstrated managerial experience;

"(B) consideration of successful participation in a career executive development program which is approved by the Office of Personnel Management; and

"(C) sufficient flexibility to allow for the appointment of individuals who have special or unique qualities which indicate a likelihood of managerial success and who would not otherwise be eligible for appointment.

"(d) An individual's initial appointment as a career appointee shall become final only after the individual has served a 1-year probationary period as a career appointee.

"§ 3394. Noncareer and limited appointments

"(a) Each noncareer appointee, limited term appointee, and limited emergency appointee shall meet the qualifications of the position to which appointed, as determined by the appointing authority.

"(b) An individual may not be appointed as a limited term appointee or as a limited emergency appointee without the prior approval of the exercise of such appointing authority by the Office of Personnel Management.

"§ 3395. Reassignment and transfer within the Senior 5xecutive Service

"(a)(1) A career appointee in an agency—

"(A) may, subject to paragraph (2) of this subsection, be reassigned to any Senior Executive Service position in the same agency for which the appointee is qualified; and

"(B) may transfer to a Senior Executive Service position in another agency for which the appointee is qualified, with the approval of the agency to which the appointee transfers.

"(2) A career appointee may be reassigned to any Senior Executive Service position only if the career appointee receives a written notice of the reassignment—

"(A) at least 15 days in advance of such reassignment; and

"(B) containing a statement of the critical reasons for the reassignment.

Any career appointee who is reassigned in violation of subparagraph (A) of this paragraph may appeal the violation to the Merit Systems Protection Board.

"(b)(1) A limited emergency appointee may be reassigned to another Senior Executive Service position in the same agency established to meet a bona fide, unanticipated, urgent need, except that the appointee may not serve in one or more positions in such agency under such appointments in excess of 18 months.

"(2) A limited term appointee may be reassigned to another Senior Executive Service position in the same agency the duties of which will expire at the end of a term of 3 years or less, except that the appointee may not serve in one or more positions in the agency under such appointment in excess of 3 years.

"(c) A limited term appointee or a limited emergency appointee may not be appointed to, or continue to hold, a position under such an appointment if, within the preceding 48 months, the individual has served more than 36 months, in the aggregate, under any combination of such types of appointment.

"(d) A noncareer appointee in an agency—

"(1) may be reassigned to any general position in the agency for which the appointee is qualified; and

"(2) may transfer to a general position in another agency with the approval of the agency to which the appointee transfers.

"(e)(1) Except as provided in paragraph (2) of this subsection, a career appointee in an agency may not be involuntarily reassigned—

"(A) within 120 days after an appointment of the head of the agency; or

"(B) within 120 days after the appointment in the agency of the career appointee's most immediate supervisor who—

"(i) is a noncareer appointee; and

"(ii) has the authority to reassign the career appointee.

"(2) Paragraph (1) of this subsection does not apply with respect to—

"(A) any reassignment under section 4314 (b)(3) of this title, or

"(B) in the case of any appointment referred to in paragraph (1)(A) or (B) of this subsection, any disciplinary action initiated before the appointment.

"(f) A career appointee may be transferred only if—

"(1) he consents to the transfer; and

"(2) the transfer is part of a program designed to enlarge the responsibilities of the career appointee and to advance his career in the Senior Executive Service.

No adverse personnel action shall be taken against a career appointee who exercises his right under this subsection not to consent to a transfer. Any career appointee against whom an adverse personnel action is taken in violation of this subsection may appeal the personnel action to the Merit Systems Protection Board.

"§ 3396. Development for and within the Senior Executive Service

"(a) The Office of Personnel Management shall establish programs for the systematic development of candidates for the Senior Executive Service and for the continuing development of senior executives, or require agencies to establish such programs which meet criteria prescribed by the Office of Personnel Management.

"(b) The Office of Personnel Management shall assist agencies in the establishment of programs required under subsection (a) of this section and shall monitor the implementation of the programs. If the Office of Personnel Management finds that any agency's program under subsection (a) of this section is not in compliance with the criteria prescribed under such subsection, it shall require the agency to take such corrective action as may be necessary to bring the program into compliance with the criteria.

"(c)(1) The head of an agency may grant a sabbatical leave to any career appointee for not to exceed 11 months in order to permit the appointee to engage in study or uncompensated work experience which will contribute to the appointee's development and effectiveness. A sabbatical leave shall not result in loss of, or reduction in, pay, leave to which the career appointee is otherwise entitled, credit for time or service, or performance or efficiency rating. The head of the agency may authorize in accordance with chapter 57 of this title such travel and per diem costs as the head of the agency may determine to be essential for the study or experience.

"(2) A sabbatical leave under this subsection may not be granted to any career appointee—

"(A) more than once in any 10-year period;

"(B) unless the appointee has completed 7 years of service—

"(i) in one or more positions in the Senior Executive Service;

"(ii) in one or more other positions in the civil service the level of duties and responsibilities of which are equivalent to the level of duties and responsibilities of positions in the Senior Executive Service; or

"(iii) in any combination of such positions; except that not less than 2 years of such 7 years of service must be in the Senior Executive Service; and

"(C) if the appointee is eligible for voluntary retirement with a right to an immediate annuity under section 8336 of this title.

Any period of assignment under section 3373 of this title, relating to assignments of employees to State and local governments, shall not be considered a period of service for the purpose of subparagraph (B) of this paragraph.

"(3)(A) Any career appointee in an agency may be granted a sabbatical leave under this subsection only if the appointee agrees, as a condition of accepting the sabbatical leave, to serve with the agency upon the completion of the leave, for a period of 2 consecutive years.

"(B) Each agreement required under subparagraph (A) of this paragraph shall provide that in the event the career appointee fails to carry out the agreement (except for good and sufficient reason as determined by the head of the agency involved) the appointee shall be liable to the United States for payment of all expenses (including salary) of the sabbatical leave. The amount shall be treated as a debt due the United States.

"§ 3397. Regulations

"The Office of Personnel Management shall prescribe regulations to carry out the purpose of this subchapter.".

(b) The analysis for chapter 33 of title 5, United States Code, is amended by inserting after the item relating to section 3385 the following:

"SUBCHAPT5R VIII—APPOINTMENT REASSIGNMENT, TRANSFER, AND DEVELOPMENT IN THE SENIOR EXECUTIVE SERVICE

"Sec.
"3391. Definitions.
"3392. General appointment provisions.
"3393. Career appointments.
"3394. Noncareer and limited appointments.
"3395. Reassignment and transfer within the Senior Executive Service.
"3396. Development for and within the Senior Executive Service.
"3397. Regulations.

RETENTION PREFERENCE

SEC. 404. (a) Section 3501(b) of title 5, United States Code, is amended by striking out the period at the end thereof and inserting in lieu thereof: "or to a member of the Senior Executive Service.".

(b) Chapter 35 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"Subchapter V—Removal, Reinstatement, and Guaranteed Placement Provisions in the Senior Executive Service

"§ 3591. Definitions

"For the purpose of this subchapter, 'agency', 'Senior Executive Service position', 'senior executive', 'career appointee', 'limited term appointee', 'limited emergency appointee', 'noncareer appointee', and 'general position' have the meanings set forth in section 3132(a) of this title.

"§ 3592. Removal from the Senior Executive Service

"(a) Except as provided in subsection (b) of this section, a career appointee may be removed from the Senior Executive Service to a civil service position outside of the Senior Executive Service—

"(1) during the 1-year period of probation under section 3393(d) of this title; or

"(2) at any time for less than fully successful managerial performance as determined under subchapter II of chapter 43 of this title.

"(b)(1) Except as provided in paragraph (2) or this subsection, a career appointee in an agency may not be involuntarily removed—

"(A) within 120 days after an appointment of the head of the agency; or

"(B) within 120 days after the appointment in the agency of the career appointee's most immediate supervisor who—

"(i) is a noncareer appointee; and

"(ii) has the authority to remove the career appointee.

"(2) Paragraph (1) of this subsection does not apply with respect to—

"(A) any removal under section 4314(b)(3) of this title or;

"(B) in the case of any appointment referred to in paragraph (1)(A) or (B) of this subsection, any disciplinary action initiated before such appointment.

"(c) A limited emergency appointee, limited term appointee, or noncareer appointee may be removed from the service at any time.

"§ 3593. Reinstatement in the Senior Executive Service

"(a) A former career appointee may be reinstated, without regard to section 3393(b) and (c) of this title, to any Senior Executive Service position for which the appointee is qualified if—

"(1) the appointee has successfully completed the probationary period established under section 3393(d) of this title; and

"(2) the appointee left the Senior Executive Service for reasons other than misconduct, neglect of duty, malfeasance, or less than fully successful managerial performance as determined under subchapter II of chapter 43 of this title.

"(b) A career appointee who is appointed by the President to any civil service position outside the Senior Executive Service and who leaves the position for reasons other than misconduct, neglect of duty, or malfeasance shall be entitled to be placed in the Senior Executive Service if the appointee applies to the Office of Personnel Management within 90 days after separation from the Presidential appointment.

"§ 3594. Guaranteed placement in other personnel systems

"(a) A career appointee who was appointed from a civil service position held under a career or career-conditional appointment (or an appointment of equivalent tenure, as determined by the Office of Personnel Management) and who, for reasons other than misconduct, neglect of duty, or malfeasance, is removed from the Senior Executive Service during the probationary period under section 3393(d) of this title, shall be entitled to be placed in a civil service position (other than a Senior Executive Service position) in any agency.

"(b) A career appointee—

"(1) who has completed the probationary period under section 3393(d) of this title; and

"(2) who is removed from the Senior Executive Service for less than fully successful managerial performance as determined under subchapter II of chapter 43 of this title; shall be entitled to be placed in a civil service position (other than a Senior Executive Service position) in any agency.

"(c)(1) For purposes of subsections (a) and (b) of this section—

"(A) the position in which any career appointee is placed under such subsections shall be a continuing, full-time position at GS-15 or above of the General Schedule, or an equivalent position, and, in the case of a career appointee referred to in subsection (a) of this section, the career appointee shall be entitled to an appointment of a tenure equivalent to the tenure of the appointment held in the position from which the career appointee was appointed;

"(B) any career appointee placed under subsection (a) or (b) shall be entitled to receive basic pay at the higher of—

"(i) the rate of basic pay in effect for the position in which placed;

"(ii) the rate of basic pay in effect at the time of the placement for the position the career appointee held in the civil service immediately before being appointed to the Senior Executive Service; or

"(iii) the rate of basic pay in effect for the career appointee immediately before being placed under subsection (a) or (b); and

"(C) the placement of any career appointee under subsection (a) or (b) may not be made to a position which would cause the separation or reduction in grade of any other employee.

"(2) An employee who is receiving basic pay under paragraph (1)(B) (ii) or (iii) of this subsection is entitled to have the basic pay rate increased by 50 percent of the amount of each increase in the maximum rate of basic pay for the grade of the position in which the employee is placed under subsection (a) or (b) until the rate is equal to the rate in effect under paragraph (1)(B)(i) for the position in which the employee is placed.

"§ 3595. Regulations

"The Office of Personnel Management shall prescribe regulations to carry out the purpose of this subchapter.".

(b) The chapter analysis for chapter 35 of title 5, United States Code, is amended by inserting the following new item:

"SUBCHAPTER V—REMOVAL, REINSTATEMENT, AND GUARANTEED PLACEMENT PROVISIONS IN THE SENIOR EXECUTIVE SERVICE

"Sec.
"3591. Definitions.
"3592. Removal from the Senior Executive Service.
"3593. Reinstatement in the Senior Executive Service.
"3594. Guaranteed placement in other personnel systems.
"3595. Regulations.".

PERFORMANCE RATING

SEC. 405. Chapter 43 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER II—PERFORMANCE APPRAISAL IN THE SENIOR EXECUTIVE SERVICE

"§ 4311. Definitions

"For the purpose of this subchapter, 'agency', 'senior executive', and 'career appointee' have the meanings set forth in section 3132 (a) of this title.

"§ 4312. Senior Executive Service performance appraisal systems

"(a) Each agency shall, in accordance with standards established by the Office of Personnel Management, develop one or more performance appraisal systems designed to—

"(1) provide for systematic appraisals of performance of senior executives;

"(2) encourage excellence in performance by senior executives; and

"(3) provide a basis for making eligibility determinations for retention in the Senior Executive Service and for Senior Executive Service performance awards.

"(b) Each performance appraisal system established by an agency under subsection (a) of this section shall provide—

"(1) that, on or before the beginning of each rating period, performance requirements for each senior executive in the agency are established in consultation with the executive and communicated to the executive;

"(2) that written appraisals of performance are based on the individual and organizational performance requirements established for the rating period involved; and

"(3) that each senior executive in the agency is provided a copy of the appraisal and rating under section 4314 of this title and is given an opportunity to respond in writing to the appraisal and rating and have the appraisal and rating reviewed by an employee in a higher managerial level in the agency before the appraisal and rating become final.

"(c) If the Office of Personnel Management determines that an agency performance appraisal system does not comply with the requirements of this subchapter or regulations under this subchapter, the Office of Personnel Management shall order the agency to take any corrective action necessary to bring such system into compliance.

"§ 4313. Criteria for performance appraisals

"Appraisals of performance in the Senior Executive Service shall be based on both individual and organizational performance, taking into account such factors as—

"(1) improvements in quality of work or service, including any significant reduction in paperwork;

"(2) cost efficiency;

"(3) timeliness of performance; and

"(4) meeting affirmative action goals and achievement of equal employment opportunity requirements.

"§ 4314. Ratings for performance appraisals

"(a) Each performance appraisal system shall provide for annual summary ratings of levels of performance as follows:

"(1) one or more fully successful levels,

"(2) a minimally satisfactory level, and

"(3) an unsatisfactory level.

"(b) Each performance appraisal system shall provide that—

"(1) any appraisal and any rating under such system—

"(A) are made only after review and evaluation by a performance review board established under subsection (c) of this section;

"(B) are conducted at least annually, subject to the limitation of paragraph (3) of this subsection;

"(C) in the case of a career appointee, may not be made within 120 days after the beginning of a new Presidential administration; and

"(D) are based on performance during a performance appraisal period the duration of which shall be determined under guidelines established by the Office of Personnel Management, but which may be terminated in any case in which the agency making an appraisal determines that an adequate basis exists on which to appraise and rate the senior executive's performance;

"(2) any career appointee receiving a rating at any of the fully successful levels under subsection (a)(1) of this section may be given a performance award as prescribed in section 5384 of this title;

"(3) any senior executive receiving an unsatisfactory rating under subsection (a)(3) of this section shall be reassigned or transferred within the Senior Executive Service, or removed from the Senior Executive Service, but any senior executive who receives 2 unsatisfactory ratings in any period of 5 consecutive years shall be removed from the Senior Executive Service, and

"(4) any senior executive who twice in any period of 3 consecutive years receives less than fully successful ratings shall be removed from the Senior Executive Service.

"(c) Each agency shall establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards, as appropriate. It is the function of the boards to make recommendations to the appropriate appointing authority of the agency relating to the performance of senior executives in the agency. The members of each board shall be appointed by the head of the agency from among employees of the agency other than senior executives with respect to which recommendations are being made the board. In making the recommendation with respect to a career appointee, each board shall include at least 1 career appointee.

"§ 4315. Regulations

"The Office of Personnel Management shall prescribe regulations to carry out the purposes of this subchapter.".

(b) The analysis for chapter 43 of title 5, United States Code, is amended by inserting at the end thereof the following:

"SUBCHAPTER II—PERFORMANCE APPRAISAL IN THE SENIOR EXECUTIVE SERVICE

'Sec.
"4311. Definitions.
"4312. Senior Executive Service performance appraisal systems.
"4313. Criteria for performance appraisals.
"4314. Ratings for performance appraisals.
"4315. Regulations.".

AWARDING OF RANKS

SEC. 406. (a) Chapter 45 of title 5, United States Code is amended by adding at the end thereof the following new section:

"§ 4057. Awarding of ranks in the Senior Executive Service

"(a) For the purpose of this section, 'agency', 'senior executive', and 'career appointee' have the meanings set forth in section 3132(a) of this title.

"(b) Each agency shall forward annually to the Office of Personnel Management recommendations of career appointees in the agency to be awarded the rank of Meritorious Executive or Distinguished Executive. The recommendations may take into account the individual's performance over a period of years. The Office of Personnel Management shall review such recommendations and provide to the President recommendations as to which of the agency recommended appointees should receive such rank.

"(c) During any fiscal year, the President may, subject to subsection (d), award to any career appointee recommended by the Office of Personnel Management the rank of—

"(1) Meritorious Executive, for sustained accomplishment, or

"(2) Distinguished Executive, for sustained extraordinary accomplishment.

"(d) During any fiscal year—

"(1) the number of career appointees awarded the rank of Meritorious Executive may not exceed 5 percent of the Senior Executive Service; and

"(2) the number of career appointees awarded the rank of Distinguished Executive may not exceed 1 percent of the Senior Executive Service.

"(e)(1) Receipt by a career appointee of the rank of Meritorious Executive entitles such individual to a lump-sum payment of $2,500, which shall be in addition to the basic pay paid under section 5382 of this title or any award paid under section 5384 of this title.

"(2) Receipt by a career appointee of the rank of Distinguished Executive entitles the individual to a lump-sum payment of $5,000, which shall be in addition to the basic pay paid under section 5382 of this title or any award paid under section 5384 of this title.".

(b) The analysis for chapter 45 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"4507. Awarding of Ranks in the Senior Executive Service.".

PAY RATES AND SYSTEMS

SEC. 407. (a) Chapter 53 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER VIII—PAY FOR THE SENIOR EXECUTIVE SERVICE

"§ 5381. Definitions

"For the purpose of this subchapter, 'agency', 'Senior Executive Service position', and 'senior executive' have the meanings set forth in section 3132(a) of this title.

"§ 5382. Establishment and adjustment of rates of pay for the Senior Executive Service; comparability

"(a) There shall be 5 or more rates of basic pay for the Senior Executive Service, and each senior executive shall be paid at one of the rates. The rates of basic pay shall be initially established and thereafter adjusted by the President subject to subsection (b) of this section.

"(b) In setting rates of basic pay, the lowest rate for the Senior Executive Service shall not be less than the minimum rate of basic pay payable for GS-16 of the General Schedule and the highest rate shall not exceed the rate for level IV of the Executive Schedule. The payment of the rates shall not be subject to the pay limitation of section 5308 or 5363 of this title.

"(c) Subject to subsection (b) of this section, effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5305 of this title in the rates of pay under the General Schedule, each rate of basic pay for the Senior Executive Service shall be adjusted by an amount, rounded to the nearest multiple of $100 (or if midway between multiples of $100, to the next higher multiple of $100), equal to the percentage of such rate of basic pay which corresponds to the overall average percentage (as set forth in the report transmitted to the Congress under such section 5305) of the adjustment in the rates of pay under the General Schedule. The adjusted rates of basic pay for the Senior Executive Service shall be included in the report transmitted to the Congress by the President under section 5305 (a)(3) or (c)(1) of this title.

"(d) The rates of basic pay that are established and adjusted under this section shall be printed in the Federal Register and shall supersede any prior rates of basic pay for the Senior Executive Service.

"§ 5383. Settling individual senior executive pay

"(a) Each appointing authority shall determine, in accordance with criteria established by the Office of Personnel Management, which of the rates established under section 5382 of this title shall be paid to each senior executive under such appointing authority.

"(b) In no event may the aggregate amount paid to a senior executive during any fiscal year under sections 4507, 5382, and 5384 of this title exceed 95 percent of the annual rate payable for positions at level II of the Executive Schedule in effect at the end of such fiscal year.

"(c) Except for any pay adjustment under section 5382 of this title, the rate of basic pay for any senior executive may not be adjusted more than once during any 12-month period.

"(d) The rate of basic pay for any career appointee may be reduced from any rate of basic pay to any lower rate of basic pay only if the career appointee receives a written notice of the reduction—

"(1) at least 15 days in advance of the reduction; and

"(2) containing a statement of the critical reasons for the reduction.

Any career appointee whose rate of basic pay is reduced in violation of paragraph (1) of this subsection may appeal the violation to the Merit Systems Protection Board.

"§ 5384. Performance awards in the Senior Executive Service

"(a)(1) To encourage excellence in performance by career appointees, performance awards shall be paid to career appointees in accordance with the provisions of this section.

"(2) Such awards shall be paid in a lump sum and shall be in addition to the basic pay paid under section 5382 of this title or any award paid under section 4507 of this title.

"(b)(1) No performance award under this section shall be paid to any career appointee whose performance was determined to be less than fully successful at the time of the appointee's most recent performance appraisal and rating under subchapter II of chapter 43 of this title.

"(2) The amount of a performance award under this section shall be determined by the agency head but may not exceed 20 percent of the career appointee's rate of basic pay.

"(3) The number of career appointees in any agency paid performance awards under this section during any fiscal year may not exceed 50 percent of the number of Senior Executive Service positions in such agency. This paragraph shall not apply in the case of any agency which has less than 4 Senior Executive Service positions.

"(c) Performance awards paid by any agency under this section shall be based on recommendations by performance review boards established by such agency under section 4314 of this title.

"§ 5385. Regulations

"The Office of Personnel Management shall prescribe regulations to carry out the purpose of this subchapter, and may provide guidance to agencies concerning the proportion of funds available for Senior Executive Service salary expenses which may be used for performance awards.".

(c) The analysis of chapter 53 of title 5, United States Code, is amended by adding at the end thereof the following new items:

"SUBCHAPTER VIII—PAY FOR THE SENIOR EXECUTIVE SERVICE

"Sec.
"5381. Definitions.
"5382. Establishment and adjustment of rates of pay for the Senior Executive Service; comparability.
"5383. Setting individual senior executive pay.
"5384. Performance awards in the Senior Executive Service.
"5385. Regulations.".

PAY ADMINISTRATION

SEC. 408. Chapter 55 of title 5, United States Code, is amended—

(1) by inserting "other than an employee or individual excluded by section 5541(2)(xvi) of this section" immediately before the period at the end of section 5504(a)(B);

(2) by amending section 5541(2) by striking out "or" after paragraph (xiv), by striking out the period after paragraph (xv) and inserting "; or" in lieu thereof, and by adding the following paragraph at the end thereof:

"(xvi) member of the Senior Executive Service."; and

(3) by inserting "other than a member of the Senior Executive Service" after "employee" in section 5595(a)(2)(i).

TRAVEL, TRANSPORTATION, AND SUBSISTENCE

SEC. 409. (a) Section 5723(a)(1) of title 5, United States Code, is amended by striking out "; and" and inserting in lieu thereof "or of a new appointee to the Senior Executive Service; and".

(b) Subchapter IV of chapter 57 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 5752. Travel expenses of Senior Executive Service candidates.

"Employing agencies may pay candidates for Senior Executive Service positions travel expenses incurred incident to preemployment interviews requested by the employing agency.".

(c) The analysis for chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5751 the following new item:

"§ 5752. Travel expenses of Senior Executive Service candidates.".

LEAVE

SEC. 410. Section 6304 of title 5, United States Code, is amended—

(1) in subsection (a), by striking out "and (e)" and inserting in lieu thereof "(e), and (f)"; and

(2) by adding at the end thereof the following new section:

"(f) Annual leave accrued by an individual while serving in a position in the Senior Executive Service shall not be subject to the limitation on accumulation otherwise imposed by this section.".

DISCIPLINARY ACTIONS

SEC. 411. Chapter 75 of title 5, United States Code, is amended—

(1) by inserting the following in the chapter analysis after subchapter IV:

"SUBCHAPTER V—SENIOR EXECUTIVE SERVICE

"Sec.
"7541. Definitions.
"7542. Actions covered.
"7543. Cause and procedure.";

and

(2) by adding the following after subchapter IV:

"SUBCHAPTER V—SENIOR EXECUTIVE SERVICE

"§ 7541. Definitions

"For the purpose of this subchapter—

"(1) 'employee' means an individual in the Senior Executive Service who—

"(A) has completed the probationary period prescribed under section 3393(d) of this title; or

"(B) was covered by the provisions of subchapter II of this chapter immediately before appointment to the Senior Executive Service; and

"(2) 'suspension' has the meaning set forth in section 7501(2) of this title.

"§7542. Actions covered

"This subchapter applies to a removal from the civil service or suspension for more than 14 days, but does not apply to an action initiated under section 1206 of this title, to a suspension or removal under section 7532 of this title, or to a removal under section 7532 of this title, or to a removal under section 3592 of this title.

"§ 7543. Cause and procedure

"(a) Under regulations prescribed by the Office of Personnel Management, an agency may take an action covered by this subchapter against an employee only for such cause as will promote the efficiency of the service.

"(b) An employee against whom an action covered by this subchapter is proposed is entitled to—

"(1) at least 30 days advance written notice, unless there is reasonable cause to believe that the employee has committed a crime for which a sentence of imprisonment can be imposed, stating specific reasons for the proposed action;

"(2) a reasonable time, but not less than 7 days, to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

"(3) be represented by an attorney or other representative; and

"(4) a written decision and specific reasons therefor at the earliest practicable date.

"(c) An agency may provide, by regulation, for a hearing which may be in lieu of or in addition to the opportunity to answer provided under subsection (b)(2) of this section.

"(d) An employee against whom an action is taken under this section is entitled to appeal to the Merit Systems Protection Board under section 7701 of this title.

"(e) Copies of the notice of proposed action, the answer of the employee when written, and a summary thereof when made orally, the notice of decision and reasons therefor, and any order effecting an action covered by this subchapter, together with any supporting material, shall be maintained by the agency and shall be furnished to the Merit Systems Protection Board upon its request and to the employee affected upon the employee's request.".

RETIREMENT

SEC. 412. (a) Section 8336 of title 5, United States Code, is amended by redesignating subsection (h) as subsection (i) and inserting immediately after subsection (g) the following new subsection:

"(h) A member of the Senior Executive Service who is removed from the Senior Executive Service for less than fully successful managerial performance (as determined under subchapter II of chapter 43 of this title) after completing 25 years of service or after becoming 50 years of age and completing 20 years of service is entitled to an annuity.".

(b) Section 8339(h) of title 5, United States Code, is amended by striking out "section 8336(d)" and inserting in lieu thereof "section 8336 (d) or (h)".

CONVERSION TO THE SENIOR EXECUTIVE SERVICE

SEC. 413. (a) For the purpose of this section, "agency", "Senior Executive Service position", "career appointee", "career reserved position", "limited term appointee", "noncareer appointee", and "general position" have the meanings set forth in section 3132(a) of title 5, United States Code (as added by this title), and "Senior Executive Service" has the meaning set forth in section 2101a of such title 5 (as added by this title).

(b)(1) Under the guidance of the Office of Personnel Management, each agency shall—

(A) designate those positions which it considers should be Senior Executive Service positions and designate which of those positions it considers should be career reserved positions; and

(B) submit to the Office of Personnel Management a written request for—

(i) a specific number of Senior Executive Service positions; and

(ii) authority to employ a specific number of noncareer appointees.

(2) The Office of Personnel Management shall review the designations and requests of each agency under paragraph (1) of this subsection and shall establish interim authorizations in accordance with sections 3133 and 3134 of title 5, United States Code (as added by this Act).

(c)(1) Each employee serving in a position at the time it is designated as a Senior Executive Service position under subsection (b) of this section shall elect to—

(A) decline conversion and be appointed to a position under such employee's current type of appointment and pay system, retaining the grade, seniority, and other rights and benefits associated with such type of appointment and pay system; or

(B) accept conversion and be appointed to a Senior Executive Service position in accordance with the provisions of subsections (d), (e), (f), (g), and (h) of this section. The appointment of an employee in an agency because of an election under subparagraph (A) of this paragraph shall not result in the separation or reduction in grade of any other employee in such agency.

(2) Any employee in a position which has been designated a Senior Executive Service position under this section shall be notified of such designation, the election required under paragraph (1) of this subsection, and the provisions of subsections (d), (e), (f), (g), and (h) of this section. The employee shall be given 90 days from the date of such notification to make the election under paragraph (1) of this subsection.

(d) Each employee who has elected to accept conversion to a Senior Executive Service position under subsection (c)(1)(B) of this section and is serving under—

(1) a career or career-conditional appointment; or

(2) a similar type of appointment in an excepted service position, as determined by the Office of Personnel Management;

shall be appointed as a career appointee to such Senior Executive Service position without regard to section 3393 (c) and (d) of title 5, United States Code (as added by this title).

(e) Each employee who has elected conversion to a Senior Executive Service position

under subsection (c)(1)(B) of this section and is serving under an excepted appointment in a position which is not designated a career reserved position in the Senior Executive Service, but is—

(1) a position in Schedule C of subpart C of part 213 of title 5, Code of Federal Regulations;

(2) a position filled by noncareer executive assignment under subpart F of part 305 of title 5, Code of Federal Regulations; or

(3) a position in the Executive Schedule under subchapter II of chapter 53 of title 5, United States Code, other than a career Executive Schedule position;

shall be appointed as a noncareer appointee to a Senior Executive Service position.

(f) Each employee who has elected conversion to a Senior Executive Service position under subsection (c)(1)(B) of this section, who is serving in a position described in paragraph (1), (2), or (3) of subsection (e) of this section, and whose position is designated as a career reserved position under subsection (b) of this section shall be appointed to an appropriate general position in the Senior Executive Service or shall be separated.

(g) Each employee who has elected conversion to a Senior Executive Service position under subsection (c)(1)(B) of this section, who is serving in a position described in paragraph (1), (2), or (3) of subsection (e) of this section, and whose position is designated as a Senior Executive Service position and who has reinstatement eligibility to a position in the competitive service, may, on request to the Office of Personnel Management, be appointed as a career appointee to a Senior Executive Service position. The name of, and basis for reinstatement eligibility for, each employee appointed as a career appointee under this subsection shall be published in the Federal Register.

(h) Each employee who has elected conversion to a Senior Executive Service position under subsection (c)(1)(B) of this section and is serving under a limited executive assignment under subpart F of part 305 of title 5, Code of Federal Regulations, shall—

(1) be appointed as a limited term appointee to a Senior Executive Service position if the position then held by such employee will terminate within 3 years of the date of such appointment;

(2) be appointed as a noncareer appointee to a Senior Executive Service position if the position then held by such employee is designated as a general position; or

(3) be appointed as a noncareer appointee to a general position if the position then held by such employee is designated as a career reserved position.

(i) The rate of basic pay for any employee appointed to a Senior Executive Service position under this section shall be greater than or equal to the rate of basic pay payable for the position held by such employee at the time of such appointment.

(j) The Office of Personnel Management shall prescribe regulations to carry out the purpose of this section. Any employee who is aggrieved by any action by any agency under this section is entitled to appeal to the Merit Systems Protection Board under section 7701 of title 5, United States Code (as added by this title). An agency shall take any corrective action which the Merit Systems Protection Board orders in its decision on an appeal under this subsection.

LIMITATIONS ON EXECUTIVE POSITIONS

SEC. 414. (a)(1)(A) Subsections (b) through (g) of section 5108 of title 5, United States Code, relating to special authority to place positions at GS-16, 17, and 18 of the General Schedule, are hereby repealed.

(B) Notwithstanding any other provision of law (other than section 5108 of such title 5), the authority granted to an agency (as defined in section 5102(a)(1) of such title 5) under any such provision to place one or more positions in GS-16, 17, or 18 of the General Schedule, is hereby terminated.

(C) Subsection (a) of section 5108 of title 5, United States Code, is amended to read as follows: "The Director of the Office of Personnel Management may establish, and from time to time revise, the maximum number of positions (not to exceed an aggregate of 10,920) which may at any one time be placed in—

"(i) GS-16, 17, and 18; and

"(ii) the Senior Executive Service, in accordance with section 3133 of this title.

A position may be placed in GS-16, 17, or 18, only by action of the Director of the Office of Personnel Management.".

(2)(A) Notwithstanding any other provision of law (other than section 3104 of title 5, United States Code), the authority granted to any agency (as defined in section 5102(a)(1) of such title 5) to establish scientific or professional positions outside of the General Schedule is hereby terminated.

(B) Section 3104 of title 5, United States Code, is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a)(1) The Director of the Office of Personnel Management may establish, and from time to time revise, the maximum number of scientific or professional positions (not to exceed 525) for carrying out research and development functions which require the services of specially qualified personnel which may be established outside of the General Schedule. Any such position may be established only by action of the Director of the Office of Personnel Management.

"(2) The provisions of paragraph (1) of this subsection shall not apply to any Senior Executive Service position (as defined in section 3132(a) of this title).".

(C) Subsection (c) of such section 3104 is amended—

(i) by striking out "(c)" and inserting in lieu thereof "(b)"; and

(ii) by striking out "to establish and fix the pay of positions under this section and section 5361 of this title" and inserting in lieu thereof "to fix under section 5361 of this title the pay for positions established under this section".

(3)(A) The provisions of paragraphs (1) and (2) of this subsection shall not apply with respect to any position so long as the individual occupying such position on the day before the date of the enactment of this Act continues to occupy such position.

(B) The Director of the Office of Personnel Management—

(i) in establishing under section 5108 of title 5, United States Code, the maximum number of positions which may be placed in GS-16, 17, and 18 of the General Schedule, and

(ii) in establishing under section 3104 of such title 5 the maximum number of scientific or professional positions which may be established,

shall take into account positions to which subparagraph (A) of this paragraph applies.

(b)(1) Section 5311 of title 5, United States Code, is amended by inserting "(a)" before "The Executive Schedule," and by adding at the end thereof the following new subsection:

"(b)(1) Not later than 180 days after the date of the enactment of the Civil Service Reform Act of 1978, the Director of the Office of Personnel Management shall determine the number and classification of executive level positions in existence in the executive branch on that date of enactment, and shall publish the determination in the Federal Register. Effective beginning on the date of the publication, the number of executive level positions within the executive branch may not exceed the number published under this subsection.

"(2) For the purpose of this subsection, 'executive level position' means—

"(A) any office or position in the civil service the rate of pay for which is equal to or greater than the rate of basic pay payable for positions under section 5316 of this title, or

"(B) any such office or position the rate of pay for which may be fixed by administrative action at a rate equal to or greater than the rate of basic pay payable for positions under section 5316 of this title;

but does not include any Senior Executive Service position, as defined in section 3132(a) of this title.".

(2) The President shall transmit to Congress by January 1, 1980, a plan for authorizing executive level positions in the executive branch which shall include the maximum number of executive level positions necessary by level and a justification for the positions.

EFFECTIVE DATE; EXPERIMENTAL APPLICATION

SEC. 415. (a)(1) Except as provided in subsection (b) of this section, the provisions of this title, other than section 414(a), shall take effect on the date of the enactment of this Act.

(2) The provisions of section 414(a) of this title shall take effect 180 days after the date of the enactment of this Act.

(b)(1) Not later than 60 days after the date of the enactment of this title, the Director of the Office of Personnel Management shall prescribe regulations providing for an initial experimental application of the amendments made by sections 401 through 412 of this title and the provisions of section 413 of this title. Such regulations shall provide that Senior Executive Service positions will be designated, authorized, and filled only in 3 Executive departments designated by the Director.

(2) Within 30 days after the end of each of the first two full fiscal years to which such amendments apply, the Director shall prepare and transmit to each House of the Congress a report on the Senior Executive Service, including an evaluation of its effectiveness and the manner in which such Service is administered. The second such report shall include proposed regulations which would provide for conversions and other adjustments which would be appropriate in the event the Senior Executive Service does not continue by reason of paragraph (3).

(3) The provisions of the regulations under paragraph (1) providing for an initial, limited experimental application shall cease to have effect and the amendments made by sections 401 through 412 of this title and the provisions of section 413 of this title shall have full effect (without regard to the limitations under paragraph (1)) beginning on the 90th day of continuous session of Congress following the date on which the second annual report is transmitted to Congress under paragraph (2) of this section, unless the Congress before such day adopts a concurrent resolution which states that the Congress does not favor the continuance of the Senior Executive Service. If such a resolution is adopted before such date, then the provisions of such regulations, and such amendments (and the provisions of section 413), shall cease to have effect on such 90th day (or if later, 30 days after the date of the adoption of such resolution).

(4) For purposes of paragraph (3), the continuity of a session of Congress shall be considered to be broken only by an adjournment of the Congress sine die, and the days on which either House of the Congress is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 90-day period under such paragraph.

TITLE V—MERIT PAY

PAY FOR PERFORMANCE

SEC. 501. Part III of title 5, United States Code, is amended by inserting after chapter 53 the following new chapter:

"Chapter 54.—MERIT PAY AND CASH AWARDS

"Sec.
"5401. Purpose.
"5402. Merit pay system.
"5403. Cash award program.
"5405. Reports.
"5405. Regulations.

"§ 5401. Purpose

"It is the purpose of this chapter to provide for—

"(1) a merit pay system which shall—

"(A) within available funds, recognize and reward quality performance by varying merit pay adjustments;

"(B) use performance appraisals as the basis for determining merit pay adjustments; and

"(C) regulate the costs of merit pay by establishing appropriate control techniques; and

"(2) a cash award program which shall provide cash awards for superior accomplishment and special service.

"§ 5402. Merit pay system

"(a) In accordance with the purpose set forth in section 5401(1) of this title, the Office of Personnel Management shall establish a merit pay system which shall apply to any supervisor or management official (as defined in paragraphs (10) and (11) of section 7103 of this title, respectively) who is in a position which is in GS-13, 14, or 15 of the General Schedule described in section 5104 of this title.

"(b) The merit pay system established under subsection (a) of this section shall provide for a range of basic pay for each grade to which it applies, which range shall be limited by the minimum and maximum rates of basic pay payable for each such grade under chapter 53 of this title.

"(c)(1) Under regulations prescribed by the Office of Personnel Management, the head of each agency may provide for increases within the range of basic pay for any employee covered by the merit pay system.

"(2) Determinations to provide pay increases under this subsection—

"(A) may take into account individual performance and organizational accomplishment, and

"(B) shall be based on factors such as—

"(i) any improvement in efficiency, productivity, and quality of work or service, including any significant reduction in paperwork;

"(ii) cost efficiency; and

"(iii) timeliness of performance;

"(C) shall be subject to review only in accordance with and to the extent provided by procedures established by the head of the agency; and

"(D) shall be made in accordance with regulations issued by the Office of Personnel Management which relate to the distribution of increases authorized under this subsection.

"(3) For any fiscal year, the head of any agency may exercise authority under paragraph (1) of this subsection only to the extent of the funds available for the purpose of this subsection.

"(4) The funds available for the purpose of this subsection to the head of any agency for any fiscal year shall be determined before the beginning of each such fiscal year by the Office of Personnel Management, after consultation with the Office of Management and Budget. The funds available to any agency shall be determined by the Office of Personnel Management on the basis of the amount estimated by the Office to be necessary to reflect within-grade step increases and quality step increases, which would have been paid under subchapter III of chapter 53 of this title during such fiscal year to the employees of the agency covered by the merit pay system if the employees were not so covered.

"(d)(1) Effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5305 of this title, the rate of basic pay for any position under this chapter shall be adjusted by an amount equal to the percentage of the annual rate of pay which corresponds to the percentage generally applicable to positions in the same grade as the position.

"(2) Any employee whose position is brought under the merit pay system shall, so long as the employee continues to occupy the position, be entitled to receive basic pay at a rate of basic pay not less than the rate the employee was receiving when the position was brought under the merit pay system, plus any subsequent adjustment under paragraph (1) of this subsection.

"(3) No employee to whom this chapter applies may be paid less than the minimum rate of basic pay of the grade of the employee's position.

"(e) Under regulations prescribed by the Office of Personnel Management, the benefit of advancement through the range of basic pay for a grade shall be preserved for any employee covered by the merit pay system whose continuous service is interrupted in the public interest by service with the armed forces, or by service in essential non-Government civilian employment during a period of war or national emergency.

"(f) For the purpose of section 5941 of this title, rates of basic pay of employees covered by the merit pay system shall be considered rates of basic pay fixed by statute.

"§ 5403. Cash award program

"(a) The head of any agency may pay a cash award to, and incur necessary expenses for the honorary recognition of, any employee covered by the merit pay system who—

"(1) by the employee's suggestion, invention, superior accomplishment, or other personal effort, contributes to the efficiency, economy, or other improvement of Government operations or achieves a significant reduction in paperwork; or

"(2) performs a special act or service in the public interest in connection with or related to the employee's Federal employment.

"(b) The President may pay a cash award to, and incur necessary expenses for the honorary recognition of, any employee covered by the merit pay system who—

"(1) by the employee's suggestion, invention, superior accomplishment, or other personal effort, contributes to the efficiency, economy, or other improvement of Government operations or achieves a significant reduction in paperwork; or

"(2) performs an exceptionally meritorious special act or service in the public interest in connection with or related to the employee's Federal employment.

A Presidential cash award may be in addition to an agency cash award under subsection (a) of this section.

"(c) A cash award to any employee under this section is in addition to the basic pay of the employee under section 5403 of this title. Acceptance of a cash award under this section constitutes an agreement that the use by the Government of any idea, method, or device for which the award is made does not form the basis of any claim of any nature against the Government by the employee accepting the award, his heirs, or assigns.

"(d) A cash award to, and expenses for the honorary recognition of, any employee covered by the merit pay system may be paid from the fund or appropriation available to the activity primarily benefiting, or the various activities benefiting, from the suggestion, invention, superior accomplishment, or other meritorious effort of the employee. The head of the agency concerned shall determine the amount to be contributed by each activity to an agency cash award under subsection (a) of this section. The President shall determine the amount to be contributed by each activity to a Presidential award under subsection (b) of this section.

"(e)(1) Except as provided in paragraph (2) of this subsection, a cash award under this section may not exceed $10,000.

"(2) If the head of an agency certifies to the Office of Personnel Management that the suggestion, invention, superior accomplishment, or other meritorious effort of an employee for which a cash award is proposed is highly exceptional and unusually outstanding, a cash award in excess of $10,000 but not in excess of $25,000 may be awarded to the employee on the approval of the Office.

"(f) The President or the head of an agency may pay a cash award under this section notwithstanding the death or separation from the service of an employee, if the suggestion, invention, superior accomplishment, or other meritorious effort of the employee for which the award is proposed was made or performed while the employee was covered by the merit pay system.

"§ 5404. Reports

"The Office of Personnel Management shall submit to the appropriate committees of each House of the Congress on or before January 1, 1982, a report on the operation of the merit pay system and the cash award program established under this chapter. The report shall include—

"(1) a statement, together with supporting facts, as to whether the purpose of this chapter has been met during the period covered by the report, including, to the extent practicable, quantitative measures of costs and accomplishments of the merit pay system and the cash award program; and

"(2) any recommendations for legislation to amend the provisions of this chapter relating to the merit pay system or the cash award program considered necessary by the Office.

"§ 5405. Regulations

"The Office of Personnel Management shall prescribe regulations to carry out the purpose of this chapter.".

INCENTIVE AWARDS AMENDMENTS

SEC. 502. (a) Section 4503(1) of title 5, United States Code, is amended by inserting after "operations" the following: "or achieves a significant reduction in paperwork."

(b) Section 4504(1) of title 5, United States Code, is amended by inserting after "operations" the following: "or achieves a significant reduction in paperwork".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 503. (a) Section 4501(2)(A) of title 5, United States Code, is amended by striking out "title; and" and inserting in lieu thereof "title, but does not include an employee covered by the merit pay system established under section 5402 of this title; and".

(b) Section 4502(a) of title 5, United States Code, is amended by striking out "$5,000" and inserting in lieu thereof "$10,000".

(c) Section 4502(b) of title 5, United States Code, is amended—

(1) by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management";

(2) by striking out "$5,000" and inserting in lieu thereof "$10,000"; and

(3) by striking out "the Commission" and inserting in lieu thereof "the Office".

(d) Section 4506 of title 5, United States Code, is amended by striking out "Civil Serv-

ice Commission may" and inserting in lieu thereof "Office of Personnel Management shall".

(e) the second sentence of section 5332(a) of title 5, United States Code, is amended by inserting after "applies" the following: ", except an employee covered by the merit pay system established under section 5402 of this title,".

(f) Section 5334 of title 5, United States Code (as amended in section 801(a)(3)(G) of this Act), is amended—

(1) in paragraph (2) of subsection (c), by inserting ", or for an employee appointed to a position covered by the merit pay system established under section 5402 of this title, any dollar amount." after "step"; and

(2) by adding at the end thereof the following new subsection:

"(f) In the case of an employee covered by the merit pay system established under section 5402 of this title, all references in this section to 'two steps' or 'two step-increases' shall be deemed to mean 6 percent.".

(g) Section 5335(e) of title 5, United States Code, is amended by inserting after "individual" the following: "covered by the merit pay system established under section 5402 of this title, or,".

(h) Section 5336(c) of title 5, United States Code, is amended by inserting after "individual" the following: "covered by the merit pay system established under section 5402 of this title, or,".

(i) The table of chapters for part III of title 5, United States Code, is amended by inserting after the item relating to chapter 53 the following new chapter:

"54. Merit Pay and Cash Awards..... 5401".

EFFECTIVE DATE

SEC. 504. The provisons of this title shall take effect on the first day of the first applicable pay period which begins on or after October 1, 1981, except that such provisions may take effect with respect to any category or categories of positions before such day to the extent prescribed by the Director of the Office of Personnel Management.

TITLE VI—RESEARCH, DEMONSTRATION, AND OTHER PROGRAMS

Subtitle A—Research Programs and Demonstration Projects

RESEARCH PROGRAMS AND DEMONSTRATION PROJECTS

SEC. 601. (a) Part III of title 5, United States Code, is amended by adding at the end of subpart C thereof the following new chapter:

"Chapter 47.—PERSONNEL RESEARCH PROGRAMS AND DEMONSTRATION PROJECTS

"Sec.
"4701. Definitions.
"4702. Research programs.
"4703. Demonstration projects.
"4704. Allocation of funds.
"4705. Reports.
"4706. Regulations.

"§ 4701. Definitions

"For the purpose of this chapter—

"(1) 'agency' means an Executive agency, the Administrative Office of the United States Courts, and the Government Printing Office, but does not include—

"(A) a Government corporation;

"(B) the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, or any Executive agency or unit thereof which is designated by the President and which conducts foreign intelligence or counterintelligence activities; or

"(C) the General Accounting Office.

"(2) 'employee' means an individual employed in or under an agency;

"(3) 'eligible' means an individual who has qualified for appointment in an agency and whose name has been entered on the appropriate register or list of eligibles;

"(4) 'demonstration project' means a project conducted by the Office of Personnel Management, or under its supervision, to determine whether a specified change in personnel management policies or procedures would result in improved Federal personnel management; and

"(5) 'research program' means a planned study of the manner in which public management policies and systems are operating, the effects of those policies and systems, the possibilities for change, and comparisons among interested persons and entities; and

"§ 4702. Research programs

"The Office of Personnel Management shall—

"(1) establish and maintain (and assist in the establishment and maintenance of) research programs to study improved methods and technologies in Federal personnel management;

"(2) evaluate the research programs established under paragraph (1) of this section;

"(3) establish and maintain a program for the collection and public dissemination of information relating to personnel management research and for encouraging and facilitating the exchange of information among interested persons and entities; and

"(4) carry out the preceding functions directly or through agreement or contract.

"§ 4703. Demonstration projects

"(a) Except as provided in this section, the Office of Personnel Management may, directly or through agreement or contract with one or more agencies and other public and private organizations, conduct and evaluate demonstration projects. Subject to the provisions of this section, the conducting of demonstration projects shall not be limited by any lack of specific authority to take the action contemplated, or by any provision of law then in effect which is inconsistent with the action, including any law or regulation relating to—

"(1) the methods of establishing qualification requirements for, recruitment for, and appointment to positions;

"(2) the methods of classifying positions and compensating employees;

"(3) the methods of assigning, reassigning, or promoting employees;

"(4) the methods of disciplining employees;

"(5) the methods of providing incentives to employees, including the provision of group or individual incentive bonuses or pay;

"(6) hours of work per day or per week;

"(7) the methods of involving employees, labor organizations, and employee organizations in personnel decisions; and

"(8) the methods of reducing overall agency staff and grade levels.

"(b) Before conducting or entering into any agreement or contract to conduct a demonstration project, the Office of Personnel Management shall—

"(1) develop a plan for such project which identifies—

"(A) the purposes of the project;

"(B) the types of employees or eligibles, categorized by occupational series, grade, or organizational unit;

"(C) the number of employees or eligibles to be included, in the aggregate and by category;

"(D) the methodology;

"(E) the duration;

"(F) the training to be provided;

"(G) the anticipated costs;

"(H) the methodology and criteria for evaluation;

"(I) a specific description of any lack of specific authority for any aspect of the project; and

"(J) a specific citation to any provision of law, rule, or regulation which, if not waived under this section, would prohibit the conducting of the project as proposed;

"(2) publish the plan in the Federal Register;

"(3) submit the plan so published to public hearing; and

"(4) transmit a copy of the plan, taking into account any revision resulting from the hearing, to each House of the Congress.

"(c)(1) Any demonstration project under this section may not be undertaken, or any agreement or contract with respect to such project may not be entered into, unless—

"(A) the plan under subsection (b) of this section for the project is approved by each agency involved;

"(B) a copy of the plan, as so approved, is transmitted to each House of the Congress; and

"(C) the plan is not disapproved by either House of the Congress during the first period of 60 calendar days of continuous session of the Congress after the date on which the plan is transmitted to such House.

"(2) For the purpose of paragraph (1)(C) of this subsection—

"(A) the continuity of a session is broken only by an adjournment of the Congress sine die; and

"(B) the days on which either House of the Congress is not in session because of an adjournment of more than 3 calendar days to a day certain are excluded in the computation of the 60-day period.

"(d) No demonstration project under this section may provide for a waiver of—

"(1) any provision of chapter 63 (relating to leave) or subpart G (relating to insurance and annuities) of this title;

"(2) any provision of law—

"(A) referred to in section 2302(b)(1) of this title;

"(B) providing for equal employment opportunity through affirmative action under any such provision of law;

"(C) providing any right or remedy available to any employee or applicant for employment in the civil service under any such provision of law;

"(3) any provision of chapter 15 or subchapter III of chapter 73 of this title (relating to political activity); or

"(4) any rule or regulation issued under the provisions of law referred to in paragraph (1), (2), or (3) of this subsection.

"(e)(1) Each demonstration project shall—

"(A) involve not more than 5,000 individuals other than individuals in any control groups necessary to validate the results of the project; and

"(B) terminate before the end of the 5-year period beginning on the date of the transmittal to each House of the Congress by the Office of Personnel Management of a copy of the plan for the project under subsection (b)(4) of this section, except that research may continue beyond the date to the extent necessary to validate the results of the project.

"(2) Not more than 10 demonstration projects may be contracted for or conducted at any time.

"(f) Subject to the terms of any written agreement or contract between the Office of Personnel Management and an agency, a demonstration project involving the agency may be terminated by the Office of Personnel Management, or the agency, if either determines that the project creates a substantial hardship on, or is not in the best interests of, the public, the Federal Government, employees, or eligibles.

"(g) Employees within a unit with respect to which a labor organization is accorded exclusive recognition under section 7111 of this title shall not be included within any project under subsection (b) of this section—

"(1) if the project would violate a collective bargaining agreement (as defined in section 7103(8) of this title) between the agency and the labor organization, unless there is another written agreement with respect to the project between the agency and the organization permitting the inclusion; or

"(2) if the project is not covered by such a collective bargaining agreement, until there

has been consultation or negotiation, as appropriate, by the agency with the labor organization.

"(h) Employees within any unit with respect to which a labor organization has not been accorded exclusive recognition under section 7111 of this title shall not be included within any project under subsection (b) of this section unless there has been agency consultation regarding the project with the employees in the unit.

"(i) The Office of Personnel Management shall evaluate the results of each demonstration project and its impact on improving public management.

"(j) Upon the request of the Director of the Office of Personnel Management, agencies shall cooperate with and assist the Office, to the extent practicable, in any evaluation undertaken under subsection (i) of this section and provide the Office with requested information and reports relating to the conducting of demonstration projects in their respective agencies.

"§ 4704. Allocation of funds

"Funds appropriated to the Office of Personnel Management for the purpose of this chapter may be allocated by the Office of Personnel Management to any agency conducting demonstration projects or assisting the Office of Personnel Management in conducting such projects. Funds so allocated shall remain available for such period as may be specified in appropriation Acts. No contract shall be entered into under this chapter unless the contract has been provided for in advance in appropriation Acts.

"§ 4705. Reports

"The Office of Personnel Management shall include in the annual report required by section 1308 of this title a summary of research programs and demonstration projects conducted during the year covered by the report, the effect of the programs and projects on improving public management and increasing Government efficiency, and recommendations of policies and procedures which will improve such management and efficiency.

"§ 4706. Regulations

"The Office of Personnel Management shall prescribe regulations to carry out the purpose of this chapter.".

(b) The table of chapters for part III of title 5, United States Code, is amended by inserting after the item relating to chapter 45 the following new item:

"47. Personnel Research Programs and Demonstration Projects—4701".

Subtitle B—Intergovernmental Personnel

INTERGOVERNMETNAL PERSONNEL ACT AMENDMENTS

SEC. 611. (a) Section 208 of the Intergovernmental Personnel Act of 1979 (42 U.S.C. 4728) is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"TRANSFER OF FUNCTIONS AND ADMINISTRATION OF MERIT POLICIES";

(2) by redesignating subsections (b), (c), (d), (e), (f), and (g) as subsections (c), (d), (e), (f), (g), and (i), respectively, and by inserting after subsection (a) the following new subsection:

"(b) In accordance with regulations of the Office of Personnel Management, Federal agencies may require as a condition of participation in assistance programs, systems of personnel administration consistent with personnel standards prescribed by the Office of Personnel Management for positions engaged in carrying out such programs. The standards shall include the merit principles in section 2 of this Act."; and

(3) by inserting after subsection (g), as redesignated by this section, the following new subsection:

"(h) Effective one year after the date of the enactment of this subsection, all statutory personnel requirements established as a condition of the receipt of Federal grants-in-aid by State and local governments are hereby abolished, except—

"(1) those requirements listed in subsection (a) of this section;

"(2) those that generally prohibit discrimination in employment or require equal employment opportunity;

"(3) the Davis-Bacon Act (40 U.S.C. 276 et seq.); and

"(4) chapter 15 of title 5, United States Code, relating to political activities of certain State and local employees.".

(b) Section 401 of such Act (84 Stat. 1920) is amended by striking out "governments and institutions of higher education" and inserting in lieu thereof "governments, institutions of higher education, and other organizations".

(c) Section 403 of such Act (84 Stat. 1925) is amended by striking out "(less applicability to commissioner officers of the Public Health Service)".

(d) Section 502 of such Act (42 U.S.C. 4762) is amended in paragraph (3) by inserting "the Trust Territory of the Pacific Islands," before "and a territory or possession of the United States,".

(e) Section 506 of such Act (42 U.S.C. 4766) is amended—

(1) in subsection (b)(2), by striking out "District of Columbia" and inserting in lieu thereof "District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands"; and

(2) in subsection (b)(5), by striking out "and the District of Columbia" and inserting in lieu thereof ", the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands".

Subtitle C—Mobility Program

AMENDMENTS TO THE MOBILITY PROGRAM

SEC. 621. (a) Section 3371 of title 5, United States Code, is amended—

(1) by inserting "the Trust Territory of the Pacific Islands," after "Puerto Rico," in paragraph (1)(A); and

(2) by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting a semicolon in lieu thereof, and by adding at the end thereof the following:

"(3) 'Federal agency' means an Executive agency, a court of the United States, the Administrative Office of the United States Courts, the Library of Congress, the Botanic Garden, the Government Printing Office, the Congressional Budget Office, the United States Postal Service, the Postal Rate Commission, the Office of the Architect of the Capitol, the Office of Technology Assessment, and such other appropriate agencies of the legislative and judicial branches as determined by the Office of Personnel Management; and

"(4) 'other organization' means—

"(A) a national, regional, State-wide, or metropolitan organization representing member State or local governments;

"(B) an association of State or local public officials; or

"(C) a nonprofit organization, one of whose principal functions is to offer professional advisory, research, or development services, or related services, to governments or universities concerned with public management.".

(b) Sections 3372 through 3375 of title 5, United States Code, are amended by striking out "executive agency" and "an executive agency" each place they appear and inserting in lieu thereof "Federal agency" and "a Federal agency", respectively.

(c) Section 3372 of title 5, United States Code, is further amended—

(1) in subsection (a)(1), by inserting after "agency" the following: ", other than a noncareer appointee, limited term appointee, or limited emergency appointee, (as such terms are defined in section 3132(a) of this title) in the Senior Executive Service and an employee in a position which has been excepted from the competitive service by reason of its confidential, policy determining, or policy-advocating character,";

(2) in subsection (b)(1), by striking out "and";

(3) in subsection (b)(2), by striking out the period after "agency" and inserting in lieu thereof a semicolon;

(4) by adding at the end of subsection (b) the following:

"(3) an employee of a Federal agency to any other organization; and

"(4) an employee of another organization to a Federal agency."; and

(5) by adding at the end thereof (as amended in paragraph (4) of this subsection) the following new subsection:

"(c)(1) An employee of a Federal agency may be assigned under this subchapter only if the employee agrees, as a condition of accepting an assignment under this subchapter, to serve with the agency upon the completion of the assignment for a period equal to the length of the assignment.

"(2) Each agreement required under paragraph (1) of this subsection shall provide that in the event the employee fails to carry out the agreement (except for good and sufficient reason as determined by the head of the Federal agency involved) the employee shall be liable to the United States for payment of all expenses (excluding salary) of the assignment. The amount shall be treated as a debt due the United States.".

(d) Section 3374 of title 5, United States Code, is further amended—

(1) by adding the following new sentence at the end of subsection (b):

"The above exceptions sall not apply to non-Federal employees who are covered by chapters 83, 87, and 89 of this title by virtue of their non-Federal employment immediately before assignment and appointment under this section.";

(2) in subsection (c)(1), by striking out the semicolon at the end thereof and by inserting in lieu thereof the following: ", except to the extent that the pay received from the State or local government is less than the appropriate rate of pay which the duties would warrant under the applicable pay provisions of this title or other applicable authority:"; and

(3) by striking out the period at the end of subsection (c) and adding the following: ", or for the contribution of the State or local government, or a part thereof, to employee benefit systems.".

(e) Section 3375(a) of title 5, United States Code, is further amended by striking out "and" at the end of paragraph (4), by redesignating paragraph (5) as paragraph (6), and by inserting after paragraph (4) thereof the following:

"(5) section 5724(b) of this title, to be used by the employee for miscellaneous expenses related to change of station where movement or storage of household goods is involved; and".

Subtitle D—Federal Employees Flexible and Compressed Work Schedules

CONGRESSIONAL FINDINGS

SEC. 631. The Congress finds that new trends in the usage of 4-day workweeks, flexible work hours, and other variations in workday and workweek schedules in the private sector appear to show sufficient promise to warrant carefully designed, controlled, and evaluated experimentation by Federal agencies over a 3-year period to determine whether and in what situations such varied work schedules can be successfully used by

Federal agencies on a permanent basis. The Congress also finds that there should be sufficient flexibility in the work schedules of Federal employees to allow such employees to meet the obligations of their faith.

DEFINITIONS

SEC. 632. For the purpose of this subtitle—

(1) the term "agency" means an Executive agency and a military department (as such terms are defined in sections 105 and 102, respectively, of title 5, United States Code);

(2) the term "employee" has the meaning set forth in section 2105 of title 5, United States Code;

(3) the term "Office" means the Office of Personnel Mangement; and

(4) the term "basic work requirement" means the number of hours, excluding overtime hours, which an employee is required to work or is required to account for by leave or otherwise.

EXPERIMENTAL PROGRAM

SEC. 633. (a)(1) Within 180 days after the effective date of this section, and subject to the requirements of section 662 of this subtitle and the terms of any written agreement referred to in section 662(a) of this subtitle, the Office shall establish a program which provides for the conducting of experiments by the Office under parts 1 and 2 of this subtitle. Such experimental program shall cover a sufficient number of positions throughout the executive branch, and a sufficient range of worktime alternatives, to provide an adequate basis on which to evalutae the effectiveness and desirability of permanently maintaining flexible or compressed work schedules within the executive branch.

(2) Each agency may conduct one or more experiments under parts 1 and 2 of this subtitle. Such experiments shall be subject to such regulations as the Office may prescribe under section 665 of this subtitle.

(b) The Office shall, not later than 90 days after the effective date of this section, establish a master plan which shall contain guidelines and criteria by which the Office will study and evaluate experiments conducted under parts 1 and 2 of this subtitle. Such master plan shall provide for the study and evaluation of experiments within a sample of organizations of different size, geographic location, and functions and activities, sufficient to insure adequate evaluation of the impact of varied work schedules on—

(1) the efficiency of Government operations;

(2) mass transit facilities and traffic;

(3) levels of energy consumption;

(4) service to the public;

(5) increased opportunities for full-time and part-time employment; and

(6) individuals and families generally.

(c) The Office shall provide educational material, and technical aids and assistance, for use by an agency before and during the period such agency is conducting experiments under this subtitle.

(d) If the head of an agency determines that the implementation of an experimental program referred to in subsection (a) of this section would substantially disrupt the agency in carrying out its functions, such agency head shall request the Office to exempt such agency from the requirements of any experiment conducted by the Office under subsection (a) of this section. Such request shall be accompanied by a report detailing the reasons for such determination. The Office shall exempt an agency from such requirements only if it finds that including the agency within the experiment would not be in the best interest of the public, the Government, or the employees. The filing of such a request with the Office shall exclude the agency from the experiment until the Office has made its determination or until 180 days after the date the request is filed, whichever first occurs.

PART 1—FLEXIBLE SCHEDULING OF WORK HOURS

DEFINITIONS

SEC. 641. For the purpose of this part—

(1) the term "credit hours" means any hours, within a flexible schedule established under this part, which are in excess of an employee's basic work requirement and which the employee elects to work so as to vary the length of a workweek or a workday; and

(2) the term "overtime hours" means all hours in excess of 8 hours in a day or 40 hours in a week which are officially ordered in advance, but does not include credit hours.

FLEXIBLE SCHEDULING EXPERIMENTS

SEC. 642. (a) Notwithstanding section 6101 of title 5, United States Code, experiments may be conducted in agencies to test flexible schedules which include—

(1) designated hours and days during which an employee on such a schedule must be present for work; and

(2) designated hours during which an employee on such a schedule may elect the time of such employee's arrival at and departure from work, solely for such purpose or, if and to the extent permitted, for the purpose of accumulating credit hours to reduce the length of the workweek or another workday.

An election by an employee referred to in paragraph (2) of this subsection shall be subject to limitations generally prescribed to ensure that the duties and requirements of the employee's position are fulfilled.

(b) Notwithstanding any other provision of this subtitle, but subject to the terms of any written agreement under section 662(a) of this subtitle—

(1) any experiment under subsection (a) of this section may be terminated by the Office if it determines that the experiment is not in the best interest of the public, the Government, or the employees; or

(2) if the head of an agency determines that any organization within the agency which is participating in an experiment under subsection (a) of this section is being substantially disrupted in carrying out its functions or is incurring additional costs because of such participation, such agency head may—

(A) restrict the employees' choice of arrival and departure time,

(B) restrict the use of credit hours, or

(C) exclude from such experiment any employee or group of employees.

(c) Experiments under subsection (a) of this section shall terminate not later than the end of the 3-year period which begins on the effective date of this part.

COMPUTATION OF PREMIUM PAY

SEC. 643. (a) For purposes of determining compensation for overtime hours in the case of an employee participating in an experiment under section 642 of this subtitle—

(1) the head of an agency may, on request of the employee, grant the employee compensatory time off in lieu of payment for such overtime hours, whether or not irregular or occasional in nature and notwithstanding the provisions of sections 5542(a), 5543(a)(1), 5544(a), and 5550 of title 5, United States Code, section 4107(e)(5) of title 38, United States Code, section 7 of the Fair Labor Standards Act, as amended (29 U.S.C. 207), or any other provision of law; or

(2) the employee shall be compensated for such overtime hours in accordance with such provisions, as applicable.

(b) Notwithstanding the provisions of law referred to in subsection (a)(1) of this section, an employee shall not be entitled to be compensated for credit hours worked except to the extent authorized under section 646 of this subtitle or to the extent such employee is allowed to have such hours taken into account with respect to the employee's basic work requirement.

(c)(1) Notwithstanding section 5545(a) of title 5, United States Code, premium pay for nightwork shall not be paid to an employee otherwise subject to such section solely because the employee elects to work credit hours, or elects a time of arrival or departure, at a time of day from which such premium pay is otherwise authorized, except that—

(A) if an employee is on a flexible schedule under which—

(i) the number of hours during which such employee must be present for work, plus

(ii) the number of hours during which such employee may elect to work credit hours or elect the time of arrival at and departure from work, which occur outside of the night work hours designated in or under such section 5545(a) total less than 8 hours, such premium pay shall be paid for those hours which, when combined with such total, do not exceed 8 hours, and

(B) if an employee is on a flexible schedule under which the hours that such employee must be present for work include any hours designated in or under such section 5545(a), such premium pay shall be paid for such hours so designated.

(2) Notwithstanding section 5343(f) of title 5, United States Code, and section 4107(e)(2) of title 38, United States Code, night differential shall not be paid to any employee otherwise subject to either of such sections solely because such employee elects to work credit hours, or elects a time of arrival or departure, at a time of day for which night differential is otherwise authorized, except that such differential shall be paid to an employee on a flexible schedule under this part—

(A) in the case of an employee subject to such section 5343(f), for which all or a majority of the hours of such schedule for any day fall between the hours specified in such section, or

(B) in the case of an employee subject to such section 4107(e)(2), for which 4 hours of such schedule fall between the hours specified in such section.

HOLIDAYS

SEC. 644. Notwithstanding sections 6103 and 6104 of title 5, United States Code, if any employee on a flexible schedule under this part is relieved or prevented from working on a day designated as a holiday by Federal statute or Executive order, such employee is entitled to pay with respect to that day for 8 hours (or, in the case of a part-time employee, an appropriate portion of the employee's biweekly basic work requirement as determined under regulations prescribed by the Office).

TIME-RECORDING DEVICES

SEC. 645. Notwithstanding section 6106 of title 5, United States Code, the Office or any agency may use recording clocks as part of its experiments under this part.

CREDIT HOURS; ACCUMULATION AND COMPENSATION

SEC. 646. (a) Subject to any limitation prescribed by the Office or the agency, a full-time employee on a flexible schedule may accumulate not more than 10 credit hours, and a part-time employee may accumulate not more than one-eighth of the hours in such employee's biweekly basic work requirement, for carryover from a biweekly pay period to a succeeding biweekly pay period for credit to the basic work requirement for such period.

(b) Any employee who is on a flexible schedule experiment under this part and who is no longer subject to such an experiment shall be paid at such employee's then current rate of basic pay for—

(1) in the case of a full-time employee, not more than 10 credit hours accumulated by such employee, or

(2) in the case of a part-time employee, the number of credit hours (not in excess of one-eighth of the hours in such employee's biweekly basic work requirement) accumulated by such employee.

PART 2—4-DAY WEEK AND OTHER COMPRESSED WORK SCHEDULES

DEFINITIONS

SEC. 651. For the purpose of this part—

(1) the term "compressed schedule" means—

(A) in the case of a full-time employee, an 80-hour biweekly basic work requirement which is scheduled for less than 12 workdays, and

(B) in the case of a part-time employee, a biweekly basic work requirement of less than 80 hours which is scheduled for less than 10 workdays; and

(2) the term "overtime hours" means any hours in excess of those specified hours which constitute the compressed schedule.

COMPRESSED SCHEDULE EXPERIMENTS

SEC. 652. (a) Notwithstanding section 6101 of title 5, United States Code, experiments may be conducted in agencies to test a 4-day workweek or other compressed schedule.

(b)(1) An employee in a unit with respect to which an organization of Government employees has not been accorded exclusive recognition shall not be required to participate in any experiment under subsection (a) of this section unless a majority of the employees in such unit who, but for this paragraph, would be included in such experiment have voted to be so included.

(2) Upon written request to any agency by an employee, the agency, if it determines that participation in an experiment under subsection (a) of this section would impose a personal hardship on such employee, shall—

(A) except such employee from such experiment; or

(B) reassign such employee to the first position within the agency—

(i) which becomes vacant after such determination.

(ii) which is not included within such experiment,

(iii) for which such employee is qualified, and

(iv) which is acceptable to the employee.

A determination by an agency under this paragraph shall be made not later than 10 days after the day on which a written request for such determination is received by the agency.

(c) Notwithstanding any other provision of this subtitle, but subject to the terms of any written agreement under section 662(a) of this subtitle, any experiment under subsection (a) of this section may be terminated by the Office, or the agency, if it determines that the experiment is not in the best interest of the public, the Government, or the employees.

(d) Experiments under subsection (a) of this section shall terminate not later than the end of the 3-year period which begins on the effective date of this part.

COMPUTATION OF PREMIUM PAY

SEC. 653. (a) The provisions of sections 5542(a), 5544(a), and 5550(2) of title 5, United States Code, section 4107(e)(5) of title 38, United States Code, section 7 of the Fair Labor Standards Act, as amended (29 U.S.C. 207), or any other law, which relate to premium pay for overtime work, shall not apply to the hours which constitute a compressed schedule.

(b) In the case of any full-time employee, hours worked in excess of the compressed schedule shall be overtime hours and shall be paid for as provided by whichever statutory provisions referred to in subsection (a) of this section are applicable to the employee. In the case of any part-time employee on a compressed schedule, overtime pay shall begin to be paid after the same number of hours of work after which a full-time employee on a similar schedule would begin to receive overtime pay.

(c) Notwithstanding section 5544(a), 5546(a), or 5550(1) of title 5, United States Code, or any other applicable provision of law, in the case of any full-time employee on a compressed schedule who performs work (other than overtime work) on a tour of duty for any workday a part of which is performed on a Sunday, such employee is entitled to pay for work performed during the entire tour of duty at the rate of such employee's basic pay, plus premium pay at a rate equal to 25 percent of such basic pay rate.

(d) Notwithstanding section 5546(b) of title 5, United States Code, an employee on a compressed schedule who performs work on a holiday designated by Federal statute or Executive order is entitled to pay at the rate of such employee's basic pay, plus premium pay at a rate equal to such basic pay rate, for such work which is not in excess of the basic work requirement of such employee for such day. For hours worked on such a holiday in excess of the basic work requirement for such day, the employee is entitled to premium pay in accordance with the provisions of section 5542(a) or 5544(a) of title 5, United States Code, as applicable, or the provisions of section 7 of the Fair Labor Standards Act, as amended (29 U.S.C. 207), whichever provisions are more beneficial to the employee.

PART 3—ADMINISTRATIVE PROVISIONS

ADMINISTRATION OF LEAVE AND RETIREMENT PROVISIONS

SEC. 661. For purposes of administering sections 6303(a), 6304, 6307 (a) and (c), 6323, 6326, and 8339(m) of title 5, United States Code, in the case of an employee who is in any experiment under part 1 or 2 of this subtitle, references to a day or workday (or to multiples or parts thereof) contained in such sections shall be considered to be references to 8 hours (or to the respective multiples or parts thereof).

APPLICATION OF EXPERIMENTS IN THE CASE OF NEGOTIATED CONTRACTS

SEC. 662. (a) Employees within a unit with respect to which an organization of Government employees has been accorded exclusive recognition shall not be included within a unit with respect to which an organization of Government employees has been accorded exclusive recognition shall not be included within any experiment under part 1 or 2 of this subtitle except to the extent expressly provided under a written agreement between the agency and such organization.

(b) The Office or an agency may not participate in a flexible or compressed schedule experiment under a negotiated contract which contains premium pay provisions which are inconsistent with the provisions of section 643 or 653 of this subtitle, as applicable.

PROHIBITION OF COERCION

SEC. 663. (a) An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with—

(1) such employee's rights under part 1 of this subtitle to elect a time of arrival or departure, to work or not to work credit hours, or to request or not to request compensatory time off in lieu of payment for overtime hours; or

(2) such employee's right under section 652(b)(1) of this subtitle to vote whether or not to be included within a compressed schedule experiment or such employee's right to request an agency determination under section 652(b)(2) of this subtitle.

For the purpose of the preceding sentence, the term "intimidate, threaten, or coerce" includes, but is not limited to, promising to confer or conferring any benefit (such as appointment, promotion, or compensation), or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

(b) Any employee who violates the provisions of subsection (a) of this section shall, upon a final order of the Merit Systems Protection Board, be—

(1) removed from such employee's position, in which event that employee may not thereafter hold any position as an employee for such period as the Board may prescribe;

(2) suspended without pay from such employee's position for such period as the Board may prescribe; or

(3) disciplined in such other manner as the Board shall deem appropriate.

The Board shall prescribe procedures to carry out this subsection under which an employee subject to removal, suspension, or other disciplinary action shall have rights comparable to the rights afforded an employee subject to removal or suspension under subchapter III of chapter 73 of title 5, United States Code, relating to certain prohibited political activities.

REPORTS

SEC. 664. Not later than 2½ years after the effective date of parts 1 and 2 of this subtitle, the Office shall—

(1) prepare an interim report containing recommendations as to what, if any, legislative or administrative action shall be taken based upon the results of experiments conducted under this subtitle, and

(2) submit copies of such report to the President, the Speaker of the House, and the President pro tempore of the Senate.

The Office shall prepare a final report with regard to experiments conducted under this subtitle and shall submit copies of such report to the President, the Speaker of the House, and the President pro tempore of the Senate not later than 3 years after such effective date.

REGULATIONS

SEC. 665. The Office shall prescribe regulations necessary for the administration of the foregoing provisions of this subtitle.

EFFECTIVE DATE

SEC. 666. The provisions of section 633 of this subtitle and parts 1 and 2 of this subtitle shall take effect on the 180th day after the date of the enactment of this Act.

TITLE VII—FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS

FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS

SEC. 701. So much of subpart F of part III of title 5, United States Code, as precedes subchapter II of chapter 71 thereof is amended to read as follows:

"Subpart F—Labor-Management and Employee Relations

"Chapter 71—LABOR-MANAGEMENT RELATIONS

"SUBCHAPTER I—GENERAL PROVISIONS

"Sec.

"7101. Findings and purpose.

"7102. Employees' rights.

"7103. Definitions; application.

"7104. Federal Labor Relations Authority.

"7105. Powers and duties of the Authority.

"7106. Management rights.

"SUBCHAPTER II—RIGHTS AND DUTIES OF AGENCIES AND LABOR ORGANIZATIONS

"Sec.

"7111. Exclusive recognition of labor organizations.

"7112. Determination of appropriate units for labor organization representation.
"7113. National consultation rights.
"7114. Representation rights and duties.
"7115. Allotments to representatives.
"7116. Unfair labor practices.
"7117. Duty to bargain in good faith; compelling need; duty to consult.
"7118. Prevention of unfair labor practices.
"7119. Negotiation impasses; Federal Service Impasses Panel.
"7120. Standards of conduct for labor organizations.

"SUBCHAPTER III—GRIEVANCES, APPEALS, AND REVIEW

"Sec.
"7121. Grievance procedures.
"7122. Exceptions to arbitral awards.
"7123. Judicial review; enforcement.

"SUBCHAPTER IV—ADMINISTRATIVE AND OTHER PROVISIONS

"Sec.
"7131. Reporting requirements for standards of conduct.
"7132. Official time.
"7133. Subpenas.
"7134. Compilation and publication of data.
"7135. Regulations.
"7136. Continuation of existing laws, recognitions, agreements, and procedures.

"SUBCHAPTER I—GENERAL PROVISIONS

"§ 7101. Findings and purpose

"(a) The Congress finds that experience in both private and public employment indicates that the statutory protection of the right of employees to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them safeguards the public interest and contributes to the effective conduct of public business. Such protection facilitates and encourages the amicable settlement of disputes between employees and their employers involving conditions of employment. Therefore, labor organizations and collective bargaining in the civil service are in the public interest.

"(b) It is the purpose of this chapter to prescribe certain rights and obligations of the employees of the Federal Government and to establish procedures which are designed to meet the special requirements and needs of the Federal Government.

"§ 7102. Employees' rights

"Each employee shall have the right to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such right. Except as otherwise provided under this chapter, such right includes the right—

"(1) to act for a labor organization in the capacity of a representative and the right, in such capacity, to present the views of the labor organization to heads of agencies and other officials of the executive branch of the Government, the Congress, or other appropriate authorities,

"(2) to engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under this chapter, and

"(3) to engage in other lawful activities for the purpose of establishing, maintaining, and improving conditions of employment.

"§ 7103. Definitions; application.

"(a) For the purpose of this chapter—

"(1) 'person' means an individual, labor organization, or agency;

"(2) 'employee' means an individual—

"(A) employed in an agency; or

"(B) whose employment in an agency has ceased because of any unfair labor practice under section 7116 of this title and who has not obtained any other regular and substantially equivalent employment, as determined under regulations prescribed by the Federal Labor Relations Authority;

but does not include—

"(i) an alien or noncitizen of the United States who occupies a position outside the United States;

"(ii) a member of the uniformed services;

"(iii) a supervisor or a management official;

"(iv) an officer or employee in the Foreign Service of the United States employed in the Department of State, the Agency of International Development, or the International Communication Agency;

"(v) any person who participates in a strike in violation of 5 U.S.C. 7311;

"(3) 'agency' means an Executive agency (including a nonappropriated fund instrumentality described in section 2105(c) of this title and the Veterans' Canteen Service, Veterans' Administration), the Library of Congress, and the Government Printing Office, but does not include—

"(A) the General Accounting Office;

"(B) the Federal Bureau of Investigation;

"(C) the Central Intelligence Agency;

"(D) the National Security Agency;

"(E) the Tennessee Valley Authority;

"(F) the Federal Labor Relations Authority; or

"(G) the Federal Service Impasses Panel;

"(4) 'labor organization' means an organization composed in whole or in part of employees, in which employees participate and pay dues, and which has as a purpose the dealing with an agency concerning grievances and conditions of employment, but does not include—

"(A) an organization whose basic purpose is entirely social, fraternal, or limited to special interest objectives which are only incidentally related to conditions of employment;

"(B) an organization which, by its constitution, bylaws, tacit agreement among its members, or otherwise, denies membership because of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition; or

"(C) an organization sponsored by an agency; or

"(D) an organization which participates in the conduct of a strike against the Government of the United States or any agency thereof or imposes a duty or obligation to conduct, assist, or participate in such a strike;

"(5) 'dues' means dues, fees, and assessments;

"(6) 'Authority' means the Federal Labor Relations Authority described in section 7104 (a) of this title;

"(7) 'Panel' means the Federal Service Impasses Panel described in section 7119(c) of this title;

"(8) 'collective bargaining agreement' means an agreement entered into as a result of collective bargaining pursuant to the provisions of this chapter;

"(9) 'grievance' means any complaint—

"(A) by any employee concerning any matter relating to the employment of the employee;

"(B) by any labor organization concerning any matter relating to the employment of any employee; or

"(C) by any employee, labor organization, or agency concerning—

"(i) the effect or interpretation, or a claim of breach, of a collective bargaining agreement; or

"(ii) any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment;

"(10) 'supervisor' means an individual employed by an agency having authority in the interest of the agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment, except that, with respect to any unit which includes firefighters or nurses, the term 'supervisor' includes only those individuals who devote a preponderance of their employment time to exercising such authority;

"(11) 'management official' means an individual employed by an agency in a position the duties and responsibilities of which require or authorize the individual to formulate, determine, or influence the policies of the agency;

"(12) 'collective bargaining' means the performance of the mutual obligation of the representative of an agency and the exclusive representative of employees in an appropriate unit in the agency to meet at reasonable times and to confer, consult, and bargain in a good-faith effort to reach agreement with respect to the conditions of employment affecting such employees and to execute, if requested by either party a written document incorporating any collective bargaining agreement reached, but the obligation referred to in this paragraph does not compel either part to agree to a proposal or to make a concession;

"(13) 'confidential employee' means an employee who acts in a confidential capacity with respect to an individual who formulates or effectuates management policies in the field of labor-management relations;

"(14) 'conditions of employment' means personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, affecting working conditions, except that such term does not include policies, practices, and matters—

"(A) relating to discrimination in employment on the basis of race, color, religion, sex, age, national origin, or handicapping condition, within an agency subject to the jurisdiction of the Equal Employment Opportunity Commission;

"(B) relating to political activities prohibited under subchapter III of chapter 73 of this title; or

"(C) relating to the clarification of any position; or

"(D) to the extent such matters are specifically provided for by Federal statute;

"(15) 'professional employee' means—

"(A) an employee engaged in the performance of work—

"(i) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital (as distinguished from knowledge acquired by a general academic education, or from an apprenticeship, or from training in the performance of routine mental, manual, mechanical, or physical activities);

"(ii) requiring the consistent exercise of discretion and judgment in its performance;

"(iii) which is predominantly intellectual and varied in character (as distinguished from routine mental, manual, mechanical, or physical work); and

"(iv) which is of such character that the output produced or the result accomplished by such work cannot be standardized in relation to a given period of time; or

"(B) an employee who has completed the courses of specialized intellectual instruction and study described in subparagraph (A)(i) of this paragraph and is performing related work under appropriate direction or guidance to qualify the employee as a professional employee described in subparagraph (A) of this paragraph;

"(16) 'exclusive representative' means any labor organization which—

"(A) is certified as the exclusive representative of employees in an appropriate unit pursuant to section 7111 of this title; or

"(B) was recognized by an agency immediately before the effective date of this chapter as the exclusive representative of employees in an appropriate unit—

"(i) on the basis of an election, or

"(ii) on any basis other than an election, and continues to be so recognized in accordance with the provisions of this chapter.

"(17) 'firefighter' means any employee engaged in the performance of work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment; and

"(18) 'United States' means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and any territory or possession of the United States.

"(b) The President may issue an order excluding any agency or subdivision thereof from coverage under this chapter if the President determines that—

"(1) the agency or subdivision has as a primary function intelligence, counterintelligence, investigative, or security work, and

"(2) the provisions of this chapter cannot be applied to that agency or subdivision in a manner consistent with national security requirements and considerations.

"§ 7104. Federal Labor Relations Authority

"(a) The Federal Labor Relations Authority is composed of three members, not more than 2 of whom may be adherents of the same political party. No member shall engage in any other business or employment or hold another office or position in the Government of the United States except as otherwise provided by law.

"(b) Members of the Authority shall be appointed by the President by and with the advice and consent of the Senate, and may be removed by the President only upon notice and hearing and only for misconduct, inefficiency, neglect of duty, or malfeasance in office. The President shall designate one member to serve as Chairman of the Authority.

"(c)(1) One of the original members of the Authority shall be appointed for a term of 1 year, one for a term of 3 years, and the Chairman for a term of 5 years. Thereafter, each member shall be appointed for a term of 5 years.

"(2) Notwithstanding paragraph (1) of this subsection, the term of any member shall not expire before the earlier of—

"(A) the date on which the member's successor takes office, or

"(B) the last day of the Congress beginning after the date on which the member's term of office would (but for this subparagraph) expire.

An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

"(d) A vacancy in the Authority shall not impair the right of the remaining members to exercise all of the powers of the Authority.

"(e) The Authority shall make an annual report to the President for transmittal to the Congress which shall include information as to the cases it has heard and the decisions it has rendered.

"(f)(1) The General Counsel of the Authority shall be appointed by the President, by and with the advice and consent of the Senate, for a term of 5 years. The General Counsel may be removed by the President only upon notice and hearing and only for misconduct, inefficiency, neglect of duty, or malfeasance in office.

"(2) The General Counsel may—

"(A) investigate alleged violations of this chapter,

"(B) file and prosecute complaints under this chapter,

"(C) intervene before the Authority in proceedings brought under section 7118 of this title, and

"(D) exercise such other powers of the Authority as the Authority may prescribe.

"(3) The General Counsel shall have direct authority over, and responsibility for, all employees in the office of General Counsel, including employees of the General Counsel in the regional offices of the Authority.

"(4) If a vacancy occurs in the office of General Counsel, the President shall promptly designate an Acting General Counsel and shall submit a nomination for General Counsel to the Senate within 40 days after the vacancy occurs, unless the Congress adjourns sine die before the expiration of the 40-day period, in which case the President shall submit the nomination to the Senate not later than 10 days after the Congress reconvenes.

"§ 7105. Powers and duties of the Authority

"(a) The Authority shall provide leadership in establishing policies and guidance relating to matters under this chapter, and, except as otherwise provided, shall be responsible for carrying out the purpose of this chapter.

"(b) The Authority shall adopt an official seal which shall be judicially noticed.

"(c) The principal office of the Authority shall be in or about the District of Columbia, but the Authority may meet and exercise any or all of its powers at any time or place. Except as otherwise expressly provided by law, the Authority may, by one or more of its members or by such agents as it may designate, make any appropriate inquiry necessary to carry out its duties wherever persons subject to this chapter are located. Any member who participates in the inquiry shall not be disqualified from later participating in a decision of the Authority in any case relating to the inquiry.

"(d) The Authority shall appoint an Executive Director and such regional directors, administrative law judges under section 3105 of this title, and other individuals as it may from time to time find necessary for the proper performance of its functions.

"(e)(1) The Authority may delegate to any regional director its authority under this chapter—

"(A) to determine whether a group of employees is an appropriate unit;

"(B) to conduct investigations and to provide for hearings;

"(C) to determine whether a question of representation exists and to direct an election; and

"(D) to conduct secret ballot elections and certify the results thereof.

"(2) The Authority may delegate to any administrative law judge appointed under subsection (d) of this section its authority under section 7118 of this title to determine whether any person has engaged in or is engaging in an unfair labor practice.

"(f) If the Authority delegates any authority to any regional director or administrative law judge to take any action pursuant to subsection (e) of this section, the Authority may, upon application by any interested person filed within 60 days after the date of the action, review such action, but the review shall not, unless specifically ordered by the Authority, operate as a stay of the action. The Authority may affirm, modify, or reverse any action reviewed under this subsection. If the Authority does not undertake to grant review of the action under this subsection within 60 days after the later of—

"(1) the date of the action; or

"(2) the date of the filing of any application under this subsection for review of the action;

the action shall become the action of the Authority at the end of such 60-day period.

"(g) In order to carry out its functions under this chapter, the Authority may—

"(1) hold hearings; and

"(2) administer oaths, take the testimony or deposition of any person under oath, and issue subpenas as provided in section 7133 of this title.

"(h) The Authority shall, by regulation, establish standards which shall be applied in determining the amount and circumstances in which reasonable attorney fees and reasonable costs and expenses of litigation may be awarded under section 7118(a)(6)(C) or 5596(b)(1)(B) of this title in connection with any unfair labor practice or any grievance processed under a procedure negotiated in accordance with this chapter.

"(i) Except as provided in section 518 of title 28, relating to litigation before the Supreme Court, attorneys designated by the Authority may appear for the Authority and represent the Authority in any civil action brought in connection with any function carried out by the Authority pursuant to this title or as otherwise authorized by law.

"§ 7106. Management rights

"(a) Subject to subsection (b) of this section, nothing in this chapter shall affect the authority of any management official of any agency—

"(1) to determine the mission, budget, organization, number of employees, and internal security practices of the agency; and

"(2) in accordance with applicable laws—

"(A) to hire, assign, direct, layoff, and retain employees in the agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;

"(B) to assign work, to make determinations with respect to contracting out, and to determine the personnel by which agency operations shall be conducted;

"(C) with respect to filling positions, to make selections for appointments from—

"(i) among properly ranked and certified candidates for promotion; or

"(ii) any other appropriate source; and

"(D) to take whatever actions may be necessary to carry out the agency mission during emergencies.

"(b) Nothing in this section shall preclude any agency and any labor organization from negotiating—

"(1) at the election of the agency, on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work;

"(2) procedures which management officials of the agency will observe in exercising any authority under this section; or

"(3) appropriate arrangements for employees adversely affected by the exercise of any authority under this section by such management officials.

"SUBCHAPTER II—RIGHTS AND DUTIES OF AGENCIES AND LABOR ORGANIZATIONS

"§ 7111. Exclusive recognition of labor organizations

"(a) Exclusive recognition shall be accorded to a labor organization which has been selected by a majority of employees in an appropriate unit who participate in an election in conformity with the requirements of this chapter.

"(b) If a petition is filed with the Authority—

"(1) by any person alleging—

"(A) in the case of an appropriate unit for which there is an exclusive representative that 30 percent of the employees in the appropriate unit wish to be represented for the purpose of collective bargaining by an exclusive representative, or

"(B) in the case of an appropriate unit for which there is an exclusive representative that 30 percent of the employees in the unit allege that the exclusive representative is no longer the representative of the majority of the employees in the unit; or

"(2) by any person seeking clarification of, or an amendment to, a certification then in effect or a matter relating to representation;

the Authority shall investigate the petition, and if it has reasonable cause to believe that a question of representation exists, it shall provide an opportunity for a hearing (for which a transcript shall be kept) after reasonable notice. If the Authority finds on the record of the hearing that a question of representation exists, the Authority shall, conduct an election on the question by secret ballot and shall certify the results thereof. An election under this subsection shall not be conducted in any appropriate unit or in any subdivision thereof within which, in the preceding 12 calendar months, a valid election under this subsection has been held.

"(c) A labor organization which—

"(1) has been designated by at least 10 percent of the employees in the unit specified in any petition filed pursuant to subsection (b) of this section;

"(2) has submitted a valid copy of a current or recently expired collective bargaining agreement for the unit; or

"(3) has submitted other evidence that it is the exclusive representative of the employees involved;

may intervene with respect to a petition filed pursuant to subsection (b) of this section and shall be placed on the ballot of any election under such subsection (b) with respect to the petition.

"(d) The Authority shall determine who is eligible to vote in any election under this section and shall establish rules governing any such election, which shall include rules allowing employees eligible to vote the opportunity to choose—

"(1) from labor organizations on the ballot, that labor organization which the employees wish to have represent them; or

"(2) not to be represented by a labor organization.

In any election in which no choice on the ballot receives a majority of the votes cast, a runoff election shall be conducted between the two choices receiving the highest number of votes. A labor organization which receives the majority of the votes cast in an election shall be certified by the Authority as the exclusive representative.

"(e) Any labor organization described in section 7103 (a)(16)(B)(ii) of this title may petition for an election for the determination of that labor organization as the exclusive representative of an appropriate unit.

"(f) A labor organization seeking exclusive recognition shall submit to the Authority and the agency involved a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives.

"(g) Exclusive recognition shall not be accorded to a labor organization—

"(1) if the Authority determines that the labor organization is subject to corrupt influences or influences opposed to democratic principles;

"(2) in the case of a petition filed pursuant to subsection (b)(1)(A) of this section, if there is not credible evidence that at least 30 percent of the employees in the unit specified in the petition wish to be represented for the purpose of collective bargaining by the labor organization seeking exclusive recognition;

"(3) if there is then in effect a lawful written collective bargaining agreement between the agency involved and an exclusive representative (other than the labor organization seeking exclusive recognition) covering any employees included in the unit specified in the petition, unless—

"(A) the collective bargaining agreement has been in effect for more than 3 years, or

"(B) the petition for exclusive recognition is filed not more than 120 days and not less than 60 days before the expiration date of the collective bargaining agreement; or

"(4) if the Authority has, within the previous 12 calendar months, conducted a secret ballot election for the unit described in any petition under this section and in such election a majority of the employees voting chose a labor organization for certification as the unit's exclusive representative.

"(h) Nothing in this section shall be construed to prohibit the waiving of hearings by stipulation for the purpose of a consent election in conformity with regulations and rules or decisions of the Authority.

"§ 7112. Determination of appropriate units for labor organization representation

"(a)(1) The Authority shall determine the appropriateness of any unit. The Authority shall determine in each case whether, in order to insure employees the fullest freedom in exercising the rights guaranteed under this chapter, the appropriate unit should be established on an agency, plant, installation, functional, or other basis and shall determine any unit to be an appropriate unit only if the determination will insure a clear and identifiable community of interest among the employees in the unit and will promote effective dealings with, and efficiency of the operations of, the agency, involved.

"(b) A unit shall not be determined to be appropriate under this section solely on the basis of the extent to which employees in the proposed unit have organized, nor shall a unit be determined to be appropriate if it includes—

"(1) except as provided under section 7136(a)(2) of this title, any management official or supervisor, except that, with respect to a unit a majority of which is composed of firefighters or nurses, a unit which includes both supervisors and employees may be considered appropriate;

"(2) a confidential employee;

"(3) an employee engaged in personnel work in other than a purely clerical capacity;

"(4) an employee engaged in administering the provisions of this chapter;

"(5) both professional employees and other employees, unless a majority of the professional employees vote for inclusion in the unit;

"(6) any employee engaged in intelligence, counter intelligence, investigative, or security work which directly affects national security; or

"(7) any employee primarily engaged in investigation or audit functions relating to the work of individuals employed by an agency whose duties directly affect the internal security of the agency but only if the functions are undertaken to insure that the duties are discharged honestly and with integrity.

"(c) Any employee who is engaged in administering any provision of law relating to labor-management relations may not be represented by a labor organization—

"(1) which represents other individuals to whom such provision applies; or

"(2) which is affiliated directly or indirectly with an organization which represents other individuals to whom such provision applies.

"(d) Two or more units which are in an agency and for which a labor organization is the exclusive representative may, upon petition by the agency or labor organization, be consolidated with or without an election into a single larger unit if the Authority considers the larger unit to be appropriate. The Authority shall certify the labor organization as the exclusive representative of the new larger unit.

"(e) In the case of the reorganization of one or more units for which, before the reorganization, a labor organization was the exclusive representative of any such unit, the labor organization shall continue to be the exclusive representative for each such unit until new elections are held or a period of 45 days has elapsed, whichever first occurs.

"§ 7113. National consultation rights

"(a)(1) If, in connection with any agency, no labor organization has been accorded exclusive recognition on an agency basis, a labor organization which is the exclusive representative of a substantial number of the employees of the agency, as determined in accordance with criteria prescribed by the Authority, shall be granted national consultation rights by the agency. National consultation rights shall terminate when the labor organization no longer meets the criteria prescribed by the Authority. Any issue relating to any labor organization's eligibility for, or continuation of, national consultation rights shall be subject to determination by the Authority.

"(b)(1) Any labor organization having national consultation rights in connection with any agency under subsection (a) of this section shall—

"(A) be informed of any substantive change in conditions of employment proposed by the agency, and

"(B) be permitted reasonable time to present its views and recommendations regarding the changes.

"(2) If any views or recommendations are presented under paragraph (1) of this subsection to an agency by any labor organization—

"(A) the agency shall consider the views or recommendations before taking final action on any matter with respect to which the views or recommendations are presented; and

"(B) the agency shall provide the labor organization a written statement of the reasons for taking the final action.

"(c) Nothing in this section shall be construed to limit the right of any agency or exclusive representative to engage in collective bargaining.

"§ 7114. Representation rights and duties

"(a)(1) A labor organization which has been accorded exclusive recognition is the exclusive representative of the employees in the unit it represents and is entitled to act for, and negotiate collective bargaining agreements covering, all employees in the unit. An exclusive representative is responsible for representing the interests of all employees in the unit it represents without discrimination and without regard to labor organization membership.

"(2) Before any representative of an agency commences any investigatory interview of an employee in a unit concerning misconduct which could reasonably lead to suspension, reduction in grade or pay, or removal, the employee shall be informed of that employee's right under paragraph (3)(B) of this subsection to be represented by an exclusive representative.

"(3) An exclusive representative of an appropriate unit in an agency shall be given the opportunity to be represented at—

"(A) any formal discussion between one or more representatives of the agency and one or more employees in the unit or their representatives concerning any grievance or any personnel policy or practice or other general condition of employment; or

"(B) any investigatory interview of an employee in the unit by a representative of the agency if—

"(i) the employee reasonably believes that such interview may result in disciplinary action against the employee; and

"(ii) the employee requests such representation.

Any agency and any exclusive representative of any appropriate unit in the agency, through appropriate representatives, shall meet and negotiate in good faith for the purpose of arriving at a collective bargaining agreement. The rights of an exclusive representative under the preceding provisions of this subsection shall not be construed to preclude an employee from being represented by an attorney or other representative, other than the exclusive representative, of the employee's own choosing in any appeal action under procedures other than procedures negotiated pursuant to this chapter.

"(b) The duty of an agency and an exclusive representative to negotiate in good faith under subsection (a) of this section shall include the obligation—

"(1) to approach the negotiations with a sincere resolve to reach a collective bargaining agreement;

"(2) to be represented at the negotiations by duly authorized representatives prepared to discuss and negotiate on any conditions of employment;

"(3) to meet at reasonable times and convenient places as frequently as may be necessary, and to avoid unnecessary delays;

"(4) in the case of an agency, to furnish to the exclusive representative involved, or its authorized representative, upon request and, to the extent not prohibited by law, data—

"(A) which is normally maintained by the agency in the regular course of business;

"(B) which is reasonably available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining; and

"(C) which does not constitute guidance, advice, counsel, or training provided for management officials or supervisors, relating to collective bargaining; and

"(5) if agreement is reached, to execute on the request of any party to the negotiation a written document embodying the agreed terms, and to take such steps as are necessary to implement such agreement.

"§ 7115. Allotments to representatives

"(a) If an agency has received from an employee in an appropriate unit a written assignment which authorizes the agency to deduct from the pay of the employee amounts for the payment of regular and periodic dues of the exclusive representative of the unit, the agency shall honor the assignment and make an appropriate allotment pursuant to the assignment. Any such allotment shall be made at no cost to the exclusive representative or the employee. Except as provided under subsection (b) of this section, any such assignment may not be revoked for a period of 1 year.

"(b) An allotment under subsection (a) of this section for the deduction of dues with respect to any employee shall terminate when—

"(1) the agreement between the agency and the exclusive representative involved ceases to be applicable to the employee; or

"(2) the employee is suspended or expelled from membership in the exclusive representative.

"(c)(1) Subject to paragraph (2) of this subsection, if a petition has been filed with the Authority by a labor organization alleging that 10 percent of the employees in an appropriate unit in an agency have membership in the labor organization, the Authority shall investigate the petition to determine its validity. Upon certification by the Authority of the validity of the petition, the agency shall have a duty to negotiate with the labor organization solely concerning the deduction of dues of the labor organization from the pay of the members of the labor organization who are employees in the unit and who make a voluntary allotment for such purpose.

"(2)(A) The provisions of paragraph (1) of this subsection shall not apply in the case of any appropriate unit for which there is an exclusive representative.

"(B) Any agreement under paragraph (1) of this subsection between a labor organization and an agency with respect to an appropriate unit shall be null and void upon the certification of an exclusive representative of the unit.

"§ 7116. Unfair labor practices

"(a) For the purpose of this chapter, it shall be an unfair labor practice for an agency—

"(1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;

"(2) to encourage or discourage membership in any labor organization by discrimination in connection with hiring, tenure, promotion, or other conditions of employment;

"(3) to sponsor, control, or otherwise assist any labor organization, other than to furnish, upon request, customary and routine services and facilities if the services and facilities are also furnished on an impartial basis to other labor organizations having equivalent status;

"(4) to discipline or discriminate against an employee because the employee has filed a complaint, affidavit, or petition, or has given any information or testimony under this chapter;

"(5) to refuse to consult, confer, or negotiate in good faith with a labor organization as required by this chapter;

"(6) to fail or refuse to cooperate in impasse procedures and impasse decisions as required by this chapter;

"(7) to prescribe any rule or regulation which restricts the scope of collective bargaining permitted by this chapter or which is in conflict with any applicable collective bargaining agreement; or

"(8) to otherwise fail or refuse to comply with any provision of this chapter.

"(b) For the purpose of this chapter, it shall be an unfair labor practice for a labor organization—

"(1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;

"(2) to cause or attempt to cause an agency to discriminate against any employee in the exercise by the employee of any right under this chapter;

"(3) to coerce, discipline, fine, or attempt to coerce a member of the labor organization as punishment, reprisal, or for the purpose of hindering or impeding the member's work performance or productivity as an employee or the discharge of the member's duties as an employee;

"(4) to discriminate against an employee with regard to the terms or conditions of membership in the labor organization on the basis of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition;

"(5) to refuse to consult, confer, or negotiate in good faith with an agency as required by this chapter;

"(6) to fail or refuse to cooperate in impasse procedures and impasse decisions as required by this chapter;

"(7)(A) to call, or participate in, a strike, work stoppage, or slowdown, or picketing of an agency in a labor-management dispute if such picketing interferes with an agency's operations, or

"(B) to condone any activity described in subparagraph (A) of this paragraph by failing to take action to prevent or stop such activity; or

"(8) to otherwise fail or refuse to comply with any provision of this chapter.

Nothing in paragraph (7) shall result in any informational picketing which does not interfere with an agency's operations being considered as an unfair labor practice.

"(c) For the purpose of this chapter it shall be an unfair labor practice for an exclusive representative to deny membership to any employee in the appropriate unit represented by such exclusive representative except for failure—

(1) to meet reasonable occupational standards uniformly required for admission, or

(2) to tender dues uniformly required as a condition of acquiring and retaining membership.

This subsection does not preclude any labor organization from enforcing discipline in accordance with procedures under its constitution or bylaws to the extent consistent with the provisions of this chapter.

"(d) Issues which may properly be raised under—

"(1) an appeals procedure prescribed by or pursuant to law; or

"(2) any grievance procedures negotiated pursuant to section 7121 of this title;

may, at the election of the aggrieved party, be raised either—

(A) under such appeals procedure or such grievance procedure, as appropriate; or

(B) if applicable, under the procedure for resolving complaints of unfair labor practices under section 7118 of this title.

An election under the preceding sentence shall be made at such time and in such manner as the Authority shall prescribe. Any decision under subparagraph (B) of this subsection on any such issue shall not be construed to be a determination of an unfair labor practice under this chapter or a precedent for any such determination.

"§ 7117. Duty to bargain in good faith; compelling need; duty to consult

"(a)(1) Subject to paragraph (2) of this subsection, the duty to bargain in good faith shall, to the extent not inconsistent with any Federal law or any Government-wide rule or regulation, extend to matters which are the subject to any rule or regulation only if the rule or regulation is not a Government-wide rule or regulation.

"(2) The duty to bargain in good faith shall, to the extent not inconsistent with Federal law or any Government-wide rule or regulation, extend to matters which are the subject of any agency rule or regulation referred to in paragraph (3) of this subsection only if the Authority has determined under subsection (b) of this section that no compelling need (as determined under regulations prescribed by the Authority) exists for the rule or regulation.

"(3) Paragraph (2) of this subsection applies to any rule or regulation issued by any agency or issued by any primary national subdivision of such agency, unless an exclusive representative represents an appropriate unit including not less than a majority of the employees in the issuing agency or primary national subdivision, as the case may be, to whom the rule or regulation is applicable.

"(b)(1) In any case of collective bargaining in which an exclusive representative alleges that no compelling need exists for any rule or regulation referred to in subsection (a)(3) of this section which is then in effect and which governs any matter at issue in such collective bargaining, the Authority shall determine under paragraph (2) of this subsection, in accordance with regulations prescribed by the Authority, whether such a compelling need exists.

"(2) For the purpose of this section, a compelling need shall be determined not to exist for any rule or regulation only if—

"(A) the agency, or primary national subdivision, as the case may be, which issued the rule or regulation informs the Authority in writing that a compelling need for the rule or regulation does not exist; or

"(B) the Authority determines, after a hearing under this subsection, that a compelling need for the rule or regulation does not exist.

"(3) Any hearing under this subsection shall be expedited to the extent practicable and shall not include the General Counsel as a party.

"(4) The agency, or primary national subdivision, as the case may be, which issued the rule or regulation shall be a necessary party at any hearing under this subsection.

"(c)(1) Except in any case to which subsection (b) of this section applies, if any agency involved in collective bargaining with an exclusive representative alleges that the duty to bargain in good faith does not extend to any matter, the exclusive representative may appeal the allegation to the Authority in accordance with the provisions of this subsection.

"(2) The exclusive representative may on or before the 15th day after the date on which the agency first makes the allegation referred to in paragraph (1) of this subsection, institute an appeal under this subsection by—

"(A) filing a petition with the Authority; and

"(B) furnishing a copy of the petition to the head of the agency.

"(3) On or before the 15th day after the date of the receipt by the head of the agency of the copy of the petition under paragraph (2)(B) of this subsection, the agency shall—

"(A) file with the Authority a statement—

"(i) withdrawing the allegation; or

"(ii) setting forth in full its reasons supporting the allegation; and

"(B) furnish a copy of such statement to the exclusive representative.

"(4) On or before the 15th day after the date of the receipt by the exclusive representative of a copy of a statement under paragraph (3)(B) of this subsection, the exclusive representative shall file with the Authority its response to the statement.

"(5) The Authority shall expedite proceedings under this subsection to the extent practicable and shall issue to the exclusive representative and to the agency a written decision on the allegation and specific reasons therefor at the earliest practicable date.

"(d)(1) a labor organization which is the exclusive representative of a substantial number of employees, determined in accordance with criteria prescribed by the Authority, shall be granted consultation rights by any agency with respect to any Government-wide rule or regulation issued by the agency effecting any substantive change in any condition of employment. Such consultation rights shall terminate when the labor organization no longer meets the criteria prescribed by the Authority. Any issue relating to a labor organization's eligibility for, or continuation of, such consultation rights shall be subject to determination by the Authority.

"(2) A labor organization having consultation rights under paragraph (1) of this subsection shall—

"(A) be informed of any substantive change in conditions of employment proposed by the agency, and

"(B) shall be permitted reasonable time to present its views and recommendations regarding the changes.

"(3) If any views or recommendations are presented under paragraph (2) of this subsection to an agency by any labor organization—

"(A) the agency shall consider the views or recommendations before taking final action on any matter with respect to which the views or recommendations are presented; and

"(B) the agency shall provide the labor organization a written statement of the reasons for taking the final action.

"§ 7118. Prevention of unfair labor practices

"(a)(1) If an agency or labor organization is charged by any person with having engaged in or engaging in an unfair labor practice, the General Counsel shall investigate the charge and may issue and cause to be served upon the agency or labor organization a complaint. In any case in which the General Counsel does not issue a complaint because the charge fails to state an unfair labor practice, the General Counsel shall provide the person making the charge a written statement of the reasons for not issuing a complaint.

"(2) Any complaint under paragraph (1) of this subsection shall contain a notice—

"(A) of the charge;

"(B) that a hearing will be held before the Authority (or any member thereof or before an individual employed by the Authority and designated for such purpose); and

"(C) of the time and place fixed for the hearing.

"(3) The labor organization or agency involved shall have the right to file an answer to the original and any amended complaint and to appear in person or otherwise and give testimony at the time and place fixed in the complaint for the hearing.

"(4)(A) Except as provided in subparagraph (B) of this paragraph, no complaint shall be issued based on any alleged unfair labor practice which occurred more than 6 months before the filing of the charge with the Authority.

"(B) If the General Counsel determines that the person filing any charge was prevented from filing the charge during the 6-month period referred to in subparagraph (A) of this paragraph by reason of—

"(i) any failure of the agency or labor organization against which the charge is made to perform a duty owed to the person, or

"(ii) any concealment which prevented discovery of the alleged unfair labor practice during the 6-month period,

the General Counsel may issue a complaint based on the charge if the charge was filed during the 6-month period beginning on the day of the discovery by the person of the alleged unfair labor practice.

"(5) The Authority (or any member thereof or any individual employed by the Authority and designated for such purpose) shall conduct a hearing on the complaint not earlier than 5 days after the date on which the complaint is served. In the discretion of the individual or individuals conducting the hearing, any person involved may be allowed to intervene in the hearing and to present testimony. Any such hearing shall, to the extent practicable, be conducted in accordance with the provisions of subchapter II of chapter 5 of this title, except that the parties shall not be bounded by rules of evidence, whether statutory, common law, or adopted by a court. A transcript shall be kept of the hearing. After such a hearing the Authority, in its discretion, may upon notice receive further evidence or hear argument.

"(6) If the Authority (or any member thereof or any individual employed by the Authority and designated for such purpose) determines after any hearing on a complaint under paragraph (5) of this subsection that the preponderance of the evidence received demonstrates that the agency or labor organization named in the complaint has engaged in or is engaging in an unfair labor practice, then the individual or individuals conducting the hearing shall state in writing their findings of fact and shall issue and cause to be served on the agency or labor organization an order—

"(A) to cease and desist from any such unfair labor practice in which the agency or labor organization is engaged;

"(B) directing that a collective bargaining agreement be amended and that the amendments be given retroactive effect;

"(C) requiring an award of reasonable attorney fees;

"(D) requiring reinstatement of an employee with backpay in accordance with section 5596 of this title; or

"(E) including any combination of the actions described in subparagraphs (A) through (D) of this paragraph or such other action as will carry out the purpose of this chapter.

If any such order requires reinstatement of an employee with backpay, backpay may be required of the agency (as provided in section 5596 of this title) or of the labor organization, as the case may be, which is found to have engaged in the unfair labor practice involved.

"(7) If the individual or individuals conducting the hearing determine that the preponderance of the evidence received fails to demonstrate that the agency or labor organization named in the complaint has engaged in or is engaging in an unfair labor practice, the individual or individuals shall state in writing their findings of fact and shall issue an order dismissing the complaint.

"(b) In connection with any matter before the Authority in any proceeding under this section, the Authority may request from the Director of the Office of Personnel Management an opinion concerning the proper interpretation of rules, regulations, or other policy directives issued by the Office of Personnel Management. Any interpretation under the preceding sentence shall be advisory in nature and shall not be binding on the Authority.

"§ 7119. Negotiation impasses; Federal Service Impasses Panel

"(a) The Federal Mediation and Conciliation Service shall provide services and assistance to agencies and exclusive representatives in the resolution of negotiation impasses. The Service shall determine under what circumstances and in what manner it shall provide services and assistance.

"(b) If voluntary arrangements, including the services of the Federal Mediation and Conciliation Service or any other third-party mediation, fail to resolve a negotiation impasse—

"(1) either party may request the Federal Service Impasses Panel to consider the matter, or

"(2) the parties may agree to adopt a procedure for binding arbitration of the negotiation impasse, but only if the procedure is approved by the Panel.

"(c)(1) The Federal Service Impasses Panel is an entity within the Authority, the function of which is to provide assistance in resolving negotiation impasses between agencies and exclusive representatives.

"(2) The Panel shall be composed of a Chairman and at least six other members, who shall be appointed by the President, solely on the basis of fitness to perform the duties and functions involved, from among individuals who are familiar with Government operations and knowledgeable in labor-management relations.

"(3) Of the original members of the Panel, 2 members shall be appointed for a term of 1 year, 2 members shall be appointed for a term of 3 years, and the Chairman and the remaining members shall be appointed for a term of 5 years. Thereafter each member shall be appointed for a term of 5 years, except that an individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced. Any member of the Panel may be removed by the President.

"(4) The Panel may appoint an Executive Director and any other individuals it may from time to time find necessary for the proper performance of its duties. Each member of the Panel who is not an employee (as defined in section 2105 of this title) is entitled to pay at a rate equal to the daily equivalent of the maximum annual rate of

basic pay then currently paid under the General Schedule for each day he is engaged in the performance of official business of the Panel, including travel time, and is entitled to travel expenses as provided under section 5703 of this title.

"(5)(A) The Panel or its designee shall promptly investigate any impasse presented to it under subsection (b) of this section. The Panel shall consider the impasse and shall either—

"(i) recommend to the parties procedures for the resolution of the impasse; or

"(ii) assist the parties in resolving through whatever methods and procedures, including factfinding and recommendations, it may consider appropriate to accomplish the purpose of this section.

"(B) If the parties do not arrive at a settlement after assistance by the Panel under subparagraph (A) of this paragraph, the Panel may—

"(i) hold hearings;

"(ii) administer oaths, take the testimony or deposition of any person under oath, and issue subpenas as provided in section 7133 of this title; and

"(iii) take whatever action is necessary and not inconsistent with this chapter to resolve the impasse.

"(C) Notice of any final action of the Panel under this section shall be promptly served upon the parties, and the action shall be binding on such parties during the term of the agreement, unless the parties agree otherwise.

"§ 7120. Standards of conduct for labor organizations

"(a) A labor organization representing or seeking to represent employees pursuant to this chapter shall adopt, maintain, and enforce governing requirements containing explicit and detailed provisions to which it shall subscribe, which include provisions for—

"(1) the maintenance of democratic procedures and practices, including—

"(A) provisions for periodic elections to be conducted subject to recognized safeguards, and

"(B) provisions defining and securing the right of individual members to—

"(i) participate in the affairs of the labor organization,

"(ii) fair and equal treatment under the governing rules of the organization, and

"(iii) fair process in disciplinary proceedings;

"(2) the prohibition of business or financial interests on the part of labor organization officers and agents which conflict with their duty to the organization and its members; and

"(3) the maintenance of fiscal integrity in the conduct of the affairs of the labor organization, including provisions for accounting and financial controls and regular financial reports or summaries to be made available to its members.

"(b) This chapter does not authorize participation in the management of a labor organization or acting as a representative of a labor organization by a management official or a supervisor, except as specifically provided in this chapter, or by an employee if the participation or activity would result in a conflict or apparent conflict of interest or would otherwise be incompatible with law or with the official duties of the employee.

"SUBCHAPTER III—GRIEVANCES

"§ 7121. Grievance procedures

"(a) Any collective bargaining agreement shall provide procedures for the settlement of grievances, including questions of arbitrability. Any employee who has a grievance and who is covered by a collective bargaining agreement may elect to have the grievance processed under a procedure negotiated in accordance with this chapter.

"(b) Any negotiated grievance procedure referred to in subsection (a) of this section shall—

"(1) be fair and simple,

"(2) provide for expeditious processing, and

"(3) include procedures that—

"(A) assure an exclusive representative the right, in its own behalf or on behalf of any employee in the unit represented by the exclusive representative, to present and process grievances;

"(B) assure such an employee the right to present a grievance on the employee's own behalf, and assure the exclusive representative the right to be present during the grievance proceeding; and

"(C) provide that any grievance not satisfactorily settled under the negotiated grievance procedure shall be subject to binding arbitration which may be invoked by either the exclusive representative or the agency.

"(c) Any party to a collective bargaining agreement aggrieved by the failure, neglect, or refusal of the other party to proceed to arbitration pursuant to the negotiated grievance procedure provided in the agreement may file a petition in the appropriate United States district court requesting an order directing that arbitration proceed pursuant to the procedures provided therefor in the agreement. The court shall hear the matter without jury, expedite the hearing to the maximum extent practicable, and issue any order it determines appropriate.

"(d) The preceding subsections of this section shall not apply with respect to any grievance concerning—

"(1) any claimed violation of subchapter III of chapter 73 of this title (relating to prohibited political activities);

"(2) retirement, life insurance, or health insurance;

"(3) a suspension or removal under section 7532 of this title;

"(4) any examination, certification, or appointment; or

"(5) the classification of any position which does not result in the reduction in grade or pay of an employee.

"(e) The processing of a grievance under a procedure negotiated under this chapter shall not limit the right of an aggrieved employee to request the Equal Employment Opportunity Commission to review a final decision under the procedure—

"(1) pursuant to section 3 of Reorganization Plan Numbered 1 of 1978; or

"(2) where applicable, in such manner as shall otherwise be prescribed by regulation by the Equal Employment Opportunity Commission.

"§ 7122. Exceptions to arbitral awards

"(a) Either party to arbitration under this chapter may file with the Authority an exception to any arbitrator's award pursuant to the arbitration. If upon review the Authority finds that the award is deficient because

"(1) it is contrary to any law, rule, or regulation;

"(2) it was obtained by corruption, fraud, or other misconduct;

"(3) the arbitrator exercised partiality in making the award; or

"(4) the arbitrator exceeded powers granted to the arbitrator;

the Authority may take such action and make such recommendations concerning the award as it considers necessary, consistent with applicable laws, rules, or regulations.

"(b) If no exception to an arbitrator's award is filed under subsection (a) of this section during the 60-day period beginning on the date of such award, the award shall be final and binding. An agency shall take the actions required by an arbitrator's final award. The award may include the payment of backpay (as provided in section 5596 of this title).

"§ 7123. Judicial review; enforcement

"(a) Any person aggrieved by a final order of the Authority under—

"(1) section 7118 of this title (involving an unfair labor practice);

"(2) section 7122 of this title (involving an award by an arbitrator); or

"(3) section 7112 of this title (involving an appropriate unit determination),

may, during the 60-day period beginning on the date on which the order was issued, institute an action for judicial review of the Authority's order in the United States court of appeals in the circuit in which the person resides or transacts business or in the United States Court of Appeals for the District of Columbia.

"(b) The Authority may petition any appropriate United States court of appeals for the enforcement of any order of the Authority and for appropriate temporary relief or restraining order.

"(c) Upon the filing of a petition under subsection (a) of this section for judicial review or under subsection (b) of this section for enforcement, the Authority shall file in the court the record in the proceedings, as provided in section 2112 of title 28. Upon the filing of the petition, the court shall cause notice thereof to be served to the parties involved, and thereupon shall have jurisdiction of the proceeding and of the question determined therein and may grant any temporary relief (including a temporary restraining order) it considers just and proper, and may make and enter a decree affirming and enforcing, modifying and enforcing as so modified, or setting aside in whole or in part the order of the Authority. The filing of a petition under subsection (a) or (b) of this section shall not operate as a stay of the Authority's order unless the court specifically orders the stay. Review of the Authority's order shall be on the record in accordance with section 706 of this title. No objection that has not been urged before the Authority, or its designee, shall be considered by the court, unless the failure or neglect to urge the objection is excused because of extraordinary circumstances. The findings of the Authority with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any person applies to the court for leave to adduce additional evidence and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the failure to adduce the evidence in the hearing before the Authority, or its designee, the court may order the additional evidence to be taken before the Authority, or its designee, and to be made a part of the record. The Authority may modify its findings as to the facts, or make new findings by reason of additional evidence so taken and filed. The Authority shall file its modified or new findings, which, with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The Authority shall file its recommendations, if any, for the modification or setting aside of its original order. Upon the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the judgment and decree shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28.

"(d) The Authority may, upon issuance of a complaint as provided in section 7118 of this title charging that any person has engaged in or is engaging in an unfair labor practice, petition any United States district court within any district in which the unfair labor practice in question is alleged to have

occurred or in which such person resides or transacts business for appropriate temporary relief or restraining order. Upon the filing of the petition, the court shall cause notice thereof to be served upon the person, and thereupon shall have jurisdiction to grant any temporary relief (including a temporary order) it considers just and proper.

"SUBCHAPTER IV—ADMINISTRATIVE AND OTHER PROVISIONS

"§ 7131. Reporting requirements for standards of conduct

"The provisions of subchapter III of chapter 11 of title 29 shall be applicable to labor organizations which have been or are seeking to be certified as exclusive representatives under this chapter, and to the organizations' officers, agents, shop stewards, other representatives, and members to the extent to which the provisions would be applicable if the agency were an employer under section 402 of title 29. In addition to the authority conferred on him under section 438 of title 29, the Secretary of Labor shall prescribe regulations, with the written concurrence of the Authority, providing for simplified reports for any such labor organization. The Secretary of Labor may revoke the provision for simplified reports of any such labor organization if the Secretary determines, after any investigation the Secretary considers proper and after reasonable notice and opportunity for a hearing, that the purpose of this chapter and of chapter 11 of title 29 would be served thereby.

"§ 7132. Official time

"(a) Any employee representing an exclusive representative in the negotiation of a collective bargaining agreement under this chapter shall be authorized official time for such purposes, including attendance at impasse proceeding, during the time the employee otherwise would be in a duty status. The number of employees for whom official time is authorized under this subsection shall not exceed the number of individuals designated as representing the agency for such purposes.

"(b) Any activities performed by any employee relating to the internal business of a labor organization (including the solicitation of membership, elections of labor organization officials, and collection of dues) shall be performed during the time the employee is in a nonduty status.

"(c) Except as provided in subsection (a) of this section, the Authority shall determine whether any employee participating for, or on behalf of, a labor organization in any phase of proceedings before the Authority shall be authorized official time for such purpose during the time the employee otherwise would be in a duty status.

"(d) Except as provided in the preceding subsections of this section—

"(1) any employee representing an exclusive representative, or

"(2) in connection with any other matter covered by this chapter, any employee in an appropriate unit represented by an exclusive representative,

shall be granted official time in any amount the agency and the exclusive representative involved agree to be reasonable, necessary, and in the public interest.

"§ 7133. Subpenas

"(a) Any member of the Authority, the General Counsel, or the Panel, any administrative law judge appointed by the Authority under section 3105 of this title, and any employee of the Authority designated by the Authority may—

"(1) issue subpenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States; and

"(2) administer oaths, take or order the taking of depositions, order responses to written interrogatories, examine witnesses, and receive evidence.

"(b) In the case of contumacy or failure to obey a subpena issued under subsection (a)(1) of this section, the United States district court for the judicial district in which the person to whom the subpena is addressed resides or is served may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(c) Witnesses (whether appearing voluntarily or under subpena) shall be paid the same fee and mileage allowances which are paid subpenaed witnesses in the courts of the United States.

"§ 7134. Compilation and publication of data

"(a) The Authority shall maintain a file of its proceedings and copies of all available agreements and arbitration decisions, and shall publish the texts of its decisions and the actions taken by the Panel under section 7119 of this title.

"(b) All files maintained under subsection (a) of this section shall be open to inspection and reproduction in accordance with the provisions of sections 552 and 552a of this title.

"§ 7135. Regulations

"The Authority, the Federal Mediation and Conciliation Service, and the Panel shall each prescribe rules and regulations to carry out the provisions of this chapter applicable to each of them, respectively. The provisions of subchapter II of chapter 5 of this tile shall be applicable to the issuance, revision, or repeal of any such rule or regulation.

"§ 7136. Continuation of existing laws, recognitions, agreements, and procedures

"(a) Nothing contained in this chapter shall preclude—

"(1) the renewal or continuation of an exclusive recognition, certification of an exclusive representative, or a lawful agreement between an agency and an exclusive representative of its employees, which is entered into before the effective date of this chapter; or

"(2) the renewal, continuation, or initial according of recognition for units of management officials or supervisors represented by labor organizations which historically or traditionally represent management officials or supervisors in private industry and which hold exclusive recognition for units of such officials or supervisors in any agency on the effective date of this chapter.

"(b) Policies, regulations, and procedures established under and decisions issued under Executive Orders 11491, 11616, 11636, 11787, and 11838, or under any other Executive order, as in effect on the effective date of this chapter, shall remain in full force and effect until revised or revoked by the President, or unless superseded by specific provisions of this chapter or by regulations or decisions issued pursuant to this chapter.".

BACKPAY IN CASE OF UNFAIR LABOR PRACTICES AND GRIEVANCES

SEC. 702. Section 5596(b) of title 5, United States Code, is amended to read as follows:

"(b) An employee of an agency who, on the basis of a timely appeal or an administrative determination (including a decision relating to an unfair labor practice or a grievance) is found by appropriate authority under applicable law, rule, regulation, or collective bargaining agreement, to have been affected by an unjustified or unwarranted personnel action which has resulted in the withdrawal or reduction of all or a part of the pay, allowances, or differentials of the employee—

"(1) is entitled, on correction of the personnel action, to receive for the period for which the personnel action was in effect—

"(A) an amount equal to all or any part of the pay, allowances, or differentials, as applicable, which the employee normally would have earned or received during the period if the personnel action had not occurred, plus 5 percent, less any amounts earned by the employee through other employment during that period; and

"(B) reasonable attorney fees and reasonable costs and expenses of litigation related to the personnel action which, with respect to any decision relating to an unfair labor practice or a grievance processed under a procedure negotiated in accordance with chapter 71 of this title, shall be awarded in accordance with standards established under section 7105(h) of this title; and

"(2) for all purposes, is deemed to have performed service for the agency during that period, except that—

"(A) annual leave restored under this paragraph which is in excess of the maximum leave accumulation permitted by law shall be credited to a separate leave account for the employee and shall be available for use by the employee within the time limits prescribed by regulations of the Office of Personnel Management, and

"(B) annual leave credited under subparagraph (A) of this paragraph but unused and still available to the employee under regulations prescribed by the Office shall be included in the lump-sum payment under section 5551 or 5552(1) of this title but may not be retained to the credit of the employee under section 5552(2) of this title.

For the purpose of this subsection, 'grievance' and 'collective bargaining agreement' have the meanings set forth in section 7103 of this title, 'unfair labor practice' means an unfair labor practice described in section 7116 of this title, and 'personnel action' includes the omission or failure to take an action or confer a benefit.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 703. (a) Subchapter II of chapter 71 of title 5, United States Code, is amended—

(1) by redesignating sections 7151 (as amended by section 312 of this Act), 7152, 7153, and 7154 as sections 7201, 7202, 7203, and 7204, respectively;

(2) by striking out the subchapter heading and inserting in lieu thereof the following:

"Chapter 72—ANTIDISCRIMINATION; RIGHT TO PETITION CONGRESS

"SUBCHAPTER I—ANTID'SCRIMINATION IN EMPLOYMENT

"Sec.

"7201. Antidiscrimination policy; minority recruitment program.

"7202. Marital status.

"7203. Handicapping condition.

"7204. Other prohibitions.

"SUBCHAPTER II—EMPLOYEES' RIGHT TO PETITION CONGRESS

"7211. Employees' right to petition Congress.";

and

(3) by adding at the end thereof the following new subchapter:

"SUBCHAPTER II—EMPLOYEES' RIGHT TO PETITION CONGRESS

"§ 7211. Employees' right to petition Congress

"The right of employees, individually or collectively, to petition Congress or a Member of Congress, or to furnish information to either House of Congress, or to a committee or member thereof, may not be interfered with or denied.".

(b) The analysis for part III of title 5, United States Code, is amended by striking out—

"Subpart F—Employee Relations

"71. Policies ..... 7101"

and inserting in lieu thereof

"Subpart F—Labor-Management and Employee Relations

"71. Labor-Management Relations 7101

"72. Antidiscrimination; Right to Petition Congress ..... 7201".

(2) Section 3302(2) of title 5, United States Code, is amended by striking out "and 7154" and inserting in lieu thereof "and 7204".

(c)(1) Section 2105(c)(1) of title 5, United States Code, is amended by striking out "7152, 7153" and inserting in lieu thereof "7202, 7203".

(3) Section 4540(c), 7212(a), and 9540(c) of title 10, United States Code, are each amended by striking out "7154 of title 5" and inserting in lieu thereof "7204 of title 5".

(4) Section 410(b)(1) of title 39, United States Code, is amended by striking out "chapters 71, employee policies)" and inserting in lieu thereof the following: "chapters 72 (antidiscrimination; right to petition Congress)".

(5) Section 1002(g) of title 39, United States Code, is amended by striking out "section 7102 of title 5" and inserting in lieu thereof "section 7211 of title 5".

(d) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following clause:

"(124) Chairman, Federal Labor Relations Authority.".

(e) Section 5316 of such title is amended by adding at the end thereof the following clause:

"(145) Members, Federal Labor Relations Authority (2), and its General Counsel.".

MISCELLANEOUS PROVISIONS

SEC. 704. (a) Except as provided in subsection (b) of this section, the amendments made by this title shall take effect on the first day of the first calendar month beginning more than 90 days after the date of the enactment of this title.

(c) Sections 7104, 7105, and 7136 of title 5, United States Code, as added by section 701 of this title, shall take effect on the date of the enactment of this title.

(c) The regulation required under section 7105(h) of this title shall be prescribed and made effective by the Authority not later than 90 days after the date of the enactment of this Act.

(d)(1) The wages, terms, and conditions of employment, and other employment benefits with respect to Government prevailing rate employees to whom section 9(b) of Public Law 92-392 applies shall be negotiated in accordance with prevailing rates and practices without regard to any provision of—

(A) chapter 71 of title 5, United States Code (as amended by this title);

(B) chapters 51, 53, and 55 of title 5, United States Code; or

(C) any other law, rule, regulation, decision, or order relating to rate of pay or pay practices with respect to Federal employees.

(2) No provision of chapter 71 of title 5, United States Code (as amended by this title), shall be considered to limit—

(A) any rights or remedies of employees referred to in paragraph (1) of this subsection under any other provision of law or before any court or other tribunal; or

(B) any benefits otherwise available to such employees under any other provision of law.

TITLE VIII—GRADE AND PAY RETENTION

GRADE AND PAY RETENTION

SEC. 801. (a)(1) Chapter 53 of title 5, United States Code, relating to pay rates and systems, is amended by inserting after subchapter V thereof the following new subchapter:

"SUBCHAPTER VI—GRADE AND PAY RETENTION

"§ 5361. Definitions

"For the purpose of this subchapter—

"(1) 'employee' means an employee to whom chapter 51 of this title applies, and a prevailing rate employee, as defined by section 5342(a)(2) of this title, whose employment is other than on a temporary or term basis;

"(2) 'agency' has the meaning given it by section 5102 of this title;

"(3) 'retained grade' means the grade used for determining benefits to which an employee to whom section 5362 or 5363 of this title applies is entitled;

"(4) 'rate of basic pay' means, in the case of a prevailing rate employeee, the scheduled rate of pay determined under section 5343 of this title;

"(5) 'covered pay schedule' means the General Schedule, any prevailing rate schedule established under subchapter IV of this chapter, or the merit pay system under chapter 54 of this title;

"(6) 'position subject to this subchapter' means any position under a covered pay schedule; and

"(7) 'reduction-in-force procedures' means procedures applied in carrying out any reduction in force due to a reorganization, due to lack of funds or curtailment of work, or due to any other factor.

"§ 5362. Grade retention following a change of positions

"(a) Any employee—

"(1) who is placed as a result of reduction-in-force procedures from a position subject to this subchapter to another position which is subject to this subchapter and which is in a lower grade than the previous position, and

"(2) who has served for 52 consecutive weeks or more in one or more positions subject to this subchapter at a grade or grades higher than that of the new position,

shall be entitled, to the extent provided in subsection (b) of this section, to have the grade of the position held immediately before such placement be considered to be the retained grade of the employee in any position he holds for the 2-year period beginning on the date of such placement.

"(b) For the 2-year period referred to in subsection (a) of this section, the retained grade of an employee under such subsection (a) shall be treated as the grade of his position for all purposes (including pay and pay administration under this chapter and, chapters 54 and 55 of this title, retirement and life insurance under chapters 83 and 87 of this title, and eligibility for training and promotion under this title) except—

"(1) for purposes of subsection (a) of this section,

"(2) for purposes of applying any reduction-in-force procedures, or

"(3) for such other purposes as the Office of Personnel Management may provide by regulation.

"(c) The provisions of subsection (a) of this section shall cease to apply to an employee who—

"(1) has a break in service of one workday or more;

"(2) is demoted (determined without regard to this section) for personal cause;

"(3) is placed in, or declines a reasonable offer of, a position the grade of which is equal to or higher than the retained grade; or

"(4) elects in writing to have the benefits of this section terminate.

"§ 5363. Grade retention following position reclassification

"(a) An employee who is in a position subject to this subchapter and whose position has been reduced in grade is entitled to have the grade of such position before reduction be treated for all purposes (other than the application of reduction-in-force procedures) as the retained grade of such employee so long as such employee continues in such position.

"(b) The provisions of subsection (a) of this section shall not apply with respect to any reduction in the grade of a position which had not been classified at the higher grade for continuous period of at least one year immediately before such reduction.

"(c) The preceding provisions of this section shall cease to apply to an employee who—

"(1) has a break in service of one workday or more;

"(2) declines a reasonable offer of a position the grade of which is equal to or higher than the retained grade; or

"(3) elects in writing to have the benefits of this section terminate.

"§ 5364. Pay retention

"(a) Any employee—

"(1) who ceases to be entitled to the benefits of section 5362 of this title by reason of the expiration of the 2-year period of coverage provided under such section;

"(2) who is in a position subject to this subchapter and who is subject to a reduction or termination of a special rate of pay established under section 5303 of this title; or

"(3) who is in a position subject to this subchapter and who (but for this section) would be subject to a reduction in pay under circumstances prescribed by the Office of Personnel Management by regulation to warrant the application of this section;

is entitled to basic pay at a rate equal to (A) the employee's allowable former rate of basic pay, plus (B) 50 percent of the amount of each increase in the maximum rate of basic pay payable for the grade of the employee's position immediately after such reduction in pay if such allowable former rate exceeds such maximum rate for such grade.

"(b) For the purpose of subsection (a) of this section, 'allowable former rate of basic pay' means the lower of—

"(1) the rate of basic pay payable to the employee immediately before the reduction in pay; or

"(2) 150 percent of the maximum rate of basic pay payable for the grade of the employee's position immediately after such reduction in pay.

"(c) The preceding provisions of this section shall cease to apply to an employee who—

"(1) has a break in service of one workday or more;

"(2) is entitled by operation of this subchapter or chapter 51, 53, or 54 of this title to a rate of basic pay which is equal to or higher than, or declines a reasonable offer of a position the rate of basic pay for which is equal to or higher than, the rate to which the employee is entitled under this section; or

"(3) is demoted for personal cause.

"§ 5365. Remedial actions

"Under regulations prescribed by the Office of Personnel Management, the Office may require any agency—

"(1) to report to the Office information with respect to vacancies (including impending vacancies);

"(2) to take such steps as may be appropriate to assure employees receiving benefits under section 5362, 5363, or 5364 of this title have the opportunity to obtain necessary qualifications for the selection to positions which would minimize the need for the application of such sections;

"(3) to establish a program under which employees receiving benefits under section 5362, 5363, or 5364 of this title are given priority in the consideration for or placement in positions which are equal to or greater than their retained grade or pay; and

"(4) to place certain employees, notwithstanding the fact their previous position was in a different agency, but only in circumstances in which the Office determines the exercise of such authority is necessary to carry out the purpose of this section.

"§ 5366. Regulations

"(a) The Office of Personnel Management shall prescribe regulations to carry out the purpose of this subchapter.

"(b) Under such regulations, the Office may provide for the application of all or portions of the provisions of this subchapter—

"(1) to any individual reduced to a grade of a covered pay schedule from a position not subject to this subchapter;

"(2) to individuals to whom such provisions do not otherwise apply; and

"(3) to situations the application to which is justified for purposes of carrying out the mission of the agency or agencies involved.

"§ 5367. Appeals

"(a)(1) In the case of the termination of any benefits available to an employee under this subchapter on the grounds such employee declined a reasonable offer of a position the grade or pay of which was equal to or greater than his retained grade or pay, such termination may be appealed to the Office of Personnel Management under procedures prescribed by the Office.

"(2) Nothing in this subchapter shall be construed to affect the right of any employee to appeal—

"(A) under section 5112(b) or 5346(c) of this title or otherwise, any reclassification of a position; or

"(B) under procedures prescribed by the Office of Personnel Management, any reduction-in-force action.

"(b) For purposes of any appeal procedures (other than those described in subsection (a) of this section)—

"(1) any action which is the basis of an individual's entitlement to benefits under this subchapter, and

"(2) any termination of any such benefits under this subchapter,

shall not be treated as appealable under such appeals procedures.".

(2) Section 5334(d), 5337, and 5345 of title 5, United States Code, are hereby repealed.

(3)(A) Chapter 53 of title 5, United States Code, is amended—

(i) by redesignating subchapter VI as subchapter VII, and

(ii) by redesignating sections 5361 through 5365 as sections 5371 through 5375, respectively.

(B)(i) The analysis of chapter 53 of title 5, United States Code, is amended by striking out the items relating to subchapter VI thereof and inserting in lieu thereof the following:

"SUBCHAPTER VI—GRADE AND PAY RETENTION

"5361. Definitions.
"5362. Grade retention following a change of positions.
"5363. Grade retention following position reclassification.
"5364. Pay retention.
"5365. Remedial actions.
"5366. Regulations.
"5367. Appeals.

"SUBCHAPTER VII—MISCELLANEOUS PROVISIONS

"5371. Scientific and professional positions.
"5372. Administrative law judges.
"5373. Limitation on pay fixed by administrative action.
"5374. Miscellaneous positions in the executive branch.
"5375. Police force of National Zoological Park.".

(ii) The analysis of such chapter is further amended by striking out the items relating to sections 5337 and 5345, respectively.

(iii) Section 559 of title 5, United States Code, are each amended by striking out "5362," each place it appears and inserting "5372," in lieu thereof.

(C) Section 3104(b) of title 5, United States Code, as redesignated by this Act, is amended by striking out "section 5361" and inserting "section 5371" in lieu thereof.

(D) Section 5102(c)(5) of title 5, United States Code, is amended by striking out "section 5365" and inserting "section 5375" in lieu thereof.

(E) Sections 5107 and 8704(d)(1) of title 5, United States Code, are each amended by striking out "section 5337" and inserting in liue thereof "subchapter VI of chapter 53".

(F) Section 5334(b) of title 5, United States Code, is amended by striking out "section 5337 of this title" each place it appears and inserting in lieu thereof "subchapter VI of this chapter".

(G) Section 5334 of title 5, United States Code, is amended by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(H) Section 5349(a) of title 5, United States Code, is amended—

(i) by striking out "section 5345, relating to retention of pay," and inserting in lieu thereof "subchapter VI of this chapter, relating to grade and pay retention,";

(ii) by striking out "section 5345 of this title" and inserting in lieu thereof "subchapter VI of this chapter"; and

(iii) by striking out "paragraph (2) of section 5345(a)" and inserting in lieu thereof "section 5361(1)".

(I) Sections 4540(c), 7212(a), and 9540(c) of title 10, United States Code, are each amended by inserting after "of title 5" the following: "and subchapter VI of chapter 53 of such title 5".

(J) Section 1416(a) of the Act of August 1, 1968 (Public Law 90–448; 15 U.S.C. 1715 (a)), and section 808(c) of the Act of April 11, 1968 (Public Law 90–284; 42 U.S.C. 3608 (b)), are each amended by striking out "5362," and inserting in lieu thereof "5372,".

(4)(A) The amendments made by this subsection shall take effect on the first day of the first applicable pay period beginning on or after the 90th day after the date of the enactment of this Act.

(B) An employee who was receiving pay under the provisions of section 5334(d), 5337, or 5345 of title 5, United States Code, on the day before the effective date prescribed in subparagraph (A) of this paragraph shall not have such pay reduced or terminated by reason of the amendments made by this subsection and, unless section 5362 or 5363 of such title 5 (as amended by subsection (a)(1) of this section) applies, such an employee is entitled to continue to receive pay as authorized by those provisions (as in effect on such date).

(b)(1) Under regulations prescribed by the Office of Personnel Management, any employee—

(A) whose grade was reduced on or after January 1, 1977, and before the effective date of the amendments made by subsection (a) of this section under circumstances which would have entitled the employee to coverage under the provisions of section 5362 or 5363 of title 5, United States Code (as amended by subsection (a) of this section) if such amendments had been in effect at the time of the reduction; and

(B) who has remained employed by the Federal Government from the date of the reduction in grade to the effective date of the amendments made by subsection (a) of this section without a break in service of one workday or more;

shall be entitled—

(i) to receive the additional pay and benefits which such employee would have been entitled to receive if the amendments made by subsection (a) of this section had been in effect during the period beginning on the effective date of such reduction in grade and ending on the day before the effective date of such amendments, and

(ii) to have the amendments made by subsection (a) of this section apply to such employee as if the reduction in grade had occurred on the effective date of such amendments.

(2) Under such regulations, any employee who—

(A) during the period beginning on January 1, 1977, and ending on the effective date of the amendments made by subsection (a) of this section was holding any position under a covered pay schedule when such position was reduced in grade; and

(B) after the date of such reduction in grade and before such effective date, changed to any other position under such a schedule (other than by reason of a demotion for personal cause) and is holding such position on such effective date;

is entitled to the benefits of section 5363 of title 5, United States Code (as amended by subsection (a) of this section) as if such employee had not changed positions.

(3) No employee covered by this subsection whose reduction in grade resulted in an increase in pay shall have such pay reduced by reason of the amendments made by subsection (a) of this section.

(4)(A) For purposes of this subsection, the requirements under paragraph (1)(B) of this subsection, relating to continuous employment following reduction in grade, shall be considered to be met in the case of any employee—

(i) who separated from service with a right to an immediate annuity under chapter 83 of title 5, United States Code, or under another retirement system for Federal employees; or

(ii) who died.

(B) Amounts payable by reason of subparagraph (A) of this paragraph in the case of the death of an employee shall be paid in accordance with the provisions of subchapter VIII of chapter 55 of title 5, United States Code, relating to settlement of accounts in the case of deceased employees.

(5) The Office of Personnel Management shall have the same authority to prescribe regulations under this subsection as it has under section 5366 of title 5, United States Code, with respect to subchapter VI of chapter 53 of such title, as added by subsection (a) of this section.

TITLE IX—MISCELLANEOUS

STUDY ON DECENTRALIZATION OF GOVERNMENTAL FUNCTIONS

SEC. 901. (a) As soon as practicable after the effective date of this Act, the Director of the Office of Personnel Management shall conduct a detailed study concerning the decentralization of Federal governmental functions.

(b) The study to be conducted under subsection (a) of this section shall include—

(1) a review of the existing geographical distribution of Federal governmental functions throughout the United States, including the extent to which such functions are concentrated in the District of Columbia; and

(2) a review of the possibilities of distributing some of the functions of the various Federal agencies currently concentrated in the District of Columbia to field offices located at points throughout the United States.

Interested parties, including heads of agencies, other Federal employees, and Federal employee organizations, shall be allowed to submit views, arguments, and data in connection with such study.

(c) On the completion of the study under subsection (a) of this section, and in any event not later than one year after the effective date of this Act, the Director of the Office of Personnel Management shall submit to the President and to the Congress a report on the results of such study together with his recommendations. Any such recommendation which involves the amending of existing statutes shall include draft legislation.

SAVINGS PROVISIONS

SEC. 902. (a) Except as otherwise provided in this Act, all executive orders, rules, and regulations affecting the Federal service shall continue in effect, according to their terms, until modified, terminated, superseded, or repealed by the President, the Office of Personnel Management, the Merit Systems Protection Board, the Equal Employment Opportunity Commission, or the Federal Labor Relations Authority with respect to matters within their respective jurisdictions.

(b) No provision of this Act shall affect any administrative proceedings pending at the time such provision takes effect. Orders shall be issued in such proceedings and appeals shall be taken therefrom as if this Act had not been enacted.

(c) No suit, action, or other proceeding lawfully commenced by or against the Director of the Office of Personnel Management or the members of the Merit Systems Protection Board, or officers or employees thereof, in their official capacity or in relation to the discharge of their official duties, as in effect immediately before the effective date of this Act, shall abate by reason of the enactment of this Act. Determinations with respect to any such suit, action, or other proceeding shall be made as if this Act had not been enacted.

AUTHORIZATION OF APPROPRIATIONS

SEC. 903. There are authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this Act.

POWERS OF PRESIDENT UNAFFECTED EXCEPT BY EXPRESS PROVISIONS

SEC. 904. Except as otherwise expressly provided in this Act, no provision of this Act shall be construed to—

(1) limit, curtail, abolish, or terminate any function of, or authority available to, the President which the President had immediately before the effective date of this Act; or

(2) limit, curtail, or terminate the President's authority to delegate, redelegate, or terminate any delegation of functions.

RETENTION OF SECURITY INVESTIGATION REPORTS

SEC. 905. Except as may be provided under any law enacted after the date of the enactment of this Act—

(1) the reports of the investigations conducted under section 1304 of tile 5, United States Code, by the Office of Personnel Management (or previously conducted under such section by the Civil Service Commission), and

(2) the security-investigations index required to be established under Executive order numbered 10450, and the reports and files of all investigations covered by the index and which were prepared by the Office or the Commission, including the Security Research Analysis Section Organizational Files,

shall be disposed of in accordance with the provisions of such Executive Order.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 906. (a) Title 5, United States Code, is amended—

(1) in sections 5347, 8713, and 8911, by striking out "Chairman of the Civil Service Commission" and inserting in lieu thereof "Director of the Office of Personnel Management";

(2) in section 3304 by striking out "a Civil Service Commission board of examiners" and inserting in lieu thereof "the Office of Personnel Management";

(3) in sections 1301, 1302, 1304, 1308, 2105, 2951, 3110, 3304a, 3308, 3312, 3318, 3324, 3325, 3344, 3351, 3363, 3373, 3502, 3504, 4102, 4106, 4113–4118, 5102, 5103, 5105, 5107, 5110–5115, 5303, 5304, 5333, 5334, 5336, 5338, 5342, 5346, 5347, 5351, 5352, 5371, and 5372 (as redesignated in section 901(a)(3)(A)(ii) of this Act), 5374 (as redesignated in section 901(a)(3)(A)(ii) of this Act), 5504, 5533, 5545, 5548, 5723, 6101, 6304–6306, 6308, 6311, 6322, 6326, 7203, and 7204 (as redesignated in section 703(a)(1) of this Act), 7312, 8151, 8331, 8332, 8334, 8337, 8339–8343, 8345–8348, 8501, 8701–8712, 8714, 8714a, 8716, 8901–8903, 8905, 8907–8910, and 8913, by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management";

(4) in sections 1505–1508 and 3383 by striking out "Civil Service Commission" and "Commission" each place they appear and inserting in lieu thereof "Merit Systems Protection Board" and "Board", respectively;

(5) in section 1504 by striking out "Civil Service Commission. On receipt" and all that follows down through the end thereof and inserting in lieu thereof "Special Counsel of the Merit Systems Protection Board.";

"(6) in section 5335(c)—

"(A) by striking out "Commission" the first place it appears and inserting in lieu thereof "Office of Personnel Management";

"(B) by striking out "Commission" the second place it appears and inserting in lieu thereof "Merit Systems Protection Board";

"(C) by striking out "Commission" the fourth place it appears and inserting in lieu thereof "Office"; and

"(D) by striking out "Commission" the fourth place it appears and inserting in lieu thereof "Board";

(7) in section 8347(d), by striking out "Commission" the first time it appears and inserting in lieu thereof "Merit Systems Protection Board" and by striking out "Commission" the second time it appears and inserting in lieu thereof "Board";

(8) in section 552(a)(4)(F)—

(A) by striking out "Civil Service Commission" and "Commission" each place they appear and inserting in lieu thereof, "Special Counsel"; and

(B) by striking out "its" and inserting in lieu thereof "his";

(9) in section 1303—

(A) by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management, Merit Systems Protection Board, and Special Counsel"; and

(B) by striking out "Commission" in paragraph (1) and inserting in lieu thereof "Office of Personnel Management";

(10) in section 1305, by striking out "For the purpose of sections 3105, 3344, 4301(2)(E), 5362, and 7521 of this title and the provisions of section 5335(a)(B) of this title that relate to administrative law judges the Civil Service Commission may" and inserting in lieu thereof "For the purpose of section 3105, 3344, 4301(2)(D) and 5372 of this title and the provisions of section 5335(a)(B) of this title that relate to administrative law judges, the Office of Personnel Management may, and for the purpose of section 7521 of this title, the Merit Systems Protection Board may";

(11) in section 1306, to read as follows: "The Director of the Office of Personnel Management and authorized representatives of the Director, may administer oaths to witnesses in matters pending before the Office.";

(12) in sections 1302, 1304, 1308, 2951, 3304a, 3308, 3312, 3317b, 3318, 3324, 3351, 3363, 3504, 4106, 4113–4115, 4117, 4118, 5105, 5107, 5110–5112, 5114, 5333, 5343, 5346, 5545, 5548, 5723, 6304, 6405, 7312, 8331, 8332, 8337, 8339–8343, 8345–8348, 8702, 8704–8707, 8709–8712, 8714a, 8716, 8901–8903, 8905, 8907, 8909, 8910, and 8913 (as such sections are amended in paragraph (3) of this subsection), by striking out "Commission" each place it appears and inserting in lieu thereof "Office";

(13) in sections 1303, 8713, and 8911 (as such sections are amended in paragraph (1) of this subsection), by striking out "Commission" and inserting in lieu thereof "Office";

(14) in section 8344(a), by striking out "Commission" and inserting in lieu thereof "Office of Personnel Management";

(15) in section 8906, by striking out "Commission" each place it appears and inserting in lieu thereof "Office of Personnel Management" the first time it appears and "Office" the other times it appears;

(16) in the section heading for section 2951 and in the item relating to section 2951 in the analysis for chapter 29, by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management"; and

(17) in the section heading for section 5112 and in the item relating to section 5112 in the analysis for chapter 51, by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management".

(b) Section 1307 of title 5, United States Code, is hereby repealed.

(c)(1) Section 5109(b) of title 5, United States Code, is hereby repealed.

(2) Section 5109 of such title is further amended by redesignating subsection (c) as subsection (b).

(d) The President or his designee shall, as soon as practicable, but in any event not later than 30 days after the date of the enactment of this Act, submit to the Committee on Post Office and Civil Service of the House of Representatives and the Committee on Governmental Affairs of the Senate a draft of any additional technical and conforming amendments to the provisions of title 5, United States Code, and any other provisions of law which have not been made by the provisions of this Act and which are necessary to reflect throughout such provisions the amendments to the substantive provisions of law made by this Act and by Reorganization Plan Numbered 2 of 1978.

EFFECTIVE DATE

SEC. 906. Except as otherwise expressly provided in this Act, the provisions of this Act shall take effect 90 days after the date of the enactment of this Act.

Amend the title so as to read: "An Act to reform the civil service laws, and for other purposes.".

The motion was agreed to.

The Senate bill was ordered to be read a third time, and was read the third time and passed.

The title was amended so as to read:

"A bill to reform the civil service laws, and for other purposes."

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to the Senate bill (S. 2640) to reform the civil service laws, and for other purposes, and request a conference with the Senate theron.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

Mr. LEACH. Mr. Speaker, reserving the right to object, one of the amendments that overwhelmingly passed the House involved a cap on Federal employment. I consider this extremely important because it represents the only reflection in this bill of an attempt to deal with the size and scope of Govern-

ment. Unfortunately there is no provision relating to this issue in the Senate bill nor any great sympathy for this amendment on behalf of the administration.

Accordingly, I have a motion to instruct the conferees on this issue, but would prefer not to go forth with this motion if the gentleman from Arizona can assure me that he will do his best to insist that the House position on this issue is upheld in conference.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. LEACH. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding. I will be happy to give the gentleman those assurances. I said in the debate that I believe we ought to have a cap on Federal employment. My objection to the gentleman's amendment was that we had not had adequate study, that the administration had not had an opportunity to tell us what an appropriate number might be. So speaking for myself I will go to the conference without any intention of simply capitulating to the Senate, but with the purpose of seeing if we cannot find some modification of the gentleman's language that would carry out the purpose that he was striving to achieve in offering his amendment.

Mr. LEACH. With those assurances, and with deep respect for the leadership of the gentleman from Arizona, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Arizona? The Chair hears none, and appoints the following conferees: Messrs. NIX, UDALL, HANLEY, FORD of Michigan, and CLAY, Mrs. SCHROEDER, Mrs. SPELLMAN, and Messrs. DERWINSKI, ROUSSELOT, and TAYLOR.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 12936, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT APPROPRIATIONS BILL, 1979

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 12936) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporation, and office for the fiscal year ending September 30, 1979, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6853, CHANGING EXCISE TAX REQUIREMENTS ON FISHING RODS, CREELS, ET CETERA

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1566) on the resolution (H. Res. 1345) providing for consideration of the bill (H.R. 6853) to amend the Internal Revenue Code to change the period for the payment of certain taxes, which was referred to the House calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 13488, FOREIGN EARNED INCOME ACT OF 1978

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1567) on the resolution (H. Res. 1346) providing for consideration of the bill (H.R. 13488) to amend the Internal Revenue Code of 1954 with respect to the tax treatment of earned income of U.S. citizens and resident aliens from sources outside the United States, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF H.R. 8729, AIRCRAFT NOISE REDUCTION ACT

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1293 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1293

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8729) to provide assistance to airport operators to prepare and carry out noise compatibility programs, to provide assistance to aircraft operators to comply with noise standards, and for other purposes. After general debate, which shall be confined to the bill and to the amendments made in order by this resolution and which shall continue not to exceed two hours, one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, and one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be read for amendment by titles instead of by sections, and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI and clause 5, rule XXI are hereby waived. Immediately after title III of said substitute is read, it shall be in order to consider without the intervention of any point of order the text of the bill H.R. 11986 as reported from the Committee on Ways and Means on April 24, 1978, if offered as a motion to strike out sections 301 through 304 of said substitute and to insert the provisions of H.R. 11986 as amended by the Committee on Ways and Means, said amendment shall not be subject to amendment except amendments offered by direction of the Committee on Ways and Means, and an amendment printed in the Congressional Record of July 18 by Representative Pepper, but may be debated by the offering of pro forma amendments, and if said amendment is adopted no further amendments to H.R. 8729 modifying said amendment shall be in order, and an amendment to redesignate sections 305 and 306 of said substitute as title IV, and title IV as title V, shall then be in order. At the conclusion of the consideration of H.R. 8729 for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. ANDERSON), pending which I yield myself such time as I may consume.

Mr. Speaker, this rule is a complicated rule and a controversial rule. It is complicated in that two committees are involved, the Committee on Public Works and Transportation and the Committee on Ways and Means.

The rule provides for 2 hours of general debate, 1 hour to be divided between the chairman and ranking minority member of the Committee on Public Works and Transportation, the other hour to be divided between the same designees from the Committee on Ways and Means.

The rule is open as to the first two titles, closed as far as title III is concerned, except for the exceptions which are included in the rule which provide for the consideration of the text of the bill, H.R. 11986, as reported from the Committee on Ways and Means for certain sections of that title. That, in effect, is the Committee on Ways and Means substitute.

There is also provided consideration for one other amendment to the taxing section. That is an amendment by the gentleman from Florida (Mr. PEPPER) which makes it possible for intrastate carriers to get the same benefits as will interstate carriers.

The controversy arises over the question of the soundness of the approach suggested by the Committee on Ways and Means to make it possible for the carriers and particularly the financially weak carriers to comply with the noise standards we have mandated.

Mr. Speaker, I do not propose to debate that part of it at this time. I personally am strongly in favor of the rule and strongly in favor of the bill.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, as I understand it, the source of controversy is not so much the soundness of the approach as the sounding of the takeoff.

Mr. BOLLING. Mr. Speaker, the gentleman from Ohio (Mr. SEIBERLING) may be a pilot; I am not. I have always discovered that both were equally important.

Mr. SEIBERLING. Mr. Speaker, I thank the gentleman.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, House Resolution 1293 is a modified, open rule, making in order House consideration of H.R. 8729, the Airport and Aircraft Noise Reduction Act. The rule calls for 2 hours of general debate to be divided equally between the Public Works and the Ways and Means Committees. Following general debate the substitute recommended by the Public Works Committee shall be read for amendment as an original bill, by titles, instead of by sections; and the rule waives clause 7 of rule 16, germaneness, and clause 5 of rule 21, appropriations on an authorization, against the substitute.

As I mentioned earlier, this is a modified open rule because title III of the bill is virtually closed to amendment except for the bill recommended by the Ways and Means Committee, H.R. 11986, which can be offered as a substitute for sections 301 through 304 of the public works bill. The only other exception is an amendment to be offered by the gentleman from Florida (Mr. PEPPER) to extend the provisions of the Ways and Means bill to intrastate as well as interstate carriers.

The closed nature of the tax portion of the bill is obviously the most controversial aspect of the bill as well as of this rule. We did receive testimony in the Rules Committee from Mr. VANIK, Mr. GEPHARDT, and others asking us to make in order an amendment to simply reduce the existing excise taxes by two percent. I subsequently offered a completely open rule on the bill, and that was defeated on a 9-to-6 show of hands.

Mr. Speaker, I urge my colleagues to vote down the previous question and vote for an open rule that will permit a full discussion and consideration of alternatives to the tax scheme recommended by the Ways and Means Committee. I think we should put to rest this old bugaboo about how an open rule is somehow going to throw open the entire Tax Code to amendments. That is just not the case here where we're only dealing with airline taxes. My staff has consulted the Parliamentarian's Office on this, and we have been informed that under an open rule, the only amendment which would be germane to the ways and means portion of the bill would be amendments dealing with the airlines tax. So let us not be hoodwinked into thinking that we are somehow going to bring the whole IRS house of cards down by opening this rule. We will not be.

Mr. Speaker, I think there is a solid case to be made against diverting 2 percent of the present Federal tax to the trust fund for subsidizing airlines in complying with noise standards. I do not want to get into all those arguments during debate on this rule, but it seems to me that the precedent alone which we would be setting by adopting this regulation compliance tax should give us all pause.

I read in the paper the other day an account of the new air quality standards that are shortly going to be promulgated by the Federal Government through the EPA. Those standards over a period of time will affect, if my memory is correct, something like 200 fossil-fuel-fired plants that are under construction or will be built in this country, and the cost of installing scrubbers, as apparently these regulations that will be issued by EPA will require, was about $10 billion. Now, under the precedent that we establish through the adoption of this legislation, it seems to me that to be fair to the utility industry of this country we would have to say, "You go ahead and you impose a surcharge on your consumers or we will do it for you by levying a compliance tax, a pollution control compliance tax, on the utility customers so that you can make the enormous capital expenditure that will be required to install the scrubbers that will take the FCD and particulate matter out of the effluent that otherwise comes from the stacks of the utilities." That is just one example, as Government has gotten further and further into this regulatory field. Of course it costs money, and somebody will have to pay the costs. But that is a cost that will have to be folded into the cost of the product. I do not think it should be paid for by the imposition of a tax on the consumer, or, in this case, the passenger.

While it is tempting to just vote down this entire rule, I do not think we should throw the baby out with the bathwater. There are features of this bill other than the tax subsidy which are meritorious, including grants to airport operators for planning and implementing noise compatibility programs. So I would urge my colleagues to vote down the previous question so I can offer an open rule that will permit a fuller and fairer discussion of the issues and alternatives.

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Speaker, I want to commend the gentleman who just preceded me in the well, the distinguished gentleman from Illinois (Mr. ANDERSON), the ranking minority member of the Committee on Rules. I think he stated the issue fully and clearly. What we need is a rejection of the closed rule, and I hope that when we vote on the previous question that the previous question will be voted down so that he can offer an open rule which will let this House work its will.

I oppose the rule that is offered because it also does some other things. It suspends the Rules of the House, it waives points of order. I think that also contributes to the legislative calamity that we have in this situation.

I have serious doubts about the constitutionality of the legislation as it is drawn. Can the Federal Government establish itself as a collective agent of funds for a private purpose? The Constitution says that all spending must be done through the appropriation process. The Rules of the House say that these funds, when given to anybody or for any activity, should be appropriated. This legislation, in the present form, constitutes back-door spending in its most sinister form. There is no appropriation review, no general accounting audit of what is done with the money that is paid out of the Federal treasury. This is an ingenious systematic movement of tax revenues collected by the Government and then transferred to the pockets of the airlines.

The constitutional question is for the courts, but back-door spending is perhaps the most serious objection to this bill.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. VANIK. I am happy to yield to the distinguished chairman of the Appropriations Committee.

Mr. MAHON. Mr. Speaker, I share the concern of the gentleman in regard to the backdoor spending aspect of this matter; that is, collecting a surtax, and then without going through the regular authorization and appropriations process, channeling the funds into private hands.

I do not know whether we have had this sort of operation before—maybe we have, but I do not know of any instance of it. It seems to me to be bad in that regard, and I do not believe we ought to violate our time-honored processes of continued congressional oversight and control through the regular authorization and appropriation process. For the Congress to vote to bypass itself in this respect is, in my opinion, not proper. I am not suggesting that we fail to provide legitimate and needed assistance to the airlines, but that whatever we do be done through the regular authorization and appropriations procedures of the Congress.

Mr. VANIK. I want to thank the distinguished chairman of the Appropriations Committee for his very fine contribution. This is the important point, that Congress loses control over what is done with this money. Mind you, we simply collect the tax and then we write checks on it. Under this bill, United Airlines is going to get a check for $600 million for buying the Boeing plane. Eastern Airlines is going to get about $200 or $300 million for buying the Airbus, and so on. There is just going to be a check written by the Treasury and transfer of funds, and no other review.

Members may think that the Ways and Means Committee was watching out for us on this thing, but I was there. I want the Members to look at the transcript of the proceedings before my committee. There was no economic case made for determining that 40 percent of a new airplane should be paid for by the people of America, by the taxpayers of America, in order to comply with the noise standards. There was no such evidence before us.

As a matter of fact, the CAB says that all they need to comply with the noise standards is $950 million. This bill provides for $3 to $4 billion. I want to tell the Members that the amount available to the airlines will increase with increased passenger travel, the tax collections have increased, so we are now talking about $4 billion.

We give the airlines a gift, and on top of that they will get an investment credit

of 10 or 11 percent, on the gift. So, we not only give the airlines—for example, United, $600 million—but we give them $61 million or $60 million in an investment credit.

The SPEAKER. The time of the gentleman from Ohio has expired.

Mr. BOLLING. Mr. Speaker, I yield one additional minute to the gentleman from Ohio.

Mr. VANIK. I offered an amendment in the Ways and Means Committee to take that out. The committee rejected that amendment. I offered an amendment to have the General Accounting Office audit the expenditures. The committee rejected that amendment. In my judgment, this is the worst bill to be reported out of the Ways and Means Committee in the 24 years that I have been in this Congress. I urge the Members of this House to turn down this rule so that we can have an open rule so that the House can work its will. In the words of the distinguished gentleman from Illinois (Mr. ANDERSON) I hope that we can work out a bill which the Members of the House—all of them, every Member—can have an equal opportunity to decide what course this Congress should take.

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Speaker, I rise only for a very modest correction of the gentleman's terminology. He has made a very articulate and earnest effort on behalf of his position.

It is to be included by them in gross income, and that was the change made by the Ways and Means Committee at the Treasury's request.

I would like also to point out that regardless of who pays for the airlines, ultimately those who are flying the lines will be doing the paying.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 4 minutes to the gentleman from Kentucky (Mr. SNYDER).

Mr. SNYDER. Mr. Speaker, I rise in strong opposition to adoption of the closed portion of House Resolution 1293, the rule on H.R. 8729, the Airport and Aircraft Noise Reduction Act and in support of the effort to defeat the previous question. H.R. 8729 is bad legislation. It ought to be defeated. And, my colleagues, you can strike a blow for responsible Government right now by defeating the previous question on the rule on this incredible bill. I give you fair warning: If you support this legislation—and your constituents hear about it—woe be unto you. It is the most blatant piece of special interest legislation I have seen since I came to Congress in 1963.

Now, Mr. Speaker, House Resolution 1293 specifies that the most controversial part of the bill will not be open for amendment. I refer to title III under which our taxpayers would help the air carriers to retrofit, reengine, or replace their noisy aircraft. The Ways and Means Committee has rewritten the title III in H.R. 8729 so as to amend the Internal Revenue Code. The plan, as stipulated in the rule, is for their language—now appearing in the bill they reported, H.R. 11986—to be substituted for most of title III in H.R. 8729. As is their custom, Ways and Means sought—and obtained—a closed rule on the language of H.R. 11986.

So, here we are. The Members of this House will not have an opportunity to consider alternatives to the "sweetheart deal" for the air carriers—both foreign and domestic—which is provided in these bills. We are being asked to "rip off" air passengers to the tune of over $3 billion to meet the costs of complying with Federal environmental requirements—

Despite record business and profits;

Despite record purchases of new aircraft within existing resources;

Despite the fact that 25 percent of noncomplying four-engine aircraft have been disposed of since 1974 through normal attrition;

Despite the fact that banks and other financial institutions would benefit under this legislation due to their ownership of 27 percent of the air carrier fleet;

Despite the fact that only aircraft built before 1974 and type certificated before 1969 are not in compliance with FAR 36—many, if not all, of which will be fully depreciated and out of service by the 1985 compliance date; and

Despite the fact that this bill would establish a precedent which surely will induce other industries with environmental burdens to seek similar benefits.

Mr. Speaker, the carriers are insulated by the closed rule from amendments which could reduce or eliminate the largess the bill provides. For instance, we will not have an opportunity to consider an amendment the gentleman from Ohio (Mr. VANIK) had planned to offer which would reduce the existing ticket tax from 8 to 6 percent—with no accompanying noise compliance financing mechanism for the carriers. Now this is an idea whose time has surely come—and we should have the chance to vote on it. It would be adopted, I have no doubt. Under the closed rule, we are asked to take the entire package on faith. We are told that a delicate fiscal balance is involved which should not be disturbed. Hogwash. This entire program should be derailed here and now. We have a chance to perform a distinct public service by voting down the previous question on the rule on this legislation.

Mr. Speaker, I do not always agree with the editorial policies of some of our leading newspapers and other publications—such as the New York Times and the Washington Post—but I do acknowledge that they are sources which I normally consider responsible whether or not I happen to agree with their views on a given issue. I would be remiss if I did not take note in my remarks today that these publications and others, as well as numerous columnists, expressed strong opposition in their editorial columns during recent weeks to enactment of this aircraft noise legislation we are being asked to consider today. Each displayed a remarkable degree of responsibility and clarity of thought—which I welcome this opportunity to applaud. Such other diverse groups as Ralph Nader's aviation consumer action project—ACAP—and the Lawyer-Pilots Bar Association and Business Week have voiced similar concerns with respect to these proposals.

In conclusion, Mr. Speaker, I again urge my colleagues to vote against the previous question on House Resolution 1293.

Thank you, Mr. Speaker.

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Speaker, I did not have a chance in my presentation to point out that I would like to offer an amendment to this section which would eliminate the eligibility for the investment credit, and I would also like to offer another amendment which would simply reduce the airline tax to the consumers of America by 2 percent. In this way we can help fight inflation and let the consumers, the air travelers of America enjoy paying a smaller tax, and reduce the tax by 2 percent, instead of giving this money away in a reckless manner to the airlines. At least let the House work its will on whether or not they want instead a reduction of the airline tax.

Mr. SNYDER. Precisely. That is what the House should have the opportunity to do. This is not one of those delicately balanced situations.

Mr. BOLLING. Mr. Speaker, I yield 4 minutes to the gentleman from Washington (Mr. MEEDS).

Mr. MEEDS. Mr. Speaker, I thank the gentleman for yielding me this time and I would like to address just two points very quickly.

First, it is said this is a unique rule. It is not a unique rule. It is a rule fashioned to fit the circumstances of legislation which has been referred to two committees, both of which have jurisdiction over segments of that legislation. It is the kind of rule that has been coming forth for the last 2 years since we have had dual referrals and it is a rule that provides for the orderly debate of the issues raised.

It provides a method for inserting the work product of the Committee on Ways and Means, the second committee having jurisdiction over this matter, at the appropriate point, and then does what we often do in the House, provides that that work product shall not be amended except by the committee itself.

The gentleman from Ohio (Mr. VANIK) who protests this closed rule has participated in a hundred such rules and debates under those rules in the past as a member of the Committee on Ways and Means. This is nothing new. It is something we do quite often.

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. MEEDS. I will when I finish my statement.

This is something, as a matter of fact, which we did just today, we granted two rules in the Committee on Rules to the Committee on Ways and Means, one on

excise taxes on fishing poles and one on income earned overseas, in which both rules were closed to the extent no amendments could be offered except amendments offered by the committee.

So this is not a unique rule.

Let me suggest that if it is a unique situation, and I do not want to get too much into the merits, because we really should not be arguing about that, and I would not except for the fact that the gentleman from Ohio and the gentleman from Illinois have raised the points—but if this is a unique bill, it is unique because this is a unique situation.

This situation is likened to what has happened to automobile air pollution standards. We are told we did not help the auto industry, and so on. But we did not go to the auto industry and say you have 1,600 airplanes which have been certified as being under the standards, the noise control standards, and then said to them you must change these. But that is what we have done with the airlines of this country. We have said you have got 1,600 airplanes which were certified and now they do not meet the present standards and you have got to change them.

We are talking about retrofitting here, we are talking about going back and putting in a change which meets present standards. And that is the uniqueness of the situation.

What we are saying is that we will take 2 percent of the tax which is presently levied, and we will assess that and allow it to be used for this retrofitting and for new aircraft, 90 percent of which, incidentally, are built in the United States of America. We will apply that to retrofitting and to building new aircraft, new engines, so that we can bring these 1,600 existing planes and all planes in the future up to the standards which our citizens deserve, particularly those people who are living near airports.

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Speaker, I want to point out to my colleague, the gentleman from Washington (Mr. MEEDS), that, first of all, the Committee on Ways and Means in recent years has been giving the House of Representatives some alternatives.

Mr. MEEDS. As they did today.

The SPEAKER. The time of the gentleman from Washington (Mr. MEEDS) has expired.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. GRADISON).

Mr. Speaker, will the gentleman yield?

Mr. GRADISON. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Speaker, I take the time merely to comment on the very excellent argument just made by my friend and colleague on the committee, the gentleman from Washington (Mr. MEEDS), that in imposing the requirement of meeting certain air noise standards or noise standards on the airlines with respect to 1,600 planes which are already certificated, we are, in effect, imposing on them an undue and unusual burden, in a sense retroactively.

It occurs to me that in my own district in Illinois, in northwest Illinois, this year we opened up an automobile plant. The cost of retrofitting and retooling that automobile plant, as my memory serves me, was more than $40 million in order to produce a new line of cars which would meet the mileage standards that had been ordained by the Federal Government in the EPCA Act in 1975.

Therefore, I do not think that this is the first instance in which, in order to promote a better environment, whether it be noise or air pollution or something else, the Federal Government has imposed, in essence, retrofitting and retooling requirements on the industry of this country.

I need not remind the gentleman that in the case which I have just referred to, the automobile company had to stand the expense, and the product which they manufacture will have to bear the ultimate cost of that retrofitting and retooling effort.

Mr. Speaker, I thank the gentleman for yielding.

Mr. GRADISON. Mr. Speaker, I thank the gentleman from Illinois (Mr. ANDERSON) for his comments.

Certainly, there is nothing very unique about this situation except one thing, and that is we have an 8-percent tax on the books. Therefore, it is very tempting to say, "Let us take a portion of that tax which was put on the books for entirely different purposes and earmark it for this purpose."

Mr. Speaker, it seems to me that the fatal defect of the rule is that it fails to take into account one entirely clear alternative, which is simply to roll the tax back from 8 to 6 percent and let the companies which must retrofit or purchase new equipment seek these funds in the marketplace from their passengers. There is no question that the money ultimately is going to be paid out by the passengers. The question is whether in the process of meeting the standards, we want to use the tax system and set a precedent which could easily lead to industries as enormous as the auto industry coming in and pleading for help in the billions of dollars through what could be the earmarking of an excise tax on auto and truck parts or something else.

Mr. Speaker, that is the part which really disturbs me about the situation we have here with this rule. It is the reason I sincerely hope that the previous question is rejected.

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the gentleman from Missouri (Mr. GEPHARDT).

Mr. GEPHARDT. Mr. Speaker, I rise to oppose this rule and to ask my colleagues to defeat it for many of the reasons that have already been given. But let me go into this with a little bit different tack. There is no question in my mind that the airlines need noise abatement help. I think it has been justified. The evidence has been heavy. I think we can make a case that they need help to comply with the noise pollution regulations that have been thrust upon them. I think there is no question that the users of the system should pay. I think that clearly is equitable. I do not think there is any question about that.

The question here is what kind of a mechanism should we construct for the users of airlines to pay for that noise pollution abatement? I would submit to the Members that the mechanism we have before us is not the right one and that the right one is the one that the gentleman from Ohio (Mr. VANIK) has suggested, that is, rolling the tax back 2 cents and letting those airlines that need capital to handle their noise pollution problems apply to raise their fares by that amount.

One can say that there are other cases where we have given people tax subsidies in order to meet pollution requirements, and that is true. We have an investment tax credit that allows electric companies and other kinds of companies to reduce their taxes so that they can pay for pollution equipment. We also have a 5-year amortization for companies to pay for their pollution abatement equipment. But there is a difference between that and the subsidy mechanism presented here. In that case the Government has not taken the money in. In that case we have left the money with the taxpayer to take care of the problem. In the subsidy mechanism before us the Government raises the money and turns it over to the private sector for expenditure.

There is a second difference. In that case the subsidy is about 10 percent. It is 10 percent of the cost of the equipment. In this case it is 40 percent. It is a much higher subsidy, but the main issue is that in this case the Government is taking the money into a fund, but the Government is giving the power away to spend that money, and it is the first time in American history, in the history of our tax code, that we have done that, and I think it is a very, very important point to consider.

Do we want to give that power away? I do not think we do. Let me tell the Members what kind of problems it causes. We cannot then have control over who gets the money and how much they get. For instance, some airlines are going to replace their planes by 1985 anyway because they need to, because the airplanes are going to wear out. The mechanism we constructed here pays no attention to that. There is no sensitivity to that. Secondly, and most importantly, some airlines need the money more than others. TWA and Eastern have great need for the money because their whole fleet needs to be turned over. Other airlines have just a few airplanes they need to turn over. But we do not hand out the money on the basis of the need to abate noise; we hand it out on the basis of how popular they are, how many tickets they sell. So we really are not accomplishing our goal, because we are not allocating our money according to the need to abate noise. Why are we not? Because we have lost control of the money, and that is the greatest issue here. If we

retain control of the money, we could give it to the airlines that really need it.

So the major issue here is who spends money that the Government raises? The Vanik approach is a sensible approach. It simply rolls the tax back by 2 cents. If your airline needs money, you raise your fare by 2 cents. The answer comes back from the industry, that would be fine, but we have got competition problems, and weak airlines that do not have capital would have to raise their fares in a marketplace that is very competitive.

I would submit to the Members that we are in the midst of talking about deregulation. We are going to have a bill here, I understand, in a few days to deregulate the airlines. We have seen in the past few months the effects of deregulation. Airlines are making money, even those who had economic troubles. If that is the direction we are moving in, let us deregulate. Let us put this bill off, and then let us see how we should handle this problem. Perhaps true competition will make it unnecessary to give airlines financial help to solve noise problems. If we are moving into a new era of competition, we can simply roll the tax back by 2 cents and let the airlines compete and let them take care of their noise pollution problems in a competitive atmosphere.

I urge my colleagues for these two good reasons, because it sets a bad precedent, because it is the first time we are going to give up control of money that we have raised, because there is a much better way to do this, to defeat this rule so that the Vanik amendment can rightfully be brought up for debate on this floor.

Mr. Speaker, I yield back the remainder of my time.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 3 minutes to the distinguished chairman of the Committee on Rules, the gentleman from New York (Mr. DELANEY).

Mr. DELANEY. Mr. Speaker, I have just had called to my attention a copy of the magazine, Air Transport World for the month of July 1978. We have been hearing now in the debate about how short the airlines are of money. I just want to make a short comparison here to find out how short they really are and what salaries they are allocating to themselves. I think it would amaze everyone to know the percentage rates. Recently the Congress had a percentage raise after 6, 7, or 8 years. I think it was $12,000 or $15,000 or something like that and you could hear the objections throughout the world.

I want to read one or two of the principal ones here and the percentage of increase they received in 1 year.

For example, Mr. Casey of American Airlines. These are presidents, board chairmen, chief executives, and general managers. His salary went from $220,000 in 1976 to $370,000 in 1977, an increase of 68 percent.

I look down the line hurriedly and I see Mr. W. T. Seawell from Pan American, whose salary was $195,000 during the year 1976. They were so short of money that in 1977 he awarded himself a salary of $325,000, an increase of 66 percent.

Then I take Mr. Hulse, who is one of the executives of the Southern Line. This is what they do with the short money they have. He was receiving the salary of $211,000 in 1976 and in 1977 the salary was increased to $308,000, an increase of 45 percent.

In the year 1976, Mr. Smart of TWA was getting $139,000, but this was increased to $235,000 for the year 1977. This is an increase of 68.7 percent, and so on.

Other officials of Pan American, Mr. Wiser, Jr., goes from $175,000 to $235,000, an increase of 34 percent, and all the way down the line.

At Northwest Airlines which was on strike and not making any money, just a few dollars, for the record, Mr. Lopensky was getting a salary of $117,000 in 1976 and then for the year 1977 awarded himself $169,000, an increase of 44 percent.

The SPEAKER. The time of the gentleman from New York has expired.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 1 additional minute to the gentleman from New York.

Mr. DELANEY. Mr. Speaker, I have just one or two more. Mr. Gross in 1976, of Southern Airlines, was getting a salary of $69,000 and his salary went up to $141,000 in 1977, an increase of 104 percent.

Mr. Hall of Southern Airlines goes from $75,000 in 1976 to $156,000 in 1977, an increase of 109.1 percent.

Ms. HOLTZMAN. Mr. Speaker, will the gentleman yield?

Mr. DELANEY. I am happy to yield to the gentlewoman.

Ms. HOLTZMAN. Mr. Speaker, I just want to tell my colleague that he has made an excellent point; but does not the gentleman think that, if these executives can bamboozle Congress into giving them additional money in this bill on top of what they already have, perhaps they are worth these raises?

Mr. DELANEY. Mr. Speaker, that question has been asked of the Congress: Are they worth the increase they received in salary? I think a great majority of the people disagree with the idea that they are worth what they are paid.

Here are increases of more than 100 percent that they had the right to award to themselves, because they happened to be on the executive committee. This is taken; it is a toll. It is taken and set aside until 1985, then to go into a fund to pay for 40 percent of new machinery.

Can we imagine, if this passes, what will happen? We will have everyone else in the country asking that we set aside a certain additional amount of money on each purchase so that they cannot only increase their salaries but pay for their future investments up to 40 percent.

Mr. Speaker, I think this rule should be voted down, and I suggest that every Member vote "no" on it. Let us get a bill that deals with noise alone and not with this money hidden in it.

Mr. BOLLING. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. CORMAN).

Mr. CORMAN. Mr. Speaker, Chairman DELANEY's speech almost makes me wish I were an airline president instead of a Congressman.

The Committee on Public Works worked very hard on this bill for a long, long time. They brought this tax proposal to us. It is rational and reasonable and fair.

We must abate the noise of airplanes. If we are going to continue to fly and if we are going to continue to land in densely populated metropolitan areas, we owe it to the people who live in those areas to abate the noise.

Everyone concedes that airline users are going to have to pay for the cost of noise abatement.

This is a unique kind of industry. People will say that we are setting a precedent and maybe we will want to give similar treatment to automobile manufacturers. The consumer of the automobile is the purchaser of the automobile, and he pays for whatever pollution devices there are in the purchase price; there is no competitive disadvantage among producers.

In this instance there is an uneven need for noise abatement among airlines, and that is the reason we ought to finance it out of a uniform user tax instead of out of rate increases for some airlines over others. It is fair both among users and among airlines. Most importantly, it keeps our commitment to all the people to abate aircraft noise.

When one goes down to the airport to get on an airplane, he does not care whether it is noisy or quiet; he wants service, he wants to get where he needs to go as quickly as he can. The fact that he is going to have to pay into a fund, whether he is on a noisy aircraft or on an aircraft that is not noisy, should not make any difference. He ought to have to pay, and a portion of what he pays is going to have to be spent to reduce the noise around airports.

The gentleman from Missouri (Mr. GEPHARDT) said we would lose control of how the money is spent. That is not correct. It is controlled very specifically in the part of the bill that we have from the Committee on Public Works and Transportation.

Mr. Speaker, I urge adoption of the rule and adoption of the bill.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. PRITCHARD).

Mr. PRITCHARD. Mr. Speaker, I rise to urge passage of this rule.

Let us remember that none of this tax money is going to go for salaries; it is going to go for retrofitting and new planes.

I think we have forgotten some Americans, those are the people who are suffering from excessive noise. I do not know whether the Members watched the finals of the national tennis matches, but that was a good example.

People can be out in northwest Washington, D.C., or people can be around any

of the cities in America today, and a large number of those citizens have to suffer from oppressive noise.

What is going to happen if we kill this rule right now, today? We are going to have to go back in, and next year we are going to come up with a solution. I can tell the Members that I do not believe we will meet the 1983 noise standards if we do not pass this bill today.

If we wait until next year to fashion a new type of bookkeeping and another system whereby the people who fly on the airlines are going to pay for the retrofitting, we will not meet the noise standards. And that is what we are talking about; no one is arguing about who is going to pay. The people who fly on the airlines are going to pay; it appears that they are going to pay about 2 percent, and this is one means of doing it.

I have talked with the manufacturers, and I am convinced we just are not going to have the time.

So, Mr. Speaker, are we going to be faced with the responsibility of telling the people across America who are living under these terribly noisy planes that they are just going to have to wait?

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Speaker, I was rather intrigued. The gentleman talked, I am sure, to the manufacturers. They are right in the gentleman's community.

Mr. PRITCHARD. That is right.

Mr. VANIK. Regardless of this bill, you are going to employ thousands of new people to build the new planes.

The SPEAKER. The time of the gentleman from Washington (Mr. PRITCHARD) has expired.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 1 additional minute to the gentleman from Washington.

Mr. PRITCHARD. Does it make any difference? Our community, it is true. There are jobs. Manufacturers are very busy.

Mr. VANIK. I thought I heard you say that you really do not need this bill. That is all I want to know.

Mr. PRITCHARD. The people in your community. They are under this noise. They need this bill. And you will have to stand the responsibility of having to push the 1983 standards down 1 more year. That is the responsibility you will have to take. There are a lot of people in America who want action now on this noise and they do not want to wait a year.

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman from New York.

Mr. CONABLE. I thank the gentleman for yielding.

Mr. Speaker, there is one very important point the gentleman made, that the people who ride and travel on these airlines are going to have to pay the retrofitting one way or another. This bill offers a mechanism for paying for it. It may not be a perfect mechanism. But one way or another we will have to get that done. You could eliminate the tax, to the extent of its diversion in this case, and presumably, the airlines could raise their ticket costs. But that money, from increased ticket prices, might go to any purpose, not just to reducing noise. If we want to serve that desirable national purpose, we had better support some mechanism such as the one offered in this bill, earmarking the money.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. Mr. Speaker, it is obviously easy to stand and demagog this particular piece of legislation and label it as being something of special interest. And I would suggest that, yes, it is legislation directed at special interests, a unique, very special interest called transportation, aviation transportation.

Obviously, I would not deny that the solution to the problem is a controversial one. Certainly it is not one which meets with all my desires and my philosophy. But for the past many years I have watched many of the Members, who have stood up and urged the defeat of this rule, condemn aviation transportation because it is noisy, because somehow it appeals to and provides a service to only the elite, that somehow Jet airplanes are the white elephant of the airways. Oftentimes I have heard Members of Congress, as well as the public, condemn aviation transportation and ask the question: What are you doing about noise? What are you doing about cleaning up the airways and getting aviation compatible with the new environmental ethic of clean water, clean air, of less noise.

Members of the Subcommittee on Aviation, under the leadership of the gentleman from California, Mr. GLENN ANDERSON, and members of the full Committee on Public Works, under the leadership of the gentleman from California (Mr. JOHNSON), struggled with this question for months and months and months, trying to come up with an equitable solution, recognizing that it was the desire of the public, that we expedite the time for the purchase and use of the new more quiet aircraft. If, in fact, the airlines had sustained profits over the past 7 or 8 or 10 years, yes, the new technology aircraft would evolve naturally. But it is your decision made here in this body, dictated by the FAA, that somehow we expedite the time frame, when we will have a less noisy aircraft.

The SPEAKER pro tempore (Mr. COTTER). The time of the gentleman from California has expired.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 additional minutes to the gentleman from California.

Mr. GOLDWATER. So we made a decision to do this. We struggled for the solution, and this is what we came up with; obviously less than perfect, but the point we have to make is that these are moneys being paid by the users, as they are for the highways, as they are for other forms of transportation as well as other types of implementation to clean up our air and clean up our water. The user is paying 8 percent tax now. And after this legislation becomes law, they will still be paying 8 percent. Nothing less, nothing more.

Now, it has been said that this is a gift to the industry, but in fact the industry has not been making a profit. It has only been just the recent past year or so that they began generating sufficient income that would warrant the financial community, the banks, to finance the some $60 billion that are going to be required by the year 1985 to replace the existing fleet. It is sustained profits over a long period of time that will allow and attract the financial capital that will be needed to replace the fleet. That will not be coming under today's current earnings, nor in the past.

Ladies and gentlemen, you decided that we should clean up the airways, that we should make aircraft less noisy. You are condemning this bill, but I do not hear an alternative. I do not hear an alternative solution to this very complex problem. Less than perfect as this legislation is, it represents the cumulative effort of many members of the Ways and Means Committee, as well as the Committee on Public Works and Transportation, allowing sufficient time, with many months of hearings and input from all of the members as well as the industry. So, I would suggest that we support this rule, that we support this bill, and I would suggest that under it we can meet the needs and the demands of our constituents for quiet aircraft. If we defeat this rule, if we defeat this bill, then we are back to ground zero, and I do not think any of us nor our constituents can live with that.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Speaker, my colleagues, first of all, in response to my colleague from California, there have been several responsible alternatives suggested here.

But, let us take an analogy in another area that bothers, I think, more people in my district than airplane noise. That is, noise from motorcycles.

What if I were to come in with a bill and say, "We want these motorcycles to live up to the standards that have been established. Let us take one-third of the gasoline taxes that they contributed so that they can fix up their motorcycles, and if they want to buy new motorcycles, they can take this tax money to buy new motorcycles."

There would be strong opposition to that legislation, and yet fundamentally that is precisely what we are doing with the airline industry.

If I were to come in here with a bill to appropriate x million dollars to TWA or Eastern or any of the airlines, it would be rightly opposed. We had a bill to lend money to Lockheed that caused a great deal of controversy, and here we are asked to appropriate money directly to airlines. I think it is not wise.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself the remaining time.

I do so merely to alert the Members of the House, as I did earlier, that at the appropriate time I shall seek a vote on the previous question, and I hope the Members will join me in voting down the previous question, in which case I will offer a rule that will open up the provisions of title III, which under the rule now before us would be closed.

If the rule is opened up, we do not have the intent or purpose of killing this bill. As I said, there are some meritorious features in this bill which I can and do support, but I do think the Members of the House ought to be entitled to consider some of the alternatives that could be offered and I feel will be offered on title III under an open rule. We should consider this very important path-breaking legislation in that format under that kind of rule, and therefore I hope Members will join me in voting down the previous question so we can proceed to a consideration of the bill under what I think is a proper rule.

Mr. BOLLING. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. MINETA).

Mr. MINETA. Mr. Speaker, there has been a great deal said this afternoon about this bill and whether or not it is a ripoff or a gift of any kind. I have heard every cliche and buzz word used that might attract opposition to the bill.

What we must recognize is that under the previous administration the Secretary of Transportation issued a ruling which is supported by the current administration saying that there was to be a compliance with the fleet noise rule and that compliance would have to be achieved by 1985.

This fleet noise rule applied these noise standards retroactively. The FAA had said these airplanes were all right to be flying our skies and certified them under the original noise standards. Then, in 1976, the Secretary of the Department of Transportation said that all those airplanes that were flying up there now have to comply with a new rule, thus requiring retroactive compliance.

The only way we can deal with this noise compliance issue now is to reduce the existing ticket tax by 2 percent, allocate that 2 percent to the airlines and have the users themselves contribute to the abatement of the noise. Frankly the only way we are going to be able to deal with the noise problem is to direct our efforts at the source of the noise and that is the airplane itself.

If we do not provide this user revenue to the airlines and simply leave it up to them to finance compliance, they will not comply with the noise rules. They will not raise their fares in order to comply with the noise rules. They will raise their fares and spend that money to make the airplane look nicer or more appealing from a customer viewpoint, but the airlines will not make the planes any less noisy to comply with the noise limitation rule. Then they will be coming back to us in 1981 or 1982 pleading for extensions of the compliance deadlines.

After 3 years consideration, the subcommittee under the gentleman from California, GLENN ANDERSON, and the gentleman from California, Mr. BIZZ JOHNSON, has developed a mechanism to resolve this problem. We ought to vote "yes" on the previous rule.

Mr. BOLLING. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Speaker, I want to make two brief points. First of all, there are a number of Members of the House here today opposing this legislation and this rule who should be supporting it because on February 29, 1972, this House of Representatives passed a Noise Control Act and passed it by the big margin of 356 to 32. Now, 32 of us opposed that act in 1972. I happen to be one who opposed it. I saw what was coming, but some opposing it here today did not.

But nevertheless, the agency downtown has taken the authority granted them in that act and by the use of that act they have mandated the control of aircraft noise pollution between 1983 and 1985.

The SPEAKER pro tempore (Mr. COTTER). The time of the gentleman has expired.

Mr. BOLLING. Mr. Speaker, I yield 1 additional minute to the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Speaker, we gave them authority to mandate this retrofit and we ought to back that up.

Of course it was wrong to do it. It was an arbitrary act on the part of Congress. We did not have the knowledge or technology then that we needed. They did not have the resources then nor do they have them to finance this retrofit. But, nevertheless, we provided this authority, and if we want to meet that schedule we are going to find some way to finance it. Who ought to do it? Simply those people who use the airlines, you and me in this House of Representatives. We use the airlines as much as anybody does. The people who use the airlines ought to pay the tab, not the people who do not use them. So this added cost to them can be justified.

Now you come out here and you cry about pollution, you cry about noise, you cry about clean air and you cry about safety. It is time, then, to put money where your mouth is.

● Mr. OTTINGER. Mr. Speaker, I have decided to oppose the financing mechanism for funding the airport noise control legislation before us today. I am convinced that this financing mechanism has nothing to do with noise control but is merely a means of providing Federal subsidy to the airlines to finance their purchase of new fleets of planes.

I am firmly committed to the EPA's actions in requiring planes to conform to the noise standards it has issued. This action is long overdue and I have led in advocating this action for at least the past 10 years. I am convinced that the airlines can and should finance these improvements themselves, if necessary, by raising fares. I am impressed by the testimony of the Chairman of the Civil Aeronautics Board, my good friend, Alfred Kahn, that the airlines have the financial capability to perform the required changes without Federal intervention. Before the Senate Commerce Committee he stated:

> I believe you have not had a compelling showing that the (airline) industry as a whole actually needs Federal assistance.

Indeed, most of the carriers will replace their fleets within the prescribed time period at any rate, and it will not be an undue financial burden for them to incorporate the new noise standards in their new aircraft.

It is of endless amazement to me that the bastions of free enterprise are always so ready to abandon their principles when it comes to seeking subsidies for their own industries. Thus, the auto manufacturers must have their highway trust fund, the oil companies want depletion allowances and other tax subsidies, the sugar industry demands and gets sizable Federal contributions, and so forth ad infinitum, all the time decrying Federal intrusions into the private sector, at least as it involved everybody else's business.

Now come the airlines, fresh from a fight to try to prevent price and market deregulation, steps which, so far as they have been implemented to date by the CAB, have resulted in a great revival of their business. As fares have come down through competition, the ruinous effects predicted by the industry have not only been proved false—quite the opposite, their planes are flying at near capacity and the industry is experiencing record profits.

In the wake of this revival, the airlines come to us seeking subsidies to finance the purchase of new aircraft. They hinge their pleading on EPA noise regulations that were recently promulgated and that will require either retrofitting existing engines or purchase of new aircraft which meet the standards by 1981. I believe that the noise standards are the excuse, but not the reason for this legislation—that it is just a ruse to get Federal subsidies for the purchase of the new aircraft that they will have to purchase at any rate and is part of their free enterprise burden. I do not believe the airline industry would support such subsidization of other industries.

The airlines situation is by no means unique. If the Food and Drug Administration finds a substance to be carcinogenic, for example, the investments which the drug industry or food industry has made in affected product lines causes them substantial financial distress and they have to finance new products or new ways of doing business. Presently we are considering coal conversion legislation that will require many companies to shift from other fuels to coal. Air pollution requirements are going to mandate the use of expensive coal scrubbers. The Government has an obligation to require that basic health and safety standards be met for protection of the public, and the private sector must conform to those standards through the marketplace, by making adjustments in its product lines or methods of production. An endless series

of subsidy requests would be triggered by this legislation were it to pass, sparking further burgeoning of Federal bureaucracy and regulation, the very ills we are trying to minimize, particularly in the airline industry.

The one factor in this situation that gives me cause for concern is the competitive disadvantage in which this legislation might place our carriers versus foreign carriers that do not have to comply. The answer, it seems to me, is to make sure that the regulations do apply to all foreign carriers that serve our airports—important from the standpoint of noise control as well as equity—and I trust that the Government will take the appropriate steps to enforce such a requirement. This would cover the bulk of foreign carriers and all of those that compete with our own. Action will also be required to assure that international carriers can raise their rates if necessary.

If we are serious about wanting to keep the Federal Government out of the business marketplace, of wanting to minimize Federal bureaucracy and maximize free market operations, then, it seems to me we must oppose this financing mechanism.

I strongly support titles I and II to the bill which make much stronger and effective provision for airport planning and noise regulation. I will also do everything in my power to assure that the airlines are required to meet the new noise regulations fully and on schedule, despite the absence of this license to use Federal taxing power to do what the industry can and should do for themselves.●

Mr. BOLLING. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON of California. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise to speak in support of the rule, and in support of the previous question. As has been mentioned, three committees of the House have been looking closely at this bill. The Committee on Public Works and Transportation held 27 days of hearings here in Washington and in the field and amassed over 2,000 pages of transcript.

The bill is comprehensive in nature. Each title is a necessary component. Without any one of the titles, such as we are talking about here today, the bill would lack the necessary comprehensiveness and thereby defeat its purpose of providing meaningful relief to millions of Americans who are being bombarded by aircraft noise.

A moment ago one of our colleagues said the airlines need help, and that the users should pay. They said the way to do it is to reduce the tax by 2 percent and let each airline raise the ticket price by 2 percent and pay for the retrofitting that way.

That method could become a real ripoff because it so happens the airlines that are the poorer ones also happen to be the ones that have the most airplanes which do not comply. Could we expect a poor airline with many noncomplying aircraft to raise their prices to pay for the retrofitting while their opposition which did not have many planes to retrofit would be able to offer its services at a reduced price? Realistically, this just is not in the books. So we would find that they either would not be able to retrofit or the poorer carriers would be run further and further into the ground and the larger ones would be getting richer.

One concern that has been raised is that this bill establishes a bad precedent. Nothing could be further from the truth.

The airlines' situation is unique, easily distinguishable from other private industry and utilities.

Airlines are being required to modify or replace equipment previously certificated by the U.S. Government. No other industry, regulated or unregulated, has been similarly required.

No other transport mode, railroad, bus, or truck, has been required to modify in-service equipment in order to incorporate pollution reduction improvements whether it be noise, water, or air.

In no other industry, regulated or unregulated, is the cost of required modifications as large in relation to the total cost of the plant as in the airline industry. For example, the cost of smokestack scrubbers in relation to the cost of a steel plant or electrical generating plant is relatively insignificant. However, the cost to retrofit a four-engine aircraft (estimated to be $1.5 million) is as much or more than the book value of the aircraft, and approaches 20 percent of the original cost of the aircraft. In addition, retrofitting reduces an airplane's productivity and increases its operating cost.

The Internal Revenue Code does not recognize noise pollution as warranting the fast amortization and favorable tax treatment as is afforded water and air pollution control facilities.

The airlines are faced with a significant capital shortage and are being required by the Government to take action between now and 1985 on some 1,588 aircraft currently in the fleet, or about two-thirds of the operating aircraft of the U.S. fleet.

Mr. BOLLING. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, there are two extraordinarily good reasons the previous question should be ordered and this rule should be passed. This is, No. 1, the only way in which it will be possible to get compliance on noise control in a timely fashion. Otherwise we will be faced in this Congress in the next year or the year after with lowering the standards.

Second, it is fair. When a utility is required to modify its plant to reduce pollution, it goes and gets a rate increase, and the rate increase provides the additional money, to begin with.

We changed the rules on the airlines in the middle of the game, and the only way they can comply with the requirements put upon them after they purchase their aircraft is through passage of this bill.

Mr. Speaker, I urge a vote for the previous question, a vote for the rule, and a vote for the bill.

Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. COTTER). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ANDERSON of Illinois. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 199, nays 193, not voting 40, as follows:

[Roll No. 768]

YEAS—199

Abdnor
Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Archer
Ashley
Aspin
AuCoin
Badham
Bafalis
Beard, R.I.
Bevill
Boggs
Bolling
Bonker
Bowen
Brademas
Brinkley
Brown, Mich.
Buchanan
Burgener
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Carney
Cederberg
Clausen, Don H.
Clay
Coleman
Collins, Ill.
Conable
Conte
Corcoran
Corman
Cornwell
Crane
Cunningham
Danielson
Davis
Dent
Derwinski
Dickinson
Dicks
Dingell
Dodd
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fascell
Fisher
Fithian
Florio
Flynt
Ford, Mich.
Fraser
Frey
Fuqua
Gammage
Gaydos
Ginn
Glickman
Goldwater
Grassley
Green
Hagedorn
Hall
Hammer-schmidt
Hanley
Hannaford
Harsha
Hawkins
Heckler
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Horton
Howard
Hyde
Ireland
Jenkins
Jenrette
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Keys
Krebs
Lagomarsino
Le Fante
Lederer
Leggett
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lott
Luken
Lundine
McClory
McEwen
McFall
McKay
Madigan
Markey
Marks
Marriott
Mathis
Meeds
Mikulski
Milford
Mineta
Moakley
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, Michael
Nichols
Nix
Nowak
O'Brien
Patten
Patterson
Pepper
Pettis
Price
Pritchard
Pursell
Quillen
Rahall
Rinaldo
Risenhoover
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rostenkowski
Rousselot
Roybal
Scheuer
Schroeder
Sebelius
Shipley
Shuster
Sikes
Sisk
Skelton
Skubitz
Spence
St Germain
Staggers
Stangeland
Stanton
Stratton
Taylor
Thompson
Thornton
Udall
Ullman
Van Deerlin
Vander Jagt
Waggonner
Walgren
Walker
Walsh
Wampler
White
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yatron
Young, Mo.
Zeferetti

NAYS—193

Anderson, Ill.
Andrews, N.C.
Ashbrook
Baldus
Barnard
Baucus
Bauman
Bedell
Bellenson
Benjamin
Bennett
Biaggi
Bingham
Blanchard
Blouin
Boland
Bonior
Breckinridge
Brodhead
Brooks
Brown, Ohio

Broyhill
Burton, John
Burton, Phillip
Butler
Byron
Carr
Carter
Cavanaugh
Chappell
Chisholm
Cleveland
Cohen
Collins, Tex.
Conyers
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
de la Garza
Delaney
Dellums
Derrick
Devine
Dornan
Downey
Drinan
Early
Eckhardt
Edgar
Edwards, Okla.
Emery
English
Evans, Colo.
Fenwick
Findley
Fish
Flippo
Flood
Ford, Tenn.
Forsythe
Fountain
Fowler
Garcia
Gephardt
Giaimo
Gilman
Gonzalez
Goodling
Gore
Gradison
Gudger
Guyer
Hamilton
Hansen
Harkin
Harrington
Harris
Hefner
Holtzman
Hubbard
Hughes
Ichord
Jacobs
Jeffords
Jones, N.C.
Jordan
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kostmayer
LaFalce
Latta
Leach
Long, Md.
Lujan
McCloskey
McDade
McDonald
Maguire
Mahon
Mann
Marlenee
Martin
Mattox
Mazzoli
Meyner
Michel
Miller, Ohio
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Moore
Moss
Motti
Myers, John
Natcher
Neal
Nedzi
Nolan
Oakar
Oberstar
Obey
Ottinger
Panetta
Pattison
Pease
Perkins
Pickle
Pike
Poage
Preyer
Quayle
Railsback
Rangel
Regula
Reuss
Rhodes
Robinson
Rose
Rosenthal
Rudd
Runnels
Ruppe
Russo
Ryan
Santini
Satterfield
Sawyer
Schulze
Seiberling
Sharp
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Stark
Steed
Steers
Stockman
Stokes
Studds
Stump
Symms
Thone
Traxler
Trible
Tucker
Vanik
Vento
Volkmer
Watkins
Waxman
Weaver
Weiss
Whalen
Whitehurst
Whitley
Whitten
Wylie
Yates
Young, Fla.
Zablocki

NOT VOTING—40

Ammerman
Applegate
Armstrong
Beard, Tenn.
Breaux
Broomfield
Brown, Calif.
Burke, Calif.
Burke, Fla.
Caputo
Clawson, Del
Cochran
Diggs
Fary
Flowers
Foley
Frenzel
Gibbons
Huckaby
Johnson, Colo.
Kasten
Krueger
Lehman
McCormack
McHugh
McKinney
Metcalfe
Mikva
Miller, Calif.
Pressler
Quie
Richmond
Sarasin
Steiger
Teague
Treen
Tsongas
Wiggins
Young, Alaska
Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Fary for, with Mr. Richmond against.

Mr. Ammerman for, with Mr. Steiger against.

Until further notice:

Mr. McCormack with Mr. Broomfield.

Mr. Foley with Mr. Frenzel.

Mr. Breaux with Mr. Caputo.

Mrs. Burke of California with Mr. Kasten.

Mr. McHugh with Mr. McKinney.

Mr. Metcalfe with Mr. Cochran of Mississippi.

Mr. Teague with Mr. Burke of Florida.

Mr. Krueger with Mr. Del Clawson.

Mr. Mikva with Mr. Beard of Tennessee.

Mr. Brown of California with Mr. Flowers.

Mr. Applegate with Mr. Gibbons.

Mr. Diggs with Mr. Treen.

Mr. Huckaby with Mr. Young of Alaska.

Mr. Lehman with Mr. Quie.

Mr. Miller of California with Mr. Pressler.

Mr. Tsongas with Mr. Sarasin.

Mr. Johnson of California with Mr. Wiggins.

Messrs. EVANS of Colorado, GILMAN, and RAILSBACK changed their vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as recorded.

The SPEAKER pro tempore. The question is on the resolution.

Mr. SNYDER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 236, nays 155, not voting 41, as follows:

[Roll No. 769]

YEAS—236

Abdnor
Addabbo
Akaka
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashley
Aspin
AuCoin
Badham
Bafalis
Barnard
Baucus
Beard, R.I.
Bevill
Boland
Bolling
Bonker
Bowen
Brademas
Brinkley
Brooks
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Butler
Carney
Carter
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clay
Coleman
Collins, Ill.
Conable
Conte
Corcoran
Corman
Cornwell
Crane
Danielson
Davis
Dent
Derwinski
Dicks
Diggs
Dingell
Dodd
Dornan
Duncan, Tenn.
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fascell
Findley
Fisher
Fithian
Flood
Florio
Flynt
Foley
Ford, Mich.
Fowler
Fraser
Frey
Fuqua
Gammage
Gaydos
Giaimo
Gilman
Ginn
Glickman
Goldwater
Green
Hagedorn
Hall
Hammer-schmidt
Hannaford
Harris
Harsha
Hawkins
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Horton
Howard
Hyde
Ireland
Jenkins
Jenrette
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Krebs
LaFalce
Lagomarsino
Le Fante
Lederer
Leggett
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lott
Luken
Lundine
McClory
McCloskey
McDade
McEwen
McFall
McKay
Madigan
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Mathis
Mattox
Meeds
Michel
Mikulski
Milford
Mineta
Mitchell, N.Y.
Moakley
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, Michael
Nix
Nowak
Oberstar
Patten
Patterson
Pattison
Pepper
Pettis
Pressler
Price
Pritchard
Quillen
Rahall
Railsback
Reuss
Rhodes
Rinaldo
Risenhoover
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rostenkowski
Rousselot
Roybal
Ruppe
Sawyer
Scheuer
Schroeder
Sebelius
Shipley
Shuster
Sikes
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Spence
St Germain
Staggers
Stangeland
Stanton
Stratton
Taylor
Thompson
Thone
Thornton
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
White
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—155

Anderson, Ill.
Ashbrook
Baldus
Barman
Bedell
Bellenson
Benjamin
Bennett
Biaggi
Bingham
Blanchard
Blouin
Bonior
Breckinridge
Brodhead
Broyhill
Burton, John
Byron
Carr
Cavanaugh
Cleveland
Cohen
Collins, Tex.
Conyers
Cornell
Cotter
Coughlin
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
de la Garza
Delaney
Dellums
Derrick
Devine
Dickinson
Downey
Drinan
Early
Edgar
Edwards, Okla.
Emery
English
Evans, Colo.
Fenwick
Fish
Flippo
Ford, Tenn.
Forsythe
Fountain
Garcia
Gephardt
Gonzalez
Goodling
Gore
Gradison
Grassley
Gudger
Guyer
Hamilton
Hanley
Hansen
Harkin
Harrington
Heckler
Hefner
Holtzman
Hubbard
Hughes
Ichord
Jacobs
Jeffords
Jones, N.C.
Jordan
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kostmayer
Latta
Leach
Long, Md.
Lujan
McDonald
Maguire
Martin
Mazzoli
Meyner
Miller, Ohio
Minish
Mitchell, Md.
Moffett
Mollohan
Moore
Moss
Motti
Myers, John
Natcher
Neal
Nedzi
Nichols
Nolan
Oakar
Obey
Ottinger
Panetta
Pease
Perkins
Pickle
Pike
Poage
Preyer
Pursell
Quayle
Rangel
Regula
Robinson
Rosenthal
Rudd
Runnels
Russo
Ryan
Santini
Satterfield
Schulze
Seiberling
Sharp
Simon
Snyder
Solarz
Spellman
Stark
Steed
Steers
Stockman
Stokes
Studds
Stump
Symms
Traxler
Trible
Vanik
Vento
Volkmer
Waxman
Weaver
Weiss
Whalen
Whitehurst
Whitley
Wylie
Yates

NOT VOTING—41

Ambro
Ammerman
Armstrong
Beard, Tenn.
Boggs
Breaux
Broomfield
Brown, Calif.
Burke, Calif.
Burke, Fla.
Caputo
Clawson, Del
Cochran
Duncan, Oreg.
Fary
Flowers
Frenzel
Gibbons
Huckaby
Johnson, Colo.
Kasten
Keys
Krueger
Lehman
McCormack
McHugh
McKinney
Metcalfe
Mikva
Miller, Calif.
O'Brien
Quie
Richmond
Sarasin
Steiger
Teague
Treen
Tsongas
Wiggins
Young, Alaska
Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Fary for, with Mr. Richmond against.

Mr. McCormack for, with Mr. Steiger against.

Until further notice:

Mr. Ambro with Mr. Frenzel.

Mrs. Boggs with Mr. Kasten.

Mr. Breaux with Mr. Young of Alaska.

Mr. Ammerman with Mr. Beard of Tennessee.

Mrs. Burke of California with Mr. Caputo.

Mr. Huckaby with Mr. McKinney.

Mr. Krueger with Mr. Cochran of Mississippi.

Ms. Keys with Mr. Broomfield.

Mr. McHugh with Mr. Wiggins.

Mr. Metcalfe with Mr. Treen.

Mr. Teague with Mr. Del Clawson.

Mr. Tsongas with Mr. Burke of Florida.

Mr. Miller of California with Mr. Sarasin.

Mr. Mikva with Mr. O'Brien.

Mr. Flowers with Mr. Quie.

Mr. Lehman with Mr. Duncan of Oregon.

Mr. Brown of California with Mr. Gibbons.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON S. 3025, FEDERAL ELECTION COMMISSION APPROPRIATIONS, FISCAL YEAR 1979

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3025) to authorize appropriations for the Federal Election Commission for fiscal year 1979, with a House amendment thereto, insist on the House amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey? The Chair hears none, and, without objection, appoints the following conferees: Messrs. THOMPSON, NEDZI, GAYDOS, DAVIS, JOHN L. BURTON, DICKINSON, and FRENZEL.

There was no objection.

AIRPORT AND AIRCRAFT NOISE REDUCTION ACT

Mr. ANDERSON of California. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8729) to provide assistance to airport operators to prepare and carry out noise compatibility programs, to provide assistance to aircraft operators to comply with noise standards, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ANDERSON).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 8729, with Mr. STUDDS in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from California (Mr. ANDERSON) will be recognized for 30 minutes; the gentleman from Ohio (Mr. HARSHA) will be recognized for 30 minutes; the gentleman from Oregon (Mr. ULLMAN) will be recognized for 30 minutes; and the gentleman from New York (Mr. CONABLE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, nearly 7 million Americans and nearly a million acres of valuable land are impacted by aircraft noise levels deemed normally unacceptable for new residential construction loan guarantees by the Department of Housing and Urban Development.

Last year the President's Council on Wage and Price Stability estimated that aircraft noise was costing property owners near airports some $3.25 billion annually in decreased property value. This certainly has an erosive effect on local tax bases around the country.

Our Nation's airports are spending millions of dollars to acquire noise impacted land. According to a November 1977 survey of its membership, the Airport Operators Council International reports that some $229 million has been spent on land acquisition over the last 7 years by U.S. airports. In addition, airports currently have pending against them lawsuits with potential liability which can be measured in the hundreds of millions of dollars. Citizen opposition to aircraft noise has delayed and in many cases prevented needed airport development and expansion and the installation of facilities to improve safety, airport capacity, and efficient utilization of airspace.

During our lengthy hearing process on this bill, it became abundantly clear that comprehensive legislation is required to deal with the noise problem—and it is needed now.

New housing developments and other land uses incompatible with normal airport operations are springing up near our airports as we debate today. Furthermore, the clock is running on compliance with FAA noise standards under which nearly three-fourths of the entire air carrier fleet will have to be replaced or modified with a schedule beginning in 1981 and ending January 1, 1985.

The Federal effort to date has focused on reduction of noise at the source—the aircraft. Based on legislation passed in 1968 and 1972 FAA has, in my view, gone a long way toward carrying out the expressed congressional mandate to quiet noise at the source. However, source control, we are finding, has technological limits, and no amount of quieting existing aircraft will totally solve the problem.

Although making aircraft quieter will shrink the areas of greatest impact significantly, whether through retrofitting or replacing noisy aircraft or a combination of both, incentives must be provided to airport operators and surrounding communities to get on with the long-neglected need to make land surrounding airports more compatible with airport operations. To continue placing sole emphasis on source noise control, to continue talking just about making aircraft quieter, without making significant progress on the land use side will have the effect, in my opinion, of unwisely raising the public's expectations for noise relief. Although we must continue efforts at source noise control unabated, let us face it—normal airport operations involve noise because aircraft do and will continue to make noise—we must start with the assumption that some unacceptable noise will continue in areas immediately adjacent to airports and work from there.

The efforts of the House Public Works and Transportation and Ways and Means Committees have resulted in the preparation of comprehensive legislation which will expedite the introduction of quieter aircraft into the fleet and will provide incentives to airport operators and the communities they serve to get on with the much too long delayed need to make the land surrounding our airports more compatible with airport operations.

Under the voluntary provisions of title I, planning grants will be available to airports for developing noise impact maps showing present and projected cumulative noise impacts in areas surrounding the airport as well as present and projected land uses within the impacted areas.

Another part of the planning process will be the development of noise compatibility programs which will consist of those actions which the airport propietor and surrounding communities will voluntarily take, for example, zoning, land purchase, soundproofing, and airport operations, to lessen the adverse effects of aircraft noise and to prohibit the introduction of noncompatible land uses in the impacted areas.

Programs developed from this planning process are submitted to the Secretary of Transportation for approval if the proprietor wants to receive funding to implement the program. The Secretary may approve a program if the measures set forth in the program provide for safe flight, do not create an undue burden on interstate or foreign commerce, and are consistent with the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible uses.

Title I, in my opinion, is an essential ingredient of the House effort. As I stated earlier, source noise control alone is insufficient to solve the noise problem. Title I provides an incentive from the Federal Government for local communities to solve essentially local problems, but these incentives do not in any way take from local government the traditional role of making land use decisions.

A unique feature of title I is that money is made available to carry out the programs which have been approved by the Secretary of Transportation. These 80 percent Federal share grants will be available not only to airport operators but to communities surrounding airports which have been identified as being in the noise impact zone. Money is made available for these grants in title I, including $165 million for fiscal year 1979 and $250 million for fiscal year 1980.

Title II increases the current authorized funding level for airport development grants for fiscal year 1979 by $260 million; for fiscal year 1980 the current authorized level is raised by $310 million. Significant indicators of national airport system need have identified problem areas requiring review of the funding adequacy of the ADAP program in advance of the anticipated congressional consideration in 1980 of the future of the airport and airway trust fund. For example, the revised national airport system plan calls for some $10.6 billion in development over the next decade, with three-fourths of that forecast to be needed in the next 5 years. Also a number of sponsors of smaller airports have communicated their view that current funding levels do not provide sufficient funds

distributed at the discretion of the Secretary. Most, if not all, of the new money contained in title II will go into the Secretary's discretionary fund.

Title III, which is a financing mechanism to assist air carriers to meet congressionally mandated noise rules adopted by FAA, is based on several assumptions, including the following:

First. We can no longer delay providing meaningful relief on the noise issue.

Second. We cannot count on the regulatory process to provide sufficient returns so that air carriers can meet these deadlines on their own.

Third. A Federal program is required to assure that existing aircraft noise standards are met by 1985.

Fourth. The industry and the users of the air transportation system, and not the general taxpayer, should bear the cost of meeting the noise standards.

Fifth. Incentives should be sufficient to make it attractive for carriers to replace noisy aircraft with new technology aircraft which are less noisy and more energy-efficient but not to encourage the purchase of excess capacity.

Sixth. Industry should be able to meet the noise standards in an efficient and economical manner with Government involvement in management decisions kept to a minimum.

The bill reported by the Ways and Means Committee, H.R. 11986, which will be offered as an amendment in the form of a substitute for sections 301–304 of H.R. 8729, is consistent with these principles. I am sure Chairman ULLMAN will give a more detailed explanation of these provisions.

Mr. Chairman, in summary, this is very important legislation, and it is essential that this comprehensive noise bill be passed by the Congress now. This legislation is important to the Nation from the standpoint of the environment, energy conservation, community tax bases, balance of payments, and jobs. We can accomplish a great deal without raising the cost of transportation, without increasing the burden on the taxpayer, without jeopardizing the airport and airway development program, and without adversely affecting the safety of our airways.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I support H R. 8729, the Airport and Aircraft Noise Reduction Act, because it is an effective legislative response to the horrendous problem of airport noise that plagues so many people in my district.

The Sixth District of Illinois contains most of O'Hare Airport, the busiest in the world, and hence the noisiest. On a summer evening, with the windows open, all conversations must cease and the dishes start to rattle while the jumbo jets pass overhead either to land or take off from O'Hare.

We in the Chicago metropolitan area need a second major airport, but regretfully this is many years away. Meanwhile Congress has literally twiddled its thumbs as aircraft noise keeps building its deafening crescendo.

The Federal Government has mandated certain noise levels be reached by the aircraft before 1985. This has the effect of ruling out approximately 1,600 aircraft—two-thirds of the airline fleet.

It has been the conclusion of the several committees of the House which have jurisdiction, that a special financing mechanism is needed for the airlines to comply.

Of course, there are conflicting views on this, but from my own perspective I am willing to accept the consensus of these committees and especially so if we can provide incentive and impetus to the airlines to purchase new-generation aircraft. These new technology planes are both quieter and more fuel-efficient.

This legislation is fair to the general taxpayer because it is the airline user that ultimately bears these costs, not everyone else. I think it is important to note that the estimated tax credit receipts from this bill will be $2.4 billion over the 5-year term whereas the added cost to retrofit, reengine and replace aircraft to comply with the noise regulations is estimated to be about $8 billion.

There are some sections which trouble me. I understand amendments will be offered to retain for individuals the right to seek redress in the courts. To do otherwise seems to me a blatant denial of due process of law. In addition, I look forward to supporting an amendment to substitute the Administrator of the Environmental Protection Agency for the Secretary of Transportation in determining what levels of noise are "normally compatible" with varying land uses as required by section 102.

I am convinced, however, that this legislation will bring significant noise relief to the people of my district as well as to millions of other Americans similarly situated. I also feel this bill has an inflation-fighting potential by encouraging the prompt purchase of productive, economical and fuel-efficient aircraft. The saving of millions of gallons of jet fuel as well as the creation of thousands of aircraft-manufacturing jobs throughout the United States are also important benefits.

The technological leadership the United States maintains in the aircraft industry must not be lost as it has been in television, electronics and other areas. I believe this bill will be helpful in this regard. I hope the airlines will purchase the new generation aircraft rather than spending money on costly and ineffectual acoustical retrofitting which adds weight to the aircraft and increases fuel consumption without any perceptible advantage.

I know some object to this legislation as creating a dangerous precedent. I do not believe this is true because the airline industry is unique in that they have had a retroactive noise reduction mandate they must comply with by 1985. No other industry has a comparable situation. This unique problem calls for a unique solution which I think this bill presents.

Two-thirds of the estimated $8 billion cost for complying with the governmental mandate will be at airline expense with the other one-third being paid by a noise pollution tax on passengers and shippers. The general taxpayer will pay nothing.

For these and other reasons, Mr. Chairman, I will support this legislation and hope a majority of my colleagues will likewise.

Mr. ANDERSON of California. Mr. Chairman, I thank the gentleman for his contribution.

Mr. HARSHA. Mr. Chairman, I yield myself such time as I may consume.

cost to retrofit, reengine and replace

Mr. Chairman, I am very pleased to join the gentleman from California (Mr. ANDERSON) in urging our colleagues to support H.R. 8729, the Airport and Aircraft Noise Reduction Act. He has ably expressed the views of most members of the Committee on Public Works and Transportation regarding this legislation—and I fully associate myself with his remarks. Inasmuch as Chairman ANDERSON has recounted the major provisions of the bill, I see no need to repeat them at this time. However, I do wish to note that he and I have worked together for 2 years to perfect this package—and I hope my colleagues will agree that we have succeeded in formulating effective, reasonable proposals to meet a most vexing national problem.

As Chairman ANDERSON has stated, we approach the aircraft noise problem along two tracks. First, in title I, we seek to encourage voluntary action by airport operators and local communities to control noncompatible land uses in areas surrounding airports—including authorization of grants from the airport and airway trust fund to assist with the implementation of local noise control programs. Second, in title III, we seek to assist air carriers in meeting the costs of complying with federally mandated noise standards—a burden which the carriers had no reason to anticipate when they purchased their aircraft.

Mr. Chairman, H.R. 8729 was reported by our committee with the bipartisan support of an overwhelming majority of our members. I would state that most of the concerns expressed by our minority members with respect to major provisions of earlier versions of this legislation were resolved to our satisfaction during the Aviation Subcommittee and full committee markups. In this regard, we sought successfully to eliminate the mandatory land-use provisions which appeared initially in title I. Participation by airport operators and local communities in the title I program to reduce noncompatible land uses in areas surrounding airports now is entirely voluntary—as it should be. In addition, we succeeded in including provisions first, to preclude the use of noise impact maps and lists of compatible land uses as evidence in litigation, and second, to preclude lawsuits for recovery of damages resulting from airport noise unless such noise increases

significantly after acquisition of the property where injury is alleged to have occurred. Both of these provisions are essential if we are to avoid a proliferation of frivolous airport noise litigation.

The Committee on Ways and Means has revised certain sections of our title III in the companion bill they reported, H.R. 11986, by placing the financing mechanism in a tax context rather than by imposing a surcharge, as in our bill. Conceptually, the Ways and Means version retains the essential elements of the financing mechanism contained in our version—that the carriers may obtain assistance for specified percentages of the cost of the three compliance options available to them: retrofit, reengine, or replacement. Chairman JOHNSON has stated that the Public Works Committee favors substitution of the language of H.R. 11986 for most of our title III, and I fully support him in this regard. However, we do wish to retain our section 305 foreign aircraft compliance provision, as well as our section 306 compliance waiver authority provision—neither of which were included in H.R. 11986. The issues addressed in these sections are clearly within the jurisdiction of the Public Works and Transportation Committee, and our committee wishes to retain these provisions in the final bill. Therefore, as specified in the rule, H.R. 11986 will be considered as a substitute only for sections 301–304 of H.R. 8729. Sections 305 and 306 will remain in H.R. 8729—to be redesignated as new title IV of this bill.

Mr. Chairman, I can and do express my belief that H.R. 8729 is good legislation which is carefully tailored to remedy a serious national problem. It is worthy of prompt and favorable consideration by this House—and I urge my colleagues to accord it their overwhelming approval.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I will be glad to yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, under title II of the bill as it has been presented to us, provides $80 million for general aviation airports and 25 percent of that is to be used by the Secretary at his discretion.

Mr. HARSHA. Mr. Chairman, is the gentleman addressing title II?

Mr. SKUBITZ. I am speaking of title II. The report indicates that for general aviation the present level is $80 million.

If I understand the legislation, three-fourths of that amount will go to the States and one-fourth is for the Secretary to be used at his own discretion.

Mr. HARSHA. Mr. Chairman, before I proceed, I would like to inquire of the Chair, how much time have I consumed.

The CHAIRMAN. The gentleman from Ohio (Mr. HARSHA) has consumed 7 minutes.

Mr. HARSHA. Mr. Chairman, I will ask the gentleman from Kansas (Mr. SKUBITZ) to cooperate with me. I have many requests for time, and I am sure we will use all our time on general debate. If the gentleman from Kansas (Mr. SKUBITZ) will address me during the 5-minute rule, I will be glad to answer, but I do not want to deprive the other Members of their opportunity to speak during general debate.

Mr. SKUBITZ. Mr. Chairman, I will be very happy to do that, but I would like to say one thing——

Mr. HARSHA. Mr. Chairman, I will not yield any further. If the gentleman does not wish to cooperate, I will not yield any further.

The CHAIRMAN. The gentleman from Ohio (Mr. HARSHA) has consumed 7½ minutes.

Mr. ANDERSON of California. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. JOHNSON), the chairman of the full committee.

Mr. RYAN. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of California. I yield to the gentleman from California.

● Mr. RYAN. Mr. Chairman, frankly, I do not know how to vote on this piece of legislation. I make this confession not out of ignorance but out of frustration because I have been studying this bill, especially title III, and the impact it will have on the Nation for many months. I have listened to irate homeowners in my district who are impacted by the noise pollution at San Francisco International which also happens to be in my district. I have listened to presidents of a number of the airlines whose companies will benefit from this legislation. I have talked with airport operators, airline machinists, and on and on. The more I have dug into this issue the less certain I am of what action will best serve the interests of the Nation as a whole.

Citizens in this country have demanded quieter airspace and rightly so. While the resident in a metropolitan area with an airport nearby may not have the luxury of waking up to chirping birds, he or she does have the right to be awakened by the mild hum of an alarm clock and not the trembling roar of an airplane overhead. In response, the FAA promulgated regulations establishing noise reduction standards (FAR 36).

On the other side of the coin, the airlines have criticized the retroactivity of the "fleet noise rule" promulgated in 1976 which requires all aircraft to meet FAR 36 standards. As an American industry the airlines are in a unique position. Because they are regulated, they cannot raise their rates to cover the costs of meeting Federal standards like the auto industry, for instance. Thus, we invented the Airport and Aircraft Noise Reduction Act.

At first blush, the bill seems fair enough. But on further study, I became concerned about establishing a precedent to which other industries will point to in seeking Federal funds to meet Federal standards in future Congresses.

Opponents have labeled the bill a subsidy to the airlines paid for by the American people. The industry has countered that the payor is the airline user, not the taxpayer.

I can go on but I will not. I do want to address one issue in the bill which concerns me gravely. We are perpetrating a mighty fraud on the American people by permitting retrofitting as a corrective measure under this bill which the airlines may avail themselves of and which the Government will pay 90 percent of the cost. By every recognized authority, retrofitting the DC-9's and 707's will provide a negligible reduction in noise—2 to 3 decibels. One airline informed me that it would cost about $15 million to retrofit their fleet—at a cost to the Government under this bill, of $13 million, the airline picking up the other $2 million. Why should the airline user-taxpayer pay $13 million for nothing. I have found no one who has disagreed with me. I have been told that it was placed in the legislation for political reasons. The public demanded it. Well—I disagree. The public does not want to pay a billion dollars, the estimated amount of money that would be expended for retrofitting, and receive absolutely nothing in return.●

Mr. MURPHY of New York. Mr. Chairman, will the distinguished committee chairman yield?

Mr. JOHNSON of California. Yes, I yield to the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Chairman, I would like to commend the chairman of the full committee and the chairman of the subcommittee for bringing out a piece of legislation that will resolve one of the enormous competitive disadvantages that the American carriers face.

Mr. Chairman, I rise in support of H.R. 8720 H.R. 11986.

There is concern that if we pass this legislation with the financial provision for assistance to the airlines that they will be getting special treatment. Allow me to put such an assertion in perspective. Public utilities which have been required to spend money for environmental requirements are monopolies and public utility commissions have very promptly adjusted their charges upward to cover the environmental expense. The commissions in many cases have actually assessed—an environmental surcharge—against customers. The present airline situation is not comparable.

Airlines are not monopolies, yet their rates are regulated—domestic carriers by the Civil Aeronautics Board and international carriers by the CAB and by foreign countries to which they fly. Being regulated there is absolutely no assurance that the carriers could, in fact, adjust their prices to pay the expenses of noise reduction. If one major carrier determined not to seek a fare increase to cover the cost of complying with the regulation, perhaps because that carrier had few planes to be replaced or retrofitted, its competitors could not increase fares. If they did, they would face an enormous competitive disadvantage.

In order to remain price competitive with foreign airlines our U.S. international carriers would need the approval

of dozens of foreign governments to obtain a fare increase. A single major foreign government could decide not to implement a fare increase for its carrier, thus forcing our carriers not to raise fares if they wished to stay competitive. A general fare increase obviously made little sense to the committees which have reviewed this legislation. They wanted to be sure that carriers comply by 1985, so do I, and this legislation is the only equitable way for the airline user to pay a portion of the costs and the carriers the remainder.

Mr. JOHNSON of California. Mr. Chairman, as chairman of the Committee on Public Works and Transportation, I take this time to commend the chairman of our subcommittee and the ranking minority member of our subcommittee, as well as the gentleman from Ohio (Mr. HARSHA), who has worked hard and long on this piece of legislation.

Mr. Chairman, I rise in support of H.R. 8729, the Airport and Aircraft Noise Reduction Act.

This comprehensive measure is designed to provide relief to the 7 to 8 million persons who are daily bombarded by excessive aircraft noise. It does this by addressing both facets of the problem—the source of the noise and the receiver—and by involving all levels of government in a coordinated effort.

First, Mr. Chairman, there is no question that aircraft noise is today a serious problem that can only get worse, unless we take affirmative action. Some 7 to 8 million persons reside in areas which are heavily impacted to the extent that neither the Federal Housing and Urban Development Department nor the Veterans' Administration will guarantee home loans. Also, the President's Council on Wage and Price Stability estimates that property values decrease approximately $3.25 billion annually because of aircraft noise.

This problem cannot be solved solely by Federal action. It must be a coordinated effort of Federal, State, and local governments, all working in concert. It must entail a program to encourage better use of the areas surrounding our Nation's airports; it must involve better planning, and it must encourage the replacement of the noisy aircraft with a new generation of quiet aircraft. The bill before us today, H.R. 8729, does this, and is a first step toward providing relief to the millions of persons who receive, not the benefits of air travel, but the side effects—noise.

Title I of this proposal would require the Federal Government to develop a noise standard which would be used by the State and local governments to develop better plans—so that they can identify areas which should be used for purposes compatible with aircraft noise, and so that they—the State and local governments—can discourage further development of housing, schools, and hospitals in areas which are or will be bombarded with aircraft noise.

Then, using this standard, local and State governments may develop plans which are designed to reduce the number of persons who reside in heavily impacted areas, and prevent the introduction of even more people into these areas. This may be accomplished in a number of ways: the purchase of land, the introduction of acoustical buffers, an alteration of the flight path—these are only a few.

Once a local plan, fitted to that particular situation, has been approved by the local authorities, it could be submitted to the Administrator of the FAA who, in turn, would approve it unless it: First, involved unsafe practices, second, burdened interstate commerce, or third, did not actually accomplish the goal of reducing the number of persons in the area heavily impacted by noise.

If the plan met this criteria, and were approved, the local agency would then be eligible for Federal moneys to implement the plan.

This Federal, State, and local effort is designed to address the people on the ground—the receiver of the noise. But this is only part of the problem. The other part of the problem, and thus, part of the solution, involves the source of the noise—the aircraft.

Title III—the Ullman substitute—would encourage the replacement of the noisy aircraft with a new generation of quiet aircraft, by taxing the user.

Under this proposal, the user's funds would be used to reduce the noise either through retrofit, reengine, or replacement of the noisy aircraft. No general taxpayer moneys would be involved.

Retrofit is the least expensive option, and if all the carriers elect to retrofit the noisy planes, then less than $1 billion would be used over a 5-year period for this purpose. But retrofit is like applying a band-aid where a tourniquet is needed. Retrofit reduces the noise only slightly, but it adds weight to the aircraft and thus causes the use of more fuel. Retrofit is therefore the least attractive alternative from an energy standpoint and from a noise-reduction standpoint.

Thus, if we are serious about solving the noise problem, we would encourage the replacement of the noisy aircraft with quiet, fuel-efficient aircraft—exactly as proposed under the Ullman substitute.

The Ullman substitute is a sensible solution to a very complicated problem. It has been indorsed by the Carter administration. It was originally suggested by the Ford administration. It has been approved by the Ways and Means Committee.

Mr. Chairman, H.R. 8729, the Airport and Aircraft Noise Reduction Act, is a responsible answer to the very complicated aircraft noise problem. This is comprehensive legislation which is necessary to provide relief to the million of persons who are heavily impacted by aircraft noise. It deserves the support of this body.

Mr. HARSHA. Mr. Chairman, I yield 1 minute to the gentleman from Arkansas (Mr. HAMMERSCHMIDT).

Mr. HAMMERSCHMIDT. Mr. Chairman, I join my colleagues who support the pending bill in urging its enactment as the most effective available means of coming to grips with the serious aircraft noise problem. As a measure of the severity of this problem, FAA estimates that upward of 6 to 8 million of our citizens are subjected to significant aircraft noise with more than 600,000 severely impacted.

I wonder how many of us realize what it means to be "severly impacted" by aircraft noise? Well, it can mean aircraft at little more than treetop height every 30 seconds. This kind of din can be accurately described as "hell on Earth." There is no way a human being can function normally under such conditions. It is evident that some concerted action at the Federal level—such as the provisions contained in the legislation now before us—is required.

Mr. Chairman, H.R. 8729 approaches the problem of aircraft noise in two ways. In title I, the bill attempts to induce airport operators and officials of adjacent communities to eliminate noncompatible land uses in areas surrounding airports. It does not mandate action at the local level; rather, it is a voluntary program. It seeks to encourage meaningful remedies by providing grants from the airport and airways trust fund to assist in the implementation of approved noise compatibility programs. This procedure will not solve the aircraft noise problem overnight, but it is a start. It gives promise of providing significant results in due course.

In title III of the bill, a funding mechanism is provided to assist the air carriers in meeting the costs of complying with FAA-mandated noise standards. It should be emphasized that these standards and mandatory compliance dates were established after the carriers purchased their aircraft. They had no reason to anticipate the imposition of such requirements at the time of purchase. But now they are faced with the task of bringing their aircraft into compliance by dates certain. Because it was the Federal Government which placed this burden on the carriers, it seems only fair and equitable that the Federal Government take appropriate action to assist the carriers in these circumstances. Title III of the bill, as perfected by the Committee on Ways and Means, seeks to discharge this obligation by providing tax credit or refund assistance to the carriers up to the total amount of the 2-percent excise tax which each collects over a 5-year period. Reasonable percentages for each option available to them—whether retrofit, reengine, or replacement—are set forth, and it is these percentages which determine carrier entitlements under the program. It seems evident to me that substantial alleviation of aircraft source noise will result from enactment of title III—and it has the added prospective benefit of accelerating the development of new aircraft types employing the latest technology, notably in the areas of acoustics and fuel efficiency.

Mr. Chairman, it should be emphasized that the stakes involved in this legislation go far beyond the discomfort experienced by those who reside in areas surrounding airports. Not only is the growth of air

transportation threatened because of noise restriction placed on the use of airports, as well as airport development, but the economic health of our aircraft manufacturing industry is involved. The new technology aircraft now being produced abroad represents the first significant challenge to our dominance in the field—and we must act promptly to strengthen our domestic industry. Title III of H.R. 8729 provides an important stimulus to our U.S. aircraft manufacturing firms by facilitating accelerated purchase of U.S. produced new-technology aircraft. We need not elaborate on what all this can mean in terms of jobs, international balance of payments; in a word, our economic well-being.

Mr. Chairman, it is for these reasons that I support the enactment of H.R 8729. It is good legislation which responds to an urgent public need. This subject has occupied the attention of the Aviation Subcommittee, of which I am a member, for the better part of 2 years. We considered each provision of the bill in great depth—and I can attest to the fact that all of the arguments against it were weighed with unusual care and deliberation.

Mr. Chairman, I urge my colleagues to join in supporting this important legislation.

Mr. HARSHA. Mr. Chairman, I yield 15 seconds to the gentleman from South Dakota (Mr. ABDNOR).

Mr. ABDNOR. Mr. Chairman, I rise in support of H.R. 8729, the Airport and Aircraft Noise Reduction Act.

The Aviation Subcommittee of the Public Works and Transportation Committee, of which I am a member, has deliberated this issue for more than 2 years. It has produced legislation worthy of the support of the entire Congress.

Under this act, airports will be able to establish noise compatibility planning programs designed to address noise-impacted areas surrounding major airports. Also, H.R. 8729 increases the airport development assistance program (ADAP) authorization levels by $260 million for fiscal year 1979 and $310 million for fiscal year 1980. Much of this money will be funneled into general aviation airports servicing the small, rural areas throughout the country.

Title III of this legislation will be replaced by H.R. 11986 as approved by the Ways and Means Committee. Retroactive environmental noise regulations imposed by the Federal Aviation Administration on 1,600 certificated aircraft will be complied with in a productive, energy-conserving manner.

Airline fares today are less than last year's fares despite double-digit inflation. Congress has an opportunity to keep the cost of air travel at bargain rates.

This legislation has received widespread support among the administration, the Department of Transportation, and members of the Committees on Public Works and Transportation and Ways and Means. It deserves your support, and I urge its adoption.

Mr. HARSHA. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Chairman, I rise in strong support of the legislation before us.

Aircraft noise is a very serious national problem which threatens the viability and future growth of our airports and our entire air transportation system. But, the most compelling issue involved is whether or not we will ultimately have an environmentally acceptable airport system throughout the country.

I want to commend our very able chairman, the gentleman from California, "BIZ" JOHNSON, the gentleman from Califorinia, GLENN ANDERSON, the gentleman from Ohio, BILL HARSHA, the gentleman from Kentucky, GENE SNYDER, and all of the members of the committees that have been principally involved in advancing the legislation up to this point. They have been successful in focusing attention on the problems that are very real as relates to those problems of the people living near the Nation's airports and to those communities where property values and planning activities are being affected.

The bill is not the final answer to this problem but it is a move in the right direction, and for this reason I intend to vote for it.

This legislation is of particular importance to my State of California, the No. 1 aviation State in the Nation with the largest number of airports and a substantial aerospace industry. As one who has worked in the field of aviation for most of my life and as a charter member of the California Association of Airport Executives, I have seen firsthand the need for quieter and cleaner aircraft. In my opinion, we have an obligation to the people of this country to provide the most environmentally acceptable aircraft as well as an airport system that is technically feasible. This legislation provides the incentives needed to advance this type of new engine technology.

Throughout the hearing and markup sessions, one recurring problem was the difficulty in comparing levels of aircraft noise due to the absence of any single measurement for noise. I am pleased to note that the bill requires the Secretary of Transportation to establish such a system.

The bill also addresses the need for programs to assist airports and surrounding communities in developing and carrying out programs to reduce existing noncompatible land uses and to prevent future noncompatible land uses. This is particularly critical in the side and approach zone areas, as well as the climb corridor area following takeoff in and around the airports of the country.

Mr. HARSHA alluded to the fact that it places on a voluntary basis, and is in fact under the control of the State and local governments, as it applies to the ultimate power and authority under condemnation.

The primary purpose of title I is to establish a grant-in-aid program to allow our communities to exercise this power. I want to emphasize that this bill does not in any way give the Department of Transportation additional regulatory powers beyond those found in the Federal Aviation Act and the Noise Control Act of 1972. This is vital to me, and I know it to be a very important principle to many of my colleagues.

With respect to the grant program, I support the retention of the 90-percent Federal share for development projects. This provision is particularly important to our smaller community airports which would be unable to proceed with improvements for lack of necessary funding.

The bill also authorizes increased funding levels for airport development for fiscal years 1979 and 1980. This new funding is necessary in light of the current backlog of projects and will also greatly assist our smaller airports by giving them greater access to available discretionary funds.

There has been a good deal of criticism over the system of surcharges established in the bill. It has been called a windfall to aircraft owners. But, I for one, believe that the contribution this approach will make to our overall economy, in terms of improving our balance of payments and preserving jobs in the aircraft industry, in addition to the enhanced environmental considerations, far outweighs any negative factors.

This legislation represents a comprehensive program to enable us to meet these objectives that I have outlined. I have consistently advocated a national airport system plan and believe that the only way we can achieve a satisfactory air transportation system is to have an environmentally acceptable system of airports, along with the most advanced technology to provide these quieter and cleaner engines.

This legislation will not increase the cost of air transportation to the consumer, or increase the burden on the taxpayer. I want to commend the Ways and Means Committee for the special effort that they made to see that this was accomplished. It will permit us to maintain the highest level of safety possible, while conserving energy, protecting our community tax bases, our balance of payments as well as American jobs.

Mr. Chairman, I urge my colleagues to support this legislation.

Mr. ANDERSON of California. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. MILFORD).

Mr. MILFORD. Mr. Chairman, the noise bill now before us promotes progress through new technology advances.

This Nation's air transportation system has achieved its world preeminence through the application of new technology to improve the safety, efficiency, and reliability of air travel.

Radar technology, used to locate targets for World War II bombing missions, was applied by the airlines to detect and avoid thunderstorms in flight. The technology that detected and identified enemy aircraft during the Battle of Britain, now forms the basis for our Nation's air traffic control system—a system that identifies and provides safe

separation for the airlines, the military and general aviation.

Each new aircraft type that is introduced into the airline fleet becomes an opportunity for bringing new technological advances into the air transportation system. The most outstanding recent example is the introduction of the jet airliner in 1958, bringing new dimensions of speed, efficiency, reliability and economy that have made airlines the largest rapid transit system of all.

In 1970, the introduction of large wide-body aircraft saw new advances in noise reduction, fuel efficiency, productivity and passenger comfort—largely as the result of major advances in jet engine technology. These advances were achieved over a period of years, but it took the wide-body jet to put them at the services of the airlines and the traveling public.

We face a similar situation today: The jet engine technology that was responsible for the success of the large wide-bodies can now be used to power aircraft that will replace the older, smaller aircraft that are based on technology more than 20 years old. Refinements in aerodynamic design will bring improved performance, contributing to greater efficiency and economy of operation.

Mr. Chairman, this legislation makes it possible to speed the introduction of quieter, more fuel-efficient aircraft into the airline fleet. It will encourage the use of the latest advances in airframe and engine technology to continue giving the traveling public safe, reliable and economical transportation by air. A vote to support this legislation is a vote to use this Nation's technological resources to retain our leadership in commercial aviation.

The CHAIRMAN. The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Chairman. I yield myself 5 minutes.

Mr. Chairman, let us be sure we fully understand the parliamentary procedure here. The Ways and Means Committee is working with the Public Works Committee in developing this bill, as we usually do in trust fund-related projects. The Public Works Committee asked the Ways and Means Committee to produce an amendment that would provide the revenue to accommodate the program that they had laid out and recommended. They of course did not have the authority to repeal the excise tax, and so the excise taxes supporting the trust fund would be fully in place and there is an uncommitted surplus of about $2 billion in that fund now.

Mr. Chairman, the Rules Committee has made in order as an amendment to title III of H.R. 8729 the substance of H.R. 11986, which was reported by the Committee on Ways and Means. H.R. 11986 makes changes to the excise taxes on air transportation and provides refunds or credits on certain of these taxes for expenditures by airlines to modify or replace existing noisy aircraft.

Under present law, an 8-percent excise tax is generally imposed upon the fares of airline passengers on domestic flights and flights to or from nearby points in Canada and Mexico. Air passengers departing the United States, whose fares are not entirely taxable under the 8-percent tax, are subject to a $3 per person international departure tax. In addition, a 5-percent tax is imposed upon domestic air freight transportation charges. The proceeds of these taxes are presently deposited in the airport and airway trust fund from which appropriations are made for certain aviation-related purposes. These taxes are scheduled to decline or terminate on July 1, 1980.

The Ways and Means Committee amendment will reduce the present 8-percent passenger and 5-percent freight taxes by 2 percentage points, and also suspend the present $3 international departure tax, for a 5-year period from October 1, 1978, through September 30, 1983.

In place of these reduced or suspended taxes, there will be 2 percent passenger and freight taxes which use the same tax base as under present law. As a result, the total tax for domestic passenger and freight shippers will remain unchanged. In addition, there will be imposed international passenger departure taxes of $2 where the air fare is less than $100 and $10 where the fare is $100 or more. There will also be a 5-percent tax on charges for international air freight which depart the United States. The new taxes will be imposed upon the commercial air carriers and will be in effect for a 5-year period until October 1, 1983. At the end of this period the present level of excise taxes would be restored, if they remain generally in effect on that date and the proceeds are being deposited in the trust fund pursuant to congressional review in 1980 of the airport and airway program, as the trust fund expires in 1980 under current law.

Those domestic air carriers who operate large subsonic jet aircraft which do not comply with the FAA's 1976 noise regulations may obtain refunds or credits for the new excise taxes they have paid. They will be entitled to refunds or credits for certain percentages of costs they have incurred, including progress payments, after January 24, 1977, and before January 1, 1985, to bring their noncomplying noisy aircraft into compliance with FAA noise regulations by one of three methods: First, retrofitting, which is adding sound absorbing materials to the engines; second, replacing the engines; or third, replacing the noncomplying aircraft. These percentages are 50 or 90 percent for retrofitting—depending on the number of an aircraft's engines—75 percent for replacement engines, and either 40 percent or 25 percent for a replacement aircraft—depending upon the noise level of the replacement aircraft. The Secretary of Transportation is required to certify that the costs have been incurred for qualified property before a refund or credit will be allowed.

These refunds or credits will be treated as taxable income when received by the air carriers. Rules are also provided to generally prevent the claiming of multiple credits for the same noncomplying aircraft and to require recapture of credits or refunds where a replacement aircraft is sold or leased within 5 years of being placed in service.

Foreign air carriers will be entitled to obtain lump-sum refunds of their payments of these taxes for the entire costs incurred to bring into compliance their aircraft which operate in the United States. These carriers must first certify that their U.S. operating fleet does, and will in the future, comply with the 1976 noise standards.

Excess tax collections over the amounts of refunds or credits will be deposited into the airport and airway trust fund. In addition, the provision amends the trust fund statute to permit expenditures for noise compatibility programs and planning grants from the trust fund—as included in other titles of H.R. 8729.

The provision also requires the FAA to issue an annual report of unsafe airport and airway operating conditions before any expenditures can be made from the trust fund for the following fiscal year.

The Treasury Department supports this bill. Mr. Chairman, I urge the adoption of this amendment to H.R. 8729.

Mr. CONABLE. Mr. Chairman, I yield myself 5 minutes.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I rise in strong support of the bill.

Mr. Chairman, I rise in strong support of H.R. 8729 and H.R. 11986. The modest assistance proposed in these measures is legitimate and completely warranted.

In 1976, the FAA told the U.S. aviation industry that two out of three of the aircraft in service—which had previously been certified by the Federal Government as airworthy—would have to be modified or replaced at sizable expense. This is a unique situation. Never before has the Federal Government required part of our transportation sector to comply retroactively with new requirements. It only makes sense to address this unique problem with some sort of assistance to buffer what could otherwise be an excessive shock to an industry which has just come out of a prolonged slump.

This legislation serves that purpose, and it does so in a reasonable manner. The shifted tax revenues will defray partially the costs which those retroactive regulations will involve, but the individual airlines will still have to pick up a considerable share of the tab. And the tax that will be used to cover the costs will fall not on the population in general but on the people who use our aviation network. And even their tax burden will not be increased; it will merely be reallocated to serve another important goal.

The legislation before us will not be inflationary. In fact, if you give some careful thought to the nature of our aviation industry, I think you will agree that this package will benefit our economy. One of the major economic problems is our sizable balance of trade deficit which hit another new high when the latest Commerce Department figures were released. That deficit has seriously eroded the standing of the dollar and fueled inflation.

Our aviation industry can, and, in fact, has consistently helped boost the positive side of our balance of trade. Last year, the industry generated a $7 billion trade surplus. And that was not an exception. Since 1960, aviation has consistently provided net surpluses to the economy—even in the years when the industry was suffering at home. The Commerce Department is predicting even more for this year, an $8.5 billion contribution to the balance of trade.

Aviation exports are high technology and high value. Traditionally we have had a technological advantage over other nations, and we should be using that advantage to address a variety of problems, including our trade deficit. And it only makes sense to promote exports where returns are considerable and can, therefore, make a significant contribution to alleviating our deficit. In short, it is only prudent to do what we can and should to keep this industry on track.

It was not long ago that our domestic aviation industry was in a real slump. Admittedly, things have shaped up and our airlines have begun to be profitable again. But we need to be careful to provide a reasonable environment for this industry, and that is particularly important to keep in mind in that major airline deregulation legislation—which I intend to support—is on our schedule later this week. The equitable relief provided in this legislation should preserve the kind of environment needed to keep this industry on track in spite of the changes in that environment.

These measures are reasonable and economically sound. I urge each of my colleagues to lend them your support.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I rise in strong support of this legislation and commend the committees for presenting this legislation.

Mr. Chairman, the goal of this legislation to require noise reduction devices on existing aircraft is consistent with a broad public interest. The noise pollution standards which are imposed appear to be appropriate and the airlines are willing to meet these standards even on their existing aircraft which will require essential retrofitting with noise abatement equipment or materials.

The allocation of a 2-percent reduction in the airline ticket tax—to the aircraft companies for the purpose of aircraft noise abatement is an equitable and practical means of giving effect to the goals set by this legislation.

I commend the committee on bringing to the House this fair and equitable legislation. I am pleased to support the bill.

Mr. RISENHOOVER. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Oklahoma.

Mr. RISENHOOVER. Mr. Chairman, I commend the Committee on Ways and Means and the Committee on Public Works and Transportation for this good legislation which will save fuel as well as cut down on noise.

Mr. Chairman, the legislation now before us, H.R. 8729, was designed primarily to reduce jet noise at the nation's airports. But it is also crucially important that enactment of this noise reduction legislation will help save millions of gallons of precious petroleum based jet fuel.

The airlines deserve good marks for fuel conservation with existing fleets. They have been flying more people and using less fuel doing it. The airlines used 400 million fewer gallons of fuel last year than in 1973, when the fuel crunch began. And they carried 38 million more passengers last year than 4 years earlier and also more cargo. That is a fuel conservation record few other industries can match.

But will it be possible to keep up this good record? The answer is "yes" because the new technology airplanes are big fuel savers. At the same time they quiet their noise, they also quench their thirst.

The airplane and engine manufacturers and the airlines say that these new aircraft will be 25 percent more fuel efficient than the older jet airplanes. We need to start saving this fuel as soon as we can.

The biggest savings will come from replacing the DC-8's and the 707's, the older four-engine jets. These airplanes are the most thirsty ones, and they also make the most noise. The amount of fuel you can save by getting rid of them and buying the new jet airplanes is measured in hundreds of millions of gallons a year.

The main purpose of the legislation we are considering today is to encourage the replacement of these older airplanes. It does this by a constructive approach where both the airlines and the people who use the airlines pay the cost. I commend the Public Works and Transportation Committee and the Ways and Means Committee in producing the thoughtful legislation they have brought before us.

I am happy to join in supporting this legislation, because while I want to cut back on aircraft noise, I also want to save fuel, and this legislation will do both.

Mr. HEFTEL. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Hawaii.

Mr. HEFTEL. Mr. Chairman, I rise in very strong support of the legislation

Mr. CONABLE. Mr. Chairman, I rise with modest enthusiasm to support this legislation. My enthusiasm is modest, quite frankly, because I do not like the precedent. I think it is regrettable that we put ourselves in a position where we have to do something of this sort to achieve our noise quality goals, but I have come to the reluctant conclusion that we are not likely to meet our goals with respect to noisy aircraft unless we provide this type of financing.

The chairman has already described the basic provisions of the bill, and I do not want to repeat them in great detail. Suffice to say that very generally, the present 8-percent excise tax on the fares of airline passengers on domestic flights would be reduced, as would the 5-percent freight tax. Other taxes would be similarly modified. In place of these reduced or suspended taxes there would be a 2-percent passenger and freight tax.

Mr. Chairman, domestic air carriers who operate large subsonic jet aircraft which fail to comply with the 1976 FAA noise regulations may obtain refunds or credits for the excise taxes they have paid. They will be entitled to refunds or credits for a certain percentage of the costs they have incurred to bring their noncomplying aircraft into compliance with the FAA noise regulations. This is, I think, the best way to deal with a situation which should, perhaps, have been handled differently at the outset.

Perhaps, for instance, the costly noise standards should be prospective only and should not apply to existing aircraft. That was not the decision of the Congress. At this point this type of financing appears to be a preferable course, given the decisions already made.

Mr. VANIK. Mr. Chairman, will the gentleman yield on that point?

Mr. CONABLE. Yes, I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, one of the problems with the bill, as it was reported out by the Committee on Ways and Means, and which is now locked in by a closed rule, is the fact that the bill was retroactive. Also, it includes a rebate. Now we are going to rebate money to airlines which last year bought aircraft without any regard to the noise question. They went ahead and bought the planes because they wanted to save fuel. Now we are going to take Treasury revenues and pay them back.

How can the gentleman justify that?

Mr. CONABLE. We are going to have the same problem when we face up to the insulation credit. Anybody who had the good sense to insulate right in the first place is not going to get that credit unless we make it retroactive to some degree. It is a difficulty which is inherent in this type of legislation.

Mr. VANIK. If the gentleman will yield further, Mr. Chairman, with respect to the insulation credit, when we talked about it, we said we would put it in effect. However, when some of the airlines spent these tremendous sums of money to buy aircraft last year, they had no idea that this year there would be a big Christmas tree gift out of the Air Safety Trust

Fund, out of which they would get a rebate.

I might point out that Delta Airlines, for example, spent a tremendous amount of money last year in buying airplanes without even thinking or without even believing that this would be a refundable item. Now they are going to get money for a decision they made without any thought of a refund.

Mr. CONABLE. Mr. Chairman, the gentleman is eloquent. He is a great performer in expressing outrage. However, let me say to him, nonetheless, that the effect of his argument is that we should be giving a tough time to those airlines which went ahead and tried to do what they were supposed to do on their own, but that we should give the full benefit to those laggards who have not moved ahead.

Is that the kind of incentive we want to build into our legislative enactments?

The CHAIRMAN. The time of the gentleman has expired.

Mr. CONABLE. I yield myself 7 additional minutes.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Ohio.

Mr. VANIK. I thank the gentleman for yielding.

Let me ask this question. The gentleman makes a very valid point about that. Most of the aircraft we are talking about here—400 or 500 planes—are 18 years old. They were depreciated in 10 years. The airline got all their money back through taxes. Why should not we now go back to 1975 or even 1972? Is there any opportunity under the closed rule to take care of someone else that may have bought a less noisy aircraft sometime before the retroactive date set in this bill?

Mr. CONABLE. I would urge the gentleman to move to reconsider the rule, if that is what he wants.

Mr. VANIK. We cannot do that.

Mr. CONABLE. So why are we talking about it?

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. I thank the gentleman for yielding.

Just to put this in perspective, there is precedent in law advanced by the Committee on Public Works and Transportation having to do with the "clean water" program. We have a reimbursement provision for those States who have accelerated and/or advanced their water quality programs. This is already on the books and apparently is working and satisfies our clean water pollution abatement objectives.

Mr. CONABLE. I thank the gentleman for his contribution.

Through numerous regulatory and administrative actions the Congress and the FAA have imposed noise reduction standards which essentially require various airlines to expand great sums of money to bring their equipment into compliance. The difficulties associated with these provisions were brought to their present level in 1977 when the FAA amended its regulations essentially decreasing the permissible noise standards for new aircraft designs and also prescribing more stringent noise limits than applied under the 1969 regulations. Many airlines need financial relief for these costly noise regulations.

During our committee's consideration of this legislation the Secretary of Transportation testified that aircraft noise is a serious problem at many of the major airports throughout the United States and it is a significant annoyance to millions of people currently residing near these airports.

I have an airport in my district. I wholeheartedly agree, and so do many of the people who live in that vicinity. This was demonstrated to all who watched the U.S. Open Tennis Tournament over the weekend: noisy aircraft were quite obvious to all who attended or watched on television.

This bill represents an attempt both to reduce noise and to finance Government regulation by a tax on users of the service involved.

When this bill was originally before the Ways and Means Committee it contained a troubling concept. The Ways and Means Committee was concerned about the tax policy implications of the original proposal. That is one of the reasons why we had the bill because there were tax policy implications in it. We decided to change it. We have rectified the problem and under the bill the surcharges would be considered gross income, and so are not a gift to the airlines but are subject to taxation.

One way or another, Mr. Chairman, the people who use airlines are going to have to pay for this retrofitting imposed by the regulators and the Congress. They can do it in different ways. We could reduce the tax and then permit them to raise their fares in order to offset it, but the manner in which we have decided to move instead insures that any additional money coming in through such device will have to be used for retrofitting so that it will be applied, not to the higher salaries that the Chairman of the Committee on Rules deplores, but to retrofitting those aircraft. I do not know how else we can be sure additional airline revenue is committed to our national noise standard goals.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Kentucky.

Mr. SNYDER. I thank the gentleman for yielding.

The gentleman said "are not a gift to the airlines." The gentleman has made reference to the 1969 certification date, but any aircraft certified since 1969 already meets the 1985 requirement. Any aircraft that has been built since December 1973, already meets the FAR 36 requirements. The compliance date for FAR 36 is January 1, 1985. They are depreciating the aircraft in 9½ years. It will be 11 years since the last one was built that does not comply when the new regulation goes into effect, so if they have already written off the entire plane for tax purposes, then it strikes me it is not irresponsible to call it a gift for something already written off.

Mr. CONABLE. The gentleman makes a good point. There are a lot of things about this bill that are troubling. The question is, Are we going to move ahead to try to do something to get the aircraft standards met? And that is the issue.

Mr. SCHEUER. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from New York.

Mr. SCHEUER. I thank the gentleman for yielding.

The fact that an air carrier has now depreciated a plane that they bought a decade or more ago has absolutely no relationship to the cost of replacing that plane at today's current prices, which are two to five times as high.

Mr. CONABLE. Of course, the plane may still be eminently usable.

Mr. SCHEUER. Mr. Chairman, if the gentleman will yield further, the plane undoubtedly has many more years of useful life, but from the point of view of the air carrier, it is in effect being confiscated without compensation. This is what its all about.

Mr. CONABLE. Mr. Chairman, let me finish my statement, I say to my dear friends, and then we will have at it again.

Mr. Chairman, during our hearings, the Treasury Department maintained that payments by a customer to a seller which do not give the buyer a claim to more than present or future services are gross income to the seller when received are entered as taxable income after the costs of doing business have been deducted. The committee bill adopts that position.

I think it was a considerable improvement from the tax point of view and that is why I have come to the reluctant conclusion that this bill is more good than bad.

Mr. Chairman, in light of the situation in which we find ourselves, we should adopt this bill. It will go a long way to deal with both the noise-related and the governmentally created problems facing our airline system.

The airline industry is not comparable to the auto industry, and I do not see the parallel or the precedent to apply there, or in the area of industrial safety.

I would like, however, in closing my own remarks to say that I think this is a classic example of what a mistake it is to build up a great big trust fund for such things as airport safety and not to adjust the tax if a surplus is being created. That surplus becomes a wonderful target for wonderful ideas to spend it in some other area. This is one of those conditions.

The CHAIRMAN. The time of the gentleman from New York (Mr. CONABLE) has again expired.

Mr. CONABLE. Mr. Chairman, I yield myself 1 additional minute.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I would say to my distinguished colleague from New York, whom I admire so much, what a wonderful opportunity the gentleman has to take the leadership to cut the tax by 2 percent to help fight inflation and simply let the benefits flow to the consumer.

Mr. CONABLE. The benefits will not flow to the consumer, if it is going to cost roughly this much to retrofit the airlines generally. One way or another it will have to be paid for by the consumer.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Chairman, I want to point out to both the gentlemen from New York that any aircraft that will have its useful life run out before January, 1985, will be eligible for replacement cost under this bill. The testimony was that the useful life is 20 years. If the 20 years useful life expire prior to January 1, 1985, they are still eligible for a 40 percent replacement subsidy.

Mr. CONABLE. That does not mean the airplane is not used or usable for a long time. I point out that our B-52's were made in the 1950's and we are still using them. I regret that, but they are still being used.

Mr. ULLMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Connecticut (Mr. COTTER).

Mr. COTTER Mr. Chairman, I would like to state my opposition to title III of the Airport and Aircraft Noise Reduction Act (H.R. 8729). It sets a dangerous precedent for the utilization of tax revenues. And in a year when the airlines have shown record profits, it is an unnecessary giveaway.

I was 1 of the 11 dissenting voices, when the bill was voted on in the House Ways and Means Committee.

Perhaps some of my colleagues were surprised by my opposition since Pratt & Whitney Aircraft, one of the largest manufacturers of commercial airplanes, is located in my district.

But I am confident that my position on this legislation is in the best interest of all Connecticut taxpayers, including those employed by Pratt & Whitney.

My objection to this bill is based on both philosophical and practical grounds. I share with many others a concern over the precedent it would undoubtedly set. This is the first instance where the Federal Government would levy a tax on consumers to pay for the cost of meeting environmental regulations for private industries.

It is easy to imagine who would be next in line for this approach. The auto manufacturers, for example, might easily argue for a similar application of the highway trust fund to comply with the Clean Air Act. The water companies, attempting to meet clean water regulations, and the steel businesses, trying to control industrial wastes, no doubt would follow suit.

If the Government wants to go the route of collecting taxes to fund the cost of compliance with regulatory standards, then the Government should have a direct role in the allocation of these moneys through a grant and/or loan program. The bill we are discussing, has no such provision. Instead, it gives the airlines free reign in the distribution of $3.3 billion within their industry. And that is a dangerous precedent, indeed.

Moreover, this legislation could actually work against the best interests of the U.S. aircraft industries, which employ so many American men and women. The sudden availability of this gargantuan fund might act as an incentive for U.S. airlines to buy foreign products. I am referring to the French-built A-300 airbuses, which were recently purchased by Eastern, and the Lockheed L-1011's—built with Rolls Royce engines—which were bought by Pan Am.

Already, there are reports that the French made aircraft is competing unfairly with American made products. The Congress has not told the airlines to buy American. But when an industry asks Congress to collect a tax, so it can purchase less noisy aircraft or aircraft engines, it seems to me we should at least assure taxpayers that these funds will be used to buy equipment in free and open competition.

Contrary to the hue and cry we heard from the airline spokesmen in the past, deregulation of that industry has significantly increased air travel and, of course, company profits. It is my belief that a further reduction in ticket prices, through a $3.3 billion tax cut, would continue to stimulate sales as the special fares have done.

The airlines could then rightfully turn to their own coffers to finance the cost of much needed noise control equipment—at no cost to the consumer, the taxpayer or the Government.

Mr. ULLMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. HANNAFORD).

Mr. HANNAFORD. Mr. Chairman, I rise in strong support for this legislation.

I commend the committee and the chairman, the distinguished gentleman from California, Mr. BIZZ JOHNSON, and my distinguished friend from California, Mr. GLENN ANDERSON, for their splendid work. I think it is a fine solution to a difficult problem.

It has been argued that the airlines do not deserve the benefits of any financing program because the airplanes which were condemned would by 1985 be obsolete anyway and would have to be disposed of.

The airplanes will be obsolete alright because the Government has made them so when it decided that they could not be operated in U.S airspace after January 1, 1985. But they would not have been obsolete otherwise. Out of a total fleet of 2,150 large jet aircraft, about 1,600 did not comply with the noise standards at the time the noise rule was issued. Of these 1,600, 950 would still be in service after 1985 in the absence of the noise rule. These are the conclusions of the Federal Aviation Administration in a study made to determine whether condemnation of the noisy airplanes was necessary. If the FAA had found that the airplanes would be obsolete in 1985, it would not have been necessary for the Department of Transportation to issue an order of condemnation effective on that date.

Of that total of 950, 346 are the older four-engine transports. In the absence of the condemnation order these would remain in service in 1985 and thereafter for a number of years.

Mr. ULLMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. VANIK).

The Government concluded, as have the two committees of the House that have studied this matter that it is essential to eliminate these noisy aircraft from the fleet. If we are to act retroactively and destroy this investment in the interest of noise reduction, we must make some provision for the replacement of the aircraft so condemned.

It can also be pointed out that the large four-engine transports are now being disposed of in large numbers. This should not be surprising since the Government has in effect told the airlines that the airplanes must go and the sooner the better.

Mr. Chairman, this is must legislation if we are to meet the requirements of noise abatement law and protect our cities from environmental degradation. I urge a yes vote.

Mr. VANIK. Mr. Chairman, I would like to take this time to ask a few questions of my colleagues.

In the Committee on Ways and Means I have gone through the entire transcript of the testimony, and I do not recall any supporting evidence whatsoever that would justify that we ought to pay 40 percent of the cost of a new aircraft in order to get the noise problem taken care of. As a matter of fact, the CAB said all the industry needed was $950 million. That is less than $1 billion.

I want to point this out to my colleagues: What we are talking about today is not $3 billion. With the increased use of the airlines, the revenues are going up, and we are now talking about giving away $4 billion.

What a struggle we had just a few days ago when we doubled the tax bill and we talked about a revenue loss of $1 billion to do something about capital gains. Now here is $4 billion going to one industry. This ought to be a private bill. It should be returned to its authors under the rules of the House, and it would have been if the closed rule that was adopted a few minutes ago had been defeated.

I would like to ask my colleagues on either side of the aisle who are on the Committee on Ways and Means what

they can recall as to what justification there should be for fixing 40 percent as the right figure to use as the Government's or as the people's contribution—to the industry to retrofit and cut back on the noise.

Mr. MIKVA. Mr. Chairman, will the gentleman yield?

Mr. VANIK. Mr. Chairman, I want to say something else before I yield to my colleague, the gentleman from Illinois. I will yield to him, but I want to say this first: That 400 or 500 of these planes are 18 years old. The airlines have gotten all their money back in 10 years depreciation and they are going to sell these airplanes to airlines in other countries where transportation is more important than noise. They are probably going to sell these used planes for about what they paid for them in the first place.

Now, tell me, what makes it 40 percent? Why not 30 or 70 percent? Or why not buy the airplanes entirely out of the Federal Treasury?

Mr. MIKVA. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from Illinois.

Mr. MIKVA. Mr. Chairman, the gentleman from Ohio (Mr. VANIK) is making a very compelling argument for the passengers as against the airlines, but they are the ones who pay this tax.

Why does the gentleman not talk to us about the people on the ground who are now paying for it? That is what the argument is about. The gentleman has set up a juxtaposition between the airlines and the passengers, and he favors the passengers.

I would agree with the gentleman, but as between the people who are flying and the people on the ground, I favor the people on the ground, and so should the gentleman. What has the gentleman done for them?

Why does the gentleman not recognize that they are the ones who are paying for all our fancy flying, even if we fly coach?

Mr. VANIK. Mr. Chairman, I want to say to my colleagues that with respect to the people who choose to live near airports, I think we ought to take care of them. I think we ought to take care of them anyway.

As we retire these 18-year-old planes, every new replacement plane that is bought today and that has been bought since 1972, as indicated by my distinguished colleague, the gentleman from Kentucky, complies with the pollution standards.

If they are flying those old wrecks into our airports, we had better do something about it because they are a hazard. They are 18 years old, they are dangerous, and they should not be flying near our airports.

Mr. STEIGER. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from Wisconsin.

Mr. STEIGER. Mr. Chairman, I appreciate very much the distinguished gentleman from Ohio's yielding.

First, may I say that I concur in the gentleman's remarks and with the analysis he has made of this bill. I regret exceedingly that the gentleman from Illinois and I missed the vote which was relatively close on the previous question, although it was not quite as close on the rule.

There is one other factor besides that issue that the gentleman from Ohio (Mr. VANIK) raises which concerns me about this bill, and that is the precedent we are setting, because, when we go the route of tacking on this legislation, then clearly we ought to recognize we will have others following, whether they are railroads or potentially automobiles or whoever else may come in and say, "This is our chance to test these governmentally mandated standards."

Mr. Chairman, that is not a good idea, and I commend the gentleman from Ohio (Mr. VANIK) for his statement.

Mr. VANIK. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I did not get an answer to my question, but I would also like to ask my colleagues how they can justify giving an investment credit on the gift. We are going to give United Airlines $600 million. There is no audit, no nothing, just a flow of money from the Treasury, and they are going to get an investment credit of 10 or 11 percent, $60 to $61 million dollars.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. VANIK) has expired.

Mr. VANIK. Mr. Chairman, I will ask for an additional 5 minutes.

Mr. ULLMAN. Mr. Chairman, I can only yield 2 additional minutes to the gentleman.

Mr. VANIK. Mr. Chairman, I have some important questions I would like to raise.

Mr. ULLMAN. Mr. Chairman, the gentleman from Ohio (Mr. VANIK) will have to come back and get time in the second part of the debate.

The CHAIRMAN. The gentleman from Ohio (Mr. VANIK) is recognized for 2 additional minutes.

Mr. VANIK. Mr. Chairman, how can we justify giving an investment credit? We considered a motion in the Committee on Ways and Means, and the committee voted to give the airlines an investment credit. They are going to get a gift, and then on top of that they are going to get a 10-percent credit.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I will be happy to yield to the gentleman from New York.

Mr. CONABLE. The gentleman does acknowledge that this is not a gift, in the legal sense of the word, that they have to include it in income?

Mr. VANIK. Let me address the gentleman's question. I have not read a corporate report in the last 5 years where more than two or three have paid income taxes. They are like the banks. They are exempt.

Mr. CONABLE. If this bill fails, the banks will own all of the airlines?

Mr. VANIK. They now acquire most airline tax writeoffs. They work out their system so that they are tax exempt. Airlines fly substantially tax free. They are the most coddled industry on the American scene, and I think it ought to stop. They are mature, they are strong now, their traffic is up, their profits are up, their stocks have doubled in value. This is not the time to be rescuing this industry. We may need it for someone else down the line.

One other thing. Will my colleagues tell me how much of the $4 billion will go abroad and affect our balance of payments? Under this bill, British Overseas Airlines participates, Swiss Airlines participates, Scandinavian Airlines, even Lot the Polish airlines, and the Russian airlines, all get some of this money. One billion dollars is going to be going abroad. What is that going to do our balance of payments? What kind of things have they done that is comparable to this kind of American taxpayer giveaway?

Mr. CONSTABLE. The gentleman does acknowledge that these airlines have to pay our ticket tax?

Mr. VANIK. The passengers pay the tax.

Mr. CONABLE. And this is coming out of the ticket tax, in effect.

Mr. VANIK. What do they give us for the lines we fly over foreign areas? They do not give us anything. We are giving them almost $1 billion which is going to effect our balance of payments. It is a terrible bill. I hope that section will be stricken.

Mr. CONABLE. Mr. Chairman, I reserve the balance of my time at this point.

Mr. SNYDER. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. Mr. Chairman, no one denies that this is controversial legislation. When we first got involved in noise legislation in the Public Works and Transportation Committee, I was less than supportive. Title I of our bill was totally unacceptable to me at that time, because I felt it mandated Federal land use planning. I did not care for aircraft retrofitting, because I felt then, and I feel now, that retrofit technology is a Band-Aid approach to noise control. And last, I did not care for the funding formula.

But I feel differently today. Because of people like my colleague, GLENN ANDERSON, who listen to all sides and who will work hard to fashion a reasonable compromise, our committee came up with a good bill that deserves your support.

One of my dearest friends calls this the "Bank Relief Act." Other colleagues have sent around "Dear Colleague" letters describing the legislation as a "handout" and a "welfare plan." But nowhere do I see anyone coming up with a constructive—I repeat, "constructive," alternative. What are we to do, shut down the Nation's airlines? Right now, we have about 1,600 jet aircraft which apparently fail to meet Federal noise standards.

I happen to think that both the manufacturers and the airlines have been trying to do something about noise control long before the Government stepped in and established arbitrary noise standards. The introduction of the big fan engines 8 or 9 years ago has utilized technology for noise suppression. The modern jet engine such as the JT9D is much quieter than earlier jet engines, and new engine technology continues in this direction. In addition, flight operating procedures undertaken by some airlines, notably Northwest and Delta, have significantly reduced noise.

But now the airlines are faced with an arbitrary noise standard. They have got to comply unless we direct the Secretary of Transportation to change the 1981–85 conformity dates, and I doubt seriously if this will be done.

As far as the argument that the airlines are making plenty of money and can pay for the Government standard is concerned, I say nonsense. Profits are up right now, but that means nothing in the airline business. See what another round of OPEC oil increases will do, or heaven forbid, the current CAB deregulation process falls apart. Where does this leave the airlines?

And where is the equity here? The aircraft we are talking about were certified by the Government to meet all Federal requirements when they were built. Now, ex post facto, we tell them, "Lookit, we've got this noise standard, and it's retroactive, so cough up the dough and get in compliance." As far as I am concerned this is a denial of due process.

I would not list the benefits of this legislation—I did this in a Dear Colleague like a lot of people in this Chamber. I just want us to ask ourselves, are we being fair and equitable by imposing a $8 billion noise scheme on the airlines without trying to assist them in achieving a mechanism to pay for it?

Mr. Chairman, there are basically three ways that we can address ourselves to the noise problem.

First, we can take care of land and land use in and around airports.

Second of all, we can address ourselves to the operating procedures of the airlines.

Third, we can address ourselves to the source of the noise, the airplanes themselves.

We are in this legislation addressing ourselves to two factors which are controllable—land use and the source.

Many of us had problems with the land use section of the bill when we orginally began consideration. But I would point out that, after a great deal of deliberation and discussion, the provisions in the bill on land use became voluntary and not mandatory. And there is seed money to be authorized and utilized by local governments in doing the proper kind of planning that is needed for compatible land use around airports.

I think most of us find this section of the bill acceptable, and it certainly does address itself to one ingredient in controlling noise; that is, the proper use of land in and around airports.

In addition, the bill, through title III, does address itself to the source, the airplanes themselves.

Obviously, this is the most controversial aspect of the bill, and it was after great deliberation and discussion that we finally came up with the wording in the title diverting a portion of the user tax toward the noise problem.

This bill has been criticized because it appears to be a departure from the norm. Perhaps it does set a precedent. But I would suggest, we should have thought about this when we were passing the Clean Air Act, clean water and other types of environmental bills, when we authorized agencies of the Government to establish and promulgate very strict rules.

Currently now we have some 1,600 aircraft which fail to meet the noise standards and there are, in fact, over 6 million people and some 900,000 acres of land which are impacted by noise. The President's Council on Wage and Price Stability estimated that it is costing taxpayers right now some $4 billion per year, and in fact many of our major hub cities around the Nation are faced with billions of dollars in lawsuits. Here in Congress we have had numerous letters in our offices and complaints, one after another; in fact, I have listened to numerous complaints from Members of Congress about what we should be doing to clean up our aircraft and make aviation compatible with the new environmental ethic.

I suggest that we do have a solution, and it is before us today. I would also suggest that manufacturers have been trying to do something about this noise long before the Government ever decided to get into it. But, in order to do something to meet this so-called arbitrary noise standard, the aviation community is going to have to attract major amounts of capital to meet the accelerated time frame imposed by the 1981–85 noise standards.

In order to pay for these new aircraft, re-engine, or retrofit, the airline industry is going to have to attract capital. In order to attract capital, they are going to have to have profits, but I would point out to the Members that the 10-year average corporate rate of return for the airline industry is only about 5.8 percent, even when income from all sources is included. This is far below the 12-percent standard for airline operations established by the CAB. If we look at the performance of the airline industry over the past 5 years, from 1973 to 1977, in comparison to all U.S industry, we find a far from adequate performance. The air transport industry rate of equity was only about 8 percent, compared to 13 percent for industry as a whole.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. SNYDER. Mr. Chairman, on behalf of the gentleman from Pennsylvania (Mr. SHUSTER) I yield 1 additional minute to the gentleman from California.

Mr. GOLDWATER. The return on capital was only 4.3 percent, compared to 9.7 percent for industry as a whole, and the profit margin was only 2 percent compared to 4 percent for U.S. industry as a whole.

I suggest that we do ourselves all a benefit by voting for this legislation so that aviation and the airline business can be a good neighbor and an asset to communities throughout the Nation.

Mr. ANDERSON of California. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. MINETA).

Mr. MINETA. Mr. Chairman, I rise in support of the Airport and Aircraft Noise Reduction Act and urge that my colleagues give thoughtful attention to the need for this legislation and urge that they vote to support it.

It has been 10 years since Congress first addressed the problem of aviation noise by passing legislation granting noise abatement authority to the Federal Aviation Administration. During that 10-year period, we have witnessed a considerable magnification of aviation noise—not a reduction. Through this legislation we are acknowledging the crippling effect which aviation noise has had on the continued development of the commercial aviation network. This legislation is a recognition that aviation noise has limited construction and expansion of airports, severely affected the aviation system of this Nation, and has seriously reduced the quality of life of millions of Americans.

The Federal Aviation Administration developed noise standards for airplanes which will reduce source noise. In December 1976 FAA issued the fleet-noise rule stating that by 1985 all U.S. registered civil jet aircraft that do not meet the federally mandated standards must be retired from the fleet or modified to meet those levels.

The legislation before us today will finally allow Congress to make good on a 10-year-old promise of relief from aviation noise—we will enable a reduction of noise at its source and provide considerable and meaningful relief to the millions of Americans who must suffer day in and day out from the effects of this noise pollution on the ground.

Although most of the attention to this bill has focused on title III, the user-tax assistance provided to the airlines, I would hope that my colleagues do not lose sight of the very considerable benefits which it will provide to assist airports and surrounding communities to reduce existing noncompatible land uses and prevent future noncompatible land uses around airports. Although the 1976 amendment to the Airport and Airway Development Act authorized aid to airport sponsors to purchase land to create noise buffer zones, to purchase noise suppressing equipment, construction of physical barriers and landscaping to reduce the effect of aircraft noise, the Department has been too slow in implementing the project eligibility changes. Through this legislation we are finally providing meaningful assistance to airports and surrounding communities to make our airports better neighbors, and thus to guarantee to continuing and proper development of our aviation system.

I urge that my colleagues recognize the necessity and importance of this legislation and vote for its passage.

The CHAIRMAN. The Chair recognizes the gentleman from Kentucky (Mr. SNYDER).

Mr. SNYDER. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, being here in a virtually empty Chamber with my colleagues on the committee, I sort of feel like an illegitimate child at a family reunion, but I have got to make my pitch and I ask Members to bear with me.

As the Members know, I oppose the bill.

Mr. Chairman, I do not propose to speak at any great length on this legislation—but I do think that those of us who question its merits have an obligation to explain our position. Two of our major standing House committees have considered these proposals—the Public Works and Transportation Committee and the Ways and Means Committee—and if I may coin a phrase, neither committee "got it right." This is bad legislation. It is a ripoff. It ought to be defeated.

Mr. Chairman, I do not claim to have all the answers—and I certainly respect the views of those of my colleagues with whom I differ—but I think I am able to distinguish between legislative proposals of undoubted merit and those which are contrary to the public interest. I place the bills which are before us in the latter category, and I ask the indulgence of my colleagues for a few moments while I explain.

My objections to these bills are several in number. In large measure, they go to the very philosophical basis of the legislation: How should we—at the Federal level—approach the question of aircraft noise?

As the hearing record—and my remarks during our full committee markup of H.R. 8729—will confirm, I have opposed the approach embodied in this legislation from its inception early in 1977. The version then proposed—H.R. 4539—contained some extremely controversial provisions—notably in the title I portion relating to land-use planning, and also in title III under which air carriers would receive financial assistance by means of a surcharge levied on passengers for retrofitting, reengining, or replacing those of aircraft which do not meet FAR part 36 noise standards—including those which will be taken out of service prior to the mandated compliance date in the normal course of events whether or not this legislation is enacted.

As reported by the full Public Works and Transportation Committee, I do acknowledge that H.R. 8729 has been improved in some important respects—especially the title I land use provisions and recognition in title III that depreciation of existing aircraft should be a factor in determining air carrier entitlements for utilizing surcharge proceeds for replacement. The subsequent rewrite of title III by the Ways and Means Committee in H.R. 11986 meets my objection to the tax treatment aspect of our version, but the tax credit scheme it authorizes remains an unjustified benefit for a single industry which could easily become a precedent for other industries confronted with costs arising from the imposition of Federal environmental requirements. More on this later.

TITLE I—LAND-USE PROVISIONS

In regard to title I of H.R. 8729, inasmuch as participation by airport operators (submission of noise maps and noise campatibility programs) now is entirely voluntary, the provisions therein are less objectionable than in earlier versions of this legislation when participation was mandatory for most airports of any size. Still, I question the need to address any aspect of land-use planning in this legislation. This is, after all, a power intended under our system to be exercised at the local level—geared to local perceptions of highest and best use. I also object to the use of $400 million from the airport and airway trust fund—as authorized in title I—to provide grant assistance to airport operators and local communities in implementing noise compatibility programs—including land acquisition.

It has been suggested that a program such as that proposed in title I is necessary as a means of fending off damage suits against airport operators. The truth is I believe these maps will encourage litigation on this point, I prefer another approach—such as that suggested in the substitute bill which I offered during our full committee markup: Prohibit such suits if the owner or lessor or real property where injury is alleged to have occurred acquired interest in said property after the airport came into existence. I am pleased that our committee agreed to go part way in this direction by adopting an amendment offered by the gentleman from Georgia (Mr. LEVITAS) which prohibits the recovery of damages from airport operators unless airport noise increases significantly after acquisition of the property where injury is alleged to have occurred.

TITLE III—AIR CARRIER FINANCING PROVISIONS

Title III gives me the most serious problems—both the version in our bill, H.R. 8729 and the ways and means version, H.R. 11986, which is proposed to be substituted for our title III. I have three major areas of disagreement—applying to both versions—as follows:

First. One of the arguments in favor of this legislation is that the Federal Government is imposing certain costly requirements on the air transportation industry—which most of the carriers are not in a financial condition to meet. But this argument cannot be made in favor of the approximately 27 percent of the fleet which is owned by banks and financial institutions and on lease to the carriers. As H.R. 8729 and H.R. 11986 are drafted, the carriers (as operators) presumably will act as agents for the owners of the noncomplying aircraft they have under lease. The carriers will retrofit, reengine, or replace the noncomplying aircraft they lease in accordance with the wishes of the owners—although it is unclear in both versions of title III whether a lease aircraft can be replaced under the program unless the carrier becomes at least a part owner of the new replacement aircraft.

It is evident that this aspect of the program was not adequately considered by either committee—but it is abundantly clear that the retrofit and reengine options surely will accrue to the benefit of the owners because they thereby will have taxpayer assistance in bringing their noncomplying aircraft to an airworthy condition—which then will make such aircraft a marketable commodity when sold. I do not believe that banks and other financial institutions should be the beneficiaries of such assistance. Why should our taxpayers participate in enhancing the value of their aircraft? Perhaps we should call this legislation the bank and finance company relief act of 1978.

Second. FAR part 36 is to be complied with by January 1, 1985. There is no sane justification for giving the owners or operators of aircraft direct financial assistance or tax credits for replacing their equipment which will be totally depreciated and/or out of use prior to January 1, 1985. But this bill will do that.

Third. In regard to replacement, the percentage of life left in the old aircraft on January 1, 1985, if any, should be the percentage of the cost of a new replacement aircraft on which the 40-percent subsidy (or tax credit) is computed. We should bear in mind that only three new domestic aircraft types have been certificated since 1969 (747, L-1011, DC-10—all of which meet FAR part 36) and that all air carrier aircraft of all types manufactured since January 1974 comply with FAR part 36 noise standards. So, we are talking only about aircraft manufactured before January 1974—and type certificated before 1969.

Many were manufactured well before 1974—back through the sixties and late fifties. With a 20-year average useful life for most air carrier aircraft and less—9½ years—for tax depreciation purposes, one can see that the portion of the fleet which is not in compliance is fast approaching both the end of its useful life, and fully depreciated status and all will be fully depreciated by 1985. More than 150 of the 600 noisy 707's and DC-8's which were in service in 1974 have been disposed of by the carriers, some 25 percent. How can we justify including the remainder in this program—and especially those which will have been in service for 20 or more years on January 1, 1985? It is this group of aircraft which is the primary focus of this legislation—and new aircraft acquisitions already underway will accelerate the replacement trend which commenced in 1974—without the program envisioned in this legislation.

Mr. Chairman, the substitute bill I offered in full committee markup provided that aircraft acquired before January 1, 1974, could be operated for the remainder of their useful lives—thereby, in effect, repealing the January 24, 1977, FAA regulation which requires two- and three-engine aircraft to be in compliance with FAR part 36 noise standards by January 1, 1983, and four-engine aircraft by January 1, 1985. Frankly, I see no

valid reason for the imposition of ex post facto requirements of this kind on the airline industry. Even EPA did not follow this procedure in the case of the automobile. We can only imagine the uproar which would have erupted throughout this land had they done so.

But even assuming the regulation remains in effect, the question immediately arises: Why should we treat air carriers any differently from firms in other industries when it comes to the matter of meeting the costs of complying with Federal environmental requirements? The airlines and their lessors will pick up over $3 billion from this title.

Other industries comply by increasing prices. They do not have access to a gimmicky Federal financing program. In the case of most regulated industries, such costs are included in their rate bases and recouped through rate adjustments. There is no reason why the same process should not occur with the air transportation industry—and I am sure it would in the normal course of events if this legislation is not enacted. We also should take note of the fact that the carriers are enjoying record business this year—and their profits are soaring. I have figures here on first half earnings of the trunk and local service carriers. For the trunks, first half profits almost tripled over last year: $405 million for this year against $137 million for last year. Second quarter earnings almost doubled over last year: $351 million against $180 million. Profit figures for individual trunk carriers are as follows:

[In millions of dollars]

Carrier:	2nd Quarter 1978	2nd Quarter 1978	6 Months 1978
American	$43.9		$36.9
Braniff	11.2		20.0
Continental	9.2		13.2
Delta	43.1		70.5
Eastern	24.2		43.7
National	6.3		12.8
Northwest	20.5		37.1
Pan American	46.2		22.1
TWA	48.2		9.5
United	91.6		105.3
Western	5.9		33.2

As for the eight small local service carriers, Mr. Chairman, they showed a combined profit of $54.3 million for the month of June alone.

And, Mr. Chairman, aircraft sales are booming. The recent $1.6 billion purchase of Boeing aircraft by United Airlines is just one of several major acquisitions either already announced or in the offing. Do the carriers really need the assistance provided in this legislation—or have they merely succeeded in persuading some that they are paupers? I, for one, am convinced that the industry can handle this job through normal channels, without taxpayer participation and without diversion of airport and airway trust fund moneys, without this kind of Federal intervention.

Mr. Chairman, I know that many members of the Ways and Means Committee—the committee which has jurisdiction over the trust fund—as well as many others in and out of Congress deplore this title III program because it does divert funds intended to be used for aviation safety and related purposes. This was the reason the trust fund was established in the first place. This was the basis for the taxes which were imposed—the justification conveyed to the public for these levies—notably the 8-percent airline ticket tax and the 7-cent-per-gallon general aviation fuel tax. I can only say that I fully share these concerns. While safety needs remain unmet, it strikes me that any diversion of trust fund moneys is highly inappropriate and grossly irresponsible. Passage of this legislation would place this House and its Members squarely on record as supporting this unsound, unwise public policy. In the name of reason, how could we justify such action to those we represent? The cook may roast and disinfect it as much as she will, but the scent of the skunk will cling to it still.

Mr. ANDERSON of California. Mr. Chairman, I yield five minutes to the gentleman from New York (Mr. SCHEUER).

Mr. SCHEUER. Mr. Chairman, I would like to address myself to some of the remarks made by the gentleman who just preceded me in the well.

He talked about two major questions. First: Is it not unfair to give the benefits provided by the bill to aircraft carriers that have fully depreciated airplanes, and where the useful life of the plane is only about a decade, has already been reached. The fact is that the depreciation account of an aircraft based on its original purchase price, pre-1969, would be painfully irrelevant to any air carrier treasurer today who is looking at what the replacement cost of that plane would be, certainly three to five times the original cost of that plane, more than a decade and a half ago. So that the depreciation amount, in reality, would not begin to pay for the cost of replacing that plane.

Second of all, I think that half or more of the planes that will be banned retroactively from the air will not have anywhere nearly finished their useful life. Many Members of this Congress who were World War II pilots as many of us were, can remember during the thirties we were flying DC-3's over the Hump in the China-Burma-India theater.

Now, 40 years later, DC-3's are being used economically all over the world, proving that an aircraft has a virtually indefinite useful life if it is properly maintained, and if it remains economical to operate.

Mr. ANDERSON of California. Mr. Chairman, will the gentleman yield?

Mr. SCHEUER. I yield gladly to the gentleman from California.

Mr. ANDERSON of California. Mr. Chairman, I want to compliment the gentleman from New York (Mr. SCHEUER) on his point, and I want to read the following from the Public Works Committee report:

The FAA estimates that nearly all of these noncomplying aircraft would remain in the fleet throughout the 1970s and nearly 950 of the present 1,600 noncomplying aircraft would still be in service by 1990 in the absence of the noise rule.

That is, about 60 percent of the noncomplying aircraft will still be used by the airlines by 1990 unless we pass the bill we are talking about tonight.

Mr. SCHEUER. Mr. Chairman, I appreciate the correction.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. SCHEUER. I yield to the gentleman from New York.

Mr. WOLFF. Mr. Chairman, there was talk about this creating a precedent.

Was not the precedent for this type of situation created at the time of passage of the bill providing better air travel security.

Mr. SCHEUER. That is absolutely right. If the airlines had had to undertake that expenditure, it would have produced no useful product or service which would have developed additional income for the airlines. It produced no product or services which they could sell or merchandise at all.

This investment does not, in fact, produce more attractive or desirable airline travel at all. It will produce more attractive living around airports—that is very important—but that is all.

The gentleman from New York (Mr. WOLFF) and I live within a stone's throw of Kennedy Airport, and he will vouch for the fact that those people have been literally driven out of their minds by aircraft noise.

Some reference has been made to people who chose to live next to airports. Yes, but they did not choose in 1978 to live next to Kennedy Airport and listen to the absolutely mind-boggling noise of a Concorde or even the almost as mind-boggling noise of the DC-8's and 707's. Many of these folks moved next to Kennedy Airport or LaGuardia Airport or any of our great airports 10, 15, or 20 years ago, before the age of jet travel, when the sound of subsonics was infinitesimal compared to the agonizing noise pollution caused by these aircraft today.

Mr. Chairman, Mr. LEO J. RYAN, a member of the Committee on Government Operations and the chairman of its Subcommittee on Environment held hearings in New York City on airport noise in a school near Kennedy Airport, and 50 percent of the time we could not hear a word that was said because of the aircraft noise.

Aircraft noise prevents children from learning in school. It prevents children from talking to their parents at the dinner table. It actually inhibits normal relationships between husband and wife. People cannot think. The dishes rattle on the table. The pictures rattle on the wall, and life becomes a veritable nightmare.

Mr. Chairman, one last statement the gentleman made was that we are setting a terrible precedent. We are not setting a precedent for anything. This is a unique situation. We are retroactively requiring an industry which has already paid for its certificated aircraft to make substantial additional expenditures in nonrevenue producing

services. They do not have access to assured rate structure increases as do utilities. And the automobile industry is irrelevant because we only govern production in futuro and where the consumer has the future right to buy or not to buy a product with safety and pollution protective devices made mandatory. There is no logical comparison whatever with the current situation of the airlines.

Mr. HARSHA. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. DORNAN).

Mr DORNAN Mr. Chairman, I rise in support of the bill.

Mr. HARSHA. Mr. Chairman, I yield 3 minutes to the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. Mr. Chairman, I want to thank my colleague for yielding 3 minutes.

My colleagues, I have an amendment which I expect to offer to title II, which will increase the amount of money available for general aviation development by $25 million in 1979 and 1980.

What I am trying to do is to allocate each State, regardless of its size, $500,000 in 1979 and $500,000 in 1980 in order to take care of some of the problems which exist in this field; and believe me, they are very serious.

When I talked to the committee about my amendment, the committee opposed it, I was told that under this bill they are increasing the level of spending from $80 million in 1979 to $115 million, and that in 1980 they are increasing it from an $85 million level of spending to $127,000,000 a $43 million increase. The fact is that they are really increasing the amounts available to the States by $3 million because the $35 million that they have added is to be used by the Secretary at his discretion. The $43 million in 1980 is at the discretion of the Secretary. When the administration is opposed to all increases, you can bet your bottom dollar nothing is going to be given to general aviation for the development of our public airports.

Mr. Chairman, in general debate I will go into this a little further, and I am hopeful that I can have the Members' attention and that I can get their support to try to get all of the States $500,000 each year to help the local areas develop their local airports.

Mr. ANDERSON of California. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. WOLFF).

Mr. WOLFF. Mr. Chairman, I rise to speak in support of this legislation which I believe has a very real promise of allowing our Nation to achieve its aircraft noise reduction goals. This legislation takes into account the legitimate interests of consumers, and the inhabitants of areas which surround airports and are significantly affected by aircraft noise.

Many of my constituents are continually affected by aircraft noise resulting from the operations of Kennedy and LaGuardia Airports, which are among the busiest in the world. They have for many years been the victims of levels of noise which are both unnerving and unhealthy. It is for this reason that I was one of the first Members of Congress to introduce legislation many years ago which would have provided a mechanism for enabling the airline operators to finance the upgrading of their fleets in order that they may meet the stricter aircraft noise standards which the public welfare demanded.

I am pleased to see that the House is now about to act to implement legislation along the lines which I suggested. We have all been to airports many times over the years. I imagine that many of my colleagues have been engaged in a conversation while at the airport and have been interrupted by the take-off of a jet. It presents a momentary annoyance. But can you imagine how great the annnoyance is when it is not for a moment as the people who live under the airport landing and take-off pattern, but for the forseeable future? No individuals should be asked to endure that discomfort indefinitely. I believe that the legislation which we are considering today will provide the residents of areas which are impacted by aircraft noise with the very real hope that the time for significant relief has finally been set, and the mechanism for achieving that relief in a practical fashion has been established. There is still work to be done. But the goal is at last within sight. The objective is at last within reach.

I would like, however, to make some observations and legislative history with respect to title I of this legislation which deals with the establishment of noise monitoring procedures. On first reading it appears that section 102(1) is ambiguous in its authorization of the Secretary of Transportation to establish by regulation a noise monitoring system "at airports and the areas surrounding such airports."

It would seem possible for the Secretary to meet this statutory requirement but in a very restrictive fashion which would not place the monitoring system in all the communities which are significantly impacted by aircraft noise. I believe that the monitoring system should be placed in all such communities if this legislation is to allow for the establishment of a monitoring system which will provide an accurate picture of the aircraft noise conditions with which people must contend. What I seek now to elicit from the gentleman from California, manager of the bill, is whether this legislation is in fact intended to provide for a comprehensive monitoring system which will include all communities which are significantly impacted by aircraft noise, regardless of these communities' geographical distance from the airports covered by this legislation?

Mr. ANDERSON of California. The answer, I believe, would be yes, and I appreciate the concern of the gentleman from New York concerning noise monitoring. I would assure the gentleman that after 27 days of hearings on the topic that I believe the purpose of this bill, to bring much needed relief to millions of Americans bombarded by unwanted aircraft noise, will be accomplished by passage of the bill in its present form. The bill provides incentives to airport operators to act as the spur toward better local land-use planning and development. Before airport proprietors are eligible for the new noise planning and program implementation grants, they must—they must—consult with all units of Government and planning agencies within the noise impact zone. Further, communities impacted by noise will be eligible for the first time for grant assistance to carry out programs approved by the Secretary of Transportation under this bill.

Mr. WOLFF. The important element here that I am concerned about is that the noise-monitoring equipment is not placed just adjoining the airports but in the areas that are impacted significantly by the aircraft noise.

Mr. ANDERSON of California. We do not direct them to do this. Again, noise monitoring would be something under the direction of the FAA, but I might point out that this noise-monitoring equipment will be an eligible grant item under this bill. In other words. this decision will be made by the FAA together with the local airport operator and the local jurisdictions.

Mr. WOLFF. Will the community be consulted? That is important.

Mr. ANDERSON of California. Yes. The local airport operator has to consult with all of the communities and all of the planning agencies within the noise-impact zone, and that zone could extend several miles in each direction from the airport.

Mr. WOLFF. More than that. because, after all, in the landing pattern of an airport, a much wider area is impacted.

Finally, I would also like to bring to the attention of my colleagues section 106 of this legislation which has the potential for limiting the effectiveness of this legislation by limiting the use which can be made in law suits of the noise impact maps developed under this legislation. These maps could provide a useful resource in the court's deliberations with respect to suits involving issues of aircraft noise. These legislative restrictions on the use of noise maps should be reviewed in the future. Section 107 which limits damage suits relating to land acquired after the enactment of this act also may be overly strict in its approach and should be reconsidered, if property is damaged and people suffer loss as the result of aircraft noise, then some degree of relief should be available to compensate in some part for the loss. Section 107 indicates that the time of acquisition of the property interest is determinative. I believe that the Committee on Public Works and Transportation should develop a more flexible standard in the future.

In conclusion, Mr. Chairman. I believe that the financing provisions of this legislation will allow our Nation to take significant steps forward in meeting the problem of aircraft noise. Furthermore, I believe that title I of this legislation should be reviewed in detail during the forthcoming Congress with the goal of improving the protections which this legislation has the potential of offering to individuals who are subjected to aircraft noise.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HARSHA. Mr. Chairman, I yield myself such time as I may consume. I would like to ask the gentleman from California Mr. ANDERSON, and Mr. ULLMAN a question concerning the Ways and Means portion of the bill. Some argument has referred to this bill as a Banker's Relief Act in that some of the aircraft to be retrofitted or replaced are leased to air carriers by banks and other institutional lenders. I know this bill in no way provides funds to bankers and that argument to the contrary is spurious, but could you set the record straight?

Mr. ANDERSON of California. Mr. Chairman, I would be glad to clear the air on this questiion. You are quite correct that the reference to a "Banker's Relief Act" is spurious and totally without basis in fact. Indeed, if anything, this bill can be said to discriminate against aircraft owned by financial institutions.

The benefits under the bill flow to aircraft operators only. No financial institution is an aircraft operator. At no point would the lessor-financial institutions be involved in receiving, using, or disbursing funds or tax subsidies provided airline operators.

Nor will banks as lessors be likely to receive any indirect benefits under the bill. Because the benefits flow to the operators—airlines, this bill will reduce the market value of leased aircraft since the lessee airline will return a noncomplying aircraft to the bank at lease expiry. By turning back the obsolete aircraft the airline can then use a tax credit of up to 40 percent of the cost of a replacement aircraft. The bank is left with an obsolete aircraft. Is that your understanding, Chairman ULLMAN?

Mr. ULLMAN. Mr. Chairman, yes, the gentleman from California is correct in stating that lessor-financial institutions may not receive refunds or credits under the bill.

Mr. HARSHA. Mr. Chairman, in addition, some have argued that airlines will be forced to retrofit a plane—and thereby use its credits—before it is turned back to the lessor-bank because the typical lease requires aircraft to be returned in an airworthy condition. I am under the impression that the retroactive noise rules were not incorporated in the airworthiness requirements of an aircraft and therefore an air carrier will be perfectly free to turn over an unretrofitted aircraft to the lessor-bank. Am I correct, Mr. ANDERSON?

Mr. ANDERSON of California. Mr. Chairman, yes, the gentleman from Ohio is right on target. And this is the clear understanding of lessor-banks and lessee-air carriers. We have confirmed this also with FAA.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Chairman, I want to say, to the chairman of the subcommittee and to the ranking minority Member, that is diametrically and directly opposite to testimony we received.

Mr. HARSHA. Mr. Chairman, I would say that testimony pertains to noise legislation far different from what the provisions of the bill contain. The provisions of the bill direct the tax credits can only go to aircraft operators and therefore banks cannot make any undue profit on this operation.

Mr. ANDERSON of California. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. PATTERSON).

Mr. PATTERSON of California. Mr. Chairman, America's scheduled airline system is the safest in the world and this legislation will help keep it that way. If this were not so, you may be certain that the airlines and their pilots would not be supporting the bill. Safety is and must always be the paramount concern of all those interested in our Nation's air transportation system.

Passage of this legislation will leave ample aviation trust fund resources to meet all safety needs. If the legislation is passed in its present form, the surplus in the aviation trust fund will reach $2.7 billion by fiscal year 1985, and there will be more than enough to meet safety requirements.

Travel by scheduled airliner in this country is 10 times as safe as traveling by personal automobile. The airlines in 1978 are producing more than 80 percent of the total intercity revenue passenger miles. In their worldwide operations last year, this Nation's airlines made nearly 5 million flights and 99.99996 percent of these were completed without a fatal accident.

This impressive record reflects the dedication of thousands of men and women of the airlines in the daily operation of the Nation's far-flung air transport network. It also reflects the fact that the introduction of a new airplane into the airline fleet provides the opportunity for incorporating new and improved safety features into that airplane.

The aircraft that this bill will help bring into the fleet will be quieter and more fuel-efficient: They will also be safer. Besides featuring improvements in aircraft and engine performance, they will come equipped with the latest advances in electronic equipment for navigation and communication—advances that were not even available 20 years ago when the aircraft they are replacing first came into the airline fleet.

Mr. Chairman, a vote for this bill is not only a vote for noise reduction; but it is also a vote for conservation of our precious fuel resources and to improve air safety through advanced technology aircraft.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Chairman, I yield back the balance of my time.

Mr. ULLMAN. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. CORMAN).

Mr. CORMAN. Mr. Chairman, I rise in support of H.R. 11986 offered as a substitute to title III of H.R. 8729, the Airport and Aircraft Noise Reduction Act. The substitute, drafted by the Ways and Means Committee, would impose an excise tax on air transportation users to offset the cost of insuring that all aircraft using airports in the United States will comply with Federal noise reduction standards by 1985.

I believe the most important aspect of this legislation is the fact that only those who make use of the airlines, passengers and shippers, will bear the cost of quieter planes. According to a 1977 Gallup poll, 37 percent of adults in this country have never flown on a commercial airline. Only 25 percent of adult Americans had flown in the last year, over half of whom have annual incomes of $25,000 or more. Mr. Chairman, I think it is only fair that airline users should finance the expenditures necessary to reduce the dangerous noise levels suffered by persons residing near our nation's airports. This is definitely not an expense that should be borne by the general taxpayer, many of whom seldom or never fly.

In addition, I think it is important to note this is not a new tax on airline passengers. It is really a diversion of one quarter of the present 8 percent ticket tax from the Airport and Airway Trust Fund. Airlines could receive refunds or credits from the Treasury for the amount of tax they collect and use the funds for retrofitting or replacement of engines or aircraft to comply with noise reduction standards. Approval of expenditures by the Department of Transportation will insure such funds are used for noise abatement only.

Another very important effect of this legislation is that noise standards could be met without endangering the competitive posture of any airline. Pending legislation to reduce airline regulation will create a more competitive industry. This should provide decided advantages for the consumer in the form of lower fares and increased services, but it would be unfortunate if an airline's ability to compete were jeopardized by the need for heavier noise compliance expenses than those of its competitors.

Mr. Chairman, the airlines are now faced with expenses mandated by the Federal Government. Most people agree that without Federal assistance, it is possible that noise standards will not be met by 1985. The system of excise taxes and credits found in this legislation is fair in that only the airline consumer bears the cost; there is protection for the consumer in that funds must be used for noise abatement; and there are benefits for the consumer in that no air-

line will be disadvantaged competitively for complying with environmental standards. I strongly urge support for the Ways and Means substitute to title III.

Mr. MIKVA. Mr. Chairman, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from Illinois.

Mr. MIKVA. Mr. Chairman, I rise in support of the bill.

Mr. Chairman, I think that, as I suggested earlier, there is a belief that there is somehow a fight between the airline passengers and the airlines, and as between them I would well come down on the side of the airline passengers. But in the meantime there are millions of people whose health is being affected by the noise problem that has not been solved or even helped in any of the years since we established those standards. This bill is the first attempt to do so.

Mr. Chairman, I think it is a reasonable attempt to solve the problem, and I support the bill.

Mr. ULLMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri (Mr. GEPHARDT).

Mr. GEPHARDT. Mr. Chairman, I would like for just a moment to have the Members, if they will, pay attention to exactly how this bill works and why, as I stated previously in the debate on the rule, I think it is a bad bill.

We should understand that what we are doing here is taking the 2-cent tax that each airline collects and then putting it into an account that the airlines can draw upon to pay for retrofit and replacement and the purchase of new aircraft.

The problem with that is that if we are collecting a tax, I think the Government should spend the tax money. If we did that, we would spend the tax money on the airlines that really need to replace aircraft. But that is not going to happen in this case because each airline is going to have an account that is going to reflect what they have collected from the tickets they have sold.

For instance, TWA is going to collect $258 million, but they are going to be entitled under the formula in the bill to spend $712 million. So TWA is not going to take care of its noise problems.

But Northwest Airlines is going to collect $127 million, and they are entitled to $142 million, so they are about going to take care of their problems.

Hawaiian Airlines is going to collect $8 million, but it only needs $1 million to take care of its problem, so the $7 million it is going to collect is going to go back to the safety fund.

My point is this: The formula we have, which was worked out between the airlines and not by the Government, is a formula that will not take care of the noise problem, and the reason it will not is because we have given up the power in this bill to spend the money to take care of the noise problem.

Mr. Chairman, if the Members are interested in taking care of the noise problem, as I am, they should defeat this bill and let us work out a mechanism whereby we can take care of the noise problem.

Mr. ULLMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. ROSTENKOWSKI).

● Mr. ROSTENKOWSKI. Mr. Chairman, I rise in support of the provisions of H.R. 11986 to be offered as an amendment to title III of H.R. 8729.

The Ways and Means Committee amendment would provide a tax reduction for a 5-year period of the air passenger and air freight taxes by 2 percentage points, and would impose excise taxes of an equivalent amount on the air carriers. The air carriers would be allowed a credit or refund of the tax for a percentage of the costs of retrofitting, reengining or replacing aircraft to meet the FAA noise standards.

This tax mechanism will assist the airlines in the financing of their compliance with the FAA noise standards in a timely and orderly manner. This financing mechanism is essential if the governmentally mandated noise standards are to be achieved by the airlines, thus benefiting the public interest.

The Ways and Means Committee provision also amends the Airport and Airway Trust Fund language to permit expenditures from the trust fund for noise compatibility programs as included in the Public Works Committee titles of H.R. 8729.

Mr. Chairman, I urge adoption of the Ways and Means Committee amendment to title III of H.R. 8729.●

Mr. ULLMAN. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. FLYNT).

Mr. FLYNT. Mr. Chairman, I rise in strong support of H.R. 8729, the Airport and Aircraft Noise Reduction Act, because it sets forth a much-needed affirmative national program to reduce the impact of aircraft noise which is currently plaguing nearly 7 million Americans who live in close proximity to major U.S. airports. As the representative of a district which completely surrounds the Hartsfield International Airport in Atlanta, Ga., I have witnessed firsthand the damage to both property and persons resulting from aircraft noise. An environmental assessment study recently completed by the Environmental Protection Agency—region IV—in communities adjacent to the Hartsfield International Airport revealed that thousands of my constituents experience daily noise levels far in excess of the maximum tolerable level for humans. In the opinion of EPA region IV, a clear potential danger to the physical well-being of the persons living near the Atlanta airport can be established.

Fortunately, we have been successful in our efforts to secure some ADAP discretionary funds to acquire property and provide relocation assistance to residents of one of our airport communities, Mountain View, where the noise impact is so severe that retention of this area as a residential community would pose a serious health threat to the affected residents. Other communities near the Atlanta airport need this same kind of program, but our failure to obtain Federal funds or commitments from the FAA has prevented us from providing any relief for these residents. However, our experience has shown that airport operators do not now have the necessary Federal guidance or funding to effectuate comprehensive land-use compatibility plans and programs to afford meaningful relief to neighboring airport communities. Noise problems at Hartsfield International Airport are not unlike those in existence at other major U.S. airports constructed prior to the advent of jet aircraft. The surrounding communities have experienced a drastic increase in daily noise levels during the past 10 years as airports grew to meet the expansion of air traffic operations. Programs designed to provide relief for affected residents will not be undertaken by local airport operators unless the Congress and the FAA incorporate airport and aircraft noise control into the existing ADAP airport development and safety programs. Unless we act now to create a national program to enable airport operators to reduce and eliminate noncompatible land, future growth of aircraft operations will make land around many major airports virtually uninhabitable. We simply cannot continue to ignore the plight of those 7 million citizens unable to fully enjoy their own property.

In my view, titles I and II of H.R. 8729 will enable airport operators to formulate specific land-use compatibility plans and programs needed to insure that land in airport environs is utilized only in a manner consistent with operations of a high-density airport.

The provisions contained in this legislation to permit airport operators to implement noise abatement programs are in direct response to the findings by the Aviation Subcommittee during their hearings in Atlanta and other U.S. cities. Mr. Chairman, I commend the leadership of the House Aviation Subcommittee and the Public Works and Transportation Committee for recognizing the critical nature of aircraft noise problems and proposing legislation designed to afford relief to citizens residing in airport communities.

While title I of H.R. 8729 provides an affirmative policy and program to assist airport operators in reducing and eliminating noncompatible residential land surrounding airports, our fight to combat the problems associated with aircraft noise would be inadequate unless we reduce noise levels emanating from the source.

The Federal Aviation Administration aircraft noise standards contained in part 36 of the Federal Aviation Regulations imposes on aircraft operators rigorous environmental requirements to insure that aircraft noise levels are reduced to minimize the impact on airport communities.

There has been considerable discussion on the merits of the financing proposed in H.R. 11986 to assist aircraft operators in complying with the Federal

Aviation Regulations part 36. However, it is extremely important that this body recognize that these noise standards were amended in 1976 and that because of this change in Federal Aviation Regulations part 36, the airline industry now faces the prospect of having to retrofit, reengine or replace aircraft which were previously certified by the FAA when Federal Aviation Regulations part 36 was originally implemented in 1963.

We should be very mindful of the fact that this retroactive feature of the Federal noise standard imposes on aircraft operators environmental requirements not presently mandated for any other major U.S. transportation industry. If we enact laws and promulgate regulations to require aircraft operators to meet this standard by 1985, then we must allow air carriers to utilize a portion of the airline ticket user-tax to meet the financial burden of purchasing new equipment to replace nearly 1,600 aircraft now operating which do not comply with Federal Aviation Regulations part 36.

Reliable sources estimate that the cost for aircraft operators to comply with FAR part 36 will be $6 to $8 billion for purchases of or modifications to aircraft. Even if we adopt the Ways and Means Committee bill, H.R. 11986, as a substitute to title III of H.R. 8729 and permit aircraft operators to use 2 percent of the current 8 percent airline ticket user-tax, the airline industry will still have to generate sufficient capital and revenues to make aircraft purchases totaling nearly $4 to $5 billion over the next 5 years to comply with the federal noise standard.

I do not think that the Federal Government should impose environmental standards on private industry and then fail to realize that somebody is going to have to bear the burden of these additional costs. The Ways and Means substitute to title III adjusts the current excise tax rate on airline tickets and freight so that one-third of this cost is shared by the users of the airline service. It is important to remember that the financial assistance provided for in H.R. 11986 will not result in any additional tax liability for the general taxpayer and that the current user-tax will be maintained at the existing 8 percent so that the consumer does not have to face an increased cost in air fares.

Many opponents of H.R. 11986 have argued that this so-called "subsidy" for the airline industry is inappropriate at a time when airlines are recording record profits. However, if one carefully examines the performance of the U.S. air carriers over the past 5 years, it becomes quite clear that recent improvements in air carrier financial performance do not justify denial of Federal assistance provided for in H.R. 11986. Over the past 5 years aircraft operators have experienced substantially lower returns on capital and equity when compared with all U.S. industry. In addition, the 1973–77 profit margins for the airline industry were nearly 2.5 percent below the average for U.S. industry. Therefore, it is very evident from examining key economic indicators that Federal assistance must be provided to insure that the aircraft operators are able to comply with the noise standard imposed by Congress and the FAA.

At a time when the airline industry is faced with an uncertain future due to greater competition in both domestic and international markets, it would be unconscionable for us to jeopardize the financial viability of U.S. air carriers by imposing retroactive Federal environmental standards without enabling them to utilize 2 percent of the existing airline ticket user-tax to finance purchases of quieter aircraft.

By adopting the Ways and Means substitute, we can make certain that our objective of aircraft noise reduction is obtained without unnecessarily damaging the tenuous financial position of our major U.S. air carriers.

Mr. Chairman, I strongly urge my colleagues to support H.R. 8729 and the Ways and Means Committee substitute to title III, H.R. 11986.

Mr. ULLMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey (Mr. HOLLENBECK).

Mr. HOLLENBECK. Mr. Chairman, I rise in strong support of the bill and to try to answer some of the arguments advanced against it by those opposed to it.

First, the allegation has been made that the bill is a raid on the treasury. This is not a treasury raid. The financing proposal permits the airlines to pass through to their customers a portion of cost of replacing the condemned capacity in the same way that all industries do when required to make expenditures for environmental expenditures. So it is clear that the converse is true and it is the treasury which benefits since, in fact, all funds collected by the carriers which exceed their entitlements remain forever in the treasury.

Second, it is claimed that the bill gives the airline industry different treatment from other industries. But is it not true for example that public utilities required to spend money for environmental requirements are monopolies and the public utility commission very promptly adjusts their charges upward in order to cover the expense. The commissions in many cases actually assess an "environmental surcharge." The airlines are not monopolies and yet their rates are regulated.

There could be no assurance that the airlines could adjust their prices to pay the expenses of noise reduction. The bill makes certain that the objectives of this legislation will be achieved on time. Therefore, it allows a passthrough of the cost to the airline user.

It is then alleged that the airlines will pay no interest on Government moneys taken from the fund. In fact, Government moneys are involved. In the interest of noise reduction, the bill provides a measure of assistance to the airlines in replacing condemned planes. If these funds carried a 10-percent interest charge, the airlines could not effectively be helped.

The financing program will be based on excise taxes on airline customers similar to price increases which support environmental costs in other industries.

Another fallacy is the allegation that the bill is inflationary. This simply is not so since the 2-percent noise charge is accompanied by a reduction in the existing 8-percent ticket tax to 6 percent so that the fare to the public for domestic air transportation is not affected. This was possible because the trust fund was developing a huge surplus.

It is further alleged that no special financing is needed since the airlines are now prospering. It is true that the airlines are doing well this year and did well in 1976 and 1977, but their record of earnings is made to look particularly good because of their poor earnings in previous years. For the past 5 years, airline profits have been 4.3 percent on invested capital. U.S. industry as a whole made 9.7 percent, more than double the airline return. For the same period, U.S. industry has had a profit margin of 4.5 percent while the airlines have had 2. The airlines must compete with U.S. industry as a whole for capital funds which, according to current reports, are becoming scarcer and scarcer. It is possible that if title III were not passed the airlines would, over some period of time, finance the replacement of the condemned capacity but we should not gamble on this. We must get the noisy airplanes out of the fleet in the time allowed.

In conclusion, Mr. Chairman, the bill serves to have Government correct a situation in part brought about by that Government itself in the first place. I urge my colleagues' support of the bill.

● Mr. GEPHARDT. Mr. Chairman, the Noisy Aircraft Revenue and Credit Act of 1978 will divert more than $3 billion over 5 years from the Airport and Airway Trust Fund to private airlines to assist them in meeting Government imposed noise regulations.

The bill is a bad precedent and constitutes bad tax policy. This would be the first instance where the Federal Government would levy a tax on an industry without retaining any control beyond the broad guidelines set forth in the bill on how the money would be spent.

By diverting 2 percent of the 8 percent tax imposed on airline tickets to aid the airlines, Federal assistance would be allocated according to the number of airline tickets purchased and not on need.

This becomes even more unfortunate when one considers that the oldest and noisiest planes are owned by American, TWA, and United. Together, their planes constitute 40 percent of the U.S. fleet, but account for 68 percent of the noisy aircraft that this bill seeks to refit or replace.

I do not oppose the noise abatement standards or the need for the airlines to make their equipment meet these standards. I object to the manner that this bill addresses this problem.

A far more equitable method would be to allow the airlines to reduce the Airport and Airways Trust Fund tax by 2 percent for 5 years so that the airlines that need to buy new equipment or refit existing equipment can apply to the CAB for appropriate fare increases.

Such an alternative would have the sole disadvantage of allowing different fare structures between airlines, depending on their need to comply with the noise standards. For this reason, it would be prudent for the noisy aircraft bill to be postponed until the House has the opportunity to debate fully the prospects of differing fare structures when airline deregulation is considered.

Finally, if one is not disturbed that another industry, for instance, the auto industry, might argue that part of the Highway Trust Fund tax revenue should be used to aid in meeting auto emission standards, consider the current status of the industry. Record airline passenger revenues are commonplace today in large part due to the increased flexibility allowed by the CAB. Deregulation will likely have an additional positive effect on passenger revenues.

Airline industry sources have indicated that better than $2.5 billion of the money provided would be used to replace aging 707's and DC-8's which are already on average, more than 11 years old and will be 18 years old by the time the 1985 regulations are effective. It is hard to believe that an airline would not now be planning to replace 18-year-old equipment without the substantial aid that this bill would grant.

Aircraft noise is a serious problem. The noise regulations are needed. Airports do need assistance to help them create a quieter environment for the people who live and work around them. But all of these purposes can be achieved without creating a harmful tax precedent, which the Government will be asked to repeat for other industries, for the purpose of producing new capital which the Federal Government says is not needed in the first place.

The Airline Passengers Association ("APA"), is an organization of over 40,000 frequent airline travelers, which strongly opposes title III of H.R. 8729—Airport and Aircraft Noise Reduction Act. APA's basic positions are as follows:

First. APA opposes the transfer from safety purposes of 2 percent of the 8 percent Passenger Ticket Tax to fund retrofit/replacement of noisy jet aircraft owned by private airline companies;

Second. APA supports greatly increased safety expenditures, thereby reducing the excessive surplus in the Airport and Airway Trust Fund, which at May 31, 1978 totaled $3,633,327,794.26.

Third. APA opposes the precedent that would be set by the Federal Government providing funds through a dedicated tax to a private industry to pay for Federally-mandated environmental changes. If this legislation passes, any industry required to make changes as a result of a Federal requirement will have a strong precedent to demand that the Federal Government pay for such changes.

Fourth. APA opposes the noise financing program because of its inflationary impact and the failure to reduce the overall Passenger Ticket Tax which is strongly warranted by the steadily mounting surplus in the Trust Fund.

Fifth APA supports an immediate reduction of the 8 percent airline ticket tax to at least 6 percent.●

● Mr. DUNCAN of Oregon. Mr. Chairman, I reluctantly oppose this bill. It seems to me that we have not really reached the basic issue in the debate, and it seems to me that by avoiding it we are likewise avoiding the kind of legislative action that, in my judgment, has stimulated the taxpayers revolt.

We are not arguing here over whether those huge sums should be spent. We are arguing about how the expenditures should be paid for.

I fully appreciate that a noise problem associated with aviation does exist. I appricate the difficulties attendant to the operation and expansion of airports, and the problems posed to those living in proximity thereto. I do not, however, consider the rules issued by the FAA to be the most reasonable way to solve the problem, in view of the huge cost attendant thereon and the crying need of this country for the accumulation of capital for productive purposes. I cannot help but believe that a more gradual and less precipitous approach to this problem—staging over a longer period of time the attainment of the desirable noise levels—is a much more rational approach. This would permit the airlines to meet the noise requirements by the acquisition of new aircraft as they phased out their noisy vehicles by the process of attrition.

This would result in a year-by-year reduction of the noise problem, with no additional expense to the taxpayer. At the very least, the airlines should be required to absorb the cost of new aircraft in proportion to the amortization of their original cost—for which they have already received tax credits from the Government.●

● Mr. WEISS. Mr. Chairman, as a Representative of a city served by three major airports, I am well aware of the damage that aircraft noise car do, not only to the peace of mind of anyone within earshot, but to property values in neighborhoods near airports as well. Nevertheless, I must oppose title III of the Airport and Aircraft Noise Reduction Act (H.R. 8729) and its proposed substitute, the Noisy Aircraft Revenue and Credit Act (H.R. 11986). The passage of either of these bills would jeopardize the safety of airline passengers, and place the Government in the unusual and untenable position of subsidizing a private industry's compliance with a Government regulation—at a time when that industry's profits are increasing dramatically.

While admirable in their purpose—the reduction of noise pollution—these bills would allow airlines to transfer the cost of meeting the Federal Aviation Agency's noise standards to the consumer in the form of a 2-percent surcharge on all domestic tickets. In order to maintain current ticket prices and therefore minimize public opposition, the legislation would also allow airlines to reduce by 2 percent the 8-percent tax which goes into a trust fund for airport safety improvements. As a result, passengers would still be taxed at the same rate—8 percent—but instead of all this money going toward improving safety conditions, 2 percent would be used for meeting FAA noise standards.

Passage of this bill, then, would mean nothing less than a huge handout to an industry fully able to pay its own way. The airlines have grossly exaggerated the amount of money they need to comply with these standards. Their present claim is $7 to $8 billion, the cost of substantially replacing their fleet, but a simple retrofitting of their present fleet's engines would insure compliance and, according to their own estimates, would cost less than $1 billion.

The airlines are perfectly capable of meeting this expense. According to Business Week magazine, during the first half of 1978, airline profits increased 174 percent over the previous year's. Furthermore, the Government has granted airlines such extensive tax breaks that in 1976 three airlines paid no taxes at all, and three more paid less than 12 percent of their income.

The airlines' outstanding growth performance during the past year can be traced to the climate of deregulation created by the Civil Aeronautics Board's regulatory policies. The House can continue to foster this growth by passing legislation to permanently deregulate the airline industry.

But the airlines should not expect the Government to subsidize their compliance with FAA regulations as well. To do so would be to pay for such compliance twice: Once through deregulation and once through the creation of this surcharge which would grant them over $2 billion in additional revenue.

I am also opposed to the closed rule on this measure. These bills are hardly noncontroversial. As I stated earlier, the safety of passengers and the question of who ultimately pays for compliance with Government regulations are at issue here. The gravity of these questions, as well as the rather complex parliamentary responses to them, demand an open rule.

For these reasons, I support the gentleman from Ohio's (Mr. VANIK) motion to vote down the previous question. If, however, the closed rule is not defeated, I will vote against the motion to substitute H.R. 11986 for title III of H.R. 8729, and for the motion to strike sections 301–304 of H.R. 8729. In this way, title I and title II, which address the problem of aircraft noise pollution, can be preserved without levying an additional charge on passengers or raiding the 8-percent safety tax. If all of these efforts fail, I will support the gentleman from Kentucky's (Mr. SNYDER) motion to recommit the bill. I urge all Members concerned with the safety of our airlines and their treatment of consumers to join me in voting his way.●

Mr. ULLMAN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time has expired.

Pursuant to the rule, the Clerk will now read by titles the substitute committee amendment recommended by the Committee on Public Works and Transportation now printed in the reported

bill as an original bill for the purpose of amendment.

Immediately after title III of said substitute is read, it shall be in order to consider the text of H.R. 11986, as reported, if offered as a motion to strike out sections 301 through 304 of said substitute and to insert the provisions of H.R. 11986 as reported, said amendment shall not be subject to amendment except amendments offered by direction of the Committee on Ways and Means, and an amendment printed in the CONGRESSIONAL RECORD of July 18 by Representative PEPPER, but may be debated by the offering of pro forma amendments, and if said amendment is adopted no further amendments to H.R. 8729 modifying said amendment shall be in order, and an amendment to redesignate sections 305 and 306 of said substitute as title IV, and title IV as title V, shall then be in order.

The Clerk read as follows:

H.R. 8729

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Airport and Aircraft Noise Reduction Act".

TITLE I

SEC. 101. For purposes of this title—

(1) the term "airport" means any air carrier airport whose projects for airport development are eligible for terminal development costs under section 20(b) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1720);

(2) the term "airport operator" means any person holding a valid certificate issued pursuant to section 612 of the Federal Aviation Act of 1958 to operate an airport;

(3) the term "Secretary" means the Secretary of Transportation.

SEC. 102. Not later than the last day of the twelfth month which begins after the date of enactment of this Act, the Secretary, after consultation with the Administrator of the Environmental Protection Agency and such other Federal, State, and interstate agencies as he deems appropriate, shall by regulation—

(1) establish a single system of measuring noise to be uniformly applied in measuring the noise at airports and the areas surrounding such airports;

(2) establish a single system for determining the impact of noise upon individuals which results from the operations of an airport and which includes, but is not limited to, noise intensity, duration, frequency, and time of occurrence;

(3) identify land uses which are normally compatible with various impacts of noise on individuals.

SEC. 103. (a)(1) After the effective date of the regulations promulgated in accordance with section 102 of this title, any airport operator of an airport may submit to the Secretary a noise impact map which sets forth, in accordance with the regulations promulgated pursuant to section 102, the noncompatible uses in each area of the map, as of the date of submission of such map, a description of the projected aircraft operations at such airport during 1985, and the ways, if any, in which such operations will affect such map.

(2) If, after the submission to the Secretary of a noise impact map under paragraph (1), any change in the operation of an airport would create any new noncompatible use in any area surrounding such airport, the operator of such airport shall submit a revised noise impact map showing such new noncompatible use.

(b)(1) Section 11 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1711) is amended by renumbering paragraphs (6) through (21), and all references thereto, as paragraphs (7) through (22), respectively, and by adding immediately after paragraph (5) the following new paragraph:

"(6) 'Airport noise compatibility planning' means the development for planning purposes of information necessary to prepare and submit (A) the noise impact map and related information permitted by section 103 of the Airport and Aircraft Noise Reduction Act, including any cost associated with obtaining such information, and (B) a noise compatibility program for approval by the Secretary pursuant to section 104 of such Act.".

(2)(A) Section 13(a) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1713) is amended by—

(i) inserting "(1)" immediately before the first sentence thereof; and

(ii) adding at the end thereof the following new paragraph:

"(2) In order to promote the development of an effective noise compatibility program, the Secretary may make grants of funds to sponsors of air carrier airports whose projects for airport development are eligible for terminal development costs under section 20(b) of this title for noise compability planning.".

(B) Section 13(b) of such Act is amended to read as follows:

"(b) AMOUNT AND LIMITATION OF GRANTS.—(1) The award of grants under subsection (a)(1) of this section is subject to the following limitations:

"(A) The total funds obligated for grants under subsection (a)(1) of this section may not exceed $150,000,000, and the amount obligated in any one fiscal year may not exceed $15,000,000.

"(B) The United States share of any airport master planning grant or airport noise compatibility planning grant under this section shall be that per centum for which a project for airport development at that airport would be eligible under section 17 of this Act. In the case of any airport system planning grant under this section, the United States share shall be 75 per centum.

"(C) No more than 10 per centum of the funds made available under this paragraph in any fiscal year may be allocated for projects within a single State, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or Guam. Grants for projects encompassing an area located in two or more States shall be charged to each State in the proportion which the number of square miles the project encompasses in each State bears to the square miles encompassed by the entire project.

"(2) For the purpose of carrying out subsection (a)(2) of this section, there is authorized to be appropriated, for fiscal years ending on or after September 30, 1979, out of the Airport and Airway Trust Fund, not to exceed $15,000,000.".

SEC. 104. (a) Any airport operator who has submitted a noise impact map and the related information permitted by section 103(a)(1) may, after consultation with the officials of any unit of local government in the area surrounding such airport, the Federal officials having local responsibility for such airport, any air carrier using such airport, and any regional planning authority, submit a noise compatibility program to the Secretary for his approval. Such program shall set forth the measures which such operator proposes for the reduction of existing noncompatible uses and the prevention of the introduction of additional noncompatible uses within the area covered by the noise impact map submitted by such operator. Such measures may include, but are not limited to—

(1) the implementation of any preferential runway system;

(2) the implementation of any restriction on the use of such airport by any type or class of aircraft;

(3) the construction of barriers and acoustical shielding, including the soundproofing of public buildings;

(4) the use of flight procedures to control the operation of aircraft to reduce the impact of noise in the area surrounding the airport;

(5) acquisition of land and interests therein.

(b) The Secretary shall approve or disapprove any program submitted to him pursuant to subsection (a) within one hundred and eighty days after it is received by him. The Secretary shall approve such program (1) if the measures to be undertaken in carrying out such program (A) provide for the continuation of safe flight operation, (B) do not create an undue burden on interstate or foreign commerce, and (C) are reasonably consistent with obtaining the goal of reducing existing noncompatible uses and preventing the introduction of additional noncompatible uses, and (2) if the program provides for its revision made necessary by any revised noise impact map submitted under section 103(a)(2) of this title. Failure of the Secretary to approve or disapprove such program within such time period shall be deemed to be an approval of such program, except any part of such program which relates to flight procedures referred to in subsection (a)(4) of this section.

(c) The Secretary is authorized to make grants under this Act for any project to carry out a noise compatibility program approved under subsection (b) of this section. Grants under this Act may be made to operators of airports submitting noise compatibility programs and to units of local government in the area surrounding such airports if the Secretary determines such units have the capability to carry out projects for which grant applications are made in accordance with such noise compatibility programs. The Federal share of any project for which a grant is made under this subsection shall be 80 per centum of the cost of the project. All of the provisions of the Airport and Airway Development Act of 1970 applicable to grants made under that Act (except section 17 and those provisions relating to apportionment) shall be applicable to any grant made under this Act, unless the Secretary determines that any provision of such Act of 1970 is inconsistent with, or unnecessary to carry out, the purposes of this Act.

(d) There is authorized to be appropriated, out of the Airport and Airway Trust Fund, not to exceed $150,000,000 for the fiscal year ending September 30, 1979, and not to exceed $250,000,000 for the fiscal year ending September 30, 1980, to be expended, at the discretion of the Secretary, for making grants under subsection (c) of this section.

SEC. 105. The Secretary, acting through the Administrator of the Federal Aviation Administration, after consultation with the officials of any unit of local government in the area surrounding such airport, shall prepare and publish a noise impact map and a noise compatibility program for the airport established by the Act of June 29, 1940 (54 Stat. 686), and the airport the construction of which was authorized by the Act of September 7, 1950 (64 Stat. 770). Such map and program shall be prepared and published in accordance with the requirements of this Act no later than one year after the effective date of the regulations promulgated in accordance with section 102 of this Act.

SEC. 106. Any noise impact map submitted to, or prepared by, the Secretary under this title and the list of land uses identified by the Secretary under this title as those which are normally compatible with various impacts of noise on individuals shall not be received in evidence in any trial, hearing, or other proceeding in or before any court in the United States.

SEC. 107. No person who acquires property or an interest therein after the date of enactment of this Act in an area surrounding an airport shall be entitled to recover damages with respect to the noise attributable to such airport unless, in addition to any other elements for recovery of damages, such person can show—

(1) a significant change in the type or frequency of aircraft operations at the airport; or

(2) a significant change in the airport layout; or

(3) a significant change in flight patterns; or

(4) a significant increase in nighttime operations,

occurred after the date of the acquisition of such property or interest therein.

SEC. 108. The Secretary shall study (1) airport noise compatibility planning carried out with grants made under section 13 of the Airport and Airway Development Act of 1970, and (2) airport noise compatibility programs carried out with grants made under this title, to determine to what extent such planning and programs are achieving the goals of reducing existing noncompatible uses of land around airports and preventing the introduction of new noncompatible uses around airports. Not later than January 1, 1981, the Secretary shall submit to Congress a report setting forth the determinations made pursuant to such study together with legislative recommendations, if any, which the Secretary determines necessary.

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENT OFFERED BY MR. FLORIO

Mr. FLORIO. Mr. Chairman, I offer amendments.

The Clerk read as follows:

AMENDMENTS OFFERED BY MR. FLORIO:

Page 25, line 16, strike out "and".

Page 25, line 17, after "authority" insert "and any metropolitan planning authority".

Page 26, line 10, after "shall" insert ", after consultation with the Administrator of the Environmental Protection Agency.".

Page 29, line 12, after "Secretary" strike out "shall" and substitute "and the Administrator of the Environmental Protection Agency shall each".

Page 29, lines 21 and 22, strike out "shall submit to Congress a report" and insert in lieu thereof "and the Administrator of the Environmental Protection Agency shall each submit reports to Congress".

Page 29, line 23, strike out "study" and insert in lieu thereof "studies".

Page 29, line 24, after "Secretary" insert "or the Administrator, as the case may be,".

Mr. FLORIO (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD, and that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. FLORIO. Mr. Chairman, these amendments which I understand the committee does not oppose would include the Environmental Protection Agency in the noise control program in an advisory capacity. It would require that the EPA Administrator be consulted by the Secretary of Transportation during the review of airport noise control plans and programs. The provision would not require any approval of the plans by EPA, nor would it extend the time period for plan review.

The bill as it was reported requires the Secretary of Transportation to consult with the Administrator of EPA in order to formulate the regulations under section 102. (For the purposes of establishing a system of noise measurement, impact determination, and land use determination) my amendment extends this cooperative process to the section 104 procedures for reviewing maps and plans for noise compatibility that will be submitted by airports in order to qualify for airport noise reduction funds.

EPA has expertise in the area of noise measurement and planning that can be shared with the FAA. Additionally, the perspective of the EPA as an environmental and public health organization would be valuable in assessing the noise plans submitted by the local airports and regional and metropolitan planners.

Additionally, my amendments would require EPA to report to the Congress on the success of this program. This would contribute an additional perspective to the report that will be submitted by the Secretary of Transportation, and will allow the Congress to see the progress and problems of the program more clearly.

I hope that the House will support these amendments in order to strengthen and improve an already admirable piece of legislation.

Mr. ANDERSON of California. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from California.

Mr. ANDERSON of California. I thank the gentleman for yielding.

Mr. Chairman, after seeing the gentleman's amendment, we have no objection to this amendment and we will accept it on this side of the aisle.

All this amendment does is to insert "and any metropolitan planning authority" and "after consultation with the Administrator of the Environmental Protection Agency."

Mr. FLORIO. That is correct.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Ohio.

Mr. HARSHA. I am trying to review the gentleman's amendment. This is the one, I presume, where the EPA is given an advisory capacity in the noise control program?

Mr. FLORIO. That is correct.

Mr. HARSHA. Do they have any veto or control over the action that the FAA takes after they have acted in an advisory capacity?

Mr. FLORIO. No, sir. It is strictly advisory.

Mr. HARSHA. EPA is given a role of strictly advise and consultation, and no other authority?

Mr. FLORIO. That is correct.

Mr. HARSHA. And they have no veto, or they have no ability under the amendment to obviate any of the action of the FAA?

Mr. FLORIO. That is correct.

Mr. HARSHA. I thank the gentleman.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New Jersey (Mr. FLORIO).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. FLORIO

Mr. FLORIO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FLORIO: Page 25, immediately after line 10, insert the following:

(c) Part II of the Airport and Airway Development Act of 1970 (49 U.S.C. 1701 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 31. LIMITATION ON PROJECT ELIGIBILITY.

"(a) REQUIREMENTS APPLICABLE TO CERTAIN AIRPORTS.—If the aircraft noise associated with any airport affects (as determined by the Secretary) individuals in any State other than the State in which such airport is located, the airport owner or operator shall, before September 30, 1981, submit to the Secretary a noise impact map for such airport which conforms with section 103 of the Airport and Aircraft Noise Reduction Act and a noise compatability program for such airport which conforms with section 104 of such Act.

"(b)(1) ENFORCEMENT BY CIVIL ACTION.—Except as provided in paragraph (2), any person (including the Secretary) may commence a civil action on his own behalf against any airport operator for alleged failure to comply with subsection (a). Such action may be brought only in the judicial district in which such airport is located. The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce the requirements of subsection (a).

"(2) No action may be commenced under this subsection by any person other than the Secretary if the Secretary has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with subsection (a).

"(3) In any action under this subsection brought by any person other than the Secretary, the Secretary may intervene as a matter of right.".

Mr. FLORIO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. HARSHA. Mr. Chairman, reserving the right to object, I am not sure I have the proper amendment. Is this the amendment on page 25, "immediately after line 10, insert the following:"?

Mr. FLORIO. That is correct.

Mr. HARSHA. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. FLORIO. Mr. Chairman, I would not go so far as some other Members in describing this bill as a "raid on the Treasury," but in all candor, it is rather generous to the aviation industry for the legitimate purpose of dealing with the real problem of aviation noise. The taxpayers are entitled, however, to assurances that the expenditures will result in real improvements in airport and aircraft noise problems. I would have preferred that all major airports be required to have noise abatement plans; I am willing, however, to accept the committee's rationale that where such plans are most needed, the combination of money available under the act, and community and political pressure will induce the adoption of plans.

This amendment deals with those few areas around the country where that rationale breaks down and where the noise impact of airport operations lie in another State, thereby precluding the opportunity for community and political concerns to have an impact on the out of State airport operator's decision on whether to plan for noise abatement or not.

My amendment would require airports which in the opinion of the Secretary of Transportation affect populations in neighboring States, to engage in noise control programs as outlined in the bill as reported. No extraordinary planning demands will be placed upon these airports, and no existing funding programs will be jeopardized. The few airports will simply be required to do what the bill encourages all airports to do through financial incentives.

Should an airport that the Secretary determines does affect the citizens of another State, fail to engage in a noise planning program, any citizen living within the area impacted by aircraft noise from that airport would be authorized to initiate legal action to compel the airport to comply with the provisions of this bill.

I ask that the Members of the House support the provisions of my amendment so that the benefits of this legislation will be extended to all of our citizens living around major airports, regardless of which State happens to be their State of residence.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield for a question?

Mr. FLORIO. Certainly.

Mr. GOLDWATER. Is it my understanding that the gentleman's amendment would allow a civil suit to be brought against the operator to require him to comply with the provisions of the bill? I assume the gentleman is talking about title I and title II, which is basically a voluntary program.

Mr. FLORIO. I am talking about the provisions for the adoption of noise abatement studies and programs, and noise abatement implementation.

Mr. GOLDWATER. That is a voluntary program under the bill.

Mr. FLORIO. That is correct. What I am doing is carving out an exception because of the uniqueness of a small number of airports. The rationale as presented to me by the committee was that there was no need to require airports to do this because the financial incentives, as well as the community pressures, would induce airports to do the appropriate thing where it is needed.

What I am suggesting is the community pressures—and I am making reference to the situation with regard to the Philadelphia International Airport—where the noise impact lies in another State, certainly cannot be brought to bear in the State where the airport is located. I am saying in those few small instances where the noise impact, as determined by the FAA and the Department of Transportation, lies in a separate State, other than where the airport is located, those few airports should be required to go forth with the airport planning.

Mr. GOLDWATER. That may be the case in the gentleman's amendment, but in the bill this is strictly a voluntary effort on the part of the airport operators.

Mr. FLORIO. That is correct. What this amendment is saying is that insofar as it will have an impact on another State—and my understanding from the FAA is that it has an impact on seven airports in the country.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. FLORIO) has expired.

(On request of Mr. GOLDWATER, and by unanimous consent, Mr. FLORIO was allowed to proceed for 2 additional minutes.)

Mr. GOLDWATER. Mr. Chairman, if the gentleman will yield further, just so I may understand better, what this amendment really says is anyone could bring civil suit and force that operator to do what is now voluntary in the bill.

Mr. FLORIO. No, I think it would be more accurate to say what this amendment does is to say those will not be voluntary for those seven airports in this country whose flight patterns are such that they do impact on the citizens in another State, that they cannot just voluntarily decide whether to take advantage of the provisions in this act. They would be required to go forth using the moneys in the bill to come up with noise abatement programs.

Mr. GOLDWATER. Where does it in this amendment call for the seven areas?

Mr. FLORIO. The amendment states that the Secretary of Transportation will determine what airports have a substantial noise impact in States other than the State in which the airports are located.

Mr. ANDERSON of Illinois. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from New Jersey. The amendment would require several airports to file a comprehensive noise program by January 1, 1981.

The Public Works Committee held 27 days of hearings on current and proposed Federal policy on aircraft noise. The bill provides for a voluntary approach to the problem because in our view land use decisions should be kept in the hands of local and State governments with the Federal Government's role being to control noise at the source and to aid, assist, and encourage proper land use decisions. The amendment would intrude into the traditional local role and is discriminatory in that it only applies to a handful of airports. I urge defeat of the amendment.

Mr. HARSHA. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, as the chairman of the subcommittee has pointed out, this involves an area of local land use planning. We had great difficulty with this bill when we finally worked out the provisions in title I that would assure that noise impact mass and lists of noncompatible land uses would not be used in courts of law because we could see a proliferation of suits that would involve not only local communities and airport operators but the Federal Government as well. We even have a provision that will prohibit local citizens from filing suits for damages in areas adjacent to airports unless the noise impact occurred subsequent to their move into the area, in substance.

But this question of land use planning and noise compatability programs is so involved and so delicate and so susceptible to the wrong interpretation that we went to great lengths in this legislation to make it voluntary and voluntary only.

Now the gentleman proceeds to offer an amendment that requires the filing of a noise impact map for an airport which happens to have noise that impacts areas outside the State where the particular airport is located.

But the amendment makes it mandatory that the operator of such an airport shall file, before September 30, 1981, with the Secretary, a noise impact map for such airport. But then it goes on and permits any citizen involved to file a civil action. However, that citizen is precluded from filing any civil action if the Secretary of Transportation is prosecuting a civil action.

Here we have the Federal Government thrown into the position where it must file a civil action against the operator of the airport. You would have "big brother" involved again. You are making it mandatory that the airport operator file a noise impact map and you are making it mandatory that the Secretary of Transportation involve himself in a lawsuit to force the airport operator to submit a noise compatability map, and we would be getting right back into the same old ball game of "big brother" forcing action by local officials.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I will be glad to yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Chairman, I thank the gentleman from Ohio (Mr. HARSHA) for yielding to me and I first wish to say that I concur with the remarks of the gentleman from Ohio. We do have a noise problem, but I disagree with the title III approach.

One of the main problems we found is the large number of lawsuits which have

been filed against the airport operator. This is one of the real reasons we need to do something. I do not have any disagreement with the fact that we need to do something, although I have my own ideas about what needs to be done. But what you are doing when you force people to file noise impact maps is that you are setting up a real heyday for the local lawyers to file lawsuits, subject to some restrictions.

Certainly, if they are going to sue the airport operator, at least they should prove there has been some damage, or that they have been impacted in some way.

Mr. HARSHA. I agree with the gentleman from Kentucky (Mr. SNYDER). Really what you are doing is stifling air transportation expansion and growth. We are having problems right now; that is why we have to have this freedom of action to deal with the noise problem. There are problems now in expanding airports where they need expansion because of the noise problem. If you get into this area of making it mandatory that you file a noise impact map and where you are making it mandatory for the Secretary of Transportation to become involved, and where you are instituting these things so as to make some of these adjustments, then we are getting very close to that very treacherous area where the Federal Government is telling local officials how they should zone their land and how they should determine the uses of that land. We should avoid doing that if at all possible.

So, I urge defeat of the amendment.

Mr. FLORIO. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The Chair will state that the gentleman from New Jersey (Mr. FLORIO) has already spoken and he would have to obtain unanimous consent to proceed further.

Mr. FLORIO. Mr. Chairman, I so do, I ask unanimous consent that I may proceed further, for 5 minutes, by being permitted to strike the last word.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. FLORIO).

The question was taken; and on a division (demanded by Mr. FLORIO) there were—ayes 3, noes 10.

Mr. FLORIO. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

The CHAIRMAN. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to record their presence. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 770]

Ambro
Ammerman
Anderson, Ill.
Andrews, N.C.
Archer
Armstrong
Beard, R.I.
Beard, Tenn.
Bellenson
Breaux
Brooks
Broomfield
Brown, Mich.
Burke, Calif.
Burke, Fla.
Burton, John
Burton, Phillip
Byron
Caputo
Cavanaugh
Cederberg
Chisholm
Clawson, Del
Clay
Cochran
Cohen
Collins, Ill.
Conyers
Coughlin
Davis
Delaney
Dent
Derwinski
Diggs
Dingell
Drinan
Duncan, Tenn.
Early
Eckhardt
Evans, Colo.
Evans, Ga.
Fary
Fish
Flowers
Ford, Mich.
Forsythe
Frenzel
Gaydos
Giaimo
Gibbons
Gilman
Gonzalez
Guyer
Harrington
Hawkins
Heckler
Holland
Hollenbeck
Huckaby
Ireland
Jacobs
Johnson, Colo.
Kasten
Kemp
Keys
Kindness
Krueger
Le Fante
Leach
Lederer
Leggett
Lehman
Lujan
Lundine
McCloskey
McCormack
McDonald
McEwen
McKinney
Mathis
Mazzoli
Meeds
Metcalfe
Mikulski
Mikva
Miller, Calif.
Moakley
Moffett
Moss
Nowak
Pepper
Pike
Quie
Rhodes
Richmond
Risenhoover
Roe
Rogers
Roncalio
Runnels
Ryan
Santini
Sarasin
Shuster
Sikes
Sisk
Smith, Nebr.
Steed
Teague
Treen
Trible
Tsongas
Tucker
Udall
Walsh
Waxman
Wiggins
Wilson, C. H.
Wilson, Tex.
Wirth
Young, Alaska
Young, Tex.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BRADEMAS), having assumed the chair, Mr. STUDDS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 8729, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 310 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand by the gentleman from New Jersey (Mr. FLORIO) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 127 noes 246, not voting 59, as follows:

[Rollcall Vote No. 771]

AYES—127

Addabbo
Alexander
Ambro
Anderson, Ill.
Annunzio
Ashley
Baldus
Bedell
Benjamin
Biaggi
Bingham
Blanchard
Bonior
Bonker
Brinkley
Brodhead
Burke, Mass.
Burton, John
Burton, Phillip
Byron
Carr
Chisholm
Clay
Collins, Ill.
Conte
Conyers
Cornell
Coughlin
Delaney
Dellums
Dodd
Downey
Drinan
Early
Eckhardt
Edgar
Eilberg
Evans, Del.
Fenwick
Fish
Fisher
Florio
Forsythe
Fraser
Garcia
Gilman
Gradison
Green
Harkin
Harris
Holt
Holtzman
Howard
Hughes
Hyde
Jeffords
Kildee
Kostmayer
Krebs
LaFalce
Le Fante
Lederer
Lent
Luken
McCloskey
McHugh
Maguire
Markey
Marlenee
Martox
Meyner
Mikulski
Mikva
Minish
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Moss
Murphy, Ill.
Murphy, Pa.
Myers, Gary
Myers, Michael
Nedzi
Oakar
Obey
Ottinger
Patten
Patterson
Pattison
Pease
Pike
Rangel
Reuss
Rinaldo
Rodino
Roe
Rooney
Rosenthal
Russo
Scheuer
Seiberling
Shipley
Simon
Skubitz
Solarz
Staggers
Stark
Steed
Steers
Stokes
Studds
Thompson
Traxler
Tucker
Vento
Walgren
Waxman
Weiss
Winn
Wirth
Wolff
Wydler
Yates
Young, Fla.
Zablocki
Zeferetti

NOES—246

Abdnor
Akaka
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Aspin
AuCoin
Badham
Bafalis
Barnard
Baucus
Bauman
Beard, R.I.
Bellenson
Bennett
Bevill
Blouin
Boggs
Boland
Bolling
Bowen
Brademas
Breckinridge
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burleson, Tex.
Burlison, Mo.
Butler
Carney
Carter
Cavanaugh
Cederberg
Chappell
Clausen, Don H.
Cleveland
Coleman
Collins, Tex.
Conable
Corcoran
Corman
Cornwell
Cotter
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dornan
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erlenborn
Ertel
Evans, Ga.
Fascell
Findley
Fithian
Flippo
Flood
Flynt
Foley
Ford, Tenn.
Fountain
Fowler
Frey
Fuqua
Gammage
Gaydos
Gephardt
Giaimo
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Grassley
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harsha
Hawkins
Heftel
Hightower
Hillis
Horton
Hubbard
Ichord
Jacobs
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kelly
Kemp
Keys
Kindness
Lagomarsino
Latta
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McDade
McDonald
McEwen
McFall
McKay
Madigan
Mahon
Mann
Marks
Marriott
Martin
Mathis
Mazzoli
Meeds
Michel
Milford
Miller, Ohio
Mineta
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Murphy, N.Y.
Murtha
Myers, John
Natcher
Neal
Nichols
Nowak
O'Brien
Oberstar
Panetta
Pepper
Perkins
Pettis
Pickle
Poage
Pressler
Preyer
Price
Pritchard
Purseil
Quayle
Quillen
Rahall
Railsback
Regula
Rhodes
Roberts
Robinson
Rogers
Roncalio
Rose
Rostenkowski
Rousselot
Roybal
Rudd
Ruppe
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sharp
Shuster
Sikes
Skelton

Slack
Smith, Iowa
Snyder
Spellman
Spence
St Germain
Stangeland
Stanton
Steiger
Stockman
Stratton
Stump
Symms
Taylor
Thone
Thornton
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Volkmer
Waggonner
Walker
Walsh
Wampler
Watkins
Weaver
Whalen
White
Whitehurst
Whitley
Whitten
Wilson, Bob
Wright
Wylie
Yatron
Young, Mo.

NOT VOTING—59

Ammerman
Armstrong
Beard, Tenn.
Breaux
Brooks
Broomfield
Burke, Calif.
Burke, Fla.
Caputo
Clawson, Del
Cochran
Cohen
Dent
Diggs
Evans, Colo.
Evans, Ind.
Fary
Flowers
Ford, Mich.
Frenzel
Gibbons
Harrington
Heckler
Hefner
Holland
Hollenbeck
Huckaby
Ireland
Johnson, Colo.
Kasten
Krueger
Leach
Leggett
Lehman
McClory
McCormack
McKinney
Metcalfe
Miller, Calif.
Moss
Nix
Nolan
Quie
Richmond
Risenhoover
Runnels
Ryan
Sarasin
Sisk
Smith, Nebr.
Teague
Treen
Tsongas
Udall
Wiggins
Wilson, C. H.
Wilson, Tex.
Young, Alaska
Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Fary for, with Mr. Breaux against.

Mr. Richmond for, with Mr. Teague against.

Mr. Ford of Michigan for, with Mr. Dent against.

Mr. Nix for, with Mr. McCormack against.

Mr. Metcalfe for, with Mrs. Burke of California against.

Mr. PEPPER changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there additional amendments to title I?

Mr. WYDLER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to engage in colloquy with the chairman of the subcommittee on the meaning of some of the sections in title I. My purpose is to try to clarify the legislative history of these sections.

I noted that in section 102 there is a series of requirements established to require the Secretary of Transportation to establish, a single system for measuring noise to be uniformly applied and so on. All of these requirements are, to my knowledge, duplicated in earlier legislation for similar purposes. I want to make it clear in my own mind and perhaps in those of others who will hereafter have to interpret this language.

First, I would inquire whether requirements one, two, and three in section 102 of title I on page 22, refer specifically to activities that may be undertaken under section 103.

Are these standards established by the Secretary to be limited in applicability to those actions which are provided for under section 103?

Mr. ANDERSON of California. Will the gentleman yield?

Mr. WYDLER. I yield to the gentleman.

Mr. ANDERSON of California. I thank the gentleman for yielding.

During the hearings on the bill it was very well established that there are too many different systems of measuring noise. There is the NEF, the CNEL, and several others, and each one is different. There must be 10 or more different measuring systems. So we direct the Secretary to establish a single system for determining the impact of aircraft noise, and that would be the one that we would then all go by, so that California would not use one and Texas use another and the Federal Government use a third.

Mr. WYDLER. I understand, however, that is not my question. The gentleman is trying to clarify the situation regarding provisions that are set up in section 103. What I am trying to clarify here is whether these other noise measurement systems that have been developed and are being applied by the Federal Government and State governments will not each have to come within the provisions of section 102. In other words, do the provisions of section 102 apply just to the requirements of section 103 or to all noise measurement criteria?

Mr. ANDERSON of California. It only applies to this act, not other acts.

Mr. WYDLER. All right. I thank the gentleman for his reply. Now, I would like to ask him another question, if I might. Also in this legislation, there are certain restrictions placed on the bringing of citizens' lawsuits. For example, this bill would limit who can be a litigant, and what evidence can be offered in trials for damages arising from jet noise. As I understand it, this legislation would limit the ability of anyone who bought a home in the noise impact area of an airport after the date of enactment from pursuing a lawsuit against the airport, the airlines, or other responsible party, for damages arising from the loss of the value of the property or for its use due to jet noise. Is that the intention of the committee with regard to this section?

Mr. ANDERSON of California. He would only have to show one of the four itemized changed conditions we have in section 107:

A significant change in the type or frequency of aircraft operations at the airport; or

a significant change in the airport layout; or

a significant change in flight patterns; or

a significant increase in nighttime operations.

Mr. WYDLER. Thank you. Let us return to section 106. Let us refer specifically to what would prevent the receipt in evidence in any trial of noise impact maps showing land uses identified by the Secretary as those which are "normally compatible" with various impacts of noise on individuals, and so forth.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. WYDLER was allowed to proceed for 5 additional minutes.)

Mr. WYDLER. Does that mean that in the course of a trial no evidence could be offered by a litigant in a case where such a noise impact a map had been filed by an airport operator?

Mr. ANDERSON of California. No. It says "any noise impact map," submitted to, or prepared by, the Secretary. Just that individual map. It is my understanding that in such a suit, the attorneys could even go out and get the map maker and get him to bring the information that they used to make the map, but that this specific noise impact map as submitted to the Secretary under this section cannot be used as evidence in any trial.

Mr. WYDLER. Very well. Now, in going to section 107—and this is the last section upon which I have questions, as I understand the provisions of section 107—I must say that I do not agree with any of these provisions—I think it is very important for all who are going to have to live with high airport noise levels, that at least they should know what the conditions will be like and what the limitations of these sections might be if they should become law—under section 107, I understand that any person who would purchase a home in the noise impact area of an airport would thereafter be foreclosed from bringing any lawsuit to recover damages for jet noise which is causing a loss to his property and to his environment. Is this what the committee is trying to do?

Mr. ANDERSON of California. If they purchase property after enactment of this act, again they would have to show those same points I mentioned earlier. It does prohibit persons buying property after enactment from recovering, unless they would meet one of those four points that I mentioned:

(1) a significant change in the type or frequency of aircraft operations at the airport; or

(2) a significant change in the airport layout; or

(3) a significant change in flight patterns; or

(4) a significant increase in nighttime operations,

occurred after the date of the acquisition of such property or interest therein.

If any one of those changed conditions could be proved, then they would surely be able to go to court and use this as evidence.

Mr. WYDLER. I understand the limitations. I would like to point out to the chairman, for example, that many people who buy homes do not decide to purchase them when aircraft noise is in evidence as when they inspected the property. I am sure the chairman realizes this. The gentleman comes from this kind of area himself.

In my district around the Kennedy Airport they may be using the runways at the other side of the airport and one may not hear aircraft noise; however, the next day when they are using the runway on the other end, it is unbearable. So, a person could very innocently buy a home and not be aware that there is a high jet noise in the area.

However, on the assumption, apparently, that the committee is making, that everybody who buys in a jet noise area must know this, may not be a fact at all.

Mr. ANDERSON of California. I think the gentleman from Ohio (Mr. HARSHA) was seeking recognition on this.

Mr. WYDLER. Mr. Chairman, I yield to the gentleman from Ohio.

Mr. HARSHA. Mr. Chairman, it would be inconceivable to me that you would buy a home and only visit it one time before you bought it. Certainly if you are buying near an airport, I do not see how you would fail to have knowledge of airplanes flying in the vicinity of your home.

This provision is included to prevent a lot of frivolous suits that have been filed by people that knowingly have bought land in the vicinity of an airport, knowing that airport is operating there, and come in and file a suit to get damages. Now, if you do that, you certainly should not be granted damages.

How you would visit a home on a particular occasion and miss the flying in that particular area is beyond my comprehension. I would think you would look at that two or three times before you made an investment to buy a home there.

Mr. WYDLER. Mr. Chairman, the gentleman's theory may be correct. However, it could very well happen—in a large metropolitan area where planes are landing and departing from two or three different directions—according to the law of averages or to planning that planes would not be flying over the house on the day it was visited. It could happen, and it certainly has.

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent, Mr. WYDLER was allowed to proceed for 2 additional minutes.)

Mr. WYDLER. Mr. Chairman, really this could happen. I think that what the gentleman meant to do, and what I can also understand is that when people have actual knowledge of buying a home in a jet noise impacted area, the plan is that they cannot sue thereafter and recover damages for that loss, because in fact they do not have a loss. They knew about the diminished value of their property at the time they bought it. That is logical. However, what is not logical is that we infer such knowledge to everyone who buys in noise impact areas which we are trying to define.

I would like to urge the chairman and the ranking minority member to agree, if they will, to offer some amending language which I shall offer in conference which will be of help in carrying out the intentions of the chairman and the ranking minority member without penalizing innocent people who really do have a legitimate claim in order not to exclude them from any claim for damages which is just and proper.

Mr. ANDERSON of California. Mr. Chairman, I thank the gentleman for making this suggestion.

Mr. Chairman, I am certainly in sympathy with anybody who buys property, not knowing that an airport is nearby. If the gentleman can come up with some language that we can accept, I certainly would consider it. Perhaps the gentleman from Ohio (Mr. HARSHA) can help us.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from Ohio.

Mr. HARSHA. Mr. Chairman, I would just like to point out that we are not endeavoring here to jeopardize or encumber innocent people who inadvertently get into a situation of this kind, but that is going to be the very minimum of any such occurrence, in my judgment, from the experience we have had with this program.

However, there is a multiplicity of frivolous suits filed by people who wish to take advantage of the situation, knowing full well or at least having had notice that the airport was there and operating there. Yet they have gone ahead and taken advantage of the privilege of filing a lawsuit in order to at least recover nuisance value in the form of damages. That is the kind of thing we are trying to get at and prevent.

The CHAIRMAN. Are there additional amendments to title I?

If not, the Clerk will read.

The Clerk read as follows:

TITLE II

SEC. 201. (a) Paragraph (3) of subsection (a) of section 14 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1714) is amended by striking out "$495,000,000 for fiscal year 1979, and $525,000,000 for fiscal year 1980." and inserting in lieu thereof "$730,000,000 for fiscal year 1979, and $793,000,000 for fiscal year 1980.".

(b) Paragraph (4) of subsection (a) of section 14 of the Airport and Airway Development Act of 1970 is amended by striking out "$80,000,000 for fiscal year 1979, and $85,000,000 for fiscal year 1980." and inserting in lieu thereof "$115,000,000 for fiscal year 1979, and $127,00,000 for fiscal year 1980.".

SEC. 202. Paragraph (2)(A) of subsection (a) of section 17 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1717) is amended by striking out "1977 and 1978, and shall be 80 per centum of the allowable project costs in the case of grants from funds for fiscal years 1979 and 1980," and inserting in lieu thereof "1977 through 1980".

SEC. 203. Part II of the Airport and Airway Development Act of 1970 (49 U.S.C. 1711 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 31. Notwithstanding any other provision of this title, no airport development project involving the construction or extension of any runway may be approved by the Secretary at any general aviation airport located astride a line separating two counties within a single State if, before the submission of such project to the Secretary, such project has not been approved by the governing body of any village incorporated under the laws of that State which is located entirely within five miles of the nearest boundary of such airport.".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENT OFFERED BY MR. PICKLE

Mr. PICKLE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PICKLE: Page 30 after line 13, insert the following new subsection:

(c) Subsection (e) of section 14 of the Airport and Airway Development Act of 1970 is amended by adding at the end thereof the following new sentence: "If in fiscal year 1979, or in any subsequent fiscal year, the total amount obligated under subsection (c) of this section in such fiscal year is less than the amount made available for obligation under such subsection for such fiscal year, the amount available for obligation or expenditure as determined under the preceding sentence of this subsection shall be reduced by an amount equal to the difference between the amount made available under such subsection (c) for such fiscal year and the total amount obligated under such subsection (c) for such fiscal year.".

Mr. PICKLE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. PICKLE. Mr. Chairman, the purpose of this amendment is to persuade the Department of Transportation to spend the full amount that Congress appropriates from the airport and airways trust fund for the purpose of facilities and equipment.

Last spring when the Ways and Means Oversight Subcommittee held hearings to investigate the airport and airways trust fund, we were very disturbed to find that the trust fund has accumulated enormous unobligated surpluses at a time when there is a critical need for installation of safety equipment at airports throughout the Nation.

With the assistance of the National Transportation Safety Board, we estimated that the minimal needs to make carrier airports safe would require expenditures of about $157 million for instrument landing systems, visual approach indicators, frangible light fixtures, and runway grooving.

This would not seem like an unusually large amount of money in light of the fact that when Congress established the trust fund we stipulated that the facilities and equipment fund should receive an annual authorization of at least $250 million. But the problem is that this minimum figure has been consistently ignored.

In the past, the administration has often requested less than the minimum of $250 million for facilities and equipment and then they have not even spent the amount that is appropriated.

It is frustrating when we have such important safety needs at our larger airports, we cannot get the FAA to spend even the minimum amount for equipment that is required by law. I do not think we should spend surplus money just for the sake of spending and I am not advocating that. I simply feel that it is irresponsible to allow this money to go unobligated year after year when there are clearly documented safety needs at our airports.

My amendment states that if the Secretary of Transportation fails to obligate the minimum authorized for facilities and equipment in any fiscal year, then tion in the amount authorized for maintence of the airway system. This is exactly the same approach that was used in the 1976 ADAP amendments to insure that DOT obligates the full amount authorized for airport development. It has worked so far for airport development grants, because of OMB's keen interest in using trust fund money for maintenance of the airway system.

This amendment is the proper and most effective means to insure that DOT fulfills its duty to make our airports as safe as possible. I urge the adoption of this amendment and hope the committee can accept it.

Mr. ANDERSON of California. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from California.

Mr. ANDERSON of California. Mr. Chairman, on this side we are happy to accept the amendment offered by the gentleman from Texas (Mr. PICKLE), and I rise in support of the amendment.

The Department of Transportation, thanks I believe to OMB, has apparently embarked upon a course of short shrifting aviation safety items such as navigational aids.

Both the Public Works and Transportation, and the Ways and Means Committees, held hearings on the problem, and this amendment is probably the only way to, in effect, force the obligation of the full amount Congress has indicated is needed in this area; namely, "not less than $250 million." This is a prosafety amendment, and I urge its adoption.

Mr. PICKLE. Mr. Chairman, I thank the gentleman from California (Mr. ANDERSON) very much for accepting the amendment, and I ask for a favorable vote on the amendment.

Mr. HARSHA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the majority has already accepted the gentleman's amendment.

Mr. Chairman, I will say at this point that maybe I should not offer this confession, but it was through my insistance several years ago, I believe, that we adopted this maintenance provision in this fund during a previous administration, however, it was fully my intent that it would not detract from the other provisions of the program in order to help fund the maintenance program.

I wholeheartedly concur with what the gentleman from Texas (Mr. PICKLE) has said, that in order to see that we get adequate F. & E. and safety measures around airports, we ought to have a proposal such as the gentleman has offered.

Mr. Chairman, I would like to have the record show, too, referring to the previous colloquy with the gentleman from New York (Mr. WYDLER), on noise impact maps, as it relates to the operation of airports. There may be a requirement in the noise compatibility program that requires notice of the airport noise impacts to prospective purchasers of real estate near airports such as a requirement to show the noise impact map to all prospective purchasers.

So we hope, and it is the intention of the Committee, that that will occur, so that there will be no circumstances the gentleman alluded to of an innocent purchaser not being aware of the noise situation and then being jeopardized and having the value of his property depreciated.

Mr. Chairman, the minority accepts the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. PICKLE).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SKUBITZ

Mr. SKUBITZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SKUBITZ: Page 30, after line 13, insert the following new subsection:

(c)(1) Subsection (a) of section 14 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1714(a)) is amended by adding at the end thereof the following new paragraph:

"(5) For the purpose of developing general aviation airports in the several States (other than the District of Columbia), in addition to the amounts set forth in paragraph (4) of this subsection, $25,000,000 for fiscal year 1979 and $25,000,000 for fiscal year 1980.".

(2) The first sentence of paragraph (2) of subsection (b) of section 14 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1714(b)(2)) is amended by striking out "(3) and (4)" and inserting in lieu thereof "(3), (4), and (5)".

(3) Subsection (a) of section 15 of the Airport and Airway Development Act of 1970 (15 U.S.C. 1715(a)) is amended—

(A) by renumbering paragraph (6), and any reference thereto, as paragraph (7); and

(B) by inserting immediately after paragraph (5), the following new paragraph:

"(6) On the first day of each fiscal year which begins on or after October 1, 1978, for which any amount is authorized to be obligated for the purposes of paragraph (5) of section 14(a) of this part, the amount made available shall be apportioned equally among the several States (other than the District of Columbia). Each amount apportioned to a State under this paragraph (A) shall be available only for approved airport development projects located in that State or sponsored by that State or some public agency thereof but located in an adjoining State, and (B) shall remain available to such State until expended.".

Mr. SKUBITZ (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. SKUBITZ. Mr. Chairman, 10 years ago you could not give general aviation airport money away in Kansas—the Secretary reallocated the money to the large States.

Now—Kansas was no different than 30 or more other States—who found themselves in like or similar circumstances.

But times have changed and so has Kansas. So have the other 30 or more States in the Union.

With small industries employing 20, 50, 150 workers, establishing plants in cities of 5,000, 10,000, 15,000 people—small business owners find themselves hampered, because of the lack of fast, efficient transportation systems—to reach their prospective clients.

To them while major airlines are not available—passenger trains—buses—yes, even the automobile do not meet their travel requirements. Hence, they are turning to small aviation aircraft. If industry is to grow—if small communities are to grow—they must have safer airport facilities.

Today over $135 million in combined Federal and local funds are being sought by Kansas towns. FAA planners have recommended additional airport funds for 88 Kansas communities—between 1978 and 1982.

That compares with $15 million for the 5-year period ending September 30, 1977. We will be lucky to get one, maybe two, airports in Kansas if this bill in its present form is passed.

Now the story of Kansas is the story of every State in the Union.

My colleagues, there would not have been an automobile industry today if men of vision had not seen and worked for a nationwide, integrated highway system.

The general aviation industry will never reach its peak unless we provide an adequate airport system.

Industry in small cities not served by air will always be handicapped, unless business managers can travel fast and expeditiously.

I am not a member of the Public Works Committee—but I am familiar with the historical development of this program since I was a member of the Interstate Commerce Committee which handled the Aviation Facilities Extension and Improvement Act of 1969. It was in this act that we increased the gasoline tax on general aviation from 2 to 7 cents a gallon.

It was in that act we raised the tax on passenger tickets from 5 to 8 percent and provided that all revenues go into the newly created airport and airway trust fund.

If we had not done that in 1969, the general taxpayer would be required today to foot the total bill out of general tax revenues if it were not for the surplus funds in this fund. That makes possible the discussion of this bill today. I say this because I doubt the Public Works Committee would ask the taxpayer to fork up $28 for noise control.

It was in that act of 1969 that we placed an additional $75 million to be used for "relief airports" only—these airports to be used for general aviation—which included business aircraft and those funds to be distributed three-fourths on an area population basis and one-fourth at the discretion of the Secretary of Transportation.

If my amendment is not adopted, it means that in my district alone where the national airport system plan identifies 16 general aviation airports on which Federal funds may be spent, these 16 airports will be competing for $813,000

apportioned to the State of Kansas for fiscal year 1979. Eleven of these airport communities are requesting more aid than is apportioned to the entire State of Kansas.

Worse still is the fact that these 16 will be competing with 58 others in the State of Kansas.

Quite frankly, my people cannot understand Congress reluctance to authorize further airport development when the need exists for these revenues and there is a $2 billion surplus in the trust fund coffer.

The situation in my district, and Kansas, is no different than that found in 60 percent of the States in the Union.

Call the roll Alabama, Arkansas, Connecticut, Delaware, Hawaii, Idaho, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, Nebraska, Nevada, New Hampshire, North Dakota, Oklahoma, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, West Virginia, and Wyoming—all receive less than $813,000 for general aviation airport development.

And 11 others are receiving less than $1 million: Arizona, Colorado, Georgia, Indiana, New Jersey, New Mexico, North Carolina, Oregon, Virginia, Washington, and Wisconsin.

The amendment which I have introduced simply authorizes $25 million in fiscal year 1979 and adds another $25 million for fiscal year 1980 for general aviation development.

This money would be evenly divided among the 50 States—each State receiving $500,000 for general aviation development during fiscal years 1979 and 1980.

It would in no way affect the money recommended by the committee for use on a population and area basis.

When I spoke to the members of the committee regarding my amendment to increase the amount available to the States for general aviation development by $25 million each year—1979 and 1978 and dividing this equally among the 50 States—each State to receive $500,000—I was told that the committee had already increased the amount authorized for general aviation by $35 million in 1979 and $43 million in 1980.

I was told that the administration opposes the increases recommended by the committee—that the added amount was inflationary.

Why, the fact is the committee has done little or nothing for the States to develop their airport facilities.

What the committee has done is to increase the amount of funds available to the Secretary of Transportation by $35 million in 1979, and $43 million in 1980. In addition to the 25 percent he receives under existing law which he can spend wherever he wants to or refuse to spend a dime. Since the administration opposes any increase, you can bet your bottom dollar—nothing will be spent by this administration.

The fact is—that under existing law the only funds available to the State is three-fourths of level of spending of $80 million in 1979 or $60 million, three-fourths of $85 million in 1980 or $63 million.

I hope the committee will accept my amendment.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. SKUBITZ. Mr. Chairman, I yield to the gentleman from California.

The CHAIRMAN. The time of the gentleman from Kansas (Mr. SKUBITZ) has expired.

(On request of Mr. DON H. CLAUSEN, and by unanimous consent, Mr. SKUBITZ, was allowed to proceed for 2 additional minutes.)

Mr. DON H. CLAUSEN. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Kansas.

Quite frankly, I hope the leadership of the committee would accept the gentleman's amendment. The moneys are in the trust fund. The people that are making payments into the trust fund are anticipating it is going to be used for airport and airway development purposes. There is much in the way of need. As the gentleman has pointed out, the current funding increases in the legislation before us are purely discretionary.

What we need is to develop as part of our airport development assistance plan the general assistance to aviation throughout the country. So I hope the leadership could accept this amendment and then we could deal with it when we go to conference and at least have a basis to evaluate it on the basis of what I consider sound recommendations.

I hope the leadership will accept this.

Mr. SKUBITZ. I thank the gentleman from California.

Mr. MILFORD. Mr. Chairman, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Texas (Mr. MILFORD).

Mr. MILFORD. Mr. Chairman, I am very much in sympathy with what the gentleman is trying to do. I, too, would like to see us expand our efforts in this case of general aviation airports. I would, however, be forced to vote against the gentleman's amendment for this reason.

This formula for distribution leaves something to be desired. To divide it equally between 50 States in a stated amount totally disregards the distances involved, and the airplane attracts itself to those States where we have vast distances. For instance, California has the highest number of airplanes.

Mr. SKUBITZ. Mr. Chairman, let me recoup my time.

The money provided in this bill by the committee is still to be allocated under the formula that was adopted by the committee, but I am asking only that we put in $25 million to help all the States with their problems.

Mr. ANDERSON of California. Mr. Chairman, I rise in opposition to the amendment. First, the amendment would add $25 million a year to an amount already considered to be too high by the administration. The Senate bill is quite a bit lower than this bill, and the administration seems to be more in favor of the Senate version. To add an additional $25 million a year in my opinion is unnecessary and could put us in a more difficult conference situation. This bill already increases the general aviation fund by $30 million for fiscal year 1979 and by $37 million for fiscal year 1980. In addition, the bill extends for two more years the 90 percent Federal share of ADAP grants to general aviation airports. Without this provision the Federal share will revert to 80 percent.

The other reason I oppose this amendment is that it will tinker with the current distribution formula for general aviation airports. I believe we need to take a look at this issue next year when the Public Works Committee will be considering renewal of the ADAP program beyond fiscal year 1980. For these reasons I urge a "no" vote on this amendment.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Chairman, the chairman says we will consider it next year. As a practical matter, there will be leadtime requirements if the amendment were to be adopted. I cannot believe the FAA, who knows the needs of general aviation airports in this country is speaking for the administration in this instance.

This is one of the problems we have with this unified budget. The OMB is the one who determines whether or not we will have airport assistance going forward.

Each year, if we extend the construction time frame for development of these airports, the escalation of costs is going to cause the costs to go out of sight.

I plead with my colleagues to support this amendment and then we will be able to discuss it with the conferees.

Mr. GOLDWATER. Mr. Chairman, I move to strike the last word and I rise in support of the amendment.

Mr. Chairman, I would urge support of this amendment.

I think the gentleman from Kansas (Mr. SKUBITZ) points up one of the problems we have in this distribution of the ADAP funds, and that is the disproportionate amount that tends to go to the major hub centers of this country directly and primarily interested in general aviation. There is currently about $1 billion in applications for these moneys in the fund, applications that have so far not been met.

In addition to the amount of applications, or of that $1 billion, a little over $100 million represents applications for general aviation.

Prior to 1975 on the commercial side we were authorizing about $200 million a year. In 1980 it is projected to be $525 million on an annual basis.

You compare that to general aviation prior to 1975 and we were only spending about $35 million. Now with the current additions contained in the bill we are taking into consideration, we are looking at $127 million for general aviation, although the addition is primarily discretionary funds.

What this amendment will do will, in fact, give an amount to every State of about one-half million dollars. I think that kind of assistance is one that can be relied upon and depended upon by the States in formulating their own plans and, in essence, giving general aviation some additional funds which the committee so far has seen fit not to provide.

So although I recognize the argument made by our chairman, the gentleman from California (Mr. ANDERSON) that perhaps it would be wiser that we should discuss this next year, this discussion has been going on for many years, and those of us who support additional funding for general aviation have been frustrated in our attempts to increase these amounts to the level we feel is adequate. So that recognizing perhaps the need for more debate and discussion, we do have an opportunity at this point in time to adopt this amendment and to give additional help and support to general aviation development.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas (Mr. SKUBITZ).

The question was taken; and on a division (demanded by Mr. SKUBITZ) there were—ayes 14, noes 19.

Mr. SKUBITZ. Mr. Chairman, I demand a recorded vote and, pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand by the gentleman from Kansas (Mr. SKUBITZ) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 213, noes 147, not voting 72, as follows:

[Rollcall Vote No. 772]

AYES—213

Abdnor
Addabbo
Akaka
Andrews, N.C.
Andrews, N. Dak.
Archer
Ashbrook
Badham
Bafalis
Baldus
Baucus
Bauman
Bedell
Benjamin
Bevill
Biaggi
Blouin
Bonior
Bowen
Breckinridge
Brinkley
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Clausen, Don H.
Cleveland
Coleman
Conable
Conte
Conyers
Corcoran
Cornell
Cornwell
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Delaney
Dellums
Devine
Dickinson
Dicks
Dingell
Dornan
Downey
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Ertel
Evans, Del.
Evans, Ga.
Findley
Fish
Fithian
Florio
Foley
Ford, Tenn.
Fountain
Fraser
Frey
Fuqua
Gammage
Garcia
Gephardt
Gilman
Glickman
Goldwater
Goodling
Gore
Grassley
Gudger
Guyer
Hagedorn
Hamilton
Hammer-schmidt
Hansen
Harkin
Harris
Heckler
Heftel
Hillis
Holt
Horton
Hubbard
Hughes
Hyde
Ichord
Jacobs
Jeffords
Jones, N.C.
Kastenmeier
Kazen
Kemp
Keys
Kildee
Kindness
LaFalce
Lagomarsino
Latta
Le Fante
Lederer
Lent
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Lott
Lujan
Lundine
McCloskey
McDade
McDonald
McFall
McHugh
Madigan
Maguire
Marks
Marlenee
Marriott
Martin
Mathis
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Murphy, Pa.
Myers, John
Natcher
Nichols
Nolan
O'Brien
Ottinger
Panetta
Patten
Pattison
Pease
Pettis
Pressler
Pritchard
Pursell
Quayle
Quillen
Railsback
Regula
Robinson
Roe
Rogers
Rooney
Rose
Rousselot
Rudd
Ruppe
Ryan
Satterfield
Schulze
Sebelius
Shuster
Sikes
Simon
Skelton
Skubitz
Snyder
Spellman
Spence
Stangeland
Stark
Steiger
Stokes
Stump
Symms
Taylor
Thone
Thornton
Trible
Tucker
Udall
Vander Jagt
Volkmer
Wampler
Watkins
Whalen
White
Whitehurst
Whitley
Whitten
Wilson, Bob
Wilson, Tex.
Wolff
Wydler
Wylie
Young, Fla.
Young, Mo.
Zablocki

NOES—147

Ambro
Anderson, Calif.
Anderson, Ill.
Annunzio
Applegate
Ashley
Aspin
AuCoin
Barnard
Beard, R.I.
Bellenson
Bennett
Bingham
Blanchard
Boggs
Boland
Bolling
Brademas
Brodhead
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Clay
Collins, Tex.
Corman
Cotter
Danielson
Derrick
Derwinski
Dodd
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Erlenborn
Fascell
Fenwick
Fisher
Flippo
Flood
Flynt
Forsythe
Gaydos
Giaimo
Ginn
Gonzalez
Gradison
Green
Hall
Hanley
Hannaford
Harsha
Hawkins
Hightower
Holtzman
Howard
Ireland
Jenkins
Johnson, Calif.
Jones, Okla.
Jordan
Kelly
Kostmayer
Krebs
Levitas
Long, La.
Long, Md.
Luken
McClory
McKay
Mahon
Markey
Mattox
Mazzoli
Meeds
Meyner
Mikulski
Mikva
Milford
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Gary
Myers, Michael
Nedzi
Nowak
Oakar
Oberstar
Obey
Patterson
Pepper
Perkins
Pickle
Pike
Poage
Price
Rahall
Rangel
Reuss
Rhodes
Rinaldo
Roberts
Rodino
Rosenthal
Rostenkowski
Roybal
Russo
Scheuer
Schroeder
Seiberling
Sharp
Smith, Iowa
Solars
St Germain
Staggers
Steed
Steers
Stockman
Stratton
Studds
Thompson
Traxler
Ullman
Van Deerlin
Vanik
Vento
Waggonner
Walgren
Waxman
Weaver
Weiss
Wirth
Wright
Yates
Yatron
Zeferetti

NOT VOTING—72

Alexander
Ammerman
Armstrong
Beard, Tenn.
Bonker
Breaux
Brooks
Broomfield
Burke, Calif.
Burke, Fla.
Caputo
Chisholm
Clawson, Del
Cochran
Cohen
Collins, Ill.
Dent
Diggs
Evans, Colo.
Evans, Ind.
Fary
Flowers
Ford, Mich.
Fowler
Frenzel
Gibbons
Harrington
Hefner
Holland
Hollenbeck
Huckaby
Jenrette
Johnson, Colo.
Jones, Tenn.
Kasten
Krueger
Leach
Leggett
Lehman
McCormack
McEwen
McKinney
Mann
Metcalfe
Miller, Calif.
Moss
Neal
Nix
Preyer
Quie
Richmond
Risenhoover
Roncalio
Runnels
Santini
Sarasin
Sawyer
Shipley
Sisk
Slack
Smith, Nebr.
Stanton
Teague
Treen
Tsongas
Walker
Walsh
Wiggins
Wilson, C. H.
Winn
Young, Alaska
Young, Tex.

Mrs. LLOYD of Tennessee and Messrs. PRITCHARD, WHITE, HYDE, SHUSTER, McHUGH, HEFTEL, MURPHY of Pennsylvania, and AKAKA changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there additional amendments to title II? If not, the Clerk will read title III.

The Clerk read as follows:

TITLE III

SEC. 301. For purposes of this title—

(1) the term "noncomplying aircraft" means any civil subsonic turbojet powered aircraft (A) which (i) has a maximum certificated takeoff weight of seventy-five thousand pounds or move, (ii) is registered in the United States, (iii) has a standard airworthiness certificate issue pursuant to section 603 (c) of the Federal Aviation Act of 1958 (49 U.S.C. 1423), and (iv) as determined by the Civil Aeronautics Board, is in service on January 24, 1977, and (B) which does not comply with the noise standards prescribed for new subsonic aircraft in regulations issued by the Secretary, acting through the Administrator of the Federal Aviation Administration (14 CFR part 36), as such regulations were in effect on January 1, 1977;

(2) the term "retrofit" means the alteration of the engine or the engine nacelles of an aircraft with sound absorbent materials for the purpose of noise reduction; and

(3) the term "Secretary" means the Secretary of Transportation.

SEC. 302. (a) Not later than sixty days after the date of enactment of this title, the Secretary shall publish a list in the Federal

Register setting forth the name of each operator of each noncomplying aircraft as of January 24, 1977, and the registration number of such aircraft.

(b)(1) Except as provided in paragraph (2) of this subsection, not later than thirty days after the date the Secretary publishes the list required by subsection (a) of this section, each operator named in such list shall submit to the Secretary in writing a statement which sets forth, with respect to each noncomplying aircraft operated by such operator which appears on such list—

(A) that such aircraft will comply with (i) the noise standards set forth for new subsonic aircraft in regulations prescribed by the Secretary, acting through the Administrator of the Federal Aviation Administration (14 CFR part 36) as such regulations were in effect on January 1, 1977, and (ii) any additional requirements relating to noise, set forth in regulations issued by the Secretary; and

(B) the means by which such operator will comply with such regulations which shall be by—

(i) retrofitting such noncomplying aircraft (including retrofitting spare engines where necessary);

(ii) replacing the engines in such noncomplying aircraft; or

(iii) replacing such noncomplying aircraft with another aircraft.

(2) Paragraph (1) of this subsection shall not apply to any operator of a noncomplying aircraft set forth in the list published pursuant to subsection (a) of this section if such aircraft is not used for the carriage of persons or property for compensation or hire.

SEC. 303. (a) Notwithstanding any other provision of law, not later than the thirtieth day after the last day of the thirty-day period described in section 302(b)(1) of this title—

(1) any operator named in the list published under section 302(a) of this title who is the operator of an aircraft which is used for the carriage of persons for compensation or hire shall, in the case of the transportation of any person subject to the tax imposed by section 4261(a) of the Internal Revenue Code of 1954, impose a surcharge on any lawful rate, fare, or charge for the carriage of such persons equal to 2 per centum of such rate, fare, or charge (excluding all Federal and States taxes);

(2) any operator of an aircraft which is used for the carriage of persons for compensation or hire shall, in the case of the transportation of any person subject to the tax imposed by section 4261(c) of the Internal Revenue Code of 1954, impose a surcharge on any lawful rate, fare, or charge (A) which is less than $100 for the carriage of such person of $2 in addition to such rate, fare, or charge, and (B) which is $100 or more for the carriage of such person of $10 in addition to such rate, fare, or charge;

(3) any operator named in the list published under section 302(a) of this title who is the operator of an aircraft which is used for the carriage of property for compensation or hire shall, in the case of the transportation of property subject to the tax imposed by section 4271(a) of the Internal Revenue Code of 1954, impose a surcharge on any lawful rate, fare, or charge for the carriage of such property equal to 2 per centum of such rate, fare, or charge (excluding all Federal and State taxes; and

(4) any operator of an aircraft which is used for the carriage of property for compensation or hire shall, in the case of the transportation of property by air which transportation begins in the United States and is not subject to the tax imposed by section 4271(a) of the Internal Revenue Code of 1954, impose a surcharge on any lawful rate, fare, or charge for the carriage of such property equal to 5 per centum of such rate, fare, or charge (excluding all Federal and State taxes).

(b)(1) Except as provided in paragraph (8), any operator collecting a surcharge pursuant to subsection (a) of this section shall deposit all such surcharges in a separate account which shall be established by such operator. Except as provided in paragraph (5) of this subsection, amounts deposited in such account shall be expended only to pay the retrofit or replacement cost, in accordance with paragraph (2) of this subsection, for each noncomplying aircraft which is on the list published in the Federal Register in accordance with section 302(a) of this title.

(2) In any case where the method for compliance with noise standards for a noncomplying aircraft is—

(A) retrofitting, the amount of the cost to be paid from the account authorized in paragraph (1) shall be 50 per centum of the cost of such retrofitting, unless such aircraft has less than four engines in which case the cost to be paid shall be 90 per centum of the cost of such retrofitting;

(B) replacing the engines, the amount of the cost to be paid from the account authorized in paragraph (1) shall be 75 per centum of the cost of such replacement, but such amount shall not exceed an amount equal to 40 per centum of the cost of replacing that aircraft with a comparable aircraft which meets the noise standards referred to in subparagraph (C)(i) of this paragraph;

(C) replacing the aircraft—

(i) except as provided in paragraph (7) of this subsection, if the replacement aircraft meets, at a minimum, the noise standards for new type certificated aircraft set forth in regulations issued by the Secretary, acting through the Administrator of the Federal Aviation Administration, on March 3, 1977 (F.R., vol. 42, No. 24, p. 12360 et seq.), the amount of the cost to be paid from the account authorized in paragraph (1) shall be 40 per centum of the cost of the replacement aircraft; and

(ii) except as provided in paragraph (7) of this subsection, if the replacement aircraft does not meet the noise standards described in clause (i) of this subparagraph, but does meet those noise standards set forth in regulations issued by the Secretary, acting through the Administrator of the Federal Aviation Administration (14 CFR part 36), as in effect on January 1, 1977, the amount of the cost to be paid shall be 25 percentum of the cost of such replacement aircraft.

(3) For the purpose of subparagraph (C) of paragraph (2) of this subsection, the cost of a replacement aircraft shall be the actual cost reduced by the excess (if any) of—

(A) the aggregate amount allowed under the Internal Revenue Code of 1954 for depreciation or amortization with respect to the aircraft being replaced, for periods before the date of acquisition of the replacement aircraft; over

(B) the amount which is treated as ordinary income on any disposition of the aircraft being replaced under section 1245(a) of such Code without regard to whether such disposition occurred before, on, or after the date of the acquisition of such replacement aircraft.

(4) Surcharges shall be deposited in an account established under paragraph (1) of this subsection until it contains an amount sufficient to pay, with respect to each noncomplying aircraft operated by such operator, the allowable retrofit or replacement cost authorized to be paid for such aircraft under this subsection.

(5) Except as provided in paragraph (8), funds collected by an operator having no noncomplying aircraft and funds collected by an operator pursuant to subsection (a) of this section in excess of the maximum amount to be deposited in a separate account pursuant to paragraph (4) of this subsection shall be paid, in accordance with regulations prescribed by the Secretary of the Treasury, not less often than quarterly to the Secretary of the Treasury, who shall deposit such funds in the Airport and Airway Trust Fund established by section 208 of the Airport and Airway Revenue Act of 1970.

(6) The Secretary, acting through the Administrator of the Federal Aviation Administration, shall determine those costs of retrofitting, replacing the engines, and replacing the aircraft which are allowable for the purpose of determining the amount to be paid from the accounts authorized in paragraph (1) of this subsection.

(7) In any case where an operator ceases to operate a noncomplying aircraft having less than four engines and possession of such aircraft is acquired by another operator issued a certificate under section 401 of the Federal Aviation Act of 1958, the new operator shall be entitled to pay from the account established by such new operator pursuant to paragraph (1) 90 per centum of the cost of so retrofitting such aircraft and the former operator shall have the amount to be paid from the account established by such former operator pursuant to paragraph (1) for replacing such aircraft reduced by an amount equal to 90 per centum of the cost to the new operator of retrofitting the aircraft.

(8) Any foreign air carrier having in force a permit issued under section 402 of the Federal Aviation Act of 1958 collecting a surcharge pursuant to subsection (a) of this section shall, not less often than quarterly, pay such surcharges to the Secretary who shall deposit such funds in an account to the credit of such foreign air carrier. If the chief operating officer of such foreign air carrier certifies to the Secretary (A) that each aircraft of such carrier engaged in operations within the United States (as such term is defined in section 101(38) of the Federal Aviation Act of 1958) complies with the noise standards which would apply to such type of aircraft if it were registered in the United States which are set forth in either the regulations of the Secretary, acting through the Administrator of the Federal Aviation Administration (14 CFR part 36), as such regulations were in effect on January 1, 1977, or the regulations issued by the Secretary, acting through the Administrator of the Federal Aviation Administration, on March 3, 1977 (F.R., Vol. 42, No. 24, p. 12360 et seq.), and (B) the total amount expended by such foreign air carrier after January 24, 1977, to comply with such noise standards, then the Secretary shall refund to such foreign air carrier from the funds in the account credited to such foreign air carrier an amount equal to the amount so certified. Funds in such account in excess of the amount required to be refunded under this paragraph shall be paid to the Secretary of the Treasury who shall deposit such funds in the Airport and Airway Trust Fund established by section 208 of the Airport and Airway Revenue Act of 1970.

(c)(1) The total number of passenger seats on all replacement aircraft for which payment is made under subsection (b) of this section by any operator shall not exceed by more than 7 per centum the total number of passenger seats on all noncomplying aircraft of such operator which are replaced by such replacement aircraft.

(2) The total cargo capacity for property of all replacement aircraft for which payment is made under subsection (b) of this section by any operator shall not exceed by more than 7 per centum the total cargo capacity of all noncomplying aircraft of such operator which are replaced by such replacement aircraft.

(d)(1) Subsection (a) of this section shall cease to be in effect on and after the last day of the tenth year which begins after the date of enactment of this Act.

(2) Any operator imposing any surcharge under paragraph (1) or (3) of subsection

(a) of this section shall not impose such surcharge after the last day of the fifth year which begins after the date of enactment of this Act unless such operator has notified the Secretary not later than thirty days before the last day of such fifth year that such operator will continue to impose such surcharge for such additional period as he sets forth in such notice, but in no case shall such additional period extend beyond the last day of the tenth year which begins after the date of enactment of this Act.

(e) None of the funds collected by any operator pursuant to subsection (a) of this section shall be included in the gross income of such operator for purposes of the Internal Revenue Code of 1954.

SEC. 304. (a) Any operator who purchases any replacement aircraft any part of the cost of which is paid from the account established by such operator under subsection (b)(1) of section 303 shall not sell such aircraft during the five-year period which begins on the date of the acquisition of such aircraft unless at the time of such sale such operator repays to the Secretary of the Treasury a percentage of the cost paid from such account determined by dividing the number of years remaining in the five-year period at the time of sale of such aircraft by five years.

(b) Any operator who purchases any replacement aircraft any part of the cost of which is paid from the account established by such operator under subsection (b)(1) of section 303 shall only lease such aircraft to an air carrier (as such term is defined in section 101(3) of the Federal Aviation Act of 1958) during the five-year period which begins on the date of the acquisition of such aircraft.

(c) Sums repaid to the Secretary of the Treasury under this section shall be deposited in the Airport and Airway Trust Fund established by section 208 of the Airport and Airway Revenue Act of 1970.

SEC. 305. After January 1, 1985, no operator of a civil subsonic turbojet powered aircraft (1) which (A) has a maximum certificated takeoff weight of seventy-five thousand pounds or more, and (B) is registered in a foreign country, and (2) which does not comply with the noise standards prescribed for new subsonic aircraft in regulations issued by the Secretary, acting through the Administrator of the Federal Aviation Administration (14 CFR part 36), as such regulations were in effect on January 1, 1977, shall operate such aircraft in the United States.

SEC. 306. Notwithstanding any other provision of law, the Secretary is authorized to allow any noncomplying aircraft to be operated beyond the date by which such aircraft is to be in compliance with noise standards applicable to it in regulations issued by the Secretary, acting through the Administrator of the Federal Aviation Administration (14 CFR part 36), as such regulations were in effect on January 1, 1977, by waiving the application of such regulations of such aircraft for such period beyond such date of compliance as he determines reasonable to permit compliance. No such waiver shall be granted except upon application of the operator of the noncomplying aircraft and a finding by the Secretary that such operator has made a good faith effort to comply with such regulations and that there is good cause for failure of such operator to comply with such regulations as applicable to such noncomplying aircraft. For the purpose of this section, the term "good cause" shall include the following:

(1) Any case where the supplier is unable to furnish or make available to such operator in a timely manner the necessary engine retrofit kits, replacement engines, or replacement aircraft.

(2) Any case where the operator is unable to obtain financing at reasonable rates to retrofit, reengine, or replace the noncomplying aircraft.

(3) Any case where the operator's inability to operate such noncomplying aircraft will result in the end of scheduled service to the public.

(4) Any other circumstances the Secretary deems appropriate.

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that title III be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ANDERSON of California. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. STUDDS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 8729) to provide assistance to airport operators to prepare and carry out noise compatibility programs, to provide assistance to aircraft operators to comply with noise standards, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. OTTINGER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks during consideration of the rule, House Resolution 1293, and on the bill H.R. 8729 just considered.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

CIVIL SERVICE REFORM BILL—SUPPORT OF VETERANS PREFERENCE

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, I wholeheartedly supported the Hanley amendment. This important amendment would preserve the present system of veterans preference in Federal employment.

The bill approved by the Post Office and Civil Service Committee would undermine the job preference traditionally granted to our veterans. It would limit veterans using their preference rights to one time within 15 years of discharge and the retention preference to the first 8 years after appointment to a competitive service position. The Washington Post, an advocate of such change, candidly states:

Strict limits would be put on the lifetime preferences awarded to able-bodied veterans . . . The result would be to reduce the "pool" of non-disabled veterans eligible for job preference from 27 million to 7 million—all of them from the Vietnam era—by 1980.

It would be a mistake to tamper with veterans preference. We would be pulling back from our long-standing commitment to veterans who have served in the defense of our country.

This commitment extends back to 1865, when Congress enacted legislation giving Civil War veterans an employment preference. More recently, in 1944 Congress adopted the Veterans' Preference Act which has provided the basic framework of veterans preference rights for the past 34 years.

As President Roosevelt said in justifying the 1944 act:

I believe that the Federal Government functioning in its capacity as an employer, should take the lead in assuring those who are in the armed forces, that when they return, special consideration will be given to them in their efforts to obtain employment. It is absolutely impossible to take millions of young men out of their normal pursuits for the purpose of fighting to preserve the Nation, and then expect them to resume their normal activities without having any special consideration shown them.

These remarks are still true today.

I see no reason to now pull the rug out from under our veterans. We should keep veterans preference as is. I am pleased that the majority has voted to reject this unwise recommendation of the Carter administration.

COSTLY GIVEAWAY OF TAXPAYERS' MONEY

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

(Mr. VANIK asked and was given permission to revise and extend his remarks.)

Mr. VANIK. Mr. Speaker, I take this time to advise my colleagues in the House that tomorrow we will be considering title III of the noisy aircraft, $3 or $4 billion giveaway bill.

I would very much appreciate it if my colleagues would study the provisions of the bill that were drafted by the Committee on Ways and Means and are now completely safe from amendment under the proceedings of the closed rule.

I further want to advise my colleagues in the House that under the provisions of this bill almost $1 billion of the moneys that are collected in the air tax will be paid to foreign airlines, including Air India, Olympic Airlines, Aeroflot Airlines, Lott Airlines, Japan Airlines, and Lufthansa. They can use these resources to retrofit their planes out of this country. They can use these proceeds to buy airplanes that are completely made abroad.

It is the only example that I know of in the whole spectrum of our statutory law that permits a giveaway of the taxpayer's money of the United States directly for the special purposes of these operators in foreign countries, most of which are foreign governments.

I want my colleagues to be aware of this. I would appreciate it, if they have any doubt about it, to check with the staff of the Committee on Ways and Means

overnight, or check with the staff of the Joint Committee on Taxation because I think this is something that was not brought out during the debate. I do not think that the American taxpayers would particularly appreciate this type of foreign aid program in which American tax money is used to retrofit the fleets of foreign nationals.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. VANIK. I will be happy to yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I thank the gentleman for yielding, and I would like to say that I am completely astounded. I am one of those who is halfway between voting for this bill and opposing it. This would certainly make a difference to me. Is the gentleman serious about this?

Mr. VANIK. That is the provision of the Committee on Ways and Means bill which we will have before us tomorrow under a closed rule, with no amendments and practically no discussion.

As a matter of fact, that bill went through our committee so fast I do not believe that very many members of the committee are aware of its full impact. But that is what happens when you legislate under a closed rule. You have given to your colleagues on the Committee on Ways and Means the full authority to write whatever they desire in the bill. It would be all right if the committee wrote the bill but the bill was written for the committee by those who were so expert at it that they were able to design all of the language to meet all of these specifications because, as I pointed out in my original debate, I have constitutional questions as to whether or not it is constitutional to have the United States collect tax money and then simply transfer the proceeds over to private corporations or individuals.

Mr. ASHBROOK. Mr. Speaker, if the gentleman will yield still further, I certainly appreciate the fact that the gentleman from Ohio (Mr. VANIK) is bringing this to the attention of the House. It is too bad there are not more Members here but perhaps they will pursue the RECORD tomorrow and will be able to understand these extraordinary facts that you have brought out.

Mr. VANIK. The important point is it will contribute $1 billion as a part of our balance-of-payments deficit.

As the chairman of the Trade Subcommittee I have tried to figure out what we can do to restore some sanity to our balance of payments, and I am shocked that so many Members of the Congress are willing to let $1 billion flow out of this country without any real reason.

If we were to insist, for example, that the retrofit work were to be done in the United States, there would be some advantage. If we were to insist that these proceeds would be available for the purchase of airplanes or engines made in the United States, it would make some sense; but they can use these proceeds to pay for foreign retrofitting and to pay for foreign manufacture.

Mr. Speaker, it will add to our balance-of-payments deficit, and I will say that I think the noisy aircraft will continue to fly all over the world because our airlines will sell them. They will probably sell these planes which have depreciated for 10 years. They will get all their money back, and they will probably sell them for as much as they paid for theim originally and the the foreign airlines will continue to fly to our airports.

The SPEAKER. The time of the gentleman from Ohio (Mr. VANIK) has expired.

SHERIFF BENO KEITER, POPULAR AND HIGHLY RESPECTED IN THE DAYTON AREA, DIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. WHALEN) is recognized for 10 minutes.

● Mr. WHALEN. Mr. Speaker, one of the most popular individuals ever to hold public office in the Dayton, Ohio, area, Bernard L. Keiter, died of cancer on August 30.

Beno, as he was known to his many friends and to the public, had held the office of Sheriff of Montgomery County for 25 years. He was 59 when he died.

I am particularly saddened at his passing because we were personal friends, having been classmates at the University of Dayton. We were engaged in a number of undertakings over the years, including his first campaign for sheriff. I was pleased and honored to have been his campaign manager in that successful effort.

Beno was a fine man, rightly esteemed by the good work he did in modernizing the Montgomery County, Ohio, sheriff's department over the years. He leaves a record that will be difficult to equal and which will remain in the memory of those he served for many, many years.

The Dayton newspapers published comprehensive accounts of Beno's career, Mr. Speaker and I would like to insert selected articles at this point in the Record.

The newspaper accounts follow:

[From the Dayton Daily News Aug. 30, 1978]

SHERIFF KEITER DIES; HAD POST 25 YEARS

(By Dave Allbaugh and Ace Elliott)

Montgomery County Sheriff Bernard L. Keiter, hospitalized since July 29 with recurring cancer, died at 9:35 a.m. today at Miami Valley Hospital in Dayton.

Keiter, 59, who had been listed in satisfactory condition ever since his admission, took a turn for the worse during the night, according to hospital spokesman Ann Doll. At 5 a.m., Mrs. Doll said, his condition began to deteriorate quickly. However, Keiter was still conscious and able to speak this morning, she said.

The sheriff's wife, Bette, and a sister, Delores Roach, were called to the hospital early this morning and were at his bedside when he died, Mrs. Doll said.

The cause of death was listed as "malignancy of the bowel and complications."

Keiter had undergone surgery last Friday for removal of a small bowel obstruction, Mrs. Doll reported.

Keiter, the senior sheriff in the state in terms of years in office, had undergone two previous operations for cancer of the colon—last September and again in May.

Funeral arrangements were pending at the Tobias Funeral Home at 3970 Dayton-Xenia Rd., Beavercreek Twp.

Keiter, who lived at 4820 Chambersburg Rd. in Wayne Twp., had expected to retire at the end of his term in 1980.

Keiter was born in East Dayton and was graduated from the former Stivers High School and University of Dayton.

Keiter also is survived by two daughters Karen Marshall, of Shelbyville, Ind., and Kathleen Eavenson, of Gulf Stream, Fla.; his mother, Mildred, of Otterbein Home, in Warren County; two other sisters, Lyllian Josupeit, of Dayton, and Ella Louise Smith, of Brownsburg, Ind., and two grandchildren.

Word of Keiter's death reached the sheriff's office within minutes but was not circulated immediately at the family's request, according to Deputy Inspector Harlan D. Andrew, chief of the detective section.

The sheriff's five division heads met just before 10 a.m. with Keiter's brother-in-law, John Roach. The commanders then announced the sheriff's death to their personnel.

At 9:55 a.m., the dispatcher told the 12 officers on the road in cruisers, "Sheriff Keiter passed away this morning at Miami Valley Hospital. His wife and sister were at his side." The brief message was repeated several times through the morning.

Andrew said a message about the death was put on national and state teletypes and brought a flood of phone calls and telegrams to the office from around the country.

The five division chiefs met with a representative of the county prosecutor's office and talked about the succession process, Andrew said.

The department's second in command, Chief Deputy Tom Wilson, who had been vacationing, was called and was returning to town, Andrew said. Until Wilson arrived, Andrew reported, he and the others decided Warden Melvin Casey, who has been in the department throughout Keiter's service, would be in charge.

Keiter's 25 years as sheriff saw the creation of a modern professional department, national recognition for Keiter, and his emergence as a community leader.

[From the Journal Herald, Aug. 31, 1978]

"I REALIZED WHAT A GREAT LOSS IT WAS"

(By Fred Lawson)

"I cried, and others cried, too."

Inspector Andrew J. Papanek described the scene yesterday morning as the section commanders in the Montgomery County Sheriff's Department were told of the death of Sheriff Bernard L. Keiter.

"I realized what a great loss it was for us and for the county," Papanek said. "He was a very fine gentleman and person."

A few minutes later, the commanders gathered their personnel and told them the news. A short time later it was broadcast on the sheriff's radio for patrol officers.

The mood was somber but everyone agreed to keep working "because the sheriff would have wanted it that way."

Keiter, 57, Montgomery County sheriff for almost 26 years and one of the county's most popular politicians, died at 9:35 a.m. at Miami Valley Hospital following an 11-month battle with cancer.

The cause of death was listed as "malignancy of the bowel and complications from it," according to hospital spokeswoman Anne Doll.

Keiter had surgery in September. He returned to the hospital in May for exploratory surgery and was released in June, but returned to the hospital July 30 and had been there since.

He underwent surgery Friday to relieve an obstruction of the small bowel and had been

reported in satisfactory condition. But his condition worsened Tuesday night.

His family was notified of his deteriorating condition and his wife, Bette, and sister, Delores Roach, were with him when he died.

Keiter—known as "Beno"—lived at 4820 Chambersburg Road in Wayne Twp. He had planned to retire at the end of his term in 1980. He has considered being a congressional candidate this year, but illness forced him out of the race.

He served as president of the National Sheriff's Association in 1974–75 and was president of the Buckeye State Sheriff's Association in 1966.

He was a star athlete, at Stivers High School and the University of Dayton and is a charter member of the UD Athletic Hall of Fame.

Keiter was a county probation officer when he ran for sheriff in 1952. He defeated Sheriff Ben Smith by 1,700 votes, becoming the county's first Republican sheriff in 20 years.

When he assumed office in January 1953, he was 32 and the youngest sheriff in the county's history. He had been re-elected every four years since, running unopposed in the last three elections.

He was popular with Democrats as Republicans, both in politics and private life.

"I don't care what you were, a Democrat or a Republican, he was always ready to help somebody," said Frederick J. "Fritz" Krumholtz, a long-time Democratic Party leader. "Beno was one of the finest friends I ever had. The community is going to be missing one hell of a guy, because he was a beautiful person."

Frederick N. Young, Montgomery County Republican Party chairman, said.

"I think he was one of the outstanding public officers we have had in this community and a great friend to a lot of people."

Joe Shump, county Democratic chairman, said:

"A man of his stature and credibility in the law enforcement field should serve as a challenge to any person who enters that field as a career to live up to as an example. His contributions in the community will long be remembered."

County Commission President Paula MacIlwaine, a Democrat, commented that the sheriff "always seemed to be . . . a picture of health and vitality. I think he had the respect of everybody in both political parties."

Members of his department had similar thoughts.

"He provided the kind of leadership that was beneficial to everyone in the community," said Deputy Inspector Harlan A. Andrew, head of the detective section. "He was a fine person, a fine administrator and deserves the appreciation of everyone."

Det. R. W. Goertemiller called Keiter's death "a loss. There will never be another like him. I never knew him to have an argument with anybody."

The department's Fraternal Order of Police chapter had challenged some of Keiter's operating procedures, but Deputy Edward H. Stoner, FOP president, said the challenges "were not personal and the sheriff's death is a loss to the department and county."

"I always had a lot of respect for the sheriff and he did me a lot of favors over the last 10 years. He was a fair man and if you had a problem you could go to him and usually it was straightened out right away."

Maxine Jordan, receptionist and secretary for Keiter since 1966, remembers the sheriff "as a big man, yet humble. He took everyone into his office and treated them all alike, no matter what their office or position."

"He was an outstanding person. I don't think he can be replaced," said Melvin L. Casey, jail warden and one of two deputies Keiter kept from the staff of the man he defeated in 1952.

In 1953, Keiter took over a sheriff's department of 40 members, who drove their own automobiles on duty. The department now has 170 full-time employees and is housed on West Second Street.

L. Thomas Wilson, Keiter's chief deputy, was out of town and could not be reached for comment. He is scheduled to return today.

Earlier, Wilson said Keiter "is outstanding, there will never be another one like him." Wilson joined the department in March 1959, after serving as a sergeant.

Keiter was sailing through his seventh term as sheriff and being considered as a congressional candidate when he entered the hospital in September.

Because of the operation and continuing chemotherapy treatments, Keiter decided not to seek the 3rd district congressional nomination to succeed retiring GOP Rep. Charles W. Whalen Jr.

He had been considered the leading Republican candidate.

Keiter, born Sept. 19, 1920, attended the University of Dayton and graduated with Whalen in 1942. Whalen was Keiter's campaign manager for his first term as sheriff.

[From the Journal Herald, Aug. 31, 1978]

SHERIFF BERNARD L. KEITER

Bernard L. (Beno) Keiter was a great deal more than Montgomery County's sheriff for 25 years. He was part of the family, a genuine friend who was liked and respected as a man and as a professional law enforcement officer by all who knew him.

Keiter's death Wednesday after a prolonged and courageous battle with cancer was not unexpected. Persons close to him knew the seriousness of his illness. But his death is still a shock.

A native Daytonian, Keiter was graduated from Stivers High School and the University of Dayton. Those who did not know him as a youth, an outstanding athlete at UD or war veteran came to know and respect him as sheriff. A Republican, he had been re-elected without opposition since 1964 in a Democratic county, and deservedly so.

Keiter brought professionalism to the Montgomery County sheriff's office. He instituted training for deputies, putting them into uniforms and patrol cars for the first time. He took cronyism and politics out of the department, earning the gratitude of his employees and the respect of his professional colleagues. And through it all, he modestly kept in the background, shunning a uniform or headlines.

The death of a good person, a respected citizen, is always an occasion for sorrow. When he was also an outstanding public servant who enjoyed the confidence and affection of all people, his loss is doubly painful.

TRUCK RENTING AND LEASING INDUSTRY SUPPORTS HIGHWAY TRUST FUND LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GOLDWATER) is recognized for 5 minutes.

● Mr. GOLDWATER. Mr. Speaker, while the House votes daily on major issues which directly impact our economy, I am not sure that we are always cognizant of the indirect effects of our actions. An example of this is the impact which the Surface Transportation Assistance Act, soon to be voted upon by the House, will have upon various segments of the transportation industry.

I was recently contacted by representatives of one segment of the transportation industry, the Truck Renting and Leasing Association (TRALA). TRALA is the national trade association comprised of businesses engaged in the renting and leasing of trucks throughout the United States. Their membership ranges in size from small companies with fewer than 10 vehicles to the large, nationally known firms. It is clear that an industry such as this depends upon a firm national commitment to preservation of the integrity of our roads and highways. The highway trust fund, one portion of the Surface Transportation Assistance Act, was intended to provide such a commitment.

Now that much of the Interstate Highway System has been completed, there are some Members of Congress who would abandon the trust fund concept. This would have the effect of endangering completion of our Interstate Highway System and threatening funding for highway maintenance and system expansion. Diluting the trust fund would be detrimental not only to the truck renting and leasing industry and to commerce in general, but also to the millions of American motorists who depend on the use of our Nation's highways.

The Truck Renting and Leasing Association suports passage of H.R. 11733 for two reasons: To allow the Federal Government to complete the Interstate Highway System as planned and to insure a source of funds for the maintenance and improvement of our national highway system. TRALA's members do not believe that the initial intent of establishing the highway trust fund should be abandoned.

The Surface Transportation Assistance Act of 1978 represents the type of commitment to our Nation's transportation system which related businesses need. The truck renting and leasing industry may be but one segment of those depending on a viable highway system, but, while considering the merits of the Surface Transportation Act, I urge Members to consider the extent to which our national economy depends on a viable interstate transportation network.●

HOUSING AND COMMUNITY DEVELOPMENT FUNDS TO BE USED FOR COUNSELING CONSUMERS FACING SERIOUS DEBT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, the Housing and Community Development Act of 1977 is working for Chicago consumers. Beginning October 1, funds from the act will be used to finance a counseling program for Chicago residents facing serious debt and bankruptcy. The counseling service will also be available to persons who just want some help in drawing up a monthly budget in order to avoid falling into serious debt.

Mayor Michael A. Bilandic has earmarked $400,000 in Federal funds to finance the counseling program. Specialists in economics and counseling will set up offices throughout the city. Persons

seeking money management advice, such as how to draw up a monthly budget, might be provided a hour long session with counselors. For those facing serious debt and bankruptcy, a series of counseling sessions will be provided until the consumer has solved his money management problems.

Mr. Speaker, borrowing money has become an American way of life. In June of this year, the amount of consumer credit outstanding reached $233 billion—or more than $1,000 for every man, woman, and child in this country. The total private debt—which includes borrowing for autos, homes, appliances, and personal loans—is $1,162 billion, and climbing.

I commend Mayor Bilandic for setting up this worthwhile program. But, I must also praise my colleagues in the House, for without passage of the Housing and Community Development Act of 1977, it is very likely this program would not be in the works.

Prior to the 1977 act, Chicago's share of Federal aid was shrinking yearly as more and more city residents made the move to the suburbs. The formula for determining aid prior to the 1977 act greatly favored cities of the western and southern regions that had growing populations. The formula was based on population, housing overcrowding and poverty levels. Although Chicago's poverty level was high, the migration of residents to the suburbs greatly reduced the Federal aid available to the city.

The Housing and Community Act corrected this disparity by initiating a new formula based on the age of housing, poverty and a new criteria—growth lag. Cities were allowed to use either the existing or new formula for determining aid, which ever was most favorable to the city.

The new funding formula enabled Chicago to receive $115 million in urban improvement grants, a $60 million increase from last year's grants totaling $61.4 million.

In addition to the counseling program, funds will be used for a wide variety of urban improvement projects—neighborhood redevelopments, creation of new parks and recreational facilities, expansion of day care centers and senior citizen services, and development of new public works projects.

Mr. Speaker, I am proud of my role as a member of the Committee on Housing, Finance and Urban Affairs, in developing this new formula for funding improvement grants. I am also proud of the good use the money is being put to in my hometown of Chicago.●

TAX JUSTICE FOR FISHERMEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PANETTA) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, a situation recently has been brought to my attention which is of considerable concern to the commercial fishermen in the central coast region of California. Because of a provision in the 1976 Tax Reform Act, fishermen working on a boat with fewer than 10 members in the crew are considered to be self-employed for Federal tax purposes, if they are paid by receiving a share of the boat's catch of fish or other forms of aquatic animal life.

I have been informed that this provision was originally designed for the benefit of a small number of shrimp fishermen located in the Gulf of Mexico, who apparently favored such a revision of the previous law. However, this provision has proven to be very unfavorable to the commercial fishermen in my area and throughout the State of California for several reasons.

Under the 1976 act, only those fishermen who work on boats with crews of 10 or fewer men must pay self-employment taxes on a quarterly basis and large income taxes at the end of the year, since no taxes are withheld from their checks. This arrangement is not only unfair to this small group of fishermen, but it actually works as an incentive for a boatowner to lower the number of crew members he employs in order to avoid contributing to social security and processing withholding taxes. In addition, this situation often results in treating the same fishermen in two different ways, depending on whether he works on a boat with fewer or more than 10 members.

It appears obvious to me that the withholding provision in the 1976 Tax Reform Act has led to increased confusion and inconsistency in the tax treatment of fishermen. It is for this reason that I am introducing a bill which will strike this language from the statutes and restore the more equitable policy of treating all fishermen as employees.

Mr. Speaker, I wish to include the text of my bill at this point in the RECORD:

H.R. 14071

A bill to amend the Internal Revenue Code of 1954 to treat certain fishermen as employees for purposes of the income tax and social security taxes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTAIN FISHERMEN TREATED AS EMPLOYEES.

(a) IN GENERAL.—

(1) FICA TAX.—Subsection (b) of section 3121 of the Internal Revenue Code of 1954 (relating to definitions) is amended by striking out paragraph (20), by striking out "; or" at the end of paragraph (19) and inserting in lieu thereof a period, and by inserting "or" at the end of paragraph (18).

(2) TAX ON SELF-EMPLOYMENT INCOME.—Paragraph (2) of section 1402(c) of such Code (defining trade or business) is amended by striking out subparagraph (F), by striking out ", and" at the end of subparagraph (E) and inserting in lieu thereof a semicolon, and by inserting "and" at the end of subparagraph (D).

(3) WITHHOLDING FOR INCOME TAX PURPOSES.—Subsection (a) of section 3401 of such Code (defining wages for purposes of withholding) is amended by striking out paragraph (17), and by striking out "; or" at the end of paragraph (16) and inserting in lieu thereof a period.

(b) CONFORMING AMENDMENTS.—

(1) SOCIAL SECURITY ACT.—

(A) Subsection (a) of section 210 of the Social Security Act (defining employment) is amended by striking out paragraph (20), by striking out "; or," at the end of paragraph (19) and inserting in lieu thereof a period, and by inserting "or" at the end of paragraph (18).

(B) Paragraph (2) of section 211(c) of the Social Security Act (defining trade or business) is amended by striking out subparagraph (F), by striking out ", and" at the end of subparagraph (E) and inserting in lieu thereof a semicolon, and by inserting "and" at the end of subparagraph (D).

(2) REPORTING REQUIREMENTS.—

(A) Section 6050A of the Internal Revenue Code of 1954 (relating to reporting requirements of certain fishing boat operators) is hereby repealed.

(B) Subsection (b) of section 6652 of such Code (relating to failure to file certain information returns) is amended—

(i) by striking out "in the case of each failure to make a return required by section 6050A(a) (relating to reporting requirements of certain fishing boat operators),", and

(ii) by striking out ", or section 6050A(b) (relating to statements furnished by certain fishing boat operators),".

(C) The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by striking out the item relating to section 6050A.

SEC. 2. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by the first section of this Act shall apply to services performed after December 31, 1978.

(b) REPEAL OF REPORTING REQUIREMENTS.—The repeal and amendments made by paragraph (2) of subsection (b) of the first section of this Act shall apply to calendar years after 1978.●

EXPORT-IMPORT BANK FINANCING NOTIFICATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. NEAL) is recognized for 5 minutes.

● Mr. NEAL. Mr. Speaker, I call to the attention of my colleagues a communication from the Export-Import Bank which has been referred to me as chairman of the Banking Subcommittee on International Trade, Investment and Monetary Policy. The communication notifies the Congress of a proposed Eximbank transaction to assist in the purchase of U.S. aircraft by the United Kingdom.

Section 2(b)(3) of the Export-Import Bank Act of 1945 requires the Bank to notify the Congress of any proposed loan, guarantee, or combination thereof in an amount of $60 million or more at least 25 days of continuous session of the Congress prior to the date of final approval. Upon expiration of this period, the Bank may give final approval to the transaction unless the Congress dictates otherwise.

The Bank proposes to lend $151,200,000 to government-owned British Airways to facilitate the purchase of 19 Boeing 737–200 jet aircraft and related goods and services valued at $216 million. The Bank's participation comprises 70 percent of the total. British Airways will make a cash payment of the remaining 30 percent, or $64,800,000.

Repayment will be made in two schedules of 20 semiannual installments each, beginning October 5, 1980, and April 5, 1981. The Eximbank credit will bear interest at the rate of 8.5 percent per annum payable seminannually. A commitment fee of one-half of 1 percent per annum will be charged on the undisbursed portion of the credit. The Government of the United Kingdom will unconditionally guarantee payment of principle and interest.

I am inserting at this point in the RECORD the letter from the Eximbank pertaining to this transaction together with the accompanying materials and I welcome any comments any of my colleagues may wish to offer concerning this proposed loan.

WASHINGTON, D.C.,
September 8, 1978.

Hon. STEPHEN L. NEAL,
Chairman, Subcommittee on International Trade, Investment and Monetary Policy, Committee on Banking, Finance and Urban Affairs, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In accordance with Section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, I have reported to the President of the Senate and the Speaker of the House of Representatives on an application currently pending consideration by the Bank. I am taking the liberty of providing you with a copy of this statement.

Sincerely,

JOHN L. MOORE, JR.

WASHINGTON, D.C.,
September 8, 1978.

Hon. THOMAS P. O'NEILL,
The Speaker of the House of Representatives, The Speaker's Room, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to Section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States House of Representatives with respect to the following transaction involving U.S. exports to the United Kingdom:

A. DESCRIPTION OF TRANSACTION

1. Purpose

Eximbank is prepared to extend a direct credit of $151,200,000 to British Airways. The purpose of the Eximbank financing is to facilitate the purchase in the United States by British Airways of nineteen new Boeing 737–200 jet aircraft and related goods and services (including Pratt & Whitney engines) with a total U.S. export value of $216,000,000.

2. Identity of the parties

(a) British Airways

British Airways is the largest commercial air carrier in the United Kingdom and is wholly owned by the Government of the United Kingdom. British Airways was incorporated under the Civil Aviation Act of 1971 to assume the activities of British Overseas Airways Corporation (BOAC) and British European Airways (BEA). British Airways operates under the terms of the British Airways Board Act of 1977 and under this Act has the power to operate every type of air transport service.

(b) Government of the United Kingdom

The Government of the United Kingdom will unconditionally guarantee payment of principal and interest by British Airways to Eximbank under the direct credit.

3. Nature and use of goods and services

The principal goods to be exported from the United States are commercial jet aircraft to be used by British Airways on its short and medium-term routes, principally in Western Europe and the United Kingdom. The airframes will be manufactured by The Boeing Company (Boeing) of Seattle, Washington and the JT8D engines will be manufactured by the Pratt & Whitney Aircraft Group of United Technologies in Hartford, Connecticut. In addition, other U.S. firms will furnish related spare parts and services.

B. EXPLANATION OF EXIMBANK FINANCING

1. Reasons

The Eximbank credit of $151,200,000 will facilitate the export of $216,000,000 of United States goods and services. Sales, profits and employment for U.S. aircraft manufacturers are heavily dependent upon exports. Through 1990, aircraft purchases by foreign airlines are expected to account for approximately 40% of total U.S. aircraft sales. Eximbank's financial support for exports of U.S. aircraft has assisted U.S. aircraft manufacturers in obtaining approximately 80% of the world market.

Boeing estimates that the export of these aircraft will provide 6.4 million man/hours of work for Boeing and its sub-suppliers. Additional benefits which will flow to the United States from the transaction include sizeable follow-on exports of spare parts, ground support and other related equipment.

Since 1966, British Airways has purchased 45 commercial jet aircraft from the United States with Eximbank support. British Airways estimates that in the near future it will have to replace a substantial number of obsolescent aircraft in its fleet of approximately 180 aircraft. The airline has indicated its desire to rely on Eximbank support so that it may continue to purchase new aircraft in the U.S. British Airways has been under growing pressure to select aircraft manufactured in the United Kingdom or by Airbus Industrie. Eximbank support facilitates the selection of aircraft from the U.S. and, in this case, facilitated the choice by British Airways of the U.S.-made 737 over the British made BAC-111.

2. The financing plan

The financing plan for the total U.S. goods and services of $216,000,000 is as follows:

	Percent of U.S. Costs	Totals
Cash payment	30	$64,800,000
Eximbank credit	70	151,200,000
Total	100	216,000,000

(a) Eximbank Charges

The Eximbank credit will bear interest at the rate of 8½% per annum, payable semiannually. A commitment fee of ½ of 1% per annum will also be charged on the undisbursed portion of the Eximbank credit.

(b) Repayment Terms

The Eximbank credit will be repaid by British Airways in two schedules of 20 semiannual installments each, beginning October 5, 1980 and April 5, 1981.

Sincerely,

JOHN L. MOORE, Jr.,
President and Chairman.●

SAKHAROV ANALYSIS OF RECENT SOVIET DISSIDENT TRIALS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FASCELL) is recognized for 20 minutes.

● Mr. FASCELL. Mr. Speaker, the Soviet authorities have decided to mark this year with 16 convictions of members of the citizen Helsinki Monitoring Groups set up in Moscow, Kiev, Vilnius, Tbilisi, and Yerevan. Last year, four members of these groups were sent away to long terms of imprisonment. Each new sentence adds another human tragedy to the blotted Soviet record of compliance with the Helsinki Final Act. Early this month, for example, Viktor Rtskhiladze was given a term of 2 years of internal exile for his membership in the Georgian Helsinki Group. The only ray of light in this dismal picture is that people keep joining the groups, and that the groups keep publishing documents, as the soon to be published volume III of translations of the documents of the Soviet Helsinki Groups will demonstrate.

Now I would like to draw the attention of my colleagues to an important new analysis of the trials of Aleksandr Ginzburg, Viktoras Petkus, and Anatoly Shcharansky, members of the Soviet Helsinki Watch recently sentenced to long terms of imprisonment. The author of this document is Prof. Andrei Sakharov, and a complete text of his analysis follows below:

[Translation from Russian]

APPEAL

To: The Secretary General of the United Nations; Amnesty International; all international organizations and people who defend human rights and prisoners of conscience.

On July 13 and 14, 1978, the trials in Moscow, Kaluga and Vilnius ended. Aleksandr Ginzburg, Anatoly Shcharansky and Viktoras Petkus—all of whom are members of the Group to Promote Observance of the Helsinki Accords in the USSR—were sentenced to long terms of imprisonment. They are people of extraordinary human qualities: brave, honest, broad-minded and acute, responsible and kind. All of them made great contributions in the human rights struggle and for the aid of the persecuted. They face hard labor camps under inhumane conditions of torture by hunger, cold, back-breaking work, and arbitrary provocations. In addition, Shcharansky faces one and a half years in the even more terrible Vladimir Prison. Ginzburg, Petkus, and Shcharansky are my friends. I know the families of Aleksandr Ginzburg and Anatoly Shcharansky who are fated to such horrible experience. As I appeal to you today, the defense of Ginsburg, Petkus, and Shcharansky symbolizes the struggle for human rights throughout the world.

In all three trials, the court conspicuously failed to undertake a systematic judicial analysis of the formal charges, nor did it ever attempt to prove the falsity of the documents labelled "slanderous"; at Shcharansky's trial, the court merely alleged the espionage nature of his activities. Thus, Ginsburg was incriminated for circulating Solzhenitsyn's book, *Arkhipelag Gulag*, and Conquest's *Great Terror*, describing past crimes, and for possessing *The Chronicle of Current Events*, which equally accurately and truthfully describe present human rights violations. The court, in examining these materials—without analyzing their contents—declared these works to be anti-Soviet slander. In doing so, the court demonstrated its solidarity with the crimes and violations described in the confiscated works.

During Shcharansky's trial, the court produced as proof of his espionage activity a published article by the American correspondent Toth, although no secret information had been used even in researching the article. In any case, Shcharansky could not have access to such information since he conducted his dissident activities completely in the open and had not worked in any secret institution.

The trials were marked by calculated tortures of the family and friends of the men

on trial. Not only their friends but even Ginsburg's wife and Shcharansky's mother were barred from the courtroom during the proceedings and sentencing. They were tortured by many days of waiting on the street face to face with those who were trampling their right to attend an open trial. (KGB personnel surrounded the courtrooms during the trials—ed.)

The trials and cruel sentences of Ginsburg, Petkus, and Shcharansky (also the recent trial of Orlov and other members of the Helsinki Groups) represent a culmination of human rights violations in recent years. The trials are aimed at intimidating and defeating human rights activists, those who struggle for freedom of expression and religion, for the free exchange of ideas, and for the essential right to unrestricted foreign travel.

Shcharansky's trial is especially noteworthy. Anatoly Shcharansky was sentenced to 13 years of imprisonment for non-existent espionage activity. The false charge was reported in a distorted manner on radio, TV, and in the newspapers. In this way, the authorities attempted to strike at the essential right of emigration, they tried to destroy the Jewish emigration movement, to intimidate Jews, and to stir up anti-Semitic sentiments in the country. It is hardly coincidental that shortly before the latest trials, the words, "Death to the Jews", were seen on a Moscow Street. Nor is it coincidental that anti-Semitic slogans were shouted after Ginsburg was sentenced. I think that there is a profound analogy between the Shcharansky case and that of Dreyfus which shook the world on the threshold of our century.

In the case of Ginsburg, the selfless administrator of the Public Fund for the Aid of Political Prisoners and their Families founded by Aleksandr Solzhenitsyn, revealed the authorities' desire to suppress any possibility of unrestricted aid. Such aid is of vital significance for those deprived of the means to earn a livelihood and for those who are harassed and persecuted. In this case, the authorities also took revenge for Ginsburg's ties to Solzhenitsyn whom they detest for his uncompromising disclosures. Ginsburg was sentenced to eight years of imprisonment in a special regimen, that is, hard labor camp. He is seriously ill and has already served a seven year term. This new sentence is a direct threat to his life.

Viktoras Petkus has already spent 16 years in detention. Now he faces a new ten year sentence: three years in prison and seven years in special regimen camp, plus five years of internal exile. His case illustrates the same cynical scorn of truth, the same spirit of revenge and intolerance, the same dishonesty and false testimony. The trial of Petkus is directed particularly against those who defend freedom of religion and the national rights of the Baltic peoples. A similar aim—to suppress those who defend Ukrainian national rights—can be seen in the cruel sentences handed down against the members of the Ukrainian Helsinki Group in 1977 and the upcoming trial of Levko Lukyanenko who has already served a fifteen year sentence.

The trials of members of the Helsinki Groups is a challenge to world public opinion and to the governments which signed the Helsinki Accords. These trials are a challenge to all those who maintain contacts with our country. The reaction to these trials throughout the world shows that this time the Soviet authorities have encountered firm universal condemnation which it will find very difficult to ignore. I think that this is very important in that it offers hope—provided that these efforts continue—that sooner or later the authorities will be forced to retreat, if only in a limited way.

The recent trials with their flagrant illegality and cruelty—insulting relatives, etc.—emphasized the cynical actions of the authorities. Possibly, other far-reaching domestic and foreign policy aims were being pursued through these trials. One can suppose that these trials are meant to injure present efforts at detente and to cause difficulties for disarmament negotiations. In the long run, these trials are meant to compromise the human rights struggle since it supposedly damages disarmament, weakens detente and the human rights struggle abroad, and the position of supporters of detente in Soviet ruling circles.

I repeat, these thoughts are only my own suppositions, however, it seems to me that they merit some attention. Therefore, I want to stress again my position on certain moral issues. I emphasize the priority of the disarmament issue within the overall complex of detente aims. I emphasize the practical necessity for an independent decision of current problems in the disarmament area and international security, and of the defense of human rights. In conjunction with this, I am convinced that secure and significant achievements in the area of international trust and security are unattainable without a more open society with freedom of movement for people and ideas, and without respect for human rights.

Today, I call upon you to make the strongest possible defense of Anatoly Shcharansky, Aleksandr Ginzburg, and Viktoras Petkus, for Yuri Orlov and the other sentenced and arrested members of the Helsinki Groups, and for the defense of all prisoners of conscience.

ANDREI SAKHAROV,
Nobel Peace Prize Laureate.

JULY 15, 1978.●

AMENDMENTS TO H.R. 12611

(Mr. RONCALIO asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. RONCALIO. Mr. Speaker, a 27-month labor dispute between Wein Air Alaska and its pilots represented by the Airline Pilots Association has disrupted virtually every segment of Alaskan society and now threatens to affect air travel in Washington State.

I am inserting in the RECORD, today, an amendment to be offered to the Air Service Improvement Act of 1978, H.R. 12611. The amendment, also to be offered by my colleague, DON YOUNG, requires the President to create a factfinding commission to investigate and report within 30 days after its creation, its findings to the President. This will, hopefully, open the door to successful negotiations.

As a result of the present strike, the level of service and the level of safety have seriously declined. Available records indicate that present air service to rural Alaska consists of small piston twin aircraft or single engine aircraft—aircraft not always certificated for instrumental flight rules and flown by a single pilot. Records also indicate that in the last 27 months, 23 people have been killed and 21 people injured in accidents involving Wien subcontractors.

It is time to bring about favorable negotiations to restore safe and adequate air service to the State of Alaska.●

INFLATION'S ROOTS ARE IN THE MILITARY BUDGET

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. SEIBERLING. Mr. Speaker, on Saturday, September 9, the Washington Post carried an article by the distinguished journalist Clayton Fritchey pointing out that the single most inflationary factor in our society is "the huge, wasteful, nonproductive, U.S. military colossus, along with the staggering deficits that have accompanied it."

Mr. Fritchey goes on to say that it is "a pipe dream" to keep on talking about licking inflation and balancing the budget as long as military spending continues unbridled. He further notes that one reason the inflation rate in Japan and West Germany is so well in hand is that they spend so much less of their GNP on defense than does the United States.

Mr. Speaker, as one who has frequently endeavored to point out the connection between inflation and our Government's enormous military budget, I am delighted to see such a cogent and eloquent statement as Mr. Fritchey's.

One other aspect that he does not mention is the impact of military expenditures on the Nation's economic productivity. The sources of our national productivity increases in the past have been the continued expenditures of large amounts of money on research and development by both Government and the private sector. In recent years, however, an increasingly large percent of our expenditures on research and development have been for military and military-related research and development. Meanwhile, other countries' research and development expenditures have been primarily for the civilian sector. Today more than half of our research and development expenditures are for the military and for military-related purposes.

We are now paying the price for this imbalance. As long as annual wage increases exceed the annual productivity increases in our economy, inflation is all but inevitable. Yet the annual increase in our national productivity rate has fallen below 2 percent. It will continue to remain low until the military ceases to absorb the largest percentage of the Nation's outlays for research and development.

What is the answer? As Mr. Fritchey points out:

> Really significant savings will not be realized until the momentum of the arms race has been arrested. That means, first, the restoration of detente, then new agreements with Russia that substantially cut back strategic arms and, finally, serious attention to general disarmament, which some experienced statesmen believe is not as impractical as it may sound.

So for economic reasons as well as the future survival of mankind, we must hope and strive for a successful conclusion of the current negotiations on strategic arms limitation.

Mr. Speaker, the full text of Mr. Fritchey's article follows these remarks:

INFLATION'S ROOTS ARE IN THE MILITARY BUDGET

(By Clayton Fritchey)

Everybody agrees that inflation is now Public Enemy No. 1, but unfortunately there is little agreement on what causes it.

It's blamed on countless things. The White House has one list, Congress another, and the Federal Reserve Board still another. The business community also has a list of its own. Yet, in a negative way, they are all alike in that they uniformly shrink from putting the finger on the single most inflationary factor in our society: the huge, wasteful, nonproductive, U.S. military colossus, along with the staggering deficits that have accompanied it.

It is a pipe dream to keep on talking about licking inflation and balancing the budget as long as military spending continues unbridled. Wage and price controls might help, but it's doubtful that even they could keep inflation effectively in check if defense expenditures go on as projected.

When Carter was campaigning for the presidency, he rightly said, "When you spend money for defense you don't spend it on education, on health, or other services or goods. And I think the shift away from weapons toward peaceful goods and services in the long run is favorable for world peace, and also you get more jobs per dollar spent."

He promised to cut the defense budget (then running around $100 billion a year) by 5 percent, but now it is 1978 and the budget calls for $126 billion. Carter has turned thumbs down on the B1 bomber and a new nuclear carrier, but he has added new weapons of his own. In the next fiscal year the Pentagon budget is expected to be in the $133 billion to $139 billion range. By 1983 it will probably be $173 billion or more. The authoritative Center for Defense Information (CDI) foresees a figure of $180 billion by then.

Instead of raising additional revenues to pay for those soaring expenditures, Congress and the president have cut taxes, ensuring further deficits exceeding the peak ones of World War II. Nobody understood better than then-President Eisenhower the inflationary costs of such a policy. "The military establishment," he said, "not productive of itself, necessarily must feed on the energy, productivity and brain power of the country, and if it takes too much, our total strength declines."

The Center for Defense Information notes that, over the years, the United States has been spending a smaller portion of the military budget on the defense of America. About 70 percent of that budget, the CDI reports, "now goes to defend our allies and project our power overseas." Actually, there are currently 27,000 more U.S. servicemen and women abroad than a year ago.

One reason the inflation rate in Japan and West Germany is so well in hand is that they spend so much less on defense than the United States. In relation to gross national product, the Japanese military expenditure is about one-fifth of America's.

The ever-rising U.S. defense budget today reflects not so much congressional fear of Russia as fear of unemployment and the closing of costly but needless military installations in their states and districts. Most economists, however, see military spending as a poor job-creator, compared with equal expenditures on civilian needs.

The growth of U.S. inflation is easy to trace. It began with the Vietnam War. Prior to that, in the earlier Kennedy-Johnson years, the range of inflation was merely 1 to 3 percent. It started climbing when Lyndon Johnson, fearing public hostility to higher taxes to pay for his unpopular war, quietly turned to deficit financing on a large scale.

President Nixon did the same, only on a more grandiose scale. Even after U.S. withdrawal from Vietnam, the military budget kept rising, generating an unprecedented deficit of $175 billion in the last years of the Nixon-Ford era. Meanwhile, the inflation rate went steadily up, finally reaching double-digit proportions and a record rate of 12 percent. The ensuing recession reduced it some, but today it is still hovering near the dangerous double-digit level.

Can the fat in the military budget be cut without impairing the muscle? Only a few days ago the Brookings Institution found that the Pentagon could save over $900 million a year by eliminating overpayment of its blue-collar workers. A presidential commission recently called for an overhaul of the military pension system, saying $10 billion per year could be saved that way.

Pentagon officials themselves admit that Navy finances are in a shambles, with cost overruns on new ships totaling more than $6 billion. Another recent study by two former high Pentagon officials found that $40 billion could be saved over the next few years by selective reduction of forces and cancellation of certain new weapons systems.

The really significant savings, however, will not be realized until the "momentum of the arms race" has been arrested. That means, first, the restoration of detente, then new agreements with Russia that substantially cut back strategic arms and, finally, serious attention to general disarmament, which some experienced statesmen believe is not as impractical as it may sound.●

CONFERENCE REPORT ON H.R. 12936

Mr. BOLAND submitted the following conference report and statement on the bill (H.R. 12936) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1979, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 95–1506)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12936) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1979, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows: That the Senate recede from its amendments numbered 4, 10, 23, 26, 35, and 49.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 5, 12, 13, 19, 21, 22, 24, 25, 36, 41, 43, 44, and 46 and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,322,297,000"; and the Senate agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$24,395,848,000"; and the Senate agree to the same.

Amendment numbered 7: That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$727,000,000"; and the Senate agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$53,000,000"; and the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$9,000,000"; and the Senate agree to the same.

Amendment numbered 15: That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$57,500,000"; and the Senate agree to the same.

Amendment numbered 16: That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$3,000"; and the Senate agree to the same.

Amendment numbered 17: That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$524,065,000"; and the Senate agree to the same.

Amendment numbered 18: That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$3,000"; and the Senate agree to the same.

Amendment numbered 20: That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$692,915,000"; and the Senate agree to the same.

Amendment numbered 27: That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$147,500,000"; and the Senate agree to the same.

Amendment numbered 28: That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$910,500,000"; and the Senate agree to the same.

Amendment numbered 29: That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$750,000"; and the Senate agree to the same.

Amendment numbered 30: That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$827,000,000"; and the Senate agree to the same.

Amendment numbered 31: That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

"That not more than $55,500,000 shall be available for Applied Science and Research Applications, of which not more than $1,000,000 shall be for Problem Analysis, not more than $5,000,000 for Integrated Basic Research, not more than $17,400,000 for Earthquake Hazards Mitigation, and not more than $2,400,000 for Community Water Management: *Provided further*,".

And the Senate agree to the same.

Amendment numbered 33: That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amend-

ment insert "$80,000,000"; and the Senate agree to the same.

Amendment numbered 34: That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$4,000,000"; and the Senate agree to the same.

Amendment numbered 37: That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$5,334,374,000"; and the Senate agree to the same.

Amendment numbered 38: That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$122,847,000"; and the Senate agree to the same.

Amendment numbered 39: That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$3,000"; and the Senate agree to the same.

Amendment numbered 40: That the House recede from its disagreement to the amendment of the Senate numbered 40, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$615,964,000"; and the Senate agree to the same.

Amendment numbered 45: That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert: "$10,000,000"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 6, 8, 9, 32, 42, 47, and 48.

EDWARD P. BOLAND,
BOB TRAXLER,
MAX BAUCUS,
LOUIS STOKES,
TOM BEVILL,
LINDY BOGGS,
BILL D. BURLISON,
BILL ALEXANDER,
GEORGE MAHON,
LARRY COUGHLIN,
JOSEPH M. MCDADE,
C. W. BILL YOUNG,
ELFORD CEDERBERG,
Managers on the Part of the House.

WILLIAM PROXMIRE,
JOHN C. STENNIS,
BIRCH BAYH,
WALTER D. HUDDLESTON,
PATRICK J. LEAHY,
JIM SASSER,
WARREN G. MAGNUSON,
CHARLES MCC. MATHIAS, JR.,
CLIFFORD P. CASE,
EDWARD W. BROOKE,
HENRY BELLMON,
MILTON R. YOUNG,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12936) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1979, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying report:

TITLE I—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Amendment No. 1: Appropriates $1,322,297,000 in annual contract authority for annual contributions for assisted housing, instead of $1,334,950,000 as proposed by the House and $1,310,424,000 as proposed by the Senate. The conferees direct that none of the reduction in annual contract authority be taken from the $25,200,000 proposed for Indian Housing in the 1979 budget submission.

Amendment No. 2: Earmarks not more than $50,000,000 for modernization of public housing projects as proposed by the Senate, instead of $37,500,000 as proposed by the House.

Amendment No. 3: Appropriates $24,395,848,000 for annual contributions for assisted housing, instead of $24,650,950,000 as proposed by the House and $24,140,745,000 as proposed by the Senate.

Amendment No. 4: Deletes language proposed by the Senate that unutilized balances of setasides for housing projects to be owned by public housing agencies, other than section 8, shall remain in effect during fiscal year 1979.

Amendment No. 5: Appropriates $4,460,000,000 for housing payments as proposed by the Senate, instead of $4,463,000,000 as proposed by the House.

Amendment No. 6: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $10,000,000 for the congregate services program, instead of $20,000,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Committee of Conference intends that the Department of Housing and Urban Development use the funds made available to undertake a limited pilot program of providing congregate housing services. The Department is directed to coordinate its efforts with other agencies and organizations providing similar services. The funds are intended for services currently not available rather than to continue programs presently funded from other sources.

Amendment No. 7: Appropriates $727,000,000 for payments for operation of low-income housing projects, instead of $723,000,000 as proposed by the House and $729,000,000 as proposed by the Senate.

Amendment No. 8: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate making technical changes in the wording of the troubled projects operating subsidy appropriation and adding language including excess rental charges collected after September 30, 1977, instead of language as proposed by the House.

Amendment No. 9: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

EMERGENCY MORTGAGE PURCHASE ASSISTANCE

The aggregate amount of purchases and commitments authorized to be made pursuant to section 313 of the National Housing Act, as amended (12 U.S.C. 1723e), out of recaptured Emergency Mortgage Purchase Assistance authority, is increased by $1,000,000,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees recommend that the authorizing committees give serious consideration to a change in the subsidized interest rate for the emergency mortgage purchase assistance program based on the borrowing rate paid by the Federal government plus an additional amount for administrative costs of the program. The conferees direct that the funds not be made available in the absence of a recession in the housing industry.

Amendment No. 10: Appropriates $400,000,000 for urban development action grants as proposed by the House, instead of $380,000,000 as proposed by the Senate.

Amendment No. 11: Appropriates $53,000,000 for comprehensive planning grants, instead of $50,000,000 as proposed by the House and $57,000,000 as proposed by the Senate.

Amendment No. 12: Appropriates $230,000,000 for the rehabilitation loan fund as proposed by the Senate, instead of $245,000,000 as proposed by the House.

Amendment No. 13: Appropriates $85,000,000 for flood insurance activities as proposed by the Senate, instead of $90,000,000 as proposed by the House.

Amendment No. 14: Appropriates $9,000,000 for housing counseling assistance, instead of $10,000,000 as proposed by the House and $8,000,000 as proposed by the Senate. The conferees agree that within the amount provided $1,000,000 is available only for prepurchase counseling.

Amendment No. 15: Appropriates $57,500,000 for research and technology, instead of $56,000,000 as proposed by the House and $59,000,000 as proposed by the Senate.

Amendment No. 16: Earmarks not to exceed $3,000 for official reception and representation expenses of the Department of Housing and Urban Development, instead of $3,500 as proposed by the House and $2,500 as proposed by the Senate.

Amendment No. 17: Appropriates $524,065,000 for salaries and expenses of the Department, instead of $521,808,000 as proposed by the House and $526,106,000 as proposed by the Senate.

The Committee of Conference is in agreement with the reductions enumerated in the report of the Senate with the exception of the increase proposed for positions. The following requested positions are denied:

Community Planning and Development	−115
Neighborhoods, Voluntary Associations, and Consumer Protection (Office of Interstate Land Sales)	−20
Departmental Management	−5
Field Administration	−10
Total	−150

TITLE II—INDEPENDENT AGENCIES

ENVIRONMENTAL PROTECTION AGENCY

Amendment No. 18: Earmarks not to exceed $3,000 for official reception and representation expenses of the Environmental Protection Agency, instead of $3,500 as proposed by the House and $2,500 as proposed by the Senate.

Amendment No. 19: Appropriate $328,528,000 for research and development as proposed by the Senate, instead of $328,028,000 as proposed by the House. The Committee of Conference is in agreement with the recommendations contained in the report of the House except for the following changes:

+$2,000,000 for anticipatory research;
−$200,000 for mosquito control;
−$200,000 for aquatic weed control;
−$1,100,000 for groundwater research;
−$2,400,000 for health and ecological effects; and
+$2,400,000 for Chesapeake Bay research.

The conferees agree that within the total allocated for anticipatory research, $1,100,000 shall be used for groundwater research on the Garber-Wellington aquifer to be conducted at the Robert S. Kerr Environmental Research Laboratory in Ada, Oklahoma. The conferees further agree that the $1,000,000 above the budget request provided for health and ecological effects shall be for microwave radiation research. The conferees are also in agreement that $8,000,000 provided for wastewater reuse shall be available for potable and/or agricultural research and demonstrations.

The conferees concur with the language contained in the report of the Senate concerning Environmental Protection Agency matching funds for water quality monitoring on the Ohio River.

Amendment No. 20: Appropriates $692,915,000 for abatement and control, instead of $664,115,000 as proposed by the House and $710,940,000 as proposed by the Senate. The Committee of Conference is in agreement with the recommendations contained in the report of the House except for the following changes:

+$7,000,000 for areawide waste treatment management planning grants (section 208);
+$8,000,000 for solid waste and transportation or air quality maintenance planning (section 175) grants;
+$2,300,000 for dredge and fill activities (section 404);
+$2,500,000 for marine secondary waiver activities (section 301(h));
+$1,500,000 for academic training;
+$2,500,000 for Chesapeake Bay activities; and
+$5,000,000 for State air grants.

The conferees direct that up to $4,000,000 of the additional $8,000,000 for solid waste and air quality planning grants agreed to by the conferees shall be available, to be matched on a 50–50 basis by State and local funds, for the abatement of chemical contamination in the Love Canal area of Niagara Falls, New York.

Amendment No. 21: Appropriates $94,755,000 for enforcement as proposed by the Senate, instead of $94,555,000 as proposed by the House.

Amendment No. 22: Deletes language proposed by the House prohibiting the use of construction grants funds to implement the minimum State allotment provision, section 205(e), of the Federal Water Pollution Control Act, as amended.

Amendment No. 23: Appropriates $4,200,000,000 for construction grants as proposed by the House, instead of $4,250,000,000 as proposed by the Senate. The Committee of Conference agrees that grant funds may be used for construction of new facilities providing treatment greater than secondary, as defined by the Environmental Protection Agency in 40 CFR 133, dated August 17, 1973 (38 FR 22298), amended July 26, 1976 (41 FR 30786) and October 7, 1977 (42 FR 54664), only if the incremental cost of the advanced treatment is $1,000,000 or less, or if the Administrator personally determines that advanced treatment is required and will definitely result in significant water quality and public health improvements.

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

Amendment No. 24: Appropriates $3,026,000 for the Council on Environmental Quality and Office of Environmental Quality as proposed by the Senate, instead of $2,926,000 as proposed by the House.

CONSUMER INFORMATION CENTER

Amendment No. 25: Appropriates $1,146,000 for the Consumer Information Center as proposed by the Senate, instead of $1,166,000 as proposed by the House.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Amendment No. 26: Appropriates $3,292,200,000 for research and development as proposed by the House, instead of $3,290,700,000 as proposed by the Senate. The Committee of Conference agrees that of the $20,500,000 included in the bill for the Teleoperator Retrieval System, the National Aeronautics and Space Administration shall not obligate more than $10,000,000 for continued development of such system without approval of the House and Senate Appropriations Committees. The balance of $10,500,000 is available *only* for shuttle funding requirements in the absence of Committee approval.

The National Aeronautics and Space Administrtaion is directed not to reprogram any fiscal year 1979 funds from shuttle production *unless* a supplemental request to restore such funds has been transmitted to the Congress. The Committee of Conference assures the Agency that prompt consideration will be given any supplemental request to restore funds transferred to shuttle development from shuttle production.

The conferees further agree to the project recommendations contained in the report of the Senate with the following changes:

+$500,000 for Stereosat;
+$2,000,000 for a solar-satellite power generating system;
−$2,500,000 for expendable launch vehicles;
+$1,000,000 for lunar sample analysis; and
+$500,000 for a general reduction.

The National Aeronautics and Space Administration is not to apply any of the $4,500,000 general reduction to Congressional increases provided in the bill.

Amendment No. 27: Appropriates $147,500,000 for construction of facilities, instead of $134,690,000 as proposed by the House and $148,500,000 as proposed by the Senate.

Amendment No. 28: Appropriates $910,500,000 for research and program management, instead of $907,000,000 as proposed by the House and $914,000,000 as proposed by the Senate.

NATIONAL INSTITUTE OF BUILDING SCIENCES

Amendment No. 29: Appropriates $750,000 for salaries and expenses, instead of $1,000,000 as proposed by the House and $500,000 as proposed by the Senate.

NATIONAL SCIENCE FOUNDATION

Amendment No. 30: Appropriates $827,000,000 for research and related activities, instead of $806,400,000 as proposed by the House and $836,400,000 as proposed by the Senate.

Amendment No. 31: Restores language proposed by the House and stricken by the Senate, amended to earmark not more than $55,500,000 for applied science and research applications, of which not more than $1,000,000 shall be for problem analysis, not more than $5,000,000 for integrated basic research, not more than $17,400,000 for earthquake hazards mitigation and not more than $2,400,000 for community water management.

Amendment No. 32: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Provided further, That none of the funds provided by this Act shall be used to pay an investigator, through a grant, at more than the maximum rate paid for GS–18, unless expressly approved by the Director of the National Science Foundation

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree that the Director of the National Science Foundation shall inform the House and Senate Appropriations Committees whenever he exercises his authority to waive the GS–18 ceiling for investigator pay.

Amendment No. 33: Appropriates $80,000,000 for science education activities, instead of $82,600,000 as proposed by the House and $77,600,000 as proposed by the Senate.

The Committee of Conference agrees that the additional $2,400,000 should be applied on a priority basis to the following three programs only.

—undergraduate research participation;
—student originated studies; and
—instructional scientific equipment.

Amendment No. 34: Appropriates $4,000,000 for scientific activities overseas, instead of $4,900,000 as proposed by the House and $3,000,000 as proposed by the Senate.

SELECTIVE SERVICE SYSTEM

Amendment No. 35: Appropriates $7,045,000 for salaries and expenses as proposed by the House, instead of $9,500,000 as proposed by the Senate.

VETERANS ADMINISTRATION

Amendment No. 36: Appropriates $2,144,000,000 for readjustment benefits as proposed by the Senate, instead of $2,193,300,000 as proposed by the House.

Amendment No. 37: Appropriates $5,334,374,000 for medical care, instead of $5,362,618,000 as proposed by the House and $5,299,699,000 as proposed by the Senate. The Committee of Conference is in agreement with the following additions to the budget request:

+$32,300,000 for 1,500 additional staff years to keep open existing hospital beds;
+$18,000,000 for 700 additional staff years to meet anticipated increases in outpatient caseload above those projected in the 1979 budget; and
+$4,375,000 for staffing new medical facilities.

The Committee of Conference is also in agreement with the reports of both the House and the Senate concerning use of available resources to lease appropriate facility space for outpatient clinics in Daytona Beach, Broward County, and northwest Florida.

The conferees also agree that the Veterans Administration should continue to place increasing emphasis on outpatient care.

Amendment No. 38: Appropriates $122,847,000 for medical and prosthetic research, instead of $127,607,000 as proposed by the House and $120,212,000 as proposed by the Senate.

Amendment No. 39: Earmarks not to exceed $3,000 for official reception and representation expenses of the Veterans Administration, instead of $3,500 as proposed by the House and $2,500 as proposed by the Senate.

Amendment No. 40: Appropriates $615,964,000 for general operating expenses, instead of $516,258,000 as proposed by the House and $615,670,000 as proposed by the Senate.

Amendment No. 41: Limits major construction projects to those estimated to cost $1,030,000 or more as proposed by the Senate, instead of $2,000,000 or more as proposed by the House.

Amendment No. 42: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $365,560,000 for construction, major projects, instead of $348,890,000 as proposed by the House and $330,701,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Committee of Conference believes that the evidence appears to support the construction of the replacement hospital at the Emmanuel site in Portland, Oregon. However, if the Veterans Administration chooses to disregard the Committee's site recommendation, no additional funds above the $130,241,000 provided in this bill will be approved. The amount is adequate to construct a 670-bed hospital at the Emmanuel site and a 150-bed unit to be used primarily for nursing care at the Barnes Hospital site in Vancouver, Washington.

The Committee of Conference is in agreement with the project recommendations contained in the report of the Senate except for the following changes:

+$9,402,000 for construction of a 208 bed domiciliary at Bath, New York;
+$6,351,000 for construction of a 120 bed nursing home care facility at Livermore, California;
+$5,230,000 for construction of a 120 bed nursing home care facility at Wilkes-Barre, Pennsylvania;

+$2,746,000 for expansion of a clinical laboratory, radiology suite and dental clinic at Cincinnati, Ohio;

+$4,586,000 for construction of a 120 bed nursing home care facility at Temple, Texas; and

+$6,544,000 for construction of an ambulatory care addition and space renovation at Dallas, Texas.

Amendment No. 43: Limits minor construction projects to those estimated to cost less than $1,000,000 as proposed by the Senate, instead of less than $2,000,000 as proposed by the House.

Amendment No. 44: Appropriates $85,401,000 for construction, minor projects as proposed by the Senate, instead of $119,297,000 as proposed by the House.

Amendment No. 45: Appropriates $10,000,000 for grants for construction of State extended care facilities, instead of $15,000,000 as proposed by the House and $5,000,000 as proposed by the Senate.

TITLE III—CORPORATIONS

FEDERAL HOME LOAN BANK BOARD

Amendment No. 46: Authorizes $29,895,000 as the limitation on nonadministrative expenses of the Federal Home Loan Bank Board as proposed by the Senate, instead of $30,290,000 as proposed by the House.

TITLE IV—GENERAL PROVISIONS

Amendment No. 47: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate generally prohibiting the use of funds for unsolicited research projects unless recipients share in the cost of the research.

Amendment No. 48: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate prohibiting the use of funds to pay the salary of a consultant, either directly or through a grant, in excess of the daily equivalent rate paid for GS-18 employees.

The conferees are in agreement with the report of the Senate which notes that this type of provision should not put a lid on payments to firms and individuals who have overhead expenses in addition to direct salary costs.

Amendment No. 49: Deletes language proposed by the Senate relating to Federal assistance for the Love Canal area in the city of Niagara Falls, New York.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1979 recommended by the Committee of Conference, with comparisons to the fiscal year 1978 amount, the 1979 budget estimates, and the House and Senate bills for 1979 follow:

New budget (obligational) authority, fiscal year 1978	$75,144,715,000
Budget estimates of new (obligational) authority, fiscal year 1979	69,517,534,000
House bill, fiscal year 1979	68,208,848,000
Senate bill, fiscal year 1979	67,656,624,000
Conference agreement	67,911,419,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1978	−7,233,296,000
Budget estimates of new (obligational) authority, fiscal year 1979	−1,606,115,000
House bill, fiscal year 1979	−297,429,000
Senate bill, fiscal year 1979	+254,795,000

EDWARD P. BOLAND,
BOB TRAXLER,
MAX BAUCUS,
LOUIS STOKES,
TOM BEVILL,
LINDY BOGGS,
BILL D. BURLISON,
BILL ALEXANDER,
GEORGE MAHON,
LARRY COUGHLIN,
JOSEPH M. MCDADE,
C. W. BILL YOUNG,
ELFORD CEDERBERG,
Managers on the Part of the House.

WILLIAM PROXMIRE,
JOHN C. STENNIS,
BIRCH BAYH,
WALTER D. HUDDLESTON,
PATRICK J. LEAHY,
JIM SASSER,
WARREN G. MAGNUSON,
CHARLES MCC. MATHIAS, JR.,
CLIFFORD P. CASE,
EDWARD W. BROOKE,
HENRY BELLMON,
MILTON R. YOUNG,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. AMMERMAN (at the request of Mr. WRIGHT), for from September 6 through 15, on account of hospitalization.

Mr. MCKINNEY (at the request of Mr. RHODES), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. VANIK, for 5 minutes, today; and to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. EDWARDS of Oklahoma) to revise and extend their remarks and include extraneous material:)

Mr. WHALEN, for 10 minutes, today.

Mr. GOLDWATER, for 5 minutes, today.

(The following Members (at the request of Mr. RAHALL) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. PEPPER, for 5 minutes, today.

Mr. EDWARDS of California, for 5 minutes, today.

Mr. BINGHAM, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. NEAL, for 5 minutes, today.

Mr. FASCELL, for 20 minutes, today.

Mr. LUKEN, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Ms. HOLTZMAN, to revise and extend her remarks on House Resolution 1293.

Mr. BIAGGI, to revise and extend his remarks at the close of the debate on title VII of H.R. 11280 in the Committee of the Whole today.

Mr. GILMAN, to revise and extend his remarks immediately prior to the adoption of the five amendments of the gentleman from Arizona (Mr. UDALL) in the Committee of the Whole today during consideration of H.R. 11280.

Mr. RUDD, to extend his remarks in the body of the RECORD prior to the vote on H.R. 11280, Civil Service Reform Act.

(The following Members (at the request of Mr. EDWARDS of Oklahoma) and to include extraneous matter:)

Mr. CUNNINGHAM.

Mr. EMERY.

Mr. LENT.

Mr. VANDER JAGT.

Mr. WHITEHURST.

Mr. LEACH in two instances.

Mr. BOB WILSON.

Mr. WYDLER.

Mr. DORNAN in two instances.

Mr. JEFFORDS.

(The following Members (at the request of Mr. RAHALL) and to include extraneous matter:)

Mr. ROGERS in five instances.

Mr. GONZALEZ in three instances.

Mr. ANDERSON of California in three instances.

Mr. DENT.

Ms. KEYS.

Mr. MCDONALD in three instances.

Mr. DOWNEY.

Mr. EDGAR.

Mr. HAMILTON in two instances.

Mr. WAXMAN in two instances.

Mr. CARR.

Mr. MINETA in two instances.

Mr. FISHER.

Mr. ROSENTHAL.

Mr. MITCHELL of Maryland.

Mr. GEPHARDT.

Mr. JACOBS.

Mr. LUKEN.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2376. An act to authorize withholding from salaries disbursed by the Secretary of the Senate and certain employees under the jurisdiction of the Architect of the Capitol for contribution to certain charitable organizations; to the Committee on House Administration.

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 13087. An act to authorize the issuance of substitute Treasury checks without undertakings of indemnity, except as the Secretary of the Treasury may require.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 3075. An act to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize international security assistance programs for fiscal year 1979, and for other purposes;

S. 3119. An act to transfer certain real property of the United States to the District of Columbia Redevelopment Land Agency;

S. 3120. An act to enhance the flexibility of contractual authority of the Temporary Commission on Financial Oversight of the District of Columbia; and

S. 3454. An act to amend the Act of August 29, 1974 (88 Stat. 795; 10 U.S.C. 8202 note), relating to the authorized numbers for the grades of lieutenant colonel and colonel in the Air Force and to authorize the President to suspend certain provisions of law when he determines that the needs of the Armed Forces so require, and for other purposes.

ADJOURNMENT

Mr. RAHALL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 56 minutes p.m.), the House adjourned until tomorrow, Thursday, September 14, 1978, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4967. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various construction projects proposed to be undertaken by the Army Reserve, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

4968. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of a construction project proposed to be undertaken by the Naval and Marine Corps Reserve, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

4969. A letter from the president and chairman, Export-Import Bank of the United States, transmitting a statement describing a proposed transaction exceeding $60 million with Societe Nationale pour la Recherche, la Production, le Transport, la Transformation et la Commercialisation des Hydrocarbures (SONATRACH), pursuant to section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended; to the Committee on Banking, Finance and Urban Affairs.

4970. A letter from the president and chairman, Export-Import Bank of the United States, transmitting a statement describing a proposed transaction exceeding $60 million with SONATRACH, pursuant to section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended; to the Committee on Banking, Finance and Urban Affairs.

4971. A letter from the U.S. Commissioner of Education and the Secretary of Labor, transmitting a report on the status of bilingual vocational education, pursuant to section 182 of the Vocational Education Act of 1963, as amended; to the Committee on Education and Labor.

4972. A letter from the Comptroller General of the United States, transmitting a report on Government support of foreign language and area studies in institutions of higher education (ID-78-46, September 13, 1978); jointly, to the Committees on Government Operations, and Education and Labor.

4973. A letter from the Comptroller General of the United States, transmitting a report on licensing of floating nuclear powerplants (EMD-78-36, September 13, 1978); jointly, to the Committees on Government Operations, Interior and Insular Affairs, and Interstate and Foreign Commerce.

4974. A letter from the Comptroller General of the United States, transmitting a report on the progress achieved and problems encountered by the Department of Health, Education, and Welfare in implementing the Professional Standards Review Organization program required by the October 1972 amendments to the Social Security Act (HRD-78-92, September 12, 1978); jointly, to the Committees on Government Operations, Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ZABLOCKI: Committee on International Relations. H.R. 13835. A bill to authorize the establishment of an international emergency wheat reserve, and for other related purposes; with amendment (Report No. 95-1564, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. PEPPER: Committee on Rules. House Resolution 1345. Resolution providing for the consideration of H.R. 6853. A bill to amend the Internal Revenue Code to change the period for the payment of certain taxes (Rept. No. 95-1566). Referred to the House Calendar.

Mr. LONG of Louisiana: Committee on Rules. House Resolution 1346. Resolution providing for the consideration of H.R. 13488. A bill to amend the Internal Revenue Code of 1954 with respect to the tax treatment of earned income of U.S. citizens and resident aliens from sources outside the United States, and for other purposes (Rept. No. 95-1567). Referred to the House Calendar.

Mr. THOMPSON: Committee on House Administration. S. 703. An act to improve the administration and operation of the Overseas Citizens Voting Rights Act of 1975, and for other purposes; with amendment (Rept. No. 95-1568). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLAND: Committee of conference. Conference report on H.R. 12936 (Rept. No. 95-1569). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROOKS:

H.R. 14067. A bill to establish a Department of Education, and for other purposes; to the Committee on Government Operations.

By Mr. LOTT:

H.R. 14068. A bill to amend the Longshoremen's and Harbor Workers' Compensation Act; to the Committee on Education and Labor.

By Mr. MCDONALD:

H.R. 14069. A bill to amend the Internal Revenue Code of 1954 to provide an inflation adjustment for the amount exempted from gift tax; to the Committee on Ways and Means.

By Mr. MOAKLEY (for himself, Mr. STOKES, and Mr. NOLAN):

H.R. 14070. A bill to require that the Secretary of Energy notify any State of any investigation of any site in such State for the construction of any radioactive waste storage facility and allow such State to prevent the construction of such facility on such site by an action of the State legislature or a statewide referendum; jointly, to the Committees on Interior and Insular Affairs, and Interstate and Foreign Commerce.

By Mr. PANETTA:

H.R. 14071. A bill to amend the Internal Revenue Code of 1954 to treat certain fishermen as employees for purposes of the income tax and social security taxes; to the Committee on Ways and Means.

By Mr. REUSS (for himself, Mr. MITCHELL of Maryland, Mr. MOORHEAD of Pennsylvania, Mr. GONZALEZ, Mr. ANNUNZIO, Mr. FAUNTROY, Mr. BLANCHARD, Mr. LAFALCE, Mrs. SPELLMAN, Mr. LUNDINE, Mr. PATTISON of New York, Ms. OAKAR, Mr. VENTO, Mr. GARCIA, Mr. WYLIE, Mrs. PENWICK, Mr. GREEN, and Mr. DERRICK):

H.R. 14072. A bill to facilitate the implementation of monetary policy and to promote competitive equality among commercial banks; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WIRTH:

H.R. 14073. A bill to amend the Budget and Accounting Act, 1921, and the Congressional Budget Act of 1974, to require that the President's annual budget include an estimate of the gross national product for the ensuing fiscal year, to provide (through the congressional budget process) for a balanced budget with expenditures limited to a specified percentage of the gross national product, and to make other improvements in the congressional budget process; jointly, to the Committees on Government Operations and Rules.

By Mr. STOCKMAN:

H.R. 14074. A bill to implement the International Sugar Agreement, 1977, between the United States and foreign countries, to protect the welfare of consumers of sugar and of those engaged in the domestic sugar industry, and for other purposes; jointly, to the Committees on Agriculture, and Ways and Means.

By Mr. MCDONALD:

H. Con. Res. 711. Concurrent resolution expressing the sense of Congress with respect to the Internal Revenue Service's proposed revenue procedure on private tax exempt schools; to the Committee on Ways and Means.

By Mr. HARRIS (for himself, Mr. STEERS, and Mr. NOLAN):

H. Res. 1347. Resolution disapproving the alternative plan for pay adjustments for Federal employees recommended and submitted by the President to the Congress on August 31, 1978, under section 5305(c) of title 5, United States Code; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

471. By the SPEAKER: Memorial of the Legislature of the State of California, relative to Outer Continental Shelf Lease Sale No. 53; to the Committee on Interior and Insular Affairs.

482. Also, memorial of the Legislature of the State of California, relative to the Reclamation Law of 1902; to the Committee on Interior and Insular Affairs.

483. Also, memorial of the Legislature of the State of California, relative to diplomatic relations with the Republic of China; to the Committee on International Relations.

474. Also, memorial of the Legislature of the State of California, relative to deferred compensation; to the Committee on Ways and Means.

475. Also, memorial of the Legislature of the State of California, relative to the avocado industry; to the Committee on Ways and Means.

476. Also, memorial of the Legislature of the State of California, relative to hydroelectric projects; jointly, to the Committees on Interior and Insular Affairs, and Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. HEFTEL:

H.R. 14075. A bill for the relief of Kimiko Tengan Watanabe and Richard Kiyoshi Uyehara; to the Committee on the Judiciary.

By Mr. WRIGHT:

H.R. 14076. A bill for the relief of Ilan Silberstein; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

536. The SPEAKER presented a petition of the board of supervisors, Contra Costa County, Calif., relative to consideration of the Health Planning and Resources Development Amendments of 1978, which was referred to the Committee on Rules.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1

By Mr. ECKHARDT:

(Amendment to the amendment offered by Mr. Danielson.)

—Page 48, immediately after line 17 insert the following new subsection:

"(g) The prohibitions contained in subsection (c) of this section shall not apply with respect to any formal or informal appearance before or communication to a department or agency by a person who is a member in good standing before, and is licensed or certified to practice in a profession by, any Federal or State licensing or certifying authority for such profession, if the following conditions are met:

"(1) Such person is subject to discipline, including suspension or revocation of such person's license or certification to practice, by the licensing or certifying authority on account of—

"(A) a failure to possess the requisite qualifications to represent others,

"(B) a lack of character or integrity, or

"(C) engaging in unethical or improper professional conduct.

"(2) Such department or agency has in effect standards of ethical conduct—

"(A) for its officers and employees which, at a minimum, proscribe and subject such officers and employees to disciplinary action, including suspension or dismissal, for—

"(i) using public office for private gain,

"(ii) giving preferential treatment to any person,

"(iii) impeding Government efficiency or economy,

"(iv) compromising independence or impartiality,

"(v) making a Government decision outside official channels, or

"(vi) affecting adversely the confidence of the public in the integrity of government; and

"(B) for its former officers and employees which, at a minimum, provide for disciplinary action, including the suspension or revocation of the privilege of appearing or practicing before it, upon a finding (after notice and an opportunity for hearing) of—

"(i) failure to possess the requisite qualification for representing others,

"(ii) lack of character or integrity; or

"(iii) engaging in unethical or improper professional conduct.

"(3) Such appearance before, or communication to such department or agency is of a category exempted from the prohibitions contained in subsection (c), for purposes of this subsection, by general rule or regulation promulgated by the department or agency, in consultation with the Director of the Office of Government Ethics, and published in the Federal Register.

"(4) (A) A file containing—

"(i) any such written communication (and responses thereto),

"(ii) memoranda stating the substance of any such oral communication (and responses thereto), and

"(iii) all written communications (and responses thereto) and memoranda stating the substance of all oral communications (and responses thereto) in connection with any such appearance,

is made available for public inspection and copying immediately upon request, notwithstanding any provision of section 552(a)(6) of title 5, United States Code.

"(5) Such appearance is not before, or communication is not with, any person under the direct supervision and control of such former officer or employee, while employed with such department or agency.

"(6) Such former officer or employee files a written declaration with the department or agency that he or she is currently qualified to appear in a representative capacity before the department or agency, and that the appearance or communication is not intended to have, and cannot reasonably be expected to have, any effect described in paragraph (2)(A)(i) through (vi) of this subsection.

For purposes of this subsection, the term "State" includes the District of Columbia and any territory or possession of the United States.

Page 48, line 18, strike out "(g)" and insert in lieu thereof "(h)".

Page 49, line 14, strike out "(h)" and insert in lieu thereof "(i)".

H.R. 1

By Mr. FRENZEL:

(To the Amendment Offered by Mr. DANIELSON.)

—On page 2, lines 8 and 9, strike out ", and any individual who becomes a candidate in any election for the office of Member".

On page 2, lines 17 and 18, strike out "(1) Except as provided in paragraph (2), each" and insert "Each".

On page 2, lines 19 and 20, strike out ", other than an individual who becomes a candidate in any election for the office of Member,".

On page 3, strike out lines 6 through 9, and on line 10 strike out "(B)" and insert "(2)".

On page 3, strike out line 15 and all that follows thereafter through page 4, line 2.

On page 4, line 3, strike out "(c)" and insert "(b)".

On page 4, lines 3 and 4, strike out "or an individual who is a candidate for the office of Member".

On page 12, line 4, after the word "destroyed" strike out the comma, insert a period, and strike out all that follows through and including line 8.

On page 15, strike out lines 12 through 22, and redesignate the succeeding paragraphs accordingly.

—On page 3, lines 16 and 17, strike out "October 1, 1978," and insert "January 1, 1979,".

—On page 7, line 10, immediately before the period insert "or any deposit in a personal savings account which bears interest".

—On page 8, immediately after line 5, insert the following:

(7) The identity of all positions held as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, and any educational or other institution, except that this paragraph shall not require the reporting of positions held in any religious, social, fraternal, charitable, or political entity.

—On page 8, immediately, after line 5, insert the following:

(8) A description of the date, parties to, and terms of any agreement or arrangement with respect to: (A) future employment; (B) a leave of absence during the period of the reporting individual's Government service; (C) continuation of payments by a former employer other than the United States Government; and (D) continuing participation in an employee welfare or benefit plan maintained by a former employee.

—On page 8, strike out lines 17 through 19, and insert:

(1) not more than $2,500,

(2) greater than $2,500, but not more than $5,000,

(3) greater than $5,000, but not more than $10,000,

(4) greater than $10,000, but not more than $25,000,

(5) greater than $25,000.

—On page 10, line 25, after "holdings" insert "at the time his interest in the trust was originally placed in such trust, if available,".

—On page 11, strike out lines 14 through 25, and insert:

(c) Any person requesting a copy of a report may be required to pay a reasonable fee to cover the cost of reproduction or mailing of such report, excluding any salary of any employee involved in such reproduction or mailing. A copy of such report may be furnished without charge or at a reduced charge if it is determined by the Clerk or Secretary that waiver or reduction of the fee is in the public interest because furnishing the information may be considered as primarily benefiting the public.

—On page 12, strike out lines 1 through 8 and insert the following:

(d)(1) Any report filed under this title shall be available for public inspection for a period of five years, so long as the reporting individual remains in a position designated in section 101, after which the report shall be destroyed.

(2) If the individual who filed the report is no longer within any position designated in section 101 and so notifies the Clerk or Secretary, the report shall, one year after such notification, no longer be available for public inspection. Such report shall be retained by the Clerk or Secretary for the remainder of the five-year period after which it shall be destroyed.

(3) If an individual specified in paragraph (2) returns to any position designated in section 101 during such five-year period, his report shall again be made available for public inspection for the remainder of that five-year period.

—On page 12, strike out lines 17 through 19 and insert the following:

(D) for use, directly or indirectly, in the solicitation of money for any purpose, other than for a political purpose.

—Page 20, strike out lines 8 through 19.

Page 20, line 6, strike out "(f)" and insert in lieu thereof "(d)".

Page 20, line 20, strike out "(d)" and insert in lieu thereof "(b)".

Page 20, line 21, strike out "(f)" and insert in lieu thereof "(d)".

Page 21, line 1, strike out "(e)" and insert in lieu thereof "(c)".

Page 21, lines 2, 6, and 7, strike out "(f)" and insert in lieu thereof "(d)".

Page 21, line 8, strike out "(d), and (e)" and insert in lieu thereof "(b), and (c)".

Page 22, line 20, strike out "(g)" and insert in lieu thereof "(e)".

Page 23, lines 2 and 3, strike out "(d) and (e)" and insert in lieu thereof "(b) and (c)".

Page 26, lines 5 and 6, strike out "subsections (a), (b), and (c)" and insert in lieu thereof "subsection (a)".

Page 26, line 15, strike out "(e)" and insert in lieu thereof "(c)".

Page 29, lines 22 and 23, strike out "candidates for the office of President or Vice President,".

Page 30, strike out lines 10 through 12.

Page 30, line 13, strike out "(f)" and insert in lieu thereof "(e)".

Page 34, line 6, strike out the comma and all that follows through line 13 and insert in lieu thereof a period.

Page 35, line 22, strike out "(d)" and insert in lieu thereof "(b)".

—Page 21, strike out lines 1 through 6.

Page 20, line 6, strike out "(f)" and insert in lieu thereof "(e)".

Page 20, line 21, strike out "(f)" and insert in lieu thereof "(e)".

Page 21, line 7, strike out "(f)" and insert in lieu thereof "(e)".

Page 21 line 8, strike out "(d), and (e)" and insert in lieu thereof "(d)".

Page 22, line 20, strike out "(g)" and insert in lieu thereof "(f)".

Page 23, lines 2 and 3, strike out "subsections (d) and (e)" and insert in lieu thereof "subsection (d)".

Page 26, strike out lines 14 through 18.

Page 26, line 13, strike out "(d)" and insert in lieu thereof "(c)".

Page 27, line 2 strike out "(e)" and insert in lieu thereof "(d)".

Page 28, line 14, strike out "(f)" and insert in lieu thereof "(e)".

Page 29, line 8, strike out "(g)" and insert in lieu thereof "(f)".

—Page 24, line 15, insert immediately before the period the following: "or any deposit in a personal savings account which bears interest".

—Page 26, strike out line 22 and all that follows through page 27, line 1, and insert in lieu thereof the following:

(1) up to $2,500;

(2) from $2,500 to $5,000;

(3) from $5,000 to $10,000;

(4) from $10,000 to $25,000;

(5) greater than $25,000.

—Page 27, line 2, after "report" insert "referred to in section 202(a)".

Page 27, line 4, after "individual" insert "and each report referred to in section 202 (b) shall also contain information listed in paragraphs (1), (3), (4), and (5) of subsection (a) respecting the spouse of the reporting individual,".

Page 27, line 7, strike out "In" and insert in lieu thereof "With respect to information listed in paragraph (2) of subsection (a), in".

Page 27, line 11, strike out "In" and insert in lieu thereof "With respect to information listed in paragraph (2) of subsection (a), in".

—Page 29, line 6, strike out the comma and all that follows through line 7 and insert in lieu thereof a period.

—Page 29, strike out lines 8 through 10 and insert in lieu thereof the following:

(g) Political campaign funds, including campaign receipts and expenditures, shall not be included in any report filed pursuant to this part.

—Page 30, line 21, strike out "101" and insert in lieu thereof "201".

—Page 32, line 7, strike out "shall" and insert in lieu thereof "may".

—Page 32, strike out line 7 and all that follows through page 33, line 7.

Page 33, line 8, strike out "(c)" and insert in lieu thereof "(b)".

Page 33, line 24, strike out "(d)" and insert in lieu thereof "(c)".

—Page 33, line 2, insert immediately before the period the following: ", except that a copy of such report may be furnished without charge, or at a reduced fee, if it is determined by the agency that waiver or reduction of the fee is in the public interest because furnishing the information may be considered as primarily benefiting the public".

—Page 33, strike out lines 3 through 7.

—Page 33, lines 17 and 18, strike out "political, charitable, or other purpose" and insert in lieu thereof "purpose other than for a political purpose".

—Page 33, line 24, insert "(1)" after "(d)".

Page 34, after line 13, insert the following new paragraph:

(2) With respect to any individual who files a report pursuant to section 201(e), such report, and any other report filed by such individual pursuant to section 201(a) or 201(d), shall, on or after the date which is one year after the date on which the report is filed pursuant to section 201(e), no longer be available for public inspection. Any such report shall be retained by the agency with which the report was filed, or by the Director of the Office of Government Ethics, as the case may be, for the remainder of the five-year period referred to in paragraph (1), after which it shall be destroyed. If such individual returns to any position designated in section 201(f) during such five-year period, any such report shall again be made available for public inspection for the remainder of such five-year period.

—Page 35, strike out lines 1 through 18.

Page 35, line 20, strike out "208" and insert in lieu thereof "207".

Page 36, line 2, strike out "209" and insert in lieu thereof "208".

—Page 37, line 9, insert immediately before the semicolon "or State or local governments or political subdivisions thereof".

—Page 44, line 18, strike out "or judicial".

—Page 44, line 24, strike out ", or," and all that follows through "to" on page 45, line 2.

—Page 45, line 19, strike out "(i)".

Page 45, line 20, strike out "knowingly" and all that follows through page 46, line 6, and insert in lieu thereof the following: "appears personally as agent or attorney for, or otherwise represents, any other person (except the United States), in any formal or informal appearance before ".

—Page 47, line 18, strike out ", or," and all that follows through "to" on line 21.

—Page 48, line 8, strike out "or" and all that follows through "both" on line 9.

—Page 52, strike out line 1 and all that follows through page 66, line 10.

—Page 52, strike out lines 7 through 10.

Page 52, line 11, strike out "(c)" and insert in lieu thereof "(b)".

Page 52, line 16, strike out "(d)" and insert in lieu thereof "(c)".

Page 52, line 22, strike out "(e)" and insert in lieu thereof "(d)".

Page 53, line 15, strike out "(f)" and insert in lieu thereof "(e)".

Page 53, lines 21 and 22, strike out "(c) and (d)" and insert in lieu thereof "(b) and (c)".

Page 56, line 25, strike out "subsections (a) and (b)" and insert in lieu thereof "subsection (a)".

Page 57, line 11, strike out "(d)" and insert in lieu thereof "(c)"

Page 64, line 7, strike out the comma and all that follows through line 11 and insert in lieu thereof a period.

—Page 52, strike out lines 16 through 21.

Page 52, line 22, strike out "(e)" and insert in lieu thereof "(d)".

Page 53, line 15, strike out "(f)" and insert in lieu thereof "(e)".

Page 53, lines 21 and 22, strike out subsections (c) and (d)" and insert in lieu thereof "subsection (c)".

Page 57, strike out lines 10 through 13.

Page 57, line 14, strike out "(d)" and insert in lieu thereof "(c)".

Page 57, line 22, strike out "(e)" and insert in lieu thereof "(d)".

Page 59, line 11, strike out "(f)" and insert in lieu thereof "(e)".

Page 60, line 9, strike out "(g)" and insert in lieu thereof "(f)".

—Page 55, line 8, insert immediately before the period the following: ", or any deposit in a personal account which bears interest".

—Page 57, strike out lines 17 through 21 and insert in lieu thereof the following:

(1) up to $2,500;

(2) from $2,500 to $5,000;

(3) from $5,000 to $10,000;

(4) from $10,000 to $25,000;

(5) greater than $25,000.

—Page 57, line 22, after "report" insert "referred to in section 302(a)".

Page 57, line 24, after "individual" insert ", and each report referred to in section 302 (b) shall also contain information listed in paragraphs (1), (3), (4), and (5) of subsection (a) respecting the spouse of the reporting individual,".

Page 58, line 3, strike out "In" and insert in lieu thereof "With respect to information listed in paragraph (2) of subsection (a), in".

Page 58, line 7, strike out "In" and insert in lieu thereof "With respect to information listed in paragraph (2) of subsection (a), in".

—Page 60, line 6, strike out the comma and all that follows through line 8 and insert in lieu thereof a period.

—Page 60, strike out lines 9 through 11 and insert in lieu thereof the following:

(g) Political campaign funds, including campaign receipts and expenditures, shall not be included in any report filed pursuant to this title.

—Page 62, line 14, strike out "shall" and insert in lieu thereof "may".

—Page 62, strike out line 14 and all that follows through page 63, line 13.

Page 63, line 14, strike out "(c)" and insert in lieu thereof "(b)".

Page 64, line 4, strike out "(d)" and insert in lieu thereof "(c)".

—Page 63, line 8, insert immediately before the period the following: ", except that a copy of such report may be furnished without charge, or at a reduced fee, if it is determined by the Committee that waiver or reduction of the fee is in the public interest because furnishing the information may be considered as primarily benefiting the public".

—Page 63, strike out lines 9 through 13.

—Page 63, line 23, strike out "political, charitable, or other purpose" and insert in lieu thereof "purpose other than for a political purpose".

—Page 64, line 4, insert "(1)" after "(d)".

Page 64, after line 11, insert the following new paragraph:

(2) With respect to any individual who files a report pursuant to section 301(d), such report, and any other report filed by such individual pursuant to section 301(a) or 301(c), shall, on or after the date which is one year after the date on which the report is filed pursuant to section 301(e), no longer be available for public inspection. Any such report shall be retained by the Committee for the remainder of the five-year period referred to in paragraph (1), after which it shall be destroyed. If such individual as-

sumes a position as a judicial officer or employee again during such five-year period, any such report shall again be made available for public inspection for the remainder of such five-year period.

—Page 65, strike out lines 3 through 24.

Page 66, line 2, strike out "308" and insert in lieu thereof "307".

Page 66, line 6, strike out "309" and insert in lieu thereof "308".

(Amendment in the nature of a substitute to the committee amendment.)

—On page 65, strike lines 9–16 and insert:

(b) The provisions of this title requiring the reporting of information shall supersede any general requirement under any other provision of law or regulation with respect to the reporting of information required for puposes of preventing conflicts of interest or apparent conflicts of interest. Such provisions of this title shall not supersede the requirements of section 7342 of title 5, United States Code.

H.R. 1

By Mr. HARRIS:

(Amendments to the amendment in the nature of a substitute.)

—Page 21, strike out line 11 and all that follows down through "fixed for GS–16;" where it appears on line 19 and insert in lieu thereof the following:

(3) each individual holding a civil service position in the executive branch whose rate of basic pay is fixed by the Executive Schedule of subchapter II of chapter 53 of this title, by reference to such Executive Schedule (determined without regard to section 5308 of this title, or any comparable pay ceiling), or by the Postal Executive Schedule and such individual is at grade 33 or higher of such schedule;

—Page 21, line 14, before "whose position is" insert "with respect to whom a designation is in effect under subsection (h) of this section and".

Page 21, line 23, after "classification" insert "and, in the case of any civilian position, with respect to which there is in effect a designation under subsection (h) of this section".

Page 22, line 16, before "whose basic pay is" insert "with respect to whom a designation is in effect under subsection (h) of this section and".

Page 22, after line 24, insert the following new subsection:

(h) The Director of the Office of Government Ethics shall designate, by regulation, any civilian position in the executive branch that—

(1) the duties and responsibilities of which require an individual in such position—

(A) in the normal course of carrying out such duties and responsibilities, to make decisions with regard to who shall be the subject of any action which is to be taken in connection with the enforcement of any civil or criminal law (including any inspection or audit under any such law) or to carry out any such action;

(B) in the normal course of carrying out such duties and responsibilities—

(i) to make binding decisions on who shall be awarded contracts which are for the procurement of goods or services for the Government and which have substantial monetary value, or who shall be awarded licenses, grants, subsidies, or other benefits which involve funds or other interests having a substantial monetary value; or

(ii) to supervise individuals engaged in the awarding, administering, or monitoring of such contracts, licenses, grants, subsidies, or benefits; or

(C) to function as an expert or consultant or as a member of a board, committee, or similar group which provides advice or recommendations to the President or one or more agencies or officers of the Government, unless such individual serves without pay or at a nominal rate of pay; and

(2) the coverage under this part of such an individual in such position is justified in order to ensure the integrity of the Government or the public's confidence in the integrity of the Government.

Page 31, line 20, after "availability of" insert "(1)".

Page 32, line 2, after "States" insert "or (2) the report of any individual in the civil service of the executive branch who is covered by this title by reason of his position being designated under section 201(h)".

H.R. 1

By Mr. HYDE:

(Amendment to the amendment in the nature of a substitute.)

—On page 44, insert the following after line 9:

PART C—SPECIAL PROSECUTOR

SPECIAL PROSECUTOR

SEC. 226. (a) Title 28 of the United States Code is amended by inserting immediately after chapter 37 the following new chapter:

"Chapter 39—SPECIAL PROSECUTOR

"Sec.
"591. Appointment.
"592. Prosecutorial jurisdiction; authority.
"593. Removal or termination.
"594. Final report; congressional oversight.
"595. Presentations by Attorney General and Solicitor General.
"596. Special panel of the court.
"597. Termination of effect of chapter.

"§ 591. Appointment

"(a) Upon receiving any specific information that any of the persons described in subsection (c) of this section has—

"(1) knowingly authorized or engaged in any Federal criminal act or omission involving the abuse of Federal office;

"(2) knowingly authorized or engaged in any act or omission constituting a violation of any Federal criminal law regulating the financing or conduct of elections or election campaigns; or

"(3) violated any Federal criminal law relating to the obstruction of justice or perjury, or conspired to violate any such Federal criminal law or to defraud the United States;

the Attorney General shall conduct, for a period not to exceed sixty days, such preliminary investigation as the Attorney General deems appropriate to ascertain whether the matter under investigation is so unsubstantiated that no further investigation or prosecution is warranted.

"(b) Upon receiving any specific information that any of the persons described in subsection (c) of this section has committed a violation of the Ethics in Government Act of 1977, as set forth in section 204 of such Act, the Attorney General shall apply to the special panel of the court for the appointment of a special prosecutor.

"(c) The persons referred to in subsections (a) and (b) of this section are as follows:

"(1) The President or Vice President.

"(2) Any individual serving in a position compensated at level I of the Executive Schedule under section 5312 of title 5 of the United States Code.

"(3) Any individual working in the Executive Office of the President and compensated at a rate not less than the rate provided for level IV of the Executive Schedule under section 5315 of title 5 of the United States Code.

"(4) The Director of the Federal Bureau of Investigation or the Director of Central Intelligence.

"(5) Any individual who held any office or position described in any of paragraphs (1) through (4) of this subsection during the incumbency of the President or during the period the last preceding President held office, if such preceding President was of the same political party as the incumbent President.

"(6) A national campaign manager or chairman of any national campaign committee seeking the election or reelection of the President.

"(7) A Member of Congress (including a Delegate to the House of Representatives or Resident Commissioner in the House of Representatives).

"(d) If the Attorney General finds the matter subject to preliminary investigation in accordance with subsection (a) of this section is so unsubstantiated that no further investigation or prosecution is warranted, the Attorney General shall file a memorandum with the special panel of the court. Such memorandum shall contain a summary of the information received and the results of any preliminary investigation.

"(e) If, after the filing of a memorandum under subsection (d) of this section, the Attorney General receives additional specific information about the matter to which such memorandum related, which information, in the judgment of the Attorney General, warrants further investigation or prosecution, the Attorney General shall, not later than thirty days after receiving such additional information, apply to the special panel of the court for the appointment of a special prosecutor.

"(f) If the Attorney General finds the matter subject to preliminary investigation in accordance with subsection (a) of this section warrants further investigation or prosecution, or if sixty days elapse from the receipt of the information and the Attorney General has not yet determined that the matter is so unsubstantiated that the matter does not warrant further investigation, then the Attorney General shall apply to the special panel of the court for the appointment of a special prosecutor.

"(g) If, in the course of any Federal criminal investigation, the Attorney General determines that the continuation of the investigation or of a resulting prosecution or the outcome of such investigation or prosecution may so directly and substantially affect the political interests of the President, of the President's political party, or of the Attorney General as to make it inappropriate in the interest of the administration of justice for the Department of Justice to conduct such investigation, then the Attorney General shall apply to the special panel of the court for the appointment of a special prosecutor.

"(h) Any memorandum or application filed under this section with the special panel of the court shall not be revealed to any third party without leave of the court. In the case of any such application, the application shall contain sufficient information to assist the special panel of the court to select a special prosecutor and to define that special prosecutor's prosecutorial jurisdiction.

"(i) Upon the receipt of an application under this section, the special panel of the court shall appoint an appropriate special prosecutor and shall inform the Attorney General and the Congress of, and make public, the name of such special prosecutor.

"(j) The Attorney General may request that the court assign new matters to an existing special prosecutor or that the prosecutorial jurisdiction of such a special prosecutor be expanded, and the special panel of the court may make appropriate orders for such assignment or expansion. A special prosecutor may accept a referral of a matter by the Attorney General, if the matter relates to a matter within the prosecutorial jurisdiction established by the special panel of the court.

"(k) The Committee on the Judiciary of either House of the Congress may request that the Attorney General apply for the appointment of a special prosecutor under this section. Not later than thirty days after the receipt of such a request, the Attorney General shall notify the committee making the request in writing of any action the Attorney General has taken under this section, and, if no application has been made to the special panel of the court under this section, why such application was not made. Such written notification shall not be revealed to any third party except that the committee may, either on its own initiative or upon the request of the Attorney General, make public such portion or portions of such notification as will not in the committee's judgment prejudice the rights of any individual.

"(l) Upon application of a majority of majority party members or a majority of all nonmajority-party members of the Committee on the Judiciary of either House of the Congress, the United States District Court for the District of Columbia may issue any appropriate order (including an order in the nature of a writ of mandamus) commanding the Attorney General to comply with any provision of this chapter.

"§ 592. Prosecutorial jurisdiction; authority

"(a) Notwithstanding any other provision of law, a special prosecutor appointed under this chapter shall have, with respect to all matters in such special prosecutor's prosecutorial jurisdiction established under this chapter, all the investigative and prosecutorial functions and powers of the Department of Justice, the Attorney General, and any other officer or employee of the Department of Justice.

"(b) A special prosecutor appointed under this chapter shall receive compensation at a per diem rate equal to the rate of basic pay for level IV of the Executive Schedule under section 5315 of title 5 of the United States Code. For the purposes of carrying out the duties of the office of special prosecutor, such special prosecutor shall have power to appoint, fix the compensation, and assign the duties of such employees as such special prosecutor deems necessary (including investigators, attorneys, and part-time consultants). The positions of all such employees are exempted from the competitive service. No such employee may be compensated at a rate exceeding the maximum rate provided for GS–18 of the General Schedule under section 5332 of title 5 of the United States Code.

"(c) A special prosecutor appointed under this chapter may make public from time to time and shall send to the Congress at least annually such statements or reports as such special prosecutor deems appropriate.

"(d) There are authorized to be appropriated for each fiscal year such sums as may be necessary, to be held by the Department of Justice as a contingent fund for the use of any special prosecutors in the carrying out of this chapter.

"§ 593. Removal or termination

"(a) A special prosecutor appointed under this chapter may be removed from office, other than by impeachment and conviction, only by the special panel of the court and only for extraordinary impropriety, or such incapacitation or other condition as substantially impairs the performance of such special prosecutor's duties.

"(b) The office of a special prosecutor shall terminate upon the submission by such special prosecutor of notification to the Attorney General that the investigation of all matters within the prosecutorial jurisdiction of such special prosecutor, and any resulting prosecutions, have been completed or so substantially completed that it would be appropriate for the Department of Justice to complete such matters. No such submission shall be effective to terminate such office until after the completion and filing of the report required under section 594 of this title.

"(c) The special panel of the court may, either on such panel's own motion or upon suggestion of the Attorney General, terminate the office of special prosecutor at any time, on the grounds that the investigation of all matters within the prosecutorial jurisdiction of the special prosecutor, and any resulting prosecutions, have been completed or so substantially completed that it would be appropriate for the Department of Justice to complete such matters.

"§ 594. Final report; congressional oversight

"(a)(1) In addition to any reports made under section 592 of this title, a special prosecutor appointed under this chapter shall, at the conclusion of such special prosecutor's duties, submit to the special panel of the court a report under this section.

"(2) A report under this section shall set forth fully and completely a description of the work of the special prosecutor, including the disposition of all cases brought, and the reasons for not prosecuting any matter within the prosecutorial jurisdiction of such special prosecutor which was not prosecuted. The report shall be in sufficient detail to allow determination of whether the special prosecutor's investigation was thoroughly and fairly completed.

"(3) The special panel of the court may release to the Congress, the public, or to any appropriate person, such portion of a report made under this section as the special panel deems appropriate. The special panel of the court shall make such orders as are appropriate to protect the rights of any individual named in such report and prevent undue interference with any pending prosecution. The special panel of the court may make any portion of a report under this section available to any individual named in such report for the purposes of receiving within a time limit set by the special panel any comments or factual information that such individual may submit. Such comments and factual information, in whole or in part, may in the discretion of such special panel be included as an appendix to such report.

"(4) A special prosecutor, where appropriate, shall promptly advise the chairman and ranking minority member of the House committee having jurisdiction over impeachments of any substantial and credible information which such special prosecutor receives that may constitute grounds for an impeachment. Nothing in this chapter shall prevent the Congress or either House thereof from obtaining information in the course of an impeachment proceeding.

"(b) The appropriate committees of the Congress shall have oversight jurisdiction with respect to the official conduct of any special prosecutor appointed under this chapter, and such special prosecutor shall have the duty to cooperate with the exercise of such oversight jurisdiction.

"§ 595. Presentations by Attorney General and Solicitor General

"Nothing in this chapter shall prevent the making by the Attorney General or the Solicitor General of a presentation to any court as to issues of law raised by any case or appeal.

"§ 596. Special panel of the court.

"The special panel of the court to which functions are given by this chapter is the division established under section 49 of this title.

"§ 597. Termination of effect of chapter

"This chapter shall cease to have effect five years after the date on which it takes effect, except as to the completion of then-pending matters, which in the judgment of the special panel of the court require its continuance in effect, with respect to which matters it shall continue in effect until such special panel determines that such matters have been completed."

(b) The tables of chapters for title 28 of the United States Code and for part II of such title 28 are each amended by inserting immediately after the item relating to chapter 37 the following new item:

"§ 30. Special prosecutor."

ASSIGNMENT OF JUDGES TO DIVISION TO APPOINT SPECIAL PROSECUTORS

SEC. 227. (a) Chapter 3 of title 28 of the United States Code is amended by adding at the end the following new section:

"§ 49. Assignment of judges to division to appoint special prosecutors

"(a) Beginning with the two-year period commencing on the date this section takes effect, the chief judge of the United States Court of Appeals for the District of Columbia shall assign three persons who are judges or justices for each successive two-year period to a division of the United States Court of Appeals for the District of Columbia to be the special panel of the court for the purposes of chapter 39 of this title.

"(b) Except as provided under subsection (f) of this section, assignment to the division established in subsection (a) of this section shall not be a bar to other judicial assignments during the term of such division.

"(c) In assigning judges or justices to sit on the division established in subsection (a) of this section, priority shall be given to senior retired circuit judges and senior retired justices.

"(d) The chief judge of the United States Court of Appeals for the District of Columbia may make a request to the Chief Justice of the United States, without presenting a certificate of necessity, to designate and assign, in accordance with section 294 of this title, retired circuit court judges of another circuit or retired justices to the division established under subsection (a) of this section.

"(e) Any vacancy in the division established under subsection (a) of this section shall be filled only for the remainder of the two-year period in which such vacancy occurs and in the same manner as initial assignments to the division were made.

"(f) No judge or justice who as a member of the division established in subsection (a) of this section participated in a function conferred on the division under chapter 39 of this title involving a special prosecutor shall be eigible to participate in any judicial proceeding involving a matter which involves such special prosecutor while such special prosecutor is serving in that office or which involves the exercise of such special prosecutor's official duties, regardless of whether such special prosecutor is still serving in that office."

(b) The table of sections for chapter 3 of title 28 of the United States Code is amended by adding at the end the following item:

"49. Assignment of judges to division to appoint special prosecutors."

DISQUALIFICATION OF OFFICERS AND EMPLOYEES OF THE DEPARTMENT OF JUSTICE

SEC. 228. (a) Chapter 31 of title 28 of the United States Code is amended by adding at the end the following:

"§ 528. Disqualification of officers and employees of the Department of Justice

"The Attorney General shall promulgate rules and regulations which require any officer or employee of the Department of Justice, including a United States attorney or a member of his staff, to disqualify himself from participation in a particular investigation or prosecution if such participation may result in a personal, financial, or political conflict of interest, or the appearance thereof. Such rules and regulations may provide that a willful violation of any provision thereof shall result in removal from office."

(b) The table of sections for chapter 31 of title 28 of the United States Code is amended by adding at the end the following:

"528. Disqualification of officers and employees of the Department of Justice."

Page 44, line 10, strike out "C" and insert in lieu thereof "D".

H.R. 1

By Mr. LEACH:

(Amendments to the amendment in the nature of a substitute)

—Page 30, after line 14, insert the following new section:

SPECIAL REPORTS TO CONGRESS

SEC. 204. (a) Concurrently with the transmittal of any nomination of any Presidential nominee subject to this title under section 201(b), the Director shall transmit a report containing the information required under subsection (b) of this section to the Committee on Post Office and Civil Service of the House of Representatives, the Committees on Armed Services of the House of Representatives and the Senate, the Committee on Governmental Affairs of the Senate, and such other committees of the Congress as may have appropriate jurisdiction.

(b) The following shall be included in any report required to be submitted by subsection (a) of this section:

(1) A copy of the report required by such nominee under section 201(b), together with a certification by the director as to whether or not, in the opinion of the Director, the nominee is in compliance with applicable laws and regulations.

(2) Certification by the Director, by the reporting individual, and by the head of any agency with respect to which, during the 5-year period preceding the transmittal of the nomination involved, the reporting individual (or any relative of the reporting individual or any entity with which the reporting individual is affiliated)—

(A) had, or sought to obtain, contractual or other business or financial relations with such agency, or

(B) conducted operations or activities which are regulated by such agency,

as to whether or not, to their knowledge, the reporting individual, any relative of the reporting individual, or any other financial entity with which the reporting individual is affiliated was a party to any criminal, civil, or administrative proceeding which would relate to the matters for which the nominee would be responsible in the position to which nominated (as determined by the Director by regulation).

(3) If the existence of any criminal, civil, or administrative proceeding is certified under paragraph (1), a description of the nature of such proceeding and its outcome and the factors on which such outcome was based.

(c) Notwithstanding any other provision of this chapter to the contrary, the report required to be filed under section 201(b) upon the transmittal of a Presidential nomination shall cover the 5-year period preceding the transmittal of such nomination.

(d) For purposes of this section:

(1) "civil, criminal, or administrative proceeding" means—

(A) any civil or criminal proceeding to which the United States or any State is a party;

(B) any administrative proceeding by the United States or any State denying any benefit on the basis of any act or omission by the person who is the subject of such proceeding or which restricts, by consent, the activities of the person who is the subject of such action; and

(C) any investigation of a type which normally precedes any action described in subparagraph (A) or (B) of this paragraph; and

(2) an individual shall be considered to be affiliated with any entity if such individual, or any relative of such individual, has a substantial interest in such entity or held any position in such entity which is required to be reported under this title.

Page 30, line 16, strike out "204" and insert "205" in lieu thereof.

Page 31, line 12, strike out "205" and insert "206" in lieu thereof.

Page 32, line 3, strike out "204(a)" and insert "205(a)" in lieu thereof.

Page 34, line 15, strike out "206" and insert "207" in lieu thereof.

Page 35, line 2, strike out "207" and insert "208" in lieu thereof.

Page 35, line 20, strike out "208" and insert "209" in lieu thereof.

Page 36, line 2, strike out "209" and insert "210" in lieu thereof.

—Page 61, after line 19, insert the following new section:

SPECIAL REPORTS TO CONGRESS

SEC. 304. (a) Concurrently with the transmittal of any nomination of any Presidential nominee subject to this title under section 301(b), the Committee shall transmit a report containing the information required under subsection (b) of this section to the Committees on the Judiciary of the House of Representatives and of the Senate, and such other committees of the Congress as may have appropriate jurisdiction.

(b) The following shall be included in any report required to be submitted by subsection (a) of this section:

(1) A copy of the report required by such nominee under section 301(b), together with a certification by the Committee as to whether or not, in the opinion of the Committee, the nominee is in compliance with applicable laws and regulations.

(2) Certification by the Committee, by the reporting individual, and by the head of any agency with respect to which, during the 5-year period preceding the transmittal of the nomination involved, the reporting individual (or any relative of the reporting individual or any entity with which the reporting individual is affiliated)—

(A) had, or sought to obtan, contractual or other business or financial relations with such agency, or

(B) conducted operations or activties which are regulated by such agency,

as to whether or not, to their knowledge, the reporting individual, any relative of the reporting individual, or any other financial entity with which the reporting individual is affiliated was a party to any criminal, civil, or administrative proceeding which would relate to the matters for which the nominee would be responsible in the position to which nominated (as determined by the Committee by regulation).

(3) If the existence of any criminal, civil, or administrative proceeding is certified under paragraph (1), a description of the nature of such proceeding and its outcome and the factors on which such outcome was based.

(c) Notwithstanding any other provision of this chapter to the contrary, the report required to be filed under section 301(b) upon the transmittal of a Presidential nomination shall cover the 5-year period preceding the transmittal of such nomination.

(d) For purposes of this section:

(1) "civil, criminal, or administrative proceeding" means—

(A) any civil or criminal proceeding to which the United States or any State is a party;

(B) any administrative proceeding by the United States or any State denying any benefit on the basis of any act or omission by the person who is the subject of such proceeding or which restricts, by consent, the activities of the person who is the subject of such action; and

(C) any investigation of a type which normally precedes any action described in subparagraph (A) or

(B) of this paragraph; and

(2) an individual shall be considered to be affiliated with any entity if such individual, or any relative of such individual, has a substantial interest in such entity or held any position in such entity which is required to be reported under this title.

Page 61, line 21, strike out "304" and insert "305" in lieu thereof.

Page 62, line 11, strike out "305" and insert "306" in lieu thereof.

Page 64, line 13, strike out "306" and insert "307" in lieu thereof.

Page 65, line 4, strike out "307" and insert "308" in lieu thereof.

Page 66, line 2, strike out "308" and insert "309" in lieu thereof.

Page 66, line 6, strike out "309" and insert "310" in lieu thereof.

H.R. 1

By Mr. PREYER:

(Amendment to the amendment in the nature of a substitute.)

—Page 3, lines 16 and 17 strike "October" and insert "November".

H.R. 8729

By Mr. FLORIO:

—Page 25, immediately after line 10, insert the following:

(c) Part II of the Airport and Airway Development Act of 1970 (49 U.S.C. 1701 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 31. LIMITATION ON PROJECT ELIGIBILITY.

"(a) REQUIREMENTS APPLICABLE TO CERTAIN AIRPORTS.—If the aircraft noise associated with any airport affects (as determined by the Secretary) individuals in any State other than the State in which such airport is located, the airport owner or operator shall, before September 30, 1981, submit to the Secretary a noise impact map for such airport which conforms with section 103 of the Airport and Aircraft Noise Reduction Act and a noise compatability program for such airport which conforms with section 104 of such Act.

"(b)(1) ENFORCEMENT BY CIVIL ACTION.—Except as provided in paragraph (2), any person (including the Secretary) may commence a civil action on his own behalf against any airport operator for alleged failure to comply with subsection (a). Such action may be brought only in the judicial district in which such airport is located. The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce the requirements of subsection (a).

"(2) No action may be commenced under this subsection by any person other than the Secretary if the Secretary has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with subsection (a).

"(3) In any action under this subsection brought by any person other than the Secretary, the Secretary may intervene as a matter of right.".

H.R. 11733

By Mr. BENJAMIN:

—Page 179, after line 11, add the following new subsection:

(e) Section 5(e) of such Act of 1964 is amended—

(A) by inserting "(1)" immediately after "(e)";

(B) by inserting out "The" in the second sentence and inserting in lieu thereof "Except as provided in paragraph (2) of this subsection, the"; and

(C) by adding at the end thereof the following new paragraph:

"(2) From the amount appropriated for each of the fiscal years ending September 30, 1979, and September 30, 1980, the Secretary may make grants to each Governor and to each designated recipient of an urbanized area for one project for the payment of subsidies for operating expenses which shall not exceed 80 per centum of the cost of such project, or $1,000,000, whichever is less. The remainder shall be provided in cash, from sources other than Federal funds or revenues from the operation of public mass transportation systems. Any public or private transit system funds so provided shall be solely from undistributed cash surpluses, replacement or depreciation funds or reserves available in cash, or new capital. Subsection (f) of this section shall not apply to any grant made under this paragraph.".

H.R. 11733

By Mr. KOSTMAYER:

—On page 106 strike out line 2 through line 11.

—On page 106 strike out line 12 through line 24.

—On pages 107 and 108, strike out section 117 in its entirety.

H.R. 11733

By GARY A. MYERS:

—Page 110, line 14, strike out the period and insert in lieu thereof a comma and the following: "except that the Secretary, in approving any project under this section during fiscal year 1979 or 1980, may increase the Federal share of the cost of such project to 100 per centum if the Secretary determines that (1) the State seeking approval of such project is unable to provide all or any part of the non-Federal share of the cost of such project due to the authorization levels contained in this section, and (2) such increased Federal share is consistent with the purposes of this section."

—On page 150, delete line 23 and all that follows through line 10 on page 151.

Page 151, line 1, delete "shall" and insert in lieu thereof "may".

Page 151, line 7, delete "and".

Page 151, line 10, delete the period and insert in lieu thereof a comma and the following: "or any other qualified Federal-aid highway."

H.R. 11733

By Mr. WEAVER:

—Add a new subsection 116(d):

"Section 131 of title 23, United States Code, is amended by relettering existing subsections (p) and (q) as (q) and (r), respectively, including any references to such subsections, and by inserting immediately following subsection (o) the following new subsection (p):

"(p) The Secretary may approve the request of any State to permit signs at intersections along the primary system providing directions to any business located in an area of population less than 100 per square mile other than an incorporated municipality if (1) without such sign(s) such business would suffer a substantial economic hardship, (2) such sign(s) do not exceed 10 square feet in surface area, (3) such sign is not more than 4 feet above the highway surface level measured from the point of the sign nearest the ground, and (4) such sign is not more than 20 miles from the business."

H.R. 11733

By Mr. WEISS:

—Page 108, after line 3, insert the following:

SEC. 118. The first three sentences of section 138 of title 23, United States Code, are amended to read as follows: "It is hereby declared to be the national policy that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, historic sites, and the navigable waters of the United States. The Secretary of Transportation shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, the Administrator of the Environmental Protection Agency, and with the States in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of the lands traversed and to maintain the navigable waters of the United States. After the effective date of the Federal-Aid Highway Act of 1968 in the case of land, and after the date of enactment of this sentence in the case of the navigable waters of the United States, the Secretary shall not approve any program or project which requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, or any land from a historic site of national, State, or local significance as so determined by such officials, or any navigable waters of the United States, unless (1) there is no feasible and prudent alternative to the use of such land or such navigable waters, and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, historic site, or such navigable waters resulting from such use. After the date of enactment of this sentence, the Secretary shall not enter into any obligation on behalf of the Federal Government to pay any sum with respect to any such program or project (including any such program or project approved before such date of enactment) until the Secretary submits to Congress a written certification that such program or project will be carried out in a manner which is consistent with the provisions of this section together with a written document describing the procedures used by the Secretary in determining that such program or project is so consistent.

Renumber the succeeding sections of title I accordingly.

—Page 204, after line 6, insert the following new section:

"SEC. 329. No financial assistance shall be provided by the Secretary to an eligible recipient of such assistance under programs or projects administered by the Urban Mass Transportation Administration, unless the local transit body designated to govern the use of such assistance by the recipient (1) consists of a majority of persons who reside in the area served by the mass transportation facilities under the local transit body's governance, and (2) each such person uses the mass transportation facilities under the local transit body's governance as a principal means of transportation."

H.R. 12452

By Mrs. COLLINS of Illinois:

(Amendments to the amendment in the nature of a substitute offered by Mr. Jeffords.)

—Insert at the end of section 106 of the Comprehensive Employment and Training Act as proposed by the amendment in the nature of a substitute offered by the Gentleman from Vermont the following new subsection:

"(j) In order to insure compliance with the provisions of this Act and regulations thereunder and to insure conduct of programs in a manner consistent with the purposes and objectives of this Act, the Secretary may require prime sponsors to participate in unified audit programs established by the Secretary to provide for the audit of both prime sponsors and their respective subgrantees and subcontractors. In any such case the Secretary may require the prime sponsor to pay, from funds under this Act available to it for administrative expenses, that portion of the unified audit expenses allocable to the audit of such subgrantees and subcontractors.

—Insert at the end of section 152 of the Comprehensive Employment and Training Act as proposed by the amendment in the nature of a substitute offered by the Gentleman from Vermont the following new subsection:

"(e) In carrying out the duties and responsibilities provided by this Act, the Director shall take such steps as may be necessary to insure that—

"(1) audits of each prime sponsor (A) are conducted at least once every two years, and (B) are conducted in a reasonably timely manner; and

"(2) that action taken on the basis of any such audit, including review and collection of unallowable expenditures, is completed in a timely manner after the completion of any such audit.

—Insert at the end of section 155 of the Comprehensive Employment and Training Act as proposed by the amendment in the nature of a substitute offered by the Gentleman from Vermont the following new subsection:

'(d) In addition to the sums otherwise authorized to be appropriated by this Act, there are authorized to be appropriated such sums as may be necessary to carry out the functions vested in the Office of the Director.

In section 154(a)(1) of the Comprehensive Employment and Training Act as proposed by the amendment in the nature of a substitute offered by the gentleman from Vermont, strikeout the semicolon at the end thereof and insert in lieu thereof the following: ", including—

"(A) the proportion of prime sponsor expenditures subjected to further review on the basis of regular audit activities during such period;

"(B) the proportion of such expenditures which are disallowed on the basis of such further review during such period; and

"(C) the proportion of disallowed expenditures which have been recovered by the Department during such period;

H.R. 12452

By Mr. JEFFORDS:

(Amendment in the Nature of a Substitute)

—Page 2, line 8, through page 225, line 2, strike out all of section 2 and insert in lieu thereof the following:

COMPREHENSIVE EMPLOYMENT AND TRAINING ACT REAUTHORIZATION

SEC. 2. The Comprehensive Employment and Training Act of 1973 is amended to read as follows:

"SHORT TITLE

"SECTION 1. This Act, with the following table of contents, may be cited as the 'Comprehensive Employment and Training Act'.

"TABLE OF CONTENTS

"Sec. 1. Short title.
"Sec. 2. Statement of purpose.
"TITLE I—ADMINISTRATIVE PROVISIONS
"PART A—ORGANIZATIONAL PROVISIONS
"Sec. 101. Prime sponsors.
"Sec. 102. Authority of Secretary to provide services.
"Sec. 103. Comprehensive employment and training plan.
"Sec. 104. Review of plans and performance standards and goals.
"Sec. 105. Governor's coordination and special services plan.
"Sec. 106. Complaints and sanctions.
"Sec. 107. Judicial review.
"Sec. 108. Reallocation.
"Sec. 109. Prime sponsor's planning council.
"Sec. 110. State employment and training council.
"Sec. 111. Consultation.
"Sec. 112. Authorization of appropriations.
"Sec. 113. Evaluation studies.
"PART B—GENERAL PROVISIONS
"Sec. 121. Conditions applicable to all programs.
"Sec. 122. Special provisions.
"Sec. 123. Wages and allowances.
"Sec. 124. Labor standards.
"Sec. 125. Definitions.
"Sec. 126. Secretary's authority.
"Sec. 127. Reports.
"Sec. 128. Services and property.
"Sec. 129. Utilization of services and facilities.
"Sec. 130. Interstate agreements.
"Sec. 131. Prohibition against political activities.
"Sec. 132. Nondiscrimination.
"Sec. 133. Records, audits, and investigations.
"Sec. 134. Criminal provisions.
"Sec. 135. Bonding.
"PART C—AUDITS, INVESTIGATIONS, AND COMPLIANCE
"Sec. 151. Purpose; establishment.
"Sec. 152. Appointment of officers.
"Sec. 153. Duties and responsibilities.
"Sec. 154. Reports.
"Sec. 155. Authority; administration provisions.
"Sec. 156. Transfer of functions.
"Sec. 157. Definitions.
"Sec. 158. Office of Management Assistance.
"TITLE II—COMPREHENSIVE EMPLOYMENT AND TRAINING SERVICES
"PART A—FINANCIAL ASSISTANCE PROVISIONS
"Sec. 201. Purpose of program.
"Sec. 202. Allocation of funds.
"Sec. 203. Conditions for receipt of financial assistance.
"Sec. 204. Supplemental vocational education assistance.
"PART B—SERVICES FOR THE ECONOMICALLY DISADVANTAGED
"Sec. 211. Description of program.
"Sec. 212. Limitations on use of funds.
"Sec. 213. Eligibility for participation.
"PART C—UPGRADING AND RETRAINING
"Sec. 221. Program authorized.
"TITLE III—SPECIAL FEDERAL RESPONSIBILITIES
"PART A—SPECIAL NATIONAL PROGRAMS AND ACTIVITIES
"Sec. 301. Special programs and activities.
"Sec. 302. Native American employment and training programs.
"Sec. 303. Migrant and seasonal farmworker employment and training programs.
"Sec. 304. Programs for the handicapped.
"Sec. 305. Relocation assistance.
"Sec. 306. Veterans information and outreach.
"Sec. 307. Displaced homemaker employment assistance program.
"Sec. 308. Partnership programs.
"PART B—RESEARCH, TRAINING, AND EVALUATION
"Sec. 311. Research.
"Sec. 312. Labor market information and job bank program.
"Sec. 313. Evaluation.
"Sec. 314. Training and technical assistance.
"Sec. 315. National Occupational Information Coordinating Committee.
"TITLE IV—YOUTH PROGRAMS
"Sec. 400. Intent.
"Sec. 401. General provisions.
"PART A—YOUTH EMPLOYMENT DEMONSTRATION PROGRAMS
"Sec. 410. Statement of purpose.
"Subpart 1—Youth Incentive Entitlement Pilot Projects
"Sec. 411. Entitlement pilot projects authorized.
"Sec. 412. Employment guarantees.
"Sec. 413. Selecting prime sponsors.
"Sec. 414. Special provision.
"Sec. 415. Reports.
"Subpart 2—Youth Community Conservation and Improvement Projects
"Sec. 421. Statement of purpose.
"Sec. 422. Definitions.
"Sec. 423. Allocation of funds.
"Sec. 424. Community conservation and improvement youth employment projects.
"Sec. 425. Project applications.
"Sec. 426. Proposed agreements.
"Sec. 427. Approval of agreements.
"Sec. 428. Work limitation.
"Subpart 3—Youth Employment and Training Programs
"Sec. 431. Statement of purpose.
"Sec. 432. Programs authorized.
"Sec. 433. Allocation of funds.
"Sec. 434. Eligible applicants.
"Sec. 435. Eligible participants.
"Sec. 436. Conditions for receipt of financial assistance.
"Sec. 437. Review of plans by Secretary.
"Sec. 438. Secretary's discretionary projects.
"Subpart 4—General Provisions
"Sec. 441. Distribution of funds.
"Sec. 442. Wage provisions.
"Sec. 443. Special conditions.
"Sec. 444. Special provisions for subparts 2 and 3.
"Sec. 445. Academic credit, education credit, counseling and placement services, and basic skills development.
"Sec. 446. Disregarding earnings.
"Sec. 447. Relation to other provisions.
"PART B—JOB CORPS
"Sec. 450. Statement of purpose.
"Sec. 451. Establishment of the Job Corps.
"Sec. 452. Individuals eligible for the Job Corps.
"Sec. 453. Screening and selections of applicants—general provisions.
"Sec. 454. Screening and selection—special limitations.
"Sec. 455. Enrollment and assignment.
"Sec. 456. Job Corps Centers.
"Sec. 457. Program activities.
"Sec. 458. Allowances and support.
"Sec. 459. Standards of conduct.
"Sec. 460. Community participation.
"Sec. 461. Counseling and job placement.
"Sec. 462. Experimental and developmental projects.
"Sec. 463. Advisory boards and committees.
"Sec. 464. Participation of States.
"Sec. 465. Application of provisions of Federal law.
"Sec. 466. Special provisions.
"Sec. 467. General provisions.
"Sec. 468. Utilization of funds.
"PART C—SUMMER YOUTH PROGRAM
"Sec. 480. Establishment of program.
"Sec. 481. Prime sponsors.
"Sec. 482. Financial assistance.
"Sec. 483. Secretarial authority.
"TITLE V—NATIONAL COMMISSION FOR EMPLOYMENT AND TRAINING POLICY
"Sec. 501. Statement of purpose.
"Sec. 502. Commission established.
"Sec. 503. Functions of the Commission.
"Sec. 504. Reports.
"TITLE VI—PUBLIC SERVICE EMPLOYMENT PROGRAM
"Sec. 601. Statement of purpose.
"Sec. 602. Report on appropriations.
"Sec. 603. Financial assistance.
"Sec. 604. Allocation of funds.
"Sec. 605. Expenditure of funds.
"Sec. 606. Prime sponsors and program agents.
"Sec. 607. Eligibility.
"Sec. 608. Wage supplementation.
"Sec. 609. Utilization of funds.
"TITLE VII—PRIVATE SECTOR OPPORTUNITIES FOR THE ECONOMICALLY DISADVANTAGED
"Sec. 701. Statement of purpose.
"Sec. 702. Financial assistance.
"Sec. 703. Private industry councils.
"Sec. 704. Private sector program.
"Sec. 705. Program activities.
"Sec. 706. Report.
"TITLE VIII—YOUNG ADULT CONSERVATION CORPS
"Sec. 801. Statement of purpose.
"Sec. 802. Establishment of Young Adult Conservation Corps.
"Sec. 803. Selection of enrollees.
"Sec. 804. Activities of the Corps.
"Sec. 805. Conditions applicable to Corps enrollees.
"Sec. 806. State and local programs.
"Sec. 807. Secretarial reports.
"Sec. 808. Antidiscrimination.
"Sec. 809. Transfer of funds.

"STATEMENT OF PURPOSE

"SEC. 2. It is the purpose of this Act to provide job training and employment opportunities for economically disadvantaged persons, unemployed or underemployed persons which will result in an increase in their earned income, and to assure that training and other services lead to maximum employment opportunities and enhance self-sufficiency by establishing a flexible, coordinated and decentralized system of Federal, State, and local programs. It is further the purpose of this Act to provide for the maximum feasible coordination of plans, programs, and activities under this Act with economic development, community development and related activities such as vocational education, vocational rehabilitation, self-employment training programs, and social service programs.

"PART A—ORGANIZATIONAL PROVISIONS

"PRIME SPONSORS

"SEC. 101. (a) The Secretary may make financial assistance available to a prime sponsor to enable it to carry out all or a substantial part of a comprehensive employment and training plan. A prime sponsor shall be—

"(1) a State;

"(2) a unit of general local government which has a population of one hundred thousand or more persons on the basis of the most satisfactory current data available to the Secretary;

"(3) any consortium of units of general local government which includes any unit of general local government qualifying under paragraph (2) of this subsection;

"(4) any unit of general local government or any consortium of such units, without regard to population, which, in exceptional circumstances, and after consultation with appropriate State and local officials, is determined by the Secretary—

"(A)(i) to serve a substantial portion of a functioning labor market area, or (ii) to be a rural area having a high level of unemployment; and

"(B) to have demonstrated (i) that it has the capability for adequately carrying out programs under this Act, (ii) that there is a special need for services within the area to be served, and (iii) that it will carry out such programs and services in such area as effectively as any larger unit or general local government in which it is located or as the State;

"(5) a limited number of existing concentrated employment program grantees serving rural areas having a high level of unemployment which the Secretary determines have special capabilities for carrying out programs in such areas and are designated by the Secretary for that purpose; or

"(6) any unit of general local government previously designated as a prime sponsor under the provisions of this Act (as in effect prior to the effective date of the Comprehensive Employment and Training Amendments of 1978) which has demonstrated its effectiveness to serve the purposes of this Act, regardless of any subsequent population decline below one hundred thousand persons.

"(b)(1) A State shall not qualify as a prime sponsor for any geographical area within the jurisdiction of any prime sponsor described in paragraph (2), (3), (4), (5), or (6) of subsection (a) unless such prime sponsor has not submitted an approvable comprehensive employment and training plan for such area.

"(2) A larger unit of general local government shall not qualify as a prime sponsor with respect to the jurisdiction within its area of any smaller eligible unit of general local government unless such smaller unit has not submitted an approvable comprehensive employment and training plan for such area.

"(c) An applicant must submit to the Secretary a notice of intent to be a prime sponsor for a fiscal year by such date as the Secretary shall prescribe. The Secretary shall designate as prime sponsors any applicant submitting such a notice unless the Secretary determines that such applicant does not qualify under this section.

"(d) State prime sponsors shall make appropriate arrangements for appropriate area planning bodies to serve subareas within the State prime sponsor's area for the purpose of assisting in the effective planning and delivery of comprehensive employment and training programs in such subareas, in accordance with such regulations as the Secretary may prescribe.

"AUTHORITY OF SECRETARY TO PROVIDE SERVICES

SEC. 102. In any area for which no prime sponsor has been designated under section 101(c), or where the Secretary has taken an action under section 104 or section 106 which results in employment and training services not being provided in such area, the Secretary shall use funds allocated to such prime sponsor to make payments directly to public agencies or private nonprofit organizations as if the Secretary were the prime sponsor for that area.

"COMPREHENSIVE EMPLOYMENT AND TRAINING PLAN

"SEC. 103. (a) In order to receive financial assistance under this Act, a prime sponsor designated under section 101(c) shall submit to the Secretary a comprehensive employment and training plan. Such plan shall consist of a master plan and an annual plan. The master plan shall serve as the long-term charter under which the programs of such prime sponsor shall be operated. Such plan shall be sufficiently detailed to provide the Secretary and the prime sponsor with a thorough understanding of the economic conditions of the area and of the prime sponsor's long-term programmatic and administrative arrangements to ensure that each annual program is designed and implemented in a manner best suited to such conditions and in a manner consistent with the requirements of this Act. The formulation of such plan by the prime sponsor shall involve the active participation of the prime sponsor planning council, and such plan shall—

"(1) include (A) a detailed analysis of the area to be served, including geographic and demographic characteristics of significant segments of the population to be served (with data indicating the number of potential eligible participants and their income and employment status), and (B) a comprehensive labor market analysis and assessment of the economic conditions in the area, identifying the availability of employment and training in various public and private labor market sectors in such area and the potential for job growth in such sectors;

"(2) include a statement of the long-term goals of the prime sponsor for the improvement of such labor market and economic conditions;

"(3) include a description of the methods and institutional arrangements which will be used to involve community-based organizations in the development and implementation of the programs assisted under this Act;

"(4) include a description of the methods and arrangements which will be used to ensure the fullest possible utilization, consistent with the education and training needs identified in the plan, of public vocational education facilities and programs, and of other facilities of local education agencies in the provision of instruction in basic cognitive skills and in the development and implementation of programs assisted under this Act;

"(5) provide evidence that in the development of such plan there has been a continuing process of consultation with interested groups in the area not directly represented on the prime sponsor's planning council, including local advisory councils established under section 105(a) of the Vocational Education Act of 1963 and the private industry council established under section 703 of this Act, representatives of local education agencies, and representatives of postsecondary educational agencies;

"(6) include a detailed description of—

"(A) the prime sponsor's administrative arrangements and the procedures and criteria to be used (i) to select and supervise deliverers of service (including criteria for determining that a program has 'demonstrated effectiveness'), (ii) to evaluate and audit the operation of such programs, and (iii) to process complaints and grievances with respect to such programs;

"(B) the methods to be used to identify and place participants in such programs and the arrangements made with respect to providing such participants with job search assistance, counseling, and other services; and

"(C) the procedures for the selection of and the arrangements made with respect to consultation with the prime sponsor planning counsel;

"(7) include a description of arrangements to ensure that employment and training services, including the development of job opportunities, will be provided to those most in need of them, including low-income persons, handicapped persons, and persons of limited English-speaking ability, and that the need for continued funding of programs of demonstrated effectiveness is taken into account in serving such groups and persons;

(8)(A) provide a description of appropriate arrangements with community-based organizations serving the poverty community which are not represented on the prime sponsor planning council, and other special target groups, for their participation in the planning of programs included in the plan; (B) provide a description of the extent to which those services and facilities which are available, with or without reimbursement of the reasonable cost, from Federal, State, and local agencies are utilized by the prime sponsor, based upon a written evaluation of the local effectiveness of such existing services and facilities, including, but not limited to, the State employment service, State vocational education and vocational rehabilitation agencies, area skills centers, local educational agencies, postsecondary training and education institutions, and community action agencies, but nothing contained herein shall be construed to limit the utilization of services and facilities of private agencies, institutions, and organizations (such as private businesses, labor organizations, private employment agencies, and private educational and vocational institutions) which can, at comparable cost, provide substantially equivalent training or services or otherwise aid in reducing more quickly unemployment or current prospective labor shortages; (C) provide a description of arrangements for (i) the use of skills centers established under the authority of section 231 of the Manpower Development and Training Act of 1962, and (ii) the use of other public vocational education facilities in such area; (D) provide a description of arrangements to coordinate services for which financial assistance is provided under programs administered by the Secretary relating to employment and training and related services; and (E) provide a description of arrangements to promote maximum feasible use of apprenticeship or other on-the-job training opportunities available under section 1787 of title 38, United States Code;

"(9) provide for and include a description of arrangements made to insure the participation of and consultation with local educational agencies, vocational education agencies, community-based organizations, Federal and State agencies, organized labor, business, and other institutions and organizations in the conduct of programs under this Act;

"(10) include a description of the methods for coordination between the prime sponsor and the local State employment security agencies and delineate the specific responsibilities of each in the delivery of employment and training services for participants funded under this Act and under the Wagner-Peyser Act, with the goal of maximizing the level of coordination between the prime sponsor and the local employment security agency and minimizing duplication;

"(11) include a description of the procedures concerning academic credit developed

in conjunction with the appropriate local education agency or institution of higher education and approved by the appropriate State educational agency (including State agencies responsible for postsecondary education), or, where a prime sponsor's area includes more than one local education agency, developed in conjunction with, and approved by, the appropriate State educational agency;

"(12) include a description of procedures for the consideration of any changes in the plan required by this subsection or in the plan required under subsection (b), including review of such changes by the prime sponsor planning council;

"(13) include a description of recommendations of members of the prime sponsor's planning council which were not included in the plan, together with the reasons for rejecting them;

"(14) include a description of actions to ensure compliance with personnel procedures and collective bargaining agreements;

"(15) include a description of efforts to remove artificial barriers to employment;

"(16) include a description of procedures which will lead to skill development and job opportunities for participants in occupations traditionally limited to individuals of the opposite sex;

"(17) include a description of plans and activities to coordinate, strengthen, and expand employment and training activities under this Act with economic development activities in the private sector; and

"(18) include adequate assurances of compliance with this Act, regulations issued thereunder, and the comprehensive employment and training plan.

"(b) To receive funds for any fiscal year a prime sponsor shall submit an annual plan which shall include—

"(1) any significant changes from the information provided in the master plan;

"(2)(A) a description of the eligible population, including geographic and demographic characteristics of significant segments of such population;

"(B) a description of plans made to provide for the needs of persons who face particular disadvantages as identified in title III of this Act; and

"(C) a description of the procedures which will be used to promote the objectives of section 121(a)(4), including the hiring, licensing, and contracting activities of the political units, subgrantees, and contractors of such prime sponsor;

"(3) the prime sponsor's program and performance standards and goals for the program year, any changes in such program and performance standards and goals from those established for the preceding year and a summary of the results achieved with respect to such program standards and goals for prior years, and a description of any problems encountered in meeting the program and performance standards and goals for such preceding years;

"(4) the method for determining priorities for service under title II based on objective locally established criteria to assist the prime sponsor in assuring service to those most in need; such priorities shall be based on locally determined factors such as employment status, household status, level of employability development, handicap, veteran status, age, race, sex, or other criteria deemed viable by the prime sponsor;

"(5) the proposed budget for the program year, including a detailed summary of the expenditures made during the preceding year, results achieved, and changes made in the annual plan for the program year;

"(6) a list of the specific contracts from the previous year with those institutions providing training programs, including information on the rate of job placement for those who have completed such programs;

"(7) a summary of any evaluation conducted of the prime sponsor's programs during preceding program years and a description of any use made of such evaluation in the modification or alteration of the prime sponsor's program;

"(8) a description of an affirmative action program for outreach to and training, placement, and advancement of handicapped individuals in employment and training programs under this Act, including—

"(A) a description of the extent to which and the methods whereby the special needs of the handicapped are to be met; and

"(B) a description of the number of handicapped individuals who were served each of the preceding two years, the types of training or employment in which they were placed, and the number of such individuals who were moved into unsubsidized employment;

"(9) a description of the prime sponsor's intention to apply for and utilize funds provided under this Act which are not allocated by formula;

"(10) the wages or salaries to be paid persons employed in public service jobs under this Act and a comparison with the wages paid for similar public occupations by the same employer; and

"(11) a copy of all agreements made pursuant to section 203(a) of this Act.

"(c) The Secretary shall establish procedures for submittal, approval, and implementation of changes in the comprehensive employment and training plan, together with any reports required under this Act, not more than once each fiscal quarter.

"REVIEW OF PLANS AND PERFORMANCE STANDARDS AND GOALS

"SEC. 104. (a) The Secretary shall approve any comprehensive or annual employment and training plan only if it (1) meets the requirements of section 103; (2) has been submitted for comment (at least 45 days before it was submitted to the Secretary) to the Governor, the State employment and training council, the prime sponsor planning council, appropriate local units of general local government, and labor organizations in the area representing employees engaged in work similar to that proposed to be funded; and (3) has been made available to the chairperson of the appropriate committee in each House of the State legislature with primary responsibility for vocational training and job development programs and to the public (including appropriate community-based organizations). The Secretary shall not approve or disapprove any such plan solely on the basis of the proposed allocation of funds to be devoted to a particular program or activity, unless such allocation is required by this Act. The Secretary shall, prior to approval of any plan, require the inclusion in such plan of specific management and accounting procedures to assure adequate supervision and monitoring of the programs to be conducted pursuant to such plan, and shall require the adoption of specific procedures (such as accrual accounting procedures) where necessary for such purpose. Prior to approval of any plan, the Secretary shall review the success of any training program which is to be refunded and be satisfied that such program has achieved sufficient results in job placement to merit continuation. The Secretary can require modification of such funding where necessary. The Secretary shall, prior to approval of any plan, insure that the prime sponsor has demonstrated a recognizable and proven method of verifying eligibility of all recipients. The Secretary can require modification or the adoption of specific procedures where necessary for such purposes. The Secretary shall also develop recognizable penalties and inform the prime sponsors of such penalties to be applied upon a finding of the ineligibility of any recipient. In reviewing such plans, the Secretary shall insure that the plans adequately describe, and the prime sponsor demonstrates a thorough understanding of, labor market and economic conditions in the area served, that the plan is reasonably designed to respond to such conditions, that the administrative arrangements and procedures are adequate for the performance of the program and will insure that professional standards of management will be attained, and that the plans provide for adequate relationships with existing community efforts and maximize the use of existing resources.

"(b) The Secretary shall assess the adequacy of each prime sponsor's proposed performance standards and goals in accordance with criteria recognizing that performance will vary with local conditions. Review standards shall provide appropriate recognition of differences associated with the degree of disadvantage or handicap of the eligible population, as well as such factors as—

"(1) the local labor market conditions, including, but not limited to, the levels of employment and unemployment, and the current and projected labor market needs;

"(2) the economic base of the community, including, but not limited to, the growth or decline of industry within the community;

"(3) the distribution of available employment opportunities, by industry division, for persons residing within the prime sponsor's area; and

"(4) the differing needs of the eligible population which will vary the costs for services and which will require setting different performance standards depending on the disadvantage of the eligible population.

"(c)(1) The Secretary shall, not later than March 31 of the fiscal year preceding the fiscal year for which an annual plan is to take effect, establish a date for the submission of such annual plan. The Secretary shall make available to such prime sponsor a complete and final set of all applicable regulations and necessary application materials no later than May 15 of the fiscal year preceding the fiscal year for which such plan is to take effect. With respect to funds allocated under this Act on the basis of a formula, the Secretary shall also provide prime sponsors with a preliminary planning estimate based on the amounts available in the budget of the President or in the most recent concurrent budget resolution under the Congressional Budget Act applicable to such year. If for any reason the Secretary cannot provide a complete and final set of all applicable regulations and necessary application materials by such May 15 prior to the date established under the first sentence of this subsection, the Secretary shall extend the date for submittal of such plan to allow the prime sponsor to review such regulations and to complete such materials prior to submittal.

"(2) During the period of time between May 15 and the date for submittal of the plan, the Secretary shall not issue any regulations or guidelines or interpretations thereof that require any change in the prime sponsor's plan, which is a condition for the Secretary's approval or disapproval of the plan. If the Secretary deems that a plan change is required during this period, the Secretary shall allow at least one fiscal quarter for the prime sponsor to submit such change, except that the sponsor may at its own discretion submit the required change as part of its plan submittal under paragraph (1).

"(d) Any prime sponsor aggrieved by any determination made under subsection (a) shall submit notice to the Secretary of the grounds for its objection, and the Secretary shall, within 30 days after receipt of such notice, reverse, amend, or affirm such determination and provide notice thereof and an opportunity for a hearing to such prime sponsor.

"(e) To the extent necessary to provide for the orderly transition to the provisions of section 103 and this section the Secretary may waive any provisions of such sections which are inconsistent with the comparable provisions of this Act prior to the enactment of the Comprehensive Employment and Training Amendments of 1978 and allow prime sponsors to submit plans and applications for assistance consistent with such comparable provisions during the period beginning on the effective date of such Amendments and ending December 31, 1978.

"GOVERNOR'S COORDINATION AND SPECIAL SERVICES PLAN

"SEC. 105. (a) Any State seeking financial assistance under this Act shall submit a Governor's coordination and special services plan to the Secretary.

"(b) Governor's coordination and special services activities shall consist of, but need not be limited to, the following:

"(1) coordinating all employment and training and related services provided by the State, by prime sponsors, and by other providers of such services within the State;

"(2) coordinating programs financed under the Wagner-Peyser Act and this Act, including assisting the negotiation of any agreements (including partnership arrangements described in section 308) between prime sponsors and State employment security agencies;

"(3) assuring that comprehensive employment and training plans do not unnecessarily result in the duplication of services;

"(4) assisting the Secretary in enforcing the requirements for Federal contractors and subcontractors to list all suitable employment openings with local offices of the State employment services agencies and to take affirmative action, as required in section 2012 (a) of title 38, United States Code.

"(5) assuring the promotion of prime sponsor planning that takes into account conditions prevailing in labor market areas covering more than one prime sponsor area, as well as related activities such as community development, economic development, vocational education, voctional rehabilitation, and social services;

"(6) exchanging information between States and prime sponsors with respect to State, interstate, and regional planning for economic development, human resource development, education, and other subjects relevant to employment and training planning;

"(7) developing and providing to prime sponsors information, on a State and local area basis, regarding economic, industrial, and labor market conditions;

"(8) making available to prime sponsors, with or without reimbursement and upon request, appropriate information and technical assistance to assist them in developing and implementing their programs;

"(9) carrying out special model training and employment programs and related services, which may include programs for offenders similar to programs described in section 301(c); and

"(10) providing financial assistance for special programs and services designed to meet the needs of rural areas outside major labor market areas.

"(c) A Governor's coordination and special services plan shall be approved by the Secretary only if the Secretary determines that the plan satisfactorily implements subsection (b) of this section, and has been reviewed by the State employment and training council.

"COMPLAINTS AND SANCTIONS

"SEC. 106. (a) Each prime sponsor receiving financial assistance under the Act shall establish and maintain a grievance procedure, including provisions for hearings within 30 days after filing of a grievance, for handling complaints about the program arising from its participants subgrantees, and contractors, and other interested persons. Hearings shall be conducted expeditiously and decisions shall be made not later than 60 days after the filing of the grievance involved. With the exception of grievances involved, or any criminal activity, filing of a grievance must be made within one year of the alleged occurrence.

"(b) Whenever the Secretary receives a complaint from any interested person or organization (which has exhausted the prime sponsor's grievance system established pursuant to subsection (a)) which alleges, or whenever the Secretary has reason to believe (because of an audit, report, on-site review, or otherwise) that a recipient of financial assistance under this Act is failing to comply with the requirements of this Act, the regulations under this Act, or the terms of the comprehensive employment and training plan, the Secretary shall investigate the matter. The Secretary shall conduct such investigation, and make the final determination required by the following sentence regarding the truth of the allegation or belief involved, not later than 120 days after receiving the complaint. If, after such investigation, the Secretary determines that there is substantial evidence to support such allegation or belief that such a recipient is failing to comply with such requirements, the Secretary shall, after due notice and opportunity for a hearing to such recipient, determine whether such allegation or belief is true.

"(c)(1) The Secretary may revoke all or any part of a prime sponsor's comprehensive employment and training plan and terminate in whole or in part financial assistance thereunder, provided that prior notice and opportunity for a hearing are given, if the Secretary concludes that the prime sponsor is—

"(A) maintaining a pattern or practice of discrimination in violation of section 121(a)(1) or 132, or otherwise failing to make opportunities available equitably among the significant segments of the population in the area it serves;

"(B) incurring unreasonable administrative costs in the conduct of activities and programs, as determined pursuant to the Secretary's regulations;

"(C) failing to give due consideration to continued funding of programs of demonstrated effectiveness; or

"(D) otherwise materially failing to carry out the purposes and provisions of this Act or the regulations promulgated under it, or materially failing to expend funds provided under this Act in accordance with this Act.

"(2) If the Secretary finds that a public service employment program is being conducted in violation of section 121 (e)(2), (e)(3), or (g)(1), the Secretary shall, after notice and opportunity for a hearing, revoke all or any part of that portion of the affected prime sponsor's comprehensive employment and training plan pertaining to such program and terminate financial assistance with respect to such portion.

"(d) In emergency situations, as determined by the Secretary, when it is necessary to protect the integrity of the funds or ensure the proper operation of the program, the Secretary may immediately terminate or suspend financial assistance in whole or in part, provided that prompt notice and opportunity for a subsequent hearing are given to the recipient. The Secretary shall not delegate any of the functions or authority specified in this subsection other than to an officer whose appointment was required to be made by and with the advice and consent of the Senate.

"(e) If the Secretary concludes that any recipient of funds under this Act is failing to comply with any provision of this Act or any regulations under this Act, the Secretary may terminate or suspend financial assistance in whole or in part or order such sanctions or corrective actions as are appropriate including, but not limited to, the repayment of misspent funds from funds other than funds under this Act, and the withholding of future funding, provided prior notice and an opportunity for a hearing are given to the recipient. Whenever the Secretary orders termination or suspension of a subgrantee or subcontractor, the Secretary may take whatever action is necessary, including direct legal action against the subgrantee or subcontractor (including operators under a non-financial agreement) or an order to the primary recipient that it take legal action to reclaim misspent funds or to otherwise protect the integrity of the funds or ensure the proper operation of the program.

"(f) If the Secretary concludes that any recipient under this Act (1) has discharged or in any other manner discriminated against a participant, or against any person in connection with the administration of the program, or against any person because such person has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act, or has testified or is about to testify in any such proceeding or investigation, or (2) has otherwise unlawfully denied to any person a benefit to which that person is entitled under the provisions of this Act or the Secretary's regulations, the Secretary may take such appropriate corrective action under this section as is necessary with respect to both the recipient and the person aggrieved.

"(g) The Secretary may withhold funds otherwise payable under this Act in order to recover any amounts expended in any fiscal year in violation of any provision of this Act, any regulation, or any term or condition of assistance under this Act.

"(h) Nothing in this section shall be deemed to reduce the responsibility and full liability of the prime sponsors and other recipients which receive funds directly from the Secretary.

"(i)(1) Except as otherwise provided in subsection (d), the Secretary shall not revoke a prime sponsor's plan, in whole or in part, nor institute corrective action or sanctions against a prime sponsor under this section or any other section under this Act, without first providing the prime sponsor with notice by the Secretary of his intended actions and the reasons upon which those intended actions are based, and also providing the prime sponsor—

"(A) with an opportunity to informally resolve those matters contained in the Secretary's notice; and

"(B) in the event that the prime sponsor and the Secretary cannot informally resolve any matter pursuant to clause (A), with a notice that (i) efforts to informally resolve matters contained in the Secretary's original notice have been unsuccessful; (ii) lists those matters upon which the parties continue to disagree; and (iii) informs the prime sponsor of any sanctions, corrective action, or any other alteration or modification of the prime sponsor's plan or program intended by the Secretary.

"(2) Within ten days of receipt of the Secretary's notice under paragraph (1)(B), the prime sponsor may request a hearing, but in no event shall the Secretary proceed under this Act without first fulfilling all the requirements under this subsection.

"JUDICIAL REVIEW

"SEC. 107. (a) If any prime sponsor is dissatisfied with the Secretary's final action with respect to the disapproval of its comprehensive employment and training plan under section 104 or if any recipient is dissatisfied with the Secretary's final action with respect to a sanction under section 106, such prime sponsor or recipient may, within

sixty days after notice of such action, file with the United States court of appeals for the circuit in which the prime sponsor or recipient is located a petition for review of that action.

"(b) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may, in whole or in part, set aside the findings of the Secretary or remand the case to the Secretary in whole or in part to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify the previous action, and shall certify to the court the record of the further proceedings.

"RELOCATION

"SEC. 108. (a) The Secretary is authorized to reallocate any amount of any allocation under this Act to the extent that the Secretary determines that the recipient will not be able to use such amount within a reasonable period of time.

"(b)(1) Any allocations to a prime sponsor designated under section 101(c) may be reallocated only if the Secretary has provided thirty days advance notice to the prime sponsor, to the Governor, and to the general public. During such period comments may be submitted to the Secretary.

"(2) After considering any comments submitted during such period, the Secretary shall notify the Governor and the affected prime sponsor of any decision to reallocate funds, and shall publish such decision in the Federal Register.

"(3) In reallocating any such funds, the Secretary shall give priority first to other prime sponsor areas within the same State and then to prime sponsor areas within other States.

"PRIME SPONSOR'S PLANNING COUNCIL

"SEC. 109. (a) Each prime sponsor designated under section 101(c) shall establish a planning council.

"(b) Such council shall consist of members who are representative of the eligible population (including significant segments thereof), organized labor, employees who are not represented by organized labor, community-based organizations, the State employment service, veterans organizations, organizations of the elderly, vocational education agencies, other education and training agencies and institutions, business, and, where appropriate, agricultural employers and workers.

"(c) The prime sponsor shall appoint the members of the council and designate a nongovernmental member as chairperson.

"(d) The planning council shall meet no less than four times per year. The meetings shall be publicly announced, and, to the extent appropriate, open to and accessible to the general public.

"(e) The council shall participate in the development of, and submit recommendations regarding, the prime sponsors' comprehensive employment and training plan and the basic goals, policies, and procedures of the prime sponsor's programs and other employment and training programs in the prime sponsor's area; monitor, and provide for objective evaluations of, employment and training programs conducted in such area; and provide for continuing analyses of the need for employment, training, and related services in such area, including efforts to reduce and eliminate artificial barriers to employment. Any final decision with respect to such recommendations shall be made by the prime sponsor.

"STATE EMPLOYMENT AND TRAINING COUNCIL

"SEC. 110. (a)(1) Any State which desires to receive financial assistance under this Act shall establish a State employment and training council. Funding for the council shall be provided pursuant to section 202(c).

"(2) The council shall be appointed by the Governor, who may be chairperson of the council or may designate one nongovernmental member thereof to be chairperson.

"(3) The council shall be composed as follows:

"(A) one-third of the voting members of such council shall consist of—

"(i) representatives of units of general local government in the State, including such units or consortia thereof who are designated as prime sponsors, which representatives shall be nominated by the chief executive officers of units of general local government within the State;

"(ii) one representative of the State board of vocational education;

"(iii) one representative of the State advisory council on vocational education established pursuant to section 105 of the Vocational Education Act of 1963;

"(iv) one representative of the State employment security agency;

"(B) one-third of the voting members of such council shall consist of representatives of organized labor, business, agricultural employers and workers, community-based organizations, veterans organizations, and organizations of the elderly;

"(C) one-third of the voting members of such council shall consist of representatives of the eligible population (including significant segments thereof) and of the general public; and

"(D) such additional nonvoting ex officio members of such council as the Governor may designate to represent State agencies having a direct interest in overall employment and training and human resource utilization within the State.

"(4) The council shall meet at such times (but at least four times each year) and in such places as it deems necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.

"(b) The council shall—

"(1) review continuously the operation of programs conducted by each prime sponsor, and the availability, responsiveness, and adequacy of State services, and make recommendations to the prime sponsors, to agencies providing employment and training services, to the Governor, and to the general public with respect to ways to improve the effectiveness of such programs or services;

"(2) make an annual report to the Governor which shall be a public document, and issue such other studies, reports, or documents as it deems advisable to assist prime sponsors or to otherwise help carry out the purposes of this Act;

"(3)(A) identify, in coordination with the State advisory council on vocational education, the employment and training and vocational education needs of the State and assess the extent to which employment, training, vocational education, vocational rehabilitation, and other programs assisted under this and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs; and (B) comment at least once annually on the reports of the State advisory council on vocational education, which comments shall be included in the annual report submitted by that council pursuant to section 105 of the Vocational Education Act of 1963;

"(4) review the comprehensive employment and training plans of prime sponsors pursuant to section 104, especially with respect to nonutilization or duplication of existing services; and

"(5) review plans of all State agencies providing employment, training, and related services, and provide comments and recommendations to the Governor, the State agencies, and the appropriate Federal agency on the relevancy and effectiveness of employment and training and related service delivery systems in the State.

"CONSULTATION

"SEC. 111. (a) The Secretary of Labor shall consult with the Secretary of Health, Education, and Welfare with respect to arrangements for services of a health, education, or welfare character under this Act, and the Secretary of Health, Education, and Welfare shall solicit the advice and comments of appropriate State agencies with respect to such health, education, and welfare services. Such services include, but are not limited to, basic or general education; educational programs conducted for offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions.

"(b) The Secretary of Labor, in carrying out or supporting programs under this Act, shall consult, as appropriate, with the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Agriculture, the Director of the ACTION Agency, the Director of the Community Services Administration, the Administrator of Veterans Affairs, and such other officials as appropriate.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 112. (a)(1) Except as provided in paragraphs (3) through (6), there are authorized to be appropriated such sums as may be necessary for the fiscal year ending September 30, 1979, and for each of the three succeeding fiscal years for carrying out the provisions of this Act, other than part A of title IV and title VII.

"(2) Except as provided in paragraphs (3) through (6), there are authorized to be appropriated such sums as may be necessary for the fiscal year ending September 30, 1979, and for the succeeding fiscal year for carrying out the provisions of part A of title IV and title VII.

"(3) For the fiscal year ending September 30, 1979, there are authorized to be appropriated for carrying out the provisions of this Act an amount not to exceed—

"(A) $4,000,000,000 for carrying out the provisions of title II;

"(B) $2,250,000,000 for carrying out the provisions of title IV;

"(C) the amount determined pursuant to section 602 for carrying out the provisions of title VI;

"(D) $500,000,000 for carrying out the provisions of title VII; and

"(E) $267,000,000 for carrying out the provisions of title VIII.

"(4) For the fiscal year ending September 30, 1980, there are authorized to be appropriated for carrying out the provisions of this Act an amount not to exceed—

"(A) $4,290,000,000 for carrying out the provisions of title II;

"(B) $2,400,000,000 for carrying out the provisions of title IV;

"(C) the amount determined pursuant to section 602 for carrying out the provisions of title VI;

"(D) $525,000,000 for carrying out the provisions of title VII; and

"(E) $290,000,000 for carrying out the provisions of title VIII.

"(5) For the fiscal year ending September 30, 1981, there are authorized to be appropriated for carrying out the provisions of this Act an amount not to exceed—

"(A) $4,583,000,000 for carrying out the provisions of title II; and

"(B) the amount determined pursuant to section 602 for carrying out the provisions of title VI;

"(6) For the fiscal year ending September 30, 1982, there are authorized to be appropriated for carrying out the provisions of this Act an amount not to exceed—

"(A) $4,876,000,000 for carrying out the provisions of title II; and

"(B) the amount determined pursuant to section 602 for carrying out the provisions of title VI.

"(b) Notwithstanding any other provision of law, unless enacted in specific limitation of the provisions of this subsection, any funds appropriated to carry out this Act, which are not obligated prior to the end of the fiscal year for which funds were appropriated, shall remain available for obligation during the succeeding fiscal year, and any funds obligated in any fiscal year may be expended during a period of two years from the date of obligation.

"(c)(1) For the purpose of affording adequate notice of funding available under this Act, appropriations under this Act are authorized to be included in an appropriation Act for the fiscal year preceding the fiscal year for which they are first available for obligation.

"(2) In order to effect a transition to the advance funding method of timing appropriation action, the provisions of this subsection shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

"(d) Of the amount appropriated to carry out this Act for any fiscal year, the amount available for carrying out title III shall not exceed 20 per centum of the amount available for carrying out title II. From any amount made available for title III activities, the Secretary shall transfer an amount equal to not less than $3,000,000 nor more than $5,000,000 for any fiscal year to the National Occupational Information Coordinating Committee established pursuant to section 161(b) of the Vocational Education Act of 1963, for purposes described in section 315 of this Act.

EVALUATION STUDIES

SEC. 113. (a) From the amounts appropriated pursuant to section 112 for carrying out titles II and VI for each of the fiscal years ending on September 30, 1979, 1980, 1981, and 1982, the Secretary shall reserve not to exceed $5,000,000 for purposes of this section.

(b) From the amounts available pursuant to subsection (a) the Secretary shall establish a program for the continuous and comprehensive study and evaluation, under contract, of recurrent and developing problems in achieving the purposes and goals of such programs. Such study shall be conducted on the basis of statistical and operational evaluation (and collection and organization) of data concerning programs under this Act. Such study and evaluation shall include—

(1) a detailed analysis of the characteristics of participants in each of such programs;

(2) development and use of definitions, standards, and tests (A) for revealing the extent and use of substitution (as prohibited by section 121(s)(2), (e)(3), and (g)(1)), (B) for analyzing the characteristics of the sponsors and participants likely to be involved, and (C) for analyzing trends or patterns of variation in the extent or type of substitution by type of program, duration of program operation, or other factors;

(3) development and use of definitions, standards, and tests (A) for revealing the extent of transition to unsubsidized employment, (B) for analyzing the characteristics of the sponsors and participants likely to achieve such transition, and (C) for analyzing trends or patterns of variation by type of unsubsidized employment, posttransition income and duration of employment, and degree to which posttransition employment job skills and functions differ from those required in the position funded under this Act.

(c) The study and evaluation program conducted under this section shall also include—

(1) use of appropriate control groups of individuals eligible for, but not enrolled in, programs under this Act;

(2) preenrollment studies of program participants; and

(3) random sampling techniques, and organization of data by demographic characteristics.

(d) The Secretary shall transmit to Congress annual reports on the study evaluation activities conducted under this section on October 1 of 1979 and 1980, shall transmit a final report thereon on October 1, 1981, and shall transmit a supplemental report on October 1, 1982. Each such report, in addition to presenting detailed findings and conclusions pursuant to subsections (b) and (c), shall analyze the data basis for such findings and conclusions in terms of net impact, statistical significance, and other measures of the reliability of such data. Reports required under this subsection shall, notwithstanding any other provision of law, be submitted without further clearance or approval from any other official.

(e) The Secretary shall submit to the Congress, within ninety days after the date of enactment of this section, a plan for the study and evaluation program to be conducted under this section. Such plan shall be delivered to both Houses on the same day and to each House while it is in session. The Secretary shall not commence such program until the first day after the close of the first period of thirty calendar days of continuous session of Congress after the date of the delivery of such plan to the Congress. For purposes of this subsection—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the thirty-day period.

"PART B—GENERAL PROVISIONS

"CONDITIONS APPLICABLE TO ALL PROGRAMS

"SEC. 121. Except as otherwise provided, the following conditions are applicable to all programs under this Act:

"(a)(1) No person shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with any such program because of race, color, religion, sex, national origin, age, handicap, or political affiliation or belief.

"(2) Participants shall not be employed on the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship.

"(3) Every participant, prior to entering upon employment or training, shall be informed of that individual's rights and benefits in connection with such employment or training; acceptance of family planning services shall be voluntary on the part of the individual, and shall not be a prerequisite to eligibility for, or receipt of, any benefit under the program.

"(4)(A) Programs shall contribute, to the maximum extent feasible, to the elimination of artificial barriers to employment and occupational advancement.

"(B) Prime sponsors and their subgrantees and contractors shall analyze and reevaluate job descriptions to remove artificial barriers to the public service employment of participants, and, where necessary, revise, or assist in the revision of, qualification requirements, including civil service and licensing requirements and practices relating thereto.

"(5) Prime sponsors shall make efforts to remove architectural barriers to employment of the handicapped.

"(b)(1)(A) Only persons residing within the area qualifying for assistance shall be employed, and the public services provided by such jobs, to the extent feasible, shall be designed to benefit the residents of such area.

"(B) Employment and training opportunities for participants shall be made available by prime sponsors on an equitable basis in accordance with the purposes of this Act among significant segments of the eligible population giving consideration to the relative numbers of eligible persons in each such segment.

"(C) In the administration of programs under this Act, members of the eligible population to be served shall be provided maximum employment opportunities, including opportunities for further occupational training and career advancement. Prime sponsors shall make special efforts to recruit and hire qualified persons reflecting the significant demographic segments of the population residing in the area.

"(D) Special consideration in filling public service jobs shall be given to eligible persons who are the most severely disadvantaged in terms of their length of unemployment and their prospects for finding employment.

"(2)(A) Special consideration shall be given to unemployed persons who served in the Armed Forces in Indochina or Korea on or after August 5, 1964, in accordance with procedures established by the Secretary, and special emphasis shall be given to the development of jobs which will utilize, to the maximum extent feasible, the skills which such veterans acquired in connection with their military training and service.

"(B) Special efforts shall be made to acquaint such veterans with the employment and training available under this Act, and to coordinate efforts in behalf of such veterans with those activities authorized by chapter 41 of title 38, United States Code (relating to job counseling and employment services for veterans), and other similar activities carried out by other public agencies or organizations.

"(C) Prime sponsors shall provide such arrangements as may be appropriate to promote maximum feasible use of apprenticeship or other on-the-job training opportunities available under section 1787 of title 38, United States Code.

"(c)(1)(A)(i) No wages shall be paid from funds under this Act to any participant for any week of public service employment under this Act in excess of seventy-eight weeks in any five-year period. For purposes of this division, no more than twenty-six weeks of public service employment financed in whole or in part under this Act prior to October 1, 1978, shall be considered as part of the seventy-eight weeks.

"(ii) The Secretary may waive the provisions of division (i) or of paragraph (2)(B) to provide a temporary extension of time for a limited number of persons who were originally hired in a public service employment program prior to April 1, 1978, and who continue to be so employed on September 30, 1979, in the case of a prime sponsor which the Secretary determines has faced unusually severe hardships in its efforts to transition public service employees into regular public or private employment not supported under this Act.

"(B)(i) Except as provided in division (ii), funds under this Act shall not be used to pay wages to any person employed in a public service job in any fiscal year under this Act at a rate in excess of $10,000 per year.

"(ii) Notwithstanding division (i) of this subparagraph, the Secretary may, with respect to any State—

"(I) in which the average wage (during the calendar year preceding the beginning of the applicable fiscal year) in employment covered under Federal or State unemployment compensation laws (without regard to any limitation on the amount of wages subject to contribution under such law) exceeds the national average wage in such employment by more than 50 per centum, and

"(II) in which employees of the Government receive allowances pursuant to section 5941 of title 5, United States Code,

waive the maximum which would otherwise apply to wages paid to persons employed in public service positions in such State and establish in lieu thereof, limitations consistent with the purposes of this Act and with the requirements of programs under this Act in such State.

"(C) In order to provide the number of public service job opportunities for which funds are made available under this Act, the Secretary shall issue appropriate standards to be maintained with respect to average federally supported wage rates for public service jobs on an area basis, on the basis of an index to be published annually by the Secretary, taking into account average wages in regular employment not supported under this Act in various areas, for the purpose of maintaining nationwide annual average federally supported wage rates in the fiscal year ending September 30, 1979, equivalent to $7,000 per public service jobholder (consistent with the maximum annual federally supported wage rate under subparagraph (B)) of this paragraph. Average wage rates established under such standards for public service jobs for each area shall be adjusted annually by the Secretary by a percentage equal to the change in average wages in regular employment not supported under this Act in such area.

"(D) Notwithstanding any eligibility limitation on public service employment in this Act, a person who on September 30, 1978, held a public service employment position under this Act may continue in such position subject to subparagraph (A) of this paragraph.

"(E)(i) Except as otherwise provided in section 606, no public service employment participant may be provided wages for any public service employment job from sources other than this Act.

"(ii) Notwithstanding division (i), any person in public service employment on September 30, 1978, receiving wages from sources other than this Act may continue to receive such wages.

"(2)(A) All persons participating in work experience under this Act shall receive wages, and all persons participating in training shall receive allowances, pursuant to section 123; except that, subject to section 212 (b), no wages or allowances shall be paid from funds under this Act to any participant for any week of institutional or classroom training, or for any week of work experience, in excess of one hundred and four weeks in any three-year period.

"(B) Subject to section 212(b), no individual shall participate in programs receiving financial assistance under this Act for longer than a total of thirty months in any five-year period. For purposes of this subparagraph, no period of participation prior to October 1, 1978, shall be included in the computation of such thirty months.

"(3)(A) Appropriate workers' compensation or equivalent protection shall be provided to all participants.

"(B) All persons employed in public service jobs under this title will be assured of workmen's compensation, health insurance, unemployment insurance, and other benefits at the same levels and to the same extent as other employees of the employer and to working conditions and promotional opportunities neither more nor less favorable than such other employees enjoy. Nothing in this subparagraph or in paragraph (4) shall be deemed to require the enrollment of persons employed in public service jobs in retirement systems or plans for the purpose of providing retirement benefits based on age or service, or both.

"(4) Funds available for employment benefits under this Act may be used for contributions on behalf of participants enrolled in retirement systems or plans prior to January 1, 1979. With respect to participants other than those described in the preceding sentence, funds under this Act may, notwithstanding paragraph (3)(B), be used for contributions to retirement systems or plans (other than pursuant to the Social Security Act) only to the extent such contributions are used to provide benefits such as health and death and disability and are not used for retirement benefits based on age or service, or both.

"(d)(1) Conditions of employment and training shall be appropriate and reasonable in the light of such factors as the type of work, geographical region, and proficiency of the participant.

"(2) Appropriate health, safety and other standards for work and training shall be established and maintained.

"(3) Household support obligations shall be taken into account, and special consideration shall be given alternative working arrangements such as flexible hours of work, work-sharing arrangements, and part-time jobs, particularly for parents of young children and for other persons.

"(e)(1) The program shall result in an increase in employment and training opportunities over those opportunities which would otherwise be available.

"(2) No currently employed worker shall be displaced by any participant (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits).

"(3) No person shall be employed or job opening filled (A) when any other person not supported under this Act is on layoff from the same or any substantially equivalent job, or (B) when the employer has terminated the employment of any regular employee not supported under this Act or otherwise reduced its work force with the intention of filling the vacancy so created by employing a public service employee.

"(4) No jobs shall be created in a promotional line that will infringe in any way upon the promotional opportunities of persons currently employed in jobs not subsidized under this Act.

"(5) No public service jobs shall be substituted for existing federally assisted jobs.

"(6) No program shall impair existing contracts for services.

"(7) No funds shall be used to assist in relocating establishments, or parts thereof, from one area to another or locating new branches, subsidiaries, or affiliates unless the Secretary determines that such relocation or location will not result in an increase in unemployment in the area of original location or in any other area.

"(f)(1) All programs, to the maximum extent feasible, shall contribute to occupational development, upward mobility, development of new careers, and overcoming sex-stereotyping (including procedures which will lead to skill development and job opportunities for participants in occupations traditionally limited to the opposite sex).

"(2) No person shall be trained for an occupation which requires less than two weeks of preemployment training unless there are immediate employment opportunities available in that occupation.

"(3) All programs shall be designed, to the maximum extent practicable consistent with every individual's fullest capabilities, to lead to employment opportunities enabling participants to increase their earned income and to become economically self-sufficient.

"(4) No person shall be referred for training unless there is a reasonable expectation of employment in the occupation for which such person is being trained. To the extent feasible, public service jobs shall be provided in occupational fields which are most likely to expand within the public or private sector.

"(5) Programs of institutional training shall be designed for occupations in which skill shortages exist.

"(6) The Secretary, through State employment security agencies, shall inform unemployment compensation recipients, and other applicants for assistance from the employment security agency, of any available public service jobs for which they may be eligible.

"(g)(1)(A) No program shall substitute funds under this Act for other funds in connection with work that would otherwise be performed.

"(B) No funds for public service employment programs under this Act may be used to provide public services, through a private organization or institution, which are customarily provided by a State, a political subdivision, or a local educational agency in the area served by the program.

"(C) Jobs shall be created that are in addition to those that would be funded in the absence of assistance under this Act.

"(D) Funds shall be used to supplement, and not to supplant, the level of funds that would otherwise be made available from non-Federal sources for the planning and administration of programs.

"(2) Programs shall use services and facilities available (with or without reimbursement) from Federal, State, and local agencies to the extent they are deemed effective by the prime sponsor.

"(3) Financial records relating to public service employment programs, and records of the names, addresses, positions, and salaries of all persons employed in public service jobs, shall be maintained and made available to the public.

"(h)(1) No nongovernmental individual, institution, or organization shall be paid funds provided under this Act to evaluate any program under this Act if such individual, institution, or organization is associated with that program as a consultant or technical advisor, or in any similar capacity.

"(2) No member of any council under this Act shall cast a vote on any matter which has a direct bearing on services to be provided by that member (or any organization which that member directly represents).

"(i) Small and minority-owned businesses shall be provided maximum reasonable opportunity to compete for contracts for supplies and services including, where appropriate, the use of set-asides.

"(j) Payments to employers organized for profit shall not exceed the difference between (1) the costs of recruiting, training, and supportive services, and the costs of low productivity (as defined by regulations of the Secretary) for participants and (2) the comparable costs incurred for those regularly employed.

"(k) Prime sponsors shall provide, where employment opportunities already exist or where there is a reasonable expectation of near-term expansion of such employment potential, employment and training opportunities in the development and use of solar, geothermal, hydroelectric, and other alternative energy technologies, and conservation, especially those clean, safe, renewable resources which may assist communities in resolving energy demand problems, thereby reducing their reliance on conventional nonrenewable fuels. For purposes of this section, solar energy sources has the meaning set forth in section 3 of the Solar Energy Research, Development and Demonstration Act of 1974.

"(l) No funds under this Act shall be used to aid the efforts of any labor organization to organize, to engage in collective bargaining, or to engage in any political activity. Without limiting the powers otherwise granted to the Secretary, funds found by the Secretary or by a court of law shall be refunded promptly to the United States Treasury.

"SPECIAL PROVISIONS

"SEC. 122. (a) No authority conferred by this Act shall be used to enter into arrangements for, or otherwise establish, any employment and training programs in the lower wage industries in jobs where prior skill or training is typically not a prerequisite to hiring and where labor turnover is high.

"(b) The Secretary shall provide for the sharing of the comprehensive employment and training plan and other plans and proposals between the prime sponsors and other recipients of financial assistance in the prime sponsor's area under this Act in order to assure maximum feasible coordination of activities and programs within the area and to minimize duplication.

"(c)(1) Notwithstanding any other provisions of law, employment and training furnished under this Act in connection with weatherization projects may include work on projects for the near poor, including families having incomes which do not exceed 125 per centum of the poverty level as determined in accordance with the criteria established by the Director of the Office of Management and Budget, and projects approved by the Community Service Administration pursuant to section 222(a)(12) of the Economic Opportunity Act or the Department of Energy pursuant to title IV of the Energy Conservation and Production Act of 1976.

"(2) Projects permitted under this subsection shall be subject to the direction of an adequate number of supervisory personnel, who shall be adequately trained in skills needed to carry out the project and to instruct participants in skills needed to carry out a project.

"(d) All allocations under this Act shall be based on the latest available data and estimates satisfactory to the Secretary.

"(e) Where the Secretary determines that a Native American entity otherwise qualified under section 302(c)(1) is unable to apply for or use any financial assistance for which it may be eligible under this Act, the Secretary may assist such entity in applying for or using such financial assistance.

"(f) For purposes of eligibility for participation in a program under this Act, no person shall be considered as unemployed unless such person has been unemployed for at least seven consecutive days.

"(g)(1) All funds received under any title of this Act, which are allowed to be used for administrative costs under the provisions of the title under which they were received, may be pooled by the recipient so that they may be used to administer all programs under this Act, and may be used to plan for the administration of title VI programs without regard to present funding for such programs.

"(2) Nothing in section 121 or this section shall be deemed to authorize the Secretary to pre-approve the selection of legal counsel by a prime sponsor, but the Secretary shall assure that no funds available for administrative costs under any title of this Act are used by a prime sponsor for making payments on contracts for legal or other associated services unless substantively comparable services are not available from the Department of Labor (provided use of such services would not cause a conflict of interest within the Department of Labor) and the prime sponsor certifies that—

"(A) the payments are not unreasonable in relation to the fees charged by other contractors providing similar services, and in any event, do not exceed the rate of pay of GS-18; and

"(B) the services could not be competently provided through employees of the prime sponsor or other available State or local governmental employees.

"(3) Where a prime sponsor has incurred legal costs in litigation with the Department of Labor, and such costs are questioned in a Department audit, the allowability shall be determined in the office of the Assistant Secretary of Labor for Employment and Training.

"(h) The Secretary, by regulation, shall establish such standards and procedures for recipients of funds under this Act as are necessary to assure against program abuses including, but not limited to, nepotism; conflicts-of-interest; the charging of fees in connection with participation in the program; the improper commingling of funds under the Act with funds received from other sources; the failure to keep and maintain sufficient, auditable, or otherwise adequate records; kickbacks; political patronage; violations of applicable child labor laws; the use of funds for political, religious, anti-religious, unionization, or antiunionization activities; the use of funds for lobbying local, State, or Federal legislators; and the use of funds for activities which are not directly related to the proper operation of the program.

"(i) Pursuant to regulations of the Secretary, income generated under any program may be retained by the recipient to continue to carry out the program, notwithstanding the expiration of financial assistance for that program.

"(j) Pursuant to regulations which the Secretary shall prescribe, each recipient of financial assistance under this Act shall make satisfactory provisions for determining and verifying whether individuals are eligible for participation in programs supported under this Act.

"(k) Every recipient which receives funds directly from the Secretary shall be responsible for the allocation of such funds and the eligibility of those enrolled in the program and shall have responsibility to take action against its subcontractors, subgrantees, and other recipients to eliminate abuse in their programs and to prevent any misuse of funds by such subcontractors, subgrantees, and other recipients. Prime sponsors may delegate the responsibility for determination of eligibility under reasonable safeguards, including provisions for reimbursement of cost incurred because of erroneous determinations made with insufficient care, provided that the Secretary has approved such an arrangement pursuant to the provisions of section 104(a).

"WAGES AND ALLOWANCES

"SEC. 123. Except as otherwise provided in this Act, the following allowances and wages shall apply to all activities financed under this Act:

"(a)(1) The Secretary shall establish a basic hourly allowance for an individual receiving training for which no wages are payable at a rate which, when added to the amounts of unemployment compensation, if any, received by the trainee, shall be no less than the hourly minimum wage under section 6(a)(1) of the Fair Labor Standards Act of 1938, or, if higher, under the applicable State or local minimum wage law.

"(2) Pursuant to regulations of the Secretary, the prime sponsor may increase, decrease, prorate, or waive the basic allowance.

"(3) A trainee receiving public assistance, or whose needs or income is taken into account in determining such public assistance payments to others, shall receive an incentive allowance for each hour spent in training at the rate of $30 per week. Such allowance shall be disregarded in determining the amount of public assistance payments under Federal or federally assisted public assistance programs.

"(4) A trainee shall receive no allowances for hours during which the trainee fails to participate without good cause.

"(b) A person in public service employment or similar employment shall be paid wages which shall not be less than the highest of (1) the minimum wage under section 6(a)(1) of the Fair Labor Standards Act of 1938, (2) the minimum wage under the applicable State or local minimum wage law, or (3) the prevailing rates of pay for persons employed in similar occupations by the same employer.

"(c) Persons in on-the-job training shall be compensated by the employer at such rates, including periodic increases, as may be deemed reasonable under regulations prescribed by the Secretary, considering such factors as industry, geographical region, skill requirements, and individual proficiency, but in no event less than the higher of the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 or the applicable State or local minimum wage law.

"(d) Persons in work experience shall be paid wages not less than the higher of the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 or the applicable State or local minimum wage law.

"LABOR STANDARDS

"SEC. 124. All laborers and mechanics employed by contractors or subcontractors in any construction, alteration, or repair, including painting and decorating of projects, buildings, and works which are federally assisted under this Act, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary in accordance with the Davis-Bacon Act (40 U.S.C. 276a–276a–5). The Secretary shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 1, 1934 (48 Stat. 948, as amended; 40 U.S.C. 276(c)).

"DEFINITIONS

"SEC. 125. As used in this Act—

"(1) The term 'academic credit' means education, training, or work experience applicable toward a secondary school diploma, a postsecondary degree, or an accredited certificate of completion, consistent with applicable State law, regulation, and policy and the requirements of an accredited educational agency or institution in a State.

"(2) The term 'area of substantial unemployment' means any area of sufficient size and scope to sustain a public service employment program and which has an average rate of unemployment of at least 6.5 per centum (A) for any three consecutive months within the preceding year for purposes of title II, or (B) for the most recent four quarters for purposes of title VI. Determinations of areas of substantial unemployment shall be made once each fiscal year by the Secretary.

"(3) The term 'artificial barriers to employment' refers to limitations in the hiring, firing, promotion, licensing, and other terms and conditions of employment which are not directly related to the individual's fitness or ability to perform the duties required by the employment position.

"(4) The term 'community-based organizations' means private nonprofit organizations which are representative of communities or significant segments of communities and which provide employment and training services (for example, Opportunities Industrialization Centers, the National Urban League, SER-Jobs for Progress, United Way of America, Mainstream, the National Puerto

Rican Forum, neighborhood organizations, community action agencies, community development corporations, rehabilitation facilities (as defined in section 7(10) of the Rehabilitation Act of 1973), union-related organizations, and employer-related nonprofit organizations).

"(5) The term 'Consumer Price Index' means the 'All Urban Consumer Index' as determined by the Secretary of Labor.

"(6) The term 'disabled veteran' means those veterans described in section 2011(1) of title 38, United States Code.

"(7) The term 'economically disadvantaged' means a person who (A) receives, or is a member of a family which (i) receives cash welfare payments under a Federal, State, or local welfare program, or (ii) had a family income during the six-month period prior to application for the program which would have qualified such family for such cash welfare payments, subject to regulations of the Secretary; (B) has, or is a member of a family which has, received a total family income for the six-month period prior to application for the program (exclusive of unemployment compensation and welfare payments) which, in relation to family size, was not in excess of the higher of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget or 70 per centum of the lower living standard income level; (C) is a foster child on behalf of whom State or local government payments are made; or (D) in cases permitted by regulations of the Secretary, is a handicapped individual living at home or is an individual who is institutionalized or receiving services in, or is a client of, a sheltered workshop, prison, hospital, or similar institution or in community care. Except for persons who would be eligible for assistance under title IX of the Older Americans Act, any person claimed as a dependent on another person's Federal income tax return under section 151(e) of the Internal Revenue Code of 1954 for the previous year shall be considered part of the person's family for the current year.

"(8) The term 'entry level' means the lowest position in any promotional line, as defined locally by collective-bargaining agreements, past practice, or applicable personnel rules.

"(9) The term 'Governor' means the chief executive of any State.

"(10) The term 'handicapped individual' means any individual who (A) has a physical or mental functional limitation or impairment which constitutes or results in an inability to perform any substantial gainful employment, and (B) can be reasonably expected to benefit, in terms of employability, from services provided pursuant to this Act.

"(11) The term 'Hawaiian native' means any individual any of whose ancestors were natives, prior to 1778, of the area which now consists of the Hawaiian Islands.

"(12) The term 'health care' includes, but is not limited to, preventive and clinical medical treatment, family planning services, nutrition services, and appropriate psychiatric, psychological, and prosthetic services, to the extent any such treatment or services are necessary to enable the recipient of employment and training services to obtain or retain employment.

"(13) The term 'institutions of higher education' and 'post-secondary institutions' means those institutions defined as institutions of higher education in section 1201(a) of the Higher Education Act of 1965.

"(14) The term 'local educational agencies' means those agencies so defined in section 195(10) of the Vocational Education Act of 1963.

"(15) The term 'low-income level' means $7,000 with respect to income in 1969, and for any later year means that amount which bears the same relationship to $7,000 as the Consumer Price Index for that year bears to the Consumer Price Index for 1969, rounded to the nearest $1,000.

"(16) The term 'lower living standard income level' means that income level (adjusted for regional and metropolitan and urban and rural differences and family size) determined annually by the Secretary based upon the most recent 'lower living family budget' issued by the Secretary.

"(17) The term 'offender' means any adult or juvenile who is or has been subject to any stage of the criminal justice process for whom employment and training services may be beneficial or who requires assistance in overcoming artificial barriers to employment stemming from a record of arrest or conviction.

"(18) The term 'project applicants' includes States and agencies thereof, units of general local government and agencies thereof or combinations or associations of such governmental units when the primary purpose of such combinations or associations is to assist such governmental units to provide public services, special purpose political subdivisions having the power to levy taxes and spend funds or serving such special purpose within an area served by one or more units of general local government, local educational agencies, institutions of higher education, community-based organizations, community development corporations, nonprofit groups and organizations serving Native Americans, and other private nonprofit organizations or institutions engaged in public service.

"(19) The term 'public assistance' means Federal, State, or local government cash payments for which eligibility is determined by a need or income test.

"(20) The term 'public service' includes, but is not limited to, work, including part-time work, in such fields as environmental quality, health care, education, child care, public safety, crime prevention and control, prisoner rehabilitation, transportation, recreation, maintenance of parks, streets, and other public facilities, solid waste removal, pollution control, housing and neighborhood improvements, rural development, conservation, beautification, veterans outreach, and other fields of human betterment and community improvement.

"(21) The term 'recipient' means any person, organization, unit of government, corporation, or other entity receiving financial assistance under this Act whether directly from the Secretary, or through another recipient by subgrant, contract, subcontract, agreement, or otherwise.

"(22) The term 'Secretary' means the Secretary of Labor.

"(23) The term 'State' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, Northern Marianas, American Samoa, and the Trust Territory of the Pacific Islands.

"(24) The term 'underemployed persons' means—

"(A) persons who are working part time but seeking full-time work;

"(B) persons who are working full time but receiving wages below the higher of either (i) the poverty level determined in accordance with criteria as established by the Director of the Office of Management and Budget or (ii) 70 per centum of the lower living standard income level;

"(C) in cases permitted by regulations of the Secretary, persons who are institutionalized or receiving services in a sheltered workshop, prison, hospital, or similar institution, or in community care; or

"(D) adults who, or whose families receive, supplemental security income or money payments pursuant to a State plan approved under title I, IV, X, or XVI of the Social Security Act or would, as defined in regulations to be issued by the Secretary, be eligible for such payments but for the fact that both parents are present in the home (i) who are determined by the Secretary of Labor, in consultation with the Secretary of Health, Education, and Welfare, to be available for work and (ii) who are either persons without jobs, or persons working in jobs providing insufficient income to support their families without welfare assistance.

"(25) The term 'unemployed persons' means persons who are without jobs and who want and are available for work, and shall, for purposes other than allocation formulas, include persons who are institutionalized or receiving services in a sheltered workshop, prison, hospital, or similar institution, or in community care. The determination of whether persons are without jobs shall be made in accordance with the criteria used by the Bureau of Labor Statistics of the Department of Labor in defining persons as unemployed, but such criteria shall not be applied differently on account of a person's previous employment.

"(26) The term 'unit of general local government' means any city, municipality, county, town, township, parish, village, or other general purpose political subdivision which has the power to levy taxes and spend funds, as well as general corporate and police powers.

"(27) The term 'veterans outreach' means the veterans outreach services program carried out under subchapter IV of chapter 3 of title 38, United States Code, with full utilization of veterans receiving educational assistance or vocational rehabilitation under chapter 31 or 34 of such tile 38, and the services described in section 305 of this Act.

"SECRETARY'S AUTHORITY

"SEC. 126. (a) The Secretary may, in accordance with chapter 5 of title 5, United States Code, prescribe such rules, regulations, guidelines, and other published interpretations under this Act as he deems necessary. Rules, regulations, guidelines, and other published interpretations or orders may include adjustments authorized by section 204 of the Intergovernmental Cooperation Act of 1968. For purposes of chapter 5 of such title any condition or guideline for receipt of financial assistance shall be deemed a rule to which section 553 applies. All such rules, regulations, guidelines, and other published interpretations or orders under this Act shall be published in the Federal Register at least thirty days prior to their effective date. Copies of all such rules, regulations, guidelines, and other published interpretations or orders shall be transmitted to the appropriate committees of the Congress at the same time and shall contain with respect to each material provision of such rules, regulations, guidelines, and other published interpretations or orders, citations to the particular substantive section of law which is the basis therefor.

"(b) The Secretary may make such grants, contracts, or agreements, establish such procedures and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend funds made available under this Act, as deemed necessary to carry out the provisions of this Act, including (without regard to the provisions of section 4774(d) of title 10, United States Code) expenditures for construction, repairs, and capital improvements, and including necessary adjustments in payments on account of overpayments or underpayments.

"(c) Notwithstanding any other provision of this Act, no authority to enter into contracts under this Act shall be effective except to such an extent or in such an amount as are provided in advance in appropriations Acts.

"REPORTS

"SEC. 127. (a) The Secretary shall make such reports and recomendations to the President as the Secretary deems appropriate pertaining to employment and occupational

requirements, resources, use, and training, and the President shall transmit to the Congress a report on the same topics not later than April 1 of each year. The first such report submited after the effective date of the Comprehensive Employment and Training Amendments of 1978 shall include recommendations with respect to necessary legislative or administrative changes required to simplify on-the-job training contracting procedures under title II.

"(b) The Secretary and the Secretary of Health, Education, and Welfare shall report to the Congress on the extent to which social services, community colleges, area vocational and technical schools and other vocational education agencies and institutions, and vocational rehabilitation agencies are being utilized to carry out training programs supported in whole or in part under this and related Acts; the extent to which administrative steps have been taken or are being taken to encourage the use of such facilities and institutions and agencies in the carrying out of the provisions of this Act; and any further legislation that may be required to assure effective coordination and utilization of such facilities and agencies to the end that all federally supported employment and training, vocational education, and vocational rehabilitation programs can more effectively accomplish the objective of providing employment and training opportunities to all persons needing such employment and training.

"(c) The Secretary shall transmit to the Congress, as a part of the report required by subsection (a), a detailed report setting forth the public service employment activities conducted under this Act and information on the extent to which (1) participants in such activities subsequently secure and retain public or private employment or participate in training or employability development programs, and (2) segments of the population of unemployed persons are provided public service opportunities. No later than March 1, 1980, the Secretary shall report to Congress proposals for the integration and consolidation of the programs established by part A of title IV and title VII with the program established by title II.

"(d) The Secretary shall transmit to the Congress, as a part of the report required by subsection (a), a detailed report on the evaluations and pilot and demonstration projects conducted with funds made available under this Act, including employment service/prime sponsor demonstration projects.

"(e) The Secretary shall, in consultation with the Director of the Office of Management and Budget, submit a report once each quarter to the Congress on efforts being taken to reduce paperwork and reporting and to comply with the requirements of the Federal Reports Act and management directives of the Office of Management and Budget.

"(f) The Secretary may require each prime sponsor to prepare, and make available to the public, periodic reports on its activities under the Act. Such reports shall contain such information as the Secretary may require.

"SERVICES AND PROPERTY

"SEC. 128. The Secretary is authorized, in carrying out functions and responsibilities under this Act, to accept, purchase, or lease in the name of the Department, and employ or dispose of in furtherance of the purposes of this Act, or any title thereof, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise; and to accept voluntary and uncompensated services, nowithstanding the provisions of section 3679(b) of the Revised Statutes of the United States.

"UTILIZATION OF SERVICES AND FACILITIES

"SEC. 129. (a) In addition to such other authority as the Secretary may have, the Secretary is authorized, in the performance of functions under this Act, and to the extent permitted by law, to utilize the services and facilities of departments, agencies, and establishments of the United States. The Secretary is also authorized to accept and utilize the services and facilities of the agencies of any State or political subdivision of a State, with its consent.

"(b) The Secretary shall carry out responsibilities under this Act through the utilization, to the extent appropriate, of all resources for skill development available in industry, labor, public and private educational and training institutions, vocational rehabilitation agencies, and other State, Federal, and local agencies and other appropriate public and private organizations and facilities, with their consent.

"INTERSTATE AGREEMENTS

"SEC. 130. In the event that compliance with provisions of this Act would be enhanced by cooperative agreements between States, the consent of Congress is hereby given to such States to enter into such compacts and agreements to facilitate such compliance, subject to the approval of the Secretary.

"PROHIBITION AGAINST POLITICAL ACTIVITIES

"SEC. 131. (a) The Secretary shall not provide financial assistance for any program under this Act which involves political activities.

"(b) Neither the program, the funds provided therefor, nor personnel employed in the administration thereof, shall be, in any way or to any extent engaged in the conduct of political activities in contravention of chapter 15 of title 5, United States Code.

"NONDISCRIMINATION

"SEC. 132. (a) No person in the United States shall on the ground of race, color, religion, sex, national origin, age, handicap, or political affiliation or belief be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in the administration of or in connection with any program or activity funded in whole or in part with funds made available under this Act.

"(b) Whenever the Secretary determines that a recipient of financial assistance has failed to comply with subsection (a) or an applicable regulation, the Secretary, in addition to exercising the powers and functions provided in section 106, is authorized (1) to refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; (2) to exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d); or (3) to take such other action as may be provided by law. In any case in which the Secretary receives a complaint from any interested person or organization under section 106 with respect to an alleged violation of subsection (a) of this section, the Secretary shall make the determination referred to in the preceding sentence no later than 120 days after receiving such complaint.

"(c) When a matter is referred to the Attorney General pursuant to subsection (b), or whenever the Attorney General has reason to believe that a recipient is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

"(d) In addition to other remedies, the Secretary is authorized to enforce the provisions of subsection (a) dealing with discrimination on the basis of race, color, religion, sex, national origin, age, handicap, or political affiliation or belief, in accordance with section 602 of the Civil Rights Act of 1964. Section 603 of such Act shall apply with respect to any action taken by the Secretary to enforce such provisions of such subsection. This section shall not be construed as affecting any other legal remedy that a person may have if that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with any program or activity receiving assistance under this Act.

"(e) No participant under this Act shall be discriminated against by reason of citizenship. Participation shall be open to citizens and nationals of the United States, lawfully admitted permanent resident aliens, and lawfully admitted refugees and parolees.

"(f)(1) The Secretary shall provide a focus for the employment and training of handicapped individuals under this Act, and shall review, on a periodic basis, the adequacy of outreach, training, placement, and advancement practices with respect to handicapped individuals by each prime sponsor pursuant to section 103(b)(7) and shall insure that the special needs of such individuals are being met.

"(2) The Secretary shall include in each annual report pursuant to section 127(a) a complete evaluation of the conduct of and achievements in outreach, training, placement, and advancement practices with respect to handicapped individuals by prime sponsors pursuant to section 103(b)(7), including a comparison of such practices and achievements with those of the two preceding years.

"RECORDS, AUDITS, AND INVESTIGATIONS

"SEC. 133. In order to assure that funds provided under this Act are used in accordance with its provisions—

"(a) Every recipient of funds under this Act shall make, keep, and preserve such records as the Secretary shall require with regard to each employee and each participant. Such records, including periodic reports, audits, and examinations, shall be preserved for such time as the Secretary establishes and shall be made available to the Secretary at such time and in such form, including periodic reports, audits, and examinations, as the Secretary may require by regulation or order.

"(b) The Secretary may investigate such facts, conditions, practices, or other matters the Secretary deems necessary to determine whether any recipient of funds or any official of such recipient has vio'ated any provision of this Act or of the regulations. Such investigations may include, but need not be limited to, inspecting all records of the recipient (including making certified copies thereof), questioning employees, and entering any premises or onto any site in which any part of the recipient's program is conducted.

"(c) For the purpose of any hearing or investigation authorized under this Act, the provisions of section 9 of the Federal Trade Commission Act (15 U.S.C. 49, relating to the attendance of witnesses and the production of books, papers, and documents) are made applicable to the Secretary of Labor.

"CRIMINAL PROVISIONS

"SEC. 134. (a) Chapter 31 of title 18, United States Code, is amended by striking out section 665 and inserting in lieu thereof the following:

"'THEFT OR EMBEZZLEMENT FROM EMPLOYMENT AND TRAINING FUNDS; IMPROPER INDUCEMENT

"'SEC. 665. (a) Whoever, being an officer, director, agent, or employee of, or connected in any capacity with any agency receiving financial assistance under the Comprehensive Employment and Training Act of 1973 embezzles, willfully misapplies, steals, or obtains by fraud any of the moneys, funds, assets, or property which are the subject of a grant or contract of assistance pursuant to such Act shall be fined not more than

$10,000 or imprisoned for not more than two years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud does not exceed $100, such person shall be fined not more than $1,000, or imprisoned not more than one year, or both.

"'(b) Whoever, by threat of procuring dismissal of any person from employment or of refusal to employ or refusal to renew a contract of employment in connection with a grant or contract of assistance under the Comprehensive Employment and Training Act of 1973, induces any person to give up any money or thing of any value to any person (including such grantee agency) shall be fined not more than $1,000, or imprisoned not more than one year, or both.

"'FRAUD AND OBSTRUCTION IN EMPLOYMENT AND TRAINING PROGRAMS

"'SEC. 665a. (a) Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry or to produce documentary evidence, if in his power to do so, in obedience to the subpena or lawful requirement of the Secretary of Labor, shall be guilty of an offense and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not less than $1,000 nor more than $5,000, or by imprisonment for not more than one year, or by both such fine and imprisonment.

"'(b) Any person who shall willfully make, or cause to be made, any false entry or statement of fact in any report required to be made under the Comprehensive Employment and Training Act of 1973, or who shall willfully make or cause to be made, any false entry in any account, record, or memorandum kept by any recipient of funds under such Act, or who shall willfully neglect or fail to make, or to cause to be made, full, true, and correct entries in such accounts, records, or memorandums of all facts and transactions appertaining to the business of such recipients, or who shall willfully remove out of the jurisdiction of the United States, or willfully mutilate, alter, or by any other means falsify any documentary evidence of such recipient, or who shall willfully refuse to submit to the Secretary of Labor or to any of such Secretary's authorized agents, for the purpose of inspection and making copies, any documentary evidence of such recipient in such person's possession or within such person's control or who shall deny access to such Secretary or any of such Secretary's authorized agents who wish to examine, audit, inspect, or otherwise view the records, shall be deemed guilty of an offense against the United States, and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than $1,000 nor more than $5,000 or to imprisonment for not more than one year, or by both such fine and imprisonment.'

"(b) The analysis of chapter 31 is amended by adding at the end thereof the following new item:

"'665a. Fraud and obstruction in employment and training programs.'

"BONDING

"SEC. 135. Every officer, director, agent, or employee of a recipient of funds under this Act who handles funds or other property thereof shall be bonded to provide protection against loss by reason of acts of fraud or dishonesty on such person's part directly or through connivance with others. The Secretary shall establish the amount and other bonding requirements by regulation.

"PART C—AUDITS, INVESTIGATIONS, AND COMPLIANCE

"PURPOSE; ESTABLISHMENT

"SEC. 151. In order to create an independent and objective unit—

"(1) to conduct and supervise audits and investigations relating to programs and operations under this Act;

"(2) to provide leadership and coordination and recommend policies for activities designed (A) to promote economy and efficiency in the administration of and (B) to prevent and detect fraud and abuse in, such programs and operations; and

"(3) to provide a means for keeping the Secretary and the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action; there is hereby established in the Office of the Secretary an Office of Audits, Investigations, and Compliance.

"APPOINTMENT OF OFFICERS

"SEC. 152. (a) There shall be at the head of the Office a Director who shall be appointed by the Secretary without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. The Director shall report to and be under the general supervision of the Secretary or, to the extent such authority is delegated, the officer next in rank below the Secretary, but shall not be under the control of, or subject to supervision by, any other officer of the Department.

"(b) There shall also be in the Office, a Deputy Director appointed by the Secretary, without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. The Deputy shall assist the Director in the administration of the Office and shall, during the absence or temporary incapacity of the Director, or during a vacancy in that office, act as Director.

"(c) For the purposes of section 7324 of title 5, United States Code, no Director or Deputy Director shall be considered to be an employee who determines policies to be pursued by the United States in the nationwide administration of Federal laws.

"(d) The Director shall, in accordance with applicable laws and regulations governing the civil service—

"(1) appoint an Assistant Director for Auditing who shall have the responsibility for supervising the performance of auditing activities relating to programs and operations under this Act; and

"(2) appoint an Assistant Director for Investigations who shall have the responsibility for supervising the performance of investigative activities relating to such programs and operations.

"DUTIES AND RESPONSIBILITIES

"SEC. 153. (a) It shall be the duty and responsibility of the Director, with respect to the programs and operations under this Act—

"(1) to supervise, coordinate, and provide policy direction for auditing and investigative activities relating to such programs and operations;

"(2) to recommend policies for, and to conduct, supervise, or coordinate other activities carried out or financed under this Act for the purposes of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, such programs and operations.

"(3) to recommend policies for, and to conduct, supervise, or coordinate relationships between the Department and other Federal agencies, State and local governmental agencies, and nongovernmental entities with respect to (A) all matters relating to the promotion of economy and efficiency in the administration of, or the prevention and detection of fraud and abuse in, such programs and operations, or (B) the identification and prosecution of participants in such fraud or abuse; and

"(4) to keep the Secretary and the Congress informed, by means of the reports required by section 154 and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of such programs and operations, to recommend corrective action concerning such problems, abuses, and deficiencies, and to report on the progress made in implementing such corrective action.

"(b) In carrying out the responsibilities specified in subsecton (a)(1), the Director shall have authority to establish standards for the use of outside auditors and to take other appropriate steps to insure the competence and independence of such auditors.

"(c) In carrying out the duties and responsibilities provided by this Act, the Director shall give particular regard to the activities of the Comptroller General of the United States with a view to avoiding duplication and insuring effective coordination and cooperation.

"(d) In carrying out the duties and responsibilities provided by this Act, the Director shall report expeditiously to the Secretary whenever the Director has reasonable grounds to believe there has been a violation of Federal criminal law.

"REPORTS

"SEC. 154. (a) The Director shall, not later than April 30 and October 31 of each year, prepare and submit to the Congress semiannual reports summarizing the activities of the Office during the immediately preceding 6-month periods ending March 31 and September 30. Such reports shall include, but need not be limited to—

"(1) a description of significant problems, abuses, and deficiencies relating to the administration of programs and operations under this Act disclosed by such activities during the reporting period;

"(2) a description of the recommendations for corrective action made by the Office during the reporting period with respect to significant problems, abuses, or deficiencies identified pursuant to paragraph (1);

"(3) an identification of each significant recommendation described in previous semiannual reports on which corrective action has not been completed;

"(4) a summary of matters referred to prosecutive authorities and the prosecutions and convictions which have resulted;

"(5) a summary of each report made to the Secretary under subsection (c) during the reporting period;

"(6) a summary of each report made to the Secretary under section 155(b)(2) during the reporting period; and

"(7) a listing of each audit and investigative report completed by the Office during the reporting period.

"(b) Notwithstanding any other provision of law, the reports, information, or documents required by or under this section shall be transmitted to the Secretary and the Congress, or committees or subcommittees thereof, by the Director without further clearance or approval. The Director shall, insofar as feasible, provide copies of the reports required under subsection (a) to the Secretary thirty days in advance of the due date for their submission to Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the reports when submitted to Congress.

"(c) The Director shall report immediately to the Secretary whenever the Director becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations under this Act. The Deputy and Assistant Directors shall have particular responsibility for informing the Director of such problems, abuses, and deficiencies.

"AUTHORITY; ADMINISTRATION PROVISIONS

"SEC. 155. (a) In addition to the authority otherwise provided by this Act, the Director, in carrying out the provisions of this part, is authorized—

"(1) to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material which relate to programs and operations under this Act;

"(2) to make such investigations and reports relating to the administration of such programs and operations as are, in the judgment of the Director, necessary or desirable;

"(3) to request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this part from any Federal, State, or local governmental agency or unit thereof;

"(4) to require by subpena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this part, which subpena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court: *Provided*, That procedures other than subpenas shall be used by the Director to obtain documents and information from Federal agencies;

"(5) to have direct and prompt access to the Secretary when necessary for any purpose pertaining to the performance of functions and responsibilities under this part;

"(6) to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

"(7) to obtain services as authorized by section 3109 of title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade GS-18 of the General Schedule by section 5332 of title 5, United States Code;

"(8) to the extent and in such amounts as may be provided in advance by appropriations Acts, to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the provisions of this part.

"(b)(1) Upon request of the Director for information or assistance under subsection (a)(3), the head of any Federal agency involved shall, insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the Federal agency from which the information is requested, furnish to the Director or to an authorized designee, such information or assistance.

"(2) Whenever information or assistance requested under subsection (a)(1) or (a)(3) is, in the judgment of the Director unreasonably refused or not provided, the Director shall report the circumstances to the Secretary without delay.

"(3) In the event any record or other information requested by the Director under subsection (a)(1) or (a)(3) is not considered to be available under the provisions of section 552a(b)(1), (3), or (7) of title 5, United States Code, such record or information shall be available to the Director in the same manner and to the same extent it would be available to the Comptroller General.

"(c) The Secretary shall provide the Office with appropriate and adequate office space at central and field office locations of Department together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.

"TRANSFER OF FUNCTIONS

"SEC. 156. (a) At such time as there is established within the Department of Labor an Office of Inspector General, the functions of the Office of Audits, Investigations, and Compliance, shall be transferred to and vested in the Inspector General.

"(b) The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of the Office shall be transferred to the Office of Inspector General at the time of any transfer under subsection (a).

"(c) Personnel transferred pursuant to subsection (b) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions except that the classification and compensation of such personnel shall not be reduced for one year after such transfer.

"(d) Upon completion of the transfer pursuant to this section, the Office shall lapse. Any person who, on the effective date of this Act, held a position compensated in accordance with the General Schedule, and who, without a break in service, is appointed in the Office of Inspector General to a position having duties comparable to those performed immediately preceding such appointment shall continue to be compensated in the new position at not less than the rate provided for the previous position, for the duration of service in the new position.

"DEFINITIONS

"SEC. 157. As used in this part—

"(1) the term 'Director' means the Director of the Office;

"(2) the term 'Deputy' means the Deputy Director of the Office;

"(3) the term 'Office' means the Office of Audits, Investigations, and Compliance; and

"(4) the term 'Federal agency' means an agency as defined in section 552(e) of title 5, United States Code, but shall not be construed to include the General Accounting Office.

"OFFICE OF MANAGEMENT ASSISTANCE

"SEC. 158. The Secretary shall establish, in the office of the Secretary, an Office of Management Assistance and shall assign to such office such especially qualified accountants, management specialists, and other professionals as may be necessary and available to provide management assistance to any prime sponsor—

"(1) seeking the service of such office on its own initiative to assist it in overcoming problems in the management, operation, or supervision of any program or project under this Act;

"(2) identified, pursuant to a complaint investigation, internal audit, or audit or investigation conducted by the Office of Audits, Investigations, and Compliance, or by any entity to which are transferred the functions of such office, as not being in compliance with any important requirement of this Act, of regulations issued thereunder, or of the comprehensive employment and training plan.

Services provided under this section shall be on a reimburseable or nonreimbursable basis, as determined by the Secretary, and shall be allocated in a manner to assure equitable but effective distribution thereof. The Secretary shall periodically publish any proposals for corrective action made by the office which may be useful to other prime sponsors.

"TITLE II—COMPREHENSIVE EMPLOYMENT AND TRAINING SERVICES

"PART A—FINANCIAL ASSISTANCE PROVISIONS

"PURPOSE OF PROGRAM

"SEC. 201. It is the purpose of this title to establish programs to provide comprehensive employment and training services throughout the Nation. Such programs shall include the development and creation of training, upgrading, retraining, education, and other services needed to enable individuals to secure and retain employment at their maximum capacities so as to increase their earned incomes.

"ALLOCATION OF FUNDS

"SEC. 202. (a)(1) From the amount available for purposes of this title—

"(A) 60 percentum of such amount shall be allocated in accordance with the provisions of paragraph (2); and

"(B) 30 per centum of such amount shall be allocated in accordance with the provisions of paragraph (3).

"(2)(A) Subject to the provisions of subparagraph (B)—

"(i) 50 per centum of the amount allocated under this paragraph shall be allocated on the basis of the amount allocated to the prime sponsor under this paragraph (or under the comparable provision of this Act prior to the effective date of the Comprehensive Employment and Training Amendments of 1978) in the fiscal year prior to the year for which the determination is made compared to the amount so allocated to all prime sponsors in that year;

"(ii) 37½ per centum of the amount allocated under this paragraph shall be allocated on the basis of the relative number of unemployed persons within jurisdiction of the prime sponsor as compared to such numbers in all such jurisdictions;

"(iii) 12½ per centum of the amount allocated under this paragraph shall be allocated on the basis of the relative number of adults in families with an annual income below the low-income level within the jurisdiction of the prime sponsor compared to such total numbers in all such jurisdictions; and

"(iv) not less than $2,000,000 shall be allocated among Guam the Virgin Islands, the Northern Merianas, American Samoa, and the Trust Territory of the Pacific Islands, in accordance with their respective needs.

"(B) No prime sponsor shall be allocated an amount which is in excess of 150 per centum of the amount received by the area served by that prime sponsor in the fiscal year immediately preceding the fiscal year for which the determination is made, except that, if the amount so allocated is less than 50 per centum of the amount to which such prime sponsor is entitled under subparagraph (A) in the fiscal year for which a determination was made, then such allocation shall be increased to 50 per centum of the amount of such entitlement.

"(3) The amount allocated under this paragraph shall be allocated among prime sponsors in accordance with the number of unemployed persons residing in areas of substantial unemployment within the jurisdiction of the prime sponsor compared to the number of unemployed persons residing in all such areas.

"(b) Three per centum of the funds available for this title shall be used only for supplemental vocational education assistance under section 204.

"(c) One-half of 1 per centum of the amount allocated under this title shall be available to the Secretary to be allocated in the same manner as provided under subsection (a) to States for the costs of the State employment and training council incurred in carrying out the provisions of section 110, except that no State shall receive an allocation of less than $50,000. If any State does not need the amount allocated under this subsection for any fiscal year, that amount shall be available for the Governor's coordination and special services under section 105.

"(d) Two per centum of the amounts available for this title shall be available to each Governor in the same proportion as that State's allocation under subsection (a) for the Governor's coordination and special serv-

ices under section 105, and, where deemed necessary by the Governor, for additional support of State employment and training councils.

"(e)(1) Eighty-five per centum of the remainder of the funds shall be available in the Secretary's discretion to be distributed among prime sponsors (or where a prime sponsor's comprehensive employment and training plan has not been approved, an area served by the Secretary under the authority in section 102). The Secretary shall first utilize such funds to assure that each prime sponsor is provided with (A) an amount for any fiscal year beginning on or after October 1, 1979, equal to 90 percent of the funds allocated to the prime sponsor under subsection (a)(2) of this section for the preceding fiscal year, or (B) an amount for the fiscal year ending September 30, 1979, equal to 90 per centum of the sum of the funds available for expenditure during the fiscal year ending September 30, 1978, by such prime sponsor under sections 103 (a)(2), (f), and (g), and 202(a) (as in effect prior to the effective date of the Comprehensive Employment and Training Amendments of 1978). In utilizing such funds, the Secretary shall provide continued support for concentrated employment program grantees serving rural areas having high levels of unemployment, shall take into account the need for continued funding of programs of demonstrated effectiveness, and shall use such funds to encourage, after consultation with and receiving recommendations from the Governor of the appropriate State, voluntary consortia (formed under section 101(a)(3)) where the Secretary determines, pursuant to regulations, that such consortia demonstrate advantages in delivering employment and training services to substantial portions of functioning labor market areas.

"(2) Not more than 15 per centum of the remainder shall be allocated among the prime sponsors within the jurisdiction of those standard metropolitan statistical areas and central cities for which current population surveys were used to determine annual average rates of unemployment prior to, but not after, January 1, 1978, in proportion to the extent to which such prime sponsors allocations under subsection (a) are reduced as a result of termination of the use of such surveys. This provision shall be in effect until such time as the National Commission on Employment and Unemployment Statistics makes its report to Congress.

"(f) As soon as practicable after funds are appropriated to carry out this Act for any fiscal year, the Secretary shall publish in the Federal Register the allocations made pursuant to this section.

"(g) Prime sponsors are authorized to use funds allocated under this title to support prime sponsor planning councils established pursuant to section 109.

"CONDITIONS FOR RECEIPT OF FINANCIAL ASSISTANCE

"SEC. 203. (a) The Secretary shall not provide financial assistance for any fiscal year to a prime sponsor unless the prime sponsor submits a satisfactory comprehensive employment and training plan pursuant to section 103.

"(b) Not more than 4 per centum of each prime sponsor's allocation under section 202 (a) may be used for programs and activities under part C of this title.

"(c)(1) The Secretary shall not provide financial assistance for any fiscal year to a prime sponsor unless the prime sponsor provides assurances that (consistent with needs identified in the prime sponsor's plan submitted under section 103(a)) it shall make agreements with State or local educational agencies or postsecondary educational institutions for the conduct of employment and training programs, which programs may consist of—

"(A) vocational training designed to prepare individuals for employment;

"(B) instruction in basic cognitive skills necessary to obtain employment or pursue further education or training designed to prepare individuals for employment;

"(C) employment of persons in schools controlled by such agencies or in postsecondary institutions; and

"(D) such other employment and training activities as may be consistent with the purposes and provisions of this title.

"(2) Each such agreement entered into under this subsection shall describe in detail the employment opportunities and appropriate educational, training, or other services to be provided, and shall contain provisions to assure that funds utilized pursuant to the agreement will not supplant State or local funds expended for the same purpose.

"(3) In the event a prime sponsor is unable to reach agreements with the appropriate educational agencies or institutions, or in the event such agencies or institutions are dissatisfied with the utilization of their facilities proposed by the prime sponsor, either may request the Secretary to review such arrangements and the Secretary, after affording an opportunity for a hearing and taking into consideration such factors as he considers relevant, may take such action as he deems appropriate within 90 days after receiving such a request.

"SUPPLEMENTAL VOCATIONAL EDUCATION ASSISTANCE

"SEC. 204. (a) From the funds available to him for this section, the Secretary shall make grants to Governors to provide financial assistance, through State vocational education boards, to provide needed vocational education services in areas served by prime sponsors.

"(B) All of the sums available to carry out this section shall be allocated among the States in the manner provided for allocating funds under section 202(a).

"(c)(1) Funds available under this section shall be used only for providing vocational education and services to participants in programs under this title in accordance with an agreement between the State vocational education board and the prime sponsor.

"(2) The State vocational education board, prior to making any agreement with a prime sponsor as provided in paragraph (1), shall consult with and obtain the advice and comment of the designated representatives of the State agencies and councils which are required to be involved in the formulation of the five-year State plan for vocational education pursuant to section 107(a)(1) of the Vocational Education Act of 1963.

"PART B—SERVICES FOR THE ECONOMICALLY DISADVANTAGED

"DESCRIPTION OF PROGRAM

"SEC. 211. Comprehensive employment and training services may include, but need not be limited to, the following:

"(1) job search assistance, including orientation, counseling, and referral to appropriate employment training or other opportunities;

"(2) outreach to make persons aware of the availability of, and to encourage them to use, employment and training services;

"(3) assessment of the individual's needs, interests, and potential in the labor market;

"(4) education and institutional skill training to prepare persons to enter the labor market, or to qualify for more productive job opportunities and increased earnings;

"(5) on-the-job training, including small business self-employment training;

"(6) transitional entry-level public service employment opportunities or work experience;

"(7) payments or other inducements to public or private employers to expand job opportunities.

"(8) services to individuals to enable them to retain employment;

"(9) payment of allowances to persons in training for which they receive no remuneration, and payment of such allowances for transportation, subsistence, or other expenses incurred in training or employment;

"(10) supportive services, including necessary health care, child care, residential support, or assistance in securing bonds, needed to enable individuals to participate in employment and training;

"(11) development of labor market information;

"(12) job development and related activities such as job restructuring designed to make employment opportunities more responsive to the needs of economically disadvantaged persons;

"(13) displaced homemaker employment assistance programs as described in section 307;

"(14) training, employment opportunities, and related services conducted by community based organizations; and

"(15) any programs or activities authorized by part A of title III, title IV, and title VII of this Act.

"LIMITATIONS ON USE OF FUNDS

"SEC. 212. (a)(1) Except as provided in paragraph (2), no prime sponsor shall use more than—

"(A) 50 per centum of the funds allocated to it under such section for the fiscal year ending September 30, 1979, to pay wages for public service employment;

"(B) 50 per centum of the funds allocated to it under such section for the fiscal year ending September 30, 1981, to pay wages and benefits for such employment;

"(C) 45 per centum of the funds allocated to it under such section for the fiscal year ending September 30, 1981, to pay wages and benefits for such employment; and

"(D) 40 per centum of the funds allocated to it under such section for the fiscal year ending September 30, 1982, to pay wages and benefits for such employment.

"(2) Notwithstanding paragraph (1), the Secretary may, for any fiscal year referred to in paragraph (1)(B), (1)(C), or (1)(D), authorize a prime sponsor to expend for the purpose of providing additional public service jobs for residents of areas of substantial unemployment, an amount not to exceed the product of the percentage which unemployed residents of such areas constitute of all unemployed in the prime sponsor area multiplied by the difference between—

"(A) an amount determined by applying the limitation contained in paragraph (1)(A) to the funds allocated to such prime sponsor for such fiscal year; and

"(B) the amount determined by applying the applicable limitation under paragraph (1)(B), (1)(C), or (1)(D) to such funds.

"(b)(1) Public service employment under this part—

"(A) shall be designed to lead to unsubsidized employment;

"(B) shall be entry level;

"(C) shall be combined with training and supportive services if such training and services are reasonably available in the area; and

"(D) shall be available only to eligible participants who have not been employed for more than two hundred hours during the preceding ten weeks unless such employment is in connection with a program supported under this Act.

"(2) Work experience programs conducted under this part, except for in-school youth, shall—

"(A) be designed to lead to unsubsidized employment, and

"(B) be subject to the limitations on duration specified in section 121(c)(2), unless the prime sponsor's plan as approved by the Secretary states that the lack of alternative job opportunities in the area makes such progress and duration impractical.

"ELIGIBILITY FOR PARTICIPATION

"SEC. 213. A person shall be eligible to participate in a program receiving financial assistance under this part only if such person is economically disadvantaged and either unemployed, underemployed, or in school.

"PART C—UPGRADING AND RETRAINING

"PROGRAM AUTHORIZED

"SEC. 221. (a) Pursuant to regulations of the Secretary, prime sponsors may conduct occupational upgrading programs, including supportive services, through agreements with public and private employers for employees of such employers. Individuals eligible for such programs shall be those operating at less than their full skill potential, primarily those in entry level positions or positions with little normal advancement opportunities. In any program receiving financial assistance under this section—

"(1) the positions for which employees are being upgraded shall be positions not regularly available to entry level employees, and for which adequately trained persons are not available;

"(2) the selection of employees for upgrading shall be based upon potential and the lack of availability for advancement in a normal promotional line;

"(3) the education and skill training content of the upgrading program shall provide employees with a reasonable progression resulting in qualification for a recognized position of greater skill, responsibility, remuneration, or career advancement in the service of that employer;

"(4) the training period for upgrading shall be reasonable and consistent with periods customarily required for comparable training;

"(5) adequate personnel, attendance and progress records shall be maintained;

"(6) the program shall be designed, to the extent feasible, so that additional vacancies are created for new entry level employees;

"(7) the employees shall receive such wages, including periodic increases, as the Secretary deems reasonable, considering such factors as industry practice and individual proficiency, but at not less than the rate received before upgrading; and

"(8) successful completion shall be expected to result in employment with the employer in the occupation for which he or she has been upgraded and at not less than prevailing wages.

"(b)(1) Pursuant to regulations of the Secretary, prime sponsors may conduct retraining programs, including supporting services, directly or through agreements with public and private employers or other organizations or agencies.

"(2) Entry into retraining programs shall be only for individuals who have previously received a bona fide notice of impending layoff, and who are determined, pursuant to regulations of the Secretary, to have little opportunity to be reemployed in the same or equivalent occupation or skill level within the labor market area.

"(3) Retraining programs shall meet such standards as the Secretary shall establish by regulation.

"(c) If upgrading or retraining is for or from jobs covered by collective bargaining agreements, agreements with employers to carry out such programs shall have the concurrence of labor organizations representing employees in those jobs.

"TITLE III—SPECIAL FEDERAL RESPONSIBILITIES

"PART A—SPECIAL NATIONAL PROGRAMS AND ACTIVITIES

"SPECIAL PROGRAMS AND ACTIVITIES

"SEC. 301. (a) The Secretary shall use funds available under this title to provide additional employment and training services as authoriztd under title II to segments of the population that are in particular need of such services, including youth, offenders, handicapped individuals, single parents, persons of limited English-speaking ability, older workers, and other persons who the Secretary determines have particular disadvantages in the labor market. The Secretary shall take into account the need for continued funding of programs of demonstrated effectiveness.

"(b) With respect to programs for persons of limited English-speaking ability under this Act, the Secretary shall establish appropriate procedures to ensure that participants are provided with employment and training and related assistance and supportive services (where feasible, at times designed to meet the needs of individuals unable to attend during normal working hours) designed to increase the employment and training opportunities for unemployed and underemployed persons of limited English-speaking ability, including (1) the teaching of occupational skills in the primary language of such persons for occupations which do not require a high proficiency in English, and (2) developing new employment opportunities for limited English-speaking persons and opportunities for promotion within existing employment situations for such persons, including programs for the dissemination of appropriate information, and job placement, and counseling assistance, and the conduct of training and employment programs, in the primary language of such persons, as well as programs designed to increase the English-speaking ability of such persons.

"(c) The Secretary shall make financial assistance available to conduct a program for offenders to provide employment, training, and related assistance and supportive services (including basic education, drug addiction or dependency rehabilitation, health care, and other services) which will enable them to secure and obtain meaningful employment. Emphasis shall be placed upon serving offenders in contact with the criminal justice system or recently released from criminal justice custody or supervision, providing services that will be comprehensive, and ensuring that recipients of funds will coordinate their activities with other providers of employment and training assistance. Grants may also be provided to the States or prime sponsors for the establishment of units for planning and evaluation of correctional employment and training assistance to offenders. To ensure the objectives of this subsection, the Secretary may, wherever feasible, provide for appropriate arrangements with employers and labor organizations, appropriate parole, probationary and judicial authorities, and for the utilization of training equipment comparable to that currently used for the job in which training is furnished. To support such programs the Secretary shall develop information concerning the special needs of offenders for such services, including special studies regarding the incidence of unemployment among offenders and the means of increasing employment opportunity for offenders. As part of the reporting requirements under section 127(a), the Secretary shall also conduct an annual survey of prime sponsors and States receiving assistance under this Act for the purpose of assessing the scope and implementation of offender programs.

"(d) The Secretary shall carry out fully and effectively his responsibilities for the assignment of assistant veterans employment representatives under section 2003 of title 38, United States Code, and the Secretary's other responsibilities under chapter 41 of such title and for the listing of all suitable employment openings with local offices of the State employment services by Federal contractors and subcontractors and providing for the affirmative action as required by section 2012(a) of such title.

"(e) The Secretary is also authorized to provide employment and training programs that—

"(1) are most appropriately administered from the national level, such as programs sponsored by public agencies or private organizations that conduct federally assisted activities in more than one State;

"(2) foster new or improved linkages between Federal, State, and local employment and training agencies and components of the private sector, such as the business community, organized labor, and community-based organizations;

"(3) provide continued support for programs of demonstrated effectiveness;

"(4) eliminate or reduce critical skill shortages in the Nation's labor force; or

"(5) serve those who become unemployed as a result of a large-scale loss of jobs in a locality, caused by such things as the closing of a facility, mass layoffs, or natural disasters.

"(f) Notwithstanding any other provisions of this Act, eligibility requirements for programs for workers age fifty-five and older, which were established under title X of the Public Works and Economic Development Act, and which thereafter have been funded under section 304 of this Act prior to the enactment of the Comprehensive Employment and Training Amendments of 1978, shall be those which applied when the programs were established under title X.

"(g) The Secretary shall establish a special program for the funding of local workshops for the training of youths and other individuals who wish to pursue careers as self-employed owners and managers of small businesses. Such workshops should provide instruction in management techniques, business communication skills, motivational training, special problems in business operation, advice concerning Federal and State regulations, preparation of financial statements and loan applications, recordkeeping, development of marketing techniques, and information on beneficial resources available within the community.

"(h) To the extent appropriate, programs financed under this part shall be coordinated with programs conducted by prime sponsors under this Act, and the Secretary shall notify such prime sponsors of the funding of an employment and training program under this part.

"NATIVE AMERICAN EMPLOYMENT AND TRAINING PROGRAMS

"SEC. 302. (a) The Congress finds that (1) serious unemployment and economic disadvantage exist among members of Indian, Alaskan Native, and Hawaiian Native communities; (2) there is a compelling need for the establishment of comprehensive employment and training programs for members of those communities; (3) such programs are essential to the reduction of economic disadvantage among individual members of such communities and to the advancement of economic and social development in such communities consistent with their goals and life styles.

"(b) The Congress therefore declares that, because of the special relationship between the Federal Government and most of those to be served by the provisions of this section, (1) such programs can best be administered at the national level; (2) such programs shall be available to federally recognized Indian tribes, bands, and individuals, and to other groups and individuals of Native American descent such as, but not limited to, the Lummis in Washington, the Menominees in Wisconsin, the Klamaths in Oregon, the Oklahoma Indians, the Passamaquoddys and Penobscots in Maine, and Eskimos and Aleuts in Alaska, and Hawaiian Natives; and (3) such programs shall be administered in such a manner as to maximize the Federal commitment to support growth and development

as determined by representatives of the communities and groups served by this section.

"(c)(1) In carrying out responsibilities under this section, the Secretary shall, wherever possible, utilize Indian tribes, bands, or groups (including Alaska Native villages or groups as defined in the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688)) having a governing body and such public and private nonprofit agencies as the Secretary determines will best serve Hawaiian Natives, for the provision of employment and training services under this section. To the extent the Secretary determines that such tribe, band, or group has demonstrated the capability to effectively administer a comprehensive employment and training program, he shall require such tribe, band, or group to submit to him a comprehensive plan meeting the requirements of section 103.

"(2) In carrying out his responsibilities under this section the Secretary shall make arrangements with prime sponsors and organizations (meeting requirements prescribed by the Secretary) serving nonreservation Indians for programs and projects designed to meet the needs of such Indians for employment and training and related services.

"(d) Whenever the Secretary determines not to utilize Indian tribes, bands, or groups for the provision of employment and training services under this section, the Secretary shall, to the maximum extent feasible, enter into arrangements for the provision of such services with public or private nonprofit agencies which meet with the approval of the tribes, bands, or groups to be served.

"(e) The Secretary is directed to take appropriate action to establish administrative procedures and machinery (including personnel having particular competence in this field) for the administration of Indian employment and training programs authorized under this Act.

"(f) Funds available for this section shall be expended for programs and activities consistent with the purposes of this part, including but not limited to such programs and activities carried out by eligible prime sponsors under other provisions of this Act.

"(g) For the purpose of carrying out this section, the Secretary shall reserve from funds available for this title an amount equal to not less than 3 percent of the amount allocated pursuant to section 202(a).

"(h) No provision of this section shall abrogate in any way the trust responsibilities of the Federal Government to Indian bands or tribes.

"MIGRANT AND SEASONAL FARMWORKER EMPLOYMENT AND TRAINING PROGRAMS

"SEC. 303. (a) The Congress finds and declares that—

"(1) chronic seasonal unemployment and underemployment in the agricultural industry, substantially affected by recent advances in technology and mechanization, constitute a substantial portion of the Nation's rural employment and training problem and substantially affect the entire national economy; and

"(2) because of the special nature of certain farmworker employment and training problems such programs can best be administered at the national level.

"(b)(1) Funds available for this section shall be expended for programs and activities consistent with the purposes of this section, including but not limited to programs and activities carried out under other provisions of this Act.

"(2) In carrying out programs and activities under this section, the Secretary shall continue in operation any program which is in existence on the effective date of this paragraph and—

"(A) which is—

"(i) operated through the use of the facilities of any institution of higher education; and

"(ii) designed to assist migrant and seasonal farmworkers who are beyond the age of compulsory school attendance in the State in which the institution is located, through tutoring, counseling, and other similar assistance, in the completion of courses necessary to receive a high school diploma or its equivalent; or

"(B) which serves migrant and seasonal farmworkers who are enrolled in a full-time basis in the first academic year of an undergraduate program at any institution of higher education, and the dependents of migrant and seasonal farmworkers if such dependents are so enrolled, by—

"(i) aiding such individuals in carrying out the transition from secondary school to postsecondary school programs;

"(ii) generating motivation necessary for success in education beyond secondary school; and

"(iii) providing counseling, tutorial, and similar educational services designed to assist such individuals during their first academic year at such institution.

The Secretary shall continue the operation of any such program for so long as such program is consistent with the purposes of this section, as determined by the Secretary.

"(3) For the purpose of carrying out this section, the Secretary shall reserve from funds available for this title an amount equal to not less than 2.6 percent of the amount allocated pursuant to section 202(a). Of the funds reserved under this paragraph, such sums as may be necessary shall be used for the operation of the programs specified in subparagraph (A) and subparagraph (B) of paragraph (2).

"PROGRAMS FOR THE HANDICAPPED

"SEC. 304. (a)(1) The Congress finds and declares that due to the rapid implementation of programs to assist handicapped individuals mandated under the Education for All Handicapped Children Act and section 504 of the Rehabilitation Act of 1973, there is a need for people to provide the special supportive services and removed of architectural barriers required by these Acts.

"(2) The Congress further declares that the individuals to be served under this section represent a large percentage of the unemployed, and that these services will provide meaningful improvement of the lives of the handicapped individuals served.

"(b) The Secretary shall establish programs throughout the Nation which shall train personnel to work with and assist handicapped individuals. These programs may be in any areas of training or education which provide individuals with skills necessary to train or provide assistance to handicapped persons, including, but not limited to, interpreters for the deaf and aides in classrooms to assist in the education of the handicapped.

"(c) The Secretary shall take appropriate action to establish administrative procedures and machinery (including personnel having particular competence in this field) for the administration of programs authorized under this section.

"RELOCATION ASSISTANCE

"SEC. 305. (a) The Secretary is authorized to provide special relocation assistance for unemployed persons who desire such assistance through agreements with States, prime sponsors, or public or private agencies under this section.

"(b)(1) Relocation assistance may be provided in the form of loans or grants, or both, subject to such standards as the Secretary establishes.

"(2) Relocation assistance shall be available only to involuntarily unemployed individuals who cannot reasonably be expected to secure full-time employment in the community in which they reside, and have bona fide offers of employment (other than temporary or seasonal employment).

"VETERANS INFORMATION AND OUTREACH

"SEC. 306. The Secretary, in consultation and cooperation with the Administrator of Veterans Affairs and the Secretary of Health, Education, and Welfare, shall provide for an outreach and public information program utilizing, to the maximum extent, the facilities of the Departments of Labor and Health, Education, and Welfare and the Veterans' Administration to exercise maximum efforts to develop jobs and job training opportunities for disabled and Vietnam-era veterans, and inform all such veterans about employment, job training, on-the-job training and educational opportunities under this Act, under title 38, United States Code, and other provisions of law; and inform prime sponsors, Federal contractors and subcontractors, Federal agencies, educational institutions, labor unions, and employers of their statutory responsibilities toward such veterans, and provide them with technical assistance in meeting those responsibilities.

"DISPLACED HOMEMAKER EMPLOYMENT ASSISTANCE PROGRAM

"SEC. 307. (a) The Secretary shall make available financial assistance to enable private nonprofit organizations and public agencies, including prime sponsors designated under section 101(c), to provide employment opportunities and appropriate training and supportive services to displaced homemakers. Such training and supportive services shall include, but need not be limited to—

"(1) job training, job readiness services, job counseling, job search, and job placement services;

"(2) outreach and information services, including information on available educational opportunities; and

"(3) referrals (through cooperative arrangements, to the maximum extent feasible) to health, financial management, legal, public assistance, and other appropriate supportive services in the community being served.

"(b) To the maximum extent feasible, activities supported under this section shall be coordinated with and supplement, but not supplant, activities supported under other titles of this Act and shall emphasize training and other employment related services for participants that are designed to enhance their employability and earnings. Programs shall concentrate on creating new jobs in the private sector for displaced homemakers in order to meet identified needs within the community.

"(c) To the maximum extent feasible, supervisory, technical, and administrative positions with the program shall be filled by displaced homemakers.

"(d) No funds available under this section shall be used for the purchase, construction, or major rehabilitation of facilities.

"(e) For the purposes of this section, the term 'displaced homemaker' means an individual who—

"(1) has been providing as a predominant activity unpaid services for family members for a substantial number of years;

"(2)(A) has been dependent on the income of another family member but is no longer supported by that income, (B) is receiving public assistance on account of dependent children in the home, or (C) is receiving spousal support; and

"(3) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

"(f) For the purposes of carrying out this section, the Secretary shall reserve not more than 2 per centum of the funds made available to carry out this title.

"PARTNERSHIP PROGRAMS

"SEC. 308. (a) From funds available under this title the Secretary is authorized to

promote the development of partnership arrangements between prime sponsors and employment security agencies. Such partnerships shall constitute a segment of an integrated and comprehensive intake, service and placement system and shall be designed to achieve an employability plan and comprehensive program of job preparation and job search assistance for all participants under this Act. Such partnerships may also include other related public and private nonprofit agencies and organizations, including community-based organizations.

"(b) Such partnerships may result in—

"(1) the creation of a joint-planning, administrative, and operational entity;

"(2) combining and colocation of staff; and

"(3) a joint data base and information system.

"(c) The Secretary is authorized to reimburse prime sponsors for costs associated with the implementation of a partnership and to provide incentives to ensure that employment security agencies may participate on an equitable basis.

"PART B—RESEARCH, TRAINING AND EVALUATION RESEARCH

"SEC. 311. (a) To assist the Nation in expanding work opportunities and assuring access to those opportunities for all who desire it, the Secretary shall establish a comprehensive program of employment and training research utilizing the methods, techniques, and knowledge of the behavioral and social sciences and such other methods, techniques, and knowledge as will aid in the solution of the Nation's employment and training problems. This program may include, but need not be limited to, studies, the findings of which may contribute to the formulation of employment and training programs; increased knowledge about labor market processes; reduction of unemployment and its relationships to price stability; promotion of more effective worker development, training, and utilization; improved national, regional and local means of measuring future labor demand and supply; enhancement of job opportunities; skill training to qualify employees for positions of greater skill, responsibility, and remuneration; meeting of worker shortages; easing of the transition from school to work, from income transfer payment dependency to employment, from one job to another, and from work to retirement; testing the usefulness of sheltered employment for the difficult to employ; opportunities and services for older persons who desire to enter or reenter the labor force; and for improvement of opportunities for employment and advancement through the reduction of discrimination and disadvantage arising from poverty, ignorance, or prejudice.

"(b) The Secretary shall establish a program of experimental, developmental, demonstration, and pilot projects, through grants to or contracts with public agencies or private organizations, for the purpose of improving techniques and demonstrating the effectiveness of specialized methods in meeting the employment and training problems; however, nothing in this subsection shall authorize the Secretary to carry out employment programs experimenting with subsidized wages in the private sector or wages less than those established by the Fair Labor Standards Act of 1938, for employment subject to that Act. In carrying out this subsection, the Secretary shall consult with such other agencies as may be appropriate. Where programs under this section require institutional training, appropriate arrangements for such training shall be agreed to by the Secretary of Labor and the Secretary of Health, Education, and Welfare.

"(c) The Secretary is authorized to conduct supportive employment and training projects of an experimental and demonstration nature as part of, or coordinated with, experimental or demonstration programs of a similar nature that the Secretary has been conducting for unemployed persons with serious problems in the labor market, such as juvenile delinquents, mentally and emotionally handicapped individuals, alcoholics, ex-addicts, ex-offenders, and recipients of aid to families with dependent children, to enable them, through temporary, highly structured and supervised work experience, to make the transition to employment or self-employment. Such programs shall provide for skill training as required to effect such transition.

"(d) The Secretary is authorized to carry out a special program to demonstrate the efficacy of providing vouchers to economically disadvantaged persons who are unemployed or underemployed. Such vouchers shall entitle private employers who provide employment or training to such individuals to payment in amounts equal to the value of the voucher during periods when, and to the extent that, such persons are not fully productive, pursuant to regulations of the Secretary.

"(e) The Secretary is authorized to undertake research programs to (1) investigate the applicability of job-sharing, work-sharing and other flexible hours arrangements in various settings, and of the incentives and technical assistance required by employers to implement such alternative working arrangements; (2) investigate the extent to which job and wage classification systems undervalue certain skills and responsibilities on the basis of the sex of persons who usually hold the positions.

"(f) The Secretary shall conduct a variety of demonstration and experimental projects to test the best methods of assisting persons, who might otherwise rely on public assistance or other income assistance, to find nonfederally assisted employment in the private and public sectors, and to provide federally assisted work and training opportunities for any such persons who are unable to find nonfederally assisted work or training opportunities.

"(g) The Secretary is authorized to conduct demonstration programs and projects, which provide expanded guidance and counseling services to participants under this Act through community vocational resource centers established in economically distressed communities or areas pursuant to section 132(a)(7) of the Vocational Educational Amendments of 1976. Such programs shall provide State boards of vocational education, which establish such community vocational resource centers, with funding for up to 50 per centum of the cost of such projects. The Secretary may make such funds available to a State board of vocational education when such board reaches agreement with the prime sponsor to assist out-of-school individuals in reentering school at the secondary or postsecondary level, to take advantage of vocational skill training opportunities including cooperative education and work-study programs, and to be offered referral to other training programs, apprenticeship programs, and on-the-job training for which academic credit may be available. Projects shall include provisions for outreach to inform the economically disadvantaged of the assistance available through the community resource centers and to provide assurance that programs will be coordinated with other guidance and counseling activities of the prime sponsor, includinng activities under section 445(c), other in-school guidance and counseling programs in the area, State employment service offices, and the activities of the private industry councils established pursuant to title VII of this Act.

"(h) The Secretary shall conduct educational and assistance programs designed to eliminate artificial barriers to employment based upon race, sex, national origin, age, records of arrest or conviction, handicaps, marital status, or other criteria. To support such programs, information shall be developed identifying all such artificial barriers, the numbers of persons affected, the manner in which such barriers operate and how such barriers can best be eliminated. In complying with the requirements of this subsection, the Secretary shall consult with the Department of Health, Education, and Welfare, the United States Civil Rights Commission, and the Equal Employment Opportunity Commission.

"LABOR MARKET INFORMATION AND JOB BANK PROGRAM

"SEC. 312. (a) The Secretary shall develop a comprehensive system of labor market information on a national, State, local, or other appropriate basis, which shall be made publicly available in a timely fashion.

"(b) In addition to the monthly national unemployment statistics, the Secretary shall develop reliable methods, including the use of selected sample surveys, to produce more statistically accurate data on unemployment by State and local areas, and shall investigate alternative methods to produce more accurate data on underemployment and labor demand by State and local areas.

"(c) The Secretary shall develop data for an annual statistical measure of labor market related economic hardship in the Nation. Among the factors to be considered in developing such a measure are unemployment, labor force participation, involuntary part-time employment, and full-time employment at wages less than the poverty level.

"(d) The Secretary shall develop methods to establish and maintain more comprehensive household budget data at different levels of living, including a level of adequacy, to reflect the differences of household living costs in regions and localities, both urban and rural. The Secretary, in cooperation with the Secretary of Energy and the Secretary of Housing and Urban Development, shall develop methods to ascertain, and shall ascertain, annual energy development and conservation jobs impact data by type and scale of energy technologies used.

"(e) The Secretary shall set aside, out of sums available to the Department for any fiscal year including sums available for this title, an amount which the Secretary determines is necessary and appropriate to carry out the provisions of this section, and shall, no later than sixty days after such sums are appropriated and made available, notify the appropriate committees of the Congress of the amount so set aside and the basis for the determination of need and appropriateness.

"(f) The Secretary shall establish and carry out a nationwide computerized job bank and matching program (including the listing of all suitable employment openings with local offices of the State employment service agencies by Federal contractors and subcontractors and providing for the affirmative action (as required by section 2012(a) of title 38, United States Code) on a regional, State, and local basis, using electronic data processing and telecommunications systems to the maximum extent possible for the purpose of identifying sources of available persons and job vacancies, providing an expeditious means of matching the qualifications of unemployed, underemployed, and economically disadvantaged persons with employer requirements and job opportunities, and referring and placing such persons in jobs.

"EVALUATION

"SEC. 313. (a) The Secretary shall provide for the continuing evaluation of all programs and activities conducted pursuant to this Act, including their cost-effectiveness in achieving the purposes of this Act, their impact on communities and participants, their implication for related programs, the extent to which they meet the needs of persons by

age, sex, race, and national origin, and the adequacy of the mechanism for the delivery of services. In conducting evaluations the Secretary shall compare the effectiveness of programs conducted by prime sponsors of the same class and of different classes, and shall compare the effectiveness of programs conducted by prime sponsors with similar programs carried out by the Secretary under the Act. The Secretary shall also arrange for obtaining the opinions of participants about the strengths and weaknesses of the programs.

"(b) The Secretary shall evaluate the effectiveness of programs authorized under this Act and part C of title IV of the Social Security Act with respect to the statutory goals and objectives, including increases in employment and earnings for participants, duration in training and employment situations, information on the post-enrollment labor market experience of program participants for at least a year following their termination from such programs, and comparable information on other employees or trainees of participating employers.

"(c)(1) The Secretary shall—

"(A) develop standard definitions of 'enrollments', 'completions', 'job placements', and 'training-related job placements' for classroom and on-the-job training programs funded under this Act;

"(B) establish procedures for the uniform reporting by prime sponsors of information on enrollments, completions, job placements, and training related placements by detailed occupational or training code for classroom and on-the-job training programs funded under this Act; and

"(C) make a report to the Congress not later than September 30, 1979, and annually thereafter, containing a summary of the information described in subparagraph (B) together with such analysis and recommendations as the Secretary deems advisable.

"(2) For the purposes of this subsection, the term 'detailed occupational or training code' shall mean any occupational or training code equivalent in detail to the Dictionary of Occupational Titles at the six-digit level.

"TRAINING AND TECHNICAL ASSISTANCE

"SEC. 314. The Secretary, in consultation with the Secretary of Health, Education, and Welfare, or other appropriate officials, shall provide directly or through grants, contracts, or other arrangements, appropriate preservice and inservice training for specialized, supportive, supervisory, or other personnel, and appropriate technical assistance with respect to programs under this Act.

"NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE

"SEC. 315. (a) In carrying out its responsibilities under this Act and under section 161 of the Vocational Education Act, the National Occupational Information Coordinating Committee shall give special attention to the problems of unemployed youths. The Committee shall also carry out other activities consistent with the purposes of this title, including but not limited to the following:

"(1) assisting and encouraging local areas to adopt methods of translating national aggregate occupational outlook data into local terms;

"(2) assisting and encouraging the development of State occupational information systems, to be used in the maintenance of local job banks and job vacancy reports, accessible to local schools, and including pilot programs in the use of computers to facilitate such access;

"(3) in cooperation with State and local correctional agencies, encouraging programs of counseling and employment services for youth in correctional institutions;

"(4) providing technical assistance for programs of computer on-line terminals and other facilities to utilize and implement occupational and career outlook information and projections supplied by State employment service officers and to improve the match of youth career desires with available and anticipated labor demand;

"(5) in cooperation with State and local educational agencies, and other appropriate persons and organizations, encouraging programs to make available employment and career counseling to presecondary youths; and

"(6) providing technical assistance for programs designed to encourage public and private employers to list all available job opportunities for youths with the appropriate eligible applicant conducting occupational information and career counseling programs, local public employment services offices and to encourage cooperation and contact among such eligible applicants, employers, and offices.

"(b) All funds available to the National Occupational Information Coordinating Committee under this Act and under section 161 of the Vocational Education Act may be used by the Committee to carry out any of its functions and responsibilities authorized by law.

"TITLE IV—YOUTH PROGRAMS

"INTENT

"SEC. 400. It is the intent of this title to provide a broad range of coordinated employment and training programs for eligible youth in order to provide effectively for comprehensive employment and training services to improve their future employability and to explore and experiment with alternative methods for accomplishing such purposes.

"GENERAL PROVISIONS

"SEC. 401. (a) For purposes of parts B and C, the term 'eligible youth' means an economically disadvantaged youth who is (1) either unemployed, underemployed, or in school, and (2) either age 16 to 21 inclusive, or if authorized under regulations of the Secretary, age 14 to 15 inclusive. Nothing in this section shall be construed to prohibit the provision of day care for the children of eligible youths.

"(b) For the purposes of subpart 1 of part A, the term 'eligible youth' means a youth between the ages of 16 and 19 inclusive, the income of whose family is at or below the poverty level determined in accordance with criteria as established by the Director of the Office of Management and Budget.

"(c) Earnings and allowances received by any eligible youth under this title shall be disregarded in determining the eligibility of the youth's family for, and the amount of, any benefits based on need under any Federal or federally assisted program.

"PART A—YOUTH EMPLOYMENT DEMONSTRATION PROGRAMS

"STATEMENT OF PURPOSE

"SEC. 410. It is the purpose of this part to establish a variety of employment, training and demonstrtaion programs to explore methods of dealing with the structural unemployment problems of the Nation's youth. The basic purpose of the demonstration programs shall be to test the relative efficiency of different ways of dealing with these problems in different local contexts, but this basic purpose shall not preclude the funding of programs dealing with the immediate difficulties faced by youths who are in need of, and unable to find, jobs. It is explicitly not the purpose of this part to provide makework opportunities for unemployed youth; instead, it is the purpose to provide youth, and particularly economically disadvantaged youth, with opportunities to learn and earn that will lead to meaningful employment opportunities after they have completed the program.

"Subpart 1—Youth Incentive Entitlement Pilot Projects

"ENTITLEMENT PILOT PROJECTS AUTHORIZED

"SEC. 411. (a) The Secretary shall enter into arrangements with prime sponsors selected in accordance with the provisions of this subpart for the purpose of demonstrating the efficacy of guaranteeing otherwise unavailable part-time employment, or combination of part-time employment and training, for economically disadvantaged youth between the ages of sixteen and nineteen, inclusive, during the school year who resume or maintain attendance in secondary school for the purpose of acquiring a high school diploma or in a program which leads to a certificate of high school equivalency and full-time employment or part-time employment and training during the summer months to each such youth.

"(b) Each prime sponsor who applies for and is selected by the Secretary to carry out a pilot project under this subpart shall guarantee such employment to each such unemployed youth who resides within the area or a designated part thereof served by the prime sponsor and who applies to that prime sponsor for employment. The Secretary shall provide to each prime sponsor, from funds appropriated for carrying out this subpart, in combination with any funds made available by such prime sponsor according to an agreement made pursuant to section 413(a)(4)(F), the amount to which that prime sponsor is entitled under subsection (c).

"(c) Each prime sponsor shall be entitled to receive, for each youth who is provided employment by that prime sponsor, the costs associated with providing such employment. Such costs shall take into account funds made available by such prime sponsor under section 413(a)(4)(F).

"EMPLOYMENT GUARANTEES

"SEC. 412. Employment opportunities guaranteed under this subpart shall take the form of any one of the following or any combination thereof:

"(1) Part-time employment or training or combination thereof during the school year, not to exceed an average of twenty hours per week for each youth employed, and not to last less than six months nor more than nine, on projects operated by community-based organizations of demonstrated effectiveness which have a knowledge of the needs of disadvantaged youth; local educational agencies (as defined in section 801(f) of the Elementary and Secondary Education Act of 1965); institutions of higher education (as defined in section 1201(a) of the Higher Education Act of 1965); nonprofit private organizations or institutions engaged in public service; nonprofit voluntary youth organizations; nonprofit private associations, such as labor organizations, educational associations, business, cultural, or other private associations; units of general local government; or special purpose political subdivisions either having the power to levy taxes and spend funds or serving such special purpose in two or more units of general local government.

"(2) Part-time employment on an individual basis in any of the institutions and under the same conditions provided for in clause (1).

"(3) Part-time employment on either a project or individual basis in any of the institutions and under the same conditions as provided in clause (1) which includes as part of the employment on-the-job or apprenticeship training.

"(4) Full-time employment during the summer months, not to exceed forty hours per week for each youth employed, and not to last less than eight weeks in any of the institutions described in clause (1) of this section.

"SELECTING PRIME SPONSORS

"SEC. 413. (a) In selecting prime sponsors to operate youth incentive entitlement projects, the Secretary shall—

"(1) select prime sponsors from areas with differing socioeconomic and regional circumstances such as differing unemployment rates, school dropout rates, urban and rural variations, size, and other such factors designed to test the efficacy of a youth job entitlement in a variety of differing locations and circumstances;

"(2) take into consideration the extent to which the prime sponsors devote funds made available under title II for the purpose of carrying out a youth incentive entitlement project or for supportive services;

"(3) take into consideration the extent to which new and different classifications, occupations, or restructured jobs are created for youth;

"(4) select only prime sponsors which submit proposals which include—

"(A) a description of the procedure to be utilized by the prime sponsor to publicize, consider, approve, audit, and monitor youth incentive projects or jobs funded by the prime sponsor under this part, including copies of proposed application materials, as well as examples of audit and client characteristics reports;

"(B) a statement of the estimated number of economically disadvantaged youth to be served by the prime sponsor, and assurances that only such disadvantaged youth will be served;

"(C) assurances that the provisions of sections 442 and 443 are met relating to wage provisions and special conditions;

"(D) assurances that the prime sponsor has consulted with public and private nonprofit educational agencies including vocational and postsecondary education institutions and other agencies which offer high school equivalency programs; public employers, including law enforcement and judicial agencies; labor organizations; voluntary youth groups; community-based organizations; organizations of demonstrated effectiveness with a special knowledge of the needs of such disadvantage youth; and with the private sector in the development of the plan, and assurances that arrangements are made with appropriate groups to assist the prime sponsor in carrying out the purposes of this subpart;

"(E) assurances that arrangements are made with the State employment security agencies to carry out the purposes of this subpart;

"(F) an agreement that title II funds planned for economically disadvantaged youth employment programs and funds available for the summer youth program under part C of this title for youth eligible under subsection (a) will be used in support of the project authorized under this subpart;

"(G) assurances that the employment of eligible youth meets the requirements of eligible activities under section 414;

"(H) assurances that participating youth shall not be employed more than an average of twenty hours per week during the school year and not more than forty hours per week during the summer;

"(I) assurances that a participating youth is not a relative of any person with responsibility for hiring a person to fill that job;

"(J) assurances that whenever employment involves additional on-the-job, institutional, or apprenticeship training provided by the employer, and if such training is not paid for in full or in part by the prime sponsor under any other program authorized under this Act, wages may be paid in accordance with the provisions of subsection (b) of section 14 of the Fair Labor Standards Act of 1938, and with the balance being applied to the cost of training;

"(K) assurances that arrangements have been made with the appropriate local education agency or with the institution offering a certified high school equivalency program that such youth is enrolled and meeting the minimum academic and attendance requirements of that school or education program and with employers that such youth meet the minimum work and attendance requirements of such employment and that any employment guarantee is conditioned on such enrollment; and

"(L) assurances that the prime sponsor will make available the data necessary for the Secretary to prepare the reports required by section 415.

"(b) In approving a prime sponsor to operate a youth incentive entitlement pilot project under this subpart the Secretary may also test the efficacy of any such project involving—

"(1) the use of a variety of subsidies to private for-profit employers, notwithstanding the provisions of sections 412 and 414(a), to encourage such employers to provide employment and training opportunities under this subpart, but no such subsidy shall exceed the net cost to the employer of the wages paid and training provided;

"(2) arrangements with unions to enable youth to enter into apprenticeship training as part of the employment provided under this subpart;

"(3) a variety of administrative mechanisms to facilitate the employment of youths under an entitlement arrangement;

"(4) the inclusion of economically disadvantaged youths between the ages of nineteen and twenty-five who have not received their high school diploma;

"(5) the inclusion of occupational and career counseling, outreach, career, exploration, and on-the-job training and apprenticeship as part of the employment entitlement; and

"(6) the inclusion of youth under the jurisdiction of the juvenile or criminal justice system with the approval of the appropriate authorities.

"SPECIAL PROVISIONS

"SEC. 414. (a) Employment and training under this subpart shall develop the participant's role as a meaningful member of the community, and may include, but is not limited to, employment and training in such fields as environmental quality, health care, education, self-employment, social services, public safety, crime prevention and control, transportation, recreation, neighborhood improvement, rural development, conservation, beautification, and community improvement projects.

"(b) No funds for employment under this subpart shall be used to provide public services through a nonprofit organization, association, or institution, or a nonprofit private institution of higher education, or any other applicant, which were previously provided by a political subdivision or local educational agency in the area served by the project of where the employment and training takes place, and no funds will be used under this subpart to provide such services through such an organization or institution which are customarily provided only by a political subdivision or local educational agency in the area served by such project or where the employment and training takes place.

"REPORTS

"SEC. 415. The Secretary shall report to the Congress not later than March 15, 1979, on his interim findings on the efficacy of a youth incentive entitlement. The Secretary shall submit another report not later than December 31, 1979, concerning the youth incentive entitlement projects authorized under this subpart. Included in such reports shall be findings with respect to—

"(1) the number of youths enrolled at the time of the report;

"(2) the cost of providing employment opportunities to such youths;

"(3) the degree to which such employment opportunities have caused out-of-school youths to return to school or others to remain in school;

"(4) the number of youths provided employment in relation to the total which might have been eligible;

"(5) the kinds of jobs provided such youths and a description of the employers—public and private—providing such employment;

"(6) the degree to which on-the-job or apprenticeship training has been offered as part of the employment;

"(7) the estimated cost of such a program if it were to be extended to all areas;

"(8) the effect such employment opportunities have had on reducing youth unemployment in the areas of the prime sponsors operating a project; and

"(9) the impact of job opportunities provided under the project on other job opportunities for youths in the area.

"Subpart 2—Youth Community Conservation and Improvement Projects

"STATEMENT OF PURPOSE

"SEC. 421. It is the purpose of this subpart to establish a program of community conservation and improvement projects to provide employment, work experience, skill training, and opportunities for community service to eligible youths, for a period not to exceed twelve months, supplementary to but not replacing opportunities available under title II of this Act.

"DEFINITIONS

"SEC. 422. As used in this subpart, the term—

"(1) 'eligible applicant' means any prime sponsor qualified under section 101 of this Act, sponsors of Native American programs qualified under section 302(c)(1) of this Act, and sponsors of migrant and seasonal farmworkers programs qualified under section 303 of this Act;

"(2) 'project applicant' shall have the same meaning as in section 125(18) of this Act;

"(3) 'eligible youths' means individuals who are unemployed and, at the time of entering employment under this subpart, are ages sixteen to nineteen, inclusive; and

"(4) 'community improvement projects' means projects providing work which would not otherwise be carried out, including, but not limited to, the rehabilitation or improvement of public facilities; neighborhood improvements; weatherization and basic repairs to low-income housing; energy conservation including solar energy techniques, especially those utilizing materials, and supplies available without cost; and conservation, maintenance, or restoration of natural resources on publicly held lands other than Federal lands.

"ALLOCATION OF FUNDS

"SEC. 423. (a) Funds available to carry out this subpart for any fiscal year shall be allocated in such a manner that not less than 75 per centum of such funds shall be allocated among the States on the basis of the relative number of unemployed persons within each State as compared to all States, except that not less than one-half of 1 per centum of such funds shall be allocated for projects under this subpart within any State and not less than one-half of 1 per centum of such funds shall be allocated in the aggregate for projects in Guam, the Virgin Islands, American Samoa, the Northern Marianas, and the Trust Territory of the Pacific Islands.

"(b) Of the funds available for this subpart 2 per centum shall be available for projects for Native American eligible youths, and 2 per centum shall be available for projects for eligible youths in migrant and seasonal farmworker families.

"(c) The remainder of the funds available for this subpart shall be allocated as the Secretary deems appropriate.

"COMMUNITY CONSERVATION AND IMPROVEMENT YOUTH EMPLOYMENT PROJECTS

"SEC. 424. The Secretary is authorized, in accordance with the provisions of this subpart, to enter into agreements with eligible applicants to pay the costs of community conservation and improvement youth employment projects to be carried out by project applicants employing eligible youths and appropriate supervisory personnel.

"PROJECT APPLICATIONS

"SEC. 425. (a) Project applicants shall submit applications for funding of projects under this subpart to the appropriate eligible applicant.

"(b) In accordance with regulations prescribed by the Secretary, each project application shall—

"(1) provide a description of the work to be accomplished by the project, the jobs to be filled, and the approximate duration for which eligible youths would be assigned to such jobs;

"(2) describe the wages or salaries to be paid individuals employed in jobs assisted under this subpart;

"(3) set forth assurances that there will be an adequate number of supervisory personnel on the project and that the supervisory personnel are adequately trained in skills needed to carry out the project and can instruct participating eligible youths in skills needed to carry out a project;

"(4) set forth assurances that any income generated by the project will be applied toward the cost of the project;

"(5) set forth assurances for acquiring such space, supplies, materials, and equipment as necessary, including reasonable payment for the purchase or rental thereof;

"(6) set forth assurances that, to the maximum extent feasible, projects carried out under this subpart shall be labor intensive; and

"(7) set forth such other assurance, arrangements, and conditions as the Secretary deems appropriate to carry out the purposes of this subpart.

"PROPOSED AGREEMENTS

"SEC. 426. (a)(1) Each eligible applicant desiring funds under this subpart shall submit a proposed agreement to the Secretary together with all project applications approved by the eligible applicant and all project applications approved by any program agent within the area served by the eligible applicant. With its transmittal of the proposed agreement, the eligible applicant shall provide descriptions of the project applications approved by the eligible applicant and by any program agent within the area served by the eligible applicant, accompanied by the recommendations of the eligible applicant concerning the relative priority attached to each project.

"(2) The functions of a program agent shall be as set forth in section 606(b)(2) of this Act.

"(b) The proposed agreement submitted by any eligible applicant shall—

"(1) describe the method of recruiting eligible youths, including a description of how such recruitment will be coordinated with plans under other provisions of this Act, including arrangements required by section 105 of this Act, and also including a description of arrangements with school systems, the public employment service (including school cooperative programs), and the courts of jurisdiction for status and youthful offenders;

"(2) provide a description of job training and skill development opportunities that will be made available to participating eligible youths, as well as a description of plans to coordinate the training and work experience with school-related programs, including the awarding of academic credit; and

"(3) set forth such other assurances as the Secretary may require to carry out the purposes of this subpart.

"(c)(1) In order for a project application submitted by a project applicant to be submitted to the Secretary by any eligible applicant, copies of such application shall have been submitted at the time of such application to the prime sponsor's planning council established under section 109 of this Act (or an appropriate planning organization in the case of sponsors of Native American programs under section 302 of this Act or migrant and seasonal farmworker programs under section 303 of this Act) for the purpose of affording such council and the youth council established under section 436 an opportunity to submit comments and recommendations with respect to that application to the eligible applicant. No member of any council (or organization) shall cast a vote on any matter in connection with a project in which that member, or any organization with which that member is associated, has a direct interest.

"(2) Consistent with procedures established by the eligible applicant in accordance with regulations which the Secretary shall prescribe, the eligible applicant shall not disapprove a project application submitted by a project applicant unless it has first considered any comments and recommendations made by the appropriate council (or organization) and unless it has provided such applicant and council (or organization) with a written statement of its reasons for such disapproval.

"APPROVAL OF AGREEMENTS

"SEC. 427. (a) The Secretary may approve or deny on an individual basis any of the project applications submitted with any proposed agreement.

"(b) No funds shall be made available to any eligible applicant except pursuant to an agreement entered into between the Secretary and the eligible applicant which provides assurances satisfactory to the Secretary that—

"(1) the standards set forth in subpart 4 of this part will be satisfied;

"(2) projects will be conducted in such manner as to permit eligible youths employed in the project who are in school to coordinate their jobs with classroom instruction and, to the extent feasible, to permit such eligible youths to receive credit from the appropriate educational agency, postsecondary institution, or particular school involved; and

"(3) meet such other assurances, arrangements, and conditions as the Secretary deems appropriate to carry out the purposes of this subpart.

"WORK LIMITATION

"SEC. 428. No eligible youth shall be employed for more than twelve months in work financed under this subpart, except as prescribed by the Secretary.

"Subpart 3—Youth Employment and Training Programs

"STATEMENT OF PURPOSE

"SEC. 431. It is the purpose of this subpart to establish programs designed to make a significant long-term impact on the structural unemployment problems of youth, supplementary to but not replacing programs and activities available under title II of this Act, to enhance the job prospects and career opportunities of young persons, including employment, community service opportunities, and such training and supportive services as are necessary to enable participants to secure suitable and appropriate unsubsidized employment in the public and private sectors of the economy. To the maximum extent feasible, training and employment opportunities afforded under this subpart will be interrelated and mutually reinforcing so as to achieve the goal of enhancing the job prospects and career opportunities of youths served under this subpart.

"PROGRAMS AUTHORIZED

"SEC. 432. (a) The Secretary is authorized to provide financial assistance to enable eligible applicants to provide employment opportunities and appropriate training and supportive services for eligible participants including but not limited to—

"(1) useful work experience opportunities in a wide range of community betterment activities such as rehabilitation of public properties, assistance in the weatherization of homes occupied by low-income families, demonstrations of energy-conserving measures including solar energy techniques (especially those utilizing materials and supplies available without cost), park establishment and upgrading, neighborhood revitalization, conservation and improvements, and related activities;

"(2) productive employment and work experience in fields such as education, health care, neighborhood transportation services, crime prevention and control, environmental quality control (including integrated pest management activities), preservation of historic sites, and maintenance of visitor facilities;

"(3) appropriate training and services to support the purpose of this subpart, including but not limited to—

"(A) outreach, assessment, and orientation;

"(B) counseling, including occupational information and career counseling;

"(C) activities promoting education to work transition;

"(D) development of information concerning the labor market, and provision of occupational, educational, and training information;

"(E) services to youth to help them obtain and retain employment;

"(F) literacy training and bilingual training;

"(G) attainment of certificates of high school equivalency;

"(H) job sampling, including vocational exploration in the public and private sector;

"(I) institutional and on-the-job training, including development of basic skills and job skills;

"(J) transportation assistance;

"(K) child care and other necessary supportive services;

"(L) job restructuring to make jobs more responsive to the objectives of this subpart, including assistance to employers in developing job ladders or new job opportunities for youths, in order to improve work relationships between employers and youths;

"(M) community-based central intake and information services for youth;

"(N) job development, direct placement, and placement assistance to secure unsubsidized employment opportunities for youth to the maximum extent feasible, and referral to employability development programs;

"(O) programs to overcome sex-sterotyping in job development and placement; and

"(P) programs and outreach mechanisms to increase the labor force participation rate among minorities and women.

"(b) In order to carry out this subpart, a Governor or a prime sponsor may enter into contracts with project applicants (as defined in section 125(18)) or employers organized for profit, but payments to such employers shall not exceed the amounts permitted under section 121(j), or may operate programs directly if, after consultation with community-based organizations and nonprofit groups, a Governor or prime sponsor determines that such direct operation will promote the purposes of this subpart.

"ALLOCATION OF FUNDS

"SEC. 433. (a) From the sums available for this subpart—

"(1) an amount equal to 75 per centum of such funds shall be made available to prime sponsors for programs authorized under section 432 of this Act;

"(2) an amount equal to 5 per centum of the amount available for this subpart shall be made available to Governors for special statewide youth services under subsection (c) of this section;

"(3) an amount equal to not less than 2 per centum of the amount available for this subpart shall be made available for employment and training programs for Native American eligible youths (deducting such amounts as are made available for such purposes under section 423(b) of this Act);

"(4) an amount equal to not less than 2 per centum of the amount available for this subpart shall be made available for employment and training programs for eligible youths in migrant and seasonal farmworker families (deducting such amounts as are made available for such purposes under section 423(b) of this Act); and

"(5) the remainder of the funds available for this subpart shall be available for the Secretary's discretionary projects authorized under section 436.

"(b)(1) Amounts available for each of the purposes set forth in paragraphs (1) and (2) of subsection (a) shall be allocated among the States in such a manner that—

"(A) 37.5 per centum thereof shall be allocated in accordance with the relative number of unemployed persons within each State as compared to the total number of such unemployed persons in all States;

"(B) 37.5 per centum thereof shall be allocated in accordance with the relative number of unemployed persons residing in areas of substantial unemployment (as defined in section 125(2)(A) of this Act) within each State as compared to the total number of unemployed persons residing in all such areas in all States; and

"(C) 25 per centum thereof shall be allocated in accordance with the relative number of persons in families with an annual income below the low-income level (as defined in section 125(15) of this Act) within each State as compared to the total number of such persons in all States.

"(2) In determining allocations under this subsection the Secretary shall use what the Secretary determines to be the best available data.

"(3) Amounts available to prime sponsors under paragraph (1) of subsection (a) of this section shall, out of the total amounts allocated to each State under such paragraph, be allocated by the Secretary among prime sponsors within each State, in accordance with the factors set forth in paragraph (1) of this subsection.

"(c) The amount available to the Governor of each State under paragraph (2) of subsection (a) of this section shall be used in accordance with a special statewide youth services plan, approved by the Secretary, for such purposes as—

"(1) providing financial assistance for employment and training opportunities for eligible youths who are under the supervision of the State;

"(2) providing labor market and occupational information to prime sponsors and local educational agencies, without reimbursement;

"(3) providing for the establishment of cooperative efforts between State and local institutions, including occupational and career guidance and counseling and placement services for in-school and out-of-school youth;

"(4) providing financial assistance for expanded and experimental programs in apprenticeship trades, or development of new apprenticeship arrangements, in concert with appropriate businesses and labor unions or State apprenticeship councils;

"(5) carrying out special model employment and training programs and related services between appropriate State agencies and prime sponsors in the State, or any combination of such prime sponsors, including subcontractors selected by prime sponsors, with particular emphasis on experimental job training within the private sector.

"(d)(1) Not less than 22 per centum of the amount allocated to each prime sponsor under paragraph (1) of subsection (a) of this section shall be used for programs under this subsection.

"(2) The amount available to each prime sponsor under paragraph (1) of this subsection shall be used for programs for in-school youth carried out pursuant to agreements between prime sponsors and local educational agencies. Each such agreement shall describe in detail the employment opportunities and appropriate training and supportive services which shall be provided to eligible participants who are enrolled or who agree to enroll in a fulltime program leading to a secondary school diploma, a junior or community college degree, or a technical or trade school certificate of completion. Each such agreement shall contain provisions to assure that funds received pursuant to the agreement will not supplant State and local funds expended for the same purpose.

"(e) Programs receiving assistance under paragraph (1) of subsection (a) of this section shall give special consideration in carrying out programs authorized under section 432 of this Act, to community-based organizations which have demonstrated effectiveness in the delivery of employment and training services, such as the Opportunities Industrialization Centers, the National Urban League, SER-Jobs for Progress, United Way of America, Mainstream, the National Puerto Rican Forum, neighborhood organizations, community action agencies, union-related organizations, employer-related nonprofit organizations, and other similar organizations.

"ELIGIBLE APPLICANTS

"SEC. 434. Eligible applicants for purposes of this subpart, except section 438, are prime sponsors qualified under section 101 of this Act, sponsors of Native American programs qualified under section 302(c)(1) of this Act, and sponsors of migrant and seasonal farmworker programs qualified under section 303 of this Act.

"ELIGIBLE PARTICIPANTS

"SEC. 435. (a) Eligible participants for programs authorized under this subpart shall be persons who—

"(1)(A) are unemployed or are underemployed or are in school and are ages sixteen to twenty-one, inclusive; or (B) if authorized under such regulations as the Secretary may prescribe, are in school and are ages fourteen to fifteen, inclusive; and

"(2) are not members of households which have current gross family income, adjusted to an annualized basis (exclusive of unemployment compensation and all Federal, State, and local income-tested or needs-tested public payments) at a rate exceeding 85 per centum of the lower living standard income level, except that, pursuant to regulations which the Secretary shall prescribe, persons who do not meet the requirements of this subparagraph but who are otherwise eligible under this subpart may participate in appropriate activities of the type authorized under paragraph (3) of section 432(a).

Notwithstanding the provisions of this subsection, 10 per centum of the funds available for this subpart may be used for programs which include youths of all economic backgrounds to test the desirability of including youths of all economic backgrounds.

"(b) For purposes of this section, the term 'lower living standards income level' means that income level (adjusted for regional and metropolitan and urban and rural differences and family size) determined annually by the Secretary based upon the most recent 'lower living standard budget' issued by the Bureau of Labor Statistics of the Department of Labor.

"CONDITIONS FOR RECEIPT OF FINANCIAL ASSISTANCE

"SEC. 436. (a) The Secretary shall not provide financial assistance to an eligible applicant for programs authorized under section 432 unless such eligible applicant provides assurances that the standards set forth in subpart 4 of this part will be met and unless such eligible applicant submits an application in such detail as the Secretary may prescribe. Each such application shall—

"(1) describe the program, projects or activities to be carried out with such assistance, together with a description of the relationship and coordination of services provided to eligible participants under this subpart for similar services offered by local educational agencies, postsecondary institutions, the public employment service, other youth programs, community-based organizations, businesses and labor organizations consistent with the requirements of sections 121 and 203 of this Act, and assurances that, to the maximum extent feasible, use will be made of any services that are available without reimbursement by the State employment service that will contribute to the achievement of the purposes of this subpart;

"(2) include assurances that the application will be coordinated to the maximum extent feasible, with the plans submitted under title II, but services to youth under that title shall not be reduced because of the availability of financial assistance under this subpart;

"(3) provide assurances, satisfactory to the Secretary, that in the implementation of programs under this subpart, there will be coordination, to the extent appropriate, with local educational agencies, postsecondary institutions, community-based organizations, businesses, labor organizations, job training programs, other youth programs, the apprenticeship system, and (with respect to the referral of prospective youth participants to the program) the public employment service system;

"(4) provide assurances satisfactory to the Secretary that allowances will be paid in accordance with the provisions of section 123 of this Act and such regulations as the Secretary may prescribe for this subpart;

"(5) provide assurances that the application will be reviewed by the appropriate prime sponsor planning council in accordance with the provisions of section 109;

"(6) provide assurances that a youth council will be established under the planning council of such eligible applicant (established under section 109 of this Act) in accordance with subsection (b) of this section;

"(7) provide assurances satisfactory to the Secretary that effective means will be provided through which youths participating in the projects, programs, and activities may acquire appropriate job skills and be given necessary basic education and training and that suitable arrangements will be established to document the competencies, including skills, education and training, derived by each participant from programs established under this subpart;

"(8) provide assurances that the eligible applicant will take appropriate steps to develop new job classifications, new occupations, and restructured jobs;

"(9) provide that the funds available under section 433(d) shall be used for programs authorized under section 432 for in-school youth who are eligible participants through arrangements to be carried out by a local educational agency or agencies or post-secondary educational institution or institutions; and

"(10) provide such other information and assurance as the Secretary may deem appropriate to carry out the purposes of this subpart.

"(b) Each youth council established by an eligible applicant shall be responsible for making recommendations to the planning council established under section 109 of this Act with respect to planning and review of activities conducted under this subpart and subpart 2. Each such youth council's membership shall include representation from the local educational agency, local vocational education advisory council, post-secondary educational institutions, business, unions, the public employment service, local government and nongovernment agencies and organizations which are involved in meeting the special needs of youths, the community served by such applicant, the prime sponsor, and youths themselves.

"(c) No program of work experience for in-school youth supported under this subpart shall be entered into unless an agreement has been made between the prime sponsor and a local educational agency or agencies, after review by the youth council established under subsection (b) of this section. Each such agreement shall—

"(1) set forth assurances that participating youths will be provided meaningful work experience, which will improve their ability to make career decisions and which will provide them with basic work skills needed for regular employment or self-employment not subsidized under this in-school program;

"(2) be administered, under agreements with the prime sponsor, by a local educational agency or agencies or a postsecondary educational institution or institutions within the area served by the prime sponsor, and set forth assurances that such contracts have been reviewed by the youth council established under subsection (b) of this section;

"(3) set forth assurances that job information, counseling, guidance, and placement services will be made available to participating youths and that funds provided under this program will be available to, and utilized by, the local educational agency or agencies to the extent necessary to pay the cost of school-based counselors to carry out the provisions of this in-school program;

"(4) set forth assurances that jobs provided under this program will be certified by the participating educational agency or institution as relevant to the educational and career goals of the participating youths;

"(5) set forth assurances that the eligible applicant will advise participating youths of the availability of other employment and training resources provided under this Act, and other resources available in the local community to assist such youths in obtaining employment or self-employment;

"(6) set forth assurances that youth participants will be chosen from among youths who are eligible participants who need work to remain in school, and shall be selected by the appropriate educational agency or institution, based on the certification for each participating youth by the school-based guidance counselor that the work experience provided is an appropriate component of the overall educational program of each youth.

"REVIEW OF PLANS BY SECRETARY

"SEC. 437. The provisions of sections 102, 104, and 107 of this Act shall apply to all programs and activities authorized under 432.

"SECRETARY'S DISCRETIONARY PROJECTS

"SEC. 438. (a)(1) The Secretary of Labor is authorized, either directly or by way of contract or other arrangement, with prime sponsors, public agencies and private organizations to carry out innovative and experimental programs to test new approaches for dealing with the unemployment problems of youth and to enable eligible participants to prepare for, enhance their prospects for, or secure employment in occupations through which they may reasonably be expected to advance to productive working lives. Such programs shall include, where appropriate, cooperative arrangements with educational agencies to provide special programs and services for eligible participants enrolled in secondary schools, postsecondary educational institutions and technical and trade schools, including job experience, counseling and guidance prior to the completion of secondary or postsecondary education and making available occupational, educational, and training information through statewide career information systems. When funds are provided for the development or implementation of statewide career information systems, the occupational data contained within such systems shall be subject to the approval of the appropriate State occupational information coordinating committee established pursuant to section 161(b)(2) of the Vocational Education Act of 1963.

"(2) In carrying out or supporting such programs, the Secretary of Labor shall consult, as appropriate, with the Secretary of Commerce, the Secretary of Health, Education, and Welfare, the Secretary of Housing and Urban Development, the Secretary of Agriculture, the Director of the ACTION Agency, and the Director of the Community Services Administration.

"(3) Funds available under this section may be transferred to other Federal departments and agencies to carry out functions delegated to them pursuant to agreements with the Secretary.

"(b) The Secretary and prime sponsors, as the case may be, shall give special consideration in carrying out innovative and experimental programs assisted under this section to community-based organizations which have demonstrated effectiveness in the delivery of employment and training services, such as the Opportunities Industrialization Centers, the National Urban League, SER-Jobs for Progress, United Way of America, Mainstream, the National Puerto Rican Forum, neighborhood organizations, community action agencies, union-related organizations, employer-related nonprofit organizations, and other similar organizations.

"Subpart 4—General Provisions

"DISTRIBUTION OF FUNDS

"SEC. 441. Of the sums available for carrying out the provisions of this part—

"(1) 15 per centum shall be available for subpart 1;

"(2) 15 per centum shall be available for subpart 2; and

"(3) 70 per centum shall be available for subpart 3.

"WAGE PROVISIONS

"SEC. 442. Rates of pay under this part shall be no less than the higher of—

"(1) the minimum wage under section 6(a)(1) of the Fair Labor Standards Act of 1938, but in the case of an individual who is fourteen or fifteen years old, the wage provided in accordance with the provisions of subsection (b) of section 14 of the Fair Labor Standards Act of 1938;

"(2) the State or local minimum wage for the most nearly comparable employment, but in the case of an individual who is fourteen or fifteen years old the wage provided in accordance with the applicable provisions of the applicable State or local minimum wage law; or

"(3) the prevailing rates of pay, if any, for occupations and job classifications of individuals employed by the same employer, except that—

"(A) whenever the prime sponsor has entered into an agreement with the employer and the labor organization representing employees engaged in similar work in the same area to pay less than the rates provided in this paragraph, youths may be paid the rates specified in such agreement;

"(B) whenever an existing job is reclassified or restructured, youths employed in such jobs shall be paid at rates not less than are provided under paragraph (1) or (2) of this section, but if a labor organization represents employees engaged in similar work in the same area, such youths shall be paid at rates specified in an agreement entered into by the appropriate prime sponsor, the employer, and the labor organization with respect to such reclassified or restructured jobs, and if no agreement is reached within thirty days after the initiation of the agreement procedure referred to in this subparagraph, the labor organization, prime sponsor, or employer may petition the Secretary of Labor who shall establish appropriate wages for the reclassified or restructured positions, taking into account wages paid by the same employer to persons engaged in similar work;

"(C) whenever a new or different job classification or occupation is established and there is no dispute with respect to such new or different job classification or occupation, youths to be employed in such jobs shall be paid at rates not less than are provided in paragraph (1) or (2) of this section, but if there is a dispute with respect to such new or different job classification or occupation, the Secretary of Labor shall, within thirty days after receipt of the notice of protest by the labor organization representing employees engaged in similar work in the same area, make a determination whether such job is a new or different job classification or occupation; and

"(D) in the case of projects to which the provision of the Davis-Bacon Act (or any Federal law containing labor standards in accordance with the Davis-Bacon Act) otherwise apply, the Secretary is authorized, for projects financed under subparts 2 and 3 of this part under $5,000, to prescribe rates of pay for youth participants which are not less than the applicable minimum wage but not more than the wage rate of the entering apprentice in the most nearly comparable apprenticeable trade, and to prescribe the appropriate ratio of journeymen to such participating youths.

"SPECIAL CONDITIONS

"SEC. 443. (a) The Secretary shall provide financial assistance under this part only if he determines that the activities to be assisted meet the requirements of this section.

"(b) The Secretary shall determine that the activities assisted under this part—

"(1) will result in an increase in employment opportunities over those opportunities which would otherwise be available;

"(2) will not result in the displacement of currently employed workers (including partial displacement such as reduction in the hours of nonovertime work or wages or employment benefits);

"(3) will not impair existing contracts for services or result in the substitution of Federal for other funds in connection with work that would otherwise be performed;

"(4) will not substitute jobs assisted under this part for existing federally assisted jobs;

"(5) will not employ any youth when any other person is on layoff by the employer from the same or any substantially equivalent job in the same area; and

"(6) will not be used to employ any person to fill a job opening created by the act of an employer in laying off or terminating employment of any regular employee, or otherwise reducing the regular work force not supported under this part, in anticipation of filing the vacancy so created by hiring a youth to be supported under this part.

"(c) The jobs in each promotional line will in no way infringe upon the promotional opportunities which would otherwise be available to persons currently employed in public services not subsidized under this Act and no job will be filled in other than an entry level position in each promotional line until applicable personnel procedures and collective-bargaining agreements have been complied with.

"(d) Where a labor organization represents employees who are engaged in similar work in the same area to that proposed to be performed under the program for which an application is being developed for submission under this part, such organization shall be notified and shall be afforded a reasonable period of time prior to the submission of the application in which to make comments to the applicant and to the Secretary.

"(e) Activities funded under this part shall meet such other standards as the Secretary may deem appropriate to carry out the purposes of this Act.

"(f) Funds under this part shall not be used to provide full-time employment opportunities (1) for any person who has not attained the age with respect to which the requirement of compulsory education ceases to apply under the laws of the State in which such individual resides, except (A) during periods when school is not in session, and (B) where employment is undertaken in cooperation with school-related programs awarding academic credit for the work experience, or (2) for any person who has not attained a high school degree or its equivalent if it is determined, in accordance with procedures established by the Secretary of Labor, that there is substantial evidence that such person left school in order to participate in any program under this part.

"SPECIAL PROVISIONS FOR SUBPARTS 2 AND 3

"SEC. 444. (a) Appropriate efforts shall be made to insure that youths participating in programs, projects, and activities under subparts 2 and 3 of this part shall be youths who are experiencing severe handicaps in obtaining employment, including but not limited to those who lack credentials (such as a high school diploma), those who require substantial basic and remedial skill development, those who are women and minorities, those who are veterans of military service, those who are offenders, those who are handicapped, those with dependents, or those who have otherwise demonstrated special need, as determined by the Secretary.

"(b) The Secretary is authorized to make such reallocation as the Secretary deems appropriate of any amount of any allocation under subparts 2 and 3 of this part to the extent that the Secretary determines that an eligible applicant will not be able to use such amount within a reasonable period of time. Any such amount may be reallocated only if the Secretary has provided thirty days' advance notice of the proposed reallocation to the eligible applicant and to the Governor of the State of the proposed reallocation, during which period of time the eligible applicant and the Governor may submit comments to the Secretary. After considering any comments submitted during such period of time, the Secretary shall notify the Government and affected eligible applicants of any decision to reallocate funds, and shall publish any such decision in the Federal Register. Priority shall be given in reallocating such funds to other areas within the same State.

"(c) The provisions of section 121(g)(1)(D) of this Act shall apply to subparts 2 and 3 of this part.

"ACADEMIC CREDIT, EDUCATION CREDIT, COUNSELING AND PLACEMENT SERVICES, AND BASIC SKILLS DEVELOPMENT

"SEC. 445. (a) In carrying out this part, appropriate efforts shall be made to encourage the granting by the educational agency or school involved of academic credit to eligible participants who are in school.

"(b) The Secretary, in carrying out the purposes of this part, shall work with the Department of Health, Education, and Welfare to make suitable arrangements with appropriate State and local education officials whereby academic credit may be awarded, consistent with applicable State law, by educational institutions and agencies for competencies derived from work experience obtained through programs established under this title.

"(c) All activities assisted under this part, pursuant to such regulations as the Secretary shall prescribe, shall provide appropriate counseling and placement services designed to facilitate the transition of youth from participation in the project to (1) permanent jobs in the public or private sector, or (2) education or training programs.

"DISREGARDING EARNINGS

"SEC. 446. Earnings received by any youth under this part shall be disregarded in determining the eligibility of the youth's family for, and the amount of, any benefits based on need under any Federal or federally assisted programs.

"RELATION TO OTHER PROVISIONS

"SEC. 447. The provisions of title I of this Act shall apply to this part, except to the extent that any such provision may be inconsistent with the provisions of this part.

"PART B—JOB CORPS

"STATEMENT OF PURPOSE

"SEC. 450. This part establishes a Job Corps for economically disadvantaged young men and women, sets forth standards and procedures for selecting individuals as enrollees in the Job Corps, authorizes the establishment of residential and nonresidential centers in which enrollees will participate in intensive programs of education, vocational training, work experience, counseling and other activities, and prescribes various other powers, duties, and responsibilities incident to the operation and continuing development of the Job Corps. The purpose of this part is to assist young persons who need and can benefit from an unusually intensive program, operated in a group setting, to become more responsible, employable, and productive citizens; and to do so in a way that contributes, where feasible, to the development of National, State, and community resources, and to the development and dissemination of techniques for working with the disadvantaged that can be widely utilized by public and private institutions and agencies.

"ESTABLISHMENT OF THE JOB CORPS

"SEC. 451. There is established within the Department of Labor a 'Job Corps'.

"INDIVIDUALS ELIGIBLE FOR THE JOB CORPS

"SEC. 452. To become an enrollee in the Job Corps, a young man or women must be an eligible youth who—

"(1) requires additional education, training, or intensive counseling and related assistance in order to secure and hold meaningful employment, participate successfully in regular school work, qualify for other suitable training programs, or satisfy Armed Forces requirements;

"(2) is currently living in an environment so characterized by cultural deprivation, a disruptive homelife, or other disorienting conditions as to substantially impair prospects for successful participation in other programs providing needed training, education, or assistance;

"(3) is determined, after careful screening as provided for in sections 453 and 454 to have the present capabilities and aspirations needed to complete and secure the full benefit of the Job Corps and to be free of medical and behavioral problems so serious that the individual could not adjust to the standards of conduct, discipline, work, and training which the Job Corps involves; and

"(4) meets such other standards for enrollment as the Secretary may prescribe and agrees to comply with all applicable Job Corps rules and regulations.

"SCREENING AND SELECTION OF APPLICANTS—GENERAL PROVISIONS

"SEC. 453. (a) The Secretary shall prescribe specific standards and procedures for the screening and selection of applicants for the Job Corps. To the extent practicable, these rules shall be implemented through arrangements with agencies and organizations such as community action agencies, public employment offices, professional groups, labor organizations, and agencies and individuals having contact with youths over substantial periods of time and able to offer reliable information as to their needs and problems; and shall provide for necessary consultation with other individuals and organizations, including court, probation, parole, law enforcement, education, welfare, and medical authorities and advisers. The rules shall also provide for the interviewing of each applicant for the purpose of—

"(1) determining whether the applicant's educational and vocational needs can best be met through the Job Corps or an alternative program in the applicant's home community;

"(2) obtaining from the applicant pertinent data relating to background, needs, and interests for determining eligibility and potential assignment; and

"(3) giving the applicant a full understanding of the Job Corps and what will be expected of an enrollee in the event of acceptance.

"(b) The Secretary shall make no payments to any individual or organization solely as compensation for referring the names of candidates for Job Corps.

"(c) The Secretary shall assure that Job Corps enrollees include an appropriate number of candidates selected from rural areas taking into account the proportions of eligible youth who reside in rural areas and the need to provide residential facilities for such youth.

"SCREENING AND SELECTION—SPECIAL LIMITATIONS

"SEC. 454. (a) No individual shall be selected as an enrollee unless there is reasonable expectation that the individual can participate successfully in group situations and activities, is not likely to engage in behavior that would prevent other enrollees from receiving the benefit of the program or be incompatible with the maintenance of sound discipline and satisfactory relationships between the center to which the individual might be assigned and surrounding communities, and unless the individual manifests a basic understanding of both the rules to which the individual will be subject and of the consequences of failure to observe those rules.

"(b) No individual shall be denied a position in the Job Corps solely on the basis of that individual's contact with the criminal justice system.

"ENROLLMENT AND ASSIGNMENT

"SEC. 455. (a) No individual may be enrolled in the Job Corps for more than two years, except as the Secretary may authorize in special cases.

"(b) Enrollment in the Job Corps shall not relieve any individual of obligations under the Military Selective Service Act (50 U.S.C. App. 451 et seq.).

"(c) After the Secretary has determined whether an enrollee is to be assigned to a Job Corps Center or a Job Corps Civilian Conservation Center, the enrollee shall be assigned to the center of the appropriate type which is closest to the enrollee's home, ex-

cept that the Secretary may waive this requirement for good cause, including to insure an equitable opportunity for youth from various sections of the country to participate in the program, to prevent undue delays in assignment, to adequately meet the educational or other needs of an enrollee, and for efficiency and economy in the operating of the program.

"JOB CORPS CENTERS

"SEC. 456. (a) The Secretary may make agreements with Federal, State, or local agencies, including a State board or agency designated pursuant to section 104(a)(1) of the Vocational Education Act of 1963 which operates or wishes to develop area vocational education school facilities or residential vocational schools (or both) as authorized by such Act, or private organizations for the establishment and operation of Job Corps centers. Job Corps centers may be residential or nonresidential in character, or both, and shall be designed and operated so as to provide enrollees, in a well-supervised setting, with education, vocational training, work experience (either in direct program activities or through arrangements with employers), counseling, and other services appropriate to their needs. The centers shall include Civilian Conservation Centers, located primarily in rural areas, which shall provide, in addition to other training and assistance, programs of work experience to conserve, develop, or manage public natural resources or public recreational areas or to develop community projects in the public interest. The centers shall also include training centers located in either urban or rural areas which shall provide activities including training and other services for specific types of skilled or semi-skilled employment

"(b) To the extent feasible, Job Corps centers shall offer education and vocational training opportunities, together with supportive services, on a nonresidential basis to participants in other programs under this Act. Such opportunities may be offered on a reimbursable basis or through such other arrangements as the Secretary may specify.

"PROGRAM ACTIVITIES

"SEC. 457. (a) Each Job Corps center shall provide enrollees with an intensive, well-organized and fully supervised program of education, vocational training, work experience, planned vocational and recreational activities, physical rehabilitation and development, and counseling. To the fullest extent feasible, the required program shall include activities to assist enrollees in choosing realistic career goals, coping with problems they may encounter in home communities, or in adjusting to new communities, and planning and managing daily affairs in a manner that will best contribute to long-term upward mobility. Center programs shall include required participation in center maintenance work to assist enrollees in increasing their sense of contribution, responsibility and discipline.

"(b) The Secretary may arrange for enrollee education and vocational training through local public or private educational agencies, vocational educational institutions, or technical institutes, whenever such institutions provide training substantially equivalent in cost and quality to that which the Secretary could provide through other means.

"(c) To the extent feasible, arrangements for education both on and off center shall provide opportunities for qualified enrollees to obtain the equivalent of a certificate of graduation from high school. The Secretary, with the concurrence of the Secretary of Health, Education, and Welfare, shall develop certificates to be issued to each enrollee who satisfactorily completes his or her service in the Job Corps and which will reflect the enrollee's level of educational attainment.

"ALLOWANCES AND SUPPORT

"SEC. 458. (a) The Secretary may provide enrollees with such personal, travel, and leave allowances, and such quarters, subsistence, transportation, equipment, clothing, recreational services, and other expenses as he may deem necessary or appropriate to their needs. Personal allowances shall be established at a rate not to exceed $60 per month during the first six months of an enrollee's participation in the program and not to exceed $100 per month thereafter, except that allowances in excess of $60 per month, but not exceeding $100 per month, may be provided from the beginning of an enrollee's participation if it is expected to be of less than six months' duration and the Secretary is authorized to pay personal allowances in excess of the rates specified herein in unusual circumstances as determined by him. Such allowances shall be graduated up to the maximum so as to encourage continued participation in the program, achievement and the best use by the enrollee of the funds so provided and shall be subject to reduction in appropriate cases as a disciplinary measure. To the degree reasonable, enrollees shall be required to meet or contribute to costs associated with their individual comfort and enjoyment from their personal allowances.

"(b) The Secretary shall prescribe specific rules governing the accrual of leave by enrollees. Except in the case of emergency, he shall in no event assume transportation costs connected with leave of any enrollee who has not completed at least six-months' service in the Job Corps.

"(c) The Secretary may provide each former enrollee upon termination, a readjustment allowance at a rate not to exceed $100 for each month of satisfactory participation in the Job Corps. No enrollee shall be entitled to a readjustment allowance, however, unless he has remained in the program at least ninety days, except in unusual circumstances as determined by the Secretary. The Secretary may, from time to time, advance to or on behalf of an enrollee such portions of his readjustment allowances as the Secretary deems necessary to meet extraordinary financial obligations incurred by that enrollee; and he may also, pursuant to rules or regulations, reduce the amount of an enrollee's readjustment allowance as a penalty for misconduct during participation in the Job Corps. In the event of an enrollee's death during his period of service, the amount of any unpaid readjustment allowance shall be paid in accordance with the provisions of section 5582 of title 5, United States Code.

"(d) Under such circumstances as the Secretary may determine, a portion of the readjustment allowance of an enrollee not exceeding $50 for each month of satisfactory service may be paid during the period of service of the enrollee directly to a spouse or child of an enrollee or to any other relative who draws substantial support from the enrollee, and any sum so paid shall be supplemented by the payment of an equal amount by the Secretary.

"STANDARDS OF CONDUCT

"SEC. 459. (a) Within Job Corps centers standards of conduct shall be provided and stringently enforced. If violations are committed by enrollees, dismissal from the Corps or transfers to other locations shall be made if it is determined that retention in the Corps, or in the particular center, will jeopardize the enforcement of such standards or diminish the opportunities of other enrollees.

"(b) To promote the proper moral and disciplinary conditions in the Job Corps, the directors of Job Corps centers shall take appropriate disciplinary measures against enrollees including, but not limited to, dismissal from the Job Corps, subject to expeditious appeal to the Secretary.

"COMMUNITY PARTICIPATION

"SEC. 460. The Secretary shall encourage and cooperate in activities to establish a mutually beneficial relationship between Job Corps centers and nearby communities. These activities shall include the establishment of community advisory councils to provide a mechanism for joint discussion of common problems and for planning programs of mutual interest. Youth participation in advisory council affairs shall be encouraged and separate youth councils may be established composed of enrollees and young people from the communities. The Secretary shall assure that each center is operated with a view to achieving, so far as possible, objectives which shall include—

"(1) giving community officials appropriate advance notice of changes in center rules, procedures, or activities that may affect or be of interest to the community;

"(2) affording the community a meaningful voice in center affairs of direct concern to it, including policies governing the issuance and terms of passes to enrollees;

"(3) providing center officials with full and rapid access to relevant community groups and agencies, including law enforcement agencies and agencies which work with young people in the community;

"(4) encouraging the fullest practicable participation of enrollees in programs for community improvement or betterment, with appropriate advance consultation with business, labor, professional, and other interested community groups;

"(5) arranging recreational, athletic, or similar events in which enrollees and local residents may participate together;

"(6) providing community residents with opportunities to work with enrollees directly as part-time instructors, tutors, or advisers, either in the center or in the community;

"(7) developing, where feasible, job or career opportunities for enrollees in the community; and

"(8) promoting interchanges of information and techniques among, and cooperative projects involving, the center and community schools, educational institutions, agencies serving young people and recipients of funds under this Act.

"COUNSELING AND JOB PLACEMENT

"SEC. 461. (a) The Secretary shall counsel and test each enrollee at regular intervals to measure progress in educational and vocational programs.

"(b) The Secretary shall counsel and test enrollees prior to their scheduled terminations to determine their capabilities and shall make every effort to place them in jobs in the vocation for which they are trained or to assist them in attaining further training or education. In placing enrollees in jobs, the Secretary shall utilize the public employment service system to the fullest extent possible.

"(c) The Secretary shall determine the status and progress of terminees and make every effort to assure that their needs for further education, training, and counseling are met.

"(d) The Secretary shall arrange for the readjustment allowance to be paid to former enrollees (who have not already found employment) at the State employment service office nearest the home of any such former enrollee who is returning home, or at the nearest such office where the former enrollee has indicated an intent to reside. If the Secretary uses any other public agency or private organization in lieu of the public employment service system, the Secretary shall arrange for that organization or agency to pay the readjustment allowance.

"EXPERIMENTAL AND DEVELOPMENTAL PROJECTS

"SEC. 462. (a) The Secretary may undertake experimental, research, or demonstration projects to develop or test ways of better using facilities, encouraging a more rapid adjustment of enrollees to community life that will permit a reduction in their period of enrollment, reducing transportation and support costs, or otherwise promoting greater efficiency and effectiveness in the program. These projects shall include one or more projects providing youths with education, training, and other supportive services on a combined residential and nonresidential basis. The Secretary may undertake one or more pilot projects designed to involve youth who have a history of serious and violent behavior against persons or property, repetitive delinquent acts, narcotics addiction, or other behavorial aberrations. Projects under this subsection shall be developed after appropriate consultation with other Federal or State agencies conducting similar or related programs or projects and with the prime sponsors in the communities where the projects will be carried out. They may be undertaken jointly with other Federal or federally assisted programs, and funds otherwise available for activities under those programs shall, with the consent of the head of any agency concerned, be available for projects under this section to the extent they include the same or substantially similar activities. The Secretary may waive any provision of this part which the Secretary finds would prevent the carrying out of elements of projects under this subsection essential to a determination of their feasibility and usefulness. The Secretary shall, in the annual report of the Secretary, report to the Congress concerning the actions taken under this section, including a full description of progress made in connection with combined residential and nonresidential projects.

"(b) In order to determine whether upgraded vocational education schools could eliminate or substantially reduce the school dropout problem, and to demonstrate how communities could make maximum use of existing educational and training facilities, the Secretary, in cooperation with the Secretary of Health, Education, and Welfare, may enter into one or more agreements with State educational agencies to pay the cost of establishing and operating model community vocational education schools and skill centers.

"ADVISORY BOARDS AND COMMITTEES

"SEC. 463. The Secretary may make use of advisory committees in connection with the operation of the Job Corps, and the operation of Job Corps centers, whenever the Secretary determines that the availability of outside advice and counsel on a regular basis would be of substantial benefit in identifying and overcoming problems, in planning program or center development, or in strengthening relationships between the Job Corps and agencies, institutions, or groups engaged in related activities.

"PARTICIPATION OF THE STATES

"SEC. 464. (a) The Secretary shall take action to facilitate the effective participation of States in the Job Corps programs, including, but not limited to, consultation with appropriate State agencies on matters pertaining to the enforcement of applicable State laws, standards of enrollee conduct and discipline, the development of meaningful work experience and other activities for enrollees, and coordination with State-operated programs.

"(b) The Secretary may enter into agreements with States to assist in the operation or administration of State-operated programs which carry out the purpose of this part. The Secretary may, pursuant to regulations, pay part or all of the costs of such programs.

"(c) No Job Corps center or other similar facility designed to carry out the purpose of this part shall be established within a State unless a notice setting forth such proposed establishment has been submitted to the Governor, and the establishment has not been disapproved by the Governor within thirty days of such submission.

"(d) All property which would otherwise be under exclusive Federal legislative jurisdiction shall be under concurrent jurisdiction with the appropriate State and locality with respect to criminal law enforcement as long as a Job Corps center is operated on such property.

"APPLICATION OF PROVISIONS OF FEDERAL LAW

"SEC. 465. (a) Except as otherwise provided in this subsection and in section 8143(a) of title 5, United States Code, enrollees in the Job Corps shall not be considered Federal employees and shall not be subject to the provisions of law relating to Federal employment including those regarding hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits:

"(1) For purposes of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) and title II of the Social Security Act (42 U.S.C. 401 et seq.) enrollees shall be deemed employees of the United States and any service performed by an individual as an enrollee shall be deemed to be performed in the employ of the United States.

"(2) For purposes of subchapter I of chapter 81 of title 5 of the United States Code (relating to compensation to Federal employees for work injuries), enrollees shall be deemed civil employees of the United States within the meaning of the term 'employee' as defined in section 8101 of title 5, United States Code, and the provisions of that subchapter shall apply except as follows:

"(A) the term 'performance of duty' shall not include any act of an enrollee while absent from his or her assigned post of duty, except while participating in an activity (including an activity while on pass or during travel to or from such post or duty) authorized by or under the direction and supervision of the Job Corps;

"(B) in computing compensation benefits for disability or death, the monthly pay of an enrollee shall be deemed that received under the entrance salary for a grade GS-2 employee, and sections 8113 (a) and (b) of title 5, United States Code, shall apply to enrollee; and

"(C) compensation for disability shall not begin to accrue until the day following the date on which the injured enrollee is terminated.

"(3) For purposes of the Federal tort claims provisions in title 28, United States Code, enrollees shall be considered employees of the Government.

"(b) Whenever the Secretary finds a claim for damages to persons or property resulting from the operation of the Job Corps to be a proper charge against the United States, and it is not cognizable under section 2672 of title 28, United States Code, the Secretary may adjust and settle it in an amount not exceeding $1,500.

"(c) Personnel of the uniformed services who are detailed or assigned to duty in the performance of agreements made by the Secretary for the support of the Corps shall not be counted in computing strength under any law limiting the strength of such services or in computing the percentage authorized by law for any grade therein.

"SPECIAL PROVISIONS

"SEC. 466. (a) The Secretary shall immediately take steps to achieve an enrollment of 50 per centum women in the Job Corps consistent with (1) efficiency and economy in the operation of the program, (2) sound administrative practice, and (3) the socioeconomic, educational, and training needs of the population to be served.

"(b) The Secretary shall assure that all studies, evaluations, proposals, and data produced or developed with Federal funds in the course of the Job Corps program shall become the property of the United States.

"(c) Transactions conducted by private for-profit contractors for Job Corps centers which they are operating on behalf of the Secretary shall not be considered as generating gross receipts.

"GENERAL PROVISIONS

"SEC. 467. The Secretary is authorized to—

"(1) disseminate, with regard to the provisions of section 4154 of title 39, United States Code, data and information in such forms as the Secretary shall deem appropriate, to public agencies, private organizations, and the general public;

"(2) collect or compromise all obligations to or held by the Secretary and all legal or equitable rights accruing to the Secretary in connection with the payment of obligations until such time as such obligations may be referred to the Attorney General for suit or collection; and

"(3) expend funds made available for purposes of this part—

"(A) for printing and binding, in accordance with applicable law and regulation; and

"(B) without regard to any other law or regulation, for rent of buildings and space in buildings and for repair, alteration, and improvement of buildings and space in buildings rented by the Secretary; but the Secretary shall not utilize the authority contained in this subparagraph—

"(i) except when necessary to obtain an item, service, or facility, which is required in the proper administration of this part, and which otherwise could not be obtained, or could not be obtained in the quantity or quality needed, or at the time, in the form or under the conditions in which it is needed; and

"(ii) prior to having given written notification to the Administrator of General Services (if the exercise of such authority would affect an activity which otherwise would be under the jurisdiction of the General Services Administration) of the Secretary's intention to exercise such authority, the item, service, or facility with respect to which such authority is proposed to be exercised, and the reasons and justifications for the exercise of such authority.

"UTILIZATION OF FUNDS

"SEC. 468. Notwithstanding the limitations of title II and part C of this title, financial assistance under title II and part C of this title which is used for the Job Corps program, may be used in accordance with the provisions of this part.

"PART C—SUMMER YOUTH PROGRAM

"ESTABLISHMENT OF PROGRAM

"SEC. 480. (a) The Secretary shall provide financial assistance to prime sponsors to conduct programs for eligible youth during the summer months.

"(b) Programs shall provide eligible youth with useful work and sufficient basic education and institutional or on-the-job training to assist these youths to develop their maximum occupational potential and to obtain employment not subsidized under this Act.

"PRIME SPONSORS

"SEC. 481. Prime sponsors eligible for assistance under this part shall be prime sponsors designated under section 101(c) and Native American entities described in section 302(c)(1).

"FINANCIAL ASSISTANCE

"SEC. 482. (a) In order to receive financial assistance under this part, a prime sponsor shall submit to the Secretary an annual plan pursuant to section 103.

"(b) The funds appropriated for this part in any fiscal year shall be allocated according to the procedures set forth in subsection (c) except that the Secretary may reserve up to 5 percent of the appropriated funds to be used in the Secretary's discretion.

"(c)(1) In allocating funds under this part, the Secretary shall add to the new appropriation the total amount of summer funds unspent in the previous year's summer program.

"(2) Funds for prime sponsors designated under section 101(c) shall be allocated as follows:

"(A)(i) 50 percent of such funds shall be allocated on the basis of each prime sponsor's proportion of the funds allocated for the previous year's summer programs;

"(ii) 37½ per centum of the funds shall be allocated based on the ratio of the annual average number of unemployed persons in the prime sponsor's area to the total annual average number of unemployed persons in the United States;

"(iii) 12½ per centum of the funds shall be allocated based on the ratio of the number of adults in low-income families in the prime sponsor's area to the total number of adults in low income families in the United States; except that—

"(B) each prime sponsor shall receive an allocation which, when added to its unexpended allocation for the previous fiscal year, shall be at least equal to the amount available to it for its summer program in the previous fiscal year.

"(3) Funds for Native American entities described in section 302(c)(1) shall be allocated based on the ratio of the number of Native American youths 14 through 21 years of age inclusive in the eligible prime sponsor's area to the total number of Native American youth 14 through 21 years of age inclusive in all Native American entity areas, except that each Native American entity shall receive an amount of funds equal to the amount allocated to it in the previous fiscal year.

"(4) The total allocation to Guam, the Virgin Islands, American Samoa, Northern Marianas, and the Trust Territory of the Pacific Islands shall be equal to the same percentage of the funds allocated to Guam, the Virgin Islands, American Samoa, Northern Marianas, and the Trust Territory of the Pacific Islands under the previous year's summer program.

"SECRETARIAL AUTHORITY

"SEC. 483. Programs under this part shall meet such regulations, standards, and guidelines as the Secretary shall establish.

"TITLE V—NATIONAL COMMISSION FOR EMPLOYMENT AND TRAINING POLICY

"STATEMENT OF PURPOSE

"SEC. 501. The purpose of this title is to establish a National Commission for Employment and Training Policy which will have the responsibility for examining broad issues of development, coordination and administration of employment and training programs, and for advising the Secretary on national employment and training issues.

"COMMISSION ESTABLISHED

"SEC. 502. (a) There is established a National Commission for Employment and Training Policy (formerly known as the National Commission for Manpower Policy and hereinafter referred to as the 'Commission') which shall consist of twenty-seven members selected as follows—

"(1) The Secretary of Labor, the Secretary of Health, Education, and Welfare, the Secretary of Defense, the Secretary of Commerce, the Secretary of Agriculture, the Secretary of the Interior, the Secretary of Energy, the Secretary of Transportation, the Secretary of Housing and Urban Development, the Administrator of Veterans Affairs, the Chairman of the Equal Employment Opportunity Commission, and the Director of the Community Services Administration; and

"(2) A representative of the National Advisory Council on Vocational Education created pursuant to section 162 of the Vocational Education Act of 1963; and

"(3) Fourteen members broadly representative of labor, industry, commerce, education (including vocational and technical education), veterans, State and local elected officials (including two Governors, two county officials, and two city officials who are currently serving in a prime sponsor area), community-based organizations, persons served by employment and training programs and of the general public appointed by the President for terms of two years beginning at the start of a fiscal year, except that (A) appointments to fill the unexpired portion of any term shall be for such portion only and (B) the terms, for which the first members are appointed, shall begin October 1, 1978, of which seven terms shall be for one year, and seven for two years.

"(b) The Commission shall meet not fewer than three times a year at the call of the Chairperson who shall be selected by the President and who shall be one of the 14 appointed public members.

"(c) The Chairperson (with the concurrence of the Commission) shall appoint a Director, who shall be chief executive officer of the Commission and shall perform such duties as are prescribed by the Chairperson. The Director may appoint, with the concurrence of the Chairperson and the Secretary of Labor, such clerical staff as are necessary. The Commission may utilize such staff from the Department of Labor, the Department of Health, Education, and Welfare, and such other Federal agencies as may be available to assist the Commission in carrying out its responsibilities.

"(d) The Commission may accept in the name of the Department of Labor and employ or dispose of gifts or bequests, to carry out its responsibilities under this title.

"(e) Members of the Commission who are not officers or employees of the Federal Government shall be paid compensation at a rate of up to the per diem equivalent to the rate for GS-18 when engaged in the work of the Commission, including travel time, and shall be allowed travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently and receiving compensation on a per diem, when actually employed, basis.

"FUNCTIONS OF THE COMMISSION

"SEC. 503. The Commission shall—

"(1) identify the employment and training goals and needs of the Nation and assess the extent to which employment and training, vocational education, institutional training, vocational rehabilitation, economic opportunity, and other programs under this and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs and achieving such goals;

"(2) conduct such studies, hearings, research, or other activities as it deems necessary to enable it to formulate appropriate recommendations;

"(3) examine and evaluate the effectiveness of any federally assisted employment and training programs (including those assisted under this Act), with particular reference to the contributions of such programs to the achievement of objectives sought by the recommendations under clause (2) of this section;

"(4) examine and evaluate major Federal programs which are intended to (or potentially could) contribute to achieving major objectives of existing employment and training and related legislation or those set forth in the recommendations of the Commission and particularly the programs which are designed (or could be designed) to develop information and knowledge about employment and training problems through research and demonstration projects or to train personnel in fields (such as occupational counseling, guidance, and placement) which are vital to the success of employment and training programs;

"(5)(A) identify, after consultation with the National Advisory Council on Vocational Education, the employment and training and vocational education needs of the Nation and assess the extent to which employment training, vocational education, vocational rehabilitation, and other programs assisted under this and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs; and (B) comment, at least once annually, on the reports of the National Advisory Council on Vocational Education which comments shall be included in one of the reports submitted by the National Commission pursuant to this title and in one of the reports submitted by the National Advisory Council on Vocational Education pursuant to section 162 of the Vocational Education Act of 1963; and

"(6) evaluate and continue to study and make recommendations to the Congress on the impact of energy shortages and new energy developments upon employment and training needs and include these findings and recommendations with respect thereto in the reports required by section 504.

"REPORTS

"SEC. 504. The Commission shall make at least annually a support of its findings and recommendations to the President and the Congress. The Commission may make such interim reports or recommendations to the Congress, the President, Secretary of Labor, or to the heads of other Federal departments and agencies, and in such form, as it may deem desirable.

"TITLE VI—PUBLIC SERVICE EMPLOYMENT PROGRAM

"STATEMENT OF PURPOSE

"SEC. 601. It is the purpose of this title to provide for temporary employment in public service employment during periods of high unemployment. It is the intent of Congress that such employment be provided during periods when the national rate of unemployment is in excess of 4 per centum and that the number of jobs funded shall be sufficient to provide jobs for 20 per centum of the unemployed in excess of 4 per centum of the labor force.

"REPORT ON APPROPRIATIONS

"SEC. 602. (a) On or before March 1 of each year, the President shall report to the Congress the amount that would need to be appropriated for the following fiscal year in order to achieve the level of public service employment specified in section 601. Such report shall contain the President's estimate of the unemployment rate for the following fiscal year, the number of unemployed that he estimates in excess of 4 per centum of the labor force, and the average man-year cost of each public service employment opportunity.

"(b) The President shall submit supplemental reports every three months thereafter containing any necessary revisions in the report required under subsection (a) due to changes in his estimates of unemployment or the cost of providing public service jobs under this title.

"(c) The Secretary shall, as soon as practicable after submission of the report required under subsection (a), inform each prime sponsor of its estimated allocation on the basis of the appropriation proposed in such report. Each prime sponsor's annual plan for using funds provided under this title shall contain provisions for an orderly transition from the number of jobs funded for the current year to the number of jobs which would be funded under such proposed appropriation.

"FINANCIAL ASSISTANCE

"SEC. 603. (a) In order to be eligible to receive financial assistance under this title for any fiscal year, a prime sponsor shall submit to the Secretary an annual plan pursuant to section 103.

"(b) Not more than 15 per centum of the funds allocated in accordance with the provisions of this title may be used for administrative and other allowable costs (such as supplies, materials, and equipment) incurred by the prime sponsor, program agents, project applicants or subgrants or contractors, in accordance with such regulations as the Secretary may prescribe.

"(c) In filling teaching positions in elementary and secondary schools with financial assistance under this title, each prime sponsor shall give special consideration to unemployed persons with previous teaching experience who are certified by the State in which that prime sponsor is located and who are otherwise eligible under the provisions of this title.

"ALLOCATION OF FUNDS

"SEC. 604. (a)(1) The Secretary shall reserve an amount equal to not less than 2 per centum of the amounts made available pursuant to section 602 for any fiscal year to enable Native American entities which are eligible entities under section 606 (a)(2) to carry out public service employment programs. Such funds shall be allocated by the Secretary in accordance with paragraph (3).

"(2) Not less than 90 per centum of the amounts made available pursuant to section 602 for any fiscal year shall be allocated among eligible prime sponsors by the Secretary in accordance with the provisions of paragraph (3).

"(3)(A) Fifty per centum of the amount allocated under this subsection shall be allocated among eligible prime sponsors in proportion to the relative number of unemployed persons who reside within the jurisdiction of each such prime sponsor as compared to the number of unemployed persons who reside in all the States.

"(B) Twenty-five per centum of the amount allocated under this subsection shall be allocated among eligible prime sponsors in accordance with the number of unemployed persons residing in areas of substantial unemployment within the jurisdiction of the prime sponsor compared to the number of unemployed persons residing in all areas of substantial unemployment.

"(C) Twenty-five per centum of the amount allocated under this subsection shall be allocated among eligible prime sponsors on the basis of the relative excess number of unemployed persons who reside within the jurisdiction of the eligible prime sponsor as compared to the total excess number of unemployed persons who reside within the jurisdiction of all eligible prime sponsors. For purposes of this subparagraph, the term 'excess number' means (i) the number of unemployed persons, residing in the jurisdiction of the eligible prime sponsor, in excess of 4½ per centum of the labor force residing in such jurisdiction or (ii) in the case of an eligible prime sponsor which is a State, the greater of the number determined under clause (i) or the number of unemployed persons in excess of 4½ per centum of the labor force in areas of substantial unemployment located in the jurisdiction of such eligible prime sponsor.

"(b)(1) Eighty-five per centum of the remainder of the amount made available pursuant to section 602 shall be available to the Secretary for financial assistance to prime sponsors as the Secretary deems appropriate, taking into account changes in rates of unemployment.

"(2) Whenever the Secretary allocates such funds through a formula, the Secretary shall, not later than thirty days prior to such allocation, publish the formula in the Federal Register for comment along with the rationale for the formula, and the proposed amount to be distributed to each prime sponsor. After consideration of comments received under the preceding sentence, the Secretary shall publish final allocations.

"(c) Not more than 15 per centum of the remainder shall be allocated among the prime sponsors within the jurisdiction of those standard metropolitan statistical areas and central cities for which current population surveys were used to determine annual average rates for unemployment prior to, but not after, January 1, 1978, in proportion to the extent to which such prime sponsors allocations under subsection (a) are reduced as a result of termination of the use of such surveys. This provision shall be in effect until such time as the National Commission on Employment and Unemployment Statistics makes its report to Congress.

"EXPENDITURE OF FUNDS

"SEC. 605. (a) Fifty per centum of the funds available to any prime sponsor under this title may be used only for employment in projects (carried out by project applicants) of a limited duration, not exceeding two years, established by the prime sponsor for each project. Employment that is not in such projects must be at entry level.

"(b) Each project applicant shall submit a project application to the appropriate program agent or prime sponsor. Such application shall contain such information as required by the Secretary's regulations.

"PRIME SPONSORS AND PROGRAM AGENTS

"SEC. 606. (a) The Secretary shall provide financial assistance under this title only to—

"(1) prime sponsors designated under section 101(c), and

"(2) Native American entities described in section 302(c)(1).

"(b)(1) Whenever a unit of general local government or combination of such units having a population of fifty thousand or more (but less than that necessary to qualify as a prime sponsor under section 101) is within a prime sponsor's area, the prime sponsor shall if such unit or units so desire, subgrant to such unit or units of general local government the functions of program agent with respect to the funds allocated to such prime sponsor on account of the area served by the program agent.

"(2) For purposes of this subsection, the functions of program agent include the administrative responsibility for developing, funding, overseeing, and monitoring programs within the area, but such functions shall be consistent with the annual plan, which shall be developed by the prime sponsor in cooperation with the program agent.

"(3) Whenever two or more units of general local government qualify as program agents with respect to the same area qualifying for assistance, the provisions of section 101(b)(2) shall be applicable.

"ELIGIBILITY

"SEC. 124. All laborers and mechanics employed in a position supported under this title shall be a person who has been unemployed for at least eight weeks and who is not a member of a household which has a current gross family income, adjusted to an annualized basis (exclusive of unemployment compensation and all Federal, State, and local income-tested or needs-tested public payments) at a rate exceeding 100 per centum of the lower living standard income level. For purposes of this section, family income shall be determined on the basis of the income over the three-month period prior to application for participation.

"WAGE SUPPLEMENTATION

"SEC. 608. The wages of public service employees under this title may be supplemented by a prime sponsor from sources other than this Act subject to the following conditions:

"(1) the total amount of funds which may be used to provide such supplemented wages may not exceed a sum equal to 10 per centum of such prime sponsor's allocation under this title;

"(2) the number of such employees whose wages are supplemented shall not exceed—

"(A) 25 per centum to the total number of employees under this title in the fiscal year ending September 30, 1979;

"(B) 20 per centum of such total in the fiscal year ending September 30, 1980;

"(C) 15 per centum of such total in the fiscal years ending September 30, 1981 and September 30, 1982; and

"(3) no employee whose wage is supplemented under the authority of this section shall be paid at a rate in excess of the permissible maximum under section 121(c)(1)(B), except that such rate shall be adjusted upward, not to exceed 20 per centum, by the ratio that the annual average wages within the area served by the prime sponsor exceed the average of the total of such wages nationally in accordance with a wage adjustment index to be published annually by the Secretary.

"UTILIZATION OF FUNDS

"SEC. 609. Funds available under this title to a prime sponsor may be used, with respect to individuals qualifying for assistance under this title, for programs authorized under title II (other than public service employment), part A of title III, title IV, and title VII.

"TITLE VII—PRIVATE SECTOR OPPORTUNITIES FOR THE ECONOMICALLY DISADVANTAGED

"STATEMENT OF PURPOSE

"SEC. 701. It is the purpose of this title to demonstrate the effectiveness of a variety of approaches to increase the involvement of the business community, including small business and minority business enterprises, in employment and training activities under this Act, and to increase private sector employment opportunities for economically disadvantaged persons.

"FINANCIAL ASSISTANCE

"SEC. 702. (a) The Secretary shall provide financial assistance to each prime sponsor designated under section 101(c) which includes satisfactory provisions in its annual plan for title II activities for carrying out the purposes of this title. Funds made available for carrying out this title shall be allocated by the Secretary on an equitable basis among such prime sponsors, taking into account the factors used in allocating funds under title II.

"(b) The Secretary shall establish appropriate procedures to assure that the Department of Labor will review at the national level any proposal to make payments to private for-profit employers for any activities which are not covered by regulations under this Act.

"PRIVATE INDUSTRY COUNCILS

"SEC. 703. (a) Any prime sponsor receiving financial assistance under this title shall establish a private industry council. Such council shall consist of representatives from

industry and the business community (including small business and minority business enterprises), organized labor, and educational institutions and may include representation from community-based organizations which have demonstrated their effectiveness in working with the private sector. In no event shall representatives of industry and business have less than a majority on the council, at least half of such industry and business representatives shall be representatives of small business. Such council may consist of an existing or a newly formed organization and may be established to cover two or more prime sponsor areas pursuant to arrangements between the prime sponsors for such areas and the council. For purposes of this subsection, the term 'small business' means any private, for profit enterprise employing five hundred or fewer employees.

"(b) Such council shall participate with the prime sponsor in the development and implementation of programs under this title. In carrying out its responsibilities, such council shall utilize, to the extent appropriate, community-based organizations, labor organizations, educational agencies and institutions, and economic development programs.

"(c) The Secretary shall not, by regulation or otherwise, require that any prime sponsor, in establishing such council, give a presumptive role to any particular organization.

"PRIVATE SECTOR PROGRAM

"SEC. 704. Each prime sponsor desiring to receive financial assistance under this title, as part of its plan for title II activities, shall describe its proposed private sector initiatives under this title and the integration of such initiatives with other training and placement activities under this Act. The description shall include an analysis of private sector job opportunities, including estimates by occupation, industry, and location utilizing information provided by the private industry council.

"PROGRAM ACTIVITIES

"SEC. 705. Prime sponsors receiving financial assistance under this title shall, consistent with section 702(b), carry out private sector initiatives to demonstrate the purposes of his title. Such activities shall augment private sector-related activities under title II, including arrangements for on-the-job training with private employers, and may include—

"(1) coordinating programs of jobs and training and education enabling individuals to work for a private employer while attending an education or training program;

"(2) developing a small business intern program to provide a practical training enabling youths and other individuals to work in small business firms to acquire first-hand knowledge and management experience about small business;

"(3) developing relationships between employment and training programs, educational institutions, and the private sector;

"(4) developing useful methods for collecting infromation about Federal Government procurement contracts with private employers, new and planned publicly supported projects such as public works, economic development and community development programs, transportation revitalization, alternative energy technology development, demonstration, and utilization projects, energy conservation projects, and rehabilitation of low-income housing as part of a community revitalization or stabilization effort, which provide work through private sector contractors;

"(5) developing and marketing model contracts designated to reduce the administrative burden on the employer and model contracts to meet the needs of specific occupations and industries;

"(6) coordinating programs under this title with other job development, placement, and employment and training activities carried out by public and private agencies;

"(7) providing on-the-job training subsidies on a declining ratio to wages over the period of training;

"(8) providing followup services with employees placed in private employment and employers who hire recipients of services under this Act;

"(9) encouraging employers to develop job skill requirement forecasts and to coordinate such forecasts with prime sponsors;

"(10) using direct contracts for training and employment programs with private for profit and private nonprofit organizations;

"(11) developing apprenticeship or comparable high-skill training programs for workers regardless of age in occupations where such programs do not exist presently in the area;

"(12) increasing opportunities for upgrading from entry level jobs by providing counseling and other services to employees and employers beyond initial training periods;

"(13) providing technical assistance to private employers to reduce the administrative burden of employment and training programs; and

"(14) disseminating information to private employers so that they may more fully utilize programs under this Act.

"REPORT

"SEC. 706. (a) The Secretary shall provide to the Congress by March 1, 1980, an evaluation of the activities conducted under this title accompanied by recommendations for legislation.

"(b) The Secretary shall disseminate among prime sponsors information concerning successful programs under this title.

"TITLE VIII—YOUNG ADULT CONSERVATION CORPS

"STATEMENT OF PURPOSE

"SEC. 801. It is the purpose of this title to establish a Young Adult Conservation Corps to provide employment and other benefits to youths who would not otherwise be currently productively employed, through a period of service during which they engage in useful conservation work and assist in completing other projects of a public nature on Federal and non-Federal public lands and waters.

"ESTABLISHMENT OF YOUNG ADULT CONSERVATION CORPS

"SEC. 802. To carry out the purposes of this title, there is hereby established a Young Adult Conservation Corps to carry out projects on Federal or non-Federal public lands or waters. The Secretary of Labor shall administer this title through interagency agreements with the Secretaries of the Interior and Agriculture. Pursuant to such interagency agreements, the Secretaries of the Interior and Agriculture shall have responsibility for the management of each Corps center, including determination of Corps members' work assignments, selection, training, discipline, and termination, and shall be responsible for an effective program at each center.

"SELECTION OF ENROLLEES

"SEC. 803. (a) Enrollees of the Corps shall be selected by the Secretaries of the Interior and Agriculture only from candidates referred by the Secretary of Labor.

"(b)(1) Membership in the Corps shall be limited to individuals who, at the time of enrollment—

"(A) are unemployed;

"(B) are between the ages 16 to 23 inclusive;

"(C) are citizens or lawfully permanent residents of the United States or lawfully admitted refugees or parolees; and

"(D) are capable, as determined by the Secretary of Labor, of carrying out the work of the Corps for the estimated duration of each such individual's enrollment.

"(2) Individuals who, at the time of enrollment, have attained age 16 but not attained age 19 and who have left school shall not be admitted to membership in the Corps unless they give adequate assurance, under criteria established by the Secretary of Labor, that they did not leave school for the purpose of enrolling in the Corps and obtaining employment under this title.

"(c) The Secretary of Labor shall make arrangements for obtaining referral of candidates for the Corps from the public employment service, prime sponsors designated under section 101 of this Act, sponsors of Native American programs designated under section 302 of this Act, sponsors of migrant and seasonal farmworkers programs under section 303 of this Act, the Secretaries of the Interior and Agriculture, and such other agencies and organizations as the Secretary may deem appropriate. The Secretary of Labor shall undertake to assure that an equitable proportion of candidates shall be referred from each State.

"(d) In referring candidates from each State in accordance with subsection (c), preference shall be given to youths residing in rural and urban areas within each such State having substantial unemployment including areas of substantial unemployment determined by the Secretary of Labor under section 125(2)(A) of this Act to have rates of unemployment equal to or in excess of 6.5 per centum.

"(e)(1) No individual may be enrolled in the Corps for a total period of more than twelve months, with such maximum period consisting of either one continuous twelve month period, or three or less periods which total twelve months, except that an individual who attains the maximum permissible enrollment age may continue in the Corps up to the twelve-month limit provided in this subsection only as long as the individual's enrollment is continuous after having attained the maximum age.

"(2) No individual shall be enrolled in the Corps if solely for purposes of membership for the normal period between school terms.

"ACTIVITIES OF THE CORPS

"SEC. 804. (a) Consistent with each interagency agreement, the Secretary of the Interior or Agriculture, as appropriate, in consultation with the Secretary of Labor shall determine the location of each residential and nonresidential Corps center. The Corps shall perform work projects in such fields as—

"(1) tree nursery operations, planting, pruning, thinning, and other silviculture measures;

"(2) wildlife habitat improvements and preservation;

"(3) range management improvements;

"(4) recreation development, rehabilitation, and maintenance;

"(5) fish habitat and culture measures;

"(6) forest insect and disease prevention and control;

"(7) road and trail maintenance and improvements;

"(8) general sanitation, cleanup, and maintenance;

"(9) erosion control and flood damage;

"(10) drought damage measures;

"(11) other natural disaster damage measures; and

"(12) integrated pest management, including activities to provide the producers of agricultural commodities with information about the appropriate amount of chemical pesticides which, when used in conjunction with nonchemical methods of pest control (A) will provide protection against a wide variety of pests, (B) will preserve to the greatest extent possible the quality of the environment, and (C) will be cost effective.

"(b)(1) The Secretary of the Interior and the Secretary of Agriculture shall undertake to assure that projects on which work is performed under this title are consistent with the Forest and Rangeland Renewal Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and such other standards relating to such projects as each Secretary shall prescribe consistent with other provisions of Federal law.

"(2) The Secretary of the Interior and the Secretary of Agriculture shall place individuals employed as Corps members into jobs which will diminish the backlog of relatively labor intensive projects which would otherwise be carried out if adequate funding were made available.

"(c) To the maximum extent practicable, projects shall—

"(1) be labor intensive;

"(2) be projects for which work plans could be readily developed;

"(3) be able to be initiated promptly;

"(4) be productive;

"(5) be likely to have a lasting impact both as to the work performed and the benefit to the youths participating;

"(6) provide work experience to participants in skill areas required for the projects;

"(7) if a residential program, be located, to the maximum extent consistent with the objectives of this title in areas where existing residential facilities for the Corps members are available; and

"(8) be similar to activities of persons employed in seasonal and part-time employment in agencies such as the National Park Service, United States Fish and Wildlife Service, Bureau of Reclamation, Bureau of Land Management, Bureau of Indian Affairs, Forest Service, Bureau of Outdoor Recreation, and Soil Conservation Service.

"(d)(1) The Secretary of the Interior and the Secretary of Agriculture, pursuant to agreements with the Secretary of Labor, may provide for such transportation, lodging, subsistence, medical treatment, and other services, suplies, equipment, and facilities as they may deem appropriate to carry out the purposes of this title. To minimize transportation costs, Corps members shall be assigned to projects as near to their homes as practicable.

"(2) Whenever economically feasible, existing but unoccupied or underutilized Federal, State, and local government facilities and equipment of all types shall, where appropriate, be utilized for the purposes of the Corps centers with the approval of the Federal agency, State, or local government involved.

"(e) The Secretary of Labor, in carrying out the purpose of this title shall work with the Department of Health, Education, and Welfare to make suitable arrangements whereby academic credit may be awarded by educational institutions and agencies for competencies derived from work experience obtained through programs established under this title.

"CONDITION APPLICABLE TO CORPS ENROLLEES

"SEC. 805. (a) Except as otherwise specifically provided in this subsection, Corps members shall not be deemed Federal employees and shall not be subject to the provisions of law relating to Federal employment including those regarding hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits:

"(1) For purposes of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) and title II of the Social Security Act (42 U.S.C. 401 et seq.), Corps members shall be deemed employees of the United States and any service performed by a person as a Corps member shall be deemed to be performed in the employ of the United States.

"(2) For purposes of subchapter 1 of chapter 81 of title 5 of the United States Code, relating to compensation to Federal employees for work injuries, Corps members shall be deemed civil employees of the United States within the meaning of the term 'employee' as defined in section 8101 of title 5, United States Code, and provisions of that subchapter shall apply, except that the term 'performance of duty' shall not include any act of a Corps member while absent from the member's assigned post of duty, except while participating in an activity (including an activity while on pass or during travel to or from such post of duty) authorized by or under the direction and supervision of the Secretary.

"(3) For purposes of chapter 171 of title 18 of the United States Code, relating to tort claims procedure, Corps members shall be deemed civil employees of the United States within the meaning of the term 'employee of the Government' as defined in section 2671 of title 28, United States Code, and provisions of that chapter shall apply.

"(4) For purposes of section 5911 of title 5 of the United States Code, relating to allowances for quarters, Corps members shall be deemed civil employees of the United States within the meaning of the term 'employee' as defined in that section, and provisions of that section shall apply.

"(b) The Secretary of Labor shall, in consultation with the Secretaries of the Interior and Agriculture, establish standards for—

"(1) rates of pay which shall be at least at the wage required by section 6(a)(1) of the Fair Labor Standards Act of 1938;

"(2) reasonable hours and conditions of employment; and

"(3) safe and healthful working and living conditions.

"STATE AND LOCAL PROGRAMS

"SEC. 806. (a) Consistent with interagency agreements with the Secretary of Labor, the Secretaries of the Interior and Agriculture may make grants or enter into other agreements—

"(1) after consultation with the Governor, with any State agency or institution;

"(2) after consultation with appropriate State and local officials, with (A) any unit of general local government, or (B)(i) any public agency or organization, specifically including the Federal Extension Service and the cooperative extension service of any State with respect to projects described in section 804(a)(12), or (ii) any private nonprofit agency or organization which has been in existence for at least two years;

for the conduct under this title of any State or local component of the Corps or of any project on non-Federal lands or waters or any project involving work on both non-Federal and Federal lands and waters.

"(b) No grant or other agreement may be entered into under this section unless an application is submitted to the Secretary of the Interior or the Secretary of Agriculture, as the case may be, at such times as each such Secretary may prescribe. Each grant application shall contain assurances that individuals employed under the project for which the application is submitted—

"(1) meet the qualifications set forth in section 803(b);

"(2) shall be employed in accordance with section 805(b); and

"(3) shall be employed in activities that—

"(A) will result in an increase in employment opportunities over those opportunities which would otherwise be available,

"(B) will not result in the displacement of currently employed workers (including partial displacement such as reduction in the hours of nonovertime work or wages or employment benefits),

"(C) will not impair existing contracts for services or result in the substitution of Federal for other funds in connection with work that would otherwise be performed,

"(D) will not substitute jobs assisted under this title for existing federally assisted jobs, and

"(E) will not result in the hiring of any youth when any other person is on layoff from the same or any substantially equivalent job.

"(c) Thirty percent of the sums appropriated to carry out this title for any fiscal year shall be made available for grants under this section for such fiscal year and shall be made on the basis of total youth population within each State.

"SECRETARIAL REPORTS

"SEC. 807. The Secretary of Labor, the Secretary of the Interior, and the Secretary of Agriculture shall jointly prepare and submit to the President and to the Congress a report detailing the activities carried out under this title for each fiscal year. Such report shall be submitted not later than February 1 of each year following the date of enactment of this Act. The Secretaries shall include in such report such recommendations as they deem appropriate.

"ANTIDISCRIMINATION

"SEC. 808. The Corps shall be open to youth from all parts of the country of both sexes and youth of all social, economic, and racial classifications.

"TRANSFER OF FUNDS

"SEC. 809. Funds necessary to carry out their responsibilities under this title shall be made available to the Secretaries of the Interior and Agriculture in accord with interagency agreements between the Secretary of Labor and the Secretaries of the Interior and Agriculture.".

H.R. 12611

By Mr. RONCALIO:

—Page 138, after line 18, insert the following new section:

LABOR DISPUTES

SEC. 33. Within 10 days after the date of enactment of this section, the President, pursuant to section 10 of the Railway Labor Act, shall create a board to investigate and report on the dispute between Wein Air Alaska, Incorporated, and the Air Line Pilots Association. Such board shall report its findings to the President within thirty days from the date of its creation. After the creation of such board, and for thirty days after such board has made its report to the President, no change, except by agreement, shall be made by the parties to the controversy in the conditions out of which the dispute arose.

EXTENSIONS OF REMARKS

A TRIBUTE TO DR. FREDERICK SHORE, EDUCATOR, ADMINISTRATOR

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 13, 1978

● Mr. LENT. Mr. Speaker, on September 20, 1978, friends and associates of Dr. Frederick Shore will be paying a well-deserved tribute to the accomplishments of this pioneering educator. Dr. Shore is retiring from the position he has held for the past 9 years as superintendent of the Baldwin public schools, located in my Fourth Congressional District.

I wish to offer my heartiest congratulations to Dr. Shore and to commend him, not only for his outstanding record as an educator and administrator, and as an expert on the financing of education in New York State, but also for the devotion and patient understanding he has given to educating the children for whom he has been responsible. His contributions to the Baldwin community, to our State, and, indeed, to our Nation, deserve the highest accolades.

During his 13-year career in the Baldwin public schools, Dr. Shore has worked tirelessly for better education and improved educational opportunities. He has been in the forefront of those who have sought to bring the handicapped child into the mainstream of the community. Guided by his conviction that handicapped children should be taught at the level of their abilities and performance, rather than according to some arbitrary medical classification, Dr. Shore pioneered an excellent special education program for the handicapped in the Baldwin schools.

Another example of Dr. Shore's innovative leadership is demonstrated in his determined effort to develop and implement a school district policy on child abuse. Baldwin became the first school district in New York State to adopt such a policy, and it has been used as a model elsewhere in our Nation.

Dr. Shore has done much to encourage the arts and sciences in the Baldwin schools. He was responsible for initiating the fine and performing arts program in Baldwin, and was instrumental in strengthening the science program, with a resulting increase in the number of Baldwin students winning signifcant achievements in science competitions.

Throughout his career in education, Dr. Shore has worked closely with local community groups, particularly the Baldwin Parent Teachers Association units and the Baldwin Educational Assembly toward the common goal of better education for the children of the community.

Dr. Shore's abilities as an educator and administrator have been applied to a broad range of professional activities. He is a life member of the New York State Congress of PTA's, and is currently chairman of the New York State PTA Committee on School Governance and Finance, and a member of the State Board of Managers.

Dr. Shore is a member of the New York State Educational Conference Board, and has served as the New York representative to the Organization of Federally Impacted School Districts in the United States, of Washington, D.C.

Dr. Shore has served as legislation chairman of the New York State Association of School Business Officials, and as a member of the Special Committee of the New York State Commissioner of Education on Federal Aid to Education. For 2 years he was the chief school administrator on the advisory council for the New York Council of Administrators of Music Education.

Dr. Shore's accomplishments have been recognized by the New York State Association of School Business Officials which presented him with its Meritorious Service Award for 1969, and by the Nassau Music Educators' Association which named him "Administrator of the Year" in 1974.

Such have been the landmarks in the outstanding career of Dr. Frederick Shore. Little wonder that his friends and associates have joined to pay him tribute on September 20. I most certainly want to join them in acclaiming Dr. Shore's accomplishment-filled career. With those friends and associates, I also want to join in the wish that Dr. Shore's retirement years will be blessed with good health; the enjoyment of the richness of friendships; the warmth of memories; the deep satisfaction of knowing his has been an outstanding career; and the stimulation of new challenges which may lie in the future.●

TOCKS ISLAND DAM PROJECT

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 13, 1978

● Mr. EDGAR. Mr. Speaker, I recently received a letter from Carmen F. Guarino, water commissioner for the city of Philadelphia, expressing his concern over remarks I made on the House floor on July 10 regarding his position on the Tocks Island Dam project. In fairness to Commissioner Guarino, I am inserting below the text of his letter, as well as the complete testimony he presented earlier this year at a public hearing in Port Jervis, N.Y., on the question of granting the middle section of the Delaware River wilderness status.

The letter follows:

WATER DEPARTMENT,
Philadelphia, Pa., August 11, 1978.

Congressman ROBERT EDGAR,
Washington, D.C.

DEAR CONGRESSMAN EDGAR: I regret that need to write a letter of this type. However, considering my appointed obligation to protect the water rights and interests of the City of Philadelphia and her citizens and your recent statements on House Bill HR 12536 National Parks Omnibus Bill, which was documented in the July 10, 1978 Congressional Record of the House on Page H6344 . . . "Mr. Chairman, I would like to associate myself with the remarks of the gentleman in the well, and I would like to compliment the gentleman for very adequately answering several of the points that were made, in terms of salinity, flood control, and water supply".

"I would like to just share with the gentleman a comment that I discovered was made by Carmen F. Guarino, who is the water commissioner for the city of Philadelphia. Back in 1973, in July, he made the following comment:"

"It can readily be shown that no federally funded reservoirs are necessary on the Delaware River to insure adequacy of supply to the City of Philadelphia because the annual average natural stream flow of the Delaware at Trenton, New Jersey, with no reservoirs, Federal or otherwise . . ."

"And I think that this kind of comment from the water commissioner of the city of Philadelphia demonstrates it is not a question of water supply, it is not a question of flood control, it is not even a question of flat water recreation. It is a question of how best to utilize the water, the land, the area."

I would have appreciated if you had conferred with me about my comment, and in particular learned about my interpretation of what I meant by this comment. To begin, this comment was contained in the record at the public hearing of the Delaware River Basin Commission conducted February 28, 1973 (not July) on "Proposed Regulations Relating to Water Supply Charges". At this hearing, I had testified that the City of Philadelphia has legally binding contracts with the Commonwealth of Penna. for the withdrawal of 423 MGD from the Delaware River issued under permit dated December 14, 1955 by the Water and Power Resources Board of the Department of Forests and Waters. I further pointed out that this permit was issued prior to the Delaware River Basin Compact and that the City in good faith expended considerable resources in accordance with the conditions of this permit and had satisfied all conditions of such permit, to wit, the permit remains in force today.

The intent of the statement was that our allocation of 423 MGD on the Delaware River was always available at the head of tide at Trenton, N.J., even during conditions of extreme drought as had been experienced in the 1960's and without the systems of dams that had been constructed on the Delaware by New York City and others. The minimum low flow month at Trenton has been calculated by the USGS to be 720 MGD (9/65). So you see as far as water charges were concerned, the City of Philadelphia could avail itself of its total allocation without any systems of dams.

The hearing was not on the need for Tocks Island Reservoir and the pros and cons surrounding this matter. It was simply a hearing on water supply charges. My hearing statement did not reflect the need for a reservoir and low flow augmentation for protection of water quality because the hearing subject related to the pricing of water to meet quantity needs. Therefore, my statement should in no way be interpreted to mean that I see no need for a reservoir and flow regulation for the protection of water quality.

However, my statement taken out of context, could be misconstrued by those persons ignorant of my position on Tocks Island, that I believe there is no need for Tocks Island. I would have been pleased if you had the time to follow up your information source and obtain the truth from me. There is ample documentation and testimony before Congress and the Delaware River Basin Commission that the City of Philadelphia has been for Tocks Island for a long period of time since its inception and adoption by Congress in 1962.

Your inadvertent misconstruing of my statement does harm to the water rights of Pennsylvania, including Delaware County and the City of Philadelphia, as well as Southwestern New Jersey.

I am forwarding herewith my statement which very definitely shows my posture since my appointment as Water Commissioner during January, 1972. The City of Philadelphia's position on Tocks Island has been upheld continuously by my predecessor, Water Commissioner Samuel S. Baxter, since 1962. I would like to point out for your consideration that in contemplation of Tocks Island Reservoir, the City of Philadelphia made the following actions and expenditures.

(1) In contemplation of this reservoir, we abandoned our plan for upstream impoundment and diversion of main stream waters to metropolitan Philadelphia. In doing so, the Water Department spent some 41 million dollars in rebuilding and upgrading its Torresdale Water Treatment Plant which intakes on the Delaware River.

(2) Since mandated water pollution allocations have been promulgated on a legally minimum assured sustained flow of 3,000 cfs at Trenton which could only be provided by Tocks Island or its equivalent, the City of Philadelphia has committed 621 million dollars to meet these wasteload allocations, so that mandated stream water quality standards can be achieved. Our mathematical model studies have indicated absent Tocks Island the achievement of stream water quality standards to be an impossibility without an inflow of 3,000 cfs at Trenton. Consequently, industry and municipal wastewater treatment plants throughout the entire estuary, including Delaware County, would be liable for additional pollution abatement expense.

(3) Absent Tocks Island, the City was forced to purchase laboratory boats equipped with instruments at a cost of about $160,000 and has spent over four million dollars to date for a monitoring program on the Delaware River.

(4) I presume that you are aware of water pollution abatement efforts within Delaware County. You must therefore know that the City of Philadelphia has committed itself to the acceptance of sewage from the areas served by DELCORA. As such the maintenance of 3,000 cfs flow at Trenton should be of real interest to you and your constituents.

(5) Absent Tocks Island, the City of Philadelphia must pay more for its municipal energy supply as well as all of the residents of Delaware County. One thing the dam would provide is environmentally clean electricity without the destructive use of nonreplenishable natural resources.

You mention flat recreation and I would like to give you my viewpoint which is that Tocks Island would be the Lake Tahoe of the East and with it being under control by the Federal Government, we would have water based recreation at affordable prices. I think that this is particularly important in view that the seashore resorts are being converted primarily to gambling establishments with subsequent undesirable elements not conducive to a healthy family atmosphere.

Since you have been around for some time, I believe you should be aware that the water supplies of both Philadelphia and Camden can be imperiled by a salt water incursion which would occur during a drought similar to that of the 1960's. Tocks Island is needed for this purpose, to protect the health of the citizens of Philadelphia and those other people that we supply. I am sure that you are aware that the Chester Water Authority is now finding that it is short in supply for its service area and future demands to be placed on it. This Authority has about reached its limit to import water from other basins.

In view of this situation, the Philadelphia Water Department had been approached by the now deceased Mr. Victor A. Appleyard, Director of the Chester Water Authority, as to the possibility of the City of Philadelphia to supply his service area with water from our plants. This is still a viable possibility which the Water Department is willing to enter into for the benefit of Chester and Delaware County. But again, the protection of this supply is based upon Tocks Island or its equivalent.

I am surprised that those providing you with my comment during the hearing on Water Charges did not also provide you with the voluminous testimony and other statements that I had made regarding the need for Tocks Island. In closing, I am forwarding herewith the latest testimony that I have presented on Tocks Island, which is the testimony of Carmen F. Guarino at the public hearing conducted on July 13, 1978 at Port Jervis, New York by the Delaware River Basin Commission.

I believe with all of this you should be assured of what the City of Philadelphia's position is in regards to Tocks Island and we would not like to have our position misrepresented or misconstrued in any fashion. I know you to be a responsible and honest person and therefore respectfully would like to see that the record be corrected for the statements that you made on July 10th in regards to my comment.

In your service,

CARMEN F. GUARINO,
Water Commissioner.

TESTIMONY OF CARMEN F. GUARINO—CITY OF PHILADELPHIA, PA.

My name is Carmen F. Guarino and as Commissioner and Chief Engineer of the Water Department of the City of Philadelphia, I am authorized by the City to make the following statements concerning the subject matter of the public hearing which would include comments on the Upper Delaware River and Middle Delaware River.

The City is interested in seeing that part of our national heritage is preserved in its pristine form for posterity and this is as it should be. In particular, the City would support legislation that would preserve the Upper Delaware River between Hancock and Port Jervis as a "wild and scenic" river. Two Senate Bills have this as their primary objective, Bills S-2653 and S-2611. We would favor Bill S-2611 over S-2653 because we feel that S-2611 more properly addresses this subject and has been more critically examined by the public and other interested parties. The City would also support Section 705 of House Bill HR-12536 National Parks Omnibus Bill.

The City is categorically against any legislation or action which would as a consequence of its adoption foreclose forever or impede the development of the Tocks Island Reservoir Project (TIRP). Therefore, we are vehemently against any bill concerning the Middle Delaware River which would have as its purpose to convert the stretch into a "wild and scenic" river. In this regard, the City is definitely against Senate Bill S-2270 and Sections 316 and 706 of House Bill HR-12536 National Parks Omnibus Bill. The Middle Delaware River should be preserved for an impoundment which would assure water supply to the states of Pennsylvania, New Jersey and New York.

Those that have made a study of the water resources of the Delaware River and the service area know that we are critically short of water during times of drought. Today this shortage of water is being emphasized in the reports emanating from the Commonwealth of Pennsylvania in the form of its Draft Report on State Water Supply and the Draft 208 Water Quantity Reports being produced by the Delaware Valley Regional Planning Commission. The situation for water during drought periods has not changed, but has, in effect, been aggravated. The reports show on the Pennsylvania side of the Basin, the ground water supplies are over-pumped to the extent that they are not replenished during an average precipitation year.

During the Q7-10 drought which occurs in the frequency of 7 to 10 years, considerably larger areas are over-pumped. The prognosis is that 99 out of 109 water suppliers will be short water from local supplies such as wells and streams by the year 2000.

The situation on the New Jersey side of the Basin shows that Burlington, Gloucester and Camden Counties are in a precarious position. The Magothy-Raritan Aquifer from which they draw their supplies has been drawn down in some places 80 to 100 feet below sea level. The 208 Water Quantity Reports bluntly state that this Aquifer may be depleted in the future.

As far as Philadelphia is concerned, we know that without an impoundment such as TIRP or its equivalent, a proposed legislation such as the scenic river would jeopardize the water rights of Philadelphia. It would further jeopardize protection of our water supply and the health of over two million customers during times of drought. Without such an impoundment, the ability of our 621 million dollar wastewater treatment facilities now under construction would be jeopardized in their intent to achieve mandated streamwater quality standards and thus preserve the environment and ecology of the Delaware River.

I must emphasize one final point—that industry in the Delaware Valley is to the large extent water oriented. Industry pays o er 40 percent of the water bill of Philadelphia. Anything which would not guarantee an assured supply of water vital to the industry would jeopardize the labor it supports and as well, the economy and standard of living of not only Philadelphians, but the entire Delaware River Valley.●

TERRI BLAKE

HON. HENRY A. WAXMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 13, 1978

● Mr. WAXMAN. Mr. Speaker, on July 28 of thir year, the Congress passed Public Law 95-325, establishing September 10 as National Grandparents Day. We owe a debt of thanks to Mrs. O. R. Bialack, whose professional name is Terri Blake, for her indefatigable efforts over a period of many years to achieve legislation. Ms. Blake has crossed the country several times, using her time and resources generously to interest legislators in her project. A grandmother herself, Terri determined that our country should take official note of the affection and respect which we all owe to our grandparents, and that determination

will enrich the lives of many of our senior citizens the country over, every September 10. The date was chosen to coincide with Terri's birthday, thereby serving as a reminder of the thanks we owe to the founder.

Terri has led a most active life, beginning a new career in the movies in her 50th year. She has played in a number of films and appeared on many television programs. She gives her time freely to producing shows for senior citizens groups, the USO and veterans' hospitals in the Los Angeles area. Ms. Blake has also been very active in the movement to remove mandatory retirement due to age. At 75, Terri Blake is a vital, active, productive citizen, whose contributions to her community and her country should be set as an example of what can be accomplished by one motivated person.

I ask the Members to join me in acknowledging her contribution and in saying "Thank you" to Terri Blake.●

SUBSIDIZED FOREIGN COMPETITION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 13, 1978

● Mr. McDONALD. Mr. Speaker, we no longer live in a world of either fair or free trade. Thus, in international trade negotiations, many people, including our own negotiators, overlook the fact that tariffs are no longer the major issue in such negotiations. Other nations provide subsidies and benefits to their exporting industries, while raising nontariff barriers in order to keep U.S. products out of their markets. This problem has been compounded by our foreign and post-World War II aid to our former enemies—Japan and Germany—as well as the ineptness of such governmental bodies as the American International Trade Commission. On top of this, international aid bodies have built up our competition with our own tax dollars. It would appear that we are cutting off our nose to spite our face. Anthony Harrigan wrote a very fine editorial on this issue, which appeared in the United States Industrial Council Bulletin for September 1, 1978. I feel it is worthwhile reading for my colleagues and indeed all Americans. The editorial follows:

SUBSIDIZED FOREIGN COMPETITION

(By Anthony H. Harrigan)

As negotiations continue for a new international trade agreement, the United States is still far from taking a tough line against unfair foreign competition. Unfortunately, much of the American business community is still unaware of the full dimensions of the threat, though business is beginning to wake up.

It is encouraging to note a more realistic approach in Business Week, a journal that usually talks down any effort at protection of U.S. industries.

In an editorial Aug. 7, Business Week made a couple of points that bear repetition, namely that "the Europeans and Japanese . . . have used a variety of subsidies and special supports for exports" and that the U.S. has a "market-oriented economy" while "much of the rest of the world" has "semi-socialized systems." Americans would think more clearly about unfair trade competition if they kept those points in mind.

One of the best statements on the threat to U.S. industries is a recent speech by Dennis J. Carney, chairman of the Wheeling-Pittsburgh Steel Co., delivered at Steubenville, Ohio.

"In addition to raising the costs of steel production while suppressing prices," he said, "our government has been helping to modernize steel industries abroad." He pointed out that U.S. loans, aid and financing, "through American-supported international financial institutions, have already contributed $5 billion directly to the expansion of our foreign competition."

Mr. Carney cited the recent action of the U.S. Export-Import Bank in approving "a loan of $74 million for construction of a steel mill in Trinidad and Tobago expressly designed to export steel products to the United States." He noted that the administration favors contributions of more than $3 billion next year to several international financial institutions for additional foreign aid programs that will increase competition for American companies and cost American jobs.

The American people need to understand that unfair competition means that unaided U.S. companies have to compete against companies that are government-subsidized, guided or directed.

As Mr. Carney put it, "Our steel producers are competing for business in free markets here at home and against entire foreign governments abroad."

The West German and Belgian governments recently announced hundreds of millions of dollars in grants for their steel industries. The Japanese regularly dump steel and other products in this country. At the same time, Mr. Carney says, "most of these countries have closed their borders to our own steel in one way or another."

There's another burden that Americans bear—a burden that is part of the problem. "Indirectly", Mr. Carney said in his talk, "we have contributed, and are continuing to contribute, many billions of dollars through such assistance as providing a defense umbrella for Western Europe and Japan, enabling them to invest more of their money in their industry."

Mr Carney's realistic words should be heeded in every industry and in Congress and the press. Executive Branch trade negotiators apparently won't take a tough, nationalist stand on trade matters, therefore, socialist and semi-socialized competitor nations have an easy ride at American expense.

Under these circumstances, it's imperative that Congress enact more stringent anti-dumping laws, cut off funds to international agencies that would create new industrial competition, and deny special advantages to foreign competitors that are subsidized or aided by their governments.

In the future, the United States must learn to discriminate intelligently between authentic free trade and trade invasions by companies that are virtual arms of their governments.●

PERSONAL EXPLANATION

HON. MARTHA KEYS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 13, 1978

● Ms. KEYS. Mr. Speaker, on Tuesday, September 12, 1978, I was unavoidably absent from the House for rollcall No. 756, the Indian Peaks Wilderness and Arapahoe National Recreation Area Act. Had I been present, I would have voted "yea".●

CETA, A LOCAL PERSPECTIVE: PART TWO

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 13, 1978

● Mr. DOWNEY. Mr. Speaker, when the CETA reauthorization and reform bill was initially considered by the House several weeks ago, I shared with my colleagues several reports that I had received about the operation of the CETA program in my home county.

It was clear from those reports that there is widespread suspicion and unease with the implementation of CETA on the local level. Particular concern was expressed about the "substitution" of CETA workers for career public service employees.

The 1978 CETA bill addresses this problem by limiting the duration of all public service employment under CETA to 18 months in any 3 year period. However, the Secretary of Labor is given the discretion to waive this limitation in certain instances. The committee report on the CETA bill describes the waiver mechanism in this way:

> . . . the Secretary may waive the 78-week limit for those on board before April 1, 1978, who remain on through September 30, 1979, if the Secretary determines that the prime sponsor is experiencing extreme hardship in placing PSE enrollees in unsubsidized jobs.
>
> The limitation on duration of enrollment is intended to serve three functions: (1) to encourage participants to seek unsubsidized employment and to encourage the prime sponsor to place participants in unsubsidized employment; (2) to assure turnover in public service positions thereby preventing the prime sponsor from using CETA workers as permanent employees in its work force; and (3) to assure that the greatest possible number of the eligible population will be served. The committee does not intend that the waiver of the 18 month limitation should be broadly applied. The Secretary, in granting waivers, should take into account such factors as substantial loss of private sector jobs, severely limited private sector opportunities such as may exist in some rural areas, or other indices of extreme hardship in placing participants into unsubsidized employment.

The report makes it clear that the discretion to waive this limitation is to be used sparingly and is to be viewed as a "last resort" solution. Yet, this waiver clause is of great concern to many who have seen CETA provisions implemented in ways contrary to their original intent. For example, Robert A. Maletta, chairman of the CETA Committee of the Suffolk County, N.Y., Chapter of the Civil Service Employees Association, see the time limitation as "positive legislation" but feels that the discretionary power of the Secretary could "negate" its effect. I think he expresses a most legitimate concern. It is a concern based on experience with other CETA "loopholes" that have warped program intent at the local level.

The flexibility provided by this waiver provision will probably be useful in some instances, and it is highly likely that it will be retained in the final version of the bill. We must, however, rigorously monitor its use. If its use is not severely restricted—along the lines explicitly mentioned by the committee—we will have failed to satisfactorily address the "substitution" problem. We also will have failed to provide meaningful CETA reform.●

DEMANDS FOR BRITISH WITHDRAWAL FROM IRELAND INCREASE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 13, 1978

● Mr. BIAGGI. Mr. Speaker, on August 14 a significant event occurred which could have great bearing on the future of the Irish question. On that date, the second largest daily newspaper in Great Britain, the Daily Mirror called for complete British withdrawal from Ireland in 5 years.

This newspaper which has over 4 million readers based its position on its fear that democracy has stopped in Northern Ireland under the direct rule of Great Britain. As the editorial states "It is not only people who are dying in Northern Ireland. Democracy is nearly dead too."

As chairman of the 114 Member Ad Hoc Congressional Committee for Irish Affairs, I firmly endorse this position. The fact is I have sponsored legislation in this and previous Congresses advocating a British withdrawal from Ireland without specifying a time period. I consider this to be a basic prerequisite to any meaningful progress toward peace.

At the same time that this dramatic position was being taken by the Daily Mirror, Great Britain announced that it was increasing its troop strength in the North to 1,400. This contradicts not only the sentiments of the Daily Mirror but also of a rapidly growing segment of the British population which want Britain to remove itself from Northern Ireland.

I hope the position taken by the Daily Mirror will serve as a catalyst for positive actions by Great Britain to withdraw from the North. Obviously an immediate pull out of troops would present more hazards than benefits but a declaration of intent to withdraw should be taken as soon as possible. It will be viewed as a positive development and will greatly improve the climate for peace.

For the benefit of my colleagues I insert a number of press clips related to the Daily Mirror editorial:

[From the Christian Science Monitor, Aug. 17, 1978]

GET BRITAIN OUT OF ULSTER

No major party in Britain has any policy for Northern Ireland other than to carry on without one. This paper believes there is a policy—and only one—which can be carried through to success. And that is for Britain to announce its unshakable intention to withdraw altogether from Northern Ireland; to give the people of the province the freedom to decide what their future is to be . . .

The next British Government should declare that on a date five years from now Northern Ireland will be given its independence and that British forces, finance and administration will depart.

"MIRROR" ASKS FOR BRITISH WITHDRAWAL—SHARP REACTION TO LONDON EDITORIAL

BELFAST.—An editorial call in the Daily Mirror for a British withdrawal from Northern Ireland last week brought forth a deluge of comment from political sources in the North. Almost a score of statements—either enthusiastically welcoming or vehemently denouncing—were issued.

A page two editorial in the Mirror, which is Britain's second largest daily newspaper, called for a Government statement that Northern Ireland would be given its independence in five years' time with a withdrawal of British troops, finance and administration.

It suggested that withdrawal would be a courageous act and one that would allow the Irish people to rule themselves—"to decide whether to learn to live together or continue to die together. We should leave it up to them."

FREEDOM TO DECIDE

No major British party had any policy for Northern Ireland, other than to carry on without one. It continued: "The Mirror believes that there is a policy—and only one—which can be carried through to success. And that is for Britain to anounce its unshakeable intention to withdraw altogether from Northern Ireland. To give the people of the Province the freedom to decide what their future is to be.

"Both Labor and Conservative Governments—under Wilson, Heath and Callaghan—tried honestly and honorably to solve the Ulster problem. They found it impossible, as every British Government has done for the past 300 years."

The editorial added: "It is not only people who are dying in Northern Ireland. Democracy is nearly dead too. The Province of Ulster has less to say in its own affairs than any English parish council has over its village. The gunmen rule now, not the politicians."

The paper's comments took Northern politicians very much by surprise. Its interest was apparently sparked off by the fact that yesterday was the 9th anniversary of the use of British soldiers to deal with civil unrest here.

Talk of British withdrawal was quite common during Merlyn Rees' term of office as Secretary of State, but one of the central features of the early speeches of his successor, Roy Mason, was a series of categorical assurances that there was no question of such moves.

Mr. Mason's line has been widely accepted by the various political—and paramilitary—factions, so much so that in recent months he has no longer felt the need to repeat it. He and his advisers will be annoyed, therefore, at the resurrection of the idea by the Mirror.

This is especially so because of suspicions among the many conspiracy theorists here that the Mirror's call for withdrawal might have been inspired by some sections of the British Labor Party left wing.

The Daily Mirror's editor, Mike Molloy, said on BBC Radio Ulster that he did not think he was reflecting opinion of the left-wing of the Labor Party. He had not been under political pressure of any kind, and had had no discussions or consultations about the editorial. He had not spoken to an Irish politician for about two years, he said.

Asked about the Unionist belief that they were British subjects he said: "If somebody's lived for 400 years in Ireland, they're Irish. They may wish to claim that they're British citizens and they may have a good claim for that. I don't wish to go into that."

The Irish Republican Publicity Bureau claimed the editorial represented a major shift in policy for a section of the British ruling class—"from a position of moralistic imperialism to nationalist chauvinism." It added: "It shows they have lost the will to continue with their abortive policy of murder, torture and repression against the courageous nationalist community."

The statement went on to say that the Provisional IRA rejected and would oppose a "negotiated independent Six Counties." It was a recipe for disaster, it said.

Official Unionist leader, Harry West, suggested that the Mirror was reflecting left-wing British Labor Party opinion, and was capitulating to terrorism. Party colleague, Mr. Thomas Passmore, said it was "little short of treason."

For the Social Democratic and Labor Party, party leader Gerry Fitt said the message of the editorial was completely anti-integrationist, a plea for consensus government and a warning to Unionists that the British Army would not indefinitely bolster up their position.

The SDLP chairman, Denis Haughey, said the Irish problem had been created by 300 years of British colonial policy, and the Daily Mirror was now recommending that they "should simply wash their hands of the business and walk away." The British Government were the only people with the power and resources to "make the recalcitrant Loyalist leadership see sense and face up to their responsibilities. When they have done that, we in the SDLP would not detain them a moment longer".

John Cushnahan, of the Alliance Party, described the editorial as irresponsible. Mrs. Anne Dickson, of the UPNI, said further encouragement had been given to the Provisional IRA and its propaganda machine.

The Rev. Ian Paisley's DUP said the editorial was significant in that the Mirror often said what British Labor politicians were thinking privately. It said the people or Northern Ireland had already made their choice about their future—they wanted majority rule in Northern Ireland within the United Kingdom.

The statement was further welcomed by Mr. Glenn Barr, formerly of Vanguard and an advocate of independence, the Irish Republican Socialist Party, Seamus Mallon of the SDLP and Belfast Provisional Sinn Fein. It was further attacked by Jean Coulter.

ENGLAND: GET OUT!

Why did Britain's "Daily Mirror" (circulation: 4,000,000 readers) on August 14, write: "Ulster: Bring home the troops"? Why has this paper written: "The time has come for a new start. One that would allow the Irish people to rule themselves"?

The "Daily Mirror" did not explain. But the reason is both economic and political. The paper's constant concern is to remain popular, to continue to sell to 4,000,000 readers and, if possible, to sell to 5,000,000.

The easiest way of continuing and even increased popularity is to go along with public opinion. And public opinion is demanding that the British government withdraw its troops from Ireland.

This is now an important economic (as far as the press is concerned) and political issue, with the Gallup Poll's latest figure in England making it bluntly clear that 53 per cent of those polled want Britain to end its Irish adventure.

Experts in the field reckon that, by this year's end, more than 60 per cent of the people of England, Scotland and Wales will be demanding an end to the English connection.

POLITICAL STAND

The longer the British imperial election is delayed the stronger, the louder, the British demand for a withdrawal of troops from Ireland.

The 53 per cent figure makes it possible and realistic for candidates to stand for election to Westminster on the ticket of doing their

utmost to end British interference in Ireland, be they members of existing parties or independents.

How long can the three main political parties in Britain continue to ignore the results of the Gallup poll on the basis of politics alone? It is clear now, that if one of the major British political parties comes out in favour of an end to British interference in Ireland a considerable number of extra votes is probable in the general election next month.

Amazingly, the 53 per cent figure revealed from the Gallup Poll was kept out of all British papers except "The Irish Times." Accordingly to the "Daily Mirror," there is only one policy, regarding enemy withdrawal, which can lead to success. That policy is for "British to announce its unshakeable intention to withdraw altogether from Northern Ireland."

The newspaper does not believe that Britain should quit Ireland at once: "The next British government should declare that, on a date five years from now, Ulster will be given its independence and that British forces, finance and administration will depart."

The Republican Movement has made it clear that all such talk about independence for Ulster or any part of Ulster is unrealistic and that Ireland must be the unit in question. All Ireland is unfree at present, part of the land being governed by a quisling administration.

The newspaper adds that "many people fear that a decision to quit Ulster would lead to a bloodbath" and asks: "But what is 1,850 dead and 20,000 injured if not a bloodbath?"

The paper's editorial comment gives the following statistics for the past nine years: 1,854 dead, including 365 soldiers; 115 RUC members; and of the 19,917 injured, soldiers numbered 2,721; RUC, 3,295; personal injury awards totalling £38,000,000; compensation payments for damage to property, £246,000,000.

The "Daily Mirror" does not attempt to estimate the damage to the British economy of the past 10 years of British occupation in Ireland—how much the extra troops cost; how much the propaganda war; how much the loss in industry and commerce.

Little by little, in the months ahead, these devastating figures will be revealed in Britain as the demand of the ordinary people for Crown disengagement in Ireland becomes louder and more insistent until there is no alternative but to obey it.

The reaction of most party politicians in the Six Counties to the Mirror's demand for British withdrawal is very revealing. All shades of unionism, from official true-blue through orange to the bile green of the SDLP, feared and objected to British withdrawal, thus emphasizing the colonial connection.

In the 26 Counties the voice of unionism (Fianna Fail, Fine Gael and Labour) officially was silent. Unofficially, there was extreme nervousness.

The obvious answer is that the Crown must enter into negotiations with the liberation forces AT ONCE to arrange for a mutually agreed programme of orderly withdrawal as well as amnesty and release for all the prisoners of war in these islands.

The sooner the Crown's ministers begin the negotiations, the sooner peace can be made to return to Ireland. It is as simple as that.●

NEW DOLLAR STIRS ROW

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 13, 1978

● Mr. WHITEHURST. Mr. Speaker, the following article, by Gary L. Palmer of the Copley News Service, appeared in the Hobbies section of the Boston Herald American on Sunday, August 27, 1978. It raises some interesting points regarding the proposed dollar coin, and I am pleased to take this opportunity to share it with my colleagues:

NEW DOLLAR STIRS ROW

(By Gary L. Palmer)

The ghost of Susan B. Anthony is stirring up as much commotion in Congress these days as she did 100 years ago with her campaign to win voting rights for women.

Now Congress is feeling the pressure of women's liberation groups to place Ms. Anthony's likeness on the new mini-dollar coin, almost certain to become a reality.

And the odds seem to be growing with each passing week that Anthony will grace the new coin rather than Miss Liberty and her long, flowing locks.

Coin World, one of the nation's leading numismatic newspapers, gave readers a chance to voice their opinion in recent weeks and select their first, second and third choices for a design. Ms. Anthony was well down the list, faring no better than seventh in total votes and only fourth in the first place vote tally.

What is somewhat ironic about this is that the nation's coin enthusiasts have been clamoring for new designs on U.S. coinage ever since commemorative coinage came to a halt almost 25 years ago.

Now these same enthusiasts of new designs are rejecting a new face on a coin and showing overwhelming support for an old one—the Liberty Head design.

It garnered 315 first place votes and a total of 371 compared with 24 first place votes and a total of only 41 for Ms. Anthony.

What's more, there were plenty of rather acerbic comments made by Coin World readers regarding a coin bearing the suffragist's portrait.

In my mind there is no comparison between the two designs. The Liberty Head design, in most of the varieties which graced U.S. coinage in the 19th century, remains one of the nation's most beautiful ever to adorn a coin.

The prim Ms. Anthony design appears cold and even the talents of gifted Frank Gasparro, chief engraver of the Mint, have not been able to add warmth to the design—at least not in the sketches shown thus far.●

LIBERIAN SCIENTIFIC AND TECHNOLOGICAL DEVELOPMENT

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 13, 1978

● Mr. YATRON. Mr. Speaker, earlier today I received a briefing by B. K. Wesley Copeland, president of the International Science and Technology Institute, Inc. (ISTI). The Institute is involved in an AID sponsored project to assist the Government of Liberia with preparations of their national report for the United Nations Conference on Science and Technology for Development.

As part of the briefing, Mr. Copeland presented me the following transcript of the news program heard on Liberian radio following the presentation of the American flag by ISTI/USA to the Liberian Cabinet.

"An American flag flown over the U.S. Capitol on May 10, 1978, in honor of Liberia was presented to the Minister of State for Presidential Affairs and chairman of the cabinet, E. Reginald Townsend. The presentation was made at the executive mansion during a cabinet meeting by Roy L. Lovvorn, who led a three-man delegation from the International Science and Technology Institute, a Washington-based consulting firm funded by the U.S. Agency for International Development. Mr. Lovvorn noted that the flag was presented to the Government and people of Liberia by Pennsylvania Congressman GUS YATRON, who was delighted with the opportunity of expressing friendship and good will between Liberia and the United States. Receiving the flag, Minister Townsend expressed thanks and appreciation on behalf of President William R. Tolbert, Jr., for the spirit of mutual understanding expressed by Congressman YATRON. On behalf of the President, Government, and people of Liberia and the Government and people of the United States.

The Vice President noted that the presentation was a clear indication and a continuous manifestation of the good relations between the countries in the quest for human rights and freedom for mankind. In fact the delegation then asked to convey to Congressman YATRON the appreciation of President Tolbert, the Government and people of Liberia.

Minister E. Reginald Townsend later introduced the Vice President to Justice James A. A. Pierr (1), Secretary General of the party, McKinley A. DeShield, Sr., and members of the cabinet to the U.S. delegation."

The Institute was established in May 1977 to foster the transfer of science and technology to developing countries and to assist local organizations who believe that science and technology have a vital role to play in social and economic development. Although ISTI is concerned with the entire development process, this organization will direct its major effort toward implementing projects defined by developing countries and assistance organizations.

ISTI's underlying principle is that only through the process of partnership can this transfer of science and technology yield genuine long-term benefits. In support of this principle the Institute is assisting in the establishment of private in-country partner organizations, headed by nationals who can better analyze their country's needs and insure that implementation programs will be compatible with their society and culture.●

CUTTING THE FEDERAL BUDGET

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 13, 1978

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for September 13, 1978, into the CONGRESSIONAL RECORD:

CUTTING THE FEDERAL BUDGET

In a recent newsletter I stated that government expenditures should be restrained. The ink on the newsletter was scarcely dry when several Ninth District residents asked me a fair question: where do you make the cuts?

It is my feeling that virtually every government program could be cut back without harm. None of the appropriations made by Congress should be immune from reduction. Although claims for the federal dollar have become more widespread, the time for fiscal restraint has arrived. Putting the government's fiscal house in order is now a dominant priority of national policy. It is probably the single most important thing Congress can do to restore people's confidence in the ability of the government to manage its affairs. I do not share the view that much (some say 75%) of federal spending is uncontrollable. Every dollar the government lays out is approved by the President and Congress at some point and is within their control. The challenge is to translate the national consensus on fiscal restraint into an effective program to trim federal spending. Cutting the budget does not mean unravelling every program, but it does require a sober reappraisal of what government can and should accomplish.

The following are some of the cuts I would recommend:

Regulation: Forty-one regulatory agencies, which cost about $3.2 billion to operate and demand over $100 billion of businesses and consumers each year, must be cut back. Regulation has simply gotten out of hand.

Health: Government health costs can be reduced without lowering the quality of medical care. A recent study found that federal health care employees processed 2,500 claims per year while private sector employees processed 3,900 or more. It has been estimated that $4 billion was spent on unnecessary medical services last year.

Welfare: Welfare expenditures can be reduced by tighter controls. The Department of Health, Education, and Welfare (HEW) has acknowledged misspending about $7 billion last year. Even allowing for some mistakes in its huge operation, that amount of waste in the HEW budget of $148 billion is totally unacceptable.

Congress: Congress itself is too expensive. Federal spending for Congress has grown from $170 million in 1970 to $485 million in 1978. The number of employees on Capitol Hill and the amount of spending on congressional support services must be reduced. The bloated bureaucracy is not just the President's problem.

Jobs: The cost of creating jobs has soared. With $12 billion per year now being spent on employment and training programs alone, too much is paid for the results achieved. The cost of manpower programs will always be high, but there is mounting evidence that control of waste and fraud could keep the cost down.

Defense: The military should certainly not be exempt from budget cutting. I am convinced that costs can be minimized without impairing our national security. We have 20% more bases than we need, so some installations can be closed. Manpower can be used more efficiently and pay scales and retirement programs can be simplified and revised. Also, procurement practices can be improved by more competition and accountability.

Special interests: A variety of government benefits to special interests must be reviewed to see whether they are still in the national interest. Some of these benefits may be called for, but such things as maritime subsidies, impact aid to education and water projects must be scrutinized. Even social security, which has become the largest single program in the budget, should be checked. Nobody wants to reduce current benefits, but future growth in benefits can be contained.

State and local aid: Federal grants to state and local governments will have doubled from $43 billion in 1973 to $86 billion by 1979, while 44 states are posting surpluses that total $10 billion. Surely some reductions can be made here.

Bureaucracy: Although the size of the federal bureaucracy has not increased much in the past 20 years, federal pay scales have risen faster than those in the private sector. The federal payroll is now at $62 billion per year, up from $47 billion in 1975. Federal compensation and vacation, sick leave, pension and job security benefits must be reined in. Perquisites such as limousines, personal chefs and servants must be eliminated. Federal executives should be given what is required to do a good job, but not so much as to make them privileged far beyond the people they serve.

This list of areas where costs can be cut could easily be expanded, but it does provide a good starting point. This Congressman, at least, is committed to voting for reductions in these and other areas where spending is unnecessary or where services are delivered in an inefficient manner.●

GREATER CINCINNATI LEAGUE 50TH ANNIVERSARY

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 13, 1978

● Mr. LUKEN. Mr. Speaker, on Sunday, September 17, 1978, representatives from faculties and administrations of six Cincinnati area high schools, along with religious and community leaders, students, and various friends, will gather to celebrate the 50th anniversary of the Greater Cincinnati League. This league, made up of six Catholic boys' high schools, has provided our community with 50 years of sports entertainment, has developed the athletic and mental abilities of many youth, and has contributed a remarkable number of athletes to professional sports.

Notable examples include Roger Staubach, Purcell High School, and Jim Bunning, St. Xavier High School. Current professional sports rosters include GCL stars like LaSalle High School's Don Hasselbeck, New England Patriots; Roger Bacon's Moe Burtachy, Philadelphia A's; and Elder High School's Ralph Brickner, Red Sox; Gordon Mass, Chicago Cubs; Ron Moeller, Baltimore Orioles; Tommy Flanigan, White Sox; Steve Junker, Detroit Lions; and Bob Fry and Danny James, Pittsburgh Steelers.

When the Greater Cincinnati League was formed in 1928, it consisted of St. Xavier, Elder, Roger Bacon, and Purcell. LaSalle and Moeller High Schools joined later. Throughout the years, the GCL teams have been led by such talented coaches as Ed Kluska, John Wicthe, Fr. Ed Rudemiller, Paul Frey, Walter "Babe" Bartlett, Jim McCarthy, Bron Bacevich, and Gerry Faust. Under their stewardships, Greater Cincinnati League teams have won State titles in 9 of the 10 sports in which there is State championship competition. In addition, throughout it all, GCL schools have maintained a standard of academic excellence to match their performance on the athletic field.

It is my pleasure, therefore, to share this record of accomplishment with my colleagues. The Greater Cincinnati League's 50 years-long story of success can stand as an example of achievement to us all.●

THIRTY MINUTES TO DESTRUCTION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 13, 1978

● Mr. McDONALD. Mr. Speaker, Gov. Meldrim Thomson of New Hampshire gave an excellent talk to the Veterans of Foreign Wars National Convention on August 22, 1978 in Dallas, Tex. His major theme was that our defenses are becoming so weak that we might not win a future war with the Soviet Union and this we cannot afford. His speech called for action now to rebuild our defenses by going ahead with, not canceling major weapons systems and reinstituting some form of compulsory military service. As he pointed out, the hour is late and the effort will not be easy, but freedom once lost to tyrants is not easily restored. I commend his speech to the attention of my colleagues as I heartily agree with what he had to say. The speech follows:

THIRTY MINUTES TO DESTRUCTION

(By Gov. Meldrim Thomson, Jr.)*

Soldiers of the past, patriots of today: It is with great sense of appreciation for your loyal service and sacrifice of former years and your dedication to the basic American principles of our founding fathers that I salute you today.

My high esteem for the veterans of our nation's wars has prompted me to take many supportive actions on your behalf.

For example, the first official act of my administration in 1973 was to issue an executive order returning Memorial Day and Veterans Day to their original dates of observance.

When liberal critics said I did not have the power to do this, I urged our legislative to take similar action which they promptly did.

Thus, New Hampshire became one of the first states to rectify the politicians tampering with these two dates.

When President Ford offered provisional amnesty to draft dodgers and President Carter went even further in this despicable action, I declared by Proclamation that the days on which such actions were taken were days of infamy.

I suggested that it was "far from appropriate for a grateful nation to recognize, honor and offer eternal tribute to those who served her colors rather than to extend amnesty to those who rejected by flight and desertion the call to honor and duty."

Thus, I caused the National and State flags to be flown at half mast on all state buildings as a means of mourning those who had sacrificed their lives and limbs in Viet-

*Talk given before the Veterans of Foreign Wars National Convention, August 22, 1978, Dallas, Texas.

nam and upon other battlegrounds of the world.

When Ambassador Andrew Young persisted in running his mouth off against patriots of this nation while singing the praises of communists from one end of the world to the other, I called for his removal in my United Nations Proclamation last year. And for good measure I suggested that the United States should get out of the communist tainted United Nations and then kick the United Nations out of America.

Those of you who served our nation in World Wars I and II tasted the sweet savor of victory. You returned to the land of the free believing that you had made the world safe for democracy and that freedom had been assured for all mankind.

In time, however, you came to realize that the victories won on worldwide battlefields had been frittered away by inept and cowardly public officials.

Those of you who served in the wars of national humiliation—the Korean War and the Vietnam War—now know that there was no peace with honor to be found in either of these because our public officials would not let you fight to win.

You know also the disgusting hypocrisy of an American Secretary of State who never raised a finger to retrieve more than a thousand Americans missing in action in Vietnam while he unctuously accepted the Nobel Peace Prize for surrendering our forces to the communists of North Vietnam.

America emerged from World War II as the most powerful nation in the world.

We alone had the atom bomb. We had served the nations of the free world, and some not quite so free, as the arsenal of democracy. We made the transition from a wartime economy to peaceful productivity with a rush and so successfully that we had billions to share with less fortunate allies—and even with our former enemies.

Thirty-seven years ago our nation was protected by time and the seas. Not since the days of our revolution had foreign soldiers marched across our homeland to bring war to our doorstep. And so it was with a sense of security that Franklin Roosevelt boasted on December 29, 1940 that America would serve as the arsenal of Democracy to our allies.

Almost overnight our great industrial giant, the American free enterprise system, sprang into action. During the ensuing four years of war a flood of ships, planes, and war armament of every description poured from our factories.

We not only produced the sinews of war, but we also delivered vast quantities of supplies and armaments around the world, from the Murmansk run to the ports of Australia.

We built more than 13,000 large combatant ships—battleships, cruisers, submarines, destroyers, aircraft carriers and a host of others.

We built 110,000 small craft such as patrol ships and landing craft.

We produced for ourselves and our allies 2,700 liberty ships.

We filled the skies with almost 300,000 military aircraft for the allied cause.

In addition, we built highways, airfields, ports, shops and factories in every nook and cranny of the free world.

In all the history of the world mankind had never before witnessed such an outpouring of war materials.

Never had there been such a mighty effort made to produce a successful war machine.

But never again will it be possible for any nation, in time of a global war, to fashion the swords and spears of war.

Any nation that is not instantly prepared to retaliate in kind to a nuclear attack, and then survive to fight again, will be annihilated or lose its independence, or more likely suffer both tragedies.

Should the Soviets trigger their intercontinental ballistic missiles, we would have just thirty minutes before they could come showering down on America with holocaustic affect.

How does a nation prepare for a nuclear war with only thirty minutes to spare and no effective means of defense except to launch its own missiles?

Obviously it dosn't. It must stand ready for the worst for as long as it exists. There is an uneasy and growing certainty that America is not ready for the worst.

In the 1950's we held quantitative and qualitative superiority to the Soviets and all other nations of the world in nuclear strike ability.

Since then, with the help if not the connivance, of a long line of public officials in the State Department and the Congress, we have seen an aggressive Soviet Union build a formidable strike force that just this week was described by retired Major General John Singlaub as possessing quantitative superiority.

We are doomed to lose a war with the Soviet Union said this courageous general if our present military policies remain unchanged.

Consider the record of relative growth of the Soviet Union in recent years.

Unfortunately, today no one holding a public office of influence is inclined to change our surrender-bound military policies.

The amount of our national budget marked for national defense has declined since 1963 from 50 percent to 22 percent. The Soviet budget has grown by 3 percent a year in the last 10 years.

Our military budget for FY 1977 is estimated at $126 billion. The expenditures of the Soviets for their military is considered by experts to be one-third higher than ours.

While the Soviets have raced ahead of us in the development of a mighty military machine, we have concentrated on expanding social services.

While the portion of our national budget earmarked for national defense plummeted from 38 to 22 percent from 1975 to 1979, our welfare services (excluding social security) increased from 11 to 17 percent in the same 4 years.

The heavy emphasis of the Soviet Union on its military preparations has, in the minds of many of our military authorities, placed the United States in a position of inferiority to the Soviets.

While it would be impossible in our short time together to draw a comparison of the relative strength of the military machines of the Soviets and the United States, several important facts should be noted.

1. The armed forces of the Soviets with reserves amounts to 11 million persons compared to our active and reserve force of 3.6 million.

2. The Soviets are known to have 1,400 plus missiles compared to our total of 1,054 missiles.

3. The Soviet air force is quantitatively twice that of ours. But of greater significance, the Soviets are building 2½ of their deadly Backfire bombers a month while we are building no major new bombers. In addition, they are manufacturing 1,000 fighter planes a year.

4. In naval ships the balance has turned against us significantly. In no area is the difference more pronounced than in submarines.

We have 41 ballistic missile subs to their 91 and only 82 attack subs to their 260.

Every major city of America is vulnerable to obliteration by Soviet missile subs lurking off our coast, and in the case of their Delta subs, from as far off as 4,000 miles.

Our naval experts are deeply concerned that the Soviets, with their 260 subs—a force that is still growing rapidly, could deny to us the use of the major sea lanes of the world.

Veterans, to put it mildly, we are in the biggest snafu of our national life and still losing ground to an enemy whose officials are pledged to bury our nation.

While the Soviets are building 2½ Backfire bombers a month, our President junked our equivalent to the Backfire, namely the B-1 Bomber.

While the Soviets are expanding their naval throwpower in every major segment of their naval force—Kiev-type aircraft carriers, nuclear cruisers and submarines, our President objects to having a missile cruiser added to our new military budget.

While the Soviets are building movable missile bases that can be hidden from detection, we are considering construction of such deceptive moveable bases some six or eight years from now, that is, if Congress will authorize the money.

One means of building a movable launching site for missiles would be to construct a huge ditch twenty miles long. Today, SAC is concerned that even this new means of protecting our missile launching bases may be aborted by the environmentalists who have indicated that SAC should first produce an impact study.

How apt, even today, that old verse that for want of a nail a kingdom was lost.

I am confident that if the Environmental Protection Agency had been in existence during World War II, we never would have built the big inch pipeline that fueled much of wartime effort.

May I also suggest that a diplomatic policy that deliberately seeks to abandon old and true friends such as the Republic of China, now temporarily on the Island of Taiwan, or sets out maliciously to destroy allies like Rhodesia and South Africa, only hastens the day when the Soviets will be able to demand our unconditional surrender.

The Republic of China is an indispensable link in the Far East defense chain fashioned by our military strategists following the surrender of Japan. We can abandon Nationalist China to Red China only at the risk of driving Korea and Japan into the arms of Communism.

Already we have exposed the Suez Canal, one of the major waterways of the world, to Soviet take over by our fuzzy-thinking, stupid insistence that the canal be given to Egypt.

More recently, cowardly senators abandoning national interests to Presidential pressure, gave away our own Panama Canal to a two-bit communist puppet.

Thus, two of the four major sea lanes of the world have come under the sway and influence of the Soviets.

What happens if South Africa, our friend and ally in two World Wars, should fall to the Soviets who are relentlessly pressing their advantage on the Continent of Africa?

Around the Cape of Good Hope passes 80 percent of the oil used by the West and 40 percent of the foodstuff.

South Africa is vital to the survival of the Free World.

Over one-half of the strategic minerals and about 70 percent of the strategic metals consumed by the Free World come from Rhodesia and South Africa.

Yet through three presidential administrations we have done everything possible to set up a communist take over of this area of the world still friendly to the West.

Any reasonable, sensible observer of present-day America must wonder if our nation is bent on suicide; as some writers suggest.

Never has America been so much in need of a king size dose of ol' fashion courage and fortitude.

We should be galvanized into immediate action to make this nation second in defense to none.

Veterans, I suggest that all your courageous efforts on the battlefields of the past will mean nothing unless we recognize the great truth of that verse in the Book of Proverbs that where there is no vision, the people perish.

Let us recapture the vision of an America strong, free and dedicated to our own self-preservation.

The freedom that we were nurtured on, fought for and cherished hangs today in the balance of the scale of destiny.

What sacrifices are you and I prepared to pay to preserve our liberty.

Patrick Henry put liberty above life.

The signers of the Declaration of Independence pledged their lives, fortunes and sacred honor. Many lost their lives and fortunes but not one his sacred honor.

The hour is late. In today's nuclear age we never again will be protected by sea and time while we build a new arsenal to counter the thrust of a major adversary.

If ever the fateful hour of all out global war comes we will have but thirty minutes from trigger time in any part of the world.

In peace let us prepare for war to prevent it. And in war let us fight to win, knowing there is no substitute for victory.

I suggest that for once in this generation we go all out for America. If we are too busy to care about our freedom no one else will preserve it for us.

First, let us return to compulsory military training at once if we mean to have a well trained, competent fighting force.

Second, we must make whatever sacrifices necessary to rebuild our Navy, expand our missile arsenal and vastly improve our Air Force.

Third, we must at once build a national energy policy that works, and tell the demonstrators, bureaucrats and environmentalists to get the hell out of the way.

Fourth, let us quit bleeding ourselves with no-win wars and with inflationary spending that only adds to the oppressive tax burden of every hard-working citizen.

Fifth, let us drive from the seats of political power every United States Senator who voted to give away the Panama Canal or voted against the B-1 Bomber.

Sixth, make no mistake about it, we are at war with communism. Either we shall win and eventually help to restore true freedom throughout the world or communism will ultimately enslave all mankind.

In recognition of this basic truth, we should stop succoring the communist world with food, technological know-how and strategic goods of invaluable military worth.

We should throw the hypocritical, dangerous and American tax-sucking United Nations out of the country and restore to Congress its former American security committees.

Seventh, we must realize that there will never be compatibility between the Hammer and Sickle and the Stars and Stripes. One is the rule of the ruthless tyrant and the other the way of freedom.

Consequently, we must guard against any further aid to or buildup of communism anywhere in the world, and especially in Panama, Cuba and Jamaica.

Finally, as God-fearing people let us put our faith in the Lord and our trust in country that freedom might reign forever in America.

Remember, we could be only thirty minutes from destruction at any future moment. Let us arm ourselves so well that no enemy will ever dare to test the trigger of fate.

America can survive and grow great again only if you and I, who love it, will work harder to preserve it, than the enemy within and without who would destroy it.●

SEATTLE POLICE: EFFECTIVE LAW ENFORCEMENT AT A REASONABLE COST

Hon. John E. (Jack) Cunningham

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 13, 1978

● Mr. CUNNINGHAM. Mr. Speaker, practically every city in the United States is facing the necessity of deciding between needed public services which the public is willing to buy and other services that the public would prefer to forgo.

I represent the city of Seattle in Congress. In many areas, Seattle has been a pioneering place for innovative programs that increase the effectiveness of local public servants, while at the same time stretching the tax dollar of the taxpayer.

I commend the Seattle Police Department and would recommend to my colleagues an article in the September 1978 edition of FBI Law Enforcement Bulletin on the special activities section of the Seattle police:

HOW TO PROVIDE MAXIMUM POLICE SERVICE AT MINIMUM COST

(By Leon O. Libby)

Police departments across the country are faced with increased budgetary restrictions that not only prohibit them from increasing the size of their departments, but stretch existing manpower and resources to the breaking point. In metropolitan areas, this situation is resulting in the increased use of one-man patrol cars to compensate for the lack of personnel. When this problem is combined with an inadequate number of police officers in a given city, then unique solutions must be found.

The Seattle Police Department's Special Activities Section (SAS) must often provide in excess of 250 police officers to make up a security force for everything from rock concerts to professional sporting events. The department consists of approximately 1,000 sworn officers. Six hundred and fifty of them are assigned to the uniformed Patrol Bureau and Traffic Division to cover the entire 84-square miles of Seattle for a 24-hour period. There are not 250 officers to spare for such security forces.

The SAS is headquartered at Senate Center, a complex of cultural, entertainment, and convention facilities covering 74 acres—1 mile by monorail from the heart of the central business district. The complex consists of many facilities but of foremost importance is the metropolitan stadium and 3 auditorium-type facilities which can accommodate from 3,000 to 15,000 patrons. It is in these facilities that the biggest events are held which require the heaviest police coverage.

The Center is the reason for the unit's existence, having been originally built on the site of the 1962 World's Fair. Realizing the potential benefit of maintaining such a complex in the downtown area, city government decided to retain it as a permanent site.

While the Center was being converted to a permanent fixture, it was policed by the occasional patrolling of units assigned to the adjacent area. But patronage of the completed facility would depend, to a large extent, on a feeling of security by people who used the complex or attended events presented there. Periodic patrol and policing on a "call-for-service" basis would be inadequate.

The first regular assignment of police personnel to the Center was made in 1965. One result was that more promoters and sponsors became interested in holding events there, with the subsequent attraction of large numbers of people. This large concentration of people in such a relatively small area made it obvious that the detachment at the Center should be made permanent. The end result, after 13 years of changing needs and manpower requirements, is the present SAS consisting of 13 sworn officers (15 in the summer), 2 sergeants, and a lieutenant. These officers operate on 2 shifts; one from 1000 to 1800 hours and the other from 1800 to 0200 hours.

SAS's responsibilities are many and varied but one of their most important functions, from a police point of view, is providing security at the Center's events. Obviously, 13 officers cannot provide this security at an event with an attendance of 15,000, particularly if that event is an extremely popular rock group whose patrons bring with them the inherent problem of liquor and drugs in addition to the sheer weight of numbers.

How then does such a small unit perform the job that is expected of it? The unit commander maintains an accurate, up-to-date list of all officers interested in off-duty employment and provides the necessary security with those men. It sometimes requires a great deal of manipulation to provide enough officers.

Whenever a promoter has a show scheduled, he contacts SAS with the particular requirements for security and crowd control for the event. Together they discuss the particular characteristics of the event and determine how many officers will be needed. From the off-duty roster the SAS lieutenant assigns the necessary manpower, computes the cost, and bills the promoter. The promoter makes direct payment for services to a private C.P.A. firm, including an additional fee the firm charges for its service. The C.P.A. firm, in turn, makes payment of wages to the officers. In this way the police department avoids the questionable practice of becoming involved in handling monies paid to off-duty officers working for someone other than the police department.

The important point is that most events require a police presence, a fact acknowledged by everyone from the police to promoters; but no matter how police coverage is provided the event will probably be staged. By using this method just described, more than one objective is accomplished. The event proceeds smoothly because police are present to maintain order; the promoter is favorably impressed and uses the facility again, thereby contributing to the Center's financial stability; but, most important, a necessary function has been fulfilled by official police department authorities at relatively low cost to the city. When one considers that SAS repeats this procedure 35 to 40 times a year for rock concerts alone, the impact on the police budget would be tremendous if the city had to pay overtime to these extra officers.

The savings to the department created by SAS does not stop here, for the unit has complete administrative responsibility for re-

cruitment, training, appointment, and assignment of the members of the Seattle Police Reserve Unit and the Seattle Police Explorer Post.

The reserve unit is a volunteer, nonpaid service organization whose officers, when on duty, work under the direct supervision of a regular sworn officer. Reserve officers are chosen carefully and must attend the Seattle Police Academy for 120 hours of classroom training covering most areas of police work. Once they receive their full police commissions, the same as sworn officers, they are required to work a minimum of two 8-hour shifts every month. This 70-member force provides an invaluable service to the department in general and SAS specifically. The only cost incurred by the department is the issuance of uniforms and equipment.

These reserve officers facilitate an orderly ingress and egress to and from the immediate Seattle Center area. Their acquaintance with this duty and familiarity with the many events and attendant problems enables them to perform this function efficiently, thus relieving the department's Traffic Division of this burdensome task.

They fulfill the SAS's responsibility for moving traffic through the main Seattle Center parking garage, and after years of practice can usually accomplish this task in a little over 30 minutes. During rock concerts and other major events, they patrol the garage continually and normally write 15 to 20 citations for minor infractions of the law. This constant surveillance prevents minor thefts and acts of vandalism and ensures the place does not become, essentially, the site of a large party. Furthermore, the officers use the citation in lieu of arrest, whenever possible, because of the great number of juveniles and minors involved in this activity.

Reserve officers' duties are not limited solely to traffic control at the Center. SAS schedules these officers to augment the regular patrol force, driving the paddy wagon, filling in for vocational officers to create two-man cars, etc. They act in these capacities as sworn officers, again at no cost to the city.

The Explorer Scouts, consisting of young men and women between the ages of 15 and 20, also attend the police academy for 8 hours every Saturday for 13 weeks. They are assigned by SAS to deal with crowd control at various Center events, most parades, and at the annual July Seafair celebration. They also perform these services without pay.

During the school year thousands of students from schools throughout the greater Seattle area are brought to the Center to attend such events as the symphony and opera as part of cultural enrichment programs. This often results in the arrival of as many as 60 loaded school buses in as little as an hour. The buses have to be accommodated and directed to parking and the students safely directed across adjacent streets. Daytime activities of this nature occur approximately 400 times a year. In addition, evening events are held, ranging from opera to professional sports, which are attended by thousands. With this impact of pedestrian and vehicular traffic compressed into short time spans, the presence of SAS officers is absolutely necessary to eliminate potential chaos.

The SAS also performs all other regularly accepted police functions in the immediate area of the Center. With large numbers of people so greatly concentrated, it would be foolish to presume that problems at the relatively crime-free Center are nonexistent. Recently there was a serious car-prowl problem on the streets and in the parking lots adjacent to the Center grounds. By utilizing additional reserve officers and employing stake-out tactics, it wasn't long before the problem had been reduced by 50 percent. The unit maintains its own crime analysis function, using pin maps to target potential trouble spots.

Juvenile strong-arm artists are always a matter of concern for SAS officers, who must also contend with counterfeit tickets presented at events, ticket scalpers, panhandlers, liquor violators, marihuana peddlers, lost property, runaways, and lost children. These are problems for which these officers are particularly suited because of their intimate and daily acquaintance with the buildings, the people, and the 74 acres comprising the Seattle Center.

For the past 2 years the Special Activities Section has also been responsible for security at the 65,000-seat Kingdome stadium and this has posed additional staffing problems. The covered, multi-use facility is home to three professional sports franchises and hosts every type of event from recreational vehicle shows to indoor motocross.

The different kinds of events and the size of the crowds at this facility pose problems that SAS does not encounter at the Center grounds, but the unit's experience over the years with the latter has contributed to successful handling of this new challenge.

A baseball game with an attendance nearing 35,000, for example, requires about 20 officers, 3 sergeants, and a lieutenant. A soccer match requires 23 officers and 4 supervisors, while a professional football game with an attendance in excess of 50,000 requires over 50 officers and more than a half-dozen sergeants. An extremely popular rock group, however, presents problems that require 250 or more officers and a dozen supervisors.

In addition to having to schedule this many men, the SAS lieutenant is faced with another problem. The Kingdome is a county-operated facility located within the city limits of Seattle, and to avoid the potential conflict in this situation and any accusations of favoritism, the lieutenant schedules a force of one-half county police department personnel and one-half city police department personnel for all events requiring security. This method has worked out well during the Dome's relatively brief history. The spinoff effect of this use of officers from the city and county has been the fostering of good will between the two departments whose officers seldom had the opportunity before to meet in an official capacity.

In 1977, the Kingdome hosted a nationally known rock group in a sold-out concert. Customers camped out at the facility beginning 2 days in advance. SAS scheduled personnel to provide 48-hour security for the event and utilized over 260 officers and supervisors during that period. Although both sworn and reserved officers are used at the Center, only sworn officers are used at the Kingdome. When it became obvious that sufficient off-duty city and county personnel were not available, other agencies within the county were contacted and officers were successfully recruited to augment available personnel.

This past summer, SAS was confronted with the challenge of providing security for the priceless Treasures of Tutankhamen exhibit currently touring the United States. In order to safely house the exhibit, the Flag Plaza Pavilion on the Center grounds underwent extensive renovations. SAS had primary and complete responsibility for security which was provided on a 24-hour basis, primarily through the use of off-duty personnel.

During the 14- to 16-hours a day that the exhibit was open to the public, the treasures were guarded by a crew of 12 officers and a sergeant assigned by SAS. The security measures taken in Chicago and New Orleans to protect the exhibit were examined to assure adequate public exposure to the treasures and to insure protection at the same time. The length of the display, from July 15th through November 15th made it in effect a small rock concert 7 days a week for 4 months in terms of manpower needs.

The normal budget of the unit, though inflated in 1978 by the addition of the Tutankhamen exhibit, is usually about $275,000 per year, with about $265,000 of that in personnel services. After examining what the unit accomplishes in terms of crowd control, traffic control, and security at events ranging in size from 3,000 to 60,000 people, with a permanent contingent of only 13 officers, it is obvious that the overall cost to the department budget would be far higher if SAS had to address the problem differently.

Use of on-duty personnel, paid overtime, would be an awesome financial burden on the budget, plus there would be a diversion of manpower and resources. By relying almost exclusively on off-duty personnel whose services are paid for by private firms, these problems are avoided. By using the services of dedicated volunteers to perform routine police functions at the Seattle Center grounds, the same cost factor is overcome in an area of such heavy use that police presence is a necessity. An example, however, might serve to indicate the magnitude of the savings. Assume that a rock concert requires 20 officers, paid at the rate of a first-grade officer's salary at $9.00 per hour for approximately 3 hours. This situation, magnified by 40 concerts a year, comes to almost $22,000 alone. Imagine the cost when the event requires more than 250 officers!

One additional factor in the success the SAS enjoys is the close cooperation of the Crimes Specific Section (See *FBI Law Enforcement Bulletin*, Vol. 47, No. 2, February 1978) and the neighboring patrol units. They provide the backup which is vitally important to the effectiveness of the unit.

The Crimes Specific officers come and go freely at the Center, working the crowds for scalpers, purse snatchers, car prowlers, liquor violators, and drug offenders. They work in plain clothes as opposed to SAS officers who are basically a uniform force unless necessity dictates otherwise. They also augment SAS personnel inside at some of the potential trouble spots, such as rock concerts, hockey games, boxing and wrestling matches, etc.

The neighboring patrol units assist by making frequent transportation runs so that SAS officers need not leave the grounds when making arrests. This is in addition to overlapping patrol of the immediate area.

One measure of the unit's success is the continued use of the Center by local residents, tourists, and promoters. According to the unit's leader, "The Center is a place to which a person can feel comfortable about sending his children and their grandmother. That feeling exists because people can take advantage of the wide range of activities in an area of relatively low crime occurrence with the presence of trained police officers always read to assist."

The general manager of the Seattle Center has nothing but praise for the Special Activities Section and the service it provides at the Center:

"This detachment of officers, in my opinion, provides the greatest service and assistance to the Center of any department in the city. Their assistance in crowd control for the hundreds of events held at the Center from festivals to rock concerts is second to none in the Nation. Their model has been used by many of my manager counterparts to establish new or revamp existing programs.

"The attitude of the officers is reflected in the public's feeling of safety while enjoying the Center, and this has been translated into part of our ongoing healthy financial picture. The officers have become an integral part of our total community. They have a special appreciation for the Center while never neglecting their primary responsibility—the police department." ●

A FEW KIND WORDS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 13, 1978

● Mr. BIAGGI. Mr. Speaker, I rise to call to the attention of this body a few kind and revealing words written recently about a respected colleague and a good friend, CHARLIE RANGEL, who ably represents the 19th District in Manhattan. Most of you know him as the Congressman from Harlem, a description often used by the media, and one of which he is justly proud. However few of you may know that the 19th is, perhaps, one of the most cosmopolitan districts in the country, with four large, distinct communities and constituents of every conceivable ethnic, racial, religious, economic, and social strata. It extends down Manhattan's West Side, across Harlem and the Upper East Side, and even takes in the Roosevelt Island community, located in the middle of the East River.

This article entitled "Westsider Charles Rangel," appeared in the August 26 edition of the magazine, the West Side TV Shopper. The writer, Max Millard, captures the complexity of the diverse district, and the skill and creativity with which this able New Yorker serves his constituents. I am proud to work with him and to call him my friend.

The article follows:

WESTSIDER CHARLES RANGEL—CONGRESSMAN OF THE 19TH DISTRICT

(By Max Millard)

The dividing line of New York's 19th Congressional District twists and loops through Upper Manhattan like a traveller who has lost his way. From the corner of 62nd Street and Central Park West, the boundary turns sharply at Amsterdam Avenue and extends northward to 164th Street, then follows the East River shoreline south to Roosevelt Island, taking in all of Harlem and a large chunk of the East Side.

This is the area which United States Congressman Charles Rangel has represented ever since he was sent to Washington in 1971, after defeating the colorful and controversial Adam Clayton Powell in the Democratic primary. Today, as firmly in control of the seat as Powell was during his height of popularity, Congressman Rangel stands virtually unopposed in his quest for a fifth term.

"I have received the Democratic endorsement, the Republican endorsement, and the Liberal endorsement," explains Rangel one Friday afternoon at the towering State Office Building on 125th Street. "I am assuming that the Socialist Workers Party and the Communist Party will be filing. They normally do. In the last election I got 96.4 percent of the vote."

Whereas the late Adam Clayton Powell had wide appeal only among the city's blacks, Rangel gained the support of many of Harlem's residents and also a large majority of liberal whites on the upper West Side. It was they who provided him with a 150 vote margin of victory over Powell in 1970. In the present 95th Congress, Rangel has had the most liberal voting record of any Congressman from New York State. And while he continued to give a great deal of attention to Harlem's problems of health care, unemployment, and drugs, Rangel has recently had more demands placed on his time as a member of the powerful House Ways and Means Committee. The first black ever to serve on the committee, he is currently 11th in seniority and will be 7th in the next Congress.

In his New York office, where he generally spends two days per week, Rangel appears surprisingly fresh and relaxed at the end of a working day. As we settle into the interview, the elegantly-dressed Congressman with the graying moustache and the rasping voice proves himself very much the politician. He uses each question as a springboard to launch into his favorite topics—for example, his access to President Carter.

Because of his various committee assignments and his strong support of most of Carter's policies, says Rangel, "I am forced to meet with the President more than probably any other members of Congress. I often stop by the White House on my way to the office." Rangel also likes to talk about Chip Carter, the President's son, who is involved in a project known as City in Schools, designed to upgrade the neighborhoods in the area of certain schools. Chip has taken a special interest in Harlem, and one school in particular near Morningside Park. "I am confident that with Chip Carter's help, and with my help, Morningside Park will soon show some improvements. I hope that Columbia University will assist us too."

When asked about the unusual shape of the 19th Congressional District, Rangel says, "The reason for it is that as we find populations expanding, we don't find the size or the numbers of the members of Congress expanding. We used to have half a dozen members of Congress representing different parts of Manhattan. Now we're down to three—me, Green, and Weiss. If you break it down, you can see that Adam Clayton Powell's district used to be just Harlem."

As a member of the House Select Committee on Narcotics and Drugs, says Rangel, "I am holding a conference in the last weekend in September. I have gone to Moscow, to try to encourage them to do more in the area of controlling opium. I have been to Thailand for the same reason . . . That's one area in which I have great disappointment in this Administration. I find efforts of Nixon's to be greater than Carter's. The Office of Drug Abuse was disbanded by Carter."

Another field in which he finds Carter at fault is health care. "I support Kennedy's proposal," says the Congressman. "There's no question that, for anti-inflation reasons, the President has put his national health program on the back burner. But to think that any program could be directly controlled by economic needs rather than by the medical needs of the people is something I cannot accept."

The ultra-liberal Rangel, one of the most vociferous supporters of U.N. Ambassador Andrew Young, still lives in the same building where he was born 48 years ago, whenever he is not in Washington. He dropped out of high school to enlist in the army, and spent four years compiling a distinguished service record, including a Presidential citation and three battle stars. Once he returned to New York, Rangel completed high school, went to college, and entered law school on a full scholarship. He was admitted to the bar in 1960; in 1966 he was elected to the first of two terms in the New York State Assembly.

Married and with two children, Congressman Rangel believes that his future lies primarily in the Ways and Means Committee, which handles such giant concerns as taxes, trade, health insurance, social security, and welfare. In order to maintain his present popularity throughout the 19th Congressional District, he will have to continue to support those programs that benefit his constituents in both Harlem and the Upper West Side. How can this be done? "If we're going to use the tax system to make incentives for the business community to help the economy," he replies, "we need to bring the disadvantaged into the mainstream." ●

THE BEST REGULATION IS NO REGULATION AT ALL, BUT THE NEXT BEST IS EFFECTIVE SELF-REGULATION

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 13, 1978

● Mr. VANDER JAGT. Mr. Speaker, increased regulation of American business is of growing concern to all of us who admire and recognize the absolute necessity for a truly free American free enterprise system. We know that economic freedom is of equal importance to our individual freedoms if our country is to grow stronger and to better provide opportunities for each of us. Yet, it now is estimated that it presently costs American business more than $65 billion annually to comply with Federal regulations and paperwork. I am concerned, as many Members are, that these regulations are in reality strangling the goose that laid the golden egg—our free enterprise system.

Certainly, California's proposition 13 and those of other States are indications of the concern of the American people for better, more efficient Government and not increased Government intervention in our lives.

The growth of our Government was well described recently by Congressman TOM RAILSBACK. He recently explained that Federal spending has grown by more than 550 percent—skyrocketing from about $75 billion 25 years ago to more than half a trillion dollars for 1979. Over that same period, the national debt has exploded from $265 billion to $750 billion. It has doubled in just the last 8 years.

Regulations have contributed to this growth and this tremendous cost. In this regard, Eldon E. Fox, vice president of AMF Inc., recently gave a talk on this important subject in Detroit, Mich. His address was entitled "G Strings"—for the strings that the Federal Government holds on our economic system. I believe Mr. Fox's comments are well made and his address follows:

ADDRESS BY ELDON E. FOX

Your schedule of events is exceedingly full. When it is completed, I am certain you will have extended your respective professional scopes through the constructive interchange of ideas.

As the keynote speaker, I feel a special responsibility to launch this session in that specific direction.

In analyzing your program subjects it became clear to me that my role was not to discuss motivation, creativity, marketing communications, or effective promotional planning and the "How to . . .". There is a sparkling group of experts lined up to do that very thing.

Rather, I see my mission differently. I want to warn you that "the G-Strings will get you if you don't watch out!" If that is too much to ponder on a Friday morning, so be

it. On the other hand, in marketing, being forewarned is being forearmed.

G-Strings have never been featured on TV or radio commercials. G-Strings are not advertised in consumer or trade publications. Furthermore, I am not aware of any publicized G-String recall programs. I doubt, however, if there is a man or woman in this room who doesn't know what a G-String is.

At a recent meeting in Washington, D.C., a congressman from Michigan said, "The government is in the marketplace—the government is going to stay in the marketplace—what is still to be decided is the government's role in the marketplace."

As marketing communications executives, if you thought that the strings of government were someone else's business, you are innocently and blissfully wrong. The federal government is entangled, one way or another, in almost every aspect of our marketing efforts. It is surrounding us with strings that bind, pull, redirect and tangle programs, resulting in higher costs and lower profit margins.

Unless you really begin to do something about it, in a very short time the only question remaining will be how severe or how strong, or how pervasive the government's role will be.

During his commentary on ABC's TV News recently, Howard K. Smith commented that the Federal Register—that burgeoning bible which carries all of the many new federal regulations—has grown from 14,000 pages in 1960 to a mind boggling 61,000 pages last year.

If you started to read it tomorrow, you would have to read over 167 pages a day, seven days a week, for one solid year to get through it just once.

According to The American Enterprise Institute, there are 10 major "economic" regulatory agencies in the federal government, a 25 percent increase in the past seven years. The Federal Trade Commission, the Securities and Exchange Commission and the Federal Energy Administration are examples of "economic" regulatory agencies.

There are 17 major "social" regulatory agencies, a 42 percent increase in the past seven years. The Employment Standards Administration, Environmental Protection Agency, and Food and Drug Administration exemplify "social" regulatory agencies.

This plethora of agencies has in essence created a fourth branch of government—the regulators themselves. In too many cases, these regulators have little experience in the area they are trying to regulate. They seem to have little awareness or concern for the costs (hidden or direct) imposed on business and the consumer by their regulations. They are not accountable to the consumer for the consequences of their regulations, but we in business are. And, some regulators have developed an elitist attitude of "We know what's good for you—better than you do."

This situation has created some classic horror stories of over-regulation:

The Consumer Product Safety Commission bought 80,000 bright yellow buttons for its campaign to encourage toy safety. But the buttons themselves were found to be hazardous, with sharp edges, and with lead paint, which—if scratched off by children—could be harmful.

The American Hospital Association estimates that in complying with just eight federal regulations dealing with health care, its member institutions were forced to spend $800 million dollars last year—adding $22 to the average hospital bill.

The National Highway Traffic Safety Administration's new safety standard, requiring a complex antilock braking system in all commercial vehicles that use air brakes, has caused some real headaches. According to truckers, vehicles with antilock brakes have had four times as many jackknife accidents as those without. One large fleet owner disconnected the system in each of his 900 newly purchased trucks because it was so dangerous.

When Eli Lilly and Company asked the Federal Drug Administration recently to approve a new arthritis drug, the application ran to 120,000 pages and supporting documentation weighed more than a ton!

"So what," you say! "We have always had government regulations."

True, but this escalating flow of regulations increasingly affects the conditions under which goods and services are produced and marketed, as well as the physical characteristics of products that are manufactured. As a result of the former, conditions under which goods are produced, the Environmental Protection Agency, for instance, sets constraints on the amount of pollution a manufacturer may emit in the course of its operations. As an example of the latter, product physical characteristics, the Consumer Product Safety Commission specifies minimum standards for products that, in its judgment, are potentially unsafe. However, the CPSC does not stop here, but mandates—often in great detail—certain characteristics that the products must have.

Nowhere has government regulation, or the controls of government, been more pervasive than here in Detroit. Many of you will remember that it was just about twenty years ago that the federal government required every automobile to have a dealer's invoice clearly posted on the car's window. This was a simple little G-String. It told the potential purchaser what the car could cost him, but almost never has. This single string has now become a web—perhaps web is inaccurate because that implies effective design. The strings really look more like spaghetti.

A couple of prime examples are the interlocking seat belt fiasco when consumer opposition caused the regulation to be rescinded, and the current listing of estimated gas mileage on new car stickers. I haven't met anyone yet who actually gets as many miles a gallon as the tests indicate.

What has happened with government regulation of the auto industry, of course, is that the consumer ends up paying the bill—a pattern repeated in many other industries. It is estimated that regulatory costs have added nearly $500 dollars to the price of each new car today, compared with prices of comparable cars 10 years ago. If you think Detroit and the automobile industry are an exception, think again. I seriously doubt if any significant industry has escaped the G-Strings. The strings are growing everywhere.

The tobacco industry, of course, is a major example. Last year, Americans smoked more cigarettes than ever, despite the facts that each pack of cigarettes carried, at government insistence and industry's expense, the Surgeon General's warning, and that the TV advertising of cigarettes is prohibited. The irony of this is interesting, because the government is subsidizing tobacco crops and providing funds to emerging nations where the governments use cigarettes as a major revenue source.

The food industry is feeling its share of G-Strings. We are going way beyond the customary requirements of packaging and labeling. We are now concerned with prepackaged sugar on children's cereal.

I suspect that most of you as kids had sugar on your cereal, whether it was placed there by you, or your mother, or your father. We have survived what is now perceived as a danger, and the government feels, apparently, we should not have. Can it be that instead of growing up in spite of themselves, future generations will be challenged to grow up in spite of the government?

In the current marketing of cereal to children, there is a great government concern about advertising these products on television. Children eight years old and younger, or twelve years and younger—depending on who you talk to in the federal bureaucracy—are the targets of what Senator Weicker calls "national nannyism."

In this regard, a Deputy Assistant for Advertising at the Bureau of Consumer Protection of the Federal Trade Commission said recently that parents of children under twelve are tired of saying no to their kids. So, the government must do it for them by banning the TV advertising of these questionable, precoated sugar cereal products to children. By this deft governmental assistance, parents will be able to walk through the supermarkets without a parent-child conflict at the cereal shelves.

The airline industry is experiencing G-Strings in an entirely different fashion. Here, the strings are being removed. The airlines are being told that they can set their own fares—down to a predetermined point. You are all aware of the market scramble that is taking place. If you abide by the fine print, you can now travel at less cost to many areas because somebody pulled the G-String—and that has given the marketing executives of that industry a whole new ball game. It's great for business right now, but may bring a competitive fallout for some airlines down the road.

The soft drink bottlers are feeling the effects of government regulatory action. The FTC has proposed to issue a ruling to the effect that the two leading cola companies cease imposing territorial restrictions on their bottlers. Try communicating that to your franchisees.

The drug industry is, of course, a natural. How could we not have plenty of G-Strings here? You know about the Listerine case. The FTC says they must run advertising to offset the lingering effects of false advertising. How much advertising do they have to run? Ten million dollars worth is being discussed; but how do you really measure "lingering effects?" As a marketing communicator, have you the expertise to straddle "lingering effect" product stories?

The Federal Drug Administration is trying to develop a comprehensive food labeling policy. The saccharin case illustrates what this could mean to food marketers. It's impossible to estimate the cost and to measure the marketing impact from re-labeling all of the hundreds of products containing this artificial sweetener, just to add a "dangerous to your health" warning for a product used routinely for years, but now accused of causing cancer in laboratory rats. What is the reaction of the public to all this? Well, during the heat of the saccharin debate last year, they sent an average of 15,000 letters a day to the FDA disagreeing with its ruling.

The FCC blithely overlooked the fact that the industry already was loaded with 23 channel sets it couldn't sell. Effective timing is not built into a G-String!

For those of you engaged in television commercial production, a man at the FCC said recently that "rules are rules." What did he mean? He meant that if your commercial didn't have the signal strength to provide a full 525 lines and fill the screen, the TV station must reject the commercial. This is now happening in Washington, D.C. and Chicago.

Are you involved in marketing and promoting sporting events? If you are, have you really considered the sales impact of the nondeductibility of sporting event tickets as a business expense? The House Ways and Means Committee is looking at this, along with the House's three martini waltz.

Most of you know that AMF makes Harley-Davidson motorcycles. Like the automotive engineers here in Detroit, we have been reducing emissions and noise. Our motorcycles are now quieter than ever before, and meet the current government regulations. Yet, we are being asked to produce less noise by 1985 than the garbage disposal which many people have in their kitchens today. As proposed,

these regulations not only would be very expensive to meet, but also would cause us serious marketing problems from having to change the basic apearance of our motorcycles. We have been stressing to the EPA that the consumer would have to pay up to $400 more per motorcycle if the proposed standards take effect. We see this as a classic case of over-regulation that is not cost-effective because motorcycle noise levels are simply not a significant factor in the overall noise on our highways.

For those of you primarily concerned with advertising, you should be aware that a Senate subcommittee has launched a hunting expedition aimed against advertising which gives corporate views on controversial issues. This also includes advertising campaigns designed to improve corporate image, which, of course can be a major help to your marketing efforts.

The tire industry is locked in a monumental struggle with the National Highway Traffic Safety Administration over the issue of uniform quality grading standards for auto tires. Nearly 13 years have elapsed since Congress first took up this subject, and countless manhours and an estimated $30 million already have been spent by the tire industry and the government, with very little to show for it. The pending legislation calls for manufacturers to grade treadwear, traction and heat resistance of tires with a combination of letters, numbers and symbols which offer 1,500 combinations.

Can you believe that's supposed to make it easier for us to buy the right tire? The industry says there is no evidence that the grading standards would help consumers because the proposed system is based on inadequate knowledge of the type of tire information a consumer needs. Therefore, the information a tire buyer would get clearly isn't worth the $150 to $200 million the system would cost.

An independent agency set up by Congress to monitor the effects of government regulation claims this case "illustrates how the regulatory system can break down." And the impasse continues. Meanwhile, the really important matter of setting adequate tire safety standards has long since been handled cooperatively by the industry and government.

The last few years have witnessed an explosion in the scope and pervasiveness of federal regulation. A growing number of highly questionable regulations are appearing.

What does this all mean to us? Very simply, to be effective in marketing today, we have to get fully involved in the governmental rule making process. This requires not only the gathering and evaluation of pertinent information, but also the launching of effective action programs that will influence the details and enforcement of regulations.

On the information side, get to know and understand the government regulations having the most direct effect on your products or services. Your company's Washington office, or consultants, can be of major assistance on this.

Before even considering the design and materials in a new product, you should take the appropriate government regulations, and/or possible future regulation, into account.

That goes without saying but, in addition, you must factor those regulations into the planning and implementing of your marketing, advertising and sales promotion activities. Doing anything less will leave you and your company open to time-consuming, costly confrontations with government regulators and consumer activists, as well as the embarrassing publicity that often results. All of these problems could profoundly restrict your marketing effectiveness.

And, you've got to do a lot more. You have to get involved in activities that will help to forestall, or at least favorably influence, proposed regulations that are inequitable or unnecessary. There are a number of ways to do this. One is to give more effective support to the efforts of your industry and allied industries to achieve improved self-regulation. This can be done through your trade association or a broader group, such as the National Association of Manufacturers. However, you should be ready to offer your own recommendations for industry self-regulation if you and your company don't feel comfortable with what now exists.

You also can commission or conduct a careful study of the costs and effects of regulation on your company and your industry. This will give you ammunition to communicate to political leaders, regulators, employees, stockholders and the media, focusing attention on regulatory cost ineffectiveness and helping gain support and relief.

There is an interesting new development in this area. Since 1974, when Congress approved the establishment of political action committees, more than 500 companies have done so. However, most of them have concentrated only on providing a system for employees to contribute to political campaigns by payroll deduction. Now, Atlantic Richfield and other companies have launched a different type of political action program, designed to inform current and retired employees, stockholders, customers, suppliers and other potential allies about political issues and proposed legislation that will affect them. They are presented with the pros and cons on the issues, urged to make up their own minds and then to communicate their views to their legislators. ARCO is doing this effectively by establishing civic action committees at the local plant and office level.

Another important step you and your company can take is to support proposed "sunset" legislation which would require federal regulatory programs to be rejustified totally every five years. The results could be dramatic.

G-Strings are with us everywhere. They aren't about to disappear. By being alert to them and doing something about them, you can help protect your markets, your products, your communications—and even your job.

Remember, these ever-increasing strings are going to get you if you don't watch out.

Thank you.●

VOTES ON AMENDMENTS TO H.R. 11280, CIVIL SERVICE REFORM

HON. DAVID F. EMERY

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 13, 1978

● Mr. EMERY. Mr. Speaker, longstanding commitments in my district yesterday prevented me from remaining on the House floor to cast my vote on seven amendments to H.R. 11280, the Civil Service Reform Act. For the record, I would like to state my position on these rollcall votes:

Rollcall No. 745, "no." An amendment offered by Mr. HARRIS that sought to require that each agency should establish a personnel officer who is a career civil service person.

Rollcall No. 746, "no." An amendment offered by Mr. BONIOR modifying an amendment that sought to extend veterans preference for Vietnam-era veterans for 15 years from the date of separation or until December 31, 1985, for Vietnam-era veterans who served in the Vietnam theater.

Rollcall No. 747, "aye." An Amendment offered by Mr. HANLEY to retain existing veterans preference standards.

Rollcall No. 749, "aye." An amendment offered by Mr. LEACH setting a statutory ceiling on the total number of Federal employees in the executive branch.

Rollcall No. 750, "aye." An amendment offered by Mr. COLLINS that sought to permit the FBI to place 140 positions in GS 16–18 without respect to provisions placing limitations on executive level positions.

Rollcall No. 751, "aye." An amendment offered by Mr. EILENBORN that sought to strike the labor-management and employee relations language from the bill.

Rollcall No. 752, "no." A motion offered by Mr. WILSON of California that the Committee of the Whole rise and report the bill back to the House with a recommendation that the enacting clause be stricken.●

USPHS CELEBRATES 180TH ANNIVERSARY

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 13, 1978

● Mr. ROGERS. Mr. Speaker, today, we face tough choices in setting national priorities for allocation of money, manpower, technology, and other resources.

On the health front, particularly, we are confronted by great challenges.

True: We have made advancements in health over the years:

In combating (and in some cases, eliminating) such diseases as polio, cholera, yellow fever, smallpox, and other diseases;

In improving the quality and accessibility of health care (although much still remains to be done);

And generally, in improving and prolonging human life.

Despite such progress, however, we are still threatened by deadly dangers:

Cancer kills about 375,000 annually, and will strike one out of four of us; and

Heart disease wipes out more than 750,000 each year.

Projected over the next 10 years, this means that 10 million of our citizens—our friends and our families—will die of these dread diseases, and millions more of other silent killers stalking among us.

As Members of Congress, we are stewards not only of the resources of the Nation—but to a significant degree—of the lives of our people.

Wisely, our forefathers envisioned such a stewardship.

With the enactment of legislation "for the relief and sick and disabled seamen" in 1798, an early Congress established the forerunner of the U.S. Public Health Service.

Since its early days, the USPHS—responding to legislative initiatives enacted

by successive Congresses—has expanded tremendously. Now it operates health programs that stretch across the Nation and around the world, and combats the whole range of illnesses and diseases that threaten mankind.

Recently, the service celebrated its 180th anniversary.

During a ceremony at the National Institutes of Health, the Surgeon General of the Public Health Service and Assistant Secretary of Health of the Department of Health, Education, and Welfare, Dr. Julius B. Richmond, presented the following address which I feel deserves the attention of my colleagues:

HIGHLIGHTS OF THE 180 YEARS

(By Julius B. Richmond, M.D.)

There are many ways in which I could try to highlight the 180-year history of the Public Health Service. But nothing I might say in the next few minutes could begin to do justice to the history of this organization or to the men and women who have made it the most outstanding public health agency in the world.

When I learned much to my pleasure that every living former Surgeon General of the Public Health Service would be with us today to join in this celebration, I thought—how can I presume to review a history that these men literally helped to write. But then it occurred to me that they too walked in the footsteps of giants—such illustrious Surgeons General as John Maynard Woodworth, Walter Wyman, Rupert Blue, and Thomas Parran, and a roster of brilliant Public Health Service officers—physicians, dentists, scientists, nurses, and engineers—whose contributions to American and world health have been nothing short of miraculous.

The history of the Public Health Service officially begins with President John Adams' approval of an Act "for the relief of sick and disabled seamen." The date was July 16, 1798.

But, of course, that legislation did not emerge suddenly out of a vacuum. The notion that health care and disease prevention were community and even national responsibilities was widely recognized, as was the idea that medical care for merchant seamen could be financed by government through a collection of a small tax on the wages of the seamen themselves.

HMOs and national health insurance are not such novel ideas after all.

It was in this tavern—the Bunch of Grapes—members of the Marine Society of Boston conceived the idea that the Congress might impose a tax on seamen to provide for the construction of a marine hospital in Boston Harbor. Their proposal was submitted to the U.S. Congress in 1791, and this hospital was constructed and ready for occupancy in 1803. It was the first permanent hospital of the Marine Hospital Service, predecessor of the Public Health Service.

It is interesting in the light of recent developments to note that the tax on merchant seamen to cover the cost of building hospitals, providing staff, and delivering medical care was twenty cents per month. Of course, there was such a thing as inflation in the cost of health care even then. A few decades later, the levy was raised to forty cents a month, and even at that impressive rate the Marine Hospital Service was chronically operating in the red. In Fiscal Year 1861, when the Marine Hospital Service operated some 27 hospitals at ports and inland waterways, the Marine Hospital Fund collected $10,-391.34. But its expenses were a whopping $41,030.33, and the Secretary of the Treasury, Solomon P. Chase, promptly set about to reduce this staggering drain on the Federal coffers. I'm not sure how successful Secretary Chase was, but by 1864 the number of Marine Hospitals had been reduced to eight.

For the first 70 years of its existence, the Marine Hospital Service functioned as a loosely knit collection of hospitals extending from the Eastern Seaboard to Hawaii. But on June 29, 1870, President Grant signed into law a piece of legislation that transformed the Marine Hospital Service into a truly national health agency with the capacity to evolve into the modern Public Health Service. It authorized the post of Supervising Surgeon and paved the way for the appointment of Dr. John Maynard Woodworth, the first individual to have responsibility for a national marine hospital and public health agency for the United States.

Dr. Woodworth's efforts, as well as new regulations governing the appointment and promotion of physicians in the Marine Hospital Service, led to the establishment in 1889 of the Commissioned Corps. In 1930 the Corps was first permitted to hire engineers and dentists, and in 1944 this authority was expanded to include research scientists, nurses, and many other health professionals.

The history of the Service—especially within the last hundred years—reflects the great changes brought about by the rapid growth in scientific and biomedical knowledge. Even in its earliest years, the Marine Hospital Service was a pioneer in the application of vaccination for the control of small pox. And the Congress enacted many short-term laws authorizing Marine Hospital Service officers to aid communities stricken with chlorea and yellow fever.

But the summer of 1878 witnessed the most severe and widespread epidemic of yellow fever in the Nation's history. And the response to that disaster prompted a fundamental change in national attitudes toward the role of government in protecting the public health and in the direction the Service would take in response to that attitude. Somewhere between 20,000 and 100,000 people died when yellow fever was carried from New Orleans to Pittsburgh by the crewmen of a Mississippi River towboat. The Nation's quarantine laws were still the exclusive province of State and local governments. But in the year of the yellow fever epidemic, Congress moved to give the Marine Hospital Service a measure of responsibility on a uniform, national scale.

The first National Quarantine Act authorized the Service to develop quarantine laws for ports that lacked effective control measures. But the response to the great epidemics of the late 1800's also demonstrated the value of a national health organization that could speed assistance to localities that needed it. When plague was reported in San Francisco in the early part of this century, the Public Health and Marine Hospital Service—its new and cumbersome name a reflection of its increased responsibility—was able to dispatch personnel and supplies to the area.

With Surgeon General Walter Wyman guiding a Federal agency having substantially augmented capabilities, this PHS physician, Dr. Ruper Blue earned lasting fame as the conqueror of the worst plague outbreak in our history. He succeeded Wyman as Surgeon General and is the only person—so far at least—ever to serve as both Surgeon General of the Public Health Service and President of the American Medical Association.

I can't resist making one observation about Surgeon General Wyman. It was during his tenure as Surgeon General—1891 to 1911—that the child health movement in this country was founded. There was considerable interest in establishing a maternal and child health program within the Public Health Service. But that was not to be. Dr. Wyman, you see, was a bachelor. It's intriguing to speculate about how actively the Service might have engaged in N and CH activities had Dr. Wyman been a family man.

But there is no need to speculate about other directions in which the PHS developed his leadership. Perhaps not important, it actively entered the burgeoning field of biomedical research. In 1887, a PHS officer and student of the great German bacteriologist Robert Koch established a one-room hygiene laboratory at the Marine Hospital on Staten Island. Dr. Joseph James Kinyoun thus established what has today grown into the world's leading institution for the conduct and support of health research—the National Institutes of Health.

During this period, the roster of PHS officers and their contributions to scientific knowledge and improved health is a virtual Who's Who in health. Among them—

Dr. Henry Rose Carter who formulated the concept of an extrinsic host for the yellow fever pathogen and then paved the way for Walter Reeds successful identification of the mosquito vector for the disease.

Dr. Joseph Goldberger a pioneer epidemiologist who demonstrated that pellagra was not a contageon, but a nutritional disease.

Dr. Wade Hampton Frost an early investigator of poliomyelitis and the man who established the Public Health Service as a national leader in research on water pollution.

At the risk of glossing too lightly over our more recent history, the Service, as you know, has emerged in the twentieth century as a potent force for improved health knowledge and status. Look, by way of illustration, at the dramatic change that has occurred in the last 75 years in the impact of four major causes of death:

In 1900, tuberculosis claimed nearly 200 lives for every 100,000 population. In 1976 the TB death rate was 1.5 per 100,000. In the same period, the death rate for influenza and pneumonia fell from 202 to fewer than 29 per 100,000.

But on the other side of the ledger, the death rate from cancer which stood at 64 per 100,000 in 1950 was 175, and the death rate for cardiovascular disease had climbed from 137 per 100,000 in 1900 to 337 in 1976. Clearly the Public Health Service had helped score tremendous gains against the major diseases associated with contageon, poor sanitation, and lack of decent living conditions. But these victories brought in their wake a rise in the chronic diseases on an aging and more affluent population—diseases associated with lifestyle and environmental factors, the health problems against which so much of our energies and resources are directed today.

With the role of the Service in research, disease control, support of State and local health programs, and direct care of statutory beneficiaries well established, Surgeon General Thomas Parran was able to outline a broad, national public health mission for the Service. Dr. Parran, who had skillfully directed the PHS throughout the Depression years and World War II, when the Service spearheaded efforts to control TB, malaria, and venereal diseases, envisioned a six-point health program for the Nation:

A sanitary environment for everyone;

A hospital system adequate for the provision of complete medical services for all;

Expanded public health services in every part of the country;

Augmented research in health and medical sciences;

Training of health and medical personnel in adequate numbers; and

A national medical care program.

Dr. Parran offered this proposal nearly 35 years ago. With only slight modification it could stand as our present charter and our mission for the future.

In a sense, it might be said that the role of the Public Health Service has come full circle. One hundred eighty years ago, this organization was founded on the idea that a system of health insurance for merchant seamen would be in the public interest, that it would help serve the needs of a nation that recognized the economic, as well as the humanitarian, importance of health.

We are building today for a vastly more comprehensive and more universal form of national health insurance along lines envisioned by Surgeon General Parran and many others.

But the guiding concept is fundamentally the same.

I can do no better than to underscore what Dr. Parran wrote in his annual report for 1944, the report that included his six-point program:

"The United States possess the potential resources with which to insure to every citizen the maximum benefit from all that the life-saving sciences have to offer. Public Health means the sum total of individual health. Only by considering the needs of the individual, the local community, and the State can we arrive at a program adequate in scope and content for the Nation as a whole."●

SUPPORT FOR PRESIDENTIAL COMMISSION ON PENSION POLICY

HON. JOHN H. DENT

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 13, 1978

● Mr. DENT. Mr. Speaker, I rise in support of House Concurrent Resolution 710. As a cosponsor of this resolution, I would like to join the distinguished chairman of the Subcommittee on Retirement Income and Employment, FRED B. ROONEY, in expressing congressional support for the work on the Presidential Commission on Pension Policy.

The creation of this Commission is a timely act on the part of the President. The issues the Commission will be addressing are of paramount importance to the welfare of the Nation. As an increasing percent of the population becomes over 65 years of age, the need for a coherent, unified national pension policy becomes greater. By the year 2035, 21.7 percent of our population will fall into this category.

A retirement commission of an earlier time leads us to place high hopes on the work of this new commission. The findings of that commission, established by President Kennedy, led to the enactment of the Employee Retirement Income Security Act on Labor Day in 1974. Under this act, millions of American workers and their families enjoy the security of Government guarantee of pension benefits and full disclosure of their rights and obligations under the plans in which they participate.

As great as the accomplishments embodied in ERISA are, it remains that much more needs to be done. As chairman of the Pension Task Force, there are several issues that I particularly would like to see addressed by the Commission:

ERISA itself continues to suffer under a burden of split jurisdiction that threatens to discredit the reforms accomplished by the act. No redefinition or reorganization of responsibilities under the act is going to eliminate all of the unnecessary redtape and confusion that presently frustrates existing plans and discourages the formation of new ones. It is a disgrace that administrative agencies are tripping over each other's feet while the interests of participants and beneficiaries are neglected. This situation must not be allowed to continue.

The President's Commission should examine the administration of ERISA and the benefits that a consolidated single agency would bring to fulfilling the promises of ERISA.

A second area in need of study is the lack of a single national policy relating to Government plans. These plans were exempted from ERISA because not enough was known about them. Yet, by some estimates over $500 billion of unfunded liabilities have been accrued in the form of promised pension benefits. In light of this staggering sum, the need for reform is obvious.

The Pension Task Force report on public employee retirement systems provides the information that is needed to go ahead in this vital area. The President's Commission should closely examine the Task Force report, any legislation based on it, and all other available information on these plans, and submit recommendations on coverage for public employee retirement systems.

It cannot be stated too strongly that participants in public plans need many of the protections afforded participants in private plans under ERISA. Reporting and disclosure requirements and fiduciary standards for public plans should both be important items on the Commission's agenda.

Mr. Speaker, if the Commission achieves the objectives outlined by President Carter on July 12, 1978, a framework for the establishment of a comprehensive, coordinated national pension policy will have been created. Such a policy would represent a tremendous advance, not only in providing retirement security for all Americans, but in promoting fiscal responsibility over pension costs.

Both of these goals are growing in importance each day. I urge my colleagues to join me in supporting this resolution as a first step in creating a national pension policy.●

AVIATION REGULATORY REFORM GAINS SUPPORT

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 13, 1978

● Mr. ANDERSON of California. Mr. Speaker, H.R. 12611, the aviation regulatory reform bill, will soon be considered by the House. This bill reforms the regulatory system governing airlines to insure that the airlines continue to compete as they have in recent months. The low fares which have resulted from this competition have led to record levels of travel.

As I indicated in my remarks of August 9, H.R. 12611 is supported by a widespread coalition. Today I am placing several additional letters in the RECORD, as a further demonstration of this support.

The organizations signing the letters included in today's remarks are: The American Retail Federation, an umbrella organization of retail organizations in every State; the National Retail Merchants Association, whose 3,500 members operate some 35,000 general merchandise retail stores across the country; the Western Traffic Conference, Inc., whose members operate in excess of 4,200 stores in the Pacific-intermountain territory; the American Farm Bureau; the Airport Operators Council International, representing the governmental units which own and operate airports served by scheduled airlines, and the United Airlines.

The letters follow:

AMERICAN RETAIL FEDERATION,
Washington, D.C., August 9, 1978.

Hon. GLENN M. ANDERSON,
Chairman, Subcommittee on Aviation, Committee on Public Works and Transportation, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: The American Retail Federation would like to take this opportunity to urge the earliest possible floor consideration of H.R. 12611, the Air Service Improvement Act. The Federation has closely followed the progress of this legislation and has great interest in seeing liberalized entry provisions become part of the law.

The American Retail Federation is an umbrella organization consisting of 32 national retail associations, 50 state retail associations and the District of Columbia, and corporate members.

Flexible entry is a matter of concern to all our members.

Sincerely,

LLOYD HACKLER.

NATIONAL RETAIL MERCHANTS ASSOCIATION,
Washington, D.C., August 8, 1978.

Hon. GLENN M. ANDERSON,
Chairman, House Aviation Subcommittee, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I a writing on behalf of the National Retail Merchants Association to reiterate our support for H.R. 12611, the Airline Regulatory Reform Act.

As a member of the Ad Hoc Committee on Airline Regulatory Reform, NRMA is on record in support of increased competition in the airline industry. We believe that H.R. 12611 is an essential step toward that goal. As an industry whose livelihood is based on competition, we urge speedy and favorable consideration of this vital legislation by the full House of Representatives.

By way of background, NRMA is a national, nonprofit trade association whose 3,500 members operate some 35,000 general merchandise retail stores across the country. Our members' annual sales exceed $95 billion and they employ more than 2 million workers.

Thank you for your consideration of our comments.

Sincerely,

VERRICK O. FRENCH,
Vice President, Governmental Affairs.

WESTERN TRAFFIC CONFERENCE, INC.,
Seattle, Wash., August 3, 1978.

Hon. GLENN ANDERSON,
Rayburn House Office Building, Washington, D.C.

DEAR MR. ANDERSON: Western Traffic Conference, Inc. wishes to again go on record of being in support of HR 12611.

We have previously written and wired your office of our support of deregulation of the

domestic airline industry, especially as it pertains to entry of new carriers, and wish to let you know of our continued support of your efforts in this matter.

Very truly yours,

ROBERT G. GLEASON,
Secretary-Treasurer.

AMERICAN FARM BUREAU FEDERATION,
Washington, D.C., August 8, 1978.

Re: H.R. 12611, Airline Regulatory Reform

Hon. GLENN M. ANDERSON,
United States House of Representatives, Washington, D.C.

DEAR CONGRESSMAN ANDERSON: With the limited number of days left for this session of the Congress, we are concerned that H.R. 12611 has not moved forward to the floor for action during this session.

As you know, Farm Bureau has been a strong supporter of legislation to bring about meaningful regulatory reform of the airline industry. We believe H.R. 12611 is a meaningful reform measure, and we would hope that you would use your influence to move this bill forward without further delay.

Sincerely,

JOHN C. DATT,
Director, Washington Office.

AIRPORT OPERATORS COUNCIL INTERNATIONAL,
August 8, 1978.

Re H.R. 12611, Air Transportation Regulatory Reform Act of 1978.

Hon. GLENN M. ANDERSON,
Chairman, Subcommittee on Aviation, Committee on Public Works and Transportation, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This week, H.R. 12611, Air Transportation Regulatory Reform Act of 1978, will come before the House Rules Committee. The Airport Operators Council International (AOCI), representing the governmental units which own and operate airports served by the scheduled airlines, urges early House floor approval of this historic legislation.

AOCI has monitored very closely the Public Works Committee's markup on this bill to reform Civil Aeronautics Board (CAB) regulation of the airlines and we support the comprehensive but cautious approach finally developed in H.R. 12611. Our airport members believe this legislation provides a balanced range of moderate reforms designed to facilitate new and improved community air service, to speed up CAB decisions and to establish necessary safeguards for a smooth transition to a more competitive environment.

This legislation has been greatly modified since its original introduction. In its present form, the Committee bill can not be construed as "deregulation," a concept which could have threatened the stability of airport facilities and their capital financing. It now has evolved into a progressive legislative mechanism for modernization of the process by which communities receive air service, "regulatory reform" of the Civil Aeronautics Board, which—viewed from the perspective of the local governmental airport sponsor—is long overdue.

UNITED AIRLINES,
September 6, 1978.

Hon. GLENN M. ANDERSON,
House of Representatives, House Office Building, Washington, D.C.

DEAR MR. ANDERSON: The Air Service Improvement Act of 1978 (H.R. 12611) reported out by the Committee on Public Works and Transportation is expected to be considered on the floor of the House at an early date.

I strongly urge your support of this change to the Federal Aviation Act to reduce the degree of government regulation of the U.S. passenger airline industry. I feel the best means for assuring the American public of a continuing supply of high quality and reasonably priced air transportation is to place greater reliance on the forces of the marketplace. The marketplace, not a government agency, can best provide the influences on airline management that will bring economical and efficient service to the public while fostering growth and prosperity of the carriers.

H.R. 12611 is good legislation. It will strengthen the nation's air-transportation system, increase competition and keep fares reasonable for the traveling public.

I appreciate whatever support you can give in the passage of this most important piece of legislation.

Sincerely,

J. H. BRANNEN,
Special Assistant to the President.●

RETHINKING OUR NATIONAL PRIORITIES

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 13, 1978

● Mr. BOB WILSON. Mr. Speaker, over the past several years I have given much thought to the directions taken by our Government at the Federal, State, and local levels. It appears to me that this country is in real danger of regulating itself out of business, out of energy, out of jobs, and out of a promising future.

As a result of overregulation, we may well be the cleanest and safest country ever to go to the poorhouse—and, unfortunately, the poorhouse will be poorly heated and badly lighted. If present trends continue, however, we can depend on a highly regulated social order overseen by a disorganized bureaucracy.

Mr. Speaker, Dr. George E. Mueller, chairman and president of System Development Corp., recently addressed the Commonwealth Club of San Francisco. His analysis of the effects of rampant and self-defeating overregulation at all levels of government should be required reading for every person in government. Dr. Mueller's speech is as follows:

RETHINKING OUR NATIONAL PRIORITIES

In the 1970s, Americans have made a radical change in national goals. Just 10 years ago, we were expanding building for the future, and the space program was an important fulcrum.

In 1968, we could say—and I did say, "What we are buying with our investment in technology are the new products, new processes, new companies, and, in fact, new industries which will provide the jobs that must be created if we are to solve the long term needs of our society. We must press forward."

Incredibly, we did not press forward. Though the vast opportunities of a continued investment in technology were there for all to see, we abruptly changed our national priorities. We sharply curtailed federal investment in needed research and development, and embarked upon a mammoth program of social control legislation that effectively curtailed private industry's investment.

Even as we were landing on the moon, we abruptly turned our backs on the enormous vistas of space. We had detected sin here on earth. We had known for some time that our society had problems, but suddenly these problems no longer were subject to rational analysis and balanced solutions. We had a moral imperative to eradicate that sin, whatever the cost.

With puritanical fervor, Congress and the state legislatures embarked upon a program of social control. In less than five years, they succeeded in regulating virtually every aspect of American life. In the process, we have mortgaged our future, and the payments are becoming increasingly difficult to meet.

I am sure we can afford the $5 billion annual payroll of regulatory agencies. I even think our economy is strong enough to withstand the hundreds of billions of dollars businesses are paying out in an attempt to meet social control regulations. What really concerns me is the disastrous impact the social control regulations are having on this nation's highest priority programs—energy, inflation control, employment—and, most important of all, our willingness and ability to invest in the future.

These are problems which have reached crisis proportions. Even so, our government rigorously enforces social control regulations that threaten to turn these crises into national disasters.

Consider energy. The Arab embargo made it clear that we must develop alternate sources of energy—and we must do it quickly. Much attention was focussed upon three promising sources—nuclear energy, solar energy, and shale oil.

Five years later, though we are not significantly farther along in developing these alternate sources. And the primary culprit has been the bewildering maze of regulations tenaciously enforced by agencies at the federal, state, and local levels.

This year, the California Public Utilities Commission finally disapproved the Sun Desert nuclear project, despite the fact that it was to be located in the desert, far from any city, and despite the fact the San Diego Gas & Electric had spent millions to insure the plant would be fail-safe.

Hence, there will be no new nuclear power in California, after current projects are completed, until at least 1990. To meet the urgent power needs of the San Diego area in the 1980s, the PUC offered only one alternative: Buy 800 megawatts of power from Mexico. In the face of our national goal of energy independence then, the PUC proposes to rely on the goodwill of Mexican authorities for San Diego's power needs.

Solar energy development has been similarly hamstrung. Even as the Department of Energy is spending millions to stimulate the industry, regulatory agencies are taking actions to depress it. One solar panel manufacturer described the situation well when he announced he was going out of the business.

"Multiple and conflicting product performance criteria and warranty requirements are either being imposed or recommended by just about every local, state, and federal government agency. This makes it virtually impossible for a manufacturer to forcast the ground rules and eventual economic outcome of its solar program."

Shale oil production is an even sadder story, because of the billions of barrels of oil that lie untapped. We have adequate technology to tap these reserves, but the shale oil industry has been stopped cold by continual changes in policy.

One oil shale company has been enmired in the shifting sands of the regulatory environment for 8 years now—at the cost to the company of some $70 million. First, there was the National Environmental Policy Act and its requirements for environmental impact assessments. Incredibly, 20 volumes of detailed reports and analyses were required, costing the company $2.5 million and years of delay, during which time construction costs doubled.

Then, there was the Clean Air Act of 1970. Although the law's standards were designed for urban areas, the EPA applied them to determine the appropriate air quality for protection of health and welfare in the mountains of Colorado. Unfortunately, the wilderness of Colorado already was in violation of Federal emission standards. Hydrocarbon limits are exceeded by the sagebrush; ozone limits are exceeded by the sunshine; and particulate levels are exceeded by desert sand blown in the wind. Under the terms of the Act, no facility, however non-polluting, can be built in an area that already violates national standards. Even if the regulators wanted to exempt this area, no one was sure the exemption would withstand a court challenge.

Then, Colorado issued a set of standards even more restrictive than the EPA standards. The state standards were later relieved, but it is clear that a state may at any time enact regulations that can effectively halt a billion-dollar project.

Today, 8 years later, the company still has not started construction. It may well be 1980 before the EPA and the State agencies issue or deny the necessary permits. Meanwhile, the price of foreign oil rises inexorably, worsening our sorry trade deficit and leading us back to double-digit inflation. We can't blame all of our inflation on the Arabs, of course. Other factors are involved, not the least of which is over-regulation.

When costs are ignored, and the focus of public policy is solely on the benefits, it is almost inevitable that regulation will feed the inflationary spiral for no useful purpose. The Center for the Study of American Business estimated recently that the cost imposed on American business by federal regulations in 1976 totalled at least $65.5 billion. That's almost double the cost of the entire manned space program.

Although some of those expenditures were useful, a large portion of this inflationary spending was completely non-productive. For example, it now appears that the $3 billion spent each year to meet OSHA requirements has not reduced accident levels at all. Applying the cost-benefit test to the EPA yields even more questionable results. The Council on Wage and Price Stability has pointed out that meeting the 1977 water-discharge standards will have resulted in a 97.3 percent reduction of water pollutants. Meeting the 1983 standards will result in only a 1.7 percent additional reduction, yet the cost to industry will double.

The only way for industry to cover these costs is to pass them on to consumers. This often hurts our competitive position in the world marketplace; it always feeds inflation. The Council on Environmental Quality estimated that private outlays for pollution control in 1976 were $6.5 billion higher than would have been the case in the absence of EPA requirements. Since the EPA concedes that its regulations add at least 0.3 percent to the rate of inflation, the total $65.5 billion cost of all regulation may well result in a built-in inflation of at least 3 percent.

Much of our inflation is caused by our commitment to full employment, of course, and the Administration is striving to reduce unemployment. Again, however, the regulators don't seem to have gotten the message. Their regulations are closing plants and throwing thousands out of work. For example, the Kaiser Steel plant in the Los Angeles basin has spent some $20 million to control emissions from its 35-year-old coke ovens. As a result, emissions from the plant now represent only about 0.02 percent of the daily emission of particulates in the area.

Although further reduction would appear to have negligible effect on ambient air quality, local regulators are rigidly enforcing a rule forbidding emissions from the oven doors into which coal is loaded and coke is extracted. Although the courts held that the rules were too vague to be enforceable, I am sure the ruling will be appealed. The agency seems intent on forcing the closure of that plant, even though this would cost some 25,000 jobs in an already high unemployment area.

Other regulators are effectively blocking new plants, as they did when Dow Chemical proposed to build a plant in Sacramento, CA. There is no petrochemical industry on the West Coast, and that almost completely non-polluting plant would have created a large number of jobs. Even so, all the delays and costs imposed by various regulatory agencies finally forced Dow to abandon the project.

Not only are regulatory agencies wiping out jobs by closing plants, then, they are preventing these jobs from being replaced by new plants. Moreover, only 50 percent of our capital investment is going for expansion. The other 50 percent must be spent for non-productive equipment mandated by these same agencies.

Capital expansion will not take place without the possibility of reasonable return, and capital expansion is essential to the free enterprise system that has built this nation. Ironically, the depressant effect that social control legislation has on productive investment threatens the very social goals its architects were pursuing. It does so because it threatens our economic stability and, hence, our entire way of life.

It has been clear for some time now that this country has conflicting goals that cannot all be met. We must choose, and we must set real national priorities. I happen to think that investing in the future is as important today as it was in 1968. We have lost a decade, though, and we must move quickly and decisively. The time is short.●

LEGAL QUALIFICATIONS MET FOR SOVEREIGNTY OF TRANSKEI

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 13, 1978

● Mr. WYDLER. Mr. Speaker, the so-called African policy of the Carter administration is one that is making a shambles of our position on the African continent.

Apparently, at the insistence of United Nations Ambassador Young, our policy consists of trying to work with certain black leaders of African nations and, in effect, following their leadership. This policy, of course, presupposes that what is good for these black African countries is good for the United States of America. The results have been bad to date, and getting worse with each passing day as we realize that Africa is being subverted by armed force, and we are, of course, mere spectators to this steady takeover.

One facet of this policy has been, of course, the U.S. Goverment's attitude toward the Republic of Transkei. This nation is now a sovereign state whether we wish to recognize it or not. The fact of the matter is that it has been declared independent and is an independent country. Regardless of the motives of the South African Government, it seems foolish to refuse to recognize a country run and controlled by black Africans on the ground that such recognition would not only help the black Africans, but help the white African interests as well.

I have recently come into possession of an article printed in the New York Law Journal, by Bernard Katzen, now a representative of the Government of Transkei in our country, and a distinguished attorney in New York City, which sets forth some background material I think is essential to understand the paths of foolishness in which we are presently proceeding in our relations with the countries of Africa.

[From the New York Law Journal, July 14, 1978]

LEGAL QUALIFICATIONS MET FOR SOVEREIGNTY OF TRANSKEI

(By Bernard Katzen)

On Oct. 26, 1976, a new nation, the Republic of Transkei, was born and as a sovereign state declared its independence from South Africa. On that day the United Nations Assembly voted 138 to 0 (U.S. abstaining) to deny it recognition, although Transkei had not yet applied for membership.

The U.N.'s action was not as precipitous as might have appeared. The anti-Transkei cauldron had been boiling for some time. It had brewed with a mix of anti-South African ingredients: apartheidism, discrimination, racial inequality, but also included some myopic societal perceptions, politics and economics.

QUESTIONS OF RIGHTS

Out of the distillation of this concoction and the U.N.'s resultant disposition, some troublesome questions remained unanswered. What of the rights of 3 million Transkeians who for many years had sought independence from British colonialism, and the discriminatory practices of its successors, the Union of South Africa and the Republic of South Africa? What of the hopes and aspirations of a new unified nation ideologically anti-Leninist-Marxist constituted, a nation western oriented and committed to the democratic ethic expressed in the preamble to its constitution?

"A Republic wherein its citizens and all others who dwell lawfully within its borders are assured of social, political and economic justice, freedom of speech, assembly and worship, and unimpeded access to and equality before the law."

What a nation dedicated to providing for its people a newly found opportunity to achieve intellectual, cultural and economic fulfillment, the true indicia of a democratic society?

STRUGGLE FOR INDEPENDENCE

In the bitter controversy surrounding South Africa's apartheid homelands policy, one should consider the historic struggle of the people of Transkei for independence. Long before an apartheid policy was conceived, long before the Boers and British invaded Transkei territory, the Xhosas, Thembus, Pondos, Fingos and affiliated tribes and sub-tribes of the Nguni and South Sotho had migrated to the Southeast coast of Africa away from internecine tribal wars.

They had settled in the lush, fertile fields of Transkei territory, presently an area of about 17,000 square miles, larger than Belgium, Switzerland or twenty other UN nations, and unlike some which are land-locked, with a coastline of 170 miles on the Indian Ocean. Continually repulsing Boer invasion, they opted for the protection of British colonialism but never ceased to strive for liberation and independence.

By virtue of a series of parliamentary enactments. Transkei was annexed by the Union of South Africa and subsequently incorporated into the Republic of South Africa, over Transkei's strenuous protests. By relentless pressure and without the tactics of

guerrilla bloodshed, Transkei achieved a semi-autonomous status, with its own legislative assembly and control of various departments of government: finance, education, interior, agriculture and health.

When at last independence was total, Transkei met all of the legal qualifications for sovereignty:

1. A specific territory with defined borders; 2. A stable population with adequate controls; 3. The freedom and capacity to engage in relations with other foreign governments. Prime Minister of Transkei, Dr. K. D. Matanzima, summed up the nature of Transkei's independence with crystal clarity when he declared "The independence of Transkei is a manifestation and culmination of the struggle by the indigenous people of the Transkeian territory for liberation and independence."

PUPPET STATE?

Opponents of recognition argue that Transkei is a puppet state created solely in pursuance of South Africa's apartheid policy—deprives Transkeians living outside its borders in South Africa of their rights—fragments the totality of efforts in the fight against apartheidism—is not economically viable.

If fact could dispel myth, if logic could overcome emotion, the clouds of misconception in this reasoning would readily evaporate. As a sovereign nation, by policy, publicly proclaimed Transkei has denounced apartheidism and discrimination in South Africa and has asserted adversary contract and land claims, not possible before independence.

In a dramatic development on April 10 last, the South Africa Parliamentary action in transferring jurisdiction of East Griqualand from the Cape Province to Natal was sharply denounced by Prime Minister Matanzima. This was the land to which Transkei had asserted claims. As a consequence, Transkei severed diplomatic relations with the Republic of South Africa, recalled its Ambassador and Consuls and advised the Ambassador of the Republic of South Africa and his staff to leave Transkei on or before April 30, 1978.

To hold 3 million people now living in freedom hostage until the day that discrimination is eliminated and a nonracial society prevails throughout South Africa, is irrational, even indefensible. Far from fragmenting efforts to achieve those goals, Transkei is a most articulate and significant protagonist in this engagement.

As to economic viability, Transkei is witnessing a growing industrial and agricultural development and given recognition and aid, often extended to developing countries, has a potential for achieving a level of economic self-sufficiency far above some if not most of the sub-Sahara nations of Africa.

Paraphrasing words describing a distinguished American lady, the U.N. should have "lighted the candle of recognition, not cursed the darkness of rejection."

Inevitably, the Republic of Transkei will assume its rightful place in the family of nations.●

THE CHEMICAL WARFARE PROBLEM

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 13, 1978

● Mr. McDONALD. Mr. Speaker, although there is increased attention being given to the problem of chemical warfare by the Department of the Army, we still have a long way to go to be able to defend ourselves against known Soviet capabilities in that field. Soviet equipment, personnel, production, and research are just greater than all our efforts by several times. Although many of our personnel have some responsibility for chemical warfare, there are still only four colonels with sole chemical warfare duties in the Army. We also have one brigadier general with 50 percent of his duties relating to chemical warfare. The Soviet forces start with Col. Gen. Vladimir Karpovich Pikalov, as Chief of Chemical Troops, in Moscow. His Deputy Chief is Lt. Gen. P. Krasota. In the field, a Maj. Gen. N. Moiseyev is Chief of Chemical Troops for Soviet Forces in Germany. At a typical unit level in Germany, a Major Baklushin is Chief of the Chemical Service. Further, the Soviet Chemical Defense Battalion assigned to each Soviet division is almost as large as the total U.S. Army establishment, which amounts to three teams. Therefore, I was pleased to read the August Washington Report of the American Security Council highlighting this grave problem. The report, in part, follows:

THE CHEMICAL WARFARE PROBLEM

(By Amoretta M. Hoeber and Joseph D. Douglass, Jr.)

(NOTE.—Amoretta Hoeber and Joseph Douglass are members of the technical staff of System Planning Corporation, a defense think tank in the suburbs of Washington, D.C.

(The article below deals with a subject which has been largely ignored, by both policymakers and the general public. It deserves attention. To the average American the very thought of chemical warfare is repugnant. But the reality which must be faced is that U.S. and NATO forces are unprepared to deal with a sophisticated chemical warfare threat from the Warsaw Pact. And that is an intolerable situation.

(You will find the analysis of this sensitive subject by Hoeber and Douglass enlightening but not comforting.—Editor.)

Over the past decade the Soviets have continued to increase steadily their capability to conduct war at all levels. Soviet increases in the strategic arena are well-documented and have received the most attention. Their increases in military manpower and tactical aircraft have likewise not gone unnoticed. However, one area has received almost no attention, and that is the recent dramatic increase in their ability to wage chemical warfare (CW).

This development has so far generated no improvements in CW equipment or training for U.S. and NATO forces, with the result that Western forces are today less able than they were a few years ago to survive and operate in the special environment which can be created by Soviet and Warsaw Pact chemical warfare weapons.

Triggered at least in part by the Dugway sheep incident of 1968, the U.S. chemical warfare capability underwent a rapid and sharp decline in the past decade. The incident involved the malfunction of the nozzle on an aerial spray tank carrying the toxic chemical VX during an open-air test at the Dugway Proving Ground, an Army chemical warfare test site in Utah. Within the next several days, approximately 6,000 sheep grazing some 27 miles away were found dead. While the cause-effect link was never established conclusively, minute quantities of VX were said to have been found in the skin tissues of the sheep and the connection of the death to the chemical test is usually presumed.

By the mid-Seventies, the Army Chemical Corps was almost disbanded, and the ability of U.S. forces to conduct operations in a chemical environment decreased to the point where the Chairman of the Joint Chiefs of Staff, General George Brown, said in January 1978 that United States forces were "not prepared" to fight in a chemical warfare environment.

Coincident with the decline in U.S. interest and capability, the Soviets moved in the opposite direction, not only improving their weapons, but significantly upgrading the relative importance of CW in their overall posture as well.

These trends have reached a point where now, among all comparisons of U.S.-Soviet capabilities, one of the most lopsided is in chemical warfare. In this area, the Soviets' superiority over the United States is assessed not by mere fatcors of two or three, but, more often than not, by two or three orders of magnitude. This is believed to apply almost uniformly to munitions stockpiles, testing facilities, training activities, equipment, qualified personnel, and force structures. While the U.S. attitude about this facet of preparedness is characterized by widespread apathy and repugnance, the Soviet attitude is one of serious attention to a warfighting capability and readiness.

It may be debated whether the expansion of the Soviet CW program resulted from such developments as "more tolerable" protective clothing and equipment and an antidote that enables ground troops to better exploit their chemical weapons, or merely reflects their seizing upon the opportunity to capitalize on the U.S. decline in CW activities. What is clear, however, is that the Soviets have a vastly superior chemical warfare capability, and that the main and significant advantage of chemical warfare emerges in such a condition of asymmetry.

While this state of affairs is now recognized by some people at the highest levels in the Armed Services, and while some actions have been initiated to improve our preparedness, the U.S. chemical warfare program is still grossly inadequate and will probably remain so unless it is nurtured and guided by urgent high-level support. The prospects for improvement, however, are marred by a severe sense of paranoia about chemical weapons in certain circles, by a lack of coordination and direction within the Department of Defense, and by a widely held belief that the only politically acceptable "solution" is an arms control agreement aimed at erasing the problem. The dangers inherent in such an approach and the potential for error in the underlying assumptions are, the authors believe, of such a magnitude as to warrant a critical review of the subject.

This article [a shortened version of an analysis prepared for an Arms Control Seminar, sponsored by the Institute for War and Peace Studies of Columbia University] will summarize the state of Soviet chemical warfare capabilities, both offensive and defensive; rationales from the Soviet point of view on the utility of chemical weapons in both nuclear and nonnuclear conflict; the state of the U.S. posture to cope with such a threat; and the basic problems associated with resolving chemical warfare issues within the U.S. defense establishment. A candid assessment of these factors, the authors believe, will lead to the conclusion that U.S./NATO forces should expect to have a toxic environment forced on them, and if they are "not prepared" to operate in such an environment and to pose a comparable CW threat to the Warsaw Pact forces, the CW disparity between the Warsaw Pact and NATO could clearly have disastrous—and potentially decisive—consequences for NATO. And the U.S./NATO chemical warfare deficiency may well invite the Soviets to use their chemical warfare superiority.

THE CURRENT SOVIET CW POSTURE AND RATIONALE FOR USE

Chemical warfare clearly is a major contingency for which the Soviet Union has made plans. Capabilities for chemical warfare are integrated throughout ground, air, and naval forces. The attention which the Soviets place on chemical warfare can be seen in the number and types of CW specialists in all military units, in the equipment provided to all units, in the extent of training and testing programs, and in the agents and munitions that have been developed. The current Soviet capability to conduct chemical warfare can properly be termed "awesome," and the Soviets are continuing to improve that capability.

Chemical defense units are organic to every Soviet command down to the regiment level. Smaller units usually include CW specialists. Analysis has shown that there are "scores of Soviet generals and some 70,000–100,000 full-time chemical warfare officers and men." In contrast, the United States has at most 2,000 officers and men engaged full time in some form of chemical chores; and, of these, probably no more than a handful could be regarded as equivalent to their Soviet counterparts.

Chemical warfare preparedness is also integrated into the design of Soviet fighting equipment. For example, all modern tanks and armored personnel carriers are designed to offer protection from both nuclear and chemical contamination. In contrast, while chemical warfare preparedness receives lip service in the planning for U.S. equipment, there are almost *no* weapons designed to provide CW protection. This factor is usually dropped in the design considerations when the first effort is made to reduce costs.

The Soviets also have considerable individual protective equipment and machinery for decontamination. The soldiers all have personal masks, protective clothing, chemical detectors and "effective" atropine-based compound syringe antidotes. Each Soviet division has decontamination companies to facilitate the return to combat of both men and equipment. The specialized chemical decontamination equipment includes a unique type of vehicle called TMS–65, which is a truck-mounted turbojet spraying apparatus for rapid decontamination of large vehicles.

These capabilities cannot be assumed to be merely defensive. They appear designed and deployed for use as part of the Soviet offensive capability, i.e., to enable Soviet troops to exploit their chemical weapons.

Training in the use of the equipment is standard and emphasized at all force levels, and includes training in ""live" CW environments.

Reliable evidence is scarce regarding the exact magnitude and variety of Soviet offensive CW capability. Knowledgeable persons, however, including Professor John Erickson of the University of Edinburgh, have stated that Soviet chemical warfare agents include both World War I types as well as modern ones, such as:

Mustard gases;

Phosgene;

Hydrogen cyanide;

Soman and other nerve gases; and

An agent that "the Soviets label VR–55."

According to Erickson, there are chemical rounds for the 122-mm and 152-mm artillery, the FROG surface-to-surface short-range rocket, the longer-range SCUD surface-to-surface missile, and the BM–21 multiple rocket launcher. Chemical artillery, mortars, mines, air-delivered bombs and spray tanks were in the Soviet inventory in World War II. There is no evidence that those munitions have been destroyed. A reasonable assumption is that they have been upgraded with more modern agents.

A relatively recent system, the multiple rocket launcher, would be ideal for the delivery of a nonpersistent agent, such as hydrogen cyanide, against enemy forces immediately in front of forward-moving troops. It has been reported that the BM–21 provides a multiple container for this agent. It insures effective and rapid distribution of the agent over a target area; and the round can release the agent in active form. A battalion volley can impact 720 rounds on a target. Occupation of or assault on facilities attacked with such an agent could be carried out in a very short time after the attack with minimal danger to the assault troops.

How could the Soviets use their CW weapons? They could use them as a minor escalation above conventional weapons. Or they could use them as part of a larger escalation to the nuclear level. In either case, there could be advantages to the Soviets in hitting some targets without physically destroying them. There is little reason, however, to assume that the introduction by the Soviets of chemical weapons into a conventional conflict would result in the escalation of that conflict to a nuclear level.

It is generally believed that if the Soviets decided to begin a theater war, they would favor keeping it conventional, at least for some time, if they felt they could accomplish their objectives at that level of conflict. Their objectives, relative to NATO, would be: first, to improve the position of the Soviet Union in anticipation of a nuclear exchange by reducing or eliminating the NATO nuclear capability; and, second, to quickly overrun NATO defense positions and seize critical territory. The primary problem in achieving the first objective would be destroying NATO nuclear air capabilities, and such ground equipment as surface-to-surface missiles, nuclear artillery, and associated command/control centers. The primary problems in achieving the second objective would be overrunning NATO anti-tank defenses, disabling NATO tactical air bases, and inhibiting NATO force movements.

An important question is whether chemical warfare agents would be employed by the Soviets in such a nonnuclear assault in Europe. The perception—both official and unofficial—for many years has been, and, for the most part, still is, that given the Soviet definition of chemical weapons as "weapons of mass destruction," chemical warfare would occur only as part of a nuclear attack, whether nuclear weapons were used to initiate the conflict or were introduced at some later point. The authors disagree. While it is clear that the Soviets do consider chemical and nuclear weapons as much alike, too much emphasis on that fact by itself leads to a gross oversimplification of the problem. Most assuredly, the common classification of these weapons does not by itself mean that CW weapons would only be used in all-out war.

Against the major Soviet targets in Western Europe, such as NATO antitank defense, nuclear storage facilities, command and control centers, equipment depots, and tactical air bases, chemical weapons offer important advantages that complement rather than duplicate the effects of both conventional and nuclear weapons, and recommend their use in both contexts. Without a good protective posture for NATO against Warsaw Pact chemical weapons, NATO antitank defense would be paralyzed by fast-acting and nonpersistent chemical agents, but these agents would not inhibit armored operations by protected Pact forces. Chemical weapons could likewise be very important in disabling NATO nuclear capabilities. Again, without a considerably improved protective posture on the NATO side, Soviet chemical weapons could put such bases out of action for extended periods of time with only a few repeated strikes with persistent chemical munitions. Many command/control targets, such as radars, ground control stations and navigation transmitters are neither large enough to warrant a nuclear strike nor vulnerable enough to insure destruction with one sortie of conventional munitions. For such targets, generally unprotected against chemical agents, chemical weapons are the most efficient means of putting them out of action.

Further, in both conventional and nuclear scenarios, it would be preferable from the Soviet point of view to seize rather than destroy many targets, including airbases, fuel dumps, transportation centers, harbors, and commercial airports. The Soviet objective would not be to destroy these targets but merely to prevent their use by U.S./NATO forces until the Soviets could seize them and put them to their own use—perhaps immediately, perhaps within a week or so. With the selection of the proper agents, such targets could be rendered unfit for U.S./NATO use but could be available for Soviet occupation at the planned time.

Finally, the movement of NATO reserves, which is already a severe problem, could be seriously impeded by the application of the more persistent chemical weapons to important transportation centers.

The effectiveness of CW weapons can be especially high in these mission areas because the desired results—disabling of the particular forces and contamination of particular areas—would not depend upon lethal doses of chemicals being delivered over the entire target. Sublethal doses could impose physically disabling effects on personnel who are not protected. These effects, in particular optical pain and miosis caused by small doses of nerve agent, will prevent or seriously degrade the performance of military personnel in such functions as aiming and sighting guns or artillery pieces, instrument reading, and flying.

All in all, chemical weapons offer very significant advantages to the Soviets in either nuclear or conventional war. Considering their advantages, many of which exist for the Soviets because of "marginal" U.S./NATO preparedness, it is inconceivable to the authors that the Soviets would not capitalize on their CW capabilities in *any* major conflict in Europe. The benefits to be derived in terms of increasing the probability of a successful short war are far greater than any additional risk associated with CW employment.

The authors find it gratifying that parts of this perception are gradually gaining acceptance. The current *Army Manual 100–5*, the basic Army document on tactics, published in 1976, notes that the Soviets clearly have a *capability* to use chemicals at any level of conflict:

"Soviet or Soviet-equipped and trained forces *could* initiate and sustain large-scale CW operations in either a conventional or conventional-nuclear conflict. Their doctrine emphasizes the employment of chemical weapons in close coordination with conventional and nuclear weapons to capitalize on the attributes of each." (Emphasis added.)

And this year's Department of Defense *Annual Report* by the Secretary of Defense goes a bit further:

"It is *likely* that the Soviets would *consider* using a combination of chemical and conventional weapons, as well as a combination of chemical, nuclear and conventional weapons—and *they have the capability to do either*—if they believed a significant tactical advantage could be gained." (Emphasis added.)

The authors feel that the truth was probably expressed in the *Penkovsky Papers*: ". . . let there be no doubt: if *hostilities* should erupt, the Soviet Army *would use* chemical weapons against its opponents." (Emphasis added.) In support of this position, the *Papers* state that "the USSR has already given political release for chemical weapons."

John Erickson has declared more explicitly that "Soviet division commanders have chemical weapons planning, release, and em-

ployment authority." It is the conclusion of the authors of this paper that if such a delegation of authority is assumed, the use of chemical weapons should be considered a certainty in any conflict. Further, even if such authority has not devolved, the possibility of Soviet use of chemical warfare during a conflict limited otherwise to conventional weapons, *should not be discounted*. In an article, "Speaking on . . . Evaluation of Soviet's Overall Threat: Analysis of Potential Factors," (published in the *Army Research and Development News Magazine*, March-April 1977) Edward A. Miller and Lt. Gen. Howard H. Cooksey declare:

"The Soviets are so immersed in chemical weaponry, tactics, doctrine, equipment and personnel, and so much of their training centers around the use of lethal agents, that it would be odd, from a military standpoint, if they did not employ them."

RECOMMENDED ACTIONS

Decisions on improvements in the U.S. chemical warfare posture—that is, what budgetary and other priorities should be assigned to the solution of this problem, recognising that improving the current U.S. position is not a "big money" questioin—versus reliance on arms control measures will have to be made in the near future. It will be important for our decision-makers not to confuse a national policy of no-first-use with a national goal of effective arms control. We can and should accept a no-first-use policy, but we should also develop appropriate CW capability as a hedge against the possibility that arms control measures will not succeed. At present the absence of an appropriate U.S. capability tends to invite exactly that which should be avoided, that is, an opportunity for the Soviet exploitation of its chemical warfare superiority.

However, redressing the imbalance, or even understanding its implications, is not a short-term proposition. The first step, the improvement of our CW protective posture, cannot be accomplished by the mere infusion of funds to buy more masks and protective garments. What is required is a major change in attitude.

Unusual attention and direction, beginning with the Office of the Secretary of Defense and continuing down through the leadership in the individual Services, are now required. There are currently almost no focal points at significant levels in the Services for force development, training, coordination, direction, or plans for CW, and *none* in the Office of the Secretary of Defense. CW responsibilities are usually secondary, and therefore individuals at different levels respond as they see fit. Although the recent Army action to reestablish a CW focal point is a significant step, it should be recognized that this was done by adding the CW responsibility to the office already having nuclear responsibility.

Until the CW problem is addressed in more depth and positive policies and programs are developed, the U.S. should, above all else, not curtail its current meager CW improvement activities as a contribution to improving the "spirit of the negotiations." And in those negotiations the U.S should not constrain its national security choices.●

USE OF FUNDS IN THE MIDDLE EAST SPECIAL REQUIREMENTS FUND

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 13, 1978

● Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues some correspondence the Senate Foreign Relations Committee and my subcommittee have had with the Department of State and the General Accounting Office regarding the use of aid funds authorized and appropriated for the Middle East Special Requirements Fund (MESRF).

These economic support fund moneys have been authorized and appropriated since 1974 for special contingencies in the Middle East related to the Middle East peace process. The intention of the Congress from the beginning were that these funds would be used for essentially economic purposes, not military aid or contingencies. Both in 1975 and again now, funds from the account have been made available to the Department of Defense to repay the Department for services it provided to help install peacekeeping forces in the region, first in the Sinai (UNEF) and now in Lebanon (UNIFIL).

While such peacekeeping efforts should be supported, many of us believe that the few million dollars in the MESRF account should be used for economic purposes and not for military purposes for which there must be other funds available given the vast resources of the Defense Department and the available authorities for support of peacekeeping ventures. Although until now such use of the MESRF was not illegal, it is hoped that the International Security Assistance Act of 1978 which creates a separate peacekeeping account will clarify the issue and the few million dollars in the MESRF account can remain available for economic uses. If the Defense Department uses the entire $10 million made available for UNIFIL expenses from the MESRF account, there will only be roughly $10 million remaining in the MESRF account.

I hope that my colleagues agree that these limited economic support funds should be used solely for economic purposes in the future.

The correspondence with GAO and the State Department follows:

JULY 24, 1978.

Hon. CYRUS R. VANCE,
Department of State,
Washington, D.C.

DEAR MR. SECRETARY: I understand that funds in the Middle East Special Requirements Fund (MESRF) have been committed to finance the reimbursement of costs up to $10 million, incurred by the Department of Defense for equipment and services provided to the United Nations peace-keeping force in Southern Lebanon (UNIFIL). In 1975, a similar amount was committed and expended to reimburse the Department of Defense for equipment it provided to the U.N. Emergency Force (UNEF) in the Sinai.

It has been the hope of many Members of the Subcommittee on Europe and the Middle East that MESRF monies be used to promote development in the Middle East and thereby facilitate the peace process. Other accounts exist to help finance peace-keeping forces and Congress always supports peacekeeping ventures. I believe that military operations should not be financed from the limited funds of MESRF made available for regional development, selected economic projects and other small programs which can directly stimulate the peace process.

I appreciate your consideration of my concerns over how you intend to use MESRF monies. I hope other vehicles will be sought to finance the costs associated with UNIFIL.

With best regards.

Sincerely yours,

LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East.

DEPARTMENT OF STATE,
Washington, D.C., August 29, 1978.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, Committee on International Relations, House of Representatives

DEAR MR. CHAIRMAN: I am responding to your letter of July 24 to Secretary Vance, in which you refer to the use of the Middle East Special Requirements Fund (MESRF) for reimbursement of costs incurred by the Department of Defense for equipment and services provided to the U.N. Peacekeeping Force in Southern Lebanon (UNIFIL). In that letter you indicate that many members of the Subcommittee on Europe and the Middle East believe that MESRF monies should most appropriately be used to promote development in the Middle East through selected economic projects and other small programs which can directly stimulate the peace process.

The MESRF is being used to reimburse the Department of Defense only for initial transport services necessary to establish UNIFIL. Other UNIFIL costs will be apportioned among U.N. members; and the U.S. assessment will be paid from State Department appropriations for assessed contributions. However, as that fund is limited to payment of U.N. assessments, it was not available for the airlift.

As you are aware, the United Nation's decision to commit peacekeeping forces in Lebanon followed a series of terrorist attacks on Israel and Israel's decision to send troops into Lebanon. The State Department strongly supported the decision to create UNIFIL, and we were convinced that its prompt placement in Lebanon was essential. As has become customary in the establishment of U.N. peacekeeping forces, the Secretary-General solicited voluntary assistance of various types from a number of members. When the Secretary-General requested that the United States provide initial transport services for UNIFIL, we had to respond quickly.

Preliminary discussions with the Department of Defense made clear that DOD felt strongly that it would require reimbursement from some source in order to provide these transport services. We concluded that MESRF was the only source of appropriated funds currently available to reimburse the Department of Defense. The Comptroller General has recently concurred in our judgment that MESRF was available for this purpose. A copy of his decision is enclosed.

Of course, we were concerned that this use of MESRF would divert funds from otherwise desirable projects. Nevertheless, we decided in this case that it was most important that the United States be in a position to assist the United Nations with the prompt transport of the peacekeeping force to the Middle East.

We are currently involved in discussions with the Department of Defense and the Office of Management and Budget in order to examine potential alternative sources of funding for voluntary (non-reimbursed) support to U.N. peacekeeping activities in the future. In these discussions, we will have very much in mind the concerns expressed in your letter. We hope that we will be able to devise procedures that will enable us to avoid future diversions of funds from development needs if at all possible.

Thank you for expressing your concern on this matter.

Sincerely,

J. BRIAN ATWOOD,
Acting Assistant Secretary for Congressional Relations.

JULY 13, 1978.

Hon. ELMER B. STAATS,
Comptroller General of the United States,
Washington, D.C.

DEAR MR. STAATS: On May 8 we received notification from the Secretary of State of the intent of the Executive Branch to obligate not to exceed $10 million in funds appropriated under section 903 of the Foreign Assistance Act of 1961 for a grant of airlift services for the United Nations interim force in Lebanon.

The purpose of this letter is to seek your opinion as to whether the authority contained in section 903 of such Act is legally available for that purpose.

In addition to the letter from Secretary Vance, which contains a confidential attachment, I am enclosing a letter from a Deputy Legal Adviser of the Department of State which sets forth the legal analysis underlying the Secretary's conclusion. As you will note, the Department in that letter asks that we request an expedited decision from you on this matter. Accordingly, I ask that, for the reasons presented in the Deputy Legal Adviser's letter, you transmit your opinion as soon as possible.

Thank you for your assistance.

Sincerely,

JOHN SPARKMAN,
Chairman.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., August 15, 1978.

Hon. JOHN SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN: This is in reply to your request that this Office determine whether funds appropriated for the Middle East Special Requirements Fund under the authority of section 903 of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. § 2443 (1976), are legally available to provide airlift services for the United Nations Interim Force in Lebanon.

With your inquiry you enclosed a letter dated May 8, 1978, from Secretary of State Vance notifying you of the intent of the Executive Branch to obligate not to exceed $10,000,000 from the Middle East Special Requirements Fund for the airlift, and a letter from the Deputy Legal Advisor of the Department of State setting forth the legal justification for the Secretary's action.

On March 19, 1978, the United National Security Counsel adopted Resolution 425, which established the United Nations Interim Force in Lebanon (Interim Force) for the purpose of confirming the withdrawal of Israeli forces from Southern Lebanon, restoring international peace and security, and assisting the government of Lebanon in ensuring the return of its effective authority in the area. The Secretary General of the United Nations asked several member states, including the United States, to assist the Interim Force by providing airlift of United Nations troops and equipment.

The Secretary of State, under authority delegated to him by the President, determined that it was in the national interest of the United States to provide airlift services to the Interim Force and to fund this activity from the Middle East Special Requirements Fund. On May 8, 1978, citing the notification requirements of sections 671 and 903(b) of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. §§ 2429b, 2443(b), and of the Foreign Assistance and Related Programs Appropriation Act, 1978, Pub. L. No. 95-148, 91 Stat. 1230, the Secretary of State notified you of his intent to obligate funds from the Special Requirements Fund for airlift purposes.

Monies for the Middle East Special Requirements Fund for fiscal year 1978 were appropriated by the Foreign Assistance and Related Programs Appropriation Act, 1978, Pub. L. No. 95-148, 91 Stat. 1230. That Act provides in pertinent part:

"Middle East special requirements fund: For necessary expenses to carry out the provisions of Section 903 of the Foreign Assistance Act of 1961, as amended, $8,000,000; * * *." 91 Stat. 1232.

The 1978 Act also provides that (with one exception) unobligated funds previously appropriated under the authority of the Foreign Assistance Act of 1961 shall continue to be available for fiscal year 1978. 91 Stat. 1231. Fiscal year 1977 funds for the Special Requirements Fund were appropriated by the Foreign Assistance and Related Programs Appropriation Act, 1977, Pub. L. No. 94-441, 90 Stat. 1465, 1467, as follows:

"Middle East special requirements fund: For necessary expenses to carry out the provisions of section 901 and section 903 of the Foreign Assistance Act of 1961, as amended, $23,000,000; * * *."

Funds for the airlift would come from both these appropriations.

The fiscal year 1977 and fiscal year 1978 appropriations are each lump sums for necessary expenses to carry out the provisions of 22 U.S.C. § 2443, the Middle East Special Requirements Fund. Neither appropriation contains any relevant statutory limitation on spending.

However, the 1977 and 1978 appropriation acts each contain the following provision:

"None of the funds made available under this Act for * * * 'Middle East special requirements fund,' * * * shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operations not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings * * * unless the Appropriations Committees of both Houses of the Congress are previously notified fifteen days in advance." 91 Stat. 1232, 90 Stat. 1467.

An additional provision in section 903 limits obligation or expenditure of funds available for purposes of that section unless the Congress has been notified 30 days in advance and does not disapprove by concurrent resolution.

Secretary of State Vance's notification of May 8, 1978, addressed to the Congress, satisfies both requirements. Therefore, if providing airlift services to the Interim Force can be considered a necessary expense of the Middle East Special Requirements Fund, funds appropriated in the fiscal year 1977 and fiscal year 1978 appropriation acts are legally available for that purpose.

The Middle East Special Requirements Fund was established by section 903 of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. § 2443 (1976). This section was added to the Act by section 42 of the Foreign Assistance Act of 1974, Pub. L. No. 93-559, 88 Stat. 1812. Section 903 authorizes the appropriation of funds to the President "to furnish assistance under part I of this Act to meet special requirements arising from time to time in carrying out the purposes of this part, in addition to funds otherwise available for such purposes."

(The reference to "this part" is to what has been codified as 22 U.S.C. §§ 2441-43.)

The purposes referred to in section 903 are set forth in section 901 of the Act (22 U.S.C. § 2441), and include "assisting the nations in the area [the Middle East] in their efforts to achieve economic progress and political stability * * *," and furnishing assistance "to promote mutual respect and security among the nations in the area and to foster a climate conducive to increased economic development * * *."

The purpose of the limitation of the fund to "assistance under Part I" of the Act is apparent from the legislative history. As proposed by the President, there was no such limitation on the use of the Special Requirements Fund. *See* Message from the President of the United States, H.R. Doc. No. 93-263, p. 7 (1974). The Administration bill authorized appropriations "to meet special requirements arising from time to time in carrying out purposes of this part * * *." S. 3394, 93d Cong. (April 29, 1974). The Senate Committee on Foreign Relations amended the bill to authorize the appropriation of funds "to meet special requirements arising from time to time in the Middle East for the purpose of providing any type of assistance authorized by Part I of this Act * * *." S. 3394, 93d Cong., Report No. 93-1299 (November 27, 1974). The purpose of the amendment was to insure that the Special Requirements Fund would be used for economic assistance and not for military assistance under Part II of the Act. *See* S. Rep. No. 93-1299, p. 61 (1974). It was in this latter form that the bill passed the Senate.

The House version of the bill, H.R. 17234, 93d Cong., contained the language which eventually appeared in the Act. There is no indication in the Conference Report that, in agreeing to the House language, the Senate conferees were accepting a change in the meaning of the limitation. *See* H.R. Rep. No. 93-1610, p. 47 (1974). We therefore conclude that the limitation, "assistance under Part I" of the Act, means that the Special Requirements Fund can be used to provide any type of assistance authorized by Part I of the Foreign Assistance Act of 1961, and consistent with the purposes of section 901 of the Act, but it cannot be used to provide military assistance.

When it created the Middle East Special Requirements Fund, Congress was not sure of the specific purposes for which it would be used. The Senate Committee on Foreign Relations, in reporting S. 3394, stated that the fund "was to be used to meet needs for *economic* assistance to nations in the Middle East which cannot be foreseen at this time." S. Rep. No. 93-1299, p. 61, *supra* (emphasis in original). The Committee described the Special Requirements Fund as "a contingency fund for economic aid to the Middle East." *Id.* The House Committee on Foreign Affairs also recognized that the precise uses for the fund could not be foreseen. *See* H.R. Rep. No. 93-1471, p. 25 (1974). Both committees expected that some of the fund could be used for direct economic aid to Syria, and some funds be used for development of the West Bank of the Jordan and the Gaza Strip.

Monies for the Middle East Special Requirements Fund have been appropriated in four fiscal years, and the fund has been reauthorized twice. During this period, both the Congress and the Executive have gained experience in the uses to which the fund could be put. An examination of the legislative history of some of these appropriation and authorization Acts is of assistance in determining the intent of Congress as to how the Special Requirements Fund is to be used.

The first year's funding for the Special Requirements Fund was provided in the Foreign Assistance and Related Programs Appropriation Act, 1975, Pub. L. No. 94-11, 89 Stat. 17. In reporting the bill that was the derivative source of this Act, the House Committee on Appropriations stated,

"It is not possible at this time to specify with any degree of precision how these funds will be used. Some may be utilized to resettle refugees, *some to assist additional U.N. truce supervision and peacekeeping missions*, and some for development projects * * *. Both the Arabs and Israelis are looking for us for constructive initiatives. The U.S. must have the economic resources immediately available to respond to these expectations and to assist in creating a peace that will advance our own national interests as well as those of the parties to the dispute." H.R. Rep. No. 94-53, p. 32 (1975) (emphasis added).

In 1976, the Congress was aware of the uses to which the fund would be put before it

enacted the Foreign Assistance and Related Programs Appropriation Act, 1976, Pub. L. No. 94-330, 90 Stat. 771. The report of the Senate Committee on Appropriations reveals that the Administration had notified the Congress in advance of the appropriation that a total of $25,000,000 from the Fund would be used to cover the costs of establishing and operating the United States Sinai surveillance mission for 1 year, and $10,000,000 would be a voluntary contribution to the United Nations Emergency Force, both associated with peacekeeping efforts in the Middle East. (Some of these funds had apparently been obligated under authority of the Continuing Resolution then in effect for foreign assistance). In describing this contribution, the Committee noted:

"These funds will help cover the costs of enlarging and redeploying the UNEF [United Nations Emergency Force] to carry out the expanded responsibilities required by the disengagement agreement [between Israel and Egypt], including responsibility for the security of the enlarged buffer zone where the American Sinai technicians will be stationed" S. Rep. No. 94-704, p. 97 (1976).

The House Appropriations Committee cited the proposed uses of the contribution to the U.N. Emergency Force:

"The special contribution will finance common use items and related transportation costs, such as prefabricated housing, jeeps, trucks, electronic equipment, and other required items. These funds will not be used to finance military hardware." H.R. Rep. No. 94-857, p. 37 (1976).

The Special Requirements Fund was reauthorized for fiscal year 1978 by section 13 of the International Security Assistance Act of 1977, Pub. L. No. 95-92, 91 Stat. 614, 621. In reporting the bill that was the derivative source of this Act, the Senate Committee on Foreign Relations stated,

"The remaining $22,000,000 would be placed in a contingency fund for use in the Middle East. In previous years, the fund has been used to: finance aid programs in Syria and Jordan; undertake development projects in the West Bank and Gaza; assist the U.N. Relief and Works Agency; establish and operate the U.S. early warning station in the Sinai; assist the Egyptians to build a Sinai early-warning station; and assist the U.N. Emergency Force in the Sinai.

"The Committee believes that because of the current situation in the Middle East, the President should have the flexibility provided by this authorization." S. Rep. No. 95-195, p. 32 (1977).

This recitation indicates that one of the purposes for which Congress anticipated that the Special Requirements Fund would be used, and for which purpose it has been used, is to assist United Nations and other peacekeeping operations. In reauthorizing the fund for fiscal year 1978, the Congress recognized that the "flexibility" needed by the President could include the possible use of the fund for future peacekeeping missions.

As we stated above, in carrying out the purposes expressed in section 109 of the Foreign Assistance Act of 1961, 22 U.S.C. § 2441, the Special Requirements Fund can be used to provide any type of assistance authorized by Part I of the Act. One such program in Part I is Security Supporting Assistance, authorized by section 531, 22 U.S.C. § 2346. (Although section 531 is located in Part II of the Act, the legislation which created it states that Security Supporting Assistance is deemed to be within Part I. *See* Foreign Assistance Act of 1971, section 202(b), Pub. L. No. 92-226, 86 Stat. 27). Section 531 provides,

"The President is authorized to furnish assistance to friendly countries, organizations, and bodies * * * in order to support or promote economic or political stability."

In recent years Security Supporting Assistance funds have been used for other peacekeeping operations, including the United Nations Force in Cyprus and the United States Sinai Support Mission.

The question remains whether the airlift provided by the United States was in the nature of nonmilitary support of United Nations peace-keeping operations or was military assistance, which cannot be funded from the Special Requirements Fund. The airlift of troops and materiel, presumably by United States military aircraft flown by United States military personnel, is of a different nature from the monetary contributions and civilian personnel which the United States has made available for peacekeeping purposes from the Special Requirements Fund and as Security Supporting Assistance in the past. We can conceive of circumstances in which the airlift of armed troops and military equipment could be classified as a defense service, the provision of which is considered military assistance under section 201 of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. § 2311.

However, we believe that the purposes for which aid is intended must be given considerable weight in determining whether that aid is military or nonmilitary. Among the purposes of the U.N. Interim Force, as defined in Security Counsel Resolution 425, was the restoration of peace and security to the Middle East. This is clearly an aim which is consistent with the purposes of the Special Requirements Fund. The Secretary of State has determined that providing airlift services to the Interim Force was the type of assistance which was authorized under section 903 of the Foreign Assistance Act. We do not believe that such services were so clearly of a military nature as to cause us to question the Secretary's determination.

We conclude that the provision of airlift services to the United Nations Interim Force in Lebanon was assistance authorized by section 903 of the Foreign Assistance Act of 1961. Funds appropriated under Pub. L. No. 95-148 and Pub. L. No. 94-441 to carry out the purposes of section 903 were legally available for the airlift.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.●

STEVEN BIKO

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. EDWARDS of California. Mr. Speaker, today commemorates the first anniversary of the death of Steven Biko. This courageous and inspirational black leader died at the hands of South African security police. He had been harassed, persecuted, and imprisoned countless times by the South African authorities for his persistent efforts to obtain justice for South Africa's black majority.

The world was justly outraged by Steven Biko's untimely death. The Congress of the United States condemned the South African Government for its role in his death and passed a resolution urging effective measures against the South African Government to register the deep concern of Americans over that country's continued human rights violations.

What effect has this outcry of the United States and the world had in South Africa? What progress has been made in that country in easing repression? Members of the House will be addressing these questions in our special order today.

We will hear Members of this body speaking about the community of Crossroads. Our good colleague, ANDY MAGUIRE, who has done so much to bring the facts of the deplorable situation in South Africa to our attention, will speak to you about his recent visit to Crossroads. I call upon my colleagues to listen carefully to what the gentleman from New Jersey has to say.

Crossroads represents the effort of some 20,000 Africans to bring a measure of dignity and self-respect to their lives. What began strictly as a squatters camp in 1975 has evolved into a true community where families can be together. The community has set up schools, medical clinics, social groups, and sanitation facilities. The residents of Crossroads contribute to the prosperity of the Capetown area through their employment. In short, the residents are involved in productive activity and the community is thriving.

Despite these facts, the South African government has announced its intention to destroy Crossroads and to force its residents to split up their families. Women and children would be returned to the "homelands" were their husbands and fathers would see them only rarely. There does not seem to be any rationale behind the government's decision. It is just one more incident in an all too familiar litany of governmental actions that completely disregard the human rights and needs of the black majority and deny these people a life of dignity. The plight of Crossroads is evidence that in the year since Steven Biko's tragic death, there has not been any significant progress in moving toward an end to repression and a recognition of racial equality.

Our special order today is terribly important so that the Congress can register its continued concern over the racist policies of South Africa. We must continue to do all we can to focus world attention on continued oppression in that country and to call for a government which grants equal rights and full participation to all South Africans.●

INFLATION AND MORALITY

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 13, 1978

● Mr. DORNAN. Mr. Speaker, inflation has been aptly described as the "mother of tyranny." In an older and wiser era, economics was subsumed under the subcategory of ethics (as indeed was politics). Economics was considered a moral science governing relations among men in matters of finance and trade. The sine qua non, Mr. Speaker, of economic relationships was the bond of trust, a firm conviction among those engaged in financial transactions that something was worth its true value and could be exchanged for something of comparable value. Simply put, the element of trust based on the virtue of honesty, served as the moral glue of economic society, providing the framework for order and stability. Unfortunately, Mr. Speaker, the twentieth century is concluding an intellectual and moral odyssey in which such matters are viewed altogether differently.

When the Federal Government engages in deficit spending; when it substantially increases the money supply thereby reducing the purchasing power of each individual monetary unit, is it not contributing to the destruction of the moral bond of trust of society? When the citizens of this Republic put their hard-earned savings into banks only to have inflation corrode, like a silent lancer, their true value, is it not contributing to the destruction of the moral bond of trust of society? When Government and private enterprise enter into contracts which, subject to the spiraling effects of inflation, result in astronomical cost overruns; when the effect of wage increases is to catapult taxpayers into a higher tax bracket; when politicians make promises which assume the bankrupt philosophy of deficit spending, is it not contributing to the destruction of the moral bond of trust in our society?

Simply put, Mr. Speaker, inflation "acts like the opium of the people," throwing a veil of illusion and deceit over every economic process. It confuses and deceives, raises expectations and hopes which are soon dashed, and ultimately sets the stage for economic anarchy, that which the English political theorist, Thomas Hobbes, aptly described as the "war of every man against every man." And in order to restore some semblance of order, lo and behold, comes some modern economic Napoleon riding on a white horse. And that, Mr. Speaker, is the end of a free society.

I insert at this point the trenchant remarks of Washington Star writer Sylvia Porter in one of her recent columns.

INFLATION ERODES OUR MORAL VALUES

(By Silvia Porter)

Our proud nation is fast becoming a land in which deceit dominates the way we conduct our economic affairs with each other—as individuals, in business, at all levels of government.

The relentless, devastating inflation of these past decades is eroding our moral values, undermining our honesty, to a point where now "nothing that is stated about dollars and cents any longer means what it says," observes Dr. Henry Wallich, one of the most astute governors of the Federal Reserve Board, and a lifelong analyst of inflation, its evils, and possible solutions.

"Everybody makes contracts knowing perfectly well that they will not be kept in terms of constant values," he recently told graduates of New York's Fordham Business School. "We do not know whether the most valuable part of the contract may not turn out to be the paper it is written on. . . .

"Inflation is like a country where nobody speaks the truth."

The documentation is widespread and horrifying:

Nine million Americans hold part-time jobs or otherwise earn money which they don't report on their income tax forms, Peter Gutmann, professor of economics and finance at Baruch College in New York, estimates.

Taxes and dividends are paid from profits that may not exist or, if they can be shown to exist by appropriate accounting adjustments, are not backed up by cash flows, Wallich adds. "In addition to misleading the stockholder and the public, these conditions push business into becoming more speculative."

Candy bars are smaller, paper towels contain fewer sheets of paper, and seats on some jumbo jets are narrower and packed closer together, my Washington associate, Brooke Shearer, reports.

The phenomenon of "down-sizing" or "packaging to price" is just a subtle form of inflation. The price of the item remains unchanged or rises only slightly, but you, the consumer, get less for your money than you did before.

Women's tennis dresses once came with matching panties but no longer. Warranties on cars and TV sets cover much less than 10 years ago. Solid walnut or oak furniture has been replaced by plywood or particle board covered with a hardwood veneer.

The pages of books are seldom stitched together with thread but are bound with glue, and newspapers as well as magazines have cut printing, paper and postage costs by reducing the size of their pages.

At the same time, our politicians follow policies that, if not openly dishonest, are not honest, either. A politician who makes promises that he knows cannot be met in real terms is surely dishonest. The politician is making the promises in full recognition that, as the government at all levels overspends in futile attempts to keep the promises, the value of the benefits it is supposed to deliver automatically shrinks.

Yet, despite this shocking evidence of the extent to which inflation is pushing us toward "deception" as a way of life, how can any long-term commitment in absolute dollar terms be reached between buyer and seller, employer and employee, lender and borrower, in a prolonged phase of a wage-price spiral?

It is only human to try to protect yourself in any transaction against the awesome risks of ever-climbing prices and dwindling buying power of the U.S. dollar by constantly demanding a bit more or offering a bit less than you otherwise might demand or offer.

Much as you mistrust our federal, state and local politicians, and ironic though your attitude may be, it is only logical of you (both as individuals and business owners) to turn to government in search of a security you cannot provide for yourself in an economy so cursed by inflation.●

CAMPBELL-MORELAND PONY LEAGUE CHAMPIONS

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 13, 1978

● Mr. MINETA. Mr. Speaker, I rise today to honor 15 fine young men who compromise the Campbell-Moreland pony league team, new champions of the pony league world series.

On Sunday, August 26, these 15 young athletes won the pony league world series championship in National City, Calif., after competing with teams from all over the Nation.

Team members include Mike Walsh, Harold Sutherland, Richard Alvarez, Eddie Rodriguez, Dominic Constantino, Steve Clinton, Bob Straight, Paul Sargis, Rich Vanengas, Bill Roberts, Bret Blackwell, Eric Crawford, Scott Freear, Glen Davis, and John Murphy. The Campbell-Moreland team represents the best 13 and 14 year-old baseball players in the Campbell-San Jose area of California. Their competitive spirit and determination were important factors in the repeated successes which culminated in their final victory at National City.

Their coaches and manager are also to be commended for the time and energy they donated to insure the success of the team. The team coach is Chuck Calhoun, the manager is Bud Stallings, and the team's business manager is Ray Sargis. George Ryan is the president of the Campbell-Moreland Pony League, and Joe Gagliardi is the northern California director for boys baseball, which made the world series possible.

I ask you and my colleagues here in the House of Representatives to join with me in congratulating these young men and all of those who helped them achieve such great success.●

REPORTS OF MIA SIGHTINGS—III

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 13, 1978

● Mr. DORNAN. Mr. Speaker, I am once again inserting communications received by Mrs. Le Thi Ahn, an interpreter and a leader of the Vietnamese community here in the United States, pertaining to "live" Americans reportedly held prisoner in Southeast Asia after the U.S. departure of April 1975. I have sanitized the letters and transmitted them to the Defense Intelligence Agency for their analysis. Letters six and seven are inserted for your edification. I ask that you give them proper consideration:

LETTER 6

TRANSLATION OF TRANS-PACIFIC TELEPHONE CONVERSATION ON MARCH 23, 1978 (WITH (DELETED)) IN VICTORIA, AUSTRALIA:

My name is (deleted). I am living now in Australia.

I am telling now about the occasion that I have met these Americans. I have seen two American men at about 8 a.m. on April 30, 1975 at Xeo Ro. Since I was standing very far from them, I could not hear what they were talking about and also I could not see their name-tags. I only could distinguish that one is white and he looked very skinny and the other is black and he looked a little fatter.

There were seven persons on this sampan: two Americans and five communist soldiers. The Americans were standing in the middle part of the motorized sampan. Three communist soldiers stood at the prow and the remaining two at the stern. The black American was wearing a uniform and he looked like an officer. The sampan stayed at the bank of the river for 5 to 10 minutes, then left for the direction of the U-Minh Jungle. I had no idea where they were headed.

LETTER 7

MAY 5, 1978.

DEAR MRS. LE THI ANH: I just read in Trang-Den No. 102 that you want information about MIAs in Vietnam. I have not seen them myself; but I shall tell you what I heard about them. I do not know if this information serves "our cause."

I have a cousin-in-law, he's the husband of my first degree cousin. A little over two

months after the fall of Saigon my cousin came to visit us. He told us that he had a brother who was a Northern official and now his brother has come South for a visit. After the visit with my cousin, the cadreman brother took my cousin to his workplace in Phuong-Lam for two days.

There in Phuong Lam, my cousin saw that a large number of Americans were being detained. His cadreman brother told my cousin he was the leader of the group and that he took them down from the North to the South. Along the trail, he said, they were sometimes short of food and the POWs had to eat leaves. My cousin asked his cadreman brother why does the government keep them and not give them enough to eat, what a pity to let them die from hunger like that, why not release them? Then his brother told him that "we can't release them because if we did, the Americans would drop bombs on us."

I asked how many Americans did you see? and he said: "Quite a lot of them." He said his brother told him that there were about 500 of them. When I was about to go to France, my cousin told me that the POWs have been transferred to another camp and his brother now had another job. I asked what his brother's field was, and he said that he was a Security officer. When I heard that I felt so sorry for those men.

You well know, Mrs. Anh, that the Communists were already very harsh with us whom they called "compatriots," they punish us until death unsues, you can imagine how big must be the sufferings of those Americans whom the Communists call 'enemies'.

I fail to understand how the Americans can abandon their own people like that. (How can they have the heart to abandon their own fighting men in this manner.)

I was allowed to go to France to join my son.

Have a daughter in the U.S. and may come to see her.

Signed,

(DELETED).●

CROSSROADS—A THREAT TO SOUTH AFRICA

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1978

● Mr. STEERS. Mr. Speaker, today marks the first anniversary of the death of South African black consciousness leader Steve Biko at the hands of South African police. The year that has followed his death has marked an increased awareness in the United States as to what the South African policy of apartheid really means in human terms.

In the last year, we have seen that Steve Biko has not been the only black to die as a result of South African police brutality; racial oppression is widespread. I am extremely concerned at the present time about another act of oppression that might be perpetrated against the black South African community. I am referring to the proposed destruction of the community of Crossroads, outside of Capetown.

The South African Government views the existence of Crossroads as a threat to their homeland policy which requires all blacks to be citizens of their respective homeland—to be determined by the South African Government. Men are allowed to work in urban areas in South Africa, but women must live in rural areas. Since the homelands are too poor to provide jobs, the men are forced to leave their families and work outside the homeland. Men can visit their wives only 2 or 3 weeks a year, rendering it impossible to have any kind of family life. In Crossroads, women have come to live with their husbands, and this is why the South African Government wants it destroyed.

The courageous women of Crossroads have braved violence and prison to exist with their husbands as a normal, healthy family unit. The residents of Crossroads have worked hard to make their squatter community a town. Yet, all of the legal avenues to block the destruction of Crossroads have been pursued, and the Government bulldozers could come at any time.

I hope that the awareness that has been aroused in the House by the death last year of Steve Biko will motivate my colleagues to look closely at the situation in Crossroads, and to act accordingly.

I would also like to insert into the RECORD at this point an article that appeared in the Washington Post on September 10, 1978 that details another aspect of life in South Africa that is affected by South African racist statutes.

FROM BIRTH TO GRAVE, SOUTH AFRICANS LIVE WITH RACE LABELS

(By Caryle Murphy)

CAPE TOWN, South Africa.—Diana Bassick and Raymond do Proft lived together as man and wife for 24 years, raising five children into what the neighbors thought was a happy white family.

But South Africa's race classification laws have ended those good times.

The pair's 20-year-old son, Graham, committed suicide because he could not marry his pregnant girl friend, in the investigation of his death, police found that Diana and Raymond had been faking their marriage all those years. Now they want to make it legal, but cannot.

The problem: Diana, whose mother was white, but who never knew her father and was raised by a colored family, is classified colored, or racially mixed. Raymond, son of a Belgian father and British mother, is classified white.

Since the children were born out of wedlock, they were registered under Diana's name and also classified colored. Graham's girl friend, Sonya, was the daughter of Afrikaners—and therefore classified white and out of reach.

After a fight with his mother over what to do about it, Graham stormed out of the house four years ago and walked in front of a commuter train. A government inquest ruled it was suicide, caused by despair over Sonya.

"He would not have killed himself if it wasn't for these laws," said Diana in an interview at her working-class home in Cape Town. "It's four years ago, but I still expect to see him come through the front door."

In South Africa such a cross-racial marriage is forbidden by law, even though her wavy black hair and lightly tanned complexion give Diana the appearance of someone who might have come from a southern Mediterranean country like Greece.

For Graham, as for everyone born in South Africa, the crucial information on his birth certificate was the entry after "race." That word—colored—was the key to what jobs he could hold, how much he was paid, what school he could go to, where he could live, with whom he could have sexual intercourse, whom he could marry, how large his old age pension would be, in what hospital he could be admitted and even the cemetery in which he could be buried.

The Population Registration Act, which requires every citizen to be classified into a racial group, belongs to a package of legislation that the ruling National Party enacted in the early 1950s to help carry out its policy of apartheid, or racial separation.

The package also includes the Immorality Act, which bars interracial sex; the Mixed Marriages Act, which forbids interracial marriage, and the Group Areas Act, which outlaws integrated neighborhoods.

When the government started classifying, many disputed their racial label and hired lawyers to wade through the paperwork and argue their cases before a court that handled appeals. Lawyers say thousands of appeals used to be heard every year. Now, only a few cases remain.

Requests for reclassification first go to the Department of the Interior, which never informs the person seeking a new category of the reasons for its decision. Last year, government figures show, 115 applicants won reclassification out of a total the government refuses to reveal. Change in classification can mean a whole new life style. Whites and colored carry "books of life" as identification. Blacks carry "reference" books, known as "pass" books because inside must be a valid pass giving the holder permission to live or work in a specific city.

"Getting reclassified is like murder," said one colored woman. "You live in a certain neighborhood, have certain friends and a family. And when you change, you go to a new neighborhood, you don't see your old friends and many people, for their children's sake, stop coming to visit their families."

Roma Sabatini, a white-classified store cashier in Johannesburg, is trying to switch to colored because, at 22 after growing up with her colored mother in a colored neighborhood, she wants to marry her colored boy friend.

"This business of being white is hanging over me like a cloud," said Roma, who resembles many colored people. I sent a letter to the Classification Bureau three years ago, saying I want to be reclassified colored. It's not the way they want to classify me; it's the way I feel. I go to colored places, I go out with colored men. My heart is feeling colored and my mind is saying colored. I don't want to leave the country to get married."

The Department of the Interior agreed to reclassify Diana Bassick's remaining four children white following Graham's suicide and turned a blind eye to her cohabitation with De Proft. With her secret now known however, Diana also applied for reclassification so she could marry Raymond legally.

Her request was denied. As usual no reason was given. But Diana's lawyer was told that the fact she was still of childbearing age had been a factor in the refusal. So after a hysterectomy in 1975, Diana applied again.

The answer was in a note from the Interior Department secretary to her lawyer this spring: "I do not see my way clear to amend her classification."

"It's so late in my life," said Diana, now 51. "The only thing I look forward to in my life is to belong to someone. I know we are already happy, but one does want to make it legal. I want to marry the father of my five children."

In the original classifications, racial appearance and general acceptance by others were the prime factors. In dispute, besides his appearance, a dissatisfied South African could present affidavits from neighbors saying they always thought the person was colored, or white, or black, and was accepted as such by the community.

Decisions used to be arbitrary and often reflected the attitudes of those who made them. Some recall stories of borderline cases

being decided by the "pencil test"—if a pencil stuck in someone's hair, he was black, not colored.

But a 1966 amendment to the Population Registration Act made descent the chief criterion instead of appearance and acceptance. Today, these factors come into play only if family descent is unclear.

This affected colored families most, since many were borderline cases under the old criteria. Whole families among the country's 2.4 million coloreds have been split down the middle by fair-complected members who moved into the white category.●

DIFFERENT PERSPECTIVES ON HIGH BLOOD PRESSURE

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 13, 1978

● Mr. MITCHELL of Maryland. Mr. Speaker, the National Medical Association Journal recently carried an article by John T. Chissell, M.D., of Baltimore, Md., which offered different perspectives on the problem of high blood pressure, which affects so many black Americans.

I am inserting into the RECORD the article written by Dr. John Chissell and I urge my colleagues and members of congressional staffs to read this article.

HIGH BLOOD PRESSURE MONTH—DIFFERENT PERSPECTIVES

By the time this issue of the Journal of the National Medical Association reaches you there will have been intensive media campaigns exhorting the nation's citizens, particularly black Americans, to be checked out for hypertension, and if found to have high blood pressure, to take one or more pills daily for the rest of their lives. Well-known and respected entertainers will sing the message "do it for them (family or friends) and for yourself—take your medicine for the rest of your life."

The popular messages with regard to hypertension detection and control certainly all have a basis in some facts and some truths, but the members of the National Medical Association and the people who look to the members of the NMA for management of their health problems need to look at some other basic facts and truths about hypertension.

There is increasing evidence that lifestyle changes may normalize hypertension. My own experience and research indicates that lifestyle changes which result in better nutrition, adequate amounts of aerobic exercise, and inner balancing techniques such as meditation and biofeedback have the greatest potential for controlling high blood pressure, while at the same time moving the individual in the direction of optimal health and wellness. In fact, the time hypertension is first diagnosed is an ideal time to initiate an awareness of the patient's lifestyle habits which may be producing the hypertension, and to begin substitute habits which may reverse the movement toward disease, disability, and death in an individual or target population to a direction toward optimal health and wellness.

We need not condemn people to a daily ritual of taking pills and their cumulative side effects if we are willing to educate ourselves and our patients to the fact that daily health habits may be just as effective (if not more so) as chemicals in controlling high blood pressure.

The amount of medication patients may need to control their hypertension can be minimized with a concomitant emphasis on eliminating negative health habits and initiating positive health habits.

There is ample evidence that black people suffer more from hypertension, both from onset at younger ages and from more severe consequences, than their white counterparts. Many quantitatively oriented western cardiovascular specialists and researchers have looked for the answers to this increased susceptibility in blacks by making a genetically oriented search for some inherent defect in blacks. Members of the National Medical Association have an obligation to insist that at least an equal amount of research money and effort be spent in examining the effects of psychosocial stress on the etiology, morbidity, and mortality of black hypertensives. Emotional stress of any variety, because of its resistance to precise measurement, or because of resistance in fitting into Kochs Postulates, has been shamefully neglected by quantitatively oriented cardiovascular researchers. Racism as a psychosocial factor has been almost totally ignored.

There is increasing international agreement that hypertension is one of the diseases of civilization. The United States, in spite of its technological superiority in the health field among civilized countries, does not reflect that superiority when it comes to the prevention of hypertension as evidenced by the increasing amount of high blood pressure in US citizens. The figures have been widely publicized this month; this is a time to examine alternative methods of prevention and treatment of hypertension to the multibillion dollar pill-pushing philosophy that involves all of us today. This is also a time to examine our own lifestyles and the kind of health these habits have produced in us. The time is now, seize the time!!—John T. Chissel, MD.●

ESTHER L. LINN

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 13, 1978

● Mr. WAXMAN. Mr. Speaker, Esther L. Linn will receive the Jerusalem Award at a Shaare Zedek Hospital Dinner on Sunday, September 24. A most deserving recipient, Mrs. Linn and her late husband Milton were among the pioneers who in 1958 established a Shaare Zedek support group in Los Angeles which developed into the western region. In the past 4 years this region has become one of the major contributors among the worldwide groups supporting the 105-year old hospital. With a friend, Esther Linn helped to found the Women for Shaare Zedek, and now serves as its president. She will be joining 100 Californians in a tour to Israel especially arranged to participate in the dedication of the new Shaare Zedek Medical Center. The Milton N. Linn Pediatric Day Hospital, which Esther Linn endowed in the memory of her husband, will also be dedicated at that time.

Philanthropic programs emphasizing health, education, and Jewish activities in the United States and Israel have long characterized the work of both Esther and Milton Linn. Esther is vice president of the Jewish National Fund Council. For a number of years she was president of the Bertha Sieroty group of Badasssah and served with distinction on the sisterhoods of Congregation Beth Jacob and Sinai Temple. Her activities have embraced Friends of the Hebrew University, Technion, Mizrachi Women, Ponovez Yeshiva, Rambam Torah Institute, Yeshiva of Elchonon West Coast Talmudic Seminary, National Conference of Synagogue Youth and Ezra Torch Free Loan Fund. With her husband, Esther Linn launched the Hillel Endowment Fund with a most generous gift which has provided many scholarships to students at Hillel Hebrew Academy. It is difficult to imagine that Esther and Milton Linn could have crowded so many community and philanthropic activities into their time.

Esther Linn, both in the Upper Peninsula of Michigan, is the seventh daughter of a seventh child. She claims the distinction of having been held and kissed by Theodore Roosevelt during his campaign for the Presidency. Brought to Los Angeles when she was 12, Esther graduated from Los Angeles High School, and then studied theatre arts at UCLA. She founded, and was the dean of the Westwood School of Business from 1951 to 1958, and developed many special techniques in the teaching of business skills. Esther also gave after-school classes in the public school system.

Esther rejoices in her children and grandchildren. Her son, Gerald L. Fishbein and his wife Millicent, have two children. Her daughter, Joan, is the wife of Prof. Jan Pierre Deuens. Milton Linn's children are Mrs. Dorothy Cohn of Los Angeles, who has contributed two grandchildren to the family, and Mrs. Myra Winston of New York who has three. If the descendants of Esther and Milton Linn follow the glowing example set by their parents, their good works and contributions to their communities will enrich the lives of those around them. It gives me special pleasure to honor Esther Linn, and I know that my colleagues will wish to join me in noting the occasion.●

REDUCING THE FEDERAL DEFICIT

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 13, 1978

● Mr. FISHER. Mr. Speaker, the House has approved a second budget resolution for the fiscal year 1979 that contains a deficit of $40 billion. The President's budget request as submitted in January indicated a $60 billion deficit and the preliminary first congressional resolution agreed to in May put forth a figure slightly above $50 billion. The deficit for the current fiscal year that ends in September will be in the $50 billion range. I voted to support the second resolution principally because of the progress it represents in moving toward a balanced budget.

Efforts to reduce the deficit reflect an increasing recognition that at this point in the economic cycle—the 4th year of the recovery from a severe recession—

Government expenditures must be brought more into line with its revenue collections. Most of the deficit reduction projected for fiscal year 1979, however, has been achieved through reductions in the size of the tax cut and through reestimates of what will actually be spent from forthcoming appropriations. Tax cuts of sufficient size are needed to offset the effects of inflation and to provide meaningful tax relief to a wide range of taxpayers. To make real progress in cutting the deficit—this year and in the future—the growth in Government spending has to be curbed.

During the debates this year on the budget resolutions for fiscal year 1979, I sought to reduce the level of spending in a practical way. In May, in the first budget resolution, in addition to supporting a number of specific program reductions, I proposed that spending be cut across-the-board by 2 percent from what the Budget Committee had recommended. While my amendment was not agreed to, subsequent reestimates and other developments led to a Budget Committee recommendation for the second resolution that was essentially in line with my earlier proposal—a reduction of $10 billion in the spending target.

Because I believed that by then another $5 billion could be squeezed out of the spending totals with little or no loss in program effectiveness, I proposed an amendment to this effect during the House debate on the second resolution, but it, too, was defeated.

There are many uncertainties ahead as we approach the new fiscal year, including the final size of the tax cut, further re-estimates of how fast appropriated funds can be spent, and changing inflation rates which can have large impacts on both expenditures and revenue collections.

In dealing with these uncertainties throughout the year, I would urge the administration and the Congress to keep their pencils sharp and seek out additional spending cuts. The $490 billion spending limit in the second resolution is just that—a ceiling—and reductions in spending below this level can and should be achieved. Spending in most Federal programs can be reduced by small amounts without serious disruption of important Federal functions. During the next year, spending cuts would not only reduce the deficit but would also cut down on the risk of additional inflation.●

THE SAN JOSE JOB CORPS CENTER

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 13, 1978

● Mr. MINETA. Mr. Speaker, I would like to bring to the attention of my colleagues the outstanding accomplishments of the San Jose Job Corps Center in providing counseling, training, and placement for young adults seeking employment.

The San Jose Job Corps Center is a federally funded program, operated by the Singer Co., which provides student volunteers from age 16 to 21 with academic preparation, vocational training, counseling, medicaly and dental care, room and board, and other services.

During 1977, 85 percent of those young men and women who entered San Jose Job Corps Center training completed the program, and of those, 99 percent were placed in jobs. In the same period, 176 of its students earned the equivalent of a high school diploma. This extraordinary record is a tribute to the sensitivity and dedication of the Job Corps center staff in working with young people.

Helping young people become productive members of society benefits our communities in many ways. For example, San Jose Job Corps Center enrollees placed in jobs and in the military earned over $2.4 million in wages and an estimated $600,000 in fringe benefits during 1977, their first year of employment. It is estimated that about $1.4 million of those wages will be spent in Santa Clara County, where they were earned.

Since its opening in 1972, the San Jose center has grown into one of the most widely respected youth training programs in the Nation, and it has acted as a regular host for foreign visitors on behalf of the U.S. State Department.

Much of the success of the Job Corps center can be attributed to the strong guidance of its director, Mr. Kenneth C. Dugan, whose service to the organization and to the community has been exemplary.

Mr. Speaker, I believe that the Congress must be more vigilant in rooting out ineffective Government programs that waste taxpayers' money. It is gratifying, however, to learn that one program, the Job Corps program, has the potential to help solve the serious problem of unemployment and underemployment of our Nation's youth. The San Jose Job Corps Center demonstrate that potential, and I ask my colleagues to join with me in commending the San Jose Job Corps Center and its staff for its meritorious record of service to the people of San Jose.●

RECORD AIRLINE PROFITS

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 13, 1978

● Mr. ROSENTHAL. Mr. Speaker, the airline industry is experiencing record profits this year and all indications are that these earnings will be sustained in coming months. Yet the air carriers argue that their huge profits are only of a temporary, fleeting nature; they urge us to ignore this year's corporate earnings figures and to vote for H.R. 11986, which would provide carriers with an estimated $2.5 billion to help them meet new FAA noise regulations.

H.R. 11986, the Noisy Aircraft Revenue and Credit Act of 1978, will be offered as an amendment for title III of H.R. 8729, the Airport and Aircraft Noise Reduction Act.

Presented below is a table I have prepared of net earnings figures for 12 domestic trunk carriers, large and small.

AIRLINE INDUSTRY NET EARNINGS—12 DOMESTIC AIR CARRIERS

[In millions]

	1st half			2d quarter		
Airlines	1977	1978	Percent increase	1977	1978	Percent increase
Allegheny	$3.5	$13.2	274	$6.3	$20.2	222
American	29.9	36.9	24	31.5	43.9	39
Braniff	16.4	20.1	23	9.3	11.2	21
Continental	8.0	32.6	307	7.2	9.3	29
Delta	56.0	70.6	26	33.8	43.2	28
Eastern	18.5	43.7	137	1.6	24.2	1,386
Ozark	2.3	3.2	38	2.0	3.0	50
Pan Am	−11.8	20.0	-------	15.8	46.2	192
Southern	.6	−.5	-------	1.0	1.1	6
TWA	−22.5	9.6	-------	28.2	48.3	71
United	48.2	105.4	118	20.9	91.9	340
Western	3.6	17.1	378	1.5	5.9	287
Total	152.8	371.9	143	159.1	348.4	119

In particular, I call my colleagues' attention to the fact that profits for the first half of 1978 represent an increase of nearly 150 percent over last year. TWA, the troubled giant of the industry, turned a $22 million deficit for the first half of 1977 into a $10 million profit during the first 6 months of this year. Eastern's 1400 percent second quarter increase over last year is phenomenal.

Based on these and other data, I remain unconvinced that the airlines cannot bear the cost of retrofitting and reengining their aircraft to bring them in line with the 1985 regulations. Let us see if the doomsayers of the airline industry are accurate in their predictions of a future decline; if they are, we will have plenty of time to assist needy airlines in coming years.

Mr. Speaker, although the airlines are currently the fastest growing American industry, they and their friends argue that the airline boom is but a passing phenomenon. To this end, they have disseminated on Capitol Hill and information sheet entitled "Financial Analysts' Views of Airline Industry Financial Performance in 1978 and 1979." Four predictions are presented there; unfortunately, they are outdated and misleading.

Following are the analysts' predictions as they appeared on the Air Transport information sheet plus updated airline industry predictions from the same sources:

ANALYSTS' PREDICTIONS

AL NORLIN OF KIDDER, PEABODY & CO., INC.

Our 1978 traffic, revenue, and earnings forecasts have been increased but the shape of our projected industry profit pattern remains unchanged. Strong year to year comparisons should prevail throughout the spring and early summer, but margin pressures are likely to appear in late summer, and a sharp earnings decline is indicated for the fourth quarter and for 1979.—June 16, 1978 (presented by ATA).

Traffic gains in the airline industry are continuing to be very strong in the third quarter. Because of this, margin pressures will be pushed back to later in the year. In addition, I'm being a lot more open-minded about the fourth quarter because of sustained traffic growth; if travel earnings continue, there very well may be no decline at all. My estimated earnings figure for the 11 major airlines is now up to about $950 million for 1978, compared with $600 million for last year.

For next year, I'm projecting two different ways. While earnings will decline even without a recession, airline profits will be substantial. If there is a recession, there will be a significant earnings decline. Yet, the airlines will be in a more stable position than in any previous recession.—August 15, 1978.

THEODORE P. SHEN OF DONALDSON, LUFKIN & JENRETTE SECURITIES CORP.

Expect earnings to decline fairly significantly in 1979 after having reached a cyclical peak during the third quarter of 1978. Specifically, we estimate earnings for the full year 1978 to be down slightly from the 1977 record level of $610 million, and then to decline perhaps to $200 to $300 million in 1979, assuming a moderate recession.—April 24, 1978 (presented by ATA)

We have updated our 1978 estimates. For this year, we predict airline earnings to be $875 million, up 43% from last year. For 1979, given the assumption that we'll be in recession, airline profits should decline to about $450 million. We do point out to investors that in all past recessions, the airlines were unable to avoid red ink; however, there is no chance that carriers will actually lose money in the projected coming recession.—August 15, 1978

BARRY J. GORDON, NATIONAL AVIATION AND TECHNOLOGY CORP.

I believe that airline earnings in 1978 will be little changed from the 1977 levels. If I had to state a number right now I would say slightly better, in the $600 or $650 million area. In 1979 I feel that earnings will be lower than in 1978 because of a weaker economy.—April 24, 1978 (presented by ATA)

I expect airline earnings this year to be higher than we originally anticipated, as there has been a large increase in air traffic . . . Thus, I would revise my figures upward, estimating airline earnings in 1978 to be in the $800 to $850 million area. I still feel that earnings will be lower in 1979 than in 1978 because of a weaker economy.—August 9, 1978

BERT FINGERHUT OF OPPENHEIMER & COMPANY, INC.

In summary, we now project that industry versus a prior projection of $715 million. in 1978 versus $611 million in 1977 and versus a prior projection of $715 million. Based in part on reasonable economic growth late this year and in 1979, we project industry net income will total a little less than $900 million in 1979. . . . In developing these projections, we are assuming modest economic growth in late 1978 and 1979.—June 28, 1978 (presented by ATA.).

I stand by my statement of June 28.—August 15, 1978.

Mr. Speaker, I would like to point out three facts based on the above predictions. First, all analysts now predict a record year for airline profits. Second, analyst opinions are split over the future of airline industry profitability. Third, there has been a wide variance in the analysts' predictions in just a 2- to 4-month period; their estimates of industry performance are dismayingly inaccurate.

In light of these three facts, I urge my colleagues to oppose H.R. 11986, the Noisy Aircraft Revenue and Credit Act of 1978, which will be offered as an amendment for title III of H.R. 8729, the Airport and Aircraft Noise Reduction Act.

If the airlines continue to profit from the present climate of deregulation, a $2.5 billion bonus would be wasteful. If the airlines flounder in the future, Congress should be ready at that time to consider some kind of assistance.●

SALT II AND MAPS

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 13, 1978

● Mr. CARR. Mr. Speaker, on September 11 Senator BENTSEN opened the session of the Senate with an articulate and thoughtful discussion of SALT, particularly as it relates to multiple-point ICBM basing, or MAP. I recommend that everyone interested in arms control read it and, for whatever they may be worth, I offer the following unsolicited comments:

First. We cannot assume that MAP would assure the survival of a significant proportion of our ICBM force. MAP is strategically attractive only if it is clear that we can proliferate aim points more cheaply and more quickly than the Soviets can proliferate hard-target reentry vehicles. Neither of these points has been demonstrated in a satisfactory manner.

Second. Assuming the verification problem can be solved, MAP is a great deal more viable in a SALT context than in a no-SALT context. Under the reported SALT II terms permitting the Soviets about 300 modern heavy ICBM's with 8 or 10 warheads each and about 500 modern medium MIRV ICBM's which could have 6 warheads each, and with an ICBM fractionation limit at these levels, the Soviets could ultimately have about 5,500 available hard-target ICBM MIRV warheads. While it would be stunningly expensive, we could if we wish build a countering MAP system with reasonable confidence that it would be successful.

In contrast, a SALT-free environment leaves MAP floundering in a bottomless pit in which orderly force planning is impossible. For every aim point we build, the Soviets could deploy another RV or two. Assuming they are willing to bear the cost of their RV's, we could well find the cost of our aim points eventually running so high that, had we known where the cycle would lead when we began it, we would have chosen another route to strategic security.

Third. Senator BENTSEN's point that, in effect, survivability is a legitimate goal whereas first strike is not, is right on target.

Fourth. The assertion that we do not have first-strike capabilities while the Soviets do is difficult to support. Minuteman III was explicitly designed as a counterforce system, as were the subsequent accuracy upgrades which make it the most effective silo-killing force in the world today. M-X is explicitly advertised as a super silo-killing weapon, and there is no other rationale for its configuration. We can say, of course, that we are only interested in countersilo second strike, not in first strike. But the Soviets can say the same thing, since the hardware required is identical.

Fifth. The latter part of Senator BENTSEN's statement seems more ideological than pragmatic, and is oddly inconsistent with the hard analysis of the first part. I have particular difficulty understanding his view that if a SALT agreement does not provide gap-free protection for the United States it is "not good at all." One might with equal validity argue that a new weapon which does not provide complete protection is no good, and since no single weapon can do this we should buy no weapons. It has always seemed to me that any agreement or any weapon which advances our total security to any measurable degree is good and should be accepted.

Senator BENTSEN's remarks follows:

SALT II

(By Senator Bentsen)

Mr. President, on June 28, I addressed the Senate on some of my concerns regarding the SALT II negotiations. I suggested at the time that, like it or not, diplomatic "linkage" would be a major factor in Senate consideration of SALT II for the simple reason that there can be no such thing as a sound agreement with an aggressive partner seeking to exploit every advantage and widen every loophole.

The record of past Soviet performance on SALT I and current Soviet adventurism make it apparent that adequate verification procedures are absolutely essential to any acceptable SALT II treaty. If we cannot trust the Soviets, clearly we must be able to tell when they are cheating, particularly on an issue as important as strategic arms limitations.

Furthermore, we cannot permit a SALT II agreement, no matter how sound or verifiable, to serve as a maginot line in our strategic posture. The Soviets clearly have the will, and may well have the capacity, to outflank any such agreement by aggressively exploiting opportunities for confrontation throughout the world, using conventional means.

Obviously Mr. President, no Member of this body is in a position to pass final judgment on a SALT II agreement that does not yet exist. I believe, however, that there is some merit in raising and discussing fundamental issues pertaining to SALT; issues that will inevitably bear on the question of Senate ratification regardless of the final form the treaty may take.

There are two aspects of SALT that currently cause me some disquiet. The first is the necessity of preserving MAPS in the forthcoming SALT II treaty—MAPS is the concept that we can confound a Soviet first strike against our Minuteman sites by digging more silos than we have missiles. The second issue is our general perception of arms limitations agreements over the years and the aura of inevitability that has developed around SALT II.

The faddishness and jargon of the arms control dialog would be amusing if the topic were not so important. Clearly, the latest vogue in the ongoing debate about SALT II is the multiple aim point system, or MAPS. The same concept is also referred to with the acronym of ALPS—alternate launch point system. MAPS or ALPS, the notion is identical and disarmingly simple. It is almost as if a talented layman were introduced into the arms control debate.

I am neither qualified nor inclined to deliver a long address on the pros and cons of MAPS. Certain elements of the problem and the proposed remedy are, however, beyond dispute.

We currently have a substantial number of ICBM's, mostly Minuteman III, targeted at the Soviet Union in hardened positions. This land-based missile force constitutes one

element of our triad. There is substantial agreement within the brotherhood of strategic analysts that the Soviet Union will, by the early to mid-1980's, have the capability of destroying the majority of our Minuteman force without substantially depleting their own missile inventory. This situation will exist whether or not the SALT II treaty is signed in its current form, and it is not a comforting thought.

With these factors in mind, two questions immediately occur. What options are available to us, within and beyond the constraints of SALT II, to protect our land-based missile system? What purpose is this system intended to serve?

In regard to the first question, we could program, fund, and build a mobile missile system, the much-heralded, hotly debated and highly expensive MX. That is one option, and SALT II would not be an impediment. It has been deliberately delayed by the administration, and is scheduled to be operational in 1986, after the treaty expires.

The MAPS/ALPS multiple silo approach provides a second, theoretically less costly option for enhanced survivability, because it utilizes the existing Minuteman III. Our missiles are vulnerable because they exist in finite numbers; the Soviets know where they are; they can land a warhead close enough to take them out; and they will have sufficient warheads to do the job.

Let me just add parenthetically that I have always been a little puzzled by the notion that our ICBMs could be eliminated in their silos because I had always assumed that, even in the case of a Soviet first strike, we would have sufficient warning time to get our missiles up and off. But let us assume for the sake of argument that this launch-on-warning option is rejected.

Under the MAPS/ALPS approach, we simply diffuse about 250 of our missiles over a much greater number of holes, or launch points. They become safer because the Soviets do not know at any given instant which of up to 5,000 new holes has the missile and because they lack the means to attack all the launch points. Multiple silos should theoretically curb the Soviet appetite for a first strike and virtually assure the survival of at least a significant part of our minuteman force in any contingency.

At the very least, Mr. President, this is a clever idea. I would be hard-pressed to demonstrate why it would not work.

True, the multiple silo concept raises some very significant and difficult questions. It complicates verifiability, which is a critical aspect of SALT II. We would, in effect, set out to make it impossible for the Soviet Union to determine where our missiles are. We would make each silo look as if it contained a missile, a conscious effort at deception. We would make it more difficult for the Soviets to determine if we were cheating on the upper limit of missiles, assuming that they lack the capacity to detect new missile production in this country.

Resort to the multiple silo approach would also invite the Soviets to follow suit, creating new verification problems for us and raising similar concerns about total numbers of missiles.

Considerations of this nature are important. They deserve to be addressed. But the option is also important. It deserves to be preserved. We gave up the B-1 bomber and got nothing in return. We are treading water on the neutron bomb, again with no reciprocal concession in sight. We have terminated minuteman III production and delayed MX and have production delays with Trident. I do not think we can gratuitously afford to scrap the multiple silo concept, and I am pleased to see Secretary Brown and ACDA Director Warnke agree with this position. They are insisting that the option to deploy a MAPS be preserved in a SALT II treaty.

One of the most intriguing aspects of the MAPS debate is the fact that it drives the Soviets up the wall. Pravda is indignant. They do not like it one bit.

Perhaps we should pause for a moment and attempt to determine why the Soviet Union is so clearly and strongly opposed to multiple silos, particularly when we do not deny their rights to deploy the same system.

It takes no great strategic genius to divine the reasons for this protest. The reason is simple. The Soviets are acknowledging that they do not want to sacrifice their perceived ability to destroy our land-based missiles in a first strike.

I do not want the Soviet Union, even in a worse case hypothesis, to have that capability. I do not think we should permit it to exist. One way to circumvent it is to deploy a MAPS.

There may be some other, more arcane, or more legitimate reason for strong Soviet objections to multiple silos. If it exists, I would like to know what it is. In the absence of any such information, I must assume that the Soviets object for the reason stated.

I alluded earlier to a second question on MAPS/ALPS: What is the purpose of our land-based missile system? It should by now be apparent to even a neophyte in the field of arms limitations that we lack the capacity to take out the Soviet land-based missile force in a first strike with our Minuteman force. That is not the goal nor the purpose of Minuteman. Our land-based missiles serve only to deter a Soviet first strike; they are an element of our potential response to any such initiative. They do not, however, represent a significant first strike threat to the Soviet ICBM's.

Where, I ask, is the symmetry in an agreement that acknowledges the Soviet potential to wipe out our land-based missiles while denying us a reciprocal ability to provide for our own ICBM survivability? Clearly, this Nation must demand the creative latitude to take passive measures to protect this essential element of the triad.

If the Soviets want to dig more silos, more power to them. They are welcome to do so. We have no illusions about our ability to target and destroy their missile force now or in the future. If they want to double their invulnerability, that is their option. We simply seek to preserve ours in the face of a very real and legitimate threat.

I am not prepared at this stage to stand before the Senate and argue that an ability to deploy a multiple silo system is essential to our national security. I do not suggest that MAPS/ALPS is the only, or necessarily the best way to safeguard our land-based missile system.

I do, however, submit that our Minuteman force must be protected and must remain invincible to a Soviet first strike. If it can be demonstrated that the MAPS approach is the most efficient, least expensive means to make that system survivable, then I for one would be extremely skeptical of any SALT II agreement that infringed on our right to exercise this option.

What I am saying, Mr. President, is let us not discard this option until we determine whether it can serve our national interests. Let us not give it away for nothing. Let us weigh the multiple silos proposal on its merits, independent of SALT, independent of Soviet objections. Multiple silos are not a menace to the Soviet Union; they merely deny the Soviets the ability to destroy our land-based missile force in a first strike.

I am somewhat reluctant to make the point, but we must understand that there comes a point at which no SALT II agreement is preferable to an ambiguous, weak, or dangerous agreement. There is a limit to the concessions we can make on the altar of strategic arms limitation, and we are fast approaching that limit.

We have been engaged in the business of trying to break our arms race with the Soviets for the past 15 years. During this time there have been a number of "successes." Agreements that have imparted momentum to the process and gradually created a sense of euphoria in the American public.

Now any reasonable person, Mr. President, would support the notion of arms limitation and reduction provided it does not pose a threat to our national security.

What concerns me, however, is that the American public has come to accept the notion that we are winding down our Union. Disarmament, it seems, is just around the corner.

We believe this for two reasons: Because we want to believe it, and because our fondest hopes have been reinforced by a series of pacts successfully marketed as significant steps on the road to an end of the arms race and—eventually—to a relaxation of the balance of terror that rules the world.

During the past 15 years we have become so committed to the concept of arms control limitation that I shudder to think how we might react if the process does not continue. What happens if we cannot negotiate a successful SALT II agreement with the Soviet Union? Are we prepared to accept an unsafe, inadequate agreement on the basis that it is better than no agreement at all; the best that the situation will permit? Are we prepared, as a nation, to accept the consequences of failure to agree with our traditional adversary on the issue of arms control? Do we, really and honestly, have any option but to conclude a SALT II agreement with the Soviet Union?

Fifteen years ago we set out on the path of arms limitation with the Soviet Union with conclusion of the limited test ban treaty, the first, tentative step back from the cold war policy of confrontation. At that time, so soon after the Cuban missile crisis, we were clearly and unequivocally superior to the Soviet Union in nuclear weaponry; we held a clear strategic advantage.

Today that is obviously no longer the case. We seek to preserve a position of "parity" and avoid a situation of outright inferiority.

I do not suggest that our slide from superiority to precarious parity is entirely a function of the era of arms control. Obviously, it is not. The United States has exercised unilateral restraint in deploying new ICBM and SLBM launchers since 1967, and our strategic budget has declined since 1963.

But I suggest that, having accepted and embraced the notion of arms control/limitation, we were better able to look with equanimity on the notion of parity. A security posture "second to none" became good enough. We accepted the inevitability of a Soviet Union as powerful and as advanced as the United States.

What bothers me, Mr. President, is the lingering suspicion that the Soviet Union might just see things a little differently. One does not have to be an expert in trend lines and force analysis to conclude that, during the past 15 years, the Soviets have been winning the race for strategic superiority. They have the momentum going their way.

The whole purpose of SALT II, of course, is to stabilize this process at rough equilibrium. To establish limits that insure essential parity. But the spirit of SALT II is as important as the letter of agreement. It is important to understand that there is no fat, no margin for error or miscalculation, in a U.S. position of parity.

The United States has available a number of options that could restore to this Nation a position of strategic superiority. They include the cruise missile, the B-1 bomber, and the multiple silo approach of MX missile. Most are expensive options, both in terms of cost and in terms of what they would do to the cherished notion of arms control/limitation. I think it is safe to assume that we can no longer have arms control and a position of strategic superiority. The Soviets will not permit it, and their attitude is probably understandable.

If we forsake superiority and opt for parity together with a welcome element of control, I must be convinced that our partners in the negotiations are not leading us down the garden path. Otherwise we might be deceived into accepting inferiority.

With every arms limitation agreement—the LTBT, the SALT I ABM Treaty, SALT I interim agreement, the Vladivostok aide memoire—the Soviets have continued to gain on us. What assurance do we have that SALT II will put an end to this historical progression and stabilize the balance of forces? What sign, what indication, do we have from the Soviets that they will be satisfied with parity? How do we know that they are not using arms limitations talks as a smokescreen to mask a drive toward superiority?

The answer, Mr. President, is that we have no such assurance. We just do not know. We are asked instead to credit the Soviets with honorable intentions, and that is no mean task on an issue this important. Their record of questionable compliance with the SALT I agreements alone should warn us that they may have more sinister intentions.

Perhaps the time has come to disabuse ourselves of the notion that a SALT II agreement is inevitable and inherently desirable. In a recent SALT paper circulated by the State Department the point is made that—

The choice the United States now faces is between a good agreement protecting and enhancing our national security, and no agreement at all. It is against this standard that what has been achieved at SALT should be measured—not against some ideal agreement that as a practical matter, given the relationship between the two countries, cannot be concluded at this time.

I am bothered by this distinction between a good and an ideal agreement. It would seem to me that an agreement that truly protects and enhances our national security would be ideal. If it pretty much protects our national security, if it protects as well as it is possible to protect in the context of SALT, if there are gaps in this protection, then the agreement is not good at all. We should not accept negotiated risks to our national survival as inevitable. If it is simply the best we can do, then I am not prepared to accept that standard when it comes to national security; I do not think the Senate is prepared to accept it, and I do not think the American people will accept it.

The United States of America has clearly demonstrated its abiding commitment to arms control by unilaterally allowing itself to move from a position of superiority to a position of parity. The Soviets have yet to demonstrate a reciprocal commitment. It is now the turn of the Soviets to display good faith, to cease exploiting every loophole in existing arms control agreements, to cut back on their awesome increase in strategic capability, to accept the notion that we have the right to insure the survival of our land-based missiles—in short, Mr. President, to demonstrate that they are prepared to stop at parity and reach a truly equitable SALT II treaty.

In the absence of positive indications of good will from the Soviet Union, in the absence of positive indications of a commitment to parity and mutual deterence, it is going to be difficult indeed for the U.S. Senate to approve any SALT II agreement.

GREAT GOOD FOR AMERICA

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 13, 1978

● Mr. JACOBS. Mr. Speaker, an entire economics course could be summed up in the following concise remarks made by our colleague DON BONKER. When the people of Washington sent DON BONKER to Washington, they did a great good for America.

Remarks by DON BONKER follow:

REMARKS OF CONGRESSMAN DON BONKER BEFORE THE ANNUAL CONVENTION OF THE WASHINGTON SAVINGS LEAGUE

As a homeowner, I welcome the opportunity to address a group of mortgage lenders, for I can still recall the sense of awe and obligation at signing a mortgage that might outlive me and for a sum of money which looked like the national debt.

As Congressman, I see things a bit differently, but I can now appreciate the complexity and uncertainty involved in your business and hopefully can discuss the secondary mortgage market from both perspectives—homeowner and law-maker.

The easy out for me is to simply speak in that wonderful shorthand of terms and acronyms which surrounds the lending business—S&L's, FHLBB, tandem money, "Ginnie Maes," "Fredie Mac," "Fannie Mae," RAM, VRM, GPN, FHA, VA—and even something called "Canadian rollover."

It is not only your vast importance in providing housing that makes us ordinary citizens stand in awe—it is your foreign language.

Of course, I do realize that a good portion of that strange language is written by the Federal government—perhaps even too much of it!

If it sounds like I am taking some time to convince you that I am not an expert in housing and finance, that is accurate. Moreover, I do not think you can expect very many members of Congress to be as conversant as they should be.

When I spoke at the Governor's housing conference some months back, I made reference to a matrix prepared by the Congressional Budget Office. It showed the 22 basic Federal programs which intersect or affect the traditional housing problems—level and stability of construction activity, availability of mortgage credit, excessive costs, substandard shelter, and declining neighborhoods. There were 63 points at which programs intersected with those traditional problem areas.

The point I made at the housing conference is that no one should be under the illusion that Congress puts together a housing policy with a keen eye on how those pieces fit together and how changing one thing changes other things. Nor do individual Congressmen have a firm grasp on how housing programs and financial institution legislation all intersect, overlap and affect each other.

Before getting into issues presently before Congress, it is useful to take a quick overview of the evolution of national policy toward housing and mortgage credit.

The most obvious point is that the U.S., since the depression, has evolved a patchwork policy of seeking to stimulate housing in investment primarily through insuring credit availability. Despite a growing direct involvement through HUD in direct production, our main policy tool has been to selectively control the credit markets to funnel credit into housing.

We have done this through legally maintaining diversity among financial institutions with one class of institutions dedicated to providing mortgage credit. We have helped maintain that class—you—through tax policies and explicit requirements for investing in housing, and through giving you an edge in competing for time deposits.

We have also developed an expanding secondary mortgage market and a central lending facility to insure sources of mortgage funds during periods of tight credit.

This overall structure was a logical and sensible development from the conditions of the depression and through the stable monetary period of the 1950's. Indeed, savings and loans can look back fondly on the Fifties when short-term interest rates were low and long-term rates were high—conditions tailor-made for the savings and loan industry.

But experience and inflation raise a challenge—a challenge exemplified by the current debate in Congress over allowing federally chartered S&L's to use variable rate mortgage instruments.

First, a number of studies have thrown into question the degree to which a policy geared toward credit availability has in fact produced a higher level of housing investment. One economist, after surveying the data came to the following conclusion: "Making credit available for housing by regulating interest rates, selling bonds to finance advances to thrift institutions or by purchasing mortgages does not appear to have much effect on housing." Part of that conclusion is that credit policies have simply displaced one form of credit for another, with the result that loan-to-value ratios for housing loans have increased with the increased credit diverted to other uses.

However, in the context of present policies and politics, that conclusion may be nearly irrelevant since we are not prepared to test it by making drastic changes in housing policies or the structure of financial institutions. At least for the time being.

I add that last note because the threat of continuing inflation and sharp business cycles presents a true challenge.

The first sign of a continuing challenge to S&L's was probably signaled when President Kennedy engaged in a deliberate attempt to boost short-term interest rates while keeping long-term rates low in order to stem an outflow of short-term money to Europe. For all intents and purposes, the era of low short term rates had ended.

S&L's have found themselves squeezed by increasing cost and more competition for deposits on one side, and interest rate ceilings, long-term, "frozen assets, and more attractive alternative investment possibilities on the other side.

Yet we find ourselves unwilling to make drastic changes in interest rate ceilings on either side of the equation, thus, we turn to seeking to increase the source of mortgage funds through expanded activities of federal agencies. By one estimate, in 1976, federal agencies supplied two-thirds of all mortgage funds either directly or indirectly. But there is substantial evidence that these funds have not had a one-to-one effect on housing investment because they displace private investment and also involve increased government borrowing in the credit markets.

The next temptation is to increase Federal involvment through selective credit controls such as requiring other institutions to invest in mortgages, changing tax policies to divert funds back into housing. As we have seen, there is a reluctance to travel this road because of uncertainty over the effects on the competitive position of institutions subject to the controls and ultimately on housing investment.

Which brings us to the variable rate mortgage. The House presently has before it a

bill which will be on the floor in the next two weeks and which contains a provision allowing federally charted S&L's to use alternative mortgage instruments, including the variable rate mortgage, in those states which allow them for state chartered thrifts.

I wish I could give you an accurate forecast of whether the provision will survive, but I would be foolhardy if I did. There definitely will be an attempt to strike the provision from the bill.

In 1975, the last time Congress considered the issue, the variable rate instrument was soundly defeated, primarily as a result of strong opposition from labor and consumer groups.

The proposal this year will likely fare better because the experience in those states which have used VRM's has belied most of the consumer fears, and because there are some consumer safeguards built in:

Among other things, no VRM could be offered without the consumer being given a choice between the standard, fixed-rate mortgage and the VRM.

Increases in the rates would be limited, and pre-payment penalties forbidden.

Any institution offering the VRM must make them available for at least a 4 year period.

For my part, it seems to make sense to let lender and borrower come together under these conditions on the best instrument for that individual. Moreover, while sensitive to the concerns of consumer groups, I have seen no evidence that consumers have suffered (and there are those safeguards in the bill).

I believe I am correct that VRM's in the state of Washington do sell for ¼ to ½ percent less than standard instruments. Is that true?

And despite the attention given to the VRM, my guess is that alternative instruments—the graduated payment mortgage, the roll-over, and the reverse annuity mortgage—will gain in popularity as much as the variable rate instrument. This will occur as particular classes of borrowers learn that specific instruments are best tailored for their individual circumstances.

While I have concluded that the VRM is an acceptable step to take, I should add that I believe it has been sold on the wrong grounds, and that it may not provide much of an answer to the dilemma facing S&L's in an inflationary economy.

One argument advanced for use of the VRM is that it will expand the availability of mortgage credit by increasing the liquidity of S&L assets during periods of inflation.

My summary conclusion is that the effect of VRM will not be all that great overall.

The one ground on which S&L's can best defend the VRM, it seems to me, is that it will allow a measure of diversification in portfolios, which is a growing necessity as we face continued high interest rates for both short and long terms.

The paradox here is that this need to instill more liquidity in portfolios also calls into question our resistance to modify the structure of financial institutions.

At one time, the structure of interest rates seemed to sustain diversity of institutions, with banks willing to lend short based upon demand deposits and thrifts willing to lend long based upon time deposits. Now we seem to be in a position of banks wanting to compete for deposits and S&L's wanting to avoid the disadvantages of lending long term.

At the same time, each institution wants to maintain its competitive advantage or position.

It is conceivable that S&L's may get the variable rate mortgage and almost certainly will get extension of regulation Q with its rate ceilings and rate differentials. Banks, it appears, will get authority to make automatic account transfers. Credit unions are expanding their residential lending activities, although slowly.

Step by step, we blur the distinctions among institutions while seeking to cope with a changing financial and monetary environment. As you all recall, several years ago we crept up to the edge of the water of major change in the structure of financial institutions, but rapidly backed away—largely for fear of what would happen to the financing of housing.

Nonetheless, each category of institution continues to press for changes which will allow it to cope without having to confront new competition. I am not saying that is bad, only that we should be conscious of what we are doing and at least confront whether we are really adapting to the future or simply trying to preserve the past in the face of the changing environment.

I wonder whether we may look back on the variable rate mortgage as one more attempt to solve part of a problem without confronting the fact that acceptance of inflation as a fact of life changes everything. All of the devices we have devised to insure mortgage credit availability seem to come up somewhat short. The new variable rate certificates of deposit seem to have attracted more internal transfers of funds than new deposits.

They have helped, obviously, but perhaps at some long-range cost in further undermining Regulation Q and the settled structure of financing housing investment.

S&L's must have the tools to live with inflation. But perhaps it is also time to recognize that providing those tools is not the answer to increasing housing investment.

Up until now we have looked too much to the supply of credit as the answer to housing supply. We must recognize that land costs and restrictions, cost escalation in the traditional methods of construction, the general level of interest rates and other factors are more important in housing supply.

As an officer of a large California S&L recently observed, new mortgage instruments do not necessarily increase the supply of housing. He stated "Until recently, almost all of the attention has been placed on innovative financial schemes, such as graduated payment mortgages, which exacerbate rather than alleviate the problem by throwing more money into the inflationary fires."

I do not pretend to have an answer to either the business cycle or inflation. All I know is that what we seem to be about in coping with today's economy surely destroys the old adage that the more things change, the more they remain the same.

I hope you will forgive me for this very broad-brush talk and any damage I may have done to the way things really work in financing housing. It just seems to me, to invent an adage, that occasionally the more we try to make things work, the less they work right.

As one last footnote, I want to call to yur attention a provision in the regional energy bill presently before both the House and the Senate. That bill calls for a massive energy conservation program which rests on spending a great deal of money to make homes more energy efficient. No one has any estimate of how much money we are talking about, but the bill is clear that money will be spent on conservation up to the point that it is more expensive to continue spending on conservation than it is to build new generating facilities.

The interesting section of the bill reads as follows:

"To the extent conservation or acquisition of resources under this Act require direct arrangements with the ultimate consumers of electric power, the Bonneville Power Administrator shall make maximum practicable use of existing institutions able to supply credit to such customers."

I call this to your attention only because it portends a very large volume of lending activity to homeowners for insulation, and more efficient heating and hot water systems, yet the bill is vague on exactly how such lending will take place. I suggest you may want to work closely with the Bonneville Power Administration in exploring just what is ahead.●

EXPLANATION OF AMENDMENT IN THE NATURE OF A SUBSTITUTE TO CETA

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 13, 1978

● Mr. JEFFORDS. Mr. Speaker, this is the text of a "Dear Colleague" which explains the new provisions in the CETA substitute which I will offer when the CETA bill comes to the floor:

EXPLANATION OF AMENDMENT IN THE NATURE OF A SUBSTITUTE TO CETA

DEAR COLLEAGUE: When the CETA bill was on the House Floor on August 9, amendments were offered to reduce the wages paid to some CETA participants to more reasonable levels, to shift the emphasis from public service employment to youth and training programs, and therefore, to reduce total program costs. Now, in order to attract the broadest support possible in conference committee negotiations, we will offer a substitute bill, which was developed in consultation with the Committee and Subcommittee chairmen and ranking minority members. The substitute retains the basic thrust of the Obey and Jeffords amendments, includes all the other amendments which passed on the Floor, and contains some additional improvements.

(1) As the Obey amendment, the national average wages of $7,000 will be retained, but will be adjusted annually based on changes in the average wage in the prime sponsor's area.

(2) As to the Jeffords amendment, the reduction in the number of public service jobs under Title VI will be preserved, as will the shift in emphasis to youth programs and private sector initiative programs, but this reduction will be achieved by reducing the trigger for the number of authorized jobs from 25 percent to 20 percent of the unemployed over 4 percent.

(3) In order to further increase the emphasis on training and away from PSE, the maximum percentage of funds allowable for PSE in Title II will be reduced from 50 percent for wages in FY 1979 to 40 percent for wages and benefits in FY 1982. This will increase the funds available for training the structurally unemployed. (In 1977, four times as many participants in training programs found unsubsidized employment as did those in PSE programs.) However, because of the present lack of a sufficient number of training programs in many areas of high unemployment, a waiver may be granted to allow up to 50 percent PSE in these areas.

(4) In order to allow more eligible people to have an opportunity to participate in PSE programs, and to prevent abuses, the duration for public service employment would be limited to 18 months out of 5 years rather than 3 years in the Committee bill. This is the same as the provision in the Senate bill.

(5) Projects under Title VI PSE would be limited to a maximum of 2 years instead of the open-ended provision in the Committee bill.

We believe that the substitute bill offers a balanced proposal which better addresses

the problems of youth, the structurally unemployed, and the need to provide meaningful work opportunities and training for unsubsidized employment. It contains wage provisions which do not disrupt private sector wage rates in local areas. In addition, the total program costs are significantly reduced, and yet more people will be served.

We urge you to support this substitute.

JAMES M. JEFFORDS,
RONALD A. SARASIN,
DAVID R. OBEY,
PAUL SIMON,
Members of Congress.●

SENATE COMMITTEE MEETINGS

Title IV of the Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, September 14, 1978, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 15

8:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To continue hearings to examine the Federal Government's role in food safety and quality with emphasis on the nitrite situation.
322 Russell Building

10:00 a.m.
Conferees
On H.R. 13125, making appropriations for the Department of Agriculture and related agencies for FY 79.
H-140, Capitol

Foreign Relations
To meet in closed session to receive a briefing from Administration officials on the current situation in Iran.
S-116, Capitol

1:00 p.m.
Governmental Affairs
To hold hearings on S. 3494, proposed Presidential Records Act.
3302 Dirksen Building

SEPTEMBER 18

10:00 a.m.
Finance
To resume markup of H.R. 13511, to reduce income taxes.
2221 Dirksen Building
To resume hearings to examine alleged abuses in the GSA's contracting and procurement divisions.
1114 Dirksen Building

SEPTEMBER 19

9:00 a.m.
Judiciary
Constitution Subcommittee
To resume hearings on S. 1845, to prevent unwarranted invasions of privacy by prohibiting the use of polygraph type equipment for certain purposes.
6226 Dirksen Building

9:30 a.m.
Human Resources
Labor Committee
To hold hearings on S. 3060, proposed National Workers' Compensation Standards Act.
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To mark up S. 3485, to provide for the maintenance of reserves for certain financial institutions, to require the imposition of charges for certain services by Federal Reserve banks, and to authorize the payment of interest on reserves held in Federal Reserve banks.
5302 Dirksen Building

Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 3392, to accelerate the use of solar energy as a source of electricity.
3110 Dirksen Building

1:30 p.m.
Conferees
On H.R. 11445, authorizing funds for programs administered by the Small Business Administration.
Room to be announced

SEPTEMBER 20

9:00 a.m.
Judiciary
Administrative Practice and Procedures Subcommittee
To resume hearings on S. 2011, proposed Regulatory Reduction and Congressional Control Act.
2228 Dirksen Building

9:30 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Human Resources
Labor Subcommittee
To continue hearings on S. 3060, proposed National Workers Compensation Standards Act.
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue markup of S. 3485, to provide for the maintenance of reserves for certain financial institutions, to require the imposition of charges for certain services by Federal Reserve banks, and to authorize the payment of interest on reserves held in Federal Reserve banks.
5302 Dirksen Building

2:00 p.m.
Commerce, Science, and Transportation
To hold hearings on the objectives a national tourism policy should seek to achieve.
235 Russell Building

SEPTEMBER 21

9:00 a.m.
Judiciary
Constitution Subcommittee
To resume hearings on S. 1845, to prevent unwarranted invasions of privacy by prohibiting the use of polygraph type equipment for certain purposes.
5110 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on the use of export controls and export credits for foreign policy purposes.
5302 Dirksen Building

Commerce, Science, and Transportation
Business meeting on pending calendar business.
235 Russell Building

Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on S. 2862, proposed Regulatory Control Act.
2228 Dirksen Building

*Select Small Business
To resume hearings to explore problems concerning capital formation of small independent enterprises.
424 Russell Building

SEPTEMBER 22

9:30 a.m.
Human Resources
Labor Subcommittee
To resume hearings on S. 3060, proposed National Workers' Compensation Standards Act.
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings on the use of export controls and export credits for foreign policy purposes.
5302 Dirksen Building

SEPTEMBER 25

8:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To resume hearings to examine the Federal Government's role in food safety and quality, with emphasis on the nitrite situation.
322 Russell Building

SEPTEMBER 26

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on problems of small business defense contractors.
5302 Dirksen Building

Environment and Public Works
Nuclear Regulation Subcommittee
To hold hearings to receive testimony on nuclear reactor safety systems from NRC Chairman Hendrie.
4200 Dirksen Building

Finance
Public Assistance Subcommittee
To hold hearings on H.R. 10648 and H.R. 12972, to modify the disability aspects of the Supplemental Security Income program.
2221 Dirksen Building

2:00 p.m.
Commerce, Science, and Transportation
To resume hearings on the objectives a national tourism policy should seek to achieve.
235 Russell Building

SEPTEMBER 27

9:00 a.m.
Governmental Affairs
Civil Service and General Services Subcommittee
To hold hearings on S. 1390, to authorize certain National Guard employment to be credited for civil service retirement, and S. 1621, to provide paid leave for Federal employees participating in athletic activities as an official representative of the U.S.
3302 Dirksen Building

Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on financing of future energy needs.
5302 Dirksen Building

SEPTEMBER 28

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on financing of future energy needs.
5302 Dirksen Building
Select Small Business
To resume hearings to explore problems concerning capital formation of small independent enterprises.
424 Russell Building
2:00 p.m.
Commerce, Science, and Transportation
To resume hearings on the objectives a national tourism policy should seek to achieve.
235 Russell Building

OCTOBER 3

9:30 a.m.
Human Resources
Labor Subcommittee
To hold oversight hearings on the administration of the Occupational Safety and Health Administration Act (P.L. 91-596).
4232 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the Council on Wage and Price Stability.
5302 Dirksen Building

OCTOBER 4

9:30 a.m.
Human Resources
Labor Subcommittee
To continue oversight hearings on the Administration of the Occupational Safety and Health Administration Act (P.L. 91-596).
4232 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the Council on Wage and Price Stability.
5302 Dirksen Building

OCTOBER 5

9:30 a.m.
Human Resources
Labor Subcommittee
To continue oversight hearings on the Administration of the Occupational Safety and Health Administration Act (P.L. 91-596).
4232 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To hold oversight hearings on International housing programs.
5302 Dirksen Building

OCTOBER 6

10:00 a.m.
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To continue oversight hearings on international housing programs.
5302 Dirksen Building

SENATE—*Thursday, September 14, 1978*

(Legislative day of Wednesday, August 16, 1978)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by Hon. EDWARD M. KENNEDY, a Senator from the State of Massachusetts.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Our Father-God, consecrate with Thy presence the way our feet must go that the work of the humblest and the highest may be radiant with Thy spirit. Across the toiling hours keep our hearts and minds with Thee that we may see clearly what to do with the vexing national and international problems. Reinforce our every weakness, calm our anxieties, strengthen our wills, increase our faith. Bestow upon the President and all our leaders a strength and wisdom beyond themselves. Grant us grace to follow the wounded footprints of Him who, with so few hours in which to labor, was able to say of the most divine task, "It is finished."

We pray in His blessed name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 14, 1978.
To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable EDWARD M. KENNEDY, a Senator from the State of Massachusetts, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. KENNEDY thereupon assumed the chair as Acting President pro tempore.

(Mr. CHURCH assumed the chair as Presiding Officer.)

Mr. BAKER. Mr. President, the Senator from Tennessee would note that the tenure of the chair by the distinguished Acting President pro tempore today may have been the shortest on record.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF LEADERSHIP

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I have no requirement for my time under the standing order. I am happy to yield it to the distinguished Senator from Massachusetts, who, as I understand, has a special order for this morning.

Mr. KENNEDY. I have a special order for 15 minutes, but if the Senator from Tennessee wants 3 or 4 minutes, I am glad to yield it to him.

Mr. BAKER. Mr. President, I was offering the Senator from Massachusetts my time under the standing order, which will be 10 additional minutes, if he likes.

Mr. KENNEDY. I thank the Senator from Tennessee very much.

Mr. BAKER. Mr. President, I yield my time under the standing order to the Senator from Massachusetts.

The PRESIDING OFFICER. Under the previous order, the Senator from Massachusetts (Mr. KENNEDY) is recognized for not to exceed 25 minutes.

S. 3498—WELFARE REFORM AND FISCAL RELIEF ACT OF 1978

Mr. KENNEDY. Mr. President, I rise to introduce the Welfare Reform and Fiscal Relief Act of 1978.

For many years, we in Congress and the rest of our fellow Americans have had the opportunity and the responsibility to examine the welfare system. During the past year and a half, after the administration brought the current state of affairs acutely to our attention, we have had a renewed, hard look.

We have seen the degradation into which the needy have been forced.

We have seen the enormous burdens under which the States and cities have toiled.

We have seen administrative inefficiency and large error rates.

We have seen arbitrary Federal and State decisions on coverage and eligibility that treat similarly situated families differently and dissuade people from working.

And we have seen instance after instance of people who would rather work in dignity but were not able to secure that work.

The Rube Goldberg welfare machine that we have put together simply will not carry its load.

But, analyses, hearings, and reports offer convincing evidence that the current contraption can be replaced. We can have a system which is at once decent to those who need our aid, can have a system that lifts the weight from the States, and can do so in a manner which is efficient and economical. I believe that the bill which I introduce today meets these goals.

Mr. President, the nearly 25 million people in this country with incomes below the poverty line are a diverse and aspiring group of men, women, and children.

The great majority of two-parent families among them have a worker. The 11.4 million among them who are on AFDC are the children, they are the single parents, they are the physically incapacitated.

Seven out of ten are children, almost 3 out of 10 are mothers. Sometime during the year, half of the mothers work, and another quarter are in training, looking for work, or are disabled. Fathers comprise fewer than 3 percent of the AFDC recipients—and of these half are incapacitated.

This is the population which we are seeking to aid in welfare legislation. It is a population which works when it can; it is a population in which the vast majority of welfare benefits go to those who cannot.

Mr. President, if it is clear that this is a group of people which needs our assistance, it has also become clear over the last few months what we must do to make that assistance more effective.

A decent welfare reform proposal must contain the following:

We need a national minimum benefit level; women and children cannot be deprived of this morning's milk and tomorrow's rent because of the inability or the disinclination of a State to make provision.

We need coverage and eligibility rules which do not tear families apart. Such rules are abhorrent to Americans. We need rules which do not dissuade people from work—for work is the way out of poverty. These rules must treat equally all of those who are in the same economic situation.

We need procedures which insure speedy determinations and the ability of an applicant or recipient to state his case.

We need substantial fiscal relief for the States and for those local governments which contribute to welfare expenditures. Poverty is a national problem, determined as much by national economic policy and the ease of travel between our States as by State policies. If it is a national problem it deserves a national solution.

We need to insure our system against inefficiency and abuse. Thus, we need administrative reform and a set of sanctions for errors. If welfare is to be compassionate it must be effective. To be effective it cannot treat eligibles and ineligibles alike.

We need a strong commitment to public service jobs and training. We must provide work to those who can do it; we must provide training to those who have the heart and mind but do not yet have the skills.

We need to expand the earned income tax credit to aid those who work for low wages.

Mr. President, I would like to give a summary of the major provisions of this legislation, and I ask unanimous consent that the bill be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. KENNEDY. I have given an estimate of the cost of the major provisions to the Federal Government. These estimates have been provided by the staff of the Department of Health, Education, and Welfare. They are not official estimates, but they indicate the cost range for various changes.

I. NATIONAL MINIMUM BENEFITS

A national minimum is crucial to the fight against poverty. Currently, AFDC benefit levels show wide variations—from $60 per month in Mississippi to $514 in Hawaii. Even after adding food stamps—which many eligible people do not get—Hawaii and New York beneficiaries get 2½ times that given to those in Mississippi.

In fact, there are now 10 States, containing close to half of the poor people in this country, which pay less than 65 percent of the poverty line to families on assistance. While some may have it that all the welfare recipients are in New York, and Massachusetts, California, and Michigan, this is simply not the case. The poor—the biggest proportion of the poor—live in those States which pay the least. It is here that humanity and decency demand the first reform.

This bill therefore provides that a family will get a minimum benefit of cash plus food stamps equal to 65 percent of the poverty line. Benefits should be raised for those who are in the worst straits. The national floor I propose would still only provide about $80 a week to a family of four. Try providing for your family on that amount.

The measure also mandates that the Secretary of HEW study ways in which he can raise this level. The 65 percent may be a good starting point. It provides more humane conditions to those who need the help the most and we can provide assistance at this level for a relatively small cost. But surely it cannot be the Federal policy for very far into the future that people must live on less than two-thirds of their minimum requirements. The Federal cost of this change, taking into account the payment and the Federal match detailed below, will be $280 million in fiscal year 1980.

II. COVERAGE AND ELIGIBILITY

Today, 26 States and the District of Columbia provide assistance to two parent families where the father works less than 100 hours in a month.

But 24 States do not, regardless of the economic condition in which those families find themselves. The pressure on those families is both simple and sordid. The parents can get relief and provide for their children only if the father leaves the household.

The fathers who are in this situation have not spurned work. They have been unable to get it. We cannot assume their problems away. We must be concerned when neither parent is working. But the concern must be to provide the jobs and the training for them. We cannot simply assign their families to a barren island, with no bridges to the rest of society, with no sustenance and with no hope of coming ashore.

In order to alleviate this situation, I propose that all intact families with very low incomes, where the parents cannot find a job, be eligible for assistance; every family should be able to keep its father. The Federal cost of this change, will be $140 million in fiscal year 1980.

Other eligibility provisions defeat the purposes that we have for a welfare system. They must be eliminated if we are to help people to find jobs and to work out of the welfare system. First, there are different income tests to become eligible for assistance and to continue on assistance. In determining eligibility, only work expenses are taken from income; in determining continued assistance work expenses, the first $30 of income and a third of income above that are deducted.

This means that most people who work cannot get assistance even if they have incomes which would otherwise merit assistance. The current option is simple but sinister. In order to qualify, in order to get greater benefits, people must leave work. They have got to become so poor that they qualify. No system should make poor people give up their chance to work themselves into a decent life in order to provide the bare minimum for their family today.

The bill I propose goes a good way toward eliminating this discrepancy by allowing applicants to deduct work expenses and an additional $60. This insures that the poorest of those who do not now qualify will be able to get on the rolls without having to give up the job which is their hope. The Federal cost of this change will also be about $70 million.

Eventually, the same income rules should apply to those who are first applying and those who are already on assistance and need to continue. Nobody should have to give up a job in order to qualify for the assistance which is available to others in the same financial situation. I have not incorporated complete comparability in this bill simply because it is very difficult to derive a solid cost estimate for complete comparability. But if comparability is not vastly costly—and there are good indications that it can be achieved at reasonable cost—then it should be instituted.

Another rule which dissuades people from working is that which limits AFDC eligibility to those who do not have a parent working 100 hours a month or more. Thus, people whose incomes are exactly the same are again treated differently. This is the wrong incentive. It, too, tells people that they must stop working if their families are to be put in the best present condition. In my bill I have eliminated the 100-hour rule. Those who are poor will receive aid; we will not limit our aid to those who are poor and do not work. The Federal cost of this change is $280 million.

III. RIGHTS AND RESPONSIBILITIES

Those in our welfare system who need assistance but have not been able to get it must fear for their very sustenance.

Wrong data may lead to a false finding of ineligibility. A person may not be able to fill out the application. The check which has been mailed may have been stolen and there is no sure mechanism to replace it.

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

We should demand of our welfare system what the rest of us demand of our Government—that the procedures by which determinations are made are fair, understandable and as speedy as possible; and that a process exists by which a party can inform the Government of his view of the circumstances and can have his Government react.

For this reason, I have incorporated a provision detailing new rights and responsibilities for applicants and recipients. This provision is very similar to that in the welfare legislation passed by the House last year, under the expert direction of Congressman CORMAN.

It expands the requests for assistance which may reasonably be interpreted as applications; it provides that the Secretary shall devise a standard application form, asking only for information necessary to determine eligibility, and making the form available in languages other than English where the applicant population needs it. He should state, in plain terms, the sanctions for failure to comply with welfare requirements and the procedural rights of the applicant.

This provision allows an applicant when applying, or an assisted person or applicant at a later hearing, to be accompanied by an adult to help represent him. It speeds the determination of eligibility, speeds payment and gives notice if payments will terminate. It provides, to those who request it, a full hearing to a denied applicant or someone about to be terminated.

So, too, privacy regulations which pertain to Federal agencies and the Internal Revenue Service should guide disclosure of information about a recipient in a State's possession.

These changes should make for a fairer, more responsive, system. They will add negligible costs to the welfare system.

IV. FISCAL RELIEF

Any welfare reform bill has to recognize that the problems which create the need for a welfare program are primarily Federal in origin. The Federal Government bears the principal responsibility for meeting them.

When the need for welfare payments depends primarily upon economic conditions determined by national policies; when the costs in any State depend upon constitutional restraints on requirements for eligibility; when the particular costs of the program depend upon Federal decisions on eligibility and the extent of coverage, then the Federal Government bears the responsibility to provide the resources for AFDC as well.

The States and the cities cannot continue to bear the burden of providing for welfare. The non-Federal AFDC contribution now comes to over 40 percent of the total costs. Both proportionately and absolutely the burden is greatest in those States which are making the greatest effort to alleviate the plight of the poor.

No State or city should be penalized for attempting to provide a decent level of payments for AFDC recipients. Yet, under current law this is the case—the State which pays the least pays only 22 percent of the cost of AFDC. The States which pay the most pay half the cost of AFDC.

I therefore propose that the Federal Government provide the same assistance to every State to help that State meet the payments that are mandated elsewhere in this legislation. The Federal Government should reimburse the States for 85 percent of the base costs which are mandated—this is a higher percentage than the Federal Government now pays to any State. The Federal Government should also pay 70 percent of the cost of any State supplements up to the poverty level.

Almost all States will be granted substantial fiscal relief by this provision, to insure that no State pays more because of increased coverage than it gets from the increased Federal match, the legislation also contains a "hold harmless" provision. No State will have to pay more for welfare than it paid in September 1978.

The legislation also allows the States which do not now cover two-parent families to make their own decision about extending medicaid to them. They are not required to do so merely as a consequence of the fact that States must cover two-parent families under this legislation.

The Federal cost of the fiscal relief in this legislation would be $2.6 billion in fiscal year 1980.

V. BETTER MANAGEMENT

One of the greatest needs of the welfare program is for better management. The error rate—overpayments and underpayments, people wrongly entered on the rolls, or those wrongly denied relief—seriously diffuse our welfare effort.

In the AFDC program alone, $1 billion is wrongly targeted and $100 million is wrongly withheld. We do not know how many people who should be getting assistance have been wrongly denied altogether.

We must add to this the costs to recipients of slow processing and the cost to taxpayers of antiquated administration.

In order to counter the problems of erroneous payments and in order to counter the administrative problems, the bill I propose has two provisions. One gives Federal aid to States if they make a concerted effort to improve administration. Another begins to assess penalties against those States which do not move to reduce their error rate to a reasonable level.

The provision for administrative assistance has been adopted in large part from H.R. 7200. It provides a 90-percent Federal match for the States to computerize their operations, a 75-percent match for operating these systems and a 50-percent match for other costs of administration.

Perhaps as importantly, it directs the Secretary of HEW to study other ways in which error rates can be brought down and processing can be speeded up. Many of the problems with the welfare system can be corrected inexpensively at the human level. For instance, those States which give a couple of weeks of training to welfare processors usually have a much lower error rate than those other States which entrust people's lives and taxpayers money to welfare workers after barely a pep talk. With the approval of Congress another set of procedures can be written into law which makes administration easier and more efficient. These administrative reforms will also be matched at 75 percent.

If we are to seriously cut back on welfare error then we must also give the States a financial incentive to do so. Therefore, this bill directs the Secretary of HEW to develop a methodology for determining a reasonable error rate. After devising the methodology, the Secretary should develop that rate. It should include errors from overpayment, errors from underpayment, errors from wrongful inclusion on the rolls and errors from wrongful exclusion from the rolls. It should also factor in those variables which might affect the error in any particular State—such as size of the AFDC population and the complexity of the program.

States must then make significant progress in attaining that lower rate. After 3 years they must reach that rate. States which do not make significant progress and States which have not reached that rate by the end of 3 years will forfeit half of the funds paid in error or withheld in error over the target rate.

Mr. President, I believe that the States must also have some incentive to reduce errors still further; while we cannot make unreasonable demands of them we must insure that they seize every opportunity to avoid wrong decisions. Thus, I also propose that a State be given an additional quarter of the Federal AFDC contribution to that State for each percentage point that they reduce error rates beyond the target rate.

VI. PUBLIC SERVICE JOBS

Any commitment to bring people out of poverty must entail a commitment to give them training and jobs. We should provide work and we must provide work for those who can work and who want to work.

The bill I propose today does not include a jobs component.

I expect, however, that this program can be easily married to the CETA program which has just been reauthorized by the Senate. That legislation provides for a significant training and public service jobs program.

In its reauthorization, the links between the program and the welfare population have been tightened—the salaries are those which are attractive primarily to those who do not now have jobs; the eligibility criteria can be met mostly by people who have been without jobs for long periods; the emphasis on training and work which can lead to full time nonsupported work has been strengthened.

There may be a variety of ways in which the links to the CETA system should be made stronger; there may be other work programs which should be integrated into a cohesive welfare program. But, if there is a felt need for welfare reform in this Congress, it is in the area of cash assistance—where much less has been done than in the jobs area.

For this reason, I do not include a jobs program in the bill which I submit today.

VII. EARNED INCOME TAX CREDIT

An important source of aid to low income workers is the earned income tax credit. The Federal Government pays an increment of 10 percent to a worker's income up to $4,000; it phases out the payments at a 10-percent rate, starting at $4,000.

I have already proposed, in connection with the pending tax reduction legislation now before the Senate Finance Committee, that eligibility for the earned income credit should be broadened to include single persons and couples without dependents.

But, if we are to create adequate incentives for the very poorest to work, and if we are to give necessary assistance to them, we must do much more. First, the payments should not phase down starting at $4,000. The poverty line for a family of four is now around $6,300. It is expected to be over $6,800 next year. We should raise the level to which the Federal Government will give these credits to an amount which falls in this range.

In addition, the rate of payment should be changed. Those who are working and making less than the poverty line should have their incomes raised more substantially. I, therefore, propose that the payment rate be set at 15 percent of earnings rather than 10 percent. But, if we are going to raise the level to which payments increase, and if we are going to raise the level to which payments increase, and if we are going to raise the rate at which they increase, we need to reduce the payments at a faster rate. I propose a 20-cent reduction for each dollar in gross income. This greatly reduces the cost of the program—a 20-percent reduction rate saves $900 million a year over a 15-percent reduction rate, and even more over a 10-percent reduction rate. A higher reduction rate should not seriously interfere with the desire to work particularly because the EITC is not paid out on a continuing basis. If we find that the implicit tax rate actually dissuades people from working we can explore ways in which to reduce that rate.

The cost of expanding the EITC in the way detailed in this legislation would be $3.2 billion in 1980.

VII. THE NEED FOR WELFARE REFORM

Mr. President, as I introduce this bill, I realize that the time for consideration of welfare reform in this session is short. Many important legislative matters remain to be decided on the Senate floor, yet we are getting closer and closer to the date of adjournment.

It may be that my colleagues will decide that the debate on welfare reform should wait until the opening of the next Congress.

I believe that, should the Senate decide to wait until next session, we can then enact a welfare reform bill which meets the objectives set forth here, that we can do so promptly and that we can do so while eliciting broad support from Members here and in the House.

Concern for welfare reform has come from the administration, from many in Congress, and from a broad range of interested groups.

The Carter administration undertook a great and important task last year when it made the wretched condition of the welfare system a priority for remedial legislation. It presented us with a comprehensive bill. Perhaps because the bill was devised on a scale consonent with the magnitude of the problem, it has not been enacted this year. But, Mr. President, I know that welfare reform remains a key priority of the administration. In a letter to me, which I ask be printed in the RECORD following my remarks, Stuart Eizenstat, indicates the administration's desire to work with me and others to draft another bill for enactment next session.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KENNEDY. So, too, concern for welfare reform has come from both Houses and from both sides of the aisle. A welfare reform proposal was voted out of the Corman special subcommittee last year. Another proposal was introduced by Representative ULLMAN, chairman of the House Ways and Means Committee. Earlier this year, Senators BAKER, BELLMON, RIBICOFF, and DANFORTH introduced a proposal. Many of the elements in each of these proposals were similar to the proposal which I am now making.

So, too, groups which are intimately involved with the welfare issue have worked long and hard to devise better solutions to our welfare problems. The reforms suggested by the new coalition—the group consisting of the National Governors Association, the U.S. Conference of Mayors, the National League of Cities, the National Association of Counties, and the National Conference of State Legislatures—have been particularly well thought out, I have found many of their ideas to be very helpful to me. Governor Dukakis of my own Commonwealth has been an especially tireless and inventive worker for welfare reform, in his capacity as chairman of the National Governors Association Human Resources Committee. So, too, have the AFL–CIO and other organizations indicated both their concern for welfare reform and their commitment to changing the welfare system.

If the Congress defers action on welfare reform until next session, I plan to work with the administration, other interested Members of Congress, and these groups in creating a welfare reform proposal which should meet the problems—which face the people and the States involved with the current system.

However, if the Senate decides that we must have welfare reform this year, I believe that the bill which I am proposing today offers a better set of provisions than does the other bill still under consideration at this point, the State and Local Welfare Reform and Relief Act of 1978, sponsored by Senators MOYNIHAN, LONG and CRANSTON. I plan to insure that the Senate has a chance to vote on these proposals if it decides to take up the welfare issue.

The proposal which the Senators from New York, Louisiana, and California have authored meets one of the objectives of welfare reform. It contributes substantial fiscal relief to those States which have been making the greatest efforts to give decent benefits to welfare recipients. It, too, recognizes the terrible penalty that these States now pay for their humanitarian instincts.

But the proposal represents a radical shift away from the way in which the Federal Government deals with the welfare situation. And in doing so it fails to meet the range of other concerns we must have.

It changes Federal expenditures to a "block grant" to the State based on current expenditures. The bill was introduced on August 25, less than 2 months before the close of the session. It has been the subject of one afternoon of hearings. I do not believe that we should undertake this departure on the basis of the information now before us.

That bill has some very serious problems. It would encourage the maintenance of current low payment levels in many States because it eliminates Federal matches for real benefit increases needed to provide decent relief. It would discourage the extension of the AFDC program to intact families since States which do not currently cover them would have to pick up all of the costs if they now decide to do so. It eliminates the ability of the Federal Government to promote lower error rates and better administration. In fact, it penalizes the States which have done the most already to reduce errors by basing the block grant on September 1978 payments. By putting a limit on Federal expenditures it makes payments insensitive to caseload increases of benefit increases which may be necessary but which are not covered by increases in Federal payments because of rises in the consumer price index.

Mr. President, the welfare system in this country needs to be reformed. I hope that the legislation which I introduce today can serve as a basis for any bill that the Senate might consider this year. I hope that it will be a helpful contribution to the effort next session should we not adopt a bill this year.

I look forward to working with my colleagues in the Senate who have spent a great deal of time and effort in thinking through these problems, as we come to grips with one of the serious national domestic problems.

The PRESIDING OFFICER. Without objection, the bill will be received and appropriately referred.

EXHIBIT 1

THE WHITE HOUSE,
Washington, September 14, 1978.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: On behalf of the Administration, I welcome your decision to join the effort to find and enact constructive solutions to the grave problems of the welfare system.

Let me also welcome your stated intention to work with us over the coming months to craft a substantial welfare reform package that will attract the broad public and Congressional support necessary to achieve enactment next session. The bill you are introducing today, together with the New

Coalition's proposal, and approaches proposed by other members of Congress, is an important contribution to this effort—and I believe we will succeed.

I also deeply appreciate your leadership in the effort to ensure that the Senate avoids any action this session that might jeopardize substantial reform next year.

We look forward to working closely with you, and stand ready to provide any needed technical assistance.

Sincerely,

STUART E. EIZENSTAT,
Assistant to the President for Domestic Affairs and Policy.

EXHIBIT 2

S. 3498

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Welfare Reform and Fiscal Relief Act of 1978".

MINIMUM AFDC BENEFIT AMOUNT

SEC. 2. (a) Section 402 (a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (28);

(2) by striking out the period at the end of paragraph (29) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(30) provide that aid provider under the plan shall be equal to or greater than the minimum benefit amount specified in section 412.".

(b) Part A of title IV of such Act is amended by adding at the end thereof the following new section:

"MINIMUM BENEFIT AMOUNT

"SEC. 412. The minimum monthly benefit amount for aid furnished under a plan approved under this part to any assistance unit shall be an amount equal to—

"(1) 65 percent of the official nonfarm poverty line (established by the Office of Management and Budget and adjusted for family size and to a monthly basis) for a family of the same size as such unit within the State, minus

"(2) the sum of (A) the unit's income for such month (subject to the provisions of section 402(a)(8)), and (B) the average value (within such state) of the food stamps for which an assistance unit of the same size as such unit would have been eligible during the last preceding January if the total income of such assisted unit for such January considered solely of pay made under the state plan.

FEDERAL MATCHING FOR AFDC

SEC. 3. (a) Section 403 (a) of the Social Security Act is amended by striking out all that precedes paragraph (3) and inserting in lieu thereof the following:

"SEC. 403. (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid and services to needy families with children, for each quarter, beginning with the quarter commencing October 1, 1979—

"(1) an amount equal to 85 percent of the total amount expended by such State during such quarter as aid to families with dependent children under the State plan in order to meet the minimum benefit requirements of section 402(a)(30);

"(2) an amount equal to 65 percent of the total amount expended by such State during such quarter as aid to families with dependent children under the State plan in excess of the amounts matchable under paragraph (1), but subject to the limitation on Federal matching under section 413;".

(b) Part A of title IV of such Act as amended by adding after section 412 (as added by section 2 of this Act) the following new section:

"MAXIMUM STATE PAYMENTS SUBJECT TO FEDERAL MATCHING

"SEC. 413. The maximum monthly benefit amount for aid furnished under a State plan approved under this part which shall be subject to Federal matching under section 403, for any assistance unit, shall be an amount equal to—

"(1) 100 percent of the official nonfarm poverty line (established by the Office of Management and Budget and adjusted for family size and to a monthly basis) for a family of the same size as such unit within the State, minus

"(2) the sum of (A) the unit's income for such month (subject to the provisions of section 402(a)(8)), and (B) the average value (within such State) of the food stamps for which an assisted unit of the same size as such unit would have been eligible during the last preceding January if the total income of such assisted unit for such January consisted solely of payments made under the State plan.

ASSISTANCE UNIT AND INCOME DEFINED; INCOME DISREGARDS; RESOURCES TEST

SEC. 4. (a) Section 406 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(g) The term 'assistance unit' means a dependent child (or children), and the relative (or relatives) described in section 406 (a) with whom such child is living, who are claiming aid, and any other individual living in the same home as such child and relative whose needs the State determines should be considered in determining the need of such child or relative, but does not include any individual receiving supplemental security income benefits under title XVI.".

(b) Section 402(a)(7) of such Act is amended to read as follows:

"(7) except as otherwise provided in paragraph (8), provide that the State agency shall, in determining need for any child or relative claiming aid to families with dependent children, take into consideration the needs, income and resources (as defined in or determined under section 414) of any member of the assistance unit (as defined in section 406(g)) of which such child or relative is a member;".

(c)(1) Section 402(a)(8)(A) of such Act is amended to read as follows:

"(A) shall, with respect to any month and with respect to the assistance unit, disregard (i) the first $30 of earned income, (ii) an amount equal to the expenses reasonably attributable to the earning of income and (iii) one-third of the remainder of the earned income, except that the provisions of this subparagraph shall not apply to earned income derived from participation on a project maintained under the programs established by paragraphs (2) and (3) of section 432(b); and".

(2) Subparagraph (B) of section 402(a)(8) of such Act is amended by striking out "shall not disregard any earned income (other than income referred to in subparagraph (B)) of".

(3) Subparagraph (C) of section 402(a)(8) of such Act is amended by striking out "any one of the persons specified in clause (ii) of subparagraph (A) if such person" and inserting in lieu thereof "shall not disregard any earned income (other than income referred to in subparagraph (B)) under the provisions of subparagraph (A) of any member of the assistance unit if such member".

(4) Subparagraph (D) of section 402(a)(8) of such Act is amended to read as follows:

"(D) shall, in lieu of the amount resulting from application of clause (iii) of subparagraph (A) disregard $30 of earned income of the assistance unit if, with respect to such month, the income of the assistance unit was in excess of its need as determined by the State agency pursuant to paragraph (7) (without regard to this paragraph), unless, for any one of the four months preceding such month, the needs of such unit were met by the furnishing of aid under the plan;".

(d) Part A of title IV of such Act is amended by adding after section 413 (as added by section 3 of this Act) the following new section:

"INCOME AND RESOURCES OF AFDC RECIPIENTS

"SEC. 414. (a) For purposes of this part and any State plan approved under this part, the term 'income' in the case of any member of an assistance unit with respect to any month shall include all income from whatever source which is available to meet the needs of such members except—

"(1) any gain or benefit which is not in the form of money payable directly to a member of such assistance unit;

"(2) any income which is received too infrequently or irregularly to be reasonably anticipated, but not in excess of $30 in a quarter;

"(3) all educational loans on which payment is deferred, grants, scholarships, fellowships, veterans' education benefits, and the like to the extent that they are used for tuition and mandatory school fees at an institution of higher education or school for the handicapped;

"(4) all loans other than educational loans on which repayment is deferred;

"(5) reimbursements which do not exceed expenses actually incurred and which do not represent a gain or benefit to a member of such assistance unit;

"(6) moneys received and used for the care and maintenance of a third-party beneficiary who is not a member of such assistance unit;

"(7) income earned by a dependent child or any other child who is a member of the assistance unit, who is a full time student or part time student who is not a full time employee attending a school, college, or university, or a course of vocational or technical training designed to fit him for gainful employment;

"(8) moneys received in the form of nonrecurring lump-sum payments, including, but not limited to, income tax refunds, rebates, or credits, retroactive lump-sum insurance settlements (but such payments shall be counted as resources, unless specifically excluded by other Federal laws);

"(9) the cost of producing self-employed income; and

"(10) any income that any other Federal law specifically excludes from consideration as income for the purpose of determining eligibility for aid to families with dependent children.

"(b) The Secretary shall prescribe the types and allowable amounts of financial resources (liquid and nonliquid assets) which an assistance unit otherwise eligible to receive aid to families with dependent children may own, and shall, in so doing, assure that no member of such unit will be eligible to receive such aid if the resources of such unit exceed $1,750, or, in the case of a unit consisting of two or more persons one of whom is age 60 or over, if its resources exceed $3,000. In valuing resources the Secretary shall count only the value of the unit's interest in the item of property or other asset. The Secretary, in prescribing inclusions in, and exclusions from, financial resources, shall include in financial resources any boats, snowmobiles, and airplanes used for recreational purposes, any vacation homes, any mobile homes used primarily for vacation purposes, and any licensed vehicle (other than one used to produce earned income) used for unit transportation or used to obtain or continue employment or to transport disabled unit members to the extent that the fair market value of any such vehicle exceeds $4,500.

"(c) The Secretary shall issue regulations, after consultation with the Secretary of Agriculture, for the purpose of assuring that

the administration of this section is carried out, to the maximum extent practicable, in the same manner as the administration of subsections (d) and (g) of section 5 of the Food Stamp Act of 1977.".

DEPENDENT CHILDREN OF UNEMPLOYED OR LOW INCOME PARENTS

SEC. 5. (a) Section 402(a) of the Social Security Act (as amended by section 2 of this Act) is further amended—

(1) by striking out "and" at the end of paragraph (29);

(2) by striking out the period at the end of paragraph (30) and inserting in lieu thereof "; and "; and

(3) by adding at the end thereof the following new paragraph:

"(31) provide for aid to dependent children of unemployed or low income parents in accordance with the provisions of section 407:".

(b)(1) The section heading of section 407 of such Act is amended by striking out "UNEMPLOYED FATHERS" and inserting in lieu thereof "UNEMPLOYED OR LOW INCOME PARENTS".

(2) Section 407(a) is amended by striking out "(as determined in accordance with standards prescribed by the secretary) of his father" and inserting in lieu thereof "or low income (as determined under subsection (f)) of his parent".

(3) Section 407(b) is amended by striking out the matter preceding paragraph (1) and inserting in lieu thereof the following:

"(b) With respect to aid to families with dependent children which is paid with respect to an assistance unit which would not qualify for such aid except for the provisions of subsection (a), the State plan must—".

(4) Section 407(b)(1) of such Act is amended—

(A) by striking out "requires" and inserting in lieu thereof "require";

(B) by striking out "has not been employed (as determined in accordance with the standards prescribed by the Secretary)" in subparagraph (A) and inserting in lieu thereof "has been unemployed or has had low income (as determined under subsection (f)); and

(C) by striking out "father" each place it appears and inserting in lieu thereof in each instance "parent".

(5) Section 407(b)(2) of such Act is amended—

(A) by striking out "provides" and inserting in lieu thereof "provide";

(B) by striking out "fathers" in subparagraph (A) and inserting in lieu thereof "parents"; and

(C) by striking out "father" each place it appears in subparagraphs (C) and (D) and inserting in lieu thereof in each instance "parent".

(6) Section 407(c) of such Act is amended by striking out "father" and inserting in lieu thereof "parent".

(7) Section 407(e) of such Act is amended by striking out "fathers" and inserting in lieu thereof "parents".

(8) Section 407 of such Act is amended by adding at the end thereof the following new subsection:

"(f) For purposes of this section an individual shall be considered to be unemployed or to have low income during any month in which the total income of the assistance unit of which such individual is a member was such that the unit would be eligible for aid to families with dependent children if the dependent children (or children) in such unit was a dependent child by reason of the provisions of section 406(a).".

MAINTENANCE OF BENEFIT LEVELS

SEC. 6. Section 402(a) of the Social Security Act (as amended by sections 2 and 5 of this Act) is further amended—

(1) by striking out "and" at the end of paragraph (30);

(2) by striking out the period at the end of paragraph (31) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(32) provide that the level of benefits paid under the plan for an assistance unit of any size and any income level shall not be decreased below the level of such benefits paid to a unit of such size and income level for the month of September 1978.".

MEDICAID COVERAGE FOR DEPENDENT CHILDREN OF UNEMPLOYED PARENTS

SEC. 7. Section 1902 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(h) Notwithstanding any other provision of this title, a State that did not provide aid to dependent children of unemployed fathers under section 407 during the month of September 1978 may, for purposes of this title, choose not to include as individuals receiving aid or assistance under the State plan approved under part A of title IV, those individuals receiving such aid or assistance who would not be receiving such aid or assistance except for the provisions of section 407.".

LIMITATION ON STATE FISCAL LIABILITY

SEC. 8. Section 403 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(k)(1)(A) If in any fiscal year the sum of (i) non-Federal expenditures with respect to any State for aid to families with dependent children and (ii), in the case of any State which, prior to October 1, 1979, had monthly benefit amounts for aid furnished under a plan approved under this part which were less than the minimum benefit amounts specified in section 412 of this Act, the product of—

(I) the ratio of (a) the average daily caseload of recipients of aid under the plan approved under this part to (b) the average daily caseload of all persons deemed eligible under a State's plan under Section 1902 of this Act during fiscal year 1978, and—

(II) the total expenditures in such fiscal year under the plan approved under Section 1902 of this Act, reduced by the amount of Federal payments determined with respect to such expenditures—exceed its fiscal liability base (as defined in subparagraph (C)), adjusted for use in the fiscal year involved (as defined in paragraph (2)(B)), the Secretary shall pay to the State an amount equal to that excess.

"(B) As a condition of any State receiving a payment under subparagraph (A), the State must agree to pay to any political subdivision thereof which participates in the non-Federal expenditures for aid to families with dependent children a portion of such payment which bears the same ratio to such payment as such political subdivision's financial contribution to such expenditures bears to the total amount of such non-Federal expenditures.

"(C) As used in this subsection, the term 'fiscal liability base', in the case of a State, means the sum of—

(i) the amount, with respect to that State, of the total expenditures in fiscal year 1978 under the plan approved under this part, reduced by the amounts of Federal payments determined (without regard to subsection (i)) under subsection (a), section 1118, and section 9 of the Act of April 19, 1950, with respect to such expenditures, plus—

(ii) in the case of any State which, prior to October 1, 1979, had monthly benefit amounts for aid furnished under a plan approved under this part which were less than the minimum benefit amounts specified in section 412 of this Act, the amount, with respect to that State, representing the product of—

(I) the ratio of (a) the average daily caseload of recipients of aid under the plan approved under this part to (b) the average daily caseload of all persons deemed eligible under a State's plan under Section 1902 of this Act during Fiscal year 1978, and—

(II) the total expenditures in fiscal year 1978 under the plan approved under Section 1902 of this Act, reduced by the amount of Federal payments determined with respect to such expenditures.

"(2) As used in this subsection—

"(A) the term 'aid to families with dependent children' does not include any expenditure for such aid with respect to a monthly benefit level which exceeds the level required to be adopted pursuant to section 402(a)(30) or the applicable preexisting benefit level prior to October 1, 1979, whichever is greater, and, in any event, includes expenditures for such aid to families described in section 407 with respect to a monthly benefit level in excess of the level required to be adopted pursuant to section 402(a)(30) only if, prior to October 1978, the State plan approved under this part included provision for paying aid with respect to children deprived of parental support or care by reason of the unemployment of their father under section 407; and

"(B) the term 'adjusted for use' (in any fiscal year) with respect to a specified amount means that amount multiplied by the ratio of (i) the arithmetical mean of the Consumer Price Index for All Urban Consumers for months in the fiscal year for which the amount is to be used or applied, to (ii) the arithmetical mean of that index for months in fiscal year 1978.".

RIGHTS AND RESPONSIBILITIES OF APPLICANTS AND RECIPIENTS

SEC. 9. (a) Section 402(a) of the Social Security Act (as amended by sections 2, 5, and 6 of this Act) is further amended—

(1) by striking out "and" at the end of paragraph (31);

(2) by striking out the period at the end of paragraph (32) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(33) provide that the procedural regulations promulgated by the Secretary under section 415 are properly implemented.".

(b) Part A of title IV of such Act is amended by adding after section 414 (as added by section 4 of this Act) the following new section:

"RIGHTS AND RESPONSIBILITIES OF APPLICANTS AND RECIPIENTS

"SEC. 415. (a) The Secretary shall issue regulations for the purpose of assuring that each State, in the administration of its State plan under this part, provides that—

"(1) each individual or assistance unit that either makes in person (at any location designated to receive application for payments under the State plan) or sends in written form (received at such location) what may reasonably be interpreted as a request for payment under such plan shall be deemed to have filed an application on the same day such request is made or received;

"(2) the application form shall (A) be prescribed by the Secretary, (B) require only such information as the Secretary determines to be essential to the administration of this title and the State plan, (C) be available in an appropriate language other than English in those portions of political subdivisions of States in which 10 percent or more of the members of eligible and potentially eligible assistance units speak a language other than English, (D) contain a description in understandable terms and in prominent and boldface lettering of the applicable civil and criminal sanctions for failure to comply with the provisions of this title and the State plan by members of eligible or participating assistance units, (E) specify or furnish as attachments a clear description of the rights of applicants and

participating assistance units under the State plan, (F) be made available for public distribution, accompanied by instructions for the filling out of such application and detailed information about the eligibility requirements, scope, and benefits of the program under the State plan, and (G) include those provisions necessary for each adult member of the assistance unit to make the assignment and enter into the agreement required by section 402 (a) (26); and verification of the information provided on the application and of other information essential to determining eligibility shall be made in the least intrusive manner possible, with the unit being advised of all types of contacts that might be made so that it might be determined whether the necessary information can be provided to make such contacts unnecessary or whether it would prefer to withdraw its application;

"(3) each applicant assistance unit may be represented or assisted in any part of the application or the hearing process pursuant to paragraphs (9) through (11) either by any adult claiming to be a member of the unit, or by any adult other than a member of the unit (including a lawyer) so long as that adult has been clearly designated as the representative of that unit for that purpose by an adult member of that unit or a nonmember adult for a unit that contains no adult member able to file; and each applicant assistance unit shall be offered by the agency in completing the application and obtaining all necessary documents and other evidence,

"(4) each applicant assistance unit may receive and return application forms by mail or delivery;

"(5) appropriate means and procedures are established for determinations of eligibility in those cases in which no adult member of the unit is able to appear in person because of age or physical or mental handicap, or because of the location or hours of operation of the office designated to receive application for payments under the State plan in the political subdivision in which such unit resides;

"(6) (A) the eligibility of each applicant assistance unit and the amount of payment to which such unit is entitled shall be promptly determined so as to allow no more than 30 days to elapse from the date on which its application is filed as described in paragraph (1) or a notification of change in circumstances is filed, to the date on which the notice of the determination is mailed to the unit, and no more than an additional 5 days to elapse before the date on which any payment resulting therefrom (for all months for which payment would already have been made if the payment so resulting were not the assistance unit's first payment) is made or notification of denial of payment or change of payment under the State plan is mailed to the unit, except that the time limit shall not apply where the State can demonstrate that failure or delay on the part of the unit to provide information essential to the determination of eligibility and the amount of payment caused the delay;

"(B) this time limitation period shall not be used as a waiting period before making payment under the State plan or as a basis for denying payment;

"(C) by the end of the applicable time limit, payment shall be made even in the absence of all the information essential to the determination of eligibility and the amount of payment so long as that absence is not directly attributable to action or inaction on the part of the unit and there is no documented reason to believe that the unit is ineligible or should not receive the highest amount to which it would be entitled by virtue of its composition, size, and income;

"(D) any error subsequently determined with respect to such presumptive payment shall not be counted in ascertaining quality control error rates under this title and all such payments that represent overpayment shall be subject to recovery or adjustment;

"(7) the notice under paragraph (6) shall state the action taken on the application and the reasons therefor and shall explain the unit's right to and the manner in which it can request a hearing pursuant to paragraph (11) if it is dissatisfied with the action; and shall be provided in the appropriate language other than English where the application was submitted in a language other than English;

"(8) in case determination is made to terminate, suspend, adjust (for overpayment), withhold, or reduce payment to a recipient assistance unit, such unit shall be mailed a written notice that such action is to occur at least 10 days before the date such action is to become effective, which notice shall include a statement of the action to be taken, the reasons for and specific legal basis (including citation of applicable law and regulation) for such action, the unit's right to and the manner in which it can request a hearing pursuant to paragraph (11), and the circumstances under which payment will be continued if a hearing is requested:

"(9) a hearing pursuant to paragraph (11) shall be granted to any unit that requests a hearing by way of a clear expression in writing, or orally (confirmed in writing), by a member of that unit or its representative pursuant to paragraph (3) to the effect that the unit wants the opportunity to contest a determination affecting its claim or assistance, if that expression occurs within 90 days after notice of the determination is mailed to the unit or after failure to mail such determination within the time required by paragraph (6), or after a determination affecting the manner of payment under the State plan, unless that request for hearing is withdrawn in writing by the unit or its representative or the hearing is abandoned because, without good cause, the unit fails to appear by a member or its representative at the time scheduled for such hearing or the action is required by State or Federal law and it is not being challenged as resulting from an incorrect application such law in the individual case, State or Federal law (or change therein) requiring automatic action for classes of recipient assistance units;

"(10) if the unit requests a hearing at any time before the action referred to in paragraph (8) becomes effective, payment shall be continued in full and no such action shall be taken on the basis of the contested determination until the decision is issued, or, if the unit requests a hearing within 10 days following the date such action becomes effective, payment in full shall be reinstated and the action revoked (both until the hearing decision is issued and subject to recovery or adjustment of any overpayment if such action is sustained thereafter in the hearing process) unless, at the hearing, there is a determination that the action required by State or Federal law and it is not being challenged as resulting from an incorrect application of such law in the individual case.

"(11) the hearing shall (A) be conducted by the state at a reasonable time, date, and place with adequate preliminary written notice to the requesting unit, and the State may consolidate individual requests for hearing into a single group hearing if the sole issue for hearing involved in those requests is one of State or Federal law (or change therein); (B) involve opportunity for the requesting unit or its representative, including legal counsel, to (i) examine and copy, at a reasonable time before the date of the hearing as well as during the hearing, all documents, records, and other material (including material in the unit's case file) to be relied upon at the hearing in support of the action, (ii) present its views, evidence (including witnesses), and arguments on all pertinent facts and circumstances in the matter, without undue interference, to the State or an impartial individual designated by the State, (iii) compel the attendance at such hearing of any witness employed by the State upon a showing that such witness may possess factual information relevant to the issues involved, (iv) confront and cross-examine adverse witnesses upon whose evidence the action taken is based in whole or in part, and (v) question or refute any testimony or evidence; (C) result in issuance and mailing to the unit of a revised determination reaffirming or modifying the initial action, which revised determination shall be based exclusively on evidence and other material introduced at the hearing (which shall constitute the hearing record and shall be available to the unit or its representative at a reasonable time in an accessible place), shall be accompanied by explanation of the reasons for that revised determination, including a summary of the facts and identification of the supporting evidence, law, and regulation, and shall be accessible to the public; and (D) lead to prompt, definitive, and final administrative action to implement the revised determination by making or not making payment within 60 days from the date of the request for a hearing pursuant to paragraph (9);

"(12) replacement of lost or stolen payment checks will occur as swiftly as possible when requested at least 3 days and not more than 30 days after the regular due date of the check involved, but in no event in more than 5 days from the date of the request for such replacement;

"(13) no information collected pursuant to the State plan with respect to any member of any applicant or recipient assistance unit or any such unit identified by name or address will be maintained in records in any form beyond a reasonable period of time after such member ceases to be a member of such a unit or after such unit ceases to be a recipient assistance unit under the program under the State plan; and

"(14) in every respect not otherwise specified by the provisions of this section, there will be full compliance with the provisions of the Privacy Act of 1974 (5 U.S.C. 552a) (with the State being deemed for this purpose to be a Federal agency within the purview of that Act) and section 6103 of the Internal Revenue Code of 1954.

"(b) The Secretary shall, in carrying out subsection (a), consult with the Secretary of Agriculture for the purpose of assuring that this section is administered, to the maximum extent practicable, in the same manner as are similar provisions of the Food Stamp Act of 1977 which deal with the rights and responsibilities of applicants and recipients under such Act.".

VARIATIONS IN NEED STANDARDS WITHIN STATE

SEC. 10. Section 402 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(d) (1) A State plan for aid and services to needy families with children may establish not more than three need standards within the State for assistance units of the same size, which standards may vary in accordance with variations in the cost of living within such State.

"(2) The provisions of this subsection shall not affect the minimum benefit requirement of subsection (a) (30) or the provisions of section 413 relating to the maximum benefit amount subject to Federal matching.".

ADDITIONAL FEDERAL FUNDING FOR CERTAIN MECHANIZED CLAIMS PROCESSING AND INFORMATION RETRIEVAL SYSTEMS

SEC. 11. (a) Section 403(a) (3) of the Social Security Act is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by redesignating subparagraph (B) thereof as subparagraph (D); and

(3) by adding after subparagraph (A) the following new subparagraphs:

"(B) 90 percent of so much of the sums expended during such quarter (commencing with the quarter which begins October 1, 1979) as are attributable to the planning, design, development, or installation of such statewide mechanized claims processing and information retrieval systems as (i) meet the conditions of section 402(a) (34), and (ii) the Secretary determines are likely to provide more efficient, economical, and effective administration of the plan and to be compatible with the claims processing and information retrieval systems utilized in the administration of State plans approved under title XIX, and State programs with respect to which there is Federal financial participation under title XX and programs operated under the Food Stamp Act of 1977,

"(C) 75 percent of so much of the sums expended during such quarter (commencing with the quarter which begins October 1, 1979) as are attributable to the operation of systems (whether such systems are operated directly by the State or by another person under contract with the State) of the type described in subparagraph (E) (whether or not designed, developed, or installed with assistance under such subparagraph) and which meet the conditions of section 402(a) (34), and".

(b) (1) Section 402 (a) of the Social Security Act (as amended by sections 2, 5, 6, and 9 of this Act) is further amended—

(A) by striking out "and" at the end of subparagraph (32);

(B) by striking out the period at the end of subparagraph (33) and inserting in lieu thereof "; and"; and

(C) by adding after subparagraph (33) the following new subparagraph:

"(34) at the option of the State, provide, effective October 1, 1978, (or at the beginning of such subsequent calendar quarter as the State shall elect), for the establishment and operation, in accordance with an advance automatic data processing planning document approved under subsection (e), of an automated statewide management information system designed effectively and efficiently, to assist management in the administration of the State plan for aid to families with dependent children approved under this part, so as (A) to control and account for (i) all the factors in the total eligibility determination process under such plan for aid (including, but not limited to, (I) identifiable correlation factors (such as social security numbers, names, dates of birth, and home addresses of all applicants and recipients of such aid and the relative with whom any child who is such applicant or recipient is living) to assure sufficient compatibility among the systems of different jurisdictions to permit periodic screening to determine whether an individual is or has been receiving benefits from more than one jurisdiction, (II) checking records of applicants and recipients of such aid on a periodic basis with other agencies, both intra- and inter-State, for determination and verification of eligibility pursuant to requirements imposed by other provisions of this Act), (ii) the costs quality, and delivery of funds and services furnished to applicants for and receipts of such aid, (B) to notify the appropriate officials of child support, food stamp, and medical assistance programs approved under title XIX whenever the case becomes ineligible or the amount of aid or services is changed, and (C) to provide for security against unauthorized access to, or use of, the data in such system.".

(2) Section 402 of such Act is further amended by adding at the end thereof the following new subsection:

"(e) (1) The Secretary shall not approve the advance automatic data processing planning document, referred to in subsection (a) (34), unless he finds that such document, when implemented, will generally carry out the objectives of the statewide management system referred to in such subsection, and such document—

"(A) provides for the conduct of, and reflects the results of, requirements analysis studies, which include consideration of the program mission, functions, organization, services, constraints, and current support, of, in, or relating to, such system,

"(B) contains a description of the proposed statewide management system referred to in subsection (a) (34), including a description of information flows, input data, and output reports and uses,

"(C) sets forth the security and interface requirements to be employed in such statewide management system,

"(D) describes the projected resource requirements for staff and other needs, and the resources available or expected to be available to meet such requirements,

"(E) includes cost-benefit analyses of each alternative management system, data processing services and equipment, and a cost allocation plan containing the basis for rates, both direct and indirect, to be in effect under such statewide management system,

"(F) contains an implementation plan with charts of development events, testing description, proposed acceptance criteria, and backup and fallback procedures to handle possible failure of contingencies, and

"(G) contains a summary of proposed improvement of such statewide management system in terms of qualitative and quantitative benefits.

"(2) (A) The Secretary shall, on no less than an annual basis, review, assess, and inspect the planning, design, and operation of, statewide management information systems referred to in section 403(a) (3) (B), with a view to determining whether, and to what extent, such systems meet and continue to meet requirements imposed under such section and the conditions specified under subsection (a) (34) of this section.

"(B) If the Secretary finds with respect to any statewide management information system referred to in section 403(a) (3) (B) that there is a failure substantially to comply with criteria, requirements, and other undertakings, prescribed by the advance automatic data processing planning document theretofore approved by the Secretary with respect to such system, then the Secretary shall suspend his approval of such document until there is no longer any such failure of such system to comply with such criteria, requirements, and other undertakings so prescribed.".

(c) Part A of title IV of the Social Security Act is amended by inserting after section 415 (as added by section 9 of this Act) the following new section:

"TECHNICAL ASSISTANCE FOR DEVELOPING MANAGEMENT INFORMATION SYSTEMS

"SEC. 416. The Secretary shall provide such technical assistance to States as he determines necessary to assist States to plan, design, develop, or install and provide for the security of, the management information systems referred to in section 403 (a) (3) (E) of this Act.".

PENALTIES AND PAYMENTS WITH RESPECT TO ERROR RATES

SEC. 12. (a) Section 403 (j) of the Social Security Act is amended to read as follows:

STUDY BY SECRETARY OF FEDERAL PARTICIPATION IN ADMINISTRATIVE

"(j) (1) If the dollar error rate of aid furnished by a State under its State plan approved under this part with respect to any six-month period, as based on samples and evaluations thereof, is greater than the target dollar error rate of aid for such period, the amount of the Federal financial participation in the expenditures made by the State in carrying out such plan during such period shall be reduced by an amount equal to 50 percent of the Federal share of the difference between (A) the amount of such State's actual erroneous payments (as established by samples and evaluations thereof), and (B) the amount of the erroneous payments which such State would have had if it had a dollar error rate of aid equal to the target dollar error rate of aid; *Provided*, That the Secretary may waive the provisions of this paragraph with respect to any payments made during the first three years following the date on which penalties under such paragraph may first be put into effect with respect to any State which the Secretary determines to be making acceptable progress in reducing its dollar error rate of aid.

"(2) If the dollar error rate of aid furnished by a State under its State plan approved under this part with respect to any six-month period, as based on samples and evaluations thereof, is less than the target dollar error rate of aid for such period, the amount of Federal financial participation in the expenditures made by the State in carrying out such plan during such period shall be increased by an amount equal to 25 percent of the Federal share of the difference between (A) the amount of the erroneous payments which such State would have had if it had a dollar error rate of aid equal to the target dollar error rate of aid, and (B) the amount of such State's actual erroneous payments.

"(3) For purposes of this subsection—

"(A) the term 'dollar error rate of aid' means the total of the dollar error rates of aid for (i) payments to ineligible families receiving assistance; (ii) overpayments to eligible families receiving assistance; (iii) underpayments to eligible families receiving assistance; and (iv) nonpayments to eligible families not receiving assistance due to erroneous termination or denials;

"(B) the term 'target dollar error rate of aid' means the dollar error rate of aid established by the Secretary under paragraph (4); and

"(C) the term 'erroneous payments' means the total dollar amount of (i) payments to ineligible families receiving assistance; (ii) overpayments to eligible families receiving assistance; (iii) underpayments to eligible families receiving assistance; and (iv) nonpayments to eligible families not receiving assistance due to erroneous terminations or denials.

"(4) (A) Within six months after the date of the enactment of this subsection, the Secretary shall develop a methodology for determining a target dollar error rate of aid for each State, for each of two six-month periods of perpetually recurring twelve-month periods the first month of which shall be established by the Secretary, taking into account the complexity of the aid to families with dependent children programs in the States, the number of persons receiving such aid in the State, the number of persons receiving such aid as a percentage of the State's population, and the proportion of the persons receiving such aid who live in sparsely or densely settled areas where case management is especially difficult.

"(B) In the process of developing the methodology for determining a target dollar error rate of aid for each State as required by subsection (j) (4) (A), the Secretary shall consult with Governors, state legislators, and state and local administrators of state plans approved undeer this part.

"(C) (i) Within six months after the methodology required by subsection (j) (4) (A) has been developed, the Secretary shall establish the target dollar error rate of aid for each State.

"(5) The Secretary shall provide such technical assistance to States as he determines necessary to assist States to plan and implement procedures designed to enable achievement of the target dollar error rates established under paragraph (4) of this subsection."

(b)(1) The provisions of paragraph (4) of section 403(j) of the Social Security Act (as added by this section) shall become effective on the date of the enactment of this Act. The remaining provisions of such section 403(j) (as amended by this Act) shall become effective at such time as the Secretary of Health, Education, and Welfare has established a target dollar error rate of aid for each State, under the provisions of such paragraph (4).

(2) Prior to the time that the provisions of such section 403(j) (as amended by this Act), other than paragraph (4), become effective, section 403(j) of the Social Security Act as in effect on the day preceding the date of the enactment of this Act, shall remain in effect.

COSTS OF AFDC

SEC. 13. (a) The Secretary of Health, Education, and Welfare shall conduct a study to determine those types of administrative costs which contribute significantly to the improved administration of State plans under part A of title IV of the Social Security Act, the efficiency of the AFDC program, quality control, and responsiveness of the program to the needs of recipients.

(b) Based upon such study, the Secretary shall make recommendations to the Congress with respect to those elements of such administrative costs which should be matched by the Federal Government at a higher or lower percentage than the current matching formula. Such recommendations shall include recommendations with respect to the nature and timing of reporting requirements for recipients, and the types of training programs for employees which are most beneficial to the proper administration of the plan.

(c) The Secretary shall submit to the Congress, not later than one year after the date of the enactment of this Act, a report on the results of such study, including recommendations for legislative changes.

EARNED INCOME TAX CREDIT

SEC. 14. Section 43 of the Internal Revenue Code of 1954 (relating to earned income) is amended to read as follows:

"SEC. 43. Earned Income.

"(a) ALLOWANCE OF CREDIT.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to 15 percent of so much of the earned income for the taxable year as does not exceed $6,500.

"(b) PHASEOUT OF CREDIT ABOVE $6,500.—The amount of the credit allowable to a taxpayer under subsection (a) shall be reduced (but not below zero) by an amount equal to 20 percent of the excess of the greater of—

"(1) the adjusted gross income of the taxpayer for the taxable year, or

"(2) the earned income of the taxpayer for the taxable year,

over $6,500.

"(c) ELIGIBLE INDIVIDUAL DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'eligible individual' means an individual who, for the taxable year—

"(A) maintains a household (within the meaning of section 44A(f)(1)) in the United States which is the principal place of abode of such individual and a qualified child; and

"(B) is not entitled to exclude any amount from gross income under section 911 (relating to earned income from sources without the United States) or section 931 (relating to income from sources within the possession of the United States).

"(2) Treatment of certain welfare payments.—for purposes of paragraph (1) and subsection (d)(2)(C), any amount for maintaining the household which is furnished by the taxpayer out of any payment to the taxpayer under a State plan approved under part A of title IV of the Social Security Act shall be treated as made out of the taxpayer's income.

"(d) Qualified Child Defined.—For purposes of this section—

"(1) In general.—The term 'qualified child' means an individual's child who—

"(A) has not attained the age of 19 at the close of the calendar year,

"(B) is a student (within the meaning of section 151(e)(4)), or

"(C) is disabled and with respect to whom the taxpayer is entitled to claim a deduction under section 151 for the taxable year.

For purposes of subparagraph (C), the determination of disability shall be made under section 72(m)(7) as of the close of the calendar year.

"(2) Child of individual.—For purposes of paragraph (1), a child of an individual is—

"(A) a son, stepson, daughter, or stepdaughter of the individual,

"(B) a legally adopted child of an individual (or a child who is a member of an individual's household, if placed with such individual by an authorized placement agency for legal adoption by such individual), or

"(C) a foster child of such individual over half of the support for whom for the calendar year is received from such individual.

"(3) Calendar year.—For purposes of this subsection, the term 'calendar year' means the calendar year in which the taxable year of the taxpayer begins.

"(e) Earned Income Defined.—

"(1) In general.—For purposes of this section, the term 'earned income' means—

"(A) wages, salaries, tips, and other employee compensation, plus

"(B) the amount of the taxpayer's net earnings from self-employment for the taxable year (within the meaning of section 1402(a)).

"(2) Special rules.—For purposes of paragraph (1)—

"(A) except as provided in subparagraph (B), an amount shall be taken into account only if such amount is includible in the gross income of the taxpayer for the taxable year,

"(B) the earned income of an individual shall be determined without regard to any community property laws.

"(C) the earned income of an individual shall not include any remuneration for services performed in a public service job if such remuneration is paid in whole or in part out of funds provided under the Comprehensive Employment and Training Act of 1973 or under a program established pursuant to section 432(b)(3) of the Social Security Act.

"(D) no amount received as a pension or annuity shall be taken into account, and

"(E) no amount to which section 871(a) applies (relating to income of nonresident alien individuals not connected with United States business) shall be taken into account.

"(f) Special Rules.—

"(1) Married individuals.—In the case of an individual who is married (within the meaning of section 143), this section shall apply only if a joint return is filed for the taxable year under section 6013.

"(2) Taxable year must be full taxable year.—Except in the case of a taxable year closed by reason of the death of the taxpayer, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months.".

SEC. 15. Part A of Title IV of such Act is amended by adding after section 416 (as added by section 10 of this Act) the following new section:

"STUDY OF BENEFITS AMOUNTS

"SEC. 417. (a) The Congress finds that to achieve the purposes of this title and to assure that eligible assistance units will receive benefits which are consistent with their needs, that the minimum AFDC benefit amount shall gradually be increased to the official non-farm poverty line.

"(b) The Secretary is directed to conduct a study to determine the way and stages by which such goal may be achieved. The Secretary shall submit to Congress, not later than two years after the date of enactment of this Act the results of such study and shall make recommendations for legislative changes to achieve such goal within the shortest possible time."

EFFECTIVE DATES

SEC. 16. (a) (1) Except as provided in paragraph (2), the amendments made by this Act, other than the amendment made by section 14, shall apply to aid provided under a State plan approved under part A of title IV of the Social Security Act on and after October 1, 1979.

(2) In the case of a State plan under part A of title IV of the Social Security Act which the Secretary determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this Act, the State plan shall not be regarded as failing to comply with the requirements of such part solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

(b) The amendment made by section 14 of this Act shall be effective with respect to taxable years beginning on or after January 1, 1980.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF LEADERSHIP

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at this time, I may utilize my own time under the standing order.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE NATIONAL EMERGENCIES ACT

Mr. CHURCH. Mr. President, today marks the second anniversary of the signing into law of the National Emergencies Act. Public Law 94-412 provides that, as of today, all powers and authorities possessed by the Executive, as a result of a declaration of national emergency, are to be terminated. This is an historic occasion, Mr. President, for it puts an end to emergency government. I am pleased to join with my colleague (Mr. MATHIAS) in commemorating the passage of the 2-year period which puts an end, at long last, to existing emergency powers.

This legislation, as my colleagues will recall, grew out of an investigation conducted by a partisan Special Committee on Emergency Powers chaired by Senator MATHIAS and myself. Established in 1972, this committee was unique in that it was the only one in Congress on which a Republican shared with a Democrat the role of chairmanship. During the course of our investigation, the committee uncovered over 470 special statutes that could be invoked by the President at any time during a declared national emergency.

We also discovered that, for more than four decades, this Nation has been governed, at least in part, by emergency law. The President has had at his disposal virtually dictatorial power, ready for use as he might desire. Up until today the President had the power under the authority delegated to him by hundreds of emergency statutes to: Seize property; organize and control the means of production; seize commodities; institute martial law; seize and control all transportation and communication; regulate the operation of private enterprise; restrict travel; and, in a host of other ways, control the lives of American citizens. The President could exercise all these extraordinary powers, without so much as asking leave of the Congress.

These powers could have been invoked by the President as long as the country was in a declared state of national emergency. Up until today, there were four such national emergencies in existence:

The national emergency declared by Franklin Roosevelt on March 9, 1933, to cope with the banking crisis;

The national emergency declared by Harry Truman on December 16, 1950, respond to the Korean conflict;

The national emergency declared by Richard Nixon on March 23, 1970, to deal with the Post Office strike;

The national emergency declared by Richard Nixon on August 15, 1971, to implement currency restrictions and to enforce controls on foreign trade.

This meant that a majority of the American people have lived all their lives under emergency rule. For 45 years, protections and procedures guaranteed by the Constitution have, in varying degrees, been abridged by Executive orders that derived from presidentially proclaimed states of national emergency.

Today marks the culmination of the long and arduous process begun in 1972 to seek out, investigate and reform the complex collection of emergency powers. The Congress has reasserted its authority and national emergencies declared by the President in the future will be subject to congressional control.

The historic redemption of jurisdiction by the Congress which has gone on in this decade—in the form of the War Powers Act, the congressional intervention to circumscribe and finally end the war in Vietnam, the new budget authority, and the regaining of some control over foreign policy—is long overdue and urgently needed. The Congress must not again trade away its responsibilities in the name of national emergency. Let that be one of the lessons learned from the investigation completed, the passage of the National Emergencies Act and the termination today of emergency powers.

Mr. President, in connection with this occasion, I ask unanimous consent that a previous statement of mine on this subject which appeared in the RECORD for August 27, 1976, the day on which the National Emergencies Act was approved by the Senate, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE NATIONAL EMERGENCIES ACT

Mr. CHURCH. Mr. President, it is with pleasure that I urge the passage today of the National Emergencies Act by the Senate. The legislation is, at the moment, little noticed and free of controversy, thanks to careful work by the Congress over 3 years time, cooperation with the administration of two Presidents, and a bipartisanship which all too seldom marks our deliberations.

First of all, I would like to extend my appreciation to Senator MATHIAS, who acted with me as cochairman of the Special Committee on National Emergencies and Delegated Emergency Powers, along with the other members of that committee, and our highly competent staff for the investigation and groundwork that made this bill possible. I also owe special thanks to Senator RUMCOFF and the members of his Committee on Government Operations for their excellent cooperation in bringing this bill to the floor.

From the beginning, we have also enjoyed the support of the leadership on both sides of the aisle. Senator MANSFIELD and Senator SCOTT lent their assistance whenever it was needed, for which I am very grateful.

Special mention is also due the executive branch of the Government, the cooperation of the Justice Department, the Department of Defense, and many other agencies was indispensable to the accomplishment of our mission. On one occasion, Senator MATHIAS and I met with President Ford and reached agreement with him on the principles underlying the bill now before us. The President is to be highly commended for his willingness to work with the Congress in developing a legislative formula for ending emergency rule and restoring normal constitutional practices. I also wish to express my gratitude to the members of the Judiciary Committee of the House of Representatives. From the outset, that committee worked in close concert with the Senate in furthering our common objective annd fully shares the credit for this legislation. In particular, I want to express my thanks to Chairman RODINO and Representative FLOWERS.

Mr. President, the obscurity and unanimity which surrounds this bill should not disguise its importance. For more than four decades, this Nation has been governed, in part, by emergency law. The President has had at his disposal virtually dictatorial power, ready for use as he desires. Even now, the President has power under the authority delegated to him by emergency statutes to: seize property; organize and control the means of production; seize commodities; assign military forces abroad; institute martial law; seize and control all transportation and communication; regulate the operation of private enterprise; restrict travel; and, in a host of other ways, regulate the lives of all American citizens. And the President can exercise all these extraordinary powers, without so much as asking leave of the Congress.

These powers can be invoked by the President as long as the country remains in a declared state of national emergency. Presently, there are four such national emergencies still in existence:

The national emergency declared by Franklin Roosevelt on March 9, 1933, to cope with the banking crisis;

The National emergency declared by Harry Truman on December 16, 1950, to respond to the Korean conflict;

The national emergency declared by Richard Nixon on March 23, 1970, to deal with the Post Office strike;

The national emergency declared by Richard Nixon on August 15, 1971, to implement currency restrictions and to enforce controls on foreign trade.

This means that a majority of the American people have lived all their lives under emergency rule. For 43 years, protections and procedures guaranteed by the Constitution have, in varying degrees, been abridged by Executive orders that derive from presidentially proclaimed states of national emergency.

The purpose of H.R. 3884 is to terminate, as of 2 years from the date of enactment, powers and authorities, possessed by the Executive as a result of existing states of national emergency, and to establish authority for the declaration of future emergencies in a manner which will clearly define the powers of the President and provide for regular congressional review.

In order to carry out this purpose, the National Emergency Act would:

First. Terminate, as of 2 years from the date of enactment, powers and authorities available to the Executive, pursuant to approximately 470 statutes, as a result of the states of national emergency now in force;

Second. Provide for congressional review of future Presidential declarations of national emergencies no less frequently than every 6 months and congressional termination of states of emergency at any time by concurrent resolution:

Third. Provide for congressional oversight of and accountability for actions taken by the Executive in the exercise of delegated emergency powers;

Fourth. Repeal specific obsolete emergency powers statutes, while retaining in force certain other deemed necessary for ongoing operations of the government.

Emergency rule has always raised troublesome problems both in political theory and in constitutional practice. Since the failure of the Roman Republic, historians and philosophers have analyzed the problem posed to a legislature when it confers extraordinary power upon the Executive. Machiavelli, in his Discourses on Livy, acknowledged that great power may, on occasion, have to be given to the Executive if the state is to survive, but warned of the grave dangers in doing so. He cautioned:

Yet is is not good that in a republic anything should ever happen that has to be dealt with extralegally. The extralegal action may turn out well at the moment yet the example has a bad effect, because it establishes a custom of breaking laws for good purposes; later with this example, they are broken for bad purposes.

Rousseau discussed the question of delegated emergency powers in his Social Contract. He wrote:

Moreover, in whatever way this important commission may be conferred, it is important to fix its duration at a very short term which can never be prolonged. In the crises which cause it to be established, the State is soon destroyed or saved; and the urgent need having passed away, the dictatorship becomes tyrannical or useless.

Turning to the American context, I would like to stress that the word "emergency" is not found in the Constitution. As scholar Clinton Rossiter has observed:

It never seems to have been seriously considered in the Convention of 1787, the *Federalist*, or the debates in the state ratifying conventions that the men who were to govern in future years would ever have to go outside the words of the Constitution to find the means to meet any crisis.

As a result, the authority to respond to a crisis must be derived from the powers that are expressly provided for in the Constitution.

The Supreme Court has indicated that there are clear restraints upon Executive action in times of emergency. In Ex parte Milligan Justice Davis, speaking for the majority of the Supreme Court, wrote:

The Constitution of the United States is a law for rulers and people, equally in war

and in peace, and covers with the shield of its protection all classes of men, at all times, and under all circumstances. No doctrine, involving more pernicious consequences was ever invented by the wit of man than that any of its provisions can be suspended during any of the great exigencies of government Such a doctrine leads directly to anarchy or despotism; but the theory of necessity on which it is based is false; for the government, without the Constitution, has all the powers granted to it, which are necessary to preserve its existence . . .

. . . It could well be said that a country, preserved at the sacrifice of all the cardinal principles of liberty, is not worth the cost of preservation.

Similarly, in 1934, Chief Justice Hughes held for a majority of the Supreme Court:

Emergency does not create power. Emergency does not increase granted power or remove or diminish restrictions imposed upon power granted or reserved. The Constitution was adopted in a period of grave emergency. Its grants of power to the Federal Government and its limitations of the power of the States were determined in the light of emergency and they are not altered by emergency.

Nonetheless, the emergency powers made available to the President have steadily expanded. Foreign war and domestic crisis during the past 40 years, in addition to the inexorable growth of the executive bureaucracy under the leadership of aggressive Presidents, and the diminished role of the Congress in the making of policy—these factors have all contributed to the erosion of normal constitutional government.

Little review by the judicial branch was exercised until 24 years ago when the Supreme Court turned back an attempt by President Truman to take over the striking steel industry by means of an assertion of "inherent" emergency power. Speaking for the majority, Justice Black issued the Youngstown Steel opinion which still stands as the definitive statement in this area. Justice Black held that "the President's power, if any, to issue the order must stem from an act of Congress or from the Constitution itself." He characterized President Truman's action as an unconstitutional arrogation of "lawmaking power" by the Executive.

Justice Jackson's widely quoted and praised concurring opinion stressed that our system of government is a "balanced power structure" and pointed out that Executive power to act is a variable depending upon the collective will of Congress for its authority. Justice Jackson listed three situations which determine the extent of the President's power:

1. When the President acts pursuant to an express or implied authorization of Congress, his authority is at its maximum, for it includes all that he possesses in his own right plus all that Congress can delegate . . .

2. When the President acts in absence of either a congressional grant or denial of authority, he can only rely upon his own independent powers . . .

3. When the President takes measures incompatible with the expressed or implied will of Congress, his power is at its lowest ebb, for then he can rely only upon his own constitutional powers minus any constitutional powers of Congress over the matter.

In setting forth these tests, authorities feel that Justice Jackson set up a workable analysis which provided a sound conclusion:

The seizure of the steel mills by President Truman in face of a contrary congressional policy fell into the third of these categories and left presidential power "most vulnerable to attack and in the least favorable of possible constitutional postures." The court could sustain the President's action "only by holding that seizure of such strike-bound industries is within his domain and beyond control of Congress."

Justice Jackson's analysis is as important today as it was when written 24 years ago. As an example of its continuing importance, let me cite the counsel given to the special committee by the late Chief Justice of the Supreme Court, Earl Warren, just prior to his death:

Chief Justice Warren said that while the Constitution provides that only Congress can make the law, the legislature had the obligation through enacting statutes to provide firm policy guidelines for the Executive branch. The former Chief Justice agreed with Justice Jackson's view that where there are statutory guidelines, a President is obliged to follow the precepts contained in the laws passed by the Congress. Inherent powers problems arise and the other branches act, he said, largely when Congress fails to act definitely, when it fails to make needed laws and when there is a necessity for legislative action and Congress fails to meet the challenge.

In writing the National Emergencies Act, we have accepted Justice Jackson's opinion as a basic guideline. It is our belief that the National Emergencies Act will provide long overdue statutory guidelines for the handling of national emergenices in the future. It is our belief, supported I would suggest, by Justice Jackson's opinion and the weight of constitutional scholarship, that our legislation will constitute the exclusive authority for the exercise of Presidential powers in an emergency. The Congress having acted, the President's power will be, in Justice Jackson's words, "at its lowest ebb." In the future, every type and class of presidentially declared emergency will be subject to congressional control.

It should be emphasized that nothing in this bill would interfere with the President's right to declare a national emergency in the future or deprive him of the necessary power to cope with such an emergency. The statutes conferring emergency powers remain on the shelf, to be pulled off and used as may be required in order to deal with some future crisis. But the procedures governing the use of emergency powers in the future will always be subject to congressional review and any declaration of an emergency may be terminated by a concurrent resolution of the Congress. Thus the legislative branch will be in a position to assert its ultimate authority.

To those who argue that the duration of a given emergency should be left exclusively to the President to determine, I would cite the precedent established by the British Parliament which, throughout the Second World War, delegated emergency powers to the Prime Minister for no longer than 30 days at a time.

The point is simply this: The Congress should be forewarned that it is inherent in the nature of government that the Executive will seek to enlarge its power. We already have a Presidency the powers of which are unrivaled in our history. The historic redemption of jurisdiction by the Congress which has gone on in this decade—in the form of the War Powers Act, the congressional intervention to circumscribe and finally end the war in Vietnam, the new budget authority and the regaining of some control over foreign policy—is long overdue and urgently needed. The Congress must not again trade away its responsibilities in the name of national emergency. Let that be one of the lessons learned from the investigation now completed and the passage today of the National Emergencies Act.

Mr. CHURCH. Mr. President, I note the distinguished Senator from Maryland, who served so ably as co chairman of the committee, is present on the floor. I welcome him and I yield the floor to him for such remarks as he may care to make at this time.

Mr. MATHIAS. I thank the distinguished Senator for yielding the floor to me, as I thank him for a great deal else.

As he said, we served as cochairmen of the special committee. That was an unusual task. It was an unusual position for me to occupy. I believe I was the only member of the Republican Party to serve during that year as the chairman of a committee in the Senate, and that would not have been possible if it had not been for the personal cooperation and the friendship of the distinguished Senator.

I am very grateful for the way in which he extended the hand of friendship and help, and made it possible for that committee to work in the unusual way that it did.

I have had every member of the committee come to me in the intervening years and say that it was one of the most satisfying experiences of their entire service in the Senate.

I think one of the reasons it was a satisfying experience is that we did something. We did something important, something which comes to fruition today when this country returns to the rule of law. An unusual experience.

Mr. President, we sit in an institution which we call the Senate. We live in a form of government which we call a Republic. Both of those terms, the Senate and the Republic, are words we inherited from ancient Rome. We tried to embody many of the ideals of ancient Rome in our society, in our politics. But one of the important ideals of Rome was that all power should not be concentrated in a single official for a day longer than was necessary.

When there was mortal danger threatening the Roman Republic, the Romans would allow unusual emergency powers to be placed in the hands of an official whom they called a dictator.

But if that danger lasted only a week, the dictator lasted only a week. If it lasted a month, then he lasted a month. But the day the danger was over, that was the day that the powers returned to the constitutional institutions of the Roman Republic.

We forgot that part of the Roman story and for more than 40 years we allowed arbitrary powers to accumulate in the Office of the President, little by little, until as Senator CHURCH knows, almost 500 emergency laws were in force, giving the President extraordinary powers over the American economy, the American Government, our military forces, our communications system, so that the Office of the President really had at its command the ability to take over important aspects of American life. This is just not an empty kind of speculation, this is not some political scholar's nightmare, because this is exactly what Hitler did by using emergency powers in the twilight days of the Weimar Republic.

We have other unhappy examples of the democratic systems which were subverted by using the legal apparatus available to emergency laws.

What Senator CHURCH and members of the committee have done is to put back into proper perspective these emergency laws.

But I would like to just say a word about the extraordinary people who have contributed to this.

Sometimes we do not see the forest for the trees, but this all began back during the Vietnam era when we were contemplating the necessity for a repeal of the Gulf of Tonkin amendment, which in retrospect appeared to many of us in the Congress to be a far too broad a grant of power by the Congress to the Executive. Then when we thought about the Gulf of Tonkin, we thought, what about the China Straits resolutions, what about the Lebanon resolution, what about the Berlin resolution, all of them making grants of power to the Executive and none of them having any terminal date, just open ended.

Then, of course, that led to the speculation that these were not by any means the only emergency laws enacted by Congress, the only emergency powers granted by Congress, that there was a whole body of emergency laws.

It is at this point that I think we have to pay a debt of gratitude to the extraordinary staff of assistants. William Miller, who acted as staff director for our special committee, played a creative and positive role in developing this legislation.

In the first resolution on this subject that I introduced in the Senate, I have a special debt to George Gilder, who was a talented member of my staff at that time, and who showed great insight into this problem.

Other staff members played a very signal role.

Mr. CHURCH. I might mention in that connection, if the Senator will permit me, Jerry Brady and Tom Dine.

While I am on my feet, I might say that staff asked us to get together a few weeks ago in order to present to Senator MATHIAS and to me a split gavel, I believe it is the only split gavel I have ever seen, to symbolize that we served as cochairmen of this committee.

I do not know of another case in the history of the Senate when a committee was actually bipartisan to the point that the chairmanship itself was shared.

I simply say it was an association that I enjoyed immensely. I want to tell the Senator from Maryland that without the kind of support that he gave in wielding his half of the gavel, we could not have succeeded, because the bill we finally passed in the Congress was signed by a Republican President, Gerald Ford.

Senator MATHIAS will recall that the two of us were there for the private signing of that bill. I think the Senator's services were indispensable in persuading President Ford that the time had come to return the United States to constitutional government. I commend him for everything he did in making this legislation possible.

Mr. MATHIAS. I know the Senator recalls some of our apprehensions early on during the consideration of this measure, whether we could ever find a President who would sign this bill, because this was a bill in which a President who approved it would be performing the unusual act of giving up power.

We hear a lot of speeches, especially during election years, about how public officials are going to return power to the people, but when we get down to the last line, not many of them do it. A lot of them talk about it, but not many of them do it.

I would like to say just a word of tribute to President Ford in this regard because I am convinced that, up until the very moment when Senator CHURCH and I walked into the Oval Office to watch him sign that bill, he was under very heavy pressure not to sign it.

There are people within the Government, within the executive branch, who for perhaps the highest and most conscientious reasons did not want to see the Office of the Presidency stripped of the powers that it had accumulated in more than 40 years of a state of legal emergency. But President Ford went ahead and approved the bill and signed the legislation.

It is a result of all of the effort by Senator CHURCH, by other members of the committee, by our extraordinary staff, and finally, by President Ford's determination to return this country to the rule of law, that today, September 14, 1978, this country is in a state of peace, is in a constitutional posture, is under the rule of law for the first time in nearly half a century.

It is a day to celebrate. It is a day to commemorate. Most of all, it is a day to dedicate ourselves to the fact that we are going to maintain the rule of law in this country, and we are going to do it despite the increasing demands of national security.

I think it is remarkable that the American system of Government remains a government of laws. We continue to believe that power should not be entrusted to individuals except under the restraints and limitations set forth in the Constitution and statutes. Our Constitution has withstood the challenges of the years, and has proven to be soundly conceived and able to provide reasonable governance for a free people. It remains flexible enough to meet new circumstances, and its provisions which provide for the sharing of burdens of power among three great governmental institutions: The legislative, the executive and the judicial branches have proven to be wise.

Yet, over the past 60 years through a series of crises, including great and small wars, a permanent national security system gradually has been created. The national security system has challenged the adequacy and supremacy of constitutional government. Step by step, over a long period of time, the claims and imperatives of national security set aside normal constitutional processes. In times of war, some guarantees of the Constitution were abridged. In times of national emergency broad powers were assigned to the executive.

In order to contend with the growing power of other potentially hostile nations, the United States has created a vast permanent national security system which operates largely in secrecy. This national security system involves millions of people and costs the Nation well over $100 billion a year to maintain. Until recently its decisionmaking processes and the information upon which its decisions were made and, indeed its records, were not available to anyone outside of the executive branch.

Until very recently the National Security Council's action and records and decisions were not subject to congressional scrutiny. Until very recently the activities of the intelligence agencies of the United States were not subject to effective congressional oversight. And until today, the President of the United States through the authorities conferred by four proclamations of a state of emergency, had the potential power to rule the United States outside of the usual constitutional processes.

Those of us who have been involved in the examination of national emergencies, such as my cochairman, Senator CHURCH, and other members of the Special Committee on National Emergencies, have come to understand how the Congress, through a series of nearly 500 laws has delegated to the executive branch the means to rule without the checks and balances intended in the Constitution.

It takes only a moment's reflection to understand how in the history of this century that there are virtually no moments that have been "normal." Two world wars, Korea, Vietnam, the cold war between the great super-powers of the West, and the Soviet and Chinese blocs; economic depression; internal unrest—all have placed this country in extraordinary circumstances. Since the beginning of the twentieth century, there has been a consistent pattern of seeking extraordinary means to deal with emergencies. The National Emergencies Act, which was passed on August 31, 1976 and which takes full effect today, is an important milestone in a continuing effort to place national security concerns within the constitutional framework. The National Emergencies Act provides a fully constitutional procedure to deal with emergencies yet allows the flexibility needed by the executive, as well as oversight and accountability to the legislature.

The framework of the National Emergencies Act is premised on the belief that no actions of government should be taken that do not provide for the full participation of the three branches in their appropriate ways. The authors of the bill took seriously the views of the Supreme Court in the Youngstown Steel case of 1952.

Justice Jackson's opinion made clear that claims of inherent power by the executive, particularly in matters affecting the security of the State, could be limited to statutory guidelines. In the absence of statutory guidelines, the Executive could have far more discretion. Recognition that balancing the factors of hexibility and reasonable accountability is the essence of the institutional process of American Government. We believe that we have struck a workable balance in the National Emergencies Act, and I might add that we are striving to achieve a similar kind of balance between executive flexibility and constitutional accountability in the intelligence

charters now under consideration by the executive and legislative branches.

I want to take this occasion to commend the foresight of the former majority leader, Senator Mike Mansfield, for his personal support for the National Emergencies Powers Act. It was his belief, and indeed it is the belief of the present leadership of the Senate, that the fundamental questions posed by national security require a careful bipartisan, indeed nonpartisan consideration.

The experience of the Senate in developing and passing the National Emergencies Act I believe is exemplary. The leadership of the Senate saw fit to create a special committee with equal numbers from both parties. To emphasize the bipartisan spirit, the posts of co-chairmen were created. It was my pleasure as I have said to work with Senator FRANK CHURCH as co-chairman and with Senators PHILIP HART, PELL, STEVENSON, CASE, PEARSON, and HANSEN, first to study the magnitude of the problem and jointly to arrive at a solution. We were able to work with three administrations on a collegial basis with full access to information, open discussion and joint staff work in order to arrive at a mutually agreeable solution to the problem of how to cope with national emergencies. The Judiciary Committee of the House under its Chairman, Representative RODINO worked very closely with the Senate and the executive branch in a similar spirit of cooperation.

I am happy to say that this same process within the Senate, and I believe in the House and in the present executive branch, is underway with regard to the intelligence charters. We have shown in the process of writing and passing the National Emergencies Act that the Constitution provides for means of working problems out jointly as well as for protecting, through the separation of powers, the rights and prerogatives of the separate branches. It is my view that we have come up with a workable long-term solution for national emergencies. The War Powers Act is an effective means of dealing with the use of military forces in whatever circumstances may be required. The intelligence charters will provide a framework for the necessary secret activities of the United States under constitutional guidance and accountability.

There are some areas of Presidential action which remain to be addressed, such as the proper extent of Executive privilege. But without question the threats to constitutional government that a permanent national security system has posed in this century have been understood and confronted. We can all take heart from the ability of our institutions to meet the test of wars, national emergencies, Watergate, and rapid social and economic change.

The Constitution has proven to be a vital and stable framework for free government. The United States, with its population of 220 million people, its vast economic power and military might continues despite its size and power to have a government whose purpose is to serve its citizens and protect their freedoms.

As long as we meet future crises by constitutional means, as long as we believe the validity of the fundamental premises contained in the Constitution and insist that we adhere to our chosen processes of government, we will keep our freedom.

SENATOR KENNEDY AND THE KREMLIN

Mr. ROBERT C. BYRD. Mr. President, the Soviet Union is expected to grant exit visas to a noted Jewish scientist, his wife, and 17 other families seeking to leave that nation.

The critical eyes of the free world, including President Carter's condemnation of Soviet oppression of its dissidents, have brought the pressure of public opinion on the Soviet Union. This announcement appears to represent a more flexible attitude by the Soviets and may be a favorable sign for the future.

I wish to commend today my distinguished colleague (Mr. KENNEDY) for being the catalyst in the Soviets' decision to allow scientist Benjamin Levich and nearly 50 other persons the right to live in a country suited to their beliefs and ideas.

Senator KENNEDY was in the Soviet Union last week, and while there, discussed the Levich case with Soviet leader Leonid Brezhnev. The Soviets' favorable response to Senator KENNEDY's request that Levich be allowed to leave the country was, as characterized in the media, extraordinary.

In addition to the Levich family, one of the families involved includes 11-month-old Jessica Katz, who is suffering from a rare disease. American Jewish groups have been sending her special formula for months via tourists, while pressing Soviet authorities to allow her to go abroad for treatment. Thanks to Senator KENNEDY, she will be able to receive treatment not readily available in the Soviet Union.

Mr. President, I again commend Senator KENNEDY for his intervention on behalf of these families, for his statesmanship, and for his persistence on behalf of human rights for all people.

In yesterday's edition of the Washington Post, there was an editorial entitled, "Senator Kennedy and the Kremlin." I ask unanimous consent that this editorial in praise of Senator KENNEDY's accomplishments be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD as follows:

SENATOR KENNEDY AND THE KREMLIN

Its hard to exaggerate the extent to which relations between the Soviet Union and the United States rise and fall on readings and misreadings of the other country's domestic political scene. In the last 18 months, for instance, President Carter overloaded the Soviet political circuit, which consists of about a dozen people, with excessive public demands for major internal changes and "deep" cuts in strategic arms. Meanwhile, the Soviet leadership sent waves of distaste and alarm through the American political community by its human-rights violations, African adventures and arms-building programs. More recently, both countries have seemed aware that if they did not act more carefully toward each other, all prospect of substantive improvement in their relations would have to be put off for an indefinite time. Yet a narrowing of the gap sufficient to allow them to work effectively on their most important piece of common business, a strategic arms limitation treaty, has seemed to lie beyond their grasp.

Precisely here lies the potential importance of Sen. Edward Kennedy's visit to Moscow. He went (ostensibly to a health conference) at a moment when the Kremlin was surely grateful to find a prominent American politician, one closely identified with a moderate viewpoint, ready to breach the no-visits line imposed by the administration after the Kremlin's recent human-rights trials. Presumably, the Kremlin also has heard that Mr. Kennedy may some day run for the presidency.

The senator played his part expertly. With a discretion contrasting sharply with the up-front moralistic tones of Jimmy Carter, he asked Leonid Brezhnev about Soviet Jews denied permission to emigrate. As a result, not only the families he asked about, but also a number of families he had not asked about, were assured of release. The Soviet authorities obviously were ready to show that, if their pride and sense of the proprieties are respected, they can behave more flexibly on human rights. Mr. Kennedy's tactful approach let them show it.

On strategic arms the senator seems to have taken the most responsible course a "liberal" in such circumstances could take. Rather than merely profess his desire for détente, he tried to convey a sense of the political difficulties that have been created in Washington for both the negotiation and ratification of SALT by the Soviet Union's own policies. That let Mr. Brezhnev express his concern over the United States' new high-technology weapons programs. He also expressed his belief, shared by his guest, that a failure to consummate a mutually acceptable SALT agreement soon would have harmful results extending considerably beyond strategic arms.

The Carter-Kennedy relationship is the stuff of endless popular fascination. In this instance, the senator, by acting in his own way, was in an excellent position to make the administration's point that progress in SALT hinges in large measure on the Kremlin's readiness to "disarm" the American right by conducting a reasonable policy. That does not mean that the strategic equation itself is of no consequence. It means that the political equation is of great consequence. That is what "linkage" is all about. The evidence of the Kennedy visit is that Moscow is getting the message.

Mr. CHURCH. Will the Senator yield for a brief comment?

Mr. ROBERT C. BYRD. Yes.

Mr. CHURCH. I want to associate myself with his remarks and the commendation he has given, one that is so well deserved, to the senior Senator from Massachusetts. I have said to Senator KENNEDY, who is now presiding, that if, in the future, he tires of service in this body and should decide against running for the Presidency, he consider becoming the American Ambassador to the Soviet Union——

Mr. ROBERT C. BYRD. Yes.

The ACTING PRESIDENT pro tempore. The Senate will be in order.

Mr. CHURCH. On the basis of his accomplishments on this trip. I join in congratulating him.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

Mr. MATHIAS. Mr. President, will the distinguished majority leader yield?

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. MATHIAS. The senior Senator from Massachusetts is under some disadvantage, since he occupies the chair and we can take the opportunity to embarrass him at will.

Mr. ROBERT C. BYRD. Yes.

Mr. MATHIAS. I want to join the distinguished majority leader in taking note of the accomplishments for which he just gave the Senator from Massachusetts credit which he deeply deserves. I think it is a fine example of a way in which a forceful yet quiet diplomacy can have a human effect and have a good effect on others. It is a good example; I think we should take note of it. We should thank him for what he has done, for the example he has set. I am sure that people whose lives have been affected will never, ever forget his effort in this regard.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Maryland for his comments and I also thank the distinguished Senator from Idaho for his comments.

NATURAL GAS POLICY ACT OF 1978—CONFERENCE REPORT

The PRESIDING OFFICER (Mr. MORGAN). Under the previous order, the Senate will now resume consideration of the pending business, the conference report on H.R. 5289, which the clerk will state by title.

The second assistant legislative clerk read as follows:

Conference report on H.R. 5289, an act for the relief of Joe Cortina of Tampa, Fla.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I note that the time is 10:22 a.m. on this day of Thursday, September 14, 1978, and no one is in the Chamber except the able Senator from North Carolina (Mr. MORGAN), who is presiding, the Senator from Kentucky (Mr. FORD), and the junior Senator from West Virginia, who is now speaking.

I hope that those who oppose the conference report will come to the Chamber and talk about it. Otherwise, of course, under the Rules, the Chair, as everyone knows, is required to put the question. If no one seeks recognition, the Chair, under the Rules, has no alternative but to put the question unless he, as a Senator from the State of North Carolina, wishes himself to put in a quorum, which he has a right to do.

But I call to the attention of the opponents, through the cloakrooms and through the inter-office communications system, that the proponents are protecting—as well as doing a little protesting—but protecting the rights of the opponents at this moment. By just sitting down, I could yield the floor and if no other Senator sought recognition, the Presiding Officer, the Senator from North Carolina (Mr. MORGAN), if he did not choose as a Senator to suggest the absence of a quorum, under the Rules would be required to put the question, and I think I know what the answer would be with only Senator FORD and myself here to vote.

We are both proponents of the conference report. The votes would be "aye."

Mr. FORD. And send it on.

Mr. ROBERT C. BYRD. And the motion to reconsider would be made and tabled, and the conference report would be on its way over to the other body.

Mr. FORD. Right. I think we should do that, too.

Mr. ROBERT C. BYRD. I think it is rather magnanimous on the part of the proponents not to take advantage of this golden opportunity which may not come again to pass the conference report, get on to other business, enhance our opportunities to adjourn sine die by the middle of October, and not have to come back after the election. I am almost constrained to persuade myself at this point to sit down and let the Chair put the question:

The quality of mercy is not strain'd,
It droppeth as the gentle rain from heaven
Upon the place beneath.

Mr. FORD. I think I will leave.

Mr. ROBERT C. BYRD. Mr. President, enough of Shakespeare right at this point.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BARTLETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, we stand at a critical juncture in the lengthy congressional debate on natural gas pricing policy. We have before us a conference report purported to be in the producers' interest, the consumers' interest, and the national interest. I submit that it is in no one's interest, and I would like to tell you why I believe that.

This natural gas compromise will extend the tentacles of Federal price regulation to the intrastate natural gas market. The intrastate gas market is the one segment of the natural gas industry which has been able to respond to market forces and increase supplies of natural gas for consumers in this country.

Rising prices in the intrastate market have spurred drilling activity and brought about substantial new gas reserves. These new reserves have been greatly utilized by distressed interstate pipelines in the North and East in meeting demands of their customers.

Based upon figures published by the Department of Energy's Energy Information Administration in their report entitled "An Evaluation of Natural Gas Pricing Proposals" completed in June of this year, the pricing policy prescribed in this bill will result in 1985 with less than 40 percent of the Nation's natural gas being unregulated with respect to price. That is worse than the present situation. The unregulated intrastate gas supplies about 42 percent of the gas we consume today. The Energy Information Administration actually pegs it at 48 percent.

So while this is being touted as a deregulation bill and some advocates have called it a phased deregulation bill, in truth it provides for 7 years of total regulation, with no unregulated gas, and then once the magical date of deregulation arrives we will still be worse than we are today, with only 37 percent unregulated gas at that point.

This bill will keep under Federal controls forever the following categories of natural gas: all flowing interstate gas; all offshore gas produced from present leases, including the new discoveries; all intrastate gas under contract at a price below $1 per thousand cubic feet; and stripper well natural gas.

How anyone can call this a deregulation bill and keep a straight face is beyond me.

This conference report will create a regulatory maze with at least 17 different basic categories of natural gas production, many with subcategories. Of these 17, only 6 may become deregulated with respect to price at some time in the future, given the right circumstances. With the Federal Energy Regulatory Commission presently choking on a backlog of thousands of cases, this bill will, at best, exacerbate the situation. At worst it will be simply impossible to administer. In a letter to FERC chairman Charles B. Curtis, Sheila Hollis, head of FERC's Office of Enforcement, took the latter view; that is, that the bill could not be administered.

Later, Mr. Curtis and others said it might be administered, but that it would require considerable additional personnel and expense, and that it would also undoubtedly lead to many lawsuits that would obviously delay the implementation and administration of these regulations.

One of the principal motives of those who support this legislation is to move gas from the intrastate market to the interstate. By granting an initially higher price, the provisions of the compromise will likely increase sales of natural gas in the interstate market at first. However, the negative incentives of low price escalation and the regulatory burden will, in my opinion, reduce the overall amount of natural gas available to consumers in this country.

Passage of this bill will in all probability increase our imports of OPEC oil. Incremental pricing provisions will force many industrial users of natural gas off that fuel and onto fuel oil. As we are all painfully aware, the marginal supply of that fuel lies overseas.

The administration has in some instances arguments on the merits of this conference report on natural gas pricing policy. They have resorted to flagwaving, jawboning, and armtwisting. They claim that passage of this bill is necessary to enhance the image of the United States in the eyes of the world. They claim that passage of this bill will magically reverse the precipitous decline in the value of the dollar abroad. This is

grandstanding in the highest form and such claims have no basis in fact.

Passage of this bill will not enhance the image of the United States. World leaders are not so naive as to believe that this scheme will increase natural gas supplies or reduce oil imports. Moreover, enactment of this conference report will not halt the decline in the value of the dollar. As the noted economist, Dr. Milton Friedman, says:

> The dollar has not been weak because of the energy problem, and no amount of tinkering with energy legislation will have any significant or lasting effect on the dollar. The dollar is weak because of bad domestic economic policy, policy which is destroying the unrivaled capacity for growth of American Free Enterprise by hampering it at every turn with taxes, controls, regulations, policy which is producing inflation through excessive government spending and excessive creation of money.

In summary, Mr. President, this is bad legislation and, taken as a whole, it is worse than no legislation at all. If it comes to an up-or-down vote, the conference report should be resoundingly defeated. However, a workable and commonsense alternative has been proposed.

A number of colleagues and I have proposed that the conference report be recommitted to the conference committee, with instructions that the committee report back a portion of the conference agreement. That portion would grant the President authority, during an emergency, to allocate natural gas and permit sales of gas by intrastate pipelines to interstate pipelines. In addition, there would be general authorization for FERC to allow sales of natural gas by intrastate to interstate pipelines under specific price guidelines, protecting both the consumer in the consuming State and the consumer in the producing State.

Mr. President, our proposal meets the objective of moving natural gas to the beleaguered interstate market from the gas-rich intrastate markets. At the same time, it removes the onerous wellhead price regulation and controversial incremental pricing provisions in the conference report before us. It is a solution, albeit a short-term one. It is a bill for which the President seems so desperate. Combined with promulgation of the long-overdue biennial price revision by FERC, our alternative constitutes a reasonable and workable interim solution to the natural gas dilemma.

I would point out that the present regulations of interstate gas that were administered by the Federal Power Commission and now are administered by the Federal Energy Regulatory Commission, because of recent pricing practices which have set higher prices—first, I think, a price of 52 cents or so, then a price of $1.42, going up to the present price of $1.50—have elicited additional interstate gas reserve dedications. The dedications reached, in 1977, some 8.6 trillion cubic feet, equivalent to about 80 percent of the interstate demand last year.

This shows that a much simpler system of Federal pricing controls can work, at least partially, if the prices are such as to bring about additional supplies, if they are such as to provide an incentive for drilling. This would mean that offshore or Outer Continental Shelf gas, which is by law dedicated to the interstate market, would be more greatly developed if the price were sufficient to interest those with leases to develop it, and the result would be more gas for the interstate market. The same would be true onshore, perhaps to a lesser extent, but at least it would result in considerably greater dedications than took place for a number of years in the early 1970's when interstate dedications were 20 percent or less, relative to total dedications, including intrastate.

For the long run, the Congress as a whole should do what the Senate has twice done—pass a simple and fundamental new gas deregulation bill. The Pearson-Bentsen substitute, passed by the Senate a year ago, provided for immediate new gas deregulation with an interim price ceiling for 2 years onshore and 5 years offshore. Just as important, it left the free and vital intrastate natural gas market intact. The only workable way to alleviate our long-term gas supply problems is to eliminate regulation, not expand it; to build upon the freedom of the intrastate market and provide for simple, general deregulation of new natural gas in a reasonable period of time.

Mr. President, a friend of mine recently talked with a business leader in one of the foreign countries that is greatly interested in our economy. The businessman from the foreign country asked my friend what kind of natural gas policy he thought the United States should have.

My friend said, "Well, I would like to just turn that around and ask you the same question, because arguments are made about what the interest of foreign businessmen and foreign leaders is concerning our policy on natural gas and energy."

He was very quick in his response, namely to say that he hoped the United States would do what other producing countries have done, pay the world price for their own production as well as production imported into the country. He felt that in this way we would maximize our effort, not only in oil and gas, but also in the alternate fuels that are so important to bring on as quickly as we possibly can.

This would, in my opinion, also conserve energy by having a price that is a fair replacement price for the various products that would be produced and sold to meet energy needs in the United States.

I hope that we can have a good interim solution, one that will take care of the needs of the consumer in the consuming States; a program by which we can be assured that under the proper conditions the unused and uncommitted gas of the producing States can be shipped to consumers elsewhere.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. STONE). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, yesterday I asked unanimous consent that a motion that was intended to be proposed in connection with the conference report on H.R. 5289 be printed although not formally offered.

Mr. President, that has now been done, except somewhere the printing of it became confused. Although the RECORD correctly reflects the language that we intended to use, the actual printed motion does not.

Therefore, Mr. President, I ask unanimous consent that it be reprinted and that the word "depleted" on the fourth line of that intended motion be changed to "deleted" instead of "depleted." It does make a substantial difference.

Mr. FORD. Will the Senator from Ohio yield for a question?

The PRESIDING OFFICER. Does the Senator yield?

Mr. METZENBAUM. No.

The PRESIDING OFFICER. Is there objection?

Mr. FORD. I might observe, Mr. President, that the RECORD is correct.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. I thank the Senator from Kentucky.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

What is the will of the Senate?

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there are five measures on the calendar which have been cleared for action by unanimous consent. I ask unanimous consent that the Senate proceed to the consideration of the following calendar order numbers: Nos. 1106 through 1110.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELIEF OF LIABILITY FOR THE REPAYMENT OF CERTAIN ERRONEOUSLY MADE CONTRIBUTIONS BY THE UNITED STATES

The Senate proceeded to consider the bill (S. 1147) to relieve the liability for the repayment of certain erroneously made contributions by the United States, which had been reported from the Committee on the Judiciary with amendments as follows:

On page 2, line 1, after "Pennsylvania" insert a comma and "in the amount of $4,136";

On page 2, line 3, after "Pennsylvania" insert a comma and "in the amount of $21,869";

On page 2, line 6, after "Pennsylvania" insert a comma and "in the amount of $12,827";

On page 2, line 9, after "Pennsylvania" insert a comma and "in the amount of $26,772";

On page 2, line 12, after "Pennsylvania" insert a comma and "in the amount of $457,318";

On page 2, line 14, after "Pennsylvania" insert a comma and "in the amount of $9,984";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That, notwithstanding the provisions of section 252 (a) of the Disaster Relief Act of 1970, any unit of local government or any of the following privately owned libraries is relieved from any liability for the repayment of contributions erroneously made by the United States for disaster relief activities for the benefit of the following private facilities which were damaged or destroyed by Hurricane Agnes:

(1) the William D. Himmelreich Memorial Library in Lewisburg, Pennsylvania, in the amount of $4,136;

(2) the Milton Library in Milton, Pennsylvania, in the amount of $21,869;

(3) the Shippensburg Public Library in Shippensburg, Pennsylvania, in the amount of $12,827;

(4) the West Shore Public Library in Camp Hill, Pennsylvania, in the amount of $26,772;

(5) the Osterhout Library in Wilkes-Barre, Pennsylvania, in the amount of $457,318; and

(6) the West Pittston Library in West Pittston, Pennsylvania, in the amount of $9,984.

● Mr. SCHWEIKER. Mr. President, S. 1147 is designed to exempt six Pennsylvania libraries from repaying the Federal Disaster Assistance Administration $561,066.09 which they received as disaster recovery payments after Hurricane Agnes in 1972. As the result of this pending FDAA claim, these six libraries have been placed in precarious financial positions.

Pennsylvania, more than any other State, suffered extensive damage from Hurricane Agnes in June 1972. Damage nationwide was so great that Congress wisely adopted, for all States hit by Agnes, a special relief package to help individuals and businesses repair or replace their losses. In addition, section 252(a) of Public Law 91–606, which was law at the time of the Agnes disaster, provided Federal assistance to State and local governments to restore public facilities belonging to such State or local governments which were damaged or destroyed by a major disaster.

Subsequent to the President declaring Pennsylvania a major disaster area, making State and local government facilities eligible for Public Law 91–606 assistance, the Federal Disaster Assistance Administration approved project applications for Federal assistance from a large number of local governments in Pennsylvania. Included among them were applications for damages to these six privately owned community library facilities covered by this bill.

Mr. President, I see no evidence of attempted fraud on the part of these libraries. They suffered damages at the hands of Hurricane Agnes, were informed they were eligible for disaster relief and their applications for relief were approved by the Government. For example, it was pointed out in 1972 to State and Federal officials that although the Shippensburg Public Library received funds from the Borough of Shippensburg and the school district, it was privately owned. But disaster relief aid was still granted.

I cannot dispute the Federal Disaster Assistance Administration when it now claims these six Pennsylvania libraries in fact should not have received funds under Public Law 91–606. The law is clear. Privately owned facilities are not eligible to receive grants. But I am not here today demanding to know who is at fault for this payment error or requesting a significant change in Federal law. I am asking Congress to recognize the tenuous financial position in which these libraries will be placed if they are forced to repay FDAA and am encouraging it to adopt this special relief measure.

I have been informed by FDAA that this is a unique situation. These are the only privately owned libraries nationwide which erroneously received disaster relief payments under section 252(a) of Public Law 91–606.

The roots of the community library system go back to our pre-revolutionary period when most libraries were privately owned and looked to community generosity for support. Since then, community libraries, both privately and publicly supported, have made valuable contributions in the United States. They frequently double as community centers and make a variety of educational programs available to the general public which frequently cannot be obtained by the average person because of cost or rarity. I would be greatly distressed if we are to turn our backs on these six libraries and force them to raise over one-half million dollars to pay for damages received from the worst disaster in Pennsylvania's history.

Mr. President, I strongly recommend this bill to my colleagues and respectfully urge their approval at this time.

I submit for the RECORD a fiscal summary:

FISCAL SUMMARY—INELIGIBLE LIBRARIES AFFECTED BY TROPICAL STORM AGNES

Project application No.: Library	Cost of restoration	Refund due Federal Government
OEP 340–DR–		
60–1: Himmelreich	$4,136.68	$4,136.68
49–1: Milton	21,869.89	21,869.89
21–7: Shippensburg	12,827.45	12,827.45
21–9: West Shore	26,772.12	26,772.12
40–57: Osterhout, City of Wilkes-Barre	[1] 565,423.42	[1] 446,474.00
40–20: West Pittston	[2] 48,985.95	[2] 9,984.40
Total	680,015.51	561,066.09

[1] $565,423.42 is the approved audited claim for the Osterhout Library. Final payment has not been made, so that only the advance of $446,474 is due the Federal Government.

[2] A claim of $48,985.95 for the West Pittston Library has been received but not audited. The remainder of the West Pittston Borough project application claim has been audited and approved for $23,362.50. The refund due the Federal Government of $9,984.40 reflects the difference between an advance of $33,347 for the library and the final amount of the West Pittston Borough claim.

Note: Funds have been used for general flood restoration work, including debris clearance, structural repair, and the replacement of contents of the libraries.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1183), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the bill is to release six privately owned libraries in Pennsylvania from liability for the repayment of contributions erroneously made by the United States for disaster relief following Hurricane Agnes.

The purpose of the amendments is to state the exact amount of relief to be granted for each library.

STATEMENT

The facts are set out in the favorable report of the General Counsel of the Department of Housing and Urban Development. The report is attached to and made a part of this report, as follows:

"This is in response to your request for our views on S. 1147, a bill 'To relieve the liability for the repayment of certain erroneously made contributions by the United States.'

"The bill would release six privately owned libraries in Pennsylvania from liability for the repayment of contributions erroneously made by the United States for disaster relief in connection with Hurricane Agnes.

"In June 1972, a number of States, including Pennsylvania, suffered extensive damage from tropical storm Agnes. Section 252(a) of the Disaster Relief Act of 1970 (Public Law 91–606) authorized Federal payments to State and local governments for the repairs, restoration, or replacement of public facilities. Accordingly, the Federal Government[1] made payments to local governments for repairs to destroyed or damaged public facilities including the six privately owned libraries stipulated in the bill. However, it was later determined that although these libraries were nonprofit entities and did receive some public support, they were, as privately rather than publicly owned facilities, improper recipients of the disaster relief funds.

"The payments were made in an emergency situation when speedy determination of eligibility and dispensing of assistance was absolutely essential. There was at the time some indicia of the public nature of the libraries to support a determination of public ownership—all received public funds from local tax revenues and provided services free of charge to the public, and five of the six library facilities were in structures owned by a library board or association and had corporate names implying public ownership.

"It was not until the spring of 1976, when the FDAA's Central Office reviewed a request for a time extension for completion of repairs to one of the libraries involved, that the

[1] Authority for making these payments was at this time vested in the Office of Emergency Preparedness in the Executive Office of the President. Authority for disaster relief assistance of this nature was subsequently (1973) vested in this Department's Federal Disaster Assistance Administration (FDAA).

question arose as to the eligibility of the libraries for assistance as publicly owned facilities. In June 1976, this Department's Office of General Counsel issued a legal opinion concluding that the Federal Government had not been authorized to make contributions to repair damages to the six libraries in question since, despite the fact that they were nonprofit institutions supported in part by public funds, they did not belong to a State or local government as required by the Disaster Relief Act of 1970. The opinion as to the private ownership of the libraries was subsequently confirmed by the Deputy Attorney General of Pennsylvania. In the meantime, the libraries had expended the Federal funds received under the act in reliance upon the Federal Government's determination as to their eligibility.

"The libraries, although technically privately owned, served the public without charge. Given the speed with which a large volume of disaster assistance applications had to be processed after tropical storm Agnes, and the public nature of these facilities, the mistake that occurred is understandable. To require the libraries to reimburse the Government for these grants at this time would only serve to penalize the beneficiaries of their services—the public. In our opinion, this is a case of limited applicability where, because of the unique circumstances involved, the remedy provided by the bill will not establish an undesirable precedent."

COST

The enactment of this legislation involves no direct additional expenditure to the Government.

Accordingly, the committee recommends favorable consideration of S. 1147.

MARIE GRANT

The bill (H.R. 1427) for the relief of Marie Grant, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1184), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the proposed legislation is to qualify Marie Grant for a survivor's annuity by act of Congress, so as to entitle her to retroactive benefits in the aggregate and prospective statutory allotments on a monthly basis.

FACTUAL SUMMARY

The facts as stated in H.R. 95–197 are as follows:

On April 22, 1945, Nathaniel H. Grant and Marie Calloway [hereinafter, "decedent" and "claimant," respectively] were married in Chicago, Ill. On an affidavit for a marriage license executed at the office of the county clerk, Cook County, both parties affirmed that they were free to remarry; decedent affirmed that he was divorced in Superior Court on July 1, 1933, and claimant affirmed that she was divorced on December 1, 1943, in Memphis, Tenn.

Decedent was employed by the U.S. Postal Service and retired on December 31, 1957. At that time, under the provisions of the act of July 31, 1956 [ch 804, § 401, 70 Stat. 744, as amended [1], he elected a reduced annuity and designated claimant as beneficiary, stating that he and claimant had been married since April 22, 1945. Decedent's election and designation of claimant as beneficiary were not challenged.

Several years later, the Grants discovered that their 1945 marriage was not legal. Decedent, who until that time had believed his former spouse had successfully divorced him, obtained a proper divorce in 1960. Claimant, whose former spouse had deserted her on January 1, 1930 and who erroneously presumed him dead, properly divorced her first husband on February 27, 1959. The Grants were legally married on February 2, 1961.

On August 25, 1969, decedent died. After investigation, the Civil Service Commission discovered that the Grants' 1945 marriage was not legal; since the statutes governing survivor annuities in effect at the time of her husband's death did not then provide for payments to a "second spouse," claimant was advised that her claim for such benefits was denied.

On January 8, 1971, the law governing survivor eligibility for annuities was amended to include persons in claimant's situation [Public Law 91–658, § 3, 84 Stat. 1981]; since her husband had died prior to the date of enactment, the favorable change was of no avail in claimant's case.

HISTORY OF THE CLAIM

On June 26, 1975, a bill for claimant's relief was introduced which was identical to H.R. 1427 [H.R. 8364 (94th Cong., 1st sess.)]. By letter dated July 21, 1975, the Subcommittee on Administrative Law and Governmental Relations notified the sponsor that it would require additional evidence of circumstances justifying such relief.

STATEMENT

Despite the opposition of the Civil Service Commission, the committee favors enactment of H.R. 1427 for the following reasons: (1) the circumstances presented by claimant's case are, consistent with prior decisions of this committee, sufficiently unique so as to be "exceptional" and thereby warrant relief; (2) the committee has been aware of additional evidence of good faith on the Grants' part that they were free to remarry; and (3) relief in this case will be consistent with policy of the basic statute.

Both this committee and the Civil Service Commission have agreed that, where "exceptional circumstances" or "a patent inequity" exist, strict application of the policy opposing private legislation which would afford an individual relief would result in obvious injustice. In two instances, the Chairman of the Commission has not objected to relief legislation on virtually identical facts. That relief was granted prior to the change in the laws governing survivor eligibility, a change which has not been made and indicates a change in policy which supports legislative relief here. [See H. Rept. Nos. 86–1378, 89–1028, *supra*.]

In its consideration of claimant's case, the subcommittee had the opportunity to examine a certified copy of the affidavit for marriage license executed by claimant and her late husband in 1945 and the subsequent marriage license itself. Because both parties were required to certify under oath that they were free to remarry, the committee is satisfied that they entered into their marriage believing in good faith that it was legal and that their prior marriages had been dissolved legally. This is one of the facts which persuaded the committee that an exception to the general policy was warranted in the other cases mentioned above. Here, as in the earlier cases, the parties were unaware of the legal bar to marriage and that the retiring spouse had elected and taken a reduced annuity for a substantial period, fully believing that in so doing he was assuring benefits to his survivor.

Finally, relief in this case will not frustrate the purpose of the law because of the 1971 change in the law to permit "second spouses", like claimant, to take survivor's benefits. The Commission concedes that "the circumstances in this case are unusual," and the likelihood that relief here "would set the precedent for an unending stream of private legislation" is remote. Likewise, it cannot be said that a "special benefit" would be conferred here in the sense contemplated by the rule—since all persons in claimant's situation now are fully eligible by statute for the same benefits for which she was forced to seek congressional relief. The committee is advised that, if this legislation is enacted, claimant would be entitled to a lump sum of $7,145.83 (through April 30, 1977), and a monthly allotment of $116 thereafter. For these reasons, on April 5, 1977, the Committee on the Judiciary ordered favorably reported to the House the bill H.R. 1427, as amended.

[1] See 5 U.S.C. § § 8339(1), 8341 (1970), as amended, *id.*, Supp. V. (1975). 89–007

WILLIAM J. ELDER AND THE ESTATE OF STEPHEN M. OWENS

The bill (H.R. 3460) for the relief of William J. Elder and the estate of Stephen M. Owens, deceased, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1185), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the proposed legislation is to relieve William J. Elder and the estate of Stephen M. Owens, now deceased, from liability for repayment to the United States of overpayments of travel, transportation and other related expenses made to them as a result of administrative error, while engaged as civilian employees of the Department of the Navy during 1974 and 1975. The liability incurred by Mr. Elder was $1,143.37; by Mr. Owens, $231.25.

On November 10, 1976, pursuant to the Meritorious Claims Act [April 10, 1928, 45 Stat. 413, 31 U.S.C. sec. 236 (1970)], the Comptroller General sent a letter to the Speaker of the House designated as Executive Communication No. 311, recommending relief from liability on the claims of William J. Elder and Stephen M. Owens, now deceased, who were both participants in the Civilian Logistics Intern Program of the Navy Fleet Material Support Office, Logistics Intern Development Center, Mechanicsburg, Pa.

Both Mr. Elder and Mr. Owens were paid certain relocation expenses subsequently determined not to be authorized by statute. Both individuals were transferred primarily for purposes of training. Under the authority of 5 U.S.C. section 4109(a)(2) 1970), relocation benefits for such transfers are limited. The cognizant agency officials authorized and approved payment of the full range of relocation benefits, believing that all were payable.

Later, the error in allowing payment of all relocation benefits was discovered, and collection action against Mr. Elder and Mr. Owens was initiated. Mr. Elder was held to be indebted to the United States in the amount of $1,143.37 and Mr. Owens in the amount of $231.25.

In its report to the Congress on this matter, the GAO stated that it concluded that while the relocation benefits statute is clear and unambiguous, in its decision it also found that the provisions of the Joint Travel Regulations implementing the statute are not entirely clear. In that decision, the GAO had occasion to consider paragraph C3052 and C4102 of volume 2 of the Joint Travel Regulations. These same paragraphs governed the transfers of Mr. Elder and Mr. Owens. In a separate letter, they recommended to the Per Diem, Travel and Transportation Committee of the Department of Defense that these paragraphs be revised to eliminate the apparent ambiguities and confusion that led to the improper payments made to Mr. Elder and Mr. Owens.

Based upon its interpretation of applicable statutes and study of Decision B–185281, the GAO concluded that there is no basis within their authority to grant the relief sought initially by Elder and Owens. The committee agrees with Comptroller General's conclusion that these claims contain such equity as to be deserving of the consideration of the Congress and meritorious claims. The Committee recommends the form of relief recommended by the GAO.

Executive Communication No. 311, Decision B–185281 and related rulings are attached to, and made a part of, this report.

DARYL C. JOHNSON

The bill (H.R. 5097) for the relief of Dr. Daryl C. Johnson, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1186), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the proposed legislation is to authorize the Comptroller General of the United States to settle and adjust the claim of Dr. Daryl C. Johnson of Atlanta, Ga., for amounts he would be entitled under applicable law and regulations for expenses which he incurred in 1972 and 1973 for storage of household goods incident to his detail with the Newcastle Task Force of the Animal and Plant Health Inspection Service of the U.S. Department of Agriculture, San Gabriel, Calif., for the convenience of the Government, without regard to section 6.2c of the Office of Management and Budget Circular A–56, revised August 17, 1971, and paragraph 2–8.2c of the Federal Travel Regulations (FPMR 101–7) May 1, 1973.

STATEMENT

The Department of Agriculture in a report to the House Judiciary Committee recommended enactment of the bill.

The claim with which the bill H.R. 5097 is concerned amounts to $847 and is based upon expenses incurred in 1972 and 1973 for storage of household goods during Dr. Daryl C. Johnson's service with the Newcastle Task Force of the Animal and Plant Health Inspection Service of the Department of Agriculture. On March 14, 1972, the Department of Agriculture declared a national animal disease emergency to exist because of the presence of exotic Newcastle disease in southern California.

Over 3,000 personnel were detailed at various times to a task force operation headquartered in Riverside, Calif., to eradicate this foreign virus disease. Dr. Johnson, because of his expertise in the poultry field, and his laboratory competency, was detailed to the task force laboratory at San Gabriel, Calif., from March 16, 1972, until June 16, 1973. At the time of his detail, Dr. Johnson was in the process of being transferred from Maine to the State of Florida. For the convenience of the Government he was requested to remain in California until the disease was brought under control. In the meantime, Dr. Johnson disposed of his home and placed all of his household goods in storage. Under current Federal travel regulations, Dr. Johnson may be reimbursed for only 60 days' storage costs. Therefore, he has not been completely reimbursed for costs which he incurred for the convenience of the Government.

The Department of Agriculture in its report to the committee stated that it recognized the unique circumstances of this particular case. The Department also stated that Dr. Johnson made a major contribution toward the successful eradication of exotic Newcastle disease which ultimately saved the poultry industry an estimated $230 million annually. Under these circumstances, the Department concluded that Dr. Johnson should be compensated for the storage of his household goods during the period he was required to serve in California.

As has been noted in the statement of purpose, this bill would waive the limitations in the cited regulations in order to permit the payment of the amount which Dr. Johnson would be entitled to under applicable law. The committee has concluded that this would be a fair way to adjust the matter and therefore recommends that the bill be considered favorably.

CHARLES M. METOTT

The bill (H.R. 6760) for the relief of Charles M. Metott was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1187), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the proposed legislation is to authorize the Comptroller General, notwithstanding the provisions of section 71a (1) of title 31, United States Code, to pay $1,227.17 to Charles M. Metott, of Williamstown, N.Y., in full and final settlement of all of his claims against the United States for death gratuity benefits and back pay and allowances as a result of the death of his brother, Gerald P. Metott, while serving in the U.S. Marine Corps in Vietnam on November 6, 1965.

STATEMENT

As has been outlined above, this bill concerns a claim in behalf of a minor for death gratuity and back pay of his brother who was killed in action while serving in the Marines.

The brother, Gerald P. Metott, entered on active duty with the Marine Corps on June 29, 1964, when he was 17 years old. On September 15, 1965, he executed an emergency data form in which, pursuant to 10 U.S.C. 1477 and 2771, he designated his 6-year-old brother, Charles M. Metott, to receive his death gratuity and backpay in the event of his death. Gerald P. Metott was killed in action in Vietnam on November 6, 1965.

Marine Corps authorities subsequently notified the mother of the Metott brothers that Gerald had designated Charles as his beneficiary.

Charles M. Metott was entitled to receive a death gratuity payment in the amount of $1,151.40, and also $75.77 in backpay and allowances due his brother at the time of his death. Defense Department regulations then required that there be a court-appointed guardian for a minor beneficiary in any case a death gratuity claim exceeded $1,000. Charles' mother was advised of the guardianship requirement. She did not obtain the required court order, and the General Accounting Office has advised the committee that this was apparently because she lacked the funds to pay the legal fees involved.

In April 1975, Marine Corps authorities notified Charles' mother that the 10-year limitation on claims then in effect would soon expire, and urged her to take action in the matter. On June 3, 1975, the mother obtained a court order which formally appointed her as Charles' guardian. She then filed a claim on his behalf with the Marine Corps. In July 1976, Marine Corps authorities forwarded the matter as involving a doubtful claim to the GAO Claims Division for consideration. The claim was first received in the General Accounting Office on July 21, 1976.

Subsection 71a(1) of title 31, United States Code (1970), prior to amendment in 1975, provided in pertinent part that:

(1) Every claim or demand * * * cognizable by the General Accounting Office under sections 71 and 236 of this title shall be forever barred unless such claim * * * shall be received in said office within ten full years after the date such claim first accrued * * *.

The Act of January 2, 1975, Public Law 93–604, 88 Stat. 1959, reduced the limitation period from 10 years to 6, effective July 2, 1975. A claim received in the General Accounting Office after July 2, 1975, is therefore barred from consideration if it accrued more than 6 years prior to the date of receipt.

The committee feels that this time sequence points up the unfairness of denial of payment of the amounts to the minor child as directed by his brother. Here the boy's mother took timely action within the 10-year period fixed in the statute at the time that the minor became entitled to payment. This 10-year limitation had been enacted into law in 1940 and was the basis for claims consideration for a 35-year period. As is admitted in the Marine Corps letter appended to this report which was received by the attorney for the minor, Walter W. Smith, the delay was further compounded by an erroneous reference of the claim to a records center for filing along with material relating to inactivated personnel. This delay was particularly harmful, for the Congress cut the limitation period to 6 years effective on July 2, 1975. That was 1 day short of 1 month from the time the court appointed the mother as the guardian to receive the payment in behalf of the minor. However, due to the confusion in handling by the Marine Corps, the claim was not received by the General Accounting Office until July 21, 1976, or more than 1 year later.

On the face of all this, the General Ac-

counting Office report merely cites the statute as a basis for questioning payment as provided in the bill.

The committee feels that this is a proper subject for private relief. Clearly, the circumstances provide a basis for recognizing the moral obligation by the United States to pay the amount provided for in the bill. It is recommended that the bill be considered favorably.

NATURAL GAS POLICY ACT OF 1978—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. ROBERT C. BYRD. Mr. President, I am eager to hear the debate go forward. I hope that Senators who have statements pertaining to the natural gas conference report will come to the Chamber and make them on this Thursday, September 14, at 9:59 a.m.

This is the fourth day that the Senate has been presumably debating. There has been some good, substantive debate on both sides of the aisle, from both the proponents and opponents. I merely express the hope that we can get on with the Senate business, and that those who have speeches will make them.

The Chair, under the Rules, if no Senator seeks recognition, is required to put the question on the adoption of the conference report. As one of the supporters of that conference report, I do not want to see that happen. I will do everything I can, within reason, to protect those who oppose the conference report. I would not idly stand by and see that happen at this point.

I do think, however, that the time has come for Senators to make their speeches and hopefully offer whatever motions they have to the conference report, recommital or otherwise, so that the Senate can act as soon as possible.

(Mrs. HUMPHREY assumed the chair.)

Mr. ROBERT C. BYRD. There is much other work facing the Senate; a heavy schedule of necessary measures must be taken up. The sooner we dispose of the conference report on natural gas, one way or the other, the Senate can vote it up or down, then the sooner we can get on with this other business.

Having delivered myself of that matter, Mr. President, I yield the floor.

Mr. METZENBAUM. Mr. President, as the leader knows, early this morning, I called him and advised him that I would get to the floor. We have had a pretty good relationship during the entire handling of this measure, both opponents and proponents. On a number of occasions, the floor has been unprotected, but by gentlemen's agreement, neither of the parties has seen fit to take advantage of those circumstances. I, myself, have protected the floor on several occasions when the proponents of the conference report were not present and it would have been possible to make a motion to lay the matter on the table and then move to reconsider.

Mr. ROBERT C. BYRD. Mr. President, if the Senator finds that occasion again, I hope he will send word to me quickly, because I am always very close to the floor. I have not noticed a time when the proponents have not had someone on the floor. Sometimes, I have been the individual or a Senator has been in the chair who represents the proponents. But perhaps the Senator has noticed a time.

Mr. METZENBAUM. Senator JACKSON did, on occasion, leave the floor and ask me to protect it. I say to the majority leader that I never thought that was a manner in which we want to pass or defeat legislation and I would always protect the opposition, and I know that the majority leader would do so as well. As a matter of fact, at 11 o'clock, there is a meeting, which I had to leave, for the purpose of discussing the question relative to trying to work out an agreement on this subject. I should not want to have to remain on the floor. I think it has some value, as far as we are concerned, for which to leave the floor.

I think the leader is aware of the fact that many of us have indicated a willingness to bring this matter to a conclusion and to a vote and respect the rights of any single Member of the Senate who is not prepared to come to that agreement. I think it is in the interest of all of us to try to work it out and if we have to protect the floor, one for the other, under those circumstances, I think it is worthwhile doing.

I might also say that if the leader has legislation to bring up on the double track at the moment, I am sure none of us would have any objection to doing that during this period.

Mr. ROBERT C. BYRD. I appreciate what the Senator has said. He has been most considerate and very cooperative and always courteous. All of these attributes are characteristic of the Senator. I merely said what I did about the requirement that the Chair put the question. That is the requirement placed on the Chair.

Of course, we are going to try to protect each other. Nobody is seeking to take unfair advantage of anybody else. I have seen it happen I remember very distinctly one occasion some years ago when Senator Lausche was in the chair and there was a very controversial matter before the Senate and no Senator sought recognition, no Senator raised the point of no quorum. The Senator presiding in the chair had the duty to put the question. He did. Another Senator moved to reconsider and I moved to lay on the table.

There was a considerable flap about it, a few sparks went upward. But it was all done right out in the open and Senators who were opposed to whatever the matter was at that time were on the flood. The Chair, I believe, put the question twice and nobody sought recognition. The Chair then said, "the question is on" whatever it was and "those in favor, say, 'aye;' those opposed, say, 'nay,' the ayes have it."

And there was a certain Senator who was on the floor who had been delegated to watch the floor for that side's position and, for some reason or other, he just was not alert to the situation.

You know, that could happen again. I would not want it to happen. I just want to remind my colleagues of a little bit of history which I—using the personal pronoun—I eyewitnessed, which I e-y-e-witnessed at that time.

Mr. METZENBAUM. Will the leader yield for a question?

Mr. ROBERT C. BYRD. Yes.

Mr. METZENBAUM. Would the leader be agreeable to a recess at this point, since I see four Members on the floor, all of whom support the conference report? I should like to attend the meeting to discuss this subject. I do not want to leave the floor unprotected, but I think we need a recess, I say to the leader, so my position may be protected.

Mr. ROBERT C. BYRD. The Senator's position will be protected, because, as I say, we who are supporting this conference report are hopeful that the Senator from Ohio can use his very persuasive talents and his very convincing arts to bring this matter to a close. He has been helpful, most cooperative, in that regard.

We virtually had an agreement yesterday and the Senator from Ohio had sat in on the discussions. He was willing to agree. The Senator from South Dakota (Mr. ABOUREZK) was willing to agree to that proposal.

What I say is, while we say it in a kind of spirit of levity here, I say with the utmost sincerity that they were willing to agree and did what they could to help bring about that agreement, which failed—not because of their failings.

If the Senator wants to attend a meeting in an attempt to get an agreement, of course, he will be protected. I see Senators here who support the conference report. If they want to speak, fine; if not, I shall temporarily recess.

I say to my dear friend, as I said earlier, nothing is certain, but—

The quality of mercy is not strain'd,
It droppeth as the gentle rain from heaven
Upon the place beneath; it is twice blest;
It blesseth him that gives, and him that takes;
'Tis mightiest in the mightiest: it becomes
The throned monarch better than his crown; . . . .
It is an attribute to God himself;
And earthly power doth then show likest God's
When mercy seasons justice.

I want the Senator to know that the proponents are not only just, they are also merciful.

In accordance with that statement from Shakespeare, then, I yield the floor and let my senior colleague from West Virginia speak.

Mr. RANDOLPH. I should like to follow with a few words of verse, just as our leader has done.

Mr. ROBERT C. BYRD. I should like to hear that.

Mr. RANDOLPH. Mr. President, I remember, when I was first running for the House of Representatives, that I was speaking in an area of West Virginia which was heavily weighted for the opposition. I recognized our problem, but I did not realize the depth of the problem. When I had reached, in my remarks, what I felt was an important point I was attempting to make, I say to our able, knowledgeable majority leader (Mr. BYRD), instead of anticipated applause, that the lights went out. I stood there in darkness. I was remembering in that moment a favorite hymn which I had learned at an early age. The hymn, "Brightly Beams Our Father's Mercy," went like this:

"Let the lower lights be burning!
Send a gleam across the wave!
Some poor fainting, struggling seaman
You may rescue, you may save."

So I paraphrased, as my West Virginia colleague has done, in these words, "Let the lower lights be burning, send a gleam across the wave, some poor fainting, struggling Republican I must rescue, I must save."

And the lights went up.

These tense situations bother us from the standpoint of the opponents of the conference report.

As our leader does so often and as other Members in this body read the 23d Psalm, we must remember we can paraphrase that beautiful Psalm. I do it with these words:

"In 'pastures green'? Not always;
Sometimes he Who knoweth best,
In kindness leadeth me in weary ways,
Where heavy shadows be.
And by 'still waters'? No, not always so;
Oft-times the heavy tempests round me blow,
And o'er my soul the waves and billows go."

That poem continues.

But there is a turbulence in this body. It surfaces from time to time. Good humor and good purpose are often combined.

I think what the Senator has said about the Senator from Ohio (Mr. METZENBAUM) was proper. It is not just a pleasantry, back and forth, or a colloquy that covers a few minutes of time in this Chamber.

I believe that opponents of the conference report are well meaning, but I think they are misguided.

Their reasoning is wrong now for the country as a whole and the people of America and our relationship, yes, our stature, with the nations and the peoples of the world.

Differences of opinion I respect. I feel that there is a commitment which, we should make, regardless of the sides that we are on. We should bring this matter to a very prompt conclusion, because out there there is an America and citizens are expecting us to say "Yes" or "No" on this important energy matter.

During the recess, as Members know, especially those of us who are "endangered species" with the November election coming up, have been going active in our States—making speeches, and of course, shaking hands.

When we met a constituent, a citizen, man or woman, young or old, and talked a few moments, what was the question that 7 out of 10 were asking me? "Senator or Jennings"—"when are you going to pass the energy bill?"

This is the sentiment across America. We must face up to a decision.

I am not certain, but I think we have had over 350 rollcalls in this 2d session of the 95th Congress? In the 1st session of the 95th Congress, there were over 600 rollcalls.

These were times of decision. Perhaps there is no vote now that has greater impact on America, our people, and the peoples of the world, at least in a very high degree, than this vote.

I am very grateful that the Senator's words gave me the opportunity to speak in this vein. But down deep within me, there is a belief that the time is now for action.

Mr. ROBERT C. BYRD. Mr. President, I thank my senior colleague. His words are very worthwhile.

I especially feel that this reference to the old hymn, "Let the Lower Lights Be Burning," is a good one and one we should not be unmindful of from time to time.

I am sure that his reference to the political speech he made upon one occasion was enjoyed by all Senators present.

This matter before the Senate is not a partisan matter and it is supported and opposed by Senators on both sides of the aisle.

As for the number of rollcalls, there have been 376 to date, and there could very well be rollcalls today.

I thank my senior colleague.

RECESS UNTIL 12:25 P.M.

Mr. ROBERT C. BYRD. Mr. President, if no other Senator seeks recognition at this point, in order that those Senators who are opposed to the conference report and who are seeking to work out some kind of proposal may be uninterrupted in their labors, I ask unanimous consent that the Senate stand in recess until 12:25 p.m. today.

There being no objection, the Senate, at 11:16 a.m., recessed until 12:25 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. DECONCINI).

Mr. RIEGLE. Mr. President, I rise at this time to speak on the natural gas issue.

Mr. President, like every other Senator, I have been giving very long and careful thought to the conference report on natural gas policy and I have reached several conclusions which I want to share with my colleagues at this time.

Mr. President, the natural gas deregulation bill now before the Senate is an economic and administrative monstrosity that will severely damage my State of Michigan and the country.

The gas price increases alone will cost citizens across America an estimated $41 billion between now and 1985, probably the biggest single dose of new inflation ever created by deliberate Government policy.

With the State of Michigan using some 5 percent of the national consumption of natural gas, it means that this bill will cost the people and businesses of Michigan an additional $2 billion over the next 7 years. It would mean that every homeowner and every renter who heats their residence with gas—or cooks with gas—would be paying a higher price. The average Michigan resident who paid $400 to heat their home last year can expect, if this gas deregulation bill is passed, to be paying at least $800 a year or more in 1985.

What will happen to our senior citizens and retirees living on fixed incomes who cannot afford these higher costs? Many cannot heat their homes adequately now. If these prices are driven up further, many people will be forced to sell their homes. Just the thought of that prospect is outrageous and shows how disconnected our Government—and some editorial writers—have become from understanding how artificial energy price increases actually hurt our people and our country.

With all the other inflation we are experiencing, I think it is wrong to deliberately drive up the utility bills of Michigan consumers. It is wrong, and it makes no sense.

President Carter, himself, short months ago, opposed legislation of this sort because it was a consumer ripoff—it was then; it is now—which would not begin to solve our energy problem. Today, having painted itself into a corner, the administration is willing to abandon those early principles in order to appease the administration's international critics.

There is no need to deregulate the price of natural gas and allow it to soar upward. There is a clear need to reestablish the President's authority to allocate natural gas supplies in the event of an energy emergency, a step I strongly support and which our recommittal motion will accomplish. Further, there is a need for Congress to face the fact that it is time to take strong legislative initiative and bring intrastate gas under the same regulatory framework as current interstate gas, a step that is fully constitutional and clearly supported by the body of case law that has developed concerning the definition of items properly falling within interstate commerce.

For many months now, 60 percent of the national energy program has been held hostage—not by Congress—but by the administration in a misguided attempt to force up the prices of natural gas. Three of the five components of energy legislation—conservation, coal conversion, utility rate reform—are complete and ready for final action. Our recommittal motion will allow completion of those essential energy program items—as well as provide the President with the power he needs to allocate natural gas during an energy emergency.

Despite the near hysteria of those who argue that the gas price increase bill has to be passed to shore up the administration's prestige and to please our foreign critics, the clear fact is that America will be stronger if we defeat this bill.

The increase in natural gas supply to be produced by this deregulation bill is such a tiny fraction, somewhere between 3½ percent and 5 percent by 1985, that any meaningful reference to increasing the gas supply by means of higher prices is absurd on its very face. In fact, the full cost of the price increase applied against this tiny increase in supply would mean that the incremental gas would actually cost us as much as $60 per MCF versus today's price of $1.50 per MCF.

If we are to take another $41 billion from America's consumers, we would be far wiser to invest it in the accelerated development of alternative energy sources—particularly solar power.

In fact, if the $41 billion were spent

over the next 7 years to retrofit residences now using gas with existing solar heating technology, we could save an amount of natural gas larger than the small increase in gas supply generated by gas price deregulation. That is a far wiser course that will give us solid future energy savings—and at a lower cost to consumers.

Another major problem with the conference bill is the almost unfathomable degree of new Government regulation, rules and definitions—where, for example, 17 to 23 new classifications of gas are established which will require an army of new Federal bureaucrats to define and administer. If this bill is adopted, it will create a massive new bureaucracy with a maze of regulation that will make it virtually a separate government unto itself. The Department of Energy itself, in a rare burst of candor, termed it an "administrative nightmare." This bill, if it is passed, from the administrative point of view, will create work for every lawyer in America and tie up our court system for years to come with suits challenging the blizzard of bureaucratic rulings that we can anticipate. In the end, all these added costs will also be heaped upon the poor residential user struggling to heat his or her home at prices they can no longer afford.

A major argument used by proponents of the bill is that international observers are insisting that we raise the prices of domestically produced oil and gas to the inflated world prices set by the OPEC monopoly. Some have argued that by raising the price for our domestic energy we will somehow strengthen the value of the dollar abroad.

The fact is that the gas deregulation bill will greatly increase the U.S. inflation rate which is the principal cause of the weakness of the dollar abroad. By deliberately increasing our domestic inflation with artificially higher prices for natural gas we can only weaken the value of the dollar abroad. We need to conserve domestic energy resources wisely and avoid artificial price increases that would increase inflation and hurt consumers.

Another argument used by the proponents of the bill is that higher gas prices are needed to stimulate new drilling and discoveries. They conveniently overlook the fact that this has already been accomplished by previous price increases. The average price of interstate natural gas at the wellhead was 17 cents per MCF in 1970, was increased 168 percent to 44.5 cents in 1975, and another 71 percent to 77.9 cents in 1977, and is currently 90 cents per MCF. These are enormous increases, costing the consumers of America billions of dollars. These recent price increases have increased the number of supply wells from 900 in 1973 to some 2,300 last year. At the same time, total gas demand has been shrinking from 22 TCF in 1973 to some 19 TCF last year.

Mr. METZENBAUM. Mr. President, will the Senator yield for a question?

Mr. RIEGLE. I yield.

Mr. METZENBAUM. I just heard the Senator from Michigan use the figure of 90 cents as a more recent price, and I am certain he was using, correctly, the average price. I know that the Senator unquestionably intends to address himself to the point that the price for new gas in the interstate market is running about $1.50 to $1.52, which I think is about 800 percent higher than the original price to which the Senator was addressing himself.

Mr. RIEGLE. I thank the Senator for that point, because he is absolutely right.

The current price for new gas is running at about $1.50. What I have done here is that I have stated the most conservative numbers, which are the price increases we have seen for the average price of gas.

As the Senator points out, these increases over the last several years have been absolutely astronomical. I do not know of another area of the entire economy where we have seen more price increase in the last 7 years than we already have seen with natural gas. Despite that, the proponents of this bill are back again asking for price increases even greater than the ones we already have seen. It is absolutely astonishing.

I appreciate that observation.

Mr. METZENBAUM. I am enjoying the Senator's remarks; they are very edifying. The fact that the present price is $1.50 and under this bill immediately would go to $1.93, I am certain, is as disturbing to the Senator from Michigan as it is to me.

I will not speak further, but I just wanted to be certain that this $1.50 price was not overlooked, as well as the $1.93 price which will be forthcoming immediately under the new bill.

The Senator is correct in saying that in no other area have there been such astronomical increases as those which have occurred in the gas area. Yet, the industry wants more and more and more.

Of course, it is disturbing that the administration, which started off fighting against deregulation, is here doing the most massive lobbying job that probably this body has seen in a great many years, in an effort to help the industry get to the $1.93 figure.

Mr. RIEGLE. I say to the Senator that I agree with him wholeheartedly about the pressure being applied. It is interesting. All Senators, I am sure, are going through the same experience the last several days.

I have been getting phone calls from friends of mine in industry and in other positions of influence who have been approached and importuned by the administration to contact me and to suggest that perhaps I could find a way to support this terrible piece of legislation.

What happens—without naming names—is that as I get into a conversation with various friends who are calling at the behest of the administration, we really get into the merits of the bill—what the bill would do, how it would affect Michigan, how it would affect the country, how it would make the dollar weaker abroad rather than stronger, because of the inflationary impact.

What I am finding is that the folks who are calling me are saying, "You know, Don, I feel pretty lukewarm about this, too. I really called because the administration asked me to call."

In any event, we end on a very nice note.

The fact is that that high pressure activity is going on—and there is nothing improper about it. That is fine and dandy. But we should not misunderstand what it means. The merits of the case are so weak and this compromise is so deficient and is so harmful in terms of its economic effect and its effect on our long-term energy approach, that they cannot argue the bill on its merits, because they cannot win that argument. So they are not trying to argue the bill on its merits.

The only argument that I have heard used in place of an argument on the merits is the notion that somehow some of the international critics need to see some sign that this administration can get something done in the energy area. They say that time is running out, and that even though this is a bad bill we should take it because it will have that effect.

Nothing could be more shortsighted. That is exactly the way that this country gets itself into great difficulty.

I have talked with a number of foreign leaders as well, and the problem that I hear them speak about more than any other is the inflation that is hurting this country, and is reducing the value of the dollar.

The problem is that this bill before us is a perfect prescription for inflation. This is, pure and simple, Government administered inflation.

When we jack up the price of something artificially and there is no increase in the supply, that is pure inflation. That reduces buying power in this country.

I talked to one of the people from my home State yesterday in the automobile business, and I said:

> If we allow this bill to pass, to pull another $2 billion out of the Michigan economy, from Michigan consumers over the next 7 years, that is money that people could use to buy cars, or buy hamburgers, or to buy clothes, or to do other things that they need to do.

So that kind of inflation is exactly what has caused the problem in terms of the value of our currency abroad.

I hope our international friends will not be taken for a ride in watching what is happening here in the way of energy policy, because this country is making enormous progress.

Just listen to this.

These price increases that we have been discussing that have taken place already over the last several years, that have just rocketed up the price of gas——

Mr. METZENBAUM. Mr. President, a point of order. May we have order in the Senate, please, because the Senator from Michigan is making some very valid points and I think he is entitled to full attention of the Senate.

The PRESIDING OFFICER. The Senate will be in order.

Mr. RIEGLE. Recent price increases that have already taken place have had

the effect of increasing the number of supply wells from a figure of 900 in 1973 to some 2,300 last year. At the same time we are conserving energy and total gas demand has been shrinking. In 1973 it was 22 trillion cubic feet, but last year in 1977 that figure had dropped to 19 trillion cubic feet. So that was a reduction of 3 trillion cubic feet which is a substantial change in behavior and a good faith effort on the part of the country to conserve gas, this particular form of energy.

At the residential level we have achieved a 13-percent reduction in per unit residential use of gas between 1973 and 1976, which is the last year for which figures are available.

But no one talks about this today. The administration is deliberately, in my judgment, not emphasizing the enormous progress that we have made in this country through a change in method, through the fact that consumers are dialing down their thermostats, insulating their homes, insulating their water heaters, turning down the temperature of the hot water in their water heaters, and so forth, to save gas and to save costs.

Mr. STEVENS. Mr. President, will the Senator yield right there?

Mr. RIEGLE. I yield.

Mr. STEVENS. Is the Senator using supply figures or demand figures? The Senator is certainly not going to take credit for the fact that the demand has been reduced because there were curtailments reaching from Delaware up to New England, and from the Ohio Valley up into the Senator's State of Michigan. Is the Senator saying because demand could not be met that that constitutes a saving?

Mr. RIEGLE. No. We are talking here about people who had hookups and the reduction in usage by those people who had hookups, the fact that there has been a measurable savings occur because people are conservation minded.

Mr. STEVENS. I am sure the Senator is familiar with the fact that there were curtailments in particularly the calendar year 1976. It reached the level of almost 15 percent.

Mr. RIEGLE. That is not what I am talking about. I am talking about the fact that people who have been using gas through a variety of conservation measures are finding ways to use less gas, and I think they should be congratulated for it. I think that should be acknowledged. Any notion that we are not making progress on our energy problems is just not true.

Let me tell the Senator what is happening in the industrial sector.

Mr. STEVENS. Will the Senator answer my question? Are those use figures or demand figures?

Mr. RIEGLE. Those are use figures. Those are use figures by people who have had hookups over that period of time.

Mr. STEVENS. It would be my impression that the use figure and a reduction in use would indicate a reduction in supply rather than a reduction in demand. In this area, one can find new subdivisions that are being told they cannot hook up to gas. The reason they cannot hook up to gas is that it is not available.

Mr. METZENBAUM. Mr. President, will the Senator yield?

Mr. RIEGLE. That is not exactly true. I yield.

Mr. METZENBAUM. Mr. President, I point out to my good friend from Alaska that that was the case in 1976 when the gas companies of this country were withholding their product from the marketplace in an effort to force up price. But that picture has now changed. Now the price is up and now they are able to find ways to get around and get a better dollar for their product. What has happened is now they are bringing it forth and the market is glutted, and the two companies that serve the State of Ohio, one of which is the largest natural gas company in the entire United States, the Columbia Gas System, and the Consolidated Natural Gas System, have now switched signals and now they are saying to residential users, "We have enough gas, and we are glad to make new connections for residential users."

That is an indication to me that if the gas companies get their profits, their dollars, which are more than adequate at the moment and which have been soaring, they will find the gas. But what they have done, and 15 Government reports indicated this, they held back their production in the fields in Louisiana and in Texas and they said, "No, we have no gas." Let the price go up and then suddenly the gas becomes available and the American people wind up paying the price. And that is the way it has been and that is the way it is going to continue to be.

Mr. RIEGLE. Mr. President, if I may, I shall try to conclude my statement. I will be happy to yield to the Senator when I finish. I know the Senator from Maine is due in at I believe 1 p.m. to raise a legislative matter. I wish to complete my statement, and then I will be happy to engage in a discussion on these points.

Mr. STEVENS. If the Senator will permit me to make one comment regarding the comments of the Senator from Ohio, I shall not interrupt him further.

Mr. METZENBAUM. I will say I think we should continue.

Mr. RIEGLE. Of course, I am going to say yes. I will be hesitant not to give my friend from Ohio the last word because he is on my side of the argument. I am not sure when this will end.

Mr. STEVENS. I am not sure which side of the argument I am on yet, however, I think I know.

Curtailments exist when people have been told they cannot have gas though they have the facilities to use gas.

Curtailments have now reached 3 trillion cubic feet in this country today.

Mr. RIEGLE. The point I say to the Senator is that this bill that is before us does next to nothing to solve that problem. That is a different problem, the fact that there may be people out there who wish to make gas hookups in certain areas and cannot. I do not accept the argument that this bill is going to produce any magical increase in supply. It is going to carry with it an enormous increase in price and total cost, but not in supply, and if the Senator is suggesting that this bill is going to allow all those people who want hookups to have hookups I really think we should not give them that impression.

To continue, look at the industrial sector, the progress that we have been making in terms of energy saving. Total energy consumption dropped in the U.S. industrial sector by 13 percent between 1973 and 1976 while production remained about steady. And, by the way, that drop, that improvement, that energy saving, was the largest of any major Western industrial nation. I hope that some of the other international friends of ours who are urging on us steps that are unwise will take a look at some of the things that, in fact, we have been doing.

So we are making progress in dealing with our national energy problem, and the deregulation bill now before us is both unnecessary and counterproductive.

I might say that one of the great mysteries of this conference bill concerns the damage done under the pricing formulas to residential users of gas for the benefit of industrial users. Both the Senate and House bills kept the 1985 MCF price roughly equivalent for residential and industrial users. The House bill provided $2.89 for residential and $2.70 for industrial, whereas the Senate bill provided $2.92 for residential and $2.87 for industrial. Yet, by some bizarre twist, the conference bill has lifted the residential price to $3.28, while lowering the industrial price to $2.44—a pricing scheme that will gouge residential users at the same time it encourages greater consumption at the industrial level by maintaining a lower price.

That makes absolutely no sense at all. How this can be so much at odds with either the House or Senate version is a mystery I have not heard anyone offer an answer to.

Another serious defect in this gas deregulation proposal concerns the year-by-year increases in the price and the direct incentive this provides to suppliers to withhold discoveries of gas as long as possible in order to sell it later at a higher price. This gets to a point we were discussing just a moment ago.

If, for example, a major oil and gas company finds a promising gas field area, the pricing provisions of this bill would encourage the company to delay the discovery as long as possible in order to "find" it and sell it at a higher price later.

It is conceivable that the companies in the strongest financial condition might even delay their discoveries and production until 1985, when all price regulation would end. It seems to me that this is exactly the wrong incentive for us to establish if our goal is to expedite the discovery and the production of new gas. But it is one more very important substantive reason for us to defeat this measure.

In addition, having examined those provisions of the bill which set forth the definition of "commercially producible quantities," which is the definition of gas

availability to determine if supplies are being deliberately withheld, and understanding the difficulties of gaining the technical and engineering documentation at a specific point in time which would be needed to meet a legal challenge in court, one can only conclude that this area of the bill is an open invitation to abuse and endless litigation. It is just one more area in this bill that is going to create work for all the lawyers in the United States, and all this by the way, in addition to the fact that that pricing schedule, the price increase schedule, over time, is a direct disincentive to rapid exploration and discovery.

In summary then, we find ourselves dealing with a natural gas price increase bill that is a $41 billion mistake over the next 7 years. It is inflationary, hurting all residential users of gas, with the greatest damage done to our senior citizens and retirees.

It fails to measurably increase the supply of new gas and, in fact, causes us to forego now alternative energy supplies and their development and savings that that $41 billion could otherwise produce over the next 7 years.

The bill before us will create a new large Federal bureaucracy armed with a new law that is virtually unadministerable.

If this bill is passed it will be my prediction that we will see the biggest bureaucratic mess in our Nation's history, which is exactly what we do not need.

As for our foreign critics, they have got to understand that this bill is highly inflationary and, thus, weakens the value of the dollar aboard, and that new government-administered inflation will also reduce real buying power in the American economy. That loss of buying power threatens serious economic repercussions for the United States and for our trading partners.

In my 12 years in Congress, this is the first bill I have seen come to a vote that achieves the dubious distinction of being bad for everyone. It is bad for consumers, bad for producers, bad for the country, and it is bad energy strategy, all at the same time.

In fact, the bill is so bad that the Chamber of Commerce has joined with the United Auto Workers and the AFL-CIO to oppose it. That does not happen very often. The independent oil and gas producers have joined with the environmental groups to oppose the bill, and that does not happen very often. Consumer groups, the Farmers' Union, the Americans for Democratic Action, the American Conservative Union, General Motors, and others that we could list for a very long time here, have all joined to oppose this bill because it is a bad bill.

The people who come in here to defend this conference report—and they do it apologetically because there is not one who does not know it is a bad bill, and they are frank in most cases about admitting it privately, although they defend it on the basis of saying, "It is the best we can get and we have to do something, and even if it is bad, it is better than nothing," which is a ridiculous argument—but the point of the matter is that the number of people who are out advocating this thing and speaking for it are really a very tiny group, where the people who paid attention to it and have come forward in opposition are an enormous coalition of forces that cover the spectrum, and I think that says something about the substantive merits of the arguments here.

We have a better answer available. To those who say, "Well, if you don't like this what do you propose to do?" There is a direct answer to that question, and let us not be misunderstood about it. First of all, as far as natural gas is concerned, in the recommittal bill we deal with the issue of allocation, restoring to the President the power to make gas allocations in the event of an energy emergency. Obviously, that is needed. It is in our proposal and it will happen if we are successful in offering it.

But, in addition, I think Congress has to take another step, and I would be very interested in hearing if any of the proponents of this bill will state that it is time to find a scheme to bring intrastate gas and interstate gas together under the same regulatory umbrella, which I support. I wonder if any of them would be prepared to do it now and to get that done in one fell swoop legislatively, as we can without going through this approach of phased price increases over the next 7 years which are going to cost this country $41 billion and have basically no beneficial effects that one can identify, short of the tiny fractional increase in supply.

We can do that. If one studies the Constitution and one looks at the body of case law in the last several decades in this country it is clear, in my judgment, if this Congress were to legislate in a fashion to capture and bring intrastate gas under Federal regulation and under Federal price control we are absolutely free to do that.

The only thing that holds us back is the inertia, and if the administration wants to make a bold proposal, if they want to take a good step that makes sense, and do it at once, something that is going to impress the international observers and have some practical economic effect, and hold down inflation in this country, that is the way to do it. It is to blend these two markets into one and take that step. It is a bold step. It is probably too bold for a lot of folks around here, and that is too bad, but that is a much wiser step and a much stronger and sounder step than the one that is being proposed here. I would say, in addition, it is a step that is long overdue.

As for the other energy strategy initiatives. I hope people who report on this debate and the people who report on these issues will make it clear that 60 percent of the energy package, three of the five items, are ready to go and have been ready to go for a long time. The conservation measures, the coal conversion measures, the utility reform, these things are ready to be enacted.

What is holding them up? The fact that they have been held hostage to the natural gas bill, which is a bad strategy. It was bad originally and it is bad today. Our recommittal motion would deal with that. We would get these three of the five items broken loose, get them passed, and get that part of the job done.

Now, that in total is a sound, constructive, rational, and effective alternative strategy for dealing with these issues. It is one that will help the country and it is one that will help the people of the country. It will help the consumers of the country.

For these reasons I strongly oppose this gas price increase bill, which is what it ought to be called. It is called gas price deregulation, but that is part of the hocus-pocus of word management to try to disguise what it really is. It is a gas price increase bill, and that is what it ought to be in every headline that captions a story on this subject.

I oppose this bill, Mr. President and I support the motion to recommit with instructions. I hope that enough Members will decide to take this course of action that we can spare ourselves the unnecessary damage that I have outlined in my remarks today.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise to commend the Senator from Michigan. I have not known the Senator for a great many years. I came to know him here in the U.S. Senate when I came here and he also came to this body; but I have grown to respect his judgment, his sincerity of purpose, his concern for his constituency, and the fact that he comes from a business background, having been educated at the Harvard Business School, which gives him an ability to analyze matters of this kind that is very helpful. I have learned to trust his judgment.

I know that the Senator is unerring in his concern for his constituency, and his remarks today indicate the tremendous amount of time and effort he has expended in the investigation he has made on this subject. Therefore, it is with a great deal of gratitude, pleasure, and respect that I stand here to commend him for an absolutely superb statement on this measure. He has covered the international aspects of the matter, he has covered the lack of support the bill has, he has covered the question of more or less gas, he has covered the question of costs, he has covered the great array of opposition that this bill has engendered, and I stand here to say that I am very pleased that a Senator of his standing and stature, with 12 years' experience here in Congress, has seen fit to attack this bill for the nothing that it is.

I just wanted to tell him how pleased I am for the privilege of serving with him in this body, and for the pleasure I have had in hearing him address these issues today.

Mr. RIEGLE. I thank the Senator for his kind words; I appreciate them very much. They bring a blush to my cheek.

The Senator is very kind. I am pleased that we are able to be on the same side of this issue.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GOLDWATER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GOLDWATER. Is there any designated time that we are going into recess?

The PRESIDING OFFICER. There has been no set time.

Mr. GOLDWATER. Mr. President, relative to the natural gas compromise which we have before us, I will vote against this measure because I do not think it does anything at all to solve the energy problem which we are not faced with today but which I see coming before us in about 8 or possibly 10 years.

There is nothing in this bill which will produce more gas; nothing in this bill that will produce more gasoline or diesel fuel, or fuel for the home. What we have needed in energy legislation, in my estimation, Mr. President, has been legislation that would encourage the private investor or the corporate investor to invest money in new wells, in new gas, and invest money in distilleries to turn the over abundance of crude oil that we now have on the west coast into gasoline and fuel that can drive the engines of our industry. But this is not contained in this bill. Nothing in it will give the American people more fuel; nothing in it will give the American people any hope for energy in the forthcoming years.

I think it is a tremendous hoax that we are playing on the American people. I for one am not going to be part of this dishonest effort to try and create in the minds of the American people that the Congress and the President, and other powers that be back here, are doing something to eliminate the real serious energy threat that I see on the horizon possibly in 8 or 10 years.

The whole proposal that we have before us fills one with grave misgivings. The compromise that we are asked to consider calls for major extension of the regulatory powers of the Department of Energy. The Department of Energy has already grown from nothing to become one of the major agencies of this Government in less than 5 years. The Department of Energy has a budget for fiscal 1979 of $12.6 billion. This growth represents a classic case of bureaucracy run rampant. The bill that we are now debating would represent yet another transfer of power to this agency.

Under present law, the intrastate market for gas is not regulated. As a direct result the free market has operated in the classic manner. Drilling and exploration for gas has proven profitable, and companies have made major efforts to produce gas. The resulting ready availability of gas in the intrastate market comes as no surprise to those of us who believe in the power of the free market to insure efficient allocation of resources, but should embarrass those who are calling for even more regulations. The price incentives for intrastate gas are now called into question by this bill. Rather than looking at the ready availability of gas in the unregulated intrastate market and the general lack of gas in the over-regulated interstate market, and drawing the obvious conclusion that regulation has failed, the proponents of this bill now wish to extend the web of regulation still further and bring the intrastate market under governmental control. What an incredible failure of logic. Should we not rather come to the obvious conclusion that regulation is not effective and should be reduced rather than increased?

The American public is becoming increasingly concerned about the power of the bureaucracy and the ever-increasing volume of rules and regulations. The success of proposition 13 in California should be a warning to us that the public is interested in reducing government expenses rather than in increasing them. If that be the case, then increasing the regulatory powers of the Department of Energy is certainly the wrong way to go. In the case of petroleum products for example, the DOE budget for petroleum activities in 1979 represents a cost of over 2 cents for every gallon of petroleum forecast to be run in 1979. This added cost represents only the cost for DOE activities—and does not reflect the added compliance costs that the petroleum industry incurs—which are inevitably passed on to the customer. If this is the case with petroleum products, why should we expect that the record will be any different with gas?

The whole issue of regulatory costs should be of concern to us. The Center for the Study of American Business recently estimated that the sum of the administrative costs of Federal regulation (paid by the taxpayer) and the cost of compliance with those regulations (generally passed on to the consumer in the form of higher prices) may top $100 billion in 1979. This incredible figure of $100 billion represents nearly 4½ percent of our gross national product, and the figure is still rising. These administrative costs have more than doubled since 1974. In 1977 and 1978 Federal regulatory outlays rose at a rate of 22 percent—far exceeding population growth and inflation. The administrative costs for regulating energy and the environment have risen by 222 percent over the period 1974–79.

I ask unanimous consent that a table entitled "Administrative Costs of Forty-One Federal Regulatory Agencies" be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 1.—ADMINISTRATIVE COSTS OF 41 FEDERAL REGULATORY AGENCIES

[Fiscal years; dollars in millions]

Year	Consumer safety and health	Job safety and other working conditions	Energy and Environment	Industry, specific	Financial, reporting, etc.	Total
1974	1,302	310	347	245	36	2,240
1975	1,463	379	527	269	45	2,683
1976	1,613	446	682	270	53	3,064
1977	1,985	492	870	309	58	3,714
1978 (revised)	2,582	562	989	340	70	4,543
1979 (proposed)	2,671	626	1,116	341	69	4,823
Increase, 1974–79 (percent)	105	102	222	39	92	115

Source: Compiled from details in the "Budget of the United States Government, Fiscal Year 1979" (Washington, D.C.; U.S. Government Printing Office, 1978), and earlier budget documents.

Mr. GOLDWATER. These costs have a double impact. Although they are borne by the public in their role as taxpayers—the costs of compliance are also passed on to the public in their role as consumers. My honorable colleague LLOYD BENTSEN transmitted the study entitled "The Costs of Government Regulation of Business" by Mr. Murray L. Weidenbaum to the Honorable RICHARD BOLLING for the use of the Joint Economic Committee. In his letter of transmittal, Senator BENTSEN comments on Mr. Weidenbaum's finding that the burdens borne by taxpayers, consumers, homeowners, investors and entrepeneurs due to Federal regulation are "significantly larger than heretofore projected. In 1976, for example, the aggregate impact on the private sector of Government rules and regulations was some 20 times larger than Federal expenditures for such activities that year."

This multiplier effect of regulatory costs should make us increasingly wary of permitting further regulatory expansion. If we permit an increase in regulation, as is suggested by the natural gas legislation that we are now considering, we must realize that for every dollar that the Government spends on regulation, the consumer will end up paying a further 20. The consumer will not willingly pay such costs—especially if he gains nothing by them. In the case of this legislation the additional regulation will not merely increase the regulatory costs, but will have a high probability of reducing future gas supplies.

The taxpayers will inevitably end up paying more for less—just as he does in the case of gasoline. In that case the DOE itself proposes decontrol because market forces are restraining the price of gasoline to below allowable controlled levels. The extra costs of DOE regulation and compliance represent an added burden over and above the free market pricing.

The particular price of legislation that is offered for consideration today is one

of the most pernicious examples of regulation that I have yet seen. This bill creates an administrative nightmare for any unfortunate producer of gas who may be compelled to comply with it. The complexity of this legislation is such that there is even disagreement among analysts as to how many categories of natural gas it creates. The consensus is that there will be at least 17 different categories for natural gas, and that there may well be as many as 24. This incredible complexity—and the labyrinthine regulations that will undoubtedly be developed from it—will present an outstanding opportunity for bureaucratic empire building. This regulatory load will of course bear most heavily on the small producers, who are least able to cope with the strangling effect of the redtape. Mr. Jack Allen, the president of the Independent Petroleum Association of America—a group of small independent producers—has already been quoted as saying that this bill "would intensify regulation to such a degree that many small producers could not cope." The small independent producers, according to Mr. Allen—

> Feel that they could be tangled in a regulatory jungle . . . that they do not have and could not employ the personnel to keep themselves in compliance with this unbelievably complex expansion of regulation."

In their recent meeting in San Francisco the Independent Petroleum Association of America said:

> At best, the present proposal offers fleeting, temporary price and supply relief. In the longer term, it is a blueprint for disaster leading to less gas, not more.

The association called on Congress to reject the compromise and return to work on the legislation similar to measures passed by the Senate which would:

Decontrol new natural gas on an early, specific date.

Provide a reasonable, clear definition of new natural gas.

Prohibit Federal intervention in the intrastate market.

Independents opposed the compromise because of its extension of Federal control to the free intrastate market, its "complicated and unreasonable" new-gas definition, and its perpetuation of price controls.

In addition, IPAA said, the compromise contains provisions for "objectionable end-use controls" of natural gas. And it lacks sufficient incentives to attract the required capital for exploration and development.

These feelings are not confined to the small independent producers, the larger oil companies are also concerned at the complexity of the legislation and the potential regulatory problems. Mr. John E. Swearingen, chairman of the Standard Oil Co. of Indiana refers to the bill as an "administrative nightmare" as do Continental Oil Co. and Sun Oil Co.

The gentlemen I quote are obviously concerned about regulation, and with good reason. How many of us have ever checked on the regulations that are promulgated in the name of the U.S. Government and really looked at the mess that a bureaucrat can make out of a simple concept. Let me give you an example. I quote now from a recent Agriculture Department Procedure for determining the amount of red in tomato puree.

> The amount of red is determined by comparing the color of the product, diluted, if necessary, with water to between 8 percent and 8.6 percent, inclusive, of natural tomato soluble solids with that produced by spinning a combination of (four) Munsell color discs. . . . Such comparison is made under a diffused light source of approximately 250-foot candle (candela) intensity and having a spectral quality approximating that of daylight under a moderately overcast sky, and a color temperature of 7,500 degrees Kelvin plus or minus 200 degrees. With the light source directly over the disc and product, observation is made at an angle of 45 degrees and at a distance of 12 or more inches from the product.

Now gentlemen—if our regulators can come up with something that complex on a question of how to tell whether a tomato is red—what do you think they can do with a bill as complex as the one we are considering? It boggles the mind.

Let me review some of the various categories of natural gas proposed by this bill. There is:

First. Natural gas other than gas legally required to be sold in interstate commerce on April 20, 1977.

Produced from wells deeper than 5,000 feet.

Produced from wells 5,000 feet or less.

Can you just see the Department of Energy demanding an official certified depth check of every gas well in the country? Then there is:

Second. Natural gas legally required to be sold in interstate commerce on April 20, 1977.

Third. Natural gas subject to an existing intrastate contract on the date of enactment: Where the contract price is greater than $1/MMBtu on December 31, 1984; where the contract price is less than $1/MMBtu on December 31, 1984.

Then we have:

Natural gas from a newly discovered reservoir on Outer Continental Shelf tracts leased on or before April 20, 1977—of course gentlemen, this presupposes that the gas industry does not just give up in disgust and stop bothering with exploration when so much of their incentive is being taken away from them. Frankly I can only suppose that they will keep going out of habit since they will be in such a state of shock when they have waded through the regulatory morass.

Then we come to high cost gas—this is the type of gas which is very difficult to develop, but which may be available in such quantities that it could solve our gas problems for many years. This gas—which is most in need of expert development research—is to be deregulated. At last—do we come to a category when the regulators will be unable to interfere? Not so—the deregulation takes place on the effective date of the first incremental pricing rule and who generates that rule and controls that date? None other than our regulatory friends at FERC. Once again the persuasive influence of the regulators is in the ascendancy. Now the concern expressed by the gas producers makes more sense. The categories of gas that I quoted above are just the broad general categories. The potential for regulatory nitpicking with this bill is literally immeasurable. We will have the same mentality that takes a page of instructions and a laboratory full of apparatus to tell if a tomato is red or not in charge of determining what category of gas a given well's output falls into. I pity the people who have to live by these rules if we are foolish enough to pass this bill.

In any event—what does all this regulation and control gain us? Consider the intrastate market, where gas has been unregulated. In the intrastate market there is plenty of gas available—at higher prices to be sure, but certainly at lower prices than it will cost us to import OPEC gas once we have used regulation to reduce our gas drilling and exploration.

Consider the gasoline market. We have built a bureaucratic empire with the express intent of holding down gasoline prices. These legions of clerks have labored diligently to review every cost and to nitpick every contract. What is the end result? The Department of Energy itself admits that its calculated allowable maximum prices for gasoline are higher than is actually charged in the marketplace. I ask you—does that make sense? If a product costs a dollar—do we need a price regulating agency to come back to us and tell us that the fair price should be a dollar and a quarter? Let us not forget that the budget for the Department that is doing all these wonderful things for us also represents a hidden price equivalent to 2 cents per gallon of oil—and that does not include the added costs for the companies who have to respond to all of the paper work generated by the Department of Energy. In reality—the only end result of the regulation in the gasoline market has been to increase costs—not to reduce them. As a side effect it has increased our dependence on foreign oil and has harmed our balance of payments.

In the light of this dismal record, gentlemen, does it make sense to hand over a new area to the Department of Energy's tender care? If we do, I can predict higher costs for gas in the coming term and shortages in the immediate future which will require costly imports. We will become still more dependent on the OPEC nations—since they control most of the exportable gas as well as most of the oil. Meanwhile the bureaucrats will build their empires and produce more and more redtape to strangle our energy industry.

One point that we have not yet touched on raises a considerable philosophical question. One of the main points of this bill that we are reviewing is that it will expressly extend the jurisdiction of the Federal Government over intrastate contracts and intrastate commerce. Now as I read the Constitution of the United States I see that in section 8 it is specifically stated that:

> The Congress shall have power * * * to regulate commerce with foreign nations, and among the several States and with the Indian tribes.

Then in the Bill of Rights—the 10th

amendment to the Constitution clearly sets forth that:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Now although I am not the Supreme Court, it seems pretty clear to me that the right to regulate commerce within a single State is a constitutional right reserved to the State or to the people. If an intrastate contract is written, for gas or for any other commodity, how can the Federal Government possibly intervene without violating the Constitution? I can appreciate that the flourishing situation in the intrastate market is an embarrassment to the Department of Energy, and I can understand that they think that they can regulate the people for their own good, but how does that justify the violation of the U.S. Constitution and the principle of States' Rights?

I contend that if State, in its sovereign wisdom, consciously chooses to refrain from regulating commerce within its borders—then it is not for the Federal Government to step in and impose its flats upon that State. I feel that this could potentially be a very divisive force for our Nation. I am told that there are already bumper stickers in Texas which state "Drive faster—freeze a Yankee." and "Let the Yankees freeze in the dark." I believe that demonstration of popular sentiment like that should be taken as early symptoms of a regional divisiveness which has great potential for harm. We should avoid stirring up such divisiveness without compelling reason, and I see no such compelling reason in the situation that now confronts us.

In sum then, this piece of legislation that we are now considering represents a continuing intrusion of Government upon private business. It represents an intrusion upon the rights of the sovereign States which may very possibly be unconstitutional. It represents a golden opportunity for the bureaucracy to proliferate at the expense of the public. It represents a quantum leap backward in our handling of the energy problem faced by our Nation. All these disadvantages are manifest and certain. If we decide to approve this bill, we have no guarantee of any significant benefit. We do, however, have a stone cold certainty that the Government regulation "industry" will take a guaranteed jump forward in its power.

I would also suggest that any one amongst us who really believes that the regulatory efforts that are mandated by this bill will disappear in 1985 is just deluding himself. How often does a bureaucratic entity voluntarily go out of business? There is always rationalization for continuing to regulate—there are always problems that require governmental meddling. Make no mistake about it. If we vote in favor of this bill, the U.S. Government will regulate the natural gas business until the business expires or goes bankrupt.

I urge Senators to vote with me against this bill. It is a pernicious piece of legislation that offers nothing to the American public. It violates the U.S. Constitution and it expands the power of Government unnecessarily. I believe that all of us who have the interests of the Nation at heart should join together to send this bill down to defeat.

Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Will the Senator withold his suggestion?

Mr. GOLDWATER. I will.

SENATE RESOLUTION 562—TO INSTRUCT THE CONFEREES ON THE PART OF THE SENATE ON HOUSE CONCURRENT RESOLUTION 683

Mr. ROBERT C. BYRD. Mr. President, I have consulted with Mr. MUSKIE and through him, with Mr. BELLMON, and I have consulted with the minority leader.

Under the order entered yesterday, Mr. President, at 2 o'clock I will ask that the Chair lay before the Senate, Senate Resolution 562, which is a resolution to instruct the conferees on the part of the Senate on House Concurrent Resolution 683, which is the second concurrent budget resolution, and there is a time agreement on that resolution. At 2 o'clock the Senate will begin its debate on that resolution. The debate, by the agreement, will not extend beyond 3 hours and, according to Mr. MUSKIE, it should consume considerably less. It is possible that there will be a rollcall vote or votes in connection with that resolution.

I might add that upon the disposition of that resolution the Senate would automatically go back to the consideration of the conference report on natural gas pricing.

I will ask the Chair if I am correct thus far.

The PRESIDING OFFICER. The Senator from West Virginia is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

RECESS UNTIL 2 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, inasmuch as no Senator seeks recognition at this point to discuss the natural gas conference report, that the Senate stand in recess until the hour of 2 p.m.

Mr. DOMENICI. Reserving the right to object. might I inquire?

Mr. ROBERT C. BYRD. Yes.

Mr. DOMENICI. As soon as we finish Senate Resolution 562, is it my understanding that we will return to the natural gas bill?

Mr. ROBERT C. BYRD. That is correct.

There being no objection, the Senate, at 1:18 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ANDERSON).

The PRESIDING OFFICER. The Senator from Maine.

Mr. MUSKIE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INSTRUCTION OF SENATE CONFEREES ON HOUSE CONCURRENT RESOLUTION 683

Mr. ROBERT C. BYRD. Mr. President, under the order entered on yesterday I ask the Chair to lay before the Senate S. Res. 562.

The PRESIDING OFFICER. The Clerk will state the resolution by title.

The legislative clerk read as follows:

> Calendar No. 1114, S. Res. 562, to instruct the conferees on the part of the Senate on H. Con. Res. 683.

The Senate proceeded to consider the resolution.

The PRESIDING OFFICER. Who yields time?

Mr. MUSKIE. Mr. President, I ask unanimous consent that the following members of the Budget Committee staff be allowed to remain on the floor during the consideration of and all votes on Senate Resolution 562:

> John McEvoy, Sid Brown, Karen Williams, Van Ooms, Dan Twomey, George Merrill, Rodger Schlickeisen, Ira Tannenbaum, Liz Tankersley, Jill Scheu, Bob Sneed, Charles Flickner, Tony Carnevale, Rob Perah, Gale Picker, Brenda Tremper, Tom Hogarty, Charles Reimenschneider, Don Campbell, Porter Wheeler, Barbara Levering, Anne Lockwood, Lewis Shuster, and Mike Shorr

Mr. MUSKIE. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MUSKIE. Mr. President, the Senate-House conference on the second budget resolution is near agreement on almost all differences between the budget resolution passed by the two Houses, but the conference has deadlocked over House insistence that the budget be increased to make room for a huge new spending program.

This new House spending program would cost up to $9 billion annually.

No money is contained in the Senate-passed version of the budget resolution and the Senate conferees have refused to agree to this new addition to the deficit.

To help resolve this deadlock in the conference with the House, we are asking the Senate today to vote to instruct its conferees on the budget resolution to stand firm on the budget we passed last week and reject this multibillion dollar, multiyear addition to the deficit.

The program in question is the so-called soft public works spending program. But as this soft public works bill has been amended in the House and Senate, it has become unacceptably expensive, inflationary, and duplicative of existing programs.

The Senate should instruct its conferees not to increase the budget ceilings for this purpose.

I want to share with you my reasons for opposing this spending.

This "soft public works" program was originally proposed by the President as a way to provide private sector jobs for disadvantaged workers. The growing num-

ber of long-term unemployed young people in our cities is a serious problem. And for awhile it looked like this "soft public works" might offer some promise of relief. That is why I was for it. That is why I supported it when the budget committee considered the first budget resolution. I had expected to support authorizations and appropriations for a program that would really address the problem of structural unemployment.

However, in the past few months, the heart of the proposal has been compromised away, and it now is certain that if any bill is approved, it will bear little resemblance to the President's original proposal and provide precious little help to the unemployed.

House amendments to the President's proposal would reserve for disadvantaged workers only one-sixth of the jobs the program might create. Senate amendments to the legislation would reserve only one-fourth of the total jobs for the disadvantaged, and would finance projects in which no employment was provided for disadvantaged workers.

Whatever jobs would be created for the long-term unemployed would be produced at staggering costs.

Under one version of this legislation, Federal taxpayers would have to spend $71,000 per year for every new job going to a disadvantaged worker.

And that is the version with the lowest cost. Senate amendments would cost $175,000 a year for every disadvantaged worker, and the House amendments would cost even more.

By contrast, the CETA employment program involves costs of only $9,200 per year for every disadvantaged worker.

Mr. President, this new multibillion dollar program would largely duplicate the existing CETA program.

Under all versions of the soft public works legislation, many of the jobs for disadvantaged workers would be created in the public sector.

The administration estimates that about 25 percent of all "soft public works" jobs will be "force account" or public payroll work. So most of the jobs for disadvantaged workers may be provided in the public sector directly duplicating and competing with the existing CETA program.

The administration's original proposal would have limited the inflationary impact of new spending by focusing spending on those who would otherwise be excluded from the work force. The compromised, so-called soft public works proposals under consideration in the Congress would weaken that targeting on the disadvantaged and thus would be much more inflationary than the original proposal.

The House-passed budget resolution provides $2 billion per year for new local public works construction at a time when existing demand has already created intense inflationary pressures in the construction sector.

Mr. President, I believe that all relevant economic measures indicate that economic stimulus public works is simply not justified now. Back in 1976, when the Nation was in a severe recession, heavy public works spending did seem justified.

Municipal bond markets had been thrown into disarray by the threat of a New York City default and by uncertainty about municipal finances generally.

Unemployment in the construction industry was unusually high.

In response, the Budget Committee supported and Congress enacted appropriations of $6 billion for economic stimulus local public works at that time. I want to emphasize that nearly $2 billion of that appropriation is expected to spend out in fiscal year 1979.

The second budget resolution adopted by the Senate accommodates this spending, and thus already allows for a significant amount of stimulus in the public works area.

Mr. President, there is simply no justification for additional economic stimulus public works spending this year. Municipal borrowing is near record levels. The recovery is in its fourth year. Unemployment is down generally.

And unemployment in the construction industry is as low as any time since the 1973 construction boom.

Mr. President, I am a strong supporter of countercyclical programs. But if fiscal policy is to be responsible, these programs must not only turn on when they are needed, they must also turn off when the need passes.

Mr. CURTIS. Mr. President, will the Senator yield for a question?

Mr. MUSKIE. Yes, I am glad to yield.

Mr. CURTIS. I thank my distinguished friend. I concur with the distinguished chairman of the Budget Committee in his objection to this particular program, and my question is more or less procedural. I do not think this program should be enacted. I commend the position of opposing it.

I am not sure what size of tax reduction is the right figure. My question is this: Is the issue before us today, to be decided in the pending matter which we will vote on, narrowed to the issue of this spending program to which we object, or does it have any direct application to the tax legislation?

Mr. MUSKIE. This relates only to the spending program.

May I add for the information of the Senator that we are at or near agreement on virtually every other item in conference, including the revenue numbers, and my prediction is that the revenue number will protect the full-year tax cut that is in the Senate resolution.

Mr. CURTIS. In other words, the issue of what figure is to be followed in tax legislation is not involved in our opposition or support of this proposed House program to which the Senator objects?

Mr. MUSKIE. The Senator is correct.

Mr. CURTIS. I thank the Senator.

The PRESIDING OFFICER (Mr. ANDERSON). The Senator's 10 minutes have expired.

Mr. MUSKIE. Two more minutes, Mr. President.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MUSKIE. The plain fact is that these comprised "soft public works" proposals would convert the temporary local public works program enacted to deal with the recession into a permanent multibillion dollar a year fixture in the Federal budget.

I recognize that there are strong pressures to continue emergency aid even after the emergency is over.

No one likes to see a Federal money spigot turned off once it is on.

But Congress must resist those pressures and learn to turn the spigot off as well as on.

Otherwise we can never balance the budget or control inflation.

Last week, the Senate, in a series of votes, affirmed the spending totals contained in the second budget resolution.

Those totals are designed to limit Federal spending so that we can balance the budget by 1983.

Enactment of this new compromised "soft public works" program would torpedo the careful spending plan that the budget resolution contains. It will deepen the deficit by up to $2 billion a year.

I ask that Senators reaffirm their support for the Senate budget resolution and the achievement of its plan for a balanced budget at the earliest possible date.

I ask that Senators vote in favor of our resolution to instruct the Senate conferees to stand firm against this massive addition to the deficit.

Mr. President, I reserve the remainder of my time and yield the floor to my good friend the Senator from Oklahoma for such time as he may require.

Mr. BELLMON. Mr. President, I ask unanimous consent that the following members of the Budget Committee staff be allowed to remain on the floor during the consideration and votes on Senate Resolution 562: Robert Boyd, Charles McQuillen, William Stringer, Paul Carttar, Becky Davies, Carol Cox, Robert Fulton, Barry Kinsey, and Gail Shelp.

I make the same request in behalf of the following staff members of the Committee on Environment and Public Works: John Yago, Richard Harris, Richard Greer, Jackie Schafer, Phil Cummings, Bailey Guard, Hal Brayman, Rick Herod, and Jim Range.

I request the same privilege for Karyn Mandan of Senator CRANSTON's staff and Rick Brandon of Senator CHILE's staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, as our distinguished chairman, the Senator from Maine (Mr. MUSKIE), has just indicated, the Senate and House conferees on the fiscal year 1979 second budget resolution have made substantial progress. We have already reached agreement on 13 of the 19 budget functions. Unfortunately, we are now deadlocked over the issue of public works funding. The House provides, in its fiscal year 1979 budget resolution, a total of $2 billion in budget authority and $200 million in outlays for both a third round of local public works projects and for the President's proposed "soft" or "labor intensive" public works program. The Senate

budget resolution, approved by this body just over a week ago, does not include funding for either of these programs.

Congressional action to date with respect to these programs is incomplete. A House subcommittee has approved a $6 billion measure, providing $3 billion annually for 2 years. Of that total $3 billion, $1 billion would be earmarked for labor intensive projects. Our Senate Public Works Subcommittee has not yet approved funds for either measure. The Senate subcommittee does, however, plan to continue markup on the President's "soft" public works proposal sometime next week.

It is the view of the majority of the Senate conferees that the position reflected in the Senate's version of the budget in function 450 should be maintained. We ask today that the full Senate reaffirm its position. We believe, for a number of reasons, that the Senate stands on solid ground in upholding its view.

First, there is simply no economic justification for the enactment of either of these programs at this time. The construction industry is experiencing sharp increases in activity. Private housing starts are at peak levels and business construction has increased 20 percent over last year. Public construction is 22 percent higher than last year. Additional stimulus, in this sector of the economy, is both unnecessary and unwise, since inflation is threatening.

The current pace of construction activity has already had an adverse effect on the level of inflation. The construction component of the wholesale price index rose at a 10.7 percent rate during the past year, second only to food price increases. With the construction materials industry operating at capacity, additional funding of new construction activity through a new round of local public works projects would only put upward pressure on the industry, with the price increases spreading to other sectors of the economy.

We have been fortunate, to date, that the rapid rise in materials prices has not been accompanied by wage-based inflation in the construction industry. Construction wages have risen more slowly than wages in the economy as a whole. However, to the extent that targeting of the "soft" public works program has been shifted away from the long-term unemployed, it will absorb labor in what is already a tight labor market. Higher wages and added inflationary pressures are then sure to follow.

The original targeting concept of the "soft" public works program has been significantly altered by the House. The administration originally proposed that 50 percent of the jobs created be targeted on the long-term unemployed. An administration compromise measure, however, now provides that only 25 percent of the jobs be targeted on the structurally unemployed in the first year. Not only has the administration relaxed its standards for targeting the program on the long-term unemployed, it has also relaxed the original labor intensity requirement. As first proposed, labor costs were required to be 50 to 80 percent of total project costs. Now, the total labor intensity of all projects, on average, is required to be only 40 percent. Given this watered-down version of the bill, the administration's proposal now more closely resembles classical countercyclical public works. Current economic conditions do not call for, and the Senate should not endorse, such additional spending stimulus.

There is one other point I would like to clarify. Many proponents speak of this program as a jobs program for our cities. In fact, the administration insists that the dual objectives of this program are to provide job opportunities for the long-term unemployed and to improve the physical infrastructure of localities. As I have just indicated, targeting of the program on the long-term unemployed has been substantially relaxed and I can find no provision in the bill which assures that funding is targeted on urban areas suffering from physical and economic deterioration.

Another major point, Mr. President, is that we view the "soft" or "labor intensive" public works program proposed by the President to be, at best, a high-cost option for providing the long-term or structurally unemployed with jobs. Estimates as to the cost per year of employment for each long-term unemployed worker under the "soft" public works program range from $70,000 to $175,000. This compares with an average cost of $10,000 under the CETA program.

The Senate has shown itself to be sensitive to meeting the needs of the structurally unemployed through CETA. On August 24, the Senate approved S. 2570 extending the Comprehensive Employment and Training Act (CETA) for 5 years. In that bill, the Senate authorized a substantial increase in funding for programs to combat structural unemployment—emphasizing this to be one of the Senate's high priority concerns. The Senate-passed budget resolution assumes a $5 billion a year program to serve the structurally unemployed.

For those who do not know what we are talking about when we say structurally unemployed, we mean primarily the urban youth, in which group the unemployment is running at levels above 25 percent and a group which seems to benefit least when unemployment generally goes down. We feel, I think quite properly here in the Senate, that we need the structure programs aimed directly at these unemployed persons to get them prepared to take lasting jobs in the private sector or in such Government programs as are open to them.

In addition to this $5 billion, the resolution contemplates $1.5 billion for youth program (an increase of $500 million over fiscal year 1978 appropriations), and a new $400 million per year private sector employment initiative. Thus, Mr. President, $7 billion is provided for structural employment programs in CETA alone.

Do we really want to add an additional $1 billion in our fiscal year 1979 budget to fund an additional and overlapping program? I think not. Improving the targeting of CETA programs, as we have done, is a far better way than a new or expanded public works program to help the long-term unemployed, welfare recipients, and others who have no jobs for structural reasons. Using CETA, rather than an "untested" program of "soft" public works, as our primary weapon in the attack on structural unemployment is a more effective and far less expensive way of accomplishing the goal we all desire: To help people who cannot get jobs to become employable. In addition, this strategy avoids the problem of creating yet another redundant Federal program which will absorb scarce resources for activities which overlap those of CETA.

This debate with the House highlights the whole issue of federallly sponsored employment. Do we want to provide permanent, publicly funded employment (income maintenance with an employment requirement), or do we want to provide the unemployed with the skills necessary to become employed in the private sector? If we want to provide a means for the difficult-to-employ to enter the active labor force, "labor intensive" public works—in fact, construction jobs in general, including local or "hard" public works—are not the answer.

In addition, the construction industry historically is plagued by a chronic oversupply of labor. Why add additional participants to the construction trades, training them for construction jobs, and simply exchanging one category of employment for another?

During the past 3 years, the private sector has exhibited an unprecedented capacity for job creation. We have added 3.6 million new jobs in the past year; 3.2 million have been in the private sector.

Mr. President, let me repeat that. We have added 3.6 million new jobs in the past year; 3.2 million have been in the private sector. Is it not preferable to rely primarily on the private sector to employ our labor force, while relying on the CETA mechanism we have established to prepare the structually unemployed—those with chronic unemployment problems—for permanent employment in the private sector.

Lastly, Mr. President, our efforts to limit Federal spending so as to achieve a balanced budget in the near future are relevant here. When OMB Director James McIntyre testified before the Senate Budget Committee at the end of July, he called on Congress to cut $5 billion from its final fiscal year 1979 spending target. This call from the administration however, came without direction as to specific areas for possible reduction. In the second budget resolution passed by the Senate, we have cut total budget authority $11.15 billion and total outlays $9.3 billion below the first budget resolution. $5.2 billion of this spending reduction can be attributed to spending reestimates, while $4.1 billion can be attributed to actual programmatic changes from the first budget resolution.

To include money in this resolution for the startup of a new program which is duplicative of existing Federal efforts, less effective, and less efficient—to include money for a "soft" public works program—would be inconsistent with

the administration's call for a spending reduction. It would be equally inconsistent to provide a new round of funding for the local public works program—a program under which we will spend roughly $2 billion from prior year authority in fiscal year 1979, and a program initiated in 1976 to provide periodic support in a time of general economic downturn. Programs of a temporary or countercyclical nature such as this were intended to and should terminate as the economy improves.

The decision we make on these programs today will have impact on spending in future years. Even including a minimal amount for the "soft" public works program is dangerous, for then we establish a new Federal program which will generate its own constituency and momentum and ultimately become a new and potent competitor for our limited future resources.

As I indicated in my statement when the resolution was introduced last night, the Senate Budget Committee estimates the cumulative budget margin in the next 5 years for tax reductions or spending increases to be $54 billion. Are we willing to commit billions of these limited future resources to programs such as these whose economic impacts and consequences will first be felt in an economic environment not known at this time? Or, do we wish to be more prudent, keeping these programs in reserve for such time when they are needed? I hope we will make the latter choice, the one reflected in the second budget resolution we passed last week.

I strongly urge that the Senate approve the resolution now before it.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. Will the Senator yield?

Mr. MUSKIE. I understand that Senator CHILES also wants to speak. We have had two speakers on the side of the resolution. I assume the Senator from New York takes a different position. I am happy to yield time to the Senator. How much time would be like?

Mr. MOYNIHAN. If the Senator will yield 10 minutes, that will be sufficient.

Mr. MUSKIE. I would be delighted to.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. I thank the Chair and I thank the chairman of the committee.

Mr. President, I rise, as the Senator from Maine has suggested, to oppose the resolution and to make, in brief compass, a few relevant statements.

The matter before us must be considered a vote of confidence on the President's urban program. It is the first we shall have in the Senate, and it comes at a moment when the President's program is clearly in great difficulty.

Mr. MUSKIE. Will the Senator yield for just a moment?

Mr. MOYNIHAN. Surely.

Mr. MUSKIE. Mr. President, I ask unanimous consent that Thomas Dougherty of Senator GLENN's staff may have the privilege of the floor during consideration and vote on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, when the administration first came to office, it announced that it hoped to develop a comprehensive national urban policy. A committee was established in the executive branch which worked for the better part of a year and which came forward last March with an extraordinarily detailed and comprehensive program.

It would, for example, establish long-term institutions that might change the fiscal realities of city government and the economic development prospects for urban areas—the URBANK is certainly one such measure, but it would change them slowly, as is perhaps necessary for changes in the institutional arrangements of the Federal Government in this area.

The President did propose two specific and immediate measures to channel funds into urban areas in order to provide resources to city governments. The first of these was the countercyclical revenue-sharing program; it was much needed and it was clearly the first priority. Several months ago, we learned, to our great concern, that by a very narrow vote—7 to 6—this bill had been defeated in a subcommittee of the House. If there is to be any hope for this program, it must now be revived in the Senate. The Finance Committee is at work with just that purpose in mind.

In the meantime, the President's proposal to continue the CETA program, the Comprehensive Employment Training Act, has been received favorably in both houses. And the House went forward with the third of his major programs, the labor-intensive public works program, and now indicates its strong intention to support this measure. It is now for the Senate to decide whether it will join in supporting the President and the House of Representatives.

The Committee on Environment and Public Works is considering the matter in the context of a $1 billion provision made in the First Concurrent Budget Resolution. While the committee is not fully of one view on the matter, I think it is clear that if this second resolution were to provide that $1 billion, we would in fact bring the bill to the floor, adopt it and it would become law; then, at least two of the three Presidential proposals will have been adopted. This last one, however, is critical.

I should like to note that the Senator from Oklahoma, in his characteristically open, detailed and responsible way, has suggested that the CETA program is an alternative. It is not. If it were, the President would have proposed it as such. It is one of the three essential measures we must act upon in this Congress.

The third measure responds to a new development in the condition of American cities. It has come about slowly, but commences now to be very conspicuous. I speak of the physical deterioration of our cities, of what city managers refer to as the plant—the streets, the sewers, the public utilities, the amenities and the necessities of the physical city. This is in some respects an altogether new, altogether alarming trend. The cities, which have had good times and difficult times over almost all of the past century, have nonetheless always been characterized by very high levels of maintenance and construction, by attractive levels of appearance, by the provision of the infrastructure of economic activity, by the general amenities that make for successful urban living. This has begun to change. In the North and East, especially, there are more and more cities which appear to be in physical decline; it is decline of an order not known since the late 19th century, when efforts were finally begun to construct cities with an overall sense of their amenities and their economic purpose in mind. The "City Beautiful" was the term used for that movement, and, by and large, it produced its intended consequences—in Manhattan, in Chicago, in Philadelphia, and in Boston. Great urban areas emerged from it.

Now they crumble before us in the most extraordinary, unexplained, but unmistakable manner. It is the purpose of this legislation to respond to that deterioration and to do so in a manner which will provide employment in the private sector, and which will produce tangible, physical results—things you can touch, see, use. With the greatest respect to the CETA program, how many of its results are so visible after the money has been spent? This is a program to repair and restore infrastructure in cities that desperately need that kind of construction. It is a response to a new condition in American cities—a condition about which we know little except that we can readily see its extent. We have authorized by law a study of the matter and the Department of Commerce has begun an investigation into the levels of investment in the infrastructure and the public facilities of American cities.

It is probably the case that we are disinvesting in our urban areas. It is probably the case that the value, if you will, of our public facilities and structures declines, year by year. If we do not respond, we shall end up with an urban America that more resembles a disaster area than it does the great, gleaming American cities which were so much the dream of planners a century ago.

I shall not detain the Senate except to make one further point.

We are informed by the House Budget Committee that the chairman of that committee will recede from the hope of securing a much larger program. They will accept the $1 billion proposal that the Senate Committee on Environment and Public Works envisages, and which the first Senate budget resolution provided for. The House of Representatives is willing to go more than halfway with us.

I would hope that we might do the same with them.

I close by saying once again that this vote must be considered a vote of confidence on the President's program. I, for one, will certainly support it.

Mr. JAVITS. Will the Senator yield to me after yielding to Senator MUSKIE?

Mr. MOYNIHAN. I am happy to.

I believe Senator MUSKIE controls the

time. Why do I not simply yield and then Senator MUSKIE can yield to the Senator.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MUSKIE. I will cover the points the Senator has raised after other Senators have spoken.

I will yield 2 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, I just want to join my colleague from New York in expressing the dilemma in which this places us. It is very real and very honest.

We are so broke in terms of money, as everybody knows, otherwise the Congress would not have helped us in New York, that we need them all. We need the soft public works, and many of them are quite uneconomical, I have to admit.

We need CETA like life itself, and we need the other programs to which Senator MOYNIHAN referred. It places us in a very grave dilemma.

The only thing I would like to point out is that as far as the cities are concerned, take CETA, for example, which is half structurally unemployed, it is true, unemployment is abating, but we still have 3 million structurally unemployed, and that is us, because it is the blacks, the poor, the new entrants, the unskilled, and so on.

So whatever happens to this motion—as to what will happen, I have little doubt—I hope very much the committee will bare those problems we have, and give very serious consideration to the case, as we try to state our case.

Mr. BELLMON. Will the Senator yield 1 minute to respond?

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BELLMON. The Senator from New York was not in the Chamber earlier when I gave figures about how much the Senate budget resolution anticipates doing in these structurally unemployed areas.

I support the Senator from New York's concern for this element of our population. But the Senate has authorized already substantial increases in funding for programs to combat structural unemployment.

The Senate-passed budget resolution assumes $5 billion a year to serve the structurally unemployed. In addition to that $5 billion, we are contemplating $1.5 billion for a youth program, and a new $400 million per year private sector employment training initiative for a total of about $7 billion targeted at the structurally unemployed.

Our concern is that this program as it is now contemplated does not really hit the structurally unemployed, and most of that goes for other purposes.

Mr. JAVITS. Honestly, the mayor of New York's analysis is that it does help us, but not as much as CETA, for the CETA allowance is fully made. But it does help us. So we are in a position where we are is such condition we have to accept, or try for, every rescue item which is thrown open as far as we are concerned.

Mr. BELLMON. I simply say, with the limited resources the Budget Committee has at its disposal, we feel those resources can be targeted more in other ways.

The PRESIDING OFFICER. Who yields time?

Mr. MUSKIE. Mr. President, I yield myself 30 seconds, then I will yield to my good friend from Florida. Senators are making points which deserve replies. The Senator from Oklahoma has given response to one and I will cover certain points. But first, I would like to yield to other Senators who have asked for an opportunity to speak.

I yield to my good friend from Florida who has been a strong supporter in conference, then I shall yield to Senator PROXMIRE, then to Senator HOLLINGS.

How much time would the Senator from Florida like?

Mr. CHILES. Five or 7 minutes.

Mr. MUSKIE. I will yield within those time constraints to the Senator from Florida, but first, Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CHILES. Mr. President, I believe strongly that the Senate should pass this resolution instructing the conferees on the budget resolution to insist on not adding any additional spending authority to function 450. The Federal budget is already too large and the increases sought by the House of Representatives could cost $6 billion over the next 3 years. This would make it even more difficult to balance the budget by 1981 or 1982.

What is being proposed here is a classic example of how the Federal budget has gotten out of control by agencies being authorized to start new programs without a clear public understanding of the future costs. Last January, the President proposed spending $1 billion for so-called "soft public works" as part of his urban package. I opposed including money for this in the first budget resolution, because I believe it is a poorly designed program that duplicates existing programs run by other agencies. Events since last spring have made that spending even less attractive.

Most importantly, employment has improved more rapidly than economists were predicting and inflation has gotten worse. The President proposed that we cut $5 billion from the budget, but did not say where to do it. This new program had not generated much enthusiasm in the Senate, so the Senate Budget Committee agreed to cut out the entire $1 billion and the Senate passed the resolution as reported. There are two reasons why I think the Senate Budget Committee has made a wise decision to not provide funds for this new program.

The first is the simple economics of adding as much as $6 billion to the budget over the next 3 years. With construction booming and inflation on the rise, we do not need a program where 50 percent to 75 percent will go to currently employed persons. I believe the American people want to see us cut down on Federal spending, not increase it. Reducing inflation is the top public priority and that means cutting back on Federal spending.

The House Public Works Committee took the President's $1 billion proposal and added on a third round of the local public works funding which we provided at the depth of the recession. Their total package would be two-thirds regular public works and only one-third of the new "soft" or labor-intensive public works. We all saw the pressure before to have the Federal Government pick up the tab for local public works spending. There will not be any credibility for temporary deficit spending programs to aid employment in the future if we do not let the local public works program turn off on schedule as we see the economy improving.

There will still be about $2 billion in 1979 outlays occurring from the budget authority appropriated in 1977. If Congress drags the process on by putting out more budget authority for hard public works, it will come back to us as increased outlays of $2 or $3 billion a year by 1981 and 1982. It is just those years where we could reach a balanced budget if we exert a reasonable level of restraint on existing programs. The Senate has already gone on record for achieving a balanced budget by 1981. I am committed to balancing the budget at the earliest time it becomes economically feasible. Adding on $6 billion of new public works funding would seriously jeopardize our ability to reach that balance.

The second reason I oppose adding money to the budget for this program is that it would give the Department of Commerce money to do things we already authorize the Department of Labor to do in CETA. This would generate a whole new bureaucracy and a new constituency for continued Federal spending.

I said before that this is a classic example of how Federal spending has gotten out of control. When the urban package was put together, it was recognized that there were two particular areas where the current CETA porgram is deficient. First, there are limits on how much money can be spent for materials and equipment. Second, it has been difficult to involve private companies.

Rather than just suggesting minor modifications to CETA to meet these missions, the Department of Commerce decided it would like to get into the urban aid game, and have its own program to go along with the departments of HUD, Labor, and HEW.

The Senate has already taken care of most of the needed modifications to CETA by creating new methods of private sector involvement, and the Senate budget resolution includes money for that purpose. The tax cut bill will probably include a "targeted employment tax credit" which will provide almost $2 billion of subsidies for private companies to hire disadvantaged individuals. I think that is a more efficient way of achieving the objective of getting jobs for disadvantaged persons than a new grant program to local governments.

Mr. President, I think this is just the kind of situation that the congressional budget process was designed to prevent. In the past, we had new program authorizations brought to us one by one. Each one sounded pretty good by itself, and we had no way to see whether they duplicated existing programs or what

they added up to. The intent of the budget act is to line up programs serving similar missions and decide which ones are most effective and how much we can afford. There is a tendency to avoid the unpleasant reality that voting for new programs increases the Federal budget. Many Senators vote for an authorization and say "the appropriations committee will cut it down to size." You do not have to worry. This is just an authorizing bill."

The Appropriations Committee is then told that Congress passed the authorization and the budget resolution endorsed it, so they have to fund it. Only the budget resolution provides an opportunity to step in early in the process and say, "We cannot afford a new program."

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CHILES. May I have 4 additional minutes?

Mr. MUSKIE. I yield 4 additional minutes to the Senator.

Mr. CHILES. Mr. President, I agree that providing jobs for economically disadvantaged persons is a top national priority, but I want to see it done most effectively. We are already providing over $11 billion in CETA, and I have been playing an active role in seeing that in future years most of this money gets targeted to the persons and areas who need it the most. CETA has an awful lot of problems, but we ought to either improve it or scrap it, but not start another similar program side by side in another department.

Another argument that has been made for this funding is that financially distressed cities need this money to renovate and maintain their public buildings. There are several reasons why I must reject that argument.

First, the action taken to date in the Public Works Committees on both Houses indicates that they are watering down the formulas to spread the goodies to as many cities as possible, rather than keep it targeted on the few places that are really hurting. Second, this seems like a clear case of the Federal Government stepping into what should be strictly local decisions on spending priorities. Maintenance of public buildings is a regular activity that most local governments do: Some need to do more, some do not. We have several major aid programs that would allow local governments to do this kind of activity without getting tied up in the redtape of Federal project grants. The budget resolution allows $5 billion for community development block grants, $6.9 billion for general revenue sharing, and $500 million to make a permanent replacement for the antirecessionary fiscal assistance for these same distressed cities. That is exactly a general aid program to the same cities which would receive these categorical grants.

Mr. President, another perspective the congressional budget process gives us is an opportunity to add up the level of Federal aid to State and local Governments each year. The numbers are absolutely astounding. This budget resolution will provide over $82 billion of outlays in aid to State and local governments in 1979. That represents an increase of almost $6 billion, or 7.7 percent, over 1978. It is an increase of $14 billion, or 21 percent, since 1977. What is astounding is that while we pumped up this assistance in response to the recession, we have continued to increase it without phasing down more than a tiny piece of our temporary expenditures. The result is a total increase of $33 billion, or 66 percent, since the 1975 prerecession level of $50 billion. Federal aid now accounts for 25 percent of State and local expenditures. While the people are demanding reduced budgets and smaller bureaucracy, Congress is raising taxes and pushing out more money to make up for people's unwillingness to pay more local taxes. Since inflation drives people up into higher Federal income tax brackets, Congress can achieve this by simply failing to cut taxes enough to offset inflation. That is just what the House budget conferees are proposing to do.

In conclusion, I urge my colleagues to vote for this resolution. It is not just a matter of dividing up numbers on a page between the House and Senate. It is a question of whether Congress can hold the line and resist the temptation to plunge ahead with another new spending program.

The PRESIDING OFFICER (Mr. BENTSEN). Who yields time?

Mr. MUSKIE. Mr. President, I yield 3 minutes to the Senator from Idaho, who was also a member of the conference.

Mr. McCLURE. I thank the Senator for yielding this time.

Mr. President, I wish to express my strong support for the position expressed by Senator MUSKIE and Senator BELLMON that the Senate insist upon its position and instruct its conferees to reject any additional budget authority at this time for a new program of local public works or labor intensive public works. The minority members of the Committee on Environment and Public Works, which has jurisdiction over these programs, believe unanimously that such a program should not be permitted under the budget resolution.

There are two basic reasons why such a program is not wise even at a level of $1 billion. First, the program would be clearly inflationary, and therefore not in the public interest.

Second, and as important, over $3 billion of past local public works appropriations have not yet been spent. Approximately $2 billion of this authority is scheduled to be spent in fiscal 1979.

Additional funding, sought by the House, is not in the public interest. I hope the Senate will strongly support its previous position rejecting at this time further commitment of large sums on this type of so-called jobs program.

It should be noted, Mr. President, that economic conditions are far different today from what they were when the local public works program was initiated in 1976:

Public construction is up about 15 percent in the past year.

Nonresidential construction is rising sharply.

Employment in contract construction work has risen close to 15 percent.

The economic recovery is now in its 13th quarter.

The municipal bond market is very strong with borrowing at record levels.

State and local governments, in the aggregate, have an operating surplus of $10 billion.

Construction unemployment has declined sharply in the last 2 years.

Mr. President, I believe these facts, taken in the context of the inflationary impact of additional Federal spending on local public works programs, indicate clearly the need for the Senate to support the resolution.

As a senior member of the Senate Committee on Environment and Public Works which has jurisdiction in this area, and as a member of the budget conference, I believe I understand the issues presented by the LIPW proposal and the arguments made for it. I commend Senator MUSKIE and Senator BELLMON for their active and forceful leadership on this very important and symbolic issue, and urge my colleagues to join in supporting that position.

I yield back to the Senator from Maine the remainder of my time.

Mr. MUSKIE. Mr. President, I yield 1 minute to the Senator from Florida.

Mr. STONE. I thank the distinguished floor manager.

Mr. President, I support the Muskie resolution. As a member of the save-our-bucks task force, I have joined in an effort to bring about a gradual reduction in Federal expenditures. Eliminating a duplicative program is an excellent opportunity to achieve a much needed reduction in the Federal deficit, or at least we would not add to an already excessive deficit.

The Senate has sound reasons for opposing a new $2 billion program of mainly construction projects that may provide a few jobs for disadvantaged workers. Economic conditions in the nonresidential construction industry are such that increased activity in this area is likely to be inflationary.

As for employment assistance for the disadvantaged worker, we have recently approved a multibillion-dollar CETA program that is ample in its scope, and need not be duplicated.

Fiscal responsibility demands the response embodied in this resolution.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter to me from the Governor of Florida supporting, in effect, the Muskie resolution.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF FLORIDA,
OFFICE OF GOVERNOR,
July 24, 1978.

Hon. RICHARD B. STONE,
U.S. Senator,
Washington, D.C.

DEAR DICK: After reviewing House Resolution 12993, the Labor Intensive Public Works Act (LIPWA) which Congress is considering this session, I have concluded that I cannot support the bill. I am taking this opportunity to inform you of my objections to the Act and to suggest alternatives.

Rather than create a new and cumbersome tool such as LIPWA, employment among unskilled, unemployed persons could better be stimulated by authorizing a third round of the Emergency Public Works Act of 1977 (EPWA). By giving preference to renovation projects over new construction, this existing program could be made more labor intensive. It is my understanding that the Economic Development Subcommittee of the House Public Works and Transportation Committee is seriously considering such an option, which draws on our experience with the public works program.

I realize there could be problems in this approach. Additional construction pressure might create added inflation in Florida due to rising interest rates, a spurt in construction and the stabilizing of our unemployment rate. Therefore, Round III of EPWA should begin only when a certain level of unemployment has been reached at the state and national levels.

If Congress does support LIPWA, there are a number of amendments which I believe would improve its effectiveness. A primary flaw of the bill in its present form is its lack of coordination with the Comprehensive Employment and Training Act (CETA) administered by the Department of Labor. As you know, CETA is already recruiting, training and placing persons who would also qualify for assistance under LIPWA. While CETA provides public rather than private employment and has limited impact on construction, administration and planning for the employment of essentially the same group of people should be coordinated. The following recommendations would help to integrate the efforts of both LIPWA and CETA:

Require all projects to be planned through the Prime Sponsor Advisory Council established by CETA at the state and local levels;

Require all long-term unemployed participants in the public works projects to be certified and referred by either the local prime sponsor or the state employment service, thus providing one certification point;

Require public works grantees to use the training, education and other employment services available through the CETA prime sponsor to fulfill the training requirements of their projects;

Define long-term, low-income unemployed in the same way in LIPWA as in the reauthorized CETA, thus simplifying recruitment and reducing the frustration of applicants; and

Require the Departments of Labor and Commerce to develop common planning cycles and reporting requirements for LIPWA and the public service employment sections of CETA.

I have two further recommendations for amending the present bill. In order to maximize the employment impact of the funds to be granted under the Act, a cap of ten percent for administrative costs should be included in the bill. The proposed approval process could also be streamlined by requiring the Secretary of Commerce to approve only the action plan and not each project.

One provision of the present bill which I would like to see retained is that which allows portions of a jurisdiction with over ten thousand people meeting the unemployment test to qualify for public works dollars. This will permit the improvement of areas which typically lag behind in public investment and where the target employment group would probably reside.

My staff has prepared more detailed comments on the Labor Intensive Public Works proposal and an assessment of our experience with the Emergency Public Works Act for your consideration. These will be sent to you under separate cover.

Please do not hesitate to contact me if you wish to discuss this matter further. Your careful consideration of House Resolution 12993 will certainly be appreciated.

With kind regards,

Sincerely,

REUBIN O'D. ASKEW,
Governor.

Mr. MUSKIE. Mr. President, I yield 10 minutes to the distinguished Senator from South Carolina.

Mr. HOLLINGS. I hope I can limit it to 10 minutes.

Mr. President, I go right to the Governor's letter. I obviously have not seen the Governor's letter, or the mayor's letter, but I know why.

If you are a mayor of a town, you can take CETA funds—we have found this in our Budget Committee hearings and otherwise—and employ additional firemen or additional policemen. A Governor can carry some additional personnel in his office—and there are other things—under administrative costs.

I have just come back from my home State. When Senator THURMOND was Governor, he had nine people in the Governor's office, and when I was Governor I had nine. Now there at at least 400 in the Governor's office. So we know about that kind of growth and what is being nurtured.

However, herein we have an entirely different problem, and there is no better way to describe it than as the "New York problem." I did not vote for the financial restructuring or loan guarantees for the city of New York. There is no use going into the particular facets of it. Suffice it to say that what really occurred was that I just could not see that that was a winning proposition and that New York could work itself out.

I was put to the task of seeing how you take, say, a Federal disaster area—that is what the city of New York is—and get assistance to it that will work.

I believe that the soft public works program that is advocated here by the distinguished Senator from New York (Mr. MOYNIHAN) is the answer.

I did not realize it at the time, but the truth is that I berated our friend Robert Hall, the Director of the Economic Development Administration, in our hearings before the Appropriations Committee.

I said:

Mr. Hall, that is the kind of program that you really need for the inner city. You can see the deterioration spreading like the plague through a particular area. Can't you go to the modular or peripheral areas before they, too, become slums?

We viewed President Carter looking at the city of New York last year.

I said, can you not move in there and refurbish and rebuild and stop that deterioration before it is too late?

I happened to believe that soft public works, as I view it—maybe I have the wrong concept, and I am willing to be corrected—was in essence what I saw in my own hometown.

There, earlier this year, the Economic Development Administration awarded a general grant, including five to seven projects, and I went with Mr. Hall to each one of them to see the labor-intensified nature of it and the rebuilding that was merged in. It was not hard public works where you come in and just clear the lot, get out bids on a high- or low-bid basis to some contractor and, bam, he builds another new building. It is not the mayor or the Governor approach to sending x dollars to the particular chief executive and letting him say, "I have 1,000 or 2,000 unemployed, and let me try to get them on some kind of a payroll, because I am eligible for this kind of money, either CETA or countercyclical or otherwise."

But it is a sort of merging, a productive merging, of the best elements of both.

We went to an old garage site where the garbage collectors, had no facilities whatever to use for eating in the inclement weather. It was cold at that particular time. When it rains they just stand out there in the rain.

Part of the program, was, then to clear this off and move to a better facility, releasing this particular area for public housing and bringing housing and jobs and, incidentally, that was almost totally black or minority employees there.

I went to another particular site which is an old theater in the inner city. They did not want to tear it down. But no one had the money to clean it up, and repaint it, and fix it, and make it useful. Well, we did just that. The contract was let under the provisions of EDA, and incidentally, a black contractor received it. And they did the job, and that theater was used by the Spoleto Festival of Charleston. It is getting constant use now from the community. But no one single agency could come in and take over and do the whole thing.

I went to the incinerator in the "little Mexico" section of my city. We have a landfill type burning of the garbage. That big old brick building was just an eyesore and all the windows had been broken out. It was crime and drug infested. Just like the highway patrolman has to inspect two cars per day, the incinerator is regularly raided. And any time they wanted to say "I am doing my job." They could go into that dump and pick up two or three marihuana users or some other kind of drug user. We are cleaning that up for a community building now and therein the people of the community voted for this particular renovation and rebuilding.

I could continue to go right down that list.

It was 44 percent minority-impacted upon employment—to relieve unemployment—I say to the Senator I saw it being rebuilt with my own eyes, and it is one of the best programs.

The mayors and others want to try to extend this one because it works. It is just what the mayors need. "We will not be charged with the debauchery of CETA, or with being spendthrift, or with padding public payrolls and everything else. This one is tailored," is what they are saying.

As a result, Mr. President, I supported this in the first concurrent resolution.

I think that the Senate should have emphasized this. Each Senator will never understand it because Senators are busy off somewhere else. But what we are coming back for are instructions to revoke,

if you please, what the Senate has already agreed to and what is now the first concurrent resolution, the $1 billion figure. We were trying to negotiate in conference a $500 million figure. The House of Representatives would not accept it. But it appears to me that what we really are asking then and coming back for are these instructions, and I regret the procedure to bolster and say now we have been instructed. If I were on the other side I would say, "You were instructed under the first concurrent resolution to come to at least $1 billion. Why do you not carry out that instruction?"

That crowd is busy. They are all trying, as I am now, to mark up an appropriations bill and get ready for another Interior appropriations markup, and everything else.

They just say, "Go back for some more instructions."

Why should we come as if an emergency exists and there is a new program and all of a sudden we busted the entire national budget? I think that is highly misleading.

I look back at countercyclical, for example. That was put in without any authorization. That was a good idea of my distinguished chairman. We never argued about authorization. We never bothered about how far it was going to go and grow and how large it was going to become and whether it was going to bust the budget—because our distinguished chairman understood, appreciated, and sponsored the countercyclical approach.

As strongly as he felt about that so strongly do I feel now about soft public works, particularly for the inner cities—New York, Los Angeles, Detroit. That is the way I think we can stop the blight, rebuild, and employ—all three in one.

One final word about countercyclical. The danger they tell us is that this one is going to grow and grow and never end. The contrary was true. We could have said that about countercyclical. But I have just gotten the figures. We spent $3 billion in the last 2 years, with $1.699 billion, almost $1.7 billion, last fiscal year, followed by $1.329 billion this fiscal year. And here we come out now at a level at $500 million for this program.

Senators do not have to necessarily agree in their minds as politicians and public servants that all we are wrestling with is unemployment, urban blight, and minority employment, and try to bring up everything and say it can or cannot work. I do not think we are all right or we are all wrong. We are trying to do the best we can.

Our Public Works Committee is waiting the Budget Committee signal on this one. We had it in the first concurrent resolution I saw no reason and the other Senators there saw no reason why we could not go to the $1 billion figure.

Let me be absolutely fair to our distinguished chairman. No one worked harder and has done a more magnificent job to save our national budget. It is a thankless task. He is in there day in and day out and he is working hard around the clock night in and night out. So I respect him, and I suggested to Senator MUSKIE, "Mr. Chairman, vote me down. I have been in the minority before. But let us take a vote and move on."

But I think to come back to what we need instructions on is not to bust the budget. We have that instruction from proposition 13, from every taxpayer, and what have you.

I feel it. I have realized it. I did not wait for it. I happened to bring about a balanced budget as Governor of my State for the first time in its history, and I yield to no man in trying to cut unnecessary costs.

This particular second concurrent resolution represents a 2-percent cut. We took President Carter's budget, I say to the Senator from Wisconsin, and cut $10 billion off of that $60 billion deficit down to $50.1 billion. We are cutting now another $7.7 billion, almost $8 billion out of it. That represents a 2-percent cut. We are trying to cut, but what we see here is a group within the Budget Committee.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HOLLINGS. Mr. President, will the Senator yield me an additional minute and then I will conclude in just a minute.

Mr. MUSKIE. Mr. President, I yield to the Senator 1 additional minute.

The PRESIDING OFFICER. The Senator is recognized for 1 additional minute.

Mr. HOLLINGS. All right. What we see here are good Senators, leading Senators within that Budget Committee who felt that the best way to strengthen their hand on their very genuine belief that this was a budget buster was to get instructions from the Senate, and I resisted. I think it is wrong. I think the program actually is what the doctor ordered for the inner city. I could not vote for loan guarantees, but I would support to the hilt a program that I have seen working with my own eyes, that I know can really take care of that urban blight in the inner cities. You cannot go down into downtown New York and start clearing off blocks. You cannot just herd up people and give them a payroll. You have to get the two together and give something meaningful to the taxpayer and to that worker for his dignity and his credibility and his belief in himself.

I think this does it, and it should not be painted now as a budget buster.

I thank the distinguished Senator from Maine.

Mr. MUSKIE. Mr. President, I yield myself 2 minutes just for a brief response to the distinguished Senator from South Carolina.

First, our latest mandate from the Senate is not the first concurrent resolution but the second. The second concurrent resolution provided nothing for this purpose, and that was a very deliberate action taken in the Senate Budget Committee. Those who support this public works program considered making a floor amendment to increase the Senate resolution ceilings to accommodate the program. They considered such an amendment and backed off after sounding out opinion in the Senate. So our mandate in the second budget resolution is to provide no money for this proposal.

Second, no one is arguing that this so-called soft public work program will bust the budget this year. We are now about the task of trying to fashion a budget. Our task is to form a budget that responds to the economic conditions, that responds to the country's needs and that the Nation can live with. We are trying to make decisions while looking ahead to the future impact of what we do.

The outlays from this kind of a program will not impact this fiscal year very much, as the Senator knows. What we are learning in the Budget Committee is we have to be concerned about budget authority, which adds to deficits in future years. So new programs have to be considered in light of their future impacts.

The original "soft public works" proposal of the President was intended to be a new kind of program that would have limited inflationary impact. However, it is being converted in the House and Senate committees from this new program to just an extension of the old hard local public works program which was enacted to stimulate the construction industry during a very deep recession. And it is being proposed in a highly inflated construction environment.

I have been for the soft public works approach—but what the House Public Works Committee is putting together is not that, and it is clearly not that. If we were talking about the President's real urban initiative, as originally proposed, you know my comments and my position would be entirely different.

This House program is defended in the name of the President's proposal. He proposed $1 billion. The House is proposing $2 billion a year. He proposed a distinctively soft public works program. The House is coming up with another round of hard public works. So, what the House is asking us to endorse and what the House is insisting upon is twice what the President asked for, a program that is less than half as well-targeted on the central cities and on the disadvantaged, low-skilled unemployed. The House would budget for a program that is targeted instead on that sector of the economy—construction industry—which is experiencing record high levels of employment, very low levels of unemployment, material shortages, and escalating prices for materials. This is where the House wants to focus this money. That is a different proposition from what the President advanced to us.

I argued for the President's program in the first concurrent resolution and managed to persuade a bare majority of the Senate Budget Committee to support me. We came to the Senate floor with it and we got it, and I argued for it in the conference on the first concurrent resolution and it was supported.

Third, with respect to what has been offered in the conference. In the current conference, there has been no offer by either side in this field because we were so far apart we thought before we froze conferees on either side into a fixed position we would explore on an informal basis for a possible agreement.

I was able to persuade the Senate conferees—very reluctant Senate conferees, I may add—that if the House would accept the number that we offered the House, in the revenue function, and middle-income tuition assistance, together with other concessions in other functions that the Senate conferees could suggest as a possible basis for agreement an offer on either side as much as $500 million.

But the House rejected that and came back instead and insisted on the full amount that the President originally asked for, without yielding a penny on that. Then Senators who had been persuaded to consider my proposal backed off and said they were sorry that they had agreed to offer the $500 million.

So I was back at zero at that point with the Senate conferees, back at zero without any support for anything. That is why I finally decided that what divided the House and Senate conferees was not a question of dollars which, as the Senator knows, you can often just split down the middle, but what really separated us was a differing view as to the wisdom of embarking upon this new expansion of public works programs at this time, given the condition of the economy, given the problem of inflation, which is of particular concern in the construction industry. A clear majority of the Senate conferees believed deeply that the budget totals should not be increased for this activity, while the House conferees believed just as honestly, just as deeply, in their position. So I decided the way to handle the issue was to come back, let the Senate debate it, and then we would know what the Senate, as a whole, feels about this specific issue and see where that takes us.

That is all that is behind the strategy. Senator BELLMON and I and Senator MCCLURE, and I know the Senator from South Carolina, will accept the will of the Senate, whatever it may prove to be.

I had promised to yield to my good friend from Wisconsin who has been patiently waiting. Could we engage in whatever dialog the Senator from New York is interested in at a later time?

Mr. MOYNIHAN. Mr. President, I saw the Senator from Wisconsin rise, and I would be glad to yield to him.

Mr. PROXMIRE. This probably pursues the speech of the Senator from South Carolina.

The PRESIDING OFFICER. The Senator's time has expired. I take it he is speaking on his own time.

Mr. MUSKIE. I will be glad to yield 3 minutes to the distinguished Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise, first, to thank the Senator from South Carolina for his eloquent and important statement in support of this proposal. He speaks with experience and with a shared concern that is beyond any regionalism or parochialism that might animate us.

I would like to say in public what I have said to my friends, the managers, in private—that if these are measures that are only appropriate in times of economic downturn, we are not far from needing such measures now, as we enter the 13th quarter of economic expansion as the dollar collapses further.

Finally, Mr. President, I ask unanimous consent to have printed in the RECORD a very carefully stated letter from our distinguished and much admired Secretary of Commerce, Dr. Juanita Kreps, explaining the President's proposal and asking that the measure of the Senator from Maine and the Senator from Oklahoma not be supported today.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF COMMERCE,
Washington, D.C., September 14, 1978.

DEAR SENATOR: The President's Labor Intensive Public Works (LIPW) legislation is a major part of the Administration's Urban Policy package. Cities and towns throughout the country continue to face serious problems in the deterioration of their public infrastructure. The demands for operating expenses on the municipal budgets have depleted resources necessary for the repair and renovation of public facilities. In addition, the problem of structural unemployment particularly among our youth and minorities in the country remains at unacceptably high levels despite the overall decline in the national unemployment rate.

The President's LIPW bill is directly targeted to provide private sector jobs to the long-term unemployed and will assist local governments to improve their deteriorating capital stock. The Administration supports $1 billion per year for two years. Enclosed is a fact sheet further explaining the provisions of this important legislation.

As you know, the House and Senate Budget conferees have been unable to reach an agreement on new spending for the President's Labor Intensive Public Works Program. The House Second Budget Resolution provides a total $2 billion for public works spending, of which $1 billion is earmarked for the President's LIPW. The Senate Resolution contains no funding for the President's LIPW Program, although the First Resolution contained the $1 billion requested by the President.

This afternoon, the Chairman of the Senate Budget Committee will offer a Resolution requesting the Senate to instruct the Senate conferees on new spending for the President's Labor Intensive Public Works Program. We urge you not to support S. Res. 562, which would insist on the Senate Budget Committee position opposing any funding for the LIPW Program. We believe it is appropriate for the House and Senate conferees to reach a compromise agreement to fund the President's LIPW Program and suggest the $1 billion authority for FY 1979.

Sincerely,

JUANITA M. KREPS.

EXPLANATION OF THE PROPOSED LABOR INTENSIVE PUBLIC WORKS PROGRAM

PURPOSE

The establishment of a labor intensive public works program is being proposed in order to meet two pressing needs faced by communities throughout the country. (1) Many cities and towns throughout the country have insufficient resources to repair their deteriorating public infrastructure. Such repairs are postponed to meet more immediate operating demands and further deterioration of the public facilities occurs. (2) The problem of structural unemployment persists even though the overall national unemployment rate is declining. The unemployment rate among the long-term disadvantaged, unemployed, including many youths and minorities, remains high.

Public works programs have been successfully used to promote long-term economic development activities and to stimulate the economy in a recessionary period. A labor intensive program is being proposed to demonstrate that public works activities can be structured to provide private sector jobs for the long-term, disadvantaged unemployed as well as to assist communities in renovating their public facilities.

PROGRAM DESIGN

It is proposed that $1 billion be authorized for each of the two years. The program funds would be allocated first to States and then to those economically distressed areas within each State based on their relative unemployment problems. Funds will be available to finance projects of the State governments, counties, local governments, and school districts.

Public works projects will be funded, with 100 percent Federal financing, in each eligible area up to that area's allocation. The grant can be used to provide and rehabilitate a variety of public facilities including those which will conserve energy, increase accessibility to the physically handcapped, preserve historic structures, and enhance public services.

To assure that the long-term unemployed are assisted by the program, certain requirements will apply to the projects carried out by each area. The requirement for the first year of the program will be less stringent than those for the second to allow for an increase in the program's targeting capacity. Further, the requirements for rural areas will be less stringent than those for urban areas since the latter will have more existing systems available to meet the requirements. The major goals are (a) that there be a minimum average labor-intensity for an area's projects to ensure that a significant number of jobs are created; (b) that a minimum average percentage of the jobs be filled by the long-term unemployed; and (c) that an appropriate portion of each area's funds be expended through minority business enterprises to foster minority-owned businesses.

Mr. MOYNIHAN. Once again, Mr. President, I thank the Senator from Maine for his courtesy and also the Senator from Oklahoma.

Mr. PROXMIRE. Mr. President, will the Senator from Oklahoma yield me some time, yield me 20 minutes?

Mr. BELLMON. I yield 20 minutes to the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized for how long?

Mr. BELLMON. Twenty minutes.

Mr. PROXMIRE. Mr. President, just 40 minutes ago the Appropriations Committee acted favorably on the New York City fiscal guarantee, the $1.6 billion guarantee that had passed the House and Senate a few weeks ago. Twenty minutes ago I took it to the desk, and I understand the leader will be able to motion it up when he can next week as soon as time is available for it.

I think we should recognize this was an extraordinary action, unprecedented, the only time the Federal Government has ever done this for any city under any circumstances anywhere except, of course, when we helped New York in 1975.

I think we should take that into consideration in this context. Mr. President, I want to come back to that a little later in my statement.

First, I want to say how strongly I support the position of the Senator from Maine and the Senator from Oklahoma in the resolution they have introduced to instruct the conference to stand firm

against adding $2 billion in public works and in new construction in the resolution.

In my view that stand does not go far enough. At this time public works should be cut far, far more. Mr. President, this country faces rising, galloping, endemic inflation. It is a period in which we should be cutting budgets, not adding to them.

WE SHOULD CUT DEEPER

The answer to 7 to 8 percent inflation, to huge budget deficits, and to rising interest rates is to add fuel to the fires by pouring out more money for questionable projects in an untimely fashion. We should be cutting even deeper.

To add $2 billion now for public works of any kind—soft, hard, or intermediate—is wrong. It would show we have learned nothing about economics, the budget process, or inflation if we did so.

In the 1930's we were at the bottom of a depression. Tens of millions of people were unemployed. Prices were dropping, not rising. In such a period additional public works projects can be supported and should be supported if they are labor intensive and are built where the unemployed live. Further, there is no danger in such a period the economy can be harmed by fueling inflation.

UPSIDE-DOWN POLICY

But to propose at this time that we add public works projects to the budget, is an upside-down, wrong-headed if not idiotic policy. Here is why.

First, we should be cutting the budget, not adding to it. Cutting the budget is virtually the only antiinflation weapon we have left. What else is there? No one wants wage and price controls. Tax incentives to business and labor to keep wages and prices in line are extremely complicated and would take too long to get passed. Monetary policy is limited in what it can do.

What we should be doing is cutting the Federal budget, not by a mere $2 billion but by 5 to 10 percent. Adding to it is the height of folly.

We just had before the committee the new appointee to the Federal Reserve Board, Nancy Teeters, a superb economist, who testified yesterday that the Federal Reserve Board is now severely limited in what it can do to fight inflation. Generally, their function is confined to limiting credit by increasing interest rates, but she testified that if the interest rates go up another half percent, the result on the national economy could be devastating.

But the worst of all worlds is to add public works projects at a time like this, and especially projects which have a phenomenal cost per job, $71,000 to $175,000 a year as the Senators from Maine and Oklahoma point out.

Finally, we should be cutting out many of the public works projects we have already approved in the Senate.

BENEFIT-COST RATIO EXAGGERATED

There is something called the benefit-cost ratio. The Army Engineers tell us what the costs of a project are and what the benefits are, and if they are at least 1 to 1, it is said to be a favorable cost-benefit ratio.

But that is not really true. Historically, the costs of most projects double from the time they are authorized until they are built.

Further, historically, the benefits are inflated. Everything but the kitchen sink is thrown in as an alleged benefit.

So while costs are underestimated, the benefits are exaggerated. In the view of many economists, for a project to break even the cost-benefit ratio must be at least 2 to 1 and 3 to 1 is really more like it.

DISCOUNT RATE TOO LOW

Further, historically, the Government has always used a discount rate which is far too low. The discount rate is nothing more than applying to the money taken from the private sector and used in the public sector. The rate of return it should get to equal the disadvantages of taking it out of the private sector and using it in the public sector.

Obviously, when money can earn 12 percent—and now the average return is about 15 percent before taxes, and that is a fair comparison—or if money can earn at least 8 percent if loaned out privately, the Government is acting in a wholly uneconomic way if it takes money from the private sector which could earn 8 to 15 percent and spends it in the public sector where its real return is only a fraction of that.

That is a misapplication of resources, Mr. President, and an obvious misuse of the taxpayers' money, as any responsible economist will tell you.

But that is what we do in the public works sector. The present discount rate is only 6 and three-eighths. And when that is applied to only half the funds, because project costs usually double, one can see how inefficient public works projects can be.

Therefore, because the cost-benefit ratio of most public works projects is greatly exaggerated and because the discount rate applied to public works projects is far too low, spending taxpayers money on public works projects is one of the stupidest and most uneconomic and wasteful things that can be done.

Yet the public works bills, year by year, are weighed down with wasteful projects.

Their benefit-cost ratios are too low. They are built in the wrong places. They are not labor intensive. Leaving the money with the taxpayers in the private sector would provide more jobs, more economic stimulus, and more economic sense than spending it for public works.

For all these reasons we should be cutting back on public works spending not adding to it.

I not only support the Senators from Maine and Oklahoma, but I say dig in, hold firm, fight them in the trenches, and never say die.

And my further word is that after you win this battle come back to the Senate and cut several billions more from the public works projects, because they are wasteful, uneconomic, and unjustified.

A TEST OF GOVERNMENT

The test of Government is whether it can act in intelligent and constructive ways. Here is one area of economics where the facts are clear, the situation is fraught with danger, prices are rising, and the path we should follow is in no doubt.

We should cut spending and cut it hard.

In the face of the obvious, there is only one answer. We should support the Senate Budget Committee. After we do that, we should then cut much harder.

EXAMPLES

In support of my general statement I want to site a couple of specific examples of recent projects which we in the Senate have approved, to show why this is such a complete disaster.

Take the Savery-Pot Hook Bureau of Reclamation project in Colorado. This consists of two dams and conveyance systems to supply irrigation water on the Little Snake River. The remaining costs and benefits at the current rate of 6⅜ percent would be four-tenths—in other words, it is less than half of the unity average. I consider this much too low a discount factor; the costs exceed the benefits by better than 2 to 1. The estimated total Federal cost is $75.8 million, and the amount allocated to date is $4.1 million, so it is one we could walk away from and be much better off.

The project as planned will benefit only 106 existing farms, at an average irrigation cost per farm of almost $700,000.

High dissolved salt concentrations in project return flows would increase existing water quality problems downstream in the Colorado River.

Proect lands are at 6,500 feet altitude, and thus have a short growing season. As they say, it is like growing bananas on Pike's Peak; sure, you can do it if you provide all the necessary facilities at a phenomental cost, but it is totally unjustified.

Approximately 20,100 acres of wildlife habitat would be modified or eliminated, affecting deer, elk, antelope, and sage grouse. While these losses are substantially mitigated by development of additional habitat, significant losses in sage grouse and antelope population would occur.

Then this one further project, Mr. President, by way of example: The Fruitland Mesa, a Bureau of Reclamation project in Colorado.

This is the Soap Park Dam and conveyance system to provide irrigation to 11,940 acres of dry-farmed land and supplemental irrigation to 6,310 acres.

The remaining costs and benefits at the current rate, three-tenths. What that means is that even using the discount factor of 6⅜ percent, the costs will exceed the benefits by more than 3 to 1.

The estimated Federal cost is about $88 million. Allocated to date is only $5 million. Today we can walk away from it without losing anything like what we would lose by not walking away from it.

The irrigation investment per acre is very high. We are spending $4,600 per acre. I do not think you could find any place in the country where you would spend $4,600 per acre for agricultural land. In my State, prime agricultural land is selling for less than half that. It is a backward investment; to spend this

additional amount is absolutely wrong. The project area is farmed or ranched by only 69 landowners. This amounts to an irrigation investment per landowner of $1.2 million. By definition, these landowners are millionaires, or on an average they are millionares, and for us to subsidize them under the circumstances would be ridiculous. The project would convert 12,000 acres of rangeland to irrigated cropland, inundate 584 acres of land, and destroy 4½ miles of good fishing streams; and there are other objections to it.

DAMS, JOBS, AND UNEMPLOYMENT

Studies at the University of Illinois Center for Advanced Computation show that spending money on Army Corps of Engineers water projects actually creates fewer jobs per dollar than almost any other Federal program. If more money were shifted from dam building to mass transit, waste treatment plan construction, national health insurance, or social security programs, to name a few, many more jobs would be created.

Spending on water project construction results in a decrease in jobs nationwide in the sense that more jobs would be created by not taxing people for these projects and just letting them spend the money as they desire.

What this means is that money spent on water projects aggravates the unemployment situation across the country. And I say it aggravates it in New York City, to return to my initial point. New York City is in dire straits. They do have massive unemployment, and while they would get $125 million, clearly, from this bill, and additional sums, I am sure, even with the most optimistic assumptions I think it is doubtful that they would get $200 million.

I say frankly to the Senator that if I were in his shoes, representing New York City, I would be fighting hard against this bill on the ground that my State would be better off if the Budget Committee were sustained and the $2 billion were not spent. We will be taking more money out of New York than would go back into New York.

We have just acted on the New York City loan guarantee, and will soon act on a fiscal relief bill. To take this kind of action in the face of that, at the cost of all taxpayers of the country, I think is absolutely inexcusable.

Mr. MOYNIHAN. Mr. President, will the Senator from Maine yield me 2 minutes to respond to my good friend the Senator from Wisconsin?

Mr. MUSKIE. I yield the Senator 2 minutes.

Mr. MOYNIHAN. I understand that the vote in the appropriations subcommittee on the New York City loan guarantee was 8 to 6.

It does somewhat remind me of the get well card that was approved by the Board of Directors by an 8-to-6 vote. I would think that comes out. "I like New York," more than otherwise. I remind the Senator that the guarantee was necessary, but that it does not provide a nickel to the city of New York—not one nickel. It is true that we use that money, but we must also provide money to the Treasury, in return, as well as the extra moneys the interest rate requires.

I grant that the rather unimpressive programs which the Senator described have cost-benefit ratios which are appalling, but I remind him that none of them are in New York City, or, for that matter, within 2,000 miles of New York City.

Mr. PROXMIRE. But they are public works.

Mr. MOYNIHAN. Yes. But year after year those public works appropriations have come to the floor and we have voted for them—$4,000 an acre, $1 million a ranch. Now our time has come and we ask for such appropriations and it turn out to be too late.

Mr. PROXMIRE. If the Senator will permit me to respond——

Mr. MOYNIHAN. Explain that 8-to-6 vote.

Mr. PROXMIRE. Well, the 8-to-6 vote was just a matter of not having all members there. As the Senator will recall, the vote in the Senate itself was something like 2 to 1 in favor of New York. I am sure if all members had been present it would have been about the same in the Appropriations Committee.

The point is that the Senator from New York, both Senators from New York, worked so hard to get that fiscal relief bill. They wanted it, they needed it, we gave it to them. They said this is what they needed. They said:

> Give us this and we will not be back. This is all we need at the time. Give us this and we will not be back to ask you for more.

We want to take New York up on that.

In this particular public works bill, we feel, as I tried to document, that the Senator is worse off by going into the $2 billion than he would be if he supported Senator MUSKIE.

Mr. MOYNIHAN. The Senator from New York would very much like to confirm that it is his view that New York, for example, and any State, for that matter, must ask, "What do we contribute in taxes as compared to what we receive in return? What is the effect on the local economy?" I agree with the Senator and I hope to pursue that topic.

I would like to make the further point that this is not a measure such for New York City or for any one city, but instead it is an essential feature of the President's overall urban program. I rose to defend it and to say that ours is a vote of confidence on the President's program. I happen to come from New York, but I am aware of the national purpose embodied in the President's program. I am not overly hopeful about the outcome, but it would have been irresponsible if we had failed to make our point as persuasively as we could. I understand the depth, the conviction, of the opposing viewpoints, and I certainly do not want to disassociate myself from anything the Senator from Wisconsin has said about the benefit-cost ratios in these matters. Not to attend to them is to fritter away our responsibility and our reputation.

Mr. MUSKIE. Mr. President, I would like to comment on this and then I will yield to my good friend, the chairman of the Environment and Public Works Committee. I want to comment about this vote being a vote of confidence on the President's program.

The $2 billion in the House budget resolution bears almost no resemblance to the President's urban message. In the first place, we should remember that the President first rejected public works as part of his urban initiative. He restored it at $1 billion only after he was assured that the public works would be targeted on the unskilled, long-term unemployed.

What we have in the House budget resolution, which is intended to reflect the work of the House Public Works Committee, is a $2 billion-a-year program. It would be spending at the same level that we funded public works during the recent severe recession. It is hard public works. It is not targeted toward the unskilled long-term unemployed, and it would admit projects with labor intensity of at little as 10 percent. So it is not the President's program although it is being marketed in his name and, I understand, being lobbied in his name in the corridors today. That is all right. Presidents, I guess, as practical politicians, have to accept even pale shadows of what they ask for in the name of what they originally requested.

From my point of view, I know that what is in the House budget resolution is only a pale shadow of what the President requested, and it is a shadow that comes at twice the price.

Mr. PERCY. Will the Senator yield for a brief question?

Mr. MUSKIE. I yield.

Mr. PERCY. I fully support both the chairman of the Budget Committee and the ranking Republican member. Does the Senator know how soon we will vote?

Mr. MUSKIE. I have an idea we may vote before 4 o'clock unless there is a sudden eruption of oratory.

Mr. PERCY. The Senator from Illinois would have to leave the floor soon to catch a plane.

Mr. MUSKIE. Does the Senator from West Virginia wish to make a brief 2-minute statement?

Mr. RANDOLPH. It will take a little longer.

Mr. MOYNIHAN. Will the Senator yield 30 seconds?

Mr. MUSKIE. I yield.

Mr. MOYNIHAN. I would like to say it is quite true, as the Senator has stated, that the President's program has been modified. But it remains the President's program. I have been in communication with the President's aide in the White House and in the Cabinet on this matter. I would like it to be clear that the administration has fought for this program and has not abandoned it, even though we may not succeed in obtaining it at this time.

Mr. MUSKIE. I just would remind the Senator that I continually read stories about the administration's new veto policy to eliminate excessive congressional spending. At the President's request we have been trying to cut $5 billion more than he did in his midsession review budget. This is part of it. The President cannot have it both ways. That is my whole point.

I am happy to yield to the distinguished chairman of the Environment and Public Works Committee such time as he may wish.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. RANDOLPH. I thank the Senator for yielding.

Mr. President, the Senate is being asked to instruct conferees from the Budget Committee on an item for which authorization is pending in the Committee on Environment and Public Works. I understand the desire of the conferees to obtain an expression by the Senate on this issue. The question of funding for the proposed labor intensive public works program is a major impediment to the completion of the conference.

I commend the Senator from Maine (Mr. MUSKIE), chairman of the Senate Budget Committee, for his desire to keep Federal spending within reasonable limits. Under his leadership, the Budget Committee has not approached its task with a single minded, meat-ax approach of indiscriminately cutting program levels. The committee has attempted to assign priorities so that adequate support is given to worthwhile programs while funding is reduced for activities for lesser importance.

I was joined with Senator MUSKIE and the Budget Committee last week, in voting for a budget resolution that would substantially reduce the Federal deficit during the next fiscal year.

On the matter before us, however, I shall vote not to instruct the conferees to retain the Senate position of no funding for the labor intensive public works program. I will do so for several reasons.

To become adamant on this position would increase the difficulty of the task faced by the conferees. I believe that members of the conference committee must have the latitude to reach an agreement. This is particularly important at this late period in the congressional session. I do not advocate that the Senate should accept the level of $2 billion proposed by the House. A realistic compromise is possible.

Nor do I intend to indicate that I believe the authorization legislation now pending in both the House and Senate is properly drawn. I have serious reservations, in fact, about the thrust of the proposals before us. I have long believed that strong Federal presence in public works activities is essential to the continued growth and development of our country.

I think the Senator from Wisconsin (Mr. PROXMIRE) is absolutely wrong on public works. He votes against public works programs and projects of whatever size and kind. Yet, he is always interested—and I would say this if he were here—in having certain public works projects in Wisconsin.

I remember when the Appalachian Regional Development Act was before us in 1965. My dear friend, Senator Willis Robertson of Virginia, was voting and speaking against it. I went to him and said: "You are a native of Virginia, and you know Virginia and West Virginia are in the Appalachian region of 13 States. It is a position you should not take."

He said he felt very keenly about it.

The legislation passed and was signed into law. I had a telephone call from Senator Willis Robertson, and he said, "Jennings, I have just the project in Virginia that fits into the Appalachian program."

I said, "Willis, you spoke against it."

He said, "Yes, but it is now the law."

I hope the Senator from Wisconsin would not get upset, if he were on the floor, as I would speak on that as a corollary.

Public works programs have a demonstrated record of value in stimulating recovery from periods of economic stagnation—depression, recession, what not. In the past 2 years, Congress twice enacted the local public works program. This effort channeled $6 billion into the economy, money which is creating thousands of jobs and helping to provide needed public facilities.

The chairman of the Budget Committee (Mr. MUSKIE) and the ranking minority member (Mr. BELLMON) have circulated to Members of the Senate a letter which contained interesting information on the labor intensive public works proposals. I studied them with great care. Their assertions provide us with further reasons for carefully considering the authorization legislation in the Committee on Environment and Public Works, of which Senator MUSKIE is the ranking Democratic member. I believe that that forum is the place where a program must be devised that is truly responsive to current national needs. Further, we must be careful not to establish a new program that is similar or duplicative of ongoing activities. The Comprehensive Employment Training Act (CETA) or activities of the Economic Development Administration could be the proper vehicles for carrying out some of the purposes of the proposed labor intensive public works program. We cannot make these decisions nor can we address similar public works needs if there is no budget authority for the fiscal year.

I repeat that these decisions must be made in the authorizing committee not through the process proposed here today.

Mr. President, our Subcommittee on Regional and Community Development chaired by the able Senator (Mr. BURDICK), is scheduled to meet September 19 on the labor intensive public works program.

The articulate Senator from New York (Mr. MOYNIHAN) has participated in earlier discussions of this program as a member of our committee, and he has been very helpful. I hope that the Senate will permit the conferees on the budget resolution to return to their work and reach a compromise with the House on a funding level for this activity. The authorizing committees must have the ability to determine if there will be a labor intensive public works program and, if so, what form it should take. Adoption of the pending resolution would tie our hands now and complicate our task even if we decide to postpone action until the next session of Congress.

Mr. President, for these reasons I have stated, I will vote against the resolution to instruct the conferees to insist on the Senate position.

Mr. MOYNIHAN. Well said, sir.

Mr. RANDOLPH. I thank the Chair.

Mr. BURDICK. Mr. President, will the Senator yield?

Mr. MUSKIE. How much time does the Senator want?

Mr. BURDICK. Three minutes.

Mr. MUSKIE. I yield 3 minutes to the Senator from North Dakota.

Mr. BURDICK. Mr. President, I rise in support of the President on this vote. He has proposed the so-called "soft" public works bill now before the Environment and Public Works Committee.

I do not believe it duplicates other programs. I do not believe it is inflationary, since its unique thrust is to put idle hands to work.

The bill is targeted to a very specific group, the longterm unemployed, whether in cities or rural areas.

It is said that the Senate Environment and Public Works Committee is turning the labor intensive proposal into a modified version of the LPW programs of 1976 and 1977.

As chairman of the Subcommittee on Regional and Community Development of the Committee on Environment and Public Works, I want to report that we have not yet marked up the bill. Until the subcommittee and the full committee acts, no one can say that we have altered the administration's bill.

There are pending proposals before the subcommittee that do relax the labor intensity requirements the first year, primarily in the rural areas of the Nation.

But the subcommittee has not acted on these proposals. I think it is therefore, premature to say what the authorizing committee will recommend.

I would say, Mr. President, that this debate should be instructive to us on the authorizing committee, should we decide to move ahead with S. 3186, the labor intensive public works bill proposed by the President as part of his urban program.

I believe the second budget resolution shoud contain $1 billion for this program. We can then report the bill. If the Senate does not like the bill it can either amend it or vote it down.

I, therefore, suggest to my colleagues that a vote against this resolution gives the Senate future options. I shall vote "no".

Mr. MUSKIE. Mr. President, lest the Senate entertain the illusion that this is the only jobs-creating provision in the two budget resolutions, I should like to read off a list of amounts that are available in the budget resolution which have job-creating implications. It is a rather long list:

CETA at $10 billion; countercyclical revenue sharing at $500 million; a subtotal of $10.5 billion. Then there is direct State and local aid, which, by and large, results in employment: Revenue sharing, $7 billion; community development block grants, $4 billion, for a subtotal of $11 billion.

EPA construction grants, $4.5 billion; Corps of Engineers and Bureau of Reclamation public works programs, $2.5 billion; highway construction, $9 billion; mass transit construction, $1.8 billion; military construction $2 billion.

That is a total, Mr. President, of $40.3 billion—$40.3 billion which distributes job-creating potential across this country from coast to coast, border to border, and in every State. That is an enormous infusion of Federal dollars to create and support the construction industry and other kinds of public jobs.

The distinguished Senator from South Carolina earlier made the point that this particular program is focused on soft public works and that that is needed by cities. He cited, as an example of a similar program that was helpful in this respect, countercyclical. But countercyclical, Mr. President, turns on at the depth of a recession and turns off as we pull out of it. These public works programs, as a practical matter, do not.

The House proposes $6 billion in 3 years, which is as much as the $6 billion we provided in the 4 years of the depth of the depression. In other words, the proponents of public works seem intent on making this level of public works spending a permanent feature of our Federal budget. It is to that which Senator BELLMON and I have objected.

Mr. President, unless there are other requests for speeches, I am prepared to yield back the remainder of my time and go to a vote.

Mr. BELLMON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the resolution. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SPARKMAN (after having voted in the affirmative). On this vote I have a live pair with the Senator from New Jersey (Mr. WILLIAMS). If he were present he would vote "no." I have already voted "aye." I withhold my vote.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Iowa (Mr. CLARK), the Senator from Iowa (Mr. CULVER), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from South Dakota (Mr. MCGOVERN) is absent because of illness.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Massachusetts (Mr. BROOKE), the Senator from Michigan (Mr. GRIFFIN), the Senator from North Carolina (Mr. HELMS), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I also annouce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from Vermont (Mr. STAFFORD) and the Senator from South Carolina (Mr. THURMOND) would each vote "yea."

The result was announced—yeas 63, nays 21, as follows:

[Rollcall Vote No. 377 Leg.]

YEAS—63

Anderson	Garn	Muskie
Bartlett	Glenn	Nelson
Bayh	Goldwater	Nunn
Bellmon	Hansen	Packwood
Biden	Hart	Pearson
Bumpers	Hatch	Pell
Byrd, Harry F., Jr.	Hatfield, Mark O.	Percy
Byrd, Robert C.	Hatfield, Paul G.	Proxmire
Cannon	Hayakawa	Riegle
Chafee	Huddleston	Roth
Chiles	Inouye	Sasser
Church	Laxalt	Schmitt
Curtis	Leahy	Schweiker
Danforth	Long	Scott
DeConcini	Lugar	Stennis
Dole	Matsunaga	Stevens
Domenici	McClure	Stone
Durkin	McIntyre	Tower
Eagleton	Melcher	Wallop
Eastland	Morgan	Weicker
Ford	Moynihan	Young
		Zorinsky

NAYS—21

Abourezk	Hodges	Metzenbaum
Bentsen	Hollings	Moynihan
Burdick	Jackson	Randolph
Case	Javits	Ribicoff
Cranston	Kennedy	Sarbanes
Gravel	Magnuson	Stevenson
Heinz	Mathias	Talmadge

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Sparkman, for.

NOT VOTING—15

Allen	Griffin	Johnston
Baker	Haskell	McGovern
Brooke	Hathaway	Stafford
Clark	Helms	Thurmond
Culver	Humphrey	Williams

So the resolution (S. Res. 562) was agreed to.

The PRESIDING OFFICER (Mr. SARBANES). Without objection, the preamble is agreed to.

Mr. MUSKIE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BELLMON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. Will the Members please clear the well and clear the aisles and take their seats?

NATURAL GAS POLICY ACT OF 1978—CONFERENCE REPORT

The Senator continued with the consideration of the conference report.

Mr. ROBERT C. BYRD. Mr. President, will the Chair protect me in yielding long enough for the clerk to state what is before the Senate?

The PRESIDING OFFICER. The pending business is the conference report on H.R. 5289, which the clerk will report.

The legislative clerk read as follows:

Conference report on H.R. 5289, an act for the relief of Joe Cortina, of Tampa, Florida.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, today is the fourth day that the conference report on natural gas pricing has been before the Senate. During these 4 days there has been some debate on the conference report. It has been good debate. It has been substantive debate. And both the proponents and the opponents have, I think, made good contributions to that debate.

Today is September 14. I hope that it would be possible for the Senate to complete action on—Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senator is absolutely correct. The Senate is not in order.

Will Members please take their seats? Will staff please take their seats or leave the Chamber?

The Senator from West Virginia.

Mr. ROBERT C. BYRD. I thank the Chair for the Chair's very meticulous upholding of the rules of the Senate.

Mr. President, I will begin again.

The conference report on natural gas pricing has been before the Senate now for 4 days. There has been good, substantive debate, by both the proponents and opponents during those 4 days. There has been a considerable amount of time in which the Senate has stood in recess or during which long quorum calls have occurred in the effort to secure speakers on one side or the other. There have been recesses for the purpose of allowing Senators to discuss possible time agreements with respect to the conference report.

I want, first of all, to thank all Senators who have participated in my office in an effort to secure a time agreement, and at the risk of inadvertently overlooking someone at the moment let me say that I thank in this regard the distinguished minority leader, Mr. BAKER; the equally distinguished manager of the conference report, Mr. JACKSON; the equally able Senator from Wyoming, who is a conferee, Mr. HANSEN; the able Senator from Oklahoma, Mr. BARTLETT; the able Senator from Ohio, Mr. METZENBAUM; the able Senator from South Dakota, Mr. ABOUREZK; the able Senator from New Mexico, Mr. DOMENICI; the able Senator from Idaho, Mr. MCCLURE; the able minority whip, Mr. STEVENS; the able majority whip, Mr. CRANSTON; the able and very distinguished chairman of the Finance Committee, Mr. LONG.

I think I have named everyone. If I have not, I would like someone quickly to so indicate.

Mr. BARTLETT. Senator FORD.

Mr. ROBERT C. BYRD. And the very distinguished Senator from Kentucky, Mr. FORD, who was a conferee on the natural gas conference report.

Mr. METZENBAUM. Senator CHAFEE.

Mr. ROBERT C. BYRD. And the very distinguished Senator from Rhode Island, Mr. CHAFEE.

Mr. President, on yesterday I attempted to secure a time agreement which had been tentatively agreed to in that conference on yesterday, but I hasten to say that Mr. BARTLETT was not present at that conference. But I sought to get a time agreement which would provide for a vote on the motion to recommit by Mr. METZENBAUM next Tuesday at the hour

of 2:15 p.m., and that would be an up-or-down vote on the motion by Mr. METZENBAUM, and no tabling motion would be in order, and that to be followed by a vote on the conference report, up or down, at the hour of 5:15 p.m. next Tuesday.

This would have allowed all Senators who are in town and those out of town ample notice of the date and the hour on which those two showdown votes would occur.

There was no objection to that proposal. The objection was made by Mr. BARTLETT. I respect Mr. BARTLETT. He objected very appropriately from his point of view under the rules, and he indicated that he would like to offer a motion in the event that the motion by Mr. METZENBAUM to recommit the conference report was rejected. He, Mr. BARTLETT, would like to have an opportunity at that time then to offer a different motion to recommit with instructions.

Overnight and today we thought about the matter. We met again today at 3 p.m. in my office with the same Senators present. We discussed the possibility of a time agreement.

Mr. President, the position that I as majority leader am put in is this: I happen to be a supporter of the conference report. If I were an opponent of the conference report my position would be precisely what it is at this time.

The date being September 14, it being my hope that Congress can complete its work by October 14, which is exactly 1 month away and on a Saturday, and not have to come back after the election, it is my desire that the Senate do its best to complete its work and adjourn sine die on October 14, or before.

Mr. President, the remaining workload before the Senate is a heavy one. We have, for example, another defense authorization bill that needs to be taken up. We have a defense appropriations bill, the foreign assistance appropriation bill, the HEW appropriations bill, various expiring authorizations, and we also have the energy conference report, for example, the one that is before the Senate at the present time, the energy conference report on utility rate reform, the energy conference report on energy conservation, and hopefully an energy tax conference report. We have, in addition to these measures, various other measures which may or may not be called up.

But in any event that is the time situation according to the calendar which provides for 12 months out of the year, 52 weeks, and 365 days, as the usual thing, broken once every 4 years by a different number of days.

Mr. President, a long time ago the leadership stated that the top priority of this Congress was energy legislation, a No. 1 priority, and we have stuck to that. The conferees have worked hard. They have devoted hours and months of their time to trying to hammer out a conference report that can be brought back to the Senate and disposed of. Those conferees worked at times on a conference report when the rest of us were home during last year's sine die adjournment. They worked on weekends when the rest of us did not have to work. They did the best they could.

This is a compromise that pleases no one 100 percent—no one. The only way that a Senator could have a conference report here that would please him 100 percent would be if he were to write that conference report himself. So any compromise represents a give and take on the part of producers and consumers, liberals and conservatives, Republicans and Democrats, and fortunately this is not a partisan matter, so I eliminate the partisan reference.

So it is a compromise, the best that they could get after all of those months of trial and travail and labor and sweat and perseverance and tenacity and frustration. It is the best that they could bring back, and a compromise, of course, is not going to please anybody 100 percent because somebody has to give, somebody has to take, and that is the way compromises go.

What we have before the Senate is a compromise. I feel it is the duty of the Senate to act on that compromise one way or the other. I hope the compromise conference report will be adopted, but I am realistic. There is not a majority of votes for the conference report at this time; there is not a majority of votes against it at this time, but I feel it is the duty of the Senate—and I am not one who has a monopoly on recognizing what the duty of the Senate is, because every Senator here is entitled to his viewpoint as to what the duty of the Senate may be at a given time—I happen to believe that it is our duty, having said energy is the top priority, to vote up or down on the conference report. I am willing, as one who likes the old tune called The Roving Gambler, to lay that gold watch and chain on the desk and say, "Gentlemen, we will play for keeps. We will vote up or down, and let the stakes go where they may." If I lose, I lose. If the conference report is rejected, so be it. If the conference report is adopted, so be it.

Mr. President, I have, I think, been as lenient as a majority leader can be under the circumstances. I originally stated I would wait 2 days before offering a cloture motion. I do not want to offer a cloture motion. I still think we can get an agreement.

So it brings me down to the point where I propose the following agreement: I ask unanimous consent that on next Tuesday at the hour of 2:15 p.m. the Senate vote up or down on the motion by Mr. METZENBAUM and other Senators to recommit the conference report with instructions, thus waiving any motion to table; provided further, that at the hour of 5:15, if the motion to recommit does not prevail, the Senate vote on a motion by Mr. BARTLETT and other Senators to recommit the conference report with instructions. I do not know what those instructions will be. So far as I am concerned it is a pig in a poke, but again there is the gold watch and chain.

Mr. President, I propose further that if that motion to recommit does not prevail that at the hour of or 2 hours after that motion is disposed of—let us say 3 hours after that motion is disposed of, which would be roughly 8:30 in the evening—the Senate proceed to vote up or down on the conference report.

My proposal would waive any motion to table the motion by Mr. METZENBAUM, would waive any motion to table the motion by Mr. BARTLETT. It would waive any motion to table the conference report.

There is the agreement. Provided, finally, that the time would be equally divided between Mr. JACKSON and Mr. HANSEN on the conference report, and that the time on the motion by Mr. METZENBAUM would be equally divided between Mr. JACKSON and Mr. METZENBAUM; that the time on the motion by Mr. BARTLETT would be equally divided between Mr. JACKSON and Mr. BARTLETT.

Mr. President, I believe that in propounding a unanimous-consent request the propounder does not lose the right to the floor. I have made the request. Senators may reserve the right to object and may object.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request propounded by the Senator from West Virginia?

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator reserves the right to object.

Mr. METZENBAUM. I think the Senate should understand the posture we are in. About a week ago I advised the leader of the Senate that I was prepared to move forward that week. I think that was—time flies—I guess it was on a Thursday with respect to the motion to recommit.

Since that time there have been a number of discussions and, as of this moment, it is fair to say that those of us who have to consider themselves consumer advocates have indicated they have no intent to filibuster. As a matter of fact, we have indicated a willingness to bring the matter to a head and to vote on both the motion to recommit or any other motions that may be made thereafter, and we were also prepared to vote on final disposition of the measure.

It is a fact that within the last several days we had indicated to the leader a willingness to vote at 2:15 on Tuesday, and subsequently at a later hour in the day in connection with the final passage.

A strong argument has now been made by some who really have to be producer advocates that if the motion to recommit fails perhaps there is some middle ground to make this a better bill than it is at the moment and that there ought to be an adequate time between the time the motion to recommit fails, if it does fail, and the next motion to recommit, if there be one, in order to negotiate and discuss the subject.

The argument is made, "Why don't you do that now? Next Tuesday is a long ways away." Well, the answer to that is very simple, because if the motion to recommit is to prevail that would be totally satisfactory to those of us who consider ourselves on the consumer side. But if the motion to recommit fails then there may be some middle ground between the producers and ourselves which would be better than that which is in the conference committee report, and we might be able to strike an agreement.

Certainly at this point, as long as there is any possibility of the motion to recommit prevailing—and that possibility does still exist—it does not make sense for us to meet with the producers and say, "Well, we would agree to some middle ground." It would be illogical, it would be unreasonable, and it would be violative of our own responsibilities.

It is unreasonable to assume that sometime between the hour of 2:15 or 2:30 on Tuesday and 5:00 that day that we could sit down and discuss a complicated measure such as this and come to some agreement. I do believe that this matter should be brought to a conclusion. I believe that the House ought to be given adequate time to dispose of this measure.

But I believe there is merit to the argument that the Senate have an opportunity to see if it can strike a compromise, if the compromise or the alternative proposal which those of us who are filing the motion to recommit fails.

Therefore, I rise to indicate to the leader that I believe if the motion were to be amended to make it possible to have the first vote at 2:15 on Tuesday, September 19, and the final vote with respect to disposition of this measure on the 26th or if the leader prefers on the 25th or if the leader prefers on the 23d or if the leader prefers on the 22d, and none of those would be a problem as far as I am concerned, but there must be an adequate time to give the Senate an opportunity to reasonably discuss a possible fallback position in the event we are unsuccessful on the original motion to recommit.

Now, let me point out that if you take any of those days, and if the Senate sees fit to dispose of the matter by a motion—not to dispose of it, but to recommit—we still would have left more than 3 weeks, or slightly less than 3 weeks, for the House to decide whether they were going to accept it or not.

I believe that is a reasonable approach. I do not believe we should be crowded into a cloture motion. I urge upon the majority leader that he not file a cloture motion; and I, for one, am prepared to say that if the unanimous-consent request is changed to either the 26th or the 25th—we do not meet on Sunday, which is the 24th—or the 23d, which is a Saturday, or the 22d, which is a Friday then I would not find it objectionable, and I would hope other Members of the Senate would not find it objectionable.

Several Senators addressed the Chair.

Mr. HANSEN. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from Wyoming reserves the right to object.

Mr. HANSEN. Mr. President, I think there is a lot of merit in what has been said by the distinguished Senator from Ohio. First, most Senators know that his concerns with these bills do not parallel the concerns of the Senator from Wyoming. I represent a producer State. I think I know something about the understanding and the reaction of drillers and oil and gas producers in my State of Wyoming, and, as a consequence, something of the feeling of those members of the Independent Petroleum Association of America, which represents those people who have made about 80 percent of the wildcat discoveries in the last several years. I think I know something about how some people in industry regard this bill.

It has been contended, and this does disturb me, that if the Senate refuses to go along with this natural gas compromise, the whole ballgame is over. The compromise was worked out without the participation—may we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order. Senators will please take their seats.

Mr. HANSEN. The so-called compromise was worked out without the participation of a very sizable number of the conferees from the Senate and from the House as well. I think I can honestly say that I doubt that there are five Members in this body who have taken the time to read that full measure, along with the report of the conferees. I doubt that there are five Senators who have read it.

I think it is not fair nor accurate to say that this is the only thing that can fly. I happened to be talking just today with representatives of Southern California Edison, and I happened to be talking with a representative of San Diego Power & Light, as well as a representative of Florida Power & Light.

The Southern California Edison man told me that his company has just learned that under this bill, despite the disclaimer that it would not affect public utilities, it is the considered judgment of their attorneys that this bill will cost the consumers of electricity sold by Southern California Edison between $400,000 and $500,000 per day. They did not know it before. And I think it is fair to say that the people who get their electricity from Southern California Edison do not know it, either.

That leads me to this point: There are all kinds of things in this bill that are not understood. Chairman Charles Curtis of the Federal Energy Regulatory Commission has indicated that his agency will need an additional 325 personnel, with a proportionate number of supporting staff, to handle the burden that will be placed upon his commission as a consequence of the passage of this legislation. It is a fact that when FERC took over the responsibilities of the Federal Power Commission, at that time there were pending unresolved before the Federal Power Commission some 12,000 cases. Today that number of cases exceeds 20,000.

Sheila Hollis, the enforcement officer for the Federal Energy Commission, has said that this bill will place—I am paraphrasing what she said—enormous burdens upon her agency to try to resolve the problems that she anticipates.

I think that what we need is——

The PRESIDING OFFICER. Will the Senator suspend for a moment? The Chair requests that the Senate be in order. An important matter is at issue. The Chair particularly requests the staff of the Senate to be in order; I think staff members are contributing to the disorder in the Chamber at the moment.

The Senator from Wyoming may proceed.

Mr. HANSEN. I think what is needed is time for all of us to see if we can work out a better compromise. I am not trying to kill the bill. I am not suggesting by any means that we do not come to a final vote. But I do say in all sincerity, Mr. President, that I do not think that the average Member of this body understands very clearly—perhaps no better than does the Senator from Wyoming—what is contained in it. I think we can come up with a better compromise than is now offered before us by the conferees.

I am disturbed because my good friend from Washington, the chairman of the Energy Committee, has persuaded a great number of Senators in this body that it is this or nothing. I fully respect his judgment, but I want to say this: If the Senate of the United States were, by its vote, to offer to the House a different bill than the one which is now before us, and if the conferees from the Senate would go to the conferees from the House and say, "That is our new proposal," I do not agree with him that this energy bill for 1978 is automatically dead. I think if we went over there trying, as we so far have failed to do, to follow what should have been the instructions of the Senate when we passed Pearson-Bentsen, I think if we were to go back to the House and say, "We have changed some things which meet the concerns of the representatives of consumer States, we have changed some things which meet the concerns of the producer States, we think we have a better bill, and we offer it to you," my guess is that the burden and the responsibility, then, for saying whether we shall have an energy bill in 1978 or whether we shall not have a bill would rest squarely on the shoulders of the House conferees, and I would like to give them that opportunity.

I think inherent in what I am suggesting must go the full commitment of Members of the Senate, and specifically those who are conferees on this bill, to go in good faith, with determination, to tell the House Members what the Senate wants, and if that sort of conviction and dedication can accompany our efforts, I think, within the limitations as they have been spelled out by the Senator from Ohio, it will make sense and they will give this Congress an opportunity to work its will on a package that I think can provide a better answer for America than the one we have before us.

I do not intend to object, I say to my good friend the distinguished majority leader, if we can work out a time that is reasonable, and I think the Senator from Ohio has suggested a reasonable compromise. If we could have a vote this coming Tuesday on the Metzenbaum proposal and on as many other proposals as might be submitted between this coming Tuesday and a week later, or whatever time later—I would hope that it might be a

little longer than a week, but if it is a week, so be it—I would not object, and I think we would be in a position of saying, first of all, "We do not know what is in this bill; let us look at it and try to understand it better," as I am sure the people in California and in Florida are going to come to understand it better when they find out what effect it will have on their utility rates.

I would hope that we could enter into an agreement that would give us this opportunity, within the constraints of the projected adjournment date, to try to work our will.

Mr. ROBERT C. BYRD. Mr. President, may I modify my request?

The PRESIDING OFFICER. The Senator may modify his request.

Mr. ABOUREZK. Will the Senator yield first?

Mr. ROBERT C. BYRD. I yield.

Mr. ABOUREZK. Mr. President, reserving the right to object, I want to say when Senator METZENBAUM and I discussed during this past week the notion of agreeing to a time to vote on recommital with instructions to, in effect, substitute the bill, and if that should fail to have a vote on a final passage, we did so with the idea that we would take our best shot. We thought we had an excellent chance to win one or the other of the two votes. We still believe that.

By agreeing to a time certain to vote on final passage, we would then forego any right we might have to a filibuster or an extended debate, whatever we might call it. We are still amenable to that because we still think we have an excellent shot at defeating this so-called natural gas conference report.

I might say, Mr. President, we all get into the habit of calling it a compromise, when, in fact, it is not a compromise. What it is is an agreement between parties who agreed in the first place. We ought to call it the Jackson-Dingell gas bill, or the Natural Gas Price Increase Act, because they agreed from the outset what it ought to be.

A compromise is an agreement or a moving toward the center of two sides who did not agree in the first place.

I do not think we ought to call this a compromise although it has been called that so much that I find myself falling into the same trap.

I would also say, Mr. President, that during discussions from December onward approximately half of the conferees of both the House and Senate sides were excluded from the conference committee meetings. We had no opportunity to debate, no chance to discuss, or to have input from consumer groups into that conference report whatsoever.

I take it from the remarks delivered by Senator HANSEN and Senator BARTLETT there were some producer interests that were not represented as well, although I find it hard to imagine which of those that might be, after looking at the final result.

I do not think it is unreasonable for Members of the Senate to ask for additional time for discussion for those of us who really did have genuine disagreement to come to some kind of compromise on this bill.

The agreement that came out of the conference committee is not the only compromise that is available to the Senate and to the House of Representatives.

What I would say, Mr. President, is that while I am still willing to come to a time agreement, as is Senator METZENBAUM, I would hope that the majority leader would not offer the cloture petition which would automatically stigmatize what this effort is, as a filibuster, which it is not—at least, not yet. If the cloture petition is filed, I will have to say, while I am willing to come to an agreement, that I would have to shift my position somewhat vigorously and oppose the cloture petition and the natural gas conference report with whatever means are available under the rules. I would hope the majority leader would accede to this additional time, which I do not think is unreasonable.

Mr. BARTLETT. Mr. President, reserving the right to object, I would like to say to the majority leader that I think his proposal does not allow sufficient time for me or perhaps others to develop alternate proposals, perhaps on recommitment motions with different instructions.

It is obvious that the conferees who agreed to the natural gas conference report took many months to reconcile their differences of opinion. I think the majority leader recognizes that the differences of opinion which exist between the consumers and producers, who are in agreement on a motion to recommit with instructions, have great differences that would need to be reconciled, and that this would take some time.

We could have had a vote today if it had been agreed to or was the desire of the majority leader, because as far as I know there was no objection to that. The target date was shifted to Tuesday.

I am willing to have a vote at any time on the Metzenbaum motion to recommit with instructions, and I am certainly willing to have a two track or three track system as long as those of us who desire to make motions to recommit, or to perhaps make other motions on this proposal, have that right.

I find some merit in what was proposed by the Senator from Ohio and what was proposed in our meeting in the majority leader's office by the Senator from Wyoming.

Mr. President, I would like to have order in the Senate.

The PRESIDING OFFICER. The Senator is entitled to order. The Chair will request the Members to take their seats.

The Senator from Oklahoma.

Mr. BARTLETT. Mr. President, my remarks were mainly directed to the majority leader, though I do not think he heard them. I will just repeat this much: I think his request is unfair in that it certainly would not give time to develop another agreement among the diverse interests on our side which disagree with the conference report.

I do not think that we who are in opposition to the conference report should be blamed in any way or penalized in any way for the long delay that has taken place in the negotiations by the conferees to reach agreement on the conference report.

I think we should at least have a little time to offer some approaches other than just the Metzenbaum motion to recommit with instructions and the conference report itself.

If the majority leader would persist in his request that he has propounded, I will object. I hope he will not persist. I hope he will consider some of the suggestions which have been made, both in the conference in his office and on the floor. I would think that perhaps if we had a chance to discuss some of the things in his office, and for him to hear some of our thoughts as well as for us to hear his, we could reach an agreement and we could have some votes on this. We could also take up other matters which the majority leader says are so important to take up, and which I know to be important.

We are certainly not going to get anywhere by having this kind of unanimous consent request propounded, other than to have it lead to either a cloture motion or further delay.

I hope that we can reach some kind of agreement. I certainly want to have votes on other matters, as well as on this. I certainly want to have the House have an opportunity to consider it, whatever we agree to. I am not wanting to have a filibuster, just to prevent voting on this important matter. I do think the rights of those who disagree with the compromise should be respected.

Mr. FORD. Mr. President, reserving the right to object, the first majority leader of the United States must have been Job, because a majority leader must have the patience of Job in order to try to accommodate 99 colleagues.

I hear the voices on this floor say to the Senator from West Virginia, a man whom I think everyone respects and respects highly, "If you will listen to what we are saying and you delay the consideration of the conference report on the natural gas bill, we will give you, or we will not object to a time certain. But if you do lay down a cloture motion today, then I shall change my position and we will go to filibuster and we will do those things." So a threat becomes the veil over the Senate Chamber.

Then we hear, "Let us go back to the closed-door sessions that we have heard so much about that have been going on to get to where we are today, let us go back behind closed doors and see if we cannot work out something."

Then I also hear, "Let us give us all the time we can; we are going to get a piece of candy and if it does not draw enough, we are going to get a larger piece of candy. And if that does not draw enough, we are going to get a larger piece of candy over the next 10 years. And if we get a large piece of candy that draws enough votes, then we are going back to conference with instructons."

I can bet you that those two sides are trying to get together now on a recommittal motion and will not be together when we get back to conference.

So what are we trying to do? Mr. President, I shall not object to what the majority leader is trying to do, but I want to say one thing: I believe that, somewhere along the way, we ought to be able

to say, this is enough; we ought to stop, this is the best we can do. Some of us are going to be back next year, the Lord willing, and if we have made mistakes, let us say we have made mistakes. I think we can correct them then.

But I would like to see us get on to a vote, and I would like to see that those who are from producing States that did not get enough for producers, those who are for consumers and felt like they did not get enough for consumers—somewhere we come down. I would like for us to shorten the period as much as possible without putting us through any more than possible and see if we cannot get on with the vote.

Mr. President, I want to support the motion of the majority leader and I hope other Senators will do the same.

Mr. ABOUREZK. Mr. President, I reserve the right to object.

I really fail to understand why the Senator from Kentucky would insist on immediate action on this thing if there are Senators who feel there is more time needed. The majority leader can get his time for a final vote, foreclose the possibility of a filibuster, or he can file his cloture motion today if somebody should object to this and just have one hell of a fight from now until it is all over.

Those are the two alternatives, as I see it. He has wanted all along a time for a final vote, which I think he can get. I listened to Senator BARTLETT. It sounds to me if he gets the time he wants to do certain things he needs to do, he will agree to it. Senator METZENBAUM feels the same. I do not see why the rhetoric now that we have to vote on this right away.

We all make mistakes, of course. I have never heard anybody who signed onto that bill who says it is a good bill. They all say it is a bad bill. It is the most incredible thing I ever heard in my whole life. Nobody likes it, but they all want to vote for it.

I want to say that I held a hearing this morning, Mr. President. Talk about making mistakes. The head of the Federal Energy Regulatory Commission, Charles Curtis, testified that he would have to have 300 additional professionals, that he would have to take 500 authorized positions, already authorized, and turn most of them to enforcing the Natural Gas Policy Act if it is passed. That is 800 people. And he would have to hire some $10 million worth of contract help, because he would not be able to hire them as full-time Government employees, to try to administer the new Natural Gas Policy Act, if it passes. Now, that is a minimum, conservative suggestion and an estimate by the Federal Energy Regulatory Commission staff.

Let me tell you, if they say that is going to be the minimum, you know and I know that it is going to be much more than that. He estimated some $30 million in additional bureaucracy to try to enforce the act. That was his statement this morning in the hearings which I chaired.

He talked about coming back, perhaps, if the courts did not agree with what he had to say about the natural gas policy act; if they misread his interpretation, he said, "We'll just have to come back and change the law once again." I think we ought to make the law right the first time and I think everybody agrees, even those who are for it right now, that it is not right this time. Why do they want to continue to press it?

Mr. FORD. Mr. President, I reserve the right to object so I might answer the distinguished Senator from South Dakota.

Does the Senator have a transcript of the hearing this morning at his disposal there?

Mr. ABOUREZK. No.

Mr. FORD. Was not the statement this morning at the Abourezk hearing that they only needed 298 people, including backup personnel, and they would need more people under the present law to reduce the backlog?

Mr. ABOUREZK. No.

Mr. FORD. I think the Senator had better go back to look at his transcript.

Mr. ABOUREZK. I do not need to. I was there this morning and I did not see the Senator in the room.

Mr. FORD. There were a lot of decent people there and they got to read the transcript.

Mr. ABOUREZK. That is fine. I am going to put the transcript in the RECORD tomorrow morning, as soon as it is finished.

Mr. FORD. Mr. President, that is the figure I got, 298 backup.

Mr. ABOUREZK. That is not true. The testimony was 800 additional people, most of whom will go to enforce the act if it is passed, plus $10 million in contract help. Does the Senator have figures to contravene those?

Mr. FORD. I do not have the money figure but I have the employee figure. I think my figures are about as close as his.

Mr. ABOUREZK. What are we arguing about then?

Mr. FORD. I have the 298 backup, and the Senator said 300.

Mr. ABOUREZK. No, no, the Senator missed the 500 authorized Mr. CURTIS was talking about.

Mr. FORD. The figure I have is 298.

Mr. ABOUREZK. If the Senator had been in the room, he would have been able to speak with more authority.

Mr. FORD. I can be as loose with figures as anybody else.

Mr. ABOUREZK. Help yourself.

Mr. FORD. Mr. President, I have the 298 figure, plus the statement that they would need more people under the present law to reduce the backlog.

The PRESIDING OFFICER. Pending is the unanimous-consent request by the Senator from West Virginia. Is there objection?

Mr. METZENBAUM. Mr. President, reserving the right to object. Do I understand correctly that the majority leader was about to indicate some amendment of his original request? Am I incorrect about that?

Mr. ROBERT C. BYRD. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. The regular order has been requested. The unanimous-consent request has been propounded. Is there objection to the unanimous-consent request?

Mr. BARTLETT. I object.

The PRESIDING OFFICER. The Senator from Oklahoma objects. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Ohio (Mr. METZENBAUM) ——

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. ROBERT C. BYRD. The Senator has made what I think is a reasonable proposal. In view of the fact that my previous request was objected to, I shall try again.

Mr. President, I ask unanimous consent that the vote up or down on the motion by Mr. METZENBAUM and other Senators occur next Tuesday at 2:15 p.m.; that a vote on final adoption of the conference report, up or down, occur on Friday, September 22, which was the last date that he proposed—Friday the 22d—at 1 o'clock p.m.; and that the time in between and throughout be divided and controlled in accordance with the proposal that I made previously.

Mr. ABOUREZK. Mr. President, reserving the right to object, can we have a short quorum to talk about this a minute?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I be recognized after such quorum.

Mr. NUNN. Mr. President, before the quorum call, may I be recognized for just a very brief announcement?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I be able to retain the floor for the purpose of yielding to Mr. NUNN and then for the purpose of a quorum call.

The PRESIDING OFFICER. To be recognized after the quorum call?

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

VISIT TO THE SENATE BY A DELEGATION FROM FRANCE—THE DEFENSE COMMITTEE OF THE FRENCH CHAMBER OF DEPUTIES

Mr. NUNN. Mr. President, we are privileged to have on the floor of the Senate now a delegation from France that composes the Defense Committee of the French Chamber of Deputies. I know Senators would like to speak to the individuals.

We have General Bigeard, Mr. Bouvard, Mr. Darinot, and Mr. Visse. They are here; we are honored to have them. Senator GOLDWATER and other members of the Armed Services Committee and myself have met with them today and had a dialog. I would like Senators to be given an opportunity to speak to them during a quorum call.

Mr. ROBERT C. BYRD. Mr. President, I will not suggest the absence of a quorum. I understand one is not needed now. We have had a little discussion.

Mr. McCLURE. Will the Senator yield before that?

Mr. ROBERT C. BYRD. Yes.

Mr. McCLURE. Mr. President, I just wondered if the Senator from Ohio could indicate to the Senator from Idaho whether or not he is prepared to offer a motion to recommit with the instruc-

tions at this time that could be voted on today, or tomorrow, or on Monday?

Mr. METZENBAUM addressed the Chair.

Mr. METZENBAUM. Mr. President, may we have order? I recognize that we have distinguished visitors here, but I think——

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. NUNN at this time be allowed to introduce to the Senate our visitors, that after he has done that the Senate recess for 3 minutes to allow Senators to personally greet our visitors, after which I be recognized.

Mr. NUNN. Mr. President, the visitors have been introduced.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the Senate, at 5:02 p.m., recessed until 5:05 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BARBANES).

NATURAL GAS POLICY ACT OF 1978—CONFERENCE REPORT

The Senate continued the consideration of the conference report.

Mr. McCLURE. Mr. President, will the Senator from West Virginia yield to the Senator from Idaho just briefly?

Mr. ROBERT C. BYRD. Yes.

Mr. McCLURE. Mr. President, I propounded a question to the Senator from Ohio in regard to the possibility of a motion to recommit with instructions. I understand the Senator from Ohio has been consulting with others all week on that matter. Is there any possibility we could have such a motion made either today or tomorrow and voted on today, tomorrow, or Monday, rather than waiting until Tuesday to make and vote upon such a motion?

Mr. METZENBAUM. Let me say to the Senator from Idaho that originally I was prepared to move in that direction.

However, understandably, a number of Members of the Senate have inquired of me as to whether or not there would be a vote today on the matter; and by reason of the discussions that were taking place, I assured them that there would not. Some of them would have come from long distances to be here and then would have to turn around and return, without a vote.

Therefore, although I am perfectly willing to vote on the motion at the earliest possible moment, I think it would be totally unfair, on a matter as controversial and as important as this, to bring it up for a vote prior to giving all Members of the Senate a chance to know exactly when it will be.

Mr. McCLURE. Mr. President, will the Senator from West Virginia yield further?

Mr. ROBERT C. BYRD. I yield.

Mr. McCLURE. If that be the case—and I understand some of the reasons why that might be true—is the Senator from Ohio prepared to offer such a motion to recommit with instructions, either at this time or tomorrow, so that those of us who have not been involved in the secret sessions which have been held will have an opportunity to see what is in the motion?

Mr. METZENBAUM. I know that the Senator from Idaho is particularly concerned about that. The language of such a motion has not been filed officially at the desk.

I point out that today I arranged, by unanimous consent, to have the language changed, because somehow the printer made the word "depleted" instead of "deleted" in the fourth line of the motion. It does read correctly in the RECORD, but it does not read correctly in the printed amendment. I just tell the Senator that for the purpose of clarification.

Mr. McCLURE. If I understand the Senator correctly, then, with that correction, the printed motion is the motion that the Senator from Ohio intends to offer and have voted upon first, whenever that might be arrived at.

Mr. METZENBAUM. The Senator from Idaho is correct, although I point out that in colloquy with the majority leader—I think it was yesterday—I made it clear that it is possible that some phraseology could be changed in connection with that.

It also is fair to point out that that motion would be subject to amendment by other Members of the Senate, and it has been indicated by several Members of the Senate that they intend to attach language to the motion, having to do with the Alaska pipeline.

Mr. McCLURE. I thank the Senator.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. ROBERT C. BYRD. Mr. President, if the Chair would indulge me momentarily, I yield to the Senator from Connecticut in the meantime to have some conferees appointed, and I will talk with the manager of the conference report.

The PRESIDING OFFICER. The Senator from Connecticut.

CIVIL SERVICE REFORM ACT OF 1978

Mr. RIBICOFF. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2640.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing that the House has passed the bill (S. 2640) to reform the civil service laws, with amendments in which it requests the concurrence of the Senate; that the House insists upon its amendments to the bill and requests a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. RIBICOFF. I move that the Senate agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. RIBICOFF, Mr. EAGLETON, Mr. CHILES, Mr. SASSER, Mrs. HUMPHREY, Mr. PERCY, Mr. JAVITS, Mr. STEVENS, and Mr. MATHIAS conferees on the part of the Senate.

DISTRICT OF COLUMBIA RETIREMENT REFORM ACT

Mr. RIBICOFF. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 6536.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 6536) to establish an actuarially sound basis for financing retirement benefits for policemen, firemen, teachers, and judges of the District of Columbia and to make certain changes in such benefits, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. RIBICOFF. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. RIBICOFF, Mr. EAGLETON, Mr. SASSER, and Mr. MATHIAS conferees on the part of the Senate.

NATURAL GAS POLICY ACT OF 1978—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. ROBERT C. BYRD. Mr. President, I hope we will soon reach an agreement.

By the way, let me say good-naturedly to my friend from South Dakota, JIM ABOUREZK, who used the words "hell of a fight," that I do not want any fight. I like to avoid any fight. I have been in a few of them over the years. I do not want any fight with anybody. I am a peace-loving man.

I have been in a fight or two that I thought was "a hell of a fight" and got whipped. But I have never run from one yet, and I am not going to start running at this late date.

I say that in good nature, because the Senator used those words, and I want to avoid a fight. I want to avoid a hell of a fight, and I want to avoid any fight at all.

Mr. HANSEN. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator makes a reasonable request. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, I make the following proposition:

I ask unanimous consent that the vote on the motion to recommit with instructions, by Mr. METZENBAUM and other Senators, occur on next Tuesday at 2:15 p.m., up or down, but that in the meantime he call up his motion.

Of course, if this agreement is concurred in by the Senate, no tabling motion would be in order. I hope we would call it up immediately after the agreement, so that we could see what we have before us.

I ask unanimous consent, further, that in the event the motion to recommit fails, there be a vote, up or down, on the conference report at 1 p.m. I am going to go

as far as the Senator from Ohio has suggested, perhaps even further. I do not remember whether he said the 26th or the 27th.

Mr. METZENBAUM. The 26th.

Mr. ROBERT C. BYRD. I am going beyond that

That the vote occur on the conference report, up or down, at 1 p.m. on Wednesday, the 27th of September.

Provided, further, that when that hour is reached, the vote occur, up or down, and that no further motions at that hour be in order; that when the hour of 1 p.m. arrives, no further motions to refer or commit or recommit be in order, unless there is a motion to recommit pending at that point. So there would be a vote on that pending motion to recommit, and immediately the Senate would vote on the conference report, up or down.

Before the Chair responds, I would include the proviso that, in the meantime, the time on the conference report be divided equally between Mr. JACKSON and Mr. HANSEN; that the time on all motions to recommit be divided between and controlled by Mr. JACKSON and the mover of the motion to recommit or refer or whatever; that it be understood that, in the meantime, the Senate could operate on a double-track system and take up other measures, which would indicate progress on other matters.

Mr. President, let me add this proviso, that no motion to table any motion to recommit be in order.

Mr. JACKSON. On the conference report.

Mr. ROBERT C. BYRD. That is automatic. If we are going to vote up and down on the conference report at 1 p.m. on a certain date the motion to table that conference report, is automatically waived. Am I not correct? How can we vote up or down on a conference report if there is a motion to table?

The PRESIDING OFFICER. The Senator is correct, that the time agreement on a final vote up or down on the conference report, if the first motion to recommit fails, would preclude a motion to table on the conference report.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. McCLURE. Mr. President, reserving the right to object.

The PRESIDING OFFICER. However, the Chair would note that no provision has been made on the nature of the vote that might occur on any intervening motion to recommit subsequent to the first motion to recommit.

Mr. ROBERT C. BYRD. Yes. I thank the Chair.

I add the proviso that no intervening motion to recommit, be subject to a tabling motion.

Mr. METZENBAUM and Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. It is the Chair's understanding that the request of the Senator from West Virginia encompasses the proposition that if the first motion to recommit fails, subsequent motions to recommit would be in order, and that votes on such motions would not be subject to a tabling motion. It would be up or down. And if such motions fail, then a vote up or down on the conference report would occur at 1 p.m. on Wednesday, the 27th of September.

Mr. ROBERT C. BYRD. The Chair is correct. The Chair correctly interprets my request.

Mr. METZENBAUM. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it, if the Senator from West Virginia yields for that purpose.

Mr. ROBERT C. BYRD. I yield.

Mr. METZENBAUM. Mr. President, I have been asked by a member of the Senate not present that regardless of the timing it be clear that any amendments to the motions to recommit are permitted under the unanimous-consent request.

The PRESIDING OFFICER. Amendments in two degrees would be in order, the Chair will inform the Senator.

Mr. METZENBAUM. I thank the Chair.

Mr. BARTLETT. Mr. President, reserving the right to object.

The PRESIDING OFFICER. A reservation to the unanimous-consent request is heard from the Senator from Oklahoma.

Mr. BARTLETT. Mr. President, it is my understanding that if any one of the motions to recommit, either the Metzenbaum motion or any of the intervening ones prior to the date set for the motion to vote on the conference report, is agreed to, then there would be no vote on the conference report. Is that correct?

Mr. ROBERT C. BYRD. That is correct.

Mr. BARTLETT. Second, I favor very strongly the request the Senator made for a two-track system. However, it is my understanding that priority would be given to those wanting to make a motion to recommit, and that if they had such a motion to make then the other track would be set aside and priority would be given to that Senator. Is that correct?

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I am sure the leadership would not want to shut out any Senator who wishes to make a motion to recommit by going to another matter.

Mr. BARTLETT. The priority would be with the Senator wanting to make the motion to recommit.

Mr. ROBERT C. BYRD. The priority is the energy conference report before the Senate.

Mr. BARTLETT. I could not hear the Senator. I am sorry.

Mr. ROBERT C. BYRD. The priority is the conference report before the Senate.

Mr. BARTLETT. So it would be the Senator wanting to make the motion to recommit.

Mr. ROBERT C. BYRD. Which automatically would include the Senator's concern.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. BARTLETT. I yield.

Mr. STEVENS. Just to make certain, I might ask my good friend from West Virginia. It is this Senator's understanding that the conference report would remain the pending business and it would take unanimous consent to set that aside for the second track business. Is that correct?

Mr. ROBERT C. BYRD. It would be done on a motion. The majority leader does not intend to do that. The majority leader intends only to bring up another matter if it is agreeable to Senators. If they want to debate the conference report, that is No. 1.

Mr. STEVENS. I just make that point to assure the Senator from Oklahoma that this would be the pending business, that it would take an agreement or a motion adopted by the Senate to substitute something else on the second track, so that the proponents of the motions to recommit would have the priority under this agreement as it is understood.

Mr. BARTLETT. Mr. President, it is not my understanding that the motion will be made to bring something else up. But I think the priority must be with the Senator wanting to debate the conference report, or to make or debate a motion to recommit, and I do not think the majority vote should squeeze out someone desiring to deal with this natural gas problem. That is what I think the majority leader said.

Mr. ROBERT C. BYRD. Precisely.

Mr. President, let me restate the request so that everyone will clearly understand.

Mr. BURDICK. Mr. President, reserving the right to object, is it possible to change that 2:15 p.m. on Tuesday on the vote on the motion to recommit to 3 p.m.?

Mr. ROBERT C. BYRD. Yes, as far as I am concerned.

Mr. BENTSEN. Mr. President, I say to the majority leader I understand we will be getting back to natural gas tonight. Is that correct?

Mr. ROBERT C. BYRD. We will. Yes, indeed.

Here it is:

UNANIMOUS-CONSENT AGREEMENT

Mr. President, I ask unanimous consent that at 3 p.m. on next Tuesday, the Senate proceed to vote up or down on the motion to recommit with instructions by Mr. METZENBAUM and other Senators, thus waiving any Senators right to move to table that recommittal motion, provided further that Mr. METZENBAUM—we have an understanding—but provided further that he call up his motion within the next——

Mr. METZENBAUM. Twenty-four hours.

Mr. ROBERT C. BYRD. Twenty-four hours—provided further that on the 27th of September, Wednesday, at 1 p.m., the Senate vote up or down on the adoption of the conference report on natural gas pricing, thus waiving any Senator's right in the meantime to move to table that conference report; provided further that no tabling motion be in order against any motion to recommit the conference report or to refer that conference report; provided further that at the hour of 1 p.m. on Wednesday, the 27th, no further motions to recommit be in order, other than a then-pending motion to recommit, in which case the motion be voted on, up or down, immediately at the hour of 1 p.m., after which the Senate would proceed to vote immediately,

without any intervening motions, without any intervening debate, without any intervening quorum, up or down, on the conference report; provided further, that the time for debate on the conference report be equally divided between Mr. JACKSON and Mr. HANSEN; that the time on any motion to recommit, any debatable motion, be equally divided between Mr. JACKSON and the mover of such motion; and provided, lastly, that if it is agreeable to the leadership on both sides, concurred in by Senators on both sides of the aisle, the Senate proceed to another track to deal with other matters the majority leader thus may proceed with, which amply protects the Senator from Oklahoma.

I assure him, and I include in the request, that if a Senator wishes to move to recommit during this interval that I have laid out, he will not be precluded from doing so by any effort to move to another matter.

Mr. BARTLETT. Mr. President, if the Senator will yield for a question, it is my understanding there could be any number of motions to recommit if different Senators or the same Senator all saw fit to offer the motions during the period between the first motion to recommit by the Senator from Ohio (Mr. METZENBAUM) and the final vote at 1 o'clock on Wednesday. That is, unless some intervening motion to recommit is pending; is that correct?

Mr. ROBERT C. BYRD. May I grammatically correct my own request to say with respect to the vote on final, and any intervening recommittal motion, that the request, of course, obtains only in the event that such recommittal motion failed. Naturally, if the recommittal motion succeeds the vote on the conference report is out. o-u-t.

The PRESIDING OFFICER. The Chair would note that was the premise obviously of having the final vote on the conference report, that none of the intervening motions to recommit would prevail.

Mr. BARTLETT. Mr. President, reserving the right to object, would the distinguished majority leader include in his request that I be recognized at a time in that interval for the purpose of offering a recommittal motion or motions?

Mr. ROBERT C. BYRD. Mr. President, I include in the request that after the disposition of the recommittal motion by Mr. METZENBAUM, in the event that motion is rejected, that Mr. BARTLETT may be recognized at any time that another Senator does not have the floor, that he be recognized to make his motion to recommit with instructions.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from West Virginia?

Mr. METZENBAUM. Mr. President, reserving the right to object—and I will not object—as a matter of fact, I commend the majority leader for his cooperation in moving in this direction because I think we have resolved or are about to resolve a rather sticky problem, but there is one possibility that I would like to raise with the majority leader and upon his assurances that it will not occur otherwise, perhaps, it needs to be provided before in the unanimous-consent request.

A situation could develop after our motion to recommit is disposed of, assuming that it will be defeated—and I am not prepared to make that assumption or to accept it as a fact, but assuming that it were—it concerns me that others might be unable to obtain the floor for the purpose of offering motions to recommit by reason of a filibuster or control of the floor.

Is the majority leader prepared to assure those who might offer subsequent motions to recommit that that will not occur? If so, then that would be adequate for me, and if not, it should be covered in the unanimous-consent request.

Mr. ROBERT C. BYRD. Mr. President, the difficulty with that is—may I have the attention of the Senate—the practical difficulty with that is that what the Senator is saying means that there must be a limitation of time on any motion to recommit, and I do not think Senators want to do that, because if, let us say, Senator BARTLETT, wants to make a motion to recommit, and if Senator X wishes to make a motion to recommit, and Senator Y wants to make a motion to recommit, Senator Z wants to make a motion to recommit, to assure them of that we would have to put a time limitation on Mr. BARTLETT's motion.

Mr. METZENBAUM. I am more concerned about other matters which may be double-tracked at the moment, and someone gained control of the floor and of our not being able to have it released.

Mr. ROBERT C. BYRD. The Senator sees ghosts——

Mr. METZENBAUM. I only want the Senator's personal assurance.

Mr. ROBERT C. BYRD (continuing). Under every bed. There have been no tricks in this bag. I have to bend over backward to try to accommodate everybody.

Mr. HANSEN. Mr. President, will the Senator yield to me?

Mr. ROBERT C. BYRD. Yes.

Mr. HANSEN. I am very comfortable with the unanimous-consent request propounded by the distinguished majority leader. I know from personal observation he is a man of his word. He has assured us earlier that there will be no effort made at all to go into a double-track system so as to preclude someone from offering a recommittal motion. I am perfectly satisfied and happy with the unanimous-consent request, and I want to commend him for having done a masterful job of bringing about a resolution of an issue which could be disruptive of our efforts to adjourn, and I salute the majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

Mr. BARTLETT. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. BARTLETT. In your earlier unanimous-consent request you mentioned the priority——

Mr. ROBERT C. BYRD. I am having difficulty hearing the Senator, Mr. President. The Senator from Oklahoma is entitled to be heard.

Mr. BARTLETT. In your previous unanimous-consent request you mentioned that you would give priority to those who were interested in debating the bill or recommitting it.

Mr. ROBERT C. BYRD. Yes.

Mr. BARTLETT. Could that protection be handled in this way, which I think would provide the assurance that the Senator from Ohio is asking: Could the time be equally divided during the debate on a double-track matter so that it could come back, certainly within a prescribed time, to the main question, the conference report?

Mr. ROBERT C. BYRD. Mr. President, let me put it this way: I will not go on any double track except with the proviso that at any time during the discussion on that double-track matter, unless it is a matter of absolute critical emergency, I will have the proviso that at any time, regardless of whether there is a time agreement on that matter, during that discussion if a Senator wishes to debate the natural gas conference report or if he wishes to make a motion to recommit, it being understood that there will not be at that point a pending motion, because we can only have one pending motion before the Senate at one time, that such Senator be allowed to do that, and the double track is washed away, and we are back on the first track.

Mr. President, I do not know what else I can do by way of speaking or writing that would protect Senators' rights to offer motions to recommit.

As I say, however, unless Senators want to have time agreements on a motion to recommit there is no way of assuring every Senator that we can have an endless number of motions to recommit before the final vote on the conference report.

Mr. METZENBAUM. I say to the majority leader that I am comfortable with the situation. I have no objection and I appreciate his cooperation and I think we are moving in the right direction.

Mr. BARTLETT. I certainly thank the majority for his consideration, and I have no objection.

Mr. DOMENICI. Mr. President, will the Senator yield to the Senator from New Mexico?

Mr. ROBERT C. BYRD. The Senator can reserve the right to object.

Mr. DOMENICI. I can reserve the right to object, and I certainly do not object.

I first want to say to my good friend from Oklahoma (Mr. BARTLETT) that I apologize to him. About a half-hour ago, when he was addressing the majority leader, it was my fault that he was not paying attention, because I went over to talk to him to suggest that we do just what we are doing now, and have agreed to do, and that is to agree on an ultimate time, and I apologize for having interrupted.

Having said that, I think everyone this afternoon has done the Senate and the people of this country a great service. I am glad we are not going to have to file a cloture motion, that there is not going to be a filibuster, and I think, with all sides having such firm positions on this bill, we have done the right thing this afternoon, and I congratulate the majority leader.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

The text of the unanimous-consent agreement is as follows:

Ordered, That at 3:00 p.m. on Tuesday, September 19, 1978, the vote occur on a motion to recommit with instructions to be made by the Senator from Ohio (Mr. METZENBAUM).

Ordered further, That if that motion fails, further motions to recommit be in order, that they not be subject to a motion to table and with the Senator from Oklahoma (Mr. BARTLETT) to be recognized at some point to make a motion to recommit with instructions.

Ordered further, That if no motion to recommit with or without instructions carries, the vote occur on agreeing to the conference report at 1:00 p.m. on Wednesday, September 27, 1978, without further debate, quorums, or motions, except that if a motion to recommit is pending at that time, it be immediately voted upon.

Ordered further, That time utilized on the conference report be equally divided between and controlled by the Senator from Washington (Mr. JACKSON) and the Senator from Wyoming (Mr. HANSEN) and that the time utilized on any motion to recommit be equally divided between and controlled by the mover of the motion and the Senator from Washington (Mr. JACKSON).

Mr. ROBERT C. BYRD. Mr. President, the Senator from New Mexico is characteristically courtly, courteous, considerate, and fair. I thank all Senators for their cooperation, their patience, and their forbearance.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. Because Senators are here, I am sure they would like to know, and on behalf of the minority leader I would like to know, since we do have an agreement to come in tomorrow, could the majority leader determine what subjects he might seek to bring up on a two-track system tomorrow, in the event there is no debate on this conference report?

Mr. ROBERT C. BYRD. Mr. President, that is a good question, and I am glad the distinguished acting Republican leader raised that at this time.

May I inquire whether or not it is the desire of Senators to discuss, on tomorrow—I would hope the distinguished Senator from Ohio would call up his motion. We agreed it would be within 24 hours. That would make it until something like 5:30 tomorrow. I wonder if he would mind calling it up earlier in the day.

Mr. METZENBAUM. I have no objection to doing that, but I do not wish to misrepresent and suggest that when I call it up I expect to speak for 2 hours, because I have spoken rather extensively today, and there is not that much more I am going to say about the motion itself. So we should not anticipate extended debate on the basis of that particular motion; and if there is other business to be attended to. fine. If not, I do not think it warrants being in session just for that purpose, because the language I have already had printed, at this moment, at least, subject to further discussion, is the language that I expect to be final, and I think Senators can assume it will be; so, Mr. President, Senators need not concern themselves about it.

Mr. ROBERT C. BYRD. Would the Senator be willing to call up his motion tomorrow, say, by noon?

Mr. METZENBAUM. I have no objection.

Mr. ROBERT C. BYRD. Back to the question of the distinguished acting Republican leader, would it be agreeable to all sides that we proceed tomorrow with the consideration of the Nuclear Regulatory Commission legislation? I see nods in the negative.

Mr. DOMENICI. I would have to object to that.

Mr. ROBERT C. BYRD. Let me put it this way: Do Senators want to continue debate on the conference report tomorrow, or may the joint leadership—I will consult with the minority leader—proceed with a second track on tomorrow, with the understanding that at any moment any Senator who wishes to debate the conference report on natural gas may do so?

Mr. HANSEN. Mr. President, if I may respond to the distinguished majority leader, insofar as I know, I think there is no intention on this Senator's part to participate in the debate tomorrow, and I think there is assurance, which I think is eminently fair, that if such an occasion or situation should arise, as quickly as is expeditiously possible we would move to it anyway. I would think it perfectly agreeable that we deal with other matters tomorrow.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. McCLURE. My understanding would be, under the unanimous-consent agreement, that the first order of business on consideration of the natural gas bill would be the filing of the motion to recommit with instructions to be offered by the Senator from Ohio.

It would be my further understanding that following that, any Senator who desired to file a motion to amend that motion would have, under the reservation requested by the Senator from Oklahoma, the right to offer such an amendment; and if there were other pending business on which a vote had not been taken, it would be laid aside to accommodate a request to amend or discuss the motion of the Senator from Ohio, until next Tuesday, when a vote occurs on that motion. Is that correct?

Mr. ROBERT C. BYRD. Yes. All I am trying to do is get some feel as to whether, if Senators do not want to debate the conference report or the motion to recommit by Mr. METZENBAUM tomorrow, the Senate could go to other matters; and this would put the Senate on notice that tomorrow the Senate would not be out of session. would not be out of school, and there could be rollcall votes on other matters. The leadership has that understanding, and will, of course, cooperate with every Senator in trying to find some legislation for tomorrow.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. Mr. President, I yield to the Senator from New Mexico to propound an inquiry.

The PRESIDING OFFICER. Will the Senator suspend for just a moment, until the Senate is in order? The Senate will be in order.

The Senator from Washington has been recognized and has the floor, and has yielded to the Senator from New Mexico.

Mr. JACKSON. To propound some questions.

The PRESIDING OFFICER. To propound some questions.

Mr. DOMENICI. On page 6 of the committee print describing the natural gas pricing agreement adopted by the conferees on H.R. 5289, the term "proration unit" is defined for the purpose of determining when a new well is eligible for pricing as a new onshore production well. In the conference report on H.R. 5289, section 103 and definition No. 8 on page 3 of the report provide the legislative language to carry out the agreement of the conferees relative to wells qualifying as onshore production units. Unfortunately, the legislative language is not as straightforward or as easily understood as the language used in the agreement. This is because the legislative language had to follow a format that was consistent with the format used throughout the conference report. The statement of managers, on page 81, in the third full paragraph from the bottom, gives a good explanation of the effect of the definition of "proration unit" in determining when a new well is an onshore production well and that explanation is very helpful.

My question is this: In order to remove any question about the definition of proration unit, I ask the distinguished chairman of the Energy Committee if the following description is correct: any new well which does not qualify for new gas price treatment will qualify as a new onshore production well if it is outside the area designated by the appropriate Federal or State agency which will be effectively and efficiently drained by an existing well as defined in section 103(c)(3). In other words, the critical element in the application of the term "proration unit" to the determination of onshore production classification, is that the appropriate Federal or State agency have made a determination that the existing well would not effectively or efficiently drain the area to be drained by the new well.

Mr. JACKSON. The Senator from New Mexico is correct. I would only add that the agency determination or area drained by one well must be made before the new well is drilled.

Mr. DOMENICI. I thank the Senator. I have one additional question, and I will say to the Senator from Washington that I will not go into the grandfather clause now; we will go into that next week. Incremental pricing is the subject of my next question.

The agreement of the conferees very clearly specified that incremental pricing would be required under this bill only on interstate systems and that the decision for incrementally pricing intrastate pipelines would be left to the States.

The question I ask is this: I just want to make certain that this strict limitation to interstate systems is clearly understood. Even in those cases where an intrastate pipeline obtains part of its gas supply from an interstate pipeline, incremental pricing is not required on the intrastate pipeline. Am I correct?

Mr. JACKSON. The Senator from New Mexico is correct. Incremental pricing under this law is to be limited to interstate pipelines and to local distribution companies, as defined, which are served by interstate pipelines.

Mr. DOMENICI. I thank the Senator.

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas.

Mr. JACKSON. I yield to the Senator from Texas.

Mr. BENTSEN. Mr. President, it is with some reluctance that I rise to oppose the natural gas compromise drafted by the conferees. Let me state at the outset that I had genuinely hoped to be able to support this agreement because I honestly believe that a rational redefinition of our natural gas policy is an essential component of any comprehensive national energy plan. Like many of my colleagues, I have worked hard, and in good faith, to help develop a natural gas policy that makes sense for America, a policy that would put an end to the shopworn, discredited policy of market regulation.

Mr. President, this compromise agreement does not do the job. It is not a satisfactory resolution of the problem, and I, therefore, will support the motion to recommit with instructions.

Natural gas policy is controversial in almost every respect; there have been few issues that have been as thoroughly and emotionally debated in this body. On one point, however, there is little room for dispute, and that is the will of the Senate on the question of natural gas deregulation.

Twice in the past 3 years, in October 1975, and again in September 1977, the Senate—after exhaustive debate—passed legislation sponsored by Senator PEARSON and myself designed to deregulate the price of new natural gas and increase domestic production of this premium fuel in an era of shortage and rising imports.

I do not pretend, Mr. President, that the Pearson-Bentsen bill was universally acclaimed. It had, however, certain important advantages clearly lacking in this compromise measure currently before the Senate. I would like to discuss for a moment some of the more important distinctions between these two differing approaches to the issue of natural gas policy:

The Pearson-Bentsen bill permanently deregulated new onshore natural gas within 2 years, compared to anywhere between 7 and 10 years under the compromise bill. In the interim period before price deregulation becomes effective, Pearson-Bentsen sensibly tied the temporary ceiling price to the price of alternative fuels—No. 2 heating oil landed in New York. The compromise bill establishes a complicated and artificial formula for the monthly computation of natural gas ceiling prices.

The Pearson-Bentsen bill deregulated new off-shore natural gas within 5 years, again compared to 7 to 10 years under the compromise. Furthermore, under the compromise gas produced from certain categories on new offshore wells will never be deregulated.

The Pearson-Bentsen bill deregulated gas from wells which extend the known dimensions of producing reservoirs. Under the compromise bill, there is not adequate incentive to drill extension wells, and therefore many reservoirs will never be developed to their full producing capacity.

Under the Pearson-Bentsen bill, producers knew exactly what price they would receive for their gas, and they would receive that price immediately and without question. Under the compromise bill, producers are not certain of price until they have received approval from the appropriate State and Federal agencies and courts. Until then, their earnings in excess of $1.45 per million Btu's must be placed in a "refundable escrow account." This will tie up investment funds which would otherwise be available for additional gas exploration and development.

Most importantly, the Pearson-Bentsen bill kept the intrastate market free from Federal regulation. During the lengthy years of FPC control over natural gas pricing, it has been the free intrastate market which has stimulated most of the natural gas exploration and discoveries. In recent years, the intrastate market has provided more than 80 percent of the new natural gas reserves. Instead of bringing an end to this period of Federal control over the natural gas industry, the compromise bill would for the first time extend Federal price and nonprice controls to the intrastate market.

Taken together, these differences spell a dramatic departure in the conference agreement from the Senate-passed bill. In fact, the most remarkable feature of the so-called compromise is that it actually deregulates less gas in 1985 than would be deregulated under current law. Projections made by the Energy Information Administration, an independent branch of the Department of Energy, show that in 1985 the compromise bill will deregulate 37 percent of all flowing natural gas, but that under the status quo, 55 percent would be deregulated. Under the Pearson-Bentsen bill the EIA data shows that 73 percent of all gas would be freed from Federal control.

Mr. President, the Pearson-Bentsen bill was a relatively simple measure designed to lift the mantle of Federal control from the natural gas market. The compromise agreement takes us exactly the opposite direction, extending controls indefinitely and greatly expanding their scope and complexity. It would establish an administrative and regulatory labyrinth of unprecedented dimensions.

The sheer regulatory complexity and costs of compliance will force many small, independent producers out of the natural gas business. When it comes to regulation, we have seen, Mr. President, that the big companies can cope. They can hire a new battery of lawyers and accountants to decipher and comply with new regulations—and they can eventually pass the cost on to the consumer. It is the smaller enterprise, traditionally the motor force in our economic system, that suffers most.

This compromise gives with one hand and takes away with the other. It provides additional price incentives for gas exploration and production, incentives that are clearly needed. But then it saddles the independent operators—who drill 89 percent of the wildcat gas wells and account for 77 percent of the new gas finds—with a new, substantial, and potentially disasterous regulatory burden. It creates a real possibility that the smaller producers will be systematically squeezed out of business by the giant energy firms. The result, of course, would be less gas despite higher prices.

An analysis prepared by the Director of Enforcement for FERC described the conference bill as being "so complex, ambiguous, and contradictory that it would be virtually impossible to enforce it in a conscientious and equitable manner." Now, it is true that there have been some technical changes made since that analysis was written, but it is also true that those changes did not revise or reduce the 17 different pricing categories that formed the primary basis of concern. Furthermore, according to a more recent FERC memorandum, "some of the changes made from the July 31, 1978 draft have created additional uncertainties."

Mr. President, within the past year the FERC backlog of unprocessed cases has increased from 13,000 to 20,000. Given the inability of FERC to simply keep up the paperwork generated under the current 25-year-old regulations, how can we expect them to adequately cope with the complex administrative burdens that would be imposed by the compromise bill. The agency would literally cave in under the weight of all that new red-tape. I understand that the Department of Energy has asked OMB for an increase in its regulatory budget from $127 million to $214 million in anticipation of the passage of this legislation. Even if this substantial increase is approved, the effects of the bill will be to shackle natural gas producers with a maze of administrative delays and complexities.

Mr. President, Government regulation—much of it unnecessary, contradictory and arbitrary—already stifles the creative potential of our economy. Over the past decade, we have witnessed an explosion of unnecessary Federal rules and regulations. In 1955, some 10,000 pages were published each year in the Federal Register. By 1970, 15 years later, that number has doubled to 20,000. Within the past 7 years, however, the size of the Federal Register has mushroomed to more than 70,000 pages per year. Federal regulation has become America's No. 1 growth industry.

The cost for American business and consumers to comply with these regulations has reached $100 billion a year. It now takes 143 million man-hours of executive and clerical effort each year just to keep up with the 4,400 forms required by the 97 Federal agencies which regulate American businesses.

Although the proponents of this conference report claim that it is needed to help reverse our balance-of-trade deficit, I believe they should question the impact of all this deadweight regulatory costs on the competitiveness of American industries in foreign markets. I am convinced that the costs of excessive regulations have severely damaged the competitive strength of American business abroad, and therefore have significantly contributed to our growing balance-of-trade deficit.

Mr. President, much has been made of the symbolic importance of this compromise. It has been stressed, over and over again, that we must pass this cut and paste effort in order to demonstrate our determination to come to grips with our energy problems. Our partners in international trade and finance are theoretically watching our efforts with bated breath, waiting to see if we are serious on energy imports.

I have great difficulty crediting this line of reasoning. I am deeply, profoundly concerned about our balance-of-trade picture and the faltering strength of the dollar. I recognize that energy imports remain an important, although diminishing, factor in our trade picture.

The fact of the matter, however, is that passage of this compromise will have virtually no impact on our balance of trade, and I cannot believe the leaders of nations like Japan and West Germany believe that it will.

These leaders know that last year we imported about half our petroleum needs, while the Japanese imported virtually all their oil. Yet Japan had a trade surplus while we had a whopping trade deficit of $26 billion last year.

Although we imported no oil from Japan, we had a trade deficit last year of about $9 billion with the Japanese. This year, that deficit is expected to reach $13 billion. To stop the slide of the dollar against the yen, or the mark for that matter, we must reduce our trade deficit with the Japanese or the West Germans. This legislation would do nothing to help the dollar on these fronts.

Mr. President, the root cause of our economic problems are inflation, a huge Federal deficit which adds to the $600 billion already held in foreign hands, too much Government regulation, a tax structure that discourages investment, and a growth rate that exceeds that of our trading partners. These factors, when combined with policies that discriminate against American exports, are primarily responsible for our balance-of-trade problems. Passage of this legislation will be taken as a symbol by some, but its effects will be little more than symbolic and short lived. If this legislation is adopted, within a week they will be looking for another scapegoat to explain the weakening of the dollar.

Mr. President, the Pearson-Bentsen bill approved by the Senate was a relatively simple bill intended to eliminate an oppressive and counterproductive regulatory policy. The compromise before us is a regulator's delight. The Pearson-Bentsen bill had strong and demonstrable support among producers and industrial gas users. The compromise bill is opposed by producers because of the excessive regulatory burden it imposes; it is opposed by industrial gas users because it will not provide the certainty of supply required to make investment decisions, and it is opposed by consumer and labor groups because it will result in less gas at higher prices.

For these reasons, Mr. President, I, too, must oppose this conference agreement.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MELCHER). Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, not to extend beyond 30 minutes, with statements therein limited to up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer laid before the Senate a message from the President of the United States submitting the nomination of M. Athalie Range, of Florida, to be a member of the Board of Directors of the National Railroad Passenger Corporation, which was referred to the Committee on Commerce, Science, and Transportation.

REPORT ON AERONAUTICS AND SPACE—MESSAGE FROM THE PRESIDENT—PM 215

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

I am pleased to transmit this report on United States progress in aeronautics and space during 1977. The report is provided in accordance with Section 206 of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2476).

JIMMY CARTER.

THE WHITE HOUSE, *September 14, 1978.*

MESSAGES FROM THE HOUSE

At 2:05 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House insists upon its amendment to the bill (S. 3025) to authorize appropriations for the Federal Election Commission for fiscal year 1979, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. THOMPSON, Mr. NEDZI, Mr. GAYDOS, Mr. DAVIS, Mr. JOHN L. BURTON, Mr. DICKINSON, and Mr. FRENZEL were appointed managers of the conference on the part of the House.

The message also announced that the House agrees to the amendment of the Senate to H.R. 1337, an act to amend the Internal Revenue Code of 1954 with respect to excise tax on certain trucks, buses, tractors, et cetera, with amendments in which it requests the concurrence of the Senate; and agrees to the amendment of the Senate to the title of the bill.

The message further announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 12026. An act to create the Indian Peaks Wilderness Area and the Arapaho National Recreation Area, to authorize the Secretary of the Interior to study the feasibility of revising the boundaries of the Rocky Mountain National Park, and to add certain lands to the Oregon Islands Wilderness;

H.R. 12578. An act to amend the Internal Revenue Code of 1954 to make certain technical changes; and

H.R. 12860. An act to settle Indian land claims within the State of Rhode Island and Providence Plantation, and for other purposes.

At 3:38 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the bill (S. 682) to amend the Ports and Waterways Safety Act of 1972, and for other purposes, with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House disagrees to the amendments of the Senate to H.R. 12232, an act to amend the Unemployment Compensation Amendments of 1976 with respect to the National Commission on Unemployment Compensation, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. ULLMAN, Mr. CORMAN, Mr. RANGEL, Mr. STARK, Mr. JACOBS, Mr. CONABLE, and Mr. VANDER JAGT were appointed managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendments of the Senate to H.R. 12380, an act to amend the Federal-State Extended Unemployment Compensation Act of 1970 with respect to an individual's eligibility period for benefits under such Act; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. ULLMAN, Mr. CORMAN, Mr. RANGEL, Mr. STARK, Mr. JACOBS, Mr. CONABLE, and Mr. VANDER JAGT were appointed managers of the conference on the part of the House.

The message also announced that the House has passed the bill (S. 2640) to reform the civil service laws, with amendments in which it requests the concurrence of the Senate; that the House in-

sists upon its amendments to the bill and requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. NIX, Mr. UDALL, Mr. HANLEY, Mr. FORD of Michigan, Mr. CLAY, Mrs. SCHROEDER, Mrs. SPELLMAN, Mr. DERWINSKI, Mr. ROUSSELOT, and Mr. TAYLOR were appointed managers of the conference on the part of the House.

At 6:10 p.m., a message from the House of Representatives delivered by Mr. Hackney, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to H.R. 12928, an act making appropriations for public works for water and power development and energy research for the fiscal year ending September 30, 1979, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate numbered 11 and 12 to the bill and concurs therein; and that the House recedes from its disagreement to the amendments of the Senate numbered 2 and 24 to the bill and concurs therein each with an amendment in which the concurrence of the Senate is requested.

The message also announced that the House disagrees to the amendment of the Senate to H.R. 9214, an act to amend the Bretton Woods Agreements Act to authorize the United States to participate in the supplementary financing facility of the International Monetary Fund; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. REUSS, Mr. NEAL, Mr. PATTISON of New York, Mr. HANNAFORD, Mr. STANTON, and Mr. HYDE were appointed managers of the conference on the part of the House.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

S. 1103. An act to permit any State the reciprocal right to sue in the Superior Court of the District of Columbia to recover taxes due each State; and

S. 2556. An act to change the name of the District of Columbia Bail Agency to the District of Columbia Pretrial Services Agency.

HOUSE BILL HELD AT THE DESK

The following bill was read by title and held at the desk, pursuant to the order of September 12, 1978:

H.R. 12026. An act to create the Indian Peaks Wilderness Area and the Arapaho National Recreation Area, to authorize the Secretary of the Interior to study the feasibility of revising the boundaries of the Rocky Mountain National Park, and to add certain lands to the Oregon Islands Wilderness.

HOUSE BILL REFERRED

The following bill was read twice by title and referred as indicated:

H.R. 12578. An act to amend the Internal Revenue Code of 1954 to make certain technical changes; to the Committee on Finance.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, September 14, 1978, he presented to the President of the United States the following enrolled bills:

S. 3075. An act to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize international security assistance programs for fiscal year 1979, and for other purposes;

S. 3119. An act to transfer certain real property of the United States to the District of Columbia Redevelopment Land Agency;

S. 3120. An act to enhance the flexibility of contractual authority of the Temporary Commission on Financial Oversight of the District of Columbia; and

S. 3454. An act to amend the Act of August 29, 1974 (88 Stat. 795; 10 U.S.C. 8202 note), relating to the authorized numbers for the grades of lieutenant colonel and colonel in the Air Force and to authorize the President to suspend certain provisions of law when he determines that the needs of the Armed Forces so require, and for other purposes.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC-4310. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Air Force's proposed Letter of Offer to Iran for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-4311. A confidential communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Navy's proposed Letter of Offer to Iran for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-4312. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Air Force's proposed Letter of Offer to Canada for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-4313. A communication from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, on 9 construction projects to be undertaken by the U.S. Army Reserve; to the Committee on Armed Services.

EC-4314. A communication from the President of the United States, reporting the determination that the extension for one year of the authorities currenly exercised under section 5(b) of the Trading with the Enemy Act, 50 U.S.C. App. 5(b), with respect to certain countries is in the national interest; to the Committee on Banking, Housing, and Urban Affairs.

EC-4315. A communication from the President and Chairman, Export-Import Bank of the United States, reporting, pursuant to law, with respect to a transaction involving U.S. exports to Algeria; to the Committee on Banking, Housing, and Urban Affairs.

EC-4316. A communication from the President and Chairman, Export-Import Bank of the United States, reporting, pursuant to law, with respect to a transaction involving U.S. exports to the United Kingdom; to the Committee on Banking, Housing, and Urban Affairs.

EC-4317. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Before Licensing Floating Nuclear Powerplants, Many Answers Are Needed," September 13, 1978; to the Committee on Environment and Public Works.

EC-4318. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Study of Foreign Languages and Related Areas: Federal Support, Administration, and Need," September 13, 1978; to the Committee on Governmental Affairs.

EC-4319. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Congressional Guidance Needed on the Environmental Protection Agency's Responsibilities for Preparing Environmental Impact Statements," September 13, 1978; to the Committee on Governmental Affairs.

EC-4320. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "HEW Progress and Problems in Establishing Professional Standards Review Organizations," September 12, 1978; to the Committee on Governmental Affairs.

EC-4321. A communication from the Secretary of Labor, transmitting, pursuant to law, a report pertaining to the employment of switchboard operators exempt under Section 13(a)(10) of the Fair Labor Standards Act; to the Committee on Human Resources.

EC-4322. A communication from the U.S. Commissioner of Education, Department of Health, Education, and Welfare, and the Secretary of Labor, transmitting, pursuant to law, a report on "The Status of Bilingual Vocational Training," fiscal year 1977; to the Committee on Human Resources.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM-787. A joint resolution adopted by the Legislature of the State of California; to the Committee on Agriculture, Nutrition, and Forestry:

"ASSEMBLY JOINT RESOLUTION No. 88

"Whereas, California's avocado industry consists of over 7,500 growers who produce 80 percent of the avocados consumed in the United States; and

"Whereas, Avocados are the fasting growing tree fruit crop in California, gaining an additional 8,000 acres during 1977; and

"Whereas, California's avacado growers, working in cooperation with state government have established stringent standards to insure that high quality produce is available to the consumers of this nation; and

"Whereas, This important agricultural industry will be jeopardized if foreign imports of avocados are allowed without absolute assurance that the product is of a quality consistent with California standards; and

"Whereas, The Plant Protection and Quarantine Division of the United States Department of Agriculture is reviewing a proposal that would allow the importation of Mexican avocados to designated areas of the United States; and

"Whereas, Many areas of Mexico are heavily infested with pests such as the avocado seed weevil, avocado seed moth, Mexican fruit fly, and conotrachelus weevil which are extremely harmful to avocado production; and

"Whereas, The importation of Mexican avocados without sufficient safeguards to avoid infestation of the United States crop presents a serious risk that avocado growers of California and the nation will be subjected to extreme economic hardship; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President, the Congress of the United States, and the Secretary of Agriculture to protect the interests of domestic avocado producers against harm from foreign imports which pose a threat to both producers and consumers alike; and be it further

"Resolved, That no imports of Mexican avocados be allowed until there is demonstrated convincing evidence that pests harmful to California's avocado industry have been eradicated from all avocado producing states in Mexico; and be it further

"Resolved, That any proposal affecting the importation of avocados from Mexico shall include a public hearing with adequate notice and opportunity to be heard; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Secretary of Agriculture, and to each Senator and Representative from California in the Congress of the United States."

POM-788. A joint resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources:

"ASSEMBLY JOINT RESOLUTION No. 62

"Whereas, The purpose of the federal Reclamation Law of 1902 was to develop the water resources of the West and to provide for family farming; and

"Whereas, California has greatly benefited from reclamation projects; and

"Whereas, Agriculture is California's number one industry with one out of every three jobs being agriculture related; and

"Whereas, California farmers and ranchers marketed 9.3 billion dollars in crop and livestock products in 1977 with an estimated impact on the state's economy amounting to 28 billion dollars; and

"Whereas, As the result of a federal district court ruling, the Secretary of the Interior was ordered to establish rules and regulations implementing reclamation law within the 17 western states; and

"Whereas, As a result of a federal district court ruling, the Department of the Interior is required to prepare an environmental impact statement prior to the adoption of rules and regulations affecting the Reclamation Law of 1902; and

"Whereas, The Secretary is presently preparing such a statement; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully requests that the Secretary of the Interior develop and include the following information on the rules and regulations in the environmental impact statement:

"(1) An analysis of the economic ability of family farming to provide adequate income in each agricultural area affected by the reclamation law which would include short and long term considerations of economies of scale, crop patterns, crop diversification, varying climates and growing seasons, soil types, topography and other factors affecting the production of agricultural commodities.

"(2) An analysis of the impact upon the availability of farm financing.

"(3) An analysis of secondary costs related to community services, such as roads, schools, fire and police protection, welfare and unemployment.

"(4) An analysis of social benefits and detriments.

"(5) An analysis of the efficiency of water use.

"(6) An analysis of the impact upon farm and nonfarm employment and other aspects of the economy.

"(7) An analysis of the availability of qualified family farmers;

"(8) An analysis of the available energy sources and their costs; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Interior, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-789. A joint resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources:

"ASSEMBLY JOINT RESOLUTION No. 97

"Whereas, The United States Department of the Interior is proposing offshore oil and gas development in the outer continental shelf of central and northern California through Lease Sale No. 53 covering an estimated 10,742,183 acres; and

"Whereas, The Assembly and Senate of the State of California recognize that unfounded and unreasonable regional objections should not override the national need to develop domestic energy resources; and

"Whereas, The Assembly and Senate of the State of California recognize that there is also a national and a regional need to minimize the unavoidable air pollution, damage from oilspills, and damage to marine and coastal habitats that would result from oil- and gas-related activities offshore of central and northern California; and

"Whereas, Geological hazards, adverse ocean and weather conditions, and conflicts with proposed ship routing systems pose real and serious risks to outer continental shelf activities offshore of central and northern California; and

"Whereas, Existing federal oilspill laws are deficient in the matter of adequately protecting the resources, environmental quality, and economy of the state thereby placing greater reliance upon prevention of such occurrences; and

"Whereas, The offshore oil and gas resource potential is an unknown quantity in the central and northern California outer continental shelf and is recognized by the United States Geological Survey to be of "moderate to low potential"; and

"Whereas, It is essential that environmental studies to determine the vulnerability and sensitivity of the marine and coastal environments of central and northern California to offshore oil and gas development be completed according to the guidelines established in the National Environmental Studies Program before outer continental shelf tracts are offered for lease sale; and

"Whereas, It is not the intent of the Assembly and Senate of the State of California that the lease sale date be delayed, but that consideration of the resource potential and the environmental studies program be conducted concurrently and expeditiously with the conduct of the lease sale; and

"Whereas, Federal and state policies and laws require avoiding or mitigating significant environmental effects whenever feasible to do so and such effects should be known and become a condition to any lease; and

"Whereas, The exploration for and extraction of oil and gas are prohibited by state law on state lands known as "sanctuary" lands adjacent to Lease Sale No. 53 and the environmental and mineral resources of such state "sanctuary" lands and other marine and environmental resources may be significantly affected by activities on outer continental shelf lands; and

"Whereas, State and local governments have consistently opposed Lease Sale No. 53 since its inception because of a general lack of relevant information upon which to judge the value it would bring or the threat it would pose to the state and its coastal communities; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature respectfully memorializes the President and the Congress of the United States and the Secretary of the Interior to take all necessary actions to accurately identify the resource potential of the outer continental shelf area of central and northern California covered by Outer Continental Shelf Lease Sale No. 53 and conduct and fully evaluate an environmental studies program for the area, including geological hazards analyses, concurrently and expeditiously with the conduct of Lease Sale No. 53; and be it further

"Resolved, That all tracts in Lease Sale No. 53 which are located adjacent to state "sanctuary" lands and federal and state parks, recreation areas, refuges, and other sanctuaries be excluded from leasing; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Secretary of the Interior, and to the Governor of the State of California."

POM-790. A joint resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources:

"SENATE JOINT RESOLUTION No. 23

"Whereas, Federal Energy Regulatory Commission licenses for 15 hydroelectric projects in California, originally issued between 1920 and 1928, expired between 1970 and 1978; and

"Whereas, Such licenses when issued provided essentially no protection for fish and wildlife, particularly for maintenance of adequate streamflows below diversion structures; and

"Whereas, The laws of the United States and the State of California provide for the protection and development of fish and wildlife affected by water and power projects; and

"Whereas, The licensees of such projects have applied for new licenses, and the Federal Energy Regulatory Commission has authority to include terms and conditions in the new licenses that would restore or improve fish, wildlife, and recreational opportunities associated with such projects; and

"Whereas, Notwithstanding the fact that the Federal Energy Regulatory Commission was aware of the exact expiration date of each such license 50 years in advance of such date, it has not taken timely action to relicense such projects with such appropriate terms and conditions; and

"Whereas, While such relicensing is delayed, the projects continue to be operated under the original terms and conditions pursuant to annual licenses; and

"Whereas, Timely action for renewal of such licenses would allow an improvement of fish, wildlife, and recreational resources; and

"Whereas, The failure of the Federal Energy Regulatory Commission to take timely action has continued even when the licensee and the Department of Fish and Game have reached agreement with respect to terms and conditions for restoring or improving fish, wildlife, and recreational opportunities, including the following scheduled instances:

"Federal Energy Regulatory Commission number, expiration date, and project name:

"67, March, 1971, Big Creek 2A and 8.

"175, July, 1972, Balch.

"344, April, 1973, San Gorgonio Nos. 1 and 2.

"176, June, 1974, Rincon.

"137, November, 1975, Mokelumne.

"Now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the Legislature of the State of California hereby expresses its strong opposition to continued delays by the Federal Energy Regulatory Commission in relicensing hydroelectric projects in California; and be it further

"*Resolved*, That the Legislature urges that appropriate terms and conditions for restoring or improving fish, wildlife, and recreational opportunities be included in any annual licenses that may be issued by the Federal Energy Regulatory Commission on hydroelectric projects in California; and be it further

"*Resolved*, That the Legislature strongly urges the Federal Energy Regulatory Commission to hold hearings or take such other actions as are necessary or appropriate to expedite all relicensing of hydroelectric projects in California whose licenses have expired, and to include therein terms and conditions for restoring or improving fish, wildlife, and recreational opportunities; and be it further

"*Resolved*, That the Legislature strongly urges the Congress of the United States to hold hearings or take such other actions as are necessary or appropriate to require the Federal Energy Regulatory Commission to implement a relicensing procedure that will preclude the future repetition of this situation; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Chairman of the Federal Energy Regulatory Commission, and to each Senator and Representative from California in the Congress of the United States."

POM–791. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance.

"SENATE JOINT RESOLUTION No. 38

"Whereas, With the approval of the Internal Revenue Service, the State of California in 1974 established a deferred compensation program to encourage and permit state employees to plan for and provide for their retirement; and

"Whereas, Such programs have been established in 30 other states and consideration is being given by additional states and other public jurisdictions to establish such programs; and

"Whereas, Programs of this type meet socially desirable objectives and enable public employers with a minimum of expense to assist their employees in planning for the future; and

"Whereas, These deferred compensation plans for public employees would be rendered ineffective under the proposed Internal Revenue Service rules published in the Federal Register of February 2, 1978; and

"Whereas, The recent introduction of legislation to require the Internal Revenue Service to maintain its current practice with respect to deferred compensation programs indicates the widespread concern of public employees and public employers over the proposed reversal in Internal Revenue policy; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the Congress of the United States to enact legislation which will require the Internal Revenue Service to issue regulations consistent with long standing Internal Revenue Service actions which will enable states and local governments to continue deferred compensation plans for their employees which have been established and to permit public agencies to establish new plans; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Treasury, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

POM–792. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations:

"SENATE JOINT RESOLUTION No. 40

"Whereas, The great free nation of the Republic of China has been a continuous and faithful ally of the United States for many years, supplying both moral and economic support to the benefit of both nations; and

"Whereas, The Republic of China has made every effort to develop a free enterprise-based democratic form of government; and

"Whereas, The cultural interchange between the Republic of China and the United States has benefited both nations; and

"Whereas, The Republic of China, during the many years since its founding, has pledged its human and economic resources to the defense of free people everywhere; and

"Whereas, The Republic of China remains steadfast in its friendship toward the United States; now, therefore, be it

"*Resolved by the Senate and the Assembly of the State of California, jointly*, That the Legislature of the State of California urges the President and Congress of the United States to make every effort to develop better social and economic relations with the Republic of China and to not in any way detract from our relations with the Republic of China, and that the government of the United States endeavor to do nothing which would compromise the freedom or security of Taiwan or its people; and be it further

"*Resolved*, That the United States reaffirm its commitment to the Republic of China as stipulated in the Mutual Defense Treaty of 1954; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM–793. A joint resolution adopted by the legislature of the State of California; to the Committee on the Judiciary:

"ASSEMBLY JOINT RESOLUTION No. 94

"Whereas, Crime is on the increase nationally with one violent crime being committed every thirty-two seconds since 1976; and

"Whereas, Violent crime victims have long been the forgotten victims in the history of our society; and

"Whereas, The Legislature of the State of California has attempted to redress this wrong by offering assistance to those persons who have been victimized by perpetrators of violent crimes; and

"Whereas, To allow victims to shoulder the costs of their injuries imparts an undue, unjust and undeserved burden on such persons; and

"Whereas, Society has recognized its moral and philosophical obligation to assist victims of crime; and

"Whereas, To this end, 24 states have enacted victim compensation programs, with similar legislation pending in five other states; and

"Whereas, Congress is considering two pieces of legislation regarding compensation for victims; and

"Whereas, Many victims incur more than twenty-five thousand dollars ($25,000) in expenses resulting from violent crimes; and

"Whereas, The State of California and other states are considering setting maximum awards in excess of the twenty-five thousand dollar ($25,000) limit; and

"Whereas, The costs of maintaining compensation programs are so prohibitive as to prevent many states from establishing such programs; and

"Whereas, Federal funding will allow state programs currently in existence to continue and provide the impetus for other states to enact similar programs; now, therefore, be it

"*Resolved, by the Assembly and the Senate of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes Congress to adopt legislation which would provide a 50 percent reimbursement to the states for their costs and allow victims to receive a maximum award of fifty thousand dollars ($50,000); and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs:

Nancy Hays Teeters, of Indiana, to be a Member of the Board of Governors of the Federal Reserve System.

(The above nomination from the Committee on Banking, Housing, and Urban Affairs, was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. WILLIAMS, from the Committee on Human Resources:

Howard Jenkins, Jr., of Maryland, to be a Member of the National Labor Relations Board.

(The above nomination from the Committee on Human Resources was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. STENNIS. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the nominations of Sen. Sam Sims Walker, (age 52), U.S. Army, to be placed on the retired list; and Rear Adm. David F. Emerson, U.S. Navy, to be vice admiral; and Brig. Gen. Edward C. Binder, Army National Guard, to be major general. Also, Col. André J. Ognibene, U.S. Army, to be brigadier general; and Col. Herbert R. Temple, Jr., Army National Guard, to be brigadier general as Deputy Director Army National Guard. I ask that these nominations be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. In addition, there are 46 in the Air Force and Air Force Reserve to be colonel and below (list beginning with Robert L. England); and there are 382 in the Reserve of the Army and the Army of the U.S., for appointment to the grade of colonel and below (list beginning with Jack Abram); and there are 15 in the Navy and Naval Reserve to be permanent and temporary commanders and below (list beginning with Michael W. DaBose). Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of August 14, 1978, at the end of the Senate proceedings.)

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PROXMIRE, from the Committee on Appropriations; without amendment.

H.J. Res. 1088. A joint resolution providing financial assistance for the city of New York (Rept. No. 95–1192).

By Mr. ABOUREZK, from the Select Committee on Indian Affairs, with an amendment and an amendment to the title:

H.R. 10581. An act to provide for the distribution of certain judgment funds awarded by the Indian Claims Commission to the Confederated Tribes and Bands of the Yakima Indian Nation (Rept. No. 95–1193).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. KENNEDY:

S. 3498. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to improve the aid to families with dependent children program, thereby providing fiscal relief to States and localities, and to increase the earned income tax credit; to the Committee on Finance.

By Mr. McINTYRE (for himself and Mr. BROOKE):

S. 3499. A bill to extend the authority for the flexible regulation of interest rates on deposits and accounts in depository institutions and to provide that there shall be no differential with respect to transaction accounts; to the Committee on Banking, Housing, and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KENNEDY:

S. 3498. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to improve the aid to families with dependent children program, thereby providing fiscal relief to States and localities, and to increase the earned income tax credit; to the Committee on Finance.

(The remarks of Mr. KENNEDY when he introduced the bill appear elsewhere in today's proceedings.)

By Mr. McINTYRE (for himself and Mr. BROOKE):

S. 3499. A bill to extend the authority for the flexible regulation of interest rates on deposits and accounts in depository institutions and to provide that there shall be no differential with respect to transaction accounts; to the Committee on Banking, Housing, and Urban Affairs.

REGULATION Q AND PRE-AUTHORIZED TRANSFERS

● Mr. McINTYRE. Mr. President, Senator BROOKE and I are today introducing legislation providing for a 2-year extension of Regulation Q and providing further that no interest rate differential be permitted on those accounts from which preauthorized transfers from savings to checking may be made pursuant to regulations of the Federal Reserve Board and FDIC effective November 1. The present Regulation Q authority expires December 15.

This legislation is similar to S. 3461, introduced by Senator BROOKE on August 24. I associate myself with the remarks of Senator BROOKE at the time he introduced S. 3461. While I am fundamentally opposed to deposit rate controls, I believe that a 2-year extension of Regulation Q is warranted under present circumstances.

However, Mr. President, this bill contains a revision to the language of S. 3461 and comparable bills currently pending in the House of Representatives to make clear that the interest rate differential is being eliminated only on preauthorized transfer accounts newly authorized as of November 1 and not as to any types of transfers currently permitted by law and regulation.

To facilitate prompt consideration by the Senate, Senator BROOKE and I have today sent a letter to the chairman of the Banking Committee, Senator PROXMIRE, requesting that this bill be placed on the agenda of the meeting of the Committee scheduled for Tuesday, September 19.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3499

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 7 of the Act of September 21, 1966 (Public Law 89–597), is amended by striking out "December 15, 1978" and inserting in lieu thereof "December 15, 1980".

SEC. 2. Section 102 of Public Law 94–200 (12 U.S.C. 461 note) is amended by inserting at the end thereof the following new subsection:

"(c) In any State where any provision of State or Federal law authorizes any savings and loan, building and loan, or homestead association (including any cooperative bank) the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation or any mutual savings bank, as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f)), to offer any third-party payment account, there shall be no interest rate differential between (1) banks (other than savings banks) the deposits of which are insured by the Federal Deposit Insurance Corporation, and (2) savings and loan, building and loan, or homestead associations (including cooperative banks) the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation or mutual savings banks, as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C 1813(f)), with respect to savings deposits or accounts from which transfers to the institution itself or to a demand or other deposit account of the same depositor or accountholder at such institution may be made automatically or as a normal practice, pursuant to an authorization by the depositor or accountholder to make such transfers to cover checks, drafts, or similar instruments drawn by the depositor or accountholder on such institution. Notwithstanding any of the provisions of subsection (b) of this section, the maximum rate of interest payable on a savings deposit or account described in the preceding sentence shall be the rate which banks (other than mutual savings banks) insured by the Federal Deposit Insurance Corporation may pay on such accounts."●

ADDITIONAL COSPONSORS

S. 1393

At the request of Mr. BAYH, the Senator from Oregon (Mr. MARK O. HATFIELD) was added as a cosponsor of S. 1393, Rights of the Institutionalized.

S. 3044

At the request of Mr. DURKIN, the Senator from Montana (Mr. MELCHER) was added as a cosponsor of S. 3044, a bill to amend title IV of the Higher Education Act of 1965 to establish a system of student tuition advances to be repaid as an income tax imposed by the Internal Revenue Code of 1954, and for other purposes.

S. 3296

At the request of Mr. TOWER, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 3296, a bill to amend the Federal Trade Commission Act to provide for congressional review of each rule proposed by the Federal Trade Commission.

S. 3360

At the request of Mr. HAYAKAWA, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 3360, a bill to amend the Urban Mass Transportation Act of 1964 to increase minority employment opportunities.

S. 3388

At the request of Mr. WALLOP, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 3388, a bill to amend the Internal Revenue Code of 1954 to exclude from gross income payments made under certain cost-sharing programs.

S. 3414

At the request of Mr. WALLOP, the Senator from California (Mr. HAYAKAWA), the Senator from Florida (Mr. CHILES), the Senator from Colorado (Mr. HASKELL), the Senator from Arizona (Mr. DECONCINI), and the Senator from Idaho (Mr. CHURCH) were added as cosponsors of S. 3414, a bill to amend the Internal Revenue Code to provide that nonresident aliens are taxable on gain from the sale or exchange of farming property and undeveloped real property at capital gains rates.

S. 3496

At the request of Mr. BAYH, the Senator from South Dakota (Mr. MCGOVERN) was added as a cosponsor of S. 3496,

the Small Business Nonprofit Organization Patent Procedure Act.

SENATE JOINT RESOLUTION 151

At the request of Mr. HEINZ, the Senator from Maryland (Mr. MATHIAS) and the Senator from Montana (Mr. MELCHER) were added as cosponsors of Senate Joint Resolution 151, authorizing and requesting the President to designate November 11 through 17, 1978, as "Vietnam Veterans Week."

SENATE JOINT RESOLUTION 153

At the request of Mr. ANDERSON, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of Senate Joint Resolution 153, authorizing the President to proclaim the third week in June 1978, as "National Veterans Hospital Week."

SENATE RESOLUTION 519

At the request of Mr. ANDERSON, the Senator from Massachusetts (Mr. BROOKE) and the Senator from Colorado (Mr. HASKELL) were added as cosponsors of Senate Resolution 519, expressing the sense of the Senate that the 1980 Summer Olympics should be held at a site outside the Soviet Union.

SENATE RESOLUTION 557

At the request of Mr. ROTH, the Senator from Tennessee (Mr. BAKER) and the Senator from Pennsylvania (Mr. HEINZ) were added as cosponsors of Senate Resolution 557, requesting the President of the United States to appoint a special prosecutor in connection with the General Services Administration.

AMENDMENT NO. 2176

At the request of Mr. DURKIN, the Senator from Maine (Mr. HATHAWAY) was added as a cosponsor of amendment No. 2176 intended to be proposed to S. 1500, a bill to designate certain lands in the State of Alaska as units of the National Park, National Wildlife Refuge, National Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes.

AMENDMENT NO. 3581

At the request of Mr. SCHWEIKER, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of amendment No. 3581 intended to be proposed to H.R. 5285, tariff treatment of film, strips, sheets, and plates of certain plastics or rubber.

AMENDMENT NO. 3588

At the request of Mr. STEVENS, the Senator from Idaho (Mr. MCCLURE) was added as a cosponsor of amendment No. 3588 intended to be proposed to S. 991, a bill to establish a Department of Education, and for other purposes.

SENATE RESOLUTION 563—SUBMISSION OF A RESOLUTION RELATING TO UNITED NATIONS ACTION ON PUERTO RICO

Mr. MOYNIHAN submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. RES. 563

Whereas, the present association between the people of Puerto Rico and the other citizens of the United States reflects the preferences of the Puerto Rican people as expressed in free and fair elections and,

Whereas, the President of the United States declared on July 25, 1978 "That the United States remains fully committed to the principle of self determination for the people of Puerto Rico," and,

Whereas, on September 12, 1978 the United Nations General Assembly's Special Committee on the Situation with Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples adopted a resolution that, in effect, condemned the existing relationship between Puerto Rico and the United States and,

Whereas, that resolution wholly distorts and misrepresents the nature of that relationship and,

Whereas, the ten governments who voted in favor of the resolution are, without exception, non-democratic in character,

Now, therefore, be it resolved that it is the sense of the Senate that:

SECTION 1.—

(1) The Senate deplores and rejects this unwarranted and ill-informed action by the aforementioned Committee of the General Assembly.

(2) The Senate expresses its conviction that the political and civil rights of the people of Puerto Rico are, and will continue to be, insured by the constitutional and legal system of the United States.

(3) The Senate calls on the Secretary of State to review the matter of colonial dependency and denial of the right of self determination, especially as it relates to those same non-democratic states which supported the Committee's action, with a view toward raising these violations of United Nations principles at an appropriate United Nations forum.

(4) The Senate calls on the President of the United States to inform those governments which voted in support of the Committee's action that the United States continues to regard such advocacy as an unfriendly act.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President of the United States and to the Secretary of State of the United States.

NOTICE OF HEARINGS

SUBCOMMITTEE ON FEDERAL SPENDING PRACTICES AND OPEN GOVERNMENT

● Mr. CHILES. Mr. President, on September 13, I announced that the Subcommittee on Federal Spending Practices and Open Government would continue hearings on the General Services Administration contract fraud investigation. I wish to make notice that the hearing room has been changed. Our hearing will be held on Monday, September 18, at 10 a.m., in room 1202 of the Dirksen Senate Office Building.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, these requests have all been cleared on the other side of the aisle. I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, September 19, to consider executive nominations and other committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate today to consider Navy ship claim settlements and the fiscal year 1979 military procurement authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate today to hold a hearing on S. 1699, the Diesel Fuel and Gasoline Conservation Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

A VIEW FROM CAMPOBELLO ISLAND

● Mr. MUSKIE. Mr. President, Dalton Camp of the Toronto Star visited the Roosevelt Campobello Island International Park this summer. In the newspaper's July 28 issue, he offered one man's view of the special beauty, unique nature and historical significance of this international memorial to Franklin Delano Roosevelt. As chairman of the park commission on a rotating basis, it has been my responsibility for more than a decade to help guide the development of our only international park. It has also been my delight to observe the special feeling which almost every visitor takes away from the Roosevelt cottage and surrounding landscape.

The park is a small and fragile place. A decade ago it was nearly lost. Now a proposal to develop an oil refinery in nearby Eastport, Maine, has cast new doubt on whether the unique character of the park can survive.

Dalton Camp understood the potential harm from an inadequately designed refinery. To share his insight with my colleagues, I ask that his column be printed in the RECORD.

The column follows:

WILL SUN STILL RISE OVER LOVELY CAMPOBELLO?

Without the kind permission of the Canadian government Office of Tourism, whose flat it is that the sun must always shine in Canada during the tourist high season, I must report to you that over the weekend here (a) it rained, (b) thunder was heard, (c) lightning was noted and (d) there was also a good deal of fog, particularly in the mornings.

None of this, however, detracts a whit from the charms of this small New Brunswick island which rises out of the Bay of Fundy, little more than a stone's throw from the coast of Maine. Indeed, the frequent damp of Campobello has created a paradise for botanists, naturalists, and other admirers of flora. What Campobello has that you won't find along the Rideau Canal are bogs, trees that rain fog, a spectacular number and variety of wild flowers and ambiance.

It is, nonetheless, only one of the Fundy islands and all of them have much in common. Campobello however was the vacation home of Franklin Delano Roosevelt, the scene of his childhood summers, and where he was struck down by polio at the age of 39. The summer residence of Roosevelt's "beloved island" could only be described as a cottage by one whose first home was a mansion at Hyde Park. Still, it stands today as an

authentic period piece, overlooking Friar's Bay, full of Roosevelt memorabilia, and evocative of the man and the presidency many of us are old enough to remember.

NO-MAN'S LAND

It was, in fact, something of a shared experience. Come to think of it, all of us in the group visiting Campobello could remember just where we were when we first heard of Roosevelt's death, yet all but one of us were Canadians. This may not be so remarkable as the corollary: That no one could remember where they were when the news came of the passing of Mackenzie King, or, for that matter, of any other Canadian public figure. (Perhaps it is only fair to say that Roosevelt—unlike King—died in office so that the impact is greater.)

The acres that make up the Roosevelt Campobello International Park are only a part of the island but they are, by treaty, a unique sort of no-man's land. The part is administered by a joint Canadian-American commission whose present chairman is the Lieutenant-Governor of New Brunswick, Hedard Robichaud, while the vice-chairman is Maines' Senator Ed Muskie. Even the commission's budget of $650,000 comes from both federal governments and is spent, with Solomon-like fairness, evenly among American and Canadian employees and suppliers. Within the park, the territorial imperative belongs to Roosevelt's memory.

NO TAKERS

Even so, the cottage and grounds were up for sale little more than a decade ago. Fortunately, there were no takers. The government of New Brunswick, couldn't afford the upkeep. The Canadian government, which could afford it, nonetheless couldn't find the handle on a rationale for buying the place—besides, it had already erected a granite cairn to America's "statesman and humanitarian."

Finally, the owners of the property—a New York family—gave the place away, donating it to the governments of Canada and the United States. What followed this dreary and near-fatal example of international indifference was an exemplary illustration of international co-operation and between prime minister Lester B. Pearson and presidents Kennedy and Lyndon B. Johnson, the park and the governing commission came into being.

So the sun shines bright—some of the time—on FDR's old Campobello home. But, of course, not necessarily for long. A few miles away, on the mainland, lies Eastport, Maine. Some of Eastport's burghers are hot to have an oil refinery and some say they are likely to get it.

If Eastport gets it refinery, there will be more in the air than the Fundy fogs and occasional showers. Pollution will rain on Campobello, souring the sphagnum in the bogs, poisoning the flora, repelling the birdlife and—all too likely—destroying the marine life along the shores.

It would be ironical, to say the least, if Roosevelt's beloved outer island finally was destroyed by the corrosive greed of men such as those he opposed throughout his political career—all for the incapacities of politicians who followed him and were unworthy of his inheritance.●

THE DECLINE AND FALL OF THE AMERICAN DOLLAR

Mr. HATCH. Mr. President, on September 6 during debate on the Proxmire-Hatch amendment to reduce the budget deficit contained in the second budget resolution fiscal year 1979, I pointed out that our domestic deficits in the Government's budget were a direct source of pressure on the exchange value of the dollar and were connected to the deficit in our balance of payments. I pointed out that we could not continue to legislate domestic deficits with no regard for their international consequences. Too many Senators are influenced by the mistaken belief that Federal budget deficits are beneficial to our economy. Nothing could be less true. Federal budget deficits are a primary cause of the decline of the dollar and the capital shortage now plaguing American industry.

An article by Mark Hulbert in the September issue of Dollars and Sense published by the National Taxpayers Union points out how through Federal budget deficits we have reduced the American dollar to a pale green shadow of its former self. I ask that the article be printed in the RECORD.

The article is as follows:

THE DECLINE AND FALL OF THE AMERICAN DOLLAR

(By Mark Hulbert)

For twenty-five years after World War Two, the dollar was "as good as gold." Today, that is no longer true. The dollar has fallen to levels which would have seemed impossible only a few years ago. The dollar, as Stanley Karnow has put it, is only a pale green shadow of its former self.

The collapse of the dollar means that you must pay higher prices for imported goods. If you buy a 1978 Datsun or Toyota today, you will pay $500 more for it than when the '78 models were first introduced. Tourists are also painfully aware of the dollar's reduced purchasing power. In Tokyo, a cup of coffee costs $3.

THE DOLLAR AND "CONVENTIONAL WISDOM"

The dollar's plunge is the result, we are constantly told, of conditions beyond control. If it weren't for OPEC, so the story goes, the dollar would be strong. The massive U.S. balance of payments deficit is blamed on high-priced oil.

It takes only a few moments of reflection to recognize the emptiness of that explanation. Japan and West Germany, both of whom must import all of their oil, have large trade surpluses. The United States, on the other hand, has to import only 47% of its oil. Indeed, in spite of a 13% decline in U.S. oil imports over the past year, the dollar has nevertheless fallen more than 40% against the Japanese yen alone.

SUPPLY, DEMAND AND THE DOLLAR

The depreciating dollar is a simple matter of supply and demand: there just are too many dollars in the world economy. A declining dollar tell us in no uncertain terms that those holding dollars abroad want to hold them no more.

Can the increased world supply of dollars be attributed to a United States' balance of trade deficit? No.

The balance of trade, which measures exports and imports of goods and services, has been in surplus for most of the last decade. Those so ready to blame oil prices should look at the years 1973–1976, were in spite of the quadrupled oil prices, the United States still managed to export more goods and services than it imported.

The balance of payments, however, is the statistic to look at, for it measures, in addition to goods and services, the shifts of capital into and out of the United States. It has been consistently in deficit. In fact, the United States has had a balance of payments deficit for virtually every year since the 1950s.

For many years this deficit was justified due to the "dollar shortage" abroad. During this era, foreign governments and importers were eager to buy any dollars the U.S. produced. But by the end of 1976, the foreign market in dollars had reached its saturation point. Nevertheless, the U.S. increased the world's dollar supply in 1977 by an additional $35 billion. The foreign owners of dollars rebelled, forcing the dollar down. This year the U.S. will flood the world markets with yet another $30 billion. No wonder the dollar is falling.

WHO'S TO BLAME FOR THE DOLLAR'S DECLINE

Can the dollar's decline be blamed on Congress' failure to pass energy legislation? No. The passage of Carter's energy legislation could at best have only a psychological effect on the exchange value of the dollar. This is because a reduction in our expenditures for oil would similarly reduce OPEC's deposits of Petrodollars in this country. Our balance of trade would be reduced, yet our balance of payments would probably stay about the same size. The long term effect on the dollar's value could be minimal.

OPEC is being used as a scapegoat with which to blame the dollar's decline. The fact that the administration and the media focus upon oil imports serves to disguise the true causes of the dollar's depreciation.

As reported last year, in Dollars & Sense, there is reason to believe that the energy crisis is in fact a disguised financial crisis. Now, ironically, the energy crisis is being blamed for causing that financial crisis itself!

When the conventional explanations for the dollar's decline are so palpably false, it behooves us to examine that decline more carefully. As we see it, the correct explanation must focus on two sets of interests, one political and one financial. Together, they support an increasing supply of dollars in the world.

U.S. balance of trade and balance of payments, 1971–1977

[In billions of dollars]

Year	Balance of trade	Balance of payments
1971	−1.410	−30.456
1972	−5.989	−11.094
1973	6.892	−5.356
1974	1.168	−3.821
1975	17.732	−4.658
1976	4.708	−10.458
1977	−13.892	−35.314

SOURCE: International Monetary Fund, *International Financial Statistics*, July, 1978, pp. 380–1.

POLITICS AND THE DOLLAR

The relationship between government budget deficits and the supply of dollars is very direct. A budget deficit can be financed in only two ways: through net savings in the economy (an excess of savings over investment) or through a balance of payments deficit. Because the excess of savings over investment is relatively fixed from year to year, an increase in the government's budget deficit, as a rule, translates dollar for dollar into an increased supply of dollars in the world.

A comparison of the budget and balance of payments deficits is revealing.

During periods of relative economic prosperity (e.g. 1971–4, 1977) investment takes up most of the savings, and the sizes of the two deficits correspond closely. During periods of slower economic activity, as during the recession of 1974–5, there is an excess of savings. It is only when there is a large excess of savings that a government deficit does not translate directly into a balance of payments deficit. That is why the $70.2 billion government deficit in 1975 did not translate into an equally large balance of payments deficit. Yet as the U.S. economy emerged from the recession, and investment picked up, the budget deficit remained al-

most as large, and consequently had to be financed through a larger balance of payments deficit. The result was a skyrocketing deficit in 1977. Congress is projecting a government deficit for 1978 in excess of $40 billion. Barring another recession, we will be increasing the world's supply of dollars by an almost equal amount.

Congress and the President have, by running the government increasingly beyond its means, created incredibly powerful constituencies for that spending. Even after the recession ended, and the conventional economic rationales for such large deficits no longer existed, our government did not have the political backbone to cut spending.

Congress and the President have, by running the government increasingly beyond its means, created incredibly powerful constituencies for that spending. Even after the recession ended, and the conventional economic rationales for such large deficits no longer existed, our government did not have the political backbone to cut spending.

Congress and the President have, in the process, placed the United States economy in an increasingly vulnerable position. Contrary to the old political slogan, we do not "owe the national debt to ourselves." Foreign central banks have bought up Treasury securities and now own more than $120 billion worth.

A small but dramatic example of our resulting vulnerability came this past April. Foreign banks, which the Treasury expected to continue buying its bonds with the dollars they held, instead decided to sell $3 billion of the Treasury bonds they held and invest that money in the stock market. The Federal Reserve Bank was left with the no-win choice between buying up those securities, and thus fueling inflation, or letting their price drop, and thus letting interest rates rise. As Martin Mayer wrote in the August issue of Atlantic, foreign banks "can virtually dictate the price the American government—and thus American businesses and homeowners and consumers—must pay to borrow."

Congress and the Administration could cut our balance of payments deficits significantly by cutting our government's budget deficits. But to do so they would have to make tough political choices. Rather than do that, they have taken the easy way out—by settling for a cheaper dollar abroad and inflation here at home—while shifting the blame for their failures to oil prices and OPEC.

U.S. Government deficits and balance of payments, 1971–1977

[In billions of dollars]

Year	Government deficit	Balance of payments
1971	−22.0	−30.456
1972	−17.3	−11.084
1973	−6.7	−5.356
1974	−10.7	−8.821
1975	−70.2	−4.658
1976	−54.0	−10.468
1977	−49.5	−35.314

SOURCE: *Ibid.*

BANKS AND THE DOLLAR

The supply of dollars in foreign hands is now estimated to be about $600 billion. Besides the $120 billion in Treasury bonds, there are about $480 billion in what has become known as the Eurodollar market. The size of this Eurodollar market cannot be completely blamed on Congress and the President. They can be blamed for creating the conditions which made it possible.

We must turn to an examination of international banking to understand the phenomenal growth of the Eurodollar market. For a variety of reasons, the banks can realize much higher rates of return in international lending than in domestic lending. The Federal Reserve Board places interest rate ceilings and reserve requirements on the banks' domestic operations. Neither of these limitations exists on their international operations. As a result, the banks can not only create larger amounts of credit abroad with a given amount of actual dollars, but they can also realize much greater profit on what credit they do create.

THE DOLLAR AS A RESERVE CURRENCY

The Eurodollar market's growth was affected for many years by another international monetary role played by the dollar. The historical dominance of the U.S. economy in the world means that the dollar serves as the world's major reserve currency. Other countries use dollars as the store of wealth to back up their own currencies, and international trade is by and large conducted in dollars, not in the local currencies of the countries involved. OPEC oil, for example, is priced and sold in dollars, regardless of who is buying it.

As long as there was a "dollar shortage" in the world, every available dollar produced by the United States was grabbed by foreign countries either to be used as reserve against their currencies or to purchase exports from the United States. In other words, so long as there was a "shortage," the banks had fierce competitors abroad for a relatively small supply of dollars.

In the late 1960s and early 1970s that "dollar shortage" came to an end. It was marked by the collapse of the Bretton Woods monetary agreement of 1944. Under that agreement the value of the dollar was guaranteed by the U.S. government: dollars could be redeemed for gold at the U.S. Treasury. But as the dollar shortage turned into a dollar glut, more and more foreigners began to convert their dollars into gold. In 1971, Richard Nixon renounced the gold standard and the dollar's convertibility. The dollar since then has been tied to nothing. And because it is tied to nothing, there is no limit to the growth of the supply of dollars. Unlike gold, dollars can be created by the twirl of a printing press.

THE EURODOLLAR EXPLOSION

The renunciation of the gold standard had the effect of allowing unheard of increases in the world's dollar supply. As such, it was a completely irrational response to a crisis that was itself created by too many dollars. Why was the gold standard renounced?

It was renounced because the multinational financial corporations recognized the huge profits that awaited them in international lending. To have maintained the gold standard would have required a drastic dampening of the U.S. production of dollars and, consequently, would have nipped in the bud this banking potential overseas.

The Eurodollar market in 1965 was only $16.3 billion. By 1970, as the dollar shortage came to an end but before the gold standard was renounced, the market had grown only to $83 billion. Since 1971, with all limits on the growth of the dollar supply gone, the Eurodollar market has literally exploded to an estimated $480 to $500 million!

The reserves that back up this huge amount were of course created by U.S. balance of payments deficits. And for that Congress and the President have a share of the blame. But once a threshold amount was reached, and the gold standard renounced, credit creation took over. According to James H. Hugon, economist for the Comptroller of the Currency, the actual dollar reserves backing up the Eurodollar market may be as small as $10 billion. That's a ratio of about 1:50, or 2%. In other words, the banks have created about 50 times more credit than they have in dollars. And Business Week reports that "it may really be that the Eurodollar markets can grow to any size needed to satisfy demand." Banks in the United States, on the other hand, with reserve requirements as high as 16%, can create much less credit with the dollars they have. No wonder the banks went multinational and created the Eurodollar market.

THE EURODOLLAR MARKET AN THE DOLLAR

Given an almost infinite possible expansion of credit in the Eurodollar market, it is fatuous to blame oil prices and the lack of a U.S. energy bill for the dollar's decline. Credit creation has been largely responsible for the increased supply of dollars which has led to the dollar's decline.

As Geoffrey L. Bell, senior adviser to J. Henry Schroder Wagg & Co., put it, "there is no way in which the recent changes in currency values can be accounted for by trade flows or inflation differentials."

Given this huge supply of dollars floating around the Euro-currency market, foreign governments are helpless to stop the decline of the dollar against their currencies if the banks decide to sell dollars. Last year, for example, European and Japanese governments spent some $35 billion of their currencies trying to stop the decline of the dollar, and yet the dollar still depreciated by some 30 to 40 percent. In just the last week of July, 1978, Japan spent 200 billion yen trying to curb the fall of the dollar, and it nevertheless fell by 8 percent!

PROFITS ABROAD VS. PROFITS AT HOME

This incredible expansion of international banking activity has been crucial for the banks' growth. Foreign lending by the top 12 U.S.-based multinational banks has increased at a 30.4 percent rate per year since 1970, compared to only a 8.8 percent annual increase in domestic lending. Indeed, over 95 percent of the increase in earnings for the top 12 U.S. banks from 1970-1975 resulted from their international operations.

Not only has foreign lending grown faster than domestic lending, the banks have realized a much greater profit on their international operations. The top 12 U.S. banks in 1975 had loaned only 32 percent of their assets abroad yet foreign loans accounted for 63 percent of their earnings. The top two banks, Bank of America and First National City Bank, in fact took losses on their domestic operations in 1975, receiving their entire profits from foreign operations. David Rockefeller's Chase Manhattan Bank received 78 percent of its earnings from international lending.

If foreign investment in the U.S. were at a higher level, there would be a greater demand for the dollars produced each year. If the U.S. provided the opportunities for profitable investment competitive with international lending, the consequences of the U.S. increasing the dollar supply would not nearly be so pernicious. But the very creation of surplus dollars directly leads to a declining economic potential here at home. And as that potential declines, there is that much more incentive for the banks to shift capital abroad. The United States' economy is caught in a Catch-22 situation. In order to preserve profitability, much more investment is needed. But in order to compete for that additional investment, it must promise a high rate of return on investment.

To break out of that Catch-22, our government must make a concerted effort to increase the relative attractiveness of investment in the U.S. Current government programs, however, far from promoting such efforts, in fact hinder them. As George Gilder has written in the Sept., 1978 issue of Harper's:

"Economic policy focuses on stimulating aggregate demand for existing products rather than on promoting the supply of new ones. Investment credits and rapid depreciation allowances favor the recreation of current capital stock rather than the creation of new forms of capital and modes of production. Antitrust activity is directed chiefly against successful competitors (IBM) rather than against industries that refuse to compete (the steel industry). . . . Our taxation and subsidy systems artfully cushion failure, reward the creativity and resourcefulness chiefly of corporate lawyers and accountants, and wait hungrily in ambush for all unexpected and thus unsheltered business success."

Until the government reverses this trend, the economic potential of the U.S. will continue to be less than abroad, and our economy will continue to be starved for capital.

LOAN DEMAND ABROAD: THE CASE OF LDC'S

The irony of this situation should be obvious. At a time when the U.S. economy is being starved for capital, the U.S. banks are awash with liquidity. New York City, for example, had to struggle to borrow from its banks, yet those same banks were at the same time extending large numbers of incredibly risky loans to the Third World countries.

It is revealing to look at the patterns of bank lending in the less-developed countries (LDCs). Banking involvement in the LDCs tells us much about the shape of the emerging new world economic order.

Because of quadrupled oil prices, OPEC enjoys a massive trade surplus, on the order of $40 to $50 billion per year. Consequently, the oil-consuming nations have an equally large deficit to the OPEC countries. And most of that deficit is focussed in the LDCs.

Having received massive deposits of Petrodollars, the banks recycled large amounts to the LDCs so that they in turn could finance their balance of payments deficits. The borrowed money is spent by the LDCs for OPEC oil, then deposited by OPEC in the commercial banks, and is relent by the banks to the LDCs. In this process, the banks have become the middlemen, the insurer of all parties. The U.S. banks now have as much as $70 billion loaned to the LDCs, over a third of the total amount they have loaned abroad.

The nature of these loans is unique. Loans to corporations, for example, are usually self-liquidating, which means that the loans are invested in ventures which automatically create the means to repay the interest and principal. The LDCs, however, have used the loans to pay for their trade deficits, i.e., finance current consumption. The loans have not been used, as a rule, to finance long-term development. Indeed, 79 percent of the loans to the LDCs by private banks mature in five years or less! As a result, the countries will be in no position to service the debt at the termination of the loans. The LDCs simply have to take out further loans to service the debt previously incurred.

American Express has estimated that in 1977 one out of every four dollars borrowed by the LDCs was used to service already-existing debt. They estimate that by 1980, one out of every two dollars borrowed will be used to service debt. As the LDCs increasingly place themselves in debt to the banks, they commit themselves to greater debts in the future.

This is ideal for the banks, since it guarantees a continuing opportunity for high profits. And it is not unique to the LDCs. Italy and the United Kingdom and (to a lesser degree) most of the Southern European nations, have all borrowed heavily from the Eurodollar markets in the last five years. They are expected to continue borrowing large amounts. Interest charges alone on Italy's outstanding debt currently amounts to $1 billion a year.

The catch in all this is that as the banks expose themselves more and more in lending to governments, they have a greater stake in maintaining the economic vitality of the countries involved. What threats are there to that vitality?

DANGER SIGNS?

The biggest threat to the soundness of the multi-billion dollar debt pyramid is a reduction in prices. Not only would a reduction in prices place large strains on the debtor countries in servicing their existing debt, it also would reduce the potential for the banks to loan more and more capital to them in the future. In order to prevent that eventuality, the banks want to increase the money supply still further.

Among the major industrialized nations, the U.S. has pursued one of the most rapid monetary growth policies since 1974. In the wake of the quadrupling of oil prices that year, Western Europe and Japan imposed more austere monetary policies than did the U.S. The result was that their expenditures for imports fell dramatically, resulting in large trade surpluses. The LDCs' balance of payments deficit grew to $29.5 billion in 1974, due largely to the increased oil prices. By 1975, the LDCs' balance of payments deficit had grown to $41 billion—a problem the banks blame on the slowdown in the growth of the world's money supply caused by Japan and Western Europe's policies.

There is thus a strong financial interest in forcing these surplus countries to pursue more rapid monetary growth. A declining dollar does just that. It induces Western Europe and Japan to increase their money supplies in order to prevent their exports from becoming more expensive. This in turn increases their expenditures for imports.

Conventional trade theory would point out that a falling dollar also adversely affects other nations' economies besides surplus countries, thus making their exports more expensive in the U.S. and American exports relatively cheaper in their countries. If so, then a falling dollar does little to preserve the economic vitality of the countries indebted to the banks. Yet an examination of what has actually occurred reveals another story. The dollar has significantly declined only against the Japanese yen, German mark, and Swiss franc—the currencies of those countries that were supposedly placing a damper on world trade. The other countries' currencies have either depreciated just as fast as the dollar or even faster. Indeed, 44 of the world's currencies are pegged to the dollar, so that a decline of the dollar does nothering to harm their export earnings. Of the currencies which are freely floating against the dollar, most have declined even faster.

INFLATION VS. ECONOMIC GROWTH

But does the increase in the world's monetary supply translate into real economic growth—i.e. into genuine growth in world trade? It appears on the face of it that the banks have confused inflation with economic growth. How can that be?

This confusion becomes comprehensible when we realize that the banks are not so much concerned with the present real value of their loans, but instead with their nominal value. The banks don't care if the increased "volume" of world trade derives from inflation or real increases in demand. As long as the price tag on that volume increases, a country's ability to service debt is increased and the banks' potential for further loans is maintained—even if the real value of those loans is less.

The Overseas Development Council has concluded that "worldwide inflation has substantially reduced the present real value of the LDCs' debt burden. Due mainly to inflation, the ratio of debt outstanding to exports of noncil exporting LDCs rose only 8 percent in 1972–6." The banks appear to be successful if their loans are good on the books, i.e. are all regularly serviced. From that perspective, inflation is relatively benign to the banks. We are suffering inflation while the banks maintain their opportunities for profit in international lending.

HOW THE BANKS DEAL WITH DEVALUATION

Conventional economic theory tells us that banks, because they are net monetary creditors, are in fact hurt by the devaluation of a currency. But though the banks are net creditors as a whole, they need not be creditors in each of the various currencies. And, as it turns out, the banks are not net creditors in dollars. They braced themselves for the dollar's decline by spreading their assets among a number of currencies.

This is to be expected. As speculators in the international currency exchanges, they would be poor bankers indeed if they let themselves lose massive amounts due to the devaluation of the dollar. Thus, the banks are not being hurt by the decline of the dollar: their dollar liabilities are dwindling just as fast or faster than their dollar assets.

THE DOLLAR, GOLD, AND THE IMF

In the long-run, the dollar is dead. With a currency market allowing for a theoretically infinite expansion of credit, a growing need for an increased nominal value of world trade, and a Congress unwilling to cut back its government deficits, the supply of dollars in the world can only grow and grow. And there appears to be no way that demand for dollars could ever catch up. The price of the dollar, no matter what the short-term fluctuations, will in the long-run keep going down.

As it keeps declining, the need for dollars as a reserve currency will fall as well. Something else will have to step in and take its place. No other single country's currency is in large enough a supply to fill such a role. This void creates a huge financial power vacuum into which the banks stand ready to enter. What the multinational financial leaders would like to replace the dollar with as the world's reserve currency is the Special Drawing Rights (SDRs) of the International Monetary Fund (IMF). The SDRs would serve the same role as did gold under the Bretton Woods agreement, except you can't print gold. As a paper gold, SDRs, like the dollar at present, could be printed at the whims of whomever controls it.

HYPER-INFLATION IN THE U.S.?

The most dangerous of the risks inherent in the present situation is a banking collapse. A 2% reserve against loans is a small margin indeed against any loss of confidence in the financial system. Significant default could send investors clamoring for their deposits only to find that there are no reserves to back them up. And it is sobering to be reminded that international banks can and do collapse. Both the Franklin National Bank, the 20th largest bank in the U.S. at the time, and the Herstatt Bank of West Germany, went bankrupt in 1974.

When confronted with a run on their banks, what recourse would the bankers have? They would have to turn to their central banks in their home countries. In the Basle Agreement of 1974, the central banks of the ten largest industrial nations agreed that they would be the "lenders of last resort" in case of liquidity crises of the foreign branches of their countries' banks. This means that in the event of any run on the banks, the central banks will just print more money. By now the pattern begins to emerge; cries that are caused by madly printing dollars are "resolved" by madly printing more dollars!!

With this "safety net" strung out beneath them, the banks are now free to create even more credit through new loans. This will reduce their margin of reserves even further. As a result, the banking system and the debt pyramid it has created will become increasingly vulnerable to both depositor and bor-

rower loss of confidence. Increasingly trivival events will be capable of sending shockwaves throughout the system and possibly sending that debt pyramid crumbling to the ground.●

AN ICEBREAKER FOR THE GREAT LAKES

● Mrs. HUMPHREY. Mr. President, I would like to commend, once again, the members of the Appropriations Committee for their efforts to facilitate the construction of an icebreaker specifically designed to meet the needs of the Great Lakes. I wish to extend my sincere thanks and gratitude to my friend, Senator BAYH, chairman of the Transportation Subcommittee, for leading the fight to realize an objective, the importance of which he shared with Senator Hubert Humphrey.

This icebreaker, and the contribution it will make toward our goal of insuring year-round shipping on the lakes, represents a major step toward the continued economic growth of this area. I know that I speak for all of my friends in Minnesota and the Great Lakes region, in expressing thanks to the Congress.

The appropriation of $20 million to enable the awarding of a construction contract by December 31, 1980, marks the beginning of an eventual solution to a problem that has plagued Great Lakes shippers for many years. The need for an adequate icebreaking capability on the lakes, to help to insure winter navigation, was viewed as a high priority by my husband. I share his deep concern and that of all citizens of the Great Lakes States that this project should go forward.

It is my sincere hope that we have now put an end to the longstanding disagreement between the Congress and the U.S. Coast Guard over the specific design requirements of the icebreaker. I recognize and understand the objective of the Coast Guard to build a deep-draft icebreaker for multiple use on polar and Great Lakes waters. The problems experienced by the *Westwind* in recent years have, however, proven the deep-draft class concept impractical. With the exception of one vessel, the *Mackinaw*, all icebreakers currently serving the Great Lakes are of the deep-draft polar class. The *Mackinaw* was built in 1942 and does not embody the technological improvements and sophistication now required to provide the steady, reliable service necessary for year-round shipping.

A second area of disagreement has been over whether American shipbuilders have the capability to design and construct an icebreaker meeting the specific needs of the Great Lakes. It has been argued that it would be necessary to purchase such a vessel from abroad. I understand, however, that a number of U.S. shipbuilders have indicated their intent to bid on the contract and their capability for complying with the time requirements. The contract will be advertised to all who wish to bid. In accordance with normal procurement practices followed by the Department of Transportation and the Coast Guard, the contract will be awarded to the lowest bidder who can comply with the contract requirements.

I am very happy that the dreams and efforts of Hubert Humphrey, Great Lakes shippers, and all dependent on Great Lakes navigation for their livelihood and economic well-being, are on the threshold of fulfillment. A Great Lakes icebreaker, of the class discussed, will result in higher profits, more jobs, and renewed incentives to economic development for our Great Lakes cities and ports. The U.S. Department of Commerce has estimated that year-round shipping on the Great Lakes would add some $400 million annually in wages and salaries alone in the 1980's.

While I am disappointed that the full $60 million authorized for this year was not appropriated, I believe the intent of Congress to complete this project is clear. I also am optimistic that a single purpose icebreaker will still provide the ultimate result. I am pleased that the conferees have directed the Coast Guard to report on the progress being made every 3 months, thereby providing an opportunity to evaluate the situation as they proceed. A further $60 million has been authorized for the next fiscal year, and I am very hopeful that appropriations will be approved at this level, toward providing a Great Lakes icebreaker by early 1983.

Mr. President, I urge my colleagues in the Senate to continue their support of this project and to enable the completion of this vitally needed economic stimulant to the Great Lakes.●

HISPANIC HERITAGE WEEK

● Mr. SCHMITT. Mr. President, the week of September 10 through 15 has been proclaimed as National Hispanic Heritage Week. As a Senator from the State of New Mexico, I am proud to say that my constituency is made up of a large percentage of individuals of Spanish descent. A Hispanic society has existed in what is now northern New Mexico around Santa Fe and Taos since 1610, and through the centuries this community has made up nearly half of the State's population.

New Mexico was admitted to the Union in 1912, and although these proud descendants of the Spanish Conquistadores and Pueblo Indians have encountered various difficulties moving into the mainstream of American society, they have maintained what remains one of the richest heritages of culture in America.

From the savory food—the chili picante—to the gritos of the mariachis at a local fiesta, to the melodic sounds of the Spanish language, the Hispanic population has truly helped to make New Mexico the land of enchantment.

Mr. President, as we join in celebrations throughout the country to honor Hispanic Americans, a group which may be the largest minority in the United States by the year 1980, let us not forget the painstaking steps they have taken to overcome the language barrier and succeed in education and in the labor market. Although much progress has been made in these areas, we must continue to provide increased opportunities for these Americans.●

SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM HELPS ELDERLY BOISEANS

● Mr. CHURCH. Mr. President, the Senate Committee on Aging has had a longstanding interest in promoting community service employment opportunities for older workers.

Hearings conducted by the committee in the late 1960's and early 1970's helped pave the way for enactment of the older American community service employment program in 1973.

The purpose of the legislation was to build upon earlier successful pilot projects—such as green thumb, senior aides, and senior community service aides—and convert them into permanent, ongoing programs.

The National Senior Service Corps has proved to be enormously effective, not only for the older workers but also the communities served.

The experience to date has made it clear that there are many older Americans who are ready, willing, and able to serve in their communities.

In recent years the Committee on Aging has taken the lead in expanding the senior community service employment program. The number of participants has almost tripled during the past 2 years, from 12,400 to 47,400.

Additionally, the committee has taken steps to assure that persons employed under the older worker job opportunities program of the Public Works and Economic Development Act would not lose their jobs if they could not be transferred to the senior community service employment program.

In my home State of Idaho, I have had an opportunity to view firsthand senior aides at work in their communities. One good example is the National Retired Teachers Association and the American Association of Retired Persons senior community service employment program in Boise. It provides jobs for older workers in a wide range of fulfilling service activities for the Red Cross, YMCA, YWCA, boys clubs, model cities programs, and others.

Linda Funaiole, of the Idaho Statesman, recently wrote an excellent article about these senior community service aides.

Mr. President, I ask that this account—entitled "Program Offers Boiseans Training for New Jobs"—be printed in the RECORD.

The article follows:

PROGRAM OFFERS BOISEANS TRAINING FOR NEW JOBS

(By Linda Funaiole)

A new program in Boise designed to retrain disadvantaged older persons so they can hold new jobs has been well-received by non-profit and public service agencies that might serve as host employers, the program's project director says.

"We've really had a nice reception coming into it," said Barbara Moore, project director for the Senior Community Service Employment Program that started in Boise 1½ weeks ago.

Sponsored by the National Retired Teachers Association and the American Association of Retired Persons, the federally funded program is designed to help economically disadvantaged individuals 55 and older.

Eligible enrollees are placed in job training positions with non-profit and public services agencies, such as the American Red Cross, YMCAs and YWCAs, Boys Clubs, Model Cities programs and area agencies on aging, the project director said.

"We've had a lot of good response to it," Moore said, referring to local agencies. "It's got a lot of potential."

During the training period, enrollees may work up to 25 hours a week and receive a salary not less than the federal minimum wage. The NRTA-AARP operates the program with grants from the Department of Labor and the Administration on Aging, Moore said, so host agencies are not responsible for salaries.

"It is a nice feature, because it allows that agency (host) to reach that many more people, and also gives the older person on-the-job training and a boost in morale," she said.

Work experience comes through a variety of positions, Moore said, adding, "It needs to be meaningful employment" for the individual. She said salaries are not restricted to the minimum wage. "We are very flexible about that," she said. "We go by the going rate."

If a person has been out of a job market for a long time, the program will help him obtain training in necessary skills. For example, an individual might take a 6-week typing course paid by the organization (NRTA-AARP), the Colorado State University graduate said.

During the training period, individuals are covered under Workman's Compensation and receive sick days and a paid vacation, Moore said.

No time limit is set for remaining on the training program, she said. "When we place an individual, the host does not have to pick them up after six months," she said. "We do hope to have the person picked up whenever they (the host) can."

She said the program's goal is to find permanent, unsubsidized employment for participants. Part-time or full-time jobs as employment counselors, cooks, telephone operators, drivers, nutrition aides, receptionist-typists, security guards and teachers aides, among others, are sought for program participants.

To qualify for the program, persons 55 and older must meet Department of Labor guidelines for disadvantaged persons. Under the guidelines, Moore said, an individual may not exceed $3,140 in yearly income and two persons may not exceed $4,140.

In addition, all applicants for the program must take a medical examination to determine physical limitations, if any. "One nice feature is that we do pay for a pre-employment physical exam," the director said, adding that this has saved some lives in programs elsewhere by providing medical attention a person might not have received otherwise.

Moore, who has a master's degree in gerontology, said she will try to place 35 eligible persons in Boise agencies for training and 10 in Twin Falls agencies. She said she hopes the program will expand to Pocatello and other areas in the future.

More information can be obtained at 345-5114, or at the project office, 1519 Hays St. The office is open from 8 a.m. until 4 p.m. Monday through Friday.

Before coming to Boise to direct the employment program, Moore worked for the Area Agency on Aging for nine months in Colorado. In addition, she said she has thousands of hours of volunteer service dealing with the elderly.●

WELFARE REFORM OR GOVERNMENT EXPANSION?

● Mr. HATCH. Mr. President, everyone is aware of the fact that President Carter's welfare program is dead for this session of Congress. However, I am not sure that everyone is aware that his program was a program for expanding the size of Government, not for reforming welfare. I think it is important to understand that Government programs are usually used to expand the size of Government, not to solve problems.

Professor David Meiselman, a well-known and respected economist at Virginia Polytechnic Institute, has prepared a scholarly study of President Carter's welfare program. His study was published by the Law and Economics Center of the University of Miami.

Applying a careful analysis of labor markets, unemployment, and public service employment, Dr. Meiselman shows that President Carter's proposal, devised by the welfare bureaucrats, would provide little or no work incentive for those unemployed or now on welfare. Rather, the administration's proposal aggravates the destabilizing influence of present welfare programs on work incentives, good working habits, and family stability.

Dr. Meiselman shows how unemployment statistics, which are used to justify the administration's proposal, are themselves inflated by the Government's own policies. Real unemployment, Dr. Meiselman states, is largely a product of present Government welfare programs and Government intervention in the labor markets.

Our knowledge of past and present public service employment programs is sufficient to show that these programs expand not employment, but Government. These programs generate demands for workers and resources now in the private sector. State and local governments substitute public service employment funds for budgeted expenditures, thus producing no new jobs, especially for the unemployed. Even worse, the private sector must bear the cost of public service employment in the forms of higher taxes or greater rates of inflation. This added burden on the private sector impairs its ability to create new jobs. The result is more unemployment and additional economic distress. In effect, the public sector "crowds out" the private sector, thus producing a "need" for more Government programs. This is the way the process works. Government programs function by creating a need for the expansion of Government programs. All the while the public sector grows relative to the private sector, and the power of Washington, D.C., multiples. The Government does very well by itself.

Dr. Meiselman predicts that the type of "welfare reform" that is now on the back burner will produce a new welfare class among middle class America. While current welfare recipients would refrain from working under the administration's plan, many workers now employed in the private sector would take public service employment jobs. In addition to the indirect costs of the administration's proposal, Dr. Meiselman estimates that such a plan would have immediate direct costs that are three to four times the administration's estimates.

Mr. President, so much of what we do serves the interest of the Government at the expense of the independence and living standards of the people we represent. The road to serfdom is paved with allegedly "well-intentioned" Government programs like the administration's welfare reform proposals.●

REPORT TO THE SENATE ON PROPOSAL TO RENOVATE OLD UNION RAILROAD STATION, NASHVILLE, TENN.

● Mr. RANDOLPH. Mr. President, the Committee on Environment and Public Works has approved a proposal by the General Services Administration to authorize the acquisition, by donation, of the Nashville, Tenn., Union Station, and its rehabilitation of Federal office space. The cost of the project is $7,152,000, which GSA has estimated is nearly $2 million cheaper than construction of a replacement building.

The Nashville Union Station is one of the few remaining older buildings in the downtown area of the Tennessee capital city. It is located in proximity to the existing post office, Federal building, and courthouse, and Federal Building annex. It also stands within a few blocks of the State capitol building. The station was opened in 1900, and is considered a fine example of the Richardson Romanesque style of architecture. After serving for many years as the city's main passenger rail terminal, the building has been unused for the past 8 years.

GSA has found that the building is structurally sound and can be readily rehabilitated into Federal offices. The recommendation is based on the proposed donation of the main passenger station and its adjacent concourse to the Government by the Louisville and Nashville Railroad. The subsequent renovation work, approved by this prospectus, includes roof replacement, new doors and windows, new stairways, wall and ceiling restoration, new flooring, new elevators, as well as fire safety equipment, and aids for the physically handicapped. The existing heating and plumbing systems date from 1900 and will be replaced. The building will also be air-conditioned for the first time.

When renovated, the building will provide 34,140 square feet of usable office space for Federal agencies, 25,000 square feet of space for rental, with more than 13,000 square feet to be held in reserve for subsequent use by GSA. Agencies scheduled to use the Nashville building include the Social Security Administration, the Department of Labor, the Navy, and the Department of the Treasury.

The leasing of space for commercial, cultural, recreational, and education activities will be undertaken under the authority of the Public Buildings Cooperative Use Act of 1976 (Public Law

94-541). The committee expects GSA to promote actively such leases, as the agency is expected to do in other cities, where mixed commercial-Federal use of public buildings will enhance the urban environment.

The Committee on Environment and Public Works has often expressed its support for aggressive implementation of all requirements of the Cooperative Use Act. This Nashville proposal marks the first significant step taken by the General Services Administration under the authority of that act. The Cooperative Use Act requires that GSA and the Advisory Council on Historic Preservation study renovation alternatives whenever GSA is considering the development of any new building proposal, and it then permits GSA to acquire and rehabilitate buildings of historic, architectural, or cultural value. The committee recognizes that projects, such as this Nashville proposal, offer innovative, cost-effective means to improve and preserve the urban environment.

Until this Nashville proposal was sent forward, the Committee on Environment and Public Works had not had an opportunity to review any prospectus for the acquisition of historic buildings under the Cooperative Use Act, and it is one of the first prospectuses involving major rehabilitation under the act. The committee urges GSA to demonstrate the strongest possible interest in this approach, whenever feasible, in the future.

Under the new procedures of the Committee on Environment and Public Works, the General Services Administrator will be expected to present the detailed plans on the project to the committee at least 30 days before a contract on the work is entered into.●

THE ILLEGALITY OF THE NEUTRON BOMB

● Mr. MARK O. HATFIELD. Mr. President, the Senate will soon be considering the Department of Energy's national security and military application of nuclear energy authorization bill for fiscal year 1979. As my colleagues are aware, funds will be included for the production of enhanced radiation weapons—the "neutron bomb"—in the coming year.

My opposition to a similar effort during consideration of last year's authorization bill is well known. I continue to maintain that the production and possible deployment of enhanced radiation weapons represents a serious threat to our efforts to control the nuclear arms race, and forestall the outbreak of nuclear war in Europe.

Recently, I received a statement from the Lawyers Committee on the Illegality of the Neutron Bomb in which several international law authorities concluded that the production and deployment of the neutron bomb pose serious legal questions under international treaties to which our Government is a signatory. As this aspect of the very complex issues surrounding the enhanced radiation warhead has hardly been considered in Senate deliberation on the matter, I am submitting to the RECORD a summary statement by the Lawyers Committee which touches on the key points involved in the legal issue. I understand that a comprehensive memorandum on this issue will be forthcoming in the near future.

I trust that my colleagues will take the time to acquaint themselves with this fine summary, outlining our legal responsibility to the world as it relates to the neutron bomb. Mr. President, I ask unanimous consent that the statement be printed in the RECORD.

The statement follows:

STATEMENT OF LAWYERS COMMITTEE ON THE ILLEGALITY OF THE NEUTRON BOMB

We are alarmed at the continuing preparation for the production and deployment of the Neutron bomb, an enhanced-radiation warhead.*

This weapon—specifically designed to accomplish the maximum destruction of people through the release of fast neutrons and to minimize the destruction of property because of its limited blast and thermal effects—is heralded by its proponents as a credible tactical nuclear weapon for use in a European ground war. Their claim is that the weapon will halt advancing tanks by killing the soldiers in them while leaving intact the civilians in heavily urbanized western Europe.

Most authorities dispute the utility of the neutron bomb as a defensive weapon on friendly soil. They note that to halt advancing tanks would require the explosion of a huge amount of warheads, thus exposing Allied troops and a vast number of people in Western Europe to the deadly neutrons.

Nevertheless the lobbyists pursue the weapon as a viable option in a NATO policy of "flexible response". Some political analysts have observed that the neutron bomb is designed for advantageous use against an opponent that does not possess nuclear weapons, and some have suggested its utility in such regions as Korea, the Middle East, or Africa, where its people-killing property-saving qualities may be considered essential.

The introduction of this weapon may provide the spark for a nuclear conflagration. At present a clear threshold divides conventional and nuclear weapons. If this threshold is crossed by any nuclear weapon, tactical or otherwise, the road is open to the use of all nuclear weapons. If the distinction is blurred considerable ambiguity would result, leading to mutual suspicion, tension, and possibly to pre-emptive strategic nuclear strikes.

The neutron bomb threatens to cross the threshold because it contemplates the first use of a nuclear weapon in a conventional war. The production and deployment of the neutron warhead would thus mark a qualitative increase in the danger of escalation into full-fledged nuclear war and threaten the peace, security, and existence of the world.

These and other characteristics make the production and deployment of this weapon illegal under existing treaties and principles of international law. Any step which increases the probability of nuclear war, such as the threat to use or the provocative deployment of such weaponry, is itself a violation of international law and of the spirit and letter of treaties to which the United States is a party.

These include, among others, the United Nations Charter, the main purpose of which is to maintain international security as well as peace; other treaties in which the use or threat of force in international relations are renounced; Article VI of the Treaty of Non-Proliferation of Nuclear Weapons which expressly calls for good faith negotiations to achieve effective measures for the cessation of the nuclear arms race; and the 1971 bilateral agreement with the U.S.S.R. on "Measures to Reduce the Risk of Outbreak of Nuclear War".

The neutron bomb is unique in the arsenal of publicly known nuclear and other weapons of mass destruction in that it relies primarily on radioactive effects for the destruction of people, its sole target. The production and deployment of the neutron bomb would, for the first time, create an impression of the *legitimacy* of such weapons designed specifically for mass annihilation and the pollution and destruction of all living things.

The biological effect of high-velocity neutrons is about ten times that of equivalent amounts of gamma or X-rays per unit of mass. The characteristic effect of neutron radiation is comparable to thousands of millions of injections of a highly potent acid. The impact of the radiation on the nervous system is instantaneous, provoking convulsions, temporary paralysis, and loss of muscular coordination. Death may occur within a matter of hours or after several days.

The horrifying consequences of these effects are not limited to agonizing and slow death and other effects of radioactive neutrons which can extend for decades after exposure. Enhanced-radiation weapons are no more—indeed they are less—"humane" than chemical weapons, whose first use has long been outlawed by international treaty. Neutron radiation would cause leukemia, cancers, eye cataracts, and irreparable genetic damage for generations to come.

The notion that neutron bombs are benign to people on "our side" is fallacious. Like all nuclear weapons, the neutron bomb does not distinguish between combatants and civilians, between friendly and enemy soil.

Because of these characteristics the use of the neutron bomb would be illegal under existing treaties and well-established principles of international law and would also constitute crimes against humanity. These principles and treaties include, among others, the Declaration of St. Petersburg in 1868 of the principle of the laws of humanity which condemn and prohibit the "employment of arms which uselessly aggravate sufferings of disabled men or render their death inevitable"; Hague Regulation IV of 1907, Article 23, wherein "it is especially forbidden . . . (e) To employ arms, projectiles or materials calculated to cause unnecessary suffering", and the Geneva Protocol on Poison Gas and Bacteriological Warfare of 1925 which prohibits not only the use of "poisonous or other gases" but also the use of "analogous liquids, materials and devices."

Other principles as expressed in treaties, United Nations resolutions and international diplomatic conferences condemn the use of weapons which do not discriminate between combatants and civilians and which are unlimited in time or space. These include the Hague Conventions of 1897 and 1907; the Geneva Conventions of 1949, and the Protocols to these conventions adopted on June 8, 1977, by the Diplomatic Conference on Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflict, and many General Assembly resolutions, including Resolution 2444 (XXIII) adopted unanimously December 19, 1968.

We recognize, of course, the horror and opprobrium with which world opinion regards any nuclear weapons. The St. Petersburg Declaration that "employment of arms which uselessly aggravate sufferings of disabled men or render their deaths inevitable" has been restated on innumerable occasions including in the United Nations General Assembly Resolution 1653 (XVI) 1961, and recently in the 1977 Geneva Protocols, Protocol I, Article 35. We therefore strongly condemn as illegal and as violative of international law all weapons of mass destruction, both nuclear and non-nuclear.

But we now focus on the neutron bomb for three reasons:

(1) President Carter's postponement of the final decision as to whether to produce this bomb has created the hope that this new escalation may be prevented.

(2) The United States created, introduced, and has been the only country to employ nuclear weaponry. It therefore has a special responsibility—and opportunity—not to escalate the nuclear arms race further by being the first to produce the neutron bomb.

(3) The threat of production of the neutron bomb has created worldwide anxiety and protest. As lawyers, we have the professional duty to draw the attention of our government and our people to the relevance which this world opinion has to the illegality of this weapon. It is well established that "the laws of humanity and the dictates of public conscience" determine whether a dubious weapon is permissible. We therefore intend to appeal to the moral sense and legal duty of the United States to conform to this overriding rule of the law of nations as laid down in the preamble to the Hague Convention IV of 1907 and reaffirmed in the Geneva Conventions of 1949, and the 1977 Geneva Protocol, Article 1, par. 2.

We propose to do this by informing our government and the American people of the various treaties and principles of international law which have led us to the conclusion that the production or deployment of the neutron bomb would be illegal. We believe that this will be a significant contribution to world peace.

We invite our colleagues who share this view of join our Committee for this purpose.●

* The term "neutron bomb" is correct in the sense that the enhanced radiation warhead releases many more neutrons than other weapons of equivalent yield; it is misleading, however, in that the detonation of the warhead also releases great energy in forms other than neutrons.

NORRIS COTTON'S BOOK IS, INDEED, "A GEM"

● Mr. McINTYRE. Mr. President, I would like to call attention to a book review by Henry Fairlee in the August 26-September 2 edition of the New Republic.

The book reviewed is one written by my dear friend and former Senate colleague, Norris Cotton; the title is: "In the Senate: Amidst the Conflict and the Turmoil."

Let me quote a few lines from Mr. Fairlee's review to indicate the favorable impact Norris Cotton's book made upon this sagacious observer of the American political scene.

Mr. Fairlee wrote of the book:

It is a "gem"; it is invaluable. It actually tells us what the Senate is like, and therefore what the life of politics is like. There is no subject which he touches—the rules of the Senate, the growth of the congressional staffs, lobbying, the financing of elections, the direct election of senators, filibusters, the busybodying of the judiciary, the meaning of seniority—which he does not illuminate. This is a man who knows the difference between disillusion and lack of illusion, and such a man is no less needed as a guide to politics than as a legislator. This is the New England politician at his best, and it is also the conservative at his best . . . It is as delightful to read as it seems to have been a delight for him to write. One wonders when one puts it down, whether they make them like him any more, and one must be content with what would be his own answer, that they still do and always will.

Mr. President, Henry Fairlee's enthusiastic response to Senator Cotton's book is welcomed by those of us who know and love the retired Senator from New Hampshire. But it comes as no surprise.

We have long known that Norris could write and write very well, indeed, and that he is superb raconteur. His newsletters, when he was in office, were not the creatures of his staff. He wrote them. And they were an impressive, delightful mix of wisdom and humor.

The same mix is apparent throughout Norris' new book. Fairlee writes:

"His perfectly arranged description of how the Senate works is full of anecdotes which are worth the telling and the repeating. One must do here. When the bell rings once or twice for a quorum call, it is not for a "live" quorum call which the Senator must answer. Only when it rings three times must he go to the floor. When an elderly and powerful Senator was receiving a visitor in his office one day, the bell rang twice, and she looked anxiously at him as if he should leap to his feet. At last she said: "I thought I heard a quorum call." "No doubt you did," the Senator answered brusquely, "this is their mating season."

Fairlee concluded:

If that does not make you laugh, and tell you something about the Senate that is worth knowing, don't bother getting this book.

Mr. President, I concur with Mr. Fairlee's appraisal. I, too, think Norris Cotton has written "a gem" of a book, and I, too, predict, as Fairlee does, that "it will have a long life."

More than that, it deserves to have a long life. In these times of political rancor and bitterness, Norris Cotton's book restates a firm belief in the soundness of the American political system and reflects, at the same time, his deep love for the institution of the Senate. Beyond that it is an eloquent affirmation of the importance of civility in developing consensus and assuring continued progress.

As Henry Fairlee put it:

There is not one sour note in the book.

Mr. President, I congratulate my friend and former colleague on a job superbly done, and I ask that Henry Fairlee's review of Senator Cotton's book be printed in the RECORD.

The article from the August 26–September 2, 1978, edition of the New Republic follows:

IN THE SENATE: AMIDST THE CONFLICT AND THE TURMOIL

(By Norris Cotton)

This book by the former senator from New Hampshire will probably have a small sale, but I predict that it will have a long life. It is a gem; it is invaluable. It actually tells us what the Senate is like, and therefore what the life of politics is like. There is no subject which he touches—the rules of the Senate, the growth of the congressional staffs, lobbying, the financing of elections, the direct election of senators, filibusters, the busybodying of the judiciary, the meaning of seniority—which he does not illuminate. This is a man who knows the difference between disillusion and lack of illusion, and such a man is no less needed as a guide to politics than as a legislator. This is the New England politician at his best, and it is also the conservative at his best. There is not one sour note in the book. It is as delightful to read as it seems to have been a delight for him to write. One wonders when one puts it down, whether they make them like him anymore, and one must be content with what would be his own answer, that they still do and always will. His perfectly arranged description of how the Senate works is full of anecdotes which are worth the telling and the repeating. One must do here. When the bell rings once or twice for a quorum call, it is not for a "live" quorum call which the senator must answer. Only when it rings three times must he go to the floor. When an elderly and powerful senator was receiving a visitor in his office one day, the bell rang twice, and she looked anxiously at him as if he should leap to his feet. At last she said: "I thought I heard a quorum call." "No doubt you did," the senator answered brusquely, "this is their mating season." If that does not make you laugh, and tell you something about the Senate that is worth knowing, don't bother getting this book.●

SENATOR STAFFORD ELECTED TO IPU EXECUTIVE COMMITTEE

● Mr. BAKER. Mr. President, I am pleased to announce that our distinguished colleague from Vermont (Mr. STAFFORD) has been elected to the executive committee of the Interparliamentary Union.

Senator STAFFORD has been a very active and constructive member of the IPU since 1973, and has served as vice president of the U.S. delegation for the past 2 years.

While the elevation of an American to the executive committee is not unprecedented, it is somewhat rare, and it is a tribute to Senator STAFFORD's stature in international affairs and his personal integrity that this honor has been bestowed upon him.

The IPU, as my colleagues know, is a kind of United Nations of parliaments, with 75 member countries. While it has no binding authority, it has served as a useful forum for the interchange of ideas among legislators throughout the world.

I know my colleagues join me in congratulating our friend from Vermont and in wishing him well as he represents the Congress and the Nation in this important new post.●

GAO REPORTS ON WAMI

● Mr. CHURCH. Mr. President, the General Accounting Office has just issued a report entitled "Progress and Problems in Improving the Availability of Primary Care Providers in Underserved Areas." The report includes a section on the Washington, Alaska, Montana, and Idaho decentralized medical education program (WAMI), and I ask that it be printed at the conclusion of my remarks.

GAO's report confirms the successful approach which WAMI has taken toward solving the shortage of physicians in the rural Northwest. It strongly indicates that the factors WAMI has employed are just as pertinent to other parts of the country which are medically underserved. My own long-standing interest in this problem has made me an enthusiastic advocate of the WAMI program, and I urge all who are concerned with it to heed the lessons of its productive efforts.

GAO found, for example, that personal and professional considerations were far more important than financial benefits in causing physicians to decide whether or not to locate in rural areas. One of WAMI's objectives is to increase the number of medical students admitted from the WAMI States. WAMI has found that students from underserved areas are most likely to return to them to establish their medical practices, and GAO strongly indicates that this factor has national application.

In addition, GAO found that Federal repayment of student loans does not operate as an incentive for locating in underserved areas, despite the immediate and substantial financial rewards involved. Significant questions were also raised over the workings of scholarship programs with contractual obligations for service in rural areas. It is apparent that life-style is paramount in physicians' deciding to live and work in rural or inner-city areas, and GAO has made the striking recommendation that Congress consider discontinuing the loan repayment program.

With respect to professional considerations, GAO discovered that ready contact with other physicians and medical institutions was just as important an element in locating for medical practice as personal living preferences. Another objective of the WAMI program is to bring the resources of its medical center, the University of Washington School of Medicine, to the communities of the WAMI States. The Community Clinical Units established under WAMI also fit exactly with the professional association determinant of physician location.

GAO reported further that special training of medical students for the practice of family medicine produces more physicians who will settle in underserved areas. Again, this finding reflects an objective of WAMI.

It is important to note, Mr. President, that the University of Washington School of Medicine is the only medical school in the four WAMI States. The University's decision to reach out into underserved areas, even across State lines, is deserving of the highest commendation, and other schools have done well to emulate it.

Mr. President, GAO passes lightly over some important characteristics of the WAMI undertaking. The first is to accomplish all of WAMI's objectives without capital construction programs: no new buildings, just more doctors in the right places. That objective has been achieved, and the government should take note of this monument without a monument.

The second characteristic is the fact that WAMI has not taken any money from the Federal Government since June 30, 1976. Its governmental source for funds has come entirely through its participating States since that time. WAMI began with a foundation grant, rather than Federal funds, which is significant in itself. Thereafter, WAMI did receive some Federal money, but it is no longer at the Federal trough.

WAMI, Mr. President, is a success story, not only for the achievement of its important objectives, but as a model of cooperation to solve a complex national problem without overdependence on the Federal Government. As GAO has reported, there is much to learn from WAMI's experience.

The report follows:

WAMI

In 1969, the University of Washington School of Medicine (UWSM) staff developed a plan for a decentralized medical education program which would use facilities and faculties of other universities to teach basic sciences to first-year medical students and thereby allow more students from the WAMI States to enter medical schools. UWSM is the only medical school in the four WAMI States.

In 1971, the Commonwealth Fund of New York awarded UWSM a $1 million 3-year grant to test the regional medical education concept in the WAMI States. HEW awarded the University of Washington a $1.5 million contract for the WAMI program for the period June 1, 1972, to June 30, 1973. Subsequent modifications increased the contract amount to $6.1 million. HEW funding of WAMI ended June 30, 1976, and the program has been authorized continuation funds from the participating States.

PROGRAM OBJECTIVES AND GOALS

The WAMI program was initiated in 1971 to address these goals:

1. Increase the number of students admitted from the WAMI States.

2. Increase the number of primary care physicians being trained.

3. Bring the resources of the medical center to communities in the WAMI territory.

4. Accomplish the above goals without capital construction programs.

5. Place physicians in areas of need—redress the geographic maldistribution that exists in the WAMI States.

The WAMI program consists of two phases—a university phase and a community phase.

During the university phase, WAMI medical students from the participating States receive their first-year instruction in basic sciences at the participating university in their State (University of Alaska, Washington State University, Montana State University, and University of Idaho). Their courses are essentially the same as those taught to first-year medical students at UWSM in Seattle. Students then complete their training at UWSM. Since WAMI began in 1971, 196 students have participated or are participating in the university phase at the 4 schools.

The community phase consists of Community Clinical Units (CCUs) generally located in outlying rural areas of the participating States. Medical students and residents obtain clinical training and experience during 6-week clerkships at CCUs. CCUs were established to encourage more students and resident physicians to practice in rural areas after completion of their medical education and training. Each CCU is basically a teaching site where a group of physicians teach advanced medical students and medical residents. As of December 31, 1975, 13 CCUs were participating in the WAMI program, as follows:

Type of practice: Location	Population (1970 census)	Participating physicians
Family medicine:		
Anacortes, Wash	7,701	6
Grandview, Wash	3,605	7
Kalispell, Mont	10,526	6
Kodiak, Alaska [1]	3,798	4
Omak, Wash	4,164	6
Oak Harbor, Wash	9,167	10
Internal medicine:		
Billings, Mont	61,581	20
Missoula, Mont	29,497	17
Wenatchee, Wash	16,912	13
Pediatrics:		
Great Falls, Mont	60,091	5
Pocatello, Idaho	40,036	5
Spokane, Wash	170,516	10
Obstetrics/gynecology: Boise, Idaho	74,990	20
Psychiatry: Anchorage, Alaska	48,029	9

[1] Not in operation as of Dec. 31, 1975.

As of September 30, 1975, 308-student clerkships and 60 resident rotations had been completed in 14 CCUs throughout the 4-State area. Fifty-eight percent of these were in family medicine.

A program summary prepared for accreditation of the WAMI program by AMA indicated that some impact was being made on the geographic distribution of physicians. Of 35 residents who participated in the WAMI program CCUs and were no longer in residency, program data showed that 16 were in rural practices, as shown on the following page:

Type of practice	Department: Family medicine	Internal medicine	Pediatrics	Psychiatry	Total	Percent
Rural	12	2	1	1	16	46
Semirural			6		6	17
Urban	2		1		3	9
Military commitment	3				3	9
Student/continuing education			2		3	9
Other	1		1		4	11
Total	18	5	11	1	35	[1] 100

[1] Does not total due to rounding.

However, we did not determine the extent to which these physicians actually located their practices in HEW-designated health manpower shortage areas.

Features of the WAMI program which may encourage participants to practice in underserved areas after completion of residency training are:

Recruitment and selection of medical students from areas having a physician shortage or maldistribution problem.

Establishment of training sites in small communities to expose medical students and residents to small-community practice.

Program officials said that it is too early to evaluate the impact of selecting students from the WAMI States because none of the WAMI students who entered the university phase have completed residency training. However, a program evaluation showed increasing percentages of students interested in practicing in small towns or medium-sized communities. Many of these were interested in group practices and primary care. Preliminary data indicates that the community phase of the program may be an effective means of encouraging students who

have completed residency to practice in nonurban areas.

An October 1975 WAMI program summary report stated that (1) four of the five program goals were being achieved and (2) some impact was being made on the fifth goal—improving geographic distribution—in that a large percentage of residents who participated in the WAMI community phase and completed residency have set up practices in rural locations. Moreover, the WAMI program has trained an increased number of primary care physicians, as evidenced by the number of students selecting family medicine. About 54 percent of the WAMI students chose family medicine. ●

ALASKA NATIONAL INTEREST CONSERVATION LANDS

● Mr. ANDERSON. Mr. President, the Alaska National Interest Lands Conservation Act was recently examined in an article by Luther J. Carter in the August 11 issue of Science magazine. The article entitled, "Andrus in Alaska: A Tour of the Wild Estate," describes the Secretary of Interior Cecil D. Andrus' support of the Alaska lands legislation now pending in Congress and his justifications in leading the Carter administration's efforts to pass the Alaska National Interest Lands Conservation Act this year.

The Metcalf-Durkin bill, S. 1500, would enable us to institute a plan to protect our Nation's last great wilderness frontier. The Alaska lands are an exceptional part of the American patrimony and thus the importance of this legislation cannot be overemphasized.

Mr. President, the 95th Congress must act in the national interest in its decision on Alaska public lands. As we draw near the final weeks of this legislative session, it is imperative that we fulfill our responsibilities to all our constituencies and vote to preserve the scenic splendor of the Alaskan wilderness.

Mr. President, I ask unanimous consent that the full text of Luther J. Carter's article be printed in the RECORD.

The paper follows:

ANDRUS IN ALASKA: A TOUR OF THE WILD ESTATE

ANCHORAGE, ALASKA.—The scenery and wildlife spectacles afforded by Alaska, the "Great Land," are impressive and varied enough to evoke a strong response from many who come here. Indeed, Representative John Seiberling of Ohio, a key supporter of the Alaska lands legislation now pending in Congress, has returned from each of his several trips to Alaska enthralled. "Alaska," Seiberling has said, "is Yosemite, the Grand Tetons, Yellowstone, the Grand Canyon, Glacier National Park, and the Serengeti Plains all rolled into one."

This state recently received another important Washington visitor who is also enormously impressed by Alaska. It was Secretary of the Interior Cecil D. Andrus, who is leading the Carter Administration's efforts to have Congress complete action this year on the Alaska lands bill and thereby have nearly 40 percent of Alaska's vast land area of 375 million acres assured special protected status as part of the "four systems"—that is, the four national systems of parks, wildlife refuges, forests, and wild and scenic rivers.

The bill was approved by the House of Representatives in May by the overwhelming margin of 277 to 31. Now, however, the measure faces substantial opposition in the Senate. The hard-rock mining and oil and gas industries object to the fact that substantial resources would indisputably be put off limits to exploration and development (Science, 4 November 1977). In the industry view, the nation can ill afford to "lock up" resources which, it is argued, will surely be needed in the future to stave off critical shortages.

Moreover, most nonnative Alaskans and their elected officials are opposing the bill as it is now written. Alaskans typically are holding the flag of state's rights high and demanding that much the greater part of the public lands be open to a variety of uses and largely unrestricted access. More specifically, the two Alaska senators, Mike Gravel and Ted Stevens, Democrat and Republican, respectively, want the acreages that would go into the conservation systems to be much smaller than what the Administration has proposed; they also want provision to be liberally made for well-defined transportation and utility corridors. In addition, the senators hope to see a program of joint federal-state land management established for regions where there is a mix of federal and state land, and, in many instances, native and other private land, too.

In early July, Andrus was in Alaska leading a dozen news reporters on a week-long tour of the state. His party crisscrossed the state in a fleet of four airplanes, visiting places such as Mount McKinley National Park, the Kobuk River Valley and the Brooks Range (where major new refuges and parks are proposed), and the National Arctic Wildlife Refuge. The secretary's obvious aim was to drum up maximum public support for the Alaska lands bill which may now be nearing a critical test in the Senate, where Gravel has promised to filibuster.

Andrus is an outdoorsman from the Northwest who grew up hunting and fishing. He was in his element as the fatbellied Grumman Goose amphibian ferried him and his party into Selby Lake, a pristine glacial lake nestled in a spectacular mountain setting on the south side of the Brooks Range. It was the weekend, and Andrus, a lanky 6-foot-2, had his mind set on fishing. Dressed in a blue-cotton plaid shirt, dungarees, and a duck hunter's cap, he looked as much like one of Alaska's professional bush pilots or guides as he did a Secretary of the Interior and former governor of Idaho. Accompanied by a fishing enthusiast from his official entourage, Andrus, fly rod at ready, promptly took off down the lake in an outboard-powered rubber boat in quest of Arctic grayling and lake trout.

From this and other experiences during the trip, Andrus was to say, and say repeatedly and ardently, "I'm more convinced than ever that these places must be protected." In what has come to be a favorite catch-phrase, he says the Alaska lands bill represents "the last chance for us to do it right the first time."

As passed by the House, the bill—known as H.R. 39—would add some 101 million acres to the four national conservation systems, with much the greater part of the acreage going into parks and wildlife refuges.

Some of these units would be large enough to embrace entire river drainages and regional ecosystems, and this is what Andrus means by "doing it right the first time." Experience in the lower 48 states has shown that refuges and parks can eventually fall into jeopardy unless made large enough to include essential watersheds, habitats, or buffer zones. The secretary cites the troubles that have befallen the Everglades, Indiana Dunes, and Redwoods parks as cases in point.

Enactment of the pending legislation would complete the process of land allocation that began with the Alaska Statehood Act of 1958. That act gave the new state the right to select and take ownership of 104 million acres from the public domain lands, an entitlement which in toto will represent an area a bit larger than California.

The process was carried further with the Alaska Native Claims Settlement Act of 1971. It provided for the establishment of Eskimo, Indian, and Aleut native regional and village corporations and gave them a total land entitlement of 44 million acres.

The state and native land selections have not been completed and cannot be until Congress decides what land is to go into the four systems. The pending measure would in fact provide for expeditious conveyance of land to the state and natives. Accordingly, all Alaskans have a stake in seeing the Alaska lands controversy settled; nonetheless, many would prefer to have the matter carried over to the next Congress, which they hope will be less in sympathy than the present one with preserving huge areas of wilderness.

As it happens, the part of the Brooks Range which Secretary Andrus and his party visited is the subject of what has the look of a classic conflict between wilderness preservation and mineral resource development.

Selby Lake, where the Andrus party made camp for 2 days, is part of what would become, under H.R. 39, the Gates of the Arctic Wilderness National Park. This park, covering an area half again the size of Massachusetts, would have within it some of the most arresting features of the central Brooks Range, including its remarkable combination of gentle valleys and sharp granite spires.

But the geologic treasures to be found in and around the proposed park are not confined to the scenic. For cutting across the lower part of this park and areas contiguous to it is one of Alaska's most highly mineralized zones. Several rich deposits of copper, lead, zinc, and silver already have been found and other valuable deposits are suspected to be present.

The Gates of the Arctic Park would be managed strictly as wilderness, with no mining allowed and with even recreational use deliberately kept low through a reservation and permit system. There would be no roads into the park and no established campgrounds; access would be by aircraft flying in to designated water or gravel bar landing sites. And, although the Brooks Range is noted as prime habitat for such game species as Dall sheep, barren ground grizzly bear, caribou, and wolves, sports hunting would be prohibited, just as it is in parks in the lower 48 states. Only such hunting as has been traditionally carried on in the region by Eskimos or others to meet subsistence needs would be allowed.

For all his concern to see much of the Alaskan wilderness preserved, Secretary Andrus insists that the boundaries set forth in the Administration's proposal for the Gates of the Arctic park and other proposed park and refuge units reflect a conscientious effort at striking a reasonable balance between preservation and development. It turned out that, at Selby Lake, Andrus was to have encounters with two men who neatly epitomized the conflicting pressures and points of view with which he has had to cope.

One of them was Ray Bane, a National Park Service anthropologist with a deep commitment to keeping the best of the Brooks Range and arctic Alaska pristine and undefiled. The other was Dave Heatwole, regional senior geologist in Alaska for the Anaconda Company.

The encounter between Andrus and Bane came during a helicopter excursion into the Brooks Range. Bane is an intense, wry little man who has lived, fished, and hunted with the Eskimos of the villages along the Kobuk River, which rises in the Brooks Range to the east of Selby Lake. On this occasion, he had about him an air of excitement that befitted an interpreter of a region that such noted explorers of Alaska as the late Robert Marshall and Olaus Murie have extolled for its wildness and beauty.

At Bane's direction, the helicopter made a low pass through part of the valley of the Alatna River, a gentle, meandering stream flanked by some of the most rugged country in the Brooks Range. Then, taking a sharp turn to the southeast, the copter followed Arrigetch Creek, a tributary of the Alatna, up to its source near the foot of the jagged, cold-gray granite monolith that forms the Arrigetch Peaks.

The helicopter alighted in a spongy meadow beneath the peaks, and Andrus, Bane, and a few reporters accompanying them got out. "This country is fantastic," said Bane. "In some places, no human—not even the Eskimo—has ever set foot. We're not in the business of just saving some scenery. We're trying to save a wilderness. Bob Marshall wanted to save everything north of the Yukon."

LATE-NIGHT SESSIONS

Andrus, who was listening sympathetically, then observed with a touch of hyperbole: "The original Park Service proposal [for the Gates of the Arctic] would have come close to doing just that. We stayed late at night in my office deciding what to keep in, what to take out. Some of the Park Service people finally went home early, before the rest of us, saying they didn't want to be witness to what was being done."

Bane smiled. "It's like asking, 'Do you want to lose your big toe, or your little finger?'" he said.

One area painfully cut from the Gates of the Arctic boundaries was a pocket in the mineralized zone which is dotted with valid mining claims and several known deposits containing exceptionally rich ores estimated to be worth upwards of $6 billion. Potential mining activity in this pocket was the subject of the encounter between Andrus and Dave Heatwole, the geologist for Anaconda.

It came the morning after Andrus' flight with Bane up to the Arrigetch Peaks. Andrus and Heatwole stood on a high knoll looking across a ravine to the down slope of the next mountain. "This is the Sun Deposit," Heatwole said. "There is more than a billion dollars worth of minerals in place in that mountain. The ore is ten times richer than what we are mining in Arizona."

Heatwole said that the Sun Deposit represented only one of about 200 mining claims scattered across the 80-mile-wide pocket or "niche" which is bordered by the proposed Gates of the Arctic Park to the east and north, and by the proposed Kobuk Valley National Park to the west. One of the claims is at the Kennecott Company's fabulous Arctic Deposit, where $4 billion worth of minerals is estimated to lie beneath less than a quarter square mile of land. Moreover, according to Heatwole, the mineralized zone, with rocks of high potential, is not confined to the pocket but extends beyond it into the proposed parklands to the east and west.

Implicit in what Heatwole was saying was that, from the point of view of Anaconda and the other companies that have been carrying on mineral exploration in the Brooks Range, the park proposals posed serious conflicts. For one thing, the companies would like to be free to explore for additional deposits throughout the mineralized zone. For another, the mining companies do not want the routing of the haul roads serving their operations to be severely constrained by park boundaries. Anaconda, in particular, wants to be able to build (or have the state build) a haul road that would proceed eastward from its Sun Deposit across what is coming to be known as the "boot" of the Gates of the Arctic Park.

According to Heatwole, this routing would take advantage of a "natural corridor" through the Brooks Range foothills and allow the road—to cost about $1 million a mile—to tie in with the Trans-Alaska Pipeline haul road, some 125 miles (as the crow flies) to the east of the Sun Deposit. If, instead, the road must go around the boot of the park, the routing will not only be longer but more difficult, as it would cross the marshy and extensive Pah River flats.

Secretary Andrus was visiting the Anaconda mining claims and exploratory core drilling operations at the company's suggestion. What he found was that, through the use of the helicopters instead of ground vehicles to move the drilling rigs from place to place, scarcely any scars were left on the landscape, unlike what Kennecott had done about a decade earlier in carrying on core drilling at the Arctic Deposit. But, once the construction of haul roads and actual mining operations began, scarring would of course be inevitable (although the Sun Deposit would be deep-mined, the Arctic Deposit lies at the surface and would have to be exploited by open pit mining).

The secretary made it clear that he could not go along with what Anaconda wanted. No question about it, mining and haul roads should be kept out of the park, for otherwise the park's wilderness character could not, in his view, be preserved. But, as Andrus knew, the question as to how liberally or conservatively park and refuge boundaries would be drawn, and whether transportation corridors through them would be allowed, was going to depend on how much political muscle the Alaska senators and lobbyists for the mining and the oil and gas industries exert in Congress.

After the stop at Selby Lake, the Andrus party's tour moved on to the existing National Arctic Wildlife Refuge, an area where the conflict is between wilderness and potential oil and gas development. If H.R. 39 should become law as now written, the refuge would be enlarged to take in an area in northeast Alaska substantially larger than the entire state of West Virgina, and most of it would be classified as wilderness, with no oil and gas development permitted. Yet nearly everyone agrees that there is a significant potential for discoveries of oil and gas in that part of the existing refuge which is in the Arctic coastal plain.

Last year, when the Administration was putting together its Alaska lands proposal, Secretary Andrus bested the Department of Energy in an interagency battle by persuading President Carter that oil and gas develoomment should be kept out of the refuge. The refuge is unique, partly because it serves as the calving grounds for the Porcupine caribou herd, which, with its some 120,000 animals, is now the largest herd in North America.

Andrus has been well aware that the question of whether the nation should place wilderness and caribou ahead of oil and gas could, in the final analysis, depend on the estimates as to how much oil and gas the refuge contains. Accordingly, last May he eagerly seized upon a new U.S. Geological Survey report which speculates that, while the refuge offers good potential for discovery of oil and gas deposits of medium to large size, discovery of another "supergiant" field comparable to the one at Prudhoe Bay is unlikely.

The secretary has taken the attitude that the value of the refuge and its caribou far outweigh the value of speculative and possibly unexceptional oil and gas resources which, even when developed, would be "finite and rapidly expended."

Enroute to the refuge, Andrus and members of his party stopped briefly at Prudhoe Bay where Angus Gavin, the Atlantic Richfield Company's ecologist in residence, told them, in effect, that oil fields and caribou are quite compatible. The study, conducted by Gavin in the Prudhoe Bay field and in a large undisturbed area adjacent to it, had shown, he said, that the presence of the big pipeline, the gathering lines, and other facilities had not bothered the caribou.

"Actually, we have the only stable herd in the Brooks Range," said Gavin, referring to the small central arctic herd variously estimated to have from 5000 to 7000 animals. Gavin observed that the caribou even seemed to prefer to crawl under the elevated pipeline rather than use the grade level crossings provided for them.

But Andrus and the U.S. Fish and Wildlife staff people with him took Gavin's assertions with a grain of salt. A study of the behavior of the central arctic herd sponsored by the Department of the Interior, the state of Alaska, and the Alyeska Pipeline Company had indicated that caribou, and especially cows and calves, were tending to avoid the pipeline and its associated haul road. According to the study, the herd seemed to be separating "into eastern and western components, each with largely independent north-south movements."

As luck would have it, the Andrus party found and flew over a sizable part of the Porcupine herd, which was assembling prior to making its annual trek from its summer habitat on the North Slope across the Brooks Range and into Canada, where it winters in the boreal forests of the upper basin of the Porcupine River. It was early afternoon, the sun high in a cloudless sky, and the caribou, some 20,000 to 30,000 of them, were moving slowly through the foothills above the arctic plain. The tundra, a subtle beige and light green, offered not the slightest sign of ever having been visited by humans—there was not a road, not a seismic line, not a mark of blemish of any kind as far as one could see, from the Arctic Ocean to the Brooks Range.

"The Eskimos say, 'No one knows the way of the wind and the caribou,'" Andrus has said. "[But] we do know that if the herd is dispersed or broken up by [oil and gas] exploration activity, it may never regroup again. This is a chance we decided not to take."

Throughout his Alaska tour, the secretary found the friendliest political terrain in the native villages, such as Kaktovik, a village of 132 people on Barter Island, on the edge of the Arctic Wildlife Refuge and the Beaufort Sea. At Kaktovik, the villagers depend on caribou meat to help carry them through the winter, and last year they took about 100 of these animals.

Their mayor, Marx Sims, the postmaster and a white (nonnative), told Andrus that the villagers were totally opposed to oil and gas development in the refuge. Such development, they believed, would interfere with calving and bring about a disastrous decline in the herd. The Eskimos of villages to the south of the Brooks Range had adopted resolutions expressing the same apprehensions.

On this as on previous trips to Alaska, Secretary Andrus heard many nonnatives voice the protest, implicity or explicity, that H.R. 39 represents a callous attempt to put many of Alaska's most choice areas off limits, not just to development, but also to sports hunting and even to convenient access for fishing or other outdoor pursuits. Yet, as Andrus sees it, his philosophy of achieving "balance" in use of resources applies as much to the classification of land for various kinds of recreational activity as it does to classifying land for development or wilderness preservation.

For example, in the Andrus view, the Gates of the Arctic Park and the Arctic Wildlife Refuge are best regarded as special places which one perhaps will visit rarely, if at all, but which will always be there, pristine and inviolate. Yet, at the same time, a number of other parks and refuges will serve large numbers of visitors, as in the case of those along the coast of Alaska and in parts of the interior which are easily accessible by excursion boat, railroad, or highway.

The first and last days of the Andrus tour featured visits to such places. One was by excursion boat from the town of Seward to the sea lion rookery on Chiswell Island, near the proposed Kenai Fjord National Park on the south central coast of Alaska, about 100 air miles below Anchorage. The other was by tour bus through part of McKinley National Park (see box), now accessible by the main highway that connects Anchorage and Fairbanks as well as by the Alaskan Railroad.

After seeing the McKinley Park Station Hotel thronged with tour groups of elderly visitors, including even a woman in a wheel chair, Andrus observed: "This is the rebuttal to those who say Alaska is only for the young and the rich."

Underlying all of the secretary's thinking about Alaska is a conviction that Alaska, given its enormous size and extraordinary resources, is an exceptional part of the American patrimony and should be treated as such. The 104-million-acre land grant made to the state of Alaska under the Statehood Act was, he says, vastly larger than any land grant ever made to any other state. Similarly, the settlement of native land claims was, he feels, not ungenerous. Now, Andrus says, it is time to set aside for the nation as a whole "the crown jewels of the Alaskan wilds."●

TRADE BARRIERS STIFLE U.S. AGRICULTURAL EXPORTS

● Mrs. HUMPHREY. Mr. President, there is no doubt that agricultural exports are essential to U.S. agriculture and are extremely important to the U.S. balance of payments. Almost one acre in three that are harvested is devoted to production for export. And, in 1977, the United States nonagricultural trade deficit of $40.1 billion was reduced to $29.9 billion through the sale of agricultural exports.

It is quite clear that agricultural exports offer a viable means of strengthening the value of the dollar and our economic position in the world. Yet, while we continue to search for new export markets and to fight for free trade, our efforts to increase our agricultural exports are being stifled by an increasing number of trade barriers. Farmers and traders alike are complaining that we are losing sales and losing our market share in export markets.

A recent Christian Science Monitor article, entitled "Japanese Quotas Work Against U.S. Food Import," illustrates the types of problems we are encountering as we attempt to expand our agricultural exports. Quotas in some foreign countries help to drive the price of U.S. farm exports up 4 to 5 times over what the same products sell for in the United States. Where quotas are not used, other measures are developed to limit the sale of U.S. farm exports.

The domestic impact of these foreign trade barriers is serious because they affect not just our agricultural economy but the nonfarm economy as well. A 1974 Department of Agriculture study indicated that 650,000 non-farm jobs are in some way related to assembling, processing, and distributing agricultural products for export. That same study indicated that each dollar of agricultural export stimulates nearly another dollar's worth of business activity—a multiplier effect of almost two.

Reducing trade barriers has to be one of this country's top economic priorities. Month by month our trade deficit continues to grow and the value of the dollar continues to decline. The result is spiraling inflation here at home and havoc in the international money markets. Only a concerted effort on our part to increase export trade will turn the situation around. The reduction of trade barriers is fundamental to our success.

Last week the Senate took an important step toward expanding our agricultural export markets by passing S. 3447, the Agricultural Export Trade Expansion Act of 1978. This legislation was in part modeled after S. 2385, which Senator Hubert Humphrey introduced in 1977. His bill would have established a 3-to-10 year intermediate credit program under the Commodity Credit Corporation and the bill passed by the Senate contains a similar provision. And, it represents a recognition by the Senate that financing facilities have become an established and recognized part of international trade on farm commodities.

The Senate's action on this bill represents a significant decision to make this Nation fully competitive in international markets. Mr. President, I ask that the article from the Christian Science Monitor follow my remarks in the RECORD.

The article follows:

JAPANESE QUOTAS WORK AGAINST U.S. FOOD IMPORT

(By Norman Sklarewitz)

TOKYO.—These days, American tourists in Japan find current food prices as fascinating as the country's ancient cultural heritage. The decline in the value of the U.S. dollar has pushed grocery price tags to record heights.

Checking the cost of fruits, vegetables, and other items of daily household use and then comparing them with the same products back home is a particular source of astonishment to visitors and painful dismay to residents.

For example, shoppers going to neighborhood supermarkets find these prices: five peaches, 950 yen, or at the 192 yen to $1 U.S. exchange rate $4.95; one American honeydew melon, 1,630 yen ($8.48); a can of American fruit juice, 285 yen ($1.48); a 10-ounce jar of instant coffee, 1,390 yen ($7.23); or a can of vegetable soup, 230 yen ($1.19).

Those prices are important to people other than foreigners living in Japan; they play a role in U.S. export deficits. Japan has traditionally been one of the leading markets for U.S. agricultural products. This year, the value of American foodstuffs sold to Japan is expected to hit $4 billion for the first time.

FOOD SALES ENCOURAGED

Last year, the value of American farm exports to Japan was $3.8 billion. That volume represented some 16 percent of total U.S. agricultural exports worldwide. So it is important to American farmers and ranchers that the Japanese continue to buy their commodities. If, however, food prices continue to rise, the market could be threatened or at least kept from expanding as the population warrants.

American trade negotiators are currently trying to increase the volume and variety of American food products permitted into Japan. That effort comes as part of a general effort by the U.S. and Japan to correct the current trade imbalance between the two countries. At midyear, Japan had sold some $10 billion more worth of its goods than it imported from the U.S.

If Japan eased some on its long-standing restrictions against agricultural imports, experts argue, at least some of that trade surplus would be reduced. In addition, increased availability of goods on the marketplace would logically help drive down retail prices.

What concerns American exporters are official Japanese quotas and semi-official practices which work to limit U.S. agricultural sales. For example, Japan rigidly limits imports of fresh oranges. For years, the quota of 15,000 metric tons was imposed on the argument that Tokyo had to protect the interest of its own farmers who grow mikan—mandarin oranges.

Under heavy U.S. pressures this past January, however, Japan finally increased the quota three times. While this seems large enough a spokesman for Sunkist Growers, Inc., in Los Angeles, figures out the new volume works out to about 2½ more oranges per person per year here.

"There's so little fruit going into Japan that even with the increase, only a small number of oranges is involved," says Bob Harz, a Sunkist marketing expert.

It is not just foreigners who have to pay those steep prices of course. The Japanese housewife on a budget is being asked to pay the yen equivalent of 75 cents for one orange. And if a tourist should decide to order a glass of fresh-squeezed orange juice in a hotel restaurant for breakfast, he will get a check for $4.50.

The high prices are not all going to support American exporters. A 40-pound carton of top-quality oranges is landed in Yokohama for around $14. But the Japanese have a complicated distribution system that involves layer upon layer of middlemen. As a result, the price of that same carton can easily rise to the equivalent of $66, or some 400 percent, by the time it is sold at retail.

OTHER APPLICATIONS

The same situation prevails with other U.S. products such as wheat. Sales here, too, are limited by stiff marketing markups and controls set by the Japanese Government. These tie the market price of imported wheat to the country's rice subsidy program. In other words, U.S. wheat that may be landed in Japan at $3.25 a bushel is immediately marked up by the Japanese to $8 a bushel; the difference supports subsidies to rice farmers. Not surprising, then, a small loaf of white sandwich bread in Tokyo sells for around $1.34.

Beef is another example of how Japanese import restrictions and a single distribution system combine to limit supplies and guarantee high profit margins. A surcharge on about 95 percent of all imported beef permits domestic beef producers who have high unit costs to be sure that imported beef, which may come in cheap, does not compete with them at retail. First, there is a 25 percent duty on all imported beef and then a surcharge of nearly $6.40 per pound. As a result: hamburger patties are around $3.25 a pound; a T-bone steak is around $11.40 a pound and tenderloin or striploin steaks are higher. Prices like those effectively limit sales to a comparatively small market of very affluent Japanese.

"If we had complete import liberalization of the 19 agricultural items now under some sort of Japanese controls, we could sell some $500 million more worth of American agricultural products to Japan in from three to five years," says one U.S. Embassy source here.●

REPORT TO THE SENATE ON VARIOUS BUILDING PROPOSALS FOR THE GENERAL SERVICES ADMINISTRATION: LOS ANGELES FBI PARKING GARAGE

● Mr. RANDOLPH. Mr. President, the parking garage approved in this proposal provides replacement space for an open parking facility which is being transferred to the city of Los Angeles in

a land exchange with the General Services Administration. The new facility will provide space for parking and repairing of Government-owned cars and Government property. It is not to be used to provide space for employee or public parking.

The scope of this proposal has been reduced substantially since it was originally sent to the Congress in December 1974. At that time, it projected a facility costing $9,262,000, with parking for some 600 FBI vehicles, plus auto and radio repair space that together covered more area than that required for a football field, plus nearly that much storage space. Because the number of parking spaces far exceeded the number of official cars that would be needed to serve the Los Angeles FBI field office, using the FBI's new growth projections, and because of excessive space for repairs and storage, the committee asked GSA to reevaluate its proposal.

In February 1977, GSA submitted a revised proposal. This 1977 proposal reduced the number of parking spaces to 480—approximately equal to the number of FBI agents stationed at the Los Angeles field office and thus, the maximum number of cars needed to be garaged. It is also reduced somewhat the space for repairs. Subsequent reductions by GSA and the FBI, following on-site studies by FBI officials, led to a further reduction in the repair area to its present size, which GSA outlined in a letter to the committee on August 2, 1978. It is this August 2, 1978 level which the committee has approved. GSA in the August 2, 1978, letter stated:

The revised project size, estimated at a total project cost of $5,744,000, is 180,850 square feet including parking for 480 vehicles, 16,500 square feet for auto repair, 8,800 square feet for vehicular radio repair and maintenance, and 12,600 square feet for storage. We believe that these requirements . . . accurately reflect the current needs of the FBI.

It is noted that the committee has been informed that the new repair area has space for 13 work bays to be utilized by six or seven mechanics who work for the FBI in Los Angeles. From material provided to the committee by GSA, it is noted that this facility will have more space per repair bay, plus space for part storage, than a large, modern auto dealership.

	1974 prospectus	1977 prospectus	Present GSA proposal [1]
Cost	$9,262,000	$7,487,000	$5,744,000
Total area (square feet)	295,000	196,400	180,850
Number of parking spaces (cars)	600	480	480
Auto repair area (square feet)	25,000	16,000	16,500
Radio repair area (square feet)	25,000	15,000	8,800
Storage and miscellaneous area (square feet)	35,000	25,000	15,150

[1] Approved by committee.

By its action, the committee has approved a project with space for 480 cars, plus 25,300 square feet of total repair space, and 15,150 square feet of storage and miscellaneous space. If the design and bids demonstrate that the $5,744,000 authorized by this prospectus is available to obtain more space, then the space listed above, not the total dollars, shall become the limiting factor on the project.●

OVERSEAS MARKETS FOR MINORITY ENTREPRENEURS

● Mr. GLENN. Mr. President, I recently authored a provision in the State Department authorization bill which required the Department to coordinate with the President's interagency Council on Minority Business to improve the export performance of minority businesses overseas. Smaller American business firms have difficulty competing in overseas markets because of inadequate preparation, uncertain knowledge of markets, ineffective and uneven cooperation by governmental institutions designed to aid firms doing international business. I know Senator NELSON's Select Committee on Small Business has been exploring this area and commend them for that effort.

A recent journal article highlights the experiences of black American enterprises in seeking markets in Africa. Some $3.4 billion in exports went to African states, excluding the Republic of South Africa. Yet, this represented a decline of $0.5 billion from 1976. More significantly, minority firms are not especially active in even these arrangements. Because I have found this article informative I wish to share it with my colleagues and therefore request that the analysis be printed in the RECORD.

The analysis follows:

U.S. BLACK ENTERPRISES AND BUSINESS IN AFRICA

U.S. exports to Black Africa during 1977 were estimated at 3.4 billion dollars. However, a breakdown of this trade clearly shows that despite the mutual desire to establish trade links between African-American enterprises and Black Africa, trade between the two remains negligible. What are the bottlenecks? Chika Onyeani reports.

In 1976, total US exports to Africa amounted to $5.2 billion, of which $1.3 billion were exports to racist South Africa, leaving a balance to the rest of Africa of $3.9 billion. The 1977 projected exports to Sub-Saharan Africa—which excludes South Africa—amounted to $3.4 billion. A breakdown of this huge trade with Africa would clearly show that none of the Black companies in the country played a significant role in its accomplishment.

Black entrepreneurs, unlike their political counterparts, have taken a back seat in the economic development of Black Africa. Present Black political leaders such as Ambassador Andrew Young and Representative Charles Diggs Jr. have certainly contributed significantly to the changing pattern of US policy towards Africa. And even John Vorster, the racist Prime Minister of South Africa, has acknowledged the pressure that Black support for President Carter has created for the changing relationship between the US and South Africa.

The question, then, is why have Black entrepreneurs not followed in the footsteps of their political colleagues in establishing lines with the huge and yet largely untapped African market? The British, French, West Germans and the Japanese are all engaged in exploiting this market; they are doing it successfully and reaping substantial profits. As was stated earlier, the U.S. exported over $5.2 billion worth of goods and services in 1976 to African countries. The question is where did these exports come from?

A brief survey of the so-called 'Top 100' Black-owned or controlled businesses in the United States reveals that, with the exception of the Johnson products company in Chicago, practically none of the other companies have seriously and aggressively explored the possibility of expanding into Africa. Of course, it has to be noted that the 'Top 100' Black businesses consist of 38 companies engaged in the sale and service of automobiles, the export of which poses multiple problems.

It would be misleading, however, to say that Black entrepreneurs have not tried to enter the African market. They have been rebuffed by their own mistakes and certain attitudes engendered by negative propaganda about Black businesses in the U.S. But the high rate of failure could be attributed here to the fact that Black entrepreneurs have gone to Africa without much preparation, adequate capital or power-based partnerships, expecting miracles merely because they are Blacks.

Given the turmoil in Africa—political unrest, wars, assassinations, port disruptions, corruption and poverty—the dilemma which confronts the Black entrepreneur is whether the potential benefits in terms of profits are worth the effort, time, frustration and possibly the total loss of his investment, although none of these problems have deterred the British, French, the Japanese and West Germans from entrenching themselves in Africa.

A number of reasons explain the failure of Black entrepreneurs to aggressively exploit the African market:

Lack of information on investment opportunities.

Lack of specific programmes by the government to assist Black businessmen to export.

Non-involvement of Black financial institutions in the export business.

Non-coordination of efforts by Black entrepreneurs.●

VIOLENCE IN LATIN AMERICA

● Mr. CHURCH. Mr. President, the conditions that are conducive to revolution are homegrown, as these articles illustrate. We must learn to live with the fact that there is likely to be continued violence in Latin America in the years to come. I ask that two attached articles entitled "From Here to Eternity," and "Rocking Nicaragua—The Rebels' Own Story," be printed in the RECORD.

The articles follow:

[From the Washington Post, Sept. 10, 1978]

FROM HERE TO ETERNITY

(By Georgie Anne Geyer)

On Feb. 14, 1977, a scene as strange as any from the 12th century was acted out in the cathedral of San Salvador in Central America.

The cathedral, a vast and empty barn of a place with none of the gilt and marble of the Old World, was jammed with nearly 10,000 crying, singing, chanting, stricken people. The building, thrusting eight empty but vigorous stories toward heaven, had been left deliberately unfinished to symbolize the church's dedication not to its own glory but to the suffering of the people.

The seething masses seemed to sense that. Intently and passionately, they clung from balconies, from stairways and from rafters.

In the minds of many were the killings—the murders of two priests, the killing of so many peasants in the countryside. And in many minds, there were thoughts of all those who had been exiled.

As he was about to award a great honor to Salvador's unimposing Archbishop Oscar

Romero, Georgetown University's President Timothy Healy that day had other thoughts.

"The wonder of it is that the arhcbishop survives," Father Healy remembered thinking afterwards. "Against him is arrayed every force in Salvador. There is literally nothing that prevents the blow of the fool who would strike him down."

That was why Healy, a glib, robust priest with an amiable, cultured face, had come to El Salvador's capital city to give the little dark-skinned archbishop an honorary degree from Georgetown. He was trying to prevent the "blow of the fool." He was trying to focus the center of power in the world, Washington, D.C. and the power of one of the greatest Jesuit universities of the world, to help a simple parish priest who, to be honest about it, had attracted no attention at all before being named archbishop of the Latin nation's 4.2 million people.

The ceremony was as simple as it was imposing. In his praise of the middle-aged man who is a hero to many Salvadoreans and as likely a candidate for martyrdom as Thomas Becket in the 12th century, Father Healy began, "It is seldom easy for us to understand what God 'needs,' what he asks of those men and women on whose shoulders he lays the weight of His church. He gives us hints, and probably the prinicpal hints are the time and place where He puts us.

"In North America," Healy went on, "the nation precedes the church in time and in our people's consciousness. For us, the greater risk is that civil religion blocks out revelation. But in both our nations, balance is everything. Ideally, the claims of politics and faith are complementary. In the practical world of limited men, with limited vision and resources, faith and politics can frequently collide."

The audience was noiseless in face of the honor being bestowed upon all of them as Healy ended with a quote from Thomas More: "God made plants for their simplicity, animals for their innocence, but he made him man to serve him wittily in the tangle of his mind."

The archbishop then spoke of "the cause of Christian humanism" which had been developing in the church, and the important new emphasis of "beginning with the realities of this world" where we must implant His kingdom now. He spoke of how the honorary degree showed solidarity with the sufferings of Salavadorean peasants. Then he pleased everyone by taking off his cope and putting on his honorary robe.

As they walked out of the cathedral, the American and Salvadorean priests were alternately stopped by the passionate mob of humans and carried along by it. The Rev. Robert Mitchell of Georgetown University recalled later with an irony touched by awe that "the scene . . . had little resemblance to more traditional ceremonies for honorary degrees."

But Father Healy, a robust Irish Catholic whose hearty, puckish face contains the wisdom and freshness of all the vales of Ireland, had the last word. "We are 1978," he mused later, sitting in his elegant university office, "and we're right back to 1170. And we wonder how we got there."

At precisely 5 p.m. last Jan. 10, the Rev. Robert Drinan, Democratic congressman from Massachusetts, called upon another important but unrelated Romero—one President-General Carlos Humberto-Romero. They met in Romero's office at the presidential mansion in San Salvador. The meeting was not friendly, despite the beauty of the old colonial building and its vast courtyard.

At one point the president arose in a rage and stalked across the large office to his desk. From a top drawer he withdrew a picture of the murdered Father Rutilio Grande. The peasants who loved Father Grande had, in a reproduction of the picture, put a crown around his head, as though he were already officially sanctified. But the words underneath read, "Our Government Has Done This to Us."

"How can they do this to me?" President Romero demanded, livid with anger.

And, he must have wondered, how could yet another Washington priest be "interfering"? Father Drinan, already an alumnus of an Amnesty International investigation in Argentina and a tall, dark man with the piercing eyes of a Shakespearean devil, had gone to Salvador at the request of the archbishop to investigate.

The drama between the two men takes form:

Drinan: I have talked with dozens of people in the countryside, and they tell me a grim tale of intimidation and harassment by forces responsible to the government. As a matter of fact, it is intimidation against the Catholic Church. The National Guard and the ORDEN [a right-wing group] tell people not to attend mass or go near the priests because they are Communists.

Romero: If you have gone . . . and heard these things, I think you should go to other places and other churches where the people or ORDEN themselves have suffered and where FECCAS and UTC [church-related peasant groups] commit degradations and intimidate the people. Some people have even been killed.

Drinan: I recognize that there has been violence by the other side, but I am speaking of something different. The government of El Salvador . . . is making it difficult or impossible for masses of the people to participate in religious services. This is the denial of a basic human right. The government is trying to divide the church. That is what you are trying to do right now. You are harassing the archbishop.

Romero: [with growing impatience] I have tried to seek an understanding with the clergy. I have talked to Father Jeres of the Jesuit Order and others. I provided security when they were threatened. I have gone and talked with priests . . . I have invited the archbishop. He came here, and we talked. He asked for the return of all the exiled priests. I said I could not do this because my colleagues and associates listen to the priests' broadcasts over radio stations and would put pressure on me not to allow them to return. I invited the archbishop to fill any vacancies with priests from abroad. I said to give me a list of the vacancies and of the candidates to fill them. We would investigate and decide who can come.

Drinan: [angrily] That is interference in the Church. It is not for a president to say who is a good priest and who is a bad priest.

Romero: [slowly, with impatience] Yes it is, if they interfere in the business of the government!

It is a typically busy day at the big, white, tropical-style American embassy in Salvador. Surrounded by lush gardens and a high fence, watched over by armed guards, the embassy foyer nevertheless is filled with Salvadoreans passively waiting for visas to leave their population and violence-doomed country.

Inside, an officer is upset. The ambassador, Frank Devine, must wear a bulletproof vest this day because a veiled bit of intelligence has come that "someone" might attack him that day. Who?

He shakes his head.

It could be so many people. Almost like a child's chant, he says it could be the right, it could be the left, it could be the government, it could be the guerrillas, it could be the "ins," it could be the "outs," it could be the Marxists, it could be the Catholics.

Perhaps the strangest part of the violence in this country is that it is all so frighteningly anonymous. In sprawling hot San Salvador, with its dialectic of shanty slums and elegant, walled houses, nobody really knows who the murderous, rightist White Warriors or the leftist guerrillas or the BPR (Popular Revolutionary Block) or the others really are. Unlike many revolutionary or prerevolutionary situations, the Salvadorean groups rarely take credit for their terrorism or attempt to explain their actions.

All American embassy officers in San Salvador finds it puzzling. "It is singularly disorganized," he said. "The country is in the process of breakdown, and it has about run its course. The mysteriousness is a function of breakdown. Nobody knows what's going on. I've never seen a country harder to know."

The problems of El Salvador in 1978 began in 1931. That year, the only free elections in the entire history of this little mestizo country were held and the liberal reformer Arturo Araujo came to power, frightening the "14 families" who had always ruled.

The military "solved" that problem by immediately taking over for the wealthy, only to be met by a massive peasant uprising in the coffee-growing region in the west. The upper-class Salvadorean "memory," therefore, is haunted by machete-wielding peasants arising like fearful shadows out of the land.

Hundreds died before the revolt was over. And that revolt was the first in the Western Hemisphere in which Communists played a significant role.

In the years following the revolt, the rest of Latin America went through change after change. Salvador stagnated and abnormal extremes of wealth and poverty became the status quo. Even today, the average per capita income is estimated at $440 a year, and 2 percent of the population owns 60 percent of the land. And there is another problem: Salvador, the smallest nation in Latin America, is also the most densely populated, with 550 persons per square mile.

The Catholic Church, not blind to such social conditions in Latin America, held an extraordinary conference in Medellin, Colombia, in 1968. Historically one of the three pillars of the Establishment in Latin America, along with the military and the aristocracy, the church suddenly alienated itself with the poor and even with revolution. A "theology of liberation" and even a "theology of violence," hung from the church's tattered edges, catching even the most perfervid radicals within its web.

With an unusually high number of foreign—especially European—priests, Salvador became a testing ground for the Medellin documents. And so, through the church, groups such as FEC-CAS (the peasant organization) and the umbrella group BPR and others were formed. All were illegal, because Salvadorean law prohibits such organizing.

The government, fearing all attempts at change equally, hated them quite as much and perhaps even more than the true Marxist groups—the Soviet-line ERP (Revolutionary Army of the People) and the Maoist-Castroite FPL (Farabundo Marti Brigade). By 1977, the country was in flames.

Marxist groups assassinated Foreign Minister Mauricio Borgonovo Pohl, a former president and the rector of the National University. The government's paramilitary groups—the White Warriors and ORDEN, a group numbering in the 60,000s—retaliated. Activist priests Rutilio Grande and Alfonso Navarro were murdered last year. Several score more priests were exiled.

Throughout the violence was the eerie specter of anonymity. The rector was assassinated in front of 200 eyewitnesses. When the investigation came, there were no witnesses.

Then, in July last year, the mysterious White Warriors told the Jesuits, who comprise the largest order in Salvador, that 33

Jesuits would be systematically murdered unless they left the country immediately. At that point the archbishop and the American priests, along with many American Protestant clergymen, decided to act.

The passion with which they acted suggests a spiritual and a psychological dimension that is even more fascinating than the actual situation. Why should these two Irish-American priests, settled so comfortably in the lap of world power, become so obsessed with primitive, unimportant Salvador?

For Drinan, tall and dark and gaunt, the motivations seem to be two: a concern for human rights and the camaraderie he felt for his old Jesuit colleagues. Born in Boston, he had always been concerned with human rights and his Amnesty trip to Argentina two years ago had filled him with compassion for the people of Latin America and anger at injustices there. In addition, there were his Jesuit missions in Brazil, Jamaica and Honduras where some of his former classmates are among the approximately 850 clergy and nuns who have been harassed, tortured or murdered in the last 15 years.

For Healy, who sits atop the bluff in Georgetown in one of the most beautiful offices in Washington—a French Gothic room circa 1890 with cherry wood paneling and exquisite stained glass windows—the motivations are more complicated. The son of an Australian father and a Texan mother (with a lot of Irish blood mixed all through), he went to Woodstock College before getting his doctor of philosophy degree at Oxford.

He is also a Renaissance man of sorts. He trap-shoots. He loves good jazz and is known to tipple a few. He teaches poetry to medical students to bring body and spirit together.

When you talk to him about Salvador, he talks with a passion about the "underground church," or the "original church" or the "church of the catacombs." One has the feeling Father Healy has found in Salvador and the archbishop a deeper dimension to his faith.

Then there is, as one of Healy's top aides put it, "the Jesuit in him coming out." The Jesuits have been, after all, in the forefront of action and change within the church. They founded schools, missions and churches and moved on to leave the dull, day-to-day administration of their structured flocks to others less involved in adventure.

Last spring, in response to the threats of Jesuits being murdered, Healy, along with Protestant churchmen, urgently requested a meeting with Secretary of State Cyrus Vance to ask that the U.S. make the strongest possible protest to the Salvadorean government.

Vance responded immediately. The plea was precisely in line with the new human rights policy and passion of the Carter administration.

Personal meetings between State Department officials and Salvadorean officials here and in El Salvador led to the threats being called off. The U.S. responded to apparent improvement by finally granting a held-back $90 million loan. But the violence in the countryside and in the city continued.

By February 1978 with spurious elections in the offing, the opposition political coalition had called a rally for their candidate, Col. Ernesto Claramount. Into the massive throng on Feb. 28 went security forces and ORDEN thugs. Five deaths were officially reported, but eyewitness observers say that more than 100 were slaughtered.

An American journalist who was there said, "I was kept out of the plaza, so I could only hear the screaming and the shooting. Then, when it was over, I got in and found it literally covered with blood, although the bodies had been removed. But perhaps the most horrible thing was when I returned again an hour after that to find they had hosed down the plaza and there was a chill as though nothing had happened at all."

The massacres continued. Villages were attacked. Individual peasants simply "disappeared," never to return. The State Department's human rights division named El Salvador one of the worst human rights violators in the hemisphere, if not the world.

The struggle in El Salvador is not simply one of violence and human rights. The conflict has overtones of some of the most complicated ideological and theological problems of our time.

A leading Jesuit in San Salvador, for instance, tried to explain the difficult path facing an activist church in the midst of Marxist politics and revolution.

"Our Christian faith has in part the concern for justice of the old prophets," he said. "It is the same as Jesus Christ in front of the social problems of his times. This goes back to the sources of the Bible. It is not only the pragmatism of the faith but justice. And the cost is very high.

"I distinguish politics in terms of parties, and that is not particularly Christian. But a Christian who works at the front of social problems is another thing. Here, we enter the area of justice, and that is really biblical."

Could a system be "sinful," as many of the Jesuits who lean toward a Marxist interpretation of history say? The priest paused. "In our work it is very important to distinguish a personal sin from a structural sin. The system is of such a type that it can form a person in sin. Sure, there is a little of Marxism in this, but we believe that this idea of sin is what Christ meant when he talked about the world as sin.

"Here, the idea of a system and the structure as sinful means . . . that the system can make one sinful, too."

Such thoughts bring up the question of whether a Christian can also be a Marxist. Or whether some of the Salvadorean priests are already Marxists.

Father Mitchell, a theologian, does not find those questions altogether relevant. The archbishop, he said, works "from clear facts and clear injustices. Although there is a liberal theology in the background, he is not working explicitly out of it. He is aware of the Marxist and the liberal analysis, but he is not using it. The injustices and discrepancies are so obvious. The theology he's in is quite faithful to [the pope], Vatican II and Medellin."

Then he added thoughtfully, "If you take the whole idea that there can be 'sinful' structures, then that opens up the possibilities of there also being 'graced' structures. Perhaps it is not sin in the same sense in which we know it, but you can see where selfishness, greed and pride can become encased in cultures and in laws and in economic systems so the thing is positively unjust. It is original sin extended to society. Therefore, the whole idea of grace and redemption is extended to it. Structures can share in grace and redemption. Structures which help people to live a just life have grace."

And Father Healy said, "Didn't the early attitudes toward the Roman Empire treat the system as evil?"

Heady stuff for a primitive country that never distinguished itself in the world for its intellectual, cultural or moral excellence. But then, the priests would add mystically that God always chose the poorest in whom to make his messages known.

Napoleon Duarte, the enormously popular former Christian Democratic mayor of San Salvador who was elected president in 1977 and immediately deposed by the military, said there are three political "fronts" that have emerged: 1.) the priests and Marxists who work together, 2.) the Christians who believe violence is the only solution but are not Marxists, and 3.) those looking for a solution somewhere "between humiliation and violence."

"They'll all go to meetings and provoke the police," Duarte said. "People are ready to kill, and they want people to be killed. At the moment the Marxist ideology is not important to them. What is important is how to get the rich scared. The leaders, however, are the products of the Marxist mind, and the priests have much the same concerns. I would say they're all frustrated and confused but feel there is no other means to solve the people's condition."

Which might cause one to wonder if the priests and the Protestant clergy raising their voices in Washington have done any good.

They have.

With the help of the State Department and others, they have certainly stopped the killing of the priests, although there still are bitter complaints that American officials haven't put enough pressure on the Salvadorean government about the continued "disappearances" of poor peasants. The priests also believe that American Embassy officials in San Salvador haven't done enough. Embassy staff, on the other hand, think they have gone very far, such as holding up the $90 million loan until the government reined in the rightist terrorists.

So the tension between the churchmen and the U.S. government continues, though both want the same thing. The differences are a matter of degree and tactics.

Meanwhile, however, the government and church positions have made Western democracy and Christianity respectable among the Salvadoreans.

As to outside forces, Cuban policy there seems to be, as in neighboring Nicaragua, to support guerrilla morale and to provide advice, but not to give money or military help. The Cubans seem to want guerrillas in Central America to support moderate, coalition candidates to decrease the likelihood of "Yanqui" intervention.

The Vatican, meanwhile is another question. The priests say the apostolic nuncio in Salvador is against the archbishop. He purposely did not attend the honorary ceremony for the archbishop and has spoken out against the Jesuits in ways that many feel is historically untenable. The Vatican itself, however, has not acted—the Jesuits in Salvador feel they have fed enough of their own information back to Rome to balance the nuncio's negative reports.

American priests, in addition to sincere concern for their brethren, have found inspiration, perhaps even salvation, in the situation.

It is in Latin America these days that it is a tremendously exciting thing to be a priest," Healy said, sitting in the so-different splendor of his Georgetown office overlooking the meandering Potomac. "It is not in North America. It is still true that those of us of intellectual words do not know the front line. Those pastors, like Romero, remind us that the church is the people of God first. Here is the reality, and it is a good reminder to me. I've been hearing these footsteps all my life."

Drinan had a similar reminder. The usually dry and outspoken churchman speaks with awe about going out one night to the countryside where Father Grande had been killed. The peasant families had chosen an isolated plot to hold the eucharist, a place where the police could not find them in a vast sugar plantation.

"Like the early Christians in the catacombs and the Catholics in the Reformation period in England, we celebrated the eucharist, he said. "Simple peasants came up to embrace me, while others watched on the lookout. They told me, "My husband disappeared, by brother disappeared . . .' It is a torment, but it is so beautiful."

The tragedy Healy sees in El Salvador is one that should speak with particular poignancy to U.S. Catholics reared on the memories of suffering Ireland. In a speech last St. Patrick's Day, he said, "The echoes of Ireland are too numerous to deny. We are talking of an agricultural people [in El Salvador] who starve to death on rich land while they farm it. We are talking of distant and absentee landlords who suck the land dry, return nothing to it or the people, and live a safe and protected distance from their oppressed peasants. The only ally they lack is famine—since you can't blight cotton. We are talking of a government tied totally to the power structure and quite content to let the peasants starve if it keeps the rich happy.

"Finally, we see what we have seen so often in Ireland and among the Irish outside of Ireland. When the government looks the other way and the police and the army and the rich and the powerful are all against the little people, the only voice left is that of the church. It has made martyrs before. It may, God help us, make more in El Salvador. If it does, the church and her crown of thorns will be recognizable to every Irishman any place on the face of the earth."

[From the Washington Post, Sept. 3, 1978]

ROCKING NICARAGUA—THE REBELS' OWN STORY

(By Tad Szulc)

PANAMA CITY, PANAMA.—"When we saw Jimmy Carter's letter to Somoza, praising him, we decided that the hour to strike had arrived," Eden Pastora Gomez said quietly, leaning back in the corner of the couch where he sat with his fellow guerrilla leaders.

Pastora, better known as "Commander Zero," was the chief of the leftist revolutionary Nicaraguan guerrilla commandos—24 men and one woman—who on Aug. 22 captured the National Palace in Managua, the capital of Nicaragua, in an extraordinarily daring raid. For 68 hours, the commando unit held the palace, with over 2,000 persons inside, until its demands were met by the government of President Anastasio Somoza Debayle.

Had the demands been refused, "Commander Zero" told me, the guerrillas were determined to execute, one by one, at half-hour intervals, the 65 hostages considered members of the Somoza establishment who were in the throng trapped in the palace, the seat of the Nicaraguan congress. The first execution, in fact, was three hours away when the Somoza dictatorship agreed to the conditions of the revolutionaries.

The attack, in the judgment of some experts on Nicaraguan affairs, has triggered what may be the approaching collapse of the regime. At the same time, it has underlined the importance of the highly organized and ideologically motivated revolutionary movement in terms of future developments in that central American Republic. If the Nicaraguan army should disintegrate, the guerrillas would be the only armed force on the scene.

While the movement's leaders indicated that they would be prepared to cooperate with "democratic" groups in Nicaragua in a post-Somoza transition period they envision, their ultimate ambition is to assume power alone.

If they come to power, they said, they would establish a revolutionary state—"Commander Zero" exclaimed at one point that "there are only two solutions in Nicaragua: the revolutionary way and the counter-revolutionary way"—that would expropriate all Somoza property, nationalize natural resources, and implant social justice along with the establishment of a "popular and Democratic army."

The guerrillas left no doubt about their admiration for the Cuban revolution, whose influence is powerful within the movement, and their bitterness toward the United States for its long-standing backing of Gen. Somoza, whose father was installed in the 1920s with instrumental American support. The Nicaraguan revolutionaries, consequently, pose a major political problem for the Carter administration in terms of the stability of Central America—where rebel movements also exist in El Salvador, Guatemala and Honduras—unless a formula can be devised to encourage the Nicaraguan guerrillas to go along with a centrist compromise, a doubtful proposition.

Last Wednesday, "Commander Zero, his two principal commando associates and Tomas Borge Martinez, who has emerged as the political and ideological leader of the Nicaraguan rebel movement that calls itself the "Sandinist Front of National Liberation" (FSLN), agreed to a lengthy interview to describe their goals and, for the first time, to narrate in detail how the Managua raid was planned and carried out.

The four-hour interview took place in a large room at the barracks of the elite unit of the National Guard of Panama, just outside Panama City, where the guerrillas and the 62 prisoners of the Somoza regime brought out by them—including Tomas Borge—have been staying incommunicado since arriving in this country on Aug. 25 ("Commander Zero" flew to San Jose, Costa Rica, last Thursday, vanishing from sight).

The two associates of "Zero" participating in the interview were "Number One," a 31-year-old law student whose name is Hugo Torres, and "Number Two," a 22-year-old medical student called Dora Maria Tellez Arguello, the "political adviser" of the commando unit.

WAITING FOR "OPTIMAL CONDITIONS"

As told by the group, sometimes in lengthy reconstruction of the events and sometimes in flashes of recollection, the attack on the palace was a carefully planned operation set in motion last May and designed as the culmination of the guerrilla war against the Somona government that the FSLN had been carrying on in various ways since its secret birth in 1961.

The front, which is named after Gen. Augusto Cesar Sandino, who was killed in 1934 after fighting for six years against Nicaragua's occupation by U.S. Marines, had reached the conclusion that the capture of the palace would achieve the twin objectives of forcing the release of its fellow revolutionaries in Somoza prisons and striking a demolishing blow against the regime and its credibility.

What was needed, however, as "Zero" put it, were "optimal conditions" in which the spectacular coup would be executed. These conditions, he said, were provided by U.S. actions at a time when the current phase of anti-Somoza warfare was reaching its high point both in Nicaraguan cities and in mountainous rural areas.

When the front struck in December, 1974, occupying a Managua millionaire's mansion and taking officials and diplomats as hostages, the political reason at the time was Somoza's reelection to the presidency in rigged balloting.

This year, "Zero" explained, the operation, called "death to Somoza," was delayed until a new set of "objective condition" had developed, "Zero" said:

"We decided to strike when we saw the determination of the United States to keep Somoza in power until 1981, the manipulations by foreign capitalists, Jimmy Carter's vacillations, the right-wing support for Somoza in the U.S. Congress, and Somoza's own trip to the United States earlier this year when he returned home being more threatening than ever against the opposition."

"Zero," a powerfully built, squat man who at 42 is the oldest in the commando group, went on:

"We were terribly surprised by Carter's letter to Somoza, considering his declarations about human rights. How could he praise Somoza while our people were being massacred by the dictatorship? It was clear it meant support for Somoza, and we were determined to show Carter that Nicaraguans are ready to fight Somoza, the cancer of our country. We decided, therefore, to launch the people's struggle."

The rebels were referring to a letter Carter had sent Somoza on Aug. 1, praising him for allowing the human rights commission of the Organization of American States to visit Nicaragua for the first time to study human rights violations.

The presidential letter was sent over State Department objections; foreign service professionals considered—correctly, as it turned out—that any gesture toward Somoza would backfire against the United States because of the intensity of the anti-Somoza campaign not only by the front, but by virtually every civic organization in Nicaragua, including businessmen and the Roman Catholic Church. My own impression traveling through Latin America during August was that the Carter letter and an earlier administration decision to release aid funds to Nicaragua despite the Somoza repression has already hurt the American image in liberal circles, to say nothing of the effect in leftist groups in the region.

Recounting the preparations for the attack, "Zero" said that the national directorate of the front—Tomas Borge is one of its four known members—had decided that the National Palace would be the target because the hand-picked congress was Somoza's "las vestigate of legality" and because it would have "repercussions on a world scale."

It was last May when "Zero" was ordered to return from Costa Rica, where he had lived in exile for years and where he was in charge of logistics for the guerrillas across the border while running a prosperous shrimp business in a small town on the Atlantic coast. He entered Nicaragua clandestinely over the border and presented himself to the national directorate installed in hideouts in Managua. The planning began.

TIGHT SECURITY

At first, only the three members of the directorate in Nicaragua (Borge had been imprisoned for three years, including a three-month period of being hooded all the time) and "Zero" knew the plan—such was the secrecy surrounding it. In the meantime, the leaders started recruiting members of the commando team. Torres—"Number One"—was chosen because he had participated in the 1974 raid on the Managua mansion and because he was ideologically "advanced" and reliable. Dora Maria Telles—"Number Two"—was picked because of her outstanding ideological commitment and her guerrilla experience. Some time during the summer, "Number One" and "Number Two" were apprised of the plan.

The 22 other members of the team were picked from various guerrilla units in the mountains—the leadership insisted on regional representation in what was to be the front's supreme effort—but they learned the nature of the operation only hours before it was launched.

On Aug. 5, the three rebel leaders moved into a house "of regular size" somewhere in Managua. During the next seven days, the remaining members of the commando team were brought to the "safehouse" at the rate of three or four men at a time. Again, security was so tight that the group was divided into two squads—squad "A" under "Zero" and squad "B" under "Number One"—and kept totally separated from each other in two sections of the house. Only the three

leaders (Dora Maria Tellez was attached to squad "B") had access to both groups.

By Aug. 12, the full team had been assembled, and arms—chiefly German G-3 submachine guns of .763-mm. caliber—and food were surreptitiously brought from the outside. Communications with the front's political leadership were conducted through couriers who came and left once or twice a day. On Aug. 13, a Sunday, the guerrillas watched Somoza assuring the country in a television speech that the army was solidly behind him. "Number One" snickered and said, "We shall see."

Meanwhile, the commandos spent their time in what "Zero" described as "psychological preparation"—political lectures simulated combat situations inside a building, assuming firing positions.

The decision to strike on Tuesday, Aug. 22, was made the previous day. The front had learned that the Nicaraguan congress would be in session that day to approve a new loan from the United States and that it would then go into indefinite recess. Since it had already been decided to hit the National Palace as soon as possible after the text of the Carter letter was published, the guerrillas had no alternative but to designate Aug. 22 as the "D-Day."

Still, caution prevailed. On the morning of that day, couriers were sent out to make sure that the congress was indeed going to meet. At 9 a.m., "Zero" told his two deputies, "This is it." The leaders assembled their teams, had them don the Nicaraguan army uniforms that were used in the operation, and the guns were loaded. At 10:30 a.m., "Zero" briefed his squad and "Number One" briefed his unit an hour later. "Zero" recalled: "They were all drunk with happiness about the mission."

Two olive-green pickup trucks drew up at the door of the safehouse. Lookouts provided by the front covered the squads as they jumped into the trucks and pulled down the tarps. Looking back at the operation, "Zero" said that the only time of danger he had anticipated was during the trip from the safehouse to the palace.

But the guerrillas aroused no suspicions and, at 12:25 P.M., precisely the time set in the plan, one truck pulled up at the side door on the east of the palace and the other at the side door on the west side. The men jumped out of the trucks and hurried toward the entrances. Wearing uniforms of the army's training battalion, they went unchallenged past the guards at the doors, although at the last moment a soldier suddenly became suspicious and turned his rifle on the squad led by "Zero." He was shot dead at once.

Once inside the palace, the two squads rushed upstairs to the Hall of Congress. When soldiers posted downstairs at the main entrance to the building fired at them, the guerrillas responded with machine gun bursts, killing five.

"Zero" led his squad into the congressional hall, firing submachine gun bursts over the heads of the congressmen, shouting "Hit the ground!" The congressmen threw themselves under their desks, "Zero" recalled: "When I reached the president's desk he said, 'What is this?', and I replied that this was the people's army." At that point, the guerrillas covered their faces with red-and-black kerchiefs, the colors of the Sandino front.

A WAR UNTIL DEATH

"You know what happened afterwards," the commander said. The rebels issued their demands for the release of prisoners in Somoza jails, the broadcast on radio and television of their revolutionary program, and $10 million.

As the negotiations began, "Zero" gave the regime six hours to meet his demands, a period subsequently increased to 13 hours, the most critical period of the occupation.

"If the emissary, the Archbishop of Managua, hadn't come back with an acceptance at the end of the 13 hours, I was ready to start the executions," the commander told me. "And we would start massive executions at once if the Somoza army had attacked us."

"Zero" said that although he thought that the throng in the building constituted a form of protection for the rebels, "I couldn't be sure of Somoza's reactions. So we were ready." In fact, he had drawn up a list of execution victims. It was headed by Luis Manuel Martinez, a Cuban refugee close to the Somoza regime, the acting chairman of the congress, Luis Pallais Debayle, who is Somoza's first cousin, Jose Somoza Abrego, who is Somoza's nephew, interior minister Jose Antonio Mora, and deputy interior minister Adolfo de la Rocha Hidalgo. They were to be followed by 60 members of Somoza's liberal party who were in the hall. "Zero" said that there was never any intention to harm others in the building.

There was a certain sense of unreality as we sat in the Panama National Guard barracks a week later, calmly discussing the operation and the planned execution. At one point I asked "Zero": "Were you really, but really, going to kill 65 men in cold blood?"

He stared at me with a hard glance. "Yes," he said. "No question about it. It would have been an act of justice. It would have avenged our murdered brothers and sisters. But, of course, the principal thing was to liberate our *companeros*, and I hoped that this would happen and that we would not be pushed into the executions. You must understand: We are fighting a war until death."

"Zero" said that the $10 million demand was the least important of his conditions, and that this was why he had agreed to only $500,000 in cash delivered to him at the palace.

The guerrillas would not be drawn into discussing how and where they had obtained funds to mount the operation and acquire arms. But the front has had an ample supply of arms for a long time, and the strike at the congress was not a mission requiring large sums.

"We did it our own way," the commander said. "Now let us think about the future."

ERA: NO TIME LIMIT ON EQUALITY FOR MEN AND WOMEN

● Mr. BAYH. Mr. President, many questions have been raised with regard to the constitutional issues involved in considering an extension to the time period for ratification of the proposed 27th amendment to the Constitution—the equal rights amendment. Of the numerous issues raised during the Senate Judiciary's Subcommittee on the Constitution hearings on August 2, 3, and 4 of this year, four specific constitutional questions were repeatedly addressed as follows:

First. Whether Congress has the power to extend the time period for ratification of the ERA?

Second. Whether a resolution to extend the time period for ratification of the ERA can be approved by a simple majority vote or a two-thirds vote of Congress?

Third. Whether this Congress can constitutionally provide for the States to validly rescind proposed constitutional amendments?

Fourth. Whether an extension of the time period for ratification would invalidate some State ratifications on the theory that those States materially relied upon the initial 7-year limitation?

Mr. President, several legal scholars addressed themselves to these questions during the subcommittee hearings and for the benefit of my colleagues, I ask that the statements of Profs. Lawrence Tribe, Ruth Bader Ginsburg, Thomas I. Emerson, and Ronald D. Rotunda be printed in the RECORD.

The statements follow:

TESTIMONY OF LAURENCE H. TRIBE

My name is Laurence Tribe. I am a professor of law at Harvard University. I am pleased to appear in response to the invitation of the Subcommittee on the Constitution to testify on the constitutional issues raised by S.J. Res. 134. That resolution would extend until March 22, 1986, the period available to the states for ratification of the proposed Equal Rights Amendment (ERA). Whether the date ultimately selected is March 22, 1986, as S.J. Res. 134 would provide, or June 30, 1982, as H.J. Res. 638 as amended would provide, or some alternative date, the issues presented are the same. I will address them in this order:

1. Does Congress have the authority to extend the time for ratification of the proposed amendment?

2. Is a simple majority of each House sufficient to accomplish such an extension?

3. May the extension be accomplished without presentation to the President for his approval or veto?

4. How would an extension of time affect the power of states to rescind prior ratifications?

I.

Does Congress have the authority to extend the time for ratification of the proposed amendment? My answer is a clear yes. Article V of the Constitution provides, in pertinent part, that

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress.

In *Dillon* v. *Gloss*, 256 U.S. 368 (1921), the Supreme Court recognized that, as an incident to its Article V power to propose amendments to the Constitution, Congress has both the power and the duty to assure that an amendment has been ratified "within some reasonable time after the proposal," id. at 375, so that the amendment reflects the reasonably contemporaneous "expression of the approbation of the people" in the required three-fourths of the several states. Id. The Court treated this question of timeliness of ratification as one of the "subsidiary matters of detail," id. at 376, necessarily delegated to Congress by Article V. Thus, for example, the efficacy of a particular state's ratification in light of a previous rejection by that state, and the efficacy of a state ratification occurring thirteen years after an amendment's initial submission to the states, are matters to be determined by Congress. See *Coleman* v. *Miller*, 307 U.S. 433, 447–54 (1939) (opinion of Hughes, C.J., joined by Stone and Reed, J.J.); id. at 459 (concurring opinion of Black, J., joined by Roberts, Frankfurter, and Douglas, J.J.). Nor could it be otherwise in view of the institutional limits of the federal judiciary, which is hardly in a position to second-guess the basic determination of Congress that a particular ratification either is or is not timely and otherwise effective. See *Baker* v. *Carr*, 369 U.S. 186, 210 (1962) (citing *Coleman* with approval as an instance in which there existed no "satisfactory criteria for a judicial determination").

If Congress wished to do so, it could treat a time period far longer than seven, ten, or even fourteen years as "reasonable." Congress addressed the time question for the first time in 1917, with Senator Ashurst's explanation that "10, 12, 14, 16, 18, or even twenty years" would be reasonable so long as some limit were imposed. 55 Cong. Rec. 5556–57 (1917). Indeed, no one now suggests that Congress could not have submitted the ERA to the states with a 14-year limit on March 22, 1972; the sole question is whether Congress is constitutionally disabled from achieving that result in two steps rather than one—whether the 1972 choice of a 7-year period must govern even if Congress concludes in 1978 that a period of ten or perhaps fourteen years would be more reasonable in light of "public interests and changing conditions," *Dillon* v. *Gloss*, 256 U.S. 368, 376 (1921), as those "interests" and "conditions" have come to appear in the intervening years.

In this regard, the *Coleman* decision confirmed Congress' authority to resolve the timeliness issue at the most logical moment: when "the time arrives for the promulgation of the adoption of the amendment." 307 U.S. at 454. It is true that the upshot of *Coleman* was simply to recognize Congress' power to accept a 1937 ratification by Kansas of an amendment (the Child Labor Amendment) proposed in 1924 without Congress having then set any time limit. But the underlying theory—that the judgment of timeliness is a necessarily contextual one appropriately made by the Congress when the votes of the states are finally tallied—applies with equal force to a situation in which Congress has previously set a shorter time period.

If the seven-year limit that was initially specified in 1972 had expired before an intervening Congress took action to extend that limit or before the thirty-eighth state took action purportedly ratifying the ERA, it would be arguable that the amendment should be regarded as incapable of such belated resurrection. But even that argument would most properly be addressed to Congress rather than the courts. Senator Cook cautioned in 1970, for example, that not even a seven-year limitation would relieve Congress of its ultimate duty to determine whether the passage of time had placed the ERA beyond reach of effective ratification. 116 Cong. Rec. 35959 (1970). In my view, that duty would call Congress to declare the amendment dead if the seven years had passed with neither the requisite number of ratifications nor a timely decision by Congress to extend that period. Whether such a duty would or should be judicially enforceable represents another and more complex question, one we need not address if Congress acts within the seven years to effectuate the extension at issue.

Of course, if a proposed article of amendment contains a time limitation as one of the terms in the text of the amendment itself (as was the case with the eighteenth, twentieth, twenty-first and twenty-second amendments, but no others), a state's purported ratification after the expiration of the period initially set could not properly be deemed binding on states that had voted within that period; a decision by Congress to extend the period by majority vote would be an invalid attempt retroactively to change the amendment itself. In such a case, although the four concurring Justices in Coleman might well have thought the matter still exclusively for Congress, I would be prepared to argue for judicial intervention.

The critical consideration here, however, is that this is not such a case. For the proposed twenty-seventh amendment, like every other amendment after the twenty-second, contained no time limitation in its own terms but instead was proposed through a joint resolution whose preamble contained the seven-year language. Specifically, Congress, by a vote of 354 to 24 in the House on October 12, 1971, and by a vote of 84 to 8 in the Senate on March 22, 1972, resolved that "the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourth of the several states within seven years from the date of its submission by the Congress." There then followed the word "Article" and the three sections of the proposed amendment. The Article of Amendment as submitted to the states, and as voted upon by them in the intervening period, contained a statement (Sec. 3) that the amendment would "take effect two years after the date of ratification" but contained no reference at all to a time period within which the substantive terms being voted upon (Secs. 1 and 2) would have to be either ratified or regarded as a nullity.

Thus it cannot be said that a congressional vote to extend (or to shorten) the time for the twenty-seventh amendment's ratification beyond March 22, 1979, would retroactively alter the terms of an amendment upon which votes had already been taken. It follows that a decision by Congress to alter the ratification period would prejudice no state that has already voted and would not affect the validity of any prior state vote.

Some may argue that a particular state might not have ratified had its legislators not assumed that the entire process would be concluded by 1979. This is of course theoretically conceivable. But any such argument is inevitably speculative, and it is not more plausible than the opposite speculation—namely, that a particular state's failure to ratify might have been affected by the assumption of some that the 1979 limit could be extended in due course by Congress. Indeed, there is little doubt that energy which might otherwise have been devoted to seeking affirmative votes in several key states during the final two years of the seven-year period has instead been concentrated on the objective of persuading Congress to vote an extension, on the theory that the entire subject needs further deliberation on a nationwide basis.

More fundamentally, quite apart from the inconclusive character of the argument about reliance one way or the other, it seems indisputable that a state has no right to condition its ratification upon an expectation that language not part of the amendment itself will be treated as though it were part of the text. Just as James Madison wrote that "a reservation of a right to withdraw if amendments be not decided on . . . within a certain time" is a "conditional ratification" not contemplated by the Constitution's plan (see his letter of July 20, 1788, to Alexander Hamilton regarding New York's suggested conditional ratification), so I would conclude here that Article V does not contemplate protection for the hypothesized reliance of some states that voted to ratify the ERA but might not have done so had they realized that it might be pending for ten or fourteen years rather than seven.

Nor can it be successfully argued that the inclusion of a seven-year limit in the resolution proposing the ERA reflected a congressional intention to preclude timely extension of the seven-year period if, before the period's expiration, it seemed wise to allow more time for public debate and state legislative consideration. The objective was simply to assure that the proposed text would not "roam around State legislatures for 50 years." 116 Cong. Rec. 26012 (1970) (Rep. Celler); 116 Cong. Rec. 36302 (1970) (Sen. Ervin) (describing unseemliness of proposed amendments "floating around since about 1869"); 117 Cong. Rec. 35815 (1971) (Rep. Griffiths) (suggesting that a proposal "should not be hanging over our heads forever").

By specifying in the amendment's text a provision that the amendment would "take effect two years after the date of ratification," Congress demonstrated its ability to elevate a time limit to constitutional status, immune from subsequent change by Congress acting alone. The burden is thus on those who would attribute to Congress a casual indifference to the distinction between words written into the amendment and submitted to the states for approval, and words written into the resolution sending the amendment to the states—words plainly not submitted for any state action.

Indeed, there is a fatal inconsistency in any argument that would treat Congress as powerless to extend the seven-year period by appropriate action before March 22, 1979. For such an argument attributes to the action of the House in October 1971 and of the Senate in March 1972 an extraordinary force: by the mere inclusion of a procedural directive in the resolution clause preceding the submitted text, the House and Senate are said to have irrevocably bound their successors. Yet if the power of Congress in 1972 was so extensive, how can it be that Congress lacked authority at that time to employ a procedural device midway between that of (1) fixing a time period in the text of the proposed amendment and that of (2) suggesting no time frame at all at the outset of the ratification process—the device of (3) establishing a time schedule subject to extension if and when Congress deems it "necessary and proper" within the meaning of Article I, Section 8?

Under the Necessary and Proper Clause, Congress has at least three constitutional options with respect to the timing of ratification. Congress may submit an amendment to the states with no indication at the outset of any time limit for ratification, as it did with the first seventeen amendments and with the nineteenth. Congress may move to the opposite extreme and fix in the text of a proposed amendment a definite period for ratification, as it did with the eighteenth, twentieth, twenty-first, and twenty-second amendments. Or Congress may pursue a middle path and send a proposed amendment to the states pursuant to a resolution specifying that the amendment is to be valid "only if" ratified within a stated time, as was done with the twenty-third and twenty-fourth amendments, or that it is to be valid "when" ratified within a stated time, as has been done with each amendment after the twenty-fourth. Unless this middle option is somehow ruled out by the Constitution itself, there is no warrant for equating it with the extreme mode Congress chose in the case of the eighteenth, twentieth, twenty-first, and twenty-second amendments. To say that the middle option is constitutionally precluded (1) would serve no purpose, (2) would entail an indefensibly cramped reading of the Necessary and Proper Clause, and (3) would paradoxically attribute to a procedural resolution an irrevocable impact hardly compatible with the limited view of congressional power that such a position would itself presuppose.

I thus conclude that Congress clearly has constitutional authority to extend the time for ratification of the ERA. The matter is committed to Congress as a political question; but, even if it were not, the existence of the authority at issue is clear beyond reasonable doubt.

II.

Is a simple majority of each House sufficient to accomplish the extension? My answer is a clear yes. The power of Congress to extend the time for ratification, under the analysis of section I of my testimony, is simply a facet of its power to establish a "Mode of Ratification" for an amendment proposed under Article V. The vote required to alter the mode of ratification must obviously be the same as that required to propose the mode of ratification in the first instance. For neither step— neither initial

proposal nor subsequent modification—does Article V specify anything beyond a simple majority. In contrast, the article is explicit in singling out the four instances where a supermajority *is* needed. Amendments must be proposed by two-thirds of both Houses; if the usual congressional route is not taken, Congress is to call a Convention for proposing amendments on application of the legislatures of two-thirds of the states; Legislatures in three-fourths of the states must ratify; alternatively, ratification may be accomplished by conventions in three-fourths of the states. Likewise, the Constitution elsewhere employs explicit terms to impose supermajority requirements, as with respect to the required two-thirds vote for the approval of a treaty (Art. II, Sec. 2) or with respect to the required two-thirds vote for a Senate conviction after an impeachment trial (Art. I, Sec. 3). See also Art. I, Sec. 5 (expulsion of member of Congress); Art. I, Sec. 7 (override of veto); Amendment XIV, Sec. 3 (removal of disability of member of Congress); Amendment XXV (Presidential resumption of power after disability).

Throughout the Constitution, then, including Article V, the established pattern is that all decisions are to be resolved by simple majorities unless a higher vote has expressly been required. As Thomas Jefferson put it, "The voice of the majority decides; for the res majoris partis is the law of all councils, elections, & co., where not otherwise expressly provided." (Manual of Parliamentary Practice § XLI, reprinted in H. Doc. No. 416, 93d Cong., 2d Sess., § 508, p. 257 (1975).)

It would be unthinkable to create an exception to this general rule for decisions setting the mode of ratification, decisions addressing questions the Supreme Court has described as "subsidiary matters of detail." *Dillon* v. *Gloss*, 256 U.S. 368, 376 (1921). There was good reason for the Framers to require a two-thirds vote of each House as a precondition to sending a proposed amendment to the states: the Constitution was not to be tampered with lightly. But no similar reason attaches to the mode of ratification, including the matter of timing, selected by Congress. As to the latter, the great caution appropriate in proposing organic changes in our fundamental law would be dramatically misplaced.

This is particularly clear in light of at least one ironic result that would attend the contrary view: were a two-thirds vote required on matters pertaining to the mode of ratification, then a congressional judgment that too much time had elapsed with respect to a given amendment—say, the Child Labor Amendment submitted to the states in 1924—would presumably require a two-thirds majority. Yet that would hardly advance the purpose of avoiding unduly casual changes in the Constitution; on the contrary, it would frustrate that purpose unjustifiably.

Quite apart from the instances in which a two-thirds requirement might make the Constitution too easy to change, there are others in which such a requirement might make the Constitution too difficult to alter. Thus, although the required two-thirds in each House might agree on the substance of a proposed amendment, it might be that no more than a simple majority could be mustered in support of any one procedure of ratification. Fifty-one Senators might, for example, favor sending an amendment to the states for legislative ratification subject to a seven-year limit; forty-nine might be opposed. And two of the original fifty-one might join the forty-nine to make another majority of fifty-one to send the amendment to the states for ratification by the convention route, although subject to a somewhat shorter five-year limit. Under the view requiring two-thirds for any decision establishing the mode of ratification, the amendment would die simply because both Houses found themselves too closely divided—on a matter of no fundamental import. Surely nothing in Article V contemplates such a result.

Past congressional practice is also consistent with the view that a simple majority suffices on matters relevant to mode of ratification. No supermajority was indicated, for example, in the resolution listing rescinding states as ratifiers of the fourteenth amendment, a resolution adopted in the Senate by voice vote. See 15 Stat. 709, 710, (1868); 78 Cong. Globe 4230 (1868). Both logic and history, then, indicate that a mere majority should suffice.

III.

May the extension be accomplished without presentation to the President for his approval or veto? The answer is a clear yes. Again, the text of Article V seems decisive: it delegates no role to the President in the amendment process. As a creature of the constitutional compact, the President is simply not a proper actor in its alteration. The Supreme Court held as much in *Hollingsworth* v. *Virginia*, 3 Dall. 378 (798), a decision cited with approval in such subsequent opinions as *Hawke* v. *Smith*, 253 U.S. 221, 229–30 (1920).

Even if an amendment originally proposed by a two-thirds vote in a resolution which established its own mode of ratification leaves no room for a role by the President, it might be argued that the President must nonetheless play such a role when the mode of ratification is separately established by a mere majority in each House or when the mode of ratification, however initially established, is altered by a mere majority. Article V, however, makes no distinction between the case in which a single vote establishes both the text of a proposed amendment and the mode of its ratification, and the case in which two separate votes are involved. It is true that Article I, Section 7, provides that every "Bill which shall have passed the House of Representatives and the Senate shall, before it become a Law, be presented to the President . . ." But the short answer is that a proposed mode of ratification is not a "Law," changeable only through subsequent legislation duly enacted and approved. A proposed mode of ratification is a unique directive, especially created by Article V, and differing in various respects both from ordinary legislation and from ordinary joint resolutions.

Unlike ordinary legislation, a proposed mode of ratification may be changed by a simple majority vote in each House, without further involvement by the President and without the two-thirds vote that would be required to override a presidential veto. Yet, unlike an ordinary joint resolution, a proposed mode of ratification binds each future Congress the pendency of the proposed amendment unless and until that mode of ratification is altered through a majority vote in each House.

The seeming anomaly that a mere majority in each House, in an action involving no participation by the President, can "bind" a future Congress is fully met by the circumstance that the Congress is "bound" only subject to its own timely action, by the same majority that imposed the initial mode of ratification. That fact that such a device is unusual can hardly suffice to condemn it as incompatible with the Constitution; Article V is not, after all, the article of the "ordinary."

Finally, it seems worth noting that requiring the President's approval of a proposed mode of ratification, or a two-thirds vote to override his veto, would have the anomalous effect of making it far more difficult to change a minor detail in the mode of ratification than to launch a proposed amendment in the first instance. For if the President should happen to disapprove of a change mustering the two-thirds vote needed to override his veto would obviously be more difficult, given realities of party loyalty, than it would have been to obtain the same two-thirds vote in the first instance.

To be sure, some might deem it prudent to seek the President's approval simply to be safe. Given the apparent willingness of President Carter to accept an extension of the time period in this instance, that course of action would entail little difficulty and would have the appeal of avoiding a question some think troublesome. Yet the desire to avoid an unfortunate precedent could equally lead members of Congress to avoid in this instance a path that could prove exceedingly problematic on other occasions. It thus remains important to decide whether the President's approval can properly be dispensed with, however easy it might be to obtain this time. My own firm conclusion is that such approval is not required by the Constitution.

IV.

How would an extension of time affect the power of states to rescind prior ratifications? This question seems to me the most difficult of the four I have taken up in my testimony. My conclusion is that an extension would not affect the power to rescind. But to explain that judgment, I must begin with a more fundamental matter: may Congress propose a mode of ratification in which rescissions are expressly disallowed?

To this preliminary question, my answer is an unqualified yes. Just as Congress is empowered to decide that a state's previous rejection of a proposed amendment does not preclude that state's subsequent ratification of the same amendment, *Coleman* v. *Miller*, 307 U.S. 433 (1939), so Congress is empowered to decide that a state's ratification will be final within the time period specified for an amendment's consideration. The authority of Congress plainly encompasses any rational means of ascertaining that the people of three-fourths of the states have expressed a sufficiently contemporaneous approval of a proposed amendment. See *Dillon* v. *Gloss*, 256 U.S. 368, 375 (1921). Clearly, the Constitution does not require that there exist some single moment in time at which three-fourths of the states agree with a given amendment. The day after the thirty-eighth state ratifies, for instance, several of the states that previously ratified might no longer concur in an amendment; but it would take a new three-fourths majority to effect a change. If Congress decides in advance that it will be satisfied of the existence of the requisite consensus if a total of thirty-eight state legislatures have voted to ratify at some time or other within a period of, say, seven years, then that decision is entitled to respect until duly changed by Congress itself.

The next matter requiring attention in this regard is whether a proposed mode of ratification that is silent on the question of rescission should be construed in the same manner as one expressly disallowing rescissions. Again, I reach an affirmative conclusion. At least until very recently, it had been almost universally assumed that attempted rescissions were ineffectual. Congress, for example, validated ratifications by Ohio and New Jersey in the case of the Fourteenth Amendment despite rescinding resolutions passed by the legislatures of those states. Most observers have taken for granted the correctness of James Madison's view, quoted earlier, that ratification represents a final and unconditional act. In this situation, Congress' silence on the question can best be

understood as reflecting the general understanding that rescissions are disallowed.*

Any contrary view would entail at least one highly troublesome consequence. Legislators in the three states that have thus far purported to rescind their votes of ratification might well have acted in the belief that their "rescissions" would have no effect beyond that of an informal "message to Washington." Not unlike the decision of a jury that votes in favor of a death penalty it believes will never be inflicted, a decision to rescind might thus reflect not an official act but a symbolic gesture, convenient in dealing with some constituents but not expected to have binding effect on anyone. If votes of rescission were indeed so intended—and there is, of course, no way of determining whether they were or not—then it would be exceedingly unfair to give them binding effect simply on the basis of Congress' silence on the matter in 1972.

The situation as I understand it is therefore this: Congress could have expressly disallowed rescissions in 1972; and its silence on the matter cannot properly be invoked to reach a different result. State rescissions prior to further action by Congress are therefore without effect. The question then arises: does the Constitution empower Congress to permit future rescissions, either expressly in conjunction with a time extension or as a fair implication of any such extension of time? To this question the answer seems to be: the matter is at best unclear. It may be that a court would hold the issue nonjusticiable, treating it as unreviewably committed to the decision of Congress at the time when it is asserted that three-fourths of the states have duly ratified. Or it may be that a court would hold that Article V permits no rescissions, regardless of Congress' views. It seems likely that the issue would be resolved with at least some attention to its context and to the circumstances of the particular case. One thing only is clear: for Congress to enact a mode of ratification that purports to permit rescissions would raise complex questions that could be expected to cloud debate on the proposed amendment throughout the period of any extension, and to spawn litigation after the end of that period.

In these circumstances, it remains for us to consider the argument that fairness requires at least an attempt by Congress to authorize post-extension rescissions. Whether or not such rescissions will ultimately be effectual, the argument proceed, it is unfair to foreclose them. This argument has some appeal, and I came close to endorsing it myself in my testimony on the subject before the House Judiciary Committee on November 1, 1977. On further reflection, however, I am persuaded that fairness requires no such thing.

The fairness argument must rest either on a notion that some state legislators relied, in ratifying the ERA, on a belief that it would vanish if not approved by three-fourths of the states by 1979 (or on a notion that the opponents of the ERA are somehow entitled to rest, or at least to fight for rescissions, if only seven-tenths of the states, rather than the required three-fourths, have ratified by 1979. Neither notion warrants acceptance by Congress.

As far as state legislatures are concerned, it seems decisive that a state may not conditionally ratify a proposed amendment to the Constitution. Whatever authority Congress itself might possess under Article V to authorize rescissions, on state is in a position to assert that its legislators favor a change in the Constitution, but only if certain others agree within a time specified by those legislators. The mode and timing of ratification are entrusted to Congress, not to the states themselves.

As far as opponents of the ERA are concerned, the fairness argument, if properly understood, cuts the other way. For it was surely possible for those who had the gravest doubts about the ERA in 1972 to insist that the seven-year limitation be included in the text of the proposed amendment, as had been done on four prior occasions and as was done with respect to the two-year grace period between ratification and the amendment's effective date. Or those with the most serious doubts could have urged in 1972 that states not be locked in by any initial votes of ratification; given the widespread assumption that rescissions were void, opponents were surely on notice from the beginning that the ratification process might be a one-way ratchet. Particularly since there was discussion as early as 1970 suggesting that ratifications even subsequent to the uninterrupted running of a seven-year limitation might serve to resurrect a "dead" amendment (see remarks of Senator Cook, quoted previously), it can hardly be said that the problem now facing opponents of the ERA was unforeseen, and certainly not that it was unforeseen.

Finally, any suggestion that it is somehow unfair to "change the rules of the game" at the last moment without giving the players a chance to reconsider their prior moves should also be rejected as both self-serving and circular. The very question, after all, is what the "rules of the game" *are*. Are those rules, as historically understood, ones that make time limits impervious to change by Congress even if those limits are not included in the terms of the proposed amendment? Or is it the opponents of ERA who wish to alter the rules to achieve this effect? And are the rules of the game, as historically understood, ones that make state ratifications tentative, rescindable acts? Or is it again the opponents of ERA who wish to alter the rules to achieve this effect? It seems clear to me that, in both instances, the proponents of ERA are in fact playing by the rules that have long been in force while it is the ERA opponents who, having already lost in seventy percent of the state legislatures, now seek to change the rules in order to avoid any chance of losing in the three remaining states that would make the ERA part of the Constitution.

At the most fundamental level, however, talking of human rights as though the debate involved only a game demeans the significance of the issues at stake. If the matter were to be treated in a narrowly legalistic way, the argument would be decided by Congress' clear authority to change a proposed amendment's mode of ratification by the timely action of a majority in each House without thereby transforming prior ratifications into rescindable acts. But if the matter is treated with a broader appreciation of its underlying importance, then all talk of the impropriety of "adding extra innings" would be stilled by a reminder that it is a Constitution, and not a sporting event, that we are amending.

STATEMENT BY RUTH BADER GINSBURG

I am pleased to respond to the Subcommittee's invitation to testify on extending the time period for ratification of the proposed Equal Rights Amendment. In my judgment, based upon the relevant constitutional experience and precedent:

1. Congress has the authority to extend the ratification period;

2. In light of political, economic and social conditions in the country since 1972, Congress would not act responsibly if it failed to extend the time for ratification;

3. A simple majority vote in each House is sufficient under Article V to extend the ratification period;

4. Signature of the President to a Joint Resolution extending the ratification period is not required and would be surplusage;

5. Extension of the time period would not, in itself, empower states to rescind a prior ratification.

I. Congress has authority to extend the time for ratification of the proposed Equal Rights Amendment.—

The appropriate starting point is a proposition beyond debate: Congress, as director of the amendment process under our constitutional scheme,[1] is not locked into a seven-year period; ten, fourteen, even twenty years would constitute a rational, constitutional time period for ratification of the proposed Equal Rights Amendment.[2] The sole issue at this juncture, therefore, is whether Congress may accomplish in two steps what it might have accomplished in one.

In 1972, with scant discussion of the matter, Congress placed in the clause that precedes the text of the proposed Equal Rights Amendment a then routine procedural provision:

"The following article . . . shall be valid . . . as part of the Constitution when ratified . . . within seven years from the date of its submission. . . ."

Has Congress, by that casual, procedural measure, so disarmed itself that it is now precluded from assessing whether the proposed Equal Rights Amendment remains a vital political question, a question on which public debate and state legislative consideration should be allowed to continue? The answer, indicated by the Constitution, precedent and the public interest, is no. For the abnegation involved in a conclusion that Congress is powerless to extend the ratification period would not comport with the constitutional design—the large authority and special responsibility Article V invests in Congress.

It bears emphasis that close attention has not yet been devoted by Congress to the time frame appropriate to addition of a sex equality measure to our fundamental instrument of government. Up to now, only two alternatives have been entertained in connection with the Equal Rights Amendment: no expressed time limit at all, or the seven-year period associated with recent amendments of a different tenor.[3] In 1970–1972 debate, when the time issue was mentioned, no specific reference was made to the complex social, political and economic considerations surrounding the Equal Rights Amendment.[4] Nor did Congress weigh the probable impact of death of the proposal at the seven-year mark, despite burning public sentiment concerning the need for a sex equality provision in the catalogue of our Constitution's human rights guarantees. Those considerations and that impact are factors Congress should assess closely and without delay if it is to carry out responsibly its Article V authority.

A. Implicit in Article V is the requirement that ratification of a proposed constitutional amendment occur within some reasonable time; the Constitution entrusts to Congress authority to determine 1) what constitutes a reasonable time, and 2) the mode in which timeliness questions shall be addressed.—

In 1921, ending a debate whether proposed constitutional amendments ever die,[5] the Supreme Court declared, in *Dillon* v. *Gloss*, 256 U.S. 368, 375: "[T]he fair inference or implication from Article V is that ratification must be within some reasonable time."

Dillon also ruled that "Congress is left free

*That was surely the understanding in 1924, when Senator Wadsworth and Congressman Garrett unsuccessfully sought to amend Article V to permit state rescissions, see 65 Cong. Rec. 4493 (1924); 66 Cong. Rec. at 2159; and in 1971, when bills were unsuccessfully introduced to permit rescissions. See S. Rep. No. 336, 92d Cong. 1st Sess. 14 (1971); S. Rep. No. 293, 93d Cong., 1st Sess. 14 (1973).

Footnote at end of article.

to define" what constitutes a reasonable time in the case of any particular amendment; the timeliness assessment is a matter "of detail" Congress may settle, "incident [to] its power to designate the mode of ratification," in the manner "the public interests and changing conditions may require." 256 U.S. at 371, 376.

In 1939, the Supreme Court further clarified, in *Coleman* v. *Miller*, 307 U.S. 433, that Congress, not the Court, is the forum entrusted by the Constitution with control of the timeliness question. "Reasonable time" issues in relation to constitutional amendments, the Court said, call for "essentially political" judgments, for they involve "an appraisal of a great variety of relevant conditions, political, social and economic." 307 U.S. at 456–54.[6] An appraisal of that character, *Coleman* held, lies within the province of the House and Senate, and not within the bailiwick of the judiciary.[7]

In *Dillon*, the Court upheld against constitutional challenge the authority of Congress to include a time limitation in the very text of a proposed amendment.[8] In *Coleman*, the Court confirmed the prerogative of Congress to consider and resolve the question of timeliness when "the time arrives for the promulgation of the adoption of the amendment." 307 U.S. at 454.[9] In short, Congress could deal with timeliness as a threshold matter, as *Dillon* held, or as an ultimate question, as *Coleman* declared. There should be little doubt, given the range and breadth of power and responsibility Article V invests in Congress,[10] that a middle course may also be pursued. In lieu of a fixed period set in the text of the proposed amendment, or a total "wait and see" approach with no time frame at all suggested at the onset of the ratification process, Congress could preliminarily establish a time schedule, a schedule subject to extension when necessary and proper, in light of "the public interests" and "relevant conditions." *Dillon* v. *Gloss*, supra, 256 U.S. at 376; *Coleman* v. *Miller*, *supra*, 307 U.S. at 453–54.

Indeed, *Coleman* provides support for the position that despite an attempt by Congress to fix the time in adavnce, the question remains open "for the consideration of the Congress when, in the presence of certified ratifications by three-fourths of the States, the time arrives for the promulgation of the adoption of the amendment." 307 U.S. at 454. Elaborating the point, in the course of congressional consideration of the proposed Equal Rights Amendment, Senator Cook alerted Congress to the issue of state ratifications after seven years had elapsed. He cautioned that a seven-year limitation would not relieve Congress of the obligation to make a subsequent determination whether lapse of time had caused the proposal to lose vitality. 116 Cong. Rec. 35959 (1970). He thus maintained that final decision could not be arrived at by prejudgment in 1970, 1971 or 1972, but only "with full knowledge and appreciation ascribed to the national legislature of the political, social and economic conditions which have prevailed during the period since the submission of the amendment." *Coleman* v. *Miller*, *supra*, 307 U.S. at 454.

B. The mode in which Congress dealt with timeliness in the proposed Equal Rights Amendment indicates a middle course: Congress did not make the time frame a fixed and integral part of the amendment's text; it did not avoid the time question altogether; it did establish an initial, procedural limitation susceptible to extension.—

The first seventeen amendments to the Constitution were submitted to the states, and thereafter adopted, without any indication by Congress, at any stage in the process, of a time limit for ratification.[11] From that stance, Congress moved to the opposite pole In the Eighteenth, Twentieth, Twenty-First and Twenty-Second Amendments, Congress fixed in the very text of the amendment a definite period for ratification.[12] The time frame was included as an integral part of the proposed addition to the Constitution submitted to the states for ratification.

In contrast to these polar approaches, Congress proceeded to a middle course in the four most recent constitutional amendments. The Twenty-Third and Twenty-Fourth Amendments 'contain' no textual time limitations. Instead, Congress placed in the resolution clause preceding the submitted texts a procedural directive: the proposed amendments were to be valid "only if ratified ... within seven years." 74 Stat. 1057 (1960); 76 Stat. 1259 (1962). A less rigid formula was employed in the introductory clauses of the resolutions proposing the Twenty-Fifth and Twenty-Sixth Amendments to the states. Those proposed amendments were to be valid "when ratified ... within seven years." 79 Stat 1327 (1965); 85 Stat. 825 (1971). The "when ratified" formula was thereafter repeated by Congress in the resolution clause preceding the submitted text of the Equal Rights Amendments. 86 Stat. 1523 (1972).[13]

In sum, the congressional treatment of timeliness first turned 180°, from no time stated at all, to reference of the deadline to the states for their ratification as an integral part of the amendment's text. Thereafter, Congress handled the timeliness issue, more appropriately, as an incidental, procedural facet of the amendment process. Congress plainly did not place the "reasonable time" determination beyond its further control by fixing the ratification period in the text of the amendment, thereby submitting that issue to the states for their approval. Rather, Congress made an initial judgment as to time, but it separated that preliminary judgment from the text of the proposed amendment submitted to the states. Congress thereby retained authority to extend the period, just as it might extend other legislative deadlines, should "the public interests" and "relevant conditions" so warrant.[14]

The procedural cast of the ratification time specification, signalled by its placement in the resolution clause preceding the "Article of Amendment," contrasts with the time provision that is an integral part of the proposed Equal Rights Amendment: "This Amendment shall take effect two years after the date of ratification." The two-year specification, made in section 3 of the proposed "Article of Amendment," has been submitted to the states and their approval sought for it. Congressional alteration of that built-in text provision would encounter solidly-grounded opposition.

But the resolution clause containing the seven-year stipulation surely is not designed for state ratification. In addition to the seven-year reference, the clause encompasses two other declarations manifestly not subject to state approval: 1) recitation of a portion of the text of Article V; 2) specification of the mode of ratification (by legislatures of three-fourths of the states), a matter Article V commits exclusively to Congress.

The ratification time period, in short, is simply the functional equivalent of a statute of limitations associated with a legislative measure. It is the general rule that extensions of statutes of limitation may be directed by the legislature. The question in each case turns on the legislature's intent as to the purpose of the time bar. When the objective is to exclude stale claims, extension of the limitation period for a reasonable time is a well-accepted legislative prerogative which fully comports with constitutional constraints. See, e.g., Davis v. Valley Distributing Co., 522 F. 2d 827, 830 n.7 (oth Cir. 1975), and authorities cited therein.

In view of the intensity of discussion concerning sex equality as a basic human rights tenet, staleness plainly is not a reason for allowing the clock to run out on the proposed Equal Rights Amendment. Rather, the equal dignity of women and men before the law is among the most vibrant issues contemporary society faces. See Karst, Book Review, 89 Harv. L. Rev. 1028, 1036 (1976).

II. The "public interests" and "relevant conditions, political, social and economic," make it necessary and proper for Congress to extend the ratification period for the proposed Equal Rights Amendment.—

Social and economic conditions in the period 1972 to the present demonstrate the vitality of the issue to which the Equal Rights Amendment responds. Equal justice for men and women under the law, far from diminishing in significance to the nation, remains an ideal attracting widespread and constant attention.

Arbitrary gender lines still clutter the lawbooks and regulations of the nation and states,[15] the Supreme Court vacillates insecurely from one decision to the next and is sometimes disarmed from reaching any decision,[16] as it holds back doctrinal development and awaits the signal the Equal Rights Amendment would supply.[17] Women seek equal opportunity in dramatically increasing numbers,[18] but the barriers confronting them remain high.[19] And in the international arena, where the United States is emphasizing with renewed vigor a firm commitment to the fundamental rights and equal dignity of each individual, absence of an Equal Rights Amendment in our own Constitution should be a constant embarrassment. It leaves us open to charges of not fully embracing ourselves what we preach to others.[20]

The debate on the Equal Rights Amendment, far more complex than those attending other recent amendments, surely has not run its course and should be allowed to continue. The proposed amendment remains a matter of urgent public concern. The conditions that prompted congressional passage are at least as compelling now as they were in 1972. Thus, Congress would be acting responsibly in extending its initial "reasonable time" estimate.

III. The vote required to extend the ratification period.—

Extension of the ratification period, a procedural decision incident to congressional responsibility for designating details of the mode of ratification, may be accomplished through a measure approved by a simple majority of each House. Article V, consistent with the style in which our Constitution is drafted, "speaks in general terms." *Dillon* v. *Gloss*, *supra*, 256 U.S. at 376. However, on supermajorities, Article V is specific; it singles out four instances in which a simple majority will not suffice. (1) Amendments must be proposed by two-thirds of both Houses. (2) Alternatively, on application of the legislators of two-thirds of the states, Congress shall call a Convention for proposing amendments. (3) Legislatures in three-fourths of the states must ratify. (4) Alternatively, ratification may be effected by conventions in three-fourths of the states.

Significantly, no congressional supermajority is explicitly commanded by Article V to propose the mode of ratification or details thereof. Thus, for example, should the Convention method be used to propose amendments, a procedure not yet employed, a separate resolution designating the mode of ratification and accoutrements thereto, would be required of Congress. For such a resolution, a simple majority should suffice. Bills specifying procedures for the Convention method of proposing amendments provide for congressional action by concurrent

Footnotes at end of article.

resolution, presumbly passed by simple majority, on a variety of issues, including proposing the mode of ratification and incidental, related details.[21] Nor has more than a simple majority been required to declare that an amendment submitted to the states has been ratified.[22] *A fortiori*, no more than a simple majority is required to state or extend a time period not built into the text of a proposed amendment.[23]

Congress might have pursued a two-step process in proposing the Equal Rights Amendments: 1) a resolution proposing the "Article of Amendment" adopted by two-thirds vote; 2) a separate measure designating the mode of ratification, including an initial "reasonable time" estimate, for which a simple majority would suffice. A more efficient course was followed. Congress combined the two steps in one resolution. But that joinder did not alter the distinct character of the two elements of the resolution To propose the "Article," a two-thirds vote was necessary. To specify the mode of ratification and a time estimate, no more than a simple majority was needed; the additional votes were superfluous. Similarly, to extend an initial "reasonable time" estimate kept outside the text of a proposed amendment, votes above a simple majority would be superfluous.

IV. Congress acting alone controls the mode of ratification of a proposed amendment and procedural accoutrements incident thereto.—

Article V commits to Congress responsibility for the proposal of amendments and for management of the mode of ratification. No role for the President is specified. In extending the time period for the proposed Equal Rights Amendment, Congress would exercise authority necessarily and properly incident to its Article V responsibility for designating and controlling the mode of ratification. Since Article V, not Article I, is the source of congressional power in this instance, approval of an extension measure by the President would be superfluous.

V. Extension of the time period would not furnish authorization for a state's rescission of a prior ratification.—

The argument is persuasive that constitutional history binds us to the proposition that a state legislative ratification of a proposed amendment cannot be effectively rescinded.[24] Absent compelling justification, Congress could not responsibly repudiate the tradition of nearly two centuries upon this point, casting a shadow as such action might on the ratification of the Fourteenth Amendment.

At this stage, congressional assessment of the efficacy of purported rescissions would be inappropriate, speculative and premature. An informed judgment cannot be made by crystal ball, but only by focusing on the precise situation existing when the ratification process is completed. At that time, the issue may well be moot. If it is not, fact, not conjecture, will provide the basis for decision. Moreover, it is extremely doubtful that a Congress sitting today could bind the future Congress sitting when the question of ratificaton is considered.

In sum, the validity *vel non* of purported rescission of a state's ratification is a separate question, not determined by a decision, one way or the other, on extension. Rescission issues are not appropriately addressed at this time, but should be reserved for unfettered consideration by the Congress sitting when the requisite number of states have ratified.

FOOTNOTES

[1] Article V entrusts to Congress sole Federal authority to propose amendments, to determine the mode of ratification, and to decide whether ratification has effectively occurred. *See* Coleman v. Miller, 307 U.S. 433 (1939). Only two express restrictions are placed on this encompassing power: the text of proposed amendments must have the approval of two-thirds of both Houses; no state shall be deprived, without its consent, of equal suffrage in the Senate. Dillon v. Gloss, 256 U.S. 368, 372–74 (1921).

[2] The dominant purpose of a "reasonable time" limitation on constitutional amendments is to insure that the proposal remains "responsive to the conception which inspired it." Coleman v. Miller, *supra*, 307 U.S. at 453. In urging Congress to address the time question, something not done until 1917, Senator Ashurst explained: "10, 12, 14, 16, 18, or even twenty years" might be a reasonable period, but Congress should not hand down to posterity proposals submitted to the states many decades earlier, 55 Cong. Rec. 5556–57 (1917).

With respect to the Equal Rights Amendment, the congressional intent surely was not to impede full, informed appraisal of the proposal. Rather, the objective was to assure that the proposed text would not "roam around State legislatures for 50 years." 116 Cong. Rec. 28012 (1970) (Sept. Celler); 116 Cong. Rec. 36302 (1970) (Sen. Ervin) (unseemliness of proposed amendments "floating around since about 1860"); 117 Cong. Rec. 35815 (1971) (Rep. Griffiths) (proposal "should not be hanging over our heads forever").

[3] The seven-year provision was copied from the resolution proposing the Twenty-Fifth and Twenty-Sixth Amendments. Those Amendments, concerning succession to the Presidency and the franchise for citizens eighteen years of age or older, were not susceptible to the distortion, confusion and misunderstanding that have impeded rational debate on the merits of the proposed Equal Rights Amendment. See Notes and Comment, The New Yorker, May 22, 1978, pp. 25–26.

[4] *Cf.* Coleman v. Miller, *supra*, 307 U.S. at 453 (indicating the necessity of grappling with these considerations to reach an informed judgment on the timeliness of a proposed amendment).

[5] Compare 55 Cong. Rec. 5556–58 (1917) (Sen. Ashurst), *with id.* at 5649 (Sen. Borah). *See* Dillon v. Gloss, *supra*, 256 U.S. at 373 n.1 and accompanying text.

[6] The Court noted particularly that "it would be necessary, in determining whether a reasonable time had elapsed since [an amendment's] submission, to consider the economic conditions prevailing in the country, whether these had so far changed since the submission as to make the proposal no longer responsive to the conception which inspired it or whether conditions were such as to intensify the feeling of need and the appropriateness of the proposed remedial action." 307 U.S. at 453.

[7] "Congress . . . has the final determination of the question whether by lapse of time its proposal . . . ha[s] lost its vitality prior to the required ratifications." 307 U.S. at 456. "The decision by the Congress . . . would not be subject to review by the courts." *Id.* at 454. *Accord*, Baker v. Carr, 396 U.S. 186, 210 (1962) (listing with approval "political question" criteria derived from this portion of Coleman v. Miller).

[8] *Dillon* involved the eighteenth amendment, the first occasion on which Congress expressed a time limitation for a proposed amendment. Seven years was the period selected. No other period has been used by Congress since that time. The eighteenth amendment was in fact ratified some thirteen months after submission.

[9] Plaintiffs in *Coleman* sought to invalidate a state's ratification of the proposed Child Labor Amendment occurring more than twelve years after submission.

[10] *See* note 1 *supra*. Four Justices, concurring in *Coleman*, went even beyond the full Court's acknowledgement of the wide range of congressional power: "Undivided control of [the amendment] process has been given by Article [V] exclusively and completely to Congress." 307 U.S. at 456, 459 (Justice Black, joined by Justice Roberts, Frankfurter and Douglas).

[11] However, Congress did confront at the time of the Fourteenth Amendment, another facet of the ratification process that has generated debate. It validated ratifications by Ohio and New Jersey despite rescinding resolutions passed by the legislatures of those states. *See* Coleman v. Miller, *supra*, 307 U.S. at 448–50 (recounting the episode and relying on "this historic precedent" for the conclusion that Congress, not the judiciary, is final arbiter of the efficacy of ratifications). *See generally* Kanowitz & Klinger, Can a State Rescind Its Equal Rights Amendment Ratification: Who Decides and How, 26 Hastings L. J. 979 (1977); Heckman, Ratification of a Constitutional Amendment: Can a State Change Its Mind?, 6 Conn. L. Rev. 28 (1973); Notes, 49 Ind. L. J. 147 (1973), 49 Notre Dame Lawyer 657 (1974), 41 Tenn. L. Rev. 93 (1973).

[12] The Nineteenth (Woman's Suffrage) Amendment, reflecting the pattern of the first seventeen amendments, was submitted without any qualification as to time. *See* 56 Cong. Rec. 81, 93 (1919) (House rejects inclusion of time limitation). So too was the proposed Child Labor Amendment at issue in Coleman v. Miller, *supra*.

[13] Congress may place a time limitation in the text of an amendment as an exercise of its Article V power to propose amendments. By keeping the time limitation out of the proposed amendment, but inserting it in the introductory clause of the resolution, Congress adopts a means "necessary and proper" to carry into execution its Article V authority to propose amendments and determine the mode of ratification.

[14] Closer consideration of the time society needs to adjust to the social and economic changes that inspired a favorable congressional response to the Equal Rights Amendment might have yielded an enlarged period from the outset. An Equal Rights Amendment was first introduced in 1923. S.J. Res. 21, 68th Cong., 1st Sess., 65 Cong. Rec. 150. It took a near half-century to achieve serious consideration of the proposal in Congress. Before that, a near century was required to obtain the franchise for women. *See* E. Flexner, Century of Struggle (rev. ed. 1975).

[15] *See, e.g.*, Ginsburg & Fasteau, The Legal Status of Women under Federal Law (Columbia Law School Equal Rights Advocacy Project 1974); Knowles, The Legal Status of Women in Alabama: A Crazy Quilt, 29 Ala. L. Rev. 427 (1977). Comprehensive revision has occurred in only a few states, notably those with state Equal Rights Amendments on the books. *See*, Brown, Freedman, Katz & Price, Women's Rights and the Law, The Impact of the ERA on State Laws (1977).

[16] *Compare* Kahn v. Shevin, 416 U.S. 351 (1974), Schlesinger v. Ballard, 419 U.S. 498 (1975), *and* Vorchheimer v. School District of Philadelphia, 532 F.2d 880 (3d Cir. 1976) (2–1 decision), *aff'd by an equa'ly divided Court*, 430 U.S. 703 (1977), *with* Craig v. Boren, 429 U.S. 190 (1976), *and* Califano v. Goldfarb, 430 U.S. 199 (1977).

[17] In his concurring opinion in Frontiero v. Richardson, 411 U.S. 677, 691–92 (1973), Justice Powell (joined by Chief Justice Burger and Justice Blackmun) explained why jurists shy away from doctrinal development:

"The Equal Rights Amendment . . . has been approved by the Congress and submitted for ratification by the States. If this Amendment is duly adopted, it will represent the will of the people accomplished in the manner prescribed by the Constitution. [The Court should not assume] a decisional responsibility at the very time when state legislatures, functioning within the traditional democratic process, are debating the proposed amendment."

Justice Powell concluded that "democratic

institutions are weakened, and confidence in the restraint of the Court is impaired" when "sensitive issues of broad social and political importance" are resolved by the Justices "at the very time they are under consideration within the prescribed constitutional processes."

More recently, in his prevailing opinion in University of California Regents v. Bakke, 46 U.S.L.W. 4896, 4905 (1978), Justice Powell underscored that gender-based classifications continue to attract less than rigorous review: "[T]he Court has never viewed [gender-based] classification as inherently suspect or as comparable to racial or ethnic classifications for the purpose of equal-protection analysis."

[18] Economist Eli Ginsberg has identified the changing roles of women as "the single most outstanding phenomenon of our century." Forbes, November 15, 1977, pp. 177–78.

[19] *See, e.g.*, U.S. Dep't of Labor, 1975 Handbook on Women Workers; National Center for State Courts, Women in the Courts (1978) (describing limited opportunity structure women continue to encounter).

[20] *See* S. 2307 section 6(a), 90th Cong., 1st Sess. (1967); S. 215, 92d Cong., 1st Sess. (1971) (Sen. Ervin proposals).

[21] No supermajority was indicated in the resolution listing rescinding states as ratifiers of the fourteenth amendment. The Senate adopted that resolution by voice vote. *See* 15 Stat. 709, 710 (1868); 78 Cong. Globe 4230 (1868).

[22] When the Farmers intended supermajority vote, they were specific. *See* U.S. Const. Art. I § 3, cl. 6 (impeachment); Art. I § 5, cl. 2 (expulsion of member of Congress); Art. I § 7, cls. 2,3 (overriding presidential veto); Art. 2 § 2, cl. 2 (treaty ratification).

[23] *Cf.* German Federal Republic Constitution (1949), Art. 3, sec. 2: "Men and Women are equal before the law." This post-World War II Constitution was framed with the human rights guarantees of the U.S. Constitution in close view. But mid-twentieth century drafters apparently assumed it was time to perfect Thomas Jefferson's text—to include in a fundamental equal rights declaration all of humanity, not just half that population.

[24] *See* authorities cited *supra* note 11, and Feigen Fasteau, May a State Legislature Rescind Its Ratification of a Pending Constitutional Amendment? 1 Harvard Women's L.J. 27 (1978).

TESTIMONY OF THOMAS I. EMERSON

The Equal Rights Amendment was proposed as the Twenty-seventh Amendment by a vote of 354 to 24 in the House of Representatives on October 12, 1971, and by a vote of 84 to 8 in the Senate on March 22, 1972. The Joint Resolution which embodied the proposed amendment stated:

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress."

Up to the present date the Equal Rights Amendment has been ratified by 35 States, out of the 38 necessary. The seven-year period of limitation for action by the States expires on March 22, 1979. The question is whether Congress has power under the Constitution to extend the period for ratification and, if so, whether it may do so by majority vote.

Article V of the United States Constitution, which sets forth the method for amending the Constitution, provides:

"The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two-thirds of the several States, shall call a Convention for proposing Amendments, which in either case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of the several States, or by Conventions in three-fourths thereof, as one or the other Mode of Ratification may be proposed by the Congress."

It is my conclusion that Congress has the power under Article V to fix a period during which a Constitutional amendment must be ratified, so long as the period is a reasonable one, and that such power includes the authority to extend a period originally determined. It is also my conclusion that such action by Congress does not require a supermajority of two-thirds but may be done by majority vote.

BACKGROUND

In approaching these issues certain background facts should be taken into account. In the first place it is clear that Article V gives Congress full and extensive powers over the amending process. In *Dillon* v. *Gloss*, 256 U.S. 368 (1921), speaking about this very issue of the power of Congress to fix a time limit for ratification, the Supreme Court said:

"That the Constitution contains no express provision on the subject is not in itself controlling; for with the Constitution, as with a statute or other written instrument, what is reasonably implied is as much a part of it as what is expressed. An examination of Article V discloses that it is intended to invest Congress with a wide range of power in proposing amendments." (p. 373)

And in *Coleman* v. *Miller*, 307 U.S. 433 (1939), the Court, again dealing with the same question, declared:

". . . Congress in controlling the promulgation of the adoption of a constitutional amendment has the final determination of the question whether by lapse of time its proposal of the amendment has lost its vitality prior to the required ratification." (p. 456).

Until the proposal of the Eighteenth Amendment in 1917 no time limits were imposed upon ratification by the States. That Amendment for the first time included such a limitation. Although the proponents of the limitation initially talked in terms of ten to twenty years (see 55 Cong. Rec. 5556–9) a limit of seven years was eventually adopted. In 1921, in *Dillon* v. *Gloss* (supra), the authority of Congress to include a time limitation was upheld by the Supreme Court. Thereafter virtually all proposed amendments embodied a seven-year limitation, initially as part of the substantive provisions and, beginning with the Twenty-third Amendment, as part of the resolving clause.

The Equal Rights Amendment, as originally introduced in 1923 and as presented in subsequent years, contained no time limitations. It was not until 1970 that a time limitation was proposed (see 116 Cong. Rec., 36864), and it was included in the resolution as passed by the House in 1971 (117 Cong. Rec. 35815). The seven-year limitation was accepted by proponents of the resolution on the ground that it was "customary" (see 117 Cong. Rec. 35814–5; Sen. Rept. No. 92–689, 92d Cong., 2d Sess. p. 20.). There was no debate or discussion as to whether or not seven years was an appropriate period for this Amendment.

We start with the proposition, then, that Congress has plenary power over the amending process and that it is not hitherto given full consideration to the question whether seven years is a proper time for the ratification process to be completed in this case.

THE POWER OF CONGRESS TO EXTEND THE SEVEN-YEAR PERIOD

Article V contains no express provision dealing with the time in which a proposed Constitutional amendment must be ratified. Nevertheless, as already noted, the Supreme Court held in *Dillon* v. *Gloss* that the power of Congress to impose a limitation would be implied. That case involved a challenge to the Eighteenth Amendment on the ground that the time limitation provided, included for the first time in that Amendment, rendered the Amendment invalid. The Supreme Court, in a unanimous opinion, ruled that Article V must be construed as contemplating that ratification would take place within a "reasonable time", and that Congress had power to fix a limitation period in advance. The Court said:

"Of the power of Congress, keeping within reasonable limits, to fix a period for the ratification we entertain no doubt. As a rule the Constitution speaks in general terms, leaving Congress to deal with subsidiary matters of detail as the public interests and changing conditions may require; and Article V is no exception to the rule. Whether a definite period for ratification shall be fixed so that all may know what it is and speculation on what is a reasonable time may be avoided, is, in our opinion, a matter of detail which Congress may determine as an incident of its power to designate the mode of ratification." (256 U.S. at 375–6).

Coleman v. *Miller*, also noted above, reaffirmed and extended the *Dillon* decision. The *Coleman* case involved ratification of the Child Labor Amendment. Proposed by Congress in 1924, the Child Labor Amendment did not include any time limitation. It was ratified by the Kansas legislature in 1937. The ratification was challenged by members of the Kansas legislature, who contended that after 13 years a reasonable time had elapsed and the ratification was inoperative. The Supreme Court, in an opinion by Chief Justice Hughes, reiterated that Congress has the power to determine what was a reasonable time for ratification and went on to hold that the question of what constituted a reasonable time was solely a matter for Congress, did not constitute a justiciable issue, and was not subject to review by the courts. The Court declared:

"In short, the question of a reasonable time in many cases would involve, as in this case it does involve, an appraisal of a great variety of relevant conditions, political, social and economic, which can hardly be said to be within the appropriate range of evidence receivable in a court of justice. . . . The questions they involve are essentially political and not justiciable." (307 U.S. 453–4).

There can be little doubt that, if Congress has power to determine what is a reasonable time for ratification, either by fixing it in advance or by deciding it at a later date, it also has power to extend a limitation originally fixed by it. The extension of time, like the original determination, involves an ancillary power, incidental to but necessary to its basic power to administer the amending process. It fits squarely into the holding of the *Dillon* case, "a matter of detail that Congress may determine as an incident of its power to designate the mode of ratification."

In this connection two further observations should be made. First, the seven-year limitation is part of the resolving clause, not a substantive part of the proposed Amendment itself. Hence it is plainly a matter of procedure, not substance, and thus even more clearly within the implementing powers implicit in Article V.

Second, there is no problem here of reliance by any State upon the initial seven-year limitation. None of the States have ratified that provision; they have adopted or rejected the substantive portions of the Amendment, not the resolving clause. Nor has any State relied on the time limitation as a reason for adopting or rejecting the Amendment; the timing of ratification could not be a factor in the position taken by any State. Hence there is no issue here of unfairly changing the rules.

The power to adjust the period in which ratification or rejection takes place is an important one in the amending process. Congress not at the outset judge precisely aright the "political, social and economic" conditions that are relevant to the length of time in which consideration of an amendment should take place. In the case of the Equal Rights Amendment the seven-year period was chosen primarily because it was "customary", without any serious attention to whether or not it was appropriate. Congress should, and does, have power to revise its original action in the light of subsequent developments.

There remains only one further issue. The Supreme Court held in *Dillon v. Gloss* that the time period for ratification must be a "reasonable" one. Although *Coleman v. Miller* establishes that the question of "reasonableness" is a matter solely for Congress and not for the courts, nevertheless it is the duty of Congress to assure itself that any extension of time conforms to the Constitutional requirement. Without attempting to elaborate, it seems clear that provision for additional time for ratification of the Equal Rights Amendment, at least up to another seven years, would be reasonable:

(1) History has demonstrated that a long period of time is necessary for the nation to make up its mind with respect to fundamental changes in the status of large groups in the population. Thus the Women's Suffrage Amendment was under consideration for nearly three quarters of a century. The first convention to consider the issue of votes for women took place in Seneca Falls, New York, in 1848; it was not until 1920 that the Nineteenth Amendment was adopted. Even the abolition of slavery, eventually accomplished by the Thirteenth Amendment, was a subject of national debate for decades. The Equal Rights Amendment was originally proposed in 1923. Most supporters of women's rights, however, believe at that time that the objectives could be accomplished through the Fourteenth Amendment. Consequently it was not until 1970 that the merits of the Equal Rights Amendment began to achieve serious national attention. The seven years which have since lapsed constitute a very brief period for discussion of such a major social reform.

(2) The issues raised by the Equal Rights Amendment have proven to be more comprehensive than may have appeared to Congress at first. The extent to which the patterns and practices of sex discrimination pervade our society was not fully recognized by many people. Thus the number of different areas affected and the nature of the adjustments necessary have raised more issues, and the need for more discussion, than was originally contemplated.

(3) More importantly, the meaning and impact of the Equal Rights Amendment have been subject to an unprecedented degree of misunderstanding, misrepresentation, and distortion. This has resulted in wide-spread confusion concerning what the Equal Rights Amendment seeks to accomplish and what its effect would be. The citizens of the country are only now beginning to sort out the truth from the error. More time is needed to complete this process.

(4) As noted above, Congress did not seriously consider whether seven years was an appropriate time for debate within the States over the merits of the Equal Rights Amendment. The time limit was adopted because it was "customary". It is now clear that additional time is needed.

(5) Finally, there can be no doubt that the issues raised by the Equal Rights Amendment are still very much alive and current. I think it is beyond dispute that a large majority of the American people support equal legal rights for women. Some 35 States, representing over 71 percent of the population of the country, have ratified the Equal Rights Amendment. Debate continues in the remaining 15 States, representing less than 29 percent of the population. This is not time to cut off that debate.

IS A SUPER-MAJORITY OR A MAJORITY VOTE NECESSARY ON THE RESOLUTION EXTENDING THE TIME FOR RATIFICATION

In my opinion a resolution extending the time for ratification of the Equal Rights Amendment is not subject to the requirement of a two-thirds vote but may be passed by an ordinary majority. This follows from a number of considerations.

First, Article V expressly sets forth the circumstances under which a two-thirds vote is required. That is when both Houses "deem it necessary" to "propose Amendments". Other parts of the amending process are not subject to the unusual requirements of a two-thirds vote. Thus no such requirement is imposed with respect to the power of Congress, also conferred by Article V, to "propose" the "mode of ratification". The intent seems clear that the final decision on the substantive terms of a proposed amendment needs two-thirds of both Houses, but that preliminary and procedural issues ought to be determined by the usual majority vote. This is fully consistent with the basic structure of the Constitution; those occasions when a super-majority is required are specifically enumerated, as in a vote to expel a member (Art. I, § 5), and all other actions are taken by simple majority.

The time limitation in the resolution proposing the Equal Rights Amendment is a procedural matter, dealing with the "mode of ratification". It is contained in the resolving clause, not in the substantive portion of the Amendment. It has not been voted on, one way or another, by the States considering ratification. It is in no way part of the final substance of the Amendment. Hence revision of that provision is subject only to majority vote.

Second, the foregoing interpretation of Article V has been consistently followed by Congress since the original adoption of the Constitution. Amendments to a proposed constitutional amendment are adopted by majority vote. Statutes establishing the procedural rules for the conduct of the amending process, such as 1 U.S.C. § 106b, are enacted by majority vote. Most important, the determination by Congress that a constitutional amendment has been ratified by three-fourths of the States, the culmination of the amending process, is made by majority vote. Thus the controversial resolution accepting the Fourteenth Amendment as ratified by the requisite number of States was adopted by majority votes (Cong. Globe, 40th Cong., 2d Sess., pp. 4266, 4296). These actions by Congress have established that revision of the time limitation in the Equal Rights Amendment may be accomplished in a similar way, by a majority vote.

Third, confining the requirement of a super-majority vote to the precise action specified in the Constitution, conforms with the intentions of the framers in formulating Article V of the Constitution. The basic objective was to make certain that an amendment had the support of the large proportion of each House before it was submitted to the States for ratification. That objective is secured if the final vote on the substance of the amendment is required to muster two-thirds of the members of each House. It does not demand that every preliminary or procedural detail of the amending process be required to conform to the two-thirds rule.

THE QUESTION OF RESCISSION

It has been argued that, if Congress extends the period for ratification of the Equal Rights Amendment, it should also authorize the States which have ratified to rescind their ratification. In my judgment the matter of rescission is a separate issue, not relevant to an extension of the seven-year limitation, and it is premature for Congress to consider that issue now.

The Supreme Court has held that the question whether a State can rescind a prior ratification is solely a matter for Congress to decide (*Coleman* v. *Miller*). And Congress has consistently accepted the view, in the case of the Fourteenth, Fifteenth and Nineteenth Amendments, that a State may not rescind. I believe this position is the correct one. However, it is not necessary to consider its justification at this point.

In the first place, the question of whether further time to debate and act upon the Equal Rights Amendment is advisable must be decided on the basis of factors entirely independent of the right of a State to rescind. When that discussion is over and Congress comes to determine whether the requisite number of States have ratified, the issue of recission will be presented. The matter will be decided on the basis of the situation as it then exists. That decision need not, indeed cannot, be made at this time.

Secondly, nothing that Congress can do now will resolve the issue. If a State has a constitutional right to rescind Congress cannot deprive it of that right by passing a resolution now. If a State does not have the right of rescission, as I believe, there is no need for Congress to act. On either theory Congressional action at this time is superfluous.

CONCLUSION

For the reasons stated, it is my opinion that Congress has power under Article V of the Constitution to extend the time for ratification of the Equal Rights Amendment, so long as the period designated is a reasonable one; that strong reasons exist for allowing additional time for exposition and discussion of the major social reform embodied in the Equal Rights Amendment; and that action to extend the period for State consideration does not require a two-thirds vote but may be taken by majority vote.

STATEMENT OF PROF. RONALD D. ROTUNDA

Mr. Chairman, distinguished members of the Committee. My name is Ronald D. Rotunda, Associate Professor of Law at the University of Illinois, College of Law. I teach Constitutional Law at the University, have coauthored a Treatise on Constitutional Law published earlier this year* and am former assistant counsel to Sam Dash, Chief Counsel of the Senate Watergate Committee. I am honored to have received the invitation by the Chairman to appear here today.

Before turning to several specific areas of inquiry and my analysis of the case law in question, I should emphasize that my remarks relate to the constitutionality of the proposed extension and related issues. Constitutionality is not synonymous with wisdom nor even, necessarily, with fairness. What is wise legislation is a matter that is a political question, best determined by Congress as the representative institution of the entire nation. This question of wisdom should not be delegated, in a democratic state, to the courts or to academicians. Some people think that our Constitution is a magical pinata which, when hit at the right angle, will issue forth all the policy answers to our pressing social problems. The Supreme Court has never followed that view. Certain issues have been held to be "political questions," the constitutionality of which are not decided by the Court. My analysis of the case law shows that, as best can be determined, the major open questions regarding procedures for amending the Con-

*Nowak, Rotunda, & Young, *Constitutional Law* (West Pub. Co. 1978). A Supplement analyzing the Supreme Court cases decided during the 1977–78 term will be published later this month.

stitution are political questions. Congress is free to do as it will. Of course Congress should exercise its power with wisdom and restraint, but however it exercises it, it alone will be the ultimate arbiter.

I.—THE POLITICAL QUESTION DOCTRINE

The political question doctrine—which holds that certain matters are really political in nature and best resolved by the body politic rather than suitable for judicial review—is a misnomer. It should more properly be called the doctrine of nonjusticiability, that is, a holding that the subject matter is inappropriate for judicial consideration. As Justice Jackson has noted, "all constitutional interpretations have political consequences." R. Jackson, The Supreme Court in the American System 56 (1955). However, not all constitutional questions are justiciable by the Supreme Court. An important consequence of the political question doctrine is that a holding of its applicability to a theory of a cause of action renders it immune from judicial review. Unlike other restrictions on judicial review—doctrines such as case or controversy requirements, standing, ripeness and permaturity, abstractness, mootness, and abstention—all of which may be cured by different factual circumstances, a holding of nonjusticiability is more absolute in its foreclosure of judicial scrutiny.

The earliest leading case developing the political question doctrine was *Luther v. Borden*, 48 U.S. (7 How.) 1 (1849), holding that the guaranty clause (Art. IV, § 4) is nonjusticiable, at least in the absence of a congressional statute authorizing judicial review. *Id.* at 43. The modern leading case dealing with the issue is *Baker v. Carr*, 369 U.S. 186 (1962), which upheld the justiciability of legislative reapportionment issues. To determine if the doctrine should be invoked, the Court fashioned the following test for justiciability:

"Prominent on the surface of any case held to involve a political question is found a textually demonstrable constitutional commitment of the issue to a coordinate political department; or a lack of judicially discoverable and manageable standards for resolving it; or the impossibility of deciding without an initial policy determination of a kind clearly for nonjudicial discretion; or the impossibility of a court's undertaking independent resolution without expressing lack of the respect due coordinate branches of government; or an unusual need for unquestioning adherence to a political decision already made; or the potentiality of embarrassment from multifarious pronouncements by various departments on one question." 369 U.S. at 217.

The principal case applying the political question doctrine to issues relating to amendments to the Constitution is *Coleman v. Miller*, 307 U.S. 433 (1939). Plaintiffs in that case included members of the Kansas Senate, whose votes against ratification of a constitutional amendment had been overridden. They sued in state court to compel the Secretary of State to erase an endorsement on a resolution ratifying the proposed Child Labor Amendment and indicate instead that it "was not passed." The court was also asked to restrain the officers of the Senate and House from signing the resolution and the Kansas Secretary of State from authenticating it and delivering it to the Governor. The petitioners had three claims: (1) that the Lieutenant Governor could not cast the deciding vote in the Senate because he was not part of the "Legislature" within the meaning of Article V of the U.S. Constitution; (2) that Kansas could not ratify the amendment because it had previously rejected it; and (3) that the amendment could not be ratified because it was no longer viable, not having been ratified within a reasonable time.

Chief Justice Hughes' opinion for the Court held, in a 5 to 4 decision, that the complaining senators had standing, with Justices Frankfurter, Roberts, Black, and Douglas dissenting on this point. The Court was equally divided on the issue of whether the Lieutenant Governor could cast the deciding vote on ratification, with the same four justices arguing that this issue was nonjusticiable.

Petitioners also argued that either a ratification or rejection of a proposed amendment cannot later be changed. The Court held that the "question of the efficacy of ratifications by state legislatures, in the light of previous rejection or attempted withdrawal, should be regarded as a political question pertaining to the political departments, with the ultimate authority in the Congress in the exercise of its control over the promulgation of the adoption of the amendment." 307 U.S. at 450 (Opinion by the Court). Congress, the Court said, could have enacted a statute relating to ratification after rejection (and rejection after ratification) but had not done so then. To this day, in fact, it has left this area barren of clear statutory guidance.

Finally the petitioners argued that the proposed amendment had been spent, lost its force, and could not be ratified because of the length of time—thirteen years—between its proposal and the Kansas ratification. Previously the Supreme Court had held that Congress may fix a reasonable time for ratification. *Dillon v. Gloss*, 256 U.S. 368 (1921). But Congress had not—and still has not—enacted any general statute or resolution governing temporal viability. In the past, seven years was used, in various proposed amendments, as a reasonable time. At the time of *Coleman*, the average time to ratify an amendment, excluding the first ten, had been three years, six months, 25 days. To the extent that economic, political, and social conditions relate to a proposed amendment, make it nonviable, those factors change. Weighing those factors to determine viability, the Court recognized, was inappropriate for the judiciary. Thus it concluded that the issue of a reasonable time "lies within congressional province." And that question should be "regarded as an open one for the consideration of the Congress when, in the presence of certified ratifications by three-fourths of the States, the time arrives for the promulgation of the adoption of the amendment. Th[at] decision by the Congress . . . of the question whether the amendment had been adopted within a reasonable time would not be subject to review by the courts." 307 U.S. at 454 (Opinion of the Court).

Justice Butler dissented and would have held that more than a reasonable time had elapsed. The separate opinion of Justice Black joined by Frankfurter, Roberts, and Douglas, emphasized and joined in the finding of nonjusticiability as to the question of the efficacy of attempted rejections and the question of a reasonable time for adopting an amendment: "Congress, possessing exclusive power over the amending process, cannot be bound by and is under no duty to accept the pronouncements upon that exclusive power by this Court or by the Kansas courts. Neither state nor federal courts can review that power." 307 U.S. at 459. Thus six of the most distinguished jurists ever to have sat on the Supreme Court—Chief Justice Hughes, and Justices Stone, Black, Frankfurter, Roberts, and Douglas, were of the view that it is for Congress and not the courts to decide if a state legislature may reject an amendment after having ratified it, and these same six justices were of the view that it is for Congress and not the courts to decide if a proposed amendment is no longer viable for ratification.

Such a view need not completely exclude the Courts from the amendment process. Thus, the Court has upheld the power of Congress to fix a reasonable time for ratification and it has determined, where statutes required, when an amendment has gone into effect.* But if statutes do not provide for a judicial role and if the power of congress to enact such statutes is not the matter in disputes, it may be the rule that all amendment questions relating to the constitutionality of the amendment procedure should be regarded as political.

II.—THE CONSTITUTIONALITY OF CHANGING THE EQUAL RIGHTS AMENDMENT'S PROCEDURAL RULES IN MIDCOURSE

Everyone agrees that Congress originally could have set a time period of greater or less than seven years. Similarly, everyone agrees that if Congress had made the seven year limitation part of the amendment itself—as it did, for example, in the 18th Amendment, § 3—then Congress could not have changed the time period without beginning the amendment process anew because changing the time period would be changing part of the amendment itself.

Having set a seven year limit in the resolution accompanying the amendment, may Congress now change its mind? Can the 1971–1972 Congress bind a subsequent Congress? It has long been considered settled law that one legislature cannot bind a subsequent one; Congress can always change its mind if in so doing it does not violate the Fifth Amendment's procedural and substantive guarantees. Thus, Congress may repeal a statute as long as the repealing legislation does not deprive any person of life, liberty or property without due process and just compensation or in violation of other specific constitutional guarantees, E.g., *Battaglia v. General Motors Corp.*, 169 F.2d 254, 257 (2d Cir.), cert. denied, 335 U.S. 887 (1948); *F.H.A. v. The Darlington, Inc.*, 358 U.S. 84, 91 (1958).

To many people it may appear unfair for Congress to extend the time period for ratification, "to change the rules in the middle of the game." Others argue that an extension is not unfair if Congress allows states to rescind their previous ratifications. Personally, I believe that states should be allowed to rescind previous ratifications until the three-fourths majority is reached. Such a rule—if Congress would enact it—would be similar to the vote changes allowed in a presidential convention, or in a state legislature, or on the Senate floor. Moreover, a

* Dillon v. Gloss, 256 U.S. 368 (1921) (18th Amendment). See also National Prohibition Cases, 253 U.S. 350, 386–388 (1920) (18th Amendment case, holding, inter alia, that the two-thirds vote in each House of Congress required in proposing an amendment is a vote of two-thirds of the members present, assuming a quorum, and not a two-thirds vote of the entire membership, present and absent); Hawke v. Smith, No. 1, 253 U.S. 221 (1920) (18th Amendment case, holding that provision of state constitution requiring submission of ratification to referendum is unconstitutional under Article V of the Constitution); Hawke v. Smith, No. 2, 253 U.S. 231 (1920) (19th Amendment case, holding same as in Hawke v. Smith, No. 1); United States v. Sprague, 282 U.S. 716 (1931) (18th Amendment; Tenth Amendment does not limit power of Congress to choose ratification by legislature instead of convention); Hollingsworth v. Virginia, 3 U.S. (3 Dall.) 378, 381 (1798) (11th Amendment; President has nothing to do with the proposing or adoption of Amendment to the Constitution); Cf. Leser v. Garnett, 258 U.S. 130 (1922) (upholding the constitutionality of the 19th Amendment, in the course of which the Court said: "official notice to the Secretary [of State], duly authenticated, that [a state legislature] had [ratified a proposed amendment] was conclusive upon him, and, being certified to by his proclamation, is conclusive upon the courts." 258 U.S. at 137.)

right of recission is an independent check to insure that when the three-quarter mark is reached, there has been truly a contemporaneous support of the E.R.A. Congress may come to this same conclusion and so decide, as a matter of policy, in exercising its powers to determine what is a reasonable time for the life of the proposed E.R.A. But the question I have been asked to comment on today is not what is my personal preference, my own notion of "airness. The question is, first, whether Congress has the power to extend (or hypothetically, shorten) the time period for ratification previously expressed in the accompanying resolution. What is a reasonable time for the adoption of an amendment? As the *Coleman* opinion also affirms: "Th[at] decision by the Congress . . . of the question whether the amendment had been adopted within a reasonable time would not be subject to review by the courts." 307 U.S. at 454. As the separate opinion by Justice Black, joined by Frankfurter, Roberts and Douglas, emphasized: "Congress possess[es] exclusive power over the amending process. . . . Neither state nor federal courts can review that power." *Id.* at 459. The second question is whether Congress must allow subsequent rejection after previous ratification (or ratification after previous rejection). That question, said the opinion of the Court in *Coleman v Miller*, 307 U.S. 433, 450 (1939), is under "the ultimate authority in the Congress. . . ."

Congress, to put it boldly, can be "unfair," or more precisely, need not comport with my notion of fairness. The ultimate guardian of our liberties in this instance is Congress, not the courts. The buck stops here.

One might ask whether Congress' amendment powers are subject to the Fifth Amendment guarantee of procedural due process discussed earlier. But the Fifth Amendment does not give protection to the states. The word "person" in the due process clause does not include the states of the Union, the Supreme Court held in upholding the broad Congressional powers exercised under the Voting Rights Act of 1965. *South Carolina v. Katzenback*, 383 U.S. 301, 323 (1966). Nor does a state have standing to invoke these due process provisions on behalf of its citizens. *Id.* at 324. And citizens do not have standing themselves to object to such amendment procedures. *Fairchild v. Hughes*, 258 U.S. 126 (1922) (private citizen cannot sue in the federal court to obtain indirect determination of the validity of the Nineteenth Amendment which was about to be adopted). We should not be shocked that the Fifth Amendment does not apply to protect the states. The fifty states are not politically powerless entities; they are well represented in Congress and equally represented in the Senate.

The fact that these important constitutional questions are not justiciable in the courts does not mean of course that anything goes. Rather, it means that Congress has the ultimate responsibility, and therefore that responsibility is rendered more awesome and must be even more carefuly exercised. Again to refer to *Coleman v. Miller:*

"Since *Congress has sole and complete control over the amending process, subject to no judicial review*, the views of any court upon this process cannot be binding upon Congress and insofar as *Dillon v. Gloss* attempts judicially to impose a limitation upon the right of Congress to determine final adoption of an amendment, it should be disapproved. If Congressional determination that an amendment has been completed and become a part of the Constitution is final and removed from examination by the courts, as the Court's present opinion recognizes, surely *the steps leading to that condition must be subject to the scrutiny, control and appraisal of none save the Congress, the body having exclusive power to make that final determination.*" 307 U.S. at 459 (Black, J., concurring, joined by Roberts, Frankfurter, and Douglas, JJ.) (emphasis added).

I realize that there are some judicial activists who will be upset at the notion that there are some areas where the Court does not rule the Country. Yet as early as *Marbury v. Madison*, 4 U.S. (1 Cranch) 137 (1803), when judicial review was considered to have been born, Chief Justice Marshall also delivered a twin: the doctrine that there are some acts and decisions that are political and there is "No [judicial] power to control that discretion." *Id.* at 166.

III.—PROCEDURES REGARDING A NEW RESOLUTION

When we turn to the procedures we similarly find some, but not enough, guidance in the case law. Must the President's signature be obtained on any resolution extending the time for ratification? Article I, Section 7, clause 3 of the Constitution would seem to require it. That clause says:

"[3] Every Order, Resolution, or Vote, to Which the Concurrence of the Senate and House of Representatives may be necessary (except on question of Adjournment) shall be presented to the President of the United States; and "before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill."

However that section has never been interpreted or applied strictly by Congress. In 1897 the Senate Judiciary Committee said that the word "necessary" in this clause means "the necessity occasioned by the requirement of other provisions of the Constitution, whereby every exercise of 'legislative powers' involves the concurrence of the two Houses." S. Rept. No. 1335, 54th Cong., 2d Sess. (1897); see also 4 A. Hinds, *Precedents of the House of Representatives* § 3483 (1970). In *Hollingsworth v. Virginia*, 3 U.S. (3 Dall.) 378, 381 n. (1798) Justice Chase specifically ruled: "The negative of the President applies only to the ordinary cases of legislation: He has nothing to do with the proposition, or adoption, of amendments to the Constitution." The Article V Amendment process is not legislation and thus is not governed by Section 7, Clause 3.

Professor Charles Black of Yale is one commentator who has argued (in his October 28, 1977 letter to the House Judiciary Subcommittee) that Section 7 should control. Yet he never distinguished Hinds *Precedents* and simply rejected *Hollingsworth* as inadequately reasoned. Before rejecting *Hollingsworth* one should ask whether it was constitutional for World War II legislation to provide that certain presidential powers should end when Congress adopted concurrent resolutions to that effect. E.g., Land Lease Act of March 11, 1941, 55 Stat. at Large 31. Much other legislation is also cast in doubt. E.g., Reorganization Act of June 20, 1949, 63 Stat. at Large 203. Also the constitutionality of congressional veto provisions, which do not provide for presidential signatures, is called into question. While such statutes have not been tested in the Supreme Court, the long congressional practice is supported not only by *Hollingsworth* but, by analogy, by Justice White's separate opinion in *Buckley v. Valeo*, 424 U.S. 1, 140 n. 176 (1976) (concurring and dissenting in part). Justice White said he thought the congressional veto is constitutional. The full Court did not reach the issue, but the Court of Claims recently did uphold the congressional veto in spite of the fact that such congressional resolutions are not subject to a requirement of a presidential signature *United States v. Atkins*, 556 F. 2d 1028, 1058-71 (Ct. Cl. 1977) (per curiam), cert. denied. —— U.S. —— 98 S. Ct. 718 (1978).

Must the new resolution extending the time for ratification be passed by a simple majority of both Houses or is a two-thirds majority required? There is virtually no case law on this question. We do know that the two-thirds requirement means only two-thirds of the members present (assuming a quorum of course) and not two-thirds of the entire membership. *National Prohibition Cases*, 253 U.S. 350, 386 (1920); (interpreting Art. V); Cf. *Missouri Pacific Railway Co. v. Kansas*, 248 U.S. 276 (1919) (interpreting Art. I, § 7, Cl. 2). We also know that the two-thirds requirement is rare and whenever the Constitution requires it, that requirement is clearly spelled out. E.g., Art. I, § 3, Cl. 6; Art. I, § 5, Cl. 2; Art. I, § 7, Cl. 2 & 3; Art. II, § 2, Cl. 2. The two-thirds rule spelled out in Article V seems only to refer to the substantive text of the amendment itself. Other procedural matters—even important procedural matters—have been governed by majority vote. Thus, amendments to the proposed amendment, statutes regulating the amendment process, and the Congressional finding that the amendment has in fact been ratified have all been accomplished by simple majorities in the past. Congress by internal rule may require a larger majority, but that internal rule, if enacted, would not appear to be required by the Constitution.

CONCLUSION

It may be surprising for some to learn that Congress is the ultimate guarantor of many of our liberties—not the President and not the Court, but Congress. But in a democratic society that conclusion should not be disquieting. The exercise of such power is restrained only by the "wisdom and the discretion of Congress, their identity with the people, and the influence which their constituents possess at elections. . . . They are the restraints on which the people must often rely solely, in all representative governments." *Gibbons v. Ogden*, 22 U.S. (9 Wheat.) 1, 197 (1824).

MARGARET FAYÉ: A PIONEER IN AGING

● Mr. CHURCH. Mr. President, I wish to pay tribute today to the late Margaret Fayé, who was an able and effective staff member of the Senate Special Committee on Aging before her retirement earlier this year.

News of her death this week saddened her friends in this Nation and abroad. Over the years, Mrs. Fayé had become widely known as a pioneer in aging, as an administrator, and as a person deeply concerned about the needs of older America.

She championed many causes on behalf of the elderly in Hawaii, where she was the first State Commissioner on Aging. She joined the Senate committee in July 1973, enabling members of that committee to tap her extensive experience with local and State programs for the aging. We also benefited from her wide knowledge of needs and hopes of older persons as well.

We on the committee will miss Peg. We know that our sense of loss is shared by many who were fortunate enough to know her and to work with her and who now treasure her memory.●

TREATABLE BRAIN DISEASE IN THE ELDERLY

● Mr. GLENN. Mr. President, we have all read accounts in recent news articles about misdiagnosed senility and brain disorders among the elderly. The National Institute on Aging of the National

Institutes of Health, in an attempt to better educate the public and the medical profession about such disorders, recently held a conference to discuss treatable brain diseases in the elderly. The conference brought together experts in the field of internal medicine, neurology, psychiatry, epidemiology, radiology, psychology, geriatric medicine, and general medicine in order to define terms and to discuss information which should be available to physicians who treat such malfunctions.

The conferees agreed that the major information which should be made available to the medical profession is descriptive data which aids physicians in distinguishing between those brain disorders which are treatable and those which are not. In addition, the information would contain suggested treatments for those disorders diagnosed as "treatable."

A helpful summary of this conference and a description of the information needed by physicians have been developed by the National Institute on Aging. I ask that the NIA's summary be printed in the RECORD.

The summary follows:

TREATABLE BRAIN DISEASE IN THE ELDERLY: CONFERENCE SUMMARY

Old age is often viewed as a time when mental prowess begins an inevitable and irreversible decline. In the not too distant past, this mistakenly conceived notion of the typical elderly person was shared by many of those physicians responsible for the medical treatment of the elderly population. Now, faced with a growing number of geriatric patients, physicians are becoming more aware of the danger of accepting such stereotypes and more concerned with providing effective treatment for the special problems of the aged.

On July 10 and 11, 1978, the National Institute on Aging (NIA) brought together experts in the fields of internal medicine, neurology, psychiatry, epidemiology, radiology, psychology geriatric medicine, and general medicine for a consensus development conference on treatable brain diseases in the elderly. With this meeting, the NIA continued its work towards the development of a concise, authoritative statement that will help physicians determine the cause of cognitive dysfunction on their elderly patients. Consensus development at the National Institutes of Health brings together authorities in many specialized fields to critically assess current knowledge and to reach agreement on the efficacy and safety of diagnostic and treatment approaches.

Throughout the course of the two-day conference, discussion focused on several basic questions:

(1) What is dementia?

(2) How common are treatable brain diseases which cause cognitive impairment?

(3) What information should physicians have to obtain the most comprehensive and useful history of impaired patients?

(4) What is the best kind of physical examination to carry out on impaired patients?

(5) What is the role and value of the mental status examination in the detection, diagnosis, and evaluation of brain disease?

(6) What is the role and value of the CT scan (computerized axial tomography) in the detection, diagnosis, and evaluation of brain disease?

(7) Given a diagnosis of Alzheimer's disease or multi-infarct dementia, what is the physician's responsibility to both the patient and the family?

Consensus was not reached on the terminology of cognitive impairment in the elderly. The participants cited the vast number of currently used terms, including dementia, brain syndrome, brain failure, and senile psychosis; the multiplicity of qualifying adjectives such as organic, functional, acute, chronic, irreversible and reversible; and the additional confusion presented by such phrases as pseudo-senility and pseudo-dementia. While many of these are subject to criticism, the majority of the participants felt that a new system would not help practitioners. It was suggested that an appropriate terminology could be selected from the existing terms and that these terms should be clear of any negative connotations.

The participants also agreed that, regardless of the terminology employed, the main import of a consensus document is to aid physicians in distinguishing between those disorders which can be successfully treated and reversed and the so-called "irreversible" disorders—most notably Alzheimer's disease and multi-infarct dementia. Dr. Richard Besdine of the Hebrew Rehabilitation Center for Aged, Roslindale, Massachusetts, and Assistant Professor of Medicine, Harvard Medical School, presented a long list of disorders which are detrimental to normal brain functioning in the elderly. This list included adverse drug reactions, depression, infectious diseases, heart diseases, stroke, metabolic disorders such as kidney failure or thyroid disease, anemia, and a number of other physical and emotional problems. Of these, it was generally agreed that depression, drug toxicity, and endocrine-metabolic disorders are the most prevalent reversible causes of mental deterioration in elderly patients.

While the elderly constitute 11 percent of the U.S. population, it is currently estimated that they consume 25 percent of all drugs sold in this country. Because of the frequent occurrence of multiple diseases in old age, it is not uncommon to find one patient simultaneously taking five or six different drugs. In addition, physiological impairment of the heart, blood vessels, kidneys, digestive tract, and nervous system can seriously alter the body's ability to metabolize drugs. It was the opinion of the participants that psychotropic drugs should be administered to elderly patients with extreme caution although judicious use of these drugs can be valuable in treatment of depression. It was also suggested that the physician can solve many problems of elderly patients by establishing what and how much medication those patients are taking.

Depression as a cause of cognitive impairment in the elderly is frequently overlooked by physicians, despite growing evidence that depression is a common response to crises occuring in late life. This may be because physicians do not look for depression in their elderly patients; it may also be because stereotyped images of age-related mental decline effectively mask this curable disorder. According to Dr. Lissy Jarvik of the UCLA Department of Psychiatry, depression may go unnoticed because it presents differently in elderly persons. Dr. Jarvik offered the following rule of thumb to the consensus group: while depression in elderly patients shows itself as loss of appetite, insomnia, withdrawal, anxiety, and other emotional and somatic complaints, typical symptoms of depression such as loss of self-esteem, guilty feelings, and self-pity are frequently absent. She further emphasized that short-term treatment can prove effective for such disorders and that elderly patients are frequently responsive to the benefits of psychotherapy.

One of the underlying themes of the consensus meeting was that a patient with intellectual impairment is as deserving of a comprehensive work-up as a patient with any other complaint. This includes a thorough history to determine the extent and tempo of the decline as well as the effect of stressful life events. It also includes a thorough physical examination.

Several participants suggested that a simple mental status examination is the most useful instrument for taking a patient's history. This led to a somewhat unresolved discussion of the value of psychological testing. Although the group expressed the need to include specific examples of structured mental status exams in their recommendations, the Goldstein-Scheerer tests, the Goldfarb-Kahn scale, and several other frequently used tests were all considered lacking in some respect. It was suggested that these concentrate too heavily on measurement of disorientation—a late sign of cognitive impairment—while excluding a formal means for measurement of impaired judgment. Dr. Leslie S. Libow, Chief of Geriatric Medicine at the Long Island Jewish-Hillside Medical Center and Medical Director of the Jewish Institute for Geriatric Care, briefly explained the strategy currently in use at these institutions which measures social function, reasoning ability, orientation, memory (immediate, recent, and remote), arithmetic and calculation, judgment, and emotional state.

Dr. Monica Blumenthal, Western Psychiatric Institute, Pittsburgh, Pennsylvania, suggested that in taking a patient's history the physician should make every attempt to determine the patient's social and environmental situation. She emphasized the fact that labels of cognitive impairment are frequently attached to older persons in deprived social circumstances and that persons in institutions with diagnoses of brain syndrome are most likely to be poor, isolated, widowed, and suffering from some sensory deprivation. She recommended that the physician recognize the value of home visits, attach labels with extreme caution, and approach diagnosis and treatment in a positive way in order to avoid exacerbating cognitive loss.

There was general agreement that a comprehensive physical examination would include a rectal, pelvic, genital, and neurological examination, as well as a routine laboratory evaluation—CBC, sedimenation rate, stool for occult blood, thyroid functions, electrolytes, BUN, calcium, phosphorus, urinalysis and culture, B-12, liver functions, blood sugar, syphilis serology, chest x-ray, and EKG.

What was expected to be the most heated discussion during the meeting—that on the role of the CT scan (computerized axial tomography)—was relatively tame with the experts agreeing such a technique could be valuable in ruling out certain treatable causes of dementia but could not give a definitive diagnosis of Alzheimer's disease or multi-farct dementia. It was also agreed that when used with elderly patients, the CT scan cannot differentiate between pathological brain atrophy and "normal" brain atrophy. In addition, Dr. Robert Katzman of the Albert Einstein College of Medicine, New York, and Dr. Ernest Gruenberg of Johns Hopkins University, both argued that there is no *direct* correlation between cerebral atrophy and cognitive dysfunction. Dr. Gruenberg noted that autopsied brains of severely demented persons sometimes show little atrophy and vice versa. Dr. Katzman pointed out that the hallmark of senile dementia of the Alzheimer's type is pathological change in the neurons, not atrophy of the brain.

There was considerable discussion about the role of the CT scan in relation to other radiological tests. Dr. Juan Taveras of the Massachusetts General Hospital argued that the CT scan is the most sensitive instrument for detection of cerebrovascular accident, subdural hematomas, epidural hematomas, intracerebral hemorrhage, abcess, subdural empyema, hydrocephalus, and brain tumor, and should be preformed early in the work-up to rule out these disorders before skull x-rays and brain scans are performed. Some participants favored this idea.

Although the main focus of the NIA consensus meeting was treatable brain disorders, the participants agreed that the so-called irreversible disorders are by no means hopeless and that this point deserves recognition in any communication directed at the physician. Dr. Gruenberg noted that the term irreversible refers to the damage done to the brain rather than to cognitive impairment and that physicians continue to be responsible to their patients and their patients' families when there is a diagnosis of one of these disorders. Much can be done in terms of general care for the patient to lessen discomfort, to slow and sometimes arrest deterioration, and to help the patient make use of residual strengths.

NIA's consensus development conference on treatable brain disease in the elderly concluded with a list of unresolved issues. The following needs were cited by the group as deserving of further exploration:

(1) The need to give careful consideration to terminology;

(2) The need to consider the importance of diagnosis in terms of third-party payment programs;

(3) The need to determine the prevalence of reversible disorders;

(4) The need to develop a geriatric drug formulary;

(5) The need to clarify what—if any—memory loss is "normal" in old age; and

(6) The need to refine an easily administered mental status examination for physicians and to identify or develop a more sensitive and reliable form of psychological testing than those currently available.

In addition, several issues have been raised as a result of the conference that require the attention of the consensus group. For example, in the presence of aphasia—a common impairment of elderly stroke victims—it is difficult to evaluate cognitive impairment. Many persons who have aphasia are not demented, but their ability to communicate is seriously impaired.

Although the experts agree that the prevalence of potentially reversible brain disorders is large enough to warrant the careful attention of the health care practitioners, it may be several months before final consensus is reached on all of the issues discussed during the two-day conference. Once tentative agreement is reached, a draft document will be circulated through a number of professional medical organizations, and finally published and given the widest possible dissemination. It is hoped that this exercise will eventually result in a statement that will help physicians detect, diagnose, and evaluate specific treatable disorders that now result in unnecessary physical, emotional, and economic hardship for many older persons.●

NOTIFICATION OF AUTHORIZATION OF CAMBRIDGE HARBOR PROJECT, MD.

● Mr. RANDOLPH. Mr. President, under authority of section 201 of the 1965 Flood Control Act (Public Law 89-298), as amended, the Committee on Environment and Public Works may approve certain water resources projects by resolution. Such projects must be favorably recommended by the Chief of Engineers, their estimated Federal cost must be less than $15 million, and they must be without significant controversy. Full authorization is contingent upon adoption of resolutions by both the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation.

Until this time, no notification to the Senate was made of such project approvals. In May of this year, however, the committee adopted a new procedure which provided for submission of a report to the Senate, on the approval of any Federal building, with subsequent publication as a committee print.

In June the committee extended this reporting procedure to include water resources projects subject to approval by resolution. This would include the "201" projects described above as well as certain watershed work plans constructed by the Soil Conservation Service.

On June 27 the committee approved a resolution authorizing the Cambridge Harbor project, Md., under the section 201 authority. I ask unanimous consent that the following report be printed in the RECORD.

The report follows:

REPORT TO THE SENATE ON A RESOLUTION ADOPTED BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS AUTHORIZING THE PROJECT FOR NAVIGATION IMPROVEMENT AT CAMBRIDGE HARBOR, DORCHESTER COUNTY, MD.

On June 27, 1978, the Committee on Environment and Public Works adopted a resolution approving a project providing for improvements in the interest of navigation at Cambridge Harbor, Dorchester County, Maryland.

The existing Federal project for Cambridge Harbor consists of two channels, a turning basin, and two anchorage basins. A deep-water channel and marine terminal was built by local interests in 1963-64 with the assistance of a Federal Area Redevelopment Administration grant.

The harbor is the only deepwater seaport on the Delmarva Peninsula. Commercial traffic using the port consists principally of vessels transporting seafood products.

The locally constructed channel has shoaled to the point that deep-draft vessels are unable to enter fully loaded, and shippers are experiencing additional costs through the routing of their vessels to other ports to lighten their loads. If the shoaling persists, and the material is not removed, the fish-processing industry, dependent on the port, may be forced to relocate, resulting in the loss of about 800 jobs. The Maryland Port Administration is unable to proceed with a planned expansion intended to attract new industry as a way to ease the high unemployment of the area. Local interests are not financially capable of performing the needed maintenance dredging.

The project, as approved by the Committee, provides for Federal assumption of maintenance of the locally-constructed navigation channel and turning basin to their original dimensions. The estimated Federal cost of such improvements is $433,700, and the benefit-cost ratio is 4.7 to 1, calculated on existing users of the port. Project benefits, including prospective benefits for new commerce, will be reevaluated in detail during the advance engineering and design phase of project development.

The project has been approved by the Office of Management and Budget. A favorable report was transmitted to the Congress by the Secretary of the Army on June 14, 1978. The House Committee on Public Works and Transportation approved a similar resolution on June 27, 1978. The project may now be constructed, subject to funding.●

INTERNATIONAL TRADE COMMISSION HEARINGS REGARDING THE METAL FASTENERS INDUSTRY

● Mr. GLENN. Mr. President, I want to thank the U.S. International Trade Commission for its renewed attention to the very serious trade problems confronting the fasteners industry. These problems are of vital concern to the economy of the State of Ohio and to the security of the United States.

Last December, this Commission reported to the President that imports of fasteners were causing serious injury to the U.S. fasteners industry. With 20 other Senators, I introduced a resolution disapproving the President's determination. I took that action, one, to provide needed relief to the American industrial fasteners industry; two, to affirm the intent of Congress with regard to the import relief provisions of the Trade Act of 1974; and three, to address the problems that our Nation's dependence on fasteners imports poses for our national security.

Nine months have elapsed since the International Trade Commission issued its recommendations. During that time imports have continued to inflict injury on our domestic fasteners industry. The serious injury documented by this Commission last year has become worse. In other vital industries affecting our economy and national defense interests, we have had great concerns when imports reached the 15- to 20-percent level. In this industry, imports accounted for 44 percent of our supplies of fasteners in 1977, and now account for 47 percent, according to the Commission's staff. This additional injury exacerbates an already unfortunate cyclical situation. Increasing import penetration injures our domestic fasteners industry, forcing it to close down production facilities and to lay off skilled workers. This lost domestic production is replaced by foreign producers, thereby increasing U.S. dependence on fastener imports.

It is noteworthy that this additional, needless injury has occurred in spite of dramatic appreciation in the value of the yen. In his report to Congress last year, the President stated that—

> The appreciation of the yen during 1977 will alleviate competitive pressures from Japanese fasteners exports to the United States.

This vain hope has not been realized. Despite the appreciation of the yen the quantity of Japanese imports has continued to increase.

At the same time that U.S. producers are confronted with this relentless import pressure, they are also facing escalating costs of production. The trigger price mechanism, established to protect our steel industry against Japanese dumping practices, has had unfortunate secondary effects for the fasteners industry. By shutting off access to cheap raw materials, the trigger price mechanism has raised the costs of production for the U.S. fasteners industry.

In short, criteria established by the reference pricing system may have reduced the flow of raw steel imports, but it has at the same time encouraged foreign manufacturers to concentrate more heavily into processed and manufactured products as a way of using their steel and still selling it in the United States.

Because the fasteners industry is not protected by the trigger price mechanism, it is especially vulnerable to import pressures. This vulnerability is now pain-

fully apparent. According to Commerce Department figures, the most dramatic increases in fasteners imports during the first 5 months of 1978 came from Taiwan and India—where producers have taken advantage of low cost Japanese steel to undersell our American producers in their own market, the largest fasteners market in the world.

The impact of these import pressures on the economy of Ohio has been profound. Since the Commission's previous investigation of injury to the fasteners industry, four Ohio plants have cut back on production or closed plants.

First. Federal Steel and Wire Corp. stopped production of track nuts and bolts in its Cleveland, Ohio, plant.

Second. Stanadyne announced the closing of its bolt and cap screw plant in Elyria, Ohio. Some of the machinery was transferred to another plant; the rest is to be sold or scrapped.

Third. Standard Pressed Steel of Jenkintown, Pa., announced that its Cleveland Scrap Screw Division is terminating production of all standard cap screws. This company was the largest American producer of cap screws until 2 or 3 years ago.

Fourth. The AVC Corp. shut down its nutmaking facility in Cleveland, Ohio.

The economic hardship merits attention but it is not just an economic problem. It is a national security problem as well. As a result of the decline of our fasteners industry, our Nation's mobilization base for fasteners has become more and more dependent on imports—47-percent dependent to be exact. This dependence poses serious national security problems that the Federal Preparedness Agency, acting at the request of the Department of Defense, documented in a recent study of the fasteners industry. That study showed that domestic fastener production capability is inadequate to satisfy U.S. needs in the event of a national emergency. Our reliance on imports to fill the substantial gap between our total requirements and domestic supply in the event of a national emergency jeopardizes our national security. Fasteners are crucial to every sector of our economy. We cannot allow this dangerous reliance on imports to continue. We must act now to enable our domestic manufacturing base for fasteners to be built back as rapidly as possible.●

AGE DISCRIMINATION IN EMPLOYMENT ACT ANNUAL REPORT

● Mr. CHURCH. Mr. President, 1978 marks the 10th anniversary since the Age Discrimination in Employment Act became effective.

It now protects workers 40 to 64 years old from job bias because of age concerning hiring, firing, and other conditions of employment.

Beginning this coming January, the upper age limit will be raised from 65 to 70 for most non-Federal employment under the 1978 Age Discrimination in Employment Act Amendments. In addition, that legislation will eliminate mandatory retirement almost completely in the Federal Government.

The latest report on the antiage discrimination law provides an opportunity to take stock of some of the major developments during the past decade, including:

Greater awareness on the part of employers, employees and applicants concerning their rights and responsibilities.

Expansion of the act's coverage from 50 percent to 70 percent of workers 40 to 64 years old.

Recovery of $37 million for nearly 11,000 employees and applicants who were victims of age discrimination from fiscal year 1969 to fiscal year 1977.

A more than fourfold increase in the number of complaints received by the Department of Labor from 1,000 in fiscal year 1965 to more than 5,000 during fiscal year 1977.

Secretary of Labor Ray Marshall readily admits that job bias because of age has still not been eliminated. However, he is quick to point out, "much progress has recently been made in achieving the act's intent."

Secretary Marshall included with the recent report a brief three-page summary of some of the major actions affecting the Age Discrimination in Employment Act during the past year and the past decade. This concise description, it seems to me, would be useful to Members of the Senate and others with an interest in Federal efforts to abolish job-related age discrimination.

Mr. President, I ask that the "Statement of the Secretary" be printed in the RECORD.

The statement follows:

STATEMENT OF THE SECRETARY

The Age Discrimination in Employment Act of 1967 was designed to prohibit arbitrary age discrimination in employment and to help employers and employees find ways of handling problems which may arise on the job because of age. The Act sought, above all, to promote the employment of persons solely on the basis of ability.

While discrimination against older workers has not been eliminated during the past 10 years, much progress has recently been made in achieving the Act's intent. New initiatives in the Department of Labor have emphasized education and information activities, enforcement, and the development of a body of legal precedents. In addition, government-sponsored research has contributed to eradicating myths about older workers. It has been established, for example, that older workers have better job attendance records and their productivity and learning ability compare favorably with that of younger workers.

Two events took place in early 1978 that deserve mention. First, President Carter's equal employment opportunity reorganization plan (Reorganization Plan No. 1 of 1978), submitted to the Congress on February 23, 1978, will shift responsibility for enforcing the Age Discrimination in Employment Act in non-Federal employment from the Department of Labor to the Equal Employment Opportunity Commission (EEOC) on July 1, 1979. On January 1, 1979, Federal sector enforcement will shift from the Civil Service Commission to the EEOC. This action, together with others submitted in the plan—as President Carter stated—"consolidates Federal equal employment opportunity activities and lays, for the first time, the foundation of a unified, coherent Federal structure to combat job discrimination in all its forms." Second, the House and Senate Conference Committee considering proposed amendments to the Age Discrimination in Employment Act reached agreement in March on the bill (H.R. 5383). Subsequently, the Congress approved the reconciled bill and on April 6, 1978, President Carter signed the legislation into law—P.L. 95-256. President Carter said this bill "provides fairness and equity in protecting our older citizens from discrimination in employment."

Both the amendments to the ADEA and the transfer of the ADEA enforcement responsibilities to the EEOC will benefit older workers by increasing their employment opportunities, by eliminating mandatory retirement before age 70 in most non-Federal employment and by almost completely eliminating mandatory retirement in the Federal sector, among other things, and by handling enforcement responsibilities in a more efficient manner.

ACHIEVEMENTS DURING 1977

The Department has strengthened its enforcement of the Act through the increased utilization of discrimination compliance specialists and increased overall compliance officer effort devoted to enforcement. As a result, the value of monetary compensation found due to 1,943 individuals in the 40-65 age group covered by the ADEA reached a record $10 million; in addition, the second highest level of income actually restored to 744 older workers and job applicants covered by the Act also was reached—$2.7 million.

As a result of litigation many older individuals benefited from additional job opportunities, reemployment, on-the-job gains such as improved future wages and pension benefits, as well as the receipt of back wages and damages.

Eighty-six suits were filed by the Department in calendar year 1977, and there also were several significant decisions which are described in the section on litigation activities.

ACHIEVEMENTS DURING THE PAST DECADE

Since the Age Discrimination in Employment Act became effective in June 1968, some of its achievements have been:

A much greater awareness on the part of employers, employees, and applicants of their rights and responsibilities under the Act;

Expansion in coverage of the ADEA from 50 percent to 70 percent of the 40-to-65 age segment of the labor force;

A vast reduction in the most obvious types of prohibited practices, particularly illegal advertising;

Evolvement of effective administration and enforcement mechanisms in a new field of antidiscrimination law;

The handling of an increased enforcement workload, for example:

The number of complaints received by the Department of Labor has increased from 1,000 in fiscal year 1969 to over 5,000 during fiscal years 1976 and 1977,

From fiscal year 1969 through fiscal year 1977, enforcement activity disclosed nearly 11,000 employees and applicants for employment who have been discriminated against and who were due over $37 million in damages, and

Income restored to individuals exceeded $11 million;

Precedent-setting interpretations developing from over 400 court actions instituted by the Department of Labor between June 1968 and the end of 1977, of which 274 were concluded with 248 wholly or partially favorably resolved; and

An increase—influenced by the Federal statute, its enforcement, and court actions—in the number of State age discrimination laws from a total of 23 in May 1965 to 44 by the end of 1977, out of a potential of 58 jurisdictions covered by the Federal statute.

RETIREMENT STUDIES

The study of involuntary retirement, requested by Congress in Section 5 of the Act, has been developed from the U.S. Bureau of Labor Statistics' Survey of Pension Plan Documents, the Social Security Administration's Survey of Newly Entitled Beneficiaries, and an analysis of data from special tabulations of the Parnes' Study (Ohio State University). The relevant findings from these studies have been summarized in previous ADEA reports.

Two surveys still in process—the Social Security Administration's Retirement History Study, and the final report by Dr. Herbert S. Parnes and his associates at Ohio State University, *The Pre-Retirement Years: A longitudinal study of the labor market experience of men*—will be covered in future ADEA reports.

The findings on compulsory retirement from the Employer Policies and Practices Survey conducted for the Employment Standards Administration by the Bureau of Labor Statistics are included in this report.●

PUBLIC DISCLOSURE OF HEALTH CARE INFORMATION

● Mr. ABOUREZK. Mr. President, as chairman of the Senate Judiciary Subcommittee on Administrative Practice and Procedure, I have long been concerned about the availability to the public, under the Freedom of Information Act (FOIA), of information maintained by Federal agencies. (The Judiciary Committee and the subcommittee have subject matter jurisdiction over the FOIA.) Recently, there has been much discussion regarding public disclosure of data about the quality and utilization of health services reimbursed under medicare and medicaid.

The Social Security Act Amendments of 1972 called for the formation of Professional Standards Review Organizations or PSRO's. As my colleagues may know, PSRO's are groups of local physicians designated by the Secretary of HEW in areas across the country to review the quality, medical necessity, and appropriateness of institutional setting of medicare and medicaid services. Federal payment may not be made for such services without PSRO approval. Also, PSRO's perform "medical care evaluation" studies of groups of similar patients to determine whether patterns of care are consistent with predeveloped PSRO criteria.

Hospitals report detailed information to PSRO's, which is used to create profiles showing how the care of doctors and hospitals compares to PSRO criteria. Consumer groups and many health planning and other public agencies believe that consumers would benefit greatly from putting this type of data into the public domain in a manner which does not compromise the confidentialtiy of patients or of the internal PSRO review process.

However, in response to a recent court ruling that PSRO's are Federal agencies subject to the Freedom of Information Act (FOIA), some physicians and PSRO's have sought to exempt PSRO's entirely from the public information requirements of the FOIA. Such an exemption is now embodied in section 25 of S. 1470, the Medicare-Medicaid Administrative and Reimbursement Reform Act, which may be considered on the Senate floor in the near future as an amendment in the nature of a substitute to H.R. 5285, a tariff bill.

Regrettably, this amendment has no legislative record to support it since it was never considered by my subcommittee which has jurisdiction over the FOIA, nor was it considered in any detail by the Senate Finance Committee which reported the amendment.

Therefore, I am deeply concerned that the Senate is acting prematurely in this area before it has had a full opportunity to consider the merits of such disclosure and before the precise applicability of the FOIA to PSRO's has been decided.

In order to identify for my colleagues some of the issues involved, I wish to insert the following article by Lawrence Kirsch, a health economist from Harvard University.

The article appeared in the November 1977 issue of the Quality Review Bulletin and cites the benefits to consumers of public disclosure of PSRO information. The article also notes that disclosure of selected data will help further PSRO's program objectives to contain medical costs and enhance the efficiency and quality of health services under medicare and medicaid.

Mr. President, I ask that the article be printed in the RECORD.

The article follows:

THE CONSUMERS' CASE FOR PUBLIC DISCLOSURE OF PSRO DATA

(By Lawrence J. Kirsch)

Since their inception, Professional Standards Review Organizations (PSROs) have stirred controversy. A currently debated issue is the emerging position of the Department of Health, Education, and Welfare (DHEW) on public disclosure of PSRO data. In establishing a policy of public disclosure, the Secretary of DHEW must consider PSRO objectives—quality assurance and cost containment—as well as the needs of patients, practitioners, and provider institutions. Many people view the protracted struggle over disclosure as a reflection of the larger debate concerning overall program goals, strategies, and issues of public accountability.

One of the primary objectives of PSROs is to control health care costs. Putting "patterns of care" data and results of medical care evaluation (MCE) studies in the public domain may help accomplish this goal without detracting from another important PSRO objective: peer review. I base this argument on (1) the nature of inflation in the health care market, (2) special characteristics of consumer and provider behavior, and (3) the potential of PSRO data to improve the economic performance of the health care industry.

HEALTH CARE AND INFLATION

Theoretical and empirical studies of inflation in hospital and physician services offer two contrasting viewpoints: (1) the responsibility for inflationary pressure rests with consumers, or those who demand health care, and (2) the responsibility rests with the providers, or those who supply health care. Proponents of the "demand-pull" inflation theory tend to suggest varying doses of cost sharing as the appropriate remedy. Advocates of the "cost-push" inflation theory ordinarily favor incentives or regulatory controls for providers rather than consumers.

In adopting PSRO legislation, Congress chose a cost control strategy aimed at providers. The legislation has created organizational machinery, funding, and legal authority for a nationwide review system directed at federally reimbursed practitioners and providers of health care in ambulatory, hospital, and extended health care settings. Congress specified that the review process should include an analysis of the appropriateness of the level of care, length of stay, and quality as judged against preestablished, professional norms.

Review of the level of care is a suitable response to inflation caused by the oversupply or unnecessary intensity of services. Studies have demonstrated that excess hospital capacity, redundant services, and the proliferation of technical innovations have been major contributors to the escalation of health care costs. In addition, variations in the pattern of service use are more closely related to the number and characteristics of health care providers than to differences within the consumer sector. Empirical data indicate that key medical practice decisions, such as the need for hospitalization, sometimes reflect the methods of reimbursement to practitioners (i.e., salary versus fee-for-service) or the cost of alternatives.

Although the long-term advantage of length of stay review as a method of cost control is still uncertain, a study of the length of stay of surgical patients admitted over a two-year period to Indiana hospitals shows its potential utility. The statewide study disclosed that surgeons could be characterized by how long they kept patients hospitalized; patterns of practice did not vary with the patient's age, the surgical procedure, or the admitting hospital. Qualitative studies comparing the preferability of long versus short stays were not available; however, no differences in postoperative outcomes were perceptible. Such systematic differences in lengths of stay at least raise the question, How much postoperative hospitalization is necessary?

CONSUMERS AND PROVIDERS IN THE HEALTH SERVICES MARKET

Under perfectly competitive market conditions, consumers are fully informed of the range, characteristics, and prices of available products and services. Individual taste and income determine the variety and quantity of purchases, and producers compete among themselves to attract patronage. This rivalry assures efficient production, high quality, and stable prices.

Because medical care is different from other kinds of services—by the nature of the product, conditions of demand, and relationship between provider and consumer—perfect economic competition may be an inappropriate standard for the health care sector. Arrow's classic analysis of the health care market clearly highlights these differences. He contends that "uncertainty" is a dominant factor in the medical care market. The consumer's need for specific types of medical treatment, in contrast with the need for other services, is often unpredictable: (a) he is generally unable to assess needs accurately and hence cannot knowledgeably "shop around" for health services on a cost or quality basis.

The extent to which the consumer does not assume the accustomed "marketeer" role when seeking medical care distinguishes such care from other goods and services. In lieu of an arm's length relationship between buyer and seller, the fiduciary doctor-patient relationship is created, wherein the patient delegates decision-making authority to his physician in return for a pledge of altruism, professional conduct, and optimal treatment. Given the special characteristics of the health care market and this fiduciary relationship between doctor and patient, one may ask whether anything can be gained by putting peer review data in the public domain. I submit that an analysis of the cost, quality, and technological dynamics of the health care financing and delivery system will lead to an affirmative reply.

One consequence of recent changes in the style of medical care delivery has been substantially increased costs of health care. Jeffers and Siebert found that for several hospitals in Connecticut, the annual rate of price increases to consumers between 1960

and 1969 was approximately 8 percent, with an additional 7.4 percent cost increase to hospitals due to changing case mix and intensity of services. The authors concluded that "... changing product and service specification . . . account for almost as much of an increase in costs per case as a rise in factor input prices [i.e., wages, goods, and services]. Aside from changes in case mix, changes in gross services intensity undoubtedly reflect attempts to upgrade quality, introduce new and better technology, and otherwise improve patient care. We have no way of knowing, however, whether . . . these innovations have produced benefits commensurate with the associated expense."

Feldstein and Taylor presented a slightly different set of figures. They estimated that approximately 25 percent of the average costs per hospital day between 1955 and 1975 could be attributed to price increases, while the remaining 75 percent was due to increasing labor and nonlabor factors (such as supplies and equipment).

Scitovsky has made another important quantitative contribution on the impact of physician specialization and changing modes of practice on costs. Using records on management of certain common illnesses (e.g., pneumonia, otitis media, appendicitis, duodenal ulcer, breast cancer, and fracture of the forearm), she examined price and input trends from 1951 to 1965. In the early 1950s, roughly 60 percent of patients with forearm fractures were treated by orthopedists; general practitioners and general surgeons treated the other 40 percent. Fifteen years later, nearly 90 percent of patients with fractured forearms were treated by orthopedists. In 1951 and 1952, the fee charged by an orthopedist for a closed reduction of a forearm fracture was approximately 75 percent higher than the fee charged by other physicians performing the same procedure; by 1965, the difference had risen to 100 percent. Scitovsky estimated that the cost of a closed reduction of a forearm fracture rose 110 percent between 1951 and 1965; 56 percent of the increase was attributable to higher prices, and 44 percent was due to the increased number of orthopedic specialists who performed the procedure.

The central question is whether qualitative improvements in health care services have resulted from changing modes of practice and accompanying higher costs. At present, few consumers—or physicians, for that matter—consider the trade-offs between costs and quality. Many people have argued that cost-based reimbursement practices of the government and private insurance companies and the ethos of advanced technology reduce the likelihood that this provocative question will be asked.

Thus, evidence points toward the probability that various institutional incentives militate toward high-cost medical care without producing a convincing demonstration of corollary improvements in quality. Public dissemination of certain PSRO data can have an important impact on this separation of cost and quality.

PSRO DATA AS A COST CONTROL MECHANISM

Economists are fond of arguing that in most situations, the availability of full and accurate product information permits consumers to make wise purchase choices. Given the special character of medical care, is a full disclosure of PSRO and other data apt to be beneficial to the consumer?

Recently, Pauly estimated that a fourth or more of total personal health care expenditures were for services that posed no greater shopping problem for consumers than purchases of many other products. This category of services included routine preventive care in a physician's office, management of certain chronic conditions, routine dental care, obstetrical services, and nursing home care. For services in these categories, Pauly argued that information on price and quality would facilitate individual comparison and choice as well as improve the economic performance of the health care sector.

Providing consumer information on routine medical services would help many women choose whether to give birth in a tertiary care center or in a local community hospital. Advocates of the former stress the safety of sophisticated staffing and technology; those who prefer community hospitals emphasize the convenience, good quality, and potential cost savings to the consumer. Data used to support each of these propositions are frequently incomplete or subjective and have been of little use either to women contemplating the alternatives or to public agencies forced to consider the consolidation of redundant maternity units. The availability of consistent, objective PSRO data would serve the needs of both the individual patient and the public agencies.

Another example of the utility of PSRO data is suggested by Stratmann's finding that people have fairly well articulated preferences for alternative ambulatory care clinics. The extent to which such factors as economics, time, convenience, and sociopsychological conditions enter into the individual's choice of a health care setting varies from person to person, often in relation to the patient's health status and source of financing. As PSRO profiles and medical care evaluation studies begin to accumulate and permit comparison of quality and cost, they will enable the consumer to make educated choices about health care.

Compilations of information on hospital lengths of stay, such as Professional Activities Study (PAS) data, reveal the degree of variance between hospitals and practitioners regarding the average hospitalization period for a particular diagnosis and case mix pattern. A well-organized display of length of stay data for major diagnoses, properly adjusted to reflect age differences and other pertinent patient characteristics, would be most helpful to consumers if it were assembled on a physician-specific and hospital-specific basis. A similar data display of extended lengths of stay due to postoperative infections and adverse drug reactions would provide the health care consumer with another useful indicator of interhospital differences in cost and quality.

The secretary of DHEW may, by regulation, put practitioner and provider data generated by concurrent review, profile analysis, and MCE studies into the public domain. I have argued that the secretary should allow public disclosure of PSRO data to further the program's objectives to control cost and ensure efficiency of health care services. Not everyone will take advantage of the availability of these data. But, in another context, Salop has suggested that when enough people become well informed about a subject, standards in general tend to be raised.

The major presumptions and incentives which presently drive the health care industry are that, regardless of cost, provision of more services to consumers, more technology, and higher cost per unit cost lead to better quality of care. The PSRO program may check the inflationary trend in health services through an explicit focus on patterns of cost and quality. Assuming that cost and quality control are legitimate goals, the next logical step is to find suitable ways of putting PSRO data into the public domain so that consumers are furnished with the necessary information to choose alternatives of medical care knowledgeably.●

ENVIRONMENT AND PUBLIC WORKS WATERSHED WORK PLAN REPORT

● Mr. RANDOLPH. Mr. President, the Committee on Environment and Public Works has approved the construction of 21 watershed work plans submitted by the Soil Conservation Service. The approval is by resolutions of the committee in accordance with the Watershed Protection and Flood Prevention Act, Public Law 83–566, as amended. Similar resolutions must be passed by the House Committee on Public Works and Transportation prior to initiation of construction.

This report to the Senate explaining the views of the committee in adopting these watershed work plans is in accordance with a recently adopted procedure by the committee. I ask that the report be printed in the RECORD.

The report follows:

REPORT TO THE SENATE ON SEVERAL PUBLIC LAW 83–566 WATERSHED WORK PLANS AUTHORIZED FOR CONSTRUCTION BY RESOLUTION OF THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

GENERAL STATEMENT

In its consideration of the most recent group of Soil Conservation Service watershed work plans, the Committee on Environment and Public Works developed a number of concerns about the watershed program. These concerns, as typified by some of the plans considered, are discussed further in this report. Although this group of plans is approved because, on balance, they are needed and in the public interest, the Committee believes that improvements in plan development, evaluation, and reporting procedures should be made.

Jurisdiction. The basic authority for these work plans is Public Law 83–566, the Watershed Protection and Flood Prevention Act of 1954, as amended. Under the provisions of that Act, plans submitted to Congress for approval by Committee resolution are referred to either this Committee or the Committee on Agriculture, Nutrition and Forestry. The criteria for referral is based on size, larger projects being referred to the Committee on Environment and Public Works, and smaller ones to the Agriculture Committee.

During the past decade, about one-half of all plans submitted were referred to this Committee. These plans represented approximately 70 percent of the total Federal costs. Yet all legislation modifying or amending the basic Act has traditionally been referred to the Agriculture Committee only. The Committee believes that future legislation affecting the P.L. 566 program should be jointly referred.

Watershed delineation

Plans developed under the basic P.L. 566 authority are limited to watershed or subwatershed areas not to exceed 250,000 acres. The purpose of this statutory limitation was to confine the watershed program to small, hydrologically and physically self-contained areas, such as the drainage area of a tributary to larger stream. The arbitrary division of a watershed into "Upper" and "Lower" appears to be illogical from hydrologic and physical standpoints. It makes the 250,000 acre limitation meaningless. The Upper and Lower Little Black River project (Missouri and Arkansas), approved in this report, illustrates this concern. The Committee believes they should be constructed concurrently because of the interdependence of the two plans.

The Boulder River, Montana, watershed covers a total area of 489,000 acres. The work plan submitted limits the project to the lower half of the watershed, thus complying with the 250,000 acre limitation.

The Committee intends to examine watershed delineations very closely in the future.

Program purposes

The Committee notes that the original purpose of the P.L. 566 program was to encourage the construction of small-scale agricultural flood and sediment control projects. The program has evolved to include a wide

range of other water resource purposes for both rural and urban areas. Several in this group of projects, such as Goose Creek, Washington; Short Creek, Ohio; and Twenty-five Mile Stream, Maine, have agricultural benefits that are less than one percent of the total. Other projects, such as Boulder River, Montana, and Anderson River, Indiana, are predominately justified by purposes other than flood control. There is concerned that, with the expansion of this program, there is an overlapping of functions with other Federal water resources agencies with dissimilarities in cost-sharing, policies and authorization procedures. The watershed program is not intended to be used for protection of primarily urban areas and that the predominant purposes should be agricultural flood and sediment control.

Work plan deficiencies

The Members of the committee are concerned about the lack of information in the watershed work plan documents which hampers consideration of the projects. Generally, the documents do not contain sufficient information to allow an assessment of the validity of the problems in the watershed and major report conclusions. It is recognized that much supporting data developed as a result of investigations for each work plan are documented in project files. However, enough of this backup information should be included in the work plan document to allow independent judgment regarding the validity of the proposed projects.

Project costs

With escalating costs, the Federal share of watershed projects authorized by this Committee is becoming comparatively large. Of this group of 21 projects, eight have Federal costs of over $5 million and four are over $10 million. The cost of the two watershed plans which the Committee believes should be combined, Upper and Lower Little Black River, exceeds $30 million. By contrast, the authority for approval of Corps of Engineers projects by Committee resolution (as opposed to full Congressional enactment) is limited to projects of $15 million or less, and they must be without significant controversy. The Committee intends to consider recommending legislation to place a monetary limitation on watershed projects that can be authorized solely by Committee resolution.

Consistency

Plan formulation, project evaluation, and cost allocation and apportionment aspects of the watershed plans are inconsistent with those of other water resource agencies. The Committee notes that some of the present group of plans were formulated before full implementation of "Principles and Standards for Planning Water and Related Land Resources." Future adherence to this guidance, which has been made applicable by the Executive order to all Federal water resources planning, should result in projects that are more consistent with those of other agencies. Some of the specific concerns are as follows:

1. Plans have been formulated to include economically infeasible elements and purposes. The practice of "incremental justification" is well established in Federal water resources planning guidance promulgated by both Congress and the Administration. In the present group of work plans, it appears that such incremental analyses have often not been made. As an example, one segment of the Cypress Creek, Alabama and Tennessee watershed plan is not economically justified by primary benefits (see page 10 of "Pending Watershed Work Plans," hearings before the Subcommitte on Water Resources, June 8 and 9, 1977). Additionally, it should be demonstrated that adding project purposes to the plan are incrementally economically feasible. The Committee will expect to see the results of incremental analyses in future watershed work plans.

2. In theory, the cost of land is the capitalized value of the future productivity of that land. Therefore, investments made to improve the productivity should be equal to or exceeded by the increase in the value of the land. The Committee notes that in several cases the prorated structural cost per acre for flood control exceeds the expected increase in market value of the protected land (see table 2, page 16, of above-cited hearing). The Committee believes that the flood control costs, as determined from the cost allocation, should be divided by the number of acres protected and that the market value of lands, with and without the project, should exceed that cost per acre to demonstrate feasibility of the project. The Committee intends to apply this test of feasibility to future watershed work plans giving due consideration to imperfect market conditions.

3. Two categories of primary benefits, employment benefits and so-called indirect benefits, which were included in several of the work plans, have caused some concern. Employment benefits should be evaluated as directed by Principles and Standards. They should be applied only in those areas that have chronic and persistent unemployment as designated by the Department of Commerce pursuant to the 1965 Public Works and Economic Development Act, as amended. Indirect flood damages are certain losses which result from flooding but not necessarily by direct inundation, i.e. the additional costs of transportation caused by the destruction of a bridge or highway. Indirect flood damages have been evaluated as a percentage of primary flood damages based on a general study. Indirect damages should be determined on a case-by-case basis comparable to primary damages.

4. The use-of-facilities method is used by the Soil Conservation Service to allocate costs to various project purposes in a multiple purpose reservoir. The preferable cost allocation method in Principles and Standards, and one used by other Federal water resources agencies is separable-cost, remaining benefits (SCRB). The use-of-facilities method is used by other agencies where one purpose is insignificant, both in storage space occupied and benefits, in comparison to the primary project purpose. The SCRB method should be used by the Soil Conservation Service to allocate multiple purpose reservoir costs. If the use-of-facilities method is used, the results of the use of the SCRB method should also be displayed in the report.

DESCRIPTIONS OF WATERSHED WORK PLANS APPROVED IN THIS REPORT

CYPRESS CREEK WATERSHED, ALABAMA AND TENNESSEE

This 135,400 acre watershed is located in Lauderdale County, Alabama and Wayne County, Tennessee. The watershed plan will provide for watershed protection and flood prevention. Principal measures of the plan include soil conservation practices on farms, 19 floodwater retarding structures with a total capacity of about 37,300 acre feet and 14.4 miles of channel work. The primary benefit-cost ratio is 1.2 to 1. The Federal and total costs are estimated to be $9,450,000 and $11,580,000, respectively.

SOUTH FORK WATERSHED, ARKANSAS

The South Fork watershed has an area of 44,850 acres located in Montgomery County. The proposed watershed plan will provide for watershed protection, flood prevention, and municipal water supply. Soil conservation practices on farms will be required. One multiple purpose reservoir for flood prevention and water supply and two floodwater retarding structures are planned. The total storage capacity of the structures will be about 11,300 acre-feet. The primary benefit-cost ratio is 1.1 to 1. The total cost of the watershed plan is estimated to be $2,600,000 of which $1,910,000 will be Federal.

ANDERSON RIVER WATERSHED, INDIANA

This watershed area of 97,000 acres is located in Perry, Spencer, Dubois and Crawford Counties. The watershed plan was formulated for the purposes of watershed protection, flood prevention, recreation, and municipal and industrial water supply. Principal measures as proposed in the watershed work plan are: soil conservation practices on farms and woodlands; 46 floodwater retarding structures; 3 multiple purpose structures; and 10 miles of channel work. The total storage capacity of the structures is about 38,300 acre-feet. The primary benefit-cost ratio is 1.2 to 1. The total cost of the plan is estimated to be $13,970,000. The Federal portion of the cost is presently estimated to be $5,850,000.

TWENTY-FIVE MILE STREAM WATERSHED, MAINE

The plan for this 93,000 acre watershed located in Waldo, Kennebec, Penobscot and Somerset Counties will provide for watershed protection and flood prevention. Soil conservation practices on farms, two flood control structures and two miles of channel work are planned. The primary benefit-cost ratio is 1.5 to 1. Federal and total costs are estimated to be $1,500,000 and $2,160,000, respectively.

OKATOMA CREEK WATERSHED, MISSISSIPPI

This watershed encompasses an area of 179,200 acres in Covington, Simpson, Jones, Smith and Forrest Counties. Principal measures will provide for watershed protection, flood prevention and recreation. The watershed plan consists of soil conservation practices on farms, 14 floodwater retarding structures, one multiple purpose structure, 53.7 miles of channel work, and a levee system. The storage capacity of the structures totals about 45,800 acre-feet. The primary benefit-cost ratio is 1.4 to 1. The Federal share of the total $13,120,000 cost is estimated to be $8,940,000.

SHUQUALAK CREEK WATERSHED, MISSISSIPPI

The plan for this 21,600 acre watershed will provide watershed protection and flood prevention in Noxubee nad Kemper Counties. Measures planned are: soil conservation practices on farms; two floodwater retarding structures with total storage capacity of 6,200 acre-feet; and 5.2 miles of channel work. The primary benefit-cost ratio is 2.0 to 1. Estimated Federal cost of $880,000 out of a total cost of $1,330,000.

UPPER LITTLE BLACK WATERSHED, MISSOURI

The Upper Little Black has a delineated area of 125,000 acres in Butler, Carter and Ripley Counties. The watershed plan will provide for watershed protection, flood prevention, and recreation. Principal measures are: soil conservation practices on farms and woodlands; 19 floodwater retarding structures; and one multiple purpose structure. The total storage capacity is 59,200 acre-feet. The primary benefit-cost ratio is 1.3 to 1. Federal and total estimated costs are $14,740,000 and $17,080,000, respectively.

LOWER LITTLE BLACK WATERSHED, MISSOURI AND ARKANSAS

The lower portion of the Little Black watershed has an area of 124,390 acres located in Butler and Ripley Counties, Missouri and Clay County, Arkansas. Watershed plan purposes are watershed protection, flood prevention, drainage, and recreation. The plan consists of soil conservation practices on farms and woodlands, 5 floodwater retarding structures, a recreation water control structure, a levee and floodway and 84 miles of drainage and flood control channel. The total storage capacity for all structures is 18,300 acre-feet. The primary benefit-cost ratio is 1.4 to 1. Total cost is estimated to be $21,290,000 of which $15,680,000 will be a Federal responsibility.

SOUTH FORK OF BLACKWATER RIVER, MISSOURI

The previously authorized watershed plan for this 65,600 acre watershed in Johnson County has been revised. This revised plan provides for: deleting 7.5 miles of channel work, one floodwater retarding structure, and four grade stabilization structures; changing two multiple purpose structures to floodwater retarding structures; adding five new floodwater retarding structures; and adding municipal water supply and recreation storage to one of the originally planned structures. The primary benefit-cost ratio is 1.4 to 1. Federal and total costs are estimated at $4,270,000 and $7,480,000, respectively.

BOULDER RIVER WATERSHED, MONTANA

This watershed of 223,500 acres is located in Jefferson County, Montana. The watershed plan will provide for watershed protection, irrigation, recreation, and fish and wildlife. Soil conservation practices on farms and ranches, and one multiple purpose structure with 15,000 acre-feet storage capacity are planned. The primary benefit-cost ratio is 1.3 to 1. The total cost is estimated at $11,640,000 of which $4,940,000 will be Federal.

BLACKWOOD CREEK WATERSHED, NEBRASKA

The Blackwood Creek watershed of 187,700 acres is located in Lincoln, Hayes, Hitchcock and Red Willow Counties. The watershed plan consists of soil conservation practices on farms and 13 floodwater retarding structures to provide for watershed protection and flood prevention. The primary benefit-cost ratio is 1.1 to 1. The Federal cost is estimated at $1,940,000. Total cost is estimated to be $6,060,000.

SHORT CREEK WATERSHED, OHIO

The watershed area of 81,300 acres is located in Harrison and Jefferson Counties. Planned watershed protection and flood prevention measures are soil conservation practices on farms and woodlands, a 6,300 acre-foot floodwater retarding structure and 10 miles of channel work. The primary benefit-cost ratio is 1.2 to 1. Federal and total costs are estimated to be $5,440,000 and $8,970,000, respectively.

UPPER MUDDY BOGGY WATERSHED, OKLAHOMA

This 207,700 acre Oklahoma watershed is located in Pontotoc, Hughes, Coal and Pittsburg Counties. The watershed plan is formulated to provide watershed protection and flood prevention. Soil conservation practices on farms and 36 floodwater retarding structures with 35,500 acre-feet of storage capacity are proposed. The primary benefit-cost ratio is 1 to 1. Estimated costs are $4,340,000 Federal and $6,310,000 total.

M'KINNEY-BURGARD CREEK WATERSHED OKLAHOMA

Watershed protection, flood prevention and drainage measures are planned for this 15,980 acre watershed in McCurtain County. The purposes will be achieved with soil conservation practices on farms, a 4,700 acre-foot floodwater retarding structure and 9.2 miles of channel work. The primary benefit-cost ratio is 1.2 to 1. Federal cost is estimated to be $560,000 of a total cost of $1,140,000.

ROCK CREEK WATERSHED, OREGON

The Rock Creek watershed has an area of 235,000 acres in Gilliam and Morrow Counties. The watershed plan provides for soil conservation practices on farms and ranches, a 14,400 acre-foot multiple purpose structure and an irrigation distribution system. Watershed protection, flood prevention and irrigation benefits result in a primary benefit-cost ratio of 1.3 to 1. Federal and total estimated costs are $6,700,000 and $11,380,000, respectively.

BUSH RIVER WATERSHED, VIRGINIA

The Bush River watershed of 98,900 acres is located entirely in Prince Edward County. Plan purposes are watershed protection, flood prevention, municipal and industrial water supply and fish and wildlife. Principal measures are: soil conservation practices on farms; 6 floodwater retarding structures; and two multiple purpose reservoirs. Total storage capacity will be about 49,400 acre-feet. The primary benefit-cost ratio is 1.6 to 1. Total costs are estimated to be $8,120,000. Federal costs are estimated at $3,680,000.

CEDAR RUN WATERSHED, VIRGINIA

This Virginia watershed of 65,600 acres is located in Fauquier County. Watershed protection, flood prevention and municipal and industrial water supply measures are planned. These measures consist of soil conservation practices on farms, 4 floodwater retarding structures, and 3 multiple purpose reservoirs. The total storage capacity is 20,900 acre-feet. The primary benefit-cost ratio is 1.7 to 1. Federal and total costs are estimated to be $3,710,000 and $6,540,000, respectively.

GREAT CREEK WATERSHED, VIRGINIA

This 29,800 acre watershed is located in Brunswick and Lunenburg Counties. Plan purposes are watershed protection, flood prevention, and municipal and industrial water supply. Soil conservation practices on farms and woodlands, and an 11,900 acre-foot reservoir are the principal measures. The primary benefit-cost ratio is 1.2 to 1. Federal costs are estimated to be $1,710,000 with total costs of $2,190,000.

NIBBS CREEK WATERSHED, VIRGINIA

The Nibbs Creek watershed of 16,530 acres is located in Amelia County. Soil conservation practices on farms and woodlands and a 6,000 acre-foot multiple purpose reservoir provide for watershed protection, flood prevention and municipal and industrial water supply. The primary benefit-cost ratio is 1.9 to 1. Federal and total costs are estimated to be $540,000 and $1,200,000, respectively.

GOOSE CREEK WATERSHED, WASHINGTON

This 40,800 acre watershed is located in Lincoln County. Plan purposes are watershed protection, flood prevention and recreation. Primary measures are: soil conservation practices on farms; a 6,800 acre-foot multiple purpose reservoir; floodwater diversion facilities; and channel work. The primary benefit-cost ratio is 1.8 to 1. Total costs are estimated to be $5,280,000 of which $2,740,000 are Federal.

PINE RIVER WATERSHED, WISCONSIN

The Pine River watershed of 159,200 acres is located in Richland and Vernon Counties. Measures for watershed protection, flood prevention, recreation and fish and wildlife are planned. Those measures consist of: soil conservation practices on farms; 7 floodwater retarding structures; two multiple-purpose reservoirs; and 4.5 miles of trout stream improvement. The structures have a total capacity of 29,800 acre-feet. The primary benefit-cost ratio is 1.1 to 1. Federal and total costs are estimated to be $12,180,000 and $20,630,000, respectively.●

MARGARET FAYÉ

● Mr. DOMENICI. Mr. President, this is a sad time for the Senate Special Committee on Aging. Ms. Margaret (Peg) Fayé, professional staff member, died Tuesday, September 12, 1978, after waging a valiant and courageous battle with cancer. The committee members and staff have lost a dear friend and respected colleague. The senior citizens of our country have lost an effective advocate.

Peg was committed to improving the overall health system in the United States. Her goal was the development of a national policy on home health care. She knew that too many older people were being put into institutions prematurely and it was her goal to rectify this problem.

Peg was also a teacher. She was, in fact, a teacher to me. She assisted me as I developed my positions on health legislation, always reminding me of the need to improve the availability and accessibility of health services for elderly Americans. Her lessons I will always remember; her wisdom I will always cherish.

Peg left us with her philosophy and her personal concern. She left us with an appreciation for living and the courage to look death straight in the eye and never be afraid. Peg spoke not of death, but rather of the beauty of life.

Peg's greatness transcended her illness. I am here today not to mourn her death, but to celebrate her life.●

AN AMERICAN DIPLOMATIC OPPORTUNITY

● Mr. HEINZ. Mr. President, three of my colleagues in Members of Congress for Peace Through Law, a bipartisan organization of 175 Senate and House Members, recently issued a report on the status of American diplomacy in Southeast Asia in the context of the new cold war between Vietnam and China.

The report, entitled "Vietnam and China: An American Diplomatic Opportunity," was authored by Representative JONATHAN BINGHAM, Representative PAUL MCCLOSKEY, and Representative ANTHONY BEILENSON. All three of these distinguished House Members have current or former legislative responsibilities with the main subjects of this paper—U.S. foreign policy in Asia, postwar relations with Vietnam, and the trade embargo now imposed by the United States on Vietnam.

I would like to note that this paper is not an official policy statement by MCPL but rather was prepared by the authors for consideration by Congress, the Executive, and the public.

I would like to commend to the critical reading of all my Senate colleagues this report on American diplomatic options in Southeast Asia, and ask that it be printed in the RECORD.

The report follows:

VIETNAM AND CHINA: AN AMERICAN DIPLOMATIC OPPORTUNITY

Allowing the "China Card" global strategy to shape American diplomatic relations with Vietnam may cause the United States to miss a crucial opportunity to lessen Soviet influence in Indochina and to strengthen peace and stability in Southeast Asia.

A crossroads in American policy in the Far East has been reached. Since the end of the Indochina War, the situation in the region has changed dramatically. New political alignments have emerged. The primary conflict in the Far East today is no longer between communist and non-communist states as it was during the 1950's and 1960's. The primary conflict is between China and Vietnam, who are fighting Southeast Asia's new cold war. This realignment presents both dangers and opportunities for American diplomacy.

The danger is that the United States will drift into a de facto alignment with China against Vietnam which could, in turn, force Vietnam into an exclusive alliance with the Soviet Union. This could lead to a long-term Soviet military presence in Southeast Asia and to greater insecurities for the member states of the Association of South East Asian Nations (ASEAN).

The opportunity, on the other hand, arises from the Vietnamese willingness to turn to the United States as the alternative to a dependency relationship with the Soviet Union. Vietnam now seems prepared to work toward closer diplomatic and economic cooperation with the United States as a means of maintaining its independence from both the Soviet Union and China. The question facing Congress and the Administration is whether to provide this alternative to Vietnam.

American-Vietnamese diplomatic relations and a Vietnam equidistant from the superpowers could be the keystone for a more peaceful and stable political order in a Southeast Asia where both Soviet and Chinese influence would be lessened and where the development of each nation could be determined by internal policies rather than external pressures. American influence in the region would increase.

These dramatic changes call for a creative American diplomacy in a region marked by some of the worst American diplomatic blunders in our history. But the Carter Administration has not yet developed a clear-cut policy toward Southeast Asia in general or Vietnam in particular.

Why has this region been moved to the back burner? The absence of a policy may represent a failure to appreciate the full significance of our relations with Vietnam for the future of the entire region. Another explanation may be the domestic political constraints concerning post-war relations. But there are, as well, some disturbing questions which must be raised: Are we letting the Chinese determine or policy for us? Are we recognizing a Chinese "sphere of influence" in the region?

The United States does not now appear to appreciate either the dangers or the opportunities. The issue is not whether the U.S. should normalize relations with Peking. Rather, the issue is whether by rushing into China's arms the U.S. will forfeit its potential for influence on the mainland of Southeast Asia and give its de facto approval to Chinese policies which destabilize the old Indochina area. The unfortunate irony may be that the very Soviet influence which the "China card" global strategy is designed to ward off will be increased in Southeast Asia by a shortsighted play of the card, vis-a-vis our relations with Vietnam.

HISTORICAL BACKGROUND: UNITED STATES-VIETNAM POST-WAR RELATIONS

When the war in Vietnam finally ended in April, 1975, the U.S. adopted a policy of hostility and isolation toward Vietnam. Secretary of State Kissinger indicated that Hanoi should be punished for its use of military force to defeat the Thieu government, and refused either diplomatic recognition or trade. The continuation of the trade embargo with the North and its extension to South Vietnam after the war constituted a clear sanction, even though the Executive Branch explained its action as a "wait and see" policy. He opposed Vietnamese membership in the United Nations. Although Hanoi offered to negotiate with the U.S. on postwar relations, Kissinger refused even that much diplomatic contact. The Carter Administration ended these openly hostile policies, stopped vetoing Vietnamese membership in the UN, and offered to exchange Ambassadors without preconditions, although it maintained the trade embargo intact.

On its side, Hanoi began the postwar period demanding postwar reconstruction aid as a condition for diplomatic relations. But after a series of three meetings with U.S. diplomats in Paris in May, June and December, 1977, the Vietnamese were realistic enough to recognize that such a condition was impossible to fulfill given the political atmosphere in Congress. Congress had been willing to lift the trade embargo to improve prospects for an M.I.A. accounting but post-war aid was out of the question. The Vietnamese are now indicating a desire to negotiate with the U.S. a formula which would advance U.S.-Vietnamese relations without reconstruction aid. The open military conflict with Cambodia and the tensions with China have accelerated Vietnamese interest in normalization of relations with the U.S. Deputy Foreign Minister Phan Hien declared recently in Japan that Vietnam is now ready to begin diplomatic relations with the U.S. without preconditions.

While diplomacy of post-war relations has been entangled in the politics of the war itself, the impact of the China connection on post-war prospects was already visible in Kissinger's attitudes. Kissinger's thinking about post-war relations with Vietnam was very much colored by the whole China link. Understandably, Kissinger saw post-war relations with Vietnam as distinctly secondary to relations with China. But to achieve his China policy, he was willing to foster the growth of China-Vietnam tensions. By withholding an American alternative from Vietnam, he apparently sought to increase China's paranoia about the Soviet's role in Vietnam.

Kissinger had noted as early as 1972, in background press briefings that the Chinese had indicated a desire for the U.S. to keep its bases in Thailand and the Philippines as a counterweight to the Soviets. He assumed that China would be worried about a unified Vietnam without the U.S. counterweight and that, as a result, China would be motivated to pursue "parallel interests" (i.e. oppose Soviet influence in Southeast Asia) with the United States. Less than one week after the Saigon government was defeated, Kissinger said China "now has 40 million Vietnamese on its border who do not exactly suffer from lack of confidence in themselves," and he suggested that Peking, as a result of its appraisal of this new balance of power, would want to continue normalizing relations with the United States. He also hoped that China would normalize relations with Thailand, strengthen ties with the non-communist Southeast Asian countries and become a force for stability in the region.

This brief review of Kissinger's policy indicates that the "China card" was a prominent feature in America's diplomatic hand throughout the post-war diplomacy. What appears to have changed is that it has become the dominant theme of American diplomatic strategy.

RELATIONS BETWEEN CHINA AND VIETNAM

China and Vietnam have had a tradition of national conflicts. But the primary tensions which now divide them can be traced to the schism in the international communist movement. As far back as 1963, the Chinese tried to persuade the Vietnamese to sign their statement creating a new international communist order which would exclude the Soviet Union. The Vietnamese refused, even though they harbored serious policy disagreements with the Soviet Union and shared certain ideological principles with China. (Similarly, Vietnam later withheld support for Soviet-inspired efforts to read China out of the international communist movement.) China's fears must have increased as the Vietnamese drew closer to the Soviet Union in their quest for military and economic aid during the war against the United States.

Throughout the war, the Chinese apparently were concerned about the potential consequences of a Vietnamese military victory. They opposed a Vietnamese diplomatic settlement early in the war out of fear that the Soviet Union would have a strong influence on the settlement. Many diplomatic observers in the 1965–68 period commented correctly that the "Chinese are willing to fight until the last Vietnamese."

A key turning point came in 1969–70. The Chinese leadership adopted a position advocated by Mao since the mid-1960's that the Soviet Union posed a greater danger to China than the United States. The Russian invasion of Czechoslovakia in August 1968, and the Sino-Soviet border clashes in March 1969, had bolstered Mao's line of agrument as did the quiet signals emanating from the new Nixon administration that it was interested in improving ties with China. The Chinese were seeking to counter the Soviet Union by opening ties to the U.S. The U.S. hoped that the new relationship with China would exacerbate Sino-Soviet differences and, at the same time, prevent any direct Soviet action against China. This new strategic equation, Washington hoped, would give the U.S. greater leverage with both the Hanoi's main allies and arms suppliers to obtain their help in pressuring North Vietnam to accept U.S. terms.

The Nixon Administration pressed the Chinese to slow the flow of arms to Vietnam and to help find a settlement short of victory for the revolutionary movements in Indochina. The Chinese apparently were responsive to the Nixon request. China opposed the Vietnamese Spring Offensive in 1972 and advised the Vietnamese to pursue a long-term, low level, low cost guerrilla war. To the Chinese, a Vietnamese military offensive meant greater military reliance on the Soviet Union as well as greater Vietnamese economic and political indebtedness to the Soviets. However, Vietnam apparently did not accept this Chinese advice and continued to conduct the war on its own terms.

During the war, China could not make known its serious differences with Vietnam nor openly attack Soviet influence in Vietnam. But once the war ended, China took a more aggressive stance, insisting that Vietnam drop its relations with the Soviet Union in order to be accepted as a fully friendly nation. An early manifestation of the new attitude was the Chinese reaction to the disputed islands in the South China Sea, the Paracels and the Spratleys. In December, 1975, a Chinese Communist newspaper in Hong Kong reprinted a People's Republic of China newspaper editorial on the Chinese claims to the islands, along with an editorial accusing the Soviet Union of trying to "stir up" Vietnam against China by backing the Vietnamese claims to the islands. Vietnamese offers to negotiate on the disputed islands brought no reply from the Chinese, who regard it as a non-negotiable issue.

The status of ethnic Chinese in Vietnam is another major issue of contention. Recent events appear to have all the earmarks of a major Chinese polemical campaign against Vietnam and the Soviet Union.

In 1955, the Chinese and Vietnamese communist parties signed an agreement which permitted the Hoa (Chinese origin) people in North Vietnam to choose either to become full Vietnamese citizens or to remain as resident foreigners; most became Vietnamese citizens of Chinese origin. However, this agreement did not extend to South Vietnam, which was ruled by the Diem regime. Diem used coercive measures to force Chinese residents to become Vietnamese and even issued an edict stating that all children of Chinese parents born in Vietnam were to be South Vietnamese citizens. After the war, all the citizens of the old regime automatically became citizens of reunified Vietnam.

The Chinese in Saigon historically have constituted an economically powerful group of rich merchants, businessmen, and middle traders. On March 23, Vietnam's government announced the abolition of "capitalist com-

merce" in the south. These and subsequent decrees fell most harshly on the Chinese merchant community and it appears that the manner in which the reforms were implemented at the local level by Vietnamese cadres caused some panic. These reforms seem little different, however, from those enforced by other socialist governments, including China after its revolution.

Normally, a dispute of this type involving ethnic residents would be negotiated by the two countries. But what appears most significant in this case is the element of anti-Soviet propaganda which the Chinese inject into the issue. A pro-Chinese Hong Kong newspaper stated in May, for example, that the USSR had instigated Vietnam to expel large numbers of ethnic Chinese from Vietnam and it claimed that Moscow has "pushed Vietnam into an anti-China road." The head of Peking's office for overseas Chinese affairs told a delegation of Japanese politicians in early June that "the Soviet Union is behind the expulsion of Chinese residents from Vietnam . . . Vietnam listens to the Russians on everything these days." Newsweek correctly analyzed the problem when it stated "the refugee issue was basically a sideshow; the real problem was China's fear that Vietnam and the Soviet Union were in league to dominate Southeast Asia." (July 3, 1978)

It appears that China is using the issue of the Chinese exodus from Vietnam, whatever its origins, as a means of discrediting Vietnam internationally and as a pretext for making clear moves in the direction of an open break. On May 19, the Chinese announced the withdrawal of aid to Vietnam, which amounts to several hundred million dollars over 5 years and involves at least 72 economic development projects. In May the Chinese ordered three Vietnamese consulates in China to close. In June, China withdrew its nearly 1800 technicians from Vietnam. China's ambassador to Vietnam, Chen Chifang, was recalled.

There are also reports of military preparations on the Chinese-Vietnamese border, border clashes and increasing possibilities of armed conflict.

The post-war border conflict between Vietnam and Kampuchea (Cambodia) has roots not only in traditional ethnic rivalries but in the Chinese-Soviet rivalry and in the factional disputes within the Cambodian communist party. Apparently there have been two distinct factions within the communist party of Cambodia at least since the early 1960's. One favored cooperation with Vietnam while the other faction strongly opposed it, fearing that such cooperation would deny this faction effective control over the party apparatus and lead to Vietnamese domination of the party. The anti-Vietnam faction, led by Pol Pot, won and now rules Cambodia. Many of the Cambodian officials and intellectuals which the regime has been accused of eliminating were members of the pro-Vietnam faction.

The Pol Pot faction, which had allied itself with China during the 1970–75 war, apparently made a critical decision during the war that Cambodia would not cooperate with Vietnam when the war ended. Henceforth, Cambodia would take a distant and unfriendly stance toward Vietnam and would turn to China for material aid to carry out this policy, which included using unilateral force on territorial issues.

The Cambodian government has publicly admitted that it attacked the islands of Phu Quoc and Tho Chu within days of the end of the war. The Vietnamese retaliated by seizing temporarily islands which had been controlled by Cambodia in the Gulf of Thailand. These problems were then negotiated in 1975 and resolved to the apparent satisfaction of both sides. The Cambodians gave up their claims to the Vietnamese islands and the Vietnamese gave up their claims to the Cambodian islands.

The origins of the Vietnamese-Cambodian fighting along the border are obscure but the diplomatic efforts to resolve the problem are relatively clear. In May, 1976, the two sides met in Hanoi to prepare for higher-level negotiations on the border conflict. Both sides agreed that a 1 to 100,000 scale map, printed by the Geographical Service of Indochina, would serve as a basis for the delimitation of the land border between the two countries. But the Cambodians broke off the preparatory talks and refused to go ahead with any further negotiations on the border. It appears to be well established that at the beginning of 1977, Cambodian forces launched stepped-up attacks on Vietnamese settlements in the border area. In June, 1977, the Vietnamese offered once more to undertake high-level negotiations with Cambodia to resolve the problem, but Cambodia replied that they would discuss it only after "a period of time until the situation returns to normal, without further border conflicts." This was of course a refusal to negotiate at all, since it was precisely because of border clashes that the talks were necessary.

Troops along the entire length of the Vietnamese-Cambodian border in late September, 1977, which apparently led the Vietnamese to begin preparations for a major military move into Cambodia, aimed at forcing the Cambodians to reassess their policy. Instead the Vietnamese military response led to the open airing of the seriousness of the conflict by Cambodia, and the beginning of vituperative propaganda by both sides. Cambodia refused Vietnam's offer in February to pull its forces back five miles from the existing border and begin negotiations if the Cambodians would do the same. At the same time, the Cambodians began to use 130 mm long-range artillery to devastate the capitals in at least three Vietnamese provinces adjoining the Cambodian border.

The Vietnamese apparently have now responded with moves to encourage Cambodian refugee military groups dedicated to overthrowing the Pol Pot government. Unless there is a major initiative from outside, therefore, the conflict appears not only unresolvable but capable of escalating still further, with potentially serious consequences in terms of Chinese and Soviet involvement.

The anti-Vietnam faction of Cambodian party leader Pol Pot could not have attacked Vietnam without active political and material support from China. China is reputed to have 1,000 military advisors in Cambodia and has supplied the Cambodian military with long-range artillery, tanks, recolless rifles, heavy mortars and antitank weapons, and other military aid since 1975. At the very least, it can be said to a practical certainty that China has done nothing to discourage the Cambodians from assuming a very strong military posture on the border with Vietnam.

Chinese policy of support for Cambodia appears to be a part of its overall anti-Soviet strategy in the Far East: to isolate Vietnam in Southeast Asia while, at the same time, encouraging Cambodia and Thailand to normalize relations; to encourage the U.S. to maintain its bases in Thailand (which the Vietnamese opposed) despite Thai opposition; and to cement ties with ASEAN states. Clearly, polarization between Vietnam and Cambodia serves Chinese interests.

The Chinese view of Vietnam reflects an obsession with the influence of the Soviet Union which is strangely reminiscent of the U.S. Attitude during the 1950's Cold War: "If you're not with us, you're against us." China seems to view the world with a rigid and distorted vision which sees overweaning Soviet influence in any country which has economic or military ties with the Soviet Union or is not explicitly anti-Soviet. The ironic outcome of such a rigid and obsessive Chinese attitude may be to mistake potential friends for enemies and to bring into being the very Soviet influence it wants to avoid.

THE AMERICAN OPPORTUNITY

The conflicts between Vietnam, China and Cambodia have had two major implications for Vietnamese policy. First, Vietnam now perceives China as the main threat to its security. It sees China as a threat because of China's policy to treat it as an adjunct of the Soviet Union. Business Week was not underestimating when it stated: "The escalation of propaganda and implied threats by Peking against the Vietnamese regime have created a crisis for Hanoi." (June 19, 1978)

Second, the Vietnamese have responded by recognizing that it is even more urgent than before to develop a cooperative relationship with the United States as a basic element of their security policy.

The combination of these two responses constitutes the opportunity for American diplomacy in the region.

It seems almost inevitable that Vietnam must react to the increased Chinese pressure in the north and from the Cambodians in the south by securing military, political and economic counterweights. One source is the Soviet Union. Vietnam is almost certainly to appeal to the Soviet Union for greater support in order to neutralize the increased Chinese pressure. Chinese allegations of Soviet missile or naval bases in Vietnam have been dismissed as without foundation by American intelligence officials. However, Vietnamese requests for some tangible symbol of Soviet deterrence against Chinese military pressures would seem a serious possibility if the pressures continue to build.

Economic conditions are equally significant. Vietnam faces drastic economic hardships in the wake of its wartime destruction. The devastation is compounded by rice shortfalls caused by unusually severe droughts in 1976–77. The loss of Chinese aid—as much as $500 million over 1976–80—and the withdrawal of Chinese technicians will compound the problems. The continuing border strife with Cambodia will drain manpower and resources away from the civilian reconstruction effort. The unfortunate consequence of these pressures may be to make economic transformation in southern Vietnam more harsh than would otherwise be the case.

The Vietnamese must find replacements for the lost Chinese aid in the form of both project and commodity assistance. The Soviet Union already is giving approximately $3 billion for the 1976–80 5-year plan out of a total of $4.2 billion from all socialist countries. Western and multilateral aid totals approximately $2.7 billion. In June, Vietnam joined the Council for Mutual Economic Assistance (COMECON), the Eastern bloc's equivalent of the Common Market.

In our view, there is a strong danger that a mechanistic playing of the "China card" will create all types of pressure on Vietnam to strengthen its ties to the Soviet Union which could diminish its own independence and increase big-power tensions in the region. Increased Vietnamese dependence on the Soviet Union would be contrary to both American policy interests and the interest of peace and stability in the region.

There are two major consequences of these pressures for American policymakers to consider. First, we may be entering the formative period for an era of international relations in Southeast Asia comparable to the Cold War in which certain alignments were maintained for two decades (i.e. SEATO 1954–75). It should be an important objective of American policy to use whatever influence we may have to prevent the hardening of the new alignments as we have described them.

Second, it should not be forgotten by U.S. policymakers that the Vietnamese would be entering into this new dependency reluctantly. They don't regard the Soviet interests are not necessarily co-extensive with their own. They remember the failure of the Soviet Union to provide sufficiently strong diplomatic support in the mid-1950's to force the

implementation of the political provisions of the Geneva Accords of 1954. They also remember that the Soviet Union sold them out diplomatically when President Nixon was received in Moscow at detente's summit while the U.S. was bombing northern Vietnam and mining Haiphong harbor.

This distrust of Soviet motives fits well with the Vietnamese preference for an equidistant relationship among the great powers. As noted by *Business Week*, "Maintaining a balance between Moscow and Peking has always been a fundamental tenet of the Vietnamess Communists." (June 19, 1978). It is this balance which is now threatened.

The opportunity for American diplomacy today is to restore this balance. The U.S. could help maintain a long-term system of peace and stability in Southeast Asia based in part on the ability of Vietnam to maintain its independence from all the great powers. American and Vietnamese interests overlap to the extent that we wish to minimize Soviet dominance, stabilize the region, and at the same time avoid Chinese hegemony over the mainland of Southeast Asia. In the present circumstances, the way to achieve these objectives is to present to Vietnam and alternative source of diplomatic and commercial relations against both the Soviet Union and China. Diplomatic and economic relations with the U.S. would give the Vietnamese additional room to maintain an independent stance equidistant from all the great powers.

Our failure to take advantage of this opportunity would be unfortunate for American diplomacy. Thus far, U.S. diplomatic signals provide no grounds for the Vietnamese to believe that America intends to offer a new relationship as an alternative to a closer reliance on the Soviet Union.

The first cluster of signals has been an implicit if not explicit American acquiescence in China's campaign against Vietnam. This cluster involves:

The absence of any effort by the U.S. to restrain China or urge a negotiated settlement;

The endorsement in China by National Security Advisor Brzezinski of the pursuit of "parallel interests" with China in the context of implicit approval of China's position on the Cambodia–Vietnam issue.

National Security Advisor Brzezinski's toast on May 20 at the welcoming banquet in Peking was evidently a signal to the Chinese that the U.S. was sympathetic to its views on the future of Southeast Asia. "Asia needs stability, respect for frontiers, freedom from foreign intervention, for peaceful development," he said. "In many of these areas, we can enhance the cause of peace through consultations and, where appropriate, through parallel pursuit of our similar objectives.

This banquet toast, couched in diplomatic language, certainly encouraged the Chinese to feel that they had U.S.-backing for their policy of arming the Cambodians and thus encouraging a rejection of negotiations for a settlement of the Cambodia-Vietnamese War. The visit to Peking and the toast were signals that the U.S. would support the Chinese interest. According to columnists Evans and Novak, "The U.S. team (to China) was particularly impressed with Chinese recitation of Soviet machinations in unified Vietnam". (June 22, 1978).

It is easy for American officials to plead "no influence" over Chinese policy. Given its passive stance towards Indochina in the past three years, the U.S. has indeed lost much of its political influence. However, we are far from having no influence. In the context of the "parallel interests" which the U.S. proclaims with China, the U.S. has not only the right but the obligation to make known its views where these differ from China's. This is certainly done on the Taiwan and Korean issues; it should also be done on Vietnam. Indeed, the absence of any American intention to dominate the region or to threaten any of the Southeast Asian states should actually lend weight to our views in Chinese eyes.

The second cluster concerns the U.S. response to the direct negotiations between the U.S. and Vietnam in Paris on the normalization of relations. The Vietnamese now have dropped their insistence on a promise of postwar reconstruction aid as a pre-condition for progress toward normalization of relations with the U.S. U.S. diplomatic officials are aware of this clear change of attitude by Vietnam. The Vietnamese now suggest that a lifting of the trade embargo would be a sufficient indication of an end to U.S. hostility, with the possibility of aid to be discussed subsequently in the context of normal bilateral negotiations. This represents a major shift toward the American position of removing post-war normalization from the diplomatic framework of the Paris Agreement on Ending the War.

Above all, this new Vietnamese attitude removes the outstanding domestic political obstacle in the U.S., since a lifting of the trade embargo in the context of normalization of relations is a far less emotional issue in Congress than was the reparations issue. In contrast to Congressional restrictions imposed recently on direct and indirect U.S. financial aid to Vietnam, Congress actually voted to conditionally lift the trade embargo in 1976 only to have it vetoed by President Ford.

Since normalization remains the official goal of American policy, we believe this new Vietnamese position creates enough common ground for our negotiators at the next round of negotiations to respond affirmatively and to make real progress. By responding affirmatively, we would make clear that our desire for normalization has not been cooled by the decision to play the "China card" in big power relations. Prospects for successful negotiations were improved by recent "goodwill gestures" by the Vietnamese, including the successful visit of a delegation of Vietnamese specialists to the MIA identification center in Hawaii and their letter to Senator Kennedy approving the reuniting of American citizen children holding U.S. passports with their families in the United States.

A NEW AMERICAN DIPLOMACY

We believe that conditions are ripe for a new American diplomacy in Southeast Asia. We should move now to take advantage of the opportunity open to us—and forestall the dangers that might freeze the region's disturbing new alignments for the next generation. Just as we have responded recently to events in Africa by opening a line of communication with Angola, despite our ideological differences, we should similarly move to establish diplomatic communication with Vietnam.

It may seem ironic that we, who strongly opposed the Vietnam War, are now calling for a renewed American interests in the area. American diplomacy *can* have a constructive impact—but without military intervention or an intent to dominate. We can and should use our influence wisely.

Justification for this new diplomacy begins with the change in the domestic political equation based on the Vietnamese willingness to drop their insistence on post-war aid as a precondition for normalized relations with our country. It now seems politically feasible for an American President to defend normalization on this new basis in exchange for the real and immediate gains for our interests in Southeast Asia.

A second major issue is whether a new American policy of relations with Vietnam would obstruct normalization of our relations with China.

In our view, such a policy towards Vietnam is not contradictory to normalizing relations with China. First, it does not violate any of the 5 principles embodied in the Shanghai Communique, which are the basis for further development of normal relations between the United States and China.

Secondly, normalizing relations with Vietnam does not appear to contradict U.S. policy principles, enunciated by Dr. Brzezinski in Peking recently, that the U.S. approaches relations with China on the basis of three fundamental beliefs . . . that friendship between the United States and the People's Republic of China is vital and beneficial to world peace; that a secure and strong China is in America's interest; that a powerful, confident and globally engaged United States is in China's interest.

A new Vietnam policy could even further these objectives. It could help stabilize events and reduce the intensification of existing conflicts in the Southeast Asian area. The present policy contains the seeds of intensified military confrontations. Also, it would be a vivid demonstration of American interest in the area and a symbol of our unwillingness to write off the newly independent states to Soviet domination.

The American role in Southeast Asia is another major issue. While we have no major national interests which should lead us to commit military forces in the areas, we should not underestimate the importance of an American role to help stabilize Southeast Asia. There already has been a degree of normalization between Vietnam and Southeast Asian nations. But the major influence on the attitudes of Southeast Asian countries towards unified Vietnam will be the American attitude.

Normalized relations between the U.S. and Vietnam would promote a further degree of Vietnamese cooperation and accommodation with the ASEAN countries which would contribute to stability. Similarly, it is important that Vietnam no longer view the United States as a threat to its society. If Vietnam continues to view the U.S. as part of a cabal with China against Vietnam, it may not be possible for accommodation to occur between Vietnam and U.S.-supported states in the region. The main remaining obstacle to close, stable and friendly relations between Vietnam and the ASEAN nations is the lingering fear of American ill-will and bad intentions towards Vietnam. If Vietnam fears the U.S. will use non-communist and anti-communist Southeast Asian states to pressure Vietnam in a hostile manner, then tensions may rise needlessly.

It should be noted that American intelligence analysts agree that Vietnam has rejected the role of supplier or motivator for revolutionary movements in Southeast Asia. The massive stockpiles of U.S. arms captured at the end of the war have not been given or sold to insurgent movements in other states, as had been feared. Vietnam seems to have rejected this policy, in part because the communist parties of Thailand, Malaysia, Indonesia and the Philippines are, as a whole, more sympathetic to China than to the Soviet Union. Vietnam appears to prefer conservative governments which are closer to the U.S. than Chinese-oriented insurgencies, and continues to regard the issue of independence vs. foreign intervention/domination as the central problem in the region rather than the problem of the free market vs. socialism.

As noted by a prominent analyst of Southeast Asian politics, the Vietnamese—

Have adopted a conciliatory posture toward their noncommunist neighbors. Interviews with a cross-section of military and civilian leaders in all five ASEAN countries conducted during October-November 1977 indicate that Hanoi's efforts have eased regional anxieties about Vietnam's intentions. Approximately 65 interviews with senior foreign ministry officials, military leaders, politicians, journalists, businessmen, academic specialists, and foreign diplomats make it

abundantly clear that Vietnam's neighbors do not, at present, feel threatened by Hanoi.

Earlier fears that the victorious Vietnamese would give a major boost to their communist compatriots elsewhere in Southeast Asia have not materialized.

The central point is this: if the United States has an interest in the stability and security of Southeast Asia, then it has an interest in persuading Hanoi that its conciliatory policy of seeking cooperative relationships with non-communist states is viable. The normalization of U.S. relations with Vietnam could well be important, if not decisive, in determining whether Hanoi deems its conciliatory policy a success. (Franklin B. Weinstein, U.S.-Vietnam Relations and the Security of Southeast Asia, Foreign Affairs, July, 1978, pp. 846–853.)

American links with Vietnam should be established now so as to minimize the future danger that changing conditions would place the Vietnamese more at odds with the Southeast Asian countries.

The opportunity we have in Southeast Asia may not remain open for long, and may not come again for a long time. Taking advantage of the opportunity requires us to act—both to dispel the impression of supporting China against Vietnam and to make a positive diplomatic response to the new Vietnamese offer for normalization. We cannot let the rigid application of the "China card" strategic policy vis-a-vis the Soviet Union blind us to an opportunity to reduce Soviet influence, strengthen an independent tendency in a difficult region and enhance prospects for peace and stability in Southeast Asia for the next generation.●

RHODESIA'S DEMOCRATIC FUTURE?

● Mr. GARN. Mr. President, I am increasingly concerned about the deteriorating situation in Rhodesia, or Zimbabwe, as it is to be called after a new majority government takes over. Recent reports of the shooting down of a commercial passenger plane by Popular Front guerrillas, and the subsequent massacres of many of the survivors of the crash, have been profoundly disturbing. The retaliation by the internal government with a crack-down on guerrilla elements within the country, and increasing martial law and the possible postponement of free elections until the situation stabilizes is an unfortunate necessity. The combination of these events does not contribute to an optimistic outlook for the peaceful resolution of the future of the new Zimbabwe.

Already we are hearing criticism of the internal government for its "increased oppression"; I expect we will hear more. Cynics are saying the situation gives further evidence that the Congress is naive in suggesting that sanctions may be lifted as the transitional government moves toward an "all-parties conference" and free elections and they point to the intransigence of the mixed Government of Rhodesia as the reason.

I submit, Mr. President, that if we are to assess blame for the continuation of conflict in this region, we must place a substantial amount of the guilt at the doorstep of American foreign policy in southern Africa. The narrowness and hypocracy of our policy toward Rhodesia was aptly described last week in an editorial in the Washington Star.

This excellent article observes the claim of the Democratic National Committee that "the Carter administration bases African policy 'on the traditional American values of independence and self-determination.' "

But our policy has been "to insist that a bi-racial internal settlement that suits a substantial majority of both whites and blacks in that country is invalid and must, to meet our standards, embrace the so-called Patriotic Front of Robert Mugabe and Joshua Nkomo."

As the editorial so aptly states it:

If the test is "traditional American values of independence and self-determination," as it should be, our policy fails it.

Yet we have persisted in this folly, Mr. President, and, in so doing, given aid and comfort to the revolutionary and even self-proclaimed Marxist—enemies of the internal settlement. We have raised the violent, bestial acts of terrorists to an undeserved level of legitimacy. Is it any wonder that they feel free to continue their outrages, and expand their power? We have put the weight of the Western world behind them. Couple that with the weapons of the Soviet Union and the help of Cuban advisers, and what more could they want?

Mr. President, I hope those who share our foreign policy soon come to realize the harm they are doing to the goals of democracy, independence, and self-determination and reverse this misguided policy. And in the hope that my colleagues will consider the important message of the Washington Star editorial, I ask that it be printed in the RECORD, and I urge my colleagues to study it carefully and objectively.

The editorial follows:

RHODESIA'S DEMOCRATIC FUTURE?

In a recent fund-raising letter from the Democratic National Committee, controversial for other reasons, we were surprised to read that the Carter administration bases African policy "on the traditional American values of independence and self-determination."

That claim is probably valid in principle; and the administration has conducted a feeble rhetorical offensive against Russian and Cuban intervention in the Horn of Africa.

But those values take a curious form vis-a-vis Rhodesia; for the U.S. continues, with Britain, to insist that a biracial internal settlement that suits a substantial majority of both whites and blacks in that country is invalid and must, to meet our standards, embrace the so-called Patriotic Front of Robert Mugabe and Joshua Nkomo.

If the test is "traditional American values of independence and self-determination," as it should be, our policy fails it.

Consider the background. In negotiation with three black nationalist leaders and their parties, Prime Minister Ian Smith arrived last spring at a plan for free elections (now scheduled for early December); for a new constitution providing a four-to-one black parliamentary majority; for the end of racial discrimination; for a political amnesty and extensive land reform. These features of the internal settlement are now in train. Their object is to make it possible for black and European communities to co-exist harmoniously in a prosperous, democratic Rhodesia.

Despite these major concessions, heralding a definite end to white power, the U.S. and Britain have denounced the internal settlement and sided with the two self-exiled black leaders, Messrs. Mugabe and Nkomo, who with Russian arms and military training are conducting a savage guerrilla war for exclusive power.

The leaders of the Patriotic Front do not conceal their aim. It is total power. They refuse even to talk with the leaders of the internal settlement unless they first agree to disband the Rhodesian army and hand all military power to them. And Mr. Mugabe, for his part, has also made clear his preference for a Marxist one-party state, not a multi-party democracy.

The focus of Anglo-American diplomacy is an "all-party" conference on Rhodesia in which all contenders for political power join. The interim government has agreed to participate; but the Patriotic Front has refused to do so unless its extravagant conditions are met beforehand. At the same time, its two leaders have rebuffed an open invitation from the Salisbury group to participate as equals in the executive council of the interim government. All or nothing is their demand.

If "independence" and "self-determination" are the guiding values, what is "independent" about claimants to power who are dependents of the Soviet Union and Cuba? And what is self-determinative, for Rhodesians who differ from them, about the Nkomo-Mugabe demand that they be given full political and military control over Rhodesia, at the expense of other black leaders, parties and tribal interests? One suspects the real but unstated answer is the belief that power flows from a gun barrel.

But the question is not ours exclusively. It is a question that is being asked insistently by back benchers in the British House of Commons and by U.S. congressmen and senators, who recently called for a lifting of economic sanctions against Rhodesia by year's end on two conditions. One is that the Rhodesian government "negotiate in good faith at an all-parties conference . . . under international auspices," the other that it hold "free elections . . . with observation by impartial observers."

The interim government is puzzled that Congress imposes tests of its good faith but establishes no standard for testing the good faith of external rivals. Nonetheless, it is willing to meet the conditions. It is willing to confer at an all-parties conference without preconditions; and it has invited the U.N. and the Organization for African Unity to observe the December elections.

Even the OAU, it might be noted, is growing impatient with the all-or-nothing obduracy of the Patriotic Front. It is cool to the internal settlement and barred its representatives from its Khartoum meeting last month; but the OAU did resolve that Rhodesians have "the right to choose their own leaders" and rebuffed the Patriotic Front's specious claim to be "sole representative of the people of Zimbabwe." The concession is slight but important. It would appear that even the OAU is more open-minded about Rhodesia's democratic future, and who should decide it, than official American policy.●

TEENAGE DRINKING RATE DROPS IN UTAH

● Mr. HATCH. Mr. President, I would like to bring to the attention of my colleagues the work of one of my constituents, Mrs. Gayle Judd, the first vice-president of the Utah Parent-Teachers Association. She has been instrumental in spearheading a program designed to curb teenage drinking. In the past 4 years Utah's teenage drinking rate has decreased by 7.6 percent. With Mrs. Judd's help, there has been an increasing effort on behalf of professionals and volunteers to stamp out this problem.

Utah is now 49th in the Nation in the

number of alcoholics. Thanks to the efforts of people like Mrs. Judd, and other concerned volunteers, we may someday be 50th. I salute them all and wish them continuing success in controlling this most serious situation.

I ask that an article from the Salt Lake Tribune of Sunday, September 10, be printed in the RECORD.

The article follows:

UTAH'S TEENAGE DRINKING RATE DROPS 7.6 PERCENT IN 4 YEARS

Drinking among Utah teen-agers has decreased 7.6 percent in the last four years, a survey by the State Board of Education and the State Division of Alcoholism and Drugs showed Saturday.

This was particularly welcome news to the Utah Parent-Teacher Association, which has concentrated efforts in recent years against teen-age drinking.

"The results of this survey are encouraging," said Mrs. Gayle Judd, who has spearheaded the PTA program. "With a continued effort of professionals and volunteers in any organizations, there is no reason we can't cut the count even lower."

A natural survey by the American Business Men's Research Foundation showed the state's over all alcoholism rate has dropped significantly since 1974, a period when many anti-drinking campaigns some relying on volunteers, went into effect.

The state is now 49th in the nation in the number of alcoholics, the report showed. Only Wyoming, with an identical alcoholism count—26,000—ranks lower, according to the survey.●

RATIFICATION DEADLINE FOR AN AMENDMENT TO THE CONSTITUTION

● Mr. GARN. Mr. President, the issue of extending the ratification deadline for an amendment to the Constitution—in this case, the equal rights amendment—may come before this body before we adjourn. It is my opinion that an extension raises serious constitutional and policy questions and that those questions arise regardless of whether the substantive amendment pending in the States is the ERA or some other amendment. I believe my position is shared by a number of our colleagues, some of whom favor ERA and some of whom oppose it, but all of whom are seriously concerned about establishing and protecting the procedure of constitutional amendment. As one commentator has recently said, look at the process in light of the amendment you would most like to see ratified, then look at it again in light of the amendment you most oppose. Then ask yourself what process is best for both cases. The strength of those who agree with my position is that we are willing to adopt exactly the same procedure for ERA, whether we favor it or oppose it, as we are for those two imaginary amendments that we most favor and most oppose.

As we consider decisions that will affect the manner in which we deal with constitutional questions for decades to come, I expect that our colleagues will rely upon legal and lay advice that is excellent and objective. Certainly, there is such advice from several experts and one of the most valuable experts is our former colleague, Sam J. Ervin, Jr. I ask that a recent analysis of ERA extension by Senator Ervin be printed in the RECORD.

The analysis follows:

CAN A STATE RESCIND E.R.A.?

(By Senator Sam J. Ervin, Jr.)

1. Several states have voted to rescind or withdraw their previous ratifications of the ERA. Other States are seriously considering doing likewise. To deter the other States from exercising their right to rescind or withdraw their previous ratifications of the Amendment, supporters of the Amendment are now making the bizarre and specious claim that a State which has rejected the Amendment may change its mind and vote to ratify whereas a State which has ratified cannot change its mind and vote to rescind or withdraw its ratification. For reasons hereafter stated, this claim lacks credible support in authority and reason.

Idaho, Nebraska, Tennessee and Kentucky have voted to rescind or withdraw their previous ratifications of ERA. Other States are seriously considering doing likewise.

To deceive state legislators who are contemplating such action into believing that they have no power to do so, and thus deter them from rescinding or withdrawing their previous ratification of the Amendment, supporters of ERA are now vociferously claiming that a state which has rejected the Amendment can change its mind and vote to ratify whereas a state which has ratified cannot change its mind and vote to rescind or withdraw its previous ratification.

Insofar as fairness is concerned, this claim is on a par with the "Heads I win and tails you lose" proposal of the coin-tossing gambler; and insofar as logic is concerned, it is on a par with the proposition that what is sauce for the legislative goose is not sauce for the legislative gander.

In the last analysis, the advocates of ERA base their bizarre and specious claim upon the supposition that it finds support in the decision of the Supreme Court of the United States in *Coleman v. Miller*, (1937) 307 U.S. 433, 83 L.Ed. 1385, 59 S.Ct. 972, 122 A.L.R. 695.

As one who has studied this question, . . . I assert without fear of successful contradiction that the *Coleman Case* decided nothing of the kind, and that in consequence those ERA supporters who make this claim have no foundation for it in authority or reason.

2. The question whether a state which has ratified a proposed amendment to the Federal Constitution can change its mind and vote to rescind or withdraw its ratification was not even involved in the Coleman Case. Moreover, the question whether a state which has rejected a proposed amendment can change its mind and vote to ratify was not decided in the Coleman Case. On the contrary, the Supreme Court of the United States invoked the "political question" doctrine in the Coleman Case and adjudged that this question is a political matter for the determination of Congress and not a judicial matter for the decision of the Court.

The facts in the *Coleman Case* were simple. In 1924 Congress proposed an amendment to the Federal Constitution known as the Child Labor Amendment. The resolution submitting it to the states did not limit the time for its ratification. In 1925, the Kansas Legislature rejected it. In 1937, however, a resolution to ratify the Amendment was introduced in the Kansas State Senate, where 20 Senators voted for the resolution and 20 voted against it. The Lieutenant Governor of Kansas, the presiding officer of the Senate, then cast his vote in favor of the resolution. The resolution was later adopted by the Kansas House of Representatives on the vote of a majority of its members.

The 20 Senators who had voted against the resolution and three Representatives then brought an original action in the Supreme Court of Kansas seeking a mandamus to compel the Secretary of the Kansas Senate to record that the resolution had not passed and to restrain the officials of the Legislature from signing the resolution and the Secretary of State of Kansas from certifying it to the Governor.

These Senators and Representatives assailed the attempted ratification of the Child Labor Amendment on these grounds: (1) that the Amendment had been previously rejected by the Kansas Legislature; (2) that it was no longer open to ratification because an unreasonable time, 13 years, had elapsed since Congress had submitted it to the States; and (3) that the Lieutenant Governor had no right to cast the deciding vote in the Kansas Senate in favor of ratification.

The Supreme Court of Kansas rejected these contentions and upheld the ratification of the Amendment on the ground that a state legislature which has rejected an amendment proposed by Congress may later ratify it. This ruling was in accord with the universally accepted principle that a legislative body cannot tie the hands of its successors.

The Supreme Court of the United States, which granted certiorari, split into three irreconcilable groups, who wrote four opinions.

Upon two preliminary questions somewhat procedural in nature, i.e., whether the Supreme Court of the United States had jurisdiction to review the rulings of the Kansas Court, and whether the 20 Kansas Senators had standing to sue, the Justices split five to four.

Chief Justice Hughes and Justices Stone and Reed, who adhered to Chief Justice Hughes' so-called majority opinion, and the two dissenting Justices, McReynolds and Butler, held that the Supreme Court of the United States had jurisdiction and that the 20 Kansas State Senators had standing to sue.

The other four Justices, Roberts, Black, Frankfurter, and Douglas, who adhered to the two opinions written by Black and Frankfurter, disagreed with them because of their view that Congress possesses exclusive power under Article V of the Constitution over the entire amending process and in consequence "neither state nor federal courts can review [the exercise] of that power." (307 U.S. 433, 459.)

With respect to a more substantive question, i.e., whether the Lieutenant Governor had the power to cast the deciding vote in favor of ratification, Chief Justice Hughes had this to say: "Whether this contention presents a justiciable controversy, or a question which is political in nature, and hence not justiciable, is a question upon which the Court is equally divided, and therefore the Court expresses no opinion upon that point." (307 U.S. 433, 447)

It is regrettable that Chief Justice Hughes did not reveal the mystery of how nine or five Justices could be "equally divided" on a constitutional question. In the absence of any such revelation, one is compelled to conclude that one of the Justices was suffering a species of intellectual schizophrenia which disabled him to ascertain the consensus of his own mind.

The Justices split into three irreconcilable groups upon these two remaining questions: (1) whether a state which had rejected the Child Labor Amendment could subsequently change its mind and vote to ratify it; and (2) whether the Child Labor Amendment was no longer open to ratification because an unreasonable time had elapsed since Congress had submitted it to the states.

When the *Coleman Case* is read in its entirety, it is obvious that the Supreme Court divided on these questions in this fashion:

1. Chief Justice Hughes and Justices Stone and Reed concluded that these questions

were political questions for determination by Congress and not judicial questions for the decision of Courts. (307 U.S. 433, 436–457)

2. Justices McReynolds and Butler concluded that the Supreme Court of the United States had judicial power to adjudge and ought to adjudge that the Kansas Legislature had no power to ratify the Child Labor Amendment because an unreasonable time had elapsed since Congress had submitted it to the States. (308 U.S. 433, 470–474)

3. Justices Roberts, Black, Frankfurter, and Douglas concluded that the Supreme Court of the United States was powerless to make any pronouncement in respect to either question because Article V of the Federal Constitution had committed complete and unreviewable power over the entire amending power to Congress. (307 U.S. 433, 456–470)

These diverse conclusions compelled the affirmance of the ruling of the Kansas Supreme Court. In taking such action, Chief Justice Hughes made it plain that the Supreme Court of the United States was not expressing any opinion as to the validity of the basis of the Kansas Court's decision, i.e., that a state legislature which has rejected an amendment proposed by Congress can change its mind and ratify it. He did this by expressly stating that the Supreme Court was affirming the ruling solely "upon the grounds stated in this opinion." (307 U.S. 433, 456)

The only allusion in the *Coleman Case* to the question whether a state which has ratified a proposed amendment can change its mind and rescind or withdraw its ratification is in the form of dicta, which puts the questions of ratification after rejection and rescission or withdrawal after ratifying in the same category and which appears in this sentence:

"We think that in accordance with this historic precedent the question of the efficacy of ratifications by state legislatures, in the light of previous rejection or attempted withdrawal, should be regarded as a political question pertaining to the political departments, with the ultimate authority in Congress in the exercise of its control over the promulgation of the adoption of the amendment." (307 U.S. 433,450)

As one who loves constitutional government, I must confess that I am abhorred by the proposition that Congress has complete and unreviewable power to control the amending process in all its stages. This proposition would permit a false decision by a partisan or radical Congress to rob the people, the states, and the courts of their power to enforce constitutional government in our land.

3. All credible commentators agree that the Coleman Case does not support the bizarre and specious claim of the supporters of ERA that a state which has rejected the Amendment can change its mind and vote to ratify whereas a state which has ratified cannot change its mind and vote to rescind or withdraw its ratification.

In preparing this statement I read the *Coleman Case* many times. Moreover, I consulted comments on it in these publications: the first and only edition (1969) of *Modern Constitutional Law*, which was written by Chester J. Antieau, Professor of Constitutional Law at Georgetown University; the second and last edition (1968) of *The American Constitution*, which was written by C. Herman Pritchett, Professor of Political Science at the University of Chicago; the numerous editions (1920 through 1974) of *The Constitution And What It Means Today*, which was originally written by Edward S. Corwin, of Princeton University, and which has been revised by others since his death; and the various editions of the *Constitution of the United States, Revised and Annotated*, which was originally compiled and edited by Edward S. Corwin and which has been printed by the authority of Congress.

All of these authorities share my conviction that the Supreme Court of the United States did not decide anything whatever in the *Coleman Case* beyond some procedural questions immaterial to our present concern except the proposition that whether a state legislature has ratified a proposed amendment to the Federal Constitution is a political question for the decision of Congress and not a judicial question for the decision of the courts.

The court did not answer "no" or anything else in the *Coleman Case* to the question whether a state which has ratified a proposed amendment can change its mind and rescind or withdraw its ratification. The court did not and could not answer that question in the *Coleman Case* because it did not arise in that case. In the portion of his opinion quoted by Professor Antieau and set forth above, Chief Justice Hughes alluded to the question by way of dicta when he said, in effect, that the question of the efficacy of an *"attempted withdrawal,"* of a previous ratification as well as the question of efficacy of a subsequent ratification after a "previous rejection" were political questions for Congress and not judicial questions for the courts.

The court did not answer "yes" or anything else in the *Coleman Case* to the question whether a state which has rejected a proposed amendment can change its mind and ratify it. Although the Kansas Supreme Court had based its decision upholding the vote of the Kansas legislature ratifying the Child Labor Amendment after a previous rejection upon the view that "a state legislature which has rejected an amendment proposed by Congress may later ratify," the Supreme Court refused to make any such ruling on the ground that the question of the efficacy of the action of the Kansas legislature was a political question for the determination of Congress and not a judicial question for the decision of the Court. Indeed, the Supreme Court even refused to endorse the basis on which the Kansas Supreme Court made its ruling. As appears by the opinion of Chief Justice Hughes in the *Coleman Case* (307 U.S. 433, 456), the Supreme Court of the United States affirmed the judgment of the Kansas Supreme Court upon the grounds stated by Chief Justice Hughes and not for the reasons given by the Kansas Supreme Court. . . .

In 1868, Congress was dominated by huge majorities of radicals, who had passed the notorious Reconstruction Acts over President Andrew Johnson's vetos, and who were bent above all things in putting the proposed Fourteenth Amendment into effect without delay to better their prospects in the approaching fall election.

All of the Southern States except Tennessee had previously rejected the proposed Fourteenth Amendment. An irritated Congress decreed that these states would have no representation in the United States Congress until they adopted new state constitutions conforming to the Reconstruction Acts and ratified the Fourteenth Amendment. Since the states then numbered 37, ratification of the proposed Fourteenth Amendment by three-fourths of them, i.e., 28, was required by Article V to make the Amendment a part of the Constitution.

As a result of the congressional coercion, the number of ratifying states had risen to 29 by early July, 1868. Two of them, Ohio and New Jersey, however, had voted to rescind or withdraw their ratifications.

An impatient Congress ignored the action of Ohio and New Jersey and adopted its concurrent resolution of July 21, 1868, declaring that 29 states, including Ohio and New Jersey, had ratified the Fourteenth Amendment and made it a part of the Constitution. At least two of the states, North Carolina and South Carolina, which were enumerated by the resolution among the 29 ratifying states, had previously rejected the Amendment.

While an impatient Congress was taking this precipitate action on the day stated, another state, Georgia, ratified the Fourteenth Amendment and thus made the question of the constitutionality of the ignoring of the rescissions or withdrawals of Ohio and New Jersey moot. . . . An impatient Congress merely ignored what had happened. It did not adjudge that Ohio and New Jersey lacked the power to rescind or withdraw their ratifications.

And even if Congress had done so, its action would be destitute of precedential force under the well established constitutional principle that one Congress cannot tie the hands of a succeeding Congress. *Reichelderfer v. Quinn* (1932), 287 U.S. 315, 77, L.Ed. 331, 53 S.Ct. 177, 83 A.L.R. 1429. . . .

4. The only reasonable interpretation of Article V of the Constitution, which governs the amendatory process, is that it authorizes a state which has rejected a proposed amendment to change its mind and vote to ratify the same and permits a state which has ratified a proposed amendment to change its mind and rescind or withdraw its ratification at any time before three-fourths of the states have voted to ratify the proposed amendment and thus made it a part of the Constitution. This view rejects the unfair and illogical claim of the advocates of ERA, and permits the states to continue the search for truth until the amendatory process is consummated. And this is so regardless of whether the resultant questions are political questions for Congress or judicial questions for the courts.

I have called attention in other sections of this statement to the bizarre claim of advocates of ERA that a state legislature which has rejected the Amendment may change its mind and vote to ratify it, but a state legislature which has ratified the Amendment cannot change its mind and vote to rescind or withdraw its ratification. They cannot explain in a rational manner why they think the Constitution of the United States grants freedom to some legislative bodies, and imprisons others in mental jails.

They invoke their bizarre claim because they understandably fear that if state legislatures which ratified ERA in haste and under their pressure are permitted to exercise their intelligence and re-examine and reappraise ERA, they may decide to repent in wisdom of what they did in folly and vote to correct their mistake.

Other Americans, who cannot accept the arbitrary, unfair, illogical, and tyrannical view of advocates of ERA, have advanced two other views in respect to the power state legislatures may exercise in the amendatory process under Article V of the United States Constitution, which authorizes Congress and the states to amend the Constitution and prescribes the process by which they must act to exercise this awesome power.

For ease of statement, I shall call one of these views the Kentucky view, and the other the view shared by multitudes of other Americans and me. The Court of Appeals of Kentucky expressed the Kentucky view in *Wise v. Chandler*, (1937), 270 Ky. 1, 108 S.W.2d 1024, which held that if a state rejects a proposed amendment it cannot later ratify the same, unless it is resubmitted by Congress.

The Kentucky Court justified its ruling in this way: "We think the conclusion is inescapable that a state can act but once, either by convention or through its legislature, upon a proposed amendment; and whether its vote be in the affirmative or the negative, having acted, it has exhausted its power further to consider the question without a resubmission by Congress," *Chester J. Antieau: Modern Constitutional Law*, Vol. 2, Section 12:178.

The other view shared by multitudes of other Americans and me may be stated in this fashion: A state legislature does not forfeit its liberty of thought or action as long as the amendatory process is incomplete by either ratifying or rejecting a proposed amendment to the Constitution of the United States. Hence, a state legislature which has rejected a proposed amendment may change its mind and ratify it, and a state legislature which has ratified a proposed amendment may change its mind and rescind or withdraw its ratification at any time before three-fourths of the states have ratified the amendment and thus made it a part of the Constitution. *Chester J. Antieau: Modern Constitutional Law*, Vol. 2, Section 12:178; *C. Herman Prichett: The American Constitution*, pages 39–40.

On the day of its unprecedented decision in the *Coleman Case*, the Supreme Court of the United States, by a seven to two vote of the Justices, dismissed without decision the writ of certiorari previously granted by it to review the ruling of the Kentucky Court in *Wise v. Chandler* on the ground that it no longer presented a justiciable controversy susceptible of judicial determination. *Chandler v. Wise*, (1939), 207 U.S. 474, 83 L.Ed 1407.

If we are to appraise aright the role of state legislatures in the amendatory process, we must read Article V of the United States Constitution in the light of the rules devised by experience, reason, and law to enable state legislatures to perform their functions in civil government.

Article V proclaims:

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the application of the Legislatures of two thirds of the several states, shall call a Convention for proposing Amendments, which in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three-fourths of the several states or by Conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first Article; and that no state, without its consent, shall be deprived of its equal suffrage in the Senate."

No intelligent American will gainsay the proposition that voting to amend the Constitution of the United States is the most crucial task a state legislator can perform. This is true because an amendment to the Federal Constitution will control the lives of all generations of Americans as long as time shall last unless it is sooner removed from that instrument by another Amendment.

With the exception of the proviso making secure the right of each state to equal suffrage in the Senate, there is not a syllable in Article V which undertakes to put any limitation whatever upon what state legislatures can do in their amendatory role except the implied limitation that they can not effectively act after a proposed amendment has been ratified by three-fourths of the states and made a part of the Constitution.

On the contrary, except for the proviso stated, every word of Article V is in complete harmony with these conclusions: (1) A state legislature does not forfeit its liberty of thought or action as long as the amendatory process is incomplete by either ratifying or rejecting a proposed amendment to the Constitution of the United States; and (2) hence, a state legislature which has rejected a proposed amendment may change its mind and ratify it, and a state legislature which has ratified a proposed amendment can change its mind and rescind or withdraw its ratification.

These conclusions are inescapable. Moreover, they are inseparable from the spirit and purpose of Article V, which clearly contemplates that state legislators shall act with complete liberty of spirit and complete freedom of mind as long as state legislatures are participating in the amendatory process.

The rules derived by experience, reason, and law to enable state legislatures in America to perform their functions in civil government are well established in all areas of our land. They are two-fold in nature, and may be stated with simplicity as follows:

1. A state legislature may do what the state and federal Constitutions do not forbid it to do, *16 Am. Jur. 2d, Constitutional Law*, Section 228; *72 Am. Jur. 2d, States*, Sections 40, 41; *73 Am. Jur. 2d, Statutes*, Section 33; *Giozza v. Tiernan* (1893), 148 U.S. 657, 37 L.Ed. 599, 13 S.Ct. 721; *Chicago, Burlington and Quincy Railroad v. County of Otoe* (1873), 16 Wall. (U.S.) 667, 21 L.Ed. 375; *Ware v. Hylton* (1796), 3 Dall. (U.S.) 199, 1 L. Ed. 568; *Lassiter v. Northampton County Board of Elections* (1948), 248 U.S. N.C. 102, 102 S.E. 2d 853, affirmed 360 U.S. 45, 3 L.Ed.2d 1072, 79 S.Ct. 985; *Village of North Atlanta v. Cook*, (1963), 219 Ga. 316, 133 S.E.2d 585, 589.

2. A state legislature cannot restrict or limit the right of a succeeding legislature to exercise its constitutional power in its own way. In other words, it cannot tie the hands of its successors, *72 Am. Jur. 2d, States*, Section 40; *73 Am. Jur. 2d, States*, Section 34; *Stone v. Mississippi* (1880), 101 U.S. 814, 25 L. Ed. 1079; *Newton v. Mahoning County* (1880) 100 U.S. 548, 25 L.Ed. 710; *Boston Beer Co. v. Massachusetts* (1878), 97 U.S. 25, 24 L.Ed. 989; *Bank of Columbia v. Okely* (1819), 4 Wheat. (U.S.) 235, 4 L. Ed. 557; *Fletcher v. Peck* (1810), 6 Cranch (U.S.) 87, 3 L. Ed. 162; *State v. Wall* (1967) 271 N.C. 675, 683, 157 S.E. 2d 363; *Kornegay v. City of Goldsboro* (1920), 180 N.C. 441, 105 S.E. 187; *Village of North Atlanta v. Cook* (1963), 219 Ga. 316, 133 S.E. 2d 585, 589.

What has been said makes these things plain:

1. The claim of ERA supporters that a state which has ratified the Amendment cannot rescind or withdraw its ratification is totally repugnant to Article V and the rules devised by experience, reason, and law to enable state legislatures to perform their functions in civil government.

2. Although it is impartial and illogical, the Kentucky view is inconsistent with Article V because it prohibits further activity by ratifying and rejecting states while the amendatory process is still going on.

3. The view shared by multitudes of other Americans and me is in complete harmony with Article V and the rules devised by experience, reason, and law to enable state legislatures to perform their functions in civil government. Hence, this view is the sound one.

5. If the Supreme Court should adhere to its unprecedented ruling in the Coleman Case, Congress will be obligated to judge the question of whether ERA has been ratified by the true meaning of Article V, which is that a state legislature has power to ratify ERA after having previously rejected it and that a state legislature has power to rescind or withdraw its ratification of ERA after having previously ratified it. Since reason, the Constitution and prior Supreme Court decisions compel the conclusion that whether a proposed amendment to the Federal Constitution has been ratified in conformity with Article V is rightly a judicial question, and since subsequent Supreme Court decisions disclose the existing tendency of the Supreme Court to narrow the "political-question doctrine", it seems probable that the Supreme Court will return to its former position and hold that whether ERA has been ratified is a judicial question for its ultimate decision.

The *Coleman Case* is unprecedented. Moreover, it is contrary to six prior decisions of the Supreme Court, which covered the first 150 years of the nation's history, and which recognized and applied the sound constitutional principle that the question whether a proposed amendment to the Constitution of the United States has been ratified in conformity to Article V is a judicial question for the ultimate decision of the Supreme Court itself. I cite these six cases below.

United States v. Sprague (1931), 282 U.S. 716, 75 L. Ed. 640, 51 S. Ct. 220, 71 A.L.R. 1381; *Leser v. Garnett*, (1922) 258 U.S. 130, 66 L. Ed. 606, 43 S. Ct. 217; *Dillon v. Gloss* (1921), 256 U.S. 368, 65 L. Ed. 994, 41 S. Ct. 510; *Hawke v. Smith* (1920), 253 U.S. 231, 64 L. Ed. 877, 40 S. Ct. 498; *National Prohibition Cases*, (1920) 253 U.S. 350, 64 L. Ed. 946, 40 S. Ct. 486 (Note: Reported as Rhode Island v. Palmer); *Hollingsworth v. Virginia*, (1798) 3 Dall. 378, I. L. Ed. 644.

If the Supreme Court should adhere to its unprecedented ruling in the *Coleman Case* that questions of the validity of votes of state legislatures engaged in the amendatory process under Article V are political rather than judicial questions under the "political-question doctrine", Congress should be required by the oath of its members to support the Constitution to recognize and implement the true meaning of Article V, which is that a state legislature has power to ratify ERA after having previously rejected it and that a state legislature has power to rescind or withdraw its ratification of ERA after having previously ratified it. Any other Congressional conclusion would be faithless to Article V.

Sound reason compels the deliberate conclusion that the holding in the *Coleman Case* constitutes a temporary judicial aberration, and that the Supreme Court will welcome an opportunity to return to its original position, i.e., that questions concerning the ratification of proposed amendments to the Federal Constitution are judicial questions for the ultimate decision of the Supreme Court in accordance with the provisions of Article V.

I set forth below the basis for this observation. Under Section 2 of Article II of the Constitution, the judicial power of the United States extends to all cases arising under the Constitution, and various Acts of Congress grant the District Courts of the United States original jurisdiction to try such cases and the Courts of Appeal and the Supreme Court of the United States appellate jurisdiction to review the trial of such cases.

Undoubtedly, the most important case which can arise under the Constitution is one involving the question whether that instrument has been changed in the only way in which it can be changed, i.e., by an amendment which has been ratified by three-fourths of the states.

The phraseology of Article III and the Acts of Congress implementing such Article undoubtedly suffice to vest in the courts of the United States jurisdiction to hear and determine cases of this nature, and such Courts did in fact exercise such jurisdiction without question and with the complete satisfaction to the nation during the 150 years after the Constitution became effective.

On June 5, 1939, however, the Supreme Court turned its back on the words of Article III and the Acts of Congress implementing them and 150 years of its own history and adjudged that a case of this nature is a political question for Congress and not a judicial question.

These naked facts indicate that the Supreme Court had some difficulty in reaching this strange decision: the case was argued October 10, 1938; it was restored to the docket for re-argument January 30, 1939;

it was reargued April 17 and 18, 1939; and it was finally decided on June 5, 1939 by Justices hopelessly split into three irreconcilable groups, no group constituting a majority.

The Court cited no precedential authority for this unprecedented judicial decision except the historic fact that Congress had declared by a resolution of July 21, 1868, that the Fourteenth Amendment had been ratified by the requisite number of states.

Chief Justice Hughes cited this historic fact in an opinion in which only two other Justices concurred. He added that this decision of the Congress "has been accepted", and suggested that Congress had the unreviewable authority to make it because Congress had power to authorize the Secretary of State to perform the ministerial function of counting the certificates of the states indicating ratification and to promulgate the arithmetic result.

It is certainly not surprising that the congressional decision was "accepted" in 1868. Huge radical majorities in both Houses of Congress had reduced President Andrew Johnson to a state of presidential impotence, and cowed the then Supreme Court itself into complete subservience to their will by threatening to take away the appellate jurisdiction of the Court, and even to abolish the Court itself by constitutional amendment. As a consequence, the Court solemnly adjudged that it did not even have original jurisdiction of "cases * * * in which a state shall be a Party" under clause 2 of section 2 of Article III in April and May, 1867, when Mississippi attempted to secure an injunction to prevent the President from carrying out the reconstruction acts, and Georgia asked the Court to enjoin the military officers from enforcing these acts in that state. (See article on "The United States of America" on page 813 of Volume 22 of the *Encyclopedia Britannica*, Fourteenth Edition.)

Fortunately for the ultimate welfare of our country, the adoption by Congress of the resolution falsely reciting that Ohio and New Jersey had effectually ratified the Fourteenth Amendment was not the only event which occurred in our land on July 21, 1868.

While Congress was proclaiming this untruth, Georgia actually became the twenty eighth state to ratify the Fourteenth Amendment. By so doing, Georgia rendered the Congressional untruth relating to Ohio and New Jersey immaterial, and made ratification of the Fourteenth Amendment an accomplished and acceptable fact.

When all is said, the question of whether a state has ratified or rejected a proposed amendment to the Federal Constitution does not properly come within the scope of the "political-question doctrine" as that doctrine has been enunciated and applied in many Supreme Court cases.

The "political-question doctrine" is based on the separation of governmental powers made by the Constitution itself. Under the doctrine, the Federal judiciary has no power to make any decision in respect to any question if the power to make the decision is expressly or impliedly committed by the Constitution to some other department or agency of government.

The inapplicability of the "political-question doctrine" to the *Coleman Case* is demonstrated by words used by Chief Justice Hughes himself in that case. He said: "In determining whether a question falls within that category, the appropriateness under our system of government of attributing finality to the action of the political departments and also the lack of satisfactory criteria for a judicial determination are dominant considerations." (307 U.S. 433, 454–455) Both of these considerations were lacking in the *Coleman Case*.

There is not a syllable in Article V or any other provisions of the Constitution which intimates in the slightest way that it is appropriate to attribute to a politically-surcharged Congress, which has already declared by a two-thirds vote that a proposed amendment to the Federal Constitution is "necessary", the unreviewable power to make a final decision in conformity with Article V. On the contrary, Article V and every other provision of the Constitution recoils at the suggestion that the most important question which can arise in our system, i.e., whether our Constitution has been changed by an amendment conforming to Article V, should be left to the final determination of what is essentially a political body which is more concerned with political expediency than with the search for truth. Indeed, Article V and every other provision of the Constitution declare by their words, spirit, and purpose that the decision of this question should be made by the judiciary acting with what Edmund Burke described as "the cold neutrality of the impartial judge."

Moreover, there is no basis whatever for claiming a "lack of satisfactory criteria for a judicial determination" of a question of this nature. As a practical matter, the question is susceptible of judicial determination under most circumstances by a simple inspection of certificates issued by the appropriate state officers attesting the action taken by their respective legislatures.

Since the handing down of the *Coleman Case*, the scope of the "political-question doctrine" has been substantially narrowed by *Baker v. Carr*, (1962) 369 U.S. 186, 7 L.Ed.2d 663, 82 S.Ct. 691, where the Court held in repudiation of former decisions that whether a state had unconstitutionally apportioned voting power in the election of state legislators presented a judicial question and not a political question: *Bond v. Floyd*, (1966) 385 U.S. 116, 17 L.Ed.2d 235, 87 S.Ct. 339, where the Court held in substance that whether a state legislature had unconstitutionally deprived a state representative of his seat because of his expressed views presented a judicial question and not a political question; and *Powell v. McCormack*, (1969) 395 U.S. 486, 23 L.Ed.2d 491, 89 S.Ct. 1944, where the Court held in essence that whether the United States House of Representatives had unconstitutionally deprived a Representative of his seat was a judicial question and not a political question. . . .

In the light of these decisions and this adjudication, it seems obvious that the Supreme Court will hold, if the occasion for its acting in the matter should arise, that whether the Equal Rights Amendment has been ratified is a judicial question for the decision of the federal judiciary, and not a political question for the decision of Congress.

Be this as it may, Article V requires that it be decided in accordance with its true meaning, which is that a state may ratify the Amendment if it has previously rejected it, and that a state may rescind or withdraw its ratification if it has previously ratified it.●

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

● Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Richard T. Mulcrone, of Minnesota, to be a Commissioner of the U.S. Parole Commission for a term of 6 years vice James R. Cooper, term expired.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Wednesday, September 20, 1978, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.●

RECENT EVENTS IN RHODESIA

Mr. GOLDWATER. Mr. President, recent events in Rhodesia, including the inhuman shooting down of a civilian airliner and the calculated murder of 10 survivors, point up the scandalous nature of the Carter administration's foreign policy. By downgrading efforts to reach majority rule through the moderate process initiated by Premier Ian Smith and by continually emphasizing the vulnerability of the existing government, our State Department and the President have encouraged terrorism of the worst kind. Our Government has in effect encouraged the massacre of men, women and children—both black and white—by its preoccupation with the idea that the Communist Black Front leaders must be given power in Rhodesia.

Mr. President, this was no ordinary terrorist maneuver. This was not a hijacking in which demands were made and an opportunity at least existed to save the lives of hostages. This was a calculated scheme of murder aimed at non-combatants flying in a civilian airliner. No opportunity was given for negotiations. The object was to kill. And perhaps the most chilling aspect of the whole thing came when guerrilla leaders Joshua Nkomo claimed credit for shooting down the passenger plane and warned that more passenger planes may be shot down in the future. This is the man whom the State Department and U.N. Ambassador Andrew Young keep describing as a "moderate" and "a reasonable man" who should be drawn into the present transitional government.

The whole affair points up the bankruptcy of our position and our policy. In effect, we have undercut and sabotaged efforts to bring about reasonable majority rule in Rhodesia. We have encouraged the total destruction of human rights. We have made possible a rampant wave of terrorism. We have failed miserably in our role as a world leader dedicated to the right of self-determination and a protector of human dignity.

Mr. President, the plane incident was an ultimate example of violation of human rights. Where then is the Carter administration which is so quick to condemn human rights violations in other parts of the world? Why have we not heard statements from the President or the Secretary of State denouncing this slaughter of innocent human beings? Where is the leadership of the Democrat Party and, yes, the Republican Party, too? Why are these people not telling us what this means to all of the world? But, primarily, I hold our Government responsible. When, I ask, is the seemingly gutless leadership of our country going to show some strength and stand up to those who want to rule by the sword, the arrow, and the bullet? Just think of what would happen in this country if some

sniper at the bottom of the Salt River ambushed a plane full of innocent American civilians. Think what would have happened if this same kind of thing happened at Dulles Airport. Do you think then that our government leaders would maintain a diplomatic silence?

Mr. President, recently, Rhodesian Premier Smith expressed deep resentment against the United States and Britain for what he described as their support for "a gang of Marxist terrorists." He further said the two Western nations bear "the major share of blame" for the escalation of the war in Rhodesia. I thoroughly agree with Mr. Smith. He has a legitimate complaint and I believe it is high time the Carter administration takes a realistic attitude toward governments doing their best to promote democratic processes.

EXPORT-IMPORT BANK

Mr. PROXMIRE. Mr. President, I call to the attention of my colleagues a communication which I have received from the Export-Import Bank pursuant to section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, notifying the Senate of a proposed direct loan in the amount of $151,200,000 to assist the export from the United States of Boeing 737–200 jet aircraft and related goods and services—including Pratt and Whitney engines—to British Airways, a commercial air carrier wholly owned by the Government of the United Kingdom. Section 2(b)(3)(i) of the act requires the Bank to notify the Congress of proposed loans or financial guarantees in the amount of $60,000,000 or more at least 25 days of continuous session of the Congress prior to the date of final approval. Upon expiration of this period, the Bank may give final approval to the transaction unless the Congress adopts legislation to preclude such approval.

In this case, the Bank proposes to extend a direct loan to cover 70 percent of the total cost of U.S. goods and services to be exported. The Exim credit will bear interest at the rate of 8½ percent per annum and be repayable over a 10-year period beginning in 1980.

This is a requirement of the law that the bank notify the Congress, and I am doing that on behalf of the bank now.

Mr. President, I ask unanimous consent that the letter from Eximbank pertaining to this transaction be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXPORT-IMPORT BANK OF THE UNITED STATES,
Washington, D.C., September 8, 1978.

Hon. WILLIAM PROXMIRE,
Chairman, Committee on Banking, Housing and Urban Affairs, Washington, D.C.

DEAR MR. CHAIRMAN: In accordance with Section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, I have reported to the President of the Senate and the Speaker of the House of Representatives on an application currently pending consideration by the Bank. I am taking the liberty of providing you with a copy of this statement.

Sincerely,

JOHN L. MOORE, Jr.

Enclosure.

EXPORT-IMPORT BANK OF THE UNITED STATES,
Washington, D.C., September 8, 1978.

Hon. WALTER F. MONDALE,
President of the Senate, Washington, D.C.

DEAR MR. PRESIDENT: Pursuant to section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States Senate with respect to the following transaction involving U.S. exports to the United Kingdom:

A. Description of Transaction.

1. Purpose

Eximbank is prepared to extend a direct credit of $151,200,000 to British Airways. The purpose of the Eximbank financing is to facilitate the purchase in the United States by British Airways of nineteen new Boeing 737–200 jet aircraft and related goods and services (including Pratt & Whitney engines) with a total U.S. export value of $216,000,000.

2. Identity of the Parties

(a) British Airways

British Airways is the largest commercial air carrier in the United Kingdom and is wholly owned by the Government of the United Kingdom. British Airways was incorporated under the Civil Aviation Act of 1971 to assume the activities of British Overseas Airways Corporation (BOAC) and British European Airways (BEA). British Airways operates under the terms of the British Airways Board Act of 1977 and under this Act has the power to operate every type of air transport service.

(b) Government of the United Kingdom

The Government of the United Kingdom will unconditionally guarantee payment of principal and interest by British Airways to Eximbank under the direct credit.

3. Nature and Use of Goods and Services

The principal goods to be exported from the United States are commercial jet aircraft to be used by British Airways on its short and medium-term routes, principally in Western Europe and the United Kingdom. The airframes will be manufactured by The Boeing Company (Boeing) of Seattle, Washington and the JT8D engines will be manufactured by the Pratt & Whitney Aircraft Group of United Technologies in Hartford, Connecticut. In addition, other U.S. firms will furnish related spare parts and services.

B. Explanation of Eximbank Financing

1. Reasons

The Eximbank credit of $151,200,000 will facilitate the export of $216,000,000 of United States goods and services. Sales, profits and employment for U.S. aircraft manufacturers are heavily dependent upon exports. Through 1990, aircraft purchases by foreign airlines are expected to account for approximately 40% of total U.S. aircraft sales. Eximbank's financial support for exports of U.S. aircraft has assisted U.S. aircraft manufacturers in obtaining approximately 80% of the world market.

Boeing estimates that the export of these aircraft will provide 6.4 million man/hours of work for Boeing and its sub-suppliers. Additional benefits which will flow to the United States from the transaction include sizeable follow-on exports of spare parts, ground support and other related equipment.

Since 1966, British Airways has purchased 45 commercial jet aircraft from the United States with Eximbank support. British Airways estimates that in the near future it will have to replace a substantial number of obsolescent aircraft in its fleet of approximately 180 aircraft. The airline has indicated its desire to rely on Eximbank support so that it may continue to purchase new aircraft in the U.S. British Airways has been under growing pressure to select aircraft manufactured in the United Kingdom or by Airbus Industrie. Eximbank support facilitates the selection of aircraft from the U.S. and, in this case, facilitated the choice by British Airways of the U.S.-made 737 over the British-made BAC–111.

2. The Financing Plan

The financing plan for the total U.S. goods and services of $216,000,000 is as follows:

	Percent of U.S. costs	Totals
Cash payment	30.0	$64,800,000
Eximbank credit	70.0	151,200,000
Total	100.0	216,000,000

(a) Eximbank Charges

The Eximbank credit will bear interest at the rate of 8½% per annum, payable semi-annually. A commitment fee of ½ of 1% per annum will also be charged on the undisbursed portion of the Eximbank credit.

(b) Repayment Terms

The Eximbank credit will be repaid by British Airways in two schedules of 20 semi-annual installments each, beginning October 5, 1980 and April 5, 1981.

Sincerely,

JOHN L. MOORE, Jr.

FED CHAIRMAN MILLER RATES A D GRADE

Mr. PROXMIRE. Mr. President, when Mr. William Miller was confirmed as Chairman of the Federal Reserve Board, I said that every 3 months we would issue a report card rating his performance, so it would be rated not on the basis of rhetoric or opinion, but based on objective scrutiny of what he has been able to accomplish with respect to interest and inflation, and so forth.

I must say, G. William Miller has earned a D on his report card as Chairman of the Federal Reserve in the second 3 months of his term. The D is not quite a failing grade, but it does mean the student has to repeat the course. The D does represent a very slight improvement over his D-minus for this first 3 months in office. Both inflation and interest rates have continued to rise despite Chairman Miller's announced desire to reduce them.

I said when Miller was appointed that he would be judged every 3 months by the results of his policies. He has now been Federal Reserve Chairman for 6 months, which means that the policies he has backed should begin to show some results. Thus far they have had little positive effect. So the D grade, while not final for his first year as Chairman, continues to be the one he has earned. As I have said before, if Miller can help bring down inflation and reduce interest rates, his final grade will be raised.

During the last 3 months inflation and interest have continued to rise despite indications that the economy has been slowing down following abnormally rapid growth during the second quarter of this year. Because of slower economic growth the quantity of money has moderated in the past 3 months to levels that fall within the ranges specified by the Federal Reserve, yet the Federal Reserve has continued to raise interest rates.

About a month ago, Chairman Miller said that he hoped interest rates had peaked. Since then the Federal Reserve Board has raised them by more than a half percent.

The most recent interest rate increases have resulted from a desire by the Fed-

eral Reserve to support the value of the dollar even though such a policy can only help temporarily, does not affect the underlying fundamental problems the dollar is having, and could result in a weaker domestic economy.

Three months ago the Federal funds rate was at 7½ percent, and many economists were fearful that there could be seriously adverse effects on the economy. Now the Federal funds rate is 8⅜ percent and rising.

Inflation has not shown any inclination to respond to tighter Federal Reserve policy.

Mr. President, I ask unanimous consent that a table showing the economy's performance in the second quarter of the Miller chairmanship of the Federal Reserve be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

QUARTERLY ECONOMIC DATA

[Averages at annual rates; growth rates or percent unless noted]

	1st quarter, 1978	2d quarter, 1978
Real GNP	−0.1	8.0
Implicit GNP deflator	7.2	10.7
CPI	7.6	10.5
PPI	11.2	9.6
Unemployment rate	6.2	5.9
Industrial production index	139.6	143.9
Manufacturing capacity utilization	82.1	83.8
Housing starts (millions)	1.73	2.11
3-month Treasury bill rate	6.39	6.48
Federal funds rate	6.76	7.28
Corporate Aaa bond rate (Moody's)	8.45	8.67
Prime rate charged by banks	8.00	8.30
New home mortgage yield (FHLBB)	9.19	9.28
Money stock: M-1	5.6	9.5
Money stock: M-2	6.9	8.3
Velocity: V-1	1.3	8.6
Velocity: V-2	0	9.9

MONTHLY ECONOMIC DATA

	June	July	August
Federal Funds rate [1]	7.78	7.88	8.28
3-month Treasury bill rate [1]	6.93	6.83	7.42
Corporate Aaa bond rate [1]	8.82	8.88	8.66
Bank prime rate [1]	9.0	9.0	9.25
Housing starts	2,124	2,085	(?)
New home mortgage yields	9.46	9.57	(?)
M-1 [2]	9.4	5.8	5.6
M-2 [2]	8.7	8.3	8.9

[1] Last week of the month.
[2] Not available.
[3] Last week of the month, average annual rate of growth during previous 13 weeks.

Mr. PROXMIRE. Mr. President, that table includes the real GNP, a series of different inflation indicators, production indicators, housing starts. It shows with respect to the treasury bill rate, that is up sharp. Federal funds rate, up. Corporate triple A bonds rate, up. Prime rate charged by banks, up. New home mortgage yield, up, and so on.

Of course, all that is bad news for borrowers, bad news for farmers, for home buyers, and for most consumers in the economy. That is one of the principal reasons for the low rating of the chairman.

When Chairman Miller was confirmed, I listed the economic indicators shown on the attached table and promised to use them in making these quarterly report cards. All indicators on interest and inflation rose during the second quarter and have gone higher since then.

One of the problems we have faced with past Chairmen of the Federal Reserve and that we are now facng with Chairman Miller is that they do every job, but the one they are assigned to do.

The Federal Reserve is in charge of monetary policy. That is a great power and a great responsibility. But over the years when Chairmen of the Federal Reserve appeared before Congress and in the public, they talked about everything but monetary policy. They have told the President what to do about the budget and fiscal policy. They have told him what to do about labor negotiations, the minimum wage, and the Davis-Bacon Act. They have told him what to do about taxes and excess profits.

But they seldom say anything specific, decisive, and concrete about monetary policy, the one area they control.

Mr. G. William Miller is following in the footsteps of his predecessors. Editorials not only complain that he talks too much but now he views his role as a proponent of the natural gas bill and as a team player.

So while he may get an A as a lobbyist and as a team player, he gets a D for the job he has done with monetary policy. And the main reason his grade goes up from a D-minus last time to a D this time, even though interest rates have continued to rise, is that he was instrumental in appointing Nancy Teeters to the Federal Reserve Board. She is highly qualified, in fact better qualified than many of the recent appointees, and she will be the first woman in the 65-year history of the Federal Reserve Board to become a member. The latter says more about the Federal Reserve than it does about Nancy Teeters.

"THE HOLOCAUST": A BROADCAST OF GENOCIDE

Mr. PROXMIRE. Mr. President, over the next 2 weeks the Israeli people are reliving a national trauma with the airing of the television program "The Holocaust." This powerful docudrama, as shown in the United States last April, relates the horrors of the Nazi genocide of 6 million European Jews during World War II. The brutal atrocities, as well as the events and conditions in Germany and the world that allowed them to occur, come alive in the living room; 1.5 million Israelis viewed the first segment of this stunning testimony to life and the value of human rights.

Meanwhile, concern for the memories of the 400,000 survivors living there has caused great debate. Israeli psychiatrists are preparing to deal with any traumatic reactions that arise from survivors, their children, and the national psyche as a whole.

Why, Mr. President, would a country traumitize its citizens so? Why?

Because the Israeli people know that we must learn from history, if we are not doomed to repeat it.

Education is the best prevention, Mr. President. "It serves as a warning system," said Shmuel Ron, an Israeli who fought with the Polish resistance movement. Litzhak Livini, director of the Israeli television service, added, it is "an attempt to focus a medium of great power on a subject that defies human understanding."

But what about the United States, Mr. President? Do we lack understanding?

President Truman certainly did not. Neither did his successors. All of them—Eisenhower, Kennedy, Johnson, Nixon, Ford, and now President Carter—all of them understood its importance and have given it their full support.

And the Israelis have surely not forgotten what genocide means—they, along with 82 other nations, have ratified the Genocide Convention.

Yet for nearly 30 years this great Chamber has failed in its duty to ratify that which protects the most basic of rights—the right to live. It was this fundamental right that the holocaust destroyed. It is that destruction that Israelis now view on television. It is also that destruction which we must never allow again.

Mr. President, what can the U.S. Senate do to insure that genocide never happens again?

The United Nations took the first step in 1946 by unanimously declaring genocide a crime under international law. We must take the next step and ratify the Genocide Convention.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNITED STATES RAILWAY ASSOCIATION AUTHORIZATION, 1979

Mr. LONG. Mr. President, I move that the Senate proceed to the consideration of H.R. 10898, which is at the desk.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 10898) to amend the Regional Rail Reorganization Act of 1973 to authorize appropriations for the United States Railway Association for fiscal year 1979.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. LONG. Mr. President, this bill authorizes appropriations for administrative expenses for the U.S. Railway Association during fiscal year 1979. As passed by the House of Representatives, the bill not only provides $27.2 million for administrative expenses for the U.S. Railway Association, but in addition, contains an amendment, the effect of which is to authorize additional loans to be made by the U.S. Railway Association to the Delaware & Hudson Railroad.

Mr. President, under current law, the U.S. Railway Association is authorized to make loans to various railroads, including railroads in reorganization, for purposes of achieving the goals of the Regional Rail Reorganization Act of 1973. The Regional Rail Reorganization

Act, in section 211, requires that as a prerequisite to the association making these loans, the association shall first make a finding in writing that: First, the loan is necessary to achieve the goals of this act or to prevent insolvency; second, it is satisfied that the business affairs of the applicant will be conducted in a reasonable and prudent manner; and third, the applicant has offered such security as the association deems necessary to reasonably protect the interest of the United States.

Under this statutory language, the U.S. Railway Association has been making loans periodically to the Delaware & Hudson Railroad since March of 1976, at which time a loan agreement in the amount of $30 million was entered into between the railroad and the association. Since that time, the association has loaned $27.3 million to the Delaware & Hudson.

Recently, as a result of deteriorating financial conditions at the Delaware & Hudson Railroad, coupled with decreases in that carrier's traffic volume, the prospect of adequacy of security, as well as the likelihood of repayment under the terms of the statute have made it virtually impossible for the U.S. Railway Association to continue to lend money to the Delaware & Hudson Railroad, in accordance with the necessary findings required by section 211 (e) of the Regional Rail Reorganization Act.

As a practical matter, Mr. President, what that means is that, to make a further loan, it would have to find that that loan is adequately secured and adequately protected. The railroad cannot even meet the interest charges, as it stands now, and it is in arrears on those charges for that reason.

The poor financial performance of the Delaware & Hudson has been compounded by a strike at the Norfolk & Western that has cut further into the Delaware & Hudson's badly needed revenues. That strike continues today. Within this context—namely, the inability of the U.S. Railway Association to continue to make the findings required by law, and the Delaware & Hudson's contention that, unless additional funds were lent to it, it would have to go into bankruptcy—the House of Representatives added this following amendment to H.R. 10898, the purpose of which is to waive the requirements of section 211 (e):

Provided with respect to a loan under subsection A of this section to a railroad in the region, the Association may approve any modification of such loan, including increasing the principal amount of the loan, upon a finding that such modification would permit the continuation of rail service determined by the Association, in the Final System Plan, or under the goals of the Act, to be desirable.

That is to waive the finding that the interest of the United States is protected.

Now, Mr. President, the Committee on Commerce, Science, and Transportation was anxious to develop the best possible record that it could, consisting of background information on the Delaware and Hudson, as well as estimates from the various Government agencies on which course of action to take, in order to be able to make the soundest recommendations to the Senate. The committee has sought the views of the various Federal agencies and departments that are concerned with rail transportation, and the committee has sought the views of interested shippers and railroads. We have also sought the views of labor organizations. The choice that we were faced with came down to this question: How can we maintain rail service on the Delaware and Hudson on a consistent, normal, uninterrupted basis during the time that the studies are underway in the New England region relating to restructuring of the rail network in that area.

The committee believes that it is very important to point out that all three Government bodies that offered their views on this matter, the U.S. Railway Association, the Department of Transportation, and the Interstate Commerce Commission, are unanimous in their belief that normal rail service should be continued until the completion of the Federal Railroad Administration and the U.S. Railway Association's studies of the New England rail region.

In addition to insuring the continuation of regular service along the Delaware and Hudson's route network, we had to make an evaluation and a determination of whether the best way to do this would be to permit the carrier to go into bankruptcy and fund it through Government loans from the Emergency Rail Services Act of 1970 or to attempt to keep it out of bankruptcy and continue to extend credit to the Delaware and Hudson under the section 211 program of the Regional Rail Reorganization Act, as the House has done. The U.S. Railway Association and the Interstate Commerce Commission took no strong position on whether funding should be provided in or out of bankruptcy, but the Commission did indicate the importance of keeping the Delaware and Hudson in operation while a restructuring plan is being developed. The Commission also informed the committee that if bankruptcy were taken, the Emergency Rail Services Act would offer by far the least costly approach to achieving the goal of normal rail service continuation. The Departments of Transportation and Treasury are both firmly opposed to additional Federal loans simply to forestall the bankruptcy of the D. & H.

And that is the point that I think is crucial here, Mr. President.

The Department of Transportation has consistently opposed the granting of additional loans to the Delaware and Hudson on the grounds that they were neither securable nor repayable. However, the Department of Transportation also recognized that directed service ordered by the Interstate Commerce Commission after bankruptcy would probably be the most expensive approach to this problem. It therefore suggested that provision could be made for some continued Federal financing if necessary in a bankruptcy situation in order to insure that normal rail operations would continue.

This kind of approach seemed to make eminent good sense to this Senator and also to the chairman of the Commerce Committee.

I can state confidently to Members that the Commerce Committee as a whole seems to agree with this.

This approach will allow uninterrupted service to be continued for those shippers who depend on the Delaware and Hudson Railroad while the USRA–FRA studies go forward in the New England region to determine just what an ideal and restructured rail network ought to look like in that region.

What we are proposing therefore in our amendment to section 3 of the House bill is an amendment to section 3(a) of the Emergency Rail Services Act of 1970 that will permit the Secretary of Transportation to make postbankruptcy loans to the D. & H. up to December 31, 1979. The findings that are waived by this amendment are not for the purpose of authorizing loans to avoid bankruptcy, but rather to authorize loans to continue normal service, if they are required for that purpose.

Mr. President, there are several additional minor amendments which we are also proposing to the House bill.

The first makes it clear that the $27.2 million authorization for fiscal year 1979 for USRA's administrative expenses is to remain available until expended, rather than until September 30, 1980.

The second is to clarify a situation that comes about from time to time on the USRA Board. When a Board member's term expires, we should allow that member to continue to participate in the affairs of the association until a successor has been appointed and aproved through Senate confirmation. This is the problem that was discussed only last week at the nomination hearings of five members of the USRA Board, including the Chairman. The Board has been under represented for over a year and without a Chairman for a little over a year. The House provision would provide for the continuity I just spoke of for only a 90-day period. Our provision would not be so limited and would allow indefinitely continued service by the Board member until his successor was approved. I would like to emphasize that both of these amendments were contained in the original Senate authorization bill that passed last spring.

The third amendment relates to section 303(a) of the Railroad Revitalization and Regulatory Reform Act of 1976, which enacted section 17(9)(f) of the Interstate Commerce Act, allowing the Interstate Commerce Commission to extend certain time limits in extraordinary situations. One prerequisite to the exercise of this power is that not less than seven of the Commissioners, by public vote, agree to the extension.

At the present time, the Commission, although authorized to be composed of 11 members, has only 7 members. Recently, Commissioner Rupert L. Murphy submitted his resignation to the President to be effective August 31, 1978. Thus, as of that date, the Commission was composed of only six members. This could render its power to extend certain deadlines a nullity since, as mentioned, the statute requires that seven members vote for the extension. Therefore, our amendment provides that extensions of

time could be granted if a majority of Commissioners by public vote agree to the extension. This would modify the existing requirement that more than a simple majority vote for an extension, but would make the statute more adaptable to situations such as presently exist.

The final proposed amendment concerns a provision for establishing the value of rail properties transferred by ConRail to any State, local, or regional transportation authority. The 900-day period established by section 206(d)(5)(C) of the Regional Rail Reorganization Act of 1973, for purposes of establishing a time period within which such value is to be determined, following conveyance, expires on Sunday, September 17, 1978. Our amendment extends the period to an even 3 years, and is made retroactive to the original effective date of the Regional Rail Reorganization Act.

Mr. President, I ask unanimous consent that a statement by the chairman of the Commerce Committee, Senator CANNON, be printed in the RECORD at this point further elaborating what I have said here.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. CANNON. Mr. President, the course of action the chairman of the Subcommittee on Surface Transportation and I are recommending to this body was determined only after we considered the views of the Delaware and Hudson, shippers served by the railroad, the Department of Transportation, the U.S. Railway Association, the Interstate Commerce Commission, the Treasury Department and various other interested parites. Among all of these parties, Mr. President, it is agreed that something needs to be done to insure the continuation of the essential rail services of the D. & H. Railroad. Senator LONG and I have worked together in developing what we believe to be the most reasonable and prudent approach to maintaining, in the event of the bankruptcy of the Delaware and Hudson Railroad, rail services during the period of time required to complete the studies of the New England rail system.

The Delaware and Hudson Railroad has been in marginal financial condition for the past 2 years. According to the data submitted by the U.S. Railway Association it has advanced to the Delaware and Hudson $27.3 million under the provisions of section 211(a) of the Regional Rail Reorganization Act of 1973 to date. We have been advised by the U.S. Railway Association that the continuing strike against the Delaware and Hudson's primary connecting railroad, the Norfolk and Western, has drastically reduced the trafic flow and cash situation of the D. & H. such that the U.S. Railway Association is presently unable to make the necessary statutory findings required by section 211(e) of the 3R Act to continue advancing funds to the D. & H. The House bill would rescue the D. & H. from imminent bankruptcy, at least during the period of time required to complete a merger or unification study, by removing the necessity for making the statutory findings to which I have just referred.

Mr. President, I believe Congress should be reluctant to set any precedent for relief to railroads if the sole purpose of such relief is avoidance of bankruptcy. In this regard, the laws of the marketplace should pertain to railroads as to any other business until there is demonstrable evidence that termination of services by the railroad is imminent and that such termination will endanger the public welfare.

Under ordinary conditions a railroad that is insolvent or unable to meet its debts as they mature may file for reorganization under section 77 of the Bankruptcy Act. The special features of section 77 are designed to keep the railroad in operation so that it can continue to provide service to the public while its financial problems are corrected. While we do not believe there is justification to disturb this section 77 process, the action being recommended to the Senate will provide further assurance to the shippers and communities served by the D. & H. Railroad that the service now being provided will continue uninterrupted during the development of the New England region rail study in the event a bankruptcy petition is filed by the D. & H. To make clear this purpose the Cannon/Long amendment directs the Secretary of the Department of Transportation to waive certain required findings to ensure that emergency rail service money is available and to preclude the necessity for expensive directed service by the Interstate Commerce Commission.

I would point out here, Mr. President, that the U.S. Railway Association, the organization which has been monitoring the D. & H. financial situation for some time now, and the Department of Transportation have taken a position recommending that Congress specifically act to ensure that rail services are continued in the event bankruptcy occurs. The Department apparently does not believe the bankruptcy of the D. & H. will disrupt the section 401 study or preclude the effective restructuring of the New England rail system.

As a policy matter, Mr. President, Congress should not set a precedent for future Federal intervention to "bail out" ailing business enterprises, even on a temporary basis, although I would emphasize that we are greatly concerned that services to affected shippers and communities are continued in spite of the event of bankruptcy.

In the event the D. & H. should file for bankruptcy, the Department and the U.S. Railway Association suggest that the D. & H. could continue operations for a limited period without assistance. In addition, there is approximately $55 million available under the Emergency Rail Services Act of 1970 which the amendment will enable the Department of Transportation to advance to the D. & H. against trustee certificates as needed to maintain essential transportation services, as an emergency and interim procedure pending completion of the USRA/DOT restructuring plans.●

Mr. MOYNIHAN. Mr. President, I thank Senators CANNON and LONG for this amendment and for acknowledging that the services of the Delaware and Hudson Railway must be preserved for New York and for the entire Northeast. I know they are concerned with the precedent that the Senate may set today for dealing with other railroads in financial trouble. The proper Senate action in the face of such trouble is a source of considerable disagreement. In this case we all agree that a competitive rail system in the Northeast ought to be preserved. D. & H. is a keystone in that system. It has for decades been a bridge carrier linking large cities and ports of the Northeast with the rest of the country. It also provides service to many rural hamlets and villages that would otherwise have none.

The question today is how to preserve the D. & H. Railway. I much prefer the answer to that question arrived at by the House. In my view, the approach taken in the House bill is superior to the amendment now being considered by the Senate. I have strong reservations about this amendment, but because of the immediate need for legislation aiding the Delaware and Hudson, I will not oppose it. But I ask my colleagues to consider the differences.

The amendment offered by the distinguished chairman of the Commerce Committee asks the railway to go into reorganization, to file a petition for bankruptcy, before any more Federal loans may be extended to it. The House bill, on the other hand, allows additional Federal loans to the railway at least until the Department of Transportation completes a thorough study of the D. & H. and the rail system in our region. That study, expected by late 1979, will recommend the restructuring or merger that would put the D. & H. and other railroads back on the track to good health.

Now I ask: Is not the House approach preferable? It allows the D. & H. to operate until the Federal study is complete. It does not bring on the disruptive and complicating factor of reorganization. A petition for bankruptcy would have, what seems to me to be, acute disadvantages:

First. It would retard quick improvement of the D. & H. operation. Any changes that the management thinks necessary would have to be approved by the trustees and the court.

Second. The future of the D. & H. would be uncertain. It is possible that the trustees of the railway, on behalf of the creditors, would not apply for new loans, precipitating a shutdown. Short of that, it will be less attractive to potential buyers or partners.

Third. It would be bad for New York. Jobs in Albany, Binghamton and Oneonta might conceivably be threatened. The State government has $25 million invested in the D. & H. That money would be in jeopardy. State taxes would not be paid in bankruptcy.

Fourth. Rail traffic would surely be diverted. Bankruptcy would carry with it the possibility of impaired service. Shippers might well turn to trucks or other railroads, including Canadian lines.

Fifth. Government expenditures might increase even further. Directed service and its high cost is not ruled out in this approach. Debt payments from D. & H. to ConRail would not be made in the short term.

It can be argued that the Delaware and Hudson is in its present state largely because of Federal action. That a transportation company could operate profitably for 150 years and be on the brink of bankruptcy after 2 years of assistance by the Federal Government is reason for pause. D. & H.'s bad fortunes are inextricably linked with the ConRail experiment. After being saddled in 1976 with 750 miles of additional track, D. & H. has struggled just to keep its head above water. The D. & H. now finds itself with twice as much railroad and a 20 percent drop in traffic.

The Government that has added to D. & H.'s trouble should be willing to help the railroad out of trouble. I believe the House bill does that better than this amendment. I implore my colleagues to go to conference with an open mind. Let the two approaches be carefully compared. I believe the merits of aiding the Delaware and Hudson outside of bankruptcy are by far the greater.

Mr. JAVITS. Mr. President, I suggest that Senator LONG submit his amendment so I can speak to that.

UP AMENDMENT NO. 1831

(Purpose: To waive some required findings for guarantee of certificates, and for other purposes)

Mr. LONG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. MOYNIHAN). The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an unprinted amendment numbered 1831.

Mr. LONG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, strike lines 10 through 19, and insert in lieu thereof the following:

"Sec. 3. Section 3(a) of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(a)) is amended by adding at the end thereof the following new sentence: "Notwithstanding any provision of this section, the Secretary in guaranteeing certificates under this section is authorized to waive the findings required by paragraphs (1), (5), and (6) of this subsection upon a finding that the guarantee of certificates is necessary in order for a railroad which has filed a petition for bankruptcy under section 77 of the Bankruptcy Act (11 U.S.C. 205) on or after September 1, 1978 to maintain services in the region (as that term is defined in section 102(15) of the Regional Rail Reorganization Act of 1973): *Provided*, That the Secretary may not make such a waiver after December 31, 1979.".

On page 2, line 1, strike all after "until" through line 2, and insert in lieu thereof "expended.".

On page 3, line 8, strike all after "qualified" through "term" on line 9.

On page 3, strike lines 1 through 4, and insert in lieu thereof the following:

"SEC. 4. (a) Section 206(d)(5)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(d)(5)(C)) is amended by striking out "900 days" and inserting in lieu thereof "3 years".

"(b) The amendment made by this Act shall be effective on January 2, 1974."

On page 3, immediately after line 4, insert the following:

"SEC. 5. Section 17(9)(f)(1) of the Interstate Commerce Act (49 U.S.C. 17(9)(f)(1)) is amended to read as follows:

"(1) a majority of the Commissioners, by public vote, agree to such further extension; and"

Mr. JAVITS. Mr. President, I wish to analyze this situation.

I think both Senator LONG and Senator CANNON are intelligent and reasonable men. The House of Representatives took a totally different approach to this, and I wish to lay on the record and for their consideration the reasons for that different approach. I hope that in conference they will listen to the other side of the story and see whether it does not really make sense.

First, I join with Senator MOYNIHAN in the feeling that, although the Senator is making a provision for continued service, it is not the best way. Continued service is important to my State and important to Pennsylvania, New Hampshire, Vermont, and to such extent as it affects them, Maryland, New Jersey, and Virginia as well.

Also Senator LONG is very experienced in business just as I am. Whenever you say you are better off going into bankruptcy, it always kind of rubs my fur the wrong way. I am sure the Senator feels the same way. It is called taking a bath in business. No one generally, in the first instance, thinks that is good business, and in this particular case, which is really a very unique situation, it certainly is not.

The Delaware & Hudson is one of the most honored railroads in the country. It has done business for over 100 years and was until recently always a solvent railroad, a successful railroad, a big interest-payer, a big taxpayer, and was generally very, very highly regarded.

The Government did it in—the U.S. Government. It was only when the U.S. Government began a new experiment in railroad management with the establishment of ConRail that the D. & H. came on very hardtimes.

The D. & H. has been struggling since then to keep its head above water. It was saddled with 750 miles of additional track in the final system plan, and was seriously hurt by a lack of friendly connections to markets in the South and Midwest. So the Government has been heavily responsible for the trouble of the railroad.

It seems to me there is at least some moral obligation for the Government to see that the railroad is not disastrously treated.

Also the D. & H. is unique in that a restructuring study, as Senator LONG has said, is already underway to determine how best to correct the initial Government planning error. Placing the D. & H. in reorganization or bankruptcy, as is contemplated by this amendment, we believe would foreclose certain planning options. I have very serious reservations about whether this is the time to foreclose options which could provide the D. & H. and the U.S. Government with the tools to develop a rational cure for the problems of Northeastern railroads.

Now, what is in prospect if the D. & H. should go into bankruptcy. I would, for the benefit of the record, and so that my colleagues may have them before them as they go into conference. I gather that on the other side in the House, which has adopted a very different approach, to wit, of keeping the D. & H. out of bankruptcy, there is also a very fervent feeling that that is the way to go. So this issue undoubtedly will be in contention.

I will say to Senator LONG that I would not dream of being irresponsible enough to hold up the bill or anything like that. Nor would I find it wise to fight with him or Senator CANNON. The issue will be in conference, and I am hoping you will take a good objective look at it.

First, it is felt there is very grave danger of traffic diversion to trucking, which is quite a feasible alternative in this particular area, or diversion to Canadian railroads, which do not have to go into bankruptcy because they are all owned by the Canadian Government, and possibly diversions to ConRail itself.

The D. & H.'s traffic mix is highly truck-competitive, I am advised, and highly susceptible to diversion, and anything which causes uncertainty or a possibility of impaired service in the mind of shippers that have that option may cause irreparable diversion of borderline traffic. Also, the Canadian railroads are in a unique position respecting competition with the D. & H. for the reason I have stated.

So, I believe that weakening the D. & H. could easily result in diverting traffic to trucks and to Canadian railroads, which means U.S. dollars and employment, and which means further harming basically this railroad which, as I say, has such an honored history in the century of its operation.

There is some effective competition between D. & H. and ConRail. For example, Sealand Service, the Nation's largest ship operator, has recently made arrangements to switch from ConRail to D. & H. to move containers west from New York. If the D. & H. goes into reorganization or bankruptcy, that large shipper might go back to ConRail, even though it is at present dissatisfied with ConRail service.

The second point is the possibility of successful merger or restructuring. I believe from what has been laid before me that the ultimate fate of the D. & H. is likely to be merger or restructuring because of inherent structural problems in the final system plan. If the railroad is in bankruptcy, it will be weaker and less attractive to potential buyers or potential partners. In addition, any transfers would have to be approved by a court and trustees, whose interests are to protect creditors and not necessarily a sound future for this particular road.

Third is the issue of crisis management. The D. & H. management has had to deal with crises day to day rather than focusing totally on developing the rail-

road, and the bankruptcy environment, even if they keep the management, only exacerbates that particular problem and, therefore, again interferes with the long-term future of this railroad.

The fourth point is the adverse effect on competition. As rail traffic generally is interrelated, if the D. & H. goes into bankruptcy and traffic is diverted to trucks or to Canadian carriers, there is bound to be a spillover effect in diversion from other Northeast railroads, none of which can afford any such diversion.

Fifth is that impaired performance, if we do have these diversions, and so forth, would call for even larger Government involvement and would make the D. & H.'s position ever more precarious.

Also there will be a short-term adverse effect on ConRail, as item 6, if the D. & H. goes into bankruptcy. D. & H. pays $800,000 monthly to ConRail for interline payments, and D. & H. owes ConRail $3 million to $4 million. Apparently there is a dispute about the amount.

Question: Will this get repaid or will the monthly payments be made which are now being paid off at $80,000 a month or about $1 million a year if it is up to a judge to decide between creditors. Will he do it or will he not?

Finally, there is the loss of property tax revenues to the local communities, and that is very serious for me and Senator MOYNIHAN, as Senators from New York, and for our colleagues from Pennsylvania, where this road is heavily concentrated.

Obviously some of these disadvantages are inherent in any bankruptcy, but I conclude, as I started, by pointing out the long and honored history of the D. & H. and the fact that it is the U.S. Government that did them in, not the D. & H. management or the D. & H. stockholders. Therefore, some equity seems to me to accrue to an objective consideration of the very opposite position taken by the House. I simply appeal to my colleagues who will be conferees, to take an approach with an open mind so that whatever resolution is arrived at is an honest and fair one and in the best interests of this system, of this particular railroad, and of the situation generally in our area.

Mr. LONG. Mr. President, we thought about the matter the Senator has discussed, and it was our thought that while it is true that conceivably it might work out better to make a loan, under section 211 to try to keep someone out of bankruptcy, than to permit them to go into bankruptcy and then move to continue the service, it was my feeling, and I know it was the feeling of the chairman of the full committee (Mr. CANNON), that we have complete and ample precedent to continue essential rail service, and we expect, in fact, we propose here, what would make it possible to continue this service.

We have plenty of precedent for that, and it does not bother us. We do not like to spend the money, but we realize service is necessary, and we are willing to provide funds. We have done it for others, and we certainly feel that the area, so ably represented by the Senators from New York and the Senators from Pennsylvania, is no less entitled to service than any other part of the country.

We are indebted to those great States for a great deal, including the independence of our country. So some of us who are Johnnie-Come-Lateles to the Independence Act—or some of our forebearers may have been in some of those States at the time some of that was getting going—surely should recognize that these people are entitled to consideration, and we expect to provide it.

The problem that it gives us to follow the procedure recommended by the House is that when we talk about making a loan to a company that represents that, if the loan is not made, they are going to go into bankruptcy, that is admittedly a very bad loan from the point of view of the security that one can expect for the loan he is making.

When you take that approach, I would assume you should anticipate that you are going to have to keep putting money behind the first loan, and in some respects you could be accused of throwing good money after bad money, just trying to forestall the inevitable. That is something we are just going to have to live with, like the eventuality of bankruptcy.

We hope that will not happen. But if it should, certainly that is not the end of all worlds. Sometimes reorganization can be worked out and be very effective. We notice that the Milwaukee Railroad went into bankruptcy last year, and it has had a very minimal traffic diversion, about 4 percent, and even that is not due to the bankruptcy; it is due to the poor service and the equipment, rather than a massive desertion of the shippers.

We hope there will not be this diversion; we hope there will be none at all. But we must recognize there is some possibility of that.

But as I say, Mr. President, when we start a practice of making loans to forestall bankruptcy, we will be asked to make others. You can handle it any way you want to; you can say it is limited, that this is a special situation and all that, but anyone who has a parallel problem will say, "Look, you did this for the Delaware and Hudson Railway, you ought to do it for us."

I think it is a bad precedent for us to say, "All right, we will make you a loan; we know it is a bad precedent from the interest of the lender to get his money back, it is very bad in that respect, but we make it because we want to continue the service."

It seems to us we would be better off to say, "If you are going to have to take bankruptcy, we would rather not, but if you are forced to do it, so be it; we will continue to put money into the service and try to get the railroad reorganized to provide the service on a more lasting basis."

But we would far prefer to pursue the course of action we have previously taken with bankrupt railroads, where someone presents us with a fact that we cannot avoid, and that is that the company is insolvent, they are required to go into bankruptcy, and we will have to pay money to continue the service.

At least that way we are dealing in an area that is thoroughly familiar to those who have handled it before, and if it has to happen, then we think we have a charted course that we can follow.

Of course, we will be glad to discuss this matter in conference with those on the House side who feel that the prebankruptcy loan would be a better approach; and we certainly are susceptible to persuasion that that might be the better approach, but we are not convinced at this point. It seems to us that we would do better if we followed the course we have followed on other occasions, when a railroad took bankruptcy and we provided funds to continue the service until a reorganization could be achieved.

Mr. DURKIN. Mr. President, I know that you (Mr. MOYNIHAN in the chair) and your colleague, Senator JAVITS, are very much interested in the situation of the D and H, but it is not just a problem of your area. It has a very severe impact, if the D and H cannot meet its obligations and carry on its service, on northern New England. It makes it much more difficult for the shippers in New Hampshire and northern New England to get adequate rail transportation. That is one of the reasons why the Northeast is facing economic difficulties, and the prognosis for the future is not good. until we fashion a balanced transportation system which is built around a viable railroad network.

We cannot compare it with other areas of the country. Even though we did get a head start at independence, we have severe economic problems, and with our energy problems and our lack of adequate transportation, it continues to lead to the economic forecast that. except for my own State of New Hamoshire, which is doing very well, the long-term economic outlook for the Northeast is not good.

I would have preferred to see the House version, but this does reflect the concern, and does reflect the problem. It may not be the ideal solution, at least from my point of view it is not the ideal solution, but if it is the only solution the conference can vote for, it is the solution we have to go along with.

I am happy to see in the statements of my distinguished colleagues a recognition of the interrelated nature of our transportation problem in the Northeast. The difficulties of the Delaware & Hudson point up the need to view our rail system as a coordinated entity.

The plain fact is that any serious interruption of service on the Delaware & Hudson will have a severe effect throughout the region. further demoralizing and damaging the northeastern transportation infrastructure.

This will be a major setback to our effort to revitalize the northeastern railroads.

It will put a further drain on the other railroads in the area.

It will further complicate efforts to rationalize the northeastern rail system.

It could force the Federal Government into even more costly subsidies under a directed service order, to no one's ultimate benefit.

It will have a particularly devastating

effect on northern New England, our area depends to a large extent on the Boston & Maine Railroad for rail transportation. The Boston & Maine in its turn ships a large part of its outbound traffic over the Delaware & Hudson. Any interruption in this service would be disastrous.

The current strike on the Norfolk & Western, which is the D. & H.'s parent railroad, has worsened the longrange problems of the D. & H. Mr. President, it is not necessary to go into the sorry history of the relationship between these two railroads. Certainly the problems of the D. & H. are at least as much the result of decisions made by the Federal Government as any other factor. We cannot escape partial responsibility for the current situation.

Mr. President, there is a particular need for the Senate to act quickly on legislation that will preserve the service provided by the D. & H. without invoking the directed service authority of the Interstate Commerce Commission. Directed service is an expensive way to continue rail operations.

The amendment being considered today avoids directed service and thus is the lesser of two evils. I will not oppose it. But it is not the best solution. I concur in the remarks of the distinguished junior Senator from New York that the approach of the House bill may provide a successful long-term solution to the current problem, at less cost to the Government.

It is true that the Government does not have an obligation to keep every railroad out of reorganization regardless of circumstances. But the Government does have an obligation to remedy situations it has helped create. Beyond that, the Government does have an obligation to engage in sound transportation planning and not foreclose its options, giving the USRA the flexibility to provide loan funds to the D. & H., as the House bill does, may preserve these options and lead to a healthier railroad industry in the Northeast and throughout the country.

I believe, therefore, that the preferable course in this matter is to encourage the USRA to provide further interim funds to the Delaware & Hudson, at least until such time as the Department of Transportation completes the study of the D. & H. problem that is now underway. This study will give the executive branch, the Congress, and others the facts needed to make a sensible long-range conclusion. Premature bankruptcy proceedings would only make this type of long-range planning more difficult.

Mr. President, I commend the efforts of the chairman of the Surface Transportation Subcommittee. I know he realizes this is a real problem. I know he believes that we cannot hand out Federal money with just a handshake, and I do appreciate all the effort and time he personally has put into trying to resolve this very real problem for a good substantial portion of the Northeast, and I commend the distinguished subcommittee chairman, and yield the floor.

Mr. HEINZ. Mr. President, first I would like to commend the chairman of the Commerce Committee and the chairman of the Surface Transportation Subcommitte for what I think is a very well-intentioned, certainly a laudable, interest in maintaining the health of our Nation's railroads. I think they really do show through this amendment, even though I do not agree entirely with the way the amendment will operate, an understanding of and a sensitivity to the basic problems that the Midwest and the Northeast face as a result of the very difficult troubles the railroads have experienced over the years.

I think they do fully understand that the Delaware & Hudson Railroad, for example, is a victim. It is a victim of the fact that when the Congress created, through the Regional Rail Reorganization Act of 1973, ConRail, there were some bits and pieces left over, and those bits and pieces were given to the Delaware & Hudson. They really did not have a whole lot of say in the matter. And then, after we gave those bits and pieces to the D. & H., we established, with a lot of Federal assistance, an entity to compete with it—to compete with it with Federal funds, and that entity is ConRail.

I know there is a difference of opinion here between us as to how we may best avoid additional problems and how we may best protect the taxpayer. As I understand the proposal that the Senators have made, it is that additional loans, loan guarantees, or other financial assistance would only be forthcoming after bankruptcy. This proposal would to a certain extent assure the continuation of rail service—service which is absolutely vital to the Northeast.

My problem with that approach is it does not insure that there will be a railroad entity around ultimately that could be a part of the solution to the question of restructuring the railroads of the Northeast, rather than part of the problem. I would hope, since there is a difference of opinion among us—not as to our objectives but as to the way of accomplishing those objectives—that when the Senate goes to conference with the House with the Long-Cannon amendment that the conferees will at least keep an open mind to the House language which does differ and which is similar to the approach I am inclined to favor, as I believe the advocates of this amendment know.

I join my colleagues from New York and New Hampshire in their concerns about the proposed amendment, in their strong preference for the bill as presently written, and offer them my sincere gratitude for their efforts to insure the continued viability of the Delaware and Hudson Railway.

The Delaware and Hudson is vital not only to the economy of New York, New Hampshire, and Pennsylvania, but also to the entire Northeast. We must preserve this crucial railroad in order to avoid the economic strangulation of the areas served by it. It is impossible for us to put ourselves in the position of those manufacturers and cities in the Northeast which absolutely depend on the D. & H. to receive their raw materials and to ship their products. These manufacturers and cities face isolation and economic disaster if we cut off the vital lifeline of rail service. Thus, I urge my colleagues to take steps to insure that the Delaware and Hudson continues to thrive.

It is important that the D. & H. is one of the major and, in fact, few competitors with ConRail in the Northeast. I assert that it is very poor planning to allow a competitor to go into bankruptcy. It is only through competition that service in any industry can be maintained and improved. ConRail is an excellent example of this. Presently it has a virtual monopoly on rail service in the Northeast and this service has been inadequate and at times almost nonexistent. In fact, as we all know, the U.S. Railway Association and the Federal Railroad Administration are both presently undertaking studies concerning the advisability of dividing ConRal into competitive entities in order to encourage the kind of rail service and rail system which is essential to the national economy. We must provide assistance to the D. & H. because it may be the most important starting point for the creation of a rail system which is competitive with ConRail.

Under the plans which will eventually be issued by USRA and the FRA, the ultimate fate of the D. & H. is likely to be merger or restructuring, because of inherent structural problems resulting from the final system plan. If the railroad is in reorganization it will be weaker and less attractive to potential buyers or partners. In addition, any transfers would have to be approved by the court and trustees, whose interests are the protection of creditors and not sound transportation planning for the future.

Bankruptcy will be disastrous to the D. & H., because even if Emergency Rail Service Act money were available to continue service, bankruptcy will result in significant diversion of traffic to trucks, to Canadian railroads, and possibly to ConRail. Compared to other railroads, the D. & H.'s traffic mix is highly truck competitive and susceptible to diversion. Any event which causes uncertainty or a possibility of impaired service in the mind of shippers will be enough to cause irreparable diversion of borderline traffic.

Similarly, the Canadian railroads are in a unique competitive position with the D. & H. Any event weakening the D. & H. will easily divert traffic and consequently U.S. dollars and employment to Canadian railroads.

Finally, I totally agree with my colleague from New York that there will be an adverse short term effect on ConRail if the D. & H. goes into reorganization. As Senator Javits mentioned the D. & H. pays $800,000 to ConRail every month for interline payments. In addition, D. & H. owes ConRail a debt of between $3 and $4 million which might not be repaid if the D. & H. goes into reorganization bankrupt. This debt is now being paid off at $80,000 per month or about a million dollars a year.

Some of these factors are inherent in any reorganization and I am not suggesting that the Government ought to step in to bail out every railroad that is on the verge of bankruptcy.

However, the D. & H. is unique in that many of its problems are a result of the creation of ConRail, as I discussed above, it is also important that a restructuring study is already underway to determine how best to correct the initial Government planning error. Placing the D. & H. in reorganization would foreclose certain planning options. Now is not the time to foreclose options which could provide the D. & H. and the Government with the tools to develop a rational cure to the problems of the D. & H.

The fact that the Senate is considering this amendment shows a recognition of the necessity to preserve the services provided by the D. & H. I am suggesting that because of the unique circumstances of the D. & H. Government money can be more fruitfully used to keep the D. & H. out of reorganization. When the Senate members go to conference on this bill, I urge that they have an open mind and consider carefully the advantages and disadvantages of the various means of furthering the Nation's rail transportation system while at the same time protecting our tax dollars. I firmly believe that providing assistance now to the Delaware and Hudson before it is forced into bankruptcy is in the long run the optimal way of achieving both of these goals.

Mr. LONG. Mr. President, let me just point out that we organized ConRail from seven bankrupt railroads. We are putting a lot of money into it. We have hopes that this is going to provide a major, viable, successful railroad. I, for one, have very high hopes for ConRail, for one thing because ConRail now has an employee stock ownership plan which I think will tend to increase the productivity of workers.

We have demonstrated that we do not want this very important segment of our Nation to be without adequate service. Just as we provided funds to go forward with ConRail, if need be we would expect we would do the same thing in this area. It is certainly a judgment matter whether we should use a procedure we have used on more than one occasion, I might say, or whether we would go to the kind of procedure that is suggested here.

Our thought is that if the Congress is to start saying to anyone, even to a railroad providing an essential service, "We are going to make you a loan because we think if we do not make you a loan you are likely to go into bankruptcy," that will create a great deal of problems that will not be created if we take the other approach, which we have done with regard to ConRail and others.

I would hope, Mr. President, that the Senate would trust us to work out this matter in a way we believe will best continue the service, protect the public interest, and, hopefully, not create any more precedents than we have to to meet this problem.

● Mr. LEAHY. Mr. President, I would first like to say that I support the amendment now before the Senate which allows loans to be extended to the Delaware and Hudson Railroad, at least for a limited period of time.

The fact that the Senate is considering this amendment shows a recognition of the necessity to preserve the services provided by the Delaware and Hudson.

I am also aware that there is an alternative approach being taken in the House.

That approach would also result in the extending of loans to the Delaware and Hudson, but it would not require that the Delaware and Hudson file for reorganization under section 77 of the Bankruptcy Act.

I would like to urge that, when the Senate Members go to conference on this bill, they have an open mind and consider carefully both the advantages and disadvantages of these two alternative approaches.●

The PRESIDING OFFICER. The question is on agreeing to the amendments, en bloc.

The amendments were agreed to, en bloc.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 10898), as amended, was ordered to a third reading, was read the third time, and passed.

Mr. LONG. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LOCKING UP ALASKA?

Mr. STEVENS. Mr. President, recently the Albuquerque Tribune printed an editorial entitled "Locking up Alaska?" As the article pointed out, H.R. 39 would, at one stroke, double the size of this country's national parks by creating 10 new ones and enlarging 3. Although that might sound like a grand idea, the editorial goes on to point out that there is something quite disturbing about the bill, "it is opposed by Alaska's Governor, two Senators, lone Congressman, all of the State's legislators, and most businessmen and Indian and Eskimo leaders."

Mr. President, I have been talking for some time now about why most Alaskans oppose H.R. 39. They do feel that they are the victims of an environmentalist landgrab orchestrated by Washington. This is a landgrab which threatens the very lifestyle of Alaskans.

We did agree to a review by Congress of "up to 80 million acres" of Alaska's Federal lands for the four park systems. We did not agree to over 100 million acres. We did not agree to a wilderness designation which bypasses the 1964 Wilderness Act that has applied to the rest of the United States. It is my hope that we can come to a reasonable resolution of this dilemma.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LOCKING UP ALASKA

By the overwhelming vote of 277 to 31, the House of Representatives passed the bitterly disputed Alaska land bill last week, giving conservationists a great victory.

The bill would designate 102 million acres of federal land in Alaska, the size of the entire state of California, as national parks, wilderness area, wildlife refugees, national forests and scenic rivers.

At one stroke the bill would double the size of this country's national parks by creating 10 new ones and enlarging three. As a conservation measure it ranks in importance with the establishment of the first national park—Yellowstone—in 1872 and the founding of the national forest system under Theodore Roosevelt.

At the same time there is something quite disturbing about the bill: It is opposed by Alaska's governor, two senators, lone congressman, all of the state's legislators and most businessmen and Indian and Eskimo leaders.

In other words, the people who know Alaska best feel they are the victims of an environmentalist "land-grab" orchestrated by Washington.

Most of their fire is against the 66 million acres that would be preserved as wilderness. No structure could be built on this land, no commerce conducted, no roads laid out. Motor vehicles and airplanes would be barred. In practice the lands would be open only to the most rugged backpackers and canoeists.

Moreover, no one knows whether those lands contain oil, natural gas or valuable minerals, and no one would find out because prospecting would be forbidden.

Among the off-limits land is the Arctic Wildlife Range, which is near Prudhoe Bay, site of the vast oilfield that is sending a million barrels of crude a day to the lower 48 states.

The wildlife range is thought to contain more oil than Prudhoe Bay. But again, if the bill passes in the present form, we may never know. That could be a disaster for a nation that now is sending its wealth abroad for imported oil.

Also, much of the wilderness land surrounds or is adjacent to the 44 million acres that Congress gave to Alaska's native peoples. Thus Eskimos and Indians would be prevented from developing their own land and raising their standard of living.

MR. AGRAFIOTIS ILLUMINATES THE CYPRUS SITUATION

Mr. DURKIN. Mr. President, many times I have taken the floor to comment on the Cyprus situation and to express my strong concern over the plight of the Greek Cypriot refugee population. I would now like to share with you the firsthand report of Peter Agrafiotis, a Manchester resident, who traveled to Cyprus at his own expense to study the refugee situation. I believe that Mr. Agrafiotis provides an illuminating report which serves as further evidence of the need for continued U.S. support of the Greek Cypriots.

Mr. President, I ask unanimous consent that the article by Mr. Agrafiotis which was published in the Manchester Union Leader be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TURKS INVADED CYPRUS FOUR YEARS AGO TODAY

(By Peter J. Agrafiotis)

(Peter J. Agrafiotis, former Manchester advertising and public relations executive, assisted in raising money to aid the Greek community on Cyprus and traveled to Cyprus at his own expense to confer with officials responsible for care of the refugees. Ed.)

RYE BEACH.—On July 20, 1974, four years to this day, the peaceful island of Cyprus was invaded by a horde of 40,000 Turkish Army, Navy and air fighting forces with a ferocity unparalleled since the dark ages, and the rape of Cyprus which followed astounded the entire civilized world.

The bloodthirsty invaders expelled 200,000 Greek Cypriots from their properties and homes.

Fifty thousand homes were plundered and destroyed.

Five thousand families lost their breadwinners.

One child in every 125 became an orphan.

The Greek Cypriot population in the invaded areas was exterminated by indiscriminate and savage killing of old men, women, and children, and hundreds of women and girls were raped.

Those who survived the initial onslaught were either forcibly driven out of their homes and the occupied areas, or taken prisoner and thrown in concentration camps to rot and die under inhuman conditions.

One-quarter of the entire Greek-Cypriot population was killed or missing, a percentage unequaled in recent history, and, the homes and properties of the Greek Cypriots, valued at billions of dollars, were confiscated and systematically and thoroughly looted.

REPORTS VERIFIED

The reports which reached the outside world in the days and months following the invasion were substantiated and verified by members of the world media and by hundreds of teams representing scores of countries.

What at first appeared sheer propaganda to obtain world support for their cause turned out to be the utter, unadulterated truth. And the people responded with aid for the 200,000 homeless who were driven from their homes on July 20 with only the clothes on their backs, and some precious belongings in their hands.

Here in New Hampshire, William Loeb, publisher of the Manchester Union Leader and the New Hampshire Sunday News, set into motion a fund-raising drive to aid the Greek Cypriot refugees. With a generosity typical of the publisher and his newspapers, Loeb started off the drive with a contribution of $1,000 on the part of Mrs. Loeb and himself.

The drive, which was announced as one of short duration in order to provide needed help before the advent of the winter, raised some $15,000 in cash and approximately $5,000 worth of medicines.

After determining priorities and needs, the money from the New Hampshire contributors was used to buy more than 1,500 pairs of shoes for children of two refugee camps, and winter coats for 900 elderly men and women.

LASTING NIGHTMARE

What appeared on that fateful day, July 20, 1974, as a temporary invasion which would have an early end because of world pressure upon the Turks, turned out to be a lasting nightmare.

Neither world opinion, nor pressure from the United States, upon which Turkey relies for almost its entire military arms, munitions, planes, and money to maintain its military might, had any effect on Turkey. expect for token withdrawal of some forces, a large percentage of the invading forces is still on the island. In addition, thousands of Turkish families have been moved from the mainland to occupy the homes which became vacant when the Greek Cypriots were driven out.

V-Cyprus, and the world, eagerly awaited the elected of Jimmy Carter, and his promise to right a situation which many leading figures believe, was trigged by then Secretary of State Henry Kissinger. Kissinger, many believe, was fully aware of the contemplated invasion of Cyprus, and could have stopped it on the high seas.

PAYING LIP SERVICE

Carter has been accused of paying only lip service to the tragic human rights problem which exists in Cyprus. For a time, he went along with the Turkish Arms Embargo, about the only weapon this country has over Turkey.

But now President Carter has called it quits. Failing to obtain any concession on the part of the Turks, he is now lobbying to have the theory that a "Strong Turkey is also good for Greece and NATO."

Mary McGrory, Washington feature writer whose column appears in the Boston Globe and scores of other newspapers throughout the country, stated recently that Carter is the "chief lobbyist" for the dubious cause of lifting the arms embargo. Carter apparently feels that Turkey has been "punished enough" for using U.S. arms to invade Cyprus in 1974.

Supporters of lifting the arms embargo feel and Turkey, "a sulking member" of NATO since the arms embargo was imposed, will be easier to live with if she gets all the arms and financial support she needs from the American people.

But the question which neither President Carter, nor all his spokesmen who campaign on behalf of lifting the embargo, has failed to answer is: "What if Turkey uses the arms provided by the United States to again invade Cyprus, or even Greece, for Greece, too is shy of military hardware?"

The President of the United States cannot answer that question with an emphatic negative. After his experiences with the intransigence of Turkey and its representatives, and Turkey's many broken promises, he could not even answer with an "I hope not" statement.

MRS. McDERMOTT ELECTED VFW AUXILIARY NATIONAL PRESIDENT

Mr. DURKIN. Mr. President, on August 25, 1978, Mrs. Arlene McDermott became the 64th national president of the Ladies Auxiliary of the Veterans of Foreign Wars. Because this organization is most highly respected by the U.S. Senate, those of us who are from New Hampshire take exceptional pride in Arlene's election. She is the first "Granite State" woman to be named head of the National VFW Auxiliary.

As president, Arlene McDermott is committing the tremendous efforts, skills, and strength of the auxiliary's 600,000 membership to "Building America Today for Tomorrow." Through patriotic and service program accomplishments, Arlene pledges to restore national confidence and renewed faith in our American ideals.

Mrs. McDermott is a remarkable woman, more than qualified to meet the challenging demands and responsibilities before her. As president of the New Hampshire State organization, from 1960 to 1961, she proved to be a dynamic leader. At national level positions, in the VFW Auxiliary, over the past 5 years, she has been tremendously effective, drawing upon her tireless efforts and dedicated concern, in getting a good job done.

Thirty years ago Mrs. Robert McDermott joined the Concord VFW Auxiliary Post 1631. Now, as the national organization's president, she is receiving great honor while bringing far more to this country, her family, friends, and home State of New Hampshire.

Mr. President, I take this opportunity to allow my Senate colleagues to join me in congratulating and wishing the very best to Arlene McDermott.

ORDER FOR RECESS FROM FRIDAY, SEPTEMBER 15, 1978, TO MONDAY, SEPTEMBER 18, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on tomorrow, it stand in recess until the hour of 12 noon on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9:30 tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER LIMITING LEADERSHIP TIME TO 3 MINUTES TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the leadership time in the morning be limited to 3 minutes for each leader or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL ORDERS FOR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow morning Mr. PROXMIRE be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unnanimous consent that following Mr. PROXMIRE on tomorrow, Mr. CHAFEE and Mr. DANFORTH be recognized each for not to exceed 15 minutes, with the understanding that the two leaders or their designees would have up to 3 minutes each prior to the consummation of any of the orders for the recognition of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF SMALL BUSINESS LEGISLATION TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I believe the Senate should proceed in the morning to take up on a double track H.R. 11318, an act to amend the Small Business Act and the Small Business Investment Act of 1958 and, of course, with the understanding that was entered into today that any time a Senator wishes to be recognized in connection with the natural gas conference report he will be recognized, the double track will immediately evaporate, and we will be back on the conference report. This would waive the leadership time, Mr. President.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the recognition of the leaders or their designees under the order just entered, and the special orders for the recognition of Mr. PROXMIRE, Mr. CHAFEE, and Mr. DANFORTH the Senate proceed to the consideration of H.R. 11318, an act to amend the Small Business Act and the Small Business Investment Act of 1958.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROLLCALL VOTES TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I would anticipate rollcall votes on tomorrow. It will be the desire of the leadership, where possible, within the constraints of the agreement entered into earlier today with respect to the natural gas conference report, to proceed to other business on tomorrow, which would certainly move the Senate in the direction of the completion of its total workload as early as possible. That being the case, rollcall votes can occur at any time on such matters.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9:30 a.m. tomorrow.

The motion was agreed to; and at 7:09 p.m., the Senate recessed until Friday, September 15, 1978, at 9:30 a.m.

NOMINATION

Executive nomination received by the Senate September 14, 1978:

NATIONAL RAILROAD PASSENGER CORPORATION

Mr. Athalie Range, of Florida, to be a member of the board of directors of the National Railroad Passenger Corporation for a term expiring July 18, 1981, vice Mary J. Head, term expired.

HOUSE OF REPRESENTATIVES—*Thursday, September 14, 1978*

The House met at 10 a.m.

Rabbi Joseph Renov, Kesher Zion Congregation, Reading, Pa., offered the following prayer:

Our G-d and G-d of our fathers: bless our country, the United States of America, because its President and the Members of Congress exercise just and rightful authority, administering all affairs of state justly and equitably. Instruct them in Thy law that peace and security, happiness and prosperity, right and freedom, shall forever abide among us. Unite all our citizenry, whatever their origin or creed, into a bond of true brotherhood, to banish hatred and bigotry, thus safeguarding our ideals and free institutions, this country's crowning glory.

May Camp David under Thy providence, lead to Messiah Ben David, that nation shall not lift up sword against nation, nor men learn war anymore. Then shall all men know and bless Thee, O L-rd. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

Mr. MOTTL. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

The question is on the approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. MOTTL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 336, nays 12, answered "present" 4, not voting 80, as follows:

[Roll No. 773]

YEAS—336

Abdnor
Addabbo
Akaka
Alexander
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Mass.
Burleson, Tex.
Burton, John
Burton, Phillip
Butler
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Clausen, Don H.
Clay
Cleveland
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cornell
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Delaney
Dent
Derrick
Derwinski
Devine
Dickinson
Dicks
Dodd
Dornan
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flynt
Foley
Ford, Tenn.
Fowler
Fraser
Frey
Fuqua
Gammage
Gaydos
Gephardt
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harris
Harsha
Hawkins
Hefner
Hightower
Hillis
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Hughes
Hyde
Ichord
Ireland
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kelly
Kemp
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Lederer
Lent
Levitas
Livingston
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McClory
McFall
McHugh
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marriott
Martin
Mathis
Mattox
Mazzoli
Metcalfe
Meyner
Mikulski
Mikva
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pickle
Poage
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Rallsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Roeney
Rose
Rosenthal
Rostenkowski
Rousselot
Rudd
Russo
Ryan
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shuster
Sikes
Simon
Sisk
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Spence
St Germain
Staggers
Stangeland
Stanton
Steed
Steers
Stockman
Stratton
Studds
Stump
Symms
Taylor
Thompson
Thone
Thornton
Traxler
Trible
Tucker
Udall
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walsh
Wampler
Watkins
Weaver
Weiss
Whalen
White
Whitehurst
Whitley
Whitten
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—12

Brown, Mich.
Coughlin
Forsythe
Jacobs
Lloyd, Calif.
Mitchell, Md.
Pike
Quayle
Shipley
Steiger
Walker
Wilson, Bob

ANSWERED "PRESENT"—4

Bennett
Danielson
McEwen
Moss

NOT VOTING—80

Ambro
Ammerman
Anderson, Calif.
Anderson, Ill.
Armstrong
Bellenson
Bowen
Breaux
Broomfield
Burke, Calif.
Burke, Fla.
Burlison, Mo.
Byron
Caputo
Chisholm
Clawson, Del
Cochran
Conyers
Cornwell
Cotter
Crane
Dellums
Diggs
Dingell
Downey
Fary
Flowers
Ford, Mich.
Fountain
Frenzel
Garcia
Giaimo
Gibbons
Goldwater
Harrington
Heckler
Heftel
Holland

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

Huckaby
Kasten
Krueger
Leach
Leggett
Lehman
McCloskey
McCormack
McDade
McDonald
McKay
McKinney
Marienee
Meeds
Michel
Milford
Miller, Calif.
Montgomery
Nolan
Pettis
Pressler
Quie
Rogers
Roncalio
Roybal
Runnels
Ruppe
Sarasin
Skubitz
Solarz
Spellman
Stark
Stokes
Teague
Treen
Tsongas
Van Deerlin
Waxman
Wiggins
Wilson, C. H.
Young, Alaska
Young, Tex.

So the Journal was approved.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and joint resolutions of the House of the following titles:

On August 18, 1978:

H.J. Res. 682. Joint resolution to provide for the designation of a week as "National Lupus Week";

H.J. Res. 946. Joint resolution to designate October 7, 1978, as "National Guard Day"; and

On August 20, 1978:

H.J. Res. 963. Joint resolution designating July 18, 1979, as "National P.O.W.–M.I.A Recognition Day."

H.R. 2777. An act to provide for consumers a further means of minimizing the impact of inflation and economic depression by narrowing the price spread between costs to the producer and the consumer of needed goods, services, facilities, and commodities through the development and funding of specialized credit sources for, and technical assistance to, self-help, not-for-profit cooperatives, and for other purposes; and

H.R. 10767. An act to authorize appropriations for activities and programs carrried out by the Secretary of the Interior through the Bureau of Land Management.

On August 26, 1978:

H.R. 10732. An act to authorize appropriations to carry out the Fishery Conservation and Management Act of 1976 during fiscal year 1979, to provide for the regulation of foreign fish processing vessels in the fishery conservation zone, and for other purposes; and

H.R. 11579. An act to designate the Veterans' Administration center located at 1901 South First Street, Temple, Texas, as the "Olin E. Teague Veterans' Center"; and for other purposes.

On September 5, 1978:

H.R. 3532. An act to amend chapter 639 of title 10, United States Code, to enable the Secretary of the Navy to change the name of a publication of the Naval Observatory providing data for navigators and astronomers;

H.R. 7161. An act to amend title 10, United States Code, to allow nationals, as well as citizens, of the United States to participate in the Junior Reserve Officers' Training Corps program;

H.R. 7162. An act for the relief of Stephanie Johnson;

H.R. 8471. An act to authorize the Governor of the State of Wyoming to exhibit the nameplate, ship's bell, and silver service of the U.S.S. *Wyoming* without restriction as to the place of such exhibition;

H.R. 12602. An act to authorize certain construction at military installations for fiscal year 1979, and for other purposes;

HR. 13235. An act for the relief of James Thomas Lantz, Jr., David D. Bulkley, and Arthur J. Abshire; and

H.R. 13467. An act making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes.

On September 10, 1978:

H.R. 8397. An act to provide that a certain tract of land in Pinal County, Arizona, held in trust by the United States for the Papago Indian Tribe, be declared a part of the Papago Indian Reservation.

On September 11, 1978:

H.R. 185. An act to amend section 2632 of title 10, United States Code, to provide the Secretary of the department in which the Coast Guard is operating with the authority to transport Coast Guard employees to and from certain places of employment; and

H.R. 12106. An act to amend the Independent Safety Board Act of 1974 to authorize additional appropriations.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendments of the House to bills of the Senate of the following titles:

S. 1103. An act to permit States the reciprocal right to sue in the Superior Court of the District of Columbia to recover taxes due the State; and

S. 2556. An act to change the name of the District of Columbia Bail Agency.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 3259. An act to authorize the permanent establishment of a system of Federal Information Centers.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 1445. An act conferring jurisdiction upon the United States Court of Claims to hear, determine, and render judgment upon the claim of Cmdr. Edward White Rawlins, U.S. Navy (retired); and

H.R. 9370. An act to provide for the development of aquaculture in the United States, and for other purposes.

TYPICAL DISPLAY OF POLICE STATE TACTICS IN SOUTH AFRICA

(Mr. MAGUIRE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAGUIRE. Mr. Speaker, in a typical display of police state tactics, the Government of South Africa, on the eve of the first anniversary of the death at the hands of the security police of black leader Steve Biko, arrested and detained without trial or charges Mr. Biko's sister, Mrs. Nobandile Mvovo; the brother-in-law of Mr. Biko, Mr. Mxolisi Mvovo; and the following nine of Mr. Biko's close associates: Ms. Thoko Mpumlwana, Mr. Silumko Sokumta, Ms. Pumla Simanga. Ms. Choleka Mbilini, Fymbathile Mbilini, Mr. Mzwakhe Mbilini, another member of the Mbilini family, Ms. Thenjiwe Mthinkso, and Mr. Farius Mgkong.

On the following day, the very day that Steve Biko died 1 year ago after being fatally assaulted by the police the government arrested Steve Biko's brother, Mr. Khaya Biko, and two of his close associates, Mr. Malusi Mpumlwana and Mrs. Nohle Mohapi. Such cruel, perverse, and insensitive actions by the state are all too customary in South Africa and make a mockery of the rule of law.

Mr. F. J. VanWyck, director of the South African Institute of Race Relations said:

> The action taken against Biko's sister and her associates adds considerably to the burden borne by a family that has already suffered greatly at the hands of the police.

The Rand Daily Mail and our Department of State also criticized the arrests.

In addition, some days ago Nthato Motlana was banned from even addressing a university audience. He is one of South Africa's foremost black leaders.

I call upon the Government of South Africa to state the reasons for this ban and these arrests.

With respect to the arrests of the 14 family members, friends, and associates of Mr. Biko, I call upon the South African authorities to make public: When the persons will be brought to court, the nature of the charges, the state of health, and the place of detention of each person.

THE NOISY AIRCRAFT BILL

(Mr. VANIK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VANIK. Mr. Speaker, in a few moments when we get to the noisy aircraft bill, title II, of the Ways and Means Committee will be offered as a substitute. I am going to ask my colleagues in the House to vote against that motion so that we can prevent the giving of $4 billion in this very reckless way without any accountability to the airlines of the United States.

I say that I also want Members to check out the statement that I made last night, that about $1 billion of the funds that are going to be made available under this bill to foreign airlines, all of them that fly into the United States, including Aeroflot, Korean Airlines, and all the others.

If we succeed in that, the next effort will be to strike title III of the public works bill that does the same thing in another way.

I think it is time to deregulate the airlines, but it is also time to uncouple the airlines of the United States from the Federal Treasury.

TECHNOLOGY TRANSFER BAN ACT OF 1978

(Mr. WOLFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLFF. Mr. Speaker, I rise this morning to speak in support of the Technology Transfer Ban Act of 1978.

This is much needed legislation. It would give to the Congress, at long last, a central role in determining how much and what kind of technology can be

transferred to Communist countries. In recent years many sales of high technology equipment, or even entire industrial plants have been sold to the Soviet Union. The mechanisms in the executive branch which were to see that no equipment with military or intelligence application have not worked satisfactorially. In my judgment, there have been countless examples of technology transfers which have blatant military, police, or intelligence-gathering potential. It is time that the Congress have something to say in this process, that Congress be able to veto those transfers which have such potential.

This legislation would do just that. Patterned after the Arms Export Control Act, this legislation would require the President to notify Congress of any approval of a license for the export of goods or technology to such countries. Congress would have 30 days to veto the license.

The debate on this issue has been intense in recent months with tension created by the dissident trials, and other human rights-related matters. I applauded the President's action to cancel the sale of computer equipment to Tass, but in the present role allowed Congress, all I could do was to urge him to cancel it, and stand on the sidelines and applaud when he did. Had this legislation been in effect when the President approved the sale of drilling bits to the Soviet Union, it is likely that it would not have gone through. It is proper that the people of this Nation should have some say in this matter of vital importance. We cannot rely on the hope that we will always have officials in the Commerce and State Departments, and in the White House, who are concerned with the potential of technology transfer, and human rights. The Congress must have a say in this matter.

INTRODUCTION OF THE TECHNOLOGY TRANSFER BAN ACT OF 1978

(Mr. ICHORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ICHORD. Mr. Speaker and Members of the House, the chairman of the Committee on Armed Services, the gentleman from Illinois (Mr. PRICE), and I have joined with the gentleman from Ohio (Mr. Miller), the gentleman from New York (Mr. WOLFF), and others in introducing the bill just discussed by the gentleman from New York (Mr. WOLFF) and the gentleman from Ohio (Mr. MILLER) because of the bitter, acrimonious debate which has been going on within the administration about the transfer of technology. This is nothing new to this administration. It occurred in the Ford administration; it also occurred in the Nixon administration.

In any event, Mr. Speaker, the reports have shown that it is high time that we establish a policy for the transfer of technology, particularly to the Soviet Union.

Therefore, Mr. Speaker, I would urge all of the Members of the House to join in the introduction of this legislation.

AIRPORT AND AIRCRAFT NOISE REDUCTION ACT

Mr. ANDERSON of California. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 8729) to provide assistance to airport operators to prepare and carry out noise compatibility programs, to provide assistance to aircraft operators to comply with noise standards, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. ANDERSON).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 8729, with Mr. STUBBS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Wednesday, September 13, 1978, the Clerk had read through line 23 on page 43.

AMENDMENT OFFERED BY MR. ULLMAN

Mr. ULLMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ULLMAN: Strike sections 301 through 304 and insert in lieu thereof:

TITLE III—CHANGES IN TAXES ON TRANSPORTATION BY AIR; CREDITS OR REFUNDS FOR RETROFITTING AND REPLACING NOISY AIRCRAFT

SEC. 301. SHORT TITLE; AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This title may be cited as the "Noisy Aircraft Revenue and Credit Act of 1978".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 302. CHANGES IN TAXES ON TRANSPORTATION OF PERSONS BY AIR.

(a) TAXES RELATED TO RETROFITTING AND REPLACING NOISY AIRCRAFT.—Part I of subchapter C of chapter 33 (relating to transportation of persons by air) is amended by inserting after section 4261 the following new section:

"SEC. 4261A. TAXES RELATED TO RETROFITTING AND REPLACING NOISY AIRCRAFT.

"(a) IN GENERAL.—There is hereby imposed upon the amount paid for taxable transportation (as defined in section 4262) of any person a tax equal to 2 percent of the amount so paid. In the case of amounts paid outside of the United States for taxable transportation, the tax imposed by this subsection shall apply only if such transportation begins and ends in the United States.

"(b) SEATS, BERTHS, ETC.—There is hereby imposed upon the amount paid for seating or sleeping accommodations in connection with transportation and with respect to which a tax is imposed by subsection (a), a tax equal to 2 percent of the amount so paid.

"(c) USE OF INTERNATIONAL TRAVEL FACILITIES.—

"(1) IMPOSITION OF TAX.—There is hereby imposed a tax upon any amount paid (whether within or without the United States) for any transportation of any person by air, if such transportation begins in the United States. This paragraph shall not apply to any transportation all of which is taxable under subsection (a) (determined without regard to sections 4281 and 4282).

"(2) AMOUNT OF TAX.—The amount of tax imposed by paragraph (1) shall be—

"(A) if the amount paid referred to in paragraph (1) is less than $100, $2, or

"(B) if the amount paid referred to in paragraph (1) is $100 or more, $10.

"(d) LIABILITY FOR TAX.—

"(1) TAXES IMPOSED BY SUBSECTIONS (a) AND (b).—The taxes imposed by subsections (a) and (b) shall be paid by the person furnishing transportation by air.

"(2) TAX IMPOSED BY SUBSECTION (c).—The tax imposed by subsection (c) shall be paid by the person furnishing the transportation by which the traveler departs the United States.

"(e) TAXES SHALL BE SEPARATELY STATED.—The amount of any tax imposed by this section—

"(1) shall be passed through to the person paying for the transportation, and

"(2) shall be stated separately from the amount paid for the transportation.

"(f) COORDINATION OF PAYMENT, COLLECTION, ETC.—Except where to do so would be inconsistent with the provisions of this section, the taxes imposed by this section shall be treated for purposes of this title as taxes imposed by section 4261.

"(g) 5-YEAR DURATION.—The taxes imposed by this section shall apply only with respect to transportation beginning on or after October 1, 1978, and before October 1, 1983."

(b) REDUCTION OF EXISTING TAXES ON TRANSPORTATION OF PERSONS FROM 8 PERCENT TO 6 PERCENT.—

(1) IN GENERAL.—Subsection (a) and (b) of section 4261 (relating to transportation of persons by air) are each amended by striking out "8 percent" and inserting in lieu thereof "6 percent".

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by paragraph (1) shall apply with respect to transportation beginning on or after October 1, 1978.

(B) RESTORATION OF 8-PERCENT RATE IN 1983.—If any portion of the taxes imposed by section 4261 of the Internal Revenue Code of 1954 with respect to transportation beginning after September 30, 1983, is deposited in the Airport and Airway Trust Fund established by section 208 of the Airport and Airway Revenue Act of 1970, the amendment made by paragraph (1) shall cease to apply with respect to transportation beginning after such date.

(c) SUSPENSION OF $3 TAX ON INTERNATIONAL TRAVEL FACILITIES.—

(1) IN GENERAL.—Subsection (c) of section 4261 of the Internal Revenue Code of 1954 (relating to use of international travel facilities) shall not apply with respect to transportation beginning on or after October 1, 1978.

(2) RESTORATION OF $3 RATE IN 1983.—If any portion of the taxes imposed by section 4261 of the Internal Revenue Code of 1954 with respect to transportation beginning after September 30, 1983, is deposited in the Airport and Airway Trust Fund established by section 208 of the Airport and Airway Revenue Act of 1970, paragraph (1) shall cease to apply with respect to transportation beginning after such date.

(d) TECHNICAL AMENDMENT.—Part II of subchapter C of chapter 33 is amended by adding at the end thereof the following new section:

"SEC. 4283. TAXES ONLY ON AMOUNTS PAID FOR TRANSPORTATION.

"The amount taken into account for purposes of any tax imposed by part I or II shall not include the amount of any tax imposed by such part."

(e) CLERICAL AMENDMENTS.—

(1) The table of sections for part I of subchapter C of chapter 33 is amended by inserting after the item relating to section 4261 the following new item:

"Sec. 4261A. Taxes related to retrofitting and replacing noisy aircraft."

(2) The table of sections for part III of subchapter C of chapter 33 is amended by adding at the end thereof the following new item:

"Sec. 4283. Taxes only on amounts paid for transportation."

SEC. 303. CHANGES IN TAXES ON TRANSPORTATION OF PROPERTY.

(a) TAXES RELATED TO RETROFITTING AND REPLACING NOISY AIRCRAFT.—Part II of subchapter C of chapter 33 (relating to transportation of property by air) is amended by inserting after section 4271 the following new section:

SEC. 4271A. TAXES RELATED TO RETROFITTING AND REPLACING NOISY AIRCRAFT.

"(a) IN GENERAL.—There is hereby imposed upon the amount paid within or without the United States for the taxable transportation (as defined in section 4272) of property a tax equal to 2 percent of the amount so paid for such transportation. The tax imposed by this subsection shall apply only to amounts paid to a person engaged in the business of transporting property by air for hire.

"(b) FOREIGN TRANSPORTATION OF PROPERTY WHICH BEGINS IN THE UNITED STATES.—There is hereby imposed upon the amount paid within or without the United States for the transportation of property by air which begins in the United States and which is not taxable transportation (as defined in section 4272) a tax equal to 5 percent of the amount so paid for such transportation. The tax imposed by this subsection shall apply only to amounts paid to a person engaged in the business of transporting property by air for hire.

"(c) LIABILITY FOR TAX.—

"(1) TAX IMPOSED BY SUBSECTION (a).—The tax imposed by subsection (a) shall be paid by the person furnishing the transportation by air.

"(2) TAX IMPOSED BY SUBSECTION (b).—The tax imposed by subsection (b) shall be paid by the person furnishing the transportation by which the property departs the United States.

"(d) DETERMINATION OF AMOUNTS PAID IN THE CASE OF CERTAIN JOINTLY PROVIDED SERVICES.—For purpcses of this section, rules similar to the rules provided by section 4271 (c) shall apply.

"(e) TAXES SHALL BE SEPARATELY STATED.—The amount of any tax imposed by this section—

"(1) shall be passed through to the person paying for the transportation, and

"(2) shall be stated separately from the amount paid for the transportation.

"(f) COORDINATION OF PAYMENT, COLLECTION, ETC.—Except where to do so would be inconsistent with the provisions of this section, the taxes imposed by this section shall be treated for purposes of this title as taxes imposed by section 4271.

"(g) 5-YEAR DURATION.—The taxes imposed by this section shall apply only with respect to transportation beginning on or after October 1, 1978, and before October 1, 1983."

(b) REDUCTION OF EXISTING TAX ON TRANSPORTATION OF PROPERTY FROM 5 PERCENT TO 3 PERCENT.—

(1) IN GENERAL.—Subsection (a) of section 4271 (relating to transportation of property by air) is amended by striking out "5 percent" and inserting in lieu thereof "3 percent".

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by paragraph (1) shall apply with respect to transportation beginning on or after October 1, 1978.

(B) RESTORATION OF 5-PERCENT RATE IN 1983.—If any portion of the taxes imposed by section 4271 of the Internal Revenue Code of 1954 with respect to transportation beginning after September 30, 1983, is deposited in the Airport and Airway Trust Fund established by section 208 of the Airport and Airway Revenue Act of 1970, the amendment made by paragraph (1) shall cease to apply with respect to transportation beginning after such date.

(c) CLERICAL AMENDMENT.—The table of sections for part II of subchapter C of chapter 33 is amended by inserting after the item relating to section 4271 the following new item:

"Sec. 4271A. Taxes related to retrofitting and replacing noisy aircraft."

SEC. 304. CREDIT OR REFUND OF NEW TAXES.

(a) GENERAL RULE.—Chapter 65 (relating to abatements, credits, and refunds) is amended by adding at the end thereof the following new subchapter:

"Subchapter C—Credit or Refund of Certain Taxes for Investments to Retrofit or Replace Noisy Aircraft

"Sec. 6451. Allowance of credit or refund.
"Sec. 6452. Amount of credit or refund.
"Sec. 6453. Determination of credit for noisy aircraft.
"Sec. 6454. Recapture in case of certain dispositions or leases; administrative provisions.

"SEC. 6451. ALLOWANCE OF CREDIT OR REFUND.

"(a) IN GENERAL.—Credit or refund (without interest) of the taxes imposed by section 4261A or 4271A shall be allowed for any month to the operator in the amount determined under this subchapter for such month.

"(b) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subchapter.

"(c) TERMINATION OF CREDIT OR REFUND.—No credit or refund shall be allowed under subsection (a) with respect to any expenditure unless the Secretary receives a certification of such expenditure from the Secretary of Transportation before July 1, 1985.

"SEC. 6452. AMOUNT OF CREDIT OR REFUND.

"(a) GENERAL RULE.—The amount of the credit or refund allowed under section 6451 to any operator for any month shall be the lesser of—

"(1) such operator's net credit for such month, or

"(2) such operator's net aircraft taxes for such month.

"(b) NET CREDIT AND NET AIRCRAFT TAXES DEFINED.—For purposes of this section—

"(1) NET CREDIT.—The term 'net credit' means, with respect to any operator for any month, the excess of—

"(A) such operator's noisy aircraft credit for such month and all preceding months, over

"(B) the aggregate of the credits or refunds allowed or made to such operator under section 6451 for all preceding months.

"(2) NET AIRCRAFT TAXES.—The term 'net aircraft taxes' means, with respect to any operator for any month, the excess of—

"(A) the aggregate of the taxes which were imposed by sections 4261A or 4271A and which were paid by such operator by the close of the month, over

"(B) the aggregate of the credits or refunds allowed or made under section 6451 to such operator for all preceding months. For purposes of subparagraph (A), the taxes paid by the operator by the close of any month include taxes with respect to which credits or refunds for any preceding month under section 6451 have been allowed or made. The net aircraft taxes of any operator for any month shall be based on estimates of the Secretary. Proper adjustments in such estimates shall be made from time to time.

"SEC. 6453. DETERMINATION OF CREDIT FOR NOISY AIRCRAFT.

"(a) GENERAL RULE.—For purposes of this subchapter, the noisy aircraft credit of any operator for any month is the aggregate of—

"(1) the applicable percentage of the cost of each replacement property placed in service during such month, and

"(2) the applicable percentage of each qualified progress expenditure made during the month with respect to replacement property.

The amount taken into account under paragraph (1) for any property shall be reduced, for prior qualified progress expenditures taken into account under paragraph (2) for such property, in a manner similar to that provided by section 46(c)(4).

"(b) APPLICABLE PERCENTAGE.—

"(1) IN GENERAL.—For purposes of this subchapter, the term 'applicable percentage' means—

"(A) with respect to retrofit property—

"(i) for aircraft with less than 4 engines, 90 percent, or

"(ii) for aircraft with 4 engines or more, 50 percent,

"(B) with respect to any replacement engine, 75 percent, or

"(C) with respect to a replacement aircraft—

"(i) which meets the noise standards of March 3, 1977, 40 percent, or

"(ii) which meets the noise standards in effect on January 1, 1977, but does not meet the noise standards of March 3, 1977, 25 percent.

"(2) LIMITATION ON AMOUNT OF CREDIT FOR REPLACING ENGINES.—The amount of the noisy aircraft credit determined under this section with respect to replacing the engines of any noncomplying aircraft shall not exceed 40 percent of the cost of replacing the aircraft (determined as of the date the Federal Aviation Administration certifies the airworthiness of the aircraft after the engine replacement) with a comparable aircraft which meets the noise standards of March 3, 1977.

"(c) REPLACEMENT PROPERTY.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'replacement property' means—

"(A) retrofit property for a noncomplying aircraft,

"(B) a replacement engine for a noncomplying aircraft, or

"(C) a replacement aircraft.

"(2) RETROFIT PROPERTY.—The term 'retrofit property' means the property used in the alteration of an engine or the engine nacelles of an aircraft with sound absorbent materials for the purpose of noise reduction, but only if the engine as so altered has been certified by the Secretary of Transportation as complying with—

"(A) the noise standards in effect on January 1, 1977, and

"(B) any additional requirements, relating to noise, set forth in regulations issued by the Secretary of Transportation.

(3) REPLACEMENT ENGINE.—The term 'replacement engine' means an engine which has been certified by the Secretary of Transportation as complying with the standards and regulations referred to in paragraph (2).

"(4) REPLACEMENT AIRCRAFT.—The term 'replacement aircraft' means an aircraft which replaces a noncomplying aircraft and which has been certified by the Secretary of Transportation as complying either with the noise standards in effect on January 1, 1977, or the noise standards of March 3, 1977.

"(5) ENGINE.—The term 'engine' includes necessary spare engines held by the operator on January 24, 1977, for use in connection with one or more noncomplying aircraft.

"(d) SPECIAL RULES.—

"(1) ONLY ONE TYPE OF EXPENDITURE TAKEN INTO ACCOUNT WITH RESPECT TO EACH NONCOMPLYING AIRCRAFT.—Where—

"(A) a credit has been allowed under this

subchapter for retrofitting any engine, no credit shall be allowed under this subchapter for a second retrofitting of such engine, for replacement of such engine, or for replacing the aircraft,

"(B) a credit has been allowed under this subchapter for replacing any engine, no credit shall be allowed under this subchapter for replacing such replacement engine or for replacing the aircraft, and

"(C) a credit has been allowed under this subchapter for replacing an aircraft, no credit shall be allowed under this subchapter for replacing such replacement aircraft.

"(2) TRANSFER OF NONCOMPLYING AIRCRAFT TO SECOND OPERATOR.—Where—

"(A) an operator ceases to operate a noncomplying aircraft having less than 4 engines,

"(B) possession of such aircraft is acquired by a second operator issued a certificate under section 401 of the Federal Aviation Act of 1958, and

"(C) such second operator retrofits the engines of such aircraft,

then the second operator shall be treated as the operator on January 24, 1977, of such noncomplying aircraft for purposes of computing the credit of the second operator under subsection (a). In any such case, the amount otherwise allowable as a credit to the first operator for replacing the noncomplying aircraft shall be reduced by an amount equal to the amount of the credit allowed to the second operator under the preceding sentence.

"(e) OVERALL LIMITATION ON CAPACITY OF REPLACEMENT AIRCRAFT.—

"(1) NO PAYMENT FOR PASSENGER SEATS IN EXCESS OF 107 PERCENT OF REPLACED SEATS.—The total number of passenger seats on all replacement aircraft of an operator for which credit is allowed under this subchapter shall not exceed 107 percent of the total number of passenger seats on all noncomplying aircraft of such operator which are replaced by such replacement aircraft,

"(2) NO PAYMENT FOR CARGO CAPACITY IN EXCESS OF 107 PERCENT OF REPLACED CARGO CAPACITY.—The total cargo capacity of all replacement aircraft of any operator for which credit is allowed under this subchapter shall not exceed 107 percent of the total cargo capacity of all noncomplying aircraft of such operator which are replaced by such replacement aircraft.

"(3) MEASUREMENT OF PASSENGER SEATS OR CARGO CAPACITY.—The Secretary of Transportation shall publish regulations prescribing the method for determining the number of passenger seats and the cargo capacity of both noncomplying aircraft and replacement aircraft.

"(4) OPERATOR GETS CREDIT FOR PART OF LAST AIRCRAFT.—Where a particular replacement aircraft causes the operator to exceed the 107 percent limitation of paragraph (1) or (2), the credit allowable by this subchapter shall bear the same ratio to the credit which would (but for such 107 limitation) be allowable as the number of seats (or the cargo capacity) of the replacement aircraft which does not cause the operator to exceed the 107 percent limitation bears to the total number of seats (or total cargo capacity) of the replacement aircraft. For purposes of the preceding sentence, replacement aircraft shall be taken into account in the order in which they are placed in service; except that for such purpose a replacement aircraft with respect to which an election to take qualified progress expenditures is made shall be treated as placed in service on the date of such election.

"(5) INTERCHANGE OF PASSENGER SEATING CAPACITY AND CARGO CAPACITY.—Under regulations prescribed by the Secretary of Transportation, passenger seating capacity may be exchanged for cargo capacity, and vice versa.

"(f) SPECIAL RULE IN CASE OF FOREIGN AIR CARRIERS.—

"(1) IN GENERAL.—The Secretary shall make a lump-sum payment of the amount certified under paragraph (2)(B) to any foreign air carrier having in force a permit issued under section 402 of the Federal Aviation Act of 1958. Such payment shall be in lieu of any credits under this subchapter and shall not exceed the aggregate taxes imposed by section 4216A or 4271A paid by such carrier.

"(2) CERTIFICATION.—Paragraph (1) shall apply only if the chief operating officer of the foreign air carrier certifies to the Secretary of Transportation—

"(A) that each of its aircraft engaged on the date of certification (or at any time thereafter) in operations within the United States (as defined in section 101(39) of the Federal Aviation Act of 1958) complies (or will comply, as the case may be) with the noise standards which would apply to such type of aircraft if it were registered in the United States and which are set forth in either the noise standards in effect on January 1, 1977, or the noise standards of March 3, 1977, and

"(B) the total amount expended by such foreign air carrier after January 24, 1977, and before the date of the certification (or, if earlier, January 1, 1985) to comply with such noise standards.

The Secretary of Transportation shall transmit any certification made under this subsection to the Secretary.

"(g) NONCOMPLYING AIRCRAFT.—

"(1) IN GENERAL.—For purposes of this subchapter, the term 'noncomplying aircraft' means any civil subsonic turbojet powered aircraft—

"(A) which—

"(i) has a maximum certificated takeoff weight of 75,000 pounds or more,

"(ii) is registered in the United States,

"(iii) has a standard airworthiness certificate issued pursuant to section 603(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1423), and

"(iv) as determined by the Secretary of Transportation, as of January 24, 1977, was in service and used for the carriage of persons or property for compensation or hire, and

"(B) which does not comply with the noise standards in effect on January 1, 1977.

"(2) SECRETARY OF TRANSPORTATION TO PUBLISH LIST.—Not later than 60 days after the date of the enactment of this subchapter, the Secretary of Transportation shall publish a list in the Federal Register setting forth the name of each operator of each noncomplying aircraft as of January 24, 1977, and the registration number of such aircraft.

"(3) OPERATOR TO SUBMIT STATEMENT OF METHOD OF COMPLYING WITH NOISE REGULATIONS.—Each operator named in the list published pursuant to paragraph (2) shall (not later than 30 days after the date such list is published) submit to the Secretary of Transportation in writing a statement which sets forth, with respect to each noncomplying aircraft of such operator which appears on such list—

"(A) that with respect to such aircraft there will be compliance with the noise standards in effect on January 1, 1977, and with any additional requirements relating to noise set forth in regulations issued by the Secretary of Transportation, and

"(B) the means by which such operator will comply with such regulations, whether by retrofitting the engines of the noncomplying aircraft, replacing such engines, or replacing such noncomplying aircraft with another aircraft.

"(h) COST DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'cost' means—

"(A) except as provided in paragraph (2), the basis of the property (including installation, delivery, and testing costs), or

"(B) in the case of replacement aircraft, the basis of such aircraft (determined under paragraph (1)) reduced by depreciation or amortization on the noncomplying aircraft (or any predecessor aircraft) to the extent such depreciation or amortization has not been recaptured under section 1245.

"(2) ONLY EXPENDITURES AFTER JANUARY 24, 1977, TAKEN INTO ACCOUNT.—For purposes of determining cost, only amounts expended after January 24, 1977, shall be taken into account.

"(3) CERTIFICATION BY DEPARTMENT OF TRANSPORTATION.—Costs and qualified progress expenditures may be taken into account only if the amount thereof properly taken into account for purposes of this subchapter is certified by the Secretary of Transportation to the Secretary.

"(i) OTHER DEFINITIONS.—For purposes of this subchapter—

"(1) OPERATOR.—

"(A) IN GENERAL.—The term 'operator' means any person who at any time was liable for the tax imposed by section 4261A or the tax imposed by section 4271A and who is engaged in the transportation of persons or property by air for hire or compensation.

"(B) OPERATOR WITH RESPECT TO NONCOMPLYING AIRCRAFT.—Except as provided in subparagraphs (C) and (D), an operator shall be treated as an operator with respect to a noncomplying aircraft only if such operator operated such aircraft on January 24, 1977.

"(C) EXCEPTION FOR CERTAIN TRANSFERS OF AIRCRAFT HAVING LESS THAN FOUR ENGINES.—Subparagraph (B) shall not apply to a transfer of a noncomplying aircraft described in subsection (d)(2).

"(D) ACQUISITION OF SUBSTANTIALLY ALL OF ASSETS OF OPERATOR.—If an operator acquires substantially all of the assets of another operator, subparagraph (B) shall not apply to the acquiring operator, and the acquiring operator shall succeed to and take into account all items of the operator whose property was so acquired which are relevant to the application of this subchapter.

"(2) NOISE STANDARDS IN EFFECT ON JANUARY 1, 1977.—The term 'noise standards in effect on January 1, 1977' means those noise standards set forth in regulations issued by the Secretary of Transportation, acting through the Administrator of the Federal Aviation Administration (14 CFR part 36), as in effect on January 1, 1977.

"(3) NOISE STANDARDS OF MARCH 3, 1977.—The term 'noise standards of March 3, 1977' means those noise standards for new type certificated aircraft set forth in regulations issued by the Secretary of Transportation, acting through the Administrator of the Federal Aviation Administration, on March 3, 1977 (F.R., vol 42, No. 24, 12360 et seq.).

"(4) QUALIFIED PROGRESS EXPENDITURES.—Qualified progress expenditures shall be determined in a manner similar to that provided by section 46(d) (including the requirement of an election); except that—

"(A) paragraph (7) of section 46(d) shall not apply, and

"(B) only expenditures made after January 24, 1977, shall be taken into account.

"(5) CREDIT INCLUDES REFUND.—A refund made shall be treated as a credit allowed.

"SEC. 6454. RECAPTURE IN CASE OF CERTAIN DISPOSITIONS OR LEASES; ADMINISTRATIVE PROVISIONS

"(a) RECAPTURE IN CASE OF CERTAIN DISPOSITIONS OR LEASES.—

"(1) IN GENERAL.—If during the recapture period any replacement aircraft is—

"(A) disposed of, or

"(B) leased to any person other than an air carrier (as defined in section 101(3) of the Federal Aviation Act of 1958),

the operator shall pay the Secretary an amount equal to the recapture percentage of the aggregate decrease in the credits allowed by this subchapter for months ending before such disposition or lease which would

have resulted from not taking such aircraft into account.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) RECAPTURE PERCENTAGE.—

"If the disposition or lease occurs:	The recapture percentage is:
Before the date 1 year after the aircraft is placed in service	100 percent.
At least 1 year but less than 2 years after the aircraft is placed in service	80 percent.
At least 2 years but less than 3 years after the aircraft is placed in service	60 percent.
At least 3 years but less than 4 years after the aircraft is placed in service	40 percent.
At least 4 years but less than 5 years after the aircraft is placed in service	20 percent.

"(B) RECAPTURE PERIOD.—The term 'recapture period' means the period—

"(i) which begins on the date on which the replacement aircraft is placed in service, and

"(ii) which ends on the date 5 years after the replacement aircraft is placed in service.

"(C) SPECIAL RULES FOR PROGRESS EXPENDITURE PROPERTY.—If qualified progress expenditures are taken into account with respect to the replacement aircraft—

"(i) the recapture period shall begin (in lieu of the date specified in subparagraph (B)(i)) on the first day of the first month for which any such expenditures are taken into account; and

"(ii) if the disposition or lease occurs before the aircraft is placed in service, the recapture percentage is 100 percent.

"(3) ADJUSTMENT IN CREDIT ACCOUNT.—In the case of any disposition or lease of an aircraft to which paragraph (1) applies, if—

"(A) the recapture percentage of the aggregate noisy aircraft credit determined with respect to such aircraft, exceed

"(B) the amount required to be paid to the Secretary under paragraph (1),

the amount determined under section 6452(b)(1)(A) for months ending on or after such disposition or lease shall be reduced by the amount of such excess.

"(4) ADMINISTRATIVE PROVISIONS.—Any amount required to be paid to the Secretary under paragraph (1) shall be assessed and collected in the same manner as if it were a tax imposed by section 4261A.

"(5) EXCEPTION FOR INVOLUNTARY CONVERSIONS.—Paragraph (1) shall not apply to any disposition if such disposition is a compulsory or involuntary conversion (within the meaning of section 1033). For purposes of this subsection, any aircraft acquired to replace the aircraft so converted shall be treated in the same manner as if it were the aircraft so converted and as if it had been placed in service on the date on which the aircraft so converted was placed in service.

"(b) COORDINATION WITH CHAPTER 1.—For purposes of chapter 1—

"(1) IN GENERAL.—Except as provided in paragraph (2), if any person is liable for any tax imposed by section 4261A or 4271A, no amount shall be included in the gross income of, and no deduction shall be allowed to, such person by reason of such tax.

"(2) AMOUNT OF CREDIT INCLUDED IN GROSS INCOME.—The amount of any credit allowed under section 6451, and the amount of any refund made under section 6451, shall be included in the gross income of the person to whom allowed or made for the taxable year appropriate under such person's method of accounting.

"(c) REQUIREMENT OF ANNUAL RETURNS.—

"(1) IN GENERAL.—Each operator who claims a credit or refund under this subchapter for any month during any calendar year shall make a return with respect to such calendar year. Such return shall set forth—

"(A) the aggregate of the taxes imposed by section 4261A or 4271A which were paid by such operator by the close of the calendar year,

"(B) the aggregate credits or refunds claimed by such operator for months in the calendar year, and

"(C) such other information and supporting evidence as the Secretary determines to be necessary for the application of this subchapter.

"(2) TIME AND METHOD FOR FILING RETURN.—The return required under paragraph (1) with respect to any calendar year shall be filed with the Secretary not later than March 15 of the succeeding calendar year and shall be made in such form as the Secretary may by regulations prescribe."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 65 is amended by adding at the end thereof the following new item:

"SUBCHAPTER C. Credit or refund of certain taxes for investments to retrofit or replace noisy aircraft."

SEC. 305. AIRPORT AND AIRWAY TRUST FUND AMENDMENTS

(a) AUTHORIZATION OF APPROPRIATIONS TO CARRY OUT AIRPORT AND AIRCRAFT NOISE REDUCTION ACT.—Subparagraph (A) of section 208(f)(1) of the Airport and Airway Revenue Act of 1970 is amended to read as follows:

"(A) incurred under—

"(i) title I of the Airport and Airway Development Act of 1970,

"(ii) the Airport and Airway Development Act Amendments of 1976, and

"(iii) the Airport and Aircraft Noise Reduction Act,

as such Acts were in effect on the date of the enactment of the Airport and Aircraft Noise Reduction Act;".

(b) TRANSFER TO TRUST FUNDS OF TAXES UNDER SECTIONS 4261A AND 4271A NOT NEEDED FOR CREDITS OR REFUNDS.—

(1) IN GENERAL.—The first sentence of subsection (b) of section 208 of the Airport and Airway Revenue Act of 1970 is amended by adding at the end thereof the following new paragraph:

"(4) amounts determined by the Secretary of the Treasury to be that portion of the taxes received in the Treasury under sections 4261A and 4271A of such Code which will not be needed for the allowance of the credits and the making of the refunds provided by section 6451 of the Internal Revenue Code of 1954."

(2) CLERICAL AMENDMENTS.—

(A) The first sentence of such section 208(b) is amended by striking out "and" at the end of paragraph (2) and by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and".

(B) The second sentence of such section 208(b) is amended by striking out "and (3)" each place it appears and inserting in lieu thereof "(3), and (4)".

(c) CERTAIN RECAPTURE AMOUNTS TREATED AS TAXES.—For purposes of section 208(b) of the Airport and Airway Revenue Act of 1970, amounts recaptured under section 6454 of the Internal Revenue Code of 1954 shall be treated as taxes received under section 4261 of the Internal Revenue Code of 1954.

(d) CONSULTATION WITH RESPECT TO UNSAFE AIRPORT AND AIRWAYS OPERATING CONDITIONS.—Subsection (f) of section 208 of the Airport and Airway Revenue Act of 1970 is amended by adding at the end thereof the following new paragraph:

"(4) Notwithstanding any other provision of law, no amount may be spent from the Trust Fund for any fiscal year beginning after September 30, 1978, unless the Secretary of Transportation, acting through the Administrator of the Federal Aviation Administration—

"(A) consults, at least 75 days before the beginning of such fiscal year, with officials of the National Transportation Safety Board concerning airport or airways operating conditions which the National Transportation Safety Board considers to be unsafe; and

"(B) publishes in the Federal Register, at least 30 days before the beginning of such fiscal year, a list of the airport or airways operating conditions described in subparagraph (A), together with an explanation of any disagreement between the Secretary of Transportation and the National Transportation Safety Board with respect to—

"(i) the existence or extent of any unsafe airport or airways operating condition, or

(ii) the actions which have been taken, or are proposed, to eliminate any unsafe airport or airways operating condition."

Mr. ULLMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. ULLMAN. Mr. Chairman, the Rules Committee has made in order as an amendment to title III of H.R. 8729 the substance of H.R. 11986, which was reported by the Committee on Ways and Means. H.R. 11986 makes changes to the excise taxes on air transportation and provides refunds or credits on certain of these taxes for expenditures by airlines to modify or replace existing noisy aircraft.

Under present law, an 8-percent excise tax is generally imposed upon the fares of airline passengers on domestic flights and flights to or from nearby points in Canada and Mexico. Air passengers departing the United States, whose fares are not entirely taxable under the 8-percent tax, are subject to a $3 per person international departure tax. In addition, a 5-percent tax is imposed upon domestic air freight transportation charges. The proceeds of these taxes are presently deposited in the airport and airway trust fund from which appropriations are made for certain aviation-related purposes. These taxes are scheduled to decline or terminate on July 1, 1980.

The Ways and Means Committee amendment will reduce the present 8-percent passenger and 5-percent freight taxes by 2 percentage points, and also suspend the present $3 international departure tax, for a 5-year period from October 1, 1978, through September 30, 1983.

In place of these reduced or suspended taxes, there will be 2 percent passenger and freight taxes which use the same tax base as under present law. As a result, the total tax for domestic passenger and freight shippers will remain unchanged. In addition, there will be imposed international passenger departure taxes of $2 where the air fare is less than $100 and $10 where the fare is $100 or more. There will also be a 5-percent tax on charges for international air freight which departs the United States. The new taxes will be imposed upon the commercial air carriers and will be in effect for a 5-year period until October 1, 1983. At the end of this period the present level of excise taxes would be restored, if they remain

generally in effect on that date and the proceeds are being deposited in the trust fund pursuant to congressional review in 1980 of the airport and airway program, as the trust fund expires in 1980 under current law.

Those domestic air carriers who operate large subsonic jet aircraft which do not comply with the FAA's 1976 noise regulations may obtain refunds or credits for the new excise taxes they have paid. They will be entitled to refunds or credits for certain percentages of costs they have incurred, including progress payments, after January 24, 1977, and before January 1, 1985, to bring their noncomplying noisy aircraft into compliance with FAA noise regulations by one of three methods: First, retrofitting, which is adding sound absorbing materials to the engines; second, replacing the engines; or third, replacing the noncomplying aircraft. These percentages are 50 or 90 percent for retrofitting (depending on the number of an aircraft's engines), 75 percent for replacement engines, and either 40 or 25 percent for a replacement aircraft (depending upon the noise level of the replacement aircraft). The Secretary of Transportation is required to certify that the costs have been incurred for qualified property before a refund or credit will be allowed.

These refunds or credits will be treated as taxable income when received by the air carriers. Rules are also provided to generally prevent the claiming of multiple credits for the same noncomplying aircraft and to require recapture of credits or refunds where a replacement aircraft is sold or leased within 5 years of being placed in service.

Foreign air carriers will be entitled to obtain lump-sum refunds of their payments of these taxes for the entire costs incurred to bring into compliance their aircraft which operate in the United States. These carriers must first certify that their U.S. operating fleet does, and will in the future, comply with the 1976 noise standards.

Excess tax collections over the amounts of refunds or credits will be deposited into the airport and airway trust fund. In addition, the provision amends the trust fund statute to permit expenditures for noise compatibility programs and planning grants from the trust fund—as included in other titles of H.R. 8729.

The provision also requires the FAA to issue an annual report of unsafe airport and airway operating conditions before any expenditures can be made from the trust fund for the following fiscal year.

The Treasury Department supports this bill. Mr. Chairman, I urge the adoption of this amendment to H.R. 8729.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. SIMON, and by unanimous consent, Mr. ULLMAN was allowed to proceed for 2 additional minutes.)

Now, Mr. Chairman, this is a departure from ordinary procedure, but we are facing very exceptional circumstances where if some program such as this is not enacted, there will be no possibility in the world of air carriers meeting their noise requirements under laws we have imposed upon them; so the committee has somewhat reluctantly gone along with this procedure. It is a departure from past procedure, because of the emergency situation, because we think it is fair and equitable and we think it is the only way to meet the problem.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Chairman, I thank the gentleman for yielding.

I am pleased with the reluctance of the committee. I wish there had been just a little more reluctance.

The gentleman mentioned the airlines have to pay taxes on this money they collect. What about Aeroflot, the Soviet airline, which will get subsidies under this bill? There is no way, obviously, that they are going to pay U.S. taxes on their income.

Mr. ULLMAN. Remember, they are only getting rebates from amounts that they have collected from passengers and on freight that originated in the United States. It is important to us that they meet our noise requirements, too. They only get those rebates from funds that have been collected from their service in this country. They only get rebates if they meet the noise requirements, and only for the aircraft in service in the United States.

Mr. SIMON. Mr. Chairman, if the gentleman will yield further, does the gentleman know of any other country that does this? When you go to other countries, you pay these airport taxes. Does the gentleman know of any other country that pays rebates to American airlines?

The CHAIRMAN. The time of the gentleman from Oregon has again expired.

(By unanimous consent, Mr. ULLMAN was allowed to proceed for 1 additional minute.)

Mr. ULLMAN. But you see, the ordinary taxes that we have imposed are not involved. The only part of the special taxes on international freight and passenger travel that they get as a rebate is part of this special tax that is imposed and collected from people using their airlines and only if these airlines incur costs so that their aircraft will meet the particular noise requirements of our laws.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Chairman, I appreciate the position in which the gentleman's committee has been placed, but we are going to set a precedent here that we are going to have to follow through in other fields; for example, EPA has just put out some regulations or requirements for scrubbing of coal. Industry tells us it is going to cost about $10 billion for scrubbing equipment at a time when the national policy will force them to convert to coal.

Now, what will happen if those utility companies come to us and say they need help with this?

The CHAIRMAN. The time of the gentleman from Oregon has again expired.

(At the request of Mr. KAZEN, and by unanimous consent, Mr. ULLMAN was allowed to proceed for 2 additional minutes.)

Mr. KAZEN. Mr. Chairman, if the gentleman will yield further, have we not opened the door here as far as precedents are concerned, for when these utility companies come in and say, "Hey, we are going to need some help. We cannot convert on our own. You have to help us with a tax or rebate or something else in order to meet the requirements that you, the Government, have placed on us."

Mr. ULLMAN. Mr. Chairman, let me say that this is not a precedent for that kind of circumstance. This is a totally different situation. There is a problem involved here. We are going to have to use some ingenuity in facing up to that issue. I do not know how we are going to meet the problem that the gentleman suggests. We have a tremendous investment problem in converting to a different pattern of using our energy resources in this county. We are going to have to use some ingenuity.

This is not a precedent for that kind of situation; but I will say that the gentleman will have to join with the committee in trying to meet that problem in some way that is tailored to that requirement; but this is not a precedent for that.

Mr. KAZEN. Mr. Chairman, if the gentleman will yield further, what I am saying is that the consumer is the one that is going to pay for everything, because it is the action of this Congress that is responsible for that.

Mr. ULLMAN. Ultimately, the consumer pays all taxes, particularly in circumstances like this.

I think this applies only to a particular situation. It is not a precedent for any other action. I think it is the only way we are going to meet the problem.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from New York.

The CHAIRMAN. The time of the gentleman from Oregon (Mr. ULLMAN) has expired.

Mr. ULLMAN. Mr. Chairman, I ask unanimous consent that I may be permitted to proceed for 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

Mr. ASHBROOK. Mr. Chairman, reserving the right to object, I do so for this purpose: We are early in the debate today, and if we are going to limit debate later in the consideration of this bill, I would object now. I wonder if the chairman of the committee could indicate what his intentions are. If he cannot, I will object now, because I believe we should have time for debate expanded later.

Mr. CONABLE. Mr. Chairman, if the gentleman will yield, let me state that I can get my own time.

Mr. ASHBROOK. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. CONABLE. Mr. Chairman, I rise in support of the amendment.

I would like to answer the question addressed by the gentleman from Texas (Mr. KAZEN).

If there are two airlines flying from Boston to Miami and one of them meets the noise standards and the other does not, there is no way the one that does not meet the noise standards is going to be able to raise its prices.

The utility is in quite a different situation, because in all probability it has a geographical monopoly in its area and can very easily pass on the increase in rates. That draws the distinction between the position of the two, I think, and indicates why some mechanism like that in the bill is necessary. If we are going to divert the cost of the airlines to the consumers and ultimately, as the chairman of the committee says, there is no way anyone other than the consumers can pay for this cost, it is important to do it in a way that will permit us to insure the increased money will be spent on retrofitting and noise control, because ultimately the money could be spent in other ways.

I wish it were not necessary to do this sort of thing, but the Congress has decided we are going to have this type of retroactive retrofitting rather than applying this rule just to airplanes purchased hereafter.

Somebody is going to have to pay for it. That is apparently the feeling of the Committee on Public Works and Transportation. It wanted the consumers to pay for it through this type of tax.

The part of our total national budget that is paying the cost of this is the airport trust fund, which is being tapped. We made a basic error in putting more money into that trust fund than we needed. I happen to think this is one of the biggest arguments against trust fund financing. We have put in the airport trust fund, money that goes beyond necessity, and inevitably that money is going to be spent in some way that is contrary to the purpose of the trust fund.

Can anybody deny that there is a social purpose behind trying to control aircraft noise? This has been deemed to be one of our serious national problems. Thus this diversion is deemed to be an appropriate one.

However, I wish to acknowledge that I do not like this way of financing, where we are using a trust fund and then diverting the money later on; but at least the mechanism that is used insures that the purpose of the committee will be met ultimately.

Mr. GEPHARDT. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. Yes, I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Chairman, I appreciate the gentleman's statement, but would not the gentleman agree with me that this is the first time we have raised a tax and then turned the spending of it over to the private sector?

In the case of the utilities that was brought up earlier, we give investment tax credits and we give fast writeoffs, but in those cases we do not raise a tax and then give it back to the private sector.

Mr. CONABLE. Mr. Chairman, I would like to point out that the gentleman supported the energy bill, which did a very similar thing for industry with respect to the use tax. It diverted that money back. I personally did not support that, because that was going to be an additional cost for the consumers.

This at least is not going to mean an additional cost for the consumers, because we are going to wind up with exactly the same tax we had before, only a portion of it now is going to be diverted into retrofitting and noise control. At least to that extent it is better than what this House voted for in the oil and gas bill.

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. Mr. Chairman, with respect to the concern about this mechanism being directed only toward corporations, is it not true that in many respects this rebate is very similar to the proposal for rebates to be given primarily to consumers, for instance, for retrofitting in home insulation?

Mr. CONABLE. There is some similarity there, too.

Mr. GARY A. MYERS. In other words, there are similar cases, and the Congress is on record that they will allow credit writeoffs based on an effort to reach a national goal.

Mr. CONABLE. Yes, the gentleman is correct, the goal in that case being energy conservation.

Mr. SHUSTER. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from Pennsylvania (Mr. SHUSTER) is recognized for 5 minutes.

Mr. SHUSTER. Mr. Chairman, if one accepts the idea that aviation noise environment should be cleaned up—and there certainly seems to be broad agreement on that point—then two points deserve great emphasis.

The first is that the consumers of aviation services will pay for this cleanup, either through the mechanism in this bill or through increased ticket fares. It is six of one or a half dozen of the other.

The second point which deserves great emphasis is that the mechanism in this bill will tend to strengthen competition in the industry. It will keep the cost spread over the entire industry. Without it, the stronger airlines, which least need investment in the more modern aircraft, will get stronger; indeed, their profits will increase further. The weaker airlines will become still weaker because they are the very airlines which most need, but do not have, the increased investment necessary to modernize their fleets.

The competitive structure of the airline industry will be weakened in the long run unless we support this committee amendment and provide the mechanism here which will keep the costs of operations spread evenly across the industry. It is largely for this reason, for the need to continue to strengthen the competitive structure of the airline industry, that I vigorously support the approach in the committee amendment.

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I thank the gentleman for yielding. As I listened to the debate—and I came into this pretty much undecided—I am increasingly persuaded to support this legislation as the best possible solution to a problem that the Congress has created for itself. But, I would like to refer back to the comments of the gentleman from Texas (Mr. KAZEN), who I respect very much, and agree that the Congress has indeed gotten itself into quite a pickle.

What we are doing here is because this Congress set unreasonable noise standards, with unreasonable times for compliance. The same thing is going to be true with EPA requirements.

We should keep in mind, when we pass legislation setting unreasonable standards, that ultimately we are going to end up on the floor with complex situations like this, trying to bail ourselves out.

Mr. SHUSTER. The gentleman makes an excellent point, and that is indeed where we find ourselves today. Therefore, we should proceed on the basis of the legislation before us.

Mr. VANIK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I urge the members of this committee and the Members of the House to reject the motion to substitute the provision of the Committee on Ways and Means to give $3 or $4 billion to the aircraft industry for the so-called retrofitting of their aircraft.

Let me point out what we have done here: Under the closed rule you have no option at all but to take the bill that was written on the Ways and Means Committee.

If you want some interesting reading, read the transcript of what occurred in our committee. At the time, and in the very short time, that we considered this bill, you could not get into the room because of the crowd of lobbyists from the air transport and aerospace industry. It was almost impossible to speak and develop a rational discussion.

How do we come to the idea that we give 40 percent of the cost of a new aircraft and pay for it out of this taxpayer's fund? That just happens to be what they thought would be raised by 2 percent of the tax. It is as ridiculous as the old depreciation allowance, just a handy figure, it so happens, that would consume 2 percent of the fund.

Now, if the fund is in surplus let us reduce the tax. That is what we should do if we do not need all of the money that is in the trust fund.

It so happens that the $3 or $4 billion given away by this proposal happens to be the same amount of money we are going to look for next year to offset increased Social Security payments. Of course, that is not the same fund but if we are going to do something about social security the credit of the United States is involved, so if you waste $4 billion in this action it is going to very seriously affect the capacity of the U.S. Government and the U.S. Congress to do something about providing essential social security relief next year. These are all related because they deal with the credibility of the United States.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I will yield when I finish my statement.

What are we doing here? We are giving the industry 40 percent of the cost of new aircraft. On top of that you will remember that the Committee on Ways and Means rejected a motion to deny the investment credit for the total cost of new aircraft.

So, on top of the public cost of $3 or $4 billion, you have to add $300 to $400 million more which will come out of the Treasury, to pay for the investment credit which will be given on aircraft purchase. In other words, the U.S. Government, the people, through this fund, are going to pay for one-half of the cost of the airplane, one-half. Now, maybe retrofitting costs 8 percent, or 6 percent, or 10 percent, I do not know, we have no evidence on that, no economic argument was submitted in committee, but we are going to pay for one-half of the airplane.

What is that going to mean? That means the producers of the aircraft will very conveniently raise their prices higher, another fat bonanza. They have a tremendous stake in this bonanza.

The airline industry will say, as the gentleman from New York (Mr. DELANEY) said yesterday, let us fatten our salaries and perhaps next year or a year after that the pilots will say we want $300,000, after all, we helped campaign for this $4 billion bonanza.

You are setting in operation a very dangerous, reckless spiral if you are going to pay one-half of the cost and that certainly will mean that everybody on down the line, will demand more of this bonanza you are putting in motion. We are establishing an inflationary spiral for the most coddled industry on the American scene.

The taxpayer paid for the runways, paid for the airport terminals. The taxpayer who does not fly has his money used to monitor the flights. We have spent millions of dollars to keep the airlines industry going and they operate the planes and handle the baggage and we are giving them $4 billion as a bonus.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. VANIK was allowed to proceed for 3 additional minutes.)

Mr. VANIK. Mr. Chairman, I want to point out that we are at a critical point in this legislation. You have the opportunity to do the right thing and we can do the correct thing, we can amend the tax code to make noise abatement an expensible item for tax purposes. We can provide the same kind of pollution credit we do for water pollution, for air pollution. We should have done it for noise pollution, and I would support that. I might even support doing something for the airlines, but not 40 percent, not paying 50 percent of the cost of the aircraft.

What a dangerous thing to do.

You are inviting a tremendous spiral of inflation. You are withdrawing the credit of this Government when you are going to need it critically next year on social security.

We are attempting to favor one industry over all others in the United States. As has been pointed out by the gentleman from Illinois (Mr. ANDERSON), by the gentleman from Kentucky (Mr. SNYDER), and others who complain that if we do this for the airlines, what about the steel industry, the utility industry? What about everybody else? Are we going to make payments for the farmers because of what they have to do with herbicides? There is no end to this kind of legislation.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I was puzzled with the gentleman's linkage of this legislation with the social security trust fund problems. Surely, the gentleman is not suggesting that airline passengers should somehow help make whole the deficit in the social security trust fund, is he?

Mr. VANIK. The gentleman either did not understand or was not listening to what I said. I said it affected the credit of the United States. The money we have in that trust fund is black ink. Whatever we do, whether it is in the trust fund, we have a combined budget. Whatever we take from trust funds or direct funds does affect the credit of the United States. The dollar is involved, and the capacity of our Government to borrow is involved.

Mr. SHUSTER. If the gentleman will yield further, I thank him for his courtesy.

I also express further puzzlement over his statement that we are going to pay 50 percent of the cost of the airlines.

Does not the consumer of aviation services pay 100 percent of the cost of the airline? What is different?

Mr. VANIK. I am saying that there will come out of the airport safety trust fund 40 percent of the total cost and a 10-percent investment credit. That totals 50 percent.

Mr. SHUSTER. Does not the money come from the passengers, the consumers of aviation services? It does not come out of the general fund. It comes out of the passenger's pockets, does it not?

Mr. VANIK. It comes from the loss of revenue because of the investment credit; almost $400 million comes out of the Treasury.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. VANIK) has expired.

(On request of Mr. WAGGONNER and by unanimous consent, Mr. VANIK was allowed to proceed for 1 additional minute.)

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I am happy to yield to the gentleman from Louisiana.

Mr. WAGGONNER. Mr. Chairman, I would ask the gentleman if there is any difference in allowing an investment credit, for example, on the purchase of air pollution equipment which the Congress mandates, as against allowing an investment credit on noise pollution equipment?

Mr. VANIK. I would have no objection to providing the investment credit for noise pollution if it were not tied to a $4 billion gift. If that was all that was involved, I could very well support an extension of investment credit for those costs.

I have said this before: I think that in our tax program, we ought to permit the immediate extension of nonproductive investment mandated by law. We ought to help carry the cost to private industry of the extra burdens of complying with Federal standards, both as to the EPA requirements as to air pollution and as to noise pollution. That is my position.

Mr. STEIGER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I find myself in—I was going to say a "pickle," but then, with the gentleman from Ohio (Mr. VANIK) on the other side, I am a little worried about that. I do not want to get into another Pickle-Vanik situation.

Mr. Chairman, what we are dealing with here is one of those classic legislative dilemmas. I do not like this bill. I do not think the bill ought to pass. It is not good policy; and it does, in my judgment, establish a precedent which I think the Congress will find itself regretting in the future because of the pattern which we are putting forth in this legislation.

Mr. Chairman, I intend to vote for the motion to recommit. I intend to vote against the bill; but I must say, in all honesty, that I do not believe we should reject the amendment of the Committee on Ways and Means.

I suppose that if we want to play games, we can, because then we really will be in a situation in which, under the legislative scenario in which we find ourselves here, were we to reject the Committee on Ways and Means, product, we would end up back at the old title III, the product of the Committee on Public Works and Transportation.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Kentucky.

Mr. SNYDER. I thank the gentleman for yielding.

I think what the gentleman says is accurate, but it is also my understanding—

and perhaps the gentleman from Wisconsin would want to propound a parliamentary inquiry to the Chair to verify it—that once we are back under title III of the bill reported by the Committee on Public Works and Transportation, which I admit is worse than what is proposed in the Ways and Means version, we would be under an open rule. A motion to strike or a motion to strike and substitute the Vanik amendment would then be in order. I have such motions prepared and intend to offer them. That is the reason the gentleman from Ohio (Mr. VANIK) and I are opposing the Ways and Means Committee version so we then can have an open rule on title III. That is my understanding, and the gentleman may want to propound the parliamentary inquiry, or if he wants, I will be glad to do so.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Ohio.

Mr. VANIK. I thank the gentleman for yielding.

I thought I made it clear that it would be at least my intention to oppose both titles III. They are both abhorent, and I do not think there is any reason to vote for either one.

PARLIAMENTARY INQUIRY

Mr. STEIGER. Mr. Chairman, could I propound the inquiry as to whether or not, if the Ways and Means Committee amendment is adopted, a motion is in order to strike title III?

Mr. SNYDER. If the gentleman will yield, no: if it is rejected.

Mr. STEIGER. I am asking a specific question. If the amendment from the Committee on Ways and Means is adopted, is a motion to strike title III in order?

The CHAIRMAN. It would not be in order in that event.

Mr. STEIGER. If the amendment from the Ways and Means Committee is rejected, is a motion to strike title III in order?

The CHAIRMAN. The Chair will advise the gentleman that in the event the pending Ways and Means Committee amendment made in order under the rule were to be rejected, then germane amendments to title III would be in order, including a motion to strike.

Mr. STEIGER. I thank the Chair.

I thank my colleague, the gentleman from Kentucky (Mr. SNYDER), and I may have to revise and extend my remarks, but I will not do that. I will have to eat my words.

Then the amendment from the Committee on Ways and Means ought to be rejected.

I must say I find myself in a most difficult position.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. Of course, I yield to my distinguished Chairman.

Mr. ULLMAN. I thank the gentleman for yielding.

The gentleman is assuming that because he rejects the Ways and Means Committee amendment he would automatically reject the other. I do not think that that necessarily follows. I think that the gentleman, being a very reasonable individual, would prefer to approach either the recommittal motion or the vote on the final bill, when the bill will have a responsible title III, than to defeat the Ways and Means substitute, and take a chance that he may or may not defeat the first version of title III. Certainly I think everybody agrees that, if we examine the two versions of titles III, the Ways and Means Committee approach is by far the more responsible approach within our framework of law.

I think the gentleman's original position is right. We ought to keep that provision in the bill, and then if we want to vote the bill down, we will have an opportunity to do that.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. STEIGER was allowed to proceed for 2 additional minutes.)

Mr. STEIGER. Mr. Chairman, may I just say briefly to my chairman, there is no question the Ways and Means Committee version is much more responsible than is that which came from the Public Works Committee. The Public Works Committee version is that which gives an outright grant without counting it as income. It is bad public policy; it is bad tax policy; and under no circumstances should it be supported. But because we are in the situation where we will not have an opportunity, if the Ways and Means Committee amendment is adopted, to strike the title, which is really where I think we ought to go, or to deal with the issue of the airport tax, in which I concur with my colleague, the gentleman from Ohio (Mr. VANIK), that we ought to reduce that tax by 2 percent, I have no choice. I am sorry I started as I did. I regret that exceedingly.

I would urge my colleagues to reject the Ways and Means Committee amendment, and let us meet title III head-on, because I think it is bad policy and ought not to be accepted.

Mr. CORMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, may I say, my distinguished and very articulate and sometimes humorous friend from Ohio from time to time makes some statements that trouble me. The gentleman said, for instance, that some of us were tagged by the airlines. I would like to suggest to the gentleman that I have not been tagged by the airlines. I have not been fastened by the fastener industry, although I had some vigorous discussions with the gentleman one time about fasteners.

The gentleman's alternative is supposed to save the credit of the United States, make secure the Social Security System and fight inflation. I have not heard of a single product that is that broad in its curative effects since the last time I heard a snake oil salesman say that it would cure rheumatism, arthritis and acne.

I suggest that if this is a precedent, it is a good one. It fits the problem. It fits the problem fairly among the airlines and it fits the problem fairly among those who fly.

Now, if you noted, the gentleman from Ohio was outraged that the airlines would get an investment tax credit; but the gentleman from Wisconsin pointed out that the Committee on Ways and Means had improved this bill by requiring that the funds taken from this trust fund would have to be taken as income. That was the recommendation of the Treasury Department and that is why they get the investment tax credit, because they have to take it as income and they have to pay income tax on it.

Mr. VANIK. Mr. Chairman, will the gentleman yield on that point?

Mr. CORMAN. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, what folly it is to tell the House that it is going to be recovered as taxable income. You give them a $400 million extra write-off in the investment credit which washes out tax liability. The airlines have not been substantial taxpayers; they have write-offs, they have depreciation, they have so much that it spreads it over half the banks of America, as the gentleman from Kentucky (Mr. SNYDER) has indicated.

Mr. CORMAN. Mr. Chairman, as the gentleman knows, the banks are frequently the recipients of tax and investment credit funds. They will have to operate through leasing. Be that as it may, it was at the recommendation of the Treasury Department that the Committee on Ways and Means put that provision in the public works bill. This approach was worked out by the Committee on Public Works.

I say again that it is fair to three kinds of people. First, it is fair to those who live in major cities where we have tremendous air traffic. It is going to make it possible to substantially reduce the noise around those facilities.

It is fair among airlines, because regardless of when they purchase the planes and the engines that must be replaced, they will be able to draw from this fund if they ever do that replacing.

Third, it is fair among airline users. We do not pick the airline because it has quiet engines or noisy engines. We pick it because it is going where we have to go. We ought to uniformly pay the cost of reducing the noise of our airplanes.

The gentleman seems disturbed that we build airports and that we make it possible for us to move around in the airlines it serves. We do that. We do not do it out of general funds. We do it from the public tax on the people that use the airlines. That is the only fair way.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, does the gentleman intend to tell this House that the monitoring of airlines is paid for entirely out of users' funds?

Mr. CORMAN. Yes.

Mr. VANIK. I understand it to be principally paid out of general funds.

Mr. CORMAN. No.

Mr. VANIK. Mr. Chairman, if the gentleman will yield further, where does the FAA get its money? It is appropriated out of the general fund.

Mr. CORMAN. No, no, no.

Mr. VANIK. If the gentleman will go back and check the record, he will find that what I say is correct.

Mr. CORMAN. That is why we have that trust fund. Trust fund spending is good when you have a particular need for a particular segment of the community. You ought to pay for it out of trust funds, not out of general revenues.

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. Mr. Chairman, let us try to get something back in perspective here. We are not talking about the expenditure of Treasury dollars.

The CHAIRMAN. The time of the gentleman from California has expired.

(At the request of Mr. WAGGONNER, and by unanimous consent, Mr. CORMAN was allowed to proceed for 2 additional minutes.)

Mr. WAGGONNER. Mr. Chairman, if the gentleman will yield further, the moneys which will be available to these aircraft operators to do this retrofitting will only be those dollars which are placed in deposit in trust collected by those operators as additional taxes on waybills and passenger tickets.

Mr. Chairman, the net effect of that is not that the Treasury is going to be paying for this retrofitting; only the people who use the airlines, the people who fly, will be doing that.

That is the justification, for example, of a sales tax. Let those people who spend pay for it. The theory of this legislation is: Let those who fly pay the tax, because if people were not flying, then those aircraft would not be in the skies and the noise problem would not exist.

I am submitting to the Members that nobody should pay except those who do fly.

This proposal of the Committee on Ways and Means is a much better program than is the case with that of the Committee on Public Works and Transportation. This proposal of the Committee on Ways and Means does nothing except insure that those why fly pay for correcting this noise problem.

In addition, the gentleman from Ohio (Mr. VANIK), emphasizes the fact that foreign aircraft operators are going to benefit. Let me tell the Members that the only way they can benefit is if they collect these additional taxes, and make the necessary investments to comply with FAA noise standards. They must collect these taxes, and they must deposit those funds. They can get nothing except from those deposits and then only after they bring their U.S. operating aircraft in compliance with FAA noise standards. Let us get this issue in perspective.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I thank the gentleman for yielding.

I would like to follow up on the excellent point made by our colleague, the gentleman from Louisiana (Mr. WAGGONNER).

The CHAIRMAN. The time of the gentleman from California (Mr. CORMAN) has expired.

(On request of Mr. LEVITAS, and by unanimous consent, Mr. CORMAN was allowed to proceed for 2 additional minutes.)

Mr. LEVITAS. Mr. Chairman, will the gentleman yield further?

Mr. CORMAN. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, this is very clear: Regardless of how anybody comes out on this issue, I think it ought to be made clear that we are not talking about the general taxpayers paying any part of this cost at all. It is only the people who are using the airlines for passenger travel or for cargo who will be paying this cost. So it is the users. This has nothing to do with raiding the Treasury or the taxpayers. It is a user payment in fares or a user tax.

Let us take it a step further and see what else that means. Let us assume we do not pass this legislation. Let us assume we do not have this law. What we do know is that the same purchases are going to have to be made by the airlines in order to comply with federally imposed regulations.

Who is going to pay for it then? Not the airlines but the airline passengers, because the airlines are going to have to raise the fares and raise the cost to the consumer in order to obtain the funds. So the same people are going to be paying for it one way or the other, the users and not the general public or the General Treasury.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I think the point should be emphasized and the RECORD clarified that 28 percent of the funding out of the airport trust fund goes for administrative purposes, and that is to pay for such things as aircraft controllers.

So indeed 28 percent of the money from the aviation trust fund does go for administrative purposes. It does not pay for all of it, but a substantial portion of the money in the fund pays for it.

Mr. CORMAN. Mr. Chairman, the thing that concerns me most about the fact that there is an effort to kill this part of the bill is that there will not then be the ability financially to comply with the law, and what happens then is that we will suspend it and we will continue to have this great amount of noise around our airports for many years to come.

Mr. SNYDER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, there seems to be a lot of bantering about how much of FAA's budget comes out of what fund, and I guess we are all entitled to our opinion, but I think I have it right.

The gentleman from Pennsylvania (Mr. SHUSTER) had the numbers right: 28 percent from the trust fund. It is roughly between a quarter-and-a-third, but it is not for aircraft controllers as he indicated. And traffic controller funds comes out of the general fund. Money out of the trust fund is used for such things as ADAP, F. & E. and R. & D.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, does the gentleman not agree that a major portion of the administrative cost does indeed come from the trust fund?

Mr. SNYDER. No, most of the administrative costs come from general funds. ADAP, F. & E., and R. & D. come from trust funds—somewhere between a quarter and a third. I will not argue with the gentleman's figure of 28 percent. That is probably right on the head.

Mr. SHUSTER. Mr. Chairman, I thank the gentleman for that.

Mr. SNYDER. Money does come from the trust fund, and it is for safety items. We are diverting this money from safety for which the trust fund was established in the first place. Safety was the basis of our commitment to the people at the time the trust fund was set up. We said we were pledging it for that purpose.

Let me digress for a moment. Earlier there was a discussion here between the gentleman from Texas (Mr. KAZEN) and the chairman of the Committee on Ways and Means as to whether or not we would be setting a precedent.

I hope we would not be doing so if we adopt this legislation. But let me say that everybody else thinks so.

Mr. Chairman, I want to read from the July 23, 1978 edition of the St. Louis Post Dispatch; an article entitled "When the Airlines Take the Noise Out of Flying."

Automobile manufacturers complain that their cars won't be able to meet Federal pollution standards without a big increase in their price tags. They propose that taxes on gasoline and tires be turned over to them to help meet their costs.

Coal-burning utilities say they can't meet emissions regulations without a Government subsidy. They ask for a cut of the municipal gross receipts tax.

The airlines say that they won't be able to bring many of their engines into compliance with Federal use standards by the deadline of 1985. Some of them plead near-bankruptcy. They ask that $3 billion collected from a Federal excise tax on airline tickets be diverted to them.

Although the first two scenarios are all but a gleam in the carmakers' and utility industry's corporate eye, the third one is being acted out this summer on Capitol Hill. The House of Representatives will soon vote on a bill that would give the airlines up to $3 billion in funds generated by a new two percent tax on airline tickets.

The money would help them buy new engines, or whole new airplanes in order to meet the Federal Aviation Administration's requirement for quieter planes.

Let me quote to the Members something else out of that article:

Although the House Public Works Committee concluded that most airlines would be financially unable to comply with the noise rules without Federal help, CAB Chairman Alfred E. Kahn, an economist, disagrees.

This is a quote from Chairman Kahn's recent testimony before a Senate Subcommittee. I am now quoting from the article, but also quoting from Mr. Kahn:

"There is very little in the record . . . to support that conclusion," Kahn told a Senate subcommittee last month, "beyond bare assertions to that effect by carriers and a few lenders. Moreover, the economic health of the industry has improved markedly since the hearings in the House were concluded over a year ago . . .

"My best judgment is that special financial assistance from the Federal Government is probably not only unnecessary, but undesirable, because it will tend to distort the market process."

Here is an editorial from the Washington Post of August 8, 1978, entitled "This Year's Treasury Air Raid." And is this bill a precedent?

Here is what they say:

It's a clever idea—if you happen to own an airline and need the money to meet federal noise standards or if you happen to be a member of Congress and want to give the airlines a helping hand. But it is, nevertheless, a bad idea. Anyway you analyze the proposal, it is the imposition of a federal tax for the sole purpose of helping an industry to comply with federal law. Once that precedent is set, the possibilities are endless for similar taxes to help other industries meet air-, water- and noise-pollution standards.

The idea works like this: The airlines would continue to collect an 8 percent tax on domestic tickets and a 5 percent tax on domestic air freight. They would also collect an increased departure tax on passengers leaving the country. But unlike other tax money, which goes to the government, this would be different. Each airline could keep up to 25 percent of the ticket tax, 40 per cent of the freight tax and all of the increased departure tax as long as it was spending that much money on new and less noisy equipment.

Can we say it is not a precedent?

The CHAIRMAN. The time of the gentleman from Kentucky (Mr. SNYDER) has expired.

(By unanimous consent, Mr. SNYDER was allowed to proceed for 4 additional minutes.)

Mr. SNYDER. Mr. Chairman, let me read to the Members a portion of an editorial. Some folks say it is just the liberal press and Nader's raiders who are speaking out on these issues, but this editorial is from Business Week. They are hardly liberal or pro-Nader. This is from an editorial entitled "Paying the Cost of Quiet." I am quoting in part:

Hard cases make a bad law, say the lawyers.

Skipping over some of the details of the bill, they then say this:

Today the airlines are flying high, with record earnings and growing traffic. The Civil Aeronautics Board has given them wide latitude in setting fares. So far they have used it mainly to build revenues with promotional fares, but if they needed to cover increased costs, they could apply for higher rates. And yet the Transportation Dept. is still backing federal help in meeting the noise abatement standards.

Revenues from the ticket tax are supposed to finance airport improvements to promote safety. Passing the Anderson bill would limit the funds available for this high-priority purpose. It is true that government spending on the airports has been lagging, but there is no indication that it is not needed.

Moreover, the airlines today have no stronger claim to help than industries that must meet air and water pollution standards. If the carriers are allowed to buck part of the cost back to the government, why should chemical manufacturers or oil refiners pay all the bills themselves?

"Oh," you say, "this bill is not a precedent." Maybe the chairman does not think it is a precedent, but I say to you that the public does. The public across this country is aware that it is. Editorial writers are telling the public it is a precedent, and when we have such pressure, I can assure the Members that it will become a precedent.

Jack Anderson wrote recently in the Washington Post as follows:

Airline Ripoff—The airline industry has convinced top federal officials to stick the taxpayers for a new fleet of modern planes.

The airlines have been fretting about the new noise-reduction standards by the government. They have cooked up a scheme whereby the public will foot the bill for a $4 billion subsidy to buy a new fleet of quieter planes. If the airline honchos have their way, unsuspecting passengers will soon be paying a 2 percent tax on all flights.

Then, Mr. Chairman, here is a publication most Members may not be familiar with. It is called "Legal Eagles News," published by the Lawyer-Pilots Bar Association. Here is what they say:

Noise Bill Raids Trust Fund to Benefit Airlines.

They are interested in safety, my friends; they do not care whether airlines get money or not. They say:

The net result of this plan is that the trust fund money, designed for airport and facilities improvement, would instead be used to pay for airline acquisition of new equipment meeting Part 136 noise standards.

My friends, the cook may wash it and disinfect it as much as she will, but the stench of the skunk still stays, much as she will.

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. Mr. Chairman, as a matter of clarification, the editorial mentioned has tried to draw a similarity between this provision and using the gas tax, for instance, to give to the auto industry. It somewhat misses the mark because the gas tax, the excise tax, is taxed on another industry's product. It would be more consistent if they would have an analogy that an excise tax was placed on automobiles, and then rebated for social repairs.

It seems to me that if we were here today proposing that an excise tax be placed on fuel for the airlines, and that tax would be rebated, many of us would not go along with that concept, but what we are doing is talking about taxing what the benefactors of this are providing.

Mr. SNYDER. Whether we tax the price of travel, which is the ticket fare, or the price of travel in a car, which is the price of gasoline, I think we are talking about the same thing.

The CHAIRMAN. The time of the gentleman from Kentucky has again expired.

(At the request of Mr. VANIK and by unanimous consent, Mr. SNYDER was allowed to proceed for 1 additional minute.)

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I would like to say that I applaud the statement of the gentleman from Kentucky. I want to point out that he was the very first person in the Congress who blew the whistle on this proposal when it was made in the Public Works Committee. He did his Nation a great service, and I thank the gentleman.

Mr. SNYDER. I thank the gentleman.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I thank the gentleman for yielding. I would like to say publicly that I think the gentleman from Kentucky has certainly been very forthright in his position, and he knows I have the greatest respect for him and had some of the misgivings he has expressed, and we have talked about this previously. But, on the question of safety and depletion of the trust funds, I think it is important for the members of the committee to know, and for the American public to know, that there is already a $2 billion surplus in this trust fund for safety purposes.

Mr. SNYDER. There is a $2 billion surplus on the books. Of course, they are borrowing from it to pay for other programs when they ought to be using it for safety. They have been neglecting safety.

Mr. LEVITAS. I think in many ways the FAA has been——

The CHAIRMAN. The time of the gentleman from Kentucky has again expired.

Mr. LEVITAS. Mr. Chairman, I ask unanimous consent that the gentleman may have 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

Mr. ASHBROOK. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. LEVITAS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, to continue the point that I was making in connection with the remarks of my good friend from Kentucky, the fact of the matter is that the trust fund today has approximately a $2 billion uncommitted surplus, and that the application of a portion of the user tax that has been proposed is for other aviation purposes, namely, the reduction of aviation noise.

The airlines must and should comply with the noise requirements imposed by the Federal Government. The question then comes: Where do these funds which will pay for the compliance come from? They are going to come exclusively from the users of aviation services; no other place. And the only question is: Does it come from airlines charging higher fares to the traveling public in a chaotic and spasmodic way, or does it come from this system of user taxes which seems to be the most equal and effective way to deal with the problem, and it is a problem which this Congress rightly imposed upon the airline industry to come into compliance with noise reduction standards.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Oregon.

Mr. ULLMAN. The gentleman is absolutely correct. The users are going to have to pay for aircraft noise reduction and it will involve substantial cost. But the articles the gentleman from Kentucky (Mr. SNYDER) read from, and the newspaper reports, do not tell the complete story concerning the amendment. The funds that the aircraft companies use, the taxes refunded or credited are taxable. They are fully included in taxable income. It is not a giveaway. All it is is a mechanism for an even distribution.

You mention setting a precedent. We can go back 25 years to the capital construction funds for merchant ships, where they put moneys they have earned into a fund, and they are totally tax exempt. Then, when they draw from the fund to build new ships, there is no tax imposed upon these funds. If you are going to talk about setting a precedent, there is one that is already on the books. But here the airline companies pay taxes on this revenue; there is no giveaway involved. This is merely a mechanism for an even distribution so that competitive imbalances are not created. That is the only way you can arrive at a reasonable solution for this problem.

Mr. HAMMERSCHMIDT. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Chairman, I thank the gentleman for yielding, and I wish to associate myself with the remarks of the gentleman from Georgia (Mr. LEVITAS).

Mr. Chairman, if I might sort of oversimplify this issue, let us say you have a businessman who travels extensively and maybe his average ticket expense to do this in a year comes to $1,000. Now, he pays $80 of that into the trust fund. Under this proposal $20 of that would go to the transition to the new, quieter, cleaner aircraft, which goes to the public's benefit and to his own personal benefit since he is riding on this new type of aircraft.

It is just that simple. It is not a raid on the Treasury, it is a question of the user paying a small portion of it into the trust fund to make the transition.

Mr. LEVITAS. Mr. Chairman, the gentleman from Arkansas (Mr. HAMMERSCHMIDT) makes a very important point. This is not a raid on the Treasury because the person who is paying it is the user, the person who buys the ticket, and he will pay it one way or another. The general public will not pay for this under the provision of the bill.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Chairman, when the gentleman from Georgia (Mr. LEVITAS) first started his argument just a minute or so ago, the gentleman was putting emphasis on the large surplus that we have in the trust fund. I would like to tell my colleagues something, and that is that we have this surplus, because it has not been released to the hundreds of airports that are waiting in line to get that money, and if they got that money, then it could be that we would not have that surplus. The Government should give it to the people for whom it was intended.

Mr. LEVITAS. The gentleman from Texas (Mr. KAZEN) is very correct in making the point that the FAA, and also in my opinion, has been remiss in obligating the funds which should be obligated. Our aviation subcommittee and the investigation and review subcommittee have looked into this and I think the FAA needs to be reprimanded for not doing a better job of putting out the trust funds more expeditiously. But if they obligated all of the funds that have been requested for safety projects, which can be justified, they would still have a surplus, and still the trust fund surplus still continues to grow. If this user tax is going to be reduced, then we are going to see the aircraft industry raise its fares to the same users.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. GEPHARDT and by unanimous consent, Mr. LEVITAS was allowed to proceed for 2 additional minutes.)

Mr. GEPHARDT. Mr. Chairman, I thank the gentleman for yielding.

I would like to say that I agree with the gentleman on his point that users are going to pay for the airline noise.

The question is, How is the mechanism going to be affected?

My problem with this bill is that we are imposing the Government between the airlines and the users. I am saying, Let us not do that. Let the users pay the airlines which need to buy new aircraft directly in the form of a higher ticket price and not put the Government in the middle. By putting the Government in the middle we are not getting the money to the airlines which need the money. There is a better way to do this.

Mr. Chairman, I am just suggesting that we allow present title III to remain in the bill and not go along with the Committee on Ways and Means amendment.

Mr. LEVITAS. The gentleman is making a very good point. That is precisely where I was when I first began to look at this legislation.

Frankly, the air carriers which serve the airport in the community I serve would probably benefit by going the route the gentleman suggested because they are sound and financially secure airlines. They would not have to raise their fares because in many instances, they have already bought the aircraft. However, other carriers which serve areas perhaps represented by the gentleman from Missouri (Mr. GEPHARDT) would have to raise their fares and would find themselves at a very competitive disadvantage to the other stronger carriers, so that was the reason for the mechanism.

I must say, Mr. Chairman, that the gentleman has put the debate in perspective. This business about raiding the Treasury has journalistic appeal, but whatever headlines it gets are not the real issue. Those statements are inaccurate and deceive the Members even if reporters and headline writers like them. The airline users are going to pay for the cost of new aircraft to comply with the noise requirements, and we can take our choice as to which mechanism we want to use, either the user tax or higher fares.

Mr. GEPHARDT. If the gentleman will yield further, I would just add that if we are going into an area of deregulation, and if we are letting airlines set their own rates, it seems to me that we are putting the cart before the horse. If we want to deregulate, let us go ahead and see how it works and then worry about the noise problem.

Mr. LEVITAS. Later this week, when the House passes the airline deregulation bill, I think we will be in an even better position to deal with this option.

AMENDMENT OFFERED BY MR. PEPPER TO THE AMENDMENT OFFERED BY MR. ULLMAN

Mr. PEPPER. Mr. Chairman, I offer an amendment to the amendment.

The CHAIRMAN. The Chair will inquire of the gentleman whether his amendment has been made in order under the rule.

Mr. PEPPER. It is in order under the rule, Mr. Chairman.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. PEPPER to the amendment offered by Mr. ULLMAN: Strike lines 9 through 10, beginning with "issued" to "1958," of section 6453, (d), (2), (B) on page 16 of H.R. 11986 as reported.

Mr. PEPPER. Mr. Chairman, this is a very simple amendment.

I would say to my colleagues that I am advised that the committee, through inadvertence, failed to include intrastate carriers as eligible for the benefits conferred by this title which is now before the House, offered by the distinguished chairman of the Committee on Ways and Means. They failed to make eligible for

these benefits intrastate carriers, and I am only asking that the intrastate carriers be entitled to receive the same benefits under this bill which interstate carriers receive.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Chairman, while I was appearing before the Committee on Rules, the distinguished gentleman from Florida (Mr. PEPPER) raised this issue. I must admit that it was an oversight. We consulted with the staff, and I want to say that there is every reason, as a matter of fact, that the intrastate air carriers should come under the bill.

Therefore, Mr. Chairman, we concur in the amendment.

Mr. PEPPER. Mr. Chairman, I thank the gentleman, and I hope the amendment will be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. PEPPER) to the amendment offered by the gentleman from Oregon (Mr. ULLMAN).

The amendment to the amendment was agreed to.

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have listened to the entire debate; and I was one of the few on the floor last night when my colleague, the gentleman from Ohio (Mr. VANIK) presented a special order. I would have to admit that I thought that special order struck a chord that would have some response here in the debate.

Mr. Chairman, I have been listening to the debate now for more than an hour; and nobody has even touched on the points raised by the gentleman from Ohio (Mr. VANIK) last night.

I would like to ask my colleague and friend, the gentleman from California (Mr. ANDERSON) and possibly the chairman of the Committee on Ways and Means, the gentleman from Oregon (Mr. ULLMAN), whether either could care to comment on the statement of my colleague, the gentleman from Ohio (Mr. VANIK), last night when he indicated that as much as $1 billion from this bill would go to foreign airlines for retrofitting, for the same purposes for which our domestic airlines would use that money. My colleague, the gentleman from California (Mr. ANDERSON), indicated that he wanted to expand on that question here on the floor.

Mr. ANDERSON of California. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from California.

Mr. ANDERSON of California. I thank the gentleman for yielding.

The answer to the gentleman's inquiry about foreign airlines is, yes, they do receive money if they comply with our noise requirements. I have not been able to get all the figures, but, for example, I find that Air Canada would be getting about $10.3 million over a 5-year period, which would be about $2 million a year. Incidentally, they have an all-U.S. fleet, and many other airlines do. Air India has an all-U.S. fleet; Air Iran has an all-U.S. fleet. Any money the foreign airlines spend comes back into this country. There is no loss of dollars. These foreign airlines first have to comply with our noise requirements.

During the special order last night, the issue of Russian airlines came up, and I pointed out earlier that under our bill Russian airlines really would not get one penny because their planes do not meet U.S. standards. They do not have a retrofit program at all. They are not even thinking about it, and in 1985, if they have not met our requirements, they would not get one penny back. Raising this issue is wrong.

To look at it another way, today the international airline passenger pays a ticket tax of $3. Our bill changes that to $2 for under $100 and raises it to $10 for over $100. So actually the ticket tax on a flight to Russia would be raised to $10. If the Russian airlines do not meet our noise requirements by 1985, as H.R. 8729 requires, then the collected tax will all revert to the trust fund. When someone says this is foreign aid for Russia, it is the reverse. It gives further funding to the airline trust fund.

Mr. ASHBROOK. My colleague has not mentioned the socalled 10 percent. I keep hearing the figures bandied around that 90 percent would remain in the United States because 90 percent of the airlines of the world use American aircraft. I think we all recognize that that is a situation that may be changing. We have heard of Air France, Inc.; we have heard of Germany, Inc. and we have heard of Japan, Inc. We know what that means. They are moving into the airline industry with aircraft production just as in other industrial areas. Can the gentleman assure me that we will keep that 90 percent edge, and how much does that 10 percent in foreign manufacture account for?

Mr. ANDERSON of California. I hope we keep that 90 percent. One of the basic things that this bill will do will be to encourage the airlines to buy some new planes, more than they are doing now, so that hopefully our air industry can come up with a new generation of planes that will compete more with the airbus, and other new equipment. While I cannot give the gentleman any current figures, the last figures I could get on Air France is that they are still using an all-U.S. fleet, but I assume that they will be moving in to the airbus unless the U.S. aviation industry comes up with something that can compete with it.

While our bill's main purpose is to quiet noise, it also stimulates the airframe industry and air engine industry in this country to come up with some new forms of technology.

Mr. ASHBROOK. If I could ask my colleague an additional question, for what reason did the committee not limit the benefits under the bill to American industries only, to American workingmen only, to American retrofitting only?

Mr. ANDERSON of California. I might say when we started on this bill we have had so many hearings and discussions—we have been at it for almost 3 years—and our thinking was "buy American." We have a buy-American clause in the bill.

Industry and labor came to us and said, this is one industry that does not need protection. We are selling 90 percent of the airframe industry in the world. Incidentally, as was pointed out to me, 50 percent of the Airbus is made in this country, because we are out front in this particular area.

Mr. MEEDS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think this has been a very good and, I think, constructive debate. I would like to try to capsulize the options that are available to us and to discuss them just briefly.

First of all, under the parliamentary situation, if we accept the amendment of the gentleman from Oregon (Mr. ULLMAN), we can then accept, as we have already, an amendment by the gentleman from Florida (Mr. PEPPER), which everyone agreed to, and any other amendments by the Committee on Ways and Means. If we vote that up, we then have a 2-percent tax continued, which is taxable, which will pay for approximately 20 to 25 percent of the total retrofitting and new equipment which will be required under this bill, somewhere in the area of $2 billion.

If, on the other hand, we reject title III, as suggested by the gentleman from Oregon, we are left then with the title III of the public works bill.

Now, I am going to suggest that those two title III's are very similar in many respects; but in one respect, and I think those of us who want to economize and who do not want to see any more than is necessary go to the airlines, ought to be aware of this—under the public works amendment, during the term that this runs, the collections will come to—these are projections—$3,145,900,000.

Under the Ways and Means title III, on the other hand, the collections will come to $2,273,300,000, and then those will be taxable, making it effectively below $2 billion; so you save over $1 billion in the title III of the Ways and Means Committee bill.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Chairman, in addition, the present tax would continue in effect. Under our provision, you get a reduction in the present tax.

Mr. MEEDS. That is the second scenario.

The third scenario is the one suggested by the gentleman from Kentucky (Mr. SNYDER). The gentleman from Kentucky says if we beat the Ways and Means title III, we will return to the Public Works title III and the gentleman from Kentucky then will move to strike.

Well, assuming the gentleman is successful, which I do not think it is safe

to assume, but assuming the gentleman is successful, does anyone seriously think—does anyone seriously consider that the 1983 standards which have been mandated are really going to be met? There is just no way and I do not think any right-thinking person really believes they are going to be met; so we are going to be faced here 2 years or a year from date with rolling back again, as we did in the auto industry, rolling back and not really carrying out the purpose of this bill. The purpose of this bill is to abate aircraft noise and to protect the citizenry of this country from the noise of aircraft.

This is one of the ways for doing this. There are two other titles in this bill for doing it.

Now, if we really want a bill which carries out the function of abating noise, then we are going to have to have some kind of title III. We are going to have to have some aid to the airlines.

Both the gentleman from Missouri and the gentleman from Georgia made the point, and I think everybody knows, the users are going to pay this tax. We are going to have to have some mechanism to do it. Now, it seems to me of all the mechanisms which are available to us and realistic, the title III of the Committee on Ways and Means is the most viable. It is the least expensive to the users. It is the most effective and will assure the least cost to the users, the abatement of aircraft noise within the prescribed time frame.

Mr. Chairman, I urge my colleagues to support it.

The CHAIRMAN. The time of the gentleman from Washington has expired.

(At the request of Mr. VANIK, and by unanimous consent, Mr. MEEDS was allowed to proceed for 1 additional minute.)

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I would like to say in response to my colleague Oregon, we are left then with the title engines for aircraft replacement are obsolete and do not meet Government standards.

Mr. MEEDS. Mr. Chairman, I will reclaim my time. I disagree with the gentleman. Sixteen hundred aircraft which are presently meeting standards which were prescribed by this Government will, in effect, be made obsolete.

I say that because they are retroactively told that they must meet a certain standard. It is not like the auto industry, where we are saying new cars must meet that standard. It is not like the coal-fired plants being told that new coal-fired plants must have scrubbers. This is a retroactive change which is taking place and which the air transport industry of this country is being called upon to bear.

The CHAIRMAN. The time of the gentleman from Washington (Mr. MEEDS) has expired.

(On request of Mr. GOLDWATER, and by unanimous consent, Mr. MEEDS was allowed to proceed for 2 additional minutes.)

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from California.

Mr. GOLDWATER. Mr. Chairman, is it not a fact that whether this bill passes or not, the flying public will still be paying the 8-percent ticket tax?

Mr. MEEDS. That is, I think, correct. I am not an expert on that tax, but I believe that is correct.

Mr. GOLDWATER. What we are doing is taking 2 percent and diverting it into a pool to meet new regulations on the airlines to reduce airplane noise on an accelerated time frame.

Mr. MEEDS. I think that is the best way, yes.

Mr. GOLDWATER. Mr. Chairman, I would like to address myself to the remarks of the gentleman from Ohio (Mr. VANIK), who was talking about replacing aircraft.

The airplanes we are replacing now cost much less when they were purchased than they do today. I am not sure exactly what the cost was, but let us say the costs were $10 or $11 million. The planes we are buying now cost upwards of $20 and $30 million.

When they go to buy or replace aircraft, they use moneys generated from depreciation as well as moneys taken out of retained earnings. If they do not have the earnings with which to acquire the planes from retained earnings and they do not have the money to pay for it from other internal funds, then they have to go outside. I think the point to underscore here is, that unless they have sustained profits over a period of time, they are not going to have the economic clout to go out into the financial community and get the money to make up the difference between the price of original aircraft and those being bought today. The planes they are buying today are two or three times what the original costs were.

Mr. MEEDS. And, Mr. Chairman, I would say to the gentleman from California (Mr. GOLDWATER) that at least I am told the airline industry of this Nation during the next 10 years is going to have to replace $60 billion worth of capital equipment. That is $60 billion we are talking about, and the gentleman from Ohio (Mr. VANIK) would have us believe that we are subsidizing all that. We are in this bill only talking about $2 billion of that cost.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield further?

Mr. MEEDS. I yield to the gentleman from California.

Mr. GOLDWATER. Mr. Chairman, I think it would be important to point out also that if we are concerned about the Airbus and other foreign competition, one way to meet that competition is to stimulate domestic production by encouraging replacement through this mechanism.

Mr. MEEDS. Mr. Chairman, I agree with the gentleman.

Mr. SIMON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, there are four fundamental questions, and then there are some budgetary implications that we ought to take a look at.

Those four questions are these:

No. 1, should we use the power to tax to raise private capital? It seems to me the answer generally ought to be that we should not.

No. 2, if we want to reduce taxes, can we best serve the Nation by reducing the taxes of United Airlines, American Airlines, and the other major airlines, or are there other needs in this Nation that are more pressing?

The third question: Should we have more earmarking of funds, or should we have less earmarking of funds? It has been interesting to listen to the debate, because as soon as we talk about earmarked funds, we are not as careful. We say that this is not coming out of the general fund; this is coming out of a trust fund that has a surplus.

No. 4, are there better ways to solve this particular problem? I heard in the debate last night and today at least two suggestions for ways to solve the problem that strike me as being more sound.

Then, on the budgetary implications, there is an inflationary impact whenever we go into a trust fund, because that trust fund cannot buy the obligations of the U.S. Government. When we reduce a trust fund by $1 billion or $2 billion, that means we have to go into the private money market for that additional money. So there is that slight inflationary impact.

Second, I would point out to the Members who have other things they are interested in, other things they would like to get some money for, that this was brought to the Budget Committee and the Budget Committee was asked to increase budget outlays by $425 million and reduce revenues by $360 million to accommodate this measure, and we voted that down 11 to 6.

Then in order to make it possible for this bill to pass, language was agreed to by voice vote. We agreed that we would insert this language into the report, and I quote this to the Members:

> The committee recommendation simply assumes that this legislation, if enacted, will not have substantial impact on the fiscal year 1979 budget because of anticipated delays in enactment and funding.

Now, the delays are not here, and it means, if we pass this, there are going to be some squeezes on your favorite projects, some other things you want. And I would suggest that the Members might keep that in mind.

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Louisiana, one of the most distinguished Members of the House, who we are going to be missing in the years to come.

Mr. WAGGONNER. I thank the gentleman for his kind comments. Of course, we have a mutual admiration and respect

for each other, and we have had since we have both been here.

Mr. Chairman, may I comment briefly on the first of the gentleman's four points wherein he raises the question: Should we utilize the power to tax to aid the raising of private capital?

I do not believe that is exactly the situation. What we are doing is utilizing moneys which are raised by taxes to let those severely and adversely affected by congressional action be compensated for some of the undue financial burden that we have imposed upon them.

If you assume, for example, that the cost of this retrofit program will be $3½ million, you can as well assume that that is $3½ billion extra for which airline operators have been burdened because of a congressional mandate. We, the Congress, have burdened them with that extra expenditure requirement. I think that we are obligated to try to help them some to meet that burden.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. SIMON) has expired.

(By unanimous consent, Mr. SIMON was allowed to proceed for 2 additional minutes.)

Mr. SIMON. Mr. Chairman, my response to the gentleman is that you can use almost any industry and apply the same kind of judgment—the coal mines of southern Illinois, the steel mills of Gary, Ind., or Ohio, the paper mills of Wisconsin. All of them have had impositions by Congress and by the Federal Government saying, "You can't have this kind of water effluent. You can't have this kind of air effluent. And we have provided tax write-offs, and other things, but we have not said we are going to have this little cushion, this little trust fund for you." I think we are wise not to have that cushion and trust fund.

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. I thank the gentleman for yielding.

Mr. Chairman, the gentleman mentioned the coal industry. Would the gentleman agree that, with respect to the trust fund, the black lung bill, as well as the strip mining bill, essentially do the same thing, that is proposed here, it uses the power of the Federal Government to provide some capital to help solve an industry social problem that is a national goal?

Mr. SIMON. With the black lung fund and the strip mining fund we do not turn that money over to the companies.

Mr. GARY A. MYERS. Most of us, when we voted for them, felt, essentially, it was the responsibility of the coal industry. And we have used the leverage of the Federal Government to assist them in receiving the capital to meet those obligations. Certainly it is not the obligation of the airlines to pay for black lung. It certainly is not the obligation of the steel industry to pay for black lung. It is the coal industry's obligation. We have taken two very serious national problems and we have insisted that that industry receive help meeting these social obligations.

Mr. WEISS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have been somewhat distressed by the apparent lack of faith in the part of one of our major industries, the aerospace industry, in deed as well as in theory to the free enterprise system. Mr. VANIK, in comments that he has made in the course of this debate, has pointed out that, rather than taking the tax collection by the Federal Government approach and the turning of those taxes over to the airlines, that the perfectly logical way to do it would be to simply reduce the taxes by the same amount and let the airlines determine on the basis of their own needs as to whether they want to raise fares by the equivalent 2 percent or whatever percent they wanted, to pay for their new airplanes or for noise pollution control.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I have proposed a third alternative, two other alternatives. One is that we provide in the tax code for the immediate expensing of the costs of complying with all of these laws—EPA, OSHA. This is so critically important to our industry across the board. We ought to provide amendments to the code to do that.

Mr. WEISS. I think the gentleman has performed a great public service in pointing out that there are other ways than through the way of the tax collector to provide for these needs. My concern beyond the theoretical concern, which I think that all of us ought to be aware of, is that this is going to be the camel's nose under the tent.

Mr. WAGGONNER. Mr. Chairman, will the gentleman from New York yield on the same point?

Mr. WEISS. Very briefly, I will be pleased to yield.

Mr. WAGGONNER. I thank the gentleman. I will be brief.

The reason Mr. VANIK's alternative to allow fare increases is not a viable alternative, stems from the simple fact that the large, more financially stable airlines will completely absorb these smaller, less stable airlines. They will disappear. The big ones will be stronger and the smaller ones will go by the boards.

Mr. WEISS. I appreciate the gentleman saying that, and those are exactly the same arguments that have been used against the concept of deregulation. It seems to me that the airlines have learned in the course of this past year, on the subject of airline deregulation, that the airlines, including the small ones, are doing quite well under it.

I am concerned that if this title is adopted and we turn over tax money for noise control, the consumers of this country will in the future be faced in every area of endeavor, whether it be the environmental or health or safety, with the argument that we did it for the airlines, and therefore we ought to enact a special tax on the consumer in those other areas as well regardless of the need of the particular industry. It seems to me that it is an extremely dangerous precedent to start on.

I am opposed to this approach, and urge a no vote on the Ways and Means substitute.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, the question about having more competition and improving the health of the airlines and having lower fares, I think, is very commendable, and the gentleman will have an opportunity to vote on our excellent airline deregulation bill later this week.

Mr. WEISS. Would the gentleman feel, then, that if we have that deregulation approach pending, we ought to work and adopt that before we start taking this special approach of funding the airlines supposedly for noise control?

Mr. LEVITAS. I am not sure they are necessarily related matters.

The gentleman, if I remember correctly, voted for the strip mining bill earlier in this Congress. If I recall, the strip mine bill did impose a tax on strip mines coal for purposes of reclamation of the land to meet environmental standards, which tax is passed on to the consuming public. That is precisely the same as this bill.

Mr. WEISS. That is for general purposes to be spent under the direction and control of the Government. It was not for the purpose of the coal mining companies themselves.

Mr. ULLMAN. Mr. Chairman, I wonder if we can get an agreement on time? I think that we want to give those who want to speak an opportunity to do so. Could we agree to close all debate on this amendment in 10 minutes?

Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The CHAIRMAN. Members who were standing at the time the limitation on time was agreed to will be recognized for approximately 40 seconds each.

(By unanimous consent, Mr. WEISS yielded his time to Mr. VANIK.)

The CHAIRMAN. The Chair recognizes the gentleman from Arkansas (Mr. TUCKER).

Mr. TUCKER. Mr. Chairman, I have had a great deal of trouble with this bill. I must say it sets a terrible precedent. As my colleague the gentleman from Missouri has said, this constitutes the affirmative use of the Government taxing power as a revenue-raising mechanism for private industry. Clearly the consumer should have to pay the increased costs of this enviromental improvement. But, there are more costs involved here than simple retrofit of aircraft for noise supression. Many of these planes are already obsolete and will have to be replaced for reasons other than noise suppression. Many will have to be replaced

in order to meet new fuel economy necessities for example. So I suggest caution to my colleagues when they vote on the amendment. It is a precedent and, I fear, a very bad one.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Chairman, I have reservations about this measure, and opposed the rule and the previous question, but I must say to the Members, though, that the option we have before us now is that we are either going to pass legislation that will permit this retrofit approach, or there will be no legislation this year.

The only way, as I see it now, is to pass title III, otherwise we will not be able to go back to the committee, there will not be other amendments and we will not be able to make some kind of correction on the retrofitting problem. I therefore think it is important to pass it even though you might have some reservations because of problems in your areas. The airlines in my section will not be particularly helped, but I think this is a national problem which the Congress imposed on the airlines, and that we should pass this amendment. In committee I voted for some other amendments, which I think could have improved the legislation. Our choice now, however, is to either allow funds for retrofitting, or have no funds available for noise abatement. In the national interest, I think it best to pass title III.

(By unanimous consent, Messrs. GOLDWATER, CONABLE, and SHUSTER yielded their time to Mr. CUNNINGHAM.)

The CHAIRMAN. The Chair recognizes the gentleman from Washington (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Chairman, I thank my colleagues for yielding me their time.

Mr. Chairman, I happen to come from a district that is vitally impacted by this bill. True, we do manufacture planes but, more important, we have a citizenry that is impacted by the noise of the planes produced and it is that item that prompted this Congress several years ago to adopt the regulations that we are now facing the implementation of today.

We all agree that this is a user tax, there is no question there. We all understand that the new engines and the new aircraft will be more efficient and will use less fuel, there is no question there. But there have been some statements made in this debate, like "the horrendous profits of the airlines." As you all know these are regulated carriers, with a return authorized through the utility as a fair return.

Yet, their average earnings are far below what utilities are authorized to receive as a fair return. It is for that reason that no one broker or any pension fund in this country is flocking to buy this stock. It is so low on the average that it will not help provide moneys for the retirement of our citizens and the members of these retirement funds.

Mr. Chairman, I would hope that this committee amendment will be adopted because it is the proper way, because you and I have either purposely inadvertently changed the rules which were originally promulgated for this implementation. In that we chose to do that, I would strongly recommend that we consider not only the airlines, not only the manufacturers, but consider the people who live beneath the flight paths of our airports in all of the cities of this county. They are entitled to the peace and quiet so important to our way of life.

I urge your support of the Ullman amendment.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I want to commend the gentleman from Washington (Mr. CUNNINGHAM) on a very good statement. I think he has hit the central theme on this issue, and I commend him for a good statement.

In this 75th anniversary year of the Wright Brothers historic flight at Kitty Hawk, I want to stress the vital importance of maintaining U.S. technological leadership in aviation and its favorable impact on our balance of payments.

The aerospace industry's performance in international trade has, for the past years, topped the $7 billion level and imports amounted to less than one-tenth the dollar value of exports. The resultant aerospace trade surplus represents a significant contribution to the U.S. economy, particularly in view of the massive international trade deficit experienced by the Nation as a whole.

This Nation's aerospace export products rank second only to agriculture in positive contribution to the U.S. trade balance, and the quality of American-built aerospace products speaks for itself. U.S. airliners have created strong demand abroad and provide consistent and substantial contributions to the U.S. international trade balance. While the Nation as a whole has experienced trade deficits in 3 of the last 4 years, aerospace products recorded trade surpluses ranging from $6.3 to more than $7 billion.

Exports of civil aerospace products have far outstripped military sales abroad. Shipments of civil aircraft, engines, accessories and other equipment amount to more than $5 billion. The largest single component among aerospace exports is, of course, commercial transport aircraft.

Enactment of this legislation is of vital importance in maintaining U.S. technological leadership in aviation and its favorable impact on our balance of payments.

Enactment of H.R. 8729 and H.R. 11986, as reported overwhelmingly by the Public Works and Transportation and Ways and Means Committees after extensive public hearings, will, of course, also help alleviate the annoyance of jet aircraft around airports in every part of the country. That is its main purpose, and an important and vital need by itself.

This legislation also will save millions of gallons of jet fuel a year through procurement of quieter and more efficient aircraft. It will create thousands of jobs throughout the country.

At a time when the strength of the U.S. dollar has been slumping in the world marketplace, we need to reverse the unfavorable and ominous shortfalls in our balance of payments.

H.R. 8729 and H.R. 11986 will lead to sales of additional billions of dollars of aircraft by U.S. manufacturers and their suppliers through the encouragement provided to advanced technologies.

From the time of the Wright Brothers to today, America's progress has depended on technological advance to meet public needs and to compete in world commerce. The legislation before us is in this tradition of technological achievement and economic strength.

The CHAIRMAN. The Chair recognizes the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Chairman and my colleagues, we have a national noise-control problem.

The purpose of this legislation is not to benefit the airlines, as the gentleman from Ohio (Mr. VANIK) has said. The purpose of this legislation is to reduce the level of noise created by these airplanes. The airlines are not going to be the beneficiaries; the people of this country are, just as was the case with the strip mining legislation, which was brought to our attention just a few minutes ago.

Who should pay for compliance with the FAA noise standards, Mr. Chairman? The people who use those airlines should. This is the only way that we are going to resolve this problem, and we ought and get on with it.

The CHAIRMAN. The Chair recognizes the gentleman from Kentucky (Mr. SNYDER).

Mr. SNYDER. Mr. Chairman, I take this time to point out to those who may have recently turned on their TV sets in their offices that the parliamentary situation is such that if we reject the substitute of the Committee on Ways and Means, we then will be operating under an open rule on title III of the bill reported by the Committee on Public Works and Transportation, at which time a motion to strike, as has already been indicated to the Chair, would be in order.

I suggest that if we were to move in that direction, we then would save the good parts of the bill, especially title I.

Referring to that title, I read from our committee report the following:

> The primary purpose of title I is to establish a new program to assist airports and surrounding communities to develop and carry out programs to reduce existing noncompatible land uses and to prevent future noncompatible land uses around airports.

Mr. Chairman, we also would preserve title II which provides higher authorization levels for the ADAP program from the airport and airway trust fund.

The CHAIRMAN. The Chair recognizes the gentleman from Missouri (Mr. GEPHARDT).

Mr. GEPHARDT. Mr. Chairman, I urge my colleagues to reject the substitute of the Committee on Ways and Means so that we can strike title III in order that we can, in effect, open up the rule.

As was explained, the facts have changed since this bill was originally conceived and put together. Today the airlines are making record profits. I would say, contrary to what the gentleman from Texas (Mr. PICKLE) said, that this is not the last chance to deal with this problem. Our last chance will come on the deregulation bill at the end of next week, when we can really take the Government out of the process between the users and the airlines and let the airlines make the kinds of ticket price raises and profits they need to buy the new airplanes which are called for.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Chairman, I just hope that my colleagues will vote against the substitute of the Committee on Ways and Means.

I think the reasons are already in the RECORD. The airlines of this country are going to buy new aircraft regardless of what we do to this bill. Remember, every plane bought since 1972 complies with the law, and they have until 1983 to do it.

Mr. Chairman, they are buying new planes now, first of all, because they have to reduce their fuel consumption and because higher fuel costs require that they become more efficient. Furthermore, they are less noisy at the same time.

The other reason is that they have to buy the planes. Because some of them are over 18 years old. They have already gotten their money back on their investment. They got their investment back within 10 years.

Mr. Chairman, I tell those who live in communities affected by noise that the noise problem is going to be abated by the purchase of these new airplanes.

If this bill is adopted, all we do by this bill is give $4 billion of trust fund moneys which were allocated for airport safety to the airlines. They are just hanging onto the noise abatement alibi in order to raid the Treasury, and that is what it is.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from California (Mr. JOHNSON).

Mr. JOHNSON of California. Mr. Chairman, I rise in support of the Ullman substitute for title III in H.R. 8729. This substitute is very similar to the original title III which was reported by the Public Works Committee.

This proposal would take user taxes and return a portion of them to the air carriers depending on the action of the carriers as to the retrofit, re-engine, or replacement of the noisy aircraft. If they elect to retrofit the noisy aircraft—which reduces the noise only slightly but does incur a waste of fuel—then the carrier would receive a part of the cost of retrofit—estimated to be between a quarter of a million and over a million dollars per aircraft, depending on the type of aircraft. This is the least costly to the user, but it is also the least beneficial to the person on the ground and to the country.

If they elect to replace the noisy aircraft with quiet aircraft, then part of the users tax would go to the cost of the replacement aircraft. This is a more costly option, but it provides the greatest benefit to the person on the ground in the amount of noise reduced. In addition, the newer aircraft are much more fuel efficient.

This program is necessary, Mr. Chairman, if we are serious about the noise problem.

It encourages replacement which has the following benefits, in addition to being much quieter:

Increased fuel efficiency;

Reduced air pollutant emissions;

Strengthen the aerospace industry;

Contribute to the development of aviation technologies for export; and

Provide many more jobs.

As a result, this replacement program, as reflected in the Ullman substitute, has been endorsed by both the Ford administration and the Carter administration.

This is a good program which I fully support and which I feel is extremely important to the effort to provide noise relief to the 7 to 8 million persons who are bombarded on a daily basis by excessive aircraft noise.

The CHAIRMAN. The Chair recognizes the gentleman from Oregon (Mr. ULLMAN) to close debate.

Mr. ULLMAN. Mr. Chairman, I think the crucial issue is whether the users of the airlines are going to pay this bill or the taxpayers of the Nation. If this goes down, the Members will be asked within a year to provide some other form of special tax incentive.

I was shocked that the gentleman from Ohio is urging a full expensing of all of these investments to comply with the noise requirements. That is shifting the burden to the taxpayers of the Nation, and that is wrong. But if we turn this down, that is what we are going to have to do, because that is the only way out of the dilemma. So make a choice. If the Members want the users of the airlines to pay, then vote for this amendment; but if they want, instead to make all of the taxpayers pay for it, then vote against it.

The CHAIRMAN. The time of the gentleman from Oregon (Mr. ULLMAN) has expired. All time has expired.

The question is on the amendment offered by the gentleman from Oregon (Mr. ULLMAN), as amended.

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 30, noes 10.

Mr. SNYDER. Mr. Chairman, I demand a recorded vote, and pending that I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to rule XXIII, clause 2, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Kentucky (Mr. SNYDER) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 266, noes 133, not voting 33, as follows:

[Roll No. 774]

AYES—266

Abdnor
Addabbo
Akaka
Ambro
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashley
Aspin
AuCoin
Badham
Bafalis
Barnard
Beard, R.I.
Benjamin
Bennett
Bevill
Biaggi
Boggs
Boland
Bolling
Bonker
Bowen
Brown, Calif.
Buchanan
Burgener
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Caputo
Carney
Carr
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clay
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cornwell
Coughlin
Crane
Cunningham
Daniel, Dan
Danielson
Davis
Dent
Derwinski
Dickinson
Dicks
Dingell
Dornan
Downey
Duncan, Tenn.
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Ga.
Evans, Ind.
Fascell
Findley
Fisher
Fithian
Flippo
Flood
Florio
Flynt
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Fraser
Frey
Fuqua
Gammage
Gaydos
Giaimo
Gilman
Ginn
Glickman
Goldwater
Goodling
Grassley
Green
Guyer
Hagedorn
Hall
Hammer-schmidt
Hanley
Hannaford
Hansen
Harsha
Hawkins
Heckler
Hefner
Hightower
Hillis
Holland
Hollenbeck
Holt
Horton
Howard
Hubbard
Hughes
Hyde
Ireland
Jacobs
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kemp
Keys
Kindness
Krebs
Lagomarsino
Latta
Le Fante
Lederer
Leggett
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McClory
McDade
McDonald
McEwen
McFall
McHugh
McKay
Madigan
Mahon
Mann
Markey
Marks
Marriott
Mathis
Meeds
Metcalfe
Meyner
Michel
Mikva
Milford
Miller, Ohio
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moakley
Modest
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Gary
Neal
Nichols

Nix	Rousselot	Udall
Nowak	Roybal	Ullman
O'Brien	Runnels	Van Deerlin
Oberstar	Russo	Vander Jagt
Panetta	Sawyer	Volkmer
Patten	Scheuer	Waggonner
Patterson	Schroeder	Waigren
Pattison	Schulze	Walker
Pepper	Sebelius	Walsh
Perkins	Shuster	Wampler
Pettis	Sikes	Watkins
Pickle	Sisk	White
Pressler	Skelton	Whitehurst
Price	Skubitz	Wilson, Bob
Pritchard	Slack	Wilson, C. H.
Quillen	Smith, Iowa	Wilson, Tex.
Rahall	Smith, Nebr.	Winn
Railsback	Spence	Wirth
Rhodes	St Germain	Wolff
Rinaldo	Staggers	Wright
Risenhoover	Stangeland	Yatron
Roberts	Stratton	Young, Alaska
Rodino	Symms	Young, Fla.
Roe	Taylor	Young, Mo.
Rogers	Thompson	Young, Tex.
Roncalio	Thone	Zablocki
Rooney	Thornton	Zeferetti
Rose	Treen	
Rostenkwski	Trible	

NOES—133

Alexander	Foley	Pike
Anderson, Ill.	Fountain	Poage
Andrews, N.C.	Frenzel	Preyer
Ashbrook	Garcia	Purcell
Baldus	Gephardt	Quayle
Baucus	Gonzalez	Rangel
Bauman	Gore	Regula
Beard, Tenn.	Gradison	Reuss
Bedell	Gudger	Richmond
Bellenson	Hamilton	Robinson
Bingham	Harkin	Rosenthal
Blanchard	Harrington	Rudd
Blouin	Harris	Ruppe
Bonior	Hefner	Ryan
Brademas	Holtzman	Santini
Breckinridge	Ichord	Satterfield
Brinkley	Jeffords	Seiberling
Brodhead	Jenrette	Sharp
Brooks	Jones, N.C.	Shipley
Brown, Mich.	Jordan	Simon
Broyhill	Kasten	Snyder
Burton, John	Kastenmeier	Stanton
Burton, Phillip	Kazen	Stark
Byron	Kelly	Steed
Carter	Kildee	Steers
Cavanaugh	Koelmayer	Steiger
Cleveland	LaFalce	Stockman
Cohen	McCloskey	Stokes
Conyers	Maguire	Studds
Cornell	Marlenee	Stump
D'Amours	Martin	Traxler
Daniel, R. W.	Mazzoli	Tucker
de la Garza	Mikulski	Vanik
Delaney	Minish	Vento
Dellums	Mollohan	Waxman
Derrick	Moss	Weaver
Devine	Mottl	Weiss
Dodd	Myers, John	Whalen
Drinan	Natcher	Whitley
Duncan, Oreg.	Nedzi	Whitten
Early	Nolan	Wydler
Edgar	Oakar	Wylie
Evans, Del.	Obey	Yates
Fenwick	Ottinger	
Fish	Pease	

NOT VOTING—33

Ammerman	Eckhardt	Miller, Calif.
Armstrong	Fary	Montgomery
Breaux	Flowers	Murphy, N.Y.
Broomfield	Gibbons	Myers, Michael
Brown, Ohio	Huckaby	Quie
Burke, Calif.	Krueger	Sarasin
Burke, Fla.	Leach	Solarz
Clawson, Del	Lehman	Spellman
Cochran	McCormack	Teague
Cotter	McKinney	Tsongas
Diggs	Mattox	Wiggins

The Clerk announced the following pairs:

On this vote:

Mr. McCormack for, with Mr. Leach against.

Mr. McKinney for, with Mr. Broomfield against.

Mr. Sarasin for, with Mr. Solarz against.

Mr. WHALEN and Mr. DODD changed their vote from "aye" to "no."

Mr. PANETTA changed his vote from "no" to "aye."

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there additional amendments to title III?

AMENDMENT OFFERED BY MR. ANDERSON OF CALIFORNIA

Mr. ANDERSON of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ANDERSON of California: Page 42, strike out line 8, and all that follows through line 23 on page 43, and insert in lieu thereof the following:

TITLE IV

SEC. 401. For purposes of this title—

(1) the term "noncomplying aircraft" means any civil subsonic turbojet powered aircraft (A) which (i) has a maximum certificated takeoff weight of seventy-five thousand pounds or more, (ii) is registered in the United States, (iii) has a standard airworthiness certificate issued pursuant to section 603(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1423), and (iv) as determined by the Civil Aeronautics Board, is in service on January 24, 1977, and (B) which does not comply with the noise standards prescribed for new subsonic aircraft in regulations issued by the Secretary, acting through the Administrator of the Federal Aviation Administration (14 CFR part 36), as such regulations were in effect on January 1, 1977;

(2) the term "retrofit" means the alteration of the engine or the engine nacelles of an aircraft with sound absorbent materials for the purpose of noise reduction; and

(3) the term "Secretary" means the Secretary of Transportation.

SEC. 402. After January 1, 1985, no operator of a civil subsonic turbojet powered aircraft (1) which (A) has a maximum certificated takeoff weight of seventy-five thousand pounds or more, and (B) is registered in a foreign country, and (2) which does not comply with the noise standards prescribed for new subsonic aircraft in regulations issued by the Secretary, acting through the Administrator of the Federal Aviation Administration (14 CFR part 36), as such regulations were in effect on January 1, 1977, shall operate such aircraft in the United States.

SEC. 403. Notwithstanding any other provision of law, the Secretary is authorized to allow any noncomplying aircraft to be operated beyond the date by which such aircraft is to be in compliance with noise standards applicable to it in regulations issued by the Secretary, acting through the Administrator of the Federal Aviation Administration (14 CFR part 36), as such regulations were in effect on January 1, 1977, by waiving the application of such regulations to such aircraft for such period beyond such date of compliance as he determines reasonable to permit compliance. No such waiver shall be granted except upon application of the operator of the noncomplying aircraft and a finding by the Secretary that such operator has made a good faith effort to comply with such regulations and that there is good cause for failure of such operator to comply with such regulations as applicable to such noncomplying aircraft. For the purpose of this section, the term "good cause" shall include the following:

(1) Any case where the supplier is unable to furnish or make available to such operator in a timely manner the necessary engine retrofit kits, replacement engines, or replacement aircraft.

(2) Any case where the operator is unable to obtain financing at reasonable rates to retrofit, reengine, or replace the noncomplying aircraft.

(3) Any case where the operator's inability to operate such noncomplying aircraft will result in the end of scheduled service to the public.

(4) Any other circumstances the Secretary deems appropriate.

Renumber the succeeding title and the sections therein accordingly.

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. HARSHA. Mr. Chairman, reserving the right to object, I would like to inquire of the distinguished chairman of the subcommittee if this is in the nature of a technical amendment substituting sections 305 and 306 as a new title?

Mr. ANDERSON of California. Mr. Chairman, if the gentleman will yield, he is absolutely right. This amendment is technical in that, under the rule, it merely redesignates sections 305 and 306 of H.R. 8729 as a new title IV. This amendment is necessitated by the adoption of the Ways and Means Committee substitute for sections 301 and 304 of H.R. 8729.

Mr. HARSHA. Mr. Chairman, I withdraw my reservation of objection and support the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Does the gentleman from California (Mr. ANDERSON) desire to be heard further on his amendment?

Mr. ANDERSON of California. I do not, Mr. Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. ANDERSON).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read the new title V.

The Clerk read as follows:

TITLE V

SEC. 501. Subsection (d) of section 14 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1714) is amended to read as follows:

"(d) RESEARCH, DEVELOPMENT, AND DEMONSTRATIONS.—The Secretary is authorized to carry out under section 312(c) of the Federal Aviation Act of 1958 such demonstration projects as he determines necessary in connection with research and development activities under such section 312(c). For research, development, and demonstration projects and activities under such section 312(c), there is authorized to be appropriated from the Trust Fund the amount of $109,350,000 for the fiscal year 1976, including the interim period beginning July 1, 1976, and ending September 30, 1976, $85,400,000 for the fiscal year 1977, and not less than $50,000,000 for fiscal year 1978, to remain available until expended. The initial $50,000,000 of any sums appropriated to the Trust Fund pursuant to subsection (d) of section 208 of the Airport and Airway Revenue Act of 1970 shall be allocated to such research, development, and demonstration activities.".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that title V be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there amendments to title V?

PARLIAMENTARY INQUIRY

Mr. HARSHA. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HARSHA. In the bill as it is presently written, title V would be the last provision. I have an amendment that would make a new title VI to the bill, and I would like to know if that is in order at this particular time.

The CHAIRMAN. The Chair will first inquire if there are amendments to the new title V? Hearing none, are there other amendments to the bill?

AMENDMENT OFFERED BY MR. HARSHA

Mr. HARSHA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARSHA: At the end of the bill, add the following new title:

TITLE VI

SEC. 601. Paragraph (4) of section 28(c) of the Airport and Airway Development Act of 1970 is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1980".

Mr. SNYDER. Mr. Chairman, I reserve a point of order on the amendment.

PARLIAMENTARY INQUIRY

Mr. ASHBROOK. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ASHBROOK. Do I understand we have pending a new title and also an amendment at the end of the bill?

The CHAIRMAN. The Chair asked if there were amendments to title V. There were none. The gentleman from Ohio (Mr. HARSHA) has offered an amendment constituting a new title VI at the end of the bill.

Mr. ASHBROOK. I have a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ASHBROOK. Did the amendment offered by the gentleman from California (Mr. ANDERSON) pass?

The CHAIRMAN. Yes, it was agreed to.

The Chair recognizes the gentleman from Ohio (Mr. HARSHA).

Mr. HARSHA. Mr. Chairman, this is a rather simple amendment. There have been under previous legislation several demonstration projects authorized, and they expire on September 30 of this year. This program is called the State demonstration program, and it was developed to assess the ability of the States to administer programs for airport development for general aviation airports.

The program was not actually begun until early 1977, because of the necessity to establish procedures necessary to comply with the statute. In addition, many of the initial airport development projects undertaken by the States had already been developed by the FAA and were in various stages of completion when assumed by States participating in this program. The States are now progressing with the projects which will more accurately test the objectives of the program. By extending this program until September 30, 1980, the Department of Transportation will then be able to better assess its merits. The Department asked for this extension. They think it is necessary to provide us with sufficient experience and knowledge from which to make recommendations concerning future legislative initiatives. I have discussed this program with the chairman of the subcommittee, and it is merely an extension so that these programs do not stop right now because the authorization expires on September 30 of this year.

Mr. ANDERSON of California. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from California.

Mr. ANDERSON of California. I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of the amendment. First, let us not be duped. Defeat of this amendment kills this entire bill. I know many of you are not entirely pleased with the Ways and Means tax program. However, the program has received the closest scrutiny by three committees, is supported by the administration, and the Treasury, and the Department of Transportation, and, of course, the debate on the merits of the proposal was heard yesterday during discussion of the rule and general debate. This title is key to the entire bill—unless we can assure compliance with the noise deadlines we will be leaving the Nation's airports and even more importantly some 10 or more millions of Americans out in the cold. Defeat of this amendment, I repeat, will defeat the entire bill and I know many of you who may not have a big noise problem are keenly interested in title II of the bill.

I would like to address a few issues which have been raised. First, it is true that foreign air carriers will be eligible for refunds of money collected by them under this bill. Foreign carriers operate some 400 noisy aircraft into the United States—and most of those are the noisiest, four-engine aircraft. As such, foreign carriers contribute significantly to noise at major airports. Recognizing this, the bill requires foreign aircraft to meet U.S. noise standards by January 1, 1985. The Secretary's noise rule currently exempts foreign carriers.

Further, this bill provides an incentive to foreign carriers to beat the deadline by offering refunds of money collected once a foreign carrier's entire fleet operating into the United States is in compliance with our noise standards. This is not a case of U.S. dollars leaving the U.S. to go to a foreign carrier when one considers that 90 percent of the world's jet fleet is U.S. manufactured. These refunds will in large measure be going to foreign carriers to buy U.S. aircraft.

It has been unfairly and uncandidly said that millions of dollars will be going to the Russian airline. Totally false—the Russian airplanes do not meet U.S. standards and will not be retrofitted to do so. Under our bill any money they collect must be turned over to the Treasury until all of its aircraft operating into the United States meet our noise standards. Without this bill they won't have to meet our standards at all—because current noise rules exempts foreign carriers. After January 1, 1985, the noisy foreign aircraft will not be allowed into the United States. That is why I am certain the Russian carrier will not get any money back from the Treasury—they will not meet our standards.

The Noise Control Act of 1972 (49 U.S.C. 1431) did not distinguish between domestic and international flights. To withhold applicability of reasonable standards to foreign flights would not be consistent with that act's policy to protect the public from aircraft noise. In addition, excluding foreign aircraft would be unfair to U.S. operators of similar aircraft who would be forced to operate in the same markets with an economic burden of noise compliance that is not borne by the foreign operators. The bill, as reported, reflects the policy, consistent with the 1972 act, that equal and nondiscriminatory application of economically reasonable noise standards, to all operators, is appropriate.

As the distinguished gentleman from Louisiana (Mr. WAGGONNER) said yesterday, it is time we put our money where our mouth is. Second, this bill is not, as some have falsely characterized it, a raid on the Treasury. That claim is totally false. There is not one dime of General Treasury money in this legislation—every dollar is paid by the user of the air transportation system, as it should be. And, except for a relatively insignificant increase in international taxes for 5 years, this bill will not raise the cost of air travel. The airport and airway trust fund is currently in a surplus of about $2 billion. The effect of title III of this bill would be to divert about one-fourth of the taxes going into that trust fund for 5 years. The trust fund will remain solvent and the current airport development program will not be jeopardized in any way.

Lastly, this bill is not a tax rip-off for the airlines. The Treasury Department, in a July 31 letter to the Rules Committee, indicated clearly that the bill was consistent with the general tax rules, and provided for normal, adequate accounting and review procedures.

In conclusion, do not be persuaded by the feigned shock of some of the speakers yesterday. They are unwittingly arguing against this entire bill and selling millions of Americans down the river. I urge adoption of the amendment.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Kentucky (Mr. SNYDER) insist on his point of order?

Mr. SNYDER. Yes, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. SNYDER. Mr. Chairman, I just heard about this amendment a few minutes ago. While I support what they want to do in this, it is a different pro-

gram that comes out of different legislation. It is an innovative program that we started last year for demonstration projects for, I believe it was, four States to handle the State money themselves rather than going through FAA with a direct funding to the States. They make all the decisions. They set all the criteria. It is a program that is not dealt with in this bill in any way, shape, or form, and in my opinion is not germane to this bill.

The CHAIRMAN. Does the gentleman from Ohio desire to be heard on the point or order?

Mr. HARSHA. Mr. Chairman, I believe it is germane to the issue. It is a section that is in the Airport and Airway Development Act. We already have other titles in this bill dealing with the Airport and Airway Development Act, the so-called AADA. This deals with that part of the program and I think it is germane to the title of the bill.

Mr. SNYDER. Mr. Chairman, if I may be heard further, the other part is an increase in the general authority and does not deal with the special program, which is a program dealt with for the four States. It is not germane to the bill.

The CHAIRMAN. The Chair is prepared to rule.

The bill before us amends the Airport and Airway Development Act in several respects and with some depth and breadth. It deals not only with noise control, but planning, grants and research, and in other ways.

Therefore, the Chair feels the amendment of the gentleman from Ohio (Mr. HARSHA) is germane to the bill as a whole and the point of order is overruled.

Mr. SNYDER. Mr. Chairman, then I move to strike the requisite number of words.

I do this for the purpose of saying it is a good amendment, but I do not think we ought to be dealing with it in this bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. HARSHA).

The amendment was agreed to.

The CHAIRMAN. Are there other amendments to the bill?

Mr. DELLUMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take the well at this moment to give a little legislative history on the Airport and Airway Development Act. I do so because there is a substantial amount of money, particularly in title II, that is additional moneys to this act.

In 1976 the Congress of the United States passed an amendment to the Airport and Airway Development Act. It was section 30 of Public Law 91–258. That amendment that the Congress of the United States passed 2 years ago in 1976 goes as follows:

> The Secretary shall take affirmative action to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from participating in any activity conducted with funds received from any grant made under this title. The Secretary shall promulgate such rules as he deems necessary to carry out the purposes of this section and may enforce this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under Title VI of the Civil Rights Act of 1964.

Mr. Chairman, section 30 of Public Law 91–258 states further:

> The provisions of this section shall be considered to be in addition to and not in lieu of the provisions of Title VI of the Civil Rights Act of 1964.

Mr. Chairman, it is a straightforward amendment passed by the House of Representatives, enacted into law, signed by the President.

Since 1976 the Department of Transportation has failed to promulgate regulations to implement the intent of Congress.

I have been in contact with the Department of Transportation urging them to implement the law. For the past 2 years, each year they have spent approximately $1 billion—$1 billion in noncompliance and total disregard of the law.

Here are some brief excerpts that I received from the Secretary of Transportation. May 19, 1977, the Secretary of Transportation indicated to me that he was "taking significant steps to insure nondiscrimination in its programs."

On March 21, 1978, the Secretary indicated that—

> The Department is proceeding as expeditiously as possible to issue section 30 implementing regulations.

On August 24, 1978, the Secretary of Transportation stated:

> A great deal of data has been collected and various problems have been analyzed.

He indicated that the Office of Civil Rights, the General Counsel and others are evaluating this matter and recommendations are expected in the near future.

The point is that we are hearing this over and over again, and I believe that the intent of Congress was a clear statement to the Department of Transportation that they should forthwith promulgate regulations to implement an affirmative action program with respect to the fund. Two billion dollars being spent in noncompliance and in total disregard of the law is in my estimation governmental lawlessness.

That is what Watergate was all about. That is what many of our investigations have been about. Congress has the right to enact laws, and the executive branch has the responsibility to promulgate rules and regulations to implement these programs and enforce these policies.

How can we let $2 billion be spent in total defiance of Federal law?

It seems to me it should not take 2, 3, 4, or 5 years for the executive branch of Government to implement the intent of Congress.

Mr. Chairman, we as Members have a responsibility far beyond just voting on legislation. The Constitution of the United States says we shall have an oversight responsibility. We keep talking about the bureaucratic side of Government, but if we are not willing to force them to implement the law that we pass on the floor, the law that is passed in the Senate and signed by the President, then we are a "paper tiger." I am simply suggesting affirmative action to allow minorities and women to participate in the expenditure of governmental moneys is a policy we have established. It is the law of the land, and I would ask this House to stand firm in communicating to the Department of Transportation that we want them forthwith to follow the law and implement these regulations.

The CHAIRMAN. The time of the gentleman from California (Mr. DELLUMS) has expired.

(On request of Mr. ANDERSON of California, and by unanimous consent, Mr. DELLUMS was allowed to proceed for 1 additional minute.)

Mr. ANDERSON of California. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to my distinguished colleague, the gentleman from California.

Mr. ANDERSON of California. Mr. Chairman, I want to commend the gentleman from California (Mr. DELLUMS) on his remarks, and I want to remind the Members that in the 1976 ADAP bill we did adopt the civil rights amendment the gentleman presented, and our committee accepted it.

Since that time I have worked with the gentleman in trying to get the administration to implement that amendment, and I want to pledge my continued support to the gentleman from California (Mr. DELLUMS).

In addition to that, I am going to ask that the Subcommittee on Investigations and Review of the Committee on Public Works and Transportation go into this further and find out why this part of the legislation has not been carried out.

Mr. DELLUMS. Mr. Chairman, I want to thank my distinguished colleague, the gentleman from California (Mr. ANDERSON), for his support. I know the subcommittee chairman has been very concerned. He and I worked together for several months, but my frustration brings me to the floor of the House in the hope that this may jar some action loose.

Mr. JOHNSON of California. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the chairman of the committee.

Mr. JOHNSON of California. Mr. Chairman, I want to assure the gentleman from California (Mr. DELLUMS) that the Subcommittee on Investigations and Review will be assigned to take a look at this matter. The members of that subcommittee will go into it very thoroughly with the Secretary of Transportation.

Mr. DELLUMS. Mr. Chairman, I thank the gentleman very much for that assurance.

● Mr. HOWARD. Mr. Chairman, this pending legislation is called a noise reduction bill, and properly so. It will reduce airport noise. It has been discussed in terms of fuel conservation. Again, properly so. It will conserve fuel.

It will also create jobs—some of the best and most productive jobs in the

economy. This is one of the key reasons for its widespread support, particularly from such labor organizations as the AFL–CIO, the International Association of Machinists and the Airline Pilots Association.

The distinguished gentleman from California (Mr. ANDERSON) has spelled out some of the job-creating impact in concrete terms. He has stated:

> If the airlines replace only the 707's and the DC–8's with new technology aircraft, that would create some 100,000 employee years from 1978 to 1987. This would result in direct employment consisting of an estimated 23,000 new jobs and at least 22,000 indirect jobs.
>
> That's 45,000 jobs as a starter.

The AFL–CIO executive council, in supporting this legislation, declared:

> To the extent that this bill will encourage the airlines to buy new aircraft, it will revitalize the U.S. aerospace industry and create jobs here at home rather than export employment abroad.

The AFL–CIO statement added:

> Thousands of jobs will be created as the aerospace manufacturing industry begins producing the next generation of jet airliners stimulated by the program outlined in this bill.

Mr. William Winpisinger, president of the International Association of Machinists and Aerospace Workers, recently listed a wide range of reasons for passing this bill. Then he added:

> Finally, and of major importance, this is a jobs creating and public works bill affecting every part of the country and the adoption of this legislation would translate into tens of thousands of badly needed jobs at a time when our country is struggling to regain its economic vitality.

We need to reduce noise and increase jobs.●

● Mr. ANNUNZIO. Mr. Chairman, I rise in support of the legislation we are considering here today, H.R. 8729, the Airport and Aircraft Noise Reduction Act. This bill will help the Nation's air transportation system, the airlines, and the airports to cope with the aircraft noise problem. More importantly, it will help the people who are living near Chicago's O'Hare Airport and in the 11th Congressional District of Illinois, which I am honored to represent, who suffer daily bombardment from aircraft noise, by providing them with real relief after years of paper promises and well-intentioned but ineffective actions.

We should keep in mind that there are over 6 million people living in areas around the Nation's airports severely impacted by aircraft noise. Efforts to control this problem on the Federal level have thus far proved inadequate. The Congress passed the Aircraft Noise Abatement Act of 1968, and the Noise Control Act of 1972, both with my strong support, but the main effect of these laws has been to keep an already bad problem from getting worse. The FAA, under the authority granted by these bills, put into effect its "FAR 36" regulation, specifying allowable noise levels for aircraft built after the regulation went into effect in 1969. This has helped push the aircraft manufacturers into designing quieter jets like the Boeing 747, the Lockheed L–1011, and the Douglas DC–10. However, it did not touch the pre-1969 aircraft—the 707's, the DC–8's, and the 727's, which are the heart of the problem.

With Federal efforts inadequate, local citizens and local airport authorities have tried to take matters into their own hands. The result has been massive confusion—millions of dollars in lawsuits, curfews and other restrictions imposed randomly, and intense opposition almost everywhere to the construction of new airports or the expansion of existing ones. Surely this is not a situation which benefits either the citizens in the airport areas, the airport proprietors or the airlines. All of them need relief.

This relief would be slow in arriving naturally, through attrition of the airline fleet, if we just waited for that attrition to take place as some would have us do. A few statistics will illustrate this point: According to the FAA, as of 1976, there were 583 aircraft in service in the U.S. commercial fleet that complied with FAR 36 and 1,584 that did not. If no governmental action were taken, by 1985 there would be 1,850 aircraft in compliance with the noise regulations—but 1,182 aircraft will not be in compliance. Even by 1990, there would be 2,581 aircraft in compliance, but 949 not in compliance. On a percentage basis, this means that 39 percent of the fleet would still be out of compliance in 1985, and 27 percent by 1990.

After I repeatedly urged the FAA to accelerate the process of quieting the jet fleet, that agency in late 1976 finally issued a new rule, which mandates that all aircraft in the fleet are to be in compliance with FAR 36 by January 1, 1985. Those aircraft not in compliance may either be retired or modified, by retrofitting or re-engining, to meet the standards. However, the airlines, and many independent experts as well, contend that they just could not afford the billions of dollars—perhaps $3 billion or more—needed to retrofit or replace over 1,000 aircraft which would not otherwise be so treated. Therefore, this legislation has been drafted in order to help the airlines to pay for quieting their jet fleets.

The primary purpose of this bill is to provide the funding necessary for meeting the aircraft noise standards by 1985, and to provide that funding from the air transportation industry itself, not from the general public. This is to be accomplished by reducing the taxes on air passengers and freight that would have gone into the airport and airways trust fund by 2 percent, and levying a corresponding 2-percent tax to provide funds for the noise abatement program.

H.R. 8729 is not limited to this single provision. Other sections of this legislation would establish a new airport-vicinity land use program, at the option of the local airport proprietor; increase significantly the funding level for the airport grant program under the Airport and Airway Development Act; and provide for an annual authorization process for the FAA's research and development program. These are all important and useful items. But the heart of this bill is the funding for the quieting of today's excessively noisy jet fleet. This is a program which is long overdue, and very much in need of the assistance which we can give it here today. I strongly urge my colleagues to support this vital legislation.

Mr. Chairman, an editorial from the August 28 edition of the Chicago Sun-Times in support of this bill and H.R. 11986, the Noisy Aircraft Revenue and Credit Act, follows:

MUFFLING AIRPORT NOISE

> You needn't tell anyone in the vicinity of O'Hare Airport about jet noise. They've had their sleep disturbed and nerves jarred enough to know all about it. Almost all.
>
> Now a UCLA engineering study has found that jet roars and shrieks may shorten one's life through "the tension, the anxiety and the fear associated with the tremendous noise." The study found death rates in an airport area 19 percent above those in a closely matched area away from such noises.
>
> So ground all air traffic? Or move away? Obviously those aren't the answers. But one solution lies in quieter jetliners, which are coming. In 1976, the government set aviation noise levels to be met in stages by 1985. Planes that can't do so are to be retired.
>
> For noise-numbed Chicago area residents, among others, the new rules are something to cheer—quietly perhaps, but fully.
>
> About 1,600 jets don't meet the new standards. To help muffle the noisy planes, Congress is considering granting $2.3 billion in tax money to the airlines. That's a sound proposal, in more ways than one.
>
> The dollars would come from airline user taxes—not general revenues. Passengers pay an 8 percent ticket tax. The income goes into a fund used for such purposes as building and maintaining airports. A bill in Congress would use 2 percent of that tax for quieter planes, which airlines expect will cost $6 billion to $8 billion through 1984.
>
> Airline profits, though taking off this year, have been skimpy. Both the Ford and Carter administrations have backed the idea.
>
> The plan meets a need—one more urgent, the study indicates, than had been thought.●

● Mr. MIKVA. Mr. Chairman, I rise in support of the Airport and Aircraft Noise Reduction Act, and particularly the substitute to title III of the bill which is being offered by the Ways and Means Committee.

It is beyond dispute that we need to reduce the noise of aircraft and the noise associated with airports. Over 6 million people in the United States suffer from noise levels considered unacceptable by the Department of Housing and Urban Development and considered dangerous to their health by leading health authorities. The President's Council on Wage and Price Stability estimates that the noise around airports costs taxpayers over $3 billion annually in reduced property values. Study after study has documented the high cost of noise.

These aggregate numbers do not really describe the full impact of airport and aircraft noise. The most serious effect of noise bombardment is a personal one. In communities in my district like Niles, Des Plaines, Park Ridge, and Glenview, Ill., all of which surround Chicago's O'Hare International Airport, the airport noise literally destroys people's way of life. There is no place to relax or to enjoy the peace of a warm summer day. The architecture in local buildings, the classroom activity in the schools, and the entire lifestyle are measured by the

incessant drumbeat of airplane noise. When most people are enjoying their backyards and other recreational areas, the people living near airports have to stay inside to carry on a conversation. On many days, teaching stops every 40 seconds in one of the schools in my district in order for the jet noise to abate—until the next jet comes 40 seconds later. And the cumulative psychological effect of each of these gross encounters is enormous both among children and the adults.

Mr. Chairman, this bill is not a perfect nor a complete answer to the problem. In the substantive sections of bill, I would have preferred that the airport operator be required to do more than consult with neighboring communities in the development of compatible land use plans.

Earlier this Congress, I introduced a bill to establish a regional board which would have given the representatives of an airport's neighboring communities the jurisdiction to determine what noise-reducing efforts should be undertaken. I continue to believe that approach is preferable. However, the language in the bill is a step in the right direction.

The heart of the dispute before the House, however, is the equity of title III as proposed to be substituted by the Ways and Means Committee. Some of my colleagues argued that the excise tax, paid by airline passengers, should not be used to finance quieter aircraft. I could not disagree more. The crucial decision that is to be made in this bill is whether the people who fly should pay for the noise engendered by their airplanes or whether that burden should be foisted off on the people on the ground. The answer is as obvious as the question. Whatever the equity between the airlines and airline passengers, it is clear that the people living on the ground have a priority need that must be met. In the context it is altogether fair and proper that the excise tax should be used to help eliminate the noise problem. One way or the other, airline passengers will pay for the higher cost of quieter and newer planes. That is as it should be. The use of a Government excise tax to achieve that end is altogether proper when the health, safety, and domestic tranquility of the people on the ground are involved.

The bill makes clear that the airlines will be required to meet the noise standards and deadlines mandated by the Secretary of Transportation. The bill encourages airport operators to adopt compatible land-use plans by providing grants to those operators whose plans are approved. The bill also allows neighboring communities to obtain grants to implement compatible land-use plans. In short, the bill finally recognizes that airport noise is not some problem for quiet esthetes—it is a problem that must be addressed forthwith and forthrightly by a Congress concerned about its responsibilities.

A vote for this bill is not a vote for the airlines. It is a vote for the victims of noise. It is a vote for each one of the 6 million people in the United States whose emotional, physical, and financial health is being jeopardized by each jet flying overhead. I urge my colleagues to vote for those people by approving this bill.●

The CHAIRMAN. Are there further amendments?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. STUDDS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 8729) to provide assistance to airport operators to prepare and carry out noise compatibility programs, to provide assistance to aircraft operators to comply with noise standards, and for other purposes pursuant to House resolution 1293, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. SNYDER

Mr. SNYDER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. SNYDER. Unequivocally, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. SNYDER moves to recommit the bill H.R. 8729 to the Committee on Public Works and Transportation with instructions to report the same to the House forthwith with the following amendment:

Strike out title III and insert in lieu thereof the following:

TITLE III—2-PERCENTAGE POINT REDUCTION IN EXCISE TAXES ON TRANSPORTATION BY AIR

SEC. 301. 2-PERCENTAGE POINT REDUCTION IN EXCISE TAXES ON TRANSPORTATION BY AIR.

(a) TRANSPORTATION OF PERSONS.—Subsections (a) and (b) of section 4261 of the Internal Revenue Code of 1954 (relating to transportation of persons by air) are each amended by striking out "8 percent" and inserting in lieu thereof "6 percent".

(b) TRANSPORTATION OF PROPERTY.—Subsection (a) of section 4271 of such Code (relating to transportation of property by air) is amended by striking out "5 percent" and inserting in lieu thereof "3 percent".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to transportation beginning on or after October 1, 1978.

The SPEAKER. The gentleman from Kentucky (Mr. SNYDER) is recognized for 5 minutes in support of his motion to recommit.

Mr. SNYDER. Mr. Speaker, I offer this motion because it surely must be evident to my colleagues by this time, after all this debate, that enactment of this legislation with title III intact would be a grave error on our part; in a word, it would provide a ripoff for the airlines.

Mr. Speaker, my motion would require that H.R. 8729 be returned to the Committee on Public Works and Transportation with instructions to report back to the House forthwith with an amendment striking out all of title III and inserting in lieu thereof a 2-percentage point reduction in the existing 8-percent airline passenger ticket tax and a 2-percentage point reduction in the existing 5-percent air cargo tax. By proceeding in this manner, we would benefit airline passengers and shippers directly by reducing the taxes now imposed on the service they receive—25-percent reduction for passengers; 40-percent reduction for shippers—instead of diverting these tax revenues for the direct benefit of the airlines, as envisioned in the present title III. If the airlines find that they need additional funds to meet the noise standards which have been imposed upon them, they would be free to raise their fares up to 10 percent under new Civil Aeronautics Board regulations.

Mr. Speaker, title III of the pending bill would establish the worst sort of precedent by creating a gimmicky Federal financing program—a tax loophole, if you will—for the benefit of a single industry to enable it to meet Federal environmental requirements. For some reason, Mr. Speaker, many of those who deplore tax loopholes the loudest are right in there supporting title III. This bill would mean $3.2 billion in tax credits and refunds for the airlines. And it would be tax money, if you please—to which the airlines would gain access in order to upgrade their aircraft fleets. What a great arrangement for any industry. No wonder they are courting us. And they probably would be back in future years for more.

But I have not been contacted by airline passengers in support of this bill. They are the ones who would pay the freight. What do they think? Well, the Washington Post for Monday, September 11, contained a letter from Mr. Harold T. Salfen, executive director, consumer affairs, of the Airline Passengers Association, in which he expressed the very strong opposition of that organization to enactment of this legislation.

In recent testimony before the Senate Commerce Committee on Aircraft Noise Legislation, Chairman Alfred E. Kahn, of the Civil Aeronautics Board, said in part:

My best judgment is, therefore, that special financial assistance from the Federal Government is probably not only unnecessary but undesirable because it will tend to distort the market process.

This from the head of the Federal agency closest to the economics of the airline industry.

Do not forget, this title III program would give funds to Eastern to purchase the European Airbus. And it would give funds directly to foreign airlines—most of which are government owned or controlled—to enable them to compete more effectively against U.S. airlines—all of which are privately owned.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

Mr. Speaker, it is a pleasure to join my colleague, the gentleman from Kentucky and from Jefferson County, in support of his motion to recommit with instructions.

It is not always that the gentleman and I can embrace wholeheartedly the same idea. But the gentleman is exactly correct on this, and I support him in this effort.

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from Ohio.

Mr. VANIK. I thank the gentleman for yielding.

Mr. Speaker, the gentleman's motion to recommit should be supported by every Member of the House. This is going to reduce the cost of travel by 2 percent. It is going to slow down the inflation rate in this country. If the fund is in surplus, as has been alleged, then this is the thing to do, reduce the fund by 2 percent by reducing the tax and giving the benefit to the air travelers, the consumers of the United States.

Mr. Speaker, I urge adoption of the motion to recommit.

Mr. STEIGER. Mr. Speaker, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from Wisconsin.

Mr. STEIGER. I appreciate the gentleman's yielding, and I want to join with him, and others, in urging that the motion to recommit, to reduce the tax, be accepted and adopted. It is good policy. It ought to pass.

Mr. Speaker, I want to commend the gentleman from Kentucky (Mr. SNYDER) for his leadership in this matter.

Mr. SNYDER. I thank the gentleman for his remarks.

The SPEAKER. The gentleman from California (Mr. ANDERSON) is recognized for 5 minutes.

Mr. ANDERSON of California. Mr. Speaker, I rise in opposition to the motion. If this motion carries, there will be no noise legislation in this Congress and Congress will have reneged on its promise to combat aircraft noise. And who will be the loser? The millions of Americans who are holding out hope that the Congress will, at long last, bring long-needed relief from the daily bombardment of unwanted and unhealthy aircraft noise.

The House expressed its will in its support of this bill, and I urge rejection of the motion to recommit.

Mr. HARSHA. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from Ohio.

Mr. HARSHA. Mr. Speaker, I too rise in opposition to the motion to recommit. I would like my colleagues to understand that if we adopt this motion to recommit we do nothing meaningful to meet the noise problems that the airports and the people surrounding them are suffering from today.

You have committed yourselves in previous Congresses to deal with this problem of air noise pollution, and the only way you are going to deal with it effectively is to adopt the program that the Ways and Means Committee and the Public Works Committee have before you. If you do nothing, as this motion would do, you put those airlines that are least able to meet the standards, that do not have the financial ability to meet the standards, at the greatest disadvantage. Those airlines also own the greatest number of airplanes that are in violation.

Environmental regulations of FAA conferred a federally mandated retroactive order on the airline industry to do things that we have asked no other part of the transportation industry to do. If you adopt this motion to recommit, then all you do is say to the people who are suffering from the noise pollution that you did not mean what you said back in 1972 when you passed that act. You are saying, "We are not going to help you get out of this noise pollution problem."

You told the airlines on top of that—the Federal Government did—"You can go ahead and use those airplanes. They are allowed to stay. They meet the standards of the Federal Government, and you can go ahead and use them."

Now, you come back several years later and say, "You cannot do it. You cannot do it. You have got to get all new equipment, and the billions of dollars you spent have gone down the drain and we are not going to help you meet this standard."

It is time that the Congress, if it is going to pass these environmental acts, stands up to the fact that somewhere along the line we have got to finance them. No corporation or industry is going to finance them, because no corporation or industry ever paid a tax. All it does is collect taxes and pass them on to the consumers, the people. The people are going to pay for this. In our judgment, they are going to do it in the least painful, most effective program that will encourage the aerospace industry to expand and meet the demand for new planes and meet competition from foreign countries, and is going to save an enormous amount of jet fuel.

Members are worried about the energy crisis, and here is an opportunity to save millions of gallons of jet fuel. Here is a chance to improve the balance-of-payments problem we have. Here is an opportunity to create more jobs, and for the American aerospace industry to continue to hold its lead in the international world of aerospace development.

Mr. Speaker, I urge the Members to vote down the motion to recommit.

Mr. GOLDWATER. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of California. Briefly.

Mr. GOLDWATER. Mr. Speaker, I want to join my colleagues in opposing this motion to recommit.

Yes, this is controversial but not that unusual. We use taxes to raise revenue or obtain some social goal, that is, black lung, social security, investment tax credits, accelerated depreciation, and so forth. Aircraft noise is a national problem costing taxpayers over $4 billion per year and unknown illness, stress and personal disruption.

The two committees work hard and long to formulate a program so that the airlines may meet the arbitrary accelerated time frame mandated by the FAA. If we reject this bill, this solution, then we have no program and we will continue to be plagued by the impact of aircraft noise.

Maybe we should learn from this lesson next time we change a national policy on cleaning up the environment. That is we better think seriously about who and how to pay for it. Today we are facing directly the consequences of our previous actions mandating a reduction in noise—who will pay?

Obviously, the public will pay regardless. This, however, is an orderly organized approach and therefore I urge rejection of this motion to recommit and passage of the bill before us.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. SNYDER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 170, nays 227, not voting 35, as follows:

[Roll No. 775]

YEAS—170

Anderson, Ill.	Beard, Tenn.	Blanchard
Andrews, N.C.	Bedell	Blouin
Ashbrook	Bellenson	Boulter
Aspin	Benjamin	Brademas
Baldus	Bennett	Breckinridge
Baucus	Bevill	Brinkley
Bauman	Biaggi	Brodhead
Beard, R.I.	Bingham	Brooks

Brown, Mich.
Broyhill
Burton, John
Burton, Phillip
Byron
Carr
Carter
Cavanaugh
Cleveland
Cohen
Collins, Tex.
Conte
Conyers
Cornell
D'Amours
Daniel, Dan
Daniel, R. W.
de la Garza
Delaney
Dellums
Dent
Derrick
Devine
Dickinson
Dodd
Drinan
Duncan, Oreg.
Early
Edgar
Emery
Evans, Del.
Fenwick
Findley
Fish
Flippo
Foley
Fountain
Fraser
Frenzel
Gephardt
Gonzalez
Gore
Gradison
Grassley
Gudger
Guyer
Hamilton
Hansen
Harrington
Harris
Hefner
Heftel
Hubbard
Hughes
Ichord
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Kastenmeier
Kasten
Kelly
Kemp
Kildee
Kindness
Kostmayer
LaFalce
Latta
McDonald
Maguire
Mann
Marlenee
Martin
Mazzoli
Mikulski
Miller, Ohio
Minish
Mitchell, Md.
Moffett
Moore
Moss
Mottl
Myers, John
Natcher
Nedzi
Nichols
Nolan
Obey
Ottinger
Pease
Perkins
Pike
Poage
Preyer
Pursell
Quayle
Rangel
Regula
Reuss
Richmond
Robinson
Rosenthal
Roybal
Rudd
Ruppe
Russo
Ryan
Santini
Satterfield
Sawyer
Schulze
Selberling
Sharp
Simon
Smith, Nebr.
Snyder
St Germain
Stanton
Stark
Steed
Steers
Steiger
Stockman
Stokes
Studds
Stump
Symms
Thone
Traxler
Trible
Tucker
Vander Jagt
Vanik
Vento
Wampler
Watkins
Waxman
Weaver
Weiss
Whalen
Whitehurst
Whitley
Whitten
Yates
Young, Fla.

NAYS—227

Abdnor
Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashley
AuCoin
Badham
Bafalis
Barnard
Boggs
Boland
Bolling
Bonker
Bowen
Brown, Calif.
Buchanan
Burgener
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Caputo
Carney
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clay
Coleman
Collins, Ill.
Conable
Corcoran
Corman
Cornwell
Coughlin
Cunningham
Danielson
Davis
Derwinski
Dicks
Diggs
Dingell
Dornan
Downey
Duncan, Tenn.
Eckhardt
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
English
Erlenborn
Ertel
Evans, Colo.
Evans, Ga.
Evans, Ind.
Fascell
Fisher
Fithian
Flood
Florio
Flynt
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Fuqua
Gammage
Garcia
Gaydos
Giaimo
Gilman
Ginn
Glickman
Goldwater
Goodling
Green
Hagedorn
Hall
Hammer-schmidt
Hanley
Hannaford
Harkin
Harsha
Hawkins
Heckler
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Horton
Howard
Hyde
Ireland
Jacobs
Jeffords
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Keys
Krebs
Lagomarsino
Le Fante
Lederer
Leggett
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McClory
McCloskey
McDade
McEwen
McFall
McHugh
McKay
Madigan
Mahon
Markey
Marks
Marriott
Mathis
Mattox
Meeds
Metcalfe
Meyner
Michel
Mikva
Milford
Mineta
Mitchell, N.Y.
Moakley
Moffett
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Neal
Nowak
O'Brien
Oakar
Oberstar
Panetta
Patten
Patterson
Pattison
Pepper
Pettis
Pickle
Pressler
Price
Pritchard
Quillen
Rahall
Railsback
Rhodes
Rinaldo
Risenhoover
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rostenkowski
Rousselot
Runnels
Scheuer
Schroeder
Sebelius
Shipley
Shuster
Sikes
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Spence
Staggers
Stangeland
Stratton
Taylor
Thompson
Thornton
Treen
Van Deerlin
Volkmer
Waggonner
Walgren
Walker
Walsh
White
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yatron
Young, Alaska
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—35

Ammerman
Armstrong
Breaux
Broomfield
Brown, Ohio
Burke, Calif.
Burke, Fla.
Clawson, Del
Cochran
Cotter
Crane
Fary
Flowers
Frey
Gibbons
Huckaby
Krueger
Leach
Lehman
McCormack
McKinney
Miller, Calif.
Montgomery
Myers, Michael
Nix
Quie
Sarasin
Solarz
Spellman
Teague
Tsongas
Udall
Ullman
Wiggins
Wylie

The Clerk announced the following pairs:

On this vote:

Mr. Krueger for, with Mr. McCormack against.

Mr. Cotter for, with Mr. Breaux against.

Mr. Solarz for, with Mr. Fary against.

Mrs. Burke of California for, with Mr. Montgomery against.

Until further notice:

Mr. Ammerman with Mr. Broomfield.

Mr. Miller of California with Mr. Wiggins.

Mr. Lehman with Mr. McKinney.

Mr. Teague with Mr. Burke of Florida.

Mr. Nix with Mr. Leach.

Mr. Huckaby with Mr. Wylie.

Mr. Gibbons with Mr. Frey.

Mr. Udall with Mr. Sarasin.

Mrs. Spellman with Mr. Quie.

Mr. Nix with Mr. Cochran of Mississippi.

Mr. Flowers with Mr. Del Clawson.

Mr. Ullman with Mr. Brown of Ohio.

Mr. Michael O. Myers with Mr. Crane.

Mr. BEARD of Rhode Island and Mr. FRASER changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

Mr. WYDLER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device; and there were—yeas 272, nays 123, not voting 37, as follows:

[Roll No. 776]

YEAS—272

Abdnor
Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashley
Aspin
AuCoin
Badham
Bafalis
Barnard
Baucus
Beard, R.I.
Beard, Tenn.
Benjamin
Biaggi
Boggs
Bolling
Bonker
Bowen
Brademas
Brooks
Brown, Calif.
Brown, Mich.
Buchanan
Burgener
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Caputo
Carney
Carter
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clay
Coleman
Collins, Ill.
Conable
Conte
Corcoran
Corman
Cornwell
Coughlin
Cunningham
D'Amours
Danielson
Davis
Dent
Derrick
Derwinski
Dicks
Diggs
Dingell
Dodd
Dornan
Downey
Duncan, Tenn.
Eckhardt
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
English
Erlenborn
Ertel
Evans, Colo.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fisher
Fithian
Flood
Florio
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Fraser
Fuqua
Gammage
Garcia
Gaydos
Giaimo
Gilman
Ginn
Glickman
Goldwater
Grassley
Green
Hagedorn
Hamilton
Hammer-schmidt
Hanley
Hannaford
Harkin
Harsha
Hawkins
Heckler
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Horton
Howard
Hyde
Ireland
Jacobs
Jeffords
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kasten
Keys
Kemp
Kindness
Krebs
Lagomarsino
LeFante
Lederer
Leggett
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McClory
McCloskey
McDade
McEwen
McFall
McHugh
McKay
Madigan
Markey
Marks
Marriott
Mathis
Mattox
Meeds
Metcalfe
Meyner
Michel
Mikva
Milford
Mineta
Mitchell, N.Y.
Moakley
Moffett
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Neal
Nolan
Nowak
O'Brien
Oakar
Oberstar
Panetta
Patten
Patterson
Pattison
Pepper
Pettis
Pickle
Preyer
Price
Pritchard
Quillen
Rahall
Railsback
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Rodino
Roe
Roncalio
Rooney
Rose
Rostenkowski
Roybal
Runnels
Ruppe
Russo
Ryan
Santini
Sawyer
Scheuer
Schroeder
Sebelius
Sharp
Shipley
Shuster
Sikes
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Spence
St Germain
Staggers
Stangeland
Stokes
Stratton
Taylor
Thompson
Thone
Thornton
Treen
Trible
Tucker
Ullman
Van Deerlin
Vander Jagt
Volkmer
Waggonner
Walgren
Walker
Walsh
Watkins
White
Whitehurst
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yatron
Young, Alaska
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—123

Anderson, Ill.
Andrews, N.C.
Ashbrook
Baldus
Bauman
Bedell
Bellenson
Bennett
Bevill
Bingham
Blanchard
Blouin
Boland
Bonior
Brckinridge
Brinkley
Brodhead
Broyhill
Burton, John
Burton, Phillip
Carr
Cavanaugh
Cleveland
Cohen
Collins, Tex.
Cornell
Daniel, Dan
Daniel, R. W.
de la Garza
Delaney
Dellums
Devine
Dickinson
Drinan
Duncan, Oreg.
Early
Edgar
Emery
Evans, Del.

Fenwick
Findley
Flippo
Fountain
Frenzel
Gephardt
Gonzalez
Goodling
Gore
Gradison
Gudger
Guyer
Hall
Hansen
Hefner
Holtzman
Hubbard
Hughes
Ichord
Jenkins
Jenrette
Jones, N.C.
Jordan
Kastenmeier
Kazen
Kelly
Kildee
Kostmayer
LaFalce
Latta
McDonald
Maguire
Mahon
Mann
Marlenee
Martin
Mazzoli
Mikulski
Miller, Ohio
Mitchell, Md.
Moakley
Moffett
Moore
Moss
Murtha
Myers, John
Natcher
Nedzi
Nichols
Obey
Ottinger
Pease
Perkins
Poage
Pursell
Rangel
Regula
Robinson
Rosenthal
Rudd
Satterfield
Schulze
Selberling
Simon
Snyder
Stanton
Stark
Steed
Steers
Steiger
Stockman
Studds
Stump
Symms
Traxler
Vanik
Vento
Wampler
Waxman
Weaver
Weiss
Whalen
Whitley
Whitten
Wylie
Yates
Young, Fla.

NOT VOTING—37

Ammerman
Armstrong
Breaux
Broomfield
Brown, Ohio
Burke, Calif.
Burke, Fla.
Clawson, Del
Cochran
Conyers
Cotter
Crane
Fish
Flowers
Frey
Gibbons
Huckaby
Krueger
Leach
Lehman
McCormack
McKinney
Miller, Calif.
Moakley
Montgomery
Moss
Myers, Michael
Nix
Quie
Rogers
Sarasin
Solarz
Spellman
Teague
Tsongas
Udall
Wiggins

The Clerk announced the following pairs:

On this vote:

Mr. McCormack for, with Mr. Krueger against.

Mr. Montgomery for, with Mr. Solarz against.

Mr. Breaux for, with Mr. Cotter against.

Until further notice:

Mrs. Spellman with Mr. Broomfield.

Mr. Teague with Mr. McKinney.

Mrs. Burke of California with Mr. Leach.

Mr. Miller of California with Mr. Cochran of Mississippi.

Mr. Lehman with Mr. Fish.

Mr. Huckaby with Mr. Brown of Ohio.

Mr. Moss with Mr. Frey.

Mr. Moakley with Mr. Quie.

Mr. Ammerman with Mr. Sarasin.

Mr. Conyers with Mr. Michael O. Myers.

Mr. Nix with Mr. Wiggins.

Mr. Rogers with Mr. Del Clawson.

Mr. Flowers with Mr. Burke of Florida.

Mr. Udall with Mr. Gibbons.

Mr. Tsongas with Mr. Crane.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANDERSON of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include extraneous matter, in the RECORD on the bill just passed.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). Is there objection to the request of the gentleman from California?

There was no objection.

AIRPORT AND AIRCRAFT NOISE REDUCTION ACT

● Mr. WYDLER. Mr. Speaker, the horrible damage of unabated and unrelenting jet aircraft noise cannot be fully understood by those citizens living outside the "jet alleys" of our nation. To people not oppressed by the harsh and shrill reality of aircraft noise, the problem seems purely academic or a mere annoyance.

For those of us who live within these "jet alleys", however, the development of means of alleviating the impact of jet noise has not kept pace with the development of larger and noisier jet aircraft and jet engines.

From the earliest days of my service in the Congress, I have worked to obtain relief from the impact of aircraft noise for the people of my Congressional District, which is located adjacent to the John F. Kennedy International Airport.

As early as 1963, I was able to get the National Aeronautics and Space Administration (NASA) to begin research efforts into the problem of jet noise. That year, we were able to secure a modest $700,000 for purchase of the necessary equipment.

Our first breakthrough, however, came the following year when I was able to secure almost $2.5 million for NASA to begin actual research into the effects of jet noise and methods of reducing it.

From these modest beginnings, I have continued to lead the fight in the Congress to reduce jet noise. I have held numerous hearings in my District to emphasize the problems we were aware of and so verify some aspects of the problem which previously had only been suspected. I introduced the first legislation in the Congress to allow the Secretary of Transportation to set jet noise levels for aircraft and, year after year, I testified before several Congressional committees in behalf of this legislation.

The fight has not been easy. At times, it seemed that for every two steps we took forward, the bureaucrats in the executive branch would move the program one step backwards.

In 1967, the Congress provided funds for a complete Federal Jet Noise Control Program and I prodded NASA to start a crash program right away. Later that year, the Administrator of NASA indicated the program might be cut back because of a squeeze on budgetary priorities. I responded immediately and, after in-depth discussions with NASA, I was finally able to announce that more than $14 million would be spent on the Jet Noise Control Program during the next fiscal year. That program included all of the principal elements for aircraft noise alleviation research: the basic research phase, the minimization of fan-compressor noise, development of the quiet research engine and studies of direct lift control for application to approach angles of aircraft.

In 1968, I was successful in getting my bill to allow the Federal Aviation Agency to issue regulations limiting jet aircraft noise passed by the Congress and signed into law by the President. This was a significant step against jet noise, but its benefits were delayed by the indifference and apathy of the bureaucrats in the Executive Branch.

It was not until 1969 that the Federal Aviation Administration (FAA) issued Federal Air Regulation (FAR) Part 36, which established the first noise levels for jet aircraft. Unfortunately, this regulation only applied to jet aircraft that had not been built; it did not apply to jet aircraft already in use.

When the FAA issued this regulation, I was already pressing them to establish noise levels for jets already in use and to begin a program to require retrofitting noise suppression devices on jet engines. Concurrent with these efforts, I was able to get the FAA to approve a crash program—using equipment just developed—that would require jet aircraft to alter their angle on approach to landing at Kennedy, thus cutting jet noise in half on landing approaches.

The technology to retrofit jet aircraft to reduce noise levels has existed for more than a decade and a half. Yet, month after month and year after year, my repeated urgings for a comprehensive retrofit program for aircraft noise suppression met one delay after another.

It was in 1970 that the FAA first announced advance notice of the proposed rulemaking, which was scheduled for April of that year. It was the FAA's stated intention then of establishing a final rule by July of 1971. The FAA, of course, failed to meet its own deadline on a retrofit program but, in the summer of 1970, I was able to get a further modification of procedures on runway usage at Kennedy to alleviate jet noise congestion. At the same time, I continued to try to get a comprehensive retrofit program for jet noise suppression.

In 1972, I prevailed upon NASA to award almost $3 million in contracts to develop modifications of the JT-3D and JT-8D engines for reduction of noise and exhaust emissions in these engines in the DC-8, DC-9, 702, 727, and 737 aircraft. This work, of course, was made possible by the earlier NASA research into the jet noise problem.

In the meantime, I was still pressing FAA to promulgate the comprehensive retrofit program for aircraft noise it had originally promised 2 years earlier. I continued to meet with one delay after another.

In the fall of 1974, I was able to get the Environmental Protection Agency to conduct an in-depth review of runway use at Kennedy Airport. This study resulted in further modification of aircraft procedures to reduce jet noise.

I recognized, of course, that these measures were only a temporary palliative. No real relief from the burden of jet noise could be forthcoming until the Federal Government embraced a comprehensive retrofit program for this purpose and I continued to press for such a program.

In July of 1975, I was assured by the Secretary of Transportation that a rule requiring retrofit of older, noisy jet transports would be issued shortly. By April of 1976, the Transportation Secretary had changed our two steps forward to one backward, when he announced that he was again deferring a decision on the retrofit rule.

Following this announcement, I took the matter up with President Gerald Ford in a conversation in the Oval Office. I urged President Ford to become involved personally in approving a retrofit program. We discussed the matter at length, including the problems related to financing of the program, and President Ford gave me his personal assurance that he would give the retrofit program his serious consideration.

One of the happiest days of my life was October 21, 1976. I stood next to President Ford at Kennedy Airport that day when he announced that he was ordering the implementation of the retrofit program to reduce the noise of jet aircraft. President Ford's announcement culminated my 14 years of effort to make the retrofit program the policy of the U.S. Government.

By its action today in passing the Airport and Aircraft Noise Reduction Act (H.R. 8729), the House of Representatives has placed the capstone on my efforts to bring to reality a Federal program for retrofit of jet aircraft. This legislation provides the specialized mechanism which will provide the needed financing for the retrofit program.

As President Ford stated in making his announcement of the retrofit program:

> Solving the airport noise problem is an environmental imperative for the millions of Americans who live in neighborhoods around our major airports.

With the passage of this legislation today, we will bring to reality the dream of quieter skies and an improved quality of life for those Americans who live near our Nation's airports.●

BOB SHORT

Mr. SISK. Mr. Speaker, I ask unanimous consent that the remarks I made on yesterday, during consideration of the bill just passed, when I received unanimous consent to speak out of order be made a part of the body of the RECORD today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. SISK. Mr. Speaker, I wish to alert my colleagues in the Congress who are going to be around here next year, and the year after, that a little situation developed out in Minnesota yesterday that involves a good friend of mine. Because of his reputation for getting things moved here and there, I believe the Members who are going to be around would be well advised to buckle their seatbelts. Many Members will recall that Bob Short did a great moving job on a basketball team some years ago and moved them to Los Angeles. He did another great moving job taking the Washington Senators down to Texas. He may have made a few dollars here and there in the process.

I do have a great deal of respect for Bob Short and consider him to be a friend of mine, but I want to indicate that it is very likely that if he is elected to the Senate it will be suggested that the Capitol should be moved—probably somewhere out West, because in every case he has made his moves West.

Mr. Speaker, having said that, I support this rule. I hope that the House will vote for the previous question, adopt the rule, and then vote for the bill, because it is a bill that indeed is needed in this country.

APPOINTMENT OF CONFEREES ON H.R. 12380, AMENDING FEDERAL-STATE EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 1970

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill H.R. 12380, to amend the Federal-State Extended Unemployment Compensation Act of 1970 with respect to an individual's eligibility period for benefits under such act, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon? The Chair hears none, and, without objection, appoints the following conferees: Messrs. ULLMAN, CORMAN, RANGEL, STARK, JACOBS, CONABLE, and VANDER JAGT.

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 12232, UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1976

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 12232) to amend the Unemployment Compensation Amendments of 1976 with respect to the National Commission on Unemployment Compensation, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon? The Chair hears none, and, without objection, appoints the following conferees: Messrs. ULLMAN, CORMAN, RANGEL, STARK, JACOBS, CONABLE, and VANDER JAGT.

There was no objection.

PERMISSION TO HAVE UNTIL MIDNIGHT, SEPTEMBER 15, 1978, TO FILE CONFERENCE REPORT ON H.R. 13125, DEPARTMENT OF AGRICULTURE AND RELATED AGENCIES APPROPRIATIONS, 1979

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tomorrow night, September 15, 1978, to file a conference report on the bill (H.R. 13125) making appropriations for Agriculture, rural development, and related agencies for the fiscal year ending September 30, 1979, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

PROVIDING FOR THE FURTHER EXPENSES OF THE SELECT COMMITTEE ON ASSASSINATIONS

Mr. DENT. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 1276) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1276

Resolved, That for the further expenses of investigations and studies to be conducted by the Select Committee on Assassinations, acting as a whole or by subcommittee, not to exceed $790,000, including expenditures for employment of investigators, attorneys, and clerical, and other assistants, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Select Committee on Assassinations shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. The authorization granted by the resolution shall expire immediately prior to noon on January 3, 1979.

SEC. 4. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. DENT (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. DENT) is recognized for 1 hour.

Mr. DENT. Mr. Speaker, I move the previous question on the resolution.

Mr. BAUMAN. Just a minute Mr. Speaker, is the gentleman from Pennsylvania (Mr. DENT) not going to give us any explanation that came out of the subcommittee by one vote after several days of hearings?

Mr. DENT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will be glad to do that. And I will be glad to answer any questions I may be able to answer, if the gentleman has a question.

Mr. BAUMAN. What is the justification for spending another three-quarters of a million taxpayer dollars after the House has already authorized $4½ million for a committee that has essentially done very little to settle the questions which it was charged to investigate? I expect the gentleman to speak for an hour and a half, it will take at least that to justify this money, I expect.

Mr. DENT. I will try not to take up that much time.

This situation comes about because of the fact that 2 years ago, approximately, this House passed a resolution to delve into the situations concerned with the assassinations of President Kennedy and Dr. Martin Luther King. They were ordered to delve into both instances to see whether or not they could prove or disprove the existence of a conspiracy and to prove or disprove the guilt of Mr. Ray and Mr. Oswald.

They have at this point reached that stage where their final hearings are being held. They say that they have to have $790,000 to complete their work by January 3, 1980.

The Committee on House Administration, after much delay, many meetings, hearings in closed session with the Committee on Assassinations discussed, at length an appropriate amount for a supplemental budget for the select committee.

Up until this point they have spent $2,358,000 in the second session. For the second session of the 95th, the select committee projects a total expenditure of $3,290,000 which includes their supplemental request.

It was not an easy matter to convince the Members of the necessity of passing this resolution; but in the end, the full Committee on House Administration voted in favor of passing the resolution as requested by the select committee. The reason for approval is based on the following premise: We have now reached the last 4 months of this study. I believe this House should not put itself into the posture of cutting this request, given that the select committee is now concluding its investigation which will ultimately result in a report to the Congress. If we cut their moneys we will not even have the benefit of such report.

The chairman of the Committee on House Administration felt that the proper thing to do at this time as do I, is to give them the necessary funds, to complete the plans that they have, to finish the entire assassination investigation.

When reading the authorizing resolution for the select committee I found some language in there which could be interpreted as continuing this study into eternity, as it were; but in the record before the Committee on House Administration we were given assurances from the chairman and ranking member of the Select Committee on Assassinations that they will not go beyond January 3 in the investigatory work, that they will have completed their work, and that they require this amount of money to do so.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield for a further question?

Mr. DENT. I yield to the gentleman from Maryland for a question.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman. Can the gentleman tell me whether or not the select committee justified this additional expenditure? After all, they were granted in this second session $2.5 million, and now they are requesting another three-quarters of a million, roughly, for a period which is a little less than 4 months. It seems to me that they could have budgeted their funds in a better manner.

The question which arises is, Could they get along on less in accomplishing their goal? This now has become the most expensive congressional investigation the House has conducted in its history, as far as I can tell, including the impeachment proceedings.

Mr. DENT. I assure the gentleman that we reviewed every aspect of the reports and every aspect of the spending. I assure the gentleman that Mendel Davis went into every aspect of the expenditures with a fine-tooth comb; but we are faced with a fact that this request for additional funds is for an investigation which has already begun and for that matter near completion. The money has either been spent already or has already been advanced for expenditure in the future. As a result, contracts have been let; people have been hired; payrolls must be met. There is nothing we can do about that. We allocated the money to them by a vote of this Congress. The Select Committee on Assassinations spent it as they saw fit.

Mr. BAUMAN. If the gentleman will yield further, has any evidence been offered to the Committee on House Administration that personnel reductions occurring because of staff members no longer being needed since initial phases of the investigation are obviously behind the committee, and they are now in the final hearings?

Mr. DENT. We have been informed by the chairman that they have reduced their staff and that they have pared back on everything except those expenditures which they are committed to for finalizing the study.

Mr. BAUMAN. Would the gentleman yield for a further question of the gentleman from Ohio?

Mr. DENT. I will be glad to yield to the gentleman from Ohio.

Mr. BAUMAN. I thank the gentleman.

The gentleman from Pennsylvania made the statement that the gentleman from Ohio had said that this will be the last request for funds and that in the judgment of his select committee the duties of the committee can be accomplished and a report filed at the end of this year. Is that correct?

Mr. STOKES. If the gentleman will yield, the gentleman is correct. As stated by the chairman of the subcommittee, I am on record as having said to his House Administration Subcommittee that all of the investigatory work will have been completed, and that we will have had all of the public hearings, and that we will do everything to have the final reports into the House by the 31st day of December.

Mr. BAUMAN. I thank the gentleman.

Mr. THOMPSON. Will the Chairman yield for debate?

Mr. DENT. I yield to the distinguished Chairman.

Mr. THOMPSON. I thank the gentleman for yielding.

I might say, addressing myself to the dollar figures, to my friend, the gentleman from Maryland (Mr. BAUMAN), this has involved the expenditure of what can only be characterized as a huge amount of money today. Although as chairman of the full committee I am ex officio, without a vote, a member of each of the subcommittees, as is the ranking member, the gentleman from Alabama (Mr. DICKINSON) I chose not to be present at any but 2 or 3 minutes of the closed or confidential sessions.

In reviewing the entire matter, about which I had an admitted ambivalence, I finally satisfied myself, first, that the gentleman from Ohio (Mr. STOKES) and his colleagues have conducted themselves admirably in terms of security of the information that they have had. You and I and others have not been, and probably would not want to be, privy to all of the investigation or all of the contracts. In a very real sense, literally, I signed off a number of contracts for experts, such as ballistic experts and others, without knowing precisely what type of investigations they were going to undertake. I have watched very carefully the public proceedings and have seen emerge positive evidence that the money has been well spent, whether or not I agree with the conclusions of some of the experts. We have an assurance from the chairman, the gentleman from Ohio (Mr. STOKES) which he just restated, that there will be a wrap-up by the end of this Congress.

In the course of conducting a meeting at which this resolution was reported, I said without equivocation, assuming my return and assuming the same responsibilities on my part, that this would be the very last amount of money which I, for one, would be willing to grant for any continuation of the select committee's work. I think that the matter has gone so far at this point that no matter how one feels about whether he or she should have supported it in the first place, whether they should continue or not, it would be tactically a really terrible thing for the public aspects of this to be shut off at this point.

I have discussed the matter with the distinguished gentleman from Ohio (Mr. DEVINE) who will address himself to it. He agrees, I will say to the gentleman from Ohio (Mr. STOKES) that it can be wrapped up and that it will be wrapped up, and I see no reasonable alternative but to grant this money. I can assure the gentleman from Maryland (Mr. BAUMAN) and others that we have looked with great care at the expenditures, and except for the confidential contracts, none of which are exorbitant but there are a number of them, I am totally satisfied that the expenditures have been prudent, that the bookkeeping is sound, and that the management function is sound, and I am equally sure that everyone would agree, whether they are going

to vote for this or not. I hope that they do vote for it.

The gentleman from Ohio (Mr. STOKES) and all of the members on both sides of that committee have done themselves admirably as far as their very heavy responsibility is concerned. In a sense, the House asked for it. There are lots of unhappy aspects to it, some gruesome and obnoxious to me, as a matter of fact.

I do not like to hear about the exact words of the body of a man who was a beloved friend and another who was a friend—Dr. King was a friend of mine, not a close one, but I was a great admirer of his; but when you examine into two murders or two assassinations, a certain element of the macabre is going to emerge, and it has. I regret it. I want to see it wrapped up. I want to see it ended, but I think in fairness to the efforts that have been expended that no matter what the attitudes have been in the past, it is only reasonable that this amount of money should be appropriated, with the understanding that it is to be the last of it.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. DENT. I am glad to yield to the gentleman from Illinois for purposes of debate only.

Mr. HYDE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I have never supported the funding of this committee. At this time I want to confess that I believe I have been wrong. I think the work of the committee has been of the highest order.

I want to particularly salute the chairman, the gentleman from Ohio (Mr. STOKES). I watched the gentleman cross-examine a very elusive witness and under the most difficult circumstances, because that witness was accompanied by counsel who in my opinion was seeking to eliminate another lawyer by the name of Kuntzler, and not doing a very good job of it.

I think the gentleman from Ohio (Mr. STOKES) demonstrated a remarkable grasp of the facts, a nearly heroic composure under circumstances that I could in no way emulate. I think the gentleman showed a tenacity in pursuing and eliciting the truth from a witness whom I do not think ever habitually uttered the truth.

Mr. Speaker, I think it would be a shame to go as far as we have gone and not complete the work. I think the work has been a credit to the Congress. I think they have been most professional. I think it will illuminate some very dark areas in both these assassinations.

Again, I have been proud to be a Member of the same body that has produced what I think is one of the finest examples of congressional investigations in my memory; so I salute everybody connected with this, particularly the chairman, and I will support it.

Mr. SKUBITZ. Mr. Speaker, will the gentleman yield?

Mr. DENT. Yes, I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Speaker, I thank my colleague for yielding.

Mr. Speaker, I had fully intended to come over today and vote against this resolution. Like my colleague that preceded me, the gentleman from Illinois (Mr. HYDE) I would have voted against it. I want to associate myself with the remarks of the gentleman from Illinois (Mr. HYDE).

I think the committee, particularly the gentleman from Ohio (Mr. STOKES) has done an excellent job. I, too, watched the gentleman on television.

With the gentleman's statement today that this will be the last appropriation, I intend to support the resolution today.

Mr. DEVINE. Mr. Speaker, will the gentleman yield?

Mr. DENT. Mr. Speaker, I would be happy to yield to the gentleman from Ohio (Mr. DEVINE); but if the gentleman will wait a moment, the gentlewoman from Ohio (Ms. OAKAR) has asked for time.

Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio (Ms. OAKAR).

Ms. OAKAR. Mr. Speaker, I just wanted to say that some months ago I spoke on the floor concerning why this committee should even exist and it was for the same reason I discussed it then as today, that is, that the American people want to know the truth about these assassinations. I think this committee is very, very close to finding the truth. It would be a shame if we did not continue the work of this distinguished committee. It would be a shame if we put a price dollar on knowing the truth about the assassination of a President of the United States and the assassination of Dr. Martin Luther King.

As a Member of Congress, I have to applaud the members of this committee and the members of the subcommittee and in particular my good friend and distinguished colleague, the gentleman from Ohio (Mr. STOKES). The gentleman's calm and cool manner has not only brought distinction for himself and the committee, but for this entire House; so I only hope that we will unanimously agree to this resolution and let them continue the work they have begun and let them at last resolve the matter, so that the American public will no longer have doubts about what the truth really is.

Mr. Speaker, I thank the gentleman from Pennsylvania for yielding me this time.

Mr. DENT. Mr. Speaker, I thank the gentlewoman from Ohio (Ms. OAKAR) very kindly.

At this time, Mr. Speaker, I yield for the purposes of debate to the ranking minority member of the select committee, the gentleman from Ohio (Mr. DEVINE).

Mr. DEVINE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, as the Members know, I am the ranking minority member on the Select Committee on Assassinations, as well as being the ranking minority member of the Subcommittee on Accounts that heard the presentation in justification for the additional funding.

The first thing that should be made clear is this: That the Committee on House Administration earlier took away about a half-million dollars from the committee's request. This request, generally speaking, is to restore that amount, coupled with about $250,000 more in order to finish the work.

Many of the Members will recall that I voted against the creation of this committee originally because I thought no useful purpose would be served. We had some pretty tough times in the beginning. But I would like to say, "Amen" to the words of my colleague, the gentleman from Illinois (Mr. HYDE) when he applauds the chairman of our committee, the gentleman from Ohio (Mr. STOKES), for the truly fine professional job that he has done in taking over the reins of this committee and functioning as its chairman.

The gentleman from Ohio (Mr. STOKES) and I do not agree too often philosophically on other votes, but I am in 100 percent support of the way he has handled this committee, the direction in which he has taken it, and the final product that will be produced, primarily through his effort and the efforts of the fine staff that has been assembled.

Mr. Speaker, I urge my colleagues to go ahead and support this final funding resolution. I will not be a party, nor do I feel that the chairman of the committee will be, to coming before the Congress and asking for any more money. I think we can indeed conclude our public hearings and the finalization of our report and wrap up the business of the committee by the end of this year in fulfillment of the mandate of the Congress. I urge our colleagues to support this resolution.

Mr. ANNUNZIO. Mr. Speaker, will the distinguished subcommittee chairman yield on that point?

Mr. DENT. I yield to the gentleman from Illinois.

Mr. ANNUNZIO. Mr. Speaker, I thank the distinguished gentleman for yielding.

Again, Mr. Speaker, I would like to point out to the Members that I sit on the Subcommittee on Accounts, and I am aware of the fact that both the chairman of that subcommittee and the chairman of the Select Committee on Assassinations, the gentleman from Ohio (Mr. STOKES), have done an outstanding job. I sat in the chair when the cut of a half-million dollars was made. I supported the restoration of the half-million dollars.

The gentleman from Ohio (Mr. DEVINE) made a statement that he will not be a party to coming back and asking for any more money. Now, that statement is made in the 95th Congress. I want the RECORD to show that I have warned the Members of this Congress on other occasions that in the 96th Congress, when we assemble that Congress, if the Speaker recommends to the Congress that the work of this committee must continue, then the Committee on House Administration has no choice, it must fund the committee.

I want to urge the Members of this House to vote for the $700,000 or more that they are asking for this time, and I want to urge those who will come back in the 96th Congress to consider this matter carefully if they feel that the committee has finished its job and has gone as far as it can.

Speaking for myself, I am on record now—and I want gentleman from Maryland to know that I am on record—that I will not vote to reconstitute the committee, along with several of the other select committees that we have around here, because we have enough committees of the House already. I do not think that we should approve all these select committees. We just do not have the time to go to all these meetings, we do not have the money to spend, and we do not have the room in which to put these staffs that we hire.

Mr. DENT. Mr. Speaker, I thank the gentleman from Illinois (Mr. ANNUNZIO).

I will be glad, Mr. Speaker, for the purpose of debate, to yield to the gentleman from California (Mr. BADHAM).

Mr. BADHAM. Mr. Speaker, I thank the chairman of my subcommittee for yielding.

Mr. Speaker, I have been around here as a visible and vocal and vehement opponent of this Select Committee on Assassinations for virtually all the months I have been a Member of the Congress.

I was not a party to the creation of this select committee, and I would have voted against it. On several occasions in committee and on the floor of this House I voted against the funding of the committee because I felt that the work that it was about was something other than the House of Representatives ought to be engaged in. On the occasions that the select committee came before the accounts subcommittee and then the full Committee on House Administration, the members of the committee, the majority and ranking minority members, would refuse, literally, to tell us what on earth the committee was doing. The select committee had a specific charge from the House of Representatives, and that was to determine whether or not the assassins were indeed the assassins, whether or not they worked alone or in concert with others, whether or not the law enforcement agencies were doing what they were supposed to do, and whether any additional legislation would be required to see that such circumstances were properly carried out in the future.

The select committee, in its secretive sense, decided not to tell us what they were doing, and it was because of this that I voted against them on several occasions—in fact, every time we had the chance. Then came later this year, and not too many months ago, the gentleman from Ohio (Mr. STOKES), the gentleman from North Carolina (Mr. PREYER) and the gentleman from Ohio (Mr. DEVINE) before the committee, we closed the committee, and we asked the gentlemen, "All right. Now, we have cut this down in funds. You have asked for a restoration of funds. Why don't you tell us what you are doing so that we can have some judgment as to whether or not it should be funded or whether it is some wild goose chase off into the annals of history."

And I will have to say at this point that I was most impressed, I was most favorably disposed toward the comments of the gentleman from Ohio (Mr. STOKES), the gentleman from North Carolina (Mr. PREYER) and the gentleman from Ohio (Mr. DEVINE), and they did level with the House Administration Committee and they convinced me beyond any shadow of a doubt of these things—that they were keeping within the charge given to them by the House of Representatives, that they had spent the money exactly as they said they were going to spend it, and that they were coming to the exact conclusions asked for by the House of Representatives in establishing the committee. So I thought at that time that denying them the money they needed to complete the total examination of what they were charged to do would put the House of Representatives in a political box from which extraction would be extremely difficult, if not impossible, and by that I mean this: If we were to cut off their funds now and deny the $790,000, we would be inviting the House of Representatives, the select committee, and the people of this country to come back and say they have not done what they were supposed to do, they have wasted $2½ million and nothing has happened. By giving them this money, we not only get ourselves out of the box, but we lay to rest all of the things that have been said and allegations about the assassins of Dr. King and President Kennedy.

I personally feel, and I think it will be borne out, that what we are going to discover is that the CIA and the FBI and the Warren Commission all found and the Commission really did publish what actually did happen, and we are not going to make any history of this.

That brings me to my next and final point in asking for strong support for this remaining additional money, to let the committee have this money and go out of business. I think that the House ought to look very carefully at future select committees and what they have to accomplish. I think we have an excellent committee system in the House, but I think the unending creation of select committees has gotten to be something where we are spending a great deal of money. There is no way to stop the spending of money until the committees all run. So we ought to look very closely before we ever create a select committee to reinvent the wheel, as it were.

Mr. Speaker, I commend the gentleman from Ohio (Mr. STOKES), because this committee has come in virtually on budget. I commend the gentleman because they have done exactly what they said they were going to do. But I think the select committee system leaves a great deal to be desired.

Mr. DENT. I thank the gentleman for his comments.

Mr. Speaker, I yield for the purpose of debate only to the gentleman from Illinois (Mr. O'BRIEN).

Mr. O'BRIEN. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of this request. I supported the committee from the beginning, and I continue to do so. I have four brief points I would like to make.

No. 1, I think the way the committee has handled the highly volatile leads and information with great discretion deserves commendation.

No. 2, I witnessed only part of the interrogation, but I thought the gentleman from North Carolina (Mr. PREYER), the gentleman from Ohio (Mr. DEVINE), and the gentleman from Michigan (Mr. SAWYER) did a superb job in their difficult task.

I think, No. 3, that Americans felt sort of shutout until this committee went to work. We have all had a chance to see what happened to Dr. King and to our President.

We have all had an opportunity to make our own personal judgment about the character and capacity of the lead witness, and his counsel. Finally, we arranged for a chance to demonstrate what kind of a place this Congress is on its own merits. I think Mr. STOKES' committee did a beautiful job in letting the American people know that this is indeed a great Congress.

I thank the gentleman.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield for one last question?

Mr. DENT. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, each select committee of the House is authorized under the rules to receive a certain amount of money for printing. I am quite sure that when the hearings are concluded on this particular committee's activities, and a report printed, there will be an exceptional demand for the printed documents, both hearings and report.

Has the gentleman's committee heard any testimony from the select committee's membership as to what the estimated cost of eventual printing will be, or are we talking about some additional amount beyond the money here today?

Mr. DENT. No, we have not anticipated any question like that. We have not put the question to the committee, and have no knowledge of what the report may be, the size of it, the necessity for printing in large numbers of copies. We have no idea what the demand will be for it. We will have to wait for that.

Mr. BAUMAN. The gentleman will agree that there is going to be an unnamed amount of money that will have to be paid in addition to do this printing, and it could be hundreds of thousands of dollars.

Mr. DENT. I do not know what it will be. All I know is that the committee, of

which I will no longer be a member on the first of the year, will use its best judgment to recommend, as we always do, an economical program. No one knows how large the volume is going to be. No one knows how much money it will cost just having it printed. We have very reasonable printing costs for the Congress as compared to the printing costs in the United States.

Mr. THOMPSON. Mr. Speaker, will the gentleman yield on that?

Mr. DENT. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Speaker, in the event there is a request for printing, in the first place a resolution must be introduced. It must go to the Subcommittee on Printing, then to the full committee, and then to the floor. The moneys then come out of the line item under the House contingent fund.

We have no way of anticipating what it will be. I can assure the gentleman that, as with all other printing resolutions, the chairman of that subcommittee, the gentleman from California (Mr. HAWKINS) will look at it with great care. We went through a number of them this morning.

Mr. BAUMAN. Mr. Speaker, I have listened with interest to my colleagues commenting upon the conduct of the committee and the wisdom of voting $790,000 additional at this point for the conclusion of the committee's work. I hope this is the conclusion of the work.

I must confess, however, that even though I do not wish to pass judgment upon the committee's work until it is completed, as an attorney I have had serious questions concerning the investigation's conduct. I am not going to raise those misgivings today. Certainly, the committee's recent history has been a vast improvement over the first difficult days this committee faced.

But, I return to my original objection to the committee. When we are talking about close to $6 million for a select committee that has now collected voluminous testimony, held hearings, and will come out with a report. But all that has been done is already being questioned by many, including some of the same people who raised questions about these assassinations before. That goes to the fundamental reason for my objections since the questions still remain. I do not think the House and its committees are a proper forum to decide these matters. They will remain in question throughout history, and in the meantime a great deal of effort and taxpayers' money has been expended toward no good end.

I still find that objectionable, even though I can concede that, having come this far some amount of money, probably far less than this, is necessary to wind the committee up. I hope the House learns from this expensive lesson.

Mr. DENT. I thank the gentleman very kindly, and thank him for his contribution.

Mr. Speaker, I want to thank all who participated in this particular debate today. This was not an easy matter. There is a sort of feeling among many Members concerning objections to all committees, and I hope they do not allow that particular feeling to prevail in this instance. This committee deserves support.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REPORT ON U.S. PROGRESS IN AERONAUTICS AND SPACE DURING 1977—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Science and Technology:

To the Congress of the United States:

I am pleased to transmit this report on United States progress in aeronautics and space during 1977. The report is provided in accordance with Section 206 of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2476).

JIMMY CARTER.

THE WHITE HOUSE, *September 14, 1978.*

CONFERENCE REPORT ON H.R. 12928, PUBLIC WORKS APPROPRIATIONS, FISCAL YEAR 1979

Mr. BEVILL. Mr. Speaker, I call up the conference report on the bill (H.R. 12928), making appropriations for public works for water and power development and energy research for the fiscal year ending September 30, 1979, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of August 14, 1978.)

Mr. BEVILL (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The SPEAKER pro tempore. The gentleman from Alabama (Mr. BEVILL) will be recognized for 30 minutes, and the gentleman from Indiana (Mr. JOHN T. MYERS) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Alabama (Mr. BEVILL).

Mr. BEVILL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to recommend for your consideration and the consideration of the House the conference report on the bill (H.R. 12928) making appropriations for public works for water and power development and energy research for fiscal year 1979. The Members will recall that after 2 days of spirited debate on this bill last June 15 and 16, the House passed the bill by a 263 to 59 vote. The conference report before you today is, in all important respects, substantially similar to that bill. It is recommended to you by the conference committee without reservation.

At this time, I want to thank and commend my colleagues on the subcommittee and the subcommittee staff for their participation and support during the hearings, the markup, floor consideration and finally the conference deliberations. I am proud to be associated with them. Also, I want to express my appreciation to the House leadership for their support and accommodation on the various aspects of this bill.

Mr. Speaker, we have had and continue to have warm feelings for our friends in the other body who served with us on this conference.

Mr. Speaker, there has been much talk about a Presidential veto of this bill. Much of the controversy centers around six water projects. Of these six, three are for further study and three are for construction. These projects are extremely important to the areas invloved, meet all the criteria as worthy projects which should proceed, and should be funded in this bill. Yet in total they are only a very small fraction of this vitally important piece of legislation.

Let me explain the important aspects included in the conference agreement.

SUMMARY OF THE CONFERENCE REPORT

Mr. Speaker, the conference agreement would provide $10,160,483,000 in new budget authority for the various departments and agencies in the bill. This amount is $878,965,000 below the President's budget. It is also $279,389,100 below the comparable amounts appropriated for fiscal year 1978.

Mr. Speaker, the Members will recall that the House placed a general provision on the bill which would have required 2 percent of the appropriations to be withheld from obligation and expenditure. The debate on provisions of this type reflected the view that specified reductions applied by the committee of conference would be preferable to an across-the-board cut. Taking cognizance of the will of the House, we have come back with a bill that is $181,150,000 lower than the bill which passed the House in June. As a result, we have, in good conscience, receded to the Senate amendment deleting the 2 percent provision.

The conference agreement will provide $6,085,175,000 to the Department of Energy, including $441,900,000 for solar energy development, $156,200,000 for geothermal energy, $42,400,000 for biomass, $348,900,000 for fusion energy, $307,300,000 for light water reactor technology, $215,588,000 for environmental

research, and $204,000,000 for basic energy sciences. A total of $566,867,000 is recommended for the liquid metal fast breeder reactor program, which includes $172,400,000 to be used exclusively to carry out the breeder reactor demonstration project or project alternative approved by Congress in authorizing legislation. The conference agreement also includes $432,300,000 for general science and research, $2,619,283,000 for defense activities, $323,234,000 for policy, management and support, $145,473,000 for the five power marketing administrations and $51,300,000 for the Federal Energy Regulatory Commission. The conference agreement retains a House-passed amendment, offered by the gentleman from Illinois (Mr. PRICE), prohibiting the use of any funds in title I for the licensing of the waste isolation plant or the storage of nondefense radioactive waste at the plant. It is my understanding that this issue will be more extensively addressed by the authorizing committees. Then we can consider any further appropriation actions that may be required.

For the Army Corps of Engineers, the conference agreement includes a total of $2,636,024,000 which will provide 38 new studies, 27 new planning starts, and 39 new construction starts. The conference agreement will provide $579,915,000 to the Bureau of Reclamation which will provide for 30 new studies, 6 new construction starts, and 8 new loans. As I stated earlier, there was a great deal of debate about the eight so-called hit list projects when the bill was initially considered by the House. The Senate proposed and the conference agreed to delete funding for two of those projects: La Farge Lake in Wisconsin and Meramec Park Lake in Missouri. Of the remaining six, three of the projects have been funded for study purposes only and three projects, after careful deliberation, are recommended for construction.

Mr. Speaker, the bill includes $10,913,900 for water resources planning activities to be carried out under the auspices of the Secretary of the Interior. For the Appalachian regional development programs, the conference agreement includes $368,700,000, including $233,000,000 for the highway program. The conference agreement also includes $322,301,000 for the Nuclear Regulatory Commission and $154,531,000 for the Tennessee Valley Authority.

The Senate proposed and the conference accepted amendments to the bill changing the title and citation from "public works for water and power development and energy research" to "energy and water development." We were of the opinion that this change is appropriate since 60 percent of the appropriations in this bill are for the Department of Energy.

Mr. Speaker, I want to comment on a matter I referred to earlier. Certain officials in the executive branch have stated their intention to recommend that the President veto this bill. I sincerely hope the President will not veto this bill. We have and will continue to give careful study and consideration to the proposals made by the President, as the Founding Fathers intended under article II, section 3 of the Constitution. This year the President's new water policy proposal was submitted too late in the budget process for our subcommittee to call hearings and study it fully in the way we consider the budget proposals submitted in January. I am sure the 96th Congress will want to carefully review and consider these proposals during the deliberations on the fiscal year 1980 budget.

But, Mr. Speaker, the President must remember that our Constitution has vested the legislative power in the Congress. The Founding Fathers believed that the laws and policies of the United States should be formulated and changed by the branch of Government that is and remains closest to the people. This is particularly true in the case of taxation and spending. Madison, in Federalist 58, is both eloquent and clear about the purpose of the origination clause:

> The House of Representatives cannot only refuse, but they alone can propose the supplies requisite for the support of Government. They, in a word, hold the purse. . . . This power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure.

And Hamilton, that zealous defender of a strong executive, lays down in Federalist 73 the two principal reasons for giving the President a qualified negative over legislation.

> The propriety of the [veto] does not turn upon the supposition of superior wisdom or virtue in the executive, but upon the supposition that the legislature will not be infallible;
>
> The primary inducement to conferring the power in question upon the executive is to enable him to defend himself [against encroachment]; the secondary one is to increase the chances in favor of the community against the passing of bad laws, through haste, inadvertence, or design.

The conference agreement admits to none of these defects. The conference agreement does not encroach upon the rights of the other members of Government nor is it a product of haste, inadvertence or evil design.

Let me continue to read from Federalist 73:

> The oftener the measure is brought under examination, the greater the diversity in the situations of those who are to examine it, the less must be the danger of those errors which flow from want of due deliberation, or of those missteps which proceed from the contagion of some common passion or interest. It is far less probable that culpable views of any kind should infect all the parts of the Government at the same moment and in relation to the same object than that should by turns govern and mislead every one of them.

Mr. Speaker, we have a bicameral legislature where the Senate and the House of Representatives examine and develop legislative issues. And we have, through our committee system, further divided the power over Federal water resource development policy between the authorization and appropriation committees. Both committees in both bodies have examined and studied the recommendations made by the executive branch this year as well as last year. I submit that the funding recommendations in this bill have been made after a deliberate and exhaustive review.

My subcommittee held hearings last year on the proposals to cancel certain water projects. Again this year, we had hearings and heard testimony from administration officials, Members of Congress, Governors and other interested individuals. During House consideration last year, we had a full and spirited debate on amendments drafted by the administration. Similar amendments were offered and debated this year. In both cases, these amendments were soundly rejected by the House.

Mr. Speaker, I submit that the bill represents a responsible and deliberate exercise of legislative power. True faith and allegiance to our Constitution requires that the executive branch respect the role of the legislature in our Federal system.

Mr. Speaker, let me summarize the reasons why the President should accept, not veto this bill:

It is $878,965,000 below the budget submitted by the administration and $279,389,100 below comparable amounts appropriated for 1978. While there are several significant adjustments to the President's request, the committee has been very mindful of the pervasive desire to hold down Federal spending and has worked very hard to reduce spending when possible. But energy and water are essential commodities for the Nation's future, and the committee has no apologies for the increases proposed for specific programs in selected areas.

The bill provides for an accommodation between the President and the Congress on the Clinch River Breeder Reactor in the Department of Energy authorizing legislation, however it may be finally resolved.

With respect to water development, the projects included in the bill were selected in accordance with criteria generally in accord with the criteria recommended by the President in his proposed water policy. The President's proposed policy was received in an incomplete form, without supporting details, and too late for consideration by either House this year.

I repeat, of the eight so-called hit list projects to which the President objected last year, two have been deleted, three projects have been funded for study purposes only, and three projects have been thoroughly considered by both Houses and are recommended for construction. The projects recommended for construction are in accord with the criteria proposed by the President for construction projects.

If after his review of the bill, there are a few specific projects or activities to which the President continues to object, he, of course, always has the option to

propose a rescission or deferral of such specific activity under the Congressional Budget Act. Meanwhile, the vast majority of the initiatives and activities provided in the bill can proceed, and the Congress can further weigh the President's views on these specific items.

Mr. Speaker, I submit that after the thorough consideration of every item in the bill by the subcommittees, committees and full bodies of both Houses, our sense of priorities and program needs is as keen and competent, and our views at least as well informed, as those of the bureaucrats who advise the President. Certainly we are closer to the real needs of our constituents. I thus sincerely hope that the President will accept this bill as the perfected product of our democratic processes.

Mr. Speaker, I urge the adoption of the conference report.

At this point in the RECORD, I want to insert a table outlining the conference action compared to 1978, the budget estimates and the House and Senate bills by appropriation item:

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY

	New budget authority					Conference compared with—			
	Enacted, fiscal year 1978	Estimates, fiscal year 1979	House, fiscal year 1979	Senate, fiscal year 1979	Conference, fiscal year 1979	Fiscal year 1978 enacted	Fiscal year 1979 estimate	House bill	Senate bill
TITLE I—DEPARTMENT OF ENERGY									
Energy Science and Defense Activities									
Operating expenses	$4,478,255,000	$4,881,368,000	$4,865,437,000	$4,839,850,000	$4,818,431,000	$+340,176,000	$−62,937,000	−$47,006,000	$−21,419,000
Plant and capital equipment	1,618,849,000	1,438,416,000	1,120,856,000	1,020,971,000	1,067,971,000	−550,878,000	−370,445,000	−52,885,000	+47,000,000
Total, energy science and defense activities	6,097,104,000	6,319,784,000	5,986,293,000	5,860,821,000	5,886,402,000	−210,702,000	−433,382,000	−99,891,000	+25,581,000
Power Marketing Activities									
Operations and construction	120,454,000	143,573,000	143,473,000	145,473,000	145,473,000	+25,019,000	+1,900,000	+2,000,000	
Federal Energy Regulatory Commission									
Salaries and expenses	34,133,000	43,670,000	51,300,000	51,300,000	51,300,000	+17,167,000	+7,630,000		
Geothermal Resources Development Fund	15,000,000					−15,000,000			
Special foreign currency program	1,500,000	2,000,000	2,000,000	2,000,000	2,000,000	+500,000			
Total, title I, new budget (obligational) authority, Department of Energy	6,268,191,000	6,509,027,000	6,183,066,000	6,059,594,000	6,085,175,000	−183,016,000	−423,852,000	−97,891,000	+25,581,000
TITLE II—DEPARTMENT OF DEFENSE—CIVIL									
DEPARTMENT OF THE ARMY									
Corps of Engineers—Civil									
General investigations	103,646,000	109,270,000	140,014,000	137,138,000	137,978,000	+34,332,000	+28,708,000	−2,036,000	+840,000
Construction, general	1,523,820,000	1,795,595,000	1,392,515,000	1,342,147,000	1,343,711,000	−180,109,000	−451,884,000	−48,804,000	+1,564,000
Flood control, Mississippi River and tributaries	253,081,000	204,000,000	232,930,000	223,035,000	223,035,000	−30,046,000	+19,035,000	−9,895,000	
Alaska hydroelectric power development fund	5,450,000					−5,450,000			
Operation and maintenance, general	745,370,000	750,500,000	795,500,000	795,500,000	795,500,000	+50,130,000	+45,000,000		
Revolving fund	21,525,000	22,000,000	28,000,000	46,000,000	46,000,000	+24,475,000	+24,000,000	+17,000,000	
Flood control and coastal emergencies	18,000,000	20,000,000	20,000,000	20,000,000	20,000,000	+2,000,000			
General expenses	56,800,000	66,500,000	66,500,000	66,500,000	66,500,000	+9,700,000			
Special recreation use fees	6,000,000	3,300,000	3,300,000	3,300,000	3,300,000	−2,700,000			
Total, title II, new budget (obligational) authority, Department of Defense—Civil	2,733,692,000	2,971,165,000	2,679,759,000	2,633,620,000	2,636,024,000	−97,668,000	−335,141,000	−43,735,000	+2,404,000
TITLE III—DEPARTMENT OF THE INTERIOR									
Bureau of Reclamation									
General investigations	25,106,000	22,200,000	29,870,000	30,870,000	30,870,000	+5,764,000	+8,670,000	+1,000,000	
Construction and rehabilitation	354,825,000	325,862,000	244,391,000	208,572,000	221,572,000	−133,253,000	−104,290,000	−22,819,000	+13,000,000
Upper Colorado River storage project	67,268,000	70,274,000	87,399,000	87,399,000	87,399,000	+20,131,000	+17,125,000		
Colorado River Basin project	78,145,000	73,770,000	74,770,000	74,770,000	74,770,000	−3,375,000	+1,000,000		
Colorado River Basin salinity control projects	22,675,000	42,315,000	27,315,000	17,315,000	17,315,000	−5,360,000	−25,000,000	−10,000,000	
Operation and maintenance	78,489,000	87,873,000	87,873,000	86,373,000	86,373,000	+7,884,000	−1,500,000	−1,500,000	
Loan program	27,753,000	88,226,000	38,745,000	36,366,000	36,366,000	+8,613,000	−51,860,000	−2,379,000	
General administrative expenses	23,665,000	25,250,000	25,250,000	25,250,000	25,250,000	+1,585,000			
Total, Bureau of Reclamation	677,926,000	735,770,000	615,613,000	566,915,000	579,915,000	−98,011,000	−155,855,000	−35,698,000	+13,000,000
Office of the Secretary									
Water resources planning			9,653,000		10,913,900	+10,913,900	+10,913,900	+1,260,000	+10,913,900
Total, title III, new budget (obligational) authority, Department of the Interior	677,926,000	735,770,000	625,266,000	566,915,000	590,828,900	−87,097,100	−144,941,100	−34,438,000	+23,913,900
TITLE IV—INDEPENDENT OFFICES									
Appalachian Regional Commission: Salaries and expenses	2,075,000	2,220,000	2,220,000	2,220,000	2,220,000	+145,000			
Appalachian regional development programs (funds appropriated to the President)	323,700,000	343,700,000	374,000,000	368,700,000	368,700,000	+45,000,000	+25,000,000	−5,300,000	
Delaware River Basin Commission: Salaries and expenses	87,000	102,000	102,000	102,000	102,000	+15,000			
Contribution to Delaware River Basin Commission	232,000	245,000	545,000	245,000	245,000	+13,000		−300,000	
Total, Delaware River Basin Commission	319,000	347,000	647,000	347,000	347,000	+28,000		−300,000	

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY—Continued

	New budget authority					Conference compared with—			
	Enacted, fiscal year 1978	Estimates, fiscal year 1979	House, fiscal year 1979	Senate, fiscal year 1979	Conference, fiscal year 1979	Fiscal year 1978 enacted	Fiscal year 1979 estimate	House bill	Senate bill
Interstate Commission on the Potomac River Basin: Contribution to Interstate Commission on the Potomac River Basin	53,000	53,000	55,000	55,000	55,000	+2,000	+2,000		
Nuclear Regulatory Commission: Salaries and expenses	281,423,000	330,670,000	321,487,000	328,287,000	322,301,000	+40,878,000	−8,369,000	+814,000	−5,986,000
Susquehanna River Basin Commission: Salaries and expenses	88,000	102,000	102,000	102,000	102,000	+14,000			
Contribution to Susquehanna River Basin Commission	200,000	200,000	500,000	200,000	200,000			−300,000	
Total, Susquehanna River Basin Commission	288,000	302,000	602,000	302,000	302,000	+14,000		−300,000	
Tennessee Valley Authority: Payment to Tennessee Valley Authority fund	138,510,000	134,635,000	154,531,000	151,531,000	154,531,000	+16,021,000	+19,896,000		+3,000,000
Water Resources Council: Water Resource planning	13,696,000	11,560,000		11,773,900		−13,696,000	−11,560,000		−11,773,900
Total, title IV, new budget (obligational) authority, Independent offices	760,064,000	823,487,000	853,542,000	863,215,900	848,456,000	+88,392,000	+24,969,000	−5,086,000	−14,759,900
RECAPITULATION									
Total, titles II, III and IV (excluding Department of Energy): New budget (obligational) authority	4,171,682,000	4,530,422,000	4,158,567,900	4,063,750,900	4,075,308,900	−96,373,100	−455,113,100	−83,259,000	−11,558,000
Total, titles I, II, III and IV: New budget (obligational) authority	10,439,873,000	11,039,449,000	10,341,633,900	10,123,344,900	10,160,483,900	−279,389,100	−878,965,100	−181,150,000	+37,139,000

Mr. Speaker, there were a few typographical errors in the conference report, H. Rept. 95-1490, as printed in the RECORD for August 14, 1978. A table for the Department of Energy was presented in the wrong place and under a wrong title.

The amounts in the conference report are correct except for 2 numbers on page 52. The amount following the stub entry "unobligated balances applied" should read, "$7,180,000"; and in the budget estimate column "Total" should read "$204,000,000".

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, I thank the gentleman for yielding.

I was one of those who supported the President's objections to the water project program. I imagine that would make me supportive of the so-called "hit list." That is why, when this bill came up before our committee and subsequently, when the conference report came back, I studied it quite carefully. I thought that I would be voting against this bill. I must say that after studying it, however, I am going to vote for the conference report; and I should like to tell the gentleman why I propose to vote for it.

As he pointed out, of the eight projects on the President's original hit list, the two least favorable have been stricken; is that correct?

Mr. BEVILL. That is correct.

Mr. YATES. The projects are LeFarge Lake in Wisconsin, and Meramac Park Lake, Mo.

Mr. BEVILL. That is correct.

Mr. YATES. There is no money in here for these projects.

Mr. BEVILL. This is correct.

Mr. YATES. With respect to the six projects included in this bill, if all were to be constructed, the cost would be over $400 million; is that correct?

Mr. BEVILL. That is correct.

Mr. YATES. But they may not all be constructed; three of them are to be studied. The three that are to be studied are Fruitland Mesa, Colo.; Savery Pothook, Colo., and Wyoming; and Lukfata Lake, Okla.

Mr. BEVILL. This is correct, and the result of the studies will determine and give the committee the information it needs in order to decide whether to recommend construction.

Mr. YATES. The cost for those studies is $75,000 for Fruitland Mesa, $75,000 for Savery Pothook; and $150,000 for Lukfata, and that is all in the bill.

Mr. BEVILL. That is correct.

Mr. YATES. Let us turn to the three projects for which construction is funded. The first of these is the Narrows Unit in Colorado; is that not correct?

Mr. BEVILL. That is correct.

Mr. YATES. For the Narrows in Colorado the sum of $1.5 million is in this bill; is that correct?

Mr. BEVILL. This is correct.

Mr. YATES. The ultimate cost of that project is $145.5 million?

Mr. BEVILL. Yes.

Mr. YATES. But that sum is not in this bill.

Mr. BEVILL. That is correct.

Mr. YATES. The second project is Yatesville Lake in Kentucky, for which the conferees have approved $4 million?

Mr. BEVILL. This is correct.

Mr. YATES. All right, and the total cost of that project is $57.2 million; is that correct?

Mr. BEVILL. That is right.

Mr. YATES. That is the ultimate cost.

Mr. BEVILL. Yes. Before the gentleman leaves that, the testimony on Yatesville has revealed, that if we do not do something to control the floods in that area there is going to be a disaster. One man stated he has moved three times because of floods in that area.

Mr. YATES. I want to return to the Narrows project in Colorado for just a moment. It is my information that the cost-benefit ratio is very good on that one. The environmentalists in Colorado I am told, are generally in agreement with the construction of the revised project. Yatesville Lake in Kentucky has a good cost-benefit ratio. The third item in this bill is one with which I may have some difficulty, and that is the Bayou Bodcau project in Louisiana, $2.2 million is in the bill for the project and the ultimate cost is going to be $15.5 million.

It seems to me including that project in the bill, with which I may or may not disagree, is not sufficient reason in my mind for the President to veto the bill. Under the Budget Act the President can single out any project which he considers to be an unworthy one without vetoing the bill and send up a rescission to the Congress and let the Congress consider at that time whether that particular project or those projects should be funded; is that not correct?

Mr. BEVILL. That is correct. Not only can he do that, but he can also send up a deferral of funds under the Budget Act. He has two options.

Mr. YATES. That is correct. He has both options under the new Budget Act.

Mr. BEVILL. Yes.

Mr. YATES. So there is no need really to exercise a veto for one or two projects.

Mr. BEVILL. None whatsoever.

Mr. YATES. All right. Will the gentleman yield further?

Mr. BEVILL. Yes.

Mr. YATES. As the gentleman pointed out, this bill is under the President's budget.

Mr. BEVILL. Yes, $879 million under the budget.

Mr. YATES. In addition, as I understand it, this bill is almost $280 million

under the appropriation bill for the current fiscal year.

Mr. BEVILL. The gentleman is correct. I should also note that no construction starts were provided last year, and we are going to complete 69 projects in fiscal year 1978 and 1979. So we are not even keeping the number of projects in the construction pipeline at a constant level.

Mr. YATES. Will the gentleman yield further?

Mr. BEVILL. Yes.

Mr. YATES. My friends, with whom I joined in voting in support of the President's so-called hit list, have written a Dear Colleague letter, and I was going to support it until I went into a serious study of this conference report. In their letter—and I see my good friend, the gentleman from Pennsylvania (Mr. EDGAR) on the floor, who is one of the finest Members, and my good friend, the gentleman from Massachusetts (Mr. CONTE) and my dear friend, the gentleman from Illinois (Mr. MICVA) and the gentleman from South Carolina (Mr. DERRICK) and the gentleman from Wisconsin (Mr. STEIGER). They say that the bill provides over $3 billion for water projects, the great majority of which are necessary and worthwhile.

Well, I agree with that and they agree with that. Then they go on to say this:

> However, we feel that in an economy with an 8 percent rate of inflation and a $40 billion deficit, it is imperative that the Public Works bill contain only necessary and worthwhile projects.

I have been trying to figure out which projects are not necessary and which ones are not worthwhile. Perhaps the gentleman from Pennsylvania (Mr. EDGAR) will let us know which ones are unworthy when time is accorded to the gentleman.

Mr. BEVILL. Mr. Speaker, if I may say so, nobody appears before our subcommittee and told us that anything was wrong with these projects. This subcommittee actually had nearly 1,000 people appear before it in the 10 weeks we held public hearings.

Mr. YATES. Mr. Speaker, will the gentleman yield further?

Mr. BEVILL. I will be pleased to yield.

Mr. YATES. Mr. Speaker, may I return to the figure of $3 billion for water projects? I do not know to what that figure refers. I hope the gentleman from Pennsylvania (Mr. EDGAR) will let us know; but in trying to speculate what the $3 billion represents, I think the gentleman is referring to the total sum made available for both the Corps of Engineers and the Bureau of Reclamation. That is in the neighborhood of $3 billion, but that is for the entire operation of the corps and for the Bureau of Reclamation.

I would think that my good friend, the gentleman from Pennsylvania (Mr. EDGAR), would not want all that eliminated from the bill.

Mr. BEVILL. I am sure the gentleman would not.

Mr. YATES. The letter says that a great majority of these projects are necessary and worthy.

The $3 billion referred to in the letter includes, for example, $92 million for the administrative expenses of the corps and for the Bureau of Reclamation.

There is $46 million for the purchase of capital equipment, such as dredges and things of that sort.

For studies, there is $138 million for the Corps of Engineers.

The $3 billion referred to in the letter also includes a sum that is necessary for operation and maintenance of completed projects for both the Corps of Engineers and the Bureau of Reclamation.

It contains $1,344 million for corps projects that are ongoing, and that if the $3 billion were not available even ongoing projects would have to be stopped.

Now, I dislike having to take issue with my great friend, the gentleman from Pennsylvania (Mr. EDGAR), and with the others on this matter. Ordinarily, I think I would find myself on their side, but I think this subcommittee, under the direction of my good friend, the gentleman from Alabama (Mr. BEVILL), has done not only an outstanding job in the field of public works projects, but also in the field of review and allocation of funding for very necessary energy projects.

For all the reasons that I have outlined, Mr. Speaker, I propose to support the conference report.

Mr. EVANS of Colorado. Mr. Speaker, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Speaker, I want to direct my remarks to the distinguished gentleman from Illinois (Mr. YATES), the chairman of the subcommittee on Interior upon which I have the honor of serving, and to thank the gentleman from the bottom of my heart. For one thing, the gentleman and I have had differences of opinions from time to time and quite often they come down on the question of water and water projects.

It is not unusual for Members to have differences of opinion. That is what this Congress is all about, and I understand that. But it has been so frustrating to us in the West so often to not be able to get people who do not have our problems to take the time to look into the bill and the reasons for the various projects in the bill and study them, as the gentleman from Illinois has done.

Mr. Speaker, I want to thank the gentleman for having taken the interest and the time to do so, and, of course, I am perfectly delighted with the conclusions the gentleman has come to.

Mr. YATES. Mr. Speaker, will the gentleman yield so I may defend myself against the remarks of the gentleman from Colorado (Mr. EVANS)?

Mr. BEVILL. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, let me say this: The gentleman from Colorado (Mr. EVANS) and I, as he points out so well, are at issue on one of the matters in our own bill. The gentleman has the votes in our subcommittee, and perhaps he is right, I do not know.

I happen to believe in the necessity of adhering to studies of entire river basins and making the determination as to whether or not there is sufficient water to provide the resources we need. One of those is, of course, the water resources of the Colorado River. In our appropriation bill and in our conference report one of the amendments relates to the question of providing a basin-wide regional environmental impact statement for the Colorado River.

On that issue the gentleman and I are on opposite sides, because I wonder whether or not there is enough water to supply the water projects in which the gentleman is interested.

But I want the gentleman to know that in spite of the opposition I may express, I do respect his ardor, and his zeal, and his devotion to the needs and the cause of providing the people of the State of Colorado and of the area with the water which is a life-giving source for them. While we may differ on this item, I want to tell the gentleman that I, too, have enjoyed our association.

Mr. Speaker, I regret very much that for reasons of his own, the gentleman from Colorado (Mr. EVANS) has seen fit to leave the House. We will miss him next year.

Mr. EVANS of Colorado. Mr. Speaker, the gentleman is most generous, and I thank him for his remarks.

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. BEVILL. I yield to my friend, the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Speaker, I would like to try to speak just for a moment about some of the reasons why I feel I must vote against the conference report.

I congratulate the conferees for reconciling what I felt were two terrible bills into what is perhaps a better conference report than one might expect. But I still feel that the conference report has some problems connected with it.

To my colleague, the gentleman from Illinois (Mr. YATES), who thoroughly examined the report, I want to indicate that there are those who have a different point of view who have also thoroughly reviewed the report. It is true that the report is $879 million below the budget request, it is true that the report is $279 million below the appropriation for 1978, and it is true that the report is $181 million below the House-passed bill. All those things are true.

However, I think the real question that has not been discussed here, at least from the study I have done, is that there is $1.2 billion in paper savings.

When the President brought his budget to the House, he indicated that he wanted a concept of full funding. If we eliminate the concept of full funding, we reduce the President's request by at least $687 million. In other words, the report "saves" $687 million solely by rejecting the President's full funding accounting procedure.

Mr. YATES. Mr. Speaker, will the gentleman from Alabama (Mr. BEVILL) yield?

Mr. EDGAR. Mr. Speaker, if the gentleman will yield further, I would like

to finish just two or three more statements, and then I would be glad to respond.

Second, the report "saves" $316.5 million by taking advantage of additional unobligated balances not predicted in the administration's budget request.

Third, the report "saves" $100 million by predicting more uranium enrichment revenues than predicted by the administration budget requested.

Fourth, the report "saves" $68.9 million by predicting more miscellaneous revenues than predicted by the administration's budget request.

And, fifth, the report "saves" $41.3 million by estimating changes in inventory and working capital in excess of the administration's budget estimate.

When these $1.2 billion of paper savings are added up, it is clear that the claim made by the fact sheet that has been distributed and circulated around this floor is a little bit misleading. The fact is that there are several hundred millions of additional dollars of program increases in this bill. Some of these are new starts and new programs, and even though we have reduced from 8 to 6 the number of bad projects, the gentleman himself admitted that if those projects were bad last year and have not been justified this year in the discussions, they are still bad. To have $400 million of the taxpayers' money being spent as these move toward construction simply does not make sense in this particular amendment.

Mr. YATES. Mr. Speaker, will the gentleman yield so that I may engage in a colloquy?

Mr. BEVILL. Yes. But before I yield, may I make a statement on this point? The gentleman, I am sure, did not mean to say that the President's budget contained full funding because it does not. The budget submitted in January, which requested funds for over 200 continuing construction projects, was not a request for full funding. The budget amendment which came up in connection with the President's new water policy proposals did request full funding for 26 new construction starts including 8 loans. But that proposal was submitted after hearings on the budget had been completed, after subcommittee markup, after full committee consideration and just a few days before the bill was scheduled to be considered on the floor of this House. We should not, and we did not, take a White House news release and adopt it as the law of the land.

Now, I am sure that the new Congress will examine and consider in depth these new policy proposals when the 96th Congress convenes next year in an orderly and deliberate fashion. I have stated previously my belief that the recommendations embodied in this conference report are in substantial accord with the standards and criteria proposed by the President. I hope to explore the substance of the President's proposals next year. But as far as this year's budget request is concerned, only a portion of the budget request is for full funding. The remainder is not.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from Illinois.

Mr. YATES. I thank the gentleman for yielding.

Mr. Speaker, may I say to the gentleman that he assumes something that I am not willing to assume. He spoke of three projects for which funds are made available in this bill for study purposes. I think I quote his words exactly when he said they "are moving toward construction."

That is an unwarranted assumption. I am sure the members of the committee are not willing to assume that. There is $300,000 in this bill which does not warrant a veto. There is $300,000 in this bill to examine the projects, to see whether or not they should be approved.

To my mind, it is just as easy for them to be rejected, in the same way as Meramec Park Lake and La Farge were rejected. The committee may very well come to that conclusion.

So I think it is not entirely fair for the gentleman to assume, for purpose of his argument, that the $400 million represented by those projects is going to be spent.

Mr. EDGAR. Mr. Speaker, if the gentleman will yield, the reason the gentleman assumes that the projects will probably move on to construction—and I appreciate the gentleman's clarification of that point—is that I serve on the full Committee on Public Works and Transportation, the authorizing committee, and I have seen time and again, that when we authorize studies, we put our toe in the water. Simply by the act of putting our toe in the water, we move many of those projects on to completion.

I would also like to respond to the gentleman's (Mr. BEVILL) comment that this conference report is in substantial accord with the standards and criteria proposed by the President. I think the veto message of the President on this bill, which is almost certain to be strongly worded, will point out that many projects funded in this bill fail to meet the standards and criteria proposed by the White House relating to cost benefit, environment, safety, or combinations of these three.

Mr. Speaker, I rise in opposition to this conference report to H.R. 12928, the Public Works for Water and Power Development and Energy Research appropriation bill for fiscal year 1979.

By now, we are familiar with provisions of this bill which appropriate funds for 53 new water resource construction projects, 27 more than requested by the administration. The bill also appropriates funds for six of eight water resource projects approved by the House. These six projects—Bayou Bodcau, Narrows Unit, Savory-Pot Hook, Lukfata, Yatesville, and Fruitland Mesa—were approved despite the strong objections of the President.

It is clear that the President intends to veto this bill primarily because these six projects were included.

During debate in the House on this bill, there was much discussion about the agreement between the Congress and the President with respect to these eight "hit list" projects which were not funded last year. Frankly, I do not feel that it is constructive to again dredge up the differing perspectives on what the deal was on these projects. However, I continue to maintain that these projects are among the least justifiable of the hundreds of projects funded in H.R. 12928. The President objected to these projects for environmental, safety, and economic reasons, and nothing has changed to make any of these projects more attractive.

At a time when the Federal deficit is high, the American people deserve to have proposed programs scrutinized carefully to avoid wasteful expenditures. In my view, the House has failed to live up to its responsibility in monitoring wasteful spending in this bill.

For example, the House approved the Meramec Park Lake Dam project in Missouri. When my effort to delete this project failed in both 1976 and 1978, I was not surprised when this project was hailed as absolutely essential to the national interest. But I was also not surprised by the August referendum in Missouri when that State's citizens rejected this project by a 2-to-1 margin. The system of pork barrel politics is entrenched, and it takes courage and statesmanship to stand up against that system.

While I intend to vote against this conference report, I can sympathize with the reluctance of many of my colleagues to join me. On the surface, this conference report is $879 million under the President's budget. It looks like a fiscally conservative bill. What I would like to speak about today is the lack of program cuts in a bill which purports to be almost $1 billion under the administration budget.

A cursory reading of this conference report supports my view that this bill is a budget buster.

How could a bill which is almost $900 million under budget be characterized as a budget buster? Quite simply, there are more than $1.2 billion in paper savings which have virtually nothing to do with actual program cuts.

First of all, the President proposed "full funding" for construction projects, budgeting the full cost of a project. By rejecting this proposal, the conference report is artificially low compared to the President's budget. This simple difference in accounting results in at least a $697 million "paper" saving for H.R. 12928.

Second, revenues estimated from the sale of Federal uranium enrichment services differ by $100 million, also making the conference report budget request artificially low.

Third, unobligated balances carried over for the fiscal year 1979 programs in excess of administration budget estimates total at least $317 million, once again adding "paper" savings to this bill.

And finally, differences in accounting relating to miscellaneous revenues under title I and changes in inventory and working capital also add more than $100 million to the savings in this bill.

I do not want to pretend that the conferees have purposely played games in the accounting of funds in this bill in order to deceive Members about its budget aspects. In my opinion, the evidence suggests that the Department of Energy underestimated anticipated revenues and unobligated balances. The reiection of full funding for construction projects by the conferees is a policy decision which I can understand.

However, I expect the leadership to educate our colleagues that it would be a distortion to claim that this bill is $900 million under the President's budget without concurrently explaining that this is the result of accounting differences, not actual program cuts. On the contrary. H.R. 12928 proposes substantial program increases in every title.

All we need to do is to turn any page of the conference report and we see that program cuts are almost nonexistent in this bill, an interesting phenomenon in a bill which is almost $900 million under budget.

On the contrary, there are many program increases—

Solar energy, $33.7 million more than the budget;

Geothermal energy, $16.5 million more;

Biomass. $5.5 million more;

Magnetic fusion. $8 million more;

Lgiht water reactors, $28 million more;

Liquid metal fast breeders, $180.5 million more;

Environmental R&D, $7 million more; and

General science and research programs, $4 million more.

These are just for energy operating programs. Many energy capital programs show healthy increases taking into account the "full funding" in the President's budget.

Program compared to program, this bill proposes approximately $300 million in program increases compared to the budget, not $900 million in decreases. In addition. this bill commits $1.2 billion more than the President proposes for the construction of 56 new water project starts. As you may remember, the President proposed 23 new starts at a full funded cost of $640 million. This bill will appropriate only $103.6 million for 53 projects.

An argument may be made today by supporters of H.R. 12928 that even if this bill exceeds the President's request, it is under the congressional budget. While I cannot dispute that, there are two points that need to be made.

First, that congressional budget was based on most of the wrong assumptions which went into the President's budget. Just because some "paper" savings have been discovered does not mean that we reserve the right to increase program funds to make up for the savings."

Second, at a time when we cannot balance the Federal budget, we must make every effort to look at each expenditure. We cannot afford to waste money on unjustified porkbarrels which cannot meet simple economic tests solely because the bill appropriating the projects is ostensibly under budget. These six projects from the list of eight singled out by the President are unworthy of Federal funding whether or not the bill is under budget and whether or not we have a budget deficit or a budget surplus.

In conclusion, the real test of this bill will not occur today when this conference report is overwhelmingly approved. The test will occur when this House decides to override or sustain the President's veto of H.R. 12928. I urge my colleagues to study the veto message carefully and then to support the President in his quest for projects that make sense environmentally and economically:

Finally,

How do we respond to the "fact sheet" which is being circulated on the House floor which purports that H.R. 12928 is not inflationary, and is not a "budget-buster"?

The conference report is inflationary, and is a "budget buster."

True, the report is $879 million below the budget request.

True, the report is $279 million below the appropriation for 1978.

True, the report is $181 million below the House-passed bill.

But the more relevant question to ask is—

Where are the program cuts?

What proponents of this report fail to point out is that there are more than $1.2 billion in "paper" savings compared to the administration's budget request. These paper savings are not disguised—just read the conference report and find that:

(1) The report "saves" $687 million solely by rejecting the President's "full funding" accounting procedure. (see pages 16, 34–49, and 59–64)

(2) The report "saves" $316.5 million by taking advantage of additional unobligated balances not predicted in the Administration's budget request. (see pages 8, 18, 50, and 64)

(3) The report "saves" $100 million by predicting more uranium enrichment revenues than predicted by the Administration's budget request. (see page 15)

(4) The report "saves" $68.9 million by predicting more miscellaneous revenues than predicted in the Administration's budget request. (see page 8)

(5) The report "saves" $41.3 million by estimating changes in inventory and working capital in excess of the Administration's budget estimate. (see page 7)

When these $1.2 billion in "paper" savings are added up, it's clear that the claim made in the fact sheet which is being circulated on the floor by supporters of this bill is misleading.

Vote down this inflationary budget-buster.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, the gentleman mentioned his experience in the authorizing committee. I have been in Congress for almost 30 years. I think there are projects that the gentleman's committee has authorized, going back to 1948, that still have not been funded. The gentleman's committee authorizes a great many projects that do not get funded. It is a good thing the Appropriations Committee is here to prevent construction of many of those projects, because I think that many of the projects do not warrant funding. But in this case I think it is well to note that the Appropriations Committee has called a halt to construction of the three projects, and is providing funds only to restudy these projects. The President may be right in placing them on his hit list. We want to see them studied and we want the people who advocate them to give us the reasons that they ought to be funded. Then the committee can decide.

Mr. BEVILL. Mr. Speaker, I have very little time left. I urge the Members to approve the conference report.

Mr. KREBS. Mr. Speaker, will the gentleman yield?

Mr. BEVILL. I am almost out of time. If the gentleman will be brief I will yield.

Mr. KREBS. Mr. Speaker, I will make it brief. I thank the gentleman in the well for yielding.

Mr. Speaker, I think my review of this conference report would have to reach the conclusion that this committee has been selective, that this committee has been responsive to some of the concerns that have been expressed in and out of the Congress, as well as by the executive branch. I therefore feel that this report is a good report, a report that I think those of us from the West, as well as the East and South and North, should be able to support and still go back to our respective districts and feel that we have supported legislation that is in the best interests of the American people.

Mr. JOHN T. MYERS. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, I rise to urge my colleagues to vote down this public works appropriations conference report. A vote against this report is a vote for fiscal responsibility and a vote that will demonstrate that this Congress is dead serious about cutting wasteful Federal spending.

This bill contains many necessary and worthwhile water projects, but it is fatally tainted by a number of classic pork-barrel projects—massive multimillion-dollar boondoggles to rip off the American taxpayer and benefit small special interest groups.

Take a quick look at the Fruitland Mesa project in Colorado—this little ripoff will benefit 69 landowners at a cost of $88.2 million.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Illinois.

Mr. YATES. In the course of my discussion with the distinguished chairman of the committee, I pointed out that the Fruitland Mesa, Colo., project has only $75,000 allocated in this bill, and that is for a study of the project. The construction of this project may never take place, and probably will not take place.

Mr. CONTE. This is the place to knock it off, right here, because this project will eventually cost $88.2 million. One does not have to be an Einstein to figure that that will be $1.2 million per landowner, $4,615 per acre. The cost-benefit projection for the project is even more appalling—a maximum of 50 cents in return for every dollar of Federal investment.

Mr. YATES. Mr. Speaker, will the gentleman yield further?

Mr. CONTE. Let me go on for a little while. Let me dig into some others.

You will be getting a few more highlights from this pork-barrel parade from my colleagues but this project is typical of the boondoggles we are fighting—massive expense, benefits for a few wealthy landholders, and a pitiful return for your Federal dollars.

It is obvious, then, that there are a number of grave problems with this bill, but if I could take just a few more minutes of your time, I would like to focus now on one wasteful water project that has been a concern of mine for several years—the Dickey-Lincoln Dam project.

The Dickey-Lincoln School Lakes Dam project is a massive attempt to erect two dams on the St. John River in northern Maine. It was first authorized in fiscal year 1965 and I have constantly and insistently opposed it since its inception. The Congress considered and wisely rejected funding this project for 7 straight years, but New England's critical energy shortage led to a resurrection of this issue in fiscal year 1975—and it is still with us.

We have been waiting for the final environmental impact statement in order to consider this project on its full merits. The draft EIS was issued in October 1977 and the final EIS is expected at the end of this month. The draft EIS only strengthened our arguments against the project.

Somehow, $1.76 million for preconstruction planning on Dickey-Lincoln slipped into this year's Senate bill and this conference report. Though the amount is small, it represents a first step toward actual construction and moves the project beyond the preliminary phase represented by the environmental impact statement.

I think it is time right now to stop pouring more money into this irresponsible waste of taxpayer dollars and of our irreplaceable natural resources.

A brief review of the facts reveals that this project is an environmental outrage, and is not justified economically.

Dickey-Lincoln will irrevocably destroy much of the St. John River, the last major wilderness river in New England, by flooding 287 miles of the main river and its tributaries. The St. John is an excellent recreational canoeing area and one of the best brook trout streams in the United States. Dickey-Lincoln will inundate 88,000 acres of prime timberland to create a lake whose major fluctuations in water level will further mar the environment by leaving a giant and unsightly "bathtub ring" along its shoreline. This manmade lake will interfere with the habitat, food chain, and wildlife community structure of the region.

Nor are the environmental consequences limited to the immediate area—the amount and temperature of the dam's discharge may have an adverse impact on downstream fishing as well.

The economic value of this project is marginal at best, according to the Army Corps of Engineers. It is their project and they have calculated the cost-benefit ratio at 1.2 to 1. That is not a very compelling justification for a project whose total price tag has most recently been pegged at $822 million. That is up from the original 1965 estimate of $227 million and we can reasonably expect the total price tag to break the billion dollar barrier if the project is carried to completion.

The power to be produced would not be worth the expense. It is a "peak power" plant, operates for a maximum of 2 to 3 hours a day, and would produce less than 1 percent of New England's electric capacity. That is not very significant production for what will be the 11th largest dam in the world by volume.

To proceed with construction of this environmentally destructive and economically disastrous project would be all the more tragic, because there is a faster, less expensive, and more environmentally sound alternative.

New England has literally thousands of existing small dam sites which can be retrofitted to produce hydroelectric power.

The Energy Research and Development Administration authorization for fiscal year 1978 established a small-site hydroelectric program within DOE and authorized $10 million for it. The program has been continued in this year's authorization. Most of this money is to be used for actual retrofitting of several small dams to demonstrate the economic and environmental viability of this approach.

Let us compare Dickey-Lincoln and this alternative.

First, the small-site approach has all the advantages of hydropower claimed for Dickey-Lincoln with hardly any of environmental costs. There is no need to inundate a pristine wilderness. The small sites to be retrofitted already exist and require only minor modifications.

Second, the small site approach is vastly less expensive. A recent study suggested that retrofitting 450 average-size sites (out of a New England total of 5,200 sites) could produce 92 percent of Dickey-Lincoln's projected power at one-fifth the cost.

Third, the small-site approach is faster. Dickey-Lincoln was authorized in fiscal year 1965 and is not projected for completion until 1986. Retrofitting is a small-scale project and can be completed in 6 to 9 months at each site and numerous retrofitting can proceed simultaneously.

True, small-site retrofitting is a regional solution, adapted to an area with a significant number of old dams. But, the essence of our response to the issues of energy and conservation should be to mold a solution by working with what we have—and not to destroy our natural resources by imposing on them a wasteful "white elephant" dictated by the policies of the past.

Because there is a sensible and economical alternative to this towering monument to bureaucratic momentum and inflexibility, I believe that our only responsible course is to defer any further funding for Dickey-Lincoln until the final environmental impact statement is issued.

Then, I think we ought to use that statement to review the project on its merits once and for all. I am prepared to lead the fight to kill the whole project then and for all time.

Thank you, Mr. Chairman.

Mr. YATES. Mr. Chairman, will the gentleman from Indiana (Mr. JOHN T. MYERS) yield 1 minute?

Mr. JOHN T. MYERS. Certainly, I will yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, I want to address myself once more to my friend the gentleman from Pennsylvania (Mr. EDGAR) and his question about so-called paper savings.

Sometimes those of us on the Committee on Appropriations, and I am guilty of this, too, because I am a subcommittee chairman, when we look for savings and reductions, we make what can be termed paper savings. However, in this case, I am told that there are real savings which will be achieved if the conference report is enacted. I am told that the bill is approximately $25 to $50 million below the President's budget in real terms.

Mr. EDGAR. If the gentleman will yield, the real question that I hope our chairman will answer is where are the $900 million of alleged savings? Where are they? I think the gentleman will come up with $35 to $50 million, but not $900 million.

The SPEAKER. The time of the gentleman has expired.

Mr. JOHN T. MYERS. I yield 1 additional minute to the gentleman from Illinois (Mr. YATES).

Mr. YATES. Mr. Speaker, as I pointed out to the gentleman, there are such things as paper savings. But the point I want to make is that there are actual savings associated with this bill such that the amount made available in this bill is below the comparable amount requested in the President's budget.

Mr. JOHN T. MYERS. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. ROBERTS).

Mr. ROBERTS. Mr. Speaker, I rise in support of the conference report on H.R. 12928, the Energy and Water Development Appropriations Act for fiscal year 1979.

I wish to commend the distinguished chairman of the Public Works Subcommittee and the ranking minority member of that subcommittee, as well as the other members, for the excellent job they have done in putting together a

reasonable and sound bill, a bill that recognizes this Nation's energy and water resources needs.

As chairman of the Water Resources Subcommittee of the Committee on Public Works and Transportation, I have a strong interest in and appreciation of the truly enormous water resources development needs of the country. Water resources development has played a crucial role in the country's development. Our navigable waterways carry vast quantities of agricultural goods, chemicals and fertilizers, and oil and coal for energy efficiency and at a low cost. Our people have been protected from the ravages of flooding. And water supply for municipal and industrial purposes has been provided. But our water resources needs are far from met—there is much yet to be done. Most importantly, these are national needs, not just local and regional ones. All of the people of the country benefit from water resources development.

Yet the administration, it appears, would have us forgo these benefits, and gradually phase out the water resources program through the elimination of most new study and construction starts.

Water resources problems are not solved by ignoring them. We cannot wait until problems such as water shortages appear before attempting to solve them. We must begin now to plan for and meet the needs of the future.

The conference report before us today does this. It provides for the construction of badly needed projects as well as for studies of potential projects to solve problems we know will exist in the future. It is a sound bill and deserves our support.

Mr. Speaker, I urge adoption of the conference report.

Mr. JOHN T. MYERS. Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma (Mr. WATKINS), who has done an outstanding job in working on this bill.

Mr. WATKINS. Mr. Speaker, I thank the gentleman for yielding.

I rise in support of this conference report.

Mr. Speaker, I would like to make a particular point. I know that some people are discussing this bill as a budget buster. I think we all know at this end of Pennsylvania Avenue that this bill is below what the President had requested; and I think if those at the other end of Pennsylvania Avenue read this bill, they will know that it is below what the President requested. Therefore, they cannot go to the people of this country and say that this is a budget buster. They would be misleading the people of the country if they took such a case to the people.

Also, Mr. Speaker, if we are serious at this end of Pennsylvania Avenue about solving the energy problem, and if we are serious at the other end of Pennsylvania Avenue about solving the energy problem, this bill has 60 percent of its money devoted to the future energy research and development programs to solve this tremendous problem facing our American citizens. If we are going to solve these problems, we need this bill.

Mr. JOHN T. MYERS. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. LONG).

Mr. LONG of Maryland. Mr. Speaker, I thank the gentleman for yielding.

I listened over the television in our offices to the very eloquent speech of the gentleman from Massachusetts (Mr. CONTE), who was referring to all these boondoggles.

Mr. Speaker, I think the gentleman from Massachusetts (Mr. CONTE) and the administration have a double set of standards; one set of standards for U.S. public works projects which they are very critical of, and another set of standards for foreign public works projects, of which they are very uncritical.

Mr. Speaker, I have here a list of $2 billion worth of foreign aid public works projects, some of which are going to make millionaires and multimillionaires in many undeveloped countries, not to help the poor, but to help the rich. Let me point out that some of these are 50-year loans at zero percent interest. In my opinion, many of these foreign public works projects are far worse boondoggles than anything in the present public works bill.

Mr. Speaker, I support this public works conference report.

Mr. Speaker, at this point in the RECORD I include the following list to which I referred:

PUBLIC WORKS PROJECTS BY THE INTERNATIONAL FINANCIAL INSTITUTIONS—1977

	Millions
Asian Development Bank	$341.1
Inter-American Development Bank	497.5
World Bank	1,000.6
International Development Association	192.0
Total	2,031.2

ASIAN DEVELOPMENT BANK—1977 PUBLIC WORKS PROJECTS

Country and purpose; terms of loan; and amount

Afghanistan: Hydropower; 1%, 40 years to repay; $9 million.

Bangladesh: Irrigation; 1%, 40 years; $24 million.

Indonesia: Irrigation; 8%, 15–25 years; $20.5 million.

Indonesia: Port development; 8%, 15–25 years; $17.5 million.

Korea: Flood control and irrigation; 8%, 15–25 years; $45 million.

Malaysia: Port expansion; 8%, 15–25 years; $10 million.

Nepal: Irrigation; 1%, 40 years; $3.4 million.

Pakistan: Irrigation; 1%, 40 years; $31.5 million.

Pakistan; Hydropower; 8%, 15–25 years; $38 million.

Papua New Guinea: Hydropower; 8%, 15–25 years; $2.7 million.

Philippines: Irrigation; 8%, 15–25 years; $22.0 million.

Philippines: Hydropower; 8%, 15–25 years; $29.0 million.

Sri Lanka: Hydropower; 1%, 40 years; $17.5 million.

Sri Lanka: Irrigation; 1%, 40 years; $24.0 million.

Thailand: Hydropower; 8%, 15–25 years; $47.0 million.

Total: Asian Development Bank public works projects for 1977, $341.1 million.

NOTE:

U.S. share of paid-in and callable capital equals 9.2%.

U.S. share of Asian Development Fund equals 14.0%.

Source: Asian Development Bank Annual Report, 1977.

INTER-AMERICAN DEVELOPMENT BANK—1977 PUBLIC WORKS PROJECTS

Country and purpose; terms of loan; and amount

Brazil: Hydropower; 8%, 20 years to repay; $69.8 million.

Colombia: Hydropower; 8%, 20 years; $70 million.

Ecuador: Irrigation; 1% in 10 year grace period; 2% in 30 year repayment period; $11.8 million.

El Salvador: Hydropower; 1% in 10 year grace period; 2% in 30 year repayment period; $45.4 million; 8%; 25 years; 45 million.

Guyana: Flood control and irrigation; 1%; 10 year grace period; 2%, 30 year repayment period; $49.5 million.

Jamaica: Irrigation; 2%, 36 years; $12.5 million.

Mexico: Irrigation; 8.4%, 20 years; $54 million.

Mexico: Irrigation; 8%, 20 years; $41.5 million.

Panama: Hydropower; 8%, 26 years; $98 million.

Total: Inter-American Development Bank public works projects for 1977, $497.5 million.

NOTE:

U.S. share of paid-in and callable capital equals 36%.

U.S. share of Fund for Special Operations equals 55%.

Total: Inter-American Development Bank annual report, 1977.

WORLD BANK—1977 PUBLIC WORKS PROJECT

Country and purpose; terms of loan; and amount

Egypt: Irrigation and drainage; 8.2%, 20 years; $27 million.

Egypt: Irrigation and drainage; 4.2%, 24 years; $12 million.

Greece: Irrigation and flood control; 8.2%, 15 years; $35 million.

Indonesia: Irrigation; 8.2%, 20 years; $63 million.

Indonesia: Irrigation; 8.2%, 20 years; $35 million.

Kenya: Irrigation; 8.2%, 20 years; $34 million.

Korea: Irrigation; 8.5%, 16 years; $95 million.

Korea: Irrigation; 8.9%, 12 years; $29 million.

Malaysia: Irrigation; 8.2%, 17 years; $39 million.

Morocco: Irrigation; 8.7%, 13 years; $41 million.

Philippines: Irrigation; 8.2%, 20 years; $50 million.

Philippines: Irrigation; 8.5%, 19 years; $15 million.

Romania: Irrigation; 8.5%, 14 years; $60 million.

Thailand: Irrigation; 8.2%, 20 years; $55 million.

Tunisia: Flood control, hydropower; 8.2%, 20 years; $42 million.

Yugoslavia: Irrigation; 8.7%, 15 years; $54 million.

Ghana: Hydropower; 8.5%, 20 years; $39 million.

Guatemala: Hydropower; 8.2%, 17 years; $55 million.

Panama: Hydropower; 8.2%, 17 years; $42 million.

Tanzania: Hydropower; 4.9%, 25 years; $30 million.

Algeria: Port development; 8.2%, 17 years; $80 million.

Cameroon: Port development; 8.9%, 20 years; $15 million.

Honduras: Port development; 4.5%, 24 years; $12 million.

Indonesia: Port development; 8.7%, 20 years; $32 million.

Mauritius: Port development; 4.7%, 25 years; $3.6 million.

Senegal: Port development; 4.2%, 24 years; $6 million.

Total: World Bank public works projects for 1977, $1000.6 million.

NOTE:

U.S. share of paid-in and callable capital equal 25.2%.

Source: World Bank annual report, 1977.

INTERNATIONAL DEVELOPMENT ASSOCIATION—1977 PUBLIC WORKS PROJECTS

Country and purpose; terms of loan; and amount

Bangladesh: Irrigation; 0.75%, 50 years; $21 million.

Bangladesh: Irrigation; 0.75%, 50 years; $16 million.

Chad: Irrigation; 0.75%, 50 years; $12 million.

Chad: Irrigation; 0.75%, 50 years; $8 million.

India: Irrigation; 0.75%, 50 years; $23 million.

Kenya: Irrigation; 0.75%, 50 years; $6 million.

Nepal: Irrigation; 0.75%, 50 years; $9 million.

Pakistan: Flood control and irrigation; 0.75%, 50 years; $40 million.

Sri Lanka: Irrigation; 0.75%, 50 years; $19 million.

Sri Lanka: Irrigation; 0.75%, 50 years; $5 million.

Malawi: Hydropower; 0.75%, 50 years; $8 million.

Burma: Port development; 0.75%, 50 years; $10 million.

Cameroon: Port development; 0.75%, 50 years; $10 million.

Honduras: Port development; 0.75%, 50 years; $5 million.

Total: International Development Association public works projects for 1977, $192 million.

NOTE:

U.S. share of IDA contributions equals 28%.

Source: World Bank annual report, 1977.

Mr. JOHN T. MYERS. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. DICKS), an outstanding member of the subcommittee.

Mr. DICKS. Mr. Speaker, I think there has been ample discussion about the civil works projects of the Corps of Engineers and about the Interior Department's Bureau of Reclamation funding.

However, I would like to point out to my colleagues of the House of Representatives that this is the energy development bill as well as the water development bill for this country.

Let me just give the Members some idea of the money we are providing for energy development.

First of all, we are providing a total of $2.6 billion for development programs.

For solar energy, there is $442 million in the bill.

For geothermal, there is $156 million in the bill.

Fuels from biomass, there is $42 million in the bill.

Hydroelectric power development, $28 million.

Fusion energy, $349 million.

Electric energy systems, $40 million.

Energy storage systems, $58 million.

Mr. Speaker, the list goes on and on. For those in the Congress who are concerned about our energy program this is an opportunity, by approving this conference report, to show our support for energy alternatives and for energy development.

Mr. Speaker, I suggest that we may not get, although we hope to get, an energy authorization bill passed this year. If we do not, the Members can still go back to their constituents and tell them about the energy development appropriation bill which really does something about producing alternative energy sources.

Mrs. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. DICKS. I yield to the gentlewoman from Louisiana.

Mrs. BOGGS. Mr. Speaker, I thank the gentleman for yielding.

Is it not true that 50 percent of the funding in this bill is for energy and energy-related problems?

Mr. DICKS. That is right. When we consider the amounts of money which being provided for hydroelectric projects, power marketing and energy development almost half the bill is for energy.

Mrs. BOGGS. Is it not also true that about 60 percent of the funding for the Department of Energy is contained in this bill?

Mr. DICKS. That is correct.

Mrs. BOGGS. I thank the gentleman, Mr. Speaker.

Mr. JOHN T. MYERS. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. BURGENER), an outstanding member of the committee.

Mr. BURGENER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of this conference report and thank the chairman, the gentleman from Alabama (Mr. BEVILL), and the gentleman from Indiana (Mr. JOHN T. MYERS), and the members of the committee for producing an excellent and well-balanced bill. I would also like to associate myself particularly with the remarks of the gentleman from Washington (Mr. DICKS).

This is really the only energy game in town that has to do with the production of energy and new sources. The so-called President's program that has been stalled for some 17 months around this place has to do with shortages, with conservation—which is important—with new taxes, and so on, but this bill has the production of energy in it, some 50 percent of this entire bill. It is very, very important. It may be the only energy we produce during this entire Congress.

Just to comment on the full-funding concept, if it has merit, and I do not think it has much merit because it surrenders the oversight responsibility of Congress. But if we talk about full funding, putting the out-years or future years' money in this bill at this point, we really would be surrendering our congressional oversight function, a most vital function of the Congress.

Furthermore, this would most certainly not be the time to do it when adopting a conference report. There have been no public hearings on it. The idea was brought up when we had finished our labors in the committee. And, indeed, it certainly flies in the face of the zero budgeting concept. Full funding at this time? Absolutely not.

Mr. Speaker, at the risk of repeating, this bill is some $879 million below the President's request, $280 million below last year's bill, $181 million below the House-passed bill that passed overwhelmingly. It is not a budget buster. It is not inflationary. It is well balanced. I hope it has an overwhelming aye vote.

Mr. JOHN T. MYERS. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GAMMAGE).

Mr. GAMMAGE. Mr. Speaker, I have two or three questions I would like to address to the gentleman from Alabama (Mr. BEVILL) if I may.

The conference report contains a funding level of $5 million for the construction of an away-from-reactor spent fuel storage facility. Is it the gentleman's interpretation of the bill that the upgrading of the funding commitment from $3 to $5 million is consistent with the intent of section 403 of H.R. 11392 to construct adequate away-from-reactor storage facilities?

Mr. BEVILL. If the gentleman will yield, the answer to the gentleman's question is yes.

Mr. GAMMAGE. Is it also the gentleman's view that DOE will recognize the need to request either reprograming of funds or supplemental funding to assure that this program is kept on schedule?

Mr. BEVILL. Yes, if that is necessary to keep the schedule.

Mr. GAMMAGE. Finally, does this provision of the bill constitute an authorization to begin this project in the absence of an authorization bill for the Department of Energy by October 1 of this year?

Mr. BEVILL. When this bill is signed by the President, it is law. My view is that the Department must proceed with the project in accordance with the intent of Congress, or they must send up a recession or deferral in accordance with the Congressional Budget Act.

Mr. GAMMAGE. I thank the gentleman.

Mr. Speaker, I rise in support of the conference report on the energy and water resources appropriations bill, H.R. 12928, I commend my colleague from Alabama for his excellent work as chairman of the Public Works Subcommittee in bringing to the floor a number of important energy supply programs funded at levels consistent with the intent of the two committees on which

I serve, Science and Technology and Interstate and Foreign Commerce.

The conference report includes a funding level of $5 million for the construction of an away-from-reactor spent fuel storage facility. From the colloquy on the Senate floor on August 10, 1978, it is clear that the sponsors of the amendment and the Senate counterpart of my colleague from Alabama clearly intended to transmit a strong message to the Department of Energy, namely, that it should begin a construction oriented program in fiscal year 1979 to provide initial storage capacity by 1983. This position adopted by the conferees appears to be totally consistent with the House Appropriations Committee position outlined in report 9-1247 that the design of a spent fuel storage facility must begin in fiscal year 1979 to avoid delaying an operating date beyond 1983. The committee also noted that domestic utilities will need assistance to store 900 metric tons of spent fuel by the end of 1982, and an additional 800 metric tons by 1983. This total of 1,700 tons amounts to nearly 40 percent of the capacity of the proposed first increment which must be available in 1983.

I am encouraged that the Department has recognized the strong congressional interest in timely implementation of the President's October 1977 spent fuel storage policy. The Department has recently advanced its proposal for full cost recovery fees to be charged utilities and it has also completed the draft environmental impact statement on domestic spent fuel storage. These actions are entirely consistent with the mandate of this Congress and I hope my colleagues will continue to strongly support expeditious implementation of this program.

Mr. JOHN T. MYERS. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. I thank the gentleman.

I would like to address a question to the chairman of the committee, the gentleman from Alabama (Mr. BEVILL).

In the colloquy with the gentleman from Illinois (Mr. YATES) he indicated that there was $50 million or so in savings above the administration's. If there is a $1.2 billion paper savings, as I suggested, and he indicates that the program is $879 million below the budget request, is not there some $300 million or so of program increases in this particular bill?

Mr. BEVILL. If the gentleman will yield, there is no increase. My good friend and colleague is adding apples and oranges. We are taking the same bottom line we took last year in the appropriation bill, the year before, in the total of each of these appropriations, and this comes to over $800 million under the budget.

Mr. JOHN T. MYERS. Mr. Speaker, I yield 1 minute to the gentleman from Mississippi (Mr. WHITTEN), a member of the committee.

Mr. WHITTEN. Mr. Speaker, my colleagues on this committee have done a splendid job in presenting this conference report. I leave only one thought here. There is quite a bit of difference between money and wealth. Some years ago, a President vetoed a public works appropriation bill on the grounds that we had so many obligations to foreign countries, we owed so much money, that we could not afford 67 new starts in our own country.

I spoke yesterday to the Agricultural and Soil Conservation Service in Washington and I made the statement that there is one bank account we cannot afford to overdraw, and that is our own country's bank account. This is a bill that provides for the development and protection of the natural resources of the United States. We can handle our financial situation and our inflation problems because our children and our children's children can set up their own monetary system; but if we let our country's resources go down the drain, we will be like the Chinese and the Indians. We will have nothing on which to build. This is a bill that takes care of our country and provides for future generations.

Mr. JOHN T. MYERS. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in strong support of this conference report. We all realize that any time you work on legislation in this body there are areas of conflict and disagreement. I am very pleased to have been a part of this conference. This has not always been true; but the members of this subcommittee, along with the extremely hard-working staff, worked very diligently on the bill. We tried to resolve differences as the testimony had been presented, trying to work out the best bill and one that meets the needs of this country. As so many people have said here, most eloquently by the gentleman from Mississippi that preceded me in the well, we tried to work out the honest differences Members have.

I thought we had a good bill, but after working with the other body in conference, I believe we have a slightly better bill and one that every Member in both chambers can support.

I am concerned when I hear people call this a pork barrel bill. Let us go over some of the pork barrel issues that are in this bill. Who is to tell the people in Rochester, Minn., where we have $300,000 for construction of a flood wall that this is a pork barrel. Earlier this year a flood caused the loss of five lives and $56 million in property damages. Are you going to tell the families of those five people that this is a pork barrel flood control project that could have saved those people's lives?

Just this morning we read in the newspaper of the devastating floods in Arkansas and in Texas where 11 known lives have been lost and hundreds of millions of dollars in property damage loss. You who vote against this bill today, are you going to tell the families of those 11 people that you voted against possible flood protection for them because this was a pork barrel bill?

Sure, there are a few sections in here that we have honest disagreement about, but there is not a Member of this body that does not have some communities that are either out of water today or are running low on municipal and industrial water. Are you going to go back home and tell those people who have to start rationing water 5 or 10 years from now, "Oh, I voted against that extravagant bill because I considered adequate water for you to be a pork barrel issue."

Right now in Bloomington, Md., Bloomington Lake is being built to provide water for Washington, D.C. In a dry period, we can run out of water without any growth in population.

When you vote today, if you vote against this bill, are you going to tell your successors, "Oh, I'm sorry, but you are going to run out of water in the midde of the summer because we voted against a pork barrel bill that might have given you water."

Let us take a look at energy. As has been said, about 50 percent of the funds in this appropriation are for energy development. We are trying to become energy self-sufficient in this country. We do not want to be dependent upon Arab oil. If another Arab embargo is imposed our country is going to be severely hurt.

We are searching for new areas and new ways of producing energy. If we vote no on this conference report, we will be destroying the opportunity of perhaps achieving a breakthrough. We have included $36,700,000, over the President's budget, for solar energy. Who is to say that solar energy may not be the only source of energy we will have for our grandchildren?

And what about geothermal? No one knows exactly what the possibilities are here, but we have increased the appropriations for geothermal research.

We have included funds for biomass. Some communities are right up to here in their own waste that accumulates in the cities and in the communities. Here is an opportunity to use this waste material. There is a good possibility that this may be a source of energy for the future. We have increased the appropriation for biomass.

This list goes on. We have fusion. There was a breakthrough in New Jersey a few weeks ago on fusion, and there is a real possibility that fusion will be a real source of energy sometime in the future. Yes, we went over the President's budget because we believe that we had to increase research for fusion.

The SPEAKER pro tempore (Mr. NEDZI). The time of the gentleman from Indiana (Mr. JOHN T. MYERS) has expired.

Mr. JOHN T. MYERS. Mr. Speaker, I yield myself 4 additional minutes.

Mr. Speaker, if we today vote against this conference report, we are voting for a reduction in fusion research. This is a balanced bill, but it is true that everyone did not get everything they wanted.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. JOHN T. MYERS. I yield to the chairman of the Committee on Appropriations.

Mr. MAHON. Mr. Speaker, in my individual capacity and as chairman of the Committee on Appropriations, I want to say that I have carefully followed the development of the Public Works appropriation bill, and I think the claims in support of it are valid. I support it, and I hope the House will adopt the conference report today by an overwhelming vote.

Mr. COHEN. Mr. Speaker, will the gentleman yield?

Mr. JOHN T. MYERS. I yield to the gentleman from Maine.

Mr. COHEN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would like to say to the gentleman in the well that I want to commend him as being about the only Member of the House conferees who at least raised a question about the funding of the construction for the Dickey-Lincoln project. The gentleman indicated that everybody did not get everything they wanted, but in this case we got something we did not want, as far as the House is concerned, because the House deleted the money for the construction funds for the Dickey-Lincoln project. This is just going to have the result of getting this Congress into the position, I believe, of funding a $1 billion project which, I think, has limited benefits for the region and for the country.

Mr. Speaker, I commend the gentleman from Indiana (Mr. JOHN T. MYERS), and I want to associate myself with the remarks of the gentleman from Massachusetts (Mr. CONTE), who spoke earlier. I do also want to commend the House for the position it took, and I want to commend the members of the Conference Committee who objected to the funding of the Dickey-Lincoln project.

We are opposed to this project, because here is a project that is not at all like the ones out West which have actually had construction started that the President wanted to interrupt. This is a project on which no construction has yet begun.

Mr. Speaker, here we had an opportunity to help the President balance the budget by 1981. At least he said that was his goal last spring, and this is one case where we could make some substantial savings.

Mr. JOHN T. MYERS. Mr. Speaker, I thank the gentleman from Maine (Mr. COHEN) for his comments.

Mr. Speaker, I want to say this: The House went to conference without Dickey-Lincoln in the bill for the first time since I have been in the Congress, and there was a legitimate attempt not to put it in. The Senators were polled, and they were 100 percent for Dickey-Lincoln.

The conferees were up against a situation where there were Members in our conference who supported Dickey-Lincoln; there were others who were opposed to it. We tried to protect the position of the House, but with the unanimous position of the other body against the position of the House, there was little opportunity for us to compromise.

I want the gentleman from Maine (Mr. COHEN) to understand fully that we tried to protect his interests and the interests of other delegations from New England. The Maine delegation and the Vermont delegation had committed themselves to the proposition that they did not want Dickey-Lincoln, and they were successful in keeping it out of the House bill.

But there is no choice today. The other body wanted Dickey-Lincoln, the President wanted Dickey-Lincoln. I must honestly tell the gentleman there is really no hope today for his position. I wish I could tell him there is, but the fact is that there is no way to keep Dickey-Lincoln out of the bill.

Mr. BOLAND. Mr. Speaker, will the gentleman yield?

Mr. JOHN T. MYERS. I yield to the gentleman from Massachusetts.

Mr. BOLAND. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the conference report. One thing I am not going to do is associate myself with the remarks of my colleague, the gentleman from Massachusetts (Mr. CONTE) or with the remarks of the gentleman from Maine (Mr. COHEN). Both those gentlemen must recognize the fact that in a conference, of course, it is a give-and-take proposition. This is not the only body that determines what projects should go into a particular public works bill.

I have sat in conference on this committee for some years now. The gentleman from Maine (Mr. COHEN) has consistently supported this project up until this year. I suppose that the Members of the other body, the two Members from the State of Maine, had a right to state their positions. I thought they were very effective.

Let me only say that all of the $1,756,000 in this bill is to complete preconstruction planning on the Dickey-Lincoln project.

The SPEAKER pro tempore. The time of the gentleman from Indiana (Mr. JOHN T. MYERS) has expired.

Mr. JOHN T. MYERS. Mr. Speaker, I yield myself 4 additional minutes.

Mr. BOLAND. Mr. Speaker, if the gentleman will yield further, the total amount for planning of that project runs to about $10 million, and the draft EIS statement has been filed. The final EIS statement will not be filed until a couple of months from now. I must say that it has become a political problem in the State of Maine. The gentleman from Maine, of course, knows it better than I do. I do not criticize him for his particular position. He is entitled to that position. What I do say is that there are members in the other body who have some interest in the State of Maine too. I think their opinions and their judgments ought to be considered.

I might also say—and I am sorry my colleague, the gentleman from Massachusetts (Mr. CONTE) is not here—I do not recall that the gentleman has ever voted for a Public Works appropriation bill in his time in this House. His reference to the fact that this particular item was slipped in by the conferees, of course, is nonsense. The Dickey-Lincoln project was recommended for funding for preconstruction planning by the Appropriations Subcommittee on Public Works of the Senate. It approved, and the Senate approved the amount of $1,756,000 by a voice vote. That is the same amount recommended in the budget by the President and passed in the Senate by a voice vote.

It was obvious in the conference that the Senate conferees would not yield and there was no reason why they should. They were exercising their responsibility to stick to the Senate's action.

Mr. WOLFF. Mr. Speaker, will the gentleman yield?

Mr. JOHN T. MYERS. I yield to the gentleman from New York.

Mr. WOLFF. Mr. Speaker, I rise in support of the conference report as a most important step in providing alternate sources of energy for the Nation. I would like to take this opportunity as well to speak on behalf of an item in the energy and public works appropriations bill which has the promise of one day leading to an improvement in the environmental quality and safety of the district in which I serve.

Currently, section 202 of the Water Resources Development Act of 1976 authorizes the Army Corps of Engineers to develop projects for the collection and removal of drift and debris from publicly maintained commercial boat harbors and from land and water areas immediately adjacent to them. However, for almost 2 years no funds had been appropriated for this new program in order to develop small drift removal projects. I believe that this was unfortunate because this section has the potential for providing meaningful assistance to water quality projects.

I am, therefore, pleased to now thank my colleagues in the Congress for listening to my requests and for making Hempstead Harbor, which is located in the Sixth Congressional District of New York, the first recipient in the Nation of funds under section 202 for a drift removal project.

Hempstead Harbor has for many years suffered the presence of derelict and dilapidated barges and other abandoned structures. These barges have long been a danger to navigation and a source of environmental blight. However, until recently, in spite of the great need for action to restore this harbor, the localities affected have been unable to act due to financial constraints.

With the $50,000 in funding now made available under this appropriations bill, the Corps of Engineers will be able to conduct a comprehensive study of the manner and costs of clearing these barges and other structures from the harbor. In that way the Congress will have an authoritative record upon which to base its funding in the future for the actual removal of the drift and debris.

Furthermore, the Congress will have

a well-considered plan on how to conduct this project which will take into account all the needs and interests of the individuals and communities affected. Armed with this thorough study, I feel confident that the Congress will react favorably when I seek full funding for the actual removal under section 202 of the barges and other structures.

At a time when Government is often thought unresponsive to the calls of the people and unaware of their needs, it is heartening to be able to point to an action by the Congress which shows that the Federal Government has a human face.

Mr. BURKE of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. JOHN T. MYERS. I yield to the gentleman from Massachusetts.

Mr. BURKE of Massachusetts. I thank the gentleman for yielding.

Mr. Speaker, I want to associate myself with the remarks of the gentleman from Massachusetts (Mr. BOLAND). This Dickey-Lincoln project has become a political football. We in the Northeast face the highest electric rates in the Nation, and something has to be done.

Mr. Speaker, I support this conference report because I recognize that throughout the Nation many of these water projects are greatly needed. I want to assure the House that we Members from the Northeast are not opposed to this conference report.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. JOHN T. MYERS. I yield to the gentleman from New York.

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of this conference report and commend our distinguished colleague, the chairman of the Public Works Appropriations Subcommittee, the gentleman from Alabama (Mr. BEVILL) and the gentleman from Indiana (Mr. MYERS), the ranking minority member, for the thorough work that they and their subcommittee, as well as our distinguished colleagues in the Senate, have done on this important legislation. The committee's final bill is a sound product and I hope that my colleagues will join in approving this conference report.

Frankly, I find it hard to believe that controversies have arisen regarding this appropriations bill, and will be hard pressed to explain to my constituents of the 26th Congressional District of New York just why such controversies have arisen.

This bill helps to resolve two critical flood problems in my congressional district—the Wallkill River and the Passaic River Basin.

The Wallkill River, in Orange County, N.Y., drains some of the most fertile lands in the United States. That area produces 15 percent of the onions consumed nationally east of the Mississippi and other truck vegetables. And yet, each and every year more and more growers are being driven from their farms, because of the chronic flooding problems along the Wallkill River. It is estimated that the average annual damages due to flooding totals over $1.75 million. The following chart, which I request be printed in the RECORD at this point, dramatizes the situation that our farmers are forced to face:

Wallkill River flood damage

Year:	*Estimated damage to growers*
1955	$4,500,000
1968	5,000,000
1970	5,600,000
1972	12,145,000

You will note, Mr. Speaker, that Hurricane Agnes in 1972, alone rendered over $12 million worth of damages in the Wallkill River Valley. Almost as if to dramatize to Congress the dire need for this project, this past spring the black dirt region was flooded once again. Fortunately this latest flood occurred early enough to avoid any crop damage but it did delay the tilling season.

We have struggled for 6 years to rectify this flood problem. Initial studies by the U.S. Army Corps of Engineers—U.S. Army Corps of Engineers, interim survey report for Wallkill, page 17—called for a flood control project to rectify the situation, which they attribute to:

Insufficient channel capacity due to the flat gradient and meandering character of the streams . . . further, high states on the main stream and tributaries causes extensive back-up and flooding-out of the vest system of drainage ditches in the area.

The project was authorized as part of the Omnibus Public Works Act of 1976. Each year since, we have attempted to get funds into the Federal budget to at least begin the project, and each year there has been a new obstacle. Last year, the funds were approved by the House, but were dropped in the House-Senate conference due to misunderstandings regarding the nature of the project, as the conferees sought to produce a "veto proof" bill.

This year, I testified in support of this appropriation before our Public Works Subcommittee. Testifying with me were several of the growers from the area who impressed upon the subcommittee members the hardships that the delay of this project have caused.

We were impressed and enthused by the interest and the compassion shown by our distinguished colleague, the chairman of the subcommittee, (Mr. BEVILL), by his counterpart in the Senate, the distinguished junior Senator from the State of Mississippi (Mr. STENNIS), and the members of their respective subcommittees.

These Members of Congress, and their respective staffs, took the time to respond to the needs of the growers—took the time to look into the facts of the case—and concluded that the project was worthwhile.

Mr. Speaker, this conference report, by including the initial appropriation for the Wallkill River flood project, represents the climax of a long struggle by the growers of Orange County to make the Federal Government responsive to their needs. The Members of this august body are to be congratulated for responsiveness and compassion.

And yet, like the sword of Damocles, the threat of a "veto" hangs over our heads. I regret that our friends at the other end of Pennsylvania Avenue do not seem to have taken the time to fully explore the facts of this situation as closely as our colleagues have.

Mr. Speaker, I believe that the members of the Public Works Committee have ably fulfilled their responsibility in uncovering all the facts of this, and every other requested project.

Mr. Speaker, I hasten to point out that another flood control project that affects a portion of my district is included in this conference report. The Passaic basin flood control project, earmarked for $2.3 million, has a component that will alleviate the serious flooding which has plagued constituents of mine in the Sloatsburg, Suffern, and town of Ramapo, N.Y., areas. During the massive storm which occurred in November 1977, people were rendered homeless and millions of dollars of property damages occurred. The public officials and residents from this area are of course greatly concerned that this appropriation is approved.

Mr. Speaker, I am hopeful that our colleagues will see fit to pass this legislation with as heavy a majority as possible. Our colleagues have worked long and hard to make this bill as responsive to the needs of our citizenry as possible. It is our obligation to see that this conference report is made "veto proof" by passing it by a majority sufficient to insure an override if the threat of a veto does come to pass.

Mr. Speaker, it is also important to note that despite criticism by the administration, this public works measure is not "inflationary": The conference report is, in fact, $879 million below the budget request, $279 million below the appropriation for 1978, and $181 million below the bill passed by the House.

Moreover, this important legislation contains appropriations for two significant purposes which should be of concern to all of us: Water resources and energy research and development. The energy section of this bill is an aggressive, coherent attempt to help address our Nation's energy needs. Of the eight water projects which proved so objectionable to the President last year, only three are funded for construction starts, and three others for study. The remaining two have been eliminated completely.

Mr. Speaker, I thank our colleagues for their extensive efforts in so fully familiarizing themselves with all of these projects. I hope we can all join together in endorsing their expertise by approving this conference report. Hopefully, the White House will fully recognize the diligence and expertise which has gone into the formulation of this legislation.

Mrs. SMITH of Nebraska. Mr. Speaker, will the gentleman yield?

Mr. JOHN T. MYERS. I yield to the gentlewoman from Nebraska.

Mrs. SMITH of Nebraska. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, it seems to me that the threat by the President of a veto of this

bill is just another example of his strategy to improve his public image.

While the administration claims the bill is too expensive, the fact is that the Congress trimmed the President's budget by almost a billion dollars.

I believe that what has rankled the President as much as anything was the elimination of the Water Resources Council by the Congress. It is ironic that the President campaigned on the theme he wanted less government, yet when we cut some of the bureaucracy, he objected.

Opponents of this measure should take note of the fact that 60 percent of the funds in this bill are for energy research and development and administration of the Department of Energy.

There certainly won't be any energy program if the President vetoes funds for the Department itself. Regardless of what happens to an energy package, we have focused our attention and funding on the development of alternative energy sources such as solar, wind, and gasahol.

Mr. JOHN T. MYERS. Mr. Speaker, in summarizing, I do not believe that anyone can really vote against this conference report today because we have pared all of the unnecessary things out of it. I believe there are some line items that some people might disagree with. But you never ever come to the floor in complete harmony. The laws are written here, the appropriations must always be written here. And again it is clearly the bottom line, the difference between which priority should be placed in the bill.

Mr. MILLER of Ohio. Mr. Speaker, will the gentleman yield?

Mr. JOHN T. MYERS. I yield to the gentleman from Ohio.

● Mr. MILLER of Ohio. Mr. Speaker, I want to compliment the House conferees on this public works appropriations conference for adhering closely to the 2-percent cut adopted by the House, and in retaining the congressional prerogative in designating spending levels and areas.

The committee chairman, the gentleman from Alabama (Mr. BEVILL), and the ranking minority member, the gentleman from Indiana (Mr. MYERS), and the other House members of the conference have shown again how these 2- or 5-percent cuts can be administered here in Congress.

The House bill was passed at a level of $10,341,633,900, minus a 2-percent cut on nonmandated items which amounted to $206 million. Conferees agreed to a level of $10,160,483,900, or a reduction of $181 million. Even with this being somewhat under the $206 voted by the House, it is a substantial savings for the taxpayer.

There has been much discussion here on the floor on how we would retain control of agency spending with the careful language of the reduction amendment, and we have seen again today how this can be accomplished.

For the RECORD, the following is the language of the amendment:

Of the total budget authority provided in this Act, for payments not required by law, two per centum shall be withheld from obligation and expenditure: *Provided*, That of the amount provided in this Act for each appropriation account activity, and project, for payments not required by law, the amount withheld shall not exceed five per centum.●

The SPEAKER pro tempore. The gentleman from Alabama (Mr. BEVILL) has 2 minutes remaining.

Mr. BEVILL. Mr. Speaker, I yield 1 minute to the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Speaker, I rise in support of this conference report. I shall support this conference report as a reasonably worked-out compromise. However, much has been mentioned about this Dickey-Lincoln project in New England. I think that that is one of the most wasteful projects that this Government has ever undertaken. It is going to be a billion dollar boondoggle by the time it is built. It is wasteful. It is going to be extremely high-priced electricity, and, thank goodness, I doubt very much that it is ever going to be built by the time the courts and everyone else get through with it.

I did not want this time to go by, with several spokesmen from New England voicing great praise on this program, without my opposing it, as I have been since 1966 or 1967. I think the Dickey-Lincoln project is a shameful waste of the taxpayers' money, but notwithstanding, we must compromise on conference reports. I think otherwise that this is a good bill, and I shall support this bill.

Mr. BEVILL. Mr. Speaker, I yield to the gentleman from Massachusetts (Mr. BOLAND).

Mr. BOLAND. Mr. Speaker, I thank the chairman for yielding to me. The statements of the distinguished gentleman from Connecticut, the chairman of the Budget Committee, of course are not new. He has been doing this, as he said, since 1965, when this project was first authorized.

I can understand his position, but I do not understand his rhetoric. Constantly, he has indicated to this House and to the committees that this is a great boondoggle. Well, just let me say to the Members of this House that this project has a 2.1 to 1 benefit-to-cost ratio.

Beyond that, what he calls a billion dollar project is in fact, estimated to be $804 million. All but $12 million will be returned to the taxpayers in future reimbursements. This means that $792 million of the $804 million will be returned to the Treasury.

● Mr. JENRETTE. Mr. Speaker, I would like to compliment the chairman of the Public Works Subcommittee, TOM BEVILL, for supporting a continuation of the fiscal year 1978 program at Barnwell through fiscal year 1979. When President Carter indefinitely deferred commercial reprocessing in the United States on April 7, 1977, a decision had to be made whether to "mothball" the existing Barnwell facilities and let the technical staff disperse; or, to orient the staff in a R. & D. mode under contract to the Department of Energy while optional uses for the facility are explored.

I am happy to report that we are getting our value for the dollars spent on R. & D. at Barnwell. The technical staff assembled there has developed one very promising proliferation-resistant fuel cycle as a part of the fiscal year 1978 program that I would like to mention for the benefit of my colleagues.

Most nonproliferation studies now underway have focused on development of methods to complicate the diversion of commercial plutonium from the civilian nuclear power program by adding other materials to the plutonium to make the handling of it more difficult. Because of the fact that the plutonium product from each of the methods explored so far can be chemically purified without significant difficulty, it has become obvious that some process modification is needed whereby the pure plutonium cannot be separated out by any known means. One such process modification has been developed by the staff at Barnwell and submitted for consideration in the International Nuclear Fuel Cycle Evaluation (INFCE), a 2-year, 50 nation study of proliferation-resistant fuel cycles that President Carter initiated in October 1977.

The process proposed by the Barnwell staff involves using plutonium-238 at higher levels than normally occur in spent reactor fuel. The use of plutonium-238 at levels of 5 to 10 percent offers two advantages. First, because of the heat output from the higher levels of plutonium-238, any attempt to fabricate a crude plutonium explosive device could result in the melting of that device before it could be exploded. Second, plutonium-238 cannot be chemically separated from the other plutonium isotopes in spent reactor fuel. Thus, we have what could be considered as a very significant "technical fix" as far as making the civilian nuclear fuel cycle an unattractive target for terrorist groups and others dedicated to seizing materials that can be used for explosive purposes.

I testified before the Public Works Subcommittee in support of a fiscal year 1979 program at Barnwell. The results from the research activities there indicate that continuing support of the Barnwell staff through fiscal year 1979 is in the national interest.●

● Mr. JOHNSON of California. Mr. Speaker, I want to take just a couple of minutes to express my appreciation to Chairman TOM BEVILL and the members of the Public Works Appropriations Subcommittee for their fine efforts this year. Under TOM's leadership, the subcommittee, the full Appropriations Committee, and the conference committee have labored long and diligently to bring us a fair, adequate, and budget-conscious bill.

The legislation brought before us today is well drafted. It is some $878 million below the President's request. During this time of inflation, Chairman BEVILL and his colleagues have highly refined this bill to assure that it is approximately $279 million below last year's bill.

Perhaps most significant about this bill is its attention to energy development. For many years the primary focus of the public works appropriations bill has been water development. This is still

an important and vital portion of the bill. It is significant to note, however, that 60 percent of the bill deals with energy development. Also, the bill provides approximately 60 percent of the budget for the newly established Department of Energy.

TOM BEVILL, JOHN MYERS, GEORGE MAHON, and AL CEDERBERG are all to be commended for their forthright efforts in meeting the challenge of the Nation in the fields of water and energy development. I would also be remiss if I did not recognize the important contributions of the subcommittee staff which prepared much of the background information upon which the decisions could be made.

We in California have a wealth of natural resources which need management and development. I am pleased that this subcommittee has recognized this potential and has assisted us in meeting these needs.

Again, Mr. Speaker, let me express my appreciation to Chairman BEVILL and the members of his committee for their outstanding efforts on this bill.●

● Mr. HAMMERSCHMIDT. Mr. Speaker, I would like to take this opportunity to express my strong sense of gratitude to the chairman of the House Appropriations Committee's Subcommittee on Public Works, TOM BEVILL, for his dedicated efforts which have produced a fiscal year 1979 public works appropriations bill which will go a long way toward meeting the critical needs of our Nation.

My work with the Water Resources Subcommittee of the Public Works Committee has convinced me that if we are to meet our national goals of maintaining adequate water supplies, a sound transportation system, and flood protection for our citizens, we must rank water resource developments as one of our highest national priorities and secure full funding for the studies, plans, and projects which will work toward these important objectives. For this reason I particularly appreciate the strong support that is being demonstrated by the members of the Public Works Appropriations Subcommittee and other Members of the House for the conference report which I hope will pass by a large margin.

Early in the legislative process I discussed with Chairman BEVILL the importance of the Norfork Lake Highway Bridge which was authorized through legislation I introduced in 1973 and which I guided through the Water Resources Subcommittee till it became section 16 of Public Law 93–251. It is gratifying to know that $2 million in construction funding has been included in H.R. 12928 for this project.

In 1943, Norfork Dam and Reservoir were constructed in an effort to prevent the repetition of the catastrophic floods of 1927 and 1937. When hydroelectric power was added to the project in 1941, the U.S. 62 bridge was permanently inundated. Although the corps wanted a relocation of U.S. 62 down river across the new dam, they agreed in a 1942 conference with the U.S. Public Works Administration and State highway department on the construction of new bridge piers near the present bridge. They were to be built within the succeeding 12 months, the superstructure to be completed as soon as the war shortage of materials was over.

In spite of this plan the piers were never built. In addition, the Corps of Engineers notified the Arkansas director of highways in 1943 that it was now too late to begin construction due to the acceleration of the Norfork project. Although the local people and the Highway Commission appealed to the Arkansas congressional delegation for help, they were unable to halt the Corps eminent domain proceedings. During this same period, the war production board, which had eased restrictions on reinforcing steel, denied approval for the bridge piers.

During 1943 and 1944 the United States initiated court action which sufficiently intimidated the State Highway Department that the Department entered into stipulations filed with the court and eventually agreed upon terms which even the Federal judge presiding over the condemnation suit felt to be inadequate compensation. It is further noteworthy that the 1947 decision handed down by the Eighth Circuit Court of Appeals clearly stated that the sum the Engineering Corps paid the highway department did not include the cost of the inundated U.S. 62 bridge. It is a matter of record that after 5 years of legal proceedings, the compensation received by the highway department was completely inadequate in proportion to the loss suffered by the State.

Conditions of transportation across Lake Norfork have steadily worsened over the past three decades. Since public transportation in that area is limited to highway forms, with no publicly available, regularly scheduled alternate means in the area, this condition has created serious problems for residents and has seriously retarded development of the area's greatest available asset, the recreation potential of the lake itself. While the number of tourists visiting the lake has grown substantially, reservoirs of much more recent construction to the west and north have developed into highly productive luxury-resort assets, while Lake Norfork's development continues to stagnate at the fisherman stage.

The need for Norfork Bridge is undisputable. The recreation industry centers in the northwestern part of the State and contributes significantly to the economic condition of the entire State. Future expansion and economic growth require an acceptable transportation which is clearly lacking since inundation of the U.S. 62 and State Highway 101 bridges. An improved highway system is essential if Arkansas is to be permitted the opportunity to expand at a rate comparable to other areas of the central United States.

Senator McCLELLAN and I frequently discussed our commitment to this project. When the administration failed to include funding in its fiscal year 1979 budget I was in touch with President Carter to express my disappointment at the omission and point out both the importance of the bridge to future expansion and economic growth of Arkansas and the injustice of 35 years' standing which demanded rectification. I am proud to see that the importance of this project was recognized by Members in both the House and the Senate, as shown by the fact that the Senate Appropriations Committee also included construction funding for Norfork Bridge in their fiscal year 1979 public works appropriations bill.

It has, of course, been indicated that the President intends to veto this bill when it is sent to him for his signature. I am strongly committed to a balanced budget, and firmly believe that H.R. 12928 represents the very type of reasonable appropriations legislation which will achieve this goal. Funds contained in this conference report are $879 million below the budget request, $279 million below the fiscal year 1978 appropriation, and $181 million below the House-passed version of H.R. 12928. Out of the $10.2 billion total of this bill, only $3.2 billion is for the Corps of Engineers and the Bureau of Reclamation.

We will not achieve a balanced budget by refusing to honor a commitment of such long standing as the Norfork Bridge project. Nor will it be achieved by cutting out important projects which will protect our communities from floods, supply other areas with badly needed water supplies, and serve our national energy needs. Numerous areas throughout the United States know the urgency of these needs, and I am confident that the support of those Members representing such areas will be sufficient to override a veto if it becomes necessary.●

The SPEAKER pro tempore. All time has expired.

Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. EVANS of Colorado. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 319, nays 71, answered "present" 1, not voting 41, as follows:

[Roll No. 777]

YEAS—319

Abdnor
Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Brinkley
Brooks
Brown, Calif.
Brown, Ohio
Buchanan
Burgener
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Caputo
Carney
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clay
Coleman
Collins, Ill.
Conable
Corcoran
Corman
Cornell
Cornwell
Coughlin
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dent
Devine
Dickinson
Dicks
Diggs
Dingell
Dornan
Drinan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Eilberg
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fithian
Flippo
Flood
Florio
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frey
Fuqua
Gammage
Garcia
Gaydos
Giaimo
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Grassley
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harris
Harsha
Hawkins
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Horton
Howard
Hubbard
Hughes
Hyde
Ichord
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kelly
Kemp
Keys
Kindness
Krebs
LaFalce
Lagomarsino
Le Fante
Lederer
Leggett
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McDade
McEwen
McFall
McHugh
McKay
Madigan
Mahon
Mann
Marks
Marlenee
Marriott
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mikulski
Milford
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Mollohan
Moore
Moorhead, Calif.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Natcher
Nichols
Nowak
O'Brien
Oakar
Oberstar
Ottinger
Panetta
Patten
Patterson
Pattison
Pepper
Perkins
Pettis
Pickle
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Regula
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rosenthal
Rostenkowski
Rousselot
Roybal
Rudd
Runnels
Ruppe
Russo
Ryan
Santini
Satterfield
Sawyer
Scheuer
Schulze
Shipley
Shuster
Sikes
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spence
St Germain
Staggers
Stangeland
Stanton
Stark
Steed
Steers
Stokes
Stratton
Stump
Symms
Taylor
Thompson
Thornton
Traxler
Treen
Trible
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Whalen
White
Whitehurst
Whitley
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—71

Bedell
Bellenson
Blanchard
Bonior
Brodhead
Brown, Mich.
Broyhill
Burton, Phillip
Cleveland
Cohen
Collins, Tex.
Conte
Conyers
Crane
Derrick
Derwinski
Dodd
Downey
Early
Edgar
Edwards, Calif.
Emery
Fish
Fisher
Fraser
Gephardt
Gradison
Green
Gudger
Harkin
Harrington
Heckler
Holtzman
Jacobs
Jeffords
Kasten
Kildee
Kostmayer
Latta
Lent
Luken
McDonald
Maguire
Markey
Martin
Mikva
Miller, Ohio
Moakley
Moffett
Motti
Neal
Nedzi
Nolan
Obey
Pease
Pike
Quayle
Reuss
Richmond
Schroeder
Selberling
Sharp
Steiger
Stockman
Studds
Vanik
Vento
Waxman
Weaver
Weiss
Wylie

ANSWERED "PRESENT"—1

Burton, John

NOT VOTING—41

Ammerman
Armstrong
Breaux
Breckinridge
Broomfield
Burke, Calif.
Burke, Fla.
Carr
Clawson, Del
Cochran
Cotter
Dellums
Duncan, Oreg.
Eckhardt
Flowers
Gibbons
Huckaby
Ireland
Jenrette
Jones, N.C.
Krueger
Leach
Lehman
McCormack
McKinney
Mathis
Miller, Calif.
Montgomery
Moorhead, Pa.
Moss
Myers, Michael
Nix
Quie
Rose
Sarasin
Sebelius
Spellman
Teague
Thone
Tsongas
Wiggins

The Clerk announced the following pairs:

On this vote:

Mr. John L. Burton for, with Mr. Miller of California against.

Until further notice:

Mr. Ammerman with Mr. Broomfield.
Mr. McCormack with Mr. Leach.
Mr. Teague with McKinney.
Mr. Cotter with Mr. Cochran of Mississippi.
Mr. Jenrette with Mr. Sarasin.
Mr. Krueger with Mr. Wiggins.
Mr. Rose with Mr. Quie.
Mr. Moorhead of Pennsylvania with Mr. Del Clawson.
Mr. Mathis with Mr. Burke of Florida.
Mr. Breaux with Mr. Breckinridge.
Mr. Montgomery with Mr. Duncan of Oregon.
Mrs. Burke of California with Mr. Eckhardt.
Mr. Ireland with Mr. Thone.
Mrs. Spellman with Mr. Sebelius.
Mr. Nix with Mr. Gibbons.
Mr. Lehman with Mr. Flowers.
Mr. Dellums with Mr. Jones of North Carolina.
Mr. Carr with Mr. Moss.
Mr. Huckaby with Mr. Tsongas.

Mr. LEVITAS and Mr. CLAY changed their vote from "nay" to "yea."

Mr. JOHN L. BURTON. Mr. Speaker, I have a live pair with the gentleman from California (Mr. MILLER). If he were present, he would have voted "nay." I voted "yea." I withdraw my vote and vote "present."

Mr. JOHN L. BURTON changed his vote from "yea" to "present."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 2: Page 2, line 13, strike "$4,865,437,000" and insert: "$4,839,850,000".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 2 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert the following: "$4,818,431,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 11: Page 7, line 21, insert: "funds appropriated for the Willow Creek Lake, Oregon project shall be used to construct that project in accordance with the Special Report of the Chief of Engineers dated May 15, 1974".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 12: Page 7, line 24, insert ": *Provided further*, That an amount not to exceed $4,000,000 may be allocated to the Streambank Erosion Demonstration Program authorized in section 32 of the Water Resources Development Act of 1974 for such bank stabilization measures on the North Branch of the Susquehanna River in the vicinity of Forty Fort, Pennsylvania, at approximate river mile 189.4, as the Chief of Engineers deems necessary and subject to the favorable findings and recommendation from the Chief of the Army Corps of Engineers and approval of the Committees on Appropriations of the House of Representatives and the Senate.".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 12 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the last amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 24: Page 19, line 21, strike out:

OFFICE OF THE SECRETARY
WATER RESOURCES PLANNING

For expenses necessary to enable the Secretary of the Interior to carry out the provisions of the Water Resources Planning Act of 1965 (42 U.S.C. 1962–1962d–3), as amended, including services as authorized by 5 U.S.C. 3109 and 42 U.S.C. 1962a–4(5), $9,653,900, to remain available until expended.

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 24 and concur therein with an amendment, as follows: Restore the

matter stricken by said amendment, amended to read as follows:

"OFFICE OF THE SECRETARY

"WATER RESOURCES PLANNING

"For expenses necessary to enable the Secretary of the Interior to carry out the provisions of the Water Resources Planning Act of 1965 (42 U.S.C. 1962–1962d–3), as amended, including services as authorized by 5 U.S.C. 3109 and 42 U.S.C. 1962a–4(5), $10,913,900, to remain available until expended, of which $600,000 shall be for groundwater studies in the Delaware River Basin and Susquehanna River Basin."

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and on the several motions was laid on the table.

GENERAL LEAVE

Mr. BEVILL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the bill, H.R. 12928, just agreed to, and on the motions and amendments in disagreement on which action has just been taken, and that I may include extraneous material and tables.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

MOTION TO INSTRUCT CONFEREES ON H.R. 9214, AUTHORIZATION OF U.S. PARTICIPATION IN THE SUPPLEMENTARY FINANCING FACILITY OF THE INTERNATIONAL MONETARY FUND

Mr. NEAL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 9214) to amend the Bretton Woods Agreements Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the reouest of the gentleman from North Carolina?

There was no objection.

MOTION TO INSTRUCT CONFEREES OFFERED BY MR. GRASSLEY

Mr. GRASSLEY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. GRASSLEY moves that the managers on the part of the House at the conference on the disagreeing vote of the two Houses on the bill H.R. 9214 be instructed to agree with the Senate amendments to Section 4 of the bill which instructs the U.S. Executive Director to oppose any Witteveen Facility or IMF loans to nations providing aid or assistance to terrorists and Section 7 to mandate a balanced budget beginning in fiscal year 1981.

The SPEAKER pro tempore. The gentleman from Iowa (Mr. GRASSLEY) is recognized for 1 hour.

Mr. NEAL. Mr. Speaker, will the gentleman yield?

Mr. GRASSLEY. I yield to the gentleman from North Carolina for purposes of debate only.

Mr. NEAL. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, it is my understanding that the gentleman from Iowa (Mr. GRASSLEY) is going to yield 20 minutes to me for the purposes of debate only.

Mr. GRASSLEY. Mr. Speaker, if I am in order, I would at this time like to yield 20 minutes of my 1-hour block of time to the gentleman from North Carolina (Mr. NEAL) for the purposes of debate only.

The SPEAKER pro tempore. The gentleman from North Carolina (Mr. NEAL) is recognized for 20 minutes.

Mr. NEAL. Mr. Speaker, I thank the gentleman for yielding me this time, but I would like to use my time later, if I may.

Mr. GRASSLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are now debating the question of going to conference on the International Monetary Fund.

In the process of doing this, I take the opportunity provided me by this motion to instruct the conferees on two amendments included in this bill by the other body to ask the House to go on record in favor of a balanced budget in the year 1981, and to prevent the U.S. delegate to the U.S. Monetary Fund from voting for loans to countries that have a history of harboring terrorists. However, my main interest is the part of my motion having to do with a balanced budget in 1981.

Mr. Speaker, the Members might legitimately ask why, after we have had two budget resolutions and we have heard other Members of this House seek amendments calling for balanced budgets, would this be brought up at this time?

The first reason is because the Senate amendment adopted by the Senate by a vote of 58 to 28 represents the first time in recent years, at least in the 4 years that I have been in the Congress, that the Senate has gone on record in support of a balanced budget by 1981 or any year for that matter.

Another important factor is that the President has continually said that he favors a balanced budget, and his statements on a balanced budget during his campaign for election were focused on about the same time as the Senate seeks to accomplishing one in its amendment to the IMF bill. Therefore, I believe that presently the House ought to be called upon to respond and show its support for that concept at this particular time.

As a practical matter, this is taking advantage of an opportunity to accomplish something that I think is very much needed by this country, and that is for the House of Representatives, as well as the Senate and the President, to go on record in support of a balanced budget in 1981.

It just happens that the Senator from Virginia (Mr. BYRD) chose this bill to do it, and that is why I am offering this motion to instruct. The Senate selected the vehicle; my motion has to be to this vehicle whether or not the question of a balanced budget is related to IMF legislation.

Let me make it very clear that this amendment would mandate a balanced budget for fiscal year 1981, not before. It passed the Senate by a very wide margin, 58 to 28. I am prompted to offer this motion to instruct because the present indications are that our country is now in the grips of double-digit or near double-digit inflation. We will not get the cost of living under control until we get the cost of Government under control. And, of course, you might ask: Why the inflation?

Well, we have had only 2 balanced budgets in the last 20 fiscal years. That is the reason for our high rate of inflation.

Let me say that this motion does not offer the impractical to this House, because it does not ask for a balanced budget in 1979 as a couple other motions on budget resolutions have been put before this body. It does not ask for a balanced budget in 1980, but it asks for a balanced budget in a realistic timespan, in fiscal year 1981. It is a realistic timetable. I think it is one we ought to accept. It would do a great deal for the economy of this country by saying that the Congress, both Houses, is willing to come to grips with this problem.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. GRASSLEY. I yield for the purpose of debate only to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. I appreciate the gentleman's yielding.

Mr. Speaker, I think the gentleman is correct in bringing this issue to the floor by a motion to instruct conferees to support the Senate amendment.

It was, I think, an important step in the right direction when the other body decided to attach this amendment to this bill, because they thought it was a bill which obviously was going to be approved.

Mr. Speaker, I compliment the gentleman in bringing this matter to the floor. The gentleman from West Virginia has always supported the Rousselot substitute balanced budget resolution and it is important to act in the same manner in which the other body did.

Mr. GRASSLEY. Mr. Speaker, I want to just mention the part of my motion to instruct on the issue of our executive director of IMF not being permitted to vote for loans to countries that have a history of harboring terrorists.

I believe, on the face, that is a clear issue. There may be some misunderstanding, though, if we were to come back to the same debate of saying if the United States were to go on record as saying that no loans could be made to a particular country that we might be violating the IMF charter. That is why the Senate amendment is very clear that we are only instructing our executive director to vote "no." We are not then running into the usual challenges that have been raised on the floor of the House of whether or not we can legally bind or legally condition our money committed to the IMF. Additionally we have already pacts

with other nations against harboring terrorists. So this is a policy, not only of the Senate, in the adoption of this amendment, but the administration, in our activities in foreign affairs, to say in a very strong way that the United States is not in favor of terrorism and that we want no part of it and we are going to do our share to combat it.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. The gentleman from Iowa (Mr. GRASSLEY) has consumed 8 minutes.

Does the gentleman from Iowa yield to the gentleman from North Carolina (Mr. NEAL)?

Mr. GRASSLEY. Mr. Speaker, I yield for the purpose of debate to the gentleman from North Carolina (Mr. NEAL).

Mr. NEAL. Mr. Speaker, it is important that we proceed as expeditiously as possible in completing action on the legislation authorizing the United States to participate in the Supplementary Financing Facility of the International Monetary Fund.

This facility was negotiated among the major members of the IMF over a year ago. The bill authorizing the United States to participate has been under legislative scrutiny for about a year. It has passed both the Senate and the House with large majorities. On the basics of the bill, there is widespread agreement. The Senate concurs with the House that the participation of the United States in this temporary lending facility will enable the IMF to play a much stronger role in stabilizing the international monetary system over the next few years.

The areas in which the Senate and House versions of this bill differ are all peripheral to its central purpose. Though some of those points are quite important in their own right, I think we have every indication that they can be easily resolved. Once House conferees are appointed, we can finish our business very rapidly and send a bill to the President that will demonstrate, clearly and forcefully, that the Congress stands behind the administration's efforts to improve the workings of the international monetary system, a necessary prerequisite to any significant recovery in the depressed world economy.

Mr. Speaker, the Senate version of this bill contains an amendment requiring that, beginning in fiscal 1981, total budget outlays of the Federal Government not exceed its receipts.

This amendment has absolutely no relationship to the legislation on U.S. participation in the IMF Supplementary Financing Facility. It is totally nongermane to the issue before us. The House should insist that we have a balanced budget but this is not the best time and way to deal with that question.

The reasons are obvious. Budgetary policy is the major macroeconomic tool in the hands of the Congress. We completely revamped our treatment of the budgetary process to get a better handle on this tool. We established Budget Committees, and provided for the mechanisms whereby the Congress as a whole can determine, each year, the size of the surplus or deficit.

We obviously have no business deciding now, once and for all time, in complete disregard of the Budget Committees and the budget process, in total ignorance of the requirements of the economy in future years, that the budget should be precisely in balance. We may want a surplus. All of those who think, as I do, that we need to reduce our budget deficits, and would welcome a balanced budget in 1981 or before, should insist that we work toward that goal through the channels that promise real success. That is, through the established procedures of the Budget and Appropriations Committees.

I am fully in sympathy with the general purpose of this amendment. But it seems important to me that we bring about a balanced budget in a thoughtful and effective way. I am concerned that we may be sending a misleading message to the American people. If we adopt this amendment, it certainly does not mean that we will in fact have a balanced budget by 1981. I may vote for this amendment because of its symbolism, but I hope the American people understand that there is much more to balancing the budget than simply voting for this amendment today. It is going to require real discipline on the part of the Congress and the American people and we must plan carefully to reach that goal.

Mr. Speaker, I hope the Congress will adopt my constitutional amendment resolution which would require a balanced budget and would limit Federal spending to no more than 20 percent of a gross national product. The proposal before us is simply not enough. We need to balance the budget, but I hope no one will believe that we have accomplished that worthy goal if we adopt this measure today.

Mr. Speaker. the Senate bill also contains an amendment which requires the United States to oppose any IMF assistance to any country harboring terrorists, or failing to take appropriate measures to block terrorist activities.

I do not think the House should accept this amendment. This is not the proper vehicle for achieving its purpose. worthy though that purpose be. The International Monetary Fund is concerned exclusively with economic policies to promote a more stable international monetary system. We have repeatedly resisted introducing extraneous factors into its deliberations. The United States is bound by its articles of agreement to vote on the basis of various economic criteria, against which the application of any member to borrow from the IMF should be judged. For us to act on any other grounds, however high minded, would represent a violation of those articles, in spirit for certain, and probably even in the letter of the law. That would be no way to promote respect for the international obligations we have undertaken, nor to protect the IMF from the political corrosion that will surely set in once we, its most important member, try to make it the instrument of our foreign policy objectives.

Fortunately, this amendment is not necessary, for we are well on the way toward devising stronger, more appropriate antiterrorist measures. I need only remind you of the very far-reaching obligations undertaken by the governments represented at the Bonn summit. That is the proper approach—a multilateral political agreement, to be implemented by policies worked out jointly with our major partners. I understand, moreover, that four Senate committees have already completed work on a separate bill dealing with terrorism. Thus the Congress will surely have the opportunity to work its will on this issue, is legislation directed specifically at the problem. It is unfortunate, I think, that this proposal is part and parcel of the instruction to balance the budget. I believe many Members will vote "aye" today, on balancing the budget, not fully realizing the import of this provision concerning terrorism.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. NEAL. I would be happy to yield to the gentleman from Texas.

Mr. MAHON. Mr. Speaker, I want to endorse the statements which the gentleman from North Carolina has made with regard to the matter which it is proposed that the conferees be instructed on. I am very hopeful that the recommendation that has just been made will be heeded by the House, and that we would not vote to instruct.

Mr. Speaker, I am in favor of a balanced budget. Through the years, in innumerable instances, I have voted against initiating new programs and expanding ongoing programs when we did not have the money on hand or in sight to pay the bills.

I would vote for the so-called Byrd amendment as a separate resolution if proper guidelines and limitations were established. But I cannot vote to tie it to the pending measure in the form of a motion to instruct the conferees. The problem requires detailed hearings and thorough consideration. To adopt the amendment without proper guidelines in effect would, in my opinion, do violence to the cause of a balanced budget.

A balanced budget in 1981 and earlier, if possible, should be the goal of the administration and the Congress. But to mandate this in this bill without serious analysis and thought is not the way to achieve our objective.

Mr. NEAL. Mr. Speaker, is it not true that the major problem with this, if we adopt this, we are usurping the authority of the Appropriations Committee and the Budget Committee by this action, as worthy, as I say, as the goals may be? Is it not better to deal with this in the orderly way we normally do with legislative matters?

Mr. MAHON. We would be violating the procedures and fiscal policies and the most effective way of running the House if we vote to instruct the conferees at this stage. I applaud the gentleman for his efforts in this matter.

Mr. NEAL. I thank the chairman.

Mr. GRASSLEY. Mr. Speaker, I yield

2 minutes to the gentleman from Ohio (Mr. ASHBROOK) for the purposes of debate only.

Mr. ASHBROOK. Mr. Speaker, I thank my colleague for yielding. I think what we are getting here is a most novel argument that will not fool the American people. We might ask very honestly, if not now, when is the time?

When the budget came up, on the other side, they said that is not the time. When the Humphrey-Hawkins bill came up Members might recall that I offered a balanced budget. It passed one day, but it was, "Now you see it, now you do not." The leadership went to work and said, "Oh, no, we cannot be on the record for a balanced budget. We might promise the American people that at election time, but when the time of accountability comes, vote it down."

It passed 215 to 205. Two days later enough Democratic Members on the other side switched their votes on the balanced budget to defeat it.

What was the Humphrey-Hawkins bill supposed to do? It was supposed to be planned economic strategy for the next several years to bring together unemployment, employment, fiscal, and economic policy by coordinating effectively at the executive level. "Oh, no, do not feed the balanced budget concept into that. Do not feed it in when the budget comes. Do not do it now," we hear.

What they are saying, in effect—and they are not fooling anybody—is that they are never going to vote a balanced budget in the 95th Congress. It is never going to be there. They will vote it down every time they get a chance. The question of the American people to the majority side is, if not now, when? We are supposed to be adjourning in another couple of weeks.

If you are not going to increase the budget, and if you are not going to apply it to Humphrey-Hawkins, and if you have a straight shot at it in the Byrd amendment, and you do not want to do it now, when if ever are you going to do it?

Mrs. HOLT. If the gentleman will yield, was it not true that a majority of the Members of this House voted for the Holt amendment, which was the beginning of trying to arrive at a balanced budget and that sufficient votes were changed in order to defeat that amendment?

Mr. ASHBROOK. Yes. But there is one difference, it took 2 days to change mine, yours was changed right in the well, as I recall it.

Mrs. HOLT. Do you not believe this indicates that the American people, through their representatives, are saying, "We want it. We want it now, now is the time?"

Mr. ASHBROOK. Now is not only the time, it may be the only time for the rest of the session. I think the people and the taxpayers know what is going on.

I thank the gentleman for yielding.

Mr. GRASSLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. HILLIS) for the purpose of debate only.

Mr. HILLIS. Mr. Speaker, I rise in favor of the motion to instruct the conferees to the International Monetary Fund authorization bill to concur with the senior Senator from Virginia's amendment to section 7 of the Senate bill. The House should be given an opportunity to vote on a conference report which includes language to balance the budget by 1981.

The national debt has grown more than $400 billion since fiscal year 1970 to a point where we are spending in interest alone $130 million a day. Since one of the occupational hazards of being a Member of Congress may be the tendency to speak of such figures without a true conception of just how much money this means, perhaps it will help to remember that in 1977 the median income for a family of four was $16,000 for the entire year. In other words, more than 8,000 families could live for a year on what we pay in interest on our national debt in 1 day.

More importantly, however, is the impact this interest payment and the national deficit are having on the inflationary state of our economy. Consumer prices in general rose more than 80 percent in the last decade. The impact of such increases is something about which every American can speak of eloquently. Since the Federal deficit is widely recognized as a major source of inflation, when is this Congress going to do something about it? We have before us today an opportunity to take action and fix the limits of the national debt. This will offer us a chance to send a loud and clear message to the people that the spending ways of the Federal Government are about to change.

We must adopt a policy of making certain we do not spend more than we are willing or capable of paying for. Is this not how the rest of this country must operate? Can a person in business or an individual simply ignore assets and spend as much as he or she wants? The Congress, a body which is supposed to represent the American people cannot continue to flaunt its apparently peculiarly special privilege of deficit spending. We must do something now if we are going to demonstrate that all the campaign promises of reduced spending are more than just promises.

By mandating a balanced budget by 1981 we can reflect positive action. There will always be heard arguments about delaying, but we simply cannot afford to continue to pay an interest of $130 million a day. We must respond now by voting in favor of the motion to instruct the conferees to include language to balance the budget.

Mr. NEAL. Mr. Speaker, I yield 3 minutes to the distinguished chairman of the Committee on the Budget, the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Speaker, I rise in opposition to this motion. This motion would do injury to what this legislation is trying to do, and that is to set up the International Monetary Fund supplementary financing facilities, which are designed to help the international currencies, particularly the dollar, and other currencies in the world. It is much needed legislation. The gentleman from North Carolina (Mr. NEAL) has worked long and hard to bring this legislation before this body and he is to be commended.

I do not think that in this legislation we should confuse it with a very serious argument, and that is the status of the budget of the United States of America and when we are going to balance that budget. I hope we can balance that budget by 1981. I feel optimistic that we can get close to a balanced budget by 1981, providing we create the proper economic climate and conditions in this country, the proper economic growth for business, together with being able to reduce unemployment and to get control of inflation. I believe we can do that.

Our budget for fiscal year 1979 will come in when we complete our conference in the next few days, hopefully at under $40 billion, and that will be the lowest budget deficit in 5 years. We are getting our budget deficits down, and we will get them down further in the coming years, and we can be able to be in balance or near balance by fiscal year 1981.

Mr. GRASSLEY. Mr. Speaker, will the gentleman yield?

Mr. GIAIMO. I will yield to the gentleman if the gentleman will get me additional time, when I am through.

We will get the budget deficit down to a balanced status by careful husbandry of our available dollars and through making sure that the moneys that are available are not wasted and to make sure that they are spent for the real needs of the American people.

We have been working on that in the budget committee conference and we here in the House have been working on that and will continue to do so. But you cannot legislate a balanced budget just by legislative fiat, by saying in this bill, or any other bill that we will balance the budget by 1981.

Let me say this: Over 65 percent of our budget is uncontrollable in that they are mandatory programs such as social security, unemployment compensation, the trust funds, veterans programs, and many others.

We cannot mandate reductions in those expenditures unless we change the basic law, and I very much doubt that this body is going to change the Social Security Act or the Veterans Act and take away benefits or anything like that.

Where are we going to make these reductions? Where are we going to force these reductions? We would be forced to do it in the controllable items, the appropriations items, particularly in the areas of defense and some of the other areas. Those are the places where we would find the large chunks of money which we would have to take out in order to comply forthwith with budget balancing amendment such as this one.

The SPEAKER pro tempore. The time of the gentleman from Connecticut (Mr. GIAIMO) has expired.

Mr. NEAL. Mr. Chairman, I yield 2 additional minutes to the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Speaker, I submit that the way to balance the budget is to proceed as we are doing, as we address each and every expenditure program in this Congress, and try to get reductions in them and try to get a better rate of economic growth and an absence of inflation, with careful attention to our tax policies, as we are beginning to do—beginning, I stress—but I believe we are beginning to go down that road, I will say to my friend, the gentleman from California. We will get a balanced budget or very close to it by 1981 and certainly in the year thereafter.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. GIAIMO. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the gentleman's yielding. The gentleman knows that in the Committee on the Budget we have targeted to move for a balanced budget by 1981. We have projections that we can be very close to that, to a balanced budget by that time, although it might not be exactly that amount, but within $2 or $3 billion. Therefore, this is a very reasonable time frame in our projections.

Mr. GIAIMO. Yes, but my point is that we cannot today, by this type of purportive legislative mandate, accomplish that purpose.

If we were to pass this kind of motion today, we would be sending out a wrong signal to the American people. We would be saying to them, "Congress has voted to balance the budget." When in fact it had not taken the necessary steps to balance the budget.

Mr. ROUSSELOT. In 1981.

Mr. GIAIMO. In 1981, and we will have done no such thing by legislating it today. It does not mean a thing.

Mr. ROUSSELOT. Is that a bad aim?

Mr. GIAIMO. The way to do it is to address ourselves to the spending programs and the tax programs which will bring about a deficit or the absence of a deficit, not by writing a sentence and saying, "There shall be no deficit."

I wish we could pay our bills that easily by legislating here today and saying, "There will be no deficit."

We cannot do that. We have to do it as we address ourselves to each and every expenditure item and to each and every taxing item. We are doing that. We are beginning to do that. That is how we arrive at the elimination of a deficit, not through this kind of specious amendment or motion.

Mr. GRASSLEY. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague's yielding.

I appreciate what my distinguished chairman of the Comittee on the Budget has said. He has agreed that we have projected that we can come very close to a balanced budget in 1981. A majority of the other body also thought we could do that. There was a very good vote over in the other body on that score, including the vote of members of the Committee on the Budget of the other body.

Therefore, Mr. Speaker, I think this is a good target. The gentleman knows full well that we have control over that issue in 1981 if we can somehow make it, so this is an excellent target.

I think Congress performs a real service by voting for this proposition, just as the other body did, to show that we are really serious about achieving that goal in 1981.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I listened to my colleague, the gentleman from Connecticut (Mr. GIAIMO) with interest.

There is an interesting twist to what he said, if we think about it. He said that we can mandate the uncontrollables and cannot do anything about them. He is saying, in effect, that we can mandate the uncontrollables but cannot mandate controllables.

If we can mandate and control one, Mr. Speaker, we can certainly do that with respect to the other.

Mr. NEAL. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. REUSS), the chairman of the Committee on Banking, Finance and Urban Affairs.

Mr. REUSS. Mr. Speaker, I commend the chairman of the subcommittee, the gentleman from North Carolina (Mr. NEAL), for the very able way he has handled this matter.

I listened to the chairman of the House Committee on Appropriations, the gentleman from Texas (Mr. MAHON), no spendthrift he, and the chairman of the Committee on the Budget, both fiscally responsible Members of this House. They are the people we should listen to.

I appreciate the implied compliment of the authors of this motion to instruct when they said that the 47 members of the Committee on Banking, Finance and Urban Affairs are sublime geniuses, not only on banking and urban affairs—which, of course, we are—but on the budget as well.

However, the truth of the matter is that we do not know beans about the niceties of the budget, and this matter should be left to the proper committees, the Committee on the Budget and the Committee on Appropriations.

Second, and importantly, I would say to the authors of this motion to instruct that they are a bunch of pikers. They say they want a balanced budget in 1981. I want a surplus, and if they will follow me on the road toward full employment without inflation, they are going to get a surplus, and they are going to be prohibited from getting one by following this feckless and reckless resolution.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. GRASSLEY. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, with the appointment of and instructions to the conferees for the Supplementary Financing Facility of the International Monetary Fund, we take actions which will affect not only U.S. stature abroad, but our economic well-being throughout the world.

The $10 billion Witteveen Facility, authorized under H.R. 9214 is designed to provide additional sources of revenue for those nations whose economies have been "thrown off kilter" by the increase in oil prices. These debtor nations will then work closely with the IMF to bring economic stability to their economies.

The reasons for U.S. support of the Fund should be obvious. It is a form of economic "life insurance" for the ever-fragile world economy—insurance not only for the developing world, but the industrialized nations as well. It has become almost cliche to use the word "interdependence," but it is nevertheless indicative of the present economic situation. The U.S. economy is dependent upon the Third World for both raw materials and markets for our manufactured goods. And just as economic prosperity in the developing world translates into economic benefits for the United States, economic problems may lead to declining levels of imports and subsequent unemployment in our Nation.

A recent study revealed that a 3-percent growth rate in the GNP of the developing world means a 1-percent growth rate for the industrialized nations. The Third World will be a crucial "engine of growth" for the world economy. The Witteveen Facility is geared to insure that Third World markets continue to operate and, further, that those markets continue to open their doors to U.S. exports. In essence, the fund will play a critical role in our efforts to sustain U.S. growth, improve the trade balance and maintain a strong dollar.

Though I support the Witteveen Facility, I am opposed to the type of amendments which the Senate was "tacked onto" their version of the bill. While the intent is to be praised, in this instance, these amendments are not relevant to the primary and narrow task of IMF and Witteveen, which is to encourage stability in the world economic order through adjustment of Third World economies now in disarray.

The Byrd amendment mandates a balanced budget by the year 1981. While I too recognize the need for fiscal restraint and at least some semblance of balance in the Federal budget, this is neither the time nor the place to pursue such a goal. Some may argue that we should concentrate on balancing our budget before we allocate funds for the same purpose in other nations. Yet the two situations are hardly comparable. Balance-of-payments problems in the Third World is a much more serious affair—insufficient reserves, the result of an imbalance may severely limit both develoonment strategies and the ability to import items necessary to maintain basic living standards. The United States does not face similar dire consequences.

The Helms amendment seeks to oppose any extension of financial or technical assistance to nations which aid or abet international hijackers. It is directed not only toward the supplementary financing facility, but toward all borrowing from the IMF. In the past, I

have consistently fought against this type of amendment which introduces political considerations into those agencies whose laws establish strictly economic and financial criteria for fund allocation. Although Mr. HELMS has been careful to word his amendment so that it is an instruction to the Executive Director and not a condition attached to our funds, it still smacks of politicization.

Further, the House and Senate are working out legislation right now on terrorism which includes among the sanctions for nations which aid and abet terrorism, the deprivation of commercial aircraft services between the United States and such nations. It is this type of solution to the terrorism problem which will yield substantive results without compromising our influence in international financial institutions.

I would like to relay an important observation made to me by the Sudanese Finance Ministers who in a recent meeting discussed the necessity of the Witteveen Facility. In the past, the United States had consistently been the nation to foster development and contribute substantially to the goal of economic progress around the globe. Yet, it is the current opinion of many Third World nations that the United States is too often the nation opposing the necessary tools for such development. The Witteveen Facility is a chance to demonstrate our commitment to the economic development of those nations struggling for fiscal stability. It is also insurance for the U.S. economy, so susceptible to the whims of daily international economic occurrences. I strongly urge that the House conferees defend H.R. 9214 without attaching conditions which may in fact impede its true purpose.

Mr. GRASSLEY. I yield 2 minutes to the gentleman from Ohio (Mr. STANTON) for purposes of debate.

Mr. STANTON. Mr. Speaker, while I am generally reluctant to support "motions to instruct" conferees, the motion of the gentleman from Iowa deserves the support of all of us. His motion really has two parts. No one can have any quarrel with the prohibition of IMF funds to countries which harbor terrorists. Language very similar to this was added to the Export-Import Bank bill in this Chamber a few weeks ago with nearly unanimous support.

The more important part of the motion to instruct asks the conferees to bring back the Senate language calling for a balanced budget in fiscal 1981. While in the House this is technically nongermane to the IMF bill which is the subject of the conference, it is an issue of importance with which we are all familiar.

It is difficult to predict all of the benefits this country might derive from a balanced budget in 1981. In fact, few of us can remember very many surplus budget years—there have only been two since 1956. But, the costs that we sustain because of the failure to live within our means are clear. Interest rates have skyrocketed to new highs—slowing down investment and leading to our worrisome loss in productivity and competitiveness in world markets. Our deficit spending has been one, if not the, single biggest factor in the rising rate of inflation in the United States. Inflation has placed a cruel burden on all working Americans and has hit the poor and those on fixed incomes the hardest. The cost of the debt service burden alone last year exceeded Government expenditures for transportation, education, and environment. More than 25 percent of the money the Government receives in taxes goes right back out in interest on the debt. Can we continue to mortgage our children's future by our profligate spending year after year?

People cannot individually keep going deeper into debt year after year, nor can businesses. "But," we are reassured by the big spenders, "countries are different. In reality we owe the debt to ourselves." That claim, however, does not square with the facts. Foreign holdings of U.S. dollars are on the order of $400 billion or roughly one-half of the national debt. Much of these foreign holdings are the interest-bearing Treasury securities that comprise our debt. It is just not true that we owe the debt to ourselves.

The House is already on record on a very similar measure embodied in the Holt substitute to the second budget resolution, which failed by only three votes. In a way, this balance-the-budget provision is even more appealing, since it does not dictate to the administration the means it must use to make the budget balance. It only requires that the budget be balanced and lets the administration decide in what increments to move in that direction. It gives the President all the flexibility he could want while requiring that the outcome be a balanced budget in 1981.

This motion deserves our support, and I urge its adoption.

Mr. NEAL. Mr. Speaker, will the gentleman yield?

Mr. GRASSLEY. I yield to the gentleman from North Carolina.

Mr. NEAL. I thank the gentleman for yielding.

It is essential that we have a balanced budget very soon but I am concerned that by adopting this amendment we might be sending a false message to the American people. One Congress, as I understand it, cannot bind another Congress. We can express our desire to balance the budget by 1981, and certainly I would love to see us balance the budget by 1981. I think that we can and we should. But would the gentleman agree that we might be misleading the American public into thinking, that by adopting this amendment, they can be assured that we will, in fact, have a balanced budget by 1981?

Mr. GRASSLEY. Absolutely not. Remember the people expressed great confidence in candidate Carter when they elected him, and one of the reasons they did that, I am sure, is because he promised a balanced budget by about the time this amendment does.

The Senate in their voting is supportive of that. I think that reaffirms the position of the President. The people by all sorts of polls and guidelines that we go by in this country overwhelmingly are saying that they want it, so absolutely not are we sending a false alarm. What we are doing is reaffirming in the Halls of the Congress, in the official policymaking institutions of our participatory democracy, what the people want, what they believe, and what they understand to be a commonsense approach—that Government cannot live beyond its income any more than the people themselves can. What we are really doing is reestablishing confidence in the economy; that confidence we express by this vote today, ahead of its actual accomplishment in 1981, is going to ring through the economy. This confidence will rebuild the private sector and in so doing is going to make possible a stronger economy; and the rebuilt economy will further guarantee the balancing of the 1981 budget.

Mr. NEAL. Mr. Speaker, if the gentleman will yield further, we are not promising, are we, that we are going to have a balanced budget by 1981 by this resolution? Is it the gentleman's intention to say we hope we are going to have a balanced budget by 1981?

Mr. GRASSLEY. We are saying that we will have a balanced budget by 1981.

Mr. NEAL. Can this Congress bind another Congress?

Mr. GRASSLEY. That is an elementary question. Of course we cannot. But, we will never have a balanced budget by 1981, unless we start now.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield for a question?

Mr. GRASSLEY. I will yield 1 minute to the gentleman from Missouri to ask a question.

Mr. VOLKMER. The only question I have, is not the only way we are going to balance the budget in the future to cut down spending or increase the revenue?

Mr. GRASSLEY. The gentleman is absolutely right. You will not do that if you wait until the year comes about that you decide you are going to do it. You set guidelines ahead of time that each one of us can target in on and only then will we be successful. You cannot wait for that day to come for it to happen.

Mr. VOLKMER. Mr. Speaker, if the gentleman will yield further, I would like to say that in my opinion, I and many Members of this body have expressed the opinion to balance the budget as soon as possible; but I think we all realize when we appropriate, which we just recently did earlier this afternoon, and I voted for that, with the realization that I hope next year maybe it is 10 or 15 percent less, that is the way we are going to balance the budget.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. GRASSLEY. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I will say in response to my colleague, the Budget Committee has projected very close to 1981 a balanced budget, so it is very close in reality. It is not something we offer in never-never land and I think it is a reasonable projection.

Mr. GIAIMO. Mr. Speaker, will the gentleman yield?

Mr. GRASSLEY. I yield 1 minute to the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Speaker, the way to balance the budget, as the gentleman said before, is to get a better hold on expenditures. We are doing that. Each year our budgets have been coming in with a smaller deficit than the year before. This year it is projected at $39 billion. Next year, hopefully, it is going to be substantially below that and in 1981, hopefully it will be at or close to a balanced budget.

My point is, that is the way to get the budget in balance, by addressing ourselves to the budget items each and every day of the year that you take up spending or tax proposals here.

We do not do it by a legislative fiat in the International Monetary Fund bill, by saying there shall be a balanced budget in 1981 and letting people think that today Congress has passed a balance-the-budget amendment when, in fact, we have done no such thing.

Mr. GRASSLEY. Mr. Speaker, I yield myself such time as I may consume.

I want to take just a short period of time to answer the gentleman from Connecticut by saying that the gentleman may think it is wrong, but 58 Senators thought it was right. In any poll you read, the majority of the American people think that this is the right approach and that it is long overdue.

Lastly, I submit if we wait until 1981 to decide that we are going to have a balanced budget, we will not have one. It is very essential that we make that determination for some period ahead of time so we can start zeroing in on it right now to be totally successful.

Mr. Speaker, if the gentleman from North Carolina is ready to yield back his time, I will yield back the balance of my time.

Mr. NEAL. Mr. Speaker, I yield back the balance of my time.

Mr. GRASSLEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Iowa (Mr. GRASSLEY).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. GRASSLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 286, nays 91, not voting 55, as follows:

[Roll No. 778]

YEAS—286

Abdnor
Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Applegate
Archer
Ashbrook
AuCoin
Badham
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bevill
Biaggi
Blanchard
Blouin
Bonior
Bonker
Bowen
Brinkley
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burleson, Tex.
Burton, John
Butler
Byron
Caputo
Carter
Cavanaugh
Cederberg
Chappell
Clausen, Don H.
Cleveland
Cohen
Coleman
Collins, Tex.
Conable
Corcoran
Cornell
Cornwell
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Delaney
Derrick
Derwinski
Devine
Dickinson
Dicks
Dornan
Downey
Drinan
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fenwick
Fish
Fisher
Fithian
Flippo
Florio
Flynt
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frey
Fuqua
Gammage
Gaydos
Gephardt
Gilman
Ginn
Glickman
Goldwater
Goodling
Gore
Gradison
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hammer-schmidt
Hanley
Hansen
Harkin
Harris
Harsha
Heckler
Hefner
Hertel
Hightower
Hillis
Holland
Hollenbeck
Holt
Horton
Hubbard
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kasten
Kasen
Kelly
Kemp
Keys
Kildee
Kindness
Kostmayer
Krebs
Lagomarsino
Latta
Leggett
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
McClory
McCloskey
McDade
McDonald
McEwen
McHugh
McKay
Madigan
Maguire
Mann
Marks
Marlenee
Martin
Mattox
Mayner
Michel
Mikulski
Mikva
Milford
Miller, Ohio
Minish
Mitchell, N.Y.
Moffett
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, John
Natcher
Neal
Nichols
Nowak
O'Brien
Oakar
Oberstar
Ottinger
Panetta
Patterson
Pattison
Pease
Pepper
Perkins
Pettis
Pickle
Pike
Preyer
Pursell
Quayle
Quillen
Railsback
Regula
Reuss
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Rogers
Rooney
Rousselot
Rudd
Runnels
Ruppe
Russo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Sharp
Shuster
Sikes
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Spence
Staggers
Stangeland
Stanton
Steed
Stockman
Stratton
Stump
Symms
Taylor
Thornton
Traxler
Treen
Trible
Tucker
Udall
Vander Jagt
Vanik
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whitten
Wilson, Bob
Wilson, Tex.
Winn
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zeferetti

NAYS—91

Annunzio
Ashley
Aspin
Bellenson
Bingham
Boland
Bolling
Brademas
Breckinridge
Brodhead
Brooks
Brown, Calif.
Burke, Mass.
Burlison, Mo.
Burton, Phillip
Chisholm
Clay
Collins, Ill.
Conte
Corman
Danielson
Dellums
Diggs
Dingell
Dodd
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Evans, Colo.
Fary
Findley
Flood
Ford, Mich.
Fraser
Garcia
Giaimo
Gonzalez
Hamilton
Harrington
Hawkins
Holtzman
Howard
Johnson, Calif.
Jordan
Kastenmeier
LaFalce
Le Fante
Lederer
Lundine
McFall
Mahon
Markey
Mazzoli
Meeds
Metcalfe
Mineta
Mitchell, Md.
Moakley
Mollohan
Moss
Myers, Gary
Nedzi
Nolan
Obey
Patten
Price
Rahall
Rangel
Richmond
Roncalio
Rosenthal
Rostenkowski
Roybal
Ryan
Simon
Sisk
Solarz
St Germain
Steers
Steiger
Studds
Thompson
Ullman
Van Deerlin
Vento
Waxman
Whalen
Wilson, C. H.
Zablocki

NOT VOTING—55

Addabbo
Ammerman
Anderson, Ill.
Armstrong
Boggs
Breaux
Broomfield
Burke, Calif.
Burke, Fla.
Carney
Carr
Clawson, Del
Cochran
Conyers
Cotter
Dent
Fascell
Flowers
Frenzel
Gibbons
Hannaford
Huckaby
Jenrette
Jones, N.C.
Krueger
Leach
Lehman
McCormack
McKinney
Marriott
Mathis
Miller, Calif.
Montgomery
Moorhead, Pa.
Myers, Michael
Nix
Peage
Pressler
Pritchard
Quie
Rodino
Rose
Sarasin
Sebelius
Shipley
Skubitz
Spellman
Stark
Stokes
Teague
Thone
Tsongas
Wiggins
Wirth
Young, Tex.

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Broomfield.
Mr. Ammerman with Mr. Leach.
Mr. McCormack with Mr. McKinney.
Mr. Teague with Mr. Cochran of Mississippi.
Mr. Cotter with Mr. Sarasin.
Mr. Fascell with Mr. Wiggins.
Mr. Carney with Mr. Quie
Mr. Jenrette with Mr. Del Clawson.
Mr. Krueger with Mr. Burke of Florida.
Mr. Breaux with Mr. Thone.
Mr. Montgomery with Mr. Sebelius.
Mrs. Burke of California with Mr. Gibbons.
Mrs. Spellman with Mr. Flowers.
Mr. Nix with Mr. Tsongas.
Mr. Huckaby with Mr. Skubitz.
Mr. Miller of California with Mr. Anderson of Illinois.
Mrs. Boggs with Mr. Marriott.
Mr. Stokes with Mr. Michael O. Myers.
Mr. Mathis with Mr. Pressler.
Mr. Moorhead of Pennsylvania with Mr. Pritchard.
Mr. Dent with Mr. Carr.
Mr. Lehman with Mr. Frenzel.
Mr. Hannaford with Mr. Jones of North Carolina.
Mr. Rodino with Mr. Shipley.
Mr. Rose with Mr. Wirth.

Messrs. VANIK, DOWNEY, PATTISON of New York, OTTINGER, MURPHY of Illinois, PATTERSON of California, CAVANAUGH, BONIOR, YATES, McHUGH, OBERSTAR, REUSS, and CHARLES WILSON of Texas, changed their vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

APPOINTMENT OF CONFEREES ON H.R. 9214

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. REUSS, NEAL, PATTISON of New York, HANNAFORD, STANTON, and HYDE.

There was no objection.

REORGANIZATION PLAN NO. 3 OF 1978 (EMERGENCY PREPAREDNESS)

Mr. BROOKS. Mr. Speaker, pursuant to section 912 of Public Law 95–17, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the resolution (H. Res. 1242) to disapprove Reorganization Plan No. 3 transmitted by the President on June 19, 1978; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate on the resolution may continue not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from New York (Mr. HORTON) and myself.

The SPEAKER pro tempore. Is there objection to the reqeust of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BROOKS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the resolution (H. Res. 1242), with Mr. KILDEE in the chair.

The Clerk read the title of the resolution.

By unanimous consent, the first reading of the resolution was dispensed with.

The CHAIRMAN. Pursuant to section 912 of Public Law 95–17 and the unanimous-consent agreement, the gentleman from Texas (Mr. BROOKS) will be recognised for one-half hour and the gentleman from New York (Mr. HORTON) will be recognised for one-half hour.

The Chair recognises the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman. Reorganization Plan No. 3 will establish a Federal Emergency Management Agency into which will be placed a number of civil preparedness and disaster relief functions that are presently scattered in various departments and agencies. The plan itself will transfer into the new agency functions now carried out by the National Fire Prevention and Control Administration in the Department of Commerce, the Federal Insurance Administration in the Department of Housing and Urban Development, and the oversight responsibility for the Federal Emergency Broadcast System now in the Executive Office of the President.

The President has advised that when Congress approves this plan he will, by Executive order, transfer into the agency those functions now carried out by the Defense Civil Preparedness Agency in the Department of Defense, the Federal Disaster Assistance Administration in the Department of Housing and Urban Development, and the Federal Preparedness Agency in the General Services Administration. He also will transfer certain other functions as well.

The reorganization plan, therefore, is part of a broader program to consolidate Federal emergency preparedness functions. Its basic purpose is to create an agency in which these functions will be housed. Because of the national security problems involved, Congress has seen fit to place most emergency preparedness responsibilities in the hands of the President who, over the years, has delegated them to various Government agencies. He has the power to withdraw those delegations without the need for congressional approval and put them in the new agency. Thus, the major portions of the planned consolidation will be delegated by Executive order. Some of us would prefer to have Congress approve these delegations but in view of Congress prior action in granting this power to the President we will not oppose this procedure.

This reorganization will improve Federal emergency management and assistance. By consolidating emergency preparedness mitigation and response activities it will cut duplicative costs and strengthen the Government's ability to deal effectively with emergencies. It has been estimated that the overall reorganization will lead to cost savings of between $10 to $15 million annually and a decrease of from 200 to 300 personnel positions.

The committee has held hearings and made a careful study of this plan. It is our opinion that the plan has merit and should be allowed to go into effect. I, therefore, ask a "no" vote of the resolution.

Mr. HORTON. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, before we vote on Reorganization Plan No. 3 to reorganize the Federal Government's emergency preparedness and disaster programs, I would like each Member to be aware of exactly what he is voting for, and, more important, the implications. I am afraid that there is a lot less to this plan than meets the eye. Let me explain.

If you read a newspaper account of the plan, you would think that we are voting to reorganize the three main emergency preparedness agencies into a new independent agency. These three agencies are: the Federal Disaster Assistance Agency (FDAA), now in HUD; the Federal Preparedness Agency (FPA), now in GSA; and the Defense Civil Preparedness Agency (DCPA), now in the Department of Defense. Most people do feel that these agencies should be combined since there is some overlap. We should take advantage of the so-called dual use capabilities of an agency like DCPA which could also be useful in natural disasters. I support the combining of these three agencies.

Unfortunately, when you look at the specifics of the actual plan we are voting on, these agencies are not included. In fact, not only is there no mention of these agencies in the plan, there is not even a mention of emergency programs in the plan. The plan simply creates a shell agency with only two major programs, the National Fire Prevention and Control Administration now in Commerce, and the Insurance Administration now in HUD.

The procedure to get from the specifics of the actual plan to the concept of the program is interesting. We are told that after the plan is passed by Congress, the main emergency preparedness agencies—FDAA, DCPA, and FPA—will be transferred to the new agency by Executive order.

It is important to understand the implications of that procedure. By passing the plan without the inclusion of the three agencies, this means that in the future, the President, any President, can transfer the programs whenever and wherever he pleases without coming back to Congress for approval. We are told that the President is using this procedure in order to keep his options open. It is true that the President will maintain his option, but we in Congress will be losing ours.

I have no doubt that the President will transfer the agencies by Executive order as he promises; however, by using this procedure, he is also implicitly telling us that sometime in the future he may well transfer the agencies again and we will be left with only a shell agency. Or, if he does not transfer them, a future President could. If you look at the history of emergency preparedness, about every 3 years there has been a change and unless these agencies are listed in the actual plan, we are making them susceptible to more change.

The fact is, this plan is not a reorganization of the existing emergency preparedness agencies. The concept for a good, new emergency preparedness agency is in the President's message, but unfortunately the specifics of the plan are different, and the procedures being used indicate an uncertain future for this new agency.

WHY SUPPORT THE PLAN?

I support Reorganization Plan No. 3 despite the serious procedural problems for one simple reason: I support the President's program of combining all these various agencies into one agency. There are two serious problems now with emergency preparedness and planning. In the opinion of most experts, emergency preparedness has been a sorely neglected area which is both fragmented on the one hand and duplicative on the other. The President's program to create a new agency, the Federal Emergency Management Agency (FEMA), should give emergency preparedness a higher profile while at the same time solving the fragmentation and duplication problems.

It will be, however, incumbent upon us in Congress and especially for the appropriate committees in Congress to insure that the program is followed despite the rather sloppy procedural methods that have been used to establish the new agency.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. BRINKLEY).

Mr. BRINKLEY. Mr. Chairman, I rise to urge a "no" vote on House Resolution 1242, a resolution disapproving Executive Reorganization Plan No. 3 on Federal Emergency Preparedness and Response.

For too long, the absence of a single, coordinating Federal Civil Defense Agency has caused our State and local civil defense officials to suffer needless confusion and delays in disaster management and control. Through this reorganization plan, mandating a consolidation of the three major Federal Civil Defense Agencies into a single Federal Emergency Management Agency, we now have the opportunity to prevent future jurisdictional disputes, while strengthening coordination of our civil defense network.

In addition to improving administrative efficiency, the reorganization plan contains a basic policy assumption essential to a strong national civil defense program. That essential policy is the dual use allocation of civil defense funds for natural as well as nuclear disasters. This basic assumption is identical in purpose to legislation I have introduced which seeks to establish statutory authority for the dual use role.

The best preparation we can offer our civil defense officials is the training and fine-tuning they can attain through natural disaster preparedness, readying them for the ultimate test which a military disaster would impose.

The President's emergency preparedness and response reorganization plan will insure the dual benefit of both improved administration of our civil defense network and implementation of the dual-use mission for civil defense. Enactment of the plan will assure a broader, better quality civil defense program for the American people, and the price tag will be marked "better value."

Mr. HORTON. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Chairman, I rise in hopes that the Members will vote for this disapproval. I do so because this particular reorganization plan is a fraud. More importantly, it is a dangerous fraud, because you have had many of your civil servant people, many of your people from civil defense who have been in touch with you and told you that this is the kind of plan we need in order to assure a strong civil defense in this country. It does nothing of this kind. It takes a couple of the agencies within the Government and makes some minor modifications in them, but it really does not help civil defense, because what this plan does is makes a couple of shuffles here and there, but leaves it up to the President as to what we are going to do about civil defense in the future.

Now, if we leave it up to the President, what he is going to do is take care of this by Executive order. That means there is going to be no legislative mandate.

Now, those of us in this House, and I am one, who believe that this is an extremely important thing do not believe there should be an Executive order behind it. I believe it should be by legislative mandate and not by Executive order. That is exactly what we do if we disapprove this particular plan. I would hope the Members would vote to approve, because we will end up with a stronger civil defense if it is approved.

Several months ago we had quite a debate on this business of reorganization that the President had promised. What we came up with was this plan we are now implementing on this floor; but part of the debate and the thing we decided not to do was to make Congress an equal partner in this whole plan of reorganization.

Now, we stand here today and find the tradegy of that, when we are not an equal partner, because we are presented totally with a fait accompli, where the President has said he will take care of the whole thing for us. We are going to lose our options, as the gentleman from New York said.

I think it is high time we show the President we will not go along with that type of plan. We want a reorganization in which we can participate. We want a reorganization that will make a strong civil defense, with a strong legislative mandate.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I will be glad to yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, I agree with what the gentleman from Pennsylvania (Mr. WALKER) is saying.

The one thing that has been consistent about the reorganization plans that have been presented to us and that have come to the floor for consideration has been their failure to do anything about either reducing the expenditures of the Federal Government or reducing the number of people who work for the Federal Government. All they have been noted for, as far as I can find out, is to shuffle positions around and change around some tables of organization. They do not do the very things that the people want done by reorganization in the Government and that is to reduce the manpower that is needed to perform the functions and thus reduce the cost to the Federal Government.

This is a classic example of just another one of those items that are brought to the floor called "Reorganization Plans," and I am sure that conjures up in everybody's mind the idea that that means we are going to do something that is going to streamline our Government, make it more effective, and reduce its cost. There is nothing like that in here at all. All we are doing is bouncing the balls around and changing them around on the ground in a different pattern, but exactly the same people are working and exactly the same functions are being performed.

So, Mr. Chairman, I think the gentleman from Pennsylvania (Mr. WALKER) is right. These plans only serve the purpose of giving the illusion of some action that is helpful to the taxpayers of the country. Actually I think that is more harmful than helpful.

So, Mr. Chairman, I am going to vote with the gentleman from Pennsylvania (Mr. WALKER) in support of the motion to disapprove this, which is a hollow shell, although it is offered as sort of a reorganization plan that has been presented to us on the floor of the House.

Mr. WALKER. Mr. Chairman, I commend the gentleman from New York (Mr. WYDLER) for his statement, and I believe he is accurate.

As the gentleman knows, when we had this matter in the committee, it was admitted that this would result in no significant savings of money in the bill, and it was admitted that there would be no significant reductions in personnel. But the sham is that it is being billed as something more than it is. It is being billed as a savior of our civil defense system, when in fact it is nothing but a sham.

Mr. WYDLER. Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Chairman, I yield back the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New York (Ms. HOLTZMAN.)

Ms. HOLTZMAN. Mr. Chairman, I thank the distinguished committee chairman for yielding this time to me.

Mr. Chairman, I am concerned about revitalizing our urban areas and about carrying out the President's recently announced urban policies. For this reason I have questions about this reorganization plan which transfers to the new Federal Disaster Agency the riot reinsurance and crime insurance programs.

I am concerned that this disaster agency may not accord appropriate attention to urban insurance problems. I wonder if the chairman of the committee could assure me that this transfer will in no way result in the neglect of the serious problems of urban insurance availability and property insurance redlining? And could the chairman also assure me that the Federal Insurance Administration in its new role will be able to continue its initiatives regarding matters of concern to insurance consumers generally and urban residents specifically?

Mr. BROOKS. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I yield to the chairman of the committee.

Mr. BROOKS. Mr. Chairman, in answer to both questions asked by the gentlewoman from New York (Ms. HOLTZMAN), may I say that OMB has answered them. They have given answers at some length in the hearings on pages 54 and 55 to exactly the same type of questions: That basically—

> In the longer run, working with appropriate committees in the Congress, we intend to address the handling of insurance questions on a government-wide basis more comprehensibly and permanently. Maintaining FIA's insurance expertise intact assures that this reorganization does not prejudice possible future improvements.

On the redlining problem, they said—

> Another consideration is that large-scale urban riots certainly fall within the scope of "emergencies," which will be the Federal Emergency Management Agency's principal concern," and that "under a Level IV associate director with expanded responsibilities, the insurance programs will be favorably weighted, compared to the other programs transferred to the new agency, and should fare at least as well as they have in HUD.

Ms. HOLTZMAN. Mr. Chairman, I thank the gentleman. I take it from his words that he is assuring me the Federal Insurance Administration will be able to continue its initiatives with respect to insurance problems?

Mr. BROOKS. That is my understanding.

Ms. HOLTZMAN. Mr. Chairman, I thank the gentleman.

● Mr. GOLDWATER. I rise in support of the reorganization plan. This consolidation of emergency preparedness and disaster relief organizations is long overdue. While I agree with my colleagues on the Government Operations Committee who questioned the wisdom of accomplishing this much needed reform by Executive order instead of a legislative mandate, I believe that the time constraints on this Congress dictate that we should go ahead with the reorganization but with the view in mind that the next Congress should correct this and any other deficiencies in the plan.

As many of you know, there were serious floods, property damage and, unfortunately, loss of life in my congressional district as a result of severe rains this last March. Because of a carefully thought-out disaster response program between Federal, State, and local authorities, the recovery from the disaster in the Ventura County portion of my district not only went smoothly, but it was also quick and effective. It is my opinion that one of the reasons for this was due to the unified nature of the effort. Conversely, there was an area in my district which was not so fortunate in dealing with this same disaster, and the primary reason was lack of coordination among the Federal programs and the resultant lack of accessibility by the State and local agencies. In short, I believe the reorganization is an important first step in resolving the problems of accessibility and simplification, and I would urge my colleagues to support the plan.●

● Mr. PEPPER. Mr. Chairman, I rise in opposition to the resolution disapproving Reorganization Plan No. 3, which consolidates emergency preparedness functions into a new Federal Emergency Management Agency. However, I wish to establish a clear understanding of the impact of the plan on older persons.

Five agencies with responsibilities for emergency preparedness, mitigation and response activities from the Departments of Defense, Commerce, HUD, and GSA will be merged into the new Federal Emergency Management Agency, whose Director shall report directly to the President, through Reorganization Plan No. 3 and subsequent Executive order.

On June 19, 1978, President Carter announced that all authorities and functions under the Disaster Relief Acts of 1970 and 1974 now delegated to the Federal Disaster Administration in the Department of Housing and Urban Development would be transferred to the new agency. It is this part of the reorganization plan that I wish to discuss at this time.

The Select Committee on Aging, which I serve as chairman, has conducted hearings on weather disasters and the elderly, in which we reviewed the Federal response to the elderly victims of such weather disasters as the Omaha, Nebr., tornado in 1975, the January 1977 Buffalo, N.Y., snowstorm and the April 1977 Appalachian floods. While personal losses and tragedies incurred during weather disasters have no age barrier, we must certainly respond to the vulnerability of persons, who encounter difficulties in their everyday lives, whether they are health related or economic. Our committee has found that the impact of personal property loss, physical injury, and disrupted transportation are borne most heavily by older persons, especially the frail elderly.

The consolidation of natural disaster relief programs currently administered by FDAA with other Federal disaster agencies, is of special interest to the Committee on Aging, as any downgrading of the disaster response component may eventually place elderly disaster victims in further jeopardy.

For this reason I joined with the ranking minority member of the Committee on Aging, Congressman WILLIAM C. WAMPLER of Virginia, in conducting these hearings and in corresponding with the President on this very issue. I would like to include our correspondence in the RECORD on this issue and call to attention the statement concerning the intent of Reorganization Plan No. 3 with respect to natural disaster assistance:

While final decisions on the internal organization of the proposed Federal Emergency Management Agency will be made by the Director when he or she is appointed, I can assure you there will be no downgrading of the disaster response component.

Mr. Chairman, I feel that the successful implementation of the goals of Plan No. 3 will be dependent upon congressional oversight of reorganization of disaster services, to insure that the personal, catastrophic tragedies of weather disasters will be minimized for every disaster victim, especially those who have the least opportunity for recovery by their own means.

The correspondence follows:

SELECT COMMITTEE ON AGING,
Washington, D.C., August 17, 1978.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We are addressing this letter to you to express our mutual deep concern over one key aspect of Reorganization Plan No. 3, establishing the Federal Emergency Management Agency, which you have submitted to Congress.

Although we favor the proposed reorganization in principle, we are concerned that it contemplates a downgrading of the natural disaster-response functions now carried out by the Federal Disaster Assistance Administration.

We question whether this is your actual intent, for we feel certain you share our conviction that the Federal disaster-response function has been one of the most effective and highly regarded activities of our government.

It is of special interest to us, for the elderly are the least-prepared and hardest-hit of all our citizens during natural disasters. We do not want anything to place them in further jeopardy, which would surely be the case if the natural disaster-response function is downgraded. As you will see in the attached hearing held by the Select Committee on Aging on "Weather Disasters and The Elderly", the elderly need more, not less assistance during natural disasters.

Therefore, we respectfully ask you assurance that the natural disaster-response component of FEMA will be placed in highest priority status or at least upon an equal status with the other components in FEMA. We request your response in such time that it can be made a part of the legislative history of Congress' consideration of Reorganization Plan No. 3.

Sincerely yours,

CLAUDE PEPPER,
Chairman.

WILLIAM C. WAMPLER,
Ranking Minority Member.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., September 11, 1978.

Hon. CLAUDE PEPPER,
Chairman, Select Committee on Aging, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter to the President of August 17, 1978 relating to Reorganization Plan No. 3 of 1978. I appreciate your concerns about the importance of natural disaster relief programs, particularly as they relate to special vulnerabilities of the elderly.

I am confident that the disaster relief program will be enhanced by the reorganization proposal. Responsibility for administering the program will be made more directly accountable to the President rather than channeled through a Departmental layer. Creation of an Emergency Management Committee at the White House level will help assure more concerted and comprehensive employment of all of the Federal Government's resources which may be required in a disaster situation.

While final decisions on the internal organization of the proposed Federal Emergency Management Agency will be made by the Director when he or she is appointed, I can assure you that there will be no downgrading of the disaster response component. The Associate Director for Disaster Response and Recovery will be able to concentrate full time on these responsibilities, and will be appointed at the very least at the same level as the present Administrator of the Federal Disaster Assistance Administration. We expect both the Director and the Deputy Director of FEMA to devote a major proportion of their time to preventing and resolving problems in disaster relief programs, lending them top-level attention much more consistently than is the case today.

While the Reorganization Plan does not contemplate the expansion of natural disaster assistance, the Director of the new agency will be in a much improved position to assess program needs and priorities for both the President and Congress.

Sincerely,

JAMES T. MCINTYRE, Jr.,
Director.●

Mr. BROOKS. Mr. Chairman, I have no further requests for time.

Mr. HORTON. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will report the resolution.

The Clerk read the resolution as follows:

H. RES. 1242

Resolved, That the House of Representatives does not favor the Reorganization Plan Numbered 3 transmitted to the Congress by the President on June 19, 1978.

Mr. BROOKS. Mr. Chairman, I move that the Committee do now rise and report the resolution back to the House with the recommendation that the resolution be not agreed to.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the Chair, Mr. KILDEE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the resolution (H. Res. 1242) to disapprove Reorganization Plan Numbered 3 transmitted by the President on June 19, 1978, had directed him to report the resolution back to the House, with the recommendation that the resolution be not agreed to.

The Clerk read the resolution.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the resolution.

There was no objection.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. WYDLER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 40, nays 327, not voting 65, as follows:

[Roll No. 779]

YEAS—40

Archer
Ashbrook
Badham
Bauman
Beard, Tenn.
Cohen
Collins, Tex.
Crane
Cunningham
Daniel, Dan
Daniel, R. W.
Devine
Dornan
Emery
Forsythe
Hammer-schmidt
Hansen
Hillis
Holt
Hyde
Kelly
Kindness
Lagomarsino
Latta
Lent
McDonald
Moorhead, Calif.
O'Brien
Pursell
Robinson
Rousselot
Satterfield
Schulze
Shuster
Spence
Symms
Taylor
Walker
Whitehurst
Wydler

NAYS—327

Abdnor
Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Ashley
Aspin
AuCoin
Baldus
Barnard
Baucus
Beard, R.I.
Bedell
Bellenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Caputo
Carney
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clay
Cleveland
Collins, Ill.
Conable
Conte
Corcoran
Corman
Cornell
Coughlin
D'Amours
Danielson
Davis
de la Garza
Delaney
Derrick
Derwinski
Dickinson
Dicks
Diggs
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Gammage
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hanley
Harkin
Harrington
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Holland
Hollenbeck
Holtzman
Horton
Howard
Hubbard
Hughes
Ichord
Jacobs
Jeffords
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kemp
Keys
Kildee
Kostmayer
Krebs
LaFalce
Le Fante
Lederer
Leggett
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lujan
Luken
McClory
McCloskey
McDade
McEwen
McFall
McHugh
McKay
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Martin
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mikulski
Mikva
Milford
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moss
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Perkins
Pettis
Pickle
Pike
Pressler
Preyer
Price
Quayle
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Roe
Rogers
Roncalio
Rosenthal
Rostenkowski
Roybal
Rudd
Runnels
Ruppe
Russo
Ryan
Santini
Sawyer
Scheuer
Schroeder
Seiberling
Sharp
Sikes
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
St Germain
Staggers
Stangeland
Stanton
Steed
Steers
Steiger
Stockman
Stokes
Stratton
Studds
Stump
Thompson
Thornton
Traxler
Treen
Trible
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walsh
Wampler
Watkins
Waxman
Weaver
Weiss
Whalen
Whitley
Whitten
Wilson, Bob
Wilson, Tex.
Winn
Wolff
Wright
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—65

Addabbo
Ammerman
Anderson, Ill.
Armstrong
Bafalis
Boggs
Breaux
Breckinridge
Broomfield
Burke, Calif.
Burke, Fla.
Carr
Clawson, Del
Cochran
Coleman
Conyers
Cornwell
Cotter
Dellums
Dent
Fascell
Flowers
Gibbons
Hannaford
Huckaby
Ireland
Jenrette
Jones, N.C.
Kasten
Krueger
Lehman
Lott
Lundine
McCormack
McKinney
Marriott
Mathis
Miller, Calif.
Montgomery
Moorhead, Pa.
Mottl
Myers, Michael
Nix
Pepper
Poage
Pritchard
Quie
Rodino
Rooney
Rose
Sarasin
Sebelius
Shipley
Sisk
Skubitz
Spellman
Stark
Teague
Thone
Tsongas
White
Wiggins
Wilson, C. H.
Wirth

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Broomfield.
Mr. Ammerman with Mr. Leach.
Mr. McCormack with Mr. McKinney.
Mr. Teague with Mr. Cochran of Mississippi.
Mr. Cotter with Mr. Sarasin.
Mr. Fascell with Mr. Wiggins.
Mr. Jenrette with Mr. Quie.
Mr. Krueger with Mr. Del Clawson.
Mr. Breaux with Mr. Burke of Florida.
Mr. Montgomery with Mr. Thone.
Mrs. Burke of California with Mr. Sebelius.
Mrs. Spellman with Mr. Gibbons.
Mr. Nix with Mr. Flowers.
Mr. Huckaby with Mr. Tsongas.
Mr. Miller of California with Mr. Michael O. Myers.
Mrs. Boggs with Mr. Rooney.
Mr. Lehman with Mr. Wirth.
Mr. Rose with Mr. Hannaford.
Mr. Pepper with Mr. Charles H. Wilson of California.
Mr. Shipley with Mr. Jones of North Carolina.
Mr. Dent with Mr. Mathis.
Mr. Sisk with Mr. Bafalis.
Mr. White with Mr. Moorhead of Pennsylvania.
Mr. Rodino with Mr. Anderson of Illinois.
Mr. Motti with Mr. Pritchard.
Mr. Conyers with Mr. Coleman.
Mr. Lundine with Mr. Skubitz.
Mr. Carr with Mr. Ireland.
Mr. Stark with Mr. Kasten.
Mr. Dellums with Mr. Lott.
Mr. Cornwell with Mr. Breckinridge.

Mr. MARLENEE and Mr. RAILSBACK changed their vote from "yea" to "nay."

So the resolution was rejected.

The result of the vote was announced as above recorded.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks, and include extraneous matter, on the resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 10909, AMENDING CLINICAL LABORATORY ACT OF 1978

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1571) on the resolution (H. Res. 1348) providing for consideration of the bill (H.R. 10909) to amend the Public Health Service Act to revise and strengthen the program under that act for national standards for and licensing of clinical laboratories, to amend the Social Security Act to require laboratories providing services financed under titles XVIII and XIX of such act to meet the requirements of such program, and for other purposes, which was referred to the House Calendar and ordered to be printed.

AIR SERVICE IMPROVEMENT ACT OF 1978

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1324 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1324

Resolved, That upon the adoption of this resolution it shall be in order to move, sec-

tion 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12611) to amend the Federal Aviation Act of 1958 to improve air service and provide flexibility in air fares. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. It shall be in order to consider an amendment to said substitute printed in the Congressional Record of August 15 by Representative SNYDER, and all points of order against said amendment for failure to comply with clause 7, rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 12611, the Committee on Public Works and Transportation shall be discharged from the further consideration of the bill S. 2493 notwithstanding the provisions of section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344), and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 12611 as passed by the House.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, those who listened will know that this rule is a 1-hour open rule. There is a committee amendment in the nature of a substitute to be considered as an original bill for the purpose of an amendment; an amendment by Representative SNYDER, made in order despite any points of order that might lie against it; at the conclusion, a motion to recommit and then it would go to conference.

Mr. Speaker, I know of absolutely no controversy about the matter, about the rule and, in fact, very little about the bill it brings up.

Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the able gentleman from Missouri (Mr. BOLLING) has explained the rule that makes in order the bill H.R. 12611, to amend the Federal Aviation Act of 1958 to improve air service and provide flexibility in air fares.

Mr. Speaker, this is a reform measure. I know of no opposition to it. I urge adoption of the rule and yield back the balance of my time.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WYDLER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 344, nays 1, not voting 87, as follows:

[Roll No. 780]

YEAS—344

Abdnor
Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Caputo
Carney
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clay
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cornell
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Derrick
Derwinski
Dickinson
Diggs
Dingell
Dodd
Dornan
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Gammage
Garcia
Gaydos
Gephardt
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hansen
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Hughes
Hyde
Ichord
Jacobs
Jeffords
Jenkins
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kelly
Kemp
Keys
Kildee
Kindness
Kostmayer
Krebs
Lagomarsino
Latta
Le Fante
Lederer
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lujan
Luken
McClory
McCloskey
McDonald
McEwen
McFall
McHugh
McKay
Madigan
Mahon
Mann
Markey
Marks
Marlenee
Martin
Mattox
Mazzoli
Meeds
Metcalfe
Michel
Mikulski
Mikva
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Moore
Moorhead, Calif.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Pease
Perkins
Pettis
Pickle
Pike
Preyer
Price
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Rogers
Roncalio
Rosenthal
Rostenkowski
Rousselot
Roybal
Rudd
Runnels
Ruppe
Russo
Ryan
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Sharp
Shuster
Sikes
Simon
Sisk
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spence
St Germain
Staggers
Stangeland
Stanton
Steed
Steiger
Steers
Stockman
Stokes
Stratton
Studds
Stump
Symms
Taylor
Thompson
Thornton
Traxler
Treen
Trible
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Weaver
Weiss
Whalen
Whitehurst
Whitley
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NAYS—1

Evans, Ga.

NOT VOTING—87

Addabbo
Ammerman
Anderson, Ill.
Annunzio
Armstrong
Boggs
Breaux
Broomfield
Brown, Calif.
Burke, Calif.
Burke, Fla.
Carr
Clawson, Del
Cleveland
Cochran
Cohen
Conyers
Cornwell
Cotter
Dellums
Dent
Devine
Dicks
Downey
Evans, Colo.
Fascell
Flowers
Giaimo
Gibbons
Hannaford
Harkin
Harrington
Huckaby
Ireland
Jenrette
Johnson, Colo.
Jones, N.C.
Kasten
Krueger
LaFalce
Leach
Leggett
Lehman
Lott
Lundine
McCormack
McDade
McKinney
Madigan
Marriott
Mathis
Meyner
Milford
Miller, Calif.
Moffett
Montgomery
Moorhead, Pa.
Moss
Mottl
Nix
Nolan
Panetta
Pattison
Pepper
Poage
Pressler
Pritchard
Quie
Rodino
Rooney
Rose
Sarasin
Sebelius
Shipley
Skubitz
Spellman
Stark
Steiger
Stokes
Teague
Thone
Tsongas
Ullman
Waxman
Weaver
White
Whitehurst
Whitten
Wiggins
Wirth
Young, Tex.
Zeferetti

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Broomfield.
Mr. Ammerman with Mr. Leach.
Mr. McCormack with Mr. McKinney.
Mr. Teague with Mr. Cochran of Mississippi.
Mr. Cotter with Mr. Sarasin.
Mr. Fascell with Mr. Wiggins.
Mr. Jenrette with Mr. Quie.
Mr. Krueger with Mr. Del Clawson.
Mr. Breaux with Mr. Burke of Florida.
Mr. Montgomery with Mr. Thone.
Mrs. Burke of California with Mr. Sebelius.
Mrs. Spellman with Mr. Gibbons.
Mr. Nix with Mr. Flowers.

Mr. Huckaby with Mr. Tsongas.
Mr. Miller of California with Mr. Whitten.
Mrs. Boggs with Mr. Wirth.
Mr. Lehman with Mr. Stark.
Mr. Rose with Mr. Waxman.
Mr. Annunzio with Mr. Skubitz.
Mr. Carr with Mr. Pressler.
Mr. Dent with Mr. Nolan.
Mr. Giaimo with Mr. White.
Mr. Harkin with Mr. Mottl.
Mr. Jones of North Carolina with Mr. Anderson of Illinois.
Mr. Ireland with Mr. Evans of Colorado.
Mr. Leggett with Mr. Cohen.
Mrs. Meyner with Mr. Kasten.
Mr. Maguire with Mr. Cleveland.
Mr. Pepper with Mr. Johnson of Colorado.
Mr. Shipley with Mr. McDade.
Mr. Moss with Mr. Lott.
Mr. Brown of California with Mr. Marriott.
Mr. Zeferetti with Mr. Pritchard.
Mr. Rodino with Mr. Moorhead of Pennsylvania.
Mr. Downey with Mr. Devine.
Mr. Mathis with Mr. Panetta.
Mr. Rooney with Mr. Pattison of New York.
Mr. Hannaford with Mr. LaFalce.
Mr. Lundine with Mr. Harrington.
Mr. Milford with Mr. Conyers.
Mr. Cornwell with Mr. Moffett.
Mr. Dellums with Mr. Dicks.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. ANDERSON of California. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12611) to amend the Federal Aviation Act of 1958 to improve air service and provide flexibility in air fares.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ANDERSON).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WYDLER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 300, nays 8, not voting 124, as follows:

[Roll No. 781]

YEAS—300

Abdnor
Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Baucus,
Bauman
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cornell
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
de la Garza
Derrick
Derwinski
Dicks
Diggs
Dodd
Dornan
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Findley
Fish
Fisher
Fithian
Flippo
Flood
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Gammage
Garcia
Gaydos
Gephardt
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Harkin
Harris
Harsha
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holtzman
Howard
Hubbard
Hyde
Ichord
Jacobs
Jeffords
Jenkins
Johnson, Calif.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kostmayer
Krebs
Lagomarsino
Latta
Le Fante
Lederer
Lent
Levitas
Livingston
Lloyd, Tenn.
Long, La.
Long, Md.
Lujan
Luken
McClory
McCloskey
McDonald
McEwen
McFall
McHugh
McKay
Madigan
Maguire
Mann
Marks
Marlenee
Martin
Mattox
Mazzoli
Metcalfe
Meyner
Michel
Mikulski
Mikva
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Mollohan
Moore
Moorhead, Calif.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Perkins
Pettis
Pike
Preyer
Price
Pursell
Quillen
Railsback
Regula
Reuss
Richmond
Rinaldo
Roberts
Robinson
Rodino
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Rudd
Runnels
Ruppe
Russo
Ryan
Santini
Satterfield
Sawyer
Scheuer
Schulze
Selberling
Sharp
Shipley
Shuster
Sikes
Simon
Sisk
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spence
St Germain
Staggers
Stangeland
Stanton
Steed
Steers
Stockman
Stratton
Studds
Stump
Symms
Taylor
Thompson
Thornton
Traxler
Treen
Trible
Tucker
Udall
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Weiss
Whalen
Whitley
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wolff
Wright
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NAYS—8

Dickinson
Hansen
Lloyd, Calif.
Lujan
Mitchell, Md.
Quayle
Rhodes
Wydler

NOT VOTING—124

Addabbo
Ammerman
Anderson, Ill.
Annunzio
Armstrong
Barnard
Beard, R.I.
Blouin
Boggs
Boland
Bolling
Bonior
Breaux
Broomfield
Brown, Calif.
Burke, Calif.
Burke, Fla.
Caputo
Carr
Chisholm
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Conyers
Cornwell
Cotter
Davis
Delaney
Dellums
Dent
Devine
Dingell
Downey
Duncan, Oreg.
Erlenborn
Evans, Colo.
Fascell
Fenwick
Florio
Flowers
Flynt
Forsythe
Giaimo
Gibbons
Hannaford
Harrington
Heckler
Holt
Horton
Huckaby
Hughes
Ireland
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jordan
Kasten
Keys
Krueger
LaFalce
Leach
Leggett
Lehman
Lott
Lundine
McCormack
McDade
McEwen
McFall
McKinney
Mahon
Markey
Marriott
Mathis
Meeds
Milford
Miller, Calif.
Moakley
Moffett
Montgomery
Moorhead, Pa.
Moss
Mottl
Nix
Pattison
Pepper
Poage
Pressler
Pritchard
Quie
Rahall
Rangel
Risenhoover
Rodino
Rogers
Roncalio
Rooney
Rose
Sarasin
Schroeder
Sebelius
Shipley
Skubitz
Spellman
Stark
Steiger
Stokes
Teague
Thone
Tsongas
Ullman
Waxman
Weaver
White
Whitehurst
Whitten
Wiggins
Wirth
Young, Tex.
Zeferetti

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 12611, with Mr. ROSENTHAL in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from California (Mr. ANDERSON) will be recognized for 30 minutes, and the gentleman from Kentucky (Mr. SNYDER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the bill we are now considering, the Air Service Improvement Act of 1978, gives us an opportunity to lessen Government regulation and to increase free enterprise for a major American industry. I am confident that less Government regulation of the airlines will help in the fight against inflation and will benefit both consumers and the industry itself.

In recent months the airline industry, prodded by the Civil Aeronautics Board, has become substantially more competitive and has offered the public new low fares, with reductions of 50 percent or more. The results have been remarkable. Air travel is at record levels and so are industry profits. This is one area of the economy in which the fight against inflation is succeeding.

The Air Service Improvement Act will insure that the industry remains competitive and that the encouraging trends of recent months continue.

The Air Service Improvement Act was developed after extensive consideration of the problem of airline regulation by the Public Works Committee. During the last two Congresses we held 36 days of hearings in Washington and throughout the country. Few of the more than 200 witnesses who appeared were satisfied with the existing regulatory system.

After consideration of this testimony, and after many markup sessions, the Public Works and Transportation Committee developed a moderate regulatory reform bill which introduces more com-

petition and less regulation on a gradual, controlled basis. The bill also seeks to insure that the costs of the transition to a more competitive system will not weigh too heavily on the smaller airlines, on small communities, or on airline employees.

The bill is supported by the administration, and by a broad coalition ranging across the political spectrum from Americans for Democratic Action to the American Conservative Union. Other groups supporting the bill include the American Association of Retired Persons, the American Farm Bureau Federation, the National Association of Manufacturers, the American Retail Federation, and the Airport Operators Council International. A number of airlines support the bill, including the Nation's largest airline, United, and smaller airlines, such as Western, Hughes Airwest, Frontier, Allegheny, and the Commuter Airlines, the smallest companies in the industry.

The Air Service Improvement Act, Mr. Chairman, is a complete overhaul of the regulatory system which was established in 1938 to govern the small, subsidized airline industry which then existed. The 1938 regulatory system requires the airlines to seek Government approval for changes in the cities they serve and the fares they charge. The 1938 act gives CAB flexibility to promote competition, or to discourage it.

Until recently the CAB administered the 1938 act in a protective, anticompetitive manner. For example:

The CAB adopted fare policies which discouraged discount fares and experiments with reduced basic fares. These policies were adopted in the face of evidence from intrastate carriers that fare reductions of 50 percent or more could attract so many additional passengers that airlines could operate profitably despite a reduced yield;

The CAB developed procedures which enabled it to decide only a few cases at a time and these only after time-consuming and burdensome proceedings. For several years in the early 1970's the CAB established a "route moratorium" in which it refused even to grant a hearing to any application for new routes;

The CAB refused to allow any new carriers to enter the trunkline industry and dismissed or denied applications by 79 prospective new trunk carriers;

The CAB was particularly unsympathetic to applications to provide new service at low fares. When World Airways filed an application proposing low fare transcontinental service in 1967, the Board took no action on the application for 7 years and then dismissed it as stale.

As I have stated, today's CAB is doing its best to reverse these policies and to administer the act to favor competition. The bill we have reported will prevent future CAB's from returning to the policies of the past.

H.R. 12611 includes a number of provisions which will insure that the airlines continue to be competitive. The policy statement, which guides the CAB in all its decisions, has been revised to require the Board to stress competition, low fare service, and entry by new carriers. To further encourage competition, the test for granting new routes has been modified. The present law requires that the CAB find that proposed new service is "required by" the public convenience and necessity. Under H.R. 12611, the CAB need only find that proposed new service is "consistent with" the public convenience and necessity.

H.R. 12611 includes two new programs to encourage competition.

The dormant authority program provides for easy entry by carriers who wish to replace other carriers who have authority to serve markets but are not using their authority.

H.R. 12611 also establishes an experimental entry program under which airlines will be free to enter a limited number of markets without the need for CAB approval. Because "automatic entry" has been one of the more controversial proposals for regulatory reform, the bill adopts the conservative approach of a 1-year experiment with automatic entry. Certificated airlines and large intrastate airlines will be allowed to enter one market of their choice. At the same time, each certificated airline is allowed to protect one market against automatic entry.

At the end of the 1-year experiment, the CAB will submit a report to Congress with its recommendations on whether further automatic entry programs should be established. Congress will then decide whether to enact further legislation.

Another important provision of H.R. 12611 is the "sunset" provision which provides that CAB terminates on December 31, 1982. This provision can furnish the basis for complete deregulation of the industry, if the limited deregulation permitted by this bill is successful.

The fare flexibility provisions of H.R. 12611 will encourage the airlines to continue the discount fares which they have recently introduced. The bill allows airlines to reduce their fares without CAB approval by 25 percent in the first year after enactment, and by 50 percent thereafter. Greater reductions are permitted with CAB approval. The bill allows an airline which uses downward flexibility to raise its fares back to the prior level without CAB approval. The bill also establishes upward flexibility of 5 percent a year in competitive markets, to take effect after Congress legislates further automatic entry programs.

Concerns have been expressed over the effects of regulatory reform on service to small communities. In evaluating these concerns it should be remembered that the existing regulatory system has not guaranteed continued service at small communities. Since 1960 CAB has allowed certificated airlines to terminate service at 179 communities. At approximately 60 of these communities, commuter airlines, which the CAB exempts from regulation, are providing replacement service voluntarily.

The Air Service Improvement Act protects small communities against further loss of service. The bill provides that any community now being served by a certificated airline will receive continued air service for 10 years. If a certificated airline is allowed to terminate its service at a small community and no certificated carrier or commuter carrier is willing to provide replacement service without subsidy, CAB must subsidize a commuter airline.

Other provisions in the bill will enhance the attractiveness of commuter replacement service. The bill allows the commuters to operate aircraft of up to 56-seat capacity, compared to the present limit of 30 seats. Commuters are made eligible for subsidy, for joint fares with certificated airlines, and for loan guarantees for the purchase of aircraft.

The employee protection provision of the bill will insure that regulatory reform does not have an undue impact on airline employees. The bill provides that authority granted by the bill may not be exercised until the Secretary of Labor certifies that affected employees are protected by arrangements no less favorable than those in the Amtrak legislation. Employee benefits will be paid from a separate account in the U.S. Treasury.

Mr. Chairman, I believe that the Committee on Public Works and Transportation has reported a good regulatory reform bill which will benefit both consumers and the industry. I urge my colleagues to join me in supporting this needed legislation.

Mr. SNYDER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as ranking minority member of the Aviation Subcommittee, Committee on Public Works and Transportation, I welcome this opportunity to join with the gentlemen from California (Mr. JOHNSON and Mr. ANDERSON) in urging House passage of H.R. 12611, the Air Service Improvement Act of 1978. Their explanations of the bill are "right on target," and I would add just a few remarks which are intended to be supportive of their presentations.

H.R. 12611 is designed to reduce regulation of the air transportation industry by the Civil Aeronautics Board (CAB). A major objective of the legislation is to increase competition among air carriers—and the prospective results of its enactment are improved air service and reduced air fares. For too long, this industry has been hobbled by excessive Federal regulation—it is time to take the Federal Government out of the business of making management decisions and allow the forces of the marketplace to do their job.

Now, Mr. Chairman, we do not contemplate or intend in this legislation that the air transportation industry be suddenly deregulated, that all economic regulations be summarily ended. Rather, we proceed on the basis that certain regulatory requirements can be eased or eliminated—and that we should move gradually to a less regulated environment. The bill seeks in a variety of ways to reach this goal—notable among them being the following:

First. Revised policy statement emphasizing competition, new carriers, small community service, prevention of anticompetitive practices.

Second. Reform of CAB procedures including deadlines for CAB action, reduced level of tests required of applicants, and optional simplified procedures.

Third. Fare flexibility.

Fourth. Experimental automatic market entry authorizing each carrier to acquire one new route of its choice without CAB approval—while permitting each carrier to protect one of its existing routes from such entry—with requirement for CAB report to Congress on results.

Fifth. Authority for carriers to serve unused routes authorized to be served by other carriers.

Sixth. Substantial upgrading of commuter segment of industry including subsidy program for commuter carriers under specified circumstances.

Seventh. CAB "sunsets" on December 31, 1982, unless Congress enacts legislation to extend life of agency.

Mr. Chairman, the single most controversial issue during our consideration of this legislation was the question of "automatic market entry" under which carriers could select and serve new routes without CAB approval. Proponents take the position that such authority is the only meaningful way to increase competion among carriers while opponents assert that it would disrupt air service to the point that chaos would result. We listened to both sides during three sets of hearings—and we concluded that the most reasonable approach would be to establish an experimental automatic entry program under which each carrier would acquire one new route without CAB approval—while protecting no more than one of its existing routes from such entry. The bill mandates that CAB study the results of the program—and submit to the Congress its recommendations for subsequent automatic market entry legislation. By following this procedure, we believe we will not be risking irrevocable damage to our air transportation system—while at the same time we will be facilitating a move to less regulation of carrier route structures, if determined later on the basis of experience to be feasible.

Mr. Chairman, I also would include a few remarks on the antitrust standard established in H.R. 12611. Section 18 of the bill would amend the Federal Aviation Act of 1958 by making the initial competitive test to be applied by CAB under section 408(b) equal to the traditional antitrust tests applied in nonregulated industries. The use of the phrase "may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade" in section 18(b)(2)(B) of H.R. 12611 is intended to subject such transactions to the same scrutiny as would be applied under the Clayton and Sherman Acts if they occurred in a nonregulated industry.

The only difference between the antitrust standard imposed by section 18 on the air transportation industry and that applied in nonregulated industries is that even where a merger or other similar transaction in the air transportation industry is found to violate traditional antitrust standards, it may still be approved by CAB if it meets a two-part statutory test: First, the anticompetitive effects of a merger must be found to be outweighed in the public interest by the probable effect of the transaction in "meeting significant transportation needs of the community to be served," and, second, CAB must find that "such significant transportation needs may not be satisfied by any reasonably available less anticompetitive alternative." This two-part test, which comes into play only if the transaction has first been found to violate traditional antitrust tests, is similar to that imposed by judicial interpretation of the Bank Merger Act.

Thus, the basic effect of section 18 on air carrier mergers and similar transactions would be to require CAB to first test them under traditional antitrust standards. If found not to violate such standards, a transaction would be approved if otherwise in the public interest. If a transaction does not meet traditional antitrust standards, then it would be approved only if it fulfills significant transportation needs of the community and CAB finds there is no less anticompetitive alternative available to satisfy such needs.

In essence, this provision is consistent with the basic objective of regulatory reform which is to put basic decision-making back into the corporate board rooms and remove that process from the cloistered ivory towers of Federal bureaucracies. Since we are significantly freeing up entry and pricing in the air transportation industry to permit CAB to proceed rapidly toward deregulation, we feel it is appropriate to require CAB to apply the more traditional antitrust criteria applicable to unregulated industries in assessing consolidations, mergers, and other transactions involving air carriers.

Mr. Chairman, I close by noting that we considered over 60 amendments during our Aviation Subcommittee and full committee markups of H.R. 12611. The bill which is before us represents the consensus of members of the Committee on Public Works and Transportation—having been reported by a vote of 37 to 5. It is sound legislation, well-considered legislation: it is legislation which should be enacted this session. Inasmuch as the other body already has passed a similar bill (S. 3493), we believe we have an excellent chance of completing congressional action before adjournment.

I urge my colleagues to support this important legislation.

Mr. CRANE. Mr. Chairman, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from Illinois (Mr. CRANE), the House's most distinguished candidate for President.

Mr. CRANE. I thank my distinguished colleague and ranking minority Member for yielding.

Mr. Chairman, in the interest of stimulating price competition in the domestic airline industry, broadening the scope and efficiency of the Federal assistance program for air service to small and isolated communities, and in increasing the overall benefits to business, labor, and the consumer alike, I rise in support of H.R. 12611, the Air Service Improvement Act of 1978 and the Ertel amendment reversing the burden of proof in route applications.

In October 1977, I introduced H.R. 9588, the Civil Aviation Regulatory Reform Act of 1977. My bill grew out of a strong personal belief that the entire public stands to benefit from a less restricted airline system. Today, I profess this concept even more strongly. I am pleased that through the vehicle of H.R. 12611 and the Ertel amendment, we, as representatives of the people, have the opportunity to take positive steps to this end.

Mr. Chairman, the amendment that my good colleague Representative ALLEN ERTEL will offer is absolutely necessary to insure increased competition and reduced Government regulation in the industry. Under present CAB procedure, the applicant for service to a new route is saddled with the burden of proof. The cost of the legal and administrative procedures necessary to attain approval of an application is prohibitive to small companies. Representative ERTEL's amendment responsibly addresses this problem; his amendment reverses the burden of proof. Airlines trying to keep out potential competitors must prove that the new competition would be inconsistent with the public convenience and necessity. Only upon production of such evidence could the CAB reject a route application.

It has become fashionable for elected officials to decry Government interference in and regulation of our lives; yet, when given the opportunity to put actions behind these words, Congress has a tendency to maintain the status quo. Every 2 years, we continue to appropriate moneys to support our "bureaucracy by alphabet": FTC, EPA, OSHA—the list is endless.

H.R. 12611 and the Ertel amendment give each of us the golden opportunity to responsibly remove Government regulation from one of America's most important modes of transportation. In 1938, the cry was issued for Government oversight in the then new and unsteady airline industry. Government moved in and created stability by structuring a regulatory scheme to which all airlines had to adjust. Now, clearly, the situation has changed. The vigor of the current market—super saver fares being a perfect example of new economies of scale available today—underscores the need for Uncle Sam to bow out and allow free enterprise forces to surface as the main regulators of the airline industry. Our job, as Members of Congress, the legislative arm of the Government, is to undo carefully the system we created in 1938 and work to insure a successful conversion to this new system.

H.R. 12611, Mr. Chairman, creates a gradual conversion to a less regulated enterprise. Alfred Kahn, the very able, witty, and articulate Chairman of the Civil Aeronautics Board, supports the bill and the Ertel amendment. Under his leadership, the path to complete regula-

tory reform was paved as the Board's control over the market diminished. In closing, I commend to you Chairman Kahn's own thoughts on this matter:

The debate over airline regulation has been going on for a number of years; since 1974 it has been intense. There have been eight sets of hearings before five separate Congressional committees, in all covering more than 20,000 pages of testimony. I think there is no longer any doubt about the direction in which we should move. The overwhelming weight of all this evidence is on the side of the conclusion that the regulatory scheme established in 1938 has outlived its usefulness, that it is time to replace the existing protectionist statute with one that would genuinely encourage competition. It is time to return this industry to the free enterprise system.

Enlightened colleagues, I urge you not to miss this chance.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from California.

Mr. GOLDWATER. Mr. Chairman, I rise to voice my support for H.R. 12611, the Air Service Improvement Act of 1978. This is a good bill. It strikes a golden balance by preserving for both the consumer and the airlines some needed protection through the Civil Aeronautics Board while at the same time letting the free market work its will. This step is sorely overdue. The existing set of regulations can be traced back to 1938 with only minor modifications having been added by the Federal Aviation Act of 1958. Forty years ago these regulations represented needed safeguards for an aviation industry still in its infancy. Today they are bureaucratic chains which restrict the mandates for mature growth. These longstanding regulatory fetters must be released—but this must be accomplished with a sound degree of caution. To eliminate overnight all of the CAB oversight and safeguards which have been in effect for 40 years would be unwise and certainly not in the best interests of the public. Such a sudden break would probably result in severe economic disruptions in these financially shakey times. H.R. 12611 represents a moderate and controlled release from the present restrictions.

Our committee, under the able leadership of Chairman JOHNSON, GLEN ANDERSON, BILL HARSHA, GENE SNYDER, and ELLIOTT LEVITAS, has done a remarkable job of giving the Congress and the American people a bill that is reasonable and well throughout. Two years ago, most of the airlines were opposed to a regulatory reform bill and I must admit that there was much in the original committee bill that I myself found objectionable. In all, during the last two Congresses, the Aviation Subcommittee on which I sit held 36 days of hearings and heard testimony from over 200 witnesses on this issue. We had some tough times—some very strained moments—during a series of committee markup sessions, but the low of reason and the art of compromise prevailed. In my judgment, we can all live with and be proud of this bill.

For the airlines, it guarantees an orderly retreat from strict CAB regulation. This will give them time to readjust. In addition, section 6 simplifies and streamlines route application procedures. Overall, new air carriers and the smaller existing carriers will be encouraged by this bill's provisions.

More importantly, the consumer—the traveling public—will be given a break. Under section 27, upward pricing of airfares will generally be limited to no more than 5 percent per year while prices could be lowered a full 25 percent the first year after passage and a healthy 50 percent per year thereafter. At the same time, safety is given the highest priority and growing urban traffic congestion is addressed by encouraging the use of secondary airports near major urban centers.

In summary, all interests are afforded something by this bill, with the maximum benefit being reaped by the average American air traveler. It will not disrupt our Nation's airline system. It will guarantee a continuation of America's leadership in world aviation.

Mr. ANDERSON of California. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. JOHNSON), the distinguished chairman of our full committee.

Mr. JOHNSON of California. Mr. Chairman, I rise in support of H.R. 12611, the Air Service Improvement Act of 1978. The bill was reported by the Committee on Public Works and Transportation on May 19 by a vote of 37 to 5. Prior to this, the committee held extensive hearings on airline regulation. We also held many markup sessions in which we carefully worked out a moderate, responsible bill which provides for increased competition while protecting the interests of small communities, airline employees, and smaller air carriers. Our bill is more moderate than the bill which the Senate passed last spring.

The present regulatory system for airlines needs substantial revision. The law now governing the airlines was first passed in 1938. At that time the airline industry was a fraction of its present size, and the airlines were heavily dependent on Federal subsidy.

Through most of its history the CAB has administered the 1938 act to protect the airlines and discourage them from competing. These policies may have been desirable in the early days of the act. But in recent years protective regulation has not benefited either consumers, who have had to pay higher-than-necessary fares, or the industry, which frequently has had a poor earnings record.

During the last few years there have been substantial changes in CAB policy. Under the leadership of John Robson and Alfred Kahn, the CAB has encouraged the airlines to be more competitive and the airlines have responded with a wide variety of discount fares. These fares have helped combat inflation and have enabled many persons to travel by air who could not have afforded to pay regular fares. The reduced fares have resulted in record levels of travel, and airline profits have never been higher.

The legislation we are presenting today will insure that in the future the CAB will not be able to reestablish the protective and anticompetitive policies of former years. The bill will also insure that the competitive policies which the CAB developed will not be set aside by the courts.

Perhaps the most important provision of the bill is the new policy statement requiring that in all its decisions CAB emphasize competition, low fares, and entry by new carriers. Other provisions of the bill, such as the dormant authority and experimental entry provisions, will give the airlines increased freedom to enter new markets, without CAB approval. The fare flexibility provision allows airlines to adjust their fares, within a zone of reasonableness, without CAB approval.

The bill has a sunset provision terminating CAB on December 31, 1982. This will permit complete deregulation if Congress finds that course to be appropriate.

The bill also includes provisions to insure that the transition to a more competitive system will be fair and equitable to all persons involved. Protection is extended to small communities now receiving air service, and to airline employees.

Mr. Chairman, it is important that the issue of regulatory reform be resolved in this session of Congress. During the past few years, the airline industry, its employees, and the communities it serves have been in a state of uncertainty as to the basic ground rules which will govern the industry. I believe that this time has been well spent in careful study of the issues; but now that we have had adequate time for study and deliberation, it is only fair that this matter be resolved promptly.

Mr. Chairman, the language in H.R. 12611 which amends section 408 of the act of 1958 is intended to subject mergers, and acquisitions to the same scrutiny as would be applied under the Clayton Act and the Sherman Act as if they occurred in a nonregulated industry.

Thus, the effect of this provision in H.R. 12611 is to permit those mergers which—even if it would violate traditional antitrust standards—meet a two part test: First, the merger's anticompetitive effects must be found to be outweighed in the public interest by the probable effect of the transaction in "meeting significant transportation needs of the community to be served," and second, the Board must find that "such significant transportation needs may not be satisfied by any reasonably available less anticompetitive alternative." This two-part test, which only comes into play if the transaction has been first been found to violate traditional antitrust tests, is similar to that imposed by judicial interpretation of the Bank Merger Act.

Mr. SNYDER. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Chairman, H.R. 12611, the Air Service Improvement Act, is a reasonable, well-balanced proposal which will allow for meaningful regulatory reform of the aviation industry. The changes being proposed will benefit the carriers as well as the consumer who will receive better service and reduced fares.

The bill is designed to reduce regulation of our aviation industry by redirecting the efforts of the Civil Aeronautics Board and restructuring their authority with respect to routing and fares. The CAB has been moving in the direction of granting certain fare reductions and permissive entry authority. However, our bill will insure that this trend continues and that competition among air carriers is increased.

This bill, Mr. Chairman, also gives congressional recognition to the growing role commuter airlines are playing in our national transportation system. The commuter airlines have the flexibility of equipment that will permit this important segment of our air transportation system to really make an unprecedented high level of service to people in both urban and rural America.

Our commuter airlines demonstrate clearly the need for and importance of small business in our free enterprise system. It is appropriate now that we move ahead to remove the restrictions that have limited their ability to serve their passengers.

The provisions of the bill have been outlined by our distinguished chairman, the gentlemen from California (Mr. JOHNSON and Mr. ANDERSON), but I think it is important to reiterate that the bill will change from 30 to 56 the number of seats on commuter aircraft to allow them to take advantage of more efficient aircraft. The bill also permits the establishment of joint fare agreements between commuters and certificated carriers—a change which we estimate could save travelers up to $34 million per year and benefit commuter airlines at the same time.

I am excited about this bill. I am excited about the future of aviation.

I have long advocated an intermetropolitan area STOL transportation system.

Over 70 percent of our air travel is between communities of 500 miles or less.

The experimental STOL aircraft are now flying.

The next 10 years will see a commercial STOL configuration serving these communities with super quieter and cleaner aircraft. This serves as a real tribute to the work of this committee.

The bill also removes the prohibition against subsidies for commuters in markets that cannot fully support air service. This, in my judgment, will eventually strengthen the commuter airlines and, through lower costs, save the taxpayers significantly.

Finally, the bill permits commuter airlines to participate in the loan guarantee program which will improve air service to smaller communities and rural areas.

The legislation includes a sunset provision providing that the CAB will terminate on December 31, 1983. This provision will enable us to thoroughly review the performance of the CAB after a reasonable time and will allow for its abolishment or modification if we find it has outlived its usefulness or deviated too far from the course we are setting today with this legislation.

The sunset concept should apply to all Federal agencies. The regulatory powers of these bodies have gotten out of hand. The Congress can reverse this erosion of power by not giving each agency a limitless existence. Periodic review of the agency's reason for being will force them to remain responsive to congressional directives and will prevent the kind of arrogant abuse of power demonstrated recently by a number of agencies and departments.

The general approach of this legislation is regulatory reform with the idea in mind of stimulating competition to the betterment of the industry and the air traveler. This is a healthy approach which will result in many innovations. Excessive regulation such as has existed in the past can only stifle an industry such as aviation which requires such substantial financial investments. This overregulation has caused declines in profits which in term creates a lack of confidence by investors. This legislation will stimulate new profits and greatly strengthen the industry.

I urge my colleagues to support this bill.

Mr. ANDERSON of California. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Chairman, I rise in support of H.R. 12611, the Air Service Improvement Act of 1978. This is a well-balanced, reasonable proposal for providing meaningful regulatory reform in the aviation industry.

The United States has the finest and safest aviation system in the world, and it has generally performed outstanding service for the American traveling and shipping public. Nevertheless, until just recently, the industry has been highly regulated since its inception, and that regulatory system has not always been in the best financial interest of either the carriers or the consumers.

I have long said that much of what needs to be done to improve the regulatory system could be done under inherent powers of the Civil Aeronautics Board in existing law. The recent activities by Chairman Alfred Kahn and the other members of the CAB have proved my views to be correct.

However, CAB Chairmen come and go, and without an aviation deregulation bill, we will have no guarantee that succeeding chairmen would not return to the bad old days in which competition was stifled and sacrificed for protectionism. There are also some recent CAB actions which probably need clear legislative authority to avoid protracted litigation.

Until recently, the primary effect of the CAB's authority to regulate prices and entry has been to transform price competition into service competition; and by offering more and more service to keep up with competitors, a carrier incurs ever higher costs. This makes no economic sense and certainly is not in the interest of the traveling public.

A secondary effect of CAB regulation has been to restrain aggressive competition among existing carriers. Such lessening of essential competition has been exacerbated by CAB's refusal to authorize the entrance of new trunk carriers who might be expected to bring innovative ideas and efficient operations to the industry.

Regulation has generally suppressed basic competition so that in the short run all airlines are in a better position. Inefficient carriers are kept in business when they might otherwise fail; efficient firms obtain higher profits than they otherwise would under price and entry competition. Such a system fails to serve anyone well in the long run.

Consumers, passengers, present and past administrations, economists, and some industry leaders have called for changes in the present CAB system and Chairman Kahn has taken the necessary steps to bring about preliminary deregulation. The success of those steps, both in terms or lowered costs for the traveling public and the profit statements of the airlines, has created a favorable atmosphere in which to legislate permanent deregulation of the aviation industry.

Congress has the opportunity, through passage of this legislation, to make the necessary permanent changes in the existing restrictive, snail-paced regulatory system under which the industry has been operating.

This bill is an orderly, rational reform and a relaxation of the restrictive and economically stifling system which now exists. It does not throw out the baby with the bathwater. I move prudently, not precipitously, to deregulation.

We have, in this bill, included such features as a new, pro-competitive charter for the CAB, a new system of greatly expedited and simplified administrative decisionmaking procedures, substantial flexibility to carriers in setting fares, opportunity to use dormant or unused route authority, a transition period of subsidized service for small communities, encouraging commuter air carriers and an experimental "free entry" program which will give us an opportunity to understand and evaluate just what effect discretionary market entry by carriers will have on the entire system.

Unlike the companion bill passed by the other body, this bill is logical, phased transition without the potential for disruption and chaos.

Most importantly, this bill contains a vital sunset provision which I introduced, which would put the CAB out of existence on December 31, 1983. This is true deregulation, unlike the bill passed by the other body. This bill does not replace one form of regulation for another; this sunset provision will actually dissolve the CAB at the end of 7 years. Between now and 1983, there will be an opportunity for a gradual transition to a less regulated, and then unregulated, environment.

The time has come to move decision-making to the managerial boardrooms of the industry and away from the lawyers, economists, and bureaucrats at the CAB. Free enterprise has served our country well, and it is time to move the airline industry into a more competitive arena where it will have an opportunity to grow in a period of healthy and profitable competition.

Mr. Chairman, this is such a good bill that I predict that it is going to pass the House of Representatives next week by a vote of more than 350 Members voting in favor, and only a very few misguided souls voting against.

Mr. SNYDER. Mr. Chairman, I yield 1 minute to the gentleman from Oklahoma (Mr. EDWARDS).

Mr. EDWARDS of Oklahoma. Mr. Chairman, I thank the gentleman for yielding. I just want to compliment the people on both sides of the aisle who played a role in bringing this bill to the floor. For a very long time now we have been moving in the direction of increasing regulation of business in this country, with detrimental results. I think this is a very healthy step in the right direction.

I happen to serve as treasurer of the American Conservative Union, which has taken an active role in helping to push this legislation. We are very pleased that it has reached this point, and I hope, along with the gentleman from Georgia, that it will overwhelmingly pass the House.

Mr. ANDERSON of California. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. ERTEL).

Mr. ERTEL. Mr. Chairman, this legislation arrives with widespread bipartisan support. Two Presidents have aggressively sought its passage. Two successive CAB Chairmen have said that new instructions for the Board are essential. In addition, an array of organizations including the American Conservative Union, the National Association of Counties, the League of Cities, Congress Watch, Common Cause and the National Association of Manufacturers have all announced their support for airline regulatory reform.

For years we have known that the 1938 act governing air transportation was inadequate. It was designed for a fledgling, unsophisticated air transportation system. As commercial air transportation has matured, however, the existing regulatory network has come more and more to retard rather than nurture the development of air service in this country. The 1938 act is now little more than a relic of times past. But it is a relic that leaves consumers with high prices and airline managers and stockholders with little incentive and even less room for creative corporate action.

Regulation under the 1938 act is more strangulation than regulation. Existing route application procedures are costly and time consuming. In one instance alone, the Louisville air board spent over a half million dollars to argue the case for new routes involving Louisville. Dormant authority is also a fact of life under the existing system. Eighty-four percent of all markets involve carriers authorized to serve the market, but not currently providing that service. Yet, there exists no fixed procedure to provide for speedy replacement service in these markets.

H.R. 12611 takes some very important steps to remedy these and other problems. The new law explicitly recognizes the desirability of low cost service. It improves the standard and expedites the procedures under which the Board will consider applications for new route authority. The legislation also includes provisions that will help remedy the problems associated with unused authority. Other sections of the bill guarantee service to small communities and provide much needed focus for the CAB subsidy program.

It is a good bill, but it is a bill that we can improve here today. Many of the members of the Aviation Subcommittee are fond of saying that we have the finest air transportation system in the world. I agree with them. And that is why I think it is important that the Congress shape legislation governing the airlines that matches the quality of our air transportation system.

I will offer a series of amendments. Each is designed to let the traveling public enjoy the benefits of our excellent air service network. And each is designed to allow many of the Members of this body to act in accordance with their articulate statements on behalf of free enterprise and against overly intrusive Federal regulation of business. With the winds of regulatory reform came a procompetitive Civil Aeronautics Board. Chairman Alfred Kahn has led the Board toward less restrictive policies and elimination of redtape and delay. The Board's recent departures have helped provide bright economic times for the airline industry. Net income for the fiscal year ending June of 1978 for both the larger and smaller carriers was twice that of the previous year.

It is time for the Congress to catch up with the CAB. There is no guarantee that future Boards will continue the current Board's policies. Nor is there any assurance that the Board's recent decisions under the 1938 act will be upheld in court. It is our responsibility to shape legislation to insure that competition has a firm and enduring place in our air transportation system.

However, there are in this proposed act, a series of special interest protections. These protections protect some of the most profitable carriers in the United States against competition. Why? I believe we are entitled to those answers and I trust those answers will be insufficient. I hope the committee will adopt my amendments to make this bill the finest bill to protect the finest air transportation system in the world.

The question is now whether we will meet our responsibility by approving them.

Mr. ANDERSON of California. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from California (Mr. MINETA).

Mr. MINETA. Mr. Chairman, it was not so long ago that the proponents of aviation regulatory reform were a lonely minority who were, in the eyes of their opponents, tilting at windmills. As Members gradually became more familiar with this extremely complex matter, and as the CAB began to institute some procompetitive policies, it became clear that we were not wild-eyed radicals trying to create chaos in the aviation industry. When the airlines and their passengers began to reap the profits of increased competition—as we predicted they would—they began to come around to a position in support of reduced regulation and increased competition.

One of the issues that sparked the movement toward regulatory reform and resulted in the bill before us today, was the considerable difference in cost and service we could see between federally regulated air carriers and the intrastate carriers, such as California's own Pacific Southwest Airlines, and Texas' Southwest.

What became readily apparent to us as we studied this matter was the fact that regulation controlled by the CAB was, in effect, strangling the aviation industry. The anticompetitive regulation led to costly time-consuming procedures, frivolous and discriminatory decisions by CAB; service competition instead of price competition; low load factors; extravagant and excessive service; and unnecessarily high fares.

It was our firm belief that increased competition, higher load factors, and reduced costs of doing business with the CAB would stimulate the industry. What we have witnessed in the past year and one-half is the remarkable result of increasing competition. The turnaround in the aviation industry is a direct result of congressional attention, and recent CAB decisions promoting lower fares and new entry to the extent allowed by current law.

The Civil Aeronautics Board has made great strides within the confines of their current law. We need this new legislation in order to back up those decisions to guarantee that a future Board will not be able to return to the anticompetitive era we have just suffered through, and to insure that airlines and their passengers will continue to reap the benefits of increased competition.

I am sure my colleagues will be discussing the various provisions of the legislation developed by the committee. I urge my colleagues to evaluate this bill in light of the advances we have witnessed recently, and to give this legislation their strong support.

Mr. ANDERSON of California. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. SNYDER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. ANDERSON of California. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the Chair, Mr. ROSENTHAL, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 12611) to amend the Federal Aviation Act of 1958 to improve air service and provide flexibility in air fares, had come to no resolution thereon.

SECOND WAR WE'RE LOSING? MONETARY QUESTIONS

(Mr. GONZALEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GONZALEZ. Mr. Speaker, since 1971, when the dollar fell as the linchpin of the international monetary system, the world has experienced continuous instability. This has affected all people everywhere, and not least people here in the United States—who have been beset by recession, inflation and all the woes that follow in their train.

The startling thing is that almost no one has been asking questions about what we should do now. How do we restore stability—for it was stability that brought forth the world's miraculous growth in the forties, fifties, and sixties.

How do we restore the integrity of the American dollar? For it was the integrity of the dollar that gave impetus to our trade, and made our currency the true basis of much of the world's commerce.

How do we restore confidence in our own country? For much of that confidence in American leadership rested on the strength of our currency.

How do we deal with the emergence of a unified European currency? EMC and EMF for the European Economic Community has agreed in principle to create such a currency, and the United States has at least implicitly agreed to this—but what are the implications for ourselves?

We have in fact seen a vacuum in monetary leadership for the past 9 years. The United States abandoned its role, and nothing replaced it. Now it appears that Europe is ready to act on its own to fill this vacuum. Will this be a blessing or a curse? The question needs at least to be asked.

The declining value of the dollar means more than discomfort to Americans. It has had an impact all over the world. Just what has this impact been on the prospects for developing countries? What has it meant for banks that have great volumes of dollar loans abroad—loans that are depreciating in value?

Most of all, what does the instability of the dollar mean to our position of leadership—political and economic—in the world? Has our credibility declined with our currency? If it has, should we not be concerned?

Questions like these need to be asked. They are not questions that will excite much interest, because they deal with difficult concepts. But it is the difficult concepts that shape the course of history. We cannot afford the luxury of continued inaction and disinterest. There comes a time when benign neglect cannot be tolerated.

Like Vietnam, are we losing this war? Or, is it lost?

ANOTHER BIG BUSINESS LOBBY FOR THE LEFT

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, while middle income Americans from coast to coast rise up against high taxes and big government, big business liberals continue their fight to create an American welfare state on the British model. The Businessmen's Committee for the Federalization of Welfare insists that the Department of Health, Education, and Welfare, which already spends far more money than does the Defense Department, is too small. The committee demands that all welfare in this country be turned over the HEW, which admits to "losing" at least $6 billion in a single year, because today "the system is inefficient."

We are all aware that HEW's handling of its billions is a national disgrace, from medicare ripoffs to food stamp cheating to ineligible recipients of every kind of aid. It is therefore humorous, if a bit sad, to read this excuse given by the Businessmen's Committee for the Federalization of Welfare for turning all welfare over to HEW:

> Regulations are so complex and cumbersome that the system is inefficient, unfair to many recipients and extremely difficult to keep free of ineligibles.

This group has the authority to state that we are to get rid of these "complex and cumbersome rules" by turning the welfare system over to HEW, the most complex, cumbersome and inept governmental organization in this country today.

Obviously, no literate adult believes that the entire welfare system would be made more efficient by turning it over to HEW. Why, then, do these 131 businessmen demand that this be done? The real reason is indicated by the fact that one of the three organizers of this committee is William M. Ellinghaus of American Telephone & Telegraph. I recognized his name from a telegram he sent me in January as an official of the National Urban Coalition, inviting me to a $150 a plate dinner to support that organization.

The National Urban Coalition is a liberal pressure group which has been fighting for racist job quotas, bigger Federal spending, and a British-type welfare state for almost 10 years. Its founder, John Gardner, has made a career of using big business money and influence to support leftwing causes. He was an official of the Carnegie Foundation from 1955 to 1965. In 1964 he organized a so-called "Republicans for Johnson and Humphrey," which made some of the most vicious and unfounded attacks on Senator GOLDWATER in what has become famous as a classical smear campaign. As a reward, Gardner was appointed Secretary of Health, Education, and Welfare by Johnson in 1965. In that position, Gardner made both busing and racist minority hiring practices an integral part of Federal policy.

As soon as Johnson left office, Gardner mobilized his long list of big business contributors and sponsors to form the National Urban Coalition. His aim then was the same as that of Ellinghaus today: A British welfare state system in the United States. But when it began this campaign, the National Urban Coalition did not bother to make the present rather silly excuse that a national welfare system would cost less. Gardner openly demanded a tax increase to support his scheme, just as it will take a huge tax increase to support a federalized welfare system today.

In spite of my warnings, the National Manufacturers' Association, whose small-business membership usually keeps it pretty conservative, endorsed Gardner's welfare-state proposal, known as the family assistance plan. The NAM withdrew its support after the bill had passed the House, but it was the Senate which wisely defeated the plan. Gardner's long list of big business liberals supported it to the bitter end. As you can see from the list of businesses supporting the Businessmen's Committee for the Federalization of Welfare, which I include below, there are still plenty of business advocates of an American welfare state.

I described the Urban Coalition and Mr. Gardner on the floor of the House on July 16, 1970. This description both of the organization and of the man remain valid today:

> Mr. ASHBROOK. Mr. Speaker, one of the biggest lobbies for massive Federal spending is the so-called urban coalition headed by John W. Gardner. This group has been effectively mounting a crusade for heaping more and more taxes on the back of the already overburdened American taxpayer. Through its spokesman, Mr. Gardner, it has come out against giving any tax break to the average American and has called for massive doses of socialism and spending to cure every conceivable ill.

In that same 1970 speech, I quoted Mr. Gardner's demand for higher taxes to support his welfare state schemes, made on February 3, 1970:

> We must act to increase Federal revenues. As a starter, I would suggest that the remaining 5 percent of the Federal income tax surcharge should not, under any circumstances, be allowed to lapse in June.

This was the man whose federalized welfare scheme the National Manufacturers' Association supported that same year.

Nothing makes more obvious the purely political motivation of the Businessmen's Committee for the Federalization of Welfare than their fake appeal to efficiency. The same National Urban Coalition of which Ellinghaus is an official was demanding an increase in taxes to support this same kind of scheme in 1970. Now, facing the tax revolt, the big business liberals try to sell this boondoggle on the grounds of efficiency.

What these people want now is exactly what they wanted then: A vast new Federal welfare program, modeled on the welfare state system which has wrecked the British economy.

The Gardners and Ellinghauses and their list of big business backers, most of whom I fear do not really know the true nature of the motives of their leaders, perform the same function for liberal domestic policies that Robert McNamara, Cyrus Vance, and other big business-backed liberals of their ilk perform for the left in foreign policy. From the Rockefeller, Ford, and Carnegie Foundations to the long lists of business executives who back the Atlantic Council and groups to promote surrender of the Panama Canal, recognition of Cuba and closer ties with the Chinese and Soviet dictatorship, big business money and influence remain the most potent force in helping liberals and leftists achieve their goals, both in this country and abroad.

Here is the list of cosigners of A.T. & T.'s Ellinghaus' boondoggle:

BUSINESSMEN'S COMMITTEE FOR THE FEDERALIZATION OF WELFARE

Barnes, Wallace, President, Barnes Group, Inc., Bristol, Conn.

Barnhill, Howard E., President & CEO, North American Life & Casualty, Minneapolis, Minn.

Bates, Edward B., President, Connecticut Mutual Life Insurance Co., Hartford, Conn.

Beach, Morrison H., Chairman & CEO, the Travelers Corporation, Hartford, Conn.

Beretta, David, Chairman & President, Uniroyal, Inc., New York, N.Y.

Berlinger, George F., George Berlinger Investments, New York, N.Y.

Block, Joseph L., Honorary Director, Inland Steel Co., Chicago, Ill.

Brennan, Joseph C., Chairman, Emigrant Savings Bank, New York, N.Y.

Brennan, William R., Jr., President, Harlem Savings Bank, New York, N.Y.

Brittain, Alfred, III, Chairman, Bankers Trust Co., New York, N.Y.

Bronfman, Edgar M. Bronfman, Chairman, Joseph E. Seagram & Sons, Inc., New York, N.Y.

Brouphy, Theodore F., Chairman & CEO, General Telephone & Electronics Corp., Stamford, Conn.

Butler, Marshall D., President, AVX Corp., Great Neck, N.Y.

Byrom, Fletcher L., Chairman, Koppers Company, Inc., Pittsburgh, Penna.

Carroll, Thomas S., President, Lever Brothers Company, New York, N.Y.

Clark, Howard L., Chairman, American Express Company, New York, N.Y.

Cohen, Alan N., President & CEO, Madison Square Garden Corp., New York, N.Y.

Cohen, Jerome M., President, Williams Real Estate Co., Inc., New York, N.Y.

Conklin, George T. Jr., President Guardian Life Insurance Co., New York, N.Y.

Conway, E. Virgil, Chairman & President, The Seamen's Bank for Savings, New York, N.Y.

Conzen, W. H., President, Schering-Plough Corp., Kenilworth, N.J.

Craft, Wardell C., President, Wright Mutual Insurance Co., Detroit, Mich.

Crawford, Morris D., Jr., Chairman, The Bowery Savings Bank, New York, N.Y.

Crown, Lester, President, Material Service Corp., Chicago, Ill.

Diebold, John, Chairman, The Diebold Group, Inc., New York, N.Y.

Durst, Seymour B., President, The Durst Organization, Inc., New York, N.Y.

Dyson, Charles H., Chairman, The Dyson-Kissner Corp., New York, N.Y.

Eisner, Richard A., Managing Partner, Richard A. Eisner & Co., New York, N.Y.

Ekblom, Harry E., Chairman & CEO, European-American Banking Corp., New York, N.Y.

Ellinghaus, William M., Vice Chairman, American Telephone & Telegraph, New York, N.Y.

English, James F., Jr., Chairman, CBT, Hartford, Conn.

Farkas, Robin L., Vice President, Alexander's, Inc., New York, N.Y.

Faulkner, E. J., President, Woodmen Accident & Life Co., Lincoln, Nebr.

Feldman, Jacob, Chairman, Commercial Metals Co., Dallas, Texas.

Filer, John H., Chairman, Aetna Life & Casualty, Hartford, Conn.

Frank, Zollie S., President, Z. Frank, Inc., Chicago, Ill.

Gelb, Arthur, President, The Analytic Sciences Corp. (TASC), Reading, Mass.

Gelb, Harold S., Managing Partner, S. D. Leidesodrf & Co., New York, N.Y.

Gerken, Walter B., Chairman, Pacific Mutual Life Insurance Co., Newport Beach, Calif.

Gross, Arthur, President, The Clam Box, Inc., Cos Cob, Conn.

Halas, George S., Chairman, Chicago Bears Football Club, Chicago, Ill.

Hall, Floyd D., Chairman, Eastern Air Lines, Inc., New York, N.Y.

Hawley, Philip M., President, Carter Hawley Hale Stores, Inc., Los Angeles, Calif.

Hazen, W. Richard, Executive Vice President, First Jersey National Bank, Jersey City, N.J.

Heineman, Ben. W., President, Northwest Industries, Inc., Chicago, Ill.

Heiskell, Andrew, Chairman, Time, Inc., New York, N.Y.

Helmsley, Harry B., President, Helmsley-Spear, Inc., New York, N.Y.

Herrmann, Mark J., President, Mark Buick Corp., Yonkers, N.Y.

Holman, M. Carl, President, National Urban Coalition, Washington, D.C.

———, Edward A., Jr., Chairman, United Jersey Bank, Hackensack, N.J.

Kelvin, Zel, President, United National Corp., New York. N.Y.

———, Tom, President & CEO, United States Trust, New York, N.Y.

Klutznick, Philip M., Partner, Klutznick Investments, Chicago, Ill.

Kolin, Oscar, Chairman, Helena Rubinstein, Inc., New York, N.Y.

Koven, Irving, President, Ambassador Construction Co., Inc., New York, N.Y.

Lachman, Lawrence, Chairman, Bloomingdale's, New York, N.Y.

Lefkowitz, Nat, Co-Chairman, William Morris Agency, Inc., New York, N.Y.

LeFrak, Samuel J., Chairman, LeFrak Organization, Inc., Forest Hills, N.Y.

Light, Charles F., President, Buffalo Area Chamber of Commerce, Buffalo, N.Y.

Llewellyn, J. Bruce, President, FEDCO Food Corp., Bronx, N.Y.

Loeb, John L., Senior Partner, Loeb, Rhoades & Co., New York, N.Y.

Luce, Charles F., Chairman, Consolidated Edison Co., of New York, Inc., New York, N.Y.

Luntey, Eugene H., President & CEO, The Brooklyn Union Gas Co., Brooklyn, N.Y.

Mahoney, David J., Chairman & President, Norton Simon, Inc., New York, N.Y.

Mansfield, C. F., Group Exec. Vice President, Marine Midland Bank, New York, N.Y.

Margolis, David I., President, Colt Industries, Inc., New York, N.Y.

Marshall, Alton G., President, Rockefeller Center, Inc., New York, N.Y.

Martin, C. Virgil, Chairman, Finance Committee, Carson Pirie Scott & Co., Chicago, Ill.

Matthaei, Frederick C., Jr., Chairman, Arco Industries Corp., Birmingham, Mich.

May, William F., Chairman, American Can Co., Greenwich, Conn.

Merck, Albert W., Director, Merck & Co., Inc., Rahway, N.J.

Mitchell, Joseph N., President, Beneficial Standard Corp., Los Angeles, Calif.

Morrow, George L., President, The Peoples Gas Light & Coke Co., Chicago, Ill.

Murphy, Austin S., Chairman & President, East River Savings Bank, New York, N.Y.

McAllister, James P., Chairman, McAllister Brothers, Inc., New York, N.Y.

McGrath, John P., Chairman, The East New York Savings Bank, Brooklyn, N.Y.

McSwiney, J. W., Chairman & CEO, The Mead Corp., Dayton, Ohio.

Nathan, Robert R., President, Robert R. Nathan Associates, Inc., Washington, D.C.

Neal, Alfred C., Consultant, CED, New York, N.Y.

Newell, Robert L., Chairman & President, Hartford National Bank and Trust Co., Hartford, Conn.

O'Brasky, David, Publisher, Esquire Magazine, New York, N.Y.

O'Leary, James J., Vice Chairman, United States Trust Co. of New York, New York, N.Y.

Patterson, Elmore C., Chairman, Morgan Guaranty Trust Co. of New York, New York, N.Y.

Peck, Clair L., Chairman, C. L. Peck Contractor, Los Angeles, Calif.

Pepper, Richard S., Chairman, Pepper Construction Co., Chicago, Ill.

Platten, Donald C., Chairman, Chemical Bank, New York, N.Y.

Powers, Robert A., Chairman & CEO, Smith Barney, Harris Upham, New York, N.Y.

Pratt, E. T., Jr., Chairman, Pfizer, Inc., New York, N.Y.

Rapaport, Robert M., President & CEO, SuCrest Corp., New York, N.Y.

Rees, William M., Chairman, The Chubb Corp., New York, N.Y.

Richards, Bernard, President, Alpha Portland Industries, Inc., Maspeth, N.Y.

Richards, Roger C., President, Metropolitan Savings Association, Farmington Hills, Mich.

Roberts, Melvin J., Retired Chairman, Colorado National Bank, Denver, Colo.

Rockefeller, David, Chairman, The Chase Manhattan Bank, N.A., New York, N.Y.

Rohatyn, Felix G., General Partner, Lazard Freres & Co., New York, N.Y.

Rooney, Francis C., Jr., President, Melville Corp., Harrison, N.Y.

Rose, Daniel, Partner, Rose Associates, New York, N.Y.

Rosin, Alex G., Chairman, Book-of-the-Month Club, Inc., New York, N.Y.

Ross, Steven J., Chairman, Warner Communications, Inc., New York, N.Y.

Rothschild, Charles J., Jr., President, Campus Sweater & Sportswear Co., New York, N.Y.

Rugger, Gerald K., President, Home Life Insurance Co., New York, N.Y.

Salomon, William R., Managing Partner, Salomon Brothers, New York, N.Y.

Schiff, John M., Partner, Kuhn, Loeb & Co., New York, N.Y.

Schmidt, Benno C., Managing Partner, J. H. Whitney & Co., New York, N.Y.

Schulman, S. J., President, The Westchester County Association, Inc., White Plains, N.Y.

Schulman, Samuel, President, First Northwest Industries of America, Inc., Los Angeles, Calif.

Seder, Arthur R., Jr., Chairman & President, American Natural Resources Co., Detroit, Mich.

Segal, Martin E., Chairman, Wertheim Asset Management Services Incorporated, New York, N.Y.

Shinn, Richard R., President & CEO, Metropolitan Life, New York, N.Y.

Siciliano, Rocco C., Chairman & CEO, The TI Corp., Los Angeles, Calif.

Silverstein, Larry A., Partner, Silverstein & Mendik Co., New York, N.Y.

Smiley, Donald B., Chairman, R. H. Macy & Co., Inc., New York, N.Y.

Spoor, T. Richard, Vice Chairman, United States Trust, New York, N.Y.

Staff, George L., President, United Merchants & Manufacturers, Inc., New York, N.Y.

Stanton, Thomas J., Jr., Chairman, First Jersey National Bank, Jersey City, N.J.

Stecker, Robert B., Vice President & General Manager, AT&T Long Lines, New York, N.Y.

Steinberg, Saul P., Chairman and President, Reliance Group, Inc., New York, N.Y.

Terry, Benjamin P., President, Society for Savings, Hartford, Conn.

Tillinghast, Charles C., Jr., Vice Chairman, White, Weld & Co. Incorporated, New York, N.Y.

Tisch, Preston Robert, President, Loews Corporation, New York, N.Y.

Tishman, Robert V., President, Tishman Realty & Construction Co., Inc., New York, N.Y.

Turner, H. S., Chairman, Turner Construction Co., New York, N.Y.

Urstadt, Charles J., Chairman, Battery Park City Authority, New York, N.Y.

Van Fossan, R. V., President & CEO, Mutual Benefit Life Insurance Co., Newark, N.J.

Vogel, John H., President & CEO, National Bank of North America, New York, N.Y.

Wallis, Gordon T., Chairman, Irving Trust Co., New York, N.Y.

Weller, Ralph, Chairman, Otis Elevator Co., New York, N.Y.

Wilde, Frazar B., Retired Chairman, Connecticut General Life Insurance Co., Hartford, Conn.

Willis, Robert H., Chairman and President, Connecticut Natural Gas Corp., Hartford, Conn.

Winkelman, Stanley J., Chairman, Winkelman, Stores, Inc., Detroit, Mich.

Zeller, Robert G., Chairman, F. Eberstadt & Co., Inc., New York, N.Y.

ANOTHER CUBA IN NICARAGUA?

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RUDD. Mr. Speaker, it is becoming clearer and clearer every day that the concerted assault against the Nicaraguan Government is designed to pave the way for a Communist takeover in that country—and the emergence of another Cuba in our hemisphere.

This would be a tragedy of major proportions, and I believe that our Government should take every possible step to support the duly elected Government in Nicaragua—as opposed to what would certainly be a Marxist-Communist government. If Nicaragua falls, other Central American governments will be prey for the Communists.

Nicaragua is certainly one of the best friends our country has in Latin America, and the key to maintaining our leadership position there.

Two excellent commentaries on the current serious situation in Nicaragua have appeared over the past 2 days in the Arizona Republic, and I would like to include them at this point in the RECORD:

[From the Arizona Republic, Sept. 10, 1978]

NICARAGUA'S NEIGHBORS FEAR RED TAKEOVER

(By Harold K. Milks)

GUATEMALA CITY, GUATEMALA.—A swing through Central America indicates growing concern and in some areas outright fear that collapse of the Somoza regime in Nicaragua could be a prelude to a pro-Communist takeover of most of this vital region.

Officials in several countries openly stated a belief that there is no middle road for Nicaragua where the church, businessmen, and leftist terrorists have joined forces to oust President Anastasio Somoza, whose family has ruled that country for four decades.

"There are two groups in Nicaragua with power," said a Salvadorian official. "One is Somoza, who depends on his 7,500-man national guard to control the country. The other is the coalition of left-wing terrorists led by the Sandinistas, who have announced that they intend to destroy Somoza and install a Marxist socialist regime similar to that of Cuba. If that happens other areas of Central America will be threatened from the left."

Reaction to the developments in Nicaragua, where terrorists and a 3-week-old general work stoppage threatens the stability of the Somoza regime, is even more acute in Costa Rica, Central America's most prosperous nation but one without a defense force.

For years, Somoza has been bickering with neighboring Costa Rica, charging that anti-Somoza terrorists led by the Sandinista groups maintain training camps there, and infiltrate the national border at will to attack Nicaragua towns and installations.

"We don't deny that some Nicaraguan rebels are using our territory," one Costa Rican official said. "But we do our best with only our national police force available to prevent such actions.

"We don't want the leftists here and should they depose Somoza and then start pressuring us we could only appeal to the United States and the Organization of American States to protect us under our existing defense treaties."

Next to Costa Rica both Guatemala and El Salvador are most vulnerable because of terrorists bands already operating in their countries.

"Central American countries are especially vulnerable to Communist infiltration because of the acute social problems," said a prominent lawyer here in discussing problems likely to arise in the wake of a Communist takeover of Nicaragua.

"It's the old, old story of the poor getting poorer and the rich getting richer, which exists in much of this geographical area. Most of us have not found a solution to development of a middle-class society, in bringing workers, especially agricultural workers, into a situation in which they can do more than achieve a bare living for themselves and their families. And until we do the Communists, who have a persuasive line of propaganda, will find growing support."

Poor markets in cotton, sugar and coffee—the prime crops of Central America—have curbed the ability of even the well intentioned landowners to give the peasants a better deal and ease the pressure of anti-government movements, officials here said. And the individual national governments, most of them controlled by the armed forces or subservient to the oligarchies, have done little to close the gap between the haves and the have-nots in Central America.

Has the Carter government's human rights program being pushed heavily in this area helped ease the activities of terrorist oppositions?

"Probably the idea is good," said a Salvadorean businessman.

"There are millions of people in this region who need help if they are to be kept out of the Communist camp. But they need something more substantial than a slogan from Washington, which means a coordinated program involving both the governments, private business, and assistance from abroad, from the United States. But any such program should have been started 20 years ago, not today."

The foreign ministers of several Central American countries met last week to discuss ways of helping push Somoza out of office.

"They talk about creation of a national government after Somoza is gone," said one observer here. "But guns are what have kept Somoza in power over the years and guns will be the only thing to guarantee a national government when he leaves. If they don't have the guns it will be a walk-in for the left-wing Sandinista rebels, who have the guns and an oblivious willingness to use them."

[From the Arizona Republic, Sept. 12, 1978]

ANOTHER CUBA?

It's no longer necessary to speculate on what kind of government Nicaragua will have if the Somoza dictatorship collapses.

The Sandanista guerrillas, who startled the world by seizing the National Palace in Managua and holding 1,500 persons there as hostage until their demands were met, make no bones about it:

Their goal is a Communist dictatorship, modeled on Cuba's. And, since they will be the only armed force in Nicaragua if Gen. Anastasio Somoza goes, they will have the power to achieve it.

Tad Szulc, a longtime correspondent in Latin America, recently interviewed the leaders of the Sandanista movement in Panama City, where they were flown after Somoza met their demands, which included the release of 58 imprisoned comrades. Among those he spoke to were Eden Pastora Gomez, better known as "Commander Zero," who led the raid on the palace, and Tomas Borge Martinez, the political and ideological leader of the movement.

In a dispatch to The Washington Post, Szulc reported:

"If they come to power, they said, they would establish a revolutionary state—'Commander Zero' exclaimed at one point that 'there are only two solutions in Nicaragua: the revolutionary way and the counterrevolutionary way'—that would expropriate all Somoza property, nationalize natural resources, and implant social justice along with the establishment of a 'popular and democratic army.'

"The guerrillas left no doubt about their admiration for the Cuban revolution, whose influence is powerful within the movement, and their bitterness toward the United States for its long-standing backing of Gen. Somoza, whose father was installed in the 1920s with instrumental American support."

A Communist Nicaragua would be far more dangerous to U.S. interests than a Communist Cuba because of its geographical position.

It would quickly infect all Central America. Rebel movements with Sandanista ties already exist in El Salvador, Guatemala and Honduras. Costa Rica, the most democratic country in Latin America, has no army, merely a national police force, which would be hard put to cope with a guerrilla force.

If Central America goes Communist, the U.S. can expect trouble in Mexico, where there has long been a good deal of unrest because of mounting unemployment.

It's not a pretty picture.

TOURISM: OUR NATION'S GREATEST ASSET

(Mr. SKUBITZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKUBITZ. Mr. Speaker, I rise today to bring to your attention and to the

attention of all my colleagues a most serious and distressing situation. Through our inaction, through the self-serving, and shortsighted action of self-styled leaders of an industry whose value to the Nation exceeds $100 billion, we are wasting one of the greatest opportunities to reverse the dollar drain and reduce the greatest trade deficit this country has ever known. I refer to the travel and tourism industry.

Over the next several days it is my intent to bring to the attention of this body the sad state of affairs which prevails in this industry, and the incredible shortsightedness of our Department of State and members of this administration who have failed or refuse to recognize the contribution which our fledgling international tourism industry can make to our balance-of-payments deficit. In 1977 alone, foreign visitors contributed over $7 billion to our national economy.

I have divided my presentation into six parts as follows:

First. Background: The players and the crises.

Second. The U.S. Travel Service (USTS): From its creation to this day.

Third. The London office of USTS: Scope of activity, programs, and impact on the community.

Fourth. Impact of closing the USTS office in London: The Embassy position—the trade position.

Fifth. USTS offices worldwide: A recognised need.

Sixth. The Visitors Information Agency: What the United States really needs.

TODAY: THE BACKGROUND

Beginning in 1948, the United States became a nation of world travelers. Backed by universal faith in the strength of our dollar, the American tourist was the most common, if not always the most welcome, sight in virtually every city, town, or village in the world. Few, however, could afford to visit the United States. But now the tables are reversed, the dollar has become one of the cheapest currencies in the free world and we stand on the brink of the greatest travel boom this world has ever seen. The United States offers the best of virtually any activity that the tourist or world traveler is interested in and at the cheapest price available anywhere.

But we are doing nothing to exploit this gold mine. At a time when the travel industry and the administration should be doing everything in their power to exploit and nurture this infant industry, it would seem that everything is being done to destroy the industry and deter the foreign tourist from coming to these shores.

The Department of State with spurious arguments has been attempting to close our tourism offices overseas in the two most enthusiastic source countries for foreign visitors to the United States: England and Japan. Our tourism industry has been fragmented by such self-serving, shortsighted, and partisan organizations as the Discover America Travel Organizations, Inc. (DATO) which have only succeeded in demonstrating their incapacity to represent the industry or develop a coordinated national tourism program. In fact, such organizations as DATO have failed to convey to the Congress and to other elected leaders the urgency and critical importance of a national tourism policy and a national body which is completely unbiased in the trade and dedicated to the promotion of tourism to the United States.

To those who would suggest that we do not need to advertise and promote the United States as a tourism destination, I would point out that there are at least 110 countries from Trinidad to Sri Lanka and Ireland to the Barbados who are competing with budgets far in excess of ours for the same tourist dollar.

Mr. Speaker, my message is clear, and I hope that every Member will convey it to the State Department and to the industry that this is not the time to falter. On the brink of success we must try harder than ever. The following quotation should be engraved over the door of every U.S. travel service office, every travel agent, and over the mantelpiece of every diplomat representing our country overseas:

On the plains of hesitation bleach the bones of countless millions who at the dawn of victory sat down to rest and resting died.

TECHNOLOGY TRANSFER BAN OF 1978

(Mr. MILLER of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of Ohio. Mr. Speaker, the President's recent action canceling the sale of computer equipment to the Soviet News Agency (Tass), ordering that future oil technology sales first be approved by the White House, and then later granting sale of the $144 million plant for making oil drill bits to the U.S.S.R. reveals the intense debate surrounding our trade policy with the Soviet Union and Eastern Europe. It appears there is no coherent, consistent national policy controlling the transfer of technology to these authoritarian governments.

It is long overdue for the Congress to establish an effective mechanism of oversight and control of technology transfer in order to protect the national security and foreign policy interests of the United States. I am happy to announce that several of my colleagues in the House—Mr. ICHORD, Mr. DORNAN, Mr. WOLFF, Mr. PRICE, and Mr. EDWARDS of Alabama—have joined me in introducing a comprehensive piece of legislation to meet this problem.

The bill addresses several major areas. It—

First, bans the transfer to any Communist country—or any other country to which exports are restricted for national security purposes—of goods or technology having any potential military, law enforcement, or intelligence gathering value;

Second, require the President, through his Secretary of Commerce, to notify the Congress of any license or other authority the export control office plans to grant for the export of any good or technology to any Communist country or any other nation designated as a "controlled country";

Third, requires that such a notification must include the name and address of the exporter requesting the license, a description of the goods or technology to be exported, the name of the country and importer wanting the export, and quantity and monetary value of the export;

Fourth, requires the Secretary of Defense to submit directly to the Congress, in conjunction with the congressional notification by the Secretary of Commerce, a military impact statement on those goods or technologies he normally reviews in consultation with the export control office—or, within 21 days of a congressional request, a military impact statement on any license application the Congress deems necessary;

Fifth, requires that such a military impact statement must include a technical analysis of the goods or technology, and an evaluation of its military, law enforcement, or intelligence gathering potential;

Sixth, gives the Congress the authority to veto, within 30 days of continuous session, any license application or other authority for the export of any goods or technology to any Communist country or any other nation designated as a "controlled country";

Seventh, requires that such a congressional veto shall consist of a simple majority disapproval resolution by either House of Congress; and

Eighth, directs the President to take every possible step necessary to initiate and conclude negotiations with our allies to stop the transfer of critical technology to nations designated as "controlled countries."

The need for such legislation is becoming obvious as the free world nations reassess their relationship with the Communist bloc. The original theory behind détente with the U.S.S.R. was to link both sides in trade to reduce tensions and the threat of war.

The hope was that as Moscow became more dependent on the West economically, it would be inclined to reform its totalitarian structure and moderate its military or political objectives in the world. However, continued Soviet actions including the trials of dissidents, repression of human rights, violations of the Helsinki accord, harassing American newsmen, and ventures in Africa should dispel that theory. The Communist war machine keeps growing with no end in sight.

It is obvious the Kremlin does not hold the same view of détente as the United States. The Soviet Bloc leaders are using trade with the West mainly to acquire needed technology to bolster their otherwise deficient economies.

The Soviet Union, in particular, has used this technology to continue its massive buildup of strategic and conventional forces to the point where "rough equivalence" is giving way to Soviet military superiority.

Part of the problem in controlling the transfer of critical technology to the U.S.S.R. is separating what can be converted from peaceful uses to military purposes. The knowledge behind digital

watches can be applied to laser-guided weapons. Machinery that produces circuits in pocket calculators can be used to make guidance components for missiles.

For example, in 1972, the United States sold the Soviet Union equipment and accompanying technology to produce precision miniature ball bearings. The Soviets used this technology to perfect guidance systems used in its multiple nuclear warhead which are now estimated to be able to travel 6,000 miles and hit within 600 feet of a target.

Truck factories designed and constructed by American firms were later modified to produce rocket launchers and military vehicles. Thousands of trucks which took military supplies down the Ho Chi Minh Trail in the Vietnam war were built with Western technology.

The Gorki truck plant—the largest motor vehicle plant in the Soviet Union until 1968—was built in large part by the Ford Motor Co. and the Austin Co. The T-54 tank used in the Vietnam war, as well as against Israel, was built at Gorki.

Approximately 80 American firms have joined a number of West European and Japanese companies in supplying much of the equipment and technology used in construction of the massive, $5 billion Kama River truck plant, located 600 miles east of Moscow. The Kama River plant is the largest truck factory in the world, encompassing 40 square miles complete with auxiliary factories, foundries, and a new city of 500,000. The plant is now scheduled to produce 150,000 3-axle 10-ton trucks annually, as well as 350,000 diesel engines and a large number of trailers and offroad vehicles.

The Kama truck will be far superior to the standard ZIL truck used by the Soviet Army. The Kama River foundry, reputed to be the largest in the world, is located in the same complex and is run by a computer system purchased from IBM. The foundry has the capability to produce both tank engine blocks and tank turrets.

Although the facilities were supposedly built for peaceful purposes, any automobile, truck, or tractor plant can be used to produce tanks, military vehicles, rocket launchers, armored personnel carriers, and troop transports. It can easily be assumed that Moscow will use this new Kama River facility just as it has used the others it has obtained from the West: for military purposes. The Soviet Union is clearly preparing for a "Blitzkrieg" style attack on Western Europe if war ever breaks out against NATO and the Warsaw Pact. To keep their units moving swiftly over long distances, the Soviets need large numbers of heavy trucks to transport munitions, fuel, and other war supplies.

The United States is in its fourth generation of computers and is at least 10 years ahead of the Soviet Union. It is extremely difficult to distinguished between peaceful as opposed to military uses of computer technology. Even first and second generation computers process an incredible amount of information and provide the foundation for modern weapons systems such as ICBM's, ABM's, MIRV's, anti-aircraft systems, radar, satellite-based surveillance, and so on.

Virtually all emerging weapons technologies—including gyros, lasers, avionics, and nucleonics—are in one sense or another dependent on computers. In fact, without computers most modern weapon systems should not be built, integrated, tested, deployed, or operated.

Computer technology in the Soviet Union is almost entirely imported from the West, and literally all significant advances in computer technology have been of Western origin. In the last 4 years U.S. computer and electronic manufacturers have sold the Soviet Union and its satellites over $300 million in comcomputers and equipment.

One of the largest exporters is the Control Data Corp., which has exported to the U.S.S.R. and other Eastern Bloc countries, among other things, its CDC 6200, CDC 6400, CDC Cyber 73, and CDC Cyber 172. In May of 1976 Control Data had pending before the National Security Council a request to sell the Soviet Union its—and this country's—most advanced computer, the Cyber 76. Only a handful of Cyber series computers exist in the world, generally at such military-related agencies as NASA, ERDA, the U.S. Air Force, and the National Security Agency. Though the Soviets proposed to use the computer for "weather analysis" and "earthquake studies," its extensive military applications included nuclear weapons calculations relating to antisubmarine warfare, radar computations capable of intercepting and neutralizing incoming ICBM's, and the production of nuclear warheads.

Thanks to the efforts of Congressmen BOB DORNAN of California and SAM STRATTON of New York and others, the sale was halted only at the last moment, and as a result of congressional pressure.

IBM is also a major exporter to the Eastern Bloc, having sold its 360/50 and 360/65 computers, as well as fourth generation systems such as the IBM 370/145, 370/155, and 370/158. In 1975 the United States sold Aeroflot—the Soviet airline—a $10 million Sperry Univac reservation system comprised of a Univac 1106-II computer with two central processors. While this system will improve the Soviets' ability to process passengers and compete with Western airlines, it will also enhance their ability to transport troops and supplies should Moscow decide to land forces in Eastern Europe or the Middle East. There is really no way to separate the military implications of supposedly peaceful computer technology transfers.

To complicate the problem, the U.S.S.R. is able to obtain sophisticated know-how from American allies. The U.S. heatseeking shoulder-launched "Redeye" antiaircraft missile was sold to Moscow by one of our NATO allies. This technology enabled the Soviets to develop a similar weapon used to destroy numerous aircraft in the Vietnam and Middle East wars.

In 1974 the Soviet Union purchased, with American approval, the RB-211 turbofan jet engine, which powers a number of wide-bodied commercial jets. The engine had been developed by the Lockheed Corp. for their L-1011 with the help of more than $300 million in Government R. & D. funds. It was licensed and built by Rolls Royce in Great Britain. Approval for export was given Rolls Royce by then Secretary of State Henry Kissinger.

Along with the engines themselves, the Soviets purchased the requisite technology for domestic production. While ostensibly for commercial purposes, these engines have obvious military applications.

The Soviets are now extremely anxious to purchase American petroleum technology to speed the development of their Siberian oil and gas fields. While the Soviet Union has relatively few private automobiles, it does need a great quantity of oil to fuel its vast military machine. The Soviet Union, for example, has 50,000 tanks—as opposed to 10,000 in the United States—and 55,000 armored personnel carriers—against America's 22,000. It can be expected that much or most of the fuel produced in Siberia with American equipment will be allocated to military uses.

The jump in Western exports to the Communist countries is staggering. Governments of the Soviet Bloc have set up more than 800 joint manufacturing ventures with the free world in the past decade. By one estimate, the Soviets have purchased nearly 1,000 "turn-key" plants—ready-to-go manufacturing facilities—complete with trained managerial and technical staff.

In 1977, America sold the U.S.S.R. $374 million in machinery while Soviet exports to the United States of equivalent items amounted to barely $3 million. The extent to which Communist governments have been able to secure low-interest, long-term loans from the West for this trade is alarming. The Soviet Union owes the West approximately $20 billion, up from $4 billion in 1973. Total Soviet bloc indebtedness amounts to $60 billion, up from $18 billion 5 years ago.

There is good reason to believe these loans will not be repaid because this enormous debt gives the Kremlin a potential weapon to use to shake the West's financial structure.

The United States continues to hold a technological lead over the U.S.S.R. in most critical areas vital to our national security. But that lead has been diminishing at a rapid rate. In some areas we may already trail.

In 1973, Soviet head Leonid Brezhnev made this startling statement to members of his Politburo and Communist leaders of the Warsaw Pact:

> We Communists have got to string along with the capitalists for a while. We need their credits, their technology, and their agriculture. But we are going to continue a massive military buildup, and by the middle 1980's we will be in a position to return to a much more aggressive foreign policy designed to gain the upper hand in our relationship with the West.

Only if we act now can we prevent this fateful prediction from coming true. It is long overdue to pull the plug and cancel all transfer of critical technology to the Soviet Union. Why should we

feed the bear that wants to destroy our free society?

IOWA STATE UNIVERSITY EVALUATION OF "DIETARY NITRITE IN THE RAT"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. GRASSLEY) is recognized for 15 minutes.

Mr. GRASSLEY. Mr. Speaker, on August 11, 1978 the U.S. Department of Agriculture and the Food and Drug Administration of the Department of Health, Education, and Welfare issued a statement on nitrites. This statement was issued as a result of the study done for FDA by the Massachusetts Institute of Technology entitled "Dietary Nitrite in the Rat" dated May 18, 1978, with Dr. Paul M. Newberne as the project leader. In my opinion the statement made it obvious that the effects of nitrite are not clear. For example the statement made such qualifying statements as "strongly suggests" and "may increase the incidence." When analyzing the text of the study itself, it is clear why the statement was couched in such qualifying terms. The statement also announced that the study was being placed in the public record for comment.

On August 15, I wrote to Dr. Robert Parks, president of Iowa State University, requesting that he have scientists at the University closely evaluate the nitrite study and provide comment. Dr. Parks and Dr. Lee Kolmer, dean of the college of agriculture, appointed an expert team of scientists representing several disciplines throughout the university. Today I have received a copy of their report which I would like to share with my colleagues. I ask that the report be printed in the RECORD at the conclusion of my remarks.

In recent days we have heard news reports of possible Government actions ranging from an outright ban to a phaseout of the use of nitrites in the processing of meats. Currently the subcommittee in Agricultural Research and General Legislation of the Senate Committee on Agriculture, Nutrition, and Forestry is holding hearings on this issue. Next Tuesday, September 19, 1978, the Subcommittee on Department Investigations, Oversight, and Research of the House Agriculture Committee will also be holding hearing on the nitrite issue. I am a member of this subcommittee and I am looking forward to an opportunity to hear and question the witnesses which will be testifying.

Mr. Speaker, an outright ban or even a phaseout in the use of nitrite as an agent in the processing of meats has broad health, social, and economic implications for livestock producers, meat processors, and the consuming public. In my opinion this is definitely an opportune time for the bureaucrats in Washington to take comments from everyone and consider the overall impact of their action before proceeding in a direction which may not be in the public interest.

DIETARY NITRITE IN THE RAT

Due to the nature of public reaction to the August 11 joint FDA-USDA statement released with the MIT study, a need exists for sound scientific evaluation and comment on the work. Furthermore, since the FDA-USDA is currently assessing "several options" (FDA-USDA joint statement, August 11, 1978) to provide "maximum public protection," it seems appropriate to comment on regulatory action in light of a careful evaluation of the MIT report.

First of all, a review of the joint FDA-USDA statement itself requires comment. On page one, the statement concludes that the mechanism of suggested nitrite-caused tumors is "clearly distinct from that of nitrosamines." No evidence is available to support this statement since the MIT study did not include any nitrosamine analyses of feed components or stomach contents of the experimental rats. It is well known that nitrosamines are most readily formed in acid conditions as would occur in the stomach (Mirvish, S. S. 1975. Formation of N-nitroso compounds. Chemistry, kinetics and *in vivo* occurrence. Toxicol. Appl. Pharmacol. 31:325-351). Nitrosation of food components (secondary amines from protein) in the stomach by nitrite from feed or water could have occurred. The lack of tumors known to be characteristic of some nitrosamines is insufficient evidence to conclude that no nitrosamines were present. Analytical data should have been developed to support or refute this point.

The principal investigator interprets a plateau in the dose-response curve (nitrite-lymphoma) at 1000 ppm as being consistent with a promoting effect (page 13). This plateau was not established statistically yet probably led to the questionable FDA-USDA interpretation of the mechanism being different from that of nitrosamines since the nitrosamines would give a continuous dose-response curve without a plateau.

Neither the author nor the FDA-USDA have pointed out that the data can also be interpreted as consistent with a nitrosamine mechanism. It is plausible that in this test of nitrite "alone," a plateau in the dose-response curve could indicate only that endogenous secondary amines or other similar compounds were more limiting than nitrite in the production of nitroso compounds such as the nitrosamines. A plateau in the dose-response curve for nitrite could be caused by exhaustion of a particular reactant by the 1000 ppm dietary nitrite.

The second point in the FDA-USDA statement that requires comment is also on page one in which 20% of the human dietary nitrite exposure is attributed to cured food. Recent reports (Council for Agricultural Science and Technology Comments—August 1, 1978) show that dietary exposure from cured food is more on the order of 2% of the total. The major source of nitrite is derived from microbiological conversion of various nitrogenous substances to nitrate and nitrite in the intestine. A second source is dietary nitrate (vegetables, etc.) that is converted to nitrite in the saliva. The third source of dietary nitrite is from cured foods and represents much less nitrite than either of the other two.

In addition, the portion of dietary nitrite from cured foods is being reduced (Federal Register 43(143):32136, July 25, 1978—Use of 550 ppm sodium ascorbate required with 120 ppm sodium nitrite for bacon) and other protective mechanisms such as the use of ascorbate supplementation is being implemented. Therefore, human exposure to nitrite from cured food is slight and elimination of this source would remove a very small portion of the total nitrite (nitrate) from the diet.

The initial reaction of the evaluation committee to the MIT study is that the report itself is not written in the format that might be expected of a paper submitted for scientific review. For example, there is no literature review which might have included specific previous work which has suggested no nitrite-related tumor production during chronic feeding of nitrite. Methods of handling animals and animal diets are rather vaguely described and there are some discrepancies between information discussed in the manuscript and that summarized in the tables. This contract report was probably not intended for scientific review by itself. Literature citations, as well as specific descriptions of methodology, were probably included in the contract proposal. If this is the case, it would have been very helpful to have included those sections of the contract proposal with the final report for scientific comment.

The specific concerns that arise from review of the report are as follows:

(1) There is some confounding of treatment groups in the handling of animals. In one instance treatment groups are confounded with starting time of the experiment (page 4). Rats were assigned to treatment groups such that any one shipment of rats was utilized for only 4 of the 18 treatment groups. It might have been better to avoid such confounding and assign eight pregnant females from each shipment to each of the 18 treatment groups. In another instance, there is a suggestion of confounding with location. On page 7 and 8, the "illness" experienced by group 13 suggests an isolation from other groups. Likewise, the "infection" of group 1 females (p. 8, section B) is further suggestion of group isolation. If isolation of groups were necessary, it would have been advisable to distribute rats from each of the 18 treatment groups among all locations.

(2) The experimental unit used in this study should be the pregnant female rat. The investigator has treated the individual rat (the offspring) as the experimental unit thus indicating that about 135 experimental units were present for each group (treatment). The report, however, states that each dam was fed the experimental diet during pregnancy, which would make the 34 litters the experimental units for any one treatment. Furthermore, if the offspring were housed and fed in pens (not individually), the pen of rats would be the experimental unit. The proper statistical analysis would be made using the transformed fraction of animals exhibiting tumors in each pen. Identifying the proper experimental unit will not deny the trends that are displayed in the data, but will change the probability level associated with the declared level of significance.

(3) The diets described do not include any indication of when or how often nitrite was added to the formulations. Table 12A documents the well known nitrite instability in both feed and water. The time lapse between formulation and consumption then becomes a concern. There is the possibility, particularly at high nitrite concentrations of detectable nitrosamine formation in the feed before consumption. This was found to be the case in nitrite-spice premixes where nitrite concentrations were relatively high (N. P. Sen, *et al.*, 1974. Effect of additives on the formation of nitrosamines in meat curing mixtures containing spices and nitrite. J. Agr. Food Chem. 22:1125). Consequently, the lack of nitrosamine analyses decreases the scientific value of the data.

(4) Nitrite or nitrate concentrations in the drinking water before any additional amounts were added is another point that is not addressed in the report. Water very often contains some nitrate but there is no indication, in this case, of whether or not the water source was examined for nitrate or nitrite content.

(5) There is a decreased survival of treatment groups on a powered case in diet (groups 13 and 14) both with and without nitrite (page 7). Thus, there is some outside influence affecting these groups that is not clear. The report does not suggest any possible causes for this differential response.

(6) There are some discrepancies between the discussion in the manuscript and the summary data tables. On page 11, the percentage of lymphomas is declared statistically significant for group 16 when compared to control (group 15). This cannot be duplicated from table 9 using the chi square statistic at $P \leq .05$ Further discrepancies in table 9 includes the total incidence of tumors summed across sites and sexes combined for group 13 where the tabular data indicate a total of 13 and not 12 as reported. Also in table 9, summing over the "control" groups gives a total of 46 (or 45 if the group 13 total is taken as 12) instead of 48 as reported on page 11. Finally, table 4 reports the median age of death for each group which is not in agreement with the 50% survival time reported on page 7.

(7) The term "lymphoma" is used in the report to describe all tumors in table 9. This term is defined by *Dorland's Illustrated Medical Dictionary* as "a general term applied to any neoplastic disorder of lymphoid tissue," and does not distinguish between malignant and benign lymphomas. It is also pointed out in Dorland's dictionary that benign lymphoma is rare, thus, presumably the term "lymphoma" is being used in the report to denote malignant lymphoma. This should be made clear in a report that is released to the public especially since tumors in other organs are discussed as malignant or benign.

(8) The choice of nitrite levels was determined when the objectives of the study were established. However, nitrite levels actually ingested by the human from cured food do not approach the lowest level of supplemental nitrite used in this experiment. Consequently, any estimation of potential risk from cured food, if it does exist, requires extrapolation from high dosage to low dosage and proper interpretation of such an extrapolation. Toxicological studies with food additives commonly utilize high doses which are necessary for statistical evaluation to increase "the power of the test" with relatively small groups of animals. This allows researchers to involve a manageable number of animals (at low doses the required animals might number a million or more) but may produce problems not accounted for in the test (Kraybill, H.R. 1978. Proper perspectives in extrapolation of experimental carcinogenesis data to humans. Food Technology 32(8): 62–64).

Despite the difficulties in evaluation caused by the nature of the report as discussed above, there are trends in the data for increasing lymphoma with increasing dietary nitrite although these trends are not consistent in all groups nor are they consistent with dosage level (dose-response).

It is extremely important in view of the lack of a clear dose-response relationship that this work be very carefully repeated before any precipitous action is taken. This is especially true when one considers the author's own statements which include "While the results do not permit assigning nitrite a proximate carcinogenic role," "Despite the somewhat less than convincing case that nitrite is lymphogenic," "the data are only suggestive" and "the biological significance of nitrite associated lesions of the lymphoreticular system is unclear."

Many considerations must become a part of any final decision on the use of nitrite for curing food. It must be established that nitrite itself is a carcinogen and is not nitrosating some component of the rat diet to form a nitrosamine. This possibility increases with increased nitrite concentrations and could be overcome by low levels of nitrite combined with ascorbate.* Benefits of nitrite usage (anti-botulinal effects and others) must be balanced against whatever risks are determined to be present in the final analysis.

It is imperative that the regulatory agencies base their decisions on unequivocal, sound, repeatable scientific information. Decisions, hastily made, will confound, not resolve, the issue of nitrite as a curing agent.

*Regulations have been established to control nitrosamines in some products. Federal Register 43(143):32136, July 25, 1978.

FORD ROWAN'S TECHNOSPIES—BIG BROTHER INVADING OUR PRIVACY?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GOLDWATER) is recognized for 5 minutes.

● Mr. GOLDWATER. Mr. Speaker, I have had the opportunity to read a new book by Ford Rowan, NBC news correspondent, on the proliferation of sophisticated techniques for invading our privacy. Technospies, which has just been released, discusses how computerized files are kept on the public in both the private and public sector. What is frightening is how this stored information can be used to snoop into our private lives—how we manage our finances, what activities we engage in, who we associate with, and so on. The danger in all this is that whatever facts have been collected on our private lives can be misused to our detriment—job discrimination, for example—much in the same way we have heard of abuses on the part of the IRS, CIA, and FBI.

My interest in this book stems from my drafting of the Privacy Act of 1974, which former Congressman Koch of New York and I brought to the House floor. From such seemingly innocent sources as our bank records, credit files, employment profiles and elsewhere, anyone with the proper access can open our private lives to microscopic scrutiny.

Rowan cites several examples of how dangerous all of this can be. In one case, the son of an elderly Chicago cleaning woman was killed in an automobile accident involving another party. The survivor of the crash, fearing the deceased's mother would sue, obtained a dossier on the mother's driving habits in an effort to use it against her in court. Her record was not only spotless, but she made no attempt to file suit.

Mr. Speaker, the issue raised in Ford Rowan's book can easily affect every man, woman, and child in the United States. Already, the author notes, the underground Mount Weather Station operated by the Federal Preparedness Agency has the potential to assemble data on us from background reports compiled by the Census Bureau, the Social Security Administration, the Armed Forces, and other government agencies.

Mr. Rowan, who has covered the White House and the intelligence-gathering operations of our government for NBC, has emphasized the threat to our privacy from the technological advancements made in the field of computer science.

Technospies is a well-written book; one that I would recommend we, as Members of Congress, should read seriously. The book makes a very good case for further government action to prevent Big Brother, or anyone outside of government for that matter, from having the power to watch our every move.●

SENATOR KENNEDY: "WHY THE NATURAL GAS BILL WON'T WORK"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 5 minutes.

● Mr. DRINAN. Mr. Speaker, as the Senate prepares to vote on the conference report on the Natural Gas Policy Act of 1978, legislation which may soon be under consideration by the House, it is instructive to carefully and critically weigh the claims made by the bill's proponents.

The choice facing Congress is not between the administration's pricing policy or no policy at all. We should question whether the compromise bill is worth abandoning existing law, which allows the passthrough of production costs and an 18-percent return on equity; whether it is worth the bureaucratic nightmare of creating 23 separate categories of natural gas; whether it is worth the risk of renewed inflation; and whether it is even necessary in view of the 760-percent increase in gas prices over just an 11-year period.

In this regard, I highly commend to my colleagues the following commentary by the senior Senator from Massachusetts (Mr. KENNEDY) which appears in today's Boston Globe:

WHY THE NATURAL GAS BILL WON'T WORK
(By EDWARD M. KENNEDY)

The Senate this week is faced with a most unusual situation. We are being asked to vote for a conference report that even its proponents will not characterize favorably.

No one knows whether this legislation is workable. No one knows what its actual effect will be on the price of natural gas, although it is certain that prices will rise dramatically. And no one knows what its real impact will be on production of gas.

Backers of the legislation argue that the Senate should pass it in order to be on record as doing something—even if that something is enactment of a 100-page, highly ambiguous bill that will have only one sure result: the transfer of billions of dollars from the pocketbooks of consumers into the hands of the oil and gas producers.

Advocates of the bill talk about the symbolism of passage, of the importance of the bill to world confidence in the dollar, about

the need to establish an energy policy regardless of its content. They talk about everything but what is in the bill.

But we owe it to our constituents, who will have to pay the price for this legislation, to look beyond the rhetorical arguments and to examine the fine print of the bill and the most likely results of its enactment.

First let us examine the argument that the bill is needed to shore up confidence in the dollar. The implication of that argument is that speculators in the money markets will believe the legislation will reduce our domestic consumption of energy and thereby our dependence on foreign imports.

But the fact is that increased prices for natural gas will force consumers to switch to alternative fuels. And in many cases that alternative fuel will be oil—imported oil.

The proponents also argue that higher prices are needed to discourage consumption. Yet American consumers have already been subjected to energy price increases as great or greater than the rest of the industrialized world. In New England, for example, energy costs went up 125 percent between 1970 and 1976; New Englanders have been subjected to price increases and have made dramatic energy savings. Further prices increases will not substantially add to the savings, but will fall most heavily on those who have already made the greatest effort to save—the poor, the elderly, small businesses and people on fixed incomes.

Nor is there any reason to believe that this measure would increase the domestic supply of natural gas. Total, immediate deregulation of natural gas would increase domestic supplies by only about five or six percent. Any increased supplies resulting from this bill, which does not require immediate decontrol, would be marginal at best.

Let us now take a look at the bill itself. Even a quick glance indicates why its backers are so reluctant to talk about it. It is a regulatory monstrosity. The bill would create 23 separate categories of prices for various types of natural gas. The cost of the regulatory nightmare that will be created as a result of the need to determine which gas falls into which category will be enormous. It will create the need for a huge new federal bureaucracy and will be a boon only to the lawyers who will have a field day battling the hundreds of court suits that will result.

Industrial consumers will be faced with uncertainty about what price they will pay and consequently have expressed strong opposition to the pricing provisions of this bill.

Moreover, these pricing provisions may well accelerate the movement of industries from the northern industrial states to the producer states of the South and Southwest where the pricing provisions would not be applicable.

In short this bill won't work. It is simply too complicated and leaves open too many questions that will have to be resolved in the courts. Nor is there any evidence to support the argument that the bill would ease the energy crisis, reduce imports by one drop or produce even a single additional cubic foot of natural gas.

The fact is we already have in place a mechanism for increasing prices of natural gas, if there is a need for such an increase. If gas located in inaccessible places, in shale or deep in the ground, can only be recovered at a higher price, the existing rules of the Federal Energy Regulatory Commission allow it to establish a higher price for such gas.

I do not buy the argument that Congress must act only to prove that it can. There are a number of areas where we can move, and already are moving, to ease the energy crisis—by promoting conservation, by encouraging the use of existing alternative energy sources and by developing solar and geothermal power.

If Congress can produce a bill to change the pricing regulations of natural gas in such a manner that it will clearly improve the energy situation without severe economic dislocations, I will support it.

But this bill does not do that. It leads us into a wilderness of uncertainty where the dangers may well be even more ominous than those we face today, and where alleged benefits certainly do not justify the clear risks involved.●

M. LEE JENKINS, WELL-KNOWN COSMETOLOGIST TO BE HONORED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. LEGGETT) is recognized for 5 minutes.

● Mr. LEGGETT. Mr. Speaker, this Saturday night, friends, family, colleagues, and admirers of Mrs. Margaret Lee Jenkins, will gather in Solano County to salute a remarkable career. M. Lee, as she is known to all, will be honored at a testimonial dinner inspired by her students, a rare honor, indeed.

Mrs. Jenkins is a nationally known authority on cosmetology and cosmetology instruction. She is a coauthor of the "Prentice Hall Textbook of Cosmetology," a book accepted throughout the United States as the basic text for both high school and junior college students. Additionally, she collaborated with Rosemary Falkner and wrote an instructor's manual to accompany the text book which is widely regarded as a fundamental reference book for all cosmetology instructors.

M. Lee took her initial cosmetology training in Ohio and subsequently worked in Honolulu and San Francisco. For a while, she worked at the Garfinckel's in the old Statler Hilton here in Washington, D.C.

After teaching at Laney College in Oakland and Contra Costa College, she joined the faculty at the Vallejo Junior College in 1964. In addition to her own contributions as a cosmetologist, she has trained hundreds of expert cosmetologists through the teacher training program she pioneered at Solano Community College. She is known as a strict taskmaster and all students who graduate from her program have the tools to be excellent instructors themselves.

M. Lee has been a regular participant in summer workshops at Lake Arrowhead for selected cosmetology instructors developed under the auspices of the University of Southern California. The workshops have served to improve the teaching skills and knowledge of instructors from throughout the Western United States. M. Lee's contributions have been a central feature of these events.

As the direct result of the increased level of professionalism engendered by M. Lee's efforts, courses are now offered at USC for credit for cosmetology instructors. The University of California has followed suit and now offers courses for credit also.

M. Lee has helped high school students with classes on personal grooming, conducted all day programs for the Nevada Vocational Education Convention, and helped a number of charities with her cosmetology skills.

Fortunately, Saturday's gathering is not a retirement party. M. Lee has many more years to contribute her unique gifts to her students and colleagues in northern California. Her accomplishments are significant thus far in her career and we all join her in wishing her well in the years to come.●

THE OCEAN'S BOTTOM IS STILL MORE IMPORTANT THAN THE MOON'S BEHIND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 5 minutes.

● Mr. ALEXANDER. Mr. Speaker, the energy crisis has caused many Americans to think about the oceans. Industry has begun to move offshore in its search for oil and gas that is needed to maintain the standard of living to which we Americans have become accustomed. As other Western industrial nations have joined in the search for energy and other commercial minerals on the ocean floor, we have become aware of the need for a comprehensive national ocean policy. Indeed, the economic survival of the Western World is becoming increasingly more dependent upon the ocean for food, as well as for energy.

Recently I read a copy of a speech that was delivered by Don Walsh, director, Institute of Marine and Coastal Studies, University of Southern California, at the sea power forum that convened on March 4, 1978. His text—"America's Sea Power Sickness—Cause and Cure"—stresses the need to establish a national ocean policy.

Dr. Walsh is correct when he observed that our ocean programs are "fractionated and uncoordinated."

He says:

We do not have a national ocean policy. There are no high level advisors to counsel the Chief Executive of the United States, the President.

Further, he observes that—

There is a general lack of public interest and awareness in the stake we have in the oceans.

And I would be the first to agree with his finding that—

. . . the Congressional committee structure to consider the ocean issue is fairly diffuse.

The former skipper of the *Trieste* alludes to the impressive progress that the Soviet Union has made with its ocean policy in only 16 years, through a process of both commitment and continuity and concludes that the establishment of a national ocean policy—

. . . is a long term problem; it requires a long term commitment on the part of leadership. Unfortunately much of our government lives in a short-term world.

I agree with Dr. Walsh when he says that "the ocean's bottom is still more important than the moon's behind," and recommend this text to my colleagues in the Congress, the President, and those members of the President's Cabinet who are responsible for ocean policy:

AMERICA'S SEA POWER SICKNESS—CAUSE AND CURE

(By Don Walsh)

In this program we are talking about how the nation can use the sea. This really defines 'sea power'—that is, national uses of the sea as an instrument of national policy. So far, you have heard about problems faced by the Navy, the Maritime Administration, the shipping industry, and the maritime challenge of the Soviet Union. I would like to follow all this by discussing the process of how we are able to use the sea. Also I want to illustrate other examples of uses of the sea beyond naval and merchant shipping. But ultimately I want to address the question: Why do we suffer from 'sea power sickness?'

The uses of the sea involve a four-level process. The first level is simply scientific knowledge of the sea, oceanography. It is not a very old field of science. The father of oceanography was Lt. Maury of the U.S. Navy who was active in the 1840's. The first formal oceanography expedition began in 1872 with the six-year Challenger Expedition organized by the British. Actually it is not a pure science, it is an interdisciplinary field involving applications of chemical, biological, geological and phyical sciences to the marine environment. But the end point of oceanography is simply one thing: predictive information. Information about the marine environment that can be used for man's uses of the sea. For example, this predictive information can be the location and quality of fish stock; knowledge of subsea floor structure which may lead to gas and oil finds; or marine weather as it affects the safe operation of ships on the surface of the ocean. The objective (despite popular notions about research) is not to rack up credits, distinguished papers for fancy meetings or write erudite books. These things are important in professional communication to expand and diffuse knowledge but they should only lead us to predictive, useful information on the marine environment.

The second process level is ocean engineering—simply the application of most fields of engineering to uses of the sea, to build machines and equipment to do work in the sea. But this does not define useful work in the sea.

The third level is economics and public policy. This is where we really determine if the work we do is useful or not. The economic test, of course, is rather obvious. Can you do something in or on the sea to produce a profit? This is simply the basis for establishing a business.

On the other hand, the public policy test is a little more imprecise. Perhaps the Navy is the best example. Government defines that operating the Navy is an important use of the sea. It fails the economic test, but it is vital for our national security. As another example, in some developing parts of the world, a government may set up a national fishing industry because there is not sufficient private capital to do this. Ultimately it will sell the industry to the people who operate it as they become self-sustaining. So public policy, that is decisions of the central government, also determine whether or not work at sea is useful.

The fourth and final level of progress moves us out of the rather precise scientific and technological determinism of oceanography, ocean engineering and economics. The fourth area is a much more difficult set of problems. I call this "manmade constraints on uses of the sea." Here we get into the question of economics, law of the sea, political processes, cultural and ethnic problems. These are the issues that are very difficult and offer the longer term problems.

There is a great gap today between "doing" and "regulation" in uses of the sea. What I mean by this is simply that in science and technology we can now do more things in and on the sea than we have the capability or sophistication for governing these activities. This gap is perhaps 15 to 20 years between the government process, and the ability of science and technology to exploit the marine environment. Therefore, the constraints on uses of the sea are not really in the areas of scientific or technological knowledge. That is not to say we should not move ahead on development in these areas, but rather if you are thinking about a management matrix, the "critical path" is found in the political and policy areas.

In the U.S. we keep adding new players in the ocean policy area . . . it is like counting baby spiders. As you may know, the "statistical life" of a Presidential appointee in Washington is somewhere around 24 months. This may increase with Mr. Carter's mandate that everybody stay for four years, but some of the national media are already predicting that some of the cabinet officers will be leaving by the end of this year. We are concerned with problems that are perhaps decades in the construction of solutions. The necessary long-range policy formulation does not lend itself to a 24-month cycle of policy makers. Domestically we have a real problem.

In Congress the House turns over every two years and with the increase in more junior congressmen they are really good for only about a year of productive work. They get elected in November, take their chairs in January, and then there is the organization of the new Congress. By the time they really get to work it is spring, and by the next summer, a year later, they have to start running for office again. You get about a productive year out of them, unless they are senior and have a very safe district. Then you may have continuity and productivity. With the Senators it is better, with a six-year term they can really get in and do some solid work before they have to worry about the ballot box.

I oversimplify; this is not a lesson in government. But I oversimplify (and I think rather honestly) to make the point. We are dealing with different sets of short time constraints in the policy making process against a very long-term problem which is the health of sea power in our country. You have to have a basic appreciation of these things if you want to understand the dilemma of why we seem to be going sideways in sea power development.

The Soviet Union, in their development as a great sea power in only 16 years has had both commitment and continuity. For example, Admiral Gorshkov, who is both their chief of naval operations and secretary of the Navy combined, has been in this job nearly two decades. That is continuity. What I mean here is continuity of policy and institutions, not continuity of people. You can get yourself into serious problems in the government process, especially ours, if you begin to develop the personality cult instead of continuity of institutions. In our uses of the sea we have neither continuity of people nor continuity of institutions.

I have talked about the domestic lack of continuity, but this is also reflected in the international scene. There are about 156 nation states in the world today. Of the 156, about 130 are coastal states, and of these coastal states, 86% are developing nations. Thus the vast majority of coastal states are third-world nations. These nations are, in fact, sea powers—any nation that has a coastline qualifies. Sea power can be active or passive as there is potential in many of these places to develop effective uses of the sea. In the United Nations Law of the Sea Conference they are outvoting the developed, seagoing nations—they are exercising their own interests. They represent sea power on a different level, but nevertheless they are exercising international influence based on maritime issues. There is faulty understanding in many cases, but political force is being exercised with respect to ocean issues. When the first round of Law of the Sea Conferences was held in 1958 and 1960, there were about 90 nations in the world. But when the second round began in late 1973 the number had increased to 156 nations. That 86%, which are developing coastal nations, have very different goals from the developed nations. A tremendous stress and strain has been built within the international political process. This is a good example of the problem of accommodating the political process to the technical, scientific, and economic knowledge we have about how to use the sea. It is a very difficult and complex question.

What we have heard so far in this symposium about Navy and merchant marine problems are but some examples of contemporary U.S. problems in the entire marine area. By changing words, we could take out "merchant fleet," "navy," etc. and substitute "fishing," "offshore gas and oil," "Law of the Sea," and so on. All the arguments, problems and shortcomings would sound about the same. So what we have looked at so far in this seminar is just part of the American sea power sickness.

Let us now look at some of the major maritime problems that currently face the United States. I will stay away from the Navy and Merchant Marine areas since other speakers are dealing with these. What I want to illustrate is how all of these problems have been made more difficult by the lack of a coherent national ocean policy-making framework.

The first area, although not the most important in my view, is the Panama Canal. I think giving up the canal is inevitable—I myself support the treaty process because it is the right thing to do. We have to make sure that we have certain guarantees of access and defense. I think we are moving in this direction but the Panama Canal issue certainly has brought forth a lot of passion. The arguments people use to oppose the treaty process are often a bit inconsistent. Most often you hear how giving up the Canal is going to make it difficult for our Navy to operate or that it will restrict the free movement of our merchant fleet. About 8 percent of U.S. Merchant trade and about two U.S. Navy ships a month, none of our carriers can go through it, use the canal. True, 90 percent of the ships in the world can go through the canal, but it is really free market commodity. If the price of passage is raised to an uneconomical level then the shippers will stop using it. Either they will go to 'land-bridge' concept or change their routing. It is a very complex issue and I certainly can not do justification to either side of it here in a brief time. I do want to point out the sort of inconsistency of people who are trying to defend our hanging on to the Canal using as their shield a strong U.S. Navy and a strong U.S. Merchant Marine. Where are they in the other more important arenas when we want to talk about a strong U.S. Navy and a strong U.S. Merchant Marine? They just are not there. I am not entirely sure about the sincerity of their motives.

The current Law of the Sea negotiations represent a far more serious problem with respect to uses of the sea. You have virtually the entire world community involved in the largest international negotiation in the history of civilization working on developing an orderly legal framework for the 71 percent of our planet covered by water. Whether we get a law of the sea treaty or not, the political geography of ocean space will be changed permanently for all time. Involved will be issues of pollution, resources uses, transportation, and freedom of navigation.

Closer to home, the lack of a timely deep water port policy in this country has cost us dearly. The only place we can save anything on the import of petroleum is in the transport itself. We do not have a single port in the United States that can handle the most economic large crude carriers and yet we are the world's major importer of hydrocarbons. Now we are beginning to take care of this but, because in the past we have not been able to plan deep water ports in an organized way, the solution will be much more costly and difficult.

My final example would be this nonsense about cargo preference that we have just recently gone through. When the President's proposal to ship a small fraction of U.S. oil imports in U.S. tankers was presented to Congress it was turned down. There was talk about what a "consumer ripoff" cargo preference would have been had it gotten passed. It was said that foreign tankers could do the job cheaper. This is oversimplifying the problem a whole lot. What actually happens is that we are going to continue to transfer the cost of carriage of *our* crude oil imports to foreign governments via their heavily subsidized merchant fleets. A significant, though not the largest part of our deficit in export/import balance is to pay for carriage of petroleum. And we are paying this to foreign governments rather than carrying it in U.S. ships. Nobody has looked at the numbers, they just say the price per barrel goes up because American ships are more expensive, but they do not consider this other money transfer to foreign governments.

What is the basic flaw behind all this? It begins with the fact that our national ocean programs are fractionated and uncoordinated; we do not have a national ocean policy. There are no high-level advisors to counsel the Chief Executive of the United States, the President. All of his maritime advisors, the Secretary of the Navy, the head of the Maritime Administration, the administrator of the National Oceanic and Atmospheric Administration, Commandant of the Coast Guard, etc. are subcabinet level officers. They are one to two levels removed from the cabinet, thus their cabinet officer for their particular agency is understandably concerned with many other things than just maritime issues involving his department. Therefor, the President does not have any direct counsel on maritime issues that is continuous and fairly high level.

There is also a general lack of public interest and awareness in the stake we have in the oceans. The congressional committee structure to consider ocean issues is fairly diffuse. As you may know about three years ago there was almost a successful move within the House, through the Bolling Committee, to cancel the House Merchant Marine and Fisheries Committee in a reorganization move. While this did not happen, it was one of the few committees recommended for complete elimination. This does not impugn the fine leadership of Representative Murphy, the present chairman. This has been a chronic weak area in the past. It was under his predecessor that the committee almost disappeared.

There are no voters in the oceans: "Fish don't vote!" I have had one Congressman tell me that. That is clearly a cheap shot but most likely those that think this way will never have a "moon project" for the oceans and I cannot see how we could have something like this. We just have no focal project. Space program funding versus ocean program funding gives a useful index of the imbalance. The Federal Ocean Program is spread among about 21 different federal agencies and is budgeted somewhere between one billion and two billion dollars a year, depending on how you count. The national space program is funded at around four billion dollars a year . . . two to four times greater than the national ocean effort. By the way, I am not anti-space . . . just pro-ocean.

Well what is the cure for our national sea power sickness? My suggestions are certainly not a guaranteed cure. We need a national ocean policy, more precisely we need the mechanism which will formulate and execute the national ocean policy. This mechanism will insure coordination of all marine activities of our nation.

I am not talking about a super agency; there is a difference. I do not support the idea of a "wet NASA" sweeping everything together into one agency. I do support reorganization in the executive branch of the government along functional lines. We have a "department of food" (Agriculture), a "department of natural resources" (Interior), a Department of Defense, a "department of money" (Treasury), etc. I see nothing wrong with these various departments having ocean or maritime functions within them. Just because it is wet, is insufficient argument for transfer to a special, "wet agency". Right now many of these departments are engaged in unwarranted competition, fighting with each other, trying to grab maritime missions away from their neighbors. That is wasteful, leading to duplication and waste, with the taxpayer getting poor value for his money. I do believe we ought to go back to fundamentals, through better, more functional organizations in the executive branch.

In addition there needs to be a better congressional pathway in the ocean area. I steered away from the term "reorganization" here because it is a near-impossible task. But congressional handling of ocean issues is very complex and perhaps more confusing than the way they are handled in the executive branch. I should stress, though, that leadership and the major thrust must come from the White House.

Finally, we need to build the public awareness to somehow develop a historic pride in the "yankee mariner" and interest in returning him to the oceans of the world. This will require a serious involvement by the membership of the maritime community. We have to get involved in political process, we just can not leave it to a few people—it will never get done.

Can the yankee mariner make a comeback? I think so. We have the skills; we know how to mobilize capital, technology, management, and manpower. We have done it time and time again. World War II is a good example; in Richmond, California Henry J. Kaiser built a Liberty Ship in four days and eleven hours. From an empty building way to a ship put into the ocean by a man who prior to the war had never built a ship, just dams, tractors, and things of that sort. But, that's the Yankee way.

We have been a great sea power, we can still be a great sea power, but we need the interest of the people and of their government. We need the policy to be allocated by the government as well as allocation of resources. And our leaders must lead. I recall what Patton said about leadership: "You can't do it from the rear, it's like pushing a wet noodle, you've got to get in front and pull."

There is an "advertised" Presidential reorganization of ocean programs in the government under Mr. Carter's Reorganization plan, but I see that has been deferred to this summer. It is the way of Washington that it may be deferred even further as time goes by, as other "higher priority" things keep stepping in front of it. It is a long-term problem; it requires a long-term commitment on the part of leadership. Unfortunately much of our government process lives in a short-term world. Until we can isolate that long-term problem and really work on it, I am not too optimistic.

In closing, I would just like to repeat the old wheeze: "The ocean's bottom is still more important than the moon's behind." ●

DIFFERENT PERSPECTIVE ON SOCIAL SECURITY PROGRAM

● (Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HANLEY. Mr. Speaker, through this year many observations have been made on our Nation's social security program and, in particular, the social security amendments of this Congress. Though I, like all Members, have read thousands of words on the subject matter, it was only a few days ago I read in my home city newspaper, The Syracuse Herald-American, an article, authored by Mr. Fred Lopez, district manager for the Social Security Administration in Syracuse, which provides a different and rather interesting perspective. I commend Mr. Lopez and urge that all Members read it.

SOCIAL SECURITY FACTS, FICTION

DISTRICT MANAGER EMPHASIZES FUTURE BENEFITS

(By Barry Ernest)

The real value of Social Security is being overlooked by people who are more concerned with how much that service is costing, according to Fred Lopez, district manager of Social Security in Syracuse.

When planning a purchase, Lopez explained in an interview this week, it's generally not a good idea to consider only the cost without taking into account the value.

But many Americans are doing that by judging the recent 1977 amendments to the Social Security Act, particularly the tax increases, by how much they will pay and not what they will get in return, Lopez said.

"As the various news media have emphasized," he explained, "the 1977 amendments increased the Social Security wage base and tax rate beginning next year, thus increasing the amount of taxes workers in covered employment will have to pay. What hasn't been emphasized however, is the value of Social Security benefits current taxpayers will receive in the future."

The district manager said he has had numerous inquiries and comments concerning future Social Security costs. "It is time Central New Yorkers, especially those not yet near retirement age, be given some indication of the value of benefits they may expect," he said.

Some of the misunderstanding over the increase in Social Security taxes may be related to the tendency of workers to think

of these taxes only in relation to the Social Security benefits currently being paid. Such a comparison is misleading, according to Lopez.

Taxes under current laws are not only paying for today's benefits, he added, but paving the way for benefits that will be available in the future. And future payments will be "substantially higher" than they are today because of increases in the standard of living, Lopez stated.

He cited the example of workers, now in their 40s, who will be retiring around the close of the century. Assuming that wages continue to rise, the average worker now in his 40s will receive a Social Security benefit when that worker retires at 65 of about $15,000 a year, Lopez said, with an additional $7,500 payable to a spouse at 65.

Benefits at this level not only will equal the purchasing power of current benefits but will reflect increases in the general standard of living, he said.

"Upper income workers now in their 40s can look forward to higher retirement benefits," Lopez stated. "These workers, currently paying the maximum in Social Security taxes, would receive benefits of $21,000 a year at 65, around the turn of the century, or $31,500 a year for a couple."

Even a low-income worker, now earning slightly less than $5,000 a year, but whose earnings will rise in proportion to increases in average wages, would be entitled to retirement benefits of about $9,500, plus another 50 percent for a spouse, Lopez admitted.

Once they are placed on Social Security rolls, people are assured their benefits will be inflation proof. While on the rolls, their Social Security payments will be tied to the Consumer Price Index, increasing as the cost of living increases.

While a worker's future Social Security benefit will be related to the higher standard of living in effect at the time he receives it, that benefit will replace about the same percent of wages for workers retiring at different times in the future.

"The $15,000-a-year benefit for the average worker I referred to earlier will amount to about 41 percent of the average wage being paid around the year 2000," Lopez explained. "Workers with average incomes who retire later on in the 21st Century also will receive a benefit that replaces about 40 to 45 percent of their wages."

Similarly, the "replacement rate" for the low-income worker always will be 50 to 55 percent, and for the high-income worker, it will be 25 to 28 percent of maximum earnings taxable for Social Security, Lopez said.

"Thus, the law gives workers a better basis for planning their retirement income needs than would have been possible before the 1977 amendments," he said. ●

JOHN M. "JACK" CAREY, NATIONAL COMMANDER OF THE AMERICAN LEGION

(Mr. HALL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. HALL. Mr. Speaker, the national Commander of the American Legion, John M. "Jack" Carey, appeared before the Committee on Veterans' Affairs on September 12 to present to the committee the legislative priorities for the coming year for his great organization. Commander Carey made an excellent statement, highlighting the issues which we will be considering next year.

In addition, Mr. Speaker, Commander Carey and the members of the American Legion recognized the outstanding leadership abilities of our very able chairman, RAY ROBERTS. The commander confirmed the feelings I have had about the gentleman from Texas for many years—that he is an effective leader and a dedicated friend and spokesman for the veteran and his family.

There follows the remarks of Commander Carey presented to the Committee on Veterans' Affairs this morning:

Mr. Chairman and Members of the Committee:

It is an honor and a great personal pleasure for me to have this opportunity to appear before this distinguished Committee of the Congress on what is virtually my first official appearance as National Commander of The American Legion.

Before I discuss with the Committee the legislative program of my organization in the field of veterans affairs, I consider it most important that I express to you Mr. Chairman, and to the Members of the Committee, the appreciation of 2,700,000 Legionnaires, and the nearly 1 million members of the American Legion Auxiliary for the consideration that is consistently given by the Committee to the problems of our nation's 26.5 million war veterans and their dependents and survivors.

Historically, it is to Congress that veterans have looked, for support, and for the concern that has expressed itself in beneficial legislation. We of The American Legion know that it is because of the Congress of the United States that our country today has the most comprehensive program of veterans benefits of any nation in the world.

Four times in the Twentieth Century, the American Government has led the nation into war. Four times the youth of the nation has responded. And following each of those conflicts, Congress has taken the lead in providing readjustment programs for the returning servicemen and women, and supportive programs for the service disabled, and for the survivors of those who have made the supreme sacrifice. The American Legion knows what Congress has done in these matters, and we are grateful.

In addition to these words of gratitude to the Committee, I believe it is appropriate and necessary for me to express a special word of thanks to the Chairman of this distinguished Committee. During 1978, perhaps more than in any prior year, Congressman Ray Roberts of Texas has stood forth in this Congress as the champion of veterans rights and benefits. He has done this in the face of a certain insensitivity that has, in our judgment, been displayed by some of the officers of the Administration. Time and again Congressman Roberts has spoken out forcefully on behalf of veterans programs. And he has made clear to those who are not especially sympathetic to veterans problems that he will work against any efforts to curtail programs that Congress has provided for veterans. Frankly, I do not like to think what might have happened this year to veterans programs if Congressman Roberts had not taken a leadership role, with the support of all the Members of this Committee. For this dedication and service to veterans and their families, we salute the Chairman, and we thank him.

May I now proceed to present the views of The American Legion on certain matters affecting veterans legislation in this Congress, and looking ahead to the first session of the 96th Congress.

By reason of the work of this Committee, the House of Representatives has adopted a number of significant measures affecting veterans. Many of these continue to await final action by both Houses before they can be sent to the President. We consider all the measures the Committee has reported to be important. We are most anxious that the bill to provide a needed increase in compensation and DIC rates be signed into law, to become effective with the beginning of the new Fiscal Year. Of all the entitlements of veterans, none has priority over the obligation of the nation to those who were disabled by reason of their service, and to the survivors of those who died by reason of service to their country. We know the Committee shares our concern in this regard, and we look forward to final action, leading to enactment of this important legislation.

PENSION REFORM

I would now like to discuss the matter of pension reform. As I appear here today, Congress has not taken final action on the pension reform legislation that has been under consideration throughout the current session.

The American Legion has long been committed to the need for reform of the death and disability pension program for veterans. The inadequacies of the present program are so well known that it is not necessary for me to repeat them in this statement.

Representatives of the Legion have worked closely with the Committee and its staff in developing remedial legislation. The present status of that legislation is that it awaits action by a Conference Committee of the House and Senate. We have prepared a document that will be presented to the members of the Conference Committee, detailing our appraisal of the matters that have to be resolved, and offering our recommendations.

I must say to you at this time that our evaluation causes us to favor the legislation that was adopted by the House. We believe the House version is more responsive to the needs of the intended beneficiaries, and that it will provide a more sound pension program, which will more fully accomplish the goals of a revised program.

I will not detail here the specifics of our appraisal, since these will be presented in our letter to the Conference Committee. I will only say now that we like the House version best, and we hope it is the one Congress will agree on.

We are aware that the pension reform legislation, in whatever form it is finally approved, will add a substantial amount to the Administration's Budget for Fiscal Year 1979. We do not believe the added cost is prohibitive, given the goal that will be achieved—long-term alleviation of the serious economic problems that are affecting the increasingly large number of the aging veteran population.

We are aware that there are those who are increasingly vocal in begrudging this added measure of security for older veterans and their widows. Those to whom I refer are more openly expressing the opinion that veterans should be lumped in with other segments of society who have need for public support.

Those of us who represent the veteran constituency do not fail to recognize that these open attacks on veterans benefits always begins to manifest themselves in a time of peace. These outcries for economy in veterans programs are never heard in time of war. They are indeed a phenomenon of peacetime. We hope the Committee agrees with us that they are without merit.

legislation, I will say that we are most anxious that it become law, and we will appreciate the support of all those who share our concern for the problems of older veterans and their widows.

VETERANS' ADMINISTRATION BUDGET

Throughout this session of the Congress, those of us who are on the side of veterans have been engaged in the Battle of the Budget. It was immediately apparent, last January, that the Administration's proposed budget for veterans programs was substantially short of what is needed to fully fund those programs. Shortfalls in amounts provided for the medical care program were most notable, and engaged the immediate attention of The American Legion. With the support of the Chairman, and Members of this Committee, Congress has increased allocations, especially for medical care, and it is now our expectation that funding will be essentially adequate, to at least maintain what we now have.

I must say to this Committee, however, that in our judgment, the battle is not over. We have every expectation that the Administration's proposed budget for the Veterans Administration for Fiscal Year 1980 will be a tight one. And everything that spokesmen for the Administration are saying leads us to believe that the shortfalls in the FY 1979 Budget will be repeated in Fiscal Year 1980.

The President is talking economy. He has publicly stated that economy will be achieved in a variety of categories of government spending, including, and he used these words, "in the field of veterans programs."

May I say that all of the members of The American Legion are taxpayers, and we are as anxious for economy in government as is the President, or anyone else. Our concern, however, is that economy must not be achieved at the expense of the nation's veterans.

In our judgment, the President has his priorities wrong. The 26.5 million men and women who comprise the war veteran population responded to the call to arms when the nation went to war. This includes the 8.5 million who saw service during the Vietnam Era. And 2.8 million of those actually served in Southeast Asia.

While the wars of the Twentieth Century were being conducted, there was absolutely no call for economy at the expense of veterans programs. It's the same old story. When the guns begin to shoot, nothing is too good for the soldier. It is when peace returns that the cries for economy begin to rise.

We note, for example, that despite repeated protestations of concern for the needs and problems of Vietnam Era veterans, the President proposed absolutely nothing in his FY 1979 Budget in the way of increases in education and training allowances.

With all this in mind, The American Legion is not going to be silent when cutbacks are proposed in veterans programs, in the name of economy. In our judgment, there are plenty of places in the Federal Budget where economy can be practiced, before an effort is made to cut back on veterans programs.

We very much appreciate the support the Members of this Committee gave in seeking adequate funding for benefits and services to veterans during Fiscal Year 1979.

When the Administration Budget for FY 1980 is released, we intend to do a careful analysis, and we shall then approach our friends in Congress with our evaluation and suggestions.

Our objective at all times is adequate funding for veterans programs. We hope for your continued support in that direction.

VETERANS' ADMINISTRATION MEDICAL CARE PROGRAM

Discussion of the VA Budget inevitably leads me to remarks relating to the VA medical care program. There is no question in our minds that the VA Department of Medicine and Surgery is the heart and soul of the operations of the Veterans Administration. Remove the medical care program from the VA, and you really have no further need of the VA as a single agency for the administration of veterans programs. The development through the years of the VA system as the largest and finest medical system in the world today, is the cherished achievement of The American Legion, because we have made a significant contribution to that accomplishment. We prize the VA medical program for veterans, and we are determined to defend it.

I use these terms because we know that the VA system is presently under attack from a variety of sources. It is not my purpose here to identify those sources, nor to present a detailed defense of the system. I believe this Committee joins with us in support of the VA program of medical care for veterans.

But I do want to make clear that we of the Legion believe that a successful defense of the VA system is absolutely essential to a successful defense of all other veterans benefit programs.

And we are apprehensive that we do not have an ally on this matter in the Administration. To justify that statement, I need only point to the serious shortfalls in the recommended Budget for VA medical programs in the Administration's FY 1979 Budget.

I refer to the proposed reduction of 3200 beds, with a resulting loss of 1500 staff personnel; the curtailing of VA research programs, at a time when the achievements of that program have been recognized by all the world; elimination of the only new hospital planned for the system, at Camden, New Jersey; and a variety of economy measures having the effect of slowing the pace of renovation and renewal that is constantly necessary in a system as large as the VA system is. All of these actions, which are included or not included, in the Administration's proposed Budget for FY 1979, do not engender a feeling of confidence in the Administration's commitment to the VA medical care program.

The American Legion, through the work of a special committee established for that purpose, continues to monitor the progress of the national debate on national health insurance. When legislation to provide some form of national health insurance takes shape, the Legion will come forward with recommendations for protective clauses to insure the continuation of the VA system as one maintained exclusively for the nation's veterans.

We must say, however, that we perceive a visible danger to health care for veterans, in the concept of national health insurance. Which is why the possible lack of commitment by the Administration to the VA program is a matter of concern to us. And, in the face of this concern, we turn, as we always have, to Congress, for the assistance needed to assure the maintenance of the VA system, not only as a viable one, but in such a condition that it will continue to be in the forefront of health care delivery in this nation.

EDUCATION AND TRAINING PROGRAMS FOR VIETNAM VETERANS

The proposed Budget for Fiscal year 1979, included nothing in the way of increases in the education and training allowances for those Vietnam Era veterans who are still completing their readjustment. We believe this younger generation of veterans is well justified in asking of the Administration, where is the commitment of dollars to back up the protestations of concern?

It is our earnest request that an early priority of this Committee next year shall be the development of legislation to provide needed increases in the education and training allowances for all programs, generally referred to as GI Bill programs.

GI Bill allowances were last adjusted by Public Law 95-202, and were effective on October 1, 1977. Of course, inflationary pressures have continued unabated since that time, and are continuing today. It is not fair to the young men and women who are in training under these programs, to cause them to try to continue their education and training with the use of 1977 dollars.

The American Legion will strongly support legislation to improve the education and training allowances, at the earliest possible date in the 96th Congress.

We would further suggest, for early consideration in the forthcoming session, a needed revision to improve Vocational Rehabilitation programs under chapter 31 of title 38. It has been observed by many that these programs are much in need of updating, to insure their responsiveness to the problems of the service disabled. We will support legislation that may be developed in this direction.

PENSION PROGRAM FOR VETERANS OF WORLD WAR I

I shall now address a subject on which a National Commander of The American Legion has not previously spoken to this Committee. I refer to a special pension program for the surviving veterans of World War I.

At our recently concluded National Convention in New Orleans, the Delegates expressed overwhelming support for a pension program especially for these older veterans. This support took its form in Resolution No. 220 (Ohio), a copy of which is appended to this statement.

Presently, there are 685,000 veterans of World War I, surviving from the 4,750,000 who served during that conflict. They are at an average age of 83, and their mortality rate is high.

This generation of veterans not only served gallantly in the first World War; they also founded The American Legion; they survived the Great Depression; they lent their strength and support to the three wars of this century that followed theirs; it was they who developed the concept of readjustment programs for returning servicemen—a concept entirely new in the field of veterans benefits. The men and women of the first World War have not had an easy life. They have come into their later years, in many cases without the level of economic security that most of the rest of us can expect to have when we retire from active work.

Many of these veterans are presently living in strictly reduced circumstances; and many of them feel they do not have either the attention or concern of the American people. For these reasons, The American Legion, speaking through the Delegates to its National Convention, believes it is time for a measure of special recognition for these veterans.

We will submit draft legislation in January, to implement Resolution No. 220. It is our earnest hope and request that this Committee will consider that legislation. The program we propose will be modest. We believe it will be within the bounds of fiscal possibility. The main point is, however, that we believe this strong and affluent nation can afford this modest gesture in the direction of these, our oldest veterans, to assure all of them a measure of economic security.

VETERANS PREFERENCE

There is a matter that is not directly within the jurisdiction of this Committee, but which calls for mention in this, my first appearance before a Congressional body. I refer to the proposals to modify veterans preference in Civil Service employment.

It is not my purpose or intent in this statement to recite again all the reasons The American Legion continues to defend veterans preference as it is presently codified in law. The views of The American Legion on this matter are well known. We believe our position has withstood the test of debate, and nothing that has been said by those who advocate change in this veterans benefits has persuaded us to change our views.

We consider ourselves to be reasonable people. If what our opposition is saying could be proved to be true, we would indeed consider a change in position. If the modifications proposed would, in fact, enhance the employment situation of the Vietnam generation of veterans—that would weigh heavily with us. But we are convinced the arguments advanced to this effect are faulty. The Vietnam veterans will receive the best chance to establish careers within the Civil Service by application of the law as it is now written, if the Executive Branch will just abide by it in spirit as well as in lip service.

We believe the application of veterans preference through the years since it was established in law by Congress in 1944, has worked to the great advantage both of veterans, and of the public service. Veterans make good government employees. And veterans include minorities and women. Their military service merely adds to their desire and to their ability to serve the government in a civilian capacity.

We appreciate the support veterans preference has received in Congress during the current debate, from the distinguished Chairman of this Committee and from many Members.

VETERANS EMPLOYMENT

It is an obvious fact that no veteran is readjusted or rehabilitated until he is economically self-sufficient. This means he must have stable employment in a job that pays a living wage. Veterans employment has always been a high priority among the programs of The American Legion. We have worked very hard, in seeking legislation that would strengthen veterans employment programs, and through the activities of our 16,000 American Legion posts in helping individual veterans with job placement in the community.

Statistics indicate the situation in veterans employment has improved with the strengthening of the nation's economy. However, there remains a substantial core of unemployed veterans, mostly young, under-educated and under-skilled, and many of them from minority groups. The plight of these veterans poses a challenge to both the Congress and the Executive Branch, and we of The American Legion accept it as a challenge as well.

There are, as a result of Congressional action, a number of employment programs for veterans, mostly administered by the Department of Labor and codified in title 38 of the United States Code. We applaud the attention of Congress to this problem as represented by these programs.

Our complaint is directed at the Department of Labor, and I include mention of it in this statement so that it will be a matter of record.

There is, in our judgment, a singular lack of sensitivity by the Department of Labor to veterans employment programs. A number of things that have occurred this year illustrates this point. Among them are the appointment, confirmation and resignation of the first Deputy Assistant Secretary of Labor for Veterans Employment and the abolition by the Department of Labor of the position of Director, Veterans Employment Service.

To remedy these errors, and to attempt to instill into the Department of Labor an appropriate sensitivity to the problems of unemployed veterans, The American Legion continues to advocate the establishment of the position of an Assistant Secretary of Labor for Veterans Employment, with the Veterans Employment Service as a separate agency. We do not believe the Department of Labor will proceed to fulfill its responsibilities in the area of veterans employment until and unless these things are done.

The Department of Labor has also been lax in enforcing, in the case of Federal contractors, the requirement that they, as well as the Federal Government, must take affirmative action to hire and promote eligible disabled and Vietnam Era veterans. To broaden eligibility under this program, we are supporting legislation to delete the 30 percent disability requirement and to require only a 10 percent service-connected disability or more, and to delete a stipulation that Vietnam Era veterans must have been discharged within 48 months preceding application.

A recent reorganization of the Department of Labor's machinery for monitoring and enforcing compliance of Federal contractors will further weaken these provisions for affirmative action for veterans. An Office of Federal Contract Compliance, headed by an Assistant Secretary is needed to bring Federal contractors into full compliance with the law.

Mr. Speaker, I have tried in this statement to provide the committee with an appraisal of the condition of veterans affairs as we of the American Legion see them, as the 95th Congress completes its work, and all of us look forward to the 96th Congress which will convene in January.

In this Congress we have found, as we always have in the past that there resides here a concern for and interest in the problems of America's veterans that is not found anywhere else. We are grateful for that concern and interest.

And we are confident that as long as we have friends in this place, the Nation, as it enters into an era of peace, will not forget those who served it in time of war.

Before I conclude, I wish to extend again, an invitation to all members to join us at our reception, at 5:30 this evening in rooms B-338-339 and 340 of the Rayburn Building. There you will be able to greet legionnaires from your own areas, who look forward to the opportunity to be with you, however briefly, on a social basis.

Thank you very much for your time and attention.●

EXEMPTIONS FROM ENDANGERED SPECIES ACT OF 1973

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. HANLEY. Mr. Speaker, in America today, we face many difficult decisions concerning the fate of our natural environment. Our high level of prosperity and our pursuit of progress give us special cause to take great care with any of our actions that affect nature. Thus, it is that the preservation of species endangered by humankind comes to the forefront of the national interest. The preservation of species is of utmost concern to us all, and especially to the Nation's lawmakers. Unlike many of our responsibilities that concern problems which change year in and year out, our decisions in this area will have lasting effects on generations of Americans to come.

As a Congressman, I do not take my responsibility to the future lightly. This is why I am greatly concerned that Congress may act with haste and without sufficient forethought. This year more than 45 bills have been introduced with regard to endangered species, many of them with the intent of obtaining exemptions from the Endangered Species Act of 1973.

The primary challenge to the current law is a bill which would establish a committee to decide if any exemptions to current law are justified, that is, whether some species may be threatened with extinction. The question is will this become a sort of "Species Court" with the life and death power over the fate of species, in effect a court sitting in judgment which will decide to let progress eradicate an entire, irreplaceable species; or will it be the means where needed projects can go forward once adequate precautions are made. At present, there has not been sufficient examination of the implications this type of approach holds, and a more thorough debate is necessary if the measure's sponsors are to make their case.

It is our human obligation to respect all living things, we must also realize that it can be equally destructive to overprotect species. Man's intervention in the competition of the wilds in favor of one species can create imbalances just as unfortunate and unjust as possible extinction. Some legislation has been proposed in Congress that would provide for regular review of the classification of species as endangered or threatened. So long as this review is performed rigorously and objectively, it can only be an asset to the cause of protecting our wildlife.

There has been much concern about the battle between the snail darter and the Tellico Dam project. What a difficult problem this is for us. A multimillion dollar project threatens a tiny but important link in the ecological chain. Perhaps it is wise that this project has been halted; as an important official of the TVA itself said, it forces us to search for and find cheaper alternatives for irrigation and energy. However, the preliminary reports that the transplantation of the snail darter into new areas may be successful is certainly good news. This would allow a satisfactory compromise solution to end the controversy. Perhaps man's intervention in nature, once it is done carefully and thought-

fully, need not be so damaging as we normally think.

It is clear we cannot allow wanton development to snuff out the life of precious species. However, our attitude toward nature shouldn't allow us to feel we can disrupt it through the overprotection of particular species. In closing, I must reiterate that much care and forethought is required regarding the protection of species, and that hasty decisions can be disastrous. We as legislators must always remember that our decisions will have impact for generations to come. Once a species is destroyed, its likes will never be seen again on this Earth. Our natural heritage must be protected and preserved.●

HALL AND McCHESNEY, INC: PIONEER IN RECORDING AND INDEXING LEGAL DOCUMENTS

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. HANLEY. Mr. Speaker, it is with great pride that I can point to my home community of Syracuse, N.Y., as the home of a company which has become a great institution in our Nation. Anyone who has had any dealings with Government recordkeeping should be familiar with the name of Hall and McChesney, Inc.

The Hall and McChesney firm has been a pioneer in the area of recording and indexing legal documents for municipal and county governments for the past century. In fact, this Saturday, September 16, the firm will celebrate 100 years of unbroken production service, a truly outstanding achievement.

I know my colleagues join me in extending our heartiest congratulations to Hall and McChesney, Inc., which essentially has been a family operation, for its service and for its vision.

This past Monday, in an article written by reporter Ramona Bowden, the Syracuse Post-Standard outlined the 100-year history of this firm. I would like to share this story with my colleagues.

COMPANY PROTECTS RECORDS

(By Ramona Bowden)

If you have occasion to do some research in the County Clerk's Office and use one of those giant record books in the stacks, you will realize, when you lift it, that each weighs 30 pounds.

What you may not know is that those mammoth volumes were made by the Syracuse firm of Hall and McChesney, Inc.

On Saturday the company will celebrate the 100th anniversary of its founding.

The business has been a family-oriented concern since its founding in 1878 when it was started by C. C. Hall and A. E. McChesney.

Hall of Elmira and McChesney of Syracuse saw the need for providing standardized volumes for record-keeping in government archives. They also realized that the books had to be so well made that they could withstand the ravages of time and man. Both men were perfectionists, and any of the "Bob Cratchitts" who have spent their lives recording deeds or mortgages know the volumes are well nigh indestructible.

The business was started in small quarters in the Downer Block on West Fayette Street. Here it remained until 1928 when it was moved to the newly-constructed Oswego Boulevard. The ivy-covered building on the corner of Court Street and Genant Drive is still the quarters for the book division.

This plant site was chosen for its proximity to the German craftsmen living on the North Side. The fine quality of their work carried on the high standards set by A. E. McChesney.

One of these skilled craftsmen, Will Nies, began his work with the company in 1889 when he was 14 years old. Nies became one of the most skilled craftsmen in the United States, and carried on the excellence of his craft in book-binding until he retired in 1953, at the age of 78.

As the business expanded, it entered more aggressively into the field of public record-recording developing a complete line of county record books and index-systems which were sold throughout the U.S.A.

Hall retired in 1902, leaving the business in the hands of A. E. McChesney who was joined by his nephew, F. H. McChesney, who became the sole owner in 1917, and continued the active head until his death in 1927.

F. H. McChesney took such a vital interest in civic affairs, serving both on the City Planning Commission and the Onondaga County Planning Commission, that he was recognized by Mayor Charles Hanna who named McChesney Park on Grant Boulevard in his honor in 1928.

His son, Donald S. McChesney, became president of the company in 1927 and served until his retirement in 1967.

McChesney married Marian Pennock, a Post-Standard Woman of Achievement, thus linking together two of the pioneer families of this area. Marian's father, John D. Pennock, was chief chemist and vice president of the Solvay Process Co. James Cooper, nephew of Mr. Pennock, also joined the McChesney Company and gave 43 years of his engineering skill, managing the company when McChesney served during World War II.

Mary McChesney Ten Eyck, Don and Marian's daughter, is actively engaged in the operational process as personnel manager.

The McChesney son-in-law Hendrix Ten Eyck is now president. It is he who has moved with this cybernetic era to the use of microfilm, microphotographic processes and computer service making this company the only one in the country offering a complete recording and indexing service to municipal and county governments.

The company has lived through three wars and a disastrous depression, never missing a payroll. Employment has grown from 26 employees at the end of World War II to over 300 at present.

In the past year the plant has processed over eight million documents for over 600 recording offices from Maine to Washington state. Five generations of the family have been working in various parts of the plant, including Peter and Rick Ten Eyck who are in production management.

Mary McChesney Ten Eyck in speaking of her father Donald McChesney said, "One of his greatest contributions was his insight into when it was important to take a risk to deliver a better product to his customers located all across the country." ●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. COTTER (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. McKINNEY (at the request of Mr. RHODES), for today, on account of illness.

Mr. PEPPER (at the request of Mr. WRIGHT), after 5:30 p.m. today, and for September 15, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. EDWARDS of Oklahoma) to revise and extend their remarks and include extraneous material:)

Mr. GRASSLEY, for 15 minutes, today.

Mr. GOLDWATER, for 5 minutes, today.

(The following Members (at the request of Mr. ERTEL) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. PEPPER, for 5 minutes, today.

Mr. BINGHAM, for 5 minutes, today.

Mr. DRINAN, for 5 minutes, today.

Mr. LEGGETT, for 5 minutes, today.

Mr. ALEXANDER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. WYDLER, to insert his remarks in the RECORD immediately after the vote on H.R. 8729 today.

(The following Members (at the request of Mr. EDWARDS of Oklahoma) and to include extraneous matter:)

Mr. FINDLEY.

Mr. BOB WILSON.

Mr. RUDD.

Mr. ANDERSON of Illinois.

Mr. FRENZEL.

Mr. SHUSTER.

Mr. DERWINSKI in two instances.

Mr. FREY.

Mr. YOUNG of Florida.

Mr. SNYDER.

Mr. CARTER.

Mr. DORNAN.

(The following Members (at the request of Mr. ERTEL) and to include extraneous matter:)

Mr. NOWAK in five instances.

Mr. LUKEN.

Mr. GONZALEZ in three instances.

Mr. ANDERSON of California in three instances.

Mr. BRECKINRIDGE in four instances.

Mr. DE LUGO.

Mr. KILDEE.

Mr. PATTERSON of California in five instances.

Mr. MINETA in two instances.

Mr. VENTO.

Ms. MIKULSKI.

Mr. McDONALD.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1103. An act to permit any State the reciprocal right to sue in the Superior Court of the District of Columbia to recover taxes due such State; and

S. 2556. An act to change the name of the District of Columbia Bail Agency to the District of Columbia Pretrial Services Agency.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval a bill of the House of the following title:

H.R. 13087. To authorize the issuance of substitute Treasury checks without undertakings of indemnity, except as the Secretary of the Treasury may require.

ADJOURNMENT

Mr. ERTEL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 40 minutes p.m.), the House adjourned until tomorrow, Friday, September 15, 1978, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4975. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Air Force's proposed sale of certain defense articles to Iran (transmittal No. 78-98), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

4976. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Navy's proposed sale of certain defense articles to Iran (transmittal No. 78-99), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

4977. A letter from the U.S. Commissioner, of Education, Department of Health, Education, and Welfare, transmitting suggested questions for applicants to consider in preparing applications for grants under the Teacher Corps program, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

4978. A letter from the Deputy Assistant Secretary of the Interior, transmitting notice of the Secretary's determinations that certain lands in Colorado, Idaho, Nevada, Oregon, and Wyoming are not suitable for disposal under the provisions of the Unintentional Trespass Act, pursuant to section 214(b) of the Federal Land Policy and Management Act; to the Committee on Interior and Insular Affairs.

4979. A letter from the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), transmitting the annual report and audit of the American National Red Cross for the year ended June 30, 1977, pursuant to section 6 of the act of January 5, 1905 (36 U.S.C. 6); to the Committee on International Relations.

4980. A letter from the Director, Defense Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense articles to Iran (transmittal No. 78-98), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4981. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense articles to Iran (transmittal No. 78-99), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4982. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

4983. A letter from the Secretary of the Army, transmitting a Corps of Engineers report on the Santa Ana River main stem, including Santiago Creek and Oak Street Drain, California, in partial response to a resolution of the House Committee on Public Works adopted May 8, 1964 (H. Doc. No. 95-382); to the Committee on Public Works and Transportation and ordered to be printed.

4984. A letter from the Secretary of Housing and Urban Development, transmitting notice of a delay in preparation of the semi-annual report on progress of States and units of general purpose local government in adopting and enforcing energy conservation standards, required by section 311 of Public Law 94-385; jointly, to the Committee on Banking, Finance and Urban Affairs, and Interstate and Foreign Commerce.

4985. A letter from the Comptroller General of the United States, transmitting a report assessing the Navy's undersea surveillance system and planned improvements (PSAD-78-142, September 13, 1978); jointly, to the Committees on Government Operations, and Armed Services.

4986. A letter from the Comptroller General of the United States, transmitting a report on the need for reevaluation of the Environmental Protection Agency's responsibilities for preparing environmental impact statements (CED-78-104, September 13, 1978); jointly, to the Committees on Government Operations, Interstate and Foreign Commerce, Merchant Marine and Fisheries, and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BINGHAM: Committee on International Relations. H.R. 10584. A bill to strengthen the economy of the United States through increased sales abroad of American farm products; with amendment (Rept. No. 95-1338, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee on Agriculture. H.R. 13356. A bill to require foreign persons who acquire, transfer, or hold interests in agricultural land to report such transactions and holdings to the Secretary of Agriculture and to direct the Secretary to analyze information contained in such reports and determine the effects such transactions and holdings have, particularly on family farms and rural communities, and for other purposes; with amendment (Rept. No. 95-1570). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLLING: Committee on Rules. House Resolution 1348. Resolution providing for the consideration of H.R. 10909. A bill to amend the Public Health Service Act to revise and strengthen the program under that act for national standards for and licensing of clinical laboratories, to amend the Social Security Act to require laboratories providing services financed under titles XVIII and XIX of such act to meet the requirements of such program, and for other purposes; (Rept. No. 95-1571). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 or rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WAGGONNER:

H.R. 14077. A bill to amend the Internal Revenue Code of 1954 in regard to the deductibility of expenses incurred in connection with foreign conventions; to the Committee on Ways and Means.

By Mr. ANDERSON of Illinois:

H.R. 14078. A bill to require the President and Congress to establish spending priorities relative to national output, and to otherwise limit the growth of public expenditures, promote a balanced budget, lower the rates of Federal taxation, and increase the growth of employment, production, and real income for all Americans; jointly, to the Committees on Government Operations, and Rules.

By Mr. LENT:

H.R. 14079. A bill to correct inequities in certain sales representatives practices, to provide protection for certain sales representatives terminated from their accounts without justification, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 14080. A bill to amend the Internal Revenue Code of 1954 to allow certain low- and middle-income individuals a refundable tax credit for a certain portion of the property taxes paid by them on their principal residences or of the rent they pay for their principal residences; to the Committee on Ways and Means.

By Mr. MILLER of Ohio (for himself, Mr. ICHORD, Mr. DORNAN, Mr. WOLFF, Mr. PRICE, and Mr. EDWARDS of Alabama):

H.R. 14081. A bill to amend the Export Administration Act of 1969 to prevent the export to certain countries of goods or technology which have any potential application for military, law enforcement or intelligence gathering purposes; to require the President to notify the Congress of any approval of a license for the export of goods or technology to such countries; to provide for congressional disapproval of any such license application; to require the Secretary of Defense to prepare a military impact statement for the Congress with respect to certain export license applications; and for other purposes; to the Committee on International Relations.

By Mr. ROSTENKOWSKI:

H.R. 14082. A bill to amend section 1035(c) of the Tax Reform Act of 1976 relating to tax credit for production sharing contracts; to the Committee on Ways and Means.

By Mr. BOB WILSON:

H.R. 14083. A bill to extend the Indochina Refugee Children Assistance Act of 1976; to the Committee on Education and Labor.

By Mr. BURKE of Massachusetts:

H.R. 14084. A bill to amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes; to the Committee on Ways and Means.

By Mr. DORNAN:

H.R. 14085. A bill to amend the Export Administration Act of 1969 to prevent the export to certain countries of goods or technology which have any potential application for military, law enforcement or intelligence gathering purposes; to require the President to notify the Congress of any approval of a license for the export of goods or technology to such countries; to provide for congressional disapproval of any such license application; to require the Secretary of Defense to prepare a military impact statement for the Congress with respect to certain export license applications; and for other purposes; to the Committee on International Relations.

By Mr. EVANS of Indiana:

H.R. 14086. A bill to amend the Internal Revenue Code of 1954 to allow tenants a tax credit on houses or apartments based on a portion of the real estate taxes paid or incurred by their landlords; to the Committee on Ways and Means.

By Mr. LUJAN:

H.R. 14087. A bill to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Ben Abrumzo, Maxie Anderson, and Larry Newman; to the Committee on Banking, Finance and Urban Affairs.

By Mr. RANGEL:

H.R. 14088. A bill relating to the application of certain provisions of the Internal Revenue Code of 1954 to specified transactions by certain public employee retirement systems created by the State of New York or any of its political subdivisions; to the Committee on Ways and Means.

By Mr. ROONEY (for himself, Mr. PERKINS, Mr. CHAPPELL, Mr. LENT, Mr. CARTER, Mr. KEMP, and Mr. MURPHY of New York):

H.R. 14089. A bill to regulate interstate commerce with respect to parimutuel wagering on horseracing, to maintain the stability of the horseracing industry; to the Committee on Interstate and Foreign Commerce.

By Mr. STAGGERS (by request):

H.R. 14090. A bill to amend the Securities Act of 1933, the Securities Exchange Act of 1934, and the Trust Indenture Act of 1939; to the Committee on Interstate and Foreign Commerce.

By Mr. TRAXLER (for himself, Mr. BLANCHARD, Mr. CARR, and Mr. KILDEE):

H.R. 14091. A bill to amend the Internal Revenue Code of 1954 to provide for cost-of-living adjustments in the amount of the personal exemption and in the individual tax rates; to the Committee on Ways and Means.

By Mr. ROBERTS:

H.J. Res. 1137. Joint resolution proposing an amendment to the Constitution of the United States which, except in times of war or national emergency, prohibits the Congress from making appropriations for a fiscal year in excess of the amount of estimated revenue during that year and requires that the amount of the debt of the United States not exceed the amount of that debt on the date of the adoption of the amendment; to the Committee on the Judiciary.

By Mr. ROE (for himself and Mr. PEASE):

H. Con. Res. 712. Concurrent resolution to seek the resurrection of the Ukrainian Orthodox Catholic Churches in Ukraine; to the Committee on International Relations.

By Mr. DODD:

H. Res. 1349. Resolution providing for the agreeing to the Senate amendments to the bill (H.R. 112) to amend the Internal Revenue Code of 1954 to reduce the excise tax on the investment income of private foundations from 4 percent to 2 percent; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

477. The SPEAKER presented a memorial of the Legislature of the State of California, relative to Down's Syndrome, to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BONIOR:

H.R. 14092. A bill for the relief of Mary F. Derocher; to the Committee on the Judiciary.

By Mr. DANIELSON:

H.R. 14093. A bill for the relief of Rodney L. Herold and others; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1

By Mr. DANIELSON:

(Amendment to the amendment in the nature of a substitute.)

—Page 27, line 2: Strike "Each" and insert "Except as provided in the last sentence of this paragraph, each".

Page 27, after line 23: Insert "Each report referred to in subsection (b) of this section shall, with respect to the spouse of the reporting individual, contain information listed in paragraphs (1), (3), (4), and (5) of subsection (a) only.".

—Page 27, line 24: Strike "Each" and insert "Except as provided in the last sentence of this paragraph, each".

Page 28, line 7: After "benefit.", insert "Each report referred to in subsection (b) of this section shall, with respect to any dependent child, contain information listed in paragraphs (3) and (4) of subsection (a) only.".

—Page 57, line 22: Strike "Each" and insert "Except as provided in the last sentence of this paragraph, each".

Page 58, line 19: After "benefit." Insert "Each report referred to in subsection (b) of this section shall, with respect to any dependent child, contain information listed in paragraphs (3) and (4) of subsection (a) only.".

—Page 58, line 20: Strike "Each" and insert "Except as provided in the last sentence of this paragraph, each".

Page 59, line 4, after "benefit.", insert "Each report referred to in subsection (b) of this section shall, with respect to the spouse of the reporting individual, contain information listed in paragraphs (1), (3), (4), and (5) of subsection (a) only.".

—Page 65, lines 9 through 16, strike:

"(b) The Committee may require the reporting and disclosure of information pertaining to reporting individuals and their spouses and dependent children in addition to that required by this title for the purpose of furthering compliance with laws, regulations, and codes governing the conduct of officers and employees of the judicial branch or insuring the confidence of the public in the integrity of the Government."

Page 65, line 17, strike "(c)" and insert "(b)".

Page 65, line 22, strike "(d)" and insert "(c)".

—Page 66, line 3: Strike "(a)" and insert "(c)".

H.R. 1

By Mr. ECKHARDT:

(Amendment to the amendment offered by Mr. Danielson.)

—Page 49, immediately after line 24 insert the following new subsection:

"(g) The prohibitions contained in subsection (c) of this section shall not apply with respect to any formal or informal appearance before or communication to a department or agency by a person who is a member in good standing before, and is licensed or certified to practice in a profession by, any Federal or State licensing or certifying authority for such profession, if the following conditions are met:

"(1) Such person is subject to discipline, including suspension or revocation of such person's license or certification to practice, by the licensing or certifying authority on account of—

"(A) a failure to possess the requisite qualifications to represent others,

"(B) a lack of character or integrity, or

"(C) engaging in unethical or improper professional conduct.

"(2) Such department or agency has in effect standards of ethical conduct—

"(A) for its officers and employees which, at a minimum, proscribe and subject such officers and employees to disciplinary action, including suspension or dismissal, for—

"(i) using public office for private gain,

"(ii) giving preferential treatment to any person,

"(iii) impeding Government efficiency or economy,

"(iv) compromising independence or impartiality,

"(v) making a Government decision outside official channels, or

"(vi) affecting adversely the confidence of the public in the integrity of government; and

"(B) for its former officers and employees which, at a minimum, provide for disciplinary action, including the suspension or revocation of the privilege of appearing or practicing before it, upon a finding (after notice and an opportunity for hearing) of—

"(i) failure to possess the requisite qualification for representing others,

"(ii) lack of character or integrity; or

"(iii) engaging in unethical or improper professional conduct.

"(3) Such appearance before, or communication to such department or agency is of a category exempted from the prohibitions contained in subsection (c), for purposes of this subsection, by general rule or regulation promulgated by the department or agency, in consultation with the Director of the Office of Government Ethics, and published in the Federal Register.

"(4)(A) A file containing—

"(i) any such written communication (and responses thereto),

"(ii) memoranda stating the substance of any such oral communication (and responses thereto), and

"(iii) all written communication (and responses thereto) and memoranda stating the substance of all oral communications (and responses thereto) in connection with any such appearance,

is made available for public inspection and copying immediately upon request, notwithstanding any provision of section 552(a)(6) of title 5, United States Code.

"(5) Such appearance is not before, or communication is not with, any person under the direct supervision and control of such former officer or employee, while employed with such department or agency.

"(6) Such former officer or employee files a written declaration with the department or agency that he or she is currently qualified to appear in a representative capacity before the department or agency, and that the appearance or communication is not intended to have, and cannot reasonably be expected to have, any effect described in paragraph (2)(A) (i) through (vi) of this subsection.

For purposes of this subsection, the term "State" includes the District of Columbia and any territory or possession of the United States.

Page 49, line 25, strike out "(g)" and insert in lieu thereof "(h)".

Page 50, line 21, strike out "(h)" and insert in lieu thereof "(i)".

H.R. 1

By Mr. FRENZEL:

(To the amendment offered by Mr. Danielson.)

—On Page 9, lines 17 through 19, strike out "; and from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit." and insert a period.

—On Page 27, lines 21 through 23, strike out ", and (iii) from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit." and insert a period.

—On Page 58, lines 17 through 19, strike out ", and (iii) from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit." and insert a period.

H.R. 1

By Mr. GARY A. MYERS:

(Amendment to the amendment in the nature of a substitute.)

—Page 3, line 8, strike out "(2)" and insert in lieu thereof "(1)" (other than the identity of the source of income), (2),".

Page 3, line 12, strike out "(2)" and insert in lieu thereof "(1) (other than the identity of the source of income, (2),".

Page 23, line 11, strike out the period at the end thereof and insert in lieu thereof a comma and the following: "except that this paragraph shall not require the reporting of the amounts of income received while the reporting individual was not holding any office or position described in section 201(f)."

Page 26, line 13, strike out the period at the end thereof and insert in lieu thereof a comma and the following: "except that this paragraph shall not require the reporting of the amounts of income received while the reporting individual was not holding any office or position described in section 201(f)."

H.R. 11733

By Mr. GARY A. MYERS:

—Page 169, after line 17, insert the following new section:

MARIJUANA REPORT

"SEC. 229. The Secretary shall report to Congress not later than December 31, 1979 concerning the progress of efforts to detect and prevent marijuana use by operators of motor vehicles. Such report shall include, but not be limited to, information concerning the frequency of marijuana use by motor vehicle operators, capabilities of law enforcement officials to detect the use of marijuana by motor vehicle operators, and a description of federal and state projects undertaken into methods of detection and prevention. The report shall include the Secretary's recommendations on the need for legislation and specific programs aimed at reducing marijuana use by motor vehicle operators."

Page 169, line 19, renumber Sec. 229; delete "230" and insert in lieu thereof "231".

Page 171, line 16, renumber Sec. 230; delete "230" and insert in lieu thereof "231".

H.R. 11733

By Mr. WALGREN:

—Page 151, after line 10, insert the following new section:

INCREASED FEDERAL SHARE

SEC. 159. (a) Notwithstanding any other provision of law, the Federal share of any project approved by the Secretary of Transportation under section 106(a), and of any project for which the United States becomes obligated to pay under section 117, of title 23, United States Code, during the period beginning on the date of enactment of this section and ending on the last day of the one-year period beginning on such date of enactment (both dates inclusive), shall be such percentage of the construction cost as the State highway department requests, up to and including 100 per centum.

(b) The total amount of such increases in the Federal share as are made pursuant to subsection (a) of this section for any State shall be repaid to the United States by such State before September 30, 1982. Such repayments shall be deposited in the Highway Trust Fund. No project shall be approved under section 106 or section 117 of title 23, United States Code, for any project in any State which has failed to make its repayment in accordance with this section until such repayment has been made.

H.R. 11733

By Mr. WEISS:

—Page 106, after line 3, insert the following:

"SEC. 118. The first three sentences of section 138 of title 23, United States Code, are amended to read as follows: "It is hereby declared to be the national policy that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, historic sites, and the navigable waters of the United States. The Secretary of Transportation shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, the Administrator of the Environmental Protection Agency, and with the States in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of the lands traversed and to maintain the navigable waters of the United States. After the effective date of the Federal-Aid Highway Act of 1968 in the case of land, and after the date of enactment of the Surface Transportation Act of 1978 in the case of the navigable waters of the United States, the Secretary shall not approve any program or project which requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, or any land from a historic site of national, State, or local significance as so determined by such officials, or any navigable waters of the United States, unless (1) there is no feasible and prudent alternative to the use of such land or such navigable waters, and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, historic site, or such navigable waters resulting from such use. After the date of enactment of the Surface Transportation Act of 1978, the Secretary shall not enter into any obligation on behalf of the Federal Government to pay any sum with respect to any such program or project (including any such program or project approved before such date of enactment) unless such program or project is consistent with the provisions of this section and will be carried out (during the period with respect to which such sum is paid) in a manner consistent with the provisions of this section; and no such obligation shall be entered into until the Secretary submits to Congress a written certification that the program or project will be carried out in that manner together with a written document describing the procedures used by the Secretary in determining that such program or project is so consistent."

Page 204, after line 6, insert the following new section:

"SEC. 329. No financial assistance shall be provided by the Secretary to a local transit authority eligible to receive such assistance under programs or projects administered by the Urban Mass Transportation Administration, unless the board of directors of such local transit authority consists of persons a majority of whom both (1) reside in the area served by the mass transportation facilities under the supervision and governance of the local transit authority, and (2) use the mass transportation facilities under the local transit authority's supervision and governance as a principal means of transportation."

H.R. 12452

By Mr. MAGUIRE:

(Amendment to the amendment in the nature of a substitute to section 2 offered by Mr. Jeffords.)

—On page 19, line 23, immediately after the period, insert the following new sentence:

"The Secretary may disapprove any portion of a plan if he finds that the use of funds for a particular sub-contract or sub-grant provided within that portion of the plan would be grossly inefficient or fail to carry out the purposes of the Act.

On page 19, line 24, immediately after the word "plan", insert: ", in whole or in relevant part,".

—On page 30, line 16, immediately after the period, add the following new sentence:

"In the event of any such withholding which results from fraud or abuse as determined by the Office of the Secretary, the Secretary may order the prime sponsor to conduct the program as specified in the applicable plan on the basis of funds other than funds under this Act and may enforce such order by appropriate civil action, unless the prime sponsor elects to terminate participation as a grantee under the Act."

—On page 76, immediately after line 7, add the following new subsection:

"(g) The Secretary shall report to Congress, within one year of enactment of this Act, his recommendations for legislative changes designed to increase the representativeness and independence of the prime sponsor's planning councils, with special attention to the process for selecting council memberships.

—On page 90, line 12, change "(c)" to "(d)" and insert the following new subsection immediately after line 11:

"(d)(1) Any objective programmatic performance data collected of prime sponsors by the Director which are used to rank or assess the performance of prime sponsors, a result of which would be to systematically provide an incentive or inducement to prime sponsors to fail to give special consideration, to the maximum extent possible, to eligible persons who are the most severely disadvantaged in terms of the length of unemployment and prospects for finding employment prior to program participation, shall be deemed undesirable performance indicators, except where such data pertains to programs not intended to serve primarily or exclusively the most severely disadvantaged.

"(2) The Director shall replace or eliminate the use of undesirable performance indicators as expeditiously as prompt development of adequate alternative management information techniques which do not suffer the defect of providing an incentive or inducement described under paragraph (1) permits. The Director shall report to Congress periodically on the progress of development and implementation efforts thereof.

EXTENSIONS OF REMARKS

LUCIAN WARREN RETIRING

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 14, 1978

● Mr. NOWAK. Mr. Speaker, for more than three decades Lucian Warren has been an active—and energetic—member of the Washington press corps, first as the Washington correspondent for the Buffalo Courier-Express and the last 10 years as bureau chief for the Buffalo Evening News, the two independent daily newspapers in my hometown of Buffalo, N.Y.

During this time, I am sure many of my colleagues met Lu Warren, either during his coverage of Capitol Hill or at National Press Club or Gridiron Club functions—two prestigious organizations he has served in many capacities including president.

Those of us who have been associated with Lu Warren—either professionally or socially—have come to know him as both a highly competent member of the fourth estate and an amiable gentleman.

Recently, the Buffalo Evening News announced Lu Warren's impending retirement. In wishing Lu well in his future endeavors and commending him for the important public service function he performed in outstanding fashion for 33 years in Washington, I would like to share with my colleagues the September 5, 1978, article from the News which details his career and accomplishments:

RETIRING DEAN OF NEWS DISTRICT OF COLUMBIA BUREAU "SAW IT ALL" IN 33 YEARS AT CAPITAL

WASHINGTON.—After a newspaper reporting career that began in the 1930s as a high school stringer and included heading three prestigious journalism organizations in Washington, Lucian C. Warren, The Buffalo Evening News Washington Bureau chief, is retiring with no regrets about that career.

He would do it all over again and, in fact, at age 65, still plans to keep his hand in on the Washington scene by free-lancing.

"I'm one of the few newspapermen here who doesn't want to leave Washington after retiring," Mr. Warren said. "I like Washington not just as a news capital but because of its cultural advantages."

Mr. Warren, who will retire officially Sept. 30, knew what he wanted to do back in his student days at Jamestown High School. He wrote stringer items for the Jamestown Evening Journal. That led to his getting a job as a summer reporter.

He was graduated in 1936 from Denison University where he gained Phi Beta Kappa honors. In 1952 he was presented a "distinguished achievement" award by the Society of the Alumni of Denison University.

Mr. Warren was hired as a general assignment reporter by the Buffalo Courier-Express in the late 1930s. In 1948 he became that paper's Washington correspondent and in 1968 became Washington Bureau chief for The News.

In his 33 years in Washington, Mr. Warren has covered it all. There have been more than a dozen trips abroad, including accompanying presidents and going to see for himself. He prefers the latter because too many presidential trips are "ceremonial" and "you're chained to the president." He twice covered the Vietnam War and won an Ernie Pyle journalism award for a series on that war.

In 1972 he visited most of the Eastern European countries for a series of articles, and last year he spent six weeks in Scandinavia writing on the political and economic conditions of the Nordic nations. Back in the 1950s he was on hand for naval maneuvers in the North Sea and in the 1960s visited and wrote about Middle Europe.

Even with retirement, the travel and writing continue. He is now on a world trip with his wife, the former Katherine Smith of Ashland, Va., and will visit Japan, India, Turkey, Egypt, Israel, Lebanon, Syria and Jordan.

Mr. Warren has been at the national political conventions and personally has known all the presidents who served during his three decades here. At the last Gridiron dinner, when President and Mrs. Carter went on the stage to take part in a dance, Mr. Warren was chosen by his colleagues, to be the first lady's partner.

Perhaps the word "achiever" can best describe his activity here. Mr. Warren is one of those people who doesn't just belong to things, but takes part and leads. His career has included presidency of the National Press Club in 1955; chairman in 1967 of the Standing Committee of Correspondents, which oversees news coverage of Congress; and in 1975 the ultimate honor, presidency of the Gridiron Club, a limited-membership organization of top news people.

It is generally agreed that few newspapermen in this city have as wide a range of acquaintances in government. It is not odd for him, on the trail of a story, to bypass normal press channels and call some "old friend" at a department or in Congress to get his information quickly and first hand.

Most of his years with the Courier-Express were concerned with coverage of the "local angle" stories, that he says are still the single most important responsibility of a Washington bureau. But at The News, he expanded his duties, covering the White House on a daily basis, a task made difficult because The News required quick reports to meet dayside deadlines, a challenge he admits he is sure to miss. The News also provided him the opportunity to write a weekly column in which his views based on years of experience were shared with readers.

Reporters are supposed to be cynical, but Mr. Warren has kind things to say about people in government, especially those in the top echelons.

"The people in government by and large are very articulate and for the most part very warm. Sometimes if you get into the lower echelons, right into the bureaucracy, this is not so. But I have been impressed by the high caliber, the warmth, the personality and the comprehension of subjects of the people in government, especially those high in government."

Relationships in the executive branch have varied.

President Eisenhower's press secretary, Jim Haggerty, got the highest marks for working with and helping the press. He was "the best of the lot, the most knowledgeable, and he could talk on his own. He seemed to have carte blanche from Eisenhower."

It's varied greatly from administration to administration. Ron Ziegler under Nixon drew low grades, but Mr. Warren conceded it was not his fault alone; it was more the system and that Mr. Ziegler really wasn't clued in on everything.

Mr. Warren has some favorites. One is former Rep. William E. Miller, who was "very straightforward" in dealing with reporters. There are Republicans who say Mr. Warren played a role in making Rep. Miller the GOP vice presidential nominee in 1964. Mr. Warren wrote a column suggesting the idea, and the GOP National Committee made copies and passed it among delegates.

On the occasion of Mr. Warren's retirement, Murray B. Light, managing editor news, remarked: "Lu Warren has served the News and its readers well in his 10 years as chief of our Washington Bureau. As a reporter, he has maintained the highest professional standards, and he is recognized among his peers and in the high counsels of government for these standards.

"Explaining the goliath that is Washington is no simple chore. Lu has explained and clarified Washington for Western New York readers for three decades. It is a singular service in which he can take great pride.

"The News is happy that Lucian Warren's byline will continue to appear from time to time in our news columns as time permits him to comment on people and issues in Washington and throughout the world."

The Warrens have three daughters, a son and six grandchildren.●

SUPERVISOR SIG SANCHEZ

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 14, 1978

● Mr. MINETA. Mr. Speaker, I would like today to honor a fine gentleman who for more than 24 years has devoted himself to public service: Santa Clara County Supervisor Sig Sanchez.

During his 9 years in public service, Mr. Sanchez served as a councilman and mayor of the city of Gilroy. In 1962 he was elected to the Santa Clara County board of supervisors.

Over the past 15 years, while on that board, he has been recognized for his prudence in budget preparation and his continuing efforts to maintain low property tax rates.

Mr. Sanchez has also spearheaded the creation and implementation of land use policies in Santa Clara County aimed at orderly growth, efficient use of resources, and the preservation of open space.

Mr. Sanchez has served as president of the County Supervisors Association of California (CSAC). He currently sits on its board of directors and executive committee. He also serves on the National Association of Counties (NACO) board of directors.

As of January 1979, Supervisor Sanchez will retire from his duties as representative of Santa Clara's First Supervisorial District.

Therefore, a dinner honoring him is being held by his friends and colleagues on November 9, 1978.

I ask you, Mr. Speaker, and my colleagues in the House of Representatives to congratulate Supervisor Sanchez for his many great achievements and to wish him success in all his future endeavors.●

MODEL PUBLIC INTEREST LAW CONFERENCE

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 14, 1978

● Mr. NOWAK. Mr. Speaker, on September 29–30, the State University of New York at Buffalo Law School, in conjunction with the American Bar Association Special Committee on Public Interest Practice and the Erie County, N.Y., Bar Association, will host the first Model Public Interest Law Conference. Funded by the ABA, the program is primarily designed to inform lawyers, bar associations, business, government, and community leaders about the possibilities of public interest law practice in their community.

The conference is intended to serve as a model for subsequent related sessions to be sponsored and funded by the ABA. Certainly, therefore, we in the Buffalo area are very proud of the SUNY at Buffalo Law School's contributions to our community and of its selection to host this unique conference.

In conjunction with this conference, I would like to bring to my colleagues' attention a most interesting and comprehensive article by Marshall Jordan Breger, visiting associate professor of law at the SUNY at Buffalo Law School who was a member of the Board of Directors of the Legal Services Corporation from 1975 to 1978. The article entitled "Legal Services in the United States," which appeared in a British journal this spring, follows:

LEGAL SERVICES IN THE UNITED STATES

Amongst the evidence submitted to the Royal Commission on Legal Services have been suggestions to place the responsibility for the administration of legal aid on an independent Legal Services Commission similar to the Legal Services Corporation in the United States—now two years old. The continuing growth of the neighbourhood law centres in Britain has further focussed attention on legal aid in America, where the salaried attorney scheme is the prevailing legal aid model. This article will sketch the history of legal aid in the United States focussing on those aspects of interest to English lawyers.

Legal services in America were originally a philanthropic effort of the private bar, reminiscent of England's poor man's lawyer movement. In 1965, however, federal funds became available for legal services programmes through the Office of Economic Opportunity. These OEO grants soon changed the face of legal services in America. Programmes spread throughout the country. Funding increased from less than $4 million in 1963 to approximately $70 million in 1970. For the first time talented attorneys focussed exclusively on the legal problems of the poor. Such specialisation, spurred by intense enthusiasm and commitment, had a dramatic impact on both the substantive and the procedural laws which affect poor people.

The OEO legal services programme was spawned as part of a national "war on poverty". It appealed to the "best and brightest" among American law school graduates attracted by the possibilities of using law as a mechanism of social change. As such, the programme created great controversy and was attacked variously by local bar organisations, state governments and conservative legislators. Unsuccessful attempts to restrict legal services programmes were made in both Mississippi and California. Congressional pressure to amend or close down the programme grew, largely fuelled by conservative congressmen unhappy with its alleged (and perhaps real) liberal biases. Throughout the future and the structure of the OEO legal services programme were in continual doubt.

AN INDEPENDENT CORPORATION

From 1970–74 Congress debated various reorganisation proposals. While some consensus emerged that legal services ought to be removed from the direct purview of the executive, notions differed widely as to the structure of that reorganised entity. Some wished to delegate programme control to state governors. Others hoped to turn the programme into a "judicare" scheme along the lines of British legal aid. A number of interests coalesced around the idea of creating an independent non-governmental entity—a legal services corporation. The structure of such a corporation evoked great controversy, focussing mostly on the composition of the proposed organisation's Board of Directors. Legal services legislation passed Congress in 1971 but was vetoed by President Nixon who complained, *inter alia*, that the legislation would not allow him to appoint all of the directors of the proposed public corporation. When the legislation was reintroduced in 1973 the resultant compromises to ensure passage pleased neither liberal nor conservative pressure groups.

After much travail, the Legal Services Corporation Act became law on 25 July 1974. The Act created an independent non-profit corporation which would provide financial support to local programmes offering legal assistance in non-criminal matters to low-income persons. The Corporation is run by a bi-partisan Board of Directors appointed by the President with the advice and consent of the Senate. The 11 directors serve staggered terms to provide continuity. This structure differs radically from the old legal services effort which, since 1967, has been a separate division of the Office of Economic Opportunity (OEO), itself part of the executive branch.

There is an important difference between the stated mission of OEO and that of the new Corporation. Whereas the grand purpose of the former was to end poverty in our time, the more modest (if no less important) function of the Corporation is to ensure "equal access to the system of justice . . . for individuals who seek redress of grievances . . . and who would be otherwise unable to afford legal counsel." Although it is unlikely that this shift in rhetoric has in practice affected the day-to-day activities of legal services programmes (some indeed had never followed the move in the late 1960s away from individual casework to law reform), nonetheless many legal services attorneys decried a perceived shift in the programme's emphasis, which reflects different conceptual approaches to the legal aid enterprise. The demand that a justly organised legal system include state subsidised attorneys committed to social change assumes that transfer of wealth and power in society is a socially desirable goal that governments are or should be pursuing. Whereas the proposition that the government fund attorneys to aid citizens to resolve needs which the rules of social order deem to be "legal" is based on the belief that we cannot equitably urge citizens to rely on the law to resolve social disputes without proffering all citizens the opportunity of effective access to the tools of law. Such access, it is presently assumed, can effectively exist only through recourse to legal aid and advice. In other words, the original objectives set down for legal services seem to be based on the premise that the government ought to institutionalise support of social change agents; the more recent articulation of the aims of legal services focus on process values of equal protection and fair play. These differences reflect an ambiguity in the role definition of many legal aid attorneys. In future years programmes will have to tread delicately between these often complementary, though at times competing, goals.

HOW THE CORPORATION OPERATES

The Corporation's main function is to fund and regulate local legal services programmes. The Act, however, places some restrictions on the ways in which the attorneys in these programmes may ply their trade. The Corporation's brief is limited to civil matters; criminal representation is forbidden, since it is otherwise provided for under the constitution in cases in which the defendant may be given a jail sentence.

The Act largely disallows representation in three controversial matters: school desegregation cases, cases involving non-therapeutic abortion, and selective service (e.g. conscription) cases. Legislative advocacy is limited to occasions when a government body actually invites a lawyer to testify or when testimony will serve the needs of an identified client whom the lawyer is at the time representing. Apart from these instances, lobbying is prohibited, as are picketing and political organisation, variously defined. Local legal services attorneys have challenged the constitutionality of some of these restrictions but they have been upheld by a number of federal courts.

The restrictions were imposed not as a result of a coherent theory of legal aid but rather of the grab-bag nature of the legislative process that led to the Act. The final legislation was hurriedly amended to meet conservative objection and thwart a threatened veto by President Nixon in his final days in office. To garner sufficient votes, the proponents of the Act in desperation were willing to accept numerous restrictions, many of which have been removed by liberalising amendments recently passed by Congress.

The Corporation has developed regulations to govern the conduct of local programmes and attorneys. Perhaps the most interesting are rules requiring that at least one member of the Board of Directors of a local programme be an eligible client and that at least one-third of the members be clients or representatives of client groups. At the same time, 60 percent of the Board must consist of licensed attorneys. The local board must "reasonably reflect the interests and characteristics of the eligible clients in the area served." These rules reflect the Corporation's commitment to the principles of community participation and accountability developed in the anti-poverty movement of the last decade.

EXPANSION

The initial funding of the old OEO programme was based on neither demographic nor geographic considerations. Anxious to make the programme a *fait accompli* and fearful of opposition by local bar associations, legal services administrators made grants to almost any community with interested citizen groups and a sympathetic local bar. As a result, some areas of the country, the South and Southwest particularly, were grossly underfunded. Since only indigents in specified programme catchment areas were eligible for service, large portions of the population did not receive any serv-

ice at all. When the Corporation began, nearly 12 million poor persons lived in areas where there were no legal services programmes at all. Eight million lived within programme boundaries but the programmes in those designated areas were so severely underfunded that access was theoretical only.

During the past two years, with vastly improved federal funding, the Corporation has been able to arrest decay and begin to expand services. The legal services grant from Congress rose from $71.5 million for OEO in 1975 to $205 million for the Corporation in 1978. For fiscal year 1979 the Corporation has requested a grant of $305 million. Some 326 legal services programmes throughout the country exist, involving about 3100 lawyers and 1400 para-legals.

During the final years of the OEO programme, funding constraints reduced the effectiveness of the existing legal services offices. Between 1972 and 1975 more than 300 field attorney positions were made redundant. Nearly one third of the neighbourhood offices were closed for reasons of economy. Maintenance of basic research libraries and office equipment was severely retarded. Caseloads of over 500 were not uncommon. Turnover of attorneys was upwards of 30 percent a year, thus denying the programme the wisdom of experienced able lawyers trained in poverty problems. Salaries, never competitive with the private sector, fell dangerously out of step. Legal services offices became the training ground for the private bar and the local prosecutor's office, spawning attorneys who expend themselves for some years and then depart for greener, or at least less frustrating, pastures.

This sorry situation has now been turned around. Inflationary "catch-up" grants and across-the-board increases have allowed most existing programmes to restore much of their service activity. By the end of next year, almost all existing programmes will be funded at the rate of $7 per poor person. While still inadequate, this is a significant increase over the per capita expenditures of OEO days.

As an intermediate goal, the Corporation intends to expand its programme area to provide the equivalent of two attorneys per 10,000 poor persons throughout the country by the end of fiscal year 1979. (In contrast, recent figures suggest that there are more than 14 attorneys per 10,000 persons in the private sector.) This increase will require the creation of new programmes and expension of the geographical boundaries of existing ones. Both processes are now underway. In 1977, 40 new projects were funded and 57 projects received funds to expand legal services coverage to previously unserved geographic areas. The number of poor persons served depends, of course, on the eligibility standard used. The Corporation does not set a national standard but allows local programmes to set a cut-off point at 125% of the federal government's OMB (Office of Management and Budget) Poverty Standard, one of several poverty guidelines used to govern social services means tests in the United States. Depending on location, single persons with an approximate yearly income of $3,700, or a family of four with an income of $7,300 would be eligible for service.

Even with this planned expansion, nearly 10 million eligible clients will still live in areas without programmes, and over 6 million will live in localities where funding is not sufficient to provide "minimum access". Moreover, in areas where the "minimum access" standard has been reached, need far surpasses capacity to serve. In truth, the Corporation's goal of two lawyers per 10,000 poor persons was an artificial construct designed to secure funds from Congress and was not based on any systematic assessment of the legal needs of the poor.

Further the OMB standard attempts to specify in dollar terms the minimum level for food purchases by various family groups. It bears little relation to the actual ability of persons to pay for legal services. One can be "legally needy" in the sense that one is unable to pay a lawyer's going rate and still be far above the poverty line. Since the Corporation provides services on an "all or nothing" basis, there is no way for needy clients above the poverty line to make partial payment and still receive services.

THE RATIONING PROBLEM

Even with such an unrealistic income limitation, local programmes cannot meet the demands placed on them by eligible clients. Some form of rationing is necessary. In the past, programmes often rationed legal services unconsciously, for instance by setting appointments weeks in advance or taking new cases on the first day of a month only. Rationing occurred by default. In other programmes, attorneys set their own priorities consciously, often on the basis of their conception of community needs. These rationing criteria were often unstated and haphazardly used. The Corporation has required every programme to develop an explicit scale of priorities with the active involvement of the local client community. Thus, while no national priority schedule for cases has been formulated, a process for developing local priorities has been laid down.

EXPERIMENTATION

Most of the existing legal services programmes in the United States are on the salaried staff attorney model, similar to neighbourhood law centres in Britain. However, the Corporation has a statutory duty to study other methods of delivering legal services, and during the past two years it has funded 38 experimental legal delivery projects throughout the country. Each of these projects involves private sector attorneys in the delivery of legal services to the poor.

The alternate delivery systems that the Corporation is investigating include:

1. The "judicare" approach, analogous to the British legal aid scheme, in which eligible clients go to private attorneys of their choice, who are reimbursed by the scheme according to a set fee schedule.

2. The voucher scheme, under which eligible clients receive a chit worth a set amount for legal aid or advice and have the choice of cashing it at a salaried attorney office or with a participating private attorney.

3. Pre-paid legal insurance, in which the Corporation enrolls a group of poor persons in an existing legal insurance plan and pays the premiums.

4. Contracts with private law firms, which may be of two kinds. Either a group of private attorneys agrees with the Corporation to provide general legal services of the kind offered by a staff attorney programme in a comparable area; or such a group agrees to provide a specialized service to clients referred from a salaried attorney office.

5. The legal clinic, which is an office providing high-value, low-fee services in specific areas of law that can be handled in a relatively routine fashion, using a core of lawyers supplemented by para-legals, law students, and law workers. In the Corporation test, a clinic is being run on a probono, no-fee basis.

The Corporation is also exploring ways of increasing the efficiency of legal aid offices and is developing and testing tools for evaluating attorneys' competence and assessing the satisfaction of clients.

LESSONS FOR BRITAIN

As can be seen, the Legal Services Corporation differs in a variety of respects from the British legal services programme. It is run largely through salaried attorneys who work full time as poverty lawyers; the private bar is involved only marginally. Eligibility is an all-or-nothing affair; there is no sliding-scale fee schedule. Priority schedules may well place issues of broad communal concern above the resolution of legal problems important only to the individuals involved.

Most relevant, the legal services movement in America is run neither by the government nor by the American equivalent of the Law Society, but through an independent public corporation. This autonomy provides significant freedom to the legal aid lawyer. At the same time it creates a sense of common purpose within an identifiable legal services community. This approach to the provision of legal assistance to the poor is well worth the attention of the English legal profession.●

CLAUDE L. FERNANDEZ AND ROBERT H. MEDINA

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 14, 1978

● Mr. MINETA. Mr. Speaker, two of organized labor's finest leaders in Santa Clara County, Calif., Mr. Claude L. Fernandez and Mr. Robert H. Medina, will be honored September 16, 1978, at the Labor Council for Latin American Advancement's first annual dinner. I would like to bring to the attention of my colleagues in the House some of the accomplishments of these two individuals and to add my thanks to those of the labor council for the contributions they have made to the labor movement and to our communities in Santa Clara County.

Mr. Fernandez has been employed by the Retail Clerks Union since January 1942, and currently serves as the secretary-treasurer for local 428, which has over 7,000 members. He is cofounder of the local's credit union, which has assets of over $1.25 million.

Claude currently serves as a delegate to the Central Labor Council of Santa Clara County. He is a member of the Santa Clara County United Fund and of the Community Service Committee of the AFL–CIO.

While chairman of the community service committee, Claude helped to establish the Mexican-American Community Services Agency and to obtain funding for it through the Rosenburg Foundation and later through united fund. In 1964, Claude received the National AFL–CIO United Way award for community service.

Claude has been a member of the Central Labor Council's Speakers Bureau and has lectured on labor management and industrial relations at San Jose Community College, San Jose State University, the University of San Francisco, at the business and law schools of the University of Santa Clara, and at Stanford University.

Presently, he is a member of the California State Transportation Commission and the Advisory Board of the School of Labor Studies within the Department of Industrial Relations for the University of California system.

Mr. Robert H. Medina was initiated as a member of the Cement Workers Union Local 270 in 1946 while employed by the Permanente Cement Co. He was elected in June of 1950 as a member of the executive board of the Construction and General Laborers Union Local 270. In June 1952, he was elected secretary-treasurer of local 270, a post he has held continuously since then. From 1957 to 1961, he also served as the union's recording secretary and in 1978 the office of recording secretary was combined with the office of secretary-treasurer.

Bob has been very active in the hierarchy of the laborers' union, serving as a trustee of the Northern California District Council of Laborers from 1957 to 1967. From 1967 to 1971, Bob served on the executive board and in September of 1971 became vice president of the council. In February 1977, Bob was elected president for the Northern California District Council of Laborers.

On June 15, 1978, he was elected as the 21st vice president of the State Building and Construction Trade Council.

In addition to his work with the union, Bob served for 1½ years as a member of the 1973 Santa Clara County grand jury.

Mr. Speaker, I ask you and all my colleagues to join in congratulating Claude L. Fernandez and Robert H. Medina on their outstanding careers of service to Santa Clara County and in wishing them every success in the future.●

CONSUMER REGULATIONS FOR ALTERNATIVE MORTGAGE INSTRUMENTS

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 14, 1978

● Mr. PATTERSON of California. Mr. Speaker, many of my colleagues have expressed an interest in title 18 of H.R. 13471, "The Financial Institutions Regulatory Act of 1978." This bill will come to the floor of the House in the near future.

I would like to take this opportunity to share with all of my colleagues the alternative mortgage regulatory proposal which was issued for comment by the Federal Home Loan Bank Board on July 24, 1978. These regulations are most important because they contain the consumer protection guidelines and plans for implementation of title 18 of H.R. 13471.

I think the Members of this House will find the guidelines more than adequate. It is my hope these guidelines will serve as a model for many of the States where alternative mortgage instruments are now actively in use.

The regulations are attached:

FEDERAL HOME LOAN BANK BOARD

[12 CFR Parts 545, 555]

[78–428]

PROPOSED ALTERNATIVE MORTGAGE INSTRUMENTS

JULY 24, 1978.

Agency: Federal Home Loan Bank Board.

Action: Proposed regulations.

Summary: These proposed regulations would authorize a number of new type of mortgage instruments for use by Federal savings and loan associations: the variable rate mortgage, rollover mortgage, graduated payment mortgage, and reverse annuity mortgage. The Bank Board believes these instruments are necessary, in addition to the standard fixed-rate, fixed-payment mortgage, in order to meet the needs of homeowners during different phases of their financial life cycles.

Comments must be received by: October 1, 1978.

Address: Send comments to the Office of the Secretary, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552. Comments will be available for public inspection at this address.

For further information contact: Nancy L. Feldman, Assistant General Counsel, Federal Home Loan Bank Board, 202–377–6443, at the above address.

Supplementary information: Several months ago, the Bank Board published findings from its alternative mortgage instruments research study (AMIRS), a project begun in the spring of 1976 to provide a comprehensive and systematic review and analysis of a number of new mortgage instruments for use by Federal savings and loan associations. The findings indicated a present and growing need for alternative mortgage instruments (AMI's) as homeowners move through different phases of their financial life cycles. Although it is expected that the standard fixed-rate, level-payment mortgage will continue to be both popular and available, many borrowers want and need a choice of home finance arrangements. The Bank Board believes that availability of AMI's will permit homeowners to match their financing needs with appropriate mortgage instruments.

The proposed regulations cover four types of AMI's recommended for authorization in the Bank Board Study: The variable rate mortgage (VRM), graduated payment mortgage (GPM), rollover mortgage (ROM), and reverse annuity mortgage (RAM). All the consumer safeguards described in the Study have been retained. Two important new restrictions are: (1) Not more than half of an association's home-mortgage loans made and purchased in any calendar year could be variable-rate mortgages and rollovers, and (2) These instruments could only be made, purchased or participated in by an association upon a finding by the Bank Board that authority to offer these instruments is required to preserve competitive balance in the association's home State.

The first part of the regulations sets out general restrictions on all AMI's. A prospective borrower must be shown a comparison between the AMI of interest to him and a comparable standard mortgage, described in the proposal as a mortgage with a fixed interest rate, level payments, and full amortdition, each borrower must be given the op- and other terms, and examples of payment schedules in a "worst case" situation. In addition, each borrower must be given the option of choosing a standard instrument, rather than an AMI. This does not mean that associations would have to offer a standard 95 percent loan, for example, to a borrower whose income level would not support the monthly payments but would qualify for a 95 percent graduated payment mortgage; such a borrower would receive a comparison of the GPM and a standard mortgage with comparable terms, to which s/he could choose to convert later in the loan term when s/he met the underwriting criteria, and the present alternative option would be a standard mortgage for which s/he currently qualifies. Borrower payments on AMI's could not be changed more frequently than once a year, with annual payment increases limited to 7.5 percent; balloon-payment loans would have to provide for refinancing at then current rates when final payment was due.

The proposal provides for down-payment (loan-to-value ratio) requirements to be the same for AMI's and comparable standard mortgages, since AMI's are not new types of loans, but simply different, creative methods of payment for regular types of home loans. The Bank Board is aware that this may cause a problem in the case of GPM "negative amortization", where equity actually declines in the first years of the loan and invites comment on whether lower-equity requirements and additional safeguards would be appropriate for such loans. It is noted in this regard that the proposal would allow use of certain pledged savings accounts in lieu of down payments for loans in excess of 80 percent of the property's value; this is currently prohibited by Bank Board regulation.

The next regulatory sections cover the individual kinds of AMI's. GPM's have scheduled payments which begin below, and rise higher than, those of a standard mortgage until a predetermined level is reached; the period and rate of increase and interest rate are fixed at loan origination. Limits would be prescribed for maximum periods and annual rates of increase from 7.5 percent for 5 years to 3 percent for 10 years. The borrower would be given a one-time right to convert to a standard mortgage, without penalty if conversion is at the same interest rate and for the same original term as the GPM.

VRM's change according to market interest rates; such rates would have to be tied to independent Bank Board-approved indices. The regulation would authorize Federal savings and loan associations to make, purchase, and participate in VRM's (as well as ROM's, discussed below) only if the Bank Board has determined that Federal associations require such authority to maintain competitive balance with State-chartered institutions located in their home State. Increases would be limited to an annual rate of one-half of 1 percent, and a maximum of 2.5 percent over the life of the loan. Decreased would be mandatory, increases optional with the lender, but increases not taken could be accumulated and taken later but not in excess of the permitted annual or overall increase. Decreases less than the minimum change (0.10 percent) would also be accumulated. Lenders would be required to notify borrowers 45 days in advance of a rate increase, at which time the borrower could (1) Prepay without penalty (unless the rate was then below the original rate), (2) Agree to make higher installment payments, or (3) Make the same payments by extending the loan to a maximum of 40 years from origination. In the event of a decrease, either borrower or lender could require reduction of any prior extension of the loan term to the extent of the required interest rate.

An example of an index the Bank Board would consider approving for use in connection with VRM's and ROM's is one which the Federal Home Loan Mortgage Corporation has used; it is based on a combination of (1) the average market yield of outstanding U.S. Treasury securities with remaining maturities of 3 to 5 years (published by the Federal Reserve Board), and (2) the Federal Reserve Board Seasoned Corporate Bond Yield series (based on Moody's Investment Service series). The Bank Board believes this index has demonstrated flexibility in moving with market rates of interest, and it invites public comment on the index's suitability.

ROM's would have long-term maturities subject to mandatory refinancing at scheduled times with minimum 3-year intervals. Any adjustments of interest rate or other terms of the loan at refinancing would be without administrative fees to the borrower. The VRM interest-rate indexes, maximum percentages of rate increase, geographic and percentage-of-loans limitations would apply to ROM's.

RAM's, although named "reverse annuity"

mortgages, do not require purchase of an insurance annuity, but rather refer generally to any type of instrument involving payments to homeowners based on accumulated equity. Since these plans may vary greatly and present a number of unique questions, the Bank Board's proposal does not attempt to limit their formulation, but rather would require submission and approval on a case-by-case basis.

The proposed regulations are keyed to the Bank Board's present Federal regulations section numbers, although a revision of these regulations has been proposed (43 FR 30730; July 17, 1978); it is contemplated that any final AMI regulations will be renumbered appropriately. The proposed alternative mortgage instrument regulations would be set forth directly following present § 545.6–1 pertaining to home loans, to which such regulations refer; the present text of § 545.6–2, referring to Charter E associations, is obsolete and would be deleted and the AMI regulation text substituted.

Accordingly the Federal Home Loan Bank Board proposes to amend its rules and regulations for the Federal Savings and Loan System, 12 CFR, parts 545 and 555, by adding a new subparagraph (a)(8) to § 545.6–1 thereof deleting the text of § 545.6–2 thereof and adding a new text thereto and revoking § 555.4 thereof, to read as set forth below.

PART 545—OPERATIONS

1. Amend § 545.6–1 by adding a new subparagraph (a)(8), as follows:

§ 545.6–1 Lending powers.

* * * * *

(a) Homes or combinations of homes and business property. * * *

(8) Real estate loans with pledged savings accounts as additional security.

Loans may be made under paragraphs (a)(4) and (5) of this section in excess of the maximum dollar, percentage-of-value, or percentage-of-purchase-price limitations thereof, with such excess secured by savings accounts, subject to the following restrictions:

(i) The loan shall not exceed the lesser of purchase price or value of the real estate;

(ii) The savings account shall consist only of funds belonging to the borrower, members of his family, or his employer;

(iii) The association shall fully disclose to the prospective borrower the difference (including interest, private-mortgage-insurance costs, and equity interest) between a loan secured by real estate and savings and a loan secured by real estate alone; and

(iv) The loan shall comply with §545.6–2 as it relates to graduated payment mortgages.

2. Delete the text of § 545.6–2 and add a new text as follows:

§ 545.6–2 Alternative mortgage instruments.

(a) General. Associations making loans pursuant to § 545.6–1(a) of this part may use the alternative mortgage instruments described in this section, which allow certain payment and other provisions different from those required elsewhere in this subchapter, subject to the following general restrictions (and specific restrictions where applicable):

(1) Payment amounts may not be changed more than once a year;

(2) Payments in any year shall be no more than 7.5 percent higher than the payments in the previous year, which amount shall be cumulative for adjustment periods in excess of a year.

(3) Balloon-payment loans (requiring a final payment more than twice as large as any preceding payment) must provide for refinancing at market rates current at the time final payment is due.

(4) Prospective GPM, VRM, and ROM borrowers shall receive:

(i) A side-by-side comparison of rates and other terms of the particular alternative mortgage instrument offered and a comparable standard mortgage instrument (with a fixed interest rate, level payments, and full amortization);

(ii) Examples of payment schedules required by the alternative mortgage instrument and comparable standard mortgage instrument, the former indicating (*a*) every maximum increase at the time it could first occur, and (*b*) the highest possible payment during the loan term; and

(iii) The option to elect a standard instrument; and

(5) Loan-to-value limitations under § 545.6–1(a) of this part shall be complied with throughout the loan term.

(b) *Graduated-payment mortgage.* (1) *Definition.* This instrument's scheduled payments begin at a level lower than that of a comparable standard mortgage instrument, and gradually rise until a predetermined point is reached, after which they remain constant; the graduation period and rate of increase and the interest rate are fixed at loan origination.

(2) *Graduation period and rate.* Graduation periods are limited to 10 years, with maximum rates of increase in mortgage payments as follows:

(i) 7.5 percent annually for a graduation period of 5 or fewer years;

(ii) 6.5 percent annually for 6 years;

(iii) 5.5 percent annually for 7 years;

(iv) 4.5 percent annually for 8 years;

(v) 3.5 percent annually for 9 years; and

(vi) 3 percent annually for 10 years.

(3) *Borrower option to convert.* Borrowers under this plan shall be given at least a one-time right to convert, at a time chosen by the borrower, to a standard mortgage instrument. No assessment of penalties or fees shall be made if the borrower chooses to convert at the interest rate and outstanding maturity of the graduated-payment mortgage.

(4) Interest capitalization resulting from any negative amortization of these instruments does not deny the loan first-lien status under § 541.9 of this subchapter; such debt is considered to be contracted for as future advances at the time of loan origination.

(c) *Variable-rate mortgage.*—(1) *Definition.* The interest rate of this instrument is tied to a reference index which reflects changes in market interest rates; thus, actual future payments are not known at the time of loan origination.

(2) *Geographic limitation.* A Federal association may make, purchase, or participate in variable rate mortgage loans on real estate located in its home State if the Board has determined that Federal associations require authority to invest in such loans to maintain competitive balance with State-chartered institutions located in such State; associations authorized to make these investments in their home States may also make them in other States where the Board has made similar determinations. Federal associations investing in variable rate mortgage loans shall comply with this section and any other applicable provision of this chapter.

(3) *Index.* The Board will publish approved indexes which:

(i) have proven reliability in moving with market interest rates.

(ii) are beyond the influences of the association using it.

(iii) can be clearly explained in simple terms to prospective borrowers with the aid of publicly available information, and

(iv) are substantially free from manipulation by peculiar economic or technical factors.

(4) *Interest-rate changes.*

(i) *Frequency:* Changes (up or down) may take place only on the loan anniversary date.

(ii) *Maximum changes:* The maximum amount of rate change (up or down) shall be one-half of 1 percent (0.5 percent) a year, with a maximum increase of 2.5 percent over the life of the loan. Downward changes must be made, but increases are at the lender's option. Changes in the index rate which are not taken (either at lender's option in the case of increases or because they are too small or too large, i.e. less than 0.10 or over 0.5 percent in a given year) may be accumulated by the lender in the case of increases, and must be accumulated in the case of decreases, and taken at a later time (but never more than 0.5 percent per year), or used to offset other changes.

(*a*) *Variation:* If the instrument provides for rate adjustments at periods exceeding 1 year, the maximum change shall still not exceed a 0.5 percent cumulative annual rate, for example 1 percent every 2 years.

(iii) *Minimum changes.* The smallest change (up or down) shall be one-tenth percent (0.10 percent). Changes beyond that amount may be made in any increment (up to 0.5 percent) where the lender makes available payment tables so borrowers may review the calculations.

(iv) *Actions relating to rate increases.* Lenders shall give borrowers written notice 45 days in advance of a rate increase. Upon such notification, borrowers shall have the following options:

(*a*) Do nothing; payments will be adjusted upward to reflect higher interest rate;

(*b*) Request that payments remain the same and loan maturity be extended to a maximum of 40 years from origination data; or

(*c*) Prepay the loan, either in full or in part, without penalty if the current rate is above the initial loan rate.

(v) Actions relating to rate decreases. Either the lender or borrower may require reduction of the loan term to original maturity in the event of a decrease to the original rate; partial term reductions may be required upon partial rate decreases.

(*d*) Rollover mortgage.—(1) Definition. This instrument is a long-term loan which is refinanced at regularly-scheduled times.

(2) Refinancing requirements. At each scheduled adjustment time, refinancing must be made available for the amount of the outstanding loan for the remaining term. Any adjustments shall be made without administrative charges to the borrower, and any change other than of interest rate shall require comparative disclosure in accordance with paragraph (s)(4) of this section.

(3) Scheduled adjustments shall be spaced at least 3 years apart.

(4) Index. Interest-rate adjustments shall be tied to an index which complies with paragraph (c)(3) of this section.

(5) Interest-rate changes. The maximum amount of rate change shall reflect a cumulative annual rate not over one-half of one percent (0.5 percent), with a maximum increase of 2.5 percent over the long-term life of the loan. Downward changes must be made at scheduled adjustment times, but increases are at the lender's options. Instruments shall be in compliance with paragraphs (c)(4)(iii), (iv), and (v), pertaining to minimum changes and actions relating to rate increases, and decreases.

(6) Geographic limitation. The geographic limitation applicable to VRM's applies also to rollover mortgages.

(*e*) Reverse-annuity mortgage.

(1) Definition. This instrument provides periodic payments to homeowners based on accumulated equity; the payments are made directly by the lender or through purchase of an annuity.

(2) Application. Proposed reverse-annuity-mortgage plans shall be submitted to the Board for approval.

(*f*) Application of restrictions. Where a restriction specific to a particular alternative mortgage instrument is more limiting than a general restriction pertaining to the same subject matter set forth in paragraph (a) of this section, the specific restriction shall prevail.

(*g*) Cumulative index-rate changes. Wherever this section refers to accumulation of index-rate changes over a multi-year adjustment period, it means that the change made at adjustment time may not exceed the specified maximum annual percent multiplied by the number of years in the preceding multi-year period. The increase or decrease is not limited to the annual amount as a maximum in a given year; for example, a rollover mortgage with a 5-year adjustment period whose index rate remains the same for 4 years and increases 1.5 percent in the fifth year may be increased 1.5 percent at the end of that year (assuming total increases do not exceed the 2.5 percent maximum).

(*h*) Percentage-of-loans limitation. Not more than 50 percent of an association's home-mortgage loans by dollar amount made or purchased in any calendar year shall be in mortgages under paragraphs (c) and (d) of this section.

PART 555—BOARD RULINGS

§ 555.4 [Deleted]

3. Delete § 555.4.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. § 1464; Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1947 Supp.)

By the Federal Home Loan Bank Board.

RONALD A. SNIDER,
Assistant Secretary.

[FR Doc. 78–21085 Filed 7–28–78; 8:45 am]

BALANCE(S) OF POWER SERIES BOOK III (G)(1) NORTHEAST ASIA

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 14, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, a particularly important area for consideration of the regional balance of forces in this portion of the Balance(s) of Power series is Northeast Asia. There, a combative North Korea stands ready to exploit any opportunity to press its military strengths against South Korea; and Soviet naval developments pose an increasing threat to the vulnerable island nation of Japan.

As the United States has grown more circumspect in its direct military involvement in East Asia, the role of Japanese self-defense forces acquire increasing importance for securing Japan's defense.

The following article by Henry S. Rowen, "Japan and the Future Balance in Asia," analyzes the critical elements in the balance of forces that affect Japan today, and looks ahead to prospects for the future.

This article first appeared in Orbis, summer 1977, part 1, which follows:

JAPAN AND THE FUTURE BALANCE IN ASIA[a]

(by Henry S. Rowen)

President Carter's decision to withdraw all American ground forces from Korea by 1981 or 1982 has evoked expressions of concern not only from many Koreans but from many Japanese as well. Japanese concern is not so much that the removal of the U.S. Second Division could trigger a North Korean invasion, but rather that this move, together with others, signals a U.S. retreat from East Asia and even from the Western Pacific. They see as the possible end position the virtual disappearance of the American military presence in Asia.

Much evidence is offered in support: the U.S. withdrawal of forces from South Vietnam, followed by its collapse; withdrawal from Thailand; the reduction of U.S. manpower in East Asia and the Western Pacific to one-half the pre-Vietnam intervention level; and American statements that U.S. forces will be oriented toward the defense of Europe.

The American perception of dangers in Asia has changed remarkably in the past decade. Most important has been our recognition that war with China is extremely unlikely—which put an end to planning for a possible major conflict with that country. Today, China is seen as strongly inward-looking; the Sino-Soviet relationship seems to have achieved quasi-stability; the Soviet Union poses no major threat elsewhere in the region; and Southeast Asia is low on our scale of interests. Improvements to the forces of South Korea, the suitability of its terrain for defense, and the more modest levels of economic and military support that the North has been receiving support the proposition that military stability in Korea is attainable without U.S. ground forces.

In contrast, our perception of dangers in other regions has not receded proportionately. The Soviet build-up in Europe, the continuing possibility of another Middle East war, Soviet and Cuban activities in Africa, and across-the-board increases in Soviet nuclear and general-purpose forces have been eroding the American belief that disengagement from Vietnam and detente with the Soviet Union would produce an era of relative international calm and permit wider American disengagement.

Today's sense of stability in East Asia owes a great deal to the nature of Japanese-American ties. The postwar transformation of Japanese political institutions, the enormous growth of the Japanese economy, and the predominantly constructive character of Japanese relations with the rest of the world have contributed substantially to the well-being and security—in a broad sense—of others, including Americans. Americans have provided the secure environment in which Japan flourishes. There is little inclination in Japan today to modify successful behavior. The current generation of leaders, which has experienced both war and intimate collaboration with the United States, is resisting basic changes; their successors might do the same. The autumn 1976 election signals little change in this regard.

Nor is there much inclination in the United States to make changes. Incremental costs for the defense of Japan are small; so are the risks. Neither the Japanese nor the Americans have perceived the need for more than a modest Japanese defense effort. But today, many Japanese view the future with uneasiness, not so much with regard to threats to Japan's territory—for the defense of the Japanese islands against (nonnuclear) sea and air attack appears manageable—but rather with regard to latent instabilities in the region and the possibility of significant shifts in the military balance within the region and outside it. Three potential sources of instability are particularly important:

First. In Korea, a quick thrust by the North, might capture Seoul, which now has a population of more than 6 million. Our knowledge of the workings of the Pyongyang regime is scant. We cannot predict what Kim Il Sung will do; but his major preoccupation is to end partition, and he has not ruled out force.

Alternatively, the North, which has been balancing between the communist giants, might move closer to the Soviet Union or to China; the former move would appear especially threatening to others in the region. Stability in the South is not entirely assured, and disturbance would offer an occasion for northern intervention.

Second. The Sino-Soviet relationship could shift sharply toward rapprochement or toward war. Although neither now seems likely, the consequences would be far-reaching. Rapprochement would free Soviet forces for reallocation against the West and, more important, would reduce Soviet worries about a two-front war. A Sino-Soviet war, on the other hand, could spill over, involve others in a major, perhaps nuclear, conflict, and even result in a drastic upset of the global balance of power.

Third. The Soviet-American military balance has undergone important changes. Soviet activities in the Indian Ocean and East Africa, with further development of naval and air bases, could threaten sea routes from the Persian Gulf. Moreover, U.S. forces might be drawn farther back to cope with crises or conflict in Europe, the Atlantic or the Mediterranean. Across-the-board growth of Soviet military power and an increasing Soivet ability to project that power to remote areas suggests that our more limited forces will be thinly spread out. These trends have not been lost on the Japanese—or on the Chinese, who repeatedly express concern about the Soviet naval growth in the Pacific. And these regional changes are taking place against a background of large increases in the strength of the Soviet Union's long-range nuclear forces.

The United States' forces in East Asia and the Western Pacific have a strategic significance much broader than that of dealing with a direct attack on South Korea; they also symbolize political support for Japan, Korea and other U.S. allies.[1] Moreover, they seem to signal to the Chinese that we are positioned to help deter Soviet moves and perhaps, under circumstances unspecified, to render some direct help. They also confront the Russians with an American capacity to conduct military operations against the Soviet Far East in the event of a Soviet move against Europe.

For some years now, U.S. spokesmen have emphasized psychological, political and global strategic objectives for our military forces in Asia.[2] This is in sharp contrast to the emphasis in the 1960s, when force requirements for specific conflicts dominated. Some critics who favor additional U.S. force cuts in the area accept the importance of the political criterion but conclude, nevertheless, that sizable reductions can be made with only slight risk.[3] President Carter evidently agrees, at least in regard to Korea. (This conclusion is a natural consequence of overconcentration on scenarios—i.e., on specific force-planning.)

Even if we conclude that these latent instabilities are powerful reasons not to make further cuts, Soviet pressures elsewhere may yet cause us to create a partial vacuum, one that we would prefer to see filled by friends and with our cooperation and participation. Among our Asian allies, only Japan has the potential for playing a significantly greater security role.[4]

Remote as a larger Japanese security role might appear, given Japanese politics, it is marginally less remote than it was before the president's announcement that America's ground forces would be withdrawn from Korea. It is important, however, to be clear on what the Japanese defense role is today: otherwise, our understanding of how it might evolve over the next decade will be poor, at best.

DIRECT MILITARY THREATS TO JAPAN

Despite Japanese reluctance to name adversaries, insofar as any is perceived it is the Soviet Union. Soviet forces in the Far East

Footnotes at end of article.

include 43 divisions in eastern Siberia, 55 amphibious ships (plus escorts), around 300 medium bombers, and growing numbers of new tactical fighters (SU–17s, SU–19s, MiG–23s). Other forces that might be used to reinforce those in the Far East include some 70 amphibious ships, 7 airborne divisions, and 1,000 heavy and medium bombers. To counter this threat, Japan has the 144 ships of the Maritime Self-Defense Force (MSDF), the 13 divisions of the Ground Self-Defense Force (GSDF), 4 of which are in Hokkaido, the Japanese island most exposed to attack, and the 350 interceptor aircraft of the Air Self-Defense Force (ASDF). American air units in Japan and the U.S. Seventh Fleet also have to be considered, together with reinforcements that could be sent from the United States.

This Soviet threat has not alarmed Japanese or American planners. Almost all the Soviet divisions are on the Chinese border, and the Soviets' simultaneous amphibious capacity in the region is only about 4,000 men. Soviet tactical-air offensive strength has been sharply limited by short-range aircraft and poor air-to-ground weapons. To invade successfully, the Soviets would have to establish a strong beachhead, gain air superiority, hinder the movement of Japanese troops, damage U.S. forces in the area, and block U.S. reinforcements. The prospects must look unpromising. The odds are high that the Soviets would find themselves in a prolonged and highly dangerous conflict with both Japan and the United States, and Moscow's worries over its differences with Peking make such an attack even more remote.

How might the Soviet threat look by the late 1980s? After all, Soviet amphibious strength is growing, and new technologies, including air-cushion vehicles, might be available for such an attack. If differences with China have lessened, more forces could threaten Japan. Even so, improved surveillance and precision weapons such as Harpoon and the tactical cruise missile will be especially dangerous to concentrated hostile forces that must make close approaches to the defending shores. In short, it does seem within Japan's capacity to throw back an invasion attempt a decade from now.

The vulnerability of Japan's sea lines of communication is potentially more serious. More than 80 per cent of Japan's fuel and most of its annual $56 billion of exports are carried by ship, about 2,000 vessels arriving in Japan's ports each month. Stocks of many raw materials, including oil, appear to be sufficient for 45 to 90 days of consumption, and efforts are being made to increase oil stocks to 180 days. With reductions in nonessential production, the Japanese economy might be able to continue functioning reasonably well for four to six months, even with a sharp reduction in imports; thereafter, output would decline sharply.[8]

The seventy-five attack and cruise-missile submarines in the Soviet Union's Far East fleet, thirty of which are nuclear-powered, together with the Soviets' medium- and long-range aircraft, pose a real threat to Japan's sea lanes. Increases in the number of Soviet nuclear attack submarines and long-range aircraft over the next decade will intensify this threat. (China's submarines, all conventional, present a much smaller danger.) The outcome of a sea interdiction campaign is sensitive to a number of uncertain parameters, and it is not clear how such a campaign would develop. However, the outcome is likely to be favorable to the Japanese if their stocks were built up, if Soviet ports and narrow exits from the Sea of Japan to the Pacific were mined, if ships were rerouted to southern routes in order to maximize the distance and transit time for attacking submarines, and if U.S. as well as Japanese ASW forces were used. Much of Japan's trade, moreover, is carried in foreign bottoms; the Russians would have to challenge many countries. Nonetheless, while the probability that the Soviet Union would undertake such a campaign is low, it is not independent of the probability of success. More important, Japan's sense of vulnerability could influence its behavior in undesirable ways. It is worth making sure that the Soviets cannot succeed.

Footnotes at end of article.

Soviet naval and air activities around Japan, which have been given uncharacteristic prominence in the latest Japanese defense White Paper, present something of a puzzle. From the Soviet perspective, Japan must appear as an unthreatening country with the capacity of becoming a big problem. The Japanese economy is now perhaps two-thirds the size of the Soviet Union's, and it is likely to overtake the latter economy before the year 2000. Why should Russia want to make the Japanese nervous, increase their dependence on the United States, and perhaps cause them to rearm on a substantial scale? Moscow may be trying to impress the Japanese with its power and to persuade them to shift their more-or-less equidistant stance between China and Russia. Another explanation is that this behavior is business as usual for the powerful Soviet military bureaucracies. Whatever the reason, behavior which heightens the possibility of increased Japanese armament seems imprudent.

Japan, like the United States, has no defense against ballistic missiles; and, at best, only a small portion of attacking aircraft or cruise missiles could be intercepted. Moreover, many of Japan's key air-defense facilities are vulnerable even to nonnuclear attack. (True, there are feasible improvements that would make nonnuclear attacks costly, and Japan has an important defense advantage in that it cannot be reached overland.) Nuclear attack is guarded against by the prospect of retaliation by the United States, but as Soviet long-range nuclear forces have grown, questions have arisen in Japan, as elsewhere, about the efficacy of the U.S. nuclear guarantee. This is not yet a serious issue in Japan; however, in time, concern about America's nuclear strength will affect Japanese views about that guarantee. If accompanied by perceptions of other dangers, Japanese concern will be heightened.

JAPANESE REGIONAL AND EXTRAREGIONAL CONCERNS

President Carter's move toward Korean withdrawal has evoked strong opposition from Japanese legislators.[9] The seriousness with which potential shifts on the Korean Peninsula or in the Sino-Soviet relationship are regarded depends critically on assumptions about America's role. At the least, we are seen as essential to preserving stability in Korea, countering Soviet naval and air power in the Pacific and Indian oceans, and deterring direct threats to Japan, including the nuclear threat.

Among the developments outside the region that are of concern to Japan is the possibility of another oil crisis like that of 1973. Despite political and financial concessions to the Arabs, the Japanese ended up paying as much for their oil as did other importers, and their supplies seem no more assured. Reduction of Japan's dependence on Persian Gulf oil, by obtaining some oil from China and shifting to nuclear power to generate electricity, is progressing slowly. It now appears that in 1985, Japan's nuclear power plants will be producing around 25,000 MW—or about half the target adopted by Tokyo after the 1973 crisis. The Japanese also worry that future Chinese activities might affect their large and growing economic stake in Southeast Asia.

In this set of potential troubles, the nature and scale of future Soviet activities are dominant and not easily predicted. On the one hand, Soviet ground and air forces deployed along the Chinese border were greatly expanded in the late 1960s. The Soviet Pacific Fleet, which constitutes about 30 per cent of the navy, has participated (with a lag) in the Soviets' overall naval modernization effort and has progressively engaged in more distant exercises and deployments, especially in the Indian Ocean. On the other hand, the Soviet Union has had little success in developing ties in Asia. Vietnam and North Korea aside. From a strategic standpoint, the USSR suffers from a severe shortage of bases for its naval and air forces. Even a larger and more modern fleet would remain vulnerable to being bottled up in the Sea of Japan. Therefore, the acquisition of bases in the Pacific and the Indian oceans, especially bases which could support combat operations, would greatly increase Soviet naval effectiveness.[7] The growth in the number of independent states in the Pacific will increase Soviet negotiating opportunities in this regard.

Consider, for example, the implications of a major Soviet naval and air base in Southeast Asia (e.g., at Camranh Bay, unlikely as it now seems, given Vietnam's independent stance and Chinese opposition). The strategic position of the USSR in the region would be greatly changed: the security of the Japanese sea lines of communication—and those of China—would be put in question; so would the naval balance in the Indian Ocean. Consider the further impact if the United States were to lose its air and naval bases in the Philippines, a possibility which cannot now be excluded.[9] Moreover, tankers supplying Japan and Soviet naval vessels ply the same routes, a coincidence of paths not comforting to the Japanese. In short, the assumption that Soviet power in the Pacific and Indian oceans is modest, and that the Soviet presence there will not grow, is a dangerous one.

THE PRESENT JAPANESE DEFENSE POSTURE

According to its 1976 defense White Paper, Japan stands tenth in the world in defense spending (expenditures in 1975 were $4.484 billion), despite the fact that the share of GNP devoted to defense in that year (0.84 percent) put Japan near the bottom among all nations. The apparently rapid growth in defense expenditures under the Fourth Defense Build-up Plan—from $2.7 billion in FY 1972 to $5 billion in FY 1976—is almost entirely a reflection of inflation. The current national defense plan, which is to be funded year by year, shows no significant change in pattern. The FY 1977 budget of $5.6 billion, which allows for real growth less than the expected GNP growth of 6 percent, means a small decrease in the share of GNP allocated to defense.

The Fourth Defense Build-up Plan was designed to maintain the existing size of ground forces and to increase Japanese firepower and mobility; Japanese-made tanks, armored personnel carriers and helicopters were to replace older American equipment. The MSDF was to grow from 140,000 tons to 240,000 tons by adding fifteen destroyers and destroyer escorts and five submarines; improvements were to be made in antisubmarine forces and in fleet air defense. The ASDF was to concentrate on quality by replacing obsolete F–86s with F–4s. However, the unexpected inflation of the past three years has caused this program to fall short. Out of the FY 1976 budget, only around $900 million was spent on procurement, an amount much less in real terms than was originally planned.

Weapons modernization has also been impeded by the government's policy of producing about 80 per cent of all military hardware domestically. Often the cost is much higher than that of imported weapons because of the small volume of production. Some aircraft cost two or three times more to produce than they would in the United States; and Japanese-made improved Hawk missiles may cost eight times as much. But

this policy does give Japan greater capacity to expand its production in the event of a crisis.

An important constraint on an independent Japanese defense posture is the low level of research-and-development funded in the defense budget—a remarkably small $50 million a year or about 1 percent of the defense budget. In contrast, the United States devotes about 10 per cent of its (much larger) defense budget to R&D. (The Japanese have, however, been able to carry out a surprising number of projects with these modest resources, including a tank, a transport vehicle, a trainer/support-fighter aircraft, artillery pieces, and air-defense missiles.) A low level of R&D is consistent with the Japanese industrial practice of buying technology and adapting it to Japanese needs. This practice has been criticized on the grounds that Japan has special defense needs, that some equipment (e.g., electronic-countermeasures devices) is secret and difficult to import, that it is difficult to adapt and improve equipment acquired under license, that foreign countries have become reluctant to transfer technology to Japan, and that Japan needs to acquire technical power on an equal level with other countries. Increases in R&D to 2 per cent or more of the defense budget have been advocated by the Japanese Defense Agency.

FOOTNOTES

[*]Many people, none of whom is responsible for how this paper turned out, provided ideas, comments and criticisms. I am particularly indebted to Morton Abramowitz, Michael Armacost, John Emmerson, Dan Okimoto, Kiichi Saeki, Richard Solomon, Robert Ward and Allen Whiting. This paper will appear, in slightly different form, in Franklin B. Weinstein, ed. *U.S.-Japan Relations and the Security of East Asia: The Next Decade* (Boulder: Westview Press, forthcoming 19).

[1]On withdrawal of the Second Division from Korea, U.S. forces in East Asia will consist of two-thirds of a Marine division (on Okinawa), nine tactical fighter squadrons, two carrier task forces, three maritime patrol squadrons, and amphibious "lift" sufficient for two battalions. We will then have around 115,000 men in the region.

[2]For recent examples, see the FY 1978 Posture Statement by Secretary of Defense Rumsfeld. Secretary Schlesinger's FY 1976 Posture Statement included the U.S.-Asian objective of preventing Soviet forces in Asia from being deployed west of the Urals and discouraging the Russians from opening another front in Northeast Asia.

[3]See Henry Owen and Charles Schultze, *Setting National Priorities; The Next Ten Years* (Washington: Brookings, 1976) and Charles A. Sorrels, *U.S. General Purpose Forces Related to Asia* (Washington: Congressional Budget Office, 1977).

[4]To be sure, as A. Doak Barnett observes, we have a tacit security relationship with the PRC based on a mutuality of interest. But, though we should try to strengthen this relationship, it must still be regarded as fragile. (*China Policy*, Washington: Brookings, 1977.)

[5]For an analysis of how Japan, in cooperation with the United States, might counter a Soviet or Chinese campaign directed against Japanese sea lines of communication, see David Schilling, "A Reassessment of Japan's Naval Defense Needs," *Asian Survey*, March 1976.

[6]The tension within Japanese politics on security issues is illustrated by Japanese statements since January 1977. These have included expressions of deep concern over U.S. withdrawal, opposition to withdrawal, repetition of the position adopted in 1969 that the security of Korea is essential to the security of Japan—but also the assertion that the withdrawal issue is primarily a matter between the United States and South Korea.

[7]The term "base" may refer to a great variety of logistic and combat functions. At one extreme, there may be limited port-visit privileges and minor supply-and-repair facilities; at the other, there may be major resupply, training and even combat capabilities, including airfields from which patrol and bomber aircraft can operate.

[8]At this writing, President Marcos has rejected the U.S. position on continued base rights, although negotiations continue. It certainly cannot be taken for granted that the United States will have access to these bases over the next decade.●

FEDERAL LOAN GUARANTEES—A PROPER CAUSE FOR CONCERN

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 14, 1978

● Mr. RUDD. Mr. Speaker, I have become increasingly concerned about Federal Government loan guarantees and credit practices.

This is a matter that needs much more congressional attention, and public awareness.

For many years, the Federal Government has made it a practice of assuming the risk of private and public loans, investments and credit by pledging to repay the principal and interest for approved ventures, including those financed by bond sales, in case of default by the borrower.

This has been done ostensibly to encourage and facilitate foreign military credit sales, housing and farm programs, public works projects, and so forth, by reducing or removing the lender's risk for such projects.

According to a recent background paper of the Congressional Budget Office, the Federal Government will soon have total outstanding loan guarantees of more than $300 billion. Total gurantees outstanding will increase more than $23 billion during the next fiscal year alone. The Federal Government will guarantee an estimated $53.4 billion of loans in fiscal year 1979—an increase of almost 20 percent over the current fiscal year.

Only a very small fraction of these outstanding guaranteed loans is available in ready Federal funds to repay defaults that might occur.

This is a massive, high-money gambling operation, which the Federal Government is conducting to increase the scope of its own activities and financial operations outside the normal budget process, and oblivious to limitations on deficit spending or the size of the national debt.

It has been estimated that the contingent liability involved in this loan guarantee operation could boost the U.S. national debt close to $1,000,000,000,000 if everyone defaulted.

This estimate is reported in a recent story on Federal loan guarantees by Ben Cole, Washington bureau chief of the Indianapolis Star and the Arizona Republic, who has written one of the best and most easily understandable summaries of this subject that I have seen anywhere.

Both the Library of Congress and the Congressional Budget Office have provided me with good reports on this subject, and several committees of Congress have issued complex reports that cover the factual material almost exhaustively.

But Mr. Cole's article has cut through the chaff and summarized the factual situation and problems with the Federal loan guarantee situation in a manner that is much more useful and to the point than these burocratic tones, for the general reader who just wants an honest and realistic accounting of what is going on.

Even more amazing is the fact that Mr. Cole dug out this information on his own, without the benefit of all the staff effort that produced the reports since released by the Library of Congress and the Congressional Budget Office.

This is an example of the journalism profession at its best, and I would like to include Mr. Cole's article at this point in the RECORD:

[From the Indianapolis Star, July 23, 1978]

GOVERNMENT SHOWING WORRY OVER NUMBER OF GUARANTEED LOANS

(By Ben Cole)

WASHINGTON.—Over and above the $700 billion national debt, Uncle Sam has guaranteed nearly $300 billion of credit, only part of which is reflected in the debt and the rest is a contingent liability that could boost the total close to $1 trillion if everybody defaulted.

Fortunately, there are very few defaults on government guaranteed loans, even those owed by foreign countries.

But the guaranteed loan phenomenon has grown over the years, virtually unnoticed, until, now, fiscal experts both in the Treasury Department and in Congress are starting to show concern.

A portion of the contingent obligation—the guaranteed loans—is in the form of foreign bonds sold in the United States—some to private lenders—and guaranteed by the full faith and credit of the American government. The greater part are authorized under the foreign military sales program; a very small part is for housing construction, and an even smaller portion for guaranteed payment of American agriculture sales abroad.

Compared to the whole, the sum of foreign guarantees is not huge—approximately $6 billion to 33 countries in the case of the military sales. A part of this, less than half, is held by banks, big pension funds, insurance companies and the like.

The Treasury has watched the growth of the loan guarantee program with some misgivings, chiefly because it leaves the government's debt managers with insufficient control over the public debt and because it is outside the normal accounting procedures of the government.

The loan guarantee program is called "off budget," meaning the outlays represented in the guarantees are not included in the annual budget.

Although defaults have been insignificant so far, the people who manage the debt still feel that guaranteeing a loan is no different when done by the government or an individual. The guarantor accepts an ecumbrance, and the loan becomes a contingent liability against assets.

The guaranteed loans have one distinction from the general public debt: They represent some kind of visible collateral such as housing developments, military hardware, hospitals, etc. A great part of the federal budget deficit, on the other hand, is due to so-called transfer payments which move money out of the hands of some and into the hands of others.

Nearly half the nearly $300 billion in guar-

anteed loans on Uncle Sam's books were made by the Federal Housing Administration. By Sept. 30, it is estimated, the FHA will have $105.96 billion in outstanding guarantees.

One by one the guarantee programs have been enacted into law by Congress, frequently in so routine a manner that members were unaware how big the total was growing.

An example of how the guarantees grow is seen in the present Congress. Under consideration in committee are bills to promote development of solar energy, synthetic high BTU gas, etc.

These bills, if enacted, become public policy. If they carry loan guarantee authorities, then loans may be made and guaranteed by the government.

Federal loan guarantees are, governmentally, an inexpensive way to get a job done. They appear to cost little, they don't show up in the budget and hence don't affect the deficit. Borrowers are happy because guaranteed loans usually cost less in interest; lenders are joyful because their risk is minimal. And the public is confident, knowing what a fearsome collector Uncle Sam can be when debtors fail to pay.

As for the foreign loans: It is easier to convince the congressmen to guarantee the borrowings of friendly nations for purchase of arms than it is to appropriate money for direct loans.

But the proliferation of guaranteed loan programs has caused concern in the Congressional Budget Office and in the subcommittee on economic stabilization of the House Banking Committee.

Rep. William Moorhead (D-Pa.), the subcommittee chairman, and some of his colleagues of both parties, have sought to find out what kind of bridle can be put on loan guarantees.

The Moorhead committee compiled the first and only complete catalogue of federal loan guarantees. In a foreword, the subcommittee observed that all loan guarantees carry a subsidy.

The document also carries this statement: ". . . there is no way of knowing for certain that a given credit assistance program has led to a reallocation of capital resources. This uncertainty is not unique to federal credit assistance programs, but it necessarily complicates any efforts by Congress to ascertain the economic consequences of such programs."

There follow 329 pages listing one by one the loan guarantee programs.

Moorhead and others have begun to study the need to bring all these off-budget activities under federal budget control. This would give Congress, the Treasury and the public a better overview of how they operate and what they represent in dollars and cents. Such a proposal would find a welcome in the Treasury.

In 1973, Congress created the Federal Finance Bank as a part of the Treasury Department to serve as an instrument "to assure that such borrowings are financed in a manner least disruptive of private financial markets and institutions."

As an example of the reason the FFB was created, Treasury authorities cite a $300 million Israeli bond issue that went on the U.S. market two years ago bearing something over 9 percent interest and fully guaranteed under the Military Sales Program.

It was so big that its weight seriously affected the bond market, and underwriters were hard put to find investors enough to take the virtually risk free bonds.

The Treasury, tacitly, would prefer to see the Federal Financing Bank gather up all these guaranteed loans. And it can, to the extent that Congress authorizes such financing and within the limit of the debt ceiling.

The operation of the Federal Financing Bank can be described as "back door" lending—financing that takes place outside the budget process and normal accounting practices of the Treasury.

As an example: A big borrower like Israel gets a $1 billion loan guarantee commitment under the Foreign Military Sales Act. It issues bonds against this commitment, which in turn are taken by the FFB.

The FFB goes to its parent Treasury Department and borrows money to pay Israel for the bonds; and Treasury borrows from the public at Treasury rates.

Israel pays interest one-eighth of one per cent above the Treasury interest; and the Department of Defense, which has deposited 10 per cent of the total loan with Treasury, guarantees repayment. Israel then uses the money to buy planes, tanks and guns in the U.S.

While others in Congress frown on the off-budget nature of this operation, Sen. William Proxmire (D-Wis.), chairman of the Banking Committee, has deplored it because it involves the arming of nations. He, too, has been eyeing this guaranteed loan programs with concern.

Rep. Moorhead and his colleagues have introduced legislation to require Congress to appropriate all the lending power of the Federal Financing Bank, thereby specifying exactly how much it can lend in a single year.

If their measure passes Congress and the Treasury would have a new handle on guaranteed lending programs.

An indication of the size of the guaranteed loan programs is seen in the Special Analyses of the Budget published by the Office of Management and Budget in the White House.

Here are a few of the programs and the amount of guarantees estimated to be outstanding in the current fiscal year:

Funds appropriated to the President, international security assistance (chiefly military sales), $5,487 million; international development assistance, $914 million; rural electrification, $5.9 billion; Farmers Home Administration, $7.25 billion; medical facilities guarantees, $1.4 billion; student loan fund, $6.5 billion; college facilities, subsidized loans, $1.3 billion; Government National Mortgage Association, $455 billion; Federal Housing Administration, $98.4 billion; veterans housing loans, $79.8 billion; Export Import Bank, $6.8 billion.

These are only a few of the programs, but they show the diversity and size of such programs.

Strangely, Congress is beginning to react against having all the guaranteed loans in the Federal Financing Bank. Some members feel this deprives the private sector of opportunity to participate in guaranteed lending.

The New York City bond guarantee program, now going through Congress, had written into it a specification that the bonds not be sold to the Federal Financing Bank. A Moorhead committee staff member observed the New York bonds earlier proved a good investment for the government and should easily be marketable outside the Treasury.

As it is with so many questions that arise in government, there is no "good" or "bad" to be cited in the overall story of government guaranteed loans.

Questions like these can be applied to them: Did the U.S. government want these things done? Did Congress find them necessary and desirable? Without the guarantee programs, could certain activities—housing, hospitals, schools, etc.—have been carried out? And if the loan guarantees are abolished, will programs of various kinds be feasible?

Congress and the fiscal agencies of the executive branch are pondering these questions with increasing concentration.

LOAN STATEMENT SHOWS FOREIGN MILITARY SALES

WASHINGTON.—Some idea of the scope of the loan guarantee program respecting foreign military sales can be seen in the Federal Financing Bank's statement as of June 30, this year.

It shows 35 countries owe the bank $3,342,456,326 on guaranteed loans. This is against total commitments of $5,030,300,000 from the FFB, of which $3,570,334,671 has been disbursed to the borrower countries buying arms from American suppliers.

The statement does not reflect the overall total of guaranteed loans under the Foreign Military Sales Act since a part of these has been made by private lenders also under federal guarantee. The Treasury, however, is seeking to keep the FMS lending in the FFB and few if any new borrowings are being made in the public market.

The 1979 foreign assistance authorization bill increases authority for additional FMS borrowings by foreign countries. The administration is asking that $2,067,500,000 of new credit be authorized for 21 countries, with $1 billion earmarked for Israel. The only new country included in the FMS program under the proposal for fiscal 1979 is Sudan. The request asks that Israel be excused from repayment of $500 million of its new credit. The other countries included in the request include Greece, Turkey, Spain, Philippines, Korea and Panama, which together will get 35 percent of the new credit, while the remaining loans will range from $85 million for Jordan to $300,000 apiece for Haiti and Paraguay.

According to the FFB statement, guaranteed loans outstanding to borrowers as of June 30 are as follows:

	Commitment	Disbursed	Outstanding
Argentina	$64,000,000	$51,272,256	$43,542,256
Bolivia	9,000,000	9,000,000	7,615,400
Brazil	76,500,000	74,716,895	64,288,795
China	188,000,000	156,977,600	120,964,216
Chile (non-FMS)	43,528,189	43,528,189	38,946,275
Colombia	45,600,000	13,760,135	10,744,835
Costa Rica	5,000,000	2,591,147	2,591,147
Dominican Republic	2,000,000	998,049	623,049
Ecuador	25,000,000	10,409,752	8,871,352
Gabon	2,000,000	1,800,000	1,800,000
Greece	481,000,000	405,000,000	396,529,313
Guatemala	1,500,000	1,391,279	1,391,279
Guyana (non-FMS)	5,453,699	5,453,699	5,453,699
Haiti	500,000	None	None
Honduras	5,000,000	3,544,698	3,232,198
Indonesia	51,200,000	26,897,337	20,844,337
Israel	2,050,000,000	1,697,567,233	1,674,037,233
Jordan	187,500,000	82,804,975	70,108,975
Kenya	65,000,000	58,300,000	57,800,000
Korea	746,500,000	408,742,454	366,228,544
Lebanon	25,000,000	25,000,000	25,000,000
Liberia	2,200,000	1,732,582	1,562,582
Malaysia	57,700,000	36,349,819	28,582,069
Morocco	74,000,000	58,727,050	50,993,050
Nicaragua	8,000,000	5,023,506	2,961,006
Panama	3,000,000	1,669,588	1,669,588
Paraguay	500,000	399,136	249,316
Peru	50,500,000	36,827,584	33,410,984
Philippines	51,400,000	36,325,456	25,646,056
Spain	120,000,000	41,451,216	41,451,216
Senegal	8,000,000	3,852,490	3,052,490
Thailand	74,700,000	32,280,436	20,596,436
Tunisia	80,000,000	24,634,268	19,766,808
Turkey	460,000,000	203,505,648	134,755,648
Total, FMS only	5,030,300,000	3,570,334,671	3,342,456,326

REPORTERWOMEN ON TELEVISION

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 14, 1978

● Ms. MIKULSKI. Mr. Speaker, when I started working to organize various groups in Baltimore, I wanted to effectively work with the media. It was during that period that I received some great pointers from Ann Bishop, a television interviewer, on how to express myself in the most effective way possible. Her sound advice has stayed with me through my several campaigns, and I often utilize her suggestions today.

Ann has moved on to a Miami television station where she coanchors the evening news. I wish to submit the following article about Ann, which further details her accomplishments in the media field. Ann is an extraordinarily talented woman who deserves great praise for her numerous contributions to the broadcasting industry.

The article follows:

REPORTERWOMEN ON TELEVISION

She has sparkling brown eyes, blond hair, a strong face. She says: "I'm an ugly girl who talks fast." She is Ann Bishop, coanchor of Channel Ten news in Miami, one of the best of a burgeoning group of women now moving up in local TV news.

From Salem to Seattle, from St. Paul to San Antonio, we see more and more females covering gory murders, wind-whipped fires and drug busts. Until recently, women were content with such excitement as waiting for a plane—and a quote—from a live U.S. senator.

Short of network news, Ann Bishop is at the top of the heap. She does an hour of news in the evening with a handsome dimpled man, Glenn Rinker, and she's back at 11 for another try. Her lower lip trembles words; the upper is concrete.

She was born Harriet Himes in Rochester, N.Y. As a student, she put in a year at Ithaca College and a year at Hobart without any notion of what she was doing. She married a time-study engineer named Ronald Bishop and spent all the bright days playing golf.

After seven years, she said: "I think we ought to call it quits." He was insulted, but said "OK." Her mother said: "Any nice girl who gets a divorce comes home."

She went home. The only money she earned was writing promotion material for WHEC—Rochester.

Mrs. Bishop has an electrifying sense of humor. She laughs like someone who has just made parole. There were no laughs with Ronnie; even fewer with momma, so she flew to Florida to play golf. There are few giggles in three-putting, so she got a job with Sidney Ansin at Channel 7. She wrote copy for cystic fibrosis, tuberculosis and religion for $80 a week.

She asked for a raise and was fired. She had dates, boyfriends, but they were fast nags on a slow track. Rochester waited with folded arms. She returned, and got a job as a news reporter with WOKR. She worked the city with a cameraman at $125 a week. Five months later, Westinghouse moved her to Baltimore and said: "Kill the Harriet. You're Ann."

The first friend she made in the new city was the courtly president of the PTA, Ted Agnew. She was unhappy with herself, and her work. Men run the news, and men know where women reporters belong: school meetings, ladies lunches, town council meetings.

She began to push for "male" assignments. They sent her to film bloated bodies plucked out of the bay; a homosexual murder; two Central American earthquakes; the excitement of police raids.

The distance between Baltimore and Washington is a jog, but the money is monumental. Ann Bishop wanted to go to Washington. The Post-Newsweek group hired her, but sent her to Miami. She became a cops and robbers reporter at $13,500.

She covered shootings, trials, fires in the Everglades. She learned to write "lead-ins" for the anchor man, who would open the story and then say "And now, Ann Bishop, who was there." She wrote her stuff to the precise second while riding in a speeding car.

She learned to edit and cut the film and fit the words. The golf clubs never got out of the bag, but she was happy. On assignment, she jostled the men with microphones and learned to "tell it all" in 90 second.

Hundreds of women in America were learning how to get the news and relate it succinctly. Last April hard work and a cast-iron grin moved her up as anchorman with Rinker. She gets $50,000 a year. He earns more.

He doesn't have to get his hair done at 2 p.m. Ann does. She's in the studio at 3, discussing the 6 o'clock news with Steve Wasserman, producer. He gives her about 10 stories. Each is marked with a precise number of seconds.

Mrs. Bishop searches the chattering wire services for the story to go with the film or tape. When pronunciations are weird, she looks them up and writes them phonetically. Her work has become her life.

Feeling rich, she bought a house in Kendall, Fla. She lives there in lineage. His name is Travis.

She thinks little of herself and her fine talent. "I was retarded at 22; I was 30 before the light went on."

Her day begins at 2 p.m., and closes after midnight. This leaves little time for romance.●

THE LIMITS TO GOVERNMENT ACT OF 1978

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 14, 1978

● Mr. ANDERSON of Illinois. Mr. Speaker, I am introducing today the "Limits to Government Act of 1978." The bill, as its title in part suggests, is intended to set limits on the growth of Federal Government and to provide for a strict annual review of Federal expenditures and receipts relative to the Nation's output.

Pursuant to those ends, the bill amends the Budget and Accounting Act of 1921 to require the President in submitting his annual budget message to submit: First, an estimate of the gross national product for the fiscal year for which appropriations are requested; second, budget outlays not exceeding 20 percent of the estimated GNP; third, such other supplemental outlays, itemized separately, that are of a lower priority than those asked for in the principal budget request but which the President determines are necessary for the support of the Government and justified by a compelling need; fourth, a ranking of budgetary priorities in both the regular and supplemental categories; and fifth, a separate report specifying those tax reductions, if any, that would be needed to reduce revenues to less than 20 percent of the estimated GNP.

The bill also amends the Congressional Budget Act of 1974 to require Congress, in acting on the first concurrent budget resolution, to first establish the aggregate targets for outlays, budget authority, revenues, the deficit, and finally amount, if any, by which either outlays or receipts exceed 20 percent of the estimated GNP of the fiscal year.

Any floor amendment increasing or decreasing the aggregates, as reported from the Budget Committee, would automatically increase or decrease the outlays or budget authority for each functional category by the same percentage as the aggregates. Similarly, any subsequent amendment changing the outlays or budget authority for any functional category must achieve mathematical consistency with the aggregates. Thus, any amendment increasing the outlays of a functional category would have to contain an equivalent reduction in some other functional category or categories.

The bill sets forth as a national policy directive that it is the responsibility of the executive and legislative branches of the Federal Government:

First, to reduce Federal expenditures to no more than 20 percent of the gross national product, except in war or other national emergency, and, whenever it would serve the national interest, to reduce Federal outlays to such lower percentage of the gross national product as is appropriate;

Second, to annually review existing tax rates to determine whether Federal tax rates are unduly restricting the aggregate supply of savings, investment, and labor, and to enact such reductions as are needed to promote the optimum employment of the Nation's human and material resources; and

Third, to provide for a balanced budget no later than fiscal year 1982, and thereafter to seek to promote a balanced budget as a matter of national policy, subject only to war or other national emergency.

In support of the above amendments and policy directives, the bill makes several findings:

(1) The financing of the Federal deficit has in recent years sharply reduced the supply of credit otherwise available to the private sector of the economy, resulting in both higher interest rates and lower capital investment.

This problem, generally known as "crowding out," is particularly acute at this stage of the business cycle with the Federal deficit running at a projected $51.1 billion in the fourth year of the recovery.

Over the past 15 years, the deficit has been growing not merely in nominal terms, or even constant dollar terms, but in relation to the Nation's gross national

product as well, as shown by the following table:

TABLE 1.—FEDERAL BUDGET SURPLUS OR DEFICIT

[In billions of dollars]

Fiscal year	Surplus/deficit	Percent of GNP
1963	−$4.8	0.8
1964	−5.9	.9
1965	−1.6	.2
1966	−3.8	.5
1967	−8.7	1.1
1968	−25.2	3.0
1969	+3.2	.3
1970	−2.8	.2
1971	−23.0	2.3
1972	−23.4	2.1
1973	−14.8	1.2
1974	−4.7	.3
1975	−45.1	3.1
1976	−66.4	4.0
1977	−45.0	2.4
1978	[1] −51.1	2.6

[1] Estimate.

Note that between fiscal years 1963 and 1967 the Federal deficit averaged only 0.7 percent of the Nation's output, but that since 1968 the deficit has averaged 1.9 percent of GNP—nearly a threefold increase. This expansion of the Federal deficit, together with agency borrowings, has caused a corresponding increase in the U.S. Government's share of the Nation's credit, as shown in the following table:

TABLE 2.—FUNDS RAISED IN U.S. CREDIT MARKETS

[In billions of dollars]

Calendar year	Total funds raised	U.S. Government securities	United States (percent)
1963	$68.5	$5.6	8.2
1964	77.1	6.7	8.7
1965	84.0	3.9	4.6
1966	81.4	9.2	11.3
1967	85.9	13.2	15.4
1968	115.5	17.4	15.1
1969	128.7	6.2	4.8
1970	116.4	21.7	18.6
1971	168.1	30.7	18.3
1972	206.0	23.7	11.5
1973	254.3	28.3	11.1
1974	231.8	34.5	14.9
1975	225.2	98.0	43.5
1976	296.8	88.1	29.7
1977	405.0	84.3	20.8

Source: Federal Reserve Bulletin.

This Federal encroachment on U.S. credit markets—which rose to a 22-percent rate in the first half of this year—has exerted a strong upward pressure on both short- and long-term interest rates. But on this subject, Treasury Secretary Blumenthal said in a speech last January that the:

. . . deficit for 1979 does not in fact threaten serious upward pressure on wages, prices or interesting rates. We are not after all, running a deficit in an overheated economy. With unemployment at 6.4 percent and capacity utilization at about 83 percent, a deficit is still needed to sustain expansion of the private economy. Similarly, the budget deficits will not result in "crowding out" of private borrowers. This fear was raised several years ago, and has yet to materialize—largely because our financial markets have been capable of meeting both private and public borrowing needs.

But even a cursory look at the behavior of interest rates demonstrates that the heavy Federal borrowing that commenced in 1968 has escalated the cost of private and public borrowing, as reflected in the following table:

TABLE 3.—KEY INTEREST RATES

[In percent]

Year	Corporate bonds (Moody's) Aaa	Prime commercial paper (4 to 6 mo)	Federal funds rate	Discount rate
1963	4.26	3.55	3.18	3.23
1964	4.40	3.97	3.50	3.55
1965	4.49	4.38	4.07	4.04
1966	5.13	5.55	5.11	4.50
1967	5.51	5.10	4.22	4.19
1968	6.18	5.90	5.66	5.17
1969	7.03	7.83	8.21	5.87
1970	8.04	7.72	7.17	5.95
1971	7.39	5.11	4.67	4.88
1972	7.21	4.69	4.44	4.50
1973	7.44	8.15	8.74	6.44
1974	8.57	9.87	10.51	7.83
1975	8.83	6.33	5.82	6.25
1976	8.43	5.35	5.05	5.50
1977	8.02	5.60	5.54	5.46
1978 (July)	8.76	7.63	7.81	7.23

Source: Council of Economic Advisers.

Notwithstanding Mr. Blumenthal's pronouncements, the impact of high interest rates on private investment borrowing has been markedly severe. Capital formation, however defined, has failed to measure up to either cyclical or long-term trends in recent years. A Congressional Budget Office study showed the growth rate of plant and equipment per worker fell from 2.6 percent in 1965–70 to 1.6 percent in 1970–75. Reflecting this decline, the growth rate in worker productivity fell from 2.4 percent in 1965–70 to 1.0 percent in 1970–75. The lag in capital formation is also reflected in the decline of business capital investment relative to national output, as shown in the following table:

TABLE 4.—GROSS PRIVATE DOMESTIC FIXED INVESTMENT—NONRESIDENTIAL—AS A PERCENT OF GNP

Year	Percent	Year	Percent
1965	10.4	1971	9.8
1966	10.8	1972	10.0
1967	10.3	1973	10.4
1968	10.3	1974	10.6
1969	10.6	1975	9.8
1970	10.2	1976	9.4
		1977	9.7

Source: Bureau of Economic Analysis.

Second, in order to relieve the upward pressure on interest rates arising from the Federal deficit, the Federal Reserve, operating through the Federal Open Market Committee, has monetized U.S. Government debt, resulting in an excessive and inflationary expansion of the Nation's money supply. As one might expect, the Federal Reserve's rate of monetization has varied with the size of the deficit.

TABLE 5—FEDERAL DEBT

[In billions of dollars]

Year	Total Federal debt	Debt held by Federal Reserve	Percent held by Federal Reserve
1955	$224.5	$25.0	11.1
1960	237.2	26.5	11.2
1965	261.6	39.1	14.9
1970	284.9	57.7	20.3
1971	304.3	65.6	21.6
1972	323.8	71.4	22.1
1973	343.3	75.2	21.9
1974	346.1	80.6	23.3
1975	396.1	85.0	21.5
1976	480.3	94.7	19.7
1977	551.8	105.0	19.0

The Federal Reserve's purchase of U.S. Government debt has led to an inevitable hike in the money supply by feeding bank reserves and the ability of banks to loan (and thus create money). As a result, the money supply since 1967 has grown at more than double the rate that prevailed during the preceeding low deficit years, as shown in the following table:

TABLE 6.—RATE OF GROWTH OF THE BASIC MONEY (M_1)*

[In percent]

Year	Rate of M_1 growth	Year	Rate of M_1 growth
1957	0.5	1968	7.1
1958	1.2	1969	6.0
1959	3.8	1970	3.9
1960	−.1	1971	6.7
1961	2.1	1972	7.1
1962	2.2	1973	7.5
1963	2.9	1974	5.5
1964	4.0	1975	4.2
1965	4.3	1976	5.2
1966	4.6	1977	7.9
1967	4.0		

*M_1=currency plus demand deposits.
Source: Federal Reserve System.

Third, the expansion of the money supply, the increase in interest rates, and the lowering of capital investment have together generated unacceptably high levels of inflation and unemployment. Since December 1966, the basic money supply has expanded by 100.5 percent. The sharp rise in consumer prices (93.5 percent), producer prices (109.4 percent) and the GNP deflator (90.6 percent) has closely paralleled that increase. As for unemployment, the relentless rise in unemployment rates has been related to the lag in the real source of job creation—capital formation. As a Commerce Department study suggested in 1975, we must devote 12 percent of our G.N.P. to business fixed investment if we are to obtain full employment and reduced dependence of foreign oil. But last year, due to the crowding out of private investment by the Federal Government, business fixed investment accounted for only 9.7 percent of our GNP.

Fourth, high rates of inflation and Government taxation have reduced the real disposable income of American consumers and their aggregate purchasing power. While inflation and taxation have adversely affected all levels of income, the most representative example of their debilitating effect on disposable income and purchasing power is the median income family of four. In 1967, the median income of the family of four was $8,400, with a disposable income—after taxes—of $7,462. Today, the median income for the family of four is $17,000, but the disposable income in 1967 dollars has shrunk to $6,579.

Fifth, inflation by raising the nominal, but not the real, income of American taxpayers has effectively raised both marginal and average Federal income tax rates. The inflationary bias of the present tax code is such that the real tax burden will rise some $13 billion next year without any amendment to the tax laws. As inflation thrusts taxpayers into the higher tax brackets, both marginal and

effective tax rates increase. For the median income family of four, the marginal tax rate has increased since 1967 from 19 percent to 22 percent, while the effective rate has jumped from 11.2 percent to 16.4 percent.

Sixth, high rates of taxation have lowered the aggregate supply of savings and investment, resulting in reduced productivity and economic growth. Gross savings as a percent of GNP has fallen from a 15.4-percent average in the 1960's to 14.5-percent average rate in the 1970's, as shown in the following table:

TABLE 7.—GROSS SAVINGS AS A PERCENT OF THE GNP

Year	Percent	Year	Percent
1960	15.5	1969	15.7
1961	14.4	1970	14.5
1962	14.8	1971	14.6
1963	15.0	1972	15.1
1964	15.7	1973	16.5
1965	16.7	1974	14.4
1966	16.3	1975	12.7
1967	15.1	1976	13.8
1968	15.0	1977	14.4

Source: Bureau of Economic Analysis.

The loss of savings and investment has slowed the growth of productivity. Between 1957 and 1967 productivity grew by 37 percent, but by only 18.9 percent between 1967 and 1977. The reduction in productivity advances is reflected in the growth of real G.N.P. Between 1957 and 1967, real G.N.P. grew by 50.0 percent compared to a 34.5 percent hike in G.N.P. between 1967 and 1977.

Seventh, due to the rising rate of inflation, the Federal tax burden has fallen more on investment and savings, relative to consumption, resulting in an undesirably low level of capital investment. While inflation tends to boost tax rates on all forms of income, investment income has been severely impacted. Interest paid on a savings account, for instance, is taxed as regular income even though the interest payment (being less than the rate of inflation) does not reflect any real gain on the deposited funds. A capital gains tax is assessed on the sale of appreciated property even though the nominal gain does not reflect any appreciation in real dollar terms. Martin Feldstein, professor at Harvard, recently estimated that the $4.6 million in nominal capital gains reported in 1973 actually represented, after adjustment for inflation, a loss of nearly $1 billion. Feldstein also estimated that the understatement of the current dollar value of capital assets last year increased corporate liability by $15 billion, representing a 25 percent increase in corporate levies. Thus, in many instances today the effective rate of taxation on investment income has become confiscatory, with rates at times exceeding 100 percent.

Eighth, inadequate capital formation has generated intolerably high rates of unemployment, particularly amongst women, teenagers, blacks, and other minorities. Over the short run, rising capital investment raises output and employment in the industries that produce capital goods. But more importantly, increased investment in the long run expands plant and output capital, enabling the economy to absorb an ever-growing labor force.

No where is the relationship between job formation and capital formation as close as in new and expanding companies. And yet, that is where capital formation is lagging the most. Even in current dollar terms, capital formation in this area has all but vanished, as shown in the following table:

TABLE 8.—PUBLIC OFFERINGS BY COMPANIES HAVING A NET WORTH OF UNDER $5,000,000

[Dollar amounts in millions]

Year	Offerings	Funds raised
1968	358	$745.3
1969	696	1,366.5
1970	198	375.0
1971	248	550.9
1972	409	896.0
1973	69	159.7
1974	9	16.1
1975	4	16.2
1976	29	144.8
1977	30	118.3

As a result, the unemployment rate in the fourth year of the recovery remains at a predictably high level of 5.9 percent, with the hardest hit groups being women (6.1 percent), teenagers (15.6 percent) and Blacks (11.9 percent).

Ninth, unemployment has imposed an enormous social and economic cost on the unemployed, their families, and society as a whole. Earlier this year, the administration estimated that the American economy was operating last year at $75 billion or 5.3 percent below its full employment capacity. Such an estimate, of course, does not begin to measure the immense "psychic" loss of job security to the millions of unemployed men and women in the economy.

Tenth, unemployment has increased Government transfer payments relating to unemployment compensation, public assistance, and other social services, resulting in still higher Government outlays. The Federal Government alone will spend an estimated $35.2 billion—7.6 percent of total budget outlays—for unemployment compensation and public assistance, compared to $6.9 billion in 1969 (3.7 percent of total outlays for that year). More importantly, expenditures on the State and local levels will exceed those Federal outlays; and

Eleventh, in order to reduce the Nation's high rates of unemployment and inflation, the Federal Government must reduce Federal spending and taxation as a percent of the national output and must set ceilings on the future growth of such spending and taxation. It is in keeping with this last findings that the "Limits to Government Act of 1978" would seek to hold Federal receipts and outlays to no more than 20 percent of the estimated GNP for the fiscal year. Such a target is, in light of past trends, a realistic and practical limitation on Government growth.

At present, Federal spending accounts for approximately 22 percent of GNP. As shown in the table below, Federal expenditures first exceeded the 20 percent level in 1967.

FEDERAL OUTLAYS AS A PERCENT OF GNP (CALENDAR YEARS)

Year	Percent	Year	Percent
1960	18.4	1969	20.1
1961	19.5	1970	20.8
1962	19.6	1971	20.7
1963	19.2	1972	20.9
1964	18.6	1973	20.3
1965	18.0	1974	21.2
1966	19.1	1975	23.4
1967	20.6	1976	22.6
1968	20.8	1977	22.4

The following table shows the degree of fiscal discipline that would have been required in past (calendar) years to observe the 20 percent limit:

SPENDING LIMITATION VERSUS ACTUAL FEDERAL OUTLAYS, 1960–77

[In billions of dollars]

Calendar year	20 percent of GNP	Federal outlays	Required reduction
1960	$101.2	$93.1	
1961	104.7	101.9	
1962	112.8	110.4	
1963	118.9	114.2	
1964	127.1	118.2	
1965	137.1	123.8	
1966	150.6	143.6	
1967	159.3	163.7	$4.4
1968	173.7	180.6	6.9
1969	187.1	188.4	1.3
1970	196.5	204.2	7.7
1971	212.7	220.6	7.9
1972	234.2	244.7	10.5
1973	261.3	265.0	3.7
1974	282.6	299.3	16.7
1975	305.8	357.1	51.3
1976	341.3	386.3	45.0
1977	378.1	432.5	45.4

Committing the Congress and the Nation to this statutory limitation would be in keeping with the philosophy and conviction of our Founding Fathers that there are limits to the power of Government to advance the welfare of its people, that more government is not necessarily better government. It is a recognition of what Thomas Jefferson once observed: "We see the wisdom of Solon's remark that no more good must be attempted than the Nation can bear." ●

PERSONAL EXPLANATION

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 14, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, yesterday the House passed H.R. 11280, the so-called civil service reform bill. While the House was in session I was in conflict as a member of the House-Senate conference committee on the small business bill, and of the Armed Services Committee which had various matters before it calling for votes as well as hearing Secretary of Defense Brown in connection with the President's veto of the defense budget. Having misplaced my I.D. card I evidently handed over the wrong tally, as I intended voting no rather than aye on final passage. On the Collins-Udall amendment I would have voted aye had I been present.●

EDISON CO. OFFICIAL GEORGE HANAWALT RETIRES

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 14, 1978

● Mr. ANDERSON of California. Mr. Speaker, on September 21, 1978, three of the leading civic and business organizations in Long Beach will pay tribute to George Hanawalt, an outstanding citizen respected for his numerous contributions to the development of the city's business community. Proof of his capabilities and leadership qualities lies in the fact that he is past president of each of the host associations—the Chamber of Commerce, the Rotary Club, and the Southland Builders' Exchange. This man, well known for his dedicated participation in community improvement affairs, will be honored as he ends an impressive 32 year career with the Southern California Edison Co., serving as the coastal area manager.

Born in McFarland, Calif., George Hanawalt received his elementary and secondary education in Bakersfield, Calif., where he graduated from high school. He traveled to Pennsylvania where he attended Gettysburg College and earned Phi Beta Kappa honors. His college work was interrupted for 5 years years by his voluntary service with the Army Air Corps in World War II.

The Edison Co. was fortunate to have George join their operations following his return to California. This was an eventful period for Long Beach, one which placed great demands on the providers of electrical power, the Edison team. During this time the city purchased the Queen Mary, a once-great ocean liner which is now docked permanently on the local shoreline. Putting the ship into operation as a tourist attraction, complete with restaurants and novelty shops, required the conversion of the ship's British electrical system to the American standard. The skill and work of George Hanawalt made this very difficult task a success.

Another of George Hanawalt's memorable accomplishments was the furnishing of electrical power to the THUMS facilities off the Long Beach coast. THUMS is a group of oil companies—Texaco, Humble, Union, Mobile, and Standard—which banded together to drill for oil under local public lands. The major technological feat of supplying electricity through underwater cables was produced with the organizing skills of this man.

Most recently, George Hanawalt came to the forefront to help produce the precedent-setting air pollution tradeoff agreement between the Edison Co. and the SOHIO Co. Under this plan, two private business enterprises will, for the first time in this Nation, reduce air pollution at an existing pollution source which will more than makeup for new air pollution generated by a new industrial development project.

In addition to these accomplishments at the Edison Co., this distinguished citizen has found the time to apply his skills to the activities of many worthy community organizations. He has served as an officer with the Metropolitan YMCA; St. Mary's Hospital; the United Crusade; the Boy Scouts of America Area Council; and the Boy's Club of Long Beach.

Mr. Speaker, George has greatly contributed to the good life and business of my home district. I appreciate the opportunity to publicly acclaim his good works and share the pride of his family in his accomplishments and lifetime of dedicated service. My wife, Lee, joins me in saluting this outstanding citizen, George Hanawalt. We would also like to express our best wishes to his lovely wife, Adelaide; and their children, Jane, Hank, Jim, and Suzie.●

BILL TO EXTEND INDOCHINA REFUGEE CHILDREN ASSISTANCE ACT OF 1976

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 14, 1978

● Mr. BOB WILSON. Mr. Speaker, I introduce today a bill to extend the Indochina Refugee Children Assistance Act of 1976 for a period of 5 years, to September 30, 1983.

The act, Public Law 94-405, providing the elementary and secondary education programs for these refugee children will end on September 30 of this year. Title II of the act is the only Federal education program that provides specifically for elementary and secondary educational services to these children. Title II provided grants to State Departments of Education to assist local educational agencies in providing educational services to Indochinese refugee children who are between 5 and 17 years of age.

Since late 1975 after the initial program, Indochinese refugees continued to resettle in our country through special cases and programs. Because of this fact, we now have approximately 170,000 rather than the initial 130,000 refugees residing in the United States. With the expectation that our Government will admit approximately 20,000 refugees annually over the next several years, the number of schoolage children will increase also. At present, it is estimated than 40 percent of the refugees now are schoolage children.

California has the greatest concentration of refugee children in elementary and secondary schools. The grant from title II enabled the school districts to expand services to these children, including instruction in both English and their home language, counseling, assisting parents in understanding their child's school program, and developing instructional materials. These funds have enabled the school districts to help these students with continuing special needs to develop into self-confident, productive individuals in our society.

Mr. Speaker, I believe it is essential that we continue to help these refugee children—both those who still have need and the new children who will be arriving yearly to our shores—to overcome the barriers they face in adjusting to a strange land with unknown language and customs. Additionally, I want to emphasize that the admission of the refugees was a decision by the Federal Government for which we feel it bears a monetary, as well as a moral, responsibility. It is unfair to expect the local taxpayers in areas heavily impacted by the migration of substantial numbers of refugees to bear the full financial burden of their special education needs. At the time that Congress enacted Public Law 94-405, we hoped that the program could be terminated after several years of operation. This projection, however, was made prior to the new entries over the past year and the announcement that substantially more refugee admissions would be forthcoming in the next few years.●

THE NEW YORK AVENUE PRESBYTERIAN CHURCH—A 175TH ANNIVERSARY

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 14, 1978

● Mr. ALEXANDER. Mr. Speaker, this year the New York Avenue Presbyterian Church in the District of Columbia celebrates its 175th anniversary. The history of this church and our Nation are uniquely interwoven. I believe my colleagues will find the following brief article of interest:

THE NEW YORK AVENUE PRESBYTERIAN CHURCH—A 175TH ANNIVERSARY

A visitor cannot stay long in Washington without becoming aware of the unique contributions made to the Nation's capital by the historic New York Avenue Presbyterian Church.

Sometimes called "Lincoln's church" because of the faithful attendance of the Civil War President but better known to millions of movie-goers of a later generation as the church where Peter Marshall preached, the Church is now celebrating its 175th anniversary.

But, its roots go back to the earliest days of the Republic when in 1979 President Washington urged the recruitment of Scottish artisans to help construct the new Federal city. These immigrant stone masons and carpenters brought their Calvinistic faith and and outlook with their tools and skills to the New World and soon organized regular prayer meetings in a carpenter's shop on the grounds of the Presidential mansion. In 1800, the year the new Executive Mansion was first occupied (by President and Mrs. John Adams), they were jointed by Scottish Covenanters from Pennsylvania who moved to the new city when the U.S. Government was transferred from Philadelphia. Together they held weekly services in the lobby of the new Treasury Building and it was here that a church was formally organized with the call in 1803 of its first pastor, the Rev. James Laurie of Edinburgh.

Dr. Laurie, whose wife Elizabeth was a first cousin of famed novelist-poet Sir Walter Scott, travelled throughout the states during his first years in raising funds for the construction of a church building which was dedicated in 1807 as the F Street Associate Reformed Presbyterian Church. The Greek Revival style building, built on the site now known as the New Willard Hotel, survived the burning of Washington in 1814 but its records were lost at that time. Ten years later,

the F Street Church was the scene of a brilliant gathering presided over by President Monroe at which members of his government, the court and the congress paid tribute to the visiting Marquise de Lafayette.

Among those present was Secretary of State John Quincy Adams, the Unitarian from Massachusetts whose attendance at the newly formed Second Presbyterian Church, located on New York Avenue, was the subject of some political doggerels of the day. Adams, however, was one of several Presidents—Martin Van Buren, William Henry Harrison and Franklin Pierce were others—who attended this church despite membership in other denominations.

Its most famous member, Andrew Jackson, stayed the shortest time. The church—a parent of the present New York Avenue Presbyterian Church—became embroiled in the "Eaton affair" which erupted when the wife of Vice President John Calhoun and other ladies of the Cabinet objected to worshipping in the company of a tavern-keeper's daughter, the handsome and witty Peggy O'Neale, wife of the Secretary of War John Eaton. Historians agree that the dispute cost Calhoun his life's ambition to succeed Jackson and led to the election of the widowed Secretary of State Van Buren, another church member who entertained the Eatons at his home.

Unfortunately the "scandal", as it was then called, split the Jackson Administration and nearly ruined the Second Church when the President and many of the congregation transferred elsewhere.

The first proposal to merge the two neighboring churches was sounded at this time but was not realized for another 30 years when Dr. Phineas Gurley had succeeded the beloved Dr. Laurie as pastor of the F Street Church in 1853. The combined congregation decided to build a new edifice on New York Avenue and in 1859 sold the F Street Church to the Willard Hotel which opened it to the public for the first time in hosting the futile Peace Convention of 1860.

The handsome red brick church on New York Avenue was still new when President-elect Abraham Lincoln arrived in Washington. Shortly after the inauguration his wife sent for its seating plans which were used in selecting a pew near the front of the congregation—where the Lincoln pew is located today. The Church has been fortunate in the quality and accomplishments of its pastors and Dr. Gurleys' own inspired faith did much to encourage the wartime President and gained his deep friendship.

Lincoln, in addition to Sunday attendance, liked to attend an evening service at midweek and often sat alone in the darkened pastors' study in order that his presence not disturb the other worshippers. One Sunday morning when Dr. Gurley announced that the military would soon take over the church for use as a hospital, the President arose in his pew to protest. Lincoln said he had no knowledge of such an order and countermanded it while declaring that "the churches are needed as never before for Divine services."

Pastor Gurley, who was frequently called to the President's mansion for prayer or friendly conversation, was summoned to the bedside of the dying President in Petersen's House on the fateful night in 1865 that Lincoln was shot and remained consoling and praying throughout the night until the President breathed his last. The funeral sermon Dr. Gurley delivered in the East Room of the White House, an address noted for appropriateness, pathos and genuine and rich scriptual sentiments, has few equals in the English language. Subsequently, at Mrs. Lincoln's request, he went in that long and sad procession which bore through the land the remains of President Lincoln to their final resting place in Springfield, Illinois.

The impress of Lincoln on the Church and its congregation was great and the stories told of the martyred president and his family were many. The Gurley family recalled how one time Lincoln helped arrange for the wedding of Fannie Gurley to a young army officer and how, another time, a dying Willie Lincoln had "willed" his toy bank and its contents to the Church Sunday School. The family of Matthew Brady told of the many Sundays when the famed photographer arose for the pastoral prayer in following a tradition set by the 16th President.

While Dr. Gurley outlived his friend the President by only three years, he was honored in 1867 by his election as Moderator of the General Assembly of the Presbyterian Church and a chapel bearing his name was founded upon his death the following year.

Few recall today that Lincoln's predecessor John Buchanan, had attended the Second Presbyterian Church and that Andrew Johnson often attended the New York Avenue Church. But, it is remembered that when the Lincoln pew was removed during a renovation of the church in 1881, several members intervened bodily to save the historic pew from disposal. It was stored for some years in the basement of the church until its relocation in the sanctuary. Dr. Wallace Radcliffe, who was called as pastor in 1895, began the traditional Lincoln Day Observances—held on the Sunday nearest Lincoln's birthday—which have been continued to the present.

On September 29, 1896, a hurricane struck Washington destroying several buildings in the downtown area and toppling the graceful white wooden steeple atop of the New York Avenue Church. Once seen throughout most of the city, the steeple inspired as well as directed the passerby. It was not replaced until 43 years later when a new steel-framed tower and chimes were presented to the Church as a memorial to Abraham Lincoln by the family of his son, Robert Todd Lincoln. Interestingly, the same frame and chimes—cast by a firm whose family origins go back to Nancy Hanks, Lincoln's mother—are in the present edifice.

Dr. Radcliffe was elected Moderator of the General Assembly in 1898 and the following year presided when the New York Avenue Church played host to a meeting at which was founded the General Council of the Reformed Churches of the World. Four years later, the Church celebrated its 100th anniversary with a service of thanksgiving attended by President Theodore Roosevelt, along with members of his Cabinet and the Congress, during which time Roosevelt spoke briefly from the Lincoln pew. Seated next to Secretary of State John Hay—Lincoln's private secretary—Roosevelt remarked on the distinguished congregation present, including his escort, Supreme Court Justice John Marshall Harlan, an Elder of the Church, and General Breckinridge, late Commander of the U.S. Army.

The Church's reputation for great preachers was continued with the selection of Dr. Joseph Sizoo to succeed Dr. Radcliffe. Dr. Sizoo was serving as pulpit supply on the first Sunday of February, 1924, the day President Wilson died. His sermon made such an impression that he was unanimously called to be pastor and was installed in May, 1924. The Dutch-born clergyman ordered the Church doors open all night in late July, 1925, to accommodate the huge crowds of mourners, shocked by the sudden death of William Jennings Bryan, who came to the sanctuary to pay their last respects to the 'great Commoner' who had three times been nominated as the Democratic Presidential candidate. By contrast, Dr. Sizoo was called to Arlington Cemetery one year later to conduct private services for Robert Todd Lincoln who had served as Secretary of War under Presidents Garfield and Arthur. At a happier occasion he presided at the dedication of the new Lincoln Memorial Tower in 1929.

Peter Marshall's years at New York Avenue were brief but impressive. The Scottish-born clergyman, who preached his first sermon as pastor in October 1937, had an earnest eloquence which inspired all who heard him. He served both as Chaplain of the Senate and pastor of the crowded downtown Church until his untimely death in 1948. During the war years he had an unique ministry with military personnel in the Washington area. A canteen was established, home-cooked food was served, games were planned and entertainment programs were presented, and sightseeing tours were arranged for the servicemen. After the war, Dr. Marshall was first stricken with a coronary occlusion in 1946. He recovered from this and in January 1947 he was appointed as Chaplain of the United States Senate, in which capacity he offered opening invocations presenting the needs of that body and its members at the throne of Almighty God.

The inauguration of President Truman and Vice President Barkley on January 20, 1949 brought new honors to Peter Marshall as he delivered the invocation in the Senate Chamber where the Vice President takes the oath of office: "God of our fathers in whom we trust and by whose guidance and grace this nation was born, bless the Senators of the United States at this important time in history and give them all things needful to the faithful discharge of their responsibilities. We pray especially for our President, and also for him who will preside over this chamber. Give to them good health for the physical strains of their office, good judgment for the decisions they must make, wisdom beyond their own, and clear understanding for the problems of this difficult hour. We thank Thee for their humble reliance upon Thee. May they go often to the throne of grace as we commend them both to Thy loving care and Thy guiding hand. Through Jesus Christ our Lord, Amen."

It was a thrilling experience for Dr. Marshall to be the representative of his Lord on that solemn occasion. On the following Sunday he preached his last sermon in the New York Avenue Church. Early on Tuesday morning, January 25th, a recurrence of the heart condition of three years before called him away from scenes of this earth into the presence of his beloved Savior.

A book by his widow, Catherine Marshall, titled "A Man Called Peter", became a best seller and was the basis for the movie version of Dr. Marshall's life.

Plans for the new church building were nearly complete when Dr. George Docherty, another native of Scotland, was installed in 1950. Beginning his administration without a church building, he presided at ceremonies in which President Truman laid the cornerstone of the new church building on April 3, 1951. On December 21st of the same year, Dr. Docherty also presided at the dedication of the new $1.2 million church, a service which was enhanced by the presentation of Lincoln's first handwritten draft of the Emancipation Proclamation by Mr. Barney Balaban, the President of Paramount Pictures. The historic document is among the treasured Lincoln relics at the Church and is on public view in the Lincoln Parlor.

Dr. Docherty, during a quarter-century of service, provided inspiration and leadership during a period of great change and turbulence in the Nation. His voice was heard regularly on radio and television as well as from the pulpit. It was his suggestion during a Lincoln Day sermon in 1954 that inspired a change in the wording of the Pledge of Allegiance to the U.S. flag that led to the insertion of the words "under God". Retiring after a challenging ministry to become Minister Emeritus in 1977, he is succeeded by Dr. Arthur McKay, former President of

McCormick Theological Seminary in Chicago and one of the Nation's foremost theological educators.

Fittingly, Dr. McKay, of Scotch descent himself, received his doctorate in Philosophy from Edinburgh University from which 175 years ago a young clergyman and his bride set out for the new world and their first church.●

VETERANS OF WORLD WAR I

HON. LOUIS FREY, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 14, 1978

● Mr. FREY. The following is an editorial which appeared in the September 1978 Torch, published by the Veterans of World War I of the USA, Inc. The article outlines the many gains made by the World War I veterans in the 95th Congress; however, it again brings to our attention the need to enact an unrestricted pension system for this group of veterans who did not receive the many other additional benefits enjoyed by veterans of later years. I am very hopeful that the Congress will recognize the needs of these aged veterans and take the necessary steps to enact legislation granting an unrestricted pension system for World War I veterans and their widows.

LEGISLATIVE GAINS

Although Veterans of World War I did not get what they most wanted from the current Congress—an unrestricted general pension—they have registered gains this year.

The Administration proposed a budget of $19 billion for carrying forward veterans work. This was boosted to $21 billion, largely through the efforts of Ray Roberts, Chairman of the House Veterans' Affairs Committee. This means the saving of thousands of hospital beds, and medical and hospital aid to thousands of veterans who under the 19 billion dollar budget would be left out in the cold.

The budget increase means there will be money to meet any increased pensions that come out of HR 10173 when House and Senate conferees come to agreement—probably early in September.

It is almost a certainty that the provision in 10173 eliminating pension cuts with each rise in Social Security payments will be adopted in conference. The year by year erosion of pensions due to Social Security increases has been a bitter experience to thousands of pensioners who in a few years have seen $60 to $75 pensions wiped out. VWWI has argued with Congress for years that these Social Security increases should not be counted in arriving at income limitations.

If Congress did the just thing it would restore these past cuts as well as stopping them in the future.

The two houses have passed a measure increasing compensation 6.5 percent, October 1. This is a minor gain for a large number of War I vets.

In summary, War I veterans with those of later wars have made some gains in this session of Congress.

On the floor of the House, and probably in the Senate, Veterans of World War I have a heavy backing for a general pension to give them partial equity in the vast benefits voted for later veterans. Just how we can persuade controlling members of the veterans' affairs committees to report out a general pension bill is an unresolved question. But logic says fight on. Positions and legislators can change.

The bulk of both Senators and Congressmen are aware that War I veterans have been short changed and are ready to rectify the matter. If a reasonable pension bill comes out of committee, it will promptly pass. We cannot stop now.●

FOREIGN AID QUESTIONNAIRE

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 14, 1978

● Mr. YOUNG of Florida. Mr. Speaker, more than 30,000 citizens from the Sixth Congressional District of Florida have responded to a recent questionnaire I sent to them prior to the House consideration of the fiscal year 1979 foreign assistance appropriations bill. Due to my position as the ranking minority member of the Appropriations Subcommittee on Foreign Operations, I felt it was important to obtain the views of the citizens I am honored to represent in Congress in order to determine whether the positions I was taking in the subcommittee and would be advocating on the House floor were, in fact, compatible with the views of my own constituents.

Of those responding to the individual questions, my constituents overwhelmingly demonstrated their support for the positions which I have been taking throughout the foreign aid debate. Many of my constituents are retired and have come to Florida from every other State in the Union and from all walks of life. Consequently, I believe their responses reflect the mainstream of thought throughout the United States on the issue of foreign aid. I would encourage my colleagues to review the results of this poll and discuss these findings with their own constituents. I am confident they will find a similar feeling among the citizens they represent.

If our taxpayers knew how some of their hard-earned dollars are being taken away from them by the Federal Government only to have it sent to various international institutions where it ends up in places like Vietnam, Uganda, and Cuba—I would suggest, Mr. Speaker, that the current taxpayers rebellion would give way to a full-fledged taxpayers revolution.

While not everyone answering recorded a decision on every question, the tabulations of those responses to the separate questions are as follows:

Congressman BILL YOUNG wants your opinion on Foreign Aid—

Do you support Foreign Aid?

Yes: 20.69 percent; No: 70.30 percent.

Many of the responses listed certain conditions that should be met before any aid is received.

Would you support either direct or indirect aid to:

Cuba? Yes: 1.12 percent. No: 98.87 percent.

Vietnam? Yes: 1.40 percent. No: 98.59 percent.

Uganda? Yes: 0.93 percent. No: 99.06 percent.

As your Representative in the Congress of the United States, do you want me to continue my efforts to seek reform in our Foreign Aid Programs?

Yes: 94.59 percent. No: 5.40 percent.●

TRIBUTE TO CAPT. CHARLES F. BLAIR

HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 14, 1978

● Mr. DE LUGO. Mr. Speaker, one of aviation's pioneers crashed to his death off the island of St. Thomas in the U.S. Virgin Islands on September 2, 1978.

Capt. Charles F. Blair, president of Antilles Air Boats, was at the controls of one of his Grumman aircraft on a commercial flight from St. Croix to St. Thomas when an engine on the World War II vintage amphibious plane exploded, plummeting the plane into the Caribbean Sea. Captain Blair and 3 of 10 passengers aboard were killed.

The 68-year-old Blair, a brigadier general in the U.S. Air Force Reserves and a former pilot for Pan American Airways, gained national prominence in 1951 when he became the first man to make a solo flight over the Arctic and North Pole in a single-engine P-51 World War II fighter. Because of this solo flight, the Air Force's Strategic Air Command (SAC) asked Blair in 1952 to advise it on the possibility of launching nuclear weapons from fighter aircraft. In 1953, then Brigadier General Blair headed a flight of military jet planes across the North Pole.

For such notable feats the man whom historian Lowell Thomas called "one of America's great pilots" received the Distinguished Flying Cross, the Thurlow Award for "outstanding work in the science of navigation" and the Harmon International Trophy from President Harry Truman.

After attaining the rank of captain with Pan Am, Blair settled in the Virgin Islands and founded Antilles Air Boats, the world's largest seaplane airline. He and his wife, former motion picture star, Maureen O'Hara, lived on St. Croix and managed the airline on a day-to-day basis.

Charlie Blair's contributions to the science of navigation are well recognized and genuinely applauded. They are a tribute to the indomitable spirit which motivated him during a lifetime of challenge and success. His pioneering spirit was a source of pride and inspiration to those who knew him. His business enterprise and personal contributions to the Virgin Islands community were likewise well-known and appreciated.

Eulogized by Senator BARRY GOLDWATER during burial services, Captain Blair received the final tribute of a grateful Nation when, by Presidential order, his body was laid to rest in Arlington National Cemetery. The legacy of his intrepid spirit and quest for excellence will be missed by all Americans, but especially by Virgin Islanders.

It is my distinct pleasure to share with my colleagues the pride we feel in Charlie's accomplishments and to insert, in his memory, the editorial from the September 6, 1978, issue of the St. Croix Avis.

The editorial follows:

CHARLES F. BLAIR—1909–1978

"Alone in the cockpit of my high-flying airplane I became as free as a man can ever be, possessed only by the majestic sweep of the polar ice cap, reaching through the purple haze for the top of the world." CFB in his book, "Red Ball in the Sky", as he completed his North Pole solo flight in his single-engine P-51 Excalibur III.

It is not often that we meet in our life time a true visionary—a man who hears a distant drum and feels the pull and tug at his being, of a call that he must answer. This is the stuff of which heroes are made. They are cut from a different cloth than most of us; they have a goal and destiny far beyond our ken.

The man who climbs the impossible mountain must do it "because it is there," he will tell you. The seeker of a distant horizon across uncharted waters sets out on his journey physically alone but within him is a response to any almost mystical challenge which only he can define—and attempt to answer.

Charles Blair was a man who sought just such frontiers beginning in the Thirties when he flew an airborne "Pony Express," carrying the mails cross country over rugged mountainous terrain in a tiny aircraft. A man of many "firsts", throughout his career he repeatedly broke world aircraft speed records and conquered unknown realms in his response to some undefinable challenge.

To those who knew him Charles Blair was truly an "intrepid airman" with a look in his eye which seemed always to be searching the distant horizon for yet another frontier to conquer.

In a way, we might call his desire to bring the Virgin Islands closer together his last frontier. A perpetual optimist, and with many odds against him, Charlie bridged the gap between islands by creating Antilles Air Boats at a time When the Virgin Islands was experiencing a great leap forward in terms of population and expansion.

His little airline became the third largest commuter airline under the U.S. flag, making travel and communication quicker and easier for businessmen, government people, resident families and tourists too who had the opportunity to visit all three islands in a way which had never before been possible.

To know Charles Blair was to know a man who inspired respect and admiration. Always courteous, with a gentle almost shy humor, he was never too busy to greet everyone by name and express close personal interest in the well-being of the people with whom he worked. An Eagle Scout himself when young, he was tremendously interested in the scouting movement and in Boys Clubs, to whom he contributed energy, time and money openheartedly.

Charles F. Blair will not soon be forgotten, and to this pioneer in celestial aerial navigation, as he charts his final course, we give our farewell. As he himself would say, "Well done, old bean, well done."●

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT OF 1978

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 14, 1978

● Mr. VENTO. Mr. Speaker, on May 19 the House passed the Alaska National Interest Lands Conservation Act of 1978. The overwhelming vote of support for this landmark legislation underlines the importance of the passage of this bill during this session and indicates the balanced approach that the bill takes toward the supposed conflict between developmental pressures and a desire to protect our few remaining wilderness areas for the enjoyment of this and future generations.

The House-passed bill does provide ample opportunity for the State of Alaska to develop much of its rich natural resources while providing the necessary protection for some of the State's more magnificent wilderness areas.

Duringn the 118 days since House passage, the Senate Energy and Natural Resources Committee has been conducting lengthy and careful deliberations on this issue. The committee has considered many of the same questions that my colleagues and I faced on the Interior Committee. As the Senate committee consideration of their draft proposal nears completion, several outstanding issues must be addressed.

Throughout consideration of the Alaska lands issue, one of the principal areas of dispute has been the supposed conflict between development and preservation. No one disputes the fact that Alaska is a veritable storehouse of many resources essential to the economic growth and well-being of our Nation. The House-passed legislation provides the needed mechanism to develop those essential materials. Equally important are the vast wilderness areas of that State. These last remaining vestiges of American wilderness must remain available for the use and enjoyment of future generations. To exploit these areas now would be an injustice to our descendants. Wilderness is not a renewable resource; once developed its unique values will be lost forever.

The Alaskan wilderness is now threatened by unrestrained development. Too often in the past, the argument has been raised that our Nation's supplies of natural resources and wilderness areas are inexhaustible and that development may proceed unchecked. The result of this philosophy has been dwindling supplies of natural resources and the destruction of the unique qualities of our country's wilderness. The Alaskan wild demands the passage of a strong Alaska National Interest Lands Conservation Act. Undue delay can only extend the uncertainty over the final disposition of Federal lands in Alaska. Significant development of Alaskan resources may be frustrated and the integrity of the wilderness will be severely threatened.

I urge our colleagues in the Senate to act with all deliberate speed to pass a strong Alaska national interest lands bill so that we may complete the legislative process this session and resolve this most important issue.

I would like to draw my colleagues' attention to three recent articles dealing with the status of Alaska lands legislation:

[From the Minneapolis Tribune, Sept. 6, 1978]

THE SENATE'S WEAKNESS ON ALASKAN LANDS

The clock is running out on Congress's self-imposed deadline to define the rules of conservation and development for federally owned lands in Alaska. That deadline, set seven years ago, is this December. The roadblock to meeting it is in the Senate. Specifically, it is in the failure of the Senate leadership and the Senate energy committee to resist the local-interest tactics of two senators from Alaska.

Both those legislators—Democrat Mike Gravel and Republican Ted Stevens—want to undo the laboriously compromised and exhaustively debated Alaska lands bill overwhelmingly passed by the House in May. Stevens is trying to gut the bill's conservation features, already marked by generous concessions to commercial development, by pressing for amendments in every session of the energy committee. He is not a committee member, but Chairman Henry Jackson, D-Wash., has largely let him have his way.

Gravel, by contrast, doesn't even want a weakened bill. He fears the power and tenacity of conservationist representatives in a House-Senate conference. Whatever the energy committee approves, he threatens to filibuster. Faced with that threat, and with a crowded calendar, Majority Leader Robert Byrd, D-W. Va., has hinted that he might keep Alaska lands legislation off the floor altogether.

Either outcome would be a retreat from responsibility. A bill denying deserved protection to federal lands would undercut public trusteeship of irreplaceable resources that belong to the whole country. No bill at all would throw the status of those lands into doubt once again and needlessly postpone a long-range policy that needs to be shaped now. Leaders of the Senate should bestir themselves for Alaska lands legislation at least as strong as that already passed by a large majority of the House.

[From the St. Paul Dispatcher/Pionner Press, Sept. 3, 1978]

THE LAST SLIVER OF WILDERNESS

(By George Rice)

A couple or three weeks ago this column was all about fishing for lake trout, and the joys of the Ontario wilderness and such-like. It ended with a few sentences about the worry the Ontario folks have concerning how long their treasure will be safe from the encroachments of the roadbuilders, the miners, the developers.

As it stood, I am satisfied the piece made its point, but there were a couple of polemical paragraphs that got left off the end of the piece simply because there wasn't room. Which is all right, since I can now use them as a starting point for this column.

What I said, or began to say, in those trimmed paragraphs was that if the vastnesses of Ontario, which dwarf the only remotely comparable area in the United States outside Alaska, the Boundary Waters Canoe Area, are being threatened, how mindless it is of us even to argue over what to do with the BWCA.

It should be wilderness, period. Meaning it should have the maximum protection against snowmobilers, motorboat operators—and, yes, canoeists if need be.

I was prompted to expand on the theme in part by reading some of the arguments pro and con about the proposal now before Congress to set aside 90 million-plus acres of Alaska as wilderness, wildlife, wild river and national park areas. This is approximately a quarter of the total area of that state, and of course is immensely more extensive than the BWCA.

There are endless points being made on either side of the controverry, but they can be boiled down in each case to two or three.

The "pros" say, of course, that Alaska is our last frontier and that it constitutes our last chance to show we know what to do with a frontier. We exploited the one we had in the "lower 48" with little or no regard for the future, they say, and unless we act now we will only repeat a national tragedy.

They also say the developers—the oilmen, the timber people, the miners—would be left

with more than enough of Alaska for their purposes. As a recent statement from an organization calling itself "Americans for Alaska" put it: "This approach (setting aside the 90 million-plus acres) would protect important economic activities which depend on resource conservation, including commercial fisheries and tourism, and, although most of Alaska's mineral and petroleum wealth lies outside the proposed conservation areas, . . . would store underground resources for the future . . . if ever needed."

The "cons" say the proposal would "lock up" Alaska's resources, take away Alaska's sovereign state rights, "prostitute the wilderness philosophy" and keep the state economically depressed.

The "cons" deny that most of the underground resources are outside the proposed set-aside. Alaska, they say, is still largely unexplored, in the resource sense, and no one knows what may lie underneath tens of millions of its acres.

An article in a recent issue of Exxon USA, published, you need hardly be told, by the energy conglomerate, makes much of the fact that only about .001 percent of Alaska has been "cleared, settled and altered" by man. (They left out "affected.") Alaska, says Exxon USA is "all but unchanged."

In other words, the "cons" seem to be telling us, why worry? Alaska is limitless, primeval, inexhaustible.

Americans have heard that siren song before. And have heeded it, have swallowed its lyrics hook, line and sinker. Who could ever cut down all the black walnut forests of Pennsylvania and Ohio? The white pine forests of Minnesota and Wisconsin were inexhaustible. The prairies were limitless. The buffalo herds were endless. The redwoods—well, after you've seen one, you've seen 'em all. Our supplies of pure, clean water would last forever.

The results of our dancing to that tune (to change the metaphor) are all around us and no matter how ruefully we now admit our past sins, there's little we can do about them.

One of those results is that the measly million or so acres of the BWCA are about all that we have left to preserve in the "lower 48"—and the chances of preserving even these don't look very good right now.

Canada still has vast tracts of wilderness, but the signs of their erosion are unmistakable. And no one needs to tell us what the boomers and boondogglers could—and very well may—do to Alaska.

And we have the nerve to argue about saving a sliver called the BWCA! We listen to the folks who say, "We live near the place, so it's ours"!

Will we ever learn?

[From the Missoulian, Sept. 5, 1978]

CONGRESS ON THE BRINK OF MASSIVE ALASKA GIVEAWAY

(By John B. Oakes)

Though few Americans outside Alaska seem to be aware of it, a classic struggle to prevent one of the great environmental rip-offs of the 20th century has been taking place this summer in an obscure committee room of the United States Senate—and at this point it looks as though the American people may well turn out to be the losers once again.

The basic issue is whether the last major areas of ecological significance in the United States, whose ultimate disposition is still in the hands of Congress, will be opened to the usual coterie of developers, prospectors, oilmen, loggers and lobbyists—or whether the unique wildlife, water, forest, wilderness and scenic resources of these fragile Alaskan lands will be protected for the permanent enjoyment and benefit of all the American people who own them.

Because of lack of leadership in the Senate Committee on Energy and Natural Resources, the prognosis at this stage of the game is not good.

It is not as though Alaska—by far the largest state (more than twice the size of Texas) and with by far the smallest population (about that of Buffalo)—were being deprived of what rightfully belonged to it, as many of Alaska's hungry politicians led by its two senators, Stevens and Gravel, would have the American people believe.

Congress has already given Alaska and its 400,000 inhabitants—in the most generous endowment ever bestowed on a new state—the right to select more than 100 million of its total 375 million acres (including Prudhoe Bay and most of the other potential oil lands) as a kind of dowry for economic development. In addition, 45 million acres (and nearly a billion dollars) have been assigned to the 65,000 Aleuts and Eskimos in settlement of native claims.

What more then can Alaska's people and politicians want? "They want it all, and they want it now," says Chairman Morris K. Udall of the House Interior Committee, who shepherded his Alaska "national interest" land-use bill (HR. 39) through the House of Representatives in May.

This bill, a compromise proposal that badly needs strengthening in the Senate, would at least reserve, under varying degrees of federal protection for conservation purposes, about 100 million acres of Alaska's irreplaceable natural resources, mainly in the form of national parks, wildlife refuges, scenic rivers and wilderness.

Left open, for all the exploitation Alaska's developers are capable of, would be at least 90 percent of the state's high-potential oil and gas lands, and 60 to 70 percent of its potential hard-rock mineral producing areas.

Yet many of Alaska's development-oriented politicians, including former Gov. Walter J. Hickel, running again for governor, and Sen. Ted Stevens, running for re-election, want not merely to cut down the already curtailed and barely adequate areas earmarked for special federal protection under the House bill. Even more important to them and more devastating to the environment, they want to eviscerate the kinds of protection provided, opening particularly fragile areas to miners, oil prospectors and loggers when so much as yet unexplored, less sensitive land is already available to them.

For example, they would undermine the entire system of federal protection in the very areas most in need of it, through a high-sounding but totally destructive proposal for "cooperative management" of state and federal lands.

They want the state to be able to select some 10 million acres (of the 100 million allotted to it) that are included in proposed national parks and refuges of vital ecological significance, thus creating inholdings and reducing boundaries to the extreme detriment of some of the very areas most in need of protection.

They would open up particularly vulnerable parts of the Arctic National Wildlife Refuge to oil and gas exploration that would be sure to result in decimation of one of the greatest remaining caribou herds on earth, on which many Eskimos rely for their livelihood.

They would shrivel the stupendous Gates of the Arctic National Park to promote mining and other forms of exploration. They would cut into the Yuko Flats for alleged agricultural and probable second-home development, thus further reducing what is still one of the major sources of water fowl for the entire continent.

They would encourage commercial loggers to continue to hack away—largely for export to Japan—the spectacular timber resources of southeast Alaska, destroying scenic, watershed and wildlife values which the United States Forest Service itself has been unable or unwilling to protect in the past.

Republican Stevens and his Democratic colleague Gravel have both threatened to filibuster the Senate bill if it does not meet their approval; and in a pusillanimous attempt to appease them, the Senate Energy and Natural Resources Committee under Sen. Henry Jackson of Washington (whose great conservation record of the past is in danger of being swept away by his weak leadership in the present crisis) has been giving the exploiters practically everything they want.

The bill to be reported from committee soon looks now as if it is going to be virtually dictated by Stevens—who is not even a member of the committee but seems to be controlling it. It is shaping up as a rejection of the view held by most Americans (as the polls clearly show) that it is more to the national interest to preserve Alaska's multifaceted resources intact in the most crucial and sensitive areas than it is to exploit every last acre for immediate and transitory gains.

If the Senate bill as now emerging cannot be revised in conformity at least with the House measure, then no law is likely to be approved before Congress's self-imposed December deadline.

In that case, it is the Alaskans themselves who will suffer first, as the status of virtually all the lands in question will be thrown into doubt once again—and their use for development or any other purpose will be indefinitely stymied.

But the loss would be a national one, too, for Congress, ignoring popular opinion and yielding to localized and concentrated pressure groups, would have proved itself this year powerless to prevent the most blatant giveaway of natural, environmental and ecological values since the days of the Robber Barons a century ago.●

BEN LEITH RETIRES FROM U.S. MARINE CORPS

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 14, 1978

● Mr. KILDEE. Mr. Speaker, it is my privilege to bring to the attention of my colleagues in the Congress the retirement from the U.S. Marine Corps of Ben Leith. Mr. Leith is one of the growing breed of Americans who have combined a life time of service to their country with active local community involvement. I would like to briefly outline some of his many accomplishments.

Since joining the U.S. Marine Corps in 1953, Mr. Leith has served both in Korea and in Vietnam. He has received two Purple Hearts, four Air Medals, and was recommended for three Silver Stars. In addition, the Government of South Vietnam awarded him one of their highest citations in appreciation for his valor. Mr. Leith has been the first sergeant of the Marine Corps Reserve detachment in Flint, Mich., since 1975.

Mr. Leith's involvement with the Flint veterans community has led to his participation in many community projects including the local "Toys for Tots" drive and the "Jerry Lewis Telethon." He has also worked with the Boy Scouts and other youth organizations.

I would like to join his family and friends in saluting his past achievements and in wishing him continued success in future endeavors.●

PANAMA: HAVEN FOR MARXIST TERRORISTS

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 14, 1978

● Mr. SNYDER. Mr. Speaker, highly informed and very reliable authorities on Latin America tell us, "Panama has now openly become the Marxist terrorist sanctuary for Middle America."

Omar Torrijos, whose left-leaning regime has just welcomed Commander Zero and his Nicaraguan guerrillas after their seizure of Nicaragua's National Palace, has for some time been providing sanctuary for Marxist terrorists operating in El Salvador.

We cannot blind ourselves to continuing developments in Panama which show us that Torrijos had dropped his mask since the Senate gave its consent to the new Panama Canal treaties. Almost daily we see new evidence of his working with and aiding those forces which seek the destruction of freedom in the United States.

Virginia Prewett Associates in Hemisphere Hotline have just issued a report for September 1, entitled, "Panama, Haven for Terrorists." Before the demise of the Washington Daily News, Virginia Prewett's behind the scenes reports on Latin America were widely read here. I commend this latest report of hers to my colleagues in this body which has yet to take up implementing legislation regarding the new treaties. The text is as follows:

PANAMA, HAVEN FOR TERRORISTS

WASHINGTON, D.C.—In a world beset by terrorist theatre-of-revolution, most of it horrible and bloody, terrorist "happenings" in Latin America may seem just part of the modern scene.

Indeed they are, but it is not a static scene. It has a story that moves, develops, acquires dimensions. Last week's spectacular terrorist coup in Nicaragua marked a definite milestone. Its impact reaches, and will reach, far beyond Nicaragua.

The new development resulting from the Sandinista terrorist seizure of Nicaragua's capitol building, with over a thousand people inside, concerns both Panama and Venezuela, but chiefly Panama.

"Commander Zero"—identified as one Eden Pastora—who led the force of 25 terrorists, chose to fly with 58 leftists whose release from jail he had effected, and with selected friendly hostages, not to Cuba but to Panama.

Both Venezuela and Panama sent planes, and one was to fly Commander Zero followers and some hostages to Venezuela. But Pastora opted for all to fly to and remain in Panama.

The reason? The terrorist leader made it plain: Panama was chosen because it is close to Nicaragua, because he expects to return to Nicaragua from Panama and take up the guerrilla war there again.

Commander Zero expects no restraint from Panama. Nor, indeed, did any restraint oppose him, on arrival in Panama, in taking the next imperative step in his warfare—and that was to establish a colorful personal image in the world's press.

Commander Zero, permitted to talk freely to the press there, by so doing did establish an image upon which a romantic political legend can be built. When Fidel Castro was in the Sierra Maestra opposing Cuba's Batista regime, he was a shadowy, little-known figure until the New York Times' Herbert Mathews interviewed him. (Whether in the mountains as advertised, or in a Havana hotel room, history does not tell us with exactitude.)

Eden Pastora was met at Panama's military airport at Panama City by the limousine of the Panamanian National Guard's chief of security, Lt. Col. Manuel A. Noriega, long and widely acknowledged to be a Communist who has frequently visited Havana.

And then from a Panamanian safe-haven, Pastora talked freely to the press in the hour of his triumph, telling the world exactly what it serves his purposes for the world to believe.

PANAMA THE NEW TERRORIST SANCTUARY

The outcome of the seizure of Nicaragua's National Palace, in which at least six died, is that Panama has now openly become the Marxist terrorist sanctuary for Middle America.

Virginia Prewett and various official hemisphere intelligence services have known for over a year that Marxist terrorists from El Salvador have gone to Panama both for supplies and "Rotation and Recreation". But this was managed secretly. Commander Zero and his now battle-hardened irregulars, with other guerrilla veterans freed from Nicaraguan jails, can, after their victorious R-and-R in Panama, return to Nicaragua—or Guatemala or El Salvador or Honduras or wherever—at a time of their own choosing. No word or gesture has come out of Panama's government to indicate that they will not be free to do so.

The image that Commander Zero projected is significant. His words said that he did not have Cuban training or Cuban money. He said he came from a strongly Catholic home, and was educated by Jesuits. He and his band are called "Third Worlders"—Marxists in all but Marxism's atheism. Pastora made it plain that his objective is to establish a radically revolutionary society and regime in Nicaragua.

But although Pastora denied direct Cuban connections, in his olive-drab fatigues much like those that are Castro's trademark, he struck poses for the cameras much like Castro's. His voice and declamatory style are said to be modeled on Fidel's. It is recalled that when Castro was in the Sierra Maestra, he wore a crucifix and denied connections with communists.

Time has passed since the Sierra Maestra, and Marxism is being made more and more "respectable" in Nicaragua and Central America. Commander Zero, it should be noted, claimed the kind of Catholic ties that Argentina's Montonero leftist terrorists boasted. He made veiled references to the press that might identify him as a Trotskyite—to other Trotskyites. The latter, as is well known, work with or in parallel with Castroites in Latin America.

WHAT NEXT FOR CENTRAL AMERICA?

The implied blessing that both Panama and Venezuela have given the Sandinistas of Nicaragua cannot fail to affect events in both Nicaragua and El Salvador, now under heavy attack from leftist terrorists supported by Christian radicals.

During the past two years, Virginia Prewett has reported attempts by Strongman Anastasio Somoza's non-Marxist opposition to split away part of his National Guard support, lest the Marxist Sandinistas beat them in the race for power. The seizure of the National Palace has brought into the open just such a split.

While Nicaragua lives its drama in the world spotlight, little El Salvador, wracked by leftist terrorism for several years, is again being shaken to its foundations.

As the Marxist terrorists did in Argentina, they have begun to include the foreign business community as kidnap targets in their campaign of terrorism and destabilization.

As Hemisphere Hotline readers know from many HH reports, such crimes often end with murder. On May 17, a Japanese manufacturer in El Salvador, Fujio Matsumo, was kidnapped for ransom by the extreme-left group called the FARN. Later, it appears, he was shot.

On August 10, yet another Salvadorean coffee-grower was kidnapped. Then on August 15, Kjell Bjork, Salvadorean representative of the Ericcson telephone interests, was kidnapped. Through their consul, the Swedish government is negotiating for his ransom.

Meanwhile, a raid in the small Salvadorean city of San Miguel revealed a terrorist arsenal, records—and a list of business people to be kidnapped. This has set off an exodus of both Salvadorean and foreign business leaders, with consequent repercussions on the little country's economy.

But all Salvadoreans cannot leave their country, nor do they want to. If pressed too far—and the limit may be near—they will fight back. And much blood will flow, with an extremely productive free-market society facing destruction à la Cuba—or Cambodia.●

MOTION TO INSTRUCT

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 14, 1978

● Mr. BINGHAM. Mr. Speaker, I am going to vote against the motion to instruct conferees on this legislation to accept two Senate passed amendments. One of these amendments would require that the Federal budget be balanced beginning in fiscal year 1981. This is a simplistic approach to the problem of inflation, which assumes that Federal deficits are the root of all evil, and it is not appropriate in the context of legislation dealing with the International Monetary Fund.

The motion would also instruct the House conferees to accept an amendment which would require the U.S. executive director to the International Monetary Fund to oppose any assistance to countries which aid or abet hijackers. In substance this amendment by itself would be worthy of support, but in this case it is inappropriate, particularly since several other committees of the Congress are actively working on comprehensive antiterrorism legislation. The Subcommittee on International Security and Scientific Affairs met this morning and reported out H.R. 13387, a bill which would provide a wide range of methods for combating terrorism. It would provide automatic sanctions to be taken against countries which harbor terrorists in a much more direct way than through the amendment before us today. The House will have a chance to work

its will on this legislation in the very near future, and should defeat this tempting but ill-timed and unnecessary motion.●

HISPANIC WEEK AND THE MERGING OF TWO CULTURES

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 14, 1978

● Mr. BROWN of California. Mr. Speaker, I would like to bring to the attention of my colleagues an article that appeared in the Los Angeles Times on September 10, 1978. This article by Carey McWilliams, a noted author on Hispanic issues is significant as we celebrate National Hispanic Heritage Week. It shows both the growth of the "Hispanic factor" in American politics and education and the growth of the Latino influence on our own culture. More importantly, this article shows that this growth is the result, not of an "invasion" of one culture onto another, but rather, a merger of the two cultures through a mutual process of give and take.

Some of the most significant issues facing Hispanics in this country, such as bilingual education, turn on the issue of biculturalism. But, as the article points out bilingual education and the emphasis on biculturalism can only foster a better understanding and mutual acceptance between the two. If the understanding can be cultivated the problem of illegal immigration can be addressed in a much more rational and humane manner.

The article follows:

BLURRING THE DEMARCATION LINE BETWEEN MEXICO AND THE UNITED STATES

(By Carey McWilliams)

Cars and campers and vans stretched for miles in either direction last Sunday. Horns honked, children fussed, vehicles overheated. Uniformed guards waved monotonously. It was a typical weekend at the San Ysidro, California-Tijuana, Baja California border crossing. When statistics on the number of border crossings for this year are compiled, they are sure to top those of 1976, the latest year for which such figures are available. During that 12-month period 8.6 million vehicles and 36.8 million people passed through that check-point.

In fact, the traffic congestion at the major California-Mexico gateway is only one aspect of the continuous movement of people in both directions.

For over a century, people from each country have crossed this international border searching for economic-advantages or a better way of life. Mexican *barrios* have grown larger in all the U.S. border states and North American suburban *barrios* have sprung up in Baja California. "Curbs and sidewalks in and paid for," shout English signs in remote coastal developments. "Retire here."

The two nations' economic interests have become tightly interwoven and interdependent. A recent report by the Comprehensive Planning Organization and the Southwest Border Regional Commission pointed out that Mexican shoppers and businesses spend at least $200 million annually in San Diego County while American tourists spend about $120 million a year in Tijuana.

As a result of the constant interaction between the people of the United States and Mexico, a unique bicultural zone—an area of undetermined depth—flourishes along the border of the two countries. This "borderlands complex" presents both a challenge and a promise to residents of the area.

On the Anglo side of the border, Latino influence on Southwestern culture is more obvious than ever before. For one thing, the size of the Latino population has increased. Latinos are the largest and fastest-growing minority in the Southwest. Census figures—long admitted to be an undercount in March, 1978, estimated the Spanish origin population in California to be 3,179,000. In 1970 the census estimated that more than one million people of Spanish origin resided in Los Angeles and Orange Counties alone. An additional number of undocumented workers swell the ranks.

Latinos constitute 40% of New Mexico's population and 20% of California's and Texas'. Some of this figure can be attributed to both legal and undocumented immigration. Mexico's population of 63 million has doubled since 1950. Even with population planning and increased employment opportunities some government officials believe it will be at least 15 years before pressures in Mexico ease, making it unnecessary for many Mexicans to look for work outside their own country. Before that time, however, North America will contain the fourth-largest Spanish-speaking population in the Western Hemisphere.

Besides sheer numbers, the Latino influence in the Southwest is evident in the newly emerging Chicano middle class. To a great extent, affirmative action in education is responsible. Only a handful of Mexican-Americans graduated from the University of California during the first 100 years of its existence. Since the 1960s the number of Chicanos matriculating both in California and throughout the Southwest has risen dramatically. Today approximately 1,380 hold PhDs.

And education itself has changed in response to Latino impact. The federal government now funds bilingual education. Laws in California and Texas prohibiting the use of foreign languages on public schoolgrounds have been abolished.

Despite the fact that many bilingual programs are inadequately staffed, poorly researched and inefficiently administered, government funding indicates the importance of bilingualism. Indeed, proper bilingual instruction in elementary grades has two advantages:

It would ease both educational and cultural adjustment problems for the Spanish-speaking children in this country by teaching them English in a coherent, structured way:

And it would give Anglo students proficiency in Spanish.

Within the borderlands, fluency in both languages would be a great asset in international trade, law enforcement, and social and political interaction.

Nevertheless, bilingual instruction has been resisted by many educators and often by the public at large because they fear it will lead to the kind of factionalism that now divides Quebec. But are Latinos likely to become an irredentist element like the French in Quebec, agitating for a separate political destiny and cultural identity? Are the Spanish-speaking in the process of reacquiring the vast territories Mexico was forced to cede to the United States under the terms of the 1848 Treaty of Guadalupe Hidalgo? Questions like these have begun to echo in the regional and national press as the public has slowly become aware of the present and future importance of the Spanish-speaking minority.

But the questions, while suggestive, are based on false analogies. The Spanish-speaking constitutes a special case in the history of American immigration—one for which there is no exact parallel. For one thing, only several generations ago, this was their country. And understanding the role of language in a culture is key to comprehending the complexities of the Latino situation.

Language, of course, is an element of nationalism. But bilingualism in and of itself is not a cause for division; on the contrary, it can foster better understanding and encourage a greater degree of mutual acceptance. On the other hand, attempts to suppress a language *stimulates* nationalism. So the move toward improved bilingual programs is a healthy one.

Besides reforms in language programs, educators have made other changes. Ethnic studies at all levels now teach about Latino culture and history. And that information is being passed on to the Anglo community through the arts. Chicano muralists in California, for instance, paint their people's past on *barrio* walls. Luis Valdez dramatizes an incident in Chicano history in "Zoot Suit," a new hit play.

At the same time, Latinos are making substantial progress in political organization and activism. Groups like the United Neighborhood Organization (UNO) and the Santa Ana Neighborhood Organization (SANO) have instigated auto-insurance and civil-rights reforms. In the past, Mexican-Americans have not wielded political clout in proportion to their numbers. Activists hope to eliminate this lag. This month, for example, UNO began a massive voter registration drive.

Anglos, in the meantime, have suddenly recognized the power of the Chicano purse.

A recent study values the national Latino market at $50 billion annually. Ironically, this may stimulate the most vigorous interaction between the two ethnic groups to date. Anglos have never been slow to exploit a bright new market

On the other hand, neither have Mexican entrepreneurs, who tantalize Anglos with visions of exotic vacations and affordable nearby vacation homes. Bajamar, a new development south of Tijuana, promotes its homes in Los Angeles newspapers as places where Anglos can "recapture their California dream."

English lessons, widely advertised and attended, sell prospective students by pointing to the large Anglo market. The Mexican Border Industrial Programs of 1965 spurred new commercial growth. New highway construction spread the commercial potential over a wider area of the Mexican borders.

And business opportunities do not seem likely to decline American companies are expanding their labor-intensive border industries all along the international line, escaping high U.S. wages and union organization.

Borders are no longer the impenetrable barriers we once thought them to be. It may even be to our advantage to redefine them. Immigration patterns to this country are changing. Undocumented workers arrive here from all nations traveling in everything from frail open boats across unsafe seas, like some Haitians and Cubans have done, to inexpensive transoceanic flights.

Old immigration patterns are largely obsolete. But the Mexican case is unique. The historic borderland phenomenon offers great potential for mutually beneficial economic and cultural exchanges between Mexico and this country.

The six Mexican states bordering North America are likely to have a combined population of 14 million by 1980—up 5.5 million since 1960. From Brownsville, Texas, to San Ysidro, California, borderland interdependency has increased. In fact, the expansion

of modern Tijuana with an estimated population of 850,000 and the greater San Diego spread with 800,000 population combine to make one of the largest urban complexes on the West Coast. It is time to blur the rigid demarcation line between Mexico and the United States and begin to treat the borderland complex as the unit it really is.●

BALANCE OF POWER SERIES: BOOK II (I)—NATIONAL MORALE

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 14, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, past selections in this strategic balance series have dealt with Soviet national character and political culture, as they differ from the American consciousness. These characteristics provide the institutional and behavioral framework on which national strength must be built.

A related factor is morale, which links that strength to its basis in the population as a whole. Although, like the other two factors, morale is difficult to describe or measure, it has clear bearing on the range and flexibility of options which any country may follow in establishing its strategic position.

The following article focuses on one outstanding difference in morale between the United States and the U.S.S.R.: the orientation of the population toward war and the military.

"The 'Militarization' of Soviet Society" is an article by Col. William E. Odom which describes in detail the steps taken in Russia to maintain a broad and high level of conversancy with military matters. This characteristic, not unique to contemporary Russia, is important not only for military manpower purposes, but in creating a national morale which supports those measures Soviet leadership finds necessary to the achievement of its strategic objectives.

This article first appeared in Problems of Communism, September–October 1976. The first part of Colonel Odom's article follows:

THE "MILITARIZATION" OF SOVIET SOCIETY

(By William E. Odom)

(Col. Odom is Associate Professor in the Department of Social Sciences at the U.S. Military Academy at West Point (New York) and Senior Research Associate at the Research Institute on International Change at Columbia University (New York). His many writings on the Soviet military include The Soviet Volunteers: Modernization and Bureaucracy in a Public Mass Organization, 1973.)

Almost unnoticed by Western observers, an enormous military-educational complex is emerging in the Soviet Union today. It holds a commanding position in graduate education as well as in undergraduate training; it permeates the civil secondary-school system and ties up more than one-fourth of the population in voluntary work in support of military skill training; and it touches every Soviet citizen by entangling him in a nationwide civil defense structure. Before investigating this phenomenon, it may be useful to reflect on some of the reasons why a development of such significance has not drawn more of our attention.

In his monumental study of the nature of war, the well-known American scholar of international law, Quincy Wright, observed:

"States at war have tended to become socialistic, and socialistic states have tended to be at war. Modern socialism has in fact been the war organization of capitalism, in the same sense that feudalism has been the war organization of agrarianism. The modern socialistic state resembles the feudal state in its spirit and its organization." [1]

To those who have not considered this viewpoint or who have been either too bored or too confused by the din of Soviet propaganda on the war-causing nature of capitalism to think seriously about the relationship between war and socialism, Wright's proposition may occasion surprise. The rhetoric of Marxism, intended to inspire moral indignation over the distribution of income in market economies, has not encouraged us to ponder the military implications of political organization. And while Stalin's formula for Soviet development, "socialism in one country," is familiar to students of Soviet politics, its military corollary, "the militarization of the entire population," is not. Yet this was the policy advanced by the early Bolshevik military leader, M. V. Frunze, when he displaced Leon Trotsky in 1925 as head of the Red Army.[2]

Just as the slogan "socialism in one country" has substantive connotations, so, too, did Frunze's "militarization of the entire population" envisage substantive programs. The next war, Frunze contended, could not be won simply by a regular army led by astute field commanders; a winning force structure would have to be much more. It would have to provide units not only for the front but also for civil defense formations in rear areas, because modern aviation had made every village vulnerable to enemy attack. By the same token, moreover, the labor force of a war economy would have to be treated as part of the force structure.

For Soviet Russia, however, Frunze recognized that cultural and economic backwardness complicated the attainment of a modern military posture. It was impossible to employ such a total approach to *organizing* the society for war without also launching an extensive program to *train* the society for war. In Soviet jargon, this meant achieving mass "military literacy"—which, as the Bolsheviks were quick to discern, was closely related to the mass technical-cultural level. There was, they believed, a commonality here that would allow education policies to serve more than one purpose. In other words, the large overlap in training requirements for socialist industrialization on the one hand and for the society's militarization on the other hand dictated as much civil-military integration as was practicable. It did *not* encourage the differentiation of military organization so characteristic of Western armies; *nor* did it encourage differentiation on the civil side, where such differentiation would provide no immediate advantage from the standpoint of military manpower needs.

In actual practice, the principle of integration proved impossible to apply as completely as the Bolsheviks desired [3]—the ideal being the military and society woven into a single, seamless political garment—but it did produce a Soviet military infrastructure different from the military infrastructures found in Western democracies. The civil war experience, to be sure, forced the Bolsheviks to differentiate the military side from the civilian—that is, to build a regular army of the "barracks type." On the other hand, integration on the civil side—that is, organizing the civil society to support the military—was carried very far indeed, with results that Westerners found it difficult to comprehend. The degree of difficulty could be seen in the prevailing Western assessments of the Red Army on the eve of World War II. It was the exceptional observer who did not allow Stalin's purge of the officer corps to lead him to wrong conclusions about what remained of Soviet military power.[4] This was due in no small part to a mix of ethnocentrism and ignorance of Soviet military institutions.[5]

Ethnocentrism may be an even more important source of misperception of Soviet military policy than confusion about the programmatic implications of Soviet socialism. We in the West hold a unique view of civil-military relations, a view which derives from our particular experience with kings' armies in the development of liberalism in Western Europe and America and which was complicated by our special experiences in World War II. We find it difficult to comprehend the military policies of a society where the imperial monarch's army was for at least two centuries the fundament of domestic political order and where the successor "multinational" state has found its stability even more dependent on its military and police forces.

The Russian Marxist philosopher Nikolay Berdyayev put it perhaps too succinctly for us when he said, "Bolshevism entered into Russian life as a power which was militarized in the highest degree, but the old Russian State also had always been militarized." [6] The clarity of his brevity embarrasses us for our blindness to two sources of the militarization of the Soviet polity: (1) the military implications of Bolshevism; and (2) the military tradition that was always so strong in the Russian autocracy's approach to political, economic, and social organization. Seen in this political perspective, the extraordinary compatibility between Marxism and Russian imperialism occasions much less surprise than it does when viewed in the usual economic perspective of "Marx against the peasant," to borrow David Mitran's felicitous phrase.[7]

If we examine current Soviet military-education policy, it quickly becomes apparent that Frunze's prescriptions of the 1920's are highly descriptive of today's realities. Nonetheless, that policy is little studied, and when it is, its significance is usually missed or misconstrued.[8] If the task undertaken in this discussion is more modest than discovering the full significance of the present Soviet structure of military education, it does not preclude suggestive observations on that score. The author's primary purpose, however, is to offer an elementary exploration of the nature of the Soviet military-educational complex—a sense of its extent, design, and programs. At the same time, in looking for dynamic trends, we can perhaps infer something of the policy rationale behind them.

Let us therefore examine the following specific areas: (1) the growth of the system of officer-educational institutions; (2) the new disposition of the military basic training system in the secondary schools; (3) the altered role of the Voluntary Society for Assistance to the Army, Air Force and Navy (Dobrovol'noye obshchestvo sodeystiya armii, aviatsii i flotu—DOSAAF) in specialist training; and (4) the changing structure of the civil defense system. If the subject matter appears diffuse, that is simply because the "militarization" of a society is a diffuse (as well as herculean) undertaking.

GROWTH OF OFFICER EDUCATION

The Soviet Army has been plagued by a perennial shortage of officers adequately trained to cope with contemporary military technology. The educational effort to create a new class of "Red Commanders," begun in the ashes of the civil war, yielded spotty results at best, and even what it did accomplish in the way of producing better-trained officers was largely sacrificed in the Great Purges of the 1930's. Then World War II brought

---

Footnotes at end of article.

into the armed forces a new generation of young men who came largely from the peasantry, had no chance to acquire a sound education, and yet were thrust into top command posts. Bemedaled and over-ranked at war's end, they were hardly equipped to preside over military preparations for the nuclear age.

The twofold task in the postwar period, therefore, was to ease out the veterans and to develop a new corps of educated officers. A quick solution was impossible. Only a long-term program to develop a system of military education could provide a source of adequately trained officers. Siphoning them from the civil higher-education sector, which was not a great deal better off, simply was not an option. Nor was purging the veterans an easy matter. Mass retirements raised morale problems, because pensions and benefits were so meager that many Soviet generals faced retirement with horror.[9] Stalin's recall of Marshal Georgiy Zhukov from the obscurity of the Odessa Military District appears to have been related to a policy decision to get on with solving this general personnel problem, but developments of the period remain foggy for Western students.[10] Clear evidence of the direction that Soviet policy was taking in this area only began to appear in the early 1960's.

The number of officer-training schools, according to one Soviet source, commenced to grow not long after the addition of a military pedagogical faculty to the Lenin Military-Political Academy in 1959.[11] This was not, however, the first postwar expansion. New institutions had begun to appear immediately after the war with the creation of the Artillery Radio Technical Academy in 1946 and the Military Institute of Physical Education in 1947, supplemented in 1953 by the Command Signal Academy and the Military Artillery Command Academy.[12] In addition, several new officer schools with a course of three years or more and with authority to confer degrees in higher learning were opened, predominantly in the 1949–52 period.[13] The curricula of these new schools showed a strong engineering-technical profile, foreshadowing a trend that was to emerge more strongly in the 1960's in response to what the Soviet authorities have called the "revolution in military affairs" since World War II.[14]

To gain a rough idea of the base from which the postwar growth started, it is necessary to look at the prewar size of the officer-education system. By 1939, it included 14 academies (for advanced and special training for company- and field-grade officers) and 109 officer-commissioning schools of all types.[15] In other words, the postwar growth has presumably added to these 123 institutions. For purposes of comparison, a tally of all the military schools, academies, and institutes listed in the military press during 1973–75 yields a count of 161. Because this figure includes no officer-commissioning schools for the security police (KGB), not to mention any secret or unlisted institutions, it is a very conservative total. Even so, it shows that there has indeed been significant quantitative growth.

A sense of the hugeness of the military school system may also be gained by comparing the civil and military sectors. In 1972, there were 811 civil institutes of higher education—*VUZy*.[16] If the 125 military higher schools are added to this number, making a total of 936, the military schools amount to more than 13 percent; in other words, about one in every seven or eight college-level institutions in the USSR is an officer-commissioning school roughly analogous to the United States' service academies at West Point, Annapolis, and Colorado Springs.. The 23 Soviet military academies and institutes, which require a higher-education degree for entrance, have no precise civil counterpart, but they may be roughly compared with the 52 Soviet universities constituting more than 30 percent of the combined total of 75.

Officer-educational institutions in the U.S.S.R.

Type	Middle schools [1]	Higher schools [1]	Academies, institutes
Academies	—	—	16
Institutes	—	—	7
Combined-arms schools	1	9	—
Tank schools	—	9	—
Artillery schools	1	15	—
Anti-aircraft artillery schools	—	5	—
PVO (air defense) schools	5	9	—
Airborne schools	—	1	—
Aviation schools	2	28	—
Military engineer schools	—	3	—
Signal schools	—	12	—
Motor transport schools	—	3	—
Chemical defense schools	—	3	—
Rear services, railroad, and construction schools	2	6	—
Civil defense schools	1	—	—
Naval schools	1	10	—
Military-political schools	—	10	—
Military-political schools	—	5	—
Border troops schools	—	2	—
KGB schools [2]	?	?	—
Totals	13	125	23

[1] "School" as used here refers to *uchilishche*. The "higher" *uchilishche* confers a degree roughly comparable to a BS from an American college.

[2] KGB schools are publicly admitted to exist, but none has been openly identified in the last few years.

Sources: This tally is based solely on reports published in the Soviet press since 1973. It should be considered incomplete, accounting only for those institutions which have been mentioned in public print.

It would be misleading, however, to assume that these percentages also reflect the military share of students. Available information suggests that this share is significantly less than the military's share of educational institutions. The average size of the student body in civil schools is 2,850 for fulltime (that is, day) students and 3,640 if night students are included.[17] It is extremely doubtful that military schools have such large student bodies. Although the present average size is not known, figures provided by the late Marshal Grechko for the year 1941 indicate that the average student body in military schools at that time was about 1,100.[18] The difference at the university level may be even greater. One can only guess at the student-body size for military academies, but it would have to be small indeed to offset the strikingly large military share of total university-level institutions. Nor should one forget that the military academies and schools have high priority in material support, student recruitment, and faculty selection. Compared to the provincial institutes of agriculture and pedagogy, which are the most numerous civil schools, the military schools are vastly superior. In any event, the military's quantitative share of the overall educational system remains impressive.

Quantity, however, may be less important than the change in the qualitative characteristics of Soviet military education. In order to appreciate this change we must first understand the general classifications of Soviet military-educational institutions.

The most numerous type of institution is the military uchilishche, or school. There are many subclassifications within this general category (e.g., engineer, technical, command, etc.), but it is more important to underscore that the schools are of two different levels. First, the "middle" uchilishche is actually comparable to a Western secondary technical school. It was the predominant type in the prewar period and usually offers a two-year curriculum. Second, the "higher" uchilishche normally offers a four-year course, although five-year courses have become increasingly common. Graduation from the higher school carries a "higher-education" degree, roughly equivalent to a bachelor of science degree in the United States. It is approved and authorized by the Ministry of Education just like degrees conferred by any Soviet civil educational institution.[19]

The "academies" have even higher status as the crowning institutions of this vast educational complex. Their faculties supervise original research and grant the highest academic degrees: the "candidate of sciences" and the "doctor of sciences." The "institutes" may be considered to stand on the academy level, but they are highly specialized—for example, in finance, languages, and even music. Graduate degrees from the academies are usually in military sciences but may also be in the natural and social sciences. The academies, therefore, can be thought of as military universities with graduate faculties. Officers, if they already have a "higher-education" degree, may apply for admission to an academy for a graduate degree program, normally-three years in length.[20]

A few additional administrative details about officer graduate and postdoctoral training are essential to an appreciation of the vastness of the military-educational system. First, the graduate education program includes study by correspondence. If an officer is accepted for a graduate degree program in correspondence status, he is granted relief from some of his duties in his unit.[21] Normally such a program can be completed in four or five years. Second, military officers may study in civilian institutions for a particular specialty. Although it is not entirely

Footnotes at end of article.

clear how this program works, it does help to train teachers for the military academies and schools,[22] and it probably provides specialists in areas where the military institutions have either no graduate programs or only weak ones. In the case of the Moscow Finance Institute, a military department has been established in this otherwise civilian institution. Third, officers who hold advanced degrees may be employed in civilian institutions for research purposes or activities in which their training is needed. Throughout the prestigious USSR Academy of Sciences, for example, one may find generals, admirals, and officers with advanced degrees working in their particular fields of expertise. Administratively they are usually on "reserve" status, receiving only part of their pay from the military and the remainder from the institution in which they work. Clearly the civil sector is quite porous, permitting the military to move in and out of almost all educational and research activities.

QUALITATIVE CHANGE

Having surveyed the growth of the officer-education system and the different types and levels of educational institutions the system now embraces, let us turn our attention to the change that has taken place in the quality of Soviet military education. One clue to this change is provided by the data in the table presented earlier. Fifteen years ago, the number of schools in the middle column (higher schools) would have been very small, with the largest number falling in the first column (middle schools). As the table shows, this profile is now essentially reversed. One Soviet military commentator noted in 1972 that "only in the last few years the proportion of higher schools and academies in the total number of schools . . . has almost doubled.[23] Furthermore, many of the higher schools now have graduate programs, bringing them closer to the status of the academies. As a consequence, the latter no longer holds a monopoly at the highest educational level, particularly in the scientific disciplines and applied engineering.

The buildup of the system of higher military education has entailed some problems. Merely to staff all the new faculties, the Ministry of Defense has obviously had to push officer graduate education to the system's maximum capacity. The head of the Vilnius Higher Command School of Radio-Electronics—under the Air Defense Forces (Protivo-Vozdushnaya Oborona—PVO)—recently told of the harried experience his school went through in moving up from "middle" to "higher" status. In 1971, only one member of the teaching staff possessed a higher degree; as of early 1976, 14 members had such degrees, and numerous others were completing dissertations.[24]

At the same time, the buildup has made a considerable imprint on the officer corps. In the armed forces as a whole, 45 percent of the officers now are engineers or technicians with higher degrees, with the proportion 75 percent in the rocket forces.[25] All commanders at brigade level and above, and 80 percent of those at regimental and lower levels, have higher degrees, i.e., a BS equivalent or better.[26] Though such figures would hardly be impressive for a Western country, for the Soviet Union they reflect a remarkable transformation of the officer corps.

Thus far we have mentioned only the education of officers within the domain of the Ministry of Defense. It no longer stops there, however, but has been extended into the civil sector through the introduction in 1970 of military departments into every civilian institution of higher education.[27] These departments were not always happily received, but their effect was to create a system not unlike the Reserve Officers' Training Corps in U.S. civilian colleges. A crucial difference, however, is that every able-bodied Soviet male student at a civil "higher" educational institute is obligated to participate in the program and receives a reserve commission upon graduation. This reserve system, of course, provides a great mobilization pool, but it also brings another advantage. Almost anyone with higher education can be co-opted for military employment by being called to active duty as a reserve officer. Thus, scientific and technical elites can easily be drawn from the civil sector to meet military research and development demands. Scientists and engineers simply put on uniforms.

If the reserve officer program in some respects militarizes the civilian technical intelligentsia, the military academies and schools proper are creating a distinctive "military intelligentsia." The regime is highly conscious of this social development and fosters a positive image of the educated and sophisticated officer. For example, a 1973 article in the military press stressed the need for developing the intellectual qualities of Soviet officer personnel.

While admitting that the terms "intelligentsia" and "intellectuality" had pejorative connotations for many Soviet officers—especially because they had been applied to "reactionary" elements in the pre-revolutionary intelligentsia—the articles emphasized that such ideas must be abandoned in the contemporary epoch. "The cultured officer," wrote the author, "is a man of moral conviction and deep learning in Marxism, one who has a broad understanding of literature and art. It is possible to converse with him on many subjects, to discuss the latest literature, music, and painting." The article hastened to add that such intellectuality is not ensured by mere possession of a diploma of higher learning.[28]

Is the system of officer education described above—perhaps the most intensive as well as the most extensive the world has yet seen—an aberration in the Russian historical context? Not entirely. It was for military purposes that Peter the Great launched a special system of public schools for the sons of the service nobility. These soon faded, but by the end of the 18th century there were four cadet corps. The 19th century witnessed an exponential expansion of military schools which was not matched in the civil sector until the *zemstvo* (organs of local government) much later became actively concerned with public education. Twenty percent of all elementary school children were in military schools by 1830, and 30 percent by 1850. On the secondary level, the number of cadet corps rose to 19 by mid-century. A number of specialized or "technical" military secondary schools also appeared. At the higher-education level, the Military Surgical Academy was founded in 1800, and the General Staff Academy in 1832. Then came the Military Engineering Academy, the Artillery Academy, and the Military Juridical Academy, followed by a proliferation of additional technical institutions in response to what could well have been called a forerunner of the "revolution in military affairs" that Soviet writers speak of today.[29]

Thus, the Russian imperial system of military education, although it has been practically ignored by Western historians, was large indeed. However, it was not until after the military reforms implemented in the 1870's by D. A. Milyutin, then Minister of War, that the Russian Army slowly developed the mass mobilization capacity that allowed it to enter World War I on a grand scale. Nevertheless, as we turn our attention from officer education to the training of troops, we shall see that Russia's late start in mass recruitment has not prevented the Soviet regime from developing an incredibly large troop-training capacity.

FOOTNOTES

[1] *A Study of War*, 2nd ed., Chicago, Ill., University of Chicago Press, 1965, p. 1172.

[2] See M. Frunze, *Izbrannyye proizvedeniya* (Selected Works), Moscow, Voyenizdat, 1984, p. 180. Two essays in this collection, "A Unified Military Doctrine" and "Front and Rear in Future War," elaborate Frunze's assumptions and make clear that he was quite serious about militarizing the state apparatus and the society.

[3] On the failure of A. V. Lunacharskiy, the first People's Commissar of Education, to orient the Soviet education system toward satisfying the Red Army's demands, see Sheila Fitzpatrick, The *Commissariat of Enlightenment*, Cambridge, England, Cambridge University Press, 1970, pp. 284, 289.

[4] See, *e.g.*, J. S. Herdon and J. O. Baylen, "Col. Philip R. Raymonville and the Red Army, 1934–43," *Slavic Review* (Champaign, Ill.), September 1975, pp. 483–505, for an interesting account of some of the Western reporting at the time.

[5] Since writing these lines, the author has seen John Erickson's *On Investigating Military Institutions*, The Waverly Papers (Occasional Papers: Series 3), University of Edinburgh, Scotland, November 1975. Erickson is unique in his early sensitivity to this problem, and his prodigious scholarship is leading the way in breaching the ethnocentric barrier.

[6] *The Origins of Russian Communism*, Ann Arbor, University of Michigan Press, 1960, p. 120.

[7] In his *Marx Against the Peasants: A Study in Social Dogmatism* (London, Weidenfeld and Nicolson, 1951), Mitrany calls attention to the stubborn emphasis that Marxists in Eastern Europe placed on the industrial worker despite the fact that the peasantry constituted the largest social stratum and the stratum of industrial workers was extremely small. Consequently, from the viewpoint of the socioeconomic structure, Marxian socialism seemed dogmatic and inappropriate.

[8] For example, Herbert Goldhamer, in his *The Soviet Soldier*, New York, Crane and Russack, 1975, manages to examine several features of the Soviet military-educational complex without grasping either their military or political implications (though admittedly his chosen task of proving that the Soviet soldier is not ten feet tall did not require that he discover such implications). Also, Jeffrey Record's *Sizing Up the Soviet Army*, Washington, D.C., The Brookings Institution, 1975, pp. 10–11, is at fault in giving an inaccurate view of the institutional arrangements for basic military training. Record goes astray in relying too heavily on Goldhamer and on James A. Barry, Jr.'s "Military Training of Soviet Youth," in *Military Review* (Fort Leavenworth, Kansas), February 1973, pp. 92–103. Although Barry accurately describes the changing preservice military training system, his reasoning about policy motives—notably his contention that the military vigorously opposed the changes—is unsupported by evidence and most likely wrong. On the other hand, Leon Gouré's *Civil Defense in the Soviet Union*, Berkeley, Calif., University of California Press, 1962, is a valuable contribution, though outdated in some respects—a defect he is reportedly remedying in a forthcoming new volume. Similarly, Robert G. Wesson's article, "War and Communism," published in *Survey* (London), Winter 1974, pp. 101–17, shows a real appreciation of the military character of communism, although it unfortunately deals with the subject in general terms rather than in terms of specific programs. John Erickson is perhaps the outstanding exception. His article, "Soviet Military Manpower Policies," in *Armed Forces and Society* (Chicago), November 1974, pp.

29–48, provides solid, up-to-date data relevant to Soviet military-education policy. Some of the same evidence will be treated here in an effort to bring additional perspectives to bear.

[9] For a description of senior officers' sentiments about retirement, see *The Penkovskiy Papers*, Garden City, N.Y., Doubleday, 1965.

[10] See W. J. Spahr, "The Political Socialization of the Soviet High Command, 1957–1967," unpublished PhD. dissertation, George Washington University, Washington, D.C., 1972, for some interesting glimpses through the fog.

[11] *Voyennaya pedagogika* (Military Pedagogy), Moscow, Voyenizdat, 1973, p. 72.

[12] *50 let vooruzhënnykh sil SSSR* (50 Years of the Armed Forces of the USSR), Moscow, Voyenizdat, 1968, p. 489.

[13] *Ibid.*

[14] On the Soviet conception of this revolution, see *Nauchnotekhnicheskiy progress i revolyutsiya v voyennom dele* (Scientific-Technological Progress and the Revolution in Military Affairs), Moscow, Voyenizdat, 1973. See also John Erickson, Ed., *The Military Technical Revolution*, New York, Praeger, 1966, for a Western analysis of the same phenomenon, and W. L. Kintner and H. F. Scott, Eds., *The Nuclear Revolution in Soviet Military Affairs*, Norman, Okla., University of Oklahoma Press, 1968, for translated materials setting forth Soviet views.

[15] A. A. Grechko, *Vooruzhënnyye sily Sovetskogo gosudarstva* (The Armed Forces of the Soviet State), Moscow, Voyenizdat, 1974, p. 207.

[16] *Narodnoye khozyaystvo SSSR, 1922–1972* (The USSR National Economy, 1922–1972), Moscow, "Statistika," 1972, pp. 430–32.

[17] *Ibid.*, pp. 432 ff.

[18] Grechko, *op. cit.*, p. 208.

[19] For details on this classification of schools, the curricula, degrees, and entrance requirements, see *Voyennyye Akademii i uchilishcha* (Military Academies and Schools), 2nd ed., Moscow, Voyenizdat, 1974, pp. 100 ff.

[20] *Ibid.*, p. 192.

[21] *Spravochnik ofitsera* (Officer's Reference Book), Moscow, Voyenizdat, 1971, pp. 210–15.

[22] See V. Staritsyn, in *Krasnaya zvezda* (Moscow), March 12, 1975.

[23] B. Sapunov, in *ibid.*, Feb. 3, 1972.

[24] K. Logvinovskiy in *ibid.*, Feb. 1, 1976.

[25] *XXIV s'yezd Kommunisticheskoy partii Sovetskogo Soyuza, stenograficheskiy otchët* (24th Congress of the Communist Party of the Soviet Union, Stenographic Report), Moscow, Politizdat, 1972, p. 349.

[26] Grechko, *op. cit.*, p. 212.

[27] See "In the Military Faculties," *Krasnaya zvezda*, Nov. 29, 1972.

[28] I. Ovcharenko, "Intellectuality," in *ibid.*, March 11, 1972.

[29] On the prerevolutionary development of military education, see L. G. Beskrovnyy, *Russkaya armiya i flot v XIX veke* (The Russian Army and Navy in the 19th Century), Moscow, Nauka, 1973, pp. 103 ff. and 164–250.●

CIVIL SERVICE REFORM

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 14, 1978

● Mr. FRENZEL. Mr. Speaker, yesterday I was not present, having returned to Minnesota for Tuesday's primary election. Had I been present, I would have, in accordance with my statement previously printed in the RECORD, voted for the bill to reform our civil service, H.R. 11280.●

HONOLULU'S NUN IN BLUE

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 14, 1978

● Mr. HEFTEL. Mr. Speaker, the August issue of the FBI Law Enforcement Bulletin contains an article written by "The Blue Nun," Sister Roberta Julie Derby, who is the chaplain of the Honolulu Police Department. The description of her work and the positive impact that a chaplain has in "line" police work is good reading, and I commend this article to my colleagues.

The article follows:

HONOLULU'S NUN IN BLUE

(By Sister Roberta Julie Derby)

Are they the "Blue Knights," noble, fearless, unfailingly courteous, and always right; or are they corrupt, dense, sadistic, philandering hypocrites? Do they work as members of a disciplined professional team, adhering scrupulously to the prescriptions of the law and a demanding agency code of conduct; or do they operate as erratic vigilantes—either loners of two-man buddy combinations whose values are "flexible" enough to substitute venegeance for justice and force for discernment?

Are the police physical and psychological supermen and wonder women who day after day can confront cruelty, violence, fraud, and every other species of evil without experiencing any moral or emotional disturbance; or are they ill-balanced weaklings who turn to alcohol, promiscuity, and reckless driving off duty to blot out the experiences, either professional and personal, with which they cannot cope? Are they, despite quasi-military discipline and numerous agency efforts ranging from athletic tournaments to religious services designed to build esprit de corps, chronic rebels against authority and detractors of their fellow officers; or is the "brotherhood of the badge" such an all pervasive mystique that no one outside the police enclave is trusted, even to the extent that wives and children find that social and recreational activities are almost exclusively police oriented?

There is a popular interest in such questions today. Novels, plays, newspaper editorials, letters to editors, learned journals of the behavioral sciences, movies, TV series, and comic books address themselves to exploring and dissecting the police psyche, the police idealism, and the police morality. To the general public, this interest may range anywhere from faddish titillation to genuine social and moral concern. However, for criminal justice specialists, the answers to these questions are relevant to efficient law enforcement, to the building of community confidence in the police, to keeping the peace.

Like so many either/or questions, these do not admit to simple "yes" and "no" answers. There may be times when police public relations officers may overaccentuate the positive and characterise the average patrolman as Tennyson presented Sir Galahad, "My strength is as the strength of ten because my heart is pure." Meanwhile, members of the Bureau of Internal Affairs, who investigate citizens' complaints against the police, may agree with the myth that only the drinker of dragon blood can slay a dragon.

This writer is not a public relations officer. However, frequently I address professional and community service organizations and offer positive and reassuring interpretations of the police officer as a humane and dedicated professional, but not secure against making mistakes or acting selfishly.

Neither does the writer work out of the Bureau of Internal Affairs, although part of the job is to see and listen to officers who may have been disciplined. My badge is silver, not gold; and I address sergeants as "sir." Law enforcement is not my profession, but the questions raised earlier about the police personality are of as great a concern to me as to any chief of police or idealistic police cadet.

I am Sister Roberta Julie Derby, a member of the Roman Catholic congregation of the Sisters of Notre Dame De Namur. However, for the past several years, I have served as Chaplain Derby, Coordinator of the Honolulu Police Department's Chaplain Corps, and like the other five members of the corps, a sworn reserve officer assigned to the department's personnel division, wearing the blue serge of the Honolulu Police Department and badge No. 501.

When I began working with the department, my presence in patrol cars, at the receiving desk, and in the squad room was looked upon initially with curiosity and even suspicion on the part of some of the personnel, but those attitudes are hardly remembered anymore. Only when some civilian, usually a tourist, takes a startled second look at the short blue veil fluttering out the patrol car window do "Honolulu's finest" reflect that it must seem unusual for a nun, particularly a rather grandmotherly looking nun, to be "riding shotgun." When asked about the nun in blue, officers answer with an almost mischievous nonchalance, "Oh, that's our chaplain," which almost inevitably elicits a second question, "But what does she do?"

A chaplain's pastoral duties include a number that are specifically ceremonial. Over the years, officers can recall many occasions which have commenced with the words, "Let us bow our heads in prayer." Many remember when members of the patrol division stood at smart attention on the occasion of two of their brother officers receiving decorations for valor, while a nun in a dark blue uniform led them in St. Francis' Prayer for Peace. Or when, a few weeks later, the folds of her long white gown moved in the wind almost in time with the poignant bugle call as that last farewell was sounded at Punchbowl's National Cemetery of the Pacific for an officer killed in the line of duty.

Ceremonial duties are the more public portion of the pastoral element of a police chaplain's work; counseling and consoling are the private and personal services for which the chaplain is responsible. The chaplain corps spends many hours each week working with officers or members of their families who are troubled or perplexed and therefore seek assistance from counselors who are objective, sympathetic, trained to listen, and happy to give their time to the needs of the police community.

Among the questions brought to the chaplain's desk are queries related to the stability of marriages. Spouses, parents, children, in-laws, even sometimes a person forming the third side of a triangle, come for guidance, courage, and often, merely a word of understanding. We dislike such terms as "promiscuous" and "philandering" applied indiscriminately to police officers, but recognize some conditions of police work are potential hazards to the stability and harmony of marriages. Shift work which limits the time officers can spend with their families, the need for secrecy and evasiveness in some kinds of undercover assignment, the physiological and psychological tensions that develop from mounting competition as one moves up in the ranks, and the temporary but intense ego-stroking that many officers receive from chance encounters with "interesting" people can strain any marriage, especially those which may have been entered into when the parties were under social constraint because a child had been conceived out of wedlock or when

the parties were immature or unsure about their basic responsibilities. Another problem area is extravagance. When marriage counselors talk shop, they agree that financial instability is the cause of as many marital breakups as sexual boredom or interfering in-laws.

Marital difficulties are not the only problem situations about which members of the department and their dependents seek the police chaplain's counsel. Job-related matters, from personality clashes with supervisors to contemplated transfers to other divisions, or anxieties regarding present job performance may bring an officer to the chaplain's desk. Sometimes a shop steward or business agent of the police collective bargaining organization will recommend that an officer who contemplates filing a grievance first see the chaplain. Coping with department penalties for violating rules and regulations, even when the subject admits the punishment is justified, can be a shattering experience. In this kind of circumstance, the chaplain's role is not so much to advise as to listen and to communicate respect for the person affected.

There are other questions that come the chaplain's way. How does one cope with a spouse's or child's terminal illness? What school is the best choice for one's exceptional child? What is the best way to make amends for an injustice done to a confrere? These are a few of the queries that police personnel seek help in answering.

For the man or woman with questions, it is the chapalin's place to counsel, when this is possible. For those who are suffering, it is the chaplain's work to console. The sudden death of a loved one, a permanently disabling injury carrying separation from the department as a result, unexpected termination where less drastic disciplinary action had been expected, failure when success had seemed assured, and the ignominy of being unjustly accused are all too frequent occurrences in the lives of police officers. One experiencing these kinds of pain needs the warmth of human compassion and the encouragement to seek a help more powerful than any mere human being can give.

The knowledge gained from the pastoral category has developed an admiration for brother and sister officers of this chaplain. So often, they are carrying heavy burdens of emotion before they hit the road. The community is intolerant of a mistake or lack of control on the part of an off-duty police officer, regardless of the burden of pain, sorrow, or guilt he may be carrying. I do not find it surprising that occasionally an officer yields to the pressures within. What is truly astonishing is that by far the most do not.

Ordinarily, the actions of counseling and consoling are thought of as being carried on in a one-to-one setting. However, there are times when pastoral concern dictates that the chaplain address a large number of personnel simultaneously, such as when there has been a line-of-duty death or the sudden death of a member who had apparently been in vigorous health. The grief that comes from such incidents is communal and must be borne together.

A chaplain's educational functions are divided between services to members of the department and those to the general community. Chaplains assist the training division in teaching classes in ethics and in-service classes designed to help officers cope with associates who have problems with alcoholism. We are also assigned to conduct orientation classes for recruits, reserve officers, and their spouses. In cooperation with the community relations division, chaplains are available for presentations to schools, religious groups, and community service organizations.

The police chaplain's ministry is primarily to the personnel of the department and their families. To fulfill that ministry realistically, the chaplain cannot be content with holding an honorary commission or with limiting activities to ceremonial occasions, to the shelter of an upstairs office, or even the austere security of a basement squad room. Service means presence—knowing "what it is like out there." It does not mean simply riding in a squad car under controlled circumstances, but accepting regularly the same rules and the same risks that other members of the department must accept, with the exception of apprehending, arresting, detaining or searching, and of course, carrying a weapon.

When a "DOA" call comes over the radio, this chaplain responds with officers in order to give whatever support is possible to surviving family and close friends, often helping them gain enough composure to answer the investigating officers' questions. With such poignant moments, it is not hard to admire the sensitivity and compassion of the officers with whom I work. Police officers must learn to deal with tragedy and horror objectively, but that does not mean coldly or even routinely. Honolulu officers are neither ashamed nor unable to communicate their sympathies.

Sometimes when every available officer must be in action on a scene, I am assigned to maintain radio contact with Central, so "Chaplain No. 3 standing by for 39 (or 88 or 159, etc.)" has become a normal transmission on HPD's radio frequencies. Although not a CB'er, I have acquired a "handle" among the Island's "good buddies" who speak of me as "The Blue Nun."

Beat officers often call for my assistance in attempted suicides and domestic disturbances. To many persons the sight of the blue veil, whether because it sparks curiosity or because it raises long buried memories of a more tranquil existence, brings a quieting of agitation. That surprise attention-getter, the veil, seems particularly effective when responding to a complaint of a loud party. Then there is the story of the occasion when the motor patrolman with whom I was riding was dispatched to investigate a complaint of a barking dog. On completing the assignment, the officer is said to have radioed Central: "Noise abated. I talked to the dog's owner; Sister Roberta talked to the dog."

Often asked, "Aren't you ever afraid?" "Of course," I answer, "wouldn't you be?" Sometimes I am afraid, and often I'm saddened. High speed chases on wet freeways scare me, so does the possibility of walking into a situation where a gun is involved. I really do not like the sight of wounds and blood or the smell of death. I deplore profanity, especially when suspects or bystanders direct it at me, which they sometimes do. I do not enjoy getting drenched by winter rains at an accident scene. I get very sleepy at 0400 hours, knowing that recall won't be made until 0710 hours. I want to cry out at the horror of child abuse and the revolting cruelty of deliberate arson on inhabited dwellings. I'm not the only one wearing a badge who feels this way, but for the sake of the community, some men and women must be willing to cope with these things, frightening and distasteful as they are. My fellow police chaplains everywhere have similar feelings, but we continue to ride beside the law, because we believe the law deserves the "presence of the prophets."

Regardless of why individual men and women may have chosen law enforcement as a career, regardless of their personal concepts of religion, morality, and ethics, they have committed themselves to keeping the peace and that means giving witness to the reality of justice and also accepting man's need for mercy. Whether one believes in a personal God or sees ultimate goodness inherent in man himself, one must recognize that the peace and happiness all men crave can develop only insofar as justice and mercy become universal goals.●

DESTABILIZATION OF NICARAGUA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 14, 1978

● Mr. McDONALD. Mr. Speaker, the past year has provided the world with an ominous demonstration in Nicaragua of how the United States of America, formerly the defender of the Free World, has retreated from greatness so far that it is acquiescing, if not aiding in a protracted assault by the Communist totalitarians against a Free World nation long allied with the United States.

This radical change in American foreign policy developed after key posts in the National Security Council and State Department were given to persons who had already demonstrated their hostility to traditional American anticommunism, their contempt for the idea that America should continue to support its long-term, consistent political allies, and a fascination with the non-Soviet styles of Marxist-Leninist regime, such as Cuba under Castro, which are just as repressive as the original Moscow model.

The result has been that the U.S. Government has withdrawn its support of the Government of Nicaragua and its President that coincides with an intense campaign of urban terrorism bordering on civil war by Cuban and Soviet-supported revolutionaries calling themselves the Sandinist National Liberation Front (FSLN).

American policy toward Nicaragua—or lack of policy toward Nicaragua—has exhibited the sort of contradictions that have characterized the present administration's foreign policy efforts: an attack on a Free World ally for allegedly repressing the human rights of a Cuban and Soviet-backed terrorist group followed by an admission by our President that the human rights situation in Nicaragua has improved, but no real public alinement of the United States with the Nicaraguan Government against its attackers.

Predictably, the lack of U.S. support for the lawful government of Nicaragua has prompted certain opportunists in Nicaragua to make a political alliance with the FSLN and the Nicaraguan Communists, particularly through the "Broad Opposition Front" (FAO). The FAO, it should be noted, used the occasion of the FSLN terrorist attack on the Nicaraguan National Palace to call for the general strike that has aided in the disruption of the country during the increased FSLN attacks.

There has been a discernible timetable in the increase of violence in Nicaragua that began in August. First, the World Peace Council (WPC), the principal international Communist front aimed at influencing public opinion in Free World countries along lines favorable to the Communists and an organization controlled by the KBG and the International Department of the Soviet Communist Party Central Committee, opened a conference in San Jose, Costa Rica.

The FSLN territories have been allowed by Costa Rica, which has a long history of disputes with Nicaragua, to use that country as a refuge from which to organize their attacks; and a number of Costa Rican revolutionaries are members of the FSLN.

The WPC's San Jose conference by the so-called "Human Rights Commission" of this Communist front organization, generated anti-Nicaraguan publicity in the Latin American press in advance of the FSLN attack on the National Palace. The WPC conference featured such well-known FSLN spokesmen and members as Fr. Ernesto Cardinal and Liana Benavides, a Costa Rican citizen.

As the WPC meeting drew to a close, in Nicaragua the construction workers union and carpenters union struck in support of hospital workers who were demanding a 55-percent raise.

On August 17, the Cuban radio band for the "Revolutionary Armed Forces and Interior Ministry Combatants Political Information Program" delivered an emotional diatribe against the Nicaraguan Government accompanied by complete endorsement of the terrorist FSLN's leadership of "generalized rebellion" and of the "Group of 12," of opposition political personalities which supports the entry of the FSLN into a proposed coalition government. The Cuban broadcast to "Interior Ministry Combatants" concluded:

> The flame which Augusto Cesar Sandino lighted in that Central American country is burning brightly. Sandino is with the present generation of Nicaraguans. He is with the combatants in the mountains and the cities, and with the peasants, workers and students who are oppressed by the savage tyranny. For the Nicaraguan people, yesterday's motto is the same today: Liberty or Death.

Experienced intelligence analysts regard that Cuban message as the authorization to the FSLN to commence the attack on the National Palace and the generalized armed struggle in the cities and towns including use of elements hastily recruited by the FSLN from the student and other sectors.

The Cuban Communists have not bothered to conceal their support for the FSLN during recent weeks. It should be recalled that in December 1974, FSLN terrorists took hostages to obtain the release of their jailed comrades and were flown, along with the released terrorists, to Havana where they received a warm welcome. This was repeated in the August attack by the FSLN on the National Palace in Managua. The 25 members of the FSLN attack team and 59 released FSLN terrorists were flown first to Panama. Then 22 of the FSLN attack team members continued on to a hero's reception at Havana airport.

The official Cuban support for the FSLN is continuing. On September 9, the front page of Granma, the official organ of the Central Committee of the Communist Party of Cuba, published a statement of solidarity with FSLN which hailed the Marxist terrorist organization as the "vanguard" of the "Nicaraguan people's anti-Somoza struggle."

As far as the Marxist terrorists and their Cuban backers are concerned, it is time for an all-out effort using "all methods of armed struggle," including terrorism to try to overthrow the Nicaraguan Government and its President. Recent indications are that the Nicaraguan National Guard has been able to regain control of areas held briefly by the FSLN in recent days, and that some FSLN units have fled to their Costa Rican refuges. Nevertheless, the situation remains serious because if this armed offensive fails, the Nicaraguan Marxists will shift their tactics to economic and political warfare.

The sort of massive repression that the FSLN would inflict on the people of Nicaragua is plain from their alinement with the Cubans and from the endorsement given to the FSLN by the terrorist Palestine Liberation Organization (PLO) this year in Mexico City. Those who collaborate with the FSLN are writing out death sentences for thousands of their countrymen. It is the duty of all the nations of the Free World to come to the aid of Nicaragua and prevent it from becoming the new Cuba. As one of our American Founding Fathers, Benjamin Franklin, said:

> We must indeed all hang together, or, most assuredly, we shall all hang separately.●

MIA SIGHTINGS IV

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 14, 1978

● Mr. DORNAN. Mr. Speaker, Mrs. Le. Thi Ahn has transmitted to me another letter on the issue of the missing in action. This piece deals with the graves of American soldiers listed as missing in action. It does not deal with any live sightings. However, I will be receiving and transmitting to this House, continuing in sanitized form, further correspondence pertaining to reports of live sightings of Americans in Vietnam after the Vietnamese war.

I have already sent this correspondence to the Defense Intelligence Agency for analysis. And I ask that Members of this House give every consideration to the possibility that there are, to this very day, Americans living in captivity in Southeast Asia. I insert the following piece into the RECORD for the edification of my colleagues:

> DEAR MADAME: I had the privilege to learn about you on the Trange Den Magazine. I am a Vietnamese refugee who just arrived in Malaysia. During the escape, very dangerous and very exciting, I brought along with me an American child. He has American citizenship and his parents could not take him out of Vietnam in 1975 in the same trip. I have dreamed of the grave of 2 American airforce officer. It was at the sea shore, the American child, his parents already came and took him with them. Now, could you give me more solid information so that I can get in touch with you later.
>
> Signed (deleted.)●

CONFERENCE REPORT ON S. 3075, INTERNATIONAL SECURITY ASSISTANCE AUTHORIZATION FOR FISCAL YEAR 1979

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 14, 1978

● Mrs. COLLINS of Illinois. Mr. Speaker, I wish to advise my colleagues of my reasons for voting, however reluctantly, in favor of the conference report on S. 3075, the International Security Assistance Act of 1978. I did so because of the importance and clear urgency of acting in support of initiatives that are being made to bring peace and stability to both the volatile Middle East and war-torn Southern Africa. It is my opinion that the success of these initiatives depends greatly upon the $1,902 million economic support fund which the conference report provided. At this point in time, nothing is likely to aid peace efforts more than vital economic support which has the effect of easing pressures that always contribute to rashness and hostility. Still, I cannot leave unstated the grave reservations that temper my support for the conference report.

In particular, the conference report tends to ignore the reality of the current Rhodesian situation. In every instance, matters affecting the crisis in Rhodesia have worsened in recent weeks: there is, of course, no majority government and no convincing steps are being taken in that direction; hostilities are as great today as ever; indeed, one side talks of "liquidating" the other, which in turn says that the British-American "All-parties conference" initiative is "dead and buried.

In face of these harsh facts, the Congress cannot be too cautious in lifting the Rhodesian embargo—contingent upon hopes for free elections or the now unlikely possibility of a successful "all-parties" conference.

The embargo was placed against Rhodesia because the white minority regime of that country seized power illegally more than a decade ago and has continuously denied the black majority a meaningful role in their own governance. This is as foul and odious today as it was 10 years ago.

Mr. Speaker, it is not difficult to see that one of the reasons why this situation has already been drawn-out, causing so much pain to so many, is that we, and I am afraid the rest of the world also, have permitted the illegitimate regime in Salisbury to believe that it could somehow remain in power without actually mending its ways. This view and the intransigence it encourages simply cannot be condoned, and I think that it should be made clear that our action in supporting the conference report is not intended to give comfort to those guilty of stalling progress toward change.

I am also concerned about the administration's proposal to lift the Turkish arms embargo. Here, again, we may be placing hopes before reality.

The Foreign Assistance and Military Sales Acts are very clear. They restrict the use of U.S. supplied weapons for purposes related to the defense of the recipient country and U.N. sanctioned collective security arrangements. Turkey's 1974 invasion of Cyprus and its continued occupation of 40 percent of that country's land area was in clear violation of these provisions. Moreover creditable observers have found Turkey guilty of extensive violations of the human rights of the Cypriot people. It is difficult to separate U.S. supplied weapons from Turkish responsibility for these actions. Lifting the embargo, which has only been partial since 1976, could have the effect of placing our Government in even more direct and greater complicity with the illegitimate use to which Turkey has put weapons already provided by us.

Pursuant to these very real problems, all of which are cause for great concern, I would remind my colleagues that in supporting the conference report we assume a continuing responsibility for the attainment of peace with justice in all regions to which we have directed our substantial influence.●

BALANCE OF POWER SERIES: BOOK IV(F)—ARMS CONTROL

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 14, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, one of the most significant clues to Soviet strategic intentions and behavior is the method of diplomatic bargaining which they have used in their sessions with American arms controllers in Geneva and elsewhere. The diplomatic style of the Soviet Union has long been a subject of great mystery to most Americans, accustomed as we are to "square dealings," fairness, openness, and the classic Western style of diplomatic practice. Many years ago, when the cold war had just started, the West was startled by the rude and ideological method of Soviet diplomats. The word "nyet" became an American household word conjuring up the notion of Russian intractability. Since then, we have never really become used to the Soviet style of negotiation. We do not understand it and we have often expressed our confusion and—at times—hostility to the way in which our diplomats have been handled by the Soviets.

The following article by Igor Glagolev, who was a Soviet diplomat until his defection in 1976, should clarify many of the ambiguities which the Western mind entertains concerning Soviet diplomatic methods.

Appearing originally in Orbis, winter 1978, "The Soviet Decision-Making Process in Arms Control Negotiations" is an insider's perspective of the trained habits, and carefully calculated intentions, of Soviet officials in their arms control negotiations with the United States. Unless we are able to understand, and learn to appreciate, the ways in which the Soviets use such dealings for the purpose of furthering their own global cause we will never understand our own dilemma. SALT, to the Soviets, is much more than arms control—as Glagolev writes in the following article, SALT is another strategic maneuver in the incessant and protracted war for the Communist objective of a Soviet-dominated world state.

The article follows:

THE SOVIET DECISIONMAKING PROCESS IN ARMS-CONTROL NEGOTIATIONS

(By Igor S. Glagolev)

The problem of how to limit strategic weapons has become the central question in arms control. Indeed, the USSR and the USA—the two most powerful nations in the world—are now participating in negotiations on limiting strategic arms. In these talks the two nations are discussing the levels of the most powerful, swiftly deliverable and accurate of contemporary weapons.

In contrast to negotiations and agreements on such questions as prohibiting the deployment of nuclear weapons in the Antarctic, at the bottom of the sea, and on the moon—where they have never been and where no one has the intention of placing them—the SALT negotiations concern weapon systems actually in being. And the terms of SALT agreements both reflect the real correlation of forces in the international arena and induce changes in that correlation.

The shift from U.S. superiority in the number of thermonuclear delivery vehicles and in the total explosive power of warheads to Soviet superiority in these categories (as well as in other very important military capabilities) has had a profound political and psychological impact throughout the world. Before turning to discussion of these changes and their consequences, however, it will be useful to examine the process of Soviet decision-making with respect to these questions. This is particularly necessary in view of the fact that it was precisely these decisions—along with decisions of a completely different character taken in the United States—which played such a decisive role in the shift in the correlation of forces.

HOW THE USSR MAKES DECISIONS ON STRATEGIC ARMS LIMITATION

Above all, it must be emphasized that what is involved here is not one or two decisions, made by one or two officials at a definite moment. Rather, one is confronted with a continuous decision-making process in which, to one degree or another, several hundred persons participate. The military establishment, design bureaus and military plants are working round the clock. New, more effective weapon systems are periodically tested and deployed.

At the same time—and this is the second important factor—the overwhelming majority of the Soviet population, which on the whole has a negative attitude toward huge military expenditures, is not informed by the government concerning the deployment of new and costly weapon systems. The Soviet people do not participate in the decision-making process. They learn about new Soviet arms from foreign radio broadcasts—or, indirectly, from the impact of military expenditures, as prices of consumer goods are raised or as these goods disappear from the stores.

One should be aware of a third characteristic of Soviet decision-making with respect to arms limitation: viz., that the scale of strategic (and conventional) armament in the USSR is limited by the capacity of the Soviet economy, not by the exhortations of foreign diplomats. The diplomats of the USA and of other democratic counties have ceaselessly appealed to the present Soviet government to reduce, or at least not to increase, the vast weaponry of the USSR. Such requests, however, have been systematically rejected by the Soviet leadership. Overt support by any Soviet citizen for an American proposal to reduce Soviet arms is inevitably interpreted by the party leadership as a sign of political unreliability. In the past, support of U.S. proposals by some Soviet scholars has resulted not only in removal from the decision-making process but also in accusations of pro-Americanism, party penalties, transfers to inferior positions, reductions in salary and prohibition of travel abroad. If members of a given section of a public institute or commission should express a desire to accept U.S. proposals, or even to discuss such proposals seriously, that section, institute or commission may be completely abolished. Articles or books which express approval of American proposals—where these differ from the Soviet position—do not get published. In the actual process of diplomatic negotiation, the proposals of the United States are accepted only in those cases where they do not hamper the military programs of the Soviet Union.

Therefore, those in the USSR who would like to limit Soviet arms usually cite the negative *economic* consequences of military programs (Kosygin himself did so at the twenty-third and twenty-fourth congresses of the CPSU), or they cite limitations and reductions of the U.S. forces. However, one encounters such arguments only infrequently in periodicals or unofficial documents. They are drowned by the endless flood of articles and documents which portray U.S. armaments in *increasing* in recent years. Such analysis is considered to be politically reliable, and the authors can count on generous honorariums and professional promotions.

The fourth special characteristic of Soviet decision-making in the field of armaments is the restriction on the number of participants in discussions of strategic problems and on the number of documents prepared on such questions. Papers for the Central Committee of the CPSU prepared on the initiative of an individual specialist result in penalties, both in the party and in the professional career of the author. Only those papers are encouraged which have been requested by the party leadership—i.e., the Politburo of the Central Committee. Such requests are sometimes signed by Brezhnev himself. Frequently, instructions restrict the paper to factual material forbidding any concrete proposals.

A fifth peculiarity is that problems concerning the limitation of strategic arms are viewed in the USSR essentially as military questions, not as genuine problems of disarmament. In this regard, even in those institutions in which a disarmament section exists (at present, only in the Institute of the USA and Canada), the preparation of documents and articles on questions of strategic arms limitation is usually assigned to those sections studying military matters. The specialists in these sections, by the very nature of their professional background, are included to limit the content of their papers to a description of the growth of U.S. armaments. This, of course, does not contribute to a softening of Soviet negotiating positions.

SOME SPECIALISTS MORE EQUAL THAN OTHERS

With respect to strategic arms problems, specialists participating in the decision-making process come from the apparatus of the CPSU Central Committee, the military section of the Ministry of Foreign Affairs, and the scientific institutes. Their documents and proposals, after careful screening, are transmitted to the Secretariat and Politburo of the Central Committee, where the

final decisions are made. The various participants in this process, however, do not possess equal rights and influence. Thus, specialists in the civilian scientific institutes and the Ministry of Foreign Affairs—precisely those persons who specialize in international agreements on arms limitation and the prevention of wars, in contrast to the personnel of the military-industrial complex who specialize in the expansion of armaments and the conduct of wars—usually are not given access to secret data on existing Soviet arms and weapon programs. They must acquire such data from published foreign sources such as *The Military Balance*. Although the data on Soviet arms in these sources are quite accurate, the civilian specialist nevertheless prefers not to discuss Soviet armaments at all but, instead, to write only about the armaments of the United States. The absence of comparative data on the USSR, of course, greatly diminishes the significance of these materials and, in most cases, prevents the formulation of concrete proposals.

In the civilian institutions, there are many former military officers and others connected with the military-industrial complex who defend the military point of view and who continually advocate arms development and the maintenance of military superiority over the United States. The small arms-limitation section in the Institute of the USA and Canada, for example, is part of the Department of Military Policy of the USA, headed by Major-General (Soviet rank, General-Lieutenant) M. Milshteyn, who represents the interests of the military establishment. The Commission on Scientific Problems of Disarmament, of the Academy of Sciences of the USSR Presidium, is headed by a specialist on the production of nuclear weapons, V. Yemelyanov, who also represents the interests of military industry. Yemelyanov did everything in his power to persuade Khrushchev not to conclude a treaty on the partial prohibition of nuclear weapons tests, and he has not convened his commission even once during the past ten years.

The disarmament section of the Institute of World Economy and International Relations, which pushed for a prohibition on the testing of nuclear weapons and for a limitation on strategic arms, was abolished in 1973. As early as 1968, the Institute of History's section on the history of negotiations on disarmament was dissolved. Also in the late sixties, both the Soviet Peace Committee's Commission on the Economic Problems of Disarmament, which had advocated a reduction in military expenditures, and the Commission on Disarmament of the Institute of Soviet-American Relations were liquidated. By way of contrast, there are already scores of functioning military agencies, institutes and enterprises which work in the field of strategic arms and which strive constantly to expand their activities. In addition, new high-powered institutes are being created. Not all these agencies, institutes and enterprises participate directly in the decision-making process, but the massive results of their activities, material and intellectual, undoubtedly influence the Soviet leadership in the formulation of its negotiating position on strategic arms limitation.

Scholars who desire to limit or reduce the armaments of the USSR are not represented in the Politburo and do not participate in decision-making within this main organ. Nor do they have direct access to the Defense Council. Officially, questions pertaining to the preparation of international agreements on the limitation and reduction of arms are the responsibility of the disarmament group of the Department of International Organizations, Ministry of Foreign Affairs. The department is also represented in the Soviet delegation to the SALT negotiations. Some members of the disarmament group (4 or 5 persons) work in Room 1001 in the main Foreign Ministry building, and the general attitude is that they occupy themselves more with Arabian fairy tales (*The Thousand and One Nights*) than with serious matters. Neither this little group nor its department determines Soviet military programs.

The same can be said of the Foreign Ministry's Directorate of Planning of Foreign Policy Measures, even though the head of the Soviet SALT delegation, Deputy Minister of Foreign Affairs V. S. Semenov, at one time headed the directorate. On the other hand, the General Staff of the Armed Forces of the USSR has permanent representatives with the Soviet delegation. Semenov himself has said that the Ministry of Foreign Affairs does not have a decisive voice in the formulation of the Soviet position on arms limitation. In fact, the ministry's function is limited to selecting for possible agreement those formulations which will not interfere with the realization of Soviet military programs. The Foreign Ministry collaborates with the military establishment.

Draft decisions on the implementation of new military programs and draft agreements on arms limitation—which are drawn up in conformity with those programs—are prepared for the Politburo by officials of the Secretariat of the CPSU Central Committee, with the participation of the general secretry's assistants. Members of the Politburo usually familiarize themselves with these documents in advance, and Brezhnev prefers that decisions of the Politburo be made on the basis of a consensus by its members.

On the whole, one can say that the entire decision-making process with respect to the Soviet position on Salt negotiations is structured in such a fashion as to give preponderant expression to the interests and objectives of the military-industrial complex, which are limited only by the economic and scientific-technological capabilities of the USSR. It must be added that those capabilities are steadily growing. In many branches of heavy industry—in the production of steel, coal, oil, cement and others—the Soviet Union has surpassed the United States, and this makes possible the further growth of Soviet strategic armaments. The vast resources which the USSR expends on these defense-oriented industries are also a major reason for the Soviet Union's inability to compete with the United States in regard to living standards.

It must be emphasized that none of the agreements on arms limitation concluded by the Soviet Union has resulted in a reduction of the overall size of the Soviet arsenal. Indeed, that arsenal has not even been prevented from increasing in size. The choice of one or another type of armament for production is dictated, first and foremost, by its military effectiveness.

SALT 1972: THE SHIFT IN THE CORRELATION OF FORCES

Khrushchev frequently boasted of the superior quality of Soviet strategic weapons, particularly with respect to the operational range and destructive power of strategic missiles, the destructive power of thermonuclear bombs and warheads, and the creation of an antimissile defense system. In the early sixties, however, the USSR lagged far behind the United States in numbers of strategic missiles and bombers as well as in numbers and total destructive power of nuclear bombs and warheads. In the USA, moreover, a powerful antiaircraft system still existed.

During that period, the government of the USSR proposed the liquidation of all nuclear delivery vehicles as part of the first phase of a general and complete disarmament. This unrealistic proposal was made entirely for propaganda purposes and was never discussed seriously in the Soviet Union. Actually, the opposite policy was followed: to increase the number of intercontinental missiles as rapidly as possible.

In the middle-sixties, certain specialists in the Academy of Sciences of the USSR proposed to the General Staff that the production of strategic bombers might be ended—either by mutual initiative or on the basis of an agreement with the United States. These specialists pointed out reductions in the number of U.S. strategic bombers (particularly medium-range) and in the U.S. antiaircraft system. The number of American strategic-aviation squadrons had in fact been reduced from 142 in 1960 to 65 in 1965, and by 1977 there were only 24. The number of regular interceptor squadrons had been reduced from 65 in 1960 to 39 in 1965 to 6 in 1977[1] (The USSR currently has more than 2,600 interceptors.)

Despite the obvious reduction in the U.S. strategic-aviation force, the General Staff refused to stop the production of strategic bombers, alleging that Washington intended to expand production of the FB-111 medium-range bomber. At the time, that bomber did not even exist, and subsequently only a few dozen were actually deployed. This tactic—to lump together the U.S. forces-in-being with with hypothetical forces, and on this basis to demand a further increase in Soviet armaments—is typical of the Soviet military-industrial complex. Today, the Trident submarine, the long-range cruise missile and the M-X missile are being treated by Moscow as already in existence, and once again the military-industrial complex is demanding more powerful strategic arms for the USSR.

For propaganda purposes, then, the Khrushchev government had proposed the liquidation of all bombers. Brezhnev has not even mentioned that proposal. In 1977, the USSR maintained about 800 operational medium-range strategic bombers and began delivering the Backfire to its armed forces at the rate of 25 planes a year. The Soviet Union also has 53 tanker aircraft which, through inflight refueling, make it possible for the Backfire to accomplish bombing missions against the United States and return to bases in the USSR.[2] Moreover, the Backfire can carry out missions against the United States even without in-flight refueling—by landing, for example, in Cuba. (Soviet strategic bombers already use Cuban air bases.)

During the late sixties and early seventies, specialists in the Academy of Sciences of the USSR proposed a bilateral agreement to freeze the number of strategic missiles and long-range bombers in the U.S. and Soviet forces at the levels then existing. At mid-1972, the totals of these weapons were about the same in both countries. At the insistence of the military-industrial complex, however, the Soviet government demanded that the USSR be allowed a considerably larger strategic-missile force than that permitted the United States—and Washington agreed. One of the pretexts for this demand was the fact that U.S. allies—England and France—possessed thermonuclear weapons.

The Soviet government often cites the armaments of third countries as a justification for increasing its own weaponry. This argument is less than compelling. If every country were to try to create an armed force equal to the armed forces of all the countries with which it did not have friendly relations, an absurd situation would arise. The Federal Republic of Germany, for example, would have to increase its troop strength by a factor of ten in order to match the forces of the Warsaw Pact, not to mention nuclear weapons.

In the protocol to the 1972 Interim Agreement on the Limitation of Strategic Offensive Arms, Soviet superiority in the number of submarine-launched ballistic missiles was fixed—950 for the USSR; 710 for the USA. It should be added that the U.S. government acknowledged a still greater Soviet superiority (by approximately 50 per cent) in the number of land-based strategic missiles, although the numbers were not given in the agreement.[3] The United States also accepted the large Soviet superiority in total destructive power of thermonuclear warheads. In fact, by agreeing to include within the allowable number missiles which still had not been deployed,[4] Washington conferred on Moscow the right to increase the number of its strategic delivery vehicles at the same time that the United States was reducing its delivery vehicles.

The superiority of the USSR in the number and explosive power of its strategic nuclear missiles, in the overall number of its heavy and medium bombers, and in its conventional armaments and military personnel is well known to all Soviet specialists. As Doctor A. Ye. Yefremov wrote, "It is precisely the [U.S.] renunciation of the gamble on 'strategic superiority' which made possible the achievement of positive results in the negotiations on the limitation of strategic nuclear weapons, and in a series of other negotiations which have taken place between representatives of the two great powers."[5] To the Soviet leadership, "positive results" mean Soviet superiority.

THE "BALANCE OF FORCES": A DANGEROUS DELUSION

Moscow, however, prefers to speak of the "balance of forces." From the propagandist's point of view, it is disadvantageous for Soviet leaders to acknowledge that the USSR is actually the world's most militarized country and that it stimulates the global arms race.

The Soviet military-industrial complex is very interested in citing and exaggerating U.S. armaments, since this provides a basis on which to demand more and more new weapons for the USSR. The Politburo forbids Soviet specialists to make any mention of the protocol to the 1972 interim agreement precisely because the Soviet Union's superiority in SLBMs is acknowledged therein. At present, Soviet censors expunge from the works of Soviet scholars any mention of the general superiority of the USSR in strategic or conventional armaments. This is very important to the Soviet leadership, for discussion of a "balance of forces" reassures both world public opinion and Washington.

The assertion that a balance of forces exists, together with talk of "detente," yields tangible political and military benefits for the Soviets. Gullible American leaders unilaterally reduce U.S. military forces as well as military aid to countries friendly to the United States. This, in turn, has given the Soviet Union and its allies the ability to inflict a series of defeats on the United States and to establish its influence in Indochina, Angola, the Horn of Africa, and elsewhere.

Moscow has been able to place its military-political advisers in those countries from which American and U.S.-allied armed forces have departed. Soviet forces have been able to utilize the airdromes and port facilities which the United States and its allies have left behind. Today, the USSR is militarily the most powerful nation on the globe. The United States has slipped from first to second place, and the American people must understand that fact. If the process continues, the Soviet policy of expansion will continue—and the danger of new wars will increase.

The United States is clearly capable of annually investing 6 percent of its GNP in defense (which would be two or three times less than the share of GNP that the Soviet Union allots to the military) and of completing the Trident, B-1 and M-X programs to replace the aging Polaris, Poseidon, B-52 and Minuteman systems. The purpose of the new programs is clearly defensive: in particular, the vulnerability of the United States retaliatory forces would be reduced. An American effort to prevent the USSR from expanding its already superior military forces (a) should not be interpreted as aggressive and (b) would not provoke an increase in Soviets armaments greater than that which would have taken place anyway. Moreover, the economic capabilities of the Soviet Union are now pressed nearly to their peacetime limits.

It is important that the signing of a new SALT agreement not delude the people of the United States—creating the false impression that the USSR has ceased its worldwide military-political offensive—and that it does not lead to a (perhaps irreversible) decrease in America's defense capability.

FOOTNOTES

[1] Statistical Abstract of the U.S., 1976, p. 335; The Military Balance, 1977–78, p. 5.

[2] The Military Balance, 1977–78, pp. 4, 8, 78.

[3] See *The U.S.-Soviet Military Balance: A Frame of Reference for Congress* (Washington: GPO, 1976).

[4] Robert J. Pranger, *ed., Detente and Defense: A Reader* (Washington: American Enterprise Institute, 1976), p. 122.

[5] A. Ye. Yefremov, *Nuclear Disarmament* (Moscow: 1976), p. 274. (In Russian.)●

Footnotes at end of article.

IN COMMEMORATION OF THE DEATH OF STEVE BIKO, SOUTH AFRICAN CIVIL RIGHTS LEADER

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 13, 1978

● Mrs. COLLINS of Illinois. Mr. Speaker, on September 12, 1 year ago, the world was shocked by the announcement that South African civil rights leader Steve Biko had died while under detention by South African police. Since that time South African officials themselves have admitted to the existence of conclusive evidence that Steve Biko died—not from self-imposed hunger as was first reported—but from head and kidney injuries. The world cried out but virtually nothing was actually done to restrain the South African Government from further brutal and murderous excesses.

Following the flurry of outcries elicited by Biko's death, there has been a return to business as usual. Our own Government continues its normal diplomatic and economic relations with South Africa, and the South African regime has continued its flagrant abuse of and disregard for the rights and lives of black South Africans. In recent weeks, yet another black under detention by South African police has died in the same Port Elizabeth jail where Steve Biko met his death, bringing to 44 the number of nonwhite persons who, over a 16-month period, have been killed in one manner or another while being detained by South African police.

When the news from South Africa does not bring notices of the death of police detainees, we are invariably informed of greater and more intense measures of repression: bannings, arrests, newspaper closures, and more repressive laws are the rule not the exception in South Africa. Today, the South African police, after already arresting over 400, stand ready to arrest more and oversee the threatened destruction of the African squatter community of Crossroads, a community spontaneously evolved as a direct result of the government's cruel and inhumane policy which attempts to forcibly prevent black families from living together for 49 weeks out of every year. Black men at Crossroads are being charged with "harboring" their wives.

This is both enough and too much.

In recognition of the anniversary of the matyrdom of Steve Biko, who lost his life standing up for the best in humanity, I call on my colleagues in the U.S. Congress to not only condemn the abomination in Pretoria, but to join me in insisting that our Government take some meaningful action to spare the people of South Africa further suffering. In so doing we only express our commitment to what the decency of all humanity requires.●

HEW'S HEALTH CARE FINANCING ADMINISTRATION

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 14, 1978

● Mr. CARTER. Mr. Speaker, I am extremely concerned about draft regulations proposed by HEW's Health Care Financing Administration to implement section 227 of the 1972 social security amendments (Public Law 92-603) authorizing special medicare procedures for reimbursing physicians who care for patients in teaching hospitals. As proposed, the regulations go beyond the intent of Congress and would harm many medical schools, clinical faculties, community physicians, and teaching hospitals.

I shall introduce legislation shortly to repeal section 227, and I would welcome the support of my fellow Members.

The following may help explain what the problems are with section 227 and with the proposed regulations:

First. What is section 227 of Public Law 92-603?

Section 227 provides that reimbursement for physicians' services in a teaching hospital shall be on a reasonable cost basis, rather than on a reasonable charge, or fee-for-service basis, unless certain conditions are met.

Second. How are physicians normally compensated for services rendered under present medicare policy?

Physician services generally are reimbursed under present policy on the basis of reasonable and customary charges, not costs. However, the situation with the teaching hospitals is somewhat different from nonteaching hospitals. In most teaching hospitals physicians receive a relatively small salary from the hospital or medical school while the major part of the teachers' income comes from billing private patients for medical services provided by those doctors in the hospital. However, the house staff in teaching hospitals—the interns and residents—do receive their compensation only through a salary paid by the hospital. The hospitals are reimbursed by

medicare for the salaries paid interns and residents on a cost basis.

Third. Why do teaching hospitals use this method to compensate teaching physicians?

By allowing teaching physicians to retain all or part of the income derived through fee-for-service charges to private patients, teaching hospitals are able to attract and retain more highly skilled physicians than the hospitals would otherwise be able to afford. This system benefits the student doctors who are able to get high quality training from many of the best specialists in the country. The system thus assures well-trained doctors for our country as well as high quality care for the patients in the hospital itself, both private patients and those whose treatment is covered by medicare.

Moreover, in many State and publicly-owned teaching hospitals, statutory restraints on budgets make it impossible for the hospitals to pay more than the relatively low direct salaries. This is the case in my own state of Kentucky as well as in several other States.

Fourth. What was the problem section 227 was intended to address?

Section 227 was included in Public Law 92-603 as a result of a GAO study conducted in the late 1960's which reviewed medicare payments to physicians in six major teaching hospitals. The study found that is certain cases medicare was being billed for physican services on behalf of doctors who had not themselves provided services to patients; instead the physicians had only supervised the work of interns and residents. It should be kept in mind that billing medicare on behalf of these "public patients" (patients whose care is provided by the house staff) constitutes double billing for the same service, since medicare already provides reimbursement for the costs of house staff salaries. While the hospitals GAO studied represented all geographic sections of the Nation, five of the six were large, urban municipal hospitals and as such were not a proper sample of the more than 1,200 nonfederal teaching hospitals in this country. Nevertheless, the findings from that limited study were used in drafting section 227 to apply to all 1,200 teaching hospitals.

Fifth. What have been the problems in implementing section 227?

Section 227, when added to the law in 1972 was intended to deal with the problem of double billing. The section was supposed to insure that all payment for physician services for public patients in a teaching hospital would be determined based upon the reasonable cost of providing those services by house staff under the supervision of the teaching physicians. In the legislative committee reports associated with section 227, Congress made clear, however, that fee-for-service payment was to remain available for private patients.

The problem which arose first in implementing these directives was how to determine which patients were public patients, being cared for by the house staff, and which were private patients, receiving the bulk of their care from their personal physicians (in this case, a teaching physician).

It should be kept in mind that house staff may assist in the care of private patients while under the direct personal supervision of a private physician. In other words, the distinction between private patients and public patients is a matter of degree, and distinguishing between the two categories is frequently difficult.

Medicare officials have attempted for 6 years to prepare regulations for carrying out section 227. The delay has been caused largely by the inherent difficulty in distinguishing between public and private patients. In 1973 Congress deferred implementation for 3 years, and a similar deferral bill was passed just last year. Now, 6 years after enactment, HEW is proposing regulations that fail to accomplish what Congress mandated and instead present difficulties for teaching hospitals which ultimately could cripple these institutions.

Sixth. What are the effects of the changes in medicare reimbursement resulting from section 227 and the draft regulations to carry it out?

In general, section 227 requires all physicians in a teaching hospital to be reimbursed on a cost basis through the hospital for professional medical services to medicare patients, unless the hospital meets the private patient test, described below.

In some cases this approach could adequately compensate physicians. However, in determining the reimbursable costs for which medicare will compensate the hospital, the draft regulations provide that only the amount of the direct salary paid to teaching physicians will be considered. As pointed out before, direct salaries paid to teaching physicians often are only a relatively small part of the compensation received by teaching physicians. For this reason, HEW's failure to recognize the fee-for-service income to teaching physicians as a part of the reasonable cost of securing the services of those physicians means that the reimbursement for medical services provided to medicare beneficiaries will severely underrepresent the true cost of those services.

The net effect of such a rule is clear. Either medicare patients will receive substandard services in teaching hospitals no longer able to obtain highly skilled facilities, or they will be turned away from teaching hospitals. Since no restrictions on reimbursement will be imposed on physicians outside the teaching hospital, the proposed rule would likely encourage physicians to practice in nonteaching hospitals. In any case the ultimate loser will be our young physicians whose quality of training depends on the supervision, guidance, and assistance of competent teaching physicians and on the ability to learn and train in a hospital with a patient population which reflects the population at large.

Seventh. Can any teaching hospital physicians be reimbursed on a reasonable charge basis?

Section 227 provides that physicians in a teaching hospital shall be paid for patient care services on a cost basis unless the patient is a "private patient" as defined in the proposed regulations. Because of the difficulty in distinguishing between private and public patients the proposed rules provided that, regardless of the presence in the teaching hospital of patients who are receiving private care from their personal physician, no fee-for-service payments will be allowed unless at least 85 percent of all patients are private patients. In other words, doctors practicing medicine in hospitals which cannot meet this arbitrary test will not be fairly compensated for the services which they provide to private patients. This clearly contradicts the intent of Congress in writing section 227 to continue to allow fee-for-service, or reasonable charge, reimbursement for private patients.

The proposed regulations further discriminate against teaching physicians by arbitrarily limiting the amount those physicians can charge for their services even if the "private patient test" is met. Specifically, under the proposed regulations physicians in non-teaching hospitals would continue to have their charges determined based upon their customary fee; physicians in teaching hospitals would have their allowable charges limited by the amount they actually collected from patients. The result of this additional condition to be met by physicians in teaching hospitals would be that these physicians would be reimbursed a lower amount than their nonteaching colleagues for the same service.

This discriminatory policy would inevitably undermine the ability of teaching hospitals and medical schools to recruit and retain top-quality physicians. Medical institutions, teaching physicians, students, and patients would all be penalized as a result of HEW's draft regulations for section 227.

Eighth. What has been proposed to remedy the situation?

Because of the detrimental effect of section 227 on teaching hospitals and because of the failure of HEW to develop a workable set of regulations, I plan to introduce legislation repealing section 227. I have concluded that the proposed "cure" intended by section 227 is worse than the disease. I submit that it makes no sense to institute arbitrary rules which would damage our vitally needed teaching hospitals. If physicians are billing Medicare for services they did not provide, then the Inspector General of HEW should investigate and prosecute the guilty under existing authority to do so. What we should avoid is using the abusive practices of a few as an excuse to provide less than fair compensation to the dedicated physicians who help train the next generation of doctors.

I would hope that my colleagues would support me in removing from the law this provision which is so detrimental to our teaching hospitals and that members would join me in cosponsoring this legislation to repeal section 227.

A draft of the bill for which I am seeking cosponsors follows:

H.R. —

A bill to amend title XVIII of the Social Security Act with respect to reimbursement of physicians' services in teaching hospitals

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That (a) paragraph (7) of section 1861(b) of the Social Security Act is amended to read as follows:

"(7) a physician where the hospital has a teaching program approved as specified in paragraph (6), if (A) the hospital elects to receive any payment due under this title for reasonable costs of such services, and (B) all physicians in such hospital agree not to bill charges for professional services rendered in such hospital to individuals covered under the insurance program established by this title."

(b) Section 1861(v)(1)(C) of such Act is amended by inserting "(under the conditions described in subsection (b)(7))" after "such school provides services".

(c) Section 1832(a)(2)(B)(i)(II) so such Act is amended by striking out ", unless either clause (A) or (B) of paragraph (7) of such section is met" and inserting in lieu thereof "and which meets the conditions specified in clauses (A) and (B) of paragraph (7) of such section".

Sec. 2. The amendments made by this Act shall apply with respect to cost accounting periods beginning on or after October 1, 1978. A hospital's election, under section 1861(b)(7)(A) of the Social Security Act (as administered in accordance with section 15 of Public Law 93-233), as of September 30, 1978, shall constitute such hospital's election under section 1861(b)(7)(A) of such Act (as amended by this Act) on and after October 1, 1978, and until otherwise provided by the hospital.●

PERSONAL EXPLANATION

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 14, 1978

● Mr. BRADEMAS. Mr. Speaker, I insert at this point a statement regarding a recorded vote I missed on Friday, September 8, 1978, and an indication of how I would have voted had I been present.

The vote was on Rollcall No. 743, on final passage of H.R. 11711, the Trade Adjustment Assistance Program Amendments. The bill passed by a vote of 261 to 24. I was paired for this bill and had I been present, would have voted in favor of it.●

HOUSE OF REPRESENTATIVES—*Friday, September 15, 1978*

The House met at 10 a.m.

Rev. James J. O'Sullivan, St. Peter's Church, Marshall, Mo., offered the following prayer:

Father Almighty, You are the source of all power. The providence that guides all things to that last and ultimate frontier: Yourself.

Guide our Representatives to legislate, not just for the good, but for the best interests of this Nation.

Let this House deliberate. Let all voices be heard; but God grant you the courage to conclude, and act, when timely action is imperative.

May God grant you the prudence not to act, until your best solution is found; or, when indeed inaction is the best solution.

Let us be mindful Lord, that Your universe is unfolding according to Your schedule. We are, at best, supporting cast.

"Yet Your work in this world must truly be ours."

Let us do Your work. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

Mr. MOTTL. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

The question is on the approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DAVIS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 293, nays 10, answered "present" 3, not voting 126, as follows:

[Roll No. 782]

YEAS—293

Abdnor
Akaka
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashley
Aspin
AuCoin
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Broyhill
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Butler
Carr
Carter
Cederberg
Chappell
Clawson, Del
Coleman
Collins, Ill.
Conable
Conte
Corcoran
Cornell
Cornwell
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Derrick
Derwinski
Devine
Dickinson
Dicks
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
English
Ertenborn
Ertel
Evans, Colo.
Evans, Ind.
Fary
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Fuqua
Gammage
Gephardt
Giaimo
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hansen
Harkin
Harris
Hawkins
Hefner
Hightower
Hillis
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Hughes
Hyde
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kelly
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Lehman
Lent
Levitas
Livingston
Lloyd, Tenn.
Long, La.
Long, Md.
Lundine
McClory
McDade
McFall
McHugh
Madigan
Maguire
Mahon
Markey
Marks
Martin
Mattox
Mazzoli
Meeds
Meyner
Michel
Mikulski
Mikva
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Michael
Natcher
Nedzi
Nichols
Nowak
Oberstar
Obey
Ottinger
Panetta
Patten
Pattison
Pease
Perkins
Pettis
Price
Pursell
Quillen
Rahall
Railsback
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Roe
Rogers
Roncalio
Rose
Rosenthal
Roybal
Rudd
Ruppe
Russo
Ryan
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sharp
Shuster
Sikes
Simon
Skelton
Slack
Smith, Nebr.
Solarz
Spence
St Germain
Staggers
Stangeland
Steed
Steers
Stockman
Stokes
Stratton
Studds
Stump
Symms
Taylor
Thompson
Thornton
Traxler
Treen
Trible
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Wampler
Watkins
Weaver
Weiss
Whalen
Whitehurst
Whitley
Whitten
Wilson, C. H.
Winn
Wirth
Wolff
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—10

Brown, Mich.
Collins, Tex.
Coughlin
Forsythe
Ichord
Jacobs
Lloyd, Calif.
Quayle
Walker
Wilson, Bob

ANSWERED "PRESENT"—3

McEwen
Moss
Stanton

NOT VOTING—126

Addabbo
Ambro
Ammerman
Anderson, Ill.
Armstrong
Ashbrook
Badham
Beard, Tenn.
Boggs
Breaux
Broomfield
Brown, Ohio
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burton, John
Byron
Caputo
Carney
Cavanaugh
Chisholm
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Conyers
Corman
Cotter
Crane
Dellums
Dent
Diggs
Dingell
Edwards, Ala.
Edwards, Okla.
Evans, Del.
Evans, Ga.
Fascell
Flowers
Fraser
Frey
Garcia
Gaydos
Gibbons
Goldwater
Hannaford
Harrington
Harsha
Heckler
Heftel
Holland
Huckaby
Ireland
Jeffords
Jenrette
Jones, N.C.
Kasten
Kemp
Krueger
Lott
Lujan
Luken
McCloskey

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

McCormack	Patterson	Siak
McDonald	Pepper	Skubitz
McKay	Pickle	Smith, Iowa
McKinney	Pike	Snyder
Mann	Poage	Spellman
Marlenee	Pressler	Stark
Marriott	Preyer	Steiger
Mathis	Pritchard	Teague
Metcalfe	Quie	Thone
Milford	Rangel	Tsongas
Miller, Calif.	Risenhoover	Walsh
Mitchell, Md.	Rodino	Waxman
Moorhead, Pa.	Rooney	White
Murphy, Ill.	Rostenkowski	Wiggins
Myers, Gary	Rousselot	Wilson, Tex.
Myers, John	Runnels	Wright
Neal	Santini	Wydler
Nix	Sarasin	Young, Alaska
Nolan	Sebelius	Young, Tex.
O'Brien	Seiberling	
Oakar	Shipley	

So the Journal was approved.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 1427. An act for the relief of Marie Grant;

H.R. 3460. An act for the relief of William J. Elder and the estate of Stephen M. Owens, deceased;

H.R. 5097. An act for the relief of Doctor Daryl C. Johnson; and

H.R. 6760. An act for the relief of Charles M. Metott.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 6506) entitled "An act to establish an actuarially sound basis for financing retirement benefits for policemen, firemen, teachers, and judges of the District of Columbia and to make certain changes in such benefits," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. RIBICOFF, Mr. EAGLETON, Mr. SASSER, and Mr. MATHIAS to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 2640) entitled "An act to reform the civil service laws," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. RIBICOFF, Mr. EAGLETON, Mr. CHILES, Mr. SASSER, Mrs. HUMPHREY, Mr. PERCY, Mr. JAVITS, Mr. STEVENS, and Mr. MATHIAS to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 3337. An act to terminate, in the year 1979, further construction of the Cross-Florida Barge Canal project, to adjust the boundary of the Ocala National Forest, Fla., and for other purposes.

FATHER JAMES O'SULLIVAN

(Mr. SKELTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKELTON. Mr. Speaker, today I have the distinct privilege of welcoming to the U.S. House of Representatives Father James O'Sullivan, pastor of St. Peter's Catholic Church in Marshall, Mo. Father O'Sullivan has offered today's opening prayer.

Father O'Sullivan was born in Cork City, Ireland. When a child he moved to a farm in that country and attended a rural school. Father O'Sullivan received his higher education in Ireland. He is responsible for introducing into this nation The Presentation Brothers teaching order, an act that is credited with greatly benefiting central Missouri students. Father O'Sullivan has been dean of the Marshall Deanery of the Diocese of Jefferson City, Mo.

He has been a priest since 1960 and a pastor since 1964. Father O'Sullivan served as the associate pastor of Immaculate Conception Church in Jefferson City. He was also the associate pastor of St. Brendan's Church in Mexico, Mo., prior to becoming pastor of St. Patrick's Church in Jonesburg, Mo. St. Patrick's Church in Gravois Mills, Mo., was Father O'Sullivan's next pastorship before accepting his present position in Marshall. He is extremely well regarded in the Marshall area, highly respected by all who know him. It is an honor to have a person of Father James O'Sullivan's stature offering today's opening prayer.

INTRODUCTION OF RESOLUTION CONCERNING NEW PROPOSAL FOR NATIONAL PROPERTY TAX RELIEF

(Mr. BROWN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of California. Mr. Speaker, it is my privilege to bring to the attention of my colleagues, and introduce a resolution concerning, a startling new proposal for national property tax relief.

The plan has come to be known as the McCarthy plan, named for its creator, Mr. Pat McCarthy, a Democratic candidate for the 11th Congressional District of Massachusetts.

Simply put, the McCarthy plan calls for the payment of Federal funds in the amount of 50 percent of the base-year property tax to communities, provided communities allow an equal reduction in the amount of individual property taxes.

As I understand it, Mr. Speaker, this plan would require less Federal revenues expended than those under the Federal tax reduction plan submitted to the Congress by the President.

It is also important to note that the distinguished former Chairman of the President's Council of Economic Advisers and now a senior fellow at the Brookings Institution, Mr. Arthur Okun, has reviewed the McCarthy plan and believes it would have a significant anti-inflationary effect—leading to a one-time reduction of between 1½ and 2 percent in the Consumer Price Index.

CONFERENCE REPORT ON S. 2701, AMENDING THE WATER RESOURCES PLANNING ACT

Mr. MEEDS. Mr. Speaker, I call up the conference report on the Senate bill (S. 2701) to amend the Water Resources Planning Act (79 Stat. 244, as amended), and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of August 15, 1978.)

Mr. MEEDS (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The SPEAKER. The gentleman from Washington (Mr. MEEDS) will be recognized for 30 minutes, and the gentleman from Idaho (Mr. SYMMS) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Washington (Mr. MEEDS).

Mr. MEEDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report on S. 2701 provides two significant changes from the bill passed in the House. I will explain the disposition of each of these differences.

First, the Senate bill authorized $3,328,000 for administration of the Water Resources Council and for financing certain other nontitle II activities, while the House-passed bill authorized no appropriations for this activity, abolished the Water Resources Council, and transferred its functions to the Secretary of the Interior. The conference report accepts the Senate language but reduces the amount authorized to be appropriated to the amount of $2,668,000.

Next, the conference provides that funds in the amount of $459,000 be authorized for the Great Lakes water and energy study. The Great Lakes study had been omitted from the House-passed bill. In all other respects the conference report is identical to the bill passed by the House. In summary, the outlays provided in the conference report are $3,127,000 higher than that in the original House-passed bill. Lastly, the amendments are clearly germane.

Mr. SYMMS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I concur with the remarks of the distinguished chairman of our Water and Power Subcommittee and will assure the Members on this side of the aisle that the amendments to the original bill are acceptable to the minority members of the commitee.

Our earlier action in abolishing the Water Resources Council was an action well taken. And even though the Council is reestablished in this conference report, I am certain that we have made our point to the administration. We have shown them in very understandable terms that the days of administrative foot-dragging on programs mandated by the Congress are over, so far as our committee is concerned.

I am trustful that our message will not go unobserved by not only the Water Resources Council but by other agencies, such as the Office of Water Research and Technology; and that we will begin to see some positive responses from these agencies on programs that have been suffering from bureaucratic roadblocks and delays.

I join with the gentleman from Washington in urging the acceptance of this conference report.

Mr. MEEDS. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Speaker, I rise in support of the conference report on S. 2701, the Water Resources Planning Act, fiscal year 1979. I would also cite the joint statement of the committee of conference which the gentleman from Washington (Mr. MEEDS) presented when filing the report on August 15, 1978.

One action which I particularly approve is that of retaining the Water Resources Council as an administrative unit. Responsibilities for the management of water resources are scattered among the executive agencies. I believe the Council's role in harmonizing such responsibilities is important, and I believe it is essential that some executive office perform that role. The Council has done this by establishing principles, standards, and procedures for the formulation and evaluation of Federal water resourcc projects.

The conferees' joint statement notes that their action regarding the Council was predicated on an intensive review by the House and the Senate, within the next year, of the President's proposed water policy, as announced on June 6, 1978. I would note that in his water policy message, the President added a project review function to the Water Resource Council, and added a water conservation component to all water resource planning.

I have recently introduced a bill, H.R. 13946, to promote and assist in the conduct of environmental research and development on ground water. Ground water is a major source of water supply in the United States. I am concerned that in many areas this supply is threatened both with respect to its quality and to its quantity. I recognize that all our water resources are linked in a hydrologic cycle and that planning for one resource may affect others. It is important that we develop and maintain adequate institutional mechanisms for the coordination, assessment, and technological transfer of information about those resources.

If the Water Resource Council's role can be continued and extended, I would expect that new initiatives regarding ground water would be included with such extensions.

The Office of Technology Assessment is considering a study of national water supply and demand. This study should be timely and helpful to a congressional review of water policy. Such considerations as this add to my feelings that the time period embraced by S. 2071 will be one of considerable significance for integrated water resource planning and policies for the whole of our Nation.

I therefore urge my colleagues to support the conference report.

Mr. MEEDS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I thank the distinguished gentleman from Washington for yielding. The House should refresh its memory about this legislation. All of those Members who spoke are obviously in support; I am not.

Our committee, the Committee on the Interior, on two occasions voted by narrow margins to repeal the existence of this Council this year, in one of its rare acts of statesmanship in which a Federal agency was actually abolished. I am still not convinced, despite the water policy argument that is now going on, that we should not stand by that decision and end the duplication this council represents.

For that reason, I must oppose the conference report. But we came very close to doing the impossible, and that is repealing the near eternal existence of a Federal agency. Maybe next year.

Mr. MEEDS. Mr. Speaker, I appreciate the position of the gentleman from Maryland (Mr. BAUMAN).

● Mr. VENTO. Mr. Speaker, I fully support the conference report on S. 2701, the Water Resources Planning Act. The passage of this bill will be an important first step in the development of a comprehensive and effective national water policy.

There is an urgent need for a sensible water policy, one that utilizes this precious resource in a rational manner and helps to preserve a resource that is so valuable to our Nation. The President has already sent his proposals for a national water policy to Congress and I am certain that the consideration of this and other proposals will be a major issue facing the 96th Congress.

Whatever the results of the future deliberations over water and its use, it will be imperative that the policy implementation be carried out by an effective executive body. That is why this bill is so important. S. 2701 authorizes the continuation of the Water Resources Council. The WRC has been responsible for many important aspects of water policy and is the logical executor of any comprehensive water policy. Since its inception, the WRC has dealt with a wide range of functions including: assessing national and regional water supplies; coordinating Federal, State, regional, and river basin water programs; administering a program of grants to States to assist in improving non-Federal water resource planning capability; and administering a grant program to river basin commissions to pay the Federal share of their operating costs.

While the WRC has not met all the expectations that Congress originally intended, it has performed admirably in spite of an inadequate budget, congressional scorn and executive branch jealousies. I believe that given a new commitment by the President and the Congress, the WRC will fulfill its responsibilities and will play a crucial role in the development and implementation of our national water policy.

As a member of the conference committee on S. 2701, I believe that this bill is essential for the development of our water policy and I urge my colleagues to support the conference report on S. 2701.●

Mr. MEEDS. Mr. Speaker, I have no further requests for time and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DAVIS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 304, nays 22, not voting 106, as follows:

[Roll No. 783]

YEAS—304

Abdnor	Byron	Fary
Addabbo	Carr	Fascell
Akaka	Carter	Fenwick
Alexander	Cavanaugh	Findley
Anderson, Calif.	Cederberg	Fish
Andrews, N.C.	Chisholm	Fisher
Andrews, N. Dak.	Coleman	Fithian
Annunzio	Collins, Ill.	Flood
Applegate	Conable	Florio
Ashley	Conte	Flynt
Aspin	Corcoran	Foley
AuCoin	Cornell	Ford, Mich.
Bafalis	Cornwell	Ford, Tenn.
Baldus	Coughlin	Forsythe
Barnard	Cunningham	Fowler
Baucus	D'Amours	Fraser
Beard, R.I.	Daniel, R. W.	Frenzel
Bedell	Danielson	Fuqua
Bellenson	Davis	Gammage
Benjamin	de la Garza	Garcia
Bennett	Delaney	Gephardt
Bevill	Derrick	Giaimo
Biaggi	Derwinski	Gilman
Bingham	Dickinson	Ginn
Blanchard	Dingell	Glickman
Blouin	Dodd	Gonzalez
Boland	Dornan	Goodling
Bolling	Downey	Gore
Bonior	Drinan	Gradison
Bonker	Duncan, Oreg.	Green
Bowen	Duncan, Tenn.	Gudger
Brademas	Early	Guyer
Breckinridge	Eckhardt	Hagedorn
Brinkley	Edgar	Hall
Brooks	Edwards, Calif.	Hamilton
Brown, Calif.	Edwards, Okla.	Hammer-schmidt
Broyhill	Eilberg	Hanley
Buchanan	Emery	Hansen
Burke, Mass.	English	Harkin
Burlison, Mo.	Erlenborn	Harris
Burton, Phillip	Ertel	Hawkins
Butler	Evans, Colo.	Hefner
	Evans, Ga.	Heftel
	Evans, Ind.	

Eightower
Hillis
Holland
Hollenbeck
Holtzman
Horton
Howard
Hubbard
Hughes
Hyde
Jacobs
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kasen
Kemp
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Lehman
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lundine
McClory
McDade
McEwen
McFall
McHugh
McKay
Madigan
Maguire
Mahon
Markey
Marks
Martin
Mattox
Mazzoli
Meeds
Meyner
Michel
Mikulski
Mikva
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Moss
Motti
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Patten
Pattison
Pease
Perkins
Pettis
Preyer
Price
Pursell
Quillen
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Robinson
Roe
Rogers
Roncalio
Rose
Rosenthal
Roybal
Rudd
Russo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Sharp
Shuster
Sikes
Simon
Skelton
Slack
Smith, Nebr.
Snyder
Solarz
Spence
St Germain
Staggers
Stangeland
Stanton
Steed
Steers
Stockman
Stokes
Stratton
Studds
Symms
Thompson
Thornton
Traxler
Treen
Trible
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
Whalen
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Winn
Wirth
Wolff
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—22

Archer
Bauman
Brodhead
Brown, Mich.
Burleson, Tex.
Chappell
Clawson, Del
Collins, Tex.
Daniel, Dan
Devine
Dicks
Flippo
Fountain
Grassley
Holt
Ichord
Montgomery
Rahall
Roberts
Ruppe
Stump
Vander Jagt

NOT VOTING—106

Ambro
Ammerman
Anderson, Ill.
Armstrong
Ashbrook
Badham
Beard, Tenn.
Boggs
Breaux
Broomfield
Brown, Ohio
Burgener
Burke, Calif.
Burke, Fla.
Burton, John
Caputo
Carney
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Conyers
Corman
Cotter
Crane
Dellums
Dent
Diggs
Edwards, Ala.
Evans, Del.
Flowers
Frey
Gaydos
Gibbons
Goldwater
Hannaford
Harrington
Harsha
Heckler
Huckaby
Ireland
Jeffords
Jenrette
Jones, N.C.
Kasten
Kelly
Krueger
Lott
Lujan
Luken
McCloskey
McCormack
McDonald
McKinney
Mann
Marienee
Marriott
Mathis
Metcalfe
Milford
Miller, Calif.
Moorhead, Pa.
Murphy, Ill.
Myers, Gary
Myers, John
Nix
Nolan
Oakar
Patterson
Pepper
Pickle
Pike
Poage
Pressler
Pritchard
Quayle
Quie
Risenhoover
Rodino
Rooney
Rostenkowski
Rousselot
Runnels
Ryan
Santini
Sarasin
Sebelius
Shipley
Sisk
Skubitz
Smith, Iowa
Spellman
Stark
Steiger
Taylor
Teague
Thone
Tsongas
Walsh
Waxman
White
Wilson, Tex.
Wright
Wydler
Young, Alaska

The Clerk announced the following pairs:

On this vote:

Mrs. Boggs for, with Mr. McDonald against.

Until further notice:

Mr. Ambro with Mr. Harsha.
Mr. Rostenkowski with Mr. Pressler.
Mr. Teague with Mr. Anderson of Illinois.
Mr. Wright with Mr. Kasten.
Mr. Pepper with Mr. Lujan.
Mr. Cotter with Mr. Brown of Ohio.
Mr. Carney with Mrs. Heckler.
Mr. John L. Burton with Mr. Quie.
Mr. Mathis with Mr. Sarasin.
Mr. Breaux with Mr. Steiger.
Mr. Hannaford with Mr. Walsh.
Mr. Rodino with Mr. Marriott.
Mr. Rooney with Mr. Badham.
Mr. McCormack with Mr. Broomfield.
Mr. Moorhead of Pennsylvania with Mr. Kelly.
Mr. Murphy of Illinois with Mr. Lott.
Mr. Nix with Mr. Quayle.
Mr. Dellums with Mr. Burgener.
Mr. Dent with Mr. Cleveland.
Mr. Gaydos with Mr. Crane.
Mr. Krueger with Mr. Frey.
Mr. Mann with Mr. Goldwater.
Mrs. Burke of California with Mr. Marienee.
Mr. Miller of California with Mr. McCloskey.
Mr. Stark with Mr. Skubitz.
Mrs. Spellman with Mr. Rousselot.
Mr. Santini with Mr. Sebelius.
Mr. Shipley with Mr. Taylor.
Mr. Jenrette with Mr. Gary A. Myers.
Mr. Risenhoover with Mr. Edwards of Alabama.
Mr. Sisk with Mr. Cohen.
Mr. Waxman with Mr. Caputo.
Mr. Ireland with Mr. Thone.
Mr. Metcalfe with Mr. Wydler.
Ms. Oakar with Mr. John T. Myers.
Mr. Pickle with Mr. Evans of Delaware.
Mr. Ammerman with Mr. Cochran of Mississippi.
Mr. Clay with Mr. Ashbrook.
Mr. Nolan with Mr. Jeffords.
Mr. Charles Wilson of Texas with Mr. Beard of Tennessee.
Mr. Runnels with Mr. Burke of Florida.
Mr. Pike with Mr. Don H. Clausen.
Mr. Harrington with Mr. Milford.
Mr. Corman with Mr. McKinney.
Mr. Diggs with Mr. Young of Alaska.
Mr. Conyers with Mr. Pritchard.
Mr. Flowers with Mr. Luken.
Mr. Jones of North Carolina with Mr. Gibbons.
Mr. Huckaby with Mr. Tsongas.
Mr. Patterson of California with Mr. Smith of Iowa.
Mr. White with Mr. Ryan.

Messrs. ARCHER, RUPPE, and GRASSLEY changed their vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MEEDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

PROCEEDINGS AGAINST HANCHO C. KIM

Mr. FLYNT. Mr. Speaker, by direction of the Committee on Standards of Official Conduct, I call up a privileged report (Rept. No. 95–1214) and ask for its immediate consideration.

The SPEAKER. The Clerk will read the report.

The Clerk read as follows:

PROCEEDINGS AGAINST HANCHO C. KIM

(May 24, 1978.—Referred to the House Calendar and ordered to be printed)

(Mr. FLYNT, from the Committee on Standards of Official Conduct, submitted the following report:)

INTRODUCTION

On May 15, 1978, Hancho C. Kim ("Kim"), having been summoned as a witness by the authority of the Committee on Standards of Official Conduct (the "Committee") pursuant to a subpena[1] of the said committee, appeared before Hon. Richardson Preyer, a member of the committee, in executive session for a deposition to be conducted pursuant to the authority of House Resolution 252, 95th Congress, first session.[2] At the deposition Kim refused to answer the following question:

Did there come a time when you received some money from Kim Sang Keun?

Mr. Preyer found Kim's refusal to answer contemptuous, and, thereafter, the committee, a quorum being present, authorized its chairman, Hon. John J. Flynt, Jr., ayes, nine, nays, zero, to file this report and to offer a resolution directing the Speaker of the House to certify this report to the U.S. attorney for the District of Columbia to the end that Kim be prosecuted for criminal contempt of Congress, pursuant to the provisions of title 2, U.S. Code, sections 192 and 194.

This report sets forth more fully the facts constituting Kim's contempt.

THE FACTS

House Resolution 252, unanimously adopted by the House on February 9, 1977, provides in part that "information has come to the attention of the House of Representatives alleging that Members of the House of Representatives have been the object of efforts by certain foreign governments or persons and organizations acting on behalf of foreign governments (including the Government of the Republic of Korea) to influence the Member's official conduct by conferring things of value on them or on members of their immediate families or their business or political associates" and directs the committee to conduct a "full and complete inquiry and investigation to determine whether Members of the House of Representatives, their immediate families, or their associates accepted anything of value, directly or indirectly, from the Government of the Republic of Korea or representatives thereof."

Pursuant to that resolution, on October 19 and 20, 1977, the Committee heard testimony in public session from Kim Sang Keun.[3] From October 1970 until November 1976 Kim Sang Keun was a Korean diplomat stationed at the Korean Embassy in Washington, D.C., and an agent of the Korean Central Intelligence Agency. In 1974 and 1975 he delivered a

[1] The subpena is set forth in app. I. It was authorized on July 14, 1977, and served on Kim on Nov. 17, 1977.

[2] H. Res. 252 is set forth in app. II. Section 4(a)(1)(A) authorizes "the taking of a deposition by any member of the committee."

[3] That testimony is set forth in the hearings before the Committee on Standards of Official Conduct Pursuant to H.R. 252, Korean Influence Investigation (pt. I), 95th Cong., 1st sess., pp. 32–75 (1977).

total of $600,000 in cash to Hancho K. Kim. Kim told him that this money was to be used to influence Members of the House of Representatives in the performance of their official duties. Indeed, Kim reported to Kim Sang Keun the identity of five Congressmen, referred to by the code name "Advance Guard," whom he said he had paid off in furtherance of this venture. Hancho Kim boasted that in carrying out the plan to pay off Members of Congress and to influence the executive branch of the U.S. Government, the American media and the American academic community, he had spent over $700,000.

In view of this evidence, the committee served Hancho C. Kim with a subpoena commanding his appearance before the Committee at a deposition.

In the meantime, on September 27, 1977, a Federal grand jury sitting in the District of Columbia indicated Kim and charged him with conspiring:

"To defraud the United States and the Congress of the United States in connection with the performance of their lawful governmental functions: (a) of and concerning the right of the Congress and the Executive Branch of the United States, to have their deliberations and official actions conducted, free from corruption, fraud, improper and undue influence, dishonesty, malfeasance, unlawful impairment and obstruction; and (b) of and concerning the right of the United States to have U.S. Congressmen and other Government officials transact the business of the Congress of the United States and other departments and agencies of the United States free from corruption, fraud, improper and undue contacts and influence, dishonesty, malfeasance, unlawful impairment and obstruction."

The grand jury also charged Kim with committing perjury on September 22, 1976, when he appeared before the grand jury and denied under oath receiving any money from Kim Sang Keun. On the same day, a Federal grand jury sitting in Baltimore charged Kim and his wife with two counts of income tax evasion.

Prior to Kim's deposition, his attorneys raised various objections to his testifying and requested the opportunity to argue these objections to the Chairman and Ranking Minority Member of the Committee. Their request was granted.

On November 16, 1977, Chairman John J. Flynt, Jr., and the Honorable Floyd Spence, the Ranking Minority Member of the Committee, overruled these objections in a four-page order. Chairman Flynt and Ranking Minority Member Spence issued this order only after having received a fifteen-page memorandum from the attorneys for Kim, an answering memorandum from Special Counsel to the Committee conducting the Korean Influence Inquiry and a reply memorandum from Kim's attorneys[4] and only after having heard extensive oral arguments by Kim's attorneys and by Counsel to the Special Staff to the committee conducting the Korean Influence Inquiry. The facts and Kim's arguments are concisely set forth in Chairman Flynt's and Ranking Minority Member Spence's Order of November 16, 1977, which provides as follows:

BEFORE THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT U.S. HOUSE OF REPRESENTATIVES

In re Hancho C Kim, a witness before the committee, and request of witness to be excused from testifying.

ORDER

Statement of facts

The House Committee on Standards of Official Conduct (hereinafter referred to as the HCSOC) on the 13th day of July 1977 authorized the issuance and service of a subpoena on one Hancho C. Kim.

Thereafter, Hancho Kim's attorney advised committee counsel that, if called as a witness, Mr. Kim would decline to testify, giving as his reason therefore his constitutional right against self-incrimination.

Thereafter, by a vote of not less than eight affirmative votes, the HCSOC authorized Special Counsel to seek an order granting immunity to said witness, which application was duly filed and such immunity order granted on the 13th day of October 1977 by William B. Bryant, Chief Judge, U.S. District Court of the District of Columbia.

Thereafter, the witness, through his counsel, requested a hearing before the Chairman and the Ranking Minority Member of the HCSOC, asking for a specific ruling on whether, notwithstanding the order granting immunity to such witness, said witness should be required to testify during the pendency of indictments against him in two U.S. District Courts involving facts upon which he reasonably apprehends that he will be asked to give answers before the HCSOC.

The Chairman and the Ranking Minority Member of the HCSOC, in response to such application, set the date of November 8, 1977, as the date for filing any written request with supporting briefs and other documents, and set the hearing on such application for Monday, November 14, 1977 at 2 p.m. in the U.S. Capitol.

The application, with supporting brief consisting of 15 pages and two exhibits, was filed by counsel for witness, and a brief (memorandum) was also filed by Special Counsel of the HCSOC. Counsel for witness and Special Counsel for the committee appeared and made oral arguments in support of their respective positions. Counsel for witness requested time to file a reply brief to the brief (memorandum) of committee counsel, and counsel for witness was given until 1 p.m., Wednesday, November 16, 1977 within which time to prepare a reply brief and serve it upon committee counsel and with the committee.

The hearing at 2 p.m., November 14, 1977 in room H–140 of the U.S. Capitol, with consent of counsel for witness, was not reported but the undersigned are not aware of any disagreement with the facts as related above.

Counsel for witness stated that he is not seeking to permanently withhold the testimony of such witness from this Committee, but is asking that such compulsory testimony be delayed until after the trial in U.S. District Court for the District of Columbia on the indictment naming Hancho C. Kim and filed in said court on the 27th day of September 1977.

Counsel for witness contends that compelling the testimony of said witness at this time violates his rights in that it would constitute:

I

(A) A violation of the privilege against self-incrimination.

(B) A violation of his VI Amendment rights.

(C) A violation of due process.

II

(A) A violation of marital privilege.

(B) A violation of witness' rights under 18 U.S.C. 2510 et seq. (illegal electronic surveillance).

Special Council for the HDCOC responds to each of the foregoing claims of witness and in response to II(B) denies that any evidence heretofore obtained by the Committee was obtained by any illegal electronic surveillance. Counsel for witness and Special Counsel for Committee have cited numerous cases purporting to sustain their respective positions.

CONCLUSION

The Chairman and the Ranking Minority Member of the HCSOC have read all briefs and memoranda submitted by counsel for witness and Special Counsel to the Committee and have applied all citations to the facts in this case. Having done so, the undersigned are of the individual and joint opinion that the witness, Hancho C. Kim, be directed to appear before a designated member of the Committee on Thursday, November 17, 1977, then and there to answer such questions as shall be propounded to said witness by the Committee member and/or Special Counsel to the Committee.

The undersigned are of the opinion that the prompt testimony of Hancho C. Kim is absolutely necessary to enable the Committee to carry out the inquiry mandated by House Resolution 252 and that to rule otherwise would be to question the ability of the U.S. District Court to properly safe-guard the rights accorded the witness under the order granting immunity to such witness. We must assume that the Court is competent to protect such rights and that it will, in fact, protect such rights.

The undersigned hereby direct that the testimony of the witness, Hancho C. Kim, be taken as if in executive session and that the transcript of such testimony be restricted to an original copy only and that every precaution be taken to safe-guard the confidentiality and secrecy of such testimony until such time as a majority of the Committee may vote to release such testimony.

This 16th day of November 1977 in the City of Washington, District of Columbia.

JOHN J. FLYNT, Jr.,
Chairman.

FLOYD SPENCE,
Ranking Misiority Member.

Thereafter, Kim testified before the Committee at depositions on November 17, 1977; November 23, 1977; December 9, 1977; and January 12, 1978. At these depositions, however, Kim was not asked about his dealings with Kim Sang Keun or his relationship to the Korean government. At Kim's appearance on January 12, 1978, the subpoena directed to Kim was adjourned *sine die*. By letter dated May 9, 1978, Chairman Flynt informed Hancho C. Kim's attorneys that the subpoena was returnable on May 15, 1978.[5]

In the meantime, on April 8, 1978, a jury sitting in the United States District Court for the District of Columbia found Hancho Kim guilty of the charges of conspiracy and perjury. A judgment of conviction was entered against Kim on May 19, 1978.

At the deposition on May 15, 1978, Hancho Kim was first sworn. He had previously been granted immunity from any prosecution based upon any testimony he gives.[6] Thereupon, Kim willfully refused to answer the following question:

Did they come a time when you received money from Kim Sang Keun?[7]

In response to this question, Kim, through his attorneys, interposed the same objections which had been previously extensively argued to Chairman Flynt and Ranking Minority Member Spence and which had been overruled. These objections were again overruled by the Honorable Richardson Preyer, who was presiding over the deposition.

Notwithstanding the fact that Chairman Flynt, Mr. Preyer and Mr. Spence had overruled their objections, Kim's attorneys persisted in their objections and directed their client not to answer the question posed to him. Thereupon, Representative Preyer found that Kim had refused to answer the question,

[4] Kim's memorandum, the answering memorandum from Special Counsel and Kim's reply memorandum are set forth in appendices III to V, respectively.

[5] The Chairman's letter is set forth in Appendix VI.

[6] The Order Conferring Immunity Upon and Compelling Testimony and Production of Information from Hancho C. Kim, pursuant to title 18, United States Code, Section 6005, was communicated to Hancho C. Kim on November 17, 1977, and is set forth in Appendix VII.

[7] The official transcript of the deposition of May 15, 1978, is set forth in Appendix VIII.

and found his refusal to be contemptuous. Kim's attorneys asked for an opportunity to appear to argue their case before the full committee, and Mr. Preyer granted their request.

On May 17, 1978, the Committee met in executive session. It heard extensive arguments from Kim's attorneys and from Counsel to the Special Staff Conducting the Korean Influence Inquiry.[5] All counsel were then excused from the meeting and the committee voted, ayes nine, nays zero, to adopt the following resolution.

RESOLUTION WITH RESPECT TO THE CONTEMPT OF HANCHO C. KIM

Resolved, That the Chairman of the Committee on Standards of Official Conduct shall submit to the House of Representatives the Report of the Committee on Standards of Official Conduct In Proceedings Citing Hancho C. Kim for Contempt of Congress and the said Chairman shall offer a resolution directing that the Speaker of the House of Representatives certify the said Report with respect to the refusal of the said Hancho C. Kim to answer a question at a deposition being conducted by the committee pursuant to the authority of H. Res. 252, 95th Congress, First Session, to the United States Attorney for the District of Columbia, pursuant to Title 2, United States Code, Sections 192 and 194, to the end that the said Hancho C. Kim may be proceeded against in the manner and form provided by law.

Such disclosures of any proceedings in executive session with respect to the witness Hancho C. Kim as may be necessary to effectuate this resolution are hereby authorized.

Provided, however, That this resolution shall be of no force or effect if the Special Counsel determines that the said Hancho C. Kim has submitted to a full and complete deposition prior to Friday, May 19, 1978.

Provided further, That if the Special Counsel determines that the said Hancho C. Kim is persisting in his contemptous conduct after Friday, May 19, 1978, the Committee at a subsequent meeting thereof will consider whether to initiate civil contempt proceedings against the said Hancho C. Kim.

Although the committee's resolution gave Kim the opportunity to avoid a contempt proceeding by answering the Committee's question, Kim appeared on May 18, 1978, with his attorneys, at a deposition before the Honorable Millicent Fenwick a Member of the Committee, and persisted in his refusal to answer the question. Mr. Kim also refused to answer related questions.[6]

RECOMMENDATION OF THE COMMITTEE

Pursuant to the resolution set forth above, the Committee recommends the adoption of the following resolution:

Resolved, That the Speaker of the House certify the Report of the Committee on Standards of Official Conduct with respect to the Proceedings against Hancho C. Kim, which report details the refusal of the said Hancho C. Kim, to answer a question in a proceeding being conducted by the said Committee pursuant to the authority of H. Res. 252, 95th Congress, 1st Session, to the U.S. Attorney for the District of Columbia, pursuant to Title 2, United States Code, Sections 192 and 194, to the end that the said Hancho C. Kim may be proceeded against in the manner and form provided by law.

[5] The transcript of this portion of the committee's meeting of May 17, 1978, is set forth in Appendix IX.

[6] See the letter of Leon Jaworski, special counsel to the committee conducting the Korean Influence Inquiry, set forth in appendix X. The transcript of these proceedings is set forth in appendix XI.

APPENDICES: APPENDIX I

[Subpena (Deposition)]

(By authority of the House of Representatives of the Congress of the United States of America).

To Hancho Kim:

You are hereby commanded to be and appear before the Standing Committee on Standards of Official Conduct of the House of Representatives of the United States, of which the Hon. John J. Flynt, Jr. is chairman, in Room H140 of the Capitol Building, in the city of Washington, on November 17, 1977, at the hour of 2:00 p.m., then and there to produce the things identified on the attached schedule and to testify on deposition touching matters of inquiry committed to said Committee; and you are not to depart without leave of said Committee.

To any employee of the Committee on Standards of Official Conduct or any U.S. Marshal to serve and make return.

WITNESS my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 14th day of July, 1977

FLOYD SPENCE.

Attest:

EDMUND L. HENSHAW, Jr.,
Clerk.

Any questions as to compliance should be referred to David H. Belkin, Deputy Chief Counsel, (202) 225-7984.

APPENDIX II

[H. Res. 252, 95th Cong., 1st sess.]

RESOLUTION

Whereas article I, section 9, clause 8 of the United States Constitution prohibits any person holding Federal office, including Members of Congress, from accepting any present, emolument, office, or title from any foreign government without the consent of Congress; and

Whereas Congress has forbidden the receipt of political contributions from a foreign national, including a foreign government (2 U.S.C. 441e); and

Whereas the Federal Criminal Code prohibits the receipt of anything of value by any Member of Congress to influence his performance of his official duties or to reward or compensate him, other than as provided for by law, for the performance of those duties (18 U.S.C. 201, 203); and

Whereas rule XLIII of the Rules of the House of Representatives sets forth the Code of Official Conduct for Members, officers and employees of the House of Representatives and, among other things, prohibits the acceptance of any gift of substantial value, directly or indirectly, from any person, organization, or corporation having a direct interest in legislation before the Congress; and

Whereas information has come to the attention of the House of Representatives alleging that Members of the House of Representatives have been the object of efforts by certain foreign governments or persons and organizations acting on behalf of foreign governments (including the Government of the Republic of Korea) to influence the Members' official conduct by conferring things of value on them or on members of their immediate families or their business or political associates; and

Whereas clause 4(e)(1) of rule X of the Rules of the House of Representatives entrusts the Committee on Standards of Official Conduct with particular responsibility—

(A) to recommend to the House of Representatives from time to time such administrative actions as it may deem appropriate to establish or enforce standards of official conduct for Members, officers, and employees of the House of Representatives;

(B) to investigate any alleged violation, by a Member, officer, or employee of the House of Representatives, of the Code of Official Conduct or of any law, rule, regulation, or other standard of conduct applicable to the conduct of such Member, officer, or employee in the performance of his duties or the discharge of his responsibilities, and after notice and hearing, to recommend to the House of Representatives, by resolution or otherwise, such action as the committee may deem appropriate in the circumstances; and

(C) to report to the appropriate Federal or State authorities, with the approval of the House of Representatives, any substantial evidence of a violation, by a Member, officer, or employee of the House of Representatives, of any law applicable to the performance of his duties or the discharge of his responsibilities, which may have been disclosed in a committee investigation: Now, therefore be it

Resolved, That the Committee on Standards of Official Conduct be and it is hereby authorized and directed to conduct a full and complete inquiry *and investigation* to determine whether Members of the House of Representatives, their immediate families, or their associates accepted anything of value, directly or indirectly, from the Government of the Republic of Korea or representatives thereof. The scope of the inquiry *and investigation* shall be determined by the committee in its discretion and may extend to any matters relevant to discharging its responsibilities pursuant to this resolution.

SEC. 2. The committee shall report to the House of Representatives any findings, conclusions, and recommendations it deems proper with respect to the adequacy of the present Code of Official Conduct or the Federal laws, rules, regulations, and other standards of conduct applicable to the conduct of Members of the House of Representatives in the performance of their duties and the discharge of their responsibilities (1) to protect the House of Representatives against the exertion of improper influence by or on behalf of foreign governments and (2) to prohibit Members of the House of Representatives from receiving things of value under circumstances that conflict, or appear to conflict, with their obligations to perform their constitutional duties without regard to private gain or benefit.

SEC. 3. The committee, after appropriate notice and hearing, shall report to the House of Representatives its recommendations as to such action, if any, that the committee deems appropriate by the House of Representatives as a result of any alleged violation of the Code of Official Conduct or of any law, rule, regulation, or other standard of conduct applicable to the conduct of such Member, officer, or employee in the performance of his duties or the discharge of his responsibilities.

SEC. 4. (a) For the purpose of conducting any inquiry or investigation pursuant to this resolution the committee is authorized to require—

(1) by subpena or otherwise—

(A) the attendance and testimony of any person at a hearing or at the taking of a deposition by any member of the committee; and

(B) the production of such things; and

(2) by interrogatory the furnishing under oath of such information as it deems necessary to such inquiry or investigation.

(b) The authority conferred by subsection (a) of this section may be exercised—

(1) by the chairman and the ranking minority member acting jointly, or, if either declines to act, by the other acting alone, except that in the event either so declines, either shall have the right to refer to the committee for decision the question whether such authority shall be so exercised and the committee shall be convened promptly to render that decision; or

(2) by the committee acting as a whole.

(c) Subpenas and interrogatories authorized under this section may be issued over the signature of the chairman, or ranking minority member, or any member designed by either of them. A subpena may be served by any person designated by the chairman, or ranking minority member, or any member designated by either of them and may be served, either within or without the United States on any national or resident of the United States or any other person subject to the jurisdiction of the United States.

(d) In connection with any injury or investigation pursuant to this resolution, the committee may request the Secretary of State to transmit a letter rogatory or request to a foreign tribunal, officer, or agency.

(e) Subpenas for the taking of depositions or the production of things may be returnable at specified offices of the committee or at a scheduled hearing, as the committee may direct.

(f) The chairman, or ranking minority member, or any member designated by either of them (or, with respect to any deposition, answer to interrogatory, or affidavit, any person authorized by law to administer oaths) may administer oaths to any witness.

(g) For the purposes of this section, "things" includes books, records, correspondence, logs, journals, memorandums, papers, documents, writings, drawings, graphs, charts, photographs, reproductions-recordings, tapes, transcripts, printout, data compilations from, which information can be obtained (translated, if necessary, into reasonably usable form), tangible objects, and other things of any kind.

SEC. 5. For the purpose of conducting any inquiry or investigation pursuant to this resolution, the committee is authorized to sit and act, without regard to clause 2(m) of the rule XI of Rules of the House of Representatives, during the present Congress at such times and places within or without the United States, whether the House is meeting, has recessed, or has adjourned, and to hold such hearings, as it deems necessary.

SEC. 6. The committee is authorized to seek to participate and to participate, by special counsel appointed by the committee, on behalf of the committee and the House of Representatives in any judicial proceeding concerning or relating in any way to the inquiry or investigations conducted pursuant to this resolution.

SEC. 7. The authority conferred by this resolution is in addition to, and not in lieu of the authority conferred upon the committee by the Rules of the House of Representatives. In conducting any inquiry or investigation pursuant to this resolution, the committee is authorized to adopt special rules of procedures as may be appropriate.

SEC. 8. Any funds made available to the committee after the adoption of this resolution may be expended for the purpose of carrying out the inquiry and investigation authorized and directed by this resolution.

APPENDIX III

(Before the Committee on Standards of Official Conduct of the House of Representatives).

In re Hearings Conducted
Pursuant to House Resolution 252.

MEMORANDUM SETTING FORTH THE CONSTITUTIONAL AND PRACTICAL REASONS WHY HANCHO C. KIM SHOULD NOT BE COMPELLED TO TESTIFY

The United States House of Representatives Committee on the Standards of Official Conduct is contemplating calling Mr. Hancho C. Kim as a witness. Toward this end on October 14, 1977, the Committee procured an "Order Conferring Immunity Upon and Compelling Testimony and Production of Information from Hancho C. Kim." Mr. Kim and his counsel appreciate this opportunity to set forth the reasons why Mr. Kim should not be compelled to testify at this time.

INTRODUCTION

On September 27, 1977, a grand jury impaneled by the United States District Court for the District of Columbia returned a two-count indictment against Hancho C. Kim. Count I alleges that Mr. Kim conspired with confederates of the government of the Republic of Korea to defraud the United States and the Congress of the United States of their respective rights to function free from corrupt and improper influence, in violation of Title 18, U.S.C. § 371. Count II charges that Kim violated 18 U.S.C. § 1623 by committing perjury before a grand jury inquiring into lobbying activities of the Korean Government. Specifically, Kim is accused of falsely testifying before the grand jury about $600,000 that he allegedly received from Sang Keun (S.K.) Kim, an agent of the Korean Central Intelligence Agency. ("K.C.I.A.") A copy of the indictment is attached as Exhibit 1.

On September 27, 1977, a grand jury impaneled by the United States District Court for the District of Maryland also returned an indictment charging Mr. Kim and his wife, Soonduk E. Kim with two counts of Income Tax Evasion in violation of Title 26, U.S.C. § 7201. The essence of these charges against the Kims is that they filed false returns because they failed to report income during the years in question. Counsel has been advised by the Government that the alleged source of the unreported income which the Government will urge was received by the Kim's related to activities of Mr. Kim for and on behalf of the South Korean Government. As the Government concedes, this tax case essentially tracks the indictment pending against Hancho Kim in the District of Columbia. Indeed, the funds allegedly received by Hancho Kim from K.C.I.A. operative S. K. Kim, which are at the core of the charges made by the District of Columbia Grand Jury, also constitute the allegedly unreported income which is the basis of the District of Maryland indictment. A copy of the indictment is attached as Exhibit 2.

The trial against Mr. Kim in the District of Columbia is scheduled to commence on January 9, 1978; the tax case against Mr. and Mrs. Kim in Maryland is presently set for trial on December 5, 1977. As such, Mr. Kim is now engaged in preparing his defense to these indictments. Clearly, the indictments allege criminal activity arising out of events which are the very subject matter of this Committee's investigation. Therefore, as more fully explained below, we believe that compelling Mr. Kim to testify before the Committee under these circumstances is not only legally improper because it infringes upon his Fifth and Sixth Amendment Rights and other privileges, but also practically unwise because it forces Mr. Kim to litigate issues before the committee that should properly be addressed in the first instance by the trial courts.

I

Compelling Kim to testify at this time violates his constitutional rights

There is a distinction of great moment between subpoenaing for questioning a witness (even one who might subsequently be indicted) and subpoenaing an *indicted* defendant for questioning on the subject of the crimes for which he is charged. The filing of the indictment marks the commencement of a "criminal prosecution." At that point, the full panoply of protective rights guaranteed to a criminal defendant by the Constitution attaches. The importance of the beginning of a criminal prosecution was emphasized by Justice Stewart in his opinion in *Kirby* v. *Illinois*, 406 U.S. 682, 689 (1972):

"The initiation of judicial criminal proceedings is far from a mere formalism. It is the starting point of our whole adversary system of criminal justice. For it is only then that the government has committed itself to prosecute, and only then that the adverse positions of government and defendant have solidified. It is then that a defendant finds himself faced with the prosecutorial forces of organized society, and immersed in the intricacies of substantive and procedural criminal law."

For this reason, compelling Mr. Kim to testify before the Committee while he is preparing his defense to criminal indictments arising out of events which are the very subject of the Committee's investigation is constitutionally impermissible. To do so, violates Kim's Fifth Amendment privileges against *self-incrimination* and his Sixth Amendment rights; it is also "fundamentally unfair" and thus violates the Due Process Clause of the Fifth Amendment.

A. Violation of the Privilege Against Self-Incrimination

Requiring Mr. Kim to appear before the Committee on the eve of two trials in which he is a criminal defendant violates his Fifth Amendment privileges against self-incrimination. The Committee seeks to compel testimony from Kim about the precise matters for which he has been indicted; his testimony will *preview* for the Government the defenses he will assert at the trials. The Fifth Amendment prohibits such a "dress-rehearsal" for the Government. This violation is not cured by granting Kim use immunity pursuant to 18 U.S.C. § 6001 *et seq.*

As a preliminary point, we question whether Congress intended the application of the use immunity device to compel testimony from an already indicted defendant. Title 18 U.S.C. § 6002, the central provision of the immunity statute, provides that use immunity may be conferred "whenever a *witness* refuses, on the basis of his privilege against self-incrimination, to testify or provide other information . . ." (Emphasis added.) As noted above, once an individual has been indicted he can no longer be classified as a *witness* because the commencement of the criminal prosecution transforms him into a defendant. The traditional purpose of use immunity is to compel testimony from a witness without foreclosing the possibility of a *subsequent* prosecution. The application of the device to compel testimony from an already indicted defendant was never contemplated by Congress and is therefore unauthorized.

If the immunity statute was intended to apply even after an individual has been indicted, it is unconstitutional as so applied. In *Kastigar* v. *United States*, 406 U.S. 441 (1972) the Supreme Court held that the use immunity statute did not on its face violate the Fifth Amendment. However, *Kastigar* does not foreclose inquiry as to whether an immunity order issued pursuant to the statute fails to provide immunity coextensive with the scope of the Fifth Amendment privilege in a particular instance. *Application of United States Senate Select Committee on Presidential Campaign Activities*, 361 F Supp. 1270, 1279 (D.D.C. 1973).

The grant of use immunity in the present circumstances will not afford Mr. Kim protection coextensive with the Fifth Amendment for at least two reasons.

First, the Courts have held on numerous occasions that once an individual has been indicted he may not be compelled to testify before a grand jury. *United States* v. *Doss*, —— F. 2d —— (6th Cir. September 23, 1977) (*En Banc*) (while a grand jury is free to question a target of an investigation, it may not question an already indicted defendant on the subject about which he has been

charged); *United States* v. *Lawn*, 115 F. Supp. 674 (S.D.N.Y. 1953). Indeed, this doctrine has been acknowledged even when the individual has been granted immunity. *In re Liddy*, 506 F. 2d 1293, 1299 (D.C. Cir 1974).[1] This constitutional principle is fully applicable here. Simply put, once an individual has been indicted the Fifth Amendment privilege against self-incrimination prohibits him from being compelled to testify about the subject of the indictment under any circumstances.[2]

Second, the Courts have recognized that there are practical, if not theoretical, limits to the protection afforded by use immunity. For example, in *Goldberg* v. *United States*, 472 F. 2d 513 (2d Cir. 1973), the Court while upholding a grant of immunity to compel grand jury testimony of an individual arrested for an offense,[3] made clear that use immunity would not adequately protect him if he were indicted by the same grand jury that had heard his immunized testimony. The Court reasoned that no level of precaution could insure that the grand jury had not indicted on the basis of the individual's compelled testimony.

We contend that the same type of practical difficulties render the protection of use immunity inadequate here. While the Committee's sessions will be closed, we respectfully submit that a realistic assessment of the situation makes it impossible to conclude that the Government will not gain, however inadvertently, some advantage, however subtle, from Mr. Kim's compelled testimony on the eve of his criminal trials. Such an advantage gained from testimony compelled from the mouth of the defendant contravenes the cherished protections of the Fifth Amendment privilege against self-incrimination.

B. Violation of Sixth Amendment Rights

The Sixth Amendment affords a criminal defendant a series of protective rights; it guarantees a speedy and public trial, the right to confront and cross-examine the witnesses against him, the right to have compulsory process for obtaining witnesses in his favor and the right to the assistance of counsel. As the Supreme Court held in *Kirby* v. *Illinois*, supra, 406 U.S. at 690, all of these rights attach upon the filing of an indictment. Because the Committee is compelling Mr. Kim to testify about the precise subjects for which he has been indicted, the Sixth Amendment protections are fully applicable. We respectfully submit that the procedures contemplated by the Committee do not respect these rights.

One of the most central rights afforded a criminal defendant is the right to confront and cross-examine his accusers. Yet, the Committee has denied counsel's request to question witnesses appearing before the Committee.[4] Indeed, the Committee has placed a five minute limit on the cross-examination that may be conducted by any individual member of the Committee. These limitations are in direct contravention of Mr. Kim's constitutional right to confront and cross-examine witnesses.[5]

In addition, the Committee's proposed course of action violates the most fundamental tenets of the Sixth Amendment right to counsel. Mr. Kim and his counsel are presently engaged in preparing a defense to two very serious criminal indictments. The Committee is not only interfering with this preparation, but also is compelling Mr. Kim to disclose, on the eve of trial, factual matter that the Constitution intended would be voluntarily disclosed only to defense counsel.

We point out these clear violations of the Sixth Amendment not so much to demand a full-blown trial before the Committee, but rather to demonstrate the inappropriateness of compelling Mr. Kim's testimony at this time.

C. Violation of Due Process

Fundamental fairness, as embodied in the due process clause of the Fifth Amendment, has always been a touchstone of the American criminal justice system. If the Committees seeks to compel Mr. Kim to testify at this time, that time-honored principle will be violated.

Mr. Kim has been indicted for committing perjury before a grand jury investigating the lobbying activities of the Korean Government. He is charged with lying to the grand jury when he testified that the K.C.I.A. operative, S. K. Kim, never left money at his home. By now inquiring into these precise areas, the Committee places Kim in an intolerable position where he is forced to *either repeat the testimony which has already resulted in a perjury indictment or change those answers and thereby confess to a crime for which he has been indicted*. Specifically, if Kim stands by his earlier testimony and denies receipt of any money from S. K. Kim he leaves himself open to a possible second indictment for perjury, since the grant of immunity explicitly excludes from its protection a prosecution for perjury.[6] And if, he changes his testimony and admits receipt of the money he *will have prejudiced his defense to the perjury indictment by having made inconsistent statements while under oath*. See 18 U.S.C. § 1623(c) ("In any prosecution under this section, the falsity of a declaration set forth in the indictment or information shall be established sufficient for conviction by proof that the defendant while under oath made irreconcilably contradictory declarations material to the point in question in any proceeding before or ancillary to any court or grand jury"). Aside from the obvious self-incrimination problems that have already been discussed, placing a criminal defendant in this "Catch-22" dilemma is contrary to the most basic elements of fundamental fairness.

The Supreme Court case of *Hutcheson* v. *United States*, 369 U.S. 599 (1962) is instructive. Hutcheson, a president of a labor union, was summoned to testify before the Senate Select Committee on Improper Activities in the Labor or Management Field. At the time he was summoned he was under a state indictment for the alleged bribery of an Indiana highway official. Hutcheson was convicted of a federal crime for refusing to answer 18 of the Committee's questions pertaining to the use of union funds in connection with efforts to forestall the state bribery indictment. His refusal to answer was not based upon the privilege against self-incrimination,[7] but rather on his right to due process of law; he argued that the Committee's interrogation required that he either prejudice his defense or commit perjury and that it was a "pretrial" of the state charges before the Committee.

A majority of the Court rejected these arguments,[8] finding that many aspects of the Due Process argument were premature and could not be addressed until after a state conviction.

However, Chief Justice Warren, in a dissenting opinion joined by Justice Douglas, asserted that the interrogation was violative of the Due Process Clause. He put the constitutional issue as follows: "Is it a violation of the constitutional guarantee of due process of law for a legislative committee, under the circumstances of this case, to inquire into matters for which the witness is about to be tried under a pending indictment?" *Id.* at 628. Both Warren and Douglas answered the question affirmatively.

The majority opinion responded to the dissent in a way that clearly indicates that it did not disagree with the dissenters' constitutional analysis. Rather, it disagreed with their factual premise.

"It should be noted that although this Congressional inquiry was related to the subject matter of the state indictment, the questions that were asked of the petitioner did not bear directly on his guilt or innocence of the state charges. *Id.* at 615 n. 16."

The clear implication is that if the questions did bear directly on the pending charges the majority would have agreed that there was a due process violation.

In the present case, the questions to be asked will bear directly on Mr. Kim's guilt or innocence on the criminal charges. For this reason, *Hutcheson* supports the proposition that the questioning here will be fundamentally unfair and violative of due process.

The inherent unfairness of the situation is not apparent only to Mr. Kim. In a brief hearing regarding the immunity order, Chief Judge Bryant of the United States District Court for the District of Columbia expressed his discomfort with the proposed course of action.

"The COURT. Well, I guess you gentlemen will have to wait a few minutes. There is an odor to this that I don't quite understand.

"Mr. FORTUIN. I am sorry. I didn't hear you.

"The COURT. There is a little odor to this that I don't quite relish. This has never been done before, has it. Nobody under Federal indictment has ever been called under these circumstances, have they?

"Mr. FORTUIN. I don't know, your Honor. I don't know the answer to that question. transcript, at 16."[9]

Weighed against the inherent unfairness of Mr. Kim's dilemma is the fact that there is no apparent need for the Committee to question him at this time. Therefore, we respectfully submit that there is no justification for the Committee to refuse to delay its questioning of Mr. Kim until after his criminal trials. *See, In re Tuso*, 357 A.2d 1 (N.J. Super. Ct. App. Div. 1976).

---

[1] While noting that there was "respected authority" for this proposition, the Court in *In re Liddy* was not directly confronted with the question because Liddy had already been convicted at the time he was called before the grand jury.

[2] *Cf.* 18 U.S.C. § 3481 (defendant is incompetent to testify except at his request).

[3] *Goldberg* is not authority for the compulsion of testimony pursuant to a grant of immunity of an already indicted defendant. At the time he was summoned before the grand jury, Goldberg only had a complaint filed against him. In *In re Liddy*, supra, the Court treated Goldberg as only a potential defendant. Nor is *Application of United States Senate Select Committee on Presidential Campaign Activities*, supra, to the contrary. The witness there also had not been indicted.

[4] Letter of Counsel to committee of Oct. 20, 1977.

[5] The committee has agreed in its letter of Oct. 28, 1977, to subpena witnesses suggested to it by Mr. Kim. However, this is an empty agreement because the most critical witnesses are unavailable.

[6] Indeed, a strong argument can be made that the committee's approach violates the spirit if not the letter of the double jeopardy cause because the Government may be afforded two chances to secure a conviction for what is in reality only one act of perjury.

[7] At the same time, the assertion of the privilege in a Federal proceeding would have been admissible in a State criminal case.

[8] Only six justices participated; the majority consisted of four.

[9] Chief Judge Bryant issued the order, but left open the possibility of challenging its propriety before Judge Flannery who will be presiding over the criminal case.

If Mr. Kim is ordered by the committee to testify, he will decline to do so by asserting the marital privilege and will decline to answer questions based upon illegal surveillance

A. Marital Privilege

Hancho Kim is a defendant in not only the conspiracy and false statement case pending in the District of Columbia but a codefendant as well with his wife in the tax evasion case now pending against them in the United States District Court for the District of Maryland. The United States Attorney has already urged before the Grand Jury in that case that Mrs. Kim's inclusion as a codefendant was appropriate under the evidence then available, and this committee will recall that S. K. Kim testified that she was present and witnessed the delivery of $300,000 of K.C.I.A. funds to her husband in September of 1974. Counsel for Hancho Kim wishes to candidly advise the Committee that should he be ordered to testify, he will assert on behalf of himself and his wife, both of whom are accused of criminal tax evasion in violation of 26 U.S.C. § 7201, a marital privilege not to testify against their spouse. This privilege is, of course, separate and distinct from the right of the accused not to testify against himself as guaranteed by the Fifth Amendment of the United States Constitution. Here the accused, in this case Mrs. Kim, has the spousal privilege prohibiting her husband from testifying against her, in addition to his Fifth Amendment privilege against self-incrimination.

Under Rule 501 of the Federal Rules of Evidence, "the privilege of a witness, person . . . shall be governed by the principles of the common law as they may be interpreted by the courts of the United States in the light of reason and experience." It is an established federal rule of evidence that either spouse may be barred from testifying against the other. *Hawkins* v. *United States*, 358 U.S. 74 (1958); *United States* v. *Fields*, 458 F.2d 1194, 1198–1199 (3d Cir. 1972).

Under Rule 1101(c), "[T]he rule with respect to privileges applies at all stages of all actions, cases and proceedings," and specifically, to contempt proceedings under subparagraph (b). The marital privilege is "not only for the benefit of the husband, wife and children, but for the benefit of the public as well. Such a belief has never been unreasonable and is not now." *Hawkins* v. *United States*, *supra* at 77. There is no reason why it should not apply with equal vitality to these proceedings.

Counsel for Hancho Kim is mindful that the Committee may seek to circumvent the invocation of the privilege by granting immunity to Mrs. Kim. Such a procedural device, however, will not overcome the privilege since the granting of immunity under 18 U.S.C. § 6002 relates solely to the witnesses' self-incrimination and not to testimony against the spouse. The dependency of the indictment against both Mr. and Mrs. Kim makes all the more viable the marital privilege under the circumstances of these proceedings. If the Committee wishes to prevail upon the Department of Justice to dismiss the indictments now pending against Mr. and Mrs. Kim, counsel would reevaluate the appropriateness of the spousal privilege in these proceedings. But as the matter now stands, the privilege prohibits Hancho Kim from testifying against his wife, and under the circumstances here, the indictment precludes him from testifying at all.

B. Illegal Electronic Surveillance

If called to testify before the Committee, Mr. Kim would request an opportunity to determine whether the questioning was in any way derived from the product of electronic surveillance, and the legality of that surveillance.

Title 18 U.S.C. § 2515 prohibits the use as evidence before this Committee of the fruits of illegal electronic surveillance.

"Whenever any wire or oral communication has been intercepted, no part of the contents of such communication and no evidence derived therefrom may be received in evidence in any trial hearing or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, *legislative committee*, or other authority of the United States, a State, or a political subdivision thereof if the disclosure of that information would be in violation of this chapter." (Emphasis added.)

In *Gelbard* v. *United States*, 408 U.S. 41 (1972), the Supreme Court held that the refusal to answer questions before a grand jury because they were based on illegal electronic surveillance was a defense to a civil contempt charge. The Court stated:

"The purposes of § 2515 and Title III as a whole would be subverted were the plain command of § 2515 ignored when the victim of an illegal interception is called as a witness before a grand jury and asked questions based upon that interception. Moreover, § 2515 serves not only to protect the privacy of communication, but also to ensure that the courts do not become partners to illegal conduct: the evidentiary prohibition was enacted also "to protect the integrity of court and administrative proceedings." Consequently, to order a grand jury witness, on pain of imprisonment, to disclose evidence that § 2515 bars in unequivocal terms is both to thwart the congressional objective of protecting individual privacy by excluding such evidence and to entangle the courts in the illegal acts of Government agents.

"In sum, Congress simply cannot be understood to have sanctioned orders to produce evidence excluded from grand jury proceedings by § 2515. Contrary to the Government's assertion that the invasion of privacy is over and done with, to compel the testimony of these witnesses compounds the statutorily proscribed invasion of their privacy by adding to the injury of the interception the insult of compelled disclosure. And, of course. Title III makes illegal not only authorized interceptions, but also the disclosure and use of information obtained through such interceptions. 18 U.S.C. § 2511 (1); *see* 18 U.S.C. § 2520. Hence if the prohibition of § 2515 is not available as a defense to the contempt charge, disclosure through compelled testimony makes the witness the victim, once again, of a federal crime. Finally, recognition of § 2515 as a defense "relieves judges of the anomalous duty of finding a person in civil contempt for failing to cooperate with the prosecutor in a course of conduct which, if pursued unchecked, could subject the prosecutor himself to heavy civil and criminal penalties." *In re Grand Jury Proceedings, Harrisburg, Pennsylvania (Egan)*, 450 F.2d at 220 (Rosenn, J., concurring). "And for a court, on petition of the executive department, to sentence a witness, who is herself the victim of the illegal wiretapping, to jail for refusal to participate in the exploitation of that crime in violation of the explicit command of Section 2515 is to stand our whole system of criminal justice on its head." *In re Evans*, 146 U.S. App. D.C. 310, 323, 453 F.2d 1230, 1242 (1971) (Wright, J., concurring)." *Id.* at 51–52."

The reasoning of Gelbard is fully applicable here. Congress cannot be understood to have sanctioned orders to produce evidence excluded from proceedings before legislative committees by § 2515. There is reason to believe that questioning to be propounded to Mr. Kim may be derived from electronic surveillance. Mr. Kim is justified in refusing to answer all questions based upon illegal electronic surveillance.

CONCLUSION

As Justice Brennan stated in a concurring opinion in *Hutcheson* v. *United States*, supra, 369 U.S. at 624:

"When a congressional inquiry and a criminal prosecution cross paths, Congress must accommodate the public interest in legitimate legislative inquiry with the public interest in securing the witness a fair trial. Whether a proper accommodation has been made must be determined from the vantage point of the time of petitioner's appearance before the Committee."

For the reasons set forth herein, we respectfully submit that the proper accommodation demands that the Committee stay its questioning until such time as the prejudice to Mr. Kim's right to a fair trial is eliminated.

Respectfully submitted.

WILLIAMS & CONNOLLY,
DAVID POVICH,
KENDRA E. HEYMANN,
LOU S. BABBY,
Attorneys for Hancho Kim.

EXHIBIT 1 TO APPENDIX III

(In the United States District Court for the District of Columbia. Holding a Criminal Term, Grand Jury Sworn in on June 7, 1978.)

United States of America *v.* Hancho C. Kim

INDICTMENT

The Grand Jury Charges:

COUNT 1

1. At all times pertinent to this indictment the Korean Central Intelligence Agency (hereafter the KCIA) was an agency of the Government of the Republic of Korea.

2. At all times material hereto, General Yang Doo Wan, also known as Lee Sang Ho (an unindicted co-conspirator herein) was an assistant to the Director of the KCIA with offices in Seoul, Korea.

3. At all times material hereto, Sang Keun Kim (an unindicted co-conspirator herein) was an employee of the KCIA stationed as a diplomatic officer at the Embassy of the Republic of Korea in Washington, D.C.

4. Beginning on or about August 15, 1974, and continuing thereafter until in or around April 1976 (the exact date being unknown to the Grand Jury), in the District of Columbia, the State of Maryland, the Republic of Korea, and elsewhere, Hancho C. Kim, the defendant herein, did willfully and knowingly, combine, conspire, confederate and agree with Yang Doo Wan, Sang Keun Kim and diverts other persons who are presently known and unknown to the Grand Jury, to defraud the United States and the Congress of the United States in connection with the performance of their lawful governmental functions and rights:

(a) of and concerning the right of the Congress and the Executive Branch of the United States to have their deliberations and official actions conducted honestly and impartially as the same should be conducted, free from corruption, fraud, improper and undue influence, dishonesty, malfeasance, unlawful impairment and obstruction, and

(b) of and concerning the right of the United States to have United States Congressmen and other government officials transact the business of the Congress of the United States and other departments and agencies of the United States free from corruption, fraud, improper and undue contracts and influence, dishonesty, malfeasance, unlawful impairment and obstruction.

5. It was a part of the said conspiracy that Hancho C. Kim would conduct a clandestine operation in the United States called "Operation White Snow" for the purposes of in-

creasing foreign aid to the Republic of Korea and of creating a favorable attitude toward the Government of the Republic of Korea and its officials.

6. It was further a part of the said conspiracy that Hancho C. Kim would receive a substantial amount of money from the KCIA for the purpose of distributing the money to members of the Congress of the United States on behalf of the Government of the Republic of Korea and its officials.

7. It was further a part of the said conspiracy that Hancho C. Kim would endeavor to indoctrinate, convert, induce, persuade, and in other ways influence members of the Congress of the United States and Executive Branch officials with reference for formulating, adopting and changing the foreign policies of the United States for the benefit of the Government of the Republic of Korea.

8. It was further a part of the said conspiracy that Hancho C. Kim would periodically report on his activities to, and receive instructions from, General Yang Doo Wan and other officials of the KCIA.

9. It was further a part of the said conspiracy that Hancho C. Kim would travel to the Republic of Korea to discuss with General Yang Doo Wan and other officials of the KCIA his accomplishments and the means of attaining the future goals of the said agreement.

10. In order to accomplish the objects of the conspiracy the following means, among others, were used by Hancho C. Kim, and his co-conspirators:

(a) Hancho C. Kim utilized his home at 6404 Martins Lane, Lanham, Maryland, where he entertained Congressmen, received and stored KCIA funds, operated a telex machine, and received instructions from, and sent information to, the KCIA;

(b) Hancho C. Kim received a total of $600,000.00 in United States currency from the KCIA to support Operation White Snow, which was delivered to him at his home by Sang Keun Kim;

(c) Hancho C. Kim expended a portion of the KCIA funds to purchase two new automobiles and expensive furnishings for his home, to entertain at home and at expensive restaurants, and to make contributions to an educational institution, all in order to impress Congressmen and others as to his financial condition.

(d) Hancho C. Kim approached and spoke with members of the House of Representatives of the United States about the economic and political conditions in the Republic of Korea for the purpose of influencing the attitude of such members of the United States Congress in favor of the Government of the Republic of Korea;

(e) General Yang Doo Wan wrote letters to Sang Keun Kim instructing Sang Keun Kim to deliver money to, and otherwise assist, Hancho C. Kim on behalf of the KCIA.

(f) Hancho C. Kim frequently met Sang Keun Kim to report on the progress of Operation White Snow, after which Sang Keun Kim did transmit the aforesaid information to General Yang Doo Wan by means of the Korean Embassy diplomatic pouch;

(g) Hancho C. Kim rented telecommunications (telex) equipment from R.C.A. Global Communications, Inc., in order to directly and quickly report upon his activities in the United States to General Yang Doo Wan and other officials of the KCIA, and on numerous occasions transmitted such reports to Seoul, Korea; and

(h) Hancho C. Kim traveled to Seoul, Korea, and reported to General Yang Doo Wan and other officials of the KCIA on past and planned future activities of Operation White Snow.

OVERT ACTS

In furtherance of the conspiracy, the following overt acts were committed:

1. On or about September 3, 1974, in the District of Columbia, Sang Keun Kim received a letter from General Yang Doo Wan in which Sang Keun Kim was instructed to assist Hancho C. Kim in a secret operation.

2. In or around September 1974, Hancho C. Kim advised Sang Keun Kim that they would work together on a secret operation to be financed by the KCIA for the purpose of influencing members of the Congress of the United States and others.

3. On or about September 9, 1974, within the District of Columbia, Sang Keun Kim received from General Yang Doo Wan and other officials and employees of the KCIA a personal check in the amount of $100,000.00 written on the checking account of Tong Sun Park.

4. On or about September 9, 1974, within the District of Columbia, Sang Keun Kim, acting pursuant to written instructions from General Yang Doo Wan, deposited the check referred to in Overt Act Number 3 in his personal checking account at the Riggs National Bank.

5. On or about September 11, 1974, within the District of Columbia, General Yang Doo Wan and other officials and employees of the KCIA caused United States currency in the amount of $246,000.00 to be delivered to Sang Keun Kim.

6. On or about September 11, 1974, within the District of Columbia, Sang Keun Kim received written instructions from General Yang Doo Wan to deliver to Hancho C. Kim the $256,000.00 referred to in Overt Act Number 5 and $44,000.00 from the funds deposited in Sang Keun Kim's personal checking account, referred to in Overt Act Numbers 3 and 4.

7. On or about September 12, 1974, Sang Keun Kim delivered $300,000.00 in United States currency to Hancho C. Kim on behalf of the KCIA for the purpose of financing the clandestine operation referred to in Overt Act Number 2.

8. On or about September 17, 1974, Hancho C. Kim ordered and subsequently paid for a new 1975 Cadillac with funds obtained from the KCIA.

9. On or about September 19, 1974, Hancho C. Kim contributed $10,000.00 to Findlay College, Findlay, Ohio, with funds obtained from the KCIA.

10. On or about October 8, 1974, Hancho C. Kim caused directly and indirectly the insertion of an article in the Congressional Record by a member of Congress which was favorable to the Government of the Republic of Korea and its officials.

11. On or about November 8, 1974, Hancho C. Kim transmitted a letter and attachments reflecting his personal views on economic and political conditions in the Republic of Korea to an official in the Executive Branch of the United States.

12. In or around January 1975, Hancho C. Kim traveled to Seoul, Korea, where he conferred with officials and employees of the KCIA.

13. On or about February 25, 1975, Hancho C. Kim caused directly and indirectly the insertion of an article in the Congressional Record by a member of Congress which was favorable to the Government of the Republic of Korea and its officials.

14. On or about March 3, 1975, Hancho C. Kim transmitted two letters and attachments reflecting his personal views on economic and political conditions in the Republic of Korea to an official in the Executive Branch of the the United States.

15. In or around March 1975, Hancho C. Kim had a telex machine installed in his home in Lanham, Maryland, for the purpose of directly and quickly reporting upon his activities in the United States to officials of the KCIA.

16. From on or about March 1, 1975, through July 1, 1976 one hundred forty one (141) telex messages were sent by Hancho C. Kim and Sang Keun Kim from the telex machine at the home of Hancho C. Kim to a telex machine at KCIA headquarters in Seoul, Korea.

17. On or about April 30, 1975, Hancho C. Kim transmitted a letter and attachments reflecting his personal views on economic and political conditions in the Republic of Korea to an official in the Executive Branch of the United States.

18. On or about May 5, 1975, Hancho C. Kim purchased a second new 1975 Cadillac with funds obtained from the KCIA.

19. In or around May 1975, Hancho C. Kim traveled to Seoul Korea, where he conferred with officials and employees of the KCIA.

20. In or around June 1975, in the District of Columbia, Sang Keun Kim received a letter from Park Wang-Kyu, an assistant to General Yang Doo Wan, advising Sang Keun Kim that Sang Kuen Kim would receive $300,000.00 for delivery to Hancho C. Kim.

21. In or around June 1975, Sang Keun Kim received $300,000.00 in United States currency through the diplomatic pouch, and Sang Keun Kim delivered the $300,000.00 to Hancho C. Kim as instructed by the KCIA.

22. On or about June 24, 1975, Hancho C. Kim dined with two Congressmen and their families at the Sans Souci Restaurant in Washington, D.C.

23. In or around August 1975, Hancho C. Kim traveled to Seoul, Korea, where he conferred with officials and employees of the KCIA.

24. On or about January 22, 1976, Hancho C. Kim held a catered dinner for two Congressmen and their families at his home.

25. In or around February 1976, Sang Keun Kim traveled to Seoul, Korea, and conferred with officials and employees of the KCIA regarding the clandestine operation involving Hancho C. Kim.

In Violation of 18 U.S.C. § 371.

COUNT II

1. On or about September 22, 1976, within the District of Columbia, Hancho C. Kim, the defendant herein, duly took an oath in a proceeding before a grand jury of the United States, empaneled and sworn in on June 7, 1976, in the United States District Court for the District of Columbia (hereinafter the grand jury), inquiring into matters then and there pending before the grand jury.

2. Hancho C. Kim, having taken the aforesaid oath that he would testify truthfully, did willfully and knowingly and contrary to said oath, make a false material declaration which he did not believe to be true.

3. At the time and place aforesaid the grand jury was conducting an investigation into various allegations of illegal payments made by agents of the Government of the Republic of Korea to members of the Congress of the United States and to officials of the United States Government, in possible violation of the laws of the United States.

4. It was material to the aforesaid investigation to determine whether Hancho C. Kim had received money from officials and employees of the Government of the Republic of Korea for the purpose of making payments to members of the Congress of the United States.

5. On September 22, 1976, within the District of Columbia, Hancho C. Kim appeared as a witness before the grand jury, and then and there being under oath testified falsely with respect to the aforesaid material matter as follows:

Question. [By Paul Michel, Attorney, Department of Justice]: What is the name of the gentleman who sold your wife the movie projector?

Answer. [Hancho Kim]: Sung Gun Kim.

(Grand Jury Transcript p. 86)

* * * * *

Question. You mentioned that on some of the occasions of his visits Mr. Kim brought something.

Answer. He bring the newspapers once in a while Korean newspapers. After he read in his office.

(Grand Jury Transcript p. 91–92)

* * * * *

Question. Did he leave anything at your home, or with you—aside from the movie projector and some copies of this Korean newspaper?

Answer. Absolutely not.

(Grand Jury Transcript p. 92–93)

* * * * *

Question. Fine. Did he ever bring and leave with you, or at your house, any money?

Answer. Absolutely, positively, no sir. I like to make it—very strongly about it.

(Grand Jury Transcript p. 93)

* * * * *

6. The aforesaid testimony of HANCHO C. KIM, as he then and there well knew and believed, was not true in that on or about September 12, 1974, and in or around June 1975, the exact date being unknown to the grand jury, HANCHO C. KIM did in fact receive at his home money in the aggregate of $600,000.00 in United States currency from the person who HANCHO C. KIM referred to as "Sung Gun Kim," but who in fact is Sang Keun Kim, an agent of the Korean Central Intelligence Agency.

(Violation of 18 U.S.C. § 1623.)

BENJAMIN R. CIVILETTI,
Assistant Attorney General, Criminal Division, Attorney for the United States.

EXHIBIT 2 TO APPENDIX III

(In the United States District Court for the District of Maryland.)

United States of America *v.* Hancho C. Kim and Soonduk E. Kim

(Tax Evasion, 26 U.S.C. § 7201)

INDICTMENT

The Grand Jury Charges:

COUNT I

That on or about April 15, 1975, in the District of Maryland, Hancho C. Kim and Soonduk E. Kim, residents of Lanham, Maryland, who during the calendar year 1974 were married, did willfully and knowingly attempt to evade and defeat a large part of the income tax due and owing by them to the United States of America for the calendar year 1974, by preparing and causing to be prepared, by signing and causing to be signed, and by mailing and causing to be mailed, in the District of Maryland, a false and fraudulent income tax return on behalf of themselves, which was filed with the Internal Revenue Service, wherein it was stated that their taxable income for said calendar year was the sum of $9,740.79, and that the amount of tax due and owing thereon was the sum of $1,683.60, whereas, as they then and there well knew, their joint taxable income for said calendar year was substantially in excess of $9,740.79, upon which said taxable income there was owing to the United States of America an income tax substantially in excess of $1,683.60.

In violation of Section 7201, Title 26, United States Code.

COUNT II

That on or about April 15, 1976, in the District of Maryland, Hancho C. Kim and Soonduk E. Kim, residents of Lanham, Maryland, who during the calendar year 1975 were married, did willfully and knowingly attempt to evade and defeat a large part of the income tax due and owing by them to the United States of America for the calendar year 1975, by preparing and causing to be prepared, by signing and causing to be signed, and by mailing and causing to be mailed, in the District of Maryland, a false and fraudulent income tax return on behalf of themselves, which was filed with the Internal Revenue Service, wherein it was stated that their taxable income for said calendar year was the sum of $15,556.29, whereas, as they then and there well knew, their joint taxable income for said calendar year was substantially in excess of $15,556.29, upon which said taxable income there was due and owing to the United States of America an income tax substantially in excess of $2,939.72.

In violation of Section 7201, Title 26, United States Code.

JERVIS S. FINNEY,
U.S. Attorney.
EDWIN B. PIERCE,
Special Assistant U.S. Attorney.
JEFFREY S. WHITE,
Special Assistant U.S. Attorney.

APPENDIX IV

NOVEMBER 14, 1977.

THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

In the Matter of Hancho C. Kim, a Witness Before the Committee on Standards of Official Conduct.

MEMORANDUM

The Special Counsel and the Special Staff conducting the Korean influence inquiry pursuant to House Resolution 252 submit this memorandum to advise Members of the Committee on Standards of Official Conduct ("Committee") with respect to the appropriate disposition of the claims set forth in the "Memorandum Setting Forth the Constitutional and Practical Reasons Why Hancho C. Kim should Not Be Compelled to Testify" (the "Memorandum") submitted by Hancho C. Kim ("Kim").

DISCUSSION

The facts

On February 9, 1977, in the wake of press reports of efforts by the Government of the Republic of Korea to influence United States foreign policy by paying off Members of Congress, the House of Representatives unanimously adopted House Resolution 252. That resolution "directs" this Committee *inter alia*, to conduct a "full and complete inquiry to determine whether Members of the House of Representatives accepted anything of value, directly or indirectly, from the Government of the Republic of Korea or representatives thereof."

Pursuant to said resolution, on October 19 and 20, 1977, the Committee heard testimony in public session from Kim Sang Keun, who had been First Secretary and later Counsellor at the Korean Embassy in Washington, D.C., from October 1970 through November, 1976, at which time he defected to the United States (Tr. 101–05).[1] He testified that he had delivered $600,000 in cash to Hancho Kim which, according to Hancho Kim was to be used, and was in fact used in part, to buy off Members of the House of Representatives and influence them in the performance of their duties. (E.g., Tr. 130–31, 146–47, S8, S10–13, S19). Indeed, Hancho Kim, in reports that he made to Kim Sang Keun, indicated the identity of five Congressmen, referred to by the code name "Advance Guard," whom Kim had allegedly paid off in furtherance of this venture. (Tr. S23). Hancho Kim boasted to Kim Sang Keun that in carrying out the plan to pay off Members of Congress and to influence the Executive Branch of the United States Government, American media and the American academic community, he had spent over $700,000. (Tr. S12, S63). Hancho Kim is thus one of three individuals named in the Committee's public hearings who, according to proof adduced at those hearings, personally delivered cash to Members of Congress.

From the foregoing, it is apparent that the Committee must obtain at the earliest possible moment the testimony of Hancho C. Kim to determine to whom, if anyone, he made cash payoffs in amounts aggregating several hundreds of thousands of dollars, as he claimed in statements to Kim Sang Keun. Such testimony is essential to enable the Committee to fulfill its mandate.[2]

Accordingly, in pursuing the inquiry, Members of the Special Staff notified Kim's attorney of the Committee's desire to take his testimony in executive session. Kim's attorney advised that if called as a witness Kim would assert his Fifth Amendment privilege *not* to testify, on the grounds that his testimony might tend to incriminate him. The Committee thereafter voted unanimously to obtain an order of immunity from the United States District Court pursuant to the provisions of Title 18, U.S.C., Sections 6002 and 6005.

Thereafter, Committee Counsel filed with the United States District Court for the District of Columbia an application for an Order Conferring Immunity Upon and Compelling Testimony from Hancho C. Kim. The Department of Justice indicated that it had no objection to this order and that, in its opinion, its case against Kim and his wife could be adequately protected by immediately date stamping and sealing all evidence to be used against Kim in any trials. On October 18, 1977, Chief Judge William B. Bryant of the United States District Court for the District of Columbia signed the order submitted by Committee Counsel. That order provides in part as follows:

"(N)o testimony or other information compelled under the order (or any information directly or indirectly derived from such testimony or other information) may be used against the witness in any criminal case, except a prosecution for perjury, giving a false statement, or otherwise failing to comply with the order."

In the meantime, on September 27, 1977, a Federal grand jury sitting in the District of Columbia indicted Hancho Kim for conspiracy to defraud the United States and for perjury. The perjury count of the indictment charges Kim with lying when he denied before the grand jury having received money from Kim Sang Keun. That same day, Kim and his wife were indicted by a Federal grand jury sitting in Baltimore. Both were charged with income tax evasion for the years 1974 and 1975.

On November 3, 1977, Counsel to the Committee advised Kim's lawyer that the Committee intended to proceed to take testimony from Kim in executive session pursuant to the immunity order it had obtained. The following day, Kim's lawyer told Counsel to the Committee that in spite of the immunity order Kim believed he should still not have to testify and requested an opportunity to raise the reasons upon which Kim relied to justify this belief before the Chairman and Ranking Minority Member of the Committee. Kim's request was

---

[1] References in parenthesis are to pages of the official transcript of public hearings held by the committee on October 19–21, 1977. References to pages of the transcript for the second day of hearings are preceded by the letter "S."

[2] The assertion by Hancho Kim that "there is no apparent need for the committee to question" Kim at this time is frivolous on its face. It will take a considerable amount of time following Hancho Kim's testimony to corroborate or refute his testimony and the reasons for resolving allegations against Members of Congress at an early date are compelling.

granted on Friday, November 4, 1977, and these proceedings followed.

I. KIM'S MAJOR CONTENTIONS: COMPELLING HIM TO TESTIFY WOULD VIOLATE HIS CONSTITUTIONAL RIGHTS

Kim's major contentions, which will be addressed individually below, all rest in part on the claim that if Kim testifies before this Committee at this time he will not receive a fair trial in any of his criminal cases. A complete answer to Kim's major contentions is that they are being asserted in the wrong place. The Courts are fully competent to see that Hancho Kim is not convicted except at a fair trial. If Hancho Kim can receive a fair trial, the Courts will see to it that he gets one. If Hancho Kim cannot receive a fair trial—and we firmly believe that he can—the Courts will set him free.[3] In either event, however, the legislative branch is separate from and co-equal to the other branches of government and it is entitled to the testimony of one of the three most significant witnesses in an extremely important Congressional investigation. There is no reason, in the words of Mr. Justice Harlan:

"to thwart the exercise of legitimate Congressional power, on the basis of conjecture that (the courts) may later abuse an individual's reliance upon federally assured rights. . . .

* * * * *

"Surely a congressional committee which is engaged in a legitimate legislative investigation need not grind to a halt whenever responses to its inquiries might potentially be harmful to a witness in some distinct proceeding, *Sinclair* v. *United States, supra* (279 U.S. at 295), or when crime or wrongdoing is disclosed. *McGrain* v. *Daugherty*, 273 U.S. 135, 179, 180. *Hutcheson* v. *United States*, 369 U.S. 599, 612, 618 (1961)."

Another complete answer to Kim's major contentions is that they are premature. Kim's testimony will be taken in executive session and may not be released to the public or the Justice Department until after Kim's criminal trials.

A. Kim's fifth amendment claims

Kim first argues that, notwithstanding the order of immunity which under the law must guaranty and does guaranty that his testimony will not be used in any way to incriminate him, his testimony will nonetheless be used to incriminate him because "his testimony will preview to the government the defenses he will assert at the trials" (Memorandum at 4), and it is "impossible to conclude that the government will not gain, however inadvertently, some advantage, however subtle" (Memorandum at 6) from Kim's testimony. This same claim was raised and squarely rejected in *Kastigar* v. *United States*, 406 U.S. 441, 459–462 (1971), which held that Courts *must* make sure that no testimony given under immunity by a defendant in a criminal case is used *in any way* in that criminal case and which held that Courts are competent to administer this rule. In *Kastigar* the Supreme Court wrote as follows:

"Petitioners argue that use and derivative-use immunity will not adequately protect a witness from various possible incriminating uses of the compelled testimony . . . It will be difficult and perhaps impossible, the argument goes, to identify, by testimony or cross-examination, the subtle ways in which the compelled testimony may disadvantage a witness, especially in the jurisdiction granting the immunity.

"This argument presupposes that the statute's prohibition will prove impossible to enforce. The statute provides a sweeping proscription of any use, direct or indirect of the compelled testimony and any information derived therefrom. . . .

* * * * *

"This total prohibition on use provides a comprehensive safeguard, barring the use of compelled testimony as an "investigatory lead," and also barring the use of any evidence obtained by focusing investigation on a witness as a result of his compelled disclosures.

"A person accorded this immunity under 18 U.S.C. Sec. 6002, and subsequently prosecuted, is not dependent for the preservation of his rights upon the integrity and good faith of the prosecuting authorities. As stated in *Murphy:*

" 'Once a defendant demonstrates that he has testified, under a . . . grant of immunity, to matters related to the federal prosecution, the federal authorities have the burden of showing that their evidence is not tainted by establishing that they had an independent legitimate source for the disputed evidence, 378 U.S., at 79 n. 18.'

"This burden of proof, which we reaffirm as appropriate, is not limited to a negation of taint; rather, it imposes on the prosecution the affirmative duty to prove that the evidence it proposes to use is derived from a legitimate source wholly independent of the compelled testimony.

"This is very substantial protection, commensurate with that resulting from invoking the privilege itself.

"The privilege assures that a citizen is not compelled to incriminate himself by his own testimony. It usually operates to allow a citizen to remain silent when asked a question requiring an incriminatory answer. This statute, which operates after a witness has given incriminatory testimony affords the same protection by assuring that the compelled testimony can in no way lead to the infliction of criminal penalties.

"We conclude that the immunity provided by 18 U.S.C. Sec. 6002 leaves the witness and the prosecutorial authorities in substantially the same position as if the witness has claimed the Fifth Amendment privilege. The immunity therefore is coextensive with the privilege and suffices to supplant it (footnotes omitted)."[4]

The reasoning of Kastigar and subsequent court decisions make clear that the fact that Kim has already been indicted is of no consequence. *United States* v. *Frumento*, 552 F.2d 534 (3d Cir. 1977); *In re Liddy*, 506 F.2d 1293 (D.C. Cir. 1974); *In re Buonacoure*, 412 F. Supp. 904 (E.D. Pa. 1976), are all cases in which a witness was compelled to testify under immunity after the witness had been indicted.

B. Kim's sixth amendment claims

Kim next argues that taking his testimony at this time will violate his Sixth Amendment right to counsel because (1) under the Sixth Amendment he is entitled "to be confronted with the witnesses against him" and (2) the burden of preparing for Kim's testimony before the Committee will interfere with his preparations for trial. Both claims are without merit.

1. The Sixth Amendment mandates confrontation of witnesses only by an "accused" in "criminal prosecutions." Here the Committee's proceedings are not criminal, and Hancho Kim is not an "accused." The Sixth Amendment does not apply.

2. Kim has retained one of the largest and most experienced criminal law firms in the country, which has been representing Kim for almost a year. The papers submitted by Kim make it clear that even at the present time a partner in the firm and two associates have responsibility for Kim's case. The suggestion that with these overwhelming resources available to him, Kim cannot prepare for testimony before the Committee and for trial, is frivolous on its face. In any event, if Kim's attorneys are impeded in their preparation of the criminal cases by Kim's testimony before this Committee, adjournments should be requested from the Courts.

C. Kim's due process claims

Additionally, Kim claims that compelling him to testify at this time is fundamentally unfair and, therefore, violates his constitutional right to due process of law. In *Hutcheson* v. *United States*, 369 U.S. 599, 628 (1962), the Supreme Court explicitly held that it is not "a violation of due process of law for a legislative committee . . . to inquire into matters for which the witness is about to be tried under a pending criminal indictment."

In *Hutcheson* the witness had been indicted in a state court and was then compelled to appear before a Senate committee. He refused to testify on due process grounds and was prosecuted for contempt.

The Supreme Court affirmed his conviction. There is nothing to distinguish *Hutcheson* from this case.[5]

Moreover, the instances of alleged unfairness set forth by Kim lend no support to his argument. Kim argues that compelling him to testify at this time somehow puts him on the horns of dilemma:

"Specifically, if Kim stands by his earlier testimony and denies receipt of any money from S. K. Kim he leaves himself open to a possible second indictment for perjury, since the grant of immunity explicitly excludes from its protection a prosecution for perjury. And, if he changes his testimony and admits receipt of the money he will have prejudiced his defense to the perjury indictment by having made inconsistent statements while under oath." (Memorandum at 8) (footnote omitted).

This argument is based on the mistaken view of the law that if Kim gives truthful testimony which is inconsistent with his allegedly perjurious testimony it could be admitted against him in his criminal trial.[6]

[3] The Department of Justice clearly agrees that Kim can be tried following his testimony before this committee since it has indicated that it has no objection to the taking of Kim's testimony by this committee at this time.

[4] The cases cited by Kim (Memorandum at 5) to the effect that a person who has been indicted may not be compelled to testify before a grand jury have no applicability to this case. In those cases, the grand jury was being used to obtain evidence against the witness and the cases stand only for the proposition that a grand jury's job is over once an indictment has been filed. Such cases plainly do not apply where the witness is granted immunity by and testimony is taken before a committee of Congress.

[5] Kim's feeble attempt to distinguish the Hutcheson case on the grounds that there the committee agreed not to question Hutcheson on matters for which he was under indictment (Memorandum at 9) is of no avail since the Court assumed in deciding the case that the evidence which the committee did seek to elicit could have been used against him as evidence of guilt at his criminal trial. 369 U.S. at 607.

[6] In support of this argument Kim cites title 18, United States Code, sec. 1623(c) which provides that the crime of perjury may be established by proof that the defendant made "irreconcilably contradictory declarations" while under oath. This statute, the argument goes, establishes that if Kim contradicts his prior sworn statement, this contradiction could be used at his criminal trial to prove perjury. *Kastigar*, however, makes clear that the statute not be used in this manner and the Courts have explicitly so held. *United States* v. *Patrick*, 542 F.2d 381, 385 (7th Cir. 1976); see also *United States* v. *Frumento*, above, 552 F.2d at 541 n. 11. Moreover, title 18, United States Code, sec. 1623(c) by its terms applies only to testimony "before or ancillary to any court or grand jury" and, therefore, does not apply to testimony before congressional committees. (Title 18, United States Code, sec. 1621, which does apply to congressional committees, has no similar provision.)

Kastigar, above makes it clear, however, that no such use of the immunized testimony could be made. The precise argument made by Kim was raised and rejected in *United States* v. *Frumento*, 552 F.2d 534, 541–544 (3d Cir. 1977) in terms that apply with full force to Kim's argument. In *Frumento* the witness, Pisciotta, suggested the same dilemma suggested by Kim here:

"That dilemma, Pisciotta contends, consists of the following: if his testimony is untruthful (i.e., exculpatory as to him), he will be subject to prosecution for perjury; yet, if the testimony is truthful (i.e., inculpatory), it can be used against him to impeach his testimony at any subsequent prosecution. But Section 6002 imposes no such dilemma, mandates no such choice, and, as a result, permits no such consequences.

"The threat of a perjury prosecution, as it is implicated in half of Pisciotta's supposed dilemma is real enough.

* * * * *

"However, for his 'dilemma' to move this Court to rule that Section 6002 immunity does not provide the full measure of Fifth Amendment protection, he must demonstrate that his truthful immunized statements could be used against him. This he cannot do.

* * * * *

"We reiterate our adherence to this principle: except as the basis for a prosecution for perjury a witness's immunized testimony may not be used against him.

"Pisciotta's dilemma, then, is illusory. His testimony could be used against him only in the event of a prosecution for perjury, but in no other way and for no other reasons. Pisciotta is fully protected by Section 6002 immunity from having any truthful testimony he may give—even though inculpatory—used against him. (Footnotes omitted)."

II. KIM'S MINOR CONTENTIONS: MARITAL PRIVILEGE; ILLEGAL ELECTRONIC SURVEILLANCE

In addition to the claims set forth above, Kim raises two additional arguments which are completely spurious: First he asserts that the marital privilege justifies him in refusing to testify in a Congressional proceeding even though his wife is not a party to the proceeding; and second, he alleges that he is justified in refusing to answer questions because the questions may be based upon illegal electronic surveillance, even though there is no evidence that Kim or his wife have ever been the subject of such surveillance.

A. Marital privilege

The simple and complete answer to Kim's claim that the marital privilege justifies his refusal to testify is the well established rule that "the privilege applies only in favor of a person *against whom, as a party to the cause, the testimony of a wife or husband* is offered." 8 *Wigmore on Evidence*, Section 2234, page 232 (McNaughton rev. 1961) (emphasis in the original). Since Kim's wife is plainly not a party to any proceedings before the Committee and, of course, could not be, the marital privilege has no application in this case.[7] Thus, Kim's wife is in no way prejudiced by her husband's testimony before the Committee and the marital privilege does not apply.

B. Electronic surveillance

Kim next claims that if called to testify before the Committee he is entitled to an opportunity to determine whether the questioning before the Committee is in any way derived from illegal electronic surveillance. (Memorandum at 13).

Annexed hereto as Exhibits A and B are sworn statements of John W. Nields, Jr., Chief Counsel to the Special Staff to the Committee on Standards of Official Conduct and Thomas M. Fortuin, Counsel to the Special Staff, who will be responsible for the questioning of Mr. Kim and who have knowledge of the records and evidence obtained by the Special Staff on which questioning of Kim will be based.

These affidavits establish that there is no evidence that Kim has ever been the subject of electronic surveillance and that any questioning of Kim will not be based upon any illegal electronic surveillance. The law is well established that, absent some showing by the witness of illegal electronic surveillance, there is no burden on the government even to "confirm or deny" the existence of wiretapping. *In re Grand Jury (Vigil)*, 524 F. 2d 209, 214 (10th Cir. 1975), cert denied, 425 U.S. 927 (1976). In any event, the law is clear that the statements of Nields and Fortuin are a more than sufficient response to Kim's argument. *In re Archuleta*, Dkt. No. 77-1286, Slip Op. 5321, 5326–5328 (2d Cir. August 19, 1977); *United States* v. *Yanagita*, 552 F. 2d 940 (2d Cir. 1977); *United States* v. *Gruss*, 515 F. 2d 157, 159 (2d Cir. 1975) (Lumbard, J., concurring); *See Gelbard* v. *United States*, 408 U.S. 41, 71 (1972) (White, J. concurring) ("Of course, where the Government officially denies the fact of electronic surveillance of the witness, the matter is at an end and the witness must answer.").

CONCLUSION

Kim has set forth no grounds justifying a refusal to answer when called to testify before the committee.

Respectfully submitted.

LEON JAWORSKI
Special Counsel.
JOHN W. NIELDS, Jr.,
Chief Counsel.
THOMAS M. FORTUIN,
Counsel.

EXHIBIT A

Statement of John W. Nields, Jr.

1. I am Chief Counsel to the Special Staff conducting the Korean Influence Inquiry pursuant to House Resolution 252 on behalf of the Committee on Standards of Official Conduct of the United States House of Representatives.

2. I submit this statement in response to claims made by Hancho C. Kim that the questioning of him by the Committee may be based upon illegal electronic surveillance.

3. I have responsibility for the questioning of Hancho C. Kim, a witness before the Committee, along with Thomas M. Fortuin, Counsel to the Special Staff. I also have knowledge of the files and records of the Special Staff upon which such questioning will be based.

4. I am not aware of any electronic surveillance, legal or otherwise, in which the voice of Hancho C. Kim was overheard. In any event, the questioning of Hancho C. Kim will be based exclusively on investigations conducted by the Special Staff, which did not include any electronic surveillance or the obtaining of information gathered therefrom.

I state under penalty of perjury that the foregoing is true and correct. Executed on this 14th day of November, 1977.

THOMAS M. FORTUIN.

Certificate of service

I hereby certify that on November 14, 1977, I served a copy of the attached Memorandum and the Exhibits thereto on the attorneys for Hancho Kim by causing a copy thereof to be hand-delivered to:

William & Connolly, 1000 Hill Building, Washington, D.C. 20006. Attention: David Povich, Esq.

THOMAS M. FORTUIN.

APPENDIX V

(Before the Committee on Standards of Official Conduct of the House of Representatives.)

In re Hearings conducted Pursuant to House Resolution 252.

MEMORANDUM IN RESPONSE TO MEMORANDUM OF SPECIAL COUNSEL WITH RESPECT TO CLAIMS OF HANCHO KIM

In a Memorandum dated November 11, 1977, Hancho C. Kim, by his undersigned counsel, set forth the legal and practical reasons why he should not be compelled to testify before the Committee at this time. In an effort to answer that Memorandum, Special Counsel to the Committee has made several arguments in favor of calling Mr. Kim. We appreciate this opportunity to respond briefly to those arguments.

I.

Special Counsel misconceives the nature of the committee's obligation to accommodate its inquiry with Mr. Kim's constitutional rights

Both in its Memorandum of November 14, 1977, and during oral argument before the Chairman and Ranking Minority Member of the Committee, Speical Counsel has suggested that Mr. Kim's constitutional claims are premature and are addressed to the wrong forum. This position erroneously assumes that only the court and not the Committee has the obligation to safeguard Mr. Kim's constitutional rights.

As the Supreme Court stated in *Barenblatt* v. *United States*, 360 U.S. 109, 112 (1959),

"[T]he Congress, in common with all branches of the Government, must exercise its powers subject to the limitation placed by the Constitution on governmental action more particularly in the context of this case the relevant limitations of the Bill of Rights."

We respectfully submit that the Special Counsel has ignored this responsibility and the resultant obligation of the Committee to accommodate its legitimate legislative inquiry with the constitutional rights of an already indicted defendant.

Indeed, rather than being premature, the

[7] Kim's testimony before this committee could not be offered in any proceeding which does involve Mrs. Kim since it would be mere heresay in that proceeding. 4 *Wigmore on Evidence*, section 1079, p. 180 (Chadbourne ed. 1972).

claims made by Mr. Kim are timely and properly addressed to the Committee. Justice Brennan's statement in *Hutcheson* v. *United States*, 369 U.S. 599, 624 cited in our earlier Memorandum, warrants repetition:

"When a congressional inquiry and a criminal prosecution cross paths, *Congress* must accommodate the public interest in legitimate legislative inquiry with the public interest in securing the witness a fair trial. Whether a proper accommodation has been made must be determined *from the vantage point of the time of petitioner's appearance before the Committee.*" (Emphasis added.)

Despite Special Counsel's invitation to do so, we therefore respectfully urge the Committee not to abdicate its clear responsibility. The "proper accommodation" may be accomplished by simply delaying the questioning of Mr. Kim until such time as it would not prejudice his criminal trials.

II.

Special Counsel has not adequately answered Mr. Kim's claims

A. Violation of Privilege Against Self-Incrimination

Special Counsel argues that *Kastigar* v. *United States*, 406 U.S. 441 (1972), is dispositive of Mr. Kim's claim that compelling him to testify at this time violates his privilege against self-incrimination. However, *Kastigar* dealt only with a challenge to the immunity statute *on its face;* it did not foreclose inquiry as to whether the statute provided adequate protection as applied in a particular instance. Judge Sirica made this point in *Application of United States Senate Select Committee on Presidential Campaign Activities*, 361 F. Supp. 1270, 1279 (D.D.C. 1973); *accord, In re Baldinger*, 365 F. Supp. 153 (C. D. Cal. 1973). Indeed, as noted in our earlier Memorandum, the Courts have recognized that there are practical limitations to use immunity as a protective device which render it constitutionally inadequate in certain circumstances. *See, e.g., Goldberg* v. *United States*, 472 F. 2d 513 (2d Cir. 1973).

Nothing in Special Counsel's argument refutes the contention that use immunity cannot provide protection coexistence with the Fifth Amendment in the present circumstances. For instance, Special Counsel cannot provide an absolute guarantee that no information will be released—however inadvertently, by the Committee or its staff. Nor can Special Counsel assure that action of the Committee subsequent to Mr. Kim's testimony—such as a contempt citation or the subpoenaing of additional witnesses—will not aid the Government in its prosecution of Mr. Kim.

Special Counsel places great weight on three cases, *In re Liddy*, 506 F. 2d 1293 (D.C. Cir. 1974); *United States* v. *Frumento*, 552 F. 2d 534 (3d Cir. 1977); *In re Buanacoure*, 412 F. Supp. 904 (E.D. Pa. 1976). However, none of these cases involves the grant of immunity to an indicted individual awaiting trail.

In re Liddy, supra, dealt with the propriety of a grant of immunity to an individual already convicted of a crime. The fact of conviction was critical to the Court's decision. After recognising "that there is respectable authority for the propositions that one who has been formally charged may not be called before the grand jury to testify about his alleged crimes unless he knowingly consents". 506 F. 2d at 1299, the Court stated:

"Liddy is not in the position of one who has been indicted and, *before facing trial*, has been called to testify before the indicting grand jury. Rather, Liddy has been indicted *and convicted* for the crimes about which the grand jury now seeks his testimony. *Id.* at 1300."

Similarly, *United States* v. *Frumento*, *supra*, involved an already convicted individual. In the very first sentence of its opinion, the Court stated:

"This appeal requires us to determine whether a defendant *who has been tried and convicted* but not yet sentenced, and whose post-trial motions were still pending at the time the government sought his testimony at the trial of his codefendants, may be compelled to testify under a grant of immunity. 552 F. 2d at 535. (Emphasis added.)"

Nor is *In re Buonacoure, supra*, authority for the Special Counsel's position. In that case, the individual was indicted only after he refused to testify pursuant to an immunity order. Indeed, the Court explicitly left open the question of whether the indictment would have to be dismissed if the individual expressed a willingness to testify. 412 F. Supp. at 908. Thus the Court did *not* decide the question of whether the Government should be required to dismiss the indictment, thereby expunging Buonacoure's status as an indicted defendant, as a *quid pro quo* for his testimony. This Committee is not in a position to offer such a *quid pro quo*.

In sum, we stand on our earlier assertion that an indicted individual, on the eve of trial, has never been compelled to testify in the circumstances involved here. Special Counsel admitted this fact before Chief Judge Bryant, and his efforts to find examples have failed to turn up an analogous application of use immunity.

B. Violation of Sixth Amendment Rights

Once an individual has been indicted, the full panoply of Sixth Amendment rights attach. These rights follow him wherever he is compelled to appear and testify about the subject matter of the indictment. They are, therefore, fully applicable here.

Special Counsel has failed to respond to the core of Mr. Kim's Sixth Amendment argument; that is, that the right to assistance of counsel guarantees that an individual about to stand trial will not be compelled to disgorge information to anyone other than defense counsel. The Committee's proposed compulsion of testimony is in direct conflict with that right and with the critical right to confront and cross-examine witnesses.

In addition, Special Counsel did not respond to the argument that the preparation of Mr. Kim for testimony before this Committee will constitute a major interference with preparation for trial.

C. Violation of Due Process

Quoting from the *dissent's* statement of the issue, Special Counsel states: "In *Hutcheson* v. *United States*, 369 U.S. 599, 628 (1962), the Supreme Court explicitly held that it is not a 'violation of due process of law for a legislative committee . . . to inquire into matters for which a witness is about to be tried under a pending criminal indictment.'" Memorandum at 9. A careful reading of the case, however, reveals that the majority made no such holding. Indeed, in light of its response to the dissent, it is fair to say that if the majority viewed the issue in those terms, it would have found a violation of due process.

First, it is important to note that the *Hutcheson* Court did not consider the self-incrimination implications that result from compelling an indicted individual to testify about the precise subject for which he had been indicted. Rather than wrestle with that serious question, the Court expressly left it for another day. 360 U.S. at 612.

The Court was concerned only with whether it was there inherently unfair to compel Hutcheson to testify. While the majority found no due process violation, it is clear that central to the result was the fact that the questions being asked *did not* bear directly on the witnesses' guilt or innocence on the State charges. In the present case, the proposed inquiry *does* bear directly on the question of guilt or innocence of the crimes charged. In these circumstances, *Hutcheson* supports the conclusion that the due process clause prohibits this inquiry.

The thrust of Mr. Kim's due process argument is that the Committee is placing him in a constitutionally intolerable position between the Scylla of a perjury charge and the Charybdis of possible self-incrimination. Despite Special Counsel's assertion to the contrary, that dilemma is real rather than illusory. If Mr. Kim is compelled to repeat his earlier testimony, he faces the very real prospect of a *second* perjury indictment. It is no answer to say that the prosecutorial decision will be made by the Department of Justice, for the fundamentally unfair situation of forcing Mr. Kim to repeat his testimony or confess to criminal charges will have been the Committee's creation.

D. Marital Privilege

Special Counsel has responded to the claim of marital privilege by arguing that it has no applicability because Mrs. Kim is not a party to the Committee's proceedings. This narrow view of the privilege is patently unacceptable.

The marital privilege is not an evidentiary rule grounded upon ensuring the admissibility of only reliable evidence; rather, it reflects the far more important and far-reaching policy of safeguarding marital and familiar harmony.

Mr. and Mrs. Kim are co-defendants in a criminal indictment. Under circumstances, the underlying policy of the marital privilege is fully applicable here. To say that Mrs. Kim is not a party to the proceedings advances nothing, because strictly speaking there are *no* parties to the proceedings. The highly technical approach taken by Special Counsel ignores this fact and, more importantly, the sound policies that justify the privilege.

Conclusion

For the reasons set forth both here and in our earlier Memorandum, we respectfully submit that it would be legally improper and practically unwise to compel Hancho Kim to testify at this time. We respectfully request that the questioning of Mr. Kim be postponed until a time when the Committee's important mandate may be accomplished without violating Mr. Kim's constitutional rights.

Respectfully submitted.

WILLIAMS & CONNOLLY,
KENDRA E. HEYMANN,
DAVID POVICH,
LON S. BABBY,
Counsel for Hancho Kim.

APPENDIX VI

[Korean Influence Investigation Pursuant to H. Res. 252]

HOUSE OF REPRESENTATIVES,
COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT,
Washington, D.C., May 9, 1978.

Re Hancho C. Kim.
DAVID POVICH, Esq.
Williams & Connolly,
Washington, D.C.

DEAR MR. POVICH: This letter is to inform you that the Committee subpoena directed to your client Hancho C. Kim, dated and served on him on November 17, 1977, and adjourned *sine die* on January 12, 1978, is returnable on Monday, May 15, 1978, at 10:00 a.m. in Room 2360 of the Rayburn House Office Building.

Sincerely,

JOHN J. FLYNT, Jr., *Chairman.*

APPENDIX VII

(United States District Court for the District of Columbia.)

Misc. No. 77-0208; filed October 14, 1977

In the Matter of the Application of—

(United States House of Representatives Committee on the Standards of Official Conduct.)

ORDER CONFERRING IMMUNITY UPON AND COMPELLING TESTIMONY AND PRODUCTION OF INFORMATION FROM HANCHO C. KIM

The United States House of Representatives Committee on the Standards of Official Conduct, having made written application pursuant to Title 18, United States Code, Sections 6002 and 6005, for an order conferring immunity upon Hancho C. Kim (the "Witness") and compelling him to testify and provide other information before it in any proceeding held pursuant to the authority of H. Res. 252, 95th Cong., 1st Sess., and the Court finding that all procedures specified by Section 6005 have been duly followed, it is hereby this 13th day of October, 1977,

Ordered that the said Witness in accordance with the provisions of Title 18, United States Code, Sections 6002 and 6005, shall not be excused from testifying or providing other information in any proceeding of the aforesaid Committee held pursuant to the authority of H. Res. 252, 95th Cong., 1st Sess., on the ground that the testimony or other information sought may tend to incriminate him; and

It is further ordered that the said Witness appear in accordance with any duly authorized Committee subpoena and testify and provide such other information that is sought with respect to the matters under inquiry and investigation by said Committee; and

It is further ordered that no testimony or other information compelled under this Order (or any information directly or indirectly derived from such testimony or other information) may be used against the Witness in any criminal case, except a prosecution for perjury, giving a false statement, or failing to comply with this Order.

WILLIAM B. BRYANT,
Chief Judge.

APPENDIX VIII

[House of Representatives Hearings Before the Committee on Standards of Official Conduct—Korean Investigation—Deposition of Hancho C. Kim]

KOREAN INVESTIGATION

HOUSE OF REPRESENTATIVES,
COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT,
Washington, D.C., May 15, 1978.

The parties to the deposition met at 10:05 a.m., in room 443, Cannon House Office Building.

Present: Representative Richardson Preyer.

Also present: Thomas M. Fortuin, Counsel; Jeffrey Harris, Deputy Chief Counsel; and David Povich and Robert Barnett, Counsel to witness.

Mr. PREYER. Mr. Kim, will you be sworn?

Do you solemnly swear the evidence you will give before this committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. KIM. I do.

Mr. PREYER. Thank you, Mr. Kim.

Mr. FORTUIN. The record should reflect the continued testimony of Hancho C. Kim, pursuant to the order of immunity previously identified for the record.

Mr. Kim, did there come a time when you received some money from Yim Sang Keun?

Mr. KIM. Would you kindly raise that question again, please?

Mr. FORTUIN. Yes.

Did there come a time when you received some money from Kim Sang Keun?

Mr. KIM. I don't understand. Still I don't get it, that money. What money you specifically have in your mind?

Mr. FORTUIN. Any money.

Mr. POVICH. I am going to advise the committee that at the moment there is a criminal tax case pending against the witness and his wife, which is the direct product of the allegations concerning receipt of money by him from Sang Keun Kim, the very subject matter of your inquiry.

As you know, there has already been a trial. Sang Keun Kim has testified that he gave Mr. Kim certain sums in 1974 and 1975, and in connection with that trial also is Mr. Kim's denial that he received any money from Sang Keun Kim in 1974 and 1975, his denial under oath before a grand jury, and Mr. Kim was convicted of perjury with respect to his denial, and conspiracy with respect to his receipt of the money.

In light of that, and because of the pending tax case against him for the receipt of the very money in question, I request him concerning that at this time. The tax case is pending in Baltimore. No trial date has been set, but I am hopeful that the matter can be tried within a reasonable period of time.

We have previously indicated to the committee that we have no objection to answering any questions concerning Mr. Kim's contact with any Member of Congress or any American Government official, but when you get down to the specific question of the receipt of this money, which he has previously denied, and he has denied under oath, and he has been convicted of, I question whether or not it is really a proper inquiry at this time.

We don't wish to obstruct the committee in pursuit of information, but really for all intents and purposes, that matter has been laid to rest.

Mr. FORTUIN. I don't understand how when he got convicted for having denied receiving the money before that lays it to rest. It seems to me it is to the contrary. It hasn't been laid to rest at all. We don't know where the money came from or what happened to it from this witness.

Mr. POVICH. No. You have a witness who has testified to the very specifics with respect to these transactions and this money, and the jury found that the Government had established those matters, I assume beyond a reasonable doubt, and convicted him. If the committee is saying that they are not satisfied with that——

Mr. FORTUIN. No, we are not saying anything. We want to know from this witness what he did with the money, that is all.

Mr. POVICH. This witness has denied receiving the money. He denied under oath. He still denies receiving the money. The conviction doesn't change matters any. If it changed matters, I would be very happy to come in at this stage and say all right, in the normal case, in a criminal case, where a person is convicted you say okay, we have been convicted, I am now willing to tell you everything that happened, but in this case the conviction does not change this witness' testimony. He still denies ever receiving the money.

Mr. FORTUIN. He hasn't denied anything. He is going to have to deny that on the record and under oath.

Mr. POVICH. The problem is that you are inquiring into the very matters of the pending tax case. If you want to ask him the very question that he was asked before the grand jury, did you receive any money, which is essentially what this is, and he says no, and he has now been convicted of it, his answer is the same.

Mr. FORTUIN. Let's get his answer then.

Mr. POVICH. I think that he is in an intolerable situation. He has a pending tax case against him concerning this money. He has just been convicted of answering the very same question that you have already asked. You may want to put it on the record, but it is very detrimental to him at this period of time, and I question how much information.

Mr. FORTUIN. May we have a brief recess?

Mr. PREYER. We will take a short recess. We will be right back.

[Recess.]

Mr. PREYER. We will resume the deposition.

The Chair will direct the witness to answer the question. I would overrule the objections to it.

Mr. BARNETT. Congressman Preyer, can I say something?

Mr. PREYER. Sure.

Mr. BARNETT. It seems to me that Tom is playing games with us, and I think that is unfortunate. We had an understanding up front that Mr. Kim would answer everything possible, but that when the trials were pending, as one of them still is, it would put him in an intolerable position to answer certain questions. We have offered and I think have been as forthcoming as possible in answering any questions about contacts with the U.S. officials or U.S. Congressmen, and in fact, strangely, when Tom restated what he was interested in a moment ago, he said he is interested in what happened to the money, not where the money came from or where it was received.

We also have been willing to answer anything about any payments, and I think have done so.

It puts Mr. Kim in an intolerable position to be asked this question, and it is clear that we were brought up here simply for the purpose of putting him in an intolerable situation, because that was the first question out of the interrogator's mouth. I think that if you would not reconsider your ruling, we would ask for the opportunity to appear before the full committee, and argue to the committee as I understand we have the right to do that at this time that question is both unnecessary and inappropriate, and that is with all due respect to you and the ruling you have made. But I am sure you understand the position we are put in.

Mr. PREYER. Surely.

Mr. FORTUIN. Let me respond to that, because you accused me of playing games with you and in a way I think that is completely unfair. We reached an agreement prior to the first trial which is different from what you state, Mr. Barnett. It was the following, that we would not go into certain areas that the witness claimed to have certain problems if we could be satisfied by the witness' testimony in other areas that we did not have to go into them. In other words, if we were satisfied that the witness was being candid and upfront with us in discussing his dealings with members of Congress, we would not go into that until the trial was concluded.

Mr. BARNETT. The trials were concluded.

Mr. FORTUIN. I don't know whether it is trial or trials.

Mr. BARNETT. I think John Nields will remember.

Mr. FORTUIN. John Nields and I, whatever, we have gone over this testimony. We have had this witness here on, I believe, four occasions and we are not frankly satisfied by his testimony, and Mr. Nields and I and Mr. Harris having discussed it have decided that we could not be satisfied with the witness' testimony, that his testimony is not satisfactory in that area, and it has always been the understanding that we had every right at any time to inquire of the witness in any area if we were not satisfied with the testimony that he gave.

Frankly, we are not satisfied with his testimony. We have always had the right to ask these questions, and at your request, we have foreborne until the critical trial which is the first trial, is over, and we don't believe that we can forebear any longer.

There is testimony before the committee in public that the man received $600,000 in cash with the understanding that he would

distribute it to politicians, principally members of Congress, and I just don't see how we can responsibly leave that testimony on the state of this record without inquiring of this witness if he got that money and if he did get it, what he did with it, and what his understanding was of what he was to do with it when he got it. It seems to me that is very simple.

Mr. POVICH. You have asked him about the payments of money to congressmen, and we have permitted him to answer in those areas, and he has answered fully and you have the benefit of your entire investigation, and there has never been any questions as far I know by the committee or by the U.S. attorney which has equally investigated this matter that he has ever paid any congressman any money.

Mr. FORTUIN. That is what we are trying to find out.

Mr. POVICH. You know you can always say you are trying to find that out. There comes a time when somebody has to be satisfied as the U.S. attorney was in open court when he said we are satisfied he didn't pay any money, he must have put in his pocket.

Now if you have some information at all that any congressman received any money from this man, then I am perfectly happy to say that his denials of that may not be satisfactory to the committee, but I really question whether or not the committee in fact has any information from congressmen or anyone else other than S. K. Kim, and that information is second or thirdhand at most, that this person was supposed to have given or did in fact give any money to any congressman.

Mr. HARRIS. Mr. Povich, one of the other areas that the U.S. attorney is not investigating and that this committee has been specifically mandated to investigate by the Congress is not only the question of whether Mr. Kim gave money to any congressman, but whether any Korean Government official directed him to or conceived or planned to pay Members of Congress, and this committee would be interested to know, for example, the money that was given to an individual, and that individual was supposed to pass it on to Members of Congress. Whether he did or did not is a separate question, but both questions are of interest to the committee, and hence your argument that you just made I think falls short of our complete inquiry.

We are not only interested in what in fact the witness may have done with the money, but what he was directed to do with it if he got it, who directed him, and what his understanding was of the purpose of the transfer to him.

Now whether he carried out that purpose is a separate question.

Mr. POVICH. Are you saying now you are limiting your inquiry as to whether——

Mr. HARRIS. What I am saying, all I am saying is that——

Mr. POVICH. Because those questions have been answered as well.

Mr. HARRIS. What I am saying is that until we get past the question of whether he received the money, the other questions which are of critical importance to us, namely, what was the purpose of the receipt of the money, what was he supposed to do with it, things of that nature, don't arise.

Mr. POVICH. Right. In other words, you are saying that unless there was receipt of the money, then in fact there is no further need to inquire into the rest.

Mr. HARRIS. Well, if he didn't receive the money or if there was no agreement to receive money—what I am saying is that the receipt of the money in one sense is a predicate for the other questions. However, even if he didn't receive it, let's assume there was a plan which was never carried out, that would be of interest to us also.

Mr. POVICH. That there was a plan that was never carried out?

Mr. HARRIS. Let's assume, for example, that the evidence was that some officials of the Korean Government said the money would be sent and it never was. We would be interested to know that also, and that is of importance to us. Basically what I am saying, what I am trying to do is demonstrate to you that our interest is very broad in this matter and that these are matters that are of critical importance to us. We have interests beyond the question of whether he actually ever delivered money to members of Congress. Of course, we are interested in that as well.

Mr. POVICH. But these questions essentially have already been asked and answered, and what you are saying is that you want him to reanswer them again.

Mr. FORTUIN. No, no, we want him to answer them truthfully. He has answered them falsely. Now we want him to answer them truthfully. That is pretty simple it seems to me.

Mr. POVICH. That is not true at all.

Mr. FORTUIN. We would like the truth.

Mr. POVICH. That is not true at all. You are simply saying that you want him in the posture again of being prosecuted again for the very same matters which he has previously testified to. If in fact the earlier testimony is true, it is not going to change. You want to prosecute him again for it. He has already been prosecuted once.

What I tried to do is avoid this statement. What I tried to do was to have you question the witness to matters that he could answer, which related to his contact with congressmen and the Congress of the United States and government officials, which I thought was the very core of the committee's inquiry.

When you get now into other areas which he has previously answered for which he has been the subject of criminal trial for perjury and which he has been convicted essentially you are putting him nothing more than back in the position of restating this very same position, which is his position, and then saying okay, now we will go ahead and prosecute him again for perjury and I think that that is an intolerable position to place this witness in.

Under the circumstances, I have to join with Mr. Barnett and most respectfully ask, Judge Preyer, that the committee consider this.

Mr. PREYER. As you and Mr. Barnett have indicated, you do have the right to appeal this to the full committee. I take it that the witness will decline to answer the question.

For the sake of appealing it to the full committee, I think we should get this declination on the report.

Mr. POVICH. Yes, I think we can state that the witness does not wish to do so until the matter is considered by the full committee.

Mr. FORTUIN. Not until Mr. Povich—the witness must answer the question now or refuse to answer the question. If he refuses to answer the question, that conduct is contemptuous.

Mr. BARNETT. No.

Mr. FORTUIN. Wait a minute, Mr. Barnett, let's get it straight. He cannot then purge that contempt after the committee makes a ruling in the other direction. The ruling here is the ruling.

Mr. BARNETT. He has not refused to answer the question. Let's be clear. We have asked for the right to argue to the full committee our objection to the question, and then he will decide whether to refuse to answer based upon the ruling of the committee. We do not wish to put him in contempt. I think we have tried to avoid doing that.

Mr. POVICH. We have been here four times in an attempt to avoid that.

Mr. BARNETT. Five.

Mr. POVICH. Five.

Mr. FORTUIN. And the witness has been evasive, nonresponsive on each and every occasion.

Mr. POVICH. That remark, I think, is inappropriate. The record will speak for itself.

Mr. HARRIS. Let me just put a procedural matter on the record so we are clear about what is happening here because I think there is some confusion. The procedure here is that the witness will either answer or refuse to answer. What happens before the full committee is an appeal. It is not an argument de novo on the contempt. The contempt is committed here this morning by the refusal. If the committee does not agree with your position when you argue before it, the committee does not agree with your argument, the contempt has already been committed, and at that point you do not have the opportunity to purge, and I think we ought to be very clear about that because I think there may be some confusion.

Mr. BARNETT. Judge Preyer, Mr. Kim does not refuse to answer nor does he decline to answer. We ask that you allow us to argue to the committee as to our basis for his objection to the question.

Mr. PREYER. I think you can argue that point to the committee, but for the purpose of the record here, I think the Chair would have to rule that the witness has declined to answer the question or refused to answer the question, and the matter is referred to the full committee to determine whether or not the witness should be held in contempt of Congress.

Does that put it in the proper parliamentary——

Mr. FORTUIN. I think you should direct the witness to answer the question and we should have his refusal on the record and then you should find that his refusal is contemptuous here and then in essence the committee either decides to back you up and go along with the proceeding or it doesn't, but it seems to me the contempt is committed here and now.

Mr. BARNETT. Judge Preyer, I think it is in no one's interest to force a contempt of Congress. I would ask that we be allowed to appear before the committee and make our argument before we all get ourselves in a situation from which no one can return.

Mr. FORTUIN. The record should be clear that Mr.——

Mr. BARNETT. And I think the chairman would be pleased to allow us that procedure if asked, and I think probably the ranking minority member would agree to that procedure, given what is clearly a misunderstanding about an understanding agreement that has been reached here, in an unfortunate situation in a pretrial context. So I would ask, Judge, that we proceed to the committee without forcing the issue.

Mr. FORTUIN. Judge, the record should be clear that all the objections that were raised here today were previously raised at a hearing before Mr. Flynt and Mr. Spence. Briefs were submitted. We submitted a brief. Mr. Povich and Mr. Barnett submitted a reply brief. We had an oral argument going on for an hour and the very same objections that they are now making were overruled.

Mr. POVICH. Right, but the record should also reflect that in light of all that, this question was not asked. This question was not asked. We have been here four or five times, I don't know, Judge Preyer, but each time we have tried to give you the information without answering the very same question or without being asked and being required to answer the very same question for which this person was just convicted of answering, so the posture is a little different than to say that the matter has been fully argued and heard.

It was fully argued and it was fully heard, and in light of that argument, and in light of those hearings and after consideration by the committee and its chairman and the

ranking minority members, the questions weren't asked, and now they are, and we simply urge most respectfully that before the question is asked and this person be ordered to answer, that the matter be taken before the committee which heard it before.

Mr. BARNETT. Judge, if this man answers the question yes, he is potentially subject to a serious tax liability. He is given the leaks that have come out of the committee about this man before which I am sure you are familiar with also subject to basically removing his right to appeal his previous conviction, because as Justice Frankfurter once said, judges read the newspapers. If he says no, he is subject to perjury, another perjury charge on the same grounds as to which he has already been convicted, and if he says no, I suppose he is also subject to contempt of Congress proceedings, so he is in an intolerable situation, and I think we all understand that, and we ought to find a way to bring it before the committee and let the committee decide how to proceed.

Mr. PREYER. I think it is for the committee to decide how to proceed and to determine if they wish to make any sort of accommodations, but I think the role of the Chair here would not be to make that accommodation or that decision. My role would be limited to directing him to answer the question, and then if he refuses, to send the whole matter to the full committee. Let them resolve the various questions involved. As a matter of procedure, I think that is the role of the Chair here.

Mr. BARNETT. Judge, for the reason that Kim articulated his refusal to answer would put him in an irrevocable situation. That is why I have asked that you refer it to the committee which is your prerogative without directing him to answer and putting an answer on the record. I think the Chair does not want to put himself in the position, allow me to say I don't think you want to put yourself in the position, of in effect deciding this question alone, which is what you would do if you direct him to answer.

We would like to have the opportunity to make our argument to the committee. If we lose, then we will all decide how to proceed, but your directing him to answer will in effect decide the question.

Mr. PREYER. The Chair thinks the way to bring it to the committee procedurally is to direct him to answer, and I have no doubt the committee would have full power to make any sort of accommodations that it sees fit to meet the kind of objections you are raising.

Mr. BARNETT. Could we take a brief adjournment?

Mr. PREYER. Surely.

[Recess.]

Mr. POVICH. We would like to renew our request that the full committee and the chairman and the ranking minority member consider the situation we are in. We don't wish to be in contempt of the committee. We have appeared on four occasions, in an effort not to be in contempt and give the committee the information which it has requested. However, we are in an extremely difficult position which we would like to argue to the committee, and the witness does not decline to answer. He doesn't refuse to answer. He simply at this point, we wish to really stand mute until such time as the committee can consider the situation. If the committee then does consider it, then we will come back and either have to answer or decline or refuse to do so.

Mr. PREYER. Procedurally the Chair feels that it must rule that the witness either answer or refuse to answer, and that if he refuses to answer, that his refusal would be contemptuous and the matter would be referred on appeal to the full committee.

I suggest you formally ask him the question.

Mr. FORTUIN. Mr. Kim, do you recall the question?

Mr. POVICH. I believe the question was, did you receive any money from Sang Keun Kim?

Mr. FORTUIN. That is correct.

Mr. POVICH. Do you recall the question?

Mr. KIM. Yes, I do.

Mr. FORTUIN. What is your answer?

Mr. POVICH. The answer I would make for the witness is the answer which I have just given to Judge Preyer. We don't decline. We don't refuse. In essence, we are mute until such time as we have the advice of the full committee, the chairman and the ranking minority member. We make that request most respectfully in every attempt not to be contemptuous of this committee, to resolve what we think is a very, very difficult problem, one which we have fought with for a long time, and we most respectfully request that the matter be brought to the chairman's attention and that he advise us to what the committee's ruling is.

Mr. BARNETT. And we ask for the opportunity to appear before the committee on behalf of Mr. Kim.

Mr. PREYER. The Chair rules that the witness has refused to answer the question, and that his refusal is contemptuous.

The matter is referred to the full committee on appeal from that ruling, and the witness and counsel are requested to appear before the full committee and permission to argue their position is granted.

The deposition will recess at this time.

Mr. FORTUIN. Judge, before we adjourn——

Mr. BARNETT. I think you shouldn't have a live phone there. Why don't you handle that and then hang it up? It is probably the Washington Post.

Mr. FORTUIN. My understanding is that the committee is meeting at 5:30 on Wednesday, and I would think that the subpoena should be adjourned for further proceedings at that time and that counsel should be directed to make any submissions in a written form that they intend to make prior to that date, and to appear at 5.30 this Wednesday.

Mr. POVICH. It is impossible for me to do that. I will tell you why. I am involved now in trying to prepare by that time, believe it or not, from the end of today to Wednesday, a presentence memorandum for the court in connection with this trial, and I simply have not got time to do another one for the committee, and I most respectfully request that our appearance before the committee be scheduled some other time after the sentencing, which is Friday.

Mr. FORTUIN. Mr. Povich, you have asked for a request to bring something to the committee's attention. I don't know how many lawyers you have over there, but I am sure that you can find some way to do it in that period of time.

Mr. POVICH. I am doing it, Mr. Fortuin. I mean the number of lawyers has nothing to do with it. I am doing it. I am the only one that really knows enough about this case to write it. It would take more time for me to explain it to some associate and have them do it than if I sat down and tried to do it myself. The number of lawyers has nothing to do with it. I am the one that has to write it. I am the one that has to think about it. I am the one that is responsible for it. I can't delegate that to anybody else.

The matter is sufficiently important for me to handle it. I have handled this case for some time. I don't at this point plan on dumping it on someone else.

Mr. PREYER. Ordinarily the Chair would be very sympathetic to that sort of request, but in view of the sentencing that is set for Friday, it would appear to be important to proceed with this matter before them, so the Chair will adjourn the matter until 5:30 Wednesday before the full committee. I will leave it at that.

[Whereupon, at 10:50 a.m., the committee was adjourned.]

APPENDIX IX

EXECUTIVE SESSION—PENDING BUSINESS

HOUSE OF REPRESENTATIVES,
COMMITTEE ON STANDARDS
OF OFFICIAL CONDUCT,
Washington, D.C., May 17, 1978.

The committee met in executive session at 5:25 p.m., in room 2360, Rayburn House Office Building, Hon. John J. Flynt, Jr. (chairman of the committee) presiding.

Present: Representatives Flynt, Bennett, Hamilton, Preyer, Flowers, Spence, Quillen, Fenwick, and Caputo.

Also present: Jeffrey Harris, Thomas M. Fortuin, John W. Nields, Jr., professional staff members; John M. Swanner, staff director; David Belkin, Barbara Rowan, Martha Talley, committee counsel; Robert Bermingham, investigator; Peter White, deputy special counsel; and Leon Jaworski, special counsel to the committee.

Mr. NIELDS. While Kim Dong Jo is not in the country, Hancho Kim is, who was given $600,000 by the KCIA to pass on to congressmen. Until this point in time he has denied receiving the money. He is convicted of perjury and is to be sentenced on Friday. He appeared before Judge Preyer earlier this week and again refused to answer the question and, as I understand, Judge Preyer directed him and his attorney to appear before this committee today to argue the question of whether he should be held in contempt. I think Judge Preyer already held him in contempt. Rather than argue with the committee, we should refer the thing to the House.

Mr. Fortuin, I believe, was the person who handled it and will handle it from here on.

Mr. FORTUIN. The objections this witness raises were raised when he first appeared before the committee on November 17 of last year. Mr. Spence sat and heard those as did Chairman Flynt, and they had an oral argument lasting an hour. They submitted briefs; we submitted an answering brief, and they submitted a reply brief so the arguments have been extensively argued in the past, so it would seem to me that although they have asked to be heard, I think maybe you should hear them, but I don't think it would be inappropriate to perhaps impose a time limitation on how long you want to hear them and how much argument you have on this matter because it has been extensively briefed and both the Chairman and Mr. Spence have ruled in a written opinion, which we have attached as appendix 3 to the report that we have submitted to you, which is the order of Chairman Flynt and Mr. Spence in which he discusses the various claims that have already been raised. They have had an opportunity to be heard before the committee.

Mr. NIELDS. And they are here now.

Mr. BENNETT. Let's have them in.

Mr. PREYER. I might state I didn't honor that appeal just to give us something more to do. They have the right to appeal here from my ruling. Is that right?

Mr. FORTUIN. I am frankly not completely clear on it. They certainly have the right to make the request and it seems to me we granted the request.

Mr. NIELDS. Nothing can happen without a vote of the committee and the vote of the committee is in a sense an appeal and they want to appear before the committee and argue it should not vote.

Mr. BENNETT. I think there is a value in holding in contempt because they were in contempt. Is there something else to be gained?

Mr. NIELDS. Very much so. He has simply refused to answer our questions.

Mr. FORTUIN. We want to know what he did with the $600,000.

Mr. FLYNT. I introduce you to the committee, Mr. Barnett and Mr. Povich.

STATEMENTS OF ROBERT BARNETT AND DAVID POVICH, COUNSEL FOR HANCHO KIM

Mr. BARNETT. Thank you, Mr. Chairman.

Mr. Chairman, if it is all right, I would like to proceed initially and Mr. Povich will have a few comments too, if that is all right. We will be very brief and to the point.

Mr. FLYNT. You may proceed as you see fit.

Mr. BARNETT. May I say at the outset that I am grateful for the opportunity that the committee and the chairman have given us to be here tonight. I will say that this committee has always been very courteous to my law firm and particularly to me. I have been here before and I am grateful for the opportunity to be here again.

I have great respect for the committee and for its goals and I wish to come before the committee today with a particular problem and as briefly as possible explain to you what it is.

We represent, as the Chairman said, Mr. Hancho Kim, who is an American citizen currently standing convicted, as I am sure you all know, of conspiracy and perjury in the United States District Court. He has been before this committee, members of the committee, members of the staff, on several occasions. He has also been before the Senate Ethics Committee, has testified, and has been released from his obligations there. Although he is convicted of these crimes that I mention, I think it is important to put one fact on the record and it is a fact that has been acknowledged by the U.S. attorney and that is that there is no evidence that we are aware of, that he is aware of, and I venture that you are aware of, that he has bribed, defrauded, threatened or in any way compromised the Congress of the United States or a member of the Congress of the United States. That was admitted in open court by the U.S. attorney.

We come before you today with two problems: one, a time problem, and, second, a substantive problem. We have asked Congressman Preyer to allow us to come here today and we have asked the Chairman to allow us to appear and argue briefly and you have allowed us to do that and that is why we are here.

I am sure you know the background. Mr. Kim was asked a question; he did not answer the question; we asked for the opportunity to come here. Mr. Preyer was presiding at the time.

The time problem is this: Mr. Kim is being sentenced on Friday, sentenced for the convictions I have mentiond, for perjury and for conspiracy. On Friday a judge of the United States will possibly take away his freedom, possibly for an extended period of time. We hope not. We will do everything we can to prevent it, but the reality is that is a possibility on Friday.

There is also an appeal pending. As a technical matter, I guess it isn't pending until sentence is pronounced, but you know we will be appealing and there will be an appeal from this conviction. We think there are valid and important grounds we will raise.

There is also a third time factor. There is still another indictment pending against Mr. Kim, in this case against Mr. Kim and his wife, a tax case involving, as you probably all know—and I apologize if I am telling you things you already know—involving the very money which was the subject of the first conviction and is the reason we are here tonight.

We would like tonight to reassert the argument that Mr. Spence and Mr. Flynt have been kind enough to hear from us once before.

We would ask the members of the committee to please read our written brief before you decide this matter. The committee has it. I am certain we can get it made available to you very quickly if you haven't read it.

I will not argue those points tonight. I will simply argue the substantive problem that we are faced with in the time frame which we come before you.

Committee counsel asks Mr. Kim a question. I can't repeat it verbatim, but the sense of it was, "Did there come a time when you received money from S. K. Kim?"

Mr. Hancho Kim, as I say, did not answer that question.

If he answers the question at this time, he will suffer irreparable injury in the context in which we come before you. If he answers "Yes, I received the money," he obviously will under oath have contradictory sworn testimony. If he answers the question, "Yes," there is a high likelihood it will prejudice the appeal. There is an even higher likelihood which I will get to in a moment, that will prejudice his sentencing on Friday. If he answers the question no, he is certainly arguably guilty of perjury again because that is the very question that he was convicted of perjury for.

It is phrased differently, but it is the same question.

He is in an impossible situation at this time and he is particularly in an impossible situation because—and I feel very badly saying this, but I am going to candidly and honestly say I think some people are trying to influence the judicial process in this way. It is not any of you, but I think it is your staff; it may be some members, but I think unfortunately there is a misguided attempt here to influence the ongoing judicial process.

Let me tell you what I mean. The judge has not asked Hancho Kim, "Did you receive the money from S. K. Kim?" The probation officer has not asked Hancho Kim, "Did you receive the money from S. K. Kim?" But this committee has asked it and I believe, if you will question your staff, it is with the full expectation that they will then go to the judge and say, "The man is now admitting his crime, so go hard on him" or "The man is being uncooperative, so go hard on him."

Don't get me wrong. I am not saying this committee doesn't have the perfect right, if asked by the judge sua sponte on its own to go before the judge and make a representation as to Hancho Kim's cooperativeness or noncooperativeness. I understand you have done that before and you will probably do it again. I just dislike, and I really feel badly about and resent the fact that I think we are here tonight at a quarter to nine, after 6 months of possibility of asking this question, 6 months of possibility of coming before a judgment on this issue, in an attempt to influence that process.

I think we have a great system and I think you all believe in it or you wouldn't be here. It separates the judicial from the legislative from the executive. Traditionally the judicial does its job and the legislative does its job. There is often an overlap of functions and that is the genius of the system of checks and balances.

But I feel this is in an improper way, that this is a very improper way for the congressional branch, the legislative branch, to impose itself on the ongoing judicial process. Let the man be sentenced. If he has done something wrong and has been convicted and the judge wants to dump on him, let him dump on him, but don't help. Hancho Kim has, unfortunately, become the Korean punching bag. He is not a sympathetic figure, I recognize that, and I recognize that nothing was done to Tongsun Park—through no fault of your own, may I say—and nothing was done to S. K. Kim and there again there may have been a very valid, legislative reason but Hancho Kim seems to be the only Korean face left and Hancho Kim seems to be put in this unfortunate position of not only being convicted, not only facing a sentence, not only maybe having his appeal rights undercut, maybe not only having his second trial prejudiced, but he is now here tonight at a quarter to nine after 6 months, and I think is going to get the wrath of the Congress dumped on him. I think it is particularly unfortunate because there is a way out of all this and there is a way to deal with it, and I will mention that and then I will leave because I know you have time problems.

It seems to me we could proceed the way we have been proceeding for the past 6 months. That is, ask Hancho Kim anything you want about whether he influenced congressmen, whether he bribed congressmen, whether he bought gifts for congressmen, whether he threatened congressmen, whether he improperly sought to influence congressmen, but leave the area that is the subject of both his current conviction and his pending trial alone until that is completed. Then everyone can make an intelligent and unpressured decision as to whether to answer that question or not answer the question, with full knowledge that if you don't answer the question, the consequences follow.

I ask you to let us over until next week, and by that I don't mean let us escape. By that I don't mean give us some great deal. By that I don't mean let us go home to Korea—he is an American citizen; he is not going there anyway. By that I don't mean let the man wash out and be set free.

But all I ask is that you not in this context, at this time, cause this problem for this man. Let us have the sentencing on Friday; let the judge decide unimpaired by a recommendation or an influence or report or anything from this committee as to what the consequences are of Hancho Kim's act, and he is prepared to accept those, and what the consequences are of his conviction.

I would say that it is a reasonable request I make. I would say it is a request that will not subject this committee to criticism. I would say it is not a request that would make people be able to say, "This committee has cut a deal," or "Let the man off easy" or "Let the man escape."

I say it is a request that will allow people to say this committee had some compassion for this man, who is a compassionate figure at this time, and still allow this committee to proceed with its very important goals and needs after we get past the crunch period of this sentencing and this second trial.

I say again, I am grateful for your listening to me. I ask you, please, to read the argument we have made on the legal points. I am not going to argue those because I know you are busy, and, please consider whether we might not be allowed to answer any question you want. And what I see as the critical area, the contact with congressmen, and leave the other area until a point where it won't so significantly prejudice the man's criminal proceeding, judicial proceeding.

I will be happy to answer any questions and I thank you for listening to me.

Mr. FLYNT. Are there any questions?

Mr. Povich, have you any statement?

Mr. POVICH. I have nothing.

Mr. FORTUIN. There has been an indication here that we are attempting to affect the judiciary in some way. We very frankly are. We think the judge should know on Friday if this man has been contemptuous to the Congress and has refused to answer a very simple question and that is "did you get any money from operatives of the KCIA and if you did, with what understanding, and what did you do with it?"

It is very clear evidence that the man received $600,000. We want to know if he did, what he did with it. He suggested that he would be prejudiced if he answered that question before the committee. That is frivolous. He has been granted immunity; the proceedings are in executive session.

I know of nothing to date that has occurred with respect to this man that has leaked, and if anything did leak, the defendant would have an application he could make in the District Court to adequately protect him.

I think we have adequately protected him and the idea that his appeal would be hurt in any way or that his sentencing would be hurt in any way if he truthfully answered the question is frivolous. It would not occur.

The problem the witness faces that Mr. Barnett alludes to simply is no problem. If he truthfully answers the question he has no problem. That cannot be used against him in any fashion in any criminal proceeding; it could not be the cause of contempt; it could not even be used in the sentencing proceeding in my understanding of the law.

His only problem is if he refuses to answer the question and that is what he has done. He has answered a very simple type question or has been asked to. We have to have the answers now. The time is coming as to when the man has to make his decision on cooperating or whether he is going to continue to conceal as what appears to be an agent of the Korean Central Intelligence Agency.

This is a tremendous amount of money he took with the understanding he would influence congressmen. Whether he did or did not is the reason we have the inquiry.

The suggestion there is a time problem we have created I think is again completely unfair. I called defense counsel over two weeks ago and I told him we desired to bring this matter on before the sentencing so the judge could be informed. If the man was uncooperative, that he was uncooperative. I got no response.

Last week I asked you, Mr. Chairman, to direct the witness to appear on Monday of this week because I was unable, after I would say many phone calls, to get the counsel in this case to agree to a time convenient to them and convenient to us. It was only then that you directed they appear and it was only for that reason that we are delayed as far as we are. I think it is absolutely compellingly important that we have the testimony of this man and that we have it immediately on the important issues that are raised. He is more than happy to make denials to us about issues that we cannot controvert, that we know nothing about.

On the important issues relating to the money he refuses to answer any questions. It seems to me that answer is contemptuous and the man should be held accountable.

Mr. FLYNT. Do you want to respond to that?

Mr. BARTLETT. No, I think he has basically admitted the point I was making, that it is an attempt to influence the process. I would say he never called me or I never got any message.

Mr. POVICH. He called me.

Mr. FLYNT. I have one question that I want to direct to Mr. Fortuin.

Is the purpose of this to seek to have the judge impose a more severe sentence than he otherwise would?

Mr. FORTUIN. No; but I would say if the man were to be contemptuous and held in contempt—and my hope is he would not be, frankly. I would hope—and my suggestion to the committee would be, Mr. Chairman, that they hold the witness in contempt, with the understanding—and the committee has done this before—that if he purges his contempt by answering the questions within the next 24 hours that the contempt would be of no force and effect.

My hope is, and I think it is the committee's hope that we would get the truthful testimony of this witness in that fashion. It is our hope there would be no contempt proceeding. It is our hope that no untoward consequences would result to the witness.

Mr. FLYNT. Let me clear up one thing. This committee has no powers to vote contempt proceedings. All we can do is recommend to the House.

Mr. FORTUIN. That is correct.

Mr. FLYNT. There is no way that could come up before Friday. There is no way on earth that it could under the rules of the House.

Mr. FORTUIN. But the committee could adopt a resolution that it would not refer the matter for a contempt proceeding if the witness purged his contempt tomorrow. If he did not do that, the committee would proceed.

Mr. FLYNT. The committee could or could not do a lot of things. I don't think it is a question of what the committee could do, but what the committee would do.

Mr. FORTUIN. In that way, hopefully, a contempt proceeding would be avoided, and the witness would be afforded the opportunity to testify. It would only be if, after the ruling tonight by the committee, the witness continued to refuse to answer the question that was put to him that a contempt proceeding would eventuate: so that we are hoping there would be no such proceeding, but that is up to the witness and his attorneys.

Mr. BARNETT. This is very interesting because Mr. Fortuin has already made a judgment on what is a truthful answer. You notice what was said there. He has already judged that if the man said, "No, I did not—" that is an untruthful answer and that is perjury.

The judgment has already been made, what an investigator's opinion is of what the truth is. I don't think that is his job.

Mr. FLYNT. Is that your interpretation of what you said?

Mr. FORTUIN. No. If he answers the question, whatever his answer is, we are bound by it. His contempt is purged whether I believe it is truthful or false. All he has to do is answer the question in any fashion. If it is false, he later subjects himself to penalties, but the contempt would be at an end and the contempt would be purged if he answers the question in any fashion whether I believe it is true or I believe that it is false.

Mr. BARNETT. If he said, "No, I did not receive the money," they go to the judge and say, "Look, he is unredeemed. He is still giving the same story."

If he answers the question "yes" it is the other result.

Mrs. FENWICK. Why doesn't he just tell the truth?

Mr. BARNETT. I think that is precisely what we are after.

Mr. SPENCE. That was the question I wanted to ask. How would he be harmed if he answered this question either way before Friday?

Mr. BARNETT. Let's take the two examples. He must answer the question either yes or no. If he answers the question "yes, I received the money," he has under oath acknowledged the falsity of his statement and has contradictory testimony on the record. That is number one. Number two, there is a likelihood, although one does not like to say this, but things have leaked, as Mr. Flynt and Mr. Spence well know, because we have been before them on this, about this man from this committee.

No fault of yours, I recognize that. The judges read the newspapers. The appeal is severely prejudiced.

Most importantly, the second case is still pending, the tax case. That tax case concerns precisely this issue. He again has in effect waived his right to remain silent, which is his constitutional right, on the precise issue for which he is being tried.

Mr. CAPUTO. It seems to me the tax case and appeal goes way beyond Friday.

Mr. BARNETT. I am asking you to please let us confront the question, answer it or not answer it, answer it one way or the other way after the sentencing on Friday and after the tax case which will hopefully be disposed of fairly soon, if I am not incorrect. I am not asking you to wait until after the appeal.

Mrs. FENWICK. After the tax case might be any time.

I am not a lawyer, obviously, but common sense just tells me that we have got to find out some things. We are not interested in putting Mr. Hancho Kim in jail. We want to know what is going on with members of Congress. It is important to know whether or not this money came directly from the Korean Government for a specific purpose to Mr. Hancho Kim and whether or not he received that money and handed it out to members of Congress.

Mr. BARNETT. Mrs. Fenwick, I respectfully say I agree with you, with a caveat. It seems to me at this time, given the balancing you must do when we leave this room, that is satisfied by asking him—and I hope you come to the deposition and ask him the very question, who did he give money to, when did he give money, what did he do in Korea, who did he pay, who did he bribe, who did he have over to dinner, who did he give gifts to, who does he know personally, what has he done, has he asked people to put things in the record.

He will answer that, but I hope you will understand he is only—asking you to not inquire in the very narrow area of receipt of money from S. K. Kim. Only because it is the very question that he was asked and convicted of perjury for and it puts him in an incredible Catch 22 situation.

Mrs. FENWICK. If he is already convicted of perjury on that particular question, what difference does it make to him to get another?

Mr. BARNETT. Mrs. Fenwick, it makes a lot of difference to him. It makes a great difference to him.

Mr. BENNETT. Tell us why.

Mr. BARNETT. He is convicted of another crime and maybe goes to jail for another 5 years.

Mrs. FENWICK. It is the same old crime.

Mr. BARNETT. But he can be prosecuted for a second perjury.

Mr. FLYNT. It is the same generic crime but not the same offense.

Mr. BENNETT. Why doesn't he just tell the truth?

Mr. BARNETT. Mr. Quie, you make an important comment. You said, "That is the important question." I would respectfully suggest that that is not the important question.

The important question is whether your colleagues were influenced, ought to be influenced or taken over by him and others and were ready to come in here and tell you what you wanted, and we have tried, I think, on five occasions. Some of you had the unfortunate experience of sitting through some of those.

I would suggest that—I recognize that is an important question, Mr. Quie, but, given the possible harm and given the balancing we are asking you to do, it seems to me it is a question: At this time and under these peculiar circumstnces, that is not as critical.

Mr. BENNETT. How can an Ethics Committee decide not to do something that is before it to do simply to make it easier for a man who is convicted of perjury not to pay the penalty that the law says he shall pay?

I am not trying to do you in. I am just trying to understand what I am being asked to do. It looks like to me an Ethics Committee would have no business in making it easier for a criminal to escape penalty.

Mr. BARNETT. No, sir. Please don't misunderstand me.

Mr. BENNETT. That is my impression.

Mr. BARNETT. That is a result of my inarticulateness.

Mr. BENNETT. You are pretty articulate. You have impressed me with this.

Mr. BARNETT. I don't want to lose because I can explain my point.

As I understand, your question is: Are we asking you to go easy on the man?

Mr. BENNETT. You are asking us to delay action so this man will escape a penalty that would otherwise be put upon him.

Mr. BARNETT. I am not asking that. I am asking, do not influence the process with your predicament, or very valid goal, or very valid concern or punishment. Do not at this time influence that process, which I frankly acknowledge is going to come down on his head. I ask, don't add to what the judge already has; don't influence—I feel in an improper way—the ongoing judicial procedure.

Mr. BENNETT. What is improper?

Mr. FLOWERS. You are asking us to believe him when he says he didn't give any of this money to Members of Congress, because we don't have a receipt of the money.

Mr. BARNETT. I missed the question.

Mr. FLOWERS. You are asking us to believe him when he says he didn't give this money to Members of Congress?

Mr. BARNETT. Not if you have contradictory evidence. You can impeach him up and down the road.

Mr. FLOWERS. You are asking us not to ask the question if he had the money to give to them.

Mr. BARNETT. I am asking you not to ask him the very narrow question of where that money came from. Ask him about all the money in the world.

Mr. FLOWERS. Which is the whole conspiracy theory.

Mr. QUIE. Could I ask a question on this thing? What is the difference now if we didn't do anything until after the two cases, the past case and the sentencing on Friday, and then he perjures himself afterwards?

Mr. BARNETT. No; you can recommend to the U.S. attorney that the man be prosecuted again, and you have a perfect right to do that if you believe that is perjurious. I think Mr. Fortuin does. I hope you don't.

Mr. FLOWERS. What if the answer is true?

Mr. BARNETT. You are making the judgment what the truth is in your opinion.

Mr. QUIE. Whatever is the truth.

Mr. BARNETT. If he answers the truth, certainly they wouldn't prosecute him for perjury, but this is——

Mrs. FENWICK. Why do you say he wouldn't be prosecuted for perjury if he answers the truth?

Mr. BARNETT. Mrs. Fenwick, that is what a perjury prosecution seeks to determine, whether his answer which he, under oath, asserted was the truth, was, in fact, the truth—what you and I believe is the truth——

Mrs. FENWICK. I don't care about that. All I am saying is if he comes before us and tells the truth, why is he in danger of perjury from us?

Mr. BARNETT. He is not.

Mr. CAPUTO. His sentence will be stiffer.

Mr. BARNETT. He is not guilty of perjury.

Mrs. FENWICK. If he comes to us and tells a lie, that is a second crime, and he gets a new sentence. If he comes in front of us and tells the truth, presumably that is admitting guilt and will make the sentence he is going to get——

Mr. FORTUIN. That is not true.

Mrs. FENWICK. That is his argument.

Mr. FORTUIN. He has a grant of immunity and could not be brought to the judge. The testimony here cannot be used in any fashion.

Mr. CAPUTO. He is saying it will leak out.

Mrs. FENWICK. It won't and I resent that, Mr. Barnett, if you will excuse me.

Mr. BARNETT. Again, it was an accusation. I will bring in the newspaper articles and show them to you. It has been in the paper, and I think several people are familiar with what has been in the paper. I will show them to you. I am not accusing you of being sleves. I respect you too much for that. But I could, if you wish, submit for the record the things that have leaked about him and try to show you how they prejudiced him.

Mrs. FENWICK. From this committee?

Mr. BARNETT. Yes.

Mr. FORTUIN. I am not aware of any of that, absolutely none of it.

Mrs. FENWICK. Maybe it leaked from the Justice Department, but I am not aware of anything that leaked from this committee.

Mr. BARNETT. I am not saying it came from a member sitting at this table or staff. I can show you the newspaper articles about occurrences in executive session of this committee when Mr. Hancho Kim was present, no Justice Department employee or anybody else.

Mr. POVICH. Excuse me. I have listened long enough to make a statement and then I will leave you.

Mr. FLYNT. Mr. Povich.

Mr. POVICH. I think all the lawyers should leave the room or talk some commonsense. Let me explain what the problem is.

Hancho Kim, in late 1977, was under investigation for this case. He was in Korea. When we learned that he was about to be indicted, we told him he should return, and he did, and face trial. He was charged with two counts and convicted of both. He did not take the stand at the trial and didn't testify. Neither he nor his wife or any member of his family testified.

Three witnesses were presented, and he was convicted. He was convicted on the question, when asked in a grand jury, "Did you receive any money from S. K. Kim in your home," and his answer to the grand jury was no. The jury found he lied when he answered that question.

We have met with this committee on several occasions. We met under an informal arrangement. The arrangement was we felt we had information indicating that Hancho Kim had not corrupted or defrauded the U.S. Congress or any Member of Congress, and we were perfectly willing and happy to give the information to this committee.

During about four or five sessions, we did so, and he was questioned extensively about the information and contacts with Congressmen, and we felt that was in further answer of legitimate business of this committee, and we felt it was fair to the committee because there were some Members of the Congress who were under attack, and we felt the committee and those Members were entitled to that information.

At that very time, the Justice Department was also conducting its investigation. The Justice Department, I should say to you, offered him immunity from prosecution at the beginning of this investigation. They said, "Come forward and tell us the truth," the truth being, of course, admit that you received the money from S. K. Kim and tell us what you did with it.

At that time, they were expecting, of course that he received the money. He hadn't met the Congressmen. I think the only one he knew was Congressman Guyer. There was extensive investigation of Congressman Guyer, and they wanted to question him about it. He denied receiving the money; he denied corrupting anybody, including Congressman Guyer, and I don't think the evidence showed he made a political contribution of $10 to any Congressman, no one whatever.

The Justice Department, after its investigation, came to the conclusion you are right; we are withdrawing the offer of immunity because you cannot be of help to us. We don't want you to come in and say, yes, you received the money. What we are interested in is Congressmen, and since you did not corrupt any Congressmen and made any contribution to any Congressman, the offer of immunity is withdrawn. Mr. Povich, your client goes to trial.

He did not testify. He denies he ever received the money.

That is the posture we are at now. He has been through a terrible ordeal, as I have been with him, for the past year and a half. The trial was horrendous. It was a net worth tax case, essentially. They put in all the expenditures and said it must have come from S. K. Kim, because he had no other source of income. The jury convicted him of conspiracy and lying to the question, "Did you receive money from S. K. Kim," all of this unexplained expenditures that he had.

I wanted to continue working with the committee under the same basis as long as we could talk in terms of corruption, of fraud, of what you have done vis-a-vis the Congress, the Senate, the executive department, fine. But I was not faced with a conviction I wanted to appeal, I was faced with a tax case concerning the money and I said. "Stay away from the money, and please stay away from the question, did you receive any money from S. K. Kim," because that is what precipitated the whole thing.

Mr. Fortuin called and said they wanted to resume the question after the conviction, and I said all right. We finally got around to it and Judge Preyer was present. I entered into the meeting in good faith; I thought we were going to continue with the type of thing—I knew that Mr. Fortuin wanted to ask more questions.

The first question out of the box was, "Did you receive any money from S. K. Kim? It was the confrontation and the only reason it was a confrontation on that day, 2 or 3 days ago, was because he was about ready to be sentenced.

And the chairman's question really has not been answered. I think. "Did you ask that question so that we might have some influence on the sentencing," and I think the question was asked for that purpose. I don't know how a judge would react to a letter or statement from this committee as to whether he did or did not. I have asked Judge Flannery, "Do you want Mr. Kim to give you an explanation of where he received the money that it was shown that he spent?" The judge said, "The man did not testify; he has a right not to testify; I am not going to ask him that question. If he wants to tell me, fine, but I am not going to hold it against him."

Perhaps the committee would tell the judge what happened here, that he has declined to testify. The judge may or may not take it into consideration. I am trying to give you basically the posture we are in.

To be perfectly honest with you, Mr. Kim has never said anything other than the fact of two prongs, "Did you receive the money?"

"No."

"Did you pay or corrupt any Congressmen?"

"No."

That part has proven to be essentially true. There has never been an indication of it. In fact, the Government, in the closing argument, said, It is clear that he received the money, but as far as we are concerned, I guess he didn't pay any Congressmen; he must have put it in his pocket." That was their answer.

Mr. FLYNT. We will recess to answer the quorum and come right back.

[Brief recess.]

Mr. FLYNT. The committee will come to order.

Mr. SPENCE, were you in the process of asking a question when we recessed?

Mr. SPENCE. I don't think so. I think I had asked what I had.

Mr. FLYNT. Mr. Bennett?

Mr. BENNETT. Well, I really don't have a question. I do have the same concern I had before. Here we have a committee of Congress and we have a man who is going up through appeal; he has another case and essentially we are being asked to have compassion on him not to ask a precise wording, and as I heard your words, I heard you say that he said that he had not taken the money at his home.

So it looks like a rather technical thing, and I find myself in an awkward position of thinking about judicial processes, adjusting to the calamity that has been brought upon a man of his own violation. In other words, he apparently did something and he is paying a penalty for it. Why should a court adjust to the fact that a man is going to get caught and pay a penalty for what he did.

Now, I must say that I don't understand if somebody is trying to put pressure on the court procedure, and if that is so, for my two bits, I would say it is wrong. I don't think anybody has any business who is working for this committee becoming deeply involved in the outside activities of a man who is up for trial. My own personal reaction is that you ought not to tell the judge about it at all. I mean, not that it is a secret, but I think it is tasteless to get yourself involved in another matter, and we are people who are supposed to be judicial and make a determination on the merits as it may be and leave it up to the people who are employed to be the prosecutors in another trial.

It seems to me, in other words, it is not up to us to rectify all of the sins of humankind.

Mr. BARNETT. That is precisely what I am asking, Mr. Bennett.

Mrs. FENWICK. Will you yield?

Mr. BENNETT. I will yield.

Mr. FLOWERS. Let's don't argue the thing out here.

Mr. BENNETT. I yield back my time.

Mrs. FENWICK. I think that if Mr. Hancho Kim would answer our questions, we would have nothing to say to the judge. There would be no reason. If Mr. Hancho Kim does not answer our questions, I think we should tell the judge. Maybe I am wrong, but I think he should come and talk to us. I think he should tell us what we want to know. That is my judgment.

Mr. SPENCE. Mr. Chairman, I think we should ask any questions we have of the attorneys, and if we don't have any questions to direct at them, we can let them go and make our decision.

Mr. BENNETT. You may have something else to say.

Mr. POVICH. We have answered a lot of questions. The thing that brought us to the stalemate was the problem of that precise question. We are not saying we don't want to answer any questions. We don't wish to be contemptuous. What happened to us was the difficult question was asked 2 days before sentencing. Perhaps, as the chairman inquired, "Was it asked in order to provide a vehicle to go to the court or not"——

Mrs. FENWICK. I foresee all kinds of things. Suppose we say OK, we will be delighted to have Mr. Hancho Kim come here and we won't ask him whether Mr. So-and-So gave him that money; we will only ask him whether he has reason to believe that he ever received any money directly or indirectly through the agency of the Government of Korea. Will he answer that?

Mr. POVICH. I think he would answer all questions. The problem is——

Mrs. FENWICK. Would he answer that question? And then if he said yes, he had received it directly or indirectly, was it for any specific purpose? In other words, I am trying to find out what you really are balking at, because it seems to me that anybody who is an American citizen, who wants to help an investigation of Congress, owes it to that committee to answer the question.

Now if there is one particular peculiar question, I don't think it matters whether he got it in his home or where; we might even consider leaving it off. I am just trying to narrow down as to what your specific objection is.

Mr. POVICH. The specific objection is this: If you ask a precise question——

Mrs. FENWICK. What precise question?

Mr. POVICH. Did you receive any money from Kim Sang Keun.

Mrs. FENWICK. Suppose we didn't use that?

Mr. FLYNT. That is why we are here.

Mrs. FENWICK. Suppose we didn't ask, using that man's name. That is what I am asking you. Did you receive directly or indirectly any money you have reason to believe came from the Government of Korea; would he answer?

Mr. POVICH. Yes; I think he would answer the other question. The problem is if he answered the other question, though, he would——

Mrs. FENWICK. Just answer. If we asked him, did you ever receive any money directly or indirectly that you have reason to believe came from the Government of Korea, would he answer it?

Mr. BARNETT. That is really rephrasing the same question, Mrs. Fenwick.

Mrs. FENWICK. No; it is leaving out the name of the man.

Mr. POVICH. The answer is I would like to think he would, and the problem——

Mrs. FENWICK. Would you advise him to?

Mr. POVICH. I have to advise him, but the decision as to whether he wishes to answer a question or not is his own. But let me say to you the problem is this: If the person who asked the question, then came to the conclusion, and the committee came to the conclusion that answer was wrong, then it would recommend, I assume, a prosecution for perjury.

Mrs. FENWICK. You bet.

Mr. POVICH. Right. But the problem is if the very same question is asked that was asked in this case, which was the subject of the criminal prosecution, and he answered that question, and he answered it in the negative, then the problem is, would that be reported to the judge on the threshold of sentencing, and that is the reason why I am here. I am not concerned about the question being asked after the sentencing.

Mr. FLOWERS. Mr. Chairman?

Mr. BARNETT. You phrased what our concern was, Mr. Bennett. If you can find any way to accommodate that, we would be pleased.

Mrs. FENWICK. Then we will be up against the tax appeal, right?

Mr. BARNETT. No.

May I say one brief thing? I want to thank you for letting us come; I know, if nothing else, we have impressed you that we are serious about this, and that is all we hoped.

Please read our written brief, if you will. I would really appreciate it. And for your courtesy, we are very grateful, as is Mr. Kim, our client.

Thank you all.

Mr. FLYNT. Thank you very much. And will everybody vacate the room except the committee and the staff director and the reporters?

APPENDIX X

[Korean Influence Investigation Pursuant to H. Res. 252]

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT,
Washington, D.C., May 18, 1978.

Re: Contempt of Hancho C. Kim.

Hon. JOHN J. FLYNT, Jr.,
Chairman, Committee on Standards of Official Conduct, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing you this letter to report to you pursuant to paragraph three of the Resolution adopted by the Committee at its meeting on May 17, 1978 with respect to the contempt of Hancho C. Kim. That Resolution provides, in part, as follows:

"This resolution shall be of no force or effect if the Special Counsel determines that the said Hancho C. Kim has submitted to a full and complete deposition prior to Friday, May 19, 1978."

I regret to report to you that on May 18, 1978, Mr. Kim appeared with his attorneys at a deposition before the Honorable Millicent Fenwick and persisted in his refusal to answer the question which provided the basis for the contempt proceeding against him. Mr. Kim also refused to answer related questions.

Sincerely,

LEON JAWORSKI,
Special Counsel.

EXHIBIT XI

[House of Representatives Hearings Before the Committee on Standards of Official Conduct—Korean Investigation—Deposition of Hancho C. Kim]

KOREAN INVESTIGATION

HOUSE OF REPRESENTATIVES,
COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT,
Washington, D.C., May 18, 1978.

The parties to the deposition met at 2:00 p.m., in Room 2125, Rayburn House Office Building, Washington, D.C.

Present: Representative Fenwick.

Also present: John W. Fields, Jr., chief counsel; Jeffrey Harris, deputy chief counsel; Thomas Fortuin, counsel; Robert Bucknam, investigator.

Edward Bennett Williams, Esq.; David Povich, Esq., Robert B. Barnett, Esq., on behalf of Mr. Kim.

Mrs. FENWICK. We are ready to begin. Mr. Kim, do you solemnly swear that the testimony you will give before this committee in the matter now under consideration will be the truth, the whole truth, and nothing but the truth, so help you God.

Mr. KIM. I do.

Mrs. FENWICK. Thank you.

Mr. FORTUIN. The record should reflect the continued deposition of Mr. Hancho C. Kim, pursuant to the order of immunity previously identified for the record.

Mr. KIM——

Mr. WILLIAMS. May I say something before we begin.

My name is Edward Bennett Williams. I am here representing Mr. Kim. I would like to say something before we begin on the record.

My associates, Mr. Barnett and Mr. Povich, brought me up to date on the posture of this matter in the last hour. And I have to say to you that except for the fact that they told me this is the case, I would find it incredible, but they told me, and I know it is true.

As you know, Mrs. Fenwick, Mr. Kim has been convicted by a jury in the District of Columbia of perjury and conspiracy. That took place on April 6. He is to be sentenced by the judge tomorrow morning at 10 a.m., I believe.

I am told by my associates that the question was put to Mr. Kim, precisely the question which was the subject matter of the perjury in the indictment on which he now stands convicted. We are here now presumably because that question will be put to him again.

I am further told, Mrs. Fenwick, that my associates were told that what Mr. Kim did here would be reported to the judge.

Mr. FORTUIN. Let's get that straight for the record.

Mr. WILLIAMS. I would like to finish. You just let me finish and will have plenty of time to make what statement you wish for the record.

I am told that also, by my associates, they

were told by Mr. Fortuin, after he had a conversation with Mr. Nields, that if Mr. Kim answered the question in the same way as he had answered it previously, on which he stands convicted of perjury, that that would be reported to the judge.

So I have concluded, Mrs. Fenwick, that this proceeding is an intrusion into the function of the judiciary. I have concluded that it is a breach of Mr. Kim's immunity grant, a breach of the contract between Mr. Kim and the government of the United States. And I have further concluded this: that Mr. Kim stands in an absolutely incredible position before you here.

He has three options. He can answer the question in accordance with his understanding of a truthful answer, which answer has already been adjudicated perjurious, so that he would be susceptible to another perjury conviction if he answers truthfully.

He can refuse to answer, in which instance he has been threatened with an adjudication of contempt under section 192 of Title 2, and also potential contempt of the House via a proceeding conducted in the very Chambers of the House.

Thirdly, his third option, and apparently this is the only other option, is to give an answer which he believes to be false, to commit perjury here, under oath—he has just been sworn to tell the truth—and if I may coin a phrase, that is a "trilemma" on which no American was ever intended to be hoisted.

So I suggest to you, Mrs. Fenwick, that the immunity which he has been granted, and which we contend has been breached, is not as broad, as his constitutional right, his constitutional right to remain silent, for the reason that he has not been immunized from a possible indictment for perjury for his answer here, and if he testifies in the same way as he previously testified in the prior proceeding, out of which arose his perjury indictment, he faces the possibility of incrimination.

So that we have a unique situation here, one I suppose that was never contemplated by the law-makers when they passed the testimonial immunity statute; that he faces incrimination by giving a truthful answer.

Having said that, I want to say this respectfully to you, Mrs. Fenwick. We are going to refuse to answer.

Mrs. FENWICK. I knew it, Mr. Williams. Don't think that these legalities have obfuscated the matter for me. At least I am not a lawyer. But I presume these are your associates, as you said they were, and I heard them last night. I am not a lawyer. But I must tell you in all honesty, as an American citizen, I am not impressed.

Mr. WILLIAMS. We are not here to impress you.

Mrs. FENWICK. I know, I know. You are here to win your case.

Mr. WILLIAMS. I am here to defend Mr. Kim's rights.

Mrs. FENWICK. I am sure Mr. Fortuin has something more intelligent to say than I have had to say.

Mr. FORTUIN. I think some of the things you have said are incorrect.

I think that there is no question that the immunity is as complete as his fifth amendment right. We have indicated that if the witness chose to take a contempt, we would communicate that to the judge, because we believe under the authorities that the judge could take his refusal to answer pursuant to a grant of immunity under consideration. If he were to answer the questions in a truthful fashion, that could under no circumstances pursuant to the grant of immunity under my understanding be communicated to the judge or be used against him in a sentencing proceeding, and we would not communicate it.

In the third situation, if the witness were to answer a question in a manner which has already been determined by a jury to be perjurious beyond a reasonable doubt, I must say to you quite frankly that I don't know whether or not that could properly be communicated to a judge, although my reaction is that it could. It would seem to me that whether or not that could is a matter for the future. If the witness gave that answer under oath then you could certainly argue to us that pursuant to the grant of immunity it should not be considered by the judge, you could argue to the Department of Justice or to the judge. That would come at a future time.

At this time all the committee wants is answers to its questions. And the immunity has been granted. It is complete. The arguments that you have raised have been raised by your partners, both before the chairman and the ranking minority member, before Judge Preyer, before the entire committee. They have been overruled.

Mr. WILLIAMS. Well——

Mrs. FENWICK. Suppose we proceed from the other end. Suppose that one question that you say is so crucial, we wait until the end to ask. Is that possible?

Mr. NIELDS. No, absolutely not.

Mrs. FENWICK. OK. There doesn't seem to be any common sense way out of a dilemma which lawyers seem to construct. You have a grant of immunity which means that whatever he says cannot be used against him provided it is the truth.

Mr. WILLIAMS. You see, the problem is, Mrs. Fenwick, that he has answered this question. He was defended most vigorously in court by my associates. They contended that he did not commit perjury. That is still our contention and will be on appeal. And if he answers the same way that he answered heretofore, it will be the contention of the counsel here that he has committed perjury. They have already said to you that they would take that to the judge. And they also probably would take it to the Department of Justice. So that he would be clearly facing incrimination. And that is why I say the immunity grant is not sufficient. But I don't want to argue the law here. I just want to state our position. I think we can all remain friends. I have the greatest respect for you, Mrs. Fenwick. I am here to represent this man and to protect his rights. And we don't have to have any bad feelings over it.

I have stated our position, and I would respectfully ask to be excused.

Mr. FORTUIN. I think the record should reflect that we sent to your office this morning a copy of the committee's resolution of last evening, which begin, "*Resolved*, That the chairman of the committee——

Mr. WILLIAMS. We have read it. I agree it should be part of the record.

Mrs. FENWICK. Well, I would like to ask you—and maybe we ought to have a recess—but I would like to ask counsel for the committee why it is we cannot proceed starting in the middle instead of in the beginning.

Mr. NIELDS. Why don't we have a recess.

Mrs. FENWICK. OK.

[Whereupon a recess was taken.]

[The following proceedings were had following the recess.]

Mr. FORTUIN. Mr. Kim, Mrs. Fenwick has suggested, and I think it is a good idea, that we ask you some questions that are not precisely the question that you were asked before the grand jury, and which was found to be perjurious. We do believe we will have to come back to the other question ultimately. But we would like to ask those questions first.

Let me ask you first, you do know a man by the name of Kim Sang Keun, is that correct?

Mr. WILLIAMS. My advice to Mr. Kim is going to be the same. I can save you and Mrs. Fenwick some time. On this record I am going to advise Mr. Kim to assert his constitutional rights not to answer, the privilege against self-incrimination.

I also now gravely doubt whether you are in pursuit of a valid legislative purpose.

Mr. FORTUIN. On what do you base your objection?

Mr. WILLIAMS. On the record as it exists so far. This witness' multiple appearances before this committee, in which he has responded to questions, and the Senate committee, and the whole record as it exists at this moment on the eve of his sentence before Judge Flannery tomorrow morning.

Mr. HARRIS. Have you read the record, Mr. Williams?

Mr. WILLIAMS. No. Which record?

Mr. POVICH. He can't read the record. You have not provided us with a transcript.

Mr. HARRIS. Have you asked to review it?

Mr. WILLIAMS. Why would you ask me if I read it, if you have not given it to us?

Mr. HARRIS. Because other witnesses have had the privilege of reading the record when they requested it.

Mrs. FENWICK. It is available.

I would just like to say, for the purpose of the record, this committee was established under resolution of the House, and that is the purpose of this committee, to carry out the obligation imposed upon us by the House of Representatives, and no other.

We are trying to discover actions involving Congressmen, and that is what is of interest to this committee only.

Mr. NIELDS. I would like to supplement the statements of Mrs. Fenwick. Under House Resolution 252 this committee has several mandates, one of which is to ascertain whether and the extent to which there were efforts on the part of the Korean Government or agents or representatives thereof to influence Congressmen by conferring things of value on them.

Mrs. FENWICK. It is on account of the Congressmen, Mr. Williams.

Mr. BARNETT. Let's let Mrs. Fenwick explain the purpose. I would like to hear it.

Mrs. FENWICK. It is all there in the resolution, which I am sure you have had a copy of, haven't you, 252. Have you got a copy of 252? We have to do our duty.

I would like to understand, Mr. Williams, what you were telling us. We were given to understand yesterday that there was only one key question that Mr. Kim was in a peculiar situation, unwilling or unable—or I don't know exactly which word was used—to answer.

He was not unwilling to answer other questions, but I understand from your statement at this minute that that is not—my understanding was incomplete?

Mr. WILLIAMS. No. I think, Mrs. Fenwick, if the committee really wants the information that it purports to want, that it can get it. But it can get it when this man's criminal proceedings are over.

I don't understand the unwillingness of this committee to await that because I wouldn't be here making the kind of argument that I made here a moment ago if he didn't have criminal proceedings staring him in his face.

He has some tomorrow morning at 10 a.m., and so we are not offering you an insoluble problem.

We are offering you a problem that I think is quite easy of resolution. All you have to do is postpone his appearance until his criminal proceedings are over, and he will come back. We will bring him back. I assure you he will come back.

Mrs. FENWICK. Are you referring to the sentencing tomorrow morning?

Mr. WILLIAMS. He has a sentence tomorrow morning, and he has a case pending against him in Baltimore.

Mrs. FENWICK. I wish you would be more clear. So you are asking this committee to

postpone any further action until this case in Baltimore, which might be next autumn——

Mr. WILLIAMS. I don't think that is likely, Mrs. Fenwick. I think I am probably asking you for not much more than a 40-day adjournment.

Mrs. FENWICK. Forty days?

Mr. WILLIAMS. Yes, 40 days.

Mrs. FENWICK. Well, I would want to—I must say I am afraid that that is longer than we can manage. I thought you were referring to the sentencing tomorrow morning.

Mr. WILLIAMS. That is one of the things that deeply concerns me. In the light of what has been said here.

Mrs. FENWICK. Could I ask you, Mr. Williams, what possible effect on his case in Baltimore could his relations with Congressmen have?

Mr. WILLIAMS. My understanding, Mrs. Fenwick—and I am sure your lawyers will correct me if I am in error—is that he has answered the questions involving Congressmen, and he has answered them fully. He has never declined to answer any question that was put to him about a Congressman.

Mr. NIELDS. I think I should make it clear for the record that the problem for this committee is that it is difficult for us to accept as truth statements that he did not pay any money to any Congressmen when your client's posture is that he never received the money to give them in the first place, when that statement has been found by a jury to be perjurious.

We are then left with a situation that he has denied receiving the money and consequently that he paid any Congressmen. It has been established in a court of law that he did receive the money. That makes it impossible for us to accept on that basis your client's previous testimony to us as being something that we can rely on.

That is the reason we have to continue.

Mr. WILLIAMS. Well, that is the reason we have to continue to refuse to answer, because you want to ask him in thinly veiled questions the same things that he has been convicted of.

We cannot let him answer those questions. You have been very forthright and candid in saying you want to ask him certain questions with a view to getting to the ultimate question for which he stands convicted of perjury.

We cannot let him answer those questions. I don't want to be acrimonious or contentious with you. This is our position. If you don't agree with it, you don't agree with it. Reasonable men can disagree on questions of law. But I just ask you to respect that it is our position, and I ask you if you will let us depart respectfully now, Mrs. Fenwick.

Mr. NIELDS. I hope that you are not really meaning to say that you are preventing your client from answering, that you are not letting him answer.

Mr. WILLIAMS. I am advising him, with respect to what position to take, and I believe that he will follow my advice. I have no reason to think he will not follow it. I am not preventing him, nor have I ever prevented anyone else in my professional life from answering questions.

I have given advice. I don't prevent. I am not in the business of prevention.

Mrs. FENWICK. Are you telling us, then, that your client——

Mr. NIELDS. Because he is under direction to answer from this committee.

Mr. WILLIAMS. I understand that.

Mr. NIELDS. I just want to make sure who it is here that is violating the order of the committee.

Mr. WILLIAMS. Well, you are not throwing any terror into my heart.

Mr. NIELDS. I don't want to do that. I just want to make it absolutely clear who is making the decision final not to—I take it only our client can make that decision. I simply want that to be very clear.

Mr. WILLIAMS. You have made it clear.

Mr. FORTUIN. Mr. Kim, you understand we lawyers ultimately all go home, and that any action can only be brought against you, do you understand that?

Mr. WILLIAMS. He understands that.

Mr. FORTUIN. And having understood that, and in view of the proceedings here today, I would like to ask the witness, I think we should have an answer, is it your intention to continue to decline to answer?

Mrs. FENWICK. This cooperation from an American citizen is touching, very fine.

We thank you so much. I think we better adjourn.

[Whereupon, at 2:35 p.m., the deposition was concluded.]

Mr. FLYNT (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the report be dispensed with, and that the report be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. FLYNT. Mr. Speaker, I offer a privileged resolution (H. Res. 1350) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1350

Resolved, That the Speaker of the House certify the report of the Committee on Standards of Official Conduct with respect to the proceedings against Hancho C. Kim, which report details the refusal of the said Hancho C. Kim, to answer a question in a proceeding being conducted by the said Committee pursuant to the authority of House Resolution 252, 95th Congress, 1st session, to the U.S. Attorney for the District of Columbia, pursuant to title 2, United States Code, sections 192 and 194, to the end that the said Hancho C. Kim may be proceeded against in the manner and form provided by law.

Mr. FLYNT. Mr. Speaker, I yield 30 minutes to the gentleman from South Carolina (Mr. SPENCE), and pending that, I yield myself such time as I may require.

Mr. Speaker, this is a contempt citation from the Committee on Standards of Official Conduct which, if adopted by the House, as I presume it will be, would refer the matter to the Department of Justice and certify this report, together with appendixes, to the U.S. Attorney for the District of Columbia to the end that one Hancho C. Kim, the witness before the House Committee on Standards of Official Conduct, be prosecuted for criminal contempt of Congress pursuant to the provisions of title 2, United States Code, sections 192 and 194.

This report, which has been ordered printed in the RECORD at this point, consists of approximately 7 pages. In addition to that, Mr. Speaker, there are 67 pages of appendixes and supporting documents to support the report and to support the resolution.

Mr. Speaker, there were some unusual circumstances surrounding the adoption of this report and the authorization and instruction to me as chairman of the committee to call up the privileged report and to offer the privileged resolution which the House is now considering. Hancho C. Kim was a witness before this committee in connection with the Korean investigation which has been conducted pursuant to the provisions of House Resolution 252 of the 95th Congress, first session.

Mr. Kim was being deposed by a member of the committee, the gentleman from North Carolina (Mr. PREYER), and by one or more members of the staff. At the time the deposition was being taken, Hancho C. Kim was under indictment on at least two criminal charges, one of which charges was perjury.

A question at the deposition, as put to Mr. Kim, read as follows:

Did there come a time when you received money from Kim Sang Keun?

Thereupon on advice of counsel, the witness refused to answer the question and gave as his reasons therefor several grounds. Upon fully hearing counsel for the witness, Mr. Kim, the member of the committee who was presiding over the taking of the deposition refused to honor the claim of self-incrimination and found Kim's refusal to answer the question contemptuous. Whereupon, this matter was reported to the committee, and subsequently, a quorum of the committee being present, the committee by a vote of 9–0 authorized me as chairman of the committee to file this report and at the proper time to offer a resolution directing the transmission of this report by the Speaker of the House to the U.S. Attorney for the District of Columbia.

After the report was filed, counsel for Mr. Kim asked the committee if a brief, which they had prepared and submitted to the committee, might be published in the CONGRESSIONAL RECORD.

In an effort to be both reasonable and fair, I had no objection to asking unanimous consent that the brief be printed in the RECORD, and I know of no member of the committee who had any such objection. Unanimous consent was granted.

Accordingly, on August 9, 1978, I asked unanimous consent to advise Members that it was my intention to call this report up during the week of September 11, 1978. I further stated that counsel for the respondent requested the committee to include a brief submitted on behalf of the respondent, Hancho C. Kim, to be published in the CONGRESSIONAL RECORD. I stated further, as I did just now, that, in the interest of fairness, that request appeared to be a reasonable one.

Mr. Speaker, there may be some merit to the contention of Mr. Hancho C. Kim that to have answered the question—whatever his answer would have been—would have placed him in an untenable position.

However, Mr. Speaker, I do not believe that that question is one which properly addresses itself either to the committee which I chair or to the House of Representatives. I think that it more properly addresses itself to a judicial determination if and when this report is adopted.

Under the rules of the House, certainly if a witness under subpena is asked a question, the answer to which the committee believes essential to any investigation, the House of Representatives has

a right to expect that witness to answer. The only exception that I know of would be when such witness pleads the fifth amendment and says he refuses to answer on the grounds that his answer might incriminate him or tend to incriminate him.

The committee had previously gone before the U.S. District Court for the District of Columbia and had obtained an order of use immunity which would have absolved this witness, Mr. Hancho C. Kim, of any prosecution for answering, because of the answer which he gave to this particular question.

Mr. Kim and his attorneys thought otherwise. Since he was presently at that time under indictment on a charge of perjury involving the exact set of facts that this question called for an answer to, he took the position that, if he answered the question one way, he in effect would be pleading guilty to an indictment that was pending against him. If he answered it the other way, he contended that he would be inviting a second indictment for perjury on grounds very similar to those for which he had been indicted previously.

Notwithstanding this contention, which I stated earlier may have some merit, it is not for our committee, nor do I believe it is for the House of Representatives, to answer that question or to judge the case on its merits.

Therefore, Mr. Speaker, I ask that the House vote this citation so that the matter may be properly transmitted by the Speaker of the House of Representatives to the U.S. attorney for disposition in the U.S. District Court for the District of Columbia.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER. The gentleman from South Carolina (Mr. SPENCE) is recognised for 30 minutes.

Mr. SPENCE. Mr. Speaker, I yield myself such time as I may consume.

The facts as set forth by the chairman are correct. I concur in what he said. I call upon the House to approve this resolution.

● Ms. HOLTZMAN. Mr. Speaker, as my colleagues are aware, I have fought long and hard for a full and complete investigation of the Korean influence buying scandal. In fact, as a member of the House Judiciary Committee, I offered an amendment requiring that a politically independent, court-appointed Special Prosecutor be created to handle the criminal investigation of Members of Congress and others in connection with Koreagate.

Nevertheless, even though I find his refusal to cooperate with the Federal investigation utterly reprehensible, I must reluctantly vote against House Resolution 1350 authorizing a contempt citation for Hancho Kim. I do so because I have serious constitutional reservations about the propriety of the resolution.

This resolution is based on Kim's refusal to answer a single question posed by the House Committee on Standards of Official Conduct: "Did there come a time when you received money from Kim Sang Keun?" According to committee sources whom I questioned at length on the floor, Hancho Kim would be subjected to possible criminal charges whether he answered yes or no.

In view of this, Kim's claim of possible self-incrimination seems to provide a plausible constitutional basis for his silence. Since I was given no assurance that the resolution does not penalize Kim for validity asserting a constitutional privilege, I feel compelled to vote against it.

I would have liked to support the resolution and wish the committee had been able to assure me that we are not placing Mr. Kim in a constitutionally untenable position. Since that was not the case, I will vote "no" on the resolution.●

Mr. FLYNT. Mr. Speaker, we have no further requests for time, and I yield back the balance of my time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. FLYNT. Mr. Speaker, on a matter involving a citation of contempt I believe it is the general policy of the House to have a recorded vote.

Accordingly, Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Tht vote was taken by electronic device, and there were—yeas 319, nays 2, answered "present" 3, not voting 108, as follows:

[Roll No. 784]

YEAS—319

Abdnor
Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashley
Aspin
AuCoin
Bafalis
Baldus
Barnard
Baucus
Bauman
Bedell
Bellenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Mich.
Broyhill
Buchanan
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clawson, Del
Clay
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Cornell
Coughlin
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frenzel
Fuqua
Gammage
Garcia
Gephardt
Giaimo
Gilman
Ginn
Glickman
Goodling
Gore
Gradison
Grassley
Green
Gudger
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hansen
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Horton
Howard
Hubbard
Hughes
Hyde
Ichord
Ireland
Jacobs
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kemp
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Lehman
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lundine
McClory
McDade
McDonald
McEwen
McFall
McKay
Madigan
Maguire
Mahon
Markey
Marks
Martin
Mattox
Mazzoli
Meeds
Meyner
Michel
Mikulski
Mikva
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moss
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Perkins
Pettis
Pfeyer
Price
Purcell
Quayle
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Roe
Rogers
Rose
Rosenthal
Rostenkowski
Roybal
Rudd
Ruppe
Russo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Sharp
Shuster
Sikes
Simon
Skelton
Slack
Snyder
Solarz
Spence
St Germain
Staggers
Stangeland
Stanton
Steed
Steers
Stockman
Stokes
Stratton
Studds
Stump
Symms
Thompson
Traxler
Treen
Trible
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walker
Wampler
Watkins
Weaver
Weiss
Whalen
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Bob
Winn
Wirth
Wolff
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—2

Gonzalez
Holtzman

ANSWERED "PRESENT"—3

Burton, Phillip
Guyer
Wilson, C. H.

NOT VOTING—108

Ammerman
Anderson, Ill.
Armstrong
Ashbrook
Badham
Beard, R.I.
Beard, Tenn.
Boggs
Breaux
Broomfield
Brown, Ohio
Burgener
Burke, Calif.
Burke, Fla.
Burton, John
Caputo
Carney
Clausen, Don H.
Cleveland
Cochran
Cohen
Conyers
Corman
Cornwell
Cotter
Crane
Dellums
Dent
Diggs
Eckhardt
Edwards, Ala.
Flowers
Foley
Gaydos
Gibbons
Goldwater
Hannaford
Harrington
Harsha
Heckler
Huckaby
Jeffords
Jenrette
Jones, N.C.
Kasten
Kelly
Krueger
Leggett
Lott
Lujan
Luken
McCloskey
McCormack
McHugh
McKinney
Mann
Marlenee
Marriott
Mathis
Metcalfe
Milford
Miller, Calif.
Moorhead, Pa.
Murphy, Ill.
Myers, Gary
Myers, John
Nix
Nolan
Oakar
Pepper
Pickle
Pike
Poage
Pressler
Pritchard
Quie
Risenhoover
Rodino
Roncalio
Rooney
Rousselot
Runnels
Ryan
Santini
Sarasin

Sebelius
Shipley
Sisk
Skubitz
Smith, Iowa
Smith, Nebr.
Spellman
Stark
Steiger
Taylor
Teague
Thone
Thornton
Tsongas
Walgren
Walsh
Waxman
White
Wilson, Tex.
Wright
Wyd.er
Young, Alaska

Mr. GUYER changed his vote from "yea" to "present."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FLYNT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just agreed to.

The SPEAKER pro tempore (Mr. EARLY). Is there objection to the request of the gentleman from Georgia?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. FRENZEL asked and was given permission to address the House for 1 minute.)

Mr. FRENZEL. Mr. Speaker, I have requested this time for the purpose of asking the distinguished acting majority leader about the program for the remainder of the day and for the next week.

Mr. Speaker, I yield to the distinguished acting majority leader, the gentleman from Indiana (Mr. BRADEMAS).

Mr. BRADEMAS. Mr. Speaker, I thank the distinguished acting minority leader for yielding.

Mr. Speaker, the program for the House of Representatives for the week of September 18, 1978, is as follows:

On Monday, September 18, the House meets at noon on the Consent Calendar.

There are 25 bills to be called up under suspension of the rules. I may say, Mr. Speaker, that the list of all 25 of these bills has been available from Tuesday last, both on the floor and as published in the CONGRESSIONAL RECORD.

For that reason, if the gentleman from Minnesota will yield to me to do so, I would like to ask unanimous consent to dispense with the reading and the numbers and the titles of the 25 bills under suspension.

Mr. FRENZEL. Mr. Speaker, I yield to the gentleman for that purpose.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. BRADEMAS. Mr. Speaker, will the gentleman yield further?

Mr. FRENZEL. I yield to the distinguished acting majority leader.

Mr. BRADEMAS. Mr. Speaker, I may say in this respect that the first seven of these suspensions are tariff bills and can probably be disposed of rapidly. The remainder are substantive and are the most significant of the 80 bills for which requests have been made to be placed on the suspension calendar.

Mr. Speaker, on Tuesday, September 19, the House meets at noon on the Private Calendar. There are 6 bills to be called up under suspension of the rules. Votes on suspensions will be postponed until the end of all suspensions. Those bills are:

H.R. 13149, extend report date on food stamp pilot project workfare provisions;

H.R. 1464, Humane Methods of Slaughter Act amendments;

H.R. 9482, Packers and Stockyards Act amendments;

H.R. 12101, Farmer-to-Consumer Direct Marketing Act amendments;

H.R. 13715, National Weather Service Act; and

H.R. 12559, Native Latex Commercialization Act.

Following the suspensions, Mr. Speaker, there are scheduled for consideration on Tuesday the following conference reports:

S. 1678, FIFRA;

H.R. 12936, HUD appropriations, fiscal year 1979;

S. 3040, Amtrak Improvement Act;

H.R. 12598, foreign relations authorizations, fiscal year 1979;

H.R. 12222, international development and food assistance, fiscal year 1978;

H.R. 11401, NASA authorization, fiscal year 1979; and,

H.R. 8149, Customs Procedural Reform Act.

Mr. Speaker, on Wednesday, September 20, the House meets at 10 o'clock a.m. to complete consideration of the bill H.R. 12611, Air Service Improvement Act of 1978;

H.R. 1, Ethics in Government Act, under a modified open rule, with 2 hours of debate; and,

H.R. 12452, CETA amendments, to complete consideration of that bill.

Mr. Speaker, on Thursday and Friday, September 21 and 22, the House will meet at 10 o'clock a.m. to consider the following bills:

H.R. 11733, Surface Transportation Assistant Act of 1978, to complete consideration of that bill;

H.R. 12005, Justice Department authorizations, under an open rule, with 1 hour of debate;

S. 1613, Magistrate Act of 1977, under an open rule, with 1 hour of debate;

H.R. 13059, Water Resources Development Act of 1978, under an open rule, with 1 hour of debate;

H.R. 13750, Sugar Stabilization Act of 1978, under an open rule, with 2 hours of debate; and finally, there will be the Department of Defense authorizations bill, fiscal year 1979, subject to a rule being granted.

Mr. Speaker, the House will adjourn by 7 p.m. on Monday and Tuesday; by 7:30 p.m. on Thursday, and by 3 p.m. on Friday.

Conference reports may be brought up at any time and any further program will be announced later.

Mr. Speaker, I thank my friend, the gentleman from Minnesota, for having yielded.

Mr. FRENZEL. Mr. Speaker, I thank the distinguished acting majority leader.

Mr. Speaker, I would like to further inquire, on Wednesday there is no closing time reported. May we assume that the House will go no later than 9 o'clock p.m. on Wednesday?

Mr. Speaker, I yield to the distinguished acting majority leader.

Mr. BRADEMAS. Mr. Speaker, let me say 9 o'clock, or thereabouts.

I may say, if the gentleman will yield further, that in respect to the remainder of the program for today, we shall be considering the rule on the bill H.R. 11733, Surface Transportation Assistance Act of 1978.

Two hours of debate are scheduled on that, and we will consider the rule and general debate only.

Mr. FRENZEL. Mr. Speaker, I thank the gentleman.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Minnesota.

Mr. LEVITAS. Mr. Speaker, I thank the gentleman from Minnesota for yielding.

I would like to make this inquiry of the acting majority leader: On an earlier tentative schedule for next week, on Tuesday, on which day certain conference reports were scheduled, one of the proposed scheduled conference reports was a conference report on the FTC Act amendments. I notice that has now been taken off the schedule for Tuesday, but there exists in the gentleman's statement the usual language that conference reports may be brought up at any time.

Mr. Speaker, I would like to inquire. Is there any intention of bringing up the FTC conference report next week?

Mr. BRADEMAS. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Indiana.

Mr. BRADEMAS. Mr. Speaker, as I understand it, if I may respond to the gentleman from Georgia (Mr. LEVITAS), the chairman of the committee with jurisdiction over that bill asked that the conference report be withdrawn from the Speaker's calendar in an effort to work out some problems in the conference report. The matter is before the Committee on Rules, and an effort will be made to seek a rule. So there is a possibility that it will be brought up next week.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, might I just suggest to the acting majority leader that the leadership explore the possibility of calling up under unanimous consent some of these bills that are listed under suspension for Monday?

There has been a tendency—and I am sure most Members would consider it unfortunate—to ask for rollcall votes on suspension bills simply because they are considered under suspension of the rules. It might be more difficult for an individual Members to object to a bill called up under unanimous consent and take the onus of defeating that legislation himself since the suspension calendar would still be available.

Mr. Speaker, it seems to me that many of these bills are not controversial, but the sheer magnitude of the number of bills listed might suggest to some Members the demanding of rollcall votes that are unnecessary.

Mr. BRADEMAS. Mr. Speaker, if the gentleman from Minnesota will yield further, I can only state that I want to commend the gentleman from Maryland (Mr. BAUMAN) for what I think is a very constructive suggestion, and the gentleman from Indiana will be glad to relay this suggestion to the appropriate authorities.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed on Wednesday of next week.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

ADJOURNMENT TO MONDAY, SEPTEMBER 18, 1978

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. ANNUNZIO. Mr. Speaker, reserving the right to object, I shall not object, but I would like to ask the distinguished acting majority leader this question:

I know there has been mention made about the completion time next week, but could the gentleman give us a better idea? The gentleman stated the times when we will go into session and as to approximately when we will adjourn or recess on Monday, Tuesday, Wednesday, and Thursday, and that is on our schedule. I ask this question only so that we can make plans.

Mr. BRADEMAS. Yes, Mr. Speaker. if the gentleman will yield, I will be glad to respond.

The House will adjourn by 7 p.m. on Monday and Tuesday, by 7:30 p.m. on Thursday, by 9 p.m. or thereabouts on Wednesday, and by 3 p.m. on Friday.

Mr. ANNUNZIO. Mr. Speaker, I thank the acting majority leader, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PERMISSION FOR COMMITTEE ON ARMED SERVICES TO FILE REPORT ON H.R. 14042, DEPARTMENT OF DEFENSE AUTHORIZATIONS, 1979

Mr. PRICE. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services may have until midnight tonight, Friday, September 15, 1978, to file a report on the bill (H.R. 14042), authorizing appropriations for the Department of Defense for fiscal year 1979, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

SURFACE TRANSPORTATION ASSISTANCE ACT OF 1978

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1326 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1326

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11733) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes. After general debate, which shall be confined to the bill and amendment made in order by this resolution and shall continue not to exceed two hours, one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation and one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be read for amendment by titles instead of by sections, and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI, clause 1(p)(3), rule X and clause 5, rule XXI are hereby waived. No amendment to title V of said substitute, and no amendment to said substitute changing or modifying said title, shall be in order except amendments recommended by the Committee on Ways and Means. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except on motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, this is a 2-hour rule, open on four titles, closed on one, the Ways and Means title. To the best of my knowledge, there is absolutely nothing unusual about the rule, nor is there any controversy about the rule.

Mr. Speaker, I reserve the balance of my time.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1326 is a 2-hour, modified open rule making in order the consideration of H.R. 11733, the Surface Transportation Assistance Act of 1978. The rule waives section 402 (a) of the Budget Act against the consideration of the bill. Since section 402 (a) of the Budget Act prohibits consideration of legislation authorizing new budget authority which is reported after May 15 preceding the fiscal year in which that authority is to take effect, and, since various sections of the bill authorize new budget authority in fiscal 1979, even though the bill was not reported until August 11 of this year, a waiver is necessary in order to bring it up. On August 16, 1978, Chairman GIAIMO of the Budget Committee wrote to the Rules Committee indicating the Budget Committee's support for this waiver on the grounds that the chairman of the Subcommittee on Surface Transportation, Mr. HOWARD, suffered an unfortunate illness, and the work of the committee was delayed.

Under the terms of this rule, the 2 hours of debate time would be divided between the Public Works and the Ways and Means Committees, and the committee amendment in the nature of a substitute recommended by the Public Works Committee is made in order as an original bill for the purpose of amendment. That substitute in turn is protected against points of order for failure to comply with clause 7 of rule XVI, the germaneness rule; clause 1(p)(3) of rule X, which prohibits specific road legislation in general road legislation; and clause 5, rule XXI, which prohibits appropriations in a legislative measure.

Mr. Speaker, as I mentioned earlier, this is a modified open rule. Beginning at line 15 on page 2 of the rule it is stated that no amendment to title V of the substitute shall be in order except amendments recommended by the Committee on Ways and Means. Title V is that portion of the bill reported by the Ways and Means Committee which extends the highway trust fund for 5 years to September 30, 1984, postponing the tax reductions scheduled to take effect with the expiration of the trust fund.

Mr. Speaker, when the Rules Committee heard testimony on this bill on August 16, no objections were expressed to the rule requested by the two committees and that is the rule before us today.

Mr. Speaker, I have no requests for time, and I reserve the balance of my time.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DAVIS. Mr. Speaker, I object to the vote on the ground that a quorum

is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 318, nays 4, not voting 110, as follows:

[Roll No. 785]

YEAS—318

Abdnor
Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashley
Aspin
AuCoin
Bafalis
Baldus
Barnard
Baucus
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boland
Bolling
Bonior
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Mich.
Broyhill
Buchanan
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clawson, Del
Clay
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Cornell
Coughlin
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flynt
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frenzel
Fuqua
Gammage
Garcia
Gephardt
Giaimo
Gilman
Ginn
Glickman
Goodling
Gore
Gradison
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hansen
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Hughes
Hyde
Ichord
Ireland
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Lehman
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lundine
McClory
McDade
McEwen
McFall
McHugh
McKay
Madigan
Maguire
Mahon
Markey
Marks
Martin
Mattox
Mazzoli
Meeds
Meyner
Michel
Mikulski
Mikva
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Calif.
Moss
Mottl
Murphy, Pa.
Murtha
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Perkins
Pettis
Preyer
Price
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Roe
Rogers
Roncalio
Rose
Rosenthal
Roybal
Rudd
Ruppe
Russo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sharp
Shuster
Sikes
Simon
Skelton
Slack
Snyder
Solarz
Spence
St Germain
Staggers
Stangeland
Stanton
Steed
Steers
Stockman
Stokes
Stratton
Studds
Stump
Symms
Thompson
Thornton
Traxler
Treen
Trible
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
Whalen
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Winn
Wirth
Wolff
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—4

Bauman
Gonzalez
McDonald
Moore

NOT VOTING—110

Ammerman
Anderson, Ill.
Armstrong
Ashbrook
Badham
Beard, R.I.
Beard, Tenn.
Boggs
Bonker
Breaux
Broomfield
Brown, Ohio
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burton, John
Caputo
Carney
Clausen, Don H.
Cleveland
Cochran
Cohen
Conyers
Corman
Cornwell
Cotter
Crane
Dellums
Dent
Diggs
Eckhardt
Edwards, Ala.
Flowers
Ford, Mich.
Frey
Gaydos
Gibbons
Goldwater
Hannaford
Harrington
Harsha
Heckler
Huckaby
Jacobs
Jeffords
Jenrette
Jones, N.C.
Kasten
Kelly
Keys
Krueger
Lott
Lujan
Luken
McCloskey
McCormack
McKinney
Mann
Marlenee
Marriott
Mathis
Metcalfe
Milford
Miller, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Myers, Gary
Myers, John
Nix
Oakar
Pepper
Pickle
Pike
Poage
Pressler
Pritchard
Quie
Risenhoover
Rodino
Rooney
Rostenkowski
Rousselot
Runnels
Ryan
Santini
Sarasin
Sebelius
Seiberling
Shipley
Sisk
Skubitz
Smith, Iowa
Smith, Nebr.
Spellman
Stark
Steiger
Taylor
Teague
Thone
Tsongas
Walsh
Waxman
White
Wilson, Tex.
Wright
Wydler
Young, Alaska
Young, Tex.

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Anderson of Illinois.
Mrs. Spellman with Mr. Goldwater.
Ms. Keys with Mr. Pressler.
Mrs. Burke of California with Mr. Ashbrook.
Mrs. Smith of Nebraska with Mr. Young of Alaska.
Mrs. Heckler with Mr. Lott.
Ms. Oakar with Mr. Badham.
Mr. Cotter with Mr. Marlenee.
Mr. Rodino with Mr. Wydler.
Mr. Rooney with Mr. Beard of Tennessee.
Mr. Rostenkowski with Mr. Pritchard.
Mr. Jenrette with Mr. Harsha.
Mr. Hannaford with Mr. Broomfield.
Mr. Breaux with Mr. Jeffords.
Mr. Ammerman with Mr. Quie.
Mr. Mann with Mr. Walsh.
Mr. John L. Burton with Mr. McKinney.
Mr. Burke of Massachusetts with Mr. Burgener.
Mr. Corman with Mr. Burke of Florida.
Mr. Cornwell with Mr. Kasten.
Mr. Dellums with Mr. Skubitz.
Mr. Dent with Mr. Thone.
Mr. Gaydos with Mr. Lujan.
Mr. Moorhead of Pennsylvania with Mr. Caputo.
Mr. Miller of California with Mr. Don H. Clausen.
Mr. Murphy of New York with Mr. Marriott.
Mr. Teague with Mr. Steiger.
Mr. Waxman with Mr. Taylor.
Mr. White with Mr. Gary A. Myers.
Mr. Ford of Michigan with Mr. Cleveland.
Mr. Huckaby with Mr. McCloskey.
Mr. Pike with Mr. Cochran of Mississippi.
Mr. Santini with Mr. Cohen.
Mr. Shipley with Mr. John T. Myers.
Mr. Smith of Iowa with Mr. Sebelius.
Mr. Stark with Mr. Seiberling.
Mr. Pepper with Mr. Brown of Ohio.
Mr. Pickle with Mr. Conyers.
Mr. Diggs with Mr. Crane.
Mr. Krueger with Mr. Eckhardt.
Mr. Wright with Mr. Edwards of Alabama.
Mr. Metcalfe with Mr. Milford.
Mr. Carney with Mr. Luken.
Mr. Bonker with Mr. Kelly.
Mr. Beard of Rhode Island with Mr. Frey.
Mr. Jacobs with Mr. Nix.
Mr. Jones of North Carolina with Mr. Rousselot.
Mr. Flowers with Mr. Gibbons.
Mr. McCormack with Mr. Runnels.
Mr. Ryan with Mr. Mathis.
Mr. Sisk with Mr. Risenhoover.
Mr. Murphy of Illinois with Mr. Tsongas.
Mr. Charles Wilson of Texas with Mr. Harrington.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. HOWARD. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11733) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. HOWARD).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOTTL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 303, nays 6, not voting 123, as follows:

[Roll No. 786]

YEAS—303

Abdnor
Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashley
Aspin
AuCoin
Bafalis
Baldus
Barnard
Baucus
Bauman
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Mich.
Broyhill
Buchanan
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Carr
Carter
Cavanaugh
Cederberg
Chappell
Clawson, Del
Coleman
Conte
Corcoran
Cornell
Coughlin
Cunningham
D'Amours

Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Derrick
Devine
Dickinson
Dicks
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Edwards, Okla.
Eilberg
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del
Evans, Ga.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flynt
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Fuqua
Gammage
Garcia
Gephardt
Giaimo
Gilman
Ginn
Gonzalez
Goodling
Gore
Gradison
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hansen
Harkin
Harris
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Howard
Hubbard
Hughes
Hyde
Ichord
Ireland
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Leach
Lederer
Le Fante
Lehman
Levitas
Livingston
Lloyd, Tenn.
Long, La.
Long, Md.
Lundine
McClory
McDade
McEwen
McFall
McHugh
McKay
Madigan
Maguire
Mahon
Marks
Martin
Mattox
Mazzoli
Meeds
Meyner
Michel
Mikulski
Mikva
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moss
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Perkins
Pettis
Preyer
Price
Pursell
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Roe
Roncalio
Rose
Rosenthal
Roybal
Rudd
Russo
Ryan
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Sharp
Shuster
Sikes
Simon
Skelton
Slack
Snyder
Solarz
Spence
St Germain
Staggers
Stangeland
Stanton
Steed
Steers
Stockman
Stokes
Stratton
Studds
Stump
Thompson
Thornton
Traxler
Treen
Trible
Tucker
Udall
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
Whalen
Whitehurst
Whitley
Whitten
Wiggins
Wilson, C. H.
Winn
Wirth
Wolff
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—6

Collins, Tex.
Conable
Lloyd, Calif.
McDonald
Quayle
Wilson, Bob

NOT VOTING—123

Addabbo
Ammerman
Anderson, Ill.
Armstrong
Ashbrook
Badham
Beard, R.I.
Beard, Tenn.
Boggs
Breaux
Broomfield
Brown, Ohio
Burgener
Burke, Calif.
Burke, Fla.
Burton, John
Caputo
Carney
Chisholm
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Conyers
Corman
Cornwell
Cotter
Crane
Dellums
Dent
Derwinski
Diggs
Dingell
Edwards, Ala.
Emery
Evans, Ind.
Flowers
Ford, Mich.
Fraser
Frey
Gaydos
Gibbons
Glickman
Goldwater
Hannaford
Harrington
Harsha
Hawkins
Heckler
Horton
Huckaby
Jacobs
Jeffords
Jenrette
Jones, N.C.
Kasten
Kelly
Keys
Krueger
Leggett
Lent
Lott
Lujan
Luken
McCloskey
McCormack
McKinney
Mann
Markey
Marlenee
Marriott
Mathis
Metcalfe
Milford
Miller, Calif.
Moorhead, Pa.
Murphy, Ill.
Myers, Gary
Myers, John
Myers, Michael
Nix
Oakar
Pepper
Pickle
Pike
Poage
Pressler
Pritchard
Quie
Risenhoover
Rodino
Rogers
Rooney
Rostenkowski
Rousselot
Runnels
Ruppe
Santini
Sarasin
Sebelius
Shipley
Sisk
Skubitz
Smith, Iowa
Smith, Nebr.
Spellman
Stark
Steiger
Symms
Taylor
Teague
Thone
Tsongas
Van Deerlin
Walsh
Waxman
White
Wilson, Tex.
Wright
Wydler
Young, Alaska
Young, Tex.

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 11733, with Miss JORDAN in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from New Jersey (Mr. HOWARD) will be recognized for 30 minutes, the gentleman from Pennsylvania (Mr. SHUSTER) will be recognized for 30 minutes, the gentleman from Oregon (Mr. ULLMAN) will be recognized for 30 minutes, the gentleman from New York (Mr. CONABLE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. HOWARD).

Mr. HOWARD. Madam Chairman, I yield myself such time as I may consume.

Mr. MINETA. Madam Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from California.

Mr. MINETA. Madam Chairman, the Southern Pacific Transportation Co. operates a commuter rail service between San Jose and San Francisco. With 27 stations along the 47 miles between San Jose and San Francisco, over 7,500 commuters are served daily.

Under recent State legislation (AB 1853, Pagan), a "bulk ticket purchase" program was initiated by Santa Clara and San Mateo Counties and the city and county of San Francisco in January 1978. Under this program, the public receives a discount on the tariff fares set by the California Public Utilities Commission. Southern Pacific is reimbursed with public funds so they receive full fare revenues.

Under section 315 of the bill, will the bulk ticket purchase program qualify for Federal funding under a purchase of service or similar arrangement?

Mr. HOWARD. Section 315 provides Federal grants to cover up to 50 percent of the total operating losses of eligible service. It appears that the Southern Pacific service itself is clearly eligible for operating subsidies. The only question I have is how UMTA might determine what the operating losses are under the bulk ticket program.

Mr. MINETA. For the past 4 years, the California Public Utilities Commission has been monitoring Southern Pacific to determine losses on this commuter line. The PUC has legal responsibility, under State law, to establish fares. PUC data, from its monitoring of SP, can be used to determine operating losses.

Mr. HOWARD. Based on that type of documentation of operating losses, UMTA could fund 50 percent under section 315 of this bill.

Mr. MINETA. I thank the gentleman, and I appreciate his yielding to me.

Mr. HOWARD. Madam Chairman, the legislation before the House today encompasses a wholly new approach to the surface transportation needs of all America. For the first time in our history, we are addressing in a single legislative package the destructive congestion of our cities and the equally destructive isolation of small-town, rural America, where millions of people must travel daily over inadequate, dangerous roads and highway bridges to bring their goods to market, their children to school.

I ask my colleagues to consider carefully every aspect of this enormously complex legislation, because it will affect the lives and well-being of all our constituents for many years to come.

H.R. 11733, the Surface Transportation Assistance Act of 1978, is indeed an ambitious measure. It is the largest highway/mass transit program ever presented to the Congress. It calls for the longest spending authorization period ever proposed for a total highway and safety program. But it is a sound program; it has a logical financial framework that meets every budgetary test, and it is well within the capacity of industry and the public sector.

No matter what you may have heard or will hear in the course of this debate, H.R. 11733 is not a budget-busting bill. More than two-thirds of the Federal spending proposed in this legislation will come directly from the assured resources of the user-supported highway trust fund, without adding 1 cent to the present gasoline tax. And the remainder, coming from the general revenue, is well within the limits established in the congressional budget.

Certainly the cost of this legislation demands the most careful consideration by the House. But I ask my colleagues also to weigh that cost against the enormous cost that our deteriorating transportation system imposes on all of us today in terms of wasted lives, wasted energy, wasted productivity.

Title I of this bill calls for spending levels—from the highway trust fund—of slightly more than $8 billion for each of the 4 fiscal years 1979 through 1982. That includes increases in funding for the Interstate System from $3.625 billion to $4 billion a year. We propose this increase to speed completion of the system and an additional $175 million for each of the fiscal years 1980 and 1981, and

$275 million for each of the fiscal years 1982 and 1983 to permit resurfacing, restoration, and rehabilitation of interstate sections that are wearing out after more than 20 years of hard service.

We propose continuing authorizations for noninterstate programs at essentially the present levels, with several important exceptions: primary highway authorizations would be increased by $750 million to $2.1 billion annually, and secondary funding would go up to $250 million to $650 million a year.

In each case, those increased funds must be used for resurfacing, restoration, and rehabilitation of existing roads—the three R's of the highway program.

I call particular attention to this provision because it marks a significant departure in our national highway policy, as a result of which greater emphasis will be placed on upgrading and improving the safety and efficiency of the roads we now have in place rather than on merely building more and more miles of new highways.

A somewhat similar policy applies to funding provided in H.R. 11733 for off-system roads. We have raised the authorization in this category from $200 million to $300 million a year with the stipulation that at least half of each State's spending on these roads go into safety improvements.

We have also liberalized provisions for transferring funds from one program to another in most all noninterstate construction programs and increased the Federal share of costs generally from 70 percent to 80 percent. For safety programs, the Federal share is at 90 percent of cost.

Title II of this legislation greatly expands the Federal role in furthering highway safety and reducing the tragic toll of accidents that has cost us more than 2,100,000 lives since the advent of the automobile.

We have made great progress since Congress first addressed this problem with the enactment of highway safety legislation in 1966. But we still have a long way to go. More than 47,000 of our fellow citizens lost their lives in highway accidents in 1977. In that year, traffic accidents were the sixth leading cause of death in the United States, and the No. 1 killer among persons under 34 years of age.

It was with those casualty lists in mind that we increased the funding authorizations for virtually all our permanent safety programs, including grade crossing, high hazard locations, and roadside obstacles. We also provided funding to help the States enforce the 55-mile-per-hour speed limit, and the Secretary of Transportation will have full authority to reduce any State's share of Federal highway funding for failure to comply with enforcement standards and guidelines.

But far and away the most significant safety measure in this legislation comes under the heading of bridge repair and replacement. In title II of this bill, we propose annual authorizations of $2 billion a year for the 4 fiscal years 1979 through 1982, with 90 percent of project cost to be funded out of the highway trust fund.

We have not lightly proposed this giant step forward. The existing program offers only $180 million and a 75-percent Federal contribution toward the solution of what is perhaps the most critical problem area in our entire highway system. At this very moment, there are some 33,500 bridges on the Federal-aid system alone that are so worn out, so dangerously deficient, that they constitute a hazard to every motorist who dares to cross them. And there are another 72,000 bridges off the Federal system in equally bad condition.

At our current rate of funding, it would take 100 years just to correct the conditions that exist right now on the highway bridges of this country. It would be a shameful dereliction of our duty, Madam Chairman, if we failed to act now on a condition that cries out for immediate action.

Title III of this legislation amends the Urban Mass Transit Assistance Act of 1974 so as to step up the attack on urban congestion and provide assurance of continuing, long-term Federal support for local efforts in this area.

This title authorizes about $4.6 billion for each of the fiscal years 1979 through 1982, extending the UMTA authorizations and greatly expanding the size and scope of Federal assistance to virtually all public transportation services. The Federal share is set at 50–50 for transportation operating costs and 80 percent for capital assistance.

Title III authorizes $1.86 billion a year in discretionary grants for public transportation assistance, but tightens up on the Secretary of Transportation's authority by establishing specific categories with specific dollar amounts to be earmarked each year, including $307 million for bus and bus-related purchases, $223 million for fixed-rail rolling stock, $558 million for rail modernization, $707 million for new starts and extension, and $65 million for planning and technical studies. The specific set-aside in existing law for capital assistance to rural and small urban areas is being replaced with an expanded formula program of $125 million annually for transportation operating costs as well as capital grants.

Title III retains the existing formula grant program for capital and operating assistance at the current levels of $850 million for fiscal 1979 and $900 million for 1980, and provides an additional $900 million a year for 1981 and 1982, retaining the present criteria—half based on population numbers and half on population density.

However, as a result of testimony showing the need for greater help to our most heavily urbanized areas, we established a new "tier II" formula, authorized at $250 million annually for fiscal years 1979 through 1982. Our committee agreed to continue the half-and-half population/population density for these "tier II" grants, with the proviso that 85 percent of the funds would go to the 33 urbanized areas in the United States that have populations of 750,000 and more, and the remaining 15 percent to smaller urban centers.

Title IV of H.R. 11733 provides for domestic preference in the acquisition of products and supplies on projects financed under the act, as well as congressional authority to review rules and regulations issued under the act.

Madam Chairman, I ask the Members of this body to approve H.R. 11733, the Surface Transportation Assistance Act of 1978.

Madam Chairman, at this time I am very happy to yield to our great chairman of the full committee, the gentleman from California (Mr. JOHNSON) who has given us so much leeway when we needed it, and who has given us so much help when we needed it.

Mr. JOHNSON of California. Madam Chairman, I thank the gentleman from New Jersey (Mr. HOWARD) for yielding.

I take this time to commend the chairman of the Subcommittee on Transportation (Mr. HOWARD) and the ranking minority member, the gentleman from Pennsylvania (Mr. SHUSTER), for the wonderful job they have done over the past 3 years in putting this bill together. They held long and complete hearings. There was a detailed and exhaustive markup of the legislation both in the subcommittee and the full committee.

Madam Chairman, I want to say to the chairman of the subcommittee that he is looking very well today. I hope we will take a short period of time on this bill today. Our able colleague, the gentleman from New Jersey (Mr. ROE) did a very fine job in the subcommittee as a backup for the chairman of the subcommittee. We moved this bill along.

Madam Chairman, I hope this body will adopt H.R. 11733 when it comes before it next week under the 5-minute rule. I want to say that I thoroughly support the bill which was put together by the subcommittee and adopted by the full committee by a very large majority vote.

Madam Chairman, the Surface Transportation Assistance Act of 1979 which comes before the House today is the product of more than 3 years of conscientious effort by the Committee on Public Works and Transportation to bring forward a long-range program that lies well within our budgetary capability and serves most effectively the truly critical transportation needs of all our people.

In the course of our prolonged hearings, we have received and considered carefully, testimony from literally hundreds of authoritative witnesses bearing on most every provision contained in this legislation.

You will find, I believe, that the hearing record amply supports the committee judgments we ask the House to support today.

Our sole purpose is to enact into law a program that will provide greater and more flexible Federal assistance to the States, the cities, small towns, and rural areas that are struggling with limited resources to deal with traffic congestion, de-

teriorating highways and highway bridges, inadequate public transportation, the essential needs of the elderly and handicapped, and the endless cycle of highway accidents that have claimed more American lives than all the wars in our history.

H.R. 11733 attacks all of these crisis areas head on. It is a total highway, highway safety, and mass transit bill that can and will do the job that must be done.

The Surface Transportation Assistance Act of 1978 calls for completion of the interstate highway system as fast as is humanly possible to avoid the wasteful cost that inflation imposes on every hour of delay. It calls for a significantly increased investment in the three R's of the highway program—the restoring and rehabilitation of the Federal-aid system that is wearing out today faster than we can rebuild.

H.R. 11733 calls for a long-overdue salvage and rescue job on the huge backlog of dangerous bridges that scar our highways all over America—at a funding level more appropriate to the need than our present inadequate funding.

H.R. 11733 deals forcefully with a major problem that threatens the present and future well-being of all Americans wherever they may live and work—the inadequacy of affordable, convenient, and accessible public transportation in urban and nonurban areas.

The bill before the House today significantly expanded the level of Federal aid for capital and operating purposes for all areas of the country while, at the same time, giving greater recognition to the long-neglected needs of our larger cities.

Madam Chairman, this is the largest program ever established for highways and mass transit, and it calls for the longest authorization period that has ever been proposed, because it recognizes both the enormity of the needs and the continuing nature of those needs.

Finally, Madam Chairman, I should like to pay a special tribute to Congressman JIM HOWARD, the chairman of our Surface Transportation Subcommittee, who has devoted himself unremittingly, too often at the risk of his health, to the completion of this monumental legislation. And I should like the House to know also that he has been most ably supported throughout by the ranking minority member of the subcommittee, Congressman BUD SHUSTER.

To Mr. HOWARD and Mr. SHUSTER, and to all the members of the Public Works and Transportation Committee, on both the majority and minority sides, I express my heartfelt thanks.

Madam Chairman, I ask approval of H.R. 11733.

Mr. HOWARD. Madam Chairman, I would like to say that this legislation did pass out of the subcommittee and out of the full committee by a voice vote.

Madam Chairman, I reserve the balance of my time.

Mr. SHUSTER. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I rise in strong support of H.R. 11733, the Surface Transportation Assistance Act of 1978, and urge its enactment by the overwhelming vote it deserves.

The overall case for this bill has been ably stated by the gentleman from New Jersey, the chairman of the Subcommittee on Surface Transportation, whose leadership, hard work, and cooperation have been decisive in bringing a bill of this magnitude to the floor.

Rather than repeat the substance of his comments, with which I associate myself, I want to elaborate on a few key aspects of this bill from my perspective as ranking minority member of the subcommittee and chairman of the National Transportational Policy Commission.

H.R. 11733 is by no means a routine bill, though it does indeed extend and expand a number of existing programs. But beyond that, it substantially redirects and refocuses emphasis on changing needs and priorities for the safe, economical, and efficient movement of people and goods.

It does so on the basis of comprehensive consideration of all the elements of our highway and public transportation programs, viewed as complementary rather than competing or conflicting, and thus represents a balanced and coordinated package. To this extent it speaks well of the congressional reorganization which placed responsibility for these programs under the jurisdiction of a single committee.

Nor is it merely a big money bill, though the dollar figures are the highest yet. Its refinements and new or expanded initiatives are a direct response to the needs documented in more than 3 years of work. Significantly, during the extensive consideration of this bill, there has been virtually unanimous recognition of the genuine needs we face in the area of highways and public transportation. It has been gratifying to note the comparative lack of the old worn-out rhetoric about transit give-aways or paving over the country with highways. I like to think that this reflects the realism of our bill, and perhaps a new public awareness that our prosperity and the best in our way of life depend heavily on mobility.

Finally, the bill is sound financially, with nearly all of the highway authorizations financed by the highway trust fund, which is extended for 5 years. The extension of this time-tested, self-financing, deficit-proof and inflation-proof financing mechanism—preserving the pay-as-you-go principle that has insured its success for more than two decades—alone justifies enactment of H.R. 11733.

I want to call particular attention to the relation between the authorizations, the duration of the trust fund extension and revenues flowing into the fund. The reported bill before you is premised upon a 6-year extension of the fund. Such an extension would have restored the original relationship between the life of the trust fund and the life of the program authorizations which it sustains, established in the 1956 highway and highway revenue acts. However, members of the Committee on Public Works and Transportation and the Committee on Ways and Means have recognized considerable concern among the House membership at large and the public with respect to levels of Federal spending, whatever the source. There also has been concern over future highway program levels beyond the expiration of H.R. 11733.

The result has been action by the Committee on Ways and Means to approve a 5-year extension of the trust fund. For our part on the Committee on Public Works and Transportation, the managers of this bill have pledged to offer an amendment to reduce overall funding in the bill by over $1.3 billion per year—$1 billion in the highway program and a proportionate $375 million in public transportation.

In combination, these provisions will produce a program level and funding source which can be sustained through the life of this legislation—and continued by subsequent legislation—with no deficit in the fund, no need for any increase in highway user taxes, no need for supplementary revenues from any source, and no need to curtail program levels in future legislation.

Madam Chairman, I mentioned a moment ago that the old antihighway, antipublic transit rhetoric has fortunately subsided. I am afraid, though, that it has been replaced by a new mythology to the effect that what this legislation proposed—and what has been going on since 1956—is somehow unsound. It is based on the fact that annual authorizations do not coincide with annual trust fund receipts for the same year. And it stems from a persistent tendency on the part of some to equate authorizations with outlays. If they were, any disparity could indeed be plausible grounds for concern, conjuring up visions of the social security system and all its woes. But it just happens to be indisputable fact that authorizations are not the same as expenditures or outlays, which may occur 4, 5, 6, 7 or 8 years after initial authorization. This has been true year after year over the life of the program since 1956.

A second factor is the balance in the trust fund, which has grown to the $11 billion range, largely as a result of executive impoundment in years past. It is unnecessarily high and should be worked down. The highway trust fund was created, and taxes levied on the highway user, to construct and reconstruct highways. It was never intended that we build up a balance to sit there and provide a dandy source to finance deficit spending in other arms. In sum, through a combination of an inflated balance, interest on that balance, and annual receipts into the trust fund, the funds will be there to pay the bills when they fall due.

The next time anyone tries to tell you that this use of the balance is a radical or unsound departure from past practice, refer him to a report from the Department of Transportation which describes precisely this approach as a thoroughly respectable way of increasing

authorizations without increasing highway taxes, in short, without violating the fiscal integrity of the trust fund.

That brings me to the Byrd amendment, a requirement in existing law that assures that the funds will indeed be there. Whatever the amount authorized, no funds can be made available to the States for commitment to projects unless there is absolute assurance that funds will be available to liquidate the obligations of the United States. I would venture the guess that if the social security fund had that sort of safeguard, it would not have run into the trouble it did.

I have gone into this at some length, Madam Chairman, because I expect there to be some concern on this score among Members who serve on neither the Ways and Means Committee nor the Committee on Public Works and Transportation. We have all been immersed in a debate over this proposal for some time and it has been a reeducation for us all. This was all thrashed out in the Ways and Means Committee, whose members thoroughly considered, and rightly objected, proposals to tie annual authorizations to same year receipts in the trust fund.

Finally, I want to meet head on the issue of inflation. I will do so briefly because we went into the question in our committee report, beginning on page 85. I will take the time to quote only one statement: "Taken alone, H.R. 11733 will not cause inflationary pressure on the economy." And then it goes into the econometric data on which that statement is based. Rather than take your time with that, let me point out that the trust fund is inherently inflation-proof, just as it is deficit-proof. You have a dedicated source of funding, which cannot be used for any other purpose. And you have a program financed solely by that dedicated source, rather than deficit ridden general revenues. What goes out comes in and vice versa. Actual outlays—expenditures—are covered by receipts. To some extent, under our proposal outlays will be covered by receipts and—to a negligible extent from an inflationary standpoint—the balance which is composed of prior receipts. In any event, there is a precise balance over the life of the program rather than the persistent accumulation of deficits in our general fund programs.

I will conclude my remarks with a final observation concerning fiscal responsibility. We are in an inflationary period, no question about that. And I suppose inflation hits the highway program as hard as any area of Government activity you want to name. Prudence, fiscal integrity, wise financial management would therefore dictate that—in the face of a staggering accumulation of undisputed needs—we gear our program to the maximum levels which the trust fund will sustain safely. That is one sound way to get the jump on inflation. Conversely, to hold back the program in the interests of a spurious symmetry—to hold authorizations artifically to same year receipts—is merely to expose the program needlessly to the effects of inflation.

Needless to say, this would result in further accumulation of unmet needs, further deterioration of our highway system, additional costs in terms of congestion, delays, injuries, and fatalities, higher costs in the long-run and greater pressure for tax increases down the road.

I urge adoption of this landmark surface transportation legislation.

Mr. HOWARD. Madam Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from New Jersey.

Mr. HOWARD. Madam Chairman, I would like to thank the gentleman from Pennsylvania (Mr. SHUSTER) also for his work.

I think as we went through the work on this legislation, no one could tell who was a member of which party on the entire subcommittee. That is why we are so unanimous and so happy about the way in which this bill has been produced.

I also want to express special thanks to my esteemed colleague from New Jersey, the Honorable ROBERT ROE, not only for his standing in for me while I was ill but also for the outstanding manner of his performance.

Mr. SHUSTER. Madam Chairman, I thank the chairman, and I would certainly echo his remarks that this is clearly a bipartisan effort.

Madam Chairman, rather than repeat the substance of the comments of the gentleman from New Jersey made previously, I want to say that I associate myself with his remarks.

Mr. HAMMERSCHMIDT. Madam Chairman, I want to commend the gentleman from New Jersey (Mr. HOWARD) for the tremendous job he has done in leading his subcommittee during the 3½ years of hearings and dozens of witnesses.

I also want to commend the gentleman from Pennsylvania (Mr. SHUSTER), the ranking minority member, for his leadership.

Madam Chairman, I rise in strong support of H.R. 11733, a measure to step up significantly our efforts to meet the enormous transportation needs of the country.

I want to compliment my colleagues on the Surface Transportation Subcommittee for the excellent job they have done with this bill, which I have been pleased to support on the full committee on public Works and Transportation.

This Nation and my own State of Arkansas will benefit substantially from the general provisions of this comprehensive bill, which are responsive to the needs of rural America as well as the more populous States and urban areas.

This legislation also meets specific needs, and I am grateful for the committee's support for my efforts in connection with individually authorized projects, as well as other special category projects.

Among general provisions key to the bill is the substantial increase in funding for restoration and rehabilitation of primary and secondary highways on the Federal-aid system and expansion of their capacity. This increase, roughly one-third, is in addition to the primary and secondary authorizations available for both new construction and rehabilitation of existing highways. Work in this area will be increasingly important to the State of Arkansas as we approach completion of our portion of the Interstate System.

Also of critical importance is the newly expanded authorization of $2 billion per year for bridge reconstruction. Even if scaled down to $1.5 billion in the interests of reducing the overall spending in the bill, it will go far toward cutting into the backlog of unsafe bridges in this country. I particularly support the provision making a minimum of 25 percent and a maximum of 35 percent of bridge apportionments available for bridge projects not located on any Federal-aid system. This eligibility for off-system bridges for Federal assistance will be of particular benefit to rural communities.

The same may be said of the safer off-system roads program, for which Federal assistance is being increased from $200 to $300 million per year.

The same balanced attempt to meet needs of all the Nation's communities, regardless of size, is found in the public transportation title, which provides both operating and capital assistance for systems in areas and small towns along with larger cities across the country.

As to specific projects, I am pleased that the committee has specifically named Highway 71 from Interstate 40 north to the Missouri line as eligible to share in the $125 million priority primary program.

Also of particular interest to my State is the increase of $85 million in funding for urban high-density traffic routes, to assure full funding of earlier designated projects, including one for Little Rock. A final item of direct benefit to Arkansas is the section raising from 70 to 95 percent the Federal share of the costs of certain rail-highway crossing demonstration projects. This will assure that projects such as one at Pine Bluff, initially approved at the 70-percent level, will enjoy the same level of assistance as other projects receiving a 95-percent Federal share.

Thus, this legislation is responsive to general and specific needs of our States and communities. I strongly urge its enactment.

Mr. HAGEDORN. Madam Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Minnesota.

Mr. HAGEDORN. I thank the gentleman for yielding.

I want to commend the gentleman in the well, the ranking member, and the chairman of the Subcommittee on Surface Transportation, the gentleman from New Jersey (Mr. HOWARD) for the outstanding work that they have done in putting this package together. The long hours, the many days of hearings that this committee conducted, I think have proven to be very worthwhile. I think what the committee is presenting to this Congress today is a balanced package. It deals with new highway construction, restoration, and mass transit. While no bill is perfect, I think this bill comes as close to anything we could bring out and still expect to get broad support from all Members of the House.

Mr. SHUSTER. I thank the gentleman from Minnesota for his comments.

Mr. ABDNOR. Madam Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from South Dakota.

Mr. ABDNOR. I thank the gentleman for yielding.

Madam Chairman, I rise in support of H.R. 11733, the Surface Transportation Assistance Act of 1978.

Allow me to commend Subcommittee Chairman Mr. HOWARD and Mr. SHUSTER, ranking minority member, respectively, of the Surface Transportation Subcommittee for their diligent efforts in formulating a comprehensive, farsighted approach to our Nation's surface transportation mode. Also to be recommended are HAROLD T. "BIZE" JOHNSON and WILLIAM HARSHA, chairman and ranking minority member, respectively, of the Public Works and Transportation Committee, of which I am a member, for their persistence in producing this legislation during the 95th Congress.

H.R. 11733 encompasses for the first time all highway and mass transit programs. It increases substantially the amount of funds authorized for the highway bridge replacement program affecting some 34,000 bridges nationwide and approximately 2,000 bridges in my own State of South Dakota.

H.R. 11733 amends the Highway Beautification Act of 1965. Congress should take note that millions of signs have not been erected and hundreds of thousands of signs have been removed because of the act. The amendment will expedite this program because it will clarify the act and resolve present-day litigation caused by the hard-line stance of the Federal Highway Administration.

The bill provides a set-aside of 2 percent of the Urban Mass Transportation Administration funds for projects in assisting the elderly and handicapped. It prohibits the use of this Federal money for the enforcement of antilock requirements contained in Federal Motor Vehicle Safety Standard 121 affecting trailers, trucks and buses. Also, it extends for 5 years the highway trust fund. This method of highway financing has operated well over the past 22 years of its existence. The Ways and Means Committee's decision to extend this program allows its continued operation on the same basis as its original form in 1956 without causing the trust fund to come anywhere near a deficit position.

For these and many other reasons, H.R. 11733 should be considered favorably on the House floor today.

Mr. SHUSTER. I thank the gentleman from South Dakota for his comments.

Madam Chairman, I reserve the remainder of my time.

Mr. HOWARD. Madam Chairman, I yield such time as he may consume to the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON of California. Madam Chairman, the bill before us today is the culmination of more than 3 years of work by our Public Works and Transportation Committee. All of us gathered today here on the floor of the House owe this bill to the masterful guidance of JIM HOWARD, the chairman of our Surface Transportation Subcommittee, and of course to the overall leadership of our Public Works and Transportation chairman, HAROLD "BIZE" JOHNSON.

As the ranking member on JIM's subcommittee, I can attest to the many, many hours he has personally devoted to the formulation of this legislation that addresses the proven need for highways, safety, and public transportation.

Recognition for this excellent bill must also be given to Congressman BUD SHUSTER, who, as ranking member for the minority, has been there working side-by-side with Chairman HOWARD to develop a bill worthy of our complete and undivided support.

H.R. 11733 has faced a rocky road over the past several months. There have been those who have criticized the funding levels as excessive. If these same critics had taken the time to listen to witness after witness before our subcommittee, it would be abundantly clear that this bill realistically addresses the need. It is true that this bill provides for the largest program ever established in highway and mass transit history—but such dedication is necessary and must be maintained.

The cooperation and expertise of State, city, county, and private elements have allowed us to bring to the House a bill with a logical framework of financing within the limits of the highway trust fund. Thus, efforts to tie highway expenditures to revenues on a year-by-basis must be turned back. The action by the Ways and Means Committee that appears as title V of H.R. 11733 reflects their usual good work.

Madam Chairman, I will be speaking in strong support of individual sections of this bill at the appropriate time. But I wanted to take this time to state at the outset my intention to support the bill as written by our committee.

Thank you for allowing me this time, and again, congratulations on a job very well done.

Now, Madam Chairman, I would like to ask you a question.

Our colleague, Congressman RON DE LUGO, has brought to my attention a unique situation in his district of the Virgin Islands. His district contains 100,000 persons, but no one island has a population of greater than 50,000. As a result, the Virgin Islands has been excluded from past opportunities for operating assistance for its two bus lines because it cannot meet the necessary criteria for urban assistance.

However, it does meet the necessary rural criteria. Therefore, I rise to ask my good friend if the Virgin Islands would be eligible for aid under the rural assistance program portion of this legislation?

Mr. HOWARD. Madam Chairman, I would like to state, if the gentleman from California will yield, that they would be eligible under the rural portion of this legislation.

I am happy the gentleman did bring this up, so we could clear it up.

Mr. ANDERSON of California. Madam Chairman, I thank the gentleman from New Jersey.

Mr. HOWARD. Madam Chairman, I yield 4 minutes to a fine and hard-working Member, the gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. Madam Chairman, I rise in strong support of H.R. 11733, the Surface Transportation Assistance Act of 1978.

Because I have had differences with the Public Works and Transportation Committee over many public works projects, some of my colleagues may wonder why I so strongly support this bill, which has been dubbed by the Washington Post as the "Pet Projects Protection Act."

I will concede at the start that this bill authorizes too many individual highway projects and other so-called demonstrations. I urge my colleagues to consider these demonstrations in context: there is a lot more to this bill than demonstration projects. Here are some of its major provisions:

First, the bill sets forth a sensible way to expedite completion of the Interstate system.

Second, the bill takes the historic step of recognizing that, with the exception of uncompleted interstate highways, our Nation's highway system is essentially in place. The days of new construction are almost over. The national interest now requires that we maintain the system we have, and this bill provides desperately needed funding to accelerate the restoration of the Federal-aid primary system, the system of U.S. highways which has been neglected during the interstate boom. Our committee has tried to find a balance between our desire to restore existing highways, on the one hand, and maintain the role of States in maintaining highways, on the other hand. We are not permitting these funds to be used for routine maintenance; we will permit them to be used for major restoration, intersection improvements to increase capacity, and safety improvements. There is a fine line between restoration and maintenance. There is a real danger that routine maintenance might be delayed by a State in order to qualify for federally funded restoration and resurfacing. This danger will be avoided only if the Federal Highway Administration starts enforcing the requirement that States maintain roads that were constructed with Federal assistance. I have been very disappointed to find that the Federal Highway Administration does not take this enforcement role seriously. In this bill, we are responding to the need of our existing highways for restoration, safety improvements, and resurfacing. I hope that the States do not abuse this Federal effort.

The third thing this bill does is address the Nation's serious bridge problem. The current bridge program is grossly inadequate to the need for bridge reconstruction. One of the reasons the current bridge program is failing is its restriction to bridge reconstruction, rather than less ambitious rehabilitation activities. Our bill takes care of this problem, and I believe I am stating the sense of the committee—certainly it is my hope—that States will use these funds prudently and devise low-cost solutions to their bridge problems. Unsafe bridges should be restored first. The so-called "functional obsolescence"—where a bridge does not have the width of the main road or the capacity it needs—is a serious problem but less serious, in my view, than safety problems. In any event, we are leaving it to States to decide how to use these funds, because the Federal highway program historically has been a federally-assisted State program. Again I hope the States will live up to the responsibility we have given them.

The fourth thing this bill does is improve enforcement of the national maximum speed limit of 55 miles-per-hour.

The fifth thing this bill does is establish a system granting some degree of "domestic preference" in procurements and projects utilizing Federal highway and mass transit funds. This is not a "Buy America or Buy Nothing at All" section, but rather it is designed to give Federal contracts to domestic suppliers when the cost is reasonable. I assisted in the development of this section after researching the particular problems being faced by American rail car manufacturers. I am extremely disappointed that the administration has shown little sensitivity to the American rail car manufacturing industry, and indeed is actively promoting foreign manufacturers to compete for business in America. This situation demands a swift congressional response.

Finally, this bill sets forth the most important public transportation legislation to come before this body since 1974. The bill, on which I have been working for the past 2 years, does a good job in addressing each of the major problems confronting urban transportation today. Among other things, the bill:

First. Seeks to keep transit fares reasonable by improving the delivery of Federal operating assistance to transit authorities. Our committee has developed a good, compromise distribution formula that most cities seem satisfied with;

Second. Seeks to maintain previous commitments made by the Urban Mass Transportation Administration for new construction projects;

Third. Seeks to accelerate the modernization and rehabilitation of existing public mass transportation systems. The Urban Mass Transportation Administration estimates that $14 billion will be needed over the next decade to bring existing mass transit systems, many built over 50 years ago, up to acceptable present-day standards. We cannot fully fund this need, but we have made a reasonable start in addressing it. No civilized nation should tolerate poorly lighted subway stations that have the stench of urine and the disgrace of graffiti, yet dozens of American subway stations fit this description. It is my hope that the Urban Mass Transportation Administration will start paying less attention to exotic "people mover" systems and the technologies of tomorrow, and start paying more attention to the very real needs of existing public transit systems.

Fourth. The bill seeks also to institute a new program of public transit assistance in rural areas. In order to get this program underway with a minimum of redtape, we have given the Secretary of Transportation wide latitude to waive rules in the Urban Mass Transportation Act that might not apply to the needs of rural public transit;

Fifth. Finally, the bill simplifies the delivery of grants for bus acquisition so that transit operators will be better able to plan around their long-term bus replacement needs.

As you can see from my remarks, this is a serious bill that demands the serious attention of the House of Representatives. The Members of this body should particularly congratulate JIM HOWARD, the chairman of the Surface Transportation Subcommittee, and BUD SHUSTER, whose dedication and attention to this bill has been nothing short of remarkable.

Mr. SHUSTER. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I would like to gain the attention of the distinguished chairman of the subcommittee so that we might engage in a colloquy.

Madam Chairman, section 209 of this bill authorizes a new highway safety education and information program, which I authored, designed to vigorously promote the cause of highway safety through the use of mass media, including radio and television. Several limited campaigns have produced encouraging results and the purpose of the new program is to reduce traffic accidents, injuries, and deaths through voluntary emphasis on highway safety.

Subsection (a) of this section authorizes six pilot projects to develop, refine, and evaluate techniques which could then be applied on a national scale. These 1-year projects are critical in that the techniques developed must be capable of producing measurable results in order to evaluate their effectiveness.

Madam Chairman, in drafting this proposal, it became clear that in order for the pilot projects to accomplish these objectives, they must be located in areas that lend themselves to measurement. While not spelled out in the bill, a number of conditions should obviously be present in the pilot project areas:

First, the area must be a well-defined television market area.

Second, it must have a high traffic accident and fatality rate, defined as substantially above the national and State average.

Third, the area must have an accurate system for gathering and reporting statistics on the number and kinds of traffic accidents and fatalities.

In order to confirm this legislative intent, I would like to ask the chairman of the sponsoring subcommittee if he concurs with my assessment.

Mr. HOWARD. Madam Chairman, if the gentleman will yield, I would like to say to the gentleman from Pennsylvania that he is correct in his interpretation of legislative intent, and his description is consistent with discussions we have had in the past.

Mr. SHUSTER. Thank you. Madam Chairman, continuing, it also became clear that in order to insure that the results from the pilot projects could be applied on a national scale, in all types of areas, such as urban, rural, suburban, small town, and so forth, it would be necessary to conduct the pilot projects in a variety of areas. Of the six pilot projects authorized, at least one shall be carried out in an area which is rural; at least one shall be carried out in a major metropolitan area; and at least one shall be carried out in an area which has a small city and some rural areas, within which there is a variety of highways, including those on the Federal-aid primary, priority primary, secondary, urban and Interstate Systems; which also has a significant number of rail highway crossings and which, as a result of recent or imminent change, including but not limited to change in population or traffic flow resulting from the construction of Federal projects, shows a need for such a project.

Does the chairman of the subcommittee concur in this legislative intent?

Mr. HOWARD. The gentleman from Pennsylvania has accurately stated the intention of the chairman in defining the kinds of areas that should be selected for the pilot projects.

Mr. SHUSTER. Would the gentleman agree that the radio market located in the Third Congressional District in New Jersey and the radio-TV market serving in the Ninth District of Pennsylvania would appear to qualify under the conditions described and be prime candidates for selection at an early date?

Mr. HOWARD. If the gentleman will yield, I am not sure about mine, but I am sure about his.

Mr. SHUSTER. Madam Chairman, the Federal-Aid Highway Act of 1973 authorized the creation of a special category of primary roads, below the interstate in importance but above the balance of the primary system, designed to serve as connectors between interstate routes and supplement the Interstate System as major traffic arteries.

The 1973 law authorized each State to designate approximately 5 percent of its eligible mileage as priority primary routes.

Highway 71, stretching from I-44 in the State of Missouri to the Arkansas border, hooks up with Highway 71 in the State of Arkansas. This route is designated priority primary in Arkansas, but has never been so designated in Missouri.

The gentleman from Missouri (Mr. TAYLOR) has asked me if there are any reasons why Highway 71 in Missouri could not be designated priority primary.

I would indicate that Highway 71 would appear to meet all the qualifications for designation as a priority primary route. However, the State must make such selection and submit a request to the Secretary of Transportation for approval.

In view of the special funding considerations associated with priority primary routes, I can think of no reason why this route was not selected for priority

primary status. I will even go beyond that and suggest that given the availability of priority funding, the need for improvement of Highway 71, and the fact that it links up with a priority primary segment in Arkansas, the State of Missouri, if interested, should move expeditiously in pursuing this funding source.

I would ask the distinguished chairman of the subcommittee if he concurs with this assessment.

Mr. HOWARD. Madam Chairman, I do concur.

Mr. SHUSTER. Madam Chairman, H.R. 11733 authorizes $15 million for each of fiscal years 1979–82 to continue the program of construction or reconstruction of access highways to public recreation areas on certain lakes and waterways. This program was first authorized in 1974 and is needed to improve traffic routes in the area of Federal projects where traffic density is increasing but as a result of a lower tax base in the Federal lake area, the local governments do not have the financial capability to make necessary improvements.

It has come to the committee's attention that the Clinton Parkway project in Lawrence, Kans., previously approved for funding under this program, will cost more to complete than has been approved by the Federal Highway Administration. Recent cost estimates place the total cost of the project at $9,730,000 requiring a Federal share of $6,811,000. The FHWA approval based on the initial cost estimates was for only $4,130,000, leaving a shortage of $2,681,000 in Federal funds to complete the project.

May I ask the chairman of the subcommittee at this time if it is his intent and the intent of the committee that all projects previously authorized pursuant to section 155 of title 23 should be fully funded?

Mr. HOWARD. It is the intent of the committee that all such projects should be fully funded. I understand that less than half the amount authorized by this committee for access roads projects has been appropriated, and that all appropriated funds have been allocated. Therefore, less than fully funded projects could receive additional funding from either future appropriations authorized by previous acts, or from the new authorization contained in this act.

Mr. SHUSTER. With respect to the Clinton Parkway project, I would again ask the subcommittee chairman if it is his intention that this project be fully funded in line with recent cost estimates?

Mr. HOWARD. It is my intention that the Clinton Parkway project receive full funding, and it is my expectation that the additional $2,681,000 will be approved by FHWA from new appropriations authorized by this or previous acts.

Mr. SHUSTER. Thank you very much Madam Chairman.

Mr. HOWARD. Madam Chairman, I yield 1 minute to a distinguished member of the committee who has worked hard on this legislation, the gentleman from West Virginia (Mr. RAHALL).

Mr. RAHALL. Madam Chairman, I rise to support H.R. 11733, the Surface Transportation Assistance Act of 1978. This bill would establish a comprehensive road program, to enable our Nation to complete, restore, and replace segments of our Interstate and Defense Systems as well as a replacement and reconstruction program for our faltering bridges. The legislation before the House today is complex and often controversial, but it represents an honest, responsible effort to restore and complete our battered roads. For 3 years the Public Works and Transportation Committee has studied our highway needs for the present and the future, and I firmly believe the committee has adopted a bill that will go a long way toward combating our road needs.

This legislation is not only vital for our Nation but it is vital for the survival of the residents of the Appalachian region of our country. In many instances the most pressing problem facing the residents of my district in southern West Virginia is the replacement, repair, and often times initial construction of roads. The increased secondary system authorization from $400 million in fiscal year 1978 to $650 million for each of the fiscal years 1979–82 and the increasd authorizations for safer off-system roads will substantially help in this area.

Another important feature of this legislation is the bridge replacement program. The West Virginia Department of Highways has informed me that there are 6,100 bridges in the State and that 57 percent of these were constructed before 1934. Of these, 200 have safe load capacities of less than 3 tons, in other words it is not safe for an auto that weighs 3,600 pounds to use 200 West Virginia bridges, and that more than 600 have critical or structural conditions which require replacements or repair. The $1.8 billion will help dramatically in alleviating the dangerous bridge problem that exists throughout the Nation.

If our Nation is to meet our national energy challenges and we are to increase coal production as we all desire, the section of H.R. 11733 dealing with energy impacted public roads is vital. The $50 million authorization a year for fiscal years 1979–82 is necessary in meeting our national energy needs. In addition, the same money levels, for energy impacted railroad crossings are required to help alleviate traffic jams at such junctions in small towns in Appalachia where coal train traffic will be on the increase.

Madam Chairman, I want to take this opportunity to thank Chairman HOWARD who by inspecting the future sight of the East End Huntington Bridge in Huntington, W.Va., gave the residents of the area the hope that Federal assistance is not a thing of the past.

In conclusion, Madam Chairman, I hope that my colleagues will join me in supporting this bill which takes major steps forward toward our goal of a complete, safe highway system for our citizens.

Mr. HOWARD. Madam Chairman, I yield 1 minute to the gentleman from Indiana (Mr. BENJAMIN).

Mr. BENJAMIN. Madam Chairman, I appreciate the opportunity to address the House to urge support of H.R. 11733, the Surface Transportation Assistance Act of 1978.

Chairman JAMES HOWARD has brilliantly fashioned a substantive legislative measure by undertaking a comprehensive analysis of the surface transportation system of the United States, examining its short comings and developing creative solutions to cure current legislative faults as well as meet anticipated demands.

The process has been a consuming one, but JIM HOWARD has handled it with typical talent, aplomb and constant good grace. In a word, Chairman HOWARD has conducted himself as a gentleman and in a manner consistent with the highest standards of this House. He is to be commended.

My support of H.R. 11733 is predicated on its answer to national economic, environmental, and energy needs. However, four provisions of the bill deserve particular, even if somewhat parochial attention. I would also like to focus on an amendment, which I hope the committee will accept to provide additional local flexibility without necessitating any authorization increase.

First, I wish to express my appreciation for section 104(b)(2) which authorizes an additional $85 million from the highway trust fund for the purpose of completing routes designated under the urban high density traffic program. These include routes so designated prior to May 5, 1976, in Little Rock, Fort Worth, and northwest Indiana.

The programs were initiated because of their critical importance to facilitate an improved transportation network in highly concentrated urban areas. It became apparent, through careful analysis, that the current authorization levels were inadequate to complete these vital roadways. Through the work and cooperation of my distinguished colleagues, Messrs. WRIGHT and TUCKER, and representatives of the Indiana State Highway Commission, a determination was made that these projects can be completed with the level of funding provided in section 104(b)(2).

I am also grateful for section 106 which contains three important measures.

First, the railroad grade crossing elimination demonstration project in Hammond, Ind., authorized in title III of Public Law 93–503 and amended by section 140(f) of Public Law 94–280, is now placed with the other enumerated demonstration projects authorized in section 163 of the Federal-Aid Highway Act of 1973, as amended. This change, although technical in nature, transfers the authorized project from the urban mass transportation chapter and places it with similar projects under the chapter dealing with Federal-aid highways.

It also removes the individual funding designation, and in substitution, allows the Hammond project to draw from the funds authorized in section 163(p)—(as relettered by the bill. The amendment made by section 106 of the bill thus consolidates all rail demonstration projects under one program and funding authorization and improves the existing law.

The same section also changes the Federal share in these projects from 70 to 95 percent of the cost of the demonstration work on projects authorized by the 1976 act. As the committee report states:

> The increase in the Federal share of these safety related demonstration projects is consistent with the Federal share for demonstration projects approved prior to the passage of the 1976 act.

Finally, section 106 provides for partial funding for these projects. Although full funding is not provided for in this instance, I appreciate the problem faced in controlling the spending limits of H.R. 11733 and therefore support the committee's proposal here as fiscally responsible.

I also commend the Surface Transportation Subcommittee and its chairman for section 135 which provides for a study of the Indiana East-West Toll Road, a vital link in the country's Interstate System.

Indiana statutes permit, but do not require tolls to be removed upon retirement of the bond issue. In 1961, 1962, and 1963, the Commission entered into three agreements with the Secretary of Commerce and the Indiana Highway Commission—tripartite agreements—in connection with the construction of access roads to toll road entrances. Federal funds in the amount of $2,089,-244.56 were granted for these three projects. The tripartite agreements, as required by 23 U.S.C. 129, contained a covenant by the Commission that the toll road would be free of tolls when the then outstanding bonds were retired and that no additional bonds would be issued.

The toll road has been in service for in excess of 21 years. This Commission has followed high standards of maintenance and operation of the toll road. In the year, 1977, the Commission expended approximately $4 million for current roadway maintenance and almost $1.1 million for patrolling the toll road. To demonstrate the difference in the level of maintenance, the toll road cost of maintenance is approximately $25,000 per mile as compared with an estimated $10,700 per mile for the Interstate System roads maintained by the Indiana Highway Commission.

In addition, due to the age of the toll road, a major resurfacing and improvement project is underway. The Commission is in the fifth year of an 8-year program having an aggregate cost of $35.5 million, of which $11.5 million has been expended, approximately $6 million will be expended in 1978 and in each of the following 2 years. The aggregate annual cost of current maintenance, operation, and renovation, therefore, is currently at a level of $13.1 million.

If the standards of maintenance and operation now in practice on the toll road are to be continued, including its snow removal program which keeps the road open at all times, the ordinary maintenance and operation costs will not decline. While the concentrated resurfacing program will not continue at the $8 million annual level, the annual improvement program necessarily will be at a substantial level. The standards of original construction, including guard rails and width of bridges and underpasses, do not meet modern standards, particularly those of the Interstate System. The upgrading and major renovation of the toll road requires a continuous program, estimated at $6 million a year or a total estimated maintenance, operation, upgrading, and rehabilitation expense of $11.1 million.

In addition, the toll road has a total of 12 interchanges with Indiana highways in the 157 miles. The improvement standards for the Interstate System indicate a normal interchange incidence of one entrance every 2 miles in urban areas and one entrance every 6 miles in rural areas.

In consideration of the covenants made by the Commission and the needs of the citizens of Indiana and the country who will travel the toll road and benefit from its existence, particularly in relation to access to the road, it is my belief that pertinent factual information concerning future funding needs, toll collection methods, increased access, and maintenance must be obtained well in advance of the anticipated retirement of the Commission bond issues in the mid-1980's. Then, Congress may consider the various alternatives open to it in this matter in an informed, deliberate, and timely manner and decide whether the tripartite agreement may be dissolved, amended, or otherwise disposed of to facilitate travel across northern Indiana.

I worked closely with all of the members of the Indiana delegation on this matter, in particular with Representative CORNWELL to insure the inclusion of this provision and I urge your support for it.

If I may digress for a moment, I would also, at this point, like to express my appreciation to DAVID CORNWELL, Indiana's Eighth District Representative and member of the Public Works and Transportation Committee, for his selfless cooperation, not only with regard to section 135, but also on the other provisions I have discussed. His assistance and counsel have benefited those he immediately represents, and also all citizens in the State of Indiana.

The last provision I wish to discuss is one contained in section 315 of the bill.

As the committee report explains:

> This section repeals sections 17 and 18(d) of the Urban Mass Transportation Act and expands the existing section 18 to make all commuter and rail passenger service which is not operated by Amtrak under 45 U.S.C. 563(b) eligible assistance.

Of particular note is that portion of section 18 as amended by this bill which would allow all commuter rail passenger 187 on November 16, 1977, provided:

Section 18 (a) and (b), as originally enacted as section 2 of Public Law 95–187 on November 16, 1977, provided:

> SEC. 18(a). The Secretary shall provide financial assistance annually for the purpose of reimbursing States, local public bodies and agencies thereof for the cost of financially supporting or operating rail passenger service provided by railroads designated as class I.
>
> (b) Financial assistance under subsection (a) of this section shall not be available to support (1) intercity rail passenger service provided pursuant to an agreement with the National Railroad Passenger Corporation under section 403(b)(2) of the Rail Passenger Service Act of 1970, as amended (45 U.S.C. 562(b); and (2) rail passenger service required by section 304 (e)(4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(e)).

Unfortunately, because the phrase "railroads designated as class I" was taken from regulatory language, two problems immediately arose.

First, railroads which provide commuter passenger service, but not designated as "class I" under the Interstate Commerce Commission regulations—such as the Chicago South Shore, and South Bend Railroad—were ineligible for assistance. Thus, certain railroads, that were to be assisted under the act, were inadvertently excluded from its coverage. Second, since the Congress used language taken from that promulgated by a regulatory agency, if the agency changed their definition of the language, the coverage of the act could be changed without congressional action and in possible contravention of congressional intent. Such a redefinition occurred in January.

In order to include all those intended to be assisted and to prevent possible future usurpation of the congressional function by an agency, I proposed the change incorporated in the bill as section 315(d)(2) and recommend it for your approval.

Although I urge the House to adopt the Surface Transportation Assistance Act of 1978, and again commend Chairman HOWARD for his tireless efforts on behalf of an improved transportation system for the United States, I will be offering one amendment for your consideration which has not been accepted by the subcommittee.

My amendment would establish a 2-year program to permit the Governor or designated recipient of section 5 Urban Mass Transportation Assistance Act funds to permit one project per year to be eligible for a 80–20 matching requirement for section 5 operating expense funding. There is a $1,000,000 Federal share ceiling per year per project under my proposal.

I believe this amendment would facilitate greater local utilization of Federal funds made available under section 5 and permit local and State transportation authorities to more easily fund that part of the area's mass transportation system most in need of financial assistance without increasing the levels authorized in H.R. 11733 or increasing the funds received by any political subdivision.

Under section 5(e) of the Urban Mass Transportation Assistance Act:

> The Federal grant for any project for the payment of subsidies for operating expenses shall not exceed 50 per centum of the cost of such operating expense project.

As a result of the 50–50 matching requirement for operating expenses, many localities are prohibited from utilizing

the moneys that the Federal Government has made available. The Urban Mass Transportation Administration has advised me that $44,427,027 of the funds allocated in 1976 under section 5 may lapse on September 30, 1978, as a result of State and local transportation authorities inability to meet the 50–50 matching requirement.

The Chicago to Valparaiso ConRail Line—previously the Penn Central Chicago-Valparaiso suburban service—carries approximately 800 commuters daily between Chicago and northwestern Indiana, approximately 44 miles. This line is a vital part of the mass transportation system of Indiana's Lake and Porter Counties and one of the major transit links to downtown Chicago.

The Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210) created the Consolidated Railroad Corporation (ConRail) to operate several bankrupt rail services including the Penn Central. That act specified that any unprofitable freight or commuter service would be discontinued unless the deficit could be subsidized by a responsible party.

For transition, section 808 provided that 90 percent of the first year's loss would be assumed by the Federal Urban Mass Transportation Authority. The other 10 percent was to come from local sources.

Presently the matching requirement for ConRail operating expenses is 80–20. Unfortunately, the local matching requirement will increase to 50 percent on September 30, 1978.

Under the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, continuation of the service is required only if ConRail is offered a subsidy to cover the losses incurred on the service. Because of the increased local share that will be required as of September 30, and the local and State transportation authority's lack of ability to provide the required $450,000 local share of the $900,000 operating deficit, ConRail has posted notices of discontinuance for the Valparaiso to Chicago line as of September 30.

Despite the tremendous efforts that have been put forth by Don Erker and State Representative Esther Wilson in conjunction with my friends and colleagues from Indiana, Messrs. BATH and FITHIAN, it seems evident that this valuable commuter service will be discontinued on September 30.

Don Erker, chairman of the Chicago-Indiana Railroad Commuters Association (CIRCA) and Esther Wilson worked diligently and tirelessly for several years to guarantee the maintenance of this service on behalf of the 800 passengers of the ConRail Line. Ms. Wilson worked with competence and devotion in the State legislature on behalf of northwestern Indiana commuters. The advice and counsel of Don Erker has been most valuable to the efforts of the public officials working to maintain the service. I am honored to be able to compliment and commend these individuals, for the record, on behalf of the citizens of northwestern Indiana.

As a result of the scheduled discontinuance, the 800 passengers will be forced to find other means of transportation between Chicago and northwestern Indiana. Unfortunately, there is no convenient, cost efficient, safe and environmentally sound alternative available at this time.

I am not alone in my concern for the irreparable damage that this immediate increase in local share of ConRail operating expenses will have on urban mass transportation systems throughout our country. My amendment would permit the localities to temporarily continue funding of these necessary services at an 80–20 matching requirement, hopefully giving the communities adequate time to make arrangements for funding at a 50–50 match or for developing an alternative means of transportation if the service cannot be continued at the new matching requirement.

By requiring that the Federal share for any project for operating expenses not exceed 50 percent, a transportation authority in financial difficulty is unnecessarily prohibited from allocating more moneys to a certain project even if that project is determined to be the hub of the area's mass transportation system. In this situation, the funding decision has been taken out of the hands of the local transportation authority, those closest to the situation, prohibiting them from implementing a comprehensive transportation system. My amendment would restore a great deal of flexibility to the local transportation authority's planning process by permitting them to allocate more moneys to a project that they have determined to be vital to their comprehensive mass transportation system, while making additional local funds available for other important aspects of the system.

I recognize the concern of the Public Works and Transportation Committee and all of my colleagues who support a ceiling of 50 percent of Federal share of operating expenses for urban mass transportation projects. However, I believe that the irreparable damage that will be realized as a result of an immediate increase of local share from 20 to 50 percent as in the case of the Chicago to Valparaiso line, is unnecessary and contrary to our national urban mass transportation policy.

Again permit me to reemphasize that this is a temporary—2 year—program and would not alter the funding formula as set forth in section 5(b) of the UMTA Act and so the authorization level in H.R. 11733 will not be increased and the amount of funds allocated to any political subdivision will not be affected.

For these reasons and on the merits, I strongly urge your support of this amendment. Thank you, Madam Chairman, for this opportunity to speak in support of H.R. 11733 and my amendment to the same.

Mr. SHUSTER. Madam Chairman, I yield 5 minutes to the distinguished gentleman from Ohio (Mr. MILLER).

Mr. MILLER of Ohio. Madam Chairman, I wish to express my sincere thanks to the gentleman from New Jersey (Mr. HOWARD), the chairman of the subcommittee, and the ranking minority member, the gentleman from Pennsylvania (Mr. SHUSTER), for their hard work and dedication on the surface transportation bill.

Madam Chairman, I want to direct the attention of my House colleagues to a special provision of the Surface Transportation Assistance Act of 1978 which affects hundreds of miles of unfinished highway throughout the Appalachian region. Section 125 of the act permits the Federal share for construction of the Appalachian highway system to increase from 70 to 90 percent, thereby lowering the State's share to 10 percent of the project's construction cost.

This particular provision is in direct response to the legislative initiative we undertook more than 2 years ago in introducing a bill to alter the ARC highway funding formula from 70 to 30 percent to 90 to 10 percent and make the completion of the 2,900-mile Appalachian highway network competitive with the vast Interstate Highway System. The bill was also designed to lessen the State matching burden and stretch State dollars further in the actual construction of new miles of Appalachian highway.

We coordinated our efforts carefully with officials of the Appalachian Regional Commission, representatives of Appalachian States, congressional committees and various organizations which are deeply concerned about the future of the 13-State region. In June 1977, I testified before the Subcommittee on Surface Transportation of the House Public Works and Transportation Committee to detail the provisions of my bill and to urge the subcommittee to either approve my bill or incorporate its ARC highway formula change in any forthcoming Federal-aid highway assistance measure.

The bill before the House today responds to our request of the subcommittee last year, and I want to express my gratitude to the subcommittee membership for acting favorably upon our recommendation.

Section 125 will allow the total Federal share of funds for Appalachian highway projects to rise to a maximum of 90 percent when an appropriate amount of regular (non-interstate) Federal-aid highway funds are combined by Appalachian States with ARC highway funds.

Under this provision, use of Federal-aid highway funds to take advantage of the higher Federal ceiling would be optional with the Governors of each of the region's 13 States. Under the option, a State's share of a highway project's cost could range from the current 30 percent level to as low as 10 percent.

The maximum amount of Federal-aid (title 23—highway trust) funds that

could be used would be 45 percent of the project's total cost while the maximum amount of ARC funds would be 60 percent. Any combination of these two Federal funds would be permitted as long as neither exceeds its specified maximum level and the two combined constitute no more than 90 percent of the project's total cost.

Three examples:

If a State decides to pay for 10 percent of a project with its own funds, it could use ARC funds to a maximum of 60 percent and pay for the remaining 30 percent with highway trust funds.

Using the same 10-percent minimum in State funds, a project could be financed with a maximum of 45 percent in highway trust funds, in which case 45 percent would be paid for with ARC highway dollars.

Should a State decide to invest 20 percent of its own funds in a project, the remaining 80 percent could be financed by various combinations of highway trust and ARC funds, as long as the former does not exceed 45 percent and the latter does not exceed 60 percent of the total cost.

Madam Chairman, it is critical that I point out that the funding formula change does not constitute a raid on the highway trust fund. Section 125 of the act has no effect on the apportionments made from the trust fund. Non-Appalachian States will continue to receive their usual allocations and not one cent less as a result of our ARC Highway formula proposal. At the same time, I underscore the fact that the Federal Government will not be called upon to provide even one additional dollar to enact the formula change.

Section 125 language simply changes the manner in which ARC dollars, highway trust funds, and State funds can be mixed and matched to complete the Appalachian highway network. The provision provides—at a time when State funds are scarce—an option for stretching State funds by lowering the State's matching burden to 10 percent. Not only will Appalachian highway work be stimulated but actual construction will also generate jobs and favorably affect the economic health of the entire region.

A frequent cry from the Appalachian States is that they are pinched by a lack of State matching funds. I am sure this is true. But it cannot be said that there has been a lack of Federal funds specifically for ARC corridor construction. A total of $1,977,515,000 in Federal funds for the ARC highway network has been allocated to the 13 States from the beginning of the program through fiscal year 1978 (September 30, 1978). This figure is for actual corridor work, and does not include additional funds for the ARC access road program. The chart clearly shows that there is no shortage of ARC obligated funds to the States:

Total ARC Highway funds allocated through fiscal year 1978

State:	
Alabama	$27,928,000
Georgia	43,939,000
Kentucky	351,668,000
Maryland	80,480,000
Mississippi	25,994,000
New York	197,115,000
North Carolina	114,859,000
Ohio	85,103,000
Pennsylvania	282,373,000
South Carolina	2,750,000
Tennessee	203,009,000
Virginia	96,811,000
West Virginia	465,488,000
Total	1,977,515,000

Let me remind the House of the objective set forth by the Appalachian Regional Development Act of 1965 with respect to highways:

To provide a highway system which will open up an area or areas with a developmental potential where commerce and communication have been inhibited by a lack of access.

The key words are "open up" and "access." Social, cultural, industrial, educational, and economic access start with good roads. The act says so, and every piece of tangible evidence gathered to date showing any semblance of progress throughout the region points to good roads as the reason for that growth. The Comptroller General told the Congress in a detailed November 1976, report on the ARC highway system in West Virginia:

While West Virginia has made progress in completing its portion of the system, lack of progress in adjoining states has limited regional accessibility and, consequently, Appalachian economic development. Continued funding limitations which delay highway program implementation appear inconsistent with the purpose of the Act.

The Comptroller General recommended that the Congress consider "proposals for accelerating completion of the highway system to achieve the overall objective of improving the economic status of Appalachia."

Section 125 of the act before us, gentlemen, does exactly that.

Altogether, 24 highway corridors were originally designated for inclusion into the ARC highway network. The network was designed to tie into the Interstate System and other existing Federal highways.

According to the Appalachian Regional Commission, of the 2,900-mile system, a total of 1,415 miles is actually completed (of which 1,397 miles has been opened to traffic) with an additional 206 miles under construction as of March 31, 1978.

Throughout our efforts to alter the funding formula we have stressed that the ARC highway program needs to be competitive with the Interstate Highway System. All phases of ARC highway work are now done on a 70–30 Federal-State percentage funding basis. The Interstate System is constructed and maintained on a 90–10 basis. Because of these disparate ratios, States tend to invest funds first in the program providing a higher return on the dollar. Consequently, the Appalachia program ends up with leftover and hand-me-down dollars. Boosting the ARC highway funding formula to 90-10 would reject some long-overdue equity into State highway construction plans. Ignoring the ARC network further through inequitable formulas will prove far more costly than ever expected.

Lacking equal footing with the interstate program, the important links in the Appalachia highway chain will most likely remain uncoupled. Highway construction is an economic snowball. Preceding the final purpose of laying a new roadway is the immediate objective of putting people to work. ARC spokesman, John Whisman, commented on this feature of the ARC highway program during a Public Works Subcommittee appearance in March 1975. His words are worth recalling:

While the primary purpose of the Appalachian Development Highway Program is long-range development of the Region, it is important to remember the immediate effects of its construction. The Federal Highway Administration has estimated that nationwide in 1973 each $100 million of federal-aid construction in highways generates an average of 3,500 direct and 3,500 indirect jobs—1,800 in the manufacturing sector; 1,200 in wholesale trades, transportation and service sectors; and 400 in mining and other sectors. On this basis the Appalachian Highway program would be generating approximately 7,000 direct and 7,000 indirect jobs in both 1975 and 1976. In discussing the longer-range development impact of the Appalachian Highway program, it must be remembered that since the Appalachian and Interstate Highway were designed to complement each other, it is difficult to sort out the contribution of either partner alone; and, neither highway system has been completed. However, some early effects of the combined highway programs are already visible. The major economic effects of the highway system are those dealing with changes in employment and industrial growth • • • An earlier ARC study showed that more than three-fifths of all new industrial locations are within 20 minutes of a new highway, and almost one-half were within 10 minutes travel time. This same study identified 1,149 new plants since 1965, representing over 200,000 new jobs • • •

In light of the importance of section 125 and the significant economic impact this formula change will have upon the future growth and development of the Appalachian region, I urge the House to approve the Surface Transportation Assistance Act of 1978.

Mr. ULLMAN. Madam Chairman, I yield myself 5 minutes.

Madam Chairman, let me first state that it has been a pleasure to work with the distinguished gentleman from New Jersey (Mr. HOWARD), the distinguished gentleman from Pennsylvania (Mr. SHUSTER), the distinguished chairman of the full committee, the gentleman from California (Mr. JOHNSON), and the distinguished gentleman from Ohio (Mr. HARSHA), on this matter that has been under way now for a couple of years, and that is finally culminating in this year's revenue act of 1978.

The Committee on Ways and Means is, as has been our custom, cooperating and coordinating with the Committee on Public Works and Transportation in providing revenues through the trust fund to

accommodate the programing of the Committee on Public Works and Transportation. I think, everyone recognizes there has been some controversy with respect to the size of the program. The Committee on Ways and Means has looked at it very carefully, we have made a number of proposals, the committee has worked its will, and we bring to you a bill which we think is sound.

Madam Chairman, most of our highway programs, including the Interstate System, are financed by the proceeds of a series of highway-related excise taxes which are allocated to the highway trust fund. Under present law, this fund is scheduled to expire on October 1, 1979, and at that time many of the taxes which are now allocated to the fund are scheduled to expire or be reduced. The following table shows the existing highway excise taxes, the rates, and the scheduled rates as of October 1, 1979, under present law:

EXCISE TAXES ALLOCATED TO THE HIGHWAY TRUST FUND AND PRESENT LAW TAX RATES

Excise Tax (and section of the Code)	Present tax rate	Tax rates scheduled as of Oct. 1, 1979 [1]
Retailers: Diesel and special motor fuels (sec. 4041).	4 cents per gallon.	1½ cents per gallon.
Manufacturers:		
Gasoline (sec. 4081).	4 cents per gallon.	1½ cents per gallon.
Lubricating oil (sec. 4091).	6 cents per gallon.	6 cents per gallon.
Trucks, buses, trailers (sec. 4061(a)).	10 percent of manufacturers price.	5 percent of manufacturers price.
Truck and bus parts (sec. 4061(b)).	8 percent of manufacturers price.	5 percent of manufacturers price.
Tires for highway use (sec. 4071(a)(1)).[2]	10 cents per pound.	5 cents per pound.
Tubes (sec. 4071(a)(3)).	10 cents per pound.	9 cents per pound.
Tread rubber (sec. 4071(a)(4)).	5 cents per pound.	None.
Other:		
Use tax on highway vehicles in excess of 26,000 pounds gross weight (sec. 4481).	Annual tax of $3 per 1,000 pounds.	None.

[1] At that time, revenues would go into the general fund, absent legislation to extend the trust fund.

[2] Sec. 4071 also imposes a tax of 5 cents per pound for nonhighway tires, except for a tax of 1 cent per pound on "laminated tires" (not used on highway vehicles). Revenues from these two taxes also go into the trust fund but are not scheduled for a change in rate on Oct. 1, 1979.

NOTE.—Under the House and Senate energy tax bills (H.R. 5263 in conference), the excise taxes (except for the use tax on heavy highway vehicles) applicable to buses used in public transportation and school buses would be repealed; that is, the taxes on gasoline, diesel and other motor fuels; the taxes on the purchase of buses and bus parts; the tax on lubricating oil; and the taxes on tires, tubes and tread rubber.

As approved by the Committee on Ways and Means, title V provides for a 5-year extension of the highway trust fund, from September 30, 1979, through September 30, 1984, and postpones the scheduled rate reductions of the taxes allocated to the trust fund for 5 years, from October 1, 1979, to October 1, 1984. Receipts from the taxes allocated to the trust fund are estimated to total $41.2 billion during the 5-year extension period.

The bill makes certain changes in the operation of the trust fund Byrd amendment, which currently provides for reductions in apportionments for the Interstate System when anticipated revenues will be inadequate to cover existing expenditures. The changes made by the bill essentially provide that any reductions will be made on a pro rata basis from all apportioned programs which are financed from the highway trust fund.

The bill also provides an exemption from—or credit or refund of—Federal motor fuel excise taxes for fuel used in taxicabs for qualified taxicab services. This exemption applies only to fuel used for business purposes and where the taxicabs are not prevented from implementing a shared-ride program by either Government regulation or company policy. The exemption does not apply for fuel-inefficient taxicabs of 1978 or later model years purchased after 1978.

The bill also contains a requirement for a highway cost allocation study. The Secretary of Transportation is directed to undertake an investigation of the costs of Federal-aid highways occasioned by the use of different types of vehicles and the proportionate share of such costs attributable to each category of users and vehicles using these highways. A final report is due to the Congress on or before January 15, 1982.

In addition, the bill directs the Secretary of the Treasury to review and analyze each excise tax now dedicated to the highway trust fund with respect to such factors as the ease or difficulty of administration and compliance burdens. This study is to be conducted in conjunction with the cost allocation study. A final report is due on or before April 15, 1982.

Madam Chairman, I urge that title V be adopted.

Mr. CONABLE. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, the distinguished chairman of the Committee on Ways and Means has discussed title V in detail; and I have very little to add to it.

I do want to talk a little from a philosophical viewpoint and a fiscal viewpoint about the condition of the trust fund. I do not pretend to be an expert on highways. That is not the responsibility of the Committee on Ways and Means, and I am grateful for the detailed work which has gone into the highway program through the diligence of the subcommittee, of which the distinguished gentleman from New Jersey (Mr. HOWARD) is the chairman.

I am committed to a sound highway trust fund, and I am anxious to maintain the fiscal integrity of the fund in future years.

Madam Chairman, when this measure came to the Committee on Ways and Means as a result of concurrent jurisdiction, the extremely high level of authorizations provided in the bill when compared to anticipated trust fund revenues would have forced us into uncomfortable options of either a sharp increase in highway excise taxes or sharp cutbacks in program levels or, regretfully, a dip into the general revenues for financing to save the fund. Such a choice would have been upon us when the Nation could ill afford any of these options.

Madam Chairman, it is well known that in cooperation with the gentleman from Florida (Mr. GIBBONS), I sponsored an amendment which would have cut back sharply expenditures of the highway trust fund, and the extension of the fund would have been for a considerably shorter period of time.

My concerns were fiscal. I do not doubt for 1 minute the need for the highway program to continue. As a result of the pressures generated by the Gibbons-Conable amendment, the subcommittee of the Committee on Public Works and Transportation, and the chairman and the ranking minority member made a concession of the committee that $1 billion would be taken out of the expenditure side annually and that the duration of the fund would be for 1 year less. This constituted a major concession in the direction of fiscal soundness.

I appreciate this cooperation and this response to our fiscal concerns. I do think we have to continue to look ahead and see where we are headed with the trust fund if we are going to do our job as responsible legislators.

The rate of growth in the trust fund revenues has slowed considerably in the last few years, primarily as a result of energy conservation efforts. The increased mileage standards have, in fact, slowed the rate of gasoline consumption; and of course, it is on the basis of that

consumption that the excise tax brings funds into the highway trust fund.

At the same time highway and bridge needs have expanded at an astounding rate due to inflation and due to an unanticipated rapid deterioration of the existing highway system. I do not think any Member of the House can rationally believe these conditions will change. As new construction slows down, restoration and rehabilitation will increase. The need for highway dollars will continue to be greater and greater. H.R. 11733 reflects the reality of this conclusion. The annual revenues of the trust fund remain at approximately $8 billion per year as a result of what the excise taxes will bring in. This bill provides for a 60-percent increase in program spending levels, and even though these spending levels will be reduced—and it amounts almost to $1.5 billion per year; I understand an adjustment has been made also in the money that will go into the mass transit funds as well as the highway funds—still there will be an annual gap of over $2 billion being added to the unfunded liabilities outstanding against the trust fund. This remains the result from passage of this bill despite the concessions made by the subcommittee.

The unfunded liabilities of the highway trust fund will equal an estimated $18 billion at a time when we will next have the opportunity to reconsider highway program levels. A situation of this nature is of grave concern to all of us, I believe, and the Members of the House should have that in mind when they consider this measure.

The financing provisions of the bill provide that future years' revenues be used to finance the authorization levels of the highway programs. Any measure wherein we mortgage future years' revenues to pay for current programs runs counter to the current fiscal view of the American people. I will acknowledge that this has been the condition since the inception of the trust fund, but as we mortgage the future to a greater and greater degree, we make it apparent that when we come to the end of the line and have to extend the trust fund again, we will either be forced into a sharp increase in highway taxes or will have then to cut back considerably on highway expenditures, which may then be even greater as a result of inflation and other factors. I want to repeat, then we will have an unfunded liability when we might next reconsider our Nation's highway program, estimated at about $18 billion.

One of the main reasons put forth in support of the increased authorizations in this bill has been the dire need of an increased bridge building program. That portion of the bill providing for bridge building was increased over 400 percent, and despite promises to reduce authorization levels, the hugely increased bridge replacement program is still at a level twice as high as what the States say they can spend in this area during the first or second year of the program. In addition, no cuts were applied to the $18 billion proposed for discretionary and special funding.

I do want to point out that the subcommittee has also adjusted the provisions of the Byrd amendment which would have required any shortfall in funds to come entirely out of the interstate highway system. The shortfall now will be applied pro rata across the board to the total highway program rather than devastating the interstate program, and is a very important and I think useful change in the legislation known as the Byrd amendment.

I want to emphasize once again, Madam Chairman, the hazards to the American economy which exist in this bill with its substantially increased authorization levels. I believe there is a real danger of the highway trust fund becoming insolvent. There are many whose hearts would be gladdened by the demise of the highway trust fund, and I am not among them. I do urge the Members of this House carefully to consider the long-range ramifications of this bill at this time in our history.

It may be that the bill takes us in the direction that we want to go. However, under the unified budget, I want to point out that the surpluses of the past have worked against Government deficits, and the deficits of the future in this trust fund under the unified budget process work to increase the size of our Government deficit. It may be that the Members of the House will want to continue to operate by mortgaging the future of the trust fund.

I hope if we do, that we will do it with the full knowledge that we are committing the Congresses of the future either to a sharp increase in taxes or to some change in the operation of the trust fund, something which I do not think would be necessarily in the interest of the American people. The trust fund has served us well and we must exercise restraint in our fiscal plans if we are not to contribute to its demise.

● Mrs. SMITH of Nebraska. Madam Chairman, I would like to take this opportunity to speak in support of the legislation now before us—the Surface Transportation Assistance Act—(H.R. 11733) and comment specifically on section 123, which concerns energy impacted rail highway crossings.

This provision is very important to many communities in my district. As you know, the bill provides for a total of $200 million over the next 4 fiscal years to help States eliminate unacceptable delays to highway travel at public rail highway grade crossings brought about by increased coal train traffic.

There is no doubt that this is a serious problem in my district. With the recent, rapid increase in the use of coal from Wyoming coal fields, the increase of train traffic through the district to points east has had a tremendous impact on many communities.

For instance, according to Burlington Railroad officials, the frequency of rail traffic from Alliance, Nebr., in my district, to Lincoln, Nebr., will be 33 coal trains per day by 1983. This is an increase from 2 per day 5 years ago and 14 per day this year. These figures include full trains heading east and empty ones returning.

In addition, the Chicago & Northwestern Railroad recently announced it is planning to upgrade its tracks which run through the northern part of my district. Currently, that particular line carries only three trains per week. But railroad officials predict that number would increase to three trains per day by 1981 and could climb to 12-a-day by 1985.

Clearly, then, the approval of this section of the bill is vitally important. Right now, many towns along rail lines in Nebraska are experiencing problems because of the frequency of the coal trains and their length. Will emergency vehicles be unable to get from one side of a town to the other in time to put out a fire or save someone's life? How many deaths or injuries will occur because of the increased risk to automobiles or school buses crossing these rail lines? These are questions that Nebraska towns are asking and about which they are extremely concerned.

I believe that this section will provide some relief to these areas which have problems not of their own making. In this case, because national energy requirements are causing the accelerated use of coal, it is clearly the responsibility of the Federal Government to provide some assistance. This bill will help the situation considerably and it has my wholehearted support.

I will place several news articles in the RECORD which describe in graphic detail the situation in the Third District of Nebraska with regard to the coal train problem.

In addition, I note that the committee report accompanying this bill singles out two areas—Moorhead, Minn., and Allentown, Pa.—which the committee felt were logically eligible for aid under provisions of the legislation. I am sure, of course, that this reference does not preclude from consideration the many worthy communities in my district which certainly are experiencing problems that could be solved by assistance from this provision.

[From the Omaha World-Herald, Aug. 6, 1978]

COAL TRAINS TRIGGER GRUMBLES IN TOWNS—LINES MOVE TO ALLEVIATE LONG WAITS

(By Robert Dorr)

The train sits at a railroad crossing, and it sits, and it sits. You wait in your car to get across the tracks, getting angrier each minute.

Broken Bow, Neb., physician Dr. M. L. "Mike" Chaloupka had that experience while trying to get two youngsters to the hospital. They had swallowed an unknown number of aspirin tablets.

"I had to wait 20 minutes." Even though the delay didn't turn out to be crucial, "I was madder than hell," he said.

With an increasing number of 100-car coal trains rumbling through the Midlands, residents in railroad communities are wondering if Chaloupka's experience will become commonplace. Will one part of a town be cut off much of the time from the part across the tracks? Will it become more dangerous to live in such a town?

NOT ALL ALLIANCES

Railroad spokesmen said they don't agree that the problem is that serious. Further-

more, steps are being taken to minimize disruption of communities, they said.

Broken Bow is like many Midlands railroad communities in experiencing problems, but few benefits, from the coal boom. It isn't an Alliance, Neb., where hundreds of additional workers are adding millions of dollars annually to the town's economy.

Broken Bow is part of the coal boom only because Burlington Northern tracks cut through the center of town.

At least one person has moved because she doesn't want to live across the tracks from the hospital. Cathleen Dolan, a nurse-anesthetist, did that after several times in an emergency having to drive far out of her way to get around a train.

"I know I can get to the hospital in three minutes now," she said.

EMERGENCIES A WORRY

Several town officials interviewed by The World-Herald said they are concerned about the chance of a critical delay in a fire or other emergency, but that hasn't happened yet. When a train has been on the tracks, said ambulance driver Ivan Ferguson, the crew has opened a space so his vehicle could get through.

Mainly, the delays simply caused grumbling.

Police Chief Bob Jatczak, who said he received "numerous complaints" from residents about stopped trains, discussed the matter several times with railroad officials and finally ticketed a train for blocking a crossing more than 15 minutes. The fine was only $18, "but it showed we meant business," he said.

Chaloupka once used his car telephone to call a Burlington dispatcher in Omaha after he sat at a crossing half an hour late at night. "The train moved," he said.

Recently, the stopped-train problem has almost disappeared, and Broken Bow officials are unanimous in complimenting the Burlington.

"The difference is amazing," said Mayor Marvin "Bun" Talbot.

The reason for the change is the construction of another track alongside the existing one on the 8-mile stretch from Broken Bow to Berwyn this year. The second track provides a place for one train to wait while another passes from the opposite direction.

Formerly, that had to be done on a siding in Broken Bow. Because the coal trains are a mile long, one train could tie up all the town's crossings at once.

The second track east of Broken Bow is one of many projects underway on the Burlington's main line east from Wyoming's Powder River Basin coal fields. The railroad, biggest hauler of local through Nebraska, is pulling out all the stops to upgrade a line that hadn't previously carried large numbers of trains.

Wayne Arntzen, vice president of the Burlington's Denver region, estimated $80 million is being spent this year in Nebraska.

Among other things, tracks and roadbeds are being replaced to handle heavier trains. Longer sidings and second tracks, as between Broken Bow and Berwyn, are being laid.

MORE DOUBLE TRACKS

On the 667-mile stretch between Gillette, Wyo., and Pacific Junction, Iowa, 55 miles had double sets of tracks before this year. That will increase to 139 miles by the end of this year and 208 miles by the end of 1979, Arntzen said.

"That will minimize the problem of trains sitting in towns," he said. "The trains will pass each other in rural areas."

To carry out its Nebraska construction program, the railroad has hired an extra 481 workers.

Even though the problem of trains stopping in Broken Bow has diminished, some residents wonder if they will be overwhelmed by sheer numbers of coal trains in future years. Adding fuel is talk in Broken Bow that the Burlington has projected coal traffic through the town of 100 trains a day by the mid-1980s.

Several Broken Bow officials referred to that number, but none knew its origin.

"That's nonsense," said Burlington's Arntzen. "The rumor probably was started by coal slurry interests." Proposals for pipelines as a method of transporting coal are opposed by railroads.

33 TRAINS A DAY

Arntzen said the railroad projects that 33 coal trains a day will travel on the Alliance to Lincoln stretch in 1983, an increase from two a day five years ago and 14 a day this year. That includes full trains heading east and empty ones returning.

Some of the coal trains now going through Broken Bow will travel more-southerly routes when a new line through the Powder River Basin is completed in 1980. The Chicago & North Western may get a federal loan guarantee enabling it to upgrade its line through northern Nebraska to handle coal. That also could lessen the load through Broken Bow.

Whatever the number of trains turns out to be, Broken Bow residents know it will be a large increase.

Fire Chief Frank Klapal said he feels there will be a corresponding increase in the chances of a derailment that would cause gasoline storage tanks near the tracks to blow up.

SAFETY A CONCERN

Some officials wonder about the safety of their crossings, especially ones used by school buses. Only one of Broken Bow's four has crossarms. Two have lights and bells, and one has nothing. The town has applied for federal funds for additional crossarms.

Some communities are planning to build viaducts, which can cost $2 million or more each, but Broken Bow isn't one. "I would favor that if we could find the money," said Mayor Talbot.

The Burlington will help a community engineer a grade-separation crossing and seek money from federal and state sources, but will not provide the funds itself, said Arntzen.

The Union Pacific Railroad also provides expertise to communities, but most construction funds must come from other sources, said public relations director Barry Combs. The railroad has helped pay for a viaduct in some cases, he said.

U.P. "POOL"

Burlington officials cite the U.P.'s main doubletrack line through Nebraska as proof that large numbers of trains can be accommodated without major problems. Sixty trains pass through North Platte, Neb., each day on the U.P. line.

While most of the trains on the Burlington's mainline carry coal, a big majority on the U.P. are non-coal. Eight of the 60 trains through North Platte carry coal or are empties heading west. In five years, that number is expected to increase to 11 or 12 a day.

Because the U.P. mainline has carried a high volume of traffic through Nebraska for years, the percentage of crossings having grade separations is higher than on the Burlington.

[From the Omaha World-Herald, Feb. 12, 1978]

REPORT: MIDLANDS FACES BIG IMPACT FROM COAL TRAINS

(By Mary Kay Quinlan)

WASHINGTON.—A projected increase in the number of unit coal trains moving through Nebraska and other Midlands states could have an intolerable impact on hundreds of communities, according to a Department of Transportation task force.

What's more, existing federal programs to improve railroad-highway grade crossings are inadequate to solve "this major problem," the task force on coal transportation said in a recent report.

But precisely which communities will need help most, how much it will cost and what the government should do about it—if anything—are still under study, said Robert Brown, special assistant to task force chairman Chester Davenport, assistant secretary of transportation.

"We know it's a serious problem," Brown said, "but we're a long way from knowing exactly what we're going to do about it."

WHOSE RESPONSIBILITY?

One policy question to be settled, for example, is whether the railroads should be expected to provide the money to solve the problem or whether it's a government responsibility as part of the national energy program, Brown said.

He said the administration expects to decide by the end of the year what position to take on a bill sponsored by Nebraska Sen. Edward Zorinsky to relieve the impact of increased coal traffic by authorizing $900 million for railroad viaducts and highway overpasses.

The coal transportation task force based many of its findings about the social and environmental impacts of increased rail traffic on information from a field trip to Nebraska last summer.

The task force held hearings and toured Burlington Northern Railroad facilities in Alliance and Lincoln, which it called "the coal chute of America."

The task force cited Burlington Northern estimates that by 1980 it will be hauling 390 percent more coal in unit trains—generally consisting of 100 hopper cars carrying 100 tons each—than it did in 1974.

That spells serious problems for small towns situated along both sides of the railroad tracks, the force said.

SEVER TOWN

"With most rail lines at grade, passing trains will temporarily sever towns, disrupting traffic on local streets and delaying essential hospital, fire and police services," the report said.

The trains, which frequently are more than a mile long, take three minutes to pass a particular point traveling at 20 miles an hour and 12 minutes traveling at 5 mph, a maximum speed required by some local ordinances, the report said.

If traffic increases to 35 unit trains a day by 1980, as is projected for the Alliance to Lincoln coal route, the total "passby" time for one day would be 1.8 hours at 20 mph and 7.2 hours at 5 mph, the study said.

Since 1973, Nebraska, Kansas, Colorado, Wyoming, Montana, Nevada and Minnesota have received about $25 million in federal aid for railroad crossing improvements, the task force noted.

But that amount is relatively small and the emphasis has been on "low-cost safety improvements" which the task force called "of little or no help in alleviating the hazards and inconveniences" caused by increased unit train traffic.

[From the Scottsbluff (Nebr.) Star-Herald, Nov. 20, 1977]

RAILROAD TRAFFIC PROBLEMS LOOM

Despite what the officials of the Burlington Northern Railroad (BN) say, the thought of 19.71 coal trains of 90–110 cars passing through one of the Scottsbluff crossings in

90 seconds within the next three years is not comforting. And by 1982 the number of these long trains is projected to grow to 23.53 trains daily.

BN officials claim the trains will travel 45 miles per hour in passing a crossing in 90 seconds, and infer this is a safe and sane speed for these giant trains, yet the ability of the five locomotive trains to stop, let alone slow down, in the event of trouble is not impressive. Even at the slower speed of 20–30 miles an hour, whereby a train will pass a crossing in three to four minutes, the increased train traffic will cause problems.

The BN officials warn against overreaction by the city, and caution against the much talked-about problem of building overpasses and underpasses. Perhaps BN officials have sound reasoning for such caution, but perhaps they don't realize the particular problem trains create for the movement of traffic in Scottsbluff. Another possibility why the railroad is against overpasses and underpasses is because in many communities the cost of such projects is proposed to be shared by the railroads which would like to avoid such expense.

A big, lumbering coal train going 45 mph carries tons of destructive power for anything that gets in its way, and will be going faster through Scottsbluff than motorized vehicles are allowed to travel the city's streets. A youth trying to get across the tracks on a bike, a pedestrian, such as an older person, walking across and even cars and trucks operators will not be geared to watching out for a train coming at them at 45 mph.

The officials say the trains will be designed for quietness, but 19 to 23 trains whistling at each intersection on the average of one per hour will not be exactly quiet. Nor is it comforting to think that the decision on the train's speed will be strictly up to one man, the particular train's engineer, who will be expected to decide as he approaches the community how safe the tracks and weather conditions are.

The Rail Traffic Study Advisory Committee which is probing the situation should listen and consider what the BN officials tell them, but they shouldn't be guided strictly by what they are told. They should consider that if trains have to slow down for towns, they fall behind schedules, and that costs railroads money.

There are other considerations, such as the present traffic routes available to motorists, new routes which should be constructed, the peak times for traffic, and what precautions should be taken at each city rail crossing for the maximum safety of the residents.

The construction of the 21st Street and the Avenue I bridges across the North Platte River takes on additional importance in helping to alleviate traffic jams at present key rail locations, such as Avenue B and Broadway. The funneling of traffic from Gering to Avenue I and the western areas of Scottsbluff—which largely avoids rail crossings—takes on increased importance.

And an overpass or underpass in the downtown area, perhaps at First Avenue and East Overland, should be fully explored.

The committee must remember that while rail traffic through Scottsbluff is now projected to increase dramatically in the next few years, the motorized traffic also will be increasing. The number of cars and trucks will increase under normal conditions, but as the town grows, with an expected new shopping center, the traffic increase will be a greater problem

Committee members need only to view the traffic problems at 5 p.m. weekdays at Broadway and Overland, and at the North Platte River Bridge to get an idea of what they can expect to be compounded in a few years.●

● Mr. ALEXANDER. Madam Chairman, I rise in strong support of H.R. 11733, the Surface Transportation Assistance Act of 1978. The bill, which I think can be improved fiscally with the adoption of the amendments to be offered by Chairman HOWARD, is a well thought out response to our Nation's surface transportation needs and should be adopted.

This bill accelerates completion of the Interstate System; provides substantial, yet warranted, increases in authorizations for the reconstruction and rehabilitation of primary and secondary highways; makes a massive attack on the backlog of unsafe and obsolete bridges in this country; expands the "off-system" rural roads program; and funds urban mass transit programs, expanding the money earmarked under these programs for rural and small urban areas.

In my State of Arkansas, almost 12,000 miles of interstate and federally aided primary and secondary roads would be eligible for assistance under this bill. The bridge replacement program will make some 8,000 structurally deficient or functionally obsolete Arkansas bridges eligible for funding, including 1,500 such bridges in my district alone.

H.R. 11733 extends the highway trust fund for 5 years to accommodate this 4-year program. There are those of our colleagues who would have us believe that the financing scheme of this bill is unsound and will result in a draining of the highway trust fund. I cannot agree with their arguments and will speak to that issue when the Giaimo amendment to require that program authorizations must approximate revenues in the trust fund is debated next week.

Madam Chairman, the levels of funding requested in this bill are based on documented needs, not wish lists. The Public Works and Transportation Subcommittee on Surface Transportation so ably chaired by my colleague from New Jersey (Mr. HOWARD), has worked for 3 years to arrive at this product. It deserves our support.

Throughout my 10 years of service in the Congress I have been working to bring about the development of a national transportation policy in which rural transportation is a full partner and the needs for rural roads are fully recognized.

To put it bluntly, the treatment rural transportation policy receives will mean the differences between a legacy of disaster and chaos and a legacy of survival and progress.

In the past 5 years, I and other Members of Congress whose people rely so heavily on rural roads, have worked to convince our colleagues and the Department of Transportation that while we were providing money to save the New York City subway system we had also better provide more money to rural highways and roads if the people who intended to ride that subway were to have food to eat.

As chairman of the Family Farms and Rural Development Subcommittee in the 93d Congress, I conducted hearings on the impact that Federal transportation policies were having on rural transportation and our ability to get food from the marketplace.

As a result of our findings, Congress, in the Federal Highway Act of 1974, added $150 million to the funding for primary and secondary highways in rural areas and adopted my proposal for the creation of a program to provide money to county jurisdictions for improving local roads. The "off-system" roads program was funded at $200 million.

I am most gratified that the Public Works Committee accepted my proposal in its deliberations on this bill to increase the "off-system" roads authorization from $200 million to $300 million annually.

Madam Chairman, we have come to realize that food is our Nation's most important product. Food is grown where the land is most productive and there is no strong relationship between these areas and the geographic location of the ultimate consumer.

Thus, agriculture is more dependent on transportation than almost any other part of our economy. It does little good to produce a bumper crop of food and fiber if you can not move it out of the countryside to the city grocery shelves or to international markets.

A constituent wrote me not long ago seconding that proposition:

> We have some of the best truck gardeners in this country that you can find in the state. They raise some of the best produce available anywhere. Most of them cannot get to a highway to get their produce out to market without having to tear up their vehicles on rough roads . . . All they need is a way to get their products out to market.

We can no longer afford to accept the short-sighted conclusions that, because most of the people live in congested areas, most of the transportation dollars and technology ought to be geared to solving their problems and let the countryside needs go hang with a conscience salving pittance. I am pleased with the progress we have made in getting the Nation's nonmetropolitan areas their rightful share of the Federal dollar. There remains additional work to be done, however.

Madam Chairman, this bill is not pork barrel. The spending levels are not extravagant when you consider the vast importance of surface transportation to the commerce of this Nation. The solvency of the highway trust fund will not be jeopardized. The financing mechanism is sound and is consistent with the "pay as you go" approach for highway financing that Congress has followed for the past 20 years.

I urge its adoption.●

Mr. ULLMAN. Madam Chairman, I would ask the gentleman from New York if the gentleman has any further requests for time?

Mr. CONABLE. Madam Chairman, I have no further requests for time.

Mr. ULLMAN. Madam Chairman, I have no further requests for time.

The CHAIRMAN. Does the gentleman from New York yield back the balance of his time?

Mr. CONABLE. Madam Chairman, under the circumstances, I have very little choice.

Mr. ULLMAN. Madam Chairman, I yield back the balance of my time.

The CHAIRMAN. Does the gentleman from New Jersey yield back the balance of his time?

Mr. HOWARD. Madam Chairman, I yield back the balance of my time.

The CHAIRMAN. Is it the assumption of the gentleman from New Jersey that the gentleman from Pennsylvania (Mr. SHUSTER) yields back the balance of his time?

Mr. HOWARD. Madam Chairman, it is the assumption of the gentleman from New Jersey.

The CHAIRMAN. Does the gentleman from New York, to the extent the gentleman can do so, commit the gentleman from Pennsylvania to yield back the balance of his time?

Mr. CONABLE. Madam Chairman, to the extent I am able to do so, I yield back the gentleman's time.

Mr. HOWARD. Madam Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Miss JORDAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11733) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO FILE REPORTS ON H.R. 13845 AND H.R. 12559

Mr. ULLMAN. Mr. Speaker, on behalf of the gentleman from Washington (Mr. FOLEY), the distinguished chairman of the Committee on Agriculture, I ask unanimous consent that the Committee on Agriculture may have until midnight, tonight, September 15, 1978, to file a report on the bill, H.R. 13845, to amend the Perishable Agricultural Commodities Act, and also on the bill H.R. 12559, the Native Latex Commercialization Act of 1978.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

INTRODUCTION OF RESOLUTION CALLING FOR MEETINGS BETWEEN MEMBERS OF CONGRESS AND JAPANESE DIET

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. WOLFF) is recognized for 5 minutes.

● Mr. WOLFF. Mr. Speaker, the introduction today of a resolution together with Mr. BURKE of Florida, Mr. GUYER of Ohio, and Mr. MINETA of California, calling for joint and periodic meetings between Members of Congress and Members of the Japanese Diet for the discussion of "common problems" is a positive step on the part of the House of Representatives toward the strengthening of relations between the representatives and in turn the peoples of the United States and Japan.

A similar resolution, Senate Joint Resolution 111, has been introduced by Senator JOHN GLENN and is currently pending on the Senate calendar.

For too long, we as Members of Congress have found ourselves reacting to, rather than anticipating, developments in our bilateral relationship with Japan. I would argue that to the extent that we have failed to anticipate problems we in large part have failed through a lack of awareness and understanding of Japan.

One has only to cite the recent negotiations leading to the Strauss-Ushiba trade agreement of January 13, 1978, and the ongoing negotiations on agricultural issues to illustrate the need for greater mutual understanding.

There are a limited number of nations with whom our relations, by their very nature, are of transcendent importance. Our relationship with Japan is of that character. To illustrate:

Strategically, the United States-Japan Alliance remains the cornerstone of our Asian-Pacific policy, and that relationship is a major factor contributing to regional stability in Northeast Asia.

Commercially, Japan is our largest trading partner: our two-way trade last year exceeded $30 billion. Japan's 1977 GNP of approximately $5.75 million ranked behind only that of the United States and the Soviet Union. Japan today is a pillar of the free world economic order.

Yet, as in any relationship, problems do exist. Ours are related to trade. In 1977 our trade deficit with Japan approached a clearly unacceptable $10 billion. I need not point out that an imbalance of such magnitude ill serves our relationship. And I cannot emphasize too strongly that the need for corrective action is acute, that the time for action is now.

Cultural differences also exist. And, from an historical perspective, all too frequently have they complicated the course of American-Japanese relations. While such differences need not be insurmountable, they do remain. What is required to manage more effectively our relationship is a greater mutual understanding of these very differences.

Given the complex and multifaceted nature of our relationship, it is imperative that parliamentarians of both nations gain through personal contact a greater awareness and a clearer understanding of the political realities which shape legislative activities in our two countries.

Clearly, the institutionalization of contacts between parliamentarians will not in itself prevent problems from arising in our bilateral relationships. But certainly it will assist in their solution.●

SOUTH AFRICAN RIOT POLICE ATTACK CROSSROADS

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. DOWNEY) is recognized for 5 minutes.

● Mr. DOWNEY. Mr. Speaker, reports have reached the United States that the South African police are continuing to move against the black community of Crossroads near Cape Town. This peaceful settlement of 20,000 blacks is the target of a government campaign of fear and intimidation aimed at destroying Crossroads and scattering its inhabitants. I fear, and many of the members of the ad hoc monitoring group fear, that the South African Government is determined to wipe-out Crossroads, not by bulldozers but by mass arrests and tear gas. I ask permission to insert into the RECORD an article in today's Washington Post which reports that three blacks, including an infant, were killed in the latest South African moves. This move is reprehensible and should be the subject of the strongest protests by our Government.

[From the Washington Post, Sept. 15, 1978]

SOUTH AFRICAN RIOT POLICE ATTACK SQUATTERS' CAMP

(By Carlyle Murphy)

JOHANNESBURG, SOUTH AFRICA.—Armed riot police shooting tear gas and swinging clubs raided an illegal Cape Town squatters' camp yesterday and witnesses said three blacks were killed, including an infant trampled to death by fleeing women.

Brig. J. F. Rossouw, the police commander in the area, said his men had to open fire and use the tear gas because some of the Crossroads camp's 20,000 residents attacked with stones, bricks and sticks during what he called a "crime-preventive" raid.

The early-morning clash marked one of the most violent racial incidents in South Africa in recent months. It underlined government concern over the thousands of rural blacks moving into the mainly white cities despite laws barring those without specific permits.

Police confirmed only the death of one man. Witnesses, however, said a second also was shot dead during the raid. The baby, they added, fell from an African-style sling on its mother's back and was trampled underfoot by women scattering to escape tear gas.

Hundreds of squatters were arrested and several were admitted to hospitals, according to reports from Cape Town. Police beat several residents and knocked down doors of some of the 3,000 corrugated iron shacks to find people, said the reports attributed to witnesses.

Among those arrested were a Roman Catholic priest, a Methodist minister and five white women who worked among the squatters.

The raid was aimed at checking passes of the black squatters. Under South Africa's system of migration control, all blacks must carry passes allowing them to live and work in cities. These must be presented on demand by police and those without a valid pass are subject to a fine or jail sentence.

According to social workers involved with Crossroads, the police move was designed to intimidate Crossroads squatters into vacating their shacks and returning to tribal homelands, or black reserves, designated for them by the government. The police action is a prelude to demolition of the camp—by bulldozing if necessary—which the government says will be done sometime in the next six to eight weeks.

Colin Eglin, leader of the opposition Progressive Federal Party, criticized the police action.

"It appears the government is applying a policy of continual harassment in an attempt to destroy the spirit of Crossroads before it sends front-end loaders, to destroy homes. My appeal to the government even at this late stage is to stop before it does irreparable harm to South Africa."

[In Washington, the State Department said the United States has "explicitly expressed our concern to the South African government about its plans to demolish Crossroads.

["We deeply regret the South African government's intention to press ahead with destruction of a functioning community of some 20,000 people, which will lead to massive family separation of blacks living in the Cape Town area," a State Department spokesman said in response to a query.]

Like its predecessors—Unibel, demolished in January, and Modderdam, torn down one year ago—Crossroads is an example of the government's preoccupation with stemming and even reversing the flow of poor rural blacks into urban centers.

Most of the 250,000 squatters in the 47 squatter communities around Cape Town are "coloreds," or persons of mixed race. Since the all-white minority government has designated the western part of Cape Province as a preferential area for the 2.5 million coloreds of South Africa, they are allowed to remain until housing is available for them.

But under South Africa's policy of apartheid, or racial separation, black squatters are a different matter.

Government officials say allowing illegal black workers and their families to remain in the Cape Town area works to the disadvantage of coloreds and other blacks legally in Cape Town because the squatters push down wages and squeeze them out of jobs. More importantly perhaps, allowing black squatter communities would be an implicit relaxation of the migratory controls. Authorities fear this would herald an ever-increasing permanent black population in the western Cape.

Frikkie Botha, chief commissioner of black affairs in the western Cape, charged that clergymen and social workers encouraging squatters to defy the government "want to open the gates of Cape Town to all who wish to come here from the black states."

Do they "have in mind another piece of land for the next 20,000?" he asked.

Under the government policy of separate development, South Africa's 18 million blacks are to have citizenship in nine black homelands, which eventually will become independent black states. Carved up into jigsaw shapes and lacking any major industrial or urban area, these states will likely remain economically dependent on the white-controlled economy of South Africa.

At present, blacks in rural areas who want a job in the city are supposed to enter into a one-year contract at the government labor office to their home town. Then, without their families, they are to live in all-male government hostels in segregated black neighborhoods of the white cities.

For those who come to Cape Town without a contract, or without a valid pass, and for those who do not want to live without their families, squatter communities like Crossroads are the natural outlet.

Crossroads began to sprout three years ago on a sandy V-shaped plot of land at the intersection of two roads. Today it has two schools, two clinics, a community center with a wall-to-wall carpet, two churches and its own primitive form of local government. Eighty percent of the heads of households are employed full time, earning an average of $40 a week.

Although the iron shacks placed along twisting dirt passages are less sturdy than those built by the government in approved areas, residents are so proud of what they have built themselves, they say they would refuse a government house if it were made available.

Urban researchers at local universities and even progovernment groups like the South African Foundation point out that demolition of the squatter communities is not the answer to controlling the black influx to cities.

"The 20,000 or so souls who will be homeless will neither depart for some far-off homeland, nor will they vanish into thin air," the foundation's newsletter commented.

It urged the government to "let them stay in their shanties and demolish the worst of them progressively as permanent housing become available."

The residents of Crossroads are displaying an almost guerrilla-like attitude to staying. "We have got no plan" if the demolition goes ahead, said 43-year-old Nomlingqanisela Ntongana. "We are just going to look for another bush to live under. We will move from bush to bush, we come from the bushes so we're used to them."●

NATO FORCES: UNDEREQUIPPED AND UNPREPARED

The SPEAKER. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 15 minutes.

● Mr. ALEXANDER. Mr. Speaker, there is a great deal of confusion in our Nation today about the preparedness of United States and Allied forces to combat a Soviet threat. After a recent trip to Europe, during which I visited some of the U.S. military installations associated with the NATO forces, I feel compelled to share with my colleagues a recent article published on June 4, 1978, in the Washington Post entitled: "Our Underequipped, Unprepared NATO Forces." The thrust of the article by Arthur T. Hadley points out the surprising Soviet lead in technology and tactics and should be required reading for every Member of Congress. The article follows:

[From the Washington Post, June 4, 1978]

OUR UNDEREQUIPPED, UNPREPARED NATO FORCES—THE SURPRISING SOVIET LEAD IN TECHNOLOGY AND TACTICS

(By Arthur T. Hadley)

The conventional wisdom in Washington is that NATO, outnumbered in tanks and planes by Soviet and Warsaw Pact forces, nonetheless can defend western Europe because of its superiority in electronic warfare, computer-guided weapons and better-trained personnel. "We need not match the enemy tank for tank," says Defense Secretary Harold Brown. "We retain a qualitative edge."

As a society, the West is far ahead of the Soviet Union in computers and electronics. But in the application of technology to warfare it is the Russians, not the Americans, who have the most sophisticated weapons and communications systems now deployed in Europe. Many of our most modern systems either are still on the drawing boards, don't work as advertised or are so complex that the troops can neither use nor maintain them and the generals don't understand them.

There are three main areas in which NATO must have a "qualitative edge" to offset the Warsaw Pact's numerical advantages: electronic warfare, tanks and guided antitank weapons, and control of the air. In all three areas, the Soviet forces are qualitatively as well as quantitatively ahead. We have been forced back into the world of John Foster Dulles, where we must rely on nuclear weapons to check a Soviet advance into western Europe. But the Soviets now also have quantities of nuclear weapons. So western Europe and even the American heartland are placed in jeopardy from nuclear war because our conventional forces are inadequate for the new electronic precision warfare.

The key to an understanding of the present military balance in Europe lies in the 1973 Middle East war, when Soviet and American weapons were last used against each other in combat. I went to Europe this spring for a month of intensive reporting to see how NATO and the U.S. Army and Air Force were absorbing the lessons of that war. I expected to find new precision-guided weapons being used to hit distant targets, new methods of controlling and massing forces, new systems and tactics for surveying the battlefield so that commanders could locate the enemy and select targets accurately. I found none this in fact, I found that the newer weapons and tactics were on the enemy side.

I made few "official visits" to any headquarters. By and large, I traveled along an old-boy network, which has dangers as well as advantages. These were people I had known since they were young majors or captains when I covered the Pentagon during the Korean War, or instructors or cadets at West Point when I lectured there, or officers whom I had met and come to respect in Vietnam. I have taken great care in this article both to protect their identities and to check everything I was told.

OUR VULNERABLE TEST TEAMS

The first area in which NATO has fallen behind is electronic warfare. Electronic warfare (EW for short) includes a variety of weapons and weapons systems. There is radio and radar jamming so that the enemy can't communicate with his units or locate your tanks and planes. There is eavesdropping on enemy radio communications and finding targets by various means. EW also includes our ability to get our own radio messages and other forms of data transmission through so we can control our outnumbered units more efficiently than the Russians control theirs.

In this field of electronic warfare, the experience of the 1973 Yom Kippur war points to a surprising and unpublicized edge for the Russians. Within the first half hour of their attack, the Egyptian forces had stripped the Israelis of virtually all their radar and air-ground communication and most of their long-range ground communication. The Israeli radars and radios either were destroyed by Soviet-made beam-riding missiles or jammed by both ground-based and airborne equipment. After that, the Israeli pilots could not be guided to targets from the ground, or hear the cries of ground commanders for help.

Yet, in spite of the fact that one of the major lessons of the Yom Kippur war is that ground-based radars and ground-to-air com-

munication will not be present, NATO continues to maneuver and plan as if there was no threat from beam-riding missiles or Soviet jammers. Front-line Army and Air Force commanders know this planning is foolish, and it makes them both apprehensive and angry.

The basic unit of U.S. combat communications is the Fire Support Team, or FIST team—six or seven men with special radios deployed at army company level all along the front lines to direct artillery fire, missiles and aircraft at attacking enemy tanks and artillery. Because the radios they use for air-ground communication operate on a unique set of frequencies, the Russians will have an easy time locating them.

"Do you really expect many FIST teams to be alive after the first day?" I ask one officer, walking through his brigade area late at night.

This is a complicated question, he replies. Since our published doctrine calls for the FIST teams to be at the front lines with each infantry and tank company, the Soviets know that by locating our FIST teams they know just where our front is. Indeed, he adds, with our poor communications, the Russians will probably have a better idea of where our front is than we will. (He was not the only commander to say this.) So it is to the Russians' advantage to keep the FIST teams alive and merely jam their radios so they can't communicate. On the other hand, the teams' artillery radios are good enough so that some artillery communications may get through. So it may be to the Russians' advantage to kill FIST teams. He doesn't know which they will do.

At another base in Germany, drinking coffee with a group of Air Force colonels and captains, all of whom have flown over North Vietnam, I ask one, "Colonel, do you expect to be talking to the FIST team after the first half hour?"

"Hadley, I don't expect to be able to talk to my wing man after the first 10 minutes." The other pilots rock back and forth on their chair legs or nod in agreement. They look slightly nervous in talking to a stranger about what they only hash over in secret.

WORDS VS. DATA BURSTS

Because the Defense Department has kept quiet about the Soviet lead in jamming equipment and beam-riding missiles, the public is unaware of other areas of Soviet excellence.

For instance, the United States has maintained that the electronic warfare equipment on the Mig-25 flown to Japan by a defecting Soviet pilot in September 1976 was markedly inferior to our own. In fact, its electronic equipment performed better. While its radar uses tubes, not modern transistors, it puts out more power to penetrate enemy jamming than does the radar carried by our fighters. The "black box" used to separate friend from foe was so sophisticated that it stumped our code-breakers, and only after months of work did the Japanese crack its secrets.

Our fighters are still guided to their targets by words over radios: "Two bogies, at 3 o'clock, speed 400 knots, 12 miles." Even the old Soviet equipment used by the Egyptians in 1973 prevented such transmissions. The "inferior" Mig doesn't rely on words from the ground; its information on where to go and what to attack comes in a data burst, brief enough (less than a second) and powerful enough to burn through jamming. The data is displayed on the pilot's windshield; an arrow for the direction to fly, a symbol for the target and numbers for the target's direction and speed. The pilot's acknowledgement of the message also is data-coded.

I ask two senior defense officials whether what I had learned about the Mig from sources in Europe were true. Both will only talk for background. Both squirm in their chairs, lace and unlace their fingers, look at the ceiling. Finally one asks me to keep quiet in the "national interest." The other insists that voice transmission is an advantage since it provides command flexibility and is the American way—even if the voice won't reach the aircraft.

FINDING THE TARGET

Another area in which NATO, with its access to the West's advanced communications industry, should be decisively ahead of the Russians in electronic target location. In fact, we are decisively behind—by "five years," as two generals, one at NATO headquarters, the other at a forward air base, put it.

The Russians have two mobile radio direction-finding units in each division and are about to go to four. These vital pieces of equipment locate the radios being used by enemy headquarters, artillery batteries, or FIST teams, so that fire can be dumped on them. We have none.

The Russians have several mobile radio and radar jamming units with directional antennas in each division. More primitive models of these tied up the Israelis in 1973. We have none.

The Russians have mobile listening stations and have trained their crews in how to distinguish between targets like tank battalions and intelligence sources like brigade headquarters. Our equipment is mostly static and many of its operators understand Vietnamese, not Russian. "I have no one in this headquarters who can tell a tank battalion headquarters from an artillery battery," says a division intelligence officer.

In a maneuver in Texas last summer, the 1st Cavalry Division was loaned special electronic equipment so that it could fight like a Soviet division. Its opponent, the 2nd Armored Division, relied on its regular electronic warfare equipment. The 2nd Armored was wiped out. The journal Military Intelligence drew these conclusions: "The [American] divisional EW equipment was judged, to a large extent, unsuitable for combat. The antennas and vehicles are the wrong type, the system is manpower-intensive, and there is no tactical DF [direction finding]."

When asked about such problems, even on background, senior officials at NATO headquarters and the Pentagon do what I have come to call the "rain dance." They compare the weapon the Russians now have in use in Europe to some American weapon still in the design stage, and the American weapon always beats the Soviet weapon hollow. The trouble is that the American weapons' actual production date is three to five years away, and by then the Soviets may be fielding something better. And many weapons systems when put in the field don't work as well as claimed.

INFRARED AND COMMUNICATIONS

Even when the tools of electronic warfare are available, they are so new and their operations often so complex and expensive to practice that people from privates to generals rarely understand how to employ them.

A division commander lets me interview the four captains who make up his "All Source Intelligence Center." He is proud of the center, which he and his staff perfected to pull together information from radar, scouts, prisoner interrogation, electronic eavesdropping, secret agent reports from higher headquarters, photographic and sensor intelligence, etc. Yet "All Source" is something of an exaggeration, for the center receives no space satellite information, which is so secret that it is kept from front-line troops.

The captains show me some infrared photos, taken for them by the Air Force on recent maneuvers using a new system called FLIR (for Forward Looking Infra Red) which can pick out parts of a landscape that give out more radiation than others. (A well-known advertisement uses infrared photography to show the difference between a well-insulated house and a poorly insulated one.) The Air Force-Army cooperation is impressive, but it takes 8 hours from the time the request is made until the information comes into the intelligence center. And the information comes in the form of coordinates and data printouts, so that senior commanders, inexperienced with FLIR, cannot judge its reliability.

The day after the data arrive, the pictures themselves come in. That is what the captains have declassified to show me. It all looks something like snow on an old black-and-white TV set. But right in the middle of one photo is this big, luminous square.

"What's that?" asks the colonel, who is monitoring our meeting.

"That's what we've been trying to explain to you, sir. That's your headquarters, hidden inside that farm house. Remember, we told you all those generators in that building would make it stand out."

"No. They must have found some other way, then took the picture."

The captains and I exchange glances. Later one of them shows me all the infrared strips. Sure enough, in one of them there is this little pinpoint of light, crying, "notice me, notice me," to some specialist. When it was blown up that bright dot revealed the barn and the division headquarters.

Later I ask one of the specialists if he can tell the difference between a tank and a truck. "Oh, yes, and between a tank with its hatches open or closed. Sometimes I can spot the commander's tank and tell if the tanks have been recently refueled."

"People ask you for this information much?"

"No."

And how would he transmit this information to where it is needed if he were asked? The transmission of information about where we and the enemy are is meant to be one of our strengths—a "combat multiplier," to use the jargon of the trade. But the multiplier is working in favor of the Soviets, who, unlike us, use jam-proof data bursts and often maneuver in a jammed environment.

NATO has as its number one scientific priority a highly classified project to develop secure voice communication for commanders. All the scientists I talked to regard this project as a waste of time and money. Voice communication is expensive, difficult to make secure, relatively easy to jam and takes up a large portion of the radio spectrum. It also relies on language, and there are many languages in NATO. Data is universal, it is transmitted in short bursts that cut through jamming, is so quick that it can't be located by direction finding, so has no voice signature to tell the enemy who is talking to whom.

Yet the senior U.S. commanders both in NATO and the Joint Chiefs have insisted on voice. They claim they want to get the "feel" of their subordinates.

THE CAMOUFLAGED SENSORS

Our problems in electronic warfare extend to the smallest things. Sensors, for instance. Sensors are small tubes, about 3 inches in diameter and a foot long, that are

inserted in the ground behind enemy lines by hand or from the air to measure movement, vibrations, sounds and changes in the electromagnetic field, and broadcast this information automatically so that intelligence officers can gain insight into troop movements they cannot see.

Owing to a painful bit of recent history, the air-dropped sensors are disguised as small palm shoots. Neither the Army nor the Air Force has found the money to change this camouflage. Yet surely a Soviet lieutenant attacking through the pines and snows of Germany will at least blink when his eye lights on a group of baby palm trees along his route.

Next, the sensors broadcast over the same frequencies as German taxis and other private radios. This means no one gets a chance to practice with them. Yet emplacing sensors correctly and interpreting their data is a complex and demanding process. Do we really believe we can do these things right without constant practice?

THE TANK GAP

In tanks, NATO is outnumbered, 3 to 1. Here again, the Warsaw Pact forces also have a qualitative edge. Here again, the American forces in NATO are not well enough trained to use effectively the weapons they do have.

In no other area is the rain dance—the technique of comparing drawing-board U.S. weapons to actively used Soviet weapons—as prevalent. The entire military and civilian high command of the Defense Department compares the Soviet T72 tank, which is now in the field, to the U.S. XM1 main battle tank, which will not arrive in NATO until 1982 at the earliest, and whose gun will not have the killing power of the Soviet tank's.

Even the tanks we do have are so complicated that today's volunteer Army does not use them very well. On a recent three-day maneuver, the 3rd Armored Division had mechanical failures on 150 major systems on its tanks, almost one-third of its total. The problem, as a German staff officer put it, is that "today's weapons are too complex for today's soldiers."

The tank now costs three times as much in constant dollars as the World War II fighter plane, it has more complex weapons systems and is harder to maintain. Yet that fighter was commanded by a lieutenant with two years of college or the equivalent; today's tank is commanded by a sergeant who may well not be a high school graduate.

Or, to look at the problem another way, a tank and a helicopter cost about the same and are equally complex. Yet the helicopter is flown by two warrant officers and maintained by a crew headed by a senior sergeant. But the tank is still commanded by a sergeant and maintained by privates.

Turnover is another part of the problem. A high school dropout comes into the Army, matures and develops into a leader and a great tank commander. After three years, or maybe five, he gets a high school diploma and says to the Army, "Thank you for what you have done for me. I'm getting out now, going to college, to make something of myself." Although both the Army and Air Force put heavy pressure on junior officers to talk their men out of leaving the service, the incentives for the ablest to use the GI Bill to go to college are greater than the rewards for staying in.

The results are predictable. In a recent NATO tank crew competition, the best American crews finished last in gunnery behind such minor powers as the Dutch and the Belgians. The Germans point out, and honest American commanders admit, that the level of tank-driving skill in the U.S. Army is so low that the tanks don't know how to maneuver individually and can only charge in massed formations. On the tank-firing qualification range—in the battalion I watched, at least half the tanks had major defects—the crew gets a passing score if they identify a pop-up target and shoot at it in 40 seconds. Actually they are allowed about a minute. In the real world you get 10 seconds.

All over NATO, commanders fudge their figures a bit in an effort to make the mating of today's personnel and modern weapons look better than it is. You can't help but recall those Hamlet Evaluation statistics out of Vietnam. For example, a division commander told me proudly, and his battalion commanders confirmed, that his men scored 95 percent hits with the hand-held antiaircraft missile, the infrared-guided Redeye. I found that the reason for the good score was that the target had been slowed down to 60 miles an hour. At speeds closer to that of an attacking aircraft, most soldiers missed the target.

"THAT DRAGON KICKS A BIT"

Another paramount lesson of the Yom Kippur war is the importance of precision-guided infantry antitank weapons, like the Soviet Saggers with which the Egyptian infantry destroyed charging Israeli tanks. The primary U.S. infantry weapon in this field is the wire-guided Dragon. The infantryman has to keep his Dragon sight on the target and the missile will automatically correct its course to make a bull's-eye. I never found a single soldier in NATO who had fired a Dragon, though commanders were always assuring me that most of their men had qualified.

Furthermore, the Dragon has grave problems. It is too heavy to fire standing up, and if it is fired the best way, lying down, its blast burns off the firer's buttocks. Its sight is so delicate that it must be sent to the rear for recalibration every seven days, and there is no device on the weapon to tell the soldier whether the sight needs adjustment.

I watch a test Dragon firing, in which an excellent electronic simulator is used for training. Even with the simulator, everyone has trouble hitting the target. I ask the sergeant training the recruits whether he has ever fired a Dragon. The sergeant, an old-timer, says he hasn't, but he once saw one fired. He was at a special Dragon school and the top man in his class, a Marine captain, got to fire the school's one Dragon. "Did he hit the target?" I ask. "No," says the sergeant in his soft Kentucky twang, the poor fellow didn't. The recruits cluster around listening, leaving their simulator tubes. "He was a big man, sir, real big. But that Dragon kicks a bit. Oh, sir, you should have seen what it done to his neck."

Slightly bigger than the Dragon is the TOW (for tube-launched, optically tracked, wire-guided) antitank missile, which is fired from the M113 infantry carrier or the Cobra helicopter. You can hit a target with a TOW missile, and I found quite a few people who had fired one or even two rounds (supposedly every TOW gunner gets to fire one round every other year.) But the man who fires it is my candidate for the bravest man in the world. He sits *on top* of the M113, behind a tripod that pops up through the roof. He has to hold his breath as he fires, because the mount is so delicate that his breathing throws the missile off target. The Soviets fire their TOWs from *inside* their infantry vehicles.

The TOW fired from the Cobra helicopter is one of the most sophisticated antitank weapons actually deployed in NATO. A gunner in the nose of the helicopter works a small joystick about the size of an index finger to keep the crosshairs in a 14-power telescopic sight lined up on the target, while the pilot in the rear seat maneuvers the helicopter. It is an accurate and easy-to-handle weapon. Whether the TOW-Cobra system can survive under the massed artillery fire the Soviets employ is a question NATO commanders are loath to face. But then, they have so little else that works.

PRACTICE COSTS MONEY

The pilots flying these Cobras average 110 flying hours a year. According to Air Force fighter pilots and some of their commanders, the men flying NATO's complex speed-of-sound fighter planes like the F4s and F15s average only 1155 hours a year. In at least one squadron, cross-wind landings have been forbidden because pilots are not getting enough flying time. The Pentagon's computers insist that the average front-line pilot is flying 170 hours a year, but, as in Vietnam, I would rather trust the evidence from those on the spot.

Even if the figure is 170 hours, consider that both the federal government and the insurance companies believe that I, who fly a far simpler and slower aircraft here in the United States, need at least 200 hours a year in order not to be a danger to myself.

The low flying time for fighter pilots comes about because the fuel is so expensive and the planes so precious. And since the weapons are also expensive, no one gets to fire them often enough to develop confidence. And the little fixes necessary to mate weapons, men and machines don't get made.

For example, one of the vital precision-guided weapons on which the defense of NATO rests is the air-to-ground killer called the Maverick, a fighter-carried missile with a TV camera in its nose. Once the pilot has locked the missile onto the target, the missile follows its own TV picture on down. This is the weapon credited by the Israelis with helping turn the tide of battle once their ground troops had dealt with the Egyptian anticraft defenses. But the Israelis found that the missiles, which cost $30,000 apiece, were being wasted by knocking out the same tanks again and again, because the TV pictures seen by the pilots could not distinguish between dead and live tanks.

Now a passive infrared device has been added to the Maverick's TV camera to identify live tanks. But it took the 1973 war to lead to this vital fix. The missiles were so expensive that the Air Force had not practiced enough with them to discover the problem. Today, our pilots get to fire one every other year on a range in the Iranian desert.

All through NATO, the expense, complexity and lethality of weapons combine to leave weapons unperfected and men untrained in their use. Since intensive jamming would knock out European radios, aircraft radars and TV broadcasts, no one maneuvers in a jammed environment. The Army crews that fire the Chaparral antiaircraft missile get to fire one missile every other year from a base in Crete. And how does a tanker learn to maneuver in a town, when the best maneuver is to blast out part of a building wall and snuggle into the rubble?

The answer to such problems is to make massive use of simulators. That's what U.S. commercial airlines do. And both the British and Germans make more use of simulators than we do. But the Defense Department and Congress have been slow in asking and voting funds for simulators. They tend to ask: "You want weapons or simulators, general?" And the general replies, "Weapons."

WHO WOULD CONTROL THE AIR?

What about the final area of NATO'S presumed "qualitative edge"; control of the air? Even if our pilots lack flying time and can't talk to the ground, are not both they and their planes far superior to the Russians?

Again, the lessons of the Arab-Israeli war paint a dark picture. The Israelis found they couldn't get through the barrage of missiles

and antiaircraft fire protecting the Egyptian and Syrian forces until their tanks and artillery had knocked out the Soviet antiaircraft missiles and gun radars.

The West Germans, who have been much quicker to adopt the lessons of the Yom Kippur war than we have, are particularly concerned about our unquestioned belief that we are superior in this area. "The Soviets are decisively ahead in the air," said one of the highest officials of the German Defense Ministry.

When Soviet armored divisions attack, they advance under something our pilots call "the bubble." That's a protective covering of SAM6 antiaircraft missiles for high-altitude work and ZU23 self-propelled, four-barrelled antiaircraft guns with their own radar, by far the best antiaircraft guns in the world. There are 140 such weapons in a Soviet armored division. The way our aircraft are supposed to penetrate this "bubble" to get at the tanks is to stay below 200 feet, while the Army fires at the radars and jams them to make a corridor through which the aircraft can fly to hit the enemy tanks and then get back out. But in the real world, the Army doesn't have the jamming equipment and the locators to find the enemy radar. The Army and the Air Force have not practiced the split-second timing necessary in this maneuver.

There are special Air Force squadrons called Wild Weasels that have F4 jets with onboard jamming equipment and computers to throw off enemy guns and missiles. But the Wild Weasels lack effective beam-riding missiles to take out the radars. When questioned about this problem, high defense officials do the rain dance again: "HARM takes care of that." But HARM (for High Speed Anti-Radiation Missile) will not be ready until the early 1980s at best.

Another way to keep our planes alive is to have them stay away from the front lines, and lob their weapons in from low altitudes outside the bubble. The weapons would be laser-guided to their targets by the FIST teams. But the planes don't have the beam-riding bombs and the FIST teams don't have the laser designators.

Many NATO fighter pilots also complain that the Air Force is building the wrong type of fighters. They don't believe that one man can operate all the equipment necessary to stay alive at 200 feet while flying 400 knots in a hostile environment. They contend that the F15 has the space and power to have been a two-pilot aircraft, but that the old fighter types at the top of the service kept it a single-pilot plane. This is a serious charge, vigorously denied by most senior Air Force generals, who insist that the F15 is so fully automated that it is easier to fly than a World War II fighter.

TELLING FRIENDS FROM FOE

The final area of air control in which NATO falls apart is called IFF (for Identification Friend or Foe). In modern battle all those planes, ours and the enemy's, are going to be mixed together in the air, attacking targets on the ground, often moving at supersonic speeds or within 200 feet of the surface. Helicopters of both sides will be everywhere. Until now, shooting at your own people didn't matter so much because most shots missed. But modern weapons hit the target. Identification is now the ball game.

But in their last two NATO maneuvers, the German air force discovered that its own troops had shot it out of the air after two days. The British Royal Air Force is so short of funds that it has no hope of putting effective IFF equipment on its planes, as a result, the Germans, Americans and even the French have had to quietly insist that if there is a real war the RAF had better stay out of it lest it be shot out of the skies by its allies. Finally, the U.S. medium-range anti-aircraft missile system, the Chaparral, requires a man with field glasses to stand in front of the launcher, after the radar picks out a target, he tries to find it in his glasses and tell if it's friend or foe. That's the way it was done in 1944.

On IFF the Defense Department does the rain dance again and talks about JTIDS (for Joint Tactical Information Distribution System). The concept is brilliant, simple and workable: a network of some 600 radars is linked by computers that shift their frequencies roughly 10 times a second. Each time a radio comes on it fires off a burst of data that says roughly: "Here I am, I am doing this, I will need that." The data bursts are almost impossible to jam, the codes virtually unbreakable.

But JTIDS is already over three years late. It is so far behind schedule because the Navy is holding out for a more complicated model that also tell where its submarines are, and no one in the Defense Department has the courage to take on the Navy and its friends in Congress.

THE VITAL "TAIL"

Yet suppose all the weapons work. After two days the Russians, East Germans and Czechs have been fought to a virtual standstill in the most deadly conventional warfare in history. What happens on the third day?

The Yom Kippur war proved that in the electronic precision-guided munitions age the losses are horrendous, approaching those of nuclear warfare. NATO war plans call for each American division to fire 5,000 tons of ammunition on the first day, and 3,000 tons a day thereafter. At these rates of fire, artillery gun tubes will last less than a week. But there are not enough trucks or drivers to bring such masses of supplies forward. Nor does NATO have the mechanics to do the repairs. With agony on his face, one officer responsible for this problem tells me he will be 500 rounds short for every gun in his division by the third day.

The fault lies in Washington. No one in the Defense Department will ask Congress for funds or trucks, fork lifts or mechanics. Why? Because those are noncombat troops or "tail." And Congress and President Carter want the military to cut the noncombat "tail" in favor of combat "teeth." But as the teeth get more deadly, you must increase the tail, as both the Israelis and West Germans have done since 1973.

If the lessons of the Yom Kippur war are correct and we lose tanks the way the Israelis did, 300 new tanks are going to have to be brought forward in the first two days for each 360-tank armored division. As a result of the 1973 war, the Germans have vastly increased their forward stocks of new tanks. We have not. Nor do we have the tank carriers and crews to move the new tanks forward. Congress has turned down Defense Department requests for mobile steam cleaners to get the mud off and the charred flesh out of damaged tanks so they can be rebuilt. The Israelis and West Germans now have these. Nor do we have the spray to mask the smell of burned flesh which the Israelis developed so mechanics can work inside damaged tanks.

NATO plans call for M60 tanks, stored in climate-controlled warehouses, to be issued to troops that will be flown in from the States. In recent maneuvers, these tanks worked better than those in daily use. But they are stored on the wrong side of the Rhine, the west bank. Will the bridges they must cross still be intact? And the tanks have no radios; the radios are stored in a warehouse miles away, and they don't fit the tanks without a special bracket that takes two days to make.

Another general tells me about the night sights for his division's machine guns, sights which are so delicate and valuable that they have been kept in those warehouses since their arrival five years ago. He has just checked and found out that the sights don't fit his division's machine guns. He can build several thousand $65 brackets to fit the sights, but he has been told that his division will get new machine guns two years from now. What should he do?

Over and over one finds examples like this. There is a bitter private jest heard throughout NATO that U.S. plans to fight a war in Europe are based on flying imaginary troops in nonexistent planes to airbases that are destroyed at the command of headquarters no longer in action.

The jest has tragic overtones, because neither the qualitative deficiencies nor the wide gaps in training need occur. The West does have the better technological base. The electronic revolution is more advanced in NATO. But we cannot apply the knowledge and power we have to problems we claim do not exist.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CORMAN (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. JONES of North Carolina (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. RODINO (at the request of Mr. WRIGHT), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HOWARD) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. BINGHAM, for 5 minutes, today.
Mr. WOLFF, for 5 minutes, today.
Mr. DOWNEY, for 5 minutes, today.
Mr. ALEXANDER, for 15 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. EDWARDS of Oklahoma), and to include extraneous material:)

Mr. LENT.
Mr. GOODLING.
Mr. CRANE.
Mr. GILMAN.
Mr. MCCLORY, in two instances.
Mr. STEERS.
Mr. FINDLEY.
Mr. DORNAN.

(The following Members (at the request of Mr. HOWARD), and to include extraneous material:)

Mr. NOLAN.
Mr. GONZALEZ in three instances.
Mr. ANDERSON of California in three instances.
Mr. DRINAN.
Mr. NOWAK.
Mr. MCDONALD in three instances.
Mr. GINN.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 3337. An act to terminate, in the year 1979, further construction of the Cross-Florida Barge Canal project, to adjust the boundary of the Ocala National Forest, Fla., and for other purposes; to the Committee on Agriculture and the Committee on Public Works and Transportation.

ADJOURNMENT

Mr. HOWARD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 10 minutes p.m.), under its previous order, the House adjourned until Monday, September 18, 1978, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

4987. Under clause 2 of rule XXIV, a letter from the Secretary of Commerce, transmitting the annual report of the National Marine Fisheries Service for calendar year 1977, pursuant to section 9(a) of the Fish and Wildlife Act of 1956, as amended to the Committee on Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FOLEY: Committee on Agriculture. H.R. 12559. A bill to establish a research and development effort resulting in the commercialization of native latex rubber; with amendment (Rept. No. 95–1512, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. PRICE: Committee on Armed Services. S. 3373. An act to amend title 10, United States Code, to authorize the Secretary of Defense to provide transportation to the Girl Scouts of the United States of America in connection with International World Friendship Events or Troops on Foreign Soil meetings, and for other purposes (Rept. No. 95–1572). Referred to the Committee of the Whole House on the State of the Union.

Mr. PRICE: Committee on Armed Services. H.R. 14042. A bill to authorize appropriations for fiscal year 1979 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes (Rept. No. 95–1573). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introducd and severally referred as follows:

By Mr. BRODHEAD:

H.R. 14094. A bill to amend title II of the Social Security Act to make the monthly retirement test available in limited circumstances in the case of certain beneficiaries, to amend the technical requirements for entitlement to medicare, and for other purposes; to the Committee on Ways and Means.

By Mr. MICHEL:

H.R. 14095. A bill to reorganize and clarify the responsibilities of Federal agencies, Congress, and the States with respect to management of nuclear waste, and for other purposes; jointly, to the Committees on Armed Services, Interior and Insular Affairs, Interstate and Foreign Commerce, and Science and Technology.

By Mr. WOLFF (for himself, Mr. BURKE of Florida, and Mr. GUYER):

H.J. Res. 1138. Joint resolution to authorize participation by the United States in parliamentary conferences with Japan; to the Committee on International Relations.

By Mr. BROWN of California:

H. Res. 1351. Resolution directing that the Committee on Ways and Means conduct a review of the McCarthy plan for national property tax relief; to the Committee on Ways and Means.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

478. By the SPEAKER: Memorial of the Legislature of the State of California, relative to the Presidio of San Francisco and Letterman Army Hospital; to the Committee on Armed Services.

479. Also, memorial of the Legislature of the State of California, relative to the de Anza Trail; to the Committee on Interior and Insular Affairs.

480. Also, memorial of the Legislature of the State of California, relative to genocide in Cambodia; to the Committee on International Relations.

481. Also, memorial of the Legislature of the State of California, relative to liability and compensation for oil pollution; jointly, to the Committees on Merchant Marine and Fisheries, and Public Works and Transportation.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. VAN DEERLIN introduced a bill (H.R. 14096) for the relief of Vladimir S. Gurevich, which was referred to the Committee on the Judiciary.

SENATE—*Friday, September 15, 1978*

(Legislative day of Wednesday, August 16, 1978)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by Hon. DENNIS DECONCINI, a Senator from the State of Arizona.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

Come upon us, O Living Lord, as we open our hearts to Thee, and tarry with us until eventide and our work is done. Be with us in the crowd and in solitude, in our silence and in our speaking, in the freshness of this morning hour, and in the weariness of later hours. Guard us from petty irritations and unwarranted impatience.

Shew me Thy ways, O Lord; teach me Thy paths.

Lead me in Thy truth, and teach me: for Thou art the God of my salvation; on Thee do I wait all the day.—Psalms 25: 4, 5.

Let the words of my mouth, and the meditation of my heart, be acceptable in Thy sight, O Lord, my Strength, and my Redeemer.—Psalms 19: 14.

Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 15, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DENNIS DECONCINI, a Senator from the State of Arizona, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. DECONCINI thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I have no request for time, so I reserve my time momentarily.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

THE GREAT TREASURE HUNT

Mr. STEVENS. Mr. President, recently an article appeared in International Business entitled "The Great Treasure Hunt." As the article pointed out, Alaska has proven itself to be one of the richest mineral producing areas in the United States. The question is, Will it be permitted to continue in the future? This question will be answered as Congress makes its decision as to the final disposition of Alaska's d–2 lands.

Mr. President, the decisions concerning the d–2 legislation should not be taken lightly. The national need for many of the minerals in Alaska is becoming more and more obvious. The reasonable development of some of the resources could release the United States from dependence on foreign suppliers of oil and gas as well as the imports of raw minerals essential to U.S. industry and national security.

I do not suggest that the resources of Alaska be developed at the cost of the beauty of the State. Because Alaska is 99 percent de facto wilderness, it represents a chance to provide for real planning to accommodate different national interests, particularly recreation. What is needed for the public lands in Alaska is a planning mechanism that will allow flexibility in management—a balance which provides a high level of environmental protection particularly for wildlife and wildlife habitat and still provides enough flexibility to allow for other uses and permits decisions about uses to be made in the future as circumstances require.

I ask unanimous consent that the article, entitled "The Great Treasure Hunt," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE GREAT TREASURE HUNT

(By Charles P. Herbert, minerals manager, B. P. Alaska Exploration Inc.)

The raging controversy between Preservationists who, through intense lobbying efforts, try to preserve half of the State of Alaska as an inviolate wilderness, and the great majority of Alaskans, who together with miners and oil men from everywhere want the earthen treasures of the State to be available for human use, brings focus on our basic questions.

1. Is there a national need for Alaskan fuels and non-fuel minerals and is that need greater or less than the need for wilderness preservation?

2. Does Alaska have fuels and non-fuel minerals in sufficient abundance to be important to the nation?

3. What, if anything, is being done to find Alaskan fuels and non-fuel minerals?

4. If they exist, can they be recovered for use at reasonable cost?

In the case of petroleum the national need for increased domestic supplies is brutally obvious. The nation's huge balance of payments deficit and high costs of fuel oil, gasoline and natural gas are proof of a critical need for increasing U.S. reserves and production until such time as technological miracles and self discipline in conservation may free the United States from dangerous dependence on uncertain, foreign suppliers.

Further adding to the balance of payments deficits are imports of raw mineral commodities essential to U.S. industry. Roughly 40% of our needs for these materials are imported; they include aluminum, nickel, chrome, tungsten, manganese, cobalt, asbestos, platinum, lead, zinc and potash. Although the U.S. can never supply all of its mineral requirements from domestic sources it is dangerous to become heavily dependent on sources beyond our political influence. We need domestic sources of mineral commodities for our own use and for trade to acquire minerals we cannot produce. At present, molybdenum is the only metal for which the U.S. has a net export balance.

Over twenty years ago Major General Lagovskiy noted the growing dependence of the United States on uncertain supplies of strategic minerals and advised his nation to exploit that weakness. Russia is actively following the general's advice in Africa.

The wilderness advocate, who, historically, could lose only a fraction of one percent of Alaska's vast open space to mineral development still insists that there is no need for Alaska's minerals. No wonder that during the preservationists-caused, long delay in authorizing construction of the Alaska oil pipeline bumper stickers all over Alaska read let the b——s freeze in the dark.

DOES ALASKA HAVE MINERAL RESOURCES?

The world now knows that Alaska contains, at Prudhoe Bay on the Arctic Coast, by far the largest oil field ever discovered in North America and very recent discoveries near Prudhoe Bay promise important additions to the already huge reserves of crude oil and natural gas.

Alaska, now rapidly approaching first place among the States in petroleum reserves was long considered to have no oil and gas. The one small oil field at Katalla, discovered early in this century, was not economical and search elsewhere had failed until the Swanson River discovery in 1957. It required another eleven years and millions of dollars to find the giant Prudhoe Bay deposit. Throughout the State there are about a dozen other basins, both off-shore and on-shore, that are inadequately explored or not explored at all.

What has happened to oil and gas in Alaska within the last twenty years is most likely to happen, indeed actually is happening, to non-fuel minerals and coal.

Alaska has a proud mining history. Its capital city of Juneau is named after Joe Juneau, the prospector who, in 1880, found the first important gold mine in Alaska near the site of the present city. The huge Kennecott copper corporation was born in the 1900's in the remote Wrangell Mountains alongside Kennicott Glacier (spelling was often mixed-up in those days). The vast Interior of Alaska was opened by gold miners who founded Fairbanks, Nome and dozens of smaller towns; the Alaska Railroad was built to supply the Interior gold fields and provide access to the Matanuska and Healy coal fields; and the railroad led to the founding of Anchorage, now the State's largest city but once only a railroad town and supply center for the Matanuska coal fields and the Willow Creek gold mines. Goodnews Bay had the only platinum mine in either North or South America (but Montana may develop one, and platinum is a by-product of many mines).

Although the non-fuel minerals of Alaska are largely undeveloped, production records show that such minerals exist; to date, Alaska has produced approximately:

30 million ounces of gold; 21 million ounces of silver; 1.5 billion pounds of copper; 52 million pounds of lead; 4.6 million pounds of tin; 3 million pounds of mercury; 2.5 million pounds of uranium; 140 thousand pounds of tungstic oxide;

Undisclosed, but substantial, quantities of barite;

Undisclosed, but large quantities of platinum, iridium and ruthenium.

In spite of the fact that coal production in Alaska was practically prohibited by preservationists until 1917 (thereby forcing coal importation), and natural gas began to replace coal for power generation in 1967, Alaskan coal production has been about 25 million tons, all for domestic use.

Past production, of course, is only a measure of what has been found and recovered; the famous Kennecott mines, which supplied most of Alaskan copper are exhausted. However, production, even from insignificant mineral deposits, provides geological information from which trends of mineralization can be recognized. The U.S. Geological Survey, the U.S. Bureau of Mines and countless private investigators have made studies of mineral trends, using statistics, geological mapping, airborne magnetometer surveys and trace element analysis of rocks, soils and stream sediments. Using all information available to him in 1973, C. C. Hawley, an Alaskan consulting geologist, prepared a map of mineral trends. Hawley's map, which is the base for the map shown in this article, has been adopted by the U.S. Bureau of Mines and is found to differ only moderately from a similar map of mineral trends prepared by the U.S. Geological Survey. It is worth study and comparison with actual production in the Western States.

It is certain that recognition of mineral trends will be, indeed is, as valuable for delineating lands containing potential mineral deposits as it has been in mineral producing areas throughout the world. Yet, in spite of the impressive success obtained by concentrating prospecting efforts within recognized mineral trends, in September, 1977, Assistant Secretary of the Interior Guy Martin scoffed at those who are "playing the potential game" and predicted the defeat of such "die-hards who will resist the whole nation of setting aside large areas of d–2 lands".

WHAT IS BEING DONE TO FIND ALASKAN MINERALS

Fortunately for the nation's future, there are many die-hards who are actively searching for minerals, who are "playing the potential game" and who are risking many millions of dollars on the sound premise that Secretary Martin is historically unconscious. Although competition among prospectors orders secrecy about their activities, it is possible to recognize at least 161 exploration projects (not including 150 or more small gold mining operations). These projects are financed and directed by:

31 medium to large mining companies;
12 oil companies;
5 large industrial companies;
16 small companies;
and many individual prospectors.

It is usually difficult to determine the minerals sought by prospectors, in fact a great deal of prospecting is not directed towards discovery of any particular mineral, but knowledge of the mineral trends in which the projects are located permits an educated guess.

Thus, it seems probable that the 161 projects include:

41 copper, zinc, silver;
33 uranium;
25 lead, zinc, silver, (barite);
12 molybdenum and molybdenum/copper;
10 gold lodes;
4 iron ore;
4 coal;
2 nickel, copper, cobalt, platinum;
1 asbestos;
28 not identified, but including chromite and antimony.

The more important mining and exploration projects are identified and discussed on the map.

Not shown on the map are the vast coal fields that lie under much of the Arctic plains, across the northern part of Alaska. Estimates of potential reserves run into many billions of tons and include coals ranging from those with coking qualities to sub-bituminous. Presently remote, they are solid assurance of a long term supply of domestic energy.

Phosphate deposits are also extensive in the Alaskan Arctic, but there is no present incentive for developing them. The Alaskan phosphate deposits are unusual in that they contain anomalous amounts of metals such as molybdenum, copper, mercury—even gold.

Developing the mineral potential of Alaska is difficult. Large areas are covered, so outcrops of orebodies are rare. Even the large, rich Arctic deposit had an insignificant surface expression, as did Picnic Creek. Furthermore, the vast wilderness of Alaska is still little known and the snowfree season is short. Although only 45 miles from the long established City of Ketchikan (at one time the largest city in Alaska) the huge, boldly outcropping molybdenum deposit at Quartz Hill was not discovered until 1973; a section with 260 feet of coal, exposed in the banks of the Tonzina River, remained unknown until 1976. The odds are strong that additional mineral deposits will be found and will become valuable national assets.

CAN ALASKAN MINERALS BE RECOVERED AT REASONABLE COST?

If Alaska is mineral-rich, can the deposits be mined cheaply enough and the mine products delivered to market at a cost that will permit their exploitation? Obviously the sixty-odd companies now engaged in Alaskan exploration believe that the national need for minerals will overcome the obstacles of harsh climate, complicated governmental regulations and thoughtless land withdrawals that prevent mineral location or, more frequently, block access to mineral deposits.

Harsh climate and remoteness are not in themselves insuperable obstacles to economic mineral production, as is demonstrated by the many mines that lie well north of 60 degree Latitude in Scandinavia, Russia, Siberia and, for more appropriate comparison, in northern Canada.

In northern Canada, that is, the part of Canada that lies north of 60 degrees North Latitude, present day mine production annually provides to Canadian industry:

26 million pounds of copper;
373 million pounds of lead;
705 million pounds of zinc;
11 million ounces of silver;
305 thousand ounces of gold;
5 million pounds of tungstic oxide;
180 million pounds of asbestos;

The mines that furnish these valuable resources (worth more than half a billion dollars a year) are, or originally were, as remote as any prospective mine site in Alaska; the harsh climate of Alaska is actually milder than the climate that embraces most of the northern Canadian mines. Well beyond 70 degrees North Latitude, on a parallel that lies 100 miles farther north than the northernmost tip of Alaska, Nanisvik Mines produces, annually, 20 million pounds of lead, the same quantity of zinc, and 900 thousand ounces of silver—and earns a profit.

Since the higher cost of machinery in Canada offsets the somewhat lower cost of Canadian labor, Canadian-Alaskan production costs are comparable. Canadian success is proof that viable mining operations can be established in far northern climes.

So why has the 1911 to 1938 success story of Kennecott not been repeated in recent years? There are far better tools and equipment available now than there were in 1911; and few prospective mine sites require access through terrain as difficult as the Copper River Canyon, traversed by the railroad to the Kennecott Mines.

At least part of the answer lies in the stubborn notion that Alaska is a wilderness (which it is) and should always remain a wilderness (which has little to do with the extraction of minerals from the tiny fraction of the great land mass that contains minable orebodies). Alaskans fight this preservationist concept today just as they have since early Territorial days. On December 6, 1911, the Chicago Tribune, noting the plight of Alaskans who were not allowed to use Alaskan coal and timber, supported them with an editorial headed, "Alaska, an Example of Conservation Run Wild."

Today with petroleum, tomorrow with most other minerals, it is the Nation's plight that requires defense against "Conservation Run Wild".

BORNITE

Discovered by a lone prospector in the 1950's, has impressive reserves of rich copper ore. Located on "Seven Year Hill", so named by prospector Rhiney Berg to remind himself of his long, seven year search, Bornite furnished the incentive for prospecting that eventually led to recognition of the Ambler Copper Belt, a name that will certainly become famous in mining history, possibly even as famous as the Rhodesian/Katanga Copper Belt in Africa.

THE WULIK RIVER AREA

In its upper part, contains several attractive zinc-lead-silver-barite prospects. Drilling one of those prospects during 1977 showed that it contains a large, high grade orebody. An expanded drilling program is planned for 1978. Attention to this new mining district was caused by a U.S. Geological Survey discovery of highly anomalous lead and zinc in streams and soils. This was followed by finding an impressive showing of ore grade material on lands that are now withdrawn from location. The newly announced discovery is outside of the withdrawn lands.

LOST RIVER

Has developed reserves of tin and fluorite. Since world tin production no longer meets demand, exploitation may be undertaken in the near future. In the meantime, tin placer deposits near and west of the known tin lodes are producing modest quantities of tin. The tin-fluorite ores also contain tungsten and beryllium.

NOME

The second most productive placer gold mining district in Alaska, is the site of the largest gold dredging operation in Alaska today. Dredging reserves are believed to be large and additional reserves have been developed under the waters of Bering Sea. Recovery of the submerged gold deposits may require specially designed dredges.

FLAT

The third most important placer gold mining camp in Alaska, remains active and is getting serious attention as a possible source of tungsten.

RED DEVIL

Although a small mine, it has accounted for over half of Alaska's mercury production. It lies within a large mercury province that covers much of the southwestern portion of the Kuskokwim Mountains. Parks, White Mountain, DeCourcey and Cinnabar Creek are other mercury producers (or former producers) within the mercury province.

LAKE CLARK

At Kasna Creek. Has an apparently large, partially developed copper deposit within an area proposed for a National Park.

ARCTIC

Is the best known copper-zinc-silver ore deposit along the Ambler Copper Belt. This multi-million ton, high grade orebody was discovered and developed in recent years and quickly drew attention to the high mineral potential of the southern Brooks Range. Intensive prospecting along the trend of favorable rocks led to the discovery of Picnic Creek and at least seven other deposits that are less well developed. The gross value of the metals contained in the Arctic deposit alone, at today's metal prices, is about three billion dollars.

LATOUCHE ISLAND

Is a former copper producer and still contains substantial ore reserves. Exploration continues on Latouche and nearby Knight Island.

PLATINUM

At Goodnews Bay. Has produced platinum, iridium, ruthenium and small amounts of osmium for over 40 years. Important reserves of platinum-bearing gravels remain but are too deep to be mined with the dredge now on the property. The surrounding area is withdrawn from mining.

BELUGA REGION

The Beluga (and Chuit River) coal fields have developed reserves of over a billion tons of sub-bituminous coal suitable for strip mining. Since the coal is accessible from Cook Inlet, plans for a large mining operation have been prepared. Proposed markets are in California, perhaps in Japan.

MATANUSKA

The Matanuska coal field supplied fuel for the Alaska Railroad in its earlier days and, for many years, the City of Anchorage and adjacent military bases. The field is now inactive but substantial reserves of bituminous coal remain.

WILLOW CREEK

Was a long-active, underground gold mining camp until the mines were forced to close during World War II. The mines, which are similar to the Grass Valley gold mines on California's mother lode, remain closed since narrow-vein mining seems to be a lost art. Nevertheless, surface prospecting continues.

PICNIC CREEK

Is the most easterly known copper-zinc-silver deposit along the recently famous "Ambler Copper Belt". The discovery of this multi-million ton, high grade orebody is directly attributable to die-hards who did "play the potential game" after work some forty miles to the west had identified geology favorable to ore deposition within an identifiable mineral trend.

FAIRBANKS

The largest gold placer producer in Alaska, now contains only a few active gold placer mines and one active lode gold mine. Potential for other lode mines is good but placer reserves appear to be limited.

KENNECOTT

As has been noted, contained the rich copper deposits on which the large Kennecott Copper Corporation was foed. Production began in 1911 and continued through 1938, when reserves were exhausted. Later, the railroad that had been built to serve the four Kennecott mines was dismantled. Exploration, including drilling, in the Kennecott area has been revived.

KLUKWAN

Has a huge, developed deposit of iron ore. Although the ore is low grade, mining and concentrating costs would be unusually low. The iron concentrate that may be produced is not suitable for reduction in U.S. smelters but can be treated in Japanese smelters. Consequently the deposit is leased to Japanese interests.

YACOBI ISLAND

Has nickel-copper-cobalt-platinum reserves sufficient to warrant production. It

also lies within lands proposed for wilderness.

BRADY GLACIER

Within the Glacier Bay National Monument, is the largest, developed sulfide nickel deposit in the United States. It also contains copper, cobalt and platinum. After millions had been spent on development of this deposit, including the rare feat of drilling through hundreds of feet of ice within a moving glacier, the Congress enacted legislation that effectively blocks production from this huge deposit—in spite of the fact that no part of the mining operation would be visible from the scenic areas of Glacier Bay.

HEALY

Produces about 700,000 tons of sub-bituminous coal per year and has large reserves. Coal is known to extend for 100 miles to the east and at least 160 miles to the southwest, where thick coal beds were discovered on the Tonsona River in 1976. Although no public announcement has been made, potentially important discoveries of zinc-cooper ores have been made in the northern portion of the Alaska Range east of Healy; prospecting activity is high.

FORTY MILE

On the North Fork of the Fortymile River an asbestos discovery is being drilled. This prospect, which was discovered by the U.S. Geological Survey, belongs to the Dayon Native Corporation. All of Alaska, excepting the National Forests, is closed to location of nonmetalliferous minerals, such as asbestos; consequently prospecting for asbestos can only be conducted by agreements with native organizations.

ORANGE HILL AND BOND CREEK

In the Nabesna District. Have huge reserves of cooper-molybdenum ore that is too low grade to warrant exploitation at this time. Nevertheless prospecting and development continue along a 40 mile trend of mineralization.

JUNEAU

The location of the famous Alaska Juneau and Treadwell gold mines, has no active mines today but exploration along the Juneau gold belt, which extends for about 80 miles, continues.

CASTLE ISLAND

Has produced all of the barite mined in Alaska, and has the distinction of being the only open, underwater barite mine anywhere. Search for additional barite reserves on nearby Krupreanof and Kulu islands continues.

QUARTZ HILL

45 miles easterly from Ketchikan, is a huge molybdenum deposit that will hve major importance to the economy of Southeastern Alaska. Nevertheless, the President's Council on Environmental Quality has protested strongly against a U.S. Forest Service permit for construction of a 14 mile road from tidewater to the mine site.

BOKAN MOUNTAIN

Contains a formerly producing, high grade uranium mine. Prospecting in the vicinity is very active.

HAWK INLET

Long known for gold mining and for a nickel-copper prospect at nearby Funter Bay. is close to a major zinc-lead-copper deposit discovered in recent years. This important deposit, which can be put into production in the near future, lies within lands proposed for "Instant Wilderness".

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Will the distinguished acting minority leader at the moment agree that the Executive Calendar nominations, beginning with New Reports, is all clear? If so, I shall ask unanimous consent that the Senate go into executive session to consider those nominations.

Mr. STEVENS. Yes, we have no objection and will be pleased to proceed in that fashion.

Mr. ROBERT C. BYRD. I so ask.

There being no objection, the Senate proceeded to the consideration of executive business.

The assistant legislative clerk proceeded to read nominations on the Executive Calendar, beginning with new reports.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominees be considered and confirmed en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

NATIONAL LABOR RELATIONS BOARD

Howard Jenkins, Jr., of Maryland, to be a member of the National Labor Relations Board for the term expiring August 27, 1983.

FEDERAL RESERVE SYSTEM

Nancy Hays Teeters, of Indiana, to be a member of the Board of Governors of the Federal Reserve System for the unexpired term of 14 years from February 1, 1970.

U.S. ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

Gen. Sam Sims Walker, general.

The following Army National Guard of the United States officer for appointment in the Adjutant Generals Corps, Reserve of the Army, under provisions of title 10, United States Code, sections 593(a) and 3392:

Brig. Gen. Edward Clarence Binder, major general.

The following-named Army Medical Department officer for temporary appointment in the Army of the United States, to the grade indicated, under the provisions of title 10, United States Code, sections 3442 and 3447:

Col. Andre John Ognibene, brigadier general, Medical Corps.

The following-named Army National Guard of the United States officer for appointment to the grade of brigadier general as a Reserve commissioned officer of the Army and to the grade of brigadier general, Army of the United States, under the provisions of title 10, United States Code, sections 593a, 3385, 3442, and 3447:

Col. Herbert R. Temple, brigadier general.

U.S. NAVY

The following-named officer having been designated for commands and other duties of great importance and responsibility in the grade of vice admiral within the contemplation of title 10, United States Code, section 5231, for appointment while so serving as follows:

Rear Adm. David F. Emerson, U.S. Navy, vice admiral.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, AND NAVY

Air Force nominations beginning Robert L. England, to be lieutenant colonel, and ending Hyman H. Album, to be major, which appeared in the CONGRESSIONAL RECORD on August 14, 1978.

Army nominations beginning Jack B. Abraham, to be colonel, and ending Don A. Gross, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on August 14, 1978.

Navy nominations beginning Michael W. DaBose, to be ensign, and ending Aaron S. Wolkoff, to be commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on August 14, 1978.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move to reconsider en bloc the vote by which the nominees were confirmed en bloc.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I make that motion.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President of the United States be immediately notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Wisconsin want any of the leadership's time?

Mr. PROXMIRE. No; I have my own time. I thank the Senator.

Mr. ROBERT C. BYRD. Mr. President, I yield back whatever time I may have.

Mr. STEVENS. Mr. President, I reserve the remainder of my time until the pending business is laid before the Senate.

Mr. PROXMIRE. Mr. President, I understand that under the order, I have 15 minutes.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. PROXMIRE. I do not know if I shall take that time, but I will take a substantial part of it.

OF MICE AND MEN (AND WOMEN)

Mr. PROXMIRE. Mr. President, I wish to call the attention of the Senate to a problem that faces us all, one of widening dimensions and frightening possibilities. What is this menace that has touched every Senate office with its icy fingers, striking fear into a thousand hearts? What is this plague to good government?

Mr. President, I can sum it up in one word—mice.

Now, I am not just talking about a few mice, a solitary Mickey Mouse or Minnie Mouse. I mean legions of mice that have invaded the Dirksen Office Building and that seem to be moving on the Capitol from many directions.

Mr. President, the great American figure of the last generation did not come out of the golden age of sports. It was not Babe Ruth or Jack Dempsey or Bobby Jones or Bill Tilden or Red Grange. It was not Franklin Roosevelt or Churchill, Hitler or Stalin. It was Mickey Mouse. Sure, Mickey was a creature of the media, but what modern historic figure is not? Mickey was not a joke. He became a way of life. After all, millions of kids were not wearing Red Grange hats or Jack Dempsey or even FDR hats. But they were sure wearing those mouseketeer chapeaus.

Mickey and Minnie Mouse are cultural institutions. They took Hollywood by storm, invaded the White House, captured the Nation, and captivated the world. That was all good and fine. But this phenomenon has to stop somewhere. At the present rate, the progeny of Mickey and Minnie Mouse will soon have more voting power than the U.S. Senate. They will dominate the Banking Committee, eat out the cafeteria, control our law making procedures. How long will it be before the majority leader's job is threatened by a mouse coalition?

The majority leader did not hear that, but he ought to be concerned about it, because it could happen. While he is conferring with the minority leader, the mice undoubtedly are moving on all areas of the Capitol.

I once thought there were many different kinds of Republicans—conservative Republicans and liberal Republicans, Northerners and Westerners, big spending and tightfisted Republicans—but they are nothing compared to these mice. We have brown mice, white mice, soft furry mice, spotted mice, short-tailed mice, long-tailed mice, blunt nosed mice, fat, satisfied, arrogant, omnipresent mice. You do not know mice until you have seen one devour a full bowl of poison and look up for more.

Mr. ROBERT C. BYRD. Mr. President, the Senator did not mention the country mouse and the city mouse. Does he know the old story about that?

Mr. PROXMIRE. No, but I would like to hear it.

Mr. ROBERT C. BYRD. Are they involved here?

Mr. PROXMIRE. No, but we have many types of mice and they could include country mice and city mice.

Mr. ROBERT C. BYRD. They were cousins, you know.

Mr. STEVENS. How about arctic mice?

Mr. PROXMIRE. We have arctic mice, Southern mice, Alaskan mice, Wisconsin mice, West Virginia mice. They are eating us up. I can tell you.

Yes, Mr. President, mice—from the sixth floor to the subbasement, behind every radiator, beneath every bookcase—the Dirksen Senate Office Building has been invaded by a marauding battalion of scurrying, foraging rodents. The parade of mice is as long as a New Yorker article about Senator CULVER. It goes on and on and on endlessly.

Mr. ROBERT C. BYRD. Would the Senator suggest that the Pied Piper might be able to get rid of these mice?

Mr. PROXMIRE. We are looking for him. They have a Pied Piper up there, but the poor fellow cannot do much. The mice are taking over. They are leading him.

Mr. ROBERT C. BYRD. Do you suppose I might take my fiddle and lead them away?

Mr. PROXMIRE. It might help. I think a little fiddling might do the trick. It did not work for Nero, but might for the majority leader.

Mr. ROBERT C. BYRD. It worked for Thomas Jefferson. He was a country fiddler.

Mr. PROXMIRE. But he had to cope with rats. We have to cope with mice. The mice are more numerous and they are there.

It began as a small thing—a mouse here, a mouse there. But the problem has grown to epidemic proportions. We can no longer escape it. The mice are everywhere, and their size and number increase daily in geometric profusion.

Mr. ROBERT C. BYRD. If the mice ever join hands with the roaches, what will happen to us then?

Mr. PROXMIRE. Well, I would bet on the mice. I think the mice can do it. The mice have already invaded Hollywood, invaded the White House. Believe me, they are way ahead of the roaches in our office. We have a lot of bullets, but the mice seem to be way ahead.

These mice are a brazen crew, entirely without fear. No room is inviolate, no conference so weighty as to be spared their squeaky presence. They have no morals, no sense of decency. Their presence is an outrage to the dignity of the Congress, an affront to basic human rights everywhere.

This is the age of the mouse.

We have a mouse-like energy bill before us right now. It is not a vicious steal of a bill, but a furtive, timid, gnawing at the public interest. Any self-respecting rat would sneer at it. And I might add that quite a few are doing just that. There is mousiness everywhere. Not only the Congress, but the executive branch and the Supreme Court are not fearsome and tough. All these institutions seem to be made up of a conglomeration of midgets, individually innocuous as a mouse but, in aggregate, as threatening as this army of mice has become.

Take the press. No longer are we plagued with yellow journalism of the ilk of William Randolph Hearst or Bertie McCormick. There are no lions in the press, no wolves. We have to strain even to call them jackals. There are not even any rats in the press, only hundreds of nibbling, on-the-one-hand-on-the-other-hand mice. Take this speech as an example: It had an embargo for Friday, but the release time was broken by AP. Now that is a mousey move if there ever was one. Embargoes, unlike mice, should be honored.

Even organized crime—the classic home of the dirty rat—lacks the class and clout of Al Capone or Lucky Luciano. These days, even the crooks are mousey.

Except for the defense contractors, shipbuilders who are taking rat-sized bites out of the taxpayers, even the rip-offs are more like a gigantic assemblage of mice-nibbles than the spectacular steals of yesteryear.

Sure there are more dollars of waste—more extravagance, more special interest chiseling but it is a problem of too many little marauding rodents each of them harmless but in aggregate nibbling the body politic as never before.

Mr. President, there is only one man, one heroic man, who stands between the Dirksen Building and this marauding horde. One man alone guards this fortress against the enemy.

In its unfathomable wisdom the Senate has hired an exterminator. Every Tuesday night he returns to make his dreary rounds. From office to office, armed with traps and poison, cheese and odor proof plastic bags, he trudges, struggling to stem the endless tide.

Life is cheap for these mice. When our hero returns next Tuesday, grim and determined, another bloody spectacle will await him, another senseless carnage scattered through Senate offices.

Mr. President, what is the explanation for this vicious cycle of slaughter, this ceaseless attrition? Why must this lone crusader return week after week, to endure the screams of frenzied secretaries, to be greeted by the light, acrid stench of decaying mice? Why, Mr. President, why?

I will tell you why.

Like some enormous sponge, like the U.S. Tax Code, like some gargantuan swiss cheese, the Dirksen Senate Office Building is riddled with holes—gaping 3-inch portals pierced by slender 1-inch pipe yawn in every wall, behind every radiator, giving the rodents access to every floor, every room.

And what is the Senate's response to this gross bresch of integrity? How have we acted to stem the blight now afflicting this Congress?

With characteristic myopia, we have treated the symptoms while ignoring the causes. We have merely hired one solitary individual, a courageous man but one hopelessly inadequate to rid us of the pest.

Mr. President, how much longer can we wait to attack this problem at its roots? Think of the time lost by Senate employees afraid to return to their offices, having been displaced by thousands of mus musculi. Consider the trepidation of those who fear to open their desk drawers only to face a quickly departing mouse colony. How many mice have secretely typed out a memorandum by random application of their quadrupedal appendages during the night? Could this account for some of our less worthy legislation?

Oh, the irony of this plague. Even now, with one porous Senate Office Building riddled with vermin, another rises up right next door. This lavish structure, the

newest Senate Office Building, now rising from the ground almost as fast as its price tag, stands next door to the "holey" Dirksen Office Building, and I mean holey.

If we were to take only one ten-thousandth—one ten-thousandth—of the fortune required to build the Hart Senate Office Building, and rather than throw that money down the mouse hole, if we were to take that small sum and plug the holes in the Dirksen Building, I assure you that the results would be startling. We could stuff those holes with dollars and be money ahead. The dollar is not worth much these days. Jamming a few hundred thousand down a mouse hole would be a new and exhilarating change for the Senators from shoveling them down rat holes. No longer would mice scuttle through these formerly respected halls. The wanton horde that now afflicts the Dirksen Building would quickly recede. There would be so much extra room that we would not have spent over $200 million to build a new edifice. It would be the best investment of the dollar by Congress in years.

Mr. President, I had hoped for Republican support in my efforts to rid the Senate of mice. But the Republicans are running scared. Elephants and mice do not mix, as we all know. Perhaps that is why there are so few Republicans in the Senate.

This desperate situation cries out for action. Behind the marbled walls of the Dirksen Building there flourishes a mousy Byzantium. Just as the barbarians descended on Rome, this wave of rodents, this pestilence. this Sodom and Gomorrah of the mouse world, now gnaws at the very foundations of the Senate. Unless we act now, the Dirksen Senate Office Building, like Rome, may fall.

Mr. ROBERT C. BYRD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I am encouraged to believe that the epic story of Beowulf, and Oliver, Roland, and King Arthur and all of his knights, Sir Lancelot, Sir Galahad, are about to be relived, as I have listened to this brief and noble speech made by the distinguished Senator from Wisconsin.

He has declared, virtually, a one-man war on mice, and if it were not that I suffered from great trepidations I would seek to join him. But I shall be content with following from afar. I congratulate him.

Just a few days ago I saw a streak. It was not a streaker, it was a streak that went across the floor.

Mr. PROXMIRE. A fully clothed mouse.

Mr. ROBERT C. BYRD. In the Lyndon B. Johnson room. It was one of those mice the Senator was talking about.

So does the Senator know what I did? I got myself a couple of these old-fashioned mousetraps, put a little piece of cheese on it, came in the next morning, the cheese was gone, the trap was sprung—no mouse.

So these mice have developed a technology, I suppose, in this age that has rendered the old-fashioned mousetrap useless.

Mr. PROXMIRE. These mice are smart. We have all kinds and varieties of traps in our office.

Mr. ROBERT C. BYRD. Oh, yes.

Mr. PROXMIRE. We have the old-fashioned traps, we have the new-fashioned traps, we have all kinds of poison. They are not only smart, they are tough. They eat that poison. It makes them stronger and bigger.

Mr. ROBERT C. BYRD. They have a built-in resistance. Their IQ is undoubtedly very high.

Mr. PROXMIRE. It might improve the quality of the Senate as they come on to replace some other kinds.

Mr. ROBERT C. BYRD. May I say in closing, the distinguished Senator from Wisconsin has labored greatly, and what has he brought forth? A mouse.

Mr. PROXMIRE. I thank my good friend, the leader. I thought he was going to ask if I was a man or a mouse. I was going to say that these days I would rather be a mouse. They are winning.

Mr. DANFORTH. Will the Senator yield?

Mr. PROXMIRE. Yes.

Mr. DANFORTH. I would point out, these mice have not only infested the Dirksen Building, they are in the Senate restaurant, as well. The Senator may have wondered what he was eating in the Senate restaurant. Think of what the mice are wondering.

But I wonder, at a time when we can send people to the moon, when the Congress of the United States has such originality and such excellence, why it is beyond our ability and beyond our imagination to be able to build a better mousetrap.

Mr. PROXMIRE. I thank the distinguished Senator from Missouri.

That is the question. As he pointed out so well, he and Senator CHAFEE led the fight on that Hart Office Building. I can understand, that is one of the reasons for it, because they have been driving the mice out of that area into the Dirksen Building.

If we take one ten-thousandth of that money and stuff these holes—the trouble is that Dirksen has a series of holes in every office—and if we stuff them with dollars we would be ahead. The dollar is not worth much. That probably would be the best investment we could make.

I might say, it is good to have Republicans joining in this because I indicated Republican elephants have an aversion to having anything to do with mice.

Mr. HATCH. Will the Senator yield?

Mr. PROXMIRE. Yes.

Mr. HATCH. I am afraid the Republicans, in their characteristic fashion, will bring their elephants in and stamp the mice out, and I think that could have a detrimental effect on our buildings.

I compliment the Senator from Wisconsin for spending so much of the Senate's time on worthwhile merit in comparison to, I would say, 40 percent of the legislation that concerns our time in this Chamber.

I think the Senator will come up with some very extensive, decent, and worthwhile legislation, which we can in a bipartisan effort join to solve this otherwise incredible problem.

The ACTING PRESIDENT pro tempore. The Chair advises Senators that the time for the Mickey Mouse program has expired.

SPECIAL ORDER

Mr. STEVENS. Mr. President, does the Senator from Rhode Island need additional time?

Mr. CHAFEE. Yes.

Mr. STEVENS. Mr. President, I yield the remainder of the leadership's time on this side to the Senator from Rhode Island.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Rhode Island (Mr. CHAFEE) is recognized for not to exceed 15 minutes, and an additional 2 minutes yielded by the distinguished Senator from Alaska.

HELP FOR THE PRESIDENT'S PROGRAMS

Mr. CHAFEE. Mr. President, last week an astonishing article appeared in the Washington Post, which I read with such disbelief that I had to check other sources to see if it was a fact.

The article was a quotation dealing with the First Lady's campaign in Texas. The article stated, referring to Mrs. Carter's tour in Texas:

> At each stop she stressed her main theme of electing Democrats to office to help President Carter get his programs through Congress.

I looked at that with disbelief. Democrats to help President Carter get his programs through Congress? Maybe the President wants Democrats in Congress because he wants more baseball players on his softball team. Perhaps he wants people to go fishing with him. Maybe the Democrats are better fishermen or better baseball players than Republicans. But so far as supporting the President's programs is concerned, to get more Democrats in Congress, that really is the anthesis of what the President is seeking.

I seriously wonder whether there has been a breakdown in communication between Mrs. Carter and President Carter; because, as we well know, in the Senate, in the last 2 years, we have had three really significant votes, three votes of any consequence, in which the President laid his prestige on the line and wanted the result for the benefit of the Nation. Of course, I am referring to the Panama Canal treaties, the lifting of the Turkish arms embargo, and the Mideast planes sale.

As Al Smith, that great Democrat, used to say, "Let's take a look at the record". How did the Democrats do in supporting the President on these important programs, the only three

major votes that have taken place on the Senate floor since the President has been in office? These were the really key ones.

Let us take the Mideast planes sale. Was that an important vote? Well, President Carter thought it was, and I quote from his press conference on May 15:

> The arms package is crucial to our efforts to secure a just and lasting peace in the Middle East.

What did Secretary Vance say? He said:

> The proposed sales are vitally important to the foreign policy interests of the United States and to the Nation's role in peacekeeping efforts in the Middle East.

Well, how did the vote break down? Let us take a look. How did he do with his Democrats? Forty-six percent of the Democrats voted to support the President's proposed arms sale, and 71 percent of the Republicans voted to support the President's arms sale.

I suppose that one of the great concerns that the majority leader has is that he would hate to have more Democrats in this Chamber. I will bet that he tosses and turns at night wondering whether, in the forthcoming election, we are going to see more Democrats in this Chamber instead of Republicans.

Let us take some of the other important votes—the lifting of the Turkish arms embargo. How did that come out? Was it important? President Carter certainly thought it was. I quote the President:

> It is a very important subject, the most important foreign affairs subject that this Congress will consider the rest of this session.

President Carter, according to the New York Times, called the repeal of the embargo on military aid to Turkey his highest foreign policy priority. I quote him again:

> The most immediate and urgent foreign policy decision to be made this current legislative session is in the lifting of the arms embargo against Turkey.

Well, how did he make out there? Seventy-three percent of the Republicans voted to support him, and only 48 percent of the Democrats voted to support him. As a matter of fact, when it was all said and done, he got less than half of the Democrats to support him, and it was the Republicans who put the thing over.

So, Mr. President, I view what is happening with respect to this speech of Mrs. Carter with the greatest of concern. Maybe she is not talking to the President. I think that is a mixup. I am sure she is talking to him. I blame it on the speechwriters. Those speechwriters down in the White House have not got their signals straight.

I think the same speech writer who is writing this stuff for Mrs. Carter wrote the President's speech dealing with the economy of Germany. Remember that speech, when he advised the Germans how to straighten out their economy? This is the fellow who must be writing the stuff for Mrs. Carter down there.

Imagine that. Imagine saying that the President wants more Democrats to help get his programs through Congress.

I do not know what is going on. Of course, a little while ago, there was some suggestion that there was some pot-smoking in the White House by the doctor, but that was taken care of. Out the door he went. Is something stronger going on? Certainly, it cannot be liquor. As I understand, the President has barred liquor, except for wine—unless they are consuming it in vast quantities. I do not know what is taking place. It just concerns me that this is taking place.

I looked again at the other very important matter that came before the Senate, a matter in which the distinguished majority leader spoke, the ratification of the Panama Canal treaties. The distinguished majority leader said that their approval will mean strength, fortified with vision and justice.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. CHAFEE. I yield.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator has referred to me in a very kind and gracious way, and I thank him for yielding.

The funny season has come early this year, as we have seen already this morning in the Senate. It has come before the leaves have begun to fall.

I say to the distinguished Senator, seriously, that I thank him and those other Republicans who stood—against tremendous opposition, may I say—for what they saw to have been the best interests of the country, especially on those matters dealing with foreign relations.

I think that Senators like the Senator from Rhode Island (Mr. CHAFEE) have demonstrated an integrity and a nonpartisan attitude that has been very beneficial to the country. I, for one, salute the Senator and those on the other side of the aisle who have not been partisan in these issues, especially those foreign policy issues which have been so vitally important to our country.

I can understand the Senator's viewpoint and what he is saying. I have empathy for his position. But when we get into campaigns, we are very likely to have things to say that perhaps are a little wide of the mark, and always with a little truth and a little fiction in them.

As the Senator says, some of us have other people writing our speeches. But I hope we will not take too seriously the things that are said on the campaign trail.

I say to the Senator that I personally thank him and Senators on both sides of the aisle without whom the President's program in many instances would not have been enacted in this body. So I assure the Senator that I, personally, am grateful. He is demonstrating the kind of leadership that the country needs on the Panama Canal Treaty, as he said, and on the Middle East arms sale. I do not recall how he voted on the lifting of the Turkish arms embargo.

Mr. CHAFEE. All the way.

Mr. ROBERT C. BYRD. There, again, it took courage. What I say is no reflection on the Senators who voted the other way, because they saw it in the country's best interests in another way.

The Senator is also out on the front line right now. He is carrying his spear and his javelin and is spurring his worthy steed on every day, in the interests of the natural gas compromise, and he is working with me on that, and I am working with him. We are working together. I say that I am glad that we have some support on these issues, and I think it shows statesmanship on the part of the Republicans who will stand up and vote for what they consider to be in the country's best interest.

Mr. CHAFEE. Mr. President, is that on my time?

Mr. ROBERT C. BYRD. Yes, it is.

Mr. CHAFEE. I appreciate the very kind comments that the distinguished majority leader has made, but I do not want to use all my time hearing praise of myself. Normally I am delighted to hear it, but this is a very important matter I am dealing with. So I wish to continue if I might.

Mr. President, there is one further point that worried me in what Mrs. Carter said, and that is I wonder, in saying that the President sought the election of Democrats who support his programs, whether there is an inverse twist and a possible harbinger in the future that he would seek to purge those Democrats who did not support his program. That presents very interesting possibilities because we find here that in the Senate on these three crucial votes 40 percent of the Senators voted no on two out of the three issues. So thus, if the President started a purge on those Senators, 27 of them who voted against two out of the three programs, he will really make a sparkling situation around this Chamber and in future campaigns.

Mr. DANFORTH. Mr. President, will the Senator yield?

Mr. CHAFEE. I am glad to yield.

Mr. DANFORTH. I think the Senator from Rhode Island has made an excellent point, and I also think the distinguished majority leader has. He has recognized the First Lady's speech or speeches in Texas for what they are; namely, campaign talks, and he has——

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. DANFORTH. I yield.

Mr. ROBERT C. BYRD. The Senator from West Virginia did not say anything about the First Lady.

Mr. DANFORTH. No.

Mr. ROBERT C. BYRD. Let us not pick on her.

Mr. DANFORTH. That is the subject we are talking about.

Mr. CHAFEE. No. The speech writers. Mr. President, it is the speech writers. What the First Lady said I am not holding that against her.

Mr. ROBERT C. BYRD. The Senator from West Virginia did not say anything against the First Lady.

Mr. CHAFEE. It is the people in the White House writing this stuff. It is a busy day. She gets up and she is in this shopping center where she is given a speech put in front of her and so she reads it and does her part. It is not the First Lady's fault.

Mr. DANFORTH. Mr. President, if the Senator will yield, without referring to the First Lady, certain speeches were made in Texas by a party who will remain unnamed.

Mr. ROBERT C. BYRD. Will the Senator not point his pen at me? Our guests in the galleries may feel he is angry.

Mr. DANFORTH. And she made certain references to perhaps lack of support by Republicans in Congress for the President's program, and the majority leader has pointed out that these remarks, and I think he is quite accurate, were political comments and nothing more and, therefore, they should not be vested with much currency.

Mr. ROBERT C. BYRD. No. The majority leader did not say that at all about the First Lady's remarks. He said that in campaigns we all are sometimes likely to say things that we would not say otherwise and other people sometimes write speeches for us. But please absolve me from having said anything whatsoever that would imply any criticism whatsoever of the First Lady or any implication that she did not write her speech.

Mr. DANFORTH. The majority leader, I do not think, would say that all of us in political campaigns misstate the truth. There are some people who can always be depended on, is that not right? There are some people who tell us that you can depend on what they say?

Mr. ROBERT C. BYRD. Yes. Like BOB BYRD, from West Virginia; JACK DANFORTH, from Missouri; and JOHN CHAFEE, from Rhode Island.

By the way, may I say, Mr. President, I can remember a President who not too long ago vetoed 46 bills in 20 months. His name was Ford.

And he was consistently taking Congress out behind the woodshed and laying the heavy wood on us and forgetting that he once was a Member of the other body, forgetting that when he criticized Congress he was criticising Republicans as well as Democrats, because we all have the same responsibility here. So when we get to talking about our pretty little First Lady for making her contribution to the national interest in the way that she sees best, let us not forget some of the things that happened all too recently when——

Mr. DANFORTH. Is the Senator asking a question? This is on our time.

Mr. ROBERT C. BYRD. This is a rhetorical question.

Mr. DANFORTH. The Senator's filibuster is going on on our time.

Mr. ROBERT C. BYRD. No question about that.

Mr. CHAFEE. I think it is my time and I appreciate hearing the pearls of wisdom from the distinguished majority leader, but I have been given very little time here, and I suspect not much of it remains. So if the majority leader will be good enough to let me proceed on my time, of course, everyone knows the majority leader can get any time he wants in this Chamber, and it is always a treat to hear him, but at my back I always hear trumpets and chariots drawing near, and time is wasting. How much time do I have remaining, Mr. President?

Mr. ROBERT C. BYRD. Mr. President, before the Chair answers that question, and I did not want the Chair to answer that question, because I am afraid the time has about run out, having gotten in my little reminder about Mr. Ford, who was always laying the heavy wood on Congress—both parties—let me say that I look upon my friend from Rhode Island—he speaks of pearls—I look upon him as a pearl of great price, an emerald in a cup of jewels.

Mr. CHAFEE. Yes, but my time is going, Mr. President. I wish to claim what I have remaining.

Mr. President, I yield to the Senator from Missouri for a statement here and, as a matter of fact, I think we can probably combine our time.

The PRESIDING OFFICER (Mr. RIEGLE). The Senator has 30 seconds remaining.

Mr. DANFORTH. Will the Senator from Rhode Island take the 30 seconds?

Mr. CHAFEE. No. Go ahead, and we can put our time together. The Senator from Missouri has 15 minutes coming up, does he not?

The PRESIDING OFFICER. That is correct.

Mr. DANFORTH. Mr. President, I think that the point is very simple, that on a number of key issues, maybe three or four or five, now the natural gas bill, the tendency of the President is to get himself in a kind of perils-of-Pauline situation where he gets strapped to the railroad tracks not by the doings of people on our side of the aisle. The people with the black boots, the long capes, and the sinister mustaches are over on the other side of the aisle. And he gets strapped to the railroad tracks, and then he comes over to the great white knight on this side of the aisle and says, "Please, come and cut us from the railroad tracks at the 11th hour." And repeatedly, the great white knight, for example, Senator CHAFEE, has responded to this call of anguish from Pauline, who is on the railroad tracks, and has come running. Even now we hear the call, "Help, help us on the natural gas conference report."

Some of us are considering, just considering the possibility of whether our knife shall be unsheathed and, yet again, to help Pauline get untied from the track.

Mr. ROBERT C. BYRD. The Senator is not making a reference to me, is he?

The PRESIDING OFFICER. The Chair advises that the time of the Senator from Rhode Island has expired and we are now on the time of the Senator from Missouri.

Mr. DANFORTH. I think there is a serious point here. As a matter of fact, I think the serious point is that all of us who are in Government, whether we are Republicans or Democrats, presumably are here because we want to make some meaningful contribution. There are those of us who, and I think a clear majority of those of us on the minority side, the Republican side, who do not look at these issues as just purely partisan matter or as an opportunity to do in the President.

I have assured the President on the natural gas bill of two things: One, if I am equally balanced in my own mind on the merits I will vote with him on this bill. I am not sure whether I am equally divided. I have serious problems with it at this point, but that I am not anxious to do him in on a matter that is perceived by him to be so important to his administration.

I made in the Mideast arms sale an anguished decision on my part on how to vote, one which was contrary to my statements during my own campaign with respect to sales to the Arab countries. I think, on reflection, that that vote was best for the country.

But I think that we, on the Republican side, are anxious to try to be of service to our country and to help the President where we can. But I think it is kind of a sorry state where we are the only persons answering the call when the call comes for help.

We have, I think, some constructive input on our own which we would like to offer the Government of the United States on such matters as the economy and how to control inflation and what to do to expand the growth of our economy to help those young people, the minority people, get jobs, to help them get a better future and a better hope for their future, to expand America's ability to trade on the world market which, I think, is especially important, and something which has been almost completely ignored by our policymakers.

The point that Senator CHAFEE is making in a very lighthearted way but, I think, in a very meaningful way, is that we believe we have some contributions to make and that we have some definite inputs to propose, and it is a little bit unsettling, although understandable in the course of a political debate, when you are just written off as simply being a Republican and because your party label happens to begin with the letter R. "That is enough for you, and help us when you need us. Don't call us, we will call you."

Mr. CHAFEE. Mr. President, will the Senator yield on that point there? It is ironic that the First Lady delivered these remarks at a rally, which the newspaper quotes, "on behalf of Representative ROBERT C. KRUEGER who hopes to unseat Senator JOHN TOWER." Senator TOWER has supported the President on two out of these three key issues. And, as the Senator from Missouri pointed out, on one of these issues, the Mideast arms sale, there were not even a majority of the Democrats in this body who supported the President. Forty-six percent voted with the President. Indeed, I do not have to look very far to see some who did not support the President either on that issue or on one of the other issues.

As we look down this list of those—mind you, I challenge anybody to say whether we have voted on more than these three issues, and on these three issues there are some 19 Democrats who voted against the President on two out of three of them.

Mr. DANFORTH. I think the Senator is saying, as I understand, is the First Lady, or whoever the speechwriter was who wrote the Texas speech, was mistaken and, indeed, it would be in the best interests not only of the country, which we would acknowledge, but of the President himself if Senator TOWER were reelected to the Senate as a Senator from Texas.

Mr. CHAFEE. I have no question about that. As a matter of fact, Mr. President, I would go somewhat further and I think it would be in the best interests of the President if there were a majority of Republicans in this Chamber. Then I think we would really see the President's program roll along here.

No one exceeds me in my respect and admiration for the majority leader, but in the event that there should be a majority of Republicans here I am sure somehow we would get a leader, and we would try to duplicate his feat of outstanding leadership and fairness in this body.

Mr. President, those are the points I made. I think they are rather interesting. I hope it does not indicate that these speechwriters are going to continue along this vein in the future. I hope they would get their act straightened out, talk with the President, understand where his support is on these key issues, and that we would get this campaign back on the right track again and save Pauline not at the last minute but before Pauline is tied to the track.

I thank the Chair.

Mr. ROBERT C. BYRD. Mr. President, I want to thank the distinguished Senator from Rhode Island for his graciousness in yielding to me so much of his time.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business with statements limited therein to 5 minutes each, for a period not to extend beyond 15 minutes, and that the Senator from Rhode Island——

Mr. DANFORTH. Mr. President, may I inquire how much of my time is remaining?

The PRESIDING OFFICER. The Chair would advise the Senator from Missouri that he has 7 minutes remaining.

Mr. ROBERT C. BYRD. I thought the Senator yielded back his time.

THE PRESIDENT'S PROGRAM

Mr. DANFORTH. I just have one final comment. I understand the strategy of the majority leader and if I were in his shoes I would have followed the same strategy.

Senator CHAFEE and I now have taken some 23 minutes, and I think that is more than enough to make a point, which is clear on its face, and it does not need to be belabored any further. Therefore, I yield back the remainder of my time.

Mr. ROBERT C. BYRD. I was going to be just as gracious as was the Senator from Rhode Island, which would really tax me considerably, because to equal his graciousness is something that is meritorious, and I was going to suggest moving into morning business with a 5-minute limitation on speeches, and that the Senator from Rhode Island be recognized first so that he would get 5 minutes of his time back of the time that I consumed.

Mr. CHAFEE. That is very generous of the majority leader, but that will not be necessary. I enjoyed hearing his comments, as I always do. He is one of the premier speakers here and, if I am not here personally to hear him, I always turn on my mike in the office to hear him. But we have made our point. I do hope that whoever is writing that material down at the White House will eliminate these references to the need for more Democrats to support the President. Maybe he needs Democrats for some other reasons, I do not know, fishing companions, baseball companions, but not to support his program because, frankly, as I mentioned, the best thing is to turn this speech into its right form. Maybe they have got the words mixed up. She should have said, "We want more Republicans in the Senate to support the President's program." Maybe the words got twisted around. But it seems to me that would be the right approach. I will suggest that to the speechwriters. Whether it will be accepted or not I do not know.

I thank the Chair.

Mr. ROBERT C. BYRD. I think what the gracious First Lady may be saying is something like this:

'Twas a dangerous cliff, as they freely confessed,
Though to walk near its crest was so pleasant,
But over its terrible edge there had slipped
A Duke and full many a peasant,
So the people said something would have to be done,
But their projects did not at all tally.
Some said: "Put a fence round the edge of the cliff."
Some: "An ambulance down in the valley."

I think what she is saying is "Let us put a fence around it." I thank my friends. What I say is in levity and in good spirit, because I personally appreciate the support that the Senator from Rhode Island, in particular, and other Senators on the Republican side have been giving to the President on some of the great vital issues of the day.

I certainly thank those on my side of the aisle who have equally supported the President, many times putting aside partisanship and looking at what we think is in the best interest of our country.

I tried to do that with Mr. Ford; I tried to support Mr. Nixon where I felt I could; I tried to support Mr. Eisenhower where I thought I could. The same with Democratic Presidents. But I must say that of all those Presidents the least thanks we ever received were from Mr. Ford so far as I am concerned, who consistently utilized every opportunity to get on television in any way to take the Congress out behind the woodshed and lay the heavy wood to it. That was his theme, that was his theme song, day and night, and I say that with respect to Mr. Ford. He was a man of integrity and a very personable individual. We all liked him personally. But at least we do not hear that from Mr. Carter.

He meets us half way. He wants cooperation, but he does appreciate the support that he gets from our friends across on the other side of the aisle.

Again let me personally extend my thanks to those over there who find time to stand with us in our efforts to keep the legislative process moving.

The PRESIDING OFFICER (Mr. RIEGLE). The Chair would advise the Senator from Rhode Island and the Senator from Missouri that the Senator now in the Chair would welcome the chance to engage in a colloquy, but under the rules of the Senate he cannot do so from the Chair. I simply make that point in passing at this time.

Does the majority leader renew his request for a resumption of morning business?

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

GENOCIDE CONVENTION DOES NOT VIOLATE FREE SPEECH GUARANTEES

Mr. PROXMIRE. Mr. President, today I will address one of the major erroneous objections made in opposition to the Genocide Convention—the idea that this Convention would somehow violate the Constitution. In particular, it has been argued that article III, subparagraph (c) would infringe on the right of free speech.

The Convention states, "direct and public incitement to commit genocide" is a punishable act. But this is in perfect accord with the Constitution as interpreted by the Supreme Court and legal scholars.

Mr. President, "direct and public incitement to commit" murder is also a punishable act under Federal law. The Supreme Court in Brandenburg against Ohio dealt specifically with this question of incitement versus advocacy and ruled that freedom of speech is not inviolate.

The Brandenburg case concerned a Klu Klux Klan meeting in Ohio. In preparing their decision the Justices carefully clarified the essential point. The Constitution protects advocacy in the abstract as an appropriate expression of free speech. However, ". . . the constitutional guarantees of free speech and free press do not permit a State to forbid or proscibe advocacy of the use of force or of law violation except where such advocacy is directed to inciting or producing imminent lawless action and is

likely to incite or produce such action." That is what the law states. (395 U.S. 444)

This distinction, Mr. President, is vital. One can legally, quite legally, stand on the steps of the Capitol and call for a violent overthrow of the Government.

If, however, that persons also supplies the means to carry out that illegal act in, then the law descends upon him with all its force. For he would have crossed the line from advocacy—rightly protected—to incitement—a clear violation of our law.

Mr. President, article III subparagraph (c) of the Genocide Convention applies only to "incitement" and therefore does not violate the U.S. Constitution.

There is, Mr. President, no constitutional reason not to ratify the Genocide Convention. Mr. President, ratification is long overdue.

I yield the floor, and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

SMALL BUSINESS INVESTMENT ACT OF 1978

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 11318, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 11318) to amend the Small Business Act and the Small Business Investment Act of 1958.

The Senate proceeded to consider the bill, which had been reported from the Select Committee on Small Business with an amendment and from the Committee on Governmental Affairs with amendments.

The amendment of the Select Committee on Small Business is to strike all after the enacting clause and insert in lieu thereof the following:

TITLE I—AMENDMENTS TO THE SMALL BUSINESS INVESTMENT ACT OF 1958

CHAPTER 1

SEC. 101. Section 201 of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following: "The Associate Administrator so appointed shall be the Associate Administrator for Investment and shall be responsible to the Administrator solely for the development, execution, and administration of the investment program specified in title III of this Act.".

SEC. 102. Section 303(b) of the Small Business Investment Act of 1958 is amended by striking the period after the words "toward covering other costs of the program as the Administration may determine to be consistent with its purposes" and adding the following: ", or, in the case of a small business investment company operating under authority of section 301(d) of this Act, such debentures shall bear interest at a rate of 3 per centum per annum.".

SEC. 103. Section 303(b) of the Small Business Investment Act of 1958 is amended by inserting before the sentence beginning with the clause "The debentures shall also contain such other terms as the Administration may fix" the following new sentence: "The Administration is directed to apply the interest rate of 3 per centum per annum retroactively to outstanding debentures previously purchased by the Administration from a small business investment company operating under authority of section 301(d) and to apply any interest in excess of 3 per centum per annum previously paid to the Administration by such company prior to the effective date of this section, to interest payable after such effective date, without interest on such interest.".

SEC. 104. Section 303(c) of the Small Business Investment Act of 1958 is amended to read as follows:

"(c) Subject to the following conditions, the Administration is authorized to purchase preferred securities (or other securities having similar characteristics) of small business investment companies operating under authority of section 301(d) of this Act, and to purchase, or to guarantee the timely payment of all principal and interest payments as scheduled, on debentures issued by such small business investment companies. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee under this subsection.

"(1) The Administration may purchase from any such company shares of nonvoting stock (or other securities having similar characteristics), provided—

"(i) dividends are preferred and cumulative to the extent of 3 per centum of par value per annum;

"(ii) on liquidation or redemption, the Administration is entitled to the preferred payment of the par value of such securities and any unpaid dividends to the extent retained earnings shall permit;

"(iii) the purchase price shall be at par value; and

"(iv) the amount of such securities purchased and outstanding at any one time shall not exceed (A) from any such company licensed on or before October 13, 1971, 200 per centum of the combined private paid-in capital and paid-in surplus of such companies, or (B) from any such company licensed after October 13, 1971, and having a combined private paid-in capital and paid-in surplus of less than $500,000, 100 per centum of such capital and surplus, or (C) from any such company licensed after October 13, 1971, and having a combined private paid-in capital and paid-in surplus of $500,000 or more 200 per centum of such capital and surplus.

"(2) The Administration may purchase from or guarantee for any such company debentures subordinated pursuant to subsection (b) of this section (other than securities purchased under paragraph (1) of this subsection), provided—

"(i) such debentures are issued for a term of not to exceed fifteen years;

"(ii) the interest rate is determined pursuant to section 303(b); and

"(iii) the amount of debentures purchased or guaranteed and outstanding at any one time pursuant to this paragraph, from (A) any such company having a combined private paid-in capital and paid-in surplus of less than $500,000, shall not exceed 300 per centum of such capital and surplus, less the amount of preferred securities outstanding under paragraph (1) of this subsection, or (B) any such company having a combined private paid-in capital and paid-in surplus of $500,000 or more, shall not exceed 400 per centum of such capital and surplus, less the amount of preferred securities outstanding under paragraph (1) of this subsection.

"(3) Debentures purchased and outstanding pursuant to subsection (b) of this section may be retired simultaneously with the issuance of preferred securities to meet the requirements of subparagraph (2)(iii) of this subsection.

"(4) The Administration may require, as a condition of the purchase or guarantee of any securities in excess of 300 per centum of the combined private paid-in capital and paid-in surplus of any such company, that such company maintain a percentage of its total funds available for investment in small business concerns invested or legally committed in venture capital (as defined in subsection (b) of this section) determined by the Administration to be reasonable and appropriate.".

SEC. 105. Section 317 of the Small Business Investment Act of 1958 is amended to read as follows: "The authority heretofore vested in the Administration to require payment of the difference between the dividends paid and cumulative dividends payable at a rate equal to the interest rate determined pursuant to section 303(b) is hereby rescinded.".

SEC. 106. Section 302(a) of the Small Business Investment Act of 1958 is amended to read as follows: "The combined private paid-in capital and paid-in surplus of any company licensed pursuant to subsections (c) and (d) of section 301 of this Act shall not be less than $150,000: *Provided, however,* That the combined private paid-in capital and paid-in surplus of any company licensed on or after September 1, 1979 pursuant to section 301 (c) and (b) of this Act shall be not less than $500,000. In all cases, such capital and surplus shall be adequate to assure a reasonable prospect that the company will be operated soundly and profitably, and managed actively and prudently in accordance with its articles.".

CHAPTER 2

SEC. 110. Section 410(4) of the Small Business Investment Act of 1958 is amended by—

(a) deleting the word "or" after the phrase "conditions of the contract,"; and

(b) deleting the period after the phrase "fails to make prompt payment" and inserting in lieu thereof ", or (II) is an agent, underwriter, or any other company or individual empowered to act on behalf of such person.".

SEC. 111. Section 411 of the Small Business Investment Act of 1958 is amended to read as follows:

"SEC. 411. (a) The Administration may, upon such terms and conditions as it may prescribe, guarantee and enter into commitments to guarantee any surety (the terms and conditions of said guarantees and commitments may vary from surety to surety on the basis of the Administration's experience with the particular surety) against loss, as hereinafter provided, as the result of the breach when a breach is imminent to prevent a breach, of the terms of a bid bond, payment bond, performance bond, or bonds ancillary and coterminous therewith, by a principal on any contract up to $1,000,000, subject to the following conditions:

"(1) the person who would be the principal of the bond is a small business concern.

"(2) the bond is required in order for such person to bid on a contract, or to serve as a prime contractor or subcontractor thereon; and

"(3) such person is not able to obtain such bond on reasonable terms and conditions without a guarantee under this section.

"(b) Any guarantee under this section shall obligate the Administration to pay to the surety a sum not to exceed 90 per centum of the loss incurred and paid by the surety to

or on behalf of the obligee, or to labor and materialmen, in fulfilling the terms of the contract as the result of the breach or, when a breach is imminent, to prevent a breach, by the principal of the terms of a bid bond, performance bond, payment bond, or bonds ancillary and coterminous therewith.

"(c) The Administration may establish and periodically review regulations for participating sureties which shall require such sureties to meet Administration standards for underwriting, claim practices, and loss ratios.

"(d) Pursuant to any such guarantee, the Administration shall reimburse the surety, as provided in subsection (b) of this section, except that the Administration shall be relieved of all liability in the following circumstances:

"(1) the surety obtained such guarantee or applied for such reimbursement by fraud or material misrepresentation, or

"(2) the total contract amount at the time of execution of the bond or bonds exceeds $1,000,000.

"(e) The Administration may, upon such terms and conditions as it may prescribe, adopt a procedure for reimbursing a surety for its paid losses billed each month, based upon prior monthly payments to such surety, with subsequent adjustments after such disbursement.

"(f) The Administration may at all reasonable times audit in the offices of a participating survey all documents, files, books, records, and other material relevant to the Administration's guarantee or commitments to guarantee any surety pursuant to this section.

"(g) The Administration shall administer this part on a prudent and economically justifiable basis and establish such fee or fees for small business concerns and premium or premiums for sureties as it deems reasonable and necessary, to be payable at such time and under such conditions as may be determined by the Administration.

"(h) The provisions of section 402 shall apply in the administration of this section.".

TITLE II—AMENDMENTS TO THE SMALL BUSINESS ACT

CHAPTER 1

SEC. 201. (a) The Congress finds—

(1) that ownership and control of productive capital is concentrated in the economy of the United States and certain groups, therefore, own and control little productive capital;

(2) that certain groups in the United States own and control little productive capital because they have limited opportunities for small business ownership;

(3) that the broadening of small business ownership among groups that presently own and control little productive capital is essential to provide for the well-being of this Nation by promoting their increased participation in the free enterprise system of the United States;

(4) that such development of business ownership among groups that presently own and control little productive capital will be greatly facilitated through the creation of a small business ownership development program, which shall provide services, including, but not limited to, financial, management, and technical assistance;

(5) that the power to let sole source Federal contracts pursuant to section 8(a) of the Small Business Act can be an effective procurement assistance tool for development of business ownership among groups that own and control little productive capital; and

(6) that the procurement authority under section 8(a) of the Small Business Act shall be used only as a tool for developing business ownership among groups that own and control little productive capital.

(b) It is, therefore, the purpose of these amendments to section 7(j) of the Small Business Act to—

(1) foster business ownership by individuals in groups that own and control little productive capital; and

(2) promote the competitive viability of such firms by creating a small business and capital ownership development program to provide such available financial, technical, and management assistance as may be necessary.

SEC. 202. Section 7(j) of the Small Business Act is amended to read as follows:

"(j)(1) The Administration shall provide financial assistance to public or private organizations to pay all or part of the cost of projects designed to provide technical or management assistance to individuals or enterprises eligible for assistance under sections 7(i), 7(j)(10), and 8(a) of this Act, with special attention to small businesses located in areas of high concentration of unemployed or low-income individuals, to small businesses owned by low-income individuals, and to small businesses eligible to receive contracts pursuant to section 8(a) of this Act.

"(2) Financial assistance under this subsection may be provided for projects, including, but not limited to,

"(A) planning and research, including feasibility studies and market research;

"(B) the identification and development of new business opportunities;

"(C) the furnishing of centralized services with regard to public services and Federal Government programs including programs authorized under sections 7(i), 7(j)(10), and 8(a) of this Act;

"(D) the establishment and strengthening of business service agencies, including trade associations and cooperatives; and

"(E) the furnishing of business counseling management training, and legal and other related services, with special emphasis on the development of management training programs using the resources of the business community, including the development of management training opportunities in existing businesses, and with emphasis in all cases upon providing management training of sufficient scope and duration to develop entrepreneurial and managerial self-sufficiency on the part of the individuals served.

"(3) The Administration shall encourage the placement of subcontracts by businesses with small business concerns located in areas of high concentration of unemployed or low-income individuals, with small businesses owned by low-income individuals, and with small businesses eligible to receive contracts pursuant to section 8(a) of this Act. The Administration may provide incentives and assistance to such businesses that will aid in the training and upgrading of potential subcontractors or other small business concerns eligible for assistance under sections 7(i), 7(j), and 8(a) of this Act.

"(A) An advisory committee composed of five high-level officers from five United States businesses and five representatives of minority small businesses shall be created to facilitate the achievement of the purposes of this paragraph. The members of the advisory committee shall be appointed by the President. The chairman of the advisory committee, who shall be designated by the President, shall report annually to the President and to the Congress on the activities of the advisory committee.

"(B) The General Accounting Office shall evaluate the activities taken by the Administration to achieve the purposes of this paragraph and evaluate the success of these activities in achieving the purposes of this paragraph. The General Accounting Office shall report to the Congress by January 1, 1980, and at any time thereafter at the discretion of the Comptroller General, on the findings of this evaluation and shall make recommendations on actions needed to improve the Administration's performance pursuant to this paragraph.

"(4) The Administration shall give preference to projects which promote the ownership, participation in ownership, or management of small businesses owned by low-income individuals and small businesses eligible to receive contracts pursuant to section 8(a) of this Act.

"(5) The financial assistance authorized for projects under this subsection includes assistance advanced by grant, agreement, or contract.

"(6) The Administration is authorized to make payments under grants and contracts entered into under this subsection in lump or installments, and in advance or by way of reimbursement, and in the case of grants, with necessary adjustments on account of overpayment or underpayments.

"(7) To the extent feasible, services under this subsection shall be provided in a location which is easily accessible to the individuals and small business concerns served.

"(8) The General Accounting Office shall provide for an independent and continuing evaluation of programs under sections 7(i), 7(j), and 8(a) of this Act, including full information on, and analysis of, the character and impact of managerial assistance provided, the location, income characteristics, and extent to which private resources and skills have been involved in these programs. Such evaluation together with any recommendations deemed advisable by the Comptroller General shall be reported to the Congress by January 1, 1980, and at any time thereafter at the discretion of the Comptroller General.

"(9) The Administration shall take such steps as may be necessary and appropriate, in coordination and cooperation with the heads of other Federal departments and agencies, to insure that contracts, subcontracts, and deposits made by the Federal Government or with programs aided with Federal funds are placed in such way as to further the purposes of sections 7(i), 7(j), and 8(a) of this Act.

"(10) There is established within the Administration a small business and capital ownership development program (hereinafter called the 'Program'), which shall provide assistance exclusively for small business concerns eligible to receive contracts pursuant to section 8(a) of this Act. The management of the program shall be vested in a Director of Small Business and Capital Ownership Development (hereinafter called the 'Director') who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall also manage all other services authorized under section 7(j) of this Act. The Director shall be compensated at the rate provided for positions at Executive Level IV.

"(A) The Program shall—

"(i) assist small business concerns participating in the Program to develop comprehensive business plans with specific business targets, objectives, and goals;

"(ii) provide for such other nonfinancial services as deemed necessary for the establishment, preservation, and growth of small business concerns participating in the Program, including but not limited to (1) loan packaging, (2) financial counseling, (3) accounting and bookkeeping assistance, (4) marketing assistance, and (5) management assistance;

"(iii) assist small business concerns participating in the Program to obtain equity and debt financing;

"(iv) establish regular performance monitoring and reporting systems for small business concerns participating in the Program to assure compliance with their business plans;

"(v) analyze and report the causes of suc-

cess and failure of small business concerns participating in the Program; and

"(vi) provide assistance necessary to help small business concerns participating in the Program to procure surety bonds, with such assistance including, but not limited to, (1) the preparation of application forms required to receive a surety bond, (2) special management and technical assistance designed to meet the specific needs of small business concerns participating in the Program and which have received or are applying to receive a surety bond, and (3) preparation of all forms necessary to receive a surety bond guarantee from the Administration pursuant to title IV, part B of the Small Business Investment Act of 1958.

"(B) Small business concerns eligible to receive contracts pursuant to section 8(a) of this Act shall participate in the Program.

"(C) No small business concerns shall receive a contract pursuant to section 8(a) of this Act unless the Program is able to provide such small business concern with, including, but not limited to, such management, technical, and financial services as may be necessary to promote the competitive viability of the small business concern within a reasonable period of time.

"(11) The Director shall be responsible for coordinating and formulating policies relating to Federal assistance to small business concerns eligible for assistance under section 7(i) of this Act and small business concerns eligible to receive contracts pursuant to section 8(a) of this Act.".

SEC. 203. Section 7(k) of the Small Business Act is amended by striking the words "7(i) and 7(j)" and inserting in lieu thereof "7(i), 7(j), and 8(a)".

SEC. 204. Section 4(b) of the Small Business Act is amended by striking "One of the Associate Administrators shall be designated at the time of his appointment as the Associate Administrator for Minority Small Business and shall be responsible to the Administrator for the formulation of policy relating to the Administration's programs which provide assistance to minority small business concerns and in the review of the Administration's execution of such programs in light of such policy.".

SEC. 205. Section 5315 of title 5, United States Code, is amended by adding the following new paragraph:

"(122) Director of Small Business and Capital Ownership Development, Small Business Administration.".

CHAPTER 2

SEC. 211. Section 8(a) of the Small Business Act is amended by inserting before the paragraph beginning with the words "It shall be the duty of the Administration and it is hereby empowered" the following:

"The Congres finds—

"(1) that the development of small business ownership among socially and economically disadvantaged persons has been a very slow process;

"(2) that, among such businesses are many minority small businesses, which, according to the most recent Census Bureau statistics, represent less than 4 per centum of the total number of business in the United States and less than 1 per centum of total business sales;

"(3) that the opportunity for full participation in our free enterprise system by minority small businesses is essential if we are to obtain social and economic equality for minorities and improve the functioning of our national economy;

"(4) that the lack of comprehensive assistance to minority enterprises has led to the failure of many minority small businesses and thus contributed to the minority community's negative perception of competitive business enterprise as a career option and has deprived minorities of the success models that are needed to expedite their general economic development;

"(5) that a sustained commitment to minority small business development and a concomitant commitment of economic resources and leadership will stimulate increased employment opportunities for minorities and contribute toward minority community development;

"(6) that it is in the national interest to expeditiously ameliorate the negative conditions that impact on many minority small businesses and other socially and economically disadvantaged small businesses;

"(7) that the power to let sole source Federal contracts pursuant to this subsection can be an effective procurement assistance tool for the development of minority small businesses and socially and economically disadvantaged small businesses; and

"(8) that the procurement authority under this subsection shall be used only as small businesses and socially and economically disadvantaged small businesses.

"It is, therefore the purpose of this subsection to—

"(1) foster ownership by socially and economically disadvantaged individuals; and

"(2) promote the competitive viability of firms owned by such individuals by providing such available contract, financial, technical, and management assistance as may be necessary.".

SEC. 212. Section 8(a) of the Small Business Act is amended by adding at the end thereof the following:

"(3) No small business concern shall be eligible to receive contracts pursuant to this subsection unless such small business concern is at least 51 per centum owned and operated by a socially and economically disadvantaged person, and such small business concern is able to perform on possible contract awards and has reasonable prospects for success in competing in the private sector. In determining economic disadvantage, the Administration shall consider, but not be limited to, the following: (A) in the case of a new small busines concern, liquid net assets owned by the individual based on the capital generally required to start a business in the industrial area in which such new business will operate; and (B) in the case of an existing small business concern, the position of the business relative to other businesses in the same industry and the liquid net assets owned by the individual based on the capital generally required to maintain and expand the small business concern in the industrial area in which such business operates. In determining social disadvantage, the Administration shall consider, but not be limited to, whether the owner or owner of the applicant has been deprived of the opportunity to develop and maintain a competitive position in the economy due to cultural bias, general economic deprivation or other similar causes.

"(4) Any small business concern selected by the Administration to perform any Federal Government procurement contract to be let pursuant to this subsection shall, when practicable, participate in any negotiation of the terms and conditions of such contract.

"(5) Within ninety days after the effective date of this paragraph, the Administration shall publish in the Federal Register rules setting forth those conditions or circumstances pursuant to which a firm previously deemed eligible by the Administration may be denied assistance under the provisions of this subsection: *Provided*, That no such firm shall be denied total participation may be denied assistance under the authority of this subsection without first being afforded a hearing on the record in accordance with charter 5 of title 5, United States Code.".

CHAPTER 3

SEC. 221. Section 15 of the Small Business Act is amended by adding at the end of subsection (f) the following new subsections:

"(g) The head of each department or agency of the Federal Government shall, after consultation with the Administration, establish goals for the participation by small business concerns in procurement contracts of that department or agency having values of $10,000 or more. Goals established under this subsection shall be jointly established by the Administration and the head of each department or agency of the Federal Government and shall realistically reflect the potential of small business concerns to perform such contracts and to perform subcontracts under such contracts. Whenever the Administration and the head of any department or agency fail to agree on established goals, the disagreement shall be submitted to the Administrator of the Office of Federal Procurement Policy for final determination.

"(h) At the conclusion of each fiscal year, the head of each department or agency of the Federal Government shall report to the Small Business Administration on the extent of participation by small business concerns in procurement contracts of that department or agency. Such reports shall contain appropriate justifications for failure to meet the goals established under subsection (g) of this section. The Small Business Administration shall submit to the Select Committee on Small Business of the Senate and the Committee on Small Business of the House of Representatives information obtained from such reports, together with appropriate comments.

"(i) Nothing in this Act or any other provision of law precludes exclusive small business set-asides for procurements of research, development, test and evaluation, and each agency and department of the Federal Government is authorized to develop such set-asides to further the interests of small business in those areas.

"(j) Each contract for the procurement of goods and services which has an anticipated value of less than $10,000 and which is subject to small purchase procedures shall be reserved exclusively for small business concerns unless the contracting officer is unable to obtain offers from two or more small business concerns that are competitive with market prices and in terms of quality and delivery of the goods or services being purchased. In utilizing small purchase procedures, contracting officers shall, wherever circumstances permit, choose a method of payment which minimizes paperwork and facilitates prompt payment to contractors.

"(k) There is hereby established in each department and each agency of the Federal Government having procurement powers an office to be known as the 'Office of Small Business Utilization'. The management of each such office shall be vested in an employee of such department or agency who shall—

"(1) be known as the 'Director of Small Business Utilization' for such department or agency,

"(2) be appointed by the head of such department or agency,

"(3) be responsible only to, and report directly to, the head of such department or agency or to such other individual within such department or agency who may be designated by the head of such department or agency and who holds a position as the Under Secretary (or a position of comparable authority) of such department or agency,

"(4) be responsible for the implementation and execution of the functions and duties under sections 8 and 15 of this Act which relate to such department or agency,

"(5) have supervisory authority over personnel of such department or agency to the extent that the functions and duties of such personnel relate to functions and duties under sections 8 and 15 of this Act,

"(6) assign a small business technical adviser to each office to which the Administration has assigned a procurement center representative. Such technical adviser shall be a full-time employee of the procuring activity and shall be well satisfied, technically trained, and familiar with the supplies or services purchased at the activity. The principal duty of the small business technical adviser shall be to assist the Administration procurement center representative in his duties and functions relating to sections 8 and 15 of this Act, and

"(7) cooperate, and consult on a regular basis, with the Administration with respect to carrying out the functions and duties described in paragraph (4) of ths subsection. This subsection shall not apply to the Administration.".

SEC. 222. Section 8(d) of the Small Business Act is amended to read as follows:

"(d)(1) It is the policy of the Federal Government that small business and small business concerns owned by socially and economically disadvantaged persons as defined in subsection (a) of this section, shall have the maximum practicable opportunity to participate in the performance of contracts let by any department or agency of the Federal Government.

"(2) The clause stated in paragraph (3) of this subsection shall be included in all contracts let by any department or agency of the Federal Government except any contract or subcontract under such contract which—

"(A) does not exceed $10,000;

"(B) will be performed entirely outside of any State, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico; or

"(C) is for services which are personal in nature.

"(3) The clause required by paragraph (2) of this subsection shall be as follows:

"'(A) It is the policy of the Federal Government that small business concerns and small business concerns owned and operated by socially and economically disadvantaged persons shall have the maximum practicable opportunity to participate in the performance of contracts let by any department or agency of the Federal Government.

"'(B) The contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with the efficient performance of this contract. The contractor further agrees to furnish to the United States Small Business Administration at the Administration's request such available or reasonably obtainable information and records concerning its subcontracting on this and any other Federal Government contract it holds and to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding department or agency of the United States Federal Government as may be necessary to determine the extent of compliance by the contractor with this clause.

"'(C) As used in this contract, the term "small business concern" shall mean a small business as defined pursuant to section 3 of the Small Buiness Act and relevant regulations promulgated pursuant thereto. The term "small business concern owned and operated by socially and economically disadvantaged persons" shall mean a small business concern as defined pursuant to section (a) of the Small Business Act and relevant regulations promulgated pursuant thereto.

"'(D) Contractors acting in good faith may rely on written representations by their subcontractors that such subcontractors are either a small business concern or a small business concern owned and operated by socially and economically disadvantaged persons.'.

"(4)(A) Before the award of any contract let by any department or agency of the Federal Government which: (i) is required to include the clause stated in paragraph (3) of this subsection; (ii) may exceed $500,000; (iii) offers subcontracting possibilities; and (iv) is made pursuant to the negotiated method of procurement, the apparent successful offering business concern shall negotiate a final subcontracting plan with the department or agency. Such subcontracting plan and the prior compliance of the offering business concern with other such subcontracting plans shall be considered by the department or agency in determining the responsibility of such offering business concern for the award of the contract: *Provided*, That notwithstanding any other provision of law, every department or agency of the Federal Government, in order to encourage subcontracting opportunities for small businesses and small businesses owned and operated by socially and economically disadvantaged persons is hereby authorized to provide such incentives as may be appropriate and commensurate with the efficient and economical performance of the contract.

"Upon approval of the department or agency, the subcontracting plans shall be included in and be made a material part of the contract. Such subcontracting plan shall include—

"(i) percentage goals for the utilization of small businesses and small businesses owned and operated by socially and economically disadvantaged persons as subcontractors;

"(ii) the name of an individual within the offering business concern who will administer the subcontracting program and a description of such individual's duties; and

"(iii) a description of how small businesses and small businesses owned and operated by socially and economically disadvantaged persons will be utilized as subcontractors of the offering business concern.

"(B) Before the award of any contract let by any department or agency of the Federal Government which: (i) is required to include the clause stated in paragraph (3) of this subsection; (ii) may exceed $1,000,000 if for the construction of any public facility or $500,000 if for any other purpose; (iii) offers subcontracting possibilities; and (iv) is made pursuant to the formal advertising method of procurement, the apparent successful low bidding business concern shall submit to the department or agency a subcontracting plan. Such subcontracting plan and prior compliance of the business concern with other such subcontracting plans shall be considered by the department or agency in determining the responsibility of such business concern for the award of the contract. Upon approval by the department or agency, the subcontracting plan shall be included in and be made a material part of the contract. Such subcontracting plan shall include:

"(i) percentage goals for the utilization of small businesses and small businesses owned and operated by socially and economically disadvantaged persons as subcontractors;

"(ii) the name of an individual within the apparent successful low bidding business concern who will administer the subcontracting program and a description of such individual's duties; and

"(iii) a description of how small businesses and small businesses owned and operated by socially and economically disadvantaged persons will be utilized as subcontractors.

The provisions of this paragraph shall not apply to apparent successful offering or apparent successful low bidding business concerns which are also small business concerns.

"(5)(A) The Administration is authorized, at its discretion, to review any final subcontracting plan as may be formulated pursuant to the requirements of paragraph (4) and make appropriate recommendations to the department or agency concerning such subcontracting plan.

"(B) At its discretion, the Administration shall have the responsibility for evaluating compliance with subcontracting plans, either on a contract by contract basis, or in the aggregate for those contractors performing on multiple contracts.

"(C) At the conclusion of each fiscal year, the Administration shall submit to the Select Committee on Small Business of the Senate and the Committee on Small Business of the House of Representatives a report on subcontracting plans found acceptable by any department or agency of the Federal Government that were determined by the Administration not to contain maximum practicable opportunities for small business and small business owned and operated by socially and economically disadvantaged persons to participate in the performance of contracts referred to in this subsection.".

SEC. 223. The Administrator of the Office of Federal Procurement Policy is authorized and directed, pursuant to the authority conferred by Public Law 93-400 and subject to the procedures set forth in such Public Law, to promulgate a single, simplified, uniform Federal procurement regulation and to establish procedures for insuring compliance with such provisions by all departments and agencies of the Federal Government.

SEC. 224. In carrying out section 223, the Administrator of the Office of Federal Procurement Policy shall, in consultation with the Small Business Administration, conduct analyses of the impact on small business concerns resulting from revised procurement regulations, and incorporate into revised procurement regulations simplified bidding, contract performance, and contract administration procedures for small business concerns.

SEC. 225. (a) For any contract to be let by any department or agency of the Federal Government, such department or agency shall provide to any small business concern upon its request—

(1) a copy of bid sets and specifications with respect to such contract;

(2) the name and telephone number of an employee of such department or agency to answer questions with respect to such contract; and

(3) adequate citations to each major Federal law or agency rule with which such business concern must comply in performing such contract.

(b) Subsection (a) shall not apply to any contract or subcontract under such contract which—

(1) will be performed entirely outside any State, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico; or

(2) is for services which are personal in nature.

SEC. 226. For purposes of this Act—

(1) the term "Administrator" means the Administrator of the Small Business Administration;

(2) the term "Federal agency" has the meaning given the term "agency" by section 551(1) of title 5, United States Code; and

(3) the term "Government procurement contract" means any contract for the procurement of any good or service by any Federal agency.

The amendments of the Committee on Governmental Affairs are as follows:

On page 42, line 23, strike "department or agency of the Federal Government" and insert "Federal agency";

On page 43, line 4, strike "department or agency of the Federal Government" and insert "Federal agency";

On page 43, line 9, strike "department or" and insert "Federal";

On page 43, line 14, strike "department or agency of the Federal Government" and insert "Federal agency";

On page 44, line 2, strike "agency and department of the Federal Government" and insert "Federal agency";

On page 44, line 17, strike "department and each agency of the Federal Government" and insert "Federal agency";

On page 45, line 4, beginning with "department" strike through and including line 9, and insert in lieu thereof "agency or to his deputy,";

On page 45, line 14, strike "department or";

On page 45, line 18, strike "department or agency of the Federal Government" and insert "Federal agency";

On page 46, line 18, strike "department or agency of the Federal Government" and insert "Federal agency";

On page 47, line 9, strike "department or agency of the Federal Government" and insert "Federal agency";

On page 47, line 21, strike "department or agency of the Federal Government" and insert "Federal agency";

On page 48, beginning with line 14, strike through and including page 52, line 2, and insert in lieu thereof the following:

"(4)(A) Each solicitation of an offer for a contract or amendment or modification thereto to be let by a Federal agency which—

"(i) is to be awarded pursuant to the negotiated method of procurement;

"(ii) is required to contain the clause stated in paragraph (3) of this subsection;

"(iii) may exceed $1,000,000, in the case of a contract for the construction of any public facility, or $500,000, in the case of all other contracts, except that the provisions of this division shall not apply to contracts let by the Administration pursuant to subsection (a) of this section; and

"(iv) which offers subcontracting possibilities;

shall contain a clause requiring each offeror to submit a subcontracting plan in accordance with the provisions of subparagraph (B).

"(B) The clause required pursuant to subparagraph (A) shall—

"(i) require each offeror to submit a subcontracting plan simultaneously with the proposal of the offeror for the contract; and

"(ii) require each offeror to incorporate in such subcontracting plan the information required under paragraph (6).

"(C) The proposal of any offeror which does not include a subcontracting plan shall be considered nonresponsive to the terms of the solicitation for the contract. The subcontracting plan shall be considered an important factor in the selection of the offeror to be awarded the contract. Prior compliance of the offeror with other such subcontracting plans shall be considered by the Federal agency in determining the responsibility of that offeror for the award of the contract. The subcontracting plan of the offeror awarded the contract shall be included in and made a material part of such contract.

"(5)(A) Each solicitation of an offer for a contract to be let by a Federal agency which—

"(i) is to be awarded pursuant to the formal advertising method of procurement;

"(ii) is required to contain the clause stated in paragraph (3) of this subsection;

"(iii) may exceed $1,000,000, in the case of a contract for the construction of any public facility, or $500,000, in the case of all other contracts, except that the provisions of this division shall not apply to contracts let by the Administration pursuant to subsection (a) of this section; and

"(iv) which offers subcontracting possibilities; shall contain a clause requiring each offeror to submit a subcontracting plan in accordance with the provisions of subparagraph (B).

"(B) The clause required pursuant to subparagraph (A) shall—

"(i) require each offeror to submit a subcontracting plan simultaneously with the proposal of the offeror for the contract;

"(ii) contain criteria for such subcontracting plan; and

"(iii) require each offeror to incorporate in such subcontracting plan the information required under paragraph (6).

"(C) The proposal of any offeror which contains a subcontracting plan which does not meet the subcontracting criteria set forth in the solicitation for the contract shall not be considered responsive to the terms of such solicitation. Prior compliance of the offeror with other such subcontracting plans shall be considered by the Federal agency in determining the responsibility of that offeror for the award of the contract. The subcontracting plan of the offeror awarded the contract shall be included in and made a material part of such contract.

"(6) Each subcontracting plan required under paragraphs (4) and (5) shall include—

"(A) percentage goals for the utilization as subcontractors of small businesses and small businesses owned and controlled by the socially and economically disadvantaged;

"(B) the name of an individual within the company of the offeror who will administer the subcontracting program of the company and a description of the duties of such individual;

"(C) a description of the efforts the offeror will take to assure that small businesses and small businesses owned and controlled by the socially and economically disadvantaged will have an equitable opportunity to compete for subcontracts;

"(D) assurances that the offeror will include the clause required by paragraph (2) of this subsection in all subcontracts which offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business concerns) who receive subcontracts in excess of $1,000,000, in the case of a contract for the construction of any public facility, or in excess of $500,000, in the case of all other contracts, to adopt a plan similar to the plan required by this paragraph; and

"(E) assurances that the offeror will submit such periodic reports and cooperate in any studies or surveys as may be required by the Federal agency or the Administration in order to determine the extent of compliance by the offeror with the subcontracting plan.

"(7) The provisions of paragraphs (4), (5), and (6) shall not apply to offerors who are small business concerns.

"(8) In the case of contracts within the provisions of paragraphs (4), (5), and (6), the Administration is authorized to—

"(A) assist Federal agencies and businesses in complying with their responsibilities under the provisions of this subsection, including the formulation of subcontracting plans pursuant to paragraph (4);

"(B) participate in the establishment of criteria by Federal agencies for inclusion in solicitations pursuant to paragraph (5); and

"(C) evaluate compliance with subcontracting plans, either on a contract-by-contract basis, or in the case contractors having multiple contracts, on an aggregate basis.

"(9) At the conclusion of each fiscal year, the Administration shall submit to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives a report on subcontracting plans found acceptable by any Federal agency which the Administration determines do not contain maximum practicable opportunities for small businesses and small businesses owned and operated by socially and economically disadvantaged persons to participate in the performance of contracts described in this subsection.".

On page 57, line 23, strike "Department or agency of the Federal Government, such department or agency" and insert "Federal agency, such agency";

On page 58, line 22, strike "Code; and" and insert "Code, but does not include the United States Postal Service or the General Accounting Office".

Mr. WEICKER. Mr. President, the 1967 report of the Commission on Civil Disorders, commonly referred to as the Kerner Commission, concluded that disadvantaged individuals did not play an integral role in America's free enterprise system because they enjoyed no appreciable ownership of small businesses and did not share in the community redevelopment process. It was therefore recommended that steps be taken to increase the level of business ownership by minorities so that they would have a better opportunity to materially share in the economic system.

Fortunately, our Nation has not experienced in the last 11 years any civil disorders of the magnitude which prompted the creation of the Kerner Commission. Unfortunately, however, we have not taken the steps necessary to fully remedy the underlying causes of orders.

In her testimony before the Senate Select Committee on Small Business, Ernesta Procope, a black businesswoman active in urban affairs, noted that "minorities have come to recognize that government's assurance of some basic level of shelter, nourishment, education and health care does not provide real dignity or the means for social and economic mobility. * * * [T]he key to unlocking a better life must be found in the private sector."

Steps are taken in H.R. 11318 to enable disadvantaged individuals to gain a stake in our free enterprise system. In chapter 1 of title I of the bill, changes are made to ameliorate the present sluggishness of the MESBIC program. MESBIC's are small business investment companies licensed and regulated by the SBA which provide equity capital and long-term debt-small businesses owned and operated by socially and economically disadvantaged individuals. The changes made by this bill will enable MESBIC's to play a greater role in assisting such businesses to grow and compete in our economic system.

Most importantly, in chapters 1 and 2 of title II of this bill the Small Business Committee gives statutory direction to the SBA's 8(a) program to insure that the program develops strong businesses owned by disadvantaged individuals.

Section 8(a) of the Small Business Act presently authorizes the SBA to enter into contracts with Federal procuring agencies or departments for the purchase of articles, equipment, supplies or materials. SBA is empowered to let subcontracts to business concerns to perform such contracts. As a result of the Kerner Commission report, the 8(a) authority has been used since 1968 to channel Federal procurement funds to small businesses owned by "socially or economically disadvantaged" persons. This program was implemented by administrative regulation and has no statutory basis.

The goal of the 8(a) program has been to slowly develop the business abilities of these small businesses with the support of management and technical assistance from SBA's business development specialists. The firm theoretically is to "graduate" into the free enterprise system and compete for regular, non-8(a) business.

However, the envisioned development of small minority businesses has not occurred. A total of 3,726 firms were awarded $2.2 billion in contracts between fiscal year 1968 and fiscal year 1977. Approximately 1,500 businesses are presently participating in the program. In fiscal year 1977, these firms received $53 million in contracts. Reports prepared by the General Accounting Office and investigations conducted by both the executive and legislative branches have disclosed that the 8(a) program has fallen far short of its goal to develop strong and growing disadvantaged small businesses. Only 33 of the more than 3,700 firms which have participated in the program have both completed the 8(a) program and are known to have a positive net worth.

The committee has taken affirmative steps to correct this deficiency. The 8(a) program is given a statutory basis with the goals of developing businesses owned by socially and economically disadvantaged persons and promoting the viability of businesses run by such persons by providing contract, financial, technical and management assistance.

This legislation recognizes the pattern of social and economic discrimination that continues to deprive racial and ethnic minorities of the opportunity to participate fully in the free enterprise system. However, the committee has rejected the language in the House version of the bill which would have instructed the SBA to "presume that socially and economically disadvantaged group members include, but are not limited to, Black Americans and Hispanic Americans." Under the Senate version, although it is expected that the vast majority of 8(a) program participants will come from racial and ethnic minorities, the program will be open to any business owned by persons who meet the socially and economically disadvantaged test.

Because the 8(a) program as presently implemented has resulted in inequitable determinations of eligibility, objective criteria is provided for SBA to use in considering whether an applicant meets the requirements for program eligibility.

Committee hearings have disclosed that one of the key reasons for the high failure rate of the present 8(a) program is the inadequate level of management and technical assistance provided to participants. To remedy this situation, chapter 1 of title II provides for improved management assistance and other business development services for firms eligible to be awarded 8(a) contracts. A small business and capital ownership development program is established. An important part of the program is a special surety bond assistance program which gives 8(a) firms the assistance needed to procure a surety bond. Thus, this chapter provides a legislative design for the business development services of the 8(a) program to insure that the emphasis is placed on the development of 8(a) participants rather than on the quantity of contracts awarded.

Chapter 2 of title I provides for important changes in the surety bond program by setting specific standards under which SBA can deny liability on a bond. These changes will remove some of the operational problems in the surety bond program to make it more attractive to surety companies and thereby ease the bonding problems encountered by small businesses and especially minority small businesses.

I urge my colleagues to adopt H.R. 11318.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I want to first thank the Senator from Connecticut (Mr. WEICKER) for all the excellent work he has done on this measure.

The majority and minority staffs have worked together very carefully and they have, I think, come up with suggestions and changes in the present procedures of SBA and the 8(a) program that will begin, finally, to carry out the original purposes of this program. The purposes have always been noble, but the practices have been, in many cases, very, very poor and have not accomplished the goal envisioned by all of those who have supported the general concept of 8(a).

Mr. President, I ask unanimous consent that Alan Chvotkin, Larry Yuspeh, Allen Neece, Robert Dotchin, and Stanley Twardy of the Committee on Small Business, and Leigh Snell of my staff, have the privilege of the floor during the consideration and votes on this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I rise to to open the discussion on what I believe to be landmark legislation for our Nation's minority small businesses, H.R. 11318. By focusing on the financial, contracting, and management and technical assistance needs of social and economically disadvantaged small businesses, this measure will provide major legislative improvements in all areas of significance to minority economic development.

The House of Representatives passed its version of this omnibus small business legislation earlier this year, and the Senate Small Business Committee, after 7 days of hearings on the various measures included in the bill, and 2 days of markup, reported its version to the full Senate on August 8.

The bill is divided into two titles. The first title contains amendments to the Small Business Investment Act of 1958, and is divided into two chapters. Chapter I lowers the interest rate which section 301(d) SBIC's pay on debentures purchased by SBA. It also lowers the dividend rate on preferred stock purchased by SBA in section 301(d) SBIC's and increases the amount of preferred stock SBA can purchase in a section 301(d) SBIC. The interest rate on debentures and the dividend rate on preferred stock is set at 3 percent. The purpose of these changes is to spur greater activity by section 301(d) SBIC's. Up to now, the 301(d) SBIC's have been relatively inactive, partially because of the uncertain nature of Federal subsidies. The subsidies are increased in this bill to remove the primary reason for sluggishness in the 301(d) SBIC program.

Chapter 2 makes changes in the surety bond guarantee program. The most important change involves the setting of specific standards under which SBA can deny liability on a bond. These changes would permit SBA to deny liability if there is fraud or material misrepresentation on the part of the surety when applying for a bond or for reimbursement for payments made after a breach. SBA could also deny liability if the bond value exceeds $1 million, the program's statutory bonding limit. SBA would be authorized to set performance standards for and further regulate sureties in the program. The purpose of these changes is to remove some operational problems in the surety bond guarantee program and thus make it more attractive to many surety companies.

It is hoped that these changes will result in easing the bonding problems of small business, which, I must add, are among the most difficult problems that small businesses face, particularly our minority small businesses.

The second title amends the Small Business Act, and is divided into three chapters. Chapter 1 provides for improved management assistance and other business development services for firms eligible to be awarded 8(a) contracts. An important element of this improved assistance is the small business and capital ownership development program. The purpose of this chapter is to provide a legislative design for the business development services of SBA's 8(a) program so as to insure that the emphasis is placed on business development rather than the mere awarding of 8(a) contracts.

Chapter 2 amends section 8(a) to specify that this authority shall be used only for the development of businesses owned by socially and economically disadvantaged persons. Additionally, it recognizes that small businesses owned by racial and ethnic minorities especially need the assistance that the 8(a) program provides and also implies that many 8(a) program participants probably will come from racial and ethnic minority groups. An eligibility standard of "social and economic" disadvantage is established for 8(a). The purpose of this chapter is to clarify which groups and persons may be eligible to receive assistance under 8(a).

Chapter 3 expands subcontracting opportunities for small businesses and businesses owned by socially and economically disadvantaged persons by requiring formal subcontracting plans, which will become part of all final Federal contracts. The purpose of this chapter is to increase the dollar volume of small business subcontracts on Federal contracts and generally to improve the

Federal contracting environment for small businesses.

Mr. President, I believe that the most significant portions of this measure are those that are designed to improve the performance of the Small Business Administration's section 8(a) minority business development program. According to SBA's own data, since fiscal year 1968, $2.2 billion in contracts has been let through the 8(a) program to 3,726 participating firms. Of those 3,726 firms, only 149 have ever "graduated" from the program. A search by SBA has located only 67 companies of the 149. Of the 67, Dun & Bradstreet had financial information on 41; and of the 41 firms, 5 were bankrupt, 2 were in precarious financial position, and only 33 showed a positive net worth.

These figures standing alone clearly indicate that there are fundamental problems with the present 8(A) program. An internal audit by SBA, along with a review conducted by the General Accounting Office, have substantiated this conclusion. Thorough investigations of the program by Congress have also revealed serious abuses in addition to general program failure. After hearings before the committee, 2 days of which I chaired, we found that one of the key reasons for the high failure rate is the inadequate level of management and technical assistance supplied by business development specialists and other SBA programs to 8(A) firms.

SBA itself admits that the 8(A) program historically has been focused too heavily on the simple act of getting as many contracts as possible to small socially and economically disadvantaged firms, regardless of their long range potential viability as stable businesses at the end of the contracting or graduation period. SBA realized to its credit in 1974 that the volume of contract activity was not a valid measure of the 8(A) programs achievement. The SBA's 8(A) Review Board report to SBA Administrators Weaver in January of 1978 noted:

> The true measure of success, the number of firms assisted by the program to achieve a competitive position in the economy, was recognized, to the extent that it was not occurring.

However, the change in emphasis from simple dollar volume of contracts to business development has, by SBA's own admission, been "more theoretical than real." SBA cites inadequate resources both in the number of personnel and in the program budget as the underlying reasons. For example, although the dollar volume of contracts let through the 8(A) program has grown from $321 million in 1975 to $538 million in 1977, the business development staff has grown by only 3 persons, from 166 to 169.

In this same light, the GAO report, "Ways to Increase the Number, Type, and Timeliness of 8(A) Procurement Contracts," issued in February 1978, notes that in San Francisco, the 8(A) program's development specialist (BDS) was responsible for a caseload of 72 firms, and in Los Angeles, the business development specialists had a 77-firm caseload. GAO found:

BDS's do not have the time to contact procuring agencies to obtain 8(A) contracts or to acquaint contracting officers with the capabilities of 8(A) firms enrolled in the program. They also did not have time to visit 8(A) firms to assess their capabilities and needs for management assistance or to follow up on recommendations that might have been made by providers of management assistance.

I firmly believe that any responsible effort to correct this dismal record must focus on the business development function of the 8(A) program. I therefore introduced S. 3179 on June 7 of this year to create a small business and capital ownership development program within SBA, and to make other changes in SBA's existing management assistance programs for disadvantaged small businesses. I am pleased that the Senate Small Business Committee agreed with the need for this emphasis on management and technical assistance, and has included S. 3179 as chapter I of title II of H.R. 11318, as reported to the full Senate. By amending section 7(J) of the Small Business Act, the committee intends to provide, for the first time, a legislative base for business development for the 8(A) program, to overcome abuse, and to create a more efficient and productive program.

The most important change resulting from these amendments to section 7(j) is a new section which would be added to section 7(j), creating a small business and capital ownership development program. This program would provide full-service management and technical assistance exclusively to firms eligible to receive contracts through the 8(a) program, and would be the first such effort to be legislatively based and structured. While there are general management and technical assistance programs presently available for minorities, such as those provided by the Office of Minority Business Enterprise within the Department of Commerce, they are not specifically targeted, nor do they provide the kind of 1-to-1 assistance required in this bill. It is essential to the future success of the 8(a) program that SBA adequately provide its client firms with those development tools necessary to create viable minority enterprises.

The director of the new program is to be appointed by the President and confirmed by the Senate. This is a necessary requirement in order to elevate the importance of this program as well as provide for the highest possible commitment from the executive branch to minority business development.

Basically, the services to be provided through this new program are general management and technical assistance, including the development of business plans, loan packaging, financial assistance, and assistance in obtaining equity and debt flanding. Through the use of existing "call contracting" authority combined with other development assistance tools such as the SCORE and ACE program, the Small Business Institute and the Small Business Development Center program, 8(a) contractors will begin to receive the intensive, professional management and technical assistance which have been so sorely lacking, and without which the sole-source contracting authority cannot be effective in developing viable small businesses owned by socially and economically disadvantaged persons.

In addition, provisions are made to help insure proper monitoring of the advancement of firms participating in the program. At the present time, SBA is not adequately aware of the business condition of 8(a) participants from the time they enter the program or at any time thereafter.

One important aspect of this legislation that I think we ought to discuss for just a moment is surety bonding.

Surety bonding is another major problem that hinders the development of minority business. At some point, 8(a) firms are supposed to exist without 8(a) contracts. If they have never received a surety bond or have not had to deal with the requirement for doing so, their chances of being able to obtain such bonding, once outside the program, will be very slim. In a sense, they will be like a prospective borrower with no credit rating developed through a history of business dealings.

Mr. President, at this point I stress my very strong objections to the House measure in this area. The House bill would allow the SBA to waive all bonding requirements for firms receiving contracts pursuant to section 8(a). The 8(a) program is supposed to be a program that develops disadvantaged small business to a point where they can compete with any other business in this country without the protective umbrella available through the myriad programs that come under the rubric "8(a)." I cannot understand how any firm will ever reach that point unless it can be bonded by the private sector. Additionally, we can only be unnecessarily delaying a firm's entry into the free enterprise system by not requiring it to meet the same requirements that it will be forced to face once operating outside the sheltered, sole-source environment offered by 8(a).

Our Senate approach takes a very different view of this. We believe that the minority firms very definitely need assistance, but we do not believe the bonding requirements should be waived altogether. In the long run, we believe this will be very detrimental to the very minority firms we are trying to assist.

Mr. President, it is overly simplistic to attempt to reach a solution to a problem by merely exempting any person or group from having to confront, and deal with, that problem. Clearly, removing the requirement of bonding also removes the bonding problem. However, the problem is only removed in this very limited sense, and not only is it not solved generally—it is vastly compounded.

I fully recognize the significant problems that disadvantaged firms face in attempting to qualify for private-sector bonding. I firmly believe, therefore, that any comprehensive assistance for the development of disadvantaged businesses must include a means of helping these firms with the problems of bonding, as well as assistance in procuring bonds

from the private sector. Furthermore, the surety bond industry needs to be made more sensitive to the needs of disadvantaged firms so that they will be more willing to deal with them. In an attempt, therefore, to improve the bonding environment for minority firms, this bill makes two important changes in existing law.

The first involves a significant broadening of SBA's surety bond guarantee program. The surety bond guarantee program was inaugurated in 1971 and since then has enabled small businesses to participate in construction and service contracts in both the public and private sector which otherwise would not have been attainable. As a result of the growth of the surety bond guarantee program, several problems in the relationship between SBA and participating sureties have arisen.

From testimony received in hearings over the past 4 years, the committee has determined the need for legislative clarification of several aspects of the program. There have been over 100 surety companies participating in the program with less than ten of these writing the greatest majority of the bonds. In fact, 2 of the 10 currently write over 70 percent of the bonds.

These data indicate that the surety bond guarantee program is not utilized, for the most part, by our Nation's leading surety companies. The program cannot succeed in providing bonds for our higher-risk small businesses unless it is far more broadly utilized by the entire private sector bonding community.

In order to achieve this broader participation by bonding companies, the committee adopted, in chapter II of title I, key changes in the surety bond guarantee program, all of which have the full support of the Carter administration.

The bill broadens the definition of surety to include agents, underwriters, or any other company or individual that is empowered to act by and on behalf of the surety. Under this definition, the surety will be held responsible for the actions of the attorney in fact or other subsequent entity who is empowered to act on behalf of the surety once the bond is issued. The attorney in fact or entity empowered to act on behalf of the surety is expected to exercise due diligence in relying on the information supplied by the independent agent.

Measures to expedite the handling of the increased volume of bonds being issued under the program have also been included. Where its experience with a particular surety warrants, SBA may enter into a contract with that surety whereby the surety is given blanket coverage for bonds it issues as opposed to having the SBA approve each bond application on a case-by-case basis. The terms of these contracts may vary from surety to surety depending on the SBA's experience with the particular surety.

Under some circumstances it is prudent to expend funds to prevent a principal from breaching the terms of a bond. Under these amendments SBA will be empowered to reimburse a surety for funds expended to prevent a breach when a breach is imminent and it appears to be the reasonable course of action. It is anticipated that payments to prevent an imminent breach would not exceed a certain percentage of the bond amount, for example, 10 to 15 percent.

These amendments empower SBA to establish and review regulations for participating sureties. While the market served by the surety bond program is not the "standard" private sector market, these regulations will be aimed at establishing proper guidelines for activity within the confines of the surety bond guarantee program.

In discussions between SBA and participating sureties, the latter have expressed concern over possible denials of liability by SBA. While there have been very few such denials, there have been a larger number of inquiries that could possibly have led to a denial by SBA. Therefore it was felt necessary to explicitly state the grounds upon which SBA can deny liability. There are two reasons for denial of liability set forth in the legislation: First, if the surety obtained the guarantee or applied for a reimbursement by fraud or material misrepresentation, or second, if the total contract amount at the time of execution of the bond or bonds exceeds $1 million.

Another problem involves delays in SBA reimbursing sureties under the guarantee program. Current practice is for SBA to pay claims within 90 days of submission. This can cause cash flow problems for some surety companies when a large number of claims are outstanding. Part of SBA's problem has been an inadequate claims staff. SBA feels that the addition of 10 staff people will relieve this problem. However, if this extra staffing does not adequately relieve the sureties' cash flow problem, these amendments empower SBA to make advance reimbursement payments to sureties. The payment would be based on historical losses incurred by the surety in the SBA surety bond guarantee program. Also, SBA would adjust total payments to the surety upon finalization of the claim.

Senator BARTLETT has done an enormous amount of work in this area. I know he will have remarks to be submitted for the record if he is not here this morning. He has been very concerned in this area and much of the content of this bill has come from the suggestions of Senator BARTLETT in terms of the surety bond program.

The second major change in existing law is contained in the amendments to section 7(j) of the Small Business Act, to provide complete management services to 8(a) participants. These services include assistance in the preparation of application forms, assistance designed to meet the specific needs of firms applying for bonds, and assistance in preparation of all forms necessary to receive an SBA surety bond guarantee. This approach, once again, will be much more beneficial in the long run to disadvantaged small businesses than would an attempt to create an artificial environment through bond waivers, an approach which ignores the ultimate demands of the private sector in the bonding area.

Furthermore, I am concerned that providing a waiver may subvert the all-important business development thrust of the 8(a) program. That is, if an 8(a) client cannot get a bond with the special assistance that the broad changes in the surety bond guarantee program provided in title I afford, and that the special surety bonding management assistance program of title II creates, then I would argue that the contract for which bonding was sought is beyond the capability of the 8(a) firm. To allow the award of such a contract by means of a waiver of the bonding requirement flys in the face of this committee's firm mandate to use the sole-source contract as a business development tool. Once again, I fear we would be signaling our willingness to continue to measure the success of the 8(a) program, and minority business development in general, not by how many viable businesses are developed, but simply by how many contract dollars are let through it.

Mr. President, the last area of major significance that I want to stress to my colleagues involves the rules governing eligibility for assistance under section 8(a) of the Small Business Act. To some, this eligibility question is more important than any other aspect of the overall bill. Personally, I do not share that view. I have always believed that the first task that we must accomplish is a total reform and restructuring of the 8(a) program. As my distinguished chairman, Senator NELSON, has said, the present 8(a) program is a program for business failure, not success.

This view, I believe, is shared by Senator BARTLETT, Senator CHILES, and others who have examined the program's past operations. In this regard it is not at all clear whether being eligible for the present 8(a) program is something that should be pursued by any individual truly interested in developing a viable private sector business. My sincere hope is that the changes made in this bill we are discussing here today will create a program that is worthy of the people who need the assistance that it should already be offering.

However the House-passed version of H.R. 11318 has as its centerpiece the definition of 8(a) eligibility. I must take strong exception to this House approach.

Section 202 of the House-passed bill amends section 8(a) of the Small Business Act to authorize SBA to enter into procurement contracts with other Federal agencies, and then subcontract the work to small business concerns owned and controlled by "socially and economically disadvantaged" persons. That section further provides that SBA "shall presume that socially and economically disadvantaged groups and group members include, but are not limited to, black Americans and Hispanic Americans." The presumption created by section 202 of the House bill may be rebutted if SBA finds "substantial evidence" that individual blacks and Hispanic entrepreneurs have not experienced impediments to establishing, maintaining, or expanding a small business concern as a result of being a black or Hispanic.

Although this presumption can be rebutted on this rather general ground, it would be most difficult for SBA to do so. Even if a person from one of these groups was financially well off, he or she could apply for inclusion, claiming that even though financially well off, he or she would be that much better off if not for being a member of either presumed group. Under this rule, how can SBA tell even a successful black or Hispanic businessman that he has not suffered any impediment in establishing, maintaining, or expanding his small business due to his ethnic status? Making such a determination to rebut would be most difficult for SBA. And if SBA decided to rebut under this rule, litigation could very well follow.

Our bill has taken a different approach in this regard. I believe that this presumption, therefore, is effective incapable of being rebutted. For this reason, virtually every black and Hispanic who owns a small business, or intends to start, one would be eligible for assistance under the 8(a) program. However, there are no guidelines to assist SBA in determining who among these two large groups of potentially eligible firms could fill the thousand or so available spaces in the 8(a) program. Does the House simply intend it to be on a first-come, first-serve basis? If so, this does not at all agree with my view that the 8(a) program is for business development.

Furthermore, the presumption created by the House bill would allow businesses that are already very strong, and competitive in the private sector, to be eligible to receive 8(a) contracts. This means that wealthy, successful blacks and Hispanics will automatically be entitled to a share of the 8(a) "pie." Mr. President, the 8(a) "pie" is limited. To the extent that those who can compete in the free enterprise system, and can effectively secure management and technical assistance on their own, are drawing off portions of the 8(a) resources, those minorities who need this assistance the most will have their share diluted, and perhaps, in some cases, even deleted. We must not let this happen. We must not allow the 8(a) program to simply be a "rich-get-richer, poor-get-poorer" program.

Finally, I believe philosophically, and the Small Business Committee unanimously agreed, that all Americans regardless of race, sex, creed, or national origin, if deemed to be socially and economically disadvantaged on a case-by-case basis by SBA, should be permitted to receive assistance under this program. H.R. 11318, as reported by the Senate, is also based on this belief. Although it is expected that, as under the present 8(A) program, the majority of qualifying firms will be those owned and operated by racial and ethnic minorities, the program under the Senate version we are presenting today, will be open to any business owned by persons who meet the socially and economically disadvantaged test.

Because the 8(A) program, as presently implemented, has resulted in inequitable determinations of eligibility, the committee provides objective criteria for SBA to use in considering whether an applicant meets the requirements for program eligibility. In determining whether an applicant, who is starting a small business, meets the "economic disadvantage" criterion, the SBA should consider, among other things, the liquid net assets owned by the applicant as compared to the capital generally required to start a business in the industry in question. For existing small business concerns, the SBA should consider, among other things, the position of the business relative to other businesses in the same industry and the liquid net assets owned by the individual based on the capital generally required to maintain and expand the small business in the industry. In its determination of "social disadvantage," the SBA is directed to take into account the question of whether the owner or owners of the applicant firm have been deprived of the opportunity to develop and maintain a competitive position in the economy due to cultural bias, general economic deprivation or other similar causes.

In addition, particularly as it relates to the economic status of the applicant, the SBA shall develop standards, along major industry lines, which recognize the historic past discrimination of minorities as a group in their efforts to participate in the free enterprise system. The standards must not deny admission to the 8(A) program to minority applicants merely because they have managed to accumulate savings, acquire a quality education, or have accumulated other assets (such as homes, cars, et cetera), which they may or may not be able to utilize as collateral to launch or sustain a business operation. Indeed, such assets may be a prerequisite for the development of a viable business. Nor shall past or present employment be used as criteria for denial of a minority applicant's admission to the program. Minority applicants who have managed in this manner to prepare themselves to successfully participate in the free enterprise system should not be denied admission to the 8(A) program for business development for having done so. However, the mere fact that the applicant is a member of a racial or ethnic minority will not, by itself, satisfy the eligibility requirement of economic disadvantage.

Mr. President, I want to stress again, without getting into the details and complexities of this legislation, that, unless a case-by-case determination can be made as to which firms shall be certified for the specialized assistance available under this program, it will be impossible for it to maintain its development focus.

In my opinion, if it does not begin to have a real development focus, this bill and this approach will not be politically sustainable over the long run in providing help to many firms that are socially and economically disadvantaged, including many minority firms.

For this reason, the Senate bill directs the SBA to make a determination that there is a prospect for success in the private sector before a firm can be certified for the 8(a) program. Furthermore, SBA must, in providing 8(a) contracts, satisfy itself that such assistance will promote the competitive viability of the small business participant within a reasonable period of time. It is most important that this program be used as a development tool, with the understanding that, to be effective in broadening capital ownership, the program must have as its ultimate goal the survival and growth of small businesses within the competitive free enterprise system. If a firm can never succeed on its own without 8(a) contracts, it not only would be a cruel hoax on the firm itself, but it would also be a waste of valuable resources which could be applied to other businesses, which eventually could be successful.

Mr. President, as has been shown, H.R. 11318 as reported to the full Senate is a comprehensive legislative restructuring of the overall minority small business assistance programs of the Federal Government. As such, it is sorely needed and long overdue. While I realize that there are significant differences between the Senate and the House versions of this legislation, I believe that these differences can be reconciled in conference, and that the 95th Congress can go on record in strong support of minority economic development.

Our committee was told in testimony by the National Association of Black Manufacturers that—

> Any permanent economic gains made by Black people in this country will come about as a result of . . . sharing in the free enterprise system as business owners.

I could not agree more. I believe that this applies to all socially and economically disadvantaged groups, and I urge my colleagues to adopt this bill.

Mr President, I ask unanimous consent that a statement by Senator HATHAWAY on this bill be printed in the RECORD at this point

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HATHAWAY

I would like to make a brief statement on this important measure, H.R. 11318, an Act to amend the Small Business Act and the Small Business Investment Act of 1958.

I would like to commend the distinguished chairman of the Small Business Committee, Senator Gaylord Nelson, for his customary outstanding leadership on this bill in the committee.

My distinguished colleague, Senator Sam Nunn, has made important contributions to this bill, and is to be commended for his able leadership on the bill today. Among the other members of the committee, Senator Weicker, the ranking minority member, and Senator Bartlett have both made important legislative contributions.

I would like to focus my remarks today on Title II, Chapter 3. This chapter is derived from S. 2259, the Small Business Procurement Expansion and Simplification Act of 1977. Senator Nelson and I introduced this bill on October 26, 1977, and I chaired the two hearings on it, on February 7 and April 18, 1978.

The purpose of that bill is to reemphasize and enhance our national policy that promotes opportunities for small firms to do business with the Federal government. It would help counteract the seeming reluctance of many procuring agencies to do business with smaller firms and to turn around the "bigger is better" syndrome in government procurement. It would allow

smaller firms to come into their own as providers of the goods and services needed to run the Federal government.

At the first hearing, on February 7, 1978, the three witnesses included two small business people from Maine and the leading small business association in New England.

Mr. Walter Lachman, chairman of the board of Fiber Materials, Inc., of Biddeford, Maine, expressed the complaint that many small business people are losing faith in the government as a customer. He urged Congressional action to assist small business in this area, because the present system relies too much on the good faith of the prime contractor. Mr. Lachman stated that—

"The Government, particularly the Department of Defense has delegated this authority and responsibility and does not care to maintain any awareness of this responsibility. Therefore, the prime contractor is going to behave in a fashion that is customary to the free enterprise system, and the Government itself is ignoring monitoring the program for small business within that particular system."

Mr. Paul LaHage, President of Hague International of South Portland, Maine stressed the need for simplification of the procurement process.

Mr. William Anderson, President of the Smaller Business Association of New England, presented the statement of Lola Dickinson, chairman of SBANE's government procurement committee. SBANE highlighted the bill's requirement of goals for small business in the procurement process.

The bill has been considerably changed in the legislative process, primarily by joining it with the House's provisions on a subcontracting program for socially and economically disadvantaged persons, by reducing the SBA's role in relation with the procuring agencies and by making the subcontracting program less rigid.

I am confident, nevertheless, that this measure constitutes a major improvement in the position of small business in government contracts.

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. NUNN. Mr. President, I ask unanimous consent that the amendments of the Committee on Small Business and the amendments of the Committee on Governmental Affairs thereto be considered as original text for the purpose of further amendment, and that they be accepted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I ask unanimous consent that a statement by Senator HEINZ be printed at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HEINZ

Today I rise in support of H.R. 11318 as reported by both the Senate Select Committee on Small Business and my own committee, the Senate Governmental Affairs Committee. I believe this legislation is a landmark in our efforts to encourage small and minority businesses. The bill, if enacted into law would significantly expand and improve our efforts to insure that small businesses and businesses owned by disadvantaged individuals continue to thrive and prosper.

I would especially like to address the provisions of the bill which the Governmental Affairs Subcommittee on Federal Spending Practices particularly reviewed. Chapter 3 of Title II of H.R. 11318 is based on the federal government's long-standing policy of providing small businesses with its "fair share" of government procurement. The value of small business in fulfilling the procurement needs of the federal government have long been recognized. The Small Business Act states so eloquently that:

The essence of the American economic system of private enterprise is free competition . . . The preservation and expansion of such competition is basic not only to the economic well-being, but to the security of this Nation. Such security and well-being cannot be realized unless the actual and potential capacity of small business is encouraged and developed.

As reported by the Governmental Affairs Committee, H.R. 11318 will go a long way toward realizing that goal.

Chapter 3 of Title II of H.R. 11318 provides some important new mechanisms to ensure that small businesses obtain their "fair share" of government contracts and subcontracts. It requires that federal agencies establish realistic goals for the participation by small business concerns in contracts of more than $10,000 in value. These goals must be established in consultation with the Small Business Administration, however, which is a significant advantage over the present system. Today, agencies can establish goals without the benefit of the government's major advocate for small business.

The bill also establishes Offices of Small Business Utilization in each federal agency. The directors of such offices will be primarily responsible for carrying out the policies of this bill within each agency. These directors and the Procurement Specialists in each agency will serve to focus procurement efforts on small businesses. This is essential if federal agencies are to recognize and fulfill their crucial role in ensuring small business's fair share of procurement.

But the most significant provision in this bill is the one which requires large contractors to provide the maximum practicable opportunity for subcontracts to small businesses and businesses owned by the disadvantaged. The ramifications of this provision are so significant that it could be the single most important law in this area.

Because of its significance and its effect on the procurement system as a whole, I would like to commend Senator Chiles for his efforts. His concerns were what is best for small and minority business; and what is good procurement policy. These two concepts were not easily reconciled. But I believe the amendment to H.R. 11318 reported by the Governmental Affairs Committee could be no better. Within the context of good procurement policy, I am confident the committee amendment will ensure that small and minority contractors obtain the maximum practicable opportunity for subcontracting.

H.R. 11318 is important, is timely and should be passed and enacted into law.

MINORITY BUSINESS CONTRACTING OPPORTUNITIES

● Mr. GLENN. Mr. President, earlier today the Senate passed H.R. 11318 which contains several vitally important provisions that I cosponsored which should significantly improve minority business investment opportunities.

On September 14, the Wall Street Journal printed a particularly informative article on contract opportunities for minorities. As the article indicates, there is still a long way to go to move minorities into the Nation's economic mainstream. Minorities only own 4 percent of the Nation's businesses and account for less than 1 percent of total business receipts. The administration has pledged to triple Federal procurements to minorities by 1979 and I strongly support that objective. I hope that we will see committed and aggressive action by the Federal agencies whose responsibility it is to carry out that pledge.

I ask that the Journal article be printed in the RECORD.

The article follows:

[From the Wall Street Journal, Sept. 14, 1978]

MINORITY-GROUP FIRMS GET MORE SUBCONTRACTS UNDER FEDERAL PROJECTS

(By David Gumpert)

For six years, 53-year-old Manuel Rodrigues struggled to build his Fort Lauderdale, Fla., plastic-parts firm. During the 1974–75 recession, the company nearly failed. Even when business gradually improved, Mr. Rodrigues and his wife routinely slept at the small plant to be able to put in extra-long hours.

This year, though, Mr. Rodrigues got a big break. His firm received a federally funded $2.4 million subcontract over the next 2½ years to make plastic components for concrete railroad ties to be used to upgrade the Northeast rail corridor. The order will increase his volume to more than $1 million annually from about $300,000 last year. Already he has moved to a building with triple his former space and has quadrupled his work force to about 20 employes.

Mr. Rodrigues's break stemmed from an unlikely source—his Cuban ancestry. The Department of Transportation, in dispensing $1.75 billion of rail-revitalization funds, has set a goal that 15% or more of the money be directed to companies owned by blacks, Hispanics and other racial minorities. Thus the Rodrigues subcontract was awarded by a contractor—a joint venture between San-Vel Concrete Corp., Littleton, Mass., and a division of Santa Fe International Corp., Orange, Calif.—that had pledged to find minority subcontractors as a condition of its own contract.

SIGNIFICANT UPTURN

Such goals and pledges are fast increasing the federal money going to minority businesses. Although the idea of expanding minority jobs and strengthening minority communities has been around since the late 1960s, only in the past couple of years have significant federal orders been awarded.

As a result, "market opportunities for minority firms have increased," says John Gloster, president of Opportunity Funding Corp., a Washington, D.C., venture-capital firm that aids minority businesses. In a few cases, he adds, the money has poured in so rapidly that minority firms have run into difficulties from expanding too fast.

The exact amount of federal money involved isn't known, but it appears to be well over $1 billion a year and growing fast. In the fiscal year ended last Sept. 30, about $1.2 billion of a total of approximately $75 billion of federal procurements went to minority businesses. That share is up from $807 million two years earlier, according to the Office of Minority Business Enterprise, a Commerce Department agency that encourages increased spending with minority businesses. (The proportion of additional billions of dollars of federal grants, public-works projects and other federal spending going to minority businesses isn't known, although an official of the Office of Minority Business Enterprise terms the amount "very small.")

BAKKE CASE DISCOUNTED

Moreover, government officials and representatives of minor business groups don't expect the Supreme Court's recent Bakke decision to change the trend. In the Bakke case, the high court expressed disapproval of arbitrary quotas favoring minorities but backed affirmative-action programs in general in ruling that a white applicant to the University of California at Davis Medical School was unjustly denied admission because of a minority-recruitment program. Government and minority-group representatives contend that the federal spending programs aiding minority businesses aren't arbitrary because the programs are based on provable past discrimination. They also argue that the programs aren't rigid but rather allow flexibility based on the availability of minority companies in different geographical areas and among different industries.

Government spending with minority firms has been increased in several ways. A Commerce Department public works program that dispensed $4 billion this fiscal year included a requirement that at least 10%, or $400 million, of contracts go to minority firms. Apparently the minority share actually was closer to $600 million, according to a Commerce Department official.

At least one heavy-spending federal agency, the Department of Transportation, has attempted on its own to increase spending with minority businesses. It adopted the 15% minority-spending goal for the recently started Northeast corridor project. In addition, since last year the agency's Urban Mass Transportation Secretary Brock Adams requires the department's other agencies to set up minority-spending programs even if "this may result in some increased cost."

MORE EFFORTS SLATED

Such efforts are due to proliferate. President Carter has called for a tripling by the end of fiscal 1979 of the $1.2 billion of federal procurements from minority firms last year. Consequently, several agencies are said to be reexamining their procurement practices. The Department of the Interior, for instance, is contemplating a goal that 20% of its spending be with minority firms.

In addition, a proposal currently before Congress would strengthen the government's ability to encourage minority-business subcontracting by requiring winners of contracts exceeding $1 million for construction and $500,000 for other purposes to work out a plan for such subcontracts before the contracts are awarded. Under current law, federal contractors must simply show, after contracts are completed, that the contractors did their best to find minority subcontractors.

Many minority-business leaders and government officials say that as impressive as the government's efforts might sound, minority firms still have a long way to go. According to most government estimates, the country's 17% minority population controls 4% of the nation's businesses, and these firms account for less than 1% of total business receipts.

The increased government funding "is admirable, but we're still excluded from the American economic system," says Berkeley G Burrell, president of the National Business League, a minority-business trade group. "Government has a responsibility to lead the way" in increasing purchases from minority firms, he contends.

Some observers complain that the increase in government money available to minority firms has encouraged whites to create companies with minority officers posing as owners. The incidence of such bogus firms receiving federal contracts isn't known, but Rep. Parren Mitchell of Maryland recently warned the Justice Department that the government's "new initiatives (to aid minority companies) could be blunted by the creation of 'minority-front firms.'" He urged the department to prosecute organizers of such companies.

NOTICEABLE IMPACT

Whatever the shortcomings of the federal spending effort, its effects are becoming apparent. Take the case of Paul James, the black owner of a Boston electrical contracting firm. The federal program has helped him organize what he believes is New England's first minority-owned engineering firm specializing in heavy construction. Last year his new engineering firm received an initial subcontract worth slightly more than $5 million over 2½ years from a large construction concern, Peter Kiewit Sons' Co., to help relocate a Boston subway line.

The Omaha company sought out Mr. James to fulfill the Massachusetts Bay Transportation Authority's requirement that at least 30% of the subcontracting go to minority firms. The MBTA had adopted the provision partly to satisfy the Transportation Department's Urban Mass Transportation Administration and obtain federal funds for the project. (Mr. James's electric contracting firm won a $750,000 subcontract from Kiewit under the same MBTA contract.)

In another case, the black owner of a Durham, N.C., security-guard firm credits the government with helping him expand. Six years ago, his fledgling company received a $150,000 contract from the Environmental Protection Administration through a Small Business Administration program to direct federal contracts to minority firms. That initial contract "really got us started and got our foot in the door" with federal agencies, says Guy Rankin, owner of Rankin Security Service Corp. Today the company does $3 million of business annually, of which about 80% comes from federal agencies.

BENEFITS AND PITFALLS

Of course, any effort to alter spending patterns entails both benefits and pitfalls. Both are obvious in the Santa Fe/San-Vel project. The joint venture won the $38 million, 2½-year rail-tie contract (with an option for $10 million more if Congress allocates the money) by offering the lowest bid and also promising to subcontract 40% of the work to minority firms. Senate Fe/San-Vel set aside more than the Transportation Department's 15% goal because two competing joint ventures had minority firms as principals, C. C. Williams, Santa Fe/San-Vel project director, says.

Subcontracts let by Santa Fe/San-Vel have revived some financially troubled minority firms. For instance, Washburn Wire Products Inc. in New York's Harlem was operating under bankruptcy proceedings and was due to be closed by its white owners when it was purchased a year ago by Harlem Commonwealth Council Inc., a federally funded, black and Hispanic community-developed organization. Earlier this year, Washburn Wire received an $8 million Santa Fe/San-Vel subcontract—a "windfall" that quickly enabled Washburn Wire to reach break-even, a Harlem Commonwealth spokesman says. In addition, Washburn has increased its employes to nearly 200 from 31 a year ago, with about a third of them minority-group members, he says.

Similarly, a minority-owned, Dewey, Okla., foundry that had been operating at a loss the past two years because it wasn't using its capacity fully is expected to become profitable this year, thanks to a $3.9 million subcontract from Santa Fe/San-Vel. The subcontract "is the shot in the arm we needed," says Ray Bryant, a black New York business consultant who bought Blue Stem Foundry from a Mexican-American family at the same time the company obtained the order. Mr. Bryant expects the firm to increase employment about 25% probably to double its previous $1.5 million of annual revenue.

A CASE OF TROUBLE

But winning such high-stakes contracts can cause trouble for small minority firms. A Cambridge, Mass., moving and rigging company owned by a black family for 51 years found that out earlier this year when it appeared to have won a $1.4 million Santa Fe/San-Vel subcontract to ship the rail ties. For the firm, Henry F. Owens Inc., the subcontract represented a huge addition to its previous $600,000 of annual revenue.

To fill the subcontract, the firm ordered new tractors and trailers that would have approximately doubled its fleet. But in June, Santa Fe/San-Vel suddenly decided to ship the ties by rail because of a court order stemming from the opposition of several Boston suburbs that didn't want the ties hauled through them. Santa Fe/San-Vel says it is trying to award a smaller project to the Cambridge firm, but meanwhile the new equipment will have to be returned.

The whole situation has turned into "an unbelievable nightmare and headache," Edward Owens, the trucker's general manager, says. "You hear so much about what the government is doing for minorities," he says. But his experience, he adds, is that "nobody cares. What happens to the little guy is that the big guy walks all over him."

DIFFICULT HUNT

Santa Fe/San-Vel itself says it has had its own problems. Its prime difficulty—one that has troubled other white contractors—has been to find minority contractors with the experience and capacity to do the job. For instance, the venture spent six months searching for a minority-owned foundry before it discovered Blue Stem in Oklahoma.

"It's been very time-consuming to find minority firms and structure subcontracts and provide technical help" to suit each one, Mr. Williams, the project director, says. Dealing with minority firms sometimes untested in making a particular product also poses "enormous" risks, he says, because delays will cost Santa Fe/San-Vel $20,000 a week under a penalty clause.

Mr. Williams concedes that without government pressure to find minority subcontractors, the venture probably would have "taken the easy way out and gone to the large corporations around the corner." But the experience of finding and working with minority firms has "been very gratifying," he says. "The real bottom line is when this job is over and each of the minority firms we've worked with has the residual value of the experience to go on in business," he adds.●

UP AMENDMENT NO. 1832

(Purpose: To amend the subcontracting provisions in the amendment of the Committee on Governmental Affairs)

Mr. NUNN. Mr. President, on behalf of Senator HATHAWAY and myself, I send to the desk amendments and ask unanimous consent they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the amendments.

The assistant legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN), for himself and Senator HATHAWAY, proposes unprinted amendment numbered 1832.

Mr. NUNN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 52, strike lines 22 through 24 and insert in lieu thereof:

"(i) require each offeror who submits a proposal for the contract within the competitive range to submit a subcontracting plan; and"

On page 54, line 1, strike all through the phrase "tion." on line 19, and insert in lieu thereof the following:

"(iv) offers subcontracting possibilities:

shall contain a clause requiring any bidder who is selected to be awarded a contract to submit to the Federal agency concerned a subcontracting plan which incorporates the information prescribed in paragraph (6).

"(B) If the bidder selected to be awarded the contract fails to submit, within the time limit prescribed in regulations of the Federal agency concerned, the subcontracting plan required by this paragraph, such bidder shall become ineligible to be awarded the contract.".

On page 56, line 15, strike out all through line 17 and insert in lieu thereof the following:

"(B) review any solicitation for any contract to be let pursuant to paragraphs (4) and (5) to determine the maximum practicable opportunity for small businesses and small businesses owned and operated by socially and economically disadvantaged persons to participate as subcontractors in the performance of any contract resulting from any solicitation, and to submit its findings, which shall be advisory in nature, to the appropriate Federal agency; and".

Mr. NUNN. Mr. President, I want to first of all say that I agree with those who stress the need for increased small business subcontracting on Federal prime contracts. Small businesses are not getting their fair share of the Federal contract dollar. I, therefore, want to commend Senator HATHAWAY for his excellent work in addressing this important need of our small business community.

I also want to congratulate Senator CHILES and Senator HEINZ for the time and effort they have applied to this complex problem, and for their diligent work on chapter 3 of title II of H.R. 11318 that was sequentially referred to the Committee on Governmental Affairs.

I must point out that I believe the approach adopted in the House version of H.R. 11318 to increase small business's Federal subcontracting share is flawed seriously. The subcontracting plans required by the House bill will surely create an unnecessarily large paperwork burden for Federal prime contractors.

More importantly, the House bill could cause substantial and potentially dangerous delays in Federal procurement. Specifically, the House version allows SBA to delay the award of any Federal prime contract pending consideration of its views on subcontracting plans offered by Federal prime contractors. The Defense Department has testified that such powers vested in SBA would tend to tie up its procurement processes substantially. I share the Defense Department's concern.

Often, in zealous pursuit of a positive goal, solutions are developed and implemented that create new problems greater than the ones they ostensibly solved. The House subcontracting measures come very close to falling into the above category.

I believe that the subcontracting measures being considered by the Senate today are more sensible and remove almost all of the problems that the cumbersome House measures would create. Specifically, the SBA will not be allowed to delay or prevent the ward of any Federal contract based on the quality of a subcontracting plan. However, I still have some reservations about the subcontracting measures that the Senate Governmental Affairs Committee has reported. I am, therefore, joining Senator HATHAWAY in offering three amendments to solve problems that still exist in the version we are considering today.

The first amendment would require only offerors for negotiated procurements who submit contract proposals that are found to be in the competitive range to submit subcontracting plans. The reported version would require all offerors to submit plans. In negotiated procurement only a portion of all offerors are selected as being in the competitive range for negotiation. I believe an unnecessary paperwork and regulatory burden would be created if all offerors had to submit subcontracting plans.

The Governmental Affairs version on formally advertised contracts requires each buying activity to set small and minority business subcontracting goals for all prime contracts. All bidding firms would have to submit subcontracting plans that either meet or exceed the goals set by the buying activity.

I have a serious problem with this approach. I do not believe that Federal agencies have the competence or experience to set such subcontracting goals. Also, any goal that the agency arrives at will likely have some bias. A goal that is reasonable for a New York firm may well be unreasonable for a Nebraska business. Also, a business that performs many functions in-house could be penalized because it does not need to subcontract for enough items to meet the Federal goal.

Therefore, this amendment requires that only the low bidder who will be awarded the contract submit a subcontracting plan which reflects his best efforts. This measure not only resolves the problems discussed above, but it also relieves a substantial regulatory and paperwork load for many businesses.

The last amendment allows SBA to review contract solicitations for the purpose of evaluating subcontracting opportunities for small and minority business. This authority is needed to help all Federal buying activities better understand the potential for increasing the Federal small business subcontracting share.

Mr. President, I believe with these amendments that the Senate subcontracting provisions are better than any I have seen. I am not totally convinced that the subcontracting plan approach for increasing Federal subcontracts for small business will have a substantial positive effect, but I am hopeful that my fears will not be borne out.

Mr. President, I ask unanimous consent that statements by Senator HATHAWAY, Senator HEINZ, and Senator CHILES be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HATHAWAY

I am submitting, along with Senator Nunn, four amendments to the Act to amend the Small Business Act and the Small Business Investment Act of 1958, (H.R. 11318) as reported out of the Committee on Governmental Affairs, as amended.

Under an agreement reached by the Senate Small Business Committee, the Governmental Affairs Committee was given an opportunity to look at the impact this bill would have upon the federal contracting system. The Government Affairs Committee limited its considerations of H.R. 11318 to Chapter 3 of Title 2.

That Committee's amendments of the bill as reported out of the Small Business Committee involve the provisions of Chapter 3 of Title 2 of the bill which require large contractors to provide maximum practicable opportunities for small businesses and for small businesses owned and operated by socially and economically disadvantaged persons to participate as subcontractors in Federal contracts. In the bill as reported out of the Senate Small Business Committee, all low bidders and successful offerors on government contracts are required to submit for approval a subcontracting plan to the procuring agency.

Because of its belief that these subcontracting plans should be evaluated before, rather than after, the winning competitor is selected to receive the contract award, the Governmental Affairs Committee amended the Small Business Committee's language to require that *all* bidders and offerors submit with their bids or offers a subcontracting plan.

On negotiated procurements, these plans would be considered an important factor in the selection of the firm for award of the contract. On formally advertised procurements, each bidder would be required to meet minimum subcontracting criteria as placed in the solicitation.

Mr. President, I commend the members of the Governmental Affairs Committee for their thoughtful consideration. I agree that, as to negotiated procurements, which comprise about 90% of all government contracting, the element of competition may greatly improve the quality of plans offered by competing business firms. On the other hand, the concern expressed by the Senate Small Business Committee that the submission of the plans not impose an unnecessarily heavy paperwork burden on government contractors is still valid. Accordingly, my colleague, Mr. Nunn, and I offer an amendment to limit requiring the submission of subcontracting plans to those firms which are determined during the negotiation process to be in the competitive range of negotiations. This restriction would limit the submission of plans to those firms that are seriously being considered for award of a contract.

Insofar as formally advertised procurements are concerned, I am greatly concerned that the placing of minimum subcontracting criteria in solicitations for government contracts could work to the detriment of the small business program. For instance, preliminary results of a current test program of a mandatory subcontracting program being conducted by Federal procuring agencies indicates that often contracting personnel set the goals for small business participation at an easily obtainable level, sometimes at a level lower than that obtained in the past by the contractor.

I appreciate the concerns of the Government/Affairs Committee that all bidders on formally advertised procurements should be in the position of bidding on and meeting standard terms and conditions. However, I believe that we do not yet know enough about establishing minimum standards of subcontracting for all bidders, regardless of their individual circumstances and locations. We should wait for the final results of the test program on mandatory subcontracting, which is being sponsored by the Office of Federal Procurement Policy and monitored by the General Accounting Office.

Accordingly, Mr. President, we offer an amendment to require that the low bidder on a formally advertised procurement sub-

mit a plan reflecting the bidder's best efforts to subcontract with small businesses and with small businesses owned and operated by socially and economically disadvantaged persons. The low bidder would not be deprived of a contract solely because of his plan, but would be required to submit the best possible plan. Since the SBA will be monitoring this small business subcontracting program, we will then have an idea of whether in fact contractors are making their best efforts. If their record shows they are not making their best efforts, we could consider corrective legislation in the future.

The last amendment we offer simply gives SBA authority to review solicitations for contracts and make a determination on what potential exists for small business and small businesses owned and operated by socially and economically disadvantaged persons to perform subcontracts under a resulting contract.

SBA could then offer its findings to the procuring agency, which could use SBA's determination as a standard against which to assess the quality of subcontracting plans. SBA's submission would be advisory only, and the procuring agency would have no authority to hold up the award of a contract to a low bidder submitting a plan unacceptable to SBA.

I understand that these amendments are acceptable to the Governmental Affairs Committee.

STATEMENT BY SENATOR HEINZ

I rise in opposition to the amendment to H.R. 11318 offered by my colleague the Senator from Georgia (Mr. Nunn). I was privileged to work with and support the Senator from Florida (Mr. Chiles) on his amendment to Chapter 3 of Title II of the bill. I believe Senator Chiles was concerned about two things: what is best for small business; and what is good procurement policy. His work produced an amendment which I believe succeeds on both concerns. It is good procurement policy, and I am confident it *will* result in the maximum practicable opportunity for small businesses to obtain subcontracts.

The amendment proposed by my distinguished colleague from Georgia (Mr. Nunn) in no way impinges on procurement policy. In fact, he may argue that it is better procurement policy than the committee amendment. But it certainly weakens our efforts to ensure that subcontracts are afforded small businesses.

The amendment reported by the Governmental Affairs Committee requires that all formally advertised bids of either $500,000 or $1,000,000 shall include a subcontracting plan. This plan provided by the bidder must conform to criteria set forth in the agency solicitation for a bid. This means that an agency will require that each bidder include in his bid a subcontracting plan which meets, at a minimum, goals for small and minority business participation as established by the agency. Any prospective contractor who did not submit a plan which conformed with these goals would be deemed non-responsive and ineligible for award of the contract.

Under the amendment which is being considered, an agency could not establish goals for small business participation in a solicitation for a sealed bid. After the contract is awarded, the contractor would then be required to submit a subcontracting plan which would have to be accepted by the agency and made a part of the contract. The contractor would be under no obligation to come up with a plan which, in fact, provides the maximum opportunity for small business participation. In effect this system is no better than the one we have today which requires contractors to expend their "best efforts" to provide opportunities for small business subcontracts. This is a significant weakening of the effects and purpose of the bill.

More than that, however, the amendment will result in exercises of paperwork with no purpose. The amendment will require that federal contractors submit subcontracting plans. This is paperwork. But why would we require them? The contractor can submit a blank piece of paper and under this provision it would have to be accepted as a subcontracting plan. Because the contractor is not obligated to fulfill the agency's responsibilities to small businesses, the plan could be anything it desires and therefore useless paperwork.

I do not see the point behind the amendment. It is not any better procurement policy than the amendment worked out by Senator Chiles, who is an expert on this subject; nor is it any better for small businesses. Therefore, I oppose this amendment.

STATEMENT BY SENATOR CHILES

The Government Affairs Committee amendments to Chapter 3 of Title 2 of H.R. 11318 are consistent with the operation of an efficient, equitable Federal procurement system. The committee's amendments are designed to eliminate any possibility that the terms of a subcontracting plan can be negotiated with the successful company after competition has ended. A procedure that allows for negotiation of terms after the winning bidder or offer has been selected is inconsistent with the basic principles of Federal procurement law.

Accordingly, the Committee amended H.R. 11318 to require that plans be submitted by all bidders and offers on Federal contracts.

The amendment offered by Mr. Nunn and Mr. Hathaway to limit required submission of these plans to offerors within the competitive range on negotiated procurements fulfils the intent of the committee's objectives, yet eliminates unnecessary paperwork by those firms who are not likely to receive a contract. I concur with this amendment as well as the amendment to authorize the SBA to advise procuring agencies on the potential for subcontracting with small businesss and small business owned and operated by socially and economically disadvantaged persons.

However, I believe that the Government Affairs Committee's amendment to require that subcontracting criteria be placed in solicitations for formally advertised procurements is an improvement over the requirement that low bidders merely submit a subcontracting plan.

"This best efforts" approach does not establish a reasonable standard against which to judge whether a contractor will in fact subcontract with small business to the maximum extent practicable.

Nevertheless, it is not the intention of the Government Affairs Committee to delay this worthwhile legislation. The bill would improve opportunities for small businesses to do business with the Federal Government, a goal which is fully supported by the committee.

Accordingly, the amendments as offered by Mr. Nunn and Mr. Hathaway are acceptable to the Committee on Governmental Affairs.

Mr. WEICKER. Mr. President, I urge that the amendment offered by Senators HATHAWAY and NUNN be accepted. This substitute for Senator CHILES' amendment vitiates the concerns expressed by the Governmental Affairs Committee after its consideration of chapter 3 of title 2 of H.R. 11318.

One concern of that committee was that the determination of whether a contractor's small and minority business subcontracting plan is acceptable should be made earlier in the procurement process than the original section of H.R. 11318 provided for. However, the Select Committee on Small Business did not want each applicant for a Government contract to be burdened with the complications and expenses of providing such a subcontracting plan in each bid. The substitute offered by Senators HATHAWAY and NUNN provides a Solomon-type solution to problems posed by these conflicting interests. Their compromise requires that, for negotiated procurement, only those firms in a competitive range for a Government contract to submit a small and minority business subcontract plan. Because of the procedure followed in formally advertised procurements, all bidders are required to submit such a bid.

The Hathaway-Nunn substitute solves other differences in an equally sagacious manner. Therefore, I fully support this compromise and advocate its adoption.

Mr. NUNN. Mr. President, I ask that the amendment be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1833

(Purpose: Technical and conforming amendments)

Mr. NUNN. Mr. President, I send to the desk certain technical and conforming amendments and ask for their immediate consideration.

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN) proposes an unprinted amendment numbered 1833.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 24, line 22, strike "companies" and insert in lieu thereof "company".

On page 26, line 15, before the phrase "The authority" insert "Sec. 317.".

On page 26, line 21, before the phrase "The Com-" insert "(a)".

On page 26, line 23, strike out "subsections (c) and (d) of section 301" and insert in lieu thereof "sections 301(c) and (d)".

On page 27, line 2, strike out "section" and insert "sections".

On page 27, line 15, strike out "(II)" and insert "(D)".

On page 28, line 1, after the phrase "the result of a breach" insert "or,".

On page 28, line 7, strike the period and insert a semicolon.

On page 29, line 20, strike "part" and insert in lieu thereof "Part".

On page 30, line 24, strike "gram," and insert "gram".

On page 36, line 14, insert a comma after the word "including".

On page 36, line 15, insert a comma after the words "limited to".

On page 37, line 5, strike the word "to".

On page 37, line 20, strike "concerns" and insert "concern".

On page 37, line 23, strike "including,".

On page 38, line 22, strike "(122)" and insert "(123)".

On page 41, line 14, after the phrase "the individual" insert "and such concern".

On page 41, line 20, after the phrase "the individual" insert "and such concern".

On page 41, line 24, strike "owner or owner" and insert "owner or owners".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1834

(Purpose: Additional committee amendments)

Mr. NUNN. Mr. President, I send to the desk further committee amendments and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN) proposes an unprinted amendment numbered 1834.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 30, between lines 2 and 3, insert the following new sections as follows:

"SEC. 112. Section 404(b) of the Small Business Investment Act of 1958 is amended by adding a new paragraph as follows:

"(4) Any such guarantee executed and delivered by the Administration shall not be terminated, canceled or otherwise revoked; shall be conclusive evidence that such guarantee and the proceedings and determinations pursuant to which it was issued comply fully with the provisions of this section; and shall be valid and incontestable in the hands of the person or persons to whom the payment under the qualified contract are due.".

"SEC. 113. Section 502 of the Small Business Investment Act of 1958 is amended by adding at the end of paragraph 4 the following new sentence:

"Community injection funds may be derived, in whole or in part, from:

(a) Federal, State or local governments;

(b) banks or other financial institutions;

(c) foundations or other not-for-profit institutions; or

(d) a small business concern (or its owners, stockholders or affiliates) receiving assistance through bodies authorized under this title.'".

On page 38, after line 24, add a new section as follows:

"SEC. 206. Nothing in this chapter is intended to duplicate or limit any programs or projects administered by the Department of Commerce. In order to avoid the possibility of duplication of services, the Administrator shall only in close cooperation with the Secretary of Commerce and in coordination with the management and technical assistance programs administered by the Department of Commerce establish additional management and technical assistance under this chapter.".

At the end of the bill add a new section as follows:

SEC. . Section 7(a) of the Small Business Act is amended by inserting after the phrase "The Administration is empowered to make loans to enable small-business concerns" the phrase ", or small-business concerns 100 percent owned and controlled by an Indian tribe as defined in section 4(b) of the Indian Self-Determination and Education Assistance Act,"."

Mr. WEICKER. Mr. President, I support the committee amendments to H.R. 11318.

These amendments clarify existing law concerning SBA's guarantee of financings made to small businesses for the planning, design or installation of pollution control facilities. This clarification is necessary to revitalize the SBA's pollution control lending program which is at this time moribund.

A necessary amendment to section 502 of the Small Business Investment Act is also offered. Pursuant to this section, SBA is authorized to make loans to local development companies, or LDC's, to finance plant construction, conversion or expansion, including the acquisition of land. The proceeds of the loans to the LDC are to be used to assist small businesses in an attempt to spur the economic growth of the community. The establishment, modernization and expansion of a small business beneficiary have been determined to aid the community's economic growth by providing employment opportunities, tax base and similar economic benefits. Earlier this year I sent a letter to the mayors of our Nation's 100 largest cities to elicit their comments on how the SBA could be made more effective in encouraging urban economic growth and development. Numerous responses indicated that the local development company program under section 502 had tremendous potential in accomplishing this goal. This amendment will help the local development companies in their attempts to benefit small businesses and foster urban economic development.

The final amendment assures that the program for management and technical assistance to businesses owned by socially and economically disadvantaged individuals authorized by chapter 2 of title II of this bill will not duplicate programs administered by the Department of Commerce. As I indicated earlier, the mere act of providing procurement contracts to such businesses does not insure their success. Thus, this bill calls for an improved management and technical assistance program.

The necessity of the creation of this program attests to the fact that the programs administered through the Department of Commerce's Office of Minority Business Enterprise have not been very effective in aiding minority small businesses. The Senate Appropriation's Subcommittee of State, Justice, Commerce and Related Agencies, of which I am ranking minority member, recently completed action on both the SBA and OMBE budgets for fiscal year 1979. In its report language, the committee stated:

The Committee strongly supports assistance to minority business as witnessed by our recommendation for the Small Business Administration. However, OMBE has never had legislative authority and the testimony at the hearing was weak and by no means persuasive of the role of this organization. The Committee urges the Office of Management and Budget to consider merger of OMBE into SBA's program of assistance to minority businesses so that a unified program will be available for consideration in the 1980 budget review.

There is little doubt that the current situation is confused. Federal assistance to minority businesses lacks direction and purpose. Jurisdictional battles do not solve this problem. This situation must be carefully reviewed in the very near future, and a coherent plan of attack must be developed.

Mr. NUNN. Mr. President, I ask that the amendment be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1835

(Purpose: to expand the SBA 8(a) criteria)

Mr. NUNN. Mr. President, on behalf of Senator GRIFFIN, I send to the desk an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN), for Mr. GRIFFIN, proposes an unprinted amendment numbered 1835.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 42, line 18, strike "Code."." and insert in lieu thereof "Code.".

On page 42, between lines 18 and 19 insert the following:

"(6) The Administration shall develop and implement an outreach program to inform and recruit small business concerns to apply for eligibility for assistance under this subsection.

"(7) To the maximum extent practicable, construction subcontracts awarded by the Administration pursuant to this subsection shall be awarded within the county or state where the work is to be performed.

"(8) In awarding subcontracts pursuant to this subsection, the Administration shall consider, along with other factors, the price competitiveness of potential subcontractors as a factor in the awards process: *Provided, however*, That in awarding such subcontracts the Administration shall be concerned with the developmental needs of small business concerns eligible for assistance under this subsection.".

Mr. NUNN. Mr. President, this is an amendment about which Senator GRIFFIN feels strongly. We have talked about it with Senator GRIFFIN. Both the minority and majority staffs have talked about it with Senator GRIFFIN.

Mr. President, while the Small Business Committee accepts Mr. GRIFFIN's amendment, I must clarify one point in relation to the new section 8(a)(8) that this proposal creates. While I have no particular problem with the concept that SBA should consider the price competitiveness of 8(a) firms as one factor in the awards process for 8(a) contracts, I believe such consideration should always be placed in the proper perspective. The 8(a) program is a business development program and, as such, the development needs of the 8(a) participant should always be SBA's primary concern. However, if all factors relating to development are basically the same for two or more 8(a) firms, then it might be useful to evaluate the firms' relative price competitiveness before the 8(a) contract is awarded.

Mr. WEICKER. Mr. President, I urge the adoption of this amendment. Senator GRIFFIN has long been a supporter of the 8(a) program and his amendment will help to tighten up the program.

In directing SBA to develop and implement an outreach program for the recruitment of small business concerns eligible for the 8(a) program, one is insuring that the maximum possible number of firms will participate. The amendment also calls for construction subcontracts awarded by SBA under section 8(a) to be, to the maximum extent practicable, awarded to firms located in the county or State where the work is to be performed. This will help foster a sense of community pride by involvement.

Finally, the amendment calls for SBA to consider, along with other factors, the price competitiveness of potential subcontractors when awarding an 8(a) subcontract. Although this provision might result in savings to the taxpayers, it is imperative that it be noted that the amendment does not alter the basic concept of the 8(a) program. This program is a program designed to develop businesses owned by socially and economically disadvantaged individuals. Thus, the price competitiveness of a firm is a distant second to the consideration of developmental needs of the small business. Indeed, price competitiveness should be determinative only when there are two firms which are identical in all other respects. The amendment offered by Senator GRIFFIN will not in any way alter the direction of the 8(a) program in this regard.

I acknowledge that fine efforts of the senior Senator from Michigan, and urge the acceptance of his amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MELCHER). Without objection, it is so ordered.

Mr. NUNN. Mr. President, I know of no further amendments to this bill.

Would any other Senators like to be heard on the bill? If not, I ask for third reading.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 11318) was read the third time, and passed.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NUNN. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the enforcement of Senate amendments to H.R. 11318.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I move that the Senate insist upon its amendments and request a conference with the House of Representatives, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Mr. NELSON, Mr. MCINTYRE, Mr. NUNN, Mr. HATHAWAY, Mr. HASKELL, Mr. CULVER, Mr. WEICKER, Mr. BARTLETT, and Mr. PACKWOOD conferees on the part of the Senate.

PRIVILEGE OF THE FLOOR

Mr. METZENBAUM. Mr. President, I ask unanimous consent that during the deliberations today, Jesse Seidner, of my staff, have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask unanimous consent that I be permitted to speak out of order and that the Pastore rule be waived for that purpose; that I be permitted to yield 1 minute to the distinguished Senator from South Dakota (Mr. MCGOVERN); and that I may have 15 minutes in addition.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE $1,000 CONCEPT REVISITED

Mr. MCGOVERN. Mr. President, I note that on yesterday, the Senate Finance Committee recommended an increase in the present $750 personal tax exemption to $1,000 beginning next January 1.

As my colleagues in the Senate may recall, that is the figure that I recommended as a Presidential candidate in 1972. Although the formula is different, the conclusion is the same—that each man, woman, and child in the United States be granted a $1,000 consideration.

After being ridiculed for 6 years by critics of my $1,000 proposal, I cannot wait to see how my colleagues in the Senate will react to the $1,000 plan of our esteemed Senate Finance Committee.

Mr. President, I ask unanimous consent that a news story which appeared in this morning's Washington Post about the action of the Senate Finance Committee be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SENATE UNIT PLANS $250 INCREASE IN TAX EXEMPTION

(By Art Pine)

The Senate Finance Committee agreed yesterday to raise the $750 personal exemption now granted taxpayers and their dependents to $1,000, beginning next Jan. 1, and hinted it will increase by as much as $2 billion other individual tax cuts recently approved by the House.

In a second and unprecedented action, the committee agreed to expand by $1.8 billion an existing system of tax relief to the working poor and to make those payments through the withholding system.

In some cases, that would mean a worker's regular take-home pay would actually be greater than his or her gross weekly salary.

These changes came in the earned income tax credit for low-income families. The committee decided to increase the credit to a maximum of $600, up from the current $400, and to extend it to persons earning up to $12,000 a year.

The move would provide extra tax breaks for about 7.6 million "working poor" families, including 3.6 million of the 5.5 million who already qualify for the earned income credit.

The committee made its decisions informally, without recorded votes. Members stressed that all actions were tentative, although panel sources said they believed most of yesterday's decisions would remain intact when the tax bill is sent to the floor.

The actions were the first the panel has taken on the tax bill passed by the House. The committee had been delaying all decisions, pending agreement by House-Senate budget conferees on the size of the tax bill.

Congressional budget makers reached a compromise on Wednesday that in effect would allow the Senate to add $2 billion to the $16.3 billion tax-reduction measure passed by the House.

The extra $2 billion in tax cuts for individuals would effectively offset for low- and middle-income taxpayers the increase in Social Security taxes and the impact of inflation in pushing workers into higher brackets that will have occurred between 1978 and 1979.

Most taxpayers still would be behind, since the tax cuts wouldn't offset the increased burden between 1977 and 1978. However, Sen. Russell B. Long (D-La.), the Finance Committee chairman, said Congress "just doesn't have the money" to do that.

The panel indicated yesterday that the extra $2 billion in cuts would come primarily by increasing the reductions in tax rates for individuals voted by the House. But it agreed to wait until Monday before approving the move, so staff workers could compute the impact on various groups.

The committee's decision to raise the personal exemption to $1,000 for each taxpayer and his or her dependent effectively ratified what the House did earlier. Assuming the Senate goes along, the provision would be certain to be approved by a House-Senate conference committee.

Along with increasing the personal exemption to $1,000, the committee also agreed to repeal the present $35-a-person "general credit" now granted all taxpayers. Taxpayers now may choose between $35 a dependent or 2 percent of the first $9,000 in income, whichever is higher.

The committee's actions yesterday amounted to mixed news for the Carter administration. One of the President's principal objections to the House bill was that it did not provide enough tax relief for the poor. The increases in the earned income credit would offset that somewhat.

At the same time, however, the panel's decision to raise the personal exemption dashed any hopes that the administration might win its fight to replace the $750 exemption with a $240-a-person tax credit, which would have skewed the benefits more toward the poor.

Secretary of the Treasury W. Michael Blumenthal had asked the committee to include Carter's proposal in the Senate version of the tax bill after the House turned him down. However, the plan had been widely criticized both by conservatives and liberals.

The action involving the earned income credit would make major changes in current law. The law now allows working poor parents to reduce their total taxes by 10 percent of their first $4,000 a year in wages, to a maximum of $400, with smaller breaks for those earning up to $8,000.

What the Finance Committee did yesterday was to agree, first, to enlarge the size of the credit to 10 percent of the first $6,000 in earnings—for a maximum of $600—and then to extend the scaled back tax breaks to families earning up to $12,000 a year.

The changes would add to the number eligible for the earned income credit some 4 million persons earning between $8,000 and $12,000 a year. However, it would not provide extra relief for those earning less than $4,000 a year.

The House merely made the existing $400 credit permanent and voted to allow taxpayers to figure their benefits from tables, rather than having to compute them by themselves. The House measure would not increase the tax relief for workers in this category.

Although the changes in the earned income credit would take effect January 1, the system of distributing the tax break weekly, directly through workers' paychecks, would not begin until next July 1, to give the Internal Revenue Service time to lay down ground rules for it.

The procedure would work like the withholding tax system, except in reverse. Workers would receive the tax credit in installments, through a reduction in withheld taxes. Those who did not earn enough to pay income taxes would receive an extra cash payment as part of their checks.

Employers required to make these adjustments would be "reimbursed" regularly by the government by deducting the earned income credits they provide from the income or Social Security taxes they pay on behalf of their employes.

Mr. MCGOVERN. Mr. President, I thank the Senator from Utah for yielding.

PRIVILEGE OF THE FLOOR

Mr. HATCH. Mr. President, I ask unanimous consent that Mr. Stephen Markman of my staff be accorded the privilege of the floor for the remainder of today.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE GSA AFFAIR

Mr. HATCH. Mr. President, the General Services Administration was established nearly 20 years ago to introduce "efficient, business-like" methods in the procurement procedures of the Federal Government.

Since then, as GSA has been invested with an assortment of new responsibilities—including office administration, real estate brokering, architecture, and construction management—it has proven increasingly incapable of performing its initial, most basic responsibilities.

On the basis of recent disclosures, it would appear that Federal purchasing is riddled with fraud, corruption, political influence, and fiscal irresponsibility. According to special investigator, Vincent Alto, the storm brewing around GSA threatens to result in "the biggest money scandal in the history of the Federal Government."

Among the allegations—and I admit that I may not be up-to-date, not having read this evening's newspaper:

GSA building managers have accepted bribes and kick-backs from contractors in exchange for payments for work not done, or not done properly. One manager is reputed to have "earned" $300,000 annually in this way;

GSA supply managers have accepted bribes and kick-backs from suppliers in exchange for payments for supplies never received, or for supplies not meeting Federal Government specifications;

Political cronyism often determines hiring at GSA, as well as the selection of suppliers and contractors;

GSA surpluses are sold to purchasers in the absence of sealed, competitive bidding procedures at prices well below market value. In the meantime, GSA purchases of office equipment and supplies are often made at prices well above the going rate;

Credit card abuse, estimated as high as $20 million, as well as other forms of "nickel and dime" corruption, are rampant within the administration;

Civil service laws are violated with "whistle-blowers," and others attempting to expose corruption and waste, being abused, demoted, and treated generally as troublemakers;

Theft from GSA warehouses has cost the taxpayer millions of dollars;

GSA supply stores have been abused by GSA employees in purchasing goods and supplies for personal use;

GSA has expended millions of dollars for utility payments, and for building repair and maintenance, all of which were landlord obligations under Federal leases;

GSA has ordered its building managers to spend as much money as quickly as they could in the final weeks of fiscal years in order to insure against future budget reductions. At the same time, they have engaged in "paper deals" with other Federal agencies doing the same thing;

Fiscal mismanagement, such as double payments of bills, excessive inventories, and the payment of nonexistent overtime, is commonplace within GSA.

I am pleased to be cosponsoring legislation with the distinguished Senator from Delaware (Mr. ROTH) designed to get to the bottom of these allegations. Senate Resolution 557 would formally request the President of the United States to appoint an independent special prosecutor to investigate the charges. It is an identical resolution to the one approved by this body in May, 1973 which established the office of the Watergate special prosecutor, except that the immediate resolution provides for confirmation by this body of the President's nominee.

The GSA special prosecutor will operate within the Justice Department as an independent officer. He will function only with the assistance of the Attorney General, and without interference by him.

As the former Watergate special prosecutor, Archibald Cox, has observed, "the servant cannot investigate the master." It is both inappropriate and unreasonable to expect the executive branch, through the Justice Department, to investigate itself. It is not so much a matter of character as one of psychology. However sincere and well-intentioned, the question of divided loyalties is one that must inevitably arise when responsibilities are placed upon individuals to investigate their superiors.

An independent special prosecutor is important not only to insure that justice is actually done in the matter of GSA corruption, but to insure that the appearance of justice is conveyed convincingly to a public that is weary and cynical of Government and its leaders. The perception of bias and conflict of interest must be protected against as readily as genuine bias and conflict of interest. Our system of justice is dependent upon the credence given it by the public.

Nowhere is it more important than in the matter of investigating high-level, official wrong-doing that even the appearance of impropriety be avoided. Only through the appointment of an independent special prosecutor can we, I believe, fully achieve this result.

Further, a special prosecutor is urgently needed to put to rest the petty interagency conflicts that have thus far retarded the GSA probe. The FBI is fighting the GSA and the GSA is fighting the Justice Department, and they are all fighting Congress to assume leadership in the investigation. I can think of no better way to promote the coordination that all sides profess to be seeking than through the appointment of a special prosecutor.

The distinction between simple corruption and negligent wastefulness is sometimes a difficult one to draw. I am sure that this will prove to be the case in some aspects of the GSA situation. What is clear, however, with respect to GSA, is the overwhelming lack of respect within the agency for the public's tax dollars. As one observer has described this attitude,

> The GSA operates on a service concept—if you don't like your wooden desk, they'll get you a marble one. Who cares? Nobody has to pay.

The attitude is captured even more succinctly in a GSA memo to supply store managers encouraging them to increase their inventories.

> Don't be afraid to buy an item just because you've never had a request for it.

Mr. President, this is the arrogance of an agency with access to a seemingly endless flow of taxpayers' dollars; it is the arrogance of an agency that can create instant millionaires through the stroke of a new contract; it is the arrogance of an agency with all the best connections in all the right places.

There have been periodic investigations of GSA corruption in the past, with an occasional uncovering of abuse. I believe, however, that much of what has developed at GSA has become so much a way of doing business, and so thoroughly engrained within the agency, that

it has been lost upon the casual observer. That the corruption at GSA has become a way of life must not serve as a defense to what is transpiring there. It is long past the time that heads should have rolled at this agency—both for criminal behavior and incompetence. We need a special prosecutor, and we need one now. I strongly urge my colleagues to consider Senate Resolution 557 as a first step in that direction.

In addition, Mr. President, I might add that my office and others have been investigating corruption in the Federal judiciary, corruption in the Justice Department, and corruption in a number of other agencies of the Federal Government all of which I believe are very serious.

I believe that an investigation of GSA by a truly independent, impartial, special prosecutor will uncover the biggest mess of corruption that has ever hit this country. I believe that it will lead to the discovery of a number of problems in the Justice Department involving high-level cover-up.

I believe that we will be able to prove, within the next few years, especially if we have a special prosecutor, that some of the highest people in government, from both parties, have let the country down.

An aggressive special prosecutor, and I would suggest that he have an open field to look into other areas of corruption, will, in my opinion uncover corruption of a startling magnitude.

It is time that we quit playing games with stuff like this. We have had so much evidence of rampant abuse that a special prosecutor of renown, of ability, and impartiality; and of dedication, drive, and inquisitiveness, should be appointed so that we can solve some of these problems which are eroding our society and destroying the reputation of Government.

This investigation, coupled with others, will uncover fraud that will make Watergate look trivial and pale in comparison.

I respectfully suggest that my colleagues get behind the Joint Resolution 557 which Senator ROTH and I are proposing, and allow us to get to the bottom of this corruption. Let us start now to clean up our Government.

Thank you, Mr. President.

Mr. METZENBAUM. Will the Senator yield for a unanimous-consent request?

Mr. HATCH. I yield.

Mr. METZENBAUM. I appreciate the courtesy of the distinguished Senator from Utah. Mr. President, I ask unanimous consent that Rick Wilson be granted the privileges of the floor for today.

The PRESIDING OFFICER. Without objection, it is so ordered.

BIRTHDAY OF THE CONSTITUTION OF THE UNITED STATES

Mr. BAYH. Mr. President, all of us still remember the remarkable and exhilarating 200th birthday celebration which our country celebrated all over this Nation on July 4, 1976, which, indeed, was the 200th birthday of the Declaration of Independence.

But what a lot of us may have forgotten is that the Declaration of Independence, as important and dramatic as it was, really did not provide for the initiation of this great Government which we now are fortunate to be a part of.

Indeed, on September 17, which is Sunday, we will celebrate the birthday of one of the most important and durable documents of the history of our Government and our country, the Constitution of the United States.

It was that document and its ratification that put this country on the path which we are presently following here, 191 years later.

I would like to call the attention of my colleagues in the Senate and our colleagues in the House to a group of young Americans who have journeyed to Washington as part of the Convention II program that are gathered here in the Senate Gallery and will be commemorating this birthday of our Constitution.

I rise to call the Senate's attention to this particular moment because I have had had the good fortune over a number of years of being chairman of that subcommittee of the Subcommittee on the Constitution. As my colleagues will remember, we have had the opportunity to do battle, to discuss and to legislate in several areas involving constitutional rights, some of which have been controversial and some of which are still very current and involve the consideration of this body and the country as a whole.

But permit me to just take a moment or two to think out loud about the Constitution and what it means and how it was formulated.

As a legal document, it is not very extensive. It is only four pages in length. Today, we look at the other legal documents the average citizen is involved with and it pales in significance as to length. I think the average insurance contract is several times that length.

But as a statement of principles, we can look at it in that regard and find the Constitution has very few ringing or noticeable phrases. Most school children can recite a few passages from the Declaration of Independence, that great work of Jefferson, or the Gettysburg Address, written on the back of an envelope by President Lincoln, the great emancipator. But there are very few Americans, young or old, who can recall one line of the Constitution.

Nevertheless, in my judgment, it is the document which has preserved our Union and preserved our liberties, for 191 years. It is the Constitution which has made the hallowed but hollow Declaration of Independence a reality for the 20th century of America.

I suppose one could say it was the Declaration of Independence that held out the promise. It was the Constitution that made it possible to deliver on the promise and get the kind of performance that our constitutional government has experienced.

We should recall, however, that the future of America was not very bright at the close of the 18th century. While the Revolutionary War had been won there was confusion and chaos throughout the victorious States. The Articles of Confederation were proving to be an unworkable framework of government. Each State printed its own currency and often imposed tariffs and trade barriers against other States. The central government could impose no direct taxes at all and hence the Navy was completely abolished and the U.S. Army which had recently humiliated the British Empire consisted of 80 privates and a sprinkling of officers and sergeants. There was a real fear that our new independence would be shortlived as the several States fell to fighting and squabbling among themselves.

In fact, as some of us will recall, in the recent debate that transpired in the Senate, relative to whether we should give the District of Columbia full representation in Congress, we debated at length the reason for the distinction that occurred so far as the District was concerned. We recalled that moment in history when our Founding Fathers were meeting at Philadelphia, and a group of veterans descended upon Constitution Hall, demanding that they be paid for their services as they were promised. They created such fear and trepidation in the minds and hearts of our Founding Fathers that they literally fled Philadelphia.

It was to avoid that kind of event in the future, in which the Governor of Pennsylvania and the city authorities in Philadelphia, refused to disperse the mob of veterans, that caused our Founding Fathers, a long time ago, to structure the District of Columbia as it is structured presently.

It was in this rather unpromising atmosphere that a group of men gathered in Philadelphia in May of 1787. They were there to see if they could devise "further provisions" to the Articles of Confederation which would help reverse the deteriorating situation. In fact, they decided to throw out the Articles and draw up a whole new form of government for the country.

The real question was this: Would it be possible to weld together those 13 separate States that had fought the British and had won the war and had been loosely bound together in the Articles of Confederation? Would it be possible to pull together those 13 States into one Union, or would the disintegration continue, so that 13 separate nations would develop along the seaboard of what now is the United States of America?

Those of us who have reread that history are reminded that they met behind closed doors and locked windows through the hot summer of 1787, and they tackled a formidable task. The country had recently fought a long and costly war to escape the yoke of an oppressive centralized government. Yet, they had also learned some bitter lessons from a central government so weak as to be almost nonexistent. Great care and great compromises would be necessary.

How could we preserve the rights of the individual States in a way that would give the central government enough authority to solve the problems that exist in any nation? Most important, how, in this framework, could we preserve the rights of the most important ingredient of our Government—that is, the rights of individual citizens? No nation before or since has gone to the great care of preserving the rights of each citizen.

Mr. President, the Senate is sometimes referred to as the greatest deliberative body in the world, but it quite likely that this gathering in Philadelphia was the greatest deliberative body in the history of government. Men such as Washington, Adams, Jefferson, Madison, Hamilton, and Jay hammered out a legal document which was able to preserve liberty and the Union at the same time. Through an elaborate series of checks and balances, separation of powers and specifically enumerated responsibilities the framers devised a system of government which was strong enough to serve the people but not strong enough to oppress them. The great William Gladstone, Prime Minister of Great Britain, noted:

> The American Constitution is the most wonderful work ever struck off at a given time by the brain and purpose of man.

Today, that Constitution endures. The principles agreed to on September 17, 1787, remain viable on September 17, 1978. A document drawn up to serve the needs of a small, agrarian society of some 2½ million people, clustering together for survival on the Atlantic coast, continues to function in a country of 250 million citizens—or approaching that amount—of diverse backgrounds, living across an entire continent and vast stretches of Alaska and the scenic shores of Hawaii.

The Constitution is both the legacy of our past and our hope for the future It has survived the war between the States, economic depression, two world wars, the shock of Presidential assassination, and Presidential resignation. On its 191st anniversary, it is more of a bulwark of freedom than ever.

Mr. President, I ask my colleagues to join me in commemorating this remarkable instrument of government, as well as the framers who drafted it and the men and women throughout our history who have made it the fundamental law of our society.

Mr. President, I am equally encouraged to see that there are many young Americans who are dedicated sufficiently to the principles of the Constitution that they are willing to study it, examine its history, and will be able to dedicate a little of themselves and give of themselves, their time, their talent, their new ideas, and their principles, to make this Constitution continue to function, to function better tomorrow than it has in all its glories of yesterday.

ORDER OF BUSINESS

Mr. BUMPERS. Mr. President, I ask unanimous consent that I be permitted to speak for a few moments regarding a disaster that has occurred in my State, and that the Pastore rule be waived.

The PRESIDING OFFICER. Will the Senator indicate the time he requires?

Mr. BUMPERS. Five minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISASTER IN ARKANSAS

Mr. BUMPERS. Mr. President, it is always very difficult, especially in this lofty Chamber, for any of us to translate what we read in the newspapers and see in the evening news into the real world of human misery that can strike and afflict so many people so unexpectedly and so mercilessly.

The day before yesterday, when I called my Little Rock office, they told me it was raining. They said it was pouring. When I called back a few hours later, they told me that the city of Little Rock was under water.

Sometimes, of course, your aides have a tendency to embellish and perhaps exaggerate in order to get your attention. But, of course, as everybody knows by now, it turned out to be much worse than had even been indicated.

A flash flood occurred in central Arkansas, a rain that hydrologists say could occur only once every 100 years—8 inches in a period of about 7 hours, 6 inches in 5 hours.

Mr. President, I cannot describe the indescribable results of that flood in the central section of my State. Thousands of automobiles were washed away off parking lots and off the highways. Ten people are dead so far and nine missing.

But let me go back just a moment. I have spent the last 2 months trying to get disaster assistance for a big section of my State, the agricultural areas of my State that have been hit by the worst drought in the history of Arkansas.

There are counties in southwest Arkansas, for example, that had had one-half inch of rain from May 1 until September 1. And I am talking about an agricultural area that raises soybeans, rice, and cattle.

There again, that does not sound like much, but I can tell Senators that those people are wiped out.

There are 13 counties in the southwest part of the State suffering similarly. There are many other counties in the State that have suffered unbelievable drought disaster besides those counties that maybe had an inch more rain than that, but farmers will not be able to even run a combine through their fields to harvest the soybeans, because it would not be worth the cost of combining.

We were sort of depending on cotton and rice to bail us out agriculturally this year, and as Senators know, farmers were already fighting low prices, as well as these natural conditions that occur from time to time.

Then, on top of that, there is this unbelievable flood in the central part of the State, which has not only caused tremendous economic damages to the business communities of four or five counties there, but which has literally wiped out the rice and cotton crops.

We had the prospects for one of the best rice crops in our history. It is a good cash crop. We export about 60 percent of it and help the trade deficits of this country as a result. But now the rice is down and the cottonfields are flooded, and we have gone from drought in the agricultural areas to this flood, and I can tell Senators that my State has probably never before and, hopefully, never again will suffer as much misery, as much grief, and as much economic loss in 1 year from such divergent natural causes.

I suppose I could say, Mr. President, that this is a good time for reflection for some of us who have a tendency not to be very empathetic, because as long as we do not have someone who lost a life or a crop that was destroyed or our business that was destroyed, it is very difficult to be very empathetic. I can tell Senators one thing: If they could see what has happened in my State, they would certainly pause and reflect on how frail we as human beings are, and how frail our environment and our land are, always, subject to whatever God chooses to inflict on us in any given moment.

It points out how unable we really are to direct nature. We cannot make it respond to our efforts.

Mr. President, my purpose in coming over here this morning is to tell my colleagues in the Senate and the people who will read the RECORD of this unbelievable plight in which my State finds itself. Thousands of people in my State are homeless, and thousands of businessmen and farmers are wiped out completely. Our public facilities and public services are taxed far beyond their ability to respond. And, finally, the only hope these people have is through the largesse and the assistance of a compassionate Federal Government.

So I know, because I have helped respond to the disasters of the Teton Dam and the Johnstown flood, and all the others, that my colleagues will join me in responding to the cries of help in my State that are coming now and will continue to come. It is the only hope of so many thousands of people.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess——

The PRESIDING OFFICER. If the Senator——

Mr. ROBERT C. BYRD. I withdraw the request.

The PRESIDING OFFICER (Mr. METZENBAUM). I would appreciate it if the Senator would relieve me in the Chair, so that I might introduce the motion to recommit.

Mr. ROBERT C. BYRD. Very well. I thank the Chair.

(Mr. PELL assumed the chair.)

The PRESIDING OFFICER. The Senator from Ohio.

Mr. ROBERT C. BYRD. Mr. President, if the distinguished Senator from Ohio will yield——

Mr. METZENBAUM. I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. As soon as the Senator finishes his remarks in connection with the introduction of his motion, if at that time no other Senator wishes recognition, will he kindly recess the Senate for, say, 20 minutes?

Mr. METZENBAUM. I am very happy to accommodate the distinguished majority leader.

Mr. ROBERT C. BYRD. All right.

NATURAL GAS POLICY ACT OF 1978—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. METZENBAUM. Mr. President, at this time I send to the desk a motion to recommit on behalf of myself, Mr. ABOUREZK, Mr. KENNEDY, Mr. HANSEN, Mr. BARTLETT, and Mr. TOWER.

In submitting that motion, I wish to point out to the Members of the Senate that it is slightly different——

The PRESIDING OFFICER. The clerk will report the motion.

The second assistant legislative clerk read as follows:

MOTION

I move that the conference report on H.R. 5289, the Natural Gas Policy Act of 1978, be recommitted to the Committee of Conference with instructions, that it be reported back with all references to the pricing of natural gas deleted therefrom, and that it embody the language contained in titles—

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the motion be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion is as follows:

I move that the conference report on H.R. 5289, the Natural Gas Policy Act of 1978, be recommitted to the Committee of Conference with instructions, that it be reported back with all references to the pricing of natural gas deleted therefrom, and that it embody the language contained in titles III, V, and VI of the conference report with such conforming language and/or definitions as may be required. The conferees are specifically instructed to report back with the following sections excluded from the conference report: Section 2, subsections 2–14, 18, 19, 22, 23, 30–32, 36; Sections 101 through 208; section 303(d); sections 401 through 404; sections 503(d), 503, 504(a)(1), 504(b)(3), 505, 506(d), 507, and 508; and sections 601 (a)(1)(A), 601(a)(1)(B), 601(a)(1)(E), 601 (b)(1)(A), 601(b)(1)(E), 601(c)(1), 601(c)(2)(E), and 602(a).

Mr. METZENBAUM. Mr. President, I do not wish to address myself to the substance of this motion at the present time, but I do want to sound an alert to all Members of the Senate to the effect that yesterday I sent to the desk and by unanimous consent had printed a motion which we intended to offer in connection with this particular measure. This motion is slightly different from that one, not greatly different but slightly different, in that it includes the deletion of some language with respect to the definition that should not be included; and for those who are particularly concerned about the substance of this motion, or particularly concerned about the pending legislation, I take this means of placing them on notice and directing their attention to the fact that this motion is different, not greatly but somewhat different, from the motion that was printed by unanimous consent.

Mr. President, is it necessary that I call the motion up at this time, or by my offering it, is it called up?

The PRESIDING OFFICER. The motion of the Senator from Ohio, as submitted, is presently before the Senate.

Mr. METZENBAUM. Mr. President, I now move that the Senate stand in recess——

Mr. CURTIS. Mr. President——

Mr. METZENBAUM. I withdraw that.

Mr. CURTIS. Mr. President, in behalf of the distinguished Senator from Alaska (Mr. STEVENS), I ask that the Senator from Alaska's instruction on the Senator from Ohio's motion to recommit be printed in like manner as that of the motion to recommit, and I ask unanimous consent that it be printed tonight for availability tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

The language submitted is as follows:

At the end of the motion add the following:

Provided, however, that all provisions of the conference report pertaining to natural gas produced in Alaska be incorporated in the conference report reported back.

Mr. CURTIS. I might say that this request pertains to Alaskan gas.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the motion just submitted be printed overnight, so that it may be available at the earliest possible moment for the information of Senators.

The PRESIDING OFFICER. It will be printed.

RECESS FOR 20 MINUTES

Mr. METZENBAUM. Mr. President, I now move that the Senate stand in recess for a period of 20 minutes.

The motion was agreed to; and at 12:45 p.m. the Senate took a recess for 20 minutes.

The Senate reassembled at 1:05 p.m., when called to order by the Presiding Officer (Mr. PAUL G. HATFIELD).

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of Montana, suggests the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask for the yeas and nays on the Metzenbaum motion to recommit.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JACKSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. NELSON). Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—S. 2883

Mr. ROBERT C. BYRD. Mr. President, at such time as Calendar Order No. 789, S. 2883, the Corporation for Public Broadcasting bill, is called up and made the pending business before the Senate, I ask unanimous consent that there be a time agreement thereon as follows: Two hours on the bill, to be equally divided between Mr. HOLLINGS and Mr. GRIFFIN; 1 hour on any amendment in the first degree; 30 minutes on any amendment in the second degree; 20 minutes on any debatable motion, appeal, or point of order if such is submitted to the Senate; provided, further, that there be a time limitation of 2 hours on an amendment by Mr. Proxmire; and that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That when the Senate proceeds to the consideration of S. 2883 (Order No. 789), a bill to amend the Communications Act of 1934 to extend and improve the provisions of such act relating to long-term financing for the Corporation for Public Broadcasting and relating to certain grant programs for public telecommunications, and for other purposes, debate on any amendment in the first degree (except an amendment to be offered by the Senator from Wisconsin (Mr. Proxmire), on which there shall be 2 hours) shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill; debate on any amendment in the second degree shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill; and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: Provided, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: Provided further, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 2 hours, to be equally divided and controlled, respectively, by the Senator from South Carolina (Mr. Hollings) and the Senator from Michigan (Mr. Griffin): Provided, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

EXCHANGE OF CERTAIN LANDS IN STATE OF OREGON

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 12772, which is at the desk.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 12772) to facilitate the exchange of certain lands in the State of Oregon, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MARK O. HATFIELD. Mr. President, very briefly, in 1916, the United States conveyed certain lands to the State of Oregon with a reversionary clause. The State has an opportunity to exchange this land with a private landowner for lands which could be better utilized for the purpose of recreation. The purpose of the reversionary clause was to insure use of the land for recreation. By removing the reversionary clause as H.R. 12772 would, the previously Federal lands can be exchanged for the private lands more suitable for recreation and added to each State Park. The bill insures that the original Federal purpose of providing lands to the State for recreational purposes will be served through the exchange.

This bill has passed the House of Representatives. We have asked the bill to be held here at the desk.

There is a companion measure that has been the subject of hearings in the Committee on Energy and Natural Resources.

So I ask that the bill be voted upon and accepted by the Senate in the House version.

I yield to the chairman of the committee.

Mr. JACKSON. Mr. President, as chairman of the committee I am in accord with the statement made by the distinguished senior Senator from Oregon and move the adoption of the House-passed bill.

The bill was ordered to a third reading, read the third time, and passed.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MARK O. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I thank the chairman of the committee, Senator JACKSON, and the staff who helped cooperate in this measure. It is an important addition to a State park in our State, and I am very grateful to the Senate for its acceptance.

TOBACCO RESEARCH

Mr. DOLE. Mr. President, all across the country, the people are expressing discontentment over the growing problem of inflation. Recent election results support the findings of many respected public pollsters that the taxpayer is in revolt against continued excessive Federal spending.

Here in the Senate, we are faced with the problem of approving appropriation bills to support needed services for the people while at the same time, we are obligated to take a careful look at the oversee cost. Oftentimes, we find ourselves torn between voting for legitimate needs contained in such a bill or voting against unnecessary frills so often contained in this sort of legislation. Many of us have been forced to cast such troublesome votes at one time or another.

I saw an article in a North Carolina newspaper a few days ago that addressed itself to this. The writer pointed out that the public is tired of politicians campaigning on a spending platform. The people are more interested in hearing how politicians are going to curb spending in an effort to reduce inflation.

The article dealt with a recent vote by our distinguished colleague from North Carolina, Senator JESSE HELMS. As a member of the Agriculture Committee, I know firsthand just how diligently he worked with committee members, the Appropriations Committee, and here in the Chamber, to have funds for a tobacco research station in his State, reinstated in the farm bill. Because of his tireless efforts, these funds were included in the final bill.

However, the final bill also included $6 billion for funding food stamps, including food stamps for strikers, which the Senator opposed. So, our colleague from North Carolina was placed in the position of casting an unpopular vote. Voting against excessive Federal spending has been a hallmark of Senator HELMS' service in the Senate. He voted against the final bill, hoping to have it returned to committee for further study and some reduction in total cost.

It is interesting to note that the newspaper article supports the Senator in this decision. The paper found, in a rather modest poll, that the people want to reduce the Federal debt and hold down Federal spending.

The point I make is that Senator HELMS was forced to cast a troublesome vote, but he stood up to the challenge and voted his conviction that we simply must curtail Federal spending and bring to a halt the serious menace of inflation.

I am pleased that the people of North Carolina and across the country are recognizing and supporting representatives who are willing to stand in their behalf despite criticism, and do what is necessary to bring fiscal responsibility back to the Federal Government.

I commend my colleague from North Carolina, and I urge other Members of the Senate to stand firm in the battle to bring Federal spending under control.

Mr. President, I ask unanimous consent to print in the RECORD the editorial from the Independent, Fuquay-Varina, N.C., newspaper of August 24, 1978, entitled "The Whole Truth."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE WHOLE TRUTH

The rhetoric coming out of the John Ingram campaign headquarters can best be described as "humorous." We are hearing cliches such as "I'm the people's choice," and "My opponent is trying to buy the election." These cliches came to America on the Mayflower.

We had two interesting pieces of mail this week from both camps. Senator Helms announced he and Senator Huddleston of Kentucky were successful in restoring the $3 million for the tobacco research station in North Carolina and Kentucky, which had been cut from the budget.

In the same day's mail, we received a release from Ingram saying that Senator Helms is "deliberately trying to deceive the tobacco farmers of North Carolina by voting against the bill which would appropriate funds for continuing tobacco research.

When you receive such contrasting statements, many questions come to mind. Obviously someone is either lying or distorting the facts.

We checked the record to see who was doing what to whom.

Ingram wasn't lying, but he wasn't telling the whole truth either. Senator Helms had indeed worked to get the $3 million tobacco research money reinstated, but then voted against it when it came to the floor of the Senate. (The vote was 90–8 in favor.)

What Mr. Ingram neglected to tell the public was that the tobacco research funds had been tacked on to the end of highly inflationary bill allocating $23.365 billion including nearly $6 billion for food stamps; "Food stamps for people who walk off their jobs in strikes, and a 55 percent increase in federal bureaucrats to harass and intimidate farmers of North Carolina and the rest of the nation."

The bill proposed to spend $255 million more than President Carter had asked for—$255 million more than the Administration says it can spend wisely.

Is Mr. Ingram telling the people of North Carolina he would have voted in favor of the bill just to save $3 million for tobacco research? This is what we read into his statement.

If Ingram hopes to defeat an ultra-conservative like Senator Helms in a conservative state like North Carolina, he will have to change his tune.

The public has tired of politicians campaigning on a spending platform. They are more interested in hearing how politicians are going to curb spending in an effort to reduce inflation.

Several weeks ago we polled six citizens of Fuquay-Varina to ask what they thought of the Administration's effort to reduce taxes. Without exception, they said they would rather see spending cuts. The people are becoming very concerned about the national debt and double digit inflation. They feel frustrated by deficit spending and the lack of confidence in the American dollar. The person who wins the Senatorial election will be the one who pledges to reduce spending, not increase it.

In view of Mr. Ingram's failure to tell the whole truth, one wonders if he really thinks he is getting away with something. The people of North Carolina are too well informed to let a politician get away with half truths. If he is going to make political blunders like this in the future, we submit it's a good thing he doesn't have enough confidence in his chances for victory to resign his position as Insurance Commissioner. But, then, it isn't right to accept a salary for doing one job, while he is actually doing another, is it?

Mr. JACKSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATURAL GAS POLICY ACT OF 1978—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. BARTLETT. Mr. President, while I have often been identified, not inaccurately, as an advocate of oil and gas producer interests, it has been because I feel that a policy of free-market pricing for energy is in the best interest of the consumer as well. I rise now to speak again on behalf of consumers, but for a different reason.

There is a provision in this conference report which has the potential of costing Oklahoma consumers $250 million during the first year following enactment. And what benefit would they receive for that $250 million? Absolutely nothing.

Section 105 of the conference report permits the operation, up to the level of the new gas price ceiling, of indefinite price escalator clauses in intrastate natural gas contracts. These include the so-called favored nation or price redetermination clauses.

For those of my colleagues unfamiliar with the nuances of the natural gas industry, a price redetermination clause is a provision in an intrastate gas contract intended to guarantee the producer the prevailing price throughout the life of his contract, in exchange for his entering into a long-term contract at a relatively low price initially. The bulk of intrastate contracts entered into in the past few years—indeed, all major intrastate gas purchase contracts in Oklahoma—contain such provisions.

These clauses operate generally by begging the contract price to the highest price paid to any producer in the area. The effect is that, when a new gas contract is signed at a higher price, most or all intrastate contracts in the area escalate immediately to that price.

The severe potential impact of these redetermination clauses on consumer gas prices in the event of deregulation was recognized long ago. Every serious piece of legislation I am aware of, calling for new gas deregulation, has included a provision to abrogate price redetermination clauses in intrastate contracts. The bill passed by the Senate a year ago contained such a provision. The President himself recognized the danger and included in his MEOW (moral equivalent of war) proposals a provision to render these redetermination clauses unenforceable. It was included in the House's rubber-stamp approval of his national energy plan.

However, for some reason known only to the select group of conferees, the conference report presently before us allows price redetermination clauses to operate, limited only by the new gas price ceiling. Thus, the report abandons the consumer protection included in both bills taken to conference.

The compromise would establish a new gas price ceiling upon enactment of about $1.95 per thousand cubic feet. Purchases of natural gas made at or near that level will trigger redetermination clauses and elevate other contracts to that price level.

For the intrastate markets in Texas and Louisiana, where higher prevailing prices have already triggered redetermination clauses to a level approaching or exceeding $2 per thousand cubic feet, the initial impact of this legislation on those clauses is probably negligible. However, for those intrastate markets in States such as Oklahoma and Wyoming, where prevailing intrastate prices have not been so high, the impact of this bill will be massive.

The prevailing price under major intrastate gas purchase contracts in Oklahoma is approximately $1.65 per thousand cubic feet. Upon enactment, gas purchases at the new ceiling price of $1.95 will quickly trigger redetermination clauses and escalate other contracts to that price.

Oklahoma Natural Gas Co., the major intrastate pipeline and distribution company in my State, estimates the impact of this legislation on gas prices in Oklahoma at $250 million during the first year after enactment.

That is a $250 million increase in the cost for flowing, contracted natural gas; $250 million for no additional gas. No advocate of deregulation in this body has called for an increase in the price of gas under contract. No producer I know of has asked for this bonus. As if by magic, though, it appears in the conference report we are considering today.

Obviously the impact will fall squarely on the consumer in Oklahoma and other States similarly situated. It is unfair, unnecessary, and simply a product of the controversial negotiations that produced the onerous piece of legislation before us.

Mr. President, I have described just one of the countless shortcomings, weaknesses, and discrepancies in the pricing portions of the conference report on natural gas policy. The report as drafted is an unworkable, unsound piece of legislation, not in the interest of the consumer and not in the interest of the Nation. I urge my colleagues to recommit the report to the committee of the conference with instructions that will provide the opportunity for gas dedicated to the intrastate market, either uncommitted or unused, to reach an interstate customer.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, first, I would like to ask floor privileges for Lee Wilson and Chris Palmer of my staff during the current colloquy.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. And also floor privileges during the discussion and votes on the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, I should first like to take note of the fact that I very much appreciate the presence of my colleagues on the floor today. We had anticipated doing this colloquy earlier in the day. But as the Presiding Officer knows, there was a scheduled hearing at 1 o'clock on a bill involving the Presidential papers introduced by Senator NELSON and myself. We had so many witnesses for that hearing that I felt it necessary to go ahead inasmuch as I was the only Senator to chair those hearings. I apologize to my colleagues for the delay. I am pleased to report to the Senate that the hearings on that legislation have now been completed. Senator RIBICOFF, the chairman of the Governmental Affairs Committee, and the ranking minority member, hopes that we can mark up that legislation and still move it forward this year.

Mr. President, a great many questions have been raised in the mind of the Senator from Illinois with respect to the natural gas compromise bill. A great many questions have been raised in the minds of many of my colleagues, and certainly in the minds of various interest groups. Ever since the conference committee report was made available, my colleagues and I have given this critical matter earnest and careful thought.

As the President said months ago, perhaps no more complex problem was ever presented to the Congress. His prophetic words have certainly been borne out.

I would like to express my undying gratitude and I know many other colleagues who feel as the Senator from Illinois does to the members of the conference, both House and Senate, who have labored so long and so hard to reach this compromise. I am particularly grateful to the Senate conferees, who stood their ground and tried so firmly to incorporate in the compromise legislation the principles of the legislation that was adopted on the floor of the Senate after long and arduous discussion.

During the course of the past several days, the Senator from Illinois has engaged in discussions with members of the administration, and has also invited to Washington various members of interest groups, such as the president of the United Mines Workers from Illinois; the chairman of the American Petroleum Institute, and president of the Standard Oil Co. of Indiana, Mr. John Swearingen; the president of the Northeastern Illinois Gas Co., and independent oil producers to hear the same set of facts from the administration that Members of the Senate have heard.

Only after hearing the facts, listening to those arguments on both sides and hearing back from many of those interest groups, have I, as a Senator, felt that I was really prepared to make a judgment in this matter.

The judgment of the Senator from Illinois will be based, to an extent, upon the responses that I have received from a list of questions about the natural gas compromise legislation that I have submitted to the administration. Some of these questions I posed directly to Ambassador Strauss, Secretary Schlesinger,

and Mr. Eisenstat the day before yesterday. From these gentlemen I sought assurances about the way this bill would be enforced if it were enacted.

The floor manager and the chairman of the Energy Committee (Mr. JACKSON) has discussed this matter with me, also.

The Senator from Illinois seeks assurances from the chairman, because of the continuing involvement the Senate Energy Committee will have with this legislation. I think others in the Senate seek these same assurances.

Those who have so adamantly opposed this bill have opposed it from such differing viewpoints. I have never seen such a diverse coalition of Senators and such a diverse coalition of interest groups across the country, and particularly in my State, as the coalition working to oppose the present legislation.

For instance, the AFL-CIO, the UAW, and other labor groups in the State of Illinois, have adamantly opposed the legislation, because they get deregulation too rapidly.

Oil producers oppose it, because they feel it is not a deregulation bill at all. It is the latter group's hope that if the Senate turns this compromise down, the committee will bring forward a better bill which will deregulate faster and move toward market pricing faster. It is the hope of the labor unions and consumer groups that the Senate will turn down this compromise and come up with a bill to continue regulation.

Given the conflicting interests of the opposition, the first question must address the reality of the present situation. If the compromise bill is recommitted, is there any chance that that bill would be improved and returned? Is there a chance that any bill would come back to the Senate to be acted upon this year?

If the bill is killed entirely by a vote of the Senate, what chance is there that the Energy Committee would begin work next year on a new bill? If they did, what chance is there that that bill would be any better from the standpoint of whatever vantage point one is looking at, the consumer's interest or the producer's interest?

I ask my distinguished colleague, the floor manager of the bill and the chairman of the Energy Committee to respond.

(Mr. SPARKMAN assumed the chair.)

Mr. JACKSON. Mr. President, I can only say that at this point in time we are at a point of the last clear chance. As chairman of the Energy Committee, I have given the best of my life for the last more than 12 months on the energy program and 90 percent of that on the gas bill, working into the midnight oil. As chairman of the Energy Committee, if the bill is to be terminated, I can only assure my colleague that I have no intention of scheduling a natural gas bill on our calendar for next year.

There are too many other high-priority items that are pending that would deny that opportunity and the attitude of my colleagues on the committee that talked to me about it is that they are of the same mind.

Second, I point out that I have been informed by—and I repeat what I said earlier—certain Members of the House conferees that are chairmen of subcommittees or committees, ad hoc committees included, that if the bill is recommitted, they do not see anything coming out of that conference. In other words, the final action here would occur, if the motions to recommit are voted down, after September 27. The House intends to get out on October 7. Bearing in mind that we were dealing with this problem for months and months, and if we are going to rewrite a bill in conference, obviously we are not going to do it in a week, they have told me that they just cannot entertain it.

I want to state, as I did in reply to the Senator from Wyoming (Mr. HANSEN) that I, of course, will follow the instructions of the Senate, whatever they are. But that does not mean that a motion to recommit to conference, which is totally different from a motion to recommit to a committee, can be binding on the House. We have two other conference reports remaining in the committee. I do not expect any great problem, but there are some amendments that will have to take place.

I can only say to my good friend from Illinois that that is about the situation that we face. It is a bill or no bill.

Mr. PERCY. There is one other question I should like to ask the chairman of the committee first, then I shall be very happy to have a response from my distinguished colleague from Oregon, who will be, next year, the ranking minority member of the Energy Committee. He can speak from the minority standpoint.

As I interpret the Senator's answer, it is that if the bill is recommitted with instructions, our instructions are not binding on the House conferees and they will not act. In effect, recommitting with instructions kills the bill. Is that correct?

Mr. JACKSON. The Senator is correct.

Mr. METZENBAUM. Will the Senator from Illinois yield?

Mr. PERCY. The Senator would like to finish this colloquy; then, of course, I shall be happy to yield to the Senator from Ohio.

Now suppose this bill is not recommitted, but voted down by the Senate. Am I correct in saying that it is not the intention of the Energy Committee to do anything with this legislation in the year 1979? Even if, say, in 1980, the Energy Committee took up the natural gas issue, does the chairman think that looking back at the experience of the past 12 months, the committee could come up with a much different, much better bill?

Mr. JACKSON. My reply is that, looking back 30 years, this is the first time since the beginning of the legislation, which goes back, I think, to 1933, if we are successful with this conference report, that we will have legislated comprehensively, Mr. President, on natural gas.

I was here with the distinguished Senator who is presiding back when Mr. Truman vetoed the attempt to take away the regulatory authority. I was here when President Eisenhower vetoed the natural gas bill that had been passed by both bodies in 1956.

So my answer to the question of the Senator from Illinois is that I do not intend, unless I am overruled in the committee, and I would doubt that, to take up a natural gas bill, a comprehensive bill, in 1979 or 1980, because we have top-priority legislation pending that has to take precedence. This has taken all of our time. It has preempted other legislation of great urgency and great importance.

Mr. PERCY. Is the other legislation of considerable interest to a majority of the membership of the Energy Committee? Is the chairman likely to find other committee members anxious to move forward with this other legislation that would then take precedence?

Mr. JACKSON. I can best answer that by asking my good friend from Oregon (Mr. MARK O. HATFIELD) to respond from the other side of the aisle.

Mr. MARK O. HATFIELD. I shall be very happy to respond. I should like to say first of all, as one who has reserved his judgment on a final decision on this conference report—that is to say, I have not yet decided whether I shall vote for it or against it, not because of the natural gas bill in and of itself, but because of an apparent coupling of this issue with the breeder reactor issue, which I feel a little more strongly about—I should like to underscore what has been stated by the chairman of the committee. If I am returned to the Senate this particular election year, to the next Congress——

Mr. PERCY. If I may interrupt, when the distinguished Senator from Oregon is reelected and returned with an overwhelming mandate from the people of the State of Oregon.

Mr. MARK O. HATFIELD. I appreciate that confidence of the Senator from Illinois. I only wish he were registered in my State to carry that out in a vote.

I only wish to say I want to underscore what the chairman has said about the unresolved issues pending before the Senate Energy and Natural Resources Committee. First of all, we shall have on the Hill, at the beginning of the next Congress, the RARE-2 study. RARE-2 is a roadless area study which involves 60 million acres of Federal forest lands which are vital to the Nation and most especially to the Northwest. This committee will have to consider that report, will have to make a determination as to the return to multiple use or additional wilderness acreage, or whatever. That is going to take a significant amount of time.

No. 2, we will not, in my opinion, be able to resolve the Alaska land selection program that is now referred to as the d-2 land selection program before our committee this year, for the simple reason that the Senate version will be very drastically different from the House version. If the House goes out on October 7, it is very doubtful, in my opinion, that we shall be able to get together in conference and resolve that particular complex issue. Therefore, the Alaska land

issue will be before the committee in the next Congress.

Third, there is a Northwest power bill that is very important to the Senators from Washington and to the Senators from Idaho, Oregon, and Montana, and that issue is going to have to be resolved, involving the powers of the Bonneville Power Administration.

Those are just a few of the examples of the complex, important issues that, in my opinion, have higher priority than a deregulation issue on natural gas, having experienced the difficulty with the House of Representatives in getting to this point. As to those who want to return the bill to the committee, I understand their strategy and I understand their purpose. But I only say that, in my opinion, that also is going to be very difficult to resolve even if that prevails, as far as the House of Representatives is concerned. We might be able to reach an agreement in the Senate committee on the recommital with instructions; that does not mean we are going to be able to get together with the House of Representatives in a conference and settle this.

All I am suggesting is that, in my judgment, and I have been wrong before—I predicted Thomas Dewey's election in 1948. I only want to say that as far as I can best judge the situation today, I agree with the chairman that there will be no natural gas bill in the next session of the Congress because of the priority of these other issues.

Mr. PERCY. Could I ask one further question of my distinguished colleague?

Taking into account the probable makeup of the Senate in the next Congress, in the judgment of the Senator from Oregon, does he feel that, if natural gas is taken up in the next Congress or the Congress after that, and we spend another 6 months, 8 months, 12 months on it, there is any reason to believe that the Senate or the Energy Committee, would vote out a bill much different from this balance between those who want no regulation of any kind and those who wish to continue regulation into the future?

Mr. MARK O. HATFIELD. I have no way to project into the future with any certainty at all. But I would say, based on the facts as we see them today, I think there is little likelihood we are going to get a much different kind of bill.

Let me go back and remind ourselves of one simple fact: I believe if we could have come to the floor with the original Senate compromise, we would be in a far stronger position than what we are.

I have to say that, in all honesty, this is a bastardized version of what was the original compromise proposal. It would be an administrative nightmare.

But I do believe if it is possible to get a bill of this kind even adopted, it is easier, the climate more conducive to correctings it once on the statute books, than starting from square one.

That is a value assessment I make.

Second, I would only make this additional gratis political assessment. In my opinion, the closer we get to the 1980 Presidential year, the less likelihood we are going to resolve this kind of issue that has evoked so much emotion and intense feeling on all sides.

So that is an additional observation I would offer.

Mr. PERCY. The Senator from Illinois has five additional questions he wishes to put to the floor managers of the bill.

Mr. BARTLETT. Will the Senator yield?

Mr. PERCY. I will yield first to the minority floor manager of the bill, the distinguished Senator from Wyoming, for a brief response on this general question; then to the distinguished Senator from Ohio who asked next; then to my distinguished colleague from Oklahoma for a response also; and, if the Senator from Virginia would like to comment on this particular question, I would be happy to yield to him.

Mr. HANSEN. Let me express first my appreciation to my distinguished and valued colleague from Illinois (Mr. PERCY) for his kindness.

The question seems to be, as we started this colloquy this afternoon, everyone is agreed we need an energy policy. I say, rather, that everyone is agreed we need a good energy policy.

I make the distinction between this bill before us and a good energy policy.

For those who have read the Forbes magazine article recently showing that we actually have increased the amount of natural gas available this year, there have been a number of new wells drilled over and above what we might otherwise have expected, shows clearly that, despite the fact that it is not proof, the present status quo is working.

The Forbes article concludes by saying the problem is not so much the failure of the Congress to pass an energy bill as it is the problem of too much regulation.

The second point I wish to make, Mr. President, is that the distinguished Senator from Washington has said that he would not, on his own volition, schedule any hearings on any action on a natural gas bill next year if we failed to pass one this year.

Let me say, that seems strange, indeed. If this bill, the centerpiece, as the President of the United States puts it, if this gas bill—the centerpiece used to be the crude oil equalization tax, but when the word got down to 1600 Pennsylvania, that went down the drain. There was no way that was going to be passed. Then the President said, "Well, actually, the centerpiece is the natural gas bill."

He spoke about, earlier on, that the energy package was the moral eqivaulent of war. There was nothing as important to the people of the United States as was a resolution of the energy issue.

Now, granting that the President has shifted a little bit, if it is still true this is the most important piece of legislation we have, I would be very interested in knowing what the priorities are in addition to those bills that have been mentioned by the Senator from Washington and the Senator from Oregon that are of greater importance than is the passage of this bill.

I say that because it is my contention that if we come up with a better bill, and I would say in all honesty that will not be hard to do, if we come up with a better bill than that before us now, I cannot believe that the House of Representatives would turn its back on that compromise and I cannot believe that the President of the United States would say, "Well, we have made a fair effort, it has been a long and very wearisome effort."

I cannot believe the President of the United States, the distinguished Senator, the chairman of the Energy and Natural Resources Committee, and my good friend from Oregon, who will be the ranking member next year—and I agree with my good friend from Illinois that, indeed, MARK HATFIELD will be the ranking member on the Energy and Natural Resources Committee next year—I cannot believe that all of a sudden we would say we would not any longer worry about this. If it is as important as we are led to believe now that it is, how in good conscience could the Members of this Congress say, "Well, we've tried, we didn't make it, so we're going on to something else and plow other fields."

Mr. PERCY. Would my distinguished colleague from Wyoming just enlighten the Senator from Illinois on one point?

Mr. HANSEN. I will be happy to, if I can.

Mr. PERCY. We are practical men. We live in the practical world. In fact, the three of us have been here exactly, almost to the moment, the same length of time.

Now, with the clairvoyance and wisdom of 12 years, having heard the chairman of the committee and knowing the force of his personality, having heard the ranking minority member and knowing that he is a man of his word, that he is a man of priorities, determination, and some degree of influence——

Mr. HANSEN. I quite agree.

Mr. PERCY (continuing). Could the distinguished Senator from Wyoming care to make a wager with the Senator from Illinois that if this bill is recommitted to committee, and a better bill or any bill for that matter, comes back to the floor of the Senate next year or early the following year?

Our wager may be illegal, but our immunity may help us in that respect.

Mr. HANSEN addressed the Chair.

Mr. METZENBAUM. I would like to advise the Senator that I am prepared to take half of his bet, if he wishes, with the distinguished Senator from Illinois, because I do, indeed, believe a bill will come back, because I cannot believe the House of Representatives can be that irresponsible, out of a sense of feeling, to say they will not have a national energy plan.

If I may take just a moment and if the Senator from Wyoming will yield to me, because——

Mr. PERCY. If the Senator from Wyoming will answer the question and the Senator will then complete his comments, the Senator from Illinois will be happy to yield to his colleague from Ohio.

Mr. HANSEN. My answer is an unequivocal "Yes," and I will say why.

Mr. PERCY. How much was the amount of the wager?

Mr. HANSEN. A dollar to two ninety-eight.

Senator JACKSON says I need to bet one of the steers if I do not want to risk the full ninety-eight, and the way the prices are, that would be huge, I must say.

My answer is "Yes." I will say why.

The Senator from Illinois spoke about the fact that people from his State oppose it. Different interest groups, the labor groups on one side, the producers on the other.

It is not surprising we would find that kind of opposition, for a very good reason. If there ever was a gerrymandered bill put together, I thought the Panama Canal was the high-water mark, but it is not even in the ball game compared to this bill.

Everything that was necessary, every kind of a concession, every kind of an accommodation that was important in order to get that magic number of 9 Members from the Senate and 13 from the House was incorporated into this bill.

The Chairman of the Federal Energy Regulatory Commission, as well as Sheila Hollis, says that this will involve years of litigation. It is going to require 325 more employees, an additional $10 million, and the supportive personnel——

Mr. ABOUREZK. Mr. President, will the Senator yield briefly on that point?

Mr. HANSEN. No; I cannot. I am answering the Senator from Illinois.

My answer is, "Yes," and I will tell the Senator one additional reason why.

If we go to the House with the same dedication and the same commitment that the conferees earlier had, not to move toward deregulation—and that is a factual statement—then if we go over there with a better bill, and I think we can have a better bill, I believe that the prestige and the influence from the White House will be on the leader, Mr. O'NEILL, and others there to look very carefully at the kind of package we would propose. My prediction, up to 298, is that we will get that bill.

Mr. PERCY. The Senator from Illinois would be happy to wager his house in Georgetown against the ranch in Wyoming of the distinguished Senator from Wyoming that that will never occur.

I yield at this time, for the purpose of answering this first question of a series of six questions, to the distinguished Senator from Ohio. Then I will yield to the distinguished Senator from Oklahoma.

Mr. METZENBAUM. Mr. President, I thank the distinguished Senator from Illinois for giving me the opportunity to respond to his question, because I think it is one of the questions that is concerning a lot of people. It is a question that nobody can answer with certainty.

You can speculate, you can guess, you can give an opinion, but even the wisdom accumulated in the years of service of the Senator from Illinois, the Senator from Wyoming, the Senator from Washington, and the Senator from Oklahoma cannot predict with any accuracy what the House is going to do.

As a matter of fact, as some indication of that, it should be pointed out that the distinguished chairman of the Energy Committee, who is responding as to what the House will or will not do, is in the minority at this moment, so far as the Senate is concerned, with respect to members of the Senate conference committee; because now the vote is 9 to 8 on supporting those who believe that this bill should be recommitted and that this matter should go back to the conference committee. So there is a strong push in that direction.

It is fair to point out that, at the very best, the House had only a one-vote margin in order to stand by its position. So there certainly is a kind of concern in the House.

I believe that the Senator from Illinois, who I consider to be one of the most distinguished Members of this body, one of the ablest Members, who has shown great, good judgment on many occasions in the past, can hardly make a decision that will have such an unbelievably negative impact upon his State as will this bill, based upon somebody's conjecture as to whether we might or might not kill the bill or send it back to the conference committee, because I do not believe that any of us would be responsible if we did that.

This bill will provide an incentive for all the industry in the State of Illinois that uses natural gas to move to the producing States, where they will be able to buy natural gas at substantially lower prices. This bill will provide an increased cost to the consumers of the Senator's State with respect to natural gas as compared to industrial users.

It seems to me that where we have a measure that has such major impact as this on one's own State, one cannot base a decision purely on conjecture.

I point out, further, that when the President originally came forward with this measure and when the distinguished Senator of the Energy Committee was advocating the Natural Gas Pricing Act, it was on the basis that the President would have the right to go into the Southwestern States and move gas into our States—my State and the Senator's State—alike. That is not in the bill any more. In spite of that, the Senator from Washington—and I respect him—has changed his position and has taken a bill that no longer has that provision in it.

So I say to the Senator from Illinois that although we might say today that something is black, we might change our view with respect to it tomorrow.

I know the Senator from Illinois has four or five additional questions, and I would enjoy participating in a colloquy with respect to them, but I cannot do so because I have to catch a plane.

I hope that the Senator from Illinois would not make his decision based upon what he thinks may or may not happen—not next year but this year—because I do not believe that the House is irresponsible. I do not believe that 435 Members of the House want to go back to their home States and say, "We killed the national energy program."

I sincerely believe that if we indicate that we want an affirmative answer—the alternative that we are advocating—the House will act with responsibility. I think my good friend from Wyoming will win his wager with my good friend from Illinois, and I believe that the people will benefit as well as the Senator from Illinois.

Mr. PERCY. I thank my colleague.

The Senator from Illinois wishes to proceed with the colloquy, so as to make legislative history in this matter.

The answers that the Senator from Illinois receives to subsequent questions may well be determining in the decision being made. Obviously, those questions will be directed at the substance of the compromise legislation before us. But we will get on with that just as quickly as we have a response on the first point, as to what the legislative outlook would be if we were to recommit or defeat the compromise.

I turn to my distinguished colleague from Oklahoma for a brief response. He has labored very hard, indeed, to fight for the provisions he believes in, and he believes in deregulation, as does the Senator from Illinois.

Mr. BARTLETT. I thank the distinguished Senator from Illinois, my frequent tennis-playing opponent and fellow supporter of deregulation.

A quick aside as to what Senator ABOUREZK said: Why should the States spend their money to enforce a Federal law? I think there is a big question as to whether the State regulatory bodies will take any action to enforce a Federal law, spending State revenues. So, I think the $30 million figure will be far less than will be required.

Second, I believe the distinguished chairman of our committee said yesterday that the highest priority facing Congress today is the natural gas question, and it certainly is. If his dour predictions would come true and we did not pass a bill, if it were recommitted and the instructions were not followed by the House—they will be followed by the Senate Members, because we do have a 9-to-8 majority—it still would be a high priority and still the highest, I believe.

The Senator asks the question—and it was a very good question—about the committee reporting a comprehensive energy bill or a natural gas bill. The committee, in the time I have been a member, took no initiative on its part to report a bill until the administration introduced a five-point energy bill, four points of which came to the Energy Committee. Then the chairman did make an effort to report the bill. It was reported, without favor or disfavor, so that there would be a bill on the floor.

The distinguished Senator from Illinois supported both Pearson-Bentsen bills, and he knows that there undoubtedly will be an effort made in the next Congress, as there was in this Congress and before, to pass a deregulation bill. We have passed the Pearson-Bentsen bill twice. It did not come from the committee, even though the committee had Senate Reso-

lution 45, I remind the Senator. I am sure he voted for that. That was introduced by the distinguished Senator from West Virginia (Mr. RANDOLPH) some time ago, in the interest of doing something about natural gas.

And yet the Energy Committee failed to do that.

If we have the instructions as outlined in our recommittal motion, and we could have even more or different instructions on subsequent recommittal motions if it fails, we can have the basis of a good interim solution to the energy problem. And then there is no question in my mind, and I think the Senator will agree, that natural gas is going to remain the No. 1 issue for this Senate. It may not be the No. 1 issue for the Committee on Energy and Natural Resources, because it never has been. It has not been in the past, even with the extra staff members that Senate Resolution 45 provided.

The distinguished Senator from West Virginia introduced this resolution in 1971. Senator JACKSON said at that time that the committee would not fail to act on this resolution, but that it would face up to certain things, including natural gas. But it did not.

I do not think the committee will face up again to natural gas or other energy problems because it never has, and I think it has only been because the full Senate has seen fit to deal with the high priority of natural gas that we have had the effective results we have had in passing the Pearson-Bentsen deregulation bill twice. We almost passed the Buckley bill, which I think the Senator supported, before that.

So the answer, when we receive it from the chairman and ranking member, is that they are not going to report out an energy bill. Obviously they are not; they never have before, and I do not think they will in the future.

Mr. PERCY. So the Senator concurs, then, that if this bill is recommitted or defeated, the Nation will not have a different energy policy next year, or perhaps 2 or 3 years.

Mr. BARTLETT. No, I do not concur with that at all. I feel very strongly, and I wish the Senator would listen to this, that if we pass the recommittal motion with instructions, there will be provided the opportunity for the President to declare an emergency in the event of a natural gas shortfall, and to exercise means to resolve that.

In addition to that, with authority from the Federal Energy Regulatory Commission, there can be unused and uncommitted gas from the intrastate market flowing to the customers in the interstate market. There is excess gas in the intrastate market now which has depressed the price in my State.

The Federal Energy Regulatory Commission will be required, if there is no pricing action taken now, to set a price on natural gas in the interstate market. When they do this there will be more gas which will be committed to the interstate market, just as there was in 1977 when the equivalent of 80 percent of the requirements were committed because of the price of $1.45 that prevailed at that time.

So I think the solution that we are providing will be a very good interim solution. Then the Senate and the House of Representatives can deal with the No. 1 priority, which will still be the pricing policy for natural gas and oil.

Mr. MATSUNAGA. Mr. President, will the Senator from Illinois yield?

Mr. PERCY. I am happy to yield to my distinguished colleague from Hawaii who was not here at the introduction of the colloquy. The issue now before the Senate is to try to determine whether or not if we recommit the bill there is any chance for different legislation to come forward this session or if we defeat the bill whether there will be any chance in the foreseeable future for there to be a better piece of legislation.

Mr. MATSUNAGA. I fully understand the question, and I am on my feet to help to answer that question for the Senator from Illinois.

As a member of the conference committee, as a former Member of the House of Representatives, where I served for 14 years until I came to this body only last year, I believe I am in a position perhaps better to understand the personalities involved, especially personalities of the conferees from the House side. I stand here in complete agreement with the chairman of the Energy and Natural Resources Committee, that in the event of a recommital of this bill there will be no bill this year, that there will be no bill, that is, on natural gas next year either, and that, as the Senator from Illinois well knows, will be tragic. As a businessman I think the Senator fully realizes that there are many in the banking industry today who are very much concerned.

If I may have just another less than half minute I wish to call attention of the Senate to one statement which was made last week—I believe a letter was sent to the Senator's office also—by Gordon I. Wallis, chairman of the Irving Trust Co. of New York, and I quote from parts of it.

The world is anxiously looking to the United States for affirmative action on the energy front. Our failure thus far to take such action has been an important factor in the dollar's decline on international markets.

And of course, recommittal, would mean defeat.

Defeat of this measure would have a significant further negative impact on the value of the dollar abroad, with serious repercussions for all Americans.

For this reason alone, it should be passed.

And he goes on further to say:

The definite schedule of increasing ceiling prices and ultimate decontrol will help bring about the rising domestic output necessary to reduce our reliance on imports and to provide a continuing flow of domestic gas for home and industrial use. I hope you will do what you can to bring about passage of this bill.

It is also my understanding that Mr. George W. McKinney, Jr., chief economist and vice president of Irving Trust, signed a similar letter.

And only a few nights ago I met, with one other Senator, with the Minister of the Environmental Protection Agency of Japan, and he expressed the view that has been expressed continuously, not only by leaders of the Japanese nation but by leaders in the European economic community as well.

I was in communication by satellite on a State Department program with the Vice President of the German Bundesrat, for example, and they all expressed concern that unless the Congress of the United States gets an energy program out this year it will signify to them an unwillingness or an inability of the United States to resolve the energy crisis and if the United States fails to meet that crisis it will not only lose its leadership in the world economy but it will also lose its leadership in matters pertaining to the world's security which would, of course, mean the security of our country as well.

And for this reason, and as I understand it the Senator is genuinely uncommitted at this point, I think it befalls upon all of us that we get an energy bill out this year if we are thinking in terms of the welfare of our Nation and the welfare of the world.

I thank the Senator for yielding.

Mr. PERCY. I thank my distinguished colleague.

Before we close this first question, I wish to pose a question to the distinguished majority leader.

In his judgment what will be the outcome of a vote to recommit this bill? What will be the likely events to follow if the Senate defeats the compromise gas bill?

Mr. ROBERT C. BYRD. The Senator asks two questions. What will be the consequences of a recommital of this bill? The second question is, What will be the consequences of a rejection of this conference report?

Mr. PERCY. That is correct.

Mr. ROBERT C. BYRD. The answer that I make is as follows: I will answer the second question first.

(Mr. GLENN assumed the chair.)

Mr. ROBERT C. BYRD. What will be the consequences of the rejection of this conference report? The rejection of this conference report means that the bill is dead. A rejection of the conference report kills the bill. It also means that, for many practical reasons, there will be no bill embracing long-term national energy policy with respect to natural gas pricing at all this year.

Why do I say that? I am simply looking at the calendar, for one thing. This being the 15th day of September, only 3 months and 18 days remain until a new Congress convenes on January 3. In those 3 months and 18 days—during that time—there is an election, a national election. It is the intention of the leadership to either adjourn sine die by October 14 or to adjourn by October 14 subject to coming back into session following the election.

Let us take the latter as the worst case. Let us say that the Senate works up until October 14 and then decides to come back because it has not completed

its work and must come back after that point.

Now, there are several very important engagements that have been scheduled by Senators that have to be met. For example, there are engagements and schedules, and so forth, that deal with international matters involving Senators that would mean that the Senate could not come back, in my judgment, before Thanksgiving.

So at the very best I should think the Senate would not be able to come back into session before the 27th of November, in which case only 3 weeks would remain prior to Christmas week.

If the Senate, however, came back before Thanksgiving it is my judgment that it would not work beyond the Thanksgiving week or shortly after the week following Thanksgiving which would still mean the Senate would have about 3 weeks after the election.

Let us count the days beginning with next week and include Saturdays, which is somewhat of a fiction, for the most part. There would be 6 weeks; 2 weeks in September, 2 weeks in October. If it becomes absolutely evident that the Senate will not complete its work by the 14th, it may very well go out earlier, realizing we would have to come back. In November, the best that could be done would be 2 weeks, and the best that could be done would be 2 weeks in December. That is the maximum, 8 weeks, all Saturdays included, which would be 48 days. Every Senator here knows we are not going to be in session eight Saturdays, barring something like a war.

Eliminate these Saturdays, and that is 40 days. We are told that it rained 40 days and 40 nights back in the time of Noah, and the waters covered all the Earth. I would like to say to the Senator from Illinois that in those 40 days of legislative session there will not be 40 nights. There will be 40 days, but let me tell the Senator what will be raining. It will be a flood, and I will tell the Senator what that flood will consist of.

Here is the remaining "must" legislation: Four energy conference reports—natural gas, public utility rates, energy conservation, and, hopefully, the energy tax conference report; a major tax cut; the Labor-HEW appropriation, which is not something that will pass the Senate by unanimous consent. It is not something that is likely to pass in a single day. Recent experience will teach us that, because that bill is a lightning rod for every kind of amendment one can imagine. You name it—abortion, busing, just name it—and it is there.

There is the Department of Defense appropriation, and before we pass that bill we need a new authorization bill because the President has vetoed the bill that we passed; the foreign assistance appropriation—another bill that is not likely to be passed within a 30-minute period. It takes time to pass these bills. So, we have the HEW appropriations, Defense appropriations, foreign assistance appropriations, and tax bill. It takes time. We can spend 2 weeks on the tax bill. I have seen it happen. I have seen the Senate spend a week easily on the HEW appropriation bill. I have seen the Senate spend 6 weeks on a military authorization bill.

Additionally, we must act on the New York City appropriation, mass transit authorization, marine protection authorization countercyclical revenue sharing, and vocational rehabilitation authorization bills; the public health services authorization—we do have a time agreement on that, but even with a time agreement that bill could take 2 days, it could take 3 days, depending on how many amendments are offered; the Nuclear Regulatory Commission bill, which is an important bill. We have a time agreement on it already, but depending on the number of amendments that are offered, that bill can conceivably take a day or two. Then there is the public broadcasting authorization—we have a time agreement on it already, but I do not know how many amendments will be offered to it.

Add to these the Department of Energy authorization, the national security part; Department of Energy authorization, the civilian part—those are two separate bills; Export-Import Bank authorization, rail services assistance authorization, sugar stabilization act authorization, omnibus parks authorization, and Regulation Q extension. Then we have here this talk from the majority leader that we hope to finish our work on October 14. Is this man talking realistically, or is he seeing visions and dreaming dreams?

That is not the end of the list. Those issues I have mentioned are absolutely necessary measures. They involve appropriations, and they involve bills that deal with expiring authorizations.

On October 14, every Senator here is going to want to pack his bags, go home, and stay home after the election. He is not going to want to repack his bags and come back to Washington and attend Senate floor sessions, because when he comes back here after the election he is going to get everything thrown at him but the kitchen sink. Somebody is going to want brought up every controversial bill on the calendar. You name it, somebody will want it brought up.

Mr. PERCY. The Senator from Illinois would like an answer to his question.

Mr. ROBERT C. BYRD. Let me finish. I am trying to answer the Senator's question.

Mr. PERCY. Having heard the distinguished majority leader thus far, the Senator from Illinois, who happens to be running for reelection himself, believes he had better arrange to vote absentee, because it does not look to the Senator from Illinois as though he is even going to get home to vote for his own election, with that kind of schedule.

Mr. ROBERT C. BYRD. Wait until I finish. The Senator might not even have time to fill out his absentee ballot.

Mr. President, here is some other high priority legislation. Listen. Listen, now. Let me have all ears.

The Department of Education bill.

Hospital cost containment. This is one of the pillars on which the President has based his anti-inflation drive. The Senate has passed the airline deregulation bill, but hospital cost containment is still ahead of us, and the people of this country want action taken with regard to inflation. It is the most unfair tax of all that is placed upon the American taxpayers. Hospital cost containment is an important measure.

We have two measures in that category: A measure supported by Mr. KENNEDY, which I think represents the administration's approach, and the measure which is supported by Mr. TALMADGE and Mr. LONG, which will help curtail some of the expenditures of medicare and medicaid, and so on.

Now, listen to this one: ERA extension. Has any Senator heard from any constituent?

Mr. PERCY. The Senator from Illinois has heard enough about that one.

Mr. ROBERT C. BYRD. On ERA extension? I have heard from both sides.

Humphrey-Hawkins. I would like to see it brought up, but it will take some time. The sunset bill. The Senator from Maine (Mr. MUSKIE) has spent a lot of time on that. The Senator from Illinois (Mr. PERCY) has also spent a lot of time in this field.

The antiterrorism bill. Electronic surveillance legislation, and Alaska lands.

I have heard it said that there will be a filibuster on the Alaska land legislation. How many filibusters can we have in 40 days? And 40 nights; when one talks about filibusters, one is talking about nighttime sessions also.

And do not forget our old friend, labor law reform legislation. It is not dead yet.

Then the fair employment practices resolution. I see some discussion on that.

Then there is the interstate gambling bill, with a lot of pressure for the Senate to take some action on that.

So that is the menu, and the legislative esophagus and the parliamentary stomach can only swallow and digest so much.

Now, you tell me——

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes, I yield.

(Mr. ZORINSKY assumed the chair.)

Mr. JACKSON. After listening to all that, I think the Senate ought to come up with some political dyspepsia pills.

[Laughter.]

Mr. ROBERT C. BYRD. Now, I have been privileged that the Senator from Illinois asked me this question, because I think this ought to be laid in the RECORD, so that Senators will see just what we have remaining as a workload.

Energy legislation has long been our top priority. When? When? I have seen blood spilled all over this carpet during the fight on the natural gas bill, from the filibuster last year on this bill. Let me say right here parenthetically, I did what I had to do to save that bill, and I would do it again today. I would do it again tomorrow, to save that bill.

If the action that was taken last year to save the natural gas bill had not been taken, we would not now have this conference report before the Senate, because the bill would have been killed then and there.

Now let us talk about what would happen if the conference report goes back to conference. If the conference report is sent back to conference, keep in mind that those conferees spent—10 months?

Mr. JACKSON. Over 10 months.

Mr. ROBERT C. BYRD. Over 10 months in conference. They spent time in conference when I, who was not a conferee, did not have to go to conference. I had some weekends. I had some recesses. But they had to work in conference.

Do you know how many signatories there were on the House side? Thirteen out of 25. Now, I was a pretty good math student when I was in high school, and my mathematics tell me that if there had been 1 less than 13, there would not have been a conference report. It has to be signed by a majority; 12½ is even, so 13 is a bare majority.

How many signatories were there on the Senate side? Nine out of 17; again, a razor-thin majority.

So we have a conference report brought back here which represents the diligence and the hard work and the frustration of all the conferees, every one of them. It is a compromise—that was all that could be gotten. Now, if that compromise goes back to conference, what happens?

Let us say that the House conferees would agree to the Senate's instructions. And the Senate's instructions have not a bit more to do with those House conferees than those Senate instructions have to do with my grandchildren. And that is zero. As a matter of fact, it is absolute zero, which is about 459 degrees Fahrenheit. It is way below zero on either the Centigrade or Fahrenheit or Celsius scale, whatever one's choice may be.

But let us, just for the sake of argument, say that the House conferees would fold up and say, "Well, we accept."

What happens? A new conference report has to come back here, and that new conference report has to be signed all over again. All over again. Because sending this conference report back to conference really puts the thing right back where it was, and where it was for 10 months. If those conferees change one word, it is a new conference report. It has to be signed all over again. Even if they do not change one word, one semicolon, or one comma, if they just take a look at it and kiss it, and send it back, it has to come back as a new conference report, because the Senate will have rejected the first conference report and sent it back to conference, and the work there is all to do over again. If there were not one iota of change in that conference report, yet it has to come back with a new number on it and a new date on it; it is a completely new conference report, even though every word of it may be exactly the same as the conference report we have before the Senate today.

(Mr. ZORINSKY assumed the chair.)

Mr. ROBERT C. BYRD. It would be a new conference report. It would have to have a new date and a new number on it. And, here is the rub—it would require the signatures of a majority of the House conferees and a majority of the Senate conferees all over again.

Now, you tell me that that is going to be easy and I will kiss your foot, if you turn out to be right. As a matter of fact, I will kiss both feet.

So we have the problem of those conferees having to go back and put their noses to the grindstone again. We have the problem of having to get an agreement on the part of the other body, which is no part of these instructions. And even the Senate conferees, under the precedents, are not bound by the instructions. The instructions are advisory. No point of order can be made against a conference report if the Senate conferees do not act in conformity with the Senate's instructions. I hasten to say, however, that contrary to the honestly held feelings of some, I believe that those Senate conferees would accept the Senate's instructions as binding on them and they would do their best.

But you have the House conferees, and they were tough during these 10 months—t-o-u-g-h. I have been in conferences with the House, and I have always found them tough.

Like old Joe Clark, a rough old man, a mean old man was he, "he knocked me down with his right hand and walked all over me."

That is the way with those House conferees. They are tough. I used to be over there. I found out after getting over here that those fellows really are tough; they know what they are talking about. For some reason or other, I thought at the time that they really had it in for the Senate because they can really be mean.

I think that pretty well answers the Senator's question as to what would happen if we send this report back to conference. We would have to deal with a new conference report, signed by 13 out of 25 of the House conferees, and 9 out of 17 Senate conferees. Time is running out, and the sands in the hour glass are dropping one by one by one. So just forget it. There will not be a bill.

There is one other thing we should not forget. If another conference report is brought back here, who will guarantee me—who will guarantee me—that we can get that conference report up and get any agreement on it whatsoever timewise and not be faced with a filibuster? As the days come and go and the year runs out, who can guarantee me that we would get any kind of time agreement? As the time draws to a close, those who oppose any bill at all—and there are some in the Chamber who just do not want any bill at all, and they make no bones about it. They are honest and I respect them for it. I respect the man who says, "I do not want any bill at all, I will do anything in my power to kill any bill."

But as the days run and the Sun sets on the 95th Congress, the rules play into the hands of those who do not want any bill at all.

Fortunately, we have a time agreement on this conference report, but who will assure me that, if any conference report came back, we would be able to get an agreement on it.

So, Mr. President, in short, in sum, it is take it or leave it. Every Senator must make the choice. Kill the conference report, kill the bill. No bill this session. To send the conference report back to the conference, practically speaking, and realistically will kill the bill.

They have had a tough time in the House of Representatives even with its rules. They have had a tough time over there dealing with this bill. I sometimes wish we had the rules of the House in the Senate. My, what we could not do. Oh, boy. I would love it.

We would do away with Senate Rule XXII completely. Just do away with it. One could go to the Rules Committee and get a rule that would say not one amendment is in order on a bill, not one. Or you could go to the Rules Committee and you could get a rule saying only one amendment can be offered and that amendment is thus and so, and it can only be offered by the chairman of the committee.

There is where the minority stands in the House of Representatives, the minority. But in the Senate the minority is protected. How about those rules of the House? You would really need a fair majority leader here then. If we had the rules of the House here, you would praise the junior Senator from West Virginia every day and you would pray for him every night.

Mr. HEINZ. Mr. President, we still pray for him every night.

Mr. ROBERT C. BYRD. I thank the Senator. I cherish his prayers. The prayers of a righteous man availeth much.

Mr. President, does the Senator have any further question? [Laughter.]

Mr. PERCY. The Senator from Illinois, having asked this question some time ago, never would have believed that during the course of this colloquy the offer might be available for any Senator to have the majority leader kiss his foot. It is a tempting offer, but I think there is no more eloquent answer, if not brief but eloquent, and realistic and practical, than the answer given to that question which every Senator must ask himself: If this action is taken, recommit or defeat, what is the likely consequence? The distinguished majority leader is more practical about that issue than anyone else. Certainly, what he has said has been supported and buttressed by the chairman of the Energy Committee and the ranking member in the next session of Congress. I think every Senator should address himself to that issue.

Mr. ROBERT C. BYRD. The compliments of the Senator from Illinois have buoyed me into the stratosphere.

Does the Senator want to question me with respect to next year? Does he have a question with respect to next year?

Mr. PERCY. That is right.

Mr. ROBERT C. BYRD. Well, next year—well, they say if we do not pass this bill, we will pass a better one in the next Congress. What Senator in here does not know that the next Congress is a Congress which is working in a Presidential election year. There is a Presidential election year before the next Congress runs out. If Senators have seen divisiveness on this bill during Congresses when there have not been Presidential elections, just wait until there is

a Presidential election year and then they will see something.

So all of these bills, all of the authorization bills, all of the appropriation bills, that we have already done in this Congress will have to be done over again next year. And we would be up against a Presidential election. The regional, parochial, and provincial concerns and differences that have emerged over the past 30 years during the time this issue has been around Congress—30 years—30 years—will be compounded during a Presidential election Congress.

There will also be some new faces in both bodies. And this is such a divisive, emotional, long-standing issue. It was vetoed once by President Truman and once by President Eisenhower. It is so divisive. Having gotten this measure up to this point in the long, long road, I think it would be disastrous for the Senate to turn back now and retreat from the battlefield of responsibility on the premise that if we turn this down—kill it either way, kill it outright or kill it by sending it back to conference—that we will get something better. Those who think they will get something better soon had just better forget it. I thank the Senator.

Mr. PERCY. I thank the majority leader for his response to that question. When the majority leader said this was an emotional issue, he has not only stated that but demonstrated it in a very eloquent way. The answer to that question has decisively now been answered and every Senator must take that into account.

The likelihood of any gas deregulation bill, if this is turned down this year, is literally zero.

Mr. ROBERT C. BYRD. Absolute zero.

Mr. PERCY. Absolute zero, and the likelihood of one next year and the next Congress is zero as well. So everyone will have to take that into account.

The Senator from Illinois has five additional questions. I would appreciate it if we could, without interruption, move directly into those questions, which I address to the chairman of the Committee on Energy and the floor manager of the present bill.

The second question of the Senator from Illinois relates to the administration's position on phased deregulation. The Senator's reference is particularly to section 122: Stand-by Price Control Authority, reimposition of price controls. The President, in accordance with section (c)(1), or the Congress in accordance with section (c)(2), may reimpose price controls on natural gas.

There has been considerable skepticism about the intentions of the administration and the Congress with this bill. Though it is a deregulation bill, some fear that future actions could reverse the whole process.

How are consumers and producers guaranteed that at some point in the future, we do not start another regulatory policy and stop the phased deregulation?

The Senator from Illinois put this question to Ambassador Robert Strauss, to Secretary Schlesinger, and to Mr. Stu Eizenstat, chairman of the Domestic Council, at the White House meeting 2 days ago. I received an unequivocal answer: Each of these representatives of the President, speaking on his behalf, said that at no time during the Carter administration would the President attempt to change the deregulatory direction of this bill, except in case of a total, all-out national emergency.

The question I would like the manager of the bill, who has had advance notice and has had an opportunity to consult with the administration, is: How firm is the administration's commitment to the phased deregulation schedule that really is at the heart of this bill? In other words, will the President promise to take no actions to increase the regulation of the gas market, no actions to slow or obstruct the move toward deregulation, and no actions designed to increase the need for reimposition of price controls in 1985?

Would the chairman of the Energy Committee make the same promise from the standpoint that he can exercise vast influence, in the Energy Committee and in the Senate of the United States over natural gas policy. Further, would the chairman make a commitment to oversee the actions of the executive branch and assure the Senators, who depend upon this answer, that he will do everything within his power to see that the administration holds to its promise?

Mr. JACKSON. Mr. President, let me respond by saying that the conference report establishes statutory price ceilings that are not subject to administrative manipulation or discretion. I want to assure the Senator that the Senate Energy and Natural Resources Committee will exercise its oversight jurisdiction to assure that both the Department of Energy and the independent Federal Energy Regulatory Commission carry out the functions and duties assigned to them by legislation.

Mr. PERCY. I thank my distinguished colleague. The Senator from Illinois deeply believes in deregulation. He believes in the free marketplace as the most satisfactory arena in which pricing should be established and settled. We need only look at the airline deregulation work that a number of our colleagues have done, including the Senator from Illinois, for an indication that deregulation provides better service and fore frequent service at a lower cost. If decisions were made by industry and the private sector based on the free market, rather than by bureaucrats based on regulators, natural gas consumers, too would receive adequate supply, adequate service, and, in the long run, lower cost.

The Senator from Illinois interprets the natural gas bill to indicate that we are moving toward deregulation by 1985. The Senator from Illinois is concerned about the speed with which we are moving toward that.

Mr. HANSEN. Will the Senator from Illinois yield for just a 15-second question?

Mr. PERCY. I am happy to yield for that purpose for 15 seconds.

Mr. HANSEN. The Senator from Wyoming is of the mind that the present occupant of the White House cannot occupy that position beyond the end of a possible second term; nor can any present Member of this body say with certainty that he will be on hand 7 years from now. My question is, how do we guarantee that the administration will keep on course?

Mr. PERCY. The guarantee is only, obviously, good until the end of the Carter administration. That is the only assurance the Senator from Illinois was seeking to obtain.

That is the assurance that the Senator from Illinois has received.

Mr. BARTLETT. Will the Senator yield for a 30-second question?

Mr. PERCY. The Senator would like very much to finish the colloquy, because we have now been an hour and a half and we have only covered two questions.

Mr. BARTLETT. If he will give me 30 seconds on this one, I should like to read from a letter by Presidential candidate Carter to Governor Boren of Oklahoma, dated 17 days before the November 5 election, October 19, 1976:

> First, I will work with the Congress, as the Ford administration has been unable to do, to deregulate new natural gas. The decontrol of producers prices for new natural gas would provide an incentive for new exploration and would help our nation's oil and gas operators attract needed capital.

I ask unanimous consent that this letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OCTOBER 19, 1976.

GOV. DAVID BOREN,
State Capital Building,
Oklahoma City, Okla.

DEAR GOVERNOR BOREN: The formulation of a workable national energy policy implemented by a responsive, understandable governmental structure will be of highest priority in a Carter administration. If we are to reach our goals of full employment and a healthy, growing economy, we must reduce our dangerous dependence on foreign oil and we must develop our own domestic energy supplies. These resources must be produced and used in an environmentally acceptable manner at a cost that the consumer can afford to pay.

A sound energy policy must aggressively promote conservation of our scarce oil and gas resources. This is the only way in which we can hope to make ends meet in our energy budget. But, coupled with energy conservation, our policy must encourage additional production of our domestic reserves.

Eight years of Republican administration have failed to produce an energy policy. Demand for new energy supplies has increased by over 4 percent per year since 1969—even though demand was reduced considerably during the recession triggered by the Arab oil embargo. At the same time, domestic production and resources have decreased substantially, and dependence on foreign supplies has increased from 35 percent prior to the embargo to over 40 percent today.

To increase our domestic production, I have proposed three important steps.

First, I will work with the Congress, as the Ford administration has been unable to do, to deregulate new natural gas. The decontrol of producers prices for new natural gas would provide an incentive for new exploration and would help our nation's oil and gas operators attract needed capital.

Deregulation of new gas would encourage sales in the interstate market and help lessen

the prospect of shortages in the nonproducing states which rely on interstate supplies. While encouraging new production, this proposal will protect the consumer against sudden, sharp increases in the average price of natural gas.

Second, I believe we should act to encourage enhanced recovery from wells already in production. As you well know, an average of 60 percent of our oil remains in the ground after standard recovery methods have been exhausted. It is estimated that up to 60 billion barrels of crude could be added to our supply if enhanced recovery techniques are used. Since the environmental costs have already been largely paid on these resources, both consumers and producers alike benefit from development of this resource.

Third, I favor a substantial shift from the use of oil and gas—our highest quality energy sources—to coal, which we have in abundance. We must immediately begin a program to encourage conversion from the use of petroleum and natural gas to coal in those applications for which coal is an acceptable substitute. Our present demand for coal is limited by two important factors. First, we have geared our technological growth of oil and gas for well over 100 years. Second, we have failed to establish a stable regulatory climate in which coal producers are sure of the rules of the game before they make investments in expanded production or new mines. Switching to the use of coal will require strong presidential leadership and proper federal incentives to encourage the conversion process. A Carter Administration will provide this leadership.

I hope that these policy recommendations will help to put my views on the supply aspects of the energy problem into focus. Without a strong commitment to increasing our domestic production, while maintaining basic environmental principals, we cannot hope to reverse the unhealthy trends which the lack of leadership of the current administration has produced.

Sincerely,

JIMMY CARTER.

Mr. PERCY. I thank my distinguished colleague. The Senator from Illinois is familiar with that letter. The Senator from Illinois has done everything humanly possible to insure that we do have a firm assurance from the administration on this point, on this particular question.

The third question the Senator from Illinois will put to the manager of the bill is based on the fact that the enforcement provisions of this bill raise the rather intimidating possibility that a man could go to jail for submitting information about a gas well based on an honest interpretation of his requirements that just happened to be different from FERC's interpretation.

Certainly, this is a grave problem. It has been discussed at some considerable length in the meetings of Illinois constituents at the White House. Some of my constituents were quite eloquent in their discussion of this issue. Members of the administration at high levels have evidenced concern about this particular section.

If there was ever a disincentive to drill, this provision is it.

The possibility of unintentional misinterpretation is huge. No rational man can study and understand every aspect of this present legislation. The Senator from Illinois has read it carefully. It is extraordinarily difficult to understand.

Will the executive branch interpret this provision in such a way to minimize the problem? Will the administration commit itself to supporting amendments next year to correct this situation?

Can the chairman of the Energy Committee and the floor manager speak on behalf of the administration on this point, and will the chairman of the Energy Committee work with the administration to correct this particular situation?

Mr. JACKSON. I want to state categoricaly that a man could not go to jail for submitting information about a gas well based on an honest interpretation of his requirements that just happened to be different from FERC's interpretation.

Section 504(c) of the Natural Gas Policy Act provides criminal penalties only for "any person who knowingly and willfully violates any provision of this act." As it states on page 122 of the Joint Statement of Managers, the criminal enforcement procedures are similar to those in the Natural Gas Act—meaning the existing law. I do not believe there will be a need to amend the legislation in this regard.

Mr. PERCY. In other words, the interpretation the distinguished Senator puts on the language is that it must be absolutely willful, and there must be proof that it is willful violation?

Mr. JACKSON. The Senator is absolutely correct. Willful. I would almost go to the point of saying premeditated.

There would have to be an intentional planned scheme to violate the law.

Obviously, we make no exception in cases like that.

Mr. PERCY. If it apears that, even with this assurance, this particular provision causes considerable concern within the private sector and turns out to be a real disincentive to drilling, would the Energy Committee then work on an amendment in the near future to correct that situation?

Mr. JACKSON. Certainly, if it should come to our attention, it is not our view now, that an injustice would be created by a failure to amend it, then obviously we would give it top priority attention.

It is my understanding, and I emphasize, I want to be emphatic about it, that in order to bring any kind of a criminal action it would involve intentional, wilfull violation of the statute.

Mr. PERCY. I would like to pursue a broader principle. The distinguished Senator from Oregon (Mr. MARK O. HATFIELD), who will be the ranking minority member of the Energy Committee next year, judges that consideration of a new gas bill would be absolutely out of the question if this bill fails or is recommitted. But he also stated that if this legislation were accepted, and imperfections subsequently become apparent, he could see the committee undertaking to work on improvements and modifications to refine and strengthen this legislation in the next session of Congress whereas it, I believe, could not consider new legislation.

Would the distinguished chairman of the committee concur in that judgment?

Mr. JACKSON. Certainly, it is a part of our oversight responsibilities, Mr. President, to make certain that we review existing programs. We are always anxious to know whether the law is being administered properly.

It would be in that capacity, especially, that we would not hesitate to consider amendatory legislation to correct that aspect of the program that might cause problems.

Mr. PERCY. I thank my distinguished colleague.

Mr. BARTLETT. Will the Senator yield?

Mr. JACKSON. Could we complete the colloquy first?

Mr. BARTLETT. I wanted to compliment the Senator for his perception.

Mr. PERCY. The Senator from Illinois is happy to yield for that purpose.

Mr. BARTLETT. I really do, because on page 121 of the conference report it points out that "the conferees intend that every person shall be presumed to have constructive knowledge of this act."

I certainly feel that I am fairly familiar with it, but I certainly do not understand it, and I do not know of anybody who claims he does, in its entirety. Yet the conferees intend that every person shall be presumed to have constructive knowledge of this act, and for a violation consisting of an omission the fine is $5,000 per day.

I share the Senator's concern about the criminal violation, although I know the chairman is correct in what he says. But it is certainly bringing out a very important point that I think needs to be looked at very carefully.

Mr. PERCY. I appreciate very much the comment and amplification of the concerns of the Senator from Illinois, the Senator from Oklahoma has indicated some of the grave concerns expressed to the Senator by his own constituents.

The Senator from Illinois notes on page 54 of the conference report, paragraph 2, in the middle of the page:

> Application of title 18: Any untrue statement or omission of material fact to a Federal or State agency upon which the Commission relied shall be deemed to be statement or entry under section 1001 of title 18, United Code.

Could there be some clarification as to whether these untrue statements would have to be willfully acknowledged?

Mr. JACKSON. Yes. That is the boilerplate language of the law which stipulates that a false statement that is given to an officer—that applies if you are interviewed by the FBI and you give a false statement. That is a felony. That is the law. But it has to relate to two basic things, I would assume. One is that it was false and known to be false. In other words, that would have to be a basic element. Second, it would have to relate to a substantial matter, a material matter. It would have to relate in that fashion.

Obviously, if there is an argument about whether it was almost dusk or was not quite dusk, that is not a material matter in most instances.

Mr. PERCY. So it would have to meet those two requirements. It would have to be intentional, willful, and it would

have to be a misrepresentation as to a material matter.

Mr. President, the Senator from Oklahoma, my distinguished colleague, has asked the Senator from Illinois to yield briefly. I am happy to yield.

Mr. BARTLETT. I shall be brief.

Again I compliment the Senator from Illinois for his perception and concern about the omission of material as a violation.

On page 54, which he asked the chairman to comment on, subsection (d)(1), General Rule, the preceding sentence on final determination shall not apply to any final determination "if there was omitted a statement of material fact * * *" That is (B). And under (2) it says:

> Any untrue statement or omission of material fact to a Federal or State agency upon which the Commission relied shall be deemed to be statement or entry under section 1001 of title 18, United States Code.

That is the criminal statute.

So I think the Senator raised an eminently valid point; that would be a criminal violation.

I cannot imagine, in providing the massive amounts of information required, that there would not be some omissions of fact. It would be very difficult to comply with this complex legislation without omitting something.

The Senator makes the valid point that this should be carefully looked into if it is passed, because otherwise small businessmen who are not accustomed to such complicated legislation and regulation are going to be subject to criminal violations.

Mr. PERCY. I thank my distinguished colleague.

The next question deals with regulation. I think we are quite aware the burden of regulation often falls heavier on the small producers than on the majors, who have large staffs of lawyers and Government liaison personnel. Small producers are deeply concerned about the amount of regulation and their ability to conform to it.

What guarantees can the administration make that this bill will not have a disproportionate adverse effect on the small gas producers, who are so important to this country?

What commitment can the chairman of the Energy Committee make, that in his oversight of the FERC, he will see to it that this bill does not strangle the independents?

Mr. JACKSON. Mr. President, I assure the distinguished Senator from Illinois that there is no intention whatsoever to strangle the independent sector of the natural gas producing industry.

As a matter of fact, I am pleased to note that the Independent Gas Producers Committee of Oklahoma City, Okla., concur, that the legislation will provide a boost to their segment of the industry because of the strong incentives it provides for additional exploration.

The administration and I agree that the present natural gas conference report will lead to a significant reduction in the regulatory burdens on all segments of the oil- and gas-producing industry.

The cumbersome and unnecessary regulatory requirements of the Natural Act that are now applied to all sales in interstate commerce will be terminated for all onshore and offshore new gas and for gas from onshore production wells, even from acreage that is now dedicated to interstate commerce. The producer who sells such gas to an interstate pipeline will not be required to obtain a certificate from FERC, to make regulatory rate increase filings, to obtain abandonment authorization from FERC when the contract expires or the well is depleted, or wait for 2 to 3 years to learn what price can be charged for the gas.

These simplifications in the regulatory scheme will certainly accrue to the benefit of the small producer. Furthermore, the administration has assured me that they will administer this with the small producer in mind.

Mr. PERCY. I thank my distinguished colleague.

Mr. BARTLETT. Mr. President, if the Senator will yield, I should like to comment on the statement made by the chairman of our committee. He knows very well that the Independent Gas Producers Committee of Oklahoma City does not represent much more than one man by the name of Bob Hefner, who happens to be financially interested in the provision of the bill which provides for deregulation for gas produced at 15,000 feet or deeper.

I also say to the chairman that it was this Senator who kept that provision in the bill at a crucial point, when I was still meeting with the other conferees.

I think there is going to be a loss of competition, a loss of drilling activity by the small independent producers, if this conference report becomes law.

The Oklahoma Independent Petroleum Association, which represents the great majority of producers in the State, is opposed to this conference committee report, as is the Independent Petroleum Association of America.

So I think that when the chairman talks about independents, he knows very well that when he mentions the Independent Gas Producers Committee of Oklahoma City, he is talking basically about one man's selfish interests.

Mr. PERCY. I thank my distinguished colleague for his comments.

The next question I would like to put to the manager of the bill deals with the following:

Several large industrial users of natural gas insist that the incremental pricing provisions in this bill will drive them to convert to oil or to move to a gas-producing State. The Senate's intention with incremental pricing was to protect the consumer from higher prices. But if these industrialists are correct, consumers will end up paying those higher prices, and they may lose their jobs as well. What is needed, clearly, is flexibility.

What assurances can the administration give, that flexibility can be built into the regulations, to deal with hardship cases and to prevent industrial relocation?

Mr. JACKSON. On page 95 of the Joint Statement of Managers the conferees state specifically that they "recognise that implementation of this (incremental pricing) program will be complex. The conference agreement provides for implementation of incremental pricing by rule, which is intended to give the Commission the requisite discretion to deal with difficulties that may arise."

We certainly intend that flexibility will be built into the regulations to deal with hardship cases and to prevent industrial relocation.

There is one critical element of the incremental pricing provision which deserves highlighting in this regard. The incremental pricing provision operates to increase the price paid by incrementally priced industrial users until it is equal to the Btu equivalent of the cost of alternate fuels.

The mechanism is designed so as to prevent it from being the cause of industrial conversions. As the Joint Statement of Managers notes, the determination of the cost of alternate fuels is to be made on a regional basis. It states on page 100:

> The conferees recognize that it may be necessary or appropriate for the Commission to make this determination in advance of the effective date of the first rule. The conferees urge the Commission to take whatever action it deems appropriate or necessary (including expeditious consideration of these proceedings and consolidation of these cases) to avoid any delays in reducing the substitute fuel level so as to avoid the likelihood of conversions from natural gas by industrial users if those conversions would result in increases in natural gas rates for any residential, small commercial, or other high priority customers. The conferees intend that in determining the likelihood of these conversions occurring, the Commission move rapidly in the administrative hearings so as to avoid the irreparable damage which the conferees believe will occur to high priority users if these other indsutrial users, faced with uncertain natural gas rates, begin taking steps to secure alternate fuel supplies.

The administration is very much aware of the need to implement incremental pricing in an equitable manner in order to assure that the public interest is best served. I would not that this bill does not compel incremental pricing with respect to any industrial use other than in large boilers. Extension of incremental pricing beyond boiler use could be prevented by a majority vote of either House of Congress 2 years from now.

Mr. PERCY. Could the distinguished Senator comment further on what he, as chairman of the Energy Committee, can do to hold the administration to its assurances?

Mr. JACKSON. Basically, we would call upon the appropriate officials within the Department of Energy to appear before the committee and to give an accounting. I think the oversight function of a committee does give it tremendous persuasive authority with the administration of the program by the executive branch of Government.

Mr. PERCY. Critics of the compromise legislation claim that it is just too complex in nature. It would require thousands of lawyers, years in court, millions of dollars, or so I have heard. How can we justify a huge buildup at

the very time we are trying to shrink the bureaucracy?

What is the administration's forecast of the amount of time and money and the number of new employees which will be needed to enforce the provisions of the conference reported bill?

Mr. JACKSON. Mr. President, according to testimony given yesterday by the chairman of the Federal Energy Regulatory Commission before a subcommittee of the Committee on the Judiciary, chaired by Senator ABOUREZK, FERC will require 298 new employees, at a cost of $9 million. I should note that the figure includes the necessary support staff.

FERC will also require contract support services which will cost in the range of $5 to $10 million.

In fact, the FERC Chairman believes that the Commission's caseload will decrease under the Natural Gas Policy Act, not increase.

Mr. PERCY. The Secretary of Energy, Dr. Schlesinger, indicated to the Senator from Illinois that there would be a bulge in the first year of hundreds, but not thousands, of new employees. After the first year though, he said, the number of regulatory and enforcement personnel would decline below the current level.

Mr. President, based on the commitments that are now a part of the legislative history of the natural gas compromise bill, and based on the commitments made by the administration, and the chairman of the Energy Committee, I have decided to vote against a motion to recommit the natural gas compromise bill to conference with instructions. I will vote in favor of the compromise legislation.

I harbor no illusions that this is a great bill. There are many parts of it I would change. But in sum and substance, I think it is in the best interests of this country for Congress to approve it.

In my judgment, recommittal or outright defeat of the compromise mean the exact same thing: There will be no major energy bill this year, next year, and perhaps longer. Five years after the 1973 oil embargo disaster, we will still be directionless. We will have failed to set a course to prevent our Nation from suffering another such disaster. We will have failed to live up to our responsibility to the world as the largest energy consumer and the greatest economic power.

If we adopt the conference report, we will have taken a crucial step in the right direction. We can and will subsequently strengthen those sections of the bill in need of improvement. But it will not be weakened. We have now received absolute assurance that the Carter administration will not take any action to increase regulation of the gas market from now until 1985 or increase the likelihood of further regulation after that. This was a reassurance that we needed, sought, and received.

Some strengthening and improvement will be called for. I have serious doubts about several provisions in this bill. These doubts are reinforced by the passionate arguments of people whose opinions I respect very much and who are opposed to this bill. I cannot remember a bill on which I have been lobbied by more diverse groups or more unlikely coalitions.

But I think many of these groups base their judgment on the hope that new legislation could be approved.

But I think they now have the best assurance the Senator from Illinois can give that there will be no opportunity for new legislation in the near future.

They also have the assurance, however, that modifications, improvements, and amendments can and will be considered if this present bill does not serve the national interest and accomplish its objectives.

Like it or not, we cannot now avoid the fact that this bill has taken on dimensions above and beyond its specific provisions. The world awaits the outcome of this debate. That does not mean we should pass just any bill. But it does mean that if the bill is adequate, and is the best we can accomplish and that would seem to be irrefutably clear now we must pass it and pass it now.

Failure to pass this natural gas compromise will at worst further weaken the dollar. It will in any case further undermine the world's hope that we can control our oil imports and steady the dollar.

Other nations may spend a greater percentage of their GNP's on oil imports than we do, and still maintain a favorable balance of payments and a strong currency. But American oil imports are indisputably a key factor in our trade deficit. Reduction of oil imports is now the single most effective step we can take to strengthen the dollar. And since fluctuations in money markets are based largely on perception, a commitment to reduced oil imports is the second most effective step we could take. The natural gas bill is such a commitment.

Inflation is this country's number one problem. Failure to pass this bill could, by lowering the international value of the dollar and raising the prices of all our imported goods—including oil—negate all the steps this Congress has taken to control inflation.

This is the framework in which we must debate the natural gas bill. It does not mean we should pass a totally inadequate bill. But we must be aware at all time of the high cost of voting this bill down.

Many of my colleagues, and many business and labor leaders from Illinois and across the country have told me, in no uncertain terms, that this is indeed a terrible bill. They have convinced me that there are some very serious problems with the bill. But serious as these problems are, this bill—in my judgment—will be good for my State and, on balance, good for the Nation.

One problem is that some provisions of this complex bill are subject to honest differences of interpretation. This is disturbing—even dangerous—considering that criminal penalties are provided. However, we have now been assured by both the administration and Senator JACKSON that appropriate amendments will be supported next year to correct this situation if they are deemed necessary and the provision will be interpreted strictly to punish only willful violators. Thus, unintended violation will not constitute cause for criminal indictment. Honest differences of opinion in interpretation will not be cause for criminal penalties.

Some contend that the combination of incremental pricing provisions and curtailment priorities may drive large industrial gas users to oil. That would increase the demand for imported oil and increase the residential consumers' cost of gas. Both are very serious problems. But we now have the assurance that enough flexibility will be built into the incremental pricing regulations to eliminate those problems.

In any case, I do not foresee many industries turning away from gas.

Though figures vary widely, most studies agree that industries will pay less for gas in 1985 than they will for other fuels. Further, we must keep in mind that the second incremental pricing rule—the one with wide application—is subject to a one House veto. If we do not like incremental pricing, we can vote it down then. It is not a reason to vote against the whole bill now.

Some contend that the bill will create bureaucratic chaos.

I have asked Secretary Schlesinger for more exact figures with respect to the number of additional personnel who will be required year by year out through the year 1985. I will report to my colleagues just as quickly as I have that information. But the assurance has been given today that the claims of those who have indicated that the bureaucracy will mount horrendously, that it will be a bureaucratic jungle are false. Every effort will be made to hold the enforcement bureaucracy within manageable proportions.

Whether or not chaos will result really does remain to be seen. The more important question is whether the phased deregulation scheme will encourage production or stifle it. I am convinced that this bill will increase supplies of natural gas. Though numbers vary, the administration, conferees on the bill, the Congressional Budget Office and others estimate substantial increases in production by 1985 compared to an extension of current policy.

Illinois stands particularly to gain. This bill makes possible the construction of the Alaska pipeline, which will terminate at Dwight, Ill. Much of the gas transported through the pipeline will be available to Illinois users. Illinois citizens should realize that the pipeline offers the best assurance we have that our future natural gas requirements for homes, offices and factories will be provided for.

Illinois' economy has been built based on the premise that we will have adequate supplies of gas. Killing this bill may jeopardize the pipeline. The longer we delay, the higher the cost of construction will be and the less cost effective the entire project.

Even more important to Illinois than the pipeline is the elimination of the dual gas market. With equal prices, far more

gas will flow into consumer States like Illinois.

At my request, the Department of Energy provided these numerical estimates of the bill's effect: Under continuation of current law, without the increased gas supply and the Alaska gas pipeline, the Midwest's projected gas supply in 1985 would be 2.6 trillion cubic feet. Under this bill, the projection is 3.9 trillion cubic feet.

That is a 50-percent increase and is enough to assure supply to every home in Illinois, every factory, every office building, and every industrial concern dependent upon gas. With that much gas flowing, DOE projects no curtailments of firm natural gas service for 1985, and no future restraints on residential hookups in the Midwest. And there is no other way to get this potential 50-percent increase in supply to the Midwest other than through this compromise bill.

Prices, as well as supply, argue in favor of this compromise. According to the American Gas Association, even with incremental pricing, industrial gas prices will be equal to No. 6 fuel oil and cheaper than all other alternatives in 1985.

Residential gas prices will still be far cheaper than alternatives. According to AGA, with this compromise, the average midwest homeowner in 1985 will pay $560 a year for gas, as compared to $848 for fuel oil, or $1,797 for an all electric house. The Department of Energy reports that 1985 residential gas prices will be lower under this compromise than they would under any realistic projection of current law.

DOE estimated that the 1985 residential natural gas prices under this compromise will be $3.31 per million Btu. Should FERC not increase the real new gas price through 1985, gas would cost $3.22 per million Btu. But that is an unrealistic assumption. Assuming FERC sets a new gas price of $1.85, residents will pay $3.35 in 1985, and that is more than under this compromise. However, $1.85 may even be low. And the higher the FERC new gas price, the better this compromise for the consumers.

Illinois homeowners and industries will be served well by this bill. But Illinois farmers are perhaps served best. Agricultural production will receive an assured supply of natural gas at a non-incremental price that reflects the importance of food to this Nation and the world.

Prior to coming to any conclusion on this bill, I thoroughly researched its effect on farmers. Not only is the Senator from Illinois concerned with the well-being of the 200,000 farmers in the State of Illinois, but there is a deep national interest involved also.

Illinois is the largest exporter for food products in the Nation. The value of the dollar, our ability to pay for raw materials and maintain a decent balance of trade, depend significantly upon the production and exporting of food.

The Senator from Illinois has called upon the Department of Agriculture to establish a goal of doubling our agricultural exports to $50 billion within the next few years. I am certain that the Nation's farmers can grow enough to reach that goal. Doubled food exports will go a long way to help us rectify our inflationary trade imbalance.

So we must be certain that what action we take on gas policy insures that farmers receive adequate supplies of energy. This bill, I am convinced, provides that assurance.

Important national and Illinois interests are opposing this bill. Most opponents believe that a better bill can be enacted. Some define that better bill as containing more rapid deregulation, and others define it as containing no deregulation. It would be absolutely impossible for the coalition of opponents of this compromise to come up with their own compromise.

That, I believe, is why an increasingly impressive list of National and State interests are beginning to line up behind this bill as the only possible compromise, and why some original opponents are having second thoughts here in the Senate.

I have the highest regard for those who have taken a position in opposition to this bill. I have reasoned and have discussed the bill with many of them, and have learned from many of them. But I have chosen to support the bill.

The natural gas compromise bill will increase domestic gas supplies, and that was our main intention. It will increase supplies especially in consumer States like Illinois. I believe that, though complex, it is a workable, enforceable bill. It can be improved, and I now have assurances that it will be improved whenever the need is evident. We now have assurances from the administration that the bill will be enforced in such a way as to protect the independents from death by regulation and to provide flexibility so that incremental pricing provisions do not drive industries to oil or to relocate.

This bill protects residential customers from the shock of suddenly higher prices, but not by overburdening industry. It recognizes the high priority agricultural production should be given. It will assure the world economic community that we are committed to controlling oil imports. It will help strengthen the dollar.

The Congress has struggled for 20 years with the natural gas pricing issue. We need not shirk our responsibility again. I have no illusions that this is a perfect bill, but its strengths far outweigh its flaws. It is this bill or nothing. In fact it is this bill or nothing for several years. The bill is clearly preferable.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. PERCY. I will be happy to yield.

Mr. JACKSON. Mr. President, I commend the distinguished Senator from Illinois for a very fine statement. I especially commend him for his statesmanlike decision in supporting the compromise that we were able to forge after months and months of negotiation. I compliment him for opposing those proposals to recommit the bill with various instructions.

The statement that the Senator from Illinois made at great length indicates the thoroughness with which he has gone into this matter. Certainly it makes it clear that this is not a snap judgment on his part, but a studied judgment, and I thank him for his contribution to the debate and for the questions that he has raised in the course of the debate.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. PERCY. I will be happy to yield.

(Mr. FORD assumed the chair.)

Mr. ROBERT C. BYRD. Mr. President, I join with the distinguished manager of the bill (Mr. JACKSON). I note that the acting Republican leader is on his feet. I do not know what he is about to say, but I gather he may be going to compliment the Senator also.

In any event, I compliment the Senator from Illinois. He has reached a difficult decision for him—as it is a difficult decision for all of us—and he reached it after much thorough, painstaking, diligent study, careful weighing of the facts, the evidence on both sides, and he came to what I believe is the logical conclusion. I commend him and congratulate him, and I personally thank him on the part of those who support this conference report. I believe he has made the right decision.

Mr. PERCY. I thank my distinguished friend.

I think there is very much value in the comments of our distinguished colleague from Alaska. Because of the importance of the Alaska pipeline on future gas supplies coming into the State of Illinois. I ask him to comment on the relationship between this bill and the construction of the pipeline.

Mr. STEVENS. Mr. President, I seek the floor in my own right, but I will be happy to respond to the Senator from Illinois.

The Alaska situation is unique, because while other gas-producing States are seeking to have the price of their gas deregulated, we are seeking to have the transportation facilities to take our gas from the North Slope to the market built before inflation destroys the economics of the transportation system to take that gas to what we call the South 48 market.

The Senator from Illinois is correct, that the pipeline route that has been selected goes through Canada, and will terminate in Illinois. It will take to the Midwest the great North Slope gas reserves, which at the present time are 10 percent of the Nation's natural gas reserves.

The current estimate is that it will cost four times the wellhead price to transport natural gas from the North Slope to the lower 48 States. In other words, if the wellhead value is a dollar, we estimate it will cost $4 at current costs to transport a million cubic feet of gas to Illinois.

The difficulty we face is that construction costs in this country are accelerating more rapidly than inflation in any other sector of our economy. That means a continued delay in the construction of the gas pipeline could not only destroy the economic feasibility of the pipeline, but eventually would render the wellhead price of our gas zero, or less than zero.

We want to insure that there will be a pipeline constructed. Due to the efforts, primarily, of my good friend from Washington (Mr. JACKSON), the conference committee report contains provisions that would eliminate questions that have been raised about the pricing of Alaska's gas, whether the gas would be rolled in or incrementally priced, and the provisions concerning the costs of the facilities that will treat the gas on the North Slope, where there is no other pool of gas to share the cost of facilities such as a gas-conditioning plant.

I would say to the Senator from Illinois that I have come to the same conclusion about this conference report. The bill that is before the Senate from the conference committee is the best we can do, and we have no question that this bill is preferable to no bill at all.

We do have some problems with the bill, but I am sure everyone has problems with the bill.

I congratulate the Senator from Illinois. As the Senator from West Virginia indicated, by the time I get through congratulating him there will be no uncertainty regarding the position of the Senator from Illinois on the motion to recommit, and the ultimate adoption, I hope, of the conference report.

Mr. PERCY. I thank my distinguished colleague, and I am prepared to yield the floor.

(The following proceedings occurred earlier and are printed at this point by unanimous consent:)

Mr. METZENBAUM. Would the Senator from Illinois mind if the Senator from South Dakota, who does not wish to speak, just put something in the RECORD? Will the Senator yield for that purpose?

Mr. PERCY. I know the distinguished Senator from Oklahoma has been waiting.

Mr. BARTLETT. It is all right.

Mr. PERCY. I yield.

Mr. ABOUREZK. Mr. President, I have a copy of the transcript of the hearing which I chaired yesterday on the enforceability of the Natural Gas Policy Act, if it is passed. I ask unanimous consent that it be printed in the RECORD, so that all Members will be able to read it. I received the transcript overnight.

Mr. PERCY. Would the Senator mind having that go into the RECORD at the conclusion of the colloquy we are having?

Mr. ABOUREZK. That is all right. I also ask unanimous consent that it not interrupt the colloquy.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, I remind the Senator from Wyoming that the figure is not $20 million for enforcement of this conference report. It is a minimum of $30 million, and that compares to the $6 million that is being spent on natural gas regulation at this point. So it is a fivefold increase in the bureaucracy, at a minimum, and I predict that there will be an awful lot more than that after the first year.

Mr. President, on Thursday, September 14, the Administrative Practice and Procedure Subcommittee held hearings on the feasibility of administering and enforcing the proposed natural gas compromise.

According to Chairman Curtis, of the Federal Energy Regulatory Commission whether the compromise can be effectively administered hinges on Congress appropriating adequate resources to the Commission and the courts accepting his interpretations of the breadth and flexibility of the administration mechanisms which have been woven into the proposed legislation.

Chairman Curtis was therefore called before the subcommittee to explain what the Commission considered to be "adequate" resources, and what would occur if the courts did not sustain his interpretation of the administrative authority granted FERC in administering the compromise.

Chairman Curtis testified that based on a preliminary FERC staff estimate approximately 400 additional positions would be required, 300 of which would be designated for the gas portions of the compromise. It should be noted that of the 300 positions, only 30 were designated for clerical and support staff, which even Chairman Curtis conceded was not realistic.

Upon further questioning, Chairman Curtis indicated that the Commission would rely on the 535 additional positions already authorized for fiscal year 1979, to assist in implementing the compromise. Therefore, "the increment for Natural Gas Policy Act implementation—the 400 positions—is significantly less than one might otherwise expect" according to Curtis.

Chairman Curtis also admitted that contractual help, costing a minimum of $10 million, would be required to supplement the Commission staff, since the Commission did not have an adequate data base to carry out the legislative mandates of the compromise, nor the technical expertise within the staff to develop the data.

The total estimated costs, according to Chairman Curtis, was as follows: For the 535 fiscal year 1979 positions, $9.6 million; for the 400 positions to implement the compromise, $13.5 million; and for the contract help, between $5 to $10 million. Over $30 million. But that is not all.

Chairman Curtis further explained that—

> Over the long term I believe that what will be required for the Commission will be an increment of staff resources, not only in the number of positions, but in the number of financial resources or dollars available to the Commission which this estimate does not show.

No one at this point is obviously able to place an upper limit dollar figure on what is needed to implement the conference report. All we know is that a conservative base estimate for staff is over $30 million.

The second crucial element in implementing the conference report is that if the courts do not interpret section 501 as broadly as does the Commission, then the Commission would be unable to administer the bill.

According to Curtis:

> If [the Court] disarmed the Commission from the administrative powers which it appears that Section 501 was intended to vest in the Commission, then we would have to get additional powers from the Congress in order to carry out the Act.

He went on to say:

> There is going to be extensive litigation under this act. I think that is a fair statement. One must accept that that is going to occur. This is a highly litigious area. We can expect to be litigated in most areas.

Thus even if the courts did sustain the Commission's interpretation, which is questionable, it would take years before the issue was settled.

Mr. President, I believe that the testimony taken by the subcommittee yesterday would be extremely useful for the Senate to consider during this debate. Therefore, I ask unanimous consent that the transcript of the hearing be printed at this point in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

PROPOSED NATURAL GAS LEGISLATION

The subcommittee met, pursuant to notice, at 10:00 a.m., in room 2228, Dirksen Office Building, Hon. James Abourezk (chairman of the subcommittee) presiding.

Present: Senator Abourezk.

Staff present: Irene Emsellem, chief counsel; Bethany Weidner, counsel; and Alfred Regnery, minority counsel.

Senator Abourezk. The hearing will come to order.

As the Senate moves to final consideration of the natural gas compromise, a host of questions remain unanswered. Chief among these are the consumer impact of the bill, how much additional gas will result from higher natural gas prices, and the ability of the Federal Energy Regulatory Commission to administer the many and complicated provisions in the legislation.

Today's hearing by the Administrative Practice and Procedure Subcommittee will examine whether it is possible to successfully implement the natural gas compromise conference report.

It would be the height of folly for Congress to enact a measure that can neither be enforced nor administered. Such an action would immerse the Federal Energy Regulatory Commission in a sea of litigation and totally demoralize a key Federal agency. Neither consumer nor industry would benefit. It is difficult to see, moreover, how the creation of a regulatory quagmire could have a significant positive impact on the value of the dollar, as the administration has claimed. Indeed, the creation of an unworkable natural gas regulatory scheme could only strengthen the belief of those who feel that the United States is not seriously committed to resolving its energy problem—which would be something akin to shooting ourselves in the foot.

As my colleague Senator Long observed recently, there is no logic to the proposition that:

> "We must pass a bad bill, even though it be a very bad bill because it will strengthen the dollar, that somebody abroad will think that America has done something about the energy question and, therefore, they will have more confidence in the dollar."

As he noted, "We might as well pass a blank sheet of paper and just write 'Energy Bill' across the top of the sheet of paper."

A discussion of the feasibility of administration and the enforceability of the natural gas proposal must begin with an August 14 study by FERC's Office of Enforcement, the office that will be responsible for enforcing the compromise should it become law, which concluded that "the proposal is so complex, ambiguous and contradictory that it would be virtually impossible for this commission to enforce it in a conscientious and equitable manner."

Subsequent to the release of this study, the conferees made certain changes in the bill to cover its more egregious omissions, such as the lack of refund or penalty provisions.

Armed with these and other changes, Energy Secretary James Schlesinger publicly announced that the Office of Enforcement study was outdated and that the final agreement provided for—and I quote—but "three or four simple categories of gas." The secretary neglected to mention, however, that the bill, in addition to the three or four simple categories, established an additional 26 complicated pricing categories for natural gas.

After the final changes were effected in the natural gas bill, Congressman John Moss of California requested the Office of Enforcement to update its earlier study. In this latest study the Office of Enforcement, for reasons that FERC Chairman Curtis may want to explain today, refrained from offering an overall conclusion as to the feasibility of administration of the conference report. This was instead supplied by Chairman Curtis in a letter to various Senators and Representatives.

In that letter, Chairman Curtis provided a carefully hedged opinion that the bill could be administered. Specifically, Chairman Curtis—and I quote—concluded that:

> "On balance, assuming that the Congress will appropriate adequate resources to the commission and that I am correct in my interpretations of the breadth and flexibility of the administration mechanisms which have been woven into the proposed legislation, it is my view that the commission will be able to effectively administer the NGPA (Natural Gas Policy Act) and give effect to the policy conclusions which it embodies."

Chairman Curtis' conclusion regarding the ability of his agency to administer the natural gas bill is conditioned, therefore, on two basic assumptions:

One, that the FERC will be provided the necessary resources; and

Two, that he is correct in his interpretation of the administrative authority granted FERC in administering the compromise.

In citing the need for adequate resources to administer the natural gas bill, Chairman Curtis did not indicate the additional resources in terms of personnel and money that would be required to administer the natural gas bill. In a conversation with Congressman Moss earlier this week, Mr. Curtis indicated that his agency would require an additional 400 professionals to attempt to administer the bill. Assuming that the Congress would authorize the hiring of these 400 professionals and a few hundred more support staff, it is somewhat unlikely in my view that Mr. Curtis will be able to recruit the skilled personnel that he will require. It is my understanding, for example, that not one single petroleum engineer has applied for a position with FERC for the past three years.

FERC is already faced with a growing backlog of about 15,000 cases which Chairman Curtis has correctly described as "unacceptably large." The compromise proposal will certainly increase this backlog, perhaps by several orders of magnitude.

Chairman Curtis is an outstanding lawyer, but as an assumption concerning the breadth of broad administrative power accorded FERC under the natural gas compromise.

Throughout the 92-page section-by-section analysis of the natural gas bill, as written by Chairmas Curtis, reference is made to Section 501(a) as a basis for administering and enforcing the gas act in those many instances in which the bill does not grant FERC specific statutory authority or in cases where the legislative intent is ambiguous or contradictory.

As the Office of Enforcement noted in its final report, resort to Section 501(a) which grants FERC authority to issue various rules and rules and orders to administer the bill cannot be assumed to permit the commission to remedy the bill's deficiencies. Again as noted by the Office of Enforcement, "It is likely that this issue will not escape litigation."

The Office of Enforcement further noted, moreover, that:

> "The possibility of lengthly litigation is significant not only because it may affect the administration of various provisions of the NGPA (Natural Gas Policy Act), but also because even assuming that the United States Supreme Court eventually upholds the commission's broad authority under Section 501(a) to fill all regulatory gaps this would probably occur after several years of litigation and consequent uncertainty."

One of the questions that we will ask Chairman Curtis today involves the probable consequences of a series of adverse court opinions regarding his optimistic assertions regarding FERC's authority under these legally controversial provisions.

I want to welcome Chairman Curtis to the hearings. I am grateful for his appearance here today on such short notice.

Those of us in the Congress and in this committee believe it is important to try to understand what the Chairman of the Federal Energy Regulatory Commission believes by way of how this bill can be enforced and administered, what it will cost the public, and either the difficulty or the simplicity of it.

Chairman Curtis, welcome to the hearings. If you are ready to begin testifying, please proceed.

STATEMENT OF THE HONORABLE CHARLES CURTIS, CHAIRMAN, FEDERAL ENERGY REGULATORY COMMISSION

Chairman CURTIS. Thank you, Senator.

I do not have a prepared statement. I would, with the committee's indulgence, like to make some introductory remarks.

Senator ABOUREZK. Please.

Chairman CURTIS. I am, of course, requested to appear here today to consider the issue whether the proposed natural gas legislation can be administered and enforced. This issue has been of concern to a number of your colleagues.

Chairman JOHN MOSS of the House Subcommittee on Oversight and Investigations on August 23 made an official request of me to prepare and submit to him a detailed and complete analysis of the Natural Gas Policy Act. He also requested, as your opening remarks indicated, a further memorandum from the Office of Enforcement, which asked the comment of the Director of the Office of Enforcement on whether the deficiencies noted in the August 14 memorandum, which addressed problems of the July 31 draft, had been taken care of and, if so, how and whether other noted deficiencies are present in the final conference report.

That task was completed. The analysis was distributed to Mr. Moss on September 7. With his permission, I forwarded copies of the analysis to Senator JACKSON, as floor manager on behalf of the conference in the Senate; Chairman DINGELL, as floor manager on behalf of the conference in the House; and Chairman STAGGERS, who is, as you know, Chairman of the Conference Committee. I understand that that analysis has been broadly distributed since that time.

I have brought with me today a number of additional copies, should members of the press or the audience or the committee wish to refer to it.

While the analysis shows that the proposed Natural Gas Policy Act is not problem-free, it is my basic conclusion that the act, if passed, can be effectively administered and enforced. I would resist the temptation to read this 92-page analysis into the record.

Senator ABOUREZK. We will refer to it during your testimony.

Chairman CURTIS. I know you have questions.

Let me, with that brief introduction, conclude and allow for questions of the committee.

Senator ABOUREZK. Thank you, Chairman CURTIS.

I want to get first to the number of additional employees, the size of the bureaucracy that will have to be supplemented or created as a result of the Natural Gas Policy Act. I understand that this is speculative because it is not in effect yet. But I think you must have some idea of how many people will be needed to enforce the provisions of the act, should it be passed.

You told me yesterday on the phone that you estimated some 400 additional professionals for the entire National Energy Act, of which you thought perhaps 300 might be attributed to the natural gas part.

Chairman CURTIS. Yes, sir. As you know, the usual budgetary process contemplates that, following passage of an act which imposes additional administrative responsibilities on an agency, that agency shall submit to the Congress, in the form of a request for supplemental appropriations, its identification of needed resources to carry out the act. That, of course, has not been done. What we have at present is but a preliminary staff estimate of the resource requirements.

Senator ABOUREZK. Would you state what those are?

Chairman CURTIS. I can provide this to the committee. I have tried to break it down by the office. We have some 50 copies.

FEDERAL ENERGY REGULATORY COMMISSION—PRELIMINARY ESTIMATE BY FERC STAFF,* IMPLEMENTATION OF NATIONAL ENERGY ACT (NEA), CURRENT ESTIMATES OF POSITIONS AND FUNDING REQUIREMENTS

Office	NEA gas positions	Amount	Other NAE efforts		Total	
			Positions	Amount	Positions	Amount
Pipelines and producer regulation	212	$5,825,000			212	$5,825,000
Electric power regulation			70	$2,765,000	70	2,765,000
General counsel	29	880,000	22	670,000	51	1,550,000
Enforcement	24	1,618,000			24	1,618,000
Chief accountant	15	370,000	5	120,000	20	490,000

Office	NEA gas positions	Amount	Other NEA efforts		Total	
			Positions	Amount	Positions	Amount
Regulatory analysis	3	550,000	1	180,000	4	730,000
Opinions and reviews	6	175,000	2	55,000	8	230,000
Secretary	5	110,000	1	20,000	6	130,000
Executive director	4	90,000	1	25,000	5	115,000
Total	298	9,618,000	102	3,835,000	[1] 400	13,453,000

[1] Approximately 90 percent are professional staff and 10 percent support staff.

*The estimates are still under review by the FERC staff and have not been presented to or considered by the members of the Commission. The final requirements will depend upon the final provision of the National Energy Act.

As you indicated, in a telephone conversation yesterday I reported to you that the preliminary staff analysis, which has not been evaluated by the commission, nor has it been substantiated and tested as would be required by the normal budgetary process, that preliminary staff analysis shows 298 positions attributable to the implementation of the gas portions of the National Energy Act. Of this number, some 90 percent would be professional staff positions.

Senator ABOUREZK. Ninety percent?

Chairman CURTIS. Ninety percent of the number: yes, sir.

I would like to reinforce the caveat that this is a preliminary estimate at this time.

I think the provisions of the Natural Gas Policy Act will impose on the commission significant additional responsibilities, as the section-by-section analysis attempts to describe. It will, in the same breath, remove the necessity of the commission to process a number of matters which it, under current law, has the responsibility to perform.

Over the long term, I believe that what will be required for the commission will be an increment of staff resources, not only in the number of positions but in the number of financial resources or dollars available to the commission, which this estimate does not show.

Senator ABOUREZK. What do you mean by that specifically: increment of staff resources and dollars?

Chairman CURTIS. This attempts to show the dollars attributed to staff estimates of additional staff positions required. In my opinion, there will be, in addition to this, a requirement for additional monies appropriated to the commission which monies can be employed for contractual assistance, not only in aid of administration of the Natural Gas Policy Act but also to free up staff now dedicated to other activities of the commission so that we can, through a reallocation of resources, bring more to bear on our responsibilities under the Natural Gas Policy Act.

The first several years of this act's administration call upon the commission to do a number of one-time things in promulgating implementation rules, setting up administrative procedures. That will require a one-time dedication of staff resource. After those tasks are completed, we would be able to be allocating resources back to the other tasks of the commission.

Senator ABOUREZK. Mr. Chairman, if I might interrupt. You have listed, then, some 300 professional positions. Ordinarily, I am told, in government employment it would require four backup people for each professional position. I think during our conversation yesterday you indicated it would not be quite that high in this particular kind of work.

I believe you said, if I am not mistaken, it would probably be two people for every professional hired. Is that an accurate figure?

Chairman CURTIS. Certainly no more than two people. This essentially shows a ratio of one support staff for each nine professional staff.

The reason for that is that many of the tasks under the Natural Gas Policy Act require development of rules and the administration of review procedures, activities conducted by the USGS and state agencies in determining eligibility for natural gas pricing.

This does not require the type of on-line support that would be traditionally associated with the commission's processing papers and ruling on specific cases on its own motion.

Senator ABOUREZK. But what we are talking about then, just as you say, as an initial estimate, it would be some 900 people that you would have to add on your staff to enforce this particular Natural Gas Policy Act. Would that be somewhere near accurate?

Chairman CURTIS. No, sir; I do not think that figure derives from our estimates.

Did you say 900?

Senator ABOUREZK. Yes. If you have 300 professionals and two people to back up each professional, wouldn't that be 900?

Chairman CURTIS. No, What I have tried to show in the footnote to this table is that that 298 figure includes 10 percent support staff.

Senator ABOUREZK. Well, where are they shown in this chart then?

Chairman CURTIS. In other words, 260 of that 298 number would be professional positions. And approximately 30 would be support staff.

Senator ABOUREZK. Only 30 secretaries and file clerks?

Chairman CURTIS. That is correct.

Senator ABOUREZK. For those 260 people?

Chairman CURTIS. That is correct.

Senator ABOUREZK. Is that—

Chairman CURTIS. It is, again, because of the peculiarity of the function.

First of all, I should indicate that these are the staff estimates. I have not derived these estimates. But it is undoubtedly made against the present action by the Congress on our '79 budget.

As you may know, on October 1, the Federal Energy Regulatory Commission, after allocation of staff when the department was consolidated and activated on that day, started out with, roughly, 1,200 people. The President, on behalf of the commission, requested an additional 200 positions. Both the House Appropriations and the Senate Appropriations Committees, in view of the unacceptable backlog and deficiencies in the regulatory systems which we inherited from the Federal Power Commission, has, on its own motion, provided an additional 325 positions.

The point is that, as of fiscal '79, we are to get 500 additional positions. Therefore, the increment for Natural Gas Policy Act implementation is significantly less than one might otherwise expect.

Senator ABOUREZK. Because you are using up additional people that have already been put on the payroll?

Chairman CURTIS. We would be drawing from resources that the Congress is providing to get rid of our backlog.

Senator ABOUREZK. Getting back to what you say is 260 professionals and 30 secretaries and file clerks. You say the staff drew this up. Does that seem to you to be a reasonable figure?

Chairman CURTIS. In first blush, Senator, it may be a reasonable startup figure. I think the pacing device of the growth and the staff needed for effective enforcement and administration of this act will depend largely on the experience gained in the first year of administration. As a basic principle, I think that, one, a shift from a predetermination eligibility for natural gas pricing would contemplate that, by developing a meaningful enforcement presence, that the commission can rely on spot audits and assume, where there are oath filings attesting to eligibility, that those oath filings are made in good faith.

Where spot audits indicate that trust has been abused, the commission would then take vigorous and effective enforcement action.

This is much the principle of enforcement of the tax laws, which has historically been quite effective. If we determine in our first year of experience through spot audits and the need for enforcment action that that trust is abused and that we have widescale noncompliance, then we would come back to the Congress and at that point ask for a significant augmentation of our staff resource.

Senator ABOUREZK. What do you mean by "significant" then? Do you have any kind of estimate?

Chairman CURTIS. I do not think it is possible to tag an estimate to it, Senator, until we gain that experience in the first year of implementation.

If I could make one additional comment.

Senator ABOUREZK. Yes, sir.

Chairman CURTIS. The Federal Power Commission, in its 57 year history, did not have an Office of Enforcement. That was created by the Federal Energy Regulatory Commission to allow it both to give this Congress and the people greater assurance that the laws we are charged to adminster are complied with, but also to allow us to explore innovative regulatory devices which would permit reliance on oath filings backed up by spot audits and enforcement action where abuse is shown.

As you know, the Federal Power Commission's experience has been a sad one in its attempt to manage what is an ever-increasing case load. It has produced totally unacceptable backlogs and unsatisfactory delays in the regulatory system.

Our management studies show that that sad history would be repeated by the Federal Energy Regulatory Commission unless we significantly change our processes.

I have some figures and charts which may be of interest to the committee. Basically it shows that, although the Federal Energy Regulatory Commission has made significant progress——

Senator ABOUREZK. We might forgo this for a brief moment so I can get to some other questions.

I would like to talk a minute about the contractual positions that you discussed a little earlier in your testimony. I believe your statement was to me yesterday that, since you could not expect to find qualified people to fill the initial 300 positions right off the bat, you would have to contract out a great deal of this work. Do you have any idea how many people you would have to contract? What would those jobs be for?

Chairman CURTIS. Senator, what is required throughout the National Energy Act is a number of tasks which do not go to the direct enforcement of the legal requirement—tests such as the preparation of reports, studies leading to the development of both the initial and permanent exemptions for curtailment, for agricultural, for small industrial boiler fuel users, for schools, hospitals, and similar institutions.

We need to develop an adequate data base which we do not today have to carry out those legislative mandates.

We will be able to rely on the Energy Information Administration for a good deal of this work. But the analysis of the data retrieved in that effort, as well as studies of the uses to which gas is made for agricultural processes and the economics of alternative fuels, as well as the technology available to use alternative fuels to natural gas for different industrial processes, are the type of thing that I would contemplate that could be most usefully done through contractual monies.

Senator ABOUREZK. How much money would you anticipate spending then for contractual help?

Chairman CURTIS. We have no estimate to provide the committee at this time.

Senator ABOUREZK. Do you have a ball park figure?

Chairman CURTIS. I cannot even give you a ball park figure, Senator.

Senator ABOUREZK. If somebody said, "Well, you have 9.6 million listed for the full-time staff," would it be another 10 million roughly?

Chairman CURTIS. I would say 5 to 10 million would not be an unreasonable estimate.

Senator ABOUREZK. So, we are talking about roughly $20 million at the outset for additional bureaucracy?

Chairman CURTIS. Assuming we could substantiate it and convince the Congress of its need, yes, sir.

Senator ABOUREZK. Some of the assumptions on which these estimates were made—I think the primary assumption that you yourself have set out—is that, if the courts agree with your interpretation of the Natural Gas Policy Act, and especially its administrative provisions—these estimates are based upon that assumption; isn't that correct?

Chairman CURTIS. The basic conclusion as to the effect of administration and enforcement of the act is based on that assumption.

Senator ABOUREZK. And what happens if the courts do not agree with your interpretation?

Chairman CURTIS. Senator, I think first that the interpretations are soundly made. The basic principle followed by the courts is to give effect to the expression of the act and to fill in its gaps and allow the administrative agency to carry out the requirements that the Congress has imposed upon it.

It is conceivable that the courts—or some courts—may not arrive at a similar conclusion. In that case, you can be assured the commission will come to the Congress and seek a corrective change.

I believe that——

Senator ABOUREZK. Say that again. If the courts do not agree, you will have to come to Congress and get a change in the law?

Chairman CURTIS. That is correct.

I believe that the questions of interpretation, however, can be solved through appropriate floor colloquy. We have in this analysis presented to the managers and in a number of instances asked that clarification be made on the floor. Armed with that floor colloquy, particularly with the managers on behalf of the conference, I think the likelihood of sustaining this interpretation in the courts is very great.

Senator ABOUREZK. I guess what you are saying in effect, without saying it directly, is that the drafting of the conference report is not all that good and it needs additional refinement in colloquy, you think?

Chairman CURTIS. As I tried to say in the introduction of the section-by-section analysis, as Justice Holmes observed, "Words are but the skin of a naked thought." And words alone cannot convey the full meaning and intent of the Congress. We would appreciate a clarification in a number of respects.

There are two important errors in the conference report. Those occur in the interim collection procedure set out in Section 503. I believe those in the usual course would be corrected by a concurrent resolution. I do not believe that they can be corrected by floor colloquy. They are significant ones and must be changed.

Senator ABOUREZK. They would have to be done by concurrent resolution?

Chairman CURTIS. Yes, sir.

Senator ABOUREZK. Well, actually, I think procedurally it would have to be done by another bill instead of concurrent resolution. I do not think you can amend a piece of legislation by concurrent resolution.

Chairman CURTIS. Well, I am just gathering from my seven years of experience that, in a number of instances, a usual and largely unnoticed technical procedure is, following final passage of a conference report, to pass a concurrent resolution of the House and Senate which instructs the enrolling clerk, when he enrolls a bill to be transmitted to the President for signature, to make changes in the legislation. That is the device to which I am referring.

Senator ABOUREZK. That is a new one on me. I have never heard of that before. I know that technical and clerical changes can be made, but not substantive.

Chairman CURTIS. These are technical and clerical changes, in my opinion. Both changes are clearly contradicted in the joint statement of managers' explanation of what they do. They are residual from a previous draft.

Senator ABOUREZK. Those are substantive changes that you are talking about, I think—well, that is beyond the scope of this hearing in any event. But it is interesting to hear that.

In other words, to require all these changes and clarifications that you believe need to be made before this thing can operate even halfway smoothly—if you say that language is just but the naked skin of thought, let me think of another analogy. What you are proposing is kind of like going out to sea in a leaky boat but you want to take some life jackets with you just to make sure. Would that be——

Chairman CURTIS. Well, I hope I am not proposing anything other than requesting some clarification where we have noted the need for it. That is not unusual, to develop a legislative history on the floor of the House and Senate to assist an administrative agency in carrying out the act.

Senator ABOUREZK. May I ask, Mr. Chairman, I think you said you had 500 newly-authorized people under the old authorization. You are going to have to have 300 or so more full-time employees plus contractual people on top of that.

There have been problems in FERC and the FPC of hiring qualified people; isn't that correct? Haven't you had trouble recruiting people?

Chairman CURTIS. Yes, sir; we have.

Senator ABOUREZK. May I ask how you would anticipate finding this many new people who are qualified and could do the job properly?

Chairman CURTIS. I think if we can review just very briefly what some of our problems have been in the past. One of our difficulties in attracting good people to the commission has been routed in the arcane nature of the administrative procedures that the commission has employed in its processes. In short, it is terribly tedious and difficult work.

With the new act there will be at least an opportunity to create innovative regulatory mechanisms. My general experience is that people like to do things that are new rather than do things that have been done for 30 or 40 years. I think it will help us.

I think also some of our problems have been associated with the general lack of morale attributable to a sense of drift in the commission and no focus or commitment. Hopefully, we have turned that around.

When the Federal Energy Regulatory Commission was established, the Federal Power Commission was suffering from a 20 percent attrition rate.

Senator ABOUREZK. A 20 percent attrition rate?

Chairman CURTIS. A 20 percent attrition rate. They could not hire staff as quickly as staff was leaving the commission.

We have changed that. Our attrition rate is now below 10 percent. We have been able to make a positive increase in our staff resource since the commission has been there. I think it is simply because people are responding to the challenge and have a sense of direction in the commission and like the direction in which it is going.

Senator ABOUREZK. May I ask how long do you think it will take to draft and adopt the regulations needed and to come up to full staff strength to enforce the Natural Gas Policy Act, if it were to be passed?

Chairman CURTIS. That is a difficult question to respond to. There are a number of implementing rules that are called for immediately, some which are called for within 90 days and others which the commission has given one year or 18 months to develop.

So, within the contemplation of the Natural Gas Policy Act, this is to be a phased administration and will occur over a period of two years.

Senator ABOUREZK. Do you believe you can finish all of those jobs within two years with the staff that you have and that you are able to hire—assuming that the courts agree with your interpretation?

Chairman CURTIS. I believe we have a reasonable opportunity to do so; yes, sir.

Senator ABOUREZK. Within two years?

Chairman CURTIS. I believe we have a reasonable opportunity to do that which the act requires us to do, both in the near term—those steps which must be taken in the first 90 days, for example—and those steps which must be taken in a longer-phased implementation.

Senator ABOUREZK. Mr. Chairman, when you say you have a reasonable opportunity to do so, does that mean you think you will be able to do it, or you will just have an opportunity to do so?

Chairman CURTIS. I think we will be able to do it; yes, sir.

Senator ABOUREZK. The document prepared by your Office of Enforcement identifies some 30 categories and subcategories of natural gas for pricing purposes. I think it further points out that the bill does not replace the commission's present pricing vintages but is in addition to those pricing vintages. Is that an accurate statement or reflection of what your agency has said?

Chairman CURTIS. Senator, if I can refer you to the section-by-section analysis.

Senator ABOUREZK. Page 34 is the page I am referring to in the Office of Enforcement analysis, not of the one you are referring to.

Chairman CURTIS. If I can refer to my analysis for a moment. I tried to point out—

Senator ABOUREZK. I wonder, Mr. Chairman, if you might just respond to the question first.

Chairman CURTIS. I do not think that is right because I think you have an earlier draft, Senator. The final draft appendix you are referring to to the Office of Enforcement memorandum, I believe, showed that there were 27 producer classifications. One divides those classifications into subclasses and that there were two classifications for sales from intrastate pipelines. So, the 30 figure, I believe, is incorrect.

Senator ABOUREZK. What would be correct—29? Twenty-seven plus two?

Chairman CURTIS. There are 27 producer classifications which fall under approximately 12 different price levels. Of those price levels, four are derived from commission regulation which currently exist. Two are statutory equivalence to commission regulation. So, in essence, there are four additional price levels to the six commission equivalent price levels already established.

Of the 27 producer categories—I just have to add them up—about seven of those have equivalence in existing regulation.

Senator ABOUREZK. In any event, whether

it is 27 or 30, there are certainly more than three or four categories.

Chairman CURTIS. There are certainly more than three or four.

Senator ABOUREZK. As Secretary Schlesinger had stated.

Chairman CURTIS. I am not familiar with the secretary's statement.

Senator ABOUREZK. But there are more than three or four.

Chairman CURTIS. There are certainly more than three or four.

Senator ABOUREZK. Thank you.

What is the current backlog of cases before FERC at this point under the old existing law?

Chairman CURTIS. Senator, if you give me a chance to go back to the charts, I can show those to you.

The first shows what the completions have been and the receipts. That means applications filed with us, what we have disposed of in the form of commission decision. As you can see from that first chart, we have a gap between receipts and completions, which means that we do not catch up to our backlog—although we are cutting into it—until mid-80 to '81.

I would point out that we made sharp progress in completions, but the receipts are going up at a pace before us. These are projections based on our management study. It shows that, between '80 and '81, we will cross the line; at least that is what we believe. At that point we have the opportunity to be in that most welcome of positions of being able to conduct our business responsibly under the act and still reduce our work force, which is apparently what the Congress believes is demanded by the citizens of the country.

Senator ABOUREZK. For the record can you state what the number is of cases?

Chairman CURTIS. The total workload is on the next graph.

Senator ABOUREZK. Would you just say what it is?

Chairman CURTIS. Our current workload is about 30,000 items here.

Senator ABOUREZK. Is that the backlog as well? Your backlog is now 30,000?

Chairman CURTIS. Our backlog is about 9,000 cases.

Senator ABOUREZK. And those will still remain, even if the Natural Gas Policy Act is passed. You will still have to fight those out.

Chairman CURTIS. Some of them will, Senator, and some of them will not.

As I tried to point out in my analysis, this number is very large. As you will observe from the second chart, we expect it to grow before we can turn that slope around.

The very last chart shows that the bulk of this workload, not in terms of the draw of resources but in terms of numbers, is producer rate filings and producer certificate filings. Respectively, by 1980 we show a backlog in this area of 9,807 producer rate filing cases and 3,012 producer certificate cases. That is attributable to the method of regulation currently imposed by the system which we inherited from the Federal Power Commission.

The Natural Gas Policy Act will alter that requirement in significant ways, which will greatly reduce the producer rate filings and producer certificate filings. Those numbers will significantly reduce. But the bulk of our manpower goes into the pipeline certificate area and the all-other category. That is where the manpower is focused, in the producer certificates and producer rate filings.

Most of this is routine activity. For example, the Federal Power Commission requires a rate increase application under section four each time a producer increases his price by the penny increments allowed per quarter for vintage wells of 1975 and after and penny increments per year for categories. Eleven thousand filings a year come in for that reason.

I do not think we are protecting the public, performing any useful function in requiring the review of penny increments which are already allowed under the just and reasonable rates established by the commission. We can eliminate that stuff.

Senator ABOUREZK. If I can go back to the 500 employees authorized for the existing law. You have not filled those positions yet; have you?

Chairman CURTIS. We have filled most of the first 200 increment. That is because we have had positions allocated from Department of Energy resources to allow us to do that in anticipation of this.

Senator ABOUREZK. How much money was that authorization for for the 500 people? Do you recall the figure?

Chairman CURTIS. The total budget would be $51.3 million.

Senator ABOUREZK. For the 500?

Chairman CURTIS. That would be for the total budget of the commission including the increment of 500.

Senator ABOUREZK. Do you have a breakdown of the authorization figure for the 500?

Chairman CURTIS. I think it cost about $9.6 million. There is an accounting problem with that; I hate to complicate this.

Senator ABOUREZK. But the cost would be $9.6 million?

Chairman CURTIS. I believe that is correct—subject to check.

Senator ABOUREZK. Then it would be fair to say that, if you are going to use those people for enforcement under the new Natural Gas Policy Act, you would have to add another, roughly, $10 million. That would be $30 million for enforcement of the new law if it were passed. Would that be accurate?

Chairman CURTIS. Well, what you are doing is attributing resources to our ongoing Natural Gas Act responsibilities, which will continue, for gas which is committed or dedicated to interstate commerce. I do not think——

Senator ABOUREZK. But, according to your testimony, you will not be using all of those people because the number of cases will diminish sharply, you said, under the old act.

Chairman CURTIS. We will still need those people.

Senator ABOUREZK. You will use these people under the old act in spite of anything. Is that correct?

Chairman CURTIS. Yes, that is correct.

Senator ABOUREZK. And these additional 500 will not be used if the Natural Gas Policy Act is passed?

Chairman CURTIS. They will be used to—we can draw upon those resources to help us in the first stages of implementation of this act.

Senator ABOUREZK. What will happen to your case backlog then under the old law?

Chairman CURTIS. The purpose of those 535 additional people, the woefully deficient resources that the Federal Power Commission had been permitted to conduct its functions—which, incidentally, created the backlog—those people were designated to be used to develop alternative methods of regulation to get us out of the processes under which we were drowning and to start cutting into the backlog. Now, to the extent that we draw upon those resources for the Natural Gas Policy Act, we will be largely doing the same functions.

We can create new processes for carrying out our functions under the Natural Gas Policy Act through the use of such people.

Senator ABOUREZK. Do you believe, along with the Office of Enforcement, that Section 501 will be litigated quite extensively under the new act if it is passed?

Chairman CURTIS. I think it will be litigated; yes, sir.

Senator ABOUREZK. Do you believe that your interpretation of 501 might be eventually agreed with by the Supreme Court at some point?

Chairman CURTIS. I do. I am not sure it need get to the Supreme Court. It depends on the strength of the floor colloquy that the Congress attaches to this bill, should it pass it.

Senator ABOUREZK. You do not think it will get to the Supreme Court?

Chairman CURTIS. I say it may not.

Senator ABOUREZK. But most likely it will?

Chairman CURTIS. It may not need to go.

Senator ABOUREZK. I think you would have to assume that it would go all the way, though, on each different section that is litigated. Wouldn't it be safe to assume that?

I think it would be.

Chairman CURTIS. I will not contest that. There have been some eight cases which have interpreted a similar provision under the Natural Gas Act. Only one of those has gotten to the Supreme Court.

Senator ABOUREZK. How long, in your view, do you believe that the litigation would go on and the uncertainty about the interpretation of Section 501? How long do you think that would take before the uncertainty were done away with?

Chairman CURTIS. I have no way of estimating that, Senator. I would point out that the Natural Gas Policy Act limits the jurisdiction of the court to stay the effectiveness of our rules pending the conclusion of judicial review. So, in terms of the commission's administration and enforcement, it would not be impaired by the pendency of judicial review.

Senator ABOUREZK. Taking the provisions which you said in your letter to Senator Jackson, assuming that the courts interpret Section 501 somewhat differently than you do, or less broadly than you do, would I be correct in reading into your letter to Senator Jackson that your agency would be unable to enforce or administer the bill? You do use that as an assumption. Wouldn't it be then pretty much unenforceable?

Chairman CURTIS. It depends on what the court does, Senator.

Senator ABOUREZK. But it could be if they did the wrong thing, in your view. It could be rendered totally unenforceable; could it not?

Chairman CURTIS. If they did absolutely the wrong thing and most narrowly construed that section, then we would need to come back to get corrective legislation in order to effectivey administer the act.

Senator ABOUREZK. That means that this particular conference report would be rendered totally unenforceable if that were to be the case, if the courts disagreed with your interpretation totally.

Chairman CURTIS. If they disarmed the commission from the administrative powers which it appears that Section 501 was intended to vest in the commission, then we would have to get additional powers from the Congress in order to carry out the act.

Senator ABOUREZK. Those powers then would have to go back through the courts once again because certainly they would be litigated as well; wouldn't they?

Chairman CURTIS. Well, it depends, of course, Senator, on the clarity of expression of the Congress. As Cardozo observes, if a statute is consistent with the Constitution, it overrides the law of judges. If the

statute is specifically written and the intent of the Congress is clear, then there is no peril in the courts. The question is fleshing in that congressional intent. We would like to see it done, Senator, to remove this peril.

Senator ABOUREZK. Mr. Chairman, when you flesh in that intent with rules and regulations—which every agency does and which every law allows room for—that itself, because of the high financial stakes involved in natural gas pricing, would quite naturally go back to the courts. Each time new regulations are written they go back through the courts—don't they—in this situation?

Chairman CURTIS. That is certainly correct, Senator. I do not want to appear to fight off the conclusion that there is going to be extensive litigation under this act. I think that is a fair statement. One must accept that that is going to occur. This is a highly litigious area. We can expect to be litigated in most areas.

Senator ABOUREZK. I have pretty much asked all the questions I had prepared, Mr. Chairman.

STATEMENT OF MORTON SIMONS, ATTORNEY, WASHINGTON, D.C.

Mr. SIMONS. Mr. Chairman, I do not have a prepared statement. I was asked to appear yesterday afternoon. Between then and now, I have managed to collect my thoughts, but not much more.

Senator ABOUREZK. The reason we have asked you to appear is that we want you to refer specifically to the possibility of the kind of litigation and the extent of it that will be involved as a result of the conference report. I assume you are familiar with the conference report.

Mr. SIMONS. Yes, I am.

Senator ABOUREZK. May I ask, first of all, if you would state to the committee what your qualifications are of testifying. What is your profession? How long have you served in it? How long have you practiced natural gas law?

Mr. SIMONS. It is exactly 25 years ago this month that I first showed up at an FPC hearing. From that day to this, I have spent, I guess, the vast majority of my professional life either before the FPC—or the FERC now—or before the courts on appeal. For the past 17 years, I have been a partner in the Washington firm of Simons and Simons. About 95 percent of our business is before the power or energy commission and on court-related matters.

I do get into court a lot. One of the things I did since last evening was check to see how many court appeals I have been in in recent years. I find that I have managed to reverse a commission about once a year pretty consistently for the last eight years.

I have appeared on behalf of a variety of different types of clients, but not the regulated companies. I have represented state commissions, gas distribution companies, industrial users, and members of Congress.

Senator ABOUREZK. In fact—let's get it out on the table—you represented me in a lawsuit I brought against the Federal Power Commission.

Mr. SIMONS. Yes. I might say that was one of the ones I did not win, so I think I still owe you something.

[Laughter.]

Mr. SIMONS. Just to get all the ex parte matters out, one of the ones I did win was the Mcdonald case that appears in 505 Fed. 2nd 355. We did reverse the commission on that. That was when I first met Charlie Curtis, who was working for one of Mr. Mcdonald's committees then. He had a keen appreciation of the limitations on the commission's power under the law at that time, and I think he still does.

Senator ABOUREZK. Do you know of anybody, Mr. Simons, who has practiced before the FPC longer than you have?

Mr. SIMONS. I hope there are; I think there are. I do not think there are many lawyers that get to court as often as I do in recent years. I hope there are some that have been around longer than I have, and I am sure there are.

I suspect, though, that, in the past, let's say, 15, 20, or 25 years, I have probably spent as much time in FPC–FERC hearing rooms as probably any lawyer in private practice.

To get to some of the specifics in the 501(a) problem.

Senator ABOUREZK. Explain what 501(a) is for the benefit of the press and the public.

Mr. SIMONS. 501(a) is a provision that says the commission shall have power to make rules and amend its rules and take general action to carry out its purposes. It is such a big bill.

The Natural Gas Act used to be very short. It had 16 sections. We poor lawyers who practice before the commission could find where we were. This new bill is so long and has so many sections, I think I am going to spend a lot of time flipping pages.

Let me read 501(a). It is quite short, about seven or eight lines long:

"Except where expressly provided otherwise, the commission shall administer this act. The commission, or any other Federal office or agency in which any function under this act is vested or delegated, is authorized to perform any and all acts, including any appropriate enforcement activity, and to prescribe, issue, amend, and rescind such rules and orders as it may find necessary or appropriate to carry out its functions under this act."

This particular section is found in most organic regulatory statutes. It has its antecedent in Section 16 of the Natural Gas Act and Section 309 of the Federal Power Act. This provision has been interpreted by the courts.

Of course, it is very tempting for a government agency, and particularly its appellate lawyers, when they get to court and they are challenged by someone as to where did you get that power, to point to Section 16 or to point what is now 501(a). If you can't find it in any of the specific sections, then it is in the grab bag, the general rule-making provisions, general power to issue orders.

That concept, which was pressed on the courts by the Federal Power Commission—certainly, to my knowledge, quite consistently during the late '50s and '60s in cases that I was in—I think was knocked on the head and indeed killed by the District of Columbia circuit's decision in New England Power Company versus Federal Power Commission, a 1962 decision written by Judge Tamm, which appears at 467 Fed. 2nd 425.

I think it is important because, in reading Chairman Curtis' statement, so much reliance and so many occasions came back to 501(a). I think it may be useful to read what the court said. It is quite short. It appears at pages 430 and 431 of 467 Fed. 2nd. Skipping the first couple of sentences, the court refers then to existing Section 16 and Section 309 of the Federal Power Act, the antecedents of the present 501(a):

"Both sections are of an implementary rather than substantive character. The cases have made abundantly clear that, while these provisions must be read in a broad expansive manner, they can only be implemented consistently with the provisions and purpose of the legislation and that they authorize an agency to use means of regulation not spelled out in detail, provided the agency's action conforms with the purposes and policies of Congress and does not contravene any terms of the act. These sections merely augment existing powers conferred upon the agency by Congress. They do not confer independent authority to act."

It is true that there are times when this sort of provision can be used. If you have power to set rates and if you have power to have rate hearings, you can issue orders under your general rule-making section that are necessary to have those sorts of hearings.

What the court knocked out in New England Power, however, was something for which they could find no substantive support in the substantive sections of the act—specifically, an FPC attempt to impose fees against the regulated company for the costs of regulation. The commission did it by general rule, as provided in Section 16.

The difficulty was there was no substantive provision that they could go back to and point to that they had relied on. That is the key difference.

I might say, Senator, that I have argued over the years—I hope consistently—that the Natural Gas Act should be given a broad reading, that the commission does have great powers. I frequently urge the commission and the courts on appeal. The commission had more power than it thought it had. At the same time, its powers do have to be tied back to the substantive provisions of the act.

Based on the short review I made, I am not in a position to tell you whether, on each of the points that Chairman Curtis said they would have to rely on 501(a), there is in fact something substantive that it could be tied to that it would be supported by the courts. But I am troubled by the frequency that the 501(a) relief appears in the commission's present approach.

Senator ABOUREZK. Let me refer to what you are talking about. In Chairman Curtis' analysis of the bill itself, he keeps coming back with the reliance upon Section 501 to clarify what he thinks might be ambiguous. Isn't that essentially what you are saying?

Mr. SIMONS. Yes, and to provide——

Senator ABOUREZK. Why do you say that troubles you?

Mr. SIMONS. Well, you really have to find something specific. If, for example, the act says that the commission can order a refund, then I think quite clearly 501(a) gives the commission power to fix what kind of refund. It may very well imply that they can provide interest on refunds because interest normally goes with a dollar-type judgment.

But, if the act does not say anything about refunds, the fact that you could stop somebody from doing something does not necessarily mean that 501(a) will let you order refunds. It is that sort of a difference.

Senator ABOUREZK. I understand that, Mr. Simons. But why do you think he refers to 501 so many times in his analysis?

Mr. SIMONS. I think he refers to 501 because the substantive power is not in the act itself.

Senator ABOUREZK. In other words, he then wants to rely upon a broad interpretation of 501 to put something in which is not there?

Mr. SIMONS. That is correct.

There is a related problem to that that did not occur to me. And I am not sure I was asked to comment on it, really, but I shall anyway with your permission. In reading through the number of times that the chairman says that he hopes this particular problem and that particular problem will be clarified by colloquy on the floor. Again, I can only tell you as an active appellate lawyer, appealing from agency statutes, that you are just begging for appeals.

The chairman noted that this is an area where there is a lot of money involved and it tends to be a litigious area. I think he is certainly quite correct in that assessment.

Senator ABOUREZK. Would you speak, Mr. Simons, to one of the questions I asked the chairman: How long will it take for the rules and regulations and this new act, if it is passed, to be interpreted by the courts, in particular the Supreme Court?

Mr. SIMONS. Anything shorter than three years, I think, would be unduly optimistic.

Senator ABOUREZK. What would be the longest?

Mr. SIMONS. Five, seven, something like that. Maybe by 1985 when we are all through.

Senator ABOUREZK. That is when the law goes out of being.

Mr. SIMONS. Let me tell you, that is not far-fetched.

One of the cases that I was in was called the Rainfield case. I want to address myself, too, to some of this backlog problem. Backlog is a dreadful word; I dislike it. I always am afraid that the real crucial difference between an administrator and a bureaucrat is that a bureaucrat talks about backlog, and an administrator talks about what he is going to get done. A lot of the cases that sit there sit there because the commission wants them to sit there. Deliberate stalling has long been an agency device.

Let me tell you about Rainfield case. That case started in 1967. It has been in litigation ever since. It has gone to the courts three times. One of those times it went to the Supreme Court. The last time it was remanded by the D.C. circuit. I was counsel in that case. The mandate has been outstanding for about three years. The commission has not taken any action on it.

The issue in that case is the price at which gas should flow and what refunds should be made, because gas has been flowing since '59. I think that, by the time it is decided, there will be no gas flowing at all. Yet, the case evolved out of the initial certificate application, which has never been resolved. That is a case that has been pending 21 years.

So, when you say how long will it take to get settled—you know, a lot of times the courts do not totally settle something; they resolve part of it and send it back, and it has to be resolved a second time around.

A pretty good rule of thumb judgment for getting a case decided in the D.C. circuit is, from the time of the commission decision to the time of Court of Appeals decision is a minimum of 18 months. From the time of the Court of Appeals decision to the time of Supreme Court decision is probably a minimum of 18, and it can be stretched out if people apply to the Court of Appeals for rehearing, if they ask the Supreme Court for extensions of time. And I might say that the commission frequently does both.

So, three years is a tight schedule. That is if the commission enters an order that can be appealed and it can get up through the courts.

Senator ABOUREZK. There have been arguments on this legislation that it would resolve uncertainty in natural gas pricing. Would you comment on that?

Mr. SIMONS. Back at the time that the commission adopted Order 455, which was a particular kind of optional pricing that they were going to get into, they said the reason we want to do that—this was about five years ago—was to avoid uncertainty.

The fact of the matter is that the only way that you can eliminate uncertainty is to eliminate judicial review and to eliminate due process and put all your powers in the hands of a dictator, a czar, whatever it is you want to call him—some guy who makes the judgment and there is no review. Now, that is a way to do it. It historically has not been the way that we do it under Anglo-American law.

Anybody who tells you that you can get certainty out of a statute that permits judicial review is kidding you. You are going to have to go through the judicial review. If people do not like uncertainty generated by judicial review, then they should be honest enough to say, "We want to get rid of uncertainty and we want to do away with review. We want to give absolute power to one guy to make a decision and that's it."

Senator ABOUREZK. Mr. Simons, I think we have run out of questions. You have very clearly explained the areas of inquiry that we wanted.

My thanks to you and my thanks again to Chairman Charles Curtis.

The hearings are adjourned.

[Whereupon, at 11:15 a.m., the meeting was adjourned.]

(Conclusion of earlier proceedings.)

The PRESIDING OFFICER (Mr. FORD). The Chair has an inquiry. He understands the time is to be equally divided, but he does not know how much time is to be yielded. Can the Senator from Wyoming, yield himself time?

Mr. STEVENS. I am happy to do so, and I think I can also yield myself time from the time of the Senator from Washington (Mr. JACKSON) and the Senator from Ohio (Mr. METZENBAUM); and I ask unanimous consent that the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, the time will be charged to both sides; the Chair recognizes the Senator from Alaska.

AMENDMENT NO. 3600

Mr. STEVENS. Mr. President, on behalf of the Senator from Minnesota (Mrs. HUMPHREY), I present at this time an amendment to the motion proposed by the Senator from Ohio (Mr. METZENBAUM) and others in connection with the conference report on H.R. 5289, an act for the relief of Joe Cortina of Tampa, Fla. This is the conference report on the natural gas bill.

This amendment to the motion proposed by the Senator from Ohio is offered by Senator HUMPHREY for herself, Mr. BAYH, Mr. ANDERSON, and I join in cosponsoring the amendment. I ask that the amendment be printed and placed on the desk of each Senator, and that it also be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be received and printed, and will lie on the table.

The amendment follows:

AMENDMENT NO. 3600

At the end of the instruction contained therein add the following:

Provided, however, That all provisions of the conference report pertaining to natural gas produced in Alaska be incorporated in the conference report reported back.

Mr. STEVENS. The intention of this amendment to the motion offered by the Senator from Ohio, which has previously been printed, is that should the recommittal motion be adopted, the bill be reported back from the conference will contain the provisions that pertain to natural gas produced in Alaska as they appear in this conference report and the bill which is included in this conference report.

There should be no question that the provisions relating to Alaskan natural gas that are incorporated in the conference report to assure the financeability of the pipeline to bring Alaska's North Slope gas to the South 48 be included in any bill presented to the Senate as a result of the motion of the Senator from Ohio, should that motion be successful.

It is on behalf of my State that I speak, Mr. President, because the gas is to be produced from lands which are owned by the State of Alaska—the State of Alaska is the royalty owner of the gas to be produced from the North Slope—we have a great interest in seeing to it that this gas pipeline is consructed as soon as possible and at the lowest cost possible.

I am sure that, like the Senator from Illinois, the Senators from Minnesota and Indiana seek to assure the early construction of this gas pipeline so that the ravaging effects of inflation on the construction cost of this line will not be such that it will destroy the economic feasibility of this line which will bring this gas into the Midwestern part of the United States.

Mr. President, I will be happy to yield to the Senator from Indiana.

The PRESIDING OFFICER. Before the Senator from Indiana is recognized, against whom do we charge the time?

Mr. STEVENS. He is commenting on the same matter. Time is to be equally divided.

The PRESIDING OFFICER. The Chair recognizes the Senator from Indiana with the time to be equally charged.

Mr. BAYH. I thank my distinguished colleague from Alaska.

Mr. President, I join with my colleague from Alaska and my colleagues from Minnesota in introducing this amendment to modify the recommittal motion that has been made by Senator METZENBAUM and others. The purpose of this amendment is clear. It is meant to assure that the fate of the Alaska gas pipeline should stand on its own merits and not hang on the outcome of the controversial natural gas conference report.

The Senate has reached agreement to vote on the recommittal motion on the natural gas conference on Tuesday, September 19. If this motion fails, others may be offered. This motion will instruct the conferees to report certain nonpricing sections of the natural gas conference report back to the Senate as a substitute for the conference report now pending. The amendment we are offering to the Metzenbaum recommittal motion will modify the instructions to include the provisions in the conference report dealing with the Alaska gas pipeline.

A positive vote on this amendment, by those on both sides of the natural gas bill, should assure that the Alaska gas

provisions will be included in any subsequent recommittal motion that may be offered should the first motion fail.

The Alaska gas pipeline has widespread support in Congress. The Senate approved it by a vote of 87 to 2. The House approved it by voice vote. The President has made clear his strong belief that construction of the pipeline is in the national interest. The only remaining obstacle is the setting of a price for Alaska gas, which is necessary before gas sales contracts can be signed and financial arrangements for the project completed. The Alaska gas pricing provisions in the conference report will stabilize the price of Alaska gas and permit private financing for its construction. These provisions are in no way logically related to the rest of the bill. The fate of the pipeline should stand on its own merits and not hang on the outcome of the controversial natural gas conference report. Progress on the project has already been unnecessarily delayed for a year, because of congressional debate over deregulation of natural gas prices.

Giving a final green light to this project is the most immediate way of avoiding future natural gas shortages. It will mean the predelivery of 1.04 billion cubic feet of additional Canadian gas from Alberta to the lower 48 States in 1980 due to early construction of the Southern, spurs of the system which will deliver gas both east and west of the Rockies. Alaskan gas will come on line at the rate of 2.0 billion cubic feet per day in early 1984, increasing to 2.4 billion cubic feet per day by 1990. Finally, construction of the pipeline offers the possibility of continued imports of Canadian gas, currently running at 2.7 billion cubic feet per day, if necessary. The reserves at the Prudhoe Bay Field on the north slope of Alaska, estimated at 26 trillion cubic feet, are likely to permit gas flow at this rate for 25 to 30 years. Undiscovered reserves elsewhere in Alaska could run as high as 72 to 185 trillion cubic feet. Construction of this pipeline is a safe, reliable and efficient way of significantly increasing American natural gas supplies to the parts of the country that need supplies most.

No matter what any Senator's position on the pending conference report, I urge all my colleagues to support this amendment, meant to insure construction of the pipeline regardless of the division in the Senate on the conference report. A strong affirmative vote by the Senate for the pipeline should assure that if the first recommittal motion fails, the pipeline provisions will be included in any subsequent recommittal motions that will be offered.

Mr. STEVENS. Mr. President, in considering the merits and demerits of the natural gas conference report, it is important to look past our own national interests. We are a world leader and the actions of other countries often are dependent on our lead. Consequently, the implications of our actions stretch far beyond our borders.

Some of my colleagues would like to see a perfect piece of legislation that would settle all questions and problems once and for all. So would I. Unfortunately everyone has a different idea of what approach is the best solution to the energy dilemma. It has taken 17 long months to arrive at any sort of agreement at all, and what has been agreed to is a compromise which naturally is not going to please everyone. That is the nature of a compromise. Some of my colleagues are now finding fault with those very provisions that it has taken so long to work out and would like to send that compromise back to conference in the hope of getting something better. If I were really convinced that we could send this report back to conference and come up with a perfect piece of legislation that would solve everybody's problems, I would certainly support the recommital to the conference committee. But I am convinced that is not the case—I do not believe we can arrive at anything better than what we have. And the fact of the matter is that we can just not afford to spend any more time wrestling with it.

We are not the only country in the world that cannot arrive at an energy policy that will satisfy everyone. Recently an article appeared in a Canadian publication in which the author, Les Rowland, indicated he was "enlightened" to find out that we were experiencing difficulties in working out our national policy. At the end, he expressed the idea which I believe has great merit. It is Mr. Rowland's humorous yet accurate observation that too much energy is wasted discussing energy policy rather than acting on it. I agree with that. It is crucial that we quit discussing this issue to death and do something about it. As I pointed out, we are a world leader and the actions of other countries are dependent on our lead. While we continue to stall on this issue, we lose our credibility with the rest of the world. This is especially so in the case of our neighboring countries. Canada is depending on us to establish some sort of policy so the Alaska gas pipeline can be built. Nothing can be done until we pass legislation. Finally how can we even know how good our policy is until it is tested?

As I see it, we have three options. We can send the report back to conference from whence we have no guarantee it would emerge in any more acceptable form if it emerged at all. We can vote it down outright and have no policy at all. Both of these options are tantamount to doing nothing—just stalling. Or we can act now and pass the conference report. We can demonstrate our good faith to the world in attempting to do something. Our efforts may not be perfect or please everyone, but I am not sure anyone expects perfection. Doing something—making our best effort—is far better than doing nothing or holding out for unattainable perfection.

Mr. President, I intend to support the conference report and will oppose the motion to recommit, because I believe that without this conference report the Alaska gas pipeline will not be built in time to bring to the south 48 the vast supplies of gas from the North Slope of Alaska.

Mr. President, I ask unanimous consent that the article I mentioned entitled "All Energy Going to Waste," by Les Rowland, as it appeared in the recent Oil Week magazine, be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ALL THAT ENERGY GOING TO WASTE

(By Les Rowland)

It is enlightening to find that energy nonpolicy is not confined to Canada, but is implicit also in the USA energy conservation bill. DOE recently released a summary of the provisions of the first four portions of the National Energy Act on which the house and senate committees have agreed.

Builtin contradictions appear in the USA draft, as in Canada's national energy policy. One item stands out in the general conservation sections, a $5 billion program for federally subsidized energy conservation loans to elderly and moderate income families. The temptation is very strong to wonder how much could have been accomplished by applying a similar amount in loans or tax relief to exploration companies to stimulate the finding of more oil and gas.

Besides, there is ample evidence the hydrocarbon energy used in manufacturing insulating material may fully offset the savings in heating fuel, making a cost transfer, but not conserving energy.

There is a further puzzle. If only elderly and moderate income families are to be subsidized for energy conservation, does this mean that younger and more affluent families are welcome to spend their money on more fuel rather than more insulation? This sounds like some of the Canadian programs for subsidizing research into exotic energy forms which may be feasible 25 years from now, or under different climatic conditions.

Thus solar energy might be feasible for heating in the Mojave desert, where it is not needed, but unlikely in Glace Bay or Prince Rupert, where if you are away for a long weekend you may miss the year's sunshine. As for what is creatively termed biomass, our ranch friends have a more explicit name, but there is nothing new about it either. The early settlers banked it around their log walls to help conserve the radiation from the pot bellied stove.

The coal conversion provisions of the USA bill aim to achieve by prohibition what has happened in Canada by economics in the electric power generation industry. However it is ironic that federal and state environmental regulations, like federal and provincial rules in Canada, are delaying the development of new coal mines to provide the energy source whose use is to be encouraged.

The natural gas bill, designed to look simple, actually provides the most serious cause for dispute and its pricing stipulations are the most illogical. This is important to Canada because it is apparently the most prominent single factor in the delay which has caused concern about the time schedule for the Alaska Highway gas transmission line.

Gas pricing and marketing are the principal items. A "single national market" would remove the distinction between interstate and intrastate sales as to pricing. DOE said the change would bring up to 2 tcf/year or

about 6 bcf/d into the interstate market. All producer regulations would be removed, except the control over prices.

This is the contentious point. Price controls would be extended to Jan. 1, 1985, then removed for six months, and could be reinstated for another 18 months by joint action of the president and congress. The price ceiling on new gas would be $1.75 from April 1977 with inflation escalation plus an increment of 3.7% to 1981 and 4% to 1985.

The most sweeping feature is the provision for shelter to domestic gas consumers by imposing incremental pricing on industrial users up to the "regional cost of substitute fuels," so that domestic users will pay 15% less for gas than for oil. On the face of it, this does not seem logical in relation to the overall objective of saving energy.

A final contradiction is the suggestion that maintaining gas prices at less than the cost of alternate fuels will "create incentives for significantly higher production between now and 1985." Presumably the people on the hill in Washington have based their draft on the assumption that the incre se proposed in the interstate gas price will offset the loss to intrastate producers through the single price.

For Canadian gas producers the dilemma will be best resolved by quick action. The pricing compromise would put most USA gas much closer to the Canadian export price, to which there has never been serious objection, even at the present much wider differential.

A new dilemma, however, could be the current Canadian energy policy, which recognises the big balance of payments deficit and gas surplus but refuses to correct them by expediting more gas exports while a market is available. This will have to be dealt with at both the federal and the provincial level. Unless the matters at issue are settled quickly in both countries, all the energy expended in discussion may have been wasted.

THE ALASKA GAS PIPELINE PROVISIONS IN THE NATURAL GAS BILL

● Mrs. HUMPHREY. Mr. President, I am pleased to be a sponsor of this amendment to include the Alaska gas provisions as part of the recommittal motion on the natural gas conference report.

The Alaska gas pricing provisions will not deregulate the price of Alaskan gas, but they will stabilize that price and thus help assure private financing for construction of the pipeline. This will insure delivery of gas to the lower 48 States.

The Alaska gas pipeline is of crucial importance to the American people. It is the most immediate way of avoiding future natural gas shortages in Minnesota and the Midwest, and the economic dislocation which would inevitably accompany them. It is anticipated 2.4 billion cubic feet per day of new gas will flow through this pipeline to the 48 contiguous States by 1984. Furthermore, it will make possible the continued delivery of Canadian natural gas now flowing at a rate of 2.1 billion cubic feet a day.

Mr. President, my objective in sponsoring this amendment is to assure that under all circumstances, the Senate votes to complete the Alaskan pipeline. The Alaskan gas pipeline has widespread support in Congress. The Senate approved it by a vote of 87 to 2 and the House approved it by voice vote. Further, the administration has made it clear that it supports the pipeline. I cannot think of any other provision of the conference report which enjoys the widespread support given to the Alaskan gas pipeline. I hope my colleagues will join with me and agree to amend the recommittal motion to include the Alaskan gas pricing provisions which are a part of the conference report.●

Mr. BAYH. I should like to say that there can be no question in the mind of anyone who has studied the energy problem confronting our country that part of the solution is an adequate and equitable utilization of those very treasured resources that exist in the State of Alaska. There has been a great deal of debate and discussion over which route and what procedure to follow. I think that has now been resolved, with the new route having minimized, if not totally eliminated, the environmental questions and most of the native claims questions.

Also, there is a particularly laudatory provision in this measure which permits a cooperative effort with the Canadians by which Canadian natural gas in the Province of Alberta can start flowing long before the completion of the pipeline. Because, instead of starting in Alaska and building to the United States, the pipeline will be started close to the United States, one spur going west and another spur going east. Then, as the pipeline is built on into Alaska, the Alberta Canadian gas will begin to flow, with an agreement to deal with reimbursement at a later date.

The one feature which is mandatory, which we must resolve before completion of this pipeline, is the financing. That financing is provided in a bill in which there has been strong concurrence in this body before. There was little, if any, discussion of the need to consider the Alaska gas pipeline during any of the debate on any of the other parts of the President's energy package.

Why? Because it was generally accepted that there was no controversy about that. When the time came, we would go ahead and go through with it.

As I recall, it was not in either the House or the Senate version of this particular bill, but was added in conference. That is fine; I am glad it is there. But as to what the future might be, I cannot predict. I think it is important for any vehicle which passes this body relating to natural gas to have in it the content of this Alaskan gas provision which has now been injected into the conference report. We have to guarantee that price if we are going to get that gas to flow. The quicker we can get that gas to flow, the better off we are going to be.

As the Senator from Alaska has already pointed out, it is costing us more every day. It costs $1 billion more to deliver that gas to the continental United States today than it did a year ago and it will be another $1 billion next year, and so on, ad infinitum.

Let us see that, whatever we do on natural gas, we start the process to get that Alaskan natural gas moving down here into the rest of the country.

I appreciate the remarks of my friend, the Senator from Alaska, and I shall join with him to see what we can do to see that that Alaskan gas is made available to all of us in this country.

Mr. STEVENS. Mr. President, I thank the Senator from Indiana. It is clear, I believe, that there is need for the provisions that are in the conference report. One of the provisions establishes the ceiling price for Alaskan gas and permits an escalation of that price based upon an economic inflator. That is necessary, because if there were a FERC hearing, it would take time; it would also be subject to challenge in the courts. Also, without the rolled-in pricing provisions that are in the bill this issue could be subject to challenge in the courts.

There are those people in the country who do not believe that the Alaska gas pipeline should be built. Some believe it should not be built through Canada, others believe it should not be built at all. The potential of litigation pertaining to the FERC action would be so great that the fear of litigation, in and of itself, could destroy the financial feasibility of this pipeline.

So, as I stated, following meetings with a substantial portion of the business concerns involved and with members of Wall Street firms, the provisions in the conference report were worked out to eliminate the potential of delay and bring about the assurance of a return to investors to assure the feasibility of this financing. I know we are indebted to the Senators from Minnesota and the Senator from Indiana for their interest in assuring, that without regard to the outcome of the controversy before the Senate, the Alaska provisions of the conference report will survive.

Mr. President, I am constrained to remark to my good friend from Indiana that I wish he were equally concerned about looking to the total amount of natural gas in my State. Perhaps we can discuss that later when the so-called d-2 legislation comes before the Senate, if and when it does. We have 15 sedimentary basins in Alaska; only two are producing natural gas. The other 13 have great potential. We are doing everything we can to assure the Nation that those sedimentary basins will be explored and if they contain gas in commercial quantities, that the gas or oil would be produced for the benefit of the country.

I do believe that it is essential to realize that probably 40 percent of the gas that American citizens will consume between now and the end of the hydrocarbon age will be produced either from Alaska or offshore Alaska. So it is important to get this gas pipeline built and to get it built as quickly as possible, because I am convinced it will convey to the South 48 a great deal more gas than is contained in just the North Slope proven reserves.

Mr. BAYH. Will the Senator yield?

Mr. STEVENS. I am happy to yield.

Mr. BAYH I appreciate the comments made about the potential reserves in Alaska. I am prepared to listen to any reasonable argument. I hope that we can resolve that controversy, which is a significant one to him and to others on both sides of this issue. I hope we can maximize the total Alaskan resource potential, not only of natural gas but of natural beauty. That is a lot easier said than done, but having had a chance to be there for only short period of time, I must say the State of Alaska has a magnificent amount of both those commodities. I shall be glad to listen to my good friend, the Senator from Alaska, and see where I finally side on this.

I assume the Senator from Alaska is also convinced that there is a good deal of gas up there that perhaps even Canada could use. We still do not know what the total production capability might be in that particular part of the world.

Mr. STEVENS. I am sure the Senator from Indiana knows that there was a new discovery of oil and gas in the Beaufort Sea by the Canadian exploration group that has been active in the Beaufort Sea on the Canadian side these last 3 years. We are a little fearful of that discovery, because we are not sure yet whether the technology exists to bring that gas and oil safety ashore without great risk to our marine environment. I feel that there is a substantial possibility that Canada will discover more gas. They discover gas almost anywhere they stamp their feet now, out there in Alberta, it seems. They have a great deal more gas now in their projected estimates of reserves than they did 3 and 4 years ago.

I think the Senator has pointed out that this conference report will assure Canadians that they can start exporting that gas for a short period of time through the Alaska gas transportation system without entering into long-range commitments of their reserves.

The difficulty has been that Canadians would not enter into any more long-term contracts for the export of their natural gas, because of their feelings that the time will come when they will need their gas, and they do not want to build an increasing dependence in our Midwest upon their natural gas. If we can get our gas pipeline underway and assure them that we shall have Alaska's natural gas to the Middle West in a reasonable period of time, I believe they will enter into short-term contracts for export of their current surplus natural gas. That will aid them, as the editorial I just put in the RECORD indicates, in their own economic problems that are unique to their economy and, at the same time, give them the assurance that they can look forward to curtailing their exports without causing the crisis which I am sure the Senator remembers.

It is a very unique situation. I am happy to be on the same side of the issue with my good friend and fellow Hoosier for a change.

Mr. BAYH. As I say to my friend, I appreciate his giving his perspective of the great potential of the energy supply that exists in that part of the world.

I am glad to be associated with him.

Mr. STEVENS. I thank the Senator from Indiana.

Mr. President, I want to thank the staff that is currently drafting the language that will be incorporated in the document.

I have not stated the language for the RECORD, but that precise language is being lifted out of the conference report. It needs expert drafting to do so because it does not stand alone in the conference report.

There is Fred Kraft and Danny Boggs of the Energy Committee, Eve Lubalin of Senator BAYH's staff, Tom Cator of Senator HUMPHREY's staff, and my personal staff, particularly Tim McKeever, who are working on the language to be presented to the Senate.

We hope it will be available Monday afternoon. In any event, it will be available prior to the time the amendment to the motion of the Senator from Ohio is offered by the Senator from Minnesota.

Mr. President, I yield to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia.

RECOVERY OF SENATOR HELMS

Mr. HARRY F. BYRD, JR. Mr. President, we are pleased to learn that our colleague from North Carolina (Senator HELMS) is recovering nicely from his recent back operation. He is expected to return to the Senate in a week or so. We miss him.

Senator JESSE HELMS has earned the admiration and respect of all of us in the Senate for what nationally syndicated columnist James J. Kilpatrick terms his "sheer unflinching integrity."

One example of such integrity is his willingness to stand by his convictions, frequently casting difficult votes. The recently passed Agricultural appropriations bill is such a case in point.

Senator HELMS represents a State in which agriculture is the single most important industry. Notwithstanding the chance that his vote might be misunderstood—or purposefully misconstrued—he voted against this piece of legislation.

He, and I, opposed this legislation because of its excessive budgetary impact, although the bill did include many worthwhile items.

One was the tobacco research program, a health-oriented program.

An effort was made to eliminate this item, but Senator HUDDLESTON of Kentucky and Senator HELMS made powerful and effective arguments as to the importance of this program. Their views prevailed.

As I mentioned earlier, nationally syndicated columnist James J. Kilpatrick wrote an excellent article about JESSE HELMS that was published across the country. Mr. Kilpatrick captured the true substance of the man we have come to know and respect, and I ask unanimous consent that the text of his column captioned "Hard Principles, Soft Speech," be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HELMS: HARD PRINCIPLES, SOFT SPEECH

(By James J. Kilpatrick)

Like every other exclusive club, the club known as the United States Senate has its body of tradition. One such tradition embraces the courtly Southern parliamentarian whose principles are as hard as his speech is soft. In the past, these legendary figures have all been Democrats. There's a Republican in there now.

He is, of course, Jesse Helms of North Carolina. In his first term in the Senate, he has made a start on a reputation that, given a second term, will move him toward the first rank. This is the band of senators that in other years has included such greats as Tom Connally of Texas, Walter George and Dick Russell of Georgia, Sam Ervin of North Carolina, Harry Byrd and Carter Glass of Virginia, the late Jim Allen and the Bankheads of Alabama.

Helms shares with these predecessors one distinguishing characteristic. Like them, he is above all else a senator. There are other able Southerners in the upper chamber, including such well-regarded Republicans as Tower of Texas, Thurmond of South Carolina and Mathias from bordering Maryland, but none of them has immersed himself as totally as Helms in the life and times of the upper chamber.

This is the judgment of many persons whose own lives revolve around the club. When Helms arrived on the scene in January of 1973, he was preceded by publicity identifying him as a redneck extremist. A little of that ludicrous image still sticks in the public mind.

Over the past five years, Helms has won the respect of his colleagues, on both sides of the aisle, much as John Williams of Delaware gained respect a decade ago—by sheer unflinching integrity. Helms has returned a million dollars in Senate funds he could have spent on staff. He has spurned junkets, fought against congressional pay raises, and done his ultmost to impose some frugal limitations on the Senate's lavish new office building.

Time after time, when he felt matters of principle were at stake, Helms has stood alone or nearly alone in the Senate. I happen to disagree with a couple of his favorite ventures; he wants to add amendments to the Constitution to prohibit abortions and to permit prayer in schools, and I think the Constitution would be better off without them. But I can admire the consistency, the courtesy and the determination with which he has waged his campaign.

Born in Monroe, N.C. in 1921, Helms worked his way through Wake Forest as a manual laborer, waiter and dishwasher. He went first into journalism, as a reporter for the Raleigh Times. After a hitch in the Navy in World War II, he returned to the Times as city editor. Later he would serve 12 years as editorial director of Raleigh's WRAL-TV, giving joy to Tarheel conservatives and giving apoplexy to the liberal *News & Observer*.

Most reporters, editors and pundits shun political temptation. Helms made no secret of his love for public service. He won four terms on the Raleigh City Council. He worked

in Washington for two North Carolina senators. He involved himself deeply in North Carolina politics. By the time he was ready to make his run for the Senate in 1972, he had accumulated an encyclopedic knowledge of the state and its people. He won by 54.1 percent, and unless his supporters get overconfident, he should win his second term against state insurance commissioner John Ingram in November. In a state still predominantly Democratic, Helms knows it won't be easy.

But for all its reputation as a valley of liberalism between two mountains of reaction, North Carolina has strong conservative learnings. For many voters, Helms is the champion of balanced budgets, reduced federal regulation and the enterprise system. He fought the Panama Canal treaties, he is a consistent anti-communist hawk in foreign affairs, he combats the welfare state, and as a father and grandfather himself, he embodies all the old virtues of family, home and fireside.

Besides all that, Helms publicly denounces Welfare Secretary Joe Califano, the anti-tobacco man, in phrases that fall like music on the farmers' ears. Within the gentlemen's club, such old Southern customs are well understood.

TIME AGREEMENT—H.R. 2852, COUNTERCYCLICAL REVENUE SHARING AUTHORIZATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar No. 1102, H.R. 2852, the countercyclical revenue sharing authorization bill, is called up and made the pending business before the Senate—with the understanding that it will not be called up before Wednesday, September 20—there be a time agreement thereon as follows: 2 hours on the bill, 1 hour to be under the control of Mr. HATHAWAY and 1 hour to be under the control of Mr. CURTIS; with 30 minutes on any amendment, 15 minutes on any debatable motion, appeal, or point of order, if such is submitted to the Senate for its consideration, and with the agreement to be in the usual form; with one proviso: that there be an amendment by Mr. DANFORTH with a 1-hour time limitation thereon—all to be in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

The agreement is as follows:

Ordered, That not before Wednesday, September 20, 1978, when the Senate proceeds to the consideration of H.R. 2852 (Order No. 1102), an act to amend the Internal Revenue Code of 1954 to provide that refunds of the taxes on gasoline and special fuels shall be made to aerial applicators in certain cases, debate on any amendment (except an amendment to be offered by the Senator from Missouri (Mr. DANFORTH), on which there shall be 1 hour) shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 15 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: Provided further, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 2 hours, to be divided with 1 hour under the control of the Senator from Maine (Mr. HATHAWAY) and 1 hour under the control of the Senator from Nebraska (Mr. CURTIS): Provided, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

H.R. 12860—SETTLEMENT OF INDIAN LAND CLAIMS WITHIN THE STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 12860, which is at the desk.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 12860) to settle Indian land claims within the State of Rhode Island and Providence Plantations, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times, advanced to third reading, passed, and the motion to reconsider laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar orders numbered 1062 and 1065.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL EMPLOYEES FLEXIBLE AND COMPRESSED WORK SCHEDULES ACT

The Senate proceeded to consider the bill (S. 517) to authorize employees and agencies of the Government of the United States to experiment with flexible and compressed work schedules, which had been reported from the Committee on Governmental Affairs and from the Committee on Human Resources, jointly, with an amendment to strike all after the enacting clause and insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Employees Flexible and Compressed Work Schedules Act of 1978".

CONGRESSIONAL FINDINGS

SEC. 2. The Congress finds that new trends in the usage of 4-day workweeks, flexible work hours, and other variations in workday and workweek schedules in the private sector appear to show sufficient promise to warrant carefully designed, controlled, and evaluated experimentation by Federal agencies over a 3-year period to determine whether and in what situations such varied work schedules can be successfully used by Federal agencies on a permanent basis. The Congress also find that there should be sufficient flexibility in the work schedules of Federal employees to allow such employees to meet the obligations of their faith.

DEFINITIONS

SEC. 3. For the purposes of this Act (other than title IV)—

(1) the term "agency" means an Executive agency and a military department (as such terms are defined in sections 105 and 102, respectively, of title 5, United States Code);

(2) the term "employee" has the meaning given it by section 2105 of title 5, United States Code;

(3) the term "Commission" means the United States Civil Service Commission; and

(4) the term "basic work requirement" means the number of hours, excluding overtime hours, which an employee is required to work or is required to account for by leave or otherwise.

EXPERIMENTAL PROGRAM

SEC. 4. (a)(1) Within 180 days after the effective date of this section, and subject to the requirements of section 302 and the terms of any written agreement referred to in section 302(a), the Commission shall establish a program which provides for the conducting of experiments by the Commission under title I and II of this Act. Such experimental program shall cover a sufficient number of positions throughout the executive branch, and a sufficient range of work-time alternatives, as to provide an adequate basis on which to evaluate the effectiveness and desirability of permanently maintaining flexible or compressed work schedules within the executive branch.

(2) Each agency may conduct one or more experiments under titles I and II of this Act. Such experiments shall be subject to such regulations as the Commission may prescribe under section 305 of this Act.

(b) The Commission shall, not later than 90 days after the effective date of this section, establish a master plan which shall contain guidelines and criteria by which the Commission will study and evaluate experiments conducted under titles I and II of this Act. Such master plan shall provide for the study and evaluation of experiments within a sample of organizations of different size, geographic location, and functions and activities, sufficient to insure adequate evaluation of the impact of varied work schedules on—

(1) the efficiency of Government operations;

(2) mass transit facilities and traffic;

(3) levels of energy consumption;

(4) service to the public;

(5) increased opportunities for full-time and part-time employment; and

(6) individuals and families generally.

(c) The Commission shall provide educational material, and technical aids and assistance, for use by an agency before and during the period such agency is conducting experiments under this Act.

(d) If the head of an agency determines that the implementation of an experimental program referred to in subsection (a) would substantially disrupt the agency in carrying out its functions, such agency head shall request the Commission to exempt such agency from the requirements of any experiment conducted by the Commission under subsection (a). Such request shall be accompanied by a report detailing the reasons

for such determination. The Commission shall exempt an agency from such requirements only if it finds that including the agency within the experiment would not be in the best interest of the public, the Government, or the employees. The filing of such a request with the Commission shall exclude the agency from the experiment until the Commission has made its determination or until 180 days after the date the request is filed, whichever first occurs.

TITLE I—FLEXIBLE SCHEDULING OF WORK HOURS

DEFINITIONS

SEC. 101. For purposes of this title—

(1) the term "credit hours" means any hours, within a flexible schedule established under this title, which are in excess of an "employee's basic work requirement and which the employee elects to work so as to vary the length of a workweek or a workday; and

(2) the term "overtime hours" means all hours in excess of 8 hours in a day or 40 hours in a week which are officially ordered in advance, but does not include credit hours.

FLEXIBLE SCHEDULING EXPERIMENTS

SEC. 102. (a) Notwithstanding section 6101 of title 5, United States Code, experiments may be conducted in agencies to test flexible schedules which include—

(1) designated hours and days during which an employee on such a schedule must be present for work; and

(2) designated hours during which an employee on such a schedule may elect the time of such employee's arrival at and departure from work, solely for such purpose or, if and to the extent permitted, for the purpose of accumulating credit hours to reduce the length of the workweek or another workday.

An election by an employee referred to in paragraph (2) shall be subject to limitations generally prescribed to ensure that the duties and requirements of the employee's position are fulfilled.

(b) Notwithstanding any other provision of this Act, but subject to the terms of any written agreement under section 302(a)—

(1) any experiment under subsection (a) of this section may be terminated by the Commission if it determines that the experiment is not in the best interest of the public, the Government, or the employees; or

(2) if the head of an agency determines that any organization within the agency which is participating in an experiment under subsection (a) is being substantially disrupted in carrying out its functions or is incurring additional costs because of such participation, such agency head may—

(A) restrict the employee's choice of arrival and departure time.

(B) restrict the use of credit hours, or

(C) exclude from such experiment any employee or group of employees.

(c) Experiments under subsection (a) shall terminate not later than the end of the 3-year period which begins on the effective date of this title.

COMPUTATION OF PREMIUM PAY

SEC. 103. (a) For purposes of determining compensation for overtime hours in the case of an employee participating in an experiment under section 102—

(1) the head of an agency may, on request of the employee, grant the employee compensatory time off in lieu of payment for such overtime hours, whether or not irregular or occasional in nature and notwithstanding the provisions of sections 5542(a), 5543(a)(1), 5544(a), and 5550 of title 5, United States Code, section 4107(e)(5) of title 38, United States Code, section 7 of the Fair Labor Standards Act, as amended, or any other provision of law; or

(2) the employee shall be compensated for such overtime hours in accordance with such provisions, as applicable.

(b) Notwithstanding the provisions of law referred to in paragraph (1) of subsection (a), an employee shall not be entitled to be compensated for credit hours worked except to the extent authorized under section 106 or to the extent such employee is allowed to have such hours taken into account with respect to the employee's basic work requirement.

(c)(1) Notwithstanding section 5545(a) of title 5, United States Code, premium pay for nightwork will not be paid to an employee otherwise subject to such section solely because the employee elects to work credit hours, or elects a time of arrival or departure, at a time of day from which such premium pay is otherwise authorized; except that—

(A) if an employee is on a flexible schedule under which—

(i) the number of hours during which such employee must be present for work; plus

(ii) the number of hours during which such employee may elect to work credit hours or elect the time of arrival at and departure from work,

which occur outside of the night work hours designated in or under such section 5545(a) total less than 8 hours, such premium pay shall be paid for those hours which, when combined with such total, do not exceed 8 hours, and

(B) if an employee is on a flexible schedule under which the hours that such employee must be present for work include any hours designated in or under such section 5545(a), such premium pay shall be paid for such hours so designated.

(2) Notwithstanding section 5343(f) of title 5, United States Code, and 4107(e)(2) of title 38, United States Code, night differential will not be paid to any employee otherwise subject to either of such sections solely because such employee elects to work credit hours, or elects a time of arrival or departure, at a time of day for which night differential is otherwise authorized; except that such differential shall be paid to an employee on a flexible schedule under this title—

(A) in the case of an employee subject to such section 5343(f), for which all or a majority of the hours of such schedule for any day fall between the hours specified in such section, or

(B) in the case of an employee subject to such section 4107(e)(2), for which 4 hours of such schedule fall between the hours specified in such section.

HOLIDAYS

SEC. 104. Notwithstanding sections 6103 and 6104 of title 5, United States Code, if any employee on a flexible schedule under this title is relieved or prevented from working on a day designated as a holiday by Federal statute or Executive order, such employee is entitled to pay with respect to that day for 8 hours (or, in the case of a part-time employee, an appropriate portion of the employee's biweekly basic work requirement as determined under regulations prescribed by the Commission).

TIME-RECORDING DEVICES

SEC. 105. Notwithstanding section 6106 of title 5, United States Code, the Commission or any agency may use recording clocks as part of its experiments under this title.

CREDIT HOURS; ACCUMULATION AND COMPENSATION

SEC. 106. (a) Subject to any limitation prescribed by the Commission or the agency, a full-time employee on a flexible schedule can accumulate not more than 10 credit hours, and a part-time employee can accumulate not more than one-eighth of the hours in such employee's biweekly basic work requirement, for carryover from a biweekly pay period to a succeeding biweekly pay period for credit to the basic work requirement for such period.

(b) Any employee who is on a flexible schedule experiment under this title and who is no longer subject to such an experiment shall be paid at such employee's then current rate of basic pay for—

(1) in the case of a full-time employee, not more than 10 credit hours accumulated by such employee, or

(2) in the case of a part-time employee, the number of credit hours (not in excess of one-eighth of the hours in such employee's biweekly basic work requirement) accumulated by such employee.

TITLE II—4-DAY WEEK AND OTHER COMPRESSED WORK SCHEDULES

DEFINITIONS

SEC. 201. For purposes of this title—

(1) the term "compressed schedule" means—

(A) in the case of a full-time employee, an 80-hour biweekly basic work requirement which is schedule for less than 10 workdays, and

(B) in the case of a part-time employee, a biweekly basic work requirement of less than 80 hours which is scheduled for less than 10 workdays; and

(2) the term "overtime hours" means any hours in excess of those specified hours which constitute the compressed schedule.

COMPRESSED SCHEDULE EXPERIMENTS

SEC. 202. (a) Notwithstanding section 6101 of title 5, United States Code, experiments may be conducted in agencies to test a 4-day workweek or other compressed schedule.

(b)(1) An employee in a unit with respect to which an organization of Government employees has not been accorded exclusive recognition shall not be required to participate in any experiment under subsection (a) unless a majority of the employees in such unit who, but for this paragraph, would be included in such experiment have voted to be so included.

(2) Upon written request to any agency by an employee, the agency, if it determines that participation in an experiment under subsection (a) would impose a personal hardship on such employee, shall—

(A) except such employee from such experiment; or

(B) reassign such employee to the first position within the agency—

(i) which becomes vacant after such determination,

(ii) which is not included within such experiment,

(iii) for which such employee is qualified, and

(iv) which is acceptable to the employee.

A determination by an agency under this paragraph shall be made not later than 10 days after the day on which a written request for such determination is received by the agency.

(c) Notwithstanding any other provision of this Act, but subject to the terms of any written agreement under section 302(a), any experiment under subsection (a) may be terminated by the Commission, or the agency, if it determines that the experiment is not in the best interest of the public, the Government, or the employees.

(d) Experiments under subsection (a) shall terminate not later than the end of the

3-year period which begins on the effective date of this title.

COMPUTATION OF PREMIUM PAY

SEC. 203. (a) The provisions of sections 5542 (a), 5544(a), and 5550(2) of title 5, United States Code, section 4107(a)(5) of title 38, United States Code, section 7 of the Fair Labor Standards Act, as amended, or any other law, which relate to premium pay for overtime work, shall not apply to the hours which constitute a compressed schedule.

(b) In the case of any full-time employee, hours worked in excess of the compressed schedule shall be overtime hours and shall be paid for as provided by whichever statutory provisions referred to in subsection (a) are applicable to the employee. In the case of any part-time employee on a compressed schedule, overtime pay shall begin to be paid after the same number of hours of work after which a full-time employee on a similar schedule would begin to receive overtime pay.

(c) Notwithstanding 5544(a), 5546(a), or 5550(1) of title 5, United States Code, or any other applicable provision of law, in the case of any full-time employee on a compressed schedule who performs work (other than overtime work) on a tour of duty for any workday a part of which is performed on a Sunday, such employee is entitled to pay for work performed during the entire tour of duty at the rate of such employee's basic pay, plus premium pay at a rate equal to 25 percent of such basic pay rate.

(d) Notwithstanding section 5546(b) of title 5, United States Code, an employee on a compressed schedule who performs work on a holiday designated by Federal statute or Executive order is entitled to pay at the rate of such employee's basic pay, plus premium pay at a rate equal to such basic pay rate, for such work which is not in excess of the basic work requirement of such employee for such day. For hours worked on such a holiday in excess of the basic work requirement for such day, the employee is entitled to premium pay in accordance with the provisions of section 5542(a) or 5544(a) of title 5, United States Code, as applicable, or the provisions of section 7 of the Fair Labor Standards Act, as amended, whichever provisions are more beneficial to the employee.

TITLE III—ADMINISTRATIVE PROVISIONS

ADMINISTRATION OF LEAVE AND RETIREMENT PROVISIONS

SEC. 301. For purposes of administering sections 6303(a), 6307 (a)) and (c), 6323, 6326, and 8339(m) of title 5, United States Code, in the case of an employee who is in any experiment under title I or II, references to a day or workday (or to multiples or parts thereof) contained in such section shall be considered to be references to 8 hours (or to the respective multiples or parts thereof).

APPLICATION OF EXPERIMENTS IN THE CASE OF NEGOTIATED CONTRACTS

SEC. 302. (a) Employees within a unit with respect to which an organization of Government employees has been accorded exclusive recognition shall not be included within any experiment under title I or II of this Act except to the extent expressly provided under a written agreement between the agency and such organization.

(b) The Commission or an agency may not participate in a flexible or compressed shedule experiment under a negotiated contract which contains premium pay provisions which are inconsistent with the provisions of section 103 or 203 of this Act, as applicable.

PROHIBITION OF COERCION

SEC. 303. (a) An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with—

(1) such employee's rights under title I to elect a time of arrival or departure, to work or not to work credit hours, or to request or not to request compensatory time off in lieu of payment for overtime hours; or

(2) such employee's right under section 202(b)(1) to vote whether or not to be included within a compressed schedule experiment or such employee's right to request an agency determination under section 202 (b)(2).

For the purpose of the preceding sentence, the term "intimidate, threaten, or coerce" includes, but is not limited to, promising to confer or conferring any benefit (such as appointment, promotion, or compensation), or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

(b) Any employee who violates the provisions of subsection (a) shall, upon a final order of the Commission, be—

(1) removed from such employee's position, in which event that employee may not thereafter hold any position as an employee for such period as the Commission may prescribe;

(2) suspended without pay from such employee's position for such period as the Commission may prescribe; or

(3) disciplined in such other manner as the Commission shall deem appropriate.

The Commission shall prescribe procedures to carry out this subsection under which an employee subject to removal, suspension, or other disciplinary action shall have rights comparable to the rights afforded an employee subject to removal or suspension under subchapter III of chapter 73 of title 5, United States Code, relating to certain prohibited political activities.

REPORTS

SEC. 304. Not later than 2½ years after the effective date of title I and II of this Act, the Commission shall—

(1) prepare an interim report containing recommendations as to what, if any, legislative or administrative action shall be taken based upon the results of experiments conducted under this Act, and

(2) submit copies of such report to the President, the Speaker of the House, and the President pro tempore of the Senate.

The Commission shall prepare a final report with regard to experiments conducted under this Act and shall submit copies of such report to the President, the Speaker of the House, and the President pro tempore of the Senate not later than 3 years after such effective date.

REGULATIONS

SEC. 305. The Commission shall prescribe regulations necessary for the administration of the foregoing provisions of this Act.

EFFECTIVE DATE

SEC. 306. The provisions of section 4 and titles I and II of this Act shall take effect on the 180th day after—

(1) the date of the enactment of this Act, or

(2) October 1, 1978,

whichever date is later.

TITLES IV — ADJUSTMENT OF WORK SCHEDULES FOR RELIGIOUS OBSERVANCES

COMPENSATORY TIME OFF FOR RELIGIOUS OBSERVANCES

SEC. 401. (a) Subchapter V of chapter 55 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 550a. Compensatory time off for religious observances

"(a) Not later than 30 days after the date of the enactment of this section, the Civil Service Commission shall prescribe regulations providing for work schedules under which an employee whose personal religious beliefs require the abstention from work during certain periods of time, may elect to engage in overtime work for time lost for meeting those religious requirements. Any employee who so elects such overtime work shall be granted equal compensatory time off from his scheduled tour of duty (in lieu of overtime pay) for such religious reasons, notwithstanding any other provision of law.

"(b) In the case of any agency described in subparagraphs (C) through (G) of section 5541(1) of this title, the head of such agency (in lieu of the Commission) shall prescribe the regulations referred to in subsection (a) of this section.

"(c) Regulations under this section may provide for such exceptions as may be necessary to efficiently carry out the mission of the agency or agencies involved.".

(b) The analysis for chapter 55 of title 5, United States Code, is amended by adding after the item relating to section 5550 the following:

"5550a. Compensatory time off for religious observances."

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, and read the third time.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1065, H.R. 7814.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 7814) to authorize Federal agencies to experiment with flexible and compressed employee work schedules, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar Order No. 1062 (S. 517) be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

PENSION BUILDING RESTORATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1104.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 160) to initiate preliminary studies for the restoration and renovation of the Pension Building in Washington, District of Columbia, to house a Museum of the Building Arts, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1836

Mr. MOYNIHAN. Mr. President, I would like to move at this moment an amendment to strike the date of October 1, 1978, in the pending resolution, which appears on page 2, line 25, and on page 3, lines 5 and 18, and insert in lieu thereof the date of November 1, 1978.

I send the amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) proposes an unprinted amendment numbered 1836.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. STEVENS. Mr. President, with due respect to the Senator from New York, I object. I would like to hear the amendment.

The PRESIDING OFFICER. Objection is heard.

The amendment will be stated.

The assistant legislative clerk read as follows:

To strike the date October 1, 1978 which appears on page 2, line 25 and page 3, lines 5 and 18, and insert in lieu thereof the date November 1, 1978.

Mr. MOYNIHAN. Mr. President, the purpose of this resolution is to declare that the Pension Building, in Washington, D.C., should be restored and properly utilized. The resolution further deals with expert and objective evaluation of the feasibility and desirability of establishing a national museum of the building arts therein.

The creation of such a museum was proposed in S. 2851, introduced by the Senator from Maryland (Mr. MATHIAS), and referred to the Committee on Environment and Public Works.

It is the feeling of the committee that a final decision at this moment would be premature, although the committee has a very strong disposition toward the purpose proposed by Senator MATHIAS.

As chairman of the ad hoc committee dealing with these matters, I would like very much to assert my own disposition in that regard. I will not retain the Senate longer than may be necessary.

The Pension Building is one of the glories of 19th century architecture in our city. It was built following the Civil War, for the purpose that its name suggests, to house the administration of the pension system which was established for Civil War veterans—I hasten to say that such was the division at that time—of the Union cause.

It is a singular building. It is very well placed in the city, now that the subway system has been built. It is known for its extraordinary frieze, reminiscent of the Parthenon, of Union soldiers—cavalry, artillery—the full length of the building.

The interior is one of the great spaces of Washington. There are not many cathedrals in Europe that have such height and length.

The idea has come forward to create a museum to add to the national museum system, unique, without any equivalent in the world, designed to recall the techniques, methods, designs, and arts of building.

This is a proposal which has a great deal of support from the architectural world, and I am particularly happy to say that the building trades department of the AFL–CIO is very much for it. Mr. Robert Georgine, the distinguished head of that department, has spoken with me about the matter. They think this is a good bill.

The bill moves toward the use of a building which is now not used. It has been almost a half century since there was any serious use of the building. It is the nature of the building that its interior space is one great hall. There are not, in fact, many offices. If it were designed to be a museum of the building arts, it could not have been done more effectively.

With that thought, I would like to move the resolution, as amended.

I see the Senator from Alaska is on the floor.

Mr. STEVENS. Mr. President, may I inquire from my good friend from New York what the effect of the amendment that he has offered is? I did not anticipate that amendment.

Mr. MOYNIHAN. I am sorry. I regret that this may not have been fully reported to the Senator from Alaska. The effect of the amendment is to declare the intention of Congress that something useful be done with this great building which lies unused at this moment.

Mr. STEVENS. Does it delay the date for the submission of the report or accelerate it?

Mr. MOYNIHAN. It delays the date ever so slightly, only to the fact that we are somewhat delayed in getting the resolution forward.

Mr. STEVENS. What will be the date now?

Mr. MOYNIHAN. The date now will be November 1, 1978.

Mr. STEVENS. Is that the only amendment that is to be proposed by the Senator from New York?

Mr. MOYNIHAN. I am open to any alternative thoughts.

Mr. STEVENS. No; I just inquire, does the Senator have another amendment?

Mr. MOYNIHAN. I do not contemplate any nor has there been a suggestion of any or any filed.

Mr. STEVENS. Very well. I have no objection.

I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York.

The amendment was agreed to.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1181), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE RESOLUTION

The purpose of the resolution is to declare that the Pension Building in Washington, D.C., should be restored and properly utilized. The resolution further secures expert and objective evaluation of the feasibility and desirability of establishing a National Museum of the Building Arts therein. The creation of such a museum was proposed in S. 2851 introduced by Senator Mathias and referred to the Committee on Environmental Public Works on April 6, 1978. Final action on the bill at this time is premature. This Senate joint resolution, however, affords the Congress and the President, should he so desire, an early opportunity to express conceptual support for the proposed museum. Furthermore, by initiating preliminary studies and securing responses to the museum proposal, it will encourage the resolution of the financial and organization questions which must precede the establishment of such a National Museum of the Building Arts.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S.J. RES. 160

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Congress finds and declares that the Federal Building in the District of Columbia, operated and managed by the General Services Administration and known as the Pension Building, is unique, historic, constitutes an architectural treasure belonging to the people of the United States, and must be restored and properly utilized.

(b) The Congress further declares that the Pension Building would most appropriately be dedicated to the public use as the Nation's Museum of the Building Arts, benefiting this and future generations.

SEC. 102. The Administrator of General Services is authorized and directed to prepare an existing conditions study of the Pension Building, located in the block bounded by Fourth Street, Fifth Street, "F" Street, and "G" Street, Northwest, in the District of Columbia. After consultation with the Secretary of the Smithsonian Institution and the Chairman of the National Endowment for the Arts, he shall prepare drawings, together with preliminary cost estimates, for the restoration and renovation of the Pension Building, in its entirety, to house the Museum of the Building Arts. Such drawings shall be consistent with and provide space for the functions and facilities proposed in the report of the Committee for a National Museum of the Building Arts, Incorporated, dated January 1978, and on file at the National Endowment for the Arts, including alternative treatment of the facilities listed in subsection 104(d) which may require structural modifications of the Pension Building. Such drawings and estimates, together with the existing conditions study, shall be submitted to the Committee on Environment and Public Works of the Senate, and to the Committee on Public Works and Transportation of the House of Representatives, not later than November 1, 1978.

SEC. 103. The Chairman of the National Endowment for the Arts is requested to report to the Committee on Environment and Public Works of the Senate, and to the Committee on Public Works and Transportation of the House of Representatives, not later than November 1, 1978, his initial observations and opinions with respect to—

(a) the prospects for private funding of museum operations, including an appraisal listing the potential sources of financial support, together with a preliminary estimate of the amount of such support which might reasonably be anticipated; and

(b) such other factors as, in his opinion, may contribute to the feasibility of the proposed museum.

SEC. 104. The Secretary of the Smithsonian Institution is requested to report to the

Committee on Environment and Public Works of the Senate and to the Committee on Public Works and Transportation of the House of Representatives, not later than November 1, 1978, his initial comments and opinions concerning—

(a) the potential for visitation at the proposed museum, compared to visitation at Smithsonian museums in recent years;

(b) the potential for interaction between the proposed museum and existing collections and programs of the Smithsonian;

(c) the proportion of total space (based on the Secretary's experience with such Smithsonian Museums as Air and Space, Arts and Industries, and History and Technology) required for (i) inactive storage, (ii) the study of collections housed in the museum; (iii) staff offices; and (iv) public/exhibition use;

(d) the value and approximate costs of providing facilities to accommodate (i) food service; (ii) a museum shop; (iii) a computer service or center; and (iv) an auditorium, together with recommendations for optimum size and desirable features of such facilities.

Sec. 105. As used in this joint resolution, the term—

(a) "building arts' encompasses all practical and scholarly aspects of architecture; and landscape architecture; engineering; building and construction; urban planning, design, physical development, and renewal; and historic preservation;

(b) "museum" means the Museum of the Building Arts, as generally proposed by the Committee for a National Museum of the Building Arts, the primary purpose of which shall be (i) to create in the Nation's Capital a center to exhibit, demonstrate, and encourage contributions to the building arts and sciences, with an emphasis on American initiatives; (ii) to establish and operate a building arts documents archive, and a building arts reference library for citizens and public and private institutions; and (iii) to foster educational programs, to provide a forum for information exchange among professionals in the building arts, and to enhance understanding and appreciation of all facets of the building arts and sciences;

(c) "Administrator" means the Administrator of General Services;

(d) "Chairman" means the Chairman of the National Endowment for the Arts; and

(e) "Secretary" means the Secretary of the Smithsonian Institution.

Sec. 106. The Administrator shall insure that any occupants of the Pension Building shall be temporary pending establishment and occupancy of the building by the National Museum of the Building Arts; and that such occupants shall in no way conflict with, interfere with, or cause to delay efforts toward the restoration and renovation of the building to house the museum.

Sec. 107. (a) For the purposes of section 103 of this joint resolution, the Administrator is authorized and directed to expend not to exceed $60,000 from funds available to him for the alteration and repair of buildings.

(b) For the purposes of section 103 of this joint resolution, the Chairman shall expend not more than $10,000 from funds available to him.

(c) For the purposes of section 104 of this joint resolution, the Secretary shall expend not more than $10,000 from funds available to him.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. I thank the Chair.

Mr. STEVENS. I thank the Senator from New York.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ELECTION POSTERS IN THE DISTRICT OF COLUMBIA

Mr. STEVENS. Mr. President, one of the Nation's Capital's two newspapers reminded Alaskan citizens recently that citizens of the District of Columbia have as much interest in Federal land as the citizens of Alaska do in the Nation's Capital. So, exercising the rights as a citizen of Alaska, I would like to ask that the District of Columbia Government remove the signs that were placed up along all of our Capital streets by the candidates in the recent election.

Mr. President, we have just had a very delightful summer rain, it was a very heavy rain, and I find that Constitution Avenue is littered with cardboard signs that were placed upon stop signs, upon trees, upon all sorts of poles along our Constitution Avenue and other avenues in the Nation's Capital by these candidates, I think contrary to the existing law in the District of Columbia, and they have not been removed.

I believe it is incumbent upon us to exercise our rights and responsibilities and pay a little attention to the District of Columbia and to urge the District of Columbia government to step forward now and require these candidates to pick up this litter that is, I think, making the Nation's Capital look like it is about ready to witness an onslaught of a performance by three competing circuses.

I have never seen so many signs placed in so many public places where people had no right to put them, by so many candidates.

It is not a partisan comment because I note they were candidates from both parties and from all areas.

It seems to me it is a shame to see that the Nation's Capital can be used particularly the public property in the Nation's Capital can be used in this way during a political campaign.

Having seen it done I think it is time now that someone take action to assure that the litter is picked up, and we can once again be proud particularly of our Constitution Avenue. That disturbs me the most.

I thank the Senator from West Virginia.

Mr. ROBERT C. BYRD. I thank the Senator from Alaska (Mr. STEVENS), my friend.

MESSAGES FROM THE HOUSE

At 2:07 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2701) to amend the Water Resources Planning Act (79 Stat. 244, as amended).

ENROLLED BILLS SIGNED

The ACTING PRESIDENT pro tempore (Mr. DECONCINI) announced that on today, September 15, 1978, he signed the following enrolled bills, which had previously been signed by the Speaker of the House of Representatives:

S. 1103. An act to permit any State the reciprocal right to sue in the Superior Court of the District of Columbia to recover taxes due such State; and

S. 2556. An act to change the name of the District of Columbia Bail Agency to the District of Columbia Pretrial Services Agency.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, September 15, 1978, he presented to the President of the United States the following enrolled bills:

S. 1103. An act to permit any State the reciprocal right to sue in the Superior Court of the District of Columbia to recover taxes due such State; and

S. 2556. An act to change the name of the District of Columbia Bail Agency to the District of Columbia Pretrial Services Agency.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Committee on Appropriations, with amendments:

H.R. 12931. An act making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1979, and for other purposes (Rept. No. 95-1194).

By Mr. GLENN, from the Committee on Governmental Affairs, with amendments:

H.R. 7792. An act to amend title 39, United States Code, to establish certain limitations on the use of the frank, and for other purposes (Rept. No. 95-1195).

By Mr. KENNEDY, from the Committee on Human Resources, with an amendment:

S. 3116. A bill to amend the Public Health Service Act to provide assistance through formula and project grants for preventive health programs, and for other purposes (together with additional views) (Rept. No. 95-1196).

By Mr. STENNIS, from the Committee on Armed Services, with amendments:

S. 3486. A bill to authorize appropriations for fiscal year 1979 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve Component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes (Rept. No. 95-1197).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. CHAFEE (for himself, Mr. LUGAR, Mr. MATHIAS, and Mr. GARN):

S.J. Res. 161. A joint resolution to authorize the U.S. Navy Memorial Foundation to erect a memorial in the District of Columbia; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHAFEE (for himself, Mr. LUGAR, Mr. MATHIAS and Mr. GARN):

Senate Joint Resolution 161. A joint resolution to authorize the U.S. Navy Memorial Foundation to erect a memorial in the District of Columbia; to the Committee on Rules and Administration.

A U.S. NAVY MEMORIAL FOR THE NATION'S CAPITAL

● Mr. CHAFEE. Mr. President, of all the monuments, memorials, statues, and parks in our Nation's Capital, not one is dedicated solely to the honor of the men and women who have served their country in the U.S. Navy.

Since many of our colleagues in the Senate are former Navy men, 18 to be exact, I am sure some are aware that a U.S. Navy Memorial Foundation has been established to raise private money for such a memorial. The foundation is registered in all 50 States and has begun collecting the $5 million needed for this purpose.

In conjunction with their efforts, Mr. President, today I am introducing a resolution which authorizes the U.S. Navy Memorial Foundation to erect a memorial on public grounds in the District of Columbia.

While plans are not yet firm, it is hoped that a site can be obtained along Constitution Avenue between the Washington Monument and the Lincoln Memorial. Designs are currently underway for construction of a large shell in the form of a wave which can be used as an outdoor concert stand for the popular Navy Band.

Mr. President, such a memorial would be an especially fitting way to commemorate the men and women who have served in the U.S. Navy, both in times of war and times of peace. I think that if I were visiting Washington, D.C., from Rhode Island or Ohio or Texas or wherever, the sounds of the Navy Band playing from this national memorial would strike me as a real, living tribute to the generations of Americans who have served in the Navy. Such a memorial would be a delightful addition to the cultural life of Washington, as well.

Again, I want to stress to my colleagues that no Federal money will be involved in the design or construction of this memorial. It will be entirely funded from private contributions made to the U.S. Navy Memorial Foundation. The resolution I am introducing simply authorizes that it be erected on public land in Washington, D.C., and that subsequent maintenance of the memorial be the responsibility of National Park Service.

As a former Secretary of the Navy, I take particular pride in introducing this proposal. A similar resolution has already been introduced in the House by Congressman BOB WILSON of California. I would urge the support and cosponsorship of my colleagues here in the Senate so that we can move ahead with it as quickly as possible.

Without objection, Mr. President, I ask that the text of my joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 161

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Navy Memorial Foundation is authorized to erect a memorial on public grounds in the District of Columbia in honor and in commemoration of the men and women of the United States Navy who have served their country in war and peace.

SEC. 2. (a) The Secretary of the Interior is authorized and directed to select, with the approval of the National Commission of Fine Arts and the National Capital Planning Commission, a suitable site on public grounds of the United States in the District of Columbia, upon which may be erected the memorial authorized in the first section of this Resolution.

(b) The design and plans for such memorial shall be subject to the approval of the Secretary of the Interior, the National Commission of Fine Arts and the National Capital Planning Commission.

(c) Other than as to the land authorized for the erection of the Memorial in subsection (a), neither the United States nor the District of Columbia shall be put to any expense in the erection of this memorial.

SEC. 3. The authority conferred pursuant to this Act shall lapse unless (1) the erection of such memorial is commenced within five years from the date of enactment of this Act, and (2) prior to its commencement funds are certified available in an amount sufficient, in the judgment of the Secretary of the Interior, to insure completion of the memorial.

SEC. 4. The maintenance and care of the memorial erected under the provisions of this Act shall be the responsibility of the Secretary of the Interior.●

ADDITIONAL COSPONSORS

SENATE JOINT RESOLUTION 65

At the request of Mr. KENNEDY, the Senator from California (Mr. CRANSTON) was added as a cosponsor of Senate Joint Resolution 65, to amend the Constitution to provide for representation of the District of Columbia in Congress.

AMENDMENT NO 3409

At the request of Mr. PERCY, the Senator from Iowa (Mr. CULVER), the Senator from Kentucky (Mr. FORD), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of amendment No. 3409 intended to be proposed to S. 991, a bill to establish a Department of Education, and for other purposes.

AMENDMENT NO. 3586

At the request of Mr. BUMPERS, the Senator from Michigan (Mr. GRIFFIN) and the Senator from California (Mr. HAYAKAWA) were added as cosponsors of amendment No. 3586 intended to be proposed to H.R. 5285, an act to amend the Tariff Schedules of the United States with respect to the tariff treatment accorded to film, strips, sheets, and plates of certain plastics or rubber.

SENATE RESOLUTION 534

At the request of Mr. HART, the Senator from Minnesota (Mr. ANDERSON), the Senator from Montana (Mr. MELCHER), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of Senate Resolution 534, relating to social security payroll tax deferral.

SENATE CONCURRENT RESOLUTION 68

At the request of Mr. CURTIS, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of Senate Concurrent Resolution 8, relating to the Baltic States.

SENATE RESOLUTION 564—SUBMISSION OF A RESOLUTION TO FORBID CERTAIN MISLEADING USES OF CONGRESSIONAL STATIONERY

Mr. BUMPERS submitted the following resolution, which was referred to the Committee on Rules and Administration:

S. RES. 564

Resolved, That the Standing Rules of the Senate are amended by adding at the end thereof the following new rule, which shall be a part of the Senate Code of Official Conduct:

"RULE LI: MISLEADING USE OF CONGRESSIONAL STATIONERY

"(a) No Member shall mail or authorize any person to mail any mass mailing containing any congressional stationery for any purpose other than official congressional business.

"(b) For purposes of this Rule—

"(1) the term 'mass mailing' means the mailing of newsletters, or other mailings including more than five hundred pieces of mail, in which the content of the matter mailed is substantially identical, but such term shall not include any mailings—

"(A) in direct response to inquires or requests from the persons to whom the matter is mailed;

"(B) to one or more Members of the Congress or to one or more Federal, State, or local government officials; or

"(C) of news releases to any communications media;

"(2) the term 'official congressional business' means the conduct of official business, activities, and duties of the Senate regarding all matters which directly or indirectly pertain to—

"(A) the legislative process;

"(B) any congressional representative process;

"(C) the functioning, working, or operating of the Congress; or

"(D) the performance of official duties in connection with any matter referred to in subparagraph (A) through subparagraph (C); and

"(3) the term 'congressional stationery' means any stationery, whether or not such stationery is prepared with Federal funds, with a letterhead or similar printed device which contains the name of a Member and information indicating—

"(A) that such Member is a Member of the Senate;

"(B) the assignment of such Member to any committee of the Senate; or

"(C) the address of any office at which such Member conducts any official congressional business," unless such stationery also contains in conspicuous lettering substantially the following words: "This is not an official communication from the Senate or Congress of the United States, but is only the private opinion of the signer."

AMENDMENTS SUBMITTED FOR PRINTING

REVENUE ACT OF 1978—H.R. 13511

AMENDMENT NO. 3599

(Ordered to be printed and referred to the Committee on Finance.)

Mr. BUMPERS submitted an amendment intended to be proposed by him to H.R. 13511, an act to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes.

TIME WITHIN WHICH CHARITABLE GIFTS MAY BE REFORMED IN ORDER TO QUALIFY FOR A DEDUCTION

● Mr. BUMPERS. Mr. President, the Tax Reform Act of 1968 imposed new requirements that must be met in order for a charitable deduction to be allowed for income, gift, and estate tax purposes for the transfer of a split interest to charity (that is, part charitable and part noncharitable). In the case of a remainder interest in trust, the interest passing to charity must be in either a charitable remainder annuity trust, a charitable remainder unitrust, or a pooled income fund. The statute defines these types of trusts in great detail. In the case of an "income" interest passing to charity (that is, a charitable lead trust), the "income" interest must be either a guaranteed annuity or a fixed percentage of the fair market value of the trust (determined at least annually).

Many persons have executed instruments that do not comply with the new requirements. As a result, Congress provided, as early as 1974, that the governing instruments of trusts could be amended to meet the new rules within certain time limitations.

Mr. President, it is not clear to me why any time limit should be imposed on the privilege of amending governing instruments of trusts so that they meet the requirements of the law. The important thing is that the charitable interest be clearly defined so that the revenue authorities can be certain that it in fact exists and that it has an ascertainable value. So long as all parties with an interest in the property have an opportunity to be heard, and a court orders that the instrument be amended after proper hearing and consideration, amendments ought to be permitted in order to qualify split interests for a deduction. There woud, of course, be an inherent time limit based upon the necessity for closing an estate, or filing a tax return, at some definite time.

It seems, however, that the Congress is committed to the proposition that some cut-off date for these amendments or reformations should be enacted into law, and I do not at the present time ask that this fundamental decision be changed. I do strongly feel. though, that the present time limit of December 31, 1977, should be extended. The privilege of amendment would still be applicable only to those wills executed before December 31, 1977, or those trusts created before December 31, 1977, or those trusts created before that date, but judicial proceedings to accomplish the required amendment could be commenced on or before December 31, 1978.

In addition, my amendment would extend to the income and gift tax the same principles that have previously been applicable for estate-tax purposes. That is, instruments could be amended to qualify for the charitable deduction for income and gift-tax purposes if proceedings to accomplish the amendment are commenced before December 31, 1978. As in the case of the estate-tax provision, only instruments executed before December 31, 1977, would be eligible for this privilege of reformation.

The House of Representatives and the Senate Committee on Finance have already gone much of the way toward approving the changes proposed by my amendment. Section 3(q) of H.R. 6715, the proposed Technical Amendments Act, which has passed the House and is now on the Senate calendar, extends the present privilege of amendment to charitable lead trusts and also makes it applicable for income and gift-tax purposes. My amendment would expand on H.R. 6715 in only two ways: First, the time within which proceedings for amendment must be commenced would be extended to December 31, 1978. Second, not only charitable lead trusts, but also charitable remainder trusts, would enjoy this additional period of grace.

This change is necessary to avoid substantial hardship. The case of Arkansas College in Batesville, Ark., which brought this issue to my attention, is in point. Arkansas College is the sole remainder beneficiary under a trust which became irrevocable at the death of an Arkansan in November 1977. The trust instrument was deficient in a number of technical respects, so that the remainder interest did not qualify for a charitable deduction. As a result, the decedent's estate is liable for about $40,000 in estate taxes, chargeable to corpus, to the detriment of the college. As indicated above, Congress had provided a method of curing the technical deficiencies of the trust instrument, but the method required commencement of the suit for reformation by December 31, 1977, before the college even knew of its beneficiary status. There was, therefore, no real opportunity for the correction to be made within the time limit presently in the statute. My amendment would simply extend the time for curative suits. The trust, of course, would never qualify for the deduction unless the suit, commenced before the end of this year, should be successful. That is, it would be finally up to a chancery or probate court to decide whether the trust instrument should in fact be reformed. Income beneficiaries and others with an interest in the property would be given notice and an opportunity to appear and object.

Mr. President, I ask unanimous consent that the text of my amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

At the appropriate place in the bill, add the following new section:

SEC. . AMENDMENT OF GOVERNING INSTRUMENTS TO MEET REQUIREMENTS FOR GIFTS OF SPLIT INTEREST TO CHARITY.

(a) CHARITABLE LEAD TRUSTS AND CHARITABLE REMAINDER TRUSTS IN THE CASE OF ESTATE TAX.—The first sentence of paragraph (3) of section 2055(e) is amended to read as follows: "In the case of a will executed before December 31, 1977, or a trust created before such date, if a deduction is not allowable at the time of the decedent's death because of the failure of an interest in property which passes from the decedent to a person, or for a use, described in subsection (a) to meet the requirements of subparagraph (A) or (B) of paragraph (2) of this subsection, and if the governing instrument is amended or conformed on or before December 31, 1978, or, if later, on or before the 30th day after the date on which judicial proceedings begun on or before December 31, 1978 (which are required to amend or conform the governing instrument), become final, so that interest is in a trust which meets the requirements of such subparagraph (A) or (B) (as the case may be), a deduction shall nevertheless be allowed."

(b) CHARITABLE LEAD TRUSTS AND CHARITABLE REMAINDER TRUSTS IN THE CASE OF INCOME AND GIFT TAXES.—Under regulations prescribed by the Secretary of the Treasury or his delegate, in the case of trusts created before December 31, 1977, provisions comparable to section 2055(e)(3) of the Internal Revenue Code of 1954 (as amended by subsection (a)) shall be deemed to be included in sections 170 and 2522 of the Internal Revenue Code of 1954.●

CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS—S. 1393

AMENDMENTS NOS. 3590 THROUGH 3599

(Ordered to be printed and to lie on the table.)

Mr. MORGAN submitted 10 amendments intended to be proposed by him to S. 1393, a bill to authorize actions by the Attorney General to redress deprivations of constitutional and other federally protected rights of institutionalized persons.

NATURAL GAS PRICING POLICY CONFERENCE REPORT—H.R. 5289

AMENDMENT NO. 3600

(Ordered to be printed and to lie on the table.)

Mr. STEVENS (for Mrs. HUMPHREY (for herself, Mr. BAYH, Mr. ANDERSON, and Mr. STEVENS)) submitted an amendment intended to be proposed by them, jointly, to the instructions of the motion proposed by Mr. METZENBAUM and others in connection with the conference report on H.R. 5289, an act for the relief of Joe Cortina of Tampa, Fla.

NOTICES OF HEARINGS

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

● Mr. JACKSON. Mr. President, for the information of the Senate and the general public, the Senate Energy and Natural Resources Subcommittee on Energy Research and Development has scheduled 1 day of hearings to examine S. 3392, the "Solar Photovoltaic Energy Research, Development, and Demonstration Act of 1978." The subcommittee will meet on Tuesday, September 19, 1978, at 9 a.m. in room 3110 of the Dirksen Senate Office Building.

Witnesses scheduled to appear are: Senator GARY HART, Representative MIKE

MCCORMACK, Representative BARRY M. GOLDWATER, JR., Dr. Eric H. Willis, Deputy Assistant Secretary, Department of Energy; Mr. William C. Hittinger, executive vice president, research and engineering, RCA Corp.; Mr. Peter Zambas, general manager, Arco Solar, Inc., and Dr. Joseph Lindmayer, president, Solarex Corp.

Anyone wishing additional information with regard to the hearing should contact Dr. Granville J. Smith at (202) 224-4431.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet in executive session during the session of the Senate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE U.S. INTELLIGENCE COMMUNITY

● Mr. GOLDWATER. Mr. President, our intelligence communities over the past couple of years have taken a terrific beating at the hands of many people who are entirely misinformed about the true nature and purpose of organizations such as the Central Intelligence Agency and the Federal Bureau of Investigation. The purpose of an intelligence community, of course, is to know what is transpiring in the world which may adversely affect the security and the strategic interests of the United States. In other words, it is better to know what is happening around us than to be surprised. We learned this kind of a lesson at Pearl Harbor when most of our fleet was destroyed in an unexpected Japanese attack. The need to know is just as important today as it was back in 1941, but many people lose sight of just where our true interests lie.

Mr. President, Adm. Stansfield Turner, Director of the CIA, dealt with this problem recently in an article published in the Los Angeles Times. I ask that Admiral Turner's article be printed in the RECORD.

The article follows:

[From the Los Angeles Times, Sept. 11, 1978]

FREEDOM DEPENDS ON SNOOPS

(By Stansfield Turner)

A terrorist organization plans to kidnap an American businessman; a Soviet delegation changes its negotiating goals; a ship carrying illegal narcotics enters U.S. coastal waters. Elements of a LeCarre novel? No. Real life? Yes. Worth knowing? That's up to you.

The American intelligence community has been the eyes and ears of the United States overseas for over 30 years. Simple rationale: It is better to know what is happening around us than to be surprised. While originally a reaction to Pearl Harbor, that rationale is even more relevant today. Military parity, economic interdependence and political activism are today's realities. Freedom, sometimes survival, depends on awareness. Governments, no less than individuals, can do a better job if they can anticipate problems and are able to plan ahead. This is neither illegal nor sinister. All nations work hard at being better informed. Unfortunately, in recent years this has become harder for us and easier for our competitors.

The United States is an open society. Foreigners can move freely and unnoticed in our midst. The quantities of published information about everything that we do exceeds any individual's capacity to absorb it. The KGB's job is easy.

The CIA's job—collecting information about other countries as well as international activities—is a little more difficult. Terrorists and drug traffickers do not advertise. Many countries whose actions affect us directly are closed. There is no opportunity to learn about them openly. Travel is prohibited, their press is controlled, their governments function in secret, and foreign initiatives are often taken without explanation. Surprise is a routine strategy.

Although we are at a disadvantage in this quest for information, none of us would trade this openness for the short-term advantages of unnecessary secrecy. Nonetheless, if we are to function successfully in a world where closed societies compete with us economically, politically and militarily, where our well-being is in some measure dependent on their actions and our ability to anticipate them, we too must preserve some secrets lest we lose all leverage.

The intelligence community in particular is out of business unless it can ensure a large degree of confidentiality in what it does. The Russian who passes his delegation's change in negotiating strategy to us, the agent who can become a member of a terrorist organization and thereafter keep us informed of its plans, the allied intelligence agencies that work with us to watch and thwart international drug trafficking—none will take the obvious risks if we cannot guarantee their anonymity. With the organized effort under way today to uncover American intelligence officers and activities—in the real or feigned belief that this will benefit the United States—the ability to protect these intelligence sources and methods is in danger.

Is that threat to America of terrorism and lawlessness real? Is there a danger that the United States could in time lose its position of leadership in the world, and maybe some degree of its free choice? Is it worthwhile to pursue hard-to-get information so that decision-makers can know what other countries actually plan rather than guessing what they might be planning? The decision is really up to the American citizen. But, if your answer to any of those questions is yes, then some individual or group, call it the CIA or call it whatever you will, must go dig out the information.

Anti-intelligence protagonists will claim *ipse dixit*—that, while these examples may seem reasonable, the intelligence community, and the CIA in particular, is involved also in skulduggery of a less savory nature. As proof, a litany of past abuses—some actual, many imagined—is recited.

There is no question that intelligence capabilities were misused in the past, albeit very infrequently. There is also no question that the abuses that did occur were thoroughly investigated by the Church committee, the Rockefeller commission and others, and do not continue to exist. Anyone who is more than superficially informed on intelligence matters, and who is willing to be honest, knows that the CIA is operating more openly and is under tighter controls today than at any time in its history.

And, while secrecy remains indispensable to serious intelligence work, the several new oversight bodies, acting as surogates for the general public, are not denied any information that they need to ensure that what the CIA does is both legal and proper. The executive and legislative branches share this responsibility through the personal involvement of the President and the Vice President, the National Security Council, the new Intelligence Oversight Board and the two new in the past two years, Select Committees on Intelligence in the House and Senate.

Secrecy, while it can be used to hide misdeeds and mistakes, can also enable us to learn more about those who could harm us, deny them the advantage of surprise, and ensure that our decisions are based on fact rather than surmise. In itself, secrecy is neither good nor bad, moral nor immoral. In the new oversight bodies we have a responsive, well-conceived mechanism capable for perhaps the first time of controlling government secrecy and secret activities adequately. I suggest that we give it a chance.●

SALEM CHILDREN'S TRUST

● Mr. McGOVERN. Mr. President, a recent Washington Post review of the Salem Children's Orchestra provided much insight into the philosophy and organization of the Salem Children's Trust, Inc. This group of children, in addition to their musical interest, share the experience of having previously lived in an institution or temporary foster home. Fortunately, these youngsters now live in a homelike atmosphere where they receive the love and guidance of parents, grandparents, and other caregivers. This environment is essential to their intellectual, emotional, social, and physical development.

The person responsible for the three villages where the children live in West Germany, and for introducing the concept in this country, is a man named Gottfried Mueller. This extraordinarily generous man correctly theorized that the key to a successful future for every child is for he or she to be raised in a family.

Mr. President, many of us have been struggling to find alternatives to institutional care. The Salem Children's Trust warrants our study. As we know only too well, many juvenile delinquents and adult criminals were raised in institutions or temporary foster care homes where there was no one to make them feel worthy or wanted, and where the necessary skills to live a productive life were never taught.

For the future of children without families, and for the betterment of our society, it is crucial that we focus our attention on alternatives to institutional care.

I ask that this fine article be printed in the RECORD.

The article follows:

[From the Washington Post, Aug. 28, 1978]

SALEM, FOR THE FORGOTTEN CHILDREN

(By Don Barkin)

Sunday afternoon in the concert hall of the Kennedy Center. The orchestra has completed an energetic, somewhat oom-pah-pahish rendering of Frans von Suppe's "Poet and Peasant." The 33 youngsters rise smartly to receive their applause, and the conductor, red-faced and beaming, strides to their midst to congratulate the two lanky, blond girl saxophonists.

The orchestra sits, and another man, graybearded and intense, comes forward. "I am Gottfried Mueller," he announces. "We come here from Germany to tell you about Salem. I can speak to you about these chil-

dren because they do not understand English. They are all from broken homes."

Mueller is the director of the Salem Children's Trust, which he founded in Germany 15 years ago as an alternative method to foster care for orphaned children. Mueller's way is to take children living in institutions and temporary foster homes, and to give them what he believes they need most—a permanent home.

The members of the Salem Children's Orchestra are residents of one of the three Salem communities in Germany. Their "village" near the Bavarian city of Stadtsteinach is an extended family comprised of 12 households, each with a maximum of eight children, cared for by a married couple or a single "mother," and a set of "grandparents." The children are of all ages—from infants to 17 or 18—and both sexes. They are, in all of the important ways, real families.

Mueller conceived of Salem about 20 years ago. He'd been a paratrooper in the war. During four years in an English POW camp where, he reflects, "At least, I couldn't hurt anyone and no one could hurt me," Mueller "thought about war and peace and said to myself 'I will do something to help the poor and homeless.'

"I became a vegetarian," he says because—pressing his hands to his mouth—"I saw that peace must begin with my lips."

After the war, Mueller approached charitable organizations with his ideas for peaceful, healthy living. But no one wanted his help. Dispirited, he forgot his idealism and pursued a successful career in insurance.

It didn't last. "I thought, 'At the end of my life, when I am down in the ground, what will people say of me—that I was so clever? So rich?' I sold my property and gave my money away. I became poor, empty pockets!"

He organized several homes for his country's "forgotten people," for homeless adults—alcoholics, drug addicts, jobless ex-soldiers—a quarter of a million people.

"With these men, it was always drugs and 'Give me another schnapps.' Their friends, their families were prostitutes and barkeeps. . . . But they would always say to me, 'Listen, Mr. Mueller, I've gone from one home to another. I hated one mother and then the next, and the next, and now I hate everybody. Then I am in prison—naturally. I have no brother, no sister, no one.'

"So I said, 'What you need is a home, a standpoint, a fixed point a—how to say . . .' He turns to a colleague, who offers "roots." "Roots," Mueller saw, begin in childhood, and in 1963, Salem was born.

The children of Salem are special children, handicapped by the destructive journey from broken homes to temporary foster homes and institutions. "They are lost," says Mueller, angrily brushing away imaginary refuse.

His cure for this abuse is a kind of total rehabilitation, including a vegetarian, "natural" food diet, and a lot of exercise. The staff of each Salem village includes physical and psychological therapists, as well as farmers, bakers and other craftsmen, who furnish the communities' material needs and give the children vocational training.

Typical of Mueller's holistic approach is a program of horseback riding. "I remembered when I was young, how when I was riding a horse I felt like a king. With a horse you have a comrade—you must cooperate with him, you can also quarrel with a horse, but you must be polite. You learn courage, and it is physical and spiritual."

Musical training is equally important. Even the most severely handicapped children learn to play an instrument, and learn also the value of cooperation in orchestral playing. But the greatest benefit is to their confidence.

The orchestra has performed in London, Tel Aviv, and, promoting public support for a new Salem village in Huntington, Md., in Boston and New York. They appear calmer, more assured than many professional musicians.

Waiting backstage for the start of their concert yesterday, they sat quietly or engaged in such horseplay as their immaculate blue-vested outfits would allow. They were fit-looking and ruddy-faced—trimmed-down versions of the rollicking youths in a painting by Brueghel—their serious faces give away little, of the experience of international concerting, or of their troubled backgrounds.

Music, says their conducter, will always be availabe to them as a means of support, a fallback if they ever find themselves out of work. A group of boys, 13 and 14 years old, name their future occupations—a carpenter, a painter, a farmer . . . But, as Mueller reminds you, employed or not, these youngsters will never find themselves without a home. They can always come back to Salem—like anyone else, when the going gets tough in the outside world, they can always go home.●

THE DOLLAR DECLINE

● Mr. BUMPERS. Mr. President, two articles that appeared recently in the Wall Street Journal highlight the need for comprehensive energy legislation during the 95th Congress.

One article points out that 1979 oil imports will reach record levels, exceeding last year's record of 8.7 million barrels a day. Americans are using about 3 percent more petroleum than they were last year.

If this situation continues, there will be further erosion of the value of the dollar. Although the U.S. balance-of-trade deficit has narrowed in recent months, the deficit in our balance of payments remains because of continued high energy imports.

There are different ways to measure the impact of the declining dollar, but one estimate is that each 5 percent decline in the dollar adds one-half to three-quarters of a percentage point to the U.S. consumer price index after 1 year. One economist is quoted as saying, "The dollar decline has become an engine of inflation."

I ask that these articles from the Wall Street Journal be printed in the RECORD.

The articles follow:

DECLINE OF THE DOLLAR POSES BROAD THREATS TO AMERICAN ECONOMY

(By Charles N. Stabler)

NEW YORK.—Continuing disarray in the foreign-exchange markets, eased only slightly yesterday by Carter administration efforts to support the dollar, is raising risks in such broader areas as interest rates, inflation and the health of the economy as a whole.

The dollar's foreign-exchange problems are immensely complicating Federal Reserve and White House domestic strategy to keep the economy on a reasonable growth path while reversing the upward price trend. A cheapening dollar means higher prices for imports and for competing domestic goods. But an all-out effort to defend the dollar, which might fail anyhow, would require higher interest rates that, in turn, would slow economic growth.

Near-crisis conditions in the foreign-exchange markets are forcing the Fed and the administration to take actions that could hurt the economy. Market analysts say the dollar's role as the world's dominant reserve currency, or store of wealth, is being eroded, threatening all kinds of financial markets.

In response to the Fed's move to raise interest rates Wednesday and its intervention in the currency markets, the dollar rebounded in nervous trading most of yesterday. But many market participants and economists fear that the Fed's relief will be only temporary and that the dollar will again succumb to the pressure of underlying economic conditions.

GAINS ARE ERODED

At a press conference yesterday afternoon, President Carter reiterated his concern about the dollar and said he had asked for advice from his economic aides and the Federal Reserve, but he didn't offer any new measures to bolster the U.S. currency now.

Even while the press conference was under way, the dollar began losing some of the gains racked up in earlier trading.

"The market was expecting entirely too much from Carter," one disappointed foreign exchange trader said, referring to earlier dollar gains. "It's a crazy market," he said, with a great deal of uncertainty and anxiety among participants.

The administration's policy has been to intervene in the market only to correct "disorderly conditions." It is pinning its hopes for a lasting recovery of the dollar on improvements in the fundamental economic factors driving it down, mainly the rising U.S. inflation rate.

WIDE SWINGS

Market conditions this week have been disorderly indeed. Traders say there have been price swings for some currencies of as much as 1% or 2% in the course of an hour. The Swiss franc has registered price changes of 5% overnight. The spread between the price dealers bid for currencies and what they are willing to sell for has been unusually wide, a sign that dealers are trying to protect themselves against sudden price changes. And market participants have been unwilling to hold dollars for more than brief periods.

"It's a very, very dangerous situation," says James J. O'Leary, vice chairman and chief economist for U.S. Trust Co. "It is intolerable to have the dollar so vulnerable to speculation and in a continuing declining process."

"There has been an eerie aspect to this" in the foreign-exchange markets, says Henry Kaufman, chief economist at the securities firm of Salomon Brothers. "With the dollar going down, you have an international monetary system without a rudder."

Since the Bonn summit meeting just a month ago, the dollar has plunged 8.5% against the Japanese yen, 4% against the German mark, 3% against the French franc and 3.5% against British sterling. The direct effect of such declines is to raise the price of U.S. imports. American producers of competing goods then have an umbrella under which they can raise domestic prices.

ENGINE OF INFLATION

"The dollar decline has become an engine of inflation," says one economist, its impact is difficult to measure, but one estimate is that each 5 percent decline in the dollar adds one-half to three-quarters of a percentage point to the U.S. consumer price index after one year.

But the cheapening dollar could have deeper, possibly more serious, consequences. The reason is that dollars, overwhelmingly used as a transaction currency in world trade, also serve as the world's dominant reserve asset—a store of value for investors, central banks and other official institutions. This role is threatened by growing doubts about the safety of this hoard of wealth.

In foreign-currency terms, the steep decline of the dollar has already slashed the value of all kinds of dollar denominated assets. The worth of billions of dollars foreigners have invested in U.S. Treasury securities, corporate bonds, loans, bank deposits and even common stock is eroding.

Other things being equal, a $1 million holding in Treasury securities worth over 2 million marks to a German investor a month ago now is worth only 1.95 million marks. A similar investment translated into Japanese yen or Swiss francs has lost even more.

The depth of the erosion is difficult to estimate because the dollar's value is only one of many influences affecting prices in the credit and stock markets. But some analysts fear that for a growing number of foreign investors, including central banks, the costs and risks of buying dollar securities already outweigh any anticipated benefits from interest income or capital gains.

There already are signs of a slowdown of foreign investment in the U.S. financial markets, a reduction of dollar inflows which itself puts upward pressure on interest rates. And in the background is the ever-present threat of large-scale liquidation of dollar assets held by foreign central banks and investors. Such a dumping of dollar holdings would send financial values plunging.

Few analysts expect such wholesale selling. For one reason, it would be very costly to the sellers, driving down prices they received for their assets. And converting so much wealth into another currency would be difficult because no other country has the depth of the U.S. financial markets.

As one measure of the size of these foreign investments, the Federal Reserve Bank of New York is holding on behalf of foreign official institutions more than $86.6 billion in U.S. Treasury securities. This is Treasury debt owned mainly by the central banks of major U.S. trading partners and of Saudi Arabia and other members of the Organization of Petroleum Exporting Countries.

"There hasn't been any unloading yet—no OPEC selling," says David M. Jones, an economist at the securities firm of Aubrey G. Lanston & Co. But, he concedes, "You can't rule it out."

Until recently, foreign central bank purchases of Treasury debt securities had been sizable, in effect financing the U.S. budget deficit, dealers say. Central banks' current holdings of marketable securities are more than $26 billion greater than a year ago.

The Federal Reserve reported yesterday an increase in its holdings of such securities during the week ended Wednesday but, over a longer period, such buying has slowed. The reason apparently is that the foreign central banks have decided to limit their intervention in foreign-exchange markets; in these interventions, central banks sell their own currencies and buy dollars that they then invest in Treasury debt.

A LOSING GAME

"They found it was a losing game as long as the U.S. was unwilling to do anything to help itself," says one economist.

Citing the continuing high growth of money supplies in the U.S. economy, Lawrence A. Kudlow, vice president and economist for the securities firm of Paine Webber Inc., says, "Efforts by foreign central banks to support the dollar have no lasting effect in the fact of domestically produced monetary overruns."

The withdrawal of this source of buying demand puts upward pressure on the rates the U.S. Treasury must pay for borrowing.

In addition, buying by foreigners in the U.S. stock market has slowed. Foreign buying is credited by analysts with triggering the April stock-market rally and helping buoy prices in May. Foreigners made record net purchases of $713 million of U.S. stocks in April and a further $427 million in May. But they turned into net sellers in June and probably continued to be in July, according to David Minor, an analyst at the Securities Industry Association.

The stock market registered gains yesterday and Wednesday, following the Fed's moves to tighten credit, largely because traders saw higher interest rates as a possible aid to the dollar and, in turn, renewed foreign interest in U.S. equities. But over a longer period, the prolonged decline of the dollar has tended to drag down this market and the credit markets as well, analysts say. The stock markets in the East were closed before President Carter's news conference yesterday.

Despite Fed stabilization efforts and President Carter's expressed concern for the dollar, few market participants expect a quick change in its fortunes. "They have already tried this, last January, without much effect," one currency trader says.

Last Jan. 4 the U.S. government announced it would intervene "actively" in the foreign-exchange market. The Fed immediately began major buying of dollars and selling of German marks. It tightened its credit reins, pushing up interest rates, and raised its discount rate on loans to member banks to 6½% from 6%. The dollar soared briefly, but by the middle of February it was on the run again.

BASIS FOR DOLLAR'S SLIDE

The blame for the dollar's persistent weakness is placed on fundamental, slow-to-change economic conditions. Although the U.S. balance-of-trade deficit has narrowed in recent months, the gap between what the country buys from abroad and what it exports remains wide, partly because of continued high energy imports. Also, the U.S. economy still is expanding faster than the economies of its major trading partners, sucking in imports and holding down exports.

But a growing number of analysts blame U.S. inflation for the dollar decline. The rate of expansion of dollar supplies continues to run much higher than money growth in most other nations, raising fears that the purchasing power of dollars will continue to decline relative to currencies of Germany, Japan, Switzerland and other nations where monetary expansion is under better control.

"Worsened inflation fears produce a majority of dollar sellers, at the expense of domestic prices, real income, real capital and employment," says Mr. Kudlow of Paine Webber.

The Fed has been trying to restrain monetary growth rates, but only gradually. Before the most recent dollar decline, market analysts had expected Fed policymakers to hold back on further tightening moves, which run the risk of abruptly stalling economic growth.

TIGHTENING OF CREDIT

But the precipitous drop of the dollar in recent weeks has forced faster tightening action in the credit markets, raising interest rates in an effort to pull dollar investments into the country. Another change in the discount rate is expected today by many market participants.

In yesterday's trading, preceding Mr. Carter's news conference, the dollar jumped 3.5% against the Swiss franc in Zurich, to 1.6500 francs. It also rose 2.8% against the West German mark in Zurich, to 1.9015 marks; 2.6% against the French franc in Paris, to 4.3350 francs, and almost 1% against the Japanese yen in Tokyo, to 185.48 yen. In London, the British pound slumped 1.8% to $1.935.

But during Mr. Carter's 4 p.m. EDT news conference, the dollar fell sharply in New York trading. It dropped to 1.6150 Swiss francs, to 1.9703 marks, to 4.2750 French francs and to 186.30 yen. The British pound gained in New York to $1.9638, and the Canadian dollar rose to 87.27 U.S. cents from 87.82 cents.

The dollar's violent swings have been mirrored in the gold markets. Yesterday, the five major London bullion dealers slashed their common quote $5.30 an ounce at their morning meeting and a further $1.45 in the afternoon. That left the price at $209.00 an ounce, down $6.75 from $215.75 the day before.

OIL IMPORTS ARE RISING AFTER FIRST HALF DROP; RECORD 1979 TOTAL LIKELY

(By James Tanner)

On the surface, last month's news seemed favorable: Oil imports, a key villian in the huge U.S. trade deficit and the sinking fortunes of the dollar, were about 13% below last year's record levels. President Carter went to Europe to promise a 2.5 million-barrel-a-day cut in oil imports by the mid-1980s, and a high U.S. Treasury official predicted that imports would be slashed by a million barrels a day by the end of the year.

But beneath the surface, the facts are a good deal gloomier: That 13% drop for the first half of the year was only temporary and imports are starting to climb again. "We haven't solved the import problem," is the blunt opinion of John H. Lichtblau, executive director of the Petroleum Industry Research Foundation. "This import decline we have seen will start leveling off in the second half and will disappear altogther in 1979."

Even the administration is realizing that its hopes for cutting back on oil imports are fading. Indeed, Energy Department figures suggest the possibility that imports will actually rise this year. The major fear is that this will give the Organization of Petroleum Exporting Countries the evidence of a turnaround in the world oil market that it needs to justify an intended price increase by the end of this year.

HEADING TOWARD 10 MILLION

There is general agreement that 1979 imports will reach record levels, exceeding last year's record of 8.7 million barrels a day. Forecasts vary for beyond 1979, but most oil-industry people believe that imports will continue a slow but gradual rise, eventually passing 10 million barrels a day, no matter what happens in Washington to President Carter's long-debated energy program. Imports will rise, they say, because petroleum demand will continue to outpace domestic oil output.

Why were oil imports down in the first half compared with the first six months of 1977? Oil-industry officials note that in the 1977 first half, imports were unusually high because the oil companies were building up inventories. This was largely because of pricing disagreements among the OPEC producers, which led to a company scramble for cheaper Saudi Arabian oil even while the companies were under pressure from the higher-priced producers to continue taking their oil. OPEC resolved its pricing split in mid-1977.

In this year's first half, imports were unusually low because the oil companies began using up their inventories. But for the rest of this year, the companies are expected to rebuild their U.S. inventories of crude oil and petroleum products, now at the relatively low level of 857 million barrels, down from about 921 million barrels a year ago. The inventories already are being built up with imports.

Another factor is cited for the decrease in the first half's imports: oil from the North Slope of Alaska. The oil began flowing in mid-1977, averaging in the second half of last year about 700,000 barrels a day from the Prudhoe Bay field. In this year's second half, production is close to the pipeline's capacity of 1.2 million barrels.

Despite that increase, the significance of North Slope oil will diminish in the overall U.S. picture. This is because output from the fields in the Lower 48 States will continue to decline and U.S. demand for oil will, continue to rise. Right now Americans are using about 3% more petroleum than they were last year. No one knows what the increase in

demand will be for the year, although forecasts range from jumps of 1% to 5%.

A significant reason for the difficulty in trying to predict the course of oil imports is that a great amount of oil is being imported that isn't included in any official figures.

This is the oil that is being imported to be stockpiled in the strategic petroleum reserve, which was authorized by Congress in 1975 but which didn't get underway until the beginning of the second half of last year. The program calls for as many as one billion barrels of oil to be stored, mainly in underground salt domes, by 1985 to prevent disruptions in the event of any future embargo.

The target for the end of 1980 is 500 million barrels, and the oil now is going into the reserve at the rate of 150,000 barrels a day, most of it from Mexico, Saudi Arabia and elsewhere abroad. This is likely to have a considerable effect on the current half's import figures.

AN INCREASE THIS YEAR?

It isn't known what the average daily imports for the strategic reserve will be for the whole year. But the petroleum research group's Mr. Litchblau believes they could add as many as 500,000 barrels a day to the import figures for the second half. This could average out to more than 300,000 barrels a day for the entire year.

The Energy Department bases its estimates for the year's imports (not including the stockpile) on high, medium and low ranges of demand. Its medium-range estimate is that imports will average 8.6 million barrels a day for the year. If a possible 300,000 to 400,000 barrels a day of imports for the strategic reserve were added, this would bring 1978 imports to nearly 9 million barrels a day, compared with the 8.7 million for last year.

Even if imports for the reserve remain at the present 150,000-barrel-a-day rate, the Energy Department figures still suggest a total increase in imports for the year.

With so many predictions flying around, it's hardly surprising that Washington appears confused about what is happening to oil imports. On July 27, for example, Anthony M. Solomon, the U.S. Treasury under secretary, told reporters that the decline in oil imports would continue for the remainder of this year, contributing, he said, to a lower trade deficit and a stronger dollar. Oil imports, he predicted, should be down by one million barrels a day for the year.

But Mr. Solomon's optimism was deflated by figures from the Commerce Department projecting increases in the second half from the year-ago half. Indeed, the Energy Department had been projecting such an increase since June. Even Mr. Solomon's colleague at the Treasury, assistant secretary Fred Bergsten, told a House subcommittee last week that an increase in imports is expected in the second half.

(Asked for comment, a Treasury official explained that Mr. Solomon really meant to say that oil imports were running one million barrels a day lower during the first half.)

The administration does have support, however, in its view that oil imports will show a decline for all of 1978, although not nearly as great as the sharp decline of the first half would suggest.

Mr. Lichtblau's guess is that, not counting the strategic reserve, "this year we will bring in at least 8.1 million barrels a day." The Independent Petroleum Association of America estimates that the 1978 average, including imports for the reserve, will be slightly more than 8.5 million barrels a day.

Both of these estimates are conservative when compared with projections by Exxon Corp., whose figures are typical for the oil industry. Exxon believes that without provision for the reserve, the U.S. will import about 8.5 million barrels a day this year.

Certainly there is wide agreement that oil imports next year will rise to a record, whether or not the strategic reserve is included. Estimates that exclude the reserve: Mr. Lichtblau, 8.8 million barrels a day; Exxon, 9.3 million, and the Energy Department, about 9.1 million (medium range).

The renewal of the climb in imports obscures an important development concerning oil consumption in the U.S., however. Most energy experts agree that Americans are beginning to be less wasteful of petroleum, largely because of the increased cost but also because of improved automobile mileage. Frank G. Zarb, the former head of the Federal Energy Administration, now a general partner at the investment banking concern of Lazard Freres, observes, "The American (free-market) system is working despite the government's silly controls (on petroleum prices). Industry is using less energy per unit of output."

Evidence of this conservation trend is beginning to show up in the oil-demand forecasts. Generally, these forecasts suggest that oil demand will rise proportionately less, on a percentage basis, than the gross national product.

Generally, the estimates of 1978 demand range between 18.7 million and 19.4 million barrels a day, or increases of between 1% and 5% from the 18.4 million barrels a day of 1977.

Domestic petroleum production, including output from the North Slope, is estimated at between 8.7 million and 8.9 million barrels a day for 1978, up from about 8.2 million barrels a day in 1977. Natural-gas liquids and certain other domestic supplies account for the rest of the difference between demand and imports.●

DEFENSE SPENDING

● Mr. GOLDWATER. Mr. President, despite figures to the contrary, an impression still exists in this country that social programs are being deprived of funding, because of heavy defense expenses. The truth of the matter is that over the past 18 years, defense spending has steadily declined in real value while social spending has skyrocketed. In fact, social spending has grown 60 times as fast as defense spending.

Mr. President, this is the "big lie" which pervades much of the discussion these days about adequate budgeting for the Nation's defense. In an attempt to put the record straight, an article in Human Events of September 7 drew the whole problem into its correct perspective. It was written by Warren T. Brookes, a specialist in economic affairs and a columnist for the Boston Herald American. I ask that Mr. Brookes' article be printed in the RECORD.

The article follows:

THE "BIG LIE" ABOUT DEFENSE SPENDING

(By Warren T. Brookes)

Those who specialize in propaganda know that if you repeat a "big lie" often enough, people will eventually come to believe it—no matter how blatant it gets.

While you expect this sort of thing from totalitarian governments of the left and right, you do not expect it from a "free press."

Yet right now, the liberal press in America seems intent upon promoting the "big lie," that social spending in the U.S. is being limited by "record defense spending budgets."

Columnist James Wieghart, of the New York Daily News (normally a sensible man) typifies the latest assault of the national defense establishment with an incredible line from a July 24 column that ran in the Boston Globe:

"There is something wrong, when the richest, most powerful nation in history, votes added billions to record military budgets, but refuses to spend money to insure health care for its citizens, housing for its homeless, or jobs for the unemployed."

It would be hard to invent a statement more egregiously misleading, or downright sinister in its polemical intent. It is the "big lie" carried to a ludicrous extreme.

The fact is: Over the past 18 years, U.S. social spending has been soaring like a skyrocket, while defense spending has steadily been lagging, in real value. Social spending has grown 60 times as fast as defense!

The following table compiled from the U.S. Budget for 1979 tells the story completely:

DEFENSE VERSUS NONDEFENSE SPENDING, 1960–77

[In billions of constant 1960 dollars]

	1960	1977	Percent change
Total Federal outlays	$92.2	$200.3	117
Defense	45.2	47.5	5
Nondefense	47.0	152.7	225
Social spending	26.5	111.9	322
Weapons and research	18.0	13.7	−24

Since 1960 (a non-war year), while the real GNP grew 57 percent, total real Federal spending rose 117 percent—and the entire reason for that "double-rate" government growth was a 225 percent rise in nondefense spending! That is 45 times as fast as defense.

During a period when social spending (income security, employment programs, housing, health care and education) rose by a colossal 322 percent (real, that is, not inflated) the total defense budget actually rose only 5 percent in constant dollars.

During this 17-year-period, while the budget for HEW, alone, rose by a colossal 258 percent, the nation's actual spending on weapons and military research (other than personnel and pensions) went down by 24 percent in real dollars!

That's right, in 1977 we actually spent, in constant dollars, some 24 percent less on military hardware and research than we did in 1960.

Yet, in 1977, we spent over four times as much on social programs as we did in 1960, in real dollars, and eight times as much in inflated dollars.

Thus, instead of the "big lie" that defense spending is "robbing social programs," as one black congressional leader recently stated (Parren Mitchell [D.-Md.]), exactly the opposite is taking place, as the defense share in the ballooning federal budget has fallen dramatically, while social spending has soared:

SHARE OF FEDERAL BUDGET (INCLUDING OFF-BUDGET SPENDING)

	1960 (percent)	1977 (percent)	Percent change
Defense	49	23.7	−52
Nondefense	51	76.3	+49.6
Social spending	28.7	55.9	+94.7

The fact is social spending now takes nearly two and a half times as much of the federal budget as defense, and its share has grown almost one hundred percent while defense has dropped by more than half.

Why, then, do so many Americans believe

that defense spending is too high and should be cut, modestly?

The answer is inflation. The amount of $117 billion (the amount proposed for 1979 by the Carter Administration), sounds like a lot more than it really is. From 1960 to 1977 prices in the U.S. have gone up by 105 percent—and by 1979, will have gone up by 135 percent.

This means that in constant 1960 dollars the 1979 budget of $117 billion in defense spending will come to $49.8 billion, or only $4.6 billion more than we spent 19 years ago, an increase of only 10 percent in two decades!

During this same period, our national economy will have grown, in constant dollars, by about 62 percent (through 1979), or about six times as fast as our defense budget! And social spending has grown 60 times as fast!

As a result, the defense share of our nation's economy has steadily dwindled, while the non-defense share has skyrocketed:

FEDERAL SHARE OF THE GNP

	1960 (percent)	1977 (percent)	Percent change
Nondefense	9.5	17.3	+82
Defense	9.0	5.2	−42
Social	5.3	12.5	+135

Federal social spending programs now take nearly three times as much of the GNP as does defense. Indeed, total social spending at all levels of government (including state and local) now take nearly 23 percent of the Gross National Product while national defense takes only 5 percent, a ratio of 4 to 1.

What is worse, because of the volunteer Army (and rapidly rising military pay and pensions), our actual level of defense is far worse than even these figures tell.

DEFENSE BUDGET 1960–79

[In billions of inflated dollars]

	1960	1977	1979	Percent change	Percent change
Personnel and operating expense	$23.5	$67.6	$79.5	238	44
Weapons and research	18.0	28.0	36.1	100.1	−15

Despite the fact that there are now 500,000 fewer military personnel than in 1960, and 200,000 fewer Pentagon civilian personnel, it is now costing 44 percent more (in real dollars) just to pay for salaries, pensions and operating expenses than it did in 1960.

Meanwhile, our actual dollars for weapons and research (the real measure of our strategic strength) have dropped 15 percent even when you include Mr. Carrter's 1979 budget.

What is troubling about all this is that during a time when we have reduced defense spending to 5 percent of GNP, the Russians have raised theirs to 17 percent of their GNP. The trends are all against us.

This is not to say that there is not "fat" in the Pentagon budget. There is. Readers of this column will recall that in 1976 and 1977 we applauded Mr. Carter's desire to squeeze about $5 to $7 billion out of this budget.

And we thought that, economically speaking, the B–1 decision was the right one at the time.

But any serious cutting of the Pentagon budget cannot be accomplished unless the Congress faces up to the fact that this cutting cannot come either in weapons or research—but must come in the spiraling cost of personnel and pensions.

It must not come as a result of "big lies" about "record defense budgets" and their supposed impact on social spending.

It is irresponsible for the liberal press to suggest that defense spending is, in any way, interfering with the massive colossus of nondefense social programs, which have been the primary cause for government growing twice as fast as our national economy for the past 19 years.●

REFUGEE CRISIS IN SOUTHERN AFRICA

● Mr. KENNEDY. Mr. President, for many months I have followed with growing concern the mounting refugee crisis developing in Southern Africa—especially the plight of some 1.2 million refugees from the escalating conflict and violence in Zimbabwe (Rhodesia).

I have been equally alarmed at the persistent failure of our Government to respond to the growing refugee crisis among Zimbabweans dislocated within their country. For over a year and a half, the administration has wrapped in red-tape and bureaucratic indecision an urgent appeal for relief assistance from the International Committee of the Red Cross (ICRC)—one of the world's most respected humanitarian agencies, and the only international agency providing assistance within Zimbabwe.

Officials in the Agency for International Development (AID) have all but ignored for over a year a direct appeal from the ICRC for Zimbabwe. Despite a meeting in September 1977 with a senior official from the International Red Cross—and the outstanding appeal from the ICRC in June 1977, for $4 million in relief assistance—AID officials sat on any action for a full year. And then it was $1 million, none of which could go to refugees within Zimbabwe.

Yet, by every account, the refugee crisis in Zimbabwe was growing daily. Over one-sixth of all black Zimbabweans have been displaced by the war between Rhodesian forces and nationalist guerrillas. Some half million have been herded into what the government calls "protected villages," but which in reality are nothing more than fetid refugee camps. Another 100,000 have filed across the border into neighboring Botswana, Mozambique, and Zambia. Relief needs—especially food, shelter, and medicine—have grown steadily.

After receiving no response from the United States to its first appeal for Zimbabwe on refugees, the Red Cross issued on May 1, 1978, a second appeal for $12 million for Africa, including Zimbabwe, to meet relief needs for 6 months.

But, Mr. President, what has been the response of the United States?

To date, not one penny has been offered to the new appeal. We have pledged $1 million for a $16 million program to date—a shamefully modest response to a crucial humanitarian program in a crucial part of the world.

To date, no international disaster assistance funds have been made available by AID even though at least $3 million remain available until the fiscal year ends in just 2 weeks. Inadequate use has been made, of the special requirements fund for Southern Africa, which has no legal prohibition against assistance to refugees in Zimbabwe provided through international organizations.

When asked what the Department of State and AID are now doing to respond to the latest ICRC appeal for Zimbabwean refugees—the answer is that they are meeting about it.

Mr. President, today, after a year and a half of inaction—of incomprehensible redtape and delay—we do not need more meetings on urgent humanitarian needs. The American people and the Congress rightly expect action. We expect AID to use the funds made available to it by Congress for such programs—either the international disaster assistance fund or the special requirements fund for Southern Africa.

And if new authority or additional funds are needed, then why has not the administration and AID requested them in the pending foreign assistance bill? We must reluctantly conclude that no one in AID considers the appeals of the International Red Cross sufficiently important or urgent to act upon them, or to seek the authority or additional funds needed to respond to them—if, indeed, such new authority is really required.

We also must reluctantly conclude that AID's record in responding to the International Red Cross in Zimbabwe follows its past sorry record in Lebanon in 1975–76, earlier in Cambodia and Vietnam, and in other humanitarian crises where I have consistently observed a failure of action.

Mr. President, it is my firm intention to pursue this issue, and to discuss with the relevant committees whether legislative action should not be taken to transfer out of AID all funding the Congress intends for humanitarian emergencies caused by manmade disasters—such as that today in Zimbabwe, where hundreds of thousands of refugees have yet to see the helping hand of the United States.

Mr. President, I commend to the attention of Senators a compelling article on the refugee crisis in Zimbabwe published yesterday by the Wall Street Journal, and I ask that it be printed in the RECORD.

The article follows:

STRUGGLE IN RHODESIA TURNS COUNTLESS BLACKS INTO HELPLESS REFUGEES

(By Richard R. Leger)

HARARE, RHODESIA—Some 4,000 people are huddled on the ground in the dusty market square of this black township adjoining Salisbury. They are dirty, tattered and hungry. Most of them are children with no place to play, no schools to go to. Their mothers sit surrounded by their remaining possessions—a few charred pots and pans, a suitcase or box or two of clothing, some sticks and plastic or canvas from which to make a tent.

Some enterprising women are trying to raise a few pennies. Esther is one; she has bought 15 pieces of wood for 50 cents and is trying to sell them for 70 cents. "Food is most urgent," she says. "I can warm myself in a sack if I have a full stomach, but when you have an empty stomach, it's bad." (The

temperature dips into the 40s some nights; it's late winter now in Rhodesia.)

For Maggie Muchato, a widow with seven children, the most pressing need is blankets. She was given some blankets and clothes but had them stolen. She is very angry but no one knows who took her blankets.

CROWDING THE CITIES

This refugee camp in Harare is one of at least three growing around Salisbury. There are others in Bulawayo, Rhodesia's other principal city. The camps, unrecognized by the government, shelter Rhodesia's most unfortunate citizens, 20,000 to 30,000 people nobody wants.

Other blacks are crowding into homes with friends and relatives and with servants living in quarters in white homes. They have swollen the population of Salisbury and Bulawayo by a half million.

But Rhodesia's displaced-person total doesn't stop there. Some 100,000 more have fled across borders into Botswana, Mozambique and Zambia, waiting for an end to the fighting Another 500,000 are herded into fenced compounds called "protected villages," where government forces say they try to keep them safe from attacking guerrillas but also restrict their activities with curfews. In all, about 1.1 million of Rhodesia's 6.5 million blacks have been displaced by the war between government forces and nationalist guerrillas based in Zambia and Mozambique. (Whites also have been forced to leave, but most do so in relative comfort and safety; an estimated 230,000 whites, perhaps fewer, remain in Rhodesia.)

CAUGHT IN THE MIDDLE

"The suffering of the people in the tribal trust lands (black rural areas) is terrible," says a missionary who had to close her school last year when it became too dangerous to continue. "They have to feed the guerrillas. They must. But they were subsistence farmers to start with and barely had enough to live on."

She continues: "Then after they feed the guerrillas, the (government) security forces come in and beat them for helping the guerrillas or bomb their villages. This is one reason you have refugees here. Another is that the protected villages are being burned down by the guerrillas. If the people try to return to their old tribal homes or stay in the mountains, they are bombed by the security forces. If they try to go back to the protected villages, they're attacked by the guerrillas. They have no choice but to leave."

Salisbury's director of community services, J. C. B. Taylor, sees another factor in the refugee flight. "We are beginning to reap the whirlwind of the migrant-labor system, which is common all over Africa, under which the men leave home to seek a wage while the women, children and old men eke out a peasant existence," Mr. Taylor says. "Now there is a general degradation of the land, and the war is making it urgent that the families come to town."

But the refugees aren't wanted in Rhodesia's towns and cities. Mr. Taylor says they could double Salisbury's normal population of 510,000 within months, and he fears the influx could be "our downfall. We don't check everybody and don't know how many are here or who they are. There may be many 'ters' (terrorists) among them."

DISCLAIMING RESPONSIBILITY

So unwanted are the refugees that neither the municipal nor the national government will take responsibility for their care. "It's unfair for Salisbury to house what's a national government problem," Mr. Taylor says. "We can't even cope with the 17,000 families officially waiting for housing with legitimate reason to be here. That's why we're disclaiming responsibility."

Basic medical care is given by a mobile clinic from the International Committee of the Red Cross. "There are frequent births," says J. Pelichet, Red Cross delegate here. "How many I don't know." In addition, stomach ailments and skin, liver and venereal diseases are common, and Mr. Pelichet worries about the possibility of an epidemic of malaria or some other disease. "When the rainy season comes (in November) it will be bad. An epidemic couldn't be controlled," he says.

Everyday living problems such as births, however, are taken in stride by the refugees. Valeria Mungati, for example, has strapped to her back a baby wearing a purple and gray wool hat. He's named Rudo, which means love in Shona, a tribal language. The baby, her grandson, was born last Oct. 1. She has eight children of her own.

Mrs. Mungati, however, says she's "desperate" because of constant illness and hunger in her family. She also has just "received a message there was heavy fighting in my home (a village called Mrewa), and I am worried for my relatives. We are waiting for news of names."

No one in her family has been able to find work, Mrs. Mungati says. "If the young men ask for jobs, they're told to join the security forces as fighters. We'd rather starve than fight."

Fending off starvation is a constant struggle because these people don't have land on which to grow their own food. About half, those who have been screened and are known to be legitimate war refugees, get soap, blankets and rations of corn meal, salt, cereal and milk from the Red Cross. Some of the others in the camp are unemployed people with nowhere else to go.

"We are limited to helping only war refugees; help for the others must come from other sources," Mr. Pelichet explains. But refugees who get aid commonly share it with their unfortunate neighbors, bringing supplies for each family closer to the starvation level.

It is easy to locate families with a sick child or a newborn baby when walking through the camp: They are the ones allowed to keep their tents up during the day. All others are required by the municipal authorities to take their shelter down every morning.

"This is to discourage permanency," says Mr. Taylor. "We can be criticized, but the shelters are a symbol of illegality." Requiring the squatters to take down their tents daily "is the best way, and they've gotten it down to a fine art," he says. The tents go back up at night.

As bad as life can be in the refugee camps, it was worse in rural areas for many people. Government statistics show that of the 9,400 deaths from the start of the war in 1972 through the end of July, 3,693 were black civilians. Of these, 1,200 have died this year. By comparison, 207 white civilians had been killed through the end of July, 86 of them since Jan. 1.

The guerrillas order rural blacks not to dip their cattle (against tick-borne diseases) or to pay taxes or school fees to hurry the collapse of the civil administration. As a result, it's estimated that 550,000 animals, mostly cattle, will die this year. Schools also are closing rapidly: 845 black schools run by the government have closed, along with 817 run by missionary groups.

"I was teaching in a school and we closed it last September," says the missionary now in Salisbury. "We closed it because the guerrillas were in the vicinity and so were the security forces. We were afraid of contact with either side or a contact between the sides. The children now have nothing to do. There are many armed groups in the area—some stealing—and if they don't join one, then it's the other."

The violence has spread to black urban areas, where clashes between guerrillas and civilians or guerrillas and government forces are becoming more frequent. "A lot of people are putting up six-foot fences around their houses with two dogs inside," a black professional who lives in Harare says.

Charitable organizations are helping Rhodesia's displaced blacks, but their resources are inadequate. "We're very much aware that what we're trying to do doesn't reach all the people, and there will be a lot of starvation at the end of this year," says Sister Dymphna Van Wesenbeeck, who supervises a program supplying food, blankets, clothing and medical aid to blacks in protected villages. "People aren't able to put in their crops or go to their fields to care for them," she adds. "It really will be very bad. I expect a general chaos at the end of the year."

There are proposals to build small wooden houses for some of the refugees. Mr. Pelichet of the Red Cross says his organization could build such structures for $150 each with volunteer refugee labor, but it lacks funds for such a program.

The Salisbury municipal government also is considering putting up temporary wooden housing, Mr. Taylor says. But he adds that "the Africans (blacks) warn us that if we do, we'll attract thousands more. We'll be inviting further disaster."●

NUCLEAR WEAPONS EFFECTS

● Mr. McGOVERN. Mr. President, as we involve ourselves in discussions of nuclear strategies and scenarios, there is a curious tendency to forget what sort of devastation these weapons bring. Soon we fall into such notions as the hypothetical limited nuclear war in which the Soviets would drop several thousand megatons in a "limited" counterforce attack on our ICBM forces on the assumption that we would not retaliate against populated targets. To anyone who remains mindful of the effects of nuclear weapons, there is inevitably a surreal quality to the debates. To deal with nuclear weapons rationally, we are apparently supposed to set rationality aside and regard a megaton explosion as a mere pinprick.

There is, of course, a further danger to these abstract discussions. They make nuclear war seem more plausible. And if the world ever does suffer the ultimate folly of nuclear war, it will probably happen, because the decisionmakers on one side or the other forgot about the true horror of these weapons.

I, therefore, regard it as an important public service that the October issue of the Progressive magazine contains a chilling description by Erwin Knoll and Theodore A. Postol of what would happen if a single 20-megaton nuclear warhead struck Chicago. I hope all Members of the Senate will read and ponder this piece, and I ask that the article entitled "The Day the Bomb Went Off" be printed in the RECORD.

The article follows:

THE DAY THE BOMB WENT OFF: IMAGINE THAT IT HAPPENED

(By Erwin Knoll and Theodore A. Postol)

It was a sunny summer morning in the Chicago Loop. The usual bumper-to-bumper jam of cars and trucks. On the sidewalks, the usual crowd of shoppers, tourists, messengers, office workers heading out to an early lunch. It was Friday.

At 11:27, a twenty-megaton nuclear bomb exploded a few feet above street level at the corner of LaSalle and Adams. First the incredible flash of light and heat: In less than

one-millionth of a second, the temperature rose to 150 million degrees Fahrenheit—more than four times the temperature at the center of the sun.

The roar followed immediately but there, in the center of the city and for miles around, no one was left to hear it. There was only the heat. And the dust.

Imagine that it happened. We will not speculate here on why it happened—on whose fault it was, on the series of diplomatic bluffs and blunders and miscalculations here and there that made it happen. It happened.

Even in the macro-magnitudes of nuclear weaponry, a twenty-megaton bomb is large—the equivalent of twenty million tons of TNT, though such comparisons have little meaning. The yield of a twenty-megaton bomb is some 1,500 times greater than the yield of the bomb that was dropped on Hiroshima thirty-three years ago.

The United States does not admit to deploying any twenty-megaton bombs in its nuclear arsenal. With its superiority in missile numbers and missile accuracy, the United States prefers weapons of lower yield. But the Soviet Union's 200 SS-9 intercontinental ballistic missiles are believed to carry warheads in the twenty-megaton range, and they—along with lesser bombs—are presumably targeted on the fifty largest cities in the United States.

In the event of nuclear war, a total of some 100 to 200 megatons would be directed at a metropolitan area like Chicago's.

The bomb that exploded in the Loop left a crater 600 feet deep and nearly a mile and a half in diameter. The crater's lip, extending almost to the shore of Lake Michigan on the east, was 200 feet high and would be, after the cloud of radioactive debris and dust had settled or dissipated, the tallest "object" visible in the area of the blast.

For the moment, though, there was just the incandescent fireball, rising and expanding outward at enormous speed, reaching a height and breadth of three or four miles, illuminating the sky, so that 100 miles away, over Milwaukee, the flash blinded the crew of a Chicago-bound airliner.

Around Ground Zero, everything—steel-and-concrete skyscrapers, roads and bridges, thousands of tons of earth, hundreds of thousands of people—was instantly evaporated.

At the edge of the fireball, a thin shell of super-heated, super-compressed gas acquired a momentum of its own and was propelled outward as a blast of immense extent and power, picking up objects from disintegrating buildings, snatching huge boulders and reducing them to vapor that would solidify, eventually, into radioactive dust.

Three seconds had elapsed since the bomb went off.

A high-altitude blast at one to three miles above ground level would have inflicted considerably greater blast damage, but the surface blast has its own "advantage": By maximizing the amount of debris sucked up in the nuclear explosion, it multiplies the long-range radiological effects, threatening the survival of living things hundreds of miles from the target area. And even the blast radius of a surface detonation is powerful enough to ignite fires more than twenty miles from Ground Zero—more than thirty miles if clouds help to reflect the flash.

Within a minute, the familiar shape of the mushroom cloud began to form over Chicago, symmetrical and strikingly beautiful in various shades of red and reddish brown. The color was provided by some eighty tons of nitric and nitrous oxides synthesized in the high temperatures and nuclear radiations. In time, these compounds would be borne aloft to reduce the ozone in the upper atmosphere.

The mushroom cloud expanded for ten or fifteen minutes, reaching a mature height of twenty to twenty-five miles and extending seventy to eighty miles across the sky.

To a distance of five miles from Ground Zero—to affluent Evanston on the north, well past working-class Cicero on the west, beyond the University of Chicago campus on the south, there was—nothing. A few seconds after the bomb went off, the fireball appeared, brighter than 5,000 suns. Those who saw the sudden flash of blinding light experienced instant and painless death from the extreme heat long before the noise and shock wave reached them.

Glass melted. Concrete surfaces disintegrated under thermal stress. Anything combustible exploded into raging flames. Even reinforced, blast-resistant structures collapsed, along with highway spans and bridges.

The blast wave arrived about fifteen seconds later, buffeting the few man-made remnants that had not been pulverized. With the shock came torrid wind, traveling at some 300 miles an hour, carrying dust and embers and fragments, blowing down vents and tunnels to suffocate the few surviving human beings who had been sheltered below ground level.

After about ten seconds, the wind reversed direction, drawn back toward Ground Zero.

The enormously high temperatures from the fireball of a nuclear weapon generate enough light and heat to ignite simultaneous fires over huge areas. In these areas the heated air forms a rising column, resembling on a vast scale the air-flow in a fireplace. Cool air drifts into the fire zone to replace the rising hot air. As the fires gain strength, burning hotter and more violently, the chimney effect intensifies, sucking in more air and causing the fire to burn hotter still.

About twenty minutes after the atomic bomb attack on Hiroshima, a mild wind began to blow from all directions toward the center of the city. Within two or three hours, the wind developed a speed of thirty to forty miles per hour and air temperatures rose steadily toward 2,000 degrees Fahrenheit as fires burned out of control for a distance of 1.2 miles from Ground Zero. The wind was accompanied by light, radioactive rain over the center of the city, and heavier rain around the periphery. It was a firestorm, and it destroyed about 2,800 acres.

A twenty-megaton bomb could, under similar conditions, generate a firestorm that would devastate an area some 500 times larger.

On the freeways radiating from the Loop, automobiles, trucks, and buses were simultaneously evaporated and blown away, their particles sucked up into the fireball to become components of the radioactive cloud.

Along the Stevenson Expressway, some seven or eight miles from Ground Zero, scores of oil storage tanks exploded—ruptured by the shock wave and then ignited from the grass and shrubbery burning around them.

At this range, too, aluminum siding on homes evaporated and some concrete surfaces exploded under thermal stress. The few buildings still standing were in danger of imminent collapse—and all were engulfed by flames. Highway spans caved in. Asphalt blistered and melted.

Clothing caught fire, and people were charred by intense light and heat. Their charcoal limbs would, in some instances, render their shapes recognizably human.

With greater distance from Ground Zero, the effects diminished. About ten miles from the Loop, in the area around the Brookfield Zoo, the fireball was merely brighter than a thousand suns. Glass did not melt, but shattered window fragments flew through the air at about 135 miles per hour. All trees were burning even before the shock wave uprooted most of them.

Railroad bridges collapsed, and railroad cars were blown from their tracks. Automobiles were smashed and twisted into grotesque shapes. One and two-story wood frame homes, already burning, were demolished by the shock wave, which also knocked down cinder-block walls and brick apartment buildings.

Those who had taken shelter underground—or, more probably, just happened to be there—survived for fifteen minutes or a half hour longer than those who were exposed. They suffocated as oxygen was drawn away by the firestorm that soon raged overhead.

At O'Hare Airport, the world's busiest, aircraft engaged in landing or takeoff crashed and burned. Planes on the ground were buffeted into each other and adjacent hangars, their fuselages bent and partially crushed by the shock wave. Some thirty seconds before the shock wave struck, aluminum surfaces facing the fireball had melted and the aircraft interiors had been set aflame.

The enormous temperatures associated with all nuclear weapons, regardless of yield, result from fission—the process in which certain atomic nuclei became unstable and disintegrate. (Even a fusion bomb like the one here described gains about half its energy from fission.) As the nuclei break up and form new atoms, they yield neutrons and immense amounts of energy. The atoms created by fission are so radioactive that if one could collect two ounces of them one minute after their creation, they would match the activity of 30,000 tons of radium and its decay products.

When a twenty-megaton nuclear bomb goes off, it produces more than half a ton of this material. One minute after detonation, it is as radioactive as thirty million tons of radium. Though this radioactivity declines within one day by a factor of 3,000, the material still has the radioactivity of 10,000 tons of radium.

If one could instantly remove the entire fission inventory from the largest commercial nuclear power plant (3,000 megawatts thermal) and simultaneously detonate a twenty-megaton nuclear bomb, thirty minutes after the "experiment," the activity from the bomb would be about 100,000 times greater than the activity contained in the reactor's fission inventory.

The astronomically hot fireball indiscriminately incorporates all those materials into a super-heated gas and mixes them with millions of tons of earth and target debris. The mixture condenses into droplets of liquid and then solidifies into particles ranging in diameter from one-thousandth to one-fiftieth of an inch. The particles incorporate all of the extremely dangerous radiological residues, and are borne aloft to deliver death hundreds of miles from the target. (See Page 20.)

In addition, many neutrons escape the exploding weapon to be absorbed by the earth and air in the immediate blast area. This leads to the production of a wide variety of neutron-activated radioactive isotopes of such elements as sodium, chlorine, manganese, zinc, copper, and silicon, as well as radioactive carbon transmitted from nitrogen in the air.

All of these substances, dangerous to varying extents, remain active in the blast area to jeopardize survivors and would-be rescuers.

In the pleasant western suburb of Hinsdale, some sixteen miles from the Loop, the manicured lawns surrounded by wooden picket fences on tree-shaded Chicago Avenue caught fire first. Leaves on the trees ignited next, and then the picket fences themselves. Paint evaporated off house exteriors. Children on bicycles screamed as they were blinded by the flash of the fireball. An instant later, their skin was charred. Autos collided as their tires and upholstery burst into flame.

The white wooden cupola on the brick village hall blazed, and even the all-stone

Unitarian Church on Maple Street was burning—ignited by the curtains on the windows facing east.

The shock wave arrived some fifty seconds later, tearing the roofs off houses, blowing in side panels, spreading burning debris.

At about the same distance north of the city, Ravinia Park's summer festival was to have featured an all-Mozart program that Friday evening. There would be no Mozart and no Ravinia Park. By 11:30 a.m., that agreeably green place was a burning wasteland.

About twenty-one miles southwest of the Loop, the Argonne National Laboratory sprawls on some 1,700 acres of park land. Its 5,000 employees had engaged in a broad variety of research efforts, many of them centered on the development of nuclear power. Argonne and its predecessor, the Metallurgical Laboratory of the University of Chicago, were instrumental in developing the atomic bomb.

Argonne researchers who happened to be looking out a window on that Friday morning—gazing, perhaps, toward the Sears Tower barely visible on the skyline to the northeast—suddenly saw a flash that filled the sky with the brightness (from their vantage point) of fifty to eighty suns. They were blinded, their clothing was ignited on their bodies, and exposed skin areas suffered extremely severe third-degree burns.

Here, too, leaves and grass and many readily combustible materials caught fire at once. The shock wave, which arrived a minute-and-and-a-half later, caused only minimal damage, except as it spread burning debris. But the fires soon raged out of control, for here, as for many miles around, there was neither power nor water pressure nor emergency equipment nor any human will but the impulse to surrender to the hysteria of total disaster.

And soon after all this happened, the radioactive cloud, carried by the prevailing winds, began drifting toward the east at about twenty miles per hour.

By the time the mushroom cloud has completed its fifteen-minute process of stabilization, it is directly overhead for distances up to forty miles from Ground Zero. Fires are still burning as radioactive particles begin settling on the landscape. The radiation level rises rapidly to exceed 4,000 to 5,000 roentgens per hour, delivering a lethal dose within seven to eight minutes. Individuals driven out of doors by fire are directly exposed.

Within an hour or so, elements of the cloud begin to arrive about forty miles downwind. The density and activity of the particles is such that a belt four to five miles wide quickly develops radiation levels of more than 3,000 roentgens per hour. By this point, activity is diminishing, so that it requires an exposure of ten to twenty minutes to absorb a deadly dose. Within a larger belt, up to ten miles wide, fewer particles are falling, allowing up to a half hour's exposure before a fatal dosage is absorbed.

As the cloud moves downwind, expanding and dropping particles, the fallout level becomes unpredictable, though it remains, in many places, extremely high.

No one knows how many Americans might die from blast and fire and radiation sickness in a nuclear attack. Casualty projections are a matter of heated controversy within the Government and outside it. A reasonable conjecture is that an all-out nuclear attack might claim 160 million lives—about three quarters of the population. In a particularly strategic concentrated metropolitan area subject to a direct strike—Chicago for example—virtually the entire population could be expected to perish.

But American casualties would, of course, not be the only ones. No matter how it happened or whose fault it was, there would be counterstrike, and the indiscriminate murder of one nation's citizens—ours or theirs—would be avenged by the indiscriminate murder of the other's.

Moving slowly to the east, Chicago's radioactive cloud brushed Indiana and was blown into Michigan, dropping silent death along the way, drifting inexorably toward Detroit. But it didn't matter, for at a few seconds before 11:27 that Friday morning, a twenty-megaton bomb had exploded in Detroit, too.●

NATIONAL REFUGEE POLICY NEEDED

● Mr. KENNEDY. Mr. President, over the past several years—but especially this past year—the United States has faced growing problems in meeting the resettlement needs of refugees around the world. And it has now become clear to all involved with this problem that the time is long past due for the United States to finally establish a national refugee policy—a policy which will treat all refugees fairly and assist all refugees equally.

Over the years, I have repeatedly introduced legislation to reform the discriminatory and inadequate provisions of our immigration law as it relates to the admission and treatment of refugees. The provisions of the bill I introduced this year, S. 2751, go a long way. I believe, in helping to establish the basis for a national refugee policy.

Regrettably, the Senate Calendar will not likely permit action on this bill this year, nor on refugee reform legislation generally. However, it is my firm intention early in the next session of Congress to pursue this issue in an orderly and thoughtful way, to determine how our country can better respond to the growing resettlement needs among refugees throughout the world who look to the United States for help.

That our current law and practice in dealing with refugees is inadequate and discriminatory has recently been underscored in a thoughtful essay by Christopher T. Hanson in the current issue—Winter 1978—of New York University's Review of Law and Social Change, entitled "Behind the Paper Curtain: Asylum Policy versus Asylum Practice."

As we in Congress look toward next year, and the urgent need to finally act upon refugee reform legislation, I believe Mr. Hanson's essay will serve as an important reminder that we must end our piecemeal approach to refugee problems, and establish a clear-cut policy toward all refugees—both in their admission to the United States, as well as their resettlement in communities across our land.

Mr. President, I would like to share with my colleagues the excellent essay by Mr. Hanson, and ask that it be printed in the RECORD.

The essay follows:

[From New York University Review of Law and Social Change, Winter 1978]

BEHIND THE PAPER CURTAIN: ASYLUM POLICY VERSUS ASYLUM PRACTICE

INTRODUCTION

President Nixon has reemphasized the U.S. commitment to the provision of asylum for refugees and directed appropriate departments and agencies of the U.S. Government under the coordination of the Department of State, to take steps to bring to every echelon of the U.S. Government which could possibly be involved with persons seeking asylum a sense of the depth and urgency of our commitment.[1]

On November 23, 1970, as the American Coast Guard cutter *Vigilant* moored alongside a Soviet fishing trawler in American waters off Massachusetts, Simas Kudirka, a Lithuanian seaman, leapt from the Russian vessel to the deck of the *Vigilant* and requested political asylum in the United States. Uncertain of proper procedure, the captain of the cutter telephoned Boston headquarters for instructions. Admiral William Ellis replied, "Return the defector," explaining that his decision was "in the interest of not fouling up any of our arrangements as far as the fishing situation is concerned."[2] The Admiral's command was immediately carried out. Five Russians were allowed to board the American vessel, where they beat Kudirka into submission and then returned him to the Soviet trawler in the *Vigilant*'s motor launch, piloted by an American officer.

Not surprisingly, the image of the United States as a haven for the oppressed—and particularly for those fleeing communism—was sullied by the Kudirka affair. The public was outraged,[3] since the Russians were known to impose Draconian penalties against defectors. There was speculation that our callous treatment of Kudirka might be part of the price of détente and that our government was treating refugees as pawns in the game of international politics.[4]

The Administration moved quickly to allay such suspicions, reassuring Congress and the American public that the Kudirka affair was an "aberration," an administrative "snafu" which would never happen again. Deputy Under Secretary of State for Administration William Macomber stressed that "the historic role America has played as a refuge for the oppressed, from the very beginning of our tradition, is still our role."[5] Other Administration officials insisted that the United States did not have, nor had it ever had, a policy of returning refugees to countries where they would be persecuted and that the United States policy on political asylum was one of concern for all victims of political persecution, regardless of American relations with the regimes from which the refugees were fleeing. Human lives, insisted the administration, were not being sacrificed for détente or any other facet of our foreign policy.[6] According to State Department officials, the criteria which successful applicants for asylum must meet are applied evenhandedly to those who seek asylum from any country on the globe: they must be fleeing from a repressive regime and demonstrate a "well-founded fear" that political, religious, or racial persecution would face them upon return.[7]

The State Department's explanation of the Kudirka incident in particular and of American asylum policy in general apparently satisfied most critics, and the subject was soon forgotten.[8] But although the official explanation was accurate enough in some respects, it was quite misleading in others. Spokesmen for the State Department presented a strong case that government policy on granting asylum is uniformly just and humane, but an examination of U.S. asylum practice in cases other than the Kudirka affair raises strong doubts.

The Kudirka incident was indeed an "aberration," not because the seaman was callously returned to a totalitarian regime, but because he was returned to a *communist* regime. In an interview, Louis Wiesner, director of the State Department's Office of Refugee and Migration Affairs (ORM), noted with accuracy: "Historically, we have granted asylum or have failed to return people to any communist regime except Yugoslavia."[9] Humanitarian treatment of refugees from communist countries has continued to the present, and asylum requests are rarely denied. State Department spokesman recently confirmed that the pattern of grants and denials has continued to be present.[10] Refugees from Iran, Chile, Haiti, the Philippines, and other repressive noncommunist governments are not welcomed with open arms in this country. Indeed, gaining asylum in the United States from dictatorships friendly to the United States is much more difficult than gaining asylum from communist countries. This pattern of discrimination demands close scrutiny of the "depth and urgency of our commitment" to humanitarian asylum practice. President Carter's avowed concern for human rights and his appointment of a more liberal Immigration Commissioner, Leonel Castillo, offer some hope for the development of a more evenhanded asylum program than is revealed by our treatment of refugees to date.

CHILEANS, IRANIANS, AND HAITIANS

A. Chilean refugees

The response of the United States government to victims of the Chilean junta provides a striking example of the "depth and urgency of our commitment" to refugees from a noncommunist government in our own hemisphere. Compelling humanitarian arguments for granting asylum to a group of exiled Chileans and "detainees" still in Chile were answered by this country with indifference, timidity, and delay.

Although the Immigration and Nationality Act of 1965[11] makes no specific provision for admitting refugees from the Western Hemisphere, the Act does empower the Attorney General to "parole" refugees into the United States for "emergent reasons" or if the admission is deemed in the interest of the United States.[12] The parole provision has been employed to bring in refugees following various political upheavals over the past twenty years: Hungarians after the abortive revolt in 1956; Cubans after the Castro revolution; Czechoslovakians after the Soviet invasion of 1968; British Asians expelled from Uganda in 1972; 130,000 South Vietnamese in 1975. In each case, the United States made an immediate and vigorous response to the emergency through the parole authority.

In September, 1973, Chile suffered its own political upheaval, but in the case, the American response was neither immediate nor vigorous. Under the junta, which overthrew the government of Marxist President Salvador Allende Gossens in a bloody coup on September 11, thousands of Allende sympathizers were summarily imprisoned, and many were tortured or executed. When the junta took power, many of the 13,000 foreign nationals who had been enjoying the sanctuary of the Allende regime became political refugees overnight. These foreign nationals were joined over the next two years by 18,000 Chileans who streamed from Chile into Peru, Argentina, and other countries to escape the Chilean dictatorship.

It is now well documented that the United States government sought to "destabilize" the Allende Administration.[13] If American efforts contributed to the ultimate success of the coup—and it is widely believed that they did[14]—it would seem that the United States government had a special responsibility to the Chilean refugees and the political prisoners of the junta. A vigorous effort by the American government to provide sanctuary for the victims of the new regime was in order. This effort never materialized. Charles Gordon, former general counsel to the Immigration and Naturalization Service (INS), characterized the government's behavior toward Chilean refugees as "a terrible things,"[15] and Deputy Secretary of State Robert Ingersoll admitted that as of April, 1975, "our performance has been poor."[16] By February, 1976, there had been only minor improvement.

During the coup and in the days that followed, Chile was shaken by mass arrest, street fighting, and executions. Many sought safety in the embassies of foreign nations, and hundreds were taken in at the Swedish, French, and other European and Latin American embassies. On January 3, 1974, a United Nations observation team reported that 1,800 non-Chileans and 500 Chileans still remained in refuge in embassies.[17] According to one observer, very few of these desperate people looked to the American embassy for sanctuary since they did not expect to be taken in there. "It is not our custom to grant 'diplomatic asylum' [asylum in an embassy]," [18] said Frank L. Kellogg, who at the time of the coup was Special Assistant for Refugee and Migration Affairs. Kellogg went on to explain that diplomatic asylum is of dubious status in international law and is generally practiced only by Latin American states.

But in Chile, sanctuary was also provided by European embassies. Furthermore, diplomatic asylum is not without precedent in American practice. The United States granted diplomatic asylum to Cardinal Mindszenty in Hungary[19] and was prepared to provide asylum in its Johannesburg consulate for attorney Joel Carlson, defender of black political prisoners.[20] State Department guidelines on asylum policy explicitly state that "[i]mmediate temporary refuge . . . may be granted in extreme or exceptional circumstances wherein the life or safety of a person is put in danger."[21] Circumstances in Chile at that time were clearly "extreme" and "exceptional," and the lives and safety of those who sought refuge in embassies were certainly "in danger." In the interest of humanitarianism, our embassy in Chile could have offered some people "temporary refuge" if the United States government had chosen to do so.[22]

The Congress of the United States showed no more inclination to become involved in a rescue operation than had the embassy. Within days of the coup, as the dimensions of the Chilean refugee crisis were becoming apparent, Senator Edward Kennedy and Congressman Robert Drinan introduced measures designed to admit Chilean refugees into the United States, but both were unsuccessful.[23] Congress took no initiative to alleviate the refugee problem. There was no strong congressional constituency to work on behalf of refugees from noncommunist regimes, and these particular refugees were regarded with suspicion because many of them had been aligned with the Marxist Allende and some were politically to Allende's left.

As the distress of foreign nations in Chile and of Chilean exiles continued to mount in the months following the coup, the American government remained aloof. When the junta declared that all foreign nationals staying in Chile must be out of the country by February, the United Nations Office of the High Commissioner for Refugees (UNHCR) urgently appealed for help to members of the United Nations. A number of countries respond generous, but the United States was not one of them. While West Germany, France, and Sweden each took in between 800–1100 refugees, the United States accepted only 26 out of about 150 people who had applied for admission to the United States through UNHCR.[24] According to an ORM official, most of the 26 were "not political refugees, but merely people fleeting the general disorder." He explained that the "real" refugees did not even apply for asylum in the United States.[25] They knew it was against U.S. policy to admit anyone who could be legally barred as a communist or "subversive."[26] Thus, ironically, those who were most liable to persecution had they remained in Chile, and who were therefore priority candidates for political asylum, could not even be considered under the U.S. asylum program. Of course, they could have been legally paroled into the country under the Act's parole provision[27] which, according to Charles Gordon, is "designed for the admission of those who are otherwise excludable."[28] But the Immigration and Naturalization Service had consulted with Congress on a proposal to admit foreign nationals from Chile and, on the basis of congressional response and its own predisposition, decided against admitting Marxists and communists.

A year after the coup, in August, 1974, the United Nations High Commissioner for Refugees, Prince Sadruddin Aga Khan, urgently appealed to the United States to grant asylum to a substantial number of the 4,000 Chilean exiles who had been temporarily accepted by Peru and now needed to be resettled.[29] Then, on September 11, 1974, General Augusto Pinochet Ugarte, the Chilean chief of state, announced that virtually all of the political prisoners who had been "detained" in Chile would be released and expelled if foreign governments would offer them asylum.[30] Stirred by Sadruddin's appeal and Pinochet's announcement, officials of the Office of Refugee and Migration Affairs dispatched two "action memos," on September 17 and November 7, urging the State Department to seek speedy admission of Chilean exiles in Peru and detainees still in Chile.[31] But it was not until April 23—over eight months after the U.N. High Commissioner's appeal and seven months after the Pinochet announcement—that the State Department formally proposed a group asylum program to the Attorney General, who had the legal authority to act.[32] Finally, on June 26, two months after the department's proposal was made, Attorney General Edward H. Levi replied with qualified approval of a much more modest program than that originally requested.

The State Department's formal proposal was delayed and modified for two reasons. First, the Immigration and Naturalization Service and General Leonard Chapman, the former Marine commandant who heads the INS, were unalterably opposed to the Department's original suggestion that the Chilean exiles be brought in as a group. In an interview, General Chapman confirmed that the State Department's group-parole proposal was whittled down to one of case-by-case admission. The proposal to admit the refugees as a group, before screening in their present location, said Chapman, would have meant that the United States could not have subsequently expelled an undesirable person without violating the United Nations Protocol Relating to the Status of Refugees.[33] In that case, he said, the only alternative would have been to restrict or jail a refugee who was found undesirable after admission on group parole. Citing instances of restriction in the Vietnam group, Chapman argued that no such problems would arise in case-by-case admission since screening would occur before the refugee arrived in the United States.[34]

Second, the State Department had decided to engage in "preliminary consultation" with the House and Senate immigration subcommittees before sending a formal proposal to the INS. Beginning in November, 1974, these consultations dragged on for a period described by Dale de Haan of the Senate Subcommittee on Refugees and Escapees as "unprecedentedly long."[35] De Haan believes that the delay was a tactic designed to cloak a lack of resolve within the Administration. "There was no clear policy," said de Haan. "Some wanted to give them asylum and some did not. . . . Hence, no action was taken at State—except for consultation—until the end of April."[36]

Although there is truth in de Haan's as-

Footnotes at end of article.

Footnotes at end of article.

sertion, Congress must bear some responsibility for prolonging the consultations. One retired State Department official pointed out that, although Congress has no official veto power over refugee parole proposals, members of Congress "have ways of getting back at us if they don't like what we do, or think we are paying insufficient attention to their views."[37] And General Chapman confirmed that the INS has never, to his knowledge, exercised its authority to admit refugees if preliminary consultation showed congressional opposition. Furthermore, he doubted that the INS would ever do so.[38]

In the Chilean case, a great deal of time was consumed in trying to overcome strong congressional resistance to the State Department proposal. Some subcommittee members took advantage of a congressional recess to forestall formal consideration of the matter for as long as possible. Several members of Congress expressed concern about endangering "national security" by admitting communists, Marxists, or Allende sympathisers.[39] Others argued that the American economy might be unduly burdened in view of the existing unemployment situation and the large number of aliens already in the country.[40]

State Department representatives went to great lengths trying to overcome these objections. They assured the doubters that the immigration act would be complied with and that no communists or "subversives" would be admitted. There would be no "blanket admission" of Chileans. Finally, they argued that the number of admissions contemplated was only about 400 families—hardly enough to have a serious effect on the economy.[41] In the end end, though, congressional attitudes were still mixed:

Chairman Eastland in the Senate . . . and . . . Edward Hutchinson, the ranking Republican on the House Judiciary Committee, appear to be opposed to a parole program for those refugees in Chile and those in Peru. . . .

Chairman Kennedy of the Senate Subcommittee enthusiastically supports a program of parole for both groups. . . .

The House Subcommittee has indicated support for parole of refugees physically in Chile, but [has] declined to indicate support for those in Peru.[42]

This lack of congressional consensus did not offer much guidance to the administration in formulating a policy for dealing with the refugees.

Despite the State Department's own delay, Deputy Secretary Ingersoll's letter of April 23, 1975, formally proposing to Attorney General Levi that he parole a limited number of "refugees/detainees" on a case-by-case basis, sounded a compelling note: "The conditions under which the refugees/detainees are living continues to deteriorate. . . . It is imperative that we act expeditiously to implement this program."[43] Nevertheless, it took the Attorney General two months to reply. The Justice Department undertook its own consultation with Congress and met the same reservations that had been encountered by the State Department. When asked about this duplication of effort, General Chapman replied that the INS, not the Department of State, had the ultimate legal and political responsibility for admitting aliens.[44] Chapman wanted to be doubly sure that Congress did not approve the program under consideration. Further delay was caused by the South Vietnamese refugee crisis in May which absorbed the time of everyone concerned for weeks. Frank Kelloggg explained that the Vietnamese crisis was a clear emergency, while the Chilean case was less urgent.[45] Considering reports that detainees in unknown numbers were being quietly executed by the Pinochet regime, his reasoning was far from convincing.

In his June 26th reply to Ingersoll, the Attorney General finally agreed to consider parole of up to 400 Chilean detainees and refugees.[46] Cases soon began arriving at the American consulates in Santiago and Lima, but it was the middle of August before three consular officers and one immigration official were assigned to work exclusively on the cases there. The screening process improved, but countless hours were spent flying up and down the long Chilean coast and into the mountains of Peru to interview applicants and check their backgrounds. Although Vietnamese refugees were generally cleared in two or three weeks, if often took six weeks for American officials in Santiago and Lima to complete security clearances and send their recommendations concerning Chilean refugees to the State Department.[47] Once the recommendations had been forwarded to Washington, securing INS approval and locating a sponsor for each refugee and his or her family took up to an additional two months. Even then, the Chilean government could delay granting an exit decree, making it impossible for the refugees to leave the country. On October 18, 1975, almost four months after the Attorney General had approved the program, the first Chilean refugee finally arrived in the United States. By mid-January, 1976, seven months after the program began, only twenty-five cases (76 people) had been approved and only ten families (27 people) had arrived in the United States.[48]

The delays in initiating the parole program and in processing the applications prolonged the suffering of those requesting asylum; together with the narrow scope of the program, they also reduced the number of applicants. By the time the American program began, many of those who were eligible had gone to other countries. Because of their leftist political views, a number of the refugees preferred settling in other countries if they were able to do so. Looking upon the United States as a right-wing country which had played a large role in the downfall of the Allende government, few of these detainees were eager to seek belated American offers of asylum.[49] The number of applicants was further reduced by the United States' widely-known prohibition against admitting former communists. Moreover, the American parole program in Chile had been closely restricted to applicants who were actually in jail or under strict house arrest. Those who had been released from detention but were still under surveillance and living in fear of future persecution were not eligible.[50] The INS is currently considering relaxing the standards for the parole program; however, if such revisions are not forthcoming, one State Department official has expressed doubts whether the program will even reach the limited target of 400 families.[51] As of January, 1976, only 389 cases had been submitted and there have been very few new applications since that time.[52]

The most that can be said for American policy regarding the Chilean detainees is that a program was adopted, but that it was too little and too late.[53] The numerous delays while the State Department, the INS, and Congress tried to formulate and coordinate their policies caused many detainees to suffer in prison far longer than necessary. Those delays were inexcusable, particularly in contrast to the urgency with which Vietnamese refugees were handled and the swiftness with which the INS extended the visas of the 400 to 600 Chileans who sought asylum in the United States in the months following the election of Allende.[54] Certainly, the Chilean asylum program comes nowhere close to meeting the objectives urged by Deputy Secretary of State Ingersoll. The program neither improves the U.S. national image nor "demonstrate[s] that the United States' concern for refugees extends to all persons in need, irrespective of the nature of the government from which they are fleeing."[55]

There have been few court cases involving Chilean asylum appeals, because most Chilean refugees have been in distress in Chile and their admission into the United States is not legally required under American or international law. Chileans who happened to be in America at the time of the coup have had difficulty gaining asylum. According to a State Department official, many had requested asylum from the Allende regime, which made it even more difficult to establish a well-founded claim of being persecuted by the junta.[56] *Cisternas-Estay* v. *Immigration and Naturalization Service*[57] illustrates this difficulty. A Chilean married couple, having initially sought asylum from the Allende government, continued to seek it after the coup. They called a press conference, denounced oppression under Pinochet, and then reiterated their asylum claim on grounds that they would be subject to loss of citizenship and other persecution in Chile. The junta had recently issued a proclamation "forbidding crimes against the 'essential interests' of Chile by nationals living abroad"[58] and the petitioners claimed that their press conference would be construed as such a crime and would be used against them. They also submitted documentary evidence of widespread oppression in Chile.

An Immigration District Director denied asylum, relying in part on a letter from the State Department which recommended denial of the Cisternas-Estay request and three others. The letter "noted that the Allende government in Chile had been removed from power" and concluded that "there was no basis for granting political asylum."[59] The Board of Immigration Appeals upheld the decision on the ground that the aliens had failed to carry their burden of proof that there was a "clear probability" of their being persecuted under the Pinochet regime.[60] The Court of Appeals for the Third Circuit sustained the decision because grants of asylum are discretionary and reversible only if the alien proves abuse of discretion, *i.e.*, that the Board's decision was "arbitrary, capricious, or illegal."[61] In order to establish such abuse, Cisternas-Estay would have had to prove the animosity of the junta to them.[62] Since they failed to do so, they were ordered deported.

The appeals court added that "[t]here is nothing in the record to undermine the Board's position that the press conference was 'staged' to acquire 243(h) relief."[63] Thus, ascertaining sincerity of motive was judged to be within the discretion of the INS. Interestingly, Immigration and State Department officials often justify granting asylum to communist country refugees whose motives are economic on grounds that overstaying their visas would likely result in criminal prosecution and/or harassment if they were returned home.[64] The prospect of criminal prosecution was not taken seriously in *Cisternas-Estay* and did not lead to a similar result. In the eyes of the courts, discrepancies in outcome such as these do not amount to an arbitrary and capricious abuse of discretion.

B. Iranians

The plight of Iranian student dissidents already in the United States, although less extreme than that of the Chileans, raises disturbing questions about the sincerity of U.S. commitments to refugees from regimes with which our government wishes to maintain close ties. Most of the Iranians applying for political asylum are members of the militantly anti-Shah Iranian Student Association who have overstayed their allotted time and are subject to deportation. They appeal for asylum under § 243(h) of the Immigration and Nationality Act[65] on the grounds that they would be subject to persecution if they were sent back to Iran.

The Iranian government is well known for its repression of political opposition, as

Footnotes at end of article.

a good many official American sources will admit—off the record.[66] Just as Russia has its KGB and South Africa its Special Branch, the Shah has SAVAK, considered to be "one of the most pervasive and feared secret police organizations in the world."[67] The SAVAK is reported to employ between 30,000 and 60,000 full-time agents and to have at least three million Iranian informers at its disposal.[68] Charges of brutal treatment of dissenters by the SAVAK have been documented,[69] and it is estimated that there are more than 20,000 political prisoners in Iranian jails.[70] According to reliable sources, many Iranian dissidents have disappeared and have never been heard from again.[71]

Thus, most of the students applying for asylum have good reason to fear their deportation from the United States. Many of them have engaged in repeated protest activities against the Shah's regime. They know that their activities are carefully noted by the Iranian government and will be held against them. In 1971, for example, a group of protesting Iranian students ransacked their government's consulate in San Francisco.[72] They were arrested and fined by the American authorities, but soon afterward, the Iranian government published a list of known participants and declared that upon their return to Iran they would be subject to further punishment. According to Christian Pappas of the Office of Refugee and Migration Affairs, this would probably mean "a long, harsh term of solitary confinement."[73] An Iranian embassy official confirmed that his government has pressed the United States to return Iranians who have violated Iranian law and that such activities as protest marches and demonstrations in front of the Kennedy Center during a visit of the Shah—perfectly legal activities in the United States—constituted "insulting the Shah and the Iranian government"—a punishable violation in Iran. He expressed the opinion that the United States is being "unduly tolerant" toward the activities of those people who are here on student visas "for the purpose of study, not politics," and made it clear that those who had "insulted" their country while abroad would be punished upon return.[74] One American government source pointed out that political dissidents who have returned voluntarily have been arrested and harassed and many have disappeared permanently.[75] There seems little doubt, on the basis of the evidence, that Iranian dissidents do qualify for asylum on the grounds (stipulated in the United Nations Protocol on the Status of Refugees,[76] to which the United States is a signatory) that they have a "well-founded fear of being persecuted"[77] in Iran.

Yet, almost without exception, asylum requests have been denied to Iranians. According to Christian Pappas, about thirty Iranians requested asylum between 1971 and August, 1975, but few if any of the applications were granted.[78] The inevitable question becomes why the Iranians are denied asylum when, as one knowledgeable official has admitted, many applicants from Eastern Europe with far weaker cases are almost automatically granted that status.[79] In journalistic and State Department circles, it is often observed that the wishes of the Shah of Iran carry considerable weight with American policy-makers. Oil talks and America listens. Or as one observer put it, "whatever the Shah wants, the Shah gets."[80] One informed government source explains that granting asylum to dissident students would be official confirmation that the Iranian government persecutes its own people. "The government of Iran objects strenuously to our granting asylum to its citizens," he says. "They would consider it a slap in the face. Thus, our policy is to oppose grants of asylum to the Iranian applicants for the sake of relations with Iran."[81]

The case of the asylum applicants who vandalized the Iranian consulate in 1971 clearly illustrates the general attitude of the Shah's administration and the customary response of the United States. In its objection to any asylum grants, the Iranian government implied that it was its sovereign right to punish the students in Iran. American officials were faced with a dilemma. If they granted asylum to the student dissidents (who had already been punished under American law), they would risk damaging American relations with Iran; if they deported the dissidents to almost certain further prosecution in Iran, they would violate international agreements and contradict America's professed tradition of providing refuge for the oppressed.

What one State Department official termed a "cynical-realist"[82] solution was found in 1971: the Iranians would not be granted asylum, but neither would they be returned to Iran; they would be allowed to stay in the United States under a "voluntary departure" status. Subsequent requests for asylum have generally been dealt with by granting this voluntary-departure status. At first glance, this course of action appears to be a humane compromise, but in actuality, those refugees who are on voluntary-departure status are living in a state of limbo. Unlike conditional-entry status, voluntary-departure status cannot be adjusted to permanent residence. According to David Carliner, an immigration attorney who has represented a number of Iranian asylum applicants, the government never allows Iranians to remain here indefinitely under voluntary-departure status.[83] Deploring the "sleazy" treatment of the Iranians, he argues that the government is actually undermining the law by denying a secure status to those seeking refuge. He maintains that there is little security under a status which "can be revoked at any time."[84] In addition to suffering from this lack of security, the alien in voluntary-departure status may soon find himself without economic security and with little opportunity to better his position. Proposed legislation[85] which would punish an employer for hiring illegal aliens is already having an impact on those in voluntary-departure status as well as those here illegally. Political refugees are viewed as unwelcome competitors for scarce jobs during a period of serious domestic unemployment.[86]

A number of Iranians have appealed their asylum denials in the courts to force an examination of the issues surrounding their requests.[87] The State Department has been very disturbed by these appeals, for, according to one of its Near East specialists, the Iranian government mistakenly believes that the Administration can control the courts.[88] Any court decision which overturned official recommendations and granted asylum to some Iranians would be just as offensive to the Shah as an outright asylum grant by the Administration. As one official put it, "The Shah would become very, very angry. At the very least, he'd reprimand Ambassador Helms or President Ford. The atmosphere would be tense, and this might affect U.S. business prospects, the price or availability of oil, and so on. The Shah could be very, very nasty."[89] Unwilling to incur such royal wrath and its possible economic consequences, the State Department has used every possible subterfuge to prolong the cases and prevent a resolution. When the case of the Iranian students who had vandalized the Iranian consulate went to court, apprehension increased in the State Department. If the Iranian students presented a persuasive case and were granted asylum by the court, it was feared that the precedent would bring on a deluge of new appeals by other Iranians. As a consequence, American relations with the Shah were bound to suffer.

When, at length, the Iranian asylum cases did begin to reach the courts, the Administration fought against having its recommendations overturned. According to immigration attorney David Carliner, the government argued that unless the applicants had engaged in dissent in Iran, they were not bona fide refugees.[90] The courts have agreed. *Matter of Kojoory*[91] is a case in point. The petitioner had never engaged in anti-government activity in Iran, but when he came to the United States he joined the Iranian Student Association and participated in public demonstrations against the Shah. Kojoory argued in his asylum application that his political actions in the U.S. would cause him to be persecuted if returned home. He produced an expert witness to testify that members of the Iranian Student Association who had returned to Iran in the past were, in fact, imprisoned after being convicted on allegedly "trumped up" charges. The Board held, however, that Kojoory had not carried his burden of proof: "[n]o . . . proof has been adduced of these claims other than the statements by respondent and his witness . . . ."[92] The Board believed that the State Department was a more reliable informant. The State Department insisted in a letter that "opposition to the Shah's regime without more does not subject an individual to persecution . . . ."[93] This led the Board to observe that "Respondent's application is weakened . . . by the fact that he participated in absolutely no political activity of any sort prior to coming to the United States."[94]

The federal circuit courts have been less prone than the Board to accept the State Department's pronouncement that Iranians who denounce the Shah are safe to return home; judicial unwillingness to intervene in cases of administrative discretion, however, has inhibited the circuit courts from reversing Board decisions. In *Kasravi v. Immigration and Naturalization Service*,[95] the court observed that "[s]uch letters [concerning asylum cases] from the State Department do not carry the guarantees of reliability which the law demands of admissible evidence. A frank, but official, discussion of the political shortcomings of a friendly nation is not always compatible with the high duty to maintain advantageous diplomatic relations throughout the world. The traditional foundation required of expert testimony is lacking . . ."[96] Nevertheless, the *Kasravi* court refused to rule that the Board's use of State Department recommendations is a reversible abuse of discretion. In support of this conclusion, the panel quoted *Nemkung v. Boyd*:[97] "'the withholding of deportation in cases where the alien fears persecution rests wholly in the administrative judgment and 'opinion' of the Attorney General or his delegate. The courts may not substitute their judgment for his.'"[98]

David Carliner observed that, despite its spurious line of reasoning, the Administration had generally been successful in staying the Iranian students' court appeals. He added that the Board of Immigration Appeals tended to accept the State Department argument and even ordered a number of Iranians deported to their native land.[99] Although apparently no such deportation orders were actually carried out,[100] it is ironic that an administration which professed a humanitarian asylum policy went on record as favoring deportation of these people. The United States government used voluntary departure as a measure to avoid taking a stand on principle. Faced with the decision whether or not to acknowledge that some of the Iranian student dissidents in this country were likely to be persecuted if returned to Iran and to treat these students accordingly under the law, our government chose not to do so for the sake of relations with Iran. Foreign policy considerations were

Footnotes at end of article.

allowed to intrude unduly on the practice of granting asylum. Apparently, the power of the Shah was sufficient to subvert a long-standing American tradition of concern for human rights.

C. Haitian refugees

Like the Iranians and Chileans, the Haitian asylum applicants have found it exceedingly difficult to gain sanctuary in the United States. In recent years almost two thousand Haitians have escaped their homeland, striking out by boat for Miami.[101] Many have drowned en route. Nearly all those who survived and requested asylum in Florida were given summary hearings and declared by the INS to be ineligible for asylum.[102] Many were jailed to await expulsion and several years ago one of them, in despair over his plight, hanged himself in his cell.[103] The Haitians in Miami were joined in their asylum requests by a number of their countrymen in the United States who had overstayed their visas or had been discovered to be in illegal residence and were ordered deported by the U.S. government. Most of these Haitians appealed under the provision of the Immigration and Nationality Act which provides withholding of deportation to those who would be subject to persecution if returned to their native land.[104]

The Immigration and Naturalization Service and the State Department, however, stated that, with very few exceptions, such claims were spurious, that the motivation of most Haitian applicants was economic, and that they were simply attempting to immigrate via a misuse of the asylum proceedings, thereby undermining the integrity of U.S. immigration laws.[105] This attitude is reflected in the asylum recommendations furnished by the State Department to the INS between January, 1974, and May, 1975: of the 578 Haitian asylum requests made during that period, denial was recommended for 559, and approval for only 19.[106]

Haitians' claims of persecution were given more serious consideration in *Coriolan v. Immigration and Naturalization Service*.[107] Circuit Judge Tuttle concluded that the INS had failed to adequately evaluate the aliens' claims and remanded for further proceedings. In his opinion, he suggested that the applicants might be subject to prosecution—and hence persecution—for illegal departure and that additional relevant evidence (provided by Amnesty International) should be considered in order to determine "whether Haitian political conditions are so specially oppressive that a wider range of claims of persecution must be given credence."[108]

It is difficult to determine whether the Haitian applicants actually qualify for asylum as political refugees. The United Nations Protocol Relating to the Status of Refugees defines refugees as those who harbor a "well-founded fear of being persecuted" if returned to their native land for political or religious reasons or due to membership in a particular social, ethnic, or racial group.[109] The United States and other signatories of the Protocol have pledged never to return refugees to face such persecution.[110] Yet, until recently, Haitian refugees who were intercepted at the border and determined by the INS to be "excludable" rather than "deportable"[111] have been denied a full and impartial hearing of their asylum claims.

There are significant differences between the Haitian cases and those of the Iranians and Chileans. American foreign policy does not appear to have had a major influence on the outcome of the Haitian cases. Moreover, unlike many of the Chileans, Haitian asylum applicants do not bear the stigma of being a "national security threat" because of their political ideology. Few of the Haitian applicants are political at all, and this, in fact, has been the crux of their problem in gaining asylum. Since most of them were not politically active in Haiti, INS and State Department officials discount most of their claims of political persecution.[112]

Yet, almost without exception, the Haitian asylum applicants speak of arbitrary arrests, beatings, confiscations of property, and executions of relatives by the *ton ton macoutes*—agents of the Port-au-Prince regime.[113] State Department and INS authorities consistently reject such asylum requests on the grounds that the applicants are equating private banditry with government persecution in an effort to twist the provisions of the asylum law to meet their immigration needs.[114] Advocates of the Haitian asylum cause reply that the *macoutes* cannot be lightly dismissed as private bandits, since their actions contribute to the general repression on behalf of the government.[115] Regardless of the exact relationship between the *macoutes* and the government, a great many Haitians apparently make no distinction between them. Thus, it can at least be argued that they harbor a legitimate fear of government persecution.

Because of the language barrier and the cursory nature of the initial INS interviews, Ira Gollobin and other immigration lawyers have long contended that these Haitians have not been given any real opportunity to present their legitimate claims for political asylum. Furthermore, they have maintained that State Department concurrence with INS denial rulings has been almost automatic because of a prevailing assumption that Haitian asylum claims are not valid. Under the terms of federal regulations,[116] no appeal was allowed from the discretion of the District Director to approve or deny any application by these people.

Several recent events have relaxed the procedural difficulties facing the Haitians. After observing conditions in Haiti, Immigration Commissioner Leonel Castillo agreed that the Haitian cases should be given serious consideration and promised to allow them work permits. In February, 1977, in *Sannon v. United States*,[117] Judge James Lawrence King ruled that, under the Protocol, "excludable" aliens have the same right as "deportable" aliens to have their claims considered by an immigration judge. Judge King's decision has at least opened the way for the Haitians to obtain a proper hearing; but it does not, of course, concern itself with the validity of their claims. Although the procedures for seeking asylum have undergone a decided amelioration, it remains to be seen whether many of the applicants will actually be granted asylum.

THE DOUBLE STANDARD

The ease with which Cubans have gained asylum in the United States[118] stands in marked contrast to the difficulties which the Haitians and other noncommunist country refugees have encountered. In the 1973-74 fiscal year, 11,577 Cubans were paroled into the United States, raising the total number of Cubans in this country to roughly 600,000.[119] Another 6,940 Cubans were paroled the following fiscal year.[120] The Cuban parole program still moves under the impetus of cold war foreign policy decisions made in the early sixties. The assumption continues that virtually everyone who leaves a communist country is a political refugee and that it is in the United States' interest to enhance its image as a haven from communism. So while Haitians and other applicants from rightist governments have had to prove that they are political refugees, this fact has simply been assumed when applicants are from communist countries.[121]

Whatever the eventual outcome of their cases may be, it is apparent that the Haitians have been the victims of a double standard in asylum practice. Discrimination is not confined to Haitians, Chileans, and Iranians; their cases are part of an overall pattern that extends to citizens of all noncommunist countries. None of those persons who requested sanctuary from the Philippine or South Korean dictatorship between January, 1974, and May, 1975, were granted asylum in the United States, although five of the Filipinos were allowed voluntary-departure status.[122] The State Department also recommended that asylum requests be denied to the sixteen Greeks who sought refuge before the fall of the junta on July 23, 1974, and to the eight South Vietnamese who asked asylum from the Thieu regime.[123] Yet, during this same period, scarcely any requests from Eastern European countries were denied. Cuban refugees continued to pour into the country; and after the fall of Thieu, 130,000 South Vietnamese were quickly admitted into Guam and the United States.[124]

There is some evidence that aliens who are returned to Communist China and the more "liberal" East European countries are not persecuted, as they would be in the more repressive communist states such as Bulgaria and the Soviet Union.[125] Ironically, the *uncertainty* of the fate of those who are returned to Communist China, Poland, and Czechoslovakia is the ultimate State Department justification for not returning them. But the fate of Haitians, South Koreans, Filipinos, and citizens of other noncommunist nations who are returned is also uncertain; yet this has not prevented many of them from being returned. As recently as August, 1977, ninety-seven Haitians seeking asylum were flown back to Haiti from Guantanamo naval base in Cuba.[126] Another reason that has been given for the preferred admission of Cuban and Communist Chinese refugees is the authoritarian power of their governments.[127] This rationale would, however, deny the dictatorial nature of countries like Iran, the Philippines, and South Korea in asylum consideration.

The chief argument against admitting Haitians has been that they are economically, not politically, motivated.[128] American officials insisted that the arrival of some Haitians by way of the Bahamas proved their economic motivation in seeking asylum, since they were in no danger of persecution in the Bahamas.[129] Yet thousands of Cubans were admitted to the United States after residing in Spain, and the question of economic motivation was not considered there. No adequate justification has been advanced for treating such similar cases differently.

Frank Kellogg and some East European desk officers suggested "career limitations" in communist states, clearly an economic factor, as a basis for granting asylum.[130] This is particularly true with artists and skilled athletes. For example, the Czechoslovakian tennis star Martina Navratilova openly admitted in 1975 that, in choosing to seek political asylum, "Politics had nothing to do with my decision. It was strictly a tennis matter."[131] She was admitted without question. According to one State Department official, in the case of thousands of East Europeans, political asylum is used, essentially, for immigration purposes. East European countries are tight with migration, thus our immigration quotas usually can't be met. So we use the asylum mechanism for immigration purposes in an effort to equalize the situation. Most of these people are technically not eligible for asylum, but get it anyway.[132]

Richard Jameson, of the State Department Office of Refugees and Migration Affairs, and other officials cite "standardized stories" as evidence that Haitians and Filipinos have been coached to say the correct things to qualify for asylum.[133] Yet "standardized stories" are so frequent among successful applicants from communist countries that one

Footnotes at end of article.

State Department Desk Officer suggested that those applicants may have been coached by experts in immigration law.[134]

Raul Manglapus, former Foreign Secretary of the Republic of the Philippines, said that the State Department generally assumes that Filipinos who enter this country on a visa must be on good terms with their country and their claims for political asiyum are therefore usually deemed fraudulent.[135] Such reasoning overlooks the fact that some may seek a visa to speak out against their government in other countries. Government officials admit that Poles and other visitors with visas from communist countries are often allowed to claim asylum, even when their motives are rather obviously economic.[136] In nearly every instance, Haitians, Filipinos, and South Koreans have had to prove the legitimacy of their requests beyond a shadow of a doubt, although escapes from Cuba and other communist countries have almost always been accepted on faith. The double standard plainly permeates asylum practice.[137]

THE LAW ON ASYLUM AND REFUGEES

The Immigration and Nationality Act replaced the old system under which countries were assigned a quota on immigrants to the United States. The new method calls for allocation of immigrant visas in an order of preference. The seventh preference provides for the conditional entry into the United States of up to 17,400 persons annually who, because of persecution or fear of persecution, have fled communist or communist-dominated countries or the "general area of the Middle East."[138] Included in this preference are also persons uprooted by what the President determines is a "catastrophic natural calamity."[139] The seventh preference discrimination in favor of refugees from communism is consistent with the immigration law's ban on admission of communists and advocates of communism.[140] On the issue of refugees who have fled because of persecution or fear of persecution in noncommunist states or states outside the "general area of the Middle East," however, the law is silent. It is almost as if noncommunist persecution was unknown to drafters of our immigration laws.

The parole provision of the Act is the only one which can be used to admit persons fleeing from other situations.[141] This provision allows the Attorney General to admit any refugee, including a communist, who is fleeing from any form of government in any hemisphere "for emergent reasons or for reasons deemed strictly in the public interest."[142] As Charles Gordon, former Chief Counsel for the Immigration and Naturalization Service explains, "The parole provision has no conditions. It is meant to admit those who are otherwise inadmissible."[143] In theory, the parolee is not admitted permanently but can stay only as long as the emergency exists.[144] Afterward, parolees are considered for immigrant status in the same manner as other applicants.[145] In practice, parolees have more security and, in the case of refugees from South Vietnam, may even have their eligibility for employment noted on their immigration papers. In theory, the parole provision provides the flexibility to redress the discrimination which exists in favor of refugees from communism. In practice, however, parole has been used as one more means of admitting persons fleeing communism. Most of the people who have come into the United States via parole have come from communist countries, such as Hungary, Cuba, Czechoslovakia, and South Vietnam.[146]

The fact that parole has not been broadly used to correct the discrimination against refugees from right-wing dictatorships indicates that this discrimination is based more in policy than in law. Officials with responsibility for administering the parole authority generally consider that "providing sanctuary to those escaping communism is mandated in the law."[147] The parole provision is legally available for humanitarian assistance to any refugee, but standards for its application are not spelled out explicitly. By its very ambiguity, the provision lends itself to political interpretation. There is debate between Congress and the Administration as to whether groups can be paroled into the United States. Congress expects to be consulted before major parole programs are undertaken, and some members of Congress assert that consultation is a requirement. Administration spokesmen deny any legal requirement for consultation but maintain that there is, in essence, a political requirement to do so. "We do this because it is necessary to stay on good terms with the Hill and foster a spirit of cooperation," explained a foreign service officer.[148] These consultations are conducted on an informal basis with ranking members of the House and Senate immigration subcommittees, but it is clear that the views of the members of Congress carry a great deal of weight. Through the consultation procedure, political influences often take precedence over humanitarian considerations. A State Department official, for example, acknowledged that congressional resistance to the parole of Chilean exiles in Peru was based largely on the belief that admitting them would add to the unemployment problem in the United States. "The House committee's position," added the official, "had a lot to do" with the ultimate decision to exclude the exiles:[149]

Congress is not alone in resisting liberal use of the parole authority. The Immigration and Naturalization Service and the Attorney General, by many reports, are also hesitant to authorize large-scale parole programs.[150] One reason government officials have been reluctant to use their parole authority for the benefit of escapees from right-wing dictatorships is a provision in the Act which forbids the admission of any alien who advocates communism or the overthrow of the government, or who is a Communist Party member—unless the communist activity is deemed "involuntary."[151] This provision prohibits extending asylum to many people who seek refuge from such right-wing regimes as the Chilean junta, since the chief reason for their persecution is that they are Marxists or communists.[152] While the parole provision can be used to circumvent this prohibition, it is seldom applied because of political pressure from influential members of Congress, the Justice Department, and anticommunist lobbies.

In this connection, it is important to note an apparent conflict between American asylum law and the spirit, if not the letter, of the United Nations Protocol Relating to the Status of Refugees,[153] acceded to by the United States in 1968 with the disclaimer that U.S. domestic law would take precedence in cases of conflict. The Protocol defines "persecution" more broadly than does U.S. law. Signatories pledge not to return to their native countries those who would face persecution stemming from "race, religion, nationality, membership of a particular social group or political opinion. . . ."[154] Thus, the Protocol extends its coverage for the victims of persecution on a worldwide basis, while the U.S. immigration law confines itself chiefly to communist country refugees.[155] More important, there is "tension," as one ORM official puts it,[156] between the Protocol and the section of the U.S. immigration act that bars communists and "subversives."[157] The Protocol, this official admits, prohibits discrimination against refugees on the basis of their political beliefs. It would appear that when the United States does not use the parole provision for the benefit of de facto refugees who are excludable under the definitions of the U.S. law—even deporting some of them to face possible persecution—the United Nations Protocol may be violated.

Aliens already in the United States who wish to request asylum and are ineligible under the seventh preference generally seek withholding of deportation, which can be granted at the discretion of Justice/Immigration under section 243(h) of the Act.[158] Most asylum court cases involve aliens' claims that, if deported home, they would be subject to "persecution on account of race, religion, or political opinion."[159] Once asylum is denied by the District Director of Immigration, the applicant must appeal first to the Board of Immigration Appeals, and then has recourse to the federal circuit court of that region.[160] Thus, in section 243(h) litigation, the circuit courts have had an opportunity to influence political asylum law and policy.

Nevertheless, displaying traditional reluctance to interfere with the exercise of administrative discretion, federal judges have made little use of this opportunity. A congressional grant of discretion is intended to bestow wide leeway upon the bureaucracy. Out of respect for legislative intent and an unwillingness to become embroiled in policy decisions, judges have imposed severe restrictions on their intervention in asylum cases.[161] The courts have generally held in section 243(h) cases that INS asylum decisions can be reversed only if they were "arbitrary and capricious," or not "reached in accordance with the applicable rules of law" and hence violative of due process.[162]

It is exceedingly difficult for an alien to establish that discretion has been abused under section 243(h). Proving a "clear probability of persecution" in the initial immigration proceeding is difficult enough;[163] it is harder still for the alien to prove in court that immigration officials have abused their discretion. In effect, petitioners must convince the court that the evidence of likely persecution presented to the INS was so persuasive that the failure to withhold deportation was a blatant misuse of authority.[164] To this end, aliens who have engaged in political activities in America directed against their home governments have claimed that: (1) such actions would likely subject them to persecution if deported home, and (2) the failure of immigration officials to acknowledge this danger constitutes an abuse of discretion. By and large, the courts have rejected such arguments.[165] *In Matter of Nghiem*,[166] the Board stated: "For the most part [we have] not considered that joining protest groups and making public statements after entering the United States supports a withholding of deportation under section 243(h). Many aliens have attempted to build up a 243(h) case by this sort of activity."[167] Exceptions to this line of Board decisions appear to have involved only communist country refugees.[168]

Some asylum applicants have also claimed that the INS abuses its discretion by relying on State Department recommendations to deny asylum, and particularly on State Department recommendations based upon secret information. The applicants' argument here is often that State Department recommendations are tainted with bias, for reasons of foreign policy, and that it is impossible to refute secret information. Judicial reaction to these arguments has been mixed but the courts have seldom reversed the Board of Immigration Appeals. Some courts have insisted that the Board must not rely on State Department asylum recommendations, while imposing the burden of proving reliance upon the alien.[169] Other courts have upheld the right of Immigration officials, pursuant to federal regulations, to rely on information which is not disclosed to the alien.[170] In some cases, the circuit courts have stated explicitly that the initial asylum decision must not be interfered with

Footnotes at end of article.

for political reasons—*e.g.*, "the . . . question . . . involves a decision as to foreign policy traditionally left to the executive branch of the government." [171]

As a result of the courts' refusal to intervene significantly in the exercise of administrative discretion under section 243(h), gaining asylum under that provision has proven extremely difficult. In 1968, Professor Alona Evans reviewed 100 section 243(h) cases and concluded that "prospects for relief are very limited." [172] Review of subsequent cases suggests that this conclusion remains valid today.[173] It is relatively rare for communist country aliens to be placed in deportation proceedings at all, according to State Department and Immigration officials.[174] It is mainly those who are seeking refuge from noncommunist regimes who are placed in deportation proceedings and must carry the heavy burden of proof which the courts impose under section 243(h).

CONGRESSIONAL REFORM EFFORTS

Since 1966, a handful of legislators, led by Senator Edward M. Kennedy and Congressman Peter W. Rodino, Jr., have introduced measures during each Congress designed to remedy some of the more glaring defects in the 1965 immigration act.[175] Although there were differences between the Kennedy and Rodino bills, they shared three major goals: (1) to substitute the United Nations Protocol definition of refugee for the more restrictive statutory definition presently being used; (2) to make the adjustment of status to "permanent resident alien" with full work privileges easier for parolees and refugees now in voluntary-departure status who must exist in limbo, subject to deportation at a moment's notice; and (3) to extend the refugee "preference" category to the western hemisphere, providing a better mechanism for dealing with the worldwide refugee problem. The more liberal Kennedy bill has never come close to passing despite repeated efforts in successive Congresses since the enactment of the Immigration and Nationality Act of 1965. In the Ninetieth through the Ninety-Fourth Congresses, the Kennedy reform bill died in the immigration subcommittee of the Senate Judiciary Committee. On the House side, Rodino's H.R. 981 was better received. It passed in two successive Congresses, only to be shelved when it reached the Senate subcommittee. After hearings in the Ninety-Fourth Congress, H.R. 981 was stripped of all but its most uncontroversial reform proposal, the extension of the preference system to the western hemisphere. Reported out as a clean bill, H.R. 14535, this measure was enacted as the Immigration and Nationality Act Amendments of 1976.[176] The more extensive reforms contained in the Kennedy proposal, which were deleted from the Rodino bill, have little chance of success in the near future.

To understand why the more liberal bills are repeatedly rejected by the committee, one must consider the make-up of the immigration subcommittee and the attitudes of the public and the Congress toward immigration reform. First, the members of the Senate immigration subcommittee, on the whole, have been much more politically conservative than the Congress at large. "Senator James O. Eastland blocks this legislation," says one staff member, "in part for ideological reasons, but basically because he just doesn't care." [177] This staff member adds that Eastland's attitude has generally been shared by other members of the immigration subcommittee, such as John L. McClellan and Strom Thurmond, who regard the present law, with its parole provision, as adequate.[178] The subcommittee is not the sole cause of Congress' failure to reform the asylum law. Senate Democrats re-elect Eastland to the chairmanship of the Judiciary Committee each year, with full knowledge of the policies he will pursue. The Democrats take little interest in immigration reform or improvement of the political asylum and refugee admission systems; hence, they fail to encourage Senator Eastland and his subcommittee to pass the reform bills out of committee.

This congressional apathy is lamentable but wholly predictable, since there is no significant public constituency pressuring the Congress to reform the political asylum system. Those who would benefit most from broadening and liberalizing the asylum laws—the Chileans, Filipinos, Haitians, and other refugees from noncommunist countries—have little political influence in the United States. They are either in difficulty abroad or they are in the United States under precarious circumstances. They cannot vote, and they do not have an entrenched influential ethnic community to work on their behalf. In this respect, refugees from communist countries have a considerable advantage. Aided by the Displaced Persons Act of 1948,[179] a great many refugees were admitted into the United States, and most quickly achieved a secure immigration status. They established roots and prospered economically, and thus are now in a position to help their fellow countrymen who escape and seek sanctuary in the United States. The Czech-American, Polish-American, Hungarian-American, Russian-American, and other such communities have achieved considerable economic and political power. Familiar with immigration law, members of these communities can recommend attorneys and advise new arrivals on the best methods of acquiring refugee status. More important, through such organizations as the Tolstoy Foundation and the American Fund for Czechoslovak Refugees, they can serve as sponsors and guarantee that new arrivals will not become public charges. The sponsorship system serves to decrease resistance from those who favor the restriction of immigration.

The law on asylum and the entrenched infrastructure which has grown up around the law undoubtedly contribute to the ease with which communist country aliens gain sanctuary here. But these factors must be considered in conjunction with the cold war atmosphere in which they originated. After World War II, granting asylum to communist country refugees became a tool of American cold war foreign policy. John Haynes of the State Department's Bureau of Security and Consular Affairs said during a 1959 congressional hearing:

From a strictly economic point of view, I suppose it might be better if nobody came into this country; but there are other factors that cannot be overlooked and one . . . is the impact on our foreign policy, of the necessity of this country maintaining a role where we are the leader of the anti-Soviet, anti-Communist camp.

We have to make some gestures to these people who are symbols of those who have left communism. We cannot . . . at the same time claim leadership in this field and say when they come out, 'This is entirely a leadership for the other countries of the free world because they have less population or they have less [sic] economic problems then we do.' [180]

In the cold war atmosphere, congressional restrictionists were unable to prevent the enactment of measures for the relief of communist country refugees, but they succeeded in keeping these programs on a temporary basis between 1949 and 1965 and in forestalling proposals to assist refugees from other than communist regimes. Proponents of asylum programs, however humanitarian some of their motives may have been, were forced by political circumstances to phrase their arguments in terms of cold war foreign policy.

Another by-product of the cold war which has a continuing effect on American asylum practice is the policy of maintaining strong, bilateral relationships with anti-communist dictatorships. In cold war parlance, these countries were part of the "free world," and therefore persecution within their borders was officially ignored. Thus, considerations of foreign policy as well as powerful domestic interests have a substantial impact on asylum practice. These political influences are frequently exerted through Congress, which not only has the responsibility for passing asylum and refugee legislation but also the power to effect its implication.[181] Influence is also exerted, however, through the various arms of the political asylum bureaucracy.

THE BUREAUCRACTIC MAZE

Humanitarian goals are too frequently lost sight of in the bureaucratic maze which is entrusted with carrying out political asylum programs. Authority for administering the political asylum system has been divided among agencies which are likely to be diverted from impartial consideration of asylum requests and refugee programs by foreign and domestic political pressures.

The Office of Refugee and Migration Affairs (ORM) within the State Department has been the most consistent advocate of a truly humanitarian asylum program. ORM tries to ensure that policy regarding asylum requests and programs is as apolitical as possible. Unfortunately, however, ORM officials cannot operate in a political vacuum; they must cooperate with other branches of the State Department, which have distinctly different priorities. The State Department desk officer of an alien's native country must be consulted in each asylum case. The desk officer's primary mission is to maintain the best possible bilateral relationship with the country in question; therefore, he is often unwilling to admit that persecution occurs there. Louis Wiesner, Director of ORM, minimizes the significance of this "clientism," [182] but others in the Department state that it has a definite effect. One State Department officer says that clientism has been a clear factor in the denial of asylum to Iranians and that it has probably influenced the consistent denial of asylum to Taiwanese, Filipinos, South Koreans, and, before May, 1975, South Vietnamese.[183] In brief interviews, each of several State Department desk officers for countries governed by right-wing dictatorships de-emphasized the degree of political repression in "his" regime, questioned the motives of those seeking asylum, and stressed how few asylum cases actually came across his desk. For example, one desk officer for an Asian country, expressing relief that few citizens from "his" country request asylum, stated: "There is no question that when we grant asylum to a refugee from a government . . . with which we are friendly, that government feels that its reputation is slighted, its honor impugned. This can only lead to resentment against the United States and both governments lose out." [184] Another commented on the denial of asylum to an applicant who, in the desk officer's words, "may have had problems" if sent home: "We didn't grant him asylum because the United States government doesn't want to pass judgment on the internal conditions of allied countries. That would cause resentment on their part and hurt the bilateral relationship." [185] This officer also explained why the State Department had turned down South Vietnamese students requesting asylum from the Thieu regime before the fall of Saigon in May, 1975. "We were closely linked with Saigon and couldn't very well pass judgment on her internal political practices." [186] The greater the diplo-

Footnotes at end of article.

matic importance of any given country, the greater the likelihood the State Department will deny asylum in order to avoid antagonizing that country, even at the expense of humanitarian interests. Therefore, a change of policy regarding Haiti, whose foreign policy importance is minimal,[187] should be less controversial than one directed at Iran or South Korea.

ORM faces another obstacle from supervision by superiors who are often less concerned with the plight of refugees than with other issues, such as Iranian oil and American bases in the Philippines or Spain. One State Department source intimated that Secretary Kissinger, not unlike his predecessors, wanted "to avoid damaging our bilateral relationships through grants of asylum." [188] and hence presented a great obstacle to a more impartial consideration of asylum requests. In this connection, a congressional source suggested that the initial delay of one year in even considering a refugee program for Chilean refugees stemmed, at least in part, from a high-level State Department decision to make sure that the Pinochet junta was "stable" and did not object.[189] Highly placed officials in the State Department who take a positive interest in refugee programs often do so with the intent to use these programs as a tool of foreign policy. Humanitarian purposes may be served in the process, but they are frequently secondary and sometimes they are totally ignored.

Although the recommendations of the State Department carry great weight in the political asylum system, it is the Justice Department—primarily the Immigration and Naturalization Service—which has the last word in most asylum requests and in all grants of asylum by parole. If foreign policy considerations exert an influence on the politcal asylum system through the State Department, domestic political pressures are channeled into the system through the Justice Department and the INS. "Quite frankly," said one State Department observer, "the people at Immigration do not think in humanitarian terms. Their concern is the difficulty in dealing with so many aliens in the United States." [190] The INS is charged with enforcing the immigration statutes which, since the 1920's, have been intended to restrict the flow of immigrants into the United States. Immigration officials must also cope with the illegal entry of hundreds of thousands of aliens into the United States and with the possible abuse of the politcal asylum process by many aliens whose basic motivation may be economic, social, or professional. Moreover, according to one State Department official, the INS is highly responsive to domestic economic pressures. He maintains that, in light of the current high level of American unemployment, the INS is intent on "keeping the number of aliens coming in, both legal and illegal, both refugees and immigrants, to the absolute minimum." [191] President Carter's appointment of Leonel Castillo as the new Commissioner of Immigration suggests an effort to liberalize the INS. In addition to improving the procedures for Haitian asylum applicants, Castillo has advocated amnesty for illegal aliens now in the United States. But restricted immigration is still the law of the land and institutional habits change slowly. The INS remains, therefore, a bastion of restrictionism.

The INS "hard line" on refugee admission is entirely consistent with what appears to be the opinion of a majority of Americans. The growing intensity of public pressure to keep the lid on immigration is indicated in recent opinion polls. In April, 1975, a poll conducted in metropolitan Washington, D.C., showed that 58 percent of the sampling favored a reduction in immigration in contrast to only 44 percent in 1973.[192] The public, however, appears unable to distinguish between immigrants and political refugees. A national Gallup poll of April, 1975, revealed that, primarily for economic reasons, 52 percent of the American public opposed granting sanctuary to South Vietnamese refugees, even though the collapse of Saigon to communist forces appeared imminent.[193] Consequently, the Administration may find it difficult to liberalize its Haitian policy to any great extent without arousing public ire. It seems unlikely that restrictionist forces would accept large numbers of additional permanent resident aliens without a fight.[194]

According to one government source, INS officials initially "raised hell" over the Administration's plan to grant sanctuary to some 130,000 Vietnamese.[195] In a June, 1975, interview, Deputy Commissioner of the INS Edward O'Connor was convinced that the intent of the immigration statutes was being undermined by paroling in so many South Vietnamese refugees.[196] But highly placed State Department officials were firmly committed to a far-reaching refugee program in this instance, and they prevailed over any dissent from the INS. As a rule, however, the restrictionist point of view within the INS has carried considerable weight. Several State Department sources maintain that the closed-door policy at the INS continually blocks a liberal use of the parole authority to aid refugees.[197] One of these sources added that unless the State Department can present a compelling foreign policy reason over and above any humanitarian obligations to admit a group of refugees, the INS is likely to veto or at least water down the proposal.[198] According to some officials, it was resistance within the INS as much as any other factor which delayed first the proposal and then the implementation of a Chilean refugee program. This resistance also played an important part in the decision to restrict admission of the Chilean exiles in Peru.[199]

Deputy Commissioner O'Connor revealed serious reservations about the admission of Chilean refugees. He denied that what the Chairman of the House Subcommittee on Immigration and the Attorney General had agreed to could really even be called a "program," and he expressed particular opposition to taking in any of the exiles in Peru. O'Connor explained that "once they cross the border into Peru, they're no longer subject to persecution and their problem becomes economic." [200] This extraordinary statement is in direct contradiction to both international and American law on asylum. Technically, one becomes a refugee after he has left his native country, and he continues to be a refugee until permanently resettled. O'Connor's statement exemplifies the tendency of immigration officials to define "refugee" as narrowly as possible, thus allowing the exclusion of greater numbers of aliens from the United States.

The response of the INS to the Chilean parole proposal also demonstrates an extreme concern with "internal security" in considering the admission of prospective asylum applicants. Expressing a representative view, O'Connor stated, "We can't let America become the dumping ground for communists or agitators." [201] Thus, although the Attorney General has the authority to parole in any alien he sees fit to admit,[202] the INS, the Attorney General himself, and (to a lesser degree) the State Dpartment, with congressional support, have consistently resisted the use of parole for leftists, as in the case of the Chileans.

Humanitarian aims in the asylum system are often frustrated not only by the political character of the agencies which administer the program but also by the division of authority among the agencies. When there is no focal point of authority, only a massive exodus such as occurred in Hungary, Czechoslovakia, or Vietnam can elicit a coordinated response from the government. Without such an impetus, the wheels turn slowly, it is difficult to pin down responsibility, and the possibilities for "buck-passing" are unlimited. One State Department official admits that, although in many instances the Department is the determining agency in an asylum case, it has the "built-in, bureaucratic cop-out of saying, 'INS is degally responsible.'" [203] The INS, on the other hand, can always say that it depends on the State Department for information on these cases. Both the State Department and the INS often shift the responsibility to Congress which, they maintain, makes the laws, exerts pressure, and delays making decisions. As the Kennedy refugee subcommittee pointed out in its report in 1969: "[L]egitimate human concerns . . . have been placed in heavy subordination to common political interests. The situation has fostered neglect and indecision where action was needed." [204] The subcommittee's statement is as true today as it was in 1969.

TOWARD A MORE HUMANITARIAN ASYLUM SYSTEM

The government of the United States has an explicit humanitarian ideal concerning asylum and has made international commitments to grant asylum with impartiality.[205] But in the face of pragmatic political considerations, our government is not adhering fully to its obligations or to its ideals. Congress contributes to the problem by not specifically mandating a permanent asylum program on a worldwide basis. The bureaucratic mechanism for administering the asylum program, divided between the State Department and the Justice Department, is often diverted by foreign and domestic political pressure from an impartial consideration of asylum requests and refugee programs.

For those seeking sanctuary from other than communist regimes, the impact of these policies can be extremely harsh. Political refugees, after all, are not just statistics in reports; they are men and women who may be subject to torture and long prison terms. Asylum decisions are more than a tug of war between government agencies—they are sometimes a matter of life and death. They may be, said Edward Ennis of the American Civil Liberties Union, "the most important decision[s] in respect of an alien that can be made in his or her lifetime, and indeed, approval of such an application may involve all that makes life worth living for the applicant." [206]

A. Reforming the law

The present law relating to refugees is complex, ambiguous, and exceedingly difficult to administer. One frustrated official said, "The Immigration and Nationality Act is one of the worst laws ever written. It's outdated and has been amended to death until it contradicts itself." [207] Certain reforms could contribute to the establishment of a rational and impartial legal framework for political asylum.

Congress should acknowledge legislatively that the suffering of political refugees is a worldwide phenomenon and that political persecution can occur under any dictatorial form of government, communist or noncommunist. The definition of refugee must be expanded to include all those throughout the world who have a reasonable fear of persecution because of "race, religion, nationality, membership of a particular social group or political opinion" as expressed in the United Nations Protocol.[208] The parole authority can be retained to provide flexibility to the system; but the authority to parole should be clearly stated, and the role of Congress—whether it be simply to advise or to have the right of veto—should be spelled out.

Finally, the exclusion of refugees on the basis of their political beliefs must end. Aliens who have employed terrorism or genocide to further an ideology should probably

Footnotes at end of article.

be excluded outright. Others who have actively participated in the suppression of human rights and democratic processes should be ineligible unless they can show that they have voluntarily renounced the use of force for political ends. But a belief alone should not be grounds for denying asylum; the current "ideological test" should be eliminated. All but the last of these proposals have been included in either the Kennedy or Rodino bills,[109] presented repeatedly in recent years, only to be killed in the Eastland committee. They have the support of many people in the bureaucracy who find the present law endlessly frustrating. But in view of the present power structure in Congress, the prospects for enacting any of these reforms remain extremely slim without strong and enthusiastic administrative support.

Admitting refugees without regard to their political beliefs has not been proposed in any reform introduced in Congress. Contrary to the fears of many American officials, representatives of the French, West German, and Swedish governments, which admitted sizable numbers of Marxist refugees following the Chilean coup, report that the refugees posed no national security problems.[110] Frank Kellogg, Special Assistant to the Secretary of State for Refugee and Migration Affairs, and others in the United States government seem to fear that Chilean Marxists and similar refugees (even if screened to keep out terrorists), might use first amendment liberties to undermine American democracy.[111] This implies a lack of faith in the civil liberties upon which our nation is founded.

Immigration attorney Charles Gordon agrees that the anticommunist exclusionary provisions of the Immigration Act should be eliminated. "They're antiquated," he said, "they must go. We should only exclude those who directly threaten United States security—you know, the bomb throwers."[112] The proposal to end exclusion of refugees on ideological grounds is not likely to meet with congressional approval in the near future, but its enactment would bring our asylum law much closer to the spirit of our humanitarian ideals.

Legal reforms could clarify the intent of the asylum program, but in any law there will be room for administrative maneuvering and for political interest to have its influence. It is probably impossible to prevent political influences from having some impact on the asylum program, yet many government officials agree that such influences detract from humanitarian goals.[113]

B. A new bureau of refugee assistance

As long as authority remains divided between the Department of State and the Department of Justice, it is almost inevitable that perceived imperatives of foreign policy and restricted immigration will take precedence over humanitarian considerations. There are several ways in which this authority could be consolidated. One independent agency could be established to administer the asylum and refugee program. This agency could also be given primary responsibility for aiding refugees abroad. Since the State Department and the INS have legitimate concerns about political asylum and refugee admission, both could serve the new agency in an advisory capacity. But the independent bureau would have the administration of a humanitarian asylum program as its chief goal and would be less subject to unwarranted interference. If the head of a Bureau of Refugee Assistance could be made a post of stature, to be filled by presidential appointment and congressional confirmation, and if the parole authority could be transferred to the holder of this post, then the new bureau might have enough power to counter the political forces which now detract from a humanitarian asylum practice.

An alternative for improving the asylum and refugee administration is to transfer all authority for the program from the Immigration and Naturalization Service to the State Department Office of Refugee and Migration Affairs. This transfer would avoid the disadvantage of creating still another bureaucracy. There are numerous people in ORM and elsewhere in the State Department who want the asylum program to be nonpolitical;[114] this reorganization might accomplish this goal. The success of any new program also depends on the recognition and support it receives. The apathy of the public and the Congress toward political asylum can only be overcome by forceful leadership. The press should take a greater responsibility for making people aware of the problems of refugees.

The criticism of American asylum practice expressed in this Note is not intended to single out any individual or any group in the government for blame. Nor is it intended as an indictment of the entire refugee program. Over the years, the United States government has been of great assistance to many people in dire need of help; and within the government service there are many people who are dedicated to carrying out the program in a humanitarian spirit. Nor do these reform proposals call for the United States to take in all the suffering people in the world. That is clearly impossible. Each asylum applicant, however, should be able to have his or her case considered with compassion on its own merits and each refugee group produced by political crises abroad should receive humanitarian consideration, regardless of the regime from which it is fleeing. Our government should live up to its obligations and its ideals; it should apply its program of political asylum impartially to all bona fide refugees on the basis of their needs rather than for the sake of some political advantage.

State Department clientists state that they "cannot pass judgment on the internal affairs of friendly governments by granting asylum to their refugees."[115] Perhaps it would be beneficial, not only for the refugees but also for the country, if the United States did go on record as making precisely such a judgment. Our government would not be telling those nations how to conduct their own affairs but would simply be reasserting a long-standing commitment to the support of human rights and democratic forms of government. That commitment has been weakened by looking the other way too long in our relations with right-wing dictatorships.

FOOTNOTES

[1] 37 Fed. Reg. 3447 (1972).

[2] *Attempted Defection by Lithuanian Seaman, Simas Kudirka: Hearings Before the Subcom. on State Dep't Organization and Foreign Operations of the House Comm. on Foreign Affairs*, 91st Cong., 2d Sess. 216 (1970) [hereinafter cited as *Kudirka Hearings*].

[3] N.Y. Times, Dec. 2, 1970, at 10, col. 1; *see Kudirka Hearings, supra* note 2, at 1, 27.

[4] N.Y. Times, Dec. 2, 1970, at 10, col. 1.

[5] *Kudirka Hearings, supra* note 2, at 17.

[6] *See id.* at 126, 127, 142.

[7] Interview with Christian Pappas, State Dep't Asylum Officer, in Washington, D.C. (Nov. 5, 1974).

[8] There is a happy postscript to the Kudirka affair. On July 18, 1974, the State Department ruled Kudirka an American citizen on the grounds that his mother had been born in the United States. The Soviets released Kudirka shortly thereafter, and he came to the United States in November, 1974.

[9] Interview with Louis Wiesner, Director of the State Dep't Office of Refugee and Migration Affairs, in Washington, D.C. (Nov. 29, 1974).

[10] Letter from Shepard C. Loman, Director of Programs and Asylum Division, Office of the Department of State, to the author (postmarked March 15, 1977). Immigration lawyers who specialize in asylum have stated that, to their knowledge, there has been no change in the pattern of asylum grants and denials. Telephone interviews with attorneys David Carliner and Ira Collobin (Dec. 15, 1977).

[11] 8 U.S.C. §§ 1101–1362 (1970).

[12] 8 U.S.C. § 1182(d)(5) (1970).

[13] Petras & La Porte, Jr., *Can We Do Business With Radical Nationalists? Chile:* No. 7 FOREIGN POL'Y 132 (1972).

[14] N.Y. Times, Sept. 8, 1974, § 1, at 1, col. 6; NEWSWEEK, Oct. 10, 1977, at 31–32.

[15] Interview with Charles Gordon, former General Counsel to the Immigration and Naturalization Service, in Washington, D.C. (June 25, 1975).

[16] Recently declassified letter from Deputy Secretary of State Robert Ingersoll to Attorney General Edward H. Levi (April 23, 1975).

[17] N.Y. Times, Jan. 12, 1974, at 6, col. 1.

[18] Interview with Frank Kellogg, Special Assistant to the Secretary of State for Refugee and Migration Affairs, in Washington, D.C. (June 24, 1975).

[19] 35 U.S. Dep't of State Bull. 800 (1956).

[20] Interview with Donald F. McHenry, former Foreign Service Officer in South Africa and Special Assistant to Secretary of State William Rogers, in Washington, D.C. (Nov. 15, 1974).

[21] *General Policy for Dealing With Requests for Asylum by Foreign Nationals: Hearings Before the Subcomm. on Immergation, Citizenship, and International Law of the House Comm. on the Judiciary*, 93d Cong., 1st Sess. 295 (1973).

[22] The New York Times reported the refusal of the U.S. embassy in the Philippines to grant asylum to former Philippine President Diosdado Macapagal on the grounds that he was not in actual danger of arrest. N.Y. Times, Apr. 2, 1976, at 1, col. 2.

[23] On September 25, 1973, Drinan proposed H.R. 10525, a bill to authorize issue of 50,000 special immigrant visas, but only to Chilean citizens. H.R. 10525, 93d Cong., 1st CONG. REC. 31407 (1973). Drinan urged on the House floor "that the United States give the same treatment to those suffering persecution in Chile as we have given to the Hungarian freedom fighters and the refugees from Fidel Castro's Cuba." 119 CONG. REC. p. 31444 (appendix, Sept. 25, 1973). The bill died in the House Judiciary Committee. Kennedy's measure, S. 2643, suffered a similar fate in the Senate Judiciary Committee. S. 2643, 93d CONG. REC. 35734 (1973).

[24] *Refugee and Humanitarian Problems in Chile, Part III: Hearing Before the Subcomm. to Investigate Problems Connected with Refugees and Escapees of the Senate Comm. on the Judiciary*, 94th CONG., 1st Sess. 32–33 (1975).

[25] Interview with Christian Pappas, *supra* note 7.

[26] *Id.* The legal barrier against admission of communists is contained in Immigration and Nationality Act, 8 U.S.C. § 1182(a)(28 (1970).

[27] 8 U.S.C. § 1182(d)(5) (1970).

[28] Interview with Charles Gordon, *supra* note 15.

[29] State Dep't Fact Sheet on Parole of Chilean Refugees in Peru, n.d.

[30] State Dep't Fact Sheet on Parole of Chilean Detainees/Refugees, n.d.

[31] The State Department has refused to make either memorandum available on the grounds of "national security."

[32] Washington Post, June 8, 1975, at A4, col. 1. Interview with Leonard Chapman, Commissioner of INS, in Washington, D.C. (Oct. 18, 1975). *See* Protocol Relating to the Status of Refugees, *done* Jan. 31, 1967, 19 U.S.T. 6223, T.I.A.S. No. 6577, 606 U.N.T.S. 268 (in force Oct. 10, 1967).

[33] Interview with Leonard Chapman, *supra* note 32.

[34] *Id.*

[35] Interview with Dale de Haan, Counsel to the Senate Subcommittee on Refugees and Escapees, in Washington, D.C. (Dec. 2, 1974).

[36] *Id.*

[37] Interview with Christian Pappas, *supra* note 7.

[38] Interview with Leonard Chapman, *supra* note 32.

[39] Interview with Christian Pappas, *supra* note 7.

[40] *Id.*

[41] *Id.*

[42] Letter from Deputy Secretary of State Robert Ingersoll to Attorney General Edward H. Levi (Apr. 23, 1975).

[43] *Id.*

[44] Interview with Leonard Chapman, *supra* note 32.

[45] Interview with Frank Kellogg, *supra* note 18.

[46] Interview with Leonard Chapman, *supra* note 32.

[47] *Id.* By January, 1976, 94 cases involving 248 people had been forwarded to Washington, and 27 of these carried a recommendation for denial (15 by the INS representative, 1 by the State Department representatives, and 11 by both agencies). In 6 additional cases, field representatives were asked to reconsider recommendations that were, presumably, positive. *Id.*

[48] *Id.*

[49] Interview with State Dep't Desk Officer (name withheld by request), in Washington, D.C. (Jan. 20, 1975). *See also* Washington Post, June 8, 1975, at A4, col. 1.

[50] Interview with Leonard Chapman, *supra* note 32.

[51] Interview with State Dep't Desk Officer, *supra* note 49.

[52] *Id.*

[53] On March 27, 1978, four and one-half years after the coup in Chile, the Carter Administration announced that up to 500 refugees from Chile and Argentina would be paroled into the United States. The announcement raised hopes that a more liberal and even handed refugee policy was forthcoming. N.Y. Times, Mar. 31, 1978, at 1, col. 6.

[54] Interview with Christian Pappas, *supra* note 7.

[55] Letter from Deputy Secretary of State Robert Ingersoll to Attorney General Edward H. Levi (Apr. 23, 1975).

[56] Interview with State Dep't Desk Officer, *supra* note 49.

[57] 531 F. 2d 155 (3d Cir.), *cert. denied*, 429 U.S. 853 (1976).

[58] *Id.* at 158.

[59] *Id.* at 157.

[60] *Id.* at 159.

[61] *Id.*

[62] *Id.*

[63] *Id.*

[64] Interview with Richard Jameson, State Dep't Office of Refugee & Migration Affairs, in Washington, D.C. (Nov. 29, 1974).

[65] 8 U.S.C. § 1253(h) (1970).

[66] Interview with State Dep't Near East specialist (name withheld by request), in Washington, D.C. (June 11, 1975).

[67] NEWSWEEK, Oct. 14, 1974, at 56–61. SAVAK is the Persian acronym for "National Intelligence and Security Organization."

[68] AMNESTY INTERNATIONAL, ANN. REP. 297–98 (1977).

[69] NEWSWEEK, Oct. 14, 1974, at 61.

[70] Interview with State Dep't Near East specialist, *supra* note 66.

[71] N.Y. Times, Oct. 16, 1971, at 4, col. 4.

[72] Interview with Christian Pappas, State Dep't Asylum Officer, in Washington, D.C. (Aug. 4, 1975).

[73] Interview with Iranian Embassy Official (name withheld by request), in Washington, D.C. (Aug. 12, 1975).

[74] Interview with State Dep't Near East specialist, *supra* note 66.

[75] Protocol Relating to the Status of Refugees, Jan. 31, 1967, 19 U.S.T. 6223, T.I.A.S. No. 6577, 606 U.N.T.S. 268 (in force Oct. 10, 1967).

[76] Convention Relating to the Status of Refugees, *opened for signature* July 28, 1951, 19 U.S.T. 6261, T.I.A.S. No. 6577, 189 U.N.T.S. 152.

[77] Interview with Christian Pappas, *supra* note 73.

[78] Interview with State Dept. East European Desk Officer (name withheld by request), in Washington, D.C. (June 11, 1975).

[79] Conversation with Thomas Hughes, former head of State Dep't Intelligence and Research, now Director, Carnegie Endowment for International Peace, in Washington, D.C. (June 5, 1975).

[80] Interview with State Dep't Near East specialist, *supra* note 66.

[81] *Id.*

[82] Interview with David Carliner, Iranian asylum specialist, in Washington, D.C. (June 25, 1975).

[83] *Id.*

[84] H.R. 1663, 95th Cong., 1st Sess., 123 CONG. REC. 325 (1977); H.R. 4646, 95th Cong. 1st Sess., 123 CONG. REC. 1874 (1977); H.R. 6560, 95th Cong., 1st Sess., 123 CONG. REC. 3473 (1977).

[85] N.Y. Times, Feb. 17, 1977, at 14, col. 1.

[86] *See, e.g.*, Kasravi v. INS, 400 F. 2d 675 (9th Cir. 1968).

[87] Interview with State Dep't Near East specialist, *supra* note 66.

[88] *Id.*

[89] Interview with David Carliner, *supra* note 83.

[90] 12 I. & N. Dec. 215 (BIA 1967).

[91] *Id.* at 218.

[92] *Id.*

[93] *Id.* at 219.

[94] 400 F.2d 675 (9th Cir. 1968).

[95] *Id.* at 677 n. 1.

[96] 226 F.2d 385 (9th Cir. 1955).

[97] *Id.* at 388 (quoting Dolenz v. Shaughnessy, 206 F.2d 392, 394 (3d Cir. 1953)), *quoted in* 400 F.2d at 677. *See also* Hosseinmardi v. INS, 405 F.2d 25 (9th Cir. 1968); Asghari v. INS, 396 F.2d 391 (9th Cir. 1968); Ishak v. INS, 432 F. Supp. 624 (N.D. Ill. 1977).

[98] Interview with David Carliner, *supra* note 83.

[99] *Id.*

[100] N.Y. Times, Feb. 17, 1977, at 19, col. 1.

[101] *Id.* In Sannon v. United States, 427 F. Supp. 1270 (S.D. Fla. 1977), the summary deportations ordered by the INS were declared invalid. *See* text accompanying note 117 *infra*.

[102] Christian Century, Feb. 12, 1974, at 219; Miami Herald, Aug. 30, 1976, at 8, col. 1. *See Human Rights in Haiti: Hearings Before the Subcomm. on International Organizations of the House Comm. on International Relations*, 94th Cong., 1st Sess. 18 (1975) [hereinafter cited as *Human Rights in Haiti*].

[103] 8 U.S.C. § 1253(h) (1970).

[104] *See* N.Y. Times, Oct. 17, 1976, at 56, col. 3.

[105] Data provided by the State Dep't under the Freedom of Information Act.

[106] 559 F.2d 993 (5th Cir. 1977).

[107] *Id.* at 1003.

[108] *Done* Jan. 31, 1967, 19 U.S.T. 6223, T.I.A.S. No. 6577, 606 U.N.T.S. 268 (in force Oct. 10, 1967). The Protocol incorporates by reference the language of the Convention Relating to the Status of Refugees, *opened for signature* July 28, 1951, 19 U.S.T. 6261, T.I.A.S. No. 6577, 189 U.N.T.S. 152.

[109] Although the Protocol speaks in terms of the subjective fears of the alien seeking asylum, at least one court has held that such fear must be grounded in the fact that the alien "actually has been a victim of persecution, or that his fear is more than a matter of his own conjecture." Kashani v. INS, 547 F.2d 376, 379 (7th Cir. 1977).

[110] 8 U.S.C. §§ 1252, 1225(b) (1970). Persons apprehended by authorities at entrance of those paroled under § 1182(d)(5) or allowed entrance under § 1153(a)(7) have been considered to be subject to exclusion proceedings rather than deportation.

[111] *See In re* Pierre, Int. Dec. No. 3422 (BIA, Sept. 16, 1975). *See also* Paul v. INS, 521 F.2d 194 (5th Cir. 1975); Gene v. INS, 424 F.2d 227 (5th Cir. 1970); Hyppolite v. INS, 362 F.2d 98 (7th Cir. 1967).

[112] *Human Rights in Haiti, supra* note 102, at 39.

[113] Interview with Richard Jameson, *supra* note 64.

[114] Interview with Ira Gollobin, immigration attorney specializing in Haitian asylum, in New York City (Oct. 30, 1974). Gollobin produced a number of affidavits wherein his clients described persecution suffered in Haiti at the hands of the *ton ton macoutes*.

[115] 8 C.F.R. § 108 (1977).

[116] 427 F.Supp. 1270 (S.D. Fla. 1977).

[117] Cubans are authorized entry into the U.S. under the Act of Nov. 2, 1966, Pub. L. No. 89–732, 80 Stat. 1161.

[118] INS ANN. REP. 4 (1974).

[119] INS ANN. REP. 7 (1975).

[120] Interview with James Greene, Deputy Commissioner of the INS, in Washington, D.C. (July 18, 1975). Commissioner Greene was asked if he had reason to believe that Cubans returned to Havana would actually be persecuted. Greene replied, "It's just agreed upon that if they have fled from a communist government they are refugees." *Id.*

[121] Figures provided by the State Department following a Freedom of Information Act request.

[122] *Id.*

[123] Interview with State Dep't East European Desk Officer (name withheld by request), in Washington, D.C. (June 11, 1975). Interview with Frank Kellogg, *supra* note 18.

[124] Interviews with government officials (names withheld by request), in Washington, D.C. (June 10, 11, 1975).

[125] N.Y. Times, Sept. 7, 1977, § A, at 6, col. 3.

[126] Interview with Frank Kellogg, *supra* note 18.

[127] *See* text accompanying notes 108–06 *supra*.

[128] *Human Rights in Haiti, supra* note 103, at 17.

[129] Interview with Frank Kellogg, *supra* note 18; interview with East European Desk Officer, *supra* note 124.

[130] Boston Globe, Sept. 8, 1975, at 2, col. 2.

[131] Interview with State Dep't Desk Officer (name withheld by request), in Washington, D.C. (June 11, 1975).

[132] Interview with Richard Jameson, *supra* note 64.

[133] *Id.*

[134] Interview with Raul Mangiapus, in New York City (Oct. 30, 1974).

[135] Interview with State Dep't Desk Officer (name withheld by request), in Washington, D.C. (June 11, 1975).

[136] *Id.* We put the question bluntly to a State Department Desk Officer: "Why is it that communist country applicants have a much easier time gaining asylum or refugee status here, while those from right-wing dictatorships have a much tougher time?" "Pal," he answered, "that's a question with a hell of a lot of implications. I mean, it gets you into political, economic, and bureaucratic issues that I'm not prepared to talk about." *Id.* The official State Department explanation that applicants from right-wing countries simply have far weaker cases than those from communist countries is unpersuasive.

[137] 8 U.S.C. § 1153(a)(8)(A)(i) (1970). The Carter Administration is currently advocating increasing the refugee quota to 40,000 to avoid a constant recourse to parole. N.Y. Times, Mar. 31, 1978, at 1, col. 6.

[139] Interview with Ira Gollobin, *supra* note 115.

[140] 8 U.S.C. § 1253(h) (1970).

[141] *See* Sunjka v. Esperdy, 182 F. Supp. 599, 601 (S.D.N.Y.), *cert. denied sub nom.* Roncevich v. Esperdy, 364 U.S. 815 (1960), for an explicit disavowal of interference with foreign policy decision-making.

[142] Paul v. INS, 521 F.2d 194, 197 (5th Cir. 1975) (quoting Jarecha v. INS, 417 F.2d 220, 224 (5th Cir. 1969) (quoting Kam Ng v. Pilloid, 279 F.2d 207, 210 (7th Cir. 1960), *cert. denied*, 365 U.S. 860 (1961))).

[143] Lena v. INS, 379 F. 2d 536, 538 (7th Cir. 1967).

[144] United States *ex rel.* Kordic v. Esperdy, 276 F. Supp. 1, 3 (S.D.N.Y.), *aff'd* 386 F. 2d 232 (2d Cir. 1967).

[145] Hosseinmardi v. INS, 391 F. 2d 914 (9th Cir. 1968); Zamora v. INS, 534 F. 2d 1055 (2d Cir. 1976). For Board decisions on the issue of political activity in the U.S., *see In re* Kojoory, 12 I. & N. Dec. 215 (BIA, 1967).

[146] 11 I. & N. Dec. 541 (BIA, 1966).

[147] *Id.* at 544.

[148] *In re* Janus and Janek, 12 I. & N. Dec. 866 (BIA, 1968). *See also* Berdo v. INS, 432 F. 2d 824 (6th Cir. 1970), in which a federal circuit court actually reversed a discretionary decision by the INS.

[149] Paul v. INS, 521 F. 2d 194 (5th Cir. 1975). In Zamora v. INS, 534 F. 2d 1005 (2d Cir. 1976), Judge Friendly allowed the Board to rely on State Department information but not on its direct recommendation to grant or deny asylum.

[150] 8 C.F.R. § 242.17(c) (1977). *See* Namkung v. Boyd, 226 F. 2d 385 (9th Cir. 1955). *Accord*, Hosseinmardi v. INS, 405 F. 2d 25 (9th Cir. 1968); Asghardi v. INS, 396 F. 2d 391 (9th Cir. 1968); Kasravi v. INS, 400 F. 2d 675 (9th Cir. 1968).

[151] Sunjka v. Esperdy, 182 F. Supp. 599, 601 (S.D.N.Y.), *cert. denied sub nom.* Roncevich v. Esperdy, 364 U.S. 815 (1960).

[152] Evans, *The Political Refugee in United States Immigration Law and Practice*, 3 INT'L LAW. 206, 253 (1969).

[153] *See* Gena v. INS, 424 F. 2d 227 (5th Cir. 1970); Paul v. INS, 521 F. 2d 194 (5th Cir. 1975); Cisternas-Estay v. INS, 531 F. 2d 155 (3d Cir. 1976); Zamora v. INS, 534 F. 2d 1055 (2d Cir. 1976); *In re* Pierre, Int. Dec. No. 2433 (BIA, Sept. 16, 1975).

[154] Interview with Christian Pappas, *supra* note 139; interview with Louis Wiesner, *supra* note 9; interview with Edward O'Connor, *supra* note 152; interview with James Greene, *supra* note 121.

[155] S. 2643, 93d Cong., 1st Sess., 119 CONG. REC. 35734 (1973); S. 3827, 93d Cong., 2d Sess., 120 CONG. REC. 25404 (1974); S. 2405, 94th Cong., 1st Sess., 121 CONG. REC. 29947 (1975); H.R. 981, 93d Cong., 1st Sess., 119 CONG. REC. 61 (1973).

[156] Immigration and Nationality Act Amendments of 1976, Pub. L. No. 94–571, 90 Stat. 2703 (codified at 8 U.S.C.A. § 1101 (Supp. 1977)). See U.S. State Dep't Bull. 839 (Nov. 22, 1976) for President Ford's statement upon signing the bill.

[157] Interview with congressional staff member (name withheld by request) (Dec. 2, 1974).

[158] *Id.*

[159] Pub. L. No. 80–774, 62 Stat. 1009 (1948).

[160] *Admission of Refugees on Parole: Hearings Before Subcomm. No. 1 of the House Comm. on the Judiciary*. 86th Cong., 2d Sess. 17 (1959–1960) (emphasis added).

[161] This power is not spelled out in legislation. According to Christian Pappas of ORM, former Immigration Commissioner Leonard Chapman, and Dale de Haan of the Senate Refugee Subcommittee, Congress insists on being consulted on major asylum policy decisions, and the Administration does consult with members of Congress and take their views into account. Interview with Christian Pappas, *supra* note 139; interview with Leonard Chapman, *supra* note 32; interview with Dale de Haan, *supra* note 35.

[162] Interview with Louis Weisner, *supra* note 9.

[163] Interview with State Dep't official (name withheld by request), in Washington, D.C. (June 11, 1975).

[164] Interview with State Dep't Desk Officer (name withheld by request), in Washington, D.C. (June 9, 1975).

[165] Interview with State Dep't Desk Officer (name withheld by request), in Washington, D.C. (June 17, 1975).

[166] *Id.*

[167] Interview with State Dep't Asylum Officer (name withheld by request), in Washington, D.C. (Oct. 14, 1974).

[168] Interview with State Dep't Near East expert (name withheld by request), in Washington, D.C. (June 11, 1975).

[169] Interview with congressional staff member (name withheld by request), in Washington, D.C. (June 13, 1975).

[170] Interview with Christian Pappas, *supra* note 139.

[171] *Id.*

[172] Washington Post. Aug. 4, 1975 at A6, col. 1.

[173] *Id.*

[174] In Coriolan v. INS, 559 F.2d 993 (5th Cir. 1977), Judge Coleman vehemently dissented from the majority's decision to invalidate a deportation order and remand the case to allow consideration of evidence of political persecution in Haiti. He stated that petitioners "had the burden of demonstrating a 'clear probability' of being persecuted" and observed that the majority opinion did nothing to stem the tide of illegal immigration which was overwhelming the country. *Id.* at 1005.

[175] Interview with Christian Pappas, *supra* note 139.

[176] Interview with Edward O'Connor, *supra* note 152.

[177] Interview with Christian Pappas, *supra* note 139; interview with State Dept's Near East expert (name withheld by request), in Washington, D.C. (June 11, 1975).

[178] Interview with Christian Pappas, *supra* note 139.

[179] *Id.* The debate within the government over the scope of the parole authority continued in 1978 as increasing numbers of Indochinese "boat people" sought refuge in America. Secretary of State Vance, and State Department Asylum Division, backed by lobby groups such as the International Rescue Committee, insisted that the parole authority can be used to admit groups of refugees. They cited past cases of group parole for Hungarians, Cubans, and Indo-Chinese as precedents which support continuation of the practice. On the other hand, Attorney General Bell, INS officials, and House and Senate Immigration Committee Chairmen Eilberg and Eastland maintain that group parole is not mandated in the law. Justice Department officials argue that, because the Constitution gives Congress jurisdiction over immigration, and because Congress has not clearly delegated group parole authority to the Administration, group parole is unconstitutional. *See* N.Y. Times, Mar. 31, 1978, at 1, col 6.

[180] Interview with Edward O'Connor, *supra* note 152.

[181] *Id.*

[182] 8 U.S.C. § 1182(d)(5) (1970).

[183] Interview with Christian Pappas, *supra* note 139.

[184] *U.S. Assistance to Refugees Throughout the World: Findings and Recommendations of the Subcomm. to Investigate Problems Concerned with Refugees and Escapees of the Senate Comm. on the Judiciary*, 91st Cong., 1st Sess. 57 (1969).

[185] *See* Protocol Relating to the Status of Refugees, Jan. 31, 1967, 19 U.S.T. 6223, T.I.A.S. No. 6577, 606 U.N.T.S. 268 (in force Oct. 10, 1967).

[186] Letter from Edward Ennis, attorney, American Civil Liberties Union, to the author (Oct. 18, 1974).

[187] Interview with Richard Jameson, State Dep't Office of Refugee & Migration Affairs, in Washington, D.C. (Sept. 26, 1974).

[188] Convention Relating to the Status of Refugees, *opened for signature* July 28, 1951, 19 U.S.T. 6261, T.I.A.S. No. 6577, 189 U.N.T.S. 152.

[189] *See* S. 2405, 94th Cong., 1st Sess., 121 CONG. REC. 29947 (1975); H.R. 981, 93d Cong., 1st Sess., 119 CONG. REC. 61 (1973).

[190] Interviews with government representatives from France (June 3, 1975); from West Germany (July 2, 1975); from Sweden (June 19, 1975), in Washington, D.C. (names of diplomats withheld by request).

[191] Interview with Frank Kellogg, *supra* note 18.

[192] Interview with Charles Gordan, *supra* note 15.

[193] *Id.*; interview with Dale de Haan, supra note 35; interview with State Dep't Desk Officer (name withheld by request), in Washington, D.C. (June 9, 1975).

[194] Interview with State Dep't Desk Officer (name withheld by request), in Washington, D.C. (June 9, 1975); interview with State Dep't Near East expert (name withheld by request), in Washington, D.C. (June 11, 1975).

[195] Interviews with State Deo't Desk Officers (names withheld by request), in Washington, D.C. (June 9, 17, 1975).

SOLAR POWER SATELLITES

● Mr. ABOUREZK. Mr. President, the Senate Committee on Energy and Natural Resources recently held a hearing on a bill to promote research, development and demonstration of solar power satellites. At that hearing, I stated my strong opposition to this proposal. Even if solar power satellites prove to be technically feasible, environmentally acceptable, and economically competitive, they would still be undesirable, for they would concentrate our energy supply in the hands of a few large industries and Government regulatory bodies. The money spent on developing the satellites would detract from money that could be spent on smaller scale, more diversified terrestrial solar technologies which, with this investment, could easily provide more power at less cost than the satellites.

At the hearing, Garry DeLoss of the Environmental Policy Center made a very excellent presentation on this subject. Unfortunately, time prohibited him from reading his entire statement. Since it is such as excellent summary of the reasons why we should not proceed with solar power satellites, I want to make it available for my colleagues in the RECORD.

Mr. DeLoss will be debating the subject of solar power satellites with Dr. Gordon Woodcock of the Boeing Co. in room 424 of the Russell Senate Office Building at 10 a.m. on September 25. I hope as many people as possible can attend this debate.

I ask that the text of Mr. DeLoss' statement be printed in the RECORD.

The statement follows:

STATEMENT OF GARRY DELOSS

Mr. Chairperson: Thank you for the opportunity to comment on the "Solar Power Satellite Research, Development and Demonstration Program Act of 1978."

As you know, the solar power satellite (SPS) concept has been promoted for several years by some of the witnesses present today. Previously they have persuaded the Congress to fund a three year, $15.6 million study of the SPS concept by the Department of Energy (DOE) and the National Aeronautics and Space Administration (NASA). Although that study is only half completed, the SPS proponents are now asking for an escalation of the federal commitment to "technical verification" work that they predict will cost $270 million over the next five years, beginning with the $25 million in this bill.

The Environmental Policy Center opposes the SPS concept and this bill's commitment of funds to SPS technology development because we believe that (1) even if the SPS could be shown to be technically feasible, it will never be economically and politically feasible, and, (2) the money which this bill would allocate to SPS technology development instead should be allocated to land-based, decentralized solar energy technologies.

FEASIBILITY QUESTIONS

In appraising the prospects for any new energy source, the first question is whether it is technically feasible, or whether proponents of the proposed technology have failed to discern some insurmountable technical barrier. Even if technical feasibility can be demonstrated, a new energy source must pass a second test, economic feasibility. That is, it must supply energy to consumers at a price which is similar to or lower than the price of alternative sources of energy. In the past, positive answers to the questions of technical and economic feasibility might have been sufficient to assure the development of a new energy source. But today our society is more crowded, competition for the use of finite resources such as minerals, air, water, and land has increased, and the social and environmental impacts of a new technology are major factors in determining whether it will be developed on a large scale. Hence, in a democratic society, a proposed energy producing technology such as the SPS must be acceptable to the public, or politically feasible, as well as technically and economically feasible.

TECHNICAL FEASIBILITY

The SPS concept envisions perhaps 100 or more giant satellites, each with 50 square miles of surface area covered by photovoltaic cells, stationed 22,000 miles from earth in a "geosynchronous" orbit that makes them appear to be stationary over a given spot on the earth's surface. The photovoltaic cells would collect solar energy 24 hours a day and convert it to electrical energy. The electrical energy would then be converted to a beam of microwave energy aimed at a receiving antenna several square miles in area on the earth's surface, where the microwave energy would be converted back to electrical energy and transmitted over high voltage power lines to the population centers where it is used.

For economic reasons, it is impractical to prefabricate an SPS on earth and then launch it into orbit. Instead, densely packed raw materials must be launched into orbit and the SPS constructed in orbit by hundreds of workers. Because existing launch vehicles such as the Saturn rocket and the Soace Shuttle are not big enough to propel the raw materials for an SPS into orbit economically, a new "heavy-lift launch vehicle" (HLLV) must be developed. According to SPS proponents, the HLLV would be a single stage, completely reusable vehicle capable of carrying into orbit several times the payload of the Space Shuttle. It would be three to five times more powerful than the Saturn rocket and therefore require construction of a new launching site. Construction of a single SPS would require 50 to 500 flights of the HLLV at the rate of one to five launches per day. If the dozens of SPS's needed to achieve claimed economies of scale are to be built, the launches would continue at this rate for decades. Indeed, eventual replacement of worn out SPS's (a 30 year life is predicted) would require such launches into the indefinite future. The HLLV would transport people, manufacturing equipment, and raw materials into low earth orbit, where highly automated factories operated by several hundred workers would convert raw materials such as sheet metal rolls into an SPS. According to a report by the Jet Propulsion Laboratory (JPL), "Man must develop the capability to be as productive in space as on an automated automobile assembly line in terms of kg of finished products per man-hour worked in order for the SPS costs to be competitive". After an SPS is constructed in low earth orbit, the SPS and maintenance personnel must be transported to geosynchronous orbit with chemical or ion propulsion systems.

SPS proponents are quick to claim that no scientific breakthroughs are required to accomplish the technical wonders described above. Indeed, given unlimited mineral resources, money, and public acceptance, the proposed construction of dozens of solar power satellites might be technically feasible. But the fact is that no energy technology will be given such unlimited commitment of resources merely because it is technically feasible. The SPS must be economically and politically feasible, as well as technically feasible, or it will never be built.

ECONOMIC FEASIBILITY

Several studies have purported to calculate the cost of producing dozens of solar power satellites over a period of many years beginning near the end of this century and then compare that cost with projected costs for other possible sources of electricity. All of these studies of the economic feasibility of the SPS are flawed in major respects.

Suspect subjectivity of Studies of SPS Costs

First, the supposedly objective cost estimates for the SPS are being made by corporations, NASA space flight centers, consulting firms, and academicians who have a vested interest in encouraging a massive government commitment to the SPS. This leads to cost estimates that are mere self-fulfilling prophecies, or what one critic, Dr. John Cummings of the Electric Power Research Institute (EPRI), calls "legislating all the answers." [1] Richard Caputo, who directed a two-year Jet Propulsion Laboratory (JPL) study of the SPS, recognized the same pattern of behavior and characterizes the cost estimates he examined as based on "assumptions of success" rather than a real data base.[2] The SPS proponents appear to begin by calculating the cost goal which the total SPS system must meet to compete with other energy sources and then allocate the cost goal among the various subsystems of the SPS. Hence, they tend to reach similar conclusions about the total cost of the SPS based on widely varying estimates about the costs of the subsystems.

One example of the wishful economic thinking of SPS proponents is that they assume that any advances made in the technology of photovoltaic cells for land-based conversion of solar energy to electricity will be transferable to photovoltaic cells used in the SPS. The fact is that the cells used in the SPS must be thinner and lighter weight than cells used on earth, due to the need to hold down the cost of launching billions of the cells into orbit. Also, the cells for the SPS must be resistant to damage by micrometeorites, charged particles, and ultraviolet rays. Efficiency and cost reduction improvements in cells developed for land-based uses, therefore, will not necessarily be transferable to the specialized cells needed for the SPS.

Footnotes at end of article.

Diseconomies of scale

A second flaw in the studies of the economic feasibility of the SPS is the failure to acknowledge the disadvantages inherent to a technology that is so large in scale and expensive to develop to a state of commercial readiness that projected electricity costs do not fall to acceptable levels under *hundreds of billions* of dollars are invested in the construction of dozens of the satellites. What we have here are several diseconomies of scale masquerading as economies of scale.

One diseconomy of scale is that the SPS will require enormous back-up power to fill the gap in the event that the power supply from one of the satellites is interrupted without notice. According to EPRI's Dr. John Cummings, a utility receiving electricity from an SPS would require a reserve of standby power capacity equal to or greater than the SPS power of five gigawatts (GW). Even the pooling of reserve power among several utilities may be inadequate. The largest power pool in the country today is 50 GW and the loss of one GW in that powerpool, much less five GW, "would cause havoc."[3] Paradoxically, the cost of backup power for the SPS could be reduced by lowering the size of each SPS, but the cost of an SPS goes up as its size is reduced. This problem and others have led Cummings to view the prospects for the SPS very skeptically. In his words, it "is a long, long, long—a very long—way off."[4]

A second diseconomy of scale is the large minimum commitment of 60 billion dollars of government funds required to develop the SPS to a commercial scale so that the question of economic feasibility can be answered definitively.[5] This proposed taxpayer investment in the development of a new energy technology is much greater than the investment required to develop competing energy technologies to a commercial scale. The cost of developing competing energy technologies to a commercial scale. The cost of developing photovoltaic cells for land-based uses to a 10 MW scale commercial demonstration powerplant by 1985, for example, will be from 0.2 to 0.4 billion dollars.[6] In other words, the SPS would require from 150 to 300 times more RD & D dollars just to test its economic feasibility. Even the breeder reactor's proposed development cost of about ten billion dollars is dwarfed by the SPS proposal.

The diseconomy of scale inherent to such a large development cost is that it can be financed only by preempting funds that could have been used to develop other energy technologies. In effect, the extremely large development cost requires a commitment in favor of the SPS technology versus competing energy technologies even before the economic feasibility of the SPS is demonstrated. The economic risk of committing funds to SPS development is intensified by delaying the development of alternatives which would have to fill the gap if the SPS proved to be uneconomical.

A third diseconomy of scale of the SPS is that projected costs depend on maintaining a specified rate of construction of new satellites. In other words, if future electricity demand growth leveled off unexpectedly for a few years, as it did from 1974 to 1976, and consequently the rate of SPS construction was slowed, costs per unit would rise sharply.

A related diseconomy of scale of large powerplants such as the SPS is that it is difficult to match the addition of new powerplant capacity to growth in consumer demand. Unexpected variations in demand growth, such as those of recent years, lead to excess capacity, or idle investment. Either ratepayers or utility company shareholders must bear the burden of supporting the excess capacity. If a utility company already finds it difficult to match new powerplant construction with demand growth in today's circumstances, the problem can only be intensified by investing in the construction of an SPS, which would equal the power generating capacity of several nuclear powerplants. Even a group of utility companies jointly buying an SPS would still risk a mismatch in timing between consumer demand and delivery of power from the SPS, which would be ordered years in advance of predicted need.

A fifth diseconomy of scale of the SPS is that due to the high cost and high risk of relying on the SPS the federal government is likely to be the only entity with the resources and hence ability to absorb risk needed to finance the SPS. Utility companies would be relegated to the role of distributors of SPS power rather than producers. Perhaps the prospect of government ownership of the SPS explains the health skepticism toward the SPS displayed by the Electric Power Research Institute, which is funded by investor-owned utilities.

A sixth diseconomy of scale of a large, centralized power supply system such as the SPS is its vulnerability to intentional disruption. A hostile government with access to modern technology could destroy a system of SPS's in orbit, certainly with missile warheads and perhaps with earth-based weapons such as a laser beams. Saboteurs could attack the receiving antennae, which would have almost indefensible perimeters of many miles, or the high voltage transmission lines. Widely dispersed, small scale power systems are more easily defended and easier to repair when damaged.

Omission of Lowest Cost Alternatives

The most obvious flaw in the existing studies is their failure to adequately consider the lowest cost alternatives to the SPS, which are, first, efficiency improvements that will reduce our need for new energy supplies, including new electric generating capacity, and second, land-based, decentralized solar energy technologies.

Energy Conservation Alternative

Typically, the studies of SPS economics deal with the role of improvements in our efficiency of energy use by discussing low growth and high growth energy demand projections. The problem is that even their low growth demand projections are too high because they don't reflect the realistic possibility that we will use energy much more efficiently two or three decades from now, especially if resources are committed to energy conservation on the scale proposed for SPS development. No report on SPS economics that the Environmental Policy Center has reviewed includes speculations on how much energy could be saved if the hundreds of billions of dollars proposed for SPS development and deployment were instead spent on improving our energy efficiency. Yet energy that is saved by an efficiency improvement is just as important to society as a unit of energy that is produced from a new energy source. The opportunity for energy conservation investments that effectively "produce" energy is great because we have developed very inefficient ways of using energy. That inefficiency means that we have within our borders a tremendous "reserve" of "conservation energy" waiting to be "produced" through investments in energy conservation. A recent report to the Joint Economic Committee suggests that cost-effective investments could reduce our energy use by 40 percent. We should be "mining" and "drilling" this reserve of conservation energy through investments that improve the efficiency of our homes, office buildings, factories, and transportation systems, just as diligently as we seek new discoveries of oil and gas, or new technological marvels such as the SPS.

One expert on energy conservation improvements in existing buildings testified before this committee two years ago that "cost-effective conservation techniques which are commonly available today" could cut energy use in buildings "equal to the yearly output of about six hundred 1000 megawatt generating plants. In other words, if one 1000 megawatt plant came on line every two weeks starting today, it would take until the year 2000 for the capacity of these new plants to equal the savings which can be achieved in existing buildings using readily available, economically viable conservation techniques."[7]

In short, the cheapest powerplant is the one that is never built. Alternative investments in efficiency improvements would permit existing powerplants to serve more electricity users. By failing to consider such an alternative investment scenario, the SPS cost estimates have purposefully avoided the lowest cost competitor to the SPS. SPS proponents know that even if, for the sake of argument, the very optimistic cost projections for the SPS are accepted without waiting for years of "technology verification," alternative investments in energy conservation still can be shown to effectively produce energy at a lower cost. No new research and development, or "technology verification," is needed to verify the economic feasibility of energy conservation investments and their enormous potential as a source of new energy. The economics of energy conservation are not speculative; they are well understood.

Decentralized Solar Energy Systems Alternative

Another omission from cost comparisons with the SPS has been land-based, decentralized solar energy systems. The SPS proponents prefer to set up the straw man of a centralized solar energy powerplant alternative and then knock it down by claiming high costs for electricity storage, land acquisition, and transmission lines up to 2,000 miles long from solar powerplants concentrated in the Southwestern states. Even the most objective of the SPS studies, the report by JPL, compared the SPS with what the report's director has described as the "worst solar terrestrial options", centralized solar energy powerplants at sites remote from their markets. The JPL study also distorted its results by omitting from its calculations of SPS costs the 60 billion dollars of government investment needed to develop the SPS to a commercial scale. In spite of this rigging of the rules of the game, the JPL study concluded that the SPS would cost more than a land-based, centralized solar energy powerplant using a solar thermal process and fossil fuel backup system and about the same as a centralized photovoltaic solar energy system with a fossil fuel backup system.[8]

If the SPS costs were compared with decentralized solar electric systems using photovoltaic cells, the SPS would look even worse. Decentralized solar energy systems would be lower cost than the centralized solar energy systems used in the JPL study because transmission costs can be eliminated, land acquisition costs can be reduced by using air spaces over rooftops and parking lots, and waste heat can be put to work near the generating site.

Objections by SPS proponents that electricity storage costs are an insurmountable barrier to lowering the cost of land-based solar energy, whether centralized or decentralized systems, have to be taken with a grain of salt. The people who suggest that major reductions in the cost of electricity storage are not likely are the same people who are extremely optimistic that costs for various subsystems of the SPS will fall drastically. Moreover, the presently low level of government spending on research and development of electricity storage may be increased soon. I participated in a two day review of the DOE solar energy budget last week, and one of the recommendations of the budget reviewers was that the R & D budget for electricity storage systems for use with decentralized solar energy systems be increased greatly in fiscal year 1980 and succeeding years.

POLITICAL FEASIBILITY

One diseconomy of scale of the SPS that even its proponents acknowledge is that it requires such a large commitment of resources and entails so many environmental and social impacts that public acceptance, or political feasibility, will be a critical factor in determining whether the SPS is built. They have already begun their public relations campaign to soothe concerns about the possibilities of microwave effects on health, microwave interference with radio frequencies, disruption of the upper atmosphere by launch vehicle exhausts and microwave beams, and other impacts. Indeed, critics of the bill being considered here today are told that the money in this bill is needed to develop technology to test possible environmental impacts.

PUBLIC PREFERENCE FOR DECENTRALIZED SOLAR ENERGY SYSTEMS

The Environmental Policy Center believes that a 270 million dollar, five-year technology development program is not needed to verify two of the biggest barriers to the political feasibility of the SPS. First, the public won't buy it. Public enthusiasm for solar energy is based on an interest in decentralized, or dispersed, solar energy systems, not highly centralized systems such as the SPS, which must be owned by giant utility companies or the federal government. Solar energy enthusiasts are looking forward to development of solar energy systems scaled for use by individuals, neighborhoods, and communities. The majority of the thousands of public witnesses who appeared at DOE's series of 11 public hearings on federal solar energy policy this summer expressed a preference for development of decentralized solar energy systems and many of them specifically objected to the SPS concept. Delegates representing 50 states and the District of Columbia at the National Solar Congress here in Washington on August 4 to 6 expressed similar views in the policy program which they ratified. Thus public support for government promotion of solar energy is, in part, a vote for increased consumer control of the supply of energy and should not be construed by members of this committee to include support for the SPS. Indeed, resistance to the SPS will grow as consumers become aware that the large scale commitment required to make the SPS work would effectively foreclose consumer and public utility commission influence over electricity rates and construction decisions.

SITING PROBLEMS

Another political barrier to the SPS that can be discerned without waiting for the technology development proposed in this bill is the problem of siting the new launch facilities and dozens of receiving antennae required for the SPS. The new launch facility would preempt a large area due to the need to launch and land several very noisy HLLV's per day over a period of many years, perhaps into the indefinite future. An HLLV being launched would be much louder than the less powerful Saturn rocket and an HLLV landing would be much louder than the SST. One report has suggested that the "sonic overpressures produced by space-freighter re-entry indicate that the final 200 km of the path should be over open ocean."[10] Now, this means that the HLLV launch site must be in the coastal zone, presumably where the climate is warm year round. Areas that meet these requirements are attractive for many other uses, both onshore and offshore, and population density in such areas is high and getting higher. I find it difficult to believe that even Cape Canaveral could be used as the HLLV launch site. Orlando, Florida and the Disneyworld amusement park are just a few miles away and the nearby population is growing rapidly.

Siting of the receiving antennae also appears to confront a very high political barrier. The siting of new electric powerplants, whether nuclear or fossil fuel plants, has been a controversial issue for years. Proposed federal legislation to accelerate siting decisions is not progressing rapidly. Even if it is passed, siting controversies can only grow due to the shrinking number of potential powerplant sites and the competing uses of those sites. Siting of high voltage powerlines is emerging as a major new area of political controversy. Politically conservative rural residents of upstate New York and northern Minnesota have resorted to unfamiliar acts of civil disobedience to resist the siting of unwanted powerlines. One of my colleagues is helping form a national coalition of groups which want broader citizen representation in power line siting decisions.

Another example of siting problems is the legislation enacted by several states to prohibit the siting of nuclear waste disposal projects within their borders. Also the Navy has failed repeatedly to sell the public on proposed sites for Project Sanguine, which entails burying a grid of highly charged electric cables for low frequency communication with submerged submarines.

SPS proponents are aware of the siting problem. A NASA study could find only 69 potential land sites and some people have suggested that ocean sites could be used, although I am not aware of any calculations of the cost of such structures. Moreover, offshore sites do not avoid the problem of conflicting uses. Perhaps Boeing or the Arthur D. Little Company should study the current controversy over a proposal to site nuclear powerplants off the coast of New Jersey. Offshore siting is not the solution. Probably, there is no solution to the siting problem. Indeed, it is likely to get worse. If the U.S. standard for microwave exposure is tightened to the East European standard, the area preempted by receiving antennae will triple from 300 km^2 to 900 km^2.[11]

I would like to close on a more positive note by identifying some areas where I agree with the proponents of this legislation. First, I agree that there should be a transition to the use of solar energy in place of the environmentally disruptive and nonrenewable fossil fuels and uranium. Second, I agree that the government should commit billions of dollars to developing solar energy technologies to a commercial stage, including a bigger effort to lower the cost of photovoltaic cells. Finally, I agree that the government should fund studies of the health effects of microwave radiation. However, in spite of these areas of agreement, I don't believe that further government funding of research on the SPS concept can be justified. If the already funded government study of the SPS is adjusted to make its cost comparisons more realistic and to adequately account for political barriers to the SPS, I am confident that it will recommend no further work in the SPS.

Thank you.

FOOTNOTES

1. Telephone conversation, July 28, 1978.
2. Telephone conservation, August 11, 1978.
3. Telephone conversation, July 28, 1978.
4. David Johnston, "Solar Space Power," *Sundancer* magazine, July, 1978, p. 32.
5. An Initial Comparative Assessment of Orbital and Terrestrial Central Power Systems (Final Report), Prepared by the Jet Propulsion Laboratory for the NASA Office of Energy Programs, March, 1977, p. 4–35 (Hereinafter cited as JPL Study).
6. JPL Study, p. 6–6.
7. Statement of Carl Stein, in Hearings on the Energy Conservation Act of 1976, before the Senate Committee on Interior and Insular Affairs, April 26, 1976, pp. 109–10.
8. Telephone conversation, August 11, 1978.
9. JPL Study, pp. 1–1 to 1–6.
10. Gordon R. Woodcock, "Solar Satellites Space Key to Our Power Future," *Astronautics & Aeronautics*, July/August, 1977, p. 30.
11. Study, pp. 6–18 to 6–19.●

Footnotes at end of article.

EMIL LORIKS—FAMILY FARM TRAILBLAZER

● Mr. McGOVERN. Mr. President, the president emeritus of agricultural thought and action in South Dakota is Emil Loriks of Kingsbury County. During the 20th century, perhaps no voice in the agriculture community has been more sustained than that of Emil Loriks.

After a distinguished military career as one of the Nation's first fighter pilots in World War I, Emil Loriks returned to the land and became first an outstanding farmer and next an unusually effective spokesman for advanced thinking on matters of agricultural policy in both South Dakota and the Nation. Emil Loriks is truly a man of the soil as well as a man of deep intellectual thought and conviction. The depression years were the years of Mr. Loriks' greatest effectiveness. Indeed, he was one of the true architects of the farm reforms in the Roosevelt administration. Later, he distinguished himself as a prime mover in the establishment of the Grain Terminal Association, the first and still the largest cooperative marketing system controlled by farmers.

The South Dakota Farmers Union for September 1978 carried a tribute to Emil Loriks, written by Bette Burg of the Huron (S. Dak.) Daily Plainsman. It is a fine tribute to a distinguished American and I ask that it be printed in the RECORD.

The article follows:

FAMILY FARM TRAILBLAZER

(By Bette Burg)

OLDHAM.—You don't have to reach far into the history books to find amazing tales of the pioneers when you have Emil Loriks of Oldham to talk to.

Loriks in his own right has blazed trails in the agricultural sector of South Dakota by working towards a better farm economy during the country's Dust Bowl years—the 1930s Depression.

His fervor for leading others into action may have come from a "do or die" attitude he developed as a World War I pilot, a rare breed of fighting men who were the first to take to the air in time of war.

His most sought after documents, records and other memorabilia from his years as a WWI pilot and leader in the South Dakota Legislature and farm organizations have found a permanent home in the Heritage House Museum at Oldham. A native of Oldham, Loriks wants to keep his legacy where he has worked his entire life as a farmer.

"My family came 96 years ago to homestead near Oldham and this is where I want to be remembered," Lorik said.

A public-spirited fellow, Lorik generously donated a large three-story home, one of the landmarks of the town, to the Oldham Library and Historical Association for the establishment of a museum.

"I really hadn't planned on buying the Pete Peterson house but it was up for auction when Mrs. Peterson went to the nursing home to live, and I decided it was too nice a house to be torn down," he said.

When the historical association ap-

proached him on its idea of establishing a museum, Loriks agreed on one condition that part of the place would be reserved for his collection.

Work on the museum has been progressing well this summer on the painting and other refurbishing, and they hope to have it ready for visitors at the end of summer.

"I have three rooms upstairs which will hold any files from the Farmers Union, the GTA (Grain Terminal Association) and my years as a Farmers Union senator," he said. His wife, Ruth, will also have a special room in the museum for some of her family heirlooms including an old spinning wheel and copper kettles that are over 100 years old.

Some of Loriks' possessions dating from his service in the Silver Wings of WWI have been donated to the Museum of Ellsworth Air Force base near Rapid City, including his goggles and helmet that are permanently preserved in a glass case there.

"They really treat us old guys like royalty when they have their special events at the base," Loriks said. Loriks is one of two WWI pilots who are living in South Dakota with his counterpart being Glen Levette of Clark.

Loriks said with a smile that he is the only one who can still get into his WWI uniform that he has kept impeccably clean in the past 61 years. The uniform is one of the few complete outfits from that era that has been saved from the hands of age and moths that raise havoc with older material.

The uniform complete with the original wings and gold bars and the leather puttees (leggings) has been worn at several occasions at the air base when high ranking officials are being hosted.

Loriks is one of the charter members of the Order of Daedalian that was organized in 1934. His recounting the pioneer days of the U.S. Air Force brings a very special gleam to his eyes of the pride he feels of being part of those times.

A graduate of the University of Nebraska in agriculture in 1917, Loriks enlisted in the army as a "buck private" and worked feverishly to earn his wings in the new "Air Service."

"We had about 50 men from the state in the Silver Wings and many of us served as pilots for the passenger and mail planes in the states," Loriks said.

Training was a hastened affair considering the brevity of the war, using JN-4 two seater biplanes, Loriks said. All pilots received training in the JN-4 plus the one-seater combat planes that were used in the infamous "dog fights" with the Germans. A replica of the JN-4 is part of his collection at the museum.

"They were crude planes compared to the ones now but somehow you didn't think about the danger," Loriks said. Parachutes were not standard gear at that time making it that more important to guide the small aircraft with steady hands.

When the war ended, Loriks, now a lieutenant, was given the choice of staying in the Air Service or returning to private life, the second choice he pursued. After a few years teaching in Nebraska, he came back to his family farm near Oldham, the place which continues to be his home after 83 years.

When the country plummeted into the Depression, even small towns like Oldham were not saved from the bank closings and its aftermath.

These were truly "hard times," which was also chosen by author Studs Terkel as the name for his book on the Depression. By some unknown happenstance, Terkel decided to interview Loriks and his wife to get the farmer's view of those years.

"We never did know why he chose us to tell how it was for the farmer in the Dust Bowl but we were very honored to be in his book," Loriks said.

After the book was published, Terkel sent the Loriks an autographed copy including this note, "To Emil and Ruth Loriks—the true hero and heroine of the book."

A second autographed copy of "Hard Times" was given to the Oldham Library when one of the library members met Terkel at a book sale in Minneapolis.

The Depression was not only hard times but desperate years for the farmers who lost their lands. Loriks was not the type to let outside forces ruin his way of life and set out to change the tide.

In 1926 Loriks entered the South Dakota Senate as the lone Democratic legislator in Kingsbury County. During his term of office, he instigated various emergency farm legislation and was executive secretary of the Farmers Holiday Association, an emergency group of farm and business leaders who organized massive protests at the railroads and stockyards.

The Farmers Holiday Association included the presidents of the Farm Bureau, Farmers Union, and Grange, W. C. Lusk of Huron, president of the Chamber of Commerce, and D. D. Brisbine of Woonsocket, president of the state bankers association, Loriks said. "We had to make the people aware that these farm foreclosures couldn't keep going on. As it was 30,000 farms were lost in the 1930s in the state."

Although many of their projects such as the closing of stockyards at Sioux City and Sioux Falls were not considered legal, it was the only expedient method to dramatize the farmers' plight so that the nation would be aware of the seriousness of the situation, Loriks said.

The end result of the farmers strike was the beginning of federal legislation to assist them. Working as the Farmers Union president, Loriks spent two winters on Capitol Hill lobbying for the state's farmers.

One of the greatest moments of his life was meeting President Franklin Roosevelt when he visited South Dakota. At a whistle stop in Pierre, Loriks remembers FDR speak of the state's greatest resource being the Missouri River and of its potential for providing hydroelectric power.

FDR's program and the onslaught of World War II seemed to pull the nation out of the Depression and into a more prosperous time. One program which was the forerunner of the Farmers Home Adminsitration was the Farm Security Administration of which Loriks was state director.

Although the time clock had brought Loriks to the years for retirement and setting a more relaxed pace, he did not heed its call. In 1937 Loriks and other farm leaders organized the largest grain marketing system in the United States—namely the Farmers Union Grain Terminal Association.

"Farmers didn't have a marketing system that they could control how it was operated and so GTA was developed out of that need," Loriks said.

Loriks served as president of the board for 28 years, retiring in 1967. GTA continues to be one of the leading marketing systems in the country.

Since retiring, Loriks has remained on the family homestead and rents out most of the land. With his wealth of knowledge from topics ranging from aeronautics to agriculture, he is sought after from various organizations and colleges to discuss his experiences.

At one time had had thought of writing a book about his life and especially of the Dust Bowl years and still hasn't given up the idea.

Many accolades have been destowed on the Oldham farmer including a doctorate degree at Dakota State College in Madison, an REA award from the East River District, and a community service award from Oldham.

His most ambitious project recently has been helping the community with starting the museum. He decided to keep his memoirs in the area where he grew up, although colleges such as the University of South Dakota had courted for that honor.

His life's story won't be forgotten, particularly by the people he loves the most, namely the Oldham community.●

ADDRESS BY SENATOR CRANSTON BEFORE AMERICAN LEGION CHILDREN AND YOUTH COMMITTEE

● Mr. RIEGLE. Mr. President, I would like to call to my colleagues' attention a recent address by the chairman of the Child and Human Development Subcommittee, Senator CRANSTON, to the American Legion Children and Youth Committee. Senator CRANSTON discussed legislative development in the areas of the sudden infant death syndrome, adoption reform, child abuse, and the quality of child care in this country. As always, I am extremely impressed by the depth of the Senator's knowledge and concern, and I hope my colleages will share this view.

As a member of the Child and Human Development Subcommittee, I have been pleased to join with the Senator from California in supporting legislation in these areas. The Nation's families owe the Senator a great debt of gratitude for his continuing legislative efforts, and I am pleased that the American Legion Children and Youth Committee has recognized Senator CRANSTON's impressive work in the Senate.

I ask that the text of Senator CRANSTON's speech be printed in the RECORD.

The speech follows:

SPEECH BY SENATOR ALAN CRANSTON

I am delighted to be here today, and particularly, to be addressing this American Legion Committee which shares my own deep interest in children and youth. As you may or may not know, last year I was privileged to become Chairman of the Subcommittee on Child and Human Development of the Senate Human Resources Committee. This Subcommittee serves as the focal point in the Senate for children's issues. I am honored to be its Chairman because of its importance to our Nation's children, and because of my own long-standing interest in the welfare of children.

On the Subcommittee we have been involved in a variety of children's issues, ranging from child-care programs to the tragic problem of sudden infant death syndrome. Sometimes called "crib death", this tragedy kills between 5,000 and 7,000 infants each year. In June, the Senate passed legislation—which we developed—to continue our research efforts into the cause and prevention of these deaths.

This morning, however, I would like to devote some time to the "Child Abuse Prevention and Treatment and Adoption Reform Act of 1978"—which was signed into law by President Carter on April 24 as Public Law 95-266.

The adoption reform provisions of this law represent, for me, the culmination of seven years of effort to bring about Congressional action in the area of adoption. I introduced legislation in the 93rd, 94th, and 95th Congresses dealing with efforts to break down the barriers that inhibit the adoption of over 100,000 children with special needs who are in need of permanent homes.

My interest in adoption reform was sparked by my desire to promote constructive alternatives to abortion and by the 1971 "Obstacles to Interstate Adoption" report which came out of a research project funded by

H.E.W.'s Children's Bureau. The report examined the varying and often conflicting ways in which the States try to achieve both socially desirable and legally incontestable adoptions.

Let me give you some examples of obstacles to interstate adoption:

There are situations where the adoption of a child in one State is not recognized as valid if the family moves to another State.

You perhaps remember the tragic case some years back involving a New York couple who, for job purposes, moved to another State with their adopted child. The natural mother contested the adoption and, because of conflicting procedural laws, the adoption was declared void in the second State. The adoptive family fled back to New York so they wouldn't lose the child they had come to love as their own. The anguish for all parties involved must have been enormous.

Other obstacles include "Importation and Exportation of Children" laws in some States which, while enacted a century ago to provide safeguards for children by blocking their movement across State lines, now constitute a serious hindrance to inter-State adoptive placements.

An obstacle also exists when transportation funds are not available for a child to cross State lines to visit prospective adoptive parents. In addition, the many different provisions for subsidizing unusual adoption costs present serious problems for interstate adoption. For example, if a family in a State that has adoption assistance arrangements adopts a hard-to-place child from another State, the family will often be ineligible for assistance unless the other State also has some form of adoption assistance.

The 1971 report, which isolated these barriers to interstate adoption, also suggested possible solutions. However, it pointed out the need for leadership in implementing a plan of action.

My adoption reform bill was a response to that call for action.

It was my conviction then, and it is my conviction now, that removing the obstacles to interstate placements will open the adoption door to thousands of "special needs" children waiting in foster homes or institutions who have no hope of ever returning to their natural homes.

The enactment of my bill in April represented the first step toward comprehensive adoption reform measures which are essential in order to bring about adoptive placements of children now locked into the uncertainties of the foster care system. The new law calls for the following:

1. Drafting of model adoption legislation and procedures to facilitate the adoptive placement of children with special needs across State lines.

2. Coordination of all HEW activities affecting adoption and foster care.

3. A national adoption and foster care data gathering and analysis system.

4. An education and training program on adoption, and information and training materials regarding adoption and adoption assistance programs.

5. A national computerized adoption information exchange system to help find adoptive homes for children with special needs

6. A study of the scope and effect of black market adoption which must be submitted to the Congress.

Finally, the new law authorizes appropriations totalling $5 million for fiscal year 1978 and additional funds for fiscal years 1979 through 1981.

But this law does not include some very critical provisions from my original Opportunities for Adoption Act—provisions which would permit federal financial and other health care assistance for special needs children to be carried over from foster care into adoption.

I believe that continuation of this assistance is critical in order to remove some of the barriers to adoption. For example, many insurance carriers will not provide coverage for a handicapped adopted child. The costs of adopting that child without medical coverage are prohibitive.

But if the child's existing medicaid eligibility could continue after adoption, the adoptive parents would not be faced with such a tremendous financial burden and the child would have a far better chance at gaining a loving, permanent home. Ironically, we could do this and still provide savings for the taxpayer, since the related foster care and administrative expenses would be eliminated.

Enactment of these provisions—provisions added to a House-passed bill, H.R. 7200, by the Finance Committee at my request and now pending in the Senate—is vital to comprehensive adoption reform. I don't intend to let up my efforts to see them through Congress before we adjourn later this year.

The second portion of this new 1978 law deals with the devastating problem of child abuse and neglect. It extends for four years the Child Abuse Prevention and Treatment Act originally enacted in 1974. The '74 law provides a national focal point for efforts dealing with child abuse and neglect, and serves as a funding source for basic research into the problems of child abuse. In addition, it provides for demonstration projects to find new ways to prevent and treat this problem.

The current estimate is that one million American children annually are the victims of child abuse and neglect. As many as 100,000 children are severely battered each year and another 2,000 die in circumstances suggesting child abuse.

Child abuse has been characterized as a medical-social disease of epidemic proportions. It exists at all levels and among all segments of our society. Yet, before the Child Abuse Prevention and Treatment Act was enacted in 1974, there was no coordinated federal effort to deal with this problem.

Today, through the National Center on Child Abuse and Neglect, established by the 1974 Act, we are beginning to coordinate and disseminate information on child abuse and neglect and develop programs, both through State agencies and private nonprofit entities, that can provide services and treatment to families affected by child abuse and neglect.

Under the new law, the National Center will continue its important activity as a clearinghouse for current information and activities in the area of child abuse and neglect. It will also provide technical assistance and training programs to public and private agencies and organizations to help them plan, improve and carry out activities relating to the prevention, treatment and identification of child abuse and neglect.

In addition, this law authorizes a new program to deal with the shocking problem of sexual abuse of children. Statistics indicate that between 50,000 and 70,000 children are subjected to sexual abuse each year. The recent epidemic of child pornography in this country represents only a small part of the problem. We know little about how to help victims of sexual abuse or how to prevent it. We now have a federal strategy to seek answers to these problems.

While we have made progress in the past four years, there is still much to be done. The extension of this Act will provide us with the time and the resources to continue our efforts.

In a closely related area, I am pleased to tell you that on August 1st the Senate unanimously passed the "Domestic Violence Prevention and Services Act". I authored this bill which deals with the problem of domestic violence between adults. As many of you know, the battered spouse phenomenon is often closely related to the battered child syndrome. Children are frequently the victims of violence between adults in their own homes. This legislation will provide grants to States to support necessary counselling and other services, such as support of emergency shelters, and is now pending in the House. I am hopeful that it will be enacted before the end of the Congress.

In closing, I would like to touch briefly on some other areas relating to children that I intend to work on in the next several years.

First, the Subcommittee began a series of hearings last year on the need for child-care programs. Based upon information and testimony presented during those hearings, the Subcommittee has been developing new child-care legislation designed to provide assistance to the many low-income working parents who are struggling to support their families and stay in the workforce. Too many of these working parents simply can't find or afford child-care programs. As the number of single parent families and working mothers continues to increase each year, we must address the need for increased support for child-care programs. Eight now over 50 percent of the mothers of children under the age of 18 are working. The child-care legislation I will introduce next year will be prudent and incremental in its approach, designed to promote maximum choices and options for parent and child and to keep families together.

A second area which my Subcommittee will be looking at in the near future is the abuse of children in institutions. There are thousands of children in this country living in a variety of institutional situations. Reports on conditions in some of these institutions are alarming. I plan public hearings to call national attention to this problem and to help develop necessary solutions. Investigations of ways to deal with institutional abuse of children is also one of the priority research areas for the National Center for Child Abuse and Neglect.

As you know, 1979 has been designated by the United Nations as the International Year of the Child. In view of the strong interest of the American Legion in this field and in international affairs, I hope you will join with me in urging that 1979 be a year of action, as well as observance, for children. I look forward to continuing to work with your committee in the years to come as we move forward in our efforts to protect our most valuable national resource—our children.

MICHAEL E. LEVINE

● Mr. KENNEDY. Mr. President, as all of us in this Chamber and a good portion of the American public know, air fares have been dropping this summer while airline profits have been going up. The major reason for this is that the Civil Aeronautics Board has begun to regulate with some imagination and creativity to better serve the public. The Board under the dynamic leadership of Chairman Alfred Kahn has injected a good dose of competition into the airline industry and it has turned out to be a healthy prescription for the traveling public and the airlines. Chairman Kahn deserves and receives considerable public credit for his brilliant efforts. But, I want to pay some credit to one of the unsung heroes at the CAB.

One of Chairman Alfred Kahn's most talented and committed staff appointees is Michael E. Levine, now Director of the Bureau of Pricing and Domestic Avia-

tion. As Chairman Alfred Kahn stated in December of last year, Mike Levine can bring to the Board "a unique blend of economic and legal theory combined with a detailed knowledge of current aviation practice." This has certainly been the case. He has brought a keen intellect, considerable knowledge, extraordinary energy, and a commitment to principle to his Government position. Mr. Levine has been instrumental to the Board in developing new policies and procedures to create more competition, reduce regulatory delays, and bring better air service at lower prices to millions of Americans.

These were significant changes, difficult to realize. For years the airline industry has suffered from too much regulation, too high prices, and too little competition. Most airlines have fought the reform efforts every step of the way. To change this entrenched system is tough, but so was the man Chairman Kahn appointed to help take it on. Mr. Levine brings to the CAB a strong academic background. He is on leave from the University of Southern California and California Institute of Technology in order to assume the directorship. In addition to his teaching experience he has been widely published and involved in a variety of research projects relating to regulation. Mr. Levine's academic work, in fact, has helped lay the groundwork for airline reform. But he also knows you cannot change the world on paper.

Mr. Levine is a doer and a fighter for the public interest and he has fought hard and accomplished much. That fight will continue and there is still much to be done. At a time when many Americans are paying less for air travel than they did a year ago we should not forget the role of Mr. Levine.●

THE ROOTS OF INFLATION

● Mr. McGOVERN. Mr. President, inflation bothers the American people more than any other single issue. There is no escape for anyone from this insidious economic thief. It strikes hardest of all at those on fixed incomes—the old and the infirm. But its consequences are no more tolerable for the majority of Americans who are in the work force, and who see hard-fought income gains completely offset and more by rising prices. It steals the expectation of personal progress that is at the heart of our economic structure.

The economists point to multiple reasons for the fact that ruinous inflation seems to have become a permanent feature of our system. It is said, for example, that the shock of the abrupt food and fuel price increase of a few years ago is still coursing through the price structure. Labor is blamed for wage demands; business is blamed for profits; the Government is blamed for spending too much on the poor.

There is one cause, however, that gets far too little attention in my view, and that is the inflationary impact of military spending.

We all subscribe to a strong national defense. But I worry that when we talk about limiting Government spending, this sector seems always to enjoy an exemption, as if it were somehow immune to waste. This year a $126 billion military program literally sailed through the Congress.

We should be aware, however, that military spending is almost pure inflation. Dollars spent in this part of the economy generate demand through the salaries of military personnel and defense workers and the profits of arms suppliers. But they contribute no offsetting supply of goods and services that can be bought and sold on the market. Hence, there is an inevitable upward pressure on prices.

Further, there is the continuing impact of the decision made in the 1960's to conduct a major war in Vietnam without raising the taxes to pay for it.

That particular point is discussed in an excellent column by Clayton Fritchey which appeared on September 9 in the Washington Post and which discussed the several military roots of inflation. Mr. Fritchey noted that:

> The growth of U.S. inflation is easy to trace. It began with the Vietnam War. Prior to that, in the earlier Kennedy-Johnson years, the range of inflation was merely 1 to 3 percent. It started climbing when Lyndon Johnson, fearing public hostility to higher taxes to pay for his unpopular war, quietly turned to deficit financing on a large scale.

Mr. President, because it contains important insights on one of the most urgent public questions facing the Congress, I ask that Mr. Fritchey's column be printed in the RECORD.

The column follows:

[From the Washington Post, Sept. 9, 1978]

INFLATION'S ROOTS ARE IN THE MILITARY BUDGET

(By Clayton Fritchey)

Everybody agrees that inflation is now Public Enemy No. 1, but unfortunately there is little agreement on what causes it.

It's blamed on countless things. The White House has one list, Congress another, and the Federal Reserve Board still another. The business community also has a list of its own. Yet, in a negative way, they are all alike in that they uniformly shrink from putting the finger on the single most inflationary factor in our society: the huge, wasteful, non-productive, U.S. military colossus, along with the staggering deficits that have accompanied it.

It is a pipe dream to keep on talking about licking inflation and balancing the budget as long as military spending continues unbridled. Wage and price controls might help, but it's doubtful that even they could keep inflation effectively in check if defense expenditures go on as projected.

When Carter was campaigning for the presidency, he rightly said, "When you spend money for defense you don't spend it on education, on health, or other services or goods. And I think the shift away from weapons toward peaceful goods and services in the long run is favorable for world peace, and also you get more jobs per dollar spent."

He promised to cut the defense budget (then running around $100 billion a year) by 5 percent, but now it is 1978 and he turned thumbs down on the B1 bomber and a new nuclear carrier, but he has added new weapons of his own. In the next fiscal year the Pentagon budget is expected to be in the $133 billion to $139 billion range. By 1983 it will probably be $173 billion or more. The authoritative Center for Defense Information (CDI) foresees a figure of $180 billion by then.

Instead of raising additional revenues to pay for those soaring expenditures, Congress and the president have cut taxes, ensuring further deficits exceeding the peak ones of World War II. Nobody understood better than then-President Eisenhower the inflationary costs of such a policy. "The military establishment," he said, not productive of itself, necessarily must feed on the energy, productivity and brain power of the country, and if it takes too much, our total strength declines."

The Center for Defense Information notes that, over the years, the United States has been spending a smaller portion of the military budget on the defense of America. About 70 percent of that budget, the CDI reports, "now goes to defend our allies and project our power overseas." Actually, there are currently 27,000 more U.S. servicemen and women abroad than a year ago.

One reason the inflation rate in Japan and West Germany is so well in hand is that they spend so much less on defense than the United States. In relation to gross national product, the Japanese military expenditure is about one-fifth of America's.

The ever-rising U.S. defense budget today reflects not so much congressional fear of Russia as fear of unemployment and the closing of costly but needless military installations in their states and districts. Most economists, however, see military spending as a poor job-creator, compared with equal expenditures on civilian needs.

The growth of U.S. inflation is easy to trace. It began with the Vietnam War. Prior to that, in the earlier Kennedy-Johnson years the range of inflation was merely 1 to 3 percent. It started climbing when Lyndon Johnson, fearing public hostility to higher taxes to pay for his unpopular war, quietly turned to deficit financing on a large scale.

President Nixon did the same, only on a more grandiose scale. Even after U.S. withdrawal from Vietnam, the military budget kept rising, generating an unprecedented deficit of $175 billion in the last years of the Nixon-Ford era. Meanwhile, the inflation rate went steadily up, finally reaching double-digit proportions and a record rate of 12 percent. The ensuing recession reduced it some, but today it is still hovering near the dangerous double-digit level.

Can the fat in the military budget be cut without impairing the muscle? Only a few days ago the Brookings Institution found that the Pentagon could save over $900 million a year by eliminating overpayment of its blue-collar workers. A presidential commission recently called for an overhaul of the military pension system, saying $10 billion per year could be saved that way.

Pentagon officials themselves admit that Navy finances are in a shambles, with cost overruns on new ships totaling more than $6 billion. Another recent study by two former high Pentagon officials found that $40 billion could be saved over the next few years by selective reduction of forces and cancellation of certain new weapons systems.

The really significant savings, however, will not be realized until the "momentum of the arms race" has been arrested. That means, first, the restoration of détente, then new agreements with Russia that substantially cut back strategic arms and, finally, serious attention to general disarmament, which some experienced statesmen believe is not as impractical as it may sound.●

ERA: NO TIME LIMIT ON EQUALITY FOR MEN AND WOMEN

● Mr. BAYH. Mr. President, in the near future, the Senate will have before it, House Joint Resolution 638, to extend the deadline for the ratification of the equal rights amendment. I am concerned that

if an extension is granted it be done in a constitutionally sound fashion. The Constitution should not be amended for trivial or transient considerations. Such solemn action should be taken only when a matter of sufficiently broad principle is at stake to warrant the long and complex process that the framers envisioned for alterations in the basic document. Such was the case when the 92d Congress proposed the 27th amendment to the Constitution—the equal rights amendment. The need for a constitutional amendment to reverse the pervasive discrimination against women which is deeply entrenched in the United States, in my judgment is self-evident, when one examines the historical and legal context in which sex discrimination has flourished.

It is important to recognize moreover, that the amendment would not void all legislation that is partial to one or the other sex. In appropriate cases benefits now available only to women would be extended to men. Similarly, benefits formerly available only to men would be extended to women.

Some critics contend that given the complexity and the ramifications of the problem, the ERA will act in unpredictable ways, cause confusion, and foster excessive litigation. Yet by their very nature constitutional provisions should embody "broad general propositions of fundamental permanent law." The U.S. Constitution includes many general statements which have required interpretation by the courts over the decades.

Mr. President, for the benefit of my colleagues, I would like to have the text of article V of the Constitution—the provision which gives Congress the power to propose amendments to the Constitution while also giving the legislatures the power to ratify proposed amendments to the Constitution—printed at this point in the RECORD:

ARTICLE V OF THE UNITED STATES CONSTITUTION

> The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided (that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and)* that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

Mr. President, the Department of Justice in testifying before both the House and Senate on the extension of the deadline of the proposed ERA addressed the question of the power of the legislatures to rescind their prior ratification of proposed consitutional amendments. They testified that:

> The power to rescind even during an extension period can only be granted by an amendment to the Constitution itself.
>
> Article V speaks only in positive terms of ratification, and not rescission. Thus, extension of the ERA ratification deadline would not give rise to a right of rescission on the part of the States. No history of acceptance by Congress of attempted rescission of prior ratifications can be found.

Mr. President, the General Services Administration, the agency delegated by Congress to handle the legislatures' documents with respect to amendments to the Constitution which arise under article V of the Constitution, also testified before the Senate Subcommittee on the Constitution. During their testimony a question arose as to how much reliance by the State legislatures was put on the 7-year time limit in the resolve clause when they ratified the ERA. The GSA testified that they had no documents to show that the State legislatures relied on the time limit in ratifying the amendment.

The Department of Justice testified that they had reviewed the State legislatures' documents and could find no evidence that the States had relied on the time period. Further, the Justice Department stated that article V only sets up a process to do one thing; that is, the States to ratify proposed amendments and Congress to propose amendments to the Constitution. They hold that the States cannot bargain with Congress on the subsidiary details of the amending process.

The Department of Justice noted:

> States can only ratify the Amendment. They cannot ratify it conditionally and they cannot surround it by including it within their ratifications process if it is not a part of the basic amendment.

Mr. President, for the edification of my colleagues, I ask to have printed in the RECORD a copy of the Department of Justice's testimony, with their attached memorandum on the constitutionality of extending the time period for ratification of the proposed ERA and the testimony of the General Services Administration. Both statements were submitted on August 2, 1978 at hearings before the Subcommittee on the Constitution on the proposal to extend the deadline for ratifying the ERA.

The material follows:

DEPARTMENT OF JUSTICE

> Mr. Chairman and Members of the Subcommittee:
>
> I appreciate this opportunity to appear before the Subcommittee to discuss S.J. Res. 134, which would extend the deadline for the ratification of the Equal Rights Amendment, or ERA from March 22, 1979 to March 22, 1986. As I am sure you are aware, the Administration strongly supports this joint resolution. Support for the extension of the ratification deadline only became Administration policy, however, following the preparation by the Office of Legal Counsel at the Department of Justice of a detailed legal opinion which reached the conclusion that such an extension of time is entirely constitutional and within the power of Congress to effectuate by a resolution such as S.J. Res. 134 passed by majority vote of both Houses. As a representative of the Department of Justice, I would like to concentrate primarily this morning on the constitutional and historical analysis which led the Department to reach this conclusion. For your information and use, I have appended to my prepared statement a copy of the Justice Department's formal opinion of October 31, 1977 prepared for the Counsel to the President, concerning legal issues raised by the proposed extension of the ratification deadline of the ERA. I would like to request that this document be included in the record of these hearings.
>
> The main question before this Subcommittee is, of course, whether Congress in fact has the power to extend the ratification period for the ERA. We believe that it does.
>
> At the outset, it is worth noting that Article V of the Constitution, which sets forth the procedures for amending the Constitution, does not on its face contain any requirement that an amendment, once proposed by Congress, be ratified within a specific time period or that Congress must establish a time period in which the states will be empowered to ratify the proposed amendment. In 1921, however, the Supreme Court addressed this issue in *Dillon* v. *Gloss*, 256 U.S. 368, where it was held that Congress, "keeping within reasonable limits," could fix a definite period for the ratification of a proposed amendment. The Court there held that Congress has a general power to deal with "subsidiary matters of detail" as an incident of its power to designate the mode of ratification of amendments and that defining a "reasonable time" for ratification was one such subsidiary matter. Eighteen years later, the Court had occasion to consider again the power of Congress to determine the length of time available for ratification. In *Coleman* v. *Miller*, 307 U.S. 433 (1939), the Court held that in the case of a proposed amendment as to which neither the text nor the congressional proposing resolution contained any time limit, Congress should be exclusive judge of whether ratification by the requisite number of states had taken place within a reasonable time of the amendment's proposal.
>
> Despite the fact that these two cases clearly support the power of Congress to determine what period of time for ratification is reasonable, we nevertheless recognize that arguments are made that, since the Coleman case involved a proposed amendment with no time limit at all, the establishment of an initial time limit by the Congress proposing an amendment forecloses for future Congresses the question of what is a reasonable period and they are not free to alter that limit once the amendment has been submitted to the states. We cannot concur in such a conclusion. It is clear, first of all, that the Congress in session at the time that the last of the required number of states ratifies the proposed amendment is in a far better position to judge whether the "contemporaneous consensus" exists about which the Court in the *Dillon* case spoke as necessary to support an amendment. Under Coleman, that judgment should turn on whether the problems which gave rise to the proposed amendment continue to vex the country, and whether other intervening factors have developed which have a bearing on the question of what would constitute a reasonable time for ratification. The implications of the Coleman case are that the Congress which ultimately decides on whether ratification has taken place has the power and duty to make a decision on the reasonableness of the time period whether or not prior Congresses have specified an initial time limit, unless the time limit was incorporated in the amendment itself. Along the same lines of reasoning, we believe Congresses subsequent to the proposing Congress enjoy the power to determine that an amendment is still viable and should remain so for a reasonable number of years in the future. The prognosis of the initiating Congress, in other words, cannot bind its successors unless it is placed in the text of the amendment itself.
>
> This response takes on added weight when viewed in the context of historical practice in the placing of time limits for ratification in proposed amendments. The first seven-

* Obsolete.

teen amendments to the Constitution contained no time limit whatever. The Eighteenth Amendment, the prohibition amendment, contained a seven year limit in its text, the validity of which was the subject of the *Dillon* case. Some debate on that amendment focused on the need for placement of the limit in the amendment text itself (56 Cong. Rec. 463 (1917); 55 Cong. Rec. 5659, 5650 (1917)). The question of whether the time limit should be included in the preamble, or the actual text of the amendment, apparently first arose during Congress' consideration of the 20th amendment in 1932. It is noteworthy that some members who opposed placing such a limit in the preamble to the resolution argued that such a limit placed elsewhere than in the text of the amendment would be of "no avail." (75 Cong. Rec. 3856–3857).

The 20th, 21st, and 22nd amendments all contained a seven year limit for ratification in the text itself. It was not until 1960, and proposal of the 23rd amendment, that Congress first included the time limit in the proposing clause. At that time, the only discussion of the intent as to the changed placement indicated a desire not to "clutter up the Constitution" with extraneous or obsolete material. The 23rd, 24th, 25th, 26th, and 27th amendments all repeated a seven year limit in the preamble without extended discussion. It should be noted, however, that beginning with the 25th amendment, the wording of the preamble changed from that of saying the amendment shall be valid "only if" ratified within seven years to wording that it would be valid "when" ratified within seven years. When the 27th amendment, ERA, was proposed in 1972, the seven year limit in the resolution was discussed in the terms of "the traditional form of a joint resolution . . . it has been included in every amendment added to the Constitution in the last 50 years". (S. Rep. No. 689, 92nd Cong., 2nd Sess. 20 (1972)). Finally, the House Judiciary Committee proposed an amendment, H.J. Res. 554, recently endorsed by the full House, to give full voting representation in Congress to the District of Columbia. The House Committee specifically moved the time limit in the resolution initially introduced from the proposing clause to the body of the proposed amendment.

We are, then, faced with a cloudy picture, at best, of what legislators intended when they placed the limitation in the preamble as opposed to the text of a proposed amendment. Some clearly realized and drew to their fellow legislators' attention the probable difference in effect; others appeared not to focus on the question or to regard the seven-year period as an operative limit on ratification. We can say, however, that there is no express legislative history contrary to the conclusion that the change from text to preamble would deprive a time limit of its binding effect on future Congresses.

This history, however, coupled with the Supreme Court's clear ruling in *Dillon* that Congress has a wide range of power in prescribing subsidiary details such as a reasonable time and the underscoring in *Coleman* that such a decision must encompass "an appraisal of a great variety of relevant conditions, political, social and economic," impel us to conclude that this Congress does have the power to extend the original seven year period which has been included in the proposing resolution.

The issue has been raised of possible reliance by ratifying states on the seven year limit in the proposing resolution. A careful reading of that resolution and proposed amendment shows that there can be no mistake by states that they were ratifying the text of the amendment and not the preliminary language of the resolution. In fact, the Constitution and almost 200 years of experience under it make that clear, as well. And a review of the certifications of ratification submitted to the General Services Administration by 35 states does not, in our opinion, indicate any such reliance on their face. Nor do we know or have we been cited to any history in the 35 ratifying states to show that the seven year period was a significant factor in the various debates. It is, of course, our basic contention that the states could not constitutionally have relied on the seven year period in the preamble as binding and that we are entitled to presume they knew that and did not do so. This is, by way of contrast, different from the two year period of delay in effective date of the amendment which is incorporated in the main ERA amendment itself and upon which they might well rely.

Once the conclusion is reached that Congress possesses the power to extend the time for ratification originally set in its resolution proposing the amendment, other questions arise. Foremost among these is the question whether any extension of the ratification deadline must be accomplished by a two-thirds majority vote of each house, or whether a simple majority of each house is sufficient. Our analysis concludes that a simple majority is sufficient. First of all, Article V itself prescribes a two-thirds vote only for proposing amendments to the Constitution. It does not explicitly require—nor is there any language in Dillon or Coleman to suggest that it implicitly requires—a super-majority for prescribing the subsidiary details, such as reasonable time or the mode of ratification. It seems clear that Congress could, if it wished, propose the text of an amendment in one resolution requiring a two-thirds vote, and the details of ratification—time and mode—in a second resolution requiring only a majority vote. In those rare instances, when the Constitution intends Congressional action to require a two-thirds vote, i.e., impeachment, expulsion of a member, ratification of a treaty, overriding of a presidential veto or proposal of an amendment, it says so. To impute such extraordinary requirements to other actions would be unprecedented and would impose an unneeded and unwanted interference in Congress operations which must in the nature of the process proceed in all but the rarest instances by majority vote.

Let us hypothesize, for instance, that Congress had proposed an amendment which did not include any time limit, and that the requisite number of states have arguable ratified the amendment some ten years later. If there is a question as to the reasonableness of the time, the Administrator of General Services may submit the question to Congress for resolution. Congress would then, under the reasoning of Coleman, address and resolve whether ratification had in fact taken place within a reasonable time. Any requirement of a super-majority vote might well have the effect of depriving Congress of the ability to resolve the reasonableness question in a close case, since a two-thirds vote would have to be summoned for a resolution either promulgating ratification or declaring it not to have taken place within a reasonable time.

It is highly unlikely, in our opinion, that the Constitution would confer upon Congress the duty to make such an ultimate determination as to whether the ratification had taken place yet impose a super-majority requirement that could prevent it from performing that duty.

Such historical precedents as exist in this area support this view. There does not seem to be any evidence that questions dealing with these "subsidiary matters of detail" have ever been thought by Congress to require a two-thirds vote. Indeed, in deciding whether the Fourteenth Amendment had been ratified Congress was faced with rescissions by two states—a question which I will discuss further in a moment—yet there is no express or implicit indication that it felt itself bound to resolve those questions by a two-thirds vote. Similarly, in 1971 the Senate passed a bill proposed by Senator Ervin to establish procedures to govern the state convention method of amending the Constitution, and there is no indication that a two-thirds vote was considered necessary for certain actions that Congress would be empowered to take under that bill, including the setting of time limits.

Assuming that a majority vote is sufficient, a related question has been raised concerning the necessity of a presidential signature for any extension of the ratification time for the ERA which Congress may pass to become effective. As a matter of constitutional law we believe it is clear that the President has no role to play in the amendment process. The Supreme Court so held in the case of *Hollingsworth* v. *Virginia*, 3 Dall. 378, which was decided in 1798. If, for some non-constitutional reason, the President's signature is desirable on whatever form of resolution is passed by the Congress, we believe that no problem would arise from the President's affixation of his signature, so long as it was clearly recognized that this act on the President's part did not constitute an assertion of any claim of power to veto the proposed resolution.

Let me finally summarize the Department's views on the question of the validity of a state's attempts to rescind a prior ratification. It has been argued that extension of the ERA ratification deadline would give rise to a right of rescission on the part of the states, or that at least, Congress could amend the extension resolution to provide that the states may rescind their prior ratification. We believe that the first of these suggestions is erroneous as a matter of constitutional law, and that the second cannot be accomplished by any means short of proposing a new amendment to the Constitution. As to the basic question of a state's power to rescind after it has certified ratification, we conclude it may not. Article V speaks only in positive terms of ratification, and not rescission. During the debates in the States over adoption of the Constitution, the only relevant indication of the Framers' intent is that expressed by James Madison that a state's ratification must be unconditional "in toto" and irrevocable, "for ever;" "an adoption for a limited time," according to Madison, would be "defective". Throughout our history, states have often rejected proposed amendments, only to ratify them at a later date, and the later ratification has been accepted by Congress as conclusive, but there is no similar history of acceptance by Congress of attempted rescissions of prior ratification. Indeed, in its consideration of whether the Fourteenth Amendment had been ratified, Congress refused to recognize the purported rescissions by two states of their earlier ratifications. The Secretary of State and the House of Representatives seem to have taken a similar position with regard to attempted rescission by New York of its prior ratification of the Fifteenth Amendment. These precedents were indeed cited by the Supreme Court in the Coleman case in commenting upon the decision of the Kansas Supreme Court under review there.

The Kansas court had stated in its opinion that: "It is generally agreed by the lawyers, statesmen and publicists who have debated this question that a state legislature which has rejected an amendment proposed by Congress may later reconsider its action and give its approval, but that ratification, once given cannot be withdrawn."

Finally, in 1925, some Members of the Senate and House introduced an amendment to the Constitution which would have permitted rescission of state ratifications of amendments, but this proposal failed. During the debate on the proposed amendment, however, both sponsors conceded that its purpose was to change existing law based

upon the then prevailing interpretation of Article V that a state could not rescind after ratification even though it could ratify after a prior rejection. Similarly, legislation proposed in 1971 to govern proposed ratification by convention acknowledged that presently ratifications were considered final.

It has also been argued that whatever may be the case in the initial ratification period set forth in proposed amendments by Congress, during any extension period, rescission must or may be permitted because state legislatures which have already ratified may have relied on the first established deadline. Aside from the question whether such reliance can be factually demonstrated with regard to the ERA—and we have not seen proof that it can—we must conclude that this argument fails because there is simply no constitutional power in a state to withdraw its ratification if three-fourths of the states have ratified within a reasonable time as determined by Congress. The Constitution commits to Congress the power to determine what is a reasonable time for ratification, and the States may not usurp that power by agreeing with the substance of the amendment only on condition that Congress not exercise that continuing constitutional responsibility after the amendment has been submitted. Consequently, we think that the power to rescind even during an extension period can only be granted by amendment to the Constitution itself.

I would like to conclude by noting that the questions presented by the ERA extension are admittedly difficult and on the frontier of the law. It is important, however, to separate the questions of whether the proposed time extension is constitutional and whether the issues it raises are susceptible to resolution by the courts. Congress must consider fully the constitutionality of its actions, regardless of whether judicial review will be available. Some aspects of a congressional decision to extend the ratification period and of the effect of attempted rescission of the prior ratification by the states may indeed constitute "political questions" not susceptible of judicial resolution, as the Coleman court indicated, although more recent decisions of the Supreme Court limit the application of the "political question" doctrine and might lead to some reconsideration of the breadth of that holding in future cases. Nevertheless, we do believe that S.J. Res. 134 is constitutional, that it may be passed by simple majority vote, and that its passage would not give rise to any right of rescission in the states.

I hope that our legal analysis of these matters will be of use to the Subcommittee, and I will do my best to answer any questions that you may have.

MEMORANDUM FOR HONORABLE ROBERT J. LIPSHUTZ, COUNSEL TO THE PRESIDENT

Subject: Constitutionality of Extending the Time Period for Ratification of the Proposed Equal Rights Amendment.

This responds to your request for our opinion regarding the constitutionality of extending the period, presently scheduled to expire on March 22, 1979, for ratification by the States of the proposed Equal Rights Amendment.

In the course of addressing this general question, we have identified a number of discrete questions that we will discuss. Briefly, our views are as follows: (1) no authority suggests persuasively that an extension of seven years would be per se unconstitutional; (2) congressional action to extend the deadline for ratification can take the form of a concurrent resolution subject to majority vote of a quorum of each House; (3) we do not think that an extension would empower the States which have ratified the ERA prior to the extension to rescind that ratificaion during the extension period; (4) we doubt Congress may extend a right to rescind to States during the seven-year extension period; and (5) we believe that at least some of these issues would probably be held to present justiciable controversies in appropriate cases.

Before addressing these questions, we would first make several introductory observations. First, we see as essentially separate matters whether H.J. Res. 638 is constitutional and whether the issues it raises are susceptible to judicial resolution. In our view, it is important in any discussion of these issues to avoid a suggestion that because the 95th Congress or a successor Congress may have the final word on their resolution, the constitutionality of this resolution becomes an easier or an avoidable question. Secondly, we think that the lack of authoritative judicial precedent or guidance from the language of the Constitution itself makes it difficult to conclude with certainty that H.J. Res. 638 is or is not constitutional. Finally, even though we think that the determination whether this resolution is constitutional does not turn on whether an extension would free ratifying States to "rescind" their ratifications, we address that question in some detail because we feel that discussion of this question may be helpful in the general debate over this resolution.

I. BACKGROUND

The two documents most relevant to our inquiry are H.J. Res. 208, 92d Cong., 2d Sess. (1972), which proposed to the several States the adoption of the ERA, and Article V of the Constitution, which sets forth the procedures for amending the Constitution. The text of the resolution is as follows:

House Joint Resolution 208

Proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That

The following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

"Section 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

"Section 3. This amendment shall take effect two years after the date of ratification."[1]

On March 24, 1972, certified copies of the full text of this joint resolution were transmitted to the Governors of the 50 states by the Acting Administrator of the General Services Administration with a request that each Governor submit it "to the legislature of your state for such action as it may take" and requesting also that a "certified copy of such action be sent to the Administrator of [GSA] . . ." *See* 1 U.S.C. § 106b. As of this date, thirty-five states have submitted certifications to GSA of ratification of ERA by their respective legislatures.[2]

Article V, the sole provision of the Constitution dealing with the amendment process, reads as follows:

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner effect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

Article V does not on its face contain any requirement that an amendment, once proposed by Congress, must be ratified within a specific time period or that Congress may establish a time period in which the States will be empowered to ratify a proposed amendment. In *Dillon* v. *Gloss*, 256 U.S. 368 (1921), the Supreme Court addressed both these issues.

In *Dillon*, a defendant convicted of an offense under a statute passed by Congress to enforce the Eighteenth (Prohibition) Amendment, contended, *inter alia*, that Congress had no power to set a time limit for ratification and that, as a consequence, the Amendment itself was void because Congress had placed a seven-year limit on ratification in § 3 of the Amendment.[3] In rejecting this argument, the Court stated:

"Of the power of Congress, keeping within reasonable limits, to fix a definite period for the ratification we entertain no doubt. As a rule the Constitution speaks in general terms, leaving Congress to deal with subsidiary matters of detail as the public interests and changing conditions may require; and Article V is no exception to the rule. Whether a definite period for ratification shall be fixed so that all may know what it is and speculation on what is a reasonable time may be avoided, is, in our opinion, a matter of detail which Congress may determine as an incident of its power to designate the mode of ratification. It is not questioned that seven years, the period fixed in this instance, was reasonable, if power existed to fix a definite time; nor could it well be questioned considering the periods within which prior amendments were ratified." 256 U.S., at 375–76 (footnote omitted).

After *Dillon*, the Supreme Court has had only one occasion to address the question of congressional power under Art. V to establish the time frame for ratification. That case, *Coleman* v. *Miller*, 307 U.S. 433 (1939), involved, *inter alia*, the claim that the "Child Labor Amendment," proposed by Congress in June, 1924 without Congress having set a time limit for ratification, could no longer be ratified by the Kansas legislature in 1937 because some 13 years had elapsed since its submission to the States. In response to the contention that 13 years was an "unreasonable" period of time, the Court stated:

"Our decision that the Congress has the power under Article V to fix a reasonable limit of time for ratification in proposing an amendment proceeds upon the assumption that the question, what is a reasonable time, lies within the congressional province. If it be deemed that such a question is an open one when the limit has not been fixed in advance, we think that it should also be regarded as an open one for the consideration of the Congress when, in the presence of certified ratifications by three-fourths of the States, the time arrives for the promulgation of the adoption of the amendment. That decision by the Congress, in its control of the action of the Secretary of State, of the question whether the amendment had been adopted within a reasonable time would not be subject to review by the courts." *Id.*, at 454 (emphasis added).[4]

Because no time limit had been set by Congress in the proposed Child Labor

---

Footnotes at end of article.

Amendment involved in *Coleman*, it may be properly inferred from the quotation above that the establishment of a time limit by the Congress proposing an amendment would not leave open the question of what is a reasonable period. Certainly if a time limit had expired before an intervening Congress had taken action to extend that limit, a strong argument could be made that the only constitutional means of reviving a proposed amendment would be to propose the amendment anew by two-thirds vote of each House and thereby begin the ratification process anew.

Additionally, if the proposing Congress had fixed a specific time limit within the text of the proposed amendment itself, a strong argument could be made that any attempt to modify or extend that period would constitute an amendment to the proposed amendment, requiring the ratification process to begin again.[5]

Even assuming arguendo that H.J. Res. 638 would be unconstitutional had the seven-year limit been included within the text of the ERA itself, it can nevertheless be viewed as constitutional if the placing of the limitation within what we shall refer to as the "proposing clause" permits a different result. From an analytical viewpoint, we think that respectable arguments can be made on both sides of this question.

An argument against the constitutionality of H.J. Res. 638 might be based on the following analysis: As suggested by the language of the *Coleman* opinion, the question of a time limit is no longer open once a time limit is imposed by the proposing Congress. Furthermore, Art. V itself can be viewed as envisioning a process whereby Congress proposes an amendment and is divested of any power once the amendment is submitted to the States for ratification,[6] other than possibly the power declared in *Coleman* to judge whether ratification has occurred. Also, it can be argued that no distinction should be made between the placing of a time limit in the text of a proposed amendment and placing it in the proposing clause; to do so is to elevate form over substance. Finally, it is not unreasonable to say that States having ratified a proposed amendment with a set time period have done so in the expectation that a necessary three-fourths of the States would do so within the established limit or else the proposed amendment would fail of adoption.

An argument favoring the constitutionality of H.J. Res. 638 might proceed as follows: *Dillon* and *Coleman* confirm the power of Congress to establish a "reasonable" time in which ratification may occur and, therefore, an extension of a time once established is constitutional if the extended period is reasonable. If, under *Coleman*, a Congress years after an amendment has been proposed has the power to determine the reasonableness of the intervening time period, there is no reason to conclude that a Congress in the position of the 95th may not determine, at a specific point in time, that an amendment is still viable and will be so for a reasonable number of years in the future.

Presented with these arguments without more, we would find it difficult indeed to choose between the two. We take as given from *Dillon* and *Coleman* that whatever power the 95th Congress may have to extend the seven-year limitation must be implied from Article V itself, and we think it fairly clear that such power may be implied unless the action of the 92d Congress must be viewed as binding on all future Congresses, including the 95th and the 96th, the latter being the Congress during whose life the initial seven-year period will actually expire. In our view, the soundest approach to resolving this question is to rely to the greatest extent possible on the historical understanding of the Congresses that have made use of the time limitation device.

II. HISTORIC PRACTICE REGARDING TIME-LIMITING CLAUSES

Although the placing of time limits for ratification in proposed amendments was considered in the 65th Congress,[6a] the first occasion for its actual inclusion was in the Eighteenth Amendment. In that amendment, the limitation appears as section 3 and reads as follows:

"This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress."

As pointed out by the Court in *Dillon*, this provision was included in part because of expressed Congressional concern that other amendments proposed much earlier in the history of the Republic might still be subject to ratification. Such a possibility concerned the 65th Congress because it generally agreed, as did the *Dillon* court subsequently, that some reasonable time period for ratification was implicit in Art. V itself. *See Dillon* v. *Gloss*, 256 U.S., at 372–73. Although the question was not focused on generally in House debate, at least one of the participants observed that "the [seven-year] limitation here is in the article that is to be submitted and is not a separate proposition. Hence, when it is voted upon by the States and adopted it is as much a valid article and amendment as [the substance of the amendment itself]."[7]

In the Senate, fuller consideration was given to the question of the power of Congress to place a time limit on ratification. In response to the argument that Congress had no power to impose a limitation on the ratification period, several senators argued that the apparent absence of such a power in Art. V would be overcome and such a power would be recognized as part of the Constitution should three-fourths of the States ratify within the then six-year period. 55 Cong. Rec. 5650 (1917) (remarks of Senator Promerene); *id.*, at 5659 (remarks of Sen. Sheppard). The debate in the Senate also indicated general agreement that the power of Congress to set such a limit would be subjected to judicial review and that failure of ratification by three-fourths of the States within the fixed time period would most probably require the resubmission of the amendment by a future Congress. *Id.*

When the next Congress came to propose the Nineteenth Amendment, congressional fears expressed in section 3 of the proposed Eighteenth Amendment were apparently put aside. The issue apparently never arose until an attempt to include a seven-year limit was made and, without debate, rejected.[8]

When the Congress proposed the Twentieth Amendment by S.J. Res. 14 in 1932, a seven-year limitation was written into the text of the proposed amendment itself, now section 6 of that Amendment, in language virtually identical to that contained in section 3 of the Eighteenth Amendment quoted *supra*.[9]

On the floor of the Senate, section 6 was explained as follows:

"In effect, it [section 6] is the same provision that was in the prohibition [Eighteenth] amendment to the Constitution."[10]

During House consideration of S.J. Res. 14, Congressman Celler of New York proposed that a seven-year limitation, then not in the resolution, be added to what he described as the "preamble," or proposing clause, of the amendment. In doing so, he quoted at length from *Dillon* v. *Gloss*, *supra*.[11]

Celler's proposed amendment to S.J. Res. 14 drew immediate criticism from his colleagues. Congressman Jeffers, apparently not favorably disposed to any limit, refused to debate its wisdom because I think it is very clear that it [Celler's proposal] is out of place where it is being offered; but if the amendment has any virtue . . . I think it should be offered at the end of the resolution as an additional section, and then if it should be adopted it would be a part of the constitutional amendment.

As it is now offered it would only be a part of the proposal clause of the constitutional amendment but would not be in the constitutional amendment.

* * * * *

If the gentleman wants his amendment in the Constitution, it should go in as a new section, or section 6. As he has now offered it, it would be of no avail . . .[12]

Another of Mr. Celler's colleagues, Mr. Ramseyer, intending himself to amend S. J. Res. 14 to include a seven-year limitation for ratification, indicated his agreement with Mr. Jeffers as to the question of where the limit should be placed:

"The eighteenth amendment carried that 7-year provision as section 3, and it was that provision that the Supreme Court [in *Dillon*] held to be valid . . .

"Section 6 goes to the entire article, as to how it shall take effect. It appears in the eighteenth amendment as the last section of the amendment . . . I am confident that is the place for it."[13]

Congressman Celler, after this discussion, withdrew his amendment.[14]

When Congress proposed what became the Twenty-First Amendment, it included as section 3 of that amendment language virtually identical to that in the Eighteenth and Twentieth Amendments.[15] Comments on the floor of the Senate included statements that "the Congress which submits an amendment has the power to fix the terms upon which it may be considered," 76 Cong. Rec. 4152 (1933), and "after Congress adopts the manner of ratification, by legislatures or conventions, it has no more role to play." *Id.*, at 4164. *See also*, 55 Cong. Rec. 5652 (1917).

The Twenty-second Amendment likewise contained a seven-year limitation in section 2 of the amendment patterned after prior limitations. Senator McClellan noted that "a period of 7 years' time is given, under the terms of the joint resolution [for] the amendment to be ratified . . ." 93 Cong. Res. 1800 (1947).

The Twenty-third Amendment, proposed in 1960, for the first time did not include a seven-year limitation within the text of the amendment itself. Instead, the seven-year limitation was contained in the proposing clause, which read as follows:

"That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution *only if* ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress . . ." (emphasis added).

The history of the Twenty-third Amendment is lengthy, as pointed out in hearings conducted by Subcommittee No. 5 of the House Committee on the Judiciary chaired by Congressman Celler. Early proposals to grant the District of Columbia voting power in the Electoral College would have amended Art. IV, § 3 of the Constitution directly.[16] In 1940 and 1941, amendments were reported out of committee containing seven-year limitations in the text of the proposed amendments.[17]

The House report on the amendment issued by Congressman Celler as Chairman of the full Committee on the Judiciary, explained the limitation as follows:

"The resolution . . . consists of two parts. The first part provides by its terms that the resolution [sic] shall be valid as a part of the

Footnotes at end of article.

Constitution only if ratified by the legislatures of three-fourths of the States within 7 years after it has been submitted to them by the Congress."[8]

Footnote 8 to the report read as follows:

Congress first adopted the 7-year limitation provision in proposing the 18th amendment to the Constitution. It did so because, at that time, several proposed constitutional amendments already submitted to the States for ratification had long laid dormant but were nevertheless subject to being resurrected and acted upon by the several States. (See *Dillon* v. *Gloss*, 256 U.S. 368, 373 (1921).

The first 10 amendments to the Constitution were ratified by the necessary number of States within 10 months, 20 days of their submission by the Congress. According to a statement in *Coleman* v. *Miller*, 307 U.S. 433, 453 (1939), the average time for ratification of amendments 10–21 has been computed to be 1 year, 6 months, 13 days; 3 years, 5 months, 25 days has been the longest time used in ratifying. The 22d amendment was ratified in 3 years, 11 months, 7 days. (See also *Dillon* v. *Gloss*, 256 U.S. 368, 372; Constitution of the United States, S. Doc. 170, 82d Cong., p. 39).

H.R. Rep. No. 1698, 86th Cong., 2d Sess. 4 (1960). During the debate in the House over the resolution, it was said that "the critical hurdle will be to secure the approval of three-fourths of the State legislatures on the proposed amendment within the 7-year period." 106 Cong. Rec. 12570 (1960). *See also id.*, at 12559, 12561–63, 12571.

The Twenty-fourth Amendment included a proposing clause identical to that of the Twenty-third Amendment. The House report on the proposed amendment stated: "This resolution requires, of course, ratification of the legislatures of three-fourths of the several states within 7 years from the date of its submission by the Congress."[18]

When the Twenty-fifth Amendment was proposed in the 89th Congress, the seven-year limitation once again appeared in the proposing clause in language identical to that of the Twenty-sixth Amendment and that in H.J Res. 208 proposing the ERA. This language eliminated the phrase "only if" and simply announced that the amendment would be valid "when ratified . . . within seven years. . . ." The reports issued regarding the Twenty-fifth[19] and Twenty-sixth[20] Amendments add nothing to our consideration of the time limitation.

The Senate Report on the ERA, in its "Sectional Analysis" of H.J. Res. 208, states concerning the "resolution" or proposing clause that:

"This is the traditional form of a joint resolution proposing a constitutional amendment for ratification by the States. The seven year time limitation assures that a ratification reflects the contemporaneous views of the people. It has been included in every amendment added to the Constitution in the last 50 years. It is interesting to note that the longest period of time ever taken to ratify a proposed amendment was less than 4 years. The power and responsibility of Congress to impose a reasonable time limit for ratification of constitutional amendments was made clear in both *Dillon* v. *Gloss* 256 U.S. 368 (1921), and *Coleman* v. *Miller* 307 U.S. 433 (1931)."[21] [22]

In addition to this analysis in the Senate report, comments on the floor of the House and Senate generally assumed that the seven-year period was a limitation on the time in which ratification could occur. Thus, Congresswoman Griffiths, after describing the limit as "customary," went on to say that "I think it is perfectly proper to have the 7-year statute so that it should not be hanging over our head forever." 117 Cong. Rec. 35814–15 (1971). Senator Hartke, a supporter of the resolution, stated his view that "if there is such a delay [beyond seven years], then we must begin the entire process once again." 118 Cong. Rec. 9552 (1972). *See also id.*, at 9576 (remarks of Sen. Cook).

III. THE BINDING NATURE OF THE SEVEN-YEAR LIMIT IN H.J. RES. 208

The history of congressional use of a seven-year limitation demonstrates that Congress moved from inclusion of the limit in the text of proposed amendments to including it within the proposing clauses with and without the "only if" phrase without ever indicating any intent to change the substance of their actions. The one occasion on which Congress actually considered the possible differences between placement of the limit within or without the text of a proposed amendment, the only expressed view was that the limit would be to "no avail" were it placed without the amendment. And as recently as the debate over the ERA, the limit was viewed as a "statute." 117 Cong. Rec. 35814–15 (1971). Thus, when H.J. Res. 208 came before the Congress for consideration, it is not at all surprising that some members indicated their belief that the amendment process would have to begin anew were ratification not achieved within the seven-year limit.

We think there are sound reasons to view any substantive or procedural details placed in a proposing clause for an amendment as subject to modification by a succeeding Congress. First, as demonstrated above, on the only occasion on which Congress itself has directly considered this question, the only views expressed were consistent with this position.

Secondly, as the Court noted in *Dillon* v. *Gloss*, 256 U.S., at 373, "An examination of Article V discloses that it is intended to invest Congress with a wide range of power in proposing amendments." Thus, Congress' power under Art. V consists of more than simply proposing amendments: it includes the power to establish the details of how an amendment, once proposed, is to be acted upon by the several States.

As the *Dillon* Court noted, the substantive Art. V power to propose constitutional amendments is subject only to two limitations, one being the two-thirds vote requirement and the other relating to amendments that would deprive a state of its equal suffrage in the Senate without its consent. *Dillon* v. *Gloss*, 256 U.S. at 373–74. There is nothing in the text of Art. V which would bar subsequent Congresses from taking action with respect to the details of the ratification process as distinguished from the substantive amendment itself while the amendment is being considered by the States.

We conclude that the 95th Congress, under Art. V, can act to extend the seven-year limitation period placed by the 92d Congress in the proposing clause of the ERA. The 92d Congress had the power to make the seven-year limit a part of the substantive amendment by placing the limit within the text of the ERA itself. The fact remains that it did not do so. We think our conclusion that a time limit fixed in a proposing clause should not be viewed as immutable is supported by the nature of the decision made by the 92d Congress and that which would be made by the 95th Congress were H.J. Res. 638 to be adopted.

The nature of that decision is, we think, accurately described by the opinion of the Court in *Coleman*, 307 U.S., at 453, as follows: the question of a reasonable time in many cases would involve * * * an appraisal of a great variety of relevant conditions, political, social and economic * * *

The Court in *Dillon*, discussing the time limit from a somewhat different perspective, concluded that "an alteration of the Constitution proposed today has relation to the sentiment and the felt needs of today, and * * * if not ratified early while that sentiment may fairly be supposed to exist, it ought to be regarded as waived, and not again to be voted upon, unless a second time proposed by Congress."

265 U.S., at 375, *quoting Jameson on Constitutional Conventions* § 585 (4th ed.). As a matter of logic, it seems to us that what constitutes a reasonable period of time for ratification of an amendment would normally be best decided not by a proposing Congress but by the Congress in session when the necessary three-fourths of the States have ratified a proposed amendment. This is so because the limit imposed by the proposing Congress is, at best, predictive, whereas a Congress presented with ratifications by three-fourths of the States is better able to base its decision concerning viability of the amendment on concrete evidence. Indeed, as indicated above, the seven-year figure adopted by Congress in proposing the Eighteenth Amendment achieved, partly by virtue of its approval in *Dillon* v. *Gloss*, a talismanic significance that has never been examined in connection with the proposal of any amendments since that have included the same limit. In short, we think it is quite reasonable to accord the seven-year limit in the ERA only the deference that the express language of the limit requires, namely, that the ERA will be viable for at least seven years. We therefore think that the 95th Congress, on the basis of a record presumably more substantial than that built by the 92d Congress, may extend the time limit if such an extension be deemed "reasonable."[23]

We would, however, make two additional points in this regard. First, assuming that Congress may extend the time period for a reasonable length of time, questions arise as to the form such an extension should take and the vote required in each House to pass an extension.

With regard to the question of form, it is our view that H.J. Res. 638 need not be presented to the President for his approval. It has long been established that the President has no role to play in the amendment process.[23] *Hollingsworth* v. *Virginia*, 3 Dall. 378 (1798).[24]

The second, and we would readily acknowledge more difficult, question is whether the resolution to extend the period must be approved by a two-thirds vote in each House or whether a simple majority is constitutionally sufficient. Several considerations dictate the conclusion that a super-majority vote is not required. We begin our analysis with the same two Supreme Court precedents which have guided our consideration of the other questions addressed in this opinion: *Dillon* and *Coleman*. While those decisions may be subject to varying interpretations in some respects, we think that they establish two propositions which are no longer open to question.

The first proposition is that implied within Article V is the condition that a constitutional amendment may only become law if it has been ratified "within some reasonable time after the proposal." *Dillon* v. *Gloss*, 256 U.S., at 375. The Court reasoned that inherent in the amending process is the assumption that any amendment will reflect the reasonably contemporaneous "expression of the approbation of the people" in three-fourths of the states. *Id.*

The second proposition—which is suggested in *Dillon* and unmistakably affirmed in the opinions of both Chief Justice Hughes and Mr. Justice Black in *Coleman*—is that the Constitution commits to Congress the authority and the duty to decide whether that implied condition of reasonable contemporaneousness has been satisfied. *Dillon* v. *Gloss*, 256 U.S., at 375–76; *Coleman* v. *Miller*, 307 U.S., at 454, 456, 458–59.[25] Furthermore, it is clear that Congress may make this determination after the amendment has been proposed and has been submitted to the States.

Footnotes at end of article.

Indeed, as we have suggested earlier, it would be appropriate—and some would contend mandatorily required—for Congress to assess the reasonableness of the time period at the end of the process when ratifications have been submitted by the requisite number of States. *Coleman* v. *Miller*, 307 U.S., at 454, 456. As Chief Justice Hughes reasoned, it is at this time that Congress may most accurately assess whether the conditions which prompted the proposal of an amendment have "so far changed since the submission as to make the proposal no longer responsive to the conception which inspired it," or whether to the contrary those conditions "were such as to intensify the feeling of need and the appropriateness of the proposed remedial action." 307 U.S., at 453.

If these two propositions are correct we think it must follow that Congress must have the ability to make the required determination. We can readily conceive of circumstances, however, in which a requirement of two-thirds approval for any decision made under Article V would deprive Congress of the ability to resolve the reasonableness question. Suppose, for example, that Congress had placed no time limitation in the proposing resolution for some amendment and that the approval of the thirty-eighth State was received many, many years after the matter was first committed to the States.[23] Congress would have, at that time, a duty to decide whether too much time had passed, but if a resolution concluding that an unreasonably long period had elapsed would require a two-thirds vote the amendment might well become law even though a majority of Congress viewed it as inconsistent with the condition implied in Article V.

We think that common sense would dictate a strong presumption against the conclusion that the Constitution has conferred a duty upon the Legislative Branch but at the same time has imposed a super-majority requirement that could prevent it from performing that duty. Indeed, even a cursory review of the other constitutional provisions which impose super-majority requirements demonstrates that in every case the question to be addressed by Congress is clearly specified and the consequence of a failure of Congress to muster the requisite number was clearly foreseen and contemplated. Thus, for example, with respect to the approval of treaties (Art. II, § 2), the Constitution makes plain that the question to be put to the Senate is whether the treaty is to be approved and the consequence of a failure to attain a two-thirds vote is clear. Similarly, with respect to trials after impeachment (Art. I, § 3), the Constitution makes clear both that the Senate must have two-thirds concurring in the conviction and that in the absence of such a vote the impeachment will not stand. The same is true of all other super-majority provisions.[24] What emerges from a review of these provisions, we think, is that the apparent intent of the Drafters of our Constitution (and of its amendments) was that where matters involving the Congress are concerned all decisions are to be governed by the democratic principle of majority rule, save those rare cases in which a greater burden was clearly contemplated, deemed appropriate, and made explicit in unmistakable language. Thomas Jefferson may have said it best: "The voice of the majority decides; for the *res majoris partis* is the law of all councils, elections, &c., where not otherwise expressly provided."[25]

The suggestion that two-thirds of both Houses must concur in order to decide whether a reasonable time has passed, we think, is incompatible with the Constitution's pattern of narrowly and carefully defined super-majority requirements. Whatever one says about the notions underlying Article V, it cannot be concluded that the Framers intended to, and expressed, a desire to impose a two-thirds requirement on such "subsidiary matters of detail." *Dillon* v. *Gloss*, 256 U.S. at 376. We think it especially plain that such a requirement could not have been intended with respect to the timeliness question. The Framers contemplated that it should be difficult to alter the Constitution. In light of that premise it is simply not reasonable to conclude that they could also have intended that State ratifications would be accorded a standing of presumptive timeliness that could only be defeated by a two-thirds vote.[26]

On the face of Article V, unlike each of the other two-thirds approval provisions of the Constitution, it is simply not possible to tell what questions, other than the proposal question itself, Congress is to answer. Nor is it at all clear that the consequences of a negative vote on any subsidiary questions were understood. Finally, then, a majority vote must be accepted for the determination of reasonable timeliness. And, if Congress can determine reasonable timeliness by majority vote as the thirty-eighth ratification comes in, it may also decide by a majority vote to extend the time previously announced.

Our view is bolstered by the few scattered historical precedents which our research and the research of others has unearthed. We have found no evidence that questions dealing with the so-called subsidiary questions have ever been thought by members of Congress to require a two-thirds vote. Thus, when the Fourteenth Amendment ratification questions, which we will discuss more fully in our treatment of the rescission issue, were presented to Congress in 1868 there is no indication that Congress felt itself bound to resolve those questions by a two-thirds vote.[27] Similarly there is no evidence that the resolution introduced to resolve the same question arising out of the adoption of the Fifteenth Amendment was thought to require two-thirds approval.[28] *See* 91 Cong. Globe 3124 (1870). More recently, Congress has taken up consideration of a bill introduced by former Senator Ervin which outlined procedures to govern the State convention method of amending the Constitution. S. 215, 92d Cong., 1st Sess. (1971). The bill, which contained provisions dealing with the time periods in which the States could act under the convention approach, passed the Senate by a wide margin. Again, however, there is no indication that anyone in the Senate considered that the bill would be subject to the two-thirds approval requirement.[29] Where, as here, the answer to important questions of Constitutional law are not readily apparent from the text of the Constitution, such congressional precedents are entitled to weight.

While, for these reasons, we conclude that no more than a majority vote is required for extension, it might be conceded that the issue is not free from doubt. We recognize that this may be the only instance in which Congress is empowered to take action (apart from purely internal "housekeeping" matters) without either the constraint of a two-thirds vote requirement or the safeguard of a Presidential veto. We also acknowledge that it may be contended that this conclusion would allow a majority of one Congress to set aside actions that required the concurrence of two-thirds of some prior Congress.[30] Despite these considerations, however, we think that the controlling Supreme Court precedents, the historical examples, and the basic framework of the Constitution admit ultimately of no other response.

IV. THE REASONABLENESS OF H.J. RES. 638'S SEVEN-YEAR EXTENSION

In discussing whether the seven-year extension in H.J. Res. 638 is reasonable in the constitutional sense, we begin by embracing the position of the *Dillon* Court that the passage of time between proposal and final ratification by the requisite three-fourths of the States could be so great as to generate serious doubts as to whether a proposed amendment should be proclaimed as part of the Constitution. Passing the question whether such doubts could be resolved by the judiciary in an appropriate case, see *Coleman* v. *Miller*, supra, the fact remains that the Court's unanimous opinion in *Dillon* v. *Gloss* is the only extant judicial authority on this issue.

In *Dillon*, the Court unequivocally stated that a seven-year period could not be regarded as unreasonable "considering the periods within which prior amendments were ratified." 256 U.S., at 376. At the time *Dillon* was decided, all 17 amendments previously ratified had been ratified within four years of their proposal. *Id.*, at 372. Since *Dillon* was decided, the eight amendments ratified by the States have likewise been ratified within four years, the longest period being three years and 11 months (Twenty-second Amendment) and the shortest being four months (the Twenty-sixth Amendment).

As our historical review has disclosed, the seven-year limitation "approved" in *Dillon* has been given talismanic significance by the Congress, which has, with one exception, placed that limitation on every subsequent amendment that was eventually ratified. The Court's opinion in *Dillon* obviously ascribes no special significance to the seven-year limitation. The apparent thrust of the opinion is that one factor to be considered is the time period in which other amendments have been ratified. Although the Court does not elaborate on this point, we think it may well have intended to recognize Justice Story's following comment on the ratification process:

"Time is thus allowed and ample time for deliberation, both in proposing and ratifying amendments. They cannot be carried by surprise, or intrigue, or artifice. Indeed, years may elapse before a deliberate judgment may be passed upon them . . ."[31]

The Court in *Coleman* took a somewhat different approach to the question of reasonableness. Instead of drawing a comparison between the time taken to ratify other amendments and the time (13 years) since proposal of the Child Labor Amendment, the Court suggested that the constitutional viability of an amendment might well turn on "an appraisal of a great variety of relevant conditions, political, social and economic. . . ." 307 U.S., at 453.

In our view, both of these factors should be taken into account by Congress in its consideration of the constitutionality of H.J. Res. 638. It should be obvious that achieving a balance between ensuring that any amendment reflects the "felt needs of today," and ensuring that adequate time is available to the States for thorough deliberation of the complex issues raised by the ERA, is finally a matter for the judgment of Congress. Should this Congress determine by majority vote of each House that the conditions which brought about the proposal of the ERA by the 92d Congress continue to exist and that an extension of seven years is not substantially out of line with the historical experience regarding prior ratifications, H.J. Res. 638 may, in our view, constitutionally be adopted assuming that the seven-year limitation placed on ratification by the 92d Congress is not to be viewed as binding. For reasons stated *supra*, we do not think that that seven-year limitation must be viewed as binding.

IV. THE POSSIBLE EFFECT OF H.J. RES. 638 ON THE POWER OF STATES TO RESCIND PRIOR RATIFICATIONS

A separate question raised by H.J. Res. 638 is whether an extension of the time period available for ratification by the States would empower them to rescind prior ratifications during the extension period. This question could conceivably arise in one of two situations. First, under the joint resolution as presently drafted, the question would be whether an extension without more would somehow trigger a right of rescission derived from Art. V itself. Second, were H.J. Res. 638 amended specifically to confer a right of rescission on the States, would it be constitutional.

We assume for the purposes of addressing these questions that if a State having ratified an amendment could constitutionally rescind that ratification during the initial seven-year period, that power would continue unabated through any extension period that might be adopted. Thus, the rescission question raised by H.J. Res. 638 might conveniently be cast as whether, assuming States may not rescind during the initial seven-year period, may they nevertheless be constitutionally empowered to do so (1) by virtue of Art. V or (2) congressional action taken pursuant to Art. V?

Because we think that the answer to these questions is dependent to a great extent on the resolution of whether States may rescind during the initial seven-year period, we turn first to that question.

The text of Art. V itself provides no conclusive answer to whether States may rescind their ratification of a proposed amendment prior to its being ratified by three-fourths of the States.[32] It will be noted that Art. V does speak only in positive terms of ratification of a proposed amendment, giving the States the power to ratify a proposed amendment but not the power to reject. Thus, as a textual matter, it is arguable that only affirmative acts taken in the proposal or ratification process have any constitutional significance and that such acts are to be regarded as final. *See* Burdick, *Law of the American Constitution*, *supra*, at 43.

The sole expression we have been able to find regarding the probable intent of the Framers on this question is that of James Madison. During the ratification debates in the State of New York, it had been suggested that New York ratify the Constitution on the condition that certain amendments proposed by the New York Convention would be adopted.[33] Alexander Hamilton, who objected to such a conditional ratification, sought Madison's views. Madison's reply was made in a letter, quoted in full in the margin,[37] in which he stated that The Constitution requires an adoption *in toto* and *for ever*. It has been so adopted by the other States. An adoption for a limited time would be as defective as an adoption of some of the articles only. In short any *condition* whatever must viciate the ratification.

Although this statement was made with regard to Art. VII of the Constitution, which required ratification by nine of the States to "establish" the Constitution among those States, we see nothing to suggest that Madison's reasoning should not be applied with equal force to proposed constitutional amendments. Perhaps more importantly, an examination of the history of ratification of the Constitution and amendments thereto demonstrates uniform application and general acceptance of this position taken by Madison—ratification must be unconditional and irrevocable.

A. The historical acceptance of Madison's principle

The New York Convention, after rejecting a proposal to ratify the Constitution conditionally, ratified the Constitution, substituting the words "fullest confidence" for the words "on condition." II J. Elliott's Debates 411–13 (1854).[38]

During this early period it was also recognized that a State, after having refused to ratify the Constitution, could thereafter ratify it. Thus, North Carolina's ratification of the Constitution in 1789 was taken as proper even though it had "rejected" the Constitution in 1788. *See* Warren, *The Making of the Constitution* 820 (1928). This principle was shortly thereafter extended to the Art. V amendment process when Pennsylvania ratified a proposed (but never adopted) amendment in 1791 after having refused to ratify it in 1790.[39] The available records of the Second Congress indicate that there was no comment whatsoever regarding Pennsylvania's action when notice of it was transmitted to the Senate by President Washington. *See* 3 Annals of Congress 15 (1791).

Thus, from an early date in our constitutional history it appears to have been accepted that the act of ratification, once taken by a State, was final and that States could ratify amendments after having "rejected" them.

These questions were not raised again until the Civil War Amendments were going through the ratification process. The first of these, the Thirteenth Amendment, had been "rejected" by the Kentucky legislature in 1865 by a resolution then presented to the Governor by the legislature. Although he took the position that the resolution did not require his assent,[40] he commented on the resolution as follows:

"Rejection by the present Legislative Assembly only remits the question to the people and the succeeding legislature. Rejection no more precludes future ratification than refusal to adopt any other measure would preclude the action of your successors. When ratified by the legislatures of three-fourths of the several States, the question will be finally withdrawn, and not before. Until ratified it will remain an open question for the ratification of the legislatures of the several States. When ratified by the legislature of a State, it will be final as to such State; and, when ratified by the legislatures of three-fourths of the several states, will be final as to all. Nothing but ratification forecloses the right of action. When ratified all power is expended. Until ratified the right to ratify remains."[41]

Both the rescission and subsequent ratification questions were presented together in connection with the ratification of the Fourteenth Amendment. By the middle of July, 1868, twenty-nine States had ratified that amendment. At that time there were thirty-seven States, twenty-eight thus constituting the majority of three-quarters required by the Constitution. However, two of those twenty-nine States, North and South Carolina, previously failed to ratify it and then reversed themselves;[42] in two others, Ohio and New Jersey, the legislatures had passed resolutions withdrawing their prior ratification of the Amendment. On July 8, 1868, the Senate adopted a resolution requesting the Secretary of State to transmit to the Senate a list of the States whose legislatures had adopted the Amendment. 81 Cong. Globe 3857 (1868). On July 15, 1868, the President transmitted to the Senate the report of the Secretary of State in compliance with that resolution. The report drew attention to the resolutions of the legislatures of New Jersey and Ohio purporting to withdraw their ratifications. *Id.*, at 4070. On July 18, 1868, Senator Sherman introduced a Joint Resolution declaring that the Fourteenth Amendment had been ratified. *Id.*, at 4197.

Two days later, July 20, 1868, Secretary of State Seward published a document in which he recited by name the 29 States which had ratified the Amendment, including those which had sought to revoke their ratification and those which originally had rejected it. 15 Stat. 706. With respect to New Jersey and Ohio, he observed:

"And whereas it further appears from official documents on file in this Department that the legislatures of two of the States first above enumerated, to wit, Ohio and New Jersey, have since passed resolutions respectively withdrawing the consent of each of said States to the aforesaid amendment; and whereas it is deemed a matter of doubt and uncertainty whether such resolutions are not irregular, invalid, and therefore ineffectual for withdrawing the consent of the said two States, or of either of them, to the aforesaid amendment . . ."

He then certified that—

"If the resolutions of the legislatures of Ohio and New Jersey ratifying the aforesaid amendment are to be deemed as remaining of full force and effect, notwithstanding the subsequent resolutions of the legislatures of those States, which purport to withdraw the consent of said States from such ratification, then the aforesaid amendment has been ratified in the manner hereinbefore mentioned, and so has become valid, to all intents and purposes, as a part of the Constitution of the United States."

He thus indicated that the effectiveness of the amendment was contingent on the power of the State legislatures to withdraw their consent from the ratification.

The following day, July 21, 1868, Congress adopted the Sherman resolution, *supra*, as a concurrent resolution not presented to the President.[43] 81 Cong. Globe 4266, 4295–96 (1868). That resolution stated that whereas the Fourteenth Amendment had been ratified by the legislatures of 29 States, counting among them North Carolina, South Carolina, New Jersey and Ohio, the Amendment was "hereby declared to be a part of the Constitution of the United States and it shall be duly promulgated as such by the Secretary of State."

On the same day, Georgia, which previously had rejected the Amendment, ratified it. 15 Stat. 708. Rumors, the authenticity of which were questioned, of that ratification reached the House of Representatives during its deliberation on the Sherman resolution. In view of the questionable nature of that information, the House did not amend the resolution so as to include Georgia among the ratifying States. 81 Cong. Globe 4296 (1818).

On July 28, 1868, Secretary Seward, in compliance with the Sherman resolution, unconditionally certified that the Fourteenth Amendment had become valid to all intents and purposes as a part of the Constitution of the United States. 15 Stat. 706. He listed New Jersey, Ohio, Georgia and the two Carolinas among the ratifying States.

As the result of the ratification of the Amendment by Georgia, it had been approved by twenty-eight, *i.e.*, the requisite number of States, even if New Jersey and Ohio were disregarded. This consideration, however, did not render the congressional determination academic. First, the congressional decision must be read in the light of the situation which existed when it was made. At that time, Congress had not received official notice of Georgia's ratification of the amendment. Therefore, the ratifications of New Jersey and Ohio were necessary to carry it. Secondly, it should also be noted that the adoption of the Amendment required not only the inclusion of the States which had adopted the amendment and then sought to repudiate their ratification (New Jersey and Ohio) but also that of the States which first had rejected the Amendment and then ratified it (North and South Carolina, and subsequently Georgia). The Fourteenth Amendment thus could not have been adopted without the ratifications of States which originally had rejected it.

The adoption of the Fifteenth Amendment involved problems analogous to those which arose on the occasion of the adoption of the Fourteenth Amendment. In this case, however, the Amendment was published

Footnotes at end of article.

Footnotes at end of article.

and certified by the Secretary of State without congressional guidance.

By the middle of February 1870, the Fifteenth Amendment had been ratified by 30 States, one more than the required number. Two of them, however, Ohio and Georgia, had originally rejected it. Mathews, *Legislative and Judicial History of the Fifteenth Amendment* 65–67 & n. 45 (1909). Also, New York rescinded its ratification in January 1870. The amendment therefore could be considered adopted only if the States which first had rejected it were counted or if the rescission by New York were considered to be without effect.

Congress was aware of these problems but was unable to take any action on them.[41] Thus, the New York resolutions rescinding the ratification of the Amendment were referred by the Senate to the Committee on the Revision of the Laws on January 11, 1870. 88 Cong. Globe 377 (1870). The Committee reported back on February 22, 1870, with the recommendation that the New York resolutions be indefinitely postponed. A spectacular debate ensued between Senator Conkling of New York and Senator Davis of Kentucky, 89 Cong. Globe 1477–81 (1870), but it does not appear that the Senate took any action on the report. On February 21, 1870, a resolution was introduced in the Senate declaring that the Fifteenth Amendment had become valid. The resolution was referred to a Committee, *id.*, at 1444. The Committee submitted its report on April 18, 90 Cong. Globe 2738 (1870) and the resolution was passed over on the motion of its sponsor, 91 Cong. Globe 3124 (1870). On March 3, 1870, the Senate adopted a resolution requesting the Secretary of State to advise it of the States which had ratified the Amendment, 89 Cong. Globe 1653 (1870). The response from the Secretary is unknown.

Finally, on March 30, 1870, President Grant sent Congress a message advising it of the promulgation of the Fifteenth Amendment by the Secretary of State. 90 Cong. Globe 2298 (1870). The certificate of the Secretary of State, 16 Stat. 1131, listed twenty-nine States, including Ohio and New York but excluding Georgia, as having ratified the Amendment, and continued:

"And, further, that the States whose legislatures have so ratified the said proposed amendment constitute three-fourths of the whole number of States in the United States.

"And further, that it appears from an official document on file in this Department that the legislature of the State of New York has since passed resolutions claiming to withdraw the said ratification of the said amendment which had been made by the legislature of that State, and of which official notice had been filed in this Department.

"And, further, that it appears from an official document on file in this Department that the legislature of Georgia has by resolution ratified the said proposed amendment. . . ."

The statement "that the States whose legislatures have so ratified the said proposed amendment constitute three-fourths of the whole number of States" tends to indicate that the Secretary of State did not recognize the withdrawal of New York to have been effective. The separate enumeration of Georgia seems to have served the same purpose, because the ratification of New York would not have been required if Georgia had been included in the list of ratifying States. The separate listing of Georgia could not have been due to last minute ratification by that State. The proclamation was dated March 30, 1870. Georgia had ratified the Amendment on February 2, 1870, followed by Iowa (February 3, 1870), Nebraska (February 17, 1870), and Texas (February 18, 1870). *See* U.S.C.A. Constitution, Amendment XV, Historical Note. The last three States were included in the first list of ratifying States.

The House of Representatives signified its approval of the promulgation of the Fifteenth (and Fourteenth) Amendment by adopting on July 11, 1870, a resolution to the effect that the amendment had become valid as a part of the Constitution. 93 Cong. Globe 5441 (1870).[42] No similar action was taken in the Senate, except, of course, for its later adoption of legislation implementing the Amendment.

The only pertinent judicial announcement of that period is a dictum in *White* v. *Hart*, 13 Wall. 646, 649 (1871) to the effect that the validity of the adoption of the Fourteenth and Fifteenth Amendments by Georgia was a political question not subject to judicial scrutiny. The Court said:

"Upon the same grounds she might deny the validity of her ratification of the constitutional amendments. The action of Congress upon the subject cannot be inquired into. The case is clearly one in which the judicial is bound to follow the action of the political department of the government, and is concluded by it (citing *Luther* v. *Borden*, 7 Howard, 43, 57; *Rose* v. *Himely*, 4 Cranch 272; *Gelston* v. *Hoyt*, 3 Wheaton, 324 *Id.* 634; *Williams* v. *The Suffolk Ins. Co.*, 13 Peters, 420)."

The issue whether a State can change the position by its legislature with respect to a constitutional amendment also arose in various degrees in connection with the adoption of the Sixteenth, Eighteenth, and Nineteenth Amendments. In none of these instances did the Secretary of State refer the matter to Congress.

Arkansas, which originally had rejected the Sixteenth Amendment, subsequently ratified it. The certificate of the Secretary of State lists Arkansas without comment among the ratifying States. 37 Stat. (Pt. II) 1785. It is, however, not apparent whether the approval of that State was required to obtain the necessary number of ratifications. S. Doc. 314, 76th Cong., 3 Sess. 25 (1940).

The issue whether ratification by the State legislature was final arose indirectly in connection with an attempt in Maine to subject the ratification of the Eighteenth Amendment by the State legislature to the State's initiative and referendum procedures. The Maine Supreme Court held that the amendment could not be subjected to a referendum. *Opinion of the Justices*, 118 Me. 544 (1919). One of the reasons for the decision was the consideration that, under the precedents established in connection with the adoption of the Fouthteenth and Fifteenth Amendments, the legislation ratifying an amendment was final and could not be rescinded. *Id.* at 548–49.[43]

The Nineteenth Amendment was ratified by the State of Tennessee on August 18, 1920. On August 26, 1920, the Secretary of State issued his certificate declaring that the amendment had been adopted by the required number of States, including Tennessee. 41 Stat. (Pt. II) 1823. Five days later, the Tennessee legislature sought to rescind the resolution adopting the amendment on the ground that it had been approved in the absence of a quorum and in violation of constitutional procedural safeguards. The Secretary of State disregarded the resolution of rescission. *See* 65 Cong. Rec. 4491–92 (1924) (Remarks of Sen. Wadsworth); *Clements* v. *Roberts*, 144 Tenn. 129 (1920); *Leser* v. *Board of Registry*, 139 Md. 46, 71–73 (1921), *aff'd sub. nom. Leser* v. *Garnett*, 258 U.S. 130, 137 (1922).

Thereafter, Senator Wadsworth of New York and Congressman Garrett of Tennessee introduced an amendment to Article V of the Constitution. The part of that proposal pertinent here would have provided that

"until three-fourths of the States have ratified or more than one-fourth of the States have rejected or defeated a proposed amendment, any State may change its vote."[47]

The proposal thus would have overturned by constitutional amendment the rule postulated by Madison and established in connection with the Civil War Amendments by enabling a State to rescind its ratification of an amendment until the time when the amendment becomes effective; and by preventing a State which had rejected an amendment from changing its position once more than a quarter of the States had rejected the amendment.

Both sponsors of the proposal conceded that these provisions were contrary to existing law; indeed both conceded that their proposals were designed to remedy what they considered to be a defect in the Constitution. Thus Senator Wadsworth stated, 65 Cong. Rec. 4492 (1924):

"It is apparent that under Article V, as now drawn, no State can change its vote from the affirmative to the negative in the matter of a constitutional amendment. Once ratified by a State, that State can not change, even though it does so before a sufficient number of States have ratified so as to insert the amendment in the Constitution itself. Tennessee tried to change. It cannot be done under Article V.

"Mr. WALSH of Massachusetts. Mr. President, having once rejected, can it change?"

"Mr. WADSWORTH. Yes; the legislature of a State may change from the negative to the affirmative at any time."

In the House of Representatives Congressman Garrett explained this part of the proposed amendment, 66 Cong. Rec. at 2159:

"The third proposition or change is that which gives a State that has ratified a chance to reconsider, provided it be done before its action in conjunction with that of others has become law.

"A State which has said 'no' may now change and say 'yes.' What can be the injustice in permitting a corollary whereby it may, within reasonable time limits, change from 'yes' to 'no'?

* * * * *

"In practice, therefore, it may be said—and I think it is generally regarded to be—the law that a State may reconsider and change a rejection, but may not reconsider and change a ratification.

* * * * *

"I believe and undertake to maintain that there is no more reason in governmental ethics why an affirmative act should not have the right of reconsideration than a negative prior to the time when the affirmative act actually makes law, and hence the third proposed change."

The Wadsworth-Garrett proposal apparently never got to a vote in either House.

The question whether a State can change a position taken with respect to a constitutional amendment arose again in connection with the Child Labor Amendment. That amendment had been submitted to the States in 1924. In the following year it appeared that more than one-fourth of the States had affirmatively rejected it. Congressman Garrett thereupon introduced a resolution which would have required the Secretary of State to report to Congress the action reported to him by the States regarding the amendment. 67 Cong. Rec. 576 (1925). Supporters of the amendment opposed the resolution because they feared that it was designed to lay the foundation for the claim that the amendment had been irretrievably defeated. *Id.*, at 1505–06 (1926). Congressman Garrett stated, *id.*, at 1506, that he had "no doubt that it is within the power of the legislature of any State that has acted on the amendment adversely to reconsider its action and act favorably, if it chooses to do so within the next year or two, for I imagine the Supreme Court would hold that was within a reasonable time."[48]

Footnotes at end of article.

The resolution passed, *id.*, at 1507, and the Secretary of State submitted his report on February 9, 1926, which indicated that the amendment had been ratified in 4 States, affirmatively rejected in 13, failed ratification in both Houses in 3, and that some adverse action had been taken in some form by one House in 6 States. *Id.*, at 3801. No action was taken on that report.

The tide turned, however, in the 1930's, when an everincreasing number of States, including many who had previously rejected the amendment, began to ratify it.[49] The question whether a State could ratify the amendment after its legislature had once rejected it was subsequently presented in *Coleman* v. *Miller*, 307 U.S. 433 (1939), and its companion case, *Chandler* v. *Wise*, 307 U.S. 474 (1939).

In 1925, the Kansas Legislature rejected the Child Labor Amendment and sent a certified copy of that action to the United States Secretary of State. In 1937, the Kansas Legislature adopted a resolution ratifying the amendment by a vote of 21–20, with the Lieutenant Governor casting the decisive vote. Several outvoted Kansas legislators thereupon instituted mandamus proceedings against the Secretary of the State Senate designed to prevent the ratification resolution from becoming effective. The complaint was based, *inter alia*, on the arguments (a) that the State of Kansas had once rejected the amendment, and (b) that the amendment, having been rejected by both Houses of the legislatures of 26 States and having been ratified only in five States between 1924 and 1927, had failed of ratification within a reasonable period and thus no longer was viable. *Coleman* v. *Miller*, 307 U.S. at 435–36.[50] The Supreme Court of Kansas denied the writ. *Coleman* v. *Miller*, 146 Kan. 390 (1937). That court, relying on the precedent of the Civil War Amendments, held:

"It is generally agreed by lawyers, statesmen and publicists who have debated this question that a state legislature which has rejected an amendment proposed by Congress may later reconsider its action and give its approval, but that a ratification once given cannot be withdrawn. (At 400).

* * * * *

"It would seem, then, that a state legislature which has rejected an amendment proposed by congress may later reconsider its action and give its approval. (Willoughby on the Constitution, sec. 329a.).

"In a release from the department of state under date of April 20, 1935, attached as an exhibit to plaintiff's petition in this case, giving the status of the child-labor amendment, it appears that in five states, Indiana, Minnesota, New Hampshire, Pennsylvania and Utah, after the proposed amendment had been rejected, each of the states later adopted a resolution of ratification. When these states rejected the amendment, was their power with reference to the proposed amendment exhausted? If so, the subsequent ratification would be void. Is it to be seriously argued that 'the secretary of state could not count these five states in making up the total number of states necessary to adopt the amendment?

"Thus it appears to be an historical fact that many states have rejected proposed amendments, and have later ratified them. (At 401).

"From the foregoing and from historical precedents, it is also true that where a state has once ratified an amendment it has no power thereafter to withdraw such ratification. To hold otherwise would make article 5 of the federal constitution read that the amendment should be valid 'when ratified by three fourths of the states, each adhering to its vote until three fourths of all the legislatures shall have voted to ratify.'

"It is clear, then, both on principle and authority, that a proposed amendment once rejected by the legislature of a state may by later action of the same legislature be ratified; and *that when a proposed amendment has once been ratifed the power to act on the proposed amendment ceases to exist.*" (At 403) (emphasis added).

The Supreme Court of the United States affirmed the decision of the Supreme Court of Kansas in an unusually complicated ruling. *See* note 4, *supra*.

The opinion of the Court, written by Chief Justice Hughes and on this issue actually joined by Justices Stone and Reed, and presumably joined by Justices Black, Roberts, Frankfurter and Douglas,[51] recited the historic precedent established on the occasion of the adoption of the Fourteenth and Fifteenth Amendments and observed that this "decision by the political departments of the Government as to the validity of the adoption of the Fourteenth Amendment has been accepted," 307 U.S., at 450.

The question whether a State has the power to change its position with regard to the adoption of a constitutional amendment does not seem to have become a serious issue in connection with any of the later amendments submitted to the States.

The problem, however, did arise indirectly in connection with legislation designed to establish procedures for calling constitutional conventions. In that context the Senate committee reports conceded that under existing law a State could not rescind its ratification of a constitutional amendment but took the position that the law should be "changed."[52] The bills therefore provided in effect that a State could rescind its ratification of a proposed constitutional amendment until it had been validly adopted. Both bills passed the Senate but died in the House of Representatives.[53]

B. The application of Madison's principle

When the Supreme Court held in *Dillon* v. *Gloss*, *supra*, that Congress has implied power under Article V to set a time period for ratification of a proposed amendment, it was writing on what was virtually *tabula rasa*. Likewise, in approaching the question whether Congress may extend a limitation once set, we think that historical understanding, while informative, cannot be thought of as conclusive.

With regard to whether a State might rescind during an "extension" period there is certainly a temptation to assure that the question may be approached in the same manner because, no extension ever having been contemplated, it follows that the question of rescission during such a period could not have been contemplated. Were we to take such an approach, we could perhaps be easily persuaded by the argument that "[t]he extension of time for ratification but not for rescission would be . . . grotesque. . . ."[54]

That argument appears to be that failure to provide for rescission would permit an amendment to be ratified without the "contemporaneous consensus" required by the Constitution (presumably required by Article V as interpreted in *Dillon* v. *Gloss*, *supra*). This lack of a "contemporaneous consensus" would, under this view, perhaps be evidenced by several or many attempted rescissions by States that would give a reasonable man reason to think that no consensus existed.

That analysis confuses two issues that should, we think, be sharply differentiated in the consideration of H.J. Res. 638. First is the issue whether the period of 14 years proposed in H.J. Res. 638 is "reasonable" in view of the interpretation placed on Art. V *Dillon* v. *Gloss* and with which we are in agreement. If 14 years or possibly a lesser period is, in the judgment of Congress, "reasonable," then the question of the power of States to rescind in the last seven years of the 14-year period is irrelevant. The second issue is, of course, whether the States may rescind a prior ratification during the extension period because the will of its people has in fact changed since initial ratification. This argument would appear to reduce to the proposition that a seven-year extension can be viewed as "reasonable" only if no substantial number of States actually attempt to rescind their ratifications during the extension period. Under this view, the power to rescind functions as a sort of escape valve permitting the States themselves to determine what is or what is not a "reasonable" period of time by acts of rescission.

We are unable to agree with that analysis. In our view, the lesson of history, including prior congressional interpretation of Art. V with regard to the Fourteenth Amendment, is that States may not rescind a ratification. And we think *Dillon* v. *Gloss* and *Coleman* v. *Miller* are equally dispositive in rejecting any possibility that States, rather than Congress, are to have the final say concerning whether an amendment has been ratified within a "reasonable" time.

In our view, the most persuasive argument that Art. V permits rescission during an extension period is predicated on a notion that State legislatures may have relied on the seven-year period established in H.J. Res. 208 by assuming that they would be held to their ratification for a seven-year period and no longer. We have examined the certifications of ratification submitted to GSA by the 35 States having ratified the ERA and are unable to conclude that such reliance is indicated, at least on the face of those documents. More importantly, we think that such a concept of "reliance" is essentially no different, in kind, from the proposal before the New York Convention to ratify the Constitution on a *conditional* basis, an act that James Madison viewed as invalid. We say "no different in kind" because, from a purely analytical point of view, the only difference would be that Congress' act of setting a seven-year limit in H.J. Res. 208 or in H.J. Res. 638 would have to be viewed as equivalent to Congress' extending to the States a right to ratify an amendment conditionally. We think that the whole thrust of history is that Art. V, as interpreted, does not permit States to rescind or otherwise place conditions upon their ratifications. If we are correct in this view, we think it follows that such a power can be granted only by an amendment to Art. V itself.

V. THE POLITICAL QUESTION DOCTRINE

Although we think that the constitutional questions raised by H.J. Res. 638 should be addressed on their merits without reference to the likelihood that the courts will finally resolve any or all of them, we recognize that the difficulty of those questions coupled with the uncertainty we (and presumably others) entertain with regard to our resolution of them can give rise to congressional interest in this question.

Prior to the decision in *Coleman* v. *Miller*, the Court consistently entertained and resolved questions arising out of the amendment and ratification process.[55] In Coleman itself, we think that majority[56] of the Court squarely held that the effect of prior rejection on ratification was a political question not justiciable in the courts and that the same majority took the same view of the effect of rescission on final ratification by three-fourths of the States. We see no reason why the Court would change its prior position on the political nature of these questions unless perhaps if this aspect of *Coleman* were premised on the understanding that the answers to these questions had been firmly settled by history and were not subject to reversal by a future Congress.

There was, however, no clear majority in *Coleman*, as pointed out by Justice Black in

Footnotes at end of article.

his concurring opinion, for the position that courts could never review the question of reasonableness. Thus, we are not at all certain that the question of the reasonableness of the seven-year extension might not be subjected to judicial review in an appropriate case, particularly where ratification by the requisite three-fourths of the States to be obtained toward the end of the 14-year period.

We think that decisions of the Supreme Court subsequent to *Coleman*,[27] as well as the cases cited in note 55, *supra*, indicate that the questions of the power of Congress to extend a ratification, the vote by which such an extension must be adopted, and perhaps whether Congress might confer on the States a right to rescind[28] are more likely to be viewed as justiciable controversies in appropriate cases. We take this view because these questions do not appear to present situations in which there is either a textually demonstrable commitment their resolution to the Congress or there are no judically discoverable standards by which to resolve the question presented.

FOOTNOTES

[1] This resolution was adopted by Congress on March 22, 1972, when the Senate passed unamended the resolution adopted by the House of Representatives on October 12, 1971.

[2] As of this writing GSA is also in receipt of three documents from Tennessee, Idaho, and Nebraska purporting to withdraw or rescind their ratifications previously certified.

[3] The Eighteenth Amendment had in fact been ratified within about 13 months of the time it was proposed by Congress.

[4] The language quoted above, from the opinion of the Court, was the opinion of Chief Justice Hughes joined by Justices Stone and Reed. Justice Black wrote a concurring opinion joined by Justices Roberts, Frankfurter and Douglas, that would have disavowed the assertion in *Dillon* that the courts would under some circumstances ever be able to inject themselves into the type of dispute presented. Justices Butler and McReynolds dissented on the ground that a reasonable time had elapsed since the amendment was proposed. *See* note 51, *infra*.

[5] Although such an argument has some appeal, a contrary conclusion is supported by the analysis of the Court in *Dillon* v. *Gloss*, *supra*. In that case, the seven-year limit had been included in the text of the proposed amendment and the amendment had been ratified by the requisite number of States in about 13 months. If the Court had viewed the seven-year limit as a substantive part of the amendment, it could have affirmed the limit's validity solely on the basis that it had in any event been ratified as part of the amendment itself and thereby would constitute an amendment to Art. V. Indeed, the brief of the United States in *Dillon* appears to embrace such an argument. *See* Brief for the United States at 5–6. The Court did not, however, decide the case on this proffered ground, suggesting that the Court might not have viewed the seven-year limitation as being a substantive part of the Eighteenth Amendment. *See also* 55 Cong. Rec. 5649 (1917) (remarks of Sen. Stone).

A contrary conclusion is also supported by the Court's decision in the *National Prohibition Cases*, 253 U.S. 350 (1920). In that decision, involving a challenge to the validity of the Eighteenth Amendment, Mr. Justice Van Devanter, in announcing the "conclusions of the Court," *id.*, at 384, purported to set forth the "text" of the Eighteenth Amendment by quoting in full sections 1 and 2 but completely omitting section 3 which contained within it the seven-year limitation imposed for the first time by Congress. *Id.*, at 385. *See id.*, at 393 (McKenna, J. dissenting).

[6] *See, e.g.*, 56 Cong., Rec. 446 (1917) (debate on proposed Eighteenth Amendment):

"Article V expressly provides that once this proposed amendment has gone from the halls of Congress and rests with the States, when ratified by the States it becomes a part of the Constitution."

[7] *See* remarks of Senator Buckalew, 71 Cong. Globe 2771 (1866); 85 Cong. Globe 912–13, 1040 (1869).

[7] 56 Cong. Rec. 463 (1917).

[8] 58 Cong. Rec. 93 (1919).

[9] The phrase "as provided in the Constitution" was not included in section 6. Otherwise, the sections are identical.

[10] 75 Cong. Rec. 5086 (1932).

[11] "Proposal and ratification . . . are not treated as unrelated acts, but as succeeding steps in a single endeavor. . . ." *Id.*, at 3856, quoting *Dillon* v. *Gloss*, 256 U.S., at 374–75.

[12] *Id.*

[13] *Id.*, at 3856–57.

[14] *Id.*, at 3857.

[15] The notable difference was that ratification was to be by conventions in the several states rather than by state legislatures.

[16] *See Hearings on H.J. Res. 529 before Subcommittee No. 5 of the House Committee on the Judiciary* 82 (1960).

[17] *Id.*, at 108–08.

[18] H. Rep. No. 1821, 87th Cong., 2d Sess. 5 (1962).

[19] *See* S. Rep. No. 66, 89th Cong., 1st Sess. (1965); H.R. Rep. No. 554, 89th Cong., 1st Sess. (1965).

[20] S. Rep. No. 26, 92d Cong., 1st Sess. 2 (1971); H.R. Rep. No. 37, 92d Cong., 1st Sess. (1971).

[21] S. Rep. No. 689. 92d Cong., 2d Sess. 20 (1972).

[22] We would comment briefly on the question whether, assuming the 95th Congress may extend the period established by the 92d Congress, the 96th or a subsequent Congress could shorten a period previously established. (We would observe first that the answer to this question would appear also to resolve the question whether Congress might declare a proposed amendment to no longer be viable in the absence of an explicit time limit in that amendment or its proposing clause.) Given the nature of the Congressional determination of "reasonableness" as described in *Dillon* and *Coleman*, it is certainly arguable that any Congress might, on the basis of adequate findings, determine that a proposed amendment is no longer viable because present ratification would not reflect a contemporaneous expression of the people's will. We think, however, that such an argument would have to take into account the historically accepted understanding that Congress may not withdraw an amendment once it has been proposed. *See* Jameson, *A Treatise on Constitutional Conventions*, § 585, p. 634 (1887); Burdick, *The Law of the American Constitution* 39 (1922); Orfield, *Amending the Federal Constitution* 51–52 (1942). Without resolving this obviously complex question, we would additionally note that a Congressional act constituting withdrawal would perhaps run afoul of the logic if not the expressed views of James Madison, discussed at length *infra*, that States may not conditionally ratify a proposed amendment. The scholars cited above at the least assume, as do we, that a Congress could not "cutback" on time available for ratification of a proposed amendment because the membership no longer viewed the proposed amendment as desirable.

[23] It is true that the Executive Branch, by virtue of 1 U.S.C. § 106b and its predecessors dating back to 1818, has performed a ministerial function within the ratification process. We do think that congressional assignment of this function or similar functions to the Executive Branch might well require the approval of the President under Art. 1, § 7, but we think this is quite different from the resolution extending the time period here.

[24] We note that this holding in *Hollingsworth* has been specifically approved in subsequent opinions of the Court. *See, e.g.*, *Hawkes* v. *Smith*, 253 U.S. 221, 229–30 (1920). Thus, we see no justification for limiting *Hollingsworth* to its facts.

[25] As we explain in our discussion in the final section of this opinion dealing with the political question doctrine, there remains some doubt whether Congress' power to establish a reasonable time is *exclusive*. On the question whether the judiciary may have some role to play, the Court's opinions do leave room for debate; on the question, however, whether the Constitution imposes upon Congress the primary duty to ascertain that amendments have been approved within a reasonable time there is no longer room for doubt. Congress has acknowledged the existence of this "power and responsibility" imposed upon it by Article V. *See* S. Rep. No. 689, 92d Cong., 2d Sess. 20 (1972), quoted in the text at note 21 *supra*.

[26] History has shown us that consideration by the States of proposed amendments long after their introduction is not a far-fetched hypothetical. In at least one case the State of Ohio undertook to consider an amendment some 80 years after it was proposed by Congress. *See Dillon* v. *Gloss*, 256 U.S., at 372. Indeed, it was precisely this type of concern which led the *Dillon* Court to conclude that Congress could impose a time limitation to prevent a State from "resurrecting" a proposed amendment that had "lain dormant for many years." *Id.*, at 373.

[27] *See* Art. 1, § 5, (voting to expel a member of Congress); Art. 1, § 7 (override of veto); 14th Amendment, § 3 (removal of disability of members of Congress); 25th Amendment (Presidential resumption of power after disability).

[28] Jefferson's Manual of Parliamentary Practice § XLI, reprinted in H. Doc. No. 416, 93d Cong., 2d Sess., § 508, p. 257 (1975).

[29] Our view that it is essential that Congress have the ability affirmatively and directly to decide whether the ratifications reflect the "contemporaneous" judgment of the states is made the more critical when considered in light of the other conclusion we think compelled under Article V—that a State once having ratified may not rescind. *See* text beginning at page 28 *infra*. The States, in our view, are prohibited directly from announcing their view that conditions no longer warrant passage of an amendment once approved by them. Therefore, unless Congress retains the power to vote "yea" or "nay" on the reasonable timeliness question, a small minority of late-ratifying States coupled with a minority in either House of Congress might force the approval of an amendment no longer deemed appropriate by the majority. We should also add that if this event did occur we would have serious doubt whether the amendment was constitutional.

[30] *See* text beginning at page 33 *infra*. In response to Secretary of State Seward's inquiry, Congress decided by concurrent (continued) resolution that the Fourteenth Amendment had been duly ratified by the States. The resolution, S. Res. 166 passed by the 40th Congress, expressed the position of Congress that the Fourteenth Amendment had in fact been ratified by the requisite three-fourths of the States even though two States, Ohio and New Jersey, had purported to rescind their prior ratifications before three-fourths had ratified. The resolution did not indicate on its face whether a two-thirds vote was required during debate in either House on the resolution. The vote in the House for passage was 127 in favor to 33 against, a majority of about four-to-one. 78

Cong. Globe 4266 (1868). Although the vote was not recorded in the Senate, we do know that the resolution was voted on by the Senate after a motion to discharge the resolution from committee was adopted without objection and that the voice vote was presumably not so close as to persuade any opponents of the resolution to call for a recorded vote. *Id.*, at 4230.

[31] *See* text beginning at page 36 *infra*. We hesitate to read too much into the historical evidence surrounding the Fourteenth and Fifteenth Amendments. While it is true that resolutions adopted in both cases contained no designation that a two-thirds majority would be required for approval, and while the recordation that the resolutions had been approved contained no indication that they had been embraced by two-thirds of each House, it does appear that the votes were never close. Indeed, by voice vote or otherwise, the vote in each House was in excess of two-thirds. Nevertheless, we think it not unreasonable to conclude that if members of Congress had recognized a two-thirds requirement there would have been some indication of that fact in the historical record.

[32] To our knowledge, the Ervin bill never came to the floor of the House for a vote. The bill also provided for congressional action by majority vote of each House, not subject to the veto power of the President, regarding details concerning the calling of a constitutional convention by the States. *See* §§ 6(a) and 11(b)(1) of S. 215.

[33] As we have suggested earlier, *see* note 22 *supra*, we doubt whether—either by majority or two-thirds—Congress could so shorten the time as effectively to withdraw the question from the States. Additionally, it is our view that the original time limitation need not, as a constitutional matter, have been set by a two-thirds vote. For the same reasons set forth above, we would conclude that the time period is a "subsidiary" detail which Congress could prescribe by majority vote as an incident to proposing an amendment.

We would also state that we gain little guidance from parsing of the words of Article V itself. Grammarians might differ over whether the two-thirds requirement modifies only the first clause, the first and second, or the entire sentence. Given our presumption against reading super-majority requirements broadly, however, we do conclude that the wording of the Article itself does not compel extension of the two-thirds vote to all issues which might conceivably arise under the amending power. Finally, it should be noted that our review of the debates, and other contemporaneous history, surrounding the constitutional convention has not disclosed any substantial evidence of the Framers' thoughts on this question.

[34] II Story, *Commentaries on the Constitution* 600 (5th ed.) as quoted in brief for the United States as *amicus curiae* in *Coleman* v. *Miller*, *supra*, at 27–28.

[35] We do not think anyone could seriously doubt that a State's rescission of its ratification subsequent to adoption of an amendment would be a meaningless act.

[36] V Papers of Alexander Hamilton 147, 177 (Syrett ed. 1961).

[37] The full text of Madison's letter is as follows:

"FROM JAMES MADISON (1)

N.D. York Sunday Evening (July 20, 1788). (2)

"MY DEAR SIR: Yours of yesterday is the instant come to hand & I have but a few minutes to answer it. I am sorry that your situation obliges you to listen to propositions of the nature you describe. My opinion is that a reservation of a right to withdraw if amendments be not decided on under the form of the Constitution within a certain time, is a conditional ratification, that it does not make N. York a member of the New Union and consequently that (3) she could not be received on that plan. Compacts must be reciprocal, this principle would not in such a case be preserved. The Constitution requires an adoption *in toto* and *for ever*. It has been so adopted by the other States. An adoption for a limited time would be as defective as an adoption of some of the articles only. In short any *condition* whatever must viciate the ratification. What the new Congress by virtue of the power to admit new States, may be able disposed to do in such a case, I do not enquire as I suppose that is not the material point at present. I have not a moment to add more. Know my fervent wishes for your success & happiness.

This idea of reserving right to withdraw was started at Richmd & considered as a conditional ratification which was itself considered as worse than a rejection: (1) In JCHW, I, 465, this letter is dated 'Sunday Evening.' After serving in the Virginia Ratifying Convention, Madison had resumed his seat in the Continental Congress. (2) This letter was written on the day after H wrote to Madison, July 19, 1788. (3) In MS, 'that that.'"

[38] The Convention also defeated a motion reserving to the State of New York a right to withdraw from the Union after a certain number of years, unless the amendments proposed previously were submitted to a general convention. II J. Elliot's Debates 412 (1854) It is not apparent whether Madison's letter was brought to the attention of the N.Y. Convention. Madison's letter, *supra*, however, indicates that the mails between New York, where Madison served on the Continental Congress, and Poughkeepsie, the seat of the New York Convention, took only a day. Hence, it is likely that Madison's letter of July 20 was utilized during the crucial debates in the New York Convention on July 23, 1788.

[39] *See* Ames, *Amendments to the Constitution of the United States, reprinted in* H. Doc. 353, 54th Cong., 2d Sess. (pt. 2) 300 n. 4 and 320 (1891).

[40] Jameson, note 22 *supra*, at 630.

[41] *Id.*, quoting Acts General Assembly, Ky., 1865, p. 157.

[42] This figure is based on the recitals of the Proclamation of July 28, 1868, 15 Stat. 708. According to the Brief of the United States as *amicus curiae* in *Coleman* v. *Miller*, *supra* at 14, the Amendment had been rejected prior to ratification by seven States: Alabama, Arkansas, Florida, Georgia, Louisiana, North Carolina and South Carolina which, with the exception of Georgia, had ratified it prior to July 20, 1868.

[43] The submission by Congress of a constitutional amendment to the States need not be presented to the President (*Hollingsworth* v. *Virginia*, *supra*). It therefore would appear that a congressional determination as to whether an amendment has been adopted by the requisite number of States can be passed as a concurrnt resolution which is not presented to the President. *See also* note 24 *supra*.

[44] *See* Note, 49 Ind. L. J. 147, 151 (1973).

[45] On April 11, 1870, the House adopted a resolution authorizing the celebration of the adoption of the Amendment in the Hall of the House of Representatives. 90 Cong. Globe 2586–2587 (1870).

[46] In *Hawke* v. *Smith*, 253 U.S. 221 (1920) the Supreme Court reached the same result but for other reasons.

[47] Cong. Rec. 4493 (1942). *See also id.*, at 2152–53.

[48] This statement was based in part on *Dillon* v. *Gloss*, 256 U.S. 368 (1921).

[49] *See Coleman* v. *Miller*, 307 U.S., at 473 (*Chronology of Child Labor Amendment*, footnote to dissenting opinion of Butler, J.), and the *amicus curiae* brief filed by the United States in *Coleman* v. *Miller*, note 34 *supra*, Appendices A and B.

[50] The Child Labor Amendment, as noted *supra*, had no provision requiring its adoption within a specific period of time. This proposed amendment was never actually ratified by three-fourths of the States.

[51] On this particular point, we think that the opinion of Chief Justice Hughes must rightly be thought of as an opinion of the Court as it is described at its outset. We say this because Justice Black and those joining his concurring opinion clearly reached the merits of the issues raised, 307 U.S., at 456 (under "compulsion" of the court's holding on the standing question) and also indicated that his disagreement with Hughes' opinion was limited to aspects of Hughes' opinion not relevant to the present discussion, *id.*, at 458.

[52] "The question of whether a State may rescind an application once made has not been decided by any precedent, nor is there any authority on the question. It is one for Congress to answer. Congress previously has taken the position that having once ratified an amendment, a State may not rescind.

The committee is of the view that the former ratification rule should not control this question and, further, should be changed with respect to ratifications. Since a two-thirds concensus among the States in a given period of time is necessary to call a convention, obviously the fact that a State has changed its mind is pertinent. An application is not a final action. A State is always free, of course, to reject a proposed amendment. Of course, once the constitutional requirement of petitions from two-thirds of the States has been met and the amendment machinery is set in motion, these considerations no longer hold, and rescission is no longer possible. On the basis of the same reasoning, a State should be permitted to retract its ratification, or to ratify a proposed amendment it previously rejected. Of course, once the amendment is a part of the Constitution, this power does not exist." S. Rep. No. 336, 92d Cong. 1st Sess. 14 (1971); S. Rep. No. 293, 93d Cong., 1st Sess. 14 (1973).

[53] The latest congressional recognition of the rule that a state cannot rescind its ratification of a constitutional amendment of which we are aware is Senator Bayh's statement on the floor of the Senate, delivered on March 6, 1974:

"Mr. BAYH. Mr. President, one of the questions which has aroused considerable interest with respect to the proposed 27th amendment to the Constitution has been whether a State once it has ratified the amendment may later change its mind and rescind its ratification. The issue was first raised by the State of Nebraska which has now rescinded its earlier ratification. Several other states, in addition, have similar rescission resolutions pending before their State legislatures.

"I am firmly convinced that, once a State legislature has exercised the powers given it by article V of the Congress, it has exhausted its powers in this regard and may not later go back and change its mind." 120 Cong. Rec. 5574 (1974).

[54] Statement of Charles L. Black, Jr., Sterling Professor of Law, Yale University, on Extension of Time for Action on Amendments for the States, October 12, 1977.

[55] *See Hollingsworth* v. *Virginia*, *supra*; *Dillon* v. *Gloss*, *supra*, *Hawke* v. *Smith*, *supra*; *The National Prohibition Cases*, *supra*; *Leser* v. *Garnett*, *supra*; *United States* v. *Sprague*, *supra*.

[56] *See* note 51, *supra*.

[57] *E.g.*, *Baker* v. *Carr*, 369 U.S. 186 (1962); *Powell* v. *McCormack*, 395 U.S. 486 (1969).

[58] Even assuming that the question of the effect of a rescission is non-justiciable under Coleman, as we do, it is possible that the Court would take a different approach were H.J. Res. 638 to be amended to provide explicitly for such a right to rescind. This is so because the power of Congress to grant

such a right to the States by statute would perhaps be placed on a different footing.

STATEMENT ON ROLE OF GENERAL SERVICES ADMINISTRATION IN THE CONSTITUTIONAL AMENDMENT PROCESS

Speaking for Mr. Jay Solomon, the Administrator of General Services, I thank you for the opportunity to review with you the role of the General Services Administration in the Constitutional Amendment process. Accompanying me today is Ms. Allie B. Latimer, our General Counsel.

The Administration of course, strongly supports S.J. Res. 134 and the adoption of the proposed Equal Rights Amendment.

The responsibilities of the General Services Administration in handling the ratification of Constitutional amendments by the States are based on Article V of the United States Constitution, and Title 1, Section 106b of the United States Code. Under Reorganization Plan 20 of 1950, the duties with respect to Constitutional amendments were transferred to the General Services Administration from the Department of State. In carrying out these duties, the General Services Administration has in general followed precedents and customs established by the Department of State. The procedures involved in the General Services Administration's role in Constitutional amendments are as follows:

First, the Congress sends to the Office of the Federal Register in the National Archives and Records Service of GSA the original joint resolution proposing an amendment to the Constitution.

Identical letters are then sent to each Governor by the Administrator of General Services requesting that the proposed amendment be submitted to the State legislature, and that a certified copy of the legislature's action to be sent to the Administrator. Also included with the letter are a certified copy of the proposed amendment as well as extra printed copies.

If action is taken by a State legislature, a certified copy of the action document, which evidences adoption of the amendment by the State, is sent to the Administrator of General Services. These action documents are maintained by the Office of the Federal Register for record and information purposes and are made available for public inspection.

When notices have been received which indicate the amendment "may have been adopted" by three-fourths of the States (currently thirty-eight States), a certificate naming the States which have ratified the amendment is prepared for the Administrator's signature. After signature by the Administrator, the original certificate is received by the Office of the Federal Register for publication in the *Federal Register* and in the *United States Statutes at Large*.

As can be seen from this explanation, the functions vested in the Administrator of General Services in handling these State ratifications involve receiving State ratification documents and making them available for public inspection, and, after thirty-eight States have ratified, publishing the Amendment along with a certificate proclaiming that the Amendment has become valid as part of the Constitution of the United States and specifying the States which have ratified. These documents from States acting on proposed Constitutional amendments are then deposited in the National Archives for permanent preservation. We consider them to be among the most important records of the history of the nation.

With respect to the current status of the Proposed Equal Rights Amendment, the Legislatures of thirty-five States have apparently adopted, and we have the action documents on file at the Office of the Federal Register. The legislatures of four States have taken action purporting to rescind their ratifications. These States are Nebraska, Idaho, Tennsessee, and Kentucky. We also have received documents reflecting these actions. In addition, in June of this year we requested from the governors of all fifty States information on all actions taken with regard to this proposed amendment by either house of the State legislature. This request was made to assure the preservation of the valuable historical record of the amendment process. To date we have received responses from twenty-nine States.

That concludes my statement. Ms. Latimer and I will be glad to answer any questions the Subcommittee may have.●

THE NATURAL GAS BILL

● Mr. McGOVERN. Mr. President, one of the most difficult issues to come before the Congress this year is the natural gas bill. As it now stands before the Senate, it is significantly different from the bill submitted by President Catrer last year. Even those who have studied the bill closely are confused and uncertain as to its impact. Members of the Senate whom I admire are on opposite sides of the issue. It is my conviction, however, that the natural gas proposal now pending before the Senate is not in the national interest, although I continue to keep an open mind on the issues involved.

Two excellent articles have appeared this week in opposition to the bill. One of those articles, written by my colleague, Senator JAMES ABOUREZK, appears in today's Washington Post under the title, "Is the Natural Gas Bill Better Than Nothing?" The second article is authored by Senator EDWARD KENNEDY of Massachusetts and appeared in yesterday's Boston Globe under the title, "Why the Natural Gas Bill Won't Work." I think that all Senators will find these two articles well worth reading. I ask unanimous consent that they be printed in the RECORD.

The articles follow:

[From the Washington Post, Sept. 15, 1978]

IS THE NATURAL GAS BILL BETTER THAN NOTHING?

(James Abourezk)

Not since "Bloody Monday," Sept. 27, 1977, when the Carter administration switched sides and ran a deregulation spear through its own supporters, have I been as disappointed as when I learned that Sen. Ed Muskie (D-Maine) had come out in support of the Natural Gas Conference Report. It is disappointing, because he has been not only a great voice for consumers, but a fighter for the public interest in general. That makes it all the more surprising that he would buy the Carter administration's specious arguments on the natural-gas bill.

In his op-ed article in The Post Sept. 11, Muskie says that "no one really knows what will happen to energy prices and supplies if we pass the bill, or even if we defeat it." Thus, having denied the accuracy of the statistics, he went on to put his faith in the statistical predictions of the Congressional Budget Office, which used warmed-over data supplied by congressional supporters of the conference report and the Department of Energy.

Energy Secretary James Schlesinger has manipulated both the data base and the statistics concerning the conference report to suit his own political arguments. The department's questionable estimates of the effects of this bill were made even more doubtful after he did so. However, as long as we are trading figures, the Department of Energy, before Schlesinger was able to stop it, issued an analysis of the conference report that estimated the cost to the public at some $30 billion by 1985.

But beyond pricing, neither of the major arguments in favor of the conference report advanced by the administration and cited by Muskie has any basis in fact. They are simply designed to frighten timorous senators into voting for a bad bill.

The "confidence factor" measured by the value of the dollar overseas is currently being cited as the principal reason for supporting the compromise. That confidence will come, it is said, from reductions in oil imports possibly only if the bill is passed. Yet, it is hard to have much confidence in this claim itself. Some days Schlesinger says the bill will save 500,000 barrels a day immediately; on other days he predicts a savings of a million barrels a day. It all depends on who is talking to whom.

We also know that in July 1977 the White House accompanied its energy package with a document saying that the increased availability of gas to the residential/commercial sector and incremental pricing of natural gas *would have no effect on oil imports*. As one of my colleagues said recently, we cannot write the words "energy plan" on a piece of paper and expect to fool people who deal in international finance. There's no real dispute that the dollar has fallen. But it has fallen primarily because the United States has printed too many dollars, because of our inflation, not because we refuse to deregulate natural gas. Our substantial oil imports are not the key to the dollar's weakness. Germany and Japan have the world's strongest currencies, yet they import virtually 100 percent of their oil needs. The inflation resulting from the conference-report prices would only weaken the dollar further.

Even if one does not have access to a computer, it is not difficult to understand that the inflationary impact of the conference report will be devastating to the American economy. Aside from direct increases of tens of billions of dollars in fuel costs, the average family's food bill will increase substantially as a result of rising fertilizer and food-processing costs. No one can calculate the price increases of everything else that would result from passage of the conference report.

And we have just learned from the Federal Energy Regulatory Commission that it will have to add a bureaucracy of some 800 or more full-time employees to administer the new gas bill, if it becomes law, in addition to $10 million in contract professionals. The life of the law, before deregulation, is seven years, just the time estimated for the law to work its way through the courts.

The public should always be distrustful of legislation that has been fashioned in secret. Roughly half of the House-Senate conferees were excluded from deliberation on this bill. Later, a bare majority of conferees signed the report and then only because of massive wheeling and dealing by the administration. That was necessary because the conference report was too smelly to sell on its merits. As one congressman said during one of the secret sessions, "My constituents will tar and feather me in 1985 when this bill's effects are felt."

The conference report will bring the country nothing but higher prices and more inflation. It will produce no additional gas. Lest we forget, it will also completely deregulate natural gas prices in 1985.

It has been argued that the Natural Gas Conference Report is better than nothing. Of that I'm not certain, but the alternatives have not been clearly set out. "Nothing" would mean instant and total deregulation, which I oppose, but which is more honest than putting it off for seven years—after

everybody's next election—as the conference report does. But we have in place much more than "nothing." We have the Natural Gas Act, which sets the price of natural gas reflecting the actual cost of its production plus a profit of 15 percent to 18 percent.

Who needs more than that? Certainly not the gas consumers of this country.

[From the Boston Globe Sept. 14, 1978]

WHY THE NATURAL GAS BILL WON'T WORK

(BY EDWARD M. KENNEDY)

The Senate this week is faced with a most unusual situation. We are being asked to vote for a conference report that even its proponents will not characterize favorably.

No one knows whether this legislation is workable. No one knows what its actual effect will be on the price of natural gas, although it is certain that prices will rise dramatically. And no one knows what its real impact will be on production of gas.

Backers of the legislation argue that the Senate should pass it in order to be on record as doing something—even if that something is enactment of a 100-page, highly ambiguous bill that will have only one sure result: the transfer of billions of dollars from the pocketbooks of consumers into the hands of the oil and gas producers.

Avocates of the bill talk about the symbolism of passage, of the importance of the bill to world confidence in the dollar, about the need to establish an energy policy regardless of its content. They talk about everything but what is in the bill.

But we owe it to our constituents, who will have to pay the price for this legislation, to look beyond the rhetorical arguments and to examine the fine print of the bill and the most likely results of its enactment.

First let us examine the argument that the bill is needed to shore up confidence in the dollar. The implication of that argument is that speculators in the money markets will believe the legislation will reduce our domestic consumption of energy and thereby our dependence on foreign imports.

But the fact is that increased prices for natural gas will force consumers to switch to alternative fuels. And in many cases that alternative fuel will be oil—imported oil.

The proponents also argue that higher prices are needed to discourage consumption. Yet American consumers have already been subjected to energy price increases as great or greater than the rest of the industrialized world. In New England, for example, energy costs went up 125 percent between 1970 and 1976; New Englanders have been subjected to price increases and have made dramatic energy savings. Further price increases will not substantially add to the savings, but will fall most heavily on those who have already made the greatest effort to save—the poor, the elderly, small businesses and people on fixed incomes.

Nor is there any reason to believe that this measure would increase the domestic supply of natural gas. Total, immediate deregulation of natural gas would increase domestic supplies by only about five or six percent. Any increased supplies resulting from this bill, which does not require immediate decontrol, would be marginal at best.

Let us now take a look at the bill itself. Even a quick glance indicates why its backers are so reluctant to talk about it. It is a regulatory monstrosity. The bill would create 23 separate categories of prices for various types of natural gas. The cost of the regulatory nightmare that will be created as a result of the need to determine which gas falls into which category will be enormous. It will create the need for a huge new federal bureaucracy and will be a boon only to the lawyers who will have a field day battling the hundreds of court suits that will result.

Industrial consumers will be faced with uncertainty about what price they will pay and consequently have expressed strong opposition to the pricing provisions of this bill.

Moreover, these pricing provisions may well accelerate the movement of industries from the northern industrial states to the producer states of the South and Southwest where the pricing provisions would not be applicable.

In short this bill won't work. It is simply too complicated and leaves open too many questions that will have to be resolved in the courts. Nor is there any evidence to support the argument that the bill would ease the energy crisis, reduce imports by one drop or produce even a single additional cubic foot of natural gas.

The fact is we already have in place a mechanism for increasing prices of natural gas, if there is a need for such an increase. If gas located in inaccessible places, in shale or deep in the ground, can only be recovered at a higher price, the existing rules of the Federal Energy Regulatory Commission allow it to establish a higher price for such gas.

I do not buy the argument that Congress must act only to prove that it can. There are a number of areas where we can move, and already are moving, to ease the energy crisis—by promoting conservation, by encouraging the use of existing alternative energy sources and by developing solar and geothermal power.

If Congress can produce a bill to change the pricing regulations of natural gas in such a manner that it will clearly improve the energy situation without severe economic dislocations, I will support it.

But this bill does not do that. It leads us into a wilderness of uncertainty where the dangers may well be even more ominous than those we face today, and where alleged benefits certainly do not justify the clear risks involved.●

PROPOSED ARMS SALES

● Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD the two notifications I have just received.

The notifications follow:

WASHINGTON, D.C.,
September 13, 1978.

In reply refer to: I-4564/78ct.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 78-98, concerning the Department of the Air Force's proposed Letter of Offer to Iran for defense articles and services estimated to cost $350 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA, Director, Defense Security Assistance Agency.

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Iran.

(ii) Total estimated value:
Major defense equipment,* $310.0 million.
Other, 40.0 million.
Total, $350.0 million.

(iii) Description of articles or services offered:
Thirty-one (31) F-4E aircraft, support equipment and spare parts.

(iv) Military department: Air Force.

(v) Sales commission, fee, etc., paid, offered or agreed to be paid: None.

(vi) Date report delivered to Congress: September 13, 1978.

WASHINGTON, D.C., *September 13, 1978.*

In reply refer to: I-6943/78ct.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 78-99, concerning the Department of the Navy's proposed Letter of Offer to Iran for defense articles and services estimated to cost $105.4 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA, Director, Defense Security Assistance Agency

---

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Iran.

(ii) Total Estimated Value:
Major Defense Equipment* $97.0 million.
Other, $8.4 million.
*Total, $105.4 million.

(iii) Description of Articles or Services Offered: One thousand (1,000) AGM-45 SHRIKE missiles.

(iv) Military Department: Navy.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: September 13, 1978.●

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate is to come in at noon on Monday.

Are there any orders for the recognition of Senators?

The PRESIDING OFFICER. There are none.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, after the two leaders are recognized on Monday, the Senate will automatically return to the consideration of the conference report on natural gas pricing.

UNANIMOUS-CONSENT AGREEMENT

Mr. President, I ask unanimous consent that in conformity with the agreement that has been entered into on the natural gas conference report and within the outlines of that agreement, the Senate proceed at circa 3:45 to 4 p.m., or thereafter, on Monday, to the consideration of the Nuclear Regulatory Commission bill, S. 2584, Calendar No. 779, pro-

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

vided no Senator or Senators at that time are debating or wish to debate the natural gas conference report or any motion in relation thereto and with the further understanding, which is in accordance with the agreement, that even though the Nuclear Regulatory Commission bill is called up, that at any time if any Senator wishes to ask for the regular order the Nuclear Regulatory Commission bill would be temporarily set aside and the Senate again would be on the conference report on natural gas pricing.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object, and I shall not object, I assume the majority leader's request is totally consistent with the dialog and agreement that was entered into in connection with the energy bill. I am sure that in his intent; is that correct?

Mr. ROBERT C. BYRD. Yes, indeed, and I believe under the agreement any Senator can enforce that order simply by asking for the regular order.

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. I do not object, and I thank the majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, May I say for the information of Senators the Nuclear Regulatory Commission bill is under a time agreement. That time agreement is printed on pages 2 and 3 of the calendar of business today, Friday, September 15, and Senators may be informed therefrom as to the time agreement.

Rollcall votes will occur on Monday in relation to amendments to the instructions in Mr. METZENBAUM's motion to recommit. They could occur in relation to the Nuclear Regulatory Commission bill, and they could in relation to any other matter that is cleared for action on Monday in accordance with the unanimous-consent agreement covering the natural gas conference report.

So perhaps, I should simply remind all Senators that on Tuesday a rollcall will occur at 3 p.m. on the motion by Mr. METZENBAUM and other Senators to recommit the conference report with instructions. Did I say there will be a rollcall vote? There will be, no question about that.

May I say one further thing: This does not rule out rollcall votes before 3 p.m. on Tuesday. There may be rollcall votes on amendments to instructions as set forth in Mr. METZENBAUM's motion. There may be rollcall votes on other matters if, in accordance with the agreement in the conference report matter, other matters may be called up.

RECESS UNTIL MONDAY SEPTEMBER 18, 1978

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate I move, in accordance with the order previously entered, that the Senate stand in recess until 12 o'clock noon on Monday next.

The motion was agreed to; and, at 5:16 p.m., the Senate recessed until Monday, September 18, 1978, at 12 noon.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 15, 1978:

NATIONAL LABOR RELATIONS BOARD

Howard Jenkins, Jr., of Maryland, to be a member of the National Labor Relations Board for the term expiring August 27, 1983.

FEDERAL RESERVE SYSTEM

Nancy Hays Teeters, of Indiana, to be a member of the Board of Governors of the Federal Reserve System for the unexpired term of 14 years from February 1, 1970.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be general

Gen. Sam Sims Walker, 549-32-8593, (age 52), Army of the United States (major general, U.S. Army).

The following Army National Guard of the United States officer for appointment in the Adjutant General's Corps, Reserve of the Army, under provisions of title 10, United States Code, sections 593(a) and 3392:

To be major general

Brig. Gen. Edward Clarence Binder, 507-12-1808.

The following-named Army Medical Department officer for temporary appointment in the Army of the United States, to the grade indicated, under the provisions of title 10, United States Code, section 3442 and 3447.

To be brigadier general, Medical Corps

Col. Andre John Ognibene, 061-28-5018, Medical Corps, U.S. Army.

The following-named Army National Guard of the United States officer for appointment to the grade of brigadier general as a Reserve commissioned officer of the Army and to the grade of brigadier general, Army of the United States, under the provisions of title 10, United States Code, section 593a, 3385, 3442, and 3447:

To be brigadier general

Col. Herbert R. Temple, Jr., 557-32-7721.

IN THE NAVY

The following-named officer having been designated for commands and other duties of great importance and responsibility in the grade of vice admiral within the contemplation of title 10, United States Code, section 5231, for appointment while so serving as follows:

To be vice admiral

Rear Adm. David F. Emerson, U.S. Navy.

IN THE AIR FORCE

Air Force nominations beginning Robert L. England, to be lieutenant colonel, and ending Hyman H. Album, to be major. (See Executive Journal proceedings of August 14, 1978, for complete list.)

IN THE ARMY

Army nominations beginning Jack B. Abraham, to be colonel, and ending Don A. Gross, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on August 14, 1978.

IN THE NAVY

Navy nominations beginning Michael W. DaBose, to be ensign, and ending Aaron S. Wolkoff, to be commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on August 14, 1978.

EXTENSIONS OF REMARKS

CREATING A "STATE"

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Friday, September 15, 1978

● Mr. HARRY F. BYRD, JR. Mr. President, the Congress recently submitted to the States for ratification an amendment to the Constitution providing full voting representation in the House of Representatives and the Senate for the District of Columbia.

I opposed this amendment, believing that the District has none of the crucial characteristics of a State and should not be so treated.

In the September 8 edition of the Richmond Times-Dispatch, there appeared an excellent editorial on this subject, entitled "Creating a 'State,'" which sets forth clearly the major reasons why full voting representation in the Congress for the District is not warranted.

The editor of the editorial page of the Times-Dispatch is Mr. Edward Grimsley.

I ask that the editorial be printed in the Extensions of Remarks.

The editorial follows:

CREATING A "STATE"

The proposed constitutional amendment to give the District of Columbia voting representation in Congress was commented on in a recent editorial on this page. Because adoption of the amendment would so directly affect all Americans, a further look is in order at this proposal to treat the District "as though it were a state."

The very wording of the proposed amendment points up its basic weakness. The District of Columbia is *not* a state, and to treat it as one is at variance with the intent of the framers of the Constitution.

Article I of the Constitution says Congress shall have the power:

"To exercise exclusive legislation in all cases whatsoever over such district (not exceeding 10 miles square) as may be, by cession of particular states and the acceptance of Congress, become the seat of the government of the United States. . . ."

It is quite clear that the framers of the Constitution put the seat of government in an entirely different category from the states and that when they said each state should have two representatives in the Senate, they did not mean to include what later became the District of Columbia.

It is true, of course, that the Constitution can be changed, but changes should be made only when there are sound reasons, and such reasons are lacking in the case of the proposed amendment.

The District of Columbia cannot in fact be made a state by calling it one. Unlike the others, it is all urban, and its one overriding interest is the federal government. If it had voting representation in Congress, the representatives in effect would be representing the federal government. The more the government expanded, the better for the people represented by the District's House and Senate members.

The District of Columbia is a city only slightly larger in area than the city of Richmond. It does have more than three times as many people as Richmond, and more people than several of the states. An argument can be made that the District should have voting representation in the House, which in effect represents people, in contrast to the Senate, in which representation is based on statehood. Virginia Rep. Caldwell Butler suggested that compromise to the House when it was considering the District amendment, but his idea was not accepted. Another alternative would be to allow District residents to vote for, and be represented by, Maryland's congressmen.

In recent years as attempts have been made to give the District voting representation in Congress, proponents have charged that opponents were motivated by racial considerations, since the District's population is largely black. But racial political considerations could be the only explanation as to why some former opponents in the Senate voted for the proposed amendment this time. Massachusetts Sen. Edward Kennedy charged during the debate that some members of the Senate feared that senators elected from the District would be "too black." Pennsylvania Sen. Richard Schweiker called that charge "demagoguery," but it undoubtedly had an effect in influencing some senators to vote for the amendment for fear of being branded racists if they opposed it.

The reasons for opposing treating the District of Columbia as a state are just as sound today as they were when the Constitution was written, and the racial makeup of the District is not one of those reasons. The District of Columbia is, and should remain, a unique bit of territory as far as its status in the federal government is concerned. Nothing has happened in the intervening years to challenge the wisdom of the nation's founders in putting the seat of government in a separate and distinct governmental category.

The best interests of the nation will be served if the proposed amendment fails to receive the endorsement of three-fourths of the states that would be required in order for it to become a part of the Constitution.●

URBAN POLICY

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 15, 1978

● Mr. GOODLING. Mr. Speaker, as a representative of suburban areas I feel strongly that they are being discriminated against by the current administration's urban policy. I would urge other Members to join me in appealing to the President to protect the interest of suburban residents by changing his basic policy statements for urban areas, specifically Executive Order 12072. This is involving Federal space management directing that Federal buildings be located in urban areas.

A constituent of mine was approached by the Fish and Wildlife Service in order to secure rental space in his building. They had wanted to relocate from an urban area with high rent to a less expensive and more desirable location. The Service does not have a walk-in clientele and the clients are more likely to be located in rural and suburban areas rather than inner city ones.

It seems, however, that the President's policies—as stated in a letter from Mr. Eizenstat—require Federal facilities to be located in central cities.

According to Mr. Robert T. Griffin, then Deputy Administrator of General Services Administration, my constituent's building was not in any way excluded from consideration from leasing by GSA, but they have been directed to retain facilities in urban areas and also to locate new facilities with a city's central business area. Therefore, Mr. GRIFFIN says, they would be in direct conflict with the administration's urban policy if they OK'd such a relocation. If this is not discrimination, I do not know what is.

I am quite sure that this is not an isolated case and that many of my colleagues have been receiving mail about such instances of urban policy adversely affecting the suburbs.

I see no reason for punishing suburban people who have worked hard to maintain standards of living in their communities that may seem very high to the extremely disadvantaged. I think it is in the interests of all to help those of us who are less fortunate than others, and many of these unfortunate people live in suburbs, but I would prefer a method of assistance whereby innocent bystanders are not made victims.●

STUDENTS UPHOLD ENDANGERED SPECIES ACT

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, September 15, 1978

● Mr. STEERS. Mr. Speaker, I wish to call attention today to the fine work done by Katharine Pauley, a high school student from Rockville, Md. She spent many long hours collecting the signatures of over 600 people who oppose any weakening amendments to the Endangered Species Act. All those who signed her petition expressed their opposition to the "Baker-Culver" amendment in particular.

As you know, the Baker-Culver amendment, which passed the Senate, would establish a "cabinet" level committee to grant exemptions under the Endangered Species Act.

I believe that the Congress has a responsibility to maintain a strong Endangered Species Act. I am not convinced that the approach taken in the Baker-Culver amendment is the most desirable. If there are exemptions to be granted, they must be very rare and granted only for truly important reasons.

I feel that Katharine is to be commended for her energy, enthusiasm, and leadership in collecting these signatures. I salute the strength of her convictions in this controversial area.

I want to call the attention of all my colleagues to this effort by Katharine. There are a large number of people in this country who believe in the original purpose of the Endangered Species Act and want to see the strongest possible bill pass the House during the 95th Congress.●

BILINGUAL EDUCATION NEEDS REEXAMINATION

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 15, 1978

● Mr. McCLORY. Mr. Speaker, the subject of bilingual education appears to be creating more problems than it solves. Instead of promoting an understanding of the English language, bilingual programs appear in many instances to result in continued instruction in a language other than English—thus delaying development of English language capabilities so essential to economic and social progress in our predominantly English-speaking Nation.

Mr. Speaker, there is evidence also or a lack or interest in bilingual education classes as pointed out in the attached editorial from the Chicago Tribune. From my own experiences, subjecting a young student to instruction in a foreign language can result in the speediest manner of developing a proficiency in that language. This is borne out also by the Tribune editorial of Wednesday, September 13, 1978, which follows:

THE DEMAND FOR BILINGUAL CLASSES

Chicago public school officials geared up for 2,360 high school students in 15 bilingual programs at 9 "magnet" high schools this fall, more than double the 1,039 enrolled in such programs a year ago. But as of Aug. 22 there were only 17 new applications. Some of the scheduled bilingual programs in Assyrian, Cantonese, French, Greek, Italian, Polish, Spanish, and Vietnamese are endangered by student apathy.

In 1976, the Illinois General Assembly mandated "transitional bilingual education programs whenever 20 or more eligible students are assembled in a school" [to quote State Supt. Joseph M. Cronin]. In theory, bilingual education is indeed "transitional," designed to prepare students who do not speak English for classes in which English is the language of instruction. Not surprisingly, in view of the self-interest of persons staffing bilingual classes, there have been allegations that pupils competent in English have been recruited for or retained in the special classes. Certainly the sluggish response to expanded bilingual offerings this fall suggests that the demand for classes conducted in languages other than English has been exaggerated.

Legislators and school administrators alike would do well to reconsider both the popularity and the educational efficacy of bilingual education. This recent addition to the state's mandates to public school districts should be reassessed in the light of both actual experience and the number of fami-

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

lies who prefer instruction in a language other than English.

A generation or more ago, innumerable children with no command of English entered regular classes and caught on quickly, without benefit of any "transition" instruction in their native languages. It appears that many contemporary families of foreign or Latino origin are perfectly willing for their children to have the same kind of experience. That may well be the quickest and most certain way to acquire a command of the language that every resident of Chicago needs to know.●

A DAY TO REMEMBER

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 15, 1978

● Mr. LENT. Mr. Speaker, on September 19, I will join with many others worldwide in observing the birthday of Soviet prisoner of conscience, Hillel Butman. Our observance will not resemble a usual birthday celebration, but will be a somber and bitter occasion. For over 8 years, Hillel has been a prisoner in the Soviet Union for the "crime" of requesting permission to emigrate. For over 4 years, I have been writing the Soviets weekly to urge Hillel's release. In my remarks today, I again wish to call the attention of the U.S. Congress to Hillel's plight, which commands our deepest concern, and to his courage, which is an example to us all.

Since his imprisonment in June 1970, Hillel Butnam has been subjected to hardships which would have destroyed men of lesser fiber. My information indicates that the Soviets deny him proper medical care; consequently, he is in frail health. Also, judging from my reports, there is good reason to believe that the Soviets deny him an adequate diet. Furthermore, in addition to overcrowded cells, some of which once held prisoners of the Tsar, Hillel is assailed psychologically. To break his spirit, the Soviets withhold mail. His annual visit from relatives was cancelled with no reason given, and his request to see a lawyer was denied.

Despite adversity, Hillel perseveres, awaiting the day, hopefully, when he will be permitted to emigrate to Israel for reunion with his wife and family who have not seen him since 1973. In fact, his daughter, Yulia, has never seen him.

In an attempt to hasten the day of Hillel's release, I have joined with his many friends the world over in writing the Soviets on a weekly basis to pressure for his release. I deeply believe that the outpouring of mail serves to keep his jailers from consigning Hillel's case to oblivion. I have also written our Secretary of State, Hon. Cyrus Vance, urging him to explore the possibility of including Hillel's case in any discussions regarding a prisoner exchange. The Department of State has indicated to me that my suggestion will be taken into consideration.

Thus, as we near this bitter anniversary of Hillel's birthday, I know I speak for his many friends when I say to the Soviets:

Haven't Hillel Butnam and his long-suffering family endured enough? Isn't it time to live up to the accords signed in Helsinki which committed all signers to the principles of basic human rights? Permit Hillel to rejoin his family in Israel, in the name of compassion, justice, and basic human rights.●

NEED TO REVIEW CETA

HON. BO GINN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 15, 1978

● Mr. GINN. Mr. Speaker, as all Members are aware, the Comprehensive Employment and Training Act has been under heavy attack, because of the abuses which have become prevalent in many parts of the country in implementing the program. As such, the Congress is rightfully reviewing the authorization language in an attempt to eliminate the kinds of situations which generate those abuses, and the enactment of that legislation has been seriously delayed.

In light of that fact, I think it is important that the Members be aware of the instances in which the program has achieved its intended goals and has worked well. One such instance has been brought to my attention, and I would like to share it with my colleagues. For their information, I wish to insert in the RECORD a copy of a letter sent by one of my constituents, Mrs. W. C. Hendrix of St. Simons Island, Ga., to the deputy director of the Georgia Department of Labor. She thought someone would like to know:

AUGUST 2, 1978.

Mr. DON R. BRYANT,
Deputy Director, Georgia Department of Labor, Atlanta, Ga.

DEAR MR. BRYANT: I really don't have time to write this letter, but I felt SOMEONE should speak up in defense of CETA—all I read about is the abuses, and an article in August "Reader's Digest" prompted this letter. Why doesn't someone write about the good things and the NON-abuses?

I won't bore you with what we are—suffice it to say the Glynn Art Association is properly tax-exempt, etc. and qualifies for governmental funds; it operates the Island Art Center, one of the largest community arts centers in the Southeast; we are totally dependent upon contributions and donations to keep open; we have all the internal clerical workings of a business, but are staffed with volunteers only (until last December when we received our first 2 CETA employees). We receive grants for specifics, such as in-school residencies/programs and other such very specific programs, NEVER for personnel, whom we desperately need to continue. I am appointed by the Board, work full time, but without pay. Much of my time is spent in re-training and recruiting volunteers, who continually drop out to take full-time salaried employment due to inflation.

After two years of trying, we finally got a Title VI project 'slot' and we were sent a clerical and a laborer—both of whom were really 'unemployables' as the lady didn't want to work and the laborer was in jail most of the time. We finally replaced the lady and the laborer finally just quit coming in. We received the clerical worker in latter November, 1977, and the laborer the second week in December, which meant that we had already lost several months of our grant allotted time.

Case No. 1: In February we had a new volunteer, Ms. Janet Waters, who came here temporarily as she was unable to find salaried employment; she is an art history major whose goal is museum work; she had to drop out of graduate studies for financial reasons. Our then CETA clerical worker told Ms. Waters she hated the work (any work) and that Ms. Waters should apply for her job and with a lot of effort, we managed to exchange workers. Point: This means that we now give employment and training to a person (Ms. Waters) in the field she expects to make her profession, and we are the ONLY such institution in a very large area which is large enough to give her overall training; anywhere else, such as Jacksonville, Atlanta, or Charlotte, if employed in their arts organization she would be placed in a localized department without an opportunity for overall training. To me, this is good and proper use of the funds.

Case No. 2: One of our services is to work with the public schools in a Community Based Vocational Educational program; we take students, supervise and train them during their "lab" time at the Center. In early 1977 we agreed to accept a young girl whom they could not place; she is from an indigent family; she was so shy she could hardly speak; she was insecure. We worked with her and by the summer of 1977 when we were offered summer CETA workers, I requested her. I try to help her out by employing her to cut my grass at home, etc., and in the Spring of 1978 managed to get her an 8-hour job with CETA to work at the Center on weekends, when we were unable to get volunteers. This summer she was transferred to the summer program. With encouragement and assistance, she has completely "blossomed" and is an entirely different person, even in appearance. She is outgoing; she takes initiative; she meets people well; she now helps supervise and trains other CBVE and CETA part-time workers; and everyone who tried to work with her previously cannot believe this impressive change in her. I happen to believe that she will not continue to improve herself and lift herself out of the economic category in which she currently lives, and this is something VERY important.

In Case No. 1 even though we were started late through no fault of ours, we are now cut off at July 31st, and are currently on a two-month Cluster extension. I can get no hope of any further extension and am so tired of trying that I am seriously considering removing myself from the scene, as I cannot handle it anymore as the only full-time employee, and the Association cannot afford an employee.

Mr. Bryant, I'm not writing to ask you for anything—I just wanted you to know that there ARE places where CETA is being used where it is of the utmost value to a large segment of people; where it is a Godsend; and where others in my same "boat" would never do anything but adhere to the rules because we are so grateful for this assistance; where only one clerical employee can mean the difference in what we can do for the community.

I know you are tired of hearing about CETA, but hope it is of some benefit to hear the GOOD side of it.

Sincerely,

MRS. W. C. HENDRIX,
Associate Director.●

AFTER 38 YEARS, SONNY STILL GETS BUTTERFLIES

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 15, 1978

● Mr. ALEXANDER. Mr. Speaker, football fever has enveloped our Nation as thousands of professional, collegiate and high school athletes have taken to the gridiron in the renewal of rivalries, some of which have lasted for over a century.

C. R. "Sonny" Gordon of Holly Grove, Ark., in my congressional district, is one of the up and coming high school coaches in our parts. Last Friday Sonny took the Holly Grove Panthers to the football field for a 38th straight year.

Amassing over 300 wins and one of only two Arkansas high school coaches to win the Lowell Manning award, signifying the overall outstanding Coach of the Year, Sonny says he still gets butterflies before every game.

Sonny, 64, has given up the basketball and track coaching duties in recent years to concentrate on football. Recently the Arkansas Gazette carried an article highlighting the career of this fine coach and molder of young men. I commend this article to my colleagues:

AFTER 38 YEARS, SONNY STILL GETS BUTTERFLIES

(By Wadie Moore, Jr.)

HOLLY GROVE.—C. R. (Sonny) Gordon has been a winner most of his life. At the tender age of 64 he's not about to change direction.

Today, his general preparation and strategy remain sound, just like it was in 1940 when Gordon first landed the head coaching job at his home town Holly Grove.

Last Friday marked the 38th year for Gordon to lead the Panthers onto the football field. In his prime he held down three jobs—head football, basketball and track coach.

Years ago Gordon turned over the track job. Last season he stepped down as basketball coach. Slowly Sonny Gordon is headed in the direction of retirement, but that's the farthest thing from his mind right now.

Times have changed but Sonny Gordon remains the same in one area: he's a proven winner and a friend to all associated with him.

"In a way I'm still the same," said Gordon Tuesday afternoon before a light practice session. "My friends keep asking me when am I going to retire. I told 'em when I quit getting butterflies before a ball game I'll retire. Not until. I still take each game like I did when I was a kid.

"Football is a part of my life. Soon I'll have to quit. I can't go on forever. The time is always narrow. At first it's year-to-year, then it becomes day-to-day."

Gordon played on Holly Grove's first football team in 1931. In today's offensive scheme, Gordon would have been listed as a quarterback. But out of the single wing in the early 30s, he filled the position of a tailback, although he did call the plays.

Following college (the University of Arkansas-Monticello) Gordon landed his first coaching job at Imboden (Sloan-Hendrix Academy) in 1936. He spent three years as an assistant coach at Walnut Ridge, then returned home.

There are only two coaches in the state that has won the Lowell Manning Award twice—for the overall outstanding Coach of the Year—Gordon and Fort Smith Northside's Bill Stancil. Gordon was named for the 1964–65 and 1975–76 seasons. He has posted more than 300 wins throughout his career, and during a 10-year span his Panthers lost only five football games.

There's a ton of differences in today's style of football. Gordon believes for the best.

"There're so many I couldn't run all of 'em off," said Gordon. "When I first came here we had a lot of young little kids. Now, you might get 'em in all sizes. Overall, football is a lot better today. The athletes are better prepared and so are the coaches.

"The equipment is nothing compared to what it was in my first year. We had those early head gears. The kind that you could roll up and put in your back pocket."

Sonny Gordon always has game-to-game motivation. He is constantly searching for that little edge that might produce a winner on Friday. His game strategy?

"In coaching you have to change with the times," said Gordon. "I did. I was a single wing man. At first I was slow about accepting the T-formation. You have to change and roll with the punches."

Gordon did hesitate momentarily before naming some of his outstanding football players. After all, a standout in each season would produce 37 names. A few of his football standouts are Richard Coleman, who played at Arkansas; Harry Sylar, Dewey Crow, and Bob Williamson, a 1966 graduate who is presently working as Gordon's assistant.

Gordon organized Holly Grove's first basketball team in 1945. The basketball program started to move in the late 60s and early 70s. The Panthers won five straight district titles, then landed the Class AA state title in 1976.

There's little doubt who was the best Panther basketball player during Gordon's career.

"It was Wally Love (a member of the 1976 team who is now at the University of Central Arkansas)," said Gordon. "He was the most illustrious player to ever graduate from here. He was in a class by himself.

"I wanted to quit coaching basketball even before we won the state title," said Gordon. "After we won it, I felt like I had to stay around just one more year. When you're involved in that many sports you're coaching around the calendar. Now I've got more time to concentrate on football."

Gordon has only 30 athletes out this season, but he hopes to produce a winner out of his diehards.

"We've got a young team and a lot of 'em haven't played," said Gordon. "We're small, but we've got good quickness. We've got a 10th grade quarterback, who in time will be good. I don't think anyone will actually chew us up."

Sonny Gordon's reward for 38 years of coaching at Holly Grove is watching a young athlete develop into a man. His rewards do not come from just winning, but from being associated with such individuals.

"I've always had some good athletes and I've always had good things in mind for 'em," said Gordon as the day finally wound down. "If an athlete will stay in our program he'll be a better man tomorrow. It's here for 'em.

"I guess one hundred of my boys have received high school diplomas, when normally they might have dropped out of school if not for football. This game allows a young man a chance to do something with his life. That means a lot to me."

And for 38 seasons, a lifetime, Sonny Gordon has meant a lot to Holly Grove. He's their No. 1 citizen.●

IRAN AND THE SHAH: OUR ESSENTIAL ALLIES

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 15, 1978

● Mr. SIKES. Mr. Speaker, the recent upsurge of political unrest in Iran has caused many Americans to question their country's relationship with the Nation's ruler. At this time of reassessment it is important to emphasize and reemphasize, for indeed it cannot be overemphasized, the strategic importance of Iran and its ruler to not only the United States but the entire free world.

Much of what makes Iran such a crucial ally is its geographical position. To the north, only the People's Republic of China shares a longer border with the U.S.S.R. In the 1920's and again between 1941 and 1946, the Soviet Red Army briefly violated Iran's northern frontier. To the east lies Afghanistan, strongly pro-Communist and coming increasingly under Soviet domination. For years, Iran and Afghanistan have had sensitive tribal and water problems. To the west lies Iraq, also heavily dependent upon the Soviet Union. Until recently, this country's radical government had long engaged in border disputes with Iran and Kuwait. And to the south, Iran has the longest coastline on the Persian Gulf, guarding this waterway and the vital Strait of Hormuz through which passes 85 percent of Japan's oil imports, 70 percent of Western Europe's, and 30 percent of the United States.

But of more strategic importance than Iran's borders is what they contain: a population of nearly 40 million and vast energy reserves. Iran has the fourth largest oil reserves in the world (after Saudi Arabia, the U.S.S.R., and the United States), and is the second largest oil exporter. Recent explorations have revealed that Iran possesses the second largest natural gas reserves in the world.

The Shah has developed oil and natural gas to their capacity. Not only are they being developed and exported as fuel, but they are also being processed into petrochemicals, essential elements in aspirin, sulfur, ammonia, fertilizers, and 70,000 other extremely valuable products. Non-oil exports have risen from $115 million in 1960 to $620 million in 1977. At the same time the Shah has taken the lead among leaders of oil-producing nations in developing alternative sources of energy such as solar, nuclear and geothermal power. The $500,000 in technical aid our country granted to Iran in 1950 had been more than reciprocated by 1976 when Iran was in the position to sign a trade protocol with the United States projecting total trade between the two countries at $52 billion over a 5-year period. In that same period of time, Iran's GNP has risen from $1 billion to $50 billion.

But the progress the Shah has made among his people makes his energy development look mild in comparison. In 1925, there were less than a dozen hos-

pitals, clinics and laboratories in all of Iran. Last year there were more than 4,600. In 1925, Iran also had only 2,000 kilometers of roads. Last year, Iran's roads totaled 64,000 kilometers. Not many years ago, telephones were a rarity in Iran. Today, a full integrated national telecommunications system connects most of Iran's cities to an international network. Per capita income has risen from less than $100 in 1953 to over $2,300 in 1976.

Yet perhaps the most drastic and important advances are reflected in education and literacy. In 1950, Iran had 350,000 students, with 800 of those studying abroad, and only one university. Today there are 9 million Iranian students, fully one quarter of the entire population, all of them receiving a free education. Of those, 70,000 are studying abroad, more than half here in the United States. Today, Iran has 21 universities and 142 colleges and other institutions of higher learning with a total enrollment of 189,000.

The Shah's program to eradicate illiteracy is being spearheaded by the Literacy Corps, young men and women of draft age who have helped reduce the rate of illiteracy from 85 percent in 1969 to less than 50 percent today. The Shah expects to wipe out illiteracy completely in the next decade.

In the past 25 years, the Shah has accomplished more for his people than any government of any country with comparable problems and conditions has accomplished for its citizens. The Shah and his father before him have been a distinctly liberal force in Iranian history. Iran is therefore in sharp contrast with other nations experiencing political unrest whose conservative governments tend to oppose change. The Shah has always faced opposition from ultra-conservative Moslems and feudal lords who view, probably correctly, technological and intellectual advancement as a threat to their power and influence.

It is no surprise then that these conservative groups escalated their disruptive activities when the Shah this year focused more of his attention on increasing political freedom. But what is surprising, at first glance, is that the ultra-left underground Marxist movement in Iran has allied itself with the conservative opposition. But in view of reports that this movement has close contacts with the Red Brigades in Italy, Baader-Meinhoff in Germany, and the Popular Front for the Liberation of Palestine (PFLP), one of the most radical Palestinian terrorist organizations, and reports that the movement's key members were schooled in the Soviet Union, this unholy alliance, at a closer look, seems not to appear so strange. It provides another means by which the Soviet Union hopes to destroy an essential strategic ally of the free world. Iranian officials are convinced that there is a KGB connection to the recent rioting.

Our Nation cannot afford to stand by and watch Iran, our strongest and staunchest ally in so vital an area of the world become the newest ribbon on the ever-lengthening tail of the Communist kite. We must provide the Shah with meaningful evidence of support in whatever categories will prove most effective.

In closing, I would like to quote from two editorials, the first from the Wall Street Journal, and the second from the Washington Post, two major newspapers which I have seldom found to agree on political issues but which do agree here:

The outbreak of rioting precisely against political liberalization should help Americans understand that the Shah is doing the best he can with incredibly difficult situations, and that despite everything raised against him he is on balance a force for the kind of world most Americans would like to see. . . . American policy should be guided by something Americans can understand—our own national interest. Economically and strategically, we need a strong and friendly Iran. This means that, in whatever way we can be useful, we need to support the Shah.—"The Persian Problem," The Wall Street Journal, Sept. 13, 1978.

For its oil, for the stability it lends to its exceedingly shaky region, for the bulwark it forms to the spread of Soviet influence, Iran matters greatly to this country. . . . Unquestionably, (the Shah) is more likely to go in the modernizing direction most Americans would like to see Iran go than any of the elements clamoring for his removal. It helps if you think for a minute of the Libyan model of an oil-rich state led by a fanatical Iranian Qaddafi. That is a distinct possibility, and one truly threatening to American interests. Without the shah (sic), it could come to be.—"The Tumult in Iran," The Washington Post, Sept. 12, 1978.

The loss of Iran's stable government would be one of the most serious blows which could befall the free world. There is too much lethargy in the West about Iran and its leadership in the very explosive area of the Middle East. This leadership is now constructive. It promotes peace in the area. If Iran's leadership were lost, the power and prestige of this strategic nation could become a major asset to Soviet aspirations for world domination.●

THE SUSAN B. ANTHONY DOLLAR COIN

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 15, 1978

● Mr. LaFALCE. Mr. Speaker, the Committee on Banking, Finance and Urban Affairs recently passed the Susan B. Anthony Coin Act of 1978, which mandates placing the portrait of Susan B. Anthony on the new dollar coin. The Senate on August 22, 1978, endorsed a companion bill, and I urge my colleagues in the House to do the same when the bill is presented for a vote.

The administration has proposed that the dollar coin be issued with a contemporary version of the "Miss Liberty" head. At best, this proposal can be construed as a symbolic recognition of all American women. Realistically, the proposal is meaningless tokenism. To treat the very tangible contributions of those dedicated women with the visage of the breezy, ageless, lifeless Miss Liberty is tantamount to making "Have a Nice Day" our national motto.

Susan B. Anthony was a tireless worker for social betterment whose career spanned the 19th century. Susan B. Anthony perhaps more than any other woman changed our lives through her single minded devotion to the principle that all Americans must participate in a democracy. She worked against strong and bitter opposition for the right of women to vote, and in 1848 laid the groundwork for passage of the 19th amendment. Together with her contribution to the suffrage movement, Ms. Anthony was one of the principal organizers of the abolitionist movement and campaigned extensively for black suffrage.

In 1869, Susan B. Anthony and Elizabeth Stanton founded the National Women's Suffrage Association which in 1890 merged with the American Women Suffrage Association to form a unified national organization dedicated to the right of women to vote in local, State and national elections. Although in 1870 women were granted the right to vote in the Wyoming territorial elections and future years brought success in a few States, Susan B. Anthony died 14 years before the ratification of the 19th amendment in 1920.

While she did not live to see her efforts brought to fruition, throughout most of the 86 years of her life, Susan B. Anthony never faltered in her dedication. Her efforts were met with vile attacks by the press and demoralizing abuse by opponents. But she continued writing and speaking for equality. For her courage, Americans owe her a tremendous debt of gratitude.

We have established a tradition in our country of honoring outstanding American men on our coins. Without exception, our currency recognizes individual men who have earned their place in our Nation's history. We do not honor these men with abstract, mythological figures. We are, in fact, one of very few countries in the Western world which has never had a woman portrayed on a circulating coin. The concept is hardly new, since as early as 1835 Spain circulated coinage with the profile of Isabel, Great Britain in 1837 portrayed a woman on its coinage, and in 1892 the Netherlands so honored Wilhelmina.

By selecting Susan B. Anthony to appear on the dollar coin we will be honoring her as an outstanding, real American. We will also be paying long overdue fitting tribute to all that she did to foster human rights for the betterment of every American citizen.●

A THRICE-TOLD TALE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 15, 1978

● Mr. McDONALD. Mr. Speaker, everyone feels the effects of inflation and everyone agrees it is the No. 1 issue facing our Nation. However, not everyone can agree on the remedy for inflation, the problem being that each person wants someone else to tighten

their belt or some Federal program that does not benefit them to be reduced in order to hold down spending. The real remedy is drastic, but, the benefits to all sectors of the economy and our society can and would be enormous. Vermont Royster of the Wall Street Journal discussed this topic from a historical perspective in his "Thinking Things Over" column on May 10, 1978. In his column, he reaffirmed the old truth that Government spending deficits fuel inflations while reduced and balanced budgets stabilize the economy and cut inflation. Needless to say, I do not always agree with Mr. Royster's news, but, this particular column is right on the mark and I commend it to the attention of my colleagues. The article follows:

[From the Wall Street Journal, May 10, 1978]

A THRICE-TOLD TALE

(By Vermont Royster)

Since World War II there have been three dramatic examples of countries halting inflation just when it appeared it couldn't be stopped—once in West Germany, once in France and once in our own country.

Taken together their stories make a thrice-told tale. In each case the measures used to end inflation were basically the same. Each time their application required a bold political decision. Each time there was a particular political circumstance that made those measures politically acceptable.

It's instructive right now, I think, to recall how in each case this came to be and what the results were.

The architect of what's now called the "German miracle'" was Ludwig Erhard, then the economics minister. Against the counsel of the American occupation authorities in 1948, Erhard persuaded a somewhat reluctant Chancellor Adenauer to remove all wage and price controls and drastically cut the government's budget, including much social welfare spending.

Within a year inflation was stopped, the German mark had become a "hard" currency and its economy was launched on the prosperous expansion which has not yet ended.

Two factors made the Erhard measures politically possible. One was simply the fact that Germany was a defeated nation with its economy in ruins; things could hardly get worse. The other was the German tribal memory of the disastrous inflation of the 1920s which had destroyed the currency, wrecked the country and opened the way to Hitler. Anything, the people thought, but that again.

In 1958 France was in political turmoil. The Indochina war had been lost, the country was near civil war over Algeria and the economy was racked by inflation. To buy a pair of shoes you counted out francs by the thousands. In desperation the country turned to de Gaulle.

The general was no economist but he did understand that if France was to be restored to "glory" it required restoration of the French franc. In his memoirs he tells how Jacques Rueff persuaded him, against the advice of his political staff (including some in the Bank of France), to accept officially the devaluation of the franc that in fact had already happened, to chop zeros off the old franc and issue new ones, and to match that with sharp reductions in the subsidies to national industries and other budget items.

In the general's words these measures were "audacious and ambitious" and presented "political obstacles." But because the situation was so desperate, and because de Gaulle was de Gaulle, the country accepted the seemingly Draconian measures. In the next three years France saw a sharp drop in both the rate of inflation and unemployment, an end to its balance of payments problems and an increase in both industrial and agricultural production.

The situation in this country in 1953 was nowhere near so dire. Nonetheless, in the four preceding years the dollar had lost some 10 percent of its purchasing power in the official statistics, more if you take into account the black market prices masked by the price controls that were creating shortages in ordinary trade channels. With growing deficits swollen by the Korean war, the rate of inflation was increasing.

It was in this atmosphere that President Eisenhower, less than a month in office, abruptly lifted price and wage controls amid outcries that this would send prices through the roof.

He also set about cutting the budget. President Truman's last budget (how tiny the figures seem now!) called for expenditures of $78.6 billion and a deficit of $9.9 billion. President Eisenhower's first budget cut expenditures to $67.5 billion and the deficit to $3 billion.

At first the inflation did continue. Between January and August 1953 the consumer price index rose from 113.9 to 115.0, or an annual rate of about 4%. But one year later, in August 1954, the CPI stood unchanged at 115.0. Economic activity also dipped at first before resuming its progress at stable prices.

There are two common denominators to make these a thrice-told tale. In each, the measures taken to halt inflation involved shunning artificial economic controls and the application of fiscal and monetary restraint. In each, circumstances made them for the moment politically feasible; in 1953 Eisenhower was a new President of much prestige and people had temporarily "had enough" of controls and inflation.

I wish these tales all had happy endings. Unhappily, even in West Germany the memory of past inflation horrors has faded somewhat and the government is having more political difficulty in restraining it, although by current standards the German inflation rate is a modest 3.5%.

In France it did not take long after the disappearance of de Gaulle for the old political pressures to reassert themselves for bigger government spending and monetary expansion. The European Economic Commission estimates that this year France's inflation rate will top 7%.

Our own story hardly needs laboring. The combined pressures of spending for the Vietnam war and the programs of the Great Society pushed us into double-digit inflation and (to the shock of Keynesians) also to skyrocketing unemployment. After a brief surcease the inflation rate is again creeping up. Just last week Charles Schultze of the Economic Council belatedly conceded it would be 7%; other fearful forecasts run higher.

The moral of these thrice-told tales, if you must have one, is quite simple. Inflation can be halted. It requires no magic. But it does require the political will to do it, both by the political leaders and the people themselves. If President Carter has the will to cut the $60 billion deficit, and if the people support him, it can be done. If not. . . .●

NATIONAL HISPANIC HERITAGE WEEK

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 15, 1978

● Mr. ROYBAL. Mr. Speaker, I am proud to note that this week has marked the 10th anniversary of National Hispanic Heritage Week. As the Federal Government marked this occasion in different ceremonies throughout our Nation's Capital and as a large segment of our Hispanic population prepares to celebrate September 16, Mexican Independence Day, I take great pride in paying tribute to all of this Nation's Hispanic citizens.

As we celebrate this week, let us be reminded that while we seek to continue to renew cultural and historical ties, as well as respect the ethnic pluralism of our society, we must also collectively reassess the status of Hispanics in this country, our contributions, goals and accomplishments, as well as the obstacles which still confront us.

This is a time of critical importance to all Hispanics. Due to increasing numbers, as well as ever-growing political strength, citizens of Hispanic origin can no longer be ignored. Of all minority groups in the United States, the Hispanic population is currently experiencing the greatest rate of growth. It is anticipated that at the end of the next decade, Hispanics will constitute the largest ethnic minority group in the Nation.

But numbers alone are not significant. Now, to obtain the equality of opportunity previously denied them, Hispanics throughout the Nation are working to transform their numerical strength into true political power.

The current political strength of the Hispanic population can perhaps be best exemplified by results of the last Presidential election, where, in California, some 1.4 million Hispanic voters were registered. Similarly, that same year, 900,000 Hispanics were registered in Texas, 800,000 in New York, and in Arizona, 177,800. Thus, it seems inevitable that Hispanic voters will play a major role in the immediate political future of this Nation.

Nevertheless, despite our increased numbers and political awareness, many obtacles must still be overcome. To this day, many Hispanic people still face the serious burdens of poverty, illiteracy, and discrimination. Such facts can be illustrated by the staggering unemployment rate that Hispanics have that is of one and a half times greater than the general population.

Distressingly, important areas of employment still remain closed to citizens of Hispanic origin. One such obvious area of underrepresentation exists within the Federal Government itself. Here, Hispanics make up only 2.6 percent of the Federal work force, while comprising at least 7 percent of the general population.

Yet, I grow ever more confident in our ability to overcome such difficulties, as the Hispanic people reach goals and make contributions previously thought impossible.

This week is of great significance to all those sharing in the proud heritage of the Hispanic culture. Today, we must all recognize, and seek to strengthen, the common culture and heritage comprising a most important segment of this Nation—the Hispanic community. Together, through a united Hispanic people, bound by our commonality and

pride, we are on the way in attaining the political and economic equality so long denied us.●

POLISH-HUNGARIAN WORLD FEDERATION

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 15, 1978

● Mr. NOWAK. Mr. Speaker, 14 years ago 50 Polish and Hungarian leaders met in Chicago and formed an organization called the Polish-Hungarian World Federation. In the intervening years, the federation has expanded its membership to more than 1,000 and become a recognized and vocal voice supporting the cause of human rights and freedom of self-determination for the peoples of the captive nations everywhere, including Central and Eastern Europe. The federation has also been a prominent leader in the effort to encourage active cooperation among various ethnic groups as a vital ingredient in achieving this goal of self-respect and dignity for all peoples.

At its general meeting in Chicago this spring, the federation reaffirmed its commitment to this goal. In particular, the meeting of its directors and delegates expressed through a resolution concern about the current plight of the Hungarian minority in Romania.

Dr. Karol Ripa of Chicago, the president of the federation, has requested me to bring that resolution to the attention of my colleagues. The text of the resolution follows:

Whereas the discrimination against the Hungarian, and other minorities, in Romania is continuing and worsening.

Whereas the Romanian government is conducting a campaign against the Hungarians, and, in particular, against their churches, suppressing their language, falsifying the statistical and historical data, and confiscating cultural archives, amounting to a blatant internal oppression.

Whereas there are 2½ million Hungarians living in Transylvania, which they have inhabited for over 1,000 years, whose conditions are worsening from year to year.

Whereas, if the tide of Romanian chauvinism is not turned soon by the intervention of the United States, based on its human rights policy, this tide will develop into cultural genocide.

Therefore, be it resolved that the Polish-Hungarian Federation, as our contribution to the cause of human freedom and dignity is protesting on behalf of the unfortunate peoples of Transylvania.

Be it resolved that proper action be undertaken in defense of the Hungarians in Transylvania for the purpose of achieving equality in cultural, national and civil rights.

Be it further resolved that we appeal to the American Administration and Congress to take the necessary steps to effect fundamental changes of Romanian policies toward the Hungarians to eradicate discrimination, and create an acceptable status in Transylvania, whereby the Romanians and Hungarians can work out their destinies in mutual understanding.●

OLDER AMERICANS AND THE AMERICAN DREAM ACT

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 15, 1978

● Mr. DRINAN. Mr. Speaker, the Subcommittee on Financial Institutions Supervision of the House Banking Committee has been holding hearings on H.R. 12052, the American Dream Act. This legislation holds out new hope to those older Americans who are struggling to hold on to their homes and need an additional source of income. I would like to share with my colleagues the statement on this legislation which I presented to the subcommittee:

STATEMENT OF CONGRESSMAN ROBERT F. DRINAN ON H.R. 12052, "THE AMERICAN DREAM ACT," THURSDAY, SEPTEMBER 14, 1978. SUBCOMMITTEE ON FINANCIAL INSTITUTIONS SUPERVISION, REGULATION AND INSURANCE OF THE HOUSE BANKING COMMITTEE

Mr. Chairman: The American writer, Langston Hughes, asked in one of his most celebrated poems "What happens to a dream deferred? Does it dry up like a raisin in the sun? . . . Maybe it just sags like a heavy load. Or does it explode?"

It seems fitting to ponder those words in our consideration of H.R. 12052, dubbed "The American Dream Act." Soaring real estate costs have made it untenable for many younger persons to realize the 'American Dream' of owning a home. For many older persons that dream has become a nightmare as they struggle to keep their homes in the face of assessments which result in high property taxes that can't be met on fixed incomes.

H.R. 12052 holds out new hope for both younger and older Americans. It would allow federally chartered savings and loan associations to offer both graduated payment mortgages and reverse annuity mortgages. Under the former, mortgage payments would be lower in the early years of home ownership and adjusted upward when the borrower is likely to be more settled financially. Under the latter arrangement an older person would be able to convert the equity in their home to a means of immediate income.

As a member of the House Select Committee on Aging, I am especially concerned about the housing crisis facing older citizens and I have for the past few years been intrigued by the concept of a reverse annuity mortgage as a vehicle for addressing part of the problem.

An AFL–CIO survey of their workers housing in 1975 showed that 85 percent of older homeowners owned outright-free and clear of mortgages. It is estimated that the total equity older Americans have built up in their homes is at least $90 billion. The home which is often the single most valuable asset of an older person or couple sits idle and the equity built up over the years is unavailable unless the home is sold.

We are beginning to recognize that many older persons do not want to give up their homes in later years. Besides its economic value, there is a strong emotional bond to both the property and the neighborhood. We are also recognizing that its cost-effective to assist older persons to remain in their homes and to avoid unnecessary and costly institutionalization.

Legislation will soon come before the House which facilitates home health services and which represents a major step in assisting older citizens stay in their homes. This effort must be matched with other steps if we are serious in our conviction that those older persons who want to stay in their homes should be able to do so. Rising property taxes, high fuel and other utility costs, expensive maintenance requirements and overall inflation combine to produce a critical situation. Without a source of additional income, the homes often cannot be maintained or held on to.

Under a reverse annuity mortgage or RAM, the older homeowner could convert all or part of the equity in their homes into a series of monthly payments. The operation of a RAM is similar to other annuity programs with a savings and loan institution making a loan secured by the house for the purchase of an annuity. The annuitant's estate would be responsible for settling the debt in probate.

One common concern about a reverse annuity mortgage is that it would preclude homeowners from bequesting their property to their children. This stems from the misconception that under a RAM the borrower retains no equity in the home. I note in all of the testimony from interested parties representing lending institutions, that lenders will insist on the borrower retaining ownership and a significant equity in the home at a margin which will encourage maintenance of the property and permit bequest at death.

I also note that this concept has broad-based support and there can be little doubt that in theory RAM's have great appeal. I support H.R. 12052 with minor but important reservations. The legislation as presently written would seem to address the major problem, namely what happens when the borrower has used up all the equity in the home. H.R. 12052 protects the mortgager from a loss of the property. However there are a number of other questions which must be addressed.

All of the experts on this topic have noted that RAM's will have to be written to accommodate individual situations. There will be a great deal of variation and flexibility from lender to lender and in plans offered by the same lender. Foremost of my concerns is that this variation will result in a consumer disadvantage. The many different arrangements for RAM's will be understood by lenders but not by borrowers.

The population for which RAM's are designed consists of individuals at a stage in life where financial decisions can be irreversible. Moreover, we are all too familiar with the difficulties our older constituents have in securing information on uniform programs like Social Security and Supplemental Security Income. It gives me pause to consider the possible consternation caused by RAM's.

I would thus recommend that any legislation to authorize reverse annuity mortgages be accompanied by an authorization for competent consumer counseling through a recognized senior citizen or consumer organization. Besides having information on the various types of RAM's, the consumer will need information on technical points such as how the interest is computed and how programs vary from institution to institution, what fees are involved and their effect on the size of the annuity.

The lender cannot be expected to adequately provide all of this information. Other important concerns are out of the purview of the lender but must also be addressed. The consumer should have access to information on tax considerations and the effect this new source of income might have on various state and federal benefit programs to which they are entitled. For example, would this income change eligibility for SSI and Medicaid benefits?

All of these considerations should be addressed before a consumer makes a decision about a reverse annuity mortgage. The older consumer is in many ways more vulnerable and it is incumbent upon us to provide as much protection as possible in opening up this new avenue of lending and borrowing. The problems are not insurmountable.

I commend this Subcommittee for your attention to this legislation and hope that H.R. 12052 can be enacted by the end of this session. It is a good idea which would benefit older and younger citizens and restore their faith in the "American Dream."●

TWO STUNNING LETTERS

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 15, 1978

● Mr. DORNAN. Mr. Speaker, I have just received another letter from a Vietnamese refugee to Mrs. Le Thi Anh, a Vietnamese interpreter for the National League of Families, has sent me two stunning letters that reveal live sightings of American POW's in Vietnam. The Defense Intelligence Agency has been in receipt of these letters. I thank them for sending the information to me, after translating it, I asked that my colleagues give this matter their utmost attention. I insert these letters in the hope that this Congress will pursue an intelligent and farsighted policy to bring this matter to a satisfactory conclusion:

MAY 31, 1978.

Respectfully to Mrs. Le Thi Anh:

Having read your ad in the newspaper, I decide finally to write you after a few months of hesitation.

First, to let you know: I escaped by sea, leaving Saigon on the 19 of May 1977. After 6 months in a refugee camp in Asia, I was admitted to enter the U.S. on Dec. 15, 1977. I used to work for the U.S. Information (JUSPAO) in Saigon from 1965 to 1968.

I can furnish you Mrs (?) the precise information as having 100% credibility about 4 Americans held prisoners by the Communists that I met, talked to them (although very briefly) in a rare circumstance. I can pinpoint the location of their detention, on the map along with local name.

However, I ask your permission for me to keep confidential my identity, and this is important for me. Therefore, I anxiously ask myself who are you? Why not any particular U.S. agency, why a Vietnamese woman? Even I know that you are not acting as a status of a Vietnamese. Besides, I ask myself if I will have any complicated obligations with any U.S. government agency? (for example the FBI).

I also want to make it clear: that I can only present all matters with responsible Americans. I sincerely apologize first if truly there is a certain Mrs. Le Thi Anh.

To write you like this, means that I have accepted to meet with you or the responsible Americans for me to present all the facts, but, would you please give me your phone number so we can make acquaintaince before we meet each other. Please pull an ad in the TRANG DEN Newspaper like this: "THU ANH, got your letter, call me at ——." Do not sign as Le Thi Anh else people will know that we get in touch for U.S. POW matters.

———.

DEAR MME: I've just received your letter and here are the answers to your questions:

I am ready to indicate clearly the location where the American POW's are held in the U Minh Forest, if there is a map of this area.

I can meet the Americans truly having good faith in Paris, since I do not have enough money to travel to the U.S. and besides I could not get a few days leave to make a sudden trip. I also fear of meeting those who do not have good faith, those who try to exploit or abuse in order to fill up the columns of the newspaper. If this is the case, please let me in peace.

On the contrary, if they (Americans) do not abandon their countrymen and truly want to reach the objective, then would you please, let them know, that they should help 10 courageous Vietnamese in this land of plenty to go back to Vietnam hell, to execute the works they (Americans) want to do.

Here I like to furnish you the information concerning 30 Americans killed by the Khmer Rouge in the region of Bokor mountain, Kapot Province.

Between mid-74 and spring of 75 there were incidents between the Khmer Rouge and the North Vietnamese Red Devils in Cambodia. Both sides had a meeting to reconciliate themselves and to divide an area for the Northvietnamese to camp. This is the region of Bokor mountain, (Kapot Province) where our secret informant had reported the Northvietnamese as having evacuated 30 American POW's and held them there temporarily to later continue to transfer them to the Vietnamese soil. Around Nov. or Dec. 74, the Khmer Rouge suddenly attacked and killed the U.S. POW's and a number of Northvietnamese cadres guarding the POW's.

I had passed this information to Saigon, but perhaps during those months my superiors must have readied themselves to go to the U.S. and this information was thrown to the waste basket.

Wishing you to remain healthy to help the Vietnamese who have good faith, willing to go back to Vietnam to save our country and liberate our people miserably in the Communist hell.

———.

PARIS, *August 4, 1978.*

THE NATIONAL CONSUMER COOPERATIVE BANK ACT—ONE OF THE MOST SIGNIFICANT ACCOMPLISHMENTS OF THE 95TH CONGRESS

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, September 15, 1978

● Mr. ST GERMAIN. Mr. Speaker, on August 20, President Carter signed into law Public Law 95–351, providing for the establishment of a National Consumer Cooperative Bank. The successful passage of this legislation is the result of a broad coalition of consumer groups, labor organizations, community and religious groups, rural and urban citizens, and civil rights organizations.

Among the hard workers for this legislation is my own State of Rhode Island's Chief of Consumer Affairs Joseph Marciano. Joe worked hard at the Consumer Assembly here in Washington, wrote letters to the editor on the bill, and was one of the farsighted people who provided the continued momentum needed to get the legislation enacted. Consumers in Rhode Island are grateful for Mr. Marciano's efforts.

Another long-time supporter of the bill is J. F. ter Horst, former press secretary to President Gerald Ford. Now a syndicated columnist, Gerry ter Horst wrote about the bill in a column appearing in the Philadelphia Inquirer on Sunday, August 27. Mr. Speaker, I would like to insert the column in the RECORD at this point:

NEW BANK—CO-OP COME TO THE CITIES

(By J. F. terHorst)

WASHINGTON.—At a time when President Carter and Capitol Hill are being blamed for every government ill known to man, it's nice to note the enactment of H.R. 2777, the Consumer Cooperative Bank Bill. It will stand as one of the most significant accomplishments of the 95th Congress.

For the first time, it now becomes possible for neighborhood residents in America's cities to do what their country cousins have been able to do for the last several generations—borrow low-cost money to start up cooperative ventures to improve the quality of their lives. Glenn M. Anderson, president of the Cooperative League of the USA, was not simply being rhapsodic when he assessed the new law as a "major milestone" in the history of American cooperatives, a movement, incidentally, that began with the landing of the Mayflower.

The new bank, headquartered in Washington, will lend money too nonprofit, consumer-owned enterprises in fields as diverse as housing, health care, auto repair and groceries. It is patterned after the Farm Credit System, which rescued small farmers from bankruptcy in the Depression era of the late 1930s and which flourishes today as a major credit source for farming activities.

A distinctive feature of the Co-Op Bank Act is the congressional intent, written into law, that priority for its loans must go to cooperatives having low-income members or whose ventures will benefit low-income families.

One would be hard put to conceive of a more beneficial tool for reviving rundown neighborhoods in the core of the nation's big cities. Or to provide a badly needed alternative for the rapid conversion of modest apartments into high-priced condominiums that, in city after city, is forcing out elderly residents and young couples who lack the money to buy housing.

The bank's 13-member board initially will be appointed by the President. As the bank repays its federal loan and becomes increasingly self-sufficient, the board itself will become independent. However, one director representing the interests of small business will continue to be appointed by the President. Businessmen still are leery, fearing co-op competition.

The credit for enactment of this landmark legislation belongs in large part to its bipartisan champions—Rep. Fernand St Germain, D-R.I., and Rep. Chalmers P. Wylie, R-Ohio, Sen. Thomas McIntyre, D-N.H., and Sen. Robert Dole, R-Kan. And to the Carter administration's consumer advocates, Assistant Agriculture Secretary Carol Tucker Foreman, Monsignor Baroni and Esther Peterson, the White House Consumer Affairs chief, who persuaded the President to switch from opposition to endorsement.

Interestingly, what was first seen as a liberal boondoggle—the bill cleared the House by only one vote in 1977—became a conservative rallying point in the Senate. Some of the chamber's most anti-spending members rather liked the idea of a government-launched program that would eventually be-

some self-supporting. In that philosophic reawakening, as in the creation of the Consumer Cooperative Bank itself, all of us have been witnesses to history in the making.●

A STRATEGIC STAKE IN AFRICA

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 15, 1978

● Mr. CRANE. Mr. Speaker, while the West for much of this decade has advocated and pursued a diplomatic policy of pacifism and conciliation, flinching away from any use of its considerable power, the Soviet leadership laughs at our attitude and has embarked on a well-planned and coordinated program to gain superiority in regions that are vital to the economic viability of the free world.

In Africa the Soviet Union has launched a conscious effort to develop the political and military infrastructure necessary for a vastly expanded strategic presence. The Soviet Union's military capability now brackets the African continent and must be taken into serious consideration in any assessment of the region's strategic and political environment.

Soviet possession of naval facilities and basing rights along the African coast enables the Soviet Union to exercise considerable influence on the politics of littoral states, but perhaps more importantly, it enables the Soviets to project their naval power in the South Atlantic-Indian Ocean sea route around Africa's southern tip. This is one of the principal sea lanes of the world. It is imperative that the United States realize that the cape route is now not only the most crowded sea lane, providing passage to 24,000 ships yearly, but also the most vital route for fuel-hungry Europe and the United States. According to the U.S. Strategic Institute, 60 percent of U.S. oil imports will be moved through this route in the 1980's.

It is in this light that we should consider the significance of what is happening in Africa.

The transfer of sophisticated military equipment to Marxist movements in Africa, both directly from the Soviet Union and indirectly through its satellite surrogates, has reached unprecedented levels. Impoverished indeed is the guerrilla group without an ample supply of AK-47 assault rifles and SAM-7's. For example, military aid has continued to flow into Mozambique to strengthen its defense capacity and to support 12,000 guerrillas who have been fighting Rhodesia from Mozambique's territory. As in the cases of Angola and Ethiopia, the Cubans and East Germans have been instrumental in expanding Soviet influence in Mozambique.

The Soviet Union has clearly maneuvered to establish itself as the sole military supplier and political patron of a number of African states, which formerly looked to the West for fundamental support. In the early 1960's, for instance, Moscow began to extend military aid to the repressive and erratic regime of Idi Amin in Uganda. By June 1975 the Soviet Union had provided an estimated 12 Mig fighters and bombers, 60 light tanks, 100 personnel carriers, and 200 anti-aircraft weapons.

Of interest also is the increasing African reliance on Soviet satellite nations, and other nations of the Kremlin orbit, such as Cuba, North Korea, and Vietnam, to provide training and supervision in the use of modern equipment, as well as tactical military guidance to African clients and revolutionary movements. Today there are fifty thousand Cuban soldiers and civilians serving in the 14 African countries. Additionally, there are at least thirty-nine thousand Soviets and their East European surrogates serving in a technical or military advisory capacity on the continent. Gentlemen, these are significant numbers and warrant our closest scrutiny. We must ponder carefully how these developments affect our current foreign policy, and more importantly, how they will impact upon future interests and policy in this strategic region. The Soviet drive for superiority in Africa is far in excess of what would be required to project their military power upon Western lifelines.

The Soviet Union, a nation ruled by a totalitarian dictatorship and motivated by an unconcealed determination to dominate the world, is maneuvering to maximize its leverage and influence in an area of the greatest significance to the free world.

As the world demand for minerals has grown, and Western industrial consumption has depleted many of the traditional reserves, Africa's raw materials have become increasingly important to the survival of Western economic stability and industrial well-being, as well as for defense production.

Southern Africa possesses the single largest concentration of metals necessary for high-technology industry. Alternate sources do not exist in the quality, quantity, or collective concentration currently available, nor is there extraction, transportation, and processing as economically favorable. In short, should we be barred from the Southern African market, we would be in the wholly incongruous position of depending heavily on the Soviet Union's mineral resources to meet our needs for such minerals as chromite, antimony, vanadium, and industrial diamonds.

If this eventuality occurs, the minimum we could expect would be a steep increase in prices—as it happened when, following the embargo on Rhodesian chrome, we were forced to rely on the Russians. The Soviets could exploit dislocations in mineral supplies to their own economic advantage or even for the purpose of political blackmail. This is a position that I find totally untenable for the people of the free world.

What is the policy of the United States to be in the face of this Soviet threat? By now we are all too well acquainted with the dismaying antics of Andrew Young and his well-known political philosophy. Downplaying the Soviets and their proxied adventurism certainly pleases African leaders closest to the Carter administration—those in Nigeria, Tanzania, Mozambique, and Angola. It does not please those traditionally close to the West—the leaders of Zaire, Kenya, Senegal, and others—who continually harp upon expanding Soviet and Cuban presence on their continent. President Houphouet-Boiget of the Ivory Coast, to give but one example, recently said, "Russia will take advantage of any confusion in Africa to infiltrate the continent. This may go under the guise of aid to so-called liberators, but once inside, the 'benefactors' will be just another occupation force." Nineteen African heads of state met in Dakar last April and voiced similar concerns.

Those African leaders recognize events happening before their very eyes. They know that Moscow characteristically condemns diplomatic efforts for a peaceful solution in Southern Africa. They know that Cuba has bolstered its occupation armies throughout Africa to prop up unpopular regimes. They know that the Soviets are supplying massive amounts of arms across the continent by which Africans are slaying one another. They know that the Kremlin has pledged more than $1 billion of military equipment to Ethiopia, twice as much as the United States supplied in a quarter of a century.

In the higher circles of our Government there is an unwillingness to come to grips with this situation. Our leaders fail to grasp the fact that the resources of the region are an integral part of the West's industrial system, including Japan, and contributes to the overall strength of our culture. They do not appear to accept the reality that the United States is increasingly dependent upon Southern Africa for strategic minerals. It is essential for our country to understand that the Soviet threat to the West's fuel supplies is in the Indian Ocean and the South Atlantic, and must be dealt with in those oceanic regions.

Profound attitudinal changes must be affected in the United States. Basic to such change is an accelerated process of education with respect to the Southern Hemisphere, so that the American people understand they have in a continued Western presence and the uninterrupted movement of oil and strategic materials to the industrialized countries of the Northern Hemisphere.

Surely, if the American people understand that our way of life is involved in the current strategic maneuvering in Southern Africa, the Western Indian Ocean, and the South Atlantic, they will insist that our Government adopt a more realistic and active policy. All too frequently it has been glibly asserted by politicians that the facts cannot be put before the people as they would be unpopular. I venture the belief that the overwhelming majority of the American people, when confronted with the facts, have enough common sense and moral fiber to recognize the tremendous need for a policy that reflects the depth of our interest and involvement in this area of the world.

SUGAR PAYMENTS MUST BE LIMITED

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 15, 1978

● Mr. FINDLEY. Mr. Speaker, when sugar legislation reaches the House floor I will offer an amendment to limit any Government payments under it to a level not exceeding $50,000 annually.

This would conform to the limitation on payments already established by law for other major commodities—wheat, corn, rice, and cotton.

The limitation at $50,000 would still permit generous U.S. Treasury checks each year to individual plantations, corporations and processors, but it would prevent a resumption of the enormous payments which have been made during 1977–78 to support sugar prices, as shown in the listing below. One firm, you will note, got over $24 million for the 1977 crop year.

The 63 payees listed below will eventually receive about $200 million in all for just one crop year. The payments listed, according to USDA, represent 90 percent of the estimated amount due.

Had payments been limited to $50,000 annually, the U.S. Treasury would have been tapped for only $3,150,000—instead of $200,000,000—a saving to taxpayers of $196,850,000.

SUGAR PRICE SUPPORT PAYMENTS, 1977–78

Processor	Total payments through July	Amount of payment, August	Total payments to date
Alma Plantation	449,285.62	0	449,285.62
Amalgamated Sugar Co.	3,062,188.83	0	3,062,188.83
American Crystal Sugar Co	23,988,454.41	542,976.51	24,531,430.92
Atlantic Sugar	509,403.98	0	509,403.98
Billeaud Sugar Factory	664,421.94	0	664,421.94
Breaux Bridge Sugar Coop., Inc	299,184.42	13,101.09	312,285.51
Buckeye Sugars, Inc	125,932.11	0	125,932.11
Cajun Sugar Coop., Inc	709,598.83	31,072.87	740,671.70
Caldwell Sugars Coop., Inc	418,939.36	18,345.07	437,284.43
Cinclare (Harry Laws & Co.)	918,023.70	0	918,023.70
Columbia (Caire & Graugnard)	141,155.40	4,867.58	146,022.98
Columbia Sugar Co	258,684.06	30,250.57	288,934.63
Cora-Texas Manufacturing Co., Inc	782,361.99	0	782,361.99
M. A. Patout & Son, Ltd. (Enterprise Sugar Factory)	1,653,473.12	91,181.48	1,744,654.60
Evan Hall Sugar Coop., Inc	1,109,858.70	0	1,109,858.70
Gay & Robinson	988,705.01	0	988,705.01
Glenwood Cooperative, Inc	832,592.00	0	832,592.00
Great Western Sugar Co	12,789,443.33	281,199.61	13,070,642.94
Gulf & Western (Okeelanta Sugar Division)	1,438,839.73	0	1,438,839.73
Hawaiian Commercial & Sugar Co	10,736,741.75	0	10,736,741.75
Helvetia Sugar Cooperative, Inc	336,937.67	14,754.27	351,691.94
Hilo Coast Processing Co	5,927,149.18	0	5,927,149.18
Holly Sugar Co	7,430,493.59	160,563.67	7,561,057.26
Honokaa Sugar Co	3,886,544.97	0	3,886,544.97
Iberia Sugar Coop., Inc	457,504.47	20,033.82	477,538.29
Jeanerette Sugar Co	935,393.59	0	935,393.59
Ka'u Sugar Co., Ltd	2,843,589.75	0	2,843,589.75
Kekaha Sugar Co., Ltd	2,700,843.09	0	2,700,843.09
Laupahoehoe Sugar Co	4,148,004.13	0	4,148,004.13
Leighton-Lafourche Sugar Co	1,421,048.22	0	1,421,048.22
Lihue Plantation	4,273,065.27	0	4,273,065.27
McBryde Sugar Co., Ltd	3,249,431.43	0	3,249,431.43
Meeker Sugar Corp., Inc	425,840.49	18,647.27	444,487.76
Michigan Sugar Co	1,661,597.13	0	1,661,597.70
Minn-Dak Farmer, Corp	3,998,678.13	105,144.80	4,103,822.93
Monitor Sugar Co	67,959.92	0	673,959.92
Northern Ohio Sugar Co	933,099.95	39,388.66	972,488.61
Oahu Sugar Co., Ltd	5,100,122.64	0	5,100,122.64
Okeelele Sugar Co., Ltd	1,755,566.36	0	1,755,566.36
Osceola Farms Co	725,803.64	0	725,803.64
Pioneer Mill Co., Ltd	2,853,531.19	0	2,853,531.19
Puna Sugar Co., Ltd	3,036,179.67	0	3,036,179.67
St. James Sugar Coop., Inc	645,052.93	28,246.46	673,299.39
St. Mary Sugar	744,151.40	46,138.18	790,289.57
St. Martin Sugar Coop	420,563.08	18,416.19	438,979.27
Savoie Industries, Inc	994,393.28	0	994,393.28
Smithfield Sugar Coop., Inc	345,868.50	15,145.36	351,013.86
The South Coast Corp	4,617,573.16	0	4,617,573.16
Southern Sugars, Inc	4,089,130.45	0	4,089,1.0.45
Sprockels Sugar Division (Amstar)	20,288,221.34	0	20,288,221.34
C. S. Steen Syrup Mill, Inc	202,916.93	0	202,916.93
Sterling Sugar	1,031,508.24	154,851.20	1,186,359.44
Sugar Cane Growers Coop	1,547,294.01	0	1,547,294.01
Sugar Corporation of Puerto Rico	5,540,926.34	0	5,540,926.34
Supreme Sugar Co. Inc	662,944.99	0	662,944.99
Talisman Sugar Corp	2,327,205.60	81,450.00	2,408,655.60
U & I, Inc	5,149,739.32	192,354.85	5,342,094.17
U.S. Sugar Corp	6,396,374.39	993,092.97	7,389,467.36
Union Sugar Division (Consolidated Foods Co)	2,746,085.19	0	2,746,085.19
Valentine Sugars, Inc	368,609.15	46,852.68	415,461.83
Waialua Sugar Co., Inc	3,839,138.81	0	3,839,138.81
Wailuku Sugar Co	1,544,366.29	0	1,544,366.29
Westfield Factory (Dugas & LeBlanc, Ltd.)	1,040,320.27	0	1,040,320.27
Total	185,164,057.01	2,948,075.15	188,112,132.16

Note: Above payments represent 90 percent of estimated amount due.

Source: U.S. Department of Agriculture, ASCS, Sept. 15, 1978.

●

INNOVATIVE STEP FORWARD IN HOME MORTGAGE FINANCING

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 15, 1978

● Mr. PATTERSON of California. Mr. Speaker, in a few days the House will have an opportunity to adopt an innovative, flexible home loan program that has worked in a number of States, including my home State of California. I am speaking of title 18 of the Financial Institutions Regulatory Act of 1978 (H.R. 13471).

Title 18 would authorize federally chartered savings and loan institutions to offer alternative mortgage instruments in those States where State-chartered institutions are allowed to offer such instruments by State law or regulation. While title 18 is limited in scope and is intended to address a pressing comparative parity problem which now exists in some States, for example, California, Wisconsin, Connecticut, and Ohio, I think it is an important step forward.

A primary goal of this and past Congresses has been to foster conditions that will result in safe and adequate housing for all Americans. It attempts to reach this goal. We have passed many laws to encourage individuals and businesses to invest in housing. Among these are mortgage interest tax deductions, housing subsidies and community development programs. We have even created a separate type of financial institution which we have limited to housing investment and mortgage lending. And, we have created a special type of mortgage instrument—the standard, fixed-rate, 30-year mortgage.

All of the above factors have played an important role in making the United States one of the best-housed nations in the world. Many Americans have reached that American dream of home ownership through use of the standard mortgage. We have lived happily with the slogan, "A Man's Home Is His Castle."

Recently, inflation and other adverse economic events have made it extremely difficult for Americans to continue to attain the goal of home ownership. This is especially true for those people who are purchasing their first home. Wide swings in interest rates and inflation have caused problems for the standard, fixed-rate mortgage which has served us so well.

The fluctuations in interest rates have restricted funds available for housing. When short-term interest rates rise rapidly, the savings institutions—who do the bulk of the Nation's mortgage lending—dependent upon fixed-yield, long-term mortgages, cannot attract money. If these institutions do not attract money, they cannot make mortgage loans. Further, most people cannot afford the large downpayments and the high monthly payments necessary to take that step of acquiring their first home.

A bold step is needed. The time is right for use and development of a variety of mortgage instruments to supplement the standard, fixed-rate mortgage. While the standard mortgage is still a valuable tool and will meet the needs of many Americans who are purchasing homes, we need to expand the options for those who cannot meet the terms required by this mortgage. The younger person who is buying his or her first home may be better served by a graduated payment mortgage. The older person, who lives on a fixed income, would be able to maintain his or her standard of living by taking a reverse annuity mortgage. The person transferred on the job and forced to resettle at a time of high interest rates will be better served by a variable rate mortgage.

Our society has changed. We are more

mobile and have different economic characteristics than in the past. We need flexible options to meet our changing lifestyles. For the man or woman whose work requires frequent transfers, options such as assumability, lack of prepayment penalties, and other benefits make alternative mortgages such as variable rates attractive. For the person who is building equity in order to "trade up" in quality and cost of housing, a rollover mortgage may be best.

No one is suggesting that we do not need the fixed-rate mortgage. It undoubtedly will continue a be a valuable tool and a favorite of many. It is indisputable that it is the best instrument for the person who purchases a home with the intention of living in it for the next 30 years and paying off the mortgage. These people do not need options. They are, however, only about one-third of the current homeowners. We must look for ways to meet the needs of others too.

I urge my colleagues in this Chamber to accept the challenge and take a step forward by supporting title 18 of the Financial Institutions Regulatory Act.●

CONTRIBUTIONS TO THE UNITED NATIONS FUND FOR DRUG ABUSE

HON. BENJAMIN A. GILMAN
OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 15, 1978

● Mr. GILMAN. Mr. Speaker, the United Nations Fund for Drug Abuse Control (UNFDAC), which was created in 1971 to provide technical assistance to governments and international organizations, in their efforts to curb illicit narcotics trafficking and drug abuse, receives its financial support from the voluntary contributions of nations of the international community and from private donations by donors concerned in waging "war" on drug abuse. Since its inception, the United States has been the primary financial underwriter of UNFDAC programs.

With regard to UNFDAC's current financial posture, I recently received information from the U.N. Fund pertaining to contributions that it has received, as of July 31, 1978. According to the UNFDAC report, up to the end of July 1978, 29 nations had pledged or contributed $1,210,027 to the Fund; private donations amounted to $10,919, or as reported, a grand total of public and private cash contributions amounting to $1,220,946.

Excluded from the UNFDAC report is the pledge by three nations: the United States ($3 million), Norway ($2,352,608, not the $55,484 stated in the Fund's report), and Sweden ($511,000), or an additional $5,863,608. Five nations have contributed $100,000 or more to the Fund: Saudi Arabia ($250,000), the Federal Republic of Germany ($247,824), Canada and Japan (each contributing $200,000), and France ($100,000). Twenty-two other nations have pledged a paltry $156,719, or an average of slightly more than $7,000 per contributing nation. To date, 30 nations, or 20 percent of the 149-nation membership in the United Nations, have pledged a meager $6,020,327 to UNFDAC's 1978 budget; private donations remain slightly less than $11,000, bringing the public and private contributions to the Fund to a grand total of $6,031,246 for a worldwide drug effort.

Although some nations have made contributions inkind to UNFDAC, the amount of cash contributions to the Fund's 1978 budget is pathetically small, given the global dimensions of narcotics trafficking and drug abuse. A year ago, as of September 30, 1977, UNFDAC reported pledges amounting to $10,987,933, including the substantial sum from Norway of more than $5.5 million for its Burma program for 1979–81; 1 year ago this month, private donations amounted to $165,110, including the $160,000 contribution from the Japanese Shipbuilding Industry Foundation, which according to UNFDAC records, has yet to renew its hitherto helpful contribution.

Mr. Speaker, it is a sad commentary on the international community's efforts to stamp out narcotics trafficking and drug abuse when 30 nations of the United Nations, less than 20 percent of the entire family of nations, can raise only $6 million, 89 percent of which come from contributions by the United States and Norway.

Between 1971 (when UNFDAC was created) and 1977, four nations committed $29,907,471, or nearly 87 percent of the Fund's $34,476,784 budget: The United States ($22 million), Norway ($5,714,259), Canada ($1,193,222), and Japan ($1 million), of which nearly 64 percent represented this Nation's contribution to the U.N. Fund. Last year (from January 1, 1977, through December 7, 1977), 38 nations contributed $8,051,000, of which the U.S. contribution of $4 million represented nearly one-half of the Fund's budget.

Mr. Speaker, in February of 1977, on behalf of the Select Committee on Narcotics Abuse and Control, I, along with the gentleman from New York (Mr. SCHEUER), participated in the 27th session of the United Nations Commission on Narcotic Drugs (CND) in Geneva, Switzerland, and in my address to the Commission, I stated:

> There is a deeper, stronger feeling in the Congress of the need for a broader, more equitable assumption of the fiscal responsibilities of the world's narcotic problems. There is even the possibility of a reduction by the Congress in considering the authorization for funding the UN Fund if there is too great an imbalance in the U.S. effort.

Although in both 1977 and 1978, this Nation's contribution to the Fund is reduced to slightly less than 50 percent, the disproportionate imbalance by a few nations contributing the bulk of the Fund's financial resources still exists.

Mr. Speaker, given this Nation's multibillion dollar international balance-of-payment deficit, escalating Federal double-digited budget deficits, and taxpayer frustration at the unbearably high Federal, State, and local taxes, is there any wonder why the Congress this year reduced our Nation's contribution to the Fund's 1978 budget by 25 percent (from a $4 million contribution in 1977 to $3 million for this year)? I had warned the delegates to the U.N. Commission on Narcotic Drugs in February of 1977 that this would occur if other nations did not assume "a more equitable assumption of the fiscal responsibilities of the world's narcotic problems."

With regard to 1978 contributions, UNFDAC officials estimate that pledges for this year will amount to $10.3 million for Fund programs and an 80-percent program delivery rate, which I understand would leave the Fund's reserve at the end of 1979 at less than $1 million. At a meeting on June 15, 1978, between UNFDAC representatives and Permanent Missions of Government Members of the U.N. Commission on Narcotic Drugs, it was reported that "drug control has been given below average priority by the United Nations General Assembly," a priority position that I find shocking and unacceptable. The meeting concluded on another distressing note:

> The Fund has to act pursuant to the guidance provided by the Commission on Narcotic Drugs and the General Assembly. Governments take different views with respect to the priority of narcotics control in the General Assembly than they do in the Narcotics Commission. Unless the Fund receives increased financial support, it will have to be satisfied with a smaller program.

At a time when contributions to the Fund appear to be at an all-time low, last year, 1 year ago this month, UNFDAC reported pledges amounting to nearly $11 million. I find the "below average priority" given to drug control by the U.N. General Assembly, the pathetically small cash reserves projected for 1979, and the proposed reduction in the UNFDAC program to run counter to UNFDAC's proposed expensive move of its headquarters from Geneva to Vienna.

Drug abuse prevention and control is not a problem unique to this country or to the few nations that have made a substantial contribution to the U.N. Fund. We cannot wage "war" on drug abuse alone. We cannot single-handedly finance international drug programs, provide the equipment, personnel and expertise to combat the international criminal syndicates whose sophisticated operations reach into every corner of the globe, and eradicate the illicit production of narcotic drugs at its source. It is appalling that those nations that have substantial drug problems are also nations that have made miniscule contributions to the Fund or no contributions at all. Nations that can afford to contribute to the Fund have made token pledges of less than a few thousand dollars or are conspicuously absent by not contributing a single penny to the Fund.

The Soviet Union, the People's Republic of China, India, and the Eastern European bloc of nations are among the leading members of the United Nations that are conspicuously absent by not contributing to the U.N. Fund. Oil-rich nations such as Venezuela, Kuwait, Iran, and Libya, which welcome receiving our advanced technology or seek our sophisticated military hardware have made only token contributions to UNFDAC. Columbia, Bolivia, Ecuador, Peru,

Burma, and Laos, major illicit drug producer nations, have yet to contribute a single penny to the "war" on drug abuse; Argentina, Brazil, Spain, Portugal, and Israel have contributed small amounts to the U.N. Fund, but this is disproportionate to their ability to assist in the "war" on drug abuse. Africa-South-of-the-Sahara is virtually absent in its nonsupport of the U.N. Fund.

The magnitude of trafficking in heroin, cocaine, marihuana, and other dangerous drugs is herculean and the profits reaped from these sordid international business transactions reach into unknown billions of dollars each year. Waging "war" on this elusive enemy is difficult and frustrating for those nations that are jointly sharing their resources in an effort to stamp out this scourge of all mankind. In this regard, the U.N. International Narcotics Control Board (INCB) concluded in its 1977 annual report:

> The amount of drugs of all kinds in the illicit traffic has shown no sign of decreasing. . . . World-wide heroin seizures, for instance, reached an unprecedented level in 1976. When one source dries up another may almost immediately assume greater importance so that the apparently rising illicit demand can continue to be met.

Obviously, illicit drug trafficking is big business. It has reached epidemic proportions for both heroin producer nations and heroin user nations, for both developed and less-developed nations. No nation, regardless of its political power, socioeconomic status, or ideology, is immune from the devastating and debilitating effects of drug abuse and the drug merchants who profit from this sordid human misery. From the Golden Triangle of Thailand, Burma, and Laos to Turkey, Iran, Lebanon, Egypt, Colombia, and Mexico and the narcotic distribution centers of Berlin, Amsterdam, the Bahamas, Miami, New York, Chicago, and Vancouver, nations throughout the world are reporting increased usage of heroin, cocaine, marihuana, and other dangerous drugs. Thailand reports a drug addiction population estimated at 300,000 to 600,000; 20,000 individuals are registered for treatment in Burma, which international health officials state is many times higher than this registered figure; Iran reports 400,000 addicts; Mexico 50,000. Egyptian law enforcement authorities estimate that 3 to 6 tons of opium are consumed annually by 500,000 of that nation's citizens.

The impact of the $2 billion marihuana and cocaine industry in Colombia—a narcotics trafficking industry that is larger than the nation's export of coffee, its major source of foreign exchange—finally has been brought home to Colombian law enforcement officials who are now concerned that this illicit drug trafficking business is having an injurious effect on its own citizens. Since the beginning of this year, the total area of marihuana cultivation in Colombia reportedly has grown from 100,000 acres to over 300,000 acres, almost half the size of Rhode Island, and that this acreage is capable of producing an estimated 120,000 tons—or 240 million pounds—of marihuana. Last April, Colombian law enforcement agents, acting on information supplied by our Drug Enforcement Administration (DEA), seized, in a single world record-breaking raid, 574 tons of marihuana, worth an estimated value of $200 million. During the 5-month period from December of 1977 to April of this year, joint law enforcement efforts by our DEA and the U.S. Coast Guard seized 40 marihuana vessels flying flags from Colombia, Mexico, Venezuela, Honduras, Panama, and Liberia that carried 575 tons of marihuana worth an estimated retail value of more than $400 million.

Commenting on the heroin trafficking trends originating from Southeast Asia, the INCB stated in its 1977 annual report:

> World seizures of heroin originating from Southeast Asia in 1976 (more than 1,600 kg) at least equaled total world seizures from all sources in 1975. Eighteen Western European countries, Canada, the United States of America and the Union of Soviet Socialist Republics have all reported substantial seizures of heroin of South-East Asian provenances. Reported seizures and Governments' estimates of the size of addict populations in Burma, Thailand, the Territory of Hong Kong, Malaysia and Singapore show that the area is a major consumer of its own illegal opium products. Nevertheless, sufficient opiates are produced to support a world-wide traffic with an increased impact. All indicators thus point to undiminished opium production in South-East Asia.

In 1976, eight Western European nations reported over 600 drug-related deaths, more than half of which occurred in the Federal Republic of Germany, and this figure does not account for the unreported drug-related deaths. West German officials estimate the number of its citizens that are drug addicts at approximately 40,000.

There are reports of heavy narcotics trafficking through East Germany, and according to the INCB's 1977 annual report:

> Transit traffic in cannabis and cannabis resin from the Near and Middle East to Western Europe affects mainly Bulgaria, Romania and Yugoslavia. Sizeable seizures are made by vigilant authorities. A Consultative Group on illicit drug traffic in East and Central Europe met under the auspices of the Division of Narcotic Drugs in Geneva in December 1976 and experts from Austria, Bulgaria, France, the Federal Republic of Germany, Greece, Poland, Romania, Turkey and Yugoslavia discussed the further improvement of international communication and co-operation in law enforcement.

Reports from Japan indicate a substantial amphetamine addiction problem among that nation's citizens.

In Canada, heroin trafficking represents the fifth largest industry in British Columbia, grossing, according to Canadian law enforcement officials, at least $255 million a year and requiring over 365 pounds of smuggled heroin to supply Vancouver's addict population; 60 percent of the crime in British Columbia is drug related.

Heroin addiction in Canada and Western Europe has reached epidemic proportions to such an extent that Canadian, British, French, West German, Dutch, Swedish, and American law enforcement agents have joined their colleagues in Thailand in trying to eradicate the illicit opium production and trafficking.

Cultivation of poppy fields in Egypt has reached such a grave proportion that the director of the Egyptian Anti-narcotics Administration, General Sami Assad Farag, recently wrote me that—

> There is the possibility that Egypt might become an opium illicit producing nation.

During the first quarter of 1978, Egyptian drug law enforcement agents seized 5,364,022 poppy shrubs and 177,313 Indian hemp shrubs, which nearly doubled the entire 1977 seizure of 3 million poppy shrubs and constituted a 61-percent increase in seized Indian hemp shrubs for that year, as compared to nearly 30 times the 180,000 poppy and 7 times the 25,000 Indian hemp shrubs seized for the entire year of 1976.

General Farag has also called upon—

> Other states to facilitate international and regional collaboration in an effective manner so that all the combating forces of the world may constitute an invincible front against the international smuggling gangs through a strict organization of rapid means of communication, particularly at the frontier areas.

—a view that I endorse.

The worldwide trafficking of illicit drugs is not limited to heroin, marihuana, and cocaine, but also includes psychotropic substances. The INCB recently reported: "Virtually every narcotic drug and psychotropic substance liable to abuse are available on local illicit markets," and as an example of this problem, last year, Egyptian drug law enforcement agents arrested a gang of Egyptian, Syrian, Lebanese, and Swiss traffickers attemoting to smuggle 6 million narcotic tablets.

Mr. Speaker, this is not the complete picture of international narcotics trafficking patterns or the extent of drug abuse among individuals throughout the world, but it does represent the seriousness of the problem. If the "war" on drug abuse is going to be won, then it will require the concerted efforts by the entire international community. It will require contributions of personnel, equipment, expertise, and money to combat the sophisticated operations of the vast international criminal syndicates, to eradicate the illicit production of drugs at their sources, to educate citizens throughout the world regarding the dangers of drug abuse, and to treat and rehabilitate those individuals who have become dependent upon or addicted to drugs. Unless the consciousness of the international community is raised, unless all nations of the international community recognize that it is in their national interest to join with us and other concerned nations in combining resources to fight the insidious business of narcotics trafficking, then the problems of drug abuse prevention and control will remain for both heroin producer nations and heroin user nations, for both developed and less-developed nations. Narcotic producer nations are now finding that their own citizens are becoming dependent upon the very drugs that are smuggled across their borders.

I have repeatedly urged member governments to intensify their efforts to

contribute to UNFDAC or to increase their contributions to the U.N. Fund. These funds are urgently needed if UNFDAC is to underwrite viable programs to combat the trafficking and production of illicit drugs. In this regard, Saudi Arabia recently responded to my plea for increased financial assistance to UNFDAC by contributing an additional $200,000 to its initial pledge of $50,000. Secretary of State Cyrus Vance, in commenting on my efforts to increase contributions to the U.N. Fund, stated:

The Saudi Arabian contribution is an encouraging indication of the increased importance to other governments of the vital work of the U.N. Fund in reducing the spread of drug abuse and illicit drug traffic.

If UNFDAC is to serve mankind against narcotics trafficking and the illicit production and abusive consumption of drugs, then it urgently needs more than the meager $6 million pledged by only 30 nations—a budget that is less than the cost of purchasing one sophisticated Air Force or Navy jet fighter, such as the F-15 or the F-16. The $6 million pledged to UNFDAC for 1978 will however, purchase a couple of H-53 Super Jolly Green helicopters that are used by our Air Force for cargo carrying missions.

Mr. Speaker, in an effort to bring to the attention of my colleagues the extent of recent contributions by other governments to UNFDAC, I am inserting at this point in the RECORD the UNFDAC Report of Contributions, as of July 31, 1978. It is hoped that those governments that have not yet contributed to UNFDAC will assume their responsibility to the U.N. Fund and that governments that have contributed only token amounts will intensify their efforts in combating drug abuse by rendering more substantial support to the fund.

The report follows.

United Nations Fund for Drug Abuse Control—Cash contributions as of July 31, 1978

[In U.S. dollars]

	1971–77	1978
Algeria	94,995	63,000
Argentina	23,000	----------
Australia	551,598	48,220
Austria	48,127	13,275
Bahamas	1,000	500
Barbados	750	----------
Belgium	50,000	----------
Brazil	13,000	5,000
Canada	1,193,222	200,000
Chile	2,000	2,000
Cyprus	5,685	597
Denmark	689,081	----------
Egypt	----------	1,000
Finland	23,751	----------
France	605,500	100,000
Germany, Federal Republic of	714,632	247,824
Greece	11,884	2,000
Guyana	487	----------
Holy See	1,000	----------
Hong Kong	60,956	21,607
Iceland	5,500	----------
Indonesia	1,000	----------
Iran	35,000	----------
Iraq	5,066	----------
Ireland	5,000	----------
Israel	4,500	----------
Italy	203,200	----------
Ivory Coast	2,000	----------
Jamaica	4,380	1,100
Japan	1,000,000	200,000
Jordan	2,000	----------
Kenya	3,000	----------
Kuwait	21,000	----------
Libyan Arab Jamahiriya	6,460	----------
Liechtenstein	3,000	1,000
Luxembourg	1,000	----------
Malaysia	2,000	----------
Malta	484	516
Mauritius	1,000	500
Morocco	13,275	----------
New Zealand	117,711	32,130
Nigeria	6,000	8,778
Norway	[1] 5,714,259	55,484
Pakistan	1,010	1,003
Philippines	8,000	----------
Portugal	5,000	1,000
Qatar	22,000	----------
Republic of Korea	2,000	----------
Rwanda	1,066	----------
San Marino	500	1,000
Saudi Arabia	82,000	250,000
Senegal	3,049	3,155
Singapore	1,000	----------
South Africa	14,482	----------
Spain	20,000	----------
Sudan	1,000	----------
Surinam	2,000	----------
Sweden	743,708	----------
Thailand	4,000	5,000
Togo	200	----------
Trinidad and Tobago	1,000	----------
Tunisia	4,853	2,338
Turkey	9,781	----------
United Arab Emirates	9,000	----------
United Kingdom	372,922	----------
United Republic of Cameroon	422	----------
United States of America	22,000,000	----------
Uruguay	1,000	----------
Venezuela	6,000	2,000
Viet Nam	2,000	----------
Yugoslavia	31,288	----------
Total	34,476,784	1,210,027
Private contributions	180,483	10,919
	34,657,267	1,220,946
Interest income (December 12, 1977)		1,154,875
Total contribution and interest		37,033,088

[1] Including US$5,451,127 pledged for the Burma programme 1977–81 of which US $1,448,000 paid in 1977 and US $2,308,000 paid in 1978.

SPECIAL CONTRIBUTION THROUGH UNDP

Netherlands: For addiction treatment and rehabilitation project in Afghanistan, US$500,000.

CONTRIBUTIONS IN KIND

Australia: Transportation of cattle to Burma for crop substitution project in Burma, US$62,432.

India: 15 donkeys for crop substitution project, Burma, US$5,000.

Malaysia: Computer facilities during 1978/79 estimated, US$15,000.

Netherlands: Publication of a Monthly Journal (Drug Dependence) by Excerpta Medica Foundation of Amsterdam (1972–1976), US$209,440.

Poland: Agricultural machinery and implements for crop substitution projects (3.2.75), US$50,000.

Switzerland: Medicaments for addiction treatment project in Afghanistan up to maximum of US$40,000.

GOVERNMENT CONTRIBUTIONS [1] TO UNFDAC-SUPPORTED PROJECTS AND ASSOCIATED DRUG CONTROL PROGRAMMES

Country, duration of project, and contribution in US$

Afghanistan, January 1974 to December 1978, $697,882.

Argentina, December 1976 to November 1980, $200,000.

Bolivia, December 1975 to December 1978, $2,500,000.

Burma, May 1976 to April 1981, $6,985,016.

Egypt, August 1977 to December 1978, $28,571.

Laos, December 1977 to December 1981, $500,000.

Lebanon, June 1973 to December 1976, $260,000.

Pakistan, May 1976 to April 1979, $2,447,774.

Peru, January 1976 to December 1978, $1,547,159.

Thailand, December 1971 to December 1978, $5,803,000.

Turkey, March 1975 to December 1978, $20,000,000.

[1] Estimates made by the governments concerned and included in project agreements. Include operating and other costs (personnel, transport, equipment, buildings, etc.) related to drug abuse control programme in each country. Amounts in local currency have been converted into US dollars at rate of exchange on date of signature of project agreement.●

CARTER ADMINISTRATION SUGAR POLICY UNDERMINES WORLD FOOD SECURITY

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 15, 1978

● Mr. NOLAN. Mr. Speaker, in September 1977, President Carter announced a new foreign policy initiative emphasizing the importance of meeting basic human needs, particularly, the alleviation of world hunger and malnutrition. Unfortunately, the Carter administration's sugar policy, which allows more imported sugar to enter the United States, runs contrary to the President's world hunger initiative. By encouraging developing nations to continue the policy of cash cropping sugar for export, the administration's sugar policy seriously impairs food security in these countries.

The Carter administration defends its sugar policy by claiming that restrictng the importation of sugar into the United States will create an economic hardship for the sugar-exporting developing nations, and will further impoverish their citizens. The administration's defense, however, is hollow.

Fifty percent of the sugar imported into the United States in 1977 came from the Philippines, the Dominican Republic, and Brazil—countries in which cash cropping of sugar for export is dominated by the state at the expense of food security and economic development. These three countries, incidentally, have had some of the grossest violations of human rights. An examination of the sugar industry in the Philippines, the Dominican

Republic, and Brazil reveals that the Carter administration's policy to sustain the current levels of sugar production in these countries contributes substantially to hunger and malnutrition.

The sugar industry in the Philippines, the Dominican Republic, and Brazil is dominated by the respective governments which heavily subsidize the exportation of sugar. In the Philippines and Brazil the governments control all aspects of sugar production and trade. In the Dominican Republic the government is not directly involved in the sugar trade, but it closely regulates sugar exports. A government agency in the Dominican Republic also controls the production of sugar, determining production levels and allotments. Sixty percent of the Republic's annual sugar production is processed in mills owned by the State Sugar Council while 30 percent of the republic's annual sugar production is processed by a Gulf & Western subsidiary.

During the 1977–78 crop year, these countries exported a sizable percentage of their sugar production. The Philippines exported 69 percent, the Dominican Republic exported 89 percent, and Brazil exported 30 percent. Because of the low world price for sugar, around 8 cents per pound (raw value), these countries have been exporting sugar at a loss, making up the difference out of their treasuries.

Each of the countries charge their consumers more for sugar than the price at which the product is exported. In the Philippines the June 1978 price to retailers was set at 13.6 cents per pound, while the price to consumers was around 14.1 cents per pound. In the Dominican Republic, the June 1978 consumer price for sugar was at 17 cents per pound. The prices which consumers paid for sugar in the Philippines and the Dominican Republic are quite close to the prices paid for sugar by the more affluent U.S. consumers.

Wage rates for sugar fieldworkers and millworkers are exceedingly low. In the Philippines, fieldworkers average less than $1.50 per day (including a value for fringe benefits), while millworkers average slightly more than $2 per day. In the Dominican Republic, unskilled workers in the sugar industry received between $4 and $5 per day while millworkers received somewhat more—depending upon the tasks involved. In Brazil, as of November 1976, fieldworkers averaged around $55 per month in the northeast and around $70 per month in the south. Millworkers received slightly more. Given the cost of living in these countries, the wage rates are at poverty levels. In addition, the working days are long and the conditions harsh. For fieldworkers, the wage is usually determined by the amount of sugar cut per day. And since sugar cane harvesting is seasonal in nature, the sugar labor force does not have year round employment.

The pattern that emerges in the sugar industry in each of these countries is one characterized by government controls, administered consumer prices set at levels above the export prices, subsidization of sugar exports, and extremely poor wage rates for sugar fieldworkers and millworkers who must work under generally harsh conditions. In many of the other Caribbean and Latin American countries which cash crop sugar for export, a similar situation probably prevails.

The cash cropping of sugar and other commodities for the export market has undermined the food security of the Philippines, the Dominican Republic, and Brazil. In all three countries, cash cropping has made rural families more dependent by substituting sugar production for that of vegetables, grains, and other foodstuffs.

The situation in the Philippines illustrates the dimensions of the problem. Philippine land which is planted to cash crops, including sugar, has been exempted from the agrarian reform laws, thus expanding the numbers of underpaid, landless laborers who live in poverty. Cash cropping has diminished domestic food production. In Bago City, the inability of the landless laborers to obtain enough food was brought home graphically on July 30, 1978, when a group of sugar fieldworkers were arrested for secretly planting food instead of sugar in the landowners' fields. The big landowners had delayed planting sugar because of the low world prices, thus eliminating jobs and money for sugar laborers who, as a matter of survival, tried to plant their own crops for food.

Similarly, as sugar production expanded in the Dominican Republic, food production per person declined. Between 1969 and 1977 the price of food doubled. Between 1970 and 1974 real wages fell by one-third. The nutritional well-being of the people of the Dominican Republic was reduced by these economic circumstances—directly related to the expansion of sugar production—and has forced Dominicans to resort increasingly to a carbohydrate diet.

In the rural areas of Brazil, the cash cropping of sugar also has reduced nutrition levels and food security. During 1974, when sugar prices were so high, many landowners no longer allowed their workers to devote land to private gardens, but places as much farmland as possible into sugar production. A great number of reports reveal that cash cropping for export, as is done in Brazil and other developing nations, has jeopardized local food security and has worsened nutritional levels.

Despite the manner in which the cash cropping of sugar for export has diminished the food security of the Philippines, the Dominican Republic and Brazil, President Carter and his advisers continue to advocate a sugar import policy which promotes cash cropping. Administration officials claim that developing nations must be able to maintain their current level of sugar exports to the United States in order for them to obtain the foreign exchange necessary to stimulate trade and development.

Unfortunately, the Carter administration has failed to reveal how the earnings from sugar exports are channeled into the hands of a few. Although controlled by the respective governments, the sugar industry in the Philippines, the Dominican Republic, and Brazil is owned by a few wealthy families which comprise the political elite of each nation.

In the Philippines, associations of sugar planters and millowners—the island's sugar barons—receive the benefits from the exportation of sugar. In the Dominican Republic, a few wealthy families dominate the sugar industry although Gulf & Western, a U.S.-based firm, has for many years taken advantage of the cheap labor and tax advantages available in the Republic. Gulf & Western is tied closely to the wealthy sugar families because Gulf & Western plants its sugar on land owned by these families. In Brazil, the local elites in the sugar-producing region include the large landowners who plant sugar and the sugar mill owners. The large plantation owners group together in cooperatives, thus further increasing their influence in the Brazilian sugar industry. Seventy percent of the agricultural land in the northeast section of Brazil, a major sugar-producing region, is in the hands of large landowners.

As illustrated by the wage rates and working conditions for the laborers in the sugar industry in the Philippines, the Dominican Republic, and Brazil, the benefits from foreign exchange earnings trickle down meagerly, if at all. Rather than devoting the sugar foreign exchange earnings to basic development needs, the export earnings have been diverted toward entrenching the position of the wealthy ruling families.

The Carter administration's sugar policy—and the sugar bill reported by the Ways and Means Committee—will allow the current rate of sugar imports to continue or to increase. Such a policy keeps developing nations locked into sugar production at the expense of economic development as well as food security. In the Philippines, the Dominican Republic, and Brazil, the state maintains the high level of sugar production in order to prevent rural migration to urban areas, thus postponing any serious attempt to build a more equitable economic order.

Administration sugar policy and the House Ways and Means sugar bill allow enough imported sugar into the United States to keep prices down to a 15 cents per pound level. This price level will lead to the ruin of a large share of the domestic sugar industry.

The Carter administration very likely does not comprehend the pernicious ramifications of cash cropping sugar in developing nations. Whether inadvertant or not, however, the President's sugar policy will sacrifice U.S. producers to imported sugar and at the same time will promote hunger and malnutrition in developing nations by encouraging further cash cropping of sugar.

Since the early days of European colonization in the Western Hemisphere, the cash cropping of sugar has enriched ruling elites while leading to the destruction of a diversified agriculture and to the enslavement and impoverishment of

the peoples in sugar exporting countries. The House Agriculture Committee's sugar bill, with its 16 cents price objective to restrict the flow of imported sugar, is the best measure before the House to place a foundation under the domestic sugar industry and to encourage moves toward greater food security—a prerequisite for human rights and economic development in the developing nations now dominated by the vagaries of the sugar trade.

SENATE—*Monday, September 18, 1978*

(Legislative day of Wednesday, August 16, 1978)

The Senate met at 12 noon on the expiration of the recess and was called to order by Hon. KANEASTER HODGES, JR., a Senator from the State of Arkansas.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Our Father-God, Creator and Ruler of all men, we thank Thee this day for the promise of peace in the Promised Land and for the measures which give hope for justice in the land our fathers called the Holy Land. Guide those who continue to work for justice and labor to fulfill the high hopes engendered at the summit. Guard the lives of all leaders and all workers. Free us from false hopes and unfounded expectations, from fear and from cynicism. Renew our faith in the invincibility of goodness and the final triumph of the law of love.

Guide all the nations of the world as they strive for the coming day when men "shall beat their swords into plowshares, and their spears into pruninghooks: nation shall not lift up sword against nation, neither shall they learn war any more."

But they shall sit every man under his vine and under his fig tree; and none shall make them afraid; for the mouth of the Lord of hosts hath spoken it.—Micah 4: 3, 4.

Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 18, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KANEASTER HODGES, JR., a Senator from the State of Arkansas, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. HODGES thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

A GENUINE HOPE FOR PEACE IN THE MIDDLE EAST

Mr. ROBERT C. BYRD. Mr. President, last night, President Carter revealed to the citizens of this country and the people of the world the outlines of the agreement reached at Camp David for peace in the Middle East. For three decades, that vital region has been convulsed by violence and open warfare. The effects of this conflict have touched virtually every part of the world, through acts of terrorism, economic sanctions, embargoes, and diplomatic maneuvers.

Now, the bold initiative undertaken by President Carter has aroused great hopes for the cause of lasting peace in the Middle East. The Camp David agreement potentially ranks among the most significant achievements in modern diplomatic history. A major breakthrough has been made, and the fundamental issues behind the Middle East conflict have been addressed. Only a few weeks ago, the peace process appeared moribund, and the outlook was bleak. But now we have strong reason to hope that a framework has been established that will provide the basis for peace and security for all the peoples of the Middle East.

Prime Minister Begin and President Sadat deserve the highest praise for the courage, flexibility, and vision they have shown. With sincere commitments to finding solutions to the problems facing their nations, both Mr. Begin and Mr. Sadat have made major concessions. The result has not been a victory for one side or the other, but a triumph for both Israel and Egypt, as well as for all mankind.

The man deserving the greatest credit for the achievements of Camp David, however, is President Carter. Some historians believe that the impact of human personality is the single most significant influence on the course of human events. This would certainly be the case in the instance of the Camp David agreement. Through his personal good will, perseverance, and dedication to peace and justice, President Carter has been a major factor in reaching the Camp David accords. I commend the President on this accomplishment, and I am confident that he has won the gratitude and admiration of the American people for his efforts.

Since the birth of Israel, the United States has supported her in her struggle to insure her own security. Likewise, we understand the aspirations and anxieties of the other nations of the Middle East. The negotiations subsequent to the Camp David summit will probably be trying and frustrating at times, but I believe that, after 30 years of tragic conflict, the foundation for real peace has been laid. Possibly now, swords can be beaten into ploughshares, and spears into pruninghooks.

I urge other Arab nations, particularly Jordan and Saudi Arabia, to join in support of the Camp David accords. Moreover, I hope that all elements within Israel will unite behind these agreements. Let us hope that the momentum provided by this historic summit meeting and last night's announcement at the White House will continue until peace reigns throughout the Middle East.

I yield to the Senator from Connecticut (Mr. RIBICOFF).

Mr. RIBICOFF. Mr. President, I commend the majority leader for his wise words.

It was a thrilling experience to be at the White House last night when President Carter, President Sadat, and Prime Minister Begin made their historic announcement. After 30 war-torn years a giant leap forward was taken for eventual and permanent peace in the Middle East. My congratulations and praise go to the statesmanship of these three world leaders.

In talking last night to Defense Minister Ezer Weizman he commented to me,

I would not like to oppose Jimmy Carter on the battle field. His persistence, tenacity, commitment and singleness of purpose made these agreements possible. He achieved what no one else could have done. He is a great President and everyone should be proud of him.

Security Council Resolution 242 provided a basis for these agreements. But it took a special will to use that framework. History will accord President Sadat and Prime Minister Begin great credit for meeting this opportunity and for being flexible. This momentum must not be lost. Nor should we relax our efforts to bring peace throughout the Middle East. Jordan, Lebanon, Syria, Saudi Arabia, and the Palestinian people all have the responsibility to make peace a reality.

Mr. President, I would like to add a personal note about President Carter. I always had faith in his sincerity and purpose. When I returned from the Middle East in December 1976, I met with the President-elect. I learned that he planned to make peace in the Middle East a priority of his administration, and I warned him that the compromises required would bring both harsh words and the doubts of many. He has served lonely duty and he has suffered severe criticism along the way. With patience he has persevered. Despite the many rocky days he persisted in his role as a great American President to achieve peace and understanding between Israel and Egypt.

These basic documents after long negotiations set out the framework of what will follow. It will still take patience and understanding. I am confident that the people of the United States, Israel, and Egypt will support their leaders in taking all necessary steps to bring peace in the Middle East. We in the United States can be proud of our President. The whole world is indebted to him.

I ask unanimous consent that the statements of President Carter, President Sadat, and Prime Minister Begin be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

"THE LONG DAYS OF CAMP DAVID ARE OVER"

PRESIDENT CARTER

When we first arrived at Camp David, the first thing upon which we agreed was to ask the people of the world to pray that our negotiations would be successful.

Those prayers have been answered, proved beyond any expectations. We're privileged to witness tonight a significant achievement in the cause of peace, and achievement no one thought possible a year ago, or even a month ago, an achievement that reflects the courage and wisdom of these two leaders.

Through 13 long days at Camp David, we have seen them display determination and vision and flexibility which was needed to make this agreement come to pass. All of us owe them our gratitude and respect. They know that they will always have my personnel admiration.

There are still great difficulties that remain, and many hard issues to be settled. The questions that have brought warfare and bitterness to the Middle East in the past 30 years will not be settled overnight. But we should all recognize the substantial achievements that have been made.

One of the agreements that President Sadat and Prime Minister Begin are signing tonight is entitled "A Framework for Peace in the Middle East." This framework concerns the principles and some specifics in the most substantive way, which will govern a comprehensive peace settlement.

It deals specifically with the future of the West Bank and Gaza, and the need to resolve the Palestinian problem, and all its aspects. The framework document proposes a five-year transitional period in the West Bank and Gaza, during which the Israeli military government will be withdrawn and a self-government authority will be elected with full autonomy.

It also provides for Israeli forces to remain in specified locations during this period to protect Israel's security. The Palestinians will have the right to participate in the determination of their own future in negotiations which will resolve the final status of the West Bank and Gaza and then to produce an Israeli-Jordanian peace treaty.

These negotiations will be based on all the provisions and all the principles of the United Nations Security Council Resolution 242, and it provides that Israel may live in peace within secure and recognized borders.

And this great aspiration of Israel has been certified without constraint with the greatest degree of enthusiasm by President Sadat, the leader of one of the greatest nations on earth.

The other document is entitled "Framework for the Conclusion of a Peace Treaty between Egypt and Israel." It provides for the full exercise of Egyptian sovereignty over the Sinai. It calls for the full withdrawal of Israeli forces from the Sinai, and after an interim withdrawal, which will be accomplished very quickly, the establishment of normal, peaceful relations between the two countries, including diplomatic relations.

Together with accompanying letters, which we will make public tomorrow, these two Camp David agreements provide the basis for progress and peace throughout the Middle East.

There is one issue on which agreement has not been reached. Egypt states that the agreement to remove Israeli settlements from Egyptian territory is a prerequisite to a peace treaty. Israeli states that the issue of Israeli settlements should be resolved during the peace negotiations. It's a substantial difference.

Within the next two weeks, the Knesset will decide on the issue of these settlements. Tomorrow night, I will go before the Congress to explain these agreements more fully, and to talk about their implications for the United States and for the world.

For the moment, and in closing, I want to speak more personally about my admiration for all of those who have taken part in this process and my hope that the promise of this moment will be fulfilled.

During the last two weeks, the members of all three delegations have spent endless hours, day and night, talking, negotiating, grappling with problems that have divided their people for 30 years.

For whenever there was a danger that human energy would fail, or patience would be exhausted, or good will would run out—and there were many such moments—these two leaders and the able advisers in all delegations turned on the resources within them to keep the chances for peace alive.

Well, the long days of Camp David are over, but many months of difficult negotiations still lie ahead. I hope that the foresight and the wisdom that have made this session a success will guide these leaders and the leaders of all nations as they continue the progress toward peace.

Thank you very much.

PRIME MINISTER BEGIN

The Camp David conference should be renamed. It was the Jimmy Carter conference.

The President undertook an initiative most imaginative in our time and brought President Sadat and myself and our colleagues, friends and advisers together under one roof. In itself it was a great achievement.

But the President took a great risk for himself and did it with great courage. And it was a famous French field commander who said that it is much more difficult to show civil courage than military courage.

And the President worked. As far as my historic experience is concerned, I think that he worked harder than did our forbears in Egypt building the pyramids.

Yes indeed, he worked day and night. And so did we. Day and night. We used to go to bed anywhere between 3 and 4 o'clock in the morning, arise, as we are used to since our boyhood, between 5 and 6 and continue working.

The President showed interest in every section, every paragraph, every sentence, every word, every letter, of the framework agreement. We had some difficult moments. As usual, there are some crises in the negotiations. As usual, somebody gives a hint, perhaps he would like to pack up and go home.

It's all usual. But ultimately, ladies and gentlemen, the President of the United States won the day. Peace now celebrates the great victory for the nations of Egypt and Israel and for all mankind.

Mr. President, we Israelis thank you from the bottom of our hearts. For all you have done for the sake of peace for which we pray and yearn more than 30 years.

The Jewish people suffered much, too much, and therefore peace to us is a striving, coming in the most from our heart and soul. Now when I came here to the Camp David conference I said perhaps as the result of our work one day people all over in every corner of the world be able to say, "Habemus Pacem" (we have peace).

In the spirit of these days, can we say so tonight? Not yet. We still have to go a way until my friend President Sadat and I sign the peace treaties. We promised each other that we will do so within three months. Mr. President, tonight at this celebration of a great historic event, let us promise each other that we will do it earlier than the three months.

"Mr. President, you enscribed your name forever in the history of two ancient civilized peoples, the people of Egypt and the people of Israel. Thank you, Mr. President.

PRESIDENT SADAT

Dear President Carter, in this historic moment, I would like to express to you my heartfelt congratulations and appreciation. For long days and nights you devoted your time and energy to the pursuit of peace.

You have been most gracious when you took the gigantic steps of convening this meeting. The challenge . . . The challenge was great, and the risks were high, but so was your determination. You made a commitment to be a full partner in the peace talks. I'm happy to say that you have honored your commitment.

The signing of the framework for the comprehensive peace settlement has a significance far beyond the event. It signals the emergence of a new peace initiative with the American nation in the heart of the entire process.

In the weeks ahead important decisions have to be made if we are to proceed on the road to peace. We have reaffirmed the faith of the Palestinian people in the ideal of peace. The continuation of your active role is indispensable. We need your help and the support of the American people. Let me seize this opportunity to thank each and every American for his genuine interest in the cause of people in the Middle East.

Dear friend, we came to Camp David with all the good will and faith we possess, and we left Camp David a few minutes ago with a renewed sense of hope and inspiration.

We are looking forward to the days ahead with an added determination to pursue the noble goal of peace. Your able assistants spared no effort to bring out this happy conclusion. We appreciate their spirit and dedication.

Our hosts at Camp David and the state of Maryland were most generous and hospitable. To each one of them and to all those who are watching this great event, I say, thanks. Let us join in a prayer to God Almighty to guide our craft. Let us pledge to make the spirit of Camp David a new chapter in the history of our nation.

Mr. BAKER subsequently said: Mr. President, the summit conference concluded last night at Camp David has yielded remarkable results. President Carter, President Sadat, and Prime Minister Begin have earned the admiration and appreciation of friends of peace

throughout the world for this historic diplomatic achievement.

More importantly, as Mr. Begin said last night, peace now celebrates a great victory. We know it is not the final victory. We know important issues still divide the nations of Egypt and Israel. We know that other nations must agree to crucial elements of the framework for peace constructed at Camp David.

But we know, too, that these considerations cannot diminish the triumph which the cause of peace has won in 13 days of arduous and diligent negotiations.

Now that the framework has been built, the hard task ahead is to build upon it a solid structure of peace that will endure. We will hear more from President Carter this evening on what role the United States will be asked to play in this effort.

While these new agreements may not involve the Senate's constitutional responsibility of advice and consent, it is our political responsibility to insure that whatever role we accept in the resolution of the Middle East conflict is one fully supported by the American people.

So it is essential that we give the Camp David agreements our most thoughtful and careful consideration. But it is equally essential that, as we enter this process, we do so in the same spirit of courage, conciliation, and urgency which has characterized the negotiations at Camp David.

We owe the participants in that conference—and the prospect of peace itself—nothing less than an open mind and, if possible, a helping hand.

The summit conference just concluded offers us new hope that at this crucial moment the history of strife and war in the Middle East may be ending at last and a time of peace begun. For that new hope, President Sadat, Prime Minister Begin, and President Carter deserve the gratitude of their respective nations and of all the world.

I think it entirely appropriate, Mr. President, that the Senate adopt a resolution commending the participants in the Camp David conference for their tireless and earnest pursuit of peace in the Middle East, expressing our commitment to the success of the negotiations that lie ahead, and encouraging the other Arab states to seize with Egypt and Israel this dramatic new chance for peace.

Mr. ROBERT C. BYRD. I yield to the Senator from Wisconsin (Mr. PROXMIRE).

EXPORT-IMPORT BANK PROPOSES LOAN FOR NATIONAL GAS PIPELINE IN ALGERIA

Mr. PROXMIRE. I thank the distinguished majority leader.

Mr. President, I call to the attention of my colleagues a communication I have received from the Export-Import Bank pursuant to section 2(b)(3(i) of the Export-Import Bank Act of 1945, as amended, notifying the Senate of a proposed direct credit to assist the export of U.S. goods and services to be used in the construction of a natural gas pipeline in Algeria. Section 2(b)(3)(i) of the act requires the Bank to notify the Congress of proposed loans and financial guarantees in the amount of $60 million or more at least 25 days of continuous session of the Congress prior to the date of final approval. Upon expiration of this period, the Bank may give final approval to the transaction unless the Congress adopts legislation to preclude such approval.

In this case, the Bank proposes to extend a loan in the amount of $68,754,750 to SONATRACH, the state-owned gas and oil monopoly in Algeria, to assist in the purchase of U.S. goods and services to be used in the construction of the GZ–3 pipeline, terminals and related facilities for the project which will supply the liquefaction plant known as LNG–2.

The proposed credit will cover 75 percent of the total cost of U.S. goods and services for the project. The loan will bear interest at the rate of 8.5 percent per annum and be repayable in 20 semiannual installments beginning November 30, 1981.

Mr. President, I ask unanimous consent that the letter from the Export-Import Bank pertaining to this transaction be printed in the RECORD.

There being no objection, the letter and enclosure were ordered to be printed in the RECORD, as follows:

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C., September 13, 1978.

Mr. ROBERT RUSSELL,
Subcommittee on International Finance, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR BOB: Eximbank has submitted a statement to the Speaker of the House of Representatives and the President of the Senate in accordance with the provisions of Section 2(b)(3)(i) of the Export-Import Bank Act of 1945. I am taking the liberty of providing you with a copy of this statement.

Sincerely,

NANCY S. PIGMAN,
Congressional Relations Officer.

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C., September 13, 1978.

Hon. WALTER F. MONDALE,
President of the Senate, U.S. Capital, Washington, D.C.

DEAR MR. PRESIDENT: Pursuant to Section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States Senate with respect to the following transaction involving U.S. exports to Algeria.

A. DESCRIPTION OF TRANSACTION

1. Purpose:

Eximbank is prepared to extend a direct credit in the amount of $68,754,750 to Societe Nationale pour l Recherch, la Production, le Transport, la Transformation et la Commercialisation des Hydrocarbures (SONATRACH), a state-owned enterprise of the Democratic and Popular Republic of Algeria, to assist in financing the export from the United States of U.S. goods and services for the construction of a natural gas pipeline from Hassi R'Mel to Arzew, Algeria. Repayment of the Eximbank credit will be guaranteed by Banque Algerienne de Developpement for and on behalf of the Democratic and Popular Republic of Algeria.

The total cost of the pipeline and related facilities is estimated at $140,000,000 with the U.S. costs of $91,673,000 and the balance expected to be Algerian costs. The pipeline will be 42 inches in diameter, will extend 511 kilometers (319 miles) and is designated as the GZ–3 pipeline. The U.S. goods and services to be financed by Eximbank relate to the pipeline, terminals and related facilities but not to the pipe itself or the compressor stations.

The pipeline is part of a system in Algeria consisting of gas liquefication plants at Arzew on the Mediterranean coast, gas field treatment facilities at Hassi R'Mel in the Sahara desert and gas pipelines connecting the two. The liquefaction plants will produce liquefied natural gas (LNG) for export from Algeria to the U.S. and Europe. The GZ–3 pipeline will mainly supply the liquefaction plant known as LNG–2, for which Eximbank recently approved a credit of $240 million.

An earlier liquefaction plant (LNG–1), also supported by Eximbank financing, is in process of completion at Arzew and is part of a system similar and related to the LNG–2 system. The Eximbank financing for LNG–1 supported the export of U.S. goods and services for not only the LNG–1 plant but also the gas field treatment facilities and gas pipeline built in connection with the LNG–1 plant.

The plants for LNG–1 and LNG–2, as well as others which are planned, will draw from the Hassi R'Mel field and later, from other gas fields, and some of the systems will have certain facilities in common. Other countries have also supplied and financed some of the components of the LNG–1 system and are providing a total of about $900 million of officially supported export financing for the LNG–2 system.

2. Identity of the Parties:

SONATRACH is the state-owned monopoly of Algeria under the jurisdiction of the Ministry of Energy and Petrochemical industries charged with the responsibility for the development of Algeria's oil and gas resources.

Banque Algerienne de Developpement is the government-owned development bank which will guarantee repayment of Eximbank's credit for and on behalf of the Democratic and Popular Republic of Algeria.

3. Nature and Use of Goods and Services:

The principal goods and services to be exported from the United States for use in the construction and operation of the GZ–3 gas pipeline include U.S. services for engineering, procurement and construction supervision and U.S. goods consisting of pipeline valves, controls, connecting pipe, pipe coating and wrap, terminal equipment, other materials, and bulk construction materials and equipment. The major U.S. supplier for the project is the Houston Contracting Company, Houston, Texas, a division of Sedco, Inc., Dallas, Texas.

B. EXPLANATION OF EXIMBANK FINANCING

1. Reasons. The proposed extension of a $68,754,750 credit by Eximbank will facilitate the export of $91,673,000 of U.S. goods and services. In addition to the engineering, design and construction work which will result from this project for the Houston Contracting Company, other U.S. firms will receive contracts to supply equipment and materials. Export sales generated by the project will result in an estimated 420 man-years of direct employment in the United States. None of the goods to be exported is in short supply in the United States, and Eximbank perceives no adverse impact on the U.S. economy from the export of these goods and services.

There has been active foreign competition offering official export credit support for this pipeline project from the Netherlands and the United Kingdom, and very active competition from all major industrial countries

for projects in the oil and gas sector in Algeria. A contract for the related and parallel GZ–4 gas pipeline was awarded to a Dutch firm with official export credit support on similar financing terms, and contracts for another gas pipeline and an oil pipeline were recently awarded to Italian firms, also with official export credit support.

The overall LNG systems are major elements of Algeria's long-range plan to develop its vast reserves of natural gas. They will generate substantial amounts of foreign exchange earnings for Algeria and will help to expand the world supply of energy.

Because of present and past sales of U.S. goods and services with the support of Eximbank financing for Algeria's program for development of its natural resources, American firms will be in a better position to compete for further export sales under Algerian plans for other projects in such development.

2. The Financing Plan. The total cost of U.S. goods and services to be exported from the United States for the GZ–3 gas pipeline is estimated to be $91,673,000, which will be financed as follows:

	Cost	Percent
Cash payment	$13,750,950	15
Eximbank credit	68,754,750	75
Private loans not guaranteed by Eximbank	9,167,300	10
Total	$91,673,000	100

(a) Eximbank Charges. The Eximbank credit will bear interest at the rate of 8.5 percent per annum, payable semiannually. A commitment fee of one-half of 1 percent per annum will be charged on the undisbursed portion of the Eximbank credit.

(b) Repayment Terms. The total financing of $77,922,050 consisting of the Eximbank credit and private loans will be repaid by the Borrower in twenty equal semiannual installments beginning November 30, 1981. The private loans will be repaid out of the first two and part of the third installments, and the Eximbank credit will be repaid from the remainder.

Sincerely,

JOHN L. MOORE, JR.

THE DESTRUCTIVE FOLLY OF RENT CONTROL

Mr. PROXMIRE. Mr. President, the problem of our cities is in no small part a housing problem. The heart of it is that too many Americans live in decaying, constricted, unsanitary, and unsafe housing. Lives are stunted, health impaired. The problem continues in spite of a 30-year-old pledge written into law by the Congress that commits this Government to a safe and sanitary house for every American. This Government has spent tens of billions of dollars and every year we commit ourselves to spending more, but our progress is slow and discouraging.

There are many reasons for this, Mr. President, but a major reason is in two seductive words: rent control. Rent control has the most obvious kind of political appeal. There are more tenants than landlords. Every tenant likes to have his rent held down. No tenant wants to have his rent increased. So the political arithmetic is straightforward and deadly. Fix rents by law. What could be simpler. The only trouble with that solution, as Roger Starr points out, is that it does not work.

Mr. Starr is the author of a new book titled "America's Housing Challenge." He is also a member of the editorial board of the New York Times. Yesterday the Washington Star excerpted parts of that book. Mr. Starr makes some points Senators should know about. He particularly explodes the myth that rent control serves the interests of the poor, the disadvantaged, the class that is generally perceived as the renters in our society.

As Starr writes:

> Rent control is never . . . based on the tenant's ability to pay . . . . Protected tenants may be richer than the owners of the buildings in which they rent.

Rent control assumes that tenants are the victims of monopoly pricing. This is false. In every American city there are thousands of individual owners.

Rent control generally is based on protecting the tenant in occupancy. It is politically easier to provide that after a tenant moves out, the rent can be raised. But favoritism toward the tenant in occupancy has two very unfortunate results. First, people who remain in their apartments without moving for the longest period of time are not necessarily those of lowest income and greatest financial need.

Second, rent control results in gross misapplication of housing space. People stay in an apartment long after it has become too large or too small for them, simply because the rent is fixed while they stay there.

Starr concludes that:

> Expecting rent control to be a cheap way to provide standard housing for the needy is as absurd as using great white sharks for life guards: They are cheaper than people, but they destroy the drowning.

Here is why:

> While rent control keeps down the rents in older buildings that originally met the standards imposed by law, it also slows the flow of capital into these buildings that is needed to keep them well maintained. The lower the original rents, the faster the deterioration.

Mr. President, I ask unanimous consent that the article by Mr. Starr be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DESTRUCTIVE FOLLY OF RENT CONTROL

By Roger Starr

Everybody hates to pay rent. No other expenditure—except perhaps alimony—returns so little satisfaction to the spender.

No matter how absurd inflated prices seem to someone who must buy clothes, food, or any of the other necessities or pleasures of life, he can assuage his pain with the prospect of getting something he never had before: a new suit, shining on the rack; a new piece of meat to chew on; a new trip; a new broom. But every month the rent-payers of the world find themselves forced to pay once again for what they already have. Even the owner of a house, making a mortgage payment on the home he has been living in for years, derives some satisfaction from the knowledge that he has reduced his debt and increased what he calls his "equity" in the house. The rentpayer has none.

Years ago, on behalf of a non-profit group interested in proving that decent housing could be provided in old tenements by an owner content with moderate profits, I supervised the rehabilitation of such a tenement. We raised rents barely enough to pay back the cost of improvements over a 20-year period. A tenant complained about the increase that brought his rent to $60 a month. I pointed to the improvements we had made in his apartment: a bathroom, for the first time; oil heat; a modern kitchen; new window frames—didn't he like all this? Oh, yes, he said, he liked it, but, after all, the apartment didn't belong to him, it belonged to me. Why should he pay for it? I have struggled all these years to find a pithy answer.

If no one likes to pay rent, why shouldn't it be regulated by law so that politicians can take credit for the largesse? One reason only. It doesn't work.

Unfortunately, the apparent immediate benefits of rent control are obvious to a large number of people, while its destructiveness takes longer to notice. As a result, rent control appears to be not only a supremely popular government activity where there are large numbers of tenants, if even, and perhaps more dangerously, offers the satisfaction of high morality to the legislators who support it. They believe they are fighting inflation, and helping poor tenants against rich landlords, although, ironically, rent control is never—to my knowledge—based on the tenant's ability to pay (far too complicated even for the hungriest bureaucracy to administer). Thus, protected tenants may be richer than the owners of the buildings in which they rent.

The immediate peril of the rent control fallacy is that it seems to be spreading. New York, Washington and Boston have it. The interest in rent control in California will surely be stimulated by the passage of Proposition 13. Reduction in real property taxes will inspire a demand that government ensure that the tax savings be passed on to the tenant. Anyone who understands the economics of housing would expect that lower real property taxes will inevitably produce lower rents because of their stimulation of construction and rehabilitation and ensuring competition; but no one ever wants to wait for natural processes when there's a laxative handy for landlords.

Thus, my tenant, who didn't want to pay for improvements to the apartment he merely lived in, did not want to be told that it would take years for the owner to recoup what had been put into rehabilitation, without which the house would soon have crumbled completely. He preferred to assume that the cost of fixing his apartment was somehow "over" when the reconstruction was complete and the last painter had rolled up his dropcloths and gone home.

If I owned the whole world, I could, like the Soviet government, increase the prices of clothing, food, and automobiles to cover my losses on rent. Soviet citizens always boast about their low rents, and refuse to draw the connection between the low price of rent and the high price of all other government-furnished goods and services.

One need not be ruler of the world to establish low rents. A simpler method is to repeal all laws mandating housing safety and health standards. Wealthy tenants would still be able to demand quality housing as a condition of moving in, just as they do now. Poor tenants would get cheap rents, but their housing would probably be miserable, as it was when the first housing laws were

passed more than 100 years ago: no heat, no light, no air, no bathrooms, insufficient space to live decently. Tenants would get the impression that they were paying low rents, but if they wanted to stay warm, dry, and healthy, they would have to supply these qualities for themselves. The cost of supplying them would have to be added to the payments to the landlord to get the true rental cost, which would end up exactly where it is now—too high for many low-income families to afford.

Thus, rent control is meaningless unless it forces owners of buildings to maintain the quality of their apartments. This is much harder even than controlling prices, but the two—price and quality—are integrally connected, as the reformers discovered when they started passing laws raising the minimum standards of housing quality. One of the earliest housing reforms by American city governments was the requirement that every room people lived in (technically called a "living room," but not in the sense in which that term is used today) have a window to the outside air. This made housing more expensive because it cut down the number of living rooms in buildings or the size of the building that could be put on a fixed amount of ground (because the inside of the structure could no longer be used for living rooms). The reformers believed that rents would not necessarily rise because of the rise in costs; they believed that the increased cost would simply reduce the monopolistic profits which landlords got from their tenants.

Rent control today is based, through perhaps not explicitly, on the same two premises. First, that tenants are the victims of a monopoly pricing system which rent control corrects, and second, that without rent control, large numbers of apartments that meet housing standards would be priced out of the reach of moderate- and low-income families.

The hypothesis that rental housing is controlled by a monopoly simply does not square with the facts in American cities. The thousands of individual owners vary in wealth, professional skill, ownership motive, and access to capital. This is true in every American city.

Rental control came to almost all major American cities during World War II when the Office of Price Administration was controlling all prices. War made housing a natural monopoly because the government decreed that no manpower or material resources could be used for any construction not directly related to military needs.

In most cities, except New York, the end of the war marked the end of rent control. Restrictive situations other than war—as when American blacks faced serious discrimination in obtaining housing in white areas—subjected rents to monopolistic manipulation. Like war, they made rent control seem a reasonable effort to protect tenants from exploitation.

But that rarely remains its sole or its major objective; instead, its objective becomes the perpetuation of low rents and unchallengeable tenure for those tenants who happen to be protected by it, usually those tenants who have moved least often, or not at all, and who thus constitute a firm political power base for elected legislators and administrators.

The bias in favor of protecting tenants who have not moved is perfectly natural: It is always easier, politically, to permit rents to rise when an apartment becomes vacant; like the high price of shoes in Russia, the high rent of a vacant apartment makes up for part of the losses on continuously occupied apartments. All rent control systems, therefore, depend on a change of tenancy to provide the owner relief from the squeeze of increased costs against fixed rental income.

Favoritism toward the tenant-in-occupancy (who, as we shall see, is in a weaker position than the prospective tenant looking for an apartment) has two very unfortunate results. First, it does not relate economic need to the benefit conferred by rent control. People who remain in their apartments without moving for the longest period of time are not necessarily those of lowest income and greatest financial need. In an industrial city, the highest turnover rates are usually found among the poorest people who are most likely to have to move in pursuit of work, or because they can't pay rent, or because the building in which they live becomes so unprofitable that its owner abandons it. (Under New York's venerable rent control system, it became clear long ago that the top floor apartments in six-story, walk-up tenements had higher legal rent ceilings than all other apartments in the buildings. This happened because top floor apartments were the worst, occupied by the poorest tenants. Consequently, they turned over most frequently. The better apartments could not legally be rented at market rents, while the worse apartments could not be marketed at the rents to which they were legally eligible, a topsy-turvy consequence of rent control.)

The second defect that follows inevitably from favoring the tenant-in-residence is the gross misallocation of housing space. Few tenants go through life without changing their need for space. In the very same building as a growing family, there may rattle about in too large an apartment a shrinking family, but both stay in place because continued occupancy makes it a bargain. Rent control has encouraged families to occupy space which does not suit them.

A most serious difficulty in setting a price on a rent-controlled apartment. Because of the diversity and imprecision in defining housing quality, there can be no standard rent per room-month. Rent control law usually assumes that the price of an apartment at the time it came into effect is a fair basic price. At their most theoretical, rent regulators claim to modify the base price of each apartment as operating costs vary—raising it as costs rise, lowering it as services are cut in a specific building. In practice, their attempts to modify the legal rent for tenants in continuing possession always fall short of the reality of increased costs, and always result in diminished services in a period of inflation.

But even if rising costs of operation were covered by rent increases, no rent control scheme can provide for the increased value of the land on which an apartment house is built, as some areas of a city inevitably become more attractive while others decline.

Having started with the claim that it is directed against a landlord monopoly, rent control creates instead a tenant monopoly that distorts land value downward or, at best, prevents a municipality from taking advantage of its major economic asset, the value of locations that are in high demand.

Thus, when a section of the city becomes popular, attracting people who would cheerfully pay higher rents to live there, the apartments remain instead in the hands of tenants who are forbidden to pay a market rent, even if they wished to. Inevitably, the city loses the tax revenues it could charge on a more profitable property, unless it permits someone to demolish the building, replacing it with a larger one containing far more expensive accommodations.

Proponents of rent control argue both that their laws shield tenants from monopolistic exploitation and that they are necessary because government standards for housing have destroyed a free market in any case. It is now time to examine this second hypothesis. From the simplest of requirements—like the insistence on a window in every room—government housing standards have been built into an immense structure of law. Its provisions govern the dimensions of buildings and their component parts like hallways, doorways, and fire escapes. They govern maintenance procedures like winter temperature and painting. They govern administrative procedures like the posting of owners' and agents' names in public spaces. They may soon be expanded to include the licensing of owners and agents everywhere.

All of these standards make housing more expensive to build and operate, but the process of raising them still higher is extremely seductive to state and city lawmakers. They believe that the passing of laws like these really helps tenants by making their homes more habitable. But because they make housing more expensive, they succeed in pricing new housing, that fully conforms with all the new standards, out of reach of a continually growing number of tenants. Because the constant rise in cost makes new housing prohibitively expensive for moderate-income tenants, the older housing that provides lower-cost rentals becomes a precious asset. We must, say the rent control advocates, protect the older housing by rent control so that this precious asset will be saved.

The responsibility for doing something to ensure that everyone has access to housing that meets its standards is unquestionably a government responsibility. Properly, if it takes its standards seriously, government should tax everyone to enable those who need financial help to enjoy the same standards as anyone else.

Expecting rent control to be a cheap way to provide standard housing for the needy is as absurd as using great white sharks for lifeguards: They are cheaper than people, but they destroy the drowning. While rent control keeps down the rents in older buildings that originally met the standards imposed by law, it also slows the flow of capital into these buildings that is needed to keep them well maintained. The lower the original rents, the faster the deterioration. Using rent control as a substitute for governmental subsidies is simply a perverse, regressive way of enabling better-off tenants to escape the taxation necessary to pay such subsidies while accelerating the decay of the housing in which all tenants live; and the housing of the poorer tenants, likely not to be fully standard in the first place, deteriorates more quickly than that of the middle-income tenants. To the extent that landlords are unwilling to throw new money into a deteriorating building, the quality standards that rent control allegedly protects are, instead, slowly destroyed.

Rent control does not replace the marketplace which quality standards impair; it merely proffers a false solution to the real question of how much government money should be spent to raise housing standards for those who cannot afford housing without help.

CAMBODIA TODAY: AN URGENT NEED TO RATIFY THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the issue of genocide is as important today as it was in 1946 when the United Nations first acted to make it an international crime under the Genocide Convention.

Genocide, Mr. President, is not just history.

News accounts indicate that genocide is actively being committed against the Cambodian people today. In fact, the U.S. Government recently submitted a 300-page report to a United Nations Conference in Geneva on the human rights situation in Cambodia. Included are several interviews with refugees. Their shocking testimony evidences the increasingly gruesome picture of Cambodia.

Mon Sieu, a 30-year-old refugee from Sien Reap Province, succinctly reveals the horror of everyday life:

> There is no such thing as "light punishment" in Cambodia now. You are either warned at a meeting or executed.

The report lists some of the capital crimes in Cambodia today: If you complain about the food, if you are late for work, or if you court when it is not one of the two "mating days" allowed by the government, you are flogged to death with a bamboo pole.

Few nations have paid much attention to these atrocities, presumably on the assumption that a society as closed to the outside world as Cambodia, is unaffected by outside pressure. Perhaps, but as the Milwaukee Journal stated in a recent editorial:

> . . . there's another possibility: The Cambodian regime suspects that the rest of the world doesn't really care much about what happens to Cambodians.

Mr. President, do we care? We must care.

President Carter has helped draw attention to these atrocities by calling Cambodia the greatest violator of human rights today. Our conscience demands that more be done to stop such genocide.

But what, Mr. President, can the U.S. Senate do?

What, Mr. President, can we do to punish the perpetrators of these atrocities?

What, Mr. President, can we do to prevent genocide so that it only exists in history books?

Whatever the ultimate answer may be, our first step is ratification of the International Convention on the Prevention and Punishment of the Crime of Genocide.

We must stand on record against genocide.

Mr. President, I ask unanimous consent that the editorial from the Milwaukee Journal on August 25, 1978, be printed in full in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE BUTCHERS OF CAMBODIA

By all accounts, genocide is being carried out by the Communist government of Cambodia. And the rest of humankind is doing virtually nothing about it.

In the three years since the Khmer Rouge seized power, the world has received numerous reports that hundreds of thousands of civilians were being killed by the Cambodian army. Some estimates place the toll as high as a million, out of a total population of seven or eight million.

It is not possible to compile accurate figures because the country has almost completely cut itself off from the rest of the world. Yet there is sufficient evidence to conclude that Cambodia is engaged in widespread slaughter. The victims are said to be members of the middle and upper classes and anyone else deemed unsympathetic to the regime.

In any case, the tales of atrocity have received scant attention in other countries. Granted, President Carter has denounced Cambodia as the worst violator of human rights in the world today, and the United Nations Human Rights Commission has vainly asked Cambodia to respond to allegations of genocide. But most nations seem to rock along on the assumption that the rulers of Cambodia are almost impervious to outside pressure. Perhaps so, but there's also another possibility: The Cambodia regime suspects that the rest of the world doesn't really care much about what happens to Cambodians.

After all, many persons who on humanitarian grounds justifiably opposed America's involvement in Vietnam have failed to show similar concern for the victims of terrorism in Cambodia. That's why it is very significant when a Vietnam War opponent of Sen. George McGovern's standing decides to speak out. He has called for military intervention by an international peace keeping force, apparently under the auspices of the United Nations.

In principle, McGovern is right. The UN's peace keeping function should not be confined to preventing international conflicts; it also should include the protection of people against extermination by their own government.

However, the UN, with its ideological splits, is unlikely to authorize such a police operation. Even if it did, there would be serious practical obstacles in Cambodia. If the population is as dispersed as reports indicate, there would be little hope of imposing order from central garrisons. Even if UN troops could temporarily stop the slaughter, they could not patrol the country indefinitely.

What, then, are the options? The US, in view of its Vietnam debacle, is not about to intervene unilaterally. But the US, at a minimum, should more vigorously call world attention to the plight of the Cambodians and should search for opportunities, however small, to apply pressure on the offending government. For example, China may have some influence over the Cambodian government. Now that China is seeking American favor, Peking might be willing to help. Certainly it's time to try to stop the carnage, rather than just look the other way.

ORDER FOR RECESS FOR JOINT SESSION OF THE TWO HOUSES—RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate today recess no later than 6:30 p.m., except in the event that a rollcall vote may be occurring at that particular time, in which case the Senate recess immediately after the disposition of that vote to meet again at 7:30 p.m. this evening, at which time the Members of the Senate will gather to proceed in a body to the Hall of the House of Representatives for a joint session to receive a message from the President of the United States; provided further, that the Senate, when the joint session has been completed, stand in recess until the hour of 10 o'clock tomorrow morning.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, in accordance with the order, Senators will gather by 7:40 p.m. in the Chamber here and will proceed to leave the Chamber in a body at 7:45 p.m. this evening to the House of Representatives for the joint session.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. Under the previous order, the acting minority leader, the Senator from Alaska (Mr. STEVENS) is recognized.

Mr. STEVENS. Mr. President, I yield 30 seconds to the Senator from Maryland.

THE MAGICAL MOUNTAINS OF MARYLAND

Mr. MATHIAS. Mr. President, today the entire Nation, indeed, the entire world, rejoices with President Carter over the outcome of the summit meeting at Camp David.

The President deserves enormous praise and credit for his vision, his patience, and his persistence. Prime Minister Menachem Begin of Israel has responded eloquently and generously. And, of course, President Anwar al-Sadat deserves great praise for having begun the peace initiative with his trip to Jerusalem last November.

There are still unresolved problems and questions, including the reaction of other Middle Eastern nations and the extent of the involvement of the United States. But whatever the questions and whatever the problems, we can all joyfully agree with Prime Minister Begin that "peace is now celebrating a great victory for the nations of Egypt and Israel and for all mankind."

I was especially pleased last night when President Sadat in his statement included a word of praise for the State of Maryland. He said:

> Our hosts at Camp David and the State of Maryland were most generous and hospitable.

It was a thoughtful and gracious gesture.

Throughout the summit meeting, I have cherished the hope that the Catoctin Mountains, which hold special charms for every native of Maryland, would work their unique magic on these talks. In fact, shortly before the Camp David meeting, I wrote Prime Minister Begin and President Sadat identical letters expressing that hope:

> It is an honor and a pleasure for me to welcome you to the State of Maryland, to my own county, Frederick, and to the beautiful vastness of the Catoctin Mountains.
>
> As a boy, I spent many charmed hours exploring those mountains and it is my earnest hope that they will work their very

special magic on your talks and burnish the prospects for peace in the Middle East.

I am sure that, as a citizen of the world, you are familiar with the works of the great 18th Century moralist, Samuel Johnson, who was fond of quoting this Spanish proverb: "He, who would bring home the wealth of the Indies, must carry the wealth of the Indies with him."

I am confident that you will bring with you to Camp David the generous spirit and the wisdom necessary to your great task.

Prime Minister Begin responded by saying:

My colleagues and I thank you for your expressions of welcome to a beautiful corner of America whose sights and scenes, you so charmingly describe, were such an important part of your own boyhood.

We came to Camp David, located in your own Frederick County, dedicated to the single purpose of advancing the cause of peace and security for which we yearn. It is our prayer that the important meeting, initiated by President Carter, will advance this great and blessed goal.

Today we stand closer to that "great and blessed goal" than ever before and we owe a debt of gratitude to President Carter for his perseverance in the cause of peace, and to Prime Minister Begin and President Sadat for carrying "the wealth of the Indies with" them to Camp David. And I will always believe that we owe a very special debt to the magical mountains of Maryland as well.

Mr. STEVENS. Mr. President, I yield 30 seconds to the Senator from New Mexico.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield first to me?

Mr. SCHMITT. I yield.

ORDER DESIGNATING PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the conclusion of the time of the minority leader under the standing order, there be a period for the transaction of routine morning business, not to extend beyond 1 hour, with statements limited therein to 10 minutes each, and that at the conclusion of the period for morning business the Senate resume its consideration of the natural gas conference report.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CAMP DAVID SUMMIT

Mr. SCHMITT. Mr. President, I join with the remarks this morning made in praise of the activities which were just culminated at Camp David. I think I can truthfully say that all Americans feel much the same way. The elation we feel is very great. Hopefully, a major step has been taken.

I would just encourage all other interested parties in the Middle East to take this event in the spirit in which it is intended, and to join with Israel and Egypt and the United States in attempting to take these framework agreements as far as possible toward a true and lasting peace in the Middle East, and also toward a true and lasting era of cooperation on all other matters that will affect the people of that historic and more often than not troubled area.

I think the Senator from Alaska for yielding.

Mr. STEVENS. I thank the Senator from New Mexico.

ALASKA D-2 LANDS

Mr. STEVENS. Mr. President, I would like to use the balance of the acting minority leader's time and such time as may be available to me in the morning hour to comment upon a speech that has been made by the Secretary of Interior, Cecil Andrus. He has made a speech to the Nature Conservancy. It was made on Friday night, I understand. In the course of that speech I feel he has unjustly criticized a number of distinguished Americans.

The Secretary of Interior has indicated that he believes Alaskans are whining—and that is his word—about a settlement of the so-called d-2 issue.

In my opinion, the situation is exactly the opposite. The Secretary indicates that he believes that Alaskans are trying to repudiate the agreement that we made when we accepted section 17(d)(2) of the Alaskan Native Land Claims Settlement Act.

That is not true, and I hope that the Secretary will specifically refer to section 17(d)(2), in which it was stated that we agreed to review up to 80 million acres of Alaska's lands for the purpose of determining whether their addition to the four national systems—the National Park System, the National Forest System, the Wild and Scenic Rivers System, and the National Wildlife Refuge System—would be in the public interest.

Mr. President, the comments that the Secretary made that disturb me the most are those which concern the former Secretary of Interior Walter J. Hickel, our former Alaska Governor, and also the comments that he has made about the entire membership of the Senate Energy and Natural Resources Committee of this body, particularly those which refer indirectly to the chairman, Senator JACKSON, from our neighboring State of Washington, who was kind enough to permit me to sit in on the committee's deliberations.

It seems to me that the Secretary of Interior has taken upon himself to try to give a Senate committee an interim report card.

It would seem to me that we have a right to give him one, under these circumstances.

The section that we are concerned with, section 17(d)(2), dealt with, as I said, up to 80 million acres of Alaska's land.

No reference was made in section 17(d)2 to wilderness and nowhere in the reports on that bill, which became the Alaska Native Land Claims Settlement Act, will you find a reference to designating instant wilderness in conjunction with section 17(d)2. On the contrary, it was assumed that the administration and the Congress would recognize the 1964 Wilderness Act, which provides a procedure for the establishment of wilderness. But the House bill, the bill that the Secretary of the Interior apparently now embraces, covered 123 million acres of Alaska land and included over 65 million acres in instant wilderness. The real repudiation of the d-2 agreement was by the House and by the administration, specifically by Secretary of the Interior Andrus, when they failed to stay within the parameters of the original agreement. That is why Alaskans are worried about what is happening, but they are not whining about what has happened in the Senate Energy Committee.

In the House of Representatives, our sole Congressman, DON YOUNG, worked long and hard trying to educate the Members of the House on the problems related to this issue. Unfortunately, the snowball started rolling so fast that by the time the bill got to the floor, it was impossible to make any sense about that bill.

We have had a constant barrage of misleading statements about this. If you read the Secretary's speech, you would come to the conclusion that we are trying to take lands out of existing national parks. When he refers to the reduction in the acreage of the Gates of the Arctic National Park, that is a proposed park. No one has established it yet. I shall have some further remarks about that. It just seems that the Secretary of the Interior is of the opinion that once he draws a line on a map, that is sacrosanct, that the legislative body of this National Government of ours should have nothing to say about it.

I am greatly disturbed about the attacks made on the individuals involved. Wally Hickel was a distinguished Secretary of the Interior. He was known in the Capitol as a staunch environmentalist. He acted quickly to halt the drilling off Santa Barbara. He ordered a cleanup of the oil spills and the gas problems that were involved there. He took action, I think, which was unprecedented in terms of that activity in the Santa Barbara Channel.

He stopped the construction of the airport in the Everglades National Park. He was known for his swift action in dealing with the cross-Florida canal.

I think that the type of vitriolic attack that was made on former Secretary of the Interior, Wally Hickel, was entirely uncalled for. The Secretary of the Interior, Cecil Andrus, used the word "demogoguery" in relation to statements that had been made by Walter Hickel, and he knows better. The statements he referred to were both in context and very accurate statements. The difficulty I see is to attack our former Governor and the former Secretary of the Interior at a time when a recount is going on in my State on the nomination for the Governor is injecting politics of the most crass type into the problem relating to Alaska's d-2 lands.

I believe that the current Secretary of the Interior owes the former Secretary of the Interior an apology. It is my hope that he will reread his statement and read this one and be man enough to give it to him; because Wally Hickel did not deserve the kick in the pants that he got from Secretary Andrus. Without Wally Hickel, there would have been no Prudhoe Bay. It was Governor Hickel who made application for and secured approval of the selection of the Prudhoe Bay lands so that the State of Alaska could lease them for oil exploration. That has led to the discovery, as we all know, of the greatest proven reserve of oil and gas on the North American continent. The Secretary of the Interior can criticize him for having taken such action in view of the President's announced policy to promote self-sufficiency through domestic production, but I do not know.

Now, the Secretary of the Interior criticizes the Senate Energy Committee for its actions in insisting upon an inventory of the oil and gas potential of the Arctic wildlife range. The Secretary seems very disturbed; as a matter of fact, he says that the committee has opened the range to oil and gas exploration. That is not true. The range has been open. It has not been closed. The order which created the Arctic wildlife range specifically left that range open to oil and gas exploration. The committee seeks to continue that with specific protections for the Arctic wildlife range.

The committee has adopted a provision which will require that no core drilling may take place without specific authorization from Congress. At the same time, it has ordered a study of the wilderness values of the Arctic wildlife range to be made simultaneously with the noncore drilling inventory—that is, by seismic activity—of the oil and gas potential of the Arctic wildlife range. There is every indication that the Arctic wildlife range area is even more valuable to our Nation for oil and gas potential than is Prudhoe Bay. But Secretary Andrus would have us close that area to a complete inventory because, apparently, he is afraid of what might happen if discovery took place.

The Secretary has made a number of misstatements concerning the actions of the Senate Energy Committee. As one who has met with that committee every time—as a matter of fact, Mr. President, even though I am not a member of that committee, I have chaired over half of the hearings that have been held by that committee in this Congress. I am proud of the relationship that that committee has had with my State. Its chairman was the manager of the bill that brought us statehood. Its chairman was the manager of the bill that brought us the settlement of the Alaska Native land claims in 1971. That committee, under the chairmanship of the Senator from Washington, finally evolved the amendments to the Rights of Way Act, which included the Alaska pipeline amendment. I can think of no committee that has had more involvement with Alaska, unless it would be the House Interior and Insular Affairs Committee, on which many Members of this body have served.

But we believe that there is no reason for the misstatements of the Secretary of the Interior, Secretary Andrus.

He has made a statement that the Gates of the Arctic and the Wrangell Park would be open to mining. What he did not say was that these areas he referred to would be national recreation areas and they would be established subject to regulation of the Secretary of the Interior under a permit and lease system, and the decision as to whether mining would take place would be made by a Secretary of the Interior, not open until the Secretary issues a permit.

As a matter of fact, that is exactly what Secretary Andrus himself recommended with regard to the Wrangell areas. Secretary Andrus asked Congress to designate two mineral management zones in the Orange Hills and Chisana regions of the Wrangell Mountains, and that is precisely what the committee has done. But it has come up with a national recreation area provision for that area in the Wrangell Mountains, and the Secretary of the Interior has criticized the committee for it.

The Secretary is, in reference to the Gates of the Arctic, so misleading that it is a wonder he has not read a little history where Secretary of the Interior Stuart Udall originally proposed in 1968 a 3-million acre, 2-unit, national monument to be created in the Gates of the Arctic. The committee now has recommended a national park, which is two units.

Secretary Udall wished to place 3 million acres of the Central Brooks Range in a national monument. The committee has recommended a national park in that area which will be 5 million acres. It would have some 3 million acres of adjacent preserves and national recreation areas to allow recreation and tourist facility development as well as hunting, and in one area, the national recreation area, the Secretary would have the duty of determining whether mining could be permitted.

But the Secretary of the Interior Andrus, apparently, seems to believe, as I said, that the Gates of the Arctic was created by his recommendation.

It was no more created by his recommendation than by the recommendation of Stuart Udall in 1968. If the Gates of the Arctic, as recommended by the Senate Energy Committee, is created, it will be twice as large as the largest national park in the United States, and the comprehensive area that would be established there of over 8 million acres would, I think, be in excess of any national park area in the world.

Mr. President, apparently, Secretary Andrus feels he needs to overstate his position in order to scare Members of Congress and the public concerning the protection that would be available to Alaska's lands under the Senate Energy Committee. I do not feel that his statements concerning that committee and its actions are justified in any way.

The Secretary has stated that only 25 million acres of Alaska's lands would be designated wilderness under the Senate Energy Committee bill. Mr. President, that is true so far, but the wilderness review of the committee has not been completed yet, I think that, again, it is one of those preliminary report cards that could lead the country to a wrong conclusion.

I am not overly happy with the Senate Energy Committee bill. I have stated that it is a livable bill for Alaskans, but it goes much too far already and we know we are not completed yet as far as wilderness is concerned.

In the 14 years that the wilderness system has been in effect in the United States, there have been created only 15 million acres of wilderness in all of the public lands, including Alaska. This bill would create 25 million acres as it now stands. In other words, 165 percent of the total national system would be created in one bill, in one State, and the Secretary criticizes that as not enough.

Now, the Secretary implies that if wilderness is not created, an area would be open for multiple use. That is not true. As the Secretary of the Interior, again, he ought to read his own speech, because an area within a national park that is not made wilderness is still in a single use category as a national park and, similarly, a wilderness refuge does not became public lands solely because of its designation, as such, and not having been designated as wilderness.

Mr. President, the Secretary has been very unfair. I think he has been unfair for a purpose.

The Secretary has demonstrated once again an attitude that he is saying, "Either my bill, or no bill."

I do not think Alaskans deserve the attack they got by the Secretary in order to make that statement before the National Conservancy.

What he is really saying is that he wants an excuse to recommend to the President that the President exercise the existing discretion of the President under the Antiquities Act of 1906.

It was that act that Secretary Udall asked President Johnson to use in 1968. President Johnson wisely stated that the amount of land that was sought to be withdrawn under the Antiquities Act was excessive and refused to sign the orders creating the national monuments proposed by Secretary Udall with one exception. At that time, Secretary Udall suggested 8.6 million acres. After 8 years of study, he wanted 8.6 million acres and President Johnson said that was excessive.

Now, the Senate committee is about ready to adopt a bill, assuming we can get the problems in the Southeast settled, which will deal with about 100 million acres of land—100 million acres as opposed to 8.6 million acres, and the Secretary of the Interior attacks a Senate committee before it has finished its deliberation and indicates that the Senate committee action is not sufficient.

I would hope some Member of Con-

gress might defend the committee. But, certainly, on behalf of the people of Alaska, I have to defend the process through which the committee has gone to reach the position it is now.

The committee has examined in detail every single area and tried to determine what is the use that the people of that region of Alaska would put the lands to and what has been the historic use of lands in that area. As such, it is trying to be fair.

As I said, I do not believe that we are entirely satisfied with what the committee has done, but it has tried to be fair. Certainly, the Senate Energy Committee and its chairman do not deserve the criticism that the Secretary of the Interior has given that committee, and, above all, the former Secretary of the Interior, Wally Hickel, certainly did not deserve the statements that were made by the Secretary of the Interior at the Nature Conservancy.

Mr. President, I hope that other Members of the Senate will read the Secretary's statement. In order that it be made available to them, without any implied endorsement of any of the statements he has made, I ask unanimous consent that it be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

REMARKS OF THE HONORABLE CECIL D. ANDRUS

Thank you, Tom, for that generous introduction.

One of the pleasures of being Governor of Idaho was having Tom McCall as a neighboring Governor and fellow conspirator against destruction of our environment. He provided inspirational leadership up in our Northwest corner of the country, and although he has temporarily retired from public office, the legend lives on.

We were the first governors who were able to raise questions about the wisdom of helter-skelter development and boomtowns in our states—states which had traditionally been the domain of the boomers—and live to tell about it.

But The Nature Conservancy did not invite us here tonight to pat each other on the back.

The tributes tonight go to those award winners who have been recognized during this program. I join in congratulating them for their outstanding contributions to conservation.

I also want to thank The Nature Conservancy on behalf of myself and the American people for all the great work that this organization has done over the years.

It has been my good fortune to work with the Conservancy to protect some key areas in America.

The wonderful thing about the Conservancy is that it tackles problems head-on, and it so often does what government agencies cannot do, or cannot do in time, to save an endangered wild area or to protect an endangered species.

The Conservancy, working with the U.S. Fish and Wildlife Service, has helped acquire more than 356,000 acres of prime habitat.

On numerous occasions, habitat essential for endangered species, migratory waterfowl or unique ecological wildlife areas was available on the market and threatened with destruction. Interior was unable to act expeditiously because of government red tape. In these cases, the Conservancy has stepped in, acquired the land and held them until appropriations were available.

One current example is the Leetown Fish Hatchery in West Virginia where adjacent land is being purchased to protect the hatchery's watershed. In addition, there are the Sea Rim Refuge and the Smith Marsh in Texas, and Grant Meadows Refuge in Massachusetts, to mention only a few others the Conservancy is working on right now.

In the past decade, the Conservancy has acquired 126 parcels of land on 22 refuges which have been conveyed to the Fish and Wildlife Service at a savings to taxpayers of more than six and one-half million dollars.

Far more important than dollars saved are the thousands of acres of habitat which would have been destroyed if the Conservancy had not acted promptly.

In a sense, the Conservancy has become a court of last resort. Often, the Conservancy has stepped in to help save the last remnant of an ecosystem or home for the last population of some animal or plant. You understand both the necessity and the pain of this kind of environmental salvage work. Fortunately for our Nation, you keep at it.

Tonight, though, I want to talk about Alaska—an area we don't need to salvage—yet.

Alaska still has the free flowing rivers.

Alaska still has the free roaming caribou herds.

Alaska still has the masses of nesting birds.

Alaska is still the place the rest of our country once was.

We don't talk about remnants in Alaska. We talk about healthy, thriving natural systems. We don't need to manage Alaska. We just need to protect it.

Since you here tonight so often deal in "lasts" and "onlys" and "one-of-a-handfuls," I am sure that you appreciate both the challenge and the opportunity we have in Alaska.

Our ability to balance development and conservation will make Alaska a source of pride for future generations. It will not merely be the last place we took the opportunity to destroy our natural heritage.

Today we have reached the historic decision point. Alaska has always been too cold, too far, too rugged, too expensive for most development. We have now overcome those technical and financial problems. But as we learned to work—and destroy—in the far north we also learned how and why we should conserve and protect. Today we know how to destroy and we know why we should conserve. Whatever course we take in Alaska will be with our eyes wide open. There can be no more excuses.

It is no accident that the world's most expensive and ambitious privately constructed civil engineering project—the Trans-Alaska Pipeline—is in Alaska. Or that it may soon be followed by an even more ambitious natural gas pipeline. The conditions imposed by the arctic require projects on a mammoth scale if they are to succeed. But, of course, such huge projects are in themselves a mammoth threat to Alaska's still healthy natural systems.

Like development, conservation in the far north must also be mammoth in scale. A barron ground grizzly bear requires one hundred square miles of territory. A caribou migates hundreds of miles. It would be worse than useless to try to protect them with national parks and wildlife refuges scaled to the lower 48 states. It would be fraud.

Fortunately, a farsighted Congress in 1971 gave us the opportunity today to conserve many of Alaska's most important natural areas.

Section 17(d)2 of the Alaska Native Claims Settlement Act directs the Secretary of the Interior to nominate federal land in Alaska for new national parks, wildlife refuges, national forests and wild rivers. At the same time Congress gave itself until December 18 of this year to act.

The Carter Administration met its obligations under the Act last September with a balanced proposal for 92.5 million acres of new conservation areas. Last May the House endorsed similar, but more ambitious, legislation by the overwhelming margin of 277–31. In the Senate today, let's just call the situation less than desirable.

As we developed these proposals we listened to every segment of society with an interest in Alaska.

We listened to the miners—and left more than 70 percent of hard rock minerals outside the boundaries.

We listened to the oil men—and left 90 percent of high potential oil and gas provinces outside the boundaries.

We listened to the hunters—and more than 90 percent of Alaska will be open to sport hunting.

We listened to the Natives—and encouraged the traditional subsistence culture.

We listened to the State—and supported language speeding conveyance of statehood lands.

And we listened to the two thousand Americans who appeared before the House Interior Committee. The majority urged swift action to protect Alaska's wilds—including a majority of those who appeared in Alaska.

When we drew the final boundaries—cut from 120 million acres endorsed by Assistant Secretary Bob Herbst—our major tool was a computerized resource analysis developed by the state. As we made our final decisions, resource consultants from the state government offered advice from an office just down the corridor from my own office.

But despite our best efforts to balance our proposals and accommodate the entire National Interest, these proposals have come under some of the most vitriolic attacks I have witnessed in all my years of public life.

I want to read two statements to you. Here's the first quote from a well known American:

"If I were writing a script for the great American adventure story I could not pick a better location for it than Alaska—a land which is still free, clean and unspoiled. Up until recent times we placed great emphasis on growth—development, industry, new highways and increasing our population. Now a community or state is valued for its open spaces, its unspoiled natural beauty, its clean air and pure water . . ."

Now the second statement from another well-known American:

"Outsiders don't understand Alaska. They only come up here in the summer. They don't realize this is the Arctic. To survive, you need a habitat. Hey, let me tell you. American industry has learned more about the environment in the last 10 years than the environmentalists have learned about the needs of man—ever."

Wait. Both these statements were made by Walter J. Hickel, the first as my predecessor in the office of Secretary of the Interior in 1970, the second a few weeks ago as a candidate for Governor of Alaska.

I don't know how such strong statements for conservation can be replaced by such demagoguery over a period of a few short years. I can't say why.

What I can say though, is that such demagoguery won't work—it didn't even work in Alaska.

Mr. Hickel recently spent $535,000 in his primary election campaign. That's nearly $17 for every one of the thirty-one-thousand-seven-hundred or so votes he got. The boomer philosophy that was represented by that half-million investment was rejected by Alaska's voters. A majority of voters in both parties voted for moderation and responsible consideration.

I am not seeking to criticize Mr. Hickel personally, but I do not criticize the boomer philosophy that he represents. Those espousing that philosophy now seek to work their will on the American people by rewriting history.

The State of Alaska has already received enormous wealth from the United States, but there are those who seek even more—at the expense of our last remaining wildlands—lands that belong to all Americans and at the expense of Alaskans who value their life style.

As you well know, the modern history of legislation for Alaska is the history of development legislation. Let me review that history quickly:

In 1959 a generous nation gave Alaska 103 million acres as a statehood grant. This is 30 percent of Alaska—far more either in absolute or proportional terms than any other state received. When Idaho was admitted in 1890—to pick an example I know intimately—we received seven percent of the land.

In 1971, Alaska's Natives, with the backing of the state and the North Slope oil producers, came to Congress seeking settlement of their long-standing aboriginal claims. Congress was just and generous—awarding the Natives 44 million acres and nearly $1 billion in cash. And, not incidentally, clearing title to the proposed right of way for the Alaska pipeline at the same time.

In 1974 Alaskans and oil companies were back again seeking an exemption from the National Environmental Policy Act so they could begin construction on the pipeline immediately.

The Alaska Native Claims Settlement Act contained Section 17–d–2, though.

Senator TED STEVENS agreed to this section.

Senator MIKE GRAVEL agreed to this section.

The late Congressman Nick Begich agreed to this section.

Both Governors Egan and Hickel agreed to this section.

The oil companies agreed to this section.

The mining companies agreed to this section.

Virtually every person, organization, industry with an important interest in the future of Alaska agreed to that section. It was a small price. One paragraph of conservation language to balance an entire bill aimed at development. And the language of the bill and the conference report is clear.

But, now that millions of dollars in Prudhoe Bay oil money is flowing every day into the Alaska treasury—a gift from the people of the United States to the people of Alaska—some Alaskans are whining that Section 17 (d)(2) will throttle their state's development. Such charges are pure baloney.

I say that such a repudiation of this agreement is too mean-spirited for most Alaskans to accept. I say that such an attempt to rewrite history is not worthy of Alaskans' honor.

We have explained *so* carefully and *so* many times what these proposals will and will not accomplish. They balance conservation with development, protecting the finest wildlife and scenic resources while leaving the majority of minerals and hydrocarbons available for development. I can only assume now that many of those who misstate the proposals or who read dire consequences for Alaska into them no longer do so from well meaning ignorance. They know the facts, and they choose to ignore them.

We have no intention—as some have charged—to turn Alaska into some sort of wilderness playground for the rich. And equally, we have no intention of letting Alaska become a private preserve for a handful of rape, ruin and run developers. Alaska's magnificent resources belong to all Americans—for all time.

I say to you tonight that Alaskans have an obligation to support the national interest in conservation today just as vigorously as the nation supported Alaska's interest in development yesterday.

Alaska's beauty and natural richness is no secret. Travelers have been tramping through her mountains, catching her fish and writing memoirs about her spectacular scenery for more than 75 years. In the 1930s Bob Marshall was writing that nearly every acre north of the Yukon River should be set aside for conservation.

There have been a long string of conservation proposals for Alaska since Marshall. Today, nearly half a century after he wrote, we are starting to recapture his vision and his understanding of what is needed in Alaska.

Our 92.5 million acre proposal in the bare minimum necessary to protect Alaska's scenic, living and cultural resources. These areas were chosen because they are—literally—the Crown Jewels of Alaska's wilds. In Alaska we didn't even consider mountain ranges and river valleys that—in the lower 48—would be targeted for national park status. In Alaska they were mundane.

There was nothing accidental about our proposals. They were designed to protect vital and often unique resources. They were based on the principle that to protect resources you have to protect their surroundings as well. So we drew our boundaries—wherever possible—along watershed contours.

The lesson on the Redwoods and Big Cypress-Everglades is that you protect a resource only if you protect its watershed as well. In a sense, size may be meaningless—a vast area whose boundaries are one hundred yards below the ridge crest may be threatened. Add two hundred yards around the perimeter and it will be safe.

In Alaska we are not playing a numbers game—we are protecting resources. That is a simple concept, but so difficult for some to understand.

Last July I tore myself away from Washington—not too difficult that time of year—for 10 days in Alaska looking at some of the arctic areas we hope to include in our national park and refuge systems.

Flying through Anaktuvik Pass in the central Brooks Range I saw the tragic results of the first attempts to ram a winter road through to the North Slope oil fields. The pressure of the "cat trains" driving over the snow killed the thin vegetation below. Without insulation the tundra was bare to the 24-hour arctic summer sun. The permafrost just a few inches below the surface began to melt and erode. Today much of that "road"—known as the Hickel highway after the former governor who ordered its construction—is a morass of stagnant pools of water that widen and deepen a little more every year as the permafrost continues to melt.

In other parts of the state, tailings left from mines closed half a century ago still look fresh and streams gouged by high pressure hydraulic mining are still raw long after the miners have departed.

The machinery available today dwarfs the equipment these oldtimers used and it no longer takes months to move it.

Even without industrial pressure, though, Alaska wildlife and landscape can be threatened by use that seems minimal by lower 48 standards.

Walker Lake in the Brooks Range is the picture of the Alaskan wild, nestled in a valley surrounded by sharp peaks. Walking along the water's edge I saw fresh bear tracks. Within a few minutes of laying a dry fly on the water I was rewarded with a substantial lake trout. The Eskimos call Walker Lake the "Lake of the Big Fish."

But in these chilly waters—frozen over seven months of the year—fish grow slowly. A handful of greedy fisherman could turn some of Alaska's best fishing lakes into barren water holes.

The next day, flying over the arctic coastal plain I spotted a portion of the Porcupine Caribou Herd. There were about 40,000 animals—one third of the herd. Not since Americans saw the buffalo on the great plains has there been a wildlife spectacle comparable to the caribou. But they maintain a delicate balance with their environment—always moving to keep from overgrazing the thin layer of vegetation. Slight changes could upset the balance of thousands of years.

The thousands and thousands of caribou in the Porcupine Herd filled an area three miles wide by fifteen miles long. In the lower 48 this is a big area. In Alaska, not very big at all. Those caribou migrate more than a thousand miles every year. They walk the equivalent of a round trip between Washington and Chicago every year.

The arctic is not a feed lot.

The Eskimos say that "no one knows the way of the wind and the caribou." We certainly don't pretend to. What we do know is that once a caribou herd has disintegrated the most adept biologists may not be able to put it back together again.

So to those who say that "oil is where you find it" I say, caribou are only where you find them too—and unlike the oil, we know exactly where the caribou are.

I want to say a few words about the Alaska lifestyle at this point because I think that it's important to separate myth from reality, and the most enduring Alaska mythology—aside from stories about grizzly bears—is about the traditional Alaska lifestyle.

That tradition—characterized by the independent miner, the homesteader and the roving trapper supported only by rifle and wits—is about as appealing as anything I know.

Unfortunately, though, the Alaska lifestyle survives today mostly in romantic magazine articles. Alaska is one of the most urbanized states in the union. Of 400,000 Alaskans, only about 50,000 can claim to be "bush" residents. The vast majority of Alaska live in Anchorage, Juneau and Fairbanks.

The major industry in Alaska today—aside from government—is oil, a capital intensive business that hires relatively few permanent workers and insulates them from the country in futuristic "camps" when they are outside urban areas.

The only time most Alaskans see the remote back country of their spectacular state, unfortunately, is during brief vacation safaris. The days when you could drive to the outskirts of Anchorage, shoot a winter moose and be home for lunch are long gone. Not too long ago, students at the University in Fairbanks kept rifles in their dorm rooms to be ready to go caribou hunting near the campus on a moment's notice. Today you are lucky to see a caribou anywhere near Fairbanks.

Even in the remote back country, hunting pressure is cutting into the size of Dall Sheep and Brown Bears now being killed. Research is underway to find out whether sheep in the Brooks Range are simply moving away from the gravel bars and lakes that are convenient landing sites or are actually getting smaller.

Those who say that Alaska is too big to destroy or too tough to damage either don't

know what they're talking about or are willing to take chances we won't take.

Well, where does that leave us now? Here is the situation in the Senate.

Markup in the Senate Energy and Natural Resources Committee has not been completed. The Committee's bill thus far contains some major changes from the House passed bill and the Administration's recommendations:

Portions of the proposed Yukon Flats and Arctic Range wildlife refuges have been designated as a national forest, despite the fact that the timber in that area is not commercial quality while the wildlife resources are outstanding.

The Arctic Wildlife Range will be opened up to oil and gas exploration.

Portions of the Gates of the Arctic and Wrangells-St. Elias National Parks will be opened to mining.

Thus far, only about 25 million acres of wilderness have been designated in the parks and refuges; the Committee has not yet made a decision on wilderness in the national forests in Southeast.

As it stands now, it appears unlikely that the House would accept the Senate bill without going to a conference, and time is running out.

Chairmen Udall and Seiberling both still hope that a bill can be passed this year, but they recognize that it may not. They have written urging me to start preparing the necessary proclamations to create new national monuments in Alaska.

I truly hope, though, that Congress will complete action this year to protect these priceless treasures. But if it doesn't, the Administration does have several shields. On my recent float trip with President Carter, we discussed Alaska, and he made it absolutely clear that he stands behind whatever measures we must take to protect those Alaskan wildlands.

What are the shields?

The Antiquities Act of 1906 gives the President authority to establish national monuments by executive order. If we take this route, the traditional subsistence way of life will be protected.

Section 603 of the Federal Land Policy and Management Act directs me to study all roadless areas over 5,000 acres under BLM jurisdiction for inclusion in the national wilderness system. I have 15 years for the study, but right now it looks like most of Alaska would qualify.

I have other withdrawal authorities under the BLM Organic Act.

The stakes in Alaska are too high for hesitation. The loss to the Nation would be too great. If the Congress fails to act this year, the President and I will.

The caribou may not survive if we don't act.

The waterfowl that fly to 46 states from Alaska may not survive if we don't act.

The only unthreatened populations of grizzly bears may not survive if we don't act.

The only major pristine river valley may not survive if we don't act.

The only great virgin forest may not survive if we don't act.

So make no mistake. We will act.

President Carter and I will make sure that the national treasures of Alaskan wilds are protected for as long as necessary to give Congress time to act.

As a Native Alaskan told the House Interior Committee: "If we fail God may forgive us, but our grandchildren won't."

Well, in Alaska our grandchildren aren't going to have to forgive us.

Mr. STEVENS. Mr. President, recently the Denver Post printed an editorial entitled "Protecting Alaska's beauty." The article pointed out that Federal protection of land and coastal areas is usually the best way of protecting important national wildlife, scenic, and recreational resources. In reference to House passed H.R. 39 the Denver Post editorial issues a word of caution; "The environmental lobby, which is pushing the congressional project, may once again have over-reached itself." The Post sites examples of misused environmental power and recognizes that the U.S. Forest Service has set a good precedent in the West for multiple use protection.

The lands in Alaska will not be lost if Congress takes no action this year. They will remain in Federal jurisdiction, mostly under the stewardship of the Secretary of the Interior. I believe that time should be taken to fully assess the variety of uses the lands in my State hold. In the national interest, Congress should not act on d-2 until the real knowledge of Alaskan lands and their multiple values can get to the American people.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PROTECTING ALASKA'S BEAUTY

Federal protection of land and coastal areas is usually the best way of protecting important national wildlife, scenic and recreational resources.

The national parks—as well as the national forests—bear testimony to the effective job federal agencies have done in the Rocky Mountain West to protect and enhance important public resources.

That is an obvious reason why Congress currently is studying legislation to extend the protection being afforded the nation's largest state, Alaska.

Alaska has 375 million acres. That makes it nearly six times the size of Colorado. And of those Alaskan acres the vast majority are in a wild or semi-wild state. Protecting that land from despoliation in 1978 is a timely precaution.

A word of caution is needed, however. The environmental lobby, which is pushing the congressional project, may once again have over-reached itself.

Westerners are particularly aware of the hazard. Only recently environmental groups went to court to try to halt all oil and gas activity in the Overthrust Belt, a promising geological structure in Utah, Wyoming and Idaho.

Careful supervision of such activity is vital—but a total ban is simply unwise. Erecting such barricades is not in the national interest. A balance in resource use is in order. Some wild areas can be pristine, protected as wilderness, but not all.

And Coloradans have seen environmental power misused. Boundary lines of the Eagles Nest Wilderness Area west of Denver were drawn not in accordance with Forest Service guidelines—but for the simple purpose of locking up water resources Denver needs and has proved ownership to in court.

That is bad environmentalism. It loses public credibility.

So as the Congress proceeds with the Alaska land debate it should keep such things in mind. As approved by the House May 19, the area nominated for protection is large. The 100 million acres to be set aside are much larger than all of Colorado.

That may be all right. Alaska is, after all, a huge state.

But the Senate ought to take a close look at what is in H.R. 39 in the way of padlocks on potential resources. A "study" provision for oil and gas reserves is in the bill although Alaskans claim it is a sham tactic aimed merely at getting it passed.

Alaska like most Western states, has stunning scenic and wildlife areas that should be protected at all costs—with the strictest kind of federal authority. But there are doubtless other areas which can have a mix of multiple-purpose assignments.

The U.S. Forest Service sets a good precedent in the West for multiple use protection. Much wild land can be governed by management techniques which allow commercial as well as recreational, scenic and wildlife uses but stop protection short of wilderness status.

That should be the broad aim of the Senate. Along with areas which must remain untouched, Alaska has resources this nation must develop. North Slope oil fields are a prime example. So whatever legislation the Senate agrees to should make provision for some reasonable step-by-step procedure for getting at resources that are singularly essential to the national economy. Hopefully, the environmentalists will allow for some measure of goodwill in reaching such an accommodation.

Mr. STEVENS. Mr. President, I thank the Senator from New Mexico for his courtesy.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico may proceed for 5 mintues.

Mr. SCHMITT. Mr. President, first, I commend the Senator from Alaska for his analysis of the remarks of the Secretary of the Interior.

I support the Senator from Alaska completely in this. I hope the Secretary will rethink his approach to this problem and remember that the decision is going to be made in Congress, not on the basis of his specific remarks condemning the Energy Committee or any other individuals.

ROUTINE MORNING BUSINESS

(The following proceedings occurred during Mr. STEVENS' remarks:)

The ACTING PRESIDENT pro tempore. The time of the Senator has expired for the minority leader. Does the majority leader yield back the remainder of the time on the majority leader's side, so we can enter morning business and the Senator can have additional time?

Mr. MELCHER. I yield back such time as may be left to me.

The ACTING PRESIDENT pro tempore. The time having been yielded back now by the majority leader, under the previous order, there is to be a period of not to exceed 1 hour for the transaction of routine morning business, with statements therein limited to 10 minutes.

The Senator from Alaska is recognized.

ORDER OF BUSINESS

Mr. STEVENS. Mr. President, I yield the remainder of my time to the Senator from New Mexico.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico may proceed for 10 minutes.

DECLINE IN TECHNOLOGY AND ECONOMIC LEADERSHIP

Mr. SCHMITT. Mr. President, there are many examples of declining technology and economic leadership on the part of the United States of America. This trend toward retrenchment in technology and economic leadership is one

of the most dangerous long-term trends that the Nation faces, and it creates some of the most serious and most difficult problems that the Congress of the United States faces.

One particularly graphic example has been brought in detail to my attention by an article in the September 8, 1978, issue of Science magazine. This article is entitled "Mission-Oriented Research for Light Machinery" and is authored by Delbert Tesar, of the University of Florida. I quote the summary of that article, which I think will bring the basic problem into focus.

Summary. The time of intelligent machines is upon us. But the United States is not actively pursuing this rich field of technological development. This is evidenced by the U.S. trade deficit of $9 billion in this market in 1977. The synergistic approach of Japan, Germany, Russia, and other countries to research, development, and demonstration among government, academic, and industrial groups is paying big dividends in vital U.S. markets. This article outlines a specific solution in terms of U.S. national research policy for light machinery and robotics.

Mr. President, I ask unanimous consent that the entire text of Mr. Tesar's article be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. SCHMITT. Mr. President, this question of light machinery brings into additional detailed focus one of the greatest deficiencies that faces this Nation in terms of world trade. That deficiency is the lack of any kind of strategic capacity for policy development, both in general and in detail, throughout the Federal Government.

There is no mechanism—operative, at any rate—that coordinates Federal policies related to export markets. We find that the Department of the Treasury, the Export-Import Bank, the White House itself, the Department of Commerce, the Department of State, the Department of Defense, and many other agencies and departments have no clear mechanism by which they can coordinate activities relative to export markets; nor are the administration's research and development proposals coordinated with our short- or long-term needs to develop export markets.

So, Mr. President, I strongly suggest, once again, that Congress and the administration focus in an attempt to find a mechanism for developing a strategic capacity for the treatment of export markets.

Finally, I suggest that those who think we can implement some other nation's mechanisms for a strategic capacity in export planning are very likely wrong. Our culture is very different from that of any other nation on this planet. We cannot do what the Japanese do or the West Germans do or any other nation does in order to coordinate their public and private activities relative to exports.

However, that is not to say that we cannot figure out some mechanism by which this can occur. I strongly recommend that my colleagues on the various committees that have jurisdiction in this critical matter begin to think about just what that mechanism should be. Then, perhaps in the 96th Congress we can make clearcut legislative recommendations, legislative directions, to the administration for the development of such a strategic planning capacity in exports.

EXHIBIT 1

MISSION-ORIENTED RESEARCH FOR LIGHT MACHINERY

(By Delbert Tesar)

Recent reports on our weakening ability to compete in the market for consumer goods, many of which depend on new technology, indicate that the United States has rested on its industrial laurels for too long. In contrast to the $24 billion surplus of agricultural exports in 1977, manufactures produced a surplus of only $5 billion, dramatically down from $20 billion in 1975. Total research and development relative to the gross national product (GNP) is down 30 percent since 1963, while the percentage of industrial expenditure for basic research in the United States has dropped by a factor of 2.5. These are sobering statistics, since it has been documented that 45 percent of our economic growth from 1929 to 1969 has been due to technological innovation.

To be able to use energy resources to make products for world markets implies the use of machines. The purpose of this article is to show that high technology associated with production machinery is a means to the solution of increasingly tenuous economic performance. Research for the development of a machine science has been ongoing for two centuries. It reached a functional level in its industrial application before World War II, but has become less effective relative to other technologies since that time. This article documents this lack of effectiveness of mechanical technology in terms of economic indicators and outlines the need to revitalize an important segment of our industrial manufacturing capacity (1, 2).

A TECHNOLOGICAL OPPORTUNITY

It is well known that massive technological growth has occurred since World War II in electronics, particularly, microelectronics. During the same period, machine-based industries in the United States have made nominal progress, since the government has put insufficient emphasis on machine technology for the production of commercial goods. Other industrial nations have done the opposite (3). Computers or their smaller counterparts, microprocessors, can make it possible to create production machinery which "thinks," to make machines more versatile and reliable. It will be argued in this article that two major opportunities face the industrial community. These are (i) the development and use of modern research and design tools to establish a resurgence in the fundamental field of machine science, and (ii) the full use of distributed electronic sensors and computers combined with mechanical production devices to create more effective production systems.

Mechanical devices enter into the manufacture of a very large spectrum of commercial products. For example, the manufacture of our sophisticated micro-electronic circuits is increasingly dependent on high-precision mechanical positioning systems. The following is a list of many of the classes of machines that are centrally dependent on mechanical functions.

Textile machinery.

Printing and paper machinery.

Food and packaging machinery.

Office machines, computer peripherals.

Assembly operations, microprocessing.

Machine tools, automatic screw machines, presses.

Toys, models, games, sports equipment.

Agricultural machinery such as harvesters and tractors.

Internal combustion engines.

Building machinery such as shovels, cranes, and earth movers.

Conveyors, feeding, and handling devices.

Vehicles, off-road locomotion, steering, braking.

Railroad vehicles and machinery.

Circuit breakers and switchgear.

Prosthetics, orthotics, hands, man-augmentation.

Robots, manipulators, numerical control machines.

The weakness of U.S. mechanical technology may be partially illustrated by the sale in the United States of the industrial sewing machine Consew (owned by Toyota of Japan), which runs faster, is more reliable, has four times less downtime for bobbin interchange, and costs 25 percent less than a similar U.S. machine. (Note that the trade deficit for sewing machines was $141 million in 1977.) Another example involves a new tobacco manufacturing plant in Georgia that is the third largest in the United States. All of the machines are of Italian, German, or English origin and are maintained by foreign craftsmen. The plant manager confirms that appropriate technology did not exist in the United States in 1976 to fulfill the specifications for competitive machines.

The microelectronics revolution is a most welcome development (4). It is a $41 billion per year industry and has created 100,000 new jobs. Its effectiveness will increase immensely when microelectronics are coupled with versatile mechanical devices to make intelligent machines. Because of the weakness of mechanical technology, this is taking place either rarely or not at all. One step toward this coupling is represented by the commercially available "electronic" household sewing machine (5). It uses complex sewing patterns previously stored in a solid-state memory that can be recalled by the operator simply by pushing a few buttons. Nonetheless, there is no sensor in the system that can send signals to a controller, which would then automatically adjust the machine's operation to fit the present condition of the sewing process. This sensing, adjustment, and task performance has its human analogy in our eyes, brain, and motor capacity.

In the case of the electronic sewing machine, it is important to note that none of the critical high-precision motions are executed by electronic components. Hence, one must conclude that microelectronics have been "added on" or poorly integrated into the total system's function. Another step toward electronic coupling with mechanical function is the General Motors tubocharged V6 ignition timing control. In this example a sensor is used to monitor detonation in the engine. If a trace amount of detonation is exceeded, the electronic control retards the spark in 4-degree steps until detonation is below the specified limit. This system is perhaps electronically more elementary than that of the sewing machine, but it has all three elements necessary for a "thinking" machine: sensor, brain, and adjustable mechanical response.

The sophisticated integration required for intelligent machines may be illustrated in terms of a modern electronically controlled shutter for a camera (5) that recently appeared on the market. The camera contains sensitive electronic sensors that detect levels of light and transmit this information to a digital microprocessor, which then automatically sets the f-stop and shutter speed. The user merely points the camera at the subject, while the electronic system senses the range, lighting, and reflectivity and takes the picture on command. All of these functions are taken care of by various sensors, a small electronic controller (or brain), a mechanical shutter, and a mechanical drive train using springs and batteries as power sources.

The precision built into the machine comes from the intricately designed mechanical shutter, which typically moves at a speed of 4 meters per second. This speed must be precisely repeatable over the life of the camera. The electronic controller must release the first shutter or curtain, wait the required time interval, and then release the second or closing curtain. The allowable error in this time interval may be as little as 1/10,000 second.

From the example above, it is clear that the mechanical motion of the shutter curtains is fundamental to the operation of the camera itself. No alternative method is easily adaptable in a commercial still camera. Hence, the commercial realization of a new product resulted from a very sophisticated mechanical design coupled with modern electronic sensors and controllers. (It may be noted that our trade deficit in 1977 for still cameras was $253 million.) The total system effectively builds on good mechanical structure and enhances it. The enhancement is obtained by a fully adjustable system that is capable of responding to a wide range of stimuli without human intervention. This is a proper integration of electronics with mechanical technology.

Many designers have given up on mechanical technology completely. Unfortunately, a very large percentage of commercial products are used directly by humans, and these products tend to be physical (shoes, clothes, food, and so on) and require mechanical processing in their manufacture or handling. Hence, mechanical operations are mandated by human existence. It would be far more appropriate to treat the science of machines as fundamental in its own right and then augment its application with every feasible combination of electronic sensing and control. This is the major opportunity facing light industry today. It is clear that our competing industrial countries are already pursuing this opportunity. If it is energetically pursued by the United States, a new generation of machines and their products could evolve to reestablish the relative vitality of American industry.

MACHINERY AND ITS MANUFACTURES

The classes of machines listed in the previous section may be separated into the categories of light machinery and heavy machinery. It will be shown that because of its substantial research emphasis on heavy military machines and materials, the United States presently enjoys a $5 billion to $9 billion per year surplus in trade of heavy machinery. Perhaps because of minimal funding in the field of sophisticated light machinery design, the United States suffers a loss of $6 billion to $9 billion per year in light machinery and its associated manufactures. In view of our present annual expenditure for petroleum—over $42 billion—we should not tolerate so massive a loss in any class of manufactures.

Trade data for the major U.S. imports and exports are summarized in Table 1 and broken down for nonmanufactured and manufactured commodities in Tables 2 to 4. The principal applications that are associated with heavy machines are listed in Table 3. Systems related to these applications (such as heavy tractors, compressors, and turbines) tend to be robust and are frequently composed of sophisticated materials. They have represented a significant trade surplus ($8 billion to $9 billion) for the U.S. economy. Our long-term emphasis on research in materials, especially by the Department of Defense (DOD) (6), may be part of the reason for the success of these applications. Also, U.S. industry has actively pursued international heavy machinery markets (5) by providing reliable units and responsive service maintenance. The sight of a familiar yellow earth-moving machine of U.S. manufacture is known throughout the world. Our advanced modernization of agriculture supports our supremacy in farm tractors. Our heavy investment in water management projects and a national network of superhighways have produced a progressive construction machinery industry. Similar arguments might be made for the other categories listed in Table 3.

TABLE 1.—DEPARTMENT OF COMMERCE TRADE DOCUMENTATION [1]

Commodity and 1975 standing	Trade (billions of dollars) 1975 exports	1975 imports	1975 balance	1970 balance	1977 balance
Nonmanufactures:					
Positive balance	23.124	2.341	+20.783	+5.846	+19.593
Negative balance	7.170	41.894	−34.724	−8.111	−58.225
Total	30.294	44.235	−13.941	−2.265	−38.632
Manufactures:					
Positive balance	53.887	18.354	+35.533	+14.759	+33.507
Negative balance	9.876	25.034	−15.158	−9.914	−27.944
Total	64.246	43.967	+20.279	+4.562	+5.563
Heavy mechanical machines or manufacturers:					
Positive balance	19.740	6.087	+13.653	+5.156	+11.691
Negative balance	0.889	5.622	−4.733	−2.536	−7.063
Total	20.629	11.709	+8.920	+2.620	+4.628
Light mechanical machines or manufactures:					
Positive balance	5.989	1.994	+3.995	+1.602	+4.426
Negative balance	8.775	18.932	−9.757	−6.660	−12.578
Total	14.764	20.926	−5.762	−5.058	−8.172
Mechanical machines or manufactures:					
Positive balance	31.900	8.600	+23.300	+9.142	+21.378
Negative balance	15.297	32.318	−17.021	−11.838	−25.944
Total	47.197	40.918	+6.279	−2.696	−4.566
Aircraft and spacecraft	6.171	.519	+5.652	+2.384	+5.261
Passenger cars and trucks	5.633	8.164	−2.531	−2.642	−6.283
All commodities	106.156	96.940	+10.216	+2.630	−29.885

[1] A complete tabulation supporting these results is available on request from the author.

TABLE 2.—DEPARTMENT OF COMMERCE TRADE DATA FOR NONMANUFACTURES [1]

Code No.[2] and commodity	Trade (billions of dollars) 1975 exports	1975 imports	1975 balance	1970 balance	1977 balance
04—Cereal grains	11.643	0.180	+11.463	+2.519	+8.604
08—Animal feeds	.987	.076	+.911	+.420	+1.477
22—Oilseeds and soybeans	3.134	.037	+3.097	+1.211	+4.751
263—Cotton	1.010	.018	+.992	+.275	+1.536
32—Coal and coke	3.343	.202	+3.141	+1.027	+2.520
02—Fish	.267	1.354	−1.087	−.700	−1.580
06—Sugar	.155	2.072	−1.917	−.784	−1.145
07—Coffee	.092	2.327	−2.235	−1.571	−5.387
28—Ferrous ores	1.355	1.960	−.605	−.210	−1.034
33—Petroleum	.907	24.766	−23.859	−2.283	−40.213
34—Natural gas	.214	1.435	−1.221	−.231	−2.327
667—Pearls and diamonds	.262	.857	−.595	−.362	−1.275
68—Nonferrous alloys	1.312	2.580	−1.268	−.689	−2.796

[1] All positive trade balances improved and all negative trade balances worsened.

[2] Department of Commerce Code number.

A brief list of the applications of light machinery and its manufactures is given in Table 4. These are the principal generators of our $6 billion to $9 billion per year trade deficit in light machinery, and almost every category shows a continuing worsening of the trade deficit since 1970. One of the common threads in these applications is the use of highly geometric devices of numerous design parameters that require sophisticated or high technology to achieve optimum results. Optimum may imply a product output of sufficient quality, a machine that uses minimum energy, a machine that operates at a very high speed without noise, and so on. For example, an emerging application may be miniaturized mechanical devices that are made by etching, in much the same way as microelectronic circuits. The designers of the first useful machines (James Watt and George Stephenson in 1800) spent their lives perfecting the complex valve control linkages associated with the steam locomotive. In many ways, today's designers frequently develop machines by the same trial and error methods, with a remarkable expenditure of time before a unable machine is obtained. An effective machine science would drastically reduce this design cycle time.

A recently developed $2-million textile carpet printer (7) uses a high-speed miniature valve to precisely control the flow of many color dyes to pattern a blank carpet with any selected digitized scene. It is a modern combination of computer control and mechanical devices. Ignoring several ancillary economic benefits, the system's return on investment is conservatively estimated to require 2 years of normal operation. Another example is a high-speed ammunition loader produced under a $26-million Air Force contract (8). The device loads a fighter aircraft in 6 minutes, a task that previously required 2 hours, thus making the aircraft

significantly more cost-effective. The loader is driven by a motor in the aircraft and must maintain perfect synchronization with the gun mechanism during loading. Such a system must be based on rigid mechanical coupling to maintain a very high level of reliability. Principals in the development of these systems were recent Ph.D.'s in mechanical design. One of the conclusions that may be reached is that innovation in mechanical systems is possible today. The need for this level of expertise is illustrated by the fact that one of our major consumer products companies employing more than 1000 engineers has yet to hire a Ph.D. trained in mechanical design science.

Other attributes of purely mechanical devices (9) are their exceptional load capacity (ability to create large forces on a repetitive basis), precision at high speed, minimal energy consumption (by a factor of 10 compared to hydraulically driven systems), in many applications virtually no noise generation, long life, and high reliability (10). Apparent contradictions to these attributes can be shown to be due to poor design.

For example, the precision of a textile machine depends on using quality bearings, rigid links for the mechanism, and a suitably strong crankshaft-flywheel combination. Unfortunately, the design of such highly nonlinear and multiparameter systems is not only complex (involving several of implicit high-order algebraic equations) but only partially understood (rarely can a direct solution be obtained for a particular set of operating specifications). Subcomponent mechanical devices (cams and linkages) may easily contain 50 independent design parameters, making their optimal design a major unsolved task (10). For example, a basic six-link mechanism contains 1 geometric, 20 mass, 12 spring, and 10 friction damper parameters. Considering each parameter to have only ten distinct values, this would create an overwhelming collection of 10 devices, all having unique properties that are potentially useful in solving a specified machine process.

It has been suggested that heavy industry systems are more dependent on quality application of materials, while light industry is more dependent on optimal parametric design of the system's geometry. Heavy machinery may be represented by large stationary steam turbines, which require very high quality castings, machining, and bearings, but also very sophisticated design of specially cooled turbine blades made of exotic materials. Light machinery may involve the manufacture of a complex multilayered product of paper, plastic, and woven stock. At 300 units per minute, the product is made sequentially assembling the components, shaping them into the final form, collecting the products inso salable quantities, and finally packaging them for shipment. Every product must meet stringent specifications of quality, size, and cleanliness. The processing line may involve ten unique stages, all of which must be precisely coordinated or no product will result. In this case, precision of operation is a dominant consideration to ensure that the product is salable.

ECONOMIC FACTORS

A brief study has been made of Department of Commerce trade figures for principal imports and exports (see Tables 1 to 4). From 1970 to 1976 the balance oscillated in the range of ± $4 billion, with a peak surplus of $11 billion in 1975 and an accumulated loss during this period of $2.6 billion. In that year our trade balance showed a $30 billion loss, and for 1978 it is expected to show a $50 billion loss. The primary cause of this severe deficit is petroleum, for which our trade figure was −$2.3 billion in 1970, −$7.0 billion in 1973, −$24.0 billion in 1975, −$40.5 billion in 1977, and is approaching −$45.0 billion in 1978 (see Fig. 1A). This oil deficit will not be significantly reduced in the next decade.

TABLE 3.—DEPARTMENT OF COMMERCE TRADE DATA FOR HEAVY MACHINERY AND ITS MANUFACTURES [1]

Code No. and commodity	Trade (billions of dollars) 1975 exports	1975 imports	1975 balance	1970 balance	1977 balance
678.2, 679,691—Iron and steel manufactures	1.559	0.529	+1.030	+0.169	+0.596
712.5—Agricultural tractors	1.388	.339	+1.049	+.354	+.797
715—Metalworking machines	.919	.367	+.552	+.232	+.289
719.1—Heating and cooling equipment	1.309	.186	+1.123	+.428	+1.407
719.2—Pumps and compressors	1.505	.344	+1.161	+.476	+1.239
719.3—Cranes and handling equipment	1.845	.226	+1.619	+.508	+1.377
719.9—Metal foundry machinery components	.806	.307	+.499	+.275	+.571
731—Railway vehicles	.461	.090	+.371	+.077	+.223
732.8—Vehicle and tractor parts	4.394	2.507	+.1877	+1.047	+1.226
951.0—Arms of war	1.180	.038	+1.142	+.648	+1.406

[1] All categories shown exhibited trade balance improvement from 1970 to 1975, but many declined from 1975 to 1977.

TABLE 4.—DEPARTMENT OF COMMERCE TRADE DATA FOR LIGHT MACHINERY AND ITS MANUFACTURES [1]

Code No. and commodity	Trade (billons of dollars) 1975 exports	1975 imports	1975 balance	1970 balance	1977 balance
629.1—Rubber tires	0.291	0.567	−0.276	−0.127	−0.677
694—Nails, tacks, and so on	.146	.388	−.242	−.110	−.427
714.1—Typewriters and check-writing machines	.033	.149	−.116	−.072	−.189
714.2—Calculating and accounting machinery	.096	.339	−.243	−.084	−.263
717.3—Sewing machines	.077	.187	−.110	−.074	−.141
732.9—Motorcycles	.018	.744	−.726	−.323	−.673
82—Furniture	.175	.406	−.231	−.178	−.410
83—Travel goods and handbags	.037	.217	−.180	−.096	−.354
84—Clothing	.402	2.550	−2.148	−1.066	−4.070
85—Footwear	.095	1.301	−1.206	−.620	−1.838
861.4—Cameras, still	.103	.175	−.072	−.035	−.253
864—Watches	.101	.426	−.325	−.164	−.538
891.1—Phonographs and tape recorders	.195	.603	−.408	−.302	−1.026
894.2—Toys and games	.194	.332	−.138	−.180	−.358
894.4—Fishing and guns	.156	.239	−.083	−.007	−.288

[1] All categories, except motorcycles, exhibited a worsening negative trade balance.

On the whole, manufacturers rose from +$4.5 billion in 1970 to a peak of +$20.3 billion in 1975, but fell again to +$5.6 billion in 1977. Heavy machinery went from +$2.6 billion in 1970 to +$8.9 billion in 1975 with a 3:1 ratio of positive over negative categories. It fell to +$4.6 billion in 1977, showing that even the heavy class systems are increasingly vulnerable (see Fig. 1B). Light machinery exhibited a nearly constant deficit of −$5.5 billion from 1970 to 1975 with a 3:1 ratio of negative over positive categories. In 1977 this deficit increased to −$8.2 billion, showing that it is alarmingly sensitive to international trade competition (see Fig. 1C). Heavy manufacturers reflect long-term industrial excellence, proved return on investment, and long-term research support by government (DOD) for materials and alloys. Light manufacturers reflect a long-term slide in research activity while other countries have expanded their efforts.

One special manufacturer that is a mix of the heavy and light classes of mechanical systems is aircraft, which has grown from +$2.4 billion in 1970 and +$5.6 billion in 1975 to +$5.3 billion in 1977. One could argue that DOD involvement was a principal reason for this surplus. Another such category is passenger cars and trucks, which had a stable −$2.5 billion deficit from 1970 through 1975 but fell to −$6.3 billion in 1977. It has been argued that the Detroit auto industry forfeited part of its market by not energetically developing small cars. Once the market is prejudiced, it is very difficult to reverse it.

A remarkable report on our international trade was carried by the New York Times on 5 July 1978 (11). During the first 5 months of 1978, imports of machinery and manufactures were up 37 percent and were double our oil imports, which were 10 percent lower than in the same period in 1977. Our exports rose nominally about 12 percent to match inflation. Our trade deficit increased alarmingly from −$8.2 billion to −$14.8 billion during this same period, a 79 percent rise. A valid assessment of our manufacturing decline is the following conclusion based on a poll of industrial R & D managers: "A grim mood prevails today among industrial research managers. America's vaunted technological superiority of the 1950's and 1960's is vanishing, they fear, the victim of wrong-headed federal policy, neglect, uncertain business conditions, and shortsighted corporate management." It is clear that a technological opportunity exists which, if pursued vigorously, can partially reverse this decline and stabilize the relative economic position of the United States in the world market for machinery and its manufacturers.

BRIEF HISTORICAL REVIEW OF LIGHT MACHINERY DESIGN

During the late 15th century, Leonardo da Vinci developed a remarkable conceptual model of a cable-operated mechanical arm (manipulator) for mechanical intelligence at the input (human muscle power) and mechanical function at the output (the

duplication of the complex motions of a bird's wing). Today, 500 years later, the modern equivalent is capable of receiving all forms of control input intelligence—human, electronic, pneumatic, and so on. In the last quarter of the 18th century, the increasing availability of dependable steam power made possible the duplication of simple human motions (such as weaving motions to make a fabric) on a cyclic basis by mechanism-based machines. The Industrial Revolution, centered in England, was the result. Similar progress occurred in agricultual machinery in the United States during the second half of the 19th century, and was clearly a factor in the rapid opening of the West.

A pivotal book, Theoretische Kinematik (12), published in 1875 by Germany's top scientific officer, F. Reuleaux, established the basis for the science of machines. This work has been ongoing in Germany for 100 years, and Swiss and German textile machines are representative examples of the result. In this country in the first half of this century, companies hired expert designers from central Europe to compensate for our inactivity in machine science. Consequently, there was little pressure on the universities to provide excellence in education or technology in this field. In 1922, the renowned theoretician in analytical mechanics, S. Timoshenko, arrived in this country from Russia. During the next 10 years he published several books dealing with such subjects as elasticity, plasticity, plates and shells, strength of materials, classical dynamics, and vibrations. The machinery community found it difficult to embrace his revolutionary methods, and as a consequence his initiative attracted many from the study of machines into these fascinating fields of theoretical research. Academic research on the study of machines finally got under way during the decade 1955 to 1965, motivated by the early research of F. Freudenstein, the teaching example of A. S. Hall, Jr., and the leadership of F. R. E. Crossley in developing international relationships. However, their effort is only now bearing fruit. With the arrival of Sputnik in 1957 and the consequent enhanced government research programs, the machine community was ill-prepared to obtain sizable research support.

Generally the university community has seen a 20 percent effective reduction in federal funding during the past decade (13). Even during periods of research expansion, the field of machine science has never enjoyed a significant portion of this funding. This contention is supported by the fact that the National Science Foundation (NSF) funding for basic research is 30 times higher per fundable faculty member in physics than in mechanical engineering and mechanics. It is indicative that the word mechanical is rarely used in the titles of major federal research programs. To my knowledge, there is no federal program dealing with the science of mechanical design. The result of this modest activity is increasingly obvious today, as illustrated by the economic data cited in this article.

Our development of mechanical design science has been so neglected that cycles of 5 to 7 years from design to production are commonplace. It took 30 man-years to generate the dynamic model for the space shuttle manipulator (14). Our computers are modern, but the mechanical science to design and manufacture tomorrow's products is outdated. To revitalize the science of design will require a major commitment from several mission-oriented agencies as well as NSF. It is known that significant programs for electronics, materials, and mathematics already exist for enhancement of university research. I suggest that two major areas be added: mechanical design science, which is documented in this article, and the related field of manufacturing processes (15). Both could do a great deal to enhance our productivity in basic manufacture, which is the nation's largest technological endeavor. Since these areas are distinctly mission-oriented, government funding must allow for close industrial relations to make the results more immediately applicable.

ROBOTICS AS A CATALYST FOR LIGHT MACHINERY DEVELOPMENT

Those who attended the NSF Workshop on Robotics last February concluded that the scientific base now exists for dramatic advances in mechanical design technology and its associated industrial spectrum (16). They deplored the fact that the United States, in its vast research and development program, is not promoting the development of this technology but, by default, is yielding the field and subsequent markets to Japan, Germany, and Russia. They strongly recommended that a directed national policy be established to substantially accelerate the development of advanced technology for robotic systems.

The robotic system is in many ways the technological equivalent of the human system, having components such as sensors (eyes), actuators (muscles), and a computer (brain), which allow the system to perform mechanical functions by reacting to needs in its environment that it perceives and interprets. Such systems are of particular importance for one pressing problem, the remote maintenance of nuclear systems (17).

Two nuclear power plants in Florida have repairs under way with a cost approaching $0.6 billion (18, 19). Human maintenance is either inadequate, too expensive, or limited by radiation regulations. It is legally required of plant operators that all available technology must be used to reduce the radiation exposure to maintenance personnel. Estimates of the operation of fusion reactors indicate that they will require replacement of the plasma shields once every 2 years. There is no available precise documentation of the functional requirements for disassembly and assembly but it appears they will be very difficult to achieve by near-term robotic technology. Remote inspection and maintenance require the highest level of mechanical generality (more geometric parameters for design means a more versatile device) and operational precision. Because of this necessary complexity, the robotic manipulator is not controllable by a human operator; his role must be augmented by digital computation. This, then, will be one of the most demanding engineering problems yet to be fully addressed by any machine research group in the United States.

Offshore oil well drilling faces similar problems. The establishment of the country's offshore economy may eventually hinge on remotely operated surface and sea floor stations, both of which require the use of the manipulator for inspection and maintenance. The only alternative is to use divers, who must operate in a hazardous environment, have endurance limitations, and are very expensive (20). Similar problems exist for coal mine accident missions, as illustrated by the March 1976 methane explosions in the Kentucky Scotia mine. In this case, a search party of 11 people were killed trying to determine the status of a group of trapped miners. Robotic survey systems would have been able to perform the same task without jeopardizing the lives of additional personnel.

Other applications of robotics are for defense-related functions such as deep submergence vehicles and surveillance vehicles in space, microsurgery to enhance the mechanical precision of the surgeon's hands, human augmentation in manufacturing and prostheses for the incapacitated, and industrial automation and assembly. Generally, the use of robotic systems (industrial robotic manipulator arms) as a manufacturing aid in automation is considered to be marginally cost effective today in the United States (21). Hence, most applications involve either human enhancement (to increase endurance in a particular task, as in handling heavy, hot forgings) or human protection (to remove the operator from a dangerous or toxic task, as in painting automobile bodies). In Japan, robotic devices are most likely to become economical because of that country's impending labor shortage (21). Japan has invested $2 billion on government and industrial R & D in robotics (22). This far exceeds U.S. efforts. Each major Japanese company is now pursuing specialized robotic devices for its present or future needs. These companies are actively developing completely automated self-contained factories to be sold to developing countries.

The robotic system requires the technologies of several engineering disciplines (such as machine design, vibrations, strength of materials, automatic control, and computer science). Consequently, a team research effort is essential for meaningful progress. Since this is an emerging technology of great interest, it could become the vehicle for technological development in the whole field of mechanical design science. It is expected that as more electronics are integrated into basic machines and as robotic devices are more widely applied, a general blending of the whole spectrum will occur. Because every mechanical function of the robotic system must be electronically controlled, the robotic device will perhaps represent the ultimate marriage of these two technologies.

One of the major tooling efforts in the United States has been numerical control machines. These systems are computer controlled and are capable of automatically duplicating the function of several distinct machine tools (such as the lathe, mill, and plane). Such devices may be considered as unsophisticated robotic systems. The auto industry is now attempting to pursue advanced technology machines (modern numerical control machines and robotic mechanical arms), but it is finding that our tool industry is inadequately prepared for such a large surge of orders and may have to go to foreign sources (23). It is interesting to note that in 1968, 50 percent of the cost of a numerical control machine was due to electronics. Today, that portion of the cost is down to 15 percent. One may thus argue that the security of return on research investment is much better for the mechanical portion of this system. This highlights the relative stability of return on investment in mechanical technology in general.

FUNCTION OF MAJOR LONG-TERM RESEARCH TEAMS

The present federal funding structure has been criticized on the basis of "fragmented work, no long-term commitment, not enough equipment money, restrictive control, short-term payoffs, critical size projects are rare, younger faculty are not well involved, government research reports sit on the shelf, and industry is not involved in establishment of research priorities" (24). It is clear that the growing technological superiority of foreign light industry is the chief factor to be considered. Within the United States the role of venture capital has all but vanished, so innovation has diminished. In most developed countries, Japan and West Germany in particular, government and industry cooperate on common goals, usually with universities as the research vehicle. There has been a significant decrease in recent years in unrestricted general research in all sectors of the U.S. research community. In fact the presidential science adviser, Dr. Frank Press, claims that industrial research has become defensive—developing new technology to satisfy environmental regulations—rather than innovative. Edward Kennedy, the Senate champion of NSF, has asked for an expanded role for industry at NSF (25), and that agency has indicated its willingness to cooperate (26).

How should the ideal government, university, and industrial research interaction be established? The DOD has had considerable success with its Joint Services Electronics Program (JSEP), which "provides a valuable and continuous flow of research ideas in electronics, decreased loan on researchers because of long-term commitment, minimum restrictions and commitments to administer, and maintain leading edge effort in electronics for national defense long-range capability" (24).

A new Defense Science and Engineering Program (DSEP) has been proposed by DOD. It will have many of the structural features of JSEP, except that it will have no specific technological mission. Because of this flexibility and its interdisciplinary basis, DSEP should be able to address any future technological need.

The means of technology transfer in this case is close cooperation between interested DOD laboratories. Any major research team should have several active outlets for its developing technology. For example, a defense contractor dealing with ammunition handling, an industrial robotics manufacturer, a high-technology R & D company, and a research team dealing with robotics. To be effective, these interactions must be mutually beneficial. The research team would have immediate knowledge of industrial problems, and industry would have an early review of evolving technology. In cases where development and demonstration are the dominant considerations, it might be appropriate to have ten times as much applied research in the industry group as basic research in the scientific group. If new scientific results are the primary goal, this ratio may be suitably changed. Partially supporting some of the industrial members under the grant to pursue prototype development and experimental testing activity should be seriously considered.

CONCLUSION

Light machinery and its manufactures are showing an increasingly negative trade deficit, approaching $9 billion per year with a 3:1 ratio of negative over positive categories. In the past, heavy machinery has had a positive trade balance, although 1977 data show that this is weakening. The importance of this technology has been recognized in recent months by many key national research policy-makers. The article suggests that a primary corrective step to be taken involves universal strengthening of the field of mechanical design science. Integration of the expanding micro-electronics technology with the mechanical system is an essential ingredient. This integration may best be demonstrated in terms of the demanding robotic system.

Recent manpower forecasts (27, 28) indicate that high-technology programs have weakened during the past decade and will have been significantly curtailed by 1985. Corrective steps must be taken now to rectify this expected deficiency. Agencies such as NSF in its Engineering and ASRA (Applied Science and Research Applications) divisions, DOD, NASA, and the Department of Energy all have existing missions related to mechanical design science but have not yet been enabled to fund major research programs. Major long-term academic research has proved to be cost-effective and productive of new technology, and it is now essential for rapid development. At this time, no centers for light machinery research are known to exist in the United States.

It is apparent that in the light machinery field, foreign manufacture has outstripped U.S. technological development. This continuing weakness of our machinery and manufactures is clearly evident from the trade balance which reached a peak of $20 billion in 1975, went down to $5 billion in 1977, reached parity in the middle of 1978" and may continue its downward slide. Correcting this condition should be a national concern. Parity is not a sufficient goal. Accepting parity would imply an eventual reduction of our standard of living. The overwhelming burden of oil imports suggests that no major deficit category in manufactures should be tolerated. A national policy to establish a cohesive program for light machinery research (or intelligent machines) is not only desirable but necessary.

REFERENCES

1. *Newsweek*, 29 May 1978, p. 29.
2. E. B. Staats, *ASM News*, 9 (No. 5) (1978).
3. *Business Week*, 3 July 1978, pp. 46–54.
4. *Time*, 20 February 1978, pp. 44–58.
5. R. T. Dann, *Mach. Des.* 49, 87 (1977).
6. H. Kimata and J. Schneider, *Mod Photogr.* 40, 92 (1976).
7. S. J. Warlick, *Text Ind.* (*Atlanta*), 141, 126 (1977).
8. "The making of a winner," *J. Fla. Eng. Soc.* (March 1978).
9. Purely mechanical systems couple all motions rigidly together, as with a crankshaft.
10. D. Tesar, paper presented at the NSF Workshop on New Directions for Kinematics, Stanford University, 2 and 3 August 1976.
11. R. Halloran, *New York Times*, 5 July 1978, p. 1.
12. F. Reuleaux, *Theoretische Kinematik* (Vieweg, Brunswick, Germany, 1875); A. B. W. Kennedy, Transl., *Reuleaux, Kinematics of Machinery* (Macmillan, London, 1876; Dover, New York, 1963).
13. J. Walsh, *Science* 196, 1184 (1977).
14. J. D. Graham, paper presented at the NSF Workshop on Robotics, University of Florida, 8 to 10 February 1978.
15. C. A. Berg, internal memorandum, School of Engineering, University of Pittsburgh, 10 January 1972.
16. D. Tesar, summarizing statement, NSF Workshop on Robotics, University of Florida, 8 to 10 February 1978.
17. T. J. Donally, paper presented at the NSF Workshop on Robotics, University of Florida, 8 to 10 February 1978.
18. *Gainesville Sun*, 14 April 1977.
19. *Gainesville Sun*, 4 April 1978.
20. A. B. Rechnitzer and W. Sutter, in *Proceedings of the First National Conference on Remotely Manned Systems*, E. Heer, Ed. (Jet Propulsion Laboratory, Pasadena, Calif., 1973).
21. H. J. Liff and J. D. Finley, paper presented at the NSF Workshop on Robotics, University of Florida, 8 to 10 February 1978.
22. A. Young, in *Proceedings of the British Institute of Robotics* (University of Warwick, Coventry, England, 1977).
23. A. Salpukas, *New York Times*, 26 February 1978.
24. G. Gamota, internal document, Department of Defense, 27 February 1978.
25. *Science and Government Report* 7 (No. 21), 1 (1977).
26. *Natl. Sci. Found. Not.* 72 (1978).
27. *Natl. Sci. Found. Rep. 76–301* (1975).
28. *Natl. Sci. Found. Rep. 76–314* (1977).

SENATE RESOLUTION 565—SUBMISSION OF A RESOLUTION RELATING TO PEACE IN THE MIDDLE EAST

Mr. ROTH submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. RES. 565

Whereas, the people of the United States and the peoples of Israel and Egypt deeply desire a just and lasting peace in the Middle East; and

Whereas, the President of the United States invited the leaders of Egypt and Israel to Camp David to negotiate agreements that could lead to a peace settlement; and

Whereas, because of the dedication, statesmanship, and persistence of the leaders of the United States, Israel and Egypt, two agreements were reached at the Camp David summit establishing frameworks for achieving a peace treaty between Israel and Egypt and peace in the Middle East; and

Whereas, these agreements, if implemented, can lead to a new era of growth, prosperity, and productive interchange among the peoples of the Middle East; and

Whereas, the people of the United States are proud of the role that their country and President played in negotiating these frameworks;

Therefore, now be it resolved by the Senate of the United States that—

(a) The Senate commends the President of the United States for his work during the Camp David summit conference, and congratulates him and the leaders of Israel and Egypt for the agreements that they have reached;

(b) The Senate expresses its gratitude to Mr. Sadat and Mr. Begin for their statesmanship, wisdom, and willingness to be flexible;

(c) The Senate fully supports the agreements which have been reached and urges other leaders of the peoples of the Middle East and world to endorse and support these agreements; and

(d) The Senate believes that Jimmy Carter, Anwar Sadat, and Menachem Begin deserve Nobel Peace Prizes for their achievement of these agreements.

Mr. ROTH. Mr. President, I am very pleased that important, constructive steps toward peace were made at the Camp David summit.

The outcome was good news for the American people and for the peoples of the Middle East.

Our euphoria, however, must be tempered by the recognition that a long road and many obstacles lie ahead on the way to a comprehensive Middle East peace settlement.

A separate, bilateral peace agreement between Israel and Egypt now seems within sight. Since the Middle Eastern wars have been primarily conflicts between Egypt and Israel, a separate peace would be a very significant development. If truly implemented, it would end the encirclement of Israel by hostile nations and permit productive interchanges between two of the world's oldest nations for the benefit of both.

It will be a much more difficult task to transform the document outlining a framework for peace in the Middle East into a reality. The framework, it must be remembered, is only a framework and it is endorsed only by the leaders of two Middle Eastern nations. Very difficult issues remain between Syria and Israel. Jordan and Saudi Arabia have not endorsed the framework endorsed by Mr. Sadat and Mr. Begin. The sensitive issues involving the West Bank, the Gaza Strip, and the future of the Palestinian people, including the critical question of sovereignty, remain for further negotiation. The framework does not resolve the bitter civil strife in Lebanon, and it will be violently opposed by radical elements among the Palestinians. It is very possible that those opposed to this agreement will engage in new acts of terrorism against Israel and Egypt in an effort to sabotage it.

For Mr. Begin and Mr. Sadat, therefore, the most difficult obstacles remain ahead. The great statesmanship they have displayed in the past must be matched by as great statesmanship in the future. Each are likely to come under severe pressure to back out of all or

parts of the agreements that have been reached. In each capital, there will be some who will argue that too many concessions have been made and the gains too elusive. Each leader, with our help, must seek to convince other Middle Eastern States and the Palestinian people that this agreement does establish a framework within which a just and lasting peace can be achieved.

Mr. President, President Carter deserves universal credit for the role that he played in calling this summit and for his work in helping to fashion these agreements. He certainly deserves the praise of the Congress and the American people for his efforts. I think he richly deserves a Nobel Peace Prize for devoting his time and energy to a task that is so meaningful to the peoples of the Middle East and so important to the cause of world peace.

I am, therefore, submitting a resolution commending the President and the leaders of Israel and Egypt and throwing the full weight of the Senate behind these important agreements.

JOINT SESSION OF THE TWO HOUSES TO RECEIVE A MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a concurrent resolution and ask for its immediate consideration.

The PRESIDING OFFICER laid before the Senate, House Concurrent Resolution 713, which was read as follows:

H. Con. Res. 713, providing for a joint session of the Houses on Monday, September 18, 1978, to receive a message from the President of the United States.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the concurrent resolution.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 713) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONCLUSION OF MORNING BUSINESS

Mr. SCHMITT. Mr. President, I reserve the remainder of my time. If there is no need for it, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. Will the Senator withhold that for a moment?

Mr. SCHMITT. Yes.

The ACTING PRESIDENT pro tempore. Does anyone else wish to speak on morning business?

Mr. SCHMITT. Mr. President, I withdraw the unanimous-consent request, and I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. There being no further morning business, morning business is closed.

NATURAL GAS POLICY ACT OF 1978—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the pending business, the conference report on H.R. 5289, which will be stated by title.

The legislative clerk read as follows:

Conference report on H.R. 5289, an act for the relief of Joe Cortina, of Tampa, Florida.

Mr. MELCHER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HASKELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. PAUL G. HATFIELD). Without objection, it is so ordered.

Mr. HASKELL. Mr. President, I have reluctantly decided to oppose the natural gas conference report. My decision to oppose the conference report has not been an easy one, but is based upon a careful review of the merits of the proposal.

Mr. President, as is well known, I have been involved for over a year in the Senate's attempts to resolve the 24-year-old dispute over natural gas pricing. I signed the natural gas conference report, not because I supported all the provisions of the bill, but because I believed that it was essential to bring this measure which my colleagues and I have labored over for so long to a final resolution on the floor of the Senate.

There is no doubt that some action must be taken to end the uncertainty both producers and consumers have faced because of the present natural gas pricing regulations. The result of the deliberations over the past year—the natural gas conference report—dose provide a solution to these questions. However, Mr. President, in my view the bill before us is not the most desirous solution to this problem. Therefore, I have reluctantly decided to oppose the natural gas conference report.

It is my view that this bill incorporates the worst features of both regulation and deregulation. While the bill raises prices significantly for consumers, it will not result in substantial additional production. In addition, the bill would create a regulatory nightmare even worse than the presently cumbersome system for producing, pricing, and distributing natural gas.

Mr. President, as you know, I was a conferee on this bill, and supported some of the compromises included in the bill before us. But, taken as a whole, I believe the bill will do more harm than good. There is a way to resolve the natural gas controversy, but I believe that in our haste to adopt a national energy plan we must make sure the elements of that plan actually will contribute to greater domestic production without unnecessary burdens on consumers.

I remain firm in my conviction that total immediate deregulation would result in an economic burden on the average American family that would be disastrous. In making my decision to oppose this bill, I have attempted to weigh the effect rejection of this legislation would have on the desire by many for total deregulation. It is my view that the substitute proposal is the most advantageous way to proceed.

Mr. President, I would like to outline briefly some of my reasons for opposing this bill.

REGULATORY ISSUES

Mr. President, my most serious reservation about this bill is that the regulatory process it creates would be a nightmare and far worse than the present system. The administration argues that the compromise is a significant improvement over the current cumbersome and unnecessary regulatory requirements of the Natural Gas Act. However, analysis performed by the Office of Enforcement of the Federal Energy Regulatory Commission (FERC) concluded that administration of the bill would be virtually impossible.

While technical changes have modified this situation somewhat, they certainly have not entirely eliminated these problems. The original FERC memo states:

The proposal is so complex, ambiguous, and contradictory that it would be virtually impossible for this commission to enforce it in a conscientious and equitable manner . . . the provisions are so involved that OE (Office of Enforcement) fails to understand how any reasonable accurate assessment of the price and revenue impact could be made.

The hopeless complexity and excess of bureaucratic regulation are exemplified by the many categories of new gas—estimates vary from 17 to 23 categories—which the compromise creates. It is hard to believe that if we cannot even agree on the number of categories of new gas there would be under this bill, that the compromise simplifies the regulatory process.

The problem of identifying which categories of gas a new find qualifies for and the liability associated with an improper determination hardly amount to "* * * the very specific prices that the producers can expect" as stated by the President. Given the fact that there were 11,000 gas well completions in 1977 with an increase expected in 1978, one can only imagine the size of the bureaucratic phalanx that would be required to administer and enforce the provisions of the compromise. Instead of alleviating current regulatory burdens the compromise exacerbates the situation with new requirements on producers as well as both State and Federal enforcement agencies.

COST TO THE CONSUMER

The administration argues that the compromise will cost consumers no more than a continuation of current law. Unfortunately, the administration's figures on the costs of various versions of the compromise have vacillated widely. The

credibility of these figures, or indeed of any figures, is in severe doubt by most who have been actively involved in this issue. The continually changing figures and assumptions that are cranked into the model are responsible for the wide variation.

However, the Energy Information Administration (EIA), which is an independent agency within DOE, is relatively immune to external manipulation. This agency was created in 1976 pursuant to an amendment I sponsored to create an agency which would provide an independent, accurate, and comprehensive national energy data base, severely lacking at the time. The EIA performed an analysis of the compromise which is widely at variance with the administration's figures. While there is some controversy over the EIA's results, I believe they are less susceptible to external pressures than other analyses.

The EIA found that the compromise will cost consumers a massive $29 billion more than a continuation of current law by 1985. While the compromise will cost less than immediate deregulation, the EIA analysis indicates that the new gas ceiling prices established under the compromise are in fact higher than the deregulated or market clearing prices. Under these circumstances I would prefer to take my chances with the possibility of immediate deregulation in the next few years.

SUPPLY RESPONSE

In return for the $29 billion cost to consumers, EIA estimates that there will be an insignificant amount of new gas production—roughly 3 to 4 percent of the total amount of natural gas we consume between now and 1985. The administration and AGA are now estimating more than twice this supply response. The administration's figures are at great variance with past comments on deregulation, which most analysts believe would produce more gas than the compromise. In September 1977, President Carter stated:

Deregulation of natural gas prices would provide windfall profits without increasing supply. Deregulation would cost consumers an extra $70-billion by 1985, but would increase supplies very little if any.

The fact is that nobody really knows how much gas will be produced under the bill—because of the bill's complexity. However, most independent analyses indicate that the supply response under the compromise will be insignificant if not infinitesimal.

COSTS TO RESIDENTIAL CONSUMERS

Both of the bills originally passed by the House and the Senate contained incremental pricing provisions that allocated the higher new gas prices to industrial users while protecting residential consumers. While the compromise contains incremental pricing provisions, they are constructed in such a fashion as to be virtually ineffective. According to the EIA analysis, the prices for residential users under the compromise will be higher than under current law and under deregulation. As a result industrial users shoulder less of the burden of the new gas price increases under the compromise than with current law or under the Senate deregulation proposal. As a consequence, industrial consumption of natural gas is expected to increase relative to residential consumption under the compromise. All of these results are undesirable, especially in light of the fact that residential uses of natural gas are generally more efficient than industrial uses.

Finally, Mr. President, in my opinion, the agreement with Senator MCCLURE, in light of the administration's past position on the breeder reactor, represents the most objectionable arrangement which the administration has entered into in its attempt to win support for the natural gas bill. I do not believe that two such controversial issues, especially one which might involve a significant relaxation of our nuclear non-proliferation goals, should be tied together. The administration admits that we do not need the breeder in this century, yet is willing to lend its support to a multibillion dollar accelerated program that it had formerly opposed. In the words of the White House on August 30, 1978:

The breeder will not be needed in this century since current conservative estimates of domestic uranium reserves exceed the lifetime requirements for all nuclear reactors that will be constructed in the United States in this century.

The argument that the United States must pioneer in nuclear technology, or the rest of the world will go ahead with breeders, causing a proliferation of weapons-grade plutonium worldwide has proven fallacious. On the same day that the McClure agreement was announced, the Washington Post ran a story that France had cancelled its breeder contracts with Pakistan and West Germany is significantly slowing down its project with Brazil.

Mr. President, we have an option to this bill. We can recommit the bill with instructions that the President's emergency allocation and temporary sales authority be extended, and that intrastate pipelines be granted authority to sell excess gas to the thirsty interstate pipelines. Since these provisions have already been agreed to by conferees, they and the other three bills constituting the national energy plan can be quickly agreed upon.

Moreover, the principal aim of the bill—to prevent shortages as experienced in 1977 by gaining access to the excess gas in the intrastate market through price parity—can be obtained administratively by FERC. FERC is required to carry out its biennial review of natural gas prices this year. Most observers agree that FERC would be in a position to raise new gas prices to around $2/mcf. This is actually higher than the current intrastate new gas price which averages $1.75/mcf due to the current glut of gas. Therefore, price parity between the dual markets can be obtained through the normal FERC rulemaking authority.

Mr. President, I believe we should adopt a natural gas bill. However, I do not believe that it should be the so-called compromise gas bill. Recommitting the conference report with instructions to report back a modified bill represents a sound middle ground between no bill and the excessive costs to consumers and excessive regulation of producers which the conference report represents. I believe that we should get beyond the rhetoric of passing this bill because it is supposedly the best we can get when known it is a bad bill. We do have an option that will prevent shortages in the future and move gas into the interstate market where it is needed. I do not believe that we should pass a bad bill just to get something that can be labeled a national energy plan.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, the Senate has currently before it in the form of the Natural Gas Policy Act, one of the most complex pieces of legislation that it will consider this session.

The issue of natural gas legislation has been with the Senate for a good many years.

The first serious effort to deregulate new natural gas occurred in 1973. Senator JAMES L. BUCKLEY offered such legislation which was tabled by the Senate by the close tally of 45 to 43.

In 1975, Senators PEARSON and BENTSEN introduced legislation which would have deregulated new onshore gas immediately, and new offshore gas would have been deregulated 2 years after the enactment of the bill.

The Senate passed the bill in October 1975 by the overwhelming vote of 58 to 32. It died in the House.

Again, in 1977, the Senate considered the issue of natural gas price deregulation. Senators PEARSON and BENTSEN introduced legislation for deregulation of new onshore gas within 2 years of the enactment of this bill.

New offshore gas would have been deregulated within 5 years of the bill's enactment.

The Senate adopted the Pearson-Bentsen deregulation proposal by a vote of 50 to 46.

The issue of deregulation of new natural gas gave me great concern.

I pondered the pros and cons of the subject in great depth for a long time.

As one who represents a consumer State, I was troubled by the estimates of the cost that would be brought to bear upon the Nation's consumer.

On the other side of the coin was the stark fact that the Nation's known and economically recoverable gas supply was being rapidly depleted. Without an assured and an increased gas supply, the Nation's consumers would not be able to maintain their basic living standards,

and America could not continue to grow at a strong economic rate.

Weighty evidence was presented that the only way the Nation's gas supply would be increased was by deregulating new natural gas prices.

It was not until December of 1973, after much deliberation, that I reached the conclusion that while the cost to consumers would be increased, deregulation was necessary to provide the Nation with its needed natural gas supplies.

Reluctantly, I voted for deregulation in 1973 and again in 1975 and in 1977.

For America to continue to maintain its premier position in the world, it must continue to explore for, locate, and develop its natural resources.

Toward this end I have been supportive of legislation which would allow the United States to develop its abundant and varied natural resources to the maximum extent possible with the least amount of Government controls.

The purpose of the Senate-passed legislation would have been to increase the supply of natural gas.

However, the conference bill now before the Congress is substantially changed from the bill I voted for in 1977.

Mr. President, as we consider the merits of this legislation, we are buffeted by arguments being advanced pro and con.

One argument being advanced by the proponents of the bill is that by either voting against this bill or for a motion to recommit the bill, the Senate will be repudiating President Carter and causing him and the United States to lose face in the world's eyes. It is argued that such a vote will prevent the United States from adopting any energy plan to meet its needs.

However, the national energy legislation proposed by President Carter in 1977 is an omnibus package consisting of five bills addressing five different areas of concern, only one of which is the natural gas "deregulation" bill.

The other components of the national energy plan are:

First. Utility rate reform which calls for, among other things, State utility commissions to consider certain procedures in the carrying out of their duties; Federal Energy Regulatory Commission to order at the wholesale level interconnection of utility systems and allows cogenerators of both steam and electricity who are not a utility to sell power to entities and not come under utility regulation;

Second. Conversion of oil and gas burning boilers to boilers fueled with coal;

Third. Energy conservation;

Fourth. Energy taxes, including the crude oil equalization tax; and

Fifth. Natural gas deregulation.

I support three of these provisions—utility rate reform, coal conversion, and conservation.

I am supportive of reasonable tax measures which would provide incentive to energy producers to explore for and develop needed energy resources.

But I am opposed to the crude oil equalization tax which would place a heavy financial burden on the American people without providing for any increase in production.

In summary, the President's energy package is made up of five components, three of which I support, one I oppose, and the fifth is the pending legislation.

Approval of all elements of the President's package is not essential to establish this Nation's willingness to meet the energy challenge, especially if an element is seriously flawed.

In an attempt to reach a conclusion on this bill I have examined the conference report and listened to the arguments put forth by both the proponents and the opponents of this legislation.

It is argued that this bill is a deregulation bill.

Yet, the bill calls for price controls to remain on almost all categories of natural gas through January 1, 1985. At that time price controls would come off for 6 months. On July 1, 1985 the President would have the authority for 2 years to arbitrarily reinstitute price controls, subject to congressional veto. If price controls should be reinstituted, these controls could last for 18 more months.

Thus, the natural gas industry could be subject to price controls or the threat of Presidential reimposition of such controls until at least January 1, 1989.

One can see that the bill calls for at least 7 more years, and possibly 10 years of continued price controls.

What is more, under the provisions of this bill, many categories of natural gas will remain indefinitely under price controls. Several of these categories—stripper gas wells, certain categories of offshore gas and intrastate gas to name three—currently provide a large portion of the U.S. natural gas supply.

After examining an analysis of the natural gas pricing proposals of the bill undertaken by the Energy Information Administration of the Department of Energy, it appears that—under the proposed conference bill—less gas will be deregulated in 1985 than is currently deregulated.

The study shows that 37 percent of our natural gas supply will be deregulated in 1985 versus 48 percent of the supply deregulated now.

Also, the natural gas industry will be subject to increased administrative regulation and burdensome reporting requirements. These administrative regulations will continue for the life of the legislation.

Arguments have been advanced that this bill will substantially increase our natural gas supply, but this assertion is open to serious question.

The conference bill added several new provisions to the Senate-passed bill, some of which have caused me concern.

One addition which I find to be one of the major objections I have with this bill is that it would place under federal regulation for the first time in history the intrastate gas market.

As a matter of policy, I am against increasing or expanding Federal governmental regulation over spheres traditionally reserved for States' control.

The intrastate gas market currently provides the United States with 40 percent of its supply.

The natural gas bill which passed the Senate in 1977 and which I voted for, would have completely deregulated new natural gas prices.

I now find that the conference bill does just the opposite of what the Senate bill set forth, and in fact extends Federal price controls to a segment of the gas industry which has previously been unregulated by the Federal Government.

Historically the intrastate gas market has been populated by small independent producers.

Placing these small entrepreneurs under the control and administrative regulations of the Federal Government as set forth under this bill would discourage their incentive to produce, increase their costs, and, as a result, may force some marginal producers from the market, thus potentially reducing the amount of gas available.

Another issue which has surfaced during the debate on this bill is the question of how much administrative hassle this bill will create.

I have long been of the belief that less administrative regulation will reduce industry's costs and troubles, will lower the end cost of the product produced, and will allow for a more efficient running of the industry, thus benefiting the consumer as well as the producer.

The director of the Department of Energy's Office of Enforcement, Sheila S. Hollis, stated in a memorandum dated August 14:

> The proposal is so complex, ambiguous and contradictory that it would be virtually impossible for this Commission to enforce it in a conscientious and equitable manner.

The Director of Enforcement subsequently modified her memorandum on September 7, but went on to state:

> The legislative framework envisioned by the final Conference Report is exceptionally complex and intricate. Administration and enforcement of this highly technical bill could be undertaken only with substantial additional staff and other resources committed to the Commission.

This memorandum caused the Chairman of the Federal Energy Regulatory Commission, Charles B. Curtis, to write Senator JACKSON on September 8 a letter which indicates that he believes the proposed legislation can be effectively administered and enforced.

However, the Chairman, in saying this, went on to write:

> I must responsibly point out, however, that the task of administration and enforcement of the statutory scheme will be most difficult. The legislation will necessitate an augmentation of Commission personnel and financial resources, a sustained and dedicated effort by members of the Commission and its staff and a high degree of cooperation of the various state and federal agencies who are assigned responsibilities under it.

Department of Energy's Director of Enforcement Hollis' September 7 memorandum on this bill calls into question other problem areas in the administration of the bill, and points out that this bill will further intrude into the States' affairs.

> Accordingly, Section 503(c)(4) may tend to "Federalize" questions of State law, notwithstanding the contrary indication in the Joint Statement. For example, assume that a State agency determines that certain natural gas qualifies as "new onshore production well" gas under Section 103. The Commission reverses on the ground that the well was within a "proration unit" within the meaning of Section 103(c)(3). While the question of what constitutes a 'proration unit" is one of State law, the only avenue for obtaining judicial review is apparently in Federal court under Sections 503(b)(4) and 503(c)(4). Thus, the State law question is removed to Federal court, contrary to the conferees' intent to allow State courts to review questions of State law.

What is more, the bill sets forth some 23 different pricing systems. This pricing scheme would not allow the producer to know what price he is getting at the time he is drilling.

Not only would the producer have a hard time raising development capital for his drilling as a result of this pricing procedure, but this bill would create a very complex incremental pricing scheme which would be with the country for the rest of the legislation's life.

Although the present pricing procedure is complex the pending legislation does not correct this situation and, in fact, will increase the pricing complexity, unlike the bill which passed the Senate in 1977.

As a result of all of these administrative problems, there would be created a new level of governmental bureaucracy with the resultant unnecessary delay and increased regulatory expense.

FERC's Chairman Curtis, in written testimony Thursday before the Administrative Practice and Procedure Subcommittee of the Senate Judiciary Committee, estimated that his agency will need to hire at least 400 additional employees and receive an additional $13,453,000 of appropriations to administer this piece of legislation.

During oral testimony before the committee Chairman Curtis stated that, in addition to the 400 additional employees that would be hired to administer this bill, he expected to use all of the 500 employees that were authorized to be added to FERC in its fiscal year 1979 budget in administering the natural gas bill. These 500 employees would add another $9.6 million to FERC's budget.

Finally, Chairman Curtis stated that he would have to hire contract services to bridge certain gaps for FERC in its administering of this bill. This would cost FERC an additional $5–$10 million.

Thus, we see that this bill will require that FERC hire an additional 900 employees at an estimated cost of between $27 and $32 million extra.

These figures do not address the increase of other Federal agencies and State agencies staff needed to administer this compromise and complex legislation.

During the 1977 debate on energy policy, it was argued that as a clean-burning, premium fuel, natural gas should be shifted away from boiler fuel uses and toward residential, commercial, agricultural, and essential industrial uses, such as feedstocks. Coal was to be the substitute for natural gas in boilers, especially for the generation of electricity.

I agree with that line of reasoning then, and I agree with it now.

Today, however, we find proponents of the pending conference report arguing for increased gas production and use as a substitute for imported oil. It is difficult for me to see how a premium fuel in limited supply, such as natural gas, can be considered a feasible substitute for any considerable quantity of imported oil over the long term.

To the degree that we substitute coal for natural gas in boilers, we will increase coal consumption and better assure an adequate supply of natural gas for more essential uses. But this does not reduce oil imports.

Of course, oil imports can be lowered by outright substitution of gas for oil, but this seems a dubious policy. Proponents of the conference report point to a current "surplus" of natural gas in the intrastate market, but surely this is not a permanent condition. To pin meaningful long-term reduction in oil imports upon a temporary surplus of natural gas seems to be wholly illogical.

Real deduction in oil imports will be achieved by substituting coal, nuclear power, or other domestic energy sources for present oil uses. I support this effort, but it is not something that will flow from this legislation.

In other words, I doubt that the provisions of the pending conference report will significantly reduce oil imports.

But even if there should be some reduction in imported oil—estimates have been made ranging from 3 to 13 percent reduction—would this, as the proponents maintain, shore up the falling dollars?

Many economists doubt that any such action would be significant or lasting.

Economists with the Federal Reserve Bank of St. Louis note that both the deutsche mark and the Japanese yen have risen sharply in value against the dollar.

This has been occurring, they point out, despite the fact that the United States has imported less oil as a percentage of its gross national product—total national expenditures on goods and services—than either Germany or Japan each year from 1970 through 1977.

Japan and Germany must import almost all of their oil needs.

The noted economist Eliot Janeway does not believe that the dollar would benefit significantly from the passage of the pending legislation. In a telegram to Senator METZENBAUM, Mr. Janeway stated:

> It is my considered judgment that passage of the pending gas bill will make no contribution whatever towards restabilizing (sic) the dollar. On the contrary it will advertise the strangulation of our regulatory procedures in red tape and it will accelerate the liquidation of independent gas producing enterprises, thereby weakening the dollar further.

Robert Slighton, vice president of Chase Manhattan Bank, in a letter to the Business Roundtable dated August 23 in addressing the administration's argument that this bill would help to halt the decline of the dollar and strengthen the U.S. balance-of-payments outlook wrote:

> . . . In the longer run, the legislation could actually result in some weakening of the dollar as foreign exchange markets come to perceive that the long-run supply of natural gas in the U.S. is as likely to be reduced as increased under the new regulatory regime.

Mr. Slighton went on to write:

> . . . The major source of weakness in the dollar at this time is not a weak current or prospective trade balance but rather worsening expectations about U.S. inflation. . . . The current weakness of the dollar springs from the accelerated rate of inflation in the U.S. and the perception that U.S. monetary policy seems designed to accommodate to increased cost-push inflation. No policy action that is not designed to affect inflationary expectations is likely to have a significant and permanent impact on the value of the dollar under current market conditions.

Most will agree that the reason the dollar is in trouble in the international monetary markets is due primarily to inflation.

Passage of this legislation would possibly provide a short-term psychological boost for the dollar in the foreign money markets.

But, this boost would not be long-lasting because this legislation does not get at the root of the U.S. dollar's problem—which is inflation.

Inflation is fueled by many factors, but is principally fueled by accumulated and accelerated deficit spending by the Federal Government.

Enacting this natural gas legislation will not curb governmental spending, and will not reduce our budget deficit.

Thus, I am convinced that the enactment of this legislation will have little value in strengthening the dollar in the international money markets.

After examining the pros and cons I find that because of the changes made in conference, it will not lead to the result which I believe would have flowed from the bill passed by the Senate in 1977—that of substantially increased natural gas supply.

Almost no one says this is a good bill.

Nothing in this bill will solve the Nation's energy problems.

In fact, according to the administration's own estimates the bill will not provide significantly increased gas supplies.

On top of this, the bill will regulate a portion of the gas industry that has until this time remained unregulated, and will result in increased administrative interference with gas production. This will represent a further invasion of the Federal Government into an area of traditional State control.

The remaining alleged benefit of the bill—that it will improve the American dollar in international moneymarkets—would be a short-term psychological benefit at best.

The Senate shortly will consider a recommittal motion with instructions concerning this conference bill.

Because I believe this bill does not meet its stated objectives, I am inclined to favor a recommittal motion, depend-

ing on its content. The bill can and should be improved. Its disadvantages appear to be many.

Mr. HANSEN. Mr. President, I wish to compliment my distinguished friend from Virginia for a very thoughtful and probing analysis of the natural gas question now before the Senate. Typical is the attention and the diligence he has given this question and the considered conclusions that he has reached.

I am, obviously, most pleased with his speech and would like to point out that, despite what is perceived to be the case, the facts in the United States insofar as natural gas goes are at variance with what most people believe they are to be.

As a matter of fact, gas exploration is up sharply, new finds are increasing, and the total production has been holding steady in the United States.

Mr. President, the Senator from Virginia has detailed very well what the facts are. I hope the Senators will take time to read his thoughtfully prepared remarks and will view objectively what the alternatives are.

I think one of the most discouraging things that we who favor a recommittal motion are encountering is a rather widely-held view that we must either take this gas bill or nothing.

Of course, on that basis, I think it is better to take nothing than to impose a presumed solution that would move us back, that would be a very definite and clear step backward insofar as incentive goes. It would very clearly be a definite step backward insofar as simplification goes. It would be a step in insuring greatly expanded litigation in the courts, a tremendous additional burden upon the Federal Energy Regulatory Commission and all those who will be charged with administering this bill.

I thank my good friend from Virginia for the contribution he has made to a better, rational understanding of the legislation before us, and I commend his remarks to the Senate.

Mr. HARRY F. BYRD, JR. I thank the Senator from Wyoming. He is a member of the committee which developed the 1977 legislation which the Senate approved and which the Senator from Virginia supported.

The Senator from Wyoming also was a conferee in developing the present conference report, and he has a far greater detailed knowledge of this conference report and its many ramifications than does the Senator from Virginia. So I am very grateful for the remarks which the Senator from Wyoming has just made.

The Senator from Virginia had considerable difficulty in making up his mind as to just what would be the best thing for him to do and for the Senate to do in regard to this conference report. It is immensely complex for those of us who were not a part of either the Energy Committee or the conference committee.

In many respects, I would like to support the conference report, and I went into the analysis of it with the hope that I could support it. The more I think of it, the more concerned I am that if the Senate does adopt this conference report and subsequently the House adopts it and it becomes law, the Nation will be stuck or very well could be stuck with this legislation for a long period of time; and it may very well work out in a way that the Senator from Wyoming fears and the Senator from Virginia fears. If such is the case, it certainly would be detrimental to the Nation over a period of time.

So I have reached the conclusion, although I must say with considerable reluctance, that I would prefer to see this conference report recommitted with instructions to report back to the Senate.

I do not want my assertion that I plan to support a recommittal motion to be considered a blank check, because I want to know just what the instructions will call for. However, assuming that the instructions are reasonable and assuming that they will eliminate some of the problems that the Senator from Virginia sees with the measure now before the Senate, I would plan to support a recommittal motion.

I again thank my dear friend from Wyoming.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MOYNIHAN). Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, in yesterday morning's Washington Post there was an article which was headlined "Utility Bills Rose $13.4 Billion in 1977." Of the $13.4 billion, 80 percent of that increase in electric and natural gas utility prices was due to the so-called fuel adjustment clause which allows the utility companies to pass along the increased cost of fuel they use in generating electricity. But a third of the $13.4 billion was exclusively an increase in the price of natural gas.

That means, Mr. President, in the year 1977, the American people paid $4.46 billion more for natural gas than they had the preceding year. I have not seen a statistic on how much more they are paying in 1978, but I daresay the figure is probably similar, maybe more.

I spoke here last Tuesday and stated I was going to support the natural gas conference report. One of the primary reasons I was going to support it was because if we do nothing we will be approving continuing increases in people's utility bills exactly as I have set out here. Incidentally, Mr. President, I ask unanimous consent that this article be printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BUMPERS. I pointed out in my statement on the floor last week that 42 percent of the natural gas in this country is being consumed or withheld in the intrastate market. When I say it is being withheld in the intrastate market I mean that it is being held in four States essentially, Oklahoma, Louisiana, Texas, and California. In addition to the 42 percent of the natural gas in this country that is being held in those four States, 40 percent of the remainder in the interstate pipelines is going in at a virtually unregulated price because it is being approved under emergency sales contracts which are now legal.

Mr. President, that translates very simply into the fact that 66 percent of the natural gas in this country is to all intents and purposes deregulated right now. The only cap on these interstate emergency contracts is $2.25 an mcf. Natural gas is being sold on an emergency basis for 30, 60, or 90 days at prices sometimes approaching $2.25.

If you want to read another story next year in the Washington Post showing the American consumers have paid another $13 billion or $14 billion as a result of Congress doing nothing, then vote against this bill. I defy anybody in this body to tell me how we are going to save the consumer anything by doing nothing under current law, with the situation I have just outlined.

My very good friend and distinguished colleague from Ohio the other day said, in response to the majority leader's request for a unanimous-consent agreement, something to this effect—"Those of us here who are representing the 'consumers'," and then he went on. Well, I want you to know that I am representing the consumers in my State, who are indeed having a tough time keeping body and soul together because of their grocery bills and their utility bills, but I am not going to go home and hold up this story in yesterday's Washington Post, and say "I allowed your utility bills to go up $13.4 billion last year, and this is my way of representing you."

I am not going to go home and say, "I am going to vote against a bill which will at least give the homeowners some protection against the increases that are certain to come in the future for natural gas." I have said it time and time again, gas prices are going to go up whether the bill passes or not. In my opinion, they are not going to go up as fast if we pass this bill as they are without the bill, but I can tell you one thing: If we do nothing the homeowner has no protection, and under this bill at least the homeowner will absorb less of the increase.

So I am very comfortable with my position. I have said time and time again this is not the type of bill I would have drafted. I was one of the conferees. I compromised and compromised and compromised, and I did not think I could possibly swallow this bill, and I am still here to tell you that it is not an ideal piece of legislation. But I would just like to say when you have the Chamber of Commerce on the right and labor on the left, when you have the consumers on the left and the producers on the right, and they are all opposed to it, there had better be some middle ground somewhere.

We have been waiting for the producers and consumers to move a little closer together. Where are they? They are 180 degrees apart just like they were when the embargo hit 4 years ago.

If you leave it to the oil and gas industry and the Consumer Federation of America to work out a compromise, the time it takes to solve the problems in the Middle East will be nothing because those two groups have not gotten together and are not ever going to get together.

The people in this body who have already announced they are against this bill are equally divided on why they are opposed to it. They are opposed for ideological reasons. They prefer either total deregulation or total regulation. Their reasons for being against the bill are 180 degrees apart. Meanwhile Rome burns, nothing is being done about energy in the country, and the consumer is being ripped off while he is being told simultaneously that this is a bad bill because it is going to raise his gas rate.

I repeat what I said the other day: If you want to play politics with this issue, vote no. But you can say that about any bill that comes through here. If I wanted to stay in Congress the rest of my life, I would vote no on every bill that comes up here. Then, every time anything goes wrong—and it almost certainly always does—I would say, "Don't blame me, because I voted against that bill. I told them on the Senate floor it was going to be a disaster."

And everybody would say, "He is just a tree full of owls; he is just the wisest man I ever saw."

But I tell you one thing: Voting no on everything is not going to save the Republic, either. And voting no on this bill is a message to the American consumers that the loophole in the law on emergency gas contracts will not be closed, and the failure to recapture intrastate gas which is being used to generate electricity down in Texas, Louisiana, and Oklahoma—the most profligate waste of energy anybody can imagine—will not be corrected. Voting no is a message that we are going to continue to waste natural gas.

I tell my good friend from Ohio, who is a sensible man, that Ohio stands to gain more than any other State in the Nation from this bill. Two years ago we heard both Senators from Ohio—and we heard them receptively and compassionately, and we listened to them—plead for more natural gas: "Why, our schools are going to have to close." Their schools did close. The hospitals almost had to shut down. Industry shut down, and it was estimated at one time there were half a million people in the State of Ohio out of work because they could not get natural gas.

And I am not promising you that if we pass this bill it will not happen again this winter in Ohio except to this extent: We put a provision in this bill almost exactly like the one the senior Senator from Ohio (Mr. GLENN) got passed through the Senate 2 years ago, to give the President authority to allocate gas on an emergency basis to take care of situations such as occurred in Ohio 2 years ago.

But more importantly, much more importantly than that, we put a provision in here which more or less equalizes the price of intrastate and interstate gas. There will no longer be any incentive to withhold gas and keep it in intrastate commerce, when they can sell it in interstate commerce, where the demand is greater and better, for almost the same price.

Mr. President, some estimates say this bill is going to cost $9 billion. The $9 billion is the cost to the American people between now and 1985, 7 years hence. And what does the newspaper story say? Why, we spent $13.4 billion more in increased utility bills last year, $4.5 billion of which was for natural gas alone, in 1 year.

In 1 year. What do we want? Do you want to just keep playing the same old game? Do you want to keep trying to delude people into thinking you are doing something when you are not? You know there are three other bills being held hostage to this bill. The Senator from Ohio had a bill that would require minimum mileage standards for automobiles after 1980. A car could not be built that did not get 16 miles a gallon, and this increased each year. What was the increase, Senator?

Mr. METZENBAUM. The increase was 16, 17, 18, 19, 20, and 21.

Mr. BUMPERS. I supported him on it. I do not think the conservation bill is really tough enough. We have not even begun to mandate automobile efficiency standards in this country like we should. I was one of the most ardent supporters of the Senator from Ohio's provision in the conservation bill. But that bill has a lot of things in it. It has a provision that every home in America will have an energy audit. Every homeowner in America will be told how he can cut down on his energy bill by insulating, weatherstripping, Durapaning, and everything. That is what we ought to be doing here in this country. Instead of seeing how many expensive powerplants, we can build, we ought to be deciding how little energy we can get by on without stultifying our growth in the next few years.

It is a great bill, but it is not going to get passed until we get this bill out of the way.

EXHIBIT 1

UTILITY BILLS ROSE $13.4 BILLION IN '77

(By J. P. Smith)

America's electric and natural gas utility bill rose $13.4 billion last year, or more than twice the total rise in such costs between 1948 and the 1973 oil embargo, according to a congressional study.

The total bill in 1977 was $60.2 billion.

The annual Senate Governmental Affairs Committee survey of consumer utility bills also found that nearly 80 percent of the billions in added costs resulted from the so-called "fuel adjustment clauses" that many states permit, allowing utilities to pass through higher energy costs to consumers automatically.

"It is possible" that utility companies would have been unable to recoup the full $11 billion in 1977 that they did under fuel adjustment clauses if gas and electric utilities had been forced to undergo formal rate proceedings before state public utility commissions, the survey concludes.

One-third of the increased utility costs passed on last year resulted from gas company rate boosts, and the remaining two-thirds was due to higher electricity charges. The total increase in utility rates over the last four years amounts to $48 billion.

The Senate Governmental Affairs Committee report found that utility companies received about 50 percent of what they had requested in rate increases during formal hearings last year before state utility commissions.

For some years now, utility executives and organizations such as the Edison Electric Institute, an industry trade association, have argued that fuel adjustment clauses are necessary for the companies to meet rising coal, oil and natural gas prices.

Calling the fuel adjustment clauses "a boon to utilities and the bane of customers," the Senate committee report says that they account for an increasing share of company revenues. Last year the automatic passthroughs provided more than 80 percent of the total increase compared with 68 percent in 1974.

"Many utility commissions have permitted the use of fuel adjustment clauses as an alternative to the more difficult and time-consuming task of considering rate increase requests in formal hearings, where intervenors and commission staff can challenge, question and counter utility proposals," the report said.

Fuel adjustment clauses have been a continuing target for consumer activists and public advocacy groups in a number of states.

One such group, the Washington-based Environmental Action Foundation, argues that the automatic pass-through to consumers for higher fuel costs "subsidizes inefficient management by utilities. . . . and reduces utility incentives to control fuel costs and bargain with fuel suppliers."

The Senate report, prepared jointly with the Library of Congress, says that there are now 10 state utility commissions which either partially or totally prohibit the use of fuel adjustment clauses.

The power to set electric and natural gas utility rates is retained by the states and, thus far, has not been subject to federal actions.

President Carter's utility rate revision proposals sent to the Congress contained no specific initiatives to continue or prohibit fuel adjustment clauses at the state level.

The Energy Department's Economic Regulatory Administration, however, has the power to intervene in rate hearings at the state level.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. BUMPERS. I yield.

Mr. ROBERT C. BYRD. I want to commend one of the most articulate, diligent, dedicated, and able Members of the Senate on the very persuasive support that he is expressing for this natural gas conference report.

The distinguished Senator from Arkansas (Mr. BUMPERS) is a member of the Committee on Energy and Natural Resources, the committee which has jurisdiction over this legislation. He is a conferee who labored through the heat of the day—a long, long day—as a member of the conference committee. His knowledge that he is able to bring to bear this issue is a very illuminating knowledge, borne of great study, toil, perserverance, and, again, dedication.

I thank him for his very, very able defense of this conference report. His statement on the floor a few days ago in support thereof was an outstanding and very cogent statement. I was just listening to him on the intercom in my office a moment ago, and I felt compelled to come to the floor and express to him my appreciation, and to say to the Senate

that the argument that the distinguished Senator from Arkansas is making is an argument that is based on facts, based on painstaking study of the subject, and I hope that on tomorrow the Senate will follow the wisdom of his course.

I have great admiration for the Senator from Arkansas, and also for the Senator from Idaho, who is the ranking Republican member of the conference of which the Senator from Washington (Mr. JACKSON) is manager, for their patient effort and for the tenacity with which they have pursued their work on this conference report in the face of many, many weeks and months of discouraging and frustrating effort.

I thank the Senator from Arkansas; I have taken too much of his time, but he is very gracious.

Mr. BUMPERS. Mr. President, I want the majority leader to know he is welcome to interrupt me at any time he wishes to get up and make statements like that.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. BUMPERS. Yes.

Mr. JACKSON. Mr. President, I commend the distinguished Senator from Arkansas for a very fine statement to the Senate.

One thing that I have learned about the Senator from Arkansas is that he does his homework. He is the kind of person who makes a real analysis of the key issue, and then comes to his own independent judgment. I am sure he would agree with me that this is one of those pieces of legislation of which it has been very difficult, I would say, for any of us to say that we like each and every part of it. I do not like the whole energy problem, because it is so pervasive it touches on everything, and you cannot reconcile all of the problems that have arisen as a result of this crisis.

There are some who would say it is not even a crisis. I think the big problem we have all had to face is, what do we do if we do not do this? I think we have taken the only course that is available to us, and I commend my colleague from Arkansas for his careful, thoughtful, and deliberative approach to this problem in coming, as he always does, to an intellectually honest conclusion.

Mr. McCLURE. Will the Senator yield to me for just a moment?

Mr. BUMPERS. Yes.

Mr. McCLURE. I thank the Senator for yielding, because I, too, was listening with care to the statement he was making, and also listening to the statement of the majority leader, the Senator from West Virginia.

The majority leader used one term I would not have used, in saying "in defense of the legislation," because I think the Senators who are not on the affirmative side of the legislation are the ones who need to defend their position. The Senator from Arkansas was making that point very eloquently, that this may not be the perfect bill, as every one of us is inclined to agree, but it is better than the alternatives which are offered; therefore, those who are in opposition to the bill, it seems to me, must defend their position, rather than those who have labored, as the Senator from Arkansas has and other Senators have, in formulating this compromise agreement. It is that, but it is a very positive and affirmative agreement as well.

Mr. BUMPERS. I thank the Senator very much. I want to express my gratitude to all three Senators for their very warm and overly generous comments. I said about all I had to say on the bill last Tuesday. I just happened to see this article in the Post yesterday morning. I thought it was compelling and persuasive and needed to go into the RECORD. Certainly, it should have been called to the attention of all of our colleagues, as to what has happened to our country as a result of our doing nothing about dealing with natural gas. It is a condition which will continue unabated unless the Senate deals realistically with this bill, admittedly not a choice bill. I have made this point time and again.

The Senator from Washington and I were strongly on the side of regulation, and supported the Senator from Ohio in his filibuster efforts and all of his approaches to this problem last year.

My decision on this bill was not reached lightly or easily, but certainly honestly. I just came over to make those few remarks.

Incidentally, I will be happy to yield to the Senator from Ohio and to sit and listen intently to what he has to say.

Mr. METZENBAUM. Mr. President, I would like to join with those who have spoken relative to the articulating ability of my friend from Arkansas, for his intellect, his ability to examine into a problem and to do it so well. I have a great deal of respect for him.

Unfortunately, in this instance, while I think he has arrived at the wrong conclusion, and I think some of the facts which he uses as the premise for his conclusion are not in accordance with the fact as I know them to be, in all fairness and all honesty I certainly do not mean to suggest that there is any effort on the part of my good friend from Arkansas not to state the facts as he understands them to be.

One of the points he makes so strongly is that this measure is going to protect the homeowner, and that this is going to provide for that kind of shelter for the homeowner that is so much desired.

Well, when the bill left the House, the homeowner was supposed to pay $2.89 per mcf and the industrial user was to pay $2.78, an 11-cent difference. But when the bill left the Senate, the homeowner was to pay $2.92 and the industrial user $2.87, a 5-cent difference.

When the bill came back from the conference committee, a big change had been made. Who got the short end of the deal? The residential users. They did not have any lobbyists in those closed room meetings. They were not present to be heard. The industrial spokesmen had somebody doing their job. What happened was that, when the bill came back, and as it presently provides, the residential user will pay $3.28 and the industrial user will go all the way down to $2.44, a difference of 84 cents. Put another way, the price is 36 cents higher than that which the Senate bill provided for the residential user, and it is 43 cents lower than the Senate bill provided for the industrial user.

Is that truly the great protection that this bill is providing for the residential user? I think not.

My figures, Mr. President, came from the Department of Energy, Energy Information Administration. These were the figures they gave us.

Before my good friend from Arkansas responds, and I am sure he will, I want to say that after that occurred, then the chairman of the House Committee—I am not sure of its exact name but I refer to the gentleman from Michigan—said to the Department of Energy, the same department, "Make these different assumptions, and if you make these different assumptions what conclusions will you reach?"

Lo and behold, the same thing happened that happens every time around these halls since the Department of Energy has been created. That is, the numbers always come out to prove the point they want to make. But that was after the fact. That was not when it was impartial; that was not when it was objective. That is when the dice were loaded. Against whom were they loaded? They were loaded against the residential users and it is they who are going to pay the price for this bill.

My good friend from Arkansas talks about the same newspaper article I read, and I intended to speak to it today, about the $13.4 billion in increased cost in utility bills in 1977. Well, that is true. And that is a lot of money. The people of this country are going to pay a lot more money if we pass this conference committee report.

The able Senator from Arkansas says it is $9 billion more. The fact is that the Congressional Budget Office said that under this bill you will take $20 billion from the consumers of this country and put it into the pockets of the producers. The same Department of Energy's Energy Information Administration said it would take $29 billion, not $9 billion. It happens that $29 billion happens to be the total of what the CBO said and what some of the House staff people said. Now we are up to $29 billion.

Maybe it was the House and Senate staff people. I am not certain.

The fact is it was $29 billion according to the Department of Energy's Energy Information Administration.

But that was not enough for the gas producers of this country. They were hungry, as they always are. They wanted more and more and more. So after the conference committee report had, so-called, been agreed upon, what happened? They said, "No, we do not want to sign that bill that way. We have some changes we would like to make." Again, without any publicity, without the sunlight beaming in on their work, without making it possible for all the members of the conference committee to even know what was going on, not even being invited to the meeting, they went back. Again, what happened? The producers got more and the consumers were required to pay more.

How much more? Something more than $29 billion. The best indications are that it is an additional $12 billion. I am not sure if the $12 billion is right or wrong, but certainly substantially in excess of $29 billion.

The fact is that we ought to pay attention to what is really happening in this bill. If my friend from Arkansas says that somehow the people are going to be saving money when interstate users are going to be required to pay $1.93 per thousand cubic feet and today they are paying $1.50 per thousand cubic feet, then he has the kind of mathematical legerdemain that I am not familiar with. I do not know how you can go up from $1.50 to $1.93 and wind up paying less. Then each year thereafter, it will go up not even 10 percent, because it will go up the inflation factor plus 3½ or 4 percent. So that means it will get up another 11 or 12 percent in 1979, 1980, and 1981. By 1985, it will be $3.50 per Mcf.

Tell the people of American how you are saving them money on a bill that will provide an increase from the present figure of $1.50 and will take it up to $3.50. Tell them what a great saving that is. Tell them how they can go to the bank and put all the money in the bank that they are saving on their utility bills because you are only increasing the price from $1.50 to $3.50 in 7 years. They will be grateful to you.

Or, if you want, tell them about the fact that today, when you have increased gas prices, those increased prices in the main are taking place in the intrastate market. That is where the increases are mainly coming. We saw it on the ABC 20/20 show just recently. It showed how the figures in Austin, Tex., will go up, I think it was seven times in the intrastate uncontrolled market.

That is what we are talking about, the uncontrolled market, now bringing that into the interstate market. Today, the interstate market price is controlled and the intrastate market price is uncontrolled. As a consequence, they are paying more for gas today in the intrastate uncontrolled market in the producing States—Texas, Oklahoma, Louisiana, and New Mexico—and those of us who are in consuming States are paying less because we have the protection of the law. But when we get done with this bill, if the sponsors of it are successful, we shall reverse the table and although my friend said that what we are going to do is equalize the price of intrastate and interstate gas, I have to say to him, "Oh, no. Oh, no, that is not what you are doing. That is what you say you are doing, but that is not what you are doing. What you are doing is making it possible for every industrial concern in this country to move from the States in the Northeast and the Midwest, from the New Yorks and the Arkansas and the Ohios and the Indianas and the West Virginias and the Wisconsins, and you are providing an incentive for those industrial concerns to move to the southwestern part of the United States, where they will be able to buy gas cheaper than they can buy it in the Northeast and the Midwest."

If that is what is called equalizing the price in interstate and intrastate markets, then I do not understand the meaning of the word "equalize." I thought equalizing meant everybody was equal, but it will not be equal, because the people of Arkansas will pay more than the people of Texas and the people of Arkansas will pay more than those industries that operate in the State of Louisiana. That is not equalizing the intrastate market. That is what we talk about doing.

I remember when we even talked about making it possible to go in and get gas out of those producing States and bring it to States like Ohio. If my friend from Arkansas talks about 500,000 people being out of work by reason of a shortage of gas, he is correct. He is correct that the producers were withholding their product from the marketplace so that they could get a higher price. As soon as they got a higher price, which occurred in that last year, then, lo and behold, the product started flowing into Ohio and the gas companies of Ohio said, "We have no shortage. We are prepared to connect residential users, although, in the past, we said we did not have that much gas available."

I would say that the whole objective of the bill in the first instance was to provide for a thing called mandatory allocation. Mandatory allocation meant that the President of the United States would have the right to move gas from the intrastate market into the interstate market. He would be able to go in and take it and bring it back. That is not in the bill any more.

That is not in the bill any more. There is no protection in this bill for the homeowner. There is no protection in this bill for the industrial user in anything but the producing States. There is nothing in this bill that makes it possible for the President to go in and get the gas and bring it to those parts of the country where it is needed.

There is one thing in the bill: there is a whale of a lot of profit in it for the gas producers of this Nation. There is a tremendous amount of complexity. That is the reason a lot of Members of the Senate are opposing the bill. The fact is I oppose the bill because it means that the consumers of this country are going to be participating in a real inflationary bulge, an inflationary bulge that we do not need.

Mr. President, the argument is made that we need a bill, any kind of bill. We have to tell them in Japan and Germany and Switzerland that we have passed the energy bill. Any bill is better than no bill.

The phrase has been used that it is not a good bill, it is a C-minus bill, by the proponents of the bill. The phrase has been used that it is the only bill in town. That is the reason we have to pass it. A lot of other arguments have been made for it: If we do not get this bill, we are going to kill the other three bills.

Who said we are going to kill the other three bills? What kind of responsibility would that be on the part of the House Members if they would sink three other measures or any piece of legislation because they did not get a particular piece of legislation fashioned to their design? They are not irresponsible Members. They have to report to their constituency. They are 435 Members and they want a national energy plan and they do not approve of the fact that some of the Members of the House have seen fit to withhold the utility rate reform bill, the coal conversion bill, and the conservation measure, and hold those three bills hostage, hold them back until they get a natural bill.

The distinguished Senator from Arkansas said something to me about the amendment that I had offered concerning minimum gasoline standards. They did not want that. That was too tough for them. So they said, "No, we won't take that."

Some said, "Well, as long as this hang-up occurs between the House and the Senate on the question of the minimum gasoline standards, you can't get the conservation measures through."

They said, "That is the reason it is being held up."

So about 2 months ago, maybe 2½ months ago, I sent a letter saying, "OK, we will drop that; send the conservation measure over."

No, that did not fit their designs, either. The bill continues to be held hostage. The President of the United States, for whom I have tremendous respect, unfortunately has been willing to accept this kind of game playing. They all thought, and the Secretary of Energy led them down this road, that if they held up the three bills, they would somehow get a natural gas bill. Then, if they got a natural gas bill and paid enough in that natural gas bill to the oil and gas producers of this country, the oil and gas producers would be bought off—that is an appropriate term to use—and they would be willing to go along with a bill to enact a wellhead tax and to cause the American economy to be further inflated to add billions of dollars more to consumers costs.

But the game plan did not work. Now we have a new argument being presented to us that we need this bill, somehow, for international relations, not that we need it because it is going to solve the gas problems of this country. It is not. Not because it is a good bill, because it is not. We need it because, somehow, it has some impact internationally and people will think it is a great piece of legislation.

Well, I think the Washington Post story indicating that utility bills went up $13.5 billion last year is a good indication of the reason we ought to sink this bill. I think it is a good indication why we ought to recommit the measure and give the President the emergency authority he needs and give the Federal Energy Regulatory Commission the authority it needs to move surplus gas from the intrastate market into the interstate market.

Yes, there are some in the Senate who feel we need the Alaska pipeline as a part of the bill, and I would not object

if that were added onto the motion to recommit. But beyond that, there is no justification for this legislation, and the Senator from Arkansas' talking about the $14.5 billion in increased utility costs makes the strongest argument I know as to why we ought not to give the oil and gas producers another $29 million to $41 million in this piece of legislation.

I have great respect for the Senator as a Member of this body. I think he is an extremely able Senator. But in this particular instance I think he misunderstands the facts as they are. I would hope he would reconsider his point of view and see fit to join us in our efforts to recommit this bill.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BAYH). Without objection, it is so ordered.

FEDERAL PESTICIDE ACT OF 1978—CONFERENCE REPORT

Mr. LEAHY. Mr. President, I submit a report of the committee of conference on S. 1678 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1678) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 12, 1978.)

Mr. LEAHY. Mr. President, I ask unanimous consent that Liam Murphy of my staff and the following staff members of the Committee on Agriculture, Nutrition, and Forestry be granted the privilege of the floor during consideration of the conference report on S. 1678 and all rollcall votes thereon, although I advise the Chair that I do not intend to ask for a rollcall vote: Henry Casso, Carl Rose, Dale Stansbury, Phil Fraas, Bill Taggart, Stu Hardy, and Bill Bates.

The PRESIDING OFFICER: Without objection, it is so ordered.

Mr. LEAHY. Mr. President, the Federal Pesticide Act of 1978 is vital legislation designed to reform the troubled Federal pesticide regulation and control program—a program whose success or failure will affect the health of all Americans.

In 1972, Congress modernized the basic Federal pesticide legislation—the Federal Insecticide, Fungicide, and Rodenticide Act—by requiring a comprehensive reevaluation of the pesticide chemicals used every day in the production of food, and in our homes and factories. Many of these chemicals had never before been subject to adequate scientific evaluation from the standpoint of human health and the environment.

For several reasons this reevaluation, to be done through the reregistration process, has never gotten off the ground.

The delay has not only served to frustrate the will of Congress in enacting the 1972 legislation, but because registration under FIFRA is a basic element in the pesticide manufacturing and distribution process, the delay has also presented massive problems for the pesticide industry and reduced the availability of pesticides to farmers and others.

The Federal Pesticide Act of 1978 is the culmination of almost 2 years of work by Congress to make the FIFRA legislation a more viable and workable statute.

In the fall of 1976, the chairman of our committee, Senator TALMADGE called on the environmental protection agency to work with the staff of the Committee on Agriculture, Nutrition, and Forestry to develop amendments to FIFRA that would cut the redtape, make the law workable, and insure that the original congressional goal for the 1972 legislation can be achieved. This goal is to provide pesticide users with adequate supplies of needed pesticides while protecting the environment, and human health and safety.

It was with this in mind that my Subcommittee on Agricultural Research and General Legislation held extensive hearings and developed the bill, S. 1678, that was ultimately passed by the Senate on July 29, 1977, a little over 1 year ago.

The House of Representatives subsequently passed S. 1678 with amendments on October 31, 1977.

Because of the emergency farm legislation this past winter, the conference on this bill could not be convened until late April.

Since that time, the conferees have met a number of times to resolve the many differences between the Senate and House versions of this long and extremely technical piece of legislation.

Through hard work and dedication of the conferees and the capable leadership of the conference by its chairman, Representative FOLEY, we have reached what I believe is a constructive and elightened bill that will go far to make the needed improvements in the Federal pesticide program.

ADMINISTRATION OF THE PESTICIDE PROGRAM

Mr. President, the Federal Pesticide Act of 1978 will ease the administrative burden of EPA in managing the pesticide regulation and control program. It will help pesticide users—especially farmers—yet will continue protecting the environment and human life. Also, this bill will break the logjam in the registration process.

Among the provisions designed to speed up reregistration are the provisions for generic registration, conditional registration, and modification of the trade secret provisions of FIFRA. The language of the conference bill with respect to these matters is basically unchanged from that of the Senate-passed bill.

USE INCONSISTENT WITH LABELING

The amendments proposed in the Senate bill to the definition of "use inconsistent with the labeling" have been retained in the conference bill with two additions. The first, in essence, provides the means for the administrator to make pesticides available for minor uses through administrative action.

The second would exclude uses of pesticides in dilutions less than that specified on the labeling from the definition after March 31, 1979, unless the Administrator of the EPA acts specifically to prohibit such uses. This exclusion responds to present pesticide technology and practices that are not recognized in the existing legislation—specifically the technique of ultra-low-volume application by aircraft.

However, EPA will be required to conduct a study of the ultra-low-volume technique prior to March 31, 1979, to make sure there are no major problems with this exemption.

DATA TO SUPPORT REGISTRATION

One of the principal problems that has paralyzed the reregistration process concerns the compensation provisions of existing law for use by a follow-on applicant of data submitted by another applicant to support reregistration or new registration. I believe that we have finally found a way to resolve the conflicting claims of data producers and follow-on applicants.

The conference bill provides a mix of rights to the data producer. Data to support the safety of new active ingredients in new pesticides will be afforded an exclusive use period of 10 years. There will be a 15-year period of compensation during which the data producer has the right to be compensated for the use of the data. These two periods would overlap so that, in essence, an item of data for a new chemical will be given 10 years exclusive use and 5 additional years of compensation.

By limiting exclusive use to data pertaining to pesticide ingredients not previously registered, and only for a 10-year period, the conferees have largely confined exclusive use coverage to chemicals that are patentable and for a term generally shorter than the patent life enjoyed by pesticides. The anticompetitive aspects of exclusive use have therefore been essentially neutralized.

In the case of a pesticide ingredient not previously registered, but also ineligible for patent, exclusive use can be viewed as an appropriate substitute for the patent as a reward for the registrant's innovation in finding a new use for the biological organism, industrial chemical, or other pest control ingredient.

The conference substitute on the data issue is an appropriate compromise between the need to encourage innovation and the need to provide an equitable

and less expensive process for producing pesticide safety data. I believe it recognizes the needs of both large and small firms.

If a registrant discovers a new use for the pesticide, data supporting that use would be afforded 15 years of compensation from the time the data is filed. In the case where the new use is registered during the 10-year period of exclusivity, data supporting the new use would enjoy exclusivity for any time remaining of the 10-year period. For instance, if 5 years after a new chemical was registered a registrant brought in a new use application and it was granted, the data for the new use would have 5 years of exclusive use—the period of exclusivity remaining for the original registration data. Again, the compensable term of 15 years will run concurrently, so the data in this case would be eligible for compensation for 10 years after the exclusivity period expired. If a new use was registered after the exclusivity period, it would still have a full 15 years of compensation.

DEFENSIVE DATA

Defensive data will not be entitled to exclusive use, but the data submitter will have the right to compensation for 15 years from the date the data are submitted to EPA.

Under the terms of the conference agreement, exclusive use protection is to be extended only to data on pesticides containing new active ingredients. Data that pertains to already-registered pesticides—defensive data—will be ineligible for exclusive use protection.

This will be true whether the data are used to support the continued registration of the pesticide or a new registration. As explained in the statement of managers, if the producer changed the formulation of the pesticide in some slight way so that the pesticide might be considered a "different" product, the old data relating to the old pesticide that are used to support this new registration will not be given additional exclusive use protection.

In addition, action by an applicant—in anticipation of a requirement by EPA for submission of defensive data or to protect defensive data produced in response to EPA requirements stemming from the 1972 amendments—to seek registration of a product that contains both a new active ingredient and the "old chemical" will not confer exclusivity on the defensive data for the old chemical, only on the data pertaining to the new ingredient.

REBUTTABLE PRESUMPTION AGAINST REGISTRATION

The conference bill prohibits the Administrator from initiating a public review process—the RPAR process—unless it is based on validated tests or other significant evidence raising prudent concerns of unreasonable adverse risk to man or to the environment. It also calls on the Administrator to consult with the registrant of a pesticide that is a candidate for RPAR prior to issuing the RPAR. This is to afford the registrant opportunity to present evidence to EPA refuting allegations of adverse risk before any unwarranted negative publicity occurs. I wish to stress that this provision is not meant to permit extended private or closed negotiations. We want to protect the rights of producers, but not circumvent established case law in regard to substantial questions of unreasonable adverse effects.

Pesticide regulation is not the private business of the pesticide industry and the EPA. The conference report language affording affected pesticide producers an opportunity to respond to a "private communication" about an impending RPAR is not intended to afford the registrant a protracted and secret discussion of risks and benefits with EPA. If the registrant discovers egregious errors in the studies to be cited by EPA in an RPAR, all parties are served by having this brought to EPA's attention. When, however, the registrant disputes the conclusions EPA may choose to draw from these experimental results, his views are of no greater relevance than those of any other person, and, indeed, because of his vested interest in the regulatory outcome, should be subject, along with the EPA interpretation, to public scrutiny. Therefore, "reasonable" time to respond to a private communication on an impending RPAR must take into account the interest of the public in participating in any risk-benefit evaluations that affect their health, and the need to consider that the public may remain exposed to the hazard the pesticide poses while the RPAR process is underway.

PRIMARY ENFORCEMENT RESPONSIBILITY

The conference bill clarifies and delineates several areas of Federal and State responsibility.

First, the States will be charged with primary enforcement responsibility for pesticide use violations.

This responsibility will automatically go to those States that are already working with EPA under a cooperative enforcement arrangement. The bill also provides for timely extension of this responsibility to those States that have a section 4 certification training program that EPA determines to be adequate to insure proper enforcement of pesticides use restrictions.

This State enforcement program will reduce duplication of effort and permit EPA to concentrate its resources on higher priority matters. However, we have not taken away EPA's final jurisdiction for enforcement of FIFRA. The bill provides for EPA override of State jurisdiction in emergency circumstances when the State is unwilling or unable to act to meet the emergency, and for recission of the State's pesticide use enforcement responsibility if the State program is inadequate.

FEDERAL COST SHARING

The conference bill provides for cost sharing for State applicator training and certification programs. The Federal Government would pay up to 50 percent of the cost of these programs. However, it is not an entitlement. To assure efficiency and accountability, Federal contributions will only extend to those aspects of the program that are approved by EPA and agreed to in the cooperative agreement.

STATE REGISTRATION OF PESTICIDES

The conference bill also clarifies certain aspects of the State authority to register pesticides for additional uses to meet special local needs. We have retained authority for EPA to suspend the State registration program if EPA finds that the State is not exercising adequate control over pesticides. Further, EPA retains the authority that exists in present law for review of individual registrations by States for local uses.

The conference bill, however, removes the requirement that EPA make a determination that there is a special local need. This question is best handled by local officials since EPA often does not have the information to make such a determination.

The conference bill precludes "veto" by the administrator of State registration of federally registered pesticides if the State registration is for a similar use. In the conference report we give examples of certain uses that are definitely not similar—changes from nonfood to food crops, outdoor to indoor, terrestrial to aquatic, or nondomestic to domestic uses.

Prior to the passage of FIFRA on October 21, 1972, the EPA had authority to register and control only those pesticide products which crossed State lines. The 1972 FIFRA Amendments gave EPA the authority over pesticide products manufactured or reformulated and sold solely within one State as well.

Under the section 24(c) program, States have registered close to 3,000 pesticides for intrastate uses without having to first obtain EPA approval for their registrations. In less than 5 percent of these cases, EPA overturned the State actions.

The Federal oversight responsibility for State registrations has been exercised judiciously, and has operated to protect farmers as well as consumers. However, the conferees felt it was necessary to provide the States the ability to register additional uses to meet special local needs in order to ease the administrative burden and to provide the States with a means of dealing with problems that arise, in part, because of gaps in EPA registrations.

However, this provision is not intended to permit an end run around Federal registration requirements. States must be cognizant of the potential problems in extending pesticides uses and Congress is no less determined today than it was in 1972 to protect U.S. citizens and their environment from unreasonable pesticide hazards regardless of State boundaries.

Thus, while the provision is designed to ease the administrative burden for all involved and facilitate availability of pesticides, it is not intended to limit the Administrator's ultimate authority to enforce FIFRA and protect the environment and human health and safety. We expect each "similar use" question to be carefully assessed by EPA.

THE FEDERAL PESTICIDE ACT OF 1978

Mr. President, our pesticide law has always evoked controversy. There are

not many laws that are more complex than FIFRA, or that stimulate greater passion and emotion.

We want to have the benefits of "economic poisons" for use on crops, in our homes, hospitals, and other places, yet we want safety for the environment and human health.

The length and difficulty of the conference on S. 1678 speak clearly of the complexities involved in FIFRA as well as the collision of interests.

I doubt that the Federal Pesticide Act of 1978 will totally satisfy any of the specific interest groups—in fact, I would worry if it did. However, it does address all the issues that have surfaced in the past 6 years, and provides, I believe reasonable solutions to them.

In sum, I believe that the Federal Pesticide Act of 1978 will finally give us the means to achieve the balanced, but environmentally sound, pesticide regulation and control program that Congress sought in the major amendments that were passed in 1972 to the Federal Insecticide, Fungicide, and Rodenticide Act. I urge the adoption of the conference report.

Mr. President, I ask unanimous consent that a short explanation and summary of the major provisions of the conference bill be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1678—THE FEDERAL PESTICIDE ACT OF 1978

SHORT EXPLANATION

S. 1678, as approved by the Conference Committee, makes a number of amendments to the Federal Insecticide, Fungicide, and Rodenticide Act (the "Act"), which is the legislative authority for the Federal pesticide registration and control program, to improve the operation of the program and facilitate the reregistration of pesticides called for by the Federal Environmental Pesticide Control Act of 1972. It also extends through fiscal year 1979 the authorization for appropriations to carry out the program.

SUMMARY OF MAJOR PROVISIONS

S. 1678 would—

(1) Provide that a pesticide applicator who holds or applies registered pesticides, or use dilutions of registered pesticides consistent with section 2(ee) of the Act, only to provide a service of controlling pests without delivering any unapplied pesticide is not to be considered a "seller" or "distributor" of pesticides under the Act (as under existing law);

(2) Exempt persons who dilute pesticides for their own use and according to label directions from the definition of "producer" in the Act;

(3) Limit the scope of the prohibition in the Act against the use of a registered pesticide in a manner inconsistent with its labeling by providing the following exceptions:

(a) Application at a dosage, concentration, or frequency less than that specified on the labeling;

(b) Application against a target pest not specified on the labeling (unless the labeling specifically prohibits use of the pesticide against pests not listed on the labeling);

(c) Employing any method of application not prohibited by the labeling;

(d) Mixing the pesticide with fertilizer when such mixture is not prohibited; and

(e) Any use in conformance with section 5 [experimental use permits], 18 [emergency exemptions], or 24 [authority of States to register pesticides] of the Act, or any use in a manner the Administrator of the Environmental Protection Agency determines to be consistent with the purposes of the Act.

In addition, after March 31, 1979, use of a pesticide for agricultural or forestry purposes at a dilution less than label dosage would not be considered a use inconsistent with the labeling unless the Administrator issued regulations or advisory opinions specifically requiring the use of definite amounts of dilution;

(4) With respect to applications for the registration of pesticides under the Act, delete the provisions of existing law concerning compensation for use of another applicant's data. The bill provides, instead, that—

(a) In the case of pesticides containing new active ingredients initially registered after the date of enactment of S. 1678, there will be a period of exclusive use (under which data may be used by an applicant only with the written consent of the original data submitter) for data (that pertains to the new active ingredient) submitted in support of the initial registration of the pesticide. The exclusive use period will run for 10 years from the date the product is registered. There will also be a period of exclusive use for data submitted in support of a new use registration for the pesticide equal to any time of exclusivity remaining under the 10 year exclusive use period for the pesticide;

(b) With respect to data to which the exclusive use provision does not apply or for which the exclusive use period has expired, the data (if submited afer December 31, 1969) will be compensable, if used by another applicant, for a period of 15 years from the date the data are submitted; and

(c) If the original data submitter and the follow-on applicant who wishes to rely on the data cannot reach an agreement on data compensation, either party can request binding arbitration to settle the dispute. The decision of the arbitrator will be final and conclusive;

(5) Delete the prohibition in present law against the reliance by an applicant on data submitted to the Administrator by another applicant that contains "trade secret" information ("Trade secret" information would, however, continue to be protected from public disclosure.);

(6) Establish procedures governing the generation of data that may be required for the maintenance of existing registrations of a pesticide, including provision for requiring all registrants of the pesticide to take appropriate steps to secure the necessary additional data, authority for cost-sharing arrangements by which the necessary data can be developed and submitted jointly by the registrants to avoid the waste involved in duplicative testing, and provision for settling disputes over cost-sharing arrangements by binding arbitration;

(7) Require the Administrator, in establishing standards for data requirements for the registration of minor use pesticides, to make these standards commensurate with the anticipated extent and pattern of use of the pesticide, and the level and degree of potential exposure of man and the environment to the pesticide. The Administrator would be required, in developing these standards, to consider the potential national volume of use, extent of distribution, and impact of the cost of meeting the requirements on the incentives for any potential registrant to develop the required data;

(8) Authorize a program of "generic" registration of pesticides, under which a person who purchases a registered pesticide from another producer in order to formulate the pesticide into an end-use product would not be required to submit or cite data pertaining to the safety of the purchased product or pay compensation for the use of such data;

(9) Authorize the Administrator to waive registration requirements pertaining to the submission of data relating to the efficacy of pesticides. Further, if a pesticide was found to be efficacious by a State under a State registration program under the Act, a presumption would be established that the Administrator will waive efficacy data requirements for use of the pesticide in that State;

(10) Authorize the conditional registration (or conditional amendment of the registration) of pesticides during the period in which data needed for complete registration or amendment are being generated, if—

(a) The conditional registration would not significantly increase the risk of, or cause, any unreasonable adverse effect on the environment;

(b) With respect to conditional amendments to permit new uses, the applicant had submitted complete and satisfactory data on the proposed new cause and the amendment did not involve a food or feed crop, or—if such a crop is involved—the pesticide did not meet or exceed risk criteria associated in whole or in part with human dietary exposure; and

(c) With respect to conditional registration of pesticides containing new active ingredients, the applicant did not have the necessary data because sufficient time to generate it had not elapsed since the requirement for the submission of the data was first imposed and use of the pesticide is in the public interest;

(11) Prohibit the Administrator from initiating a public interim administrative review process to develop a risk-benefit evaluation of the ingredients of a pesticide or any of its uses (a rebuttable presumption against registration, or "RPAR" process) unless such interim administrative process was based on a validated test or other significant evidence raising prudent concerns of unreasonable adverse risk to man or to the environment;

(12) Permit the Administrator to classify pesticides by regulation prior to the completion of the reregistration process required by the 1972 amendments to the Act, in order that States may proceed with programs for the training and certification of applicators;

(13) Authorize the registrants of restricted use pesticides to petition the Administrator to change the classification from restricted use to general use (with the requirement that the petition establish that reclassification would not cause unreasonable adverse effects on the environment);

(14) Require the Administrator to conduct the applicator certification program in States for which a State plan for applicator certification had not been approved. The Administrator's program could not require private applicators to take an examination to establish competency in the use of pesticides;

(15) Require the Administrator to complete review of applications for experimental use permits within 120 days after receipt of the application, and to notify the applicant of the reasons for denial if the application was denied;

(16) Require the Administrator, prior to acting to cancel the registration of a pesticide for cause, to consider restricting the pesticide's use as an alternative to cancellation;

(17) Require the registration under the Act of establishments that produce (a) active ingredients used in producing pesticides or (b) pesticides or active ingredients for the export trade;

(18) Require Environmental Protection Agency inspectors undertaking to inspect books or records under section 8(b) of the

Act to present to the person in control of the premises at which the pesticides or devices are held appropriate credentials and a written statement as to the reason for the inspection, including a statement as to whether a violation of law is suspected;

(19) Amend the trade secret provisions of the Act to—

(a) Exclude from trade secret protection under the Act data showing test results and information concerning the effects of a pesticide on organisms or the behavior of a pesticide in the environment, except that data relating to manufacturing or quality control processes, the identity or percentage quantity of inert ingredients, or details of methods for testing, detecting, or measuring the quantity of any deliberately added inert ingredients could not be made public unless the Administrator determined that disclosure of such information was necessary to protect against an unreasonable risk of injury to health or to the environment;

(b) Authorize the publication of information concerning production, distribution, sale, or inventories of a pesticide in connection with a public proceeding to determine whether a pesticide, or an ingredient, causes unreasonable adverse effects on health or the environment, if the Administrator believed disclosure was necessary in the public interest;

(c) Establish procedures for the release of the manufacturing and ingredient data described in (a) and (b), including prior notification by certified mail of any proposed release of data and opportunity for the owner of the data to institute action in Federal district court to enjoin or limit the proposed disclosure;

(d) Authorize disclosure of trade secret information (under security precautions prescribed by the Administrator) to contractors with the United States for work in connection with the Act if disclosure is necessary for satisfactory performance of the work under contract;

(e) Establish criminal penalties for disclosure of trade secret information by Federal employees and contractors with the United States (a fine of up to $10,000, a prison term of up to 1 year, or both fine and imprisonment); and

(f) Prohibit the Administrator from knowingly disclosing information submitted to him under the Act to employees or agents of foreign or multinational pesticide producers or distributors (Not included in the prohibition would be disclosure, in connection with public proceedings under law or regulation, of information that relates to the effect of the pesticide on health or the environment.);

(20) Provide an exemption from the prohibition in the Act against making restricted use pesticides available to persons other than in accordance with the Act, under which sale, under regulations issued by the Administrator, of a restricted use pesticide to a person who is not a certified applicator for application by a certified applicator would be permitted;

(21) Provide a maximum civil penalty for first offense violations of the Act by applicators of general use pesticides for hire of $500;

(22) Require the Administrator, in determining the amount of any civil penalty under the Act, to consider the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation; and authorize the Administrator, if he found that the violation occurred despite the exercise of due care or did not cause significant harm to health or the environment, to issue a warning in lieu of assessing a penalty;

(23) Require, for pesticides not registered under the Act that are intended for export, that their labels include the warning that they are "Not Registered for Use in the United States of America", and that the foreign purchaser sign a statement acknowledging his understanding that the pesticide cannot be sold in the United States (A copy of the statement would be transmitted to the government of the importing nation.);

(24) Require the Administrator to establish procedures for the monitoring of man and animals and their environment for incidental pesticide exposure, including, but not limited to, the quantification of incidental human and environmental pesticide pollution and the secular trends thereof, and identification of the sources of contamination and their relationship to human and environmental effects;

(25) Authorize appropriations to cover half the cost to cooperating States and Indian tribes for the conduct of applicator training and certification programs;

(26) With respect to State registration of pesticides for use within the State to meet special local needs—

(a) Provide that the authority of the Administrator to disapprove a State registration shall not include authority to disapprove registrations (i) on the basis of lack of essentiality, or (ii) if its composition and use patterns are similar to those of the federally-registered pesticide (changed use patterns such as changes from nonfood to food use, outdoor to indoor use, terrestial to aquatic use, and nondomestic to domestic use would be considered as not involving similar uses and, thus, would be subject to disapproval by the Administrator. Other State registrations would be considered as similar in use pattern until the Administrator made findings to the contrary by regulation.); and

(b) Prohibit States from issuing registrations for food or feed uses unless there was a tolerance of exemption under the Federal Food, Drug, and Cosmetic Act that permitted the residues of the pesticide on the food or feed;

(27) Transfer to States that have entered into cooperative agreements with the Administrator for the enforcement of pesticide use violations, or that the Administrator determined have adequate pesticide use laws, regulations, and procedures, primary enforcement responsibility for pesticide use violations. Notwithstanding this transfer of enforcement authority to States, the Administrator could act on any reported violation if the State did not commence appropriate enforcement action within 30 days after receiving the report on the alleged violation. In addition, the Administrator could rescind the State authority if, after opportunity was given the State to correct deficiencies in the program, the State program was found to be inadequate. Also, the Administrator would retain enforcement authority with respect to emergency situations that required immediate action and with respect to which the State authority was unwilling or unable adequately to respond;

(28) Provide that, wherever the Administrator had enforcement responsibility for pesticide use violations, he would have authority to inspect the books and records and establishments of applicators for hire;

(29) Require the Administrator to submit annual reports to Congress (a) indicating the number of applications for conditional registration of pesticides with new active ingredients, and for conditional amendment of registrations to permit additional uses, filed during the preceding fiscal year, and (b) with respect to those applications approved, including the Administrator's findings, the conditions imposed, any modifications of conditions, and the quantities of pesticides produced, in each case;

(30) Extend through fiscal year 1979 the authorization for appropriations to carry out the Act. The bill authorizes the appropriation of such sums as may be necessary—but not to exceed $70 million—for fiscal year 1979;

(31) Require that studies be made of—

(a) The feasibility of charging fees to cover the registration process under the Act;

(b) Methods of pesticide application, including the advisability of ultra-low-volume methods of application; and

(c) The problems of minor uses of pesticides not specifically permitted by labeling; and

(32) Delete (a) the requirements that the 1972 amendments to the Act be fully implemented, and that reregistration and classification of pesticides be completed, by October 20, 1977, and (b) the October 20, 1976, deadline for submission to the Administrator of State applicator certification plans.

Mr. TALMADGE. Mr. President, will the chairman of the subcommittee yield?

Mr. LEAHY. Mr. President, I consider it an honor to yield to our chairman.

Mr. TALMADGE. Mr. President, I urge the adoption by the Senate of the conference report on S. 1678, the Federal Pesticide Act of 1978.

I want to commend Senator LEAHY, the chairman of the Subcommittee on Agricultural Research and General Legislation, and Senator LUGAR, who is the ranking minority member of the subcommittee, for their leadership, dedication, and hard work throughout the hearings, the legislative markup, and subsequently in the conference on S. 1678. Senator DOLE, the ranking minority member of our committee, is also to be commended for his work and leadership on the legislation.

Mr. President, nearly 6 years have passed since the enactment of the Federal Environmental Pesticide Control Act of 1972, an act that significantly changed the direction of pesticide regulation in the United States.

Unfortunately, the implementation and administration of this act have been characterized by confusion, controversy, and lack of action. As a result, the purpose of the law—to provide for the regulation of pesticides in a balanced and commonsense manner that assures the availability of pesticides to our farmers, homemakers, hospitals, and others, while protecting the environment and the health of our people—has not been achieved.

Our committee's primary concern in developing new legislation was to find a way to make FIFRA work effectively.

The Federal Pesticide Act of 1978, the bill that Senators LEAHY and LUGAR first developed in subcommittee, does just that. It is designed to cut the redtape, remove duplication, and resolve the immobilizing controversies in the Federal pesticide regulation program. Just as importantly, it at the same time retains a balance between the interests of pesticide users and the concern of all Americans for the preservation of the environment and protection of human health.

The conference bill deals with all of the major issues that have surfaced since the passage of the 1972 legislation. I believe the conferees reached a fair and just compromise on these issues after thorough review and discussion of all legitimate views and positions.

The question of State and Federal re-

sponsibilities under FIFRA was an important issue considered by the conference committee.

In 1972 all authority to regulate pesticides was transferred to the Federal Government. However, authority was provided for delegation of responsibility by the Federal Government to the States for implementation of the law.

There has been much confusion as to what the State-Federal relationship should be with regard to State registration of pesticides and enforcement of pesticide use restrictions.

The conference bill resolves this issue by more clearly delineating the relationship between the Federal Government and the States.

We have extended to the States the primary enforcement responsibility for pesticide use violations. This will eliminate duplication of Government regulation and result in greater efficiency. However, EPA will retain ultimate jurisdiction.

With respect to State registrations of additional uses of federally registered pesticides for use in the State to meet special local needs, EPA concedes that the people at the local level best understand local needs.

The conference bill therefore removes the requirement that EPA make a decision that there is a local need. EPA will have to determine if the State has adequate controls to register pesticides, but, after that, so long as the pesticide is safe, EPA will not interfere with the State's determination.

At the same time a provision has been added to prohibit States from registering a pesticide for a food or feed use if there is no Federal pesticide residue tolerance or exemption for the pesticide. This protects farmers from the possibility of condemnation of the crop or animal to which the pesticide is applied because of illegal residues.

One of the best ways to assure that pesticides will be applied correctly without harm to human life or the environment is to make the applicators and users of pesticides aware of the best and safest ways to use them. This can be done through training programs such as those being carried out in nearly every State by the cooperative extension services.

However, these programs are costly. To upgrade these programs of training farmers and other users in the proper use or restricted use of pesticides, the conference bill provides for cost-sharing grants to the States to carry out applicator training and certification programs.

Of most concern to farmers is the availability of pesticides. The conference bill provides for simplified and faster registration of useful pesticide materials. It reduces the redtape that both pesticide producers and EPA must endure in bringing safe materials onto the market and into use—without reducing the safeguards against harm to human life or the environment.

In a similar vein, the bill provides for conditional registration of pesticides, which will enable EPA to make available more pesticides that are deemed to be basically safe.

Perhaps the most important provision for farmers is the new definition of "use inconsistent with labeling." Existing law and regulations have proven to be out of date, and not in accord with changing technology and practices. As an example, a strict interpretation of existing law could force farmers to use more pesticides than might actually be necessary. S. 1678 will permit farmers to use pesticides at rates lower than those specified on the labeling.

Second, the new definition will permit farmers to mix pesticides with their fertilizer—a time-tested practice.

Third, the new definition will permit farmers to use pesticides that are already registered for a crop or site for pests not listed on the labeling. It is rather foolish to tell farmers that they can put a pesticide on a crop for one bug, but that they cannot apply it to the same crop for another bug.

Fourth, the new definition provides that a farmer can use any means of application that is not specifically prohibited by the labeling.

In this regard, we have also provided that after March 31, 1979, application of pesticides at dilution rates less than those specified on labeling will not be inconsistent with labeling unless the Administrator prohibits such applications. We provide an interim period before this exemption goes into effect to meet the legitimate concerns of some over certain aspects of ultra-low-volume spraying. During the interim, EPA will have to conduct a study on ultra-low-volume spraying techniques. After the study, EPA will have the opportunity, if necessary, to act to restrict low dilution application methods.

I would expect EPA to move promptly on this matter so that the industry and users will not continue to be hampered by uncertainty about the future of ultra-low-volume spraying.

Mr. President, for 6 years EPA has been struggling with the pesticide legislation. We have seen the implementation of the 1972 amendments frustrated at every turn by unexpected complications, redtape, and litigation. No one has been satisfied with the law.

I believe that the pending amendments will give us a workable law, and I am happy to report that EPA is in agreement.

While I am sure that not everyone is fully satisfied with every aspect of the conference bill. I think almost everyone will admit that this is a sound and workable compromise.

Mr. President, I urge my colleagues to adopt the conference report on FIFRA.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I appreciate this opportunity to thank Senator TALMADGE, the chairman of our committee, for his tribute, and to thank especially my colleague, Senator LEAHY, for his extraordinary leadership as chairman of the Subcommittee on General Legislation and Research.

The Federal Pesticide Act of 1978 that we are debating today is a monument to the thoughtfulness and the ability of legislators to take very complex points of view and to reconcile these in complex legislation.

Clearly, at the outset of the work of the subcommittee, we were confronted with legislation that had worked well, with an estimated 50,000 applications for pesticides and chemical formulations that were stacked up at EPA, with very great disputes and misgivings by American industry in terms of proprietary rights, property rights, and research rights that were involved in our American free enterprise system, certainly with great frustration by farmers and ultimate users of pesticides, insecticides, and rodenticides, as to how these could be made available to them for adequate food supplies and adequate services of the American people.

These points of view were not easily reconciled, and it is a tribute to Chairman LEAHY and to the subcommittee that in the course of hearings, in the course of long debate and thoughtful work on the wording of the legislation itself, the Senate passed a bill, and then in a number of conference situations, I recall at least six or seven, as earlier pointed out, chaired by Representative FOLEY and led on our side by our chairman, HERMAN TALMADGE, and BOB DOLE on the minority side, reconciliation occurred.

I think it is a very important breakthrough, and I take time to make this statement simply because frequently people express the thought that Congress is unable to deal with complex legislation and with conflicting points of view that seem to be almost monumental in their irreconcilability.

We have succeeded on this occasion, and I am grateful to have been a part of it, and I am very appreciative to the chairman of our subcommittee for allowing me this privilege of working with him on this legislation and other complex pieces of legislation this session.

Mr. LEAHY. Mr. President, I appreciate the kind words of Senator LUGAR.

I think we must feel, both Senator LUGAR and myself, that almost from the time we have joined the Senate we have lived with FIFRA. Before I came to the Senate I thought a FIFRA was a multi-legged insect from South America—we now realize how complex it is—until one day when Senator TALMADGE drew me aside and suggested when I have a few free moments I might hold some hearings and straighten out FIFRA.

The hearings went on for months and months and months. Had it not been for Senator LUGAR's constant help, attention, work, diligence, and knowledge we never could have finished the hearings and gotten a bill on the floor.

Throughout this we were helped by Senator TALMADGE and given encouragement when it was very well needed.

Senator DOLE was a model of nonpartisan expertness in a very complex fashion, and we were helped by Senator STONE and Senator HAYAKAWA of the subcommittee.

And I wish to make special note, Mr. President, of Senator James Allen, who was present at practically all of the meetings, and helped very, very much in the markup. I can say had it not been

for his efforts in helping us form and bring together some of the conflicting viewpoints we had it would have been impossible to have had this bill. I think the Senate owes a great deal to Senator James Allen in that regard.

Certainly we owe our thanks to our staff, Dale Stansbury, Phil Fraas, and Carl Rose, who put in long, long hours, days, evenings, weekends, and Bill Lesher, Stu Hardy, Laura Rice, and Julia Platt, and Liam Murphy of my staff, who had the unenviable task of explaining daily the various parts we were going through again to point to a likely understanding along with the others.

But I might say, Mr. President, that a bill of this complexity never could have gotten through without the help given and diligence of all Senators who worked on it.

I see Senator DOLE from Kansas, who was certainly one of the most instrumental people in the bill's passage, on the floor, and I yield to him.

Mr. DOLE. Mr. President, the fact that the conferees on S. 1678 (the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1978) negotiated for 4 months before resolving the differences between the House and Senate versions of the bill is evidence that the question of pesticide regulation has become one of the most complex and controversial issues before the Congress.

We are confronted with the difficult task of striking a sensible balance between the need to protect man and the environment from harmful chemicals, and the equally legitimate need to assure an adequate supply of effective pesticides for farm and other uses. The present grasshopper infestation throughout the Great Plains region illustrates the hard choices we confront. Thousands of farmers will lose all or part of their crops this past summer because several of the most effective pesticides have been banned on the grounds that they may be toxic or carcinogenic. There are no easy solutions in situations such as this.

It is clear that we have not yet achieved a satisfactory balance in our regulation of pesticides. To be sure, S. 1678 improves current law by simplifying the product registration process, and by putting more flexibility and responsiveness into the pesticide program. But even the best laws require sound administration. Much still depends on the ability, and the willingness, of the Environmental Protection Agency to enforce the law with discretion and commonsense. The Senator from Kansas, for one, will be watching the EPA's performance with great interest during the coming months.

Today, nearly everyone is dissatisfied with the pesticide program. Critics point out that the registration and reregistration process has come to a virtual standstill. Dozens of new pesticides, which are urgently needed to meet pest control needs, are tied up in redtape and unavailable for use. Since 1972, dozens of pesticides and uses have been banned, while fewer than 10 new products have been registered.

The bill now before us represents a major step toward streamlining the pesticide program and assuring a more equitable balance between the competing claims of a safe environment and the need for effective pest control. Specifically, S. 1678 authorizes a "generic" approach to registration which will permit a shortened registration procedure for new product applications which are identical or similar to previously registered pesticides. Moreover, the bill authorizes the conditional registration of pesticides during the period in which data needed for complete registration is being generated.

In addition, S. 1678 goes a long way toward easing the present prohibitions against the use of a pesticide in a manner inconsistent with its labeling. The bill also deletes many of the requirements relating to the submission of data on the efficacy of pesticides.

States are given the right to exercise primary responsibility for enforcement of the Federal Insecticide, Fungicide, and Rodenticide Act. Moreover, States are given far more discretion to register pesticides for special local needs.

Finally, S. 1678 redefines the rules requiring that an applicant for registration of a pesticide pay compensation if he relies on the test data submitted by another applicant. Similarly, the rules relating to "trade secret" information are also redefined. These provisions are necessary to end the squabbling and litigation that has plagued the pesticide industry in recent years.

Mr. President, the need to assure the availability of pesticides for agricultural production, public health, food safety, and other reasons is recognized by all. These important objectives have been jeopardized by the legal and administrative problems in the pesticide program.

This legislation is not a "cure all" solution. But if it is administered in a sensible fashion, it will certainly make the program more workable.

I, also, commend the distinguished Senators from Vermont and Indiana, and our chairman, Senator TALMADGE, and certainly the staff and others who spent many, many months on this legislation.

As I recall we were in conference off and on for a period of nearly 4 months. This is a very difficult technical piece of legislation and as has been indicated the staff and Senators from Vermont and Indiana were there throughout all the hearings stage and the markup stage, and some of the rest of us became more involved at later dates, so they deserve a great deal of the credit for what I consider to be a good piece of legislation.

It seems to me that we have not yet achieved a satisfactory balance in our regulation of pesticides, but I think S. 1678 goes a long way in that direction.

Today we find nearly everyone is dissatisfied with the pesticides program. There are critics on each side. We have had our own problems in various States on the use of pesticides, but I believe that as S. 1678 addresses the generic approach to registration it gives the States the right to exercise primary responsibility for enforcement, and in my view it is a rather large step in the right direction.

I again appreciate all the efforts made, the cooperation of all those concerned, including EPA officials who were there at the conference and I think were very helpful from time to time.

I urge the adoption of the conference report.

Mr. LEAHY. Mr. President, I am prepared to yield back all of my time and move the adoption of the conference report.

Mr. LUGAR. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. TALMADGE. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATURAL GAS POLICY ACT—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. Mr. President, I yield to the distinguished junior Senator from Pennsylvania to propound certain questions.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I assume we are now back on the conference report on natural gas?

The PRESIDING OFFICER. That is accurate.

Mr. HEINZ. Mr. President, I thank the distinguished Senator from Washington for yielding to me, and I wish to propound to him certain questions regarding the conference report.

First, I wish to know if I am correct in understanding that under title II, section 206(d)(1) the Commission may exempt, in whole or in part, any incrementally priced industrial facility or category therefrom the incremental pricing rule? Such exemptions granted under this section may deal with either who is covered by the rule or what level any particular class of users would bear the surcharge? Specifically, could partial exemptions be structured to lower the substitute fuel level to any category of users to levels below that of the alternative fuel?

Mr. JACKSON. The Senator is correct. As it states on page 102 of the Joint Statement of Managers:

> The Commission may propose exemptions which exempt any other incrementally priced industrial facility or category thereof either partially or completely. To give the Commission flexibility, the Conferees intend that these other exemptions may deal with either who is covered by the rule or at what level any particular class of users covered by the rule will be incrementally priced. Partial exemptions could be structured to lower the substitute fuel level applicable to any category of users to below the levels otherwise provided for in this title. Any proposed exemption is required to be submitted to Congress for review under sec. 508. Either House of Congress can veto a proposed exemption.

Thus, section 206(d)(1) permits the Commission to grant a gas utility or an individual industrial consumer, or a class thereof, a partial or total exemption from the incremental pricing amendments.

Mr. HEINZ. Mr. President, as I understand it then, the historical practice of the natural gas distribution industry of making "load-balancing" sales would not be preempted by title II if industrial facilities, which would otherwise be subject to incremental pricing, are exempted by the Commission under section 206(d).

Such sales in the industrial market are traditionally rendered under rates and conditions approved by the State commissions which allow for discontinuance of service on extremely short notice. These customers have alternative energy facilities in place and use, as their primary fuel in the winter, alternate energy sources, usually imported oil. The utility must retain pricing flexibility during periods in which gas supplies are available to continue to compete with alternate energy sources.

Am I correct that under section 206 (d)(1) the bill would allow utilities to obtain exemptions from incremental pricing for load-balancing sales to certain industrial customers so that these customers can continue to help the high priority customer bear the fixed costs of the distribution systems?

Mr. JACKSON. Mr. President, the Senator is correct. As the Joint Statement of Managers discusses on page 102:

> . . . could be structured to lower the substitute fuel level applicable to any category of users to below the levels otherwise provided for in this title.

Thus, the Commission is allowed to permit utilities to reduce below fuel oil Btu-equivalency for load-balancing industrial customers under appropriate circumstances. The conferees have provided the Commission authority under the exemptions procedure to provide relief in these circumstances.

Mr. HEINZ. Mr. President, I sincerely thank the Senator from Washington, the manager of the bill, for his very helpful and very clear colloquy on the subject of quite considerable importance to many of our consumers.

Mr. JACKSON. I thank the Senator from Pennsylvania for raising these questions.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE NATURAL GAS COMPROMISE

● Mr. SCHMITT. Mr. President, today we are debating what might be appropriately called the unnatural, natural gas compromise. I sympathize with my colleagues who have put many, many hours and much hard work into this legislation. However, they have not devised a workable solution to either our short- or long-term energy problems nor could they, given the politics of this 95th Congress and the Carter administration. It is to their credit that they tried. Certainly, this and past Congresses have been slow to address the Nation's energy problems but that does not mean we must now pass anything to simply make it look like we are doing our job. Our major failure in the 95th Congress, that for which the American people should hold us most accountable, has been to work for 18 months on energy regulation and taxes rather than on energy policy. Nothing in what we have done addresses real solutions to real problems. Let us look at what is before us.

First, this conference committee bill imposes exponentially more complex Federal regulation of wellhead pricing of natural gas than exists at present time. Within these 170-odd pages, the bill creates up to 23 categories of natural gas, each of which may be priced differently. Each of the 40,000 to 50,000 wells drilled annually will require a complex regulatory decision before any gas can be bought or sold. The bill also slaps Federal price controls, for the first time, on our intrastate market. Additionally, some categories of natural gas will never be deregulated. Through the entitlements provisions, another even more burdensome layer of regulations and confusion will be created.

Second, at a time when many citizens in this country and many Members of Congress are very much concerned about the burden of existing regulations and the costs associated with implementing these regulations, passing this bill will create a massive increase in new regulations and administrative burdens that go along with enforcing these regulations. The responsibilities imposed by the bill exist not just for the Department of Energy as a whole, but also for the Federal Energy Regulatory Commission (FERC), the Department of Agriculture, State legislatures, State regulatory commissions, the courts, industry, and consumers. Let me remind my colleagues that recent estimates of the overall cost of Federal regulations in general is about $800 billion annually; almost $1,000 for every person in the United States.

It has been stated by Chairman Curtis of the FERC (in a report presented January 26, 1978) that the FERC has a backlog of 6,000 cases. The costs associated with this backlog must also be factored in with the cost estimates for regulation. Chairman Curtis has also said that these delay costs "create unacceptable increases in costs of regulated companies and ultimately for consumers and that delays on applications to increase domestic supplies frustrate the accomplishment of our national objective to minimize our dependence on foreign energy sources."

This bill delegates to various State and Federal agencies the responsibility for determining in which category a given well qualifies. It is evident that this will involve a case-by-case analysis of such factors as to whether a well was drilled into a new reservoir, whether commercial production from that well or nearby wells has ever occurred, and the maximum efficient production rate of the specific well. Once this classification is performed by the State or Federal agencies, the FERC is then required to review the evaluations, resulting in extensive duplication of effort. After this classification effort is complete, a major accounting and bookkeeping task would have to be performed for the varied and continual price determinations.

This represents only one-half of the regulatory network, the other half being the burden of the producers and consumers. The independent explorers and producers discover approximately 63 percent of natural gas reserves and drill about 88 percent of the producing gas wells. Many of these 10,000 independents are small companies which do not have the manpower, money, or time to sort their way through the massive amount of regulations and paperwork this bill imposes on them. The uncertainty relating to well classifications open the way for a rapid increase in litigation in our already overloaded courts. The threat of increased litigation, extensive delays, and numerous interpretations of this complex law leave many of the small operators with no alternative but to get out of the industry.

Unfortunately, the Congress is not totally aware or chooses to ignore the regulatory nightmare it continues to create for both industry and consumers. Increasingly, excessive regulation is cited as one of the factors contributing to inflation, probably contributing one-fifth to one-quarter of the present inflation rate of 10 percent. This impact is reflected in higher prices to offset the expense of compliance. Currently Congress and the executive agencies look at just one side of the equation, the "benefits" which regulation is designed to bring. Cost considerations simply are not being adequately addressed. rate of 10 percent. This impact is reform bills in the Senate are just beginning to be heard in committee in this Congress. Examples are S. 2011, S. 600, and S. 2.

It is about time Congress seriously attempted to get a clearer idea of the burdens imposed upon the public as a result of regulatory programs, not randomly creating new ones at the whim of the administration. Final approval of regulations will thus be based on the rational assessment of costs of benefits to the public rather than the current haphazard method which looks at only one side of the equation.

If Congress was to make this effort to reduce regulation rather than increase it, and subsequently affecting inflation, this would appear to be a more positive sign to the international community than passing a bad piece of legislation that perpetuates our current bureaucratic nightmare and our dependency on foreign energy imports.

Mr. President, this is a so-called compromise that few producers or consumers really like. We are told, however, that it is necessary for international reasons, that the international community

is expecting us to pass this bill in order to resolve our international monetary problems, to support the falling dollar and strengthen the free world's international monetary system. This, of course, is rubbish and furthermore is indicative of the fact that all arguments on the merits of this bill have failed, and now the President is trying to wrap a bad bill in the American flag by an appeal to patriotism and bipartisan support of his foreign policy. The dollar problem is caused by tough international analysis which shows that the United States is importing too much, exporting too little, regulating and taxing too much, investing too little, and showing uncertain international leadership. This bill will only aggravate these very accurate perceptions.

It is inconceivable to this Senator that the sophisticated leaders in West Germany, France, Japan and elsewhere will view the passage of this conference report as anything but what it is—an illusion of a national energy policy, a mirage, a hoax. If we want to see the U.S. dollar fall further on the international money market, then by all means let us pass this bill because that will be the final result.

Mr. President, we have all learned a great deal about this issue during this Congress. New lines of political communications have now been created. Let us put this conference report aside, turn to other pressing business, take some months to think about the real energy problem, and then apply ourselves next year to a true compromise that protects both the consumer and their country.●

NUCLEAR REGULATORY COMMISSION AUTHORIZATIONS

Mr. ROBERT C. BYRD. Mr. President, under the order that has been entered, I ask that the Chair lay before the Senate Calendar Order No. 779.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2584) to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Environment and Public Works with an amendment to strike all after the enacting clause and insert the following:

SECTION 1. (a) There is authorized to be appropriated to the Nuclear Regulatory Commission (hereafter in this Act referred to as the "Commission") to carry out its functions and authorities under the Atomic Energy Act of 1954 (42 U.S.C. 2017) and the Energy Reorganization Act of 1974 (42 U.S.C. 5875) for fiscal year 1979, to remain available until expended, $335,895,000 to be allocated as follows:

(1) For "Nuclear Reactor Regulation", not more than $46,880,000 of which amount $1,070,000 in addition to the level of activity in fiscal year 1978 shall be available exclusively for the Alternate Fuel Cycle activities described in section 5 of this Act and $2,080,000 shall be available exclusively for Advanced Reactors;

(2) For "Standards Development," not more than $14,945,000, of which amount $650,000 shall be available exclusively for Low Level Radiation activities, including those activities described in section 3 of this Act;

(3) For "Inspection and Enforcement", not more than $38,760,000;

(4) For "Nuclear Materials Safety and Safeguards," not more than $27,240,000, of which amount $8,127,000 shall be available exclusively for Nuclear Waste Disposal and Management activities, and $540,000 in addition to the level of activity in fiscal year 1978 shall be available exclusively for the Alternate Fund Fuel Cycle activities described in section 5 of this Act;

(5) For "Nuclear Regulatory Research," not more than $166,640,000, of which amount $2,500,000 shall be available exclusively for the implementation of the Improved Safety Systems Research plan required by section 205(f) of the Energy Reorganization Act of 1974 as amended, $4,448,000 shall be available exclusively for Nuclear Waste research activities, $330,000 in addition to the level of activity in fiscal year 1978 shall be available exclusively for the Alternate Fuel Cycle activities described in section 5 of this Act, and $18,833,000 shall be available exclusively for Advanced Reactor Research;

(6) For "Program Technical Support," not more than $13,480,000, of which amount $160,000 in addition to the level of activity in fiscal year 1978 shall be available to the Office of International Programs exclusively for the Alternate Fuel Cycle activities described in section 5 of this Act;

(7) For "Program Direction and Administration," not more than $27,950,000, of which amount $225,000 shall be available for equal employment opportunity activities, including support of four positions in the Office of Equal Employment Opportunity;

(b) No funds may be transferred from any major program category listed in subsection (a) to any other major program category listed in such subsection if the total of the funds so transferred from that particular category would exceed $500,000, and no funds may be transferred to any major program category listed in subsection (a) if the total of the funds so transferred to that particular category would exceed $500,000, unless—

(1) a period of thirty calendar days has passed after the Commission has transmitted to the appropriate authorizing committees of the Congress a written report containing a full and complete statement concerning the nature of the transfer involved and the reason therefor; or

(2) each authorizing committee of the Congress referred to in paragraph (1), before the expiration of such period, has transmitted to the Commission written notice to the effect that such Committee has no objection to the proposed action. Such reallocation may be made notwithstanding the limitations of subsection (a), except that no reallocation pursuant to this subsection shall detract from sums specified in subsection (a) for particular activities under the major program categories. In no event, shall the total of sums reallocated pursuant to this subsection exceed $10,000,000 or 15 per centum of the program from which or to which the funds are transferred.

SEC. 2. (a) Subsection (b) of section 209 of the Energy Reorganization Act of 1974, as amended, is amended by adding at the end thereof the following sentence: "Notwithstanding the preceding sentence, each such director shall keep the Executive Director fully and currently informed concerning the content of all such direct communications with the Commission.".

(b) Section 209 of the Energy Reorganization Act of 1974, as amended, is amended by adding a new subsection (c) to read as follows and redesignating existing subsection (c) accordingly:

"(c) The Executive Director shall report to the Commission at semiannual public meetings on the problems, progress, and status of the Commission's equal employment opportunity effort."

SEC. 3. (a) The Commission and the Environmental Protection Agency are authorized and directed to conduct a preliminary planning study and develop a design for an epidemiological research study of the health effect of low level ionizing radiation. In the conduct of such planning study, the Commission and the Environmental Protection Agency shall consult with appropriate scientific organizations and Federal and State agencies.

(b) Within thirty days after the date of enactment of this section, the Commission and the Environmental Protection Agency shall submit to the Congress a memorandum of understanding delineating their respective responsibilities in the conduct of the planning study authorized by subsection (a) of this section and allocating the same authorized for this purpose by section 1(a)(2) of this Act. On or before April 1, 1979, such agencies shall submit a report to the Congress containing the results of such planning study. The report shall include an identification of the respective functions of the appropriate agencies and organizations to be involved in the implementation of the epidemiological research study as designed.

SEC. 4. The Commission is authorized and directed to undertake a comprehensive review of the existing process for selection and training of members of the Atomic Safety and Licensing Boards, including, but not limited to, the selection criteria, including qualifications, the selection procedures, and the training programs for Board members. The Commission shall report to the Congress on the findings of such review by January 1, 1979, and shall revise such selection and training process as appropriate, based on such findings.

SEC. 5. (a) There is hereby established within the personnel of the Commission a Fuel Cycle Evaluation task force which shall consist of representatives of appropriate Commission program offices and shall report directly to the Executive Director for Operations. Such task force shall monitor and assist the domestic international studies and evaluations of the various nuclear fuel cycle systems currently in progress.

(b) The Commission shall report to the Congress semiannually on the progress of domestic and international evaluations of nuclear fuel cycle systems including, but not limited to, a summary of the information developed by and available to the Commission on the health, safety, and safeguards implications of the leading fuel cycle technologies.

SEC. 6. (a) The Commission is authorized to provide grants to any State for the purpose of conducting an independent State review of any proposal to develop a long-term storage or disposal facility, including a test disposal facility, within such State of high-level radioactive wastes, non-high-level transuranium contaminated radioactive wastes, or irradiated nuclear reactor fuel.

(b) Any person, agency, or other entity proposing to develop a facility of a type described in subsection (a) of this section shall notify the Commission as early as possible after the commencement of planning for a particular proposed facility. The Commission shall in turn notify the Governor and the State legislature of the State of proposed situs whenever the Commission has knowledge of such proposal. At any time

after such notification, such State may apply for a grant under this section.

(c) The Commission shall promulgate regulations to govern the issuance of grants under this section. Such regulations shall include provisions governing the amount of any such grants, taking into consideration the proposed level of State review and the continued development of the proposed facility. Any grant approved pursuant to this section shall not exceed the sum of $500,000, and any sums received by the State in excess of its actual costs shall be reimbursed to the Commission.

(d) Beginning in fiscal year 1979, there are authorized to be appropriated $500,000, to be available until expended, for the purpose of providing the assistance authorized by subsection (a) of this section.

SEC. 7. Title II of the Energy Reorganization Act of 1974, as amended, is amended by adding at the end thereof a new section to read as follows:

"EMPLOYEE PROTECTION

"SEC. 210. (a) No employer, including a Commission licensee, an applicant for a Commission license, or a subcontractor of a Commission licensee or applicant, may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

"(1) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this Act or the Atomic Energy Act of 1954, as amended, or a proceeding for the administration or enforcement of any requirement imposed under this Act or the Atomic Energy Act of 1954, as amended;

"(2) testified or is about to testify in any such proceeding; or

"(3) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this Act or the Atomic Energy Act of 1954, as amended.

"(b)(1) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, within thirty days after such violation occurs, file (or have any person file on his behalf) a complaint with the Secretary of Labor (hereinafter in this subsection referred to as the 'Secretary') alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

"(2)(A) Upon receipt of a complaint filed under paragraph (1), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within thirty days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting in his behalf) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this subparagraph. Within ninety days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by subparagraph (B) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for public hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

"(B) If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of subsection (a) has occurred, the Secretary shall order the person who committed such violation to (i) take affirmative action to abate the violation, and (ii) reinstate the complainant to his former position together with the compensation (including back pay), terms, conditions, and privileges of his employment, and the Secretary may order such person to provide compensatory damages to the complainant. If an order is issued under this paragraph, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

"(c)(1) Any person adversely affected or aggrieved by an order issued under subsection (b) may obtain review of the order in the United States court of appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order. Review shall reform to chapter 7 of title 5 of the United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the Secretary's order.

"(2) An order of the Secretary with respect to which review could have been obtained under paragraph (1) shall not be subject to judicial review in any criminal or other civil proceeding.

"(d) Whenever a person has failed to comply with an order issued under subsection (b)(2), the Secretary may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief, compensatory, and exemplary damages.

"(e)(1) Any person on whose behalf an order was issued under paragraph (2) of subsection (b) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

"(2) The court, in issuing any final order under this subsection, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award is appropriate.

"(f) Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28 of the United States Code.

"(g) Subsection (a) shall not apply with respect to any employee who, acting without direction from his employer (or the employer's agent), deliberately causes a violation of any requirement of this Act or of the Atomic Energy Act of 1954, as amended.".

SEC. 8. The Commission shall report to the Congress on January 1, 1979, and annually thereafter on the use of contractors, consultants, and the National Laboratories by the Commission. Such report shall include, for each contract issued, in progress or completed during fiscal year 1978, information on the bidding procedure, nature of the work, amount and duration of the contract, progress of work, relation to previous contracts, and the relation between the amount of the contract and the amount actually spent.

COOPERATIVE RESEARCH FUNDING

SEC. 9. Moneys received by the Commission for the cooperative nuclear research programs may be retained and used for salaries and expenses associated with those programs, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and shall remain available until expended. Funds may be obligated for purposes stated in this section only to the extent provided in appropriation Acts.

TRANSFER OF FUNDS

SEC. 10. Transfers of sums from salaries and expenses may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriations to which transferred.

APPROPRIATIONS

SEC. 11. Notwithstanding any other provision of this Act, no authority to make payments under this Act shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

The PRESIDING OFFICER. Time for debate on this bill is limited to 1 hour, to be equally divided and controlled by the Senator from Colorado (Mr. HART) and the Senator from Vermont (Mr. STAFFORD), with 30 minutes on any amendment, except for one to be offered by the Senator from Colorado (Mr. HART) or the Senator from New Mexico (Mr. DOMENICI), on which there will be 1 hour and 15 minutes on any debatable motion, appeal, or point of order.

Mr. HART. Mr. President, I ask unanimous consent that Larry Roth, Phil Cummings, Carole Hackes, Haven Whiteside, and Kevin Cornell, of the committee staff, be granted privileges of the floor during the consideration of the pending measure, and a similar request for Peter Rosenburg.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, I ask unanimous consent that Karyn Mandan of Senator CRANSTON's staff may have the privilege of the floor during consideration of the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, as chairman of the Subcommittee on Nuclear Regulation of the Committee on Environment and Public Works, I am pleased to present for Senate consideration, S. 2584, as amended, authorizing appropriations for the Nuclear Regulatory Commission for fiscal year 1979.

Mr. President, this is the second NRC authorization bill to have been reported out of the Committee on Environment and Public Works. The committee assumed jurisdiction over nuclear regulatory issues 2 years ago, at the beginning of the 95th Congress. During these past 2 years, this committee has been able to examine in increasing detail the activities carried out by the Nuclear Regulatory Commission. The NRC authorization bill for fiscal year 1979 represents our efforts to fully carry out our oversight responsibilities over the Commission.

The Nuclear Regulatory Commission sent to Congress a proposed budget of $330.7 million for fiscal year 1979. After close examination of this proposal, the committee has recommended a total budget authority for fiscal year 1979 of $336.4 million. This is an increase of $5.7 million over the Agency's request, and an increase of $38.7 million over the NRC authorization level for fiscal year 1978.

Mr. President, the authorization bill identifies a number of areas which will require concerted effort on the part of NRC, as well as continued congressional oversight during the coming year. Such areas include nuclear waste management, low-level radiation standards, and advanced reactor and alternate fuel cycle research. While the committee recommended increased funds and personnel allotments to certain of these areas, we were particularly concerned that the NRC efforts represented an efficient, cost-effective, and fiscally responsible effort on the part of the Agency. Therefore, for certain new program initiatives, no additional funds have been authorized in the bill. In these areas, reprograming and reallocation of funds and personnel will be required. The committee has identified $14 million of new program initiatives. However, since the bill provides for a recommended budget increase of only $5.7 million, the Commission will be required to reallocate the remaining $8.1 million from existing programs. Locating these funds for reallocation will not be an easy task for the Agency. Nevertheless, the committee's budget analysis suggests that it can and should be done.

The authorization level recommended in this bill is $605,000 less than the committee's original recommendation in the budget report of March 1978. We are pleased to report to the Senate that we believe the NRC can carry out its statutory responsibilities to protect the health and safety of the public in the area of nuclear technology at less cost than the committee estimated earlier this year. I hasten to add, Mr. President, that the committee will continue its efforts in the coming fiscal year to insure that the Agency carries out its mission without unnecessarily increasing the cost to the American public.

Mr. President, over the past several years, the need for decreased dependence on foreign oil supplies has been made clear. As an alternative, light water nuclear reactors are one technology capable of meeting our expanding electrical power needs. There are 70 operating commercial nuclear reactors providing almost 13 percent of our electrical needs. An additional 133 reactors are in various stages of licensing and construction. These reactors could significantly increase our electrical power generation capacity in the years ahead.

In spite of these facts, however, nuclear power does not appear to be the single solution to future energy needs that it did just a decade ago. Between 1972 and 1974, utilities placed orders for over 100 new nuclear plants. Two years later, that trend was dramatically reversed. In 1976, orders for new plants dropped to three. In 1977, there were only four new orders. And, so far this year, no new plants have been ordered.

There are undoubtedly many reasons for this decline in the fortunes of the nuclear industry. The reduced load growth in electrical consumption since 1974 has certainly been one major factor. More important, however, is the fact that a significant sector of the public has serious questions about the health, safety and, environmental implications of the nuclear option. This lack of confidence and questioning coupled with uncertainties in the reactor licensing process, has prompted utility executives to question the high capital costs of nuclear powerplants. The Nuclear Regulatory Commission is the primary Federal agency charged with regulating civilian nuclear activities to insure the protection of the public health and safety, national security, and the quality of the environment. In this regard, the Agency must be committed to addressing and solving many of the serious underlying problems which have plagued the industry during its 20-year history and which continue to threaten the future existence of nuclear power as a viable energy alternative. Nuclear power may offer a real potential for solving some of our energy dilemma. The realization of that potential, however, depends on aggressive action by the NRC to resolve outstanding safety issues, and minimize risks due to environmental and human exposure to ionizing radiation. These problems, among others, have the potential for crippling, if not paralyzing, further nuclear development in this country.

Mr. President, proponents have long claimed that nuclear power would be a clean, safe, and inexpensive energy source of the future. But, can we test those claims when, after two decades, there are still no facilities available for disposing of nuclear reactor waste? Furthermore, while nuclear power may be cleaner than other energy sources from the perspective of effluent pollution, the uranium mill tailings generated at the front end of the fuel cycle are creating a serious health hazard which will persist indefinitely in the environment.

What about the safety of nuclear powerplants? The Nuclear Regulatory Commission has identified 133 generic safety issues which require resolution. Of these, 41 have been judged by the NRC staff to warrant priority attention, because their resolution could provide a significantly beneficial increase in assurance of the health and safety of the public. Yet despite these numerous outstanding safety issues which have yet to be resolved, 70 plants are currently operating and more are licensed to operate each year. This fact points to the high-priority need for safety research.

Consider, too, Mr. President, the costs of nuclear power. How can we possibly make an accurate comparison between the costs of various energy alternatives when no one has fully analyzed the costs of the complete nuclear fuel cycle, from uranium mills to waste disposal and final decommissioning of obsolete facilities? Other factors also tend to cloud the economic picture: Over the past years, the Federal Government has provided uranium fuel enrichment services at less than commercial rates; the Price-Anderson Act continues to limit reactor accident liability and subsidize that element of the industry; and utilities around the country are requesting rate increases, not decreases, when new nuclear powerplants go on the line.

On the other side of that same question, there are varying estimates of the added cost created by unnecessarily lengthy regulatory procedures that escalate the total cost of construction of nuclear powerplants. Furthermore, nuclear power will encounter steep competition from coal, from refined solar energy technology, and other renewable resources, as well as improved applications of fossil fuels.

Mr. President, as I have said before, it appears that nuclear power is on a downhill path which can only be reversed by the best efforts of the industry and the Nuclear Regulatory Commission to resolve those problems which to date have impeded the successful development of nuclear energy. This NRC fiscal year 1979 authorization bill will focus the Commission's efforts on those areas which are most critical to the future of nuclear power.

Mr. President, perhaps the most serious roadblock to future nuclear power development is our inadequate Federal program for radioactive waste disposal. The Council on Environmental Quality has even suggested that production of commercial nuclear waste should cease at a specified future date if no waste disposal facility is then available. Furthermore, individual States are becoming reluctant to allow continued development of nuclear power, absent approved adequate waste disposal methods.

S. 2584 falls short of such stern medicine. Nevertheless, in order to insure expeditious action on the nuclear waste problem, the committee has required the Commission to increase resources for nuclear waste management by 55 percent. Although NRC is not the lead Agency responsible for disposing of nuclear wastes, the Commission does have regulatory responsibility over waste disposal activities carried out both by private industry and by the Department of Energy. NRC must license any commercial waste disposal or storage facility, as well as license the reactors that produce these wastes.

In February 1978, DOE released the report of its task force on nuclear waste management, which concluded that if current waste disposal initiatives and plans were to continue at the fastest possible pace, a permanent waste disposal facility would not be operating until 1988. It is expected that the additional resources which this bill adds to NRC's waste disposal efforts will allow the Agency to keep pace with that program and play its proper role in developing an optimum waste storage strategy.

These additional waste management funds will enable NRC to make necessary

preparations for evaluating future waste facilities and assuring the protection of public health and safety. There are genuine public concerns about nuclear waste disposal which we cannot afford to underestimate. It will be politically unfeasible to construct a waste repository in any State without full public confidence in the safety of the facility. Thus, NRC's nuclear waste effort must be given the highest priority and the technical work must be of the highest quality.

The bill also includes authorization of $500,000 to aid States that are being considered for nuclear waste disposal facilities. The impacted States must be notified early in the planning process about any proposed facility; these funds will then become available to assist them in the preparation of an independent State review of such a proposal.

Another subject of great public concern is the health hazards of exposure to low levels of radiation. Recent reports linking radiation exposure to serious health problems have heightened public awareness of this problem. Studies of military personnel exposed to nuclear radiation in the "Smoky" test in Nevada have linked exposure to increased risk and incidence of cancer. Similar studies of workers at the Hanford, Wash., nuclear facility and the Portsmouth, N.H., Naval Shipyard have also sparked considerable controversy.

In order to examine the facts of this serious issue more thoroughly, Senator DOMENICI and I, in February of this year, jointly sponsored a full day seminar on this topic. After considerable debate and discussion among the experts participating in the seminar, a general consensus was developed on several points: First, there is little doubt that current Federal standards are adequate to protect against acute adverse health effects. It is not clear, however, whether radiation exposure limits are sufficiently stringent to protect workers and general public from long-term chronic effects. Second, there is only minimal coordination among Federal agencies and there are serious deficiencies in Federal programs designed for the study and regulation of sources of ionizing radiation. Thus, even though there is a widely recognized need for additional research, Federal efforts to deal with the issue are inadequate.

NRC and EPA, as regulators of the nuclear power cycle, would be primary users of radiation research. Therefore, S. 2584 requires these agencies to jointly lead a preliminary planning study which will result in the design of a comprehensive Federal epidemiological study of the effects of low-level ionizing radiation. This effort will culminate in a report to Congress by April 1, 1979.

Prior to committee action, I requested comments from NRC about the desirability and feasibility of conducting such study. In its response, the Commission stated that—

> . . . the feasibility of a more general epidemiological study designed to better define the relationship between cancer and radiation exposure for occupationally exposed people appears promising. NRC further concluded that—

> There seems to be a growing consensus that some form of major epidemiological study of the cancer producing effects of low-level radiation exposure should be performed. It may or may not be possible to get definitive results from such a study, but the Commission agrees that the performance of such a study should be seriously considered and explored in detail.

Neither the NRC nor EPA has yet undertaken such a study, although each agency has the responsibility for setting standards based on the results of health effects research in this area.

During the NRC fiscal year 1979 authorization hearings, testimony was heard from the Commission and the National Academy of Sciences (NAS) concerning the scope of the low-level radiation issue, and the relative roles of Congress and the Federal Government in solving the problem.

It is not yet clear which agencies and organizations should be involved in carrying out the research itself. However, it is clear that such a major research effort must be preceded by a comprehensive planning study which will develop a design for the research, and identify appropriate roles of participants, especially NRC and EPA, who will be primary users of the research results. Therefore, the committee included this provision in the bill to initiate the first part of a two-step process. The preliminary planning effort should address both management and scientific aspects of the study, and is to be prepared in consultation with appropriate Federal agencies and organizations with responsibilities and capabilities in this area. The preliminary planning effort should also identify the degree to which the planned epidemiological study is likely to provide definitive information on the relationship, if any, of low-level radiation exposure to serious health effects.

Since the committee acted, the House Committee on Interstate and Foreign Commerce has reported the Biomedical Research and Research Training Amendments of 1978 (H.R. 12347). Section 502(b)(2) of that bill calls for the Secretary of the Department of Health, Education, and Welfare to establish a comprehensive program of research into the biological effects of low-level ionizing radiation. The House Committee on Interstate and Foreign Commerce made the following comments in their report on the fiscal year 1979 Nuclear Regulatory Commission authorization bill:

> The Committee recognizes the importance of proceeding with studies of the health effects of low-level radiation and believes the provisions of title V of H.R. 12347 should effectively address this important issue. However, the Committee recognizes the interests of the Nuclear Regulatory Commission, the Department of Energy and the Environmental Protection Agency in low-level radiation, and expects that the Secretary of Health, Education and Welfare will afford these agencies the opportunity to fully participate in the study mandated in title V of H.R. 12347.

Mr. President, I endorse those views. There is an important role to be played by HEW in any solution to this serious public health concern. In fact, on May 9, the administration asked HEW to instigate and coordinate an interagency inquiry into Federal radiation research together with the Departments of Defense and Energy, and with the Veterans' Administration. Since then, both the Environmental Protection Agency and the Nuclear Regulatory Commission have been added to the list of cooperating agencies.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point the White House memorandum of May 9 entitled "Radiation Exposure Inquiry."

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

Memorandum for the Secretary of Defense; the Secretary of Health, Education, and Welfare; the Secretary of Energy; and the Administrator of Veterans' Affairs.

From Stuart Eizenstat and Zbigniew Brzezinski.

Subject Radiation Exposure Inquiry.

The President has approved the development of a coordinated response to the growing agency and Congressional concern about the effects of radiation exposure on participants in nuclear tests and workers in nuclear-related projects.

The Secretary of Health, Education, and Welfare should coordinate the formulation of a program including the following:

1. A study or series of studies which would determine the effects of radiation exposure on participants in nuclear tests, including members of the armed forces and civilian personnel, workers at nuclear facilities and projects, and other persons as indicated.

2. A public information program to inform persons who might have been affected and the general public about the steps being taken and the conduct of the studies.

3. A plan for ensuring that persons adversely affected by radiation exposure receive the care and benefits to which they may be or should be entitled.

4. Recommendations on steps which can be taken to reduce the incidence of adverse radiation exposure of this type in the future.

We are aware that the Department of Defense has initiated a study and that the Center for Disease Control has undertaken at least two investigations. Our intent is that these efforts become a coordinated Administration approach to the problem. A proposed plan of action should be prepared for review by June 1, 1978.

The staff of the National Security Council, the Domestic Policy Staff and the Office of Science and Technology Policy within the Executive Office are available to assist the interagency group.

Mr. HART. Mr. President, this Federal initiative has a broader scope than the study outlined in the Senate NRC authorization bill since it covers the whole area of X-rays and other medical exposures which are regulated by the Bureau of Radiological Health. And, unlike the provision in the NRC bill, the administration focus is on the research, rather than the regulatory aspects of the problem. These efforts should prove to be complementary rather than duplicative. Therefore, Mr. President, it is the intent of this section that NRC/EPA preliminary planning study is to be done in close cooperation with HEW, although NRC and EPA will still be the lead agencies.

It would be in keeping with this provision if the President, at the conclusion of the HEW interagency study, were to initiate an independent, outside review of all present and past Federal ionizing radiation research programs. Such a review would provide an assessment of great value to NRC and EPA in the conduct of the planning study authorized in this bill.

In summary, Mr. President, this bill will complement the administration study by providing a way to tie research needs and results into the regulatory framework. It is expected that NRC and EPA will work with HEW to achieve this goal, and in particular, will fully utilize the information generated by the HEW effort. We hope that within a year these efforts will lead to a new more unified, more adequate, and more credible approach to the study of low-level radiation.

S. 2584 also sets new directions for NRC's regulatory research program. In the past, NRC has only conducted research that could be considered confirmatory in scope. However, section 205(f) of the energy reorganization plan of 1974 requires NRC to develop a plan for development of new or improved safety systems for nuclear powerplants. NRC has a positive responsibility to take initiative in this area and to explore fully the opportunities for significant improvements in reactor safety; $2.5 million is provided for improved safety systems research to expedite resolution of the safety issues I mentioned earlier.

Another important aspect of NRC's research program is related to advanced reactors. The present generation of light water reactors may be superceded at some future date by advanced reactor designs which can extend the supply of nuclear fuel. Funds are provided in S. 2584 which will allow the Commission to participate fully in the evaluation of this advanced reactor technology.

The bill also provides for an international effort to examine and evaluate alternate fuel cycles. NRC must keep abreast of these developments both here and abroad. The choice of technology will have great significance internationally, because of differences in nuclear proliferation potential. Therefore, it is important for the United States to have the technical expertise with which to contribute to the international fuel cycle evaluation effort. This bill contains additional funding for the Nuclear Regulatory Commission to conduct research and evaluations of alternate fuel cycles. NRC's contribution will be particularly useful in the formulation of future nuclear energy policy.

The authorization in this bill represents an essential part of this Nation's effort to develop and maintain a safe, clean energy source. I recommend that my colleagues support enactment of this authorization bill. Mr. President, I ask unanimous consent that a summary of the bill prepared by the staff and a summary table of obligations by program be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF NUCLEAR REGULATION COMMISSION—FISCAL YEAR 1979 AUTHORIZATION

Nuclear Reactor Regulation (Section 1(a)(1))—The bill includes an authorization of $46,880,000 which is $870,000 above the budget request. Of the total, $1,070,000 (including 9 staff-years) is for alternate fuel cycle activities above and beyond the fiscal year 1978 level, and $740,000 (including 8 staff-years) above the fiscal year 1979 budgeted level of $1,240,000 is for the additional advanced reactor activities discussed below. To cover them fully, an additional $940,000 is to be reallocated within the program.

Standards Development (Section 1(a)(2))—The bill includes an authorization of $14,945,000 which is $465,000 above the budget request. Of the total, $500,000 above the fiscal year 1979 budgeted level of $150,000 is for the additional low-level radiation effects activities discussed below. To cover that fully, an additional $35,000 is to be reallocated within the program.

Inspection and Enforcement (Section 1(a)(3))—The bill includes an authorization of $38,760,000, as requested by the Administration, an increase of $3,000,000 over Fiscal Year 1978. These funds will be used for Agency activities to assure thorough field inspection and investigation, that nuclear reactors, fuel cycle facilities and materials are used in a safe manner and in full compliance with NRC licenses, rules and regulations. The primary cause of the funding increase over Fiscal Year 1978 is the implementation of a new resident inspector program, which will locate NRC inspectors full-time at selected nuclear sites, as a means of enabling increased oversight of licensee performance.

Nuclear Materials Safety and Safeguards (Section 1(a)(4))—The bill includes an authorization of $27,240,000 which is $1,140,000 above the budget request. Of the total, $1,300,000 (including 10 staff-years) above the FY 1979 budgeted level of $6,827,000 is for the additional Nuclear Waste activities, and $540,000 (including 8 person-years) above and beyond the FY 1978 level is for the additional Alternate Fuel Cycle activities discussed below. To cover them fully, an additional $1,200,000 is to be reallocated within the program. These funds will cover the Agency's efforts in licensing and regulating all commercial nuclear materials and facilities, except reactors, including safeguarding of materials from sabotagee, theft or diversion. New initiatives for FY 1979 are in the areas of nuclear waste including review at proposed waste facilities, and alternate fuel cycle activities.

Nuclear Regulatory Research (Section 1(a)(5))—The bill includes an authorization of $166,640,000 which is $3,170,000 above the budget request. Of the total, $2,500,000 is for the improved safety systems research activities, $3,150,000 (including 5 staff-years) above the fiscal year 1979 budgeted level of $1,296,000 is for the additional nuclear waste research activities, $330,000 (including 1-staff year) above and beyond the fiscal year 1978 level is for the additional alternate fuel cycle activities; and $3,000,000 above the fiscal year 1979 budgeted level of $15,833,000 is for additional advanced reactor research activities discussed below. To cover them fully an additional $5,810,000 is to be reallocated within the program.

Program Technical Support (Section 1(a)(6))—The bill includes an authorization of $13,480,000 which is $80,000 above the budget request. Of the total, $160,000 (including 2 staff-years) above and beyond the fiscal year 1978 level is for the Office of International Programs' additional alternate fuel cycle activities discussed below. To cover them fully an additional $80,000 is to be reallocated within the program.

Program Direction and Administration (Section 1(a)(7))—The bill includes an authorization of $27,950,000—equal to the budget request. Of the total, $75,000 (including 1 staff-year) above the fiscal year 1979 budgeted level of $150,000 is for the equal employment opportunity activities discussed below. To cover them fully, $75,000 is to be reallocated within program direction and administration.

Two-Year Authorization—The Committee dropped the 2-year authorization from the Administration bill and included authorizations only for fiscal year 1979.

Reprograming Authority (Section 1(b))—The bill continues present practice of allowing reprograming between major program offices, up to 15 percent of the sending or receiving office budget and up to a $10 million aggregate limit. Thirty day notice must be given to the authorizing committees of Congress.

Reprograming within major programs is permitted, and will be required to carry out the increased effort in specific activities required by the bill. Reprograming, or lack thereof is not to be used to detract from those specific activities.

Nuclear Waste Disposal (Section 1(a)(4), (5))—The bill provides a significant (55 percent) increase in the resources for the waste management program. The bill adds $4.45 million, including 15 people, to increase NRC's efforts to help solve the critical problems of waste disposal and management as soon as possible.

Advanced Reactor Research and Licensing (Section 1(a)(1) and (5))—The Committee recommends an increase of $3 million in the authorization for the Commission's advanced reactor safety research program to be used for two purposes: (1) safety research work on advanced reactor types which are not in NRC's current program and which have the potential for near-term and mid-term commercial availability in the United States and (2) additional safety research work on specific advanced reactor types, in the event NRC receives firm indications that a lead plant design will be submitted for NRC review in fiscal year 1979. The Committee also recommends an increase of $740,000, including funding for eight additional positions, in the authorization for the advanced reactor program in the Office of Nuclear Reactor Regulation. This increased authorization would allow for preapplication review work on a lead plant design for an advanced reactor in the event NRC receives firm indications that a lead plant design will be submitted for NRC review in fiscal year 1979.

Improved Safety Systems Research (Section 1(a)(5))—The bill authorizes $2.5 million to implement a new program of research into improved safety systems for nuclear power plants. Previously, NRC has conducted only confirmatory research. This provision will allow them to take the initiative on some research projects which appear likely to lead to significant risk reductions, as identified in NRC's report to Congress of April 12, 1978.

Executive Director (Section 2(a))—The bill requires the Directors of Program Offices, if they communicate directly with the Commission, to keep the Executive Director for Operations fully and currently informed of the content of such communications.

Equal Employment Opportunity (Section 1(A)(7) and (2)(b))—The bill requires the Executive Director for Operations to report at the Commission review the problems, progress, and status of the NRC's equal employment opportunity efforts.

The bill also authorizes $225,000 for equal employment opportunity activities.

Low-Level Radiation (Section 1(a)(2) and Section 3)—The bill requires that the NRC and EPA develop, with joint lead responsibilities, a preliminary planning study which will result in the design of a comprehensive Federal epidemiological study of the effects of low-level ionising radiation. The planning study will be carried out in consultation with appropriate Federal and State agencies, and

scientific organization. This study will culminate in a report to Congress by April 1, 1979. NRC and EPA are further required to submit to Congress, within 30 days of enactment of the legislation, a memorandum of understanding delineating the respective responsibilities and funds allocated for each agency in this effort.

Atomic Safety and Licensing Board (Section 4)—The bill requires the NRC to undertake a comprehensive review of the Agency's procedures for selection and training of Atomic Safety and Licensing Board (ASLB) members. The study, which will include but not be limited to an examination of selection criteria, including qualifications, the selection procedures and the training programs for Board members, shall be presented to Congress by January 1, 1979.

Based on the findings of the study, the Commission is directed to revise the selection and training process, where appropriate.

Alternate Fuel Cycles (Sections 1 and 5)—The bill establishes an internal NRC Fuel Cycle Evaluation Task Force, reporting to the Executive Director for Operations. NRC must report to Congress semi-annually on the progress of domestic and international fuel cycle evaluations, including the health, safety and safeguards implications of the leading nuclear fuel cycle technologies. An additional $2.1 million, above the fiscal year 1978 level of activity of $0.2 million is allocated for this purpose. Approximately 20 staff-years, above the fiscal year 1978 level of activity of 5 staff-years, will also be required.

Aid to Impacted States in Nuclear Waste Licensing (Section 6)—The bill includes an authorization of $500,000, to remain available until expended, for the purpose of providing grants to any State in which a long-term storage or disposal facility for certain specified radioactive wastes is proposed. Such individual grants, in amounts up to $500,000 and in accordance with regulations promulgated by NRC, would be provided to facilitate independent review by the State of a proposal to develop a waste disposal facility within its borders.

Employee Protection (Section 7)—The bill includes a provision to protect employees of NRC licenses, applicants, or subcontractors thereof from discrimination as a result of "whistleblowing" activities.

Contractors and Consultants (Section 8)—The bill requires the NRC to report to Congress on January 1, 1979, and annually thereafter on its use of contractors, consultants and the National Laboratories. The report shall be comprehensive, including information on bidding procedure, nature of the work, duration of the contract, progress of work, relation to previous contracts, and the amounts both authorized and spent, for each contract.

FROM SENATE REPORT 95-848, ACCOMPANYING S. 2584, AS AMENDED—SUMMARY OF OBLIGATIONS BY PROGRAM

[In thousands]

	Actual, fiscal year 1977	Estimate, fiscal year 1978 [1]	Administration request, fiscal year 1979	Committee recommendation, fiscal year 1979	Change
Obligations by activity:					
Direct program:					
Nuclear reactor regulation	$42,140	$42,960	$46,010	$46,880	$870
Standards development	12,136	13,835	14,480	14,945	465
Inspection and enforcement	27,894	35,775	38,760	38,760	
Nuclear material safety and safeguards	21,122	24,897	26,600	[2] 27,240	640
Nuclear regulatory research	119,432	340,029	163,470	168,640	3,170
Program technical support	10,248	11,355	13,400	13,480	80
Program direction and administration	20,987	25,737	27,950	27,950	
Aid to impacted States				500	500
Total obligations, direct program	253,959	294,588	330,670	336,395	5,725
Reimbursable program	196	500	500	500	500
Total obligations	254,155	295,088	331,170	336,895	5,725
Unobligated balance, start of year	−7,620	−2,465			
Unobligated balance, end of year	2,465				
Orders received from other Federal agencies	−220	−500	−500	−500	
Budget authority	248,780	292,123	330,670	336,395	5,725

[1] Includes $5,350,000 for the proposed fiscal year 1978 pay raise supplemental and $5,350,000 for a proposed fiscal year 1978 supplemental to establish the resident inspector program ($2,650,000 and acceleration of the NRC waste management and uranium fuel cycle licensing programs ($2,700,000).

[2] It should be noted for the record that there is a misprint in the committee report: The committee's recommended authorization of nuclear material safety and safeguards activities for fiscal year 1979 should read $27,240,000. The incorrect figure of $27,740,000 appears in the table on page 7 of the committee report.

Mr. HART. Mr. President, I yield the floor to the Senator from Idaho, the distinguished ranking minority member of our subcommittee, who worked very closely with me on the preparation of this legislation over the past year and who has given a great deal of diligent attention to the matters before the Nuclear Regulatory Commission.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. I thank the Senator from Colorado.

I wish to express my appreciation to him, not only for yielding the floor to me at this time, but also for the constructive cooperation that we have enjoyed in trying to bring this to the floor.

It has been that kind of an effort, which I know I appreciate and I am certain that others also appreciate, in bringing a matter of this complexity and this seriousness to the attention of the Senate in a way that will help resolve some of the issues that plague the atomic industry and the movement forward.

Mr. President, I ask unanimous consent that James Asselstine of the Public Works Committee and Chuck Trabandt of the Energy Committee be granted privilege of the floor during consideration of this legislation.

The PRESIDING OFFICER (Mr. NUNN). Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I rise in support of S. 2584, the Nuclear Regulatory Commission authorization bill for fiscal year 1979. The bill, as reported by the Environment and Public Works Committee, authorizes a total of $336,395,000 for the Commission's activities for fiscal year 1979. This represents an increase of $5,725,000 over the Agency's request.

The Nuclear Regulation Subcommittee received detailed testimony this year on the Commission's programs and its budget request from both Agency representatives and outside witnesses. As a result of these hearings, the committee identified certain programs requiring an increased level of effort by the Agency as well as certain new initiatives which it believes should be undertaken by the Commission. These new initiatives and areas of greater effort include nuclear waste disposal, advanced reactor research and licensing, improved safety systems research, research on the effects of low level radiation, and alternate fuel cycles.

The Commission has the responsibility to protect the public health and safety by licensing and regulating certain nuclear waste disposal facilities. Since delay in NRC's regulatory program could seriously impair the nuclear waste program, the committee believes NRC's current efforts should be increased to insure that regulation and licensing procedures have been properly established by the time they are needed by those Federal agencies and private companies which will design and construct facilities for long-term disposal of nuclear wastes. In one area—the disposal of low-level radioactive wastes from commercial activities—testimony before the committee has indicated a growing shortage of available capacity at existing sites. Accordingly, the committee has recommended additional funding to accelerate the siting and licensing of new low-level waste burial grounds, to address other activities identified by NRC as needing accelerated effort, and to carry out new activities which may be required as a result of future changes in the national nuclear waste management program.

In the area of advanced reactor research and licensing, the committee has recommended increased funding for additional safety research and preapplication review work for specific advanced reactor types in the event NRC receives firm indications that a lead plant design will be submitted for NRC review in fiscal year 1979. Both NRC and the committee have been advised that a utility group intends to submit such a lead plant design in September 1979 for a high-temperature, gas-cooled reactor (HTGR), and NRC has identified the confirmatory research and preapplication review work which would enable NRC to act on the request for a design review. The increased funding recommended by the committee could also be used for safety research work on advanced reactor types which are not in NRC's current program and which have the potential for near-term and mid-term commercial availability in the United States.

In the area of reactor safety research, the committee has recommended that the Commission commence research work on new or improved safety systems for nuclear powerplants. The Commission, in response to last year's authorization act, has identified five research projects which appear likely to lead to even further improvements in nuclear plant safety systems.

Regarding low-level radiation effects, the committee has called for a planning study by NRC and the Environmental Protection Agency on the effects of low-level ionizing radiations. Among other things, this planning study will evaluate the likely contribution of a further comprehensive epidemiological study to determine whether there exists any relationship between low-level radiation exposure and adverse health effects.

I might just add, Mr. President, at this point, that this is a matter of conjecture and concern for many people and that study certainly needs to be conducted so that we know what it is we are dealing with in that area.

In the area of alternate fuel cycles, the committee has recommended an increased effort and the establishment of a task force within NRC to permit the agency to participate, consistent with the Commission's other regulatory responsibilities, in certain ongoing fuel cycle reviews.

Apart from these new initiatives and areas of increased effort, the committee has recommended certain changes in the Agency's operations to strengthen the role of the Executive Director for Operations, to enhance the effectiveness of the Agency's Atomic Safety and Licensing Boards, and to improve the effectiveness of the Commission's equal employment opportunity efforts. Finally, the committee has recommended a provision to protect any worker who is discriminated against by his employer for providing assistance to NRC in the discharge of its regulatory responsibilities.

Mr. President, I believe that the committee's recommendations are useful improvements and I urge their adoption. One point, however, deserves emphasis. The activities assigned to the Agency by the bill should not detract from the Commission's exercise of its existing responsibilities. I believe that the committee and the Senate would endorse the principle that NRC should discharge its important responsibilities to protect the public health and safety, the common defense and security, and the environment in the licensing and regulation of nuclear activities in an efficient and effective manner. The Commission should keep this principle in mind in undertaking the additional responsibilities recommended by the committee.

Mr. President, I want to underscore what I said at the outset of my appreciation for the help, assistance, and cooperation of the Senator from Colorado; also, the effective cooperation and work of both the majority staff and minority staff on this very complex but very important piece of legislation.

I remind the Members that there is one basic reason for a great deal of the expanded research, and that is in the area of uncertainty about what will be done in the nuclear industry and nuclear programs both by the Government and by nongovernmental entities.

There is one area in which we cannot afford to lag, and that is in the NRC activities, both with respect to safety and regulation. In addition to existing work going on, we must have NRC involvement ahead of decisions that might be made in some of the alternative areas that have been indicated as possibilities in the broad spectrum of nuclear energy developments in this country.

I reaffirm what I have said, that I think it is also important for the United States to be involved in safety, analysis, design, and improvement of technology with respect to those technologies which we may not undertake but which are being undertaken by other countries around the world, so that we can maintain the technological lead and the ability to contribute to the safety of mankind with respect to nuclear activities in other countries, even if they be activities in which we will not indulge in this country.

So NRC has that responsibility for our ongoing activities here. They can make a contribution through the technological advancement of those activities which may be undertaken elsewhere.

Mr. President, I ask unanimous consent that Dan Dreyfuss, Will Smith, Lee Wallace, and Mike Harvey, of the Energy Committee staff, have the privilege of the floor at all stages of the proceedings on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. I thank the Senator for yielding, and I reserve the remainder of my time.

Mr. HART. Mr. President I yield to the distinguished Senator from West Virginia, the chairman of the Committee on Environment and Public Works.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I appreciate the consideration of the chairman of our Subcommitte on Nuclear Regulation (Mr. HART), who has just completed his opening statement on this important legislation.

He has assumed a position of leadership on this subject within our committee. I am also gratified by the involvement of the Senator from Idaho (Mr. McCLURE), the ranking minority member of the subcommittee. The Senator from Vermont (Mr. STAFFORD) has again helped us to develop realistic legislation in his role as ranking minority member of the full committee.

Mr. President, as we begin consideration of S. 2584, the proposed Nuclear Regulatory Commission Authorization Act for fiscal 1979, I think it appropriate to briefly review certain unresolved issues concerning the development of nuclear power. I take this opportunity because these issues are of vital concern to every citizen. Their resolution, therefore, must be an important Federal priority.

Our country is in the midst of intense debate on the extent of the use of nuclear energy in the future. Some call for ample availability of nuclear power to give the Nation flexibility in making energy choices. Those opposing nuclear energy continue to claim that further development of this alternative is extremely dangerous.

Even if the risks of nuclear energy are much smaller than its critics allege, they still are not negligible and, indeed, would be sufficient grounds for rejection of this option if there is a workable alternative technology with fewer problems. We should fully explore the potential of coal, enhanced oil and gas recovery, solar, wood, wind, geothermal, and tidal power. Then, if the determination is made that additional energy is still needed, perhaps a program for expanded nuclear power could be considered. We must not, however, advocate extreme dependence on nuclear power without exploring a more sensible middle ground.

The Committee on Environment and Public Works, which I chair, has jurisdiction over the administration's proposed nuclear siting and licensing bill (S. 2775), designed to speed the licensing of nuclear powerplants through such mechanisms as early site approval, standard facility designs, and combined construction and operating permits. Testimony presented to the committee leaves reasonable doubt in my mind as to whether this plan will work as intended. However, passage of an effective nuclear licensing bill of that type would facilitate the use of nuclear power. In fact it would accelerate the deployment of additional nuclear powerplants.

I feel such a result would be premature and unwise. The health and safety of our Nation's citizens must be the Environment and Public Works Committee's most important consideration in determining if we should accelerate nuclear power development. But, despite continuous planning efforts and studies by several Federal agencies I have seen no indication of a proven technology or definitive long-term plan for the disposal of radioactive wastes. Although waste disposal is the last step in the nuclear fuel cycle, it is the primary nuclear issue facing us today.

The waste byproducts of nuclear plants are radioactive and deadly. Each of the 70 nuclear plants licensed for operation produces an average 30 tons of radioactive waste per year. Additionally 88 plants have received construction permits and are in different stages of completion. This means that soon the country will have to deal with 5,000 tons of nuclear waste per year. Some of it, the fission products, becomes harmless in a hundred years or so, but it also contains about 2½ tons of plutonium and other elements which must be isolated for at least 250,000 years.

If nuclear power does become essential to our energy independence we must be able to contain the toxic wastes as we contain those from other human activities. But, at present, no permanent disposal facilities for reactor wastes exist.

The spent fuel is stored under water at the reactor site for a few years. Throughout the United States, the temporary storage pools for radioactive wastes located on the site of nuclear powerplants are filled to capacity, or soon will be. Further, there are persistent reports of problems with the tanks which store high level wastes generated by defense-related activities.

The situation is rapidly becoming intolerable. We cannot expect States and communities to permit the continued construction of nuclear powerplants without provision for the safe disposal of the deadly wastes they generate. Gov. Hugh Carey recently announced that he will seek to bar any new nuclear plants in New York State because of the lack of waste disposal facilities. California and Maine have passed laws to that effect, and others are likely to follow suit.

These and similar problems must be addressed as expeditiously as possible. We are now in the 21st year of commercial nuclear power, and there is no solution to the waste disposal problem in sight. Again, we must not talk about speeding up the licensing of nuclear powerplants until we have proved that the wastes can be safely isolated for the long times necessary.

Nuclear advocates often blame environmental intervention and administrative regulation for delays and plant cancellations in the industry. There were delays or cancellations of 67 nuclear plants in fiscal year 1978, but only 14 of these were attributed to licensing and litigation. On the average, delays for these reasons accounted for only about 5 months of the 12 years required to complete a nuclear plant.

A key factor behind the nuclear slump has been rising costs. Construction costs from 1967 to 1974 increased 300 percent. Cost overruns are exorbitant. The cost of uranium has gone up nearly 600 percent since 1970, increasing much faster than long-term coal contracts.

Another factor has been the reduced load growth experienced by the electric utility industry. In the 1950's and 1960's this growth rate averaged 7 percent per year. But since 1973 electric growth has averaged about 3 percent per year. Consequently, utilities have delayed or canceled many new powerplants, especially the capital-intensive nuclear plants.

Ultimately, a decision to continue with nuclear power must rest upon a determination that the technology at every stage of the fuel cycle is safe and reliable. The Environment and Public Works Committee heard from a succession of manufacturers and utilities stating that their 20 years of experience has brought the country to an era of mature, safe, nuclear power.

Yet, since 1957, and as recently as 1975, the nuclear industry has in unison declared that the Price-Anderson provisions of the Atomic Energy Act of 1954 are essential to the continued viability of commercial nuclear power. These provisions limit the liability arising from a single accident at a nuclear powerplant to $560 million. They also empower the Federal Government to compensate the powerplant licensee, and any other party who may be liable for damages arising from the mishap, for up to $500 million. The industry simply cannot have it both ways. If the technology is reliable enough to justify enactment of legislation to accelerate licensing then the industry must be prepared to give up at least some of the massive Federal subsidy enjoyed during its maturation process.

We are not yet locked into a nuclear future. There are other alternatives. The entire free world supply of uranium in the next two decades would produce, under optimal conditions, only one-sixth to one-fifth of our energy needs. Only by utilization of very low grade ores or dangerous plutonium can the promises of limitless nuclear fuel be achieved. By contrast, the supplies of various conventional and alternate energy sources—coal, oil shale, animal wastes, wood, water, the Sun, the wind, and heat from within the Earth—are adequate for times ranging from generations to forever.

So far the administration has not even produced a proposal for action, much less built a facility for radioactive waste disposal. In fact, the major recommendation of a February 1978, study of this matter by the Department of Energy (the Deutch report) was for a further study.

It is essential that the Federal Government take the lead—and do so immediately—in developing a realistic and workable waste disposal program.

Our Subcommittee on Nuclear Regulation has held initial hearings on the nuclear siting and licensing bill. I also know it would be irresponsible for our committee to report such a bill before the waste issue is fully and adequately addressed. It is my intention, therefore, that this bill not be considered by the Committee on Environment and Public Works until a definitive and adequate nuclear waste management plan is available.

So let us remember, as we debate the pending measure, that we speak in this context. S. 2584, together with the committee amendment to be offered, represents an important first step in the formulation of a coherent Federal policy on the management of radioactive wastes through nuclear fission. In particular, the committee amendment would for the first time extend Commission licensing and regulation to cover the radioactive tailings which are a byproduct of the milling of uranium ore.

I support the committee amendment as a worthwhile extension of Nuclear Regulatory Commission authority over the mill tailings disposal aspect of the fuel cycle. I regret, however, that we deal first with the least troublesome radioactive waste problem, one for which in fact adequate regulatory authority already exists under subtitle C of the Solid Waste Disposal Act.

I am concerned that in mandating the Commission to control mill tailings disposal through its permitting powers, we achieve at least the degree of control which would result under subtitle C of the Solid Waste Disposal Act. Uranium mill tailings certainly are a hazardous waste under that subtitle, which I authored, for both their radioactive and nonradioactive characteristics. While it may be preferable to integrate regulation of such wastes with the permitting of other aspects of the fuel cycle such as the ore processing, the environmental protections of subtitle C must not be lost or reduced.

Therefore, I insisted that the committee amendment contain provisions assuring a continued role for the Administrator of the Environmental Protection Agency establishing generally applicable standards for mill tailings disposal, following the provisions of subtitle C, and requiring that the specific management requirements set by the Nuclear Regulatory Commission are at least as stringent as requirements which apply to similar hazardous wastes under the Solid Waste Disposal Act.

The section-by-section analysis which comprises the legislative history for the committee amendment attempts to further define the relative roles of the Nuclear Regulatory Commission and the Administrator of the Environmental Protection Agency in regulating uranium mill tailings disposal. That analysis notes that the generally applicable standards and criteria for which the Administrator is responsible are to prescribe general standards of performance, not specific management requirements and not site specific.

Such general standards of performance may include standards for the placement and location of disposal sites (including demographic or geological criteria or water flow restrictions); requirements that disposal sites be reclaimed so they do not need continuing maintenance or meet minimum maintenance requirements; general requirements that sites be designed and managed to prevent any contact of the tailings by human or animal life and that use of disposal sites be restricted to avoid disturbing integrity of the tailings stabilization; provisions for ground and surface water monitoring; and general performance standards for stabilization of tailings in various circumstances. Limitations on environmental exposure or emissions or other introduction of radioactive or any other constituents of mill tailings in the air or ground or surface waters, are also within the authority of the Administrator under new section 275. In setting generally applicable standards and criteria the Administrator will take into account the degree to which human health and the environment are already adequately protected by Commission requirements established under new section 84, and require whatever else is necessary for the protection of human health and the environment.

All standards and requirements under the committee amendment will be implemented and enforced by the Commission through its permitting process. Consequently, no Environmental Protection Agency permit could be required under these provisions or the Solid Waste Disposal Act. This does not affect, of course, any permits which may be required under the Federal Water Pollution Control Act or other environmental laws. While the Environmental Protection Agency is not directly involved in implementation or enforcement for particular disposal sites, the Agency is expected to conduct active oversight to assure the standards and criteria and the law are being followed. Some means by which this may be done are comments on proposed permits or the required environmental impact statements on proposed permits under section 309 of the Clean Air Act.

Mr. President, while some may characterize this a modest achievement, it serves to underline the principle that every stage of the nuclear fuel cycle—from milling of ore to disposal of wastes—must be proven safe and reliable. Our citizens have a right to expect this. Furthermore, our citizens have a right to expect that we move beyond this first step in formulating policy on waste management if nuclear power is to play a significant role in meeting national energy requirements.

I thank the chairman of the subcommittee and appreciate his yielding to me at this time.

Mr. HART. I thank the Senator from West Virginia (Mr. RANDOLPH) for his continuing interest, concern, and leadership in this area and for his remarks today.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. HART. The time will be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT No. 1837

(Purpose: To strengthen the employee protection provisions contained in section 77. of S. 2584)

Mr. HART. Mr. President, I send to the desk a technical amendment on behalf of the committee and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado (Mr. HART) proposes an unprinted amendment numbered 1837.

Mr. HART. Mr. President, I ask unanimous consent to dispense with further reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 10, line 16, insert the following after "or": "a contractor or"

On page 11, line 17 insert the following after "complaint": "and the Commission"

Mr. HART. Mr. President, the amendment I now offer to section 7 of the Nuclear Regulatory Commission Authorization Act for fiscal year 1979 is designed to strengthen the protection afforded employees by that provision. Section 7 adds a new section 210 to the Energy Reorganization Act of 1974 to protect employees who assist or participate in any proceeding to administer or enforce the requirements of the Energy Reorganization Act or the Atomic Energy Act of 1954. Let me point out that the protection afforded is intended to apply, even if no formal proceeding is actually instituted as a result of the employee's assistance or participation.

The first revision would include contractors of Commission licensees or applicants in the enumeration of employers who are covered by new section 210. In this connection, it is important to note that an employee is protected by section 210 whether his assistance or participation relate to the conduct of his own or some other employer.

The second revision merely provides for notification to the Commission, as well as to the person charged in the complaint, of the filing of the complaint. This information would be most relevant to the Commission.

Finally, while new section 210 of the Energy Reorganization Act of 1978 provides the Department of Labor with new authority to investigate an alleged act of discrimination in this context and to afford a remedy should the allegation prove true, it is not intended to in any way abridge the Commission's current authority to investigate an alleged discrimination and take appropriate action against a licensee-employer, such as a civil penalty, license suspension or license revocation. Further, the pendency of a proceeding before the Department of Labor pursuant to new section 210 need not delay any action by the Commission to carry out the purposes of the Atomic Energy Act of 1954.

Mr. President, I urge adoption of the amendment.

Mr. McCLURE. Mr. President, I concur in the adoption of the amendment. We have no objection to it.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HART. I yield back the remainder of my time.

Mr. McCLURE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Colorado.

The amendment was agreed to.

Mr. HART. Mr. President, I suggest the absence of a quorum with time to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3437

(Purpose: To establish an Office of Nuclear Energy Public Counsel)

Mr. LEAHY. Mr. President, I call up my amendment No. 3437.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont (Mr. LEAHY) proposes an amendment numbered 3437.

Mr. LEAHY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 15, after line 23, insert the following:

SEC. 12. (a) The Atomic Energy Act of 1954 is amended by adding at the end thereof the following new chapter:

"CHAPTER 20. OFFICE OF NUCLEAR ENERGY PUBLIC COUNSEL

SEC. 301. ESTABLISHMENT.—(a) There is established a new independent office affiliated with the Commission to be known as the Office of Nuclear Energy Public Counsel (hereinafter in this chapter referred to as the 'Office').

"(b)(1) DIRECTOR; TERM OF OFFICE.—The Office shall be administered by a Director. The Director shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) The Director shall serve for a term of four years and shall be responsible for the discharge of the functions and duties of the office.

"(3) The Director shall be appointed and compensated without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, classification, and General Schedule pay rates, at a rate not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title.

"(c)(1) POWERS AND DUTIES.—The Director is authorized to appoint, fix the compensation, and assign the duties of employees of the Office and to procure temporary and intermittent services to the same extent as is authorized under section 3109 of title 5. United States Code. Each bureau, office, or other entity of the Commission and each department, agency, and instrumentality of the executive branch of the Federal Government and each independent regulatory agency of the United States is authorized to provide the Office with such information and data as it requests. The Director is authorized to enter into, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), such contracts, leases, cooperative agreements, or other transactions as may be necessary to carry out the functions and duties of the Office. The Director shall submit a monthly report on the activities of the Office to the Chairman of the Commission, and the Commission, in its annual report to the Congress, shall evaluate and make recommendations with respect to the Office and its activities, accomplishments, and shortcomings.

"(2) In addition to any other duties and responsibilities prescribed by law, the Office—

"(A) shall have standing to become a party to any proceeding, formal or informal, which is pending or initiated before the Commission and which involves civilian applications of nuclear energy;

"(B) may petition the Commission for the initiation of proceedings on any matter within the jurisdiction of the Commission which involves civilian applications of nuclear energy;

"(C) may seek judicial review of any Commission action on any matter involving civilian applications of nuclear energy to the extent such review is authorized by law for any person and on the same basis;

"(D) shall solicit, study, evaluate, and present before the Commission, in any pro-

ceeding, formal or informal, the views of those communities and users affected by proceedings initiated by or pending before the Commission, whenever the Director determines, for whatever reason (such as size or location), that such community or user might not otherwise be adequately represented before the Commission in the course of such proceedings; and

"(E) shall evaluate and represent, before the Commission and before other Federal agencies when their policies and activities significantly affect matters subject to the jurisdiction of the Commission, and shall by other means assist the constructive representation of, the public interest in safe, efficient, reliable, and economical use of nuclear energy.

In the performance of its duties under this paragraph, the Office shall assist the Commission in the development of a public interest record in proceedings before the Commission.

"(3) Nothing in this chapter shall be construed to grant to the office any power, duty, or jurisdiction over or related to matters dealing with national security or military applications of nuclear materials.

"SEC. 302. CONCURRENT SUBMISSION OF BUDGET REQUESTS AND ESTIMATES TO PRESIDENT AND CONGRESS.—The budget requests and budget estimates of the Office shall be submitted concurrently to the Congress and to the President.

"SEC. 303. AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office for the purpose of carrying out the provisions of this section not to exceed $500,000 for the fiscal year ending September 30, 1979, and not to exceed $3,000,000 for the fiscal year ending September 30, 1980.".

(b) The amendment made by subsection (a) shall take effect ninety days after the date of enactment of this Act.

Mr. LEAHY. Mr. President, if the RECORD does not show, I ask unanimous consent that Mr. DURKIN be shown as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, the amendment I am offering is an amendment which can be supported by those in favor as well as opposed to nuclear power. The amendment will create an Office of Public Counsel, an independent office within the NRC. The Public Counsel will afford valid, interested parties, both pro- and anti-nuclear, who would be directly affected by an NRC decision, with adequate representation before the Commission.

The basic safety of nuclear power generating facilities and the problem of nuclear waste storage are issues that will be debated for decades. People in the United States and throughout the world are concerned for their well-being in light of the potential threat of a nuclear accident. Our dependence on power from nuclear generated facilities presents difficult questions for pragmatic planners, especially as our need for energy intensifies.

The NRC presently decides issues vital to the people living near reactors, the workers who labor in the plants, and the ratepayers who pay the bills for nuclear generated electricity, issues concerning nuclear safety, plant licensing and siting, nuclear fuel processing, transport, and disposal. The average citizen does not have an impact in those decisions. The groups that are heard, before the NRC and in the media, are the public interest groups with their well-organized lobbying efforts and the large, powerful corporations with their legions of lawyers and technical experts. But these groups do not always represent the best interests of the public at large.

The Public Counsel will have party status and legal standing for every proceeding pending before the Commission. These lawyers for the public may also initiate proceedings before the NRC in any matter that involves the civilian use of nuclear energy.

Whether it is representation of property owners protesting the proposed siting or construction workers fighting the shutdown of a project, full public representation is essential in order to assure just and full resolution of such issues.

I have spoken with several of my colleagues and have realized that this is of concern to a number of them.

Mr. HART. Mr. President, I want to thank the Senator from Vermont for his attention to this extremely important issue. The question he has raised is not only a proper but an imperative issue for consideration by our subcommittee, and I certainly welcome his interest and concern, as do all other subcommittee members.

I certainly agree that at a time when the NRC is making extremely momentous decisions, there is very great need to provide citizen access to the Commission, and therefore it is our sincere intention to conduct hearings early next session to fully explore the problem of public citizen access to the Commission. These would include the creation of an Office of Public Counsel as a possible solution to the problem that the Senator from Vermont has described.

Mr. LEAHY. Mr. President, I would like to go forward with this amendment. Adequate public representation is of great concern to me, but I also realize that there have not been adequate hearings on this subject. I am, therefore, willing to withdraw my amendment with the assurance from the chairman of the Nuclear Regulatory Subcommittee, the distinguished Senator from Colorado (Mr. HART), that hearings on the public counsel concept will be held next spring.

I say that because I have the utmost respect for the way the distinguished Senator has conducted that subcommittee. He has certainly gone the extra mile continuously to make sure that amendments are considered, that all sides are heard and given a fair and complete hearing.

So I would ask two things, Mr. President. First, I ask unanimous consent that if his name is not already shown, the name of the Senator from Michigan (Mr. RIEGLE) be added as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. With that, Mr. President, I withdraw my amendment and yield the floor back to the Senator from Colorado.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. DURKIN. Mr. President, throughout deliberation on the question of reauthorizing the Nuclear Regulatory Commission (NRC), I have been concerned about the extent to which a Government agency which has been recklessly pronuclear in the past can aggressively and actively represent the public interest in exploring all the dimensions in the development of nuclear power. Based on my knowledge of and experience with other regulatory bodies, I am concerned that the NRC's performance of its supervisory role might be dampened by a lack of a sense of urgency about the potential problems associated with nuclear wastes and safety.

It has long been obvious to me, coming from a State where town meetings are still an integral part of community life, that direct citizen involvement is absolutely essential to objective performance of government functions. The answer to the needs for more information and better decisions is not always the creation of further agencies, regulatory bodies, and commissions. I have often found that encouraging participation by people directly involved with a given decision infuses the decisionmaking process with a life and an energy which exceed the efforts of disinterested and overburdend bureaucrats.

Viewing the NRC reauthorization from this perspective, I rise in support of my colleague from Vermont, to urge the adoption of his amendment to provide for an Office of Public Counsel within the NRC. The purpose of this office would be to represent consumer and community groups before the Commission on all matters that come under the Commission's jurisdiction.

I believe that public counsel is vital to aggressive and objective regulation by the NRC. The potential involvement of citizens who are directly involved and knowledgeable can only enhance and stimulate conscientious and thorough performance by the NRC. The Office of Public Counsel can provide an avenue for this sort of citizen involvement and might well be the answer to a sluggish and inefficient bureaucracy. I commend the Senator from Vermont for his insight in proposing this measure today and urge its adoption.

AMENDMENT NO. 3577

(Purpose: To expand the licensing authority of the Nuclear Regulatory Commission to cover uranium mill tailings and to require of the Nuclear Regulatory Commission a study of further expansion of its authority to cover additional radioactive waste, storage and disposal activities)

Mr. HART. Mr. President, I call up amendment No. 3577, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado (Mr. HART), for himself, Mr. DOMENICI, Mr. STAFFORD, and Mr. RANDOLPH, proposes an amendment numbered 3577.

Mr. HART. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. 12. Section 11 e. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"e. The term 'byproduct material' means (1) any radioactive material (except special

nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material, and (2) any radioactive material resulting from the processing of ores primarily for the extraction of source material.".

SEC. 13. Section 81 of the Atomic Energy Act of 1954, as amended, is amended by adding a new sentence at the end thereof as follows: "No license shall be required by the Commission for the transfer, receipt, acquisition, ownership, or possession of byproduct material as defined by section 11 e. (2) of this Act until three years from the date of enactment of this sentence.".

SEC. 14. Section 161 g. of the Atomic Energy Act of 1954, as amended, is amended by adding at the end thereof the following:

"The Department of Energy may accept donations of reclaimed land used for the disposal of byproduct material as defined in section 11 e. (2) of this Act. Land donated under this section shall not be subject to the provisions of title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, nor to disposal under the Federal Property and Administrative Services Act of 1949, as amended. The President shall assign custody of such land to any agency authorized by law to manage land title to which is held by the United States.".

SEC. 15. Section 161 of the Atomic Energy Act of 1954, as amended, is further amended by adding at the end thereof a new subsection x. as follows:

"x. establish by rule, regulation, or order, in accordance with the requirements of section 181 of this Act, such standards and instructions as the Commission may deem necessary or desirable to ensure that funds will be made available by a licensee to permit the timely completion of all requirements established by the Commission for the decommissioning, decontamination, and reclamation and long-term maintenance and monitoring where necessary of sites, structures, and equipment used in connection with the generation or disposal of byproduct material as defined in section 11 e. (2) of this Act.".

SEC. 16. Section 274 b. of the Atomic Energy Act of 1954, as amended, is amended by adding "as defined in section 11 e. (1) of this Act" after the words "byproduct materials" in paragraph (1); by adding a new paragraph (2) to read as follows:

"(2) byproduct materials as defined in section 11 e. (2) of this Act."; and by renumbering existing paragraphs (2) and (3) accordingly.

SEC. 17 Section 274 d. (2) of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"(2) the Commission finds that the State program is in accord with subsection o. of this section and is in all other respects compatible with the Commission's program for the regulation of the materials covered by the proposed agreement, and that the State program is adequate to protect the public health and safety with respect to such materials.".

SEC. 18. Section 274 e. of the Atomic Energy Act of 1954, as amended, is amended by adding a new paragraph (3) to read as follows:

"(3) Prior to the expiration of three years from the date of enactment of this paragraph, nothing in this Act shall preclude the exercise of State authority over byproduct material as defined by section 11 e. (2) of this Act. Except as otherwise permitted by Federal law, on or after three years from such date, a State may exercise authority for protection of the public health and safety from radiation hazards associated with such byproduct material only pursuant to an agreement or an amendment thereto entered into with the Commission in accordance with subsection b. of this section. Amendments to existing agreements to provide for the continuation of State authority over such byproduct material shall be subject to paragraphs (1) and (2) of this subsection and to subsection d. of this section.".

SEC. 19. Section 174 j. of the Atomic Energy Act of 1954, as amended, is amended by inserting after the words "with the State" the following: ", or that part of an agreement respecting any of the materials enumerated in subsection b. of this section.".

SEC. 20. Section 274 of the Atomic Energy Act of 1954, a amended, is further amended by adding at the end thereof the following new subsection:

"o. In the licensing and regulation of byproduct material as defined by section 11 e. (2) of this Act pursuant to an agreement entered into in accordance with subsection b. of this section, a State shall adopt and enforce substantive standards for the protection of the public health and safety from radiation hazards which are equivalent to, or more stringent than, standards adopted and enforced by the Commission for the same purpose, including requirements, standards, and criteria promulgated by the Commission and the Administrator of the Environmental Protection Agency pursuant to sections 84, 85, and 275 of this Act.".

SEC. 21. Chapter 8 of the Atomic Energy Act of 1954, as amended, is amended by adding a new section 83 to read as follows:

"SEC. 83. REMEDIAL ACTION, EXEMPTION, AND ENFORCEMENT.—

"a. Persons otherwise subject to the requirement of a license by section 81 of this Act shall be exempt from such requirement with respect to the ownership and possession of byproduct material as defined in section 11 e. (2) of this Act which is covered by a remedial action program conducted or approved by the Department of Energy.

"b. The Commission may require, by rule, regulation, or order, the Department of Energy or persons exempted by subsection a. of this section or section 81 of this Act from the requirement of a license for the ownership or possession of byproduct material as defined in section 11 e. (2) of this Act to conduct monitoring, perform remedial work or comply with such other measures as the Commission deems necessary or desirable to protect health or minimize danger to life or property in connection with the disposal and storage of such byproduct material.

"c. The Commission may make such studies and conduct such inspections as it may deem necessary or desirable to ensure compliance with rules, regulations, and orders issued pursuant to subsection b. of this section. Persons violating any such rule, regulation, or order, and persons refusing to permit inspections conducted pursuant to this subsection, shall be subject to a civil penalty in an amount equal to that provided by section 234 a. of this Act. Notification and enforcement of such penalty shall be in accordance with sections 234 b. and c. of this Act.".

SEC. 22. (a) Chapter 8 of the Atomic Energy Act of 1954, as amended, is amended by adding at the end thereof a new section 84 to read as follows:

"SEC. 84. AUTHORITIES OF COMMISSION RESPECTING CERTAIN BYPRODUCT MATERIAL.—The Commission shall ensure that the management of any byproduct material as defined in section 11 e. (2) of this Act is carried out in such a manner as—

"(1) the Commission deems appropriate to protect the public health, safety, and environment from radiological and nonradiological hazards associated with the processing and with the possession and transfer of such material;

"(2) conforms with the applicable standards and criteria promulgated by the Administrator of the Environmental Protection Agency under section 275 of this Act; and

"(3) conforms to general requirements, established by the Commission, with the concurrence of the Administrator of the Environmental Protection Agency, which are at least comparable to requirements applicable to the possession, transfer, and disposal of similar hazardous material under the Solid Waste Disposal Act, as amended.".

(b) The table of contents for such chapter 8 is amended by inserting the following new item after the item relating to section 83:

"Sec. 84. Authorities of Commission respecting certain byproduct material.".

SEC. 23. (a) Chapter 10 of the Atomic Energy Act of 1954, as amended, is amended by inserting after section 274 the following new section:

"SEC. 275. HEALTH AND ENVIRONMENTAL STANDARDS FOR URANIUM MILL TAILINGS.—

"a. As soon as is practicable, but not later than eighteen months after the date of enactment of this section, the Administrator of the Environmental Protection Agency (hereinafter in this section referred to as the 'Administrator'), shall, by rule, promulgate standards and criteria of general application for the protection of the public health, safety, and the environment from radiological and nonradiological hazards associated with the processing and with the possession and transfer of byproduct material, as defined in section 11 e. (2) of this Act at sites where ores are processed primarily for their source material content, or at sites which are used for the disposal of such byproduct material.

"b. Such generally applicable standards and criteria promulgated pursuant to this section for nonradiological hazards shall provide for the protection of human health and the environment as required by subtitle C of the Solid Waste Disposal Act, as amended: *Provided, however,* That no permit issued by the Administrator is required under this Act or the Solid Waster Disposal Act, as amended, for the processing, possession, transfer, or disposal of byproduct material, as defined in section 11 e. (2) of this Act.

"c. The Administrator may periodically revise any standard or criterion promulgated pursuant to subsection a. of this section. Any such revision shall be applied upon license renewal to persons holding on the date of promulgation of such revision a license for byproduct material as defined in section 11 e. (2) of this Act issued by the Commission or by a State exercising authority pursuant to section 274 b. (2) of this Act: *Provided, however,* That in no event shall such a revision be applied later than five years from the date of promulgation thereof.

"d. Implementation and enforcement of the standards and criteria promulgated pursuant to subsection a. of this section shall be the responsibility of the Commission in the conduct of its licensing activities under this Act. States exercising authority pursuant to section 274 b. (2) of this Act shall implement and enforce such standards and criteria in accordance with subsection o. of such section.

"e. Nothing in this Act applicable to byproduct material as defined in section 11 e. (2) of this Act shall affect the authority of the Administrator under the Clean Air Act of 1970, as amended, or the Federal Water Pollution Control Act, as amended.".

(b) The table of contents for chapter 10 of the Atomic Energy Act of 1954, as amended, is amended by inserting the following new item after the item relating to section 274:

"Sec. 275. Health and environmental standards for uranium mill tailings.".

Sec. 24. Chapter 8 of the Atomic Energy Act of 1954, as amended, is amended by adding a new section 85 to read as follows:

"Sec. 85. The Commission may require by rule, regulation, or order, in accordance with the requirements of section 181 of this Act, that byproduct material as defined by section 11 e. (2) of this Act be disposed of on land to which title has been transferred to the State or the United States at the time of termination of any license of the generation or possession of such material upon finding that such action is necessary or desirable to protect health or minimize danger to life or property in connection with the disposal of such byproduct material. Any such rule, regulation, or order shall specify standards for the transfer of title to such land to the State or the United States, including: (1) standards to assure the completion, prior to the transfer of title, of all requirements established by the Commission for the decommissioning, decontamination, and reclamation of sites, structures, and equipment on the land which are used in connection with the generation or disposal of byproduct material as defined in section 11 e. (2) of this Act; (2) standards to minimize the need for future remedial work; (3) standards to minimize the cost, including the cost to the State or the United States, for any long-term care; and (4) standards to permit the reservation of rights by the transferor to the future reprocessing of byproduct materials, as defined in section 11 e. (2) of this Act, and to the future use of the surface or subsurface estate, consistent with any standards or requirements promulgated by the Commission which are applicable to the generation, possession of transfer of byproduct material, as defined in section 11 e. (2) of this Act. This section shall not be construed as authorizing or requiring the transfer of title to Indian land.".

Sec. 25. (a) The Commission, in cooperation with the Department of Energy, is authorized and directed to conduct a study of extending the Commission's licensing or regulatory authority to include categories of existing and future Federal radioactive waste storage and disposal activities not presently subject to such authority.

(b) Each Federal agency, subject to the provisions of existing law, shall cooperate with the Commission in the conduct of the study. Such cooperation shall include providing any necessary access to existing facilities and sites and providing any information needed to conduct the study which the agency may have or be reasonably able to acquire.

(c) On or before March 1, 1979, the Commission shall submit a report to the Congress containing the results of the study. The report shall include—

(1) a complete listing and inventory of all radioactive waste storage and disposal activities now being conducted or planned by Federal agencies;

(2) an assessment of the benefits of extending the Commission's licensing or regulatory authority to include categories of existing and future Federal radioactive waste storage and disposal activities not presently subject to such authority;

(3) an evaluation of the relative potential risk to the public health and safety and the environment from such categories of existing and future Federal radioactive waste storage and disposal activities.

(4) an evaluation of the feasibility and cost of extending the Commission's licensing or regulatory authority to include such categories of existing and future Federal radioactive waste storage and disposal activities, including the technical and other data requirements for licensing or regulation and the likely characteristics of the Commission's licensing or regulatory program;

(5) an evaluation of the national security implications of extending the Commission's licensing or regulatory authority to include such categories of existing and future Federal radioactive waste storage and disposal activities; and

(6) the Commission's recommendations concerning the categories of existing and future Federal radioactive waste storage and disposal activities, if any, which should be made subject to the Commission's licensing or regulatory authority and the type of authority which the Commission should be granted.

The PRESIDING OFFICER. Is this the amendment on which there is to be a limit for debate of 1 hour?

Mr. HART. That is correct. Mr. President, I suggest the absence of a quorum, the time to be equally divided between the two sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, I offer the pending amendment with cosponsorship by our distinguished colleague from New Mexico (Mr. DOMENICI); and we offer the amendment with the full support of the members of the Committee on the Environment and Public Works.

Mr. President, this amendment would add two new major provisions to the bill now being considered by the Senate. The first provision would expand the Nuclear Regulatory Commission's licensing and regulatory authority over the disposal of uranium mill tailings—an authority which the Commission does not now have. The second provision directs the Nuclear Regulatory Commission to lead a study on the relative costs and benefits of extending Commission licensing and regulatory authority over the storage and disposal of all nuclear wastes.

Both of these provisions address nuclear waste management issues. While this amendment cannot provide this country with the total answer to our nuclear waste dilemma, it does address one immediate and serious problem—that of mill tailings disposal. Furthermore, it provides for the gathering of information Congress needs to answer questions on waste disposal, for legislation pending consideration next year.

Mr. President, over the past several months, the Subcommittee on Nuclear Regulation has been actively studying the nuclear waste problem. The committee has held 6 days of hearings devoted exclusively to the consideration of nuclear waste issues. In addition, the subcommittee has held a total of 8 days of hearings on the NRC's fiscal year 1979 authorization and on nuclear licensing reform where nuclear waste issues were tangentially addressed. In all, Mr. President, the committee has heard from over 20 witnesses who are deeply concerned with the nuclear waste issue.

Mr. President, it is on the basis of this record that Senator DOMENICI and I present to the Senate what we believe is a sound and necessary amendment that deserves the full support of our colleagues. I would like to briefly describe the contents of the amendment and explain the importance of Senate adoption of these provisions.

The first part of this amendment addresses the issue of uranium mill tailings disposal. Under present law, the Nuclear Regulatory Commission has the authority and responsibility to regulate uranium mining and milling operations, and the Commission is currently exercising that authority over 11 active sites. An additional 14 sites are regulated by individual States. Under the authority of the Atomic Energy Act, these States developed approved regulatory programs and assumed regulatory responsibility from the NRC.

Although the NRC may license active uranium mining and milling activities existing law does not permit the Commission to regulate the disposal of mill tailings once milling and mining operations cease and the operating license expires. It is this authority to regulate tailings after milling operations cease, that we propose be given to the NRC.

Mr. President, uranium mill tailings must be carefully regulated. They are just as radioactive as the original uranium ore from which they came. In fact, if tailings are not properly controlled, they can be more dangerous than radioactive wastes generated by powerplants and nuclear weapons programs. Furthermore, although uranium mill tailings wastes are not as radioactive as high-level wastes generated by nuclear powerplants or military weapons programs, these wastes remain radioactive for thousands of years. Thus, the potential long-term danger to the public health and safety is far greater. People need not come into direct contact with tailings to be exposed to this radioactive hazard, because the radiation from tailings escapes and travels in the form of radioactive radon gas—which can cause leukemia and other forms of cancer.

Because there has been no proper authority for controlling this threat to public health, tailings at abandoned mining and milling sites have been left exposed dangerously near several populated areas. In Grand Junction, Colo., and Salt Lake City, Utah, for example, uranium mill tailings have been left unattended near schools, homes, and offices. People living in and around some of these sites are being exposed to radiation levels considerably higher than the levels permitted inside uranium mines.

The Colorado Department of Health has conducted a study of leukemia rates in areas of the State where people are exposed to mill tailings. The results are only preliminary, but the evidence collected to date indicates that the incidence of leukemia in these areas is almost double that in other parts of Colorado. Although the direct connection to radon gas from these tailings has not yet been proved, this high incidence of leukemia is alarming.

Furthermore, the General Accounting Office concluded in a report issued just last month that radiation from the five worst abandoned tailings sites may cause as many as 1,000 cases of cancer in the next century. And, if these tailings are not properly disposed, that trend will continue for hundreds of thousands of years, resulting in millions of cases of cancer.

The legislation we are offering today will not provide funding to clean up the inactive sites where this serious threat to public health already exists. Legislation to provide for such remedial action programs is currently under consideration in the Senate Committee on Energy and Natural Resources. Nevertheless, Mr. President, the amendment being proposed would provide Congress and the American public with assurances that, from now on, uranium mill tailings will be properly managed. If adopted, this amendment will eliminate the need for remedial clean up efforts in the future.

Mr. President, I am not suggesting that uranium mill tailings are not being properly managed at the 25 currently active mining and milling operations around the country. On the contrary, the NRC exercises its authority over uranium milling operations by requiring careful management and disposal of uranium mill tailings. Nevertheless, Mr. President, if an operator of a uranium mill were to abandon the site for financial or other reasons, leaving the tailings unattended and exposed, the Nuclear Regulatory Commission would not have the legal authority to require their disposal.

As I mentioned earlier, Mr. President, this amendment will not correct past mistakes, but it will provide assurance that they will not be repeated in the future. We must act now to fill the existing regulatory gaps which have left the public and the environment exposed to dangerously radioactive nuclear wastes.

The second provision in this amendment directs and authorizes the Nuclear Regulatory Commission to conduct a study of the nuclear waste regulatory issue with the cooperation of the Department of Energy. The NRC would report back to Congress with the results of this effort by March 1 of next year. The amendment further provides that the scope of that study include the following:

First, a listing and inventory of all radioactive waste storage and disposal activities conducted or planned by the Federal Government;

Second, an assessment of the costs and benefits of extending NRC's licensing or regulatory authority over Federal storage and disposal of nuclear wastes; and

Third, recommendations by the NRC as to which categories of existing and future Federal nuclear waste activities should be subject to NRC authority.

Mr. President, the broad issue of nuclear waste disposal has been addressed in several bills introduced this year. Finding solutions to this problem is becoming increasingly crucial as more waste-producing nuclear plants begin operating each year. Unfortunately, waste disposal has received a low priority from both Congress and the Federal agencies in the past. This trend cannot and must not continue. The basic intent of this study provision is to provide the Congress with information which it will need to address the nuclear waste issue early next year. Both the House and the Senate have begun developing records upon which to base future legislative action. It is anticipated that this study will provide significant information which must be assimilated and evaluated in preparation for congressional action in the months ahead.

Mr. President, at this, I ask unanimous consent that a section-by-section analysis of this amendment be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS—COMMITTEE AMENDMENT TO S. 2584

Sec. 12. Section 12 adds a new class of byproduct material to the definition of byproduct material now contained in section 11 e. of the Atomic Energy Act of 1954. As presently defined, byproduct material does not include uranium mill tailings. These tailings are a waste product resulting from uranium milling. Under the expanded definition, mill tailings would become a licensable material because they contain radium, radon and other radioactive isotopes. The revised definition would in effect bring mill tailings within the licensing and regulatory framework of the Atomic Energy Act. The revised definition is not intended, however, to make mine wastes subject to NRC licensing or regulation.

Sec. 13. Section 13 amends section 81 of the Atomic Energy Act of 1954 to defer until three years from enactment the authority of the Nuclear Regulatory Commission to license this new class of byproduct material. During this transition period, standards and regulations would be developed and agreements with states conducting their own regulatory program would be amended to cover the new class of byproduct material.

Sec. 14. Section 14 adds to section 161 g. of the Atomic Energy Act of 1954 a provision to authorize the Department of Energy to accept donations of land used as mill tailings disposal areas. Donations would be without cost to the United States and would not be eligible for subsequent sale by the United States as surplus property. The President is directed to assign custody of donated land to any agency authorized to manage land owned by the United States. This provision does not require a licensee of the Nuclear Regulatory Commission to transfer a tailings disposal area to the United States, but rather empowers the Department of Energy to accept voluntary donations of such areas. Such a direct licensee has the option of retaining ownership under Federal licensing.

Sec. 15. Section 15 adds a new subsection z. to section 161 of the Atomic Energy Act of 1954 to provide the Commission with explicit authority to require licensees to provide financial arrangements to insure the proper decommissioning, decontamination, reclamation and long-term maintenance and monitoring if necessary, of sites, structures, and equipment used in connection with activities or materials licensed under the Atomic Energy Act of 1954. This provision affords a clear legal basis for the dedication of funds prior to the termination of the milling license for any long-term maintenance and monitoring which may be required. Such authority now exists only under the more general language of section 161 b.

Sec. 16. Section 16 gives states entering into new agreements under section 274 b. of the Atomic Energy Act of 1954 the option of assuming, or declining to assume, licensing and regulatory authority over mill tailings.

Sec. 17. Section 17 amends section 274 d. of the Atomic Energy Act of 1954 to condition the acceptability of a new or amended agreement upon a state program that is at least equivalent to the Commission's program for substantive regulation of tailings disposal areas. The standard of compatability remains in effect for all other aspects of an agreement state program.

Sec. 18. Section 18 adds a new paragraph to Section 274 e. of the Atomic Energy Act of 1954 to make clear that existing agreements with states under section 274 must be amended for states to assume licensing and regulatory authority over the new class of byproduct material after three years from enactment. In the interim, states may continue to exercise their police power to regulate mill tailings. If an agreement state fails to amend its agreement on or after three years from enactment the Commission will license and regulate the byproduct material in tailings disposal areas.

Sec. 19. Section 19 amends Section 274 j. of the Atomic Energy Act of 1954, to empower the Commission, after notice and opportunity for hearing, to terminate or suspend the exercise of an agreement state's authority pertaining to any of the materials enumerated in section 274 b. which are eligible for state licensing and regulation, including mill tailings. Present law permits termination or suspension only of the entire agreement. The standard for such action would remain the adequacy of protection of the public health and safety.

Sec. 20. Section 20 adds new subsection o. to section 274 of the Atomic Energy Act of 1954. Subsection o. requires agreement states to incorporate in their licensing and regulation of mill tailings standards which are equivalent to, or more stringent than requirements, standards, and criteria promulgated by the Commission and the Administrator of the Environmental Protection Agency in the degree of protection from radiation hazards afforded the public health and safety.

Sec. 21. Section 21 adds a new section 83 to the Atomic Energy Act of 1954 to provide an exemption from licensing for that portion of a mill tailings disposal site where the Department of Energy has conducted or approved a remedial action. Legislation to permit the Department of Energy to conduct a remedial action program for certain existing mill tailings is now pending before other committees of the Congress. This provision is intended to exempt from Commission licensing any mill tailings covered by a Department of Energy remedial program pursuant to that or similar legislation. The Commission may, however, require persons so exempted, or the Department of Energy, to monitor such sites, perform remedial work, or take other measures to protect health or minimize danger to life or property. The Commission is authorized to inspect, as necessary, and persons found to be in violation of rules or orders may be subject to a civil penalty even though not licensed. These provisions also apply to persons in possession of mill tailings who have been exempted from licensing in the Commission's discretion under section 81 of the Atomic Energy Act.

Sec. 22. Section 22 adds a new section 84 to the Atomic Energy Act of 1954 which directs the Commission to ensure the protection of the public health, safety and the environment from radiological and nonradiological hazards associated with the processing, possession, and transfer of mill tailings by requiring conformity with both the applicable standards and criteria promulgated by the Administrator of the Environmental Protection Agency and the general requirements established by the Commission, with concurrence of the Administrator, which are at least

comparable to requirements for similar hazardous material under the Solid Waste Disposal Act, as amended.

Sec. 23. Section 23 adds new section 275 to the Atomic Energy Act of 1954 to delineate the responsibilities of the Administrator of the Environmental Protection Agency in the regulation of mill tailings. The Administrator is given up to 18 months to promulgate general standards and criteria to protect the public health, safety, and the environment from the radiological and nonradiological hazards associated with the processing, possession, and transfer of mill tailings at sites where ores are processed for their uranium content and at sites for mill tailings disposal. These standards and criteria are intended to prescribe general standards of performance rather than to impose specific management requirements, including particular techniques or technologies for meeting the general standards. These general standards are not intended to be site specific.

For radiological hazards, the section would preserve the authority of the Administrator under the Atomic Energy Act of 1954, as amended, to set generally applicable standards for mill tailings. Generally applicable standards and criteria promulgated for nonradiological hazards must provide for the protection of human health and environment as required by subtitle C of the Solid Waste Disposal Act, as amended. In the promulgation of such standards and criteria for nonradiological hazards, it is expected that the Administrator will take into account the degree to which human health and the environment are already protected by requirements established by the Commission pursuant to section 84 of the Atomic Energy Act. Any revision of the standards and criteria respecting either type of hazard may be applied to current licenses only upon license renewal but in no event later than five years from the promulgation of the revision.

The section expressly precludes any requirement, either under this Act or the Solid Waste Disposal Act, as amended, for a permit issued by the Administrator for the processing, possession, transfer, or disposal, of uranium mill tailings. Licensing responsibilities under this Act or the processing, possession, transfer or disposal of uranium mill tailings are assigned to the Commission, and this provision is intended to eliminate any requirement for a duplicate permit by the Administrator for those activities.

Responsibility for implementation and enforcement of the standards and criteria is vested in the Commission in the conduct of its licensing activities. However, agreement states that have elected to license mill tailings would have to incorporate standards at least equivalent to these standards and criteria. Finally, no provision of the Atomic Energy Act of 1954 relating to the new class of byproduct material is intended to affect the authority of the Administrator of the Environmental Protection Agency under the Clean Air Act, as amended, or the Federal Water Pollution Control Act, as amended.

Sec. 24. Section 24 adds a new section 85 to the Atomic Energy Act of 1954 to empower the Commission to require that mill tailings be disposed of on land which is transferred to State or Federal ownership on the termination of the original milling license for possession of source material. Any rule, regulation or order imposing such a requirement must be supported by a finding that it is necessary or desirable to protect health or minimize danger to life or property.

Such a requirement must include: (1) standards to ensure completion prior to the transfer of title of all Commission decommissioning, decontamination, and reclamation requirements; (2) standards to minimize the need for future remedial work; (3) standards to minimize the cost, including the cost to the State or to the United States, for any long term care; and (4) standards to permit the transfer to reserve surface or subsurface rights.

Sec. 25. Section 25 authorizes and directs the Commission, in cooperation with the Department of Energy to conduct a study and report to the Congress by March 1, 1979 on the following elements:

1. Complete listing and inventory of all radioactive waste storage and disposal *activities* now being conducted or now being planned by agencies of the Federal government, including long- and short-term storage disposal activities, research and development activities, and decommissioned facilities, for high-level radioactive wastes, transuranic wastes, low-level wastes, and spent fuel.

2. An assessment of the benefits of extending Commission regulatory authority to such wastes, to the extent that they are not now covered, including an evaluation of the potential risk to the public health and the environment from the various categories of radioactive wastes now or planned to be in the custody of the Federal Government, together with a comparison of those risks.

3. An evaluation of the feasibility and cost of extending NRC licensing or regulatory authority to include such existing and future activities. This evaluation would cover such factors as the information and data needed by the Commission for licensing or regulation, the impact of licensing on project schedules, and the likely characteristics of a Commission licensing or regulatory program for the various categories of Federal waste storage and disposal activities.

4. An evaluation of the national security implications of extending Commission licensing or regulatory authority to cover the various categories of Federal waste storage and disposal activities.

5. Recommendations by the Commission, as to which categories of existing and future Federal nuclear waste storage and disposal activities should be made to subject to NRC authority, and the type of authority (licensing, safety review and concurrence, etc.) which the Commission should be given.

The PRESIDING OFFICER. The Senator from New Mexico.

Who yields time?

Mr. DOMENICI. How much time do we have on the amendment?

Mr. McCLURE. It is a half-hour on each side. Does the Senator desire that I yield him some time?

Mr. DOMENICI. I am cosponsor. I will ask Senator HART if he will yield 5 minutes.

Mr. HART. Yes, I yield 5 minutes to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I am pleased to join with my good friend and colleage from Colorado, the chairman of the Nuclear Regulation Committee in sponsoring this amendment.

As has been indicated, it has two purposes: First, it grants new licensing and related regulatory authority to the Nuclear Regulatory Commission for the disposal of uranium mill tailings. As Senator HART has explained, and as I will briefly, this is in an area where a vacuum might otherwise exist. And, second, and equally important, it requires the NRC, in cooperation with the Department of Energy, to conduct a study of the costs and benefits of expanding NRC licensing or regulatory authority to include categories of Government nuclear waste management activities which are not presently within its authority.

Mr. President, I would only add a few comments to my colleague's description of the amendment. As Senator HART has already noted, there now exist sizable quantities of uranium mill tailings at several inactive sites which were generated under Government contracts and which, due to improper disposal, create risks of public exposure. Although the relationship between exposure to these abandoned mill tailings and possible adverse health effects is still somewhat unclear, this is a matter of serious concern to the affected States and the public. As has already been mentioned, legislation to address the problem at these inactive sites is now being considered by the Energy and Natural Resources Committee. Nevertheless, the situation involving these abandoned mill tailings has emphasized the need to assure that the mill tailings generated now and in the future will be properly disposed of.

Mr. President, the present disjointed regulatory structure for mill tailings fails to provide that assurance. While we will soon, hopefully, take care of the abandoned mill tailings, there is indeed a disjointed regulatory structure which may fail to provide assurance that, as new ones develop and are completed and finished, the public will be adequately protected. Under present law, the Nuclear Regulatory Commission may exercise regulatory control over mill tailings only while milling operations are being conducted. Although the Commission is prepared to act expeditiously to require the proper disposal of mill tailings, its authority to enforce the necessary requirements would terminate at the point at which the tailings might be abandoned—after the tailings have been generated and milling operations have ceased— Although another Federal agency, the Environmental Protection Agency, has some authority over the disposal of mill tailings, it lacks broad authority over the generation of the tailings. Furthermore, EPA has testified before the Nuclear Regulation Subcommittee that it will not be prepared to issue regulations to govern the disposal of mill tailings for several years, and perhaps not before 1984.

The amendemnt would replace this disjointed regulatory structure with a unified and comprehensive regulatory program. Under the amendment, NRC would have continuous licensing and related regulatory authority over the generation, possession and disposal of mill tailings. A basic principle of the amendment is the creation of a unified regime for mill tailings so that the various distinct materials which make up a single mill tailings pile need not be subject to fragmented, duplicative and potentially conflicting regulatory activities by different Government agencies. In accordance with this principle, NRC would be given the authority to set detailed requirements for the disposal of mill tailings, including specific management requirements, and to license disposal sites. The amendment has also been carefully structured to make available on a timely basis the expertise of EPA, particularly with regard to the nonradiological aspects of mill tailings.

Thus, EPA has the authority to set generally applicable standards and criteria within 18 months. For radiological hazards, this authority would conform to present authority of EPA under the Atomic Energy Act of 1954, as amended, to set generally applicable environmental standards for radioactive materials. For nonradiological hazards, EPA would assure that the human health and environment is protected to the same extent as required for hazardous wastes under the Solid Waste Disposal Act, as amended, taking into account the protection already afforded by NRC requirements. Thus, if NRC requirements already provide sufficient protection for the control of mill tailings, EPA need not duplicate that effort in setting its standards and criteria. This authority replaces EPA's present authority under the Solid Waste Disposal Act, as amended. No permit by EPA for a mill tailings disposal site would be required. Finally, EPA would be given a concurrence right for any NRC general requirements for mill tailings.

Mr. President, one other aspect of the amendment deserves mention, and it is very important to this Senator and, I am sure, to many. That is the relationship between the regulatory program for mill tailings under this amendment and the legislation now pending before the Energy Committee to provide for remedial action on the inactive sites. The two pieces of legislation are intended to be complementary but not duplicative. Thus, this amendment is not intended to authorize NRC to exercise any regulatory control over remedial action work which would be conducted pursuant to the remedial action legislation. Rather, I understand that the remedial action legislation will itself contain provisions to govern the regulation of the remedial action program, that is, that will clean up the existing abandoned, dorment piles, including any necessary standards for cleanup of the inactive sites. This amendment does provide, however, for NRC regulation of the inactive sites once remedial action work has been completed in order to assure that those sites remain stabilized in the future.

I understand there may be some discussion about that part of the amendment and that part of my statement by others who might disagree.

The second portion of the amendment, which I believe is very important, requires a study of the costs and benefits of expanding NRC licensing or regulatory authority over Government waste management activities. A number of complex questions have been raised concerning the further expansion of NRC authority over these activities. This study should provide the necessary information and an important perspective to assist the Congress when it addresses these issues in the future.

Mr. President, I urge the adoption of the amendment.

I yield back any remaining time.

The PRESIDING OFFICER. Who yields time?

Mr. McCLURE. Mr. President, I yield myself such time as I may consume.

I ask unanimous consent that Kathryne Bruner, of Senator HAYAKAWA's staff, and Sally Rogers, of Senator THURMOND's staff, may be accorded the privilege of the floor during the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I think the pending amendment can be adapted to the needs that have been outlined by the Senator from Colorado and the Senator from New Mexico. There is the problem that does exist with the existing uranium mill tailings. That problem has been manifested in very obvious form in both States of Colorado and Utah, where mill tailings were not properly protected, with the apparent dangers to the public health that have not come about as a result of that failure.

There is also the truth that is apparent, particularly in Utah, that conditions do not stay the same, that there is social movement—people move into areas that they were not expected to move into. They establish subdivisions where they are not expected to move, in areas where they are not expected to live. There needs to be some continuing regulation over the potential damage to individual health and to the public health generally.

There is an overlap between the potential for regulation under the Nuclear Regulatory Commission and the mandates of EPA, both under the Clean Air Act and under the Solid Waste Disposal Act. There needs to be some definition of the overlapping authority lest we end up in duplicative regulatory procedures. We do not want to see NRC out there doing exactly what EPA is required to do and is doing. We do, however, want to make certain that NRC has the authority to do what needs to be done. I think that the effort that is underway now in this amendment—to say to NRC, you have the authority to look at the mill tailings, to establish what has to be done, that EPA will set the general standards and NRC will take specific measures and recommend specific measures—can be extended as the Hart-Domenici amendment proposes to do, to follow after that remedial work is done. That is what it addresses itself to.

We are attempting to remove some of the concerns that the Energy Committee has expressed and Senator JACKSON has spoken to me about. the potential conflict between the Nuclear Regulatory Commission and the Department of Energy, where there may be disagreements. It is my hope that we shall be able to arrive at language that resolves those problems to the satisfaction of the Energy Committee as well as the concerns that Senators HART and DOMENICI have expressed, which I share.

I think it should be stated that what we are trying to arrive at is the possibility that the Nuclear Regulatory Commission can continue to look at the mill tailings after the remedial work is done and make recommendations to the Department of Energy, but that any continuing supervision over mill tailings would be a specific legislative mandate. It does not necessarily imply that they have a similar, continuing oversight or monitoring responsibility with respect to all nuclear activities in this country where legislation has not been passed that grants them that authority or issues that mandate to them. I think, Mr. President, that the amendment can be stated in that way with that kind of understanding.

Mr. President, I wonder if I might inquire how much time I have remaining and how much the proponents of the amendment have remaining.

The PRESIDING OFFICER. (Mr. RIEGLE). The Chair advises that the Senator from Idaho has 24 minutes and the proponents have 11 minutes remaining.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum, to be charged to my time.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time to the Senator?

UP AMENDMENT NO. 1838

Mr. McCLURE. Mr. President, I have an amendment to the amendment at the desk and ask that it be stated.

The PRESIDING OFFICER. The Chair would advise the Senator that with another amendment on which there is still time——

Mr. McCLURE. This is an amendment to that pending amendment, a perfecting amendment.

The PRESIDING OFFICER. The Chair would advise that the time must expire on the first amendment, unless there is unanimous consent.

Mr. McCLURE. Mr. President, I am prepared to yield back the remainder of my time on the original amendment.

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HART. How much time would there be under the agreement on the perfecting amendment?

The PRESIDING OFFICER. The Chair would advise that there would be 30 minutes of time evenly divided on the perfecting amendment.

Mr. HART. Mr. President, I yield back the remainder of my time on the Hart-Domenici amendment.

Mr. McCLURE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the Senator's amendment is now in order.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 1838 to amendment No. 3577.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 6, line 13, change the period at the end of section 83b to a colon and add the following:

"*Provided, however*, That after completion of a remedial action program for such material conducted or approved by the Department of Energy, any requirement involving significant physical modification of such a program shall be subject to concurrence by the Secretary of Energy: *And provided further*, That should said Secretary fail to concur, he shall provide notification thereof to the President in writing, and if the President determines that compliance with such requirement is necessary to adequately protect health or minimize danger to life or property, such requirement shall take effect.

Mr. McCLURE. Mr. President, this amendment is designed to provide an accommodation between the views of the Committee on Environment and Public Works with respect to the Nuclear Regulatory Commission's authority to deal with continuation of oversight over the mill tailings and the concern of the Energy Committee that the roll of NRC not become too burdensome upon the activities of the Department of Energy.

It provides that after completion of a remedial a-tion program for such material—and there the amendment refers to the milling tailings—conducted or approved by the Department of Energy, any requirement involving signficant physical modification of such a program shall be subject to concurrence by the Secretary of Energy: And "provided further, That should said Secretary fail to concur, he shall provide notification thereof to the President in writing, and if the President determines that compliance with such requirement is necessary to adequately protect health or minimize danger to life or property, such requirement shall take effect."

That is the language of the amendment, Mr. President, and it provides the mechanism by which the action of the independent regulatory agency does not automatically require affirmative action by DOE but does provide that mechanism by which the President can make that determination, if he makes the finding that is required by this amendment.

I think it is a useful resolution of a possible conflict between the independent agency and the executive agency, and I hope the authors of the amendment, Senator HART and Senator DOMENICI, can approve of this change in language.

Mr. HART. Mr. President, I thank the Senator from Idaho for offering this proposal. It does seem to me, on balance, to offer a resolution of a potential conflict. It establishes a mechanism for resolution of differences between two arms of the administrative branch of Government, and I believe it does help clarify what otherwise might be a question in the minds of some about ultimate authority.

For purposes of legislative history, I offer my own strong feelings about the definition of the phrase "significant physical modification," because I think that is the key phrase in the amendment.

If my colleague from Idaho would agree, I think we would suggest for the public record that, by the use of the phrase "significant physical modifications," what we mean is implementation of a new stabilization technique, technology, or engineering method which entails substantial construction or reconstruction activity. This term or phrase would not include changes in management concepts, exclusionary restrictions, onsite boundaries, surveillance requirements, population limitations, or institutional arrangements such as financial surety requirements or site security measures.

That is to say, this amendment really directs itself to the fundamental implementation of a new engineering method of technology which would have substantial construction or reconstruction impact.

With that understanding of the purpose and intent and definition of that phrase, I would be prepared to accept the amendment.

Mr. McCLURE. Mr. President, will the Senator yield on that question?

Mr. HART. I yield.

Mr. McCLURE. Mr. President, I have no real objection to the language or the understanding that the Senator from Colorado has suggested. However, I might have some reservation about what he means by the term "management techniques," because we are not talking now just about the maintenance of a site. We are talking about some other things, such as those the Senator mentioned—boundaries and population controls.

We are talking about what can be done upon the site itself and not necessarily what may be done by someone else around the site or off the site; because the amendment requires Federal ownership of the disposal site itself, and the Federal Government will have management of that site. I think DOE has that authority, and I do not believe the amendment I have offered will affect in any way what will be permitted on the site itself.

I would not want the term "management technique" to be construed so broadly that it might refer to a number of things other than those to which the Senator has otherwise referred.

Mr. HART. The phrase I used was "management concepts," and I think what we are talking about here is the structure of the management organization and approach to solving the problem, not a technology, not an engineering approach, or anything of that sort.

Mr. McCLURE. I am not sure I know that we can anticipate exactly what will happen on these mill tailings sites; but I express concern that we do not build on top of mill tailings sites, nor use mill tailings in the construction of buildings upon other sites.

The question is whether we are talking about management concepts that say that because this is an area which has some radioactive hazards, we are going to exclude the use of the land for human habitation, for commercial development, that we will exclude people from that area for that reason. But if, on the other hand, it were found to be suitable for vegetative ground cover, if the vegetative ground cover could be manipulated; if, as a matter of fact, it, in itself, contained no radiological hazards, I would assume that "management concept" does not get into the question of whether or not you can have some kind of vegetative ground cover manipulation.

Mr. HART. No; I agree with the Senator. That is the intent.

Mr. McCLURE. I have no disagreement with the Senator. I am in agreement with his statement of the legislative purpose and share with him the hope that the amendment will be adopted.

I note that the Senator from New Mexico is on the floor. I do not know whether he desires to make some comment with respect to the language.

Mr. DOMENICI. I thank the Senator from Idaho.

I have no desire to comment at length, other than to say that I believe the amendment is a constructive one. I understand exactly what the Energy Committee's concerns were, and I compliment the Senator from Idaho for working out the matter.

I think this obviously will make that one section a little more certain as to future jurisdictions, and I support it wholeheartedly.

Mr. McCLURE. I thank the Senator from New Mexico.

Mr. President, for the purpose of legislative history, we should underscore what I said earlier, before this specific amendment was offered: that this amendment deals with the authority of the Nuclear Regulatory Commission to continue with respect to the mill tailings. It should not be read by anyone as implying a monitoring authority or a continuing authority except in the areas where they are specifically delegated authority by statute, as they are specifically being delegated authority in this amendment and in this legislation.

I think the Senator from Colorado earlier indicated general agreement with that statement, and I ask if he concurs in that now.

Mr. HART. The Senator from Idaho is asking the question as to whether the Hart-Domenici amendment applies only to the 22 remedial action sites?

Mr. McCLURE. No, whether it refers only to the monitoring of the mill tailings; and since it has a continuing authority over a site which is not a licensable site, we are not extending NRC authority generally to areas where they do not have licensing and supervisory authority, except as specifically delegated by statute.

Mr. HART. The Senator is correct.

Mr. McCLURE. I thank the Senator for that explanation.

Mr. President, I am prepared to yield back the remainder of my time on the amendment.

Mr. HART. Mr. President, I yield back the remainder of my time.

Mr. McCLURE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Idaho.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado, as amended.

The amendment, as amended, was agreed to.

Mr. HART. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. Mr. President, I ask unanimous consent that a quorum call be in order without the time being charged to either the proponents or opponents of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1838

(Purpose: To reduce by $300,000 the authorization for preliminary planning of a study on low-level radiation)

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes an unprinted amendment numbered 1839:

On page 4, line 11, strike the figures "$14,945,000" and "$650,000" and insert in lieu thereof the figures "$14,645,000" and $350,000," respectively.

Mr. BUMPERS. Mr. President, section 3 of S. 2584 directs the NRC and EPA to conduct a "preliminary planning study and develop a design for an epidemiological research study" of the effects of low-level radiation.

Now of the $650,000 authorized under this section, $500,000 is for this planning study.

I agree that low-level radiation effects are not fully understood. I can understand that collection and identification of data on this subject are very complex; but I do not understand why it is going to cost $500,000 to plan the epidemiological study. It is not the study; it is to plan for a study.

By April 1, 1979, EPA and NRC are required to report to Congress the results of this planning. In other words, in less than 6 months this planning will cost half a million dollars. At $50,000 a man-year, this represents 20 people working full time just to decide how they plan to conduct this experimental study.

I cannot understand the high expense of such a study. I do not think there is anybody in the Senate more concerned about low-level radiation than I am. But I cannot understand $500,000 being used not to make a study but to plan on how to make a study.

My amendment would strike $300,000 from the $650,000 authorization. This would have the effect of reducing from $500,000 to $200,000 the money set up in the bill to design a plan to make a study.

Mr. DURKIN. Mr. President, will the Senator yield?

Mr. BUMPERS. I would be glad to yield.

Mr. DURKIN. Earlier in the year the Boston Globe did a study of the Portsmouth Naval Shipyard of the workers who had been exposed to radiation at the Portsmouth Naval Shipyard. Granted that their study was not based on the best data, it was based, however, on the best available data, and the figures were absolutely appalling. It was estimated that 38.4 percent of the shipyard workers at the Portsmouth Naval Shipyard had died of cancer. So this is a problem not just at Portsmouth, it is at eight other States.

There has been work done at Portsmouth since 1959. You have got in addition Norfolk, Va.; Puget Sound, Charleston; Mare Island, Calif.; Pearl Harbor, and private shipyards at Groton, Newport News, and Pascagoula, Miss.

So I am as interested in saving money, as much money as possible, as anyone in this Chamber, but I would urge the Senator from Arkansas, my good friend and colleague on the Energy Committee, to withdraw his amendment. I think it is a very serious problem, and I do not think the money will be wasted.

Mr. BUMPERS. Mr. President, let me say to the Senator from New Hampshire, for whom I have the utmost respect, that I certainly understand the nature of his concern. His State is involved, his people are involved, and I suppose to a lesser extent all the people in the United States are involved. I am not suggesting that you can conduct a study without a plan.

What I am suggesting is that it does not require $500,000 to develop such a plan. It occurs to me that 4 man-years ought to be more than sufficient. Four man-years at $50,000 per man ought to be adequate to develop such a plan.

It just occurs to me that this is one of those cases where the funding is rather exorbitant, and I just saw a chance where, I think, we could save the U.S. Government $300,000 and not diminish the plan; $300,000 is not much around here. If you say it real fast it is nothing.

Mr. HART. Mr. President, the Senator from Arkansas says he does not understand how it could cost so much. Well, I suspect the reason he does not understand is that he did not participate in the hearings or the deliberations of the committee and fully appreciate all the facts that influenced our determination to set the funding at this level. I can understand how my colleague, not being a member of the committee and not having gone into the record, might be confused about that.

I would only call his attention, first of all, to a letter which our committee received from the Nuclear Regulatory Commission. The chairman, Mr. Hendrie, in response to our request for information about what should be done to solve this problem of low-level radiation and what we knew as a data base for making public policy, sent this response.

Mr. President, I ask unanimous consent that a five-page letter from Mr. Hendrie be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. McCLURE. Reserving the right to object——

The PRESIDING OFFICER. The Senator has a reservation.

Mr. McCLURE. I wonder if the Senator might include also the attachments to that letter which, I think, are also enormously informational as to the reasons for the complexity of the study.

Mr. HART. Certainly.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. NUCLEAR REGULATORY COMMISSION,
Washington, D.C., April 19, 1978.

Hon. GARY W. HART,
Chairman, Subcommittee on Nuclear Regulation, Committee on Environment and Public Works, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In your letter of April 4, 1978 you asked for a review of available information on human health effects from exposure to radioactive materials, a summary of current research efforts, and for our recommendations on the feasibility and desirability of performing detailed radio-epidemiological studies. In order to reply to your request, we have reviewed recent data on human radiation effects and have referred to the principal documents that summarize the present understanding of human and animal radiation effects. We have considered the desirability and the methodology whereby a proper epidemiological study could be performed. The purpose of such a study would be to ascertain whether there is a correlation between low-level radiation exposures and cancer, and if there is a correlation, to determine the relationship. Although I assume the latter subject is the primary thrust of your letter, I shall answer your questions in the sequence in which they were asked.

You are correct in your understanding that the risks generally associated with the present standards for radiation protection are based on theoretical extrapolations from high-level human exposures, and on extensive data from animal experiments. Although the standards were set at levels where no immediate detectable biological effects were expected to occur, the NRC adopted the "ALARA" principle to further reduce the risk associated with both the occupational and population exposure to ionizing radiation associated with NRC-licensed facilities and materials. This was based on a policy which assumed no threshold dose for health effects from low-level radiation. Mr. Minogue discussed these matters in greater detail in his testimony before your Subcommittee on April 10 of this year.

A good recent summary of the available worldwide information on adverse health effects from exposure to radioactive materials appears in the UNSCEAR 1977 report,[1] "Sources and Effects of Ionizing Radiation."

Because of its biological effects and exceedingly long half life, great attention is being given to assessing the health consequences of plutonium. Although some accidental exposures have occurred, no human health effects from plutonium exposures have yet been substantiated. Our knowledge of plutonium health effects is based almost entirely on animal studies in the laboratory. A summary of the available evidence on the effects of plutonium exposure in humans and experimental animals is contained in Attachment I. The EPA has recently published in conjunction with a rulemaking on residual plutonium levels in soil, their current findings on the potential biological effects of plutonium (*Federal Register* Vol. 42, N. 230,

[1] *Sources and Effects of Ionizing Radiation*, United Nations Scientific Committee on the Effects of Atomic Radiation, 1977 report to the General Assembly, United Nations, New York 1977.

Nov. 30, 1977). The levels established are based on a risk concept that is specifically related to radiation dose as a result of soil contamination.

At the present time, the majority of the ongoing research on health effects due to exposure to ionizing radiation in the United States is being funded by the Department of Energy. Under contract with EPA, the National Academy of Sciences will prepare later this year an updated review of the evidence concerning health effects from ionizing radiation and their associated risk estimates. This review will most likely include much of the information that has become available since preparation of the 1972 BEIR[2] report. A summary of the low-level radiation health effects research efforts currently funded by the NRC is contained in Attachment II.

In our opinion, an epidemiological study of the increase of cancer in the Rocky Flats area would not yield meaningful results. The report by Davis and Sternglass has been reviewed by the NRC staff and the results previously submitted to your staff. As you point out, the EPA review arrived at a conclusion similar to ours. To reiterate, the lung cancer mortality rate, and the rate of increase in lung cancer mortality are, on the average, lower in the Rocky Flats area than in the rest of the United States in spite of the fact that the natural radiation background is considerably higher. Thus, even if some number of cancers were induced by plutonium releases from the Rocky Flats Plant, even under the most pessimistic assumptions, only a small fractional increase in the number of cancer cases would result. This would be much smaller than the expected variability in incidence from year to year and from area to area. Any potential relationship would therefore be extremely difficult, and probably not possible, to prove or disprove.

On the other hand, the feasibility of a more general epidemiological study designed to better define the relationship between cancer and radiation exposure for occupationally exposed people appears promising. Radiation exposure records are available, suitable control populations can be defined and the number of exposed and monitored people are probably sufficient for a detailed study. However, there are difficulties that must be recognized. The first arises from the fact that incidence rates of health effects that can result from radiation exposures at environmental and occupational levels are extremely low and constitute only a small fraction of the same effects that occur naturally. This is true even if the most pessimistic assumptions regarding the risks of low-level radiation are made. In order to derive meaningful results from these low incidence statistics, it is necessary to use very large populations for the subject and control groups. With such large groups it is difficult to avoid variations in radiation background exposure and medical exposures which obscure the effects under study.

The second problem is that effects being studied—in this case, cancers, may be caused by a number of other agents. Unless the presence of these other agents is known and corrected for, differences between the control and subject groups may be incorrectly attributed to the agent under study.

There seems to be a growing consensus that some form of major epidemiological study of the cancer producing effects of low-level radiation exposure should be performed. It may or may not be possible to get definitive results from such a study, but the Commission agrees that the performance of such a study should be seriously considered and explored in detail. A study of the type and magnitude that would probably be required to provide meaningful results has never before been attempted. It would be a very difficult and costly undertaking, involving the accumulation and sophisticated statistical analysis of vast amounts of data in order to try to distinguish cancers due to low-level radiation doses from the many other causes of cancer. Therefore, careful planning and design of the study, including the statistical techniques to be used, are essential if the results of the study are to be meaningful. To accomplish this we believe that the effort should be conducted in two phases. The first phase would consist of planning and design of the study, and evaluating its cost and potential for success. If these determinations are favorable, the study would be actually conducted in the second phase. We estimate that phase 1 alone would take about two years to complete and cost a few million dollars.

In order to do the best job, and to develop a study that will have the greatest applicability and potential for success, the first phase should provide for participation of all Federal and State agencies and other public and private organizations that could either utilize the results of the study or that could help in designing how the study should be performed. A major part of the work would have to be contracted to one or more specialist organizations.

It would be desirable for the lead agency to be one of the principal users of the results of the study and therefore, it should probably be a regulatory agency. The agency should also have significant inhouse expertise in health physics, radiation dosimetry, probability analysis, statistics, and a good understanding of the overall occurrence of ionizing radiation in our society.

Recognizing that neither the NRC nor the Environmental Protection Agency (EPA) currently have the resources needed to assume responsibility for a study of this magnitude, the Commission believes that either could obtain the resources to function effectively as the lead agency. However, the Commissioners are not in unanimous agreement on the question of which agency should have the lead in this study. Chairman Hendrie and Commissioner Kennedy believe that such an effort would be more in keeping with EPA's broad responsibility for establishing guidelines for radiation exposure limits from all sources of radiation, and that this study should have such a broad context. While NRC has the important responsibility of limiting radiation exposures due to the commercial use of source, SNM, or byproduct material, this responsibility is quite limited when viewed in the context of the larger radiation control problem including, for example, medical X-rays. Secondly, because the NRC's regulatory functions are so closely associated with the nuclear industry, the study and its results may have greater public acceptance if EPA, with its broader responsibilities, had the lead. Commissioners Bradford and Gilinsky, on the other hand, believe that NRC should take the lead in the conduct of such a study. Since NRC's primary goal in its regulation of the civilian nuclear program is to assure the protection of the health and safety of the public and of the environment, they feel that taking a leadership role in the study of health effects for low-level radiation is an integral part of fulfilling that responsibility. If NRC is not to be the lead agency, then it should play an important role in the conduct of such a study.

Should it be decided that NRC take lead responsibility, any authorizing legislation must recognize the limited nature of our current resources and make full provision for the conduct and coordination of large parts of the effort by consultants and outside organizations with the necessary specific expertise. Whether NRC, EPA, or some other organization takes the lead role, we would expect that all agencies would need to work in close cooperation.

Sincerely,

JOSEPH M. HENDRIE.

A SUMMARY OF KNOWN PLUTONIUM EXPOSURES IN HUMANS AND ANIMALS AND HUMAN FOLLOW-UP STUDY

HUMANS

1. To determine the relationship between urinary excretion and plutonium body content, 18 persons of short life expectancy were injected with plutonium between 1945 and 1947. The amounts they received were high in comparison with occupational limits. Eight of those individuals survived at least eight years and some are still alive. None of these individuals exhibited any medical problems that could be attributed to plutonium.

2. Several workers were exposed to plutonium about 30 years ago during the Manhattan Project. It is estimated that they were exposed to levels of plutonium considerably exceeding the present NRC standards. Several of these persons still retain body burdens in excess of the presently permissible level. None of the workers has suffered any illness attributable to the exposures.

3. A number of personnel have been exposed to insoluble particles of plutonium and other transuranic elements in connection with their work at the AEC's national laboratories. The results of medical examinations for these personnel are considered by the NRC staff to be the best possible source of direct information regardingg the adequacy of its standards for the protection of personnel against such particles. These results are being closely followed.

4. To obtain as much information as possible on the effect of transuranium elements on humans, the U.S. Transuranium Registry (USTR) has been established at Hanford Environmental Health Foundation. It serves as a center for the acquisition and recording of the latest and most precise information of the transuranic elements in man and their effects on man. As of October 1977 over 14,000 U.S. transuranium workers have been tabulated. Authority for almost 1,000 autopsies has been obtained thus far; 87 autopsies have been performed. To date no effects attributable to the transuranic elements in humans have been identified.

ANIMALS

Numerous experiments indicate that internally deposited plutonium in relatively large amounts will (like other alpha emitters) cause cancer, primarily of the lung and bone.

While all our questions about plutonium are not yet answered, the available information on plutonium toxicity, carefully derived over the past thirty years, provides an impressive spectrum of important information. We probably know more about the relative toxicity of plutonium than any other agent and its toxicity following incorporation into the body is in no way unique. Plutonium, indeed, seems to follow the following radiobiologic generalizations:

1. The effects of exposure appear to depend upon the distribution of the radionuclide and whether it be an alpha, a beta, and/or gamma emitter and whether the emitted radiation energy is uniformly or nonuniformly distributed amongst the cells at risk. The chemical form in which the radionuclide is present in the body often influences its distribution.

2. The dose rate from radionuclides such as plutonium is generally protracted rather than acute and is continually changing. Thus, the dose-effect relationships from internally deposited plutonium requires consideration not only of the total absorbed dose but of the dose-rate pattern by which it was acquired.

3. The sites of effects are those cells and tissues which are irradiated, and radiation-induced tumors are usually found in tissues in which cellular injury has been seen.

4. At low and intermediate radiation dosage patterns, the major end point has been tumorigenesis and this appears to account entirely for any life shortening which may be observed. At very high levels of administered radioactivity, life shortening may be quite marked and not solely due to tumorigenesis, while at exceedingly low levels of exposure in which tumorigenesis is rare or absent, no life shortening effect has been observed relative to comparable unirradiated animal populations.

5. No unique hazards from internal emitters such as plutonium and the transuranium elements are apparent when the dosage pattern is comparable to exposure to X- or gamma-radiation administered externally.

LOW LEVEL RADIATION HEALTH EFFECTS RESEARCH

RADIATION HEALTH EFFECTS IN HUMAN BEINGS

1. Health Effects of Industrial Exposure to Thorium (Argonne National Laboratory, Center for Human Radiobiology)

This research project was initiated in 1976 with the objective of locating and studying as many as possible of a population of approximately 5,000 workers who were involved in the chemical processing of thorium. The data of interest includes a detailed clinical examination of those willing to participate in the study, including indirect measurement of the internal deposition of radionuclides in each person using a whole body counter. The cause of death of all of the known deceased members of the population will be compiled and collated from death certificates. A follow-up study of volunteers willing to donate their body tissue specimens for later postmortem examination will provide a basis for verifying the estimated body burden of radioactive materials and pathology studies. The first 100 persons will have been examined by the end of FY 1978.

2. Evaluation of Thorium Content of Human Tissues from Grand Junction, Colorado (New York University Medical Center, Institute of Environmental Medicine).

The objective of this research is to determine if there is a measurable difference in the thorium in tissues of people who lived in an area of known higher thorium concentrations in the soil compared to the tissue of other people. The study is comparing the thorium in tissue specimens collected at autopsy in Grand Junction, Colorado, with the specimens from New York City, New York. The tissue specimens of interest are lung, pulmonary lymph nodes, liver, spleen, kidney and bone. The study is expected to be completed in FY 1980.

3. Follow-Up Study of Persons Who Had 131-I and Other Diagnostic Procedures During Childhood (HEW-Bureau of Radiological Health). This project is being done in concert with both the Bureau of Radiological Health and the National Cancer Institute.

This research project was initiated by the NRC in 1976 to assess the risk of inducing thyroid neoplasms in people exposed to diagnostic levels of 131-I in childhood and to study the dose response relationship.

RADIATION HEALTH EFFECTS RESEARCH (ANIMAL)

4. Relative Hazard of Radioiodine As a Function of (A) Radiation Quality and (B) Age at Exposure (University of California, Davis).

This research was initiated in 1976 to investigate the relative hazard of 131-I, 132-I, and 133-I using X-ray as a standard radiation source. The measurement of potential health effect is the degree of inhibition of goitrogenic response. The experimental animal is the guinea pig, and fetal, neonatal, juvenile and adult animals are being studied to determine the varying sensitivity of individuals with respect to age.

5. Biodosimetric Confirmation of Whole Body Radiation Damage and Use As Early Predictors of Late Effects: Confirmation of Dose Rate Amelioration Factors (University of California, Davis)

This research project was begun in 1976 to determine the applicability of hematopoietic end-points as sensitive biodosimeters to determine whether latent effects of radiation such as leukemia and cancer could be predicted by early changes in blood cells. A relatively long-lived experimental animal, the dog, was chosen for the study. Both total radiation dose and the rate at which the dose is accumulated are being varied in the study. The results will provide information applicable to assessing the risks to people.

6. Radiation Exposure and Risk Estimates for Inhaled Airborne Radioactive Pollutants Including Hot Particles (Lovelace Foundation, Inhalation Toxicology Research Institute).

This research project was begun in 1976 to confirm the applicability of models for predicting radiation health effects based on the research with highly refined pure isotopes of known particle size and spherical shape to the irregularly sized mixtures of particles of varied shape and composition in the occupational exposure situation. The experimental animals to be used will include many previously used species in representative numbers to allow comparison of the results of the present work with what was done before and to eliminate species differences. Rats, dogs, and monkeys are being used.

7. A Study of UF_6/UO_2F_2 in Experimental Animals (University of Rochester Medical Center, New York).

This project was begun in 1977 to determine the time rate and quantitative relationships between body burden and urinary elimination rate of uranium, hexafluoride and UO_2F_2, the hydrolyzed product of UF_6. Both compounds are used in the uranium level cycle with some consequent potential for occupational exposure. Both rats and dogs are being used as experimental animals.

Question B-14.—On page 7 you state that a major epidemiological study on the effects of low-level radiation "could provide a better basis for informed regulatory action."

Roughly, how long would such a study take and how much would it cost?

Would it be useful to first find a one-year project to design the study?

What would that cost?

Would your office be equipped to take a lead role in the design project?

Response.—A study of the type and magnitude that would be required to provide meaningful results has never before been attempted. It would be a very complex and costly undertaking, involving the accumulation and sophisticated statistical analysis of vast amounts of data in order to try to distinguish cancers due to low-level radiation doses from the many other causes of cancer. Therefore, careful planning and design of the study, including the statistical techniques to be used, are essential if the results of the study are to be meaningful. To accomplish this we believe that the effort should be conducted in two phases. The first phase would consist of planning and design of the study and evaluating its cost and potential for success. If these determinations are favorable, the study would be actually conducted in the second phase. We estimate that phase 1 alone would take about two years to complete and cost a few million dollars.

The estimated total cost of phase 2 of the epidemiological study would be very much larger and take many years to complete. It is possible that some results might be available within 2 or 3 years after starting the actual study.

The NRC would be one of the principal users of the ultimate results of the study and therefore would have a major interest in its proper implementation. The NRC has for many years been required to assess and evaluate radiation exposure data. It has a staff with expertise in health physics, radiation dosimetry, probability analysis, statistics and other related areas and a good understanding of the overall occurrence of ionizing radiation in our society. The lead agency or agencies functions would be primarily management and coordination, so that a high level of inhouse expertise in epidemiology would not be essential.

If it is decided that NRC should take the lead role in the development and conduct of such a study, any authorizing legislation must recognize our limited resources and make full provision for the conduct and coordination of large parts of the effort by consultants and outside organizations under our overall direction.

Question 815.—The BEIR Committee is funded by EPA. When their funds run out, the members are required to continue their program on a volunteer basis. Thus, their activities are frequently rushed in order to meet financially-derived deadlines.

In your opinion, what would be the merits of NRC co-support of this effort?

Should any agencies, if not NRC, be involved in financial support of these activities?

Could a continuing Committee of the NAS be established for this purpose, funded perhaps by contract through EPA and NRC?

Please comment on these ideas.

Response.—Although the BEIR Committee is funded by EPA, it is our understanding that the Committee operates in a completely independent manner and receives no technical direction from the EPA staff. The most important aspect of funding the Committee is to assure that the funding is adequate, irrespective of how many agencies provide those funds. If current funding is inadequate, the most straight-forward approach to the problem would be to increase the EPA budget to provide additional support for the Committee. We do not see any significant advantage to involving the NRC or any other agency in co-financing the BEIR Committee with the EPA. It is our view that after this next BEIR Committee report is issued, it will be several years before sufficient new data would be available to justify undertaking another study and report. Therefore, we believe that a continuing committee of the NAS is unnecessary for the purpose, although a continuing NAS committee could provide a valuable overview, advisory function in the design and conduct of radioepidemiological studies.

Question 816(a).—Is it true that utilities frequently allow maximum allowable employee occupational exposure in short periods of time and then remove them from the hazardous environment?

Response.—Workers performing certain maintenance operations at nuclear power plants have received the NRC quarterly limit in a period shorter than one quarter, but this is not, in our opinion, a frequent occurrence. It normally happens only during plant shutdown periods, which occur once per year, and includes only about 2 percent of the workers. When such exposures occur, NRC regulations specify that the workers may not receive additional occupational exposure from activities under the license during that quarter.

(b).—How does the effect of maximum short-term exposure compare with effects of continued long-term minimum exposure? Are they equivalent?

Response.—The risk associated with exposures in the range of the quarterly limits are believed to be essentially equal whether

---

[2] *Biological Effects of Ionizing Radiation*, Report of the Advisory Committee on the Biological Effects of Ionizing Radiation, National Academy of Sciences, National Research Council, Washington, D.C. 1972.

distributed throughout the quarter or received in a shorter period. This position is supported by a recent report of the International Commission on Radiological Protection (1977) that recommends elimination of quarterly limits, thereby permitting the annual dose limit to be received in a short period.

Question B17.—Dr. Radford suggested convening a meeting of leading scientists and others to define the parameters of scientific studies needed to resolve the questions of low-level radiation and human health—Do you support this idea? If so—Who should convene the meeting—who should be involved?—What questions should they discuss—Following that meeting would it be useful to convene an interagency task force with NRC as lead agency to prepare a specific study plan, and to choose among the management alternatives?

Response.—We support the concept of such a meeting. Such a meeting could be an important early step in the planning and design of the epidemiological study, i.e., phase I of the study. In our view, such a meeting should be organized by the agency designated to lead the study with participation from all Federal agencies that would utilize the results of the study. Participants in the meeting should also include the best available expertise in the area of epidemiology and biostatistics. The meeting should focus on the details of how the large scale epidemiological study should be performed and attempt to reach a consensus regarding the best available methodologies to employ in the study. Integral to the discussion of methodologies should be consideration of all important facets of the study, such as the number of persons to be included in the investigation, the specific cancers to be studied, dose ranges to be considered, etc.

Mr. HART. I read from that letter to the Senator from Arkansas:

It may or may not be possible to get definitive results from such a study, but the Commission agrees that the performance of such a study should be seriously considered and explored in detail. A study of the type and magnitude that would probably be required to provide meaningful results has never before been attempted. It would be a very difficult and costly undertaking, involving the accumulation and sophisticated statistical analysis of vast amounts of data in order to try to distinguish cancers due to low-level radiation doses from the many other causes of cancer. Therefore, careful planning and design of the study, including the statistical techniques to be used, are essential if the results of the study are to be meaningful. To accomplish this we believe that the effort should be conducted in two phases. The first phase would consist of planning and design of the study, and evaluating its cost and potential for success. If these determinations are favorable, the study would be actually conducted in the second phase. We estimate that phase I alone would take about two years to complete and cost a few million dollars.

Mr. President, the committee, faced with the request for a few million dollars and a proposal that the first phase would take a couple of years, has given the Commission a fraction of that, namely, $500,000, and asked that the results be in our hands by next spring. The Commission says it is going to take 10 to 20 years to determine all of the ramifications of the low-level radiation problem in this country that we, unfortunately, are facing today. That effort is going to take tens of millions of dollars.

So in his effort to be pennywise here, I am afraid the Senator from Arkansas is suggesting to the Senate that we get ourselves into a situation where we end up being pound foolish. If we are going to spend tens of millions of dollars to determine the facts and solve the problems related to low-level radiation, what can be the objections to $500,000 to make sure that those tens of millions of dollars are spent properly?

If we cut this back, as the Senator from Arkansas suggests, in my considered judgment—and I think that of the full committee—we are risking the waste of tens of millions of dollars in this decade-or-two-long effort merely to save the $300,000 that the Senator from Arkansas proposes that we save.

I think it would be a very, very poor investment, and I hope my colleagues on the minority side will support my efforts to defeat this amendment.

Mr. McCLURE. Mr. President, will the Senator yield on that point?

Mr. BUMPERS. Yes.

Mr. McCLURE. Mr. President, I do indeed join with the Senator from Colorado for all of the reasons he has outlined. I am afraid what we are confronting is the demand to respond to a very real concern of people that there may have been or there may be radioactive hazards to public health, and that if we do not get a very good and substantial study that is technically and scientifically sound we will be asked to legislate on the basis of emotional responses to those problems.

I think there is a great danger that the timeframe we have allowed and the money that was designated in the bill are both insufficient to avoid that pitfall, but certainly what we did in the bill is minimal, and to go below that would be, in my judgment, both unwise and counterproductive, and it would leave Congress and the committee in position to act with inadequate information and, therefore, act only upon an emotional and, therefore, a political basis on what ought to be a very serious scientific study.

I support the effort of the Senator from Colorado in opposing this amendment.

Mr. BUMPERS. Mr. President, I would like to ask the Senator from Colorado where in the letter he just read a moment ago it says that they need $500,000 and how many people to design this plan. I heard a lot about this study, how much money this study is going to cost, and I have no figures to refute that. But where does it say there ought to be at least $500,000 spent in designing a plan for the study?

Mr. HART. Well, first of all, the portion of the letter I quoted to the Senator from Arkansas had to do with stage 1, which is what we are talking about. The letter says:

We estimate that phase 1 alone would take about two years to complete and cost a few million dollars.

That was simplified by deliberations in our own committee and informal contact between our own staff and the staff of the NRC.

Mr. BUMPERS. Mr. President, will the Senator yield?

Mr. HART. I yield.

Mr. BUMPERS. Was there a specific request for a specific amount of money for the design of an epidemiological study or is this just——

Mr. HART. No. As I indicated earlier, the statement contained in this letter is a response to a request that I, as subcommittee chairman, made to the chairman of the Commission asking for his thoughts and his estimate of what it would take to get this effort off the ground. It was not a line item budget request by the administration; it was in response to our request that the commission responded by saying they felt, first, it would be of this magnitude.

I would point out also that we are not just talking about the Nuclear Regulatory Commission; we are asking the Nuclear Regulatory Commission and the Environmental Protection Agency as the lead agencies to incorporate participation of a variety of other Federal agencies in this effort. This is not just NRC. Part of the funds of $500,000 would go to a variety of other Federal agencies which would be participants in deciding this massive undertaking we are talking about. So we are not just talking about pouring half a million dollars into NRC; we are talking about pouring half a million dollars over half a dozen or more Federal agencies, which would be participants. It is a coordinated effort.

Mr. BUMPERS. Mr. President, I am not going to pursue the amendment, and I will withdraw it in a moment. But I would submit that it is a case where a considerable amount of money could be saved. The amount of money involved here is just a small thing that I picked out of this bill as what I considered to be just sort of a place to throw money.

If this is going to be an interagency study, I can think of a good reason for not putting any money in it. That is what interagency studies are for, to call on all agencies of the Government to put their expertise into a plan such as this and see whether a plan is needed.

I am not going to ask for a rollcall vote. If I did, based on normal mentality around here, people would think I needed a saliva test, asking for a rollcall over $300,000. I just wanted to make a point. I withdraw the amendment.

Mr. McCLURE. Mr. President, will the Senator yield before withdrawing the amendment?

Mr. BUMPERS. Yes.

Mr. McCLURE. I wanted to underscore one statement the Senator from Colorado has already made in reading from the letter. That is that a study of the type and magnitude that would probably be required to provide meaningful responses has never before been attempted.

The reason I asked the Senator to include in the RECORD the attachments to that letter is that I think a full reading of the letter and the attachments will begin to outline the very great difficulty of the undertaking, and therefore justify the amount asked, and probably could justify a larger sum of money.

I thank the Senator for withholding so that I might make that comment.

Mr. HART. Mr. President, will the Senator yield?

Mr. BUMPERS. Yes.

Mr. HART. Mr. President, I commend the Senator for withdrawing the amendment, but also for calling the attention of the managers of the bill to the matter. I assure him this was not lightly put in. It was not a frivolous demand of the Commission which we overlooked. It was, as I have indicated, a fraction of the amount which the Commission estimated at our request would be required to carry out this study. We took the matter under very serious advisement, looked at it very hard, and felt certain we were asking the Commission to reprogram internally more than $8 million worth of funds which we required them to finance out of their present operations. This amount of money was almost the minimal amount that could be required for this type of effort. I thank the Senator for calling that to our attention, and for his good judgment in withdrawing the amendment.

Mr. RANDOLPH. Mr. President, will the able Senator further withhold his request for a moment?

Mr. BUMPERS. Yes.

Mr. RANDOLPH. I think you have done a service to those of us who have joined, from the Committee on Environment and Public Works, in bringing this authorization bill to the Senate. As a Senator, and not as the chairman of the committee, I have been very conscious, very wary about expanding nuclear power in this country. The implications of rapid expansion are such that we must not adopt such a policy without first answering some very fundamental questions.

In thinking through the reality of the figure here, I was conscious of my own concern about the wastes that are produced by nuclear power reactors. I discussed this subject earlier. I repeat that nuclear power must prove itself as a supply of energy in competition with other resources. The investments are huge and the risks are great. The commitment to large-scale nuclear dependence must not be made without an exhaustive examination of the alternatives from all perspectives.

Mr. BUMPERS. I thank the Senator. I ask unanimous consent that Ark Monroe of my staff be given the privilege of the floor during the consideration and votes on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is withdrawn.

Mr. DURKIN. Mr. President, will the Senator from Colorado yield?

Mr. HART. Yes; I yield to the Senator from New Hampshire.

Mr. DURKIN. Earlier this year, the Energy and Natural Resources Committee accepted my amendment to the Department of Energy authorization bill (S. 2692) that would establish a blue ribbon panel to review DOE's research efforts in the area of low-level radiation health effects. That bill, of course, has not yet come before the full Senate for consideration, but when it does, I am confident my amendment will be retained with the backing of the full Energy Committee. Such a review I believe is necessary, first, because of the potential for harm from low-level radiation, and, second, because of the need to insure the complete objectivity and credibility of these critically important studies. I note that section 3 of the bill under consideration establishes a planning study to develop a design for an epidemiological research study of the health effects of ionizing low-level radiation.

These studies are critically important. A recent study of worker mortality at the Portsmouth Naval Shipyard by the Boston Globe's Pulitzer prize-winning spotlight team found that shipyard employees exposed to low-level radiation have a cancer death rate more than twice the national average and almost 80 percent higher than the rate for shipyard employees doing no nuclear work. I ask unanimous consent that the Globe article be inserted in the RECORD at the end of my remarks.

An estimated 3,000 to 5,000 workers have been exposed to radiation since nuclear work began at Portsmouth in 1959. And Portsmouth is not alone, for it is just one of nine shipyards where nuclear work is done. In addition to Portsmouth, there are naval nuclear shipyards at Norfolk, Va.; Puget Sound, Wash.; Charleston, S.C.; Mare Island, Calif.; and Pearl Harbor, Hawaii; and private shipyards at Groton, Conn.; Newport News, Va.; and Pascagoula, Miss.

My amendment to the DOE authorization provides that a panel of distinguished experts will be selected by the President from a list supplied by the National Academy of Sciences and would give full authority to review, comment upon, and make recommendations regarding DOE studies into the low-level radiation problem, including the study at the Portsmouth Naval Shipyard. Such a panel is essential. I believe, to insure that DOE's studies in this vital area are as objective, timely, and competent as possible, and that the results will be credible to the public. I ask unanimous consent that the legislative and report language pertaining to this amendment in the Energy Committee report be inserted in the RECORD at the end of my remarks.

I am sure that the manager of the bill is aware of the difficulties with conducting objective, scientific studies in an area as sensitive as the effects of low-level radiation. Yet, we must insure that ongoing and future studies, like the one now underway of Portsmouth and other nuclear facilities are carefully reviewed by an independent review panel to insure their objectivity and public credibility.

I am addressing the manager of this bill at this point to inquire whether it is consistent with his intention that the planning study called for in his bill be a coordinated Federal effort; and that results from the preliminary planning study, and any study which may result, be included among those studies under the review of the blue ribbon panel. This means solely that the panel will review and comment upon the study or studies, and make nonbinding recommendations to the chairman of the Commission and the Administrator of the Environmental Protection Agency regarding the methodology and the significance of the results of the study contained in your bill. This in no way affects the nature of the study, nor does it affect the autonomy of the Commission and the EPA in designing and conducting the study.

Mr. HART. Yes, I believe what the Senator from New Hampshire has in mind is consistent with answering the critical questions about the hazards of low-level radiation, and with the intent of the Committee on Environment and Public Works Committees in including this provision in the bill. While I cannot be certain of the Energy Committee's intent in approving the Senator's earlier amendment, it would be beneficial to encourage adoption of equivalent standard of scientific objectivity in all agencies which are studying the low-level radiation problem. Therefore, it is within the intent of the committee that the NRC/EPA study authorized in the bill be reviewed and commented upon informally by appropriate scientific agencies and organizations. This certainly would include the blue ribbon panel established by the Department of Energy authorization bill, assuming that the panel comes into being in time to perform such a review.

Mr. DURKIN. I thank the Senator for his sensitivity to the need for coordination between agencies engaged in the same activity and for the need for objectivity in studying this crucial problem. I thank the Senator for yielding.

UP AMENDMENT NO. 1840

(Purpose: To delete the authorization for grants to States for reviewing proposals for long-term storage facilities)

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes an unprinted amendment numbered 1840:

Strike out from page 9, line 7, through page 10, line 10, inclusive.

Mr. BUMPERS. Mr. President, section 6 of S. 2584 provides one-half million dollars as an aid to impacted States in which a long-term waste repository may be planned. The committee report defines 20 years as a long term. This authorization would remain available until expended. According to the bill, NRC can provide grants to "any State for the purpose of conducting an independent State review of any proposal to develop a long-term storage or disposal facility * * *."

Mr. President, the NRC is a licensing agency and it does not propose or recommend where the disposal facility should be. Let me repeat: NRC is a licensing commission, and it neither proposes nor recommends nor designates any location for a waste disposal facility.

It is the DOE that will select and choose the location. It is the DOE that will apply for the license when a selection has been made. The Department of Energy applies for the license when the selection has been made, and DOE applies to NRC for the license on behalf of itself to put nuclear waste in a particular State.

Everybody here is in favor of Federal support to any State that happens to be

chosen as the location of a disposal facility. The State will provide a great service to all parts of the country, whatever State it is—New Mexico has already been chosen. So I support this whole concept.

The State ought to be allowed, and it ought to be given the funds, to make the kind of independent study, review, and analysis on its own. It ought to be supported by the Federal Government in order to make that review as to whether or not it wants the facility and what the impact is going to be on the State.

My point is that the Nuclear Regulatory Commission is a licensing agency and it is not the one that ought to be providing that support. Department of Energy is the agency that selects the site and applies for the license. And it is the one that ought to be providing the State this support.

As a matter of fact, the Senator from New Mexico (Mr. DOMENICI) who is seated in this body right now, knows that the State of New Mexico has already executed a contract with DOE for this precise kind of support. New Mexico has asked for $2,180,000 to be spent over the next 7 years. I am told that DOE has already signed a contract with the Health and Environmental Department of New Mexico for $100,000, just for the rest of this fiscal year. They have asked for $418,000 for fiscal year 1979, and the Department of Energy has the wherewithal and is fully expected to support that.

If the Senator from New Mexico has any problem with it, I will be glad to join with him and make sure they get every bit of it.

New Mexico is the only State I know of today where a long-term disposal facility is being planned. I know there is exploratory work on other sites in other States, but the site of Carlsbad, N. Mex., is the only facility which has been identified as of now as a project for long-term waste disposal. New Mexico is more than adequately supported by funds already available from the Department of Energy. If they need more, I will help them get it.

So it is not responsible for us to authorize another half million dollars to any State to review any proposal. What we are doing here is acting in a vacuum. The bill does not even specify what proposals qualify and at what stage. For example, if a utility mentions the possibility of storage in my home State of Arkansas, does that mean that Arkansas is immediately eligible for this grant? Does the grant become available the minute somebody mentions my State as a possible repository for nuclear waste?

Mr. President, I think the provision is ambiguous, premature, duplicative, and it is out of place in the NRC authorization. It should be deleted from the bill.

I just want to reiterate, Mr. President—and it may be that the floor manager has a perfectly valid and good explanation for this—that NRC does not recommend a site; it does not choose a site; it cannot grant itself a license—well, I guess it could, but it certainly would be a strange administrative procedure where NRC applies to itself for a license to locate a nuclear waste disposal facility in a particular State—nor does it have any money at its disposal right now to allow States to make their own independent analysis as to whether they want a site in their State selected.

Just look at it. This is not a turf fight. I do not really care who does it. I think it ought to be done, and the money ought to be made available to the States. I will say now, I do not want them to pick Arkansas. If they do, I will ask for a lot of money in my State for an analysis.

All I am saying is DOE has the money; they are the ones who find the sites; they are the ones who do the study of the site; they are the ones who recommend the site; they are the ones who apply to the NRC for a license to put it there, and they are the ones who have the money to give the States to do this kind of analysis. So why in the name of heaven are we putting a half million dollars in this bill?

Mr. HART. Will the Senator yield?

Mr. BUMPERS. I yield the floor.

Mr. HART. First of all, Mr. President, I would point out that there is nothing in the bill which requires that this money be spent. Obviously, if there is no use for the money in any State, it will not be spent. The Senator's concern will have been taken care of.

The Senator is correct about the role of the Department of Energy in these operations, particularly the actual location and operation of the site itself. But what the Senator neglects to point out is that the NRC does, in fact, have a very clear responsibility in the conduct of its licensing authority to involve the public and to seek public participation at every step.

The NRC operates as an independent arbiter of these determinations, and it is extremely important in reaching the decisions about issuing a license to find out what public opinion is and what the impact of locating a waste disposal site in any area would be. Therefore, funds are often necessary to assure those kinds of public hearings and public participation. The DOE has no real responsibility of that sort.

Third, I would only point out, before yielding to the Senator from New Mexico, that at least 30 States are under general consideration as potential locations for long-term waste disposal and storage of those, some 10 States are considered as high priorities. Therefore, we are getting to a point where more than just the State of New Mexico is concerned. When the concern in those other States reaches the level, as I am sure it will fairly shortly, of concern in the State of New Mexico, I think the Senator from Arkansas can be assured that NRC is going to have its hands full in terms of handling public opinion.

Mr. McCLURE. Will the Senator yield briefly?

Mr. HART. I yield.

Mr. McCLURE. I want to reserve as much time as possible to the Senator from New Mexico both because of his personal interest in this amendment and his State having such an immediate concern about it, because they are faced with the first assessment of the disposal site.

I would like to point out that subsection (b) of section 6, which appears on page 9 of the bill, deals with the question of when can they apply for the grant. There is a very specific triggering mechanism contained in the bill. Some of the concerns the Senator expressed about when can they apply for a grant and when would they be eligible for the grant are taken care of under that section, though perhaps not as precisely as he would like. Nevertheless, that issue is addressed.

I would also like to refer to page 28 of the report of the Committee on Environment and Public Works which accompanies this bill. It refers to what long-term radioactive waste storage is.

I expressed some mild disagreement with that language, because there it defines long term as being anything in excess of 20 years, but at the same time disavows commercial nuclear fuel from the kind of thing we are studying here.

I would point out that if we have a wait for reactor storage as we must have starting in 1983, certainly that AFR will be for more than 20 years. The radioactive waste we are concerned about in permanent repositories have half-lives from 20,000 to 25,000 years. So we are dealing with storage requirements for 50,000 years to 250,000 years. It certainly seems to me that the breaking between long term and short term, when we are looking at 250,000 years, is somewhere above 20 years. The useful life of any proposed repository, if it be interim or temporary, would certainly be more than 20 years.

I just wanted to point out that it may have some application to AFR. It certainly has some application to storage which would exist for periods of time in excess of 20 years, but how much in excess I think we may have some concern with.

I agree with the Senator that DOE does have authority.

I agree with the statements of the Senator from Colorado, however, and I hope the amendment will not be adopted. I join with the Senator in opposing it.

Mr. DOMENICI. Will the Senator yield 5 minutes?

Mr. HART. I yield 5 minutes to the Senator from New Mexico.

Mr. DOMENICI. First, may I thank my good friend from Arkansas for his general concern in this area. He was absolutely correct in identifying the present relationships between the Department of Energy and the State of New Mexico and its agencies with reference to studies and evaluations that are ongoing that precede any final decision with reference to WIPP.

On the other hand, I say to my good friend that we did not intend this provision to apply only to New Mexico, nor did we intend this to be the exclusive source of money for a State to be able independently to hire experts to evaluate pending projects. It seemed to us that since, at the time we were putting this bill together, there was evidence, by virtue of a letter, that NRC was going to be used and that a license was going to be applied for, we ought to provide for the eventuality where a State could not get what it needed from other sources; and if that were the case, it could apply

to the Nuclear Regulatory Commission for up to half a million dollars to aid them in independent studies. I think these are cumulative remedies, that they should have cumulative sources of money. I can see a time when, maybe, DOE would not want to fund a certain approach for a study that a State thought necessary in preparation for licensing. I think we ought to leave it in as an option, because of the peculiar nature of the NRC's ultimate role. I think it is good to have the option of their having a chance to look at a State application.

I also say to my good friend that I do not think New Mexico is going to apply for money that they do not need. Therefore, if it is all taken care of by DOE, this might never come into play. On the other hand, there may be a dispute with them sometime down the road when we need the money and this might be a resource for evaluating needs when they have proposals. I think this ought to be left in. It is not a lot of money. I think to provide for States to have resources is just one of a number of things we have to develop here, if we want our States to cooperate and if we want the people within the States to feel comfortable or confident that their experts in their States have a significant right in this area, that they will have something to say and will have resources for their own experts.

(Mr. RANDOLPH assumed the chair.)

Mr. BUMPERS. Mr. President, I am aware of the politics of this situation. I know that I do not want to call for a rollcall vote, because it is a small amount of money. I think that the amendment has great validity. As a matter of fact, I cannot imagine what kind of justification NRC is going to use for spending its money. DOE has that whole waterfront covered. They have the money and it has been authorized for these specific purposes. To put a half million dollars in a program that is already supported by another agency, the DOE. New Mexico is asking for $2 million and I dare say they will ask for more than that. I know one thing, if there were a proposal to put one in Arkansas, I would want to be sure that I was going to get all the money I needed to do an indepth analysis of the potential environmental effects on my State. If, in this coming year, DOE picks any State in the Nation besides New Mexico, which is well on its way with its study, I guarantee that a half-million dollars that NRC has got is peanuts. They do not have the money. A half-million dollars is nothing. I do not know why it was put in there.

The Senator from Colorado said, well, just because it is authorized does not mean they have to spend it, but I promise you, that money will be gone at the end of next year. Being on the Appropriations Committee, I shall take the closest look at it when it comes for appropriations and, frankly, try to head it off there.

As long as everybody is on notice that I intend to try to delete that $500,000 at the earliest possible time, I withdraw the amendment.

The amendment was withdrawn.

Mr. HART. Mr. President, I thank the Senator from Arkansas once again. I do not believe there are further amendments.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. HART. Mr. President, I yield back all my time.

Mr. McCLURE. Mr. President, I yield back with just this comment: I hope that the Senator from Arkansas may be persuaded before the Appropriations Committee that if the money is not forthcoming from other sources, the money might be made available from this source. I hope he will not be inflexible or have his mind closed on that issue. Our friend from New Mexico has a real problem that might visit any of the rest of us at any particular time.

I yield back the remainder of my time.

Mr. HART. Before yielding back, I want to thank the very able committee staff, which has served us so well in the past year, on both sides of the aisle. As with other committees, it is obvious that we could not have performed our work without their help and I think that their work should be acknowledged.

I urge the passage of the bill.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill was passed as follows:

S. 2584

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) There is authorized to be appropriated to the Nuclear Regulatory Commission (hereafter in this Act referred to as the "Commission") to carry out its functions and authorities under the Atomic Energy Act of 1954 (42 U.S.C. 2017) and the Energy Reorganization Act of 1974 (42 U.S.C. 5875) for fiscal year 1979, to remain available until expended, $335,895,000 to be allocated as follows:

(1) For "Nuclear Reactor Regulation", not more than $46,880,000 of which amount $1,070,000 in addition to the level of activity in fiscal year 1978 shall be available exclusively for the Alternate Fuel Cycle activities described in section 5 of this Act and $2,080,000 shall be available exclusively for Advanced Reactors;

(2) For "Standards Development," not more than $14,945,000, of which amount $650,000 shall be available exclusively for Low Level Radiation activities, including those activities described in section 3 of this Act;

( ) For "Inspection and Enforcement", not more than $38,760,000;

(4) For "Nuclear Materials Safety and Safeguards," not more than $27,240,000, of which amount $8,127,000 shall be available exclusively for Nuclear Waste Disposal and Management activities, and $540,000 in addition to the level of activity in fiscal year 1978 shall be available exclusively for the Alternate Fund Fuel Cycle activities described in section 5 of this Act;

(5) For "Nuclear Regulatory Research," not more than $166,640,000, of which amount $2,500,000 shall be available exclusively for the implementation of the Improved Safety Systems Research plan required by section 205(f) of the Energy Reorganization Act of 1974 as amended, $4,448,000 shall be available exclusively for Nuclear Waste research activities, $330,000 in addition to the level of activity in fiscal year 1978 shall be available exclusively for the Alternate Fuel Cycle activities described in section 5 of this Act, and $18,833,000 shall be available exclusively for Advanced Reactor Research;

(6) For "Program Technical Support," not more than $13,480,000, of which amount $160,000 in addition to the level of activity in fiscal year 1978 shall be available to the Office of International Programs exclusively for the Alternate Fuel Cycle activities described in section 5 of this Act;

(7) For "Program Direction and Administration," not more than $27,950,000, of which amount $225,000 shall be available for equal employment opportunity activities including support of four positions in the Office of Equal Employment Opportunity;

(b) No funds may be transferred from any major program category listed in subsection (a) to any other major program category listed in such subsection if the total of the funds so transferred from that particular category would exceed $500,000, and no funds may be transferred to any major program category listed in subsection (a) if the total of the funds so transferred to that particular category would exceed $500,000, unless—

(1) a period of thirty calendar days has passed after the Commission has transmitted to the appropriate authorizing committees of the Congress a written report containing a full and complete statement concerning the nature of the transfer involved and the reason therefor; or

(2) each authorizing committee of the Congress referred to in paragraph (1), before the expiration of such period, has transmitted to the Commission written notice to the effect that such Committee has no objection to the proposed action. Such reallocation may be made notwithstanding the limitations of subsection (a), except that no reallocation pursuant to this subsection shall detract from sums specified in subsection (a) for particular activities under the major program categories. In no event, shall the total of sums reallocated pursuant to this subsection exceed $10,000,000 or 15 per centum of the program from which or to which the funds are transferred.

SEC. 2. (a) Subsection (b) of section 209 of the Energy Reorganization Act of 1974, as amended, is amended by adding at the end thereof the following sentence: "Notwithstanding the preceding sentence, each such director shall keep the Executive Director fully and currently informed concerning the content of all such direct communications with the Commission.".

(b) Section 209 of the Energy Reorganization Act of 1974, as amended, is amended by adding a new subsection (c) to read as follows and redesignating existing subsection (c) accordingly:

"(c) The Executive Director shall report to the Commission at semiannual public meetings on the problems, progress, and status of the Commission's equal employment opportunity efforts."

SEC. 3. (a) The Commission and the Environmental Protection Agency are authorized and directed to conduct a preliminary planning study and develop a design for an epidemiological research study of the health effects of low level ionizing radiation. In the conduct of such planning study, the Commission and the Environmental Protection Agency shall consult with appropriate scientific organizations and Federal and State agencies.

(b) Within thirty days after the date of enactment of this section, the Commission and the Environmental Protection Agency shall submit to the Congress a memorandum of understanding delineating their respective responsibilities in the conduct of the planning study authorized by subsection (a) of this section and allocating the sums authorized for this purpose by section 1(a)(2) of this Act. On or before April 1, 1979, such agencies shall submit a report to the Congress containing the results of such planning study. The report shall include an identification of the respective functions of the appropriate agencies and organizations to be involved in the implementation of the epidemiological research study as designed.

SEC. 4. The Commission is authorized and directed to undertake a comprehensive review of the existing process for selection and training of members of the Atomic Safety and Licensing Boards, including, but not limited to, the selection criteria, including qualifications, the selection procedures, and the training programs for Board members. The Commission shall report to the Congress on the findings of such review by January 1, 1979, and shall revise such selection and training process as appropriate, based on such findings.

SEC. 5. (a) There is hereby established within the personnel of the Commission a Fuel Cycle Evaluation task force which shall consist of representatives of appropriate Commission program offices and shall report directly to the Executive Director for Operations. Such task force shall monitor and assist the domestic international studies and evaluations of the various nuclear fuel cycle systems currently in progress.

(b) The Commission shall report to the Congress semi-annually on the progress of domestic and international evaluations of nuclear fuel cycle systems including, but not limited to, a summary of the information developed by and available to the Commission on the health, safety, and safeguards implications of the leading fuel cycle technologies.

SEC. 6. (a) The Commission is authorized to provide grants to any State for the purpose of conducting an independent State review of any proposal to develop a long-term storage or disposal facility, including a test disposal facility, within such State for high-level radioactive wastes, non-high-level transuranium contaminated radioactive wastes, or irradiated nuclear reactor fuel.

(b) Any person, agency, or other entity proposing to develop a facility of a type described in subsection (a) of this section shall notify the Commission as early as possible after the commencement of planning for a particular proposed facility. The Commission shall in turn notify the Governor and the State legislature of the State of proposed situs whenever the Commission has knowledge of such proposal. At any time after such notification, such State may apply for a grant under this section.

(c) The Commission shall promulgate regulations to govern the issuance of grants under this section. Such regulations shall include provisions governing the amount of any such grants, taking into consideration the proposed level of State review and the continued development of the proposed facility. Any grant approved pursuant to this section shall not exceed the sum of $500,000, and any sums received by the State in excess of its actual costs shall be reimbursed to the Commission.

(d) Beginning in fiscal year 1979, there are authorized to be appropriated $500,000, to be available until expended, for the purpose of providing the assistance authorized by subsection (a) of this section.

SEC. 7. Title II of the Energy Reorganization Act of 1974, as amended, is amended by adding at the end thereof a new section to read as follows:

"EMPLOYEE PROTECTION

SEC. 210. (a) No employer, including a Commission licensee, an applicant for a Commission license, or a contractor or a subcontractor of a Commission licensee or applicant, may discharge any employee or otherwise discriminate any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

"(1) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this Act or the Atomic Energy Act of 1954, as amended, or a proceeding for the administration or enforcement of any requirement imposed under this Act or the Atomic Energy Act of 1954, as amended;

"(2) testified or is about to testify in any such proceeding or ;

"(3) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this Act or the Atomic Energy Act of 1954, as amended.

"(b)(1) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, within thirty days after such violation occurs, file (or have any person file on his behalf) a complaint with the Secretary of Labor (hereinafter in this subsection referred to as the 'Secretary') alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint and the Commission.

"(2)(A) Upon receipt of a complaint filed under paragraph (1), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within thirty days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting in his behalf) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this subparagraph. Within ninety days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by subparagraph (B) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for public hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

"(B) If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of subsection (a) has occurred, the Secretary shall order the person who committed such violation to (i) take affirmative action to abate the violation, and (ii) reinstate the complainant to his former position together with the compensation (including back pay), terms, conditions, and privileges of his employment, and the Secretary may order such person to provide compensatory damages to the complainant. If an order is issued under this paragraph, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

"(c)(1) Any person adversely affected or aggrieved by an order issued under subsection (b) may obtain review of the order in the United States court of appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5 of the United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the Secretary's order.

"(2) An order of the Secretary with respect to which review could have been obtained under paragraph (1) shall not be subject to judicial review in any criminal or other civil proceeding.

"(d) Whenever a person has failed to comply with an order issued under subsection (b)(2), the Secretary may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief, compensatory, and exemplary damages.

"(e)(1) Any person on whose behalf an order was issued under paragraph (2) of subsection (b) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

"(2) The court, in issuing any final order under this subsection, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award is appropriate.

"(f) Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28 of the United States Code.

"(g) Subsection (a) shall not apply with respect to any employee who, acting without direction from his employer (or the employer's agent), deliberately causes a violation of any requirement of this Act or of the Atomic Energy Act of 1954, as amended.".

SEC. 8. The Commission shall report to the Congress on January 1, 1979, and annually thereafter on the use of contractors, consultants, and the National Laboratories by the Commission. Such report shall include, for each contract issued, in progress or completed during fiscal year 1978, information on the bidding procedure, nature of the work, amount and duration of the contract, progress of work, relation to previous contracts, and the relation between the amount of the contract and the amount actually spent.

COOPERATIVE RESEARCH FUNDING

SEC. 9. Moneys received by the Commission for the cooperative nuclear research programs may be retained and used for salaries and expenses associated with those programs, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and shall remain available until expended. Funds may be obligated for purposes stated in this section only to the extent provided in appropriation Acts.

TRANSFER OF FUNDS

SEC. 10. Transfers of sums from salaries and expenses may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriations to which transferred.

APPROPRIATIONS

SEC. 11. Notwithstanding any other provision of this Act, no authority to make payments under this Act shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 12. Section 11 e. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"e. The term 'byproduct material' means (1) any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material, and (2) any radioactive material resulting from the processing of ores primarily for the extraction of source material.".

SEC. 13. Section 81 of the Atomic Energy Act of 1954, as amended, is amended by adding a new sentence at the end thereof as follows: "No license shall be required by the Commission for the transfer, receipt, acquisition, ownership, or possession of byproduct material as defined by section 11 e. (2) of this Act until three years from the date of enactment of this sentence.".

SEC. 14. Section 161 g. of the Atomic Energy Act of 1954, as amended, is amended by adding at the end thereof the following:

"The Department of Energy may accept donations of reclaimed land used for the disposal of byproduct material as defined in section 11 e. (2) of this Act. Land donated under this section shall not be subject to the provisions of title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, nor to disposal under the Federal Property and Administrative Services Act of 1949, as amended. The President shall assign custody to such land to any agency authorized by law to manage land title to which is held by the United States."

SEC. 15. Section 161 of the Atomic Energy Act of 1954, as amended, is further amended by adding at the end thereof a new subsection x. as follows:

"x. establish by rule, regulation, or order, in accordance with the requirements of section 181 of this Act, such standards and instructions as the Commission may deem necessary or desirable to ensure that funds will be made available by a licensee to permit the timely completion of all requirements established by the Commission for the decommissioning, decontamination, and reclamation and long-term maintenance and monitoring where necessary of sites, structures, and equipment used in connection with the generation or disposal of byproduct material as defined in section 11 e. (2) of this Act.".

SEC. 16. Section 274 b. of the Atomic Energy Act of 1954, as amended, is amended by adding "as defined in section 11 e. (1) of this Act" after the words "byproduct materials" in paragraph (1); by adding a new paragraph (2) to read as follows:

"(2) byproduct materials as defined in section 11 e. (2) of this Act.";

and by renumbering existing paragraphs (2) and (3) accordingly.

SEC. 17. Section 274 d. (2) of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"(2) the Commission finds that the State program is in accord with subsection o. of this section and is in all other respects compatible with the Commission's program for the regulation of the materials covered by the proposed agreement, and that the State program is adequate to protect the public health and safety with respect to such materials.".

SEC. 18. Section 274 e. of the Atomic Energy Act of 1954, as amended, is amended by adding a new paragraph (3) to read as follows:

"(3) Prior to the expiration of three years from the date of enactment of this paragraph, nothing in this Act shall preclude the exercise of State authority over byproduct materials as defined by section 11 e. (2) of this Act. Except as otherwise permitted by Federal law, on or after three years from such date, a State may exercise authority for protection of the public health and safety from radiation hazards associated with such byproduct material only pursuant to an agreement or an amendment thereto entered into with the Commission in accordance with subsection b. of this section. Amendments to existing agreements to provide for the continuation of State authority over such byproduct material shall be subject to paragraphs (1) and (2) of this subsection and to subsection d. of this section.".

SEC. 19. Section 274 j. of the Atomic Energy Act of 1954, as amended, is amended by inserting after the words "with the State" the following: ", or that part of an agreement respecting any of the materials enumerated in subsection b. of this section,".

SEC. 20. Section 274 of the Atomic Energy Act of 1954, as amended, is further amended by adding at the end thereof the following new subsection:

"o. In the licensing and regulation of byproduct material as defined by section 11 e. (2) of this Act pursuant to an agreement entered into in accordance with subsection b. of this section, a State shall adopt and enforce substantive standards for the protection of the public health and safety from radiation hazards which are equivalent to, or more stringent than, standards adopted and enforced by the Commission for the same purpose, including requirements, standards, and criteria promulgated by the Commission and the Administrator of the Environmental Protection Agency pursuant to sections 84, 85, and 275 of this Act.".

SEC. 21. Chapter 8 of the Atomic Energy Act of 1954, as amended, is amended by adding a new section 83 to read as follows:

"SEC. 83. REMEDIAL ACTION, EXEMPTION, AND ENFORCEMENT.—

"a. Persons otherwise subject to the requirement of a license by section 81 of this Act shall be exempt from such requirement with respect to the ownership and possession of byproduct material as defined in section 11 e. (2) of this Act which is covered by a remedial action program conducted or approved by the Department of Energy.

"b. The Commission may require, by rule, regulation, or order, the Department of Energy or persons exempted by subsection a. of this section or section 81 of this Act from the requirement of a license for the ownership or possession of byproduct material as defined in section 11 e.(2) of this Act to conduct monitoring, perform remedial work or comply with such other measures as the Commission deems necessary or desirable to protect health or minimize danger to life or property in connection with the disposal and storage of such byproduct material: *Provided, however*, That after completion of a remedial action program for such material conducted or approved by the Department of Energy, any requirement involving significant physical modification of such a program shall be subject to concurrence by the Secretary of Energy: *And provided further*, That should said Secretary fail to concur, he shall provide notification thereof to the President in writing, and if the President determines that compliance with such requirement is necessary to adequately protect health or minimize danger to life or property, such requirement shall take effect.

"c. The Commission may make such studies and conduct such inspections as it may deem necessary or desirable to ensure compliance with rules, regulations, and orders issued pursuant to subsection b. of this section. Persons violating any such rule, regulation, or order, and persons refusing to permit inspections conducted pursuant to this subsection, shall be subject to a civil penalty in an amount equal to that provided by section 234 a. of this Act. Notification and enforcement of such penalty shall be in accordance with sections 234 b. and c. of this Act.

SEC. 22. (a) Chapter 8 of the Atomic Energy Act of 1954, as amended, is amended by adding at the end thereof a new section 84 to read as follows:

"SEC. 84 AUTHORITIES OF COMMISSION RESPECTING CERTAIN BYPRODUCT MATERIAL.—The Commission shall ensure that the management of any byproduct material as defined in section 11 e.(2) of this Act is carried out in such a manner as—

"(1) the Commission deems appropriate to protect the public health, safety, and environment from radiological and nonradiological hazards associated with the processing and with the possession and transfer of such material;

"(2) conforms with the applicable standards and criteria promulgated by the Administrator of the Environmental Protection Agency under section 275 of this Act; and

"(3) conforms to general requirements, established by the Commission, with the concurrence of the Administrator of the Environmental Protection Agency, which are at least comparable to requirements applicable to the possession, transfer, and disposal of similar hazardous material under the Solid Waste Disposal Act, as amended.".

(b) The table of contents for such chapter 8 is amended by inserting the following new item after the item relating to section 83:

"Sec. 84. Authorities of Commission respecting certain byproduct material.".

SEC. 23. (a) Chapter 10 of the Atomic Energy Act of 1954, as amended, is amended by inserting after section 274 the following new section:

"SEC. 275. HEALTH AND ENVIRONMENTAL STANDARDS FOR URANIUM MILL TAILINGS.—

"a. As soon as is practicable, but not later than eighteen months after the date of enactment of this section, the Administrator of the Environmental Protection Agency (hereinafter in this section referred to as the 'Administrator') shall, by rule, promulgate standards and criteria of general application for the protection of the public health, safety, and the environment from radiological and nonradiological hazards associated with the processing and with the possession and transfer of byproduct material, as defined in section 11 e. (2) of this Act at sites where ores are processed primarily for their source material content, or at sites which are used for the disposal of such byproduct material.

"b. Such generally applicable standards and criteria promulgated pursuant to this section for nonradiological hazards shall provide for the protection of human health and the environment as required by subtitle G of the Solid Waste Disposal Act, as amended: *Provided, however*, That no permit issued by the Administrator is required under this Act or the Solid Waste Disposal Act, as amended, for the processing, possession, transfer, or disposal of byproduct material, as defined in section 11 e. (2) of this Act.

"c. The Administrator may periodically revise any standard or criterion promulgated pursuant to subsection a. of this section. Any such revision shall be applied upon license renewal to persons holding on the date of promulgation of such revision a license for byproduct material as defined in section 11 e. (2) of this Act issued by the Commission or by a State exercising authority pursuant to section 274 b. (2) of this Act: *Provided, however*, That in no event shall such a revision be applied later than five years from the date of promulgation thereof.

"d. Implementation and enforcement of the standards and criteria promulgated pursuant to subsection a. of this section shall be the responsibility of the Commission in the conduct of its licensing activities under this Act. State exercising authority pursuant to section 274 b. (2) of this Act shall implement and enforce such standards and criteria in accordance with subsection o. of such section.

"e. Nothing in this Act applicable to byproduct material as defined in section 11 e. (2) of this Act shall affect the authority of the Administrator under the Clean Air Act

of 1970, as amended, or the Federal Water Pollution Control Act, as amended.".

(b) The table of contents for chapter 19 of the Atomic Energy Act of 1954, as amended, is amended by inserting the following new item after the item relating to section 274:

"Sec. 275. Health and environmental standards for uranium mill tailings.".

SEC. 25. Chapter 8 of the Atomic Energy Act of 1954, as amended, is amended by adding a new section 85 to read as follows:

"SEC. 85. The Commission may require by rule, regulation, or order, in accordance with the requirements of section 181 of this Act, that byproduct material as defined by section 11 e. (2) of this Act be disposed of on land to which title has been transferred to the State or the United States at the time of termination of any license for the generation or possession of such material upon finding that such action is necessary or desirable to protect health or minimize danger to life or property in connection with the disposal of such byproduct material. Any such rule, regulation, or order shall specify standards for the transfer of title to such land to the State or the United States, including: (1) standards to assure the completion, prior to the transfer of title, of all requirements established by the Commission for the decommissioning, decontamination, and reclamation of sites, structures, and equipment on the land which are used in connection with the generation or disposal of byproduct material as defined in section 11 e. (2) of this Act; (2) standards to minimize the need for future remedial work; (3) standards to minimize the cost, including the cost to the State or the United States, for any long-term care; and (4) standards to permit the reservation of rights by the transferor to the future reprocessing of byproduct material, as defined in section 11 e. (2) of this Act, and to the future use of the surface or subsurface estate, consistent with any standards or requirements promulgated by the Commission which are applicable to the generation, possession of transfer of byproduct material, as defined in section 11 e. (2) of this Act. This section shall not be construed as authorizing or requiring the transfer of title to Indian land.".

SEC. 25. (a) The Commission, in cooperation with the Department of Energy, is authorize and directed to conduct a study of extending the Commission's licensing or regulatory authority to include categories of existing and future Federal radioactive waste storage and disposal activities not presently subject to such authority.

(b) Each Federal agency, subject to the provisions of existing law, shall cooperate with the Commission in the conduct of the study. Such cooperation shall include providing any necessary access to existing facilities and sites and providing any information needed to conduct the study which the agency may have or be reasonably able to acquire.

(c) On or before March 1, 1979, the Commission shall submit a report to the Congress containing the results of the study. The report shall include—

(1) a complete listing and inventory of all radioactive waste storage and disposal activities now being conducted or planned by Federal agencies;

(2) an assessment of the benefits of extending the Commission's licensing or regulatory authority to include categories of existing and future Federal radioactive waste storage and disposal activities not presently subject to such authority;

(3) an evaluation of the relative potential risk to the public health and safety and the environment from such categories of existing and future Federal radioactive waste storage and disposal activities;

(4) an evaluation of the feasibility and cost of extending the Commission's licensing or regulatory authority to include such categories of existing and future Federal radioactive waste storage and disposal activities, including the technical and other data requirements for licensing or regulation and the likely characteristics of the Commission's licensing or regulatory program;

(5) an evaluation of the national security implications of extending the Commission's licensing or regulatory authority to include such categories of existing and future Federal radioactive waste storage and disposal activities; and

(6) the Commission's recommendations concerning the categories of existing and future Federal radioactive waste storage and disposal activities, if any, which should be made subject to the Commission's licensing or regulatory authority and the type of authority which the Commission should be granted.

The title was amended so as to read:

A bill to authorize appropriations to the Nuclear Regulatory Commission for fiscal year 1979, and for other purposes.

Mr. McCLURE. I move to reconsider the vote by which the bill was passed.

Mr. HART. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FRAUD IN GOVERNMENT PROGRAMS

Mr. CHILES. Mr. President, this morning, the Governmental Affairs Subcommittee on Federal Spending Practices and Open Government held hearings on fraud within the General Services Administration. The Deputy Attorney General told us of steps that the Justice Department and GSA are taking to establish a joint strike force to take charge of the criminal investigation. That strike force will give us one person in charge, which I believe is essential to assuring the taxpayers of this country that we are not going to let the thieves continue to cart away money, television sets, and whatever else they want from agencies of the Federal Government.

We also heard testimony this morning from Elmer Staats, the Comptroller General, on his soon-to-be-printed report "Federal Agencies Can, And Should, Do More To Combat Fraud In Government Programs." Mr. Staats reported that Federal programs involving $250 billion a year are being handled by a number of agencies of the Federal Government. He further told us that, while we might think the fraud we discovered in GSA was a selected instance of fraud occurring in one department, that was not true, that the same thing that is going on in GSA is going on in a number of other agencies of the Federal Government that are dispensing goods and services, up to $250 billion of taxpayers' money.

He further told us that the agencies themselves have not perceived their role as being one to try to prevent fraud from happening at the start, trying to discover fraud that is going on, or trying to prosecute fraud after they find that it is going on. He told us in this report that most of the Federal agencies perceive their role as one to carry out just the program for which they are created; in other words, to dispense the money or goods or services that their program has been created to carry out. They have not seen their role as being one of trying to prevent fraud or corruption from occurring.

Without this kind of thrust, Mr. President, I think it will be impossible for us to have the taxpayers' confidence. I really think what this report said is what the people have been saying for a long time: There is too much fraud going on. There is way too much waste and inefficiency and the people have known it. Now this report by the General Accounting Office makes it very clear that it is going on, that it is not just GSA, it is all of the agencies of the Federal Government. I think now the task is going to be to see how we can change the thinking of the managers of our agencies and how we can put in the kind of devices that will be necessary to prevent future scandals such as we see going on in GSA today.

The chairman of the Government Affairs Committee (Mr. RIBICOFF) instructed me and our subcommittee to look into this and to hold hearings on the GAO report. We intend to do that as soon as we can determine what is the best way to try to attack this problem. We will be holding hearings in regard to that.

I think a number of things are going to have to be explored to try to determine what is the best way to see that the agencies develop the mechanisms to set the priorities to be able to try to prevent fraud before it occurs, to look in those areas where money could be ripped off by those people that would take advantage of programs, and to try to put in the kind of controls that would be necessary to prevent that from happening, then to detect fraud once it does occur and to see we speedily and properly prosecute it, if it does occur.

I see that this is a tremendous task, but one in which the clock is running, because if we do not do that, as the people are losing their confidence in our ability to manage these programs, I think we will see more proposition 13's. I think that is where the people are trying to speak out and say, "We know there is waste going on and fraud going on, and we are willing to pay for services to people that deserve those services, but we do not want to pay for people who do not deserve the services and we do not want to pay in areas where we think people are ripping off the Federal Government."

Mr. President, I ask unanimous consent to have printed in the RECORD at this time a synopsis of the GAO report that General Staats gave us today.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEDERAL AGENCIES CAN, AND SHOULD, DO MORE TO COMBAT FRAUD IN GOVERNMENT PROGRAMS

Federal economic assistance programs amounting to about $250 billion annually are susceptible to fraud and related white-collar crimes. No one knows the extent of fraud against the Government, but Department of Justice officials believe it ranges from 1 to 10 percent of the expenditures.

Federal agencies have not been doing enough to identify fraud in their programs, and the Department of Justice has been slow in assisting Federal agencies' antifraud efforts. But Federal agencies have recently recognized that more needs to be done and have said that (1) fraud detection is now a high agency priority and (2) actions are being taken to bolster their current efforts.

This report contains recommendations to help Federal agencies take a more active, systematic approach to identifying fraud in their programs.

DIGEST

The Government's economic assistance programs, amounting to about $250 billion annually, are vulnerable targets of fraud and related white-collar crimes. Identifying the extent, nature, and frequency of these illegal acts, together with strong internal controls and effective audit coverage, are essential first steps to combating and preventing them. Yet the agencies GAO reviewed—the Departments of Agriculture, Labor, Transportation, and Housing and Urban Development; and the Veterans, General Services, and Small Business Administrations—are not doing nearly enough to identify fraud.

Federal programs involving grants, contracts, and loan guarantees are exploited through such means as

false claims for benefits or services,

false statements to induce contracts or secure goods or services,

bribery or corruption of public employees and officials,

false payment of claims for goods and services not delivered, or

collusion involving contractors.

No one knows the magnitude of fraud against the Government. Hidden within apparently legitimate undertakings, it usually is unreported and/or undetected. However, all indications are that fraud is a problem of critical proportion. Department of Justice officials believe that the incidence of fraud in Federal programs ranges anywhere from 1 to 10 percent of the programs' expenditures. A former Secretary of the Department of Health, Education and Welfare estimated that losses under the Medicaid program alone total $750 million annually from fraud and abuse.

The amount of suspected fraud which has surfaced confirms that the problem is severe. In 1976, for example, local jurisdictions reported to the Department of Labor that about $38 million in alleged fraudulent unemployment insurance benefits were paid to claimants. Fraud against the Government ranks fourth among all criminal cases filed by Justice. As of March 1978, pending civil fraud suits in Justice totaled about $250 million. According to Justice officials, this number is only a fraction of the actual amount defrauded from the Government.

Opportunities for defrauding the Government are virtually limitless because of the number, variety, and value of Federal programs. These programs, amounting to billions of dollars, involve numerous recipients, providers of goods and services, and public employees at all levels of government. The involvement of so much money, and so many people and institutions makes the Federal programs vulnerable to fraud. (See ch. 2.)

Passive approach to detection of fraud

Federal agencies have not acted aggressively to detect fraud in their programs, and their practices are generally inadequate to identify potential fraud.

Agencies have not established management information systems on fraud. As a result, they do not know the amount of identified fraud in their programs, nor can they estimate the potential amount of unknown fraud. Without such data, agencies have no basis for establishing the level of resources needed to combat fraud, map antifraud strategies, and evaluate the scope and effectiveness of antifraud activities. The absence of management information systems also precludes agencies from taking affirmative actions aimed at identifying and anticipating fraudulent activity, such as:

Tracking fraud occurrences to determine trends and patterns,

Zeroing in on investigative targets,

Directing investigative resources where most needed, and

Pinpointing management procedures and program weaknesses which require strengthening to prevent recurrences of fraud. (See pp. 13 to 17.)

Until recently, agencies have not made fraud detection a high priority. Because their overriding concern is program execution, emphasis is on such things as providing loan assistance. The low priority given to fraud detection leads to passiveness regarding potentially fraudulent situations. The Federal Highway Administration, for instance, generally views contract violations as honest mistakes, with no consideration of the underlying reasons for the violations or potential fraud. The Department of Labor regards questionable personnel and training cost reports submitted by prime sponsors as possible funds to be recovered rather than possible fraud. (See pp. 17 to 19.)

None of the agencies reviewed have, until recently, designated a focal point responsible for seeking out and identifying fraud. Consequently, they generally take a reactive, rather than active, approach to fraud detection. However, a reactive approach is inadequate for detecting fraud, since there is often no obvious incident to react to. The only ongoing, systematic mechanism to actively look for fraud in those agencies reviewed is the Department of Housing and Urban Development's operational survey—a concentrated effort by joint teams of investigators and auditors to detect fraud and program weaknesses. The surveys have consistently uncovered numerous occurrences of suspected fraud. In other isolated instances where agencies have actively sought fraud, they also identified suspected fraud cases. (See pp. 19 to 22.)

Agencies have no assurance that those personnel administering programs are referring all suspected frauds for investigation because:

There are no controls to see that suspicious matters are reported.

Large workloads hinder identifying suspected fraud by program personnel. For example, only three employees were responsible for administering $104 million in one Department of Labor program.

Employees lose interest in reporting suspected frauds when followup actions, such as investigations and prosecutions, are not promptly taken.

Many Federal programs are administered by State, local, or private sector institutions, and Federal agencies often unjustifiably rely on these non-Federal entities to identify and report frauds. (See pp. 23 to 26.)

Agency investigators often do not have the background, experience, and training needed to effectively detect and identify fraud. About 70 percent of them have had no prior experience in fraud investigations, and about 80 percent have had no formal training in investigating fraud. Where investigators have had such training, it was generally limited to procurement fraud. Most investigators have also lacked the education in finance and accounting-related subjects often needed to identify fraud. Since fraud against the Government often involves examining financial documents, absence of a financial background could be detrimental to effective fraud investigations. (See pp. 26 to 28.)

Justice needs to provide stronger leadership

The Department of Justice has been slow to assist, coordinate, and monitor the antifraud efforts of Federal agencies. Justice has not provided agencies with

overall management information on how fraud has occurred and can occur in their programs and

specific, formal guidelines on which types of fraud cases will be accepted for prosecution and how they should be developed to increase the likelihood of successful prosecution.

In 1975 Justice, recognizing the need to deal with white-collar crime, established a white-collar crime committee. One activity of this committee was to provide guidance to agencies on combating fraud. It has met extensively with agency officials and has assisted agencies in carrying out several successful projects demonstrating the existence of fraud in their programs. However, this effort's effectiveness relies on persuasion and encouragement and the availability of resources Justice can devote to it. (See ch. 4.)

Actions needed to enhance the Federal effort

Current national media coverage of the alleged frauds in building construction and maintenance contracting at the General Services Administration highlights Federal vulnerability to white-collar crime and the consequent need for an effective strategy to combat it.

GAO believes a more active, systematic approach to identifying fraud is needed. Heads of the Federal agencies discussed in this report should:

Develop management information systems aimed at providing information on the most likely types and methods of fraud, including the development of techniques for estimating the magnitude of fraud in agency programs.

Elevate fraud identification to a high agency priority.

Take steps to make employees more aware of the potential for fraud and establish controls to see that irregularities are promptly referred to appropriate personnel.

Fix organizational responsibility for identifying fraud.

Provide agency investigators with appropriate fraud training. In future hirings, concentrate or recruitment of personnel with backgrounds and education more suited to the financial complexities of fraud.

The Attorney General should establish a formal plan to assist Federal agencies in combating fraud, including such procedures as:

Working with Federal agencies to develop information on the nature of potential fraud in their programs.

Consulting with agencies to devise systems to identify and investigate fraud.

Advising agencies of the types of cases which will receive priority for prosecution and working with agencies to devise alternative solutions for those which will not.

Providing feedback to Federal agency officials on program and administrative weaknesses developed by Federal prosecutors during the course of various prosecutions.

Agencies' comments and recent actions taken or to be taken

The various Federal program agencies agree that more needs to be done to effectively cope with fraud and abuse in Government programs. Most of the program agencies have said that they have recently made fraud identification a high priority and have fixed organizational responsibility for fraud detection. These agencies have also identified certain other actions they have taken or plan to take to further bolster the fraud detection effort. (See apps. I to VII.)

The Department of Justice also agrees that there is substantial room for improvement in its efforts and those of agency enforcement groups. It believes that efforts already underway such as expanding resources committed to program fraud, training investiga-

tors in fraud detection, and establishing special fraud units in U.S. attorney offices, will upgrade the Department's effectiveness. (See app. VIII.)

Some of these agencies did voice concern over certain statements contained in this report and the manner in which the report characterizes their fraud detection efforts. Chapter 5 addresses these concerns and the various agency actions taken.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business, with statements limited therein to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVALS

A message from the President of the United States reported that on today, September 18, 1978, he approved and signed the following acts:

S. 9. An act to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes; and

S. 1639. An act to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes.

MESSAGES FROM THE HOUSE

At 12:31 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has agreed to House Concurrent Resolution 713, providing for a joint session of the Houses on Monday, September 18, 1978, to receive a message from the President of the United States, in which it requests the concurrence of the Senate.

At 4:45 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House has passed the following bills, without amendment:

S. 2069. An act to provide that members of the Sisseton-Wahpeton Sioux Tribe may request the Secretary of the Interior to acquire certain lands, and to provide that the tribe shall have a preference right to purchase certain lands held in trust by the United States for tribal members; and

S. 3468. An act to amend the Agricultural Act of 1949 to ensure that the interest rates on price support loans for upland cotton are not less favorable to producers than the interest rates for such loans on other commodities.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MUSKIE, from the Committee on the Budget, without amendment:

S. Res. 546. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 3161 (Rept. No. 95–1198).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. DURKIN:

S. 3500. A bill to amend the Trade Act of 1974 in order to provide for Federal reimbursement to States for unemployment insurance benefits paid to workers who are eligible for adjustment assistance benefits under such Act, and to repeal the provisions of law which reduce certain tax credits for employers in any State which does not enter into, or fulfill its commitments under, a Federal-State agreement regarding the administration of worker adjustment assistance benefits; to the Committee on Finance.

By Mr. SCHMITT:

S. 3501. A bill to amend the Internal Revenue Code of 1954 to exempt from the Federal excise tax on distilled spirits ethanol used as a solvent for compounds used in environmental monitoring activities; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURKIN:

S. 3500. A bill to amend the Trade Act of 1974 in order to provide for Federal reimbursement to States for unemployment insurance benefits paid to workers who are eligible for adjustment assistance benefits under such act, and to repeal the provisions of law which reduce certain tax credits for employers in any State which does not enter into, or fulfill its commitments under, a Federal-State agreement regarding the administration of worker adjustment assistance benefits; to the Committee on Finance.

● Mr. DURKIN. Mr. President, in 1974, Congress passed the Trade Act of 1974, a bill with many good features including some financial compensation to workers who are unemployed because of unfair foreign competition.

But in the midst of doing this good work, that Congress introduced provisions which require the States to carry the brunt of the financial burden of paying the trade readjustment assistance. Additionally, under that act, States which do not enter into or fulfill commitments under a Federal-State agreement regarding the administration of trade readjustment assistance benefits are penalized by having the employers in their States lose substantial tax credits.

The legislation which I am introducing today will remove these two senseless provisions from that act. The bill will require Federal reimbursement to States for unemployment insurance benefits paid to workers who are eligible for trade assistance benefits under the trade adjustment assistance benefits under the Trade Act. Additionally, the bill will repeal the relevant paragraphs in the Internal Revenue Code which permit the Federal Government to reduce tax credits for employers in States which are not engaged in an agreement with the Federal Government.

This legislation is particularly germane in these days when unfair foreign competition is costing so many American workers their jobs. I believe in free competition, but this must mean fair competition. And fair competition means that products sent to this country from abroad are manufactured and sold at reasonable costs, not costs which are artificially low because a foreign government has in effect subsidized their production.

Today, many American workers are in danger of losing their jobs because of floods of cheap imports which can drive American firms out of business. As we well know, these imports range from shoes to textiles to televisions to steel to electronics products. American workers deserve at the minimum an even break, so that their jobs are not always on the brink of being lost in the flood of the imports. I believe the American worker can compete successfully against any foreign worker, but I do not believe the American worker should be forced to compete against a foreign government.

The need for better trade practices aside, I also cannot understand why the Congress and the President, after recognizing a special type of unemployment problem caused by unfair imports, put the financial burden for dealing with the resulting unemployment on the States. My State and all others across the country have enough burdens without this being added. The special nature of those unemployed is a result of cheap imports dictates that compensation be paid to the States by the Federal Government for the costs the States incur as part of the trade readjustment assistance.

What is even more upsetting is the penalty to be imposed: A loss of tax credits to State employers. It makes no sense that employers in the State of New Hampshire, or in Maine, or in California, or in Nevada should lose 15 percent of their tax credits because their State government was not able to work out an agreement with the Federal Government on the administration of adjustment assistance programs. Punishing employers with a loss of tax credits will not lead State governments to cooperate in the program. However, it will lead to more unemployment, which will impose further burdens on State treasuries.

One more relevant point about my bill, Mr. President. Because the inequity my bill seeks to redress affects every State in the Nation which has lost jobs to unfair foreign competition, it is a national bill not a regional bill, for this is truly a national problem.

Mr. President, I trust my colleagues,

seeing the double inequity in the Trade Act of 1974, will join me in cosponsoring this legislation. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3500

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 232 of the Trade Act of 1974 (19 U.S.C. 2292) is amended by adding at the end thereof the following new subsection:

"(g)(1) If unemployment insurance is paid under a State law to an adversely affected worker for a week for which—

"(A) he receives a trade readjustment allowance, or

"(B) he makes application for a trade readjustment allowance and would be entitled (determined without regard to subsection (c) or (e)) to receive such allowance,

the State agency making such payment shall, unless it has been reimbursed for such payment under Federal law, be reimbursed from funds the authorization contained in pursuant to section 254(b)(1), to the extent such payment does not exceed the amount of the trade readjustment allowance which such worker would have received, or would have been entitled to receive, as the case may be, if he had not received the State payment. The amount of such reimbursement shall be determined by the Secretary on the basis of reports furnished to him by the State agency.

"(2) In any case in which a State agency is reimbursed under paragraph (1) for payments of unemployment insurance made to an adversely affected worker, such payments, and the period of unemployment of such worker for which such payments were made, may be disregarded under the State law (and for purposes of applying section 3303 of the Internal Revenue Code of 1954) in determining whether or not an employer is entitled to a reduced rate of contributions permitted by the State law.".

SEC. 2. Section 241(a) of the Trade Act of 1974 (19 U.S.C. 2313(a)) is amended by adding at the end thereof the following new sentence: "Sums reimbursable to a State pursuant to section 232(g) shall be credited to the account of such State in the Unemployment Trust Fund and shall be used only for the payment of cash benefits to individuals with respect to their unemployment, exclusive of expenses of administration.".

SEC. 3. Paragraph (4) of section 3302(c) of the Internal Revenue Code of 1954 (relating to credits against Federal unemployment tax) is repealed.●

By Mr. SCHMITT:

S. 3501. A bill to amend the Internal Revenue Code of 1954 to exempt from the Federal excise tax on distilled spirits ethanol used as a solvent for compounds used in environmental monitoring activities; to the Committee on Finance.

● Mr. SCHMITT. Mr. President, we frequently find that laws enacted by the Congress while accomplishing their original aims, also produce undesirable side effects. An example of this has recently come to my attention.

One of my constituents in New Mexico, Mr. William M. Turner, is involved in the development and use of ground-water tracers. These tracers are dissolved in ethanol and are used in labeling or tracing moving ground-water. They have applications in monitoring associated with deep well, waste disposal systems, and in certain processes associated with mineral processing. These tracers, while nontoxic, do not readily dissolve in water and must be suspended in ethanol. This is where a problem has developed.

The Bureau of Alcohol, Tobacco, and Firearms, in its wisdom, has not approved the use of ethanol in quantity for the purposes I have described. Mr. Turner's firm is not allowed to purchase ethanol in quantity, can buy only 1 gallon at a time, and must pay the Federal excise tax on the purchase. Their minimum usage is 2.5 gallons per month.

When the Alcohol, Tobacco, and Firearms legislation was passed in the 1930's, the Environmental Protection Agency did not exist. Now that the protection of the environment is one of our important concerns, new and better techniques must be developed for tracing ground water. If Congress is to require monitoring of the movement of ground-water, then it should also encourage the businesses and individuals involved in this undertaking. In that regard, I am introducing legislation to provide for the suspension of the excise tax on ethanol when used for environmental monitoring purposes. It is to be hoped that the Finance Committee will consider his legislation promptly and include it in this year's tax package which is currently before that committee.

I ask unanimous consent that a letter from Mr. William Turner and the text of the bill be printed in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 3501

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (a) of section 5214 of the Internal Revenue Code of 1954 (relating to withdrawal of distilled spirits from bonded premises free of tax or without payment of tax) is amended by striking out the period at the end of paragraph (10) and inserting in lieu thereof a semicolon and the word "and", and by adding at the end of such subsection the following new paragraph:

"(11) in the case of ethanol, free of tax for use as a solvent for compounds used in subsurface environmental monitoring activities.".

(b)(1) Section 5003 of such Code (relating to cross references to exemptions, etc.) is amended by adding at the end thereof the following new paragraph:

"(16) For provisions authorizing the withdrawal of distilled spirits free of tax for use in environmental monitoring activities, see section 5214(a)(11).".

(2) Subparagraph (B) of section 5004(a)(2) of such Code (relating to exceptions for distilled spirits subject to lien for tax) is amended by striking out "section 5214(a)(1), (2), or (3)," and inserting in lieu thereof "paragraph (1), (2), (3), or (11), of section 5214(a),".

(3) Subsection (d) of section 5005 of such Code (relating to withdrawals free of tax) is amended by striking out "section 5214(a)(1), (2), or (3)" and inserting in lieu thereof "paragraph (1), (2), (3), or (11) of section 5214(a)(1)".

(4) Paragraph (6) of section 5025(c) of such Code (relating to mingling of distilled spirits) is amended by striking out "section 5214(a)(1), (2), or (3)," and inserting in lieu thereof "paragraph (1), (2), (3), or (11) of section 5214(a)(1),".

(5) Paragraph (1) of section 5271 of such Code (relating to requirements for permits) is amended by striking out "section 5214(a)(2) or (3)" and inserting in lieu thereof "paragraph (2), (3), or (11) of section 5214(a)".

(6) Section 5275 of such Code (relating to records and reports) is amended by striking out "section 5214(a)(2) or (3)," and inserting in lieu thereof "paragraph (2), (3), or (11) of section 5214(a),".

(7) Paragraph (2) of section 5314(a) of such Code (relating to special applicability of certain provisions of Puerto Rico) is amended by striking out "section 5214(a)(2) and (3)" each place it appears and inserting in lieu thereof "paragraph (2), (3), or (11) of section 5214(a)".

(8) Subsection (b) of section 5314 of such Code (relating to special applicability of certain provisions to the Virgin Islands) is amended by striking out "section 5214(a)(2) and (3)" each place it appears and inserting in lieu thereof "paragraph (2), (3), or (11) of section 5214(a)".

SEC. 2. Paragraph (1) of section 6 of the Federal Alcohol Administration Act (27 U.S.C. 206) is amended by inserting "for use in a trade or business for the use described in paragraph (11) of section 5214(a) of the Internal Revenue Code of 1954," after "industrial alcohol plant,".

SEC. 3. The amendments made by the first section of this Act shall apply with respect to ethanol withdrawn from warehouse more than 30 days after the date of enactment of this Act. The amendment made by section 2 shall take effect 30 days after the date of enactment of this Act.

AMERICAN GROUND WATER CONSULTANTS, INC.,
June 14, 1978.

Hon. HARRISON SCHMITT,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR SCHMITT: American Ground Water Consultants has developed a new suite of groundwater tracers which have a number of unique attributes. They are non-toxic, indestructable, inert, organic compounds which are not absorbed by clay minerals in the subsurface environment and are detectable at concentrations of 0.01 parts per trillion. They are inexpensive and their analysis is inexpensive. At normal temperatures the compounds are gases. When they are dissolved in ethanol they may be introduced into closed groundwater systems at concentrations of only several parts per billion. They are entrained by moving groundwater and may be used to label or trace the movement of the groundwater. They have applications in monitoring associated with deep well, waste-disposal systems, and they have applications in determining the interstage mixing efficiencies of counter-current-decantation systems used for mineral processing. In using these compounds as tracers, it is necessary to dissolve the compounds in a carrier solution because they are immiscible in water. Therefore, not only must the tracers be non-toxic, the solvent must be non-toxic as well and it must be highly miscible with the tracer compounds.

We have determined that ethanol is the only compound which ideally meets these criteria. Furthermore, OSHA is concerned that even though our tracers are non-toxic, when they are dissolved in a solvent other substances may be produced which are toxic. We find ourselves in a bind. Denaturing agents are toxic and probably could not be introduced into a ground water system. Secondly, the denaturing agents may also react in some way with the tracer compounds to produce toxic compounds thereby complicating matters further than if only pure ethanol were used.

We are led to understand by the local Alcohol-Tobacco and Firearms office that

our use is not an approved use for undenatured ethanol in quantity, and if we do buy ethanol, we can only buy one gallon at a time and must pay the federal excise tax. Our minimum usage per installation runs about 2.5 gallons per month. Now, when the ATF legislation was passed in the 1930's neither NEPA nor the EPA had been heard of. Now that we have them and must measure our impact upon our environment, newer and better techniques are being developed to meet the need. We believe that our tracers are such an advancement. And, we believe we need either legislative or administrative relief to offer these methods to industry. It is my understanding that the atavistic character of the ATF legislation has been recognized and that it may currently be under review by Congress. We would appreciate an amendment that would permit the use of pure, undenatured ethanol by individuals (in its broadest sense) as a solvent for compounds used in environmental monitoring activities and for said purpose the federal excise tax would be waived. It seems to me that because Congress has required monitoring as a result of legislation that they should do everything possible to reduce the cost of industry and the American people. We look to you for assistance and we would be happy to present testimony on this matter. Should you require additional information, please let me know.

Sincerely,

WILLIAM M. TURNER,
President.●

ADDITIONAL COSPONSORS

S. 3496

At the request of Mr. BAYH, the Senator from Minnesota (Mr. ANDERSON) and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 3496, the Small Business Nonprofit Organization Patent Procedures Act.

SENATE JOINT RESOLUTION 153

At the request of Mr. THURMOND, his name was added as a cosponsor of Senate Joint Resolution 153, authorizing the President to proclaim the third week in June 1979 as "National Veterans' Hospital Week."

AMENDMENTS SUBMITTED FOR PRINTING

REVENUE ACT OF 1978—H.R. 13511

AMENDMENT NO. 3601

(Ordered to be printed and referred to the Committee on Finance.)

Mr. BUMPERS submitted an amendment intended to be proposed by him to H.R. 13511, an act to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes.

DEFERRED COMPENSATION PLANS FOR STATE EMPLOYEES

● Mr. BUMPERS. Mr. President, sections 121 and 122 of H.R. 13511 as passed by the House concern deferred-compensation plans. These plans permit taxpayers who are being paid for services rendered to agree with their employer that a certain portion of their compensation shall be set aside and deferred until a later year. Up until February 1, 1978, these plans were effective to defer the inclusion in gross income of the amounts of compensation deferred, on the entirely reasonable principle that a tax should be paid on income when it is received and enjoyed by the taxpayer, and not before. These types of plans have been popular with State governments, Arkansas among them. As a matter of fact, the State of Arkansas has used this kind of plan rather extensively. It is an important tool in attracting and holding high-quality employees, and our general assembly has specifically authorized this method of compensation by statute.

One of the most important agencies of State government using this kind of plan is the Department of Human Resources, which is responsible for seeing that medical care is available to persons who cannot afford to pay for it out of their own pockets. This department has a number of contracts with physicians or physicians' associations under which medical care is rendered to indigent citizens of Arkansas, and these contracts typically include a deferred-compensation provision. Both the State officials administering the plans and the physicians and others who participate in them are well pleased with the results.

Unfortunately, the Internal Revenue Service has recently begun taking the position—contrary to an earlier letter ruling given to the State of Arkansas—that these plans are not effective to defer the taxability of income. The service claims that all of the compensation owed, present and future, is "constructively received" in the year that the services are performed, and that an income tax is therefore due in that year with respect to the full amount of compensation agreed on.

I am convinced that it is in the public interest for these plans to continue, and for that reason I am happy that the House chose to include sections 121 and 122 in its bill. Section 121 covers deferred compensation plans with respect to service for State and local governments, while section 122 covers certain private deferred compensation plans. In general, these provisions will permit the deferral of a portion of the income of the participants in these plans. A limitation of $7,500, or one-third of the participant's compensation, whichever is less, is imposed.

Mr. President, there are a few relatively minor points with respect to which the House bill could be improved, and the amendment that I am submitting today would change the bill in three respects in order to meet these concerns. I would like to explain each of them to the Senate.

First. As indicated above, the most that can be deferred in any given year is $7,500, or one-third of the participant's "includible compensation," whichever is less. In practice, however, the limitation will really be lower, because of a quirk in the definition of "includible compensation." The bill defines this term to mean "compensation for services performed for the State which—taking into account the provisions of this section but not taking into account section 403(b) is currently includible in gross income."

Let us take an example in order that the operation of this definition in practice can be made clear. Suppose a physician receives $20,000 in a certain year. How much of this compensation can be deferred under the House bill? One-third of $20,000 is $6,666.67. Since this number is less than $7,500, one might think that the amount that can be deferred is in fact $6,666.67, which is one-third of total compensation received. But "includible compensation," according to the peculiar definition written into the bill, must be computed by taking into account the provisions of the new section that the bill adds. Presumably this means that "includible compensation" is two-thirds of the $20,000, or $13,333.33. The 33 percent alternative limit would then be applied to this lesser figure, with the result that only $4,444.44 could be deferred. In effect, the ceiling on deferral is reduced from one-third to two-ninths.

This result may not have been intended, and the computation I have just gone through is confusing, unclear, and circular, but at the very least the language of the bill needs to be clarified. This can be easily done simply by removing the offending phrase "taking into account the provisions of this section." "Includible compensation" would then mean the entire $20,000. Such a rule would be much more realistic and fair, as well as easier to understand and administer.

Second. Next, the bill contains a detailed definition of what is an "eligible State deferred compensation plan." The plan must provide, for example, that all of the deferred compensation remains, until made available to the participant or his beneficiary, the sole property of the State, subject to the claims of the State's general creditors. The purpose of this provision is to ensure that the compensation deferred is not set aside in any trust fund or similar entity but remains available for use by the employing governmental organization. The definition is unfortunately complicated by the addition of another phrase: the compensation deferred must be "available for the State's use for whatever purposes it desires." This phrase is confusing and unnecessary. The succeeding phrase, requiring that sums deferred be subject to the claims of the State's general creditors, is entirely sufficient to accomplish the desired object.

A reference to "whatever purposes" the State desires could raise complicated issues of State law. Suppose, for example, that the employing State agency is a hospital. Funds retained by that hospital as deferred compensation might, under State law, be available only for hospital purposes. That sort of decision ought to be made by the State legislature, and whichever way it goes, the legitimate tax objectives of the House bill would not be impaired. I therefore propose to strike from the House bill the phrase "available for the State's use for whatever purposes it desires."

Third. Finally, the House bill appears to limit participation in an eligible State plan to natural persons. Many participants in Arkansas' plans are professional associations or partnerships. These entities actually have the contract with the State or State agency. This form of organization, of course, is common among professional people, for good reasons. These entities should not be excluded from participation, and the dollar and percentage limitations are inappropriate for them. A $7,500 limitation might make sense, for example, if the participant in the plan is an individual

physician. It makes no sense if the participant is a professional association of several physicians. In addition, section 122, relating to private plans, excludes from coverage employees of entities exempt from tax under section 501. In other words, non-State supported colleges or hospitals, trade associations, charitable foundations, labor unions, and similar groups could not set up a deferred compensation plan under section 122 of the bill as passed by the House. I cannot understand why such a distinction should be made.

I therefore propose to amend section 122 to accomplish two objectives: first, to make eligible section 501 entities, and second, to remove the dollar and percentage limitations in the case of plan participants, whether they render services to States or private entities, that are independent contractors or other than natural persons. The dollar and percentage limitations would remain in effect for employees who are natural persons.

Mr. President, these changes will improve the bill and make it more nearly in line with the real needs that sections 121 and 122 were designed to meet. I urge the approval of the amendment and ask unanimous consent that it be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

On page 27, line 3, 4, delete the following words: "available for the state's use for whatever purposes it desires,";

On page 28, lines 23 and 24, delete the following words: "taking into account the provisions of this section but"; and

On page 34, lines 12 through 14, strike the following words: "and not an organization which is exempt from tax under section 501 of such code" and insert in lieu thereof the following: "or where the person performing the service is either an independent contractor or not a natural person, regardless of whether the person for whom the service is performed is a State".

NOTICES OF HEARINGS

SUBCOMMITTEE ON ADMINISTRATIVE PRACTICE AND PROCEDURE

● Mr. ABOUREZK. Mr. President, I wish to announce that the Subcommittee on Administrative Practice and Procedure of the Committee on the Judiciary, will continue hearings on the FBI charter concerning overall policy. The hearings will be held Tuesday at 10 a.m., September 26, 1978, in room 2228 Dirksen Building.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the sessions of the Senate on today and Tuesday, September 19, 1978, to hold markup sessions on H.R. 13511, the tax cut bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Wednesday, September 20, to conduct hearings relating to the national tourism policy study.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Wednesday, September 20, 1978 and Thursday, September 21, 1978 to hold markup sessions on H.R. 13511, the tax-cut bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE CAMP DAVID SUMMIT

● Mr. BELLMON. Mr. President, when Prime Minister Begin and President Sadat arrived at Camp David, their host, President Carter, asked the peoples of the world to pray that their negotiations would be successful. By resolution the Senate asked all Americans to join in those prayers. Yesterday, a victorious President Jimmy Carter announced to a scarcely believeing world, "Your prayers have been answered."

President Carter deserves much praise for his role in the accomplishment of these agreements. The world knows how perilous the situation was. The possibility of failure was clear. The consequences of failure were sobering: More war in the Middle East, and the weakening of our President's leadership in the free world.

What these courageous men have now done, must not be undone. There are those who do not want a peaceful settlement in the Middle East. There may even be those, within the governments whose leaders have reached agreement at Camp David, who are determined that no agreement is better than the one reached.

Let us resolve, Mr. President, that this Congress, that the Government of the United States, will vigorously support the efforts of President Sadat and Prime Minister Begin to live up to their ends of the agreement. Let us give no aid or support to those who would have a continuation of confrontation in the Middle East. Let us give no aid to those who would undo the good that has been done. Let us make clear to the peoples of Egypt and Israel that this country will work for the success of these agreements, not for the Israeli side of the agreement, not for the Egyptian side of the agreement, but for the entire agreement.

I claim no expertise when it comes to solving the problems that beset the Middle East. Some experience at war, however, long ago convinced me that peace in the Middle East could not come through force of arms. For a long time, our policy in the Middle East relied too much upon insuring Israel's ability to defeat her adversaries on the battlefield. In 1956, and again in 1967, war was widely percieved to have settled the Arab-Israeli conflict. However, neither war brought the settlement either side wanted. In spite of astonishing Israeli victories, the vanquished seemed even more determined to fall back, rearm, and reenter the fray.

This country's moral obligation to maintain the existence and independence of the State of Israel has often been proclaimed. Our actions since the founding of that State can leave no doubt as to our intention to honor that obligation. Some nations have even used our commitment to that obligation as an occasion to test our resolve. They have attempted to turn the continued existence of the State of Israel into a confrontation of the major world powers.

Since some nations who could contribute to a solution of the problem, seek to worsen it, I have long thought it incumbent upon this country to take an even-handed approach and have so stated frequently beginning in 1969.

Therefore, I include among the actions this Nation has taken to promote a peaceful settlement in the Middle East, the sale of aircraft to Israel, Egypt, and Saudi Arabia. As I said on the Senate floor at the time (May 15, 1978):

Mr. President, this is the first time since I have been in the Senate that the U.S. is taking an even-handed position so far as arms sales to the Middle East is concerned. In my judgment, this action, which does not jeopardize the security of Israel, will help create a more favorable climate for negotiations and assist in the achievement of a lasting peace settlement. So long as the U.S. is perceived to be primarily concerned with the security and survival of Israel, our credibility as an honest broker is impaired. The approval of this sale should make it plain that, while the U.S. interest in peace in the Middle East is in no way diminished, we are willing to be helpful to our friends on both sides of the question.

Mr. President, to those who are troubled that the sale may touch off an arms race in the Middle East, let me only say that it is my feeling that it will have exactly the reverse effect. There has long been an arms race in the Middle East but the contestants have not been competing on an equal footing. Therefore, neither side has been as receptive to a peaceful settlement as the world interests would mandate. This sale should give the Arabs the confidence they need to negotiate on equal terms toward a peace settlement and should encourage the Israelis to place less reliance on the strength of arms.

Therefore, Mr. President, I support this sale as a move in the direction of a lasting peace.

This arms sale by the United States may have turned out to be a critical element in getting President Sadat and Prime Minister Begin to negotiate at Camp David. It may prove to be even more important when it comes to gaining general approval in the Middle East for the agreement that has been obtained at Camp David.

I once again congratulate the President on his role in convening this Camp David Summit, or "Jimmy Carter Summit," as it has been called. May the agreements reached provide the beginning of a just and lasting peace in the Middle East. As enduring peace materializes, our prayers will truly have been answered.●

SUNSET LEGISLATION

● Mr. MUSKIE. Mr. President, tomorrow, I intend to introduce an amendment to S. 2, the sunset legislation I have proposed, in the nature of a substitute for the bill as reported by the Committee on Rules and Administration earlier this year. The substitute, which has been agreed upon in cooperation with the majority leader, represents our best effort so far in refining the sunset idea to fit the way Congress works.

As many of my colleagues know, we have been working on the sunset legislation for almost 3 years. During this time, sunset has been the subject of much editorial commentary, both in the national media and in local newspapers throughout the country.

In almost every case, the comments have been favorable. And in one editorial after another, the reasons given for supporting sunset are the same: the critical need to provide the American taxpayer with a more effective return on the tax dollars he pays.

I find this display of editorial support gratifying, because we have worked so long and hard on this bill. I ask that a selection of these articles be printed in the RECORD at this point.

The material follows:

[From the Miami Herald, Aug. 1, 1978]

WARM GLOW FOR THE SUNSET LAW

For at least a decade, voters have been sending a message that they're exasperated with the unbridled growth of bureaucracy at all levels of government.

First the message reached the capitals of the states. In 28 of them—including Florida—legislators responded by enacting some form of "sunset law" to terminate programs and agencies that have outlived their usefulness.

Now the voters' message has finally reached that Mecca of bureaucracy, Washington, D.C. There, debate is expected to begin soon on sunset legislation that has been languishing around Congress in one form or another for several years.

Sponsored by Senate Budget Committee Chairman Edmund Muskie and others, the bill known as S2 would force Congress to conduct periodic reviews of Federal agencies and programs.

At present, half of all Federal programs have no expiration date. And as Senator Muskie points out, "Support for reexaming them simply does not exist. Every agency, committee, and lobby wants its own program to not only continue but grow."

Senator Muskie's bill would place most agencies and programs on a 10-year cycle of review whereby they would be terminated unless Congress were persuaded to extend them. Duplication of federal efforts would also be attacked because programs would be grouped for review according to their function.

Co-sponsoring Sen. William Roth points out, for example, that "to handle water-pollution research and development, Congress has created 25 bureaus in 14 different departments or independent agencies."

So congressional action setting up machinery to review Federal programs is badly needed to eliminate duplication as well as to terminate programs which no longer serve any purpose.

The public's present mood makes such a bill timely. And the Carter Administration's professed interest in reducing bureaucracy impels its cooperation should the bill pass. Moreover, the brief experience of states with sunset laws proves they can work whether or not the executive branch is cooperative.

Nevertheless, Senator Muskie's proposed bill faces an uncertain fate. As Common Cause points out, the bill is opposed by some powerful committee chairmen who have developed a cozy relationship with the Federal agencies within their jurisdiction and with the special interests associated with them.

The question, then, is no longer whether the voters' message to do something about bureaucracy has reached Washington: it has, loud and clear. Yet, to be determined is whether Congress will respond.

[From the Los Angeles Times, Feb. 18, 1976]

MUSCLE-BOUND—AND FAT-BOUND

Sen. Edmund S. Muskie (D-Me.) has come up with the refreshing idea that the best way to restore public faith in government is to weed out federal programs that, however well-intentioned, aren't working well enough to earn their keep. More refreshing still, he has gone beyond easy rhetoric to offer a practical means of achieving this result.

Legislation introduced by Muskie early this month would require virtually every federal program to be reviewed by Congress every four years to determine if it should be continued—and, if so, at what level of spending. Those failing to win reauthorization would expire.

The only spending programs exempt from the automatic quadrennial review would be interest payments on the national debt and programs, such as Social Security, under which individuals make payments to the national government in the expectation of later compensation.

Because Muskie's proposal calls for fundamental changes in the psychological atmosphere in Washington, as well as in actual procedures, it is likely to encounter stiff resistance.

But it strikes us as one of the most sensible ideas to come along in years.

The way the political system now operates, members of Congress concentrate on generating new programs to solve real and not-so-real national problems. But once the legislation is enacted, they move on to new frontiers and show scant interest in following up to determine whether the hoped-for results are in fact achieved. In the meantime, the programs gain powerful constituencies of their own in the bureaucracy and in the public. Social and defense programs alike generate pressures for their continuance, and against their reexamination. The question, "Should we be doing it at all?" is too seldom asked.

The cumulative result is a government in which performance increasingly falls short of promise.

Muskie notes that the Catalog of Federal Domestic Assistance lists, among other things, 228 health programs, 156 income-security and social service programs, and 83 housing programs. The federal government manual lists not only 11 Cabinet departments and 44 independent agencies, but also 1,240 advisory boards, committees, commissions and councils. And while dozens of new such bodies are created each year, the old ones rarely go out of business.

As an all-too-typical case of overlapping social programs, the Maine senator told of one city where the General Accounting Office found eight clinics operating in one neighborhood under several different programs—each proceeding without regard to what the others were doing. The GAO has found agencies that were unable to say how much they spend on administrative costs as opposed to actual services.

The American people are understandably turned off, Muskie added, by a government that is too muscle-bound to do the things it is trying to do. He cited complaints from citizens who had to wait 18 months for a ruling on claims for disability compensation, and from towns that had to wait many months for federal approval of sewer systems mandated by federal law.

Muskie, who has done a highly creditable job as chairman of the Senate Budget Committee, says the point is not that there should be a freeze on new programs to help people, but that the country cannot afford new programs unless Congress is willing to eliminate old ones that are ineffective, unnecessary or redundant.

The same sort of waste and duplication is to be found in military programs; they would be subject to the proposed reauthorization procedure, too.

As part of the quadrennial review process that would be required by Muskie's bill, congressional committees would have to make "zero-base" evaluations. That is, they would consider the comparative effects of eliminating a program, of funding it at existing or greater levels, or of funding it at various levels in between. Their findings would be reported to the full House and Senate.

Congress took a big step toward rational setting of national priorities when it established the House and Senate budget committees last year. The Muskie proposal is a natural follow-up; it deserves the support of everybody in and out of Congress who believes in responsible, effective government.

[From the Honolulu Advertiser, July 31, 1978]

WASHINGTON SUNSETS?

Just as it does in 28 states, including Hawaii, the sun may one day be setting over agencies of the federal empire. Spurred by Proposition 13, a proposed federal sunset law has emerged from a series of Senate committees where it has long been held up.

Sunset laws, pioneered by the citizens' lobby Common Cause, provide for government agencies to be automatically closed down after a fixed period unless close legislative inspection proves the agency ought to continue in operation.

In Hawaii after one year of operation our sunset law has had mixed results. A stronger devil's advocate is needed here to push the view that each agency should be abolished and the Legislature also needs to ignore special interests and be a little more efficiency-minded in its deliberations.

The Senate bill would set up a staggered 10-year schedule for the Congress to review all of the estimated 1,250 federal programs.

They would be reviewed in groups according to function, that is, all the health or defense programs at once. It is hoped this will encourage duplicative agencies to combine to compete more strongly for limited funds in each functional area.

As it is now a program is rarely reviewed once Congress creates it. Close scrutiny is reserved for new programs while old ones generally get refunded at the same or higher level whether they are necessary and productive or not.

Not all programs would have to prove their importance from scratch each ten years. The federal judiciary; civil rights programs; Social Security and Medicare which depend upon taxpayer contributions, and interest on the national debt would be exempted.

A controversial item now exempted is tax loopholes or tax expenditures as they are properly called. Some 76 tax expenditures or preferences now cost the government about $130 billion a year in uncollected taxes. This money is in effect being spent by the government with almost no checks on how it is being used. Neither is there any automatic termination date for most of these tax loopholes.

Senator Edmund Muskie, the Maine Democrat who is the bill's chief sponsor, believes that Proposition 13 has put the fear of a cut-taxes-limit-government-spending revolt into most members of Congress. This has improved the bill's chances. The House has also seen the light of Proposition 13 but will await the results in the Senate, according to

Rep. Norman Mineta, D.-Calif., who is sponsoring it there.

The bill now under consideration has been studied and rewritten with considerable care. The lessons from state sunset laws starting with Colorado in 1975 have helped eliminate some pitfalls like overloading the legislative body with too many decisions in too little time.

The Federal sunset law ought to be passed. And the now-exempt tax loopholes ought to be included in the review process.

Those spending programs and tax expenditures that can justify their existence will remain. But the threat of automatic termination is the best way to meet the people's demand for more efficient government.

[From the Boston Globe, July 28, 1978]

AN ATTRACTIVE SUNSET BILL

One of the more radical pieces of legislation working its way through Congress now has the not-very-revolutionary objective of compelling Congress to review periodically and systematically the effects of its past decisions. The so-called sunset bill would force termination of virtually all federal programs over a 10-year period unless Congress, after a careful assessment, decided they should continue.

Now, bureaucracies are created and perpetuated; members of Congress carve out areas of expertise and influence; constituencies develop; and along the way the original rationale for programs and the need to reexamine their usefulness are forgotten. The proposed sunset law seeks to end this process of automatic perpetuation.

One fear that has been voiced is that social programs, approved in the decidedly different climate of the 1960s, would be allowed to die, not because they aren't working, but because a majority of Congress does not want them to work any longer. But many current social programs already have limited authorizations—education aid and food stamps, for instance—and are subject to periodic review.

And a review of agencies squirreled away in the Commerce or Interior or Agriculture Departments, that now receive virtually no congressional scrutiny, might well uncover expenditures that could be more effectively made elsewhere, such as for social programs.

One major flaw in the bill approved by the Senate Government Operations Committee is that it fails to provide for a systematic review of federal taxing policy, of the more than $100 billion in annual tax loopholes approved over the years. If Congress is going to scrutinize the money it spends, it ought also to review the money it decides not even to collect, to make sure the incentives created by those tax preferences are still meeting their stated objectives.

With that important amendment, the sunset bill deserves congressional approval. It would be an effective, responsible reaction to the antibureaucracy mood in the nation signified by Proposition 13. Regrettably, the legislation reported out of the Senate Rules Committee on June 21 has yet to be scheduled for Senate debate. A failure to afford the bill the airing it deserves will only confirm and harden current public attitudes.

[From the Tulsa (Okla.) World, July 16, 1978]

INTO THE SUNSET

The U.S. Senate soon will debate a controversial measure that would require periodic review of Government programs with an aim to discontinuing those that no longer are serving a valid purpose.

The legislation is a modified version of the so-called "Sunset" laws that have been enacted by 28 States.

The intent of the legislation is to deal with what perhaps is one of the biggest problems in the Federal Government. It is a good program, as demonstrated by the fact that powerful committee chairmen have fought to keep it from being considered, because they want to be able to control questionable programs which special interest groups want continued.

The Sunset legislation is backed by Sen. Edmund Muskie of Maine, who contends, "If we want to spend more money on a good program, we're going to have to throw a bad one out."

That of course is exactly what most taxpayers want. Not more spending and more Government programs, but a selective spending on Government programs that are vital with an end to those that have outlived their time, if indeed there ever were a time for some of them.

The Federal legislation corrects some of the problems that have cropped up in States which have been overzealous in passing Sunset bills. The Federal version would result in a review of all Federal programs every 10 years, the sponsors correctly realizing that it would be impossible for Congress to review every program annually. If after review Congress did not reauthorize a program it would be allowed to die.

The Sunset proposal, spearheaded by Common Cause, is a move in the right direction. Honefully, the Senate and later the House will pass the bill. A forced review of wasteful Federal programs is vital if spending ever is to be brought under control.

[From the San Francisco Examiner, Aug. 3, 1978]

DELAYING THE "SUNSET BILL"

It's good to see the citizens lobby, Common Cause, express concern about the "government's size, complexity and poor performance," as that organization pushes for a "sunset law" at the federal level.

Some observers may consider this a peculiar tack for a group considered quite liberal, but a good many liberals nowadays are just as aggravated as anybody at the monolithic immovability of some of the federal agencies set up to do good works. This impression often comes from first-hand involvement with a particular agency and the stunning discovery that it's a self-serving blob, for the most part, rather than the cutting edge of reform, as the deflated idealist first supposed.

In any case, Common Cause has a good cause in the sunset law, which has the admirable purpose of weeding out or renovating deadwood bureaucracies. Actually, the organization has been active in this movement for some time and such laws now are in effect in 28 states. Now it's time for Washington to heed the example of that majority of states, and Senator Edmund Muskie of Maine has put forward the mechanism in his Senate Bill 2.

What the bill would do, if the process worked, would be to automatically terminate almost every federal program over a 10-year cycle. Only those which passed a rigorous test of essentiality and competence would be recreated and get to live on for another decade. This would force Congress into the most comprehensive continuous examination of federal programs seriously envisioned in these times and the development is long overdue.

We say "these times" because unremembered by most people, a similar course was advocated back in the early 1930s when the New Deal agency proliferation was taking place. And strangely enough, it was the liberal academic William O. Douglas (later to serve on the Supreme Court) whose voice sounded in the inner circle of President Franklin D. Roosevelt for an automatic 10-year termination date for the bureaucracies being created. He argued perceptively that they could by their very nature become fat and ineffectual, and come to serve, in too many cases, the interests they were supposed to regulate. He argued that each should have to prove, at regular periods, its right to continued existence, but nobody listened.

Senator Muskie notes that the demand for new spending amounts to more than five times the amount of added revenues in sight over the next five years and says, "If we want to spend more money on a good program, we're going to have to throw a bad one out." Well said, except that bad ones should be thrown out even without creating new ones, so the savings can be applied to anti-inflationary reduction of the Federal deficit.

One question is whether Congress really is capable of this size of a task, of analyzing the agencies all the way to the bottom. Some, due to their complex specialization, almost defy analysis. But Congress somehow has to shape up, and the bill spreads the workload and the time-around so that the job is not impossible if the legislators are ready to work, rather than merely talk about containing the bloat and duplication of government.

Despite Muskie's exhortations, a general commitment to this still is not apparent; His measure has won approval of the relevant Senate committees but it may die for this session because of his inability to get it to the floor for a vote. We must hope that the Senate leadership will prove more responsive to what the public demands (as in passage of Proposition 13) and give the bill a chance before the session ends.

There's a longstanding notion in Washington that whatever is already established cannot be stopped, no matter how unnecessary it may have become, but the public is fed up with this idea and the sooner the senators learn it the better.

[From the Nevada (Mo.) Mail, July 18, 1978]

WE NEED SUNSET

Most surveys among Americans show a growing anger at government's size, complexity and poor performance.

The U.S. Senate will soon debate legislation designed to answer to the growing discontent.

The Sunset concept, which 28 states already have adopted for themselves, would force Congress into systematic and comprehensive oversight of federal programs.

Sunset's chief congressional sponsor, Sen. Edmund Muskie (D-Maine) has said, "If we want to spend more money on a good program, we're going to have to throw a bad one out."

The bill requires committees to select priority programs for in-depth evaluation and to reauthorize only those which careful review shows are needed and can work.

John Glenn (D-Ohio), with the backing of Muskie, Common Cause and others, will offer an amendment to include 76 permanently authorized tax expenditures which cost the government $120 billion last year.

Common Cause president David Cohen says, "Common Cause believes that Sunset legislation is a significant and positive response to the public's concern about the failings of government performance and the role that government has played in fueling inflation. A recent Harris survey indicated that the American public favors passage of a strong Sunset bill this year by a clear 54 percent to 34 percent majority."

The Sunset concept is aimed at the maxim that "government agencies never die; they don't even fade away." In Colorado, for example, it was learned that some regulatory agencies had existed for 50 or more years without undergoing searching review. This discovery helped convince the Colorado legislature to pass the first Sunset law in 1976.

A president can do little, without the assent of Congress, to weed out unproductive programs and agencies. Once enacted, programs acquire special interest clients who have a stake in their continuation.

Congressional committees, though charged with continual oversight of the programs and

agencies under their jurisdiction, do a poor job of fulfilling this unglamorous task.

Another principal objective of Sunset is to weed out or merge numerous programs that duplicate one another.

Among the examples that have been cited as part of the "maze" of overlapping government programs are these:

—29 health programs are related to cancer prevention, yet a comprehensive cancer prevention plan proposed by the state of New Jersey last year has yet to be funded because individual federal agencies couldn't get together in a joint effort to help the state.

—While the Department of Health, Education and Welfare has consolidated its student-aid programs into one office, there are probably six or seven or eight more in other departments of government.

—To handle water-pollution research and development, Congress has created 25 bureaus in 14 different departments or independent agencies—for example, a Water Resources Council (interagency), an Office of Water Research and Technology (Interior), an Office of Water Planning and Standards (Environmental Protection Agency) and the Agricultural Research Service (Agriculture Department).

Passage of the Sunset law will show that the Senate has heeded the public's cry that government should work for its citizens, not the special interests.

[From the Freeport (Ill.) Journal-Standard, June 15, 1978]

SUNSET LEGISLATION

One of the most effective ways of trimming the ever-growing federal bureaucracy is through "sunset" legislation.

Sunset legislation would put all federal spending programs on a certain time cycle. The program would automatically terminate if Congress decided not to renew its cycle after evaluation.

Senate Bill 2 (S. 2) would put federal programs on a six-year review cycle. The legislation was introduced by Sen. Edmund Muskie (D-Me.) and Sen. William Roth (R-Del.). More than half the Senate co-sponsors the measure.

In fact, the support for S. 2 is so widespread that it has brought together the consumer-advocates of Common Cause and a triumvirate of its usual adversaries: the Chamber of Commerce, the Business Roundtable and the National Association of Manufacturers.

The Senate Governmental Affairs Committee unanimously approved S. 2 in June 1977 after hearing from 30 witnesses during six days of testimony.

It would be assumed then that such a universally popular piece of legislation would sail through Congress, particularly in an election year when such an accomplishment would impress the folks back home. Not so.

In the year since that committee action was taken, the sunset legislation has languished in the Senate Rules Committee, which has threatened to shred it by limiting the bill to covering the Senate only and not the House. The counterproposal offered by the committee staff would have no termination date. It would require Senate committees to submit evaluation plans with their funding proposals each year.

Ironically, the Carter Administration, which has done a lot of talking about whittling the federal bureaucracy while it continues to grow, endorsed S. 2 but has not tried to pry it from committee.

The rules committee is expected to vote on the measure this month, however. If the members of that committee have had a recent chance to take the pulse of the national mood (particularly in light of the taxpayer revolt in California) S. 2 should pass unscathed.

Congressmen must start acting in the national interest, not their own self-interest. Passage of S. 2 would be one indication of that intent.

[From the Anderson (Ind.) Bulletin, July 21, 1978]

S. 2—THE FEDERAL SUNSET BILL

Legislation will soon come before the U.S. Senate that its sponsors, including two Senate committees, believe is an answer to nation-wide anger about uncontrolled government programs. The legislation is a Sunset bill, a name given to the concept by the Colorado branch of Common Cause in 1975. The bill (S. 2) sets autuomatic termination dates for almost all federal programs so that each will expire unless Congress, after careful review, decides it warrants continuation.

The Sunset concept is aimed at a maxim that "government agencies never die; they don't even fade away." In Colorado it was found that some regulatory agencies had existed for 50 or more years without undergoing searching review. This discovery helped convince the Colorado legislature to pass the first Sunset law, covering certain regulatory agencies, in 1976. Since then 27 more states, including Indiana, have passed their own Sunset laws.

The Sunset proposal has teeth. It calls for automatic termination of programs and agencies after a period of years unless the legislature, after careful evaluation, decides to modify, merge, or give a vote of approval to a program or agency through reauthorization. It is designed to force legislatures to do what they generally fail to do—carry out systematic oversight of government programs.

It is estimated that 50% of federal programs have no termination date. Under present appropriations procedures these programs are funded routinely year after year while Congress tends to pay attention to only the newest programs.

These permanent authorizations are a main target of the Sunset bill's chief Congressional sponsor, Sen. Edmund Muskie (D-Maine). "They never come up on a regular basis for thorough, top-to-bottom review," Muskie said in an April speech. "Support for reexamining them simply does not exist. Every agency, committee and lobby wants its own program to not only continue but grow," he added.

Not only direct spending programs but also most of the $136 billion a year in tax expenditures have no termination dates and rarely undergo review. A study by Common Cause of tax expenditure programs—tax incentives or preferences which are equivalent to direct spending programs—found that "nearly 90 percent of the tax expenditure items, representing 97 percent of the dollars spent through the tax system, are permanent and do not have to be reauthorized periodically."

Another principal objective of Sunset is to weed out or merge numerous programs that duplicate one another. The chief Republican sponsor of Sunset, Sen. William Roth (Del.), has said, "The Sunset legislation is innovative because it groups programs for review by function. This means that similar programs would compete for limited tax dollars on the basis of which ones are working most effectively."

Sunset legislation makes good sense. It is the most capable plan yet for reducing mind-boggling government wastefulness, and that in turn should help reduce taxes. We hope S. 2 passes with all speed.

[From the Los Angeles Times, July 26, 1978]

SUNSET FOR WASTEFUL PROGRAMS

A member of Congress—or of any legislative body—accumulates influence or power by specializing. Over time, other members seek the specialist's views, often relying more on his word than on formal reports. He can attract funds for his state or district by making sure funds from the programs he influences go to other states and districts. Over time, a member is inclined to stop digging too deeply into the budget for agencies that administer the programs he knows best because he is in the same boat as the executive agency, rising and falling with the tide of money. Also over time, these relationships spin out a web of give and take with strands as strong as steel cables.

As chairman of the Senate Budget Committee, Sen. Edmund S. Muskie of Maine is just such a specialist, but his perspective is different. He is there to challenge, not to advocate, programs.

Two years ago, Muskie concluded that, standing alone, the budget act of 1974 under which his committee functions did not allow the rigorous review of spending programs he thought it would. Examining, analyzing and challenging requests for money for programs already in existence took more hours in a day than most people would find reasonable. As long as old programs continued to expand, they ate up all the funds that might be used for new social programs. Yet there was neither time nor energy in the year-by-year budget process to take the last step of challenging not just spending levels but the programs themselves.

Muskie then introduced what has since come to be called the Sunset Bill. The bill calls for an automatic end to virtually all federal programs after 10 years, unless Congress deliberately extends their lives. Some compromises were required to get the bill through committees and some programs are exempted, but the bill that has now cleared all committees is essentially the same Sunset Bill he introduced.

The Sunset concept is not only sound but overdue. Some members object to the bill in its present form on the ground that, under some circumstances, a minority of Congress could kill programs that meet pressing social needs but have little popular appeal. Those objections, it seems to us, could be met with technical safeguards that would always leave the fate of programs in the hands of a majority of the Senate and House.

The Sunset Bill has never been warmly endorsed in Congress, particularly among senior members who have specialized and accumulated. Muskie himself believes that the bill has gotten as far as it has because of the way Congress is reacting to Proposition 13 and to other expressions of taxpayer dissatisfaction around the nation. He is probably correct, and there may never be a better time to bring the bill to the floor for debate.

Unfortunately, Congress is getting close to adjournment with its calendar still crowded with important issues. As a result, the Senate leadership is trying to keep as much legislation off the floor as possible so the Senate can finish on or near schedule.

There is too much at stake for the Sunset Bill to be delayed. Muskie noted recently that over the next five years Congress will be under pressure to create or expand a series of programs at a cost of nearly $500 billion but that revenue will increase during that time by only about $90 billion. Included on his list of programs were national health insurance, increased student aid and higher defense spending that might be necessary if the SALT talks break down. There are only three ways to make up a difference of that scale: keep running massive deficits, increase taxes, or—using the Sunset approach—start cutting out programs that no longer are needed.

The leadership should make an exception for the Sunset Bill and schedule it for debate at the earliest opportunity. The decade-long cycle on which Sen. Muskie proposes that Congress will review federal programs is not exactly a quick-fix and the process should begin as soon as possible. The bill is important to the taxpayers, but it is no less important to the federal government itself.

[From the Seattle Times, Aug. 10, 1978]

"There are 29 federal-government health programs related to cancer prevention, 7 or 8 federal student-aid programs, and 25 separate bureaus dealing with water-pollution research and development.

"These are just three examples, cited by Common Cause, the citizens' reform movement, of the maze of overlapping government programs developed over the years.

"Dozens of such examples could be cited in support of 'sunset' legislation that has cleared two Senate committees and is sponsored by Edmund Muskie, the Maine Democrat who has acquired considerable expertise on government waste while * * *

"Muskie's bill would set automatic termination dates for almost all federal programs so that each would expire unless Congress, after a review, decided it warranted continuation.

" 'Sunset' laws are no cureall s for excessive government. That much has been established in a number of states, including our own, where an experiment with the 'sunset' concept is undergoing a slow and uncertain start.

"Still, we agree with Muskie that 'the keys to a "sunset" bill—a regular review of like programs on a fixed schedule and the threat of automatic termination—are the keys to bringing efficiency back to the federal government.' "

[From the Beaver (Pa.) Times, Aug. 1, 1978]

SUNSET LAW MAY BE A STEP IN THE RIGHT DIRECTION

Under the taxpayer pressure generated by California's Proposition 13, uneasy state and federal legislators are on a very hot spot. On the one hand, they are facing demands that taxes be cut; on the other hand, they are expected to provide all the programs and services to which certain segments of the population have become accustomed.

Walking this tightrope, lawmakers at both levels of government are beginning to take a hard look at ways and means of cutting spending and thereby holding down taxes. This has focused new attention on "Sunset" legislation in various forms.

The name given such legislation is derived from the concept initiated by the Colorado branch of Common Cause in 1975. It provides for automatic termination dates for most federal programs unless Congress, after careful review, decides that they should be continued.

Pending before the Senate is just such a bill that its sponsors and two Senate committees believe could save the taxpayers millions of dollars. Common Cause points out that in a recent Harris poll the American people favor passage of a Sunset bill this year by a 54 to 38 percent majority.

Unlike the maxim that "old soldiers never die, they just fade away," a great many government agencies neither die nor fade away. According to Common Cause, some Colorado regulatory agencies had existed for 50 years or more without undergoing searching scrutiny. This prompted the Colorado legislature to pass the nation's first Sunset law in 1976. Since that time, 27 other states have passed similar legislation.

Under these laws, government programs are not automatically funded, as at present. Instead, they have to prove their worth. Periodically, they are subjected to careful evaluation and unless the legislators decide to modify, merge or approve their continuation they are abolished. It is estimated by Common Cause that 50 percent of federal programs have no termination date. Consequently, they are routinely funded year after year.

As a safeguard against creating hardship, certain veterans' benefits and trust funds, such as Social Security, are exempted from the termination provision. Furthermore, agencies and programs would not be wiped out in one fell swoop. The proposed legislation provides a 10-year timetable for review of the agencies and programs.

It might not be the perfect answer to the problem of government spending and waste, but the Sunset legislation, if enacted into law, at least would be a start toward placating the increasingly angry taxpayer.

[From Business Week, Apr. 11, 1977]

SUNSET ON THE POTOMAC

If congressmen mean what they say about "cleaning up the mess in Washington," there is a way to do it. Senator Edmund S. Muskie (D-Me.) is pushing a "sunset" bill that would provide for regular review of all government agencies and programs. Any program not renewed by Congress after review would automatically go out of business.

The Muskie bill itself needs careful study and some changes. In its present form, it would put all the reviews on a five-year cycle; this probably is too short a time for some programs and too long for others. The sunset reviews, moreover, should not be extended to the revenue side of the budget as Muskie proposes. The inclusion of "tax expenditures," such as accelerated depreciation and the exemption for municipal bond interest, would simply disrupt the markets and create uncertainties for investors. Tax law should be written for the long term so that individuals and business can plan without fearing erratic changes.

The general approach of the Muskie bill, however, is the right one. Periodic, in-depth reviews of federal programs would weed out the underperformers and put the spotlight on ineffective, costly regulations. Congress has learned from its new budget-making process that the government's resources are not unlimited. Tradeoffs have to be made, and if a new program goes into effect, inefficient or outdated programs should be cut back to finance it. Pyramiding new programs on the remains of old ones is the process that has made Washington a mess.

If for no other reason, Congress should periodically review the federal programs to see what it has created in its past spasms of legislating. As Muskie says: "The system today is so complicated that no one really knows exactly how many federal programs there are . . . (or) what we are buying for the billions of federal dollars we pour into them every year." ●

ELI LILLY & COMPANY COMMENDED ON HUMAN INSULIN PRODUCTION

● Mr. LUGAR. Mr. President, recently I called to the attention of my colleagues the outstanding performance of Eli Lilly & Company in increasing employee productivity. Only days later Lilly, a pharmaceutical firm headquartered in Indianapolis, announced a scientific breakthrough in which human insulin was produced from bacteria in a laboratory. In addition, Lilly expressed its commitment to the eventual commercial production of human insulin.

This exciting medical advance was accomplished by scientists from Genetech, Inc., and the City of Hope National Medical Center, based on the findings of recombinant DNA research to date. Producing insulin by this process would offer an alternative to extracting the hormone from the pancreas glands of animals.

I congratulate the scientists who have achieved this important first step toward production of human insulin. I commend Eli Lilly & Company on its show of faith in this endeavor, in the form of an agreement to support long-range development. The backing of this far-sighted firm will make available the fruits of research to diabetics in this country and around the world, and will contribute to broader applications of recombinant DNA research.●

ERA: NO TIME LIMIT ON EQUALITY OR FAIRNESS FOR MEN AND WOMEN

● Mr. BAYH. Mr. President, many doubts have been raised in regard to the legality, constitutionality and fairness of the proposed extension to the time period for ratification of the proposed 27th amendment to the Constitution—the equal rights amendment. The need for the equal rights amendment has not diminished since its enactment in 1972. At the present time 35 States have ratified the equal rights amendment. These States represent nearly three-fourths of the population of the United States. Since its passage in 1972, interest and debate in the ERA has continued to grow. At the same time, in a few State legislatures the ERA has yet to be voted on in both legislative bodies. Numerous editorials and columns have been written throughout the country's newspapers which address themselves to the fairness of extending the deadline of the proposed equal rights amendment. I would like to take the time to cite excerptions from a portion of these commentaries favorable to the ERA extension.

The Baltimore Evening Sun:

The extension can be justified on the legal and moral grounds; there is ample evidence that the majority of the recalcitrant states favors ratification.

The Los Angeles Times:

The question is whether an extension would set any worrisome precedents. Our answer is that it would not, because the idea of a time limit on amendments is a relative late-comer anyway in the whole process of amending the Constitution.

The Grand Rapids Press:

The arbitrary time limit was adopted on the assumption that it was thought to be a reasonable period to assure full and open debate. Instead, parliamentary tricks, and an organized campaign of misinformation and scare tactics have prevented the proposal from receiving objective consideration on several legislative floors.

Ellen Goodman, the Washington Post:

The ERA was passed by Congress in 1972. There was nothing especially sacred about the seven-year limitation . . . . The extension is the prerogative of the Congress. It is well within the rule book known as the Constitution.

Tom Wicker, the New York Times:

There's no real tradition or custom—much less a constitutional or statutory requirement—for a time limit for passage of a constitution. The first 18 amendments . . . had no such limit. There's no fundamental reason why Congress cannot change its collective mind and chose to extend the period . . . . It's nonsense to call such an extension for the ERA 'unfair' as the time limit was arbitrary, so would be the extension, and one is

no less unfair than the other. To let the ERA die . . . by an arbitrary time limit would be the opposite of the calm, thoughtful, and orderly process the Constitution provides.

The Christian Science Monitor:

There is no constitutional bar to extending the deadline . . . . Congress should take timely action to ensure authorization of the proposed extension for another seven years. After all, ERA deserves no less consideration than many amendments for which no ratification was specified. These things take time, and many other matters compete for congressional and presidential attention. Yet the constitutional recognition of the equal rights of men and women under the law is of such fundamental importance that it should be fostered in every way.

Mr. President, so that my colleagues may have the benefit of reading the editorials and columns in full I ask the text of the aforementioned articles be printed at this point in the RECORD.

The articles follow:

[From the Los Angeles Times, Oct. 16, 1977]

A DEADLINE THAT SHOULDN'T BE

It has been five years since Congress approved and sent to the states the constitutional amendment to prohibit discrimination because of sex. Its supporters have two more years to go to push it through, and they are worried about running out of time.

Now President Carter appears to be coming around to the idea of extending the deadline for the states to act. He has asked the Justice Department whether this could be done so that women's rights groups and other backers of the amendment could pursue their efforts to win over three more state legislatures.

So far 35 of the necessary 38 states have approved the amendment and voted to incorporate it into the Constitution. But, as things stand, the whole effort will die on March 22, 1979, unless the needed states come through or Congress votes to extend the traditional seven-year period for adoption.

The question is whether an extension would set any worrisome precedents. Our answer is that it would not, because the idea of a time limit on amendments is a relative late-comer anyway in the whole process of amending the Constitution.

No deadlines were set for the approval of the first 17 amendments. Not until 1917 did Congress decide to place a seven-year limit on the time available for action by state legislatures. It was an arbitrary deadline, because no such period was mentioned in the Constitution itself.

Two years later, in 1919, when the 19th Amendment on equal suffrage was presented to the states, Congress again decided against any time limit. Since then—and the equal-rights proposal would be the 27th Amendment—Congress has returned to the seven-year clause.

Until 1960, this was inserted into the amendment itself. Since then, the seven-year period was mentioned only in the congressional resolution introducing the amendment. So it would appear to a be a rather simple matter to extend the deadline, but this is what the Justice Department is now trying definitively to determine.

For an amendment that appears to be an expression of basic common sense, it has stirred up considerable opposition. It says simply: "Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of Sex."

But women's groups and others opposed have been rather effective. Three states—Idaho, Nebraska and Tennessee—first approved the amendment and then voted to rescind the action. Whether it is constitutionally possible to reverse such a vote is not yet decided, so the approval of the three states still stands for the present.

As the opponents see, the amendment actually would damage the rights of women. The critics argue that it would mean that women could be drafted, that they would lose child support and alimony, the right to be supported by their husbands, and protection under the labor laws, and even find themselves with the financial obligation of supporting their husbands. All these arguments are disputed by the supporters, but the effect has been to confuse rather than to clarify the issues—hence the reluctance of some states to act.

We are not confused. We think that the amendment is just, and that it should be approved. And, to make sure that it is, Congress should extend the deadline, if at all possible. A little more time on an issue of this importance could well result in more good than harm.

[From the Kansas City Times, July 20, 1978]

Go! ERA

Put aside all the hysterical nonsense about ERA destroying the American family and forcing womankind into lesbianism, trench warfare and numerous unmentionable fates worse than death, and most rational people would have to admit that women, in general, have had less than a fair deal.

We refer to equal pay for equal work, access to credit and other financial aids, jobs, promotions and opportunities that men can look to as a matter of course if they are qualified. There is nothing in the Equal Rights Amendment that would force women out of the invaluable and essential roles of wife, mother, homemaker. Those are time-honored pursuits that are enough for anyone—a life's work—for the women who want them, and many do. Some women want to combine home and professional or business careers. Others will give priority to commerce, the arts or a profession. The point is that the rules ought to be the same for both sexes. ERA would underline the right of equal treatment, and the recommendation by the House Judiciary Committee for an extension of three years will bring a necessary amendment closer to reality.

THE NAME OF THE (ERA) GAME IS POLITICS

(By Ellen Goodman)

BOSTON.—As the movement to extend the deadline for ratification of the Equal Rights Amendment gains momentum, I keep hearing pro-ERA forces accused of "trying to change the rules in the middle of the game."

I am well aware that women are generally held up to the purest standards that can dance on the head of a pedestal. But this is ridiculous. The name of the ERA game is, after all, politics. These people are not trying to change the rules; they are trying to use them to win. Which is the point of the game.

The ERA was passed by Congress in 1972. There was nothing especially sacred about the seven-year limitation for state ratification. "Seven" was the number arrived at, not by tarot cards or the Constitution, but by custom and political compromise.

At the time, ERA supporters agreed to this figure despite the warnings of old hands like Alice Paul. They felt as hopeful as Martha Griffiths, who probably remembers every night before she goes to sleep that she once said, "Personally, I have no fears that this amendment will be ratified . . . as quickly as the 18-year-old vote."

Now, led by the National Organization of Women, they are trying the perfectly legal tactic of urging the Congress to extend the limit for seven more (and final) years. This extension is the prerogative of the Congress. It is well within the rule book known as the Constitution.

But what bothers me most about the whole "rules of the game" chatter is the sheer chutzpah of the chatterers. It is the ERA opponents who should be thrown into the penalty box.

While the pro-ERA forces have been playing chess, their opposite numbers have been playing rugby. It was the pros who behaved like good little Goo-Goos, targeting their candidates, signing nomination papers and getting the votes out—just like it says in government classes. If the fix hadn't been in, the ERA would have passed its last three states months ago.

In Nevada, 11 state legislators who were elected on pro-ERA platforms went sheeplishly over to the other side at the first cry of "Red Rover." Eight of them (may their debts swell and block their gateway to paradise) accepted pro-ERA campaign contributions.

This charming athletic display was reenacted in Florida. There, the women voted out the anti-ERAs and voted in the pros, and then watched as the two pivotal "yes" votes turned into "no's."

The Illinois rematch, on the other hand, looked like something created by Dick Tuck from his bag of tricks. Twice the ERA gathered a majority vote in the state legislature. In any other state, that simple majority would have meant passage. But in Illinois, you need a three-fifths majority under the new state constitution although—excuse me while I break into hives—this rule is generally considered unconstitutional.

As Ellie Smeal, president of NOW, puts it: "We were ignored in the election process." Speak to me not of rule-rigging.

Only in the past year have the pro-ERA forces learned the effectiveness of end runs around politics. The "conventions boycott" in nonratified states has been deliciously successful. This vision of clout has done the amendment more good than all the "due process."

But we still are in a situation in which the "will of the majority" has been thwarted by a handful of legislators. A full two-thirds of the states have passed this amendment. A majority of people polled—including those in unratified states—are in favor of it. The younger population overwhelmingly supports it. Yet it is in great danger of failing.

Some crucial state legislatures won't even meet again to vote until after March 1979. Perhaps the most potent problem facing passage before the deadline is the deadline itself. During the Florida fight, buttons sprang up with the slogan "ERA Won't Go Away." The pro-ERA people were aware that the opposition tactic was to convince legislators that if they held firm one more time, the amendment would just disappear.

The ERA won't go away. But if it fails to meet the deadline, it could become part of the collective consciousness of women in this country. They would realize that they had experienced disappointment and betrayal precisely because they believed—not wisely but too well—in the game.

The pro-ERA people wouldn't be purists if they neglected to press for extension. They'd be pure fools.

[From the Miami Herald, June 12, 1978]

The fight for the ERA has been particularly handicapped by deliberate distortions by its opponents. As much as the issue has been discussed, the truth about ERA has had a difficult time emerging in some areas.

"This is one of the reasons why we believe the extension of the ratification deadline would be justified. In this democracy, the Constitutional guarantee of equal protection for all citizens is too scared to be abandoned to unfounded fears based on ignorance or worse.

[From the Baltimore Evening Sun, Feb. 21, 1978]

"ERA has suffered more painfully narrow defeats in Southern legislatures, and in some states it has been bottled in committee for years. The only hope for this campaign lies in extension of the deadline for another seven years.

"The extension can be justified on legal and moral grounds; there is ample evidence that the majority of citizens of the recalcitrant states *favors* ratification."

[From the Christian Science Monitor, June 16, 1978]

"There is no constitutional bar to extending the deadline, according to the Justice Department. Congress should take timely action to ensure authorization of the proposed extension for another seven years. After all, ERA deserves no less consideration than many amendments for which no ratification deadline was specified. President Carter's State of Georgia did not ratify the original Bill of Rights amendments until 1939.

"These things take time, and many other matters compete for congressional and presidential attention. Yet the constitutional recognition of the equal rights of men and women under the law is of such fundamental importance that it should be fostered in every way."

[From the Grand Rapids Press, June 16, 1978]

"Opponents of the Equal Rights Amendment no doubt cheered last week when the Illinois House failed to provide a necessary three-fifths majority for passage. But their victory was hardly something to brag about. If nothing else, it exposed the kind of irrelevant hurdle that this simple statement of sexual equality has had to surmount.

"The Illinois experience, however, lends substance to the views of Senator Birch Bayh, D-IN, who says the arbitrary time limit was adopted on the assumption that it was thought to be a reasonable period to assure full and open debate. Instead, parliamentary tricks, such as those in Illinois, and an organized campaign of misinformation and scare tactics have prevented the proposal from receiving objective consideration on several legislative floors.

"Eventually the Equal Rights Amendment will be adopted, and soon afterward everyone will wonder what all the fuss was about. And you'll still be able to look in vain for unisex toilets."

[From the New York Times, July 7, 1978]

POLITICS AND THE E.R.A.

(By Tom Wicker)

In 1976, Jim McDuffie won one of the four seats from North Carolina's 22d State Senate District, finishing third in an at-large race, just a thousand votes behind the leader. But when Senator McDuffie sought reelection last May, he came in fifth, 4,000 votes behind the top man, and lost his seat.

In 1976, you see, Jim McDuffie promised to support the Equal Rights Amendment. But once in the Senate, he cast the single vote that *defeated* the E.R.A., after it had passed the House. So in 1978, E.R.A. supporters helped unseat him. That's politics.

And that kind of give-and-take and play of forces in our fluid American political life is an excellent reason why Congress should vote to extend the time limit for passage of the E.R.A. That would be politics, too—not a question of how you play the game, but of who wins.

As was pointed out in a recent letter to this newspaper by Representative Elizabeth Holtzman, the principal sponsor of the extension resolution, and other proponents, there's no real tradition or custom—much less a constitutional or statutory requirement—for a time limit for passage of a constitutional amendment. The first 18 amendments, including the Bill of Rights and the monumental Fourteenth, had no such limit. The original seven-year limitation on passage of the E.R.A. was not part of the amendment itself but a section of the legislation by which Congress proposed it to the states; so there's no fundamental reason why Congress cannot change its collective mind and choose to extend the period.

And it's nonsense to call such an extension for the E.R.A. "unfair"; as the time limit was arbitrary, so would be extension, and one is no more and no less unfair than the other. To those who say extension would be like changing the rules of baseball in the eighth inning because one team is behind, an equally dubious analogy should be cited—that many a manager has stalled for time, hoping for rain to end the game in the eighth inning while his team was ahead. That's baseball and politics.

Besides, an extension would provide as much time for rescissions—of which there already have been three by states that had passed the E.R.A.—as for ratifications. Whether rescissions are legal ultimately will be up to Congress, which decides whether or not the necessary three-fourths of the states have ratified an amendment; but if an extension should result in numerous rescissions, Congress surely would be impressed. That's a chance E.R.A. proponents must take.

Besides, the purpose of the torturous amendment process provided by the Constitution is to make sure that hasty and ill-conceived amendments are not whipped through by impatient majorities. In this instance, extension would serve that sound purpose, because of the campaign of distortion, intimidation, innuendo, slander, shabby maneuver and outright lies waged by numerous opponents of E.R.A., many of them—like the John Birch Society—veterans of far-right causes back to the vilification of Dwight Eisenhower.

In a democratic society, that's politics, too, but to let the E.R.A. die under such pressures and by an arbitrary time limit would be the opposite of the calm, thoughtful and orderly process the Constitution prescribes. And that is particularly so since the E.R.A. is before state legislatures at a time when it must bear symbolic identification with rising hysteria against abortion, homosexual rights, busing and other "liberal" ideas. The amendment has become a sort of stand-in against which opponents of any of these can vent their opposition to all.

So Congress should provide an extension as a legitimate political action to save the E.R.A. from being killed without constitutional justification, by the seven-year time limit—not by the states. Indeed, 35 of the necessary 38 States have passed it (the three remaining rescissions notwithstanding). In numerous of the 15 other States, the amendment has been bottled up in committee, or otherwise sidetracked, rather than finally defeated; in Utah, for example, the opposition of the Mormon Church has kept it from coming to a vote. Again, that's politics.

But the legislative situation in the states is such that three additional ratifications cannot possibly be had by the deadline, March 22, 1979. Equal rights marchers therefore ought to make this crucial point in their Washington demonstrations—that Congress, which by two-thirds vote of both houses recommend the E.R.A. to the states, has the political power to prevent its defeat, just as various forces have so far had the political power to prevent its ratification.

If Congress wants the Equal Rights Amendment to pass, that is, it must vote for extension; if Congress does not provide an extension, Congress will have killed the E.R.A. An arbitrary time period will have been allowed to frustrate the intent of the Constitution; forces of reaction and untruth will have prevailed politically when they might have been countered politically. But, as Jim McDuffie learned, politics won't stop there.

[From the Washington Post]

VOTING AGAINST EQUAL RIGHTS?

(By Tom Braden)

There was a timely sense of outrage to the statement of Sen. Birch Bayh (D-Ind.) on the occasion of his announcement that he would lead the fight to extend the time for the Equal Rights Amendment: "When we are dealing with the issue of equality for all Americans, we are not playing a game. This issue is one of tremendous importance to each and every citizen, to those now living and those not yet born who will be looking back on the history of this effort and will hold us accountable for our action."

I doubt that Bayh could have made that statement a couple of years ago. If he had, I could not have agreed with it. Because the amendment didn't seem to me all that important. Wasn't equality of rights for women assumed in the Constitution? The 14th Amendment, for example, defines a citizen as a person and guarantees all citizens equal protection of the laws.

So I thought—or at least hoped. But now that the amendment seems about to be defeated by a narrow failure to win three-fourths of the state legislatures, the negative seems to me far more important than the positive would have been. In other words, it may not be important to say that women do have equal rights. But it is surely very important to say that they do not.

Which is what the minority who oppose the ERA are about to make us do.

I do not know what setbacks this statement may suggest for more than half the citizens in the country who happen to be women, but I don't like the sound of it.

At the very least, it seems to me, it suggests that opportunities for women in fields that are now effectively closed to them—trade-union leadership, for example—will continue to be closed and that the trend that has recently brought a few women to leadership posts in business and industry will halt, about where it is now.

Moreover, we ought to be somewhat ashamed of the manner in which the amendment was attacked. Opponents convinced a good many women that the real issue was lesbianism and unisex toilets and a good many men thought their wives were going to have to carry guns in the front lines, drive bulldozers and lift bales. It was a dirty campaign, and Birch Bayh is right to say that the right wing used "false issues and outright lies."

So I'm in favor of the time extension that ERA proponents are requesting. On this point, I have changed my view.

One reason is that the original seven-year limit on the time required for the amendment to be adopted by the states was set forth in the preamble to the amendment itself. The state legislatures did not vote on the preamble and this fact seems to me to invalidate the charge that ERA proponents are trying to change the rules in the middle of the game.

Nor is there any question that the Congress has the authority to set any time limit it wishes or to set no time limit at all as was the case for the first 17 amendments and the 19th.

So the Supreme Court ruled in 1921. And in 1939, the court further said that the Congress has the right to revise the ratification time "set by that body."

So with the questions of legality and fairness settled, I'm for giving the amendment another chance. "Equality of Rights under the law shall not be denied or abridged by the United States or any State on account of sex." Maybe it wasn't necessary to say "yes" to that simple statement.

But it makes me very uncomfortable to think that my country is about to say "no."

[From the Cedar Rapids Gazette, July 20, 1978]

ERA STILL FAVORED

To hear the Equal Rights Amendments' enemies tell, ratification has failed three states shy of the 38 needed because of a countrywide public-opinion shift against the ERA. Polls now show, they claim, that people's past support has turned to opposition, which is why the ERA is losing out in legislatures that have stopped it cold.

The only flaw in that appraisal is its lack of truth. If any polls show general rejection of the ERA, they must be special-interest, narrow-focus, client-titled samplings engineered to bring results that someone wants. The standard professional polls for general consumption continue to depict clear public favor for the ERA.

Notably, the Gallup and Harris organizations both have just come up with unmistakable support again. Gallup's reading brought out 58–31 percent approval of the ERA, with 11 percent undecided. Harris's results were 55–38 percent in favor, 7 percent not sure. The first amounted to just under 2–1 support. The second was equivalent to almost 3–2.

If legislatures cared to base their actions on what clear majorities of people want, in other words, more ratifying would emerge. Since 15 legislatures still refuse (along with four that tried to cancel earlier approval), forces other than the public's overall support must hold the key.

What ERA-denying legislatures seem to heed instead of public sentiment is the concentrated, busy, unrelenting, very vocal pressure of opponents—close to a one-issue pack in their intimidation of incumbents—far outstanding all the less vociferous support.

The broader but unorganized body of backing, apart from hard-core ERA promoters, correspondingly is much less intense. This quieter majority's more mild attitude may also trace, in part, to turned-off self-detchment from the ERA's aggressive wing: Bella Abzug blowhard leadership has been too visibly identified with ERA campaigning from the start.

If several legislatures' misperceptions of the public mood can give way to a sensing of the wider gentle backing that a popular majority still gives, the ERA might still succeed as most Americans would like to see it do.

[From the St. Louis Post-Dispatch, May 24, 1978]

WHAT THE ERA WOULD DO

Certain misrepresentations about what the Equal Rights Amendment would do are used continually by its opponents, as was the case recently when Phyllis Schlafly spoke to a gathering in Eldred, Ill. Her remarks need to be answered in some detail, as unfounded fears about the amendment have slowed the march toward fairness under the law.

Mrs. Schlafly says passage of the ERA would benefit homosexuals because the amendment would prohibit any kind of sex discrimination. Mrs. Schlafly is confusing the word sex in the amendment, which refers to gender discrimination, and sexual behavior. The ERA would not legalize homosexual marriages. The Supreme Court in the state of Washington ruled that state's ERA did not invalidate state law prohibiting homosexual marriages. Mrs. Schlafly's assertion is incorrect.

Mrs. Schlafly says that the ERA would benefit the federal government because of its enforcement power. This unjustified fear comes from the amendment's second section, "Congress shall have power to enforce by appropriate legislation the provisions of this Article." These words are also part of the Thirteenth, Fourteenth, Fifteenth, Nineteenth, Twenty-third and Twenty-fourth Amendments. The section is necessary to change federal law, and does not empower Congress to write state law; states already have the power to make constitutional changes through the Tenth Amendment. Courts will have the same jurisdiction they have in other constitutional cases. Again Mrs. Schlafly has misrepresented the ERA.

Mrs. Schlafly says, "ERA won't give women any thing they don't already have. It can only take things away." But the ERA will add to the protection and status of women. The U.S. Supreme Court has held that the Fourteenth Amendment's protections extend to races and religions as suspect classes, but has not consistently included women under the guarantees. Women deserve the constitutional recognition of their rights under the law and they need the prominence, accessibility and, particularly, the permanence of a constitutional amendment to help them gain enforcement of laws and equal opportunities.

The ERA will be used for more than symbolism and access, however; it will help bring about some still-needed changes. It would be used to stop Social Security practices that are injurious to families of working women, to halt discrimination in charging and sentencing female juveniles with status offenses such as incorrigibility, to make equal the age of majority, and to combat inequality in public employment and labor laws and so forth.

The Senate Majority Report on the ERA dealt specifically with labor laws and said, ". . . such restrictive discriminatory labor laws as those which bar women entirely from certain occupations will be invalid. But those laws which confer a real benefit, which offer real protection, will, it is expected, be extended to protect both men and women." Women and men will gain, therefore, contrary to opponents' fears.

Mrs. Schlafly says ERA supporters "want to teach our children there is nothing different between men and women." Most ERA supporters do want children to be taught that they can be and do whatever they want, letting them set their own limits. But the ERA would only affect laws. It will not change social mores and customs, it will not remove the right of privacy, it will not enable the state to intrude in a marriage. Neither will it affect the rearing of children. The ERA is too often misrepresented and then becomes an object of fear. While it would help bring about constructive change, it is basically a statement that should have been in the Constitution nearly 200 years ago—all men and women are equal under the law.

[From the Washington Star, July 19, 1978]

CLASS PRIVILEGES AND FEAR OF ERA

(By Garry Willis)

If I were opposed to the Equal Rights Amendment, its enemies would convert me. Phyllis Schlafly, for instance, talks more nonsense per appearance than anyone I have ever heard. Her comment on the ERA march recently was typical. She said the marchers were "a combination of federal employees and radicals and lesbians who march and demonstrate in order to get this illegal extension of time."

Now some of the marchers were my friends. Indeed, one was my son. And none of the ones I know is a federal employee, a radical, or a lesbian. When three First Ladies supported the ERA in Houston last year, Mrs. Schlafly was there giving us the same old line about radical lesbians. Lady Bird Johnson? Betty Ford? Rosalynn Carter?

But the vilifying prelude was less distortive than Mrs. Schlafly's final clause. There is nothing illegal about Congress setting a new time period for the amendment. It does this by the same power that let it set the first period. It is a matter left to congressional discretion.

The proponents of an extended period say they need time to fight all the distortions of people like Mrs. Schlafly. I don't know whether that kind of demagogy can be fought. Certainly the feminists have not been very successful in their fight against it so far.

Why is that? The first response to the ERA was very heartening. Thirty states ratified it in the first year. Then six years of setbacks followed. That is a longer time than candidates get to correct the distortions of rival candidates. It is two years longer, for an "educating process," than most people spend in college. If things have gone so badly for the ERA in the last six years, might it not get further battered in the next four or six or seven years, however long the extension that might be granted?

There is certainly a reaction to the '60s activism in our national life. This is apparent in the forms of current religiosity a new discipline in the schools and the home, and a faltering of the civil rights cause. Is that what hit the ERA?

That is part of the problem. There is no urge to experiment on the grand, the constitutional, scale. Instead, we are witnessing a stress on protection of one's turf, on taking care of Number One. Mrs. Schlafly has very cleverly played on this. Her pitch is direct to the selfishness of her white middle-class female constituency.

What Mrs. Schlafly argues is that equality before the law would be a setback because it will destroy female privilege. It will, that is, take away the preferential treatment some women get in terms of draft, tax, and child custody laws.

Both proponents and opponents of the ERA talk of present inequalities; but the proponents deplore these, while the opponents want to retain them. Both sides are right about the facts. They are just talking about different sectors of our society. Mrs. Schlafly is defending the privileges of women who have privilege, not because they are women but because they are part of a privileged class.

The proponents of the ERA look to the double disadvantage of women who are both women and part of the non-privileged class. That is the social structure of the problem. Then how can Mrs. Schafly claim that it is just a radical chic crowd of dissatisfied college graduates that agitates for the ERA? She can attack those who speak for the poor and oppressed, just as all privileged people who want to extend their privilege have been attacked.

If the ERA does not pass, the real tragedy will not be that this or that legal inequity was not more quickly solved—most will be corrected in time. The tragedy will be that Mrs. Schlafly's crusade for class selfishness has succeeded.●

CITIZEN BAND RADIO

● Mr. MATHIAS. Mr. President, all of us know of the great and growing popularity of citizens band radios.

We should all also be aware of their growing importance to highway safety. Just recently, I learned that the emergency telephones on the Washington Beltway will be removed and that the police and emergency repair vehicles would instead rely on passing motorists with CB radios to report breakdowns and accidents.

Clearly, Mr. President, the CB radio should not be considered a toy, and we should encourage responsible use.

To its credit, the Washington Metropolitan Area Sideband Association has sent to the Chairman of the Federal Communications Commission a resolution that urges him to use the power

and resources of his agency to educate CBers on proper radio procedures. I think that the point is a good one, and I urge all of my colleagues to read it.

I ask, Mr. President, that the resolution be printed in the RECORD.

The resolution follows:

Date: August 18, 1978.

To: Federal Communications Commission, 1919 M. Street, N.W., Washington, D.C. 20554.

From: The Metropolitan Area Sideband Association (MASA), P.O. Box 18094, Oxon Hill, Maryland 20021.

Subject: An appeal to the FCC for help in our efforts to gain respect for and in compliance with the law as it pertains to personal radio communications.

Problem: Our problem is to convince an ever increasing number of old and new law violators that they should:

a. Keep their promised word, pledged at the time of license application, and

b. Make honest efforts to comply with all pertinent FCC PR. regulations.

We, who hope to enjoy a legal and justifiable PR service, desire your guidance to insure our course of action maximizes our potential for assistance.

Discussion: We have no desire or intent to serve as a gestapo, however, we are ready and willing to assist you in any legal manner in your plans to improve PR operating conditions, which are rapidly approaching a chaotic state.

Our past record has not been free from legitimate criticism; our image is tarnished. We, some fifteen thousand personal radio operators, claim no infallibility; we have made errors but we do not do so repeatedly and intentionally.

We solicit your suggestions to insure our future meets with your approbation and the commendation of all honest, sincere and legal PR operators.

We can invite public attention, on the air, to deliberate and flagrant law violators, especially those illegal operators who interfere with legal communications and normal radio and television reception.

We can collect and collate such data as your suggestions indicate necessary and proper by whatever practical method is indicated.

Local personal radio communications have deteriorated—in some instances to an incredible farce; we have noted and do now recognize your claim to have inadequate and insufficient resources.

We offer the help of at least fifteen thousand locals who wish to do what is right, what is legal and what is necessary and proper.

enforcement more effective, we shall consider our efforts mutually beneficial and their cost such as any loyal, law-abiding U.S. citizen should be honored to donate.

Respectfully,

EDWARD F. MCCLENAHAN, KRI-1104,

Deputy Director.●

ERA

● Mr. GARN. Mr. President: our colleague in the House, TOM RAILSBACK, is a supporter on the equal rights amendment (ERA). However, he is not only concerned with passage of ERA but also with maintaining the integrity of the process by which constitutional amendments are proposed, debated, ratified, or rejected. TOM RAILSBACK's regard for fairness led him to sponsor the attempt in the House of Representatives to amend House Joint Resolution 638 to insure that States have the right to reconsider earlier actions. In Representative RAILSBACK's words:

It is undeniable that providing States with the right to reconsider their earlier actions could result in rescissions by some. I hope that that does not occur. Nevertheless, this is a risk which I feel we must take if we are to assure the American people that their Constitution is not being unfairly altered.

The importance of TOM RAILSBACK's entire views is great, so I ask that his "Separate Views" from House Report 95–1405 be printed in the RECORD.

The material follows:

SEPARATE VIEWS OF MR. RAILSBACK

Charles L. Black, Jr., Sterling professor of law at Yale, stated before the House Judiciary Subcommittee on Civil and Constitutional Rights, "that it would be entirely impermissible to extend the time for ratification without also extending the time for rescission." After close examination of the law and policy surrounding the issues of extension and rescission, I find myself in agreement with Professor Black's statement.

Without question, we are, by our actions on House Joint Resolution 638, writing on a blank page of constitutional law. We must take care to write fairly and precisely so that the image we create will not come back to haunt us during the consideration of some future constitutional amendment. Though I have supported the equal rights amendment in principle and practice since voting for it in 1971, the issue of extending the time deadline for its ratification has implications far beyond the merits of this, or any, amendment. The extension resolution now pending before the House of Representatives must be judged in this light.

Extension of the deadline for ratification of the equal rights amendment has been challenged on the grounds that it is unconstitutional and that it is fundamentally unfair. From my reading of the Supreme Court's decision in *Coleman* v. *Miller*, 307 U.S. 433 (1939), and the testimony of a number of constitutional scholars, I am convinced that Congress' article V powers include the power to increase the time for consideration of this amendment. I cannot, however, so readily dismiss the charge that an extension in the form provided by the pending resolution is fundamentally unfair. The New York Times, Washington Post, Washington Star, Chicago Sun Times, Charlotte Observer, Baltimore Sun, New Republic, and a host of other newspapers and magazines have offered their editorial opposition to the extension for just this reason.

Providing an extended period of years for ratification, but not for reconsideration by those States having earlier ratified, smacks of expedient rules-changing. To many Americans, such an action would suggest that Congress has decided to amend the Constitution by whatever means it finds necessary and at whatever price. Despite the nobility of the ends sought by the proponents of the equal rights amendment, these ends do not, in my opinion, justify the use of means which give rise to the appearance of impropriety in the constitutional process. Use of such means can do little more than to reinforce the resolve of those who oppose this amendment.

Because I want to see the equal rights amendment ratified, but cannot support the extension proposal in its present form, I intend to offer an amendment on the House floor similar to that which I offered in the Judiciary Committee. My amendment would simply provide those States ratifying the equal rights amendment during the first 7-year period with the right to reconsider that action during the extension period. I recognize that such an amendment, as with the extension resolution itself, would not bind future Congresses, but it would serve as an expression of how this Congress believed the rescission question should be resolved if and when that determination must be made.

It is undeniable that providing States with the right to reconsider their earlier actions could result in rescissions by some. I hope that that does not occur. Nevertheless, this is a risk which I feel we must take if we are to assure the American people that their Constitution is not being unfairly altered.

In addition to increasing fundamental fairness in the amending process, the limited right of rescission which I will propose has the ancillary benefit of guaranteeing that ratification of the equal rights amendment, when it occurs, will manifest the contemporaneous approval of the States, an implicit requirement of article V according to the Supreme Court's opinion in *Dillon* v. *Gloss*, 256 U.S. 368 (1920). The existence of contemporaneous approval must surely be in doubt where States are allowed to ratify for more than 10 years, yet not once allowed to reconsider a vote of approval. Only by recognizing a right of rescission during the extension period can we be certain that ratification by 38 States means the equal rights amendment continues to have the support of the constitutionally required number of States.

Those suggesting that a rescission amendment is "clearly unconstitutional" have apparently failed to take note of statements made by a number of constitutional experts appearing before the Subcommittee on Civil and Constitutional Rights. Professor Charles Black, in addition to expressing his belief that a failure to provide for rescission during any extension would be entirely impermissible, stated that, "it is going to be very hard as a practical matter for anyone to argue in the future that rescission is not available to the States, although. Congress has in effect exercised the same right." Though on policy grounds he did not favor such action. Laurence Tribe, Professor of Law at Harvard, indicated his belief that Congress could provide a statutory right of rescission and concluded in his testimony that:

"Congress should, after the passage of an extended period, be willing to treat as effective a State's attempted retraction of its own prior ratification, as well as a State's attempted retraction of its own prior rejection; the quid pro quo for Congress' power to alter the time for ratification in such cases should arguably be Congress' duty, absent extraordinary circumstances, to treat as stale any State vote (pro or con) that has many years later been unambiguously reversed. In this way, a State would be assured that its vote on an amendment could not bind the State's people into the indefinite future * * *.

"I say this with hesitation, as someone who has supported the equal rights amendment. I don't relish the prospect of a reverse bandwagon of rescissions, but the question here is one of constitutional procedures and I am obliged to testify accurately on that question whether it cuts in favor of my substantive views or against them. It seems to me it is at least bizarre to construe the Constitution in such a way that the power of Congress to extend, which it seems to me is simply a corollary of the inability of Congress to bind its successors, somehow cuts for and not against ratification of the amendment. It seems to me it does cut both ways."

Erwin Griswold, former Dean of Harvard Law School and Solicitor General of the United States, testified that he found, "no real basis for . . . saying that once a State has ratified, no matter how long a time has passed, it cannot rescind although once it has rejected, it can always ratify thereafter." These statements are representative, but not exhaustive, of the testimony of four out of seven constitutional scholars appearing before the subcommittee in November. Their

thrust, as is readily apparent, is that Congress can, if it chooses, constitutionally provide a statutory right of rescission.

Rescission is not an issue distinct and separate from the extension resolution which we are now considering. It is not a question which would best be deferred to some later Congress. It is, I contend, our responsibility to the States and to the American public to establish guidelines in this area as we act on the pending resolution. I urge my colleagues on both sides of the aisle to carefully consider my amendment and to support it as an attempt at compromise and fundamental fairness. TOM RAILSBACK.●

ADDRESS BY SENATOR CRANSTON BEFORE VFW JOINT OPENING SESSION

● Mr. STAFFORD. Mr. President, Senator CRANSTON, chairman of the Veterans' Affairs Committee, recently addressed the joint opening session of the Veterans of Foreign Wars convention in Dallas. He discussed what we on the committee have done this year for America's veterans and how our legislative activities have corresponded to the priorities of the VFW.

The Senate Committee on Veterans' Affairs under the able leadership of, our friend and colleague, Senator CRANSTON, has accomplished a great deal this year, and I would like to share Senator CRANSTON's speech at the VFW convention with my colleagues. I wish to submit it for the RECORD.

The address follows:

SPEECH BY SENATOR ALAN CRANSTON

I'm delighted to speak to you today. I wish you the very best for a successful 79th VFW convention. I know a great deal of time and energy has gone into making this a convention you'll be proud of and remember for years to come.

The VFW is widely respected in Congress not only as the oldest of the veterans' organizations, but because it is one with real grass roots strength. When we in Congress talk to your fine Washington representatives, Cooper Holt, Don Schwab, Tip Marlow and others, we know they are backed up by the 2 million, 4 hundred thousand members of the VFW and its Ladies Auxiliary. Everywhere one goes in this great country of ours—from Maine to Hawaii and from Alaska to Florida—there are VFW Posts, with many in my home state of California.

The lines of communication go from these local Posts directly to your staff back in Washington; and I keep an open door to them because I value your thoughts and the great contributions you have made.

You have been striving since 1913 to insure that America's veterans and their survivors receive fair and equitable compensation and pension, education and housing benefits, and effective employment assistance, and good health care, and to ensure that those who administer those benefits do so competently and compassionately.

Those are my goals too, and I'm honored to work together with you on behalf of our Nation's veterans and their survivors. And I draw new energy from you for the many tasks and challenges that lie ahead.

You served in our country's Armed Forces—as did I—with the conviction that you did so in the cause of freedom. All who fought honorably since the beginning of this Nation have helped preserve our 200-year-old inheritance of freedom, individuality, equality, and strength. How grand it is to live in a country where men and women are willing to do battle to secure our right to live in freedom.

But you and I and all of us face an increasingly difficult task in trying to help this country's veterans obtain and keep the benefits they have earned and so richly deserve.

The Veterans' Administration will be fifty years old in just two years. Sounded in 1930 primarily to care for World War One veterans and their dependents, now forty-eight years and three wars later, it has assumed gigantic proportions as the largest independent agency in the Federal government.

There are now more than 30 million veterans in America, and the V.A. has a quarter of a million employees to serve them, their dependents, and their survivors.

However, as the V.A. has grown larger over the years, it has—of necessity—also become more cumbersome and it is saddled now with the same problems as any large bureaucracy. It runs the largest hospital system in the nation, the largest program of educational assistance, the largest housing loan guaranty program, and two of the country's biggest cash payment programs, as well as a vast life insurance program.

You and I know how important it is that our veterans and their dependents get competent, knowledgeable, sympathetic, and courteous service from the V.A. That is the only way to fulfill our nation's obligations to those who have served it in time of need.

The V.A. is trying. I believe it is trying even harder with Max Cleland in charge. He is dynamic, compassionate, and dedicated; but it takes time for the strong feelings of commitment of a leader to filter down in a sytem as vast as the V.A.

And that is one reason why your services to veterans are so valuable. You help narrow the gap between those who provide and those who need to receive the special assistance mandated by law for veterans.

Your service officers help veterans to plead their cases, and you let us in Congress know about inequities you see in veterans' laws, and failings you uncover in the V.A.'s implementation of those laws.

Let me discuss with you where our Committee and I stand on your legislative goals for 1978.

In presenting to the Veterans' Affairs Committee your legislative recommendations last March, Dr. John Wasylik, your National Commander in Chief, said: "our veterans and their survivors are very special, for because of them, and only because of them, we have a free nation where we, you and I, may live with dignity and honor in freedom, and progress in accordance with our individual abilities and motivation."

I could not agree with John more. Our veterans and their survivors are very special—to all of us. It was in that spirit that the Senate Committee on Veterans' Affairs listened—very closely—to your priorities.

One of your first priorities is for the V.A. to remain a durable, independent agency and for its health care system to keep its separate status—despite the recommendation to the contrary made by the National Academy of Sciences in its report on "Health Care for American Veterans" in June of 1977.

I totally agree with you.

The V.A. medical system must remain independent.

And it will!

I hold that belief as strongly today.

The N.A.S. study generated much controversy, but it was the most comprehensive review ever undertaken of the V.A. health-care program; one that needed to be conducted; and one that it is helping us chart the future for a stronger V.A. hospital and medical care system.

You know and I know that there are problems and deficiencies in V.A. health care. If this report brings about improvement and better medical care for our veterans, then the report was well worthwhile, despite the controversy.

And it seems that improvements are already underway.

Dr. John Chase, who just retired as the V.A.'s Chief Medical Director, said about the N.A.S. report: "this indepth evaluation, and the publicity it generated, together with the department's intensive self-examination in response, set forces in motion that unquestionably will shape a constructive blueprint for V.A. health care delivery for many years to come."

I say to you today that we must never allow the quality of care for our veterans to decline. We must constantly strive to make that care truly second to none.

Together we can—we must—help the V.A. find innovative ways to strengthen the system and to continue meeting the needs of America's sick and disabled veterans.

A second of your recommendations to the Congress was for an increase in the V.A. budget. Let me tell you what's happened so far.

The Senate and House Veterans' Affairs Committees recommended, and the Congress agreed, that $200 million should be added in the Congressional First Concurrent Budget Resolution—over and beyond the President's budget request for V.A. health-care services and programs. My House counterpart, Chairman Ray Roberts of Texas, did a tremendous job in taking the case to the floor of the House of Representatives—and I worked hard in the Senate—to increase the congressional budget to provide necessary staffing and construction, and in order to maintain the V.A.'s medical research program.

There were other areas in the V.A. that also needed additional funding, and, when the dust had finally settled, with your help we had increased the total congressional budget for the V.A. by over $2 billion.

We succeeded in making sure there was room to make great improvements in the compensation program, to provide a new, more fair and equitable pension program, and to make several other major gains in V.A. benefits—especially health care.

We are now working together to get these budgeted funds appropriated for the V.A.'s health-care system.

This is not an easy task, however. So far, the House has done great work.

And I believe that the Senate conferees on the appropriations bill will sympathetically consider the increases approved by the House. The Senate Subcommittee Chairman, Bill Proxmire, has promised me that.

With the V.F.W.'s strong and constant support, I feel very confident that the moneys appropriated for V.A. medical care, research, and construction in the new fiscal year will exceed the Administration's appropriations request by about $100 million—enough to maintain the system and make high-priority improvements.

Another V.F.W. priority is the upward adjustment of compensation and D.I.C. benefits to keep pace with inflation, and to insure general improvement in the V.A. service-connected benefit programs.

Our Committee will do all in its power to see to it that the rates of service-connected disability compensation and D.I.C. are adjusted to prevent those benefits from being eroded by inflation.

We recommended to the Senate, and on August 7 the Senate unanimously passed, legislation to provide a 7.3-percent increase in these rates.

The 7.3-percent raise was based on the amount of the Congressional Budget Office's projected 12-month jump in the Consumer Price Index from October, 1977, the date of the last rate increase.

The House-passed bill calls for a 6.5-percent increase.

But I think I can predict confidently that the Congress will provide the full 7.3-percent add-on. It will be effective Oct. 1.

You have recommended that there be a presumption of service-connection for death where a veteran had a permanent and total service-connected disability at the time he or she died.

I share the V.F.W.'s strong concern about the survivors of veterans who were totally disabled from a service-connected cause but whose deaths have not been found to be service-connected by the V.A.

I believe that my amendment, which the Committee and the Senate adopted, would deal with this problem in a fair, equitable, and compassionate fashion by providing survivors benefits based primarily on the length of time the veteran was totally disabled.

In this way, benefits would compensate for the impact of the injury or illness on the totally disabled veteran's ability to provide for his family after death.

The House passed a bill with some differences, but with the same basic goal: and I know we will reach agreement on a good, fair result.

Our bill also includes my proposal for an $800 increase, from $3,300 to $4,100, in the auto assistance allowance, and an increase of $700, from $800 to $1,500, in funeral and burial benefits paid in the case of a service-connected death.

You have stated—strongly—your support for a new restructured pension program.

We've worked closely with the V.F.W.; and the provisions of my bill, which passed the Senate unanimously on July 31, address some of your strongest concerns.

I believe that passage in both Houses of pension reform legislation should insure a successful culmination to our five-year effort to correct the inequities and inadequacies in the V.A.'s pension program.

But, even more importantly, this legislation will save needy veterans and survivors from having to turn to welfare by providing a new program with income standards that will assure that pensioners' incomes do not fall below the Department of Labor's poverty guidelines.

You strongly support—and the new program in this legislation would guarantee—comparable pension increases each time there is a cost-of-living increase in social security benefits. This will ensure that, under the new program, pensioners will not suffer any reduction in benefits when social security benefits are increased.

The Senate bill sets a minimum income standard of $3,240 a year for a single wartime veteran. This would mean a significant boost for all V.A. pensioners with incomes below the national minimum standard of need.

The amount of the increase would depend on several factors, including other family income and number of dependents.

Let me give you an example of how the Senate program would work.

A needy veteran with one dependent and no other income now receives a maximum pension of $2,544—far below the poverty level. Under the bill, developed by a unanimous Senate Veterans' Affairs Committee, and approved 85 to 0 by the Senate, he would get $4,284—a 68-percent increase.

In addition, our bill would exclude all unreimbursed medical expenses over $100—or five percent of the total income. This is one provision you stressed very strongly in your testimony on the bill.

I am very hopeful that when the conference meets in September, we will, with your help, be able to work out the differences between the House and Senate approaches in a way that will secure enactment of this vital legislation.

Another V.F.W. priority is an increase in the amount of the V.A. loan guarantee for conventional housing from $17,500 to $25,000.

I am in complete agreement with this aim. So is the Committee and so is the Senate, which unanimously adopted our legislation on August 7 to make this increase.

The bill would also increase the V.A. specially adapted housing award—the wheelchair home grant—from $25,000 to $30,000.

We should—and we must—do everything in our power to help veterans become homeowners, especially now as both the prices of homes and interest rates continue to skyrocket.

The bill we just passed would also provide for expansion and improvement of the V.A. mobile home program so that Vietnam and other veterans will have a better chance to take advantage of this less expensive form of housing.

You have stated in very strong terms your opposition to attempts by the Administration to eliminate or dilute veterans preference in federal employment.

The Administration's proposal would surely have an adverse effect on the employment of veterans, especially disabled and certain younger veterans whose unemployment rates continue to be too high.

We should not—and we will not—diminish the Federal government's commitment to help these veterans successfully make the transition from military to civilian life and to find jobs. I've discussed this with key members of the Committee handling this issue—the Senate Governmental Affairs Committee—and they agree. The Committee deleted from the Civil Service Reform bill any changes in veterans preference and instead directed that a Veterans' Affairs Committee and Governmental Affairs Committee task force look into this matter.

I'm on the task force and as far as I'm concerned, if anything comes out of it, it will be to strengthen—not weaken—certain aspects of veterans preference.

I have already conducted a thorough review of the existing and proposed Civil Service law and I've found a number of areas in which the enforcement of preference rights needs to be strengthened.

After much discussion of those provisions with the Administration and with the Senate Governmental Affairs Committee, I am preparing an amendment to strengthen existing preference laws for disabled veterans and to eliminate from the proposed law those provisions that would weaken enforcement of preference rights.

I believe that these improvements stand an excellent change of enactment and that we'll wind up with a better, stronger system of veterans preference laws than we had when we started.

The V.F.W. has also called for establishment of salary levels which would be more attractive to V.A. health-care personnel. I have long shared this concern.

My bill—now law—providing for a one-year extension of the special-pay program was only a temporary solution to the V.A.'s needs for a permanent program to enhance its ability to recruit and retain qualified health-care professionals.

I have strongly urged the Office of Management and Budget to submit a legislative proposal to achieve pay comparability for physicians and dentists in all Federal agencies and to eliminate existing inequities.

As Chairman of the Veterans' Affairs Committee, I will be deeply involved in consideration of whatever Administration proposal is finally submitted. I will do all I can to ensure that the legislation finally enacted provides an equitable solution to the problem.

There is still a great deal we have to do before this Congress adjourns later this year. We have five major pieces of veterans' legislation now back before the House which have to be resolved in the coming weeks.

But I'm confident that—with your assistance and support—we'll continue to help the V.A. system provide better and better benefits, services, and health care for all of America's veterans.

This is a top priority with me. We must make the V.A. truly responsive. I know this is our common goal.

I pledge to you my continued strong efforts. Together we will continue to fight on, and together we will prevail.

I know you will do much to achieve these ends.

I thank you.●

CENTRALIZE MANAGEMENT OF NUCLEAR WASTE IN SINGLE AGENCY

● Mr. MATHIAS. Mr. President, the Committee on Radioactive Waste Management of the National Academy of Sciences (NAS) National Research Council, recently issued an excellent report on "Solidification of High-Level Radioactive Wastes." The Committee was chaired by the distinguished director of the Pennsylvania State University Materials Research Laboratory, Dr. Rustrum Roy. I met Dr. Roy last year when he testified before the Energy and Nuclear Proliferation Subcommittee of the Committee on Governmental Affairs on the radioactive waste problem.

The NAS Committee's report contains many valuable suggestions in the area of waste solidification which I commend to my colleagues. But I want to highlight one of its key recommendations that goes to the heart of the radioactive waste issue. The Committee recommended that the responsibility and authority for all radioactive waste management efforts of the Government be centralized in a single agency. As many of my colleagues know, that concept has been the core of my bill, S. 63, which was introduced nearly 2 years ago. Subsequent versions of that measure, such as my bill S. 2189, have retained this central feature.

If the increasing number of hearings on this issue in the House and in the Senate is a reasonable indicator of the interest, it seems to me that the mood of the Congress is moving in the direction of tackling the nuclear waste issue head on in the next session. I intend to provide the legislative vehicle for that early in 1979. In the meantime, since the problem will not go away until the Congress deals decisively with it, I hope my colleagues will look carefully at the NAS recommendation concerning how the Government should manage its efforts in this area.

I ask that the text of an excerpt from Nucleonics Week of August 31, 1978, summarizing the NAS recommendations on this subject be printed in the RECORD.

The material follows:

[From Nucleonics Week, Aug. 31, 1978]

CENTRALIZE ALL WASTE MANAGEMENT IN ONE AGENCY, SCIENTISTS' PANEL URGES

Responsibility and authority for all radioactive waste management, including solidification r&d, should be centralized. Basic and applied research would then be most directly translated into engineering and production. In addition, a single agency could conduct international negotiations on behalf of the

U.S. in waste handling, reprocessing, solidification, etc. This is one of the recommendations of the National Academy of Sciences/National Research Council's panel on waste solidification, Committee on Radioactive Waste Management, expressed in the panel's report "Solidification of High-Level Radioactive Wastes." The report is being released in sections.

The panel also recommends that a comprehensive and stable research, development and demonstration program of limited duration be established for second-generation waste management technology. The panel estimates that an annual total of $150-million (including $15-million for basic research) over a period of about 10 years would be required to run the program.

In an allusion to the need to bring in scientists who have not hitherto associated themselves with the nuclear waste issue, the panel recommends that all future research programs should be designed to draw continuously on the personnel, experience and research capabilities "not only of the government-owned, company-operated facilities or the national laboratories, but also of the nation's industries, universities, and non-profit laboratories."

U.S. authorities responsible for managing radwaste should take the lead in organizing coordinated international research programs and information-sharing mechanisms to avoid needless duplication of effort "and to hasten a convergence of the various technologies and criteria for waste disposal," the panel recommends. Because U.S. programs on storage and disposal of spent nuclear fuel are all new, international meetings and perhaps joint development programs should be used to mobilize the best available talent.

On management issues, the panel—chaired by Rustum Roy, director of the Pennsylvania State University Materials Research Laboratory—states that the technology for solidification and disposal of high level wastes has not kept pace with nuclear reactor technology. The cause is not technical difficulty but the low priorities assigned to the problem. "Nevertheless, the panel finds that the development of waste solidification technology, in general, is adequate to proceed with DOE's plans for first-generation demonstration and implementation, namely the Wipp [Waste Isolation Pilot Project near Carlsbad, N.M.] project and a pilot plant for geological disposal of commercial wastes," the panel says. A comprehensive and coordinated plan for waste solidification r&d has been lacking, it continues, and although particular areas of technology have received attention and funding there has not been a balanced r&d program designed to develop the capabilities and understand the requirements of a broad range of solid waste form candidates. "Research and development have been concentrated far too heavily on glass, which may in many systems be much less desirable than other solid waste forms. In the recent past, because of limited funds and the need to demonstrate any feasible solution quickly there has been a tendency to neglect alternatives while pushing glass technology to engineering and pilot plant stages. Steady support for research and development of alternative, second-generation technologies has therefore been neglected," the panel says.

"Relatively little research and development would be required to provide the options needed to assure that optimized or second-generation methods for solidifying various types of high-level liquid radioactive wastes are available. Stable support over a relatively short period of a decade would suffice. Technically optimum methods could probably be selected for DOE wastes in a shorter time, perhaps five years," the panel states. There is time to do more r&d, the panel finds, because of the current U.S. policy of deferring reprocessing. Defense wastes, which are relatively low in radioactivity and thermal power density, can best be solidified by low-temperature processes such as those used to produce cement-matrix and some ceramic forms, the panel says. For solidification of fresh commercial wastes that are high in specific activity and thermal power density the panel recommends that, in addition to glass, "the use of fully crystalline ceramics and metal-matrix forms be actively considered."

The panel says that preliminary analysis of the characteristics of spent fuel pins indicates they may be eligible for consideration as a waste form but the pins must be understood in detail and a packaging system developed before they can be so considered.

In discussing the limitations of glass, the panel notes that of all primary solid waste forms "ceramics are the most thermally stable and the most resistant to leaching and radiation damage. Furthermore, some ceramic forms are capable of greater waste loading per unit volume than any other form except calcine." The major disadvantage of ceramics derives from the relative complexity of some of the high temperature processing methods required to create them, the panel notes.

The panel expresses puzzlement as to why glass "has come to be regarded, worldwide, as the form of choice for solidifying high level liquid wastes, since glass has a number of disadvantages. The choice appears to result from the assumption that the single criterion of solid waste performance is low leachability. While some high-silica glasses have very low solution rates according to conventional tests, glass is definitely not the best form in this respect. Its metastable nature invites physical and chemical changes by phase separation, devitrification, and hydrothermal decomposition. In terms of processing, glass is probably the least desirable of solid waste forms," the panel states. This challenge to waste vitrification is refuted by those engaged in the program (NW, 24 Aug, 2).

The panel notes that research on interactions between waste and the host rock of the repository has only just been funded so that direct data are not yet available. But as a generality, it continues, it can be said that under conditions expected near the waste canisters within a geological repository—temperatures of 200-800 C, pressures of 1-300 bars, and the presence of water (from cavities, hydrated minerals, etc.)—"extensive interaction and alteration of the original wastes is certain." The panel says that such interactions "will affect glass more than any of the crystalline forms. Salt will be more reactive (because of the differences in free energies) with oxide wastes than will granite or shale."—ROGER SMITH.●

INVESTIGATION INTO FRAUD IN THE GENERAL SERVICES ADMINISTRATION

● Mr. RIBICOFF. Mr. President, the Governmental Affairs Subcommittee on Federal Spending Practices today received from the General Accounting Office a shocking report called "Federal Agencies Can, and Should, Do More To Combat Fraud In Government Programs." The report says, "Federal economic assistance programs amounting to about $250 billion annually are susceptible to fraud and related white collar crimes. No one knows the extent of fraud against the government, but Department of Justice officials believe it ranges from 1 to 10 percent of the expenditures." The report goes on to state, "Federal agencies have not been doing enough to identify fraud in their programs, and the Department of Justice has been slow in assisting federal agencies' antifraud efforts."

I long ago discussed with the subcommittee chairman, LAWTON CHILES, expanding the present investigation of fraud within the General Services Administration to other agencies, and he has done so. This GAO report was a subject of his hearing this morning.

I want to commend Senator CHILES for his thorough, careful, and responsible investigation and oversight. The committee and the Senate are grateful to him.

I have repeated to Senator CHILES today my suggestion to provide him with whatever support he may need to properly discharge his oversight responsibility of Federal agencies' spending practices. The subcommittee plans further hearings as soon as the study is fully reviewed.●

FAIR EMPLOYMENT RESOLUTION, SENATE RESOLUTION 431

● Mrs. HUMPHREY. Mr. President, I urge my colleagues to support Senate Resolution 431, the Lee Metcalf fair employment relations resolution. Passage of this resolution will be a confirmation of our commitment to equal employment opportunity. It will elevate the Congress to a position of leadership in the struggle to end job discrimination.

Senate Resolution 431 is simple and straightforward. It establishes a procedure for the resolution of discrimination complaints. It justly and evenhandedly protects the civil rights of Senate employees and job applicants while at the same time maintaining the rights of Senators to hire staff based upon legitimate, job-related criteria.

Senate Resolution 431 would be an excellent companion to Senate Resolution 110, which Congress passed last year and which contained provisions that prohibit discrimination based upon an individual's race, color, religion, sex, national origin, age, or state of physical handicap. It would insure that Senate Resolution 110 is an effective barrier to employment discrimination.

The need for Senate Resolution 431 is clear. To eliminate charges of job discrimination in the Senate, we must establish a complaint procedure that is coupled with the monitoring of hiring and recruitment. It is imperative that we continue to move toward rectifying some of the problems inherent in Senate employment and to equalize salary levels.

In recent testimony before the Governmental Affairs Committee, it was indicated that in 1977 there was a $10,000 median salary differential between female employees and male employees of the Senate. The median salary of women employees of Senators was only 58 percent of that of men. The salary differential at professional levels was just under $6,000. Of the approximately 1,100 professional employees of the Senate, less than 30 are black.

Over 15 years have passed since the Congress accepted legislation guaranteeing fully the civil and constitutional rights of American citizens. During this time, the private sector and Federal Civil Service have done much to improve hiring practices and salary levels. Affirmative action programs are now the norm rather than the exception.

This Congress should take its rightful position of leadership in the area of equal employment opportunity by assuring that Senate employees are accorded the same rights as other American citizens.

The Senate should move now to set an example for the rest of this Nation by passing Senate Resolution 431.●

THE CAMP DAVID SUMMIT—AN HISTORIC STEP TOWARD MIDDLE EAST PEACE

● Mrs. HUMPHREY. Mr. President, on Sunday evening, President Carter, Prime Minister Begin, and President Sadat announced to the world that an extraordinary agreement had been concluded between the Government of Israel and the Government of Egypt. In a dramatic and unprecedented display of statesmanship, Prime Minister Begin and President Sadat signed their names to documents which may well put an end to the history of repeated conflicts in the Middle East.

For almost 2 weeks, the leaders of three great nations undertook continuous and intensive negotiations to lay the foundations for lasting peace in this war-torn land. The agreements reached at Camp David, "A Framework for Peace in the Middle East" and "A Framework for the Conclusion of a Peace Treaty Between Egypt and Israel" address virtually every outstanding issue, with the exception of one or two, that has divided the two nations since the establishment of the State of Israel.

Under the provisions of the first accord, Israel has agreed to the withdrawal of military forces in the West Bank and Gaza Strip to specified locations and a halt to new settlements, in exchange for a guarantee of the security of the area by United Nations forces and negotiations with representatives of Palestine and Jordan to determine the areas' final status.

Under the second accord, covering bilateral relations between Israel and Egypt, Israel has agreed to a phased withdrawal from Sinai and the return of airfields to Egyptian civilian control, in exchange for security arrangements in Sinai and a normalization of relations between the two nations.

The leaders of the three nations deserve our most profound respect and admiration. And we should be especially proud of our President. The stakes were high, the risks of failure great. There is still much work that lies ahead, and many complex negotiations remain to be concluded. But the image of the public embrace of Mr. Begin and Mr. Sadat has been indelibly etched on the public consciousness, offering new hope for the successful outcome of these negotiations.

After weeks of guarded optimism about the outcome of the Camp David Summit, we now stand on the threshold of a new era of peace in the Middle East. The leaders of the three nations are to be commended for their dedication in the face of despair, for their perseverance in the face of pessimism. It is with fervent hope and prayer that our leaders have begun, at last, the long and difficult task of turning swords into ploughshares.●

RURAL TRANSPORTATION: KEY TO OUR EXPORT MARKETS

● Mrs. HUMPHREY. Mr. President, it has become increasingly clear to me in recent months that our rural transportation system, especially our railroads, is of vital importance in maintaining and expanding our agricultural export markets.

The levels of agricultural production continue to increase, and our producers have become increasingly dependen on export markets. Our grain exports recently have been running at a level of more than 90 million bushels a week, a level even greater than that during the outburst of exports to the Soviet Union in 1973. Agricultural trade is expected to result in exports of about $26 billion this year with a net agricultural trade surplus of $12 to $13 billion. The United States needs this favorable agricultural sector. In 1977, this country had a $40.1 billion balance-of-trade deficit in the nonagricultural sector which was reduced to a deficit of $29.9 billion as a result of our agricultural export sales.

While these statistics are encouraging, it is quite clear that the transportation system is straining to keep up with demand. Last winter the coal strike and the severe weather caused serious breakdowns. As a result, this country was hard pressed to make scheduled grain shipments to the Soviet Union which later sent a team to this country to review the problems and see what could be done.

The loss of two export elevators last December in the gulf ports also served to reduce our export capacity. Although this situation has been improved in recent weeks, it is yet another indication of the vulnerability of the total transportation system.

Of immediate concern are the boxcar shortages which have been a common problem to our farmers. There are few people from the rural Midwest who have not seen grain piled high in the middle of Main Street because there were no boxcars to haul it. Now we are faced with a shortage of locomotives as well.

I am not an expert on transportation. I do not pretend to fully understand the Interstate Commerce Commission's ratemaking structure and regulatory regime. But, I do understand farmers and the economics of small farms, which both support and benefit from American agriculture. I understand their problems and concerns. And, I understand the importance of an efficient transportation system and export markets to them.

It is now clear that our current as well as potential trading partners also understand the importance of an efficient domestic transportation system to international trade. We have every indication that the Canadian grain producers are extremely concerned that the People's Republic of China has turned to the United States for wheat purchases, 2.5 million tons thus far, this year in part because Canada's transportation system has not been able to ship grain in a timely fashion. Reportedly, the Japanese also have increased their purchase of feed grains from the United States because of Canada's shipping problems. The United States has to take effective steps to insure the viability of our rural railroad system.

Senator Hubert Humphrey was long interested in the problems of rural transportation, and it was a result of his efforts that the Department of Agriculture was required to carry out a major study on rural transportation in the early 1970's. We are still struggling with the same issues today: How to establish a rural transportation system which effectively meets our national transportation requirements without at the same time overlooking the needs of our small towns and cities. We should not forget that the deterioration of our rail system makes us run the risk of sharply increasing the food bill of the American family.

Right now, in Minnesota, there are light density lines where you can no longer see the railroad ties; where boxcars have to be used instead of hoppers because the track can not handle the additional weight; where the maximum speed allowed is 10 miles per hour, and it takes a crew 2 days to move a train 75 to 100 miles. That is bad from a transportation standpoint. It is a human tragedy from the standpoint of the towns and people and businesses that rely on those lines as their primary economic link to the outside world.

Now we in the Grain Belt are faced with the same longrun problem the Northeast faced a few years ago. Four or five of our granger railroads are in severe financial trouble. Two have filed for bankruptcy, and I fear others may follow suit, especially as millions of dollars of low-interest Reconstruction Finance Corporation loans come due in the next few years, and have to be refinanced at four or five times the Government-subsidized interest rates of years ago.

To say that this situation causes farmers, elevator operators, and other rural shippers some concern, is a terrible understatement. In human terms, it means that the jobs and economic well-being of tens of thousands of rural people are in jeopardy.

Mr. President, if we wait much longer to start repairing our rural railroad system, we will run the risk of allowing the system to fall into total disrepair. We need a comprehensive plan of action to meet the immediate transportation needs

of rural communities and to anticipate future supply and demand conditions for transportation services in rural areas. In the short run, we must begin by replacing worn tracks, upgrading railbeds, and efficiently allocating boxcar space. But just as importantly, we need to study the effects of rail abandonment and the impact of changes in rates and regulations on the transportation needs of farmers and rural people. Put quite simply, we need to develop an understanding of the importance and relationship of transportation to rural development.

When President Johnson established the Department of Transportation, he did so in the hope that we could move toward an integrated transportation system which serves the needs of all the people. It is time to fulfill his vision.●

CRS COMPLETES STUDY ON THE EFFECT OF TAX INCENTIVES ON THE SOLAR ENERGY INDUSTRY

Mr. PERCY. Mr. President, on July 20, Senator HART and I requested the Congressional Research Service to study the impact on the solar energy industry of the congressional delay in approving the solar tax credits. That study was completed on August 31. I would like to insert it in the RECORD so my colleagues can see the results of this fine piece of work.

Senator HART and I asked CRS to answer these questions: What have been the effects on the consumer solar market of the congressional delay in approving solar tax credits? What have been the effects on the configuration of the solar energy industry of its recent decline in growth rate? To what degree is congressional delay responsible for these configurational effects?

Based on the limited information available, CRS made the following conclusion:

The credits will make a substantial difference in the growth rate (of the solar energy industry), but that growth will probably be high compared to the present in any case. A major problem, however, is the very sluggish growth rate expected between 1977–1982, absent the incentive package. Thus, failure to expeditiously pass the credits could cause a difficult period for the industry. This, in turn, could result in the closing of additional small producers.

This conclusion supports the testimony we received from many solar manufacturers and distributors concerning the current state of the industry.

Much of the strength and vitality of the young solar energy industry comes from its many small, independent, and hungry businesses. But small operations have the hardest time weathering the lulls. Several have dropped out already. Congress must, therefore, approve the solar tax credits as soon as possible, and return the solar energy industry to its rapid growth rate.

On August 23, the Senate expressed its commitment to the solar and conservation tax credits by attaching them to H.R. 112, a small tax bill, on the Senate floor. It is now up to the House of Representatives to recognize the urgency of the situation, and take appropriate action. I urge all my colleagues on the other side of the Capitol to read over this CRS study. I urge them further to act quickly to go to conference and accept H.R. 112 with the tax credit amendment.

I ask unanimous consent that the Congressional Research Service's analysis of "The Impact of Tax Incentives on the Solar Energy Industry" be inserted in the RECORD at this point.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

THE IMPACT OF TAX INCENTIVES ON THE SOLAR ENERGY INDUSTRY—SUMMARY

As a consequence of the concern over the impact of delay in the passage of the solar incentive package in the National Energy Plan on the development of solar energy, Senators HART and PERCY asked CRS to look at the effect on consumer markets and on the solar industry.

The producers tend to be small and independent, although several large corporations such as Exxon, Grumman, and Honeywell are also in the field. Despite the relatively large number of producers, 44 percent yielded 90 percent of the output in 1977. This may be greater in 1978. Some 56 percent of the producers have a capacity of less than 10,000 square feet.

Output has increased steadily through the years with a dip in the second half of 1977. The upward march resumed in 1978. It appears, however, that the production upswing is the result of an inventory buildup rather than the resumption of increased sales. This contention is difficult to support since there is no sales or inventory data available. Considering, however, that the number of producers may have declined by as much as 13 percent, the point appears valid.

In any case, the potential market for solar is large, but hampered by economic or other problems. Despite this an estimated 3,400 houses will install unsubsidised solar space heating in 1978, with double that number putting-in hot water units. This is less than earlier projections, and appears to be below 1977.

The passage of the tax credit package has been estimated to result in 1.9 million solar installations in the 1977–85 period. Failure to pass the package is estimated to reduce the installations to about one-third of that number, with the slowest growth in the 1977–82 period. In 1977, installations are estimated at 15.5 thousand residences.

We can conclude from the above that the credits will make a substantial difference in the growth rate, but that growth will probably be high compared to the present in any case. A major problem, however, is the very sluggish growth expected between 1977–82, absent the incentive package. Thus, failure to expeditiously pass the credits could cause a difficult period for the industry. This, in turn, could result in the closing of additional small producers.

Larger, better financed producers, are likely to stay in for the long pull, using the resources of their parent corporation, in some cases, to stay alive. Considering the potential size of the pot of gold at the end of the rainbow, the Exxon's, Honeywells', etc, will probably not be adverse to such action.

THE IMPACT OF TAX INCENTIVES ON THE SOLAR ENERGY INDUSTRY

INTRODUCTION

Since the Arab oil embargo of 1973, a significant number of bills have been introduced in Congress to promote solar businesses and encourage the residential application of solar energy through special financial incentives.[1] Today, in the 95th Congress, well over 50 "solar incentive" bills are pending. Bills providing tax credits for homeowners, investment tax credits for businesses, low interest loans to homeowners and manufacturers, and a range of other possible financial incentives have been proposed. Much debate has been generated concerning the proper type and level of economic incentives to encourage the use of solar energy. The President's National Energy Plan, however, has narrowed the debate by focusing on the homeowner as the major first market for solar energy devices and the refundable tax credit as the mechanism for promoting this market.[2]

The proposal, as modified by the House-Senate Conference Committee, now provides for a credit of 30 percent of the first $2,000 and 20 percent on the next $8,000 on qualifying equipment, for a maximum credit of $2,200. Under the conference formula the credit would be available for equipment installed between April 20, 1977, and December 31, 1985, in a principal residence, cooperative or condominium.

Both the Congress and the Administration have been strongly supportive of a residential solar tax credit as a measure to accelerate the pace at which solar energy can contribute to our energy demand. These measures, however, have been stalled as a consequence of the discussion over the more controversial portions of the Energy Plan (crude oil equalization tax, oil and gas user tax, gas guzzler tax, etc.). If the deadlock cannot be broken, the solar and other noncontroversial provisions of the plan will die along with the controversial items when Congress adjourns.

As a result, some solar proponents have suggested separating the incentive package from the Energy Plan. This effort has been spurred by the concern that the solar industry is being hurt by buyer indecision occasioned by anticipation of the incentives eventually becoming law. In a letter to Dale Myers, DOE Undersecretary, Sheldon Butt, President of the Solar Energy Industries Association, stated the association's belief that "continued indecision concerning solar tax credits, extending into [1979] will inevitably result in the failure of literally hundreds of small solar businesses."[3]

This concern prompted Senators Hart and Percy to request CRS to investigate two particular areas:

1. What have been the effects on the consumer solar market of the Congressional delay in approving the solar tax credits

2. What have been the effects on the configuration of the solar energy industry of the recent decline in growth rate? To what degree is congressional delay responsible for these configurational effects?

This report is an effort to sift through the rather sparse data, and conflicting claims in an effort to answer those questions.

THE INDUSTRY AND ITS PROBLEMS

The solar industry is currently a highly fragmented group of relatively small producers, most of whom are independent. A few large, well-diversified corporations, such as Grumman, Honeywell, and Exxon, have entered the field through subsidiaries.

The products of the industry are generally classified into low (60–90° F) and medium (140–250° F) temperature collectors. The low temperature units, primarily for heating swimming pools, comprise some 74% of production. The medium-temperature units are most commonly used for residential space heating and hot water systems, and we will deal largely with them. These medium temperature units can be further classified as follows:

1. medium-temperature flat collectors, composed of a metal collector plate under glazing in a rigid frame, and generally capable of operating temperatures of 140–180 deg. F;

2. high performance medium temperature flat plate collectors, with heat traps, selective coatings or other features allowing temperatures up to 250 deg. F)capable of use for absorption cooling systems); and

3. "special: collector designs, including evacuated-tube and concentrating collectors that further reduce heat loss in operation and improve high-temperature operating performance.

A survey of collector manufacturers indicated there were 186 medium temperature producers during the Jan.–June 1977 period.[4] Of these, 16% were new producers, and 12% stopped production. The bulk (56%) of the producers had a capacity of less than 10,000 square feet, with an additional 34% in the 10,001 to 50,000 sq. ft. range, and the remaining 10% with capacity greater than 50,000. Actual production, however, was concentrated among the larger producers. Ninety percent of the Jan.–June 1977 output was derived from those producers capable of over 10,000 sq. ft. annually.

According to a recent survey prepared by Muller and Company for the Solar Energy Research and Education foundation, the number of domestic manufacturers or importers of solar collectors is presently 162, representing a thirteen percent decline from 1977.[5]

Production of medium temperature and special collectors (MTC) rose steadily until the 2nd half of 1977. At that time, output declined by more than 13%, compared with the previous 6 months. Production turned around, however, in the first half of 1978 by twenty-seven percent compared with the second half of 1977, and by nearly ten percent over the first half of 1977. Data prepared by DOE, however, indicates a somewhat more modest decline in 1977 and a more dramatic increase in 1978. Both sets of data are presented in Table 1. Thus, the picture indicated by these production statistics is that the solar energy industry is one which has continuously expanded with the exception of the second half of 1977. Based solely on production figures, and even on numbers of firms, it would not appear that this is an industry which is in need of Federal assistance.

There are, however, two problems with this initial conclusion. First, although production figures are up, the industry is claiming that sales have fallen off sharply, primarily as a result of inaction on the Federal solar tax credit legislation. The Muller and Company report concluded: "it would appear . . . that a rather large inventory buildup of solar collectors has occurred at the distributor and dealer levels."[6] There are, however, no reasonably reliable statistics on sales or inventories to support this impression.

TABLE 1.—*Solar collector manufacturing Activity, 1975–78*[1]

Year and period	Medium temperature and special collectors (thousand square feet)	
	Muller	DOE
Total 1975	—	717
January–June, 1976	704	704
July–December, 1976	1,220	1,220
January–June, 1977	1,885	1,885
July–December, 1977	1,633	1,832
January–June, 1978 (estimated)	2,069	2,319

[1] Sources: DOE Survey of Solar Panel Collector Production (1977 2nd half and 1978 unpublished) and Muller and Co. report referenced in footnote 5 of the text.

Further, while production of solar collectors has been maintained at a high level, that level is significantly below industry expectation. These expectations are indicated by the fact the producers expanded productive capacity of MTC to approximately 4 million square feet per 6 month period.

Footnotes at end of article.

PROBLEMS AND BARRIERS

The difficulties facing the solar industry can be characterized as economic, institutional, legal, technological, and environmental.[7] The environmental and technological barriers are not believed to be substantial. The legal problems revolve around access to the sun, land use restrictions and zoning ordinances. Institutional barriers, on the other hand, involve uncertainty in regard to the impact of solar units on housing resale values and the consequent reluctance of lenders to grant mortgages. In addition, the institutional problems include building codes and standards, as well as the relationship with electric and gas utilities.

Of considerable importance in this regard is the current involvement of State utility rate structure reform and marginal cost pricing. Currently most electric and gas utility companies price their services on a fully distributed average cost basis. This average cost is below marginal (or replacement) cost, and thus understates the value of the utility service to the customer. The current movement of State commissions toward marginal cost based rate structures is designed to make rates more accurately reflect the costs of providing service. As utility rates move closer to marginal cost, solar energy is likely to become a cost-effective alternative to conventionally fueled systems. A complication here, however, is the price at which utility companies provide service for the back-up or auxiliary systems which are usually required by a solar installation. Care must be taken to ensure that the price of this service reflects the actual costs imposed upon the supplying utility. Solar installations which reduce the energy requirements placed upon the supplying utility system but do not reduce the demand requirements may have to pay prohibitively high utility rates to reflect the costs imposed upon the system. On the other hand, solar installations which reduce the demand requirements of a utility system should be rewarded with lower utility rates which reflect the benefit provided. Careful analysis of individual utility system characteristics is necessary to ensure that owners of solar installations are charged rates commensurate with the costs imposed upon the utility system.

The economic barriers are perceived to be the most critical in regard to solar commercialization. These include cost of equipment and competition with other fuels. In view of the importance of these problems, we will discuss them in greater detail in the next section.

SOLAR COSTS, COMPETITION, AND THE MARKET

If solar energy systems are to be employed on a wide-scale basis and replace a significant portion of current energy sources (oil, natural gas, coal and nuclear), they must prove to be a cost-effective source of useable energy. Widespread use of solar powered systems depends upon the cost of these systems in comparison with the cost of systems using conventional fuels. Solar space heating and cooling systems and solar domestic water heating systems are capital intensive, requiring a much larger capital investment than conventionally-fueled systems. Once the solar system is in place, however, it experiences low maintenance costs and except for the fuel used in the auxiliary system, has zero fuel costs. Because of its high initial capital investment, the cost competitiveness of solar systems vis-a-vis conventional systems is highly dependent on the cost of capital (interest rate) for the initial investment funds. In addition, since solar powered systems have zero fuel costs (except for the back-up system), the price of competitive fuels also has a substantial impact on the cost-effectiveness of this type of energy system. Government programs which affect these two cost components will have a substantial effect on the relative cost advantage (or disadvantage) of competitive energy systems.

Solar systems and the competition

The National Science Foundation performed a life-cycle cost analysis of solar space heating systems in a newly constructed, detached single family dwelling in comparison with conventional systems.[8] A solar system was determined to be "economical" when the costs associated with the solar system were found to be less than the costs of a conventionally fueled system (natural gas, fuel oil and electricity are considered to be conventional fuels). The study analyzed only solar collector systems; photovoltaic systems were not considered due to their high cost and relatively low level of technological development. Cost comparisons were based on 1975 solar costs, two reduction scenarios were postulated which presume solar system cost reductions derived from mass production techniques and from advanced collector design. The costs of conventional fuels are projected from 1975 costs with adjustments for inflation at a 5 percent annual rate. The cost comparisons mentioned above were based on an 8 percent annual rate. The life expectancy of both solar and conventional systems was established at 20 years.

Cost comparisons were made for 20 cities throughout the U.S., based on local weather conditions and conventional fuel costs. In locations where solar heating was determined not to be cost effective, the price increase for conventional fuels necessary to bring about a competitive situation between the two types of systems was provided. These increases were computed for two cases. Case II represents cost reductions achieved through mass production of solar system flat plate collectors; Case III incorporates projected costs and solar system performance achievable with mass production of an advanced collector design.

The study is summarized by the statement that ". . . solar heating in 20 U.S. cities shows that there may be considerable potential for the tapping of this energy source by economically prudent home owners. However, the final assessment of economic feasibility is critically dependent on assumptions about the cost and availability of conventional sources of fuel. The true potential for solar energy will be known only when more certainty exists concerning the future of conventional energy."[9]

Of the 20 cities considered in the analysis under present cost conditions, (Case I), a solar fueled heating system was found to be cost competitive with an electric heating system only in New York City. Solar systems were not found to be cost effective in any of the cities studied when compared against fuel oil and gas heating systems.

Under Case II conditions, a solar system could be competitive with electric heating in 5 of the 20 cities with no real price increase in electricity, and in 9 of the cities with a 2 percent (or lower) real increase in electricity prices.

Case III solar heating is shown to be cost-effective with electricity in 13 of the 20 cities with no real price increase and in 17 cities with a 2 percent (or lower) real price increase. Of the 15 cities where a real average annual price increase for electricity would be necessary for a Case II solar system to be competitive, the lowest increase necessary would be in Los Angeles (0.2 percent) and the highest in Seattle (12.2 percent). The average price increase for all 15 cities is 4.17 percent.

For fuel oil, the real price increase ranges from 5.3 percent in Madison (Wisconsin), to 8.4 percent in Indianapolis (Indiana), with the average increase for the 8 cities where oil heating systems are generally available at 7.29 percent. Natural gas price increases required to improve the competitive

situation of solar systems range from 5.6 percent in New York City to 19.3 percent in Miami, Florida, with the average being 12.59 percent. It should be remembered that these are "real" price increases, i.e., they are in addition to the inflation rate.

Price indexes for retail prices of various fuels and utility services are reported on a monthly basis by the Bureau of Labor Statistics (BLS). The indexes reported are components of the Consumer Price Index which measures price changes for commodities and services purchased throughout the U.S. According to the BLS statistics, the average annual price increase for residential electric consumption (at 500 kwh/month) between January 1975 and January 1978 was 7.2 percent. The same figure for residential fuel oil was 9.1 percent, and for gas used in residential heating 19.6 percent. Comparing these figures with the total annual average figures for Case II solar systems mentioned above, only prices for national gas have risen fast enough over the last 3 years to make solar energy competitive with a conventionally fueled system.

From the above analysis it would appear that a combination of conventional fuel price increases and solar system cost reductions is necessary if solar energy is to become cost-effective. Along these lines, the Federal Government has several options with which to influence the competitiveness and thus the market acceptability of solar energy systems. First of all the Government may reduce the initial cost of investment in a solar system by providing tax incentives similar to those contained in the National Energy Act. Since solar systems are capital intensive and tend to be immune from inflation, any action which reduces the initial amount of capital investment would have a large impact on the cost-effectivenes of solar systems. Once the initial investment is made, the low maintenance cost and zero fuel cost of a solar system make the effects of inflation over the life of the system minimal.

The solar market

The claim that Congressional failure to approve residential solar tax credits has hurt the solar equipment industry by turning potential solar buyers into "waiters," necessarily assumes that a strong and growing market for solar products already exists in the absence of further subsidies. If this is the case, then an absolute end to expectations of a solar credit should restore the market regardless of whether or not such credits are approved. On the other hand, the claim that expectations of a tax credit have created a reasonable anticipation of expanded solar markets, on which the solar industry has acted by expanding production but without which sales have not increased, assume only that tax credits would lower solar installation costs sufficiently to induce current non-buyers into the market. In either case, any determination of the extent of the residential solar market depends crucially on the constraints imposed by the economic patterns of housing and the use of solar incentives and subsidies already in existence.

The Existing Housing Stock.—Although the size of the physically possible residential market for solar installations is large, the size of the current economically rational market is, at best problematic. Factors affecting the retrofit market include location of the existing housing stock, tenancy, structural compatibility, pay-back periods, turnover price differentials, and the prior need for installation of insulation and other energy conserving measures. Data from the Annual Housing Survey for 1976 indicate that there are about 81 million housing units, of which about 74 million are intended for year-round use and are occupied. A statistically insignificant number of these units are already solar equipped.

Based on use data from the HUD subsidized solar demonstration program, geographic availability of sun-time, regionally related fuel cost patterns, the most likely markets for solar equipment consist of single-family, owner-occupied units located in the Northeast and North Central regions, with compatible heating ductwork already in place. There were about 20 million such units in 1976. Approximately 14 million of the affected households had incomes sufficient ($10,000 or more) to be able to purchase solar equipment without considerable outside assistance. Such figures do not consider such physical factors as sun accessibility which could be blocked by trees or other buildings, suitable insulation which is necessary in a low energy technology, or economic factors such as financing availability, or individual pay-back periods.

The financial factors which must be considered include the costs of financing where savings cannot be tapped, the likelihood of the installer remaining in residence for the duration of the pay-back period, the possible impact on property taxes, and the possible price differential when the house is sold. Where water heating is concerned, costs are generally low and financing may not be a serious problem. For space heating, where costs commonly run to $10,000, financing becomes a virtual necessity. Under FHA's property improvement loan insurance program, a homeowner can get a 12 percent loan for a period of up to 15 years to cover solar costs. A $10,000 system could thus be financed with monthly payments of $120. Conventional loan programs (including second mortgages) do not generally have such generous terms. Even where 15 year financing is available, moreover, it is not necessarily reasonable. According to the U.S. Savings and Loan League the average life of a home mortgage is only about 10 years, and considerably shorter in areas of high mobility such as California. A homeowner anticipating remaining in residence for 5 years from the time of solar installation could amortize the $10,000 loan by paying $222 per month, but would probably not break even on operating savings.

There is, as yet, no evidence as to whether a solar retrofitted house will sell for sufficiently more than a similar conventional house to justify solar installation as an investment. If the evidence from builders of new housing is applicable, then water heating costs should prove recoverable on resale, but space heating costs only partially recoverable. As alternative fuel costs rise, and when system depreciation costs become clearer, this could change. Regardless of any change in market value, there is likely to be an increase in assessed value for tax purposes which could offset any realizable gain. In recognition of this problem, 27 states allow for at least partial exemption of solar installations from property tax assessments (table 2).

New Construction.—A realistic market may be coming into existence for new construction. Historically, housing has been a highly cyclical industry, reaching peak building rates of 2.4 million in 1972 and trough rate of 1.3 million in 1974, for example. Housing has always been highly dependent upon the supply of funds for mortgage credit and has traditionally constricted severely whenever interest rates have risen sharply. Such cyclicality implies undependable demand for the solar industry just as it always has for suppliers of other construction materials.

TABLE 2.—*States providing solar incentives*

State and Solar Incentives

Arizona: A state income tax credit until 1984; exemption from property tax.

Arkansas: Deduction of solar cost from gross income for state tax.

California: State income tax credit until 1981; for disaster stricken homes, an interest free loan to add solar equipment.

Colorado: Solar systems assessed at 5 percent of value for property taxes.

Connecticut: Sales, use-tax exemptions; authorizes zero assessment by local tax unit.

Georgia: Refund of sales, use taxes; authorizes exemption from property tax.

Hawaii: 10 percent state income tax credit; exemption from property tax increase.

Idaho: Cost deduction from taxable income for state.

Illinois: Reduced valuation of solar equipment for assessment

Indiana: Annual deduction from assessed valuation for solar costs (mobile homes included).

Iowa: Exemption of entire solar system from property tax assessment until 1986.

Kansas: A 25% deduction from state income tax, reimbursement on property tax, and five-year amortization of solar on business tax returns.

Maine: Five-year exemption from property tax; refund of sales, use tax; $400 subsidy for solar domestic hot water installation.

Maryland: Authorization of property tax credits by local units, assessment reduction.

Massachusetts: Authorization of liberal bank, credit union loans, real estate tax exemption, and corporate tax deduction for year of solar installation.

Michigan: Use tax exemption; authorization for property tax exemption; business tax break.

Minnesota: Exclusion of solar equipment from assessment.

Montana: State income tax credit for solar installation; property tax exemption.

Nevada: Allowance for reduction of assessed valuation of solar equipment.

New Hampshire: Property tax exemptions.

New Jersey: Property tax deductions.

New Mexico: State income tax credit of 25% of solar cost up to $1,000.

New York: Provision for property tax exemption.

North Carolina: Allowance for personal, corporate income tax credits; assessment break.

North Dakota: Provision for state income tax credit; five-year property tax exemption.

Oklahoma: Income tax credit for residence—25% up to 2,000.

Oregon: State income tax credit of 25% up to $1,000; allows liberal veteran's loans for solar installation; allows property tax reduction.

South Dakota: Allowance for residential owners annual deduction from assessed valuation; property tax credit for new or retrofit solar on residential or commercial.

Tennessee: Property tax exemption.

Texas: Exemption from sales tax; business tax credit.

Vermont: Personal property tax exemptions; personal, business tax credits.

Virginia: Allowance for personal property tax exemptions.

Washington: Property tax exemption.

In 1978, the supply of mortgage funds has been ample in most areas, and housing demand has remained strong. The reasons for this are twofold: first, the primary mortgage lending institutions have been allowed to offer new deposit certificates which have allowed them to compete effectively for new funds in spite of rising returns on alternatives. Specifically, savings and loan associations now offer 6-month certificates which yield to the depositor the 180-day Treasury bill rate plus a quarter point. In June 1978, under circumstances which would normally result in greatly reduced inflows, or even outflows of funds from the "S&Ls," an estimated $2.6 billion is new money (as opposed to shifting from other lower-yielding accounts) entered the lending institutions.

The second major reason for the new stability in housing construction and sales

has been very strong support from the major secondary market institutions, including the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and several major private investors in mortgages. These institutions buy mortgages from the primary lenders as investments thus replenishing the lenders' funds for further mortgage lending. If the ability to compete effectively for new deposits in periods of high interest rates and the support of secondary market operations continue to operate as well in the future as has been the case so far this year, a far greater degree of stability could characterize the housing industry in the future.

The basic economic limitations on solar collectors in new housing still exist, however, given current technology. In the first half of 1978, 986,000 housing units were started, of which 707,000 were single-family units. The Northwest and North Central regions accounted for about 290,000 or 30 percent of the total. Surveys taken by the Solar Energy Industries Association indicate that about 3,400 houses will have unsubsidized solar space heating equipment installed in 1978; approximately double that number will have solar water heating equipment.

It is considerably easier to sell new houses with solar installations than to sell equipment for retrofitting partly because it is cheaper to build solar in initially, but mainly because it is easier to finance. The added cost of solar water heating, for example, tends to range from $1,200 to $2,500, carries pay-back periods ranging from 3 to 7 years, and can be financed at first mortgage rates (currently around 9½ percent) over 30 years. The $10,000 space heating system loan could contribute $85 per month to mortgage costs, without requiring a separate loan.

An unsubsidized market for solar units, especially for hot water, is thus beginning to grow, with the encouragement given by states and localities, and in the absence of federal subsidies. Since stability in homebuilding is a necessary base for reliable solar demand in the future, timely cyclical support from the federally-backed secondary mortgage market might be considered indirect solar support

Aside from the above, since the passage of the Solar Heating and Cooling Demonstration Act of 1974, the Department of Housing and Urban Development (HUD) has carried out several cycles of grants, covering hot water, air conditioning, and passive design, in both single-family and multiunit structures. Through fiscal year 1979, some 300 grants involving about 7,000 units have been made. The demonstration projects are located in 46 states, and were installed by 69 collector manufacturers. In addition, grants for hot water have been made to 11 states and are expected to provide about $400 for each of 10,000 installations. The bulk of HUD's projects have been located in New England and in the Rocky Mountain area.

In addition to the federal demonstration program, several states have some form of subsidy for solar installations aside from property tax arrangements. These range from income tax write-offs, through refunds of sales taxes, to a $400 subsidy for hot water installation (related to the HUD grants). The latter applies in Maine.

The provision of such incentives implies that the lawmakers perceive a social benefit in the expansion of solar energy use, but the consumer perceives the present prices of solar equipment as being "too high." Presumably he would be willing to purchase more such equipment if the prices of solar equipment being effectively lowered to consumers (with the price reduction being paid for by all taxpayers), producers of solar equipment argue that the Federal Government should also institute credits. It is difficult, however, to gauge just how responsive consumers would be to the magnitude of the reductions in solar equipment prices which would be created by the tax credits.

SOLAR ENERGY CREDITS

In view of the presumed social benefits to be derived from solar energy, the large potential market, the lack of competitiveness vis-a-vis other fuels, and the reluctance of the consumer to incur the substantial capital costs involved, the Congress has been considering a large number of measures designed to improve the situation. These follow four basic approaches: tax credits; loan guarantees; use on federal buildings; and intensive research, development, and commercialization programs.

Inasmuch as we are concerned, in this paper, with tax credits, the review of pending legislation that follows will likewise focus on such credits.

The 94th Congress [9]

Of the more than 50 solar energy bills introduced in the 94th Congress, 42 were incentive related. Of those 42 bills, 16 dealt with solar tax credits. Solar tax credits seem to be the most widely supported financial incentive considered by Congress, yet none of the 42 bills introduced passed. Three solar tax bills appeared, at the time, to have the best chance of passage. These were H.R. 2166, H.R. 6860, and H.R. 10612, and are summarized below.

H.R. 2166—This bill known as the "Tax Reduction Act of 1975" was passed by the House without any solar provisions. The Senate added an amendment to provide a tax credit for qualified solar equipment and insolation expenditures. The credit was for 40 percent of the first $1,000 of cost and 20 percent for the next $1,000 on residences and commercial buildings. It was added to the bill by Senator Domenici. In conference, the solar tax credit amendment was deleted.

H.R. 6860—The "Energy Conservation and Conversion Act" contained a provision similar to H.R. 2166. The credit would have been effective through 1980. In House floor debate, the Act was amended to increase the credit to 25 percent of the first $8,000 for a maximum credit of $2,000. The Act was further amended to include a 5-year amortization for certain equipment and to extend the credit period to 1981. See H.R. 10612 for the subsequent disposition of this bill.

H.R. 10612—The "Tax Reform Act of 1976" was passed by the Senate with solar tax provisions similar to H.R. 2166. The Senate version of H.R. 10612 differed radically from the version originally passed in the House. In conference, the Senate agreed to drop the solar provisions from the bill, if the provisions were added to H.R. 6860 and reported to the floor. This was done, but H.R. 6860 died because of adjournment.

The 95th Congress

There have been more than 280 solar bills introduced in the current Congress. These have included loan guarantees, solar energy development banks, solar energy trust funds, and federal building conversion. Approximately 30 different solar tax credit bills were proposed, not counting the solar tax credit amendments in the National Energy Act. No solar tax credit bills have been passed to date. The main interest of this Congress, in terms of energy, has been on the passage of the National Energy Act, thus, this section will deal primarily with action on that act.

National Energy Act—The differing Senate and House versions of the National Energy Act are currently being debated by a Conference Committee. The conferees have been unable to arrive at a consensus on all portions of the Act, but have agreed at least tentatively to the several parts of the Act that deal with solar incentives, including solar tax credits. The conferees chose the Senate formula for residential solar credits. Under this formula, a credit of 30 percent on the first $2,000 and 20 percent on the next $8,000 would be allowed with a maximum credit of $2,200. The credit would be effective from April 1977 to December 1985. Other provisions that have been agreed upon include loans for solar equipment, grants to institutions for solar installation and demonstration of solar units on federal buildings.

H.R. 11335 and H.R. 11205.—Several bills that provide for solar tax credits have been introduced recently, perhaps partly as a response to the delay on the National Energy Act. H.R. 11335 and H.R. 11205 are examples. Both have been referred to the Committee on Ways and Means. These two bills call for a 30% credit on the first $1500 and a 20% credit on the next $8500. Other bills have similar measures with minor changes in the credits provided. All are still in committee and have not been acted upon.

THE IMPACT OF SOLAR INCENTIVES

A baseline estimate

In this section an estimate is made of the number of solar homes likely to appear between now and 1985, in the absence of the residential solar tax credit or any other broad-based Federal market incentive. The purpose of the estimate is to provide a "baseline" for gauging the market impact of the solar tax credit now pending in the National Energy Act. The material in this section is based on market impact projections developed by Regional and Urban Planning Implementation, Inc. (RUPI), under contract to the Department of Housing and Urban Development (HUD).[10]

The projection is confined to solar domestic hot water applications in both existing and new homes and to combined space heating and hot water in new homes only. Retrofit space heating was excluded on the grounds that the structural problems of converting most homes to solar energy for space heating purposes, and the consequently higher first costs incurred, precludes sufficient retrofit activity to warrant market analysis. Similarly, solar space cooling would be eligible for the proposed tax credit, but with installed costs substantially higher than space heating, the technology still appears to be a good number of years away from mass marketability.

Any estimate of the future market impact of solar energy systems is subject to major uncertainties and limitations. Adding the tax credit as another variable to the equation can only further diminish the reliability of an already unreliable forecast. At this time, no analytical technique is available which eliminates the uncertainty associated with an unknown future. Therefore, the results of all market forecasts should be viewed with reservation and an awareness of their basic limitations. With respect to solar market forecasts, some of the more important limitations relate to: (1) uncertainty about future trends in fuel prices, conservation, building inventories and the social/economic setting for the solar energy market; (2) uncertainy about consumer acceptance of life cycle cost accounting techniques and various other relationships between solar and conventional energy costs; (3) problems in combining a large number of potentially important factors into manageable groups; and, in the case of the tax credit, (4) the effect of continued congressional delay.

In addition to the inherent difficulties of forecasting future demand for any new housing technology, the solar energy case is compounded by the lack of reliable data on the number of homes that have already been equipped with solar devices. The Energy Information Administration's (EIA) survey of solar collector manufacturing activity provides the only comprehensive and authoritative information available on the current size

Footnotes at end of article.

of the solar market, but it is in a form that cannot be translated into actual numbers of solar homes.

The EIA totals cannot be disaggregated by type of building sector (residential, commercial, government), foreign versus domestic sales, number of installations, housing type (single-family, multi-family), or type of solar application (domestic hot water, space heating, space cooling). This informational void precludes tying baseline projections for residential solar use to any documented starting point.

In the absence of definitive numbers, RUPI made a retrospective estimate of solar homes for 1975 up to 1978 and projections to 1985 (Table 3). The retrospective estimate is based on a sifting of expert opinion and the inventory of solar heated residences compiled by the Franklin Institute as part of its solar information dissemination contract with HUD. The rate of growth shown for the 1975–1977 period conforms with the proportional increases in the volume of solar collectors manufactured in those years as reported in the EIA surveys.

The point of departure for the solar tax incentive is the estimate that 48,000 single-family homes are likely to be equipped with solar energy systems as of December 1978. Of this total, approximately three-fourths are assumed to have been retrofitted to existing structures and one-fourth to have been new homes incorporating the solar features at the time that they were built. Solar water heater installations account for roughly 45,000 or about 95 percent of all solar homes estimated as being in place through 1978. RUPI projects a fairly modest increase in the estimated annual number of solar units installed between 1977 and 1982. However, beginning in 1983, the forecast level of market demand accelerates noticeably with the total number of solar systems installed rising by a factor of 3 between 1983 and 1985.

The visible upswing in the baseline estimates of solar use from 1983 through 1985 is expected to occur due to a more favorable conjunction between system price, fuel savings, and users' incomes assumed to have materialized by that point in time, combined with increased levels of awareness and the influence of the "bandwagon" effect once a substantial number of units are in place.

TABLE 3.—*Estimates of solar energy systems, single-family housing market, 1975–85, without the residential solar tax credit*[1]

Year	Number of units annually: Hot water only: Retrofit	Hot water only: New housing	Heat/water new housing	Total	Year	Number of units annually: Hot water only: Retrofit	Hot water only: New housing	Heat/water new housing	Total
1975	2,800	500	300	3,600	1981	27,200	15,300	3,300	45,800
1976	5,800	1,500	500	7,800	1982	35,600	20,900	4,400	60,900
1977	11,800	2,900	800	15,500	1983	54,000	28,000	5,800	87,700
1978	15,100	4,900	1,200	21,100	1984	100,800	36,600	7,500	144,900
1979	18,400	7,500	1,700	27,600	1985	199,000	47,100	9,700	255,800
1980	22,000	10,900	2,400	35,300					

[1] Source referenced in footnote 10 of text.

Needless to say, these forecasts are subject to a great deal of uncertainty: another oil embargo, an unanticipated reduction in solar system costs, or a Government decision to deregulate natural gas and oil could precipitate a surge in market demand well beyond the levels envisaged by RUPI. Conversely, failure to overcome known market barriers which are expected to fall with widescale implementation, or a rash of unfavorable publicity about performance could undermine the credibility of the nascent solar industry and retard the growth of its sales.

An estimate assuming passage of the credits

In this section an estimate is made of the number of solar homes likely to be installed between now and 1985, in the presence of a residential solar tax credit similar to the one now pending in the National Energy Act. This estimate is compared with the RUPI baseline estimate discussed above. The assumption can be made that the difference between these two figures is an estimate of the shortfall in solar installations and energy production that might be expected if Congress does not act on the credit.

The Administration indicated that the credit, along with the supporting solar incentive provisions of the Act, would result in the installation of 2.5 million solar homes by 1987. The Solar Energy Industries Association predicted that with the credit the cumulative total of solar homes through 1987 would exceed 7.5 million.[11] Less optimistic were the estimates of the Congressional Research Service at approximately 1 million installations, the Office of Technology Assessment at 1.3 million homes, and the Congressional Budget Office at approximately 773,000 homes.[12]

DOE conducted an analysis based on a modified version of the MITRE/METRIC Solar Heating and Cooling Market Penetration Model.[13] We will use this here. One incentive analyzed by DOE allows the home owner a tax credit of 30 percent on the first $1,500 of system cost, and 20 percent on the next $8,500 for a maximum credit of $2,150, effective for the period 1977–1985. The proposed Senate Finance Committee amendment would increase the credit to 40 percent on the first $2,000 and 20 percent on the next $8,000 for a maximum credit of $2,200, effective for the period 1977–1985. For the present study, the estimate of the number of solar homes likely to be installed between now and 1985 is based on the DOE analysis of the tax credit. The following is an explanation of the methodology used by DOE in its analysis, with the results expressed in cumulative solar installations and equivalent energy "produced" and "saved" for the period 1977–1985.

The model used in the DOE analysis disaggregates the U.S. into 16 climatic regions. Simulations were run for 7 of the 16 regions containing approximately 70 percent of the existing and the anticipated new buildings through 1985. The results were then scaled accordingly to derive comprehensive estimates. The nine building types contained in the model were aggregated into residential and commercial classifications. It was assumed that inflation would proceed at an annual rate of 5 percent, that fuel prices would increase at an annual rate of 7 percent, and that no incremental property taxes would be assessed on the solar energy system.

System costs varied by building type (residential, commercial), system type, and by region. The following average costs were used: residential water heating systems in 1977 cost $17.40 per square foot, plus a fixed cost of $397; residential combined water/space heating systems cost $29.31 per square foot plus a fixed cost which is region dependent; commercial water heating systems in 1977 cost $22.61 per square foot plus a fixed cost of $13,615; commercial water/space heating systems cost $27.64 per square foot plus a fixed cost that is region dependent. A moderate "learning curve" effect was incorporated into the analysis which gradually reduced system costs as total production increased.

DOE divided the total cost for a solar hot water and combined space-water heating system into two categories. This included those that will be subject to cost decreases due to experience, and those which will not decrease. System costs that are subject to experience include the collector and its hardware, control systems, and some design, installation and markup charges. Those costs not subject to experience include pumps, heat exchangers, plumbing material, auxiliary heating units, tanks, etc. The experience related costs represent approximately 25 percent of total system costs.

An 85 percent learning curve slope was assumed for the experience related costs. This means, for each doubling of the current cumulative production, the experience related costs are reduced by 15 percent. When these cost decreases are combined with the non-experience costs, an overall learning curve with a 90 percent slope is derived. Thus, for every doubling of the current cumulative production, there should be a decrease in the total system cost of approximately 4 percent. The larger the total production under any scenario, the greater the learning curve effect.

For each housing region used in the DOE analysis an optimal solar system was determined for hot water only, and for combined water/space heating. This was done by employing a design program which uses a set of design charts to estimate the thermal performance of a solar system based on the collector characteristics, storage, energy demands, and regional climatic data. Using the result of the thermal analysis, an iterative procedure was used to select a collector area which minimized the cycle costs of the system. Like the RUPI baseline projection, DOE assumed there would be no market penetration of solar cooling systems through 1985, even with incentives. It was assumed that solar systems would be competitive only against electric water and space heating systems through 1985.

For each region in each year, life cycle cost ratios were computed. This is the ratio of the life cycle cost of the solar system to the life cycle cost of the conventional (electric) system. Separate ratios were computed for residential water heating systems, commercial water heating systems, and commercial water/space heating systems. The new construction market was considered separately from the retrofit construction market. For each system type, the potential new construction market was considered to be the number of new buildings constructed scaled by an adjustment factor. The retrofit construction market was treated as the existing number of electric systems, adjusted by a suitability factor.

Once the model produced estimates of the life cycle costs for conventional and

Footnotes at end of article.

solar installations, the two cost estimates were converted into market penetration estimates for solar energy using using a widely accepted logit model.[14] The price of conventional and solar were calculated on a life cycle basis, using a discount (interest) rate of 9 percent. Since the logit model has two parameters, two data points were needed to fit the curves. The first point was taken from the 1976 estimated 1.9 percent market penetration by solar—5,000 solar systems installed on a target housing population of 30,000. DOE's estimate of the number of residential and commercial structures built in 1976 that were (a) all electric; (b) oriented to the sun, plus the retrofit market target population, which were (a) all electric; (b) oriented to the sun; and (c) had more than 20 years useful life remaining. The second point on the curve was based upon an estimate that solar hot water heating will achieve 50 percent market penetration when it has a four-fold life cycle cost advantage over conventional systems. This is a conservative assumption on DOE's part, since a 50 percent market penetration might be expected when the two prices are approximately equal. DOE's choice of the much more conservative number reflects the uncertainly associated with future solar maintenance and operating costs.

A comparison of the DOE data against the RUPI numbers is shown in table 4.

TABLE 4.—*Solar installations with and without tax credits*

	Cumulative number of installations 1977–85 (thousand units): No credit	Credit	Percent difference
Residential water heating	605	1,574	—160
Residential water/space heating	38	314	—726
Total	643	1,888	—194

From the above, it would appear that failure to institute the tax credits would result in a substantial drop in the number of residences having solar units installed in the 1977–85 period. As a consequence, the expansion of the industry would occur at a slower rate. With the credit, an annual average of 236 thousand residences are estimated to install solar collectors over the 1977–85 period, compared with an average of 80 thousand without the credit. In 1977, the estimated number of solar installations was 15,500.

FOOTNOTES

[1] A. U.S. Congress. House. Committee on Science and Technology. "Solar Energy Legislation Through the 94th Congress." December 1976. Washington [For sale by Supt. of Docs. Serial TTT] U.S. Govt. Print. Off., 1977, 1603 p.

B. Moore, J. G.. "Solar Power". CRS, Library of Congress, Issue Brief 74059. Continuously updated.

[2] Executive Office of the President, "The National Energy Plan." April 29, 1977. Washington [For sale by Supt. of Docs.] U.S. Govt. Print. Off., 1977. 103 p.

[3] Solar Engineering Magazine." Solar Programs Slow: Legislation Needs Push." July 1978: p. 9.

[4] Energy Information Administration, "Solar Collection Manufacturing Activity and Applications in the Residential Sector, Jan. through June 1977", DOE, Feb. 1978, p. 6–7.

[5] Muller and Company, "Solar Thermal Collector Manufacturing Activity: July through December 1977; January through March 1978; April, May, June and July (estimated) 1978," (Prepared for the Solar Energy Research and Education Foundation under contract to the U.S. Department of Energy), July 26, 1978, p. 1.

[6] Referenced footnote 5, pp. 4–5.

[7] Task Force on Solar Energy Commercialization, "Solar Heating and Cooling of Buildings (SHACOB) Commercialization Report, Options and Strategies, Part A, Volume 1—Executive Summary," FEA, 1977, p. 10–18.

[8] National Science Foundation, "Solar Heating and Cooling: An Economic Assessment", Washington, D.C., 1976.

[9] Referenced in footnote 8, page VIII.

[9a] Information on the 94th Congress is from "Solar Energy Legislation through the 94th Congress," for U.S. House of Representatives, Committee on Science and Technology, 94th Congress, 2nd session, by Congressional Research Service, Dec. 1976.

[10] RUPI, Inc., "Final Report to the U.S. Department of Housing and Urban Development. Federal Incentives for Solar Homes: An Assessment of Program Options." HUD Contract H-2544. July 1977.

[11] Butt, Sheldon H. "The Solar Future—1978." Paper presented by S. Butt, President of the Solar Energy Industries Association at the Association's national meeting, Phoenix, Arizona, February 6, 1978.

[12] The goals of the National Energy Plan were analyzed for Congress by CRS, OTA, CBO, and the General Accounting Office (no solar analysis). The findings of these analyses were summarized by the Republican Policy Subcommittee and inserted in the Congressional Record of August 4, 1977, by Mr. Tower (S 13804–S 13805).

[13] Bezdek, Dr. Roger H. and Elliott Roseman. "Cost and Impacts of Financial Incentives For Solar Energy Systems." Internal document. No date. 5 p.

[14] Following a long line of researchers, DOE adopted the logit model developed by MacFadden and the first applied in the fuel choice literature by Joskow and Baughman.

SENATE AND HOUSE ACT TO DEAL WITH PROBLEM OF PARAQUAT-POISONED MARIHUANA

Mr. PERCY. Mr. President, on August 10, Senate and House conferees agreed to a compromise amendment concerning the spraying of marihuana with herbicides that are likely to cause serious harm to the health of potential users.

The compromise language tracks the sentiments of both the House and the Senate. It stresses the need to discontinue the use of herbicides on marihuana that pose serious health risks to potential users. Currently, paraquat, a highly toxic herbicide is being used in Mexico. According to the Department of HEW paraquat-sprayed marihuana may present a serious health risk to potential marihuana users.

Under the compromise, Mexico may choose to continue its eradication program, without any cutoff of U.S. funds, if it uses an effective warning agent in conjunction with paraquat, making the herbicide clearly and readily identifiable. Any substance used as a warning agent on paraquat-sprayed marihuana must effectively warn the marihuana user of the presence of the herbicide. The warning agent should be ineradicable, and it should be readily detectable to potential users of sprayed marihuana without resort to laboratory analysis or the use of costly, specialized equipment which is not commonly available to the average person.

The amendment further delineates the responsibilities of the Secretary of State to see that adequate testing is done on any future herbicides used in any marihuana-eradication programs involving the United States, and to report to the Congress the efforts he has taken to insure compliance with the legislation and to prevent the spraying of marihuana with herbicides that may be harmful to human health.

The State Department has begun an experimental program in Mexico to spray marihuana with a compound of paraquat mixed with a red dye—rhodamine-B.

Current reports indicate that once the sprayed marihuana is dried and crushed, the red dye cannot be seen except under a black light. Thus, rhodamine-B would not be an agent that will "clearly and readily" warn the potential marihuana user. I have also been informed by the State Department that the red dye may not be seen with the naked eye, but if you place the sprayed marihuana in water it will turn the water pink. While this would be an effective warning by turning water pink, it could mean that rhodamine-B is water soluble and could be washed off the contaminated marihuana by devious traffickers. It then could be peddled, undetected.

Due to these serious problems, many questions still need to be answered before we can say with any certainty that rhodamine-B would qualify under this amendment as an effective warning agent.

Funds authorized in this act are intended solely for use in the poppy-eradication program. Over time, the Government of Mexico has applied U.S. assistance aimed at poppy-eradication to its own program of marihuana eradication with paraquat. This amendment is not meant to interfere with Mexican internal affairs. We cannot force the Mexican Government to halt its paraquat-spraying program, even though that program constitutes a danger to a large segment of U.S. citizens—some 16.2 million regular users of marhuana, according to Government estimates.

However, the amendment serves to signal the serious concern of the Congress and the American people about the health risks of paraquat. We are asking—we are urging—the Mexican Government to halt the use of paraquat until a suitable, safe alternative is found. If the Mexican Government is unwilling to halt the use of paraquat, we are suggesting that Mexico accompany the use of paraquat with an effective agent which clearly and readily warns the potential user of the presence of herbicide. If the Government of Mexico chooses to ignore our concerns, we are asking it to provide an assessment and accounting of the amount of U.S. assistance used for marihuana eradication so that the allocable share of such assistance may be deducted from the entire $13.5 million authorization.

If no acceptable replacement for the hazardous herbicide is found or no effective warning agent is used in conjunction with the herbicide, U.S. funds or assistance shall not be used for the purpose of marihuana eradication. The intent of this provision is not to stop or impede in any manner the funds authorized under this act from being used to eradicate poppy plants. If the Government of Mexico refuses to halt its spraying of paraquat on marihuana, or add an effective warning agent, or provide an accurate accounting of the allocable costs of using U.S. funds and assistance in that program, by implication it becomes incumbent on the part of the Secretary of State to undertake such an accounting and deduct that share from the $13.5 million authorized in the act. The share of those funds directly or indirectly used for the eradication of marihuana—including aircraft, spraying equipment, and technical assistance—must be deducted from the total amount of appropriated funds. The remaining sum, which is the accurate cost of the poppy-eradication program, shall continue to be available for use in the poppy program.

The Congress does not wish to jeopardize the poppy-eradication program in any way. It is working admirably, diminishing substantially the amount of heroin entering this country. However, we cannot afford to wait another year or another several months before responsible action is taken to deal with the existing health risks posed by Mexico's paraquat-spraying program on marihuana.

Hopefully with the provisions of this amendment, developed out of concern expressed by both the House and the Senate, the Mexican Government—which has been such a strong ally in our effort to reduce the insidious trafficking in heroin—will come to understand better the health concerns we have in this matter, even if, as a matter of policy, they disagree with us. I trust that President Lopez Portillo, who is exercising such a strong leadership role in Mexico and whose judicious and creative decision making has won him respect in such a short time in the nations of the world, will be sensitive to the concerns that we express through this amendment.

I further hope that, in the future, the U.S. Government will approach our drug eradication program with a new awareness of the dangers we ourselves can produce, and thereby avoid the needless poisoning of Americans in the future.

APPROPRIATE TECHNOLOGY—A NEGLECTED ENERGY SOURCE

Mr. PERCY. Mr. President, I am pleased to report that the Department of Energy has begun a Midwest appropriate technology grant program. This program will award approximately $950,000 to investors and innovators in a six-State region: Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.

Midwesterners have already shown great enthusiasm for the program. Since DOE announced the program on August 4, almost 5,000 individuals and groups have requested applications. The Department estimates that, by the October 23 deadline, at least 2,000 applications will have been filed.

Applicants can be individuals, local nonprofit organizations, educational institutions, State and local public agencies, Indian tribes, and small businesses. Grant requests can range up to $50,000 or can be as small as a few hundred dollars.

DOE's new program focuses on a variety of "appropriate" energy technologies. Among them are solar power, wind power, biomass conversion—turning plant and animal residue into usable energy, and better use of hydro power. It will also promote conservation and recycling techniques, and more efficient energy end-use in appliances, buildings, agriculture, and transportation.

The Midwest program is part of the DOE small grants program, which began last year as a pilot program on the wset coast. Currently 3 Federal regions are involved: The Midwest, New England, and the west coast. Next year the program will expand to include all 10 Federal regions.

WEST COAST PILOT PROGRAM

Established in September 1977, the west coast pilot program has enjoyed great success. Originally DOE gave the program $500,000 in grant-making capacity. By November, over 1,100 applicants had filed for grants totalling $22 million. A technical review gave 218 of these, amounting to $3.5 million, "good" or "excellent" ratings. To meet this large demand, DOE boosted the grant money to $1.3 million, which still allowed only 108 applicants to be funded.

West Coast recipients are involved in a broad assortment of appropriate technology, or "AT" experiments. Diversity is one of AT's greatest strengths. Compared to most large-scale technologies, the diversity of AT options permits greater sensitivity to local economic, social, and physical conditions.

The following examples illustrate the range of projects funded by the west coast program:

The city of Palo Alto received $20,000 to build a mini-solar utility." Solar collectors mounted atop a parking garage will provide space heating and hot water to 14 surrounding homes.

A firm in Santa Monica, Calif., has been given $49,000 to design barges which will generate electricity. Fast-moving streams, damsites, and tidal areas could provide suitable settings for these devices.

A nonprofit group in Bisbee, Ariz., is using a $2,500 grant to develop an energy-conservation curriculum for public school students.

In Hawaii, a research institute is using a $12,700 grant to experiment with a method of using waste heat from refrigerators to provide domestic hot water.

THE NEED FOR DIVERSIFIED ENERGY

The exploration of new energy technologies appeals to many research scientists and investors—but is it necessary? The answer is an emphatic yes.

Two centuries ago, our country satisfied its energy needs through a variety of decentralized, renewable resource technologies. Wood supplied much of our heating and cooking needs. Animals, wind, and water generated most of the mechanical power required for farming, industry, and transport. Being largely autonomous, individual communities developed their own, often unique means of harnessing the available energy.

In the past half century, our energy needs have expanded tremendously but, ironically, we have narrowed our energy base. We have come to depend almost exclusively upon a small number of nonrenewable energy sources, most notably coal, petroleum, and natural gas. For a time, these sources were plentiful, and there seemed little reason to seriously question our narrow dependence.

Today we realize that our fossil fuel supplies are severely limited. In 1967, we imported 20 percent of the oil we consumed. By 1977, that figure had risen to an appalling 47.2 percent. The tapping of Alaskan oil has had some downward effect on this trend, but imports are still very high—44 percent this year. Clearly, we must learn to use a broader range of energy sources.

THE FEDERAL ROLE

In light of the need for diversified energy technologies, the Federal Government should be playing a leadership role in promoting research and development in new energy fields. The funding of small R. & D. schemes should be a priority.

Small businesses and individual inventors in America have been responsible for a large proportion of the significant technical breakthroughs of this century. Air-conditioning, automatic transmissions, the jet engine, the radio, photo-typesetting, magnetic recording, and the helicopter are a few of the technologies which grew out of research conducted by small teams working either outside large institutional structures or in universities. The radio, for example, arose from the discoveries of several people who had no ties to established firms in the communications industry.

In spite of the momentous contributions made by independent inventors and small businesses, these people have a hard time securing early financial backing. Private lending institutions shun small, innovative businesses because they dislike the risks involved. They also see little advantage in processing small loans, which often require at least as much paperwork as larger ones.

The Federal Government generally exhibits a similar bias. Within the energy field this has been especially true. A 1976 study conducted by the General Accounting Office ranked ERDA, the Department of Energy's major predecessor, 26 out of 31 Federal agencies, in terms of support for small businesses. In fiscal year 1977, 50.8 percent—$3.4 billion—of ERDA's procurement budget went to 10 big businesses, their subsidiaries, and affiliates. Only 10.3 percent of the agency's budget reached small businesses.

On March 13 of this year, I introduced the Small Scale Energy Technology Programs Reorganization Act (S. 2732). This bill proposed the establishment of an Office of Small Scale Technology within DOE, to better coordinate and expand

the Department's appropriate technology activities. Responding to my bill, DOE is considering the creation of an Office of Small Scale Technology. I have discussed this matter with Omi Walden, DOE's newly appointed Assistant Secretary for Conservation and Solar Applications. She has assured me of her deep interest in this office as a way to give the Department's appropriate technology work a unified direction.

The small grants program is one concrete step which DOE has taken to give small businesses, inventors, and innovators a better deal. But budgetary constraints curtail this program's impact. Funding for the entire small grants program, as originally proposed by the Ford administration, was $3 million. This would have meant that all 10 Federal regions would have drawn upon a budget scarcely twice the size of the west coast pilot program's $1.3 million allocation.

Senator METZENBAUM and I worked successfully in the Senate to raise the proposed budget for 1979 to $8 million—a more manageable but still modest amount. This budget is now in House-Senate conference.

This year's Midwest program provides a sobering preview of next year's probable funding scarcity. Covering a region with nearly double the west coast region's population, the Midwest program has considerably less grant-making money—$950,000 as compared to $1.3 million. Even with its greater funding capacity, the west coast program had to turn down fully half of its technically qualified applicants. It is therefore reasonable to expect that a much greater proportion of worthy Midwestern inventors and innovators will be disappointed.

SMALL GRANTS PROGRAM—A GOOD BEGINNING

Despite its modesty, DOE's small grants program represents an important new direction for DOE. Many creative individuals will be able to develop ideas which may greatly improve our Nation's energy prospects. Small-scale, decentralized technologies using renewable or inexhaustible resources can and should be major components of our energy system.

ALASKA LANDS: THE LAST GREAT FIRST CHANCE

Mr. GRIFFIN. Mr. President, supporters of the much-publicized legislation to protect and preserve millions of acres of our Nation's vast land-holdings in Alaska have coined the slogan, "The Last Great First Chance." Some may find this slogan trite—but in many respects it is right.

Alaska stands as a final and irretrievable opportunity for Americans to preserve whole ecosystems, including wildlife habitats, free-flowing rivers and untrammeled wilderness of awesome beauty and variety. Such opportunity exists in no other area of the United States—perhaps not in the world.

As a Senator who has worked hard to save forest land, lakes and streams in my own home State—and throughout the country—I support the enactment of strong, effective Alaska national interest lands legislation.

The Senate should do no less than the House in passing a truly protective bill.

Few land-related issues have stirred more controversy than those concerning Alaska, from the time of ridiculing "Seward's Folly" back in 1867 to the more recent debates over the oil pipeline and land use. In retrospect, of course, Secretary Seward's shrewd purchase of Alaska for the United States was one of the greatest bargains ever—about 2 cents an acre. It is with this same type of foresight that we must address questions relating to how this great bargain is best to be used in this and future generations.

The issue before Congress now is the last stage of a process that began in 1958 with the passage of the Alaska Statehood Act. At that time, the Federal Government held title to more than 99 percent of Alaska's 375 million acres. The Statehood Act authorized the State to select 104 million acres—an area about the size of California—for land grants by 1984. It is my understanding that applications have been made already for 71 million acres.

In addition, in 1971 the Alaska Native Claims Settlement Act allowed Eskimos, Indians, and Aleuts to select about 44 million acres of land. That act also created a procedure whereby a substantial portion of the remaining land—the so-called "national interest" lands—could be withdrawn for possible classification under various Federal land management systems—for example, national parks, wildlife refuges, and wilderness areas. It now is up to Congress to decide how these lands should be classified.

These "national interest" lands certainly are well-named, because all Americans—most of whom have never set foot in Alaska—are affected by what happens there. For example, a significant percentage of the migratory waterfowl found within the continental United States—indeed on three continents—originates from feeding and nesting grounds in Alaska. Some of these species—for example, the dusky Canada goose and the emperor goose—breed nowhere else.

The habitats of millions of birds also are home to a broad spectrum of fish and mammals. Caribou, Dall's sheep, and polar bears are found nowhere else in the Nation.

If the number of acres under consideration for preservation sounds immense, it should be remembered that such territory is required in order to preserve whole ecosystems in pristine settings. I am told, for instance, that one grizzly bear needs 100 square miles to forage for food, and a caribou herd must roam thousands of square miles to support itself. As one person said:

> This is America's last chance to do with Alaska what we did not do with wilderness in the rest of the country. We have a chance to preserve the caribou herds, where we decimated the buffalo herds.

All this is not to say that we should forget our very real needs for energy sources and other raw materials. During development and consideration of the various legislative proposals before Congress many attempts have been made to provide for these needs—as well as for the economic requirements of the citizens of Alaska. And as the Alaska Department of Natural Resources explains, "The existing State-selected lands provide a wide-ranging balance of resource lands which can be used to support the Alaskan economy."

Although studies are far from definitive, it appears that the greater part of Alaska's petroleum reserves are outside the boundaries of the "national interest" lands. Furthermore, those reserves that do lie within the "national interest" lands can serve as a natural resources "savings account" which the Nation could dip into in the future if necessary.

These buried resources will not disappear. Thus, prudence dictates that we give the benefit of the doubt to setting aside "too much" land rather than "not enough." The wisdom of this philosophy was brought home to Congress earlier this year when it authorized $400 million to acquire tracts adjacent to the Redwood National Forest in California. This expenditure never would have been necessary if the Congress of a century ago had had the foresight to keep this land in public ownership.

Unfortunately, if the Alaska "national interest" lands are not protected, the greatest losses will not be economic, but instead will be the forfeiture of benefits that—in the future—would not be available for repurchase at any price.

In May, the House of Representatives passed Alaska national interest lands legislation by the overwhelming vote of 277 to 31. Since that time, the Senate Energy and Natural Resources Committee has completed hearings and now is marking up its version of the legislation. It is my hope that a strong national interest lands bill will be presented to the President for his signature before the 95th Congress adjourns. But time is running out.

Therefore, I encourage all my Senate colleagues—and particularly those who serve on the Energy and Natural Resources Committee—not to let our "Last Great First Chance" slip away, but rather to act to leave an unprecedented environmental heritage to our children and to future generations of Americans.

ORDER TO INDEFINITELY POSTPONE SENATE RESOLUTION 489

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar Order 1060, (S. Res. 489), which is a resolution concerning disapproval of Reorganization Plan Numbered 3, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

CIVIL RIGHTS COMMISSION ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate the following message from the House of Representatives:

> *Resolved*, That the bill from the Senate (S. 3067) entitled "An Act to extend the Commission on Civil Rights for three years,

to authorize appropriations for the Commission, to effect certain changes to comply with other changes in the law, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Civil Rights Commission Act of 1978".

SEC. 2. (a) Section 103(a) of the Civil Rights Act of 1957 (42 U.S.C. 1975b(a)) is amended by striking out "section 5 of the Administrative Expenses Act of 1946, as amended (5 U.S.C. 75b–2; 60 Stat. 808)." and inserting in lieu thereof the following: "section 5703 of title 5 of the United States Code.".

(b) Section 103(b) of the Civil Rights Act of 1957 (42 U.S.C. 1975b(b)) is amended by striking out "the provisions of the Travel Expenses Act of 1949, as amended (5 U.S.C. 835–42; 63 Stat. 166)" and inserting in lieu thereof the following: "subchapter I of chapter 57 of title 5 of the United States Code."

SEC. 3. (a) Section 104 of the Civil Rights Act of 1957 (42 U.S.C. 1975c) is amended—

(1) in each of subsections (a)(1) and (a)(2), by inserting "age, handicap," after "sex,";

(2) in each of subsections (a)(3) and (a)(4), by inserting ", age, handicap," after "sex";

(3) in subsection (a)(2) by inserting "discrimination or" before "a denial";

(4) in each of subsections (a)(3) and (a)(4), by inserting "discrimination or" before "denials";

(5) by redesignating pargraph (6) of subsection (a) as subsection (b);

(6) by redesignating subsections (b) and (c) as (c) and (d), respectively; and

(7) by adding at the end the following:

"(e) As used in this section, the term 'handicap' means, with respect to an individual, a circumstance that would make that individual a handicapped individual as defined in the second sentence of section 7(6) of the Rehabilitation Act of 1973 (29 U.S.C. 706(6)).

"(f) Nothing in this or any other Act shall be construed as authorizing the Commission, its Advisory Committees, or any person under its supervision or control to appraise, or to study and collect information about, laws and policies of the Federal Government, or any other governmental authority in the United States, with respect to abortion."

(b) Subsection (b) (which is redesignated as subsection (c) by this Act) of section 104 of the Civil Rights Act of 1957 (42 U.S.C. 1975c(b)) is amended by striking out "fiscal year 1978" and inserting in lieu thereof "the fiscal year ending September 30, 1983".

SEC. 4. Section 105(a) of the Civil Rights Act of 1957 (42 U.S.C. 1975d(a)) is amended by striking out "and who shall receive compensation at a rate, to be fixed by the President, not in excess of $22,500 a year".

SEC. 5. Section 105(c) of the Civil Rights Act of 1957 (42 U.S.C. 1975d(c)) is amended—

(1) by striking out "may constitute such advisory committees within States" and inserting in lieu thereof the following: "shall constitute an advisory committee within each State"; and

(2) by striking out "and may consult" and inserting in lieu thereof the following: ". The Commission may consult".

SEC. 6. Section 105(d) of the Civil Rights Act of 1957 (42 U.S.C. 1975(d)) is amended by striking out "sections 281, 283, 284, 434, and 1914 of title 18 of the United States Code, and section 190 of the Revised Statutes (5 U.S.C. 99)" and inserting in lieu thereof the following: "sections 203, 205, 207, 208, and 209 of title 18 of the United States Code".

SEC. 7. Section 106 of the Civil Rights Act of 1957 (42 U.S.C. 1975e) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 106. (a) There are authorized to be appropriated not to exceed $12,752,000 for the fiscal year ending September 30, 1979, and not to exceed $14,000,000 for the fiscal year ending September 30, 1980, to carry out the provisions of this Act.

"(b) No sums made available to the Commission shall be used at any time, directly or indirectly, to undertake to influence the passage or defeat of any legislation by the Congress of the United States or by any State or local legislative bodies, except when the Commission is requested to give an opinion.".

Amend the title so as to read: "An Act to extend the Commission on Civil Rights for five years, to authorize appropriations for the Commission, to effect certain technical changes to comply with changes in the law, and for other purposes."

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate disagree to the amendments of the House, request a conference with the other body on the disagreeing votes thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. BAYH, Mr. KENNEDY, Mr. METZENBAUM, Mr. MATHIAS, and Mr. HATCH conferees on the part of the Senate.

AUTHORIZATION FOR APPOINTMENT OF ESCORT COMMITTEE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President of the Senate be authorized to appoint a committee of Senators on the part of the Senate to join with a like committee on the part of the House of Representatives to escort the President of the United States into the House Chamber.

WATER RESOURCES PLANNING ACT—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I submit a report of the committee of conference on S. 2701 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2701) to amend the Water Resources Planning Act (79 Stat. 244, as amended), having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of August 15, 1978.)

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDERS TO HOLD BILLS AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as H.R. 9945 and H.R. 10965 are received, those measures be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL ORDER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, Mr. ABOUREZK be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, have other Senators had orders for recognition on tomorrow?

The PRESIDING OFFICER. There are no orders for other Senators.

Mr. ROBERT C. BYRD. Very well.

ORDER FOR CONSIDERATION OF S. 2883, THE PUBLIC BROADCASTING BILL, ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the orders for the recognition of Senators tomorrow, the Senate proceed to the consideration of the public broadcasting bill, S. 2883, if proceeding at that time is in conformity with the time agreement entered into on the natural gas bill. If not, I ask unanimous consent that at such time or times during debate tomorrow that no Senator is seeking recognition to speak in relation to the natural gas bill, the Senate turn—or return, whatever the case may be at that point—to the consideration of the public broadcasting bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 7:30 P.M.—PROGRAM

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 7:30 p.m. today.

Before the Chair acts on the motion, I shall restate that at 7:40 p.m., Members of the Senate will gather in a body and will proceed at 7:45 p.m. to the Hall of the House of Representatives, to participate in a joint session to receive a message from the President of the United States.

Upon the dissolution of the joint session, the Senate will stand in recess until 10 o'clock tomorrow morning.

After the recognition of the two leaders and the recognition of a Senator under an order previously entered, the Senate either will go to the natural gas conference report or will take up the public broadcasting bill, with the conference report having top priority.

At 3 o'clock tomorrow afternoon, the Senate will proceed to vote on the motion by Mr. METZENBAUM and other Senators to recommit the conference report on the natural gas bill. There will be a rollcall vote. Conceivably, there could be rollcall votes tomorrow prior to 3 p.m. on amendments to the instructions included in that motion, or other matters—for example, public broadcasting.

After 3 p.m., the Senate will proceed to resume consideration of the public broadcasting bill, if it has not been disposed of by that time, and other matters during the afternoon. So there will be rollcall votes throughout the day tomorrow.

Now, Mr. President, I make my motion.

The motion was agreed to, and at 6:29 p.m. the Senate recessed until 7:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. NUNN).

Mr. STENNIS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT SESSION OF THE TWO HOUSES—ADDRESS BY THE PRESIDENT OF THE UNITED STATES

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the Hall of the House of Representatives.

Thereupon, at 7:45 p.m., the Senate, preceded by the Secretary of the Senate, J. S. Kimmitt; the Sergeant at Arms, Frank N. Hoffman; and the President of the Senate (Vice President WALTER F. MONDALE), proceeded to the Hall of the House of Representatives to hear the address by the President of the United States.

(The address by the President of the United States, this day delivered by him to the joint session of the two Houses of Congress, appears in the proceedings of the House of Representatives in today's RECORD.)

RECESS UNTIL 10 A.M. TOMORROW

At the conclusion of the joint session of the two Houses, and in accordance with the order previously entered, at 8:38 p.m. the Senate recessed until tomorrow, September 19, 1978, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate, September 18, 1978:

DEPARTMENT OF STATE

John Gunter Dean, of New York, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Lebanon.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. James Madison Lee, 246-20-1593, Army of the United States (brigadier general, U.S. Army).

THE UNITED NATIONS

Richard W. Petree, of Virginia, a Foreign Service officer of class 1, to be the Alternate Representative of the United States of America for Special Political Affairs in the United Nations, with the rank of Ambassador.

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Peter Henry Wolf, of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia for a term of 15 years, vice Harold H. Greene.

HOUSE OF REPRESENTATIVES—*Monday, September 18, 1978*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Humble yourselves under the mighty hand of God, that in due time He may exalt you.—I Peter 5: 7.

Eternal God, our Father, the same yesterday, today, and forever, grant unto us clean hands and pure hearts as we set out upon the duties of this day. Be Thou our refuge and our strength, our ever-present help in times of trouble. When we are weary, refresh us; when we are worried, renew us; when we are weak, revive us; and when we are worn out, rekindle in us faith and hope and love. Let no bitterness separate us and no bigotry sever our relationships, but in all things and at all times may we persevere in doing what is right and good for our country.

God bless the endeavors for peace between Egypt and Israel. May these two nations and all nations find the way to live together peacefully, justly, and with good will: for Thy name's sake. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 7814. An act to authorize Federal agencies to experiment with flexible and compressed employee work schedules;

H.R. 12772. An act to facilitate the exchange of certain lands in the State of Oregon, and for other purposes; and

H.R. 12860. An act to settle Indian land claims within the State of Rhode Island and Providence Plantations, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 10898. An act to amend the Regional Rail Reorganization Act of 1973 to authorize appropriations for the U.S. Railway Association for fiscal year 1979.

The message also announced that the Senate had passed a bill and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 1147. An act to relieve the liability for the repayment of certain erroneously made contributions by the United States; and

S.J. Res. 160. Joint resolution to initiate preliminary studies for the restoration and renovation of the Pension Building in Washington, District of Columbia, to house a Museum of the Building Arts, and for other purposes.

THE ACHIEVEMENT AT CAMP DAVID

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRADEMAS. Mr. Speaker, last night's agreement on a framework for a Middle East settlement marks an historic achievement for which the world must be grateful to President Carter, Prime Minister Begin, and President Sadat.

Mr. Speaker, I think it is clear that the tensions between the Israeli and Egyptian leaders were so great that only the involvement of another force could have brought them together, and President Carter undertook this initiative with great courage and effectiveness at Camp David.

It must also be clear, Mr. Speaker, that President Carter believed that both Mr. Begin and Mr. Sadat were men so deeply committed to peace in the Middle East that a settlement was possible. But it was imperative that the two men meet face to face and that an intense effort be made to resolve their differences—and doing so was President Carter's remarkable accomplishment.

Obviously, there are important issues still to be resolved but the crucial decision has now been taken.

Mr. Speaker, President Carter deserves the support of every American and he, Prime Minister Begin, and President Sadat, deserve the gratitude of all humankind for this giant step toward peace.

PROVIDING FOR ASSEMBLAGE OF CONGRESS ON TODAY TO RECEIVE COMMUNICATIONS FROM THE PRESIDENT OF THE UNITED STATES

Mr. BRADEMAS. Mr. Speaker, I offer a privileged concurrent resolution

(H. Con. Res. 713) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 713

Resolved by the House of Representatives (the Senate concurring), That the two Houses of Congress assemble in the Hall of the House of Representatives on Monday, September 18, 1978, at 8 o'clock postmeridian, for the purpose of receiving such communications as the President of the United States shall be pleased to make to them.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING SPEAKER TO DECLARE RECESSES ON TODAY

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that today, September 18, 1978, the Speaker be authorized to declare recesses subject to a call of the Chair.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

Mr. BAUMAN. Reserving the right to object, what was the request, Mr. Speaker?

The SPEAKER. To recess at the desire of the Chair.

Mr. BAUMAN. I thank the Speaker, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, is this for a joint session?

The SPEAKER. It is for a joint session; the gentleman is correct.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

REQUEST THAT VOTES POSTPONED PURSUANT TO CLAUSE 3(b), RULE XXVII, NOT REACHED TODAY BE CONSIDERED UNFINISHED BUSINESS FOR SEPTEMBER 19, 1978

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that any votes postponed pursuant to clause 3(b) under rule XXVII not reached today shall be considered as unfinished business for Tuesday, September 19, 1978.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, does this mean that votes that would not occur by a certain time and the leadership desires to rise, all of the votes will be put over until tomorrow?

Mr. BRADEMAS. If the gentleman will yield, it means that if we have completed debate on suspensions and then start voting on suspensions but have not completed the votes on all suspensions by approximately 5:30 p.m., which is the time when the Chamber must be prepared for the President's address to the joint session, any recorded votes which have not by that time been taken would be considered unfinished business and be put over until tomorrow.

Mr. BAUMAN. Further reserving the right to object, Mr. Speaker, this could result in a situation in which we may have dealt with 17 or 18 suspensions, and then we would conclude the business at the leadership's desire and no votes would occur.

It seems to me a better situation would be to arrive at 4 o'clock, and if the leadership desires, hold the votes on those suspensions that have been considered at that time and leave. But, I would object to any request that would postpone until tomorrow all votes on these suspensions. Members have been told that there will be votes, and I think we should conclude and then continue tomorrow.

The SPEAKER. May the Chair make this announcement:

The Chair has been informed that the House Chamber shall be vacated by 5:30, as the majority whip said, for the plans of the Secret Service and the setting up of the House Chamber to receive the President.

The House can either debate suspensions until such time as ordered rollcalls would carry over until 5:30; or the House could go to 5:30 on all debate and perhaps some votes and postpone the remaining votes until tomorrow. If there is an objection to the second plan, then the House will follow the first.

Is there objection to the second plan of going to 5:30 and postponing remaining votes until tomorrow when they would come up as unfinished business?

Mr. BAUMAN. Mr. Speaker, I would object to that request.

The SPEAKER. There has never been a precedent for postponing votes under suspension, to a subsequent day. If the gentleman objects, the Chair hears the objection.

The House will proceed to debate suspension motions and to conduct sufficient record votes to carry us to 5:30. To give plenty of leeway the Chair will suspend early enough on the list so that we may complete the votes on those suspensions by 5:30 today.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 13125, DEPARTMENT OF AGRICULTURE APPROPRIATIONS, 1979

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight, Monday, September 18, 1978, to file a conference report on the bill (H.R. 13125) making appropriations for the Department of Agriculture, rural development, and related agencies for the fiscal year ending September 30, 1979.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make an announcement.

After consultation with the majority and minority leaders, and with their consent and approval, the Chair announces that on today, September 18, 1978, the day set for the joint session to hear an address by the President of the United States, only the doors immediately opposite the Speaker and those to his left and right will be open.

No one will be allowed on the floor who does not have the privileges of the floor of the House.

The Chair will repeat: No one will be allowed on the floor who does not have the privileges of the floor. In other words, tonight we ask the Members not to bring their families or children. Due to the large attendance which is anticipated, the Chair feels that the rule regarding privileges of the floor must be strictly adhered to. Children of Members will not be permitted on the floor. The cooperation of all Members is requested.

CONSENT CALENDAR

The SPEAKER. This is Consent Calendar day. The Clerk will call the first bill on the Consent Calendar.

PROVIDING FOR DISPOSITION OF FUNDS APPROPRIATED TO PAY A JUDGMENT IN FAVOR OF THE COWLITZ TRIBE OF INDIANS

The Clerk called the bill (H.R. 5523) to provide for the disposition of funds appropriated to pay a judgment in favor of the Cowlitz Tribe of Indians in Indian Claims Commission docket numbered 218, and for other purposes.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. GAMMAGE. Mr. Speaker, I ask unanimous consent that the bill H.R. 5523, be stricken from the Consent Calendar.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PROVIDING FOR NATIONWIDE SERVICE OF SUBPENAS IN ALL SUITS INVOLVING THE FALSE CLAIMS ACT

The Clerk called the bill (H.R. 12393) to provide for nationwide service of subpenas in all suits involving the False Claims Act, and for other purposes.

There being no objection, the Clerk read the bill as follows:

H.R. 12393

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3491 of the Revised Statutes, as amended (31 U.S.C. 232), is amended by adding a new subsection (F), as follows:

"(F) A subpoena requiring the attendance of a witness at a trial or hearing conducted under sections 3490 through 3494 and 5438 of the Revised Statutes, as amended, may be served at any place in the United States.".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PAUL P. RAO UNITED STATES CUSTOMS COURT AND FEDERAL OFFICE BUILDING

The Clerk called the bill (H.R. 7279) to name the U.S. Customs Court and Federal Office Building at 1 Federal Plaza, New York, N.Y., the "Paul P. Rao United States Customs Court and Federal Office Building."

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. GAMMAGE. Mr. Speaker, I ask unanimous consent that the bill H.R. 7279, be stricken from the Consent Calendar.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

CHARLES A. LINDBERGH FEDERAL BUILDING

The Clerk called the bill (H.R. 7296) to designate the new Terminal Radar Approach Control Federal Building in Hempstead, Long Island, N.Y., as the "Charles A. Lindbergh Federal Building."

There being no objection, the Clerk read the bill as follows:

H.R. 7296

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the new Terminal Radar Approach Control Federal Building on Steward Avenue, Hempstead, Long Island, New York, shall hereafter be known as the Charles A. Lindbergh Federal Building. Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the Charles A. Lindbergh Federal Building.

● Mr. JOHNSON of California. Mr. Speaker, I wish to associate myself with the remarks of my distinguished colleague, the chairman of our Subcommittee on Public Buildings and Grounds, Mr. MINETA.

H.R. 7296 honors a famous aviator, Charles A. Lindbergh, by designating the new Terminal Radar Approach Control Federal Building in Hempstead, Long Island, N.Y., as the "Charles A. Lindbergh Federal Building." On May 20, 1927, Charles A. Lindbergh launched a new era in aviation by flying his single-engine *Spirit of St. Louis* solo from Roosevelt Field in New York to Le Bourget Aerodrome near Paris, France. Mr. Lindbergh's contribution to aviation did not stop when his airplane landed in France. For much of the remainder of his life, he was dedicated to advancing the cause of aviation in the United States. Partly as a result of his efforts, the past 50 years have seen vast improvements in aircraft design, air navigation systems, and all other facets of aviation.

The terminal radar approach control (TRACON) facility located on a site a quarter mile from what was Roosevelt Field, is scheduled for completion in September 1978. The TRACON facility provides approach and departure traffic control service under instrument flight rule conditions through the use of radar and air/ground communications.●

● Mr. MINETA. Mr. Speaker, H.R. 7296 would designate the new Terminal Radar Approach Control Federal Building in Hempstead, Long Island, N.Y., at the "Charles A. Lindbergh Federal Building."

Charles A. Lindbergh was one of America's greatest aviation heroes. In one courageous flight, the first solo nonstop transatlantic flight, he became an enduring symbol of American individualism and announced to the world the coming preeminence of American aviation.

The late Charles Augustus Lindbergh, born in 1902, had an early career as a stunt pilot and as an airmail pilot. At the age of only 25, on May 20, 1927, Lindbergh took off from Long Island, N.Y., in the *Spirit of St. Louis* on his historic flight to Paris.

His career since that world-acclaimed flight has emphasized continued improvements in aircraft design and navigation. In view of his lifelong leadership in American aviation, it is fitting and proper that the new Terminal Radar Approach Control Federal Building in Hempstead, Long Island—so near to the place from which he took off on his transatlantic flight—should be named in his honor as the "Charles A. Lindbergh Federal Building." ●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WILLIAM L. SPRINGER BUILDING

The Clerk called the bill (H.R. 7305) to designate a certain Federal building in Champaign, Ill., the "William L. Springer Building."

There being no objection, the Clerk read the bill as follows:

H.R. 7305

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building located at 202 West Church Street in Champaign, Illinois, is hereby designated as the "William L. Springer Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the William L. Springer Building.

● Mr. MINETA. Mr. Speaker, H.R. 7305 would designate a certain Federal building in Champaign, Ill., the "William L. Springer Building."

Congressman William L. Springer was born in Sullivan, Ind., on April 12, 1909, and was educated in the public schools of Sullivan. He graduated from DePaul University in 1931 with an A.B. and from the University of Illinois Law School in 1935 with an L.L.B.

He was admitted to the bar in 1935 and commenced the practice of law in 1936 in Champaign, Ill. He served as the State's attorney of Champaign County from 1940 to 1942, and then served in the U.S. Navy until 1945. After World War II, he was county judge of Champaign County from 1946 until 1950.

He was elected to the U.S. Congress in 1950 and served in the Congress until 1972. He is particularly remembered for his work as ranking minority member of the Committee on Interstate and Foreign Commerce.

In view of his long and distinguished career, and in view of his many years of outstanding service to the people of the 22d Congressional District, to the State of Illinois, and to the Nation, it is fitting and proper that the Federal building in Champaign, Ill., be named in his honor as the "William L. Springer Building." ●

● Mr. JOHNSON of California. Mr. Speaker, I wish to associate myself with the remarks of my distinguished colleague, the chairman of our Subcommittee on Public Buildings and Grounds, Mr. MINETA.

H.R. 7305 Honors a prominent American—former Congressman William L. Springer—by naming the Federal building located at 202 West Church Street in Champaign, Ill., after him. Congressman Springer was a highly regarded Member of Congress, serving 22 years, from January 3, 1950, to January 3, 1973, as the Representative of the 22d District of Illinois. Before his election to the House of Representative, he distinguished himself as State's attorney of Champaign County, and, after service as a lieutenant in the U.S. Navy, he served as Champaign County judge.

During his years in Congress, Congressman Springer served not only the State of Illinois, but the entire country in helping to build America. He is particularly remembered for his work as ranking minority member of the Committee on Interstate and Foreign Commerce. He labored long and hard and served the Congress and his constituents with distinction.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JOE SKUBITZ SOCIAL SECURITY ADMINISTRATION CENTER

The Clerk called the bill (H.R. 12634) to designate the Social Security Administration District Office Building in Pittsburg, Kans., as the "Joe Skubitz Federal Building."

There being no objection, the Clerk read the bill as follows:

H.R. 12634

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Social Security Administration District Office Building located at the intersection of South Broadway and East Adams Streets, in Pittsburg, Kansas, shall hereafter be known and designated as the "Joe Skubitz Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the Joe Skubitz Federal Building.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That the Social Security Administration District Office Building located at the intersection of South Broadway and East Adam Streets, in Pittsburg, Kansas, shall hereafter be known and designated as the "Joe Skubitz Social Security Administration Center". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the Joe Skubitz Social Security Administration Center.

SEC. 2. This act shall take effect on January 4, 1979.

The committee amendment was agreed to.

● Mr. JOHNSON of California. Mr. Speaker, I wish to associate myself with the remarks of my distinguished colleague, the chairman of our Subcommittee on Public Buildings and Grounds, Mr. MINETA.

H.R. 12634 honors an outstanding American and our distinguished colleague who has announced that he will retire from the Congress at the end of the 95th Congress, Congressman JOE SKUBITZ, by naming the Social Security Administration District Office Building in Pittsburg, Kans., after him.

In 1963 Congressman SKUBITZ was elected to the 88th Congress and began a role of public service that became marked with various legislative accomplishments. During his years in the Congress, he has served on numerous committees, including the Committee on Interstate and Foreign Commerce and the Committee on Interior and Insular Affairs. Throughout his years in the House, JOE SKUBITZ has gained the respect and admiration of his colleagues because of his unending dedication to the job, the State of Kansas, and the entire country. In light of his past and continuing achievements, it is appropriate to name the Social Security Administration Building in his honor.●

● Mr. MINETA. Mr. Speaker, H.R. 12634, as amended, would designate the Social Security Administration District Office Building in Pittsburg, Kans., as the "Joe Skubitz Social Security Administration Center." Such naming would take effect at the convening of the 96th Congress.

Congressman JOE SKUBITZ was born in Frontenac, Kans., in 1906, and received his early education in the public schools of Kansas. He graduated from Kansas State College and attended law school at both Washburn University in Kansas and George Washington University in Washington, D.C., and received his LL.B. degree from the latter.

Congressman SKUBITZ was first elected to the 88th Congress in 1962 and has been reelected to each succeeding Congress. He is particularly noted for his service on the Committee on Interior and Insular Affairs and on the Committee on Interstate and Foreign Commerce. He has announced that he will retire from the Congress at the end of the 95th Congress.

In view of his long and distinguished career, and in view of his many years of outstanding service to the people of the Fifth Congressional District, to the State of Kansas, and to the Nation, it is fitting and proper that the Social Security Administration District Office Building in Pittsburg, Kans., be named in his honor as the "Joe Skubitz Social Security Administration Center."●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to designate a building in Pittsburg, Kans., as the "Joe Skubitz Social Security Administration Center".

A motion to reconsider was laid on the table.

E. C. "TOOK" GATHINGS BUILDING

The Clerk called the bill (H.R. 8812) to name a certain Federal building in Jonesboro, Ark., the "E. C. 'Took' Gathings Building".

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, I do not plan to object, I support this bill, but I ask unanimous consent to revise and extend my remarks at this point in the RECORD.

The SPEAKER. Is there objection to request of the gentleman from Arkansas?

There was no objection.

Mr. HAMMERSCHMIDT. Mr. Speaker, I would like to take a few moments to express my strong support for H.R. 8812, which will pay a dear friend a special tribute in designating the Federal Building located at 615 South Main Street, Jonesboro, Ark., as the "E. C. 'Took' Gathings Building."

The Honorable E. C. Gathings has a most distinguished record. He entered politics almost immediately after graduation from law school and won a seat in the Arkansas State Senate for 4 years, followed by 30 years of service as a Representative to the U.S. Congress. For 34 years, almost half his life, he chose to serve the House of Representatives, his district, and the Nation in an exceptional fashion. We choose to honor him in this way not only for his length of service but for the caliber and number of his accomplishments during that period. Here in the House, "Took" won the hearts of his colleagues as well as their respect and those who have had the pleasure of working with "Took," as I did as a freshman Congressman, will recall a most rewarding experience.

His service in Congress is not only a credit to his ability and dedication, but it serves as a tribute to the foresight of the citizens of Arkansas in the First District who selected him as their Congressman on 15 occasions.

It would be impossible in the time alloted to enumerate all of the significant legislative enactments that bears his name or on which he left his mark, however, he has rightfully earned the reputation as the "farmer's friend" and one of the most knowledgeable men in the field of agriculture. As vice chairman of the Subcommittee on Farm Labor, he rendered tireless and unique service to the cause of American agriculture. He brought to the committee a profound understanding of the problems facing the farmers of America and showed compassion for that segment of our population which still tills the soil. Took will continue to be known as a man who fought for the advancement and prosperity of the American farmer.

On a personal note, Took has been a source of great inspiration, leadership, and guidance to all the Congressmen and Senators from Arkansas. His special style has endeared him to all who have known him. I am proud to claim him as a friend.

Today, Took continues to contribute to the betterment of life in Arkansas. This outstanding citizen has certainly played his part in making this country great.

The SPEAKER. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill as follows:

H.R. 8812

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building located at 615 South Main Street in Jonesboro, Arkansas, is hereby designated as the "E. C. 'Took' Gathings Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the E. C. "Took" Gathings Building.

● Mr. MINETA. Mr. Speaker, H.R. 8812 would name a certain Federal building in Jonesboro, Ark., the "E. C. 'Took' Gathings Building."

Congressman Ezekiel Chandler "Took" Gatherings was born in Prairie, Monroe County, Miss., on November 10, 1903. He attended public schools and the University of Arkansas, from which he received his law degree in 1929 .

He had a distinguished career of civic service and public office, including his service as a State senator from 1935 to 1939. He served in the U.S. Congress from 1939 until 1969, representing the First Congressional District of Arkansas. He is particularly remembered in the Congress for his years of expert service on the Committee on Agriculture.

In view of his long and distinguished career, and in view of his many years of outstanding service to the people of his community, his State, and his country, it is fitting and proper that the Federal Building in Jonesboro, Ark., be named in his honor as the "E. C. 'Took' Gathings Building."●

● Mr. JOHNSON of California. Mr. Speaker, I wish to associate myself with the remarks of my distinguished colleague, the chairman of our Subcommittee on Public Buildings and Grounds, Mr. MINETA.

H.R. 8812 honors a prominent American, former Congressman E. C. "Took" Gathings by naming the Federal Building located at 615 South Main Street in Jonesboro, Ark., after him.

In 1939, "Took" Gathings was elected to the 76th Congress and served admirably through the next 30 years until his retirement at the end of the 90th Congress. During his years in the Congress, he held various committee posts and sponsored major bills, including legislation dealing with agriculture.

He was held in high regard by his colleagues for his dedication and service not only to the State of Arkansas but the entire country. It is most fitting to name the Federal Building in Jonesboro, Ark., in his honor.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

C. BASCOM SLEMP BUILDING

The Clerk called the bill (H.R. 11671) to designate a certain Federal building in Big Stone Gap., Va., the "C. Bascom Slemp Building."

There being no objection, the Clerk read the bill as follows:

H.R. 11671

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building located at 322 East Wood Avenue in Big Stone Gap, Virginia, is hereby designated as the "C. Bascom Slemp Building". Any reference in any law, regulation, document, record, map or other paper of the United States to such building shall be considered to be a reference to the C. Bascom Slemp Building.

● Mr. JOHNSON of California. Mr. Speaker, I wish to associate myself with the remarks of my distinguished colleague, the chairman of our Subcommittee on Public Buildings and Grounds, Mr. MINETA.

H.R. 13187 honors a distinguished American—former Congressman C. Bascom Slemp—by naming the Federal building located at 322 East Wood Avenue in Big Stone Gap, Va., after him.

C. Bascom Slemp represented the 9th District of Virginia in the Congress from 1907 to 1923. For 16 years his constituents were ably served in the House of Representatives.

The post office and court house located in Big Stone Gap, Va., is listed on the national register of historic places. No finer tribute could be made to the memory of this outstanding citizen than to have this historic landmark carry his name. It will be a lasting monument to his many years of service to the people of southwestern Virginia.●

● Mr. MINETA. Mr. Speaker, H.R. 11671 would designate a certain Federal building in Big Stone Gap, Va., the "C. Bascom Slemp Building."

C. Bascom Slemp was born in Turkey Cove, Va., in 1870. He was educated in the local public schools and was later graduated from the Virginia Military Institute at Lexington, Va. He studied law at the University of Virginia at Charlottesville, was admitted to the bar in 1901, and began his practice in Big Stone Gap, Va.

In 1907 he was elected to the U.S. Congress to fill the vacancy caused by the death of his father, Col. Campbell Slemp. He served in the Congress until 1923, when he was appointed as Secretary to President Calvin Coolidge. In 1925 he returned to Big Stone Gap and continued his law practice until his retirement in 1932. He died in 1943.

In view of his distinguished career of service to the people of his community, of the State of Virginia, and of the Nation, it is fitting and proper that the Federal building in Big Stone Gap, Va., be named in his honor as the "C. Bascom Slemp Building."●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JOHN J. FLYNT, JR., FEDERAL BUILDING

The Clerk called the bill (H.R. 13187) to designate the U.S. Post Office and Federal Building in Griffin, Ga., the "John J. Flynt, Jr., Federal Building."

There being no objection, the Clerk read the bill as follows:

H.R. 13187

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Post Office and Federal building located in Griffin, Georgia, is hereby designated as the "John J. Flynt, Jr. Federal Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the "Jonn J. Flynt, Jr. Federal Building".

With the following committee amendment:

On the first page, after line 8, insert the following new paragraph:

"SEC. 2. This Act shall take effect on January 4, 1979."

The committee amendment was agreed to.

● Mr. MINETA. Mr. Speaker, H.R. 13187, as amended, would designate the U.S. Post Office and Federal Building in Griffin, Ga., the "John J. Flynt, Jr. Federal Building." Such naming would take effect at the convening of the 96th Congress.

Congressman John James Flynt, Jr., was born in Griffin, Ga., in 1914. He began his education in the public schools of Griffin and in 1936 graduated from the University of Georgia. In 1940, he graduated with an LL.B and J.D. from George Washington University Law School.

He served in the U.S. Army from 1941 until the end of 1945, and was awarded the Bronze Star Medal for meritorious service in Normandy and Northern France. In his career in law he has served as assistant U.S. attorney for the northern district of Georgia, and as solicitor general of the Griffin judicial circuit.

He was a member of the House of Representatives of the State of Georgia in 1947 and 1948 and was elected to the 83d Congress in a special election held in 1954. He has been reelected to each succeeding Congress and has announced that he will retire at the end of the 95th Congress. He served as chairman of the Committee on Standards of Official Conduct, and on the Committee on Appropriations and the Select Committee on Ethics.

In view of his long and distinguished career, and in view of his many years of outstanding service to the people of the 6th Congressional District, to the State of Georgia, and to the Nation, it is fitting and proper that the U.S. Post Office and Federal Building in Griffin, Ga., be named in his honor as the "John J. Flynt, Jr., Federal Building."●

● Mr. JOHNSON of California. Mr. Speaker, I wish to associate myself with the remarks of my distinguished colleague, the chairman of our Subcommittee on Public Buildings and Grounds, Mr. MINETA.

H.R. 13187 honors a prominent American and our distinguished colleague who has announced he plans to retire at the end of the 95th Congress, Congressman JOHN J. FLYNT, Jr., by naming the U.S. Post Office and Federal Building located in Griffin, Ga., after him.

Congressman FLYNT has had a long and distinguished career and has dedicated 31 years of his life in representing the State of Georgia. He was a member of the house of representatives of the State of Georgia in 1947 and 1948 and was elected to the 83d Congress in a special election held in 1954. During his years in the Congress, he has gained the admiration and respect of his colleagues for his forthright and eloquent belief in our system of government and the American way of life. He currently serves as chairman of the Committee on Standards of Official Conduct, and on the Committee on Appropriations and the Select Committee on Ethics. He has been the driving force behind meaningful legislation designed to assist the entire country. I am sure that all of the people in Georgia would agree that JOHN FLYNT is a very fine Congressman and would enthusiastically agree with the contents of this bill.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

FREDERICK G. PAYNE BUILDING

The Clerk called the bill (H.R. 13481) to name the post office and Federal building in Portland, Maine, the "Frederick G. Payne Building."

There being no objection, the Clerk read the bill as follows:

H.R. 13481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the post office and Federal building located at 151 Forest Avenue, Portland, Maine, shall hereafter be known as the "Frederick G. Payne Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Frederick G. Payne Building."

● Mr. JOHNSON of California. Mr. Speaker, I wish to associate myself with the remarks of my distinguished colleague, the chairman of our Subcommittee on Public Buildings and Grounds, Mr. MINETA.

H.R. 13481 honors a prominent American, Frederick G. Payne, by naming the post office and Federal building located at 151 Forest Avenue, Portland, Maine, after him.

The late Frederick G. Payne represented the State of Maine in the U.S. Senate from 1953 to 1959. He served from

1949 to 1953 as Governor of Maine and from 1940 to 1942 served as Maine Commissioner of Finance and Director of Budget. He served as mayor of Augusta, Maine, from 1935 to 1941. In light of his dedication and service not only to the State of Maine but the entire country, it is fitting to name the Federal building located in Portland, Maine, in his honor.●

● Mr. MINETA. Mr. Speaker, H.R. 13481 would name the post office and Federal building in Portland, Maine, the "Frederick G. Payne Building."

The late Frederick G. Payne was born in Lewiston, Maine, on July 24, 1904. He attended public schools in Lewiston, and later studied at the Bentley School of Accounting and Finance in Boston. He had a distinguished career in public service as well as in private enterprise. From 1935 to 1941 he served as mayor of Augusta, Maine, and from 1940 to 1942 he served as Maine Commissioner of Finance and Director of Budget. From 1942 to 1945 he served in the U.S. Air Force. He served from 1949 to 1953 as Governor of Maine, and from 1953 to 1959 as U.S. Senator from Maine. In the Senate, he was particularly noted for his service on the Committee on Banking and Currency and the Committee on Interstate and Foreign Commerce and for his interest in legislation for the protection of small industries and for aid for the blind and elderly.

In view of his distinguished career of service to the people of his community, of the State of Maine, and of the Nation, it is fitting and proper that the U.S. post office and Federal building in Portland, Maine, be named in his honor as the "Frederick G. Payne Building."●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JOE WAGGONNER FEDERAL BUILDING

The Clerk called the bill (H.R. 13514) to name a certain Federal building in Shreveport, La., the "Joe Waggonner Federal Building."

There being no objection, the Clerk read the bill as follows:

H.R. 13514

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building located at 500 Fannin Street in Shreveport, Louisiana, is hereby designated as the "Joe Waggonner Federal Building." Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the Joe Waggonner Federal Building.

With the following committee amendment:

On the first page, after line 8, insert the following new paragraph:

SEC. 2. This Act shall take effect on January 4, 1979.

The committee amendment was agreed to.

● Mr. MINETA. Mr. Speaker, H.R. 13514, as amended, would name a certain Federal building in Shreveport, La., the "Joe Waggonner Federal Building." Such naming would take effect at the convening of the 96th Congress. H.R. 13514, as introduced, is identical to H.R. 13727.

Congressman JOE D. WAGGONNER, JR., was born near Plain Dealing, La., in 1918. He attended local public schools and graduated from Louisiana Tech University.

He served in the U.S. Navy in both World War II and in the Korean conflict.

He was first elected to the Bossier Parish School Board in 1954 and served thereafter in a number of offices important to education in the State of Louisiana, among them as a member of the Louisiana State Board of Education. First elected to the 87th Congress in 1961, he has been reelected to each succeeding Congress. He is particularly noted for his years of service on the Committee on Ways and Means. He has announced that he will retire from the Congress at the end of the 95th Congress.

In view of his long and distinguished career, and in view of his many years of outstanding service to the people of the Fourth Congressional District to the State of Louisiana, and to the Nation, it is fitting and proper that the Federal building in Shreveport, La., be named in his honor as the "Joe Waggonner Federal Building." ●

● Mr. JOHNSON of California. Mr. Speaker, I wish to associate myself with the remarks of my distinguished colleague, the chairman of our Subcommittee on Public Buildings and Grounds, Mr. MINETA.

H.R. 13514 honors an outstanding American and our distinguished colleague who has announced he plans to retire at the end of the 95th Congress, Congressman JOE WAGGONNER, by naming the Federal building located at 500 Fannin Street in Shreveport, La., after him.

JOE WAGGONNER has devoted 17 years to serving the people of the Fourth Congressional District, the State of Louisiana, and the Nation in the U.S. House of Representatives. He was first elected to the 87th Congress in 1961, and he has been reelected to each succeeding Congress. His record in the Congress is full of landmarks and achievements and he is leaving his mark as an outstanding and progressive leader. During his years in the Congress, he has held various committee posts and sponsored major legislation. He is most noted for his work on the Committee on Ways and Means. In view of his long and distinguished career, this is a fitting tribute to pay Congressman JOE WAGGONNER.●

● Mr. BREAUX. Mr. Speaker, as the House considers the matter of the naming of Federal buildings, I would like to express my special interest in the naming of the Federal building in Shreveport, La., for Congressman JOE D. WAGGONNER.

His record is all inclusive and has provided a history of service to his constituents which any Member of this body would be proud to have. I know him as an aggressive and effective leader for his district and Louisiana priorities. The Congress knows him as an astute legislator. He is best known by all, however, for his honest and down-to-earth approach to Government which has caused some tremendous legislative victories for him and a number of disappointments for his opponents.

The Federal building in Shreveport should be named in honor of JOE D. WAGGONNER. I can think of no other deserving, physical tribute to the man and his proud constituency. I ask your favorable consideration of this matter.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MODIFYING THE BOUNDARY OF THE WHITE RIVER NATIONAL FOREST IN COLORADO

The Clerk called the Senate bill (S. 2101) to modify the boundary of the White River National Forest in the State of Colorado.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. SCHULZE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

CLARIFYING STATUS OF CERTAIN PRESIDENTIAL APPOINTEES UNDER EMPLOYEE LEAVE SYSTEM

The Clerk called the Senate bill (S. 1626) to clarify the status of the Librarian of Congress under subchapter I of chapter 63 of title 5, United States Code, relating to annual and sick leave.

There being no objection, the Clerk read the bill as follows:

S. 1626

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6301(2)(B) of title 5, United States Code, is amended—

(1) by striking out "or" at the end of clause (xi);

(2) by striking out the period at the end of clause (xii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new clause:

"(xiii) the Librarian of Congress.".

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That section 6301(2) of title 5, United States Code, is amended—

(1) by striking out "or" at the end of clause (xi);

(2) by striking out the period at the end of clause (xii) and inserting "; or" in lieu thereof; and

(3) by adding at the end thereof the following new clause:

"(xiii) an officer in the legislative or judicial branch who is appointed by the President.".

SEC. 2. Sections 5551(b), 6302(e), and 6306 (b) of title 5, United States Code, are each amended by striking out "section 6301(2)(x)–(xii)" each place it appears and inserting "section 6301(2)(x)–(xiii)" in lieu thereof.

SEC. 3. Section 8339(m) of title 5, United States Code, is amended by adding at the end thereof the following new sentence: "For the purpose of this subsection, in the case of any such employee who is excepted from subchapter I of chapter 63 of this title under section 6301(2)(x)–(xiii) of this title, the days of unused sick leave to his credit include any unused sick leave standing to his credit when he was excepted from such subchapter.".

SEC. 4. (a) The amendments made by the first section and section 2 of this Act shall take effect beginning on the first day of the first applicable pay period beginning on or after the date of the enactment of this Act.

(b) The amendment made by section 3 of this Act shall apply only with respect to employees who retire or die on or after the date of the enactment of this Act.

The committee amendment was agreed to.

The bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "An Act to clarify the status of certain legislative and judicial officers under the provisions of title 5, United States Code, relating to annual and sick leave, and for other purposes."

A motion to reconsider was laid on the table.

AMENDING THE ACT CREATING THE INDIAN CLAIMS COMMISSION TO REPEAL PROVISION LIMITING ACTIVITIES OF COMMISSIONERS DURING THE 2 YEARS FOLLOWING THEIR TERMS OF OFFICE

The Clerk called the bill (H.R. 9945) to amend the act creating the Indian Claims Commission to repeal the provision limiting the activities of Commissioners during the 2 years following their terms of office.

There being no objection, the Clerk read the bill as follows:

H.R. 9945

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 3(c) (25 U.S.C. 70b (c)) of the Act entitled "An Act to create an Indian Claims Commission, to provide for the powers, duties, and functions thereof, and for other purposes", approved August 13, 1946 (60 Stat. 1049; 25 U.S.C. 70 et seq.), is amended by striking out "or for a period of two years thereafter".

With the following committee amendment:

Page 1, following line 8, add a new paragraph reading as follows:

Section 105(j) of the Indian Self-Determination Act (88 Stat. 2206, 2210) shall not apply to those members of the Indian Claims Commission affected by this Act.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ACQUIRING CERTAIN LANDS BY SISSETON-WAHPETON SIOUX TRIBE

The Clerk called the bill (H.R. 13096) to provide that members of the Sisseton-Wahpeton Sioux Tribe may request the Secretary of the Interior to acquire certain lands, and to provide that the tribe shall have a preference right to purchase certain lands held in trust by the United States for tribal members.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of a similar Senate bill (S. 3069) to provide that members of the Sisseton-Wahpeton Sioux Tribe may request the Secretary of the Interior to acquire certain lands, and to provide that the tribe shall have a preference right to purchase certain lands held in trust by the United States for tribal members, and ask that it be considered in lieu of the House bill.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There being no objection, the Clerk read the Senate bill as follows:

S. 3069

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first section of the Act of October 26, 1974, Public Law 93-491 (88 Stat. 1468) is amended—

(1) by inserting "or upon the request of any member of the tribe" after "South Dakota" the first place it appears;

(2) by inserting "for the tribe or member thereof" after "gift, or exchange";

(3) by inserting "or member thereof" after "available to the tribe"; and

(4) by inserting "or for the individual member for whom the land is acquired" before the period at the end thereof.

(b) Section 2 of the Act of October 26, 1974, Public Law 93-491 (88 Stat. 1468) is amended by redesignating subsection (b) as subsection (c) and adding after subsection (a) the following new subsection:

"(b) Notwithstanding any other provision of law, the Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation, acting through its governing body or its designated agent, shall have a preference right to purchase any land held by the United States in trust for any member or members of the Sisseton-Wahpeton Sioux Tribe offered at public sale or auction. The tribe shall have thirty days from the date bidding is closed to match the high bid and the terms of the notice of sale.".

(c) The amendments made by this Act shall become effective on the date of the enactment of this Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 13096) was laid on the table.

PROVIDING FOR SALES OF PUBLIC LANDS IN RED MOUNTAIN, SAN BERNARDINO COUNTY, CALIF.

The Clerk called the bill (H.R. 11168) to provide that the sales of public lands in the town of Red Mountain, San Bernardino County, Calif., be conducted under the Townsite Act.

There being no objection, the Clerk read the bill as follows:

H.R. 11168

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding sections 203, 208, and 209 of the Federal Land Policy and Management Act of 1976, the sales of public lands in the town of Red Mountain, San Bernardino County, California, shall be made by the Secretary of the Interior in accordance with sections 2382 through 2384, 2386 through 2389, and 2391 through 2394 of the Revised Statutes (commonly referred to as the Townsite Act), as in effect before October 21, 1976.

With the following committee amendment:

Page 1, beginning on line 3, strike out all after the enacting clause and insert in lieu thereof the following:

(a) That notwithstanding the provisions of the Federal Land Policy and Management Act of 1976, the Secretary of the Interior (hereafter referred to as the "Secretary") within 90 days after the date of enactment of this Act, shall establish specifications for an association of the residents of Red Mountain, San Bernardino County, California (hereafter referred to as the "association") which may through such trustee as they may designate, make application for the conveyance of such lands as are located within the area described in paragraph (b) of this section. Such application shall include, inter alia, a complete internal survey of the area; shall indicate the extent and character of any improvements on any lot and the name or names of the owners (hereinafter referred to as "owner") thereof; shall indicate all unoccupied lots and lands; and shall include a general land use plan for such area.

(b) The lands subject to conveyance pursuant to the provisions of this Act are described as follows:

T. 30 S., R. 41 E.,

Sec. 6: SW¼SE¼NE¼, SW¼NE¼NE¼, S½NW¼NE¼NE¼, SE¼NW¼NE¼, E½SW¼, W½SE¼NE¼, NW¼NE¼SE¼, NW¼NW¼NE¼SE¼, E½NW¼, E½SW¼NW¼SE¼, E½SW¼SE¼, E½NW¼SW¼SE¼, E½SW¼SW¼SE¼.

Sec. 7: N½NE¼NW¼NE¼, N½NW¼NW¼NE¼, Mount Diablo Meridian, California.

SEC. 2. Within 120 days after receipt of such application from the association, the Secretary shall determine if it complies with the specifications established pursuant to section 1 of this Act. If he determines that additional information is required, he shall so notify the association, through such trustee as it may designate, in order to allow it to supplement or correct such application. The Secretary shall require the association to verify, under oath or otherwise, that the owner is, at the time of the enactment of this Act and was, on or before February 27, 1978, in fact, the true owner of improvements located within the area and the association shall certify such verifications to the Secretary as a supplement to its application.

SEC. 3. As soon as reasonably practicable, but not later than two years after receipt of an application, or corrected application, complying with the specifications which he established, the Secretary shall convey to the association or its trustee, as he deems appropriate, all unoccupied lots or lands and all lands presently used for public purposes, and shall convey to the owner verified pursuant to section 2 of this Act title to the lot (which shall comply as nearly as possible with the established boundaries of the area now occupied but shall not exceed one-half of an acre) upon which the improvement of such owner is located. The Secretary may in his discretion, convey title to all improved lots to the trustee for recon-

veyance to the appropriate owners in order to minimize administrative costs. Each such deed of conveyance by the Secretary or reconveyance by the trustee (i) shall convey the land without cost to the owner, except for payment of the respective administrative and recording costs which shall be paid by said association or owner as the case may be; (ii) shall be subject to any valid existing rights arising under the laws of the United States unless relinquished by the holder thereof; (iii) shall reserve to the United States all minerals in the lands, together with the right to prospect for, mine and remove minerals under applicable laws and such regulations as the Secretary may prescribe; and (iv) shall contain such covenants, mutually enforceable between the landowners, as the Secretary has determined to be appropriate to assure compliance with the land use plan submitted pursuant to section 1 of this Act. In conveying title to any unoccupied lands to the association, or its trustee, the Secretary may impose such restrictions or reserve such interests as he deems reasonable and appropriate to assure compliance with the general land use plan and may permit the association or its trustee to reconvey any or all of such lands: *Provided*, That the proceeds derived from such conveyance shall be transferred to the appropriate county or town officials to be used for public purposes within the Town of Red Mountain.

SEC. 4. Unless an application for conveyance of the lands described in section 1 of this Act is received by the Secretary within 5 years after the date of enactment, the provisions of this Act shall expire and such application shall then be made only pursuant to the provisions of the Federal Land Policy and Management Act of 1976.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "To provide for the conveyance of certain public lands in San Bernardino County, Calif., to the Town of Red Mountain, and for other purposes."

A motion to reconsider was laid on the table.

OMAR BURLESON FEDERAL BUILDING

The Clerk called the bill (H.R. 13808) to designate the "Omar Burleson Federal Building."

There being no objection, the Clerk read the bill as follows:

H.R. 13808

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States post office and courthouse located at 341 Pine Street in Abilene, Texas, is herby designated as the "Omar Burleson Federal Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the Omar Burleson Federal Building.

With the following committee amendment:

At the end of the bill add the following new section:

"SEC. 2. This Act shall take effect on January 4, 1979."

The committee amendment was agreed to.

● Mr. MINETA. Mr. Speaker, H.R. 13808, as amended, would designate the U.S. Post Office and Courthouse in Abilene, Tex., as the "Omar Burleson Federal Building." Such naming would take effect at the convening of the 96th Congress.

Congressman OMAR BURLESON was born in 1906 in Anson, Tex. He has a long and distinguished career in public service. He served as a county attorney and a county judge for Jones County, Tex. Later he was a special agent with the Federal Bureau of Investigation. During World War II he served 3 years in the U.S. Navy.

He was elected to the 80th Congress in 1946, and has been reelected to each successive Congress. He has announced that he will retire from the Congress at the end of the 95th Congress. He has long been noted for his diligent work on the Ways and Means Committee, and has more recently joined the Budget Committee as well.

In view of his long and distinguished career, and in view of his many years of outstanding service to the people of the 17th Congressional District, to the State of Texas, and to the Nation, it is fitting and proper that the U.S. Post Office and Courthouse in Abilene, Tex., be named in his honor as the "Omar Burleson Federal Building." ●

● Mr. JOHNSON of California. Mr. Speaker, I wish to associate myself with the remarks of my distinguished colleague, the chairman of our Subcommittee on Public Buildings and Grounds, Mr. MINETA.

H.R. 13808 honors an outstanding American and our distinguished colleague who has announced that he will retire at the end of the 95th Congress, Congressman OMAR BURLESON, by naming the U.S. Post Office and Courthouse located at 341 Pine Street in Abilene, Tex., after him.

OMAR BURLESON has devoted 32 years to serving the people of the 17th Congressional District of Texas. He was elected to the 80th Congress in 1946, and has been reelected to each succeeding Congress. Throughout his years in the House, he has gained the respect and admiration of his colleagues, because of his unending dedication to the job and the State of Texas. Congressman BURLESON has served admirably on numerous committees, however, is most noted for his service on the Ways and Means Committee. He has been the driving force behind major legislation designed to benefit all Americans.

I am pleased to join in recognizing the contribution OMAR BURLESON has made to our Nation and in paying tribute to him by designating this building in his honor. ●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GEORGE H. MAHON FEDERAL BUILDING

The Clerk called the bill (H.R. 13809) to designate the "George H. Mahon Building."

There being no objection, the Clerk read the bill as follows:

H.R. 13809

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building, United States post office and courthouse located in Midland, Texas, is hereby designated as the "George H. Mahon Federal Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the George H. Mahon Building.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That the Federal building, United States post office and courthouse located in Midland, Texas, is hereby designated as the "George Mahon Federal Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the George Mahon Federal Building.

SEC. 2. This Act shall take effect on January 4, 1979.

The committee amendment was agreed to.

● Mr. JOHNSON of California. Mr. Speaker, I wish to associate myself with the remarks of my distinguished colleague, the chairman of our Subcommittee on Public Buildings and Grounds, Mr. MINETA.

H.R. 13809 honors an outstanding American and our distinguished colleague who has announced that he will retire from the Congress at the end of the 95th Congress. Congressman GEORGE MAHON, by naming the Federal building, U.S. Post Office and Courthouse in Midland, Tex., after him.

GEORGE MAHON has devoted 44 years to serving the people of Texas in the U.S. House of Representatives. He was elected to the 74th Congress as the first Representative of the newly formed 19th Congressional District of Texas in 1934 and has been reelected to each succeeding Congress. Congressman MAHON has served admirably on numerous committees, however, is most noted for his service on the Appropriations Committee. He became a member of the Appropriations Committee in 1939. As chairman of the House Appropriations Committee since 1964, his record speaks for itself. He has distinguished himself not only as an effective leader but as a brillian legislative tactician—able to bring reason and compromise to some of the most difficult issues of our time.

I am pleased to join in recognizing the contribution GEORGE MAHON has made to our Nation and in paying tribute to him by designating this building in his honor.●

● Mr. MINETA. Mr. Speaker, H.R. 13809, as amended, would designate the U.S. Post Office and Courthouse in Midland, Tex., as the "George Mahon Federal Building." Such naming would take effect at the convening of the 96th Congress.

Congressman GEORGE MAHON, who is serving his 44th year in Congress, was born on September 22, 1900, near Haynesville, La., one of eight children of John Kirkpatrick and Lola Mahon. In

1908 the family moved to Loraine, Tex., and MAHON grew up on a cotton farm there. He attended rural schools, later graduating from Simmons College (now Hardin-Simmons University) in Abilene, Tex. In 1925 he earned his law degree from the University of Texas.

Mr. MAHON began his public service career in 1927 after being elected county attorney of Mitchell County. Later that year he was appointed district attorney of the 32d Judicial District and was elected to that post in 1928, 1930, and 1932. He served in this capacity until 1934 when he was elected to the 74th Congress as the first Representative of the newly formed 19th Congressional District.

Congressman MAHON became a member of the Appropriations Committee in 1939 and chairman of the Defense Appropriations Subcommittee in 1949. He was elected chairman of the Appropriations Committee in 1964 and has served continuously in that capacity longer than any Member in the history of the Congress. Senior in point of service in the entire Congress, Mr. MAHON has announced his retirement at the end of the 95th Congress.

During his tenure in Congress Mr. MAHON has received numerous citations and awards for public service, not only in the fields of fiscal affairs and defense, but in agriculture and energy, both at the national level and from groups in Texas.

Mr. MAHON became a member of the Department of the Army Appropriations Subcommittee in 1940 and in that capacity cooperated in providing the funds and maintaining the secrecy for the development of the atomic bomb. He served as chairman of the Joint Senate-House Committee on Reduction of Federal Expenditures; as a member of the Joint Senate-House Study Commission on Budget Control; and is currently a member of the Board of Regents of the Smithsonian Institution of Washington, D.C.

In view of his long and distinguished career, and in view of his many years of outstanding service to the people of the 19th Congressional District of Texas and to the Nation, it is fitting and proper that the Federal building, U.S. Post Office and Courthouse located in Midland, Tex., be named in his honor as the "George Mahon Federal Building."●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to designate the 'George Mahon Federal Building'."

A motion to reconsider was laid on the table.

The SPEAKER. This concludes the call of the Consent Calendar.

GENERAL LEAVE

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent that I may be permitted to revise and extend my remarks and include extraneous material, and that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on the public building designation bills considered on the Consent Calendar today.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

CALL OF THE HOUSE

Mr. YATES. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 787]

Addabbo	Fascell	Murphy, Ill.
Ambro	Findley	Nichols
Ammerman	Flowers	Oakar
Anderson, Ill.	Ford, Mich.	Pepper
Andrews, N.C.	Ford, Tenn.	Pettis
Applegate	Forsythe	Pickle
Archer	Frazer	Preyer
Armstrong	Frey	Pursell
AuCoin	Garcia	Quie
Baucus	Gephardt	Rhodes
Beard, Tenn.	Gilman	Risenhoover
Bedell	Goldwater	Rodino
Benjenson	Gonzalez	Rogers
Bingham	Gradison	Roncalio
Blanchard	Harkin	Rose
Boland	Harrington	Rosenthal
Bonker	Harsha	Ryan
Brademas	Heckler	Santini
Brodhead	Hefner	Sarasin
Broomfie'd	Hightower	Scheuer
Burke, Calif.	Hollenbeck	Shipley
Burton, John	Howard	Shuster
Butler	Hyde	Skubitz
Caputo	Jenrette	Smith, Nebr.
Carr	Jones, Okla.	Solars
Chisholm	Jones, Tenn.	Spellman
Clay	Kasten	Steed
Cleveland	Kastenmeier	Stokes
Cohen	Kazen	Teague
Coleman	Krueger	Thompson
Collins, Ill.	Leggett	Thone
Conyers	Long, Md.	Traxler
Corman	Lujan	Trible
Cornell	McCormack	Tsongas
Cornwell	McKinney	Tucker
Cunningham	Mann	Vander Jagt
Danielson	Marlenee	Vento
de la Garza	Mathis	Walgren
Dellums	Meeds	Waxman
Dent	Meyner	Whitehurst
Derrick	Michel	Winn
Dickinson	Mikva	Wirth
Diggs	Milford	Wolff
Dodd	Miller, Calif.	Wright
Eckhardt	Moffett	Young, Fla.
Edwards, Calif.	Moorhead, Pa.	Zeferetti
Emery	Moss	

The SPEAKER pro tempore. (Mr. BEVILL). On this rollcall 292 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CARTER'S TOP ACHIEVEMENT

(Mr. SIKES asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. SIKES. Mr. Speaker, the concurrence obtained between Egypt and Israel at the Camp David summit conference may be the top achievement of the Carter administration to date. It is one that should have strong endorsement at all levels in the United States and in the free world. Exceptions will be taken to some phases of the agreements but, on the whole, they represent a very significant step toward peace in a troubled part of the world. It was by dogged determination that last-minute agreements were reached, and the depth of the agreements make the achievement more spectacular.

It is obvious that both Mr. Begin and Mr. Sadat are running risks. There will be criticism in Israel and in the Knesset that Israel is giving up too much. The old bugaboo that Israel will be left much more vulnerable to attack if Israeli forces leave the West Bank will surface again. In 5 years, of all the Arab territory seized by Israel for buffer zones, only the Golan Heights will be in Israel hands. The remainder will be in neutral zones or under an autonomous, but unarmed, government.

On the other hand, they will have achieved the best guarantee for peace since Israel's troubled existence began in that they will achieve a separate peace with Egypt. This is the point on which some Arab nations will part company with Sadat. They bitterly object to a separate peace between Egypt and Israel. They know that without Egypt the Arabs cannot launch a war against Israel with hope of success. They will consider Egypt is turning its back on the Arabs. Mr. Sadat's own people will hail the return of captured territory and the Arab world should welcome a home for the Palestinians.

Consequently the agreements should strengthen Mr. Sadat at home, but they may do him more harm than good with other Arab nations. The risk to Mr. Sadat personally from extremists will increase.

All in all, the persistence with which the President worked to bring about a concurrence on a framework for settlement in the Middle East is highly meritorious. It is to be hoped he will use the same persistence in dealing with other trouble spots where he has followed bad advice in prior years.

PROSPECTS FOR PEACE IN THE MIDDLE EAST

(Mr. FUQUA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FUQUA. Mr. Speaker, the jubilant announcement last night that a basic framework for lasting peace in the Middle East was welcome news far beyond all reasonable expectations.

Although, as President Carter pointed out, there are still many difficult negotiations which lie ahead involving many potential diplomatic pitfalls, never in the last 30 years have the prospects for peace in the Middle East been so good.

The highly successful conclusion of the Camp David summit meeting among President Carter, President Sadat of Egypt, and Prime Minister Begin of Israel, gives us confident hope that the strife in that area of the world will soon end.

There will be obstacles ahead, but the fact that we have traveled so far on the road to peace is irreversible. With the courage, vision, and determination which produced this significant breakthrough at Camp David, the roadblocks can be overcome and there can be lasting peace in the Middle East.

CAMP DAVID SUMMIT

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

● Mr. BIAGGI. Mr. Speaker, last night, the East Room became the Peace Room for in it came the dramatic announcement that the Camp David summit had achieved the framework for an unprecedented peace agreement between Israel and Egypt.

It is critical that we evaluate the summit for exactly what it was—a modern-day profile in courage. For each of the three participants, President Sadat, Prime Minister Begin, and President Carter, the risks in this venture were profoundly real. A summit which collapsed or which proved inconclusive would have severely damaged each of them and threatened their ability to govern.

Yet despite these risks the Camp David conferees chose to pursue the one common denominator—peace for the Middle East. They wanted to emerge from Camp David with an agreement signaling visible progress toward peace. This has been done. Millions viewed the historic signing ceremony last night in a dramatic ceremony which was heavy with emotion and symbolism.

We will learn the exact details of the agreement tonight from the President. Yet what we do know is that three men of conviction overcame strong adversities and gave the world its first real hope for peace in the Middle East. It is a triumph which all men of peace should relish.●

PEACE IN THE MIDDLE EAST

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. Speaker, I would just like to join with my other colleagues here today in extending profound appreciation and gratitude to the President of the United States for having been the catalyst that has led apparently to a framework of principles which will yield peace in the Middle East.

Mr. Speaker, in 1975 it was my privilege to have gone through the Middle East on a factfinding tour, during which we had a chance to speak to President Sadat and then to Prime Minister Rabin of Israel.

It seemed to me then that there were ingredients in this war-shattered area that could lead, with the proper kind of conditioning, to a lasting peace. I am glad to see the first steps have happened. I would certainly encourage all of us to continue our prayers that these beginnings will lead eventually to a true peace in the Middle East.

TARIFF SCHEDULE AMENDMENTS FOR YANKEE DRYER CYLINDER ROLLS

Mr. VANIK. Mr. Speaker, before we begin the series of bills that are submitted by the Committee on Ways and Means this afternoon, I want to point out that all of these bills were reported out the Subcommittee on Trade of the Committee on Ways and Means without objection. There was no objection at the time they were taken up by the Committee on Ways and Means, and it is my hope that we can act on these bills under unanimous consent, and thereby save the time of the House, because we have a long calendar today that might be expedited.

With that statement, Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 7108) to amend the Tariff Schedules of the United States in order to suspend the duty on Yankee dryer cylinder rolls until the close of December 31, 1977.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. STEIGER. Mr. Speaker, reserving the right to object, I do so first for the purposes of thanking my distinguished colleague from Ohio for his understanding and for his willingness to allow us to use this procedure.

I yield to the gentleman from Ohio (Mr. VANIK) for the purposes of explanation.

Mr. VANIK. Mr. Speaker, the purpose of H.R. 7108 is to suspend the duty on imports of Yankee Dryer Cylinders until December 31, 1981.

H.R. 7108 was introduced by our colleague, Mr. EDGAR of Pennsylvania.

Yankee Dryer Cylinders are components of papermaking machines used to dry and finish various grades of paper. There are no U.S. producers of this product and no acceptable substitutes are available. Domestic paper producers would benefit from this legislation, as the duty suspension would eliminate a cost on a needed material without jeopardizing U.S. industry.

The Departments of Commerce and Treasury favor enactment of H.R. 7108, as amended. The Department of Labor has no objection to the bill. No opposition to H.R. 7108 has been received from any source.

The bill was amended to eliminate the retroactive application of the duty suspension to August 31, 1975, the date domestic production of this product ceased, as it was felt that a refund of the duty might provide windfall profits to domestic firms importing Yankee Dryer Cylinders who may have passed on the duty to their customers. The bill was also amended to provide for temporary duty suspension until December 31, 1981.

The committee was unanimous in reporting H.R. 7108, as amended, on July 14, and I urge its passage.

Mr. STEIGER. Mr. Speaker, further reserving the right to object, I ask unanimous consent to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. STEIGER. Mr. Speaker, I rise in support of H.R. 7108 which creates a new item under the Tariff Schedules of the United States. As well, it provides for a suspension of duty, through December 31, 1981, on so-called Yankee dryer cylinder rolls.

As the distinguished chairman of the Trade Subcommittee has already described, Yankee dryer cylinders are components of papermaking machines and are used to dry and finish various grades of paper. Currently there are no U.S. producers of this product and there is no acceptable substitute available. By suspending the duty on these items production costs of domestic paper producers would be lowered. Since the suspension will continue only to the end of 1981, it should not discourage the entry of a new domestic producer.

There was no objection to the bill. The yearly customs revenue loss would be approximately $206,000. I would urge my colleagues to support passage of this bill.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the bill as follows:

H.R. 7108

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting immediately after item 911.25 the following new item:

"912.20	Yankee Dryer Cylinder Rolls (provided for in item 668.06, part 4D, schedule 6)	Free	No change.	On or before 12/31/77".

SEC. 2. (a) The amendment made by the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

(b) Upon request therefor filed with the customs officer concerned on or before the ninetieth day after the date of the enactment of this Act, the entry or withdrawal of any article—

(1) which was made after August 31, 1975, and before the date of the enactment of this Act; and

(2) with respect to which there would have been no duty if the amendment made by the first section of this Act applied to such entry or withdrawal

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 or any other provisions of law, be liquidated or reliquidated as though such entry or withdrawal had been made on the date of the enactment of this Act.

With the following committee amendments:

Page 1, line 5, strike out "911.25" and insert "912.05".

Page 1, strike out the matter appearing after line 6 and insert the following:

912.06	Yankee Dryer Cylinders (provided for in item 668.06, part 4D, schedule 6)	Free	No change	On or before 12/31/81.

Page 2, line 1, strike out "(a)".

Page 2, strike out lines 5 through 17, inclusive.

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to amend the Tariff Schedules of the United States in order to suspend the duty on Yankee Dryer Cylinders until the close of December 31, 1981."

A motion to reconsider was laid on the table.

DUTY CLASSIFICATION OF BALL OR ROLLER BEARING PILLOW BLOCKS, FLANGES, TAKEUP, CARTRIDGE, AND HANGAR UNITS

Mr. VANIK. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 8755) to make specific provisions for ball or roller bearing pillow block, flange, takeup, cartridge, and hanger units in the Tariff Schedules of the United States.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. STEIGER. Mr. Speaker, reserving the right to object I shall not object, and I yield to the gentleman from Ohio under my reservation.

Mr. VANIK. Mr. Speaker, the purpose of H.R. 8755 is to provide separate provisions for certain ball and roller bearing units and parts thereof that are currently classifiable elsewhere in the Tariff Schedules of the United States.

H.R. 8755 was introduced by our colleague, Mr. COTTER of Connecticut.

The new single provision in the Tariff Schedules covering these bearing units will enable more specific statistical coverage with respect to imports. Although there are separate provisions in the Tariff Schedules for ball bearings, there is no specific provision for mounted bearings other than pillow blocks. Subsequently, there is a lack of statistical information on the imports of these units and the bearings contained therein.

A number of technical objections to the bill as introduced were received from executive branch agencies and the U.S. International Trade Commission, including a possible increase in duties unintended by the sponsors of the legislation.

In light of such objections and comments, and in consultation with both Customs officials and representatives from the industry, the bill was amended and the problems raised in the agency reports on H.R. 8755 were resolved.

The committee was unanimous in reporting H.R. 8755, as amended, and urge its passage.

Mr. STEIGER. Mr. Speaker, further reserving the right to object, I ask unanimous consent to revise and extend my remarks at this point in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. STEIGER. Mr. Speaker, I join the distinguished chairman of the Trade Subcommittee in his support of this bill.

As the gentleman has ably explained, this bill merely provides a specific category under the Tariff Schedules of the United States for mounted ball or roller-ball bearings. Currently, there are various provisions in the Tariff Schedules under which ball bearings may be classified, but none of these categories provide for mounted bearings. Consequently, there is a lack of statistical information on imports of mounted or housed bearings. This dearth of information exists at a time when industry is complaining that imports of mounted bearings are increasing rapidly and causing it injury. This bill would facilitate the collection of statistical information and, thereby, provide much needed information for assessing the domestic industry's claims.

The bill before us today incorporates amendments addressing objections from the Departments of Commerce, and State and from the Special Trade Representative. Since the bill for the most part does not propose changes in existing rates of duty, the impact of customs revenue is likely to be negligible. I would urge your support for this bill.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the bill, as follows:

H.R. 8755

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That the Tariff Schedules of the United States be amended by inserting in the superior heading for item 680.50 after "pillow blocks" and before the "," the following: "(except ball or roller bearing pillow blocks)".

SEC. 2. That the superior heading to the Tariff Schedules of the United States items 680.33, 680.34, 680.35, and 680.36 be amended by inserting "and including such bearings together with pillow block, flange, take-up, cartridge, and hanger mounts or holders into which they are assembled; all the foregoing" before "and parts thereof:".

SEC. 3. That Tariff Schedules of the United States items 680.35 and 680.36 respectively be redesignated items 680.37 and 680.38 and inserting after item 680.34 the following new items:

" 680.35	Bearings together with pillow block, flange, take-up, cartridge and hanger mounts or holders into which they are assembled, and parts thereof	9.5% ad val.	45% ad val.
680.3	If Canadian article and original vehicle equipment (see headnote 2, part 6B, Schedule 6)	Free.	

SEC. 4. The amendments made by this Act shall apply as if made by the Tariff Schedules Technical Amendments Act of 1965; except that such amendments shall not apply with respect to any article entered, or withdrawn from warehouse, for consumption, on or before the sixtieth day after the date of the enactment of this Act.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That subpart J or part 4 of schedule 6 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

(1) by redesignating items 680.52 and 680.54 as items 680.55 and 680.56, respectively; and

(2) by striking out item 680.50 and inserting in lieu thereof the following new items:

680.50	Pulleys and shaft couplings, and parts thereof Pillow blocks and parts thereof:		
680.51	Ball or roller bearing type.	9.5% ad val.	45% ad val.
680.52	Other types	9.5% ad val.	45% ad val.
	Flange, take-up, cartridge, and hangar units, and parts thereof:		
680.53	Ball or roller bearing type.	9.5% ad val.	45% ad val.
680.54	Other types	9.5% ad val.	45% ad val.

SEC. 2. The amendments made by the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time was read the third time, and passed, and a motion to reconsider was laid on the table.

SUSPENSION OF DUTY ON CERTAIN NITROCELLULOSE

Mr. VANIK. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 9628) to suspend until the close of June 30, 1980, the duty on certain nitrocellulose.

The clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. STEIGER. Mr. Speaker, reserving the right to object, I shall not object, and I yield to the gentleman from Ohio (Mr. VANIK) for an explanation of the bill.

Mr. VANIK. Mr. Speaker, the purpose of H.R. 9628 as reported is to suspend the duty on imports of certain nitrocellulose until June 30, 1980.

H.R. 9628 was introduced by our colleagues, Messrs. PREYER, BROYHILL, and VANDER JAGT.

H.R. 9628 applies to "soluble" nitrocellulose which is the essential ingredient used in durable lacquer coatings primarily used by the wood furniture industry. There have been two domestic producers supplying most of the soluble nitrocellulose to the U.S. paint and coatings industry. One of these suppliers has discontinued production, thus forcing U.S. users to utilize overseas sources to secure adequate supplies of this needed material.

Reports with no objections were received from the Departments of Commerce, Interior, State, and Labor. The Department of Treasury favors enactment. No objections to this legislation have been received from any source.

The committee was unanimous in reporting H.R. 9628 on July 14, and I urge its passage.

Mr. STEIGER. Mr. Speaker, I further reserve the right to object.

Mr. Speaker, I join the chairman of the Trade Subcommittee in support of H.R. 9628. This bill would suspend the duty on imports of soluble nitrocellulose until June 30, 1980.

As the chairman has described, soluble nitrocellulose is the essential ingredient used in the manufacture of durable lacquer coatings by the wood furniture industry. Other uses of these lacquer coatings include automotive refinishing, primers, paper coatings, and fingernail polishes. The soluble nitrocellulose which is used in these coatings is presently without any known economical substitute.

Currently, domestic production falls short of domestic demand by some 20 percent. Until September of 1977, there were two domestic producers supplying most of the soluble nitrocellulose to U.S. users. Since then, one of the U.S. suppliers announced that it was phasing out production of this material and the second producer has indicated that it is unable to make up for the lost production. The present tariff of 9.7 cents per pound results in approximately a 10-percent increase over the prevailing U.S. price of soluble nitrocellulose. Consequently, then, a suspension of duty would result in a measurable production cost savings.

No objections to this bill were heard from the administration or from the private sector. I would strongly urge its passage.

Mr. Speaker, I yield back the balance of my time, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the bill as follows:

H.R. 9628

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subpart B of part 1 of the appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting immediately before item 907.80 the following new item:

" 907.77	Nitrocellulose (provided for in item 445.25, part 4A, schedule 4).....	Free	No change	On or before 6/30/80".

SEC. 2. The amendment made by the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

With the following committee amendments:

Page 1, line 3, strike out "appendix" and insert "Appendix".

Page 1, line 5, strike out "907.80" and insert "909.01".

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

EXTENSION OF EXISTING SUSPENSION OF DUTY ON CERTAIN FORMS OF ZINC

Mr. VANIK. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 9911) to continue until the close of June 30, 1981, the existing suspension of duties on certain forms of zinc.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. STEIGER. Mr. Speaker, reserving the right to object, and I shall not object, I do so for the purpose of yielding, under my reservation of objection, to the gentleman from Ohio (Mr. VANIK) for the purpose of explaining the legislation.

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Speaker, the purpose of H.R. 9911 as reported is to continue the temporary suspension of duties on imports of certain zinc ore and concentrates until June 30, 1981.

H.R. 9911 was introduced by our colleagues, Messrs. DUNCAN of Tennessee, JONES of Oklahoma, and RISENHOOVER of Oklahoma.

H.R. 9911 would continue the duty suspension on zinc ores and concentrates used by domestic zinc manufacturers as necessary raw materials in the production of zinc metal. The duty on these items was originally suspended in 1975 in recognition of the fact that U.S. mines do not have sufficient capacity to satisfy demand. The domestic zinc producers are seeking continuation of this temporary duty suspension to help them compete more effectively against foreign zinc producers.

Reports favoring H.R. 9911 were received from the Departments of Labor, Interior, Treasury, State, and Commerce. The Office of the Special Trade Representative reported no objection to the bill. No objections to H.R. 9911 have been received from any source.

The committee was unanimous in reporting H.R. 9911 on July 14, and I urge its passage.

Mr. STEIGER. Mr. Speaker, I further reserve the right to object.

Mr. Speaker, I join my colleague in supporting H.R. 9911, a bill continuing the existing suspension of the column 1 rates on duty on certain zinc ores and and concentrates. The suspension provided by the bill would run from June 30, 1978 through June 30, 1981.

As already outlined by the gentleman from Ohio, the bill extends for a second 3-year period the duty suspension on zinc bearing ores, zinc dross and skimmings, zinc bearing materials, and zinc waste and scrap. These are the raw materials used by smelters and refiners for the production of zinc slab. Canada supplies about 50 percent of the necessary imports, with three or four South American and Southeast Asian countries supplying the remainder. Australia also exports zinc raw materials to the United States.

The first suspension was enacted in 1975 after Congress was petitioned by domestic zinc producers who found that the duty was undermining their competitive position with respect to other zinc-producing countries. These producers have asked that the duty suspension be renewed in order that they might continue to compete effectively with producers in countries that apply no duty to imports of the raw materials. As was the case 3 years ago, U.S. mines do not have sufficient capacity to meet demands and domestic supplies of raw materials continue to dwindle. Zinc smelters and refiners, therefore, must supplement domestically mined ores and concentrates with imported raw materials.

During hearings held on the bill in May, no objections to renewing the suspension were heard from any source. The administration supported the bill on the grounds that the added costs incurred through the duties serve no beneficial purpose to any domestic industry, and in fact the competitive position both at home and abroad of U.S. smelters and refiners would be seriously threatened should such duties be reimposed.

Mr. Speaker, I believe the bill to be meritorious; and, again, I urge my colleagues to approve the measure at this time.

Mr. Speaker, I withdraw my reservation of objection, and yield back the balance of my time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the bill, as follows:

H.R. 9911

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) items 911.00, 911.01, 911.02, and 911.03 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) are each amended by striking out "6/30/78" and inserting in lieu thereof "6/30/81".

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption, after June 30, 1978.

With the following committee amendments:

Page 1, line 3, strike out "(a)".

Page 1, line 5, before "amended" insert "each".

Page 1, line 7, strike out "(b) The amendment made by subsection (a)" and insert "SEC. 2. The amendments made by the first section of this Act".

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SUSPEND DUTY ON NATURAL GRAPHITE

Mr. VANIK. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 10625) to suspend the duty on natural graphite until the close of June 30, 1981.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. STEIGER. Mr. Speaker, reserving the right to object, and I shall not object, I do so for the purpose of yielding to the gentleman from Ohio (Mr. VANIK) for the purpose of explaining the legislation.

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Speaker, the purpose of H.R. 10625 as reported by your committee, is to continue the temporary suspension of duty on imports of natural graphite to June 30, 1981.

H.R. 10625 was introduced by our colleagues, Messrs. BURLESON and POAGE of Texas.

Graphite is used in foundry facings, steelmaking, lubricants, refractories, pencils, and batteries. Alternate materials cannot substitute for natural graphite except at substantially higher cost. There is only one operating domestic graphite producer and this company supplies only a minor share of domestic consumption. The parent firm of the single domestic producer is seeking the continued duty suspension. The suspension helps reduce production and consumer costs of graphite and make U.S.-produced graphite products more competitive in foreign markets.

A technical amendment was made to substitute language in section 2 to make the bill effective with respect to articles entered or withdrawn from warehouse, for consumption after June 30, 1978. This language would insure that natural graphite would remain eligible for duty-free entry in the event that H.R. 10625 is enacted after June 30, 1978.

Reports favoring enactment of H.R. 10625 were received from the Departments of Commerce, Treasury, and Labor. The Department of State indicated that it has no objection to the bill. No opposition has been received from any source.

The committee was unanimous in reporting H.R. 10625 on July 14, and I urge its passage.

Mr. STEIGER. Mr. Speaker, I further reserve the right to object.

Mr. Speaker, I support the views of the chairman of the Trade Subcommittee, Mr. VANIK, in his endorsement of this legislation.

As the gentleman has indicated, this bill would extend until June 20, 1981, the duty suspension on imports of natural graphite which, under the Tariff Schedules, expired June 30 of this year. This extension of the duty suspension enjoyed by imports of natural graphite is necessary, because there is presently only one domestic graphite producer in operation and this producer supplies only a very small portion of domestic demand. Against this limited production by the domestic producer, U.S. demand for natural graphite has been increasing annually. Moreover, certain grades of natural graphite are considered essential to the national defense and have been designated strategic materials.

Support for this duty suspension comes from the parent firm of the sole domestic producer. The firm feels that a duty suspension would help reduce production costs which in turn would contribute to a limitation on consumer prices for natural graphite products as well as enhance the competitive position in foreign markets of U.S.-produced graphite products. The Departments of Commerce and Treasury submitted reports to the committee favoring this bill and the Department of State indicated that it had no objection to it. In fact, no objections to this legislation were submitted to the committee. The committee passed this bill unanimously and I urge that the bill be approved by this body.

Mr. Speaker, I withdraw my reservation of objection, and yield back the balance of my time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the bill, as follows:

H.R. 10625

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by adding immediately after item 907.80 the following new item:

" 909.01	Graphite crude and refined, natural (provided for in item 517.21, 517.24, or 517.27, part 1E, schedule 5)..	Free	No change	On or before 6/30/81".

SEC. 2. The amendment made by the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

With the following committee amendments:

Page 1, strike out lines 3, 4, 5, and 6 and the matter appearing after line 6 and insert the following:

That item 909.01 of the Appendix of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out "6/30/78" and inserting in lieu thereof "6/30/81".

Page 2, lines 7 and 8, strike out "the date of the enactment of this Act." and insert "June 30, 1978".

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to continue the existing suspension of duty on natural graphite until the close of June 30, 1981."

A motion to reconsider was laid on the table.

DUTY-FREE IMPORTATION OF DYEING AND TANNING MATERIALS

Mr. VANIK. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 11409) to extend indefinitely the period during which certain dyeing and tanning materials may be imported free of duty.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. STEIGER. Reserving the right to object, Mr. Speaker, and obviously, I will not do so, I yield to my friend, the gentleman from Ohio (Mr. VANIK) for an explanation of the bill.

Mr. VANIK. Mr. Speaker, I thank the gentleman from Wisconsin (Mr. STEIGER) for yielding.

Mr. Speaker, the purpose of H.R. 11409, as reported, is to eliminate the duties on imports of certain dyeing and tanning materials.

H.R. 11409 was introduced by our colleague, Mr. BURKE of Massachusetts.

These dyeing and tanning materials are primarily used by the U.S. leather industry in converting rawhides and skins into leather. Temporary duty suspensions have been granted and extended since original enactment in 1957. The last extension, enacted in 1975, provides for duty suspension until June 30, 1978.

There has been very little domestic production of most dyeing and tanning materials for many years. Consequently, the U.S. users depend on imports for virtually all of their requirements. Elimination of duty helps American tanners compete with foreign producers and provides benefits to consumers by holding down the price of leather.

Reports favoring H.R. 11409 were received from the Department, of Commerce, Treasury, and Agriculture. No objections to this bill have been received from any source.

The committee was unanimous in reporting H.R. 11409 on July 14, and I urge its passage.

Mr. STEIGER. Mr. Speaker, I thank the gentleman for his explanation.

I, too, support passage of H.R. 11409, eliminating the duties of certain dyeing and tanning materials. The bill is a definitive response to a long-standing economic situation with respect to the leather industry. It is a good bill and should be enacted.

As explained by my colleague, H.R. 11409 would permanently remove the duties on various vegetable dyeing and tanning extracts. The duties on such items have been suspended for consecutive temporary periods since 1957 in recognition of the fact that there has been very little domestic production of natural dyeing and tanning extracts for many years. The most recent extension expired on June 30, 1978.

Vegetable dyeing and tanning extracts are used primarily by the leather industry in their finishing process, but are also used as a thinner for fluids used in certain oil well drilling operations. Al-

though some chestnut tanning extract is produced in this country, it comprises only a fraction of what is needed by domestic industries. Therefore, virtually all of private industry's requirements for vegetable tanning extracts are imported, mostly from Argentina, Brazil, Paraguay, Peru, and France. It is very unlikely that this situation will change since natural dyeing and tanning substances are taken from trees that either do not grow in this country at all or that have become less and less available—such as the chestnut tree.

The leather industry maintains that the continuous suspension of these duties has allowed them to compete effectively with imported leather goods, and consequently has kept down costs to consumers. The administration agrees, and states that a permanent duty reduction in this instance would in no way undercut our negotiating position in the current multilateral trade negotiations.

Mr. Speaker, the Trade Subcommittee received no objections to this bill from any source and approved the measure unanimously. I urge the House to vote for passage at this time.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the bill, as follows:

H.R. 11409

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) item 907.80 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is stricken out and in lieu thereof, items 470.15, 470.23, 470.25 Part 9A schedule 4 and 470.57, and 470.65 Part 9B schedule 4 of the Tariff Schedules of the United States (19 U.S.C. 1202) are amended as follows:

"SCHEDULE 4 PART 9A

Item	Stat suffix	Articles	Units of quantity	Rates of duty 1	Rates of duty 2
		Brazil wood, cutch, fustic, henna, logwood, madder, Persian berry, safflower and saffron:			
470.10	00	Crude or processed	Pound	Free	Free
		Other:			
470.15	00	Logwood	Pound	Free	Free
470.18	00	Other	Pound	4% ad val.	15% ad val.
		Canaigre, chestnut, curupay, divi-divi, eucalyptus, hemlock, larch, and tara:			
470.20	00	Crude or processed	Pound	Free	Free
		Other:			
470.23	00	Chestnut, divi-divi, and hemlock	Pound	Free	Free
470.25	00	Other	Pound	Free	Free

"SCHEDULE 4 PART 9B

Item	Stat suffix	Articles	Units of quantity	Rates of duty 1	Rates of duty 2
		Mangrove, myrobalan, oak, quebracho, sumac, urunday, and wattle:			
470.50	00	Crude or processed	Pound	Free	Free
	30	Quebracho	Pound		
	40	Wattle	Pound		
	70	Other	Pound		
		Other:			
470.55	00	Myrobalan and Sumac	Pound	Free	Free
470.57	00	Other		Free	Free
	40	Quebracho	Pound		
	60	Wattle	Pound		
	90	Other	Pound		
		Valonia:			
470.60	00	Crude or processed	Pound	Free	Free
470.65	00	Other	Pound	Free	Free

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse for consumption after June 30, 1978.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That (a) subpart A of part 9 of schedule 4 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

(1) by striking out item 470.15 and inserting in lieu thereof the following:

	Other:		
"470.16	Logwood	Free	Free
470.18	Other	4% ad val.	15% ad val.".

(2) by striking out "15% ad val." in each of items 470.23 and 470.65 and inserting in lieu thereof "Free";

(3) by striking out "6% ad val." and "15% ad val." in item 470.25 and inserting in lieu thereof "Free";

(4) by striking out "2.5% ad val." and "15% ad val." in item 470.55 and inserting in lieu thereof "Free"; and

(5) by striking out "3.5% ad val." and "15% ad val." in item 470.57 and inserting in lieu thereof "Free".

(b) Item 907.80 of the Appendix to such Schedules is repealed.

SEC. 2. The amendments made by the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after June 30, 1978.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to make permanent the existing temporary suspension of duty on certain dyeing and tanning materials."

A motion to reconsider was laid on the table.

REQUEST FOR CONSIDERATION OF H.R. 12739, DUTY SUSPENSION ON LIVE WORMS

Mr. VANIK. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 12739) to suspend the duty on live worms until the close of June 30, 1981.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. STEIGER. Mr. Speaker, I ask unanimous consent that the bill H.R. 12739 be passed over without prejudice.

Mr. VANIK. Mr. Speaker, I will withdraw the bill at this time.

The SPEAKER pro tempore. The gentleman from Ohio withdraws his request.

EXTENDING BOUNDARY OF WHITE RIVER NATIONAL FOREST IN COLORADO

Mr. RUNNELS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 2101) to modify the boundary of the White River National Forest in the State of Colorado.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

Mr. JOHNSON of Colorado. Mr. Speaker, reserving the right to object, and I shall not object, I yield to the gentleman from New Mexico (Mr. RUNNELS) for a brief explanation of the bill.

Mr. RUNNELS. Mr. Speaker, I thank the gentleman from Colorado for yielding.

Mr. Speaker, S. 2101, as amended by the Committee on Interior and Insular Affairs, extends the boundary of the White River National Forest in Colorado to include 73,852 acres. The Senate-passed bill extends the boundary to include 2,416 acres near Aspen, and the committee included an additional 71,000 acres near Minturn.

Extension of the forest boundary will provide uniform administration of public land under one Federal agency; eliminate duplication of management services; give flexibility to exchange lands presently outside the U.S. Forest Service boundaries to achieve a more efficient, economic, and desirable management program; and reduce costs for public land management functions.

S. 2101, as amended, provides the specific legislative authority necessary to expand the White River National Forest, and authorizes the use of land and water conservation funds for acquisitions. Except for nominal administrative costs, no significant costs should be incurred as a result of enactment of this legislation.

Mr. Speaker, I urge the passage of S. 2101 as amended.

Mr. JOHNSON of Colorado. Mr. Speaker, I endorse what the gentleman has said.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2101

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the exterior boundary of the White River National Forest in the State of Colorado is hereby modified to include the following described lands, containing 2,416 acres more or less:

(1) Township 10 south, range 85 west, sixth principal meridian:

Section 1, lots 1–7; and

(2) Township 10 south, range 84 west, sixth principal meridian:

Section 5: entire;

Section 6: north half, and southeast quarter except that part platted as a portion of the Red Mountain subdivision;

Section 7: east half of the east half, and that part of lot 27 outside the east half of the east half;

Section 8: entire;

Section 17: east half, north of the northwest quarter, and lots 1, 3, and 6.

Section 18: that part of the northeast quarter of the northeast quarter bounded by M.S. 3905, M.S. 6120, and M.S. 6899.

SEC. 2. Subject to valid existing rights, all lands owned by the United States in the areas described in section 1 of this Act are hereby added to the White River National Forest, and shall be administered in accordance with the laws, rules, and regulations applicable thereto.

SEC. 3. For the purposes of section 7 of the Act of September 3, 1964 (78 Stat. 903, as amended; 16 U.S.C. 4601–9), the boundary of the White River National Forest, as modified by section 1 of this Act, shall be treated as if it were the boundary of the forest on January 1, 1965.

With the following committee amendments: Page 2, after line 14, insert a new section 2 reading as follows and renumber the succeeding sections accordingly:

SEC. 2. (a) The exterior boundary of the White River National Forest is hereby further modified as follows: Beginning at a point on the White River National Forest boundary at the southwest corner of Lot 1, Section 8, T. 2 S., R. 82 W., 6th P.M., Colorado; thence north to the northern right-of-way boundary of State Highway #131; thence westerly along the northern boundary of said Highway to its intersection with northern boundary of tract 38, Section 7, T. 2 S., R. 82 W., 6th P.M.; thence west to its confluence with the western most bank of the Colorado River; thence generally southwesterly along the western most bank of the Colorado River to its confluence with the west bank of Goodson Creek; thence southerly along the west bank of Goodson Creek traversing through Sections 25 & 36, T. 2 S., R. 83 W., 6th P.M., and Sections 1, 2, 10 & 11, T. 3 S., R. 83 W., 6th P.M.; thence southwesterly across the watershed divide to the headwaters of Alkali Creek; thence southerly along the west bank of Alkali Creek traversing through Sections 10, 15, 22, 27 & 34, T. 3 S., R. 83 W., 6th P.M., and Sections 3, 9, 10 & 16, T. 4 S., R. 83 W., 6th P.M., to its confluence with the Eagle River; thence southeasterly along the south bank of the Eagle River to its intersection with the west section line of Section 15, T. 4 S., R. 83 W., 6th P.M.; then south along the section line to the southwest corner of Section 27, T. 4 S., R. 83 W., 6th P.M.; thence west to the ¼ corner common to Sections 28 and 33, T. 4 S., R. 83 W., 6th P.M.; thence south to the White River National Forest boundary which is common with the ¼ corner of Sections 16 & 21, T. 5 S., R. 83 W., 6th P.M.

(b) Except as provided in this section, nothing in this Act shall affect the validity or term of any existing right-of-way, license, lease, applications filed under the Unintentional Trespass Act pursuant to section 214 of the Federal Land Policy and Management Act (43 U.S.C. 1722), or easement covering lands transferred by this Act. Any permit or grazing authorization covering lands transferred by this Act shall continue to be effective until March 1, 1980, at which time such authorization shall be cancelled and the holder thereof may apply for new permit or grazing authorization to the agency which acquires administrative jurisdiction of the lands which such authorization covers.

Page 4, line 24, strike the words "section 1" and insert in lieu thereof "sections 1 and 2".

Page 5, line 6, strike the words "section 1" and insert in lieu thereof "sections 1 and 2".

Page 4, line 13, strike "Sec. 2." and insert "SEC. 3."

Page 5, line 3, strike "Sec. 3," and insert "SEC. 4."

Mr. RUNNELS (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The committee amendments were agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

INCREASED COMPENSATION FOR NEEDY PARENTS OF VETERANS

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 11887) to amend title 38, United States Code, to increase the rates of dependency and indemnity compensation for parents, and for other purposes.

The clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, I do not plan to object; but I take this time in order that the distinguished chairman of the subcommittee can explain the bill to the Members of the House.

Mr. MONTGOMERY. Mr. Speaker, this is the sixth bill we have brought before the House of Representatives pertaining to a cost-of-living increase for veterans and for their dependents. We have to do it by law each year. This is the last of the six bills; so what this bill would provide is a simple cost-of-living increase for parents of veterans who have died as a result of service-connected disease or injury.

Mr. Speaker, the Subcommittee on Compensation, Pension and Insurance conducted several days of hearings earlier this year on various aspects of programs administered by the Veterans' Administration for veterans who have incurred disability while serving in the Armed Forces of the United States as well as for the survivors of veterans who have died as the result of service-connected disease or injury.

As a result of these hearings, the committee favorably reported six bills. The other five have already passed the House. I wish to thank all of the members of the committee for their diligence and hard work in reporting these bills. I especially wish to thank our chairman, Mr. ROBERTS, the distinguished gentleman from Texas, for his strong leadership as well as Mr. HAMMERSCHMIDT, the ranking minority member from Arkansas, for his support. There has been a very heavy workload this year, and I want to commend the subcommittee members for their tireless efforts and all of the time they put into these hearings. I especially wish to commend the ranking minority member of the subcommittee, Mr. WYLIE of Ohio, for his unfailing attendance and assistance.

The last and final compensation bill which we today put before you is H.R. 11887, and it deals with the ever-important dependency and indemnity compensation program for needy parents of veterans who died of service-connected causes. The purpose of this benefit is to provide partial compensation to the designated survivors for the loss in financial support sustained as the result of the service-connected death. For a parent to be eligible for DIC benefits, his or her annual income must not exceed $3,770; or if there are two parents, their combined countable annual income must not exceed $5,070. The reported bill would increase these income limitations to $4,000 for one parent and $5,370 for two parents living together.

Income exclusions which apply to the nonservice-connected pension program generally apply to the dependency and indemnity compensation program for dependent parents. These benefits are also payable on a graduated scale to assure that the parent or parents with the least amount of income, and obviously in greater need, receive the greater rate of benefit. There are now 67,000 parents relying on their DIC monthly payments.

Under current law, an additional allowance of $79 monthly is provided for dependent parents who are in a nursing home or who are in need of the regular aid and attendance of another person. H.R. 11887 would increase this allowance to $84 monthly.

Since this benefit program has a needs test, it has been traditional to consider the parents' dependency and indemnity compensation rates at the same time that veterans and survivors pension rates were adjusted to keep up with inflation. However, in view of this year's pension reform legislation, it is necessary to take this issue up separately.

H.R. 11887 proposes an increase in payment formula of 6 percent, an amount that was chosen in an effort to keep pace with rising costs of living. During the hearings, the committee demonstrated that increases in income limitations and in rates are required for 1979 if substantial adverse effects on overall DIC entitlements are to be averted. Benefits for these dependents were last increased on January 1, 1978.

The cost of this bill for fiscal year 1979 is estimated at $3.7 million and is within our budget allocation and within inflationary guidelines.

I urge you to vote for this bill, which completes the package of bills for the service-connected veteran and dependents. The bill, as I have explained, is important, since DIC is not indexed by law to keep these payments from being eroded away.

Mr. HAMMERSCHMIDT. Mr. Speaker, I support what the gentleman has said.

Mr. Speaker, I wish to associate myself with the remarks of my distinguished colleague and chairman of our committee, the Honorable RAY ROBERTS of Texas, and rise in wholehearted support of H.R. 11887, to provide a 6-percent increase in dependency and indemnity compensation rates for our veterans' dependent parents. The proposed increase is based on the projected cost-of-living increase for this year, 1978.

The purpose of this benefit is to provide partial compensation to designated veterans' survivors for the loss in financial support sustained as a result of a service-connected death of the veteran.

The reported bill will increase the maximum allowable income from $3,770 to $4,000 for a single parent, and from $5,070 to $5,370 for two parents living together.

H.R. 11887 would also increase to $84 per month the additional allowance provided for dependent parents who are in nursing homes or who are in need of the regular aid and attendance of another person.

Mr. Speaker, as stated earlier, H.R. 11887 is a simple cost-of-living increase and I urge my colleagues to vote for this needed legislation.

● Mr. WYLIE. Mr. Speaker, I support H.R. 11887, which I cosponsored and will increase dependency and indemnity compensation (DIC) for needy parents of veterans who died of service-connected causes.

In general, the measure would provide a 6 percent increase in DIC rates for dependent parents. Since this particular VA benefits program is not automatically indexed to the cost-of-living rate, it is fitting for the Veterans' Affairs Committee and the Congress to adjust these compensation levels from time to time. These rates were last increased in January of 1978, and the higher monthly amounts here provided would take effect on January 1, 1979 to cover the increase in inflation for calendar year 1978.

This will help to provide a measure of partial compensation to the surviving parents who meet the eligibility criteria for the financial loss they have sustained by the service-connected death of a son or daughter who served the United States by answering the country's call to arms. I urge its passage.●

● Mr. CORRADA. Mr. Speaker; I rise in support of H.R. 11887.

This bill provides for a 6 percent increase in dependency and indemnity compensation (DIC) rates for dependent parents.

At the present time there are 1,993 constituents of mine who will be greatly benefited by this legislation. Since DIC benefits for dependents parents are not automatically indexed by law, Congress is doing justice to the needy parents by adjusting the rates of compensation. It is a well intended piece of legislation and I believe it should be enacted into law. It is precisely in these difficult times that such increases are becoming necessary.

However I think proper at this time to mention that the Senate passed on July 31, 1978, its version of H.R. 10173—originally S. 2384—the Veterans' and Survivors' Pension Improvement Act. Section 306 of the Senate version provides that the improved pension benefits may not be paid to any person residing outside the 50 States and the District of Columbia. This is a blatant case of discrimination against the veterans living in Puerto Rico as well as a dangerous precedent for all other veterans living in domestic areas outside the mainland United States.

Furthermore, section 201 of the bill provides also that the improved dependency and indemnity compensation for service-connected deaths shall not be paid to any parent residing outside the 50 States and the District of Columbia. Instead of giving the equal and just treatment to all needy parents, as the House Committee on Veterans' Affairs did in H.R. 11887, the Senate opted for the establishment of categories by reason of geography. This is also a dangerous precedent which I believe should be stopped now that we are on time.

I am the sole representative in Congress of 3.5 million American citizens living in Puerto Rico. I was never consulted or invited by the Senate Committee on Veterans' Affairs nor even requested to express my points of view on this subject matter. I was shocked to see the exclusion of Puerto Rican veterans and needy parents from the Senate bill.

The report on the Senate bill does not even recognize or take into account the fact that Puerto Ricans are U.S. citizens subject to the same draft laws as their counterparts in the mainland.

I am amazed that the Senate committee even dared to make recommendations to the Senate without a fair assessment of pertinent and available data and statistics about Puerto Rico. Facts available on Puerto Rico like population, average persons per family, birth and death rates, per capita income, families under poverty levels, consumers' price index, rate of inflation, and the level of unemployment have been ignored.

The report indicates that the restriction is considered advisable because the need-based income maintenance benefits under the improved pension program are keyed to poverty guidelines based on economic data and the rise in the Consumers' Price Index in the United States.

If the House Committee on Veterans' Affairs or the conferees believe that this matter should be further studied I have no objection. However, the lack of a study at this time should not be the basis for leaving Puerto Rican veterans and needy parents behind in this reform and excluding them blindly from the improved pension program. If there is going to be a study it should be expanded to include the 50 States and the District of Columbia. The cost of living in Hawaii, Alaska, Mississippi, or in any other particular State, might be completely different in one area from the other. If there is uniformity in the pensions and dependency and indemnity compensation program for service connected death for the 50 States, including Hawaii, Alaska, and the District of Columbia why should Puerto Rico be left out as if we were not a domestic area?

Hawaii, Alaska, and Puerto Rico are outlying domestic areas and there is no reason to include two and exclude one of these areas from the bill. I will venture to say that if an objective study is made, the veterans and needy parents living in Puerto Rico will be entitled to a higher pension and compensation in order to maintain a decent standard of living. As you probably know, the U.S. Civil Service Commission has prescribed cost of living allowances for Federal employees in Puerto Rico ranging from 5 to 12.5 percent based on comparisons with cost-of-living indexes in the Washington, D.C., area.

The hasty action taken by the Senate is unprecedented and unwarranted. I trust the House conferees will protect our Puerto Rican veterans and needy parents by supporting the House version of H.R. 10173 and H.R. 11887 and not receding to the Senate.

The 14,000 plus veterans and the 1,993 needy parents living in Puerto Rico, who will be deprived of the benefits of these improved programs, will appreciate the House support in defeating the Senate's version. The veterans of Puerto Rico served gallantly and with pride when they were needed. They faced the same bullets and suffered the same in the name of democracy as their fellow American citizens in the mainland. Our youth in Puerto Rico will be called to arms should there be a need to defend our Nation in the future just as other American youngsters. They should not be humiliated by knowing beforehand that should they be eligible in the future for a pension as a veteran the benefits provided to them or their parents are inferior while the risks to their lives and health in war will be the same.

H.R. 11887 as reported out by the House Committee on Veterans' Affairs has my support and endorsement and I urge you to vote for it.

I would also like to take this opportunity to commend the members of the House Veterans' Affairs Committee for their outstanding dedication on behalf of the veterans of this Nation. In particular I want to commend Chairmen ROBERTS and MONTGOMERY for the support they have given me in order to defeat the Senate's intent of discriminating against the Puerto Rican veterans and the needy parents.●

Mr. HAMMERSCHMIDT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The Clerk read the bill, as follows:

H.R. 11887

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 415 of title 38, United States Code, is amended—

(1) by amending the table in subsection (b)(1) to read as follows:

"The monthly rate of dependency and indemnity compensation shall be $161 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$800
.03	$800	1,000
.05	1,000	1,200
.06	1,200	1,400
.08	1,400	4,000";

(2) by striking out "$3,770" in subsection (b)(3) and inserting in lieu thereof $4,000";

(3) by amending the table in subsection (c)(1) to read as follows:

"The monthly rate of dependency and indemnity compensation shall be $113 reduced by—	For each $1 of annual income of such parent	
	Which is more than—	But not more than—
$0.00	0	$800
.02	$800	1,100
.02	1,100	1,900
.06	1,900	4,000";

(4) by striking out "$3,770" in subsection (c)(3) and inserting in lieu thereof "$4,000";

(5) by amending the table in subsection (d)(1) to read as follows:

"The montly rate of dependency and indemnity compensation shall be $108 reduced by—	For each $1 of the total combined annual income	
	Which is more than—	But not more than—
$0.00	0	$1,000
.02	$1,000	1,900
.03	1,900	2,700
.04	2,700	3,500
.05	3,500	5,370";

(6) by striking out "$5,070" in subsection (d)(3) and inserting in lieu thereof "$5,370"; and

(7) by striking out "79" in subsection (h) and inserting in lieu thereof "$84".

SEC. 2. Section 322(b) of title 38, United States Code is amended by striking out "$79" and inserting in lieu thereof "$84".

SEC. 3. The amendments made by this Act shall take effect January 1, 1979.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WELL DONE, Mr. PRESIDENT. CONGRATULATIONS MR. BEGIN AND MR. SADAT

(Mr. BOLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOLAND. Mr. Speaker, since September 5, the world has been waiting for some indication of how the Camp David summit was progressing. Last night we received news of progress toward a real peace in the Middle East that far exceeded the expectations of most observers.

The Camp David accords, which were signed at the White House last night, establish a framework for negotiations which will hopefully result in a formal peace treaty between Egypt and Israel being signed. The hope for peace, which was so dim just 2 weeks ago is now many times brighter.

The world owes a debt of gratitude to President Carter, Prime Minister Begin and President Sadat. Mr. Begin and Mr. Sadat were willing to put the bitterness caused by 30 years of bloodshed and hostility behind them in their search for fair and just solutions to the differences that have separated their peoples. They are statesmen and leaders in the very best sense of those terms.

Mr. Speaker, I believe that the efforts of President Carter deserve our special thanks and praise. He convened the summit at a time when the risks of failure were great. By holding the talks at Camp David, in what amounted to almost a total news blackout, he managed to get away from diplomatic business as usual. Over 13 of what must have been exceedingly trying days he kept the negotiating process in motion. Those traits of patience and perseverance, which are so much a part of his personality, must have served him well at Camp David. This was very much his summit in concept and in execution and he has every right to feel proud at the results. I know I speak for many Members of Congress, of both political parties, Mr. Speaker, when I say, "Good work, Mr. President."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated, and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

MEDICARE AMENDMENTS OF 1978

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13097) to amend certain provisions of title XVIII of the Social Security Act as they relate to the medicare program established by a part A of such title, as amended.

The Clerk read as follows:

H.R. 13097

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Medicare Amendments of 1978".

HOME HEALTH SERVICES

SEC. 2. (a) Section 1811 of the Social Security Act is amended by striking out "and related post-hospital services" and inserting in lieu thereof ", related post-hospital, home health, and community mental health services".

(b) Section 1812(a)(3) of such Act is amended to read as follows:

"(3) home health services; and".

(c) Section 1812(d) of such Act is repealed.

(d) Section 1812(e) of such Act is amended—

(1) by striking out "(b), (c), and (d)" and inserting in lieu thereof "(b) and (c)"; and

(2) by striking out "post-hospital extended care services, and post-hospital home health services" and inserting in lieu thereof "and post-hospital extended care services".

(e) Sections 1814(a) and 1835(a) of such Act are amended by adding the following new sentence at the end of each such section: "With respect to the physician certification required by paragraph (2) for home health services furnished to any individual by a home health agency (other than an agency which is a governmental entity) and with respect to the establishment and review of a plan for such services, the Secretary shall prescribe regulations which shall become effective no later than June 30, 1979, and which prohibit a physician who has a significant ownership interest in, or a significant financial or contractual relationship with, such home health agency from performing such certification and from establishing or reviewing such plan.".

(f) Section 1814(a)(2)(D) of such Act is amended—

(1) by striking out "post-hospital home health services" and inserting in lieu thereof "home health services"; and

(2) by striking out ", for any of the conditions" and all that follows through "extended care services".

(g) Section 1832 (a)(2)(A) of such Act is amended by striking out "for up to 100 visits during a calendar year".

(h) Section 1833(b) of such Act is amended—

(1) by striking out "and" at the end of clause (1) in the first sentence; and

(2) by striking out the period at the end of the first sentence and inserting in lieu thereof the following: ", and (3) such deductible shall not apply with respect to home health services.".

(i) Section 1834 of such Act is repealed.

(j) Section 1861(e) of such Act is amended—

(1) by striking out "subsections (l) and (n)" in the material preceding paragraph (1) and inserting in lieu thereof "subsection (l)"; and

(2) by striking out "subsections (l) and (n)" in the third sentence and inserting in lieu thereof "subsection (l)".

(k) Section 1861(m)(4) of such Act is amended by inserting the following before the semicolon: "who has successfully completed a training program approved by the Secretary".

(l) Section 1861(n) of such Act is repealed.

(m) Section 1861(o) of such Act is amended—

(1) by striking out "and" at the end of paragraph (5), by inserting "and" at the end of paragraph (6), and by adding the following new paragraph after paragraph (6):

"(7) meets such additional requirements as the Secretary finds necessary for the effective and efficient operation of the program;"; and

(2) by striking out "except that" the first time it appears in the material following paragraph (6) and all that follows through "regulations; and".

(n) Section 1816(e) of such Act is amended—

(1) by inserting "(subject to the provisions of paragraph (4))" after "the Secretary may" in paragraph (2); and

(2) by adding the following new paragraph at the end thereof:

"(4) Notwithstanding subsection (a) and (d) and paragraphs (1), (2), and (3) of this subsection, the Secretary shall designate regional agencies or organizations which have entered into an agreement with him under this section to perform functions under such agreement with respect to home health agencies (as defined in section 1861(o)) in the region.".

(o) Section 226(c)(1) of such Act is amended—

(1) by striking out "and post-hospital home health services" and inserting in lieu thereof "and home health services"; and

(2) by striking out "or post-hospital home health services" in clause (B).

(p) Section 7(d)(1) of the Railroad Retirement Act of 1974 is amended by striking out "posthospital home health services" and inserting in lieu thereof "home health services".

(q)(1) The amendments made by this section shall become effective with respect to services furnished on or after July 1, 1979; except that the amendments made by subsections (m) and (n) shall become effective on the date of the enactment of this Act.

(2) The Secretary shall take administrative action to assure that improvements, in accordance with the amendment made by subsection (m)(1), will be made with respect to home health services by June 30, 1979.

ELIMINATION OF SECOND WAITING PERIOD FOR REENTITLED DISABILITY BENEFICIARIES

SEC. 3. (a)(1)(A) Section 226(b)(2) of the Social Security Act is amended by striking out "consecutive" in clauses (A) and (B).

(B) Section 226(b) of such Act is further amended by striking out "consecutive" in the matter following paragraph (2).

(2) Section 1811 of such Act is amended by striking out "consecutive".

(3) Section 1837(g)(1) of such Act is amended by striking out "consecutive".

(4) Section 7(d)(2)(ii) of the Railroad Retirement Act of 1974 is amended by striking out "consecutive" each place it appears.

(b) Section 226 of the Social Security Act is amended by redesignating subsection (f) as subsection (g), and by inserting after subsection (e) the following new subsection:

"(f) For purposes of subsection (b) (and for purposes of section 1837(g)(1) of this Act and section 7(d)(2)(ii) of the Railroad Retirement Act of 1974), the 24 months for which an individual has to have been entitled to specified monthly benefits on the basis of disability in order to become entitled to hospital insurance benefits on such basis effective with any particular month (or to be deemed to have enrolled in the supplementary medical insurance program, on the basis of such entitlement, by reason of section 1837(f)), where such individual had been entitled to specified monthly benefits of the same type during a previous period which terminated—

"(1) more than 60 months before that particular month in any case where such monthly benefits were of the type specified in clause (A)(i) or (B) of subsection (b), or

"(2) more than 84 months before that particular month in any case where such monthly benefits were of the type specified in clause (A)(ii) or (A)(iii) of such subsection,

shall not include any month which occurred during such previous period.".

(c) The amendments made by this section shall apply with respect to hospital insurance or supplementary medical insurance benefits for months after the month in which this Act is enacted.

RECIPROCAL AGREEMENTS FOR SERVICES COVERED OUTSIDE THE UNITED STATES

SEC. 4. Title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

"INTERNATIONAL AGREEMENTS

"SEC. 1882. (a) The President is authorized to enter into agreements establishing reciprocal arrangements between the programs established by this title and the program of any foreign country under which similar services are provided directly to entitled individuals or under which insurance is provide to meet all or part of the expenses of entitled individuals for such services.

"(b) Any agreement establishing such a reciprocal arrangement pursuant to this section shall specify—

"(1) the nature and extent of payment to be made to or on behalf of (A) individuals entitled to benefits under this title for services covered under such title when such individuals are present in the foreign country and receive such services from persons who are authorized under the program of that foreign country to furnish them, and (B) individuals entitled to benefits under the program of that foreign country who receive such services in the United States from persons meeting such requirements or conditions as are required under such title;

"(2) such limitations on the nature and duration of services for which payment may be made in one country to individuals entitled to benefits under the program of the other country, as the President deems appropriate, except that no agreement shall authorize any individual to receive benefits in the United States on a reciprocal basis in excess of those provided for individuals entitled to benefits under this title;

"(3) such limitations on entitlement of individuals to benefits on a reciprocal basis under an agreement in the United States and in the foreign country, as the President deems appropriate, except that no agreement shall provide entitlement to benefits under this title in the United States for an individual who does not meet the requirements for entitlement applicable under such title with respect to age or medical condition;

"(4) the methods by which the cost of providing services to persons on a reciprocal basis shall be shared equitably by the persons receiving such services and by the respective programs of the United States and the foreign country; and

"(5) such other provisions, not inconsistent with this section, as the President deems appropriate.

"(c) The Secretary shall make rules and regulations and establish procedures which are reasonable and necessary to implement and administer any agreement which has been entered into in accordance with this section.

"(d) Pending the conclusion of an agreement under this section with a foreign country, the Secretary is authorized to enter into interim arrangements with any hospital in that country which is accredited by the Joint Commission on Accreditation of Hospitals, or such other hospitals as the Secretary finds meet health and safety standards equivalent to those required under this title for hospitals in the United States and which are accredited in the foreign country concerned, under which payment may be made for inpatient hospital services, as defined in section 1861, to or on behalf of an individual who is entitled to such benefits under part A of this title. For purposes of making payment under such an interim arrangement, the Secretary shall use whichever of the methods provided for in section 1814(f) he finds appropriate, except that any payments made under part A of this title to the individual or to the hospital shall be reduced to the extent that the individual has no legal obligation to pay for any items or services furnished to such individual by reason of the laws of the foreign country in which the hospital is located, or such individual's membership in an insurance plan that provides for payment for such items or services.".

DENTISTS' SERVICES

SEC. 5. (a) Clause (2) of the first sentence of section 1861(r) of the social Security Act is amended to read as follows: "(2) a doctor of dental surgery or of dental medicine who is legally authorized to practice dentistry by the State in which he performs such function and who is acting within the scope of his license when he performs such functions,".

(b) Section 1814(a)(2)(E) of such Act is amended to read as follows:

"(E) in the case of inpatient hospital services in connection with the care, treatment, filling, removal, or replacement of teeth or structures directly supporting teeth, the individual because of his underlying medical condition and clinical status or because of the severity of the dental procedure, requires hospitalization in connection with the provision of such services; or".

(c) Section 1862(a)(12) of such Act is amended by inserting "or because of the severity of the dental procedure" after "clinical status".

TREATMENT OF PLANTAR WARTS

SEC. 6. Section 1862(a)(13)(C) of the Social Security Act is amended by striking out ", warts,".

COMMUNITY MENTAL HEALTH CENTERS

SEC. 7. (a) Section 1812(a) of the Social Security Act is amended by striking out "and" at the end of paragraph (2) and by adding the following new paragraph at the end thereof:

"(4) community mental health center services for—

"(A) up to 10 outpatient visits (as defined by the Secretary) during a calendar year; and

"(B) up to 60 partial hospitalization visits (as defined by the Secretary) during a calendar year."

(b) Section 1813(c) of such Act is amended by adding the following new sentence at the end thereof: "In determining the 190-day limit with respect to any individual under subsection (b)(3), the Secretary shall include 1 day for every 4 partial hospitalization visits to a community mental health center by such individual.".

(c) Section 1812 of such Act is amended by adding the following new subsection at the end thereof:

"(g) Payment under this part may be made for community mental health center services furnished an individual for only—

"(1) up to 10 outpatient visits to such a center during any calendar year; and

"(2) up to 60 partial hospitalization visits to such a center during any calendar year, if the individual has not amended the limitation on inpatient psychiatric hospital services described in subsection (b)(3).

Services shall be taken into account for purposes of paragraphs (1) and (2) and the second sentence of subsection (c) only if payment is or would be, except for this section or the failure to comply with the request and certification requirements of or under section 1814(a), made with respect to such services under this part.".

(d) Section 1814(a)(2) of such Act is amended by striking out "or" at the end of subparagraph (d) and by adding the following new subparagraph at the end thereof:

"(F) in the case of community mental health center services, (i) such services are or were medically necessary, (ii) a plan for furnishing such services has been established by a physician (as defined in section 1861(r)(1)) or other mental health professional (as defined for this purpose in regulations by the Secretary) and is periodically reviewed and approved by a physician, (iii) such services are or were furnished while the individual is or was under the care of a physician, and (iv) in the case of services provided with respect to a partial hospitalization visit, the individual would otherwise require or have required (in the professional judgment of such physician) inpatient psychiatric services;".

(e) Section 1814(a) of such Act is amended by striking out "and" at the end of paragraph (6), by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and", and by adding the following new paragraph at the end thereof:

"(8) with respect to services furnished by a community mental health center in connection with a partial hospitalization visit, such center obtains a statement (pursuant to regulations prescribed by the Secretary), in writing and signed by the individual or his representative, indicating that the individual understands that 4 partial hospitalization visits will reduce by 1 day the number of days of inpatient psychiatric hospital services to which such individual is entitled during his lifetime under this part.".

(f) 1814(b) of such Act is amended by adding the following new paragraph at the end thereof:

"(2) The amount paid with respect to community mental health center services shall be equal to the costs which are reasonable and related to the cost of providing such services or which are based on such other tests of reasonableness as the Secretary may prescribe in regulations, including those authorized under section 1861(v)(1)(A)."

(g) Section 1861(l) of such Act is amended by inserting "or community mental health center" after "nursing facility" each time it appears therein.

(h) Section 1861(u) of such Act is amended by inserting "community mental health center," after "home health agency,".

(i) Section 1861(w)(1) of such Act is amended by inserting "community mental health center,", after "nursing facility,".

(j) Section 1861 of such Act is amended by adding the following new subsection at the end thereof:

"Community Mental Health Center Services

"(bb)(1) The term 'community mental health center services' means the following items and services furnished to an individual as an outpatient by a community mental health center or (to the extent permitted in regulations by the Secretary) by others under arrangements with them made by the center—

"(A) active diagnostic and therapeutic services furnished by qualified mental health professionals (as defined by the Secretary in regulations), including psychologists and psychiatric social workers;

"(B) drugs and biologicals which cannot, as determined in accordance with regulations, be self-administered; and

"(C) such items and supplies as are ordinarily furnished to outpatients by community mental health centers in connection with an active mental health program of diagnosis and treatment,

excluding, however, any item of service if it would not be included under subsection (b) if furnished to an inpatient of a hospital.

"(2) The term 'community mental health center' means a facility which—

"(A) meets the definition of a community mental health center under section 201 of the Community Mental Health Centers Act and the regulations prescribed thereunder;

"(B) is primarily engaged in providing outpatient mental health services;

"(C) has a requirement that all mental health services are provided under the supervision of a physician;

"(D) meets such requirements as the Secretary may prescribe with respect to staffing requirements and qualifications of the staff;

"(E) maintains clinical records on all patients;

"(F) has in effect a utilization review plan in accordance with regulations prescribed by the Secretary;

"(G) has in effect an agreement with a hospital pursuant to subsection (1);

"(H) in the case of a community mental health center in any State in which State or applicable local law provides for the licensing of community mental health centers, is licensed pursuant to such law;

"(I) has appropriate procedures or arrangements (in compliance with applicable State and Federal law) for storing, administering, and dispensing drugs and biologicals; and

"(J) meets such other conditions of participation as the Secretary may find necessary in the interest of the health and safety of individuals who are furnished services by such center.".

(k) Section 1832(a)(2)(B)(i) of such Act is amended by striking out "or" at the end of subclause (I), by striking out "and" at the end of subclause (II) and inserting in lieu thereof "or", and by adding the following new subclause after subclause (II):

"(III) a physician to a patient in a community mental health center; and".

(l) Section 1864(a) of such Act is amended—

(1) by inserting ", or whether a facility therein is a community mental health center as defined in section 1861(bb)(2)" before the period at the end of the first sentence;

(2) by inserting "or a community mental health center" after "home health agency" in the second sentence; and

(3) by inserting "community mental health center," after "laboratory," each time it appears in the fifth sentence.

(m) Section 226(c)(1) of such Act is amended by inserting "community mental health center services" after "post-hospital extended care services" the first time it appears therein.

(n) Section 7(d)(1) of the Railroad Retirement Act of 1974 is amended by inserting "community mental health center services," after "inpatient hospital services.".

(o) The amendments made by this section shall become effective with respect to a community mental health center's first accounting period which begins on or after March 1, 1979.

COMPREHENSIVE OUTPATIENT REHABILITATION SERVICES

SEC. 8. (a) Section 1832(a)(1) of the Social Security Act is amended by striking out "subparagraphs (B) and (D)" and inserting in lieu thereof "subparagraphs (B), (D), and (E)".

(b) Section 1832(a)(2) of such Act is amended by striking out "and" at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof "; and", and by inserting the following new subparagraph (D):

"(E) comprehensive outpatient rehabilitation services.".

(c) Section 1835(a)(2) of such Act is amended by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof "; and", and by inserting the following new subparagraph after subparagraph (D):

"(E) in the case of comprehensive outpatient rehabilitation services, (i) such services are or were required because the individual needed skilled rehabilitation services, (ii) a plan for furnishing such services has been established and is periodically reviewed by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician.".

(d) Section 1861(u) of such Act is amended by inserting "comprehensive outpatient rehabilitation of facility," immediately after "skilled nursing facility."

(e) Section 1861(z) of such Act is amended by striking out "extended care facility," and inserting in lieu thereof "skilled nursing facility, comprehensive outpatient rehabilitation facility,".

(f) Section 1861 of such Act, as amended by section 7 of this Act, is further amended by adding the following new subsection at the end thereof:

"Comprehensive Outpatient Rehabilitation Services

"(cc)(1) The term "comprehensive outpatient rehabilitation services' means the following items and services furnished by a physician or other qualified professional personnel (as defined in regulations by the Secretary) to an individual who is an outpatient of a comprehensive outpatient rehabilitation facility under a plan (for furnishing such items and services to such individual) established and periodically reviewed by a physician—

"(A) physicians' services;

"(B) physical therapy, occupational therapy, speech pathology services, and respiratory therapy;

"(C) prosthetic and orthotic devices, including testing, fitting, or training in the use of prosthetic and orthotic devices;

"(D) social and psychological services;

"(E) nursing care provided by or under the supervision of a registered professional nurse;

"(F) drugs and biologicals which cannot, as determined in accordance with regulations, be self-administered;

"(G) supplies, appliances, and equipment, including the purchase or rental of equipment; and

"(H) such other items and services as are medically necessary for the rehabilitation of the patient and are ordinarily furnished by comprehensive outpatient rehabilitation facilities,

excluding, however, any item or service if it would not be included under subsection (b) if furnished to an outpatient of a hospital.

"(2) The term 'comprehensive outpatient rehabilitation facility' means a public or private institution which—

"(A) is primarily engaged in providing (by or under the supervision of physicians) diagnostic, therapeutic, and restorative services to outpatients for the rehabilitation of injured, or sick persons;

"(B) provides at least the following comprehensive outpatient rehabilitation services: (i) physicians' services (rendered by physicians, as defined in section 1861(r)(1), who are available at the facility on a full- or part-time basis); (ii) physical therapy; and (iii) social or psychological services;

"(C) maintains clinical records on all patients;

"(D) has policies established by a group of professional personnel (associated with the facility), including one or more physicians defined in subsection (r)(1) to govern the

comprehensive outpatient rehabilitation services it furnishes, and provides for the carrying out of such policies by a full- or part-time physician referred to in subparagraph (E)(i);

"(E) has a requirement that every patient must be under the care of a physician;

"(F) in the case of a facility in any State in which State or applicable local law provides for the licensing of facilities of this nature (i) is licensed pursuant to such law, or (ii) is approved by the agency of such State or locality, responsible for licensing facilities of this nature, as meeting the standard establishment for such licensing;

"(G) has in effect a utilization review plan in accordance with regulations prescribed by the Secretary;

"(H) has in effect an overall plan and budget that meets the requirements of subsection (z); and

"(I) meets such other conditions of participation as the Secretary may find necessary in the interest of the health and safety of individuals who are furnished services by such facility, including conditions concerning qualifications of personnel in these facilities."

(g) Section 1861 of such Act is amended by striking out "and (o)(6)" in the first sentence and inserting in lieu thereof "(o)(6), and (oo)(2)(I)".

(h) Section 1864(a) of such Act is amended—

(1) by inserting "or a comprehensive outpatient rehabilitation facility as defined in section 1861(oo)(2)" after "section 1861(aa)(3)" in the first sentence; and

(2) by inserting "comprehensive outpatient rehabilitation facility," after "rural health clinic," each time it appears in the second and fifth sentences.

(i) The amendments made by this section shall become effective with respect to a comprehensive outpatient rehabilitation facility's first accounting period which begins on or after March 1, 1979.

OPTOMETRISTS' SERVICES

SEC. 9. (a) Clause (4) of the first sentence of section 1861(r) of the Social Security Act is amended by striking out "but only with respect to establishing the necessity for prosthetic lenses," and inserting in lieu thereof "but only with respect to services related to the treatment of aphakia,".

(b) The Secretary of Health, Education, and Welfare shall submit to the Congress by June 1, 1979, legislative recommendations with respect to reimbursement under title XVIII of the Social Security Act for services furnished by optometrists in connection with the treatment of cataracts and for such other services which they are legally authorized to perform.

DEMONSTRATION PROJECTS FOR HOSPICE SERVICES

SEC. 10. (a) The Secretary of Health, Education, and Welfare shall develop and carry out demonstration projects, as authorized in accordance with section 222 of Public Law 92-603, to permit reimbursement under title XVIII of the Social Security Act for services provided by hospices offering comprehensive health services.

(b) The demonstration projects developed under subsection (a) shall be of sufficient scope to allow the Secretary to evaluate—

(1) the types of services and levels of care provided by hospices in various settings;

(2) whether hospice services in various settings are an alternative to traditional services or an additional set of services;

(3) the costs of hospices' services;

(4) the appropriate standards for assuring quality care; and

(5) mechanisms for utilization control.

(c) The Secretary shall submit to the Congress, no later than January 1, 1981, a detailed report on the demonstration projects described in subsection (b). Such report shall include any recommendations for legislative changes in title XVIII of the Social Security Act which the Secretary finds necessary or desirable as a result of carrying out such demonstration projects.

STUDY COVERAGE FOR ORTHOPEDIC SHOES

SEC. 11. The Secretary of Health, Education, and Welfare shall, in consultation with appropriate professional organizations, conduct a comprehensive study of methods for providing coverage under part B of title XVIII of the Social Security Act for orthopedic shoes for individuals with disabling or deforming conditions who require special fitting considerations to help protect against increasing disability or serious medical complications or who require special shoes in conjunction with the use of an orthosis or foot support. The Secretary shall submit to the Congress, no later than January 1, 1980, a detailed report on the findings as he finds appropriate with respect to the utilization, cost control, quality of care, and equitable and efficient administration of such an extension of coverage.

ANTIGENS

SEC. 12. Section 1861(s)(2) of the Social Security Act is amended by striking out "and" at the end of subparagraph (E), by inserting "and" at the end of subparagraph (F), and by inserting the following new subparagraph after subparagraph (F):

"(G) antigens (subject to quantity limitations prescribed in regulations by the Secretary) prepared by a physician, as defined in section 1861(r)(1), for a particular patient, including antigens so prepared which are forwarded to another qualified person (including a rural health clinic) for administration to such patient, from time to time, by or under the supervision of another such physician;".

PAYMENT WHERE BENEFICIARY NOT AT FAULT

SEC. 13. Section 1879 of the Social Security Act is amended by adding the following new subsection at the end thereof:

"(e) Where payment for inpatient hospital services or extended care services may not be made under part A of this title on behalf of an individual entitled to benefits under such part solely because of an unintentional, inadvertent, or erroneous action with respect to the transfer of such individual from a hospital or skilled nursing facility that meets the requirements of sections 1861(e) or (j) by such a provider of services acting in good faith in accordance with the advice of a utilization review committee, professional standards review organization, or fiscal intermediary, or on the basis of a clearly erroneous administrative decision by a provider of services, the Secretary may take such action with respect to the payment of such benefits as he determines may be necessary to correct the effects of such unintentional, inadvertent, or erroneous action.".

FLEXIBILITY IN APPLICATION OF STANDARDS TO RURAL HOSPITALS

SEC. 14. Section 1861(e) of the Social Security Act is amended by adding the following new sentence at the end thereof: "The term 'hospital' also includes a facility of fifty beds or less which is located in an area determined by the Secretary to meet the definition relating to a rural area described in subparagraph (A) of paragraph (5) of this subsection and which meets the other requirements of this subsection, except that—

"(A) with respect to the requirements for nursing services applicable after December 31, 1978, such requirements shall provide for temporary waiver of the requirements, for such period as the Secretary deems appropriate, where (i) the facility's failure to fully comply with the requirements is attributable to a temporary shortage of qualified nursing personnel in the area in which the facility is located, (ii) a registered professional nurse is present on the premises to render or supervise the nursing service provided during at least the regular daytime shift, and (iii) the Secretary determines that the employment of such nursing personnel as are available to the facility during such temporary period will not adversely affect the health and safety of patients;

"(B) with respect to the health and safety requirements promulgated under paragraph (9), such requirements shall be applied by the Secretary to a facility herein defined in such manner as to assure that personnel requirements take into account the availability of technical personnel and the educational opportunities for technical personnel in the area in which such facility is located, and the scope of services rendered by such facility; and the Secretary, by regulations, shall provide for the continued participation of such a facility where such personnel requirements are not fully met, for such period as the Secretary determines that (i) the facility is making good faith efforts to fully comply with the personnel requirements, and (ii) the employment by the facility of such personnel as are available to the facility will not adversely affect the health and safety of patients; and

"(C) with respect to the fire and safety requirements promulgated under paragraph (9), the Secretary may (i) waive, for such period as he deems appropriate, specific provisions of such requirements which if rigidly applied would result in unreasonable hardship for such a facility and which, if not applied, would not jeopardize the health and safety of patients, and (ii) may accept a facility's compliance with all applicable State codes relating to fire and safety in lieu of compliance with the fire and safety requirements promulgated under paragraph (9), if he determines that such State has in effect fire and safety codes, imposed by State law, which adequately protect patients.".

CERTIFICATION AND UTILIZATION REVIEW BY PODIATRISTS

SEC. 15. (a) Section 1861(r)(3) of the Social Security Act is amended to read as follows: "(3) a doctor of podiatry or surgical chiropody for the purpose of subsection (a) of this section but only (unless clause (1) of this subsection also applies to him) with respect to functions which he is legally authorized to perform as such by the State in which he performs them; and for the purposes of subsections (k) and (m) of this section and sections 1814(a) and 1835 but only if his performance of functions under subsections (k) and (m) and sections 1814 (a) and 1835 is consistent with the policy of the institution or agency with respect to which he performs them and with the functions which he is legally authorized to perform,".

(b) Section 1861(k)(2)(A) of such Act is amended by inserting after "two or more physicians" the following: "(of which at least two must be physicians described in subsection 1861(r)(1) of this section".

PHYSICIAN TREATMENT PLAN FOR SPEECH PATHOLOGY

SEC. 16. Section 1835(a)(2)(D)(ii) of the Social Security Act is amended by inserting after "established" the following: "by a physician or by the speech pathologist providing such services".

PAYMENT FOR PHYSICIANS' SERVICES WHERE BENEFICIARY HAS DIED

SEC. 17. (a) Section 1870(f) of the Social Security Act is amended to read as follows:

"(f) If an individual who received medical and other health services for which payment may be made under section 1832 (a)(1) dies, and no assignment of the right to payment

for such services was made by such individual before his death, and payment for such services has not been made—

"(1) if the person or persons who provided the services agree that the reasonable charge is the full charge for the services, payment for such services shall be made to such person or persons, and

"(2) if the person or persons who provided the services do not agree that the reasonable charge is the full charge for the services, payment for such services shall be made on the basis of an itemized bill to the person who has agreed to assume the legal obligation to make payment for such services and files a request for payment (with such accompanying evidence of such legal obligation as may be required in regulations),

but only in such amount and subject to such conditions as would be applicable if the individual who received the services had not died.".

(b) The amendment made by this section shall apply only to claims filed on or after the date of the enactment of this Act.

PRESUMED COVERAGE PROVISIONS

SEC. 18. (a) Section 1814 of the Social Security Act is amended by striking out subsections (h) and (i) and by redesignating subsection (j) as subsection (h).

(b) Section 1814(c) of such Act is amended by striking out "subsection (j)" and inserting in lieu thereof "subsection (h)".

PAYMENT TO PROVIDERS OF SERVICES

SEC. 19. (a) Section 1814(b) of the Social Security Act is amended by striking out everything following "section 1813," and inserting in lieu thereof the following: "be, except as provided by paragraph (2), the reasonable cost of such services, as determined under section 1861(v) and as further limited by section 1881(b)(2)(B)."

(b) Section 1833(a) of such Act is amended by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2) in the case of services described in section 1832(a)(2) (except those services described in subparagraphs (D) and (E) of section 1832(a)(2))—

"(A) with respect to home health services, the reasonable cost of such services, as determined under section 1861(v);

"(B) with respect to other services (except those described in subparagraph (C) of this paragraph), the reasonable costs of such services, as so determined, less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A), but in no case may such amount exceed 80 percent of such costs;

"(C) with respect to services described in the second sentence of section 1861(p), 80 percent of the reasonable charges for such services;

"(3) in the case of services described in subparagraphs (D) and (E) of section 1832 (a)(2), the costs which are reasonable and related to the cost of furnishing such services or which are based on such other tests of reasonableness as the Secretary may prescribe in regulations, including those authorized under section 1861(v)(1)(A), less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A), but in no case may such amount exceed 80 percent of such costs; and

"(4) with respect to expenses incurred for physician services in a community mental health center, an amount determined in accordance with section 1814(b)(2).".

(c) Section 1833(c) of such Act is amended by striking out the period at the end thereof and inserting in lieu thereof a comma, and by adding the following after paragraph (2): "except that the provisions of this subsection shall not apply to expenses incurred by an individual as a patient of a community mental health center.".

(b) The amendments made by this section shall apply to services furnished on or after January 1, 1979.

LIMIT ON PREMIUM INCREASES DUE TO LATE ENROLLMENT

SEC. 20. The first sentence of section 1839 (d) of the Social Security Act is amended by inserting the following immediately before the period at the end thereof: "; except that in no case may the total amount of such increase exceed 30 percent of such monthly premium so determined".

ENROLLMENT IN PART B

SEC. 21. Section 1837(b) of the Social Security Act is repealed.

CHIROPRACTOR SERVICES

SEC. 22. Section 1861(r)(5) of the Social Security Act is amended by striking out "demonstrated by X-ray to exist" and inserting in lieu thereof "demonstrated by X-ray or other chiropractic clinical findings to exist".

INPATIENT PSYCHOLOGISTS' SERVICES

SEC. 23. (a) Section 1861(r) of the Social Security Act is amended by striking out "or" at the end of clauses (3) and (4) of the first sentence and by inserting the following before the period at the end of the first sentence: ", or (6) a clinical psychologist who is licensed as such by the State (or in a State which does not license clinical psychologists as such, is legally authorized to perform the services of a clinical psychologist in the jurisdiction in which he performs such services) and who meets uniform minimum standards prescribed by the Secretary, but only for the purpose of section 1861(s)(1) and only with respect to the treatment of an individual who is an inpatient of a hospital (as defined in subsection (e) of (f) of this section) and is receiving inpatient hospital services for which payment may be made pursuant to section 1812 and only with respect to services which he is legally authorized to perform by the State or jurisdiction in which such services are furnished".

(b) Section 1861(b) of such Act is amended by striking out "or" at the end of paragraph (5), by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; or", and by adding the following new paragraph at the end thereof:

"(8) a physician described in 1861(r)(6).".

DEMONSTRATION PROJECT FOR SERVICES OF CLINICAL SOCIAL WORKERS

SEC. 24. (a) The Secretary of Health, Education, and Welfare shall develop and carry out demonstration projects, as authorized in accordance with section 222 of Public Law 92-603, to determine the administrative, financial, and other aspects of making the services of clinical social workers more generally available as part of the benefits received under title XVIII of the Social Security Act.

(b) The Secretary shall submit to the Congress, no later than twenty-four months following the date of enactment of this Act, a detailed report on the demonstration projects conducted under this section. Such report shall include any recommendations for legislative changes in title XVIII of the Social Security Act which the Secretary finds necessary or desirable as a result of carrying out such demonstration projects.

The SPEAKER pro tempore. Is a second demanded?

Mr. DUNCAN of Tennessee. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. ROSTENKOWSKI) will be recognized for 20 minutes and the gentleman from Tennessee (Mr. DUNCAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 13097, as reported by the Committee on Ways and Means, would make a number of benefit and administrative improvements in the medicare program.

This bill is the result of lengthy and careful deliberations by the Committee on Ways and Means. We knew when we first took up consideration of legislation to amend the medicare program that there were any number of popular benefit improvements which, if enacted, would cost the program billions of dollars. However, I believe the committee acted in a most prudent manner, setting a strict limit of $100 million on the increase in medicare outlays for fiscal year 1979. As you know, this was the amount approved in both the congressional budget resolutions for fiscal year 1979.

It was not easy working within this limitation. Difficult decisions were made at both the subcommittee and full committee levels. I would want to make clear that the failure to include a particular provision or benefit improvement in the bill does not mean that an adverse judgment was made about the merits of that provision. Rather, because of the severe budgetary limitations, such a decision often represented a choice between benefit improvements that should be included in the program at this time and benefit improvements that might be more appropriately considered at a later date.

The provisions included in H.R. 13097, as amended, represent solutions to problems which have come to the attention of the committee in a variety of ways. A number of the provisions in the bill result from issues raised during the committee's public hearings and oversight work on the medicare program. Other problems were brought to our attention by letters from concerned beneficiaries. An important source of the provisions included in this legislation were the medicare bills introduced by my colleagues in the House and problems resulting from their office case work which were brought to the attention of the committee.

Consequently, I believe that the development of H.R. 13097, as amended, represented a process of sifting through all possible amendments to the medicare program in order to determine those low cost benefit improvements and noncontroversial administrative improvements that are appropriate at this time.

Among the benefit improvements are several which are designed to make the medicare home health benefit more effective so that, hopefully, more costly care in an institution can be avoided. The bill would provide for unlimited visits under parts A and B of medicare; eliminate the present 3-day requirement for prior hospitalization under part A; eliminate the $60 deductible with respect to home health services under part A; and elim-

inate the present requirement that proprietary home health agencies be licensed under State law in order to participate in medicare.

In addition to expansion of the home health benefit, the bill includes several provisions to assure the more efficient and economical administration of this benefit. For example, the Secretary is directed to establish additional standards and requirements for all home health agencies. Other related provisions would require home health aides to complete an appropriate training program; provide that the physician who performs the certification for home health services and establishes the plan of treatment could not have a substantial financial or ownership relationship with the home health agency; and directs the Secretary to designate regional intermediaries for home health agencies.

The bill would also provide for elimination of the second medicare waiting period for reentitled disability beneficiaries; coverage for services furnished in community mental health centers and outpatient rehabilitation facilities; elimination of the requirement that an X-ray be used in every case to demonstrate the need for chiropractors' services; and authorization for the President to enter into reciprocal agreements with other countries to provide hospital and medical services to medicare beneficiaries while outside the United States. Among other changes are benefits and administrative improvements relating to services furnished by dentists, optometrists, psychologists, podiatrists and speech pathologists. The Secretary is also directed to carry out a demonstration project for medicare reimbursement of Hospice services. The objective of a Hospice is to provide the unique medical and social services required by terminal patients and their families.

Several improvements in the general administration of the medicare program are provided for in the legislation. The Secretary would be directed to exercise flexibility in the application of medicare standards to rural hospitals. In addition, provisions of present law would be amended to eliminate financial hardships for survivors of deceased beneficiaries with respect to payment for physicians' services and the Secretary would be authorized to make payment where a beneficiary was erroneously placed in a nonparticipating part of an institution. Finally, a number of minor provisions in present medicare law which provide for limitations or penalties with respect to enrollment in the program have been modified or, where found to be no longer necessary, eliminated.

Mr. Speaker, I would strongly recommend that my colleagues support this legislation. Many have argued that we have not done enough for the elderly; others have suggested that even this limited expenditure is too much at a time when we are trying to hold the line on Federal expenditures. I feel that what we have done in this bill is not only responsible in a fiscal sense but imperative when one considers that there have been no increases in general medicare benefits for the aged and disabled since 1972.

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise in support of H.R. 13097, the Medicare Amendments of 1978. I believe the explanation of the gentleman from Illinois provides a firm, accurate basis and sound justification for approving the measure, and I expect this legislation will prove most beneficial.

In the first place, it provides for many additional benefits in important areas. It remedies many problems about which many constituents of mine, and of my colleagues, have been expressing concern for a number of years.

It would be difficult, and perhaps unnecessary, to point to any particular provisions of H.R. 13097 as being superior to the others; I certainly find that every provision serves a very important purpose. Yet, from a personal standpoint, I am well aware that certain important needs of our Nation's dentists, optometrists, podiatrists, psychologists and many other provider groups, and their patients, will be fulfilled by H.R. 13097, and am gratified that this bill was approved, without dissent, by our committee.

I am particularly pleased that home health care benefits under medicare will be greatly liberalized, and look forward to the development by HEW of meaningful standards, criteria and guidelines that will allow care of the elderly and chronically ill in settings other than institutions to continue to develop and expand.

I also want to emphasize that the value of many of the changes often referred to as "administrative" in nature should not be minimized. For example, it is most heartening that presently undesirable burdens, such as severe monetary penalties for elderly citizens who voluntarily enroll in part B of medicare late, but for valid reasons, will be reduced under H.R. 13097. Also, I expect that the increased flexibility that would be allowed in regulations for our rural hospitals will result in greater access to needed high quality services for beneficiaries in those areas of the country.

Mr. Speaker, this legislation is remarkable in another important way as well; namely, the cost of the entire bill is most modest. It certainly will not "break the medicare bank," and in fact stays well within the boundaries set by the budgetary process.

As I am certain my colleagues can well imagine, in considering this legislation the chairman of both our Health Subcommittee and the full committee were concerned—as indeed all of us are—that many other desirable benefits and liberalizations could not be provided in this bill, simply because of the huge expense that would be required in most cases. I commend the leadership of these gentlemen and the strong support given to them by all members of the committee and subcommittee, because the citizens of this country will reap the advantages of the carefully balanced, low-cost, sensible changes provided by H.R. 13097.

I should point out that several of the provisions of this bill may lead to still further improvement of benefits and services in very innovative ways. We certainly will look forward, for example, to reports from the Secretary of Health, Education, and Welfare of various studies and demonstration projects that this bill directs him to undertake—in such areas as coverage of services for cataract patients provided by optometrists, Hospice services, and services provided by clinical social workers.

In conclusion, Mr. Speaker, I just want to say that in my opinion H.R. 13097 is very beneficial legislation for improving the medicare program. It should prove effective and helpful to our health care institutions, providers and medicare beneficiaries. It is generous, yet reasonable in cost—representing a well-conceived, carefully constructed legislative effort by our committee.

I would therefore strongly urge my colleagues to approve this legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. O'BRIEN).

Mr. O'BRIEN. Mr. Speaker, I would like to take this opportunity to engage the chairman in colloquy for purposes of clarification.

Directing the gentleman's attention to page 33 of the bill, section 12, captioned "Antigens," and page 14 of the report, at the end of the second paragraph, I cite conditions that I believe are covered, but I would like to make sure they are covered.

In the case of the patient whose physician prepares and administers to him the antigen, there is and has been no problem.

In the case of, let us say, an aged or infirm patient whose antigen is prepared by one physician and transmitted to another for supervising the administering thereof, there would be no problem on account of the effect of this bill.

But the cases of patients, particularly those in the Southwest, and other relatively remote areas, who have great difficulty in reaching either physician, are of concern to me. Consequently, the nature and extent of the meaning of the words "under the supervision of a physician" or "under the supervision of another such physician," as contained in the bill, call for some clarification.

Would the chairman agree with me that the administering of the antigen to the patient in question by a wife, parent, or other person in attendance, who had previously been instructed by either physician in the proper manner thereof, be included under the language of the bill?

Mr. ROSTENKOWSKI. If the gentleman will yield, I agree with the gentleman from Illinois that there are a number of cases where the Secretary would want to, I am sure, use flexibility in the application of this provision.

Of course, he would take into account professional judgment, certainly about what is medically appropriate and what is not appropriate.

Mr. O'BRIEN. Then we should be guided in this situation by reasonableness and flexibility.

I thank the chairman for his explanation.

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. Mr. Speaker, I support the objective of H.R. 13097 which is to improve medicare benefits for the program's beneficiaries. While I do not endorse every single provision of this bill, I do support its overall intent. In particular, I would like to express my strong support for those provisions relating to home health benefits—rural hospitals—ambulance services—and hospices.

First, I support the legislation's proposed liberalization of medicare's home health benefits. The bill would significantly increase access to needed home health care by removing the 100-visit limit under parts A and B of medicare law. It would also reduce barriers to obtaining needed home health care by eliminating the 3-day prior hospitalization requirement under part A and by dropping the $60 deductible under part B. These changes will help assure that the appropriate level of care is available to medicare beneficiaries.

Second, I support the provisions which allow the Secretary of HEW flexibility in applying medicare standards to rural hospitals of 50 beds or less. This authority would relate to medicare requirements for nursing services—and certain health, fire, and safety requirements. As a physician from a rural area, I am sensitive to the special needs of rural hospitals, and I feel this proposed authority is reasonable. I would like to emphasize, however, as did the committee's report, that this authority would be permissible only to the extent that it does not jeopardize or adversely affect the health and safety of patients. It would still be necessary for the Secretary to assure that there is compliance by rural hospitals with appropriate quality and safety requirements.

Third, I want to express my support for the direction the Ways and Means Committee has given HEW with respect to the reimbursement of ambulance services. As mentioned in the committee's report, current interpretation of the law has resulted in situations where patients have been transported to the nearest hospital without consideration of whether that hospital has the appropriate medical staff available to take care of the patients' particular needs. As a result, some medicare beneficiaries have had to be transported to another more distant facility to obtain the necessary services and then had to pay for the additional ambulance expense. The expression of committee intent on this matter should greatly reduce the unintended, illogical situations which have occurred under present policy interpretations and which have resulted in additional expenses for medicare patients.

Finally, I support the provision in this legislation relating to hospice services. As you know, the hospice concept is rooted in a humane concern for the dying person and his family, and it is an approach which has been receiving increased public attention and support. The bill's provision which directs HEW to conduct demonstration projects to pay for hospice services is certainly worthwhile and will be helpful in determining the best way to support such services in the future.

Thank you, Mr. Speaker.

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. I thank the gentleman for yielding.

Mr. Speaker, I have some questions on the bill.

Why did we eliminate the requirement that proprietary home health agencies, which join in medicare programs, be licensed under State law? Because it is discriminatory? Should not all such agencies be licensed?

Mr. DUNCAN of Tennessee. Mr. Speaker, if the gentlewoman will yield, my understanding is that we considered it, and it is discriminatory.

Mr. ROSTENKOWSKI. If the gentlewoman will yield, home health agencies are the only medicare providers subject to such a tax-related requirement.

Mrs. FENWICK. Should not all of the home health agencies be licensed by State law if they are to be used under medicare?

Mr. ROSTENKOWSKI. If the gentlewoman will yield, it is my understanding that they all have to meet the same standards.

Mrs. FENWICK. Are those standards set by HEW or State law?

Mr. DUNCAN of Tennessee. If the gentlewoman will yield, standards for home health agencies are prescribed by HEW. In addition, certain licensing requirements may be imposed by State law.

Mr. ROSTENKOWSKI. HEW sets standards for all medicare home health agencies, some States also have licensing procedures.

Mrs. FENWICK. Are there no standards imposed by the Federal Government with which these agencies must comply?

Mr. DUNCAN of Tennessee. The Federal Government does impose standards.

Mr. ROSTENKOWSKI. The bill provides for additional standards for all medicare home health agencies.

Mrs. FENWICK. My second question is why did we move into liberal agreements with other countries to provide hospital and medicare benefits to medicare beneficiaries living or traveling outside the United States? Is not that widening our responsibility very heavily, if someone chooses to be a resident of a foreign country?

Mr. ROSTENKOWSKI. In our consideration, we are just looking for some practical arrangement with other countries so that, in the case of illness in another country, a medicare beneficiary would have some health insurance pro-

Mrs. FENWICK. We do not know, though, the nature of the services that might be rendered to the American citizen who, presumably, would have been paying for medicare under part A or part B. We would not know the quality of the services. We would not know whether or not a bona fide doctor is caring for the patient.

Mr. ROSTENKOWSKI. What we intend is for the Secretary to negotiate some agreements and arrangements in this area.

Mrs. FENWICK. So that presumably an American citizen of appropriate age living abroad, as many do, paying medicare, of course, would be entitled to go into the care of a foreign doctor or institution?

Mr. DUNCAN of Tennessee. May I say that I have a bill pending in the committee that will cover this entire question It is a very serious one.

Mrs. FENWICK. Yes.

Mr. DUNCAN of Tennessee. Reciprocity with the various countries is very important, and the committee is concerned with this particular question. It is not an easy one to answer, but we are moving into working up some kind of arrangement. But, I do say that I will be pleased if the gentlewoman will cosponsor the bill.

Mrs. FENWICK. Mr. Speaker, I have one final question. Why do we foresee such an enormous jump in cost? In 1979, it is $95 million; in 1980, it is $150 million; and $593 million in the following fiscal years, if that is a correct summary of the costs.

Mr. DUNCAN of Tennessee. The increase in expenditures?

Mrs. FENWICK. Yes. Why is it so enormous?

Mr. DUNCAN of Tennessee. Many things that until now have not been covered are provided for. For example, one that comes to mind is oral surgery for people; until now, there have been deficiencies in the coverage for such services. This bill covers expansion of the program in certain ways, and our committee believed that we could handle this much without breaking the medicare bank. It is an extension of the many services we have.

Mrs. FENWICK. But it goes up so rapidly, from $95 million to $150 million in 1980—which is not so enormous—but then to $593 million.

Mr. ROSTENKOWSKI. The full impact of the legislation is not felt in the first fiscal year. Some provisions are not in effect, for example, until March 1, 1979.

Mrs. FENWICK. Because, if this keeps on, with what has been happening in this House, we are never going to balance the budget. If we are committing ourselves year after year after year, 5 years from now, to these enormous increases——

Mr. ROSTENKOWSKI. I think if the gentlewoman would turn to page 24, the amount for fiscal year 1983 is $223 million as opposed to $523 million.

Mrs. FENWICK. The 522 figure is the cumulative for the 3 years?

Mr. DUNCAN of Tennessee. I think it is $223 million.

Mrs. FENWICK. The summary says 823.

Mr. DUNCAN of Tennessee. I do not know where the gentlewoman got that.

Mrs. FENWICK. From the summary. Maybe that included 3 years, 1981, 1982, and 1983.

Mr. DUNCAN of Tennessee. Also, down the road the population of our country is getting older.

Mrs. FENWICK. But we are going to have to watch, I think, very closely these tremendous committed further increases.

Mr. DUNCAN of Tennessee. Mr. Speaker, I have one question I would like to ask the chairman. I would like to ask the chairman of the subcommittee to reaffirm his commitment made in the full committee to the effect that this or any other health bill will not be used as a vehicle for the consideration in a conference of the cost containment legislation without coming back and having serious consideration of any cost containment proposals by the Ways and Means Committee.

Mr. ROSTENKOWSKI. Mr. Speaker, if the gentleman will yield, as was pointed out in our committee—and my colleague from Tennessee well remembers—I made the observation that certainly we would consult with the entire membership of the Ways and Means Committee on this legislation before considering a conference committee. We have no control over what the other body might add to this bill. We would certainly come back to the full committee and discuss in depth what should be the avenue of approach with respect to any amendments to this legislation by the other body.

Mr. DUNCAN of Tennessee. I thank the gentleman.

Mrs. FENWICK. Mr. Speaker, if the gentleman will yield further, I have one more question.

Mr. DUNCAN of Tennessee. I yield.

Mrs. FENWICK. A constituent yesterday spoke to me about a requirement under medicare of which I was not aware. This constituent was told that her husband, who has had a very severe stroke and is now in a nursing home, will not be supported in a nursing home because they believe his case to be terminal. Is that a proper refusal of support?

Mr. ROSTENKOWSKI. If the gentleman from Tennessee will yield, no. The fact that a patient is terminal is not taken into account in determining whether a service is covered.

Mrs. FENWICK. He should be covered, should he not? He should be taken care of?

Mr. ROSTENKOWSKI. Yes; if he requires at least the minimum level of care that medicare covers, and he is otherwise qualified for medicare benefits.

Mrs. FENWICK. Well, it is terrible that he was refused. I thank the gentleman very much.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Kansas (Ms. KEYS).

Ms. KEYS. Mr. Speaker, I quite agree with my colleague, the gentlewoman from New Jersey (Mrs. FENWICK), that we must be mindful of the Federal budget, but I think we must also be mindful of the budgets of many of our senior citizens who are stretched to the limit and for whom medicare is not delivering the kind of protection and coverage we planned for it in the beginning to provide.

This is a very responsible bill prepared in line with the requirements of our budget. It provides much needed improvements in the medicare law very carefully kept within the budget guidelines. It expands the coverage of services for the elderly in the areas of eye and foot care, dental, chiropractic, and home health services among other things.

One of the many provisions I would like to mention would be the expanding of mental health services for the elderly. By giving provider status of federally funded community mental health centers, the legislation will increase the availability of outpatient services as an alternative to long-term and expensive hospitalization. The bill would lend additional support to this important approach to mental health services.

In addition, the bill provides for direct reimbursement for the services of psychologists in inpatient settings. It has been demonstrated to us many times in the committees through research that has been done that adequate mental health services can reduce the need for more intensive medical services. Thus I feel this provision will eventually save us money in other areas in addition to senior citizens.

This is a responsible and necessary step. I commend the chairman and the committee for their work in preparing this responsible bill within our budget guidelines. I support this bill.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Speaker, I rise in support of H.R. 13095. The medicare amendments included in this bill will help fulfill the commitments made to older Americans.

The administrative reforms contained are necessary and the liberalization of benefits realistic. The cost for the improvements are within the budget.

This measure tends to recognize new flexibility for expanded service by dentists, optometrists, and chiropractors.

In addition, elimination of the waiting periods, deductibles, and more relaxed licensure, and home health care will permit a more commonsense approach to meet the health needs of older Americans. I commend my colleagues on the committee for their support and urge positive action by this House.

● Mr. DRINAN. Mr. Speaker, in most all of our human services programs we have moved or are moving away from a reliance on institutionalization as a response to particular human problems. Mental institutions have yielded to the community mental health movement, orphanages to foster homes and other child care programs and large correctional institutions to smaller facilities or half-way houses.

This is happening because institutionalization has proved to be unsuccessful in many instances, expensive and at times counterproductive as a response to a specific problem.

Over the years the Federal Government unwittingly has adopted a costly institutional bias toward the elderly. Our well-intentioned programs such as medicare and medicaid serve to encourage the displacement of older citizens from their homes to nursing facilities when it may not be necessary. Modest estimates are that one-fourth of those in nursing homes could have remained in their homes if certain services were available to them.

Our institutions must be made more humane for there will always be some need to provide shelter and care in such a setting. However age is not synonomous with such a need nor is it of itself a condition which must result in institutionalization. We are beginning to recognize that many older citizens want to remain in their homes and could if appropriate home health and related services were available. From a human standpoint we are coming to appreciate the importance of the bond which exists between an older person and his or her home and neighborhood. We know that uprooting an elderly person can rob them of their dignity and independence. We recognize that there should be a freedom of choice. From an economic standpoint we are seeing that the costs associated with institutionalization far exceed the price of alternatives.

The GAO report commissioned by the Select Committee on Aging to look at home health care concluded that "Until older people become greatly or extremely impaired, the cost of nursing home care exceeds the cost of home care". The GAO report recommended a number of steps to expand the availability of home health services.

Current medicare requirements can actually serve as an obstacle to receipt of home health services by older citizens. In order to receive home health care, an elderly person must have had a prior hospital stay of at least 3 days; the plan of care must be prescribed by a physician; the care must be skilled; and the home visits are limited under part A (hospital insurance) to 100 visits per period of illness and under part B (medical insurance) to 100 per calendar year.

As a member of the Select Committee on Aging, Subcommittee on Health and Long-Term Care, I have worked with our esteemed colleague, Congressman CLAUDE PEPPER in the development of legislation to reverse the institutional bias in our medicare and medicaid programs.

H.R. 13097, the Medicare Amendments of 1978, contain some of the Aging Committee's recommendations. Unlimited home health visits should be available under both parts A and B of medicare; the 3-day prior hospitalization requirements under part A would be eliminated; and home health benefits under part B would no longer be subject to the $60 deductible.

H.R. 13097 does not go as far as legislation recommended by the House Aging Committee but it is a good first step. As our colleague Congressman PEPPER has said:

> Home health care is an idea whose time has come. The cost of institutionalizing people when it can be avoided cannot be measured merely in dollars; it must also be measured in terms of its effect on the quality of life. The human cost involved in tearing elderly persons from their homes and their communities is incalculable.

H.R. 13097 also makes a number of other modest but important changes in the medicare law. The President would be authorized to enter into agreements with other countries so that medicare beneficiaries traveling or living outside the United States would have medical protection. Dental services would be covered when the condition warrants hospitalization. Podiatry services for the treatment of plantar warts would be covered as would optometrists' services in the treatment of patients without the natural lens of the eye. Also the Secretary of HEW would be required to report back to Congress within 9 months with recommendations for including the treatment of cataracts under medicare. Other changes will facilitate coverage of partial back dislocation by chiropractors and all allergies.

Services like these represent a major out-of-pocket expense for older citizens and are often forsaken due to the lack of medicare coverage. Left neglected such ailments can result in more serious conditions which will require hospitalization down the line at far greater expense. Attention to preventive services must be a cornerstone of our health programs. H.R. 13097 will at least fill in some of the gaps in the medicare program.

By providing incentives for home health care and the early treatment of various common ailments of the elderly, H.R. 13097 could actually result in a savings to the medicare program. I support this legislation and urge its adoption.●

● Mr. PEPPER. Mr. Speaker, I rise in support of the Medicare Amendments of 1978, H.R. 13097.

While this legislation is by no means perfect in that even more expansion of home health care is both possible and desirable, I am delighted to give my full support as a major beginning in reversing the institutional bias which keeps the medicare program from being all it should be.

Among its other provisions, the bill would make important improvements in the home health benefit. As my colleagues are aware, the Select Committee on Aging, which it is my privilege to chair, has strongly supported the expansion of home health care.

In January of 1976, in a report entitled, "New Perspectives in Health Care for Older Americans," the committee stated:

> It is a tragedy of our times that we as a Nation should find ourselves in the position of thinking of home health care for the elderly as an alternative to institutionalization. Somehow, it shocks the conscience and goes against the grain to deal with the subject in that context. It only stands to reason that in the natural order of things it should be just the reverse. Institutionalization should be an alternative to home health care. While there will always be highly disabled patients who require full-time institutionalization in nursing homes, persons capable of remaining in their own homes should have the right to choose.

Last February, the committee unanimously adopted a resolution reiterating its support for expansion of home health benefits under medicare. At that time I introduced H.R. 10738, which sought to make four changes in the program: removal of the prior hospitalization requirement under part A (hospital insurance); removal of the visit limits under both parts A and B; removal of the requirement that a patient be confined to home as a qualification for receiving home health care; and addition of homemaker and periodic chore services to the list of covered in-home services. This bill has well over 100 cosponsors. It is clear that the Congress supports our efforts to make home health care more available to the elderly and disabled.

Joined by many of our Aging Committee members, I testified before the Ways and Means Health Subcommittee, which is so ably chaired by my colleague, DAN ROSTENKOWSKI, in support of this legislation. It is with great pride that we note that the committee saw fit to include two of these provisions in the reported bill: removal of the prior hospitalization requirement and deletion of the visit limits, effective July 1, 1979.

It should be noted that legislation pending in the Senate, H.R. 5285, also includes these changes. It is my fervent hope that they will become law before the Congress adjourns next month.

While these changes represent important steps forward, they must not be considered the climax of our efforts. Much remains to be done to make home health care more available to our people. Earlier this year, in a report entitled, "Home Health—The Need for a National Policy to Better Provide for the Elderly," the General Accounting Office concluded:

> Until older people become greatly or extremely impaired, the cost of nursing home care exceeds the cost of home care.

Mr. Speaker, this report confirmed what we have suspected: Responsible expansion of home health care can only hasten the realization of cost-effective use of our fiscal resources in meeting the Nation's health care needs.

Yet we continue to spend a disproportionate share of the Nation's health dollars on institutional care—care that is not the most appropriate for the vast majority of older citizens.

Medicare expenditures totalled $20.8 billion in fiscal year 1977; yet only 2.2 percent of this amount paid for home health care. Of the $16.3 billion spent by the Federal and State governments, only 1.1 percent was for home health care, while nearly 40 cents of every Federal dollar pays for nursing home care. And only 6 percent of medicaid beneficiaries reside in nursing homes. Of the amounts spent for the elderly under medicaid, some 70 percent is spent for nursing home care. Approximately 1 million elderly persons live in nursing homes, and a HEW-contracted study has determined that 14 to 25 percent of these could be more appropriately cared for in another manner. The need for home health care is great.

HEW has indicated that some 7 million of the noninstitutionalized civilian population cannot perform a major activity that is necessary to daily living. Yet we continue to be reticent about making necessary changes. Next year, we must continue our efforts in other directions as recommended by our committee—deleting the homebound requirement under medicare, as well as inclusion of comprehensive home health care in any national health insurance legislation that may develop.

I applaud the inclusion of a provision which would eliminate the $60 deductible for home health care under part B. In conjunction with removal of the coinsurance provisions, which was accomplished in 1972, this represents an important step forward in removing the obstacles to receipt of these services under the supplementary medical insurance program.

The committee has also acted to require that home health aides meet certain qualification standards. Requiring that they complete a training program can serve to improve the uniformity of services throughout the country and upgrade the status of these aides, who provide a most valuable service.

The bill also prohibits a physician who establishes a plan of in-home treatment from having significant ownership or financial interest or contractual relationship with the home health agency which is to provide the services prescribed. This effort to prevent any potential conflict of interest is a sound one, in my judgment.

The committee has also approved a measure which requires the Secretary to designate regional intermediaries for home health agencies. This provision seems to merit support, as it seeks to correct some of the disparities which have been observed between reimbursement standards in various parts of the country. I have received many letters from home health providers who labor under certain interpretations of reimbursement guidelines, and it is my hope that this will eliminate some of these problems. This and other administrative changes and recommendations included in the bill should, however, be monitored carefully to ensure that they do not hinder providers from rendering necessary services, or prevent patients from receiving the care they need and to which they are entitled.

I am compelled to register concern over the provision which would allow medicare reimbursement of proprietary home health agencies without the current requirement that they be licensed by the States in which they operate.

Certainly there is no inherent evil in the concept of profitmaking in the field of home health. On the other hand, a requirement that these agencies meet certain standards in order to benefit from Federal funds is consistent with other

statutes and with our philosophy of government.

We have struggled with this issue before. Almost 3 years ago, the Department of Health, Education, and Welfare, under different leadership, issued proposed regulations which would have removed the licensure requirement as a condition for participation in medicaid.

Those proposed regulations were the object of considerable controversy, and our Subcommittee on Health and Long-Term Care conducted a joint hearing with our counterpart in the Senate to explore the issues involved. At that time, we heard from more than 20 witnesses, and our conclusion was clear: This action would have had a deleterious effect on the quality of home health care. As a result of this examination, the regulations were withdrawn.

Moreover, it was learned at that time that the Department had conducted no studies to determine whether opening the door to for-profit agencies without the benefit of licensure was necessary or beneficial, or what comparative cost and quality considerations would demonstrate. To my knowledge no such information has yet been made available.

As you know, Mr. Speaker, Public Law 95-142, the Medicare/Medicaid Anti-Fraud and Abuse Amendments, requires that the Secretary of HEW report to the Congress on every aspect of home health care. It is our hope that this report, due next month, will address issues such as this, as well as the critical subject of standards for the provision of all home health care.

Many other provisions of the pending bill, H.R. 13097, warrant support. Time constraints do not permit comment on each, but I wish to especially point out a few of these.

First, the bill includes authorization for the President to enter into reciprocal agreements with other countries to provide hospital and medical benefits for medicare beneficiaries living or traveling outside the United States. I called for adoption of this provision in my testimony before the Health Subcommittee, and I am pleased to note its inclusion.

Second, the reported bill includes provision for greater medicare support of outpatient mental health treatment provided in community mental health centers and provides for medicare coverage of services provided by clinical psychologists to hospital inpatients. These are very positive steps forward, and I am hopeful that the next Congress will give very careful consideration to going a step further, as proposed in my bill, H.R. 13460, which seeks to put mental health treatment on a par with treatment for physical illness, provide for direct reimbursement of psychologists, and prevent the "dumping" of elderly mental patients in the community without support and care.

Finally, Mr. Speaker, the bill includes several provisions which seek to improve the role of dentists, optometrists, and podiatrists in the medicare program. I applaud these improvements, but I am hopeful that the Ways and Means Committee will give favorable consideration to legislation I have introduced, H.R. 1127, which would provide coverage for eyeglasses and eye examinations; hearing aids and examinations for hearing aids; and dentures and other services in connection with the care of teeth and foot care and treatment of foot conditions.

Once again, Mr. Speaker, I wish to commend the Ways and Means Health Subcommittee and my colleagues who have worked so diligently to bring this bill before the full House.●

● Mr. BAUCUS. Mr. Speaker, I wish to add my full support to the Medicare Amendments of 1978. There are several points I want to make about this legislation.

In liberalizing the home health benefit, this bill takes a first step in recognizing that home health care for the elderly is a viable and preferable alternative to institutionalization.

I also want to comment on the provision in the legislation requiring the Secretary of HEW to apply flexible standards for rural hospitals. My district contains many hospitals and facilities serving small rural communities. These hospitals experience problems unique to sparsely populated rural areas. The small number of beds, the scarcity of qualified health personnel, and the lack of a diversity of services are all problems confronted by rural hospital facilities. Despite the fact that small rural health facilities have special problems shared only among themselves, it is nonetheless true that these facilities have had a difficult time complying with HEW regulations for medicare certification.

Recognizing the need to address this situation, I introduced legislation in March of 1977 to amend the medicare and medicaid provisions as they relate to rural health care facilities. My bill mandated that the Secretary apply greater flexibility in requiring that small rural hospitals meet Federal compliance regulations. My bill gave the Secretary the authority to waive certain requirements as to health, safety, and fire regulations so long as the facility was making a good faith effort to comply, and that the waiver would not jeopardize the safety and health of the patients. One of the specific measures in my bill proposed to make permanent the 24-hour nursing waiver.

I am pleased that these provisions relating to rural health facilities have been incorporated a part of the Medicare Amendments of 1978. With the passage of this legislation, we can finally begin to guarantee that quality health care will be provided to Americans residing in urban and isolated rural areas alike. I therefore urge a yes vote on this legislation.●

● Mr. HEFNER. Mr. Speaker, I would like to take this opportunity to voice my support for H.R. 13097, the Medicare Amendments of 1978, and I also commend the Ways and Means Committee for the fine job they have done in developing this bill.

The Medicare Amendments of 1978 embody a principle that I have long supported. We have a very good health care system in this country but in our Federal programs, such as medicare, we have not taken advantage of the full range of quality services provided by health professionals. This bill goes to the heart of that problem by making coverage under medicare more rational.

For example, medicare coverage for chiropractic services is limited under current law to the manual manipulation of the spine to correct a displacement which can be demonstrated by X-ray. The cost of the X-ray itself is not reimbursed by medicare, but the X-ray is required before other chiropractic services may be provided.

This is a faulty policy in two respects. But not reimbursing the cost of a mandatory X-ray, the current program imposes a disincentive for chiropractic care. Also, by requiring an X-ray that may not be medically necessary, te patient could be exposed to needless radiation. It makes little sense to me that we have been requiring medicare patients to go to other specialists or through procedures which may not be in their best interest in order to be reimbursed for medical care that can be provided in a simpler and less expensive manner.

I sponsored a bill to change this policy, and I am pleased that section 22 of H.R. 13097 follows the legislation I proposed. It would provide reimbursement for the cost of an X-ray if, indeed, an X-ray is necessary. In addition, it would cover the physical examination and treatment of a displacement found through normal clinical procedures without a mandatory X-ray.

I hope this important change will be enacted into law as quickly as possible and urge my colleagues to support H.R. 13097.●

● Mr. WOLFF. Mr. Speaker, I rise today in strong support of H.R. 13097, medicare amendments, and urge my colleagues to overwhelmingly adopt this important bill. I would first like to commend the gentleman from Illinois (Mr. ROSTENKOWSKI), for his hard work and leadership in bringing this bill to the floor.

Mr. Speaker, the time has come to relieve the intolerable burden medical expenses imposes on millions of older Americans. Our senior citizens, forced to eke out an existence from social security, their life time earnings, or fixed incomes, are often left in the dire straits when illness or ill-fate in the form of accidents strike.

Horror stories abound, as I am sure my colleagues can attest to, when the elderly seek medical care, medical care which has rapidly outpaced their incomes. Few options for adequate health care, at prices the aging and disabled can afford, are available to this neglected segment of our society. Our senior citizens should have the right to live out their autumn years with dignity and security, not deprivation and fear.

In the past, the stringent requirements imposed by medicare have contributed to the breakdown of the American family by forcing our elderly into institutional settings in order to satisfy eligibility criteria. These criteria have been partially responsible for creating an American

caste system, segregating the old from the young. They have forced the elderly to be considered a "people apart" in a country they have helped build. They are the foundation of our society, and we should reap benefits from their company, learning from their experience and wisdom.

Medicare must be expanded to improve essential health care assistance for the chronically ill, aged, and those stricken with catastrophic illness. This expansion should not be a rigid one, dictating the types of services available to older citizens. Rather the expansion should be flexible, providing freedom of choice in the provision of medical services. Medicare must be expanded to provide a low cost alternative to institutionalization. That is why I support this legislation today.

Some time ago, I established a Citizens Health Advisory Committee in my congressional district, comprised of leading New York area health field specialists. This committee of dedicated men and women served as a valuable resource in helping me analyze the complex problems of health care delivery in terms of new legislative proposals.

As a result of the work of my advisory committee, I introduced H.R. 11139, a bill which, among other things, provided for medicare subsidies of low-cost home health care. My bill, the prototype of this sort of legislation, amended title XVIII of the Social Security Act by removing all limits on the number of home health visits for which payment may be made, included additional types of services as home health care, and provided for coverage for services furnished in outpatient rehabilitation facilities and elderly day care centers.

Major portions of my original legislation have been incorporated into the bill now before us. This bill is a good and compassionate bill. It meets the needs of the elderly at the same time it saves the taxpayers money. If you agree that these are worthy goals, I urge you to vote for H.R. 13097.●

● Mr. COTTER. Mr. Speaker, I would like to express my support for H.R. 13097 and strongly urge my colleagues to do the same.

This bill represents extremely responsible action on legislation that could have easily become a runaway budget item. It is very difficult to say no to improvements in a program for the aged and the disabled even when one realizes how fast the cost of the medicare program is increasing. In developing this legislation, the Ways and Means Committee was forced to say no to many desirable and appealing benefit improvements. However, a limit of $100 million in additional medicare outlays was established early in the budget process; and we followed that limit rigorously. The bill before you calls for $95 million in additional outlays in fiscal year 1979. Each of many individual benefit improvements we could have included would by themselves have cost that much or more.

This bill represents those benefit improvements the committee thought should be made now. There are many others we indicated that we thought should be considered at a later date. The administrative improvements in the bill are noncontroversial but extremely helpful to those beneficiaries who are being unnecessarily penalized by present law.

I think this is a fine piece of legislation. It shows we can act in a fiscally responsible manner in times that call for budgetary restraint. I know my colleagues will be proud to join with me in support of this bill.●

● Mr. ULLMAN. Mr. Speaker, the Medicare Amendments of 1978, H.R. 13097, is legislation that Members of this body can be proud to support. Enactment of this bill would do much to increase the protection afforded many aged and the disabled beneficiaries of the medicare program. Benefit improvements in medicare are long overdue. We last enacted comprehensive medicare benefit improvements in the 92d Congress.

My colleagues can be especially proud of this legislation because they had a substantial role in its development. A large proportion of the issues the Ways and Means Committee considered and responded to in the bill came to our attention because of medicare legislation introduced by Members of the House or through Members' communications with us about problems their constituents were having with medicare.

These benefit improvements—although they are not major in the context of the entire medicare program—are much needed and are eagerly anticipated by many of the elderly and disabled people who depend on the medicare program for their protection against the cost of health care. We have provided in the bill for a number of liberalizations in the medicare home health benefit. Proposals for such liberalizations have a long history of active support. These home health care improvements would allow many who might otherwise require care in a hospital or a skilled nursing facility to remain at home. Not only would patients generally prefer to remain at home where possible but home care is also desirable because it can mean less in program expenditures than expensive care in an institution.

The bill would also eliminate the second waiting period for entitlement to medicare benefits for disability beneficiaries who attempt to return to work but who are unsuccessful and need to return to the disability rolls. Elimination of the second medicare waiting period in such cases would do away with a major distincentive for the disabled to try to return to the labor force. This provision may ultimately save the social security system many times its initial cost.

Other provisions would expand coverage for rehabilitation services, community mental health center services and services furnished by a variety of health care practitioners including dentists, psychologists, podiatrists, optometrists, and chiropractors. The bill eliminates or modifies a number of present administrative requirements in the program to avoid unnecessary adverse effects on some beneficiaries. The unique problems facing rural hospitals are addressed in the bill by providing authority for the Secretary of HEW to exercise flexibility in applying medicare requirements to these institutions.

Mr. Speaker, the Ways and Means Committee would have liked to have made many other desirable improvements in medicare but budget constraints made it necessary to include only low cost items in order to keep the bill to a modest cost. Nonetheless, this is a fine bill—one we can be proud to have counted among our legislative achievements for the year. Many of the benefit improvements that are included have long been actively supported by the aged and disabled population. I would urge my colleagues to join with me in enthusiastic support of this bill.●

● Mr. BIAGGI. Mr. Speaker, I rise in complete support of H.R. 13097, the medicare amendments of 1978. Perhaps one of the most commonly heard, and I might add, justified criticisms of the medicare program is that it contains a long standing bias against home health care. I am pleased to say that passage of H.R. 13097 will begin the process of reversing this bias and with it the unnecessary institutionalization of our elderly citizens.

I am pleased to serve as the chairman of the Subcommittee on Human Services of the House Select Committee on Aging. The committee. my subcommittee has been deeply involved advancing legislative proposals to provide alternatives to institutionalization for the elderly. To use an old expression with respect to this effort, "All roads led to medicare." What I mean is that when we looked for the programs responsible for prolonging unstricting home health care, we found medicare. Therefore logically, when pursuing a means of reforming the present situation we seek amendments to the medicare law.

Specifically H.R. 13097 removes the present ICC visit limitation contained in medicare parts A and B. In addition the bill eliminates the archaic, if not arbitrary requirement that a person to be eligible for home health services have been hospitalized for 3 consecutive days. This provision alone is expected to directly benefit some 1.1 million medicare beneficiaries. Finally this legislation provides that home health benefits would no longer be subject to the $60 deductible.

The net impact of these amendments will be to make the medicare program less of an adversary with respect to home health care. Existing law is rigid with requirements for coverage of home health services and as a result a minuscule amount of medicare's funds goes to cover costs of home health care services. Continuation of this would provide no real incentive to deinstitutionalize our elderly, thus making this term rhetorical rather than real. One can only expect that both the quantity of home health services covered under medicare and the quality of care pro-

vided will both be significantly improved with the passage off H.R. 13097.

Study after study, report after report has documented that home health care is more cost effective than institutional care. The most widely consulted report was done by the General Accounting Office in December of 1977. It confirmed not only the cost effective argument but also charged that upward of 25 percent of all persons in institutions today are there unnecessarily. A related fact uncovered during a Subcommittee on Human Services hearing I conducted last April was a similar percent of persons in nursing homes were there simply because of an inability to maintain a proper diet. Consequentally, both the House and Senate have passed legislation providing for a greatly expanded national home delievered meals program under the Older Americans Act.

The very heart of this issue today is this—it is time that our major Federal health programs were made flexible enough to provide, where feasible, alternatives to institutionalization. This as contrasted to preserving an outdated, fiscally wasteful and inhumane status quo which simply equates old age with being put away.

Hopefully we are on the threshold of national health insurance. We realize the need for such a program is based in part on the inadequacy of medicare of medicaid. For too many seniors in this Nation, the gaps in coverage in these programs exceeds those services which are permissable under the programs. Obviously from my vantagepoint and that of the Select Committee on Aging, providing for expanded home and community based health services is critical to any national health insurance program. Yet while we await the formal adoption of a program, let us take steps such as we are today with the enactment of H.R. 13097.

As we consider this bill I wish to salute two "inspirations" whose advocacy of this cause helped bring us to this point today. The first of course is CLAUDE PEPPER the chairman of the House Select Committee on Aging who has worker through sponsorship of legislation and conducting of hearings around the Nation to make reforms in the medicare programs. The other main champion of this cause is our former colleague and now mayor of New York City, Ed Koch.

I joined Ed Koch and CLAUDE PEPPER as a cosponsor of legislation which sought to lift the visitation requirement as well as the prior hospitalization requirement. H.R. 13097 achieves this. Ed Koch was an expert in this area and remains so. On February 6 of this year I conducted a hearing in New York City on home health care and Mayor Koch in the course of his testimony stated:

> I have been concerned about home health care for a number of years, and I made it one of my major legislative attacks if you will, introducing the first legislation on that subject because it was clear to me at that time and it regrettably continues today is that we put people into nursing homes when in fact they do not need nursing homes. For one third or one half of the cost you could keep those persons in their own homes.

H.R. 13097 is a modest but critically important step forward. It places the medicare program in step with the prevailing sentiments of the American people that home health care for senior citizens deserves greater visibility and support. We have a long way to go to completely reverse the pro institutional bias of the medicare program but we are beginning and I urge support of this legislation.●

● Mr. GILMAN. Mr. Speaker, I rise in support of the medicare amendments of 1978 legislation which liberalizes the medical home benefits program, and which generally improves the availability and quality of medicare services to many individuals who had formerly been denied full benefits. Mr. Speaker, it is about time that medicare became more realistic in reaching the people that it had originally intended to do. These amendments allow coverage for some basic services, for example, increased services for mental health, psychologists, allergists, increased dental services, and more adequate ambulance transportation.

Also, the medicare amendments take a more realistic view of the special problems of rural residents, and places more attainable conditions on hospitalization requirements before reimbursement.

While many abuses must be eliminated in the medicare program, I believe that these amendments go a long way in meeting some of the complaints that recipients now express. Coupled with a strong effort to reduce the instances of abuse, I believe that increased coverage will serve to make the American public more receptive to the idea of medicare, and that some of the present inequities will be eliminated.

Accordingly, I urge my colleagues to join with me in supporting this legislation which is beneficial to all Americans.●

● Mr. HEFNER. Mr. Speaker, I would like to take this opportunity to voice my support for H.R. 13097, the Medicare Amendments of 1978, and I also commend the Ways and Means Committee for the fine job they have done in developing this bill.

The Medicare Amendments of 1978 embody a principle that I have long supported. We have a very good health care system in this country but in our Federal programs, such as medicare, we have not taken advantage of the full range of quality services provided by health professionals. This bill goes to the heart of that problem by making coverage under medicare more rational.

For example, medicare coverage for chiropractic services is limited under current law to the manual manipulation of the spine to correct a displacement which can be demonstrated by X-ray. The cost of the X-ray itself is not reimbursed by medicare, but the X-ray is required before other chiropractic services may be provided.

This is a faulty policy in two respects. By not reimbursing the cost of a mandatory X-ray, the current program imposes a disincentive for chiropractic care. Also, by requiring an X-ray that may not be medically necessary, the patient could be exposed to needless radiation. It makes little sense to me that we have been requiring medicare patients to go to other specialists or through procedures which may not be in their best interest in order to be reimbursed for medical care that can be provided in a simpler and less expensive manner.

I sponsored a bill to change this policy, and I am pleased that section 22 of H.R. 13097 follows the legislation I proposed. It would provide reimbursement for the cost of an X-ray if, indeed, an X-ray is necessary. In addition, it would cover the physical examination and treatment of a displacement found through normal clinical procedures widthout a mandatory X-ray.

I hope this important change will be enacted into law as quickly as possible and urge my colleagues to support H.R. 13097.●

● Mr. DERRICK. Mr. Speaker, I would like to voice my support for H.R. 13097, the Medicare Amendments of 1978, and to commend the Ways and Means Committee for the fine work they have done in developing this bill.

This measure allows for a more rational approach to health care delivery in America. It recognizes the importance of home health care as an alternative to institutionalization—an alternative that has been proven to be more cost effective in meeting the health care needs of our elderly citizens.

Further, it calls for greater flexibility in the application of medicare standards to rural hospitals, realizing the unique and special problems shared by rural health facilities. The bill also eliminates the second waiting period for entitlement to medicare benefits for disability beneficiaries who attempt to return to work who are unsuccessful. This should prove to be economically beneficial to the entire social security system. Other provisions include expansion for community mental health and rehabilitation services, as well as for services provided by a variety of health care practitioners including dentists, optometrists, chiropractors, psychologists, and podiatrists.

While this legislation is by no means perfect in that even more expansion of home health care—including occupational therapy—is desired, I am pleased to support this measure which signifies a beginning in the development of improved health care services.●

Mr. ROSTENKOWSKI. Mr. Speaker, I yield back the balance of my time.

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI) that the House suspend the rules and pass the bill H.R. 13097, as amended.

The question was taken.

Mr. ROSTENKOWSKI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

HEALTH PROGRAMS AMENDMENTS UNDER SOCIAL SECURITY ACT

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13817) to amend the Social Security Act with respect to health programs authorized under it and for other purposes, as amended.

The Clerk read as follows:

H.R. 13817

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

EXPANDED MEMBERSHIP OF PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

SECTION 1. Section 1152(b)(1)(A) of the Social Security Act is amended—

(1) by inserting "and, if the organization so elects, of other health care practitioners engaged in the practice of their professions in such area who hold independent hospital admitting privileges," after the comma in clause (ii); and

(2) by inserting "except as otherwise provided under section 1155(c))" after "does not" in clause (vi).

REGISTERED NURSE AND DENTIST MEMBERSHIP ON STATEWIDE COUNCIL ADVISORY GROUP

SEC. 2. Section 1162(e)(1) of the Social Security Act is amended by inserting "(including at least one registered professional nurse and at least one doctor of dental surgery or of dental medicine)" after "representatives".

NONPHYSICIAN MEMBERSHIP ON NATIONAL PROFESSIONAL STANDARDS REVIEW COUNCIL

SEC. 3. (a) Section 1163(a)(1) of the Social Security Act is amended by inserting "one doctor of dental surgery or of dental medicine, one registered professional nurse, and one other health practitioner (other than a physician as defined in section 1861(r)(1))," after "physicians,".

(b) Section 1163(a)(2) of such Act is amended by striking out "four members" and inserting "five members" in lieu thereof.

(c) Section 1163(a)(3) of such Act is amended by inserting "physician" after "the".

(d) Section 1163(b) of such Act is amended by striking out "Members" and inserting in lieu thereof "Physician members".

(e) Section 1173 of such Act is amended by striking out "(except sections 1155(c) and 1163)" and inserting in lieu thereof "(except section 1155(c))".

ADVISORY COMMITTEE TO THE NATIONAL PROFESSIONAL STANDARDS REVIEW COUNCIL

SEC. 4. Section 1163 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(f)(1) The Council shall be advised and assisted in carrying out its functions by an advisory committee (of not less than seven nor more than fifteen members) which shall be made up of representatives of health care practitioners (other than physicians) for whose services payment may be made (in whole or in part) under any program established by or pursuant to this Act.

"(2) The Secretary shall by regulations provide the manner in which members of such advisory committee shall be selected and the terms of service.

"(3) The expenses reasonably and necessarily incurred, as determined by the Secretary, by such committee in carrying out its functions shall be considered to be expenses necessarily incurred by the National Professional Standards Review Council."

HOSPITAL PROVIDERS OF LONG-TERM CARE SERVICES ("SWING-BEDS")

SEC. 5. (a)(1) Title XVIII of the Social Security Act is amended by adding the following new section at the end thereof:

"HOSPITAL PROVIDERS OF EXTENDED CARE SERVICES

"SEC. 1862. (a)(1) Any hospital (other than a hospital which has in effect a waiver of the requirement imposed by section 1861(e)(5)) which has an agreement under section 1866 may (subject to subsection (b)) enter into an agreement with the Secretary under which its inpatient hospital facilities may be used for the furnishing of services of the type which, if furnished by a skilled nursing facility, would constitute post-hospital extended care services.

"(2)(A) Notwithstanding any other provision of this title, payment to any hospital for services furnished under an agreement entered into under this section shall be based upon the reasonable cost of the services as determined under subparagraph (B).

"(B)(i) The reasonable cost of the services furnished during any calendar year by a services (determined under clause (ii)) and the reasonable cost of ancillary services (determined under clause (iii)).

"(ii) The reasonable cost of routine services furnished during any calendar year by a hospital under an agreement under this section is equal to the product of (I) the number of patient-days during the year for which the services were furnished, and (II) the average reasonable cost per patient-day, such average reasonable cost per patient-day being the average rate per patient-day paid for routine services during the previous calendar year under title XIX to skilled nursing facilities located in the State in which the hospital is located and which have agreements entered into under section 1902(a)(28).

"(iii) The reasonable cost of ancillary services shall be determined in the same manner as the reasonable cost of ancillary services provided for inpatient hospital services.

"(b) The Secretary may not enter into an agreement under this section with any hospital unless—

"(1) for a period (of not less than twelve months) specified by the Secretary which period immediately hospital has had an average daily occupancy rate of less than 60 percent, and

"(2) the hospital has been granted a certificate of need for the provision of long-term care services from the State health planning and development agency (designated under section 1521 of the Public Health Service Act) for the State in which the hospital is located.

"(c) An agreement with a hospital under this section shall, except as otherwise provided under regulations of the Secretary, be of the same duration and subject to termination on the same conditions as are agreements with skilled nursing facilities under section 1866 (unless the hospital fails to satisfy the requirements specified in subsection (b)) and shall, where not inconsistent with any provision of this section, impose the same duties, responsibilities, conditions, and limitations, as those imposed under such agreements entered into under section 1866; except that no such agreement with any hospital shall be in effect for any period during which the hospital does not have in effect an agreement under section 1866, or where there is in effect for the hospital a waiver of the requirement imposed by section 1861(e)(5). A hospital whose agreement under this section has been terminated shall not be eligible to undertake a new agreement until a two-year period has elapsed from the termination date.

"(d) Any agreement with a hospital under this section shall provide that payment for services will be made only for services for which payment would be made as post-hospital extended care services if those services had been furnished by a skilled nursing facility under an agreement entered into under section 1866; and any individual who is furnished services, for which payment may be made under an agreement under this section, shall, for purposes of this title (other than this section), be deemed to have received post-hospital extended care services in like manner and to the same extent as if the services furnished to him had been post-hospital extended care services furnished by a skilled nursing facility under an agreement under section 1866.

"(e) During a period for which a hospital has in effect an agreement under this section, in order to allocate routine costs between hospital and long-term care services for purposes of determining payment for inpatient hospital services, the total reimbursement received for routine services from all classes of long-term care patients (including title XVIII, title XIX, and private pay patients) shall be subtracted from the hospital's total routine costs before calculations are made to determine title XVIII reimbursement for routine hospital services.

"(f) With respect to a hospital's furnishing (under an agreement in effect under this section) of services of the type which, if furnished by a skilled nursing facility, would constitute post-hospital extended care services—

"(1) the hospital shall be required to meet all the requirements of this Act that a skilled nursing facility would be required to meet with respect to the furnishing of such services, and

"(2) the provisions of such services shall be treated and subject to the same requirements of this Act as post-hospital extended care services furnished by a skilled nursing facility under this title,

except such requirements of section 1861(j) and such other requirements as the Secretary determines to be inappropriate in the case of these services being furnished by a hospital under this section.".

(2) Within three years after the date of the enactment of this Act, the Secretary shall submit to the Congress a report evaluating the program established by the amendment made by paragraph (1) of this subsection and shall include in such report an analysis of—

(A) the extent and effect of the agreements under the program on availability and effective and economical provision of long-term care services, and

(B) whether the program should be continued.

(b) Title XIX of the Social Security Act is amended by adding after section 1912 the following new section:

"HOSPITAL PROVIDERS OF SKILLED NURSING AND INTERMEDIATE CARE SERVICES

"SEC. 1913. (a) Notwithstanding any other provision of this title, payment may be made, in accordance with this section, under a State plan approved under this title for skilled nursing facility services and intermediate care facility services furnished by a hospital which has in effect an agreement under section 1862.

"(b)(1) Payment to any such hospital, for any skilled nursing or intermediate care facility services furnished shall be at a rate equal to the average rate per patient-day paid for routine services during the previous calendar year under this title to skilled nursing and intermediate care facilities located in the State in which the hospital is located. The reasonable cost of ancillary services shall be determined in the

same manner as the reasonable cost of ancillary services provided for inpatient hospital services.

"(2) With respect to any period for which a hospital has an agreement under section 1882, in order to allocate routine costs between hospital and long-term care services, the total reimbursement for routine services received from all classes of long-term care patients (including title XVIII, title XIX, and private pay patients) shall be subtracted from the hospital total routine costs before calculations are made to determine title XIX reimbursement for routine hospital services.".

(c) The amendments made by this section become effective on the date on which final regulations, promulgated by the Secretary to implement the amendments, are first issued; and those regulations shall be issued not later than the first day of the sixth calendar month following the month in which this Act is enacted.

COORDINATED AUDITS UNDER THE SOCIAL SECURITY ACT

SEC. 6. (a) Title XI of the Social Security Act is amended by inserting after section 1126 the following new section:

"COORDINATED AUDITS

"SEC. 1127. If an entity provides services reimbursable on a cost-related basis under title V or XIX, as well as services reimbursable on such a basis under title XVIII, the Secretary shall require, as a condition for payment to any State under title V or XIX with respect to administrative costs incurred in the performance of audits of the books, accounts, and records of that entity, that these audits be coordinated through common audit procedures with audits performed with respect to the entity for purposes of title XVIII. The Secretary shall specify by regulation such methods as he finds feasible and equitable for the apportionment of the cost of coordinated audits between the program established under title V or XIX and the program established under title XVIII. Where the Secretary finds that a State has declined to participate in such a common audit with respect to title V or XIX, he shall reduce the payments otherwise due such State under such title by an amount which he estimates to be the amount that would have been apportioned to the State under the title (for the expenses of the State incurred in the common audit) if it had participated in the common audit.".

(b)(1) Section 1902(a) of the Social Security Act is amended—

(A) by striking out "and" at the end of paragraph (39);

(B) by striking out the period at the end of paragraph (40) and inserting in lieu thereof "; and"; and

(C) by inserting after paragraph (40) the following new paragraph:

"(41) provide (A) that the records of any entity participating in the plan and providing services reimbursable on a cost-related basis will be audited as the Secretary determines to be necessary to insure that proper payments are made under the plan, (B) that such audits, for such entities also providing services under part A of title XVIII, will be coordinated and conducted jointly (to such extent and in such manner as the Secretary shall prescribe) with audits conducted for purposes of such part, and (C) for payment of the proportion of costs of each such common audit of such an entity equal to the proportion of total program benefit payments to the entity (by all third-party payers participating in the common audit for the period being audited) which are payments under this title.".

(2) The amendments made by paragraph (1) shall apply to medical assistance provided, under a State plan approved under title XIX of the Social Security Act, on and after the first day of the first calendar quarter beginning more than 30 days after the date of enactment of this Act.

(c)(1) Section 505(a) of the Social Security Act is amended—

(A) by striking out "and" at the end of paragraph (14);

(B) by striking out the period at the end of paragraph (15) and inserting in lieu thereof "; and"; and

(C) by inserting after paragraph (15) the following new paragraph:

"(16) provides (A) that the records of any entity participating in the plan and providing services reimbursable on a cost-related basis will be audited as the Secretary determines to be necessary to insure that proper payments are made under the plan, (B) that under part A of title XVIII, will be coordinated and conducted jointly (to such extent and in such manner as the Secretary shall prescribe) with audits conducted for purposes of such part, and (C) for payment of the proportion of costs of each such common audit of such an entity equal to the proportion of total program benefit payments to the entity (by all third-party payers participating in the common audit for the period being audited) which are payments under this title.".

(2) The amendments made by paragraph (1) shall apply to services provided, under a State plan approved under title V of the Social Security Act, on and after the first day of the first calendar quarter beginning more than 30 days after the date of enactment of this Act.

(d) The Secretary shall report to the Congress, not later than March 31, 1980, on actions the Secretary has taken (1) to coordinate the conduct of institutional audits and inspections which are required under the programs funded under title V, XVIII, or XIX of the Social Security Act, and (2) to coordinate such audits and inspections with those conducted by other cost payers, and he shall include in such report recommendations for such legislation as he deems appropriate to assure the maximum feasible coordination of such institutional audits and inspections.

EFFECTIVE DATE FOR PSRO AMENDMENTS

SEC. 7. The amendments made by sections 1, 2, 3, and 4 shall be effective 180 days after the date of enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. DUNCAN of Tennessee. Mr. Speaker, I demand a second. I am not opposed to the bill, but I demand a second only for the purpose that we might have a colloquy on the bill.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, a major purpose of H.R. 13817 is to improve the effectiveness of peer review activities in medicare and medicaid by providing for the participation of nonphysician health professionals in the work of PSRO's—the professional standards review organizations which under present law are responsible for reviewing the necessity and quality of health services. There is a broad consensus within the health care community that the participation of nonphysician health professionals, along with physicians, in the work of the PSRO's would help considerably to improve their performance.

The bill would accomplish this objective by: First, expanding the present membership of the National Professional Standards Review Council to include a dentist, a nurse, and one other nonphysician health professional; second, creating an advisory committee to the National Council, composed of nonphysician health professionals; third, requiring statewide PSRO advisory bodies to include at least one nurse and one dentist; and finally, authorizing local PSRO's, at their option, to offer membership to health professionals, such as dentists and podiatrists, who hold independent hospital admitting privileges.

It is our conviction that the increased participation of these health professionals will better enable PSRO's to serve as catalysts for improving the efficiency and quality of health services.

H.R. 13817 would also modify present law to eliminate costly duplication of auditing procedures under the medicare and medicaid programs, and permit greater flexibility in the use of hospital beds as long-term care beds for patients no longer requiring the full range of intensive hospital services. Both of these changes would significantly improve the efficiency and effectiveness of the two programs: The common audit provision by eliminating wasteful duplication in the auditing of health care institutions participating in both medicare and medicaid; the "swing bed" provision by permitting more efficient use of hospital beds to accommodate the changing needs of patients and hospitals to provide long-term care services.

Mr. Speaker, the Congressional Budget Office estimates that H.R. 13817, particularly the common audit provision, would reduce Federal liabilities and thereby permit a reduction of $20.5 million for fiscal year 1979 in the budget authority for medicaid; and also result in a saving of $6 million in medicare for fiscal year 1979. Equally important, however, is the fact that H.R. 13817 can be expected to produce improvements in the peer review process which, over time, should result in the more efficient and effective delivery of health care care services generally. I urge my colleagues, therefore, to support H.R. 13817 as still another important step in the direction of improved management of the medicare and medicaid programs.

Mr. CARTER. Mr. Speaker, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. Mr. Speaker, I commend the gentleman from Illinois (Mr. ROSTENKOWSKI) for his hard work on this legislation to improve the PSRO program. As you know—in order to have an effective PSRO program we must have the commitment and participation of physicians. Any changes in the composition of PSRO's should be consistent with maintaining a harmonious relationship among the members.

In that regard—I would like to ask the distinguished chairman a question about the intent of your committee.

Is it your intent that the new nonphysician health professionals to be selected under the provisions of this bill will be only those professionals who are recognized by and have worked closely with the medical profession—such that the inclusion of these new professionals

in PSRO activities will serve to strengthen rather than weaken the program's effectiveness? Am I correct that this is the committee's intent with respect to the selection of the nonphysician health professionals?

Mr. ROSTENKOWSKI. Mr. Speaker, the gentleman is absolutely correct.

Mr. CARTER. Mr. Speaker, I thank the distinguished gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to express my support for H.R. 13817.

This legislation would, first of all, significantly improve the quality of peer review by Professional Standards Review Organizations by allowing and encouraging greater participation by many types of health care practitioners, yet without in any way diminishing the necessary authority of physicians to act in matters relating to other physicians.

For example, I am pleased that our Nation's dentists and podiatrists may be invited to participate in the evaluation of services provided by their professional colleagues under medicare, and hope that the PSRO's will act promptly to include those health professionals to the greatest extent possible.

Also, I believe that tribute to the vitally important services provided by our nurses and allied health professionals, finally is being paid. I am certain that the role that these professionals will play in both the advisory groups to statewide councils and the Advisory Committee to the National Council will be of great importance.

In recent months, the Congress and the Secretary of HEW have expressed concern about the cost-effectiveness of the PSRO program. It is clear that the next several months—perhaps years—will provide much-needed evidence as to whether this program will meet the goals, requirements, and needs that must be fulfilled.

It would seem to me that, whatever the verdict may be, the changes made by H.R 13817 will enhance the program's opportunity to succeed by encouraging and promoting more participation, coordination and self-scrutiny among all of the providers who serve our citizens in Government health programs.

Finally, Mr. Speaker, I would add that the provision of H.R. 13817 that makes it easier for hospitals to obtain Federal reimbursement for utilizing "swing beds" to provide needed long-term care services to medicare beneficiaries is most constructive. This amendment will be extremely helpful and efficient, particularly in certain of our rural areas where acute care beds frequently go unused in some hospitals at the same time that the patients in those institutions require, and are entitled to receive, skilled nursing care.

Similarly, the provision with respect to coordinated audits under the Social Security Act should prove both wise and cost-effective.

In conclusion, Mr. Speaker, H.R. 13817 is a bill that appears to deserve support and enactment. I would urge my colleagues to vote for its passage.

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Speaker, I fully support H.R. 13817, the amendments to health programs authorized under the Social Security Act, which Chairman ROSTENKOWSKI has so ably presented to the House today. The provisions of the bill are sound ones. As Members may know, these amendments fall within the jurisdiction of the Interstate and Foreign Commerce Committee as well as Ways and Means. The committee did not require formal referral of the legislation, however, because the two major provisions of the bill have previously been approved and reported by the Commerce Committee in substantially similar form as part of the Hospital Cost Containment Act, H.R. 6575 as amended. One of these provisions relates to a requirement for common audits of providers in the medicare and medicaid program, a measure which can reduce paperwork and result in cost savings for the taxpaying public. The second allows small underutilized hospitals to provide long-term care services, and receive appropriate reimbursement from medicare and medicaid, without meeting a number of detailed requirements or establishing a distinct part of the institution to provide skilled nursing facility services.

The third provision, relating to PSRO's has widespread support. It recognizes the important role of nurses in making PSRO's effective entities.

I urge the Members to support the amendments.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Kansas (Ms. KEYS).

Ms. KEYS. Mr. Speaker, I strongly support this legislation.

Professional standards review organizations were mandated by Congress in 1972 to insure the delivery of quality health care through the process of peer review. PSRO's are presently authorized to review the full scope of health care services in both hospitals and long-term care facilities.

The health care delivery system is made up of many health professionals. There are at least 15 nonphysician health professions, each with its own professional standards.

The largest of these is nursing. There is no health profession which affects as many phases of health care. The most direct and continuous contact which a patient has with health care is nursing. Nurses provide care round-the-clock care in all settings. Nurses provide for the immediate needs of the patient; they respond in emergencies, administer medication, prepare patients for surgery, and advise them on home care before leaving the hospital.

Nursing is the largest component of our health care delivery system. There are over 900,000 professional registered nurses and many more licensed practical nurses. Registered nurses outnumber doctors 9 to 1.

Yet neither nurses nor the 14 other nonphysician health care professions are represented on PSRO's. At present the national PSRO council is limited to 11 physicians. The bill before us recognizes the need for genuine peer review by providing for nonphysician participation at the State and national level. The bill provides for—

Three additional members on the national PSRO council. This would add one professional registered nurse, one dentist, and one other health professional.

An advisory committee to the national PSRO council composed of nonphysicians. This will offer the other health professions a voice in establishing PSRO standards and policies for their own professions.

At least one professional registered nurse and one dentist on the advisory group to each statewide PSRO council.

Authority for the local PSRO to offer membership, at its own option, to health care practitioners who hold independent hospital admitting privileges.

The legislation also contains provisions which will assist small rural hospitals by allowing them to utilize unused hospital beds for long-term care patients. This will result in a savings for both the hospitals and the Government.

This legislation, including its audit provisions, will save the taxpayers $6 million in 1979. It has the endorsement of HEW and is supported by the Health Care Practitioner Committee, the American Nurses Association, and the American Dental Association. I hope it will receive your support.

Mr. Speaker, I think it is, therefore, terribly important that these health professionals be represented on the PSRO National Board, along with dentists and other nonphysician professionals, and that all nonphysician health care professionals be included in a special advisory board at the national level as well as boards at the State level.

Mr. Speaker, some of the excellent testimony which was provided to us by many nurses and other nonphysician professionals who came to appear at our hearings last year certainly proved to those of us on the committee that this would be a very responsible way to directly make our health care delivery system more in tune to the patient's need.

Again, Mr. Speaker, I support the legislation as well as the provision for the rural swing-bed arrangement, which is most necessary in hospitals in States such as my own, Kansas, which has many small hospitals in rural communities.

Ms. OAKAR. Mr. Speaker, will the gentlewoman yield?

Ms. KEYS. I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Speaker, I thank the gentlewoman for yielding.

I want to associate myself with her very eloquent remarks, not only with respect to her comprehensive review of the legislation, but especially her views concerning nurses. I, for one, think that their advice is critical when it comes to health care. They provide such an in-

tegral part of our health care service that they should certainly be placed in the capacity of giving input as members of the Professional Standards Review Organizations. It is time to make these boards more representative of all deliverers of health care.

Again, Mr. Speaker, I thank the gentlewoman for yielding and thank her very much for her remarks. I think nurses across the country will applaud her efforts in this regard.

Mr. VENTO. Mr. Speaker, will the gentlewoman yield?

Ms. KEYS. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I first want to start by paying tribute to the gentlewoman from Kansas (Ms. KEYS) for her leadership in terms of expanding the PSRO Boards. I think she has scored a legislative victory in terms of the acceptance by the committee and, hopefully, of this House of nurses and other professional membership on PSRO's.

Mr. Speaker, I was pleased to cosponsor the initial legislation proposals in 1977 with Representative KEYS. I want to extend my congratulations to the committee for their good work on H.R. 13817, and I hope the Members of the House will ratify this measure.

When Congress created the Professional Standards Review Organizations in 1972, a giant step was taken to insure that Federal moneys expended for health programs would be subject to the professional review of physicians.

PSRO's have provided a valuable service since that time, but it is obvious that many qualified and highly trained members of the medical community have been denied the chance to participate in this important process.

I have been personally contacted by many nonphysician groups and many health professionals who want to participate in that process.

Nurses, in particular, are grossly under-represented in most all professional review organizations. This is especially evident when one considers the tremendous impact nursing has on all facets of health care in this country. Nurses often have the most intimate contact with patients over the longest period of time. In every sense, nurses are primary health care providers. Their responsibilities are enormous; their tasks varied and difficult. It is only appropriate, for that reason, that they now take a prominent place on both local and State PSRO's that review and determine standards of acceptable health care.

It is my hope, however, that all local PSRO's will open their organizations to the many dedicated and highly talented people who serve our health needs and work so hard to set quality standards so we can realize the best health care possible.

Mr. Speaker, I urge my fellow colleagues to join with me in supporting this important legislation which provides for a more fair and equal representation on our Professional Standards Review Organizations. I commend again my colleague from Kansas, Congresswoman KEYS for her enthusiastic table efforts on behalf of this bill.

Mr. Speaker, I thank the gentlewoman from Kansas for yielding.

● Mr. ULLMAN. Mr. Speaker, I am pleased that the House will have this opportunity to act on the improvements made by H.R. 13817 in the medicare, medicaid and PSRO programs. By providing for increased nonphysician participation in the peer review activities of professional standards review organizations, the bill would significantly enhance the capacity of PSRO's to effectively review all services furnished under the medicare and medicaid programs.

The bill would also make two important improvements in the administration of these programs: First, by requiring the coordination of audits of health facilities participating in both medicare and medicaid; and second, by allowing greater flexibility for hospitals with low occupancy rates to use acute care beds that would otherwise remain idle to provide skilled nursing care services.

Mr. Speaker, I believe these changes represent desirable substantive improvements in the medicare and medicaid programs, and I strongly recommend passage of H.R. 13817.●

● Mr. GILMAN. Mr. Speaker, if the American system of health is to be the most efficient system in the entire world, it is incumbent upon American medical professionals and ourselves as legislators, to insure that all members of the medical profession are able to express their thoughts and views on how best to streamline, improve, and significantly affect the course of American medicine. The health program amendments which are before us today offer us the opportunity of allowing more input into the planning process and to enable the American public to be more fully represented by different segments of the medical community.

As we are all aware, steps have been taken in the last several years to encourage participation by professionals in the health planning aspects of delivery of service. PSRO units (Professional Standards Review Organizations) have met with success in reviewing the necessity of hospitalization ordered by other physicians. In this system of peer review, substantial sums of money has been saved, and the health field has experienced a trend toward more careful thinking in prescribed actions. Yet, under present law, some important health professionals are excluded from participation in the PSRO's. For instance, nurses and dentists are excluded, and this legislation, H.R. 13817, enables each PSRO to offer membership to health care practitioners who hold independent hospital admitting priviliges, with the reasonable limitation imposed that such health personnel cannot make a final determination with respect to the conduct of MD's or DO's.

The bill also provides medicare reimbursement, as well as medicaid reimbursement to hospitals which have an occupancy rate of less than 60 percent daily, and those which are certified by the State as having need for the provision of long-term care services.

Mr. Speaker, I believe that the savings incurred by the passage of the legislation are significant, and I believe that patients will in the long run benefit as a result of this legislation. I urge my colleagues to support this bill.●

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI) that the House suspend the rules and pass the bill H.R. 13817, as amended.

The question was taken.

Mr. VOLKMER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the two bills, H.R. 13097 and H.R. 13817, just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AUTHORIZE THE SMITHSONIAN TO ACQUIRE MUSEUM OF AFRICAN ART

Mr. NEDZI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 10792) to authorize the Smithsonian Institution to acquire the Museum of African Art, and for other purposes, as amended.

The Clerk read as follows:

H.R. 10792

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. The Board of Regents of the Smithsonian Institution (hereinafter in this Act referred to as the "Board") is authorized to accept a deed or other instrument donating and transferring to the Smithsonian Institution, the land and improvements thereto, collections of works of art, and all other assets and property of the Museum of African Art.

SEC. 2. There is established in the Smithsonian Institution a bureau which shall be known as the "Museum of African Art" (hereinafter in this Act referred to as the "Museum"). The functions of such bureau shall be those authorized by section 3(a).

SEC. 3. (a) For the purpose of carrying out sections 1 and 2 of this Act, the Board may—

(1) purchase, accept, borrow, or otherwise acquire additional works of art or any other real or personal property for the Museum;

(2) preserve, maintain, restore, display, loan, transfer, store, or otherwise hold any property of whatsoever nature acquired pursuant to section 1 or paragraph (1) of this subsection;

(3) conduct programs of research and education; and

(4) subject to any limitations otherwise expressly provided by law, and, in the case of any gift, subject to any applicable restrictions under the terms of such gift, sell, exchange, or otherwise dispose of any property of whatsoever nature acquired pursuant to the provisions of this Act: *Provided*, That the proceeds from the sale of any property acquired pursuant to section 1 shall be designated for the benefit of the Museum.

(b) In carrying out the purposes of this Act, the Board shall consider the recommendations of the Commission established pursuant to section 4.

SEC. 4. (a) There is established a Commission for the Museum of African Art (hereinafter the "Commission") which shall provide advice and assistance to the Board concerning the operation and development of the Museum, its collections and programs.

(b) The Commission shall consist of fifteen members to be appointed by the Board. In addition, the Secretary and an Assistant Secretary of the Smithsonian Institution shall serve as ex officio members. The Board shall appoint to the first term on the Commission no less than ten members of the Board of Trustees of the Museum of African Art who are serving on the date of the enactment of this Act. Each initial member so appointed shall serve for a three-year term. Thereafter, in appointing members of the Commission the Board shall continue to include representatives of African descendents in the United States, collectors of African Art, and scholars in the fields of African art and culture.

(c) Members of the Commission shall be appointed to serve for a three-year term, except that after the appointment of the first term of the Commission as specified in subsection (b), the terms of office of members next appointed shall expire, as designated by the Board at the time of appointment, one-third at the end of one year, one-third at the end of two years, and one-third at the end of three years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his precedessor was appointed shall be appointed for the remainder of such term. Members may be reappointed.

(d) A majority of the appointed members of the Commission shall constitute a quorum and any vacancy in the Commission shall not affect its power to function.

(e) Members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(f) The Commission shall select officers, from among its members biennially and shall make bylaws to carry out its functions under this Act.

SEC. 5. The Board may appoint and fix the compensation and duties of the Director and such other officers and employees of the Museum as may be necessary for the efficient administration, operation, and maintenance of the Museum; the Director and two other employees of the Museum may be appointed and compensated without regard to the provisions of title 5 governing appointments in the competitive service and chapter 51 and subchapter III of chapter 53 of title 5; and all of the employees of the Museum who are serving on the date of the transfer authorized under section 1 shall be offered employment by the Smithsonian under its usual terms of employment and may be appointed without regard to the provisions of title 5 governing appointments in the competitive service and chapter 51 and subchapter III of chapter 53 of title 5.

SEC. 6. (a) The faith of the United States is pledged that upon the completion of the acquisition in section 1, the United States will provide such funds as may be necessary for the upkeep of the Museum and the administrative expenses and costs of operation thereof, including the protection and care of works of art acquired by the Board, so the Museum shall at all times be properly maintained and works of art contained therein shall be exhibited regularly to the general pubic free of charge.

(b) There is authorized to be appropriated for the first fiscal year under this Act, the sum of $1,000,000 and such amounts as may be necessary for the succeeding fiscal years in order to carry out the provisions of this Act.

SEC. 7. Except for the provisions in sections 1 and 6(b), the provisions of this Act shall take effect on the date of transfer of a deed or other instrument under the provisions of section 1.

The SPEAKER pro tempore. Is a second demanded?

Mr. FRENZEL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. NEDZI) will be recognized for 20 minutes, and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. NEDZI).

Mr. NEDZI. Mr. Speaker, I have only one request for time. To my knowledge, I know of no objection to this legislation.

Mr. Speaker, at this time I yield 6 minutes to the gentlewoman from Louisiana (Mrs. BOGGS).

Mrs. BOGGS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of H.R. 10792.

In the spring of 1977, I served with Dr. Caryl Haskins, Senator BARRY GOLDWATER, and Judge Leon Higgenbotham as a member of an ad hoc committee of the Board of Regents to study the desirability of the Smithsonian's acquiring the Museum of African Art. At the outset, we noted that one of the few serious gaps in the coverage of art in the national museums of the Smithsonian is that of the Continent of Africa. Elsewhere within the Institution the visitor and scholar alike can find worthy presentations of the art of Europe, of the Americas, of the Near and Far East—but not of Africa.

As many Members of this House know, during the last several years it has been belatedly recognized that African art is, indeed, one of the major art traditions of the world. The modern art of Picasso, Matisse, Braque, and others reflect the artistic expressions found in the sculpture of the tribal peoples of Africa.

As a consequence of this rediscovery, other museums around the country have moved decisively to fill similar gaps in their own collections. For its own part, unless the Smithsonian acts to seize the unique opportunity afforded by the interest of the Museum of African Art in joining the Institution, we will likely lose our one best chance to involve the Smithsonian in any major way in this important area of art scholarship.

Since May of 1975 there has been a series of discussions by the Board of Regents and evaluations by the staff of the Institution to determine the feasibility of the acquisition of the Museum by the Smithsonian. These discussions culminated in a visit to the Museum by our ad hoc committee and a favorable report to the Board.

We were very impressed with what we observed during our visit. We found the Museum to be a cultural institution of significant importance to the Nation in the study and appreciation of the art of Africa. Its collection is one of the best in the country; its staff is dedicated and enthusiastic; and we were generally convinced of the essential educational role the Museum can play in informing a public which is still largely ignorant of the traditional cultural expressions of the peoples of Africa. Particularly now that so many of our fellow citizens have become so very interested in the heritage of black Americans, the Museum will be filling a large need for well-researched and mounted exhibitions, for publications, and educational outreach programs in African art.

In recommending the acquisition of the Museum to the regents, the committee felt that the success of the Museum and its promise for future important contributions to the understanding of the art of the African Continent has been based substantially upon the interplay between its excellent collection of objects, its dedicated staff, its corollary collections of photographic and reference materials, its ambitious educational programs, and the ambience of its physical setting and exhibition space. We felt that the twin prospects of acquiring the Museum and providing for a close working relationship between it and various other units of the Institution would be of benefit to all involved and would further enable the Smithsonian to accomplish its objective of increasing and diffusing knowledge for all mankind.

As many of us know, there have been three reports on the internal management procedures of the Smithsonian. A general theme found in all of these reviews is need for better communication between the regents and Congress regarding the affairs of the Institution. While the primary responsibility for conducting the affairs of the Smithsonian is vested in the regents, I think all are agreed that new programs of appreciable size which are likely to require substantial Federal appropriations should, at the very least, be brought to for this museum in academia, in the committees of the Congress before the Smithsonian undertakes them. The Museum of African Art certainly fits this category.

Accordingly at our January 16 meeting, the regents voted to support this acquisition and to seek appropriate congressional approval of this action. The legislation which is before this House today will provide authority to the regents to proceed with the acquisition. Our colleagues in the other body have already voted unanimously to approve similar legislation, S. 2507.

I think we all recognize the tremendous support and enthusiasm that exists for this museum in academia, in the community at large, and here in Congress. I hope this House will share my feelings about the desirability of proceeding with the mechanics of acquisition and will act upon this legislation as soon as possible. The Museum of African Art is a fine and important institution and deserves

to be made a part of our National Museum.

I urge favorable action on this legislation.

GENERAL LEAVE

Mr. NEDZI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. NEDZI. Mr. Speaker, I have no further requests for time.

Mr. FRENZEL. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I rise in support of this bill and in support of the statement made by the distinguished gentlewoman from Louisiana (Mrs. BOGGS) in support of the bill of which she was the original sponsor. I concur in everything the gentlewoman said, except I am not expert on ambiance. But I will trust the gentlelady from Louisiana on that score and assume we will get that in the package as well. I hope the bill is swiftly passed.

Mr. Speaker, I now yield 5 minutes to the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Speaker, I thank the gentleman from Minnesota (Mr. FRENZEL) for yielding this time.

Mr. Speaker, I rise in opposition to this bill. To start with, I think we should remember that this is not money we have on hand that we are spending: this is money that we are borrowing, because everytime we spend an extra dollar that is just that much more money Congress must borrow.

We borrow, we borrow, we borrow, and this country is going more heavily into debt month after month, day after day, and week after week. Excessive spending is what is causing inflation in America.

We need to draw the line somewhere, and this might as well be one of the first places where we draw the line.

We learned, when we started considering the particular fundamentals in this bill, that the present African Museum budget is $645,000, but the first thing that the committee recommended was that we start with $1 million for this museum. As desirable and as wonderful as it might be to have additional museums, I really wonder whether this should be a top priority in this country today.

As we take on the African Art Museum, the question into my mind: What should we do for Minnesota, for example, the State represented by the gentleman from Minnesota (Mr. FRENZEL)? One would think they would want a museum perhaps for the Norwegians or the Swedes.

I know that my cousins up in Boston who are Irish would probably like to have a museum for the Irish. In my State of Texas we would certainly want to have a museum for our Spanish-American art and for Mexican art, because that is the heritage of our great State.

In New Mexico, they would want a museum for the Indians because theirs has been a heritage of the Indians. And certainly if we had one museum, it should be for the Indians, because, after all, they were in America when others came here.

But we get back to this fundamental question: Can we in the Congress continue to spend money for everything that comes down the road? An art museum is something that ought to be supported by the private sphere of our economic system. It is something that we should pay for out of our own good pockets. We should not call upon the Government to pay for it. A government cannot do all things for all people. The statement that President Ford made is, I think, one of the greatest statements when made. He said, "A government that is big enough to give you everything you want is a government that is big enough to take from you everything you have."

If we are big enough to pay for a million-dollar museum, we are big enough to pay for everything.

But the question remains that inflation is No. 1 in America today, and inflation is caused by congressional overspending. One of the best places, and certainly the best one that comes to mind today, is that Congress cannot buy an African art museum.

Mr. FRENZEL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. NEDZI. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Louisiana (Mrs. BOGGS).

Mrs. BOGGS. Mr. Speaker, I would like to advise my respected colleague, the gentleman from Texas (Mr. COLLINS), that we are acquiring a $10 million property. The million dollars is for the running of the property that we are acquiring. So I think that the Government is coming off in a very fine light in this regard. All of the other ethnic groups which you mentioned and our native Americans, the Indians, are already represented in the Smithsonian Institution.

Mr. FRENZEL. Mr. Speaker, will the gentlewoman yield?

Mrs. BOGGS. I yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentlewoman for yielding.

Mr. Speaker, I think it also important to note that we are getting, along with the liability of the cost of running the museum, about $375,000 a year of income which the museum will turn in against the operating expenses which we will absorb. So it is not as frightening a cost aspect as first seems apparent.

Mrs. BOGGS. Mr. Speaker, as the chancellor of the Smithsonian Institution, the Chief Justice, said, this is a bride with a dowry because the real estate in which the museum is housed is worth a great deal of money also.

● Mr. DIGGS. Mr. Speaker, I urge my colleagues to support H.R. 10792, a bill which authorizes the Smithsonian Institution to acquire the Museum of African Art.

First proposed in 1975, the merger of the Museum of African Art with the Smithsonian would enable the latter to represent more fully the arts and cultures of Africa and provide stability for the former. H.R. 10792 has a companion bill in the Senate (S. 2507) which already passed that body. In the Senate, the companion bill had the strong support of Senator PELL, Senator GOLDWATER, and the late Senator Humphrey who was the first Chairman of the Board of the Museum of African Art. H.R. 10792 also has the full support of both the Smithsonian Institution and the Board of the Museum.

Let me state briefly why I believe that this bill should be adopted. The Museum of African Art, opened in 1964, has become a cultural resource not only to the District but also to the Nation at large. It has become a leading museum in this country in the field of traditional African art and has made notable contributions through its collections, its photographic archives, its exhibitions and its educational programs. The Smithsonian has within its complex museums devoted to each of the major artistic traditions of the world except that of Africa. As the Secretary of the Smithsonian has stated, the interest of his institution is to assure that the Museum of African Art "has an appropriate home, one which will permit its exhibition, research, and educational programs to thrive as they should."

Affiliation with the Smithsonian would be of benefit to both institutions. Its acquisition would attract to the museum several of the major private collections in the United States if the museum can demonstrate the financial base and facilities to accommodate, preserve, and display these collections. The Smithsonian can provide the expertise to achieve this goal and to make the museum the principal center in this country for the exhibition and study of African art and culture. Acquisition of the museum would further the mandate of the Smithsonian Institution. In addition, in a city with a predominantly black population and one which houses the diplomatic representatives of some 42 African nations, the Museum of African Art becomes an institution of even greater importance.

I urge that it be adopted.●

● Mr. LONG of Louisiana. Mr. Speaker, I rise in support of H.R. 10792, legislation which would provide for the acquisition of the African Museum of Art by the Smithsonian Institution. As a cosponsor of the bill, I would like to join the distinguished chairman of the Subcommittee on Libraries and Memorials, Mr. NEDZI, in urging support for the transfer of this remarkable museum of black art and culture to the Smithsonian Institution.

Seldom do we have the opportunity to consider legislation with more widely acclaimed merit. Senator Hubert Humphrey first proposed the idea of merging the museum with the Smithsonian as a means of strengthening financial support for the necessary maintenance, personnel, and curatorial service. His proposal ultimately received the full support

of the Smithsonian. It now provides those of us in the House of Representatives an opportunity to contribute to a creative partnership between these two vital cultural institutions in a way which will enhance the qualities of both.

The seeds of the partnership were planted 13 years ago when, armed with determination, the help of a few friends, black community leaders, and loans from private collectors, Mr. Warren Robbins opened the African Art Museum at the Washington residence of the noted 19th century freedom fighter, Frederick Douglass.

It was a bold idea—a "teaching museum" which would utilize its exhibits and resources to provide a social understanding of the contribution of African history to black American culture.

It has been a bold success. The museum now houses nearly 7,000 objects on permanent exhibition, a fully developed library, and a picture gallery of nearly 150,000 photographs which comprise 30 years work by the late Eliot Elisofon, renowned filmmaker and photographer for Life magazine. In addition, the museum has embarked on an ambitious education program through which lectures and classes are offered locally in the elementary and secondary schools. An advanced study program which would grant college degrees to students of African art is now in the planning stages.

Mr. Speaker, the goal of the African Museum of Art is to bring an awareness to Americans throughout the country of the rich historical and cultural ties we have with the African nations. The legislation we consider today would be a great advancement in stability as well as stature for the African Museum. In return, the museum could continue to build a deeper understanding of the African people and, consequently, a broader culture for our Nation.

I urge my colleagues to join me in supporting this legislation as the necessary first step to creating a national museum of black cultural heritage.●

Mr. NEDZI. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. NEDZI) that the House suspend the rules and pass the bill H.R. 10792, as amended.

The question was taken.

Mr. COLLINS of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

AGRICULTURE ACT AMENDMENTS FOR INTEREST ON COTTON LOANS

Mr. BOWEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13675) to amend section 103(f)(1) of the Agricultural Act of 1949 by deleting the third sentence thereof in order to insure that interest rates on price support loans for upland cotton are not less favorable to producers than the interest rates for such loans on other commodities as amended.

The Clerk read as follows:

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Mississippi (Mr. BOWEN) will be recognized for 20 minutes, and the gentleman from Louisiana (Mr. MOORE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. BOWEN).

Mr. BOWEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 13675, as amended, is the same as the Senate bill (S. 3460), and simply involves numbering and technical differences. This bill passed the House Agriculture Committee by a vote of 33 to 0, and it involves a change in the manner in which the loan rate is established by the Commodity Credit Corporation for Cotton.

Last year, during the debate on our farm bill, the Food and Agriculure Act of 1977, we included a provision that required that the CCC loan rate for upland cotton be established on a quarterly basis, reflecting the interest rate for ordinary obligations of the United States. That was a very sound provision, but there is no statutory language for determining CCC rates for other commodities. As a result, the Commodity Credit Corporation has established as its policy that it will make adjustments in the interest rates for other commodities annually.

Consequently, we have now arrived at a point where there is a disparity between rates. The interest rate for cotton is now 7¾ percent, and it is 7 percent for other commodities. At the point of the next adjustment, October 1, it might well go as high as 8 percent for cotton.

As a result, we are offering this bill, Mr. Speaker, which will eliminate the disparity between the way in which the rate is established for cotton and for other commodities. I think it will be an important step in providing much fairer and more usable Commodity Credit Corporation loan program for our cotton farmers and will allow a uniform procedure for all commodities.

It is supported by the Department of Agriculture. They have indicated that they will move swiftly to establish uniform rates as soon as the Congress and President have acted.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am a cosponsor of this bill along with the gentleman from Mississippi, and I commend him for having brounght this bill to my attention, out of the Subcommittee on Cotton of the Committee on Agriculture.

Mr. Speaker, H.R. 13675 amends the Agricultural Act of 1949.

CURRENT LAW AS IT AFFECTS PRICE SUPPORT LOANS FOR UPLAND COTTON

One. The Food and Agriculture Act of 1977 mandated quarterly adjustments in the interest rate on price support loans based on lowest current rate on ordinary obligations of the United States.

Two. Interest rates on all other commodity loans are discretionary with the Board of Directors of the Commodity Credit Corporation.

NEED FOR LEGISLATION

One. Quarterly adjusted interest rates have resulted in an interest rate on cotton loans of 7¾ percent while the interest rate for all other commodities is 7 percent (should this provision remain in effect, the interest rate for the next quarter beginning October 1 will be 8⅜ percent).

Two. Should cotton prices fall below the loan level, excessively high interest rates would have an adverse effect on producers.

ADMINISTRATION POSITION

One. Recommends adoption of the bill to provide equitable treatment for all producers.

Two. USDA and the Congressional Budget Office estimates there would be no net budgetary outlays under this proposal.

Three. Treat like all commodities.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. BOWEN) that the House suspend the rules and pass the bill H.R. 13675, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. BOWEN. Mr. Speaker, I ask unanimous consent for the immediate consideration of a similar bill (S. 3468) to amend the Agricultural Act of 1949 to insure that the interest rates on price support loans for upland cotton are not less favorable to producers than the interest rates for such loans on other commodities.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3468

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 103(f) of the Agricultural Act of 1949 is amended by striking out the fourth sentence of paragraph (1).

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 13675) was laid on the table.

GENERAL LEAVE

Mr. BOWEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise

and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

DIPLOMATIC RELATIONS ACT

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and take from the Speaker's desk the bill (H.R. 7819) to complement the Vienna Convention on Diplomatic Relations, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 4, strike out lines 3 to 11, inclusive, and insert:

SEC. 5. Any action or proceeding brought against an individual who is entitled to immunity with respect to such action or proceeding under the Vienna Convention on Diplomatic Relations, under section 3(b) or 4 of this Act, or under any other laws extending diplomatic privileges and immunities, shall be dismissed. Such immunity may be established upon motion or suggestion by or on behalf of the individual, or as otherwise permitted by law or applicable rules of procedure.

Page 5, after line 7, insert:

SEC. 7. (a) That chapter 85 of title 28, United States Code, is amended by the addition of the following new section:

"§ 1364. Direct actions against insurers of members of diplomatic missions and their families

"(a) The district courts shall have original and exclusive jurisdiction, without regard to the amount in controversy, of any civil action commenced by any person against an insurer who by contract has insured an individual, who is a member of a mission (as defined in the Vienna Convention on Diplomatic Relations) or a member of the family of such a member of a mission, or an individual described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946, against liability for personal injury, death, or damage to property.

"(b) Any direct action brought against an insurer under subsection (a) shall be tried without a jury, but shall not be subject to the defense that the insured is immune from suit, that the insured is an indispensable party, or in the absence of fraud or collusion, that the insured has violated a term of the contract, unless the contract was cancelled before the claim arose.".

(b) The chapter analysis of chapter 85 of title 28, United States Code, is amended by adding after the item relating to section 1363 the following new item:

"1364. Direct actions against insurers of members of diplomatic missions and their families.".

Page 5, line 9, strike out "7." and insert "8."

Page 6, line 9, strike out "8." and insert "9."

The SPEAKER pro tempore. Is a second demanded?

Mr. BUCHANAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida (Mr. FASCELL) will be recognized for 20 minutes, and the gentleman from Alabama (Mr. BUCHANAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 7819 is a bill which has resulted from 2 years of work on the part of four congressional committees. The House unanimously passed similar legislation last year. Just to refresh our memories on this, Mr. Speaker, this is a bill that is long overdue and will correct a matter which has been lying dormant for 188 years.

Since 1790, the entire foreign diplomatic community in this country, from ambassadors to chauffeurs, have enjoyed absolute immunity under U.S. law. What this legislation does is to remove that immunity from almost two-thirds of the diplomatic community, which numbers about 19,000 people in Washington alone, by substituting a limited diplomatic immunity specified in the Vienna Convention on Diplomatic Relations.

That was the first objective of this bill, and, as I say, Mr. Speaker, it was passed unanimously last year by this House.

Complementary to that is a bill which corrects another major problem, and that is the question of according U.S. citizens some recourse in the event that there is an injury as a result of some act involving a member of the diplomatic community. To date, Americans have had no recourse because of the absolute immunity of diplomats.

Now, by bringing the United States under the Vienna Convention, we have first of all limited the amount of immunity possessed by members of the diplomatic community. A second problem will be solved by the Senate amendments, which reflect the language contained in a complementary bill which has been reported out of the House Judiciary Committee.

While this bill will require that the diplomatic community take out liability insurance, the Senate amendment will also provide that direct actions may be taken against the insurers with regard to actions arising under those contracts.

The other Senate amendments are primarily technical. One was to cover certain high U.N. officials that we found should have been included in the direct action provision. It was our intent to include them in the original House judiciary language in H.R. 7679, but we did not through an oversight. They were included in the House-passed version of H.R. 7819.

The other amendments are mainly technical and drafting corrections.

So, if there are any questions about whether or not there is any need for this legislation, let me point out that, although the cases are not numerous, they are distressing. Only 2 weeks ago we had another tragedy where an elderly Washingtonian was struck by a hit-and-run driver while he was crossing an intersection with the light in his favor. Fortunately somebody got the diplomatic license number. But without this legislation there will be absolutely no recourse except an ex gratia payment by the government if the Congress wished it. With this legislation in effect, you would have the requirement that the diplomatic community would have to take out liability insurance and the American citizen who was hurt would have recourse through a suit against the diplomat and through direct action against the insurer. We would certainly not see the tragic situation that exists today in the Washington area and other places in the United States where Americans cannot even go into court against diplomats.

As many Members will remember, the House passed H.R. 7819, the Diplomatic Relations Act, over a year ago on July 27, 1977. The bill was passed by the Senate on August 17 of this year with four amendments. Of the four Senate amendments, only one is substantive in nature and constitutes an improvement over the House-passed bill. It is also similar to a bill already approved by the House Judiciary Committee and concurred in by the gentleman from California (Mr. DANIELSON) who chairs the subcommittee which held hearings on the bill. The Senate amendment is a provision allowing a direct action to be brought against insurers of diplomats in the event that diplomatic immunity prevents a plaintiff from suing the diplomat directly. This provision is vitally necessary to provide recourse for Americans injured by a category of diplomats who would otherwise escape liability for certain actions. These are "diplomatic agents," who include ambassadors and professional staff, as well as their families, who still possess full immunity from the civil and criminal jurisdiction of the United States under the Vienna Convention on Diplomatic Relations.

If such a diplomat is involved in a traffic accident while on official business, he could not be sued, although the country he represents could be sued. However, if the diplomat is on private business when the accident occurs, neither he nor the country he represents could be sued. This is the situation covered by the direct action provision. It will provide recourse directly against an insurer in cases where diplomatic immunity prevents suit against a diplomatic agent.

A second amendment inserted by the other body rewords an existing section in the House-passed bill concerning the procedure to be used in the dismissal of actions by a court when diplomatic immunity applies. While we have no objection to the minor changes made, I must repeat the intent expressed by the International Relations Committee that the Department of State not be placed in a position where it is expected by anyone to appear in court on behalf of the diplomatic community to assert the immunity of a diplomat. That is not the function of the State Department, but should properly be left to the diplomatic community, its attorneys, or the court.

Mr. Speaker, I urge my colleagues to join me in concurring in these amendments and placing the diplomatic community within reach of U.S. law.

Let me emphasize too, Mr. Speaker, that what we are doing here is con-

sistent with what is done with respect to the diplomatic communities in almost all nations. We require diplomats to carry liability insurance and we limit their diplomatic immunities.

I want to thank my colleagues who have supported this long-overdue legislation, particularly those who come from the immediate area and who have been direcly involved, such as our colleagues, the gentlemen from Virginia (Mr. FISHER and Mr. HARRIS) and our colleagues, the gentleman from Maryland (Mr. STEERS) the gentlewomen from Maryland (Mrs. HOLT and Mrs. SPELLMAN) as well as our colleagues from New York City who are concerned about the U.N. officials stationed there. This is a matter which all of them have been vitally interested in. They join me in urging all Members to adopt this legislation that would protect American citizens.

I must say it has been difficult. As I say, it has been through four committees. It has been under consideration a long time both by the House and the Senate. I am glad that, at long last, through sheer determination and the cooperation of the committees, the Justice Department, the State Department, and others, that we finally have a bill which will give American citizens some recourse.

One hundred and fifty nations have signed the Vienna Convention on Diplomatic Relations, Mr. Speaker. I do not know whether we are the last to enforce it, but we are pretty close to the bottom of the list in implementing it. It is high time we joined the community of nations in this regard.

Mr. BUCHANAN. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the bill that is before us represents a bill passed by the House in a very different form at an earlier time. The Senate then took practically the same contents as a bill called H.R. 7679 and included it in this measure as an amendment. However, the result of the Senate's work is rather different from the work of the House Committee on the Judiciary with respect to that part of the bill that is H.R. 7679.

I object to what is being proposed for the reason that the House has worked on a measure and come out with what I believe to be a far better, far superior approach to a very difficult problem, which will not unnecessarily place a burden upon other insurance policy holders who will pay increased insurance premiums because of the risks arising by virtue of this legislation. The problem consists in having such insurance carried by private insurance carriers while, in turn, their customers have to pay the premiums.

The problem is, of course, that diplomatic immunity is a matter that has not been dealt with fully. As the gentleman from Florida (Mr. FASCELL) has said, it has been lying dormant for 188 years.

Mr. Speaker, I would urge that it is better for us not to go ahead with this bill at the present time because of its faulty content, but instead, to take up H.R. 7679, as was scheduled to be the case otherwise, and approach that part of the problem in a much more logical way, even if it means that there is some delay beyond the present 188 years.

Why now? Why in such a hurry? I do not know.

Mr. Speaker, what the Senate has done in this measure is to say that when a direct action is brought against an insurance company, not against the diplomat involved, but against an insurance company, the action shall not be subject to a defense that the insured is immune from suit, that the insured is an indispensible party; or, in the absence of fraud or collusion, that the insured has violated a term of the contract.

What that means is that the diplomat does not have to comply with the contract of insurance; but the insurance company still has to defend the cause of action brought against the insurance company as though it were the wrongdoer. Indeed, that puts the other customers of that insurance company, who have to pay the premiums, in the position of the insurance company having to defend, without the usual ability to defend. There are usually contract requirements that the insured must cooperate in the conduct of the defense, but a diplomat does not have to do that.

Mr. Speaker, there is nothing in this legislation which can really be enforced, for that matter, in terms of requiring the diplomat to even buy the insurance. The only sanction that can be applied is if our Government were to declare the diplomat, who refuses to buy insurance, persona non grata. However, our State Department has said to the Committee on the Judiciary, "No we are very, very unlikely to do that by reason of a diplomat or a member of a mission failing to buy such insurance."

That is the problem right there. There is no way to enforce this thing. What will happen is that there will be policies of insurance bought by some diplomats for this purpose. They will be in an assigned-risk pool rather than purchasers of regular insurance. Incidentally, this is not just for automobile-liability and property-damage insurance; it is far broader in scope than the Vienna Convention requires. Indeed, the wording of the section which I have just referred to, which the Senate has dealt with in what I believe to be a very open manner, is much broader than the language of H.R. 7679 required in order to comply with the Vienna Convention.

Property damage and personal injury, very broadly, are covered by this language, not just the operation of motor vehicles and boats and aircraft and that sort of thing. That is all that would be required by the Vienna Convention.

The SPEAKER pro tempore. The time of the gentleman from Ohio (Mr. KINDNESS) has expired.

Mr. BUCHANAN. I yield 2 additional minutes to the gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. Mr. Speaker, I thank the gentleman for yielding.

In other words, Mr. Speaker, we are going too far in this present bill. We do not have to go that far to comply with the Vienna Convention whatsoever.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, I thank the gentleman for yielding.

I know that this subject has received active consideration by the House Committee on the Judiciary.

Can the gentleman tell us what the status is as far as the Committee on the Judiciary bill is concerned, because I know it is a fairly complex subject which requires very careful attention as far as the legal, constitutional, and treaty aspects are concerned.

Mr. KINDNESS. Mr. Speaker, I appreciate the gentleman's asking about that because the House bill H.R. 7679, comes very close to being in about the same posture as this bill; that is, it was, I believe, due to be on the Suspension Calendar some time this week or very shortly. Instead, what is sought to be done here is to take the Senate language which is far inferior, and the Senate approach, which is far inferior, and, in effect, ask the House to accept the work of the Senate on this part, whereas I do not think enough thought has been given to it over in the other body.

Mr. McCLORY. Mr. Speaker, if the gentleman will yield further, I have a little difficulty understanding how we happen to have a bill before us which would permit damage claims for torts committed by persons with diplomatic immunity. This measure coming before us today appears not to have been referred to our committee.

Mr. KINDNESS. Mr. Speaker, the gentleman makes a good point. The main purpose of H.R. 7819, as passed by the House, was to codify the privileges and immunities provisions of the Vienna Convention on diplomatic relief and to repeal some existing Federal legislation that was inconsistent with that.

Then the content of H.R. 7679, which has not yet been brought up on the House floor, was added to this bill over in the other body which has to do with a direct action against the insurance company in enforcing liability.

Mr. BUCHANAN. Mr. Speaker, I yield myself 1 minute. I do so to answer the question of the gentleman from Illinois.

This bill originated in our Committee on International Relations, and the Subcommittee on International Operations, which held extensive hearings. However, in this committee, we do not, of course, deal with certain aspects that were in this body handled by the Committee on the Judiciary.

When the bill reached the Senate, the Senate added amendments which comprise substance comparable to that reported out of the Committee on the Judiciary in the House. That is how we arrived at this point in the legislative process.

Mr. Speaker, I now yield 5 minutes to the gentleman from California (Mr. MOORHEAD).

Mr. MOORHEAD of California. Mr. Speaker, there is no question but that the

current U.S. law on diplomatic immunity is too broad. Too many individuals are covered by this antiquated umbrella. So, I support those features of H.R. 7819 which would cut back the number of individuals eligible for diplomatic immunity. For too long the cloak of immunity has frustrated recovery by innocent Americans who are victims of intentional or negligible actions by an "immuned" diplomat.

But H.R. 7819 returns from the other body with an unfortunate amendment. Added is a new section to title 28, granting the U.S. district courts jurisdiction over suits brought by injured persons against the insurers of individuals entitled to diplomatic immunity. It is a direct action statute. Under this provision, the insurance company would be the only named defendant. The diplomat could not be a party to the action. The insurance carrier is not permitted to plead the defense "that the insured is immune from suit or that the insured is an indispensable party." Further, the bill provides that any breach of the liability insurance contract by the insured diplomat does not constitute valid defense.

What does this mean to the insurance carrier? As I have already said, a diplomat cannot be a named party in a civil action based upon negligence. Also, he cannot be required to testify in court and probably cannot be required to submit to a deposition. Further, the standard "cooperation" clause in automobile policies, for example, could be ignored with impunity by the diplomat. He is free to refuse to cooperate in the defense in any fashion. The diplomat could even neglect to report the accident to the insurance company and, under the terms of H.R. 7679, the insurer conceivably would still have to defend such an action in court. Plain and simple, the insurance company is required to defend their diplomatically immune insured with no assurance that he will cooperate in the defense, nor with any means of enforcing the terms of their contract against him.

In the House, legislation (H.R. 7679) containing this direct action feature was referred to the Judiciary Committee. After hearings and extensive markup, we reported this measure amended to the full House—House Report 95-1410. Importantly, our version of the bill tried to balance the rights of insured parties with those of the insurers and their policyholders. Under H.R. 7679, an insurer would have been able to plead the failure of the insured diplomat to comply in the terms of the contract if that "substantially prejudices the insurer."

Should this direct action legislation become law, it effectively will close the voluntary market on liability insurance to diplomats in the United States. They will be forced into assigned risk pools or other residual market mechanisms. This means that those insurance companies who have the largest share of the market in both metropolitan Washington, D.C., and metropolitan New York will bear the brunt of the burden. Clearly, they then will attempt to pass this cost on to their policyholders.

Mr. Speaker, I think the reason these changes were made is perhaps because Members who are handling the House legislation felt they could not get a rule or they could not get the bill through a conference committee this late in the session, but I think that the Members can see that the very good work was done by the Administrative Law Subcommittee of the Judiciary Committee and by the Committee on the Judiciary was completely laid aside when this version of the bill was brought to the floor. It is a procedure to eliminate any kind of difficulty in getting a rule. By this procedure we accept what the Senate has to offer right now, but the Senate version is a poor substitute compared to what the House has offered. It will not do justice to the American people, and I think we should very carefully consider going back to the House version, bringing it up under a rule, passing it on the floor, and sending it to the conference committee before we take action.

Mr. FASCELL. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Virginia (Mr. FISHER).

Mr. FISHER. Mr. Speaker, I thank my distinguished colleague, the gentleman from Florida (Mr. FASCELL), for yielding this time to me.

Mr. Speaker, I rise in support of this bill and in support of the statement made by my distinguished friend. This legislation is long overdue. It is, in fact, many, many years overdue.

The case for it is clear. The House bill went through here with no opposition whatsoever. A great deal of publicity has been given to this bill and to various tragedies its passage would alleviate, one of which my colleague cited—an accident out on Connecticut Avenue a couple of weeks ago.

I would like to remind my friends on the other side that we are just talking about one feature of this bill, and that is the feature that the Senate added to the House bill. The argument is made that this will penalize one or two or several insurance companies which write a good deal of liability insurance in the Washington and New York areas. I do not know what companies they are, but the total number of diplomatic personnel who might be recuired to carry liability insurance under this proposed legislation is not very great, compared to the total number insured in these two metropolitan areas. It is hardly even a drop in the bucket when we consider insurance coverage all over the country.

In the case of automobile insurance, many States require liability insurance on motor vehicles, and the few thousand policy holders who are diplomatic personnel would be a tiny number in the total. It is hard for me to imagine that adverse decisions that might arise would cause a noticeable change in the rates.

Mr. KINDNESS. Mr. Speaker, will the gentleman yield?

Mr. FISHER. I am glad to yield to the gentleman from Ohio.

Mr. KINDNESS. Mr. Speaker, I thank the gentleman for yielding.

I believe the point was attempted to be made that it is the constituents of the gentleman and other Members in the Washington metropolitan area and the New York metropolitan area who are in all likelihood going to have to do the paying for this, not the insurance companies, and it is those people we are trying to look out for. I assume the gentleman has their best interests at heart, too.

Mr. FISHER. Yes. However, Mr. Speaker, my point is that the number of diplomatic personnel who would be involved in this is very small indeed.

In the calculation of premium rates, it is hard for me to imagine that there would be a noticeable change in the rates charged on account of covering these few additional persons.

I would like to bring out one other point that has been referred to, and that is the irony of the United States having agreed to an additional convention, along with 150 other countries, regarding the treatment of foreign diplomats in the several capital cities, major cities, all over the world, and at the same time not bringing our own domestic laws into conformity with the convention that we agreed to some years ago. It seems to me that this just ought to be corrected. It is not a big deal to correct an inconsistency of this kind. But the miracle is, the wonder is, that we have not done it before. The administration, the State Department, the Justice Department, the House, the Senate—everybody agrees with this. Under dispute is only this one feature of it, and that, it does seem to me, is not significant enough to cause us to delay this reform any longer. It simply will not make that much more difference to the premiums that anyone will have to pay for this kind of insurance coverage.

Mr. FASCELL. Mr. Speaker, I want to commend the gentleman from Virginia (Mr. FISHER), who has not only introduced legislation on this matter, but has diligently followed it, along with a number of our colleagues on both sides of the aisle who have an immediate responsibility, not only here in Washington, but in other places where the diplomatic community is resident.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Wisconsin (Mr. ZABLOCKI), the chairman of the full committee.

Mr. ZABLOCKI. Mr. Speaker, I rise in support of the bill, H.R. 7819, the Diplomatic Relations Act of 1978. This bill is the product of 2 years' effort, and consideration of the issue by two committees. I would like to take this opportunity to thank our colleagues Chairman PETER RODINO, and the Honorables DANTE B. FASCELL, GEORGE DANIELSON, and JOSEPH FISHER for their diligence and cooperation on behalf of the legislation. This is a well-crafted and important measure which will enable legal recourse by citizens in accident cases where diplomatic immunity has previously been invoked.

Enactment of this bill will repeal the antiquated statute which prohibits lawsuits against diplomats, and will require liability insurance coverage of all embassy personnel and their families.

The 1790 statute granting diplomatic immunity was enacted long before District streets witnessed the treads of the

automobile—it is time for a revision of this anachronistic code. The current statute serves as a disincentive for compliance with parking and driving laws by exonerating diplomatic personnel from retribution from their violations. The diplomats should be treated as the responsible citizens they are deemed to be—as evidenced by representation for their respective countries—which means holding them accountable for their actions.

This measure will, to a certain extent, serve to alleviate the myriad of unpaid parking tickets by restricting the number of individuals to whom full diplomatic immunity is extended.

It is time to remove the cloak of diplomatic immunity which has discriminated against citizens who must comply with the law—the innocent accident victims who are unprotected, and without legal redress, as a result of current laws.

Mr. Speaker, I urge adoption of this bill which will safeguard the rights of individuals involved in accident by permitting legal access to compulsorily insured diplomats.

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me say a few more things, in light of some of the concerns some of my colleagues have raised with regard to the objections of the insurance companies under this bill.

First of all, let me say that the precedent here is settled.

Direct action is permitted now in about 12 or 15 States in the United States, in a variety of liability cases.

Second, as the insurance companies have already admitted in their testimony—they do not have to write this insurance. They are not required to do it.

If a company wants to write this insurance and is concerned about the risk they might be taking—a risk which is not borne out by the facts—then they can simply raise the premiums they charge diplomats.

I might note here that over 50 percent of the nations of the world—many of them as highly industrialized as the United States—have direct action statutes. The premium for diplomats in those nations are equal to or lower than those charged to ordinary citizens. I find it difficult to believe that an insurance industry as highly organized and competent as the American insurance industry cannot manage to equal the record of the industries in other industrialized nations.

Mr. KINDNESS. Mr. Speaker, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Ohio.

Mr. KINDNESS. Mr. Speaker, I think what concerns us is that the Senate bill would put into the law for the first time a statement to the effect that the action is not subject to the defense that the insured has violated the terms of the contract. That is just an extraordinary concept to put in the law. That is the problem.

Mr. FASCELL. I understand what the gentleman says. I have great respect for the insurance industry, but I think that that problem can be handled.

For example, any country can and will waive the immunity of the insured diplomat under the Vienna Convention for the limited purpose of testifying, which seems to be the major problem bothering the insurance industry.

As a matter of fact, we have cases now where diplomats do cooperate in this matter. The record of the majority of diplomats proves that they do comply with the terms of insurance contracts, even now when their immunity is absolute. The only thing they are really concerned about is personal liability. Once we give them the assurance that they will be protected, I do not think there will be any problem in their compliance with the terms of insurance contracts.

On another matter, I cannot imagine that any court in a proceeding would find for the plaintiff where the basic testimony is not available because of a claim of immunity. In other words, the evidence is not there. How could the court find for the plaintiff? I just do not believe that would happen.

Mr. MOORHEAD of California. Mr. Speaker, will the gentleman yield?

Mr. FASCELL. Certainly.

Mr. MOORHEAD of California. I think the big concern here is that everyone who is sued must under their insurance contract at the present time, be willing to go to court or give depositions or do whatever is necessary in order to get their side of the case before the court or before the jury. Under this legislation, the insurance company can be sued. They are hanging out there by themselves. They were not at the accident; they do not know what happened.

It could be that somebody who is at fault in an accident would sue the insurance company for their damages. Unless the diplomat who was hit, was willing to go to court and testify or give the facts from his point of view, there would be no defense that could be presented. The testimony of the plaintiff would be sufficient to base a judgment on. The insurance company would not have the information, even though with all the facts presented there would be no case whatsoever for the people suing.

Unless we require cooperation from the insured, the insurance company would have to pay. It is necessary that the insured go to court and tell what the facts were. That is the thing we are concerned about, not the immunity. We are concerned that the facts get before the court, and the insurance company does not have to pay out in cases where there is really no liability. It is the policy owners who have to pay in increased premiums.

Mr. FASCELL. I understand what the gentleman is getting at. We also want the facts to get before the court, I assure the gentleman. I do not see any way that an insurance company will be put in an awkward position. The only reason for the language at all; frankly, was to prevent simply the dismissal of a case on some technicality such as 24-hour notice.

As I said, I just cannot conceive that any judge would allow a case to go without the basic evidence being before him.

Mr. MOORHEAD of California. If the gentleman will yield further, if the only evidence that is offered shows a prima facie case, the judge will allow a verdict. I would say to the gentleman that if he would accept the wording that came out of the Judiciary Committee, what he wants would be satisfied. What Mr. FISHER wants would be satisfied, but also the people of this country would be protected.

Mr. FASCELL. If there is a prima facie case, the diplomat has every reason to testify to try to mitigate. He has nothing to lose by allowing his immunity to be waived for the limited purpose of testifying. You know, I respect the difference of opinion. I submit that the American people will be protected. The matter has been reviewed very carefully. I cannot believe the insurance industry is so incapable that it cannot deal with the problem that is presented here.

Mr. Speaker, I reserve the balance of my time.

Mr. BUCHANAN. Mr. Speaker, I yield myself 2 minutes.

Our colleagues on the Committee on the Judiciary have made a persuasive case, and yet I would concur with the remarks of the gentleman from Virginia (Mr. FISHER) and our distinguished chairman of the subcommittee.

We are talking here about a relative handful of cases—only about 14 at the present time—and if the cost of claims against the insurance company in that limited number of cases spread among the whole pool of those insured is so spread, I cannot believe it can have a substantial impact on the rates. We have American citizens who are not protected now and I hesitate to delay that needed protection for American citizens over some contingency that may or may not occur. We have a record of cases where Americans have been injured and there has been no reimbursement because of diplomatic immunity. I think it is time to act. I therefore urge adoption of this legislation.

Mr. KINDNESS. Mr. Speaker, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from Ohio.

Mr. KINDNESS. Mr. Speaker, I believe the gentleman is correct that there probably are not too many cases but they are concentrated to such a great extent in the Washington, D.C., metropolitan area and the New York metropolitan area so they give rise to some concern.

I would like to point out one matter for clarification, if I might, that the history of the Vienna Convention and our compliance with it is a kind of funny thing.

Article 31 of the convention provides for three exceptions to the general rule of diplomatic immunity. Those three exceptions are: First, actions relating to private immovable property; second, actions involving wills and decedent's estates, and third, actions involving the professional or commercial activities of the diplomatic agent performed outside his official duties.

At the time the convention was being debated a fourth exception was proposed and considered, and that was actions based upon negligent or tortious conduct of the diplomatic agent. However, this very logical exception was rejected, primarily due to the opposition of certain Third World countries.

It is a defect in the treaty, the Vienna Convention itself, that gives us this problem, not a defect in the laws of the United States. We are attempting to overcompensate, I believe, in the laws of the United States and for that reason I believe we ought to approach this quite cautiously and not in the way the other body's language does it.

Mr. BUCHANAN. I would say in practice if there proved to be problems with this legislation, the Congress can address those problems subsequently. I hesitate to delay further needed protection for Americans because there may be problems with which we can deal at a future time. Since over 50 percent of the nations of the world have direct statutes that work quite well, I rather doubt that the problems raised by the gentleman will occur.

I, therefore, urge passage of this legislation and I yield back the balance of my time.

Mr. FASCELL. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the motion offered by the gentleman from Florida (Mr. FASCELL) that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 7819.

The question was taken.

Mr. KINDNESS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3 of rule XXVII, and the prior announcement of the Chair, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

HEALTH PLANNING AND RESOURCES DEVELOPMENT AMENDMENTS

Mr. ROGERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11488) to amend title XV and XVI of the Public Health Service Act to revise and extend the authorities and requirements under those titles for health planning and health resources development, as amended.

The Clerk read as follows:

H.R. 11488

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; REFERENCES TO PUBLIC HEALTH SERVICE ACT; AND TABLE OF CONTENTS

SECTION 1. (a) This Act may be cited as the "Health Planning and Resources Development Amendments of 1978".

(b) Whenever in this Act (other than in section 115(i)) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

TABLE OF CONTENTS

Sec. 1. Short title; references to Public Health Service Act; and table of contents.

TITLE I—REVISION OF HEALTH PLANNING AUTHORITY

Sec. 101. Revision and reporting on national guidelines for health planning.
Sec. 102. National health priorities.
Sec. 103. Designation of health service areas.
Sec. 104. Designation of health systems agencies.
Sec. 105. Limits on designated agencies.
Sec. 106. Planning grants.
Sec. 107. Carryover grant funds.
Sec. 108. Membership requirements.
Sec. 109. Governing body selection.
Sec. 110. Responsibilities of governing bodies.
Sec. 111. Meetings and records.
Sec. 112. Support and reimbursement for members of governing bodies.
Sec. 113. Conflicts of interest.
Sec. 114. Staff expertise.
Sec. 115. Health plan requirements.
Sec. 116. Criteria and procedures for reviews.
Sec. 117. Certificate of need programs.
Sec. 118. Appropriateness review.
Sec. 119. Review and approval of proposed uses of Federal funds.
Sec. 120. Coordination of health planning with rate review.
Sec. 121. Coordination within standard metropolitan statistical areas and with other entities.
Sec. 122. State health planning and development agencies.
Sec. 123. Statewide Health Coordinating Council composition.
Sec. 124. Authorizations.
Sec. 125. Report on effectiveness of planning law.
Sec. 126. Effective date.

TITLE II—REVISION OF AUTHORITY FOR HEALTH RESOURCES DEVELOPMENT

Sec. 201. Revision and extension of assistance.
Sec. 202. Conforming amendments.
Sec. 203. Technical amendments.
Sec. 204. Effective date.

TITLE I—REVISION OF HEALTH PLANNING AUTHORITY

REVISION AND REPORTING ON NATIONAL GUIDELINES FOR HEALTH PLANNING

SEC. 101. (a)(1) Section 1501 is amended (A) by striking out "and shall, as he deems appropriate, by regulation revise such guidelines" in subsection (a), and (B) by adding after subsection (c) the following:

"(d) The Secretary shall, on an annual basis, review the standards and goals included in the guidelines issued under subsection (a). In conducting such a review, the Secretary shall review the health systems plans and annual implementation plans of health systems agencies and State health plans. If the Secretary proposes to revise a guideline issued under subsection (a), he shall make such revision by regulations promulgated in accordance with section 553 of title 5, United States Code.

"(e)(1) The Secretary shall collect data to determine whether the health care delivery systems meet or are changing to meet the standards and goals included in the guidelines issued under subsection (a) and to determine the personnel, facilities, and other resources needed to meet such standards and goals. The Secretary shall prescribe (A) the manner in which such data shall be assembled and reported to the Secretary by health systems agencies, State health planning and development agencies, and other entities, and (B) the definitions which shall be used by such agencies and entities in assembling and reporting such data.

"(2) The Secretary shall from the data collected under paragraph (1) periodically make public a (A) statement of the relationship between such standards and goals and the status of the supply, distribution, and organization of health resources with respect to which such standards and goals were established, and (B) summary of changes (either through additions or reductions) in resources needed to meet such standards and goals.".

(2) Subsection (b)(1) of section 1501 is amended by adding at the end thereof the following: "Such standards shall reflect the unique circumstances and needs of medically underserved populations, including populations in isolated rural communities.".

(3) subsection (c) of section 1501 is amended by striking out "In issuing guidelines under subsection (a) the Secretary shall" and inserting in lieu thereof "At least 45 days before the initial publication of a regulation proposing a guideline under subsection (a) or a revision under subsection (d) of such a guideline, the Secretary shall, with respect to such proposed guideline or revision,".

(b)(1) Section 1513(b)(1) is amended by adding after and below subparagraph (F) the following:

"The agency shall also assemble and report to the Secretary such data (including data on the personnel, facilities, and other resources needed to meet the goals set forth in the agency's health system plan) as the Secretary may require to carry out his responsibilities under section 1501(e). The Secretary may not require the assembling and reporting of data under this paragraph which is regularly collected by any entity of the Department of Health, Education, and Welfare under a provision of law other than this title.".

(2) Section 1512(b)(10) is amended by inserting after "require the State agency to" the following: "(A) assemble and report to the Secretary data (other than data which is regularly collected by any entity of the Department of Health, Education, and Welfare under a provision of law other than this title) which the Secretary may require to carry out his responsibilities under section 1501(e), including data on the personnel, facilities, and other resources needed to meet the goals set forth in the State health plan, and (B)"

(c) Section 1503(b)(1) is amended (1) by striking out "fifteen members" and inserting in lieu thereof "twenty members", (2) by inserting "the Assistant Secretary for Rural Development of the Department of Agriculture," after "Department of Defense," in the second sentence; and (3) by striking out "not less than five shall be persons who are not providers of health services" in the fourth sentence and inserting in lieu thereof "not less than eight shall be persons who are not providers of health care and shall include members of urban and rural medically underserved populations".

NATIONAL HEALTH PRIORITIES

SEC. 102. Section 1502 is amended by adding at the end the following:

"(11) The discontinuance of duplicative or unneeded services and facilities.

"(12) The adoption of policies which will (A) contain the rapidly rising costs of health care delivery, (B) insure more appropriate use of health care services, and (C) promote greater efficiency in the health care delivery system.

"(13) The elimination of inappropriate placement in institutions of persons with mental health problems and the improvement of the quality of care provided those with mental health problems for whom institutional care is appropriate.

"(14) Assurance of access to community mental health centers and other mental health care providers for needed mental health services to emphasize the provision of outpatient as a preferable alternative to inpatient mental health services.".

DESIGNATION OF HEALTH SERVICE AREAS

SEC. 103. (a) The first sentence of section 1511(b)(4) is amended by striking out "if he determines that a boundary for a health service area no longer needs the requirements of subsection (a), he may revise the boundaries" and inserting in lieu thereof the following: "if he determines, after providing reasonable opportunity for a public hearing—

"(A) that a health service area does not meet the requirement of paragraph (1) of subsection (a) relating to effective planning and development of health services, and

"(B) revision of the boundaries would establish an area which needs such requirement and which better meets at least one other requirement of such subsection, he may revise the boundaries.".

(b) Section 1511(c) is repealed.

(c)(1)(A) Section 1536(a) is amended by inserting "the Commonwealth of Puerto Rico," before "the Virgin Islands".

(B) Section 1531(1) is amended by striking out "and the Commonwealth of Puerto Rico".

(2) The amendments made by paragraph (1) shall apply on and after the date the designation agreements (under section 1515 of the Public Health Service Act) in effect on the date of the enactment of this Act for the health systems agencies in the Commonwealth of Puerto Rico expire.

DESIGNATION OF HEALTH SYSTEMS AGENCIES

SEC. 104. (a) Section 1515(b)(4) is amended by striking out the last sentence and inserting in lieu thereof: "In considering such applications, the Secretary shall give priority to any application which has been recommended by a Governor for approval. When the Secretary enters into an agreement with an entity under paragraph (1), the Secretary shall notify the Governor of the State in which such entity is located of such agreement.".

(b) The last sentence of section 1515(c)(2) is amended to read as follows: "In considering such applications, the Secretary shall give priority to any application which has been recommended by a Governor for approval.".

(c) Section 1515(c) is amended by adding after paragraph (3) the following:

"(4) Before renewing an agreement with a health systems agency under this subsection, the Secretary shall provide the State health planning and development agency of the State in which the health systems agency is located an opportunity to comment on the performance of such agency and to provide a recommendation on whether such agreement should be renewed and whether its renewal should be made subject to conditions as authorized by paragraph (3).

"(5) If the Secretary enters into an agreement under this subsection with an entity or renews such an agreement, the Secretary shall notify the Governor of the State in which such entity is located of the agreement, its renewal, and, if any conditions have been imposed under paragraph (3), such conditions.".

(d)(1) Paragraphs (1) and (3) of section 1515(c) are each amended by striking out "twelve months" and inserting in lieu thereof "thirty-six months".

(2) Section 1515(c)(1) is amended—

(A) by inserting "(A)" after "(c)(1)",

(B) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively,

(C) by amending clause (ii) (as so redesignated) to read as follows:

"(ii) by the Secretary if the Secretary determines, in accordance with subparagraph (B), that the entity is not complying with the provisions of such agreement.", and

(D) by adding at the end the following:

"(B) Before the Secretary may terminate, under subparagraph (A)(ii), an agreement with an entity for designation as the health systems agency for a health service area, the Secretary shall—

"(i) consult with the Governor and the Statewide Health Coordinating Council of each State in which is located the health service area respecting the proposed termination,

"(ii) give the entity notice of the intention to terminate the agreement and in the notice specify with particularity (I) the basis for the determination of the Secretary that the entity is not in compliance with the agreement, and (II) the actions that the entity should take to come into compliance with the agreement, and

"(iii) provide the entity with a reasonable opportunity for a hearing, before an officer or employee of the Department of Health, Education, and Welfare designated for such purpose, on the matter specified in the notice.".

(3) The amendments made by paragraphs (1) and (2) shall take effect with respect to designation agreements entered into under section 1515(c) of the Public Health Service Act after the date of the enactment of this Act.

(e) Section 1515(c) (as amended by subsection (d)) is amended by adding after clause (ii) of paragraph (1)(A) the following: "A designation agreement under this subsection may be terminated by the Secretary before the expiration of its term if the health service area with respect to which the agreement was entered into is revised under section 1511(b)(4) and the Secretary determines, after consultation with the Governor of each State in which the health service area (as revised) is located, that the health systems agency designated under such agreement cannot effectively carry out the agreement for the area (as revised). In terminating an agreement under the preceding sentence, the Secretary shall provide that the termination shall not take effect before an agreement for the designation of a new agency takes effect and shall provide the agency designated under the agreement to be terminated an opportunity to terminate its affairs in a satisfactory manner.".

(f) Section 1514 is amended (1) by striking out "under section 314(b) or title IX or", and (2) by striking out "304" and inserting in lieu thereof "305".

LIMITS ON DESIGNATED AGENCIES

SEC. 105. Section 1515(c)(3) is amended by adding at the end thereof the following: "If the Secretary determines that a health systems agency has not so fulfilled such functions or does not continue to meet such requirements, the Secretary may renew a designation agreement for such agency under such conditions as the Secretary determines appropriate, including conditions which limit the functions which the agency would be authorized to perform or the amount the agency may receive under a grant under section 1516.".

PLANNING GRANTS

SEC. 106. (a) Section 1516 is amended by redesignating subsection (c) as subsection (d) and by striking out subsection (b) and inserting in lieu thereof the following:

"(b) The amount of any grant under subsection (a) to a health systems agency designated under section 1515(b) shall be determined by the Secretary.

"(c)(1) Except as provided in paragraphs (2) and (3), the amount of a grant under subsection (a) to a health systems agency designated under section 1515(c) shall be the greater of the amount determined under subparagraph (A), (B), or (C) as follows:

"(A) The amount of a grant to a health systems agency shall be the lesser of—

"(i) if the population of the health service area for which the agency is designated—

"(I) is not over one million, the product of $0.70 and the population of such area,

"(II) is over one million but not over two million, the sum of $700,000 and the product of $0.50 and the population of such area which is over one million, or

"(III) is over two million, the sum of $1,200,000 and the product of $0.30 and the population of such area which is over two million, or

"(ii) $3,750,000.

"(B)(i) If the application of the health systems agency for such grant contains assurances satisfactory to the Secretary that the agency will expend or obligate in the period in which such grant will be available for obligation non-Federal funds meeting the requirements of clause (ii) for the purposes for which such grant may be made, the amount of such grant shall be the sum of—

"(I) the amount determined under subparagraph (A) or (C), whichever is applicable, and

"(II) the lesser of the amount of such non-Federal funds with respect to which the assurances were made, or the product of $0.25 and the population of the health service area for which the agency is designated.

"(ii) The non-Federal funds which an agency may use for the purpose of obtaining a grant under subsection (a) which is computed on the basis of the formula prescribed by clause (i) shall be funds which are not paid to the agency for the performance of particular services by it and which are otherwise contributed to the agency without conditions as to their use other than the condition that the funds shall be used for the purposes for which a grant made under this section may be used.

"(C) The amount of a grant to a health systems agency may not be less than—

"(i) $200,000 in the case of a grant made in the fiscal year ending September 30, 1979,

"(ii) $215,000 in the case of a grant made in the fiscal year ending September 30, 1980, and

"(iii) $230,000 in the case of a grant made in any succeeding fiscal year.

"(2) The amount of a grant to a health systems agency which is subject to a condition imposed by the Secretary under section 1515(c)(3) shall be determined in accordance with such condition.

"(3) If the Secretary determines, after review of the budget of a health systems agency, that the amount of a grant which is to be made to the agency in accordance with paragraph (1) is in excess of the amount needed by the agency to adequately perform its functions under its designation agreement, the amount of the grant to the agency shall be such amount as the Secretary determines the agency needs for the performance of such functions.".

(b) Subsection (d) (as so redesignated) is amended by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) Of the amount appropriated under paragraph (1) for any fiscal year, the Secretary may use not more than 5 per centum of such amount to increase the amount of a grant in such fiscal year to a health systems agency under subsection (a) to assist the agency in meeting extraordinary expenses (including extraordinary expenses resulting from the agency's health systems area being located in more than one State or from the agency serving a large health service area) which would not be covered under the amount of the grant that would be available to the agency under subsection (c).

"(3) Notwithstanding subsection (c)(1), if the total of the grants to be made in any fiscal year to health systems agencies designated under section 1515(c) exceeds the total of the amounts appropriated under paragraph (1) for such grant in such fiscal year (reduced by the amount retained by the Secretary for use under paragraph (2)), the amount of the grant to be made in such fiscal year to each such health systems agency which but for this paragraph would have its grant amount determined under subparagraph (A) or (B) of subsection (c)(1) shall be an amount which bears the same ratio to the grant amount prescribed for such agency in such fiscal year by such subparagraph as the total of the amounts appropriated under paragraph (1) for that fiscal year (as so reduced) bears to the total amount required to make grants to all such agencies in accordance with subparagraphs (A) and (B) of subsection (c)(1).".

(c) The second sentence of section 1516(a) is amended by inserting "(including submission of the health systems agency's budget)" after "such conditions".

CARRYOVER OF GRANT FUNDS

SEC. 107. (a)(1) The second sentence of section 1516(a) is amended by striking out ", and shall be available for obligation" and all that follows in such sentence and inserting in lieu thereof a period.

(2) Such section is amended by inserting after the second sentence the following: "Funds under a grant which remain available for obligation at the end of the fiscal year in which the grant has been made shall remain available for obligation in the succeeding fiscal year, except that (1) no funds under any grant to an agency may be obligated in any period in which a designation agreement is not in effect for such agency, and (2) notwithstanding clause (1), a grant made to a conditionally designated entity with which the Secretary will not enter into a designation agreement under section 1515(c) shall be available for obligation for such additional period as the Secretary determines such entity will require to satisfactorily terminate its activities under the agreement for its conditional designation."

(b) The second sentence of section 1525(a) is amended to read as follows: "Funds under a grant which remain available for obligation at the end of the fiscal year in which the grant has been made shall remain available for obligation in the succeeding fiscal year, but no funds under any grant to a State Agency may be obligated in any period in which a designation agreement is not in effect for such State Agency.".

(c) Section 1526(c) is amended (1) by striking out "(1) such a grant" and all that follows through "(2)", and (2) by inserting at the end the following: "Funds under a grant which remain available for obligation at the end of the fiscal year in which the grant has been made shall remain available for obligation in the succeeding fiscal year, but no funds under any grant to a State Agency may be obligated in any period in which a designation agreement is not in effect for such State Agency.".

MEMBERSHIP REQUIREMENTS

SEC. 108. (a)(1) Section 1512(b)(3)(C)(i) is amended (A) by striking out "and racial populations," and inserting in lieu thereof ", and racial populations and", (B) by striking out the comma after "health service area", and (C) by inserting before the period "(including labor organizations)".

(2) The first sentence of section 1512(b)(3)(C)(iii) is amended (A) by striking out "residents of" and inserting in lieu thereof "residents of, or have their principal place of business in,", and (B) by striking out subclauses (II), (III), (IV), and (V) and inserting in lieu thereof the following: "(II) hospitals and other health care institutions (such as facilities for long-term care and health maintenance organizations), (III) if the health service area contains one or more accredited schools of medicine, the dean of at least one such school, (IV) health professional schools (other than schools of medicine if such schools are represented pursuant to subclause (III)), (V) the allied health professions, (VI) health care insurers, and (VII) other providers of health care as defined in section 1531(3).".

(3) The second sentence of section 1512(b)(3)(C)(ii) is amended (A) by striking out "one-third" and inserting in lieu thereof "one-half", and (B) by inserting before the period at the end the following: "and of such direct providers of health care, at least one shall be a person engaged in the administration of a hospital".

(b)(1) Section 1512(b)(3)(C)(iii) is amended by redesignating subclauses (II) and (III) as subclauses (IV) and (V) respectively, and by striking out subclause (I) and inserting in lieu thereof the following:

"(I) include (either through consumer or provider members) public elected officials and other representatives of general purpose local governments in the agency's health service area,

"(II) include (either through consumer or provider members) representatives of public and private agencies in the area concerned with health,

"(III) include (through consumer and provider members) individuals who are knowledgeable about mental health services (including services for substance abuse),".

(2) Subclause (IV) (as so redesignated) of such section is amended (A) by striking out "is equal" and inserting in lieu thereof "is at least equal", and (B) by striking out "and" at the end.

(3) Such section is amended by striking out subclause (V) (as so redesignated) and inserting in lieu thereof the following:

"(V) if the health systems agency serves an area in which there is located one or more hospitals or other health care facilities of the Veterans' Administration, include, as an ex officio member, an individual whom the Chief Medical Director of the Veterans' Administration shall have designated for such purpose, and

"(VI) if the agency serves an area in which there is located one or more qualified health maintenance organizations (within the meaning of section 1310), include at least one member who is representative of such organizations.".

(c) Section 1512(b)(3)(C) is amended by inserting after and below clause (iv) the following:

"A member of a governing body or other entity appointed pursuant to clause (iii) (IVV) shall not be considered in determining the number of members of the governing body for purposes of the numerical limit prescribed by subparagraph (A).".

(d)(1) Section 1512(b)(3)(C)(i) is amended by striking out "who are not (nor within the twelve months preceding appointment been) providers of health care" and inserting in lieu thereof "who are not providers of health care and have not within the twelve months preceding appointment been direct providers of health care (as defined in section 1531(3)(A))".

(2) Section 1531(3) is amended to read as follows:

"(3) The term 'provider of health care' means an individual—

"(A) who is a direct provider of health care (including a physician, dentist, nurse, podiatrist, optometrist, physician assistant, or ancillary personnel employed under the supervision of a physician) in that the individual's primary current activity is the provision of health care to individuals or the administration of facilities or institutions (including hospitals, long-term care facilities, substance abuse treatment facilities, outpatient facilities, and health maintenance organizations) in which such care is provided and, when required by State law, the individual has received professional training in the provision of such care or in such administration and is licensed or certified for such provision or administration;

"(B) who holds a fiduciary position with, or has a fiduciary interest in, any entity described in clause (ii) or (iv) of subparagraph (C) other than an entity described in such clause which is also an entity described in section 501(c)(3) of the Internal Revenue Code of 1954 and which does not have as its primary purpose the delivery of health care, the conduct of research, the conduct of instructions for health professionals, or the production of drugs or articles described in clause (iii) of subparagraph (C);

"(C) who receives (either directly or through his spouse) more than one-tenth of his gross annual income from any one or combination of—

"(i) fees or other compensation for research into or instruction in the provision of health care,

"(ii) entities engaged in the provision of health care or in research or instruction in the provision of health care,

"(iii) producing or supplying drugs or other articles for individuals or entities for use in the provision of or in research into or instruction in the provision of health care, or

"(iv) entities engaged in producing drugs or such other articles;

"(D) who is the spouse of an individual described in subparagraph (A), (B), or (C); or

"(E) who is engaged in issuing any policy or contract of individual or group health insurance or hospital or medical service benefits.".

(e) Section 1512(b)(3)(C)(iv) is amended by adding before the period at the end a comma and the following "except that appointments shall be made to such subcommittees and groups in such a manner that a majority of their members shall be consumers of health care."

GOVERNING BODY SELECTION

SEC. 109. Section 1512(b)(3) is amended by adding after subparagraph (C) the following new subparagraph:

"(D) SELECTION.—Each health system agency shall establish a process for the selection of the members of its governing body which process is designed to assure that (i) such members are selected in accordance with the requirements of subparagraph (C), (ii) there is the opportunity for broad participation in such process by the residents of the health service area of the agency, (iii) the participation of such residents will be encouraged and facilitated, and (iv) nominations and selections for at least one-half of the consumer members and one-half of the provider members on the governing body will not be made by the governing body. Each agency shall make public such process and report it to the Secretary.".

RESPONSIBILITIES OF GOVERNING BODIES

SEC. 110. (a) Section 1512(b)(3)(E)(i) is amended to read as follows:

(i) shall be responsible for—

"(I) the internal affairs of the health systems agency, including matters relating to the staff of the agency and the agency's budget, except that the governing body for health planning of an agency which is a public regional planning body or unit of general local government shall not be responsible for the establishment of personnel rules and practices for the staff of the agency or for the agency's budget unless authorized by the planning body or unit of government, and

"(II) procedures and criteria developed and published pursuant to section 1532 and applicable to its functions under subsections (e), (f), and (g) of section 1513;".

(b) Section 1512(b)(3)(A) is amended (1) by striking out "have a governing body for health planning, which is established in accordance with subparagraph (C)," and inserting in lieu thereof "appoint a governing body for health planning in accordance with subparagraph (C)", and (2) by striking out "not more than twenty-five members" and inserting in lieu thereof "not less than ten members and of not more than thirty members".

(c) Section 1512(b)(3)(B)(ii) is amended by inserting before the semicolon a comma and the following: "except that each such plan for a health systems agency described in subparagraph (B) or (C) of paragraph (1) shall be subject to the approval of the public regional planning body or unit of general local government which is the health systems agency".

(d) Section 1512(b)(3)(B)(iii) is amended by striking out "(g), and (h)" and inserting in lieu thereof "and (g)".

MEETINGS AND RECORDS

SEC. 111. (a) Section 1512(b)(3)(B)(viii) is amended (1) by striking out "business meetings" and inserting in lieu thereof "business meetings (other than those parts of meetings which involve matters respecting personnel of the agency)", and (2) by striking out "records and data" and inserting in lieu thereof "records and data (other than records and data on the personnel of the health systems agency)".

(d) Section 1512(b)(3)(B)(iii) is amended by striking out "(g), and (h)" and inserting in lieu thereof "and (g)".

MEETINGS AND RECORDS

SEC. 111. (a) Section 1512(b)(3)(B)(viii) is amended (1) by striking out "business meetings (other than those parts of meetings which involve matters respecting personnel of the agency)", and (2) by striking out "records and data" and inserting in lieu thereof "records and data (other than records and data on the personnel of the health systems agency)".

(b) Section 1512(b)(6) is amended by redesignating subparagraphs (A), (B), and (C) as subparagraphs (B), (C), and (D) and by adding before subparagraph (B) (as so redesignated) the following:

"(A) provide that any executive committee of the agency and any entity appointed by the governing body or executive committee of the agency shall (i) conduct its business meetings (other than those parts of meetings which involve matters respecting personnel of the agency) in public, (ii) give adequate notice of its meetings to those persons who have requested such notice, and (iii) make its records and data (other than records and data on personnel) available, upon request, to the public;".

(c) Section 1522(b)(6) is amended (1) by striking out "business meetings" and inserting in lieu thereof "business meetings (other than those parts of meetings involving matters respecting personnel of the agency)", and (2) by striking out "records and data" and inserting in lieu thereof "records and data (other than records and data on the personnel of the State Agency)".

(d) Section 1524(b)(3) is amended by striking out "business meetings" and inserting in lieu thereof "business meetings (other than those parts of meetings involving personnel matters)".

SUPPORT AND REIMBURSEMENT FOR MEMBERS OF GOVERNING BODIES

SEC. 112. (a) Section 1512(b)(3) is amended by adding after subparagraph (D) (added by section 109 of this Act) the following new subparagraph:

"(E) SUPPORT.—Each health systems agency shall have an identifiable program of providing assistance to the members of its governing body, executive committee (if any), and any entity appointed by the governing body or executive committee in making decisions for the agency, and shall include in such program means to determine the support needs of the members and to provide for meeting those needs (including the provision of training and continuing education).".

(b) Section 1512(b)(3)(B)(vi) is amended by striking out "reimburse" and by inserting in lieu thereof "reimburse (or when appropriate make advances to)".

(c) Section 1512(b)(2)(A) is amended by adding at the end the following: "At least one member of the staff shall be designated to have the responsibility of providing the consumer members of the governing body of an agency with such assistance as they may require to effectively perform their functions.".

CONFLICTS OF INTEREST

SEC. 113. (a) Section 1512(b)(3) is amended by adding after subparagraph (E) (added by section 112 of this Act) the following new subparagraph:

"(F) CONFLICTS OF INTEREST.—No member of a governing body, executive committee, or any entity appointed by a governing body or executive committee may, in the exercise of any function of the agency described in subsection (e), (f), or (g) of section 1513, vote on any matter before the governing body, executive committee, or any such entity respecting any individual or entity with which such member has any substantial ownership, employment, fiduciary, contractual, creditor, or consultative relationship. A governing body, executive committee, and any entity appointed by a governing body or executive committee shall require each of its members who has or has had such a relationship with an individual or entity involved in any matter before the governing body, committee, or entity to make a written disclosure of such relationship before any action is taken by the body, committee, or entity with respect to such matter in the exercise of any function of the agency described in section 1513 and to make such relationship public in any meeting in which such action is to be taken.".

(b) Section 1524 is amended by adding at the end the following new subsection:

"(d) No member of any SHCC may, in the exercise of any function of the SHCC described in subsection (c)(6), vote on any matter before the SHCC respecting any individual or entity with which such member has any substantial ownership, employment, fiduciary, contractual, creditor, or consultative relationship. Each SHCC shall require each of its members who has or has had such a relationship with an individual or entity involved in any matter before the SHCC to make a written disclosure of such relationship before any action is taken by the SHCC with respect to such matter in the exercise of any function under subsection (c) and to make such relationship public in any meeting in which such action is to be taken.".

STAFF EXPERTISE

SEC. 114. The first sentence of section 1512(b)(2)(A) is amended (1) by striking out "and" after "health planning,", and (2) by inserting before the period a comma and the following: "(v) to the extent feasible, financial and economic analysis, and (vi) to the extent feasible, prevention of disease and other public health matters".

HEALTH PLAN REQUIREMENTS

SEC. 115. (a) Section 1524(c)(1) is amended by striking out "Review" and inserting in lieu thereof "Establish a uniform format for HSP's and review".

(b) Section 1513(b)(2) is amended (1)) by striking out "establish" in the first sentence and inserting in lieu thereof "establish (in accordance with the format established pursuant to section 1524(c(1))", and (2) by inserting after the first sentence the following: "The HSP of the agency shall include goals for the delivery of mental health services in its health service area which goals shall be developed under a procedure under which persons (acting as an advisory group or subcommittee appointed by the agency or, if the agency requests and is authorized by order of the Secretary to use an existing group, acting as part of such a group) knowledgeable about such services (including services for substance abuse) will be consulted with respect to such goals.".

(c)(1)(A) Section 1523(a)(1) is amended by inserting "(A)" after "(1)" and by inserting before the period a comma and the following: and (B) determine the statewide health needs of the State after providing reasonable opportunity for the submission of written recommendations respecting such needs by the State health authority, the State mental health authority, and other agencies of the State government, designated by the Governor for the purpose of making such recommendations, and after consulting with the Statewide Health Coordinating Council".

(B) Section 1523(a)(2) is amended by striking out "statewide health needs" and inserting in lieu thereof "statewide health needs determined under paragraph (1)(B)", and (2) by inserting after the first sentence the following: "In carrying out its functions under this paragraph, the State Agency shall refer the HSP's to the State health authority, the State mental health authority, and other agencies of the State government (designated by the Governor to make the review prescribed by this sentence) to review the goals and related resource requirements of the HSP's and to make written recommendations to the State Agency respecting such goals and requirements.".

(C) Subsection (a) of section 1523 is amended by adding after and below the last paragraph the following: "If in determining the statewide health needs under paragraph (1)(B) or in preparing or revising a preliminary State health plan under paragraph (2) the State Agency does not take an action proposed in a recommendation submitted under the applicable paragraph, the State Agency shall when publishing such needs or health plan make available to the public a written statement of its reasons for not taking such action.".

(2) Section 1513(b)(2) is amended (A) by striking out "and" after "resources of the area;", (B) by striking out "resources" and inserting in lieu thereof "resources (including entities described in section 1532(c)(7))", and (C) by inserting before the period at the end of the first sentence a semicolon and the following: "and (D) which are responsive to statewide health needs as determined by the State health planning and development agency".

(3) Section 1524(c)(2) is amended by inserting "as determined by the State Agency of the State" after "statewide health needs" each place it occurs.

(d) Section 1513(b)(2) is amended (1) by striking out "establishing" in the second sentence and inserting in lieu thereof "establishing or revising", and (2) by inserting after the first sentence the following: "The HSP shall also include a statement of changes (through increases or reduction, or both) in personnel, facilities, and other resources which the agency determines are required to meet the goals set forth in the preceding sentence.".

(e) Section 1513(b)(3) is amended by adding at the end the following "The AIP shall include a statement of the personnel, facilities, and other resources which the agency determines are required to meet the objectives described pursuant to the first sentence. Before establishing or revising an AIP, the agency shall conduct a

public hearing on the proposed AIP and shall give interested persons an opportunity to submit their views orally and in writing. Not less than thirty days prior to such hearing, the agency shall publish in at least two newspapers of general circulation throughout its health service area a notice of its consideration of the proposed AIP, the time and place of the hearing, the place at which interested persons may review the AIP in advance of the hearing, and the place and period during which to submit written comments to the agency on the AIP.".

(f)(1) Section 1513(b)(4) is amended to read as follows:

"(4) If a health service area includes an area under the jurisdiction of an Indian tribe or an Alaska Native Village, the establishment of an HSP and AIP under this subsection for such health service area does not affect the authority of such tribe or Village to establish and carry out a health plan for the Indian health programs in the area under its jurisdiction; and if such tribe or Village establishes such a health plan, such plan shall be included in the HSP for such health service area.".

(g)(1) Section 1513(b)(2)(C) is amended by striking out "and is consistent with".

(2) Section (b)(2) is amended by adding at the end the following: "The agency shall make its HSP available to the State health planning and development agency of each State in which the health service area of the health systems agency is located for inclusion in the preliminary State health plan to be prepared under section 1523(a)(2) and, if the goals contained in the HSP are not consistent with guidelines issued by the Secretary under section 1501, it shall provide the State agency with a detailed statement of the reasons for the inconsistency between such goals and guidelines. When making such HSP available to a Statewide Health Coordinating Council under section 1524(c)(2)(A), the agency shall also report such statement to such Council.".

(h) Section 1524(c)(2) is amended by adding at the end the following:

"(C) The State health plan or any revised State health plan approved by the SHCC shall be the State health plan for the State for purposes of this title unless, within 60 days from the date the plan was approved, the Governor of the State disapproves the plan. The State health plan for a State may be disapproved by the Governor of the State only if the Governor determines that the plan does not effectively meet the statewide health needs of the State as determined by the State Agency for the State. In disapproving a State health plan, a Governor shall make public a detailed statement of the basis for the determination that the plan does not meet such needs and shall specify the changes in the plan which the Governor determines are needed to meet such needs. Subparagraph (B) does not apply to the preparation of revisions of a State health plan disapproved by a Governor.

"(D) In carrying out its functions with respect to the goals and resource requirements for mental health services of the State health plan, the SHCC may establish a procedure under which persons (acting as or as part of an advisory group or subcommittee appointed by the SHCC) knowledgeable about mental health services (including services for substance abuse) will have the opportunity to make recommendations to the SHCC respecting such services.

"(E) The State health authority, the State mental health authority, and other agencies of the State government, designated by the Governor, shall carry out those parts of the State health plan which relate to the government of the State.".

(i)(1) Section 303(a) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 is amended by adding after and below paragraph (16) the following: "Such plan shall be consistent with the State health plan in effect for such State under section 1524(c) of the Public Health Service Act.".

(2) Section 409(e) of the Drug Abuse Office and Treatment Act of 1972 is amended by adding after and below paragraph (13) the following: "Such plan shall be consistent with the State health plan in effect for such State under section 1524(c) of the Public Health Service Act.".

CRITERIA AND PROCEDURES FOR REVIEWS

SEC. 118. (a)(1) The first sentence of section 1532(a) is amended (A) by striking out "; and is performing" and inserting in lieu thereof "; in performing", and (B) by inserting before the period a semicolon and the following: "and in performing its review functions a Statewide Health Coordinating Council shall (except to the extent approved by the Secretary) follow procedures and apply criteria developed and published by the Council in accordance with regulations of the Secretary".

(2) The second sentence of such section is amended by striking out "and States Agencies" and inserting in lieu thereof ", State Agencies, and Statewide Health Coordinating Councils".

(b)(1) Subsections (b) and (c) of section 1532 are each amended—

(A) by striking out "agency and State Agency" each place it occurs (other than in paragraph (11) of subsection (b)) and inserting in lieu thereof "agency, State Agency, and Statewide Health Coordinating Council", and

(B) by striking out "agency or State Agency" each place it occurs and inserting in lieu thereof "agency, State Agency, or Statewide Health Coordinating Council".

(2) Subsection (b)(4) of such section is amended by striking out "agency or a State Agency" and inserting in lieu thereof "agency, State Agency, or Statewide Coordinating Council".

(3) Section 1532(c)(1) is amended by striking out "HSP and AIP" and inserting in lieu thereof "HSP, AIP, and State health plan".

(c) Section 1532(a) is amended by adding at the end the following: "Health systems agencies, the State Agency, and, if appropriate, the Statewide Health Coordinating Council within each State shall cooperate in the development of procedures and criteria under this subsection to the extent appropriate to the achievement of efficiency in their reviews and consistency in criteria for such reviews."

(d) Section 1532(c)(6) is amended to read as follows:

"(6) In the case of health services proposed to be provided—

"(A) the availability of resources (including health manpower, management personnel, and funds for capital and operating needs) for the provision of such services,

"(B) the effect of the means proposed for the delivery of such services on the clinical needs of health professional training programs in the area in which such services are to be provided,

"(C) if such services are to be available in a limited number of facilities, the extent to which the health professions schools in the area will have access to the services for training purposes,

"(D) the availability of alternative uses of such resources for the provision of other health services, and

"(E) the extent to which such proposed services will be accessible to all the residents of the area to be served by such services.".

(e) Section 1532(c) is amended by adding at the end the following:

"(10) In the case of health services or facilities proposed to be provided, the efficiency and appropriateness of the use of existing services and facilities similar to those proposed.".

(f) Section 1532(b)(2) is amended by adding at the end the following: "Failure of a health systems agency, State Agency, or Statewide Health Coordinating Council to complete a review within the period prescribed for the review may not be deemed by such an entity to constitute a negative finding, recommendations, or decision with respect to the subject of such review.".

CERTIFICATE OF NEED PROGRAMS

SEC. 117. (a) Part C of title XV is amended by adding at the end the following:

"CERTIFICATE OF NEED PROGRAM

"SEC. 1527. (a) The certificate of need program required by section 1523(a)(4)(B) shall, in accordance with this section, provide for the following:

"(1) Review and determination of need under such program for—

"(A) major medical equipment, health care facilities, institutional health services, and home health services, and

"(B) capital expenditures,

shall be made before the time such equipment or facilities are acquired, such services or facilities are offered or developed, substantial expenditures are undertaken in preparation for such offering or development, or capital expenditures are obligated.

"(2) The acquisition, offering, and development of only such equipment, facilities, and services as may be found by the State Agency to be needed; and the obligation of only those capital expenditures found to be needed by the State Agency.

"(3) After a certificate of need is issued an annual review shall be conducted of the progress being made in making the equipment, facility, or service for which the certificate was issued available for use, and if it is determined that adequate progress is not being made, the certificate shall be withdrawn but only after consideration of any recommendation made by the health systems agency with jurisdiction over the area to be served by such equipment, facility, or service.

"(4) In issuing a certificate of need, the State shall specify in the certificate the maximum amount of capital expenditures which may be obligated under such certificate. The program shall, in accordance with regulations promulgated by the Secretary, prescribe the extent to which a project authorized by a certificate of need shall be subject to further review if the amount of capital expenditures obligated or expected to be obligated for the project exceed the maximum specified in the certificate of need.

"(5) The program shall provide that each decision of the State Agency not to issue a certificate of need shall, upon request of the person who applied for such certificate, be reviewed under an appeals mechanism consistent with State law governing the practices and procedures of administrative agencies or, if there is no such State law, by an entity (other than the State Agency) designated by the Governor.

"(6) The program shall provide that each decision of the State Agency to issue a certificate of need (A) shall not be inconsistent with the State health plan in effect for each State under section 1524(c), and (B) shall be issued by the State Agency solely on the basis of the record established in administrative proceedings held with respect to the application for each certificate.

"(7) The program may permit reviews of applications for certificates of need to be conducted in such a manner that (A) comparisons of applications for such certificates may be made, and (B) priorities for approval of such applications may be established.

"(b) Notwithstanding section 1532(c), an application for a health maintenance organization (as defined in section 1301) for a certificate of need for new institutional health services or health care facilities shall

be approved by the State Agency if the State Agency finds (in accordance with criteria prescribed by the Secretary) that—

"(1) approval of such application is required to meet the needs of the members of the health maintenance organization and of the new members which such organization can reasonably be expected to enroll, and

"(2) the health maintenance organization is unable to provide, through services or facilities which can reasonably be expected to be available to the organization, its institutional health services in a reasonable and cost-effective manner which is consistent with the basic method of operation of the organization and which makes such services available on a long-term basis through physicians and other health professionals associated with it.

"(c)(1) Under the program a certificate of need shall not be required for the acquisition of major medical equipment which will not be owned by or located in a health care facility unless—

"(A) the notice required by paragraph (2) is not filed in accordance with that paragraph with respect to such acquisition, or

"(B) the State gency finds, within 30 days after the date it receives a notice in accordance with paragraph (2) with respect to such acquisition, that the equipment will be used to provide services for inpatients of a hospital.

"(2) Before any person enters into a contractual arrangement to acquire major medical equipment which will not be owned by or located in a health care facility, such person shall notify the State Agency of the State in which such equipment will be located of such person's intent to acquire such equipment. Such notice shall be made in writing and shall be made at least 30 days before contractual arrangements are entered into to acquire the equipment with respect to which the notice is given.

"(d) In granting certificates of need under such a program, a State Agency shall take into account recommendations made by health systems agencies within the State under section 1513(f).".

(b)(1) Section 1523(a)(4)(B) is amended by striking out "new institutional health services proposed to be offered or developed within the State" and inserting in lieu thereof "the obligation of capital expenditures within the State and the offering and development within the State of new institutional health services, home health services, and health care facilities and the acquisition of major medical equipment".

(2) The second sentence of section 1523(a)(4) is amended to read as follows: "A certificate of need program shall not be found satisfactory to the Secretary unless each determination of need within the State is made by the State Agency solely on the basis of its review conducted in accordance with the procedures and criteria it has adopted in accordance with this title and regulations promulgated under it.".

(3)(A) Section 1531 is amended (i) by striking out "For purposes of this title" and inserting in lieu thereof "Except as otherwise provided, for purposes of this title", and (ii) by adding after paragraph (5) the following new paragraphs:

"(6) For purposes of sections 1523 and 1527, the term 'capital expenditure' means an expenditure—

"(A) made by or on behalf of a health care facility; and

"(B)(i) which (I) under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance, or (II) is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part; and

"(ii) which (I) exceeds $150,000, (II) substantially changes the bed capacity of the facility with respect to which the expenditure is made, or (III) substantially changes the services of such facility.

Such term does not include an expenditure to obtain (either by purchase or under lease or comparable arrangement) an existing health care facility the services or bed capacity of which is not changed in being so obtained. For purposes of subparagraph (B)(ii)(I), the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of any plant or equipment with respect to which an expenditure described in subparagraph (B)(i) is made shall be included in determining if such expenditure exceeds $150,000. Donations of equipment or facilities to a health care facility which if acquired directly by such facility would be subject to review under section 1527 shall be considered capital expenditures for purposes of section 1523 and 1527, and a transfer of equipment or facilities for less than fair market value shall be considered a capital expenditure for purposes of such sections if a transfer of the equipment or facilities at fair market value would be subject to review under section 1527.

"(7) For purposes of sections 1523 and 1527, the term 'major medical equipment' means medical equipment which is used for the provision of medical and other health services and which costs in excess of $150,000, except that such term does not include medical equipment acquired by or on behalf of a clinical laboratory to provide clinical laboratory services if the clinical laboratory is independent of a physician's office and a hospital and it has been determined under title XVIII of the Social Security Act to meet the requirements of paragraphs (10) and (11) of section 1861(s) of such Act.".

(B) Section 1531(5) is amended by striking out "and health maintenance organizations (as such facilities and organizations" and inserting in lieu thereof "(as such facilities".

(4)(A) Section 1522(b)(13)(A) is amended by inserting after "agencies," the following: "or, if there is no such State law,".

(B) Section 1522(b)(13)(B) is amended by inserting "under subparagraph (A)" after "the reviewing agency".

(c) Within 180 days of the date of the enactment of this Act, the Secretary of Health, Education, and Welfare shall promulgate such regulations as may be necessary to enable the States to establish certificate of need programs which meet the requirements of section 1527 of the Public Health Service Act.

APPROPRIATENESS REVIEW

SEC. 118. (a)(1) Section 1513(g)(1) is amended by striking out "all institutional health services offered in the health service area of the agency" and inserting in lieu thereof "at least those institutional and home health services which are offered in the health service area of the agency and which have been designated by the Secretary by regulation for appropriateness review under this paragraph".

(2) Section 1523(a)(6) is amended by striking out "all institutional health services being offered in the State" and inserting in lieu thereof "all institutional and home health services which are offered in the State and which have been designated by the Secretary for appropriateness review under this paragraph".

(b) Part C of title XV is amended by adding after section 1527 the following new section:

"GRANTS TO STATES FOR REDUCTION OF EXCESS HOSPITAL CAPACITY

"SEC. 1528. (a) For the purpose of demonstrating the effectiveness of various means for reducing excesses in resources and facilities of hospitals (referred to in this section as 'excess hospital capacity'), the Secretary may make grants to State health planning and development agencies designated under section 1521(b)(3) to assist such agencies in—

"(1) identifying (by geographic region or by health service) excess hospital capacity,

"(2) developing programs to inform the public of the costs associated with excess hospital capacity,

"(3) developing programs to reduce excess hospital capacity in manner which will produce the greatest savings in the cost of health care delivery,

"(4) developing means to overcome barriers to the reduction of excess hospital capacity, and

"(5) any other activity related to the reduction of excess hospital capacity.

"(b) Grants under subsection (a) shall be made on such terms and conditions as the Secretary may prescribe. The Secretary shall report annually to the Congress on the activities assisted with grants under subsection (a).

"(c) There are authorized to be appropriated to make payments under grants under subsection (a) $4,000,000 for the fiscal year ending September 30, 1979, $4,000,000 for the fiscal year ending September 30, 1980, and $4,000,000 for the fiscal year ending September 30, 1981."

REVIEW AND APPROVAL OF PROPOSED USES OF FEDERAL FUNDS

SEC. 119. (a) Section 1524(c)(8) is amended—

(1) by striking out "approve or disapprove" in the first sentence and inserting in lieu thereof "recommend approval or disapproval of (A)",

(2) by striking out "or the Comprehensive" in the first sentence and inserting in lieu thereof "section 409 of the Drug Abuse Office and Treatment Act of 1972, or the Comprehensive",

(3) by inserting before the period at the end of the first sentence a comma and the following: "and (B) any application (and any revision of an application) submitted to the Secretary by a State for a grant or contract under any provision of law referred to in clause (A) for projects in more than one health service area of the State",

(4) by amending the third sentence to read as follows: "If a SHCC recommends disapproval of such a plan or application, the Secretary, after making a finding that such plan or application is not in conformity with the State health plan, may not make Federal funds available under such State plan or application.",

(5) by inserting after the third sentence the following new sentence: "If the Secretary makes such a finding, he shall notify the Governor of his finding and the reasons therefor and advise him that he has 30 days in which to submit a revised State plan or application that conforms with the State health plan.", and

(6) by striking out "If after such review" in the last sentence and inserting in lieu thereof the following: "If after reviewing a recommendation of a SHCC to disapprove such State plan or application,".

(b)(1) Section 1513(e)(1)(A)(i) is amended—

(A) by inserting "of 1972" after "Treatment Act", and

(B) by inserting after "health resources" the following: "by any entity other than the government of a State unless such resources are solely within the health service area of such agency".

(2) Section 1513(e)(1)(A)(ii) is amended by striking out "an allotment" and inserting in lieu thereof "an allotment, contract, or grant".

(3) The first sentence of section 1513(e)(1)(B) is amended by striking out "under

title IV, VII, or VIII of this Act" and all that follows in such sentence and inserting in lieu thereof the following: "for research or training unless the grants or contracts are to be made, entered into, or used for the development, expansion, or support of health resources which, in the case of grants or contracts for training, would make a significant change in the health services available in the health service area or which, in the case of grants or contracts for research, would change the delivery of health services, or the distribution or extent of health resources, available to persons in the health service area other than those who are participants in such research."

(4) Section 1513(e)(2) is amended—

(A) by striking out "such paragraph" in the first sentence and inserting in lieu thereof "paragraph (1)(A)(i)", and

(B) by striking out "If" in the second sentence and inserting in lieu thereof "If under paragraph (1)(A)(i)".

(5) Section 1513(e) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) The Governor of a State shall allow health systems agencies sixty days to make the review required by paragraph (1)(A)(ii). If under such paragraph an agency disapproves a proposed use of Federal funds in its health service area, the Governor may not make such Federal funds available for such use until ha has made upon request of the entity making such proposal, a review of the agency decision. In making any such review of any agency decision, the Governor shall give the State health planning and development agency an opportunity to consider the decision of the health systems agency and to submit to the Governor its comments on the decision. The Governor, after taking into consideration such State Agency's comments (if any), may make such Federal funds available for such use, notwithstanding the disapproval of the health systems agency. Each such decision by the Governor to make funds available shall be submitted to the appropriate health systems agency and State health planning and development agency and shall contain a detailed statement of the reasons for the decision.".

COORDINATION OF HEALTH PLANNING WITH RATE REVIEW

SEC. 120. (a) Section 1513(d) is amended by inserting after the first sentence the following: "Each health systems agency shall also coordinate its activities with any entity of the State in which the agency is located which reviews the rates or budgets of health care facilities located in the health systems agency's health service area.".

(b) Section 1522(b)(7)(A) is amended by inserting before the comma at the end the following: "and for the coordination by the State Agency in the conduct of its activities with any entity of the State which reviews the rates or budgets of health care facilities in the State".

(c)(1) Section 1526 is amended—

(A) by striking out "(not later than six months after the date of the enactment of this title)" in the first sentence of subsection (a); and

(B) by striking out the last sentence of subsection (a); and

(2) Such section is further amended—

(A) by inserting before the period in the first sentence of subsection (a) "or to any other entity of the government of a State which has not indicated an intent to regulate such rates";

(B) by striking out "A State Agency" in subsection (b)(1) and inserting in lieu thereof "An entity";

(C) by striking out "the State Agency" in subparagraphs (A) and (F) of such subsection and inserting in lieu thereof "the entity";

(D) by inserting "if it is a State Agency," after "(D)" and "(E)", respectively, in such subsection;

(E) by adding after and below subparagraph (G) of such subsection the following: "If an entity which is not a State Agency receives a grant under subsection (a), such entity shall coordinate its activities under the grant with the State Agency for the State in which such entity is located, share with the State Agency data obtained from such activities, and for purposes of such activities, develop with the State Agency criteria for the review of hospital services, equipment, and facilities which guidelines are not in conflict with criteria adopted by the State Agency.";

(F) by striking out "a State Agency" in subsection (b)(2) and inserting in lieu thereof "an entity" and by striking out "the State Agency" in such subsection and inserting in lieu thereof "the entity"; and

(G) by striking out "State Agency" in subsection (d) and in the first sentence of subsection (c) and inserting in lieu thereof "entity".

COORDINATION WITHIN STANDARD METROPOLITAN STATISTICAL AREAS AND WITH OTHER ENTITIES

SEC. 121. Subsection (d) of section 1513 is amended (1) by inserting "(1)" after "(d)", (2) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively, and (3) by adding at the end the following:

"(2) Each health systems agency which has all or part of its health service area within a part of a standard metropolitan statistical area (as determined by the Office of Management and Budget) shall coordinate its activities with the activities of any other health systems agency which has any part of its health service area within such standard metropolitan statistics area. Such coordination shall be carried out in accordance with a plan approved by the Secretary which shall at least provide that each health systems agency designated for a health service area within any part of a single standard metropolitan statistical area shall review (A) each HSP and AIP for each such health service area, (B) the criteria used in accordance with section 1532 for reviews affecting any such area, and (C) each decision under certificate of need programs which affect any such area.

"(3) The Secretary shall by regulation provide for the sharing of health planning data between health systems agencies and Indian tribes and Alaska Native Villages.".

STATE HEALTH PLANNING AND DEVELOPMENT AGENCIES

SEC. 122. (a) Section 1521(b)(4) is amended by adding at the end the following: "Before renewing an agreement under this paragraph with a State Agency for a State, the Secretary shall provide each health systems agency designated for a health service area located (in whole or in part) in such State an opportunity to comment on the performance of the State Agency and to provide a recommendation on whether such agreement should be renewed.".

(b)(1) Paragraphs (3) and (4) of section 1521(b) are each amended by striking out "twelve months" and inserting in lieu thereof "thirty-six months".

(2) Section 1521(b)(3) is amended—

(A) by inserting "(A)" after "(3)",

(B) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively,

(C) by amending clause (ii) (as so redesignated) to read as follows:

"(ii) by the Secretary if the Secretary determines, in accordance with subparagraph (B) that, the designated State Agency is not complying with the provisions of such agreement.", and

(D) by adding at the end the following:

"(B) Before the Secretary may terminate an agreement with a designated State Agency under subparagraph (A)(ii), the Secretary shall—

"(i) consult with the Statewide Health Coordinating Council of the State for which the State Agency is designated respecting the proposed termination,

"(ii) give the State Agency notice of the intention to terminate the agreement and in the notice specify with particularly (I) the basis for the determination of the Secretary that the State Agency is not in compliance with the agreement, and (II) the actions that the State Agency should take to come into compliance with the agreement, and

"(iii) provide the State Agency with a reasonable opportunity for a hearing, before an officer or employee of the Department of Health, Education, and Welfare designated for such purpose, on the matter specified in the notice.".

(3) The amendments made by paragraphs (1) and (2) shall apply with respect to designation agreements entered into under section 1521(b)(3) of the Public Health Service Act after the date of the enactment of this Act.

(c)(1)(A) Section 1513(h) is repealed.

(B) Section 1522(b)(13) is amended by striking out ", (g), or (h)" and inserting in lieu thereof "or (g)".

(C) Section 1513(a) is amended by striking out "through (h)" and inserting in lieu thereof "through (g)".

(2) Paragraph (3) of section 1523(a) is amended by striking out "review of the State medical facilities plan required under section 1603, and in the".

(3) Section 1523(a) is amended by adding after paragraph (6) the following new paragraph:

"(7) Prepare an inventory of the medical facilities located in the State and determine on an ongoing basis the extent to which such facilities are in need of modernization or conversion to other uses. Such inventory and determinations shall be reported to the health systems agencies designated for health service areas located (in whole or in part) in the State for purposes of the functions of the agency under section 1513(b)."

(d) Section 1521(d) is amended by striking out "an agreement under this section" and inserting in lieu thereof "an agreement under subsection (b)(3) of this section".

(e) Paragraph (5) of section 1523(a) is amended by striking out "1413(f)" and inserting in lieu thereof "1513(f)".

(f) Section 1521(b)(1) is amended by striking out "this part" and inserting in lieu thereof "this title".

STATEWIDE HEALTH COORDINATING COUNCIL COMPOSITION

SEC. 123. (a)(1) Section 1524(b)(1)(A)(ii) is amended by inserting before the period a comma and the following: "except that the number of representatives on the SHCC to which a health systems agency designated for a health service area which is not entirely within the State shall be a number which is based on the relationship of the population of the portion of such health service area within the State to the population of the largest health service area located entirely within the State, except that each such agency shall be entitled to at least one representative on the SHCC".

(2) Section 1524(b)(1)(A)(iii) is amended to read as follows:

"(iii) Except as otherwise provided in clause (ii) and this clause, each such health systems agency shall be entitled to at least two representatives on the SHCC. If there are more than ten health systems agencies within a State, each health systems agency within such State shall be entitled to only one representative on the SHCC. Of the representatives of health systems agencies on the SHCC, not less than one-half shall be individuals

who are consumers of health care and who are not providers of health care."

(3) Section 1524(b)(1)(A)(i) is amended (A) by inserting "(or if the number of representatives on the SHCC to which health systems agencies are entitled under the second sentence of clause (iii) is less than sixteen, no fewer than the number to which they are entitled)" after "sixteen representatives", (B) by striking out "at least five", and (C) by adding at the end the following: "Each agency shall submit a number of nominees to the Governor which is at least twice the number of representatives on the SHCC to which the agency is entitled.".

(4) Section 1524(b)(1) is amended by inserting after subparagraph (D) the following:

"(E) Members of the SHCC who are consumers of health care and who are not providers of health care must include individuals who are members of rural and urban medically underserved populations if such populations exist in the State.".

(b) Section 1524(b)(2) is amended to read as follows:

"(2) The Governor may select the chairman of the SHCC from among the members of the SHCC. If the Governor does not select the chairman, the SHCC shall select the chairman from among its members.".

(c) Section 1524(b)(1)(C) is amended (1) by striking out "one-third" and inserting in lieu thereof "one-half", and (2) by inserting after the period the following: "Members of a SHCC who are providers of health care shall represent the classifications of providers listed in section 1512(b)(3)(C)(ii) and of such members at least one shall be a person engaged in the administration of a hospital."

(d) The first sentence of section 1524(c)(2)(B) is amended by striking out "State agency" and inserting in lieu thereof "State Agency".

AUTHORIZATIONS

SEC. 124. (a) Section 1516(d)(1) (as amended by section 107) is amended—

(1) by striking out "and" after "1976,", and

(2) by inserting before the period the following: ", $150,000,000 for the fiscal year ending September 30, 1979, $160,000,000 for the fiscal year ending September 30, 1980, and $170,000,000 for the fiscal year ending September 30, 1981".

(b) Section 1525(c) is amended—

(1) by striking out "and" after "1976,", and

(2) by inserting before the period the following: ", $35,000,000 for the fiscal year ending September 30, 1979, $37,000,000 for the fiscal year ending September 30, 1980, and $39,000,000 for the fiscal year ending September 30, 1981".

(c) Section 1526(e) is amended—

(1) by striking out "and" after "1976,", and

(2) by inserting before the period the following: ", $6,000,000 for the fiscal year ending September 30, 1979, $7,000,000 for the fiscal year ending September 30, 1980, and $8,000,000 for the fiscal year ending September 30, 1981".

(d) Section 1534(d) is amended—

(1) by striking out "and" after "1976,",

(2) by inserting before the period the following: ", $10,000,000 for the fiscal year ending September 30, 1979, $11,000,000 for the fiscal year ending September 30, 1980, and $12,000,000 for the fiscal year ending September 30, 1981", and

(3) by adding at the end the following: "The authority of the Secretary to enter into contracts under subsection (a) shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts."

(e) Section 1640(d) is amended—

(1) by striking out "and" after "1976,", and

(2) by inserting before the period the following: ", $120,000,000 for the fiscal year ending September 30, 1979, $150,000,000 for the fiscal year ending September 30, 1980, and $150,000,000 for the fiscal year ending September 30, 1981".

REPORT OF EFFECTIVENESS OF PLANNING LAW

SEC. 125. Section 1535 is amended by adding after subsection (d) the following new subsection:

"(e) The Secretary shall report to the Congress on the results of the reviews conducted pursuant to subsections (c)(7) and (d)(6) respecting improvements in health and health care and restraints on increases in health care costs."

EFFECTIVE DATE

SEC. 126. The amendments made by this title (other than by sections 101, 102, 103(d), 104(d), 107, 122(b) and 124) shall take effect one year after that date of the enactment of this Act, except that on and after the date of the enactment of this Act—

(1) the changes in the membership of the health systems agencies and the Statewide Health Coordinating Councils required by amendments to section 1512, 1524, and 1531 shall be implemented through selections of members to fill vacancies occurring after such date,

(2) a health systems agency, a State health planning and development agency, and a Statewide Health Coordinating Council may make the organizational and related changes required by the amendments to sections 1512, 1522, 1523, 1524, and 1531 of the Public Health Service Act, and

(3) such agencies, State health planning and development agencies, and Statewide Health Coordinating Councils may act in accordance with the changes in their functions made by the amendments to section 1513, 1522, 1523, 1524, 1527, and 1532 of the Public Health Service Act.

The amendments made by section 106 shall apply with respect to grants made under section 1516 of the Public Health Service Act after the date of the enactment of this Act.

TITLE II—REVISION OF AUTHORITY FOR HEALTH RESOURCES DEVELOPMENT

REVISION AND EXTENSION OF ASSISTANCE

SEC. 201. (a) Part B of title XVI is repealed.

(b) Subsections (a) and (b) of section 1620 are amended to read as follows:

"(a)(1) The Secretary, during the period ending September 30, 1981, may, in accordance with this part, make loans from the fund established under section 1622(d) to any public or nonprofit private entity for projects for—

"(A) modernization of medical facilities,

"(B) construction of new outpatient medical facilities,

"(C) construction of new hospitals in (i) areas which have experienced (as determined under regulations of the Secretary) recent rapid population growth, or (ii) areas where merger or closure of medical facilities has resulted in a reduction in the number of hospital beds available in such areas, and

"(D) conversion of existing medical facilities to outpatient medical facilities or facilities for long-term care.

"(2)(A) The Secretary, during the period ending September 30, 1981, may, in accordance with this part, guarantee to—

"(i) non-Federal lenders for their loans to nonprofit private entities for medical facilities projects described in paragraph (1), and

"(ii) the Federal Financing Bank for its loans to nonprofit private entities for such projects,

payment of principal and interest on such loans.

"(B) In the case of a guarantee of any loan to a nonprofit private entity under subparagraph (A)(i), the Secretary shall pay, to the holder of such loan and for and on behalf of the project for which the loan was made, amounts sufficient to reduce by 3 per centum per annum the net effective interest rate otherwise payable on such loan. Each holder of such a loan which is guaranteed under such subparagraph shall have a contractual right to receive from the United States interest payments required by the preceding sentence.

"(b) The principal amount of a loan directly made or guaranteed under subsection (a) for a medical facilities project, when added to any other assistance provided such project under part B, may not exceed 90 per centum of the cost of such project unless the project is located in an area determined by the Secretary to be an urban or rural poverty area, in which case the principal amount, when added to other assistance under part B, may cover up to 100 per centum of such costs.".

(c) Section 1625 is amended to read as follows:

"PROJECT GRANTS

"SEC. 1625. (a)(1) The Secretary may make grants for construction or modernization projects designed to (A) eliminate or prevent imminent safety hazards as defined by Federal, State, or local fire, building, or life safety codes or regulations, or (B) avoid noncompliance with State or voluntary licensure or accreditation standards. A grant under this paragraph may only be made to a State or political subdivision of a State, including any city, town, county, borough, hospital district authority, or public or quasi-public corporation, for a project described in the preceding sentence for any medical facility owned or operated by it.

"(2) The amount of any grant under paragraph (1) may not exceed 75 per centum of the cost of the project for which the grant is made unless the project is located in an area determined by the Secretary to be an urban or rural poverty area, in which case the grant may cover up to 100 per centum of such costs.

"(3) There are authorized to be appropriated for grants under paragraph (1) $100,000,000 for the fiscal year ending September 30, 1979, $100,000,000 for the fiscal year ending September 30, 1980, and $100,000,000 for the fiscal year ending September 30, 1981.

"(b)(1) The Secretary may make grants to public and nonprofit entities for projects for (A) construction or modernization of outpatient medical facilities which are located apart from hospitals and which will provide services for medically underserved populations, and (B) conversion of existing facilities into outpatient medical facilities or facilities for long-term care to provide services for such populations.

"(2) The amount of any grant under paragraph (1) may not exceed 80 per centum of the cost of the project for which the grant is made unless the project is located in an area determined by the Secretary to be an urban or rural poverty area, in which case the grant may cover up to 100 per centum of such costs.

"(3) There are authorized to be appropriated for grants under paragraph (1) $30,000,000 for the fiscal year ending September 30, 1979, $40,000,000 for the fiscal year ending September 30, 1980, and $40,000,000 for the fiscal year ending September 30, 1981.".

CONFORMING AMENDMENTS

SEC. 202. (a) Part A of title XVI is repealed and parts C, D, E, and F of title XVI are redesignated as parts A, B, C, and D, respectively.

(b) Part C (as so redesignated) of title XVI is amended by striking out section 1630, by redesignating sections 1631 through 1635 as sections 1622 through 1626, respectively,

and by inserting before section 1622 (as so redesignated) the following:

"GENERAL REGULATIONS

"SEC. 1620. The Secretary shall by regulations—

"(1) prescribe the manner in which he shall determine the priority among projects for which assistance is available under part A or B, based on the relative need of different areas for such projects and giving special consideration—

"(A) to projects for medical facilities serving areas with relatively small financial resources and for medical facilities serving rural communities,

"(B) in the case of projects for modernization of medical facilities, to projects for facilities serving densely populated areas,

"(C) in the case of projects for construction of outpatient medical facilities, to projects that will be located in, and provide services for residents of, areas determined by the Secretary to be rural or urban poverty areas,

"(D) to projects designed to (i) eliminate or prevent imminent safety hazards as defined by Federal, State, or local fire, building, or life safety codes or regulations, or (ii) avoid noncompliance with State or voluntary licensure or accreditation standards, and

"(E) to projects for medical facilities which, alone or in conjunction with other facilities, will provide comprehensive health care, including outpatient and preventive care as well as hospitalization;

"(2) prescribe for medical facilities projects assisted under part A or B general standards of construction, modernization, and equipment, which standards may vary on the basis of the class of facilities and their location; and

"(3) prescribe the general manner in which each entity which receives financial assistance under part A or B or has received financial assistance under part A or B or title VI shall be required to comply with the assurances required to be made at the time such assistance was received and the means by which such entity shall be required to demonstrate compliance with such assurances.

An entity subject to the requirements prescribed pursuant to paragraph (3) respecting compliance with assurances made in connection with receipt of financial assistance shall submit periodically to the Secretary data and information which reasonably supports the entity's compliance with such assurances. The Secretary may not waive the requirement of the preceding sentence.

"APPLICATIONS

"SEC. 1621. (a) No loan, loan guarantee, or grant may be made under part A or B for a medical facilities project unless an application for such project has been submitted to and approved by the Secretary. If two or more entities join in a project, an application for such project may be filed by any of such entities or by all of them.

"(b)(1) An application for a medical facilities project shall be submitted in such form and manner as the Secretary shall by regulation prescribe and shall, except as provided in paragraph (2), set forth—

"(A) in the case of a modernization project for a medical facility for continuation of existing health services, a finding by the State agency of a continued need for such services, and, in the case of any other project for a medical facility, a finding by the State Agency of the need for the new health services to be provided through the medical facility upon competion of the project;

"(B) in the case of an application for a grant, assurances satisfactory to the Secretary that (i) the applicant making the application would not be able to complete the project for which the application is submitted without the grant applied for, and (ii) in the case of a project to construct a new medical facility, it would be inappropriate to convert an existing medical facility to provide the services to be provided through the new medical facility;

"(C) a description of the site of such project;

"(D) plans and specifications therefor which meet the requirements of the regulations prescribed under section 1620(2);

"(E) reasonable assurance that title to such site is or will be vested in one or more of the entities filing the application or in a public or other nonprofit entity which is to operate the facility on completion of the project;

"(F) reasonable assurance that adequate financial support will be available for the completion of the project and for its maintenance and operation when completed, and, for the purpose of determining if the requirements of this subparagraph are met, Federal assistance provided directly to a medical facility which is located in an area determined by the Secretary to be an urban or rural poverty area or through benefits provided individuals served at such facility shall be considered as financial support;

"(G) the type of assistance being sought under part A or B for the project;

"(H) reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of work on a project will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a—276a-5, known as the Davis-Bacon Act), and the Secretary of Labor shall have with respect to such labor standards the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c);

"(I) in the case of a project for the construction or modernization of an outpatient facility, reasonable assurance that the services of a general hospital will be available to patients at such facility who are in need of hospital care; and

"(J) reasonable assurance that all times after such application is approved (i) the facility or portion thereof to be constructed, or modernized, or converted will be made available to all persons residing or employed in the area served by the facility, and (ii) there will be made available in the facility or portion thereof to be constructed, modernized, or converted a reasonable volume of services to persons unable to pay therefor and the Secretary, in determining the reasonableness of the volume of services provided, shall take into consideration the extent to which compliance is feasible from a financial viewpoint.

"(2)(A) The Secretary may waive—

"(i) the requirements of subparagraph (D) of paragraph (1) for compliance with modernization and equipment standards prescribed pursuant to section 1620(2), and

"(ii) the requirement of subparagraph (E) of paragraph (1) respecting title to a project site,

in the case of an application for a project described in subparagraph (B) of this paragraph.

"(B) A project referred to in subparagraph (A) is a project—

"(i) for the modernization of an outpatient medical facility which will provide general purpose health services, which is not part of a hospital, and which will serve a medically underserved population as defined in section 1624 or as designated by a health systems agency, and

"(ii) for which the applicant seeks a loan under part A the principal amount of which does not exceed $20,000.".

(c) Part C (as so redesignated) of title XVI is amended by adding at the end thereof the following new section:

"ENFORCEMENT OF ASSURANCES

"SEC. 1627. The Secretary shall investigate and ascertain, on a periodic basis, with respect to each entity which is receiving financial assistance under this title or which has received financial assistance under title VI or this title, the extent of compliance by such entity with the assurances required to be made at the time such assistance was received. If the Secretary finds that such an entity has failed to comply with any such assurance, the Secretary shall report such noncompliance to the health systems agency for the health service area in which such entity is located and the State health planning and development agency of the State in which the entity is located and shall take any action authorized by law (including an action for specific performance brought by the Attorney General upon request of the Secretary) which will effect compliance by the entity with such assurances. An action to effectuate compliance with any such assurance may be brought by a person other than the Secretary only if a complaint has been filed by such person with the Secretary and the Secretary has dismissed such complaint or the Attorney General has not brought a civil action for compliance with such assurance within 6 months after the date on which the complaint was filed with the Secretary.".

TECHNICAL AMENDMENTS

SEC. 203. (a) Part A (as so redesignated) of title XVI is amended—

(1) by striking out section 1621 and by redesignating sections 1620 and 1622 as sections 1601 and 1602, respectively,

(2) by striking out "section 1622(d)" in subsection (a)(1) of section 1601 (as so redesignated) and inserting in lieu thereof "section 1602(d)", and

(3) by striking out "section 1620(b)(2)" each place it occurs in subsection (d) of section 1602 (as so redesignated) and inserting in lieu thereof "section 1601(a)(2)(B)".

(b) Section 1625 of part B (as so redesignated) is redesignated as section 1610.

(c) Subsection (a)(1) of section 1622 (as so redesignated) is amended by striking out "section 1604" and inserting in lieu thereof "section 1621".

(d) Section 1623 (as so redesignated) is amended by striking out "STATE" in the heading for such section.

(e) Section 1624 (as so redesignated) is amended by striking out paragraphs (1) and (2) and by redesignating paragraphs (3) through (16) as paragraphs (1) through (14), respectively.

(f) Section 1626 (as so redesignated) is amended by striking out "section 1604" and inserting in lieu thereof "section 1621".

(g)(1) Section 1602 (as so redesignated) is amended by adding at the end thereof the following:

"(f) The Secretary may take such action as he deems appropriate to protect the interest of the United States in the event of a default on a loan made or guaranteed under this part or under title VI, including taking possession of holding, and using real property pledged as security for such a loan or loan guarantee.".

(2) Paragraphs (1) and (2) of subsection (d) are each amended (A) by striking out "and" at the end of subparagraph (D), (B) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", and", and (C) by adding after subparagraph (E) the following:

"(F) to enable the Secretary to take the action authorized by subsection (f).".

EFFECTIVE DATE

SEC. 204. The amendments made by this title shall take effect October 1, 1978.

The SPEAKER pro tempore (Mr. MURTHA). Is a second demanded?

Mr. CARTER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida (Mr. ROGERS) and the gentleman from Kentucky (Mr. CARTER) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that I may be permitted to revise and extend my remarks and that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. ROGERS. Mr. Speaker, the legislation before us today is H.R. 11488, the Health Planning and Resources Development Amendments of 1978, a bill which would amend titles XV and XVI of the Public Health Service Act to revise and extend the program of health planning and resources development.

The health planning program which we are proposing to extend and amend was established by Public Law 93-641, the National Health Planning and Resources Development Act of 1974. Since its passage significant progress has been made in implementing this law. Two hundred and five health systems agencies (HSA's) have been designated on a conditional basis. Of these, more than 145 have moved to full designation. Fifty-six State health planning and development agencies (SHPDA's) have been established. In addition, 10 health planning centers have been put in place to meet the technical assistance and training needs of the agencies.

H.R. 11488 is the result of careful analysis of the existing health planning program, four full days of hearings and several days of markup by the Committee on Interstate and Foreign Commerce. As a result of this progress, the Committee has concluded that the basic structure of the planning system is sound.

The HSA's after spending much of their inital efforts on organizational matters are now beginning to concentrate on the development of health plans and their implementation. These agencies will begin to realize their full potential during the next 3 years if not deterred from their focus on planning by new and unnecessary organizational requirements. However, the early experience of this program indicates that some minor changes in the law are in order. H.R. 11488 accomplishes these changes without undue disruption to the developing planning effort. The reported bill deals with seven major issues.

First, the planning program is extended for 3 years at funding levels which recognize inflation and the increase in responsibility required of fully designated health planning agencies. The bill would authorize $205 million in fiscal year 1979 and $219 million and $233 million in fiscal years 1980 and 1981 respectively.

Second, HSA organizational requirements are slightly modified and the governing body requirements are strengthened. The self-perpetuation of HSA governing bodies would be prohibited. Provisions are made for active local elected official participation in the health planning process. The process for selecting HSA governing body members would be required to be open and well publicized. More adequate support would be required to be given to continuing education and training of governing body members so that their decisionmaking capability would be enhanced. In addition, a member of the HSA staff would be designated to have responsibility for providing the consumer members of the governing body with such assistance as they may require to effectively perform their functions. In public HSA's, the bill would provide the regional planning board or unit of local government with more authority over health planning in its area.

Third, the reported bill would provide a larger role for Governors and State government in the health planning process. It would assure a Governor's active involvement in both health service area and in HSA designation. In addition, the SHPDA would be required to define the statewide health needs for local HSA's to consider in their planning activities. The Governor of each State would be permitted to disapprove the State health plan if he finds the plan does not effectively meet those established statewide health needs.

Fourth, the legislation would strengthen the linkages between planning at local and State levels and that which takes place at the Federal level. The Secretary would be required to analyze and review the health plans which are developed by the HSA's and the States and use that analysis in modifying the national guidelines for health planning and in developing additional guidelines. The bill makes it clear that the national guidelines for health planning are not to be rigid standards inflexibly applied but rather benchmarks which HSA's can adjust as local circumstances require. The bill requires more adequate consultation with various groups prior to provision and establishment of additional national guidelines.

Fifth, the requirements for State certificate-of-need programs are strengthened. The reported bill requires closer ties between planning and regulatory decisions by requiring that certificate-of-need decisions not be inconsistent with the State health plan. Required certificate-of-need coverage would be extended to home health services and major medical equipment—defined as equipment over $150,000—that would be used to serve inpatients of a hospital. This later change would close a loophole in existing certificate-of-need requirements where a physician can purchase equipment and install it in leased space in a hospital or in a facility adjacent to a hospital and carry out diagnostic or treatment procedures avoiding certificate-of-need review.

Sixth, the planning agencies are encouraged to begin planning for a reduction in unneeded and duplicative health facilities and services. Experts have testified that we have 100,000 excess hospital beds. Such excesses contribute to total costs because higher prices must be charged to cover fixed costs of keeping the unit or facility in operation. Health planning agencies should begin to identify this excess capacity while assuring access to needed services. I should point out, however, that while the health planning agencies are expected to focus on making the health care system more efficient, neither the bill or the existing law contains authority for the health planning agencies to force or require individual institutions to close unneeded or duplicative services. Such changes would have to come about voluntarily. We would hope that health care providers will work together cooperatively with the HSA to carry out the appropriateness review findings and recommendations.

Finally, the resource development authority of title XVI of the Public Health Service Act is also revised and extended. The bill would extend Federal loan and loan guarantee support for health care facilities although support would be limited to priority areas. Project grant authority for the construction and modernization of public hospitals and health care facilities to correct life safety code and other accreditation violations and authority for the area health services development fund would be extended. New grant authority for the construction of outpatient medical facilities in medically underserved areas and the conversion of existing facilities into facilities for outpatient and long-term care would be established. The legislation repeals the provisions of existing law that have provided allotment grants to States to develop health care facilities. The bill would authorize $250 million for fiscal year 1979 and $290 million in fiscal years 1980 and 1981 for the development of health care resources.

Mr. Speaker, the bill before us today is identical to that reported on May 15, 1978, by the Interstate and Foreign Commerce Committee (House report 95-1165) with several minor exceptions:

First, the provision of the bill—section 103(c)—which would allow the Governor of any State to request the redesignation of a health service area which contains an interstate standard metropolitan statistical area is deleted. Deletion of this amendment will assure that the Governors of both affected States will be involved in decisions regarding these interstate areas and will further the committee's desire to keep interstate standard metropolitan statistical areas from being divided unnecessarily into separate planning areas.

Second, an amendment is added which will clarify existing policies regarding the health systems agency re-

view of proposed uses of Federal funds to support research and training. The amendment would require review of training grants or contracts only in the case in which a grant or contract is used to support health resources which make a significant change in the health services available in the health service area or require review of research grants or contracts only in a case in which a grant or contract would change the delivery of health services or the distribution or extent of resources available to persons in the health service area other than those who are participants in the research project.

Third, provisions in section 203 of H.R. 12460, the Health Centers Amendments of 1978, are added to the bill. These amendments were reported by the Committee on Interstate and Foreign Commerce on May 15, 1978—House report 95–1186. These amendments seek to assure the active involvement of persons knowledgeable about mental health services, including substance abuse, in the health planning process. These amendments also seek to bring about better coordination between health and mental health planning. Since these provisions amend the planning law it is appropriate that they be included in H.R. 11488.

Fourth, several amendments are included which will require the participation of persons from urban and rural medically underserved areas in the National Council on Health Planning and Development and in Statewide Health Coordinating Councils. The amendments further require the National Health Planning Guidelines to reflect the unique circumstances and needs of medically underserved populations including isolated rural communities. These amendments will help assure that those who live in areas with inadequate health resources, particularly those in rural areas, will be involved in the health planning process. The amendments will also increase the number of members on the National Council on Health Planning and Development so that the Secretary can appoint a representative of the hospital industry which is currently not represented.

Finally, the legislation includes an amendment which is technical in nature and is required to bring the bill into conformity with the requirements of the Budget Act by limiting contract authority of the Secretary to such extent or in such amounts as provided in advance in appropriation acts.

I believe that these amendments perfect the bill as reported by the Committee on Interstate and Foreign Commerce and deserve to be supported by the Members of the House.

Mr. Speaker, there is one issue that is not dealt with in the legislation that should be clarified. It is my understanding that concern has been expressed that an HSA and health care providers who voluntarily carry out the mandates or health planning laws may be in violation of the antitrust laws.

Public Law 93–641 requires the HSA to engage in activities and carry out functions which will lead to market allocations. We have found that there is a minimal price competition within the health sector and that the competition that exists is primarily around the provision of services and results in hospitals acquiring duplicative and expensive equipment and facilities leading to higher costs for the consumer. In enacting Public Law 93–641, the Congress made a specific judgment that it is not desirable for health care facilities to develop or maintain unneeded services or facilities and created a health planning system that would, with the participation of providers, use regulation and voluntary action to carry out its plans.

Title XV requires the HSA's to bring together both consumers and providers to plan for more efficient health care system that will meet the area's needs. This requires the HSA governing body to make decisions that affect market allocation in both the health plan and in appropriateness review. They should set goals relating to the number of beds and other hospital resources that are needed in this area. If there is excess capacity in the area they will want to identify it and call for its reduction. In doing so, they may develop institutional specific recommendations; for example, hospital X should close its underutilized cardiac catherization laboratory, or develop broader recommendations, such as, three cardiac catherization laboratories in the area should be consolidated. In the latter case, it is our intent that the providers would work together in cooperation with the HSA to determine how best to carry out this recommendation. Without this voluntary cooperation by providers, the provision of law dealing with the development of a plan and the review of institutional health services could not be carried out.

The law also requires that the HSA recommend to the State whether new institutional health services are needed and a certificate of need should be granted. This control function directly affects entry into the market and competition. I think that since such decisions are tied to a State certificate of need law there is little question that they are exempt from antitrust laws.

The law is clear that to carry out these activities the HSA needs the cooperation of providers and that they are to work together. One such explicit reference to this is contained in the national health priorities which set forth the expectation that providers should work together to coordinate and consolidate services. Priority 2 calls for the development of multi-institutional systems for coordination of consolidation of institutional health services. Priority 5 calls for the development of multi-institutional arrangements for the sharing of support services necessary to all health service institutions.

Although Public Law 93–641 contains no specific exemptions from the antitrust laws, it is clear by the points just made that the Congress in enacting the National Health Planning and Resources Development Act of 1974 sanctioned activities which might otherwise be in violation of our antitrust laws. Obviously, then, the intent of Congress in enacting Public Law 93–641 was that the HSA's and the providers who voluntarily work with them in carrying out the HSA's mandate in the law not be subject to the antitrust laws. If they were, then Public Law 93–641 simply could not be implemented. Thus, it is my view that the planning law be carried out without disruption.

Mr. Speaker, H.R. 11488 is important legislation. The health planning program and the resources development program have great potential to help us move toward a more efficient health care delivery system and to prevent duplication of unnecessary facilities and services and thus help contain rapidly rising health care costs. It will also provide for the identification of areas where services are not adequate or access to services is poor and a mechanism to work to solve this problem. Yet the health planning program needs strengthening. We believe that the 3-year extension and these substantive changes will greatly assist the planning program in reaching maturity and beginning to fulfill its promise of working toward increasing accessibility to care, maintaining quality of care, and restraining increases in cost for the citizens of our Nation.

Mr. SATTERFIELD. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to my distinguished colleague, the gentleman from Virginia (Mr. SATTERFIELD), who is the ranking member on the subcommittee.

Mr. SATTERFIELD. Mr. Speaker, I thank the gentleman for yielding.

As the gentleman knows, I have had some concern about section 117 of this bill which is a provision directing the State health planning and development agencies to apply, apparently, a special certificate of need criteria to applications from federally qualified health maintenance organizations.

Specifically, it would require that approval be given when necessary for an HMO to meet the needs of its existing and anticipated membership, and, when necessary, for the HMO to provide "its institutional health service in a reasonable and cost-effective manner which is consistent with the basic method of operation of the organization which makes such services available on a long-term basis through physicians and other health professionals associated with it."

Which leads to my question that, under present law, the State health planning agencies are now required to make a determination as to whether a new health facility or service is needed by the community as a whole. The provision to which I refer would appear to require instead that State health planning agencies consider the needs of the HMO and its members separately; on the surface, at least, requiring that such special criteria be applied to the applications of HMO's is contrary to the philosophy of the Health Planning Act. Can the chairman of the subcommittee clarify for me the purposes of this section?

Mr. ROGERS. The provisions to which the gentleman refers are intended to apply to situations in which the other providers in a community discriminated against the HMO by denying it access to necessary services and facilities. In

such cases, the State health planning agency would be required to allow HMO's to develop such services and facilities as needed for reasonable growth and to provide contractually required services to their memberships.

Mr. SATTERFIELD. If the gentleman will yield further, am I correct in my understanding that the purpose of this provision is not to give HMO's a favored status in relation to other providers, but rather to put them on an equal footing?

Mr. ROGERS. The gentleman is entirely correct in his understanding.

Mr. SATTERFIELD. And is it also correct to say that it is not intended that the applications of other providers be subject to stricter or more restrictive criteria than the application of HMO's?

Mr. ROGERS. The gentleman is correct. That was not the intention.

Mr. SATTERFIELD. Mr. Speaker, I thank the gentleman very much.

Mr. ROGERS. I thank the gentleman.

Mr. BLOUIN. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the distinguished gentleman from Iowa.

Mr. BLOUIN. Mr. Speaker, I would like to call to the attention of my colleagues from rural parts of the country, the inclusion of a number of provisions which insure that the health care planning process will recognize the needs of our constituents from rural areas.

As many of you will recall, the proposed national guidelines for health planning issued by HEW last fall stimulated much controversy and opposition. The publication of these proposed guidelines were of particular concern to those of us who care about the health care needs of individuals in rural areas. The widespread fear was that their hospitals would not meet the national standards and consequently would be forced to close.

At that time, it was apparent that the unique circumstances in less populous areas had not been taken into consideration. HEW subsequently revised the guidelines and provided the flexibility that was crucial if the guidelines were to respond to the overall goal of providing access for everyone for health care services.

The promulgation of the guidelines were in direct response to a mandate in this legislation which we are considering today. I introduced a bill along with Congressman BAUCUS which amended the health planning law to give special emphasis to the needs of those from medically underserved rural areas in the application of this law. The committee has included a number of these amendments. I would like to commend the chairman for his recognition that the health planning process must address the health needs of the population in rural areas as well as our more urbanized centers.

The enactment of the Health Planning Law of 1974 was a major step forward in establishing a national framework to assess the health care needs of our constituents, the resources available to satisfy those needs, and promote the development of a rational plan for the coordination of existing services with new ones. The problem of rapidly escalating health care costs is an area of great concern to the Congress and the American people.

In rural areas, the need to reduce the prohibitive costs of health care must be balanced against the need to provide access to services. This presents a dilemma for health planning. Nowhere are the choices so difficult. It is my hope that the adoption of this legislation, with its emphasis on local health planning based on the special needs of their communities, will greatly assist in the resolution of this dilemma.

Mr. CARTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support H.R. 11488 the Health Planning Amendments of 1978. I believe the committee has fashioned a good bill, one which we can all support, and one which has received strong support on both sides of the aisle. As reported by the committee, H.R. 11488 provides a total authorization of $1.487 billion for fiscal years 1979, 1980, and 1981. The sum of $657 million of this total is authorized for health planning activities and $830 million is provided for the development of health resources.

I would like to emphasize what I believe are some of the important improvements in health planning contained in this bill. First, the committee has taken steps to insure that health planning will be primarily a local process done by and for local people in consideration of their special needs and circumstances. The bill makes clear that the national guidelines for health planning are not to be used by the Secretary of HEW to dictate to local health systems agencies the content of their health plan. In making this change, it is my strong belief that the committee has reaffirmed the original intent of Congress in passing the Health Planning Act.

Second, the committee bill provides assurances that local health systems agencies will have the benefit of the expertise of those most affected by their decisions by insuring that hospital administrators, medical schools, and public officials will be represented on HSA boards. I believe that it is extremely important that HSA boards be composed of interested, informed, decisionmakers. In that regard, I would note that the committee has once again rejected the idea that strict quotas be used to select the consumer members of an HSA board. It is certainly important to have each point of view represented on these community boards, but I do not believe that it is necessary that each group in the population be represented in strict accordance with its numbers. To do so would be detrimental to the health planning process.

Third, the committee bill charts a responsible course on the subject of review and determination of need for health care facilities and services under the certificate of need program. The bill proposes to extend certificate of need review to major medical equipment which is used to provide services to inpatients regardless of ownership or physical location. The committee has taken this step because we have found that at times an attempt has been made to evade the certificate of need process through having another individual purchase the equipment, locate it within or near the hospital, and then provide that service to the hospital's inpatients. However, the bill does not propose a blanket extension of certificate of need to provide for the construction or modernization of freestanding outpatient clinics. I believe that the priorities reflected in the committee's proposal for health resources development provides for the most prudent management of our limited health care dollars and represents the best approach to meeting the unmet health care needs of the Nation.

Mr. Speaker, this bill provides important improvements in our efforts to assist local citizens in making decisions about health care, and I believe that passage of this bill will have a beneficial impact upon the cost, availability, and the accessibility of needed health care services.

Thank you, Mr. Speaker.

Mr. CARTER. Mr. Speaker, I yield 5 minutes to the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Speaker, I rise in support of H.R. 11488, the Health Planning and Resources Development Amendments of 1978. As a member of the Commerce Committee's Subcommittee on Health and the Environment and a cosponsor of the bill, I think that this legislation represents a responsible and appropriate extension of the health planning law. One significant and important aspect of this bill is that it increases the role of local and State health planning authorities to establish and implement their own State programs. The approach taken in this legislation, namely to grant more authority and independence to States and localities in carrying out Federal programs, should be encouraged and applied more often in the consideration of other legislation.

I would further urge my colleagues to support this bill because I believe that the health planning law represents a positive step in controlling health care costs. As many of my colleagues know, the health planning program was designed to eliminate the duplication of health services and to coordinate health planning in an effort to check rising health costs. We are seeing significant cost-savings which justify the continuation of this program.

For example, the Southeastern health service area in the United States, in which North Carolina is included, reported this past January the recommended disapproval of 235 proposals for spending in that region.

This action resulted in a cost-savings of more than $367 million. H.R. 11488 will foster and strengthen the planning process so that we can see an orderly and rational approach to containing health care costs.

If I may, for just one moment, ask the distinguished chairman of the Health Subcommittee, Mr. ROGERS, a question with respect to section 117 of

the bill. Section 117 of H.R. 11488 would exempt independent laboratories from the necessity of securing a certificate of need before purchases of major items of medical equipment. It was the opinion of the subcommittee that the certificate of need process should not be applied to independent labs since they are already fully regulated by competition in the marketplace.

Am I not correct in stating for the record that this provision was introduced by the gentleman himself during the subcommittee's consideration of the bill, that it was adopted without opposition by the subcommittee, and subsequently approved by the full committee without dissent?

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Florida.

Mr. ROGERS. I thank the gentleman for yielding.

The gentleman is correct.

Mr. BROYHILL. I thank the distinguished chairman. I urge that he and the other House conferees recognize and insist on the House position with respect to this section.

Mr. ROGERS. Will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Florida.

Mr. ROGERS. I thank the gentleman for yielding.

We certainly will make every effort to maintain this position.

Mr. BROYHILL. I thank the gentleman.

Finally, may I take this opportunity to compliment the chairman of the subcommittee, Mr. ROGERS, and the ranking minority member, Dr. CARTER, for their cooperation and efforts during consideration of this bill in committee.

Mr. CARTER. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Speaker, I thank the gentleman from Kentucky.

Mr. Speaker, I am apprehensive about this authorization. Basically $1.487 billion seems like a lot of money for us to be spending under suspension. Frankly, in the general committee I did not completely understand the bill. I am not sure that many of us today understand it.

I do know this much, that all the health planning and resources development and all this Government administration that we are getting into is growing at a very, very rapid scale. I just looked at some sections of this bill yesterday showing planning grants started at $60 million and they are now at $150 million.

When I looked at this title, and I would like to ask the chairman of the subcommittee, the gentleman from Florida (Mr. ROGERS), if the gentleman can clarify this for me.

I understand in this administrative title XVI, which authorizes $830 million, that the administration did not ask for anything on this. Is that right? Would the gentleman from Florida tell us just what the administration asked for on this title XVI?

Mr. ROGERS. Mr. Speaker, if the gentleman will yield, the administration did not ask for that. Because of the need to support ongoing programs, and need to support the modernization of public hospitals who do not meet life safety code violations, we felt it was necessary. Now, this is over a 3-year period. I am sure the gentleman knows that.

Mr. COLLINS of Texas. If the administration did not ask for $830 million, I would hope the Committee on Appropriations would take this into account.

Is the Health Committee making any strong recommendation that we do this, or are they merely putting it in the bill?

Mr. ROGERS. Mr. Speaker, if the gentleman will yield further, I think it is a vital item to include. As I said, it goes over 3 years. I would urge that those items be funded.

I would say to the gentleman, we tried to go over the bill carefully. As a matter of fact, this authorization for 1979 is 9 percent less than the authorization for 1978; so the committee has tried to be realistic. We have not tried to just go wild. Rather, we have tried to establish responsible levels.

As the gentleman from North Carolina has just pointed out, we are just now beginning to effect savings throughout the Nation in the health care bill, because of the functioning of these health systems agencies.

You see, the bill was only signed in 1975. It has taken awhile for these agencies to begin, to get started, and to have some impact.

They did a study in the Southeast part of our country with 41 of HSA's and the savings alone in that section of the country is over $367 million in an 18-month period. Now, that is a pretty good record that I think the gentleman could feel comfortable with it.

We feel that is being duplicated all over the Nation. I think we are going to find savings between $1.8 and $3 billion over the past 2 years when we carefully examine the records of planning agency activities. These amounts have been projected in recent studies.

Mr. COLLINS of Texas. I want to come back to where I started; that is, that I hope the Committee on Appropriations is very careful to consider that the administration in its wisdom asked for nothing on title XVI and in our bill we have spent half this authorization for an item that the administration does not request at all. Appropriations should be careful.

I would like to add this. I am no authority on what the Government does in the way of administration or regulations on health; but I do know a little bit about what they have done in the way of energy. In the Government's energy program today we spend more money for the cost of regulations than it takes for the private industry to take care of oil research, leasing, drilling, and producing from 500,000 oil and gas wells. Congress spends more on regulations than does the entire industry in production.

Mr. ROGERS. Mr. Speaker, will the gentleman yield further?

Mr. COLLINS of Texas. I am glad to yield to the gentleman.

Mr. ROGERS. Mr. Speaker, I might point out, that a large portion of these funds the gentleman is talking about are for public hospitals. We have done away with grants under the Hill-Burton program; so these are to help those hospitals that cannot get funds in the money market.

Mr. COLLINS of Texas. Has not the gentleman done what he can from encouraging hospitals to limit expansion and not build new hospital beds?

Mr. ROGERS. That is right. That is what the plan does. Unless it is really justified, this says you are not to do it.

Mr. COLLINS of Texas. We are giving construction more money. How do we justify it?

Mr. ROGERS. This is for renovation and modernization of hospitals, if it can be justified.

Mr. CARTER. Mr. Speaker, this country spent approximately $5.2 billion for hospital construction just a few years ago. Now we have limited Federal support to a program for modernization, renovation, and construction for outpatient departments and long-term facilities only.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. CARTER. Mr. Speaker, I yield 2 additional minutes to the distinguished gentleman from Texas (Mr. COLLINS).

Mr. Speaker, if the gentleman from Texas will yield further, we are not spending as much now as we were. Unfortunately, we did not do as much planning for hospital construction as we should have done. In fact, we overbuilt in the hospital field.

And this is the purpose of this bill; to build and renovate facilities and beds where we need them. We have not done enough planning in the past, but we are starting to do it now. This process has been underway since this legislation was first passed.

This is excellent legislation. It is something which we failed to do years ago, but now we are planning and we are going to build such as we need and discontinue those things we do not need, and we will save money. Even though this seems to be a large amount, it is much less than we appropriated each year for Hill-Burton.

Mr. Speaker, I will say to my good friend, the gentleman from Texas (Mr. COLLINS), that this is a savings.

Mr. COLLINS of Texas. Mr. Speaker, I will say to my distinguished friend, the gentleman from Kentucky (Mr. CARTER), who is a doctor and who certainly understands the medical field, that there was a time when we had a shortage of hospital facilities. That is when we needed Hill-Burton funding.

Mr. CARTER. Yes, and if the gentleman will permit me to say it, that is when we needed health planning.

Mr. COLLINS of Texas. Mr. Speaker, it seems that we have too much planning, and I want to quote one section from this report, which is typical. It asks nothing about the ability of these people who serve on this National Council. I would think we would want to be sure the type of people who are represented

on the Council knows something about health.

Here in the report they talk about the composition of the Council, which includes five women; three minority representatives (two black, one Hispanic); three physicians (two from private practice, one from a university); one practicing hospital administrator; one professor of health care administration; one health insurance representative; one labor leader; and one representative of industry.

Nowhere does the report say whether they have a brain or know anything about health. We are so busy drawing up arbitrary guidelines that I wonder how much medical knowledge we have in Health Administration.

Mr. CARTER. Mr. Speaker, if the gentleman will yield, I think in the gentleman's own words he stated that in that group there were three physicians and one hospital administrator. And was there not a nurse mentioned there?

Are these not talented professions, and are they not providers? Are these not the very people we want? Nobody better knows about health planning and hospital administration practices than nurses.

The SPEAKER pro tempore. The time of the gentleman from Texas (Mr. COLLINS) has expired.

Mr. CARTER. Mr. Speaker, I yield 1 additional minute to the gentleman from Texas (Mr. COLLINS).

Mr. Speaker, if the gentleman will yield, I think the distinguished gentleman from Texas (Mr. COLLINS) will support the bill when he understands it and what is behind it and understands that we are actually saving money. I have understood that the gentleman might be a fiscal conservative, and along that line I hope that he will jump on the bandwagon and go along with us in support of the bill.

Mr. COLLINS of Texas. Mr. Speaker, I thank the gentleman.

Mr. Speaker, this does shake me up when we discuss appropriating or authorizing $1.487 billion, and the gentleman is right, that does sum up my apprehensions about the bill.

Mr. Speaker, I thank the gentleman for his explanation.

Mr. CARTER. Mr. Speaker, I thank my distinguished friend, The gentleman from Texas (Mr. COLLINS). He is a congenial gentleman and a distinguished individual.

Mr. Speaker, I yield such time as he may consume to the gentleman from Delaware (Mr. EVANS).

Mr. EVANS of Delaware. Mr. Speaker, I thank the distinguished gentleman from Kentucky (Mr. CARTER) for yielding this time to me.

Mr. Speaker, I asked for this time for the purposes of asking the gentleman from Kentucky or the distinguished gentleman from Florida (Mr. ROGERS) several questions.

Let me say at this point that I think the distinguished gentleman from Florida (Mr. ROGERS) has done a magnificent job not only on this bill but on many others as well, and he will be sorely missed in the United States Congress.

Mr. CARTER. Mr. Speaker, if the distinguished gentleman will yield, let me say on that that it would be very difficult anywhere in the country to find a chairman who is more congenial and easier to work with and one who is more interested in the health of the people of our Nation than the distinguished gentleman from Florida.

Mr. EVANS of Delaware. Mr. Speaker, I thank the gentleman from Kentucky.

Mr. Speaker, I recently had the opportunity to look firsthand at several of our hospitals in the Delaware area. I was concerned about regulations which increase costs without doing anything to improve quality.

We live in a society today that is overregulated. There are some regulations that are very important and very necessary. However, with limited resources at our disposal, there are some regulations that do not fit into the category of helping to improve health care. I have discussed this with the distinguished chairman of the subcommittee, the gentleman from Florida (Mr. ROGERS).

Let me give the Members one example of what the regulators are doing to just one hospital in Wilmington, Del., and I presume that they have asked for this across-the-board in an effort to improve safety in hospitals. They have asked the Wilmington Medical Center to move its fire alarms approximately a foot to 18 inches from about 4 or 5 feet in height to a height where anyone in a wheelchair could reach them. In some areas I think that might be a wise expenditure, but in hospitals which are labor intensive, where there are a number of nurses and others on duty 24 hours a day, it just appears to me to be an unwise expenditure in terms of improving health care especially in view of our limited resources.

Mr. Speaker, I would be happy to have the gentleman from Florida (Mr. ROGERS) or the gentleman from Kentucky (Mr. CARTER), or both, respond, if they will.

Mr. CARTER. If the distinguished gentleman will yield, I will say that I am familiar with this, and if the gentleman looks into it I believe he will find that this regulation is by the State fire protection agency or group which each State has, one of these areas, and they go about and they make these regulations themselves. I have seen them go into the hospitals, and it is the very thing that the gentleman mentioned, sometimes to the distress and, really, the trouble of the hospital people.

Mr. EVANS of Delaware. It was my impression, in speaking with the administrators of the Wilmington Medical Center, that this was not State-mandated but it was mandated out of the regional office of HEW in accordance with the regulations promulgated under section 504 of the Rehabilitation Act of 1974.

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. EVANS of Delaware. I yield to the gentleman from Florida.

Mr. ROGERS. I thank the gentleman for yielding.

Mr. Speaker, I will say to the gentleman from Kentucky (Mr. CARTER) that, in many instances, the statement that the gentleman made is correct. We have seen some of the regulations.

Also, there is a commission on accreditation which goes in the hospitals before they accredit them. Before medicare and medicaid pays, a hospital is supposed to be accredited, and they must meet certain standards. Now I agree with the gentleman. I think many of these so-called standards are not being applied with reason, and I think the gentleman would be reassured to know that there is a General Accounting Office study being conducted on this now, and this study will come to the committee. It will enable us to really get into this matter some. There are many examples, and I have heard of them, too—they have been reported to the committee—where there is not too much good sense being applied.

The SPEAKER pro tempore. The time of the gentleman from Kentucky (Mr. CARTER) has expired.

Mr. ROGERS. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky.

Mr. CARTER. Mr. Speaker, in further response to the distinguished gentleman from Delaware, the project grants in section 1625 of this bill would help to modernize and meet the code standards, the fire code and safety standards. There is $100 million allocated for this purpose by this section of the bill.

Mr. EVANS of Delaware. If the gentleman will yield, I would like to thank the distinguished gentleman from Florida (Mr. ROGERS) and the distinguished gentleman from Kentucky (Mr. CARTER) for their explanation. I am very pleased that we are proceeding in the direction of eliminating unreasonable regulations which are creating a tremendous burden on the patients and the taxpayers of this country.

Mr. ROGERS. Mr. Speaker, I want to thank the gentleman for his concern, and I want to say that I do share his concern. Certainly the General Accounting study will be of help.

Mr. Speaker, I want to thank my distinguished colleagues, the gentleman from Delaware (Mr. EVANS) and the gentleman from Kentucky (Mr. CARTER) for their kind and generous comments about me. They have been most generous.

Mr. DORNAN. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from California.

Mr. DORNAN. I thank the gentleman for yielding.

Mr. Speaker, I would also like to associate myself with the remarks of my 2 colleagues and state emphatically how impossibly difficult it will be to replace the chairman of this committee with someone of his expertise.

Mr. Speaker, I realize that because of the press of legislation we must necessarily consider many matters under suspension of the rules. However, I am convinced that H.R. 11488—although the product of many hours of dedication and

labor—contains one important omission; namely, an ethical standard.

Heavy stress is laid on the planning process and cost factors. Well and good. But these considerations were part of totalitarian medicine. There is no ethical standard in this legislation by which policy decisions are to be made. With abortion, test tube babies, cloning, human experimentation, renal dialysis machines, euthanasia, an overloaded social security system, laser beam surgery, and so forth, how can ethics be ignored? If we have medicine without ethics, what are we? Men with hollow chests and no heart? Christ said that it is not by bread alone that we live.

We saw what happened when German medicine abandoned the ancient oath of Hippocrates—mercy killing, selective abortion for racial purposes, deliberate killing of the infirm or feeble minded, lethal experiments on human subjects without their knowledge or consent, bodily mutilation of concentration camp victims for so-called scientific advances, cold water immersion, deliberate septic infection, experimental operative surgery—nonindicated operations—for instructional purposes, liver puncture, deliberate spreading of typhus, and more.

In response to these atrocities (so excellently portrayed in the TV series "Holocaust") the World Medical Association restated the ever valid ethical principles contained in the ancient Oath of Hippocrates at their September 1948 meeting held in Geneva.

The Oath reads:

Now being admitted to the profession of medicine, I solemnly pledge to consecrate my life to the service of humanity. I will give respect and gratitude to my deserving teachers. I will practice medicine with conscience and dignity. The health and life of my patient will be my first consideration. I will hold in confidence all that my patient confides in me.

I will maintain the honor and the noble traditions of the medical profession. My colleagues will be as my brothers. I will not permit consideration of race, religion, nationality, party politics or social standing to intervene between my duty and my patient.

I will maintain the utmost respect for human life from the time of its conception. Even under threat, I will not use my knowledge contrary to the laws of humanity.

Mr. Speaker, if it had been possible to amend this bill by the addition of an amendment requiring Health Systems Agencies to indicate how their plans show their recommendations agree with or diverge from the principals of the Oath of Hippocrates Geneva Version, 1948, I think it would have been a much better bill than it is. I am sure other Members here have heard from their constituents concerning the antics, at times, of Health Systems Agencies.

I have received many letters from persons around the country who have had personal experience with the workings of Health System boards. They have for the most part pointed out the huge moral vacuum under which policy decisions are being made. The executive director of the Northern Virginia Health Systems Agency, a Mr. Dean Montgomery, even went so far as to tell a group of Northern Virginia residents less than 2 weeks ago, that moral considerations are peculiar to individuals and are of no value in public policy deliberations concerning medical care. This is incredible. With that kind of attitude, how can anyone trust public officials?

I know that a commonsense reading of the Health Planning Act would recognize the ethical values of a community under that section dealing with "community acceptability." But I fear this is not the case. And that is why I believe we need the Health Systems Agencies to describe their plans in terms of the Hippocratic Oath. Thank you, Mr. Chairman.

I will try with my amendment again next year. It reads as follows:

AMENDMENT TO H.R. 11488, AS REPORTED OFFERED BY MR. DORNAN

[Hippocrates]

Page 97, insert after line 24 the following:

(i) Section 1513(b) is amended by adding at the end the following:

"(5) The HSP of a health systems agency shall include a statement of the effect that achievement of the goals of the HSP will have on the requirements placed on the practice of medicine by the Oath of Hippocrates (as restated in Geneva, Switzerland, in 1948 by the World Medical Association), and the AIP of a health systems agency shall include a statement of the effect that achievement of the objectives in the AIP will have on such requirements."

WAR CRIMES AND MEDICINE

(Adopted by the General Assembly of the World Medical Association, September 1948)

THE GERMAN BETRAYAL AND A RESTATEMENT OF THE ETHICS OF MEDICINE

Among the declared objects of the World Medical Association are the maintenance of the honor of the medical profession, the promotion of world peace and the helping of all peoples to attain the highest possible level of health. The first meeting of the General Assembly was held in September, 1947, soon after the passing of judgment, by the International Military Tribunal sitting at Nuremberg, on 23 Nazi doctors found guilty, as German major war criminals, of horrible crimes against human beings, many of them committed in the name of medical science. It was, therefore, appropriate that the Assembly should devote some time to the consideration of such a betrayal of the traditions of Medicine, and should authorize the publication of a statement of the attitude of the representatives of the medical profession throughout the world. Why did these doctors lack a moral or professional conscience, and forget or ignore the humanitarian motives and ideals of medical service? How can a repetition of such crimes be averted?

THE CRIMES

The 23 German doctors tried at Nuremberg were not the only guilty ones; numerous unnamed doctors who carried out inhuman orders, who acted as technicians, or who connived at criminal acts were equally culpable. Since the end of the Second World War evidence has been published in several countries of the widespread criminal conduct of the German medical profession since 1933. A group of Czechoslovak doctors, for instance published in "Medical Science Abused" an account of atrocities committed in their country by German doctors; three Swiss doctors, Dr. G. Menkes, Dr. R. Herrmann, and Dr. A. Miege, described in "Cobayes Humains" their visit to the concentration camps at Dachau and Struthof. A summary of the German medical crimes has recently been prepared by the United Nations War Crimes Commission. In addition, the Palestine Jewish Medical Association submitted to the World Medical Association a list of the crimes against Jews committed since 1933 by German doctors in the ghettos, concentration camps and extermination camps in Germany and Eastern Europe. Among articles in the medical press was one in the British Medical Journal of January 25, 1947, by Dr. K. Mellanby, describing the "Medical Experiments on Human Beings in Concentration Camps in Nazi Germany."

It is unnecessary to repeat here the ghastly and incredible details revealed by this and other evidence. The crimes committed by doctors have been classified by the United Nations War Crimes Commission as follows:

Experiments without consent on human subjects authorized by high authorities on the pretext of scientific research in the interests of war.

Experiments without consent conducted by medical officials in concentration camps on their own initiative in order to gain experience.

Deliberate selection of prisoners in camps for subsequent killing, by willful medical neglect or by lethal injections.

Deliberate killing of infirm or feeble-minded patients and of children in hospitals and asylums.

The evidence indicates that the so-called experiments include:

The effect of vacuum and pressure chambers.

Sterilization—chemical, operative, and radiological, with controls by artificial insemination.

Blood transfusion.

Cold water immersion, with periodic tests and different methods of resuscitation.

Liver puncture.

Deliberate septic infection.

Excision of parts of the body.

Experimental operative surgery—non-indicated operations—for instructional purposes.

Exposure to gas and other chemicals for varying periods and results checked by autopsy.

Methods of "mercy killing," gas, benzene injections, cremation of semi-moribund individuals, etc.

There is also evidence that certain doctors have taken part in the preparation of the means of warfare or have placed their medical knowledge at the disposal of others concerned with such preparations.

Allegations have also been made that certain German doctors took part in projects for bacterial warfare. The UNWCC reports that positive information on the subject is very limited, possibly owing to the destruction of most of the evidence. It may be concluded from the evidence in the Nuremberg trials that from 1942 onwards researches were being carried out in Germany, under the complete direction of the higher Nazi authorities, by specialized medical personnel, into methods of bacteriological warfare, and that the greatest secrecy was being observed in connection with them.

The Soviet Extraordinary Commission established that the Germans took deliberate steps to spread typhus among the Soviet population and the Red Army. If this is so, it is reasonable to assume that their plans were made with the advice of medical experts.

A SOLEMN CONDEMNATION

Having considered this evidence and the statements made to the General Assembly by medical representatives of countries which had been occupied by the Germans and by doctors who had personally experienced German brutality, the World Medical Association endorses the judicial action taken to punish those members of the medical profession who shared in the crimes and it solemnly condemns the crimes and inhumanity committed by doctors in Germany and elsewhere against

human beings, both during the Second World War and in the years preceding that war.

THE ESSENCE OF THE CRIMES

But these crimes, vivid and repulsive to the imagination as they still are and persistent though their effects may be, now belong to history, and the doctors of the world, having expressed their indignation, must now consider how any repetition may be prevented. To arrive at a conclusion, it is necessary first to consider what was the essence of the criminality of the doctors who stand condemned by their fellows. The Council of the British Medical Association, in a statement submitted to the World Medical Association, sums up the moral and professional offense as follows:

"It is clear that certain doctors carried out their inhuman experiments both for the furtherance of the war effort and for research in disease. In the course of the experiments and in the application of their findings, they deliberately killed persons politically undesirable to the regime in power. They misused their medical knowledge and prostituted scientific research. They ignored the sanctity and importance of human life, exploiting human beings both as individuals and in the mass. They betrayed the trust society had placed in them as a profession.

The doctors who took part in these deeds did not become criminals in a moment. Their amoral methods were the result of training and conditioning to regard science as an instrument in the hands of the State to be applied in any way desired by its rulers. It is to be assumed that initially they did not realize that the ideas of those who held political power would lead to the denial of the fundamental values on which Medicine is based. Thus, the care of the individual patient ceased to be the doctor's primary aim and the humanitarian purpose of medical science was subordinated to the needs of war."

The reclamation of the German medical profession cannot be effective until the German doctors themselves acknowledge the iniquity of their conduct and declare their determination to return to the time-honored traditions and ideals of medical practice. Astonishment was expressed in the General Assembly of the World Medical Association that no sign whatever had come from Germany that the doctors were ashamed of their share in the crimes, or even that they fully realized the enormity of their conduct. The three Swiss doctors who reported on concentration camps write:

"When questioned after the defeat of Germany, many professors and others who had conducted the experiments in the laboratories had not the strength of character to maintain their former attitude. The only excuse they gave was that of a child caught misbehaving itself, 'We were only obeying orders' or other forms of 'It wasn't I'—which is lamentably true, at least in part. But what was most repugnant in this capitulation was that there was no confession of weakness, still less any expression of regret or remorse."

AN INVITATION TO THE GERMAN PROFESSION

German doctors have now had more than two years in which to think over their conduct, and it may be that there is a latent desire among them, perhaps more especially among young doctors, to rehabilitate themselves in the eyes of the world. A formal solemn declaration by a representative organization of German doctors to the World Medical Association, which represents national medical associations throughout the world, would seem to provide the German profession with an opportunity of giving a promise of their future good behavior. The General Assembly of the World Medical Association approved the following statement which it offers to the German profession for endorsement and signature:

"We, as the accredited representatives of the organized German medical profession, hereby acknowledge the participation of certain German doctors, both individually and collectively, in numerous acts of cruelty and oppression, and in the organization and perpetration of brutal experiments on human beings without their consent. We acknowledge that in performing these acts and experiments, which have resulted in the deaths of millions of human beings, the German medical profession has violated the ethical tradition of Medicine, has debased the honor of the medical profession, and has prostituted medical science in the service of war and political hatred.

"We express our regret that no protest was made by the organized medical profession in Germany against the base uses to which it knew that medical knowledge was being applied, and we now place on record our condemnation and abhorrence of the crimes committed by members of our profession in Germany and Eastern Europe since 1933.

"We hereby solemnly give our promise, through the World Medical Association, to the medical profession throughout the world never again to participate in or permit such a betrayal of Medicine. We undertake to expel from our organization those members who have been personally guilty of the crimes referred to above, or who are not willing to promise to maintain a high standard of professional behavior in the future. We will exact from all our members a standard of conduct that recognizes the sanctity, moral liberty, and personal dignity of every human being."

Since this statement was issued there has come to the attention of the World Medical Association a declaration purported to come from the physicians of Western Germany.

"The German doctors and their professional organizations are aware of the fact that the crimes committed against humanity by a number of German physicians have destroyed their professional reputation throughout the world.

"The committee of the Chambers of Physicians of Western Germany has taken the following actions:

1. Since June 14, 1947, every doctor on obtaining his license takes the Hippocratic Oath as revised by this group.

2. On October 18, 1947, a resolution was passed condemning all crimes against humanity and all the German Physicians who had participated in the war crimes against humanity.

3. On November 29, 1947, the committee requested the German government to reinstate to full medical rights, as soon as possible, all those physicians who had been deprived of those rights by the National Socialistic government for reasons of race, religion or politics."

RESOLUTION OF THE MEDICAL CHAMBERS OF WESTERN GERMANY CONCERNING THE NUREMBERG TRIALS

"The German medical profession along with the peoples of the whole world were aghast to learn of the actions which were the basis of the Nuremberg trial of doctors. The German medical profession as a whole mourns for the victims sacrificed by a despotic regime which availed itself of science as one of its instruments and was assisted in so doing, by doctors. The doctors deeply regret that men out of their own rank committed such horrifying crimes.

"Now that the trial is over, every doctor will receive a copy of the conclusions reached by those German doctors designated as observers to the trial, and will then be able to form his own opinions. It is possible to state that compared to the number of doctors working in Germany, only a very small number of members of the medical profession share in these crimes. It is a part of a despotic regime that a criminal minority is entrusted with power over life and death.

"The German medical profession is aware of the wider dangers which are engendered in the errors of a few. It wants to formulate basic principles for the present and the future.

"Modern science cannot dispense with a complex machinery of research which is often incomprehensible to individual doctors. From this we conclude that the private interests of medical scholars (such as their quest for priority of discoveries) should take a secondary role where new incisive methods are being tried, such experiments to be submitted to a body of experts for their consent. This body would also explain the significance of such experiments to the public before they were tried on human beings.

"The trial also served to demonstrate the danger of interference of government authorities in medicine, since bureaucracies have no contact with the problems of doctors in their relationship with their patients. It was the N.S.D.A.P. and the army that tried to interfere with the freedom of the medical profession and to destroy it. It would be possible for foreign powers or the bureaucracy of the social services to act in a like manner. It is, therefore, fundamental to preserve the individuality and independent responsibility of the doctors in medical activities. Society must guarantee the doctor his sovereignty in his own field. In giving medical care, a doctor should not be subjected to any orders or directives from government, but should live up to his knowledge of science and professional standards of good conduct.

"Doctors, with the exception of members of the medical services of the State and the professors of universities should be prohibited from becoming officials, since civil service status is incompatible with the right of self-determination, which is the code of the medical profession. This applies especially to any medical work for military organizations. The position of doctors within public health services and within publicly owned clinics and hospitals should also be subjected to close scrutiny.

"After the experiences of the Nazi dictatorship the medical profession regards it as a duty to consider critically the effects on the medical profession of the present political and social conditions, which may imply the return of dangers similar to those of the Nazi regime. This critical attitude is indispensable for the preservation of a fundamental professional freedom and public interest.

"The German doctors are conscious of their duty for the welfare of their profession in all its many aspects.

"Bad Nauheim, the 18th of October, 1947."

The World Medical Association decided to accept this as a preliminary statement from the doctors of Western Germany and to inform them that as soon as they have carried out the promises expressed in their statement, and as soon as there is established a recognized medical association, the World Medical Association will be glad to enter into further negotiations with them.

MEDICINE AND SOCIETY

The signing of this declaration is, of course, only the first step the German profession must take to regain the confidence of the rest of the world. German doctors and, indeed, the doctors of every country where there is a tendency for political and social doctrines to develop at the expense of individual responsibility, should bear constantly in mind the moral aspect of medical research and practice. To quote again the British Medical Association's memorandum:

"Research in Medicine as well as its practice must never be separated from eternal moral values. Doctors must be quick to point out to their fellow members of society the likely consequences of policies that degrade

or deny fundamental human rights. The profession must be vigilant to observe and to combat developments which might again ensnare its members and debase the high purpose of its ideals. The medical crimes committed in the late war have shown only too convincingly how medical knowledge and progress, unless governed by humanitarian motives, may become the instruments of wanton destruction in the pursuit of war.

"The influence of Medicine throughout a nation is often underestimated. Individually the doctor is more than the exponent of medical opinion and the technical expert. He is the confidant, the friend and the trusted adviser, and wields an influence far beyond the immediate realm of physical needs. Collectively the medical profession can cultivate throughout the world the growth of international amity."

The World Medical Association, which represents 500,000 doctors, should be able to exert influence in maintaining high professional standards in the countries of its member-associations. Through it the common responsibilities of doctors the world over to mankind and their common aspirations in the field of international friendship will find expression. It provides a channel for the interchange of information and ideas and for personal contacts between representative doctors in the different countries. Resolutions of its General Assembly should afford, on the one hand, moral support for national associations whose members may be experiencing a conflict between material interests and professional duty, and on the other hand, a warning to doctors who are in danger of allowing themselves to be lured from the path of duty.

THE TEACHING OF THE STUDENT

A good deal of responsibility devolves on the teachers of medical students. They must see that their teaching is permeated with the ideals of Medicine. They must help their students to honor the traditions of Medicine and to absorb its humanitarian purposes—the succor of the bodily and mental needs of the individual irrespective of class, race or creed; the cure of disease; the relief of suffering; the prolongation of human life; and the prevention of disease. In a word, the ultimate aim of medical practice must be, as the World Medical Association puts it in the list of its own objects, "to assist all peoples of the world to attain the highest possible level of health." The prospective doctor should be taught by both precept and practice that this aim must be pursued by the scientific method coupled with the spirit of charity and service.

BACK TO HIPPOCRATES

It used to be the custom for every doctor on graduation or on receiving a license to practice medicine to take the Hippocratic Oath. In many medical schools, however, this custom has fallen into disuse or has become a mere formality. The World Medical Association believes that the restoration of the taking of the Hippocratic Oath or of a suitable modern substitute as a serious part of the graduation or licensing ceremony would help to impress on newly-qualified doctors the fundamental ethics of medicine and to raise the general standard of professional conduct.

Although the forms of medical practice may change, and new medical knowledge become available, the spirit of the Hippocratic Oath endures, and it may, in every age and in every country, be accepted as the foundation of the conduct of every medical practitioner. It enjoins:

the brotherhood of medical men;

the motive of service for the good of patients;

the duty of curing, the greatest crime being cooperation in the destruction of life by murder, suicide, or abortion;

purity of living and honorable dealing;

professional secrecy for the protection of patients;

dissemination of medical knowledge and discovery for the benefit of mankind.

It is desirable that a uniform promise should be devised to be administered in every country to all practitioners when receiving authority to practice. The Association considered several different forms of undertaking in use in various countries and it recommended for the consideration of universities and licensing authorities the adoption of the following or a similar promise:

At the time of being admitted as Member of the Medical Profession

I solemnly pledge myself to consecrate my life to the service of humanity.

I will give to my teachers the respect and gratitude which is their due;

I will practice my profession with conscience and dignity;

The health of my patient will be my first consideration;

I will respect the secrets which are confided in me;

I will maintain by all the means in my power, the honor and the noble traditions of the medical profession;

My colleagues will be my brother;

I will not permit considerations of religion, nationality, race, party politics or social standing to intervene between my duty and my patient;

I will maintain the utmost respect for human life, from the time of conception; even under threat, I will not use my medical knowledge contrary to the laws of humanity.

I make these promises solemnly, freely and upon my honor.

In view of the recent war crimes and the continued troubled state of the world, the giving of this promise by every newly qualified doctor should have a beneficial effect on his attitude to medical practice and its obligations. In the long run the common promise given by all doctors should afford a world-wide bond uniting them in a common service to humanity.

SUMMARY

1. The World Medical Association solemnly condemns the crimes committed against humanity since 1933 by German medical practitioners. It endorses the judicial punishment of such crimes.

2. The Association invited a representative organization of German doctors to make a public declaration acknowledging the participation of the German medical profession in prewar and war crimes and promising in the future to respect the personality, dignity and freedom of the human being (See page 9.)

3. Eternal vigilance on the part of all doctors and a full recognition of the influence of medicine on society are necessary to prevent the recurrence of such crimes as have been committed in Germany.

4. The traditional aims and ethics of medicine should pervade the medical curriculum.

5. It is desirable that a uniform oath or promise based on the spirit and content of the Hippocratic Oath should be subscribed to by every medical practitioner on receiving his medical degree or his license to practice.

FOR INSTRUCTION IN THE INTERNATIONAL MEDICAL CODE

(By J. Voncken, Liege, Belgium)

The degradation of the medical profession by German national socialism gave the opportunity to A. C. Ivy of Chicago to publish in the *Journal of the American Medical Association* an article of high moral importance. He concludes that it is necessary to complete the education of young doctors of medicine by inculcating them with the principles of medical ethics.

In our opinion it is a restriction to limit this instruction to the elementary principles of medical practice as it concerns the individual: it is not only in times of peace that the principles of medical ethics must be scrupulously observed: the dignity of human person and the respect it deserves make it imperative that these principles be maintained in an even more strict manner during war. This is the aim, which has been proposed for more than 20 years, by the International Committee of Military Medicine in view of the inadequacy of the texts of the humanitarian Conventions.

The experience of the great war of 1940–45 is decisive in this respect: two types of facts, of immense general importance from the point of view of the medical ideal, dominate all medicine during this period and it is in order to draw practical conclusions. Physicians have been condemned, even executed, in occupied countries for giving aid to the injured who were put in their care. Physicians have lent their cooperation and their science to the political authorities to perpetrate attacks on the life and the health of human beings. It is necessary at any price that under the present day circumstances efforts be made to try to create a superstate authority which can intervene to guarantee to the physician the free exercise of his noble profession and prevent his employment for criminal purposes. This is a sphere for international legislation.

But to create laws is not sufficient; it is necessary that the conscience of each individual be prepared to respect them. And if one succeeds in impressing the mind of each physician with the fundamental principles of medical ethics, it is certain that a great conquest will have been realized for the safeguarding of our civilization. The moral development of the physician, the education of his heart, the knowledge of his duties occupy an important place in the role which he will be called on to play. The conduct of the physician, if it conforms to the principles of pity and of humanity, can constitute a decisive element in the relations between peoples, even between belligerent peoples. Examples are not difficult to find where this can be realized in the camps of prisoners, civil or military, in the zones occupied by a victorious adversary, provided the physician is granted complete professional freedom. For all persons, whatever their nationality, their race and opinion or their religion, it will be a great comfort to be able to find in the physician the good missionary who helps and who eases his pain without danger, without risk, without menace of denunciation of secret accusation. In a general conflagration this will be the only fixed point of humanitarianism which can still give some hope in the midst of indescribable horror. When all the physicians of the world, under whatever political regime they may live, are convinced in their inner conscience that their two essential duties are first of all that of caring to the best of their ability for those who have been given into their care, friend or enemy, even in times of war, and then that they abstain from all acts which can injure the health of a neighbor and threaten his life, then finally we can find in the medical profession a precious aid for the battle against the spirit of barbarism and for halting the march on the road toward the abyss to which we have been led by the inconceivable aberration of Nazi medicine between 1940 and 1945. In order to realize this, it will be desirable that all schools and faculties of medicine in the world organize a course in international medical ethics which will specify the rights and duties of physicians in all circumstances of peace and of war. This course will be consecrated by a solemn oath such as is already demanded by the World Medical

Association; but, in our opinion, the administering of this oath is best to be accomplished under the Permanent Court of International Justice which in order to put this purpose into practice can delegate authority to the various faculties. Given the power of the Permanent Court of International Justice, the importance of the oath cannot be misunderstood by anybody and all perjury can be prosecuted and punished. This oath will be only the résumé of the international medical ethic, an attempt of codification of which has already been attempted by the International Committee of Military Medicine in a study which will be published very soon. In fact by a medico-jurisdical collaboration which has existed for more than 20 years, this committee has attempted to define the international position of the physician with the exclusive aim of safeguarding the rights of the wounded, the sick, prisoners and even the civil population. Through this privileged juridical position of the physician, which rests by definition above the general conflict of interests, we can attain notable results for the protection of the human person itself, for the combat against the crimes of "lese-humanité" and the maintenance of civilization.

Mr. CARTER. Mr. Speaker, if the gentleman will yield, I just want to state that, as ranking member of the subcommittee, my relationship with the chairman of the full committee and the chairman of the subcommittee has been excellent. We have had a chairman with whom one can work out problems, and I want to commend the gentleman for being able to take all of the troubles that many of us heap upon him, and still smile. It is my feeling, Mr. Speaker, that perhaps the Subcommittee on Health and the Environment works more than any other subcommittee in the House.

I hardly understand; it is difficult to see how the chairman of the subcommittee can put up with all of us, particularly with me.

Mr. ROGERS. May I say to the gentleman that it is very easy to put up with the gentleman from Kentucky because of the great contribution he has made. He is reasonable; he is trying to do what is best for the American people, and that has been consistently shown in his actions and in his support for bills to improve the health of the American people. It has been a joy to work with him and I shall, of course, treasure his friendship.

Mr. Speaker, I yield to the distinguished chairman of our committee, the gentleman from West Virginia (Mr. STAGGERS), who has given us such great support.

Mr. STAGGERS. Mr. Speaker, I thank the gentleman for yielding. I want to rise in support of the bill. It is a very good bill. Its title explains exactly what it is about: Health planning and resource development. These activities are highly needed in this country, because there are so many health problems that need our attention.

Mr. Speaker, I am not going to list all the reasons this bill should be supported; they were brought up very ably by the chairman of the subcommittee and the ranking minority member. I simply wish to add my strong endorsement.

I also wish to pay tribute to the chairman of the subcommittee, the gentleman from Florida (Mr. ROGERS). As many members have already said, he has worked hard in his capacity as chairman, and has done a great service for America. He is going to be sorely missed, and I do not know who could take his place.

I would also like to compliment the gentleman from Kentucky (Mr. CARTER). It has been a partnership on health legislation. It has never been politics in any way. It has always been what is good for America. I want to compliment Dr. CARTER for this very much, because he has always asked not whether this is Democrat or Republican philosophy, but, is this good for this land. I think that is what all ought to be doing when we are legislating for America.

Mr. Speaker, I want to compliment both these Members as a team, and also the staffs, who have worked so hard. We have kept them working night and day, early in the morning and late at night. I urge every Member to vote for the bill. I hope Mr. COLLINS of Texas will also vote for it when the final vote is taken.

Mr. Speaker, I urge my colleagues in the House to join me in support of H.R. 11488, the Health Planning and Resources Development Amendments of 1978. This bill provides for the extension and amendment of titles XV and XVI of the Public Health Service Act to revise the authorities and requirements for Health Planning and Resources Development. It is the result of careful analysis of the existing health planning system and its strengths and its weaknesses by the Committee on Interstate and Foreign Commerce and its Subcommittee on Health and the Environment.

Mr. Speaker, our Nation faces many persistent health problems. High infant mortality in some areas, excess hospital capacity in others, maldistribution of physician resources, lack of preventive health care services, and rapidly rising health care costs are just a few of the many health care problems which demand solutions. Yet the importance and extent of each of these problems varies through the various regions of our country.

One of the major strengths of the health planning system which this bill extends is that it permits the identification of health problems and workable solutions at the local level. It establishes a process by which communities can work to achieve quality health care at reasonable costs through the participation of consumers and providers as well as local and State governmental agencies and officials. I believe these amendments strengthen that existing process and, therefore, help assure the success of health planning in our nation.

Mr. Speaker, authority for health planning under title XV and XVI of the Public Health Service Act expires on September 30, 1978. This bill will extend that authority for an additional 3 years and make necessary amendments. I urge you and the other Members of the House to vote favorably for this important legislation.

Mr. ROGERS. I thank the Chairman for his kind remarks. I too want to commend the staff on both sides. It has been hard work on all these health bills, and they have done a great job.

Mr. Speaker, I also want to mention that we hope to take up H.R. 12460, which is scheduled next, at the end of the health bills rather than next. That is the health centers amendments bill and we have cleared that with both sides of the aisle.

● Mr. BAUCUS. Mr. Speaker, I rise today to speak in support of the Health Planning and Resources Development Amendments of 1978. I have been very concerned with the issue of health planing and I believe this bill promotes a more effective and improved health planning process.

I would like to commend the subcommittee and the committee for favorably reporting that this bill should pass. I want to extend my special thanks to Mr. ROGERS for making these modifications of the proposed legislation. These changes indicate that we must address the unique health problems facing rural communities in our health planning proposals. We in Montana are especially concerned with rural health needs. And this legislation includes several provisions which will have a positive impact in improving the delivery of health services to rural communities not only in Montana, but all over the country.

In modifying this bill, the gentleman from Florida has incorporated several of the measures included in my bill, H.R. 122401, the Rural Health Needs Planning Act of 1978. I introduced this bill April 26, in an effort to place greater emphasis on rural health care needs and health planning. My bill asks for greater flexibility in applying the national guidelines for health planning to rural communities and underserved populations. And included in this legislation is a provision mandating that the national health planning guidelines take into account the needs and concerns of rural people.

A second provision in my bill amended the Public Health Service Act by expanding the National Council on Health Planning and Development. This measure adds an Assistant Secretary for Rural Development of USDA, increases consumer representation, and requires that some of those members come from urban and rural medically underserved populations. I am pleased that this provision has just been incorporated into the bill before us today.

Rural consumer representation on the statewide health coordinating council is a third provision of my bill which has just been incorporated into the health planning and resources development amendments.

Rural health care needs must be represented in any health planning legislation. I believe that this bill will significantly help in improving the health of our rural populations.

I would also like to take this opportunity to extend my thanks and best wishes to my colleague from Florida, Mr. ROGERS. His expertise and wisdom on health issues will be sorely missed in this body and I hope we can count on his advice and guidance in the future.●

● Mr. WOLFF. Mr. Speaker, I rise today in strong support of H.R. 11488, the Na-

tional Health Planning and Resources Development Amendments of 1978. This legislation, aimed at extending and strengthening the influence of community-based health planning activities, is essential if cost containment is to be realized in the health field.

Mr. Speaker, the bill now before us directly deals with the operations of the so-called health system agencies (HSA's). I am proud to represent in Congress an area which is serviced by an HSA—the Nassau-Suffolk HSA. I would like to take this opportunity to commend the Nassau-Suffolk HSA for its great strides in improving the health of the area's residents; increasing the accessibility, acceptability, continuity, and quality of health services; restraining increases in health care costs; and preventing unnecessary duplication of health resources in the area served by this dedicated group of people.

In this time of fiscal restraint, there needs to be an effective health planning system. Last year, this country spent $163 billion for health care, and by 1983, the Department of Health, Education, and Welfare estimates that the United States will spend $313 billion, if we do not intensify our efforts to rationally plan and effectively reduce costs.

I think the legislation before us is good legislation. It is money well spent. It is money well spent because I endorse the principles of the HSA network. Consumers and providers should actively participate in developing and assessing health policies and programs within local, State, and national institutions.

It is money well spent because health services should be provided in ways that respect individual dignity, values, and rights.

It is money well spent because quality health data are essential for planning, monitoring, and evaluation and should be collected in ways that avoid unnecessary duplication.

It is money well spent because I believe that health status among all population groups be improved to the maximum extent.

It is money well spent because health promotion and the prevention of illness and disability should be given priority attention by the health care system.

It is money well spent because the health care system should provide equal access to quality health care at a reasonable cost.

And it is money well spent because I believe a lack of income should not be a barrier to needed health care.

For these reasons, I support the legislation now before us. With its planning, cost containment, resource development, and review aspects, H.R. 11488 brings a community orientation and public accountability to the decisionmaking process in the health field. This bill has emerged as a realistic response to the complex economic and political forces that shape the health field. It is worthy of the support of my colleagues and I urge an overwhelming vote of approval.●

Mr. ROGERS. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. ROGERS) that the House suspend the rules and pass the bill H.R. 11488, as amended.

The question was taken.

Mr. ROUSSELOT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

PSYCHOTROPIC SUBSTANCES ACT OF 1978

Mr. ROGERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12008) to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 and other laws to meet obligations under the Convention on Psychotropic Substances relating to regulatory controls on the manufacture, distribution, importation, and exportation of psychotropic substances, and for other purposes, as amended.

The Clerk read as follows:

H.R. 12008

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Psychotropic Substances Act of 1978".

SEC. 2. The Congress makes the following findings and declarations:

(1) The Congress has long recognized the danger involved in the manufacture, distribution, and use of certain psychotropic substances for nonscientific and nonmedical purposes, and has provided strong and effective legislation to control illicit trafficking and to regulate legitimate uses of psychotropic substances in this country. Abuse of psychotropic substances has become a phenomenon common to many countries, however, and is not confined to national borders. It is, therefore, essential that the United States cooperate with other nations in establishing effective controls over international traffic in such substances.

(2) The United States has joined with other countries in executing an international treaty, entitled the Convention on Psychotropic Substances and signed at Vienna, Austria, on February 21, 1971, which is designed to establish suitable controls over the manufacture, distribution, transfer, and use of certain psychotropic substances. The Convention is not self-executing, and the obligations of the United States thereunder may only be performed pursuant to appropriate legislation. It is the intent of the Congress that the amendments made by this Act, together with existing law, will enable the United States to meet all of its obligations under the Convention and that no further legislation will be necessary for that purpose.

(3) In implementing the Convention on Psychotropic Substances, the Congress intends that, consistent with the obligations of the United States under the Convention, control of psychotropic substances in the United States should be accomplished within the framework of the procedures and criteria for classification of substances provided in the Comprehensive Drug Abuse Prevention and Control Act of 1970. This will insure that (A) the availability of psychotropic substances to manufacturers, distributors, dispensers, and researchers for useful and legitimate medical and scientific purposes will not be unduly restricted; (B) nothing in the Convention will interfere with bona fide research activities; and (C) nothing in the Convention will interfere with ethical medical practice in this country as determined by the Secretary of Health, Education, and Welfare on the basis of a consensus of the views of the American medical and scientific community.

SEC. 3. (a) Subsection (d) of section 201 of the Controlled Substances Act (21 U.S.C. 811(d)) is amended by inserting "(1)" after "(d)" and by adding the following new paragraphs at the end thereof:

"(2)(A) Whenever the Secretary of State receives notification from the Secretary-General of the United Nations that information has been transmitted by or to the World Health Organization, pursuant to article 2 of the Convention on Psychotropic Substances, which may justify adding a drug or other substance to one of the schedules of the Convention, transferring a drug or substance from one schedule to another, or deleting it from the schedules, the Secretary of State shall immediately transmit the notice to the Secretary of Health, Education, and Welfare who shall publish it in the Federal Register and provide opportunity to interested persons to submit to him comments respecting the scientific and medical evaluations which he is to prepare respecting such drug or substance. The Secretary of Health, Education, and Welfare shall prepare for transmission through the Secretary of State to the World Health Organization such medical and scientific evaluations as may be appropriate regarding the possible action that could be proposed by the World Health Organization respecting the drug or substance with respect to which a notice was transmitted under this subparagraph.

"(B) Whenever the Secretary of State receives information that the Commission on Narcotic Drugs of the United Nations proposes to decide whether to add a drug or other substance to one of the schedules of the Convention, transfer a drug or substance from one schedule to another, or delete it from the schedules, the Secretary of State shall transmit timely notice to the Secretary of Health, Education, and Welfare of such information who shall publish a summary of such information in the Federal Register and provide opportunity to interested persons to submit to him comments respecting the recommendation which he is to furnish, pursuant to this subparagraph, respecting such proposal. The Secretary of Health, Education, and Welfare shall evaluate the proposal and furnish a recommendation to the Secretary of State which shall be binding on the representative of the United States in discussions and negotiations relating to the proposal.

"(3) When the United States receives notification of a scheduling decision pursuant to article 2 of the Convention on Psychotropic Substances that a drug or other substance has been added or transferred to a schedule specified in the notification or receives notification (referred to in this subsection as a 'schedule notice') that existing legal controls applicable under this title to a drug or substance and the controls required by the Federal Food, Drug, and Cosmetic Act do not meet the requirements of the schedule of the Convention in which such drug or substance has been placed, the Secretary of Health, Education, and Welfare, after consultation with the Attorney General, shall first determine whether existing legal controls under this title applicable to the drug or substance and the controls required by the Federal Food, Drug, and Cosmetic Act, meet the requirements of the schedule specified in the notification or schedule notice and shall take the following action:

"(A) If such requirements are met by such existing controls but the Secretary of Health, Education, and Welfare nonetheless believes that more stringent controls should be applied to the drug or substance, the Secretary shall recommend to the Attorney General that he initiate procedings for scheduling the drug or substance, pursuant to subsections (a) and (b) of this section, to apply such controls.

"(B) If such requirements are not met by such existing controls and the Secretary of Health, Education, and Welfare concurs in the scheduling decision or schedule notice transmitted by the notification, the Secretary shall recommend to the Attorney General that he initiate proceedings for scheduling the drug or substance under the appropriate schedule pursuant to subsections (a) and (b) of this section.

"(C) If such requirements are not met by such existing controls and the Secretary of Health, Education, and Welfare does not concur in the scheduling decision or schedule notice transmitted by the notification, the Secretary shall—

"(i) if he deems that additional controls are necessary to protect the public health and safety, recommend to the Attorney General that he initiate proceedings for scheduling the drug or substance, pursuant to subsections (a) and (b) of this section, to apply such additional controls;

"(ii) request the Secretary of State to transmit a notice of qualified acceptance, within the period specified in the Convention, pursuant to paragraph 7 of article 2 of the Convention, to the Secretary-General of the United Nations;

"(iii) request the Secretary of State to transmit a notice of qualified acceptance as prescribed in clause (ii) and request the Secretary of State to ask for a review by the Economic and Social Council of the United Nations, in accordance with paragraph 8 of article 2 of the Convention, of the scheduling decision; or

"(iv) in the case of a schedule notice, request the Secretary of State to take appropriate action under the Convention to initiate proceedings to remove the drug or substance from the schedules under the Convention or to transfer the drug or substance to a schedule under the Convention different from the one specified in the schedule notice.

"(4)(A) If the Attorney General determines, after consultation with the Secretary of Health, Education, and Welfare, that proceedings initiated under recommendations made under subparagraph (B) or (C)(1) of paragraph (3) will not be completed within the time period required by paragraph 7 of article 2 of the Convention, the Attorney General, after consultation with the Secretary and after providing interested persons opportunity to submit comments respecting the requirements of the temporary order to be issued under this sentence, shall issue a temporary order controlling the drug or substance under schedule IV or V, whichever is most appropriate to carry out the minimum United States obligations under paragraph 7 of article 2 of the Convention. As a part of such order, the Attorney General shall, after consultation with the Secretary, except such drug or substance from the application of any provision of part C of this title which he finds is not required to carry out the United States obligations under paragraph 7 of article 2 of the Convention. In the case of proceedings initiated under subparagraph (B) of paragraph (3), the Attorney General, concurrently with the issuance of such order, shall request the Secretary of State to transmit a notice of qualified acceptance to the Secretary-General of the United Nations pursuant to paragraph 7 of article 2 of the Convention. A temporary order issued under this subparagraph controlling a drug or other substance subject to proceedings initiated under subsections (a) and (b) of this section shall expire upon the effective date of the application to the drug or substance of the controls resulting from such proceedings.

"(B) After a notice of qualified acceptance of a scheduling decision with respect to a drug or other substance is transmitted to the Secretary-General of the United Nations in accordance with clause (ii) or (iii) of paragraph (3)(C) or after a request has been made under clause (iv) of such paragraph with respect to a drug or substance described in a schedule notice, the Attorney General, after consultation with the Secretary of Health, Education, and Welfare and after providing interested persons opportunity to submit comments respecting the requirements of the order to be issued under this sentence, shall issue an order controlling the drug or substance under schedule IV or V, whichever is most appropriate to carry out the minimum United States obligations under paragraph 7 of article 2 of the Convention in the case of a drug or substance for which a notice of qualified acceptance was transmitted or whichever the Attorney General determines is appropriate in the case of a drug or substance described in a schedule notice. As a part of such order, the Attorney General shall, after consultation with the Secretary, except such drug or substance from the application of any provision of part C of this title which he finds is not required to carry out the United States obligations under paragraph 7 of article 2 of the Convention in the case of proceedings initiated under subparagraph (B) of paragraph (3), the Attorney General, concurrently with the issuance of such order, shall request the Secretary of State to transmit a notice of qualified acceptance to the Secretary-General of the United Nations pursuant to paragraph 7 of article 2 of the Convention. A temporary order issued under this subparagraph controlling a drug or other substance subject to proceedings initiated under subsections (a) and (b) of this section shall expire upon the effective date of the application to the drug or substance of the controls resulting from such proceedings.

"(C) An order issued under subparagraph (A) or (B) may be issued without regard to the findings required by subsection (a) of this section or by section 202(b) and without regard to the procedures prescribed by subsection (a) or (b) of this section.

"(5) Nothing in the amendment made by the Psychotropic Substance Act of 1978 or the regulations or orders promulgated thereunder shall be construed to preclude requests by the Secretary of Health, Education, and Welfare or the Attorney General through the Secretary of State, pursuant to article 2 or other applicable provisions of the Convention, for review of scheduling decisions under such Convention, based on new or additional information.".

(b) Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by adding at the end the following:

"(29) The term 'Convention on Psychotropic Substances' means the Convention on Psychotropic Substances signed at Vienna, Austria, on February 21, 1971; and the term 'Single Convention on Narcotic Drugs' means the Single Convention on Narcotic Drugs signed at New York, New York, on March 30, 1961.".

(c) For the purpose of carrying out the minimum United States obligations under paragraph 7 of article 2 of the Convention on Psychotropic Substances, signed at Vienna, Austria, on February 21, 1971, with respect to pipradrol and SPA (also known as (-)-1-dimethylamino - 1,2 - diphenylethane), the Attorney General shall by order, made without regard to sections 201 and 202 of the Controlled Substances Act, place such drugs in schedule IV of such Act.

SEC. 4. Subsection (d) of section 303 of the Controlled Substances Act (21 U.S.C. 812(d)) is amended by striking out "and" before "(2)" and by adding the following before the period at the end thereof: ", and (3) such exception does not conflict with United States obligations under the Convention on Psychotropic Substances".

SEC. 5. Section 307 of the Controlled Substances Act (21 U.S.C. 827) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) In addition to the reporting and recordkeeping requirements under any provision of this title, each manufacturer registered under section 303 shall, with respect to narcotic and nonnarcotic controlled substances manufactured by it, make such reports to the Attorney General, and maintain such records, as the Attorney General may require to enable the United States to meet its obligations under articles 19 and 20 of the Single Convention on Narcotic Drugs and article 16 of the Convention on Psychotropic Substances. The Attorney General shall administer the requirements of this subsection in such a manner as to avoid the unnecessary imposition of duplicative requirements under this title on manufacturers subject to the requirements of this subsection.".

SEC. 6. Section 1002(b) of the Controlled Substances Import and Export Act (21 U.S.C. 952(b)) is amended by inserting immediately before the period at the end of paragraph (2) the following: ", except that if a nonnarcotic controlled substance in schedule III, IV, or V is also listed in schedule I or II of the Convention on Psychotropic Substances it shall be imported pursuant to such import permit requirements, prescribed by regulation of the Attorney General, as are required by the Convention".

SEC. 7. Subsection (e) of section 1003 of the Controlled Substances Import and Export Act (21 U.S.C. 953(e)) is amended—

(1) by striking out ", and" at the end of paragraph (2) and inserting in lieu thereof a semicolon;

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (3) the following new paragraph:

"(4) in any case when a nonnarcotic controlled substance in schedule III, IV, or V is also listed in schedule I or II of the Convention on Psychotropic Substances, it is exported pursuant to such export permit requirements, prescribed by regulation of the Attorney General, as are required by the Convention, instead of the invoice required by paragraphs (2) and (3) of this subsection.".

SEC. 8. (a) Part D of the Controlled Substances Act (21 U.S.C. 841 et seq.) is amended by adding at the end thereof the following new section:

"APPLICATION OF TREATIES AND OTHER INTERNATIONAL AGREEMENTS

"SEC. 412. Nothing in the Single Convention on Narcotic Drugs, the Convention on Psychotropic Substances, or other treaties or international agreements shall be construed to limit the provision of treatment, education, or rehabilitation as alternatives to conviction or criminal penalty for offenses involving any drug or other substance subject to control under any such treaty or agreement.".

(b) The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting—

"Sec. 412. Application of treaties and other international agreements."

immediately after

"Sec. 411. Proceedings to establish previous convictions.".

Sec. 9. (a) Section 502 of the Controlled Substances Act (21 U.S.C. 872) is amended by redesignating subsection (d) as subsection (e), and by adding after subsection (c) the following new subsection:

"(d) Nothing in the Single Convention on Narcotic Drugs, the Convention on Psychotropic Substances, or other treaties or international agreements shall be construed to limit, modify, or prevent the protection of the confidentiality of patient records or of the names and other identifying characteristics of research subjects as provided by any Federal, State, or local law or regulation.".

(b) Section 303 of the Public Health Service Act (42 U.S.C. 242a) is amended by redesignating subsection (b) as subsection (c), and by adding after subsection (a) the following new subsection:

"(b) Nothing in the Single Convention on Narcotic Drugs, the Convention on Psychotropic Substances, or other treaties or international agreements shall be construed to limit, modify, or prevent the protection of the confidentiality of patient records or of the names and other identifying characteristics of research subjects as provided by any Federal, State, or local law or regulation.".

Sec. 10. Subsection (f) of section 303 of the Controlled Substances Act (21 U.S.C. 823(f)) is amended by adding at the end the following sentence: "Article 7 of the Convention on Psychotropic Substances shall not be construed to prohibit, or impose additional restrictions upon, research involving drugs or other substances scheduled under the Convention which is conducted in conformity with this subsection and other applicable provisions of this title.".

Sec. 11. Subsection (c) of section 307 of the Controlled Substances Act (21 U.S.C. 827(c)) is amended by adding the following after and below paragraph (3): "Nothing in the Convention on Psychotropic Substances shall be construed as superseding or otherwise affecting the provisions of paragraph (1)(B), (2), or (3) of this subsection.".

Sec. 12. Subsection (n) of section 502 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(n)) is amended by adding the following new sentence at the end thereof: "Nothing in the Convention on Psychotropic Substances, signed at Vienna, Austria, on February 21, 1971, shall be construed to prevent drug price communications to consumers.".

Sec. 13. This Act and the amendments made by this Act shall take effect on the date the Convention on Psychotropic Substances, signed at Vienna, Austria, on February 21, 1971, enters into force in respect to the United States.

The SPEAKER pro tempore. Is a second demanded?

Mr. CARTER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida (Mr. ROGERS) will be recognized for 20 minutes, and the gentleman from Kentucky (Mr. CARTER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 12008.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. ROGERS. Mr. Speaker, I am pleased to present to the House of Representatives H.R. 12008, the Psychotropic Substances Act of 1978. This bill was unanimously reported by the Committee on Interstate and Foreign Commerce. Ten members of the Subcommittee on Health and the Environment and 11 members of the Select Committee on Narcotics Abuse and Control joined me in sponsoring this legislation and its precursor, H.R. 9796. Fifteen members of the Senate, including Senators CULVER, EASTLAND, BAYH, KENNEDY, HATHAWAY, and PERCY introduced companion legislation which was recently passed in the Senate. The Subcommittee on Health and the Environment held 1 day of hearings on this legislation this year and 1 day of hearings during the previous Congress on comparable legislation.

H.R. 12008 amends the Comprehensive Drug Abuse Prevention and Control Act of 1970 and other U.S. laws to prescribe administrative procedures to meet our obligations under the 1971 Convention on Psychotropic Substances upon ratification of that international agreement by the United States.

The Convention on Psychotropic Substances is an international agreement aimed at halting the distribution and use of abusable psychotropic substances for purposes other than legitimate medical and scientific ones. The United States is currently not a party to the Convention on Psychotropic Substances which became effective in 1976, although it has been a party to the 1961 Single Convention on Narcotic Drugs since 1967. The psychotropic substances controlled under this convention include the hallucinogens, amphetamines, barbiturates, and tranquilizers.

The Psychotropic Substances Convention is not self-executing, and thus requires parties to it to amend their laws in a manner necessary to meet its requirements. It requires parties to it to provide for regulatory controls respecting the manufacture, distribution, exportation, and importation of these substances.

Although most of these requirements are met by existing U.S. laws governing controlled substances, some conforming changes in these laws are proposed in this legislation to be made to meet all these requirements and to prescribe the administrative procedures for meeting these requirements. The primary purpose of the administrative procedures spelled out in section 3 of the bill is to assure adequate notice and opportunity for input by the scientific, medical, industrial, and consumer interests alike, in proceedings to determine what position the United States should take respecting proposed international decisions to control psychotropic substances and to determine what types of controls are necessary, if any, under U.S. laws and regulations to meet the requirements of international control decisions once they are made. The second major purpose of the administrative procedures in section 3 of the bill is to prescribe the respective duties of the State Department, the Justice Department, and the Department of Health, Education, and Welfare at each stage of deliberation and implementation by the United States of proposed and final requirements for the control of psychotropic substances under the convention. H.R. 12008 reinforces the provisions of existing controlled substances laws that all determinations respecting medical and scientific matters, as they affect the controls required in our laws to meet the requirements of the convention, are to be made by the Secretary of HEW. HEW's medical and scientific determinations are binding on the representatives of the State Department in international negotiations under the convention and upon the Department of Justice in determining which schedules of controls under the Controlled Substances Act are appropriate with respect to meeting the convention's requirements.

I believe passage of this legislation and ratification of the convention by the United States is vital to our efforts aimed at controlling the trafficking and abuse of dangerous drugs at home and abroad. The President has requested us to enact this legislation in his message to Congress on Drug Abuse and his White House Domestic Council and Office of Management and Budget Advisors, Secretary Califano, Attorney General Bell, and Secretary Vance unanimously support this bill.

I want to thank the heads and staff members of the following offices and agencies for their assistance on this legislation: The Office of Drug Abuse Policy and Domestic Policy staff of the White House, the Drug Enforcement Administration of the Justice Department, the National Institute on Drug Abuse, and the Food and Drug Administration of the Department of Health, Education, and Welfare, and the Office of International Narcotic Control Matters of the State Department.

Mr. Speaker, I want to take this opportunity to thank the chairman of the full committee (Mr. STAGGERS) for his support of programs aimed at curbing drug trafficking. I particularly want to thank the distinguished ranking minority member of the subcommittee, Dr. CARTER for his leadership and efforts in bringing this bill to the floor of the House. Finally, I want to thank all the other members of the Subcommittee on Health and the Environment, Mr. SATTERFIELD, Mr. PREYER, Mr. SCHEUER, Mr. FLORIO, Mr. MAGUIRE, Mr. MARKEY, Mr. WALGREN, Mr. BROYHILL, Mr. MADIGAN, and Mr. SKUBITZ, for their work on this bill.

I urge all the Members of the House of Representatives to join me in voting for this legislation to strengthen our efforts against drug abuse. If the United States is to have any credibility in its negotiations with narcotic—plant—producing countries to persuade them to control cultivation or eradicate these

plants, it must demonstrate its willingness at the international level to control the illegitimate distribution of the psychotropic drugs it produces.

Mr. CARTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 12008, the Psychotropic Substance Act of 1978. The bill provides for the necessary amendments to the Comprehensive Drug Abuse and Control Act of 1970 and other laws relating to drugs which will enable the United States to meet its obligations under the Convention on Psychotropic Substances. In this regard, the bill essentially provides a vehicle for the United States to recognize and participate in international efforts to control the distribution and abuse of psychotropic drugs for other than legitimate medical purposes. Importantly, the bill does so while making only minor changes in our present drug abuse control laws.

The United States has a long history of involvement in international efforts to control the illicit use of drugs. In fact, it was largely due to the initiative of President Theodore Roosevelt that the International Opium Commission met in Shanghai in 1909 to begin the process of instituting international controls on drug abuse. Since that time the United States has consistently been in the forefront of international efforts to control drug abuse, including the international opium conventions of 1912 and 1925, the 1931 convention limiting the manufacture of narcotic drugs, the 1936 Narcotics Convention, and the 1961 Single Convention on Narcotic Drugs. Moreover, the United States presently spends $29.4 million to fund 666 law enforcement positions overseas and has entered into 9 bilateral cooperative agreements in order to assist other nations in their illicit drug control efforts.

This country has taken this position for sound domestic reasons. Abuse of drugs continues to be a serious problem in the United States.

In material terms, the cost to the Nation runs into the billions of dollars each year. But in terms of human suffering, destroyed lives, and broken homes, the cost is incalculable. This domestic problem has always had international implications since many of the serious drugs of abuse originate in foreign countries. It has long since been recognized that the effective curtailment of trafficking in illegal substances depends heavily on control being exerted as closely as possible to the source. Once the substances have reached our 96,000 mile border, or have been distributed in the United States, control becomes a massive problem for law enforcement. Thus the burden on our own law enforcement agencies can be reduced significantly to the extent that foreign governments are willing and able to cooperate in the control of drug abuse in their own countries.

Mr. Speaker, all of the heroin, cocaine, and hashish used in this country comes from abroad. In the case of certain stimulants and depressants, legally manufactured here and in Europe, substantial quantities of these drugs are illegally diverted and distributed internationally through illegal channels. For example, in August of 1977, Mexican police seized 325 kilograms of methaqualone, a depressant. Our drug enforcement administration traced the drug back to the Federal Republic of Germany via Switzerland where the trail ended. In another example, again involving methaqualone, the DEA seized 4 kilograms of methaqualone in Miami which were being smuggled in from the Netherlands. The point is that the illicit use of drugs is an international problem which demands international solutions.

Mr. Speaker, I had the honor of being a member of the U.S. delegation to the Convention of Pyschotropic Drugs in Vienna in 1971. Because of the serious international implications of drug abuse, I and the other members of the U.S. delegation strongly urged strict controls of psychotropic substances. Yet, at this point in time, 7 years have passed and the United States has not yet implemented the terms of the convention—while 49 other countries have done so. I believe that it is imperative that we ratify the convention, and in so doing, notify the international community of our serious commitment to strong cooperative efforts to combat this problem. I am convinced that this step will enhance our ability to persuade other nations to cooperate in mutual efforts to interdict the supply of both narcotic and psychotropic drugs at their source, as well as improving the international effort to reduce the toll of human suffering caused by drug abuse.

Mr. COLLINS of Texas. Mr. Speaker, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Texas.

Mr. COLLINS of Texas. Mr. Speaker, it is my understanding that there is no money of any type, no funds requested in any way in this bill?

Mr. CARTER. The distinguished gentleman from Texas certainly is correct. He can keep every penny he has in his pocket. He will not lose a dime.

Mr. COLLINS of Texas. This is simply so we can work with the Senate?

Mr. CARTER. This is simply to conform to the 1971 convention adopted in Vienna. I happened to be present at that convention. There are certain regulations with which we should comply.

Mr. COLLINS of Texas. Does the gentleman have any doubt or any questions as to whether we should adopt this?

Mr. CARTER. If I had any doubt I would not be here speaking for it.

If there is something with which we do not agree, within 2 years we can remove ourselves from the convention.

Mr. COLLINS of Texas. I thank the gentleman from Kentucky.

Mr. CARTER. I thank my great friend, the gentleman from Texas.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. I thank the gentleman from Kentucky for yielding.

Mr. Speaker, I rise in support of H.R. 12008, the Psychotropic Substances Act of 1978. As cosponsor of this measure, I commend the distinguished chairman of the Subcommittee on Health and the Environment, the gentleman from Florida (Mr. ROGERS) and the ranking minority member of the subcommittee, the gentleman from Kentucky (Mr. CARTER) for their leadership on this important issue, as well as to commend the distinguished chairman of the parent committee—the Interstate and Foreign Commerce Committee—the gentleman from West Virginia (Mr. STAGGERS) and the ranking minority member, the gentleman from Ohio (Mr. DEVINE) for bringing H.R. 12008 before the House today for our consideration.

H.R. 12008 amends the Comprehensive Drug Abuse Prevention and Control Act of 1970 and other laws to meet this Nation's obligation under the 1971 Convention on Psychotropic Substances, a multinational agreement relating to regulatory controls on the manufacture, distribution, importation, and exportation of psychotropic substances.

The 1971 Psychotropic Convention, which is the first attempt to multinationally control psychotropic drugs, became effective in 1976. It is not a self-executing agreement but requires domestic legislation to implement the treaty. Although this Nation was an active participant in the formulation of the 1971 convention and is a signatory to that agreement, the Senate has postponed its advice and consent until our domestic drug laws are amended to conform to the 1971 convention.

Under the leadership of the gentleman from New York (Mr. WOLFF), the Select Committee on Narcotics Abuse and Control, of which I am a member, recently held hearings on Phencyclidine, commonly known as PCP or "angel dust," the most dangerous hallucinatory, psychotic schizophrenic inducing drug on the market to date, and on the advertising, detailing, and medical prescribing practices of the psychotropic drug industry. And as the author of H.R. 11727, that would place PCP into schedule I of the Controlled Substances Act and that would establish mandatory minimum prison sentences for those who illicitly manufacture, dispense, or distribute PCP or any of its derivates, variants or analogues, it is my opinion that H.R. 12008 is vital in our Nation's efforts to multinationally wage "war" on drug abuse. This legislative proposal is crucial to effectuate the ratification process of the 1971 Psychotropic Convention, to meet our obligations under that convention, and to join with the 49 other nations, who as of May 1, 1978, have ratified or acceded to the convention. Since 1967, the United States has been a party to the 1961 Convention on Narcotic Drugs. In order to attack the unlawful manufacture of psychotropic drugs on a multinational level, it is necessary for Congress to pass H.R. 12008, thereby facilitating the ratification process, and to demonstrate to the world our commitment to waging "war" on drug abuse at the multinational level.

Mr. Speaker, H.R. 12008 is not controversial. The proposal specifically states that our Nation's obligations under the convention can be met by passage of this measure and that no further legislation would be necessary to accom-

plish the purposes of the 1971 convention. The President in his August 2, 1977, message on drug abuse, recommended that the Senate give its advice and consent to the 1971 convention.

Accordingly, Mr. Speaker, I urge my colleagues to support H.R. 12008, a measure that also has the support of the Departments of State, Justice, and Health, Education, and Welfare the three departments that would be responsible for carrying out the administrative requirements to implement the 1971 Psychotropic Convention and a measure that would assist this Nation in domestically and internationally regulating the unlawful manufacture, distribution, importation, and exportation of psychotropic substance.

Mr. CARTER. Mr. Speaker, I appreciate the remarks of the gentleman from New York, and again yield myself such time as I may consume, just to say that I appreciate the very fine remarks of the distinguished gentleman from New York who is a studious and good Representative of the area of New York from which he was elected.

I urge passage of this legislation.

● Mr. STAGGERS. Mr. Speaker, I urge all Members to support H.R. 12008 which amends the Controlled Substances Act and other laws to implement the 1971 Convention on Psychotropic Substances upon its ratification by the United States.

The Convention on Psychotropic Substances is an international agreement aimed at halting the distribution and use of abusable psychotropic substances for purposes other than legitimate medical and scientific ones.

The Subcommittee on Health and the Environment held hearings on this legislation and it was unanimously reported by the Committee on Interstate and Foreign Commerce.

I believe passage of this legislation and ratification of the Convention by the United States is vital to our efforts aimed at controlling the trafficking and abuse of dangerous drugs at home and abroad.

Mr. Speaker, I urge you and the other Members of the House to vote favorably for this bill.●

● Mr. WOLFF. Mr. Speaker, I rise in support of H.R. 12008 and I would like to commend the distinguished chairman of the Health Subcommittee for both his leadership and his committee's exemplary work on this issue. I am sure that I speak for all of us in saying that he will be missed in the 96th Congress.

This bill constitutes prerequisite legislation which will permit the Senate to ratify the 1971 Convention on Psychotropic Substances. This Convention is not self-executing, and this bill will conform our laws to the requirements of the treaty. The result will be to allow the United States to join with scores of other nations in halting the flow of psychotropic substances across international borders for illicit purposes. I think it is also important to stress that the bill will not place limitations on the legitimate use and research of psychoactive drugs; rather it will form a part of the roadblock in front of those who would traffic in them for personal profit and encourage their abuse.

The Select Committee on Narcotics Abuse and Control, which I have the privilege of chairing, recently held hearings on the question of the abuse of psychoactive drugs. The abuse of these legitimately produced drugs far outstrips the abuse of other drugs, including both heroin and cocaine. Psychotropic drugs constitute this country's number one drugs of abuse. The Select Committee's recent hearings, as well as hearings on the prescribing practices of these drugs scheduled for tomorrow, demonstrate that the abuse of psychoactive substances has become a phenomenon common to many countries. Only through international cooperation and coordination, which this legislation will facilitate, can we begin to bring this serious problem under control.

The administration has given its full and complete support of this legislation. The other body approved companion legislation by voice vote several months ago. The full House Committee on Interstate and Foreign Commerce ordered this bill reported by a unanimous vote. I cannot urge my colleagues strongly enough to follow suit and pass this vitally important measure.●

Mr. ROGERS. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore (Mr. BEVILL). The question is on the motion offered by the gentleman from Florida (Mr. ROGERS) that the House suspend the rules and pass the bill H.R. 12008, as amended.

The question was taken; and—two-thirds having voted in favor thereof—the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. ROGERS. I ask unanimous consent to take from the Speaker's table a similar Senate bill (S. 2399), to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 and other laws to meet obligations under the Convention on Psychotropic Substances relating to regulatory controls on the manufacture, distribution, importation, and exportation of psychotropic substances, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2399

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Psychotropic Substances Act of 1978".

TITLE I—ENABLING PROVISIONS FOR THE CONVENTION ON PSYCHOTROPIC SUBSTANCES

SEC. 101. The Congress makes the following findings and declarations:

(1) The Congress has long recognized the danger involved in the manufacture, distribution, and use of certain psychotropic substances for nonscientific and nonmedical purposes, and has provided strong and effective legislation to control illicit trafficking and to regulate legitimate uses of psychotropic substances in this country. Abuse of psychotropic substances has become a phenomenon common to many countries, however, and is not confined to national borders. It is, therefore, essential that the United States cooperate with other nations in establishing effective controls over international traffic in such substances.

(2) The United States has joined with other countries in executing an international treaty, entitled the Convention on Psychotropic Substances and signed at Vienna, Austria, on February 21, 1971, which is designed to establish suitable controls over the manufacture, distribution, transfer, and use of certain psychotropic substances. The Convention is not self-executing, and the obligations of the United States thereunder may only be performed pursuant to appropriate legislation. It is the intent of the Congress that the amendments made by this Act, together with existing law, will enable the United States to meet all of its obligations under the Convention and that no further legislation will be necessary for that purpose.

(3) In implementing the Convention on Psychotropic Substances, the Congress intends that, consistent with the obligations of the United States under the Convention, control of psychotropic substances in the United States should be accomplished within the framework of the procedures and criteria for classification of substances provided in the Comprehensive Drug Abuse Prevention and Control Act of 1970. This will insure that (A) the availability of psychotropic substances to manufacturers, distributors, dispensers, and researchers for useful and legitimate medical and scientific purposes will not be unduly restricted; (B) nothing in the Convention will interfere with bona fide research activities; and (C) nothing in the Convention will interfere with ethical medical practice in this country as determined by the Secretary of Health, Education, and Welfare on the basis of a consensus of the views of the American medical and scientific community.

SEC. 102. (a) Subsection (d) of section 201 of the Controlled Substances Act (21 U.S.C. 811(d)) is amended by inserting "(1)" after "(d)" and by adding the following new paragraphs at the end thereof:

"(2)(A) Whenever the Secretary of State receives notification from the Secretary-General of the United Nations that information has been transmitted by or to the World Health Organization, pursuant to article 2 of the Convention on Psychotropic Substances, which may justify adding a drug or other substance to one of the schedules of the Convention, transferring a drug or substance from one schedule to another, or deleting it from the schedules, the Secretary of State shall immediately transmit the notice to the Secretary of Health, Education, and Welfare who shall publish it in the Federal Register and provide opportunity to interested persons to submit to him comments respecting the scientific and medical evaluations which he is to prepare respecting such drug or substance. The Secretary of Health, Education, and Welfare shall prepare for transmission through the Secretary of State to the World Health Organization such medical and scientific evaluations as may be appropriate regarding the possible action that could be proposed by the World Health Organization respecting the drug or substance with respect to which a notice was transmitted under this subparagraph.

"(B) Whenever the Secretary of State receives information that the Commission on Narcotic Drugs of the United Nations proposes to decide whether to add a drug or other substance to one of the schedules of the Convention, transfer a drug or substance from one schedule to another, or delete it from the schedules, the Secretary of State

shall transmit timely notice to the Secretary of Health, Education, and Welfare of such information who shall publish a summary of such information in the Federal Register and provide opportunity to interested persons to submit to him comments respecting the recommendation which he is to furnish, pursuant to this subparagraph, respecting such proposal. The Secretary of Health, Education, and Welfare shall evaluate the proposal and furnish a recommendation to the Secretary of State which shall be binding on the representative of the United States in discussions and negotiations relating to the proposal.

"(3) When the United States receives notification of a scheduling decision pursuant to article 2 of the Convention on Psychotropic Substances that a drug or other substance has been added or transferred to a schedule specified in the notification or receives notification (referred to in this subsection as a 'schedule notice') that existing legal controls applicable under this title to a drug or substance and the controls required by the Federal Food, Drug, and Cosmetic Act do not meet the requirements of the schedule of the Convention in which such drug or substance has been placed, the Secretary of Health, Education, and Welfare, after consultation with the Attorney General, shall first determine whether existing legal controls under this title applicable to the drug or substance and the controls required by the Federal Food, Drug, and Cosmetic Act, meet the requirements of the schedule specified in the notification or schedule notice and shall take the following action:

"(A) If such requirements are met by such existing controls but the Secretary of Health, Education, and Welfare nonetheless believes that more stringent controls should be applied to the drug or substance, the Secretary shall recommend to the Attorney General that he initiate proceedings for scheduling the drug or substance, pursuant to subsections (a) and (b) of this section, to apply such controls.

"(B) If such requirements are not met by such existing controls and the Secretary of Health, Education, and Welfare concurs in the scheduling decision or schedule notice transmitted by the notification, the Secretary shall recommend to the Attorney General that he initiate proceedings for scheduling the drug or substance under the appropriate schedule pursuant to subsections (a) and (b) of this section.

"(C) If such requirements are not met by such existing controls and the Secretary of Health, Education, and Welfare does not concur in the scheduling decision or schedule notice transmitted by the notification, the Secretary shall—

"(i) if he deems that additional controls are necessary to protect the public health and safety, recommend to the Attorney General that he initiate proceedings for scheduling the drug or substance, pursuant to subsections (a) and (b) of this section, to apply such additional controls;

"(ii) request the Secretary of State to transmit a notice of qualified acceptance, within the period specified in the Convention, pursuant to paragraph 7 of article 2 of the Convention, to the Secretary-General of the United Nations;

"(iii) request the Secretary of State to transmit a notice of qualified acceptance as prescribed in clause (ii) and request the Secretary of State to ask for a review by the Economic and Social Council of the United Nations, in accordance with paragraph 8 of article 2 of the Convention, of the scheduling decision; or

"(iv) in the case of a schedule notice, request the Secretary of State to take appropriate action under the Convention to initiate proceedings to remove the drug or substance from the schedules under the Convention or to transfer the drug or substance to a schedule under the Convention different from the one specified in the schedule notice.

"(4)(A) If the Attorney General determines, after consultation with the Secretary of Health, Education, and Welfare, that proceedings initiated under recommendations made under subparagraph (B) or (C)(i) of paragraph (3) will not be completed within the time period required by paragraph 7 of article 2 of the Convention, the Attorney General, after consultation with the Secretary and after providing interested persons opportunity to submit comments respecting the requirements of the temporary order to be issued under this sentence, shall issue a temporary order controlling the drug or substance under schedule IV or V, whichever is most appropriate to carry out the minimum United States obligations under paragraph 7 of article 2 of the Convention. As a part of such order, the Attorney General shall, after consultation with the Secretary, except such drug or substance from the application of any provision of part C of this title which he finds is not required to carry out the United States obligations under paragraph 7 of article 2 of the Convention. In the case of proceedings initiated under subparagraph (B) of paragraph (3), the Attorney General, concurrently with the issuance of such order, shall request the Secretary of State to transmit a notice of qualified acceptance to the Secretary-General of the United Nations pursuant to paragraph 7 of article 2 of the Convention. A temporary order issued under this subparagraph controlling a drug or other substance subject to proceedings initiated under subsections (a) and (b) of this section shall expire upon the effective date of the application to the drug or substance of the controls resulting from such proceedings.

"(B) After a notice of qualified acceptance of a scheduling decision with respect to a drug or other substance is transmitted to the Secretary-General of the United Nations in accordance with clause (ii) or (iii) of paragraph (3)(C) or after a request has been made under clause (iv) of such paragraph with respect to a drug or substance described in a schedule notice, the Attorney General, after consultation with the Secretary of Health, Education, and Welfare and after providing interested persons opportunity to submit comments respecting the requirements of the order to be issued under this sentence, shall issue an order controlling the drug or substance under schedule IV or V, whichever is most appropriate to carry out the minimum United States obligations under paragraph 7 of article 2 of the Convention in the case of a drug or substance for which a notice of qualified acceptance was transmitted or whichever the Attorney General determines is appropriate in the case of a drug or substance described in a schedule notice. As a part of such order, the Attorney General shall, after consultation with the Secretary, except such drug or substance from the application of any provision of part C of this title which he finds is not required to carry out the United States obligations under paragraph 7 of article 2 of the Convention. If, as a result of a review under paragraph 8 of article 2 of the Convention of the scheduling decision with respect to which a notice of qualified acceptance was transmitted in accordance with clause (ii) or (iii) of paragraph (3)(C)—

"(i) the decision is reversed, and

"(ii) the drug or substance subject to such decision is not required to be controlled under schedule IV or V to carry out the minimum United States obligations under paragraph 7 of article 2 of the Convention,

the order issued under this subparagraph with respect to such drug or substance shall expire upon receipt by the United States of the review decision. If, as a result of action taken pursuant to action initiated under a request transmitted under clause (iv) of paragraph (3)(C), the drug or substance with respect to which such action was taken is not required to be controlled under schedule IV or V, the order issued under this paragraph with respect to such drug or substance shall expire upon receipt by the United States of a notice of the action taken with respect to such drug or substance under the Convention.

"(C) An order issued under subparagraph (A) or (B) may be issued without regard to the findings required by subsection (a) of this section or by section 202(b) and without regard to the procedures prescribed by subsection (a) or (b) of this section.

"(5) Nothing in the amendments made by the Psychotropic Substances Act of 1978 or the regulations or orders promulgated thereunder shall be construed to preclude requests by the Secretary of Health, Education, and Welfare or the Attorney General through the Secretary of State, pursuant to article 2 or other applicable provisions of the Convention, for review of scheduling decisions under such Convention, based on new or additional information.".

(b) Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by adding at the end the following:

"(29) The term 'Convention on Psychotropic Substances' means the Convention on Psychotropic Substances signed at Vienna, Austria, on February 21, 1971; and the term 'Single Convention on Narcotic Drugs' means the Single Convention on Narcotic Drugs signed at New York, New York, on March 30, 1961.".

(c) For the purpose of carrying out the minimum United States obligations under paragraph 7 of article 2 of the Convention on Psychotropic Substances, signed at Vienna, Austria, on February 21, 1971, with respect to pipradrol and SPA (also known as (-)-1 - dimethylamino-1,2-diphenylethane), the Attorney General shall by order, made without fegard to sections 201 and 202 of the Controlled Substances Act, place such drugs in schedule IV of such Act.

SEC. 103. Subsection (d) of section 202 of the Controlled Substances Act (21 U.S.C. 812 (d)) is amended by striking out "and" before "(2)" and by adding the following before the period at the end thereof: ", and (3) such exception does not conflict with United States obligations under the Convention on Psychotropic Substances".

SEC. 104. Section 307 of the Controlled Substances Act (21 U.S.C. 827) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) In addition to the reporting and recordkeeping requirements under any other provision of this title, each manufacturer registered under section 303 shall, with respect to narcotic and nonnarcotic controlled substances manufactured by it, make such reports to the Attorney General, and maintain such records, as the Attorney General may require to enable the United States to meet its obligations under articles 19 and 20 of the Single Convention on Narcotic Drugs and article 16 of the Convention on Psychotropic Substances. The Attorney General shall administer the requirements of this subsection in such a manner as to avoid the unnecessary imposition of duplicative requirements under this title on manufacturers subject to the requirements of this subsection.".

SEC. 105. Section 1002(b) of the Controlled Substances Import and Export Act (21 U.S.C. 952(b)) is amended by inserting immediately before the period at the end of paragraph (2) the following: ", except that if a nonnarcotic controlled substance in schedule III, IV, or V is also listed in schedule I or II of the Convention on Psychotropic Substances it shall be imported pursuant to such import permit requirements, prescribed

by regulation of the Attorney General, as are required by the Convention".

SEC. 106. Subsection (e) of section 1003 of the Controlled Substances Import and Export Act (21 U.S.C. 953(e)) is amended—

(1) by striking out ", and" at the end of paragraph (2) and inserting in lieu thereof a semicolon;

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding the following new paragraph:

"(4) in any case when a nonnarcotic controlled substance in schedule III, IV, or V is also listed in schedule I or II of the Convention on Psychotropic Substances, it is exported pursuant to such export permit requirements, prescribed by regulation of the Attorney General, as are required by the Convention, instead of the invoice required by paragraphs (2) and (3) of this subsection.".

SEC. 107. (a) Part D of the Controlled Substances Act (21 U.S.C. 841 et seq.) is amended by adding at the end thereof the following new section:

"APPLICATION OF TREATIES AND OTHER INTERNATIONAL AGREEMENTS

"SEC. 412. Nothing in the Single Convention on Narcotic Drugs, the Convention on Psychotropic Substances, or other treaties or international agreements shall be construed to limit the provision of treatment, education, or rehabilitation as alternatives to conviction or criminal penalty for offenses involving any drug or other substance subject to control under any such treaty or agreement.".

(b) The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting—

"Sec. 412. Application of treaties and other international agreements."

immediately after

"Sec. 411. Proceedings to establish previous convictions.".

SEC. 108. (a) Section 502 of the Controlled Substances Act (21 U.S.C. 872) is amended by redesignating subsection (d) as subsection (e), and by adding after subsection (c) the following new subsection:

"(d) Nothing in the Single Convention on Narcotic Drugs, the Convention on Psychotropic Substances, or other treaties or international agreements shall be construed to limit, modify, or prevent the protection of the confidentiality of patient records or of the names and other identifying characteristics of research subjects as provided by any Federal, State, or local law or regulation.".

(b) Section 303 of the Public Health Service Act (42 U.S.C. 242a) is amended by redesignating subsection (b) as subsection (c), and by adding after subsection (a) the following new subsection:

"(b) Nothing in the Single Convention on Narcotic Drugs, the Convention on Psychotropic Substances, or other treaties or international agreements shall be construed to limit, modify, or prevent the protection of the confidentiality of patient records or of the names and other identifying characteristics of research subjects as provided by any Federal, State, or local law or regulation.".

SEC. 109. Subsection (f) of section 303 of the Controlled Substances Act (21 U.S.C. 823 (f)) is amended by adding at the end the following sentence: "Article 7 of the Convention on Psychotropic Substances shall not be construed to prohibit, or impose additional restrictions upon, research involving drugs or other substances scheduled under the Convention which is conducted in conformity with this subsection and other applicable provisions of this title.".

SEC. 110. Subsection (c) of section 307 of the Controlled Substances Act (21 U.S.C. 827 (c)) is amended by adding the following after and below paragraph (3): "Nothing in the Convention on Psychotropic Substances shall be construed as superseding or otherwise affecting the provisions of paragraph (1)(B), (2), or (3) of this subsection.".

SEC. 111. Subsection (n) of section 502 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(n)) is amended by adding the following new sentence at the end thereof: "Nothing in the Convention on Psychotropic Substances, signed at Vienna, Austria, on February 21, 1971, shall be construed to prevent drug price communications to consumers.".

SEC. 112. This title and the amendments made by this title shall take effect on the date the Convention on Psychotropic Substances, signed at Vienna, Austria, on February 21, 1971, enters into force in respect to the United States.

TITLE II—PCP CRIMINAL PENALTIES AND PIPERIDINE REPORTING

SEC. 201. Subsection (b) of section 401 of the Controlled Substances Act (21 U.S.C. 841 (b)) is amended—

(a) by inserting after the phrase "such person shall" in the first sentence of paragraph (1)(B) the following: ", except as provided in paragraphs (4) and (5) of this subsection,", and

(b) by adding after paragraph (4) the following new paragraph:

"(5) Notwithstanding paragraph (1)(B) of this subsection, any person who violates subsection (a) of this section by manufacturing, distributing, or possessing with intent to manufacture or distribute, except as authorized by this title or title III, phencyclidine, shall be sentenced to a term of imprisonment of not more than 10 years, a fine of not more than $25,000, or both. If any person commits such a violation after one or more prior convictions of him for an offense punishable under paragraph (1)(B) of this section or for a felony under any other provision of this title or title III or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term if imprisonment of not more than 20 years, a fine of not more than $50,000 or both. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a special parole term of at least 2 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 4 years in addition to such term of imprisonment. For the purposes of this paragraph, 'phencyclidine' means 1-(1-phenylcyclohexyl) piperidine, its salts and any analog, derivative, or variant of 1-(1-phenylcyclohexyl) piperidine that is in a schedule pursuant to section 202 of this title.".

SEC. 202. The Controlled Substances Act (Subchapter I of chapter 13 of title 21 of the United States Code) is amended by adding at the end thereof the following new part:

"PART H—PIPERIDINE REPORTING

"§ 800. Reporting requirement

"(a) It shall be unlawful—

"(1) For any person to sell, transfer, or otherwise furnish any piperidine unless such person reports such sale, transfer, or exchange to the Attorney General pursuant to regulations promulgated under section 801.

"(2) For any person to sell, transfer, or otherwise furnish any piperidine unless the purchaser, transferee, or other recipient of such piperidine presents positive personal identification pursuant to regulations promulgated by the Attorney General under section 801.

"(3) For any importer of piperidine to receive piperidine without reporting such receipt to the Attorney General pursuant to regulations promulgated under section 801.

"(b) The provisions of paragraph (a) of this section shall not apply to—

"(1) Intracompany sales or transfers of piperidine.

"(2) A common or contract carrier or warehouseman, or an employee thereof, whose possession of piperidine is solely for the purpose of transporting such substance in the usual course of his business or employment; *Provided*, That the Attorney General may require any such carrier or warehouseman to retain and report any shipping documents for such substance.

"§ 801. Nature of reports

"(a) Any person required to submit a report pursuant to section 800 shall submit such report on a common reporting form to be issued in blank by the Attorney General.

"(b) Such reporting form shall contain information as to—

"(1) The quantity and form of the piperidine sold, imported, transferred, or otherwise furnished.

"(2) The date the piperidine was sold, imported, transferred, or otherwise furnished.

"(3) The name, address, and age of any individual who purchases, imports, or otherwise receives such piperidine.

"(4) The type of identification presented by the individual purchaser, importer, or other transferee.

"(5) The name and address of any business entity that purchases, imports, or otherwise receives piperidine, including the name, address, and title of the employee placing the order for purchase, import, or other receipt of piperidine for such business entity.

"(6) The purpose of such purchase, importation, or transfer, including a description of the intended usage of such piperidine. This requirement shall not apply to quarterly reports authorized by the Attorney General under section 802(b).

"(7) The date and manner that such piperidine was shipped or otherwise transferred and the address of the destination of any such shipment or transfer.

"(8) Such other information, including that necessary for establishing positive, buyer or transferee identification, as the Attorney General may deem necessary for the enforcement of this part.

"(c) The Attorney General is authorized to promulgate such regulations as are necessary for the enforcement of this part.

"(d) Not later than one year after the effective date of this part, the Attorney General shall submit to the President and the Congress an analysis and evaluation of the effectiveness of piperidine reporting in reducing the illicit manufacture of phencyclidine. Such analysis and evaluation shall also contain an assessment of any burden such reporting places on legitimate transactions in and uses of piperidine and such recommendations as the Attorney General deems appropriate.

"§ 802. Filing deadline for reports

"(a) Except as provided in subsections (b) and (c) of this section, any person required to submit a report to the Attorney General pursuant to section 800 shall submit such report within 7 days of the purchase, transfer, importation, or other exchange of piperidine.

"(b) The Attorney General may authorize any person required to submit a report to the Attorney General pursuant to section 800 to submit such report on a quarterly basis with respect to repeated, regular transactions between the furnisher and the recipient if the Attorney General determines that (1) a pattern of regular supply of pipeline exists as between the person who sells, imports, transfers, or otherwise furnishes such piperidine and the recipient of the piperidine and (2) the recipient has established a record of utilization of such piperidine for lawful purposes.

"(c) Any person required to submit a report to the Attorney General pursuant to section 800 within the first 90 days after the

enactment of this part may submit such report at any time up to 100 days after the enactment of this part. Such report shall contain the information sperified in paragraphs (b)(1) through (b)(7) of section 801.

"§ 803 Retention and inspection of records

"(a) Any person who sells, imports, transfers, or otherwise furnishes piperidine shall maintain such records as are deemed necessary by the Attorney General to enforce this part. Such records shall be kept and be available, for 2 years, for inspection or copying by officers or employees of the United States authorized by the Attorney General.

"(b) Upon the request of any State or any political subdivision thereof, the Attorney General may make available to such State or any political subdivision thereof, any information which he may obtain by reason of the provisions of this part with respect to identification of persons within such State or political subdivision thereof who have purchased, imported, or otherwise received piperidine together with a description of such piperidine.

"§ 804. Lost or stolen piperidine

"Any person who manufactures, sells, purchases, imports, transports, transfers, or otherwise furnishes or receives piperidine shall report any theft or loss of such piperidine to the Attorney General within 7 days of the actual discovery of such theft or loss. Such reports shall contain such information as the Attorney General may require under regulations promulgated under this part.

"§ 805. False or misleading statements

"It shall be unlawful for any seller, purchaser, importer, transferor, transferee, or other provider or recipient of piperidine to knowingly make any false, oral, or written statement or misrepresentation with respect to information required to be reported pursuant to regulations promulgated under this part or to knowingly omit any material information required to be reported pursuant to regulations promulgated under this part.

"§ 806. Penalties, enforcement

"(a) Whenever it shall appear that any person has violated any provision of section 800, 801, 802, 803, 804, or 805, the Attorney General may bring a civil action for such relief (including injunctions) as may be appropriate.

"(b)(1) Except as provided in paragraph (2), any person who violates section 800, 801, 802, 803, 804, or 805 shall, with respect to any such violations, be subject to a civil penalty of not more than $25,000. The district courts of the United States (or, where there is no such court in the case of any territory or possession of the United States, then the court in such territory or possession having the jurisdiction of a district court of the United States in cases arising under the Constitution and laws of the United States) shall have jurisdiction in accordance with section 1355 of title 28 of the United States Code to enforce this paragraph.

"(2)(A) If a violation of section 800, 801, 802, 803, 804, or 805 is prosecuted by an information or indictment which alleges that the violation was committed knowingly and the trier of fact specifically finds that the violation was so committed, such person shall, except as otherwise provided in subparagraph (b)(2)(B) of this section be sentenced to imprisonment of not more than one year or a fine of not more than $25,000, or both.

"(B) If a violation referred to in subparagraph (A) was committed after one or more prior convictions of the offender for an offense punishable under paragraph (2), or for a crime under any other provision of this title or title III or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 2 years, a fine of $5,000, or both.

"(3) Except under the conditions specified in paragraph (2) of this subsection, a violation of section 800, 801, 802, 803, 804, or 805 does not constitute a crime, and a judgment for the United States and imposition of a civil penalty pursuant to paragraph (1) of this subsection shall not give rise to any disability or legal disadvantage based on conviction for a criminal offense.

"It shall be unlawful for any person to import, purchase, transport, transfer, receive, conceal, store, barter, sell, manufacture or otherwise furnish or dispose of any piperdine if—

"(a) such person—

"(1) is under indictment for, has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

"(2) is a fugitive from justice; or

"(3) is an unlawful user of any depressant or stimulant substance (as defined in 21 U.S.C. 802(9)) or narcotic drug (as defined in 21 U.S.C. 802(16)), or

"(b) such person knows or has reasonable cause to believe—

"(1) that such piperdine will be used to manufacture phencyclidine, except as authorized by this title or title III,

"(2) that such piperdine has been stolen, or

"(3) that the purchaser, transferee, or other recipient of such piperdine—

"(A) is under the age of 18;

"(B) is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

"(C) is a fugitive from justice; or

"(D) is an unlawful user of any depressant or stimulant substance (as defined in 21 U.S.C. 802(9)) or narcotic drug (as defined in 21 U.S.C. 802(16)).

"§ 808. Criminal penalties

"Any person who violates any provision of section 807 shall be fined not more than $20,000, or imprisoned not more than five years, or both.

"§ 809. Confidentiality

"Reports and records obtained by the Department of Justice under this part shall be considered confidential, commercial and financial information, and as such shall not be publicly disclosed, unless needed in a civil or criminal action.

"§ 810. Sunset provision

"(a) At the end of a period of time consisting of three calendar years beginning on the date of enactment of this part, this part shall be repealed unless legislation to continue the existence of this part is enacted during such period of time.

"(b) Any repeal of this part pursuant to subsection (a) of this section shall not affect or abate any civil or criminal proceedings for any violation of this part if such violation occurred prior to the date of such repeal.

"§ 811. Definitions

"For purposes of this part—

"(1) "Person" includes any individual or business entity;

"(2) "Piperidine" means piperidine, its salts and its acyl derivatives;

"(3) "Phencyclidine" means 1-(1-phenylcyclohexyl) piperidine, its salts and any analog, derivative, or variant of 1-(phenylcyclohexyl) piperidine that is in a schedule pursuant to section 202 of this title; and

"(4) "Attorney General" means the Attorney General of the United States.".

SEC. 203. The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting immediately after

"Sec. 709. Appropriations authorizations."

"PART H—PIPERIDINE REPORTING

"Sec. 800. Reporting requirement.
"Sec. 801. Nature of reports.
"Sec. 802. Filing deadline for reports.
"Sec. 803. Retention and inspection of records.
"Sec. 804. Lost or stolen piperidine.
"Sec. 805. False or misleading statements.
"Sec. 806. Penalties, enforcement.
"Sec. 807. Prohibited transfers of piperidine.
"Sec. 808. Criminal penalties.
"Sec. 809. Confidentiality.
"Sec. 810. Sunset provision.
"Sec. 811. Definitions.".

TITLE III—FORFEITURE OF PROCEEDS OF ILLEGAL DRUG TRANSACTIONS

SEC. 301. Section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881) is amended—

(a) by adding at the end of subsection (a) the following new paragraph:

"(6) Any moneys, negotiable instruments, securities, and other things of value intended to be furnished by any person in exchange for a controlled substance in violation of this title or title III, and all proceeds directly traceable to such an exchange, except that no proceeds shall be subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without his knowledge or consent", and

(b) by adding after the words "Whenever property" in subsection (e) the words "described in subsections (a)(1) through (a)(5)"; and

(c) by adding a new subsection (h) at the end thereof as follows:

"(h) Whenever property described in subsection (a)(6) is forfeited for violation of this title or title III, the Attorney General, making due provision for the rights of any innocent person—

"(1) may dispose of property other than moneys, negotiable instruments, and securities in the manner set forth in subsection (e);

"(2) may dispose of negotiable instruments and securities in the manner prescribed in subsection (e)(2); and

"(3) shall forward currency obtained from sales pursuant to paragraph (2) and moneys forfeited under subsection (a)(6) to the Treasurer of the United States for deposit in the general fund of the United States Treasury.".

MOTION OFFERED BY MR. ROGERS

Mr. ROGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROGERS moves to strike out all after the enacting clause of S. 2399 and to insert in lieu thereof the text of H.R. 12008 as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 12008) was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 713. Concurrent resolution providing for a joint session of the Houses on Monday, September 18, 1978, to receive

a message from the President of the United States.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 11318. An act to amend the Small Business Act and the Small Business Investment Act of 1958.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 11318) entitled "An act to amend the Small Business Act and the Small Business Investment Act of 1958," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. NELSON, Mr. MCINTYRE, Mr. NUNN, Mr. HATHAWAY, Mr. HASKELL, Mr. ABDNOR, Mr. WEICKER, Mr. BARTLETT, and Mr. PACKWOOD to be the conferees on the part of the Senate.

DRUG ABUSE PREVENTION AUTHORIZATIONS

Mr. ROGERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12348) to amend the Drug Abuse Office and Treatment Act of 1972 to extend the programs of assistance under that act for drug abuse prevention, education, treatment, and rehabilitation, and for other purposes, as amended.

The Clerk read as follows:

H.R. 12348

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Drug Abuse Prevention and Treatment Amendments of 1978".

EXTENSION OF SECTIONS 409, 410, AND 503

SEC. 2. (a) The first sentence of section 409(a) of the Drug Abuse Office and Treatment Act of 1972 is amended (1) by striking out "and" after "1977,", and (2) by inserting after "1978," the following: "and September 30, 1979,".

(b) Section 410(b) of such Act is amended by adding at the end the following: "For the fiscal year ending September 30, 1979, there is authorized to be appropriated (1) $153,000,000 for grants and contracts under paragraphs (3) and (6) of subsection (a) for drug abuse treatment programs, and (2) $34,000,000 for grants and contracts under such subsection for other programs and activities.".

(c) Section 503(b) of such Act is amended (1) by striking out "and" after "1977,", and (2) by inserting before the period a comma and the following: "and $7,000,000 for the fiscal year ending September 30, 1979".

REPORTS

SEC. 3. (a) Section 502 of the Marihuana and Health Reporting Act (Public Law 91-296) is amended by striking out "annually" and inserting in lieu thereof "biennially".

(b) Section 405(b) of the Drug Abuse Office and Treatment Act of 1972 is amended to read as follows:

"(b) The Secretary shall transmit a report to the President and the Congress with respect to each fiscal year on—

"(1) the health consequences and extent of drug abuse in the United States,

"(2) a description and evaluation of the effectiveness of the drug abuse prevention functions carried out through any entity of the Department of Health, Education, and Welfare in the fiscal year for which the report is made,

"(3) a description of the manner in which such functions were carried out, a description of the amount of funds expended in carrying out such functions, and a description and evaluation of the coordination within the Department of Health, Education, and Welfare in carrying out such functions,

"(4) a description and evaluation of the effectiveness of experimental methods and programs implemented in carrying out such functions, recommendations for implementation of such methods and programs by others in carrying out their drug abuse prevention functions, and a description and evaluation of the effectiveness of the means used to disseminate information respecting such methods and programs, and

"(5) proposals for changes in the drug abuse prevention functions carried out through the Department of Health, Education, and Welfare (including recommendations for legislation).

The report required by this subsection shall be transmitted not later than January 15 of each year.".

(c) Not later than 120 days after the date of the enactment of this Act, the Secretary of Health, Education, and Welfare shall submit to the Congress a report on the extent and nature of drug abuse in rural areas, the special needs and circumstances which must be addressed in providing drug abuse prevention functions to these areas, and specific recommendations respecting such functions in these areas.

STATE PLANS FOR FORMULA GRANTS

SEC. 4. Section 409(e) of the Drug Abuse Office and Treatment Act of 1972 is amended—

(1) by striking out "July 15" and inserting in lieu thereof "July 31.

(2) by inserting after "groups," in paragraph (3) "of political subdivisions in the State,",

(3) by inserting after "areas of the State" in paragraph (3) "and from population groups in the State which are seriously affected by drug abuse",

(4) by striking out "in carrying out" in paragraph (3) and inserting in lieu thereof "in preparing and carrying out', and

(5) by amending paragraph (7) to read as follows:

"(7) provide reasonable opportunity for political subdivisions in the State to submit to the State agency recommendations respecting the preparation and carrying out of the State plan;".

TECHNICAL ASSISTANCE

SEC. 5. Section 502(b)(3) of the Drug Abuse Office and Treatment Act of 1972 is amended by striking out "control and treatment" and inserting in lieu thereof "prevention, control, and treatment".

ACTIVITIES OF THE NATIONAL INSTITUTE ON DRUG ABUSE

SEC. 6. (a) Section 410(a) of the Drug Abuse Office and Treatment Act of 1972 is amended by inserting ", acting through the National Institute on Drug Abuse," after "Secretary" the first place it appears.

(b)(1) Title V of such Act is amended by adding at the end thereof the following new section:

"§ 504. Review of programs and activities

"The Secretary, acting through the Institute, shall, by regulation, provide for review of all grants made, and contracts entered into, for research, training, treatment, prevention, and other programs and activities authorized under this Act by utilizing, to the maximum extent possible, appropriate peer review groups, composed principally of non-Federal scientists and other experts in the field of drug abuse.".

(2) The table of sections at the beginning of such title is amended by adding at the end thereof the following new item:

"504. Review of programs and activities.".

The SPEAKER pro tempore. Is a second demanded?

Mr. CARTER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida (Mr. ROGERS) and the gentleman from Kentucky (Mr. CARTER) will be recognized for 20 minutes each.

The Chair now recognizes the gentleman from Florida (Mr. ROGERS).

GENERAL LEAVE

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today, it is my pleasure to present to the House of Representatives H.R. 12348, the Drug Abuse Prevention and Treatment Amendments of 1978. This bill proposes a revision and extension of the authorizations of appropriations for 1 year under the Drug Abuse Office and Treatment Act of 1972 to continue drug abuse research and prevention, treatment, and rehabilitation programs of the National Institute on Drug Abuse in the Department of Health, Education, and Welfare. It proposes a total authorization level of $229 million for fiscal year 1979. Of that $153 million is authorized for treatment programs and $24 million for prevention, demonstration, and other programs and activities. This amounts to a total authorization of $177 million for drug abuse project grants and contracts under section 410 of the Drug Abuse Office and Treatment Act of 1972. In addition, it proposes $45 million in authorizations for fiscal year 1979 for State drug abuse formula grants under section 409 of the act and $7 million in authorizations for special addictive and therapeutic substance research.

The proposed legislation also requires the Secretary of Health, Education, and Welfare to submit an annual report to Congress and the President describing the problems of drug abuse in the United States and the Department's response to those problems. This reporting requirement is intended to replace the requirement that the Secretary of HEW submit an annual report respecting new drug abuse treatment and rehabilitation methods to the Director of the Office of Drug Abuse Policy which was recently abolished under the President's Reorganization Plan No. 1.

I believe this annual report will increase the evaluation capabilities of both the executive branch and the Congress, provide invaluable information to those working in the field, and serve as

an additional mechanism by which the President's drug abuse reorganization measures can be gaged.

The bill also provides that the report to Congress on marihuana and health be made on a biennial rather than annual basis.

In addition, the bill proposes a requirement that State plans for drug abuse formula grants provide for representation on the State drug abuse advisory board by political subdivisions of the State, representation on the State drug abuse advisory board by population groups in the State which are seriously affected by drug abuse, consultation by the State drug abuse agency with the State drug abuse advisory board in its preparation of the State plan, and reasonable opportunity for political subdivisions in the State to submit to the State agency recommendations respecting the preparation and carrying out of the State plan. Finally, the bill requires the Director of the National Institute on Drug Abuse to provide technical assistance to State and local governments to assist them in applying for grants and contracts for drug abuse prevention programs.

On April 10, 1978, the Subcommittee on Health and the Environment held hearings on H.R. 11660. The bill was amended and reported out of the subcommittee by unanimous voice vote as a clean bill. H.R. 12348 on April 17, 1978. On May 2, 1978, H.R. 12348 was reported out of the full Committee on Interstate and Foreign Commerce by unanimous voice vote. Similar legislation, S. 2916, has passed the Senate.

Because of the fact that the 95th Congress is nearing adjournment and the House of Representatives still has an extremely heavy schedule for the remainder of this year, we have met with the Senate to resolve the differences between the bill reported by our committee and the comparable bill which passed the Senate. Both the House and Senate bills have identical authorization levels and propose a simple 1-year extension. The bills have nearly identical annual agency reporting requirements. There are actually very few differences between the House and Senate bills. It was therefore considered to be appropriate to resolve these differences and incorporate acceptable Senate provisions as amendments to H.R. 12348 as reported by the Committee on Interstate and Foreign Commerce. I understand that this compromise is agreeable with the members of our committee as well as with the members of the Senate Committee on Human Resources.

Under the compromise agreement, the Senate would agree to the provisions of the House bill and the House would agree to four additional provisions of the Senate bill. These additional Senate provisions are embodied in amendments to H.R. 12348 which I inserted in last Friday's CONGRESSIONAL RECORD, and which I will now describe.

First, there is an amendment to require the Secretary of Health, Education, and Welfare to list in his annual drug abuse report to the President and Congress, the amount of funds expended by HEW in carrying out its drug abuse prevention functions.

Second, there is an amendment to require the Secretary to submit a report to the Congress on the extent and nature of drug abuse in rural areas, the drug abuse program needs for these areas and recommendations respecting programs for these areas.

Finally, there are two amendments to clarify that the provisions of drug abuse project grants and contracts under section 410 of the act and the review of grants and contracts for research, training, treatment, and prevention programs and activities under the act shall be conducted by the Secretary through the National Institute on Drug Abuse.

This is in conformity with actual practice as well as the comparable statutory provisions relating to the National Institute on Alcohol Abuse and Alcoholism.

Testimony on this legislation at hearings conducted by the Subcommittee on Health and the Environment this year reaffirmed the need to continue the drug abuse prevention and treament programs of the National Institute on Drug Abuse in the Department of Health, Education, and Welfare. Representatives of the Alcohol, Drug Abuse and Mental Health Administration and the National Institute on Drug Abuse reported that within the last 30 days, over 1 million Americans have nonmedically used hallucinogens, sedatives, or tranquilizers. The level of nonmedical use of these drugs is cause for concern as their misuse can have a disastrous impact on the health of their users. In addition, while there are indications that the incidence of heroin abuse has declined somewhat in the last year, the use of PCP, cocaine, and marihuana appears to be on the rise. The National Survey of Drug Abuse: 1977, reveals that of our Nation's population of slightly more than 170 million over the age of 12, currently 92,300,000 use alcohol, 67,570 smoke cigarettes, 16,210,000 smoke marihuana, and 4,870,000 smoke hashish. Over 1½ million persons each use cocaine and stimulants nonmedically and it is estimated that just over a million persons each have used hallucinogens, sedatives, or tranquilizers nonmedically within the last 30 days.

The National Institute on Drug Abuse should be equipped with the tools to confront new, emerging drug abuse problems, such as those involving polydrug abuse, PCP, and similar dangerous psychotropic drugs, and the use of drugs in combination with alcohol. I believe that the committee's bill adequately addressed these concerns. The separate authorization of $24 million for drug abuse prevention, demonstration, and other "non-treatment" program under section 410 of the act is intended to place emphasis on primary prevention and early abuse not normally dealt with by heroin treatment programs.

Mr. Speaker, I want to take this opportunity to thank the chairman of the full committee, Mr. STAGGERS, for his support of programs aimed at curbing drug abuse I particularly want to thank the distinguished ranking minority member of the subcommittee, Dr. CARTER for his leadership and efforts in bringing this bill to the floor of the House. Finally, I want to thank all the other members of the Subcommittee on Health and the Environment—Mr. SATTERFIELD, Mr. PREYER, Mr. SCHEUER, Mr. FLORIO, Mr. MAGUIRE, Mr. MARKEY, Mr. WALGREN, Mr. BROYHILL, Mr. MADIGAN, and Mr. SKUBITZ—for their support of this bill.

Mr. Speaker, I strongly urge you and my colleagues in the House to support this legislation for the continued authorization of the drug abuse prevention and treatment programs at the National Institute on Drug Abuse.

Mr. CARTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, although great efforts have been made in combating the problems of drug abuse over the last several years, drug abuse continues to be one of the most serious health problems facing this country today. I am, therefore, pleased to support this 1 year extension of funding for the National Institute of Drug Abuse.

This bill, H.R. 12348, authorizes the expenditure of $229 million in fiscal year 1979.

Of this, $45 million is earmarked for use by States in their drug abuse programs; $153 million is authorized for treatment programs and activities; $24 million is authorized for prevention, demonstration, and other programs and activities; finally, $7 million is authorized for research into the problems associated with drug abuse.

Mr. Speaker, progress in combating the terrible problem of drug abuse has been made. Recent data indicate that there has been a decline of 15 to 20 percent in the number of daily heroin users during the last year or two. Unfortunately, though, we now find there have been large increases in almost every other category of drug use. For example, annual epidemiologic surveys of drug use among high school seniors show that there has been an appreciable rise in marihuana use since 1975. It is now thought that over 16 million Americans smoke marihuana, while almost 5 million smoke hashish. We also find that there have been significant increases in the use of alcohol, cocaine, stimulants, hallucinogens, sedatives or tranquilizers. Most alarming of all, Mr. Speaker, has been the tremendous rise in the use of the drug phencyclidine called PCP or Angel Dust. An estimated 7 million individuals between ages 12 and 25 have reportedly tried PCP, a drug which can cause unpredictable behavior, irrational and violent actions, delusions of grandeur and persecution, distorted perceptions and catatonic rigidity. Moreover, this drug is extremely easy to manufacture, and is often produced in basement laboratories for very little money. Mr. Speaker, these are the problems that we face. They are serious, they are pervasive and we must do all that we can to combat this serious health problem.

Nevertheless, drug abuse is not the kind of problem that we can solve by simply throwing Federal money at it. I believe that drug abuse is a symptom, not a cause. It is a symptom of serious unemployment among our youth, a symptom of decay in our cities, a symptom of an educational system that does not engage the attention of its students, and finally, a signal that we must do more to provide opportunities for our young people to engage in the kind of creative activities which will reduce the desire to use drugs. I realize that we cannot expect a quick cure with this strategy but I believe that we must recognize that drug abuse is the kind of long term community problem that demands this kind of solution.

In order to implement the strategy which I have outlined, I believe that we must do three things: First, we must commit a higher percentage of our available resources to the prevention of drug abuse. It is disquieting to me to find that in fiscal year 1978 only an estimated 2½ percent of the total Federal support for drug abuse programs is committed to prevention. For this reason, I strongly support the action of the committee in specifying that a minimum of 8 percent of the authorization for fiscal year 1979 be used for prevention.

The second thing which I would advocate is that we do far more to coordinate the activities of the multiple entities involved in drug abuse. In that regard, I would point out that there are 17 or more Federal agencies involved in the drug abuse field. When the Select Committee on Narcotics Abuse and Control studied the ability of these agencies to coordinate their activities, it found "that the Federal Government has failed in even the relatively simple task of teaching its own computers operated by the several agencies to talk to each other. The lack of fundamental data and the 'turf wars' which have plagued the treatment and enforcement communities have severely limited Federal and State public policymakers from fully comprehending the nature of drug abuse and drug enforcement and thus has prevented the public from such an understanding." I would also like to express my concern about the abolishment by the President of the Office on Drug Abuse Policy. That Office was created by Congress to deal with the problem of a lack of coordination between the several Federal agencies involved in drug abuse. In light of the recent resignation of the President's adviser on drug abuse, I believe that the efforts of the executive branch in coordinating drug abuse problems must be closely scrutinized by the Congress during the 1-year extension of the program which this bill provides. We must also keep in mind that due to the multiple factors leading to the problem of drug abuse each agency of the Federal Government providing social services to our citizens should evaluate its activities in light of their possible impact upon drug abuse.

Finally, Mr. Speaker, I believe we must do far more to ensure that the available resources for combating drug abuse are used more effectively and responsibly than they appear to have been used in the past. Evidence presented to the Select Committee on Narcotics Abuse and Control indicates that the Federal Government has done far too little in evaluating the effectiveness of the programs that we are supporting.

In that regard, I would take note of a memorandum written by Lee I. Dogoloff, deputy special assistant to the President, regarding the need for evaluation of our treatment programs. I certainly think that an effort of this kind should have begun long ago, but I would commend the executive branch for at least making a beginning at this time. Of course, I will be very interested to view the result of Mr. Dogoloff's memorandum. It is also true that evidence presented to the Subcommittee on Oversight and Investigations of the Commerce Committee indicates that the management practices of the National Institute on Drug Abuse warrant a great deal of scrutiny and may require significant modification. I have been informed that a beginning has been made in dealing with the problems that have been identified. Nevertheless, I would state again that these activities must be carefully studied in the course of the coming year.

In conclusion, Mr. Speaker, I believe that there is a great deal left to be done in combating the problems of drug abuse. For this reason, I support this 1-year extension of the authorization for the National Institute on Drug Abuse. I would urge Members to join me in supporting this bill, and I would also urge that they join me in an effort to insure that the funds which we authorized to combat this serious problem are used as effectively as possible.

Thank you, Mr. Speaker.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding and I rise in support of H.R. 12348, authorizing the appropriation of $229 million for fiscal year 1979 to continue the drug abuse research, prevention, treatment, and rehabilitation programs of the National Institute on Drug Abuse (NIDA) for 1 year. It also requires a biannual report to the Congress on marihuana and health and requires the Secretary of the Department of Health, Education, and Welfare to to submit an annual report to the President and the Congress describing the effectiveness of its drug abuse prevention functions.

Mr. Speaker, NIDA is one of the vitally important line agencies in this Nation's efforts to prevent and control drug abuse and to wage "war" on a problem that has reached epidemic proportions for the hundreds of thousands of our Nation's citizens and for individuals throughout the world.

The Committee on Interstate and Foreign Commerce, in its report accompanying H.R. 12348, stated:

> The drug abuse research, prevention, treatment and rehabilitation programs authorized by this legislation are of critical importance to the Nation. They are designed to permit an understanding of drug abuse, to discourage individuals from beginning drug abuse, and to provide for treatment and rehabilitation of individuals with drug abuse problems. The authorization levels in H.R. 12348, in the committee's view, offer a significant opportunity to lower the economic and social costs of drug abuse in this Nation.

Mr. Speaker, as a member of the Select Committee on Narcotics Abuse and Control that has extensively investigated the problems of drug abuse prevention and control in this country and abroad, and that has sought to raise the consciousness of our citizens regarding the dangers of drug dependence and drug addiction, I want to underscore the objectives and importance of NIDA's programs. Accordingly, I urge my colleagues to support this vitally important legislation.

Mr. CARTER. Mr. Speaker, I thank the distinguished gentleman from New York (Mr. GILMAN) for his statement.

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Speaker, I thank the gentleman for yielding.

H.R. 12348 extends for 1 year the authorization of appropriations under this Drug Abuse Prevention and Treatment Act to continue the drug abuse, research, prevention, treatment, and rehabilitation programs of the National Institute on Drug Abuse.

It proposes a total of $229 million for fiscal year 1979.

Mr. Speaker, it is clear that we cannot realistically aspire to have an effective program of international drug control until our multifarious Federal and State programs interlock smoother than they do now.

That Federal policy on drugs is beset with confusion, conflicts, and misjudgments is amply demonstrated in an Interim Report of the Select Committee on Narcotics Abuse and Control (H. Rept. 95–32). In that report the committee stated its conclusion that in the main the prevention programs being operated by NIDA are ineffective, inadequately researched, and improperly implemented. Further, on page 67, the report stated:

> Competition between the law enforcement community and the public health community whose primary aim is prevention and treatment is unacceptably weak if not virtually nonexistent. Our drug problems have created a drug related "profession" numbering approximately 400,000 persons. This committee has found that often there is a hostile, adversary relationship between many of these persons whose livelihoods have come to depend on maintaining an occupational interest in drug abuse.

There is considerable doubt about its cost-effectiveness. I might note in passing that only 1 day of drug hearings was held on this legislation which ultimately resulted in this bill, H.R. 12348.

Last, the continuing woeful Federal effort in drug abuse prevention and treatment is ample testimony of the need for wholesale revision of the various programs leading to greater reliance on action by State and local authorities. Those authorities, being in closer touch with the issues involved, could do a better job than that demonstrated by the incompetent Federal bureaucracy.

If I could, I would like to ask someone who is familiar with these agencies, either my friend, the gentleman from Kentucky (Mr. CARTER), or the chairman, the gentleman from Florida (Mr. ROGERS). Recently there was an oversight hearing and Dr. DuPont, who had headed up a program on drug abuse, was there. I asked him specifically, to what extent do the people who are our professionals in charge of this drug-abuse program use drugs, or what has been their history in drugs? Dr. DuPont said that he had no idea in the world, that he thought it was an invasion of privacy to ask them for that information, and it was a violation of the civil service.

Where people are working on the drug program, I think a history of drugs would be most important, and if they are now actively using drugs, I think it is most important.

President Carter has expressed himself on it. Could either of the gentlemen, the chairman or our ranking member, express himself on how he feels about drug staff in civil service using drugs?

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Florida.

Mr. ROGERS. I thank the gentleman for yielding.

Of course, I would be concerned if anyone running a drug program was using drugs, but I do not think that has been the pattern. There may be some examples, of course.

It is analogous to alcohol abuse treatment programs. I am sure the gentleman knows what Alcoholics Anonymous has done. They have a history of having been alcoholics, but what a magnificent job they do in getting people to give up alcohol because they have been through it. They have experienced it.

The gentleman from Texas, I am sure, has never used drugs, and other Members of the House have not, so they do not know how to approach a man who has been to the dregs on drugs. The same thing is true of alcoholism. There is some validity in having someone who has been through it to use his experience to help others. That is all. But certainly we do not want current drug users in these programs, nor have I seen any real history of drugs being used in these programs. If it exists corrective action should be taken.

I think the gentleman can take some consolation in the fact that the program is working. May I just state in conclusion the fact that there has been a drop in the actual deaths and injuries from heroin.

Mr. COLLINS of Texas. Not in marihuana.

Mr. ROGERS. These are heroin deaths. These are hard facts. If the gentleman would permit, in 1974 there were an estimated 1,465 deaths attributed to heroin and morphine use, 1,770 in 1975 1,671 in 1976, and does the gentleman know how many in 1977? About one-third fewer—583. So the program is beginning to pay off. Injuries relating to heroin and morphine use amounted to 12,860 in 1974, 17,942 in 1975, 18,587 in 1976, and 11,204 in 1977. This is good progress.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. ROGERS. I yield 2 minutes to the gentleman from Texas.

Mr. COLLINS of Texas. I appreciate the gentleman's yielding.

To go back, the gentleman mentioned heroin. It is true it is decreased, but is it not true that marihuana and cocaine, the two primary drugs, have been on the increase? Before the gentleman answers, while I still have some time, I want to make one other comment.

Mr. ROGERS. If the gentleman will yield, that is why we are trying to do something about it.

Mr. COLLINS of Texas. I would hope that if we spend a quarter billion dollars we could start someplace to do something about reducing drug use. It is like Alcoholics Anonymous. I have the utmost respect for people who belong to Alcoholics Anonymous and have turned their backs on alcohol.

Mr. ROGERS. That is what we are trying to do in the drug abuse field.

Mr. COLLINS of Texas. What I have seen here is top administration will not ask their staff whether they are taking drugs or not. I have never taken drugs, and I will not take drugs today, but I want to emphasize this: Anyone working for this drug agency should not take drugs, and the administration should ask each person.

Mr. ROGERS. I will say to the gentleman that I am sure they are not.

I do not know whether we should ask them or not. We can check into it.

Mr. COLLINS of Texas. Dr. DuPont said it was a violation of their right of freedom, the right of privacy.

Mr. ROGERS. You know, Dr. DuPont is no longer with the program.

Mr. COLLINS of Texas. To sum it up, it would be the gentleman's wish and desire that everybody working there not take drugs in any form if they work on this program.

Mr. ROGERS. Well, of course, just as we do not want people drinking in alcoholism programs.

Mr. BIAGGI. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Speaker, I am grateful to the gentleman for yielding.

The response that the chairman, the respective chairmen have given, would be appropriate except in the instance where you are dealing with the alcoholic who has withdrawn from the consumption of alcohol. Those people ought to be deeply admired and they are valuable instruments in fighting the scourge of alcoholism; however, the precise question of the gentleman from Texas was, Do you have staff people, medical people, who are currently using drugs in positions in these programs? I think that is the precise question.

The fact of the matter is, and I heard the response, I expected nothing less; for the record, so the people in those agencies understand, they do not have a sacred right of privacy in this regard, because there is a peril there, because we have learned that the peer pressure of drug addicts is one of the most influential factors in increasing the problem. They represent the Nation and not the world.

I am glad Dr. DuPont is not there. Perhaps his successor will adopt this philosophy.

I can say, my experience with them has been that when they go to different hospitals and programs, they say, "What is the point? The doctors themselves are addicts."

Mr. ROGERS. Well, may I say, I do not know that we can just paint with a brush and say everybody is an addict all all over the Nation. I do not think that I understand what the gentleman is saying, but I do think the program is trying to get people off drugs.

I agree with the gentleman, that people running the program should not be on drugs. I do not know who created the fact that they are. Just because someone asks the question does not mean that that is going on. I do not know of it going on. This is just a question somebody raises and everybody takes off as if it is an accomplished fact. It just is not true.

The people running the programs, as far as I know, are not on drugs, and if they are, they ought not to be involved.

Mr. CARTER. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Speaker, it is my understanding that any addict who is accepted into the program must first have a urinalysis to determine if there is any drug present in his urine and that these urinalyses are repeated. If for a 1-year period, he has had no trace of any drug in his urine, then he is considered clean. That is the usual way of doing it; however, I regret to say, in agreement with my good friend, the gentleman from Texas, and with the gentleman from New York City, that we do have some other questionable characters in this program. I have watched it.

Mr. Speaker, I want us to monitor this program closely in the next year to see that it is effective.

You know, many times I have stated before our committee that we should urge our children that are not busily engaged in work to take part in athletics, sports, art, or music. You know, an idle mind is the devil's workshop. I have urged these things many, many times. Actually, I think that many times, as a result of idleness, our young people take up drugs in order to experiment.

Mr. ROGERS. Well, of course, I know that there is a problem with recidivism in drug usage of those in treatment programs and also of those in alcoholism programs; it is a problem and I am sure the committee will watch it.

But it is a good program which we need to continue. We do have a significant drug abuse problem. However, we are making significant headway in some areas.

Mr. Speaker, I urge the passage of the bill.

● Mr. STAGGERS. Mr. Speaker, I urge all my colleagues in the House to join me in support of H.R. 12348, the Drug Abuse Prevention and Treatment Amendments of 1978. This bill provides for a revision and 1-year extension of the authorizations of appropriations under the Drug Abuse Office and Treatment Act of 1972 to continue the drug abuse research, prevention, treatment and rehabilitation programs of the National Institute on Drug Abuse in the Department of Health, Education, and Welfare. It authorizes a total of $229 million for fiscal year 1979. This amount represents a $17 million increase over the authorization for fiscal 1978. This modest 7½-percent increase is necessary to offset inflation and to assure program continuity.

Mr. Speaker, drug-related deaths in this country have decreased over the past 4 years, in part I am sure, because of the programs of the National Institute on Drug Abuse. Nevertheless, in 1977, there were 2,803 drug-related deaths. Testimony before the Subcommittee on Health and the Environment indicated an upward trend of drug use among the youth. Recent studies of drug use among high school seniors show that the use of marihuana increased from 40 percent of those surveyed in 1975 to 44.5 percent in 1976 and to 47.6 percent in 1977. These studies also show that the use of cocaine increased from 5.6 percent in 1975 to 6 percent in 1976 and to 7.2 percent in 1977. These statistics indicate that drug abuse in this Nation remains a serious problem.

I, therefore, believe that this legislation is vital to the continuation of efforts of the National Institute on Drug Abuse, aimed at prevention and treatment of drug abuse in this Nation which affects all population groups in both urban and rural areas alike.

Mr. Speaker, I urge you and the other Members of the House to vote favorably for this bill.●

● Mr. WOLFF. Mr. Speaker, I rise in support of H.R. 12348. This bill amends the Drug Abuse Office and Treatment Act of 1972 by extending for 1-year programs for drug abuse prevention, education, treatment, and rehabilitation. The bill also extends the National Institute on Drug Abuse (NIDA) for 1 year. This is indeed a vitally important piece of legislation.

NIDA has waged a continuing battle against the devastating effects of drug abuse by establishing drug abuse treatment and prevention centers throughout the Nation. Since the Institute was created, it has effectively funneled millions of dollars to single State agencies—funds which have facilitated the establishment of some 101,000 drug abuse treatment slots providing services to over 170,000 individuals annually.

The work and investigations of the Select Committee on Narcotics Abuse and Control have made it all too clear that drug abuse problems in this Nation are still severe and cannot be solved as quickly as was envisioned by the 1972 act. Although we have been successful in reducing the level of heroin addiction in recent years, there has been a corresponding increase in the abuse of cocaine and more deadly drugs such as PCP. I do not think there is any question that drug abuse has become the most serious health problem confronting this Nation. Our passage of this bill today will insure that we continue to devote needed resources to combat this serious problem.

The Federal Government has aided in the effort against heroin addiction, reducing the number of addicts in the country by 20 percent in the last several years. But there is much more to be done. We must seek to lower the demand for these dangerous drugs while we continue to move against traffickers wherever we find them.

In some ways the drug abuse problem is even more serious than it was 10 years ago. America needs a strong and effective mechanism by which to combat the scourge of drug abuse. This bill will enable the Federal Government to continue to play an important role in this effort and I urge my colleagues to support its passage.●

● Mr. CORRADA. Mr. Speaker, I voice my support for the bill H.R. 12348.

This bill would authorize $229 million for fiscal year 1979 under the Drug Abuse Office and Treatment Act of 1972, to continue the drug abuse research, prevention, treatment, and rehabilitation programs of the National Institute on Drug Abuse (NIDA) in the Department of Health, Education, and Welfare (HEW).

The division of the authorizations of appropriations for drug abuse project grants and contracts under section 410 of the act between those for treatment programs and those for prevention, demonstration and other programs and activities, as proposed by the Committee on Interstate and Foreign Commerce, would undoubtedly result in a greater guidance to the Secretary of HEW respecting expenditures for the programs and activities authorized. Furthermore, and of significant importance are the amendments to require the representatives of State drug abuse agencies to consult and work with the representatives of local political subdivisions and those of population groups which are seriously affected by drug abuse in the preparation and implementation of State drug abuse plans.

This legislation has my support. The continuance of these programs is not only necessary, but responsive to a need of our society. I urge the Members of the House to vote for it.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. ROGERS) that the House suspend the rules and pass the bill H.R. 12348, as amended.

The question was taken.

Mr. COLLINS of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So (two-thirds having voted in favor thereof), the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. ROGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2916) to amend the Drug Abuse Office and Treatment Act of 1972 to extend the programs of assistance under that act for drug abuse prevention, education, treatment, and rehabilitation, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2916

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Drug Abuse Office, Prevention, and Treatment Amendments of 1978".

SEC. 2. (a) Section 1 of the Drug Abuse Office and Treatment Act of 1972 is amended by striking "Office" and substituting "Office, Prevention,".

(b) The first sentence of section 409(a) of such Act is amended (1) by striking out "and" after 1977,", and (2) by inserting after "1978," the following: "and September 30, 1979,".

(c) Section 410(a) of such Act is amended by inserting after "Secretary" a comma and the following: "acting through the National Institute on Drug Abuse,".

(d) Section 410(b) of such Act is amended by adding at the end thereof the following: "For the fiscal year ending September 30, 1979, there is authorized to be appropriated (1) $153,000,000 for grants and contracts under paragraphs (3) and (6) of subsection (a) for drug abuse treatment programs, and (2) $24,000,000 for grants and contracts under such subsection for programs and activities, (other than for grants and contracts under paragraphs (3) and (6) of subsection (a)).

(e) Section 503 of such Act is amended (1) by striking "and" after "1977"; and (2) by inserting after "1978" the following: "and $7,000,000 for the fiscal year ending September 30, 1979".

SEC. 3. (a) Section 405(b) of the Drug Abuse Office and Treatment Act of 1972 is amended to read as follows:

"(b) The Secretary shall transmit a report to the President and the Congress with respect to each fiscal year on—

"(1) the health consequences and extent of drug abuse in the United States,

"(2) a description and evaluation of the effectiveness of the drug abuse prevention functions carried through any entity of the Department of Health, Education, and Welfare in the fiscal year for which the report is made,

"(3) a description of the manner in which such functions were carried out, the amount of funds expended, and a description and evaluation of the coordination within the Department of Health, Education, and Welfare in carrying out such functions,

"(4) a description and evaluation of the effectiveness of experimental methods and programs implemented in carrying out such functions, recommendations for implementation of such methods and programs by others in carrying out their drug abuse prevention functions, and a description and evaluation of the effectiveness of the means used to disseminate information respecting such methods and programs, and

"(5) proposals for changes in the drug abuse prevention functions carried out through the Department of Health, Education, and Welfare (including recommendations for legislation).

The report required by this subsection shall be transmitted not later than January 15 of each year.".

(b) Section 405 of such Act is amended by addingg at the end thereof a new subsection (c) as follows:

"(c) Within one hundred-twenty days of the date of enactment of the Drug Abuse Office, Prevention, and Treatment Amendments of 1978, the Secretary shall submit to the Congress a report on the extent and nature of drug abuse in rural areas, the special needs and circumstances which must be addressed in providing drug abuse prevention functions to these areas, and specific recommendations to alleviate drug abuse in rural areas. For purposes of this subsection, 'rural areas' means areas that are nonurbanized areas as defined by the Bureau of the Census.".

(c) Section 502(b)(3) of such Act is amended by striking "control and treatment" and substituting "prevention, control, and treatment".

SEC. 4. Section 303(2) of the Drug Abuse Office and Treatment Act of 1972 is amended by inserting immediately after "used" the following: "and shall include a mechanism to identify, provide for, and evaluate effective drug abuse prevention programs, especially for primary prevention designed to discourage persons from beginning drug abuse with equal attention to the needs of metropolitan areas and areas which are not urbanized areas as defined by the Bureau of the Census".

SEC. 5. (a) Section 409(e)(7) of the Drug Abuse Office and Treatment Act of 1972 is amended to read as follows:

"(7) provide assurance that the State agency will coordinate its planning with local drug abuse planning agencies, and with State and local health planning agencies and educational agencies, as appropriate;".

(b) The first sentence of section 409(e) of such Act is amended by striking "July 15" and substituting "July 31".

SEC. 6. (a) Title V of the Drug Abuse Office and Treatment Act of 1972 is amended by adding at the end thereof the following new section:

"§ 504. Scientific Peer Review

"The Secretary, acting through the Institute, shall, by regulation, provide for review of all research grants and contracts, training, treatment, and prevention activity grants, and programs over which he has authority under this Act by utilizing, to the maximum extent possible, appropriate peer review groups, composed principally of non-Federal scientists and other experts in the field of drug abuse.".

(b) The table of sections at the beginning of title V of such Act is amended by adding at the end thereof the following new item:

"504. Scientific Peer Review.".

SEC. 7. Section 502 of the Marihuana and Health Reporting Act (Public Law 91-296) is amended by striking out "annually" and inserting in lieu thereof "biennially".

MOTION OFFERED BY MR. ROGERS

Mr. ROGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROGERS moves to strike all after the enacting clause of S. 2916 and to insert in lieu thereof the provisions of H.R. 12348, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DEVELOPMENTAL DISABILITIES ACT AUTHORIZATIONS, 1978

Mr. ROGERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12326) to amend the Developmental Disabilities Services and Facilities Construction Act to revise and extend the programs under that act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 12326

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "Developmental Disabilities Act Amendments of 1978".

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Developmental Disabilities Services and Facilities Construction Act.

SHORT TITLE; FINDINGS AND PURPOSES

SEC. 2. Part A is amended by striking out section 101 and inserting in lieu thereof the following sections:

"SHORT TITLE

"SEC. 100. This title may be cited as the 'Developmental Disabilities Act'.

"FINDINGS AND PURPOSES

"SEC. 101. (a) The Congress finds that—

"(1) there are more than two million persons with developmental disabilities in the United States;

"(2) individuals with disabilities occurring during their developmental period are more vulnerable and less able to reach an independent level of existence than individuals who have a normal developmental period on which to draw during the rehabilitation process;

"(3) persons with developmental disabilities often require specialized services to be provided from birth to death and by many agencies in a coordinated manner in order to meet the persons' needs;

"(4) general service agencies and agencies providing specialized services to disabled persons tend to overlook or exclude persons with developmental disabilities in their planning and delivery of services;

"(5) it is in the national interest to strengthen specific programs, especially programs that reduce or eliminate the need for institutional care, to meet the needs of persons with developmental disabilities; and

"(6) there is a need for a national plan for persons with developmental disabilities which takes into account the needs common to the entire developmentally disabled population as well as those needs unique to each identifiable group in the population.

"(b)(1) It is the overall purpose of this title to assist States to assure that persons with developmental disabilities receive the care, treatment, and other services necessary to enable them to achieve their maximum potential through a system which coordinates, monitors, plans, and evaluates those services and which ensures the legal and human rights of persons with developmental disabilities.

"(2) The specific purposes of this title are—

"(A) to assist in the provision of services to persons with developmental disabilities, with priority to those persons whose needs cannot be comprehensively covered or otherwise met under the Education of All Handicapped Children Act, the Rehabilitation Act of 1973, or other health, education, or welfare programs;

"(B) to develop a national plan for meeting the identified and unmet needs of persons with developmental disabilities, which plan is coordinated with State plans relating to persons with developmental disabilities;

"(C) to assist States in appropriate planning activities;

"(D) to make grants to States and public and private, nonprofit agencies, in accordance with specified national priorities, to establish model programs, to demonstrate innovative habilitation techniques, and to train professional and paraprofessional personnel;

"(E) to make grants to university affiliated programs to assist them in administering, operating, planning, and developing demonstration programs for the provision of services to persons with developmental disabilities, and interdisciplinary training programs for personnel needed to provide specialized services for these persons; and

"(E) to make grants to university affiliated programs to assist them in administering, operating, planning, and developing demonstration programs for the provision of services to persons with developmental disabilities, and interdisciplinary training programs for personnel needed to provide specialized services for these persons; and

"(F) to make grants to support a system in each State to protect the legal and human rights of all persons with developmental disabilities without regard to age or eligibility for services funded under this title.".

DEFINITIONS

SEC. 3. (a) Section 102(1) is amended by inserting "the Northern Mariana Islands," after "Guam,".

(b) Paragraph (7) of section 102 is amended to read as follows:

"(7) The term 'developmental disability' means a severe, chronic disability of a person which—

"(A)(i) is attributable to mental retardation, cerebral palsy, epilepsy, autism, or dyslexia; or

"(ii) is attributable to any other condition of a person found to be similar to mental retardation, cerebral palsy, epilepsy, autism, or dyslexia because such condition results in similar impairment of general intellectual functioning or adaptive behavior and requires treatment and services similar to those required for such persons;

"(B) is manifest before the person attains 22 years of age;

"(C) is likely to continue indefinitely;

"(D) results in substantial functional limitations in three or more of the following activities: (i) self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic self-sufficiency; and

"(E) reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are lifelong or of extended duration and are individually planned and coordinated.".

(c) Paragraph (8) of section 102 is amended—

(1) by inserting "(A)" after "(8)";

(2) by striking out "means specialized services" and all that follows through "such term includes" and inserting in lieu thereof the following: "means priority services (as defined in subparagraph (B)), and any other specialized services or special adaptations of generic services for persons with developmental disabilities, including in these services the"; and

(3) by adding at the end thereof the following new subparagraphs:

"(B) The term 'priority services' means case management services (as defined in subparagraph (C)), child development services (as defined in subparagraph (D)), alternative community living arrangement services (as defined in subparagraph (E)), and nonvocational social-developmental services (as defined in subparagraph (F)).

"(C) The term 'case management services' means such services to persons with developmental disabilities as will assist them in gaining access to needed social, medical, edu-

cational, and other services; and such term includes—

"(i) follow-along services which insure, through a continuing relationship (lifelong if necessary) between an agency or provider and a person with a developmental disability and his family, that the changing needs of the person and the family are recognized and appropriately met; and

"(ii) coordination services which provide to persons with developmental disabilities support, access to (and coordination of) other services, information on programs and services, and monitoring of the persons' progress.

"(D) The term 'child development services' means such services as will assist in the prevention, identification, and alleviation of developmental disabilities in children, and includes (i) early intervention services, (ii) counseling and training of parents, (iii) early identification of developmental disabilities, and (iv) diagnosis and evaluation of such developmental disabilities.

"(E) The term 'alternative community living arrangement services' means such services as will assist persons with developmental disabilities in maintaining suitable residential arrangements in the community, and includes in-house services (such as personal aides and attendants and other domestic assistance and supportive services), family support services, foster care services, group living services, respite care, and staff training, placement, and maintenance services.

"(F) The term 'nonvocational social-developmental services' means such services as will assist persons with development disabilities who are over 18 years of age in performing daily living and work activities.".

(d) Paragraph (9) of section 102 is amended to read as follows:

"(9) The term 'State Planning Council' means a State Planning Council established under section 137.".

(e) Paragraph (10) of section 101 is amended to read as follows:

"(10) The term 'university affiliated program' means a program which is operated by a public or private nonprofit entity, which is associated with (or is an integral part of) a college or university, and which provides for at least the following activities:

"(A) Interdisciplinary training for personnel concerned with developmental disabilities and related handicapping conditions.

"(B) Provision of exemplary services relating to persons with developmental disabilities and related handicapping conditions.

"(C) Technical assistance and consultation for State and local public agencies, private agencies, service providers, State Planning Councils, protection and advocacy systems (described in section 113), and other similar entities.

"(D)(i) Dissemination of research findings, relevant to services provided to persons with developmental disabilities, to entities described in subparagraph (C), (ii) providing researchers and government agencies sponsoring such research with information on the needs for further service-related research, and (iii) conducting selected service-related research.".

NATIONAL ADVISORY COUNCIL ON SERVICES, FACILITIES, AND RIGHTS OF THE DEVELOPMENTALLY DISABLED

SEC. 4. (a) Paragraph (1) of section 108(a) is amended to read as follows:

"(1)(A) There is established a National Advisory Council on Services, Facilities, and Rights of the Developmentally Disabled (hereinafter in this section referred to as the 'Council'). The Council shall consist of—

"(i) sixteen ex officio members, described in subparagraph (B); and

"(ii) twenty members appointed, in accordance with subparagraph (C) and without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, by the Secretary from persons (I) who are advocates in the field of services to persons with developmental disabilities (including leaders in State or local government, in institutions of higher education, and in organizations which have demonstrated advocacy on behalf of such persons), and (II) who are not full-time employees of the United States.

"(B) The ex officio members (referred to in subparagraph (A)(i)) of the Council shall be twelve representatives from the Department of Health, Education, and Welfare, two representatives from the Department of Labor, one representative from the Department of Housing and Urban Development, and one representative from the Department of Transportation, each such representative to be designated by the Secretary of the respective Department.

"(C) Of the appointed members (referred to in subparagraph (A)(ii)) of the Council—

"(i) eight shall be persons with developmental disabilities or with a milder form of any such disability;

(ii)(I) seven shall be immediate relatives or guardians of persons with mentally impairing developmental disabilities, and (II) at least one of such relatives or guardians shall be an immediate relative or guardian of an institutionalized person with a developmental disability;

"(iii) one shall be the director of a protection and advocacy system (described in section 113) for developmentally disabled persons;

"(iv) one shall be the staff director of a State Planning Council (established under section 137); and

"(v) three shall be selected from State and local direct service providers (both public and private) and from university affiliated programs.".

(b) Section 108(a)(3) is amended by striking out "twice" and inserting in lieu thereof "three times".

(c) Section 108(b) is amended—

(1) by inserting "office" after "shall hold", and

(2) by striking out "has expired" and inserting in lieu thereof "have expired".

(d) Subsection (c) of section 108 is amended to read as follows:

"(c) The Council shall—

"(1) develop a national five-year plan for persons with developmental disabilities, which plan identifies the unmet service needs of persons with developmental disabilities and the actual and potential infringements of the legal and human rights of these persons;

"(2) annually review and revise this five-year plan;

"(3) recommend to the Secretary priorities (consistent with the priority of the services described in section 102(8)(B)) for special projects authorized under part D of this title;

"(4) advise the Secretary with respect to any regulations promulgated or proposed for promulgation by the Secretary in the implementation of the provisions of this title;

"(5) monitor the execution of this title and report directly to the Secretary on any delay in the rapid execution of this title; and

"(6) submit to the Congress each year a report on the Council's activities under this subsection during the year and on any needs and priorities relating to persons with developmental disabilities not being met under this title."

(e) Subsection (d) of section 108 amended to read as follows:

"(d) The Secretary shall make available to the Council at least one full-time professional staff person and one full-time secretarial assistant, such other secretarial, clerical, and other assistance, such statistical and other pertinent data prepared by or available to the Department of Health, Education, and Welfare, and such other resources as the Council may require to carry out its functions.".

(f) The heading to section 108 is amended by striking out "SERVICES AND FACILITIES FOR" and inserting in lieu thereof "SERVICES, FACILITIES, AND RIGHTS OF".

(g)(1) Section 110(a) is amended by striking out "Services and Facilities for" and inserting in lieu thereof "Services, Facilities, and Rights of".

(2) Subsections (a) and (e) of section 145 are amended by striking out "after consultation with the National Advisory Council on Services and Facilities to the Developmentally Disabled" and inserting in lieu thereof "taking into consideration the priorities established by the National Advisory Council on Services, Facilities, and Rights of the Developmentally Disabled".

(h) Notwithstanding the amendment made by subsection (a) of this section, the appointed members of the National Advisory Council on Services and Facilities for the Developmentally Disabled (as established under section 108(a) of the Developmental Disabilities Services and Facilities Act as in effect before the date of the enactment of this Act) shall be considered appointed members of the National Advisory Council on Services, Facilities, and Rights of the Developmentally Disabled (as established under the amendment made by subsection (a) of this section) until their terms (as of the date of the enactment of this Act) expire or such members resign from their offices.

REGULATIONS

SEC. 5. The text of section 109 is amended to read as follows:

"SEC. 109. The Secretary, not later than one hundred and eighty days after the date of enactment of any Act amending the provisions of this title, shall promulgate such regulations as may be required for the implementation of such amendments.".

EVALUATION SYSTEM

SEC. 6. (a) Section 110(a) is amended—

(1) by striking out "within two years of" and all that follows through "Bill of Rights Act develop" in the first sentence and inserting in lieu thereof "develop, not later than October 1, 1979,";

(2) by striking out "Within six months after the development of such a system, the" in the second sentence and inserting in lieu thereof "The";

(3) by striking out "the receipt of assistance under this title, that each State" in the second sentence and inserting in lieu thereof "a State's receipt of assistance on and after October 1, 1980, under this title, that the State";

(4) by striking out "Within two years after the date of the development of such a system, the" in the third sentence and inserting in lieu thereof "The"; and

(5) by striking out "the receipt of assistance under this title, that each State" in the third sentence and inserting in lieu thereof "a State's receipt of assistance on and after October 1, 1982, under this title, that the State".

(b) Subsection (c) of section 110 is amended to read as follows:

"(c) Upon development of the evaluation system described in subsection (b), the Secretary shall submit to Congress a report on the system, which report shall include an estimate of the costs to the Federal Government and the States of developing and implementing such a system.".

(c) Section 110 is amended by striking out subsection (d).

RIGHTS OF THE DEVELOPMENTALLY DISABLED

SEC. 7. Section 111 is amended by adding at the end thereof the following new sentence:

"The rights of persons with developmental disabilities described in findings made in this section are in addition to any constitutional or other rights otherwise afforded to all persons.".

PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

SEC. 8. (a) Section 113(a) is amended—

(1) by striking out "The Secretary shall require" and all that follows through "such system will (A)" and inserting in lieu thereof "In order for a State to receive an allotment under part C, (1) the State must have in effect a system to protect and advocate the rights of persons with developmental disabilities; (2) such system must (A)";

(2) by striking out "State" in clause (2)(B);

(3) by striking out "and (B)" and inserting in lieu thereof "(B) not be administered by the State Planning Council, and (C)";

(4) by inserting before the period at the end of the first sentence the following: "; and (3) the State must submit to the Secretary in a form prescribed by the Secretary in regulations (A) a report, not less often than once every three years, describing the system, and (B) an annual report describing the activities carried out under the system and any changes made in the system during the previous year"; and

(5) by striking out the last sentence thereof.

(b) The second sentence of section 1.13(b)(1) is amended to read as follows: "Allotments and reallotments of such sums shall be made on the same basis as the allotments and reallotments are made under the first sentence of subsections (a)(1) and (d) of section 132, except that no State in any fiscal year shall be allotted an amount which is less than the greater of $50,000 or the amount of the allotment to the State under this paragraph for the previous fiscal year.".

(c) Paragraph (2) of section 113(b) is amended to read as follows:

"(2) For allotments under paragraph (1), there are authorized to be appropriated $9,000,000 for the fiscal year ending September 30, 1979, $12,000,000 for the fiscal year ending September 30, 1980, and $15,000,000 for the fiscal year ending September 30, 1981.".

GRANT AUTHORITY, APPLICATIONS, AND AUTHORIZATION OF APPROPRIATIONS FOR UNIVERSITY AFFILIATED PROGRAMS

SEC. 9. (a) Part B is amended to read as follows:

"PART B—UNIVERSITY AFFILIATED PROGRAMS

"GRANT AUTHORITY

"SEC. 121. (a) From appropriations under section 123, the Secretary shall make grants to university affiliated programs to assist in the planning, development, administration, operation, and maintenance of the activities described in section 102(10), and of such additional activities as the Secretary determines to be appropriate to carry out the purposes of this title.

"(b) The Secretary may make one or more grants to a university affiliated program receiving a grant under subsection (a) to support one or more of the following activities:

"(1) Affiliation of the program with governmental and nonprofit organizations, in order to promote the provision of quality services to persons with developmental disabilities who reside in geographical areas where adequate services are not available.

"(2) Expansion of the program so it can assess the need for trained personnel in providing assistance to persons with developmental disabilities or with related handicapping conditions.

"(3) Provision of service-related training to practitioners providing services to persons with developmental disabilities or with related handicapping conditions.

"(4) Conducting a long-term applied research program which can develop methods for applying basic research findings to produce more efficient and effective methods (A) for the delivery of services to persons with developmental disabilities or with related handicapping conditions, and (B) for the training of professionals, para-professionals, and parents who provide these services.

"APPLICATIONS

"SEC. 122. (a) Not later than six months after the date of the enactment of the Developmental Disabilities Act Amendments of 1978, the Secretary shall establish standards for university affiliated programs. These standards for programs shall reflect the special needs of persons with developmental disabilities or with related handicapping conditions who are of various ages, and shall include performance standards relating to each of the activities described in section 102(10).

"(b) No grant may be made under section 121 unless an application therefor is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner, and contain such information, as the Secretary may require. Such an application shall be approved by the Secretary only if the application contains or is supported by reasonable assurances that—

"(1) the making of the grant will (A) not result in any decrease in the use of State, local, and other non-Federal funds for services for persons with developmental disabilities and for training of persons to provide such services, which funds would (except for such grant) be made available to the applicant, and (B) be used to supplement and, to the extent practicable, increase the level of such funds; and

"(2) the applicant's program (A) is in compliance with the standards established under subsection (a), or (B)(i) is making reasonable progress toward complying with such standards and (ii) will, not later than three years after the date of approval of the initial application or the date standards are promulgated under subsection (a), whichever is later, comply with such standards.

"(c) The Secretary shall establish such a process for review of applications for grants under section 121 as will ensure that each Federal agency that provides funds for the direct support of the applicant's program reviews the application.

"(d) The amount of any grant under section 121(a) to a university affiliated program in a fiscal year shall not be less than $150,000.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 123. (a) For the purpose of making grants under section 121, there are authorized to be appropriated $15,000,000 for the fiscal year ending September 30, 1979, $18,000,000 for the fiscal year ending September 30, 1980, and $21,000,000 for the fiscal year ending September 30, 1981.

"(b) Of the sums appropriated under subsection (a), not less than—

"(1) $9,000,000 for the fiscal year ending September 30, 1979,

"(2) $10,000,000 for the fiscal year ending September 30, 1980, and

"(3) $11,000,000 for the fiscal year ending September 30, 1981,

shall be made available for grants under section 121(a) to qualified applicants which receive grants under section 121(a) during the fiscal year ending September 30, 1978. The remainder of the sums appropriated for such fiscal year shall be made available as the Secretary determines, except that not less than 40 percent of such remainder shall be made available for grants under section 121(b).".

(b) Section 103(c) is amended—

(1) by striking out "university-affiliated facility or a satellite center" and inserting in lieu thereof "university affiliated program"; and

(2) by striking out "a project" and inserting in lieu thereof "a program".

(c) Section 112(a) is amended by striking out ", facility,".

AUTHORIZATION AND ALLOTMENTS FOR FACILITY GRANTS

SEC. 10. (a) The text of section 131 is amended to read as follows:

"SEC. 131. For allotments under section 132, there are authorized to be appropriated $60,000,000 for the fiscal year ending September 30, 1979, $75,000,000 for the fiscal year ending September 30, 1980, and $90,000,000 for the fiscal year ending September 3, 1981.".

(b) Section 132(a) is amended—

(1) by striking out subparagraph (B) of paragraph (1) and paragraph (2), (3), and (4);

(2) by striking out "(A)" in paragraph (1)(A) and by redesignating clauses (i) through (iii) of such paragraph as subparagraphs (A) through (C), respectively; and

(3) by inserting at the end thereof the following new paragraphs:

"(2) For any fiscal year, the allotment under paragraph (1)—

"(A) to each of American Samoa, Guam, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands may not be less than $100,000, and

"(B) to any other State may not be less than the greater of $250,000 or the amount of the allotment (determined without regard to subsection (d)) received by the State under this subsection for the fiscal year ending September 30, 1978.

"(3) In determining, for purposes of paragraph (1)(B), the extent of need in any State for services and facilities for persons with developmental disabilities, the Secretary shall take into account the scope and extent of the services described, pursuant to section 133(b)(2)(B), in the State plan of such State.".

(c) Subsections (b) and (c) of section 132 are amended by striking out "134" and inserting in lieu thereof "133" each place it appears.

STATE PLANS FOR PROVISION OF SERVICES AND FACILITIES

SEC. 11. (a) Subsection (b) of section 133 is amended to read as follows:

"(b) In order to be approved by the Secretary under this section, a State plan for the provision of services and facilities for persons with developmental disabilities must meet the following requirements:

"State Planning Council and Administration of Plan

"(1)(A) The plan must provide for the establishment of a State Planning Council, in accordance with section 137, for the assignment to the Council of personnel in such numbers and with such qualifications as the Secretary determines to be adequate to enable the Council to carry out its duties under that section, and for the identification of the personnel so assigned.

"(B) The plan must designate the State agency or agencies which shall administer or supervise the administration of the State plan and, if there is more than one such agency, the portion of such plan which each will administer (or the portion the administration of which each will supervise).

"(C) The plan must provide that each State agency designated under subparagraph (B) will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary finds necessary to verify such reports.

"(D) The plan must provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for funds paid to the State under this part.

"Description of Objectives and Services

"(2) The plan must—

"(A) set out the specific objectives to be achieved under the plan and a listing of the programs and resources to be used to meet such objectives;

"(B) describe (and provide for the review annually and revision of the description not less often than once every three years) the extent and scope of services being provided, or to be provided, to persons with developmental disabilities under such other State plans for federally assisted State programs as the State has relating to education for the handicapped, vocational rehabilitation, public assistance, medical assistance, social services, maternal and child health, crippled children's services and comprehensive health and mental health, and under such other plans as the Secretary may specify;

"(C) for each fiscal year, assess and describe the extent and scope of priority services (as defined in section 102(8)(B)) being or to be provided under the plan in the fiscal year; and

"(D) establish a method for the periodic evaluation of the plan's effectiveness in meeting the objectives described in subparagraph (A).

"Use of Funds

"(3) The plan must contain or be supported by assurances satisfactory to the Secretary that—

"(A) the funds paid to the State under section 132 will be used to make a significant contribution toward strengthening services for persons with developmental disabilities in the various political subdivisions of the State;

"(B) part of such funds will be made available by the State to public or nonprofit private entities;

"(C) the funds paid to the State under section 132 will be used to supplement and, to the extent practicable, to increase the level of funds that would otherwise be made available for the purposes for which Federal funds are provided and not to supplant such non-Federal funds; and

"(D) there will be reasonable State financial participation in the cost of carrying out the State plan.

"Provision of Priority Services

"(4)(A) The plan must—

"(i) provide for the examination not less often than once every three years of the provision, and the need for the provision, in the State of the four different areas of priority services (as defined in section 102(8)(B)); and

"(ii) provide for the development, not later than the second year in which funds are provided under the plan after the date of enactment of this paragraph, and the timely review and revision of a comprehensive statewide plan to plan, financially support, coordinate, and otherwise better address, on a statewide and comprehensive basis, unmet needs in the State for the provision of at least one of the areas of priority services, such area or areas to be specified in the plan, and (at the option of the State) for the provision of an additional area of services for the developmentally disabled, such area also to be specified in the plan.

"(B)(i) Except as provided in clause (iii), the plan must provide that not less than $100,000 or 70 percent of the amount available to the State under section 132, whichever is greater, will be expended, as provided in clause (ii), for service activities in the areas of services specified in the plan under subparagraph (A)(ii).

"(ii) For any year in which the sums appropriated under section 131 do not exceed—

"(I) $60,000,000, not less than $100,000 or 70 percent of the amount available to the State under section 132, whichever is greater, must be expended for service activities in no more than two of the areas of services specified in the plan under subparagraph (A)(ii), or

"(II) $60,000,000, not less than $100,000 or 70 percent of the amount available to the State under section 132, whichever is greater, must be expended for service activities in no more than three of the areas of services specified in the plan under subparagraph (A)(ii).

"(iii) A State plan, in order to comply with clause (i) for a fiscal year beginning before January 1, 1980, is not required to reduce the amount available to the State under section 132 which is expended for planning activities below the amount so expended in the preceding fiscal year, if substantially the remainder of the amount available to the State, which is expended for other than administration, is expended for service activities in the areas of services specified in the plan under subparagraph (A)(ii). For purposes of this clause, expenditures for planning activities do not include any expenditures for service activities (as defined in clause (iv)).

"(iv) For purposes of this paragraph, the term 'service activities' includes, with respect to an area of services, provision of services in the area, model service programs in the area, activities to increase the capacity of institutions and agencies to provide services in the area, coordinating the provision of services in the area with the provision of other services, outreach to individuals for the provision of services in the area, the training of personnel to provide services in the area, and similar activities designed to expand the use and availability of services in the area.

"(C) The plan must provide that special financial and technical assistance shall be given to agencies or entities which are providing or are planning to provide service activities in the areas of services specified in the plan under subparagraph (A)(ii) for persons with developmental disabilities who are residents of geographical areas designated as urban or rural poverty areas.

"Standards for Provision of Services and Protection of Rights of Recipients of Services

"(5)(A) The plan must provide that services furnished, and the facilities in which they are furnished, under the plan for persons with developmental disabilities will be in accordance with standards prescribed by the Secretary in regulations.

"(B) The plan must provide that services are provided in an individualized manner consistent with the requirements of section 112 (relating to habilitation plans).

"(C) The plan must contain or be supported by assurances satisfactory to the Secretary that the human rights of all persons with developmental disabilities (especially those persons without familial protection) who are receiving treatment, services, or habilitation under programs assisted under this title will be protected consistent with section 111 (relating to rights of the developmentally disabled).

"Protectional Assessment and Evaluation Systems

"(6) The plan must provide for—

"(A) an assessment of the adequacy of the skill level of professionals and paraprofessionals serving persons with developmental disabilities in the State and the adequacy of the State programs and plans supporting training of such professionals and paraprofessionals in maintaining the high quality of services provided to persons with developmental disabilities in the State; and

"(B) the planning and implementation of an evaluation system (in accordance with section 110(a)).

"Additional Information and Assurances Required by Secretary

"(7) The plan also must contain such additional information and assurances as the Secretary may find necessary to carry out the provisions and purposes of this part."

(b) Section 133(d)(1) is amended by striking out "for such purpose" and inserting in lieu thereof "for the total expenditures for such purpose by all of the State agencies designated under subsection (b)(1)(B) for the administration or supervision of the administration of the State plan".

(c) Section 133(d)(2) is amended by striking out "during the fiscal year ending June 30, 1975" and inserting in lieu thereof "during the previous fiscal year".

STATE PLANNING COUNCILS

SEC. 12. (a) Section 137(a) is amended—

(1) by inserting "higher education training facilities," after "representatives of the principal State agencies," in the third sentence; and

(2) by amending the fourth sentence to read as follows: "Of the members of the Council—

"(1) at least one-sixth shall be persons with development disabilities or with a milder form of such disability, and

"(2)(A) at least one-sixth shall be immediate relatives or guardians of persons with mentally impairing developmental disabilities, and (B) at least one of such relatives or guardians shall be an immediate relative or guardian of an institutionalized person with a developmental disability,

who are not managing employees (as defined in section 1126(b) of the Social Security Act) of any State agency or of any other entity which receives funds or provides services under this part and who are not persons with an ownership or control interest (within the meaning of section 1124(a)(3) of the Social Security Act) with respect to such an entity.".

(b) Section 137(b) is amended to read as follows:

"(b) Each State Planning Council shall—

"(1) develop the State plan required by this part, including the specification of areas of services under section 132(b)(4)(A)(ii);

"(2) monitor, review, and evaluate, not less often than annually, the implementation of such State plan;

"(3) to the maximum extent feasible, review and comment on all State plans in the State which relate to programs affecting persons with developmental disabilities;

"(4) promote planning for training of personnel needed to provide services (including advocacy and training in consumer participation) to persons with developmental disabilities; and

"(5) submit to the Secretary, through the Governor, such periodic reports on its activities as the Secretary may reasonably request, and keep such records and afford such access thereto as the Secretary finds necessary to verify such reports.

The State shall provide, to the maximum extent feasible, an opportunity for the State Planning Council to prior review and comment on all its State plans described in paragraph (3).".

(c) Section 137 is amended by striking out subsection (c).

SPECIAL PROJECT GRANTS AND CONTRACTS

SEC. 13. (a) Section 145 is amended—

(1) by inserting ", and may enter into contracts with," in subsections (a) after "may make project grants to";

(2) by inserting "(particularly priority services" after "otherwise improving services" in subsection (a)(1);

(3) by striking out ", including programs" and all that follows through the semicolon at the end of paragraph (1) of subsection (a) and inserting in lieu thereof "; and";

(4) redesignate paragraph (1) of subsection (a) as subparagraph (A);

(5) insert "(1)" in subsection (a) after "(a)";

(6) by inserting "or contract" after "grant" in subsection (b);

(7) by inserting "and contracts" after "grants" in subsection (c);

(8) by inserting "or contract" after "grant" each place it appears in subsection (c);

(9) by striking out "to make grants" in subsection (f) and inserting in lieu thereof "for grants or contracts";

(10) by striking out "subsection (d)" in subsections (e) and (f) and inserting in lieu thereof "subsection (e)" each place it appears;

(11) by redesignating subsections (b) through (f) as subsections (c) through (g), respectively; and

(12) by inserting after paragraph (1) of subsection (a) the following (and redesignating paragraphs (2) through (9) of subsection (a) of paragraphs (1) through (8), respectively):

"(B) demonstrations (and research, training, and evaluation in connection therewith) for establishing programs which hold promise of expanding or otherwise improving protection and advocacy services related to the statewide protection and advocacy system (described in section 113).

"(2) The Secretary may make grants to, and enter into contracts with, public or nonprofit private entities for demonstrations (and research and evaluation in connection therewith) for determining the service needs of persons who are not developmentally disabled but who have a severe, chronic disability which (A) is attributable to a mental or physical impairment or combination of mental and physical impairments, (B) is manifest before the person attains 22 years of age, and (C) constitutes a substantial handicap to such person's ability to function normally in society.

"(3) The authority of the Secretary to enter into contracts under this subsection shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

"(b) Grants and contracts provided under subsection (a)(1) shall include grants and contracts for—".

(b) The last sentence of section 145(c), as so redesignated, is amended by striking out "The Secretary" and inserting in lieu thereof "In the case of a project under subsection (a)(1), the Secretary".

(c) Section 145(e), as so redesignated, is amended to read as follows:

"(e) For the purpose of making payments under grants and contracts under subsection (a), there are authorized to be appropriated $25,000,000 for the fiscal year ending September 30, 1979, $28,000,000 for the fiscal year ending September 30, 1980, and $31,000,000 for the fiscal year ending September 30, 1981.".

(d)(1) The heading to part D is amended by inserting "AND CONTRACTS" after "GRANTS".

(2) The heading to section 145 is amended by inserting "AND CONTRACT" after "GRANT".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 14. (a) Section 112 is amended—

(1) by striking out "after September 30, 1976," in subsection (a);

(2) by striking out "Such" in subsection (b)(3) and inserting in lieu thereof "The"; and

(3) by striking out "an" before "objective criteria" in clause (B) of subsection (b)(3).

(b) Section 134 is amended—

(1) by striking out "CONSTRUCTION," in its heading;

(2) by striking out "(a)" in subsection (a); and

(3) by striking out subsection (b).

(c) Section 135 is amended—

(1) by striking out "CONSTRUCTION," in its heading;

(2) by striking out "(a)" in subsection (a); and

(3) by striking out subsection (b).

(d) The heading to part C is amended by striking out "CONSTRUCTION AND".

EFFECTIVE DATE

SEC. 15. The amendments made by this Act shall apply to payments under title I of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 for fiscal years beginning on and after October 1, 1978.

The SPEAKER pro tempore. Is a second demanded?

Mr. CARTER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida (Mr. ROGERS) will be recognized for 20 minutes, and the gentleman from Kentucky (Mr. CARTER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. ROGERS. Mr. Speaker, this bill represents an extension of the authority for various programs designed to identify and serve the needs of developmentally disabled persons. Many do not fully understand exactly who the developmentally disabled are; it is a term which does not immediately call a specific condition or disability to mind. Very simply, it is this: It is a disability which strikes someone at birth or during their childhood years. It is a disability which impinges on the normal development of the individual. Mental retardation, cerebral palsy, autism, epilepsy—these and similar disabilities are the conditions which result in a developmentally disabled person. We know that at least 10 million persons suffer to a greater or lesser degree from disabilities which affect their developmental years. Estimates of the number with a severe handicap resulting from such a disability range from 2 million to nearly 5 million. These are the persons who make up the target population for this legislation.

This bill would extend the State formula grant program, which is at the core of this legislation, for 3 fiscal years, and authorize a gradual increase in funding to support these efforts, beginning at $60 million in fiscal year 1979 and moving to $90 million by fiscal year 1981. Generally, the legislation recommended by the committee has attempted to retain the program in its current form; this program is a modest one with an ambitious mandate, and the committee felt it was not appropriate to change significantly the functions or responsibilities of the State planning councils and State agencies which receive funding through this grant program. The legislation does, however, set out several broad priorities for service areas to be addressed for the developmentally disabled population. These are: alternative community living arrangements, individual case management, child development services, and nonvocational social development services. The legislation requires States to concentrate 70 percent of their expenditures under this program on no more than two priority areas, one of which must be one of the priority areas established in this bill, the second area is completely open to State determination. As appropriations for this program increase in the future, additional areas can also be given priority. Once a State has established its goals or priorities for serving developmentally disabled persons, they may use the relatively limited funds made available by this legislation to fill gaps in other programs, to do outreach, to gain entry to other service programs more effectively, to establish model service programs, to train personnel and increase the capacity of other institutions and agencies, as well as to provide direct services.

Under the current law, each State is required to have a developmental disabilities council which is broadly representative of State and local agencies and consumers interested in developmental disabilities. This legislation continues that requirement, and clarifies the council's responsibility for development of the State plan for serving the developmentally disabled. And the legislation increases support for State protection and advocacy systems for the developmentally disabled.

Support for university-affiliated programs (UAP's) is a second major feature of the Developmental Disabilities Act. These programs are charged with interdisciplinary training for personnel serving the developmentally disabled population, with demonstrating exemplary service programs for the developmentally disabled, with providing technical assistance to public and private agencies serving the developmentally disabled, and with conducting research and disseminating information on the effective provision of service to the developmentally disabled. H.R. 12326 requires the development of standards for these programs, which must be met by a program within 3 years or its funding will cease. Additionally, the legislation establishes a minimum grant of $150,000 for UAP's.

The legislation directs the Secretary to develop an adequate evaluation system for the program and have it in place by 1982, it provides him with contract authority—as well as the grant authority of existing law—to support special projects, it enlarges the national advisory council on developmental disabilities to include other relevant Federal agencies—HUD and Labor—as well as HEW, and makes other minor changes in the existing legislation.

I should note that I have been informed by the Budget Committee that a technical amendment is needed clarifying that contracts are not authorized for more than the amount that is appropriated. I want to assure the committee that this amendment is included in the legislation before the House.

This legislation deserves the support of the Members of the House, and I urge its adoption.

Mr. CARTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I strongly support H.R. 12326 which revises and extends for 3 years the developmental disabilities program.

The purpose of the original legislation has been to improve and coordinate provision of services to persons with developmental disabilities.

Some 10 million of our citizens suffer from disabilities incurred during the developmental years—and for at least 2 million, their handicap is a severe one.

Far too often the needs of the developmentally disabled persons are overlooked. In other cases, these individuals simply "fall through the cracks" of existing programs.

The purpose of the amendments we are considering today is to strengthen the ability of States to serve their developmentally disabled citizens through better planning, through improved coordination of programs, and through protection and advocacy of their rights.

Actually most of the funds from this program are not to be spent on direct services payment. Instead they are used to provide access and "tap into" existing programs to improve their ability to serve the "D.D." population.

For this reason, I believe the developmental disabilities program is one of the best examples of the effective use of very minimal Federal funding through stimulation of State and local efforts.

This year we revised the legislation to focus on four priority service areas:

Case management services;

Child development services;

Alternative community living arrangement services; and

Nonvocational social-developmental services.

States will be required to set priorities among these areas—and concentrate their funds on at least two of them. And possibly more—depending on funding levels.

The legislation also extends the authority for State formula grants to support planning efforts to improve services and programs for the developmentally disabled.

The bill increases the authorizations for protection and advocacy programs which have proved effective in the past but the total authorization for fiscal year 1979 is the same as the total last year.

Finally, I am pleased that the legislation clarifies the inclusion of the condition—dyslexia—so that these individuals who are substantially handicapped by this disability—can be served by the developmental disabilities program.

Mr. Speaker, the population identified by this leigslation needs our continued support and I believe this program has made significant progress in serving their needs.

I urge that the bill be favorably considered.

Mr. ROGERS. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. CARTER. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Speaker, I want to commend the gentleman specifically on addressing the problem of dyslexia. That is one outstanding breakthrough we have had in the past few years, and we are all impressed with what people who have dyslexia can do, not only so far as a complete adjustment, but they more than compensate, in many cases, by strong achievement performance.

Mr. Speaker, I would like to ask the gentleman from Florida something about this bill. Does the gentleman have any idea of how many people are specifically included in this program on disabilities?

Mr. ROGERS. If the gentleman will yield, the best estimate we have is about 2 million.

Mr. COLLINS of Texas. That is how many people need it. How many of them are we actually serving?

Mr. ROGERS. Since this program provides little direct service, but emphasizes planning, coordination, advocacy, making other programs more accessible and responsible to the developmentally disabled and similar activities, I believe probably most of those 2 million gain substantial benefit from it.

Mr. CARTER. Mr. Speaker, if the distinguished gentleman from Texas will yield, when I go to small rural towns in my district, I find a school for the mentally retarded in almost every one of them. One in Berea, Ky., is called the School of Hope. They used to have a Chinese teacher there, and I wish you could see what he has done with these mentally retarded children. You would be forever grateful to this man.

Mr. COLLINS of Texas. That is very encouraging.

What happens with so many of these programs is that we set them up in Congress with good intentions, and so much of the money goes for administration and to counselors, and when it comes to the people who need it, very little filters down. To what extent can the chairman explain what is going to the disabled?

Mr. ROGERS. If the gentleman will yield, we have gone into the reports, we have heard from the groups involved, from the consumers of these services, and the parents. We get consistently favorable reports on this. I would reemphasize that the program does not in all cases provide a direct service. It also provides information about what services are available and what can be done, directing them on what treatment they can get, what aid they can get. The States have a great deal of flexibilty in how they run this program, as the gentleman knows.

Mr. COLLINS of Texas. When we started in 1970, what was the original appropriation? We have increased all of these programs considerably. Does the gentleman know what we started with?

Mr. ROGERS. I am sorry, I cannot recall that at this moment for the gentleman. The appropriations for the last 3 fiscal years have remained relatively constant, growing from $56 million in fiscal year 1975 to $59 million in fiscal year 1978.

Mr. COLLINS of Texas. I notice here that we have a total of $339 million, which seems a large sum.

Mr. CARTER. If the gentleman will yield, actually the bill authorizes $109 million for fiscal year 1979 which I regret to say, will be $3 million less than was authorized this year, $112 million.

The authorization does increase in 1980, but every bit of this money is wisely and well-used, in my opinion.

Mr. COLLINS of Texas. I thank the chairman.

Mr. ROGERS. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. CARTER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Delaware (Mr. EVANS).

Mr. EVANS of Delaware. Mr. Speaker, I thank the gentleman for yielding. I would like to congratulate him especially on the amendment relating to dyslexia. I think it is penny-wise and dollar-foolish not to identify this type of problem early so that can enable young people of our Nation to lead happy as well as productive lives, so that they will be contributing to society and contributing to this country.

Mr. Speaker, I congratulate the gentleman from Kentucky on his amendment.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. EVANS of Delaware. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Speaker, I would like to associate myself with the remarks of the gentleman from Delaware and add my support to this excellent cost-efficient and humane legislation.

Mr. CARTER. I thank the gentleman.

● Mr. STAGGERS. Mr. Speaker, I urge the Members of the House to support H.R. 12326, a bill to extend the Developmental Disabilities Services Act. This legislation was reported without dissent by the Committee on Interstate and Foreign Commerce. It extends and increases the Federal Government's commitment to support State efforts to serve a very disadvantaged segment of our population, developmentally disabled individuals. These people, who are mentally retarded or who have epilepsy or cerebral palsy or autism or similar disabilities which interfere with their normal development into adulthood, deserve help in receiving services, in having their rights protected, and in receiving the assistance they need to develop to their maximum potential.

This bill provides funds which support State planning councils which are made up of citizens who are working to focus attention on the developmentally disabled. This bill provides grant funds to States to develop plans to serve the developmentally disabled and to fill the gaps which too often exist between our current programs. This bill supports research into how to deliver services to this population more effectively.

We cannot turn our backs on those among us who are unfortunate victims of disabling conditions in their childhood years. I urge the Members to support the bill.●

● Mr. STUDDS. Mr. Speaker, as we are considering today H.R. 12326, the Developmental Disabilities Act amendments, I think that it is appropriate for me to address briefly a subject with which we both are familiar—Tuberous Sclerosis. As we serve together on the Board of Directors of the Tuberous Sclerosis Association of America, we can appreciate the need for greater understanding by the public of this devastating genetic disease and for greater resources with which to combat the suffering it creates.

H.R. 12326 would be an excellent vehicle with which to enhance our capabilities to fight the disease. But as reported out of the House Committee on Interstate and Foreign Commerce, it would provide coverage for a severe chronic disability which either is attributable specifically to mental retardation, cerebral palsy, epilipsy, autism, or dyslexia, or one which meets a rather narrow functional definition of a developmental disability. In short, under this definition, Tuberous Sclerosis would not be included under the bill—even though the committee acknowledged that it was "impressed" with the testimony of persons concerning the need for coverage of the disease.

The Senate Committee on Human Resources has reported out similar legislation which deals with developmental disabilities. The Senate version, however, provides a broader functional definition of a developmental disability, one which would cover Tuberous Sclerosis. Because we are considering H.R. 12326 under suspension, no amendments can be offered from the floor. If this were not the case, I would offer an amendment to broaden the House definition to meet that of the Senate legislation. With this in mind, I hope very much that the conferees chosen to resolve the differences between the two bills will see fit to agree on the broader definition of a developmental disability. To do otherwise would be to deprive thousands of unfortunate people in this country of an opportunity to reduce their suffering and to help prevent similar tragedies for thousands of others who may be unknowing targets of the disease.●

● Mr. GILMAN. Mr. Speaker, I am rising in support of H.R. 12326, the Developmental Disabilities Act authorizations, fiscal year 1978. Our disabled deserve comprehensive services which will insure that their lifestyles are reflective of their full potential, and that their lives are made as comfortable and fulfilling as possible.

The developmental disabilities authorization legislation before us now provides for a 3-year extension of the act's programs and authorizes $109 million for fiscal year 1979, $133 million for fiscal year 1980, and $157 million for fiscal year 1981. The eligibility requirements for receiving assistance have been expanded to include disabilities which manifest themselves before age 22, rather than 18. HEW is urged to develop a comprehensive service evaluation system by October 1979 which will outline States cost estimates.

Mr. Speaker, I am heartened to see that our development disabilities program is being continued for several more years and that the disabled individuals of this Nation can expect to continue to receive services provided them in recent years. It is time that the Congress recognizes the plight of our developmentally disabled, a group which spans all of society, cutting across class and economic lines including millions of individuals who can benefit from our foresight and programs.

I urge my colleagues to support this worthwhile legislation.●

Mr. ROGERS. Mr. Speaker, I have no further requests for time.

Mr. CARTER. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. ROGERS) that the House suspend the rules and pass the bill H.R. 12326, as amended.

The question was taken.

Mr. LEVITAS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

NURSE TRAINING AMENDMENTS OF 1978

Mr. ROGERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12303) to amend title VIII of the Public Health Service Act to extend for 2 fiscal years the program of assistance for nurse training, and for other purposes.

The Clerk read as follows:

H.R. 12303

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE —NURSE TRAINING

SEC. 101. (a) This Act may be cited as the "Nurse Training Amendments of 1978".

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

SEC. 102. Section 801 relating to authorizations for construction grants) is amended by inserting after "for fiscal year 1978" the following: "and for each of the next two fiscal years".

SEC. 103. (a) Subsections (a) and (b) of section 805 (relating to loan guarantees and interest subsidies) are each amended by striking out "1978" and inserting in lieu thereof "1980".

(b) Subsection (e) of such section is amended by inserting after "in fiscal year 1978" the following: "and in each of the next two fiscal years".

SEC. 104. Subsection (f) of section 810 (relating to capitation grants) is amended by inserting after "fiscal year 1978" the following: "and for each of the next two fiscal years".

SEC. 105. The first sentence of subsection (d) of section 820 (relating to special project grants and contracts) is amended by striking out "and" after "1977," and by inserting before the period the following: ", $20,000,000 for the fiscal year ending September 30, 1979, and $20,000,000 for the fiscal year ending September 30, 1980".

SEC. 106. Subsection (b) of section 821 (relating to advanced nurse training programs) is amended by inserting after "for fiscal year 1978" the following: "and for each of the next two fiscal years".

SEC. 107. Subsection (e) of section 822 (relating to nurse practitioner programs) is amended by striking out "for fiscal year 1978" and inserting in lieu thereof "for the fiscal year ending September 30, 1978, and for each of the next two fiscal years".

SEC. 108. Subsection (b) of section 830 (relating to traineeships) is amended by inserting before the period "and for each of the next two fiscal years".

SEC. 109. (a) Subsection (b)(4) of section 835 (relating to loan agreements) is amended by striking out "1978" and inserting in lieu thereof "1980".

(b) Section 837 (relating to authorizations for student loans funds) is amended (1) by inserting before the period in the first sentence "and for each of the next two fiscal years", (2) by striking out "fiscal year 1979" and inserting in lieu thereof "the fiscal year ending September 30, 1981", and (3) by striking out "October 1, 1978" and inserting in lieu thereof "October 1, 1980".

(c)(1) Subsection (a) of section 839 (relating to distribution of assets) is amended by striking out "September 30, 1980, and not later than September 30, 1977" and inserting in lieu thereof "September 30, 1981, and not later than December 30, 1983".

(2) Paragraph (1) of such subsection is amended by striking out "1980" and inserting in lieu thereof "1983".

(3) Subsection (b) of such section is amended by striking out "1980" each place it occurs and inserting in lieu thereof "1983".

SEC. 110. (a) Subsection (b) of section 845 (relating to scholarship grants) is amended (1) by striking out "next two fiscal years" in the first sentence and inserting in lieu thereof "next four fiscal years", (2) by striking out "1979" and inserting in lieu thereof "1981", and (3) by striking out "1978" and inserting in lieu thereof "1980".

(b) Subsection (c)(1) of such section is amended (1) by striking out "next two fiscal years" in subparagraph (A) and inserting in lieu thereof "next four fiscal years", (2) by striking out "1978" in subparagraph (B) and inserting in lieu thereof "1980", and (3) by striking out "1979" in such subparagraph and inserting in lieu thereof "1981".

SEC. 111. Subpart I of part B of title VIII (relating to traineeships) is amended by adding after section 830 the following:

"TRAINEESHIPS FOR TRAINING OF NURSE ANESTHETISTS

"SEC. 831. (a)(1) The Secretary may make grants to public or private nonprofit institutions to cover the costs of traineeships for the training, in programs which meet such requirements as the Secretary shall by regulation prescribe and which are accredited by an entity or entities designated by the Commissioner of Education, of licensed, registered nurses to be nurse anesthetists.

"(2) Payments to institutions under this subsection may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary. Such payments may be used only for traineeships and shall be limited to such amounts as the Secretary finds necessary to cover the costs of tuition and fees, and a stipend and allowances (including travel and subsistence expenses) for the trainees.

"(b) For the purpose of making grants under subsection (a), there are authorized to be appropriated $2,000,000 for the fiscal year ending September 30, 1979, and $3,000,000 for the fiscal year ending September 30, 1980.".

SEC. 112. Section 836(b)(3) (relating to student loans) is amended (1) by inserting after "(3)" the following: "in the case of a student who received such a loan before the date of enactment of the Nurse Training Amendments of 1978,", and (2) by striking out "any such loan" and inserting in lieu thereof "any such loan made before such date".

SEC. 113. (a) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary") shall arrange, in accordance with subsection (b), for the conduct of a study to determine the need to continue a specific program of Federal financial support for nursing education, taking into account—

(1) the need for nurses under the present health care delivery system and under that system as it may be changed by the enactment of legislation for national health insurance,

(2) the cost of nursing education, and

(3) the availability of other sources of support for nursing education, including support under general programs of Federal financial support for post secondary education, under State and other public programs, and from private sources.

(b)(1) The Secretary shall first request the National Academy of Sciences (hereinafter in this section referred to as the "Academy"), acting through the Institute of Medicine, to conduct the study, required by subsection (a), under an arrangement whereby the actual expenses incurred by the Academy directly related to the conduct of such study will be paid by the Secretary. If the Academy agrees to such request, the Secretary shall enter into such an agreement with the Academy.

(2) If the Academy declines the Secretary's request to conduct such study under such an arrangement, then the Secretary shall enter into a similar arrangement with another appropriate public or nonprofit private entity to conduct such study.

(3) Any arrangement entered into under paragraph (1) or (2) of this subsection for the conduct of a study shall require that such study be completed and reports thereon be submitted within such period as the Secretary may require to meet the requirements of subsection (c).

(c) Not later than October 1, 1979, the Secretary shall report to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives the results of the study conducted pursuant to subsection (a) together with such recommendations for legislation as the Secretary determines are appropriate.

TITLE II—OTHER HEALTH PROFESSIONS PROGRAMS

SEC. 201. Section 338(a) (relating to authorizations for the National Health Service Corps) is amended by striking out "$57,000,000" and inserting in lieu thereof "$63,000,000".

SEC. 202. Section 729(a) (relating to limits on Federal loan insurance and insured loans) is amended—

(1) by inserting before the period in the first sentence a comma and the following: "except that in the case of loans to students in schools of medicine, osteopathy, and dentistry, the Secretary may increase the total of such loans which may be covered by Federal loan insurance to $15,000 if he determines that the costs of education at such schools requires such increase"; and

(2) by inserting before the period in the second sentence a comma and the following: "except that the Secretary may increase such amount for borrowers who are or were students in schools of medicine, osteopathy, and dentistry to $60,000 if he determines that the costs of education at such schools requires such increase".

SEC. 203. Section 739(b)(2) (relating to eligibility of institutions to participate in the guaranteed student loan program) is amended by striking out "in each class in the institution" and inserting in lieu thereof "enrolled in the institution".

SEC. 204. Section 752(b)(5)(A) (relating to service requirements for National Health Service Corps scholarships) is amended by striking out "(not to exceed three years)" and inserting in lieu thereof "(not to exceed three years of such greater period as the Secretary may authorize)".

The SPEAKER pro tempore (Mr. HOLLAND). Is a second demanded?

Mr. CARTER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida (Mr. ROGERS) will be recognized for 20 minutes, and the gentleman from Kentucky (Mr. CARTER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. ROGERS).

GENERAL LEAVE

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 12303.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the legislation before us today, H.R. 12303, as amended, would amend title VIII of the Public Health Service Act to extend for 2 fiscal years the program of assistance for nurse training.

The legislation, as reported from the Committee on Interstate and Foreign Commerce, has four principal purposes.

First, it would extend the authorities of existing law with respect to nurse training including authorizations for construction grants, loan guarantees and interest subsidies, capitation grants, advanced nurse training programs and traineeships, nurse practitioner programs, and student loans and scholarships at the 1978 authorization level. It would increase the authorization of appropriations for special project grants by $5 million and allow the existing authority for financial distress grants, which has not been funded for 4 years, to lapse.

Second, it would add new authority to provide traineeships to professional nurses in training to become nurse anesthetists.

Third, it would require the conduct of a study and report to the Congress with respect to the need to continue the program of Federal financial support for nursing education.

Finally, it would encourage an increase in the supply of nurses in medically underserved areas by providing that loan forgiveness would only be authorized for nurses who agree to practice in underserved areas. Existing law authorizes loan forgiveness for virtually all practicing nurses regardless of location of employment.

In addition, the measure before us today includes one technical and three minor, substantive amendments.

First, it contains an amendment to section 113 of the bill to conform that section to the provisions of the Budget Control and Impoundment Act of 1974 to make it clear that any funds obligated to implement the section are limited by amounts available under an appropriation act and that no such funds could be obligated prior to October 1, 1978.

Second, it includes an amendment to section 781 of the Public Health Service Act—relating to the area health education centers program—which would amend the existing requirement that each medical and osteopathic school participating in an AHEF program conduct a program for the training of physician assistants or nurse practitioners. Under the amendment, only one such school within an AHEC program would have to conduct such a training program.

Third, it contains an amendment to section 802 of the Health Professions Educational Assistance Act of 1976 (Public Law 94-484) which would enable area health education centers which first received funding under section 774 of the Public Health Service Act before October 12, 1976, to continue to be eligible to receive support through fiscal year 1981 without meeting the new requirements for area health education centers under new section 781 of the act. This extension of eligibility for gradually diminishing Federal funding will provide the 11 original AHEC programs which a sufficient period of time in which to find alternative sources of State and local support.

Finally, it includes a minor amendment to the authority under section 748 of the Public Health Service Act—relating to traineeships for students in schools of public health—to permit students in schools of public health who received traineeship support during school year 1977-78 under the authority of old section 312 of the act to continue to be eligible for such support for school year 1978-79 whether or not they meet the new requirements of new section 748.

Under section 748 of the act, 45 percent of the traineeship funds awarded to a school of public health must be used to provide traineeships to individuals who have either a postbaccalaureate degree or 3 years work experience in a health services field and who intend to pursue a specified course of study. Unfortunately, in school year 1977-78, several schools made awards under the old authority to some 242 students beginning a 2-year course of study who do not meet the requirements of section 748 which superseded section 312. The amendment will enable these students to complete their education.

Mr. Speaker, the Nurse Training Amendments of 1978 is a noncontroversial measure which is cosponsored by all 14 members of the Subcommittee on

Health and the Environment and which was reported by the Committee on Interstate and Foreign Commerce by unanimous voice vote. Its enactment will continue the program of Federal support for nursing education for 2 fiscal years and provide the Congress with the opportunity to examine in detail and reevaluate the necessity for Federal support for all health professions education activities and to develop a consistent Federal policy in this regard.

I commend this legislation to my colleagues and urge its immediate adoption.

Mr. BROYHILL. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Speaker, I asked the gentleman to yield just for the purpose of a comment and perhaps a question. As the gentleman knows, this is only one program which provides Federal support for health professions training. There are several others that we do have in operation. The gentleman from Florida, I know, is familiar with the allegations that are made that there is an ample supply of nurses now and we should start cutting back on this program.

I, of course, as one member of the committee think we should recognize these allegations and concerns, but at the same time I am concerned about any abrupt termination of support of the nurse training program at this time.

What I would like, if the chairman would be willing to do it, is to have him comment on these allegations and as to the progress of any studies that could shed more light on the need of the future for the continuation of the program at present levels.

Mr. ROGERS. I thank the gentleman from North Carolina for his comments.

As a matter of fact, the committee bill authorizes, as the gentleman knows, a study so that we can have the actual facts and the committee may make that judgment as soon as that study is completed. I do think we need to look at it because we do not want to fund programs unless they are necessary. I am sure the gentleman would agree with me that we still have a maldistribution problem; it is difficult often to determine whether it is a lack of actual supply of personnel or a missettlement of those personnel.

Also, we have gone through the experience of bringing in foreign trained alien nurses from the Philippines. New Orleans had this problem, the gentleman may recall. So in many areas of the country we still have nurse shortages.

As I say, this study I think will help us make a judgment as to whether it is appropriate for us to continue to support nurse training.

Mr. BROYHILL. The gentleman has addressed an issue that I am interested in, and that is the maldistribution of the professional nurses. I wonder if the gentleman would comment. As the gentleman knows, we do have a problem in North Carolina. I know in certain parts of my congressional district there are shortages still, even though there apparently is a surplus nationwide. Would the gentleman address himself to the points of the amendments we made to these programs to try to encourage people to go into these areas where they are needed?

Mr. ROGERS. I would be delighted. The gentleman is correct. We restricted the forgiveness of educational loans to loans of those persons who are willing to serve where they are really needed in medically underserved areas. We hope that will begin to help some to handle the maldistribution problem.

I am not sure I agree with some of the statements made that there is an oversupply of nurses because there are so many areas we simply have not identified where we do have shortages. So I think the thrust of the gentleman's concern I believe is answered basically by the bill in encouraging nurses to practice in underserved areas and, second, in studying the support program to see whether it should be continued.

I thank the gentleman for his contribution.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the legislation.

As the gentleman said, there are areas that are underserved. One of them that remains a constant concern of mine as a member of the Select Committee on the Aging is that of geriatrics. We have held extensive hearings in this area and further in connection with the future of the aged, and one fact came through very glaringly, which is that the medical profession across the board is most remiss in focusing attention on the medical problems of the elderly.

We suggest that whenever possible that that condition be corrected. I was wondering if the chairman has any expression to make with relation to the training of the nurses?

Mr. ROGERS. Yes, I think the gentleman raises a very valid point that as we develop a greater aging population in this country, and we are, more attention does need to be given, and certainly in this area of nursing for supportive services, as the elderly population grows older and becomes larger. We are trying to direct the Institute on Aging to get into those programs that will keep a person as healthy as long as possible, but the time inevitably comes when we all need to have some help.

So I would say that instead of an over number of nurses that there is still the necessity to address many needs. As far as the health care system is concerned, you can go into understaffed nursing homes, we are not doing the proper job in home health care, and both of those types of facilities need more nurses. I thank the gentleman for calling this to our attention and the fact that we need to develop in that direction. Hopefully, this bill will enable more and more of the nurses to direct their attentions to those areas because certainly those are jobs that are waiting for people.

Mr. BIAGGI. I am grateful to the gentleman for those remarks because that is the point I was trying to raise.

I would also ask whether the bill does provide sufficient latitude for the educators in the training process to deal with this problem of geriatrics?

Mr. ROGERS. Yes, very definitely. Although we do not try to direct them into the areas that they must teach. But we are going to try to direct the nurses toward those programs by forgiveness of their loans. I think that can be very effective.

Mr. BIAGGI. I thank the gentleman for his very constructive remarks.

Mr. COLLINS of Texas. Mr. Speaker, if the gentleman will yield, can the gentleman tell me first did we ask for more money in this committee bill than the administration asked for?

Mr. ROGERS. Yes, we did.

As the gentleman knows, it has been the practice, and I am sure the gentleman realizes, that every administration, and I do not care which it is, whether Republican or Democrat, tries to keep its budget down and make it look good, and there are certain programs they cut out because they know that the Congress is going to take prompt action and respond to the need of the Nation. This happens to be one of those programs. As you may recall, the Ford administration asked no money for the training of nurses, but what has the Congress done? It has looked at what the need is and it has responded and here again we have acted to meet the need.

Mr. COLLINS of Texas. Of course, all of us know that President Carter is working to balance the budget.

Mr. ROGERS. We all are, I would assure the gentleman.

Mr. COLLINS of Texas. And this is along that same line of reducing Government spending.

Mr. ROGERS. I would ask the gentleman if the gentleman supported the veto of the $2 billion naval vessel?

Mr. COLLINS of Texas. Of course, but defense is for national security.

Mr. ROGERS. I am just asking the gentleman the question. Did the gentleman support that veto? This is legislation for health, people's lives are involved, this is on the firing line right now.

Mr. COLLINS of Texas. If the gentleman from Florida will just recall just a couple of weeks ago——

Mr. ROGERS. Would the gentleman just answer my question, Did he vote to cut out the $2 billion?

Mr. COLLINS of Texas. I certainly voted for the national security and a strong national defense.

Mr. ROGERS. So did I, but did the gentleman vote to save the $2 billion? You will recall the President said we did not need it, and you said let us stick with the President.

Mr. CARTER. Mr. Speaker, if the distinguished gentleman will yield.

Mr. COLLINS of Texas. The gentleman from Florida (Mr. ROGERS) has control of the time.

Mr. ROGERS. I will yield to the gentleman from Kentucky.

Mr. CARTER. On this very thing last year the authorization was $206 million, I would say to my good friend the gentleman from Texas (Mr. COLLINS) and this year it is $208 million. There is an addition in there that goes for national health courses, scholarships for nurses to go into the rural areas and into the ghetto areas. But this legislation does not include the inflationary factor. So actually if you include that, then there is less money than there was for last year.

So I would hope that the gentleman would be pleased that the authorization is lessened, but I can assure you that the health care will be carried on, and it will not be diminished, even though we are cutting the authorization actually. I trust that that satisfies the gentleman's demand for savings, but I do not like to see it at the expense of health care.

Mr. COLLINS of Texas. Will the gentleman from Kentucky yield me 5 minutes?

Mr. CARTER. Would I yield the gentleman 5 minutes?

Mr. COLLINS of Texas. Yes. You have control of the time.

Mr. CARTER. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Speaker, I thank the gentleman for yielding.

One thing about whether we need it, of course, breaks down into two subjects. The first one is when we discussed hospital costs; and, of course, the gentleman from Florida (Mr. ROGERS) is most eloquent in talking about the great desire to keep down the costs of hospitals.

The situation here is, do we have as many nurses as we need, or do we have as many nurses as we can afford? I ask that because today I heard time and again that as far as the number which the hospital systems can economically afford in their present operations indicates that they are adequately staffed, and we would make a mistake in America to oversupply the number of nurses.

Mr. Speaker, there was a day when we were short on teachers I remember when the gentleman from Kentucky (Mr. CARTER) was talking about leveling out on the number of nurses. We had a time when we wanted to develop more teachers; but I asked the schools in my district about teachers recently. That is something we can specifically put our finger on. Schools had 20 applications for every teacher position in many of our school systems.

The question on nurses is, Do we need an oversupply of nurses? Is this good for the nursing profession? Is it good for America?

What figures does the gentleman have? I know nurses are needed in the rural areas. However, if we just simply oversupply the cities, what do we accomplish?

Mr. CARTER. Mr. Speaker, if my distinguished friend, the gentleman from Texas, will yield, we have at the present time about 850,000 full-time practicing nurses. Actually there are about 1.3 million nurses in the United States today, but about 500,000 of them are not practicing full time. Today our main problem is the maldistribution of nurses. Personally I do not think we have enough in rural areas. It is hard to find a sufficient number of them.

As the gentleman knows, these nurses are wonderful people. They are well trained; and if the distinguished gentleman from Texas (Mr. COLLINS) ever gets sick, I hope he will be where they can cool his fevered brow.

Mr. COLLINS of Texas. Mr. Speaker, the distinguished gentleman from Kentucky, a doctor, speaks with a knowing voice.

However, a little more than that is involved here, I am afraid. The basic problem about nurses is the shortage in the rural areas; and as the old saying goes, "How are you going to keep them down on the farm, after they have seen New York?"

The problem is that a lot of people today just do not want to make the sacrifices and undergo the privations that are experienced by those who live in rural areas.

This bill does not solve that question.

Mr. CARTER. If the distinguished gentleman will yield further, I happen to be from a rural area. If the good Lord permits, I am going to go back to that area this weekend, and I will go back again next weekend.

There are those who may say that they do not like rural areas, but I believe that such areas are wonderful where mountains are steep, trees are tall, and the land is beautiful. I like rural country, and I am going back there.

I commend the distinguished gentleman from Texas for his interest.

No, we do not have enough nurses in rural areas but we are trying to get them. Certainly we do not have enough nurses in many medically underserved areas.

Nursing is a noble and great profession, and I regret that we have difficulty in obtaining nurses in certain parts of this country.

As far as I am concerned, I want to continue our support for them. The bill provides for a study to see if we might in the future have an oversupply and to make recommendations about future Federal support.

If the gentleman has any further questions, I will be happy to yield to him.

Mr. COLLINS of Texas. No. Does the gentleman from Florida (Mr. ROGERS) concur in the statements of the gentleman from Kentucky? My friend, the gentleman from Kentucky (Mr. CARTER), believes that there is a very strong need for more nurses. Does the gentleman from Florida have that strong feeling?

Mr. ROGERS. If the gentleman will yield, yes, I do feel that. For instance, we had a situation not too long ago where a cancer ward out there at the Clinical Center at NIH was closed because they could not get nurses.

Therefore, this problem exists in many spots all over the Nation. I dare say that we can find many right in Texas.

There are areas where there may be too many nurses; but in many areas of the country there are serious shortages.

Furthermore, as the gentleman from New York pointed out, we are now seeing some advances in health care. For instance, let us take home health care. We are trying to develop less expensive ways to deliver care and yet still take care of people. One way to see this develop, I think, is to have nurses who will be able to go into the homes of the elderly. Perhaps they will have to go by there once a day or twice a week while not having the doctor, the highly trained and highly expensive expert, go by; and still keep people healthy.

Therefore, this will be a cheaper way, too, of trying to deliver health care.

Therefore, I think the gentleman can very well support the bill.

Mr. Speaker, I have no further requests for time.

Mr. CARTER. Mr. Speaker, I yield myself such time as I may consume.

I am pleased to support H.R. 12303, the Nurse Training Amendments of 1978. This bill amends title VIII of the Public Health Service Act, and extends the programs of financial assistance for nurse training for an additional 2 years.

Although nurses are the largest group of health professionals in the country, there is a shortage of nurses with advanced degrees. Currently, less than 1 percent of all nurses receive doctoral degrees, and fewer than 14 percent earn baccalaureate degrees. Clearly this results in a deficit of nurses adequately prepared for teaching, administrative, or research positions.

The emphasis in recent years on primary care has also increased the demand for nurses with advanced training. The nurse practitioner is a registered nurse qualified to deliver primary care, who places emphasis on health prevention and health maintenance, and education for self-care. In my district, for instance, the Frontier Nursing Service is an outstanding example of the use of nurse practitioners to deliver health services not only to individual patients, but to the family and community as well.

Federal funds are a major source of support for advanced nurse training and nurse practitioner programs. At the present time, almost one-half of the nurse practitioner programs in the country are supported by Federal funds. And these programs graduate approximately 1,000 practitioners yearly. The advanced nurse training awards have assisted 2,000 nursing students over the past 2 years in a variety of programs. Both of these programs need our support if they are to continue to provide the Nation with the numbers of well-qualified nursing personnel that it needs. And this legislation will provide that needed support.

Also H.R. 12303 establishes a new grant authority for the training of nurse anesthestists—who currently provide the largest percentage—48.5 percent—of anesthesia services in the country. They are vital in medically underserved areas, where they provide over 65 percent of such services in hospitals of less than 100 beds. Training for nurse anesthetists typically involves 2 full years of intensive study and clinical training. During this time, employment is strongly discouraged by the schools, and, with the estimated tuition for anesthesia school at $5,000, it is easy to see why financial aid is needed. I was pleased to cosponsor this

new provision with the chairman because I believe such support is needed.

In conclusion, Mr. Speaker, I urge favorable consideration of this legislation which continues our Federal commitment to nursing education for 2 years.

● Mr. CONTE. Mr. Speaker, I rise in support of the Nurse Training Amendments of 1978.

This measure provides for a 2-year extension at current levels of the nurse training authorities under title VIII of the Public Health Service Act and further reflects a recognition of new roles for nursing personnel which promise to strengthen the attractiveness of the profession and, ultimately, to reduce the cost of health care in America.

Among the extended programs are: The program of annual capitation grants to schools of nursing, which has proven an effective stimulant to nursing school enrollment.

The projects and grants authority for advanced nurse training programs, aimed at preparing nurses for teaching and for service in administrative and supervisory capacities, programs which have served over 2,000 graduate nursing students over the past 3 fiscal years.

The program of grants and contracts for the training of nurse practitioners was first authorized by the 1975 act. This program supports nearly 100 nurse practitioner training programs, graduating approximately 1,000 practitioners annually. Particularly noteworthy is the fact that almost half the graduates are employed in ambulatory care settings in inner cities and rural areas.

The authority to provide low interest student loans for nursing students and to make grants to schools of nursing for scholarships to students of exceptional financial needs. Though fiscal year 1978 nursing student loans under the Nurse Training Act totaled $22.5 million, only 11 percent of nursing students currently receive these loans, which average $800 per student annually.

The authority to provide grants to public or nonprofit private institutions to cover the costs of traineeships for the advanced training of professional nurses, a program which, in fiscal year 1978, aided approximately 3,600 trainees enrolled in graduate programs at 140 participating institutions.

The authority for special projects grants and contracts to improve nursing education, a program which encompasses development of cooperative arrangements between hospital training programs and academic institutions; curricular improvement; continuing education for active nurses; retraining opportunities for inactive nurses desiring to reenter practice; efforts to increase educational opportunities for persons from disadvantaged backgrounds; and efforts to improve the geographic and specialty distribution of nursing personnel. This authority currently supports 160 grants and 6 to 8 contracts annually.

This legislation adds a significant new provision to the Public Health Service Act to authorize HEW to make grants to public or private nonprofit institutions to cover the costs of traineeships for the training of licensed, registered nurses to be nurse anesthetists. There has been a developing trend for nursing and allied health professions to assume new roles. Nurses can and do perform many functions once done only by doctors and rendering anesthesia services is one of them. Though 48.5 percent of anesthesia services are provided by nurse anesthetists, analysts anticipate a growing demand for their services and there is a need to step up training in this area. Nurse anesthetists offer significant cost benefits in this time of spiraling health care costs—the majority of nurse anesthetists are salaried employees of hospitals earning an average annual salary of $19,000; the average annual income of a hospital-based anesthetist, compensated on a fee-for-service basis, exceeds $75,000.

The nurse training amendments are necessary, practical, cost-efficient, and deserving of your support.

Thank you.●

● Mr. MICHEL. Mr. Speaker, there are several observations I would like to make regarding this bill, particularly from the standpoint of the Appropriations Committee.

First of all, it is noteworthy that the nursing authorization levels for fiscal years 1979 and 1980 are identical with the 1978 level, with the exception of an additional $2 million for the new nurse anesthetist training program. It is an unusual situation when the authorization committee refrains from raising the authorization levels, irrespective of the amounts appropriated, and when this occurs, it usually indicates some doubt as to the need or direction of the program.

Second, the authorization level of $208 million, despite being stabilized, is still nearly twice the amount we appropriated last year, $119.5 million, and is 10 times the total requested by President Carter in his 1979 budget. I would anticipate that when we take up the appropriations question, the amount will be in the neighborhood of last year's figure, and nowhere near the authorization level. So once again, we are talking about the adoption of unrealistically high authorization levels which are out of step with the actual spending policies of Congress.

I note that the bill contains a provision requiring HEW to conduct a study "to determine the need to continue a specific program of Federal financial support for nursing education." According to the committee report:

> The study is to take into account the need for nurses under the present health care delivery system and under that system as it may be changed by the enactment of national health insurance legislation, the cost of nursing education, and the availability of other sources of support for nursing education including support under general programs of Federal financial support of post-secondary education under State and other public programs and from private sources.

I hope this study will finally give us some straight answers as to the real nursing needs in this country, but I would have to question the supposedly unbiased nature of the study if the study group includes too many representatives of the nursing profession.

Finally, I want to call attention to, and express support for, the committee amendment pertaining to the area health education center program which is included as part of this package. That amendment would basically exclude existing AHEC's from coverage under new HEW regulations governing this program—regulations which were apparently required by Congress—and allow such AHEC's to finish their funding cycles under the present regulations.

Requiring them to operate under new regulations would be like changing the rules in midstream, and would be particularly onerous to the University of Illinois, because it would apparently require the Division of Medicine to change its entire structural organization. This would be another example of the Federal, bureaucracy making life unreasonably difficult for our educational institutions.●

● Mr. STAGGERS. Mr. Speaker, nurses are a national resource. There is no better investment in America than to invest in training of our Nation's nurses.

H.R. 12303, reported by the Committee on Interstate and Foreign Commerce, continues this Nation's commitment to quality nurse training. It extends, at reasonable levels, authorizations for construction of nursing facilities, institutional support of nursing schools, graduate training programs, nurse practitioner programs, and student loan and scholarship programs. In addition, it contains an important technical amendment which would allow the existing area health education centers to receive Federal funding during the coming year.

Mr. Speaker, all of us can support this legislation, which is critical to nursing education. I urge its adoption.●

Mr. CARTER. Mr. Speaker, I have no further requests for time. I strongly urge passage of this legislation.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. ROGERS) that the House suspend the rules and pass the bill H.R. 12303.

The question was taken.

Mr. WEISS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII and the Chair's prior announcement, further proceedings on this motion will be postponed.

HEALTH CENTERS AMENDMENTS OF 1978

Mr. ROGERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12460) to amend the Public Health Service Act and the Community Mental Health Centers Act to revise and extend the programs under those acts for health care delivery centers, and for other purposes, as amended.

The Clerk read as follows:

H.R. 12460

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Health Centers Amendments of 1978".

TITLE I—PUBLIC HEALTH SERVICE ACT AMENDMENTS

REFERENCE TO ACT

SEC. 101. Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

MIGRANT HEALTH CENTERS

SEC. 102. (a)(1) Subsection (a)(1) of section 319 is amended by inserting after "as may be appropriate for particular centers" in subparagraphs (D) and (E) the following: "(as determined by the centers)".

(2) Subparagraph (G) of such subsection is amended to read as follows:

"(G) information on the availability and proper use of health services and services which promote and facilitate optimal use of health services, including, if a substantial number of the individuals in the population served by a center are of limited English-speaking ability, the services of appropriate personnel fluent in the language spoken by a predominant number of such individuals,".

(3) Subparagraph (F) of subsection (a)(6) of such section is amended to read as follows:

"(F) pharmaceutical services.".

(4) Subsection (a)(7) of such section is amended—

(A) by amending subparagraph (F) to read as follows:

"(F) dental services (including preventive dental services);",

(B) by amending subparagraph (K) to read as follows:

"(K) social services (including counseling, referral to assistance, and followup services for patients for the social and other nonmedical needs which affect their health status);",

(C) by amending subparagraph (M) to read as follows:

"(M) health education services (including nutrition education).", and

(D) by striking out subparagraphs (I) and (N), by inserting "and" at the end of subparagraph (L), and by redesignating subparagraph (J), (K), (L), and (M) as subparagraphs (I), (J), (K), and (L), respectively.

(b) The second sentence of subsection (b)(1) is amended by inserting a comma before the period and the following: "except that no area which is not a high impact area and in which the number of migratory agricultural workers and the members of their families residing is less than one thousand shall be assigned a priority over a high impact area".

(c)(1) Subparagraph (B) of subsection (d)(1) is repealed and subparagraph (C) of such subsection is redesignated as subparagraph (B).

(2) Paragraph (2) of subsection (d) is amended by striking out "or (1)(B)".

(3) Paragraphs (1) and (3) of subsection (f) are each amended by striking out "(d)(1)(C)" and inserting in lieu thereof "(d)(1)(B)".

(4) Subsection (h)(2) is amended by striking out "(d)(1)(C)" each place it occurs and inserting in lieu thereof "(d)(1)(B)".

(d) Paragraph (3) of subsection (d) of such section is amended to read as follows:

"(3)(A) The amount of any grant made in any fiscal year under subparagraph (A) of paragraph (1) to a health center shall be determined by the Secretary, but may not exceed the amount by which the projected costs of operation of the center in such fiscal year exceed the total of—

"(i) the State, local, and other funds, and

"(ii) the fees, premiums, and third-party reimbursements

which the center may reasonably be expected to receive for its operations in such fiscal year. In determining the amount of such a grant for a center, the Secretary, if funds have been requested for a service described in subparagraph (D) or (E) of subsection (a)(1) or a supplemental health service described in subparagraph (B), (F), (J), or (L) of subsection (a)(7), shall include (in an amount determined by the Secretary) funds for such service unless the Secretary makes a written finding that such service is not needed and provides the applicant with a copy of such finding.

"(B) Payments under grants under subparagraph (A) of paragraph (1) shall be made in advance or by way of reimbursement and in such installments as the Secretary finds necessary and adjustments may be made for overpayments or underpayments, except that if in any fiscal year the sum of—

"(i) the total of the amounts described in clauses (i) and (ii) of subparagraph (A) of this paragraph received by a center in such fiscal year, and

"(ii) the amount of the grant to the center in such fiscal year,

exceeded the costs of the center's operation in such fiscal year because the amount received by the center from fees, premiums, and third-party reimbursements was greater than expected, adjustment in the grant to the center in the succeeding fiscal year shall be made in such a manner that the center may retain one-half of the amount by which such sum exceeded such cost but only for the purpose of enabling the center to expand and improve its services, to increase the number of persons it is able to serve, to construct and modernize its facilities, to improve the administration of its service programs, and to establish the financial reserve required for the furnishing of services on a prepaid basis.".

(e) Subsection (f) of such section is amended by redesignating paragraph (2) as paragraph (3) and by adding after paragraph (1) the following:

"(2) An application for a grant under subparagraph (A) of subsection (d)(1) for a migrant health center shall include (A) a description of the need in the center's catchment area for each of the health services described in subparagraphs (D) and (E) of subsection (a)(1) and in subparagraphs (B), (F), (J), and (L) of subsection (a)(7), (B) if the applicant determines that any such service is not needed, the basis for such determination, and (C) if the applicant does not request funds for any such service which the applicant determines is needed, the reason for not making such a request. In considering an application for a grant under subparagraph (A) of subsection (d)(1), the Secretary may require as a condition to the approval of such application assurance that the applicant will provide any specified health service described in subsection (a) which the Secretary finds is needed to meet specific health needs of the area to be served by the applicant. Such a finding shall be made in writing and a copy shall be provided the applicant.".

(f)(1)(A) Subparagraph (G) of paragraph (3) (as so redesignated) of subsection (f) of such section is amended by striking out clause (ii) and inserting in lieu thereof the following: "(ii) selects the services to be provided by the center, schedules the hours during which such services will be provided, approves the center's annual budget, approves the selection of a director for the center, and, except in the case of a governing board of a public center, establishes general policies for the center; and if the application is for a second or subsequent grant for a public migrant health center, the governing body of the center has approved the application or if the governing body has not approved the application, the failure of the governing body to approve the application was unreasonable;".

(B) The change in the governing board requirements for migrant health centers made by the amendment made by subparagraph (A) to section 319(f)(3)(G)(ii) of the Public Health Service Act shall not apply with respect to any public migrant health center which met the governing board requirements in effect under such section before October 1, 1978.

(2) Subparagraph (H) of such paragraph is amended (A) by striking out "and (IV)" and inserting in lieu thereof "(IV)", and (B) by inserting before the semicolon at the end ", and (V) expenditures made from any amount the center was permitted to retain under subsection (d)(3)(B)".

(g)(1)(A) The first sentence of subsection (h)(1) of such section is amended by striking out "and" after "1977," and by inserting before the period a comma and the following: "$2,200,000 for the fiscal year ending September 30, 1979, $2,500,000 for the fiscal year ending September 30, 1980, and $2,900,000 for the fiscal year ending September 30, 1981".

(B) The second sentence of such section is amended by striking out "two fiscal years".

(2)(A) The first sentence of subsection (h)(2) of such section is amended (i) by striking out "other than" and inserting in lieu thereof "including", (ii) by striking out "and" after "1977,", and (iii) by inserting before the period a comma and the following: "$38,800,000 for the fiscal year ending September 30, 1979, $44,600,000 for the fiscal year ending September 30, 1980, and $51,300,000 for the fiscal year ending September 30, 1981".

(B) The third sentence of such section is amended by striking out "fiscal years ending September 30, 1977, and September 30, 1978" and inserting in lieu thereof "any fiscal year".

(3) Section 319(h)(3) is amended to read as follows:

"(3) In any fiscal year, the Secretary shall obligate for payments under grants and contracts in such fiscal year under subsection (d)(1) for the provision of inpatient and outpatient hospital services not less than 10 per centum of the amount appropriated in such fiscal year under paragraph (2) and not more than $5,000,000.".

(h) The amendments made by this section shall apply with respect to grants and contracts made under section 319 of the Public Health Service Act from appropriations for the fiscal year ending after September 30, 1978.

COMMUNITY HEALTH CENTERS

SEC. 103. (a) Subsection (a) of section 330 is amended by striking out "as may be appropriate for particular centers" in paragraph (4) and inserting in lieu thereof "as may be appropriate for particular centers (as determined by the centers)".

(b) Subsection (b)(1) of such section is amended by amending subparagraph (F) to read as follows:

"(F) pharmaceutical services.".

(c) Paragraph (2) of subsection (b) such section is amended—

(1) by amending subparagraph (F) to read as follows:

"(F) dental services (including preventive dental services);",

(2) by striking out subparagraph (I),

(3) by amending subparagraph (K) to read as follows:

"(K) social services (including counseling, referral to assistance, and followup services for patients for the social and other nonmedical needs which affect their health status);",

(3) by amending subparagraph (M) to read as follows:

"(M) health education services (including nutrition education); and",

(4) by striking out "outreach workers" in subparagraph (N) and inserting in lieu thereof "appropriate personnel", and

(5) by redesignating subparagraphs (J) through (N) as subparagraphs (I) through (M), respectively. (d) Paragraph (4) of subsection (d) of such section is amended to read as follows:

"(4)(A) The amount of any grant made in any fiscal year under paragraph (1) to a community health center shall be determined by the Secretary, but may not exceed the amount by which the projected costs of operation of the center in such fiscal year exceed the total of—

"(i) the State, local, and other funds, and

"(ii) the fees, premiums, and third-party reimbursements

which the center may reasonably be expected to receive for its operation in such fiscal year. In determining the amount of a grant for a center, the Secretary, if funds have been requested for an environmental health service described in subsection (a)(4) or a supplemental health service described in subparagraph (B), (F), (J), (L), or (M) of subsection (b)(2), shall include (in an amount determined by the Secretary) funds for such service unless the Secretary makes a written finding that such service is not needed and provides the applicant with a copy of such finding.

"(B) Payments under grants under paragraph (1) shall be made in advance or by way of reimbursement and in such installments as the Secretary finds necessary and adjustments may be made for overpayments or underpayments, except that if in any fiscal year the sum of—

"(i) the total of the amounts described in clauses (i) and (ii) of subparagraph (A) received by a center in such fiscal year, and

"(ii) the amount of the grant to the center in such fiscal year,

exceeded the costs of the center's operation in such fiscal year because the amount received by the center from fees, premiums, and third-party reimbursements was greater than expected, adjustment in the grant to the center in the succeeding fiscal year shall be made in such a manner that the center may retain one-half of the amount by which such sum exceeded such cost but only for the purpose of enabling the center to expand and improve its services, to increase the number of persons it is able to serve, to construct and modernize its facilities, to improve the administration of its service programs, and to establish the financial reserve required for the furnishing of services on a prepaid basis.".

(e)(1) Subsection (e) of such section is amended by redesignating paragraph (2) as paragraph (3) and by adding after paragraph (1) the following:

"(2) An application for a grant under subsection (d) for a community health center shall include (A) a description of the need in the center's catchment area for each of the health services described in subsection (a)(4) and in subparagraphs (B), (F), (J), (L), and (M) of subsection (b)(2), (B) if the applicant determines that any such service is not needed, the basis for such determination, and (C) if the applicant does not request funds for any such service which the applicant determines is needed, the reason for not making such a request. In considering an application for a grant under subsection (d), the Secretary may require as a condition to the approval of such application assurance that the applicant will provide any specified health service described in subsection (a) or (b) which the Secretary finds is needed to meet specific health needs of the area to be served by the applicant. Such a finding shall be made in writing and a copy shall be provided the applicant.".

(2)(A) Subparagraph (G) of paragraph (3) (as so redesignated) of such subsection is amended by striking out clause (ii) and inserting in lieu thereof the following: "(ii) meets at least once a month, selects the services to be provided by the center, schedules the hours during which such services will be provided, approves the center's annual budget, approves the selection of a director for the center, and, except in the case of a governing board of a public center, establishes general policies for the center; and if the application is for a second or subsequent grant for a public center, the governing body has approved the application or if the governing body has not approved the application, the failure of the governing body to approve the application was unreasonable;".

(B) The change in the governing board requirements for public community health centers made by the amendment made by subparagraph (A) to section 330(e)(3)(G)(ii) of the Public Health Service Act shall not apply with respect to any public community heath center which met the governing board requirements in effect under such section before October 1, 1978.

(3) Subparagraph (H) of such paragraph is amended (A) by striking out "and (IV)" and inserting in lieu thereof "(IV)", and (B) by inserting before the semicolon at the end ", and (V) expenditures made from any amount the center was permitted to retain under subsection (d)(4)(B)".

(4) Subsection (e) is amended by adding at the end the following:

"(4) The Secretary shall approve applications for grants under subsection (d) for community health centers which have not received a prior grant under such subsection or which have applied for such a grant to expand their services in such a manner that the ratio of the medically underserved populations in rural areas which may be expected to use the services provided by such centers to the medically underserved populations in urban areas which may be expected to use the services provided by such centers is not less than two to three or greater than three to two.".

(f)(1) Paragraph (1) of subsection (g) of such section is amended by striking out "and" after "1977," and by inserting before the period a comma and the following: "$6,300,000 for the fiscal year ending September 30, 1979, $7,500,000 for the fiscal year ending September 30, 1980, and $9,000,000 for the fiscal year ending September 30, 1981".

(2) Paragraph (2) of such subsection is amended by striking out "and" after "1977," and by inserting before the period a comma and the following: "$359,700,000 for the fiscal year ending September 30, 1979, $431,500,000 for the fiscal year ending September 30, 1980, and $518,000,000 for the fiscal year ending September 30, 1981".

(g) The amendments made by this section shall apply with respect to grants made under section 330 of the Public Health Service Act from appropriations for fiscal years ending after September 30, 1978.

TECHNICAL ASSISTANCE GRANTS AND ASSESSMENT OF CONTINUING EDUCATION

SEC. 104. (a) Part A of title III is amended by adding after section 314 the following new section:

"TECHNICAL ASSISTANCE GRANTS

"SEC. 315. (a)(1) The Secretary may make grants to entities of State governments and to nonprofit private entities (other than schools of the health professions) to assist such entities in meeting their costs of providing technical assistance to entities engaged in the planning, development, or operation (or in any combination of such activities) of migrant health centers under section 319, community health centers under section 330, or any other centers for the delivery of primary health care. The technical assistance with respect to which a grant may be made under this paragraph includes—

"(A) assistance in the selection of sites for such centers,

"(B) assistance in the selection of governing boards for such centers,

"(C) assistance in the management of the service programs of such centers,

"(D) assistance in the recruitment, selection, and retention of personnel (including members of the National Health Service Corps) for such centers,

"(E) assistance in financial management, and

"(F) assistance in the procurement of facilities, equipment, and supplies for such centers.

"(2) In making grants under paragraph (1), the Secretary shall, to the extent feasible, make such grants to—

"(A) entities which will provide technical assistance on a statewide basis for the planning, development, and operation of centers to provide primary health care in urban and rural areas,

"(B) entities which will provide technical assistance solely for the planning, development, and operation of centers to provide primary health care in large, densely populated areas,

"(C) entities which will provide technical assistance solely on a statewide basis for the planning, development, and operation of centers to provide primary health care in rural areas, and

"(D) entities which will provide technical assistance on a regional basis in large States. Grants under paragraph (1) to nonprofit private entities may only be made to such entities to provide technical assistance in the States in which they are primarily engaged in business.

"(b)(1) No grant may be made under subsection (a) unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary may require by regulation.

"(2) The amount of any grant under subsection (a) shall be determined by the Secretary, except that no grant to any entity in any fiscal year may exceed $500,000. Payments under such grants may be made in advance on the basis of estimates or by the way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants.

"(c) The Secretary shall establish a Primary Health Care Advisory Committee (hereinafter in this subsection referred to as the 'Committee') to make recommendations respecting—

"(1) the capabilities of applicants for grants under subsection (a) to effectively carry out the projects for which the grants would be made;

"(2) the renewal of grants under such subsection; and

"(3) the evaluation to be made under section 104(b) of the Health Centers Amendments of 1978.

The Committee shall consist of five members appointed by the Secretary, in accordance with section 222, from individuals who are not officers or employees of the Federal Government and who because of their expertise in providing technical assistance to primary health care centers are particularly qualified to serve on the Committee. Section 208(c) shall apply to compensation and allowances for members of the Committee.

"(d) For the purpose of carrying out this section, there are authorized to be appropriated $3,000,000 for the fiscal year ending September 30, 1979, $3,000,000 for the fiscal year ending September 30, 1980, and $3,000,000 for the fiscal year ending September 30, 1981.".

(b) Not later than January 1, 1981, the Secretary of Health, Education, and Welfare shall submit a report to the Congress on—

(1) the effectiveness of the entities assisted with grants under section 315 of the Public Health Service Act in—

(A) establishing centers which meet the requirements of section 319 or 330 of the Public Health Service Act,

(B) improving the acceptability, in the communities served, of migrant health centers, community health centers, and other centers engaged in the delivery of primary health care,

(C) improving the ability of such centers in attracting and retaining health professions personnel,

(D) assisting such centers in reducing their dependence on public funding;

(2) the effect on the effectiveness of entities assisted under grants under such section 315 of (A) the type of area to be served by the centers for which planning, development, and operation assistance was provided by such entities, and (B) the organizational structure of such entities.

(c) The Secretary of Health, Education, and Welfare shall conduct an assessment of the various types of continuing education programs available for health professions personnel in medically underserved areas and the effect such types of programs have on the retention of such personnel by centers engaged in the delivery of primary health care in such areas. The Secretary shall report the results of such assessment to the Congress not later than January 1, 1980.

DEMONSTRATION PROJECTS IN RURAL MEDICALLY UNDERSERVED AREAS

SEC. 105. The Secretary of Health, Education, and Welfare may make grants to—

(1) public and nonprofit private entities which received grants from appropriations made for the fiscal year ending September 30, 1978, to carry out demonstration projects under section 1110 of the Social Security Act related to health services in rural medically underserved areas, and which before September 30, 1978, had applications approved by the Secretary under such section for grants for the fiscal year ending September 30, 1979, and

(2) to any public and nonprofit private entity which before September 30, 1978, had an application approved by the Secretary under such section for a grant for the fiscal year ending September 30, 1979, to enable such entities to carry out demonstration projects under such applications in the fiscal year ending September 30, 1979. For the purpose of the grants under this section, there is authorized to be appropriated $13,500,000 for the fiscal year ending September 30, 1979.

HEALTH MAINTENANCE ORGANIZATIONS

SEC. 106. (a) Section 1304(j) of the Public Health Service Act is amended by striking out "1978" and inserting in lieu thereof "1979".

(b) Section 1309(a) of the Public Health Service Act is amended (1) by striking out "ending September 30, 1979" and inserting in lieu thereof "ending September 30, 1980", (2) by striking out "and" after "1977,", and (3) by inserting ", and $25,000,000 for the fiscal year ending September 30, 1979" after "1978".

TITLE II—MENTAL HEALTH PROGRAMS

SHORT TITLE; REFERENCE TO ACT

SEC. 201. (a) This title may be cited as the "Community Mental Health Centers Amendments of 1978".

(b) Whenever in this title (other than in sections 203, 211, 212) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Community Mental Health Centers Act.

COMMUNITY MENTAL HEALTH CENTERS REQUIREMENTS

SEC. 202. (a)(1) Section 201(b)(1) is amended to read as follows:

"(b)(1) The comprehensive mental health services which shall be provided through a community mental health center are as follows:

"(A) Beginning on the date the community mental health center is established for purposes of this title, the services provided through the center shall include—

"(i) inpatient services, emergency services, and outpatient services;

"(ii) assistance to courts and other public agencies in screening residents of the center's catchment area who are being considered for referral to a State mental health facility for inpatient treatment and provision, where appropriate, of treatment for such persons through the center as an alternative to inpatient treatment at such a facility;

"(iii) provision of followup care for residents of its catchment area who have been discharged from inpatient treatment at a mental health facility;

"(iv) consultation and education services which—

"(I) are for a wide range of individuals and entities involved with mental health services, including health professionals, schools, courts, State and local law enforcement and correctional agencies, members of the clergy, public welfare agencies, health service delivery agencies, and other appropriate entities; and

"(II) include a wide range of activities (other than the provision of direct clinical services) designed to develop effective mental health programs in the center's catchment area, promote the coordination of the provision of mental health services among various entities serving the center's catchment area, increase the awareness of the residents of the center's catchment area of the nature of mental health problems and the types of mental health services available, and promote the prevention and control of rape and the proper treatment of the victims of rape; and

"(v) the services required by subparagraph (B) which the center shall provide in accordance with a plan approved by the Secretary under which the center will during the three-year period beginning on such establishment date assume in increments the provision of the services required by subparagraph (B) and will upon the expiration of such three-year period provide all the services required by this subparagraph and subparagraph (B).

"(B) After the expiration of such three-year period, a community mental health center shall provide, in addition to the services required by subparagraph (A), services which include—

"(i) day care and other partial hospitalization services;

"(ii) a program of specialized services for the mental health of children, including a full range of diagnostic, treatment, liaison, and followup services (as prescribed by the Secretary);

"(iii) a program of specialized services for the mental health of the elderly, including a full range of diagnostic, treatment, liaison, and followup services (as prescribed by the Secretary);

"(iv) a program of transitional half-way house services for mentally ill individuals who are residents of its catchment area and who have been discharged from inpatient treatment in a mental health facility or would without such services require inpatient treatment in such a facility; and

"(v) provision of each of the following service programs (other than a service program for which there is not sufficient need (as determined by the Secretary) in the center's catchment area, or the need for which in the center's catchment area the Secretary determines is currently being met):

"(I) A program for the prevention and treatment of alcoholism and alcohol abuse and for the rehabilitation of alcohol abusers and alcoholics.

"(II) A program for the prevention and treatment of drug addiction and abuse and for the rehabilitation of drug addicts, drug abusers, and other persons with drug dependency problems."

(2) Section 204 is amended by striking out "section 201(b)(1)(D)" each place it occurs and inserting in lieu thereof "section 201(b)(1)(A)(iv)".

(b) Section 201(b)(2)(A) is amended by striking out "in the" and inserting in lieu thereof "in or serving the residents of the".

(c) Subparagraph (B) of section 201(c)(1) is amended to read as follows:

"(B) Subparagraph (A) shall not apply to a community mental health center which is operated by a governmental agency or a hospital, but the agency or hospital operating the center shall appoint a committee to advise it with respect to the operations of the center, which committee shall be composed of individuals who reside in the center's catchment area, who are representatives of the residents of the area as to employment, age, sex, place of residence, and other demographic characteristics, and at least one-half of whom are not providers of health care.".

HEALTH PLANNING REQUIREMENTS

SEC. 203. (a) Section 1502 of the Public Health Service Act is amended by adding after paragraph (10) the following:

"(11) The elimination of inappropriate placement in institutions of persons with mental health problems and the improvement of the quality of care provided those with mental health problems for whom institutional care is appropriate.

"(12) Assurance of access to community mental health centers and other mental health care providers for needed mental health services to emphasize the provision of outpatient as a preferable alternative to inpatient mental health services.".

(b) Section 1513(b)(2) of the Public Health Service Act is amended by inserting after the first sentence the following: "The HSP of the agency shall include goals for the delivery of mental health services in its health service area which goals shall be developed under a procedure under which persons (acting as an advisory group or subcommittee appointed by the agency or, if the agency requests and is authorized by order of the Secretary to use an existing group, acting as part of such a group) knowledgeable about such services (including services for substance abuse) will be consulted with respect to such goals.".

(c)(1) Section 1523(a)(1) of the Public Health Service Act is amended (A) by inserting "(A)" after "(1)", and (B) by inserting before the period a comma and the following: "and (B) determine the statewide health needs of the State after providing reasonable opportunity for the submission of written recommendations respecting such needs by the State health authority, the State mental health authority, and other agencies of the State government, designated by the Governor for the purpose of making such recommendations, and after consulting with the Statewide Health Coordinating Council".

(2) Section 1523(a)(2) of the Public Health Service Act is amended by inserting after the first sentence the following: "In carrying out its functions under this paragraph, the State Agency shall refer the HSP's to the State health authority, the State mental health authority, and other agencies of the State government (designated by the Governor to make the review prescribed by this sentence) to review the goals and related resource requirements of the HSP's and to make written recommendations to the State Agency respecting such goals and requirements.".

(3) Subsection (a) of section 1523 of the Public Health Service Act is amended by adding after and below paragraph (6) the following: "If in determining the statewide health needs under paragraph (1)(B) or in preparing or revising a preliminary State health plan under paragraph (2) the State Agency does not take an action proposed in a recommendation submitted under the applicable paragraph, the State Agency shall when publishing such needs or health plan make available to the public a written statement of its reasons for not taking such action.".

(d) Section 1524(c)(2) of the Public Health Service Act is amended by adding after subparagraph (B) the following:

"(C) In carrying out its functions with respect to the goals and resource requirements for mental health services of the State health plan, the SHCC may establish a procedure under which persons (acting as or as part of an advisory group or subcommittee appointed by the SHCC) knowledgeable about mental health services (including services for substance abuse) will have the opportunity to make recommendations to the SHCC respecting such services.

"(D) The State health authority, the State mental health authority, and other agencies of the State government, designated by the Governor, shall carry out those parts of the State health plan which relate to the government of the State."

(e) Section 1512(b)(3)(C)(iii) of the Public Health Service Act is amended by redesignating subclauses (II) and (III) as subclauses (III) and (IV), respectively, and by adding after subclause (I) the following:

"(II) include (through consumer and provider members) individuals who are knowledgeable about mental health services (including services for substance abuse),".

(f)(1) Section 303(a) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 is amended by adding after and below paragraph (16) the following: "Such plan shall be consistent with the State health plan in effect for such State under section 1524(c) of the Public Health Service Act.".

(2) Section 409(e) of the Drug Abuse Office and Treatment Act of 1972 is amended by adding after and below paragraph (13) the following: "Such plan shall be consistent with the State health plan in effect for such State under section 1524(c) of the Public Health Service Act.".

(g) The amendments made by this section shall take effect one year after the date of the enactment of this Act, except that on and after the date of the enactment of this Act the change in the membership of health systems agencies required by the amendments of section 1512 of the Public Health Service Act shall be implemented through selections of members to fill vacancies occurring after such date.

OPERATIONS GRANTS TECHNICAL ASSISTANCE AND MONITORING

SEC. 204. (a) Section 203(e)(1)(A)(i) is amended by striking out "unless it meets the requirements of section 201" and inserting in lieu thereof the following: "(other than section 271) unless it provides, at a minimum, the comprehensive mental health services described in clauses (i) through (iv) of section 201(b)(1)(A)".

(b Section 206(e) is amended (1) by inserting "(1)" after "(e)", and (2) by adding at the end the following new paragraph:

"(2) Not more than one per centum of the total amount appropriated under sections 203, 204, and 205 for any fiscal year shall be used by the Secretary to enter into contracts with State mental health authorities under which the authorities (A) would monitor the activities of community mental health centers (other than centers operated by such authorities) receiving grants under this title to determine if the requirements of this title applicable to the receipt of such grants are being met, and (B) would be provided funds to meet the expenses of conducting such monitoring. The authority of the Secretary to enter into contracts under this paragraph shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.".

SUPPLEMENTAL SUPPORT GRANTS

SEC. 205. (a) Effective October 1, 1978, part B is amended—

(1) by amending the part heading to read as follows:

"PART B—SUPPLEMENTAL SUPPORT GRANTS",

(2) by inserting after the part heading the following:

"Subpart 1—Financial Distress Grants",

and

(3) by adding after section 213 the following:

"Subpart 2—Supplemental Support Grants

"SUPPLEMENTAL SUPPORT GRANTS

"SEC. 215. (a)(1) The Secretary may make annual grants to community mental health centers to assist them in meeting the costs of providing the consultation and education services described in clause (iv) of section 201(b)(1)(A) and the followup services described in clause (iii) of such section and in meeting the costs (as defined by regulations of the Secretary) of administering all the service programs of the centers. A community mental health center may not receive a grant under this paragraph unless the center—

"(A) received a grant under section 220 of this title (as in effect before the date of enactment of the Community Mental Health Centers Amendments of 1975) for compensation of personnel for its initial operation and, because of the limitations respecting the period for which grants under that section may be made, may not receive under section 203(e) an additional grant under such section 220 for compensation of such personnel; or

"(B) received a grant under section 203 (a) and, because of the limitations respecting the period for which grants under such section may be made, may not receive an additional grant under such section.

"(2) The Secretary, under exceptional circumstances, may make grants to community mental health centers to assist them in meeting the costs of providing the consultation and education services described in clause (iv) of section 201(b)(1)(A) and required to be provided as a condition to the receipt of a great under section 203. A community mental health center may not receive a grant under this paragraph unless the Secretary determines that without a grant under this setcion the center would not be able to provide such required consultation and education services. No grant may be made under this paragraph to a center until it has received four grants under section 203 or atfer the date it qualifies under subparagraph (A) or (B) of paragraph (1) for a grant under such paragraph.

"(b) No grant may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Except as provided in regulations of the Secretary, such an application shall meet the requirements of section 206 (c)(1) and shall contain assurances satisfactory to the Secretary that the applicant will, during the period which it receives a grant under this section, provide at a minimum, the comprehensive mental health services described in clauses (i) through (iv) of section 201(b)(1)(A), and section 206(d) shall apply with respect to such application. An application for a grant to a community mental health center which has not received a grant under this subsection may be approved by the Secretary only if the National Advisory Mental Health Council has recommended that the application be approved.

"(c)(1) Each grant under subsection (a) shall be made for the one-year period beginning on the first day of the first month beginning after the date the grant is made.

"(2) The amount of a grant under subsection (a) to a community mental health center shall be determined by the Secretary, except that no grant to such a center may exceed the product of $1.00 and the population of the catchment area served by the center. Payments under such grants may be made in advance on the basis of estimates or by the way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants. Paragraph (4) of section 206(c) shall apply with respect to grants made under subsection (a). The populations of the catchment areas shall be determined on the basis of the latest figures for the populations of the States available from the Department of Commerce.

"(d) For the purpose of making grants under subsection (a), there are authorized to be appropriated $30,000,000 for the fiscal year ending September 30, 1979, $45,000,000 for the fiscal year ending September 30, 1980, and $50,000,000 for the fiscal year ending September 30, 1981. Not more than 5 per centum of the amount appropriated under this subsection in any fiscal year may be used to make grants for such fiscal year under section 215(a)(2).".

(b)(1) Section 213 is amended by striking out "and" after "1977," and by inserting after "1978," the following: "and $25,000,000 for the fiscal year ending September 30, 1979,".

(2) Effective October 1, 1980, subpart 1 of part B (as so designated by the amendments made by subsection (a)) and the heading for subpart 2 are repealed.

(c)(1) Section 204(c) is amended (A) by inserting "(1)" after "(c)", and (B) by adding at the end the following:

"(2) For the purpose of making grants under this section—

"(A) to community mental health centers which are described in subsection (a)(1)(B) and which received grants under this section from appropriations made for the fiscal year ending September 30, 1979, and

"(B) until such centers are eligible for grants under section 215, as added by the Community Mental Health Center Amendments of 1978,

there are authorized to be appropriated $30,000,000 for the fiscal year ending September 30, 1979, $3,000,000 for the fiscal year ending September 30, 1980, and $1,500,000 for the fiscal year ending September 30, 1981."

(2) Effective October 1, 1981, section 204 is repealed.

(d)(1) Section 205(c) is amended (A) by inserting "(1)" after "(c)", and (B) by adding at the end the following:

"(2) For the purpose of making grants under this section to community mental health centers which received grants under this section from appropriations made for the fiscal year ending September 30, 1978, or the next fiscal year, there are authorized to be appropriated $30,000,000 for the fiscal year ending September 30, 1979, and $25,000,000 for the fiscal year ending September 30, 1980."

(2) Effective October 1, 1980, section 205 is repealed.

(c) Section 211(1)(A) is amended (1) by inserting "for compensation of personnel for its initial operation" after "1975)", and (2) by inserting "for compensation of such personnel" after "under that section".

APPLICATIONS

SEC. 206. Section 206(c)(2) is amended—

(1) by amending the matter preceding subparagraph (A) to read as follows: "The Secretary may approve an application for a grant under section 203, 204, or 205 only if the application meets the requirements of paragraph (1) and, except as provided in paragraph (3)—";

(2) by inserting "the Secretary" before "determines" in subparagraphs (A) and (B); and

(3) by striking out "and" at the end of clause (iii) of subparagraph (B), by striking out the period at the end of clause (iv) of such subparagraph and inserting in lieu thereof a semicolon, and by adding after such subparagraph the following:

"(C) in the case of an application for the first grant under section 203, 204, or 205, or an application for a grant under such section which requests a grant in an amount greater than the amount specified by the applicant in its plan and budget submitted in accordance with paragraph (1)(A)(i), the application is recommended for approval by the National Advisory Mental Health Council; and

"(D) in the case of an application of a community mental health center operated by a governmental agency or hospital for a grant which is not the first grant, the committee appointed pursuant to section 201(c)(1)(B) has approved the application or if such committee has not approved the application, the Secretary determines that the failure to approve the application was unreasonable.".

CATCHMENT AREAS

SEC. 207. Section 238(2) is amended by inserting "health service areas," after "political subdivisions,".

AUTHORIZATIONS

SEC. 208. (a) Section 202(d) is amended by striking out "and" after "1977,", and inserting before the period a comma and the following: "$1,000,000 for the fiscal year ending September 30, 1979, $1,000,000 for the fiscal year ending September 30, 1980, and $1,000,000 for the fiscal year ending September 30, 1981".

(b)(1) Section 203(d)(1) is amended by striking out "and" after "1977,", and inserting before the period a comma and the following: "$30,000,000 for the fiscal year ending September 30, 1979, $35,000,000 for the fiscal year ending September 30, 1980, and $40,000,000 for the fiscal year ending September 30, 1981".

(2) Section 203(d)(2) is amended (A) by striking out "1978" and inserting in lieu thereof "1981", and (B) by striking out "two fiscal years" and inserting in lieu thereof "five fiscal years".

(c) Section 231(d) is amended by striking out "and" after "1977,", and inserting before the period a comma and the following: "$8,000,000 for the fiscal year ending September 30, 1979, $9,000,000 for the fiscal year ending September 30, 1980, and $10,000,000 for the fiscal year ending September 30, 1981".

(d)(1)(A) Subsection (b)(1) of section 203 is amended by adding before the period a comma and the following: "except that if at the end of such period a center or entity has not obligated all the funds received by it under a grant, the center or entity may use the unobligated funds under the grant in the succeeding year for the same purposes for which such grant was made but only if the center or entity is eligible to receive a grant under subsection (a) for such succeeding year".

(B) Subsection (c) of section 203 is amended by adding at the end the following: "The amount of a grant prescribed by paragraph (1) or (2) for a community mental health center for any year shall be reduced by the amount of unobligated funds from the preceding year which the center is authorized, under subsection (b)(1), to use in that year."

(2)(A) Paragraph (1)(A) of subsection (e) of such section is amended (i) by striking out "and" at the end of clause (i), (ii) by redesignating clause (ii) as clause (iii), and (iii) by inserting after clause (i) the following:

"(ii) the amount prescribed for a grant under the applicable repealed section for an entity for any year shall be reduced by the amount of unobligated funds from the preceding fiscal year which the entity is authorized, under subparagraph (B) of this paragraph, to use in that year, and",

(B) Paragraph (1)(B) of such subsection is amended by inserting before the period a comma and the following: "except that if at the end of any period for which such a grant is made an entity has not obligated all of the funds received by it under the grant, the entity may use the unobligated funds under such grant in the succeeding grant period for the same purposes for which such grant was made but only if the entity is eligible to receive such a grant for such grant period".

STATE PLAN REQUIREMENTS

SEC. 209. (a) Subsection (a) of section 206 is amended to read as follows:

'(a) No grant may be made under this part to any entity or community mental health center in any State for a fiscal year ending after September 30, 1981, unless a State health plan meeting the requirements of section 1524 of the Public Health Service Act is in effect for such State.".

(b)(1) Subsection (a) of section 222 is amended by striking out "pursuant to a State plan approved under section 237".

(2) Paragraphs (2) and (3) of section 222 (b) are amended to read as follows:

"(2) the Secretary finds that the application meets the applicable requirements of subsection (e); and

"(3) the Secretary finds that the application has been approved and recommended by the State agency and is entitled to priority over other projects within the State as determined by the State agency.".

(c)(1) Subsection (c)(1) of section 223 is amended (A) by striking out "the provisions required by section 237 to be in a State plan or" in subparagraph (A), (B) by striking out subparagraph (D), (C) by striking out "or" at the end of subparagraph (C), and (D) by inserting "or" at the end of subparagraph (B).

(2) Subsection (c)(2)(B) of section 223 is amended by striking out "(C), or (D)" and inserting in lieu thereof "or (C)".

(d) Section 224(2) is amended by striking out "or 237(c)".

(e) Section 227(a) is amended by striking out "(with State plans approved under section 237)" and inserting in lieu thereof "(with State health plans in effect under section 1524 of the Public Health Service Act after September 30, 1981)".

(f) Section 235(2) is amended by striking out "section 314(d)" and inserting in lieu thereof "section 314(g)".

(g) Section 236 is amended (1) in paragraph (1), by striking out "(A)" and ", or (B)" and all that follows in that paragraph through "hospital", (2) by striking out paragraph (3), (3) by striking out "and" at the end of paragraph (2), and (4) by inserting "and" after paragraph (1).

(h) Section 237 is amended to read as follows:

"STATE MENTAL HEALTH AUTHORITY

"SEC. 237. (a) The State mental health authority shall—

"(1) establish minimum standards for the maintenance and operation of community mental health centers which receive financial assistance under this title and provide for the enforcement of such standards and shall insure that the assistance provided under this title is in furtherance of the State health plan in effect for the State under section 1524 of the Public Health Service Act;

"(2) establish a program for community mental health centers within the State (A) which is based on a statewide inventory of existing facilities and the need for the comprehensive mental health services described in section 201(b); (B) which shall provide for adequate community mental health centers to furnish needed services for persons unable to pay therefor; (C) which is consistent with the State health plan in effect for such State under section 1524(c); and (D) which conforms with regulations prescribed by the Secretary under section 236;

"(3) set forth the relative need, determined in accordance with regulations prescribed under section 236, for the projects included in a program described in paragraph (2); and

"(4) make such reports in such form and containing such information as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

"(b) The State mental health authority shall designate a State advisory council to consult with it in carrying out its functions under this title and title XV of the Public Health Service Act. Such council shall include (1) representatives of entities concerned with the planning, operation, or use of community mental health centers and other mental health facilities, and (2) representatives of consumers and providers of the services of such facilities who are familiar with the need for such services. A majority of the members of such council shall be individuals who are not providers of health care (as defined in section 1531(3) of the Public Health Service Act).".

RAPE CONTROL

SEC. 210. Section 231(c) is amended by inserting after the first sentence the following: "The recommendations of the committee shall be submitted directly to the Secretary without review or revision by any person without the consent of the committee.".

STATE MENTAL HEALTH PROGRAMS

SEC. 211. Subsection (g) of section 314 of the Public Health Service Act is amended to read as follows:

"State Mental Health Programs

"(g)(1) From allotments made pursuant to paragraph (4), the Secretary shall make grants to State mental health authorities to assist them in meeting the costs of carrying out their function under title XV and section 237 of the Community Mental Health Centers Act and, after September 30, 1979, providing mental health services.

"(2) No grant may be made under paragraph (1) unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary may require, and shall contain or be supported by assurances satisfactory to the Secretary that—

"(A) the mental health services provided within the State under the grant applied for will be provided in accordance with the State health plan in effect for such State under section 1524(c);

"(B) funds received under the grant applied for will (i) be used to supplement and, to the extent practical, to increase the level of non-Federal funds that would otherwise be made available for the purposes for which the grant funds are provided, and (ii) not be used to supplant such non-Federal funds;

"(C) the State mental health authority will—

"(i) provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursements of and accounting for funds received under grants under paragraph (1);

"(ii) from time to time, but not less often than annually, report to the Secretary (through a uniform national reporting system and by such categories as the Secretary may prescribe) a description of the mental health services provided in the State in the fiscal year for which the grant applied for is made and the amount of funds obligated in such fiscal year for the provision of each such category of services; and

"(iii) make such reports (in such form and containing such information as the Secretary may prescribe) as the Secretary may reasonably require, and keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness of, and to verify, such reports;

"(D) the State mental health authority will—

"(i) perform the duties prescribed by section 237 of the Community Mental Health Centers Act;

"(ii) prescribe and provide for the enforcement of minimum standards for the maintenance and operation of mental health programs and facilities (including community mental health centers) within the State;

"(iii) provide for assistance to courts and other public agencies and to appropriate private agencies to facilitate (I) screening by community mental health centers (or, if there are no such centers, other appropriate entities) of residents of the State who are being considered for inpatient care in a mental health facility to determine if such care is necesssary, and (II) provision of follow-up care by community mental health centers (or if there are no such centers, by other appropriate entities) for residents of the State who have been discharged from mental health facilities; and

"(iv) establish and carry out fair and equitable arrangements (as determined by the Secretary after consultation with the Secretary of Labor) to protect the interests of employees affected by actions taken to eliminate inappropriate placement in institutions of persons with mental health problems, including arrangements designed to preserve employee rights and benefits and to provide training and retraining of such employees where necessary and arrangements under which maximum effort will be made to guarantee the employment of such employees.

"(3(A) The Secretary shall review annually the activities undertaken by each State mental health authority with an approved application to determine if it complied with the assurances provided with the application. The Secretary may not approve an application submitted under paragraph (2) if the Secretary determines—

"(i) that the State for which the application was submitted did not comply with assurances provided with a prior application under paragraph (2), and

"(ii) that he cannot be assured that the State will comply with the assurances provided with the application under consideration.

"(B) Whenever the Secretary, after reasonable notice and opportunity for a hearing to the State mental health authority of a State, finds that, with respect to funds paid to the authority under a grant under paragraph (1), there is a failure to comply substantially with assurances provided under paragraph (2) with respect to the receipt of such grant, the Secretary shall notify the authority that further payments will not be made to it under such grant (or in his discretion that further payments will not be made to it from such grant for activities in which there is such failure), until he is satisfied that there will no longer be such failure. Until he is so satisfied, the Secretary shall make no payment to such authority from such grant, or shall limit payment under such grant to activities in which there is no such failure.

"(4) For the purpose of determining the total amount of grants that may be made to the State mental authorities of each State, the Secretary shall, in each fiscal year and in accordance with regulations, allot the sums appropriated for such year under paragraph (7) among the States on the basis of the population and the financial need of the respective States. The populations of the States shall be determined on the basis of the latest figures for the population of the States available from the Department of Commerce.

"(5)(A) The Secretary shall determine the amount of any grant under paragraph (1); but the amount of grants made in any fiscal year to the mental health authorities of any State may not exceed the amount of the State's allotment available for obligation in such fiscal year. Payments under such grants may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary.

"(B) The Secretary, at the request of a State mental health authority, may reduce the amount of the grant to it under paragraph (1) by—

"(i) the fair market value of any supplies or equipment furnished the State mental health authority, and

"(ii) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the State mental health authority and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of the State mental health authority and for the purpose of carrying out any project with respect to which its grant under paragraph (1) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the State mental health authority.

"(6) In any fiscal year not less than 70 per centum of the amount of a State's grant shall be available only for the provision of mental health services and for the conduct of mental health planning activities in communities of the State.

"(7) For the purpose of making grants under this subsection there are authorized to be apropriated $10,000,000 for the fiscal year ending September 30, 1979, $25,000,000 for the fiscal year ending September 30, 1980, and $28,000,000 for the fiscal year ending September 30, 1981.

"(8) Regulations (including substantive amendments to regulations) under this subsection shall be promulgated by the Secretary after consultation with a conference of State mental health authorities. The Secretary shall consult with such conference prior to the publication of proposals for such regulations or amendments.".

MISCELLANEOUS

SEC. 212. (a) Effective July 29, 1975, section 225 is amended by striking out "this part" and inserting in lieu thereof "this title".

(b) Section 504(a) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 is amended by adding after and below paragraph (2) the following: "Insofar as practicable, the Secretary shall approve applications under this subsection in a manner which results in an equitable geographic distribution of Centers.".

EFFECTIVE DATE

SEC. 213. The amendments made by this title (other than by sections 203, 205, and 212(a)) to the Community Mental Health Centers Act shall apply with respect to grants made under the Community Mental Health Centers Act from appropriations for fiscal years ending after September 30, 1978.

The SPEAKER pro tempore. Is a second demanded?

Mr. CARTER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida (Mr. ROGERS) will be recognized for 20 minutes, and the gentleman from Kentucky (Mr. CARTER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may require.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. ROGERS. Mr. Speaker, first of all I wish to compliment Dr. CARTER, the ranking minority member of the Subcommittee on Health and the Environment for his usual splendid cooperation in bringing this important piece of legislation to the floor. He has been a strong and consistent supporter of improved primary health care services; and this bill is the latest of a number of pieces of legislation he has supported to accomplish this goal. I also wish to acknowledge the chairman of the Interstate and Foreign Commerce Committee, Mr. STAGGERS, who has been most supportive in our efforts to have this bill enacted. He has established a distinguished record of support for better health care in this country. I commend him for his record and thank him for his assistance and support.

Mr. Speaker, there are approximately 49 million American citizens who live in medically underserved areas and who need access to primary health care services, both physical and mental. The programs included in H.R. 12460 have assisted public and private organizations in providing physical health services to almost 5 million people and mental health services to over 2 million people. Not only have these programs improved the health status of their patients, but as

importantly, they have provided outpatient health services instead of more expensive inpatient health services. H.R. 12460 will extend programs which provide needed health care in the most cost efficient manner.

The bill modifies and extends for 3 fiscal years the migrant health and community health center programs and the State mental health and community mental health center programs. It extends the health maintenance organization programs for 1 additional year without substantive change. It authorizes two small health service delivery demonstration programs which will demonstrate new ways of developing and delivering health services in medically underserved areas. And last, it integrates planning for mental health services and facilities into the health planning programs authorized by title XV of the Public Health Service Act.

In addition to the bill as reported by the committee, this legislation includes three other provisions. I intended to recommend adoption of these changes on the floor if a rule had been granted. First, there are two minor perfecting amendments to the Community Mental Health Center Act regarding the number of mandated services for centers begun prior to 1975 and the monitoring of the performance of centers. Second, there is a reduction in authorizations for the health maintenance organizations program for fiscal year 1979 from $45 million to $25 million. And third, there is an amendment to clarify that new contract authority is not effective for any year unless appropriations are made for that new authority. There are other amendments which are technical and conforming in nature.

Mr. Speaker, H.R. 12460 is important legislation. The health services programs supported by the provisions of this bill are of critical importance to the health and welfare of many Americans. Those programs are designed to prevent illness and to provide primary health care before far more costly secondary or tertiary care may be needed. The cost benefit ratios of such services are clear. H.R. 12460 offers a significant opportunity to lower the economic and social costs of disease.

I urge all Members to join me in supporting this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. CARTER. Mr. Speaker. I yield myself such time as I may consume.

Mr. Speaker. I rise in strong support of H.R. 12640 which revises and extends the following health care delivery programs:

Community health centers, for 3 years.

Migrant health centers, for 3 years.

Community mental health centers, for 3 years.

State mental health programs, for 3 years.

Rape prevention programs, for 3 years.

This bill also authorizes a program of technical assistance for 3 years to assist these centers in planning and development. Finally, this legislation provides for a 1-year extension of the "health underserved rural areas" program and provides 1 additional year of new authorization for the health maintenance organization program.

Mr. Speaker, the basic philosophy behind most of these programs is to provide for the delivery of health care through community-based centers. Whether the center is designed to serve rural medically underserved individuals or migrant workers or persons with mental health problems the source of health care is intended to be locally initiated and accessible to the community.

For example, in 1963 when we first wrote the legislation establishing the community mental health centers program. We recognized the need for a community-based alternative to the large State mental institutions. Since that time Federal funds have supported the initiation of 675 community mental health centers—of which 592 are fully operational.

These 592 community mental health centers have made direct services available to over 2 million persons through the provision of a broad range of clinical, preventive, and consultative services.

Yet, there are still 783 catchment areas without funded community mental health centers.

Clearly, significant progress has been made by these centers programs over the years in providing needed services but I regret that there has not been enough oversight and monitoring of the centers' operations.

In particular I have been concerned about the community mental health centers program. I have been concerned that too much money from the centers' budgets has been going toward costs of administration and that not enough money has been spent on providing needed services.

Also, I believe that the decentralized nature of the program within the National Institute of Mental Health and its regional offices makes it difficult to conduct proper monitoring and review activities. Clearly, there ought to be more accountability from the centers to HEW—and to the Congress—about how tax-dollars are being spent.

To help address some of these concerns the committee adopted my amendment to help improve management of the mental health centers program. It provides new authority for HEW to contract with the States to monitor the centers' activities to determine whether they are in compliance with the act. This monitoring authority should help to identify and correct potential problems early or before they become a hindrance to the center's operation. If needed, HEW can also provide technical assistance to the centers.

Mr. Speaker, although I have had strong concern about certain aspects of these programs I am hopeful that improvements will be forthcoming and I do support their continuation. During our hearings we realized some of the difficulties which centers were facing were because of provisions in the law itself and so we have made those changes where appropriate.

For example, we have amended the law to allow new mental health centers to begin with six basic services and a plan to phase in the remaining services within 3 years instead of the requirement of current law to provide all services at once.

Also, we have given more flexibility to migrant centers and community health centers in determining health service needs of the people they serve.

Finally, I would like to emphasize my support for continuation of the "health underserved rural areas" program—known as HURA.

HURA is a research and demonstration authority that was created in 1975 to fund innovative health service delivery projects in rural medically underserved areas across the country.

According to the 1977 HURA report there are 88 projects funded by HURA which provide or promote health services in 583 counties in 37 States. These projects range from rural community hospitals to experimental group practices. Still other HURA projects have been funded to examine implications of reimbursement decisions on rural health care and expenditures.

In general, the experiences from these projects should help increase our knowledge about ways to improve health services delivery in medically underserved areas.

In conclusion, Mr. Speaker, I believe these programs are helping to reach many millions of our citizens who need health care and who might not otherwise have access to that care.

I urge favorable consideration of this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. ROGERS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Speaker, I thank the gentleman for yielding.

Once again, we commend the chairman for this legislation; but my concerns remain steadfast with relation to the problems of the elderly. This program is to extend this work for some 3 years, and yet very significantly it does not address itself toward some special effort toward increasing assistance to the elderly in the mental health program.

According to the Library of Congress, less than 4 percent of all new patients served in community mental health centers were elderly. Yet, according to the President's report of 1978 by the Commission on Mental Health, 25 percent of all persons over age 65 have significant mental problems. This report charged that the elderly are underserved by the present mental health service system, of which community mental health services is an integral part.

The question I ask again is what latitude does this legislation give in providing for additional assistance that the elderly require, and does it provide for possible outreach efforts to bring the elderly within the purview of this legislation?

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. BIAGGI. I would be delighted to yield.

Mr. ROGERS. Outreach activities are an important facet of the programs envisioned in this legislation where you have a community health center that provides health services for individuals in their own neighborhood. It makes it available. It puts it close to where the aging can get to it. There are outreach programs included in the community mental health centers program as well, which means we do not always begin by certifying people and sending them to warehouses or big State hospitals.

Instead, it would keep them in their surroundings whenever possible.

So, Mr. Speaker, this is a program designed to help get at the problems the gentleman from New York (Mr. BIAGGI) lists, including the elderly, because it is certainly designed to fit in with the problems that exist with the aged.

Mr. BIAGGI. Mr. Speaker, I appreciate the gentleman's response, and I understand the gentleman's sympathetic attitude toward the elderly.

However, what troubles me are the hard statistics, especially the figure of less than 4 percent. Yet we have from the President's report the statement that in 1978 25 percent of all persons over 65 have significant mental health problems. The report also charges that it is an area that is underserved, and I think it would be more precise if we were to elucidate the situation.

Are these community centers especially charged with outreach for the elderly?

Mr. ROGERS. Yes. We do have specific directions that there should be an outreach program for the aged and for minorities as well when such a program is determined to be needed.

Mr. BIAGGI. Mr. Speaker, if the gentleman will yield further, I wish to deal with this point in a clarifying fashion.

Have we been able to assess the effects of those outreach efforts, or have we been able to assess the quality and quantity of those outreach efforts?

Mr. ROGERS. Mr. Speaker, I think we are constantly trying to do this.

I might say further, in answer to the gentleman, that if a center requests money for social services, which would include outreach services, the Secretary must grant some funds to the center for these sources unless he finds there is good cause not to do so.

Mr. BIAGGI. Mr. Speaker, I thank the gentleman for his explanation.

Mr. MAGUIRE. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I am delighted to yield to the distinguished gentleman from New Jersey (Mr. MAGUIRE), who has made such a fine contribution on the subcommittee.

Mr. MAGUIRE. Mr. Speaker, I thank the distinguished chairman of the subcommittee very much.

Mr. Speaker, I want to point out to my colleagues that the bill before us helps immeasurably with a problem with the community mental health center program which has concerned citizens throughout the country. The problem is that grants for community mental health centers are limited to an 8-year period, but the fact is that in many instances the valuable work of those centers justifies continuation of Federal support beyond the current limits. The bill would provide past eighth year funding for centers, thereby enabling the provision of nonreimbursable services like consultation and education follow-up, and administrative services for disadvantaged mental patients.

The centers are running into funding problems basically because medicare and medicaid payments and insurance payments are not adequate to offset decreasing Federal funds under the program.

The community mental health centers have successfully reduced the number of people admitted to State mental hospitals. That is a very important point, Mr. Speaker, in terms of overall cost efficiencies. They have provided outpatient care for many people who otherwise would not receive it at all. Forty-four percent of the population now has access to community mental health centers, and the services are provided through 672 programs.

Mr. Speaker, I want to congratulate the chairman of the subcommittee, the gentleman from Florida (Mr. ROGERS), for his leadership in this very important legislation, which will, I think, mark a turning point for our community mental health center programs throughout the Nation.

Mr. ROGERS. Mr. Speaker. I thank the gentleman from New Jersey (Mr. MAGUIRE), and I thank him also for his contribution on the committee.

Mr. CARTER. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Indiana (Mr. JOHN T. MYERS).

Mr. JOHN T. MYERS. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of this legislation. However, it has concerned me in recent years that every year we have to appropriate more money for health and mental care centers. That indicates to me that we are missing something here. We are treating problems after the fact, and we are not doing enough to prevent this type of health or mental cases from developing.

What is being done in preventive medicine and preventive care to prevent mental cases, as one example?

Mr. CARTER. Mr. Speaker, if the gentleman will yield, I would say that in the first category of health services is included specific health services, including children's eye and ear examinations to determine the need for vision and hearing correction, as well as prenatal services, well child services, and family planning services.

This, of course, includes immunizations, periodic examinations; the whole arena of public health, in other words.

We have included preventive medicine, the preventive aspect, remembering the old addage that an ounce of prevention is worth a pound of cure.

Mr. JOHN T. MYERS. I thank the gentleman for his comment.

How about mental care? I know of a couple of centers where the workload is increasing every year. What is being done or what can be done to prevent the workload from increasing in mental health care centers?

Mr. CARTER. That is quite difficult, I suppose, because of the fast pace in which we live and the stresses we are under and we have an increase in the number of mentally ill. We try to assist them by having these mental health centers, where necessary, and also other treatment.

In the program, as the gentleman might realize, we do not have the old snake pits, where we used to confine our mentally ill. But by new methods of treatment, new medicines, and also different methods of shock treatment, and so on, we are able to return these people, these mentally ill, to a normal life. This has been done over the years by our new mental health centers and hospitals.

Mr. JOHN T. MYERS. I thank my colleague for his response. I urge that, whatever the committee can do, more attention be given to preventive care, particularly with our youth, our young people, who have not yet been subjected to this stress the gentleman speaks of, and still we see an increase in the volume of mental problems, at least in the areas I am familiar with, and I hope more can be done, more attention can be given, so that we can hopefully level this thing off and not expand it.

Mr. CARTER. I want to thank the distinguished gentleman for his comments. It bears upon drug abuse, really, and the prevention of that. I think we should look toward prevention of the use of drugs, and we can do this by keeping our youngsters busy, as I said time after time, with athletics, music, art, sports, and other means of recreation.

Mr. JOHN T. MYERS. How about work?

Mr. CARTER. Of course, that comes first. But we simply do not have it, as we did when I was a youngster. Most of us were busy all of the time.

Mr. JOHN T. MYERS. I thank the gentleman.

Mr. CARTER. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Speaker, I rise in opposition to this bill. It is not my purpose to address the operation of these programs or to question their operations. In fact, I have been a strong supporter of many of these programs. For example, the community mental health service program was enacted back in the 88th Congress, the first Congress in which I served. But I am concerned about the huge increases in authorizations that are contained in this legislation. For example, the appropriation for the several programs in 1978, that is this current fiscal year, was $360 million, whereas in 1979 the authorizations that are contained here are $587 million, and it goes up to $714 million in 1981, a 98-percent increase.

Mr. CARTER. If the distinguished gentleman will yield, I can explain $50 million of that, in that the President asked for $50 million for the "inner city initiative" under the community health

centers program. Another $14 million which was also included in the authorization for the community health centers program was an amendment which I supported to provide centers for rural areas. These funds would help the gentleman's area, and I hope the distinguished gentleman would not object at least to that $14 million.

Mr. BROYHILL. Of course, the problem that we have here is that the bill is brought up under a procedure so that we cannot offer amendments in order to reduce these authorizations to more moderate levels.

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Speaker, I do not believe that the gentleman's figure also gives credit to the fact that we have reduced authorization for HMO's from the current authorization of $50 million to $25 million, nor to the reduction in the health in underserved rural areas program of $1.5 million. The gentleman just quoted an overall figure.

Mr. BROYHILL. What I am doing is taking the figures that are in the report.

Mr. ROGERS. That is why I said you did not include these reductions; they are not in that figure.

Also, I think the gentleman would want to point out that even though the authorizations for the community mental health centers program for fiscal year 1979 include a substantial increase, support is partially phased out through 1981. In fiscal year 1981 authorizations are $92.5 million, or the same amount as authorized this year. So, there is a built-in decrease in the program. I agree with the gentleman that there is some increase in authorization for the next year, and particularly in the community health centers program. Most of the increase in that program was requested by the President for his urban health initiative. The committee also provided some additional authority for rural programs which I think the gentleman was not opposed to.

Mr. BROYHILL. Will the gentleman refer to the table on page 4 of the report, which is a table supporting the consideration of the legislation. That is where I am getting the figures which show that within a few short fiscal years we are having almost a doubling of this program. I am not arguing against the programs. As the gentleman knows, I have supported these, but I also happen to serve on another committee of this House, which is the House Budget Committee, which has been expressing some concerns lately about the exploding cost of various programs; not only this, but many others. I think we have to be concerned about this. I think we have already seen what is happening with the value of the dollar and inflation as a result of continued spending.

The SPEAKER pro tempore. The time of the gentleman from North Carolina has expired.

Mr. CARTER. Mr. Speaker, I yield 2 additional minutes to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Speaker, I point out that although this is not an appropriation bill, it does give high levels of expectation to those who are getting services or who are working with this program. I think that authorizations should be more reasonable and in my judgment, pegged to some budget realities. That is the point I am trying to make. I am concerned if we take up this bill under this procedure and not have a reasonable opportunity at least to make amendments to more moderate levels.

Mr. ROGERS. If the gentleman will yield further, of course we did go through the committee process where the gentleman could have amended there, but I did just want to point this out——

Mr. BROYHILL. I might point out that I did not have the votes in committee.

Mr. ROGERS. I understood, and I would hope the gentleman would not have them here. But nevertheless, may I say to the gentleman that often we look at the cost of a bill without determining what the benefits are, so that we do not give proper balance to the net cost of a program or to the effect on the lives of people.

Now, for instance, let us look at the community mental health centers program. We have shifted, as the gentleman knows, to an outpatient program. As a result, we have reduced psychiatric hospital beds in the United States by 36 percent. Now, no one figures out the benefit or savings to all of us from reducing the cost of eliminating those beds—36 percent of them. That is what we need to do.

Mr. CARTER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Speaker, I would like to sum up the whole basic issue about this. We are all for health centers and we are all for health, but we are bringing up under suspension a bill that involves $4.26 billion. The other day we spent 4 hours talking about some electronic equipment.

Mr. CARTER. Mr. Speaker, I would say the total is $1.984 billion.

Mr. COLLINS of Texas. I appreciate being corrected. Let us review this grand total of $4.6 billion. What is this?

Mr. CARTER. I believe the gentleman from Texas is confused. The total I see here is $1.984 billion.

Mr. COLLINS of Texas. The gentleman from Kentucky is correct. If I can straighten this out, I would like to clarify where I made a mistake. The committee started out with two bills, a bill on health services and one on the health centers. The health services began from two bills. It was decided to combine them and the committee passed out two bills. It is both bills combined where the total is $1.2 billion greater, it is 36 percent greater than in the two predecessor bills. We had two bills and combined them into one bill, but we increased the dollar total of the two bills by 36 percent. Is that right, I will ask the gentleman from Florida, because I have gone through this, that we increase the total of this spending by $1.2 billion, and is it 36 percent greater than that contained in the two prior bills?

Mr. ROGERS. Mr. Speaker, there are two different bills. As the gentleman knows that other bill will be addressed by the House at another time.

Mr. COLLINS of Texas. We took two bills originally and we redesignated them. Have we not increased them by 36 percent?

Mr. ROGERS. No; we took one bill and changed it into two bills. There was an increase of course.

Mr. COLLINS of Texas. Of 36 percent?

Mr. ROGERS. I don't know the percentage.

Mr. COLLINS of Texas. On page 107 in our remarks in the bill report, it summarizes the last figure on that issue. My major objection is, we are increasing the budget too fast and, above all, should we be taking these billion dollar bills under a suspension of the rules? Is that good procedure?

Mr. ROGERS. We are bringing the other one up under a rule.

Mr. COLLINS of Texas. Yes, but this one is for over a billion dollars.

Mr. ROGERS. That is for migrant centers and community health programs. These are well-established programs that are ongoing. Everybody is familiar with them. And we have, as I tried to point out, a decrease of psychiatric hospital beds of 36 percent in this Nation. I am going to get the gentleman these figures, because he ought to be vigorously in support of this bill for its cost savings alone.

● Mr. STAGGERS. Mr. Speaker, I wholeheartedly endorse this legislation because it provides support for the provision of high quality health care services. It is most unfortunate, but there are still millions of Americans who live in medically underserved rural and urban areas. Those citizens do not have access to primary health care services, either physical or mental.

The major programs included in H.R. 12460 have been approved by Congress before. They should be approved again because they have been successful. These physical and mental health service programs are preventing illness and providing less expensive primary care services to people who previously were without health care.

In passing H.R. 12460 the House will be assuring millions of Americans that they will have health care services. I urge all Members to join me in supporting this important legislation.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. ROGERS) that the House suspend the rules on the bill H.R. 12460, as amended.

The question was taken.

Mr. BROYHILL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, and the prior announcement of the Chair, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER pro tempore. Because of the time limit, debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion on which further proceedings were postponed, in the order in which the motion was entertained.

Votes will be taken in the following order:

H.R. 13097, H.R. 13817, H.R. 10792, Senate amendments on H.R. 7819, H.R. 11488, H.R. 12326, H.R. 12303, and H.R. 12460.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

PARLIAMENTARY INQUIRY

Mr. CHARLES H. WILSON of California. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore (Mr. HOLLAND). The gentleman will state his parliamentary inquiry.

Mr. CHARLES H. WILSON of California. Mr. Speaker, it is my understanding that we have had scheduled some 25 bills for consideration under Suspension of the Rules today and we are quitting now at 4:35 p.m. What is the reason for it? Have we run into TV time, or something?

The SPEAKER pro tempore. The Chair will state that the House finds its necessary to conclude its business around 5:30 p.m. today in order that arrangements may be made for the President to address a joint session of the Congress this evening.

Mr. CHARLES H. WILSON of California. I thank the Chair.

MEDICARE AMENDMENTS OF 1978

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 13097, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI) that the House suspend the rules and pass the bill H.R. 13097, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 398, nays 2, not voting 32, as follows:

[Roll No. 788]

YEAS—398

Abdnor, Addabbo, Akaka, Alexander, Ambro, Anderson, Calif., Anderson, Ill., Andrews, N.C., Andrews, N. Dak., Annunzio, Applegate, Archer, Ashbrook, Ashley, Aspin, AuCoin, Badham, Bafalis, Baldus, Barnard, Baucus, Bauman, Beard, R.I., Beard, Tenn., Bedell, Benjamin, Bevill, Biaggi, Bingham, Blanchard, Blouin, Boggs, Boland, Bolling, Bonior, Bonker, Bowen, Brademas, Breaux, Breckinridge, Brinkley, Brodhead, Brooks, Broomfield, Brown, Calif., Brown, Mich., Brown, Ohio, Broyhill, Buchanan, Burgener, Burke, Fla., Burke, Mass., Burleson, Tex., Burlison, Mo., Burton, John, Burton, Phillip, Butler, Byron, Carney, Carr, Carter, Cavanaugh, Cederberg, Chappell, Chisholm, Clausen, Don H., Clawson, Del, Clay, Cleveland, Cochran, Cohen, Collins, Ill., Collins, Tex., Conable, Conte, Corcoran, Cornell, Cotter, Coughlin, Crane, Cunningham, D'Amours, Daniel, Dan, Daniel, R. W., Danielson, Davis, de la Garza, Delaney, Dellums, Dent, Derwinski, Devine, Dicks, Diggs, Dingell, Dodd, Dornan, Downey, Drinan, Duncan, Oreg., Duncan, Tenn., Early, Edgar, Edwards, Ala., Edwards, Calif., Edwards, Okla., Eilberg, Emery, English, Erlenborn, Ertel, Evans, Colo., Evans, Del., Evans, Ga., Evans, Ind., Fary, Fascell, Fenwick, Findley, Fish, Fisher, Fithian, Flippo, Flood, Florio, Flynt, Foley, Ford, Mich., Ford, Tenn., Forsythe, Fountain, Fowler, Fraser, Frenzel, Fuqua, Gammage, Garcia, Gaydos, Gephardt, Giaimo, Gibbons, Gilman, Ginn, Glickman, Goldwater, Gonzalez, Goodling, Gore, Gradison, Grassley, Green, Gudger, Guyer, Hagedorn, Hall, Hamilton, Hammer-schmidt, Hanley, Hannaford, Hansen, Harkin, Harrington, Harris, Harsha, Hawkins, Heckler, Heftel, Hightower, Hillis, Holland, Hollenbeck, Holt, Holtzman, Horton, Howard, Hubbard, Huckaby, Hughes, Ichord, Ireland, Jacobs, Jeffords, Jenkins, Jenrette, Johnson, Calif., Johnson, Colo., Jones, N.C., Jones, Okla., Jones, Tenn., Jordan, Kastenmeier, Kazen, Kelly, Kemp, Keys, Kildee, Kindness, Kostmayer, Krebs, Krueger, LaFalce, Lagomarsino, Latta, Le Fante, Leach, Lederer, Leggett, Lehman, Lent, Levitas, Livingston, Lloyd, Calif., Lloyd, Tenn., Long, La., Long, Md., Lott, Lujan, Luken, Lundine, McClory, McCloskey, McCormack, McDade, McEwen, McFall, McHugh, McKay, McKinney, Madigan, Maguire, Mahon, Mann, Markey, Marks, Marlenee, Marriott, Martin, Mathis, Mattox, Mazzoli, Metcalfe, Meyner, Michel, Mikulski, Mikva, Miller, Ohio, Mineta, Minish, Mitchell, Md., Mitchell, N.Y., Moakley, Moffett, Mollohan, Montgomery, Moore, Moorhead, Calif., Moorhead, Pa., Moss, Motti, Murphy, Ill., Murphy, N.Y., Murphy, Pa., Murtha, Myers, Gary, Myers, John, Myers, Michael, Natcher, Neal, Nedzi, Nichols, Nix, Nolan, Nowak, O'Brien, Oakar, Oberstar, Obey, Ottinger, Panetta, Patten, Patterson, Pattison, Pease, Pepper, Perkins, Pettis, Pickle, Pike, Poage, Pressler, Preyer, Price, Pritchard, Pursell, Quayle, Quillen, Rahall, Railsback, Rangel, Regula, Reuss, Rhodes, Richmond, Rinaldo, Risenhoover, Roberts, Robinson, Roe, Rogers, Roncalio, Rooney, Rose, Rosenthal, Rostenkowski, Rousselot, Roybal, Rudd, Runnels, Ruppe, Russo, Ryan, Santini, Satterfield, Sawyer, Scheuer, Schroeder, Schulze, Sebelius, Seiberling, Sharp, Shuster, Sikes, Simon, Sisk, Skelton, Skubitz, Slack, Smith, Iowa, Smith, Nebr., Snyder, Solarz, Spellman, Spence, St Germain, Staggers, Stangeland, Stanton, Stark, Steers, Steiger, Stockman, Stokes, Stratton, Studds, Stump, Symms, Taylor, Thompson, Thone, Thornton, Treen, Trible, Tucker, Udall, Ullman, Vander Jagt, Vanik, Vento, Volkmer, Waggonner, Walker, Walsh, Wampler, Watkins, Waxman, Weaver, Weiss, Whalen, White, Whitehurst, Whitley, Whitten, Wiggins, Wilson, Bob, Wilson, C. H., Wilson, Tex., Winn, Wolff, Wydler, Wylie, Yates, Yatron, Young, Alaska, Young, Fla., Young, Mo., Young, Tex., Zablocki, Zeferetti

NAYS—2

Bennett, McDonald

NOT VOTING—32

Ammerman, Armstrong, Bellenson, Burke, Calif., Caputo, Coleman, Conyers, Corman, Cornwell, Derrick, Dickinson, Eckhardt, Flowers, Frey, Hefner, Hyde, Kasten, Meeds, Milford, Miller, Calif., Quie, Rodino, Sarasin, Shipley, Steed, Teague, Traxler, Tsongas, Van Deerlin, Waigren, Wirth, Wright

The Clerk announced the following pairs:

Mr. Rodino with Mr. Caputo.
Mr. Ammerman with Mr. Frey.
Mr. Corman with Mr. Hyde.
Mrs. Burke of California with Mr. Coleman.
Mr. Shipley with Mr. Quie.
Mr. Steed with Mr. Dickinson.
Mr. Teague with Mr. Tsongas.
Mr. Van Deerlin with Mr. Sarasin.
Mr. Wirth with Mr. Waigren.
Mr. Wright with Mr. Milford.
Mr. Cornwell with Mr. Hefner.
Mr. Flowers with Mr. Eckhardt.
Mr. Derrick with Mr. Conyers.
Mr. Miller of California with Mr. Traxler.
Mr. Meeds with Mr. Bellenson.

Mr. MURPHY of New York changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "An Act to amend certain provisions of title XVIII of the Social Security Act with respect to the medicare program established by such title, and for other purposes.".

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b)(3), rule XXVII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

HEALTH PROGRAMS AMENDMENTS UNDER SOCIAL SECURITY ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 13817, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI) that the House suspend the rules

and pass the bill (H.R. 13817, as amended), on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 359, nays 40, not voting 33, as follows:

[Roll No. 789]

YEAS—359

Abdnor
Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashley
Aspin
AuCoin
Bafalis
Baldus
Barnard
Baucus
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Carter
Cavanaugh
Cederberg
Chisholm
Clausen, Don H.
Clay
Cleveland
Cohen
Collins, Ill.
Conable
Conte
Corcoran
Cornell
Cotter
Coughlin
D'Amours
Daniel, R. W.
Danielson
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Dicks
Diggs
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frenzel
Fuqua
Gammage
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Heckler
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kelly
Kemp
Keys
Kildee
Kostmayer
Krebs
Krueger
LaFalce
Lagomarsino
Le Fante
Leach
Lederer
Leggett
Lehman
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Metcalfe
Meyner
Michel
Mikulski
Mikva
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Moss
Motti
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pike
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rina.do
Risenhoover
Roberts
Robinson
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Runnels
Ruppe
Russo
Ryan
Santini
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shuster
Sikes
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
St Germain
Staggers
Stangeland
Stanton
Stark
Steers
Steiger
Stokes
Studds
Thompson
Thone
Thornton
Treen
Trible
Tucker
Udall
Ullman
Vander Jagt
Vanik
Vento
Waggonner
Walsh
Wampler
Waxman
Weaver
Weiss
Whalen
White
Whitehurst
Whitley
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wolff
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—40

Ashbrook
Badham
Bauman
Butler
Chappell
Clawson, Del
Cochran
Collins, Tex.
Crane
Cunningham
Daniel, Dan
Davis
Devine
Edwards, Okla.
English
Flynt
Goldwater
Hansen
Jones, Okla.
Kindness
Lott
McDonald
Miller, Ohio
Montgomery
Moorhead, Calif.
Pettis
Rousselot
Rudd
Satterfield
Snyder
Spence
Stratton
Stump
Symms
Taylor
Volkmer
Walker
Watkins
Whitehurst
Wiggins

NOT VOTING—33

Ammerman
Armstrong
Bellenson
Burke, Calif.
Caputo
Coleman
Conyers
Corman
Cornwell
Dickinson
Eckhardt
Evans, Colo.
Frey
Hefner
Hyde
Kasten
Latta
Meeds
Milford
Miller, Calif.
Quie
Rodino
Sarasin
Shipley
Steed
Stockman
Teague
Traxler
Tsongas
Van Deerlin
Walgren
Wirth
Wright

The Clerk announced the following pairs:

Mr. Rodino with Mr. Sarasin.
Mr. Ammerman with Mr. Walgren.
Mr. Shipley with Mr. Kasten.
Mr. Teague with Mr. Hyde.
Mr. Wright with Mr. Caputo.
Mr. Van Deerlin with Mr. Dickinson.
Mr. Corman with Mr. Frey.
Mr. Cornwell with Mr. Stockman.
Mr. Traxler with Mr. Quie.
Mr. Steed with Mr. Coleman.
Mr. Miller of California with Mr. Latta.
Mr. Wirth with Mr. Milford.
Mrs. Burke of California with Mr. Tsongas.
Mr. Bellenson with Mr. Evans of California.
Mr. Hefner with Mr. Eckhardt.
Mr. Meeds with Mr. Conyers.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING SMITHSONIAN INSTITUTION TO ACQUIRE MUSEUM OF AFRICAN ART

The SPEAKER pro tempore (Mr. HOLLAND). The unfinished business is the question of suspending the rules and passing the bill H.R. 10792, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. NEDZI) that the House suspend the rules and pass the bill H.R. 10792 as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 350, nays 54, not voting 28, as follows:

[Roll No. 790]

YEAS—350

Abdnor
Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Applegate
Ashley
Aspin
Bafalis
Baldus
Barnard
Baucus
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Conte
Corcoran
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Dicks
Diggs
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frenzel
Fuqua
Gammage
Garcia
Gaydos
Giaimo
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Green
Gudger
Guyer
Hall
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Heckler
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holtzman
Horton
Howard
Huckaby
Hughes
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kemp
Keys
Kildee
Kindness
Krebs
Krueger
LaFalce
Latta
Le Fante
Leach
Lederer
Leggett
Lehman
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lujan
Lundine
McCloskey
McCormack
McDade
McFall
McHugh
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Metcalfe
Meyner
Michel
Mikulski
Mikva
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Moore
Moorhead, Pa.
Moss
Motti
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pettis
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Runnels
Ruppe
Russo
Ryan
Santini
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stanton
Stark
Steers
Steiger
Stokes
Studds
Thompson
Thone
Thornton
Treen
Trible
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walsh
Wampler
Watkins
Waxman
Weaver
Weiss
Whalen
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wolff
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—54

Andrews, N. Dak.
Archer
Ashbrook
AuCoin
Badham
Bauman
Bevill
Burleson, Tex.
Clausen, Don H.
Clawson, Del
Collins, Tex.
Crane
Cunningham
Daniel, R. W.
Devine
Duncan, Oreg.
Evans, Ind.
Findley
Flynt
Gephardt
Gibbons
Grassley
Hagedorn
Hammer-schmidt
Hansen
Holt
Hubbard
Ichord
Kelly
Kostmayer
Lagomarsino
Lott
Luken
McDonald
McEwen
McKay
Michel
Miller, Ohio
Mollohan
Montgomery
Moorhead, Calif.
Poage
Quillen
Rousselot
Rudd
Satterfield
Skelton
Stangeland
Stump
Symms
Taylor
Walker
Wilson, C. H.

NOT VOTING—28

Ammerman
Armstrong
Bellenson
Burke, Calif.
Caputo
Coleman
Conyers
Corman
Cornwell
Dickinson
Eckhardt
Frey
Hefner
Hyde
Kasten
Meeds
Milford
Miller, Calif.
Quie
Rodino
Sarasin
Shipley
Steed
Teague
Traxler
Tsongas
Wirth
Wright

The Clerk announced the following pairs:

Mr. Rodino with Mr. Frey.
Mr. Ammerman with Mr. Hyde.
Mr. Wright with Mr. Sarasin.
Mr. Shipley with Mr. Caputo.
Mr. Meeds with Mr. Dickinson.
Mrs. Burke of California with Mr. Quie.
Mr. Corman with Mr. Milford.
Mr. Miller of California with Mr. Hefner.
Mr. Wirth with Mr. Teague.
Mr. Traxler with Mr. Eckhardt.
Mr. Steed with Mr. Coleman.
Mr. Tsongas with Mr. Bellenson.
Mr. Cornwell with Mr. Conyers.

Mr. HAGEDORN changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. NEDZI. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the Senate bill (S. 2507) to authorize the Smithsonian Institution to acquire the Museum of African Art, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2507

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. The Board of Regents of the Smithsonian Institution (hereinafter in this Act referred to as the "Board") is authorized to accept a deed or other instrument donating and transferring to the Smithsonian Institution, the land and improvements thereto, collection of works of art, and all other assets and property of the Museum of African Art.

SEC. 2. There is established in the Smithsonian Institution a bureau which shall be known as the Museum of African Art (hereinafter in this Act referred to as the "Museum"). The functions of such bureau shall be those authorized by section 3(a).

SEC. 3. (a) For the purpose of carrying out sections 1 and 2 of this Act, the Board may—

(1) purchase, accept, borrow, or otherwise acquire additional works of art or any other real or personal property for the Museum;

(2) preserve, maintain, restore, display, loan, transfer, store, or otherwise hold any property of whatsoever nature acquired pursuant to section 1 or paragraph (1) of this subsection;

(3) conduct programs of research and education; and

(4) subject to any limitations otherwise expressly provided by law, and, in the case of any gift, subject to any applicable restrictions under the terms of such gift, sell, exchange, or otherwise dispose of any property of whatsoever nature acquired pursuant to the provisions of this Act: *Provided*, That the proceeds from the sale of any property acquired pursuant to section 1 shall be designated for the benefit of the Museum.

(b) In carrying out the purposes of this Act, the Board shall consider the recommendations of the Commission established pursuant to section 4.

SEC. 4. (a) There is established a Commission for the Museum of African Art (hereinafter the "Commission") which shall provide advice and assistance to the Board concerning the operation and development of the Museum, its collections and programs.

(b) The Commission shall consist of fifteen members to be appointed by the Board. In addition, the Secretary and an Assistant Secretary of the Smithsonian Institution shall serve as ex officio members. The Board shall appoint to the first term on the Commission no less than ten members of the Board of Trustees of the Museum of African Art who are serving on the date of the enactment of this Act. Each initial member so appointed shall serve for a three-year term. Thereafter, in appointing members of the Commission the Board shall continue to include representatives of the communities of African descendants in the United States, collectors of African art, and scholars in the fields of African art and culture.

(c) Members of the Commission shall be appointed to serve for a three-year term, except that after the appointment of the first term of the Commission as specified in subsection (b), the terms of office of members next appointed shall expire, as designated by the Board at the time of appointment, one-third at the end of one year, one-third at the end of two years, and one-third at the end of three years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Members may be reappointed.

(d) A majority of the appointed members of the Commission shall constitute a quorum and any vacancy in the Commission shall not affect its power to function.

(e) Members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(f) The Commission shall select officers from among its members biennially and shall make bylaws to carry out its functions under this Act.

SEC. 5. The Board may appoint and fix the compensation and duties of the Director and such other officers and employees of the Museum as may be necessary for the efficient administration, operation, and maintenance of the Museum; the Director and two other employees of the Museum may be appointed and compensated without regard to the provisions of title 5 governing appointments in the competitive service and chapter 51 and subchapter III of chapter 53 of title 5; and all of the employees of the Museum who are serving on the date of the transfer authorized under section 1 shall be offered employment by the Smithsonian under its usual terms of employment and may be appointed without regard to the provisions of title 5 governing appointments in the competitive service and chapter 51 and subchapter III of chapter 53 of title 5.

SEC. 6. (a) The faith of the United States is pledged that upon the completion of the acquisition in section 1, the United States will provide such funds as may be necessary for the upkeep of the Museum and the administrative expenses and costs of operation thereof, including the protection and care of works of art acquired by the Board, so the Museum shall at all times be properly maintained and works of art contained therein shall be exhibited regularly to the general public free of charge.

(b) There is authorized to be appropriated for the first fiscal year under this Act, the sum of $1,000,000 and such amounts as may be necessary for the succeeding fiscal years in order to carry out the provisions of this Act.

SEC. 7 (a) It is the intent of the Congress that, as soon as possible, the Museum shall be relocated in another building of the Smithsonian Institution which is more fitting for the display of works of art and generally to serve the function of a museum.

(b) Not later than two years after the effective date of this section, the Board submit a report to the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives setting forth the plans undertaken by it, in consultation with the Commission, to carry out the intent expressed in subsection (a).

SEC. 8. Except for the provisions in sections 1 and 6 (b) the provisions of this Act shall take effect on the date of transfer of a deed or other instrument under the provision of section 1.

MOTION OFFERED BY MR. NEDZI

Mr. NEDZI. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NEDZI moves to strike all after the enacting clause of S. 2507 and to insert in lieu thereof the text of H.R. 10792, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 10792) was laid on the table.

DIPLOMATIC RELATIONS ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and concurring in the Senate amendments to the bill, H.R. 7819.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from Florida (Mr. FASCELL) that the House suspend the rules and concur in the Senate amendments to the bill H.R. 7819, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 397, nays 7, not voting 28, as follows:

[Roll No. 791]

YEAS—397

Abdnor
Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Conable
Conte
Corcoran
Cornell
Cotter
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dicks
Diggs
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frenzel
Fuqua
Gammage
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Heckler
Hefner
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kelly
Kemp
Keys
Kildee
Kostmayer
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Lehman
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Metcalfe
Meyner
Michel
Mikulski
Mikva
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Pa.
Moss
Motti
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Rudd
Runnels
Ruppe
Russo
Ryan
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shuster
Sikes
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stanton
Stark
Steers
Steiger
Stockman
Stokes
Stratton
Studds
Stump
Symms
Taylor
Thompson
Thone
Thornton
Treen
Trible
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Waxman
Weaver
Weiss
Whalen
White
Whitehurst
Whitley
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wolff
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—7

Butler
Collins, Tex.
Gradison
Kindness
McClory
Moorhead, Calif.
Wiggins

NOT VOTING—28

Ammerman
Armstrong
Bellenson
Burke, Calif.
Caputo
Conyers
Corman
Cornwell
Dickinson
Eckhardt
Frey
Goldwater
Hefner
Hyde
Kasten
Meeds
Milford
Miller, Calif.
Quie
Rodino
Sarasin
Shipley
Steed
Teague
Traxler
Tsongas
Wirth
Wright

The Clerk announced the following pairs:

Mr. Rodino with Mr. Frey.
Mr. Ammerman with Mr. Goldwater.
Mr. Cornwell with Mr. Hyde.
Mr. Shipley with Mr. Sarasin.
Mr. Traxler with Mr. Caputo.
Mr. Wright with Mr. Dickinson.
Mr. Wirth with Mr. Eckhardt.
Mr. Meeds with Mr. Milford.
Mr. Hefner with Mr. Quie.
Mrs. Burke of California with Mr. Tsongas.
Mr. Corman with Mr. Teague.
Mr. Steed with Mr. Bellenson.
Mr. Conyers with Mr. Miller of California.

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments were concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

HEALTH PLANNING AND RESOURCES DEVELOPMENT AMENDMENTS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 11488, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. ROGERS) that the House suspend the rules and pass the bill H.R. 11488, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 261, nays 141, answered "present" 1, not voting 29, as follows:

[Roll No. 792]

YEAS—261

Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Annunzio
Applegate
Ashley
Aspin
AuCoin
Baldus
Baucus
Beard, R.I.
Bedell
Benjamin
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brodhead
Brown, Calif.
Broyhill
Burke, Mass.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Carter
Cederberg
Chisholm
Clausen, Don H.
Clay
Cleveland
Cochran
Collins, Ill.
Conte
Corcoran
Cornell
Cotter
D'Amours
Daniel, Dan
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Dicks
Diggs
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Fary
Fascell
Findley
Fisher
Flippo
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Fraser
Frenzel
Fuqua
Gaydos
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Green
Hamilton
Hammer-schmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Heckler
Heftel
Holland
Hollenbeck
Holtzman
Horton
Howard
Huckaby
Jacobs
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jordan
Kastenmeier
Keys
Kildee
Kostmayer
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Lehman
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McCormack
McClory
McCloskey
McDade
McFall
McHugh
McKinney
Madigan
Maguire
Mann
Markey
Marks
Marlenee
Mazzoli
Metcalfe
Meyner
Mikulski
Mikva
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Moss
Motti
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Pattison
Pepper
Perkins
Pike
Pressler
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Reuss
Richmond
Rinaldo
Roe
Rogers
Roncalio
Rooney
Rosenthal
Rostenkowski
Roybal
Ryan
Santini
Scheuer
Schroeder
Seiberling
Sharp
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stark
Steers
Stokes
Stratton
Studds
Thompson
Thornton
Treen
Trible
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Walgren
Walsh
Wampler
Weaver
Weiss
Whalen
Whitehurst
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wolff
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—141

Abdnor
Andrews, N.C.
Andrews, N. Dak.
Archer
Ashbrook
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bennett
Bevill
Brinkley
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Butler
Cavanaugh
Chappell
Clawson, Del
Cohen
Coleman
Collins, Tex.
Conable
Coughlin
Crane
Cunningham
Daniel, R. W.
de la Garza
Derwinski
Devine
Dornan
Duncan, Tenn.
English
Evans, Ind.
Fenwick
Fish
Fithian
Flynt
Foley
Forsythe
Fountain
Gammage
Goldwater
Goodling
Grassley
Gudger
Guyer
Hagedorn
Hall
Hansen
Harsha
Hightower
Hillis
Holt
Hubbard
Hughes
Ichord
Ireland
Jenkins
Kelly
Kemp
Kindness
Kostmayer
Krueger
Lagomarsino
Latta
Levitas
Livingston
Lloyd, Tenn.
Lott
Lujan
McDonald
McEwen
McKay
Mahon
Marriott
Martin
Mathis
Mattox
Michel
Miller, Ohio
Montgomery
Moorhead, Calif.
Myers, John
Panetta
Pease
Pettis
Pickle
Poage
Quayle
Regula
Rhodes
Risenhoover
Roberts
Robinson
Rousselot
Rudd
Runnels
Ruppe
Russo
Satterfield
Sawyer
Schulze
Sebelius
Shuster
Sikes
Skelton
Smith, Nebr.
Stangeland
Stanton
Steiger
Stockman
Stump
Symms
Taylor
Thone
Treen
Trible
Volkmer
Waggonner
Walker
Watkins
White
Whitley
Wiggins
Wydler
Wylie
Young, Alaska
Young, Fla.
Young, Tex.

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—29

Ammerman
Armstrong
Bellenson
Burke, Calif.
Caputo
Conyers
Corman
Cornwell
Dickinson
Eckhardt
Frey
Hefner
Hyde
Kasten
LaFalce
Meeds
Milford
Miller, Calif.
Quie
Rodino
Rose
Sarasin
Shipley
Steed
Teague
Traxler
Tsongas
Wirth
Wright

The Clerk announced the following pairs:

Mr. Rodino with Mr. Caputo.
Mr. Ammerman with Mrs. Burke of California.
Mr. Teague with Mr. Frey.
Mr. Shipley with Mr. Hefner.
Mr. Rose with Mr. Sarasin.
Mr. Wright with Mr. Tsongas.
Mr. Wirth with Mr. Quie.
Mr. Corman with Mr. Kasten.
Mr. Cornwell with Mr. Bellenson.
Mr. Traxler with Mr. Eckhardt.
Mr. Steed with Mr. Dickinson.
Mr. Meeds with Mr. Hyde.
Mr. Miller of California with Mr. LaFalce.
Mr. Conyers with Mr. Milford.

Messrs. FORSYTHE, JOHN T. MYERS, JONES of North Carolina, CAVANAUGH, BURKE of Florida, MARTIN, SCHULZE, KEMP, PANETTA, PEASE, BAFALIS, YOUNG of Florida, BEVILL, WHITE, DERWINSKI, RISENHOOVER, WYDLER, BRINKLEY, WYLIE, and THONE, Mrs. SMITH of Nebraska, Messrs. MATHIS, and JONES of Tennessee, Mrs. LLOYD of Tennessee, Messrs. LUJAN, BROOKS, RUNNELS, and RUSSO, Mrs. PETTIS, Messrs. YOUNG of Alaska and LOTT changed their votes from "yea" to "nay."

Messrs. RUSSO, GLICKMAN, and EDWARDS of Oklahoma changed their votes from "nay" to "yea."

So (two-thirds not having voted in favor thereof), the motion was rejected.

The result of the vote was announced as above recorded.

AUTHORIZING THREE REMAINING SUSPENSION VOTES POSTPONED PURSUANT TO CLAUSE 3(b), RULE XXVII, BE CONSIDERED UNFINISHED BUSINESS FOR TOMORROW

Mr. ROSTENKOWSKI. Mr. Speaker, because of the commitment made to vacate the premises so that the security can come in and check the Hall of the House of Representatives. I ask unanimous consent that the three remaining suspension votes be postponed until tomorrow, that they be at that time considered unfinished business, and that we will then commence voting on the three remaining bills.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

Mr. ASHBROOK. Mr. Speaker, I reserve the right to object.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. For those Members who were not in the Chamber earlier in the day, the Chair announces that the majority whip took the floor and explained the situation, saying that we would either stop around 4 o'clock and anticipate the amount of rollcalls that we would have, or he would ask unanimous consent to continue the rollcalls as unfinished business, in view of the fact that we had been requested by the Secret Service that we vacate the Chamber at 5:30 in order that they may make the usual inspection, in view of the fact that we will have the usual inspection, and in view of the fact that we will have the President of the United States, the President of Israel and the Prime Minister of Egypt here this evening. I am sure that was fully understood at that particular time.

The gentleman from Illinois (Mr. ROSTENKOWSKI) is making such a unanimous-consent request at this time.

Mr. ASHBROOK. Mr. Speaker, I reserve the right to object.

Mr. ROUSSELOT. Mr. Speaker, I reserve the right to object.

The SPEAKER. The gentleman from Ohio (Mr. ASHBROOK) reserves the right to object. I do not believe the gentleman was in the Chamber at the time of the earlier dialog.

Mr. ASHBROOK. That is correct.

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, I was.

The SPEAKER. The gentleman from Ohio (Mr. ASHBROOK) reserves the right to object.

Mr. ASHBROOK. Reserving the right to object, Mr. Speaker, I appreciate the explanation of the situation. But as I understand it, the Rules of the House still prevail. I would be constrained to say that we have established a number of questionable precedents in the last 2 years. I hope we do not add this to a long list of precedents.

Mr. ROSTENKOWSKI. Mr. Speaker, if the gentleman will yield, these are extenuating circumstances. The President of the United States and, it is hoped, two heads of foreign governments will be here, as our guests, on a most important issue, and I was hoping that, because of the commitment that was made here, the House would consent unanimously to this request.

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, I will not object, but I think it is fair to say that the commitments made by a few are not commitments made by all.

The SPEAKER. In view of the dialog that has taken place, does the gentleman from Ohio (Mr. ASHBROOK) object?

Mr. ASHBROOK. No, I will not object, Mr. Speaker, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman from Illinois (Mr. ROSTENKOWSKI) assure us that these votes will be taken the first thing tomorrow morning?

Mr. ROSTENKOWSKI. Mr. Speaker, the gentleman's request is that this be considered unfinished business, and I should imagine that would be the determination.

Mr. ROUSSELOT. May we have that assurance?

The SPEAKER. The Chair will state that the votes will be the first order of business.

PARLIAMENTARY INQUIRY

Mr. SNYDER. Mr. Speaker, I have a parliamentary inquiry.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Kentucky (Mr. SNYDER) to state his parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. SNYDER. Mr. Speaker, may I ask, will the first vote in the morning be for 15 minutes?

The SPEAKER. The answer is in the affirmative. The first vote will be for 15 minutes.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

TOURISM: OUR NATION'S GREATEST ASSET—PART II

(Mr. SKUBITZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKUBITZ. Mr. Speaker, Thursday, I outlined the crisis and the sickness which is pervading our travel industry. I indicated that I would present a series of short statements to bring to the attention of the greatest number of my colleagues the crisis being faced by our U.S. travel service. I continue today, therefore, with part II.

THE U.S. TRAVEL SERVICE (USTS): FROM ITS CREATION TO THIS DAY

USTS was established by the International Travel Act of 1961 (22 U.S.C. 2121–27) to strengthen the domestic and foreign commerce of the United States and to promote friendly understanding and goodwill by encouraging foreigners to visit the United States and facilitating international travel.

Under this legislation, USTS's catalytic role is to:

Stimulate travel to the United States by foreign visitors for pleasure, business, or study;

Encourage the development in the United States of tourist facilities, low-cost unit tours, and other arrangements for meeting the needs of foreign visitors;

Foster and encourage the widest possible distribution of the benefits of travel, at the lowest rates, between foreign countries and the United States;

Encourage the reduction and elimination of barriers to travel to the United States and facilitation of international travel generally; and

Collect, publish, and provide for the exchange of statistics and technical information relating to international travel and tourism.

In 1970 an amendment to the International Travel Act elevated the Director of USTS to the rank of Assistant Secretary of Commerce for Tourism. This amendment also increased USTS's budget authorization from $4.7 million to $15 million and established a grant program under which USTS can match—USTS's share not to exceed 50 percent—the funds provided by States and cities, through private and nonprofit organizations for projects designed to promote travel to the United States.

The U.S. travel service maintains six regional overseas offices located in Great Britain, France, Germany, Canada, Mexico, and Japan.

In contrast to the promotional effort of numerous foreign nations in which the promotion of tourism is the sole mission of a cabinet level department or agency, the Federal effort to promote tourism has been less than enlightened. Historically, the executive branch has accorded tourism a very low priority, and it is not surprising that the efforts to date of the USTS to fulfill its mission have been weak and ineffective. These efforts have been most frequently undertaken in disjointed cooperation with travel organizations who do not represent a valid cross segment of the industry. Surviving amid a morass of Federal confusion, the failings of this agency can be directly attributed to inadequate funding levels derived from arbitrary budgetary constraints and lack of understanding of the importance of tourism to the national economy.

The executive branch through many administrations has continued to slash this agency's budget. The Congress, despite repeated warnings by the General Accounting Office, has not heeded the advice that something had to be done to offset the increased travel gap of the United States which now stands in excess of $30 billion which is a significant addition to the overall U.S. balance-of-payments deficit.

It is interesting to note that the General Accounting Office reported that the United States has found it difficult to maintain or increase its share of the growing international travel market because of competition from other countries.

The latest report from the tourism committee of the organization for economic cooperation and development should be mandatory reading to certain members of our Department of State who are clamoring for closing the USTS offices overseas as an economy measure. The OECD study found that the accelerated growth of international tourism in 1977 was due to the renewed efforts to step up the promotional activities pursued abroad by most member countries. It is interesting to note further that the OECD goes on to say that international tourist receipts increased 28 percent for the European member countries and less than 20 percent for the United States.

It is worth repeating today what the General Accounting Office recommended as early as 1973, for circumstances have not changed. On the contrary, competition is all the more acute for the same tourist dollar. The GAO recommended the the USTS allocate more of its resources to directly assist in developing and promoting competitive package tours and travel programs. The GAO recommended that the Secretary of Commerce direct the USTS to:

Act as a catalyst for getting foreign tour operators together with U.S. travel providers to discuss the details of developing travel programs to the United States.

Strengthen its field staff to provide direct regular consultation to tour operators and others interested in developing and promoting travel programs to the United States.

Devote research effort to meeting informational needs of those elements of the travel industry interested in developing travel programs to the United States.

Generate to the travel trade a regular flow of ideas and information on happenings in the United States around which the U.S. travel programs could be developed and promoted.

Consider furnishing direct financial and promotional assistance to the travel industry for such things as the printing of tour catalogs and brochures; photographs and promotional material; joint promotion efforts, including advertising; and travel trade promotional activities and seminars.

I have personally inspected the European offices of the USTS in Frankfurt, in Paris, and in London and can assure you that these programs and the recommendations by GAO are being carried out, but when compared to the type of support, financial backing, and encouragement from diplomatic posts which other governments provide their national tourism offices, our USTS effort is something to be ashamed of. Not only is this agency buried and ignored in the bureaucratic maze which is the Department of Commerce, but our Ambassadors overseas in key diplomatic posts are doing everything possible to discourage, downgrade, and generally ignore the efforts of this agency. Perhaps as an economy measure, we should consider closing the embassy and leave USTS offices to handle visa problems.

It is time we faced the fact that we are an underdeveloped Nation as far as tourism is concerned, and that tourism properly promoted and manipulated is the only available tool that we have which will readily reverse our disastrous balance of payments problem. Our message to the travel trade and to our diplomats overseas has got to be: "America '78—there's never been a better time."

Tomorrow my remarks will concern the London office of USTS: Scope of activity, programs and impact on the community.

LAND CONSOLIDATION FOR THE SISSETON-WAHPETON SIOUX TRIBE

(Mr. PRESSLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PRESSLER. I would like to take this opportunity to provide you with some additional information on H.R. 13096, a bill that I have sponsored to enable the Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation to consolidate its landholdings and reduce fractionated ownership of alloted land. I was pleased that the House passed H.R. 13096 this morning by unanimous consent.

Earlier this summer, when the House Subcommittee on Indian Affairs held hearings on H.R. 13096, the Washington Post published a somewhat misleading article on the legislation. The following information includes the Post article and my response, which appeared as a "Letter to the Editor." I hope that this will answer any questions that arise regarding the intent of H.R. 13096.

[From the Washington Post, July 26, 1978]

HILL UNIT VOTES INDIAN LAND BILL

A House Interior subcommittee approved legislation yesterday that would give Sioux Indians an edge over non-Indians in purchasing reservation land in South Dakota.

The bill, sponsored by Rep. Larry Pressler (R.-S.D.), would give members of the Sisseton-Wahpeton Sioux tribe the right to purchase Lake Traverse Reservation land if they can match the highest bid within 30 days after the land is auctioned.

The bill also would make individual Indians exempt from property taxes and federal and state income taxes on earnings from

Lake Traverse Reservation land. Under current law, tribes have been exempt from taxes but Indians who purchase reservation land as individuals have not been.

The bill is an effort to reverse an 1887 law that permits white settlers to purchase reservation land. Currently, non-Indians own 88 percent of the reservation's 919,000 acres.

[From the Washington Post, Aug. 1, 1978]

PROTECTING LANDS FOR A SIOUX TRIBE

I was interested to see a brief article on legislation affecting the Sisseton-Wahpeton Sioux Tribe in the Washington Post this morning (Wednesday, July 26, 1978), and I am concerned that the information contained in that article was not entirely accurate.

First of all, the legislation discussed in this morning's Washington Post story is identical to S. 3069—introduced early this Congress by Senators Abourezk and McGovern—which passed the Senate last Friday.

H.R. 13096, or S. 3069, does not change any tax laws affecting the Sisseton-Wahpeton tribe or tribal members on or off the Lake Traverse Indian Reservation. The bill does not give individual tribal members any advantage in buying trust or non-trust lands offered at public sales or auctions.

The legislation does provide the Sisseton-Wahpeton Sioux Tribe with an opportunity to purchase Indian-owned land that is already held in trust by the federal government when it is auctioned by matching the highest bid within 30 days and meeting the terms of the notice of sale. It also encourages the consolidation of lands that are now fractionated by multiple-heir ownership through voluntary sales and purchases by individual tribal members. This would provide for better use of Indian-owned lands and simplified administration of trust lands by the federal government.

I am sending a copy of the report submitted by the Bureau of Indian Affairs to the House Indian Affairs Subcommittee. This should clarify any misunderstandings you might have about this legislation, and I hope you will contact my office if you have any questions in the future.

Thank you for giving me this opportunity to discuss H.R. 13096 with you.

Sincerely,

LARRY PRESSLER,
Member of Congress.

STATEMENT OF FORREST GERARD, ASSISTANT SECRETARY OF THE INTERIOR-INDIAN AFFAIRS

Mr. Chairman, I am pleased to present the Interior Department's testimony in favor of enactment of H.R. 13096.

H.R. 13096 would amend the Act of October 26, 1974 which now provides for the Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation to consolidate its landholdings in North and South Dakota. The amendments authorize (1) the Secretary of the Interior to acquire and hold in trust for individual members of the Sisseton-Wahpeton Sioux Tribe lands within the boundaries of the Lake Traverse Reservation and (2) a first right of purchase in the tribe with respect to lands held in trust by the United States for tribal members when the lands are offered for sale at public sale or auction.

The Lake Traverse Indian Reservation was established by the Treaty of February 19, 1867 (15 Stat. 505). The original reservation area is V-shaped and lies in the northeast corner of South Dakota with a small portion in the southeast corner of North Dakota. The original reservation contained some 919,000 acres. The allotment of tribal lands to individual members and the sale of "surplus" tribal land for homesteading purposes resulted in much of the land passing into non-Indian ownership.

Currently, over 10,000 acres are held in trust for the tribe, and over 97,000 acres are held in trust for individual tribal members. The remaining Indian trust lands are scattered throughout the original reservation area. Many of these are trust allotments with highly fractionated multiple ownership. Because of these factors, the tribe has had a very limited opportunity to manage its lands for the common good. To alleviate these problems, the Act of October 26, 1974 was enacted. That Act authorizes the tribe to sell, exchange, or mortgage tribal lands for the purpose of acquiring other lands within the boundary of the reservation through purchase, gift, or exchange. The lands so acquired may be taken in trust by the United States for the benefit of the tribe. The effect of the Act is to permit the tribe to consolidate its current tribally owned lands into manageable units.

The existing Act is inadequate to respond to the needs of individual members to acquire land for homesites or businesses or to buy out other owners of fractional interests. Moreover, individually owned Indian trust lands within the reservation are passing out of Indian ownership at public sales or auctions as the result of foreclosure proceedings.

Enactment of H.R. 13096 will alleviate these problems by allowing individual members of the Sisseton-Wahpeton Sioux Tribe the same authority as the tribe to acquire land for homesites or businesses or to buy out other heirs. The bill would permit consolidated land ownership for individual tribe members as well as the tribe. By reducing the fractionated ownership of allotted land, the bill would allow the land to be developed and used more efficiently and would simplify administration of the Federal trust responsibility for the land. Land consolidation under the bill would rely on voluntary sales and purchases. Any lands thus acquired would be held in trust by the Secretary of Interior.

The amendment of section 2(b) of the Act would provide the tribe with a first right of purchase when individual trust land is offered for sale at public sale or auction. This is especially desired to allow the tribe the first option to buy in the event of a mortgage foreclosure proceeding against a tribal member. It will help prevent Indian land from passing out of Indian ownership and provide the tribe with another mechanism for acquiring the land base needed for increased self-sufficiency.

This concludes my prepared statement and I will be pleased to respond to any questions the Subcommittee may have.

THE SIGNING OF S. 9—THE OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1978

(Mr. MURPHY of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

● Mr. MURPHY of New York, Mr. Speaker, early this morning, the President signed and thus enacted into law the Outer Continental Shelf Lands Act Amendments of 1978. This new law—S. 9—is one of the key energy/environmental bills of the 95th Congress. It passed both Houses overwhelmingly. It is supported by industry, labor, citizens, coastal States, environmentalists, Republicans, and Democrats. It is the result of 3½ years of extensive work by a special committee of this House and over 6 years work by the Senate Interior and then Senate Energy Committee.

The President had indicated that he intended to hold a signing ceremony to commemorate the final enactment of these much needed offshore drilling reforms. However, in light of the Camp David meeting and the events resulting from that meeting, he was forced to cancel such a ceremony and sign the bill this morning. He has indicated, however, that he considers this new law a significant part of his overall energy program and of his continuing desire to balance energy development and environmental protection.

As chairman of the Ad Hoc Select Committee on the Outer Continental Shelf, I would like to personally extend my gratitude to President Carter, Secretary Andrus, and their staffs for the wholehearted support of the administration for the OCS bill. I would also like to thank all the Members of Congress and their staffs and the various other groups—coastal States, citizen groups, and environmentalists, fishermen, and some energy companies—that have worked long and hard to forge balanced and effective OCS reform legislation.

This moment is particularly satisfying for me, because of the diligent efforts of the Ad Hoc Select Committee on Outer Continental Shelf over the past 3½ years to update the outmoded 1953 OCS Act. For the first time in the history of Congress, the House set up a special ad hoc select committee to handle a piece of major legislation, and the special procedure worked.

The culmination of this effort, embodied in OCS legislation comes at an especially meaningful time with the recent announcement by Texaco of the discovery of natural gas in the Baltimore Canyon, which clearly illustrates the need for this law as we move into new areas of potential oil and gas production.

This law is a victory for the American people, because the bill will provide for more competition, more protection of the coastal environment and will lessen our dependence on foreign oil. The importance of OCS resources to the United States cannot be overstated. When the select committee began its work over 3½ years ago, the Nation was importing approximately 35 percent of its crude oil. That percentage has risen quickly and steadily. Our imports of foreign crude oil now exceed periodically 50 percent of our domestic consumption. OCS oil and gas resources presently account for 15 percent of the U.S. oil production and 23 percent of natural gas production; and the prospects are that the U.S. Continental Shelf can be the largest new domestic source of oil and gas between now and the 1990's.

Conscious of the need to conserve the environment, this bill provides for the protection of living marine resources, as well as for protection of the coastal areas most likely to be affected by OCS activities. Ample Federal assistance is provided to the coastal States to ameliorate the adverse impacts of OCS activities. Formula grants are to be allocated to States participating in the coastal zone management program to the tune of $130 million annually for 10 fiscal years starting in fiscal year 1979. In addition, the legislation requires the Secretary of Interior to conduct an environmental re-

view, after exploration and before production of OCS leases. It provides for an offshore oilspill pollution fund to insure that damages from OCS spills are speedily compensated. And it provides for compensation to fishermen for any gear damaged or profits lost, because of OCS development.

S. 9 also details procedures to insure competition, a better return to the public for the sale of its mineral rights, and better information to the Government on OCS resources. To spur competition among the oil companies in the bidding process, the legislation provides for new arrangements to lease oil and gas rights and requires the Government to use them during the next 5 years. These new bidding systems will encourage smaller energy companies to participate in OCS development.

S. 9 encourages input from State and local governments on proposed OCS activities. It allows officials of these groups and citizens to respond to Federal proposals, plans, and actions. An open decisionmaking process will eliminate present delays caused by citizen suits, initiated because of dissatisfaction with present procedures. A special provision expediting judicial action will reinforce this reduction in lawsuit delays.

Another important provision of this legislation is the provision that OCS rigs and vessels ordinarily be U.S. documented and manned. This requirement will insure safe operation of all OCS facilities and vessels, and reconcile the dual concerns of providing the fullest possible employment for Americans and of eliminating the likelihood of retaliation by foreign nations against American workers on their OCS.

In the past, objections to OCS reforms were focused on those provisions which some, I believe improperly, claimed would establish a national oil company and unnecessarily increase safety burdens on employers. The new law retains existing law and maintains the present authority of the Secretary of Interior to authorize exploration activities and does not in any way encourage, support, or create a national oil company. Second, the new law provides for workers safety regulations by the Coast Guard—the present agency authorized to promulgate regulations. The Coast Guard is expected to focus its attention and resources on setting and enforcing standards for the unregulated working conditions on the OCS. And Congress will be looking to the Coast Guard to protect employees working on the OCS. Present authority of other agencies is not altered. For example, it was never intended that OSHA would be automatically relieved of responsibility in this area. On the contrary, it is expected that OSHA will function as it always has and that jurisdictional lines between the two agencies with responsibilities on the OCS would be covered by section 4(b)(1) of OSHA. That is, where the Coast Guard issues a standard applicable to a working condition on the OCS, OSHA would be precluded from any enforcement as to that condition.

S. 9 does not alter present arrangements between OSHA and Coast Guard. Neither agency is the exclusive agency for issuing standards for presently unregulated working conditions on the shelf. Both Coast Guard and OSHA authorities are preserved, with section 4(b)(1) providing the dispositive jurisdictional limits both as to presently regulated working conditions as well as to the unregulated areas.

This vital piece of energy legislation will substantially speed up the production of offshore oil, in an orderly manner. It will help this country eliminate the burden of foreign oil imports, contribute to a more favorable balance-of-payments position, provide employment for U.S. citizens, and for the first time involve not only the Federal Government and a few oil companies, but smaller energy companies, State, and local governments, and the people in the development of their resources.

As with all new pieces of legislation, it will be up to the President and the executive department to appropriately implement the policies, programs, procedures, and goals of the OCS Act. It will be up to us—the Congress—to oversee—carefully—this implementation.●

BUSINESS AS USUAL FOR ARMAND HAMMER

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ASHBROOK. Mr. Speaker, American businessman Francis Crawford was recently arrested, imprisoned for 15 days, interrogated repeatedly, convicted, and given a suspended sentence by a Soviet court on trumped up charges. Meanwhile it is business as usual for Armand Hammer, chairman of the Occidental Petroleum Co., and a sympathizer of Communist causes over the years.

In what has been called "the biggest deal in history between the Soviet Union and a Western business," Hammer has just opened a large ammonia plant in the Ukraine. This plant is part of a $20 billion, 20-year agreement between the Soviets and Occidental Petroleum.

The difference in treatment accorded these two American businessmen by Soviet authorities is not surprising. Hammer has always had a special relationship with the Soviet Government.

I discussed this special relationship at some length in a speech entitled "One Man's Soviet Trade," delivered in the House of Representatives on October 17, 1973. As early as the 1920's Hammer was trading fast and furious with the Soviet Union. A major asset was the Communist connections of both his father and himself. I have recently shown the connection between big business and liberal-leftist causes.

Lenin viewed Hammer as a person sympathetic to the Soviet point of view who could lead a path to American business. In a letter to Stalin urging complete cooperation with Hammer, Lenin stated:

> I am giving both Armand Hammer and B. Mishell a special recommendation on my own behalf and request all C.C. members to give these persons and their enterprise particular support. This is a small path leading to the American "business" world, and this path should be made use of in every way.

Hammer's communistic sympathies and connections proved worthwhile. While other businessmen later watched their enterprises appropriated by the Soviets, Hammer profited from his investments.

There are some important lessons in this episode for American businessmen. While trade with the Soviets may be profitable to a few select individuals having a special relationship with the Communist leaders, arrest and expropriation can await those who do not enjoy such a relationship.

Nor should Americans doing business with the Soviets expect justice and fairness. The Communist leadership is prepared to fabricate charges against innocent persons such as Francis Crawford if it will advance Soviet interests. Doing nothing illegal is no protection and no defense.

The Soviets look at trade with the United States as a way of building up their industrial base. Western technology is useful to them, because it strengthens their position against the Capitalist countries. As a Soviet spokesman said in 1926 about allowing foreign concessions:

> On the one hand, we admit capitalist elements, we condescend to collaborate with them: on the other hand our objective is to eliminate completely, to conquer them, to squash them economically as well as socially. It is a furious battle, in which blood may necessarily be spilled.

More than five decades of dealing with the Soviets has been an economic success for the U.S.S.R. and a political and economic disaster for the United States. It has not stopped war, it has not given us peace. It has given the Soviets increased industrial and military power and the ability to press for its never ending goal of world domination.

ADMINISTRATION PLEDGES PROTECTION FOR ALASKA'S NATIONAL INTEREST LANDS

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. SEIBERLING. Mr. Speaker, as all Members know, the deadline is fast approaching for congressional action on the most important conservation issue of our time—the protection of the crown jewels of Alaska's Federal lands.

Under section 17(d)(2) of the Alaska Native Claims Settlement Act of 1971, interim protection was given to these "national interest" lands—lands which are the heritage and legacy of all the American people. But that interim protection expires on December 18 of this year. Unless Congress or the administration acts before that deadline, the decisions about the future of these public lands will be made, not by the public's representatives, but by agents of private interests.

Mr. Speaker, the House of Representatives has met its responsibilities regarding this matter. On May 19, as all

our colleagues will recall, we passed H.R. 39, the Alaska National Interest Lands Conservation Act, by the overwhelming vote of 277 to 31. However, the Committee on Energy and Natural Resources of the other body has not yet completed its consideration of this issue, and no bill has yet been reported to the floor on that side of the Capitol.

I am still hopeful that time remains for the completion of congressional action. Despite the imminence of adjournment, it is still possible that a bill can be passed on the other side, and that differences between that and H.R. 39 can be resolved in a conference between the two bodies. I hope that this will be the case.

However, this is a matter too important to be decided by default. Therefore, I believe that all our colleagues will join me in applauding the recent statement of Secretary of the Interior Cecil Andrus, concerning the determination of the Carter administration to take whatever steps are necessary to insure that—

> The natural treasures of Alaskan wilds are protected for as long as necessary to give Congress time to act.

As the Secretary put it in a speech last week:

> We have no intention of letting Alaska become a private preserve for a handful of rape, ruin, and run developers.

The Secretary stressed that President Carter has "made it absolutely clear that he stands behind whatever measures we must take to protect those Alaskan wildlands."

Mr. Speaker, these are welcome words for all of us who are seeking to assure that the matchless scenic, wildlife, scientific, wilderness, and other values of the American people's Alaskan lands will be protected for the benefit of generations to come. So that all our colleagues may know just where the administration stands on this matter, I am including at this point in the RECORD the text of Secretary Andrus' recent speech, and a brief summary of it which was distributed by the Department of the Interior:

ANDRUS PLEDGES ADMINISTRATION WILL ACT TO PRESERVE CONGRESSIONAL OPTIONS ON FEDERAL LANDS IN ALASKA

Interior Secretary Cecil D. Andrus said tonight that "President Carter and I will make sure that the natural treasures of Alaskan wilds are protected for as long as necessary to give Congress time to act" on legislation designating national parks and refuges in the nation's newest state.

Noting that time is running out for Congress to act this session on a national interest land bill for Alaska, Andrus told The Nature Conservancy Annual Awards Banquet in Arlington, Va.:

"We have no intention of letting Alaska become a private preserve for a handful of rape, ruin and run developers."

Andrus said that several key members of Congress have urged him to begin drafting the necessary proclamations to create new national monuments in Alaska under authority of the Antiquities Act of 1906. Such proclamations issued by the President would prohibit development of natural resources in the prescribed areas at least until Congress completes action on pending legislation.

The Secretary said he also has authority under the Federal Land Policy and Management Act of 1976 to protect wild and scenic areas of Alaska.

"On my recent float trip with President Carter, we discussed Alaska, and he made it absolutely clear that he stands behind whatever measures we must take to protect those Alaskan wildlands," Andrus said.

Congress has a self-imposed deadline of December 18, 1978, for deciding which of Alaska's 375 million acres should be designated as national parks, wildlife refuges, wild and scenic rivers, and national forests. President Carter proposed 92.5 million acres for these protective designations, and the House of Representatives voted overwhelmingly for legislation covering more than 100 million acres. The Senate has not acted, however, and no legislation is enacted, a 1971 law barring development from proposed park and refuge areas will expire.

Andrus charged that those who in 1971 agreed to the process for establishing national parks and wildlife refuges in Alaska are now reneging and attempting to rewrite history. The Secretary also cited the long process of study and consultation which preceded the Administration's recommendations for Alaska.

"Those who say that Alaska is too big to destroy or too tough to damage either don't know what they're talking about or are willing to taken chances we won't," Andrus said.

REMARKS OF THE HONORABLE CECIL D. ANDRUS

Thank you, Tom, for that generous introduction.

One of the pleasures of being Governor of Idaho was having Tom McCall as a neighboring Governor and fellow conspirator against destruction of our environment. He provided inspirational leadership up in our Northwest corner of the country, and although he has temporarily retired from public office, the legend lives on.

We were the first governors who were able to raise questions about the wisdom of helter-skelter development and boomtowns in our states—states which had traditionally been the domain of the boomers—and live to tell about it.

But The Nature Conservancy did not invite us here tonight to pat each other on the back.

The tributes tonight go to those award winners who have been recognized during this program. I join in congratulating them for their outstanding contributions to conservation.

I also want to thank The Nature Conservancy on behalf of myself and the American people for all the great work that this organization has done over the years.

It has been my good fortune to work with the Conservancy to protect some key areas in America.

The wonderful thing about the Conservancy is that it tackles problems head-on, and it so often does what government agencies cannot do, or cannot do in time, to save an endangered wild area or to protect an endangered species.

The Conservancy, working with the U.S. Fish and Wildlife Service, has helped acquire more than 358,000 acres of prime habitat.

On numerous occasions, habitat essential for endangered species, migratory waterfowl or unique ecological wildlife areas was available on the market and threatened with destruction. Interior was unable to act expeditiously because of government red tape. In these cases, the Conservancy has stepped in, acquired the land and held them until appropriations were available.

Our current example is the Leetown Fish Hatchery in West Virginia where adjacent land is being purchased to protect the hatchery's watershed. In addition, there are the Sea Rim Refuge and the Smith Marsh in Texas, and Great Meadows Refuge in Massachusetts, to mention only a few others the Conservancy is working on right now.

In the past decade, the Conservancy has acquired 126 parcels of land on 22 refuges which have been conveyed to the Fish and Wildlife Service at a savings to taxpayers of more than six and one-half million dollars.

Far more important than dollars saved are the thousands of acres of habitat which would have been destroyed if the Conservancy had not acted promptly.

In a sense, the Conservancy has become a court of last resort. Often, the Conservancy has stepped in to help save the last remnant of an ecosystem or home for the last population of some animal or plant. You understand both the necessity and the pain of this kind of environmental salvage work. Fortunately for our Nation, you keep at it.

Tonight, though, I want to talk about Alaska—an area we don't need to salvage—yet.

Alaska still has the free flowing rivers.

Alaska still has the free roaming caribou herds.

Alaska still has the masses of nesting herds.

Alaska is the place the rest of our country once was.

We don't talk about remnants in Alaska. We talk about healthy, thriving natural systems. We don't need to manage Alaska. We just need to protect it.

Since you here tonight so often deal in "lasts" and "onlys" and "one-of-a-handfuls," I am sure that you appreciate both the challenge and the opportunity we have in Alaska.

Our ability to balance development and conservation will make Alaska a source of pride for future generations. It will not merely be the last place we took the opportunity to destory our natural heritage.

Today we have reached the historic decision point. Alaska has always been too cold, too far, too rugged, too expensive for most development. We have now overcome those technical and financial problems. But as we learned to work—and destroy—in the far north we also learned how and why we should conserve and protect. Today we know how to destroy and we know why we should conserve. Whatever course we take in Alaska will be with our eyes wide open. There can be no more excuses.

It is no accident that the world's most expensive and ambitious privately constructed civil engineering project—the Trans-Alaska Pipeline—is in Alaska. Or that it may soon be followed by an even more ambitious natural gas pipeline. The conditions imposed by the arctic require projects on a mammoth scale if they are to succeed. But, of course, such huge projects are in themselves a mammoth threat to Alaska's still healthy natural systems.

Like development, conservation in the far north must also be mammoth in scale. A barren ground grizzly bear requires one hundred square miles of territory. A caribou migrates hundreds of miles. It would be worse than useless to try to protect them with national parks and wildlife refuges scaled to the lower 48 states. It would be fraud.

Fortunately, a farsighted Congress in 1971 gave us the opportunity today to conserve many of Alaska's most important natural areas.

Section 17(d)2 of the Alaska Native Claims Settlement Act directs the Secretary of the Interior to nominate federal land in Alaska for new national parks, wildlife refuges, national forests and wild rivers. At the same time Congress gave itself until December 18 of this year to act.

The Carter Administration met its obligations under the Act last September with a balanced proposal for 92.5 million acres of new conservation areas. Last May the House endorsed similar, but more ambitious, legislation by the overwhelming margin of 277–31. In the Senate today, let's just call the situation less than desirable.

As we developed these proposals we listened to every segment of society with an interest in Alaska.

We listened to the miners—and left more than 70 percent of hard rock minerals outside the boundaries.

We listened to the oil men—and left 90 percent of high potential oil and gas provinces outside the boundaries.

We listened to the hunters—and more than 90 percent of Alaska will be open to sport hunting.

We listened to the Natives—and encouraged the traditional subsistence culture.

We listened to the State—and supported language speeding conveyance of statehood lands.

And we listened to the two thousand Americans who appeared before the House Interior Committee. The majority urged swift action to protect Alaska's wilds—including a majority of those who appeared in Alaska.

When we drew the final boundaries—cut from 120 million acres endorsed by Assistant Secretary Bob Herbst—our major tool was a computerized resource analysis developed by the state. As we made our final decisions, resource consultants from the state government offered advice from an office just down the corridor from my own office.

But despite our best efforts to balance our proposals and accommodate the entire National Interest, these proposals have come under some of the most vitriolic attacks I have witnessed in all my years of public life.

I want to read two statements to you. Here's the first quote from a well known American:

"If I were writing a script for the great American adventure story I could not pick a better location for it than Alaska—a land which is still free, clean and unspoiled. Up until recent times we placed great emphasis on growth—development, industry, new highways and increasing our population. Now a community or state is valued for its open spaces, its unspoiled natural beauty, its clean air and pure water . . ."

Now the second statement from another well-known American:

"Outsiders don't understand Alaska. They only come up here in the summer. They don't realize this is the Arctic. To survive, you need a habitat. Hey, let me tell you. American industry has learned more about the environment in the last 10 years than the environmentalists have learned about the needs of man—ever."

Wait. Both these statements were made by Walter J. Hickel, the first as my predecessor in the office of Secretary of the Interior in 1970, the second a few weeks ago as a candidate for Governor of Alaska.

I don't know how such strong statements for conservation can be replaced by such demagoguery over a period of a few short years. I can't say why.

What I can say though, is that such demagoguery won't work—it didn't even work in Alaska.

Mr. Hickel recently spent $535,000 in his primary election campaign. That's nearly $17 for every one of the thirty-one-thousand-seven-hundred or so votes he got. The boomer philosophy that was represented by that half-million investment was rejected by Alaska's voters. A majority of voters in both parties voted for moderation and responsible consideration.

I am not seeking to criticize Mr. Hickel personally, but I do criticize the boomer philosophy that he represents. Those espousing that philosophy now seek to work their will on the American people by rewriting history.

The State of Alaska has already received enormous wealth from the United States, but there are those who seek even more—at the expense of our last remaining wildlands—lands that belong to all Americans and at the expense of Alaskans who value their life style.

As you well know, the modern history of legislation for Alaska is the history of development legislation. Let me review that history quickly:

In 1959 a generous nation gave Alaska 103 million acres as a statehood grant. This is 30 percent of Alaska—far more either in absolute or proportional terms than any other state received. When Idaho was admitted in 1890—to pick an example I know intimately—we received seven percent of the land.

In 1971, Alaska's Natives, with the backing of the state and the North Slope oil producers, came to Congress seeking settlement of their long-standing aboriginal claims. Congress was just and generous—awarding the Natives 44 million acres and nearly $1 billion in cash. And, not incidentally, clearing title to the proposed right of way for the Alaska pipeline at the same time.

In 1974 Alaskans and oil companies were back again seeking an exemption from the National Environmental Policy Act so they could begin construction on the pipeline immediately.

The Alaska Native Claims Settlement Act contained Section 17-d-2, though.

Senator Ted Stevens agreed to this section.

Senator Mike Gravel agreed to this section.

The late Congressman Nick Begich agreed to this section.

Both Governors Egan and Hickel agreed to this section.

The oil companies agreed to this section.

The mining companies agreed to this section.

Virtually every person, organization, industry with an important interest in the future of Alaska agreed to that section. It was a small price. One paragraph of conservation language to balance an entire bill aimed at development. And the language of the bill and the conference report is clear.

But, now that millions of dollars in Prudhoe Bay oil money is flowing every day into the Alaska treasury—a gift from the people of the United States to the people of Alaska—some Alaskans are whining that Section 17(d)(2) will throttle their state's development. Such charges are pure baloney.

I say that such a repudiation of this agreement is too mean-spirited for most Alaskans to accept. I say that such an attempt to rewrite history is not worthy of Alaskans' honor.

We have explained so carefully and so many times what these proposals will and will not accomplish. They balance conservation with development, protecting the finest wildlife and scenic resources while leaving the majority of minerals and hydrocarbons available for development. I can only assume now that many of those who misstate the proposals or who read dire consequences for Alaska into them no longer do so from well meaning ignorance. They know the facts, and they choose to ignore them.

We have no intention—as some have charged—to turn Alaska into some sort of wilderness playground for the rich. And equally, we have no intention of letting Alaska become a private preserve for a handful of rape, ruin and run developers. Alaska's magnificent resources belong to all Americans—for all time.

I say to you tonight that Alaskans have an obligation to support the national interest in conservation today just as vigorously as the nation supported Alaska's interest in development yesterday.

Alaska's beauty and natural richness is no secret. Travelers have been tramping through her mountains, catching her fish and writing memoirs about her spectacular scenery for more than 75 years. In the 1930s Bob Marshall was writing that nearly every acre north of the Yukon River should be set aside for conservation.

There have been a long string of conservation proposals for Alaska since Marshall. Today, nearly half a century after he wrote, we are starting to recapture his vision and his understanding of what is needed in Alaska.

Our 92.5 million acre proposal is the bare minimum necessary to protect Alaska's scenic, living and cultural resources. These areas were chosen because they are—literally—the Crown Jewels of Alaska's wilds. In Alaska we didn't even consider mountain ranges and river valleys that—in the lower 48—would be targeted for national park status. In Alaska they were mundane.

There was nothing accidental about our proposals. They were designed to protect vital and often unique resources. They were based on the principle that to protect resources you have to protect their surroundings as well. So we drew our boundaries—wherever possible—along watershed contours.

The lesson of the Redwoods and Big Cypress-Everglades is that you protect a resource only if you protect its watershed as well. In a sense, size may be meaningless—a vast area whose boundaries are one hundred yards below the ridge crest may be threatened. Add two hundred yards around the perimeter and it will be safe.

In Alaska we are not playing a numbers game—we are protecting resources. That is a simple concept, but so difficult for some to understand.

Last July I tore myself away from Washington—not too difficult that time of year—for 10 days in Alaska looking at some of the arctic areas we hope to include in our national park and refuge systems.

Flying through Anaktuvik Pass in the central Brooks Range I saw the tragic results of the first attempts to ram a winter road through to the North Slope oil fields. The pressure of the "cat trains" driving over the snow killed the thin vegetation below. Without insulation the tundra was bare to the 24-hour arctic summer sun. The permafrost just a few inches below the surface began to melt and erode. Today much of that "road"—known as the Hickel highway after the former governor who ordered its construction—is a morass of stagnant pools of water that widen and deepen a little more every year as the permafrost continues to melt.

In other parts of the state, tailings left from mines closed half a century ago still look fresh and streams gouged by high pressure hydraulic mining are still raw long after the miners have departed.

The machinery available today dwarfs the equipment these oldtimers used and it no longer takes months to move it.

Even without industrial pressure, though, Alaska wildlife and landscape can be threatened by use that seems minimal by lower 48 standards.

Walker Lake in the Brooks Range is the picture of the Alaskan wild, nestled in a valley surrounded by sharp peaks. Walking along the water's edge I saw fresh bear tracks. Within a few minutes of laying a dry fly on the water I was rewarded with a substantial lake trout. The Eskimo call Walker Lake the "Lake of the Big Fish."

But in these chilly waters—frozen over seven months of the year—fish grow slowly. A handful of greedy fisherman could turn some of Alaska's best fishing lakes into barren water holes.

The next day, flying over the arctic coastal plain I spotted a portion of the Porcupine Caribou Herd. There were about 40,000 animals—one third of the herd. Not since Americans saw the buffalo on the great plains has there been a wildlife spectacle comparable to the caribou. But they maintain a delicate balance with their environment—always moving to keep from overgrazing the thin layer of vegetation. Slight changes

could upset the balance of thousands of years.

The thousands and thousands of caribou in the Porcupine Herd filled an area three miles wide by fifteen miles long. In the lower 48 this is a big area. In Alaska, not very big at all. Those caribou migrate more than a thousand miles every year. They walk the equivalent of a round trip between Washington and Chicago every year.

The arctic is not a feed lot.

The Eskimos say that "no one knows the way of the wind and the caribou." We certainly don't pretend to. What we do know is that once a caribou herd has distintegrated the most adept biologists may not be able to put it back together again.

So to those who say that "oil is where you find it" I say, caribou are only where you you find them too—and unlike the oil, we know exactly where the caribou are .

I want to say a few words about the Alaska lifestyle at this point because I think that it's important to separate myth from reality, and the most enduring Alaska mythology—aside from stories about grizzly bears—is about the traditional Alaska lifestyle.

That tradition—characterized by the independent miner, the homesteader and the roving trapper supported only by rifle and wits—is about as appealing as anything I know.

Unfortunately, though, the Alaska lifestyle survives today mostly in romantic magazine articles. Alaska is one of the most urbanized states in the union. Of 400,000 Alaskans, only about 50,000 can claim to be "bush" residents. The vast majority of Alaskans live in Anchorage, Juneau and Fairbanks.

The major industry in Alaska today—aside from government—is oil, a capital intensive business that hires relatively few permanent workers and insulates them from the country in futuristic "camps" when they are outside urban areas.

The only time most Alaskans see the remote back country of their spectacular state, unfortunately, is during brief vacation safaris. The days when you could drive to the outskirts of Anchorage, shoot a winter moose and be home for lunch are long gone. Not too long ago, students at the University in Fairbanks kept rifles in their dorm rooms to be ready to go caribou hunting near the campus on a moment's notice. Today you are lucky to see a caribou anywhere near Fairbanks.

Even in the remote back country, hunting pressure is cutting into the size of Dall Sheep and Brown Bears now being killed. Research is underway to find out whether sheep in the Brooks Range are simply moving away from the gravel bars and lakes that are convenient landing sites or are actually getting smaller.

Those who say that Alaska is too big to destroy or too tough to damage either don't know what they're talking about or are willing to take chances we won't take.

Well, where does that leave us now? Here is the situation in the Senate.

Markup in the Senate Energy and Natural Resources Committee has not been completed. The Committee's bill thus far contains some major changes from the House passed bill and the Administration's recommendations;

Portions of the proposed Yukon Flats and Arctic Range wildlife refuges have been designated as a national forest, despite the fact that the timber in that area is not commercial quality while the wildlife resources are outstanding.

The Arctic Wildlife Range will be opened up to oil and gas exploration.

Portions of the Gates of the Arctic and Wrangells-St. Elias National Parks will be opened to mining.

Thus far, only about 25 million acres of wilderness have been designated in the parks and refuges; the Committee has not yet made a decision on wilderness in the national forests in Southeast.

As it stands now, it appears unlikely that the House would accept the Senate bill without going to a conference, and time is running out.

Chairmen Udall and Seiberling both still hope that a bill can be passed this year, but they recognize that it may not. They have written urging me to start preparing the necessary proclamations to create new national monuments in Alaska.

I truly hope, though, that Congress will complete action this year to protect these priceless national treasures. But if it doesn't, the Administration does have several shields. On my recent float trip with President Carter, we discussed Alaska, and he made it absolutely clear that he stands behind whatever measures we must take to protect those Alaskan wildlands.

What are the shields?

The Antiquities Act of 1906 gives the President authority to establish national monuments by executive order. If we take this route, the traditional subsistence way of life will be protected.

Section 603 of the Federal Land Policy and Management Act directs me to study all roadless areas over 5,000 acres under BLM jurisdiction for inclusion in the national wilderness system. I have 15 years for the study, but right now it looks like most of Alaska would qualify.

I have other withdrawal authorities under the BLM Organic Act.

The stakes in Alaska are too high for hesitation. The loss to the Nation would be too great. If the Congress fails to act this year, the President and I will.

The caribou may not survive if we don't act.

The waterfowl that fly to 46 states from Alaska may not survive if we don't act.

The only unthreatened populations of grizzly bears may not survive if we don't act.

The only major pristine river valley may not survive if we don't act.

The only great virgin forest may not survive if we don't act.

So make no mistake. We will act.

President Carter and I will make sure that the national treasures of Alaskan wilds are protected for as long as necessary to give Congress time to act.

As a Native Alaskan told the House Interior Committee: "If we fail God may forgive us, but our grandchildren won't"

Well, in Alaska our grandchildren aren't going to have to forgive us.●

RECESS

The SPEAKER. The Chair declares the House in recess until 7:40 p.m.

Accordingly (at 5 o'clock and 41 minutes p.m.), the House stood in recess until 7:40 p.m.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 7 o'clock and 43 minutes p.m.

HOUR OF MEETING ON TOMORROW

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 11 a.m. on tomorrow, Tuesday, September 19, 1978.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

JOINT SESSION OF THE HOUSE AND SENATE HELD PURSUANT TO THE PROVISIONS OF HOUSE CONCURRENT RESOLUTION 713 TO HEAR AN ADDRESS BY THE PRESIDENT OF THE UNITED STATES

The SPEAKER of the House presided.

The Doorkeeper, the Honorable James T. Malloy, announced the Vice President and Members of the U.S. Senate, who entered the Hall of the House of Representatives, the Vice President taking the chair at the right of the Speaker, and the Members of the Senate the seats reserved for them.

The SPEAKER. The Chair appoints as members of the committee on the part of the House to escort the President of the United States into the Chamber the gentleman from Texas (Mr. WRIGHT; the gentleman from Indiana (Mr. BRADEMAS); the gentleman from Washington (Mr. FOLEY); the gentleman from Illinois (Mr. ROSTENKOWSKI); the gentleman from Arizona (Mr. RHODES); and the gentleman from Illinois (Mr. MICHEL).

The VICE PRESIDENT. On behalf of the Senate, the Chair appoints the following Senators to escort the President of the United States into the House Chamber: the Senator from West Virginia (Mr. ROBERT C. BYRD); the Senator from California (Mr. CRANSTON); the Senator from Alabama (Mr. SPARKMAN); the Senator from Hawaii (Mr. INOUYE); the Senator from Connecticut (Mr. RIBICOFF); the Senator from South Dakota (Mr. ABOUREZK); the Senator from New Jersey (Mr. CASE); the Senator from Tennessee (Mr. BAKER); the Senator from Nebraska (Mr. CURTIS); the Senator from Texas (Mr. TOWER); the Senator from Wyoming (Mr. HANSEN); and the Senator from New York (Mr. JAVITS).

The Doorkeeper announced the Ambassadors, Ministers, and Charges d'Affaires of foreign governments.

The Ambassadors, Ministers, and Charges d'Affaires of foreign governments entered the Hall of the House of Representatives and took the seats reserved for them.

The Doorkeeper announced the Cabinet of the President of the United States.

The members of the Cabinet of the President of the United States entered the Hall of the House of Representatives and took the seats reserved for them in front of the Speaker's rostrum.

At 8 o'clock and 2 minutes p.m., the Doorkeeper announced the President of the United States.

The President of the United States, escorted by the committee of Senators and Representatives, entered the Hall of the House of Representatives, and stood at the Clerk's desk.

[Applause, the Members rising.]

The SPEAKER. Members of the Congress. I have the high privilege and the

distinct honor of presenting to you the President of the United States.

[Applause, the Members rising.]

ADDRESS BY THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95-383)

The PRESIDENT. Vice President MONDALE, Speaker O'NEILL, distinguished Members of the United States Congress, other leaders of our great Nation, ladies and gentlemen:

It's been more than 2,000 years since there has been peace between Egypt and a free Jewish nation. If our present expectations are realized this year, we shall see such peace again.

[Applause.]

The first thing I would like to do is to give tributes to the two men who made this impossible dream now become a real possibility, the two great leaders with whom I have met for the last 2 weeks at Camp David.

First, President Anwar Sadat of Egypt.

[Applause.]

And the other, of course, is Prime Minister Menachem Begin of the Nation of Israel.

[Applause.]

I know that all of you would agree that these are two men of great personal courage representing nations of peoples who are deeply grateful to them for the achievement which they have realized, and I am personally grateful to them for what they have done.

At Camp David we sought a peace that is not only of vital importance to their own two nations, but to all the people of the Middle East, to all the people of the United States and indeed to all the world as well. The world prayed for the success of our efforts, and I am glad to announce to you that these prayers have been answered.

[Applause.]

I have come to discuss with you tonight what these two leaders have accomplished and what this means to all of us. The United States has had no choice but to be deeply concerned about the Middle East and to try to use our influence and our efforts to advance the cause of peace for the last 30 years through four wars. The people of this troubled region have paid a terrible price in suffering and division and hatred and bloodshed. No two nations have suffered more than Egypt and Israel, but the dangers and the cost of conflicts in this region for our own nation have been great as well.

We have longstanding friendships among the nations there and the peoples of the region, and we have profound moral commitments which are deeply rooted in our values of the people. The strategic location of these countries and the resources that they possess mean that events in the Middle East directly affect people everywhere.

We and our friends could not be indifferent if a hostile power were to establish domination there. In few areas of the world is there a greater risk than a local conflict could spread among other nations adjacent to them and then perhaps erupt into a tragic confrontation between us superpowers, ourselves. Our people have come to understand that unfamiliar names like Sinai, Aqaba, Sharm el-Sheikh, Ras en Naqb, Gaza, the West Bank of Jordan, can have a direct and immediate bearing on our own well-being as a Nation and our hope for a peaceful world. That is why we in the United States cannot afford to be idle bystanders, why we have been full partners in the search for peace, and why it is so vital to our Nation that these meetings at Camp David have been a success.

Through the long years of conflict, four main issues have divided the parties involved. One is the nature of peace—whether a peace will simply mean that the guns are silenced, the bombs no longer fall, that the tanks cease to roll or whether it will mean that the nations of the Middle East can deal with each other as neighbors and as equals, and as friends, with a full range of diplomatic and cultural and economic and human relations between them, that has been the basic question.

The Camp David agreement has defined such relationships, I am glad to announce to you, between Israel and Egypt.

[Applause.]

The second main issue is providing for the security of all parties involved, including, of course, our friends, the Israelis, so that none of them need fear attack or military threat from one another. When implemented, the Camp David agreement, I am glad to announce to you, will provide for such mutual security.

[Applause.]

Third is the question of agreement on secure and recognized boundaries, the end of military occupation and the granting of self-government or else the return to other nations of territories which have been occupied by Israel since the 1967 conflict. The Camp David agreement, I am glad to announce to you, provides for the realization of all these goals.

[Applause.]

And finally, there is the painful human question of the fate of the Palestinians who live or who have lived in these disputed regions. The Camp David agreement guarantees that the Palestinian people may participate in the resolution of the Palestinian problem in all its aspects, a commitment that Israel has made in writing and which is supported and appreciated, I am sure, by all the world.

Over the last 18 months, there has been, of course, some progress on these issues.

Egypt and Israel came close to agreeing about the first issue, the nature of peace. They then saw that the second and third issues, that is, withdrawal and security, were inimately connected, closely entwined but fundamental divisions still remained in other areas—about the fate of the Palestinians, the futures of the West Bank and Gaza, and the future of Israeli settlements in occupied Arab territories. We all remember the hopes for peace that were inscribed by President Sadat's initiative, that great and historic bid at Jerusalem last November that thrilled the world, and by the warm and genuine personal response of Prime Minister Begin and the Israeli people and by the mutual promise between them publicly made that there would be no more war. These hopes were sustained when Prime Minister Begin reciprocated by visiting Ismailia on Christmas Day. That progress continued, but at a slower and slower pace to the early part of the year. And by early summer the negotiations had come to a standstill once again. It was this stalemate and the prospect for an even worse future that prompted me to invite both President Sadat and Prime Minister Begin to join me at Camp David.

They accepted, as you know, instantly—without delay, without preconditions, without consultation even between them. It is impossible to overstate the courage of these two men for the foresight they have shown. Only through high ideals, through compromises of words and not principles and through the willingness to look deep into the human heart and to understand the problems and hopes and dreams of one another can progress in a difficult situation like this ever be made. That is what these men and their wise and diligent advisors who are here with us tonight have done during the last 13 days.

[Applause.]

When this conference began, I said that the prospects for success were remote. Enormous barriers of ancient history and nationalism and suspicion would have to be overcome if we were to meet our objectives.

But President Sadat and Prime Minister Begin have overcome these barriers, exceeded our fondest expectations, and have signed two agreements that hold out the possibility of resolving issues that history had taught us could not be resolved.

The first of these documents is entitled, "A Framework for Peace in the Middle East Agreed at Camp David." It deals with a comprehensive settlement—comprehensive settlement—between Israel and all her neighbors, as well as the difficult question of the Palestinian people and the future of the West Bank and the Gaza area.

The Agreement provides a basis for the resolution of issues involving the West Bank and Gaza during the next 5 years. It outlines a process of change which is in keeping with Arab hopes, while also carefully respecting Israel's vital security.

The Israeli military government over these areas will be withdrawn and will be replaced with a self-government of the Palestinians who live there and Israel has submitted that this government will have full autonomy. Prime Minister Begin said to me several times, "not partial autonomy but full autonomy." Israeli forces will be withdrawn and redeployed into specified locations to protect Israel security. The Palestinians will further participate in determining their own future through talks in which their own elected representatives, inhabitants

of the West Bank in Gaza, will negotiate with Egypt and Israel and Jordan to determine the final status of the West Bank and Gaza. Israel has agreed, has committed themselves that the legitimate rights of the Palestinian people will be recognized. After the signing of this framework last night and during the negotiations concerning the establishment of a Palestinian self-government, no new Israeli settlements will be established in this area. The future settlements issue will be decided among the negotiating parties. The final status of the West Bank and Gaza will be decided before the end of the 5-year transitional period during which the Palestinian Arabs will have their own government as part of a negotiation which will produce a peace treaty between Israel and Jordan specifying borders, withdrawal, all those very crucial issues. These negotiations will be based on all the provisions and the principles of Security Council Resolution 242 with which you all are so familiar.

The agreement on the final status of these areas will then be submitted to a vote by the representatives of the inhabitants of the West Bank and Gaza, and they will have the right for the first time in their history, the Palestinian people, to decide how they will govern themselves permanently. We also believe—of course, all of us—that there should be a just settlement of the problems of displaced persons and refugees which take into account appropriate United Nations resolutions.

Finally, this document also outlines a variety of security arrangements to reinforce peace between Israel and her neighbors.

This is, indeed, a comprehensive and fair framework for peace in the Middle East, and I am glad to report this to you.

[Applause.]

The second agreement is entitled, "A Framework for the Conclusion of a Peace Treaty Between Egypt and Israel." It returns to Egypt its full exercise of sovereignty over the Sinai Peninsula, and establishes several security zones, recognizing carefully that sovereignty right for the protection of all parties. It also provides that Egypt will extend full diplomatic recognition to Israel at the time the Israelis complete an interim withdrawal from most of the Sinai, which will take place between 3 months and 9 months after the conclusion of the peace treaty. [Applause.] And the peace treaty is to be fully negotiated and signed no later than 3 months from last night.

I think I should also report that Prime Minister Begin and President Sadat have already challenged each other to conclude the treaty even earlier. [Applause.] And I hope that they do. This final conclusion of a peace treaty will be completed late in December and it would be a wonderful Christmas present for the world. [Applause.]

Final and complete withdrawal of all Israeli forces will take place between 2 and 3 years following the completion of the peace treaty.

While both parties are in total agreement on all the goals that I have just described to you, there is one issue on which agreement has not yet been reached. Egypt states that agreement to remove the Israeli settlements from Egyptian territory is a prerequisite to a peace treaty. Israel says that the issue of the Israeli settlements should be resolved during the peace negotiations themselves.

Now, within 2 weeks with each member of the Knesset of the Israeli parliament acting as individuals not constrained by party loyalty, the Knesset will decide on the issue of the settlements. Our own government's position, my own personal position is well known on this issue and has been consistent. It is my strong hope, my prayer, that the question of Israeli settlements on Egyptian territory will not be the final obstacle to peace.

None of us should underestimate the historic importance of what has already been done. This is the first time that an Arab and an Israeli leader have signed a comprehensive framework for peace. It contains the seeds of a time when the Middle East, with all its vast potential, may be a land of human richness and fulfillment, rather than a land of bitterness and continued conflict. No region in the world has greater natural and human resources than this one, and nowhere have they been more heavily weighed down by intense hatred and frequent war. These agreements hold out the real possibility that this burden might finally be lifted.

We must also not forget the magnitude of the obstacles that still remain. The summit exceeded our highest expectations, but we know that it left many difficult issues which are still to be resolved. These issues will require careful negotiation in the months to come.

The Egyptian and Israeli people must recognize the tangible benefits that peace will bring and support the decisions their leaders have made so that a secure and a peaceful future can be achieved fully. The American public, you and I, must also offer our full support to those who have made decisions that are difficult and those who have very difficult decisions still to make.

What lies ahead for all of us is to recognize the statesmanship that President Sadat and Prime Minister Begin have shown and to invite others in that region to follow their example. I have already last night invited the other leaders of the Arab world to help sustain progress toward a comprehensive peace. We must also join in an effort to bring an end to the conflict and the terrible suffering in Lebanon. [Applause.] This is a subject that President Sadat discussed with me many times while I was in Camp David with him, and the first time that the three of us met together this was the subject of heated discussion. On the way to Washington last night in the helicopter we mutually committed ourselves to join with other nations, with the Lebanese people themselves, all factions, with President Sarkis, with Syria and Saudi Arabia, perhaps European countries like France, to try to move toward a resolution of the problem in Lebanon which is so vital to us and to the poor people in Lebanon who have suffered so much. We will want to consult on this matter and on the documents on their meaning with all of the leaders, particularly the Arab leaders. I am pleased to say to you tonight that just a few minutes ago King Hussein of Jordan and King Khalid of Saudi Arabia, and perhaps other leaders later, but these two have already agreed to receive Secretary Vance, who will be leaving tomorrow to explain to them the terms of the Camp David agreement. [Applause.] And we hope to secure their support for the realization of the new hopes and dreams of the people of the Middle East.

This is an important mission. And this responsibility, I can tell you, based on my last two weeks with him, could not possibly rest on the shoulders of a more able and dedicated and competent man than Secretary Cyrus Vance.

[Applause.]

Finally, let me say that for many years the Middle East has been a textbook for pessimism. A demonstration that diplomatic ingenuity was no match for intractable human conflicts. Today we are privileged to see the chance for one of the sometimes rare, bright moments in human history—a chance that may offer the way to peace. We have a chance for peace because these two great leaders found within themselves the willingness to work together to seek a lasting prospect for peace which we all want so badly; and for that, I hope that you will share my prayer of thanks, and my hope that the promise of this moment shall be fully realized.

The prayers at Camp David were the same as those of the shepherd King David who prayed in the 85th Psalm:

> Wilt Thou not revive us again: that Thy people may rejoice in thee?
>
> I will hear what God the Lord will speak: for He will speak peace unto His people, and to His saints: but let them not turn again to folly.

And I would like to say as a Christian to these two friends of mine the words of Jesus: "Blessed are the peacemakers, for they shall be the children of God."

At 8 o'clock and 34 minutes p.m., the President, accompanied by the committee of escort, retired from the Hall of the House of Representatives.

The Doorkeeper escorted the invited guests from the Chamber in the following order:

The members of the President's Cabinet.

The Ambassadors, Ministers, and Charges d'Affaires of foreign governments.

JOINT SESSION DISSOLVED

The SPEAKER. The Chair declares the joint session of the two Houses now dissolved.

Accordingly, at 8 o'clock and 38 minutes p.m., the joint session of the two Houses was dissolved.

The Members of the Senate retired to their Chamber.

The SPEAKER. The Chair declares a recess subject to the call of the Chair.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 8 o'clock and 43 minutes p.m.

REFERENCE OF PRESIDENT'S MESSAGE

Mr. YOUNG of Missouri. Mr. Speaker, I move that the message of the President be referred to the Committee of the Whole on the State of the Union and ordered printed.

The motion was agreed to.

A PROPOSITION 13 NEEDED FOR HUD

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. GOLDWATER) is recognizedfor 5 minutes.

● Mr. GOLDWATER. Mr. Speaker, having read an investigative report compiled by United Press International, I am appalled to learn that the U.S. Department of Housing and Urban Development has spent millions of dollars on activities which are doing very little, if anything, to improve the housing conditions for Americans.

When Congress passed the National Housing Act in 1949, it set as a goal for this country a policy of clearing slums and blighted areas, and the elimination of substandard housing units in urban and rural areas. When HUD was created during the Johnson administration, it was hoped that the various Government programs for housing and community development would be coordinated under one agency. Since its inaugural year of 1965, the Department has spent nearly $66 billion, but the findings of the UPI investigation reveals that much of the money expended by the agency has little to do with meeting the objectives of a national housing policy.

The annual HUD budget is currently in the neighborhood of $10 billion. At least $50 million is being appropriated for research which duplicates the work of other Government projects. A significant amount of HUD funds are not going to the poor, but corporate interests, consulting firms, and university professors who are conducting studies for the Department. In some cases, community development programs spend as much as three-quarters of their grants on overhead.

One priority of the top brass at HUD is an expensive public relations blitz to encourage support for the Carter administration's "image-building" effort to dispel "the perception that * * * that the Department is fragmented, scandal-ridden, inefficient, and an agent of the last resort whose clientle is on welfare."

It would seem to me that the public impression is not too far from the mark. The agency spends $268 million on salaries for a staff which will increase by 15 percent in the next fiscal year. Already, there are nearly 2,500 HUD employees earning more than $30,000 a year. One HUD worker, who asked not to be identified, said that more than $22 million a year is spent by the agency on travel which is rampant and unnecessary.

Another chunk of the agency budget is spent on helping to bail out banks who make loans to individuals who default on the repayments. This has amounted to $7.6 billion in just the last 6 years, and the Department, at the beginning of this year, had approximately $6 billion in loans outstanding.

Mr. Speaker, it is this very type of activity in Government which has inspired the tax revolt movement. It is the Congress which must be sensitive to the public sentiment, and being involved in the operations of an agency like HUD is certainly in order. What we in Congress need to do, Mr. Speaker, is pass our own version of proposition 13, and cut out this needless waste of tax dollars in HUD.●

U.S. NAVAL POWER MUST BE SUPREME

The SPEAKER. Under a previous order of the House, the gentleman from Arizona (Mr. RUDD) is recognized for 15 minutes.

Mr. RUDD. Mr. Speaker, I spent some time this past weekend visiting one of the great fighting ships in our Nation's history, the U.S.S. *Constitution*, affectionately known as Old Ironsides.

This magnificent sailing vessel in the Port of Boston was launched in 1797, and played a key role against the British invasion and attempted takeover of our young country in the War of 1812.

I toured every inch of the *Constitution*, which stands as a tribute to the naval concept of "a moving platform to take the war to the enemy"—the only reason for a fighting vessel, and just as important a military strategy today as it was almost 200 years ago.

The visit to Old Ironsides reminded me of this important era of American history, and how the lessons of our lack of preparedness for the War of 1812 might relate to the status of our Navy today and the current world situation.

Despite the superfrigates *Constitution*, and her sister ship the *Constellation*, the United States had a pitifully small Navy in the early 1800's. This was because President Thomas Jefferson—despite his many good qualities—combined his economy-mindedness with an intense distrust of the military. He cut the U.S. Army by one-third and cut the Navy down to only six ships with small crews.

The British knew this, and their invasion of our shores in 1812 was planned on sure intelligence that the United States would be hopelessly outclassed militarily and easily defeated if our Government put up any kind of a fight.

Thankfully, the British had not counted on the hundreds of valiant American privateers—private commercial shippers, who entered the fight to save our country from the British Naval Forces. The privateers ended up inflicting more damage on the British than did our own regular Navy, and without them the British would have easily overrun us.

American privateers captured or destroyed about 1,350 British merchant ships, despite a powerful British convoy system and an ever-tightening blockade, which eventually stopped their efforts. By the end of the war, the British Navy had virtually destroyed our entire naval fleet, even though the United States was saved.

Mr. Speaker, as I think of this lesson of the War of 1812, despite the tremendous ingenuity that made possible the building of an Old Ironsides, because of the acts of a well-meaning President to strip our country of its military muscle in the interests of economy and peace, I am led to think about the tremendous error of President Carter's veto of another nuclear aircraft carrier for our Navy.

This veto signals the end of a much needed nuclear carrier program, in light of a massive Soviet naval buildup throughout the world, aimed at control of the world's sea lanes.

The Russians had gained control of the North Sea by 1959. During the Vietnam era of the 1960's, they intruded into South China Sea. The Soviet fleet is also dominant in the Mediterranean and has vital access to the Caribbean through its client State of Cuba.

The Soviets have also directed efforts to obtain naval dominance over seven critical sea passage points—Singapore, Ceylon, the Horn of Africa, the Cape of Good Hope, Gibraltar, the Straits of Magellan, and the Panama Canal.

Mr. Speaker, the administration and Congress must take immediate steps to prevent a repetition of the defense shortsightedness in our early history that left us vulnerable to defeat in the War of 1812.

Recognizing the vital importance of supremacy on the seas, our national leadership must repudiate the policies of those who would deny our defense forces the most modern, efficient, and effective "platforms to take the war to the enemy," if that necessity should ever arise. To do otherwise would be to invite disaster at the hands of expansionist enemies.

A highly important book on the current state of U.S. Naval Forces, and our ability to project American military power abroad, has been written by Adm. Thomas H. Moorer, retired Chairman of the Joint Chiefs of Staff, and Dr. Alvin J. Cottrell of Georgetown University's Center for Strategic and International Studies.

A review of this book, and the current U.S. naval situation, has been published by the prestigious Foreign Affairs Research Institute of London. I would like to include this important paper at this point in the RECORD:

THE DANGERS OF THE REDUCTION OF U.S. OVERSEAS BASES

(By Ronald Waring)

In the years which followed the ending of the Second World War and with the emergence of the United States, armed with nuclear weapons, as the world's first Super Power, it was not very difficult for the Americans to create a network of bases all over the world for their enormous armed forces. America was respected, popular and feared. Host countries, with which America made basing agreements, were pleased to have an

American presence on their soil, and it gave them a feeling of security. In the 30 years or so which have since elapsed, this situation has changed radically, both for America and for the host countries.

For America, the requirement has not remained constant; the American forces themselves have been greatly reduced in size, but the range, accuracy and destructive capabilities of their new weapons have increased enormously. At the same time, the challenge of the second great Super Power, the Soviet Union, has arisen and increased to a position of parity with the United States. China has grown to the stature of a Super Power and the ideological struggle between the Communist and Capitalist worlds has become global.

New nations have come into being, and very many of them do not want military bases of foreign states on their soil. Many of them have come under the ideological persuasion of Moscow, while others either do not believe that America can, or would, protect them in the face of Soviet aggression. Some want no part in any future conflict between the Super Powers, with its implied nuclear threat, and want to be, and be seen to be, neutral. Socialist and Communist political parties all over the world demand the reduction or removal of American bases from national territory, and the attitude of other host countries where the left is still in a minority has, in many cases changed from a welcoming acceptance of American bases on their soil to one of acceptance only if the price is right, and if an offer is made which they cannot refuse.

The situation, and its projection into the future, is examined in a comprehensive and thoughtful study[1] prepared by the Center for Strategic and International Studies of Georgetown University.

This study examines the present distribution of American bases throughout the world, the closing down of more than three quarters of them from the peak period until today for reasons of economy, adverse political pressure, reduction in the numbers of the armed forces themselves and non-requirement in view of the new weapons and their capabilities. It examines in detail the present situation with regard to those bases still in operation, the possibilities that they will be able to continue to operate in the next ten years and the factors which could prevent this. It studies possible alternatives and suggests the development of irreducible and essential bases.

THE VITAL AZORES

Starting with the Azores, the study points to the continuing political chaos in Lisbon, and to the possibilities of the emergence of a far left wing government in Portugal. It mentions the existence of a growing and powerful independence movement on the islands, and mentions pressures from Arab quarters which would like to prevent the Azores from ever being used again for an American airlift of armaments to Israel. The study goes on to mention the actual use of the Azores, both in defence of the North Atlantic as part of the NATO Alliance, and also with regard to the Middle East and US global strategy. The Soviet Backfire bomber can reach the Azores from bases in the Soviet Union and return: such aircraft carry the new Soviet missiles with a range of some 850 nautical miles. The missiles are fitted with nuclear warheads and could be used as non-precision weapons against convoy concentrations in the North Atlantic. Without the Azores base, this could be a considerable threat. An alternative is suggested using the American base at Rota in Spain, but this presents many difficulties.

The situation in Spain is then examined in the same way the changing political factors, and also the last Spanish leasing agreement which has whetted the appetites of many host countries when considering new rental agreements for American bases and re-negotiation of existing agreements.

From Spain, the study moves on to Italy and comments on the ambiguous attitude of the Italian Communist Party, the near certainty of some sort of "Historic Compromise" which will bring the Communists into a position of greater power in government and the possible and probable implications of this. Italy is essential for America: the Mediterranean is no longer an American lake, and if American military installations and bases were to be required to leave Italy, or subjected to such restrictions and controls that they could not work, it is impossible to see where else they could go. It could result in a virtual withdrawal of the American military presence from the Mediterranean.

The situation with regard to both Greece and Turkey is near disastrous. The Carter Administration has linked Turkish concessions over Cyprus with the supply of military equipment to Turkey, while the strong Greek lobby in Congress has blocked any improvement of relations between the US and Turkey, and at the same time the Greek left wing maintain considerable pressure on the Karamanlis Government and have, as a declared policy, their intention of taking Greece out of NATO entirely. In the case of both Greece and Turkey, the result has been to restrict very severely the operations of American bases in this crucial area.

THE INDIAN OCEAN AT RISK

To some extent this has been compensated for, as regards to intelligence gathering, by an agreement with Iran, but here again the Carter Administration's insistence on human rights has not improved relations with the Shah.

Within the last few months, the whole situation in the Persian Gulf, and in the Horn of Africa has changed radically, and not for the better. The Soviets are expanding their base at Aden, and there is an increasing Soviet naval presence in the Indian Ocean. The Soviets are building a major base at Nacala in Northern Mozambique, while for reason of internal politics, and the Carter Administration's preoccupations with human rights, America has denied herself the excellent facilities offered by South Africa. On the West Coast, Luanda and Bissau both offer facilities to Soviet aero-naval units. The Cubans now control the airfield at Sao Tome, while in the Cape Verde, the Soviets are building a major aero-naval base which will cover the South Atlantic.

The study stresses the need for the rapid expansion of Diego Garcia in the Indian Ocean but the future of this base is very uncertain as it is believed that President Carter may be prepared to abandon this as part of the SALT Agreements with the Soviet Union, by which the Indian Ocean would be declared a "Zone of Peace". It is probable that the United States will be obliged to leave Bharein, and India is strongly opposed to US bases of any sort in the Indian Ocean anywhere.

The situation is rather better in Australia and New Zealand, at least at the present time, but this cannot be regarded as permanent. Mr. Gough Whitlam made no secret of his desire to take Australia into a position of neutrality, and there are political trends in Australia which would like to see all American naval facilities stopped.

The Vietnam war, and the American withdrawal, has had its effect not only on America itself but also on the whole of South East Asia, and there is no enthusiasm in this area for any American aero-naval bases.

A SIGN OF WEAKNESS

The Carter Administration's decision to withdraw from South Korea as soon as possible has had a very great effect too on the Japanese, and there is a certain feeling of doubt as to the value of America as a protector and as an ally. Neither the South Koreans nor the Japanese asked for the American withdrawal from South Korea and the intention to do so is taken as a sign of weakness.

The Americans maintain a very considerable base in the Philippines, but here again relations have become strained with President Marcos on the matter of human rights. However, due to considerations of finance and employment locally, the Philippines may be considered to be fairly safe for the time being, although it is said that President Marcos is much impressed with the handsome financial leasing agreement negotiated between the United States and Spain.

American bases in the Pacific are safe, but they are, in many cases, removed by very considerable distances from any operational areas.

In Latin America, the pattern is repeated. The matter of the Administration's obsession with human rights has alienated, and is causing stresses with, Chile, the Argentine and Brazil, and many Latin Americans believe that the United States is giving secret backing to left wing "liberation movements" in those countries, while in Congress liberal politicians want to have nothing to do with these more authoritarian governments.

Even in the Caribbean, the situation is not entirely a happy one with the large American base in Cuba under a virtual state of siege.

The study stresses the urgent need for a visible and coherent American policy which for some time now has not been by any means clear. It urges examination of what is vital for America in the way of overseas military bases in the light of an agreed and definite policy, and how this may be achieved. It is obvious that the money asked by host countries for such bases will always be more, but the alternatives may be even more costly. It suggests that certain compromises will have to be made on attitudes towards human rights where the vital interests of the United States are at stake. It points out that bases conceded reluctantly, and surrounded by a hostile population, cannot be fully effective, and it sounds a very clear warning as to the deteriorating position and dangers which lie in the immediate future.

PSYCHOLOGICAL FACTOR

It raises the whole question as to America's role, what is the value of overseas bases in maintaining an American military presence round the world, the protection of American interests, American shipping, routes for the supply of raw materials, and the political influence of an American armed presence on the spot in many parts of the world which would be a vital necessity in the event of war.

America will be obliged to make a decision in the face of these changing circumstances, taking into account the huge and ever growing Soviet fleet, the building of more and more large Soviet aero-naval bases, and their ever increasing ability to show the flag. It is obvious that a missile in a silo in California has not the impact on a local population some thousands of miles away as has the actual physical presence of a new Soviet cruiser bristling with missiles actually in their port. There is a psychological factor involved when one major power withdraws and is no longer seen, and another power parades its armed might in the area. This fact is very well known to the Soviets, and the presence

[1] *U.S. Overseas Bases: Problems of Projecting American Military Power Abroad.* By Adm. Thomas H. Moorer and Dr. Alvin J. Cottrell, Center for Strategic and International Studies, Georgetown University, 1800 K Street NW., Washington, D.C., 20006, USA. $3 or £1.50.

of Soviet warships is always a considerable stimulus to the activities of local Communist Parties, and to those who, while denying that they are Communists, point out that it is more prudent to be friendly to the man with a gun who is actually there. Politicians should also reflect on the fact that such military appearances are also invariably accompanied by trade missions on shore.

The study suggests two alternatives to shore bases. First, the possibility of a purely sea based fleet, operating over long distances and with supply ships, which is extremely expensive. It is not as effective as shore bases and certainly has an effect on the morale of the sailors. Second, it considers the use of the new technology, the building of floating islands, huge concrete platforms anchored at sea and used as permanent bases. This is technically possible, but again immensely expensive and not very satisfactory as they in turn have to be provisioned by supply ships with virtually everything, and in time of war they would be even more vulnerable than land bases.

In the ultimate, it comes down to a matter of political will, and to end I quote from the text of the study. "Thus, of necessity, naval forces will increasingly become the key—if not the only—service capable of projecting US influence abroad, given the political and military environment for the future. This will have to be achieved largely from bases or facilities on the coasts of the United States, with recourse to only a few scattered facilities abroad.

"The options seem to be quite clear in regard to the overseas basing structure, provided that the United States rejects the idea to permit the inexorable erosion of access to the present overseas military facilities and accept the military and political consequences of such a loss. But hopefully some combination of all the above options will permit the United States to adopt a policy of sustaining a forward presence in areas critical to US strategic, political and economic interests. To assume otherwise is to project a final demise of the United States as a world power and, conceivably, as a viable national entity."

Arguments so ably presented in this study are equally applicable to British and other European overseas bases and residual colonial dependencies.

CASH DISCOUNTS PUT MONEY IN THE BANK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, for over 50,000 Missouri consumers, paying for goods by cash means money in the bank—literally.

These persons hold Savings Plus cards, offered through savings and loan associations and honored by merchants all over the State. By presenting the Savings Plus card when paying by cash to participating merchants, these consumers receive a discount of up to 5 percent, which is deposited directly into their savings account.

The plan was initiated 10 months ago and already 50,000 Missouri consumers have joined. Also, the card is being accepted by a wide variety of merchants, from grocery store chains to used car salesmen. Merchants honoring the card are reporting that sales have doubled and tripled due to the card.

Mr. Speaker, this type of plan was exactly what I had in mind when I included a cash discount provision in the Fair Credit Billing Act of 1974. Prior to the act, such discounts were subject to truth-in-lending requirements and lengthy disclosure forms. The act eliminated this requirement for sellers offering discounts up to 5 percent. Furthermore, the act prohibited credit card companies from refraining merchants from offering cash discount plans.

The design of a cash discount plan is simple. For instance, when a merchant sells a $100 item to a customer who pays by credit card, the credit card company keeps a certain percentage for allowing the merchant to offer instant credit. The percentage varies from card company to company, but may run as high as 6 percent. So, the merchant may get only $94 back from the $100 sale.

By offering a discount of up to 5 percent to customers paying by cash, both the merchant and the consumer come out ahead. The merchant develops a good relationship with his customer and encourages business, while actually saving 1 or 2 percent of the sale. He is also relieved of the paperwork hassle associated with credit card purchases. And the consumer is able to save up to 5 percent off the regular price of the item.

With the cash discount plan, both the merchant and the consumer benefit without jeopardizing the ability of the merchant to still offer credit to anyone wanting to pay by credit card.

I want to make it clear that I am not opposed to the use of credit cards. With over 600 million credit cards in circulation today, it is a fact that buying by credit is an accepted way of life.

However, it is true that merchants who accept credit cards must pay a service fee to the credit card companies and it is inevitable that these extra costs will turn up as higher prices. The cash discount plan assures that consumers who do not qualify for credit cards or choose not to use them are not subsidizing those who do.

Since passage of the Fair Credit Billing Act, I have repeatedly urged merchants and consumers to push for a greater use of cash discount plans. The savings plus program is an excellent example of how beneficial these plans can be to everyone concerned.

Mr. Speaker, I would like to submit for the RECORD an article which appeared in the Christian Science Monitor, which outlines the savings plus plan.

[From the Christian Science Monitor, Aug. 29, 1978]

CASH DISCOUNTS—"IN THE BANK"

(By Paul Van Slambrouck)

BOSTON.—Discounts, trading stamps, and "super sales" are just fine. But cold cash is a consumer's best friend.

Increasingly, that is what retailers in Missouri are finding. Supermarkets, department stores, florists, and used-car dealers there are experimenting with a new way of luring customers: They offer cash discounts that are automatically deposited in their patron's savings accounts.

The plan, called Savings Plus, is catching on fast in Missouri, according to bankers and merchants who say it likely will spread to other parts of the United States before the end of the year.

FRANCHISE OPERATION

"Our customers are happy about it. Some who used to shop out of town are coming back to us, and we're getting a lot of new business," notes Steve Hodges, manager and part-owner of the Tru Valu IGA grocery store in East Prairie, Missouri.

Merchants like Mr. Hodges give a discount to Savings Plus card holders if they make their purchase in cash. Discounts are usually between 1 and 5 percent. The cards are issued by savings and loan associations, which receive a weekly tally from the retailers detailing how much money should be credited to each customer's savings account.

The concept is not unique and has been tried by other savings institutions. Savings Plus, however, is a francise operation and has "greater potential for growth," according to an official with the United States League of Savings Associations.

Savings Plus originator John Wilson, a Sikeston, Missouri, lawyer, says there are more than 50,000 card holders in Missouri. The 10-month-old program, he notes, is "growing much faster than I expected."

Mr. Wilson also has "letters of commitment" from 17 savings and loan associations in Florida, Louisiana, Oklahoma, Arkansas, Tennessee, and Ohio that plan to start issuing Savings Plus cards. And he boasts of 200 more requests for information from financial institutions "in just about every state in the country."

IT TEACHES PEOPLE . . .

"The big thing is that it teaches people how to save," comments James M. Beaird, president of Security Federal Savings & Loan in Sikeston, the first thrift institution to enroll in the program. Savings Plus, he says, allows "people in the low-income strata and others who have never had a savings account" to begin to accumulate money without having to make deposits in the traditional sense.

Mr. Beaird says Security Federal has more than 3,000 Savings Plus accounts, each averaging $33. While not a great sum, he notes that the accounts are less than a year old and should grow considerably over time. "If nothing else, they make good Christmas savings plans."

Mr. Wilson envisions banks, credit unions, and more savings and loans participating in Savings Plus. "It's right for any institution eager to get new, small accounts," he says.

Carondelet Savings & Loan in St. Louis has been offering Savings Plus accounts for a little over a month and says it has increased its total number of account holders more than 20 percent. Carondelet marketing director Gary Strong says consumers may benefit most from growing competition among retailers to "outdiscount" each other. The average discount is 4.6 percent in the St. Louis area, he notes, with some merchants offering discounts as high as 20 percent.

While retailers could conceivably raise prices to compensate for their Savings Plus discount, Mr. Wilson is confident that "competition will rule." Card holders, he believes, "will continue to price-shop, and that will stop retailers from simply boosting prices."

Mr. Hodges of Tru Valu says his store's 1.25 percent Savings Plus discount is worthwhile for the extra business it has brought in. "We know our sales per customer have increased. The Savings Plus average purchase

is three times higher than normal transactions," he claims.●

ALLAN BLANCHARD

The SPEAKER. Under a previous order of the House, the gentleman from Michigan (Mr. DIGGS) is recognized for 5 minutes.

● Mr. DIGGS. Mr. Speaker, this morning we received the very sad news of the death of Allan Blanchard, chief of the Detroit News Washington Bureau and a respected journalist and friend to many Members. Mr. Blanchard was the victim of the so-called Legionnaire's disease.

Al Blanchard worked for the Detroit News for 24 years. During those years, he became one of the most respected and insightful reporters of the political scene, both in Michigan and in the Nation's Capital. He covered the major newsstories of that quarter-century with style, integrity, and grace, and impressed all with his good humor, intelligence, and friendly manner. He will be sorely missed by all those with whom he worked, and those of us who were his "beat" in Washington. I know my colleagues join me in offering sincere condolences to Allan Blanchard's wife, family, and coworkers in this time of sorrow.

I enclose the obituary which appeared in this morning's Washington Post:

ALLAN E. BLANCHARD, CHIEF OF DETROIT NEWS BUREAU

Allan E. Blanchard, 49, chief of the Washington bureau of The Detroit News, died yesterday at George Washington University Hospital where he had been under treatment for Legionnaire's disease.

Mr. Blanchard, who had worked for The News for 24 years, covering a wide variety of major stories at home and abroad, was admitted to the hospital Aug. 14, but did not respond to treatment, according to a nursing supervisor.

Mr. Blanchard was one of two persons reported earlier this month to be under treatment in the District of Columbia for Legionnaire's disease—a form of pneumonia. The second man was reported yesterday to be still under treatment in the intensive care unit at the Washington Center. His condition was described as serious but steadily improving.

No other persons here are known to be suffering from the disease, first diagnosed after 29 persons attending an American Legion convention in Philadelphia in 1976 died from a then-mysterious cause.

Since that time a number of cases have been reported around the nation and abroad. Five cases, including two deaths had previously been reported here.

Dr. Martin Levy, chief of communicable disease control for the District of Columbia, said he had no idea how Mr. Blanchard contacted the illness. "We wish we knew that," he said. "You never know on these isolated cases."

An award-winning journalist, Mr. Blanchard was known in the 1960s as his paper's top general assignment reporter, and covered such stories as the six-day war in the Middle East, the civil rights movement in the South, and the trial of Jack Ruby for the shooting of Lee Harvey Oswald.

He was caught in a firefight in 1965 between American forces and rebel snipers during the United States intervention in the Dominican Republic.

After beginning a column in 1968 in which he showed an ability to treat news topics with wit and whimsy as well as seriousness, he became national editor in 1970. Mr. Blanchard came here as bureau chief in 1975.

Mr. Blanchard, an avid trombonist, was a graduate of Wayne State University in Detroit, where he studied music and journalism.

In addition to his wife, Shirley, survivors include two sons, Stephen and John, of the home in McLean, his father and stepmother, Mr. and Mrs. Frank E. Blanchard, of Grosse Pointe, and a brother, Donald, of Grand Rapids.●

CONGRATULATIONS TO THE PARTICIPANTS OF THE CAMP DAVID SUMMIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WOLFF) is recognized for 5 minutes.

● Mr. WOLFF. Mr. Speaker, I wish to offer my sincere congratulations to the participants of the Camp David Summit Conference for their intense 13-day effort to overcome those difficult issues which have deadlocked Egyptian-Israeli peace negotiations since last December. President Carter, President Sadat, and Prime Minister Begin have earned the appellation "statesmen," and have well served the cause of peace. The jubilation of November in Jerusalem has reason to be reborn; the world again can hope to see peace in that troubled region for the first time in 30 years.

The two accords resulting from the summit have set up a framework for both an Egyptain-Israeli peace treaty and a structure to resolve the future of the West Bank and the Gaza Strip. While these two agreements do not constitute the final treaties, they have set forth principles and timetables by which final versions can be negotiated. These accords have broken the impasse which stalled any progress since the historic meeting of President Sadat and Premier Begin in Jerusalem last November.

I strongly urge King Hussein of Jordan to participate in these negotiations, so that a permanent peace can be established, and full normalized relations among the parties will at long last be instituted in the Middle East. Should Jordan fail to enter into these negotiations, the best chance for peace since Israel's founding could be lost. The accord is well-balanced, with many details still to be negotiated. It deserves King Hussein's support. The "Framework for the Conclusion of a Peace Treaty Between Egypt and Israel" should produce a final treaty between the two nations within just 3 months.

I must commend President Carter for his statesmanship, and international leadership. It was a stroke of genius to hold the summit conference in the solitude of Camp David. The virtual press blackout, while nerve-wracking to the press corps, served the very important purpose of allowing the parties to negotiate various points without their changing positions being broadcast throughout the world. While the final agreements are, and ought to be, open to press scrutiny, the enforced silence in Catoctin Mountains served the very important purpose of furthering the cause of peace.

"Congratulations" is too weak a word to express my profound sense of praise and appreciation of the achievement of President Carter, President Sadat, and Prime Minister Begin. I join with a grateful nation in praying that no more stumbling blocks will be put in the path of peace and that the frameworks negotiated at Camp David will lead to final treaties and a comprehensive, lasting peace. It will then be with rejoicing that the nations of that region can "beat their swords into plowshares" and tend to the well-being of their people in peace and cooperation. Camp David has beaten the Goliath of war.●

ENDANGERED SPECIES NEED CONTINUED PROTECTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. OTTINGER) is recognized for 5 minutes.

● Mr. OTTINGER. Mr. Speaker, I would like to call to the attention of my colleagues the fact that this very week the Merchant Marine Committee is to begin action on reauthorizing the Endangered Species Act.

It is my sincerest hope that the committee will keep the act as it now is, with no weakening provisions.

The act is profoundly significant for our country, and is one of the most important of all our environmental laws. Congress in its wisdom in 1973 acted upon the recognition that the pressures of population growth and concomitant development necessitated some form of protection for our precious resource bank of biological diversity. In passing this law it required us to pause and weigh the consequences of our acts for the biological chain of which we are a part—for fear that our failure to do so could render us an endangered specie.

Seemingly insignificant creatures—whether endangered or not—have proved useful directly to humankind. Blood research on the horseshoe crab is one example, and has provided us with significant information on blood coagulation. Endangered species often provide us with a measure of the vitality of a particular ecosystem; where a specie is endangered it provides a bellwether for the possible endangerment of the entire habitat.

The snail darter, for example, despite its bad press, shows us that the little Tennessee valley is the last remaining place in Tennessee where such high quality habitat exists that has direct human and economic importance. The snail darter's extinction in other Tennessee rivers indicates clearly a diminished vitality and diversity of ecosystems.

A recent discovery of qualities in a sponge off the coast of Florida and the Bahamas revealed to us an organism unique in its own self-preservation, and one which can contribute directly to human health. Because this small sponge is susceptible to encephalitis—like we

humans—it needed to develop antibodies to save itself; scientists have now discovered that the antibodies can be extracted and utilised for curing viral infections in humans, including smallpox and, perhaps, even the common cold. In fact, the newly discovered substance is the only truly safe antiviral medicine—which does not kill off other than the diseased parts of the cell—and is being regarded as a discovery equivalent in importance to that of penicillin. If we had destroyed the sponge, we never would have had a biological model from which to synthesize this new wonder drug. I would like to submit for the consideration of my colleagues two interesting articles on the subject which appeared in Science News and the Charleston Gazette a year ago.

FIRST ANTIVIRUS DRUG HAILED AS SUCCESS

BETHESDA, MD.—Federal medical researchers reported Wednesday the discovery and successful experimental use of the first true antiviral drug, an achievement the scientists equated with the discovery and use of the first antibiotic, penicillin.

Officials of the National Institute of Allergy and Infectious Diseases, a branch of the National Institutes of Health, said the new drug has been highly successful in treating a small number of cases herpes virus encephalitis, a disease that destroys the brain.

The drug, named adenine arabinoside, or ara-A, was termed by Dr. Richard M. Krause, the director of the allergy institute, as "a major advance in the treatment of serious viral disease."

Derived from a sponge found in the waters off Florida and the Bahamas, the drug was developed in a collaborative effort involving the institute, a group of American laboratories and clinical centers, Parke, Davis & Co., a Detroit pharmaceutical house, and two French scientists who first suggested its possible antiviral properties.

Krause said the use of the ara-A was "the first successful treatment of a life-threatening viral disease." However, he and the six other scientists at the news conference here said that they believed the implications of the development were much more far-reaching than the successful treatment of a brain disease that, while generally fatal, is relatively rare.

The broader possibility, they said, was that it and similar agents could be used to cure a wide variety of viral diseases, ranging from smallpox to the common cold.

Antibiotics such as penicillins and tetracyclines are effective only against diseases caused by bacteria.

The problem of viral diseases is immensely more complicated than that of bacterial diseases because viruses must get inside a cell to grow and replicate themselves. Thus, to prevent a virus from multiplying and producing disease, an agent had to be found that would penetrate the cell wall without harming the cell itself.

The search for such an agent has been under way since 1941 when penicillin was first found to be effective against some types of bacteria. The discovery of beneficial effects of penicillin and other antibiotics has revolutionized the practice of medicine.

As described at the news conference, adenine arabinoside was isolated 20 years ago from a variety of Caribbean sponge, cryptothetia crypta, during a routine investigation of chemicals that might be effective against cancer.

Dr. Charles A. Alford Jr., a professor at the University of Alabama Medical Center, said the chemical was a member of a class named purine nucleotides that has been suspected of producing anticancer activity.

"But of the 300 agents tested, it was the only one found to tackle viral infections without damaging the cell itself," Alford said.

Two French scientists, M. Private of Garilhe and J. De Rudder, were credited by the federal researchers with first suggesting that adenine arabinoside might be used against viral infections.

ANTIVIRAL DRUGS: POSSIBILITIES AGAINST HERPES

Unlike the development of antibiotics back during the 1940s and 1950s, the creation of antiviral drugs has been slow in coming. A primary reason is that antibiotics attack bacteria in the bloodstream without hurting cells. Hence, antibiotics are safe as well as effective. Antiviral substances, in contrast, have trouble killing viruses without also harming the cells they infect.

Nonetheless, medical scientists are finding or designing drugs that attack viruses selectively, that is, by largely or even totally sparing the cells that house them. Two of these drugs look especially promising in the treatment of more serious viral diseases, those that strike the body internally. One is Virazole. It has successfully countered flu in both animals and humans (SN: 3/20/76, p. 187). The other is adenine arabinoside or ara-A, which also goes by the trade name of Vira-A.

Last year, ara-A was found to lessen pain and to accelerate healing in immunosuppressed patients with herpes zoster infections. Herpes zoster can be extremely debilitating and sometimes fatal. Now ara-A has dramatically reduced both death and neurological damage among herpes encephalitis patients, thus constituting the first effective treatment of a life-threatening viral disease. Previously there was no way to counter this highly fatal brain infection that strikes several thousand Americans a year.

The study demonstrating ara-A's effectiveness against herpes encephalitis was conducted by Richard J. Whitley and Charles A. Alford of the University of Alabama at Birmingham and by researchers at both Alabama and 14 other medical centers. They describe their findings in the Aug. 11 New England Journal of Medicine as a "breakthrough in systemic antiviral therapy." Richard Krause, director of the National Institute of Allergy and Infectious Diseases, hailed the results as a "major advance" at a NIAID press conference last week. NIAID financed much of the study.

Encephalitis due to herpes simplex virus is the most common cause of sporadic fatal encephalitis in the United States. If victims do manage to survive the disease, they are usually left with permanent neurological damage. So medical investigators attempted to treat it with two experimental antiviral compounds—idoxuridine and cytosine arabinoside. Idoxuridine looked promising until studies showed clear-cut toxicity without efficacy. That is when Whitley, Alford and their colleagues began conducting a clinical trial to see whether another experimental antiviral drug, ara-A, might be both effective and safe in the treatment of this disease.

For patients to be enrolled in this trial, they had to first show symptoms indicative of herpes simplex encephalitis, such as altered consciousness, fever, personality change, memory loss, headache and vomiting. Herpes brain infection then had to be tentatively diagnosed with electroencephalograms, arteriograms, and computerized axial tomography brain scans. Only if these procedures indicated that a herpes brain infection was present did patients then undergo brain biopsies. A biopsy consisted of drilling a tiny hole in that area of a patient's skull where herpes infection was suspected and withdrawing a bit of brain tissue for viral examination.

Twenty-eight patients proved to be brain-biopsy positive for herpes infections. Eighteen of these patients received ara-A, 10 a placebo, for a 10-day period. All of the patients were monitored daily for progression of disease, and clinical observations were recorded at five-day intervals for one month or until death. Follow-up exams, performed at 2, 3, 6, 12 and 24 months, focused on improvement or deterioration in neurological function.

Ara-A not only significantly reduced death among the patients, from 70 to 28 percent, but also the amount of permanent disability. Four of the surviving 13 drug-treated patients are now fully recovered, in contrast to only one of three surviving untreated patients. What's more, these improvements were achieved without evidence of acute toxicity, such as damage to bone marrow, liver or kidney.

Ara-A had its origin 13 years ago when two French scientists screened a battery of plant and animal substances from land and sea for possible anticancer activity. Adenine arabinoside, from a Caribbean sponge, did little to retard the growth of cancer cells, the researchers found, but it did possess antiviral activity. So scientists at Parke, Davis and Co. in Detroit developed the chemical into an antiviral drug, and medical investigators began exploring its possible effectiveness against various herpes diseases.

Like some other promising antiviral drugs, ara-A appears to inhibit virus functions while partially sparing cellular ones. Whether it is free enough from toxic effects to be approved by the Food and Drug Administration for use against herpes encephalitis remains to be seen, though. The drug is known to harm bone marrow if used in large enough dosages. It has also triggered birth defects in the offspring of experimental animals and liver tumors in rats. However, the FDA did approve it earlier this year for external body use—specifically, to treat herpes infections of the eye.

Currently, only two other antiviral drugs are on the American market—idoxuridine, also for topical treatment of herpes eye infections, and amantudine, which has actually been approved by the FDA for preventing, rather than treating a particular strain of flu.

I simply cannot see the great need to amend an act which for 5 years has been the basis of very numerous and delicate negotiations to accommodate our developmental progress to the goal of conserving our biological diversity. For 5 years this act has succeeded in producing harmonious resolutions of these conflicts with only one notorious exception—the Tellico Dam case—and two lesser ones.

Why now, after 5 years, is pressure surfacing to weaken the act? I think the Congress needs to face this issue honestly. I have heard from a few quarters that we did not have in mind saving snail darters and insignificant weeds when we passed this act. As I indicated earlier, no members of the biosphere should be regarded as "insignificant;' they simply are not.

As an early opponent of the Tellico Dam proposal in the mid-1960's, I recall well that the trouble with the project was not the snail darter, but a whole raft

of questions relating to the spending of $120,000,000 on a project which would produce negligible power or flood control, and turn a magnificient agricultural valley into an unneeded recreational lake in an area with more miles of lake front than the Great Lakes. This Congress has a responsibility to curtail its wasteful spending on questionable projects, and it is clear that most, if not all, of the projects that are heading into trouble with the Endangered Species Act are in trouble in other areas—questionable cost-benefit claims, environmental damage being ignored, adverse economic impacts, refusal to consider other less costly, more environmentally sound alternatives, et cetera.

In my view what is happening here is that the public is questioning the value of many proposed projects. The question should not turn on whether to save a specie alleged to be standing in the way of progress, but rather whether to build questionable projects with taxpayer dollars.

If we weaken this law protecting endangered species, there is no way of assessing the damage to the biosphere which may ensue. This is a very dangerous road to travel when we consider the consequences of man's first conscious termination of species. As the pressures of population and the complexity of our problems increase, humankind will need the diversity of the world's species increasingly to help unlock the secrets of nature for human benefit. We have barely begun to tap the vast potential of the biological resources of our planet. Now is certainly not the time to retreat. We should be planning our progress in harmony with the preservation of our natural resources. I hope this Congress will give this excellent law another 3 years of authorization, unencumbered with weakening amendments, and a chance to prove its merits to society. It is a law I believe our children will be profoundly grateful to us for having had the prescience to preserve.

CONFERENCE REPORT ON H.R. 13125

Mr. WHITTEN submitted the following conference report and statement on the bill (H.R. 13125) making appropriations for the agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1979, and for other purposes.

CONFERENCE REPORT (H. REPT. NO. 95-1679)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 13125) making appropriations for the Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1979, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows: That the Senate recede from its amendments numbered 7, 8, 9, 12, 13, 16, 17, 18, 20, 21, 22, 23, 29, 30, 34, 35, 37, 38, 43, 45, 46, 52, 54, 59, 60, 61, 74, 81, 86, 90, 93, 94, 97, 107, 108, 109, 110, 111, and 119.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 11, 15, 19, 27, 42, 44, 47, 48, 49, 55, 56, 57, 63, 65, 66, 68, 69, 70, 71, 73, 75, 79, 85, 88, 92, 96, 98, 99, 100, 102, 104, 112, 114, and 118, and agree to the same.

Amendment numbered 5: That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$7,871,170"; and the Senate agree to the same.

Amendment Numbered 6: That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$18,597,000"; and the Senate agree to the same.

Amendment numbered 24: That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "$1,500,000 for Rural Development Research as authorized under the Rural Development Act of 1972, as amended (7 U.S.C. 2661-2668), including administrative expenses; $31,273,000 for contracts and grants for agricultural research under the Act of August 4, 1965, as amended (7 U.S.C. 450i), of which $15,773,000 is for special research grants, $15,000,000 is for competitive research grants, and $500,000 is for grants in accordance with section 1419 of Public Law 95-113, including administrative expenses;".

And the Senate agree to the same.

Amendment numbered 25: That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: "$5,000,000 for the support of animal health and disease research programs authorized by sections 1433 and 1434 of Public Law 95-113;".

And the Senate agree to the same.

Amendment numbered 26: That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$174,395,000"; and the Senate agree to the same.

Amendment numbered 28: That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$51,810,000"; and the Senate agree to the same.

Amendment numbered 31: That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows: "$2,500,000 for Rural Development Education as authorized under the Rural Development Act of 1972 (7 U.S.C. 2661-2668);".

And the Senate agree to the same.

Amendment numbered 32: That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$10,115,000"; and the Senate agree to the same.

Amendment numbered 33: That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$268,856,000"; and the Senate agree to the same.

Amendment numbered 36: That the House recede from its disagreement to the amendment of the Senate numbered 36, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$80,112,000"; and the Senate agree to the same.

Amendment numbered 39: That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $1,600,000.

And the Senate agree to the same.

Amendment numbered 40: That the House recede from its disagreement to the amendment of the Senate numbered 40, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$227,527,000"; and the Senate agree to the same.

Amendment numbered 41: That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$327,392,000"; and the Senate agree to the same.

Amendment numbered 50: That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "23,000"; and the Senate agree to the same.

Amendment numbered 51: That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$425,500,000"; and the Senate agree to the same.

Amendment numbered 53: That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$282,500,000"; and the Senate agree to the same.

Amendment numbered 58: That the House recede from its disagreement to the amendment of the Senate numbered 58, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SELF-HELP HOUSING LAND DEVELOPMENT FUND

For direct loans pursuant to section 523(b)(1)(B) of the Housing Act of 1949 (42 U.S.C. 1490c) and related advances, $1,000,000.

And the Senate agree to the same.

Amendment numbered 62: That the House recede from its disagreement to the amendment of the Senate numbered 62, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$218,432,000"; and the Senate agree to the same.

Amendment numbered 64: That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$24,805,000"; and the Senate agree to the same.

Amendment numbered 67: That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amend-

ment insert "$255,466,000"; and the Senate agree to the same.

Amendment numbered 72: That the House recede from its disagreement to the amendment of the Senate numbered 72, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$11,847,000"; and the Senate agree to the same.

Amendment numbered 76: That the House recede from its disagreement to the amendment of the Senate numbered 76, and agree to the same with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "(of which $23,500,000"; and the Senate agree to the same.

Amendment numbered 77: That the House recede from its disagreement to the amendment of the Senate numbered 77, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows: "including authorization of 6 new areas,".

And the Senate agree to the same.

Amendment numbered 78: That the House recede from its disagreement to the amendment of the Senate numbered 78, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$25,000,000"; and the Senate agree to the same.

Amendment numbered 80: That the House recede from its disagreement to the amendment of the Senate numbered 80, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$18,288,000"; and the Senate agree to the same.

Amendment numbered 87: That the House recede from its disagreement to the amendment of the Senate numbered 87, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$2,782,300,000"; and the Senate agree to the same.

Amendment numbered 89: That the House recede from its disagreement to the amendment of the Senate numbered 89, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$24,000,000"; and the Senate agree to the same.

Amendment numbered 91: That the House recede from its disagreement to the amendment of the Senate numbered 91, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows: ", to remain available until September 30, 1980"; and the Senate agree to the same.

Amendment numbered 95: That the House recede from its disagreement to the amendment of the Senate numbered 95, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows: ", to remain available until September 30, 1980"; and the Senate agree to the same.

Amendment numbered 101: That the House recede from its disagreement to the amendment of the Senate numbered 101, and agree to the same with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "on long-term credit sales and carryover balances; and"; and the Senate agree to the same.

Amendment numbered 103: That the House recede from its disagreement to the amendment of the Senate numbered 103, and agree to the same with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "$466,500,000 is hereby appropriated and the balance to be derived by financing from the Commodity Credit Corporation or"; and the Senate agree to the same.

Amendment numbered 105: That the House recede from its disagreement to the amendment of the Senate numbered 105, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$295,154,000"; and the Senate agree to the same.

Amendment numbered 106: That the House recede from its disagreement to the amendment of the Senate numbered 106, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$15,304,000"; and the Senate agree to the same.

Amendment numbered 113: That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

"SEC. 608. None of the funds provided in this Act may be used to reduce programs by establishing an end-of-year employment ceiling on permanent positions below the level set herein for the following agencies: Farmers Home Administration, 7,440; Agricultural Stabilization and Conservation Service, 2,473; Foreign Agricultural Service, 738; and Soil Conservation Service, 13,955."

And the Senate agree to the same.

Amendment numbered 115: That the House recede from its disagreement to the amendment of the Senate numbered 115, and agree to the same with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "609"; and the Senate agree to the same.

Amendment numbered 116: That the House recede from its disagreement to the amendment of the Senate numbered 116, and agree to the same with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "610"; and the Senate agree to the same.

Amendment numbered 117: That the House recede from its disagreement to the amendment of the Senate numbered 117, and agree to the same with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "611"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 10, 14, 82, 83, and 84.

JAMIE L. WHITTEN,
FRANK E. EVANS,
BILL D. BURLISON,
MAX BAUCUS,
BOB TRAXLER,
BILL ALEXANDER,
MATTHEW F. MCHUGH,
ROBERT L. F. SIKES,
WILLIAM H. NATCHER,
GEORGE H. MAHON,
MARK ANDREWS,
J. KENNETH ROBINSON,
JOHN T. MYERS
(except for amendment No. 118),
ELFORD A. CEDERBERG,
Managers on the Part of the House.

THOMAS F. EAGLETON,
JOHN C. STENNIS,
WILLIAM PROXMIRE,
ROBERT C. BYRD,
DANIEL K. INOUYE,
BIRCH BAYH,
LAWTON CHILES,
QUENTIN N. BURDICK,
WARREN G. MAGNUSON,
HENRY BELLMON,
MILTON R. YOUNG,
MARK O. HATFIELD,
TED STEVENS.
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 13125) making appropriations for Agriculture, Rural Development and Related Agencies programs for the fiscal year ending September 30, 1979, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

STATEMENT OF THE CONFEREES

The conferees have taken cognizance of section 628 of the U.S. Code, which reads as follows:

Except as otherwise provided by law, sums appropriated for the various branches of expenditure in the public service shall be applied solely to the objects for which they are respectively made, and for no others,

and for that reason have gone into some detail in the Statement of the Managers so that the Congressional intent will be clear.

TITLE I—AGRICULTURAL PROGRAMS

OFFICE OF THE SECRETARY

Amendment No. 1: Appropriates $4,310,000 for the Office of the Secretary as proposed by the Senate instead of $3,791,000 as proposed by the House. Included is $300,000 for coordination and direction of energy-related policy development and evaluation, as was provided in the Senate Bill.

For the Offices of the Assistant Secretaries, the conference agreement includes $1,730,335 as proposed by the Senate instead of $1,511,335 as proposed by the House. The conferees take note of the numerous past delays in filling Assistant Secretary positions, and will expect that a Deputy Secretary be promptly appointed to assist the Secretary in managing the Department. The conferees will also expect that any new staff offices or functions implemented will not diminish the traditional action programs of the Department.

DEPARTMENTAL ADMINISTRATION

Amendment No. 2: Earmarks $220,000 to provide for increased emphasis and coordination of public access to the activities and operations of the Department as proposed by the Senate. The issue of payment of intervenors is addressed under Amendment No. 118.

Amendment No. 3: Earmarks $2,790,530 for Personnel as proposed by the Senate instead of $2,340,530 as proposed by the House. Included is $450,000 for the coordination of safety and health activities by and for the Department as provided in the Senate Bill. The conferees are in agreement that these activities should be directed solely toward the enhancement of the health and safety of USDA employees and not attempt to duplicate OSHA requirements on the private sector.

Amendment No. 4: Earmarks $1,844,650 for Equal Opportunity as proposed by the Senate instead of $1,550,650 as proposed by the House.

Amendment No. 5: Earmarks $7,871,170 for Governmental and Public Affairs instead of $7,721,170 as proposed by the House and $7,921,170 as proposed by the Senate. The $50,000 reduction below the Senate amount is for Congressional liaison.

Amendment No. 6: Appropriates $18,597,000 for Departmental Administration instead of $17,483,000 as proposed by the House and $18,647,000 as proposed by the Senate.

OFFICE OF THE INSPECTOR GENERAL

Amendments No. 7 and 8: Appropriate $22,945,000 for the Office of the Inspector General as proposed by the House instead of $31,564,000 as proposed by the Senate.

The conference agreement provides that the transfer of $8,619,000 from the Food Stamp Program be continued, as proposed by the House. While activities relating to food stamps remain a very high priority, it is the intention of the conferees in maintaining this transfer that the Inspector General have reasonable flexibility in the allocation of funds to meet critical audit or investigative issues.

AGRICULTURAL RESEARCH SERVICE

Amendment No. 9: Deletes language added by the Senate providing for the purchase of lands for the United States Biological Control Laboratory at Valbonne, France. The conferees will expect the Department to report to the appropriate Committees of Congress as to what justification exists for the establishment of such a laboratory.

Amendment No. 10: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $338,416,000 for the Agricultural Research Service instead of $334,100,000 as proposed by the House and $337,991,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

For research on improving small-scale farm production the conferees have agreed to a total of $2,250,000 for in-house research and $750,000 for extramural research instead of $3,000,000 for in-house research as proposed by the House, and $1,500,000 for in-house research and $1,500,000 for extramural research as proposed by the Senate.

For integrated pest management research the conferees have agreed to $1,000,000 for in-house research and $500,000 for extramural research instead of $1,500,000 for in-house research as proposed by the House, and $500,000 for in-house research and $1,000,000 for extramural research as proposed by the Senate.

For energy conservation and climatic stress research the conference agreement provides $1,400,000 for in-house research and $1,805,000 for extramural research instead of $3,000,000 for in-house research as proposed by the House and $3,884,000 for extramural research as proposed by the Senate.

In connection with the conferees' decisions regarding in-house and extramural research, the Department is directed to drop completed projects and lowest priority items in cases where a redirection to a higher priority field of research would be appropriate and essential.

The conferees continue to support contract research to improve the utilization of cottonseed protein, as well as sunflower and peanut protein.

For tropical and subtropical agricultural research the conference agreement provides $2,200,000 instead of $793,000 as proposed by the House and $5,293,000 as proposed by the Senate.

For processing, storage and distribution efficiency research the conference agreement provides $54,630,000 instead of $56,078,000 as proposed by the House and $48,630,000 as proposed by the Senate. The conference agreement does provide for the termination of some low priority research items. In addition, the conferees will expect the Department to continue to work toward the objective of shifting some work to private industry or to being funded by private industry where appropriate. The conferees expect the Department to continue the Acala cottonseed program at the Shafter Research Station in California until such time as the growers can assume the full cost of this program themselves.

For staffing and equipment for the Appalachian Fruit Research Station at Kearneysville, West Virginia, the conference agreement provides $1,100,000 instead of $900,000 as proposed by the House and $1,300,000 as proposed by the Senate. The conferees will expect Phase I staffing to be reached by the end of fiscal year 1979.

For staffing and equipment for the Regional Veterinary School at Virginia Polytechnic Institute the conference agreement includes $1,250,000 as proposed by the House. These funds are contingent upon VPI being designated as a regional veterinary school. In addition, these funds do not constitute a commitment for funding in future years.

For operations and personnel for the Children's Nutrition Laboratory at Baylor College of Medicine, the conference agreement includes $1,500,000. (See Amendment numbered 13).

In connection with the feasibility study for a nutrition research center at Letterman Army Hospital at the Presidio in San Francisco, California, the conference agreement deletes the $100,000 included in the House version. The conferees will expect this study to be carried out within available funds with a view toward using this facility in connection with a university.

For research on chalk brood disease in leafcutting bees the conference agreement includes a total of $100,000 instead of $80,000 as proposed by the House and $200,000 as proposed by the Senate. The $100,000 will provide for full funding for the first year of research on this very serious problem, and the conferees will expect that these funds will be matched by non-Federal funding.

For pea and lentil research the conference agreement includes $100,000 as proposed by the House instead of $150,000 as proposed by the Senate.

For the National Herb Garden the conference agreement includes a total of $200,000 as proposed by the House. These funds will match the $200,000 which has been raised by private industry.

For English walnuts the conference agreement includes $150,000 as proposed by the House.

For pickles, onions and carrots the conference agreement includes $60,000 as proposed by the House.

For range management research at Woodward, Oklahoma, the conference agreement includes $100,000 instead of $200,000 as proposed by the Senate.

For shipping fever and range management research at El Reno, Oklahoma, the conference agreements includes $125,000 instead of $250,000 as proposed by the Senate.

The conference agreement also includes $150,000 for a beef forage crop residues study as proposed by the Senate.

The conference agreement deletes the $250,000 added by the Senate for tanning research since the restoration of funds for processing, storage and distribution will provide for the ongoing tanning research work now being done under that heading. The conferees wish to stress the importance of this research and will expect that it be funded at not less than the 1978 level.

For forage crops and range research to be conducted at Burns, Oregon, the conference agreement includes $150,000 instead of $300,000 as proposed by the Senate.

The conference agreement deletes the $13,000 added by the Senate for potato and tomato research at Prosser, Washington.

The conference agreement includes $450,000 for sugarcane research in Houma, Louisiana, as proposed by the Senate.

For updating of Handbook No. 8 on pork nutrition standards the conference agreement includes $300,000 instead of $300,000 as proposed by the Senate.

The conference agreement also deletes $25,000 for Congressional liaison activities as proposed by the Senate.

For the development of new varieties of sugarcane that are resistant to sugarcane smut the conference agreement includes $357,000 as proposed by the Senate.

For the High Plains Grasslands Research Station at Cheyenne, Wyoming, the conference includes an increase of $205,000 over the House amount instead of $500,000 as proposed by the Senate. The $205,000 in addition to the $295,000 included in the restoration of base funds will provide a total of $500,000 for fiscal year 1979.

For nutrition research initiatives the conference agreement includes $1,550,000 instead of $3,100,000 as proposed by the Senate. These funds are to be used consistent with language on page 11 of the Senate Report.

For alcohol fuels the conference agreement includes $500,000 instead of $2,000,000 as proposed by the Senate. These funds will be used for alcohol fuels as described in the Senate Report. In addition, funding provided to the Northern Regional Research Center in the conference agreement should also be used to fund research to evaluate plants with high hydrocarbon content and biomass productivity; develop efficient handling techniques; improve processing and fermentation technology to make them less costly and more energy efficient; to use surplus agricultural commodities and to make possible the use of lower quality and distressed crops, agricultural residues and cellulose materials for use in alcohol production and for other petroleum-saving purposes. The conferees will also expect that this work be integrated with other research in this field.

The conference agreement deletes the $100,000 added by the Senate for studies of field crops and their relation to wildlife in Alaska.

The conferees have agreed to provide $170,000 for planning and design of a greenhouse-headhouse complex at Stillwater, Oklahoma, instead of the $1,700,000 proposed by the Senate for construction included in the Buildings and Facilities account. Additional greenhouse facilities are needed at this location to meet current demand and to replace deteriorating existing structures. The conferees direct that careful consideration be given to the size and features of this new facility to minimize cost while assuring that it will be adequate to meet realistic research demands.

The conference agreement includes $100,000 for a cotton dust study instead of $200,000 as proposed by the Senate. The conferees fully support the need for such a study but feel that $100,000 is the most such a study will cost.

With regard to research funds for contagious equine metritis, the conferees agreed to the Senate proposal that these funds be matched on a cumulative basis as may be determined by the Department, rather than on a year-to-year basis as proposed by the House.

The conference agreement deletes $500,000 added by the Senate for the establishment of a Fruit and Nut Germ Plasm Repository at Corvallis, Oregon, since these funds are included under the Buildings and Facilities account. For fiscal year 1980 the conferees will expect that this $500,000 revert to the bases ARS account.

Amendment No. 11: Provides a single appropriation amount for both salaries and expenses as proposed by the Senate instead of separate amounts as proposed by the House.

Amendment No. 12: Deletes language added by the Senate which would have exempted the Fruit and Nut Germ Plasm Repository at Corvallis, Oregon, from the limitation on the cost of construction. This language is not necessary since funds for the construction of this facility are provided under the Buildings and Facilities account.

BUILDING AND FACILITIES

Amendment No. 13: Appropriates $35,720,000 for Buildings and Facilities as proposed by the House instead of $15,000,000 as proposed by the Senate. Included in the conference agreement are the following facilities:

1. Fruit and Nut Germ Plasm Repository (Corvallis, Oregon)	$500,000
2. Planning for Plant Stress Center (Lubbock, Texas)	800,000
3. Mint Research Greenhouse (Corvallis, Oregon)	20,000
4. Human Nutrition Center at Tufts University (Boston, Massachusetts)	21,100,000
5. Planning for move of Animal Disease Center (Denver, Colorado)	700,000
6. North Central Dairy Research Center (Madison, Wisconsin)	9,000,000
7. Soil Erosion Center at Purdue University (Lafayette, Indiana)	3,600,000

The conferees have agreed to delete the $1,700,000 added by the Senate for construction of a greenhouse-headhouse at Stillwater, Oklahoma. Planning funds for this facility have been included under the Agricultural Research Service Salaries and Expenses account. The conferees wish to stress that all of the above Federal facilities are to be constructed on Federal property or property under long-term lease or agreement as specified in 7 U.S.C. 2250(a) and are to be stated primarily by Federal employees and under the control of the Federal Government.

The conferees have agreed that the Centers at Baylor and Tufts are to be operated by the Science and Education Administration of the Department of Agriculture, and be a part of a coordinated nutrition research program conducted by the Department. Members of the Nutrition Centers faculty may hold joint appointments with the University, subject to the approval of the responsible Department of Agriculture officials. The Directors of the Human Nutrition Centers will be appointed after approval of the Secretary of Agriculture or his designee and be responsible only to the Department of Agriculture. The conferees are concerned that the purpose of the research program at the Centers be consistent with the research program at the National Institutes of Health, and that the Centers support similarly high quality programs. Therefore, the conferees direct the USDA to establish a Board of Scientific Counselors, external to the Centers, to review and advise the Department as to the scope and quality of the research. Further, the conferees direct the USDA and the Directors of the Centers to ensure that there is close cooperation and coordination with the National Institutes on Aging or Child Health and Human Development, as appropriate, of the Department of Health, Education, and Welfare, that the research and program plan of the Centers is consistent with the purposes of the Institute, and that the USDA and the National Institutes of Health develop appropriate interagency mechanisms to ensure coordination of this program, and advise the appropriate Committees of Congress of the procedures, their implementation, and effectiveness.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Amendment No. 14: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $232,141,000 for the Animal and Plant Health Inspection Service instead of $230,817,000 as proposed by the House and $230,150,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes $4,000,000 for animal welfare as proposed by the House instead of $3,781,000 as proposed by the Senate.

For brucellosis eradication the agreement provides $64,355,000 instead of $63,355,000 as proposed by the House and $65,355,000 as proposed by the Senate. The additional funds are provided for accelerated efforts in calfhood and adult vaccination. The conferees note the recent report of the National Brucellosis Technical Commission and will expect the Department to prepare a detailed response to the findings of the Commission and to fully report its actions in that regard during the appropriations hearings on the fiscal year 1980 budget. Specifically, the conferees will expect the Department to report on the feasibility and cost of achieving eradication of this disease within a ten-year period.

The conference agreement includes $4,620,000 for cattle fever ticks instead of $5,120,000 as proposed by the House and $3,620,000 as proposed by the Senate.

The agreement also includes $5,370,000 for cattle scabies as proposed by the House instead of $2,070,000 as proposed by the Senate.

For the fire ant program the conferees have agreed to $1,942,000 as proposed by the House instead of $1,000,000 as proposed by the Senate. This is in addition to $5,713,000 reserved for the fire ant program which, if not needed by the end of the fiscal year, may be used to repay the Commodity Credit Corporation. Under Amendment No. 18, it was agreed to reserve $1,000,000 of the funds for fire ant control for matching purposes with states which may come into the program.

The conference agreement includes $1,365,000 for the rangeland grasshopper control program as proposed by the House instead of $6,365,000 for a general grasshopper control program including cropland as proposed by the Senate. The conferees note that APHIS has traditionally operated grasshopper control programs only on rangeland and not on cropland. This agreement is also reflected in Amendments numbered 16 and 17.

The conferees also agreed to $4,028,000 for the gypsy moth program as proposed by the House instead of $3,778,000 as proposed by the Senate.

For the Japanese beetle program the agreement includes $800,000 as proposed by the House instead of $500,000 as proposed by the Senate.

For miscellaneous animal diseases and pests the conferees agreed to $3,255,000 as proposed by the Senate instead of $3,005,000 as proposed by the House.

The conference agreement includes $200,000 for a program on hydrilla to be conducted in cooperation with the State of Florida, and $550,000 for activities under the Federal Noxious Weed Act to be closely coordinated with other efforts of weed control, quarantine, and eradication. The House bill included no funding for noxious weeds and the Senate Bill provided $1,500,000.

For the pink bollworm program the conference agreement includes $3,726,000 instead of $4,226,000 as proposed by the House and $3,226,000 as proposed by the Senate. Normal program costs, if any, in excess of this amount should be borne by the growers.

The conferees agreed to $1,006,000 for the range caterpillar program as proposed by the Senate instead of $506,000 as proposed by the House

For salmonella typing activities the agreement includes $360,000 as proposed by the House instead of no funding as proposed by the Senate.

With regard to a feasibility study of converting the Mission, Texas, screwworm production plant to a general biocontrol plant, the conferees agreed to $50,000 to fund the study instead of $100,000 as proposed by the House. The Senate Bill proposed undertaking the study within available funds.

The conference agreement includes $6,694,000 for tuberculosis eradication as proposed by the House instead of $5,248,000 as proposed by the Senate.

For West Indian sugarcane root borer the conferees agreed to $500,000 instead of $626,000 as proposed by the House and $126,000 as proposed by the Senate.

With regard to funds for contagious equine metritis, the conferees agreed to the Senate proposal that these funds be matched on a cumulative basis as may be determined by the Department, rather than on a year-to-year basis as proposed by the House. This will allow states with multi-year budgeting systems more leeway in meeting the matching requirement. It shall be up to the Department to determine whether consideration shall be given to in-kind contributions.

Amendment No. 15: Provides a single appropriation amount for both salaries and expenses as proposed by the Senate instead of separate amounts as proposed by the House.

Amendments No. 16 and 17: The conferees agreed to delete the provisions added by the Senate earmarking $5,000,000 of contingency funds to be available for control of grasshoppers after notification to Committees of Congress.

Amendment No. 18: The conferees agreed to reserve $1,000,000 of the funds for fire ant control for matching purposes with States which may come into the program, as proposed by the House, instead of deleting this language as proposed by the Senate.

FOOD SAFETY AND QUALITY SERVICE

Amendment No. 19: Appropriates $271,104,000 for the Food Safety and Quality Service as proposed by the Senate instead of $271,019,000 as proposed by the House.

FUNDS FOR STRENGTHENING MARKETS, INCOME AND SUPPLY (SECTION 32)

Amendments No. 20 and 21: Restore language deleted by the Senate which provides for the transfer of $4,678,000 from Section 32 funds to the Agricultural Marketing Service for the formulation of marketing agreements and orders.

COOPERATIVE STATE RESEARCH SERVICE

Amendment No. 22: Appropriates $109,066,000 for payments to agricultural experiment stations under the Hatch Act and for penalty mail as proposed by the House instead of $104,366,000 as proposed by the Senate.

Amendment No. 23: Appropriates $16,360,000 for payments to the 1890 Land-Grant Colleges including Tuskegee Institute as proposed by the House instead of $17,060,000 as proposed by the Senate.

Amendment No. 24: Appropriates $31,273,000 for contracts and grants for scientific research instead of $22,435,000 as proposed by the House and $57,398,000 as proposed by the Senate. The conference agreement includes $300,000 for rural development centers as proposed by the House. The conferees have also agreed to $25,000 for dried bean research as proposed by the House.

Also included in the above are funds for research which offers promise for improving efficiency of both milk and meat production.

The conferees have agreed to delete $100,000 for mesquite research, $100,000 for cattle fever ticks, and $1,500,000 for range caterpillar research, as proposed by the Senate. The conference agreement also includes an addition .1 $38,000 for research on mushroom byproducts as proposed by the Senate. The conference agreement also includes $50,000

for bean and beet research at the Saginaw Valley Bean and Beet Research Farm as proposed by the House. The conferees have also agreed that within the base funds for special grants and contracts, $500,000 is to be earmarked for alcohol fuels research.

For competitive grants the conference agreement includes $15,000,000 instead of $30,000,000 as proposed by the Senate. The conferees will expect that $5,000,000 of this amount shall be used for human nutrition research and $10,000,000 shall be used primarily for basic plant research. The conferees have agreed to continue the $15,000,000, the same as the fiscal year 1978 level, in order to allow time to evaluate the competitive grants recently awarded. Because of this, the conferees have also agreed to delete $5,000,000 proposed by the House for special grants for human nutrition research and to specify that for the $10,000,000 proposed by the House for animal health and plant research, principal emphasis should be placed on animal health research. With the $10,000,000 thereby specified as primarily special grants for animal health research, the conferees have agreed to delete $15,000,000 of the funds identified for animal health research as proposed by the Senate in Amendment numbered 25. The conferees will expect to be advised by the Department of the purpose and amount of each competitive grant after the grant has been awarded. The conferees further agree that the competitive grants program shall not be to the detriment of the research programs at the existing Land-Grant institutions.

The conference agreement also includes $1,500,000 for rural development research under Title V of the Rural Development Act.

The conference agreement deletes the $2,500,000 added by the House for solar research and provides $500,000 for research on alcohol fuels instead of $2,000,000 as proposed by the Senate.

Amendment No. 25: Appropriates $5,000,000 for animal health and disease research authorized by sections 1433 and 1434 of Public Law 95–113 instead of $20,000,000 as proposed by the Senate.

Amendment No. 26: Provides a total of $174,395,000 for the Cooperative State Research Service instead of $163,057,000 as proposed by the House and $190,020,000 as proposed by the Senate.

It has come to the attention of the conferees that several States may plan to decrease their monetary commitment to Hatch Act and McIntire-Stennis programs in an amount equal to any increased appropriations granted by Congress. This is clearly not the intent of Congress regarding the use of such funds. When additional funds are appropriated for a program, such increases are not meant to relieve the States of their responsibility. This is applicable whether the State share of the program comes from in-State funds or from revenue sharing funds. The conferees hope this will suffice as an adequate expression of their feeling on this matter.

EXTENSION SERVICE

Amendment No. 27: Appropriates $179,831,000 for cooperative extension work under the Smith-Lever Act as proposed by the Senate instead of $176,031,000 as proposed by the House.

Amendment No. 28: Appropriates $51,810,000 for nutrition and family education work in low-income areas instead of $53,060,000 as proposed by the House and $50,560,000 as proposed by the Senate.

Amendment No. 29: Appropriates $3,000,000 for the Urban Gardening Program and $1,000,000 for rural development work under section .3d of the Smith-Lever Act as proposed by the House

Amendment No. 30: Appropriates $1,020,000 for payments for the farm safety program as proposed by the House.

Amendment No. 31: Deletes $2,500,000 for solar research as proposed by the Senate, and restores $2,500,000 for rural development education authorized by the Rural Development Act as proposed by the House.

Amendment No. 32: Appropriates $10,115,000 for the 1890 Colleges and Tuskegee Institute instead of $10,013,000 as proposed by the House and $10,412,000 as proposed by the Senate.

Amendment No. 33: Provides $268,856,000 for the Extension Service instead of $270,204,000 as proposed by the House and $260,383,000 as proposed by the Senate.

Amendment No. 34: Restores House language which provides that "not less than $75,579,000 shall be available for Home Economics."

Amendment No. 35: Restores House language which provides that of the funds available for Federal administration and coordination, "not less than $2,029,000 shall be available for Home Economics."

ECONOMICS, STATISTICS, AND COOPERATIVES SERVICE

Amendment No. 36: Appropriates $80,112,000 for the Economics, Statistics, and Cooperatives Service instead of $79,860,000 as proposed by the House and $80,137,000 as proposed by the Senate. Included in the conference agreement is $4,718,000 for the improvement of price statistics instead of $4,349,000 as proposed by the House and $5,067,000 as proposed by the Senate.

The conference agreement also includes $94,000 for reporting on commodities grown in three or fewer states as proposed by the House.

For assistance to the farmer cooperatives the conference agreement includes $3,990,000 instead of $4,240,000 as proposed by the House and $3,740,000 as proposed by the Senate.

In addition, the conference agreement also includes $133,000 as proposed by the Senate for the continuation of the Study of Foreign Investment in the United States.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

Amendment No. 37: Restores language deleted by the Senate which provides for the administration and coordination of payments to states.

Amendment No. 38: Appropriates $46,502,000 as proposed by the House for Marketing Services instead of $49,070,000 as proposed by the Senate. Included in the conference agreement is the restoration of $2,000,000 for the Wholesale Market Development Program as proposed by the House.

The conferees agreed to restore $110,000 stricken by the Senate for supergrade positions. The conferees are in agreement that the supergrades requested by the Agricultural Marketing Service have been validly justified to meet their requirements, and that the Senate-recommended reduction was not warranted.

The conferees are concerned with recent changes in the enforcement and administration of the Perishable Agricultural Commodities Act with respect to the informal settlement process; the definition of categories of violations; and treatment of late payment by receivers. The conferees are particularly interested in the basis for any changes in procedures of enforcement and the possibility of unequal application. The Secretary is directed to report back to the appropriate Committees of Congress within 30 days concerning these issues.

PAYMENTS TO STATES AND POSSESSIONS

Amendment No. 39: Restores language deleted by the Senate which provides for the Payments to States and Possessions under the Agricultural Marketing Act of 1946. The conference agreement provides $1,600,000 for these payments instead of the $2,000,000 proposed by the House.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

Amendment No. 40: Appropriates $227,527,000 for salaries and expenses for the Agricultural Stabilization and Conservation Service instead of $227,552,000 as proposed by the House and $217,527,000 as proposed by the Senate.

Included in the conference agreement is a reduction of $25,000 in funds available for Congressional liaison activities as proposed by the Senate.

In view of the great increase in the responsibilities of the County office employees created by the enactment of the new Farm Bill, the conferees will expect the Department to develop rules and regulations immediately so as to help prevent problems such as have occurred in the past because of inadequate regulations.

Amendment No. 41: Provides a total of $327,392,000 for the Agricultural Stabilization and Conservation Service instead of $327,417,000 as proposed by the House and $317,392,000 as proposed by the Senate.

Amendment No. 42: Provides a single appropriation amount for both salaries and expenses as proposed by the Senate instead of separate amounts as proposed by the House.

COMMODITY CREDIT CORPORATION

NEW BORROWING AUTHORITY

Amendment No. 43: Appropriates $5,500,000,000 for new borrowing authority by the Commodity Credit Corporation as proposed by the House instead of $10,500,000,000 as proposed by the Senate. The conferees have agreed to defer action on the additional $5,000,000,000 in borrowing authority pending receipt of a budget request.

REIMBURSEMENT FOR NET REALIZED LOSSES

Amendment No. 44: Appropriates $990,900,000 to reimburse the Commodity Credit Corporation for net realized losses sustained in prior years as proposed by the Senate instead of $580,000,000 as proposed by the House. With additional $5,500,000,000 in borrowing authority provided in the Bill, adequate funds are available to operate CCC. However, the conferees have agreed to full restoration of capital impairment so that funds would be available if needed. These additional funds will not result in any additional budget outlays and, therefore, have no impact on the budget.

LIMITATION ON ADMINISTRATIVE EXPENSES

Amendment No. 45: Provides a limitation of $50,100,000 on administrative expenses of the Commodity Credit Corporation as proposed by the House instead of $45,896,000 as proposed by the Senate.

Amendment No. 46: Restores House language which provides for the Office of the General Sales Manager independent of the Foreign Agricultural Service and the State Department.

Amendment No. 47: Provides a limitation on the export credit sales program of $3,200,000,000 in fiscal year 1979 as proposed by the Senate instead of $1,700,000,000 as proposed by the House. The conference agreement adopts the Senate language which authorizes $60,000,000 in loan guarantees by the Commodity Credit Corporation for four pilot projects for the production and marketing of industrial hydrocarbons and alcohols from industrial products.

TITLE II—RURAL DEVELOPMENT PROGRAMS

RURAL DEVELOPMENT ASSISTANCE

FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND

Amendment No. 48: Provides $3,776,000,000 for insured loans as authorized by Title V of the Housing Act of 1949, as amended, as proposed by the Senate, instead of $3,774,200,000 as proposed by the House. The in-

crease over the House amount provides for an additional $1,800,000 in site development loans, for a total program of $3,000,000 in fiscal year 1979.

Amendment No. 49: Provides $500,000,000 in unsubsidized interest guaranteed loans as proposed by the Senate.

Amendment No. 50: Provides for 23,000 units of rental assisted housing during fiscal year 1979 rather than 20,000 units as proposed by the House and 25,000 units as proposed by the Senate.

Amendment No. 51: Limits the total obligations for rental assisted housing over the life of the agreements to $425,500,000 instead of $370,013,000 as proposed by the House and $462,500,000 as proposed by the Senate.

AGRICULTURAL CREDIT INSURANCE FUND

Amendment No. 52: Deletes Senate language which would have provided that of the total amount available for farm ownership loans, $250,000,000 would be for loans at rates equivalent to those charged the government to borrow money and $100,000,000 would be available for loans at five percent or less to limited resource borrowers. The conferees have agreed to delete the language since similar language has been incorporated into the Agricultural Credit Act of 1978, under which the fund will now operate.

RURAL WATER AND WASTE DISPOSAL GRANTS

Amendment No. 53: Appropriates $282,500,000 for rural water and waste disposal grants instead of $300,000,000 as proposed by the House and $265,000,000 as proposed by the Senate. The conferees have taken their action in view of the fact that the $50,000,000 for water and waste disposal grants contained in the Second Supplemental Appropriation Act will not be available until the start of fiscal year 1979.

Amendment No. 54: Retains language deleted by the Senate which allows funds appropriated for rural water and waste disposal grants to remain available until expended.

VERY LOW-INCOME HOUSING REPAIR GRANTS

Amendment No. 55: Appropriates $19,000,000 for very low-income housing repair grants as proposed by the Senate instead of $24,000,000 as proposed by the House.

RURAL HOUSING FOR DOMESTIC FARM LABOR

Amendment No. 56: Appropriates $33,000,000 for rural housing for domestic farm labor as proposed by the Senate instead of $38,000,000 as proposed by the House.

MUTUAL AND SELF-HELP HOUSING

Amendment No. 57: Appropriates $13,500,000 for mutual and self-help housing as proposed by the Senate instead of $16,500,000 as proposed by the House.

SELF-HELP HOUSING LAND DEVELOPMENT FUND

Amendment No. 58: Retains a new section of the bill added by the Senate which appropriates $1,000,000 for the self-help housing land development fund. The conference agreement deletes language added by the Senate which provided that the funds remain available until expended since the fund, under law, operates without regard to fiscal year limitations.

RURAL COMMUNITY FIRE PROTECTION GRANTS

Amendment No. 59: Restores language deleted by the Senate which would appropriate $3,500,000 for rural community fire protection grants as proposed by the House.

RURAL DEVELOPMENT PLANNING GRANTS

Amendment No. 60: Restores House language and $5,000,000 deleted by the Senate which provides for a program of rural development planning grants.

RURAL HOUSING SUPERVISORY ASSISTANCE GRANTS

Amendment No. 61: Restores House language deleted by the Senate which appropriates $2,500,000 for rural housing supervisory assistance grants.

SALARIES AND EXPENSES

Amendment No. 62: Appropriates $218,432,000 for salaries and expenses for the Farmers Home Administration instead of $219,563,000 as proposed by the House and $217,582,000 as proposed by the Senate. The conference agreement provides $4,033,000 for the Unified Management Information System as proposed by the House instead of $4,183,000 as proposed by the Senate. The conferees agree that the additional computer terminals can be delayed as proposed by the House.

The conference agreement also provides a total of $2,000,000 for contractual assistance instead of $3,000,000 as proposed by the House and $1,000,000 as proposed by the Senate. As specified in the House Report these funds are to be used by Farmers Home Administration to make sure that FmHA borrowers are receiving full value from purchases and to identify, carry out and monitor community projects, the purpose of which is to improve rural communities and cause them to better meet the needs of the people as authorized by law, including contractual research on the needs of rural America.

The conferees have agreed to delete $109,000 for the Federal Assistance Programs Retrieval System as proposed by the Senate since this program has now been transferred to the Office of Management and Budget and the funds are no longer required in the Farmers Home Administration budget.

In addition, the conferees have also agreed to delete $25,000 for Congressional liaison costs as proposed by the Senate.

Amendment No. 63: Provides a single appropriation amount for both salaries and expenses as proposed by the Senate instead of separate amounts as proposed by the House.

The conferees will expect that the 594 additional permanent positions and $7,000,000 included in both the House and Senate Bills be made available to the Farmers Home Administration. The conferees wish to stress that all of these additional positions are to be located outside of the Metropolitan Washington area.

RURAL ELECTRIFICATION ADMINISTRATION

SALARIES AND EXPENSES

Amendment No. 64: Appropriates $24,805,000 for salaries and expenses for the Rural Electrification Administration instead of $24,905,000 as proposed by the House and $24,658,000 as proposed by the Senate. Included in the conference agreement are funds for six additional engineers for the telephone program as proposed by the House. The conferees have agreed to the Senate reduction of $25,000 for Congressional liaison activities.

In addition the conferees have agreed to a reduction of $75,000 in contractual instead of a reduction of $150,000 as proposed by the Senate.

Amendment No. 65: Provides a single appropriation amount for both salaries and expenses as proposed by the Senate instead of separate amounts as proposed by the House.

CONSERVATION

SOIL CONSERVATION SERVICE

CONSERVATION OPERATIONS

Amendment No. 66: Deletes House language which provides that funds for conservation operations shall remain available until expended.

Amendment No. 67: Appropriates $255,466,000 for conservation operations instead of $262,491,000 as proposed by the House and $255,296,000 as proposed by the Senate.

The conference agreement deletes the $4,000,000 added by the House for technical assistance on the Sec. 208 program. (See Amendment numbered 84). The agreement includes $170,000 for the Grand Valley Salinity Control Project as proposed by the House and deletes $3,000,000 because of carryover balances as proposed by the Senate. The agreement also deletes $25,000 for Congressional liaison as proposed by the Senate.

Amendment No. 68: Provides a single appropriation amount for both salaries and expenses as proposed by the Senate instead of separate amounts as proposed by the House.

RIVER BASIN SURVEYS AND INVESTIGATIONS

Amendment No. 69: Deletes House language which provides that funds for river basin surveys and investigations shall remain available until expended as proposed by the Senate.

Amendment No. 70: Provides a single appropriation amount for both salaries and expenses as proposed by the Senate instead of separate amounts as proposed by the House.

WATERSHED PLANNING

Amendment No. 71: Deletes House language which provides that funds for watershed planning shall remain available until expended as proposed by the Senate.

Amendment No. 72: Appropriates $11,847,000 for watershed planning instead of $12,587,000 as proposed by the House and $5,759,000 as proposed by the Senate.

Amendment No. 73: Provides a single appropriation amount for both salaries and expenses as proposed by the Senate instead of separate amounts as proposed by the House.

Amendment No. 74: Appropriates $169,607,000 for watershed and flood prevention operations as proposed by the House instead of $227,522,000 as proposed by the Senate.

WATERSHED AND FLOOD PREVENTION OPERATIONS

Amendment No. 75: Provides a single appropriation amount for both salaries and expenses as proposed by the Senate instead of separate amounts as proposed by the House.

Amendment No. 76: Earmarks $23,500,000 for P.L. 534 projects instead of $25,744,000 as proposed by the House and $20,876,000 as proposed by the Senate.

RESOURCE CONSERVATION AND DEVELOPMENT

Amendment No. 77: Restores House language which provides for the authorization of new RC&D areas. The conference agreement provides for six new authorizations rather than ten as proposed by the House.

Amendment No. 78: Appropriates $25,000,000 for the resource conversation and development program instead of $31,979,000 as proposed by the House and $16,797,000 as proposed by the Senate.

Amendment No. 79: Provides a single appropriation amount for both salaries and expenses as proposed by the Senate instead of separate amounts as proposed by the House.

GREAT PLAINS CONSERVATIONS PROGRAM

Amendment No. 80: Appropriates $18,288,000 for the great plains conservation program instead of $23,288,000 as proposed by the House and $13,288,000 as proposed by the Senate.

NONPROFIT SOURCE POLLUTION CONTROL GRANT AGREEMENTS AND TECHNICAL ASSISTANCE

Amendment No. 81: Deletes language added by the Senate which would have appropriated $60,000,000 for nonpoint source pollution control. (See Amendment numbered 84).

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE AGRICULTURAL CONSERVATION PROGRAM

Amendment No. 82: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which reads as follows:

, except that no participant in the Agricultural Conservation Program shall receive more than $3,500, except where the participants from two or more farms or ranches join to carry out approved practices designed to conserve or improve the agricultural resources of the community): Provided further, That such amounts shall be available for the purchase of seeds, fertilizers, lime, trees, or any other conservation material, or any soil-terracing services, and making grants thereof to agricultural producers to aid them in carrying out enduring conservation and environmental enhancement measures and practices, as specified in section 1501 of Public Law 95-113 (including those practices or programs which are deemed essential to maintain soil productivity, prevent soil depletion, or prevent increased cost of production, thus assuring a continuous supply of food and fiber necessary for the maintenance of a strong and healthy people and economy) as determined by the County Committees, approved by the State Committees and the Secretary, under programs provided for herein: Provided further, That such assistance will not be used for carrying out measures and practices that are primarily production-oriented or that have little or no conservation or pollution abatement benefits

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement updates the appropriation language in line with P.L. 95-113.

Amendment No. 83: Reported in technical disagreement. The managers on the part of the House will move to concur in the amendment of the Senate which provides that unexpended funds previously appropriated to liquidate outstanding balances during 1975 through 1978 shall be merged with the 1979 appropriation as of December 31, 1978.

NONPOINT SOURCE POLLUTION CONTROL

Amendment No. 84: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment. The effect of the amendment is to delete differing House and Senate language relating to the nonpoint source pollution control program which is also referred to as the Rural Clean Water Program or the Sec. 208 Program. The conferees have agreed to delete this program from the Bill since no additional funds or staff were requested for the program in the budget and implementation of the program could well result in reducing the existing Soil Conservation Service programs and the Agricultural Conservation Program.

The Administration has taken the position that there should be a single consolidated cost-share program designed to meet the objectives of the Agricultural Conservation Program (ACP), the Great Plains Conservation Program and the new Rural Clean Water Program funded under the Agricultural Stabilization and Conservation Service (ASCS). Neither the House nor Senate concurred in this recommendation. In addition, the authorizing legislation specifies that the program must be separately funded. The Secretary of Agriculture placed the program under the Soil Conservation Service (SCS) but no funds or staff were requested to carry out a program under the SCS budget.

The conferees have deleted all funds for this program from the Bill without prejudice and will await a supplemental request.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

FORESTRY INCENTIVES PROGRAM

Amendment No. 85: Updates legislative citations as proposed by the Senate.

Amendment No. 86: Appropriates $15,000,000 for the forestry incentives program as proposed by the House instead of $17,500,000 as proposed by the Senate.

TITLE III—DOMESTIC FOOD PROGRAMS

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

Amendments No. 87, 88 and 89: Appropriate $1,285,535,000 and provide a transfer of $1,411,575,000 from Section 32 for Child Nutrition Programs instead of an appropriation of $1,364,535,000 and $1,336,575,000 by transfer as proposed by the House and an appropriation of $1,281,535,000 as proposed by the Senate. The Section 32 transfer is the same as the Senate amount.

The conferees intend for the Department to purchase surplus commodities with Section 32 funds, however, Section 32 balances should not be drawn below $225,000,000 unless they are needed to stabilize prices.

In agreeing to $24,000,000 for the Equipment Assistance Program instead of $28,000,000 as proposed by the House and $20,000,000 as proposed by the Senate the conferees take note of the anticipated expansion of the School Breakfast Program and the continuing needs of those schools without food service equipment. Although the conferees have not identified any specific over all percentage to be set aside, priority consideration must be given to those schools without food service equipment.

Toward that end, the Department is directed to develop and maintain statistics on the recipients of these funds, especially regarding whether the equipment acquired is for new service or replacement, and report those statistics to Congress as part of the explanatory notes to the fiscal year 1980 budget and thereafter. The Department will also be expected to conduct, within available funds, a detailed survey of requirements and inventory of school food service equipment, and promptly report such findings to the appropriate Committees of Congress.

Participation of schools in the breakfast program is reported to be only 24 percent of the level of participation in the School Lunch Program. Recent State and Federal legislation indicates, and in some cases mandates, expansion of the breakfast program. There appears to be a variance among schools in the availability of food service equipment and personnel needed to offer regular breakfasts, and the conferees agreed, therefore, to provide $24,000,000 for School Food Service Equipment Assistance under Amendments numbered 87 and 89, rather than reduce this level as proposed in the budget request. Formulated grain-fruit products, as currently in use to encourage participation in the breakfast program by schools without facilities to serve a regular breakfast, were developed at the request of the Department to at least make some type of breakfast available.

The Department has proposed to ban the use of these products based the belief that they may promote poor eating habits. The conferees share the Department's concern that both proper nutrition education and proper nutrition be available to students.

The conferees recognize the existing authority of the Secretary of Agriculture to prescribe meal pattern for both the School Breakfast and Lunch Programs. At the same time, recognition must be given to the situation discussed above, and the General Accounting Office study of this matter which is expected to be completed shortly. Consequently, the conferees agree that the option of serving formulated grain-fruit products, or other nutritional products, where there are insufficient facilities or personnel to provide a regular breakfast, shall be left to the determination of each school only through the school year which is now beginning.

The conferees are to be kept fully advised of any actions proposed to be taken by the Department during the school year beginning September, 1979, with regard to the formulated grain-fruit products.

Amendment No. 90: Provides that these funds be available for three years, as was proposed by the House, rather than one year as was proposed by the Senate.

SPECIAL MILK PROGRAM

Amendment No. 91: Provides that these funds shall remain available for two years, rather than three years as proposed by the House and one year as proposed by the Senate.

SPECIAL SUPPLEMENTAL FOOD PROGRAMS (WIC)

Amendment No. 92: Appropriates $569,500,000 as proposed by the Senate instead of $580,000,000 as proposed by the House.

The conferees concur in the language of the House Report regarding the maintenance of separate identities of W.C and the Commodity Supplemental Food Program.

Amendment No. 93: Provides that these funds be available for three years, as was proposed by the House, rather than one year as was proposed by the Senate.

FOOD STAMP PROGRAM

Amendment No. 94: Provides that these funds be available for three years, as was proposed by the House, rather than one year as was proposed by the Senate.

FOOD DONATIONS PROGRAM

Amendment No. 95: Provides that these funds shall remain available for two years, rather than three years as proposed by the House and one year as proposed by the Senate.

FOOD PROGRAM ADMINISTRATION

Amendment No. 96: Appropriates $74,275,000 for Food Program Administration as proposed by the Senate instead of $71,300,000 as proposed by the House. Included is $3,000,000 over the House amount to be used exclusively for reimbursement to the Social Security Administration for certification of food stamp recipients, and a reduction of $25,000 for Congressional liaison.

TITLE IV—INTERNATIONAL PROGRAMS

FOREIGN AGRICULTURAL SERVICE

Amendment No. 97: Appropriates $53,645,000 for the Foreign Agricultural Service as proposed by the House instead of $56,403,000 as proposed by the Senate. Included in the agreement is $29,311,000 for foreign market development as proposed by the House instead of $28,311,000 as proposed by the Senate.

In addition, the conference agreement deletes the $3,758,000 for the Office of the General Sales Manager as proposed by the Senate since the conferees have agreed that this office should remain independent of the Foreign Agricultural Service.

Amendment No. 98: Provides a single appropriation amount for both salaries and expenses as proposed by the Senate instead of separate amounts as proposed by the House.

PUBLIC LAW 480

Amendments No. 99 and 102: Add language as proposed by the Senate which specifies that funds available under Titles I, II, and III of Public Law 480 be limited to the amounts specified in the Bill.

Amendment No. 100: Specifies the amount appropriated as proposed by the Senate rather than the amount to be derived from the proceeds of sales of foreign currencies and dollar loan repayments as proposed by the House.

Amendment No. 101: Adds carryover balances as a source of funds for Titles I and III as proposed by the Senate.

Amendment No. 103: Specifies the amount appropriated as opposed to the amount derived from carryover balances and includes language covering the financing from the Commodity Credit Corporation for the Title II program as proposed by the Senate. The conference agreement deletes Senate language referring to reimbursement in subsequent years since such language is in permanent law.

Amendment No. 104: Deletes language added by the House which would have pro-

hibited any assistance to Korea under the P.L. 480 program.

TITLE V—RELATED AGENCIES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

Amendment No. 105: Appropriates $295,-154,000 for the Food and Drug Administration instead of $289,854,000 as proposed by the House and $295,454,000 as proposed by the Senate.

The conference agreement includes $5,-000,000 for salaries which were deleted by the House Bill based on conditions in effect when the House considered the Bill. Subsequently, the agency has been issued revised personnel allotments which now make possible proper utilization of these funds.

For nutrition initiatives the agreement provides $300,000 for dietary and other nutrition studies consistent with language in the Senate Report. The direction of these studies should be closely coordinated with USDA.

The conferees are in agreement with the House Report which earmarks $250,000 for research on antibiotics in animal feeds and provides that FDA hold in abeyance implementation of their proposal pending the final results of this research and any such evidentiary hearings as may result from the notices of opportunity for hearing that have been published by FDA.

The issue of payment of public intervenors, including attorneys' fees, is addressed under Amendment numbered 118.

COMMODITY FUTURES TRADING COMMISSION

Amendment No. 106: Appropriates $15,-804,000 for the Commodity Futures Trading Commission instead of $15,804,000 as proposed by the House and $14,974,000 as proposed by the Senate. The conferees agree that these funds shall be available for authorized purposes, including monitoring of forward contracts. The conferees concur in the Senate intent that any additional personnel be for the action-oriented aspects of CFTC operations, such as the areas of enforcement, trading and markets, and surveillance. Personnel should not be added to the Offices of Policy Review, Congressional Relations, or the immediate administrative offices of the Commissioners.

NATIONAL ALCOHOL FUELS COMMISSION

Amendment No. 107: Deletes language added by the Senate which would have established the National Alcohol Fuels Commission and appropriated $1,500,000 for that Commission. The conferees have passed over the item without prejudice since the Commission is not authorized by law. Serious consideration will be given to funding the Commission when authorized.

TITLE VI—GENERAL PROVISIONS

Amendment No. 108: Restores House language which provides that funds for the rural housing for domestic farm labor program shall remain available until expended.

Amendment No. 109: Restores House language which provides that funds for the mutual and self-help housing program shall remain available until expended.

Amendment No. 110: Restores House language which provides that funds for the resource conservation and development program shall remain available until expended.

Amendment No. 111: Restores House language which provides that funds for the emergency conservation measures program shall remain available until expended.

Amendment No. 112: Adds language as proposed by the Senate which provides that funds for the agricultural conservation program shall remain available until expended.

Amendment No. 113: Restores language deleted by the Senate which provides for a floor on permanent positions for various agencies. The conference agreement sets a floor on Foreign Agricultural Service positions at 738 instead of 776 as proposed by the House.

Amendment No. 114: Deletes House language which prevented a State Agricultural Stabilization and Conservation Service Committee from prohibiting a County Committee from authorizing any practice under the agricultural conservation program.

Amendments No. 115, 116 and 117: Renumber sections of the Bill.

Amendment No. 118: Deletes the section in the House Bill which would have prohibited the availability of any funds to pay the expenses of parties intervening in regulatory proceedings or other activities.

Any public participation programs utilizing funds provided in this Act shall not be operated until the Department or agency has promulgated regulations that comply with the Comptroller General's rulings on the matter. Furthermore, except for expert witnesses whose technical expertise is required, no applicant shall be eligible to receive reimbursement if he is not a resident of the locality to be affected, or if the interest he seeks to represent is already adequately represented by the Department or another participant.

The conferees direct the Department and agencies to provide information on the amounts spent for this purpose and the recipients of the funding.

The conferees also direct the Department to provide the Congress, within 90 days of enactment of this Act, with detailed estimates of the total costs of the financial assistance, the criteria by which the assistance would be allocated, and the requirements for recordkeeping, reporting and auditing of amounts and persons paid.

Amendment No. 119: Deletes language added by the Senate which prohibited the Farmers Home Administration from implementing new thermal insulation standards for concrete masonry.

In deleting this Amendment, the conferees will expect the Farmers Home Administration to undertake a revision of its standards, based upon available information on the thermal performance aspects of masonry wall construction as agreed to by the Secretary of Agriculture in his letter of September 11, 1978. In the course of this study the Farmers Home Administration should consult with the various construction materials industries, State, local and Federal Government agencies, engineering societies, and various code and standards-writing bodies.

Within 90 days of enactment of this Act, the conferees will expect the Farmers Home Administration to publish in the Federal Register a proposal for adjustments of the thermal performance standards that are indicated as a result of this study. Such adjustments, if the study so indicates, should be in the form of a separate performance thermal insulation standard for masonry construction.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1979 recommended by the Committee of Conference, with comparisons to the fiscal year 1978 amount, the 1979 budget estimates, and the House and Senate bills for 1979 follow:

New budget (obligational) authority, fiscal year 1978	$13,198,341,000
Budget estimates of new (obligational) authority, fiscal year 1979	18,090,152,000
House bill, fiscal year 1979	18,014,029,000
Senate bill, fiscal year 1979	23,365,764,000
Conference agreement	18,288,201,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1978	+5,089,860,000
Budget estimates of new (obligational) authority, fiscal year 1979	+198,049,000
House bill, fiscal year 1979	+274,172,000
Senate bill, fiscal year 1979	−5,077,563,000

JAMES L. WHITTEN,
FRANK E. EVANS,
BILL D. BURLISON,
MAX BAUCUS,
BOB TRAXLER,
BILL ALEXANDER,
MATTHEW F. MCHUGH,
ROBERT L. F. SIKES,
WILLIAM H. NATCHER,
GEORGE H. MAHON,
MARK ANDREWS,
J. KENNETH ROBINSON,
JOHN T. MYERS
(except for amendment No. 118),
ELFORD A. CEDERBERG,
Managers on the Part of the House.

THOMAS F. EAGLETON,
JOHN C. STENNIS,
WILLIAM PROXMIRE,
ROBERT C. BYRD,
DANIEL K. INOUYE,
BIRCH BAYH,
LAWTON CHILES,
QUENTIN N. BURDICK,
WARREN G. MAGNUSON,
HENRY BELLMON,
MILTON R. YOUNG,
MARK O. HATFIELD,
TED STEVENS,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. RODINO (at the request of Mr. WRIGHT) for today, on account of illness in the family.

Mr. AMMERMAN (at the request of Mr. WRIGHT) for the week of September 18 through 22, for hospitalization.

Mr. CORMAN (at the request of Mr. WRIGHT) for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. RUDD) to revise and extend their remarks and include extraneous material:)

Mr. DUNCAN of Tennessee, for 5 minutes, today.

Mr. GOLDWATER, for 5 minutes, today.

Mr. RUDD, for 15 minutes, today.

(The following Members (at the request of Mr. YOUNG of Missouri), to revise and extend their remarks, and to include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. BINGHAM, for 5 minutes today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. PEPPER, for 10 minutes, today.

Mr. BAUCUS, for 5 minutes, today.

Mr. DIGGS, for 5 minutes, today.

Mr. WOLFF, for 5 minutes, today.

Mr. OTTINGER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. RUDD) and to include extraneous matter:)

Mr. FINDLEY in two instances.

Mr. DERWINSKI in three instances.

Mr. EMERY.

Mr. RHODES.

Mr. BROWN of Ohio.

Mr. COLLINS of Texas in two instances.

Mr. GREEN.

Mr. CONABLE.

Mr. SYMMS in two instances.

Mr. DORNAN.

(The following Members (at the request of Mr. YOUNG of Missouri) and to include extraneous matter:)

Mr. BINGHAM in 10 instances.

Mr. CARNEY.

Mr. RODINO in two instances.

Mr. ANNUNZIO in six instances.

Mr. GONZALEZ in three instances.

Mr. ANDERSON of California in three instances.

Mr. BROWN of California in 10 instances.

Mr. MAZZOLI.

Mr. EDWARDS of California.

Mr. DOWNEY.

Mr. EDGAR.

Mr. VOLKMER.

Mr. VENTO.

Mr. BAUCUS in two instances.

Mr. VAN DEERLIN.

Mr. HEFNER.

Mr. BRECKINRIDGE in two instances.

Mr. CONYERS.

Mr. MURPHY of New York.

Mr. LEDERER.

Mr. PEPPER.

Mr. MOTTL.

Mr. MCDONALD.

Mr. LAFALCE.

Mr. UDALL.

Mr. HAMILTON.

Mr. LONG of Louisiana.

Mr. BREAUX.

Mr. STARK.

Mr. RANGEL.

SENATE BILL AND CONCURRENT RESOLUTION REFERRED

A bill and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1147. An act to relieve the liability for the repayment of certain erroneously made contributions by the United States; to the committee of the judiciary; and

S.J. Res. 160. Joint resolution to initiate preliminary studies for the restoration and renovation of the Pension Building in Washington, District of Columbia, to house a Museum of the Building Arts, and, for other purposes; to the Committee on Public Works and Transportation.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1427. An act for the relief of Marie Grant;

H.R. 3460. An act for the relief of William J. Elder and the estate of Stephen M. Owens, deceased;

H.R. 5097. An act for the relief of Dr. Daryl C. Johnson;

H.R. 6760. An act for the relief of Charles M. Metott; and

H.R. 12772. An act to facilitate the exchange of certain lands in the State of Oregon, and for other purposes.

ADJOURNMENT

Mr. YOUNG of Missouri. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 47 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, September 19, 1978, at 11 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4988. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting plans for works of improvement in two watersheds, neither of which involves a project with a structure providing more than 4,000 acre-feet of total storage capacity, pursuant to section 5(3) of the Watershed Protection and Flood Prevention Act, as amended; to the Committee on Agriculture.

4989. A letter from the Chairman, Cost Accounting Standards Board, transmitting a proposed new cost accounting standard entitled "Part 416—Accounting for Insurance Costs—a Cost Accounting Standard which establishes criteria for the measurement of insurance costs, the assignment of such costs to cost accounting periods and their allocation to cost objectives," pursuant to section 719(h)(3) of the Defense Production Act of 1950, as amended; to the Committee on Banking, Finance and Urban Affairs.

4990. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

4991. A letter from the Secretary, Federal Energy Regulatory Commission, transmitting the annual report on final valuations of properties of common carriers for rate-making purposes, pursuant to section 19a (d) of the Interstate Commerce Act, as amended; to the Committee on Interstate and Foreign Commerce.

4992. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting plans for works of improvement in various watersheds, each of which involves a project with at least one structure which provides more than 4,000 acre-feet of total storage capacity, pursuant to section 5(3) of the Watershed Protection and Flood Prevention Act, as amended; to the Committee on Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. REUSS: Committee on Banking, Finance and Urban Affairs. H.R. 9637. A bill to amend the One Bank Holding Company Act of 1970; with amendment (Rept. No. 95–1574). Referred to the Committee of the Whole House on the State of the Union.

Mr. STRATTON: Committee on Armed Services. H.R. 11945. A bill to authorize the Secretary of the Army to return 10 paintings to the Navy of the Federal Republic of Germany; with amendment (Rept. No. 95–1575).

Mr. REUSS: Committee on Banking, Finance and Urban Affairs. H.R. 12728. A bill to amend the Coinage Act of 1965 to change the size, weight, and design of the $1 coin, and for other purposes; with amendment (Rept. No. 95–1576). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 11741. A bill to amend section 118 of the Internal Revenue Code of 1954 to clarify the treatment of contributions in aid of construction to regulated electric or gas public utilities; with amendment (Rept. No. 95–1577). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 12828. A bill to amend the Internal Revenue Code of 1954 to exclude from the definition of an unrelated trade or business qualified convention and trade show activities carried out by an organization described in section 501(c)(3); with amendment (Rept. No. 95–1578). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee of conference. Conference report on H.R. 13125 (Rept. No. 95–1579). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were intoduced and severally referred as follows:

By Mr. BROWN of Ohio:

H.R. 14097. A bill to provide for an Afro-American History and Culture Board, which shall establish a museum to be known as the National Museum of Afro-American History and Culture; to the Committee on Education and Labor.

By Mr. HALL:

H.R. 14098. A bill to delegate power to the States, through their State legislatures, to disapprove certain specified activities licensed by the Nuclear Regulatory Commission, and for other purposes; jointly, to the Committees on Interior and Insular Affairs, and Interstate and Foreign Commerce.

By Mr. HAMMERSCHMIDT:

H.R. 14099. A bill to prohibit the Secretary of Agriculture and the Secretary of Health, Education, and Welfare from prohibiting the use of nitrites as a food preservative on the basis of any carcinogenic effect nitrites may be represented to have until the development of a satisfactory alternative food preservative; jointly, to the Committees on Agriculture, and Interstate and Foreign Commerce.

By Mr. BROWN of Ohio:

H.R. 14100. A bill to establish a program of Federal grants to encourage the employment and training of unemployed individ-

uals; to the Committee on Education and Labor.

By Mr. LAFALCE:

H.R. 14101. A bill to amend the National Foundation on the Arts and Humanities Act of 1965 to authorize the purchase and display of works of art, and for other purposes; to the Committee on Education and Labor.

By Mr. LAFALCE (for himself, Mr. BYRON, Mr. HEFTEL, Mr. HOLLENBECK, Mr. MARKEY, and Mr. PATTEN):

H.R. 14102. A bill to amend the Internal Revenue Code of 1954 to encourage the targeting of manufacturing related investments in labor surplus areas by providing, with respect to property placed in service in such areas, an additional depreciation deduction and an additional investment tax credit, and by providing, with respect to real property located in such areas, an additional deduction for State and local real property taxes; to the Committee on Ways and Means.

By Mr. LAFALCE (for himself, Mr. CARR, Mr. ST GERMAIN, and Mr. STOKES):

H.R. 14103. A bill to amend the Internal Revenue Code of 1954 to provide for cost-of-living adjustments in the amount of the personal exemption and in the individual tax rates; to the Committee on Ways and Means.

By Mr. LEGGETT (for himself, Mr. MURPHY of New York, Mr. DINGELL, Mr. RUPPE, Mr. FORSYTHE, Mr. BOWEN, Mr. OBERSTAR, Mr. DE LA GARZA, Mr. YOUNG of Alaska, Mr. AUCOIN, Mr. EMERY, Mr. HUGHES, Mr. AKAKA, Mr. DORNAN, Mr. EVANS of Delaware, Mr. TRIBLE, and Mr. ROONEY):

H.R. 14104. A bill to authorize appropriations to carry out the Endangered Species Act of 1973 through fiscal year 1981, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mrs. SMITH of Nebraska:

H.R. 14105. A bill to amend the Internal Revenue Code of 1954 to remove certain limitations on the estate and gift tax marital deductions; to the Committee on Ways and Means.

By Mr. WEISS (for himself, Mr. EILBERG, Mr. GREEN, Ms. HOLTZMAN, Mr. MANN, Mr. STEERS, and Mr. STOKES):

H.R. 14106. A bill to provide for payments in lieu of taxes to local governments by the Administrator of General Services based upon the amount of certain tax exempt property owned by the United States and foreign governments within such locality; to the Committee on Government Operations.

By Mr. WEISS (for himself, Mr. LAFALCE, Mr. OTTINGER, Ms. SCHROEDER, Mr. SOLARZ, and Mr. STARK):

H.R. 14107. A bill to facilitate the economic adjustment of communities, industries, and workers to civilian-oriented initiatives, projects, and commitments when they have been substantially and seriously affected by reductions in defense contracts, military facilities, and arms export which have occurred as a result of the Nation's efforts to pursue an international arms control policy and to realign defense expenditures according to changing national security requirements, and to prevent the ensuing dislocations from contributing to or exacerbating recessionary effects; jointly, to the Committees on Armed Services, Banking, Finance and Urban Affairs, Education and Labor, Government Operations, and Ways and Means.

By Mr. LEACH:

H.R. 14108. A bill to provide indemnities to livestock and poultry producers who incur certain losses as a result of incorrect Government announcements relating to the safety of using nitrites in cured livestock and poultry products; to the Committee on Agriculture.

By Mr. LEACH (for himself and Mr. CAVANAUGH):

H.R. 14109. A bill to direct the Secretary of Agriculture to conduct research with respect to the effects of nitrites on animals and with respect to possible nitrite substitutes; jointly, to the Committees on Agriculture, and Interstate and Foreign Commerce.

By Mr. LEACH (for himself and Ms. OAKAR):

H.R. 14110. A bill to provide for the striking and public sale of a series of gold medallions commemorating outstanding individuals in the American arts; to the Committee on Banking, Finance and Urban Affairs.

By Mr. PEPPER (for himself and Mr. DRINAN):

H.R. 14111. A bill to amend title XVIII of the Social Security Act to reduce certain deductibles and coinsurance under the medicare program and to fund such reductions from general revenues; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. POAGE:

H.R. 14112. A bill to authorize and direct the Secretary of Agriculture to establish a national program of rangeland research to be carried out by the several States; to the Committee on Agriculture.

By Mr. FRASER (for himself, Mr. STOKES, Mr. OTTINGER, Mr. SEIBERLING, Mr. BEDELL, Mr. WAXMAN, Mr. DRINAN, Mr. NOLAN, Mr. MARLENEE, Mr. EDWARDS of California, Mr. DICKS, Mr. BAUCUS, Mr. HUGHES, Mr. MIKVA, and Mr. JEFFORDS):

H. Res. 1352. Resolution urging the United States and Canada to cooperate in their efforts to improve the quality of air in the boundary regions; to the Committee on International Relations.

By Mr. HARRIS (for himself and Mr. FLIPPO):

H. Res. 1353. Resolution disapproving the alternative plan for pay adjustments for Federal employees recommended and submitted by the President to the Congress on August 31, 1978, under section 5305(c) of title 5, United States Code; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Ms. HOLTZMAN introduced a bill (H.R. 14113) for the relief of Jean Bernard, which was referred to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

537. The SPEAKER presented petition of the American Theatre Association, Washington, D.C., relative to the Lifelong Learning Program; which was referred to the Committee on Education and Labor.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1

By Mr. COUGHLIN:

(To the amendment offered by Mr. DANIELSON.)

—On page 8, immediately after line 5, insert the following:

(7) The identity of all positions held as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, and any educational or other institution, except that this paragraph shall not require the reporting of positions held in any religious, social, fraternal, charitable, or political entity.

—On page 8, immediately after line 5, insert the following:

(8) A description of the date, parties to, and terms of any agreement or arrangement with respect to: (A) future employment; (B) a leave of absence during the period of the reporting individual's Government service; (C) continuation of payments by a former employer other than the United States Government; and (D) continuing participation in an employee welfare or benefit plan maintained by a former employee.

H.R. 1

By Mr. DANIELSON:

(Amendment to the amendment in the nature of a substitute.)

—Page 27, line 2, strike out "Each" and insert "Except as provided in the last sentence of this paragraph, each".

Page 27, line 23, insert "Each report referred to in subsection (b) of this section shall, with respect to the spouse of the reporting individual, contain information listed in paragraphs (1), (3), and (4) of subsection (a) only.".

Page 27, line 24, strike out "Each" and insert "Except as provided in the last sentence of this paragraph, each".

Page 28, line 7, after "benefit." insert "Each report referred to in subsection (b) of this section shall, with respect to any dependent child, contain information listed in paragraphs (3) and (4) of subsection (a) only.".

Page 57, line 22, strike out "Each" and insert "Except as provided in the last sentence of this paragraph, each".

Page 58, after line 19, insert "Each report referred to in subsection (b) of this section shall, with respect to the spouse of the reporting individual, contain information listed in paragraphs (1), (3), and (4) of subsection (a) only.".

Page 58, line 20, strike out "Each" and insert "Except as provided in the last sentence of this paragraph, each".

Page 59, line 4, after "benefit." insert "Each report referred to in subsection (b) of this section shall, with respect to any dependent child, contain information listed in paragraphs (3) and (4) of subsection (a) only.".

H.R. 1

By Mr. ECKHARDT:

(Amendment to the amendment (H.R. 13850) offered by Mr. DANIELSON.)

—Page 49, immediately after line 24 insert the following new subsection:

"(g) The prohibitions contained in subsection (c) of this section shall not apply with respect to any formal or informal appearance before or communication to a department or agency by a person who is a member in good standing before, and is licensed or certified to practice in a profession by, any Federal or State licensing or certifying authority for such profession, if the following conditions are met:

"(1) Such person is subject to discipline, including suspension or revocation of such person's license or certification to practice, by the licensing or certifying authority on account of—

"(A) a failure to possess the requisite qualifications to represent others,

"(B) a lack of character or integrity, or

"(C) engaging in unethical or improper professional conduct.

"(2) Such department or agency has in effect standards of ethical conduct—

"(A) for its officers and employees which, at a minimum, proscribe and subject such officers and employees to disciplinary action, including suspension or dismissal, for—

"(i) using public office for private gain,

"(ii) giving preferential treatment to any person,

"(iii) impeding Government efficiency or economy,

"(iv) compromising independence or impartiality,

"(v) making a Government decision outside official channels, or

"(vi) affecting adversely the confidence of the public in the integrity of government; and

"(B) for its former officers and employees which, at a minimum, provide for disciplinary action, including the suspension or revocation of the privilege of appearing or practicing before it, upon a finding (after notice and an opportunity for hearing) of—

"(i) failure to possess the requisite qualification for representing others,

"(ii) lack of character or integrity; or

"(iii) engaging in unethical or improper professional conduct.

"(3) Such appearance before, or communication to such department or agency is of a category exempted from the prohibitions contained in subsection (c), for purposes of this subsection, by general rule or regulation promulgated by the department or agency, in consultation with the Director of the Office of Government Ethics, and published in the Federal Register.

"(4)(A) A file containing—

"(i) any such written communication (and responses thereto),

"(ii) memoranda stating the substance of any such oral communication (and responses thereto), and

"(iii) all written communications (and responses thereto) and memoranda stating the substance of all oral communications (and responses thereto) in connection with any such appearance,

is made available for public inspection and copying immediately upon request, notwithstanding any provision of section 552 (a)(6) of title 5, United States Code.

"(5) Such appearance is not before, or communication is not with, any person under the direct supervision and control of such former officer or employee, while employed with such department or agency.

"(6) Such former officer or employee files a written declaration with the department or agency that he or she is currently qualified to appear in a representative capacity before the department or agency, and that the appearance or communication is not intended to have, and cannot reasonably be expected to have, any effect described in paragraph (2)(A)(i) through (vi) of this subsection. For purposes of this subsection, the term "State" includes the District of Columbia and any territory or possession of the United States.

Page 49, line 25, strike out "(g)" and insert in lieu thereof "(h)."

Page 50, line 21, strike out "(h)" and insert in lieu thereof "(i)".

H.R. 11733

By Mr. GIAIMO:

—On page 84, after line 4, insert the following new section:

POLICY ON LEVEL OF AUTHORIZATIONS FROM HIGHWAY TRUST FUND

SEC. 101A. (a) Chapter 1 of title 23 of the United States Code is amended by inserting after section 101 the following new section:

"§ 101A. Policy on level of authorizations from Highway Trust Fund.

"(a) DECLARATION OF POLICY.—(1) It is hereby declared to be the national policy that annual authorizations for programs to be financed from the Highway Trust Fund be closely related to anticipated annual receipts accruing to the fund in order that the decision on appropriate program levels and the decision on sources of revenue to finance the program be made in conjunction with each other.

"(2) It is further declared that whenever authorizing legislation provides for growth in program levels, such growth should be consistent with (A) the rate of growth of revenues from existing sources, (B) the ability of States responsibly to obligate increased Federal funds, and (C) a sound overall Federal fiscal policy.

"(3) In determining for these purposes whether or not authorizations are closely related to Highway Trust Fund receipts, the estimated net receipts are to be adjusted upward as described in subsection (e) of this section. The annual authorizations will be considered to be closely related to receipts if they are less than or equal to the adjusted net receipts; but if the new authorizations from the Highway Trust Fund for the next fiscal year are greater than the adjusted net receipts, such new authorizations are to be reduced as provided for in the following subsections.

"(B) DETERMINATION OF NEED FOR CUTBACK IN AUTHORIZATIONS.—(1) The Secretary of the Treasury, after consultation with the Secretary of Transportation and at least 120 days before the beginning of each fiscal year, shall estimate—

"(A) the adjusted net receipts of the Highway Trust Fund for such fiscal year, and

"(B) the new Highway Trust Fund authorizations for such fiscal year.

"(2) If the Secretary of the Treasury estimates that the new Highway Trust Fund authorizations for the fiscal year will exceed the estimated adjusted net receipts for such fiscal year, he shall determine the percentage which such adjusted net receipts are of such authorizations, and he shall publish this percentage in the Federal Register at least 90 days before the beginning of the fiscal year.

"(c) CUTBACK OF NEW HIGHWAY TRUST FUND AUTHORIZATIONS.—Notwithstanding any other provision of law, if for any fiscal year the new Highway Trust Fund authorizations exceed adjusted net receipts, the Secretary of Transportation shall—

"(1) in the case of any new Highway Trust Fund authorization which is of the kind subject to apportionment, apportion (in lieu of the amount which, but for this subsection, would be apportioned) the amount obtained by multiplying the amount authorized to be apportioned for such fiscal year by the percentage determined for such year, and

"(2) in the case of any new Highway Trust Fund authorization which is not of the kind subject to apportionment, place a ceiling on the amount of such authorization for such fiscal year which is the amount obtained by multiplying the amount of such authorization by the percentage determined for such year.

"(d) ADJUSTMENT SUPERSEDED BY LEGISLATION REDUCING AUTHORIZATIONS.—An adjustment made by the Secretary of Transportation under subsection (c) shall not go into effect if, prior to the start of the fiscal year involved, the Congress passes legislation containing new Highway Trust Fund authorizations that are less than or equal to the estimated net adjusted receipts.

"(e) DEFINITIONS.—For purposes of this section—

"(1) The term 'net receipts', with respect to any fiscal year, means—

"(A) the amounts appropriated to the Highway Trust Fund by section 209(c) of the Highway Revenue Act of 1956 for such year, reduced by the amounts transferred to other trust funds and further reduced by payments and credits under the Internal Revenue Code of 1954, and

"(B) interest credited to the Highway Trust Fund for such year.

"(2) The term 'adjusted net receipts', with respect to any fiscal year, means the net receipts for such year, appropriately adjusted as follows:

"(A) For each of the fiscal years 1979, 1980, 1981, and 1982, the net receipts shall be increased by $300,000,000, $300,000,000, $300,000,000 and $300,000,000, respectively.

"(B) The net receipts shall be further adjusted by the amount by which any new Highway Trust Fund authorization taken into account for a prior fiscal year under this section has lapsed, been cancelled, or otherwise been changed.

"(C) The net receipts shall be further adjusted by the amount by which the actual net receipts for the most recent fiscal year for which actual receipts are known differ from the estimate made by the Secretary of the Treasury for that year.

"(D) The net receipts shall be further adjusted for any excess of adjusted net receipts over the new Highway Trust Fund authorizations, to the extent such excess has not theretofore been taken into account under subsection (f) of this section.

"(3) The term 'new Highway Trust Fund authorization', with respect to any fiscal year, means authorization to make appropriations out of the Highway Trust Fund which first becomes available for obligation in such fiscal year. The term includes contract authority.

"(f) TECHNICAL CONSIDERATIONS—RESTORATION OF CERTAIN WITHHELD AMOUNTS.—(1) If—

"(A) the Secretary of the Treasury estimates that the adjusted net receipts for a fiscal year will exceed the new Highway Trust Fund authorizations for such fiscal year, and

"(B) the Secretary of Transportation has reduced new Highway Trust Fund authorizations for any preceding fiscal year pursuant to subsection (c),

the Secretary of the Treasury shall compute the amount of the excess referred to in subparagraph (A) and shall advise the Secretary of Transportation of the amount thereof. The Secretary of Transportation shall then apportion (or otherwise make available for use) the new Highway Trust Fund authorizations referred to in subparagraph (B) for their authorized purposes.

"(2) For purposes of paragraph (1)—

"(A) the aggregate amount restored for any fiscal year shall not exceed the excess determined under paragraph (1) for such fiscal year;

"(B) restoration under this subsection shall be made in the order of the fiscal years for which amounts were withheld under subsection (c);

"(C) in the case of any partial restoration of authorizations for any fiscal year, the amount of any authorization restored shall bear the same relation to the total amount restored as the amount of such authorizations withheld bore to the aggregate amount withheld under subsection (c) for such fiscal year; and

"(D) any amount restored shall remain available for the period for which it would be available if the authorization took effect with the fiscal year for which there is restoration under this subsection.

"(g) TRANSITIONAL RULES.—(1) In the case of the fiscal year beginning October 1, 1978, the Secretary of the Treasury—

"(A) shall make the estimate under subsection (b) not later than 5 days after the date of the enactment of this section, and

"(B) shall publish the percentage in the

Federal Register not later than 10 days after such date.

"(3) Any new Highway Trust Fund authorization which becomes available on the enactment of the Surface Transportation Assistance Act of 1978 shall be treated as a new Highway Trust Fund authorization for the fiscal year 1979.".

"(h) EFFECTIVE DATE.—The provisions of this amendment shall first be effective for trust fund authorizations for fiscal years beginning after September 30, 1978 and shall not be interpreted to reduce or withhold any funds authorized for prior fiscal years."

(b) The table of sections for chapter 1 of such title 23 is amended by inserting immediately after the item relating to section 101 the following new item:

"101A. Policy on level of authorizations from Highway Trust Fund.".

H.R. 11942

By Mr. VOLKMER:

—On page 8, strike lines 20 and 21 and insert in lieu thereof the following: "which is filed on or after the date of enactment of this Act."

H.R. 12161

By Mr. GILMAN:

—On the first page, beginning on line 5, strike out "$2,300,000,000" and insert in lieu thereof "$2,309,000,000".

Page 2, line 3, strike out "$2,300,000,000" and insert in lieu thereof "$2,309,000,000".

Page 2, line 6, strike out "$3,300,000,000" and insert in lieu thereof "$3,309,000,000".

Page 2, immediately after line 6, insert the following new subsection:

(d) Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following new subsection:

"(k) RECONSTRUCTION.—(1) The Corporation shall (A) carry out such reconstruction of the railroad bridge over the Hudson River at Poughkeepsie, New York, as is necessary for the purposes of this subsection and make appropriate repairs and improvements in rail yards and tracks which service the rail system using such bridge, (B) restore freight service on such system at least to the extent provided prior to the fire damage to such bridge in 1974, and (C) take appropriate steps to promote the use of such system.

"(2) Not more than $9,000,000 of the funds received by the Corporation from the sale of its securities to the Association under section 216 of this Act shall be available for purposes of carrying out the provisions of this subsection.".

EXTENSIONS OF REMARKS

MERIT SHOP CONSTRUCTION

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1978

● Mr. RHODES. Mr. Speaker, the construction industry is this country's largest and perhaps most important industry. In recent years, the construction industry has been undergoing some fundamental changes, changes that, by most accounts, are producing new levels of competition in a vital industry.

It is not always appreciated that those who now perform the majority of construction in this country represent a relatively new and fresh breed of construction contractors intent on preserving and enhancing the free market in construction without undue interference from the Government or any other group.

Quite appropriately, they call themselves "merit shop" contractors, which means that construction jobs are awarded to the lowest responsible bidder, that other construction firms, whether independent or union, should be protected in their right to do business with one another, and that individual workers should be free to choose whether or not they want to belong to a union.

Mr. Speaker, I would like to call your attention and that of my colleagues to the week of September 18–22 which has been designated Merit Shop Week by Associated Builders and Contractors to bring attention to this important segment of the construction industry and to highlight its campaign for an interference-free construction industry.

Joseph Burton, President of the Associated Builders and Contractors, one of the Nation's largest groups of builders and contractors, explains it this way:

Construction is this country's largest single industry, contributing nearly 10 percent to the gross national product. And, the Merit Shop has become an important part of the construction industry, whose volume this year will come close to $178 billion.

We decided to designate September 18–22 as Merit Shop Week because we felt more people should be aware of the construction industry, its participants, its impact on the economy, and the best way to keep it strong and healthy.

First, it gives us the opportunity to spread the message of the Merit Shop and how and why it has arrived at the position it now enjoys. The Merit Shop owes its position in the market to the economic forces of competition; quality work; quality prices; and high productivity. These factors are helping to turn the construction industry away from the high cost and low productivity that have characterized it in recent years.

Merit Shop Week also gives us the opportunity to tell why the business of building America is so important and why its management should not be encroached upon by the excesses of "big government and "big" labor, which is intent on protecting its share of the construction industry from the open market.

Unless we are allowed to take full advantage of the competitive potential of the construction industry, it will be in serious trouble. Excessive wages and low productivity coupled with a countless number of ever-increasing government regulations are depriving the industry and consumers of the economic benefits of the nation's largest industry.

During this week, we are attempting to familiarize more people with the cost advantages of "merit shop" construction, which offers the buying public a cost alternative. And, we are attempting to inform elected state and federal officials that the public is tired of paying more and more and getting less and less for their construction dollar."●

NO JOBS FOR YOUTH

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1978

● Mr. FINDLEY. Mr. Speaker, the decision of the Congress to reject the youth differential when considering minimum wage bills keeps a lot of young people from jobs where they could get work experience and earn some needed pocket money. The case for the youth differential was eloquently set forth in the September 11 issue of the Hillsboro and Montgomery County News. The editorial was written by Robert R. Bliss:

NO JOBS FOR YOUTH

It's the kids who get the dirty end of the stick when it comes to jobs. Unemployment of young people, now unable to find first jobs, is not only a hardship on them, but a threat to their future well being.

They are learning more and more they can get by either through the generosity of their families or by being added to public welfare rolls. They are not learning the work ethic, one of the major reasons America has risen to its record level of productivity, but instead they are becoming social drones, contributing nothing but their presence.

It's no fault of their own. It's greatly the fault of a misguided Congress that establishes minimum wages, at levels too many employers refuse to pay for inexperienced and untrained workers.

At the present time a high school-age kid with little more then two hands to offer must be paid $2.65 an hour by all employers subject to wage and hour laws. This rate will jump to $2.90 an hour next January 1 and to $3.05 an hour a year later. The high cost of training the young people must be borne by the employer as well as the hourly pay for limited productivity.

If common sense prevailed in Congress and the politicians were not so fearful of labor union demands the $2.90 raise would not be effected as scheduled.

When an employer is surveying the field for an employee he realizes that the current $2.65 an hour is not all he must pay. Should he hire a youth for a 40-hour week he pays out $106 a week in wages plus $6.41 for the employer's share of Social Security, plus $4.24 for state and federal unemployment taxes, a total of $116.65 a week, not counting any other fringe benefits. Thus, the cost of minimum wages at today's rate is actually $2.92 an hour out of the employer's pocket. When the minimum jumps to $2.90 the employers contribution to Social Security will be $7.01 a week and the unemployment tax contribution will be $4.64 a week, so that the actual expense for each minimum wage is no actually $2.90 but $3.19 an hour.

At the News for decades there has been a job open to high school youth assigned to empty wastebaskets, do light janitorial duties and to serve as substitute carrier when regular carriers are absent. At nearly $3 an hour this sort of unskilled help is too expensive; consequently we are not hiring.

We know kids would love to have a job to earn pocket money at a wage rate considerably below the legal requirement. But we know, too, that if labor department inspectors learn of such cozy arrangements the employer would be subject to massive penalties and punitive damages.

Labor unions are generally responsible for ever-increasing minimum wage legislation. Our memory goes back to a level of 40 cents an hour. Top wages then were about $2 an hour. In the ensuing 40 years the levels have increased nearly ten fold. When the bottom rung on the wage ladder is elevated all of the other rungs go up too, with the top rung much more than the bottom rung ratio of escalation. Since unions prosper from a percentage of the total payroll it is easily understood why higher and higher labor costs are the principal goals of the labor bosses.

We refuse to agree with the principle of liberal do-gooders that it is better for a teenager to be involuntarily unemployed at $2.65 an hour then voluntarily employed at some lower wage level.

We do believe that if more kids had more jobs there would be a pronounced decline in teenage crime statistics. Unemployment and under employment understandably breed contempt for law and order.

Too often teenagers have demonstrated that their materialistic demands will be met, if not by working for them, then by theft and other felonious crimes.

We hope that Congress puts a lid on this endless climb of minimums to halt the increase of teenage jobless, so that kids are not forever handed the dirty end of the job stick—R.R.B.●

PEACE IN THE MIDDLE EAST

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1978

● Mr. RODINO. Mr. Speaker, I would like to share my joy at the news of a successful Camp David conference. The greatly improved possibility for peace in the Middle East is a direct result of the hard work and good faith of President Carter, Prime Minister Begin, and President Sadat. The conference should be a catalyst toward final settlement for a lasting peace.

Mr. Speaker, like all Americans, I am proud of the leadership of President Carter has taken to point the way toward peace. When Prime Minister Begin said last night that:

The Camp David Conference should be renamed. It was the Jimmy Carter conference.

He was acknowledging the vital role the President took in bringing these two nations together to try to end 30 years of conflict.

Such courageous action is never without risks. However, with the support of the Congress and of all Americans I am hopeful that President Carter, Prime Minister Begin, and President Sadat can continue the progress they have made, and that a peace treaty will be signed within 3 months.●

A STRONG AND LOYAL ALLY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1978

● Mr. DERWINSKI. Mr. Speaker, the Republic of China has long been a strong and loyal ally of the United States, and in recent years has become a major trading partner as well. These facts ought never to be lost sight of as our Government decides its Asian policies.

The next few years will be critical in United States-Chinese relations. From all indications, President Chiang Ching-kuo, as an experienced, able, and genuinely popular statesman, will be able to provide the Republic of China with the strong and forward-looking leadership that will be required as it meets the many challenges before it. Vigilance and determination will be necessary on both sides of the Pacific if our mutual interests as democratic free-enterprise nations are not to be needlessly sacrificed.

In a recent interview with Reader's Digest's editor David Reed, President Chiang answered questions on a number of key issues concerning his country's future. His replies to those questions give a brief but clear picture of the policies and attitudes of the Republic of China's Government at this historic juncture. Therefore, I recommend this interview to the Members, and wish to insert it at this point:

A TALK WITH PRESIDENT CHIANG

(By David Reed)

Q. Mr. President, the Republic of China has had more hard knocks than most nations—loss of the mainland, compelled to withdraw from the United Nations, political isolation. Yet the country thrives. How has this been possible?

A. We have developed despite hardships because we have never abandoned our political objective, that is, to overthrow the mainland's communist regime and build a united, democratic China. Fortunately, we have great internal unity. The people and the government have always stood together and worked together. Since the government moved to Taiwan, we have developed the economy from zero to what it is today, and this has enabled us to be politically secure. Moreover, that security is bolstered by a strong defense: more than half of our government budget goes for defense.

Q. On the mainland, you were stronger than the communists, militarily, financially and in other respects. How, then, did they become the victors?

A. It is a question I'm frequently asked. From the time the Republic of China was established in 1911 until 1949 and especially during the war against Japan, we didn't have time to pay proper attention to internal affairs. By infiltration, by intangible force, they usurped the mainland and forced us to leave.

It was a lesson we didn't forget: that we could not allow any communist activity in our army, our economy, our schools, or anywhere else in our society. When we came here in 1949, there were communist guerrilla bases in the suburbs of Taipei. There were communist organizations in the railroad administration, and secret organizations in our army and factories. Their activities were coordinated by the communist organization on the mainland. It took us three years, but we got rid of them.

Q. Some say that infiltration by communist agents to stir up trouble is still the real threat facing the Republic of China. Do you share that concern?

A. We are paying a great deal of attention to this problem. Last year, the communists established a committee responsible for infiltrating Taiwan. We have discovered several instances of espionage. But we have the ability to overcome this problem.

Q. There are others who argue that the Republic's biggest threat is neither invasion nor infiltration, but slow economic strangulation. Are you having economic difficulties because of your increasing political isolation?

A. Not having diplomatic relations with other countries does affect us economically, of course. Nevertheless, our trade volume last year was close to $16 billion. We now have trade relations with more than 120 countries and territories. And we want to continue to expand our trade with others—as long as they are not communist countries.

Q. President Carter recently sent a message to Hua-Kuo-feng saying that the United States is "committed to normalization of relations with the People's Republic of China on the basis of the Shanghai Communique"—which was made in February, 1972 in which the U.S. and the communist regime agreed that the normalization of relations between the two countries is not only in the interest of the Chinese and American people but also contributes to the relaxation of tension in Asia and the world. Can the Republic of China continue to prosper, indeed survive, if this happens?

A. The Republic of China has never considered the so-called Shanghai Communique—signed by Chou En-lai and the ousted Nixon administration—a valid legal document. As to the question of our survival, I have always said that our interests and those of America cannot be divided. If we stick together, both will benefit. If we go separate ways, both will suffer. In any case, the Republic of China will persist.

Q. It has been proposed that the United States adopt the "Japanese formula" vis-a-vis the Republic of China—not have diplomatic relations, but still have strong trade relations. What is your reaction?

A. We cannot even entertain the idea. The two cases are quite different. The Republic of China and the United States have had formal and friendly relations for years. We have fought side by side against the Japanese aggressors. China and America have a Mutual Defense Treaty, ratified by the United States Senate. This treaty has legal status.

Q. When will your forces return to the mainland?

A. It is difficult to say just when it will take place, but we will return, at the suitable time. As I see it, there are two ways the communist regime may go. One is by the uprising of the people on the mainland. The second way is by internal division within the regime itself. We must grasp these opportunities, and also create opportunities.

Q. Do you think Hua Kuo-feng will promote a more humane form of communism than did Mao Tse-tung?

A. Impossible. The regime's oppression of the mainland Chinese will inevitably become more and more severe, because without it, the people would revolt immediately. Yet the more you oppress them, the more pressure you put on people to rise in revolt.

Q. Is it possible, within the foreseeable future, that your government will try to reduce tensions or work out some sort of a peaceful solution with the mainland regime?

A. That is totally impossible. Negotiating with the communists is tantamount to suicide. What free-world country has ever suc-

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

cessfully done so? Negotiations are a means the communists use to defeat their enemies. We can't forget this because when we were on the mainland we tried some negotiations with the communists. The more we negotiated, the more setbacks we suffered. Never even under the difficult circumstances, will we negotiate with them again. This is the most fundamental policy of the Republic of China.

Q. Recently the Carter administration reported that while what it calls human-rights violations in the Republic of China have diminished, such violations "continue to occur." Is the report accurate?

A. The fundamental difference between the Republic of China and the mainland's communist regime is that we do protect human rights. Respect for human rights is a moral principle this government fully supports, an important aspect of our anti-communist struggle. But if a person is working for the communists, against our anti-communist policy of safeguarding human rights and people's freedom—then of course that is quite a different story.

Q. Earlier we talked about the remarkable economic progress the Republic of China has been making. What developments do you see in this area in the years to come?

A. We must control the budget and not go into the red. This is an absolute. The government also must control market prices in order to avoid inflation and have continued economic stability. There may be other nations that are developing even more rapidly, but not with the degree of stability we have.

By the end of next year, most of the ten major construction projects now underway will have been essentially completed. Then we will start another 12.* At the same time, it is important that we use our land and water effectively, and mechanize our agriculture. We also want to change our labor-intensive industries to more sophisticated, technologically-advanced ones. This way we can improve the quality of our exports to better compete with other countries. This will gradually improve the standard of living, helping our people to live better lives: this year better than the last, and next year better than this.

Q. Why did you decide to run for President instead of remaining Premier?

A. I am a member of the Kuomintang, the ruling party. Since the party nominated me for the office of the Presidency, I agreed to run.

Q. Some people interpreted the selection of Shieh Tung-min as vice-president as a move to meet the political aspirations of those of your citizens born in Taiwan. Will more Taiwanese assume high posts?

A. When I nominated Mr. Shieh Tung-min as my running mate, I never thought about where he comes from. I knew only that he is Chinese. As a matter of fact, all the people in Taiwan are Chinese. As Vice-President Shieh himself has said, we all come to Taiwan from the mainland.

The only difference is some came first, others came later.●

* The ten major construction projects are: the North-South Freeway, railroad electrification, the Suao-Hualien Railroad, the Taoyuan International Airport, the Taichung Harbor, the expansion of the Suao Harbor, the Kaohsiung Shipyard, the Integrated Steel Mill in Kaohsiung, the petrochemical complex, and nuclear power plants.

The 12 projects which will be started are: a round-the-island railroad, a new cross-island highway in central Taiwan, expansion of the Pingtung-Oluanpi Highway, extension of the North-South Freeway to Pingtung, second-phase and third-phase construction of the Taichung Harbor, building of the Second and Third Nuclear Power Plants, continued construction of the Integrated Steel Mill, establishment of a fund for agricultural mechanization, improvement of important irrigational systems, construction of sea dikes and river embankments, building of new towns and expansion of housing projects, and establishment of cultural centers at cities and counties.

PRESIDENT'S ROLE IN PEACE NEGOTIATIONS

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1978

● Mr. BINGHAM. Mr. Speaker, President Carter, Prime Minister Begin, and President Sadat are all to be congratulated for their courage and statesmanship in arriving at the Camp David accords.

Peace has not yet come to the Middle East, but with these accords the road to peace is open.

I had the privilege of being present at the historic signing ceremony in the East room of the White House Monday evening. At that time I rejoiced to see the faces of Menachem Begin and the other Israelis wreathed in smiles. Some even had tears of joy in their eyes. This obviously did not mean that they considered Israel had made no concessions. What the Israeli smiles did mean to me was that they now can see a total peace with Egypt, complete with diplomatic relations, only a few weeks away.

The negotiations over the future of the West Bank and Gaza will no doubt be long and painful. Many questions are left open in the documents, including the thorny problem of Jerusalem. But the beauty of the situation from the Israeli point of view is that these negotiations can take place without the threat of hostile military action on the part of Egypt.

President Carter has made a place for himself in history with the success of the Camp David meetings. He had the courage to invite the Egyptian and Israeli leaders to the meetings without any assurance of success—something Henry Kissinger had said no President had ever done or should do. And he had the courage also, when both sides pressed him for help in the resolution of their differences, to come forward with American suggestions. He did this, not in a threatening manner, but as a skilled mediator would do in a complex labor negotiation. His attitude was never "agree to this, or the United States will punish you;" it was always: "If you want an agreement, this is the approach we think you may have to take."

Americans can and should be proud of their President today. So can the Israelis be proud of their Prime Minister, and the Egyptians of their President.●

FOREIGN POLICY

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1978

● Mr. SYMMS. Mr. Speaker, this Nation's foreign policy is often a mirror image of our domestic policy. This Nation's current internal chaos is exemplified in the Federal bureaucracy's great land grabs of our Western States; the refusal to break ahead with nuclear reactors for power; the push by the whimps and whiners to protect every endangered species except man, and so forth, ad nauseam.

Our foreign policy is equally mired in unreality. We are mistaking friends for enemies and accepting foes as associates. The current foreign policy that this Nation endures is carefully analysed by Clare Boothe Luce, a former Congresswoman, former Ambassador to Italy and playwright.

I am pleased to share with my colleagues excerpts of Mrs. Luce's article "Carter's Foreign Policy—A New World for the Russians" published in the American Spectator, October 1978.

The excerpts follow:

[From the American Spectator, October 1978]

CARTER'S FOREIGN POLICY—A NEW WORLD FOR THE RUSSIANS

(By Clare Boothe Luce)

Walter Lippmann once called U.S. foreign policy the "Shield of the Republic." A sound foreign policy is the shield that protects a nation's vital interests abroad, its territorial integrity, its political independence, and the lives and fortunes of its people. The primary goal of a sound foreign policy is the maintenance of the nation's security, by peaceful or diplomatic methods if possible, but by war if necessary. This is what Washington meant when he said in his Farewell Address that our foreign policy should be such that "we may choose peace or war, as our interest, guided by justice, shall counsel."

A nation can make no worse mistake in foreign policy than to substitute the ideal of peace for the idea of security. The corollary of this goal invariably becomes unilateral disarmament. Central to idealistic, pacifistic, and, perhaps, democratic thought has always been the belief that armaments are the cause of war, and that a nation that rejects the concept of force and unilaterally disarms will produce a similar "peace-loving" response from its enemies. This has been the most costly illusion of the democracies in this century. The substitution of the ideal of peace for the idea of security led an unarmed Britain to Munich in 1938; Munich led to World War II in 1939. Two years later, a U.S. foreign policy which had also made peace its supreme goal led America unprepared to Pearl Harbor.

In the lawless world of sovereign nations, the threat of force lies behind all international relations. The triad of diplomacy is persuasion, negotiation, and compromise. But diplomacy can be successful only insofar as it is backed by the triad of adequate military force—air, sea, and land power—and above all by the nation's will to use force, when diplomacy fails, to maintain its security.

Since the end of World War II our interests and those of our allies, "guided by justice," have constantly counseled that we should contain, at every step, the expansion

of Soviet imperialism, by peaceful or diplomatic means if possible, but by war if necessary. The policy of global containment was designed in 1947 to prevent this expansion. Backed by predominant U.S. military strength, and supported by the people, it stood the test of Communist aggression in Korea. It succeeded in Western Europe where it has maintained peace for the longest period Europe has ever known.

The policy of containment perished in the long, ill-conceived, and badly fought war in Vietnam. Dismayed by the magnitude of the task to contain Communist ideological and military expansion, the U.S. cut back its military commitments to the NATO bone, and in the name of a "higher morality" of peace, abandoned the Cold War struggle. And the ideal of peace, embodied in the policy of détente, once again became the supreme goal of U.S. foreign policy.

The melancholy results for American security of the past six years of détente have now become apparent. "A nation has security," Lippmann wrote, "when it does not have to sacrifice any of its vital interests in order to avoid war." Today the American people are beginning to realize that if the U.S. and its allies wish to avoid conflict with the USSR, or its surrogates, they must do so at the sacrifice of some of their vital interests. At the same time, many Americans fear that unless we do avoid war—war anywhere—we will risk nuclear annihilation.

Opinion polls would show that many Americans believe that any war fought in Asia or Africa would turn into "another Vietnam." Despite our superior equipment and overwhelming firepower, we would get "bogged down" in jungles or mountains or savannahs or deserts, and the wily guerrilla tactics of the natives would wear us out and eventually drive us to a humiliating withdrawal. If the natives were supported or provisioned by the Soviets, we "certainly" couldn't win, since the very attempt to win would lead to a "confrontation" with Moscow. And *that* could lead to a nuclear war.

Nor, it seems, could we any longer win a conventional war in Europe. The conventional forces of the Warsaw Pact now outnumber NATO forces three to one. The only way we could halt a Soviet blitz to the channel would be to employ tactical nuclear weapons. And that would "certainly" escalate into nuclear war.

We can't fight a war in the Middle East, even though Israel's survival should depend on it. War on the side of Israel would not only lead to the destruction of the oil fields, on which the economies of all the industrial democracies now rely, but the Soviets would "certainly" come in on the side of the Palestinians, Syrians, Libyans, and Egyptians. And that, too, would lead to nuclear war.

And, as everyone knows, "nobody can win a nuclear war."

So what should we do when we begin to perceive that our vital interests are everywhere threatened by the advance of the enemy, but when at the same time we are certain that any military effort to defend them would end in nuclear destruction? The first thing we should do is to recognize that we have come a long way down the road to Munich since Vietnam. Without public recognition that the "Shield of the Republic" is in desperate need of repair, America has little hope of avoiding World War III—or the alternative of acquiescence to Soviet hegemony. But what we have done instead is to deny to ourselves that our vital interests and our national security really are threatened by the growing might of the USSR and its slow but steady geopolitical advance; to cling desperately to our détente policy of trying to buy Soviet "friendship" with food, money, and technological goods; and to pretend to ourselves that our diplomatic concessions and military withdrawals, in any area of the world where we are faced with the slightest risk of "confrontation," are guided by "moderation," "restraint," and even (as in the case of Israel) by a wise concern for the "best interests" of our allies. What we also have done is to elect a President admirably equipped by temperament, inclination, and inexperience to help us make a virtue of our political, military, and moral impotence.

Consider that major address on foreign policy which Mr. Carter delivered in June 1977, at Notre Dame. This speech epitomized all the intellectual ruses by which we have been concealing from ourselves—and hoping to conceal from the world—the spirit of appeasement and defeatism that now guides our East-West policy. "I believe in détente with the Soviet Union," the President said. "To me, it means progress towards peace." Furthermore, "We are now free of our inordinate fear of Communism." What has freed us of this "inordinate fear" is the "lesson" that the U.S., then the strongest military power in the world, learned from the licking it took in Vietnam at the hands of the Communists. This "lesson," it seems is that it is stupid and wicked for America to try to halt Communist military aggression with military means.

Said the President, "We fought fire with fire, never thinking that fire is better quenched with water. This approach failed. South Vietnam the best example of its intellectual and moral poverty." And what is this miraculous "water" that will now quench the fires of Communist military aggression? Why, the water of *words*, specifically, a flood of pietistic presidential rhetoric. While the President fully understood "the limits of moral suasion, it is a mistake to undervalue the power of words. . . . In the life of the human spirit, words are actions. . . ."

"We live in a new world," the President said. This presumably is the post-Vietnam world in which all right-thinking nations have come to realize that armed resistance to armed aggression is not only futile, but immoral. The principle that had once guided our foreign policy was "a belief that Soviet expansion was almost inevitable, and must be contained," but in the "new world" right is stronger than might, and so this principle is no longer valid. Words being actions, the President had acted—he had "reaffirmed America's commitment to human rights as a fundamental tenet of our foreign policy." And already his human-rights policy had begun to turn the evil tide of totalitarianism: "We can already see dramatic worldwide advances in the protection of the individual from the arbitrary power of the state. . . . The spirit of confidence [in the democratic system] is spreading." Obviously, this "new world . . . calls for a new foreign policy—a policy based on the consistent decency of its values, and an optimism in its historical vision." And what is that "historical vision"? The nearest the President came to defining it was to say that America's "historical role" is "to serve mankind." The address was, essentially, a peace-in-our-time rationalization of the long American Munich that began in Vietnam. It was everything that a people subconsciously ashamed and afraid to stay on the road to Munich—but consciously more afraid to get off—wanted to hear.

A year has passed since Mr. Carter unveiled his new-world, born-again foreign policy. But alack for Mr. Carter—and alas for America—the Communists have shown no willingness to be baptised in the salvific waters of Carterian rhetoric. The Soviet military build-up, in all weapon categories, including nuclear, has proceeded at the same furious pace as before the "new world" of democratic-totalitarian cooperation was created by presidential fiat. Soviet SALT negotiators have proved tougher than ever in their demands that the U.S. strip itself of its newest military "equalizers"—the cruise missile and neutron bomb. And, to the dismay of all except the congenital isolationists and spaced-out doves, like George McGovern, and the Black Africa-Firsters, like Andrew Young, the Soviets together with some 40,000 Cubans are off once again lighting new fires in Africa.

And indeed, what is to prevent them? Mr. Carter has gone on record that it is intellectually and morally reprehensible to "fight fire with fire" in far-off places with strange-sounding names. So for the Soviets and Cubans the military risks of expansion in Africa are negligible, while the material gains in controlling countries with valuable raw materials and the strategic advantages in securing coastal bases on the oil-shipment routes of the West are enormous. The long-term gains of expansion in Africa were long ago pointed out by Lenin. "Who controls Africa," the Father of the USSR said, "controls Europe." The political and military vacuum that has existed on that vast, rich, disorganised continent since the end of European colonialism is not going to be filled by Washington hot air about human rights and majority rule. Dynamic Soviet imperialism has begun to fill it.

In the Middle East, no amount of shuttle diplomacy or Arab and Israeli state visits to Washington can any longer conceal the inability of the U.S. to produce an Arab-Israeli peace treaty acceptable to both sides. Mr. Carter's capacity to ignore international realities, and his proclivity for confusing presidential prestige and rhetoric with military power and political action, were again revealed in the address he delivered last May on the occasion of the 30th Anniversary of the founding of the state of Israel. "The United States," he declared, "will never waver from our deep friendship with Israel; our total, absolute commitment to Israel's security." The "total, absolute commitment" of one nation to the security for another is something that calls for a formal military alliance—such as the U.S. has with the NATO countries. But surely the President knew, even as he spoke, that not a dozen U.S. senators would support a U.S.-Israeli military treaty, or for that matter, any kind of commitment to Israel that might involve us in military action against the Arab nations. U.S. imperatives in the Middle East are militarily to strengthen the Saudis, Iranians, and Egyptians against the USSR and—at whatever costs to Israel—to maintain the flow of Arab oil to the West.

Israel has two imperatives: legitimacy and security—the recognition by its Arab neighbors of its right to nationhood, and its desperate need for defensible borders. But the mere recognition of its "right to exist" by the Arabs is not enough to protect Israel from the Arabs. Without the strong, unambiguous backing of the U.S.—Israel's only ally—Israel's chances of securing defensible frontiers, either in direct negotiations with the Arabs or at the Geneva peace table, are virtually nil.

With the shift in the balance of military power in favor of the USSR, and America's continued dependence on Arab oil, Israel can no longer count on this backing. Israel's demands for security are now seen in Washington as an "obstacle to peace." On the détente road to Munich as it winds through the Middle East, Israel is likely to become a victim.

And what has happened to that other "total and absolute" presidential commitment—Carter's global human-rights policy? His only contribution to foreign policy (which may be fortunate), Carter's attempt to apply his human-rights crusade to the USSR has been a stunning failure. Iron-

ically, this attempt has done even more than events in Africa or the Middle East to expose the impotence of Washington *vis-a-vis* Moscow.

The President's insistence that Moscow honor the human-rights provisions of the Helsinki accords, followed by his overt support of Soviet dissidents, provoked a violent reaction in Moscow. And with some reason. The government of a sovereign nation has the right to treat its own citizens in any way it chooses. Overt interference by another nation with this right is always deeply resented, and (as any Class 4 Foreign Service Officer could have told Mr. Carter) not only worsens their relations but invariably fails—unless it is backed by strong political, economic, or military pressures.

Soviet leaders lost no time impressing upon Carter the fact that the U.S. is fresh out of such pressures. In the toughest language to come out of Moscow since the détente agreements were signed, they told President Carter that détente and SALT would not survive his interference in Soviet internal affairs. Soviet human-rights dissidents, and several Jews who had agitated to emigrate, were given show trials and sentenced to long years in prison, or hard labor in the Gulag. To emphasize further their displeasure, the Soviets charged F. J. Crawford, a Moscow-based executive of International Harvester, with illegal currency manipulation. And two American Moscow correspondents, from the New York Times and the Baltimore Sun, were accused of slandering the Soviet state and fined for failing to reply to a Soviet court order to publish retractions.

The President has responded to all of these developments with a few small slaps on the mailed fist of the Kremlin. At Annapolis in June he warned the Soviet leaders against further adventurism in Africa. They must choose, he said, between "confrontation and cooperation" (whatever that meant). And in reprisal for Moscow's treatment of its own nationals, and ours, he called off several American technological missions scheduled to visit Moscow, cancelled the sale of a giant computer, and imposed an export-licensing system on sales of oil-related equipment.* But at the same time he reiterated his devotion to détente ("the road to peace and progress") and his desire for the consummation of a SALT treaty that is "fair to both parties."

In its notes on U.S.-Soviet affairs, the Advanced International Institute summed up: "Carter's Annapolis speech . . . evoked a Soviet frontal assault on all major areas of U.S. policy towards the USSR. . . . The keynote of this assault [a *Pravda* editorial] contained uparalleled overtones of arrogance and contempt, as well as threats to peace if the U.S. did not 'mend its way.'" The gist of the "frontal assault" was that the "objective reality" is now a preponderance of military and ideological power in Soviet hands, and short of initiating a suicidal nuclear holocaust, there is nothing the United States can do to prevent the USSR from accomplishing its world revolutionary mission. America's leaders do not seem to realise that America has "lost its strategic supremacy." Washington "is not taking into account the growth of the forces of World Socialism," and when it does, it will see that "the concept of confrontation holds no promise in the long term. . . . Washington strategists would be well advised to understand this." In the Soviet view, America can no longer "choose war or peace," as U.S. interests, guided by justice, counsel. Henceforth, America has no choice but to accept détente—and peace—on Soviet terms.

The Soviets do not ignore the reality of the vast potential strength of the U.S. But their confidence in the ultimate triumph of a Soviet-dominated world is based on the belief that the American people have lost the will to resist, and that our leadership is too confused, vacillating, and indecisive to develop policies, strategies, and capabilities to restore the balance of power to the West. Like the President himself, we are too enamored of the ideal of peace to focus on the idea of our own security—though it has now become a question of our survival.

But the Soviets could be wrong. There is a strong, stubborn current in America of anti-Communism which has now begun to surface again. Americans have been learning the hard way—thanks to Soviet actions in the last year—a lesson that it is not yet too late for President Carter to learn: that the foreign policy of a great nation cannot be made "in the realm of the spirit." It must be made in the jungle world of sovereign nations, where foresight, purpose, and resolve are more productive of peace and progress than noble visions and moral impulses, where firm actions speak louder than fair words, and where—in the end—mind more than heart, and might more than right, decide the fortunes of nations.●

* Shortly after this, however, the administration approved the sale of a Dresser Industries welding machine to the Soviet Union.

THE TRIAGE APPROACH TO LONG-TERM CARE DELIVERY

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1978

● Mr. PEPPER. Mr. Speaker, the June 1978 issue of the Greater Hartford, Conn., Business Review carried an excellent article regarding the Triage program in Plainville, Conn., and its executive director, Mrs. Joan Quinn.

For 4 years, Triage, Inc., has captured the attention of professionals in the fields of health and aging, as it is among the foremost projects designed to demonstrate alternative methods of providing health and social services to elderly persons. Supported by grants from the Department of Health, Education, and Welfare and the State of Connecticut as well as section 222 of the 1972 Social Security Act Amendments, Triage functions as a case management system for the elderly, providing an initial assessment—conducted in the home of the elderly person—and assuring that the necessary services are delivered. As a demonstration project, Triage has been able to secure medicare reimbursement for services not generally covered and to arrange for other health and social services which are not readily available to older persons, because of restrictive requirements and eligibility criteria.

In its few years of operation, Triage has not only served 2,100 clients, but it has developed a research function which will be useful to the Department of Health, Education, and Welfare and to others who seek to establish similar single-entry models of care for the elderly.

The emphasis of the Triage program is on home care, and every effort is made to maintain elderly persons in their own homes, surrounded by their own belongings and close to the familiar comforts of family and friends. As my colleagues are aware, the Select Committee on Aging, which it is my privilege to chair, has been deeply involved in efforts to make in-home health services more readily available under the medicare program. I am pleased that the Ways and Means Committee has brought before the House legislation which includes two of the steps we have proposed: Removal of the prior hospitalization requirement under part A and deletion of the visit limits under both parts A and B.

Moreover, the House-Senate conferees on H.R. 12255, the Older Americans Act Amendments of 1978, retained a proposal similar to legislation proposed by Congressman WILLIAM COHEN, ranking minority member of the Subcommittee on Health and Long-term Care, which I also chair, and me, which seeks to make funds available for the creation of community initiatives designed to assure that older persons receive the health and social services to which they are entitled and for which reimbursement is available. In short, we want to see that elderly persons receive the services they need when they need them. And that is what the Triage program has done. It is a fine program, and Mrs. Quinn and the staff of Triage deserve recognition by the Congress.

Mr. Speaker, I insert the article regarding Mrs. Quinn and Triage, Inc. at this point in the RECORD:

EXECUTIVE PROFILE—JOAN QUINN BATTLES RUNAWAY HEALTH COSTS

"Once again, your President and your nation are calling upon the patriotism, ingenuity, and enlightened self-interest of the private sector. This time, the problem is equally urgent: it is the problem of runaway health costs," spoke Joseph Califano, Secretary of the Department of Health, Education, and Welfare, recently at a Washington conference convened for executives of labor and management.

The cost of healthcare is a problem well-known to Joan Quinn, the Executive Director of Triage, Inc. in Plainville, Connecticut. Mrs. Quinn, a nurse-clinician, has led the Triage Program in a four year battle to keep elderly people independent in their homes and exempt from costly institutionalization in hospitals and nursing homes. The Triage research and demonstration program is the first and only effort in the United States to evaluate the total health, social, and life support needs of the elderly. In addition, the Secretary of DHEW has authorized broad and comprehensive waivers to Triage which pay for numerous services not generally reimbursed under Medicare.

"Triage manages the system for the elderly person. We utilize when appropriate, less expensive home delivered services to reduce the incidence of costly institutional services. We accomplish this through a single-entry assessment of all medical, social and life-support needs which an older adult may have," explained Joan Quinn. As a research and demonstration project, Triage has managed the healthcare and social service systems for over 1,800 individuals in the New Britain/Bristol area. "This is the first time in our country that the healthcare needs of the elderly have been evaluated on such a broad and comprehensive basis," said Quinn.

Triage functions in the following manner: Masters degree prepared nurse-clinician/social service coordinator teams assess the elderly person's health and social service needs in their own home, order services from contracted existing community providers, and monitor the need for continued delivery of services. In addition, through Medicare waivers authorized by Section 222 of the Social Security Act of 1972 (P.L. 92-603) and a unique reimbursement system established jointly with the Division of Direct Reimbursement of the Social Security Administration, Triage approves each bill for services, captures cost data for the cost-effective design of a University of Connecticut Research Team, and provides payment for all services deemed appropriate to assist the elderly person to remain independent in his own environment.

Quinn was prepared for the Triage effort through twelve years of progressive teaching and administrative responsibility at St. Francis Hospital, a 740 bed acute care facility in Hartford. She was educated at the University of Connecticut's School of Nursing, graduating in 1959 with a Bachelors of Science degree in Nursing. Later, after her St. Francis Hospital experience, she returned to U-Conn. to complete her Masters degree in 1974. Subsequently, she qualified as a "Certified Geriatric Nurse Practitioner," a designation bestowed upon qualified individuals by the American Nurses Association.

Quinn has remarked that "government officials, labor, and business are all searching for a system to control the rising costs of elderly care, not only for the elderly but for the general population. Triage provides a solution to half of that dilemma. Its assessment, coordination, and monitoring function serves as a third party control on the utilization on health and social services paid by a third party such as the government. It is still necessary for someone such as Connecticut's Commission on Hospitals and Healthcare to control the rate charged for those services. The rate control provides the other half of a cost containment measure."

At various points, Quinn also has interspersed teaching as a clinical instructor at the University of Hartford, University of Connecticut, and Central Connecticut State College, sharing her nursing administration and experiences with the elderly, with others. She has guest lectured frequently at other academic institutions including St. Joseph College, Central Connecticut State College, Boston College, and the University of Bridgeport. Mrs. Quinn has also addressed national audiences at the request of sponsoring nurse, social worker, and health planner groups at their respective conventions.

Having just returned from consulting with Long Beach, California's emerging homecare program, Mrs. Quinn is preparing to address the A.N.A.'s national educational symposium for Registered Nurses called chautaugau '78 to be held this August in Vail, Colorado. "The federal government encourages the dissemination of the new information gained from Triage. Since there is no cost to our agency. I am quite willing to share the information with other interested groups," she remarked.

As a result of the overwhelming support for the Triage model of homecare for the elderly, Quinn has been requested to speak regularly throughout the country. In 1977 alone, Quinn was invited to speak in Chicago, Kansas City, Minneapolis, New York, Boston, Trenton, Cleveland, and numerous times in Washington, D.C.

In addition, Triage receives requests for information from legislators, agencies, universities, service providers, insurance companies, etc. from almost every state of the United States. Considerable support is pending for the concepts implemented by Triage. Recently, the U.S. General Accounting Office issued a report "home Health—The Need for National Policy to Provide for the Elderly" indicating a need for community comprehensive health and social service.

Previously, the Congressional Budget Office issued an options paper entitled "Long-Term Care for Elderly and Disabled," which also supported the Triage model. Other nationally known organizations have supported the single-entry comprehensive homecare program for the elderly. They include: Blue Cross Association, American Hospital Association, National League for Nurses, American Medical Association, the National Council for Homemaker/Home Health Aid services.

Further pending legislation proposed by various senators and representatives includes Representative Conable, Representative Fraser, Representative Pepper, Representative Cohen, former Representative Koch, and Senator Domenici. Business and labor are also beginning to take an interest in healthcare and the system which provides it. Robert Kilpatrick, President of Connecticut General Life, said, "We need to review the flagging effort to reform and restructure the delivery system from within, to stimulate competition and internal cost control incentives."

The newly formed Washington Business Group on Health recently suggested, "We are compelled to talk of incentives, to conserve, to question the philosophy that more equals better, to waste less and so doing, expand the service capacity of our existing system. We are simply not getting a very good return on a gigantic investment."

Quinn says her management style is that of the school of the behaviorist; however, she feels quite comfortable directing her 35 member staff, including 20 professional staff members. Her leadership can be readily seen in Triage's office environment through the warm and congenial conversations overhead there. One of her assistants warned, "Be careful what you say about Joan. As you know, she's not only my boss; she's my friend." The casual observer can easily recognize the respect and loyalty shown Quinn at Triage headquarters.

Quinn, a resident of Wethersfield, has also served on many governmental and professional committees. Most prestigious of these committees was the governor's Blue Ribbon Committee to Investigate Nursing Homes. She also serves on the committee of her local Health Systems Agency and Professional Standards Review Organization. At the national level, Mrs. Quinn is a member of the National Certification Board for Geriatric Nurse Practitioners; a certification process of the American Nurses Association. She is presently serving on three of the Commissioner of the Department on Aging's Advisory Councils: Home Health-Licensure, Certificate of Need, the Rate Regulation.

In addition to her activities as an Executive Director, Quinn fulfills the role of mother and wife to her family. She can be seen supporting the athletic endeavors of her three boys Eric, Kevin, and Matthew at area ball fields throughout the summer. In addition, her husband, an Expense Analyst at Connecticut General Life Insurance Corporation in Bloomfield, is active in the community, organizing and coaching in various athletic leagues. "My family is very understanding of my professional obligations and I of their athletic endeavors. Both keep us constantly on the go," said Quinn.●

PEACE AND THE MIDDLE EAST

HON. DAVID F. EMERY

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1978

● Mr. EMERY. Mr. Speaker, the historic announcement made by President Carter that the leaders of Egypt and Israel had reached an agreement on a framework for settlement of the Arab-Israeli conflict, comes as good news to all of us in the Congress and the United States.

The agreements clearly point out the intense desire of both sides to reach a final and effective peace and the willingness of both leaders to work long and hard at compromise in order to attain the desired outcome. Our gratitude to President Sadat and Prime Minister Begin is unquestionable.

We in the Congress should also take a moment to thank the one person who worked so hard to convene the Camp David summit and then to bring it to such a fruitful conclusion. I refer, of course, to President Carter.

Mr. Speaker, it is not often that I have the opportunity to praise the President for his leadership in foreign policymaking. However, at this moment, I wish to extend my sincerest congratulations to Jimmy Carter for his hard word and dedication to the achievement of peace in the Middle East.

Both the Arabs and the Israelis have a long and difficult journey ahead of them in establishing a lasting peace. Nevertheless, I am confident that the spirit of cooperation shown at Camp David, and the willingness of the President to guide the participants through the tough negotiations yet to come, will ultimately prevail.

Mr. Speaker, I ask all of my colleagues in the House to join me in support of President Carter and his efforts on behalf of peace in the Middle East.●

PRESIDENT CARTER SHOULD WIN THE NOBEL PEACE PRIZE

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1978

● Mr. MOTTL. Mr. Speaker, I would like to share with you my letter to the Nobel Peace Prize Committee in Oslo, Norway, urging the awarding of the 1979 Nobel Peace Prize to President Carter.

The letter reads as follows:

SEPTEMBER 18, 1978.

Dr. A. SVERDRUP,
Secretary Nobel Peace Prize Committee,
Stortingets Nobel Komite, Oslo, Norway.

DEAR DR. SVERDRUP: I would like to nominate President Jimmy Carter for the 1979 Nobel Peace Prize for his leadership in laying a solid foundation for a permanent and lasting peace in the Middle East.

Only because of President Carter were President Anwar Sadat of Egypt and Prime Minister Menachem Begin of Israel brought together at Camp David for their Summit Conference.

Only because of President Carter did these two great leaders spend hours upon hours during a 13-day period in discussion and negotiation.

Only because of President Carter did President Sadat and Prime Minister Begin reach agreement on and sign two peace accords on September 17.

And only because of President Carter will these two nations continue to meet and negotiate in an effort to reach a final peace treaty and full diplomatic relations hopefully later this year.

As Prime Minister Menachem Begin said last night, it was "the Jimmy Carter Conference." Without President Carter's guiding hand and dedication, we would be no closer to peace in the Middle East than we were several months ago.

President Carter showed great courage in setting up the Summit Conference and seeing it through to a successful conclusion. He deserves a place in history next to Presidents

Theodore Roosevelt and Woodrow Wilson who received the Nobel Peace Prize respectively in 1906 and 1919.

President Carter's role in laying the foundation for peace in the Middle East will be remembered as one of the outstanding achievements of the 1970's. He should be given special recognition in the form of the Nobel Peace Prize for his great efforts.

Sincerely,

RONALD M. MOTTL,
Member of Congress.●

SEARCHING FOR THE OUTER LIMITS

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1978

● Mr. EDGAR. Mr. Speaker, I would like to share with my colleagues a paper by Jerry L. Fletcher which was published in the September issue of the Educational Researcher. Fletcher points out that our present educational strategy is obsessed with improving the baseline of minimum educational skills. What has been neglected, Fletcher points out, is providing the framework for measuring and expanding the potential of our species in a number of areas, such as creativity, the senses, and motivation.

Fletcher proposes that research papers be commissioned to explore the limits of human capacity in a number of identified areas. The paper, entitled "The Outer Limits of Human Educability: A Proposed Research Program" follows:

THE OUTER LIMITS OF HUMAN EDUCABILITY: A PROPOSED RESEARCH PROGRAM

(By Jerry L. Fletcher)

While the educational goal "to enable each child to develop to his or her full potential" probably ranks near the top of the list approved by school boards throughout the country, educators rarely examine this goal seriously. Educational research literature, for example, does not contain a systematic effort to examine what we might mean by "full human potential," not to analyze the kinds of educational experiences which enable people to operate at maximum capability. Educational practice seems just as negligent in operationalizing "full potential."

Instead, the climate of opinion that presently dominates education is oriented toward minimums—minimum skills, basic skills, minimum competencies—to the virtual exclusion of anything else.

This should not be allowed. We need a vision of what education could be that goes far beyond the basics; a vision that is also solidly grounded in research and in substantive content to avoid the problems so endemic with "experimental" educational programs.

A solid conception of what the human organism can become, of what the outer limits of human educability are, has promise for providing this vision. Simply put, there is now sufficient, albeit hazy, knowledge about the outer limits of what human beings can be educated to do, that a scholarly attempt to identify and describe in careful detail these limits seems possible. This effort would have several important payoffs. First, focusing on the outer limits of human educability might well create a different and highly useful perspective on the more immediate problems which so often dominate education. Second, the very task of identifying limits serves to focus energy on going toward or beyond those limits. Third, it is likely that the same types of educational experiences that develop outstanding human performance would also enable ordinary people to perform at levels far beyond what they achieve through our present educational programs. Rather than selecting the "gifted and talented," the emphasis would be on enabling all to realize more of their inherent potential.

WHAT DO WE MEAN BY LIMITS OF EDUCABILITY?

The limits of educability are interwoven with the limits of human performance and human development. While we could have chosen any of the words (or all three), we selected "educability" to maintain a focus on the possibility of deliberate attainment of some limit of human capability or performance.

Some limits appear relatively certain. The structure of the human body pretty definitely precludes certain capabilities, such as running 50 mph, flying, or leaping tall buildings. Death, too, appears to be a certainty, though efforts to prolong life without serious deterioration are certainly underway.

Other limits may or may not have certainty, but efforts to modify them are demonstrably difficult. Each individual has a certain genetic makeup, an "evolutionary potential," and while pressing the limits for any individual is difficult, work with severely retarded individuals suggests that no known educational technology can substantially alter the limits of such makeup.

Additionally there appear to be internal limits that are a function of maturation. According to the structural stage theories (e.g., cognitive growth), certain forms of logical reasoning are apparently not possible at certain early stages of development, and again no known educational methodology can overcome these limits of development. Whether much more of the life span is limited by such structural/developmental limits is unknown. There may be structural stages of emotional growth, or of social awareness that also, at certain stages, preclude certain kinds of awareness and knowledge.

Some have identified life stages or life transitions as predictable stages through which adults go in their lifetimes. These are not structural and developmental in the same way as the above mentioned stages, but rather are more culturally specific and situationally determined. They, nevertheless, do serve to limit a person's activities and the way one interacts with the world while in the transition.

More subtle limits to human abilities also exist. There are the limitations of the Western scientific world view, which constrain severely the kinds of phenomena that are considered worthy of investigation. There are limits of language, which make certain natural phenomena, such as subatomic physics, unexplainable. Four dimensional space (or more) cannot be described in a language which is designed for three dimensions.

If these are some of the larger "limits of educability" that are relatively impermeable, there are limitations of the receptor and processing capabilities of the organism that are formidable barriers. At least taken separately, the eyes can see only a small band of electromagnetic radiation; the ears only react to a severely limited range of the possible rates and amplitudes of air vibration; the nose has a tiny capacity to discriminate smells; taste and touch are equally limited. Working together the senses appear to allow a broader range of experience to be received than if each acted separately, and other means of assimilating experience exist in human beings, but are rarely developed. Of course, through mechanical assistance the range of the senses can be vastly increased.

Improving the efficiency of the retrieval capacity of the human organism is a major need. While past events can be recalled in complete detail under hypnosis, electrical stimulation, or certain drugs (indicating that complete storage is a fact), the normally conscious adult can retrieve only the tiniest fraction of what is stored, and that is often badly distorted. Little is known about the way in which experience is stored. There is some evidence that emotionally laden experiences are organized in groups with a common pattern of emotion, and stored that way internally. In what ways this pattern of emotional organization affects learning and recall of essentially cognitive material is unknown.

Since assimilation of experience is interactive, how one's experience is organized internally affects what one experiences. The concepts that one has with which to organize experience affect what one sees. These patterns of internal organization thus represent a "limit" to educability. From studying certain dysfunctional persons who must undergo therapy to reorganize their thought patterns and processes, it is clear that what one can learn is greatly affected by the structure of memory. Once emotional "blocks" are re-experienced, by reliving more or less in reverse order the layers of emotional experiences that are clumped together in memory, there is a release that allows the person to fully and freely explore an area of his life that previously had been avoided.

There also appears to be some truth to the notion of interference between different internal processes. Some forms of meditation are used to "stop the mind," to eliminate the cognitive noise or dissonance that for most of us is always present. Apparently, eliminating that process opens the awareness to many other forms of knowledge that were merely masked by cognition.

Still other limits to educability fall in the category of purpose. The values that one lives by, and the visions of the possible or the ideal that govern action in particular circumstances set demonstrable limits. When those values or visions are "bought" from the culture at large, or from significant others in one's life, they very often are not congruent with one's own experience. To inquire into, and to find, one's own purpose is a way of escaping these limits that is usually freeing and expanding.

Of course, there is value in limits. Too many options can create a type of paralysis. Conceptual filters enable the human organism to escape being overwhelmed by the stimulation of reality. Appropriately set, limits provide a manageable arena to explore. They provide a sensible way for a person to take risks and yet survive and learn from failures. If the limits remain too long when the arena they define has been fully explored, they become repressive. The "limits of human educability" for any individual need to take into account the capacity of the individual to cope successfully with new behavior, and a person may not at first be able to reach for the outer limits of the possible.

There are also probably limits to the degree that societies can support the personal development of individuals and still remain stable and cohesive. Little is known of these limits, though it is clear that the degree of support found in the surrounding society greatly affects the capacity of individuals to deal with and transcend their own personal limitations.

Given the fact that there are numerous "limits" of educability, and that none of them is truly absolute, the policy issues of finding the optimal place to invest resources seem complex. At a general level it appears

that the criterion should be either (1) to pick the areas where the gaps are greatest between what is currently achieved and what is demonstrably possible, or (2) to pick the areas where the gaps can be most readily or cheaply bridged. Certainly some of the limits appear to be much more formidable than others, and instead of expending enormous energy attacking limits that may be biologically (or evolutionarily) determined (for example, speeding up the attainment of higher levels of cognitive functioning), it may make much more sense to expend those resources on developing additional, mostly undeveloped, capacities while waiting for the maturation to take place.

In summary, the notion of the "limits of educability" is complex, and yet exploration of the concept might genuinely enlighten practitioners and policymakers alike by providing a particularly powerful perspective on what are generally described as the "problems of education."

AN APPROACH TO INQUIRY INTO LIMITS OF EDUCABILITY

We[1] propose to commission a set of papers, each of which would explore in a scholarly manner, the nature of one "limit" of educability. To provide a framework for authors to use in developing their papers, we examined the history of science for insight into how major bodies of systematic thought are advanced. We identified five breakthrough points:

New Paradigms — The greatest breakthroughs in systematic thinking come when new ways of organizing what is known are developed which more adequately account for what is known.

New Instruments for Extending Abilities and Senses—Often the invention of a new instrument—from the telescope, microscope or cloud chamber to the projective test—initiates a massive breakthrough in knowledge.

New Methodologies or Experimental Designs—Many times a field of systematic thought really begins to advance when there is the development of a manipulable experimental situation which can be thoroughly exploited.

Unexplained Phenomena—These are the critical features of the pressure to develop a new paradigm.

New Symbol Systems—In mathematics, the development of a new system of symbols sometimes enabled the field to advance enormously (arabic numerals instead of roman numerals; negative numbers). Similarly, new concepts often change dramatically what someone attends to as important.

The most useful questions the authors can deal with might be: What are the competing paradigms for structuring inquiry into an area, and how might they be interrelated? What instruments are available (or might be developed) to explore more fully the nature of human limits in a particular arena? What methodologies or experimental designs seem most promising for investigating the phenomena of the limits in a particular area? What are the unexplained phenomena about which some structured way of thinking needs to be developed? What new concepts or other symbol systems are needed to deal with the arena?

In determining the topics of the papers we sought a framework that would at once structure the discussion of the limits of educability and yet would not be either so novel as to confuse nor so common as to be limiting. After considering several different ways of organizing the topic of "limits of educability," we decided that the best structure was to discuss limits within four broad categories:

1. Capacities to assimilate experience

Footnote at end of article.

2. Capacities to process (store, combine, synthesize) experience
3. Capacities to take action
4. Capacities to determine or create purpose

INTRODUCTION

The meaning and reality of limits of educability

This paper would explore the concept of limits of educability as it pertains to the other papers. As such it would be an introductory piece whose preparation could be left to last. We have described some of the limits in the first part of this prospectus:

Absolute Limits. While nothing can ever be considered an absolute limit, there are certain structural limits to the human body and certain biological limitations that for all practical purposes are absolute.

Evolutionary Limits. There appear to be certain inherent strengths and limitations in every person's genetic makeup that are very difficult to bridge.

Developmental Limits. A number of the structural stage theories suggest that certain capacities cannot be developed until a certain amount of biological maturation takes place, and that little can be done to speed up this maturation. In addition, they suggest that there are "critical periods" during which certain capacities need to be developed, because they are very difficult to develop later.

Cultural Limits. Culture heightens the value of certain capabilities and restricts that of others. Escaping the limitations of a particular world-view often vastly increases one's insight and capacity to act effectively.

Assimilation Limits. There are certain limits to the capacity of the receptor organs of a person to receive stimuli. Various approaches have been developed to increase the range of these receptors and to increase the rate and complexity of the organism's capacity to assimilate experience.

Processing Limits. Internal processing limitations of the organism are very real, though there are various approaches to increasing storage, retrieval, and creative synthesis powers of the organism.

Action Limits. The capacity of a person to act depends on many things, from the state of the health of the organism to the capacity to create a group of people of shared purpose who together can do more than they could do if all acted separately. Various fears and past unresolved emotional experiences affect, in a variety of complex ways, how many limits to action a person faces.

Meaning Limits. One's capacity to derive meaning from experience or to determine sense of purpose affects how effectively one acts.

Interlocking Limits. One's capacity to develop any capability to extend one's limits in a particular area is affected by how well developed the other capabilities are that one has, and whether the development of any one interferes with the development of another, as for example, a well developed analytic capacity might interfere with freely expressing love.

CAPACITIES TO ASSIMILATE EXPERIENCE

Increasing the power of our common ways of experiencing

As commonly employed, our five senses have relatively severe limits. Work is underway, employing a variety of approaches, to increase the power of these senses. Some of these approaches seek to increase the rate of input, or the accuracy of sensory discrimination, as in speeded reading, hearing speeded speech, or identifying particular tastes or smells. Other approaches seek to determine whether under hypnosis, meditation or other altered states of consciousness, these senses operate more efficiently. Certain drugs and diets do affect the senses radically. Finally, since assimilation is interactive: one's concepts, expectations, and experiences affect what is perceived, certain approaches have employed "advanced organizers" in a cognitive sense, or guided fantasy to provide internal categories for the material to be assimilated.

Expanding the number of ways we experience

Several lines of research suggest that there are additional "senses" that the human organism possesses, most of which can be developed. One approach encourages people to regard their entire bodies as receptors, and to discriminate in great detail the body's reaction to something. Internal sensations often mirror something that is happening outside. Other approaches look for human equivalents of senses that other animals have, and numerous ones have been found. Most of them are not developed, and various approaches, generally involving biofeedback in some form, are being used to develop these vestigial senses. Finally, there is a body of solid research literature investigating extra-sensory perception or psi phenomena. Psi phenomena are in the realm of "unexplained phenomena," though recent theoretical developments in modern physics appear to make psi events plausible. While instruments and a methodology exist, the study of psi phenomena is hampered by the inability of investigators to reliably produce them on demand.

Knowing from reading the inner order

Eastern and Greek philosophic traditions suggests strongly that complete assimilation of experience comes from looking inward. The approach to enlightenment comes through meditation and contemplation. Two lines of Western research—Jung's investigation of the "Collective Unconscious" with the discovery of cultural and species "archetypes;" and Grof's work in psychotherapy during which clients relived in great detail prenatal, preconception, and what they described as "past-life" experiences—suggest the possible truth that all knowledge can be found by looking within oneself. In these lines of thinking the world outside a person reflects what is true inside and is set up to complement it. Knowing of one's past collective and personal patterns will show how they control what happens in the present, and what must be done to break out of these limitations. Generally this involves relieving and taking responsibility for the past actions.

CAPACITIES TO PROCESS EXPERIENCE

Stage theories, critical periods, and the limits of internal processing

Structural development theories suggest that as people mature, they go through a series of stages of development. Each successive stage is qualitatively different from the previous ones, at least partly because certain cognitive operations not available at earlier stages suddenly become available. Internal processing capability at each stage of development is limited by the cognitive operations available.

While structural developmental stage theories are being extended to other realms of human activity (e.g., emotional development), other age/stage theories, particularly as applied to adult life, are being developed. These stage theories are more a conceptualized listing of common experience. While more socially determined, culturally specific, and non-hierarchial in comparison to the structural developmental theories, they nonetheless involve internal processing to come to grips with some fundamental question, and non-resolution, or becoming "fixed" at a particular stage, severely limits a person.

Releasing and reordering the unconscious patterns

Several theories suggest that much of a person's behavior is controlled by subconscious patterns that affect the way the person perceives the world, processes information re-

ceived from it, and later remembers it. These patterns are often very limiting. Escaping from the limits they impose involves reordering the unconscious patterns. Psychotherapy and various other counseling techniques are concerned with reordering emotional patterns, sometimes through "reexperiencing" the initial event that set the pattern, accepting that event, and reintegrating it. Various other approaches involve more cognitive (planning, goal setting, problem-solving) approach to reordering behavior through an effort of the "will," which in turn leads to reorganization of the ways in which the subconscious is organized.

The psychoanalytic, behaviorist, and rationalist paradigms are well developed, though their relationship to internal processing limitations is only worked out for psychotherapy, and then in only a limited fashion. Instances of breaking free from a previous pattern are difficult to observe, and methods for investigating whether there has been a reordering of the unconscious are difficult to devise. Nevertheless, a powerful case can be made that people do break free of subconscious patterns.

Developing nonlinear processing capabilities

Conscious internal processing capabilities are most often logical and linear. While thinking in such forms has great utility so do many other models of internal processing. Programs have been developed to train people to organize material in patterns and arrays, to make use of analogies, to employ myth and metaphor, and to deliberately attribute intention, purpose, and personification to inanimate objects as ways of gaining remarkable insight into reality. Many of these nonlinear patterns enable people to overcome the limitations of their usual way of processing reality.

Maximizing creativity

Careful research into creativity has only grown in a major way in the last twenty years. A creative breakthrough for a person or a field of work represents a major expansion of previous limits, and as such is particularly relevant to this set of papers. At one level this paper should deal with the nature of great new syntheses of thought, as in physics or biochemistry. At another level it should deal with the philosophic and legal or other examples of creative coping with some problem or crisis. At still another level it should review the various training efforts to enhance creativity (e.g., synectics) to determine their bases and validity.

While much has been done in the field of creativity, the theoretical bases for it are not well known. There are instruments for measuring some facets of creativity, and some experimental situations that require creative acts of the subjects. Still, much of what constitutes creative work is largely unexplained.

CAPACITIES TO TAKE ACTION

An inventory of extraordinary human capabilities

One approach to the identification of the limits of human educability is to inventory extraordinary human behavior. Such an inventory can be generated through the study of other cultures, or through the careful review of documents, myths, and legends. Then present day examples or counterparts of such capabilities can be sought.

Since some of this behavior falls into the category of "unexplained" phenomena, the paper would have to deal carefully with the truth of the claims. Not only would it be necessary to develop paradigms to explain how it might be true that one or another of the capabilities exists, but efforts to create similar illusions through magic would need to be reviewed. Instruments and methodologies for testing people who possess extraordinary capabilities need to be developed, with controls carefully enough established that the data so generated are free from the most viable competing interpretations. Much could also be done with examining the conditions under which these abilities manifest themselves. Some result from long and very disciplined training; others happen under drugs or some other external stimulation; some appear under hypnosis or other special states of consciousness.

Maximizing positive group synergy: The conditions of inspired performance

The limits of a person's educability depend in an intricate fashion on the relationship of that person to other people. A group which has positive synergy creates a condition where together people can do more than they could do if each acted independently. The great athletic teams of Vince Lombardi or John Wooden, the self-help groups like Weight Watchers, Synanon or Alcoholics Anonymous, and extraordinarily creative groups, like the Bauhaus, the Vienna Circle, and the writers in Paris in the 1920's are examples.

Much research work on small groups has been done, looking at leadership style, process, and a variety of other mechanisms. Many of these theoretical paradigms, instruments, and methodologies are well developed. And yet the conditions in small groups that give rise to really extraordinary or inspired individual performance on the part of all of the members—exceeding the limits that they thought they had—remain enigmatic.

Deriving maximum value from life's transition phases

Various events in life, some planned and some unplanned, can create major life transitions: marriage, birth of a child, loss of a job, a major promotion, a major illness, retirement, or loss of a spouse are just a few. Some people are able to take positive advantage of such transitions and come through them better than before; others are beaten by the crises and end up more limited and constrained.

Exploring the limits of a person's capacity to cope creatively with crises is a critically important topic. Some descriptive work has been done with patterns of coping employed in successful and unsuccessful cases.

Three settings appear crucial: the family, the work setting, and the larger community, and successful examples appear to be able to create in each setting a supportive environment. Only the beginning of conceptual work has been done in describing the nature of the supportive environment that would maximize personal growth in each type of transition phase. This is despite the fact that much intervention work is underway: organizational development work, family counseling, and even various communal or "live-in" support groups.

The development and educable abilities of older people: The greening of grandpa

The inevitability of deterioration of abilities with advancing age is widely and rapidly being called into question. Some of these efforts have concentrated on changing the social conditions which seem to advance the rate of deterioration. Others have explored the way in which the image of old people fostered by our culture—forgetful, halting of step, needing care—creates a form of self-fulfilling prophecy for the elderly. Among other things, recently inaugurated athletic competitions for older age groups suggest that the limits of physical performance, given proper training, may diminish much more slowly at older ages than thought previously.

As the population of the United States grows proportionately older, much effort is likely to go into finding significant activities for older people. Instead of the leisure, recreational, time-passing activities so common now, it is highly likely that given appropriate educational experiences, older people are capable of job retraining, as well as other activities of personal and social significance that are denied them now.

Beyond health as the absence of disease: Super health as a conscious act

So much of Western medicine has concentrated on curing disease, on reestablishing "normality," that the concept of positive health has never been well developed. Yet merely being "normally healthy" may be an unnecessarily restricted limit on human capability.

Conceptions of "super health" are available. One is the athletic notion of being "in shape," though conditioning is related to some performance expectations: one is "in shape" for something. Another conception is resistance to disease. Still another is energy level: some people have very little need for sleep. Still another conception might involve performing some of the extraordinary behaviors discussed earlier.

Creating space in organizations for personal growth

Various efforts over the past thirty years have attempted to create more humane organizations, through such approaches as participatory management and a variety of other communication and motivational mechanisms. The organizational development approach has worked to make organizational environments more humane.

Yet in all of these there is the implicit assumption that personal satisfaction and development are subordinate to task accomplishment and efficiency. Improved output is still the criterion. It is legitimate to ask what the limits of personal growth are that can be attained within an organization that has such a criterion, even if it is agreed that in a competitive business world, efficiency has a necessary place.

It is also legitimate, as many are presently proposing, to look on work as a means to personal development. Work ideally should serve people, and not the other way around. An organization dedicated to such a value would seek ways of educating people to find personal significance in what they are doing. It may be that many of the apparent limitations of work environments can be transcended by educating people to take responsibility for making their tasks meaningful.

CAPACITIES TO DETERMINE OR CREATE PURPOSE

The conscious design of the future: The macro-evolutionary view

One approach to creating purpose is to develop a conception of what one would like the future to be. Since not all futures are possible, such a conception must work in concert with the larger evolutionary forces, and yet still have some margin of adjustment.

There are several approaches to futurizing. The computer simulation approach and the development of scenarios by Delphi techniques both involve extrapolation from the present. This may quite radically limit conceptions of the future that are actually viable. Another approach to finding the action that would take maximum advantage of the evolutionary forces and potential in the world is to inquire by analogy. Several macro-evolutionary thinkers have identified the characteristics of various critical transition points in evolutionary history and have suggested by analogy what man might do now to create the next big transition points. Most of these thinkers believe the next step involves the development of higher forms of consciousness and the diversion of energy from production and development in the outer world to internal exploration.

Modes of discovering about purpose: Creating the myths of transformation

As diversity increasingly characterizes modern society, there is a desperate need to create a collective sense of purpose. One is to get in touch with one's own story, through studying one's ancestry, telling one's own life story, and casting it within the framework of some of the great myths of history. If fundamentally each person's story is Everyman's story, everyone being in touch with his personal story would create a unifying myth.

Other modes involve journeys inward, reading "inner signals." The rediscovery and deliberate modeling of heros from other ages and cultures is another avenue. The deliberate use of different metaphors in describing reality is another: using erotic metaphors, rather than mechanistic metaphors in describing reality, for example, would imply joy and union, rather than energy, utility, production, and consumption.

While new unifying myths may be developing, we know little about the "sense of purpose" they are supposed to engender. While various approaches to "knowing thyself" have been developed, there is no instrumentation for measuring whether there is any greater sense of purpose. Most of our instruments are for measuring lack of purpose, alienation, anomie, and disorientation.

The educated person and conceptions of the good life

Conceptions of the good life guide what people do with their lives, and often they are severely limiting. Even when the conception has been attained, people often are unable to determine whether it is a good conception. If they do find it inadequate, they have trouble generating alternatives. Conceptions of the good life also determine much of what education deals with. Our present conceptions of the good life—getting a job, making money, and accumulating possessions—are intimately related to the instrumental skills and narrow notions of career education that are widely found in education. A look at alternative conceptions of the good life and what an education system would be like that served them would greatly expand the limits of our present thinking.

The social significance of enhanced personal development

Virtually all of the paths for developing a deep personal sense of purpose involve a well-developed social conscience. Yet there is, at present, great concern about the social significance of the emphasis on personal development, as it appears often to lack any concern for social values and social justice. Minority groups, for instance, often regard the widespread dabbling in "growth" experiences as the latest middle-class fad for avoiding dealing with larger social questions.

Even if such accusations as narcissism and avoidance of social responsibility are valid only for a few, the fact remains that for a long time social theorists have assumed that conformity to a set of group norms was necessary for a functioning society. Little has been done to describe how the particular social norms in American culture limit personal development and growth, and even less has been done to delineate the nature of the social changes that might be expected if large numbers of individuals began functioning at a much higher level of personal capability.

NEXT STEPS

Policy questions: The politics of personal growth

The intent of this paper would be to look at the implications of an educational system organized around maximizing personal growth and to raise various policy questions that would need to be addressed before any major movement in this direction would be possible. The questions would range from legal and constitutional questions, to distinctions between personal growth theories and religion, to the psychological basis for such theories, to problems of fairness and equity, to the social limits of personal growth.

A second concern would be instrumental. Where are the points of greatest leverage in changing the relevant parts of the existing system? What kinds of development and research tasks might be undertaken? In what fashion should smaller trials be held to test some of the ideas? In short, the paper would address the question of basing action on the ideas raised in the prior papers.

A general synthesis: Ten challenge questions for educational research

While several synthesis papers might be generated, the outlines of which will have to wait for the writing of the other papers, one idea seems sufficiently promising to record now. This would be to lay out a set of research questions (say ten), the solution to any one of which would revolutionize education. Challenge questions have worked extremely well in the history of mathematics, in physics and biochemistry, and in other fields of thought. They serve to focus effort on really critical issues. If from the set of papers ten could be gleaned, this might provide the most powerful form of synthesis.

FOOTNOTE

[1] Preparation of this paper was initiated by a conference supported by a grant from the National Institute of Education. Earlier drafts have been reviewed by many people. Those attending the initial conference were: Alfred Alschuler, Visiting Professor, School of Education, University of California at Santa Barbara; Frank Barron, Professor, University of California at Santa Cruz; Stanley Elam, Director of Publications, Phi Delta Kappa; Thomas Green, Chairperson, Cultural Foundations of Education, Syracuse University; Barbara Hubbard, Chairperson, Committee for the Future, Washington, D.C.; Joe Kamiya, Langley Porter Neuropsychiatric Institute, San Francisco, California; Bailey W. Jackson, Director, Juvenile Justice Program, School of Education, University of Massachusetts; Dale G. Lake, Applied Behavioral Scientist; Michael Murphy, Founder, The Esalen Institute; Thomas B. Roberts, Professor, Department of Education, Northern Illinois University; and John N. Williamson, Trainer, Lifespring, Inc.●

FIRST-CLASS SHOULD NOT SUBSIDIZE THIRD-CLASS MAIL

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1978

● Mr. FINDLEY. Mr. Speaker, on September 8, an article appeared in the Wall Street Journal which raised my ire. According to the article, the Postal Service Board of Governors has just voted to propose lower rates for certain large-volume users of third-class mail and parcel post. The rate reduction is being proposed not because of new cost efficiencies resulting from these large volume users, but simply to remain competitive with alternative mail carriers, such as UPS. The net result can only be that those who use first class mail will be subsidizing to an even greater degree those who send out junk mail. How can the Postal Service continue to raise rates for first-class users and then turn around and lower rates for third-class mail? Is this any way to run a business?

I found it hard to believe that Postmaster General Bolger told the Governors that cutting the postal rates was the right direction to move when in fact the Postal Service needs $920 million from the public till this year to keep afloat.

In 1970 Congress established the postal system as an independent agency with the understanding that service would improve. Instead, first-class mail rates are regularly boosted while service continues to slide.

I hope my colleagues will note this current attempt on the part of the Board of Governors to transfer the cost of junk mail to those who use first-class mail.

THE CONTINUING CRISIS OF UNEMPLOYMENT

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1978

● Mr. CONYERS. Mr. Speaker, the right to a job and full employment economy are policy goals the American people have embraced consistently for more than a quarter-century. For example, the authoritative New York Times/CBS poll in 1960 reported that 63 percent of those surveyed believed the Federal Government ought to find work for those who seek but cannot find it. The same poll this year registered 78 percent in support of full employment. A recent Department of Labor/Roper survey similarly showed that 64 percent of those surveyed thought Government has a responsibility to provide the unemployed with jobs that "make ends meet." Yet these goals have been consistently sidetracked or thwarted.

The reasons why the vast majority want to eliminate unemployment are not hard to discover. During the depth of the last recession the Joint Economic Committee of Congress found that more than 40 million Americans were affected by unemployment, either directly or as members of households in which a breadwinner was out of work. Far from being a minority matter, most Americans realize that unemployment affects all segments of society.

Americans also recognize the incredible social and economic costs that as taxpayers they bear as a result of massive unemployment. The link between unemployment and crime has been firmly established. Besides the cost of unemployment in crime and drug addiction, it also has created an enormous burden in welfare and other forms of public assistance. That full employment would cost society far less over the long run than the current costs of chronic high levels of unemployment has become obvious to those who have studied the issue.

There is another important reason Americans give priority to the achievement of a full employment economy. Past experience shows that the private sector, left to its own devices, cannot and will

not generate all the jobs that are needed for those who seek work. Despite the hundreds of billions in tax and other incentives Washington has provided big business over the past two decades, job creation in the private sector has proved woefully inadequate to sustain a full employment economy. Moreover, those sectors that are most heavily subsidized have proved the least capable of significant job expansion. Big corporations, for example, generate far fewer new jobs relative to their income than do small businesses, which receive relatively little support.

The failure of the economy to generate sufficient jobs has been a long-standing one and will continue and even worsen in future years. Were it not for public employment, the jobless rate would be double digit. As it is, official statistics greatly under-report the extent and nature of unemployment and sub-employment. Consider also the job-substitution function of key social institutions such as forced early retirement, the military, prisons and reformatories, the dual labor market, and the welfare system. At the turn-of-the-century, for example, 67 percent of those over age 65 participated in the labor force. Today only 22 percent do; in other words, 16 million senior citizens have been taken out of the labor market although more than a third would return to work if they could. Similarly, the military with its more than 2 million personnel and the more than half a million individuals incarcerated in Federal, State, and local penal institutions function in a way that depresses labor force participation.

Anxiety over inflation and taxes have obscured public support for full employment, but have not eliminated it. The current preoccupation with planning for the development and allocation of energy resources has temporarily overshadowed the even greater challenge of planning for full employment, which can be stalled, but eventually it will have to be faced. The need to provide a sufficient number of jobs and upgrade the quality and rewards of existing ones years to come. And this is precisely the meaning of the Humphrey-Hawkins Full Employment Act (H.R. 50; S. 50), the first major legislation in 30 years to deal reasonably and responsibly with the unemployment crisis.

The continuing and future crisis of unemployment is the subject of a highly provocative article written by Willis Harman that appeared in the August 1978 issue of the Futurist magazine. It provides a much-needed perspective on current economic questions, and I strongly recommend it to my colleagues.

The article follows:

[From the Futurist, August, 1978]

CHRONIC UNEMPLOYMENT: AN EMERGING PROBLEM OF POSTINDUSTRIAL SOCIETY

(By Willis W. Harman)

Demographic forecasts suggest a serious worsening of the job problem before the end of the century. Economic growth no longer seems able to keep up with the influx of new workers. One possible solution might be the development of "central projects"—an idea as old as building pyramids and as new as establishing colonies in space.

It is probably not too much to claim if there were satisfactory work opportunities for everyone, many of the social problems in the United States would disappear: The federal budget could be more easily balanced. Teenagers would enter the work force. Elderly persons would find part-time employment. The poor, blacks, and other minorities would meet less discrimination. Welfare problems would be reduced. Governmental interference in private lives could be diminished. Urban decay could be slowed or halted, bringing relief in a host of related problem areas—crime, drugs, safety, housing, school problems, and city financial crises.

Unfortunately, the lack of sufficient and satisfactory jobs is not just a problem of the present, but one that will remain and perhaps intensify in the years ahead. Our studies at the Center for the Study of Social Policy, a branch of SRI International in Menlo Park, California, indicate that chronic unemployment and underemployment may be one of the most fundamental problems of postindustrial society.

The possibility of long-term chronic unemployment and underemployment rests on two propositions: (1) Over the long run, economic growth may not continue to generate enough jobs to accommodate the expanding work force and, (2) the quality of available jobs may not be compatible with rising educational levels of the work force.

The problematic character of economic growth arises primarily from the tension between growth and the cluster of problems relating to resources and the environment. These problems could be eased if economic growth were modified to lessen resource utilization, but since the economy displays a built-in correlation between employment and resource utilization, a reduction in growth tends to increase unemployment. Despite a commitment to growth and full employment, enviromental constraints and resource limitations may keep the economy from generating enough satisfactory jobs to meet the demand.

Economic and demographic trends will partially obscure this problem through the mid 1980's. The labor force has been increasing at a rate of something like two million persons per year, the high growth rate being due partly to the entering teenagers in the population bulge caused by the baby boom, and partly to an increase in female participation Both of these effects are projected to drop dramatically in the next few years, so that by the mid 1980's the rate of increase will be halved. There are signs that the rate of labor productivity increase will drop and stay significantly below the 3% long-term rate of the past, so the rate of job creation as the economy grows will be higher. New energy-related projects (finding new supplies and taking conservation measures), together with further expansion of the services sector, will create new jobs. Furthermore, increasing numbers of people will probably voluntarily reduce their participation in the work force to attain a more leisurely way of life.

Thus the short-term prospects may well be for some temporary easing of the national unemployment problem, although there will still be severe regional problems, particularly in New England. However, this outlook may be modified by international migration (particularly from Mexico) if the U.S. employment picture is significantly better than in other countries.

THE CYBERNETIC THREAT

In Cybernation: The Silent Conquest (1962), social psychologist Donald Michael forecast that a shortage of jobs caused by the rapidly expanding cybernation of production processes would be a key problem in the future For some years following this warning conventional wisdom regarded Michael as an alarmist, and argued that new technology would continue to generate more jobs than it displaced. The notion that automation and technological change would cause unemployment was temporarily laid to rest in 1966 by the report of the National Commission on Technology, Automation, and Economic Progress. But during the 1973–5 recession, the belief that technological progress causes unemployment suddenly revived.

The effects of automation and technological change vary from industry to industry, through technological advances in the production of goods and some services have generally permitted growing demands to be fulfilled by smaller and smaller proportions of the work force. Technology may entirely eliminate some jobs and the need for some skills, as happened when linotype machines began to be replaced by phototypesetters. Technological progress may also impoverish jobs by reducing the amount of variety and craftsmanship in the work itself; one example is the decline of some carpentry skills with the advent of mass-produced, prefabricated buildings. At the same time, technological progress may enrich jobs by extending basic human sensory, perceptual, cognitive, and motor abilities; for example, man-computer interactive systems for text editing may have such an impact on the publishing industry.

No satisfactory statistical analyses manage to identify all the effects of automation on unemployment. But Kenyon DeGreene has postulated four overlapping stages of automation in the United States and their probable outcome:

Stage 1, from about 1945 to 1965, encompassed the initial mass mechanization and automation, particularly of agriculture and mining. This stage was characterized by large-scale displacement of labor, with chronic unemployment among older persons and persons with no or low-level skills.

Stage 2, from about 1960 through the present, is characterized by the continued rapid diffusion of several kinds of mechanization and automation in banking and credit, office work, industry, record-keeping and data storage and retrieval. Other areas, such as sales, design, and communications, are also increasingly affected. Large-scale displacements of manpower during this stage have not been evident for two main reasons: The automation has not required a significantly higher order of skills that before, and expanding demands have led to the reemployment of most people displaced by automation.

Stage 3, which began in the 1960s and is continuing through the present, is characterized by: technological obsolescence of many people with specialized skills, an oversupply of highly educated persons, an increased split between those whose skills are needed and those whose skills are not, and system stresses that hinder economic expansion and indicate a redirection of society. During this stage, manpower dislocation and unemployment will probably increase, and most of the work force will require a continual updating of skills.

Stage 4, whose main features are already evident, "is characterized by the spread of mechanization, rationalization; and cybernation to most institutions of society, and by the development of machines and systems capable of at least some of the higher-level perceptual, cognitive, and adaptive capabilities of human beings. These developments are likely to render millions of workers superfluous and present societal problems defying easy solution."

HIDDEN UNEMPLOYMENT

Despite these indications of trouble ahead, scholars do not yet agree that chronic unemployment and underemployment will be a problem in the future. The lack of agreement probably reflects, in part, differing perceptions of the extent to which the problem already exists. Much of the problem has been concealed; for example, it seems apparent that the U.S. economy since the 1930s has been able to maintain a politically acceptable level of employment only by preparing for war and by becoming arms supplier to the world (a role which Americans harshly criticized Germany for playing over a half century ago).

The hidden aspect of unemployment shows up in the pressures on older employees to get out of the work force by retiring early (a form of "age discrimination" now being challenged). The unemployment problem may also be seen in inflated age and education criteria for job entry, in delays imposed on job-eliminating automation of routine operations, in subtle forms of featherbedding, and in panic reactions when there is talk of canceling a defense contract or space project. Fear of unemployment is a key factor in the energy policy issue; energy conservation is largely feared because of doubts about the U.S.'s ability to handle the unemployment that it would presumably cause.

Various estimates have been made of real unemployment in the U.S., taking into account the despairing who no longer seek work, workers who are quite clearly in featherbedding or makework situations, dropouts in holding institutions such as reform schools and mental institutions, etc. These estimates range from 25 to 30 percent of the potential work force.

In 1966, Williard Wirtz, as Secretary of Labor, made a survey of subemployment in the slums of 10 cities. His subemployment index included those working but earning at the poverty level or below, and those of working age who had dropped out of the labor force because of discouragement. Subemployment rates ran over 40 percent in several cities. In poor urban neighborhoods, more than 30 percent of workers had incomes below the poverty level at a time when the national unemployment was 3.8 percent.

Statistics are not available on either the subemployed who work at jobs that do not use their skills and abilities, or on the involuntarily retired. But clues to the size of the latter group appear in a recent report of the National Council on the Aging. From a poll of over 3,000 Americans, half under and half over age 65, an overwhelming majority (86 percent) oppose mandatory retirement at a fixed age if the worker wants and is able to continue working. Of the retired persons polled, 37 percent said that retirement was not by their own choice and 31 percent said they would like to continue working. The labor participation rate for workers over age 65 dropped from 67 percent in 1890 to 22 percent in 1975; yet old persons are now healthier and more mentally vigorous than ever before. Rising opposition to age discrimination will no doubt bring changes in mandatory retirement customs and social security laws, making work opportunities more accessible to the elderly.

RISING DISCONTENT OVER UNDEREMPLOYMENT

Underemployment is also fast becoming a major source of workplace problems in society. As the educational level of the work force rises, discontent and alienation spread among highly educated workers forced to take jobs previously performed by workers with less schooling. By 1980, one in four American workers will have a college degree; half of these college-educated workers will be under 35, while half of all the workers with only an elementary school education will be over the age of 50. More workers will be in white-collar jobs, but these can be at least as stultifying, repetitive, and unchallenging as any blue-collar work.

The proportion of the adult labor force with one or more years of college rose from 19 percent in 1960 to 27 percent in 1970. However, the proportion of total employment represented by managerial, administrative, technical, and professional positions rose more slowly, going from 20 percent in 1960 to 22 percent in 1970 (as contrasted with nearly 50 percent of young adults who expect these kinds of work). In sum, more of the future work force will be better educated and will demand jobs that offer challenge, growth, and self-fulfillment; since there will not be enough such jobs to go around, many workers will become disaffected.

Many observers have noted that young people are making increasing demands on the occupational careers that "the system" offers them. Not only do they expect upper-middle class income and status from their jobs, but on top of that they want opportunities for creativity and self-expression. This constitutes a remarkable shift in occupational motives and intentions.

This motivational change differs in one important respect from those that have occurred before. Previous shifts in occupational aspirations followed transformations in the basic order of production. There was, first, the great movement from agricultural to industrial work, followed by a shift from blue-collar to white-collar work and then a change within the world of white-collar work from clerical to more sophisticated and bureaucratized jobs. In each of these cases, the market demand for the new types of jobs greatly expanded. Furthermore, through each transformation, the values of achievement and the Protestant work ethic remained fairly constant.

A quite different situation exists today. The new values partially conflict with those of achievement and the Protestant work ethic, and no section of the occupational structure is expanding to accommodate the large number of people aspiring for jobs offering high income, high status, and personal meaning.

THEORIES OF UNEMPLOYMENT

Before examining possible approaches to the problems of unemployment and underemployment, some explanations must be sought for the persistence of the problems. Basically, there appear to be four current theories of unemployment:

The Structuralist Theory: In this view, the principal causes of unemployment and underemployment are technological displacement, shifting patterns of industrial production, and other factors which disrupt the matching of jobs and workers. The structuralist solution to unemployment lies in programs that correct imbalances in the labor market through manpower training and relocation.

The Growth Theory: This view holds that unemployment rises when the government's macroeconomic policies are too cautious and fail to maintain economic growth at a pace that permits absorption of new workers and increased productivity. On the other hand, if growth is too rapid, excessive inflation may occur.

The Dual-Labor Market Theory: This explanation postulates a labor market that is divided into a primary sector containing the better-paying, steady, and preferred jobs, and a secondary sector characterized by low-paying, unstable, and dead-end employment. Institutionalized discrimination tends to close primary-sector jobs to various groups of workers, with race, sex, and ethnicity among the main discriminating factors. Followers of this theory recommend the elimination of discriminatory barriers and the upgrading of jobs from the secondary to the primary sector.

The Intrinsic Dilemma Theory: A fourth explanation was advanced by John Maynard Keynes in his Essays in Persuasion (1930) as a dilemma that would arise in the future:

If the economic problem, the struggle for subsistence, is solved, mankind will be deprived of its traditional purpose . . . . Thus for the first time since his creation man will be faced with his real, his permanent problem—how to use his freedom from pressing economic cares . . . . There is no country and no people, I think, who can look forward to the age of leisure and abundance without a dread. . . . It is a fearful problem for the ordinary person, with no special talents, to occupy himself, especially if he no longer has roots to the soil or in custom or in the beloved conventions of a traditional society.

Many observers believe that in recent years Keynes's vision has moved toward realization. The industrialization of production has been so successful that only a faction of the potential labor force is needed to produce all the goods and services that the economy can effectively dispose of and the environment stand. A very significant part of the potential labor force is simply unneeded—certainly not at the skill levels for which their education has prepared them.

Since all human history has been characterized by a continuous struggle for subsistence and physical comfort, industralized society is unprepared to deal with the puzzling problem of what to do with people no longer needed for production. Simply increasing the amount of free time that people have does not solve the problem, because jobs in economic production have traditionally served not one but three major functions in society. Besides producing needed goods and services, they also act to assure equitable distribution of income and to provide people with meaningful and satisfying roles in society. With industrialization, increased educational levels, and impending constraints on production, jobs no longer satisfactorily serve all three functions.

Before the rise of modern industrial society, the challenge of producing goods and services in the desired quantities was a major goal of society, welcoming all available hands. Income distribution on the basis of contribution to this central project seemed rational and equitable. But during the past half century, a number of flaws in this arrangement have begun to appear. First, a reduction of the fraction of the work force needed for agricultural and industrial production inevitably accompanies industrial development. As a result, contribution to production has become less satisfactory as the primary basis for income distribution.

A second flaw is that the ability of people to subsist by their own efforts, independent of the economy, decreases as industrialization proceeds. Thus, more and more, transfer payments (e.g., welfare and scholarships) replace contribution to production as a basis for income distribution.

A third problem is that rising educational levels have led many people to expect that work should utilize their talents and develop their potentialities. But a significant fraction of the jobs in industrialized society are neither intrinsically challenging nor obviously related to inspiring societal challenges.

FINDING A CURE

Numerous approaches to the employment problem have been proposed, but most fall into four categories:

Generate more jobs.

Make better use of existing jobs.

Devise new approaches to meaningful participation.

Devise new income distribution approaches.

To find the optimum blend of these reforms, systems scientist Harold Linstone of Portland State University in Oregon has used a series of "relevance trees" to analyse the work-manpower gap. Linstone's studies indicate that increasing the number of available jobs and activities is far more effective than shifting or reducing the labor force.

One possible approach is a major development of volunteer programs. This implies a drastic expansion of the concept of the Peace Corps, Vista, and similar public or private programs.

A guaranteed income program could substitute a single universal cash transfer system for the present confusion of welfare, food and housing subsidy, and social security programs. These schemes are of two sorts: the negative income tax and the credit income tax. Under a negative income tax, the government pays individuals whose income is less than a zero-tax level some fraction of the difference. The credit income arrangement grants a flat tax credit to everyone to apply against his income tax bill; if the credit exceeds his liability, the government refunds him the difference. Both of these guaranteed income plans have been advanced as ways of simplifying the welfare system, removing disincentives to work, correcting inequities, and promoting societal and economic stability.

The use of large-scale projects to solve unemployment recalls such major civilian projects as the 19th-century transcontinental railroads, the Tennessee Valley Authority's dams, and the Apollo moon program. One of the earliest such efforts was ancient Egypt's construction of the Great Pyramid of Cheops, which for 20 years absorbed the labors of 100,000 men (out of a population of 2,000,000). Technological forecaster Joseph P. Martino, of the University of Dayton Research Institute, estimates that 20 percent of Egypt's GNP was used annually in this project. By contrast, Apollo consumed less than 1 percent of the U.S. GNP per year.

Much has been made in recent years of the "limits of growth" that arise from approaching various kinds of planetary limits on resources and pollution-absorbing capacities.

The appropriate question is not whether we should stop growing, but in what new dimensions should the next phase of growth take place. One possibility is some vast new project such as space colonization. The O'Neill plan, for example, involves establishing self-maintaining human communities in outer space, with construction materials partially obtained from the moon. The first of these space communities would cost something like an order of magnitude more than the Apollo program and could be operational before 1990. Another possible central project for our society would be the exploration of "inner space"—the human psyche and its aesthetic, metaphysical, ethical, and religious potentialities.

Great central projects like the building of a pyramid or a space station offer one possible approach to solving the long-term problem of unemployment and underemployment. In addition, they may provide what William James termed a "moral equivalent of war"—something that gives people not only employment but purpose and meaning. Another, totally different, approach is along the "new age" direction of drastically changed life-styles which embrace "voluntary simplicity" by de-economizing, de-industrializing, and de-centralizing much of human activity.

In any event, our studies foresee chronic long-term unemployment and underemployment as a future problem for our society. Any temporary respite should be used as an opportunity to look for acceptable solutions, and not be wasted through complacency and self-deception regarding the fundamental systemic nature of the problem.●

SISTERS OF ST. JOHN THE BAPTIST

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1978

● Mr. RODINO. Mr. Speaker, on September 23 many of the people of my district will join together to celebrate the 100th anniversary of the founding of the Sisters of St. John the Baptist, a religious order founded in Angri, Italy, which has grown to include 800 women worldwide in service to God and mankind. The people of my home parish of St. Lucy's Church in Newark hold a special appreciation for the Sisters of St. John the Baptist, because since 1906 the sisters have been an integral part of our community. With unselfish dedication they have taught in our schools, and cared for our sick, elderly, and disadvantaged. When Newark Archbishop Peter L. Gerety celebrates mass on September 23 at St. Lucy's, hundreds of people will give thanks for the Sisters of St. John the Baptist.

The contribution of the sisters at St. Lucy's has been rewarded in a very special way this year, because a member of our own community, Sister Alberta Stango, has recently been chosen Mother General for the entire order of the Sisters of St. John the Baptist. As a lifetime member of St. Lucy's parish—she even graduated from St. Lucy's School as a youngster—Sister Alberta Stango's work has not gone unnoticed. While the United States has been fortunate to have 160 sisters of St. John the Baptist, all in New York and New Jersey, Sister Albérta Stango is the first American to be named Mother General.

Mr. Speaker, I am proud of the record of goodness and service of the Sisters of St. John the Baptist at St. Lucy's and around the world. I join with the people of my district in saluting the sisters and in sending my best wishes to Sister Alberta Stango as she assumes her role as head of the order in Rome.●

CONSIDERING THE SUGAR STABILIZATION ACT OF 1978

HON. RAYMOND F. LEDERER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1978

● Mr. LEDERER. Mr. Speaker, in the near future the House will be considering H.R. 13750, the Sugar Stabilization Act of 1978. My colleagues will have the opportunity to replace the Agriculture Committee language with the version proposed by the Ways and Means Committee for title II.

The Ways and Means Committee version of this bill is a responsible approach to meeting the legitimate needs of both the consumers and producers of this Nation. This is in contrast to the Agriculture Committee bill which through its exclusive reliance on restrictive import quotas would rip off the consumer for $1 billion a year, skyrocketing the price of sugar in the United States to an extent where the Consumer Price Index could go up 1 full percent.

The consuming public of this Nation is aware of this billion dollar ripoff by the sugar producers. The following is an abstract from Jack Anderson on "Good Morning America," September 13, 1978:

"GOOD MORNING AMERICA"

Americans have a sweet-tooth weakness, a national addiction to sugar. It's found in almost everything we eat. Children are weaned on sugar from the time they begin eating their candy-coated breakfast cereals. This has created a booming market for the sugar producers. But they're still not happy. The sugar daddies complain that they're not making enough profit. They are victims, they say, of inflation and competition. So the producers want Congress to give them some relief. The sugar lobbyists are working the backrooms of Congress, seeking an increase in Federal sugar subsidies.

The White House is opposed. President Carter's economists point out that the measure would cost consumers more than $1 billion a year. They have the support of Ohio Congressman CHARLES VANIK. He took the trouble of ordering a study on sugar profits. The General Accounting Office discovered that the industry's profits are cyclic.

In 1974, for example, the industry earned a staggering one billion, five hundred million dollars. Now the profits are down a little. So the producers want the taxpayers to make up the difference—so they can continue to live in the manner to which they have become accustomed.●

LUCIAN C. WARREN, REPORTED IT ALL

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1978

● Mr. CONABLE. Mr. Speaker, Lucian C. Warren, the dean of the Buffalo Evening News Washington Bureau and one of the senior reporters in the Washington press corps, is retiring this month after 33 years of reporting events in the Nation's Capital. Few newspapermen are as widely known or as highly regarded in all branches of the news media and the Government.

Residents of Western New York have been the fortunate beneficiaries of his well-informed, wisely interpreted reports for many years, and we are pleased that they will be continued after his retirement, even though on a less than regular basis. It is no surprise that his retirement will be only partial.

Lu Warren has been an active participant in the news reporting community of Washington, as well, being selected by his colleagues for their most important leadership positions. He was president of the National Press Club, chairman of the Standing Committee of Correspondents and president of the Gridiron Club.

The Buffalo Evening News recently carried a report on Lu Warren's career here and I ask unanimous consent to reprint in the RECORD the article of September 5, 1978.

RETIRING DEAN OF NEWS D.C. BUREAU 'SAW IT ALL' IN 33 YEARS AT CAPITAL

WASHINGTON.—After a newspaper reporting career that began in the 1930s as a high school stringer and included heading three prestigious journalism organizations in Washington, Lucian C. Warren, The Buffalo Evening News Washington Bureau chief, is retiring with no regrets about that career.

He would do it all over again and, in fact, at age 65, still plans to keep his hand in on the Washington scene by free-lancing.

"I'm one of the few newspapermen here who doesn't want to leave Washington after retiring," Mr. Warren said. "I like Washington not just as a news capital but because of its cultural advantages."

Mr. Warren, who will retire officially Sept. 30, knew what he wanted to do back in his student days at Jamestown High School. He wrote stringer items for the Jamestown Evening Journal. That led to his getting a job as a summer reporter.

He was graduated in 1936 from Denison University where he gained Phi Beta Kappa honors. In 1952 he was presented a "distinguished achievement" award by the Society of the Alumni of Denison University.

Mr. Warren was hired as a general assignment reporter by the Buffalo Courier-Express in the late 1930s. In 1945 he became that paper's Washington correspondent and in 1968 became Washington Bureau chief for The News.

In his 33 years in Washington, Mr. Warren has covered it all. There have been more than a dozen trips abroad, including accompanying presidents and going to see for himself. He prefers the latter because too many presidential trips are "ceremonial" and "you're chained to the president." He twice covered the Vietnam War and won an Ernie Pyle journalism award for a series on that war.

In 1972 he visited most of the Eastern European countries for a series of articles, and last year he spent six weeks in Scandinavia writing on the political and economic conditions of the Nordic nations. Back in the 1950s he was on hand for naval maneuvers in the North Sea and in the 1960s visited and wrote about Middle Europe.

Even with retirement, the travel and writing continue. He is now on a world trip with his wife, the former Katherine Smith of Ashland, Va., and will visit Japan, India, Turkey, Egypt, Israel, Lebanon, Syria and Jordan.

Mr. Warren has been at the national political conventions and personally has known all the presidents who served during his three decades here. At the last Gridiron dinner, when President and Mrs. Carter went on the stage to take part in a dance, Mr. Warren was chosen by his colleagues, to be the first lady's partner.

Perhaps the word "achiever" can best describe his activity here. Mr. Warren is one of those people who doesn't just belong to things, but takes part and leads. His career has included presidency of the National Press Club in 1955; chairman in 1967 of the Standing Committee of Correspondents, which oversees new coverage of Congress; and in 1975 the ultimate honor, presidency of the Gridiron Club, a limited-membership organization of top news people.

It is generally agreed that few newspapermen in this city have as wide a range of acquaintances in government. It is not odd for him, on the trail of a story, to bypass normal press channels and call some "old friend" at a department or in Congress to get his information quickly and first hand.

Most of his years with the Courier-Express were concerned with coverage of the "local angle" stories, that he says are still the single most important responsibility of a Washington bureau. But at The News, he expanded his duties, covering the White House on a daily basis, a task made difficult because The News required quick reports to meet dayside deadlines, a challenge he admits he is sure to miss. The News also provided him the opportunity to write a weekly column in which his views based on years of experience were shared with readers.

Reporters are supposed to be cynical, but Mr. Warren has kind things to say about people in government, especially those in the top echelons.

"The people in government by and large are a very articulate and for the most part very warm. Sometimes if you get into the lower echelons, right into the bureaucracy, this is not so. But I have been impressed by the high caliber, the warmth, the personality and the comprehension of subjects of the people in government, especially those high in government."

Relationships in the executive branch have varied.

President Eisenhower's press secretary, Jim Haggerty, got the highest marks for working with and helping the press. He was "the best of the lot, the most knowledgeable, and he could talk on his own. He seemed to have carte blanche from Eisenhower."

It's varied greatly from administration to administration. Ron Zeigler under Nixon drew low grades, but Mr. Warren conceded it was not his fault alone; it was more the system and that Mr. Ziegler really was not clued in on everything.

Mr. Warren has some favorites. One is Former Rep. William E. Miller, who was "very straightforward" in dealing with reporters. There are Republicans who say Mr. Warren played a role in making Rep. Miller the GOP vice presidential nominee in 1964. Mr. Warren wrote a column suggesting the idea, and the GOP National Committee made copies and passed it among delegates.

On the occasion of Mr. Warren's retirement, Murray B. Light, managing editor/news, remarked: "Lu Warren has served the News and its readers well in his 10 years as chief of our Washington Bureau. As a reporter, he has maintained the highest professional standards, and he is recognized among his peers and in the high counsels of government for these standards.

"Explaining the goliath that is Washington is no simple chore. Lu has explained and clarified Washington for Western New York readers for three decades. It is a singular service in which he can take great pride.

"The News is happy that Lucian Warren's byline will continue to appear from time to time in our news columns as time permits him to comment on people and issues in Washington and throughout the world."

The Warrens have three daughters, a son and six grandchildren.●

THE DEMISE OF PRODUCTIVITY

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1978

● Mr. LaFALCE. Mr. Speaker, on Friday, September 29, 1978, at 6 p.m., the National Center for Productivity and Quality of Working Life will die, a symbol of high hopes once held, and still retained by a few, and the victim of both Republican and Democratic administration negligence. This is a situation to be deplored, not only because the work of the Center will be missed, but also because it indicates a lack of commitment to hard and subtle answers to complex economic problems.

Three years ago, during my first year in Congress, we created the National Center to deal with the problems of declining productivity and its impact on the American economy. At that time, the Economic Stabilization Subcommittee of the House Banking Committee held extensive hearings on the issue, and had top notch witnesses from industry, labor, and the Federal Government. The extent of our enthusiasm is demonstrated by the tremendously broad tasks which were assigned to the Center in the enabling legislation, more than any agency could hope to accomplish, and certainly far more than could be expected from a small agency given a budget of only $3 million. Any one of the goals of the Center could have used up all its resources and still demanded even further attention.

Last week, the Economic Stabilization Subcommittee again held hearings on the subject of productivity, and the plans this administration had for reversing the alarming downturn which our productivity rate has taken in recent months. This time, instead of Cabinet level witnesses, we heard from individuals who can repeat the figures that go along with the recent productivity story, but who appeared to have little understanding of the real ramifications of poor productivity rates and what the intricacies of the solution to a productivity slump are. The perceptions of both labor and management are an integral part of the productivity potential, yet there was no indication during our hearings as to what labor and management thought about the problem.

The National Center has been active in bringing labor and management closer together at all levels, plant, industry, and nationwide, and this is one of the most significant portions of its task. One major factor in its success in this regard was its neutrality and the complete cross section of the American economy represented on its Board of Directors. The Productivity Council proposed by OMB in its testimony has absolutely no representatives of the private sector, either labor or management. How then can the administration expect this group to be more effective in improving private sector productivity than the Center? It seems to me that the Government has taken a giant step backward in thinking that it can, singlehandedly, through the Productivity Council, improve our productivity record by the imposition of directives on business from without. It is precisely the lesson most often learned from individual plant efforts to improve productivity, that the worker on the line knows the most about how to do his job better and "work smarter" not the management MBA, that the Government is failing to recognize here. Productivity improvement must be a cooperative effort, desired by all concerned, because of the benefits it will provide to all involved.

The testimony offered by OMB at last week's hearings is painfully thin in the suggestions it offers for transferring the functions of the dying Center to existing Government line agencies. There is a total lack of imagination in how to deal with a very serious, albeit elusive, problem. In fact, nothing has been added to the testimony since the discussions which were held in my office in May on

the future of the Center. At that time, some general referrals of responsibility were outlined, and that is all that has been offered now, after 4 months of work with a task force intended to get down to the details in this matter. The testimony repeatedly states:

We will be recommending to the President . . .

I must ask when are those recommendations going to be made? In 2 weeks, the line agencies will be off on their responsibilities for the new fiscal year, many with new programs or shifted priorities. If improved productivity is to be one of these, as OMB claims it is, the agencies need to know now what will be expected of them, what resources will be available to them to carry out new responsibilities, and what sort of a commitment the President is going to make to improving our national productivity.

On top of all of this, the Center was informed last Friday afternoon that they were to be moved to new offices for their final 2 weeks of existence. Another Government agency had overstayed its lease and was to use their space. An entire work crew, at overtime pay rates, spent Saturday sitting around while GAS and the Center negotiated. With hundreds of last minute details to be attended to, and literally thousands of publications to be mailed out, little could be more absurd than to force an agency to move, thereby breaking what little continuity there is and the orderly transition to private agencies of its activities which the Center has tried to accomplish.

The productivity problem will not go away simply because we no longer have a national center through which to focus our attention on the problem. We will diffuse the limited efforts now addressed to productivity with the net effect of lessening every one. It is, indeed, fortunate for us that our Nation has a strong economic base from which it operates. Otherwise we would not have been able to survive the productivity slump of the last decade. With current figures showing an absolute decline in productivity, we are treading on very thin ice. The longer we delay in attending to productivity improvement, the longer we can expect to experience high inflation and unemployment and a gradually declining standard of living.●

HONORING GEORGE HANAWALT

HON. MARK W. HANNAFORD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1978

● Mr. HANNAFORD. Mr. Speaker, let me take a few moments of your time and that of my colleagues to tell you about the extraordinary community service career of Mr. H. G. "George" Hanawalt. George will be retiring from his position as coastal area manager of the California Edison Co. this week. I feel it is appropriate that the U.S. Congress assembled honor the valuable contributions George has made, both to his employer and to the Long Beach area.

George's concurrent responsibilities at Edison are considerable, encompassing liaison duties with area governments and governmental boards and including community relations activities sponsored by Edison. His associates at Edison have the highest regard for George's attributes as manager and as a person. They confirm what I already know to be true of George—that he is an outgoing, fair-minded, and energetic individual. His previous assignments as Edison district manager for the San Fernando, Fullerton, and Long Beach districts bear further testimony to his managerial and interpersonal skills.

George is no nine-to-fiver. He works hard at his job, and he works hard at being a good citizen. I have examined his schedule, and it rivals my own as a Representative in Congress. George never misses a breakfast, lunch, or dinner sponsored by an area civic group. Yet his family tells me that he still finds time to be an outstanding husband and father.

Those community action groups certainly get something in return for all of those meals they serve George. George is a past president of the Long Beach Area Chamber of Commerce. He is a past president of the Long Beach Rotary. He is a past president of the Southland Builders' Exchange. He is a director of the Metropolitan YMCA, and he serves on the executive committees of the Long Beach Area Boy Scouts and the Boys' Clubs of Long Beach. The list goes on and on, Mr. Speaker. I think you get the idea.

George may be retiring from his full-time employment, but it is going to be hard to keep him from using his other 16 hours per day for his favorite form of recreation—helping others. The George Hanawalts of the world are few and far between, Mr. Speaker. I know you will join me in wishing him a happy, productive retirement.●

THE U.S. COMMISSION ON CIVIL RIGHTS—LET'S SET THE RECORD STRAIGHT

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1978

● Mr. EDWARDS of California. Mr. Speaker, I must correct the RECORD regarding statements made September 6. Those points go to: First, the Department of Justice investigation of seven instances of apparent employee misconduct with respect to overtime, and second, findings made by our subcommittee after extensive hearings on this authorization bill (H.R. 12432).

As I noted in my statement on the floor (CONGRESSIONAL RECORD 28088), the Washington Star report of the Justice Department's investigation was inaccurate in several respects but more importantly, the article strongly suggested Commission officials were "covering up" the investigation to insure passage of their extension authorization. I have reviewed the matter and am convinced the Commission has acted properly in pursuing the appropriate adminstrative and criminal remedies in this matter.

The facts show that not only are the criminal and administrative proceedings going forward, but there has been restitution of at least one-half of the wrongfully paid money. Furthermore, the Commission has made the necessary adjustments in procedures for authorizing and reporting overtime to prevent any further abuses.

As with other Federal employees, Commission personel have limitations on their overtime compensation; these limitations are set forth in the Federal Employees Pay Act and the Federal personnel manual. Generally, overtime is available to compensate for work done in exigent circumstances, that is, work which has not been routinely scheduled and cannot be deferred to normal business hours.

Employees are compensated for overtime by overtime pay or compensatory leave. The method of compensation is at the discretion of the office director for those employees with a grade of GS-11 or more; employees below GS-11 may themselves choose between the two methods of compensation. In rare instances, professional overtime is needed—compensatory time cannot be spared—thus, those employees are paid overtime.

As the following figures reflect, much less than 1 percent of the Commission's budget goes to overtime.

ACTUAL FUNDS SPENT FOR OVERTIME

Fiscal year	Total appropriated budget	Amount of overtime	Percent
1975	$7,000,000	$49,000	0.007
1976	10,285,306	57,000	.007
1977	10,078,000	72,000	.007
1978	10,048,000	51,000	.006

Note: Through July.

Let me now turn to the "findings" my colleague said were made by this subcommittee in its review of the Commission and its work. (CONGRESSIONAL RECORD 28094). The allegations set forth by Mr. BUTLER are not true.

The Commission has not received funding increases anywhere near 30 percent per year, as a review of the chart above will show. Commission increases from 1975 to the present are reflective of inflationary trends as well as employee benefits and payments as required by law and a special age discrimination study, as mandated by Congress.

We made no finding that their costs were escalating at an exorbitant level and far from finding their work duplicative of other agencies, we concluded the unique contribution made by the Commission in the field of civil rights made the continuation of the Commission for at least another 5 years compelling.

We found that limited Commission resources prevented its review of all forms of discrimination; thus, it has not done extensive review of white ethnic or religious discrimination, but it has done numerous studies on national origin. It is reviewing the most blatant forms of civil rights violations.

Only one witness, representing no one but himself, questioned the Commission's review of issues which impact disproportionately on women. This witness also suggested that the discrimination confronting the aged and handicapped should be outside the Commission's scope of review. His primary recommendation was that the Commission's jurisdiction be confined to those issues it reviewed in 1957, when it was originally established. His views and recommendations were not, I am happy to say, adopted by the committee or the Congress.●

HAS CAPITALISM A FUTURE?—A HISTORIAN'S VIEW

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1978

● Mr. SYMMS: Mr. Speaker, the September issue of the Bank Credit Analyst printed the text of a speech given by the noted British author and historian, Paul Johnson, to an economic conference in Bermuda last May. Mr. Johnson's speech concerned the future of industrial capitalism and highlighted the benefits that that particular economic system has brought to mankind.

Johnson discusses five current threats to the survival of industrial capitalism; two of which are the Marxist-socialist influence found in many leading universities and the radical ecology movement. About the latter he states:

As it is, the ecology panic has been a potent destructive force. The panic mongers played a crucial role in persuading the Middle Eastern oil producers, especially Iran, to quadruple the price of oil in the autumn of 1973, the biggest single blow industrial capitalism has suffered since the Wall Street crash of 1929. That was the beginning of the profound recession from which we have not yet emerged. In the end, as was foreseeable at the time, the huge rise in oil prices did not do any one any good, least of all the oil producers. But it ended the great postwar boom and robbed Western capitalism of its tremendous elan, perhaps for good. And it is significant that the ecological lobby is now striving desperately with fanatic vigor and persistence, to prevent the development of nuclear energy.

I consider Mr. Johnson's observations to be especially noteworthy, because he was one of the leading members of the intellectual left in the United Kingdom and a well-known member of the British Labor Party. From 1965–70 he was editor of the New Statesman, a leading academic socialist weekly. Recently, he broke completely with his colleagues over what he saw as their growing frontal assault on the basic freedoms which are so critical to the survival of a free society, its wealth-producing capabilities and the personal freedoms provided by industrial capitalism. He is the author of a recent book, "Enemies of Society," published by Atheneum Press.

One point that Johnson makes explicitly is that capitalism and its associated personal freedom is a new idea; that the old ideas are socialism, feudalism, and poverty.

I would like to commend the Johnson statement to my colleagues in Congress:

HAS CAPITALISM A FUTURE?—A HISTORIAN'S VIEW

Let me begin by defining my terms. By "capitalism" I mean large-scale industrial capitalism, in which privately-financed publicly-quoted corporations, operating in a free market environment, and with the backup of the private enterprise money market, constitute the core of national economies. This is a pretty broad definition, but I think it will do.

Now the first thing to be noted is that this phenomenon is pretty recent. I would date it, in its earliest phase in England, only from the 1780's. It is thus less than 200 years old anywhere. As a widely-spread phenomenon, it is barely 100 years old. Seen against the grand perspective of history, capitalism is a newcomer. We now possess some knowledge of economic systems going back to the early centuries of the third millenium B.C. I could give you, for instance, an outline account of the economic structure of Egypt under the Old Kingdom, about 2700 B.C. Our knowledge of how civilised societies have organised their economic activities thus covers a stretch of more than 4600 years. And in only about 200 of those years has industrial capitalism existed. Now the next point to note is the remarkable correlation between the emergence of industrial capitalism and the beginnings of really rapid economic growth. Throughout most of history, growth rates, when we have the statistical evidence to measure them, have been low, nil or minus. A century of slow growth might be followed by a century of decline. Societies tended to get caught in the Malthusian Trap: that is, a period of slow growth led to an increase in population, the outstripping of food supplies, followed by a demographic catastrophe, and the beginning of a new cycle.

There were at least three economic "Dark Ages" in history, in which a sudden collapse of the wealth-making process led to the extinction, or virtual extinction, of civilised living, and the process of recovery was very slow and painful.

The last of these three Dark Ages extinguished Roman civilization in Western Europe, in the 5th Century A.D. It was not until the 13th century that equivalent living standards were again achieved—the recovery thus took 800 years. Society again fell into a Malthusian trap in the 14th cenutry and again recovery was slow, though more sure this time, as intermediate technology spread more widely, and methods of handling and employing money became more sophisticated. Even by the first half of the 18th century, however, it was rare for even the most advanced economies, those of England and Holland, to achieve one per cent growth in any year. And there is a possibility (I myself would put it higher) that mankind would again have fallen into a Malthusian trap towards the end of the 18th century if industrial capitalism had not made its dramatic appearance.

And it was dramatic. By the beginning of the 1780's, in England, an unprecedented annual growth rate of two percent had been achieved. During that decade, the two percent was raised to four percent. This was the great historic "lift off", and a four percent annual compound growth rate was sustained for the next 50 years, on average. Since this English, and also Scottish, performance was accompanied by the export of capital, patents, machine tools and skilled manpower to several other advanced nations, the phenomenon soon became international.

I don't want to overburden you with figures, but some are necessary to indicate the magnitude of the change that industrial capitalism brought to human society. In Britain, for instance, in the 19th century, the size of the working population multiplied fourfold. Real wages doubled in the half-century 1800–1850, and doubled again, 1850–1900. This meant there was a 1600 percent increase in the production and consumption of wage-goods during the century. Nothing like this had happened anywhere before, in the whole of history. From the 1850's onward, in Belgium, France, Austria-Hungary, above all in Germany and the U.S., even higher growth rates were obtained; and feudal empires like Japan and Russia were able to telescope a development process which in Britain had stretched over centuries into a mere generation or two.

The growth rates of twelve leading capitalist countries averaged 2.7 percent a year over the whole 50-year period up to World War I. There was, it is true, a much more mixed performance between the wars. The U.S., for instance, which in the 44 years up to 1914 had averaged a phenomenal 4.3 percent growth rate, and which in the seven years up to 1929 had increased its national income by a staggering 40 percent, then saw its national income fall 38 percent in the mere four years 1929–32.

But following World War II, growth was resumed on an even more impressive scale. In the 1950's, for instance, the 12 leading capitalist economies cited before had an average annual growth of 4.2 percent. In Germany it was as high as an average of 7.6 percent. In all the West European economies, the rate of investment in the 1950's was half as high again as it had ever been on a sustained basis. In several such countries it was over 20 percent of the GNP; in Germany and the Netherlands it was 25 percent, in Norway even higher. Moreover, this high capital formation took place not at the cost of private consumption, but during a rapid and sustained rise in living standards, particularly of industrial workers. These tendencies were prolonged throughout the 1960's and into the 1970's. So far as the mature economies were concerned, the second industrial revolution, 1945–70, was entirely painless—and largely so even in Japan, where even higher investment and growth rates were sought, and obtained, to catch up with the U.S. and Europe.

In short, after nearly five recorded millenia of floundering about, in relative or absolute poverty, humanity suddenly in the 1780's began to hit on the right formula: industrial capitalism. Consider the magnitude of the change over the last 200 years or less. We all know the wealth of present-day West Germany: all of us (I am sure) have seen it for ourselves. In the year 1800, in the whole of Germany there were less than 1,000 people with annual incomes of 1,000 dollars a year or more. Or again, take France. France now has more automobiles per capita even than Germany, and more second homes per family than any other country in Europe. In the 1780's, four/fifths of French families spent 90 percent of their incomes simply on buying bread—only bread—to stay alive.

Now I have said enough (I could say much more) to demonstrate that industrial capitalism, judged simply by its capacity to create wealth, and to distribute it, is a phenomenon unique in world history. It could be argued that it is the greatest single blessing ever bestowed on humanity. Why, then, am I giving a talk, not in any spirit of paradox either, called has capitalism a future?

You may well ask. But I think we know

the answer. I am giving it because capitalism is threatened, and we feel it to be threatened: the question is not academic. But before we go any further, I would like to clear up one important point. The idea has got around, and it is widely believed, especially among young people—and above all, alas, among young people who like to think they are well educated—that industrial capitalism is unpopular, and always had been. That it is the work of a tiny, interested minority who have thrust it upon the reluctant mass of mankind.

Nothing, in fact, could be further from the truth. The storage economies of remote antiquity were often hideously unpopular. So was the slave-based economy, combined with corporatism, of the classical world. Agricultural feudalism was certainly unpopular; and mercantilism had to be enforced, in practice, by authoritarian states.

But capitalism, industrial capitalism—no! From the very start it received the demonstrable approbation of the masses. They could not vote in the ballot box, but they voted in a far more positive and impressive manner, with their feet. And this for a simple reason. The poorest member of society values political freedom as much as the richest and the well educated—that is my belief. But the freedom he values most of all, the freedom which means most to him, is the freedom to sell his labour and skills in the open market. It was precisely this that industrial capitalism gave to men for the first time in history. Hence it is a profound error of fact, in my view, to see what Blake called the "dark, satanic mills" of the industrial revolution, as the enslavement of man. The factory system, however harsh it may have been, was the road to freedom for millions of agricultural workers. Not only did it offer them an escape from rural poverty, which was deeper and more degrading than anything experienced in the cities, but it allowed them to move from status to contract, from a stationary place in a static society, with tied cottages and semi-conscript labour, to a mobile place in a dynamic one. That was why the common man voted for industrial capitalism with his feet, by tramping from the countryside to the towns, in enormous numbers, first in Britain, then throughout Europe. And tens of millions of European peasants, decade after decade, moved relentlessly across the Atlantic in pursuit of that same freedom, from semi-feudal estates and small holdings in Russia, Poland, Germany, Austria-Hungary, Italy, Ireland, Scandinavia, to the mines and factories and workshops of New York, Chicago, Pittsburgh, Cleveland, Detroit. It was the first time in history that really large numbers of ordinary people were given the chance to exercise a choice about their livelihood and destiny, and to move, not as a member of a tribe or a conscript soldier, but as free individuals, selling their labour in the open market.

They voted for industrial capitalism with their feet not only because they felt in their bones that it meant a modest prosperity for their children and grandchildren—and on the whole they have been proved abundantly right—but because they knew it meant a new degree of freedom for themselves.

Indeed, the success of industrialization, despite all its evils, continues to persuade countless ordinary men and women, all over the world, to escape the poverty and restraints of rural status-society and to enter the free labour markets of the towns. Hence the growth of the megalopolises all over the world—Calcutta and Bombay, Teheran and Caracas, Mexico City and Djakarta, Shanghai and Lagos, Cairo and Johannesburg; there are now literally scores of million-plus cities all over the Third World. This never-ending one-way flow from countryside to city is plainly a voluntary mass choice, for most governments fear and resent it and many are attempting, sometimes savagely but always ineffectively, to halt or reverse it. It is more marked in the free market economies, but it is marked everywhere. Short of evacuating the cities by force and terror, as is now apparently being practiced in parts of southeast Asia, there is no way to stop this human flood. There seems to be an almost irresistible urge in human beings to move away from the status society to contractual individualism—the central feature of industrial capitalism. And this operates even in totalitarian societies, as witness the efforts, for instance, of the Chinese and Polish governments to limit the urban explosions they are experiencing.

Well, then, if industrial capitalism is both unique in its wealth-producing capacity, and also has the endorsement of a popular mandate, why is it under threat? And who is threatening it?

Let me look at five principal elements. The first, and in some ways the most important, is that the free enterprise idea is losing, if it has not already lost, the intellectual and moral battle. Not long ago I went into Blackwell's, the great book shop at Oxford University. I wandered over the huge room which houses the books on politics and economics, and having been disagreeably surprised by what I saw there, I made a rough calculation. New books extolling the economic, social and moral virtues of Communism and collectivism—and there were literally hundreds and hundreds from all over the world—outnumbered books defending free enterprise, or merely seeking to take an objective view of the argument, by between five and six to one. Now this overwhelming predominance of collectivism was not due to any sinister policy on the part of Messrs. Blackwell's, which is a highly efficient capitalist enterprise. It was a marketing response to demand, on the part of students and teachers. And this was Oxford University, not one of the new slum universities of recent years, some of which have been virtually shanghaied by Marxist factions, but one of the free world's greatest centres of learning, where the battle of ideas is fought under the best possible conditions.

There can be no doubt that the intellectual and moral assault on free enterprise, and the exaltation of Marxist collectivism, which is such a striking feature of the 1970's, is directly related to the huge expansion of higher education, put through at such cost to the capitalist economies, in the 1960's. Now there is in this a huge and tragic irony. For in the 1960's, the decade when the university expansion was planned, it was the prevailing wisdom among the leading thinkers of the West, that the growth of higher education was directly productive of industrial growth—that the more university graduates we turned out, the faster the GNPs of the West would rise. This was the thesis outlined by President Clark Kerr of Berkeley, in his 1963 Godkin lectures at Harvard, and it was a thesis put forward, with immense effect in Britain, by Sir Charles, now Lord Snow. Kerr said: "What the railroads did for the second half of the last century, and the automobile for the first half of this century, may be done for the second half of the 20th century by the knowledge industry: that is, to serve as the focal point for national growth". And Kerr added that more graduates would not only mean a bigger GNP but act as a reinforcement for middle class democracy, with all its freedoms.

Now to speak of the "knowledge industry" was to ask for trouble. Knowledge is not a manufactured commodity. There is knowledge for good and knowledge for evil, as the Book of Genesis says. The 1960's, during which most Western nations doubled, and in some cases trebled, their university places, did not reinforce democratic freedoms, or enlarge GNP or strengthen the free enterprise system. They produced the students revolts, beginning in Paris in 1968; they detonated the Northern Ireland conflict, which is still harassing Britain. They produced the Baader-Meinhoff Gang in West Germany, the Red Brigade in Italy, the Left Fascist terrorism of Japan. They produced an enormous explosion of Marxist studies, centered around the social sciences and especially sociology and a new generation of university teachers and school teachers, dedicated by faith and by a sort of perverted religious piety, to the spread of Marxist ideas.

There are ironies within the general irony. Thus, the new university of the air, created in Britain at enormous expense to bring higher education to adults, and therefore christened the Open University, has become a centre virtually closed to any teacher not of proven Marxist opinions. Nuffield College, Oxford, founded by that great capitalist pioneer, Lord Nuffield, who created the British automobile industry, has become a centre of trade union ideology, of the very ideas which, slowly but surely, are putting the British automobile industry out of world markets and out of business. Warwick University, created in the 1960's as a powerhouse of ideas and clever graduate executives for the West Midlands industrial complex, Britains biggest, has become a seminary of Marxist and pseudo-Marxist agitators dedicated to the destruction of the wealth-producing machine which brought their university into existence.

I could go on. It is true, of course, that student unrest, as such, has quietened down. But the steady diffusion of ideas hostile to our free system continues remorselessly. Industrial capitalism, and the free market system, is presented as destructive of human happiness, corrupt, immoral, wasteful, inefficient and above all, doomed. Collectivism is presented as the only way out compatible with the dignity of the human spirit and the future of our race. The expanded university threatens to become not the powerhouse of Western individualism and enterprise, but its graveyard.

There is a second threat, what I call in my book the "Ecological Panic". Now this movement, again, began with the best intentions. I well remember when Rachel Carson's work, The Silent Spring, first appeared in The New Yorker, and the surprise and concern it rightly aroused. We were tending to ignore some of the destructive side effects of very rapid industrial expansion. The wave of concern that followed was justified, and the steps then taken, notably the clean air policies, and the policies for cleansing lakes and waterways, have been spectacularly successful. Thanks to smokeless fuel, London fogs, which were real killers, have been virtually eliminated. The last really serious London fog was in 1952. The Thames is now cleaner, and has greater quantities of fish, and more varieties in it, than at any time since before the Days of Spenser or Shakespeare. Similar successes are now being registered in the U.S., which adopted such legally enforceable remedies somewhat later than Britain did. These are examples of what can be done by thoughful, unemotional, systematic and scientifically justified application of conservation and anti-pollution policies.

But most of these were put in hand before the ecological panic started. Once ecology became a fashionable good cause, as it did in the late 1960's, reason, logic and proportion flew out of the window. It became a campaign not against pollution, but against growth itself, and especially against free enterprise growth—totalitarian Communist growth was somehow less morally offensive. I beg of those of you who have not already read it to get a copy of Professor Wilfred Beckerman's In Defense of Economic Growth. Beckerman is one of the best of our economists, and was a member of the Royal Commission on Environmental Pollution; he knows the subject better perhaps than any other working economist and his book is a wonderful sane and lucid summary of the entire subject.

I have never yet been able to persuade any committed ecology campaigner even to look at this book. Of course not. They have a faith, and they do not want to risk it. One of the most important developments of our time (I would argue) is the growth, as a consequence of the rapid decline of Christianity, of irrationalist substitutes for it. These are not necessarily religious, or even quasi-religious. Often they are pseudo-scientific in form, as for instance the weird philosophy of the late Teilhard de Chardin. The ecology panic is another example. It is akin to the salvation panic of 16th century Calvanism. As I say in my book, when you expel the priest, you do not inaugurate the age of reason—you get the witchdoctor. But whereas Calvinist salvation panic may have contributed to the rise of capitalism, the ecology panic could be the death of it.

If the restrictions now imposed on industrial development had operated in 18th century England, the industrial revolution could not have taken place. It would in effect have been inhibited by law—as of course many landowners of the day wished it to be—and in any event legal requirements would have eliminated the very modest profits by which it originally financed itself. We would still be existing at 18th century living standards, and wallowing in 18th century levels of pollution, which were infinitely worse than anything we experience today—if you want to see what they were like, visit the slums of Calcutta or Djakarta.

As it is, the ecology panic has been a potent destructive force. The panic mongers played a crucial role in persuading the Middle Eastern oil producers, especially Iran, to quadruple the price of oil in the autumn of 1973, the biggest single blow industrial capitalism has suffered since the Wall Street crash of 1929. That was the beginning of the profound recession from which we have not yet emerged. In the end, as was foreseeable at the time, the huge rise in oil prices did not do any one any good, least of all the oil producers. But it ended the great postwar boom and robbed Western capitalism of its tremendous elan, perhaps for good. As Browning put it, "Never glad confident morning again". And it is significant that the ecological lobby is now striving desperately with fanatic vigor and persistence, to prevent the development of nuclear energy, allegedly on the grounds of safety. Now it is a fact, a very remarkable fact in my view, that throughout the West (we have no figures for Russia or China) the nuclear power industry is the only industry, the only industry, which over 30 years has contrived to avoid a single fatal industrial accident. Its record is unique, and has been achieved by the efforts of the industry itself, and the responsible governments, without any assistance from the ecolobby. But of course they would like a few fatal accidents. That would suit their purposes very well. In Britain recently, we had a long, public enquiry, what we call a statutory enquiry, into whether or not it was right to go ahead with the enriched uranium plant at Windscale. The enquiry was a model of its kind. The ecolobby marshalled all the scientific experts and evidence they could lay their hands on. At the end the verdict was that there was no reason whatever why the program should not proceed. Did the ecolobby accept the verdict? On the contrary. They immediately organised a mass demonstration, and are planning various legal and illegal activities to halt the program by force. Now it is notable that a leading figure in this campaign is the man who is perhaps Britain's leading Communist trade unionist, Mr. Arthur Scargill of the Mine-workers. He has never, so far as we know, campaigned against Soviet nuclear programs, peaceful or otherwise. But the mass of the movement, in the U.S., Britain, France, Germany, and Italy, so far as I have been able to observe, is not politically motivated. They are simply irrational: but irrationality is an enemy of civilized society, and it can be, and is being exploited by the politically interested.

A third factor in the future of capitalism is the growth of government. Let me put it this way. Industrial capitalism, or rather the free enterprise economy, and Big Government, are natural and probably irreconcilable enemies. It is no accident that the industrial revolution took place in late 18th century England. It was a period of minimum government. Of all the periods of English history, indeed of European history, it was the time when government was least conspicuous and active. If was the age, very short alas, of the Night Watchman state. As a matter of fact, the industrial revolution—perhaps the most important single event in human history—seems to have occurred without the English government even noticing. By the time they did it was too late; happily—otherwise they would probably have stopped it.

It is almost inevitable that government, particularly an active, interventionist government, should view free enterprise with a degree of hostility, since it constitutes a countervailing power in the state. The tendency, then, is to cut free enterprise down to size, and this may be done in a number of ways. In the U.S. the characteristic technique is government regulation and legal harassment, and this of course has been far more pervasive and strident since the ecolobby swung into action. In Britain the technique is both through direct assault—nationalization—and slow starvation. In a way, nationalization is ineffective, since it allows the public to make comparisons between the performance of the nationalized sector and that of the free sector—nearly always to the latter's advantage. Starvation is more insidious. By this I mean the progressive transfer, by taxation and other government policies, of resources from the private to the public sector.

In 1955, for instance, public expenditure in Britain as a proportion of GNP was just over forty per cent. By 1975, twenty years later, it has risen to nearly sixty percent. Moreover, this rise was accompanied by a record budget deficit of about 22 billion dollars, itself a further 11½ per cent of GNP. Of course, the taxation had to be provided, and the deficit serviced, by the private sector. We have, then, an Old Man of the Sea relationship, in which the parasitical Old Man is growing bigger, and poor Sinbad smaller, all the time. The shrinking productive sector has to carry the burden of an ever-expanding loss-making public sector. Thus Britain's nationalized steel industry will lose one billion dollars this year, and it has just been authorised by statute to borrow up to seven billion dollars, guaranteed by government and taxpayer. Now the interesting thing is that in Britain the public sector, and the civil service, generally, are now paying higher wages, providing better conditions, and giving larger pensions—which in a growing number of cases are index-linked, and so inflation-proof—than the private sector can possibly afford. And of course they are financing these goodies out of tax-guaranteed deficits—that is, from the dwindling profits of the private sector. This is what I call the starvation technique. When a private firm goes bust, provided it is big enough, the state takes over, the losses are added to the taxpayer's bill, and the private sector has one more expensive passenger to carry. This is the starvation method.

In this technique, the fourth factor, the trade unions, play an important part. In Britain it's demonstrably true that the legal privileges of the trade unions, which virtually exempt them from any kind of action for damages (including, now, libel), led directly to restrictive practices, over-manning, low productivity, low investment, low wages and low profits. Thus trades union action tends, in itself, to undermine the performance of industrial capitalism as a wealth-creating system. In Britain, for instance, the trade unions can rightly claim that capitalism is inefficient, because they make sure it is inefficient. Ford workers in Britain, using exactly the same assembly line machinery as in West Germany, produce between 20 and 50 percent less automobiles. ICI Chemicals, one of the best companies in Britain, nevertheless has a productivity performance 25 percent lower than its Dutch and German competitors. A recent analysis shows this is entirely due to over-manning and restrictive practices. The private sector is now threatened by further union devices; the legally-enforced closed shop, which compels the workforce to join designated unions on pain of dismissal without compensation or legal redress; and new plans to force firms to appoint up to 50 percent worker directors, these worker directors to be appointed not by the work force themselves, nor even necessarily from among them, but by and from the trade union bureaucracy (Bullock Report). This has to be seen against the explicit policy of some groups within the unions of driving private sector firms to bankruptcy, by strikes and harassment, so that the state will then have to take them into the public sector.

Of course I don't want to make your flesh creep by arguing that what is happening in Britain will necessarily happen elsewhere. But certainly if the bill now before the Senate giving unions much wider and more effective powers to organise goes through, the U.S. will be well launched on the road we have travelled; and I may say there are many other ways in which the present U.S. administration seemed determined to follow Britain's example. The West Germans, too, are now beginning to adopt some of the institutions which flourish in British trades unionism, notably the shop stewards' movement. Businessmen all over the free world may despise the performance of British industry, but trades unionist all over the world admire and envy the power of British trades unionists and are actively seeking to acquire it for themselves.

Let me end on a word of warning. I have said nothing of the fifth threat on industrial capitalism and the free enterprise system—the threat from without. But of course this is bound to increase as the military superiority of the Soviet Union over the U.S. is reinforced. I have never thought that the Communist system would triumph by a direct assault. I have always assumed that it would first establish an overwhelming military predominance and then, by pressure and threats, begin to draw the political and economic dividends of it. If the U.S. opts out of the competitive arms race with the Soviet Union, while providing, as she supposes, merely for her own defence, then we must expect to see this fifth threat hard at work winding up industrial capitalism and free enterprise all over the world.

Thus, when we ask has capitalism a future? I answer: it all depends on the U.S., West Germany and Japan, it is true, have strong free enterprise economies; they also have a tradition of state capitalism, and would adapt themselves with surprising speed and readiness to a new collective order. France already has a huge public sector and a long tradition of dirigisme or etatisme. All three are Janus-faced. Britain, I believe, is profoundly anti-collective and will remain so if it continues to be given the choice. But its private enterprise system is now very weak, and its business and financial elites are de-

moralized and defeatist. Is there demoralization, is there defeatism, on this side of the Atlantic? You can answer that question better than I can. I myself think that capitalism will survive, because of its enormous intrinsic virtues as a system for generating wealth, and promoting freedom. But those who man and control it must stop apologizing and go onto the ideological offensive. They must show to ordinary people that both the Communist world, and the third world, are parasitical upon industrial capitalism for their growth technology. That without capitalism, the 200 years of unprecedented growth which have created the modern world, would gradually come to an end. We would have slow growth, then nil growth, then minus growth; and then the Malthusian catastrophe.

In short, those who wish to maintain the capitalist system must endeavour to teach the world a little history, and remind it, and especially the young, that though man's achievements are great they are never as solid as they look. If man makes the wrong choice, there is always another Dark Age waiting for him round the corner of time.●

CUBA SPEARHEADS DRIVE AGAINST PUERTO RICO

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1978

● Mr. McDONALD. Mr. Speaker, acting with the support of the Soviet Union and its other political and economic satellites, the Cuban Communist regime has intensified its interference in U.S. internal affairs regarding the Commonwealth of Puerto Rico. The Communist bloc is carrying out this interference via the United Nations via claims that Puerto Rico is a colony that must be relinquished by the United States.

It is not surprising that the drive against Puerto Rico has been revived following the giving up of the Canal Zone and Panama Canal by this country. The Communists can read the signal as well as any that the United States is fast retreating from its former position of world leadership and know that now is the time to push for new gains.

As both the Cubans and U.S. Communist Party officials have long pointed out, after the bases in Panama that are now being closed out, the United States' defense installations in Puerto Rico are the vital lynchpins of America's southern defenses. The Cuban Communists have been backing the Castroite Communist Puerto Rican Socialist Party (PSP) since the late 1950's when it was formed as the Movement for Independence (MPI). In recent years the PSP and individual Castroites have built a network of additional supporting revolutionary groups around the PSP which range from the terrorist FALN (Armed Forces of National Liberation) to the Puerto Rican Peace Council, a section of the World Peace Council, that is controlled by the Soviet KGB and the Soviet Communist Party. Members of this body who have been concerned with these developments will doubtless recall that the PSP, in collaboration with the overt support arm of the Weather Underground terrorists, set up the so-called July 4 coalition which conducted a demonstration in Philadelphia in opposition to the celebration of the Bicentennial of this Nation and to demonstrate their support of terrorist "revolutionary armed struggle."

The leader of the PSP was joined by a number of other Marxist-Leninist revolutionaries, representatives of terrorist support groups, other supporters of Puerto Rican independence and a few who supported either statehood or continuation of commonwealth status in giving statements to the United Nations Special Committee of 24 on Decolonization, August 29 to 31, 1978. During the meetings of the U.N. committee, the supporters of FALN terrorists were in evidence not only outside the U.N. at picket lines and rallies, but inside the U.N. also giving statements to the Special Committee of 24 on Decolonization.

Undoubtedly responsible persons who participated in the U.N. meetings will want to disavow support of the Puerto Rican Socialist Party, whose leader threatened to use revolutionary violence if the U.N. did not force the United States to abandon Puerto Rico; and of the much smaller Puerto Rican Socialist League whose leader not only praised the FALN butchers, but also commended the "revolutionary command" that murdered attorney Allan Randall in Puerto Rico earlier this year.

And finally, responsible persons who participated in the United Nations event will reject the assertions of a number of speakers who appear to have been parroting the propaganda broadcasts of Radio Havana which describe the five Puerto Rican terrorists who attempted to assassinate President Truman in 1950, and who tried to murder Members of this House in a 1954 shooting spree from the House Visitors Gallery as "political prisoners."

The Information Digest, a highly informative newsletter on violence-prone organizations in the United States, recently published the following article on events surrounding the United Nations Decolonization Committee meetings:

DECOLONIZATION OF PUERTO RICO

The 24-member United Nations Special Committee on Decolonization opened meetings on August 29, 1978, in New York to consider the "question" of the status of Puerto Rico. As representatives of many Puerto Rican Marxist-Leninist, Castroite, terrorist support, and militant groups spoke in opposition to continuation of Puerto Rico's commonwealth status with the United States, picket lines and rallies were held outside the U.N. to show "mass support" for ending alleged U.S. "colonialism imperialism and repression" in Puerto Rico.

The U.N. Committee opened its sessions with an appearance by Puerto Rican Governor Carlos Romero Barcelo who argued for retention of Puerto Rico's present commonwealth status. Very few speakers in favor of either full U.S. statehood for Puerto Rico or of continuation of the present relationship appeared, and the U.S. again officially boycotted the Committee although Ambassador Young's office issued a statement that the President would adhere to his 7/25/78 proclamation that the U.S. would abide by any referendum decision by the Puerto Rican voters.

The governor was followed by Eneida Vasques, president of the Puerto Rican Peace Council, a section of the Soviet-controlled World Peace Council (WPC), whose demands and allegations of "repression" were typical of the militants. Vasquez demanded support for freeing four Puerto Rican Nationalist Party terrorists from federal prison; support for demands that U.S. "repressive agencies" be withdrawn from Puerto Rico, particularly the FBI; support for demands that the U.S. military presence in Puerto Rico be ended; and support for a demand that the U.S. not proceed with any program of statehood for Puerto Rico.

On the afternoon of August 30, the lead speaker was Rep. Ronald Dellums [D–CA], whose speech was extensively reprinted in the Daily World on 9/7/78 and 9/8/78. Dellums, who said he represented the views of a group of U.S. citizens concerned with ending "domination by the United States over the subject nation of Puerto Rico," stated they believed the U.S. government and U.S. political parties were "trying to create new forms of domination of the Puerto Rican people that will ensure continued, uninterrupted economic, political and military control of the island."

Rep. Dellums went on to argue that there could be no valid expression of self-determination by Puerto Ricans until "they alone exercise their sovereignty. That is, Puerto Rico must be a sovereign entity first, in order then to be able freely to choose what its relations with other countries, peoples, and governments should be."

Completely denying the validity of present U.S.-Puerto Rican relationships, Dellums charged that Puerto Rico "has to tolerate the presence of a huge, repressive and dangerous military establishment" and that in such areas of "U.S. prerogative" as citizenship, currency, defense and market, the relationships are invalid because they are "clearly in the political, economic and military interest of the USA."

Dellums cited among the "overwhelmingly clear" facts indicating Puerto Rico's colonial status were that the U.S. Federal courts are the final arbiters of law and constitutionality of statutes passed by the Puerto Rican legislature, that "more than one-third of all Puerto Rican women of childbearing age have been sterilized in a program planned and financed by the Department of Health, Education, and Welfare;" that a "sustained attack has been carried out against the culture, customs, and language of the Puerto Rican nation;" that there has been "repression and covert operations against individuals and organizations demanding an end to this colonial status;" and that U.S.-based corporations earn "superprofits of about $1.3 billion per year from Puerto Rican labor."

The bad effects on the U.S. from the continued "colonization of Puerto Rico" include "the threat to our youth of wars for continued domination of Puerto Rico."

Additional statements were provided by attorney Luis M. Chaves Ghigliotty who called for full "autonomy" for Puerto Rico in international affairs, use of its natural resources and similar matters; American Friends Service Committee (AFSC) executive secretary Louis Schneider who said the AFSC board of directors had issued a statement that Puerto Rico was a U.S. colony, and asked that Puerto Rico be placed on the U.N. list of colonies in order to "help the people of the United States and Puerto Rico address the problem;" Rudolfo C. Contreras, chairman of the National House of Culture in Puerto Rico, who attacked the use of English in Puerto Rico as causing "a collective schizophrenia" and denounced the "monopoly" of news supplied to Puerto Rico by the "two North American news agencies."

Ruben Berrios Martinez, head of the Puerto Rican Independence Party (PIP), a Marxist party which has been subjected to several takeover attempts from the Castroite, Marxist-Leninist Puerto Rican Socialist

Party (PSP), declared that the four remaining jailed Puerto Rican Nationalist Party terrorists were examples of U.S. "political prisoners." Concluding speakers included Marco Antonio Rigau; Efren Ramirez, a supporter of commonwealth status; Isabel Rosado of the Cruzado Pro-Rescate de Vieques [Crusade for the Return of Vieques, an island used for bombing practice] who said we had spent long years in jail "for the offense of having advocated independence for my own country," and warned "when all other paths are closed, the patriots are left with nothing but a path to desperate actions;" and Francisco Hernando Vargas, head of Puerto Ricans against Statehood, who said that Puerto Rico was not a colony but a sovereign nation that had been subjected to a military invasion and occupation.

The United Nations Special Committee of 24 on Decolonization continued its meetings on August 31 with the appearance of Juan Antonio Corretjer, head of the small Puerto Rican Socialist League which has long been aligned with the Progressive Labor Party. According to Corretjer, repression by "yankee imperialists" against "patriotic organizations" was severe and thus "a kind of guerrilla warfare was being waged."

Corretjer stated that the Fuerzas Armadas de Liberacion Nacional (FALN) was "functioning in North American territory" and that various other clandestine organizations were operating in Puerto Rico. According to Corretjer, these revolutionary terrorist groups were conducting their campaigns "with heroism and prudence," and would continue to operate until there was a political victory via the U.N. Corretjer listed among the actions carried out in Puerto Rico by a "revolutionary command" assassination of attorney Allan Randall for trying to "undermine the concept" of Puerto Rican unions. It is noted that following this statement, the crown of independentista supporters packed into the public galleries erupted into noisy applause.

Speakers following Corretjer included Luis Fernando Abreu Elias of the Masonic organization El Gran Oriente National de Puerto Rico who supported independence as a means to stop becoming an "accomplice" of "inhuman Yankee imperialism" and "exploitation by transnational corporations;" PSP secretary-general Juan Mari Bras who exhibited a section of the FBI files on him obtained under the Freedom of Information Act, said that such "persecution" prevented any free exercise of self-determination, and warned that the U.N. must do all it could to promote a peaceful decolonization of Puerto Rico because his PSP "would not hesitate to confront the violence of the enemy with the violence of the Puerto Rican revolutionary spirit."

Additional speakers included Nelson W. Canals, chairman of the National Committee for the Freedom of Puerto Rican Nationalist Prisoners [Comite Nacional Pro-Libertad de los Presos Nacionalistas]; Olaguibeet Lopez-Pacheco, Sovereign Grand Commander of the Supreme Masonic Council of Puerto Rico, who denounced the "repressive system operated in Puerto Rico" via an atmosphere of assassination, fear and mistrust; Jose Lopez, head of the Movimiento de Liberacion Nacional (MLN), who said that the "imperialists" were "aware of the threat posed" by Puerto Ricans, the 25 million Chicanos and Mexicanos, and the 35 million blacks in the U.S.; Rafael Soltero Peralta, secretary for external affairs of the National Grand Lodge of Puerto Rico; Carmen Puigdollers, Committee of Puerto Ricans in the United States; Manuel Roman, president of the Statehood or Democratic Republic Movement, who said that the great majority of the Puerto Rican people rejected both socialism and communism and that the political status of Puerto Rico was an internal matter between the two parties.

During the meetings of the U.N. Committee, Cuba and Iraq introduced a draft resolution that the U.N. keep the Puerto Rican matter "under continuous review" until all provisions are carried out. The Cuban draft resolution supported the call of Rep. Dellums for the U.S. transfer to Puerto Rico sovereignty and power, after which Puerto Rico may decide whether or not to reassociate with the U.S. If not, the Cuban draft would return to Puerto Rico "all lands now occupied by the armed forces of the United States." The Cuban resolution would also prohibit Puerto Rico from voting to become a state of the United States by requiring that an association with the U.S. "must be such that Puerto Rico will qualify to have its own representation in the international community and organizations."

The Cuban draft resolution also calls for the "unconditional release of the four Puerto Rican political prisoners who have been incarcerated by United States authorities for more than 24 years." The Cuban document proposed the U.N. Committee declare formally that "the persecutions, harassments and repressive measures" to which those struggling for independence have been "continuously subjected" by U.S. police and military forces "constitute violations of the national and human rights of the Puerto Rican people to self-determination and independence;" and that various other U.S. actions constitute "violations of the national and human rights of the Puerto Rican people."

In response to the Cuban draft resolution, Australia introduced a number of extensive amendments on 9/6/78. Australian U.N. representative Harold D. Anderson said that the draft resolution sponsored by Cuba and Iraq contained provisions in violation of the U.N. Charter and of several General Assembly resolutions by requiring the Decolonization Committee to "deny to the people of Puerto Rico the right to choose the manner in which they may determine their constitutional future."

The series of demonstrations outside the U.N. were sponsored by the Puerto Rican Nationalist Party [Partido Nacionalista Puertorriqueno (PNP)]; the MLN/EL Comite; the East Coast Committee to Free the Four Nationalist Prisoners of War operating from Box 63, 161 East Houston Street, New York, NY 10002; the New York Committee Against Repression (NYCAR); the new May 19th Communist Organization (formerly the N.Y. chapter of the Weather Underground Organization's Prairie Fire Organizing Committee (PFOC); and the Puerto Rican Solidarity Committee (PRSC).

On 8/29/78, some 250 demonstrators assembled to hear speakers including Juan Antonio Corretjer, LSP; Juan Mari Bras, PSP; Carlos Veles Rickenhof, PNP; and Nelson Canals. With Youth Against War and Fascism providing the majority of the non-Latino demonstrators, chants included "U.S. out of Puerto Rico" and the more lively "Ni con rifle, ni con bala, este lucha no se para!" ["Neither with guns nor bullets will this struggle be stopped."] About 300 demonstrators appeared for the 8/30/78 rally which featured five hours of picketing and a very brief speech by Juan Mari Bras. Later in the evening, Mari and PSP Political Committee member Jose Alberto Alvarez were featured speakers at a PSP rally held at Public School 134 in Brooklyn.

On 8/31/78, an "Evening of Solidarity with Puerto Rican Independence" was held at the Theater Arts Center, Lexington Ave. and 110th Streets, at which scheduled speakers included Luis Rosado; Andres Figueroa Cordero, one of the Nationalist prisoners released from prison because of a terminal cancer condition; Corretjer and Veles Rickenhoff.

The East Coast Committee to Free the Four Nationalist Prisoners of War, which has openly supported the FALN terrorists, published a statement by Corretjer praising the "revolutionary morality" of armed terrorist attacks in Puerto Rico by the Fuerzas Armadas de Resistencia Popular (FARP) which attacked a police station in Montebello and left behind slogans in support of the PSP-led strike by the Puerto Rican Electrical Workers Union (UTIER); and of the 7/3/78 seizure of the Chilean consulate in San Juan by Nydia Esther Cuevas and Pablo Marcano.

Corretjer goes on to assert that the 7/25/78 shootout in Puerto Rico in which two terrorists attempting to blow up power lines were killed was an "execution." Corretjer goes on in his statement to say that during the time he was in prison in San Juan along with PNP founder Pedro Albizu Campos, the two were witnesses in a prison marriage of another PNP militant, Pablo Rosado Ortiz, the grandfather of Arnaldo Dario Rosado, one of the terrorists killed. According to Corretjer, for the grandson, "waiting was intolerable, and the military alternative the only way, exclusive and obligatory."

Corretjer concluded:

"With the guerrilla cunning and combat technique which they didn't have, in some place in Puerto Rico someone is getting ready to render them honor by surpassing their efforts! History will not be able to keep from fulfilling it. I do not doubt it."

During the picket lines and rallies outside the U.N., the MLN/El Comite disturbed a bilingual pamphlet, Discussion Document No. 4, which also called for "armed struggle" and praised the FALN. The MLN is calling for formation of a broad National Liberation Front of all the independentista parties to coordinate a four-point program of:

"1. Mass struggle—••• the political structure that will unify these masses within a multi-level struggle, multi-fronts, multiple tactics •••."

2. Popular war—••• Without taking away the importance of mass struggle, it is armed struggle which raises our liberation effort to the level of international priority.•••."

3. International Anti-Imperialist Offensive—expanding the political struggle in the United Nations such as done previously by the Algerian FLN, the Palestine Liberation Organization, Vietnamese NLF, and Rhodesian Patriotic Front.

4. Defeating the Enemy in the Rearguard—••• The F.A.L.N. has clearly shown that North American imperialism has its weakest point in its home grounds.••• If the F.A.L.N. were to achieve nothing more, it has managed to show that the enemy can be defeated in its own backyard." The MLN notes that a unified movement could conduct a multiplicity of terrorist attacks "in tune to the needs of our national liberation struggle."●

WESTERN AID CONSORTIUM FOR PORTUGAL

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1978

● Mr. HAMILTON. Mr. Speaker, I want to bring to the attention of my colleagues correspondence Congressman FINDLEY and I have had with the Department of State on the status of disbursements to Portugal of a loan of $750 million by an international lenders group. The United States is participating in this lenders' group in the amount of $300 million. Earlier this summer, we were concerned

that, while the United States has disbursed $200 million of its pledge, only an additional $79 million had been disbursed by the other donors and that the German Federal Republic had not disbursed any of its pledged funds.

The Department of State has now informed us that at least $489 million has now been disbursed, including the entire West Germany pledge, and that it is actively seeking information from donors which have not yet disbursed their pledged loans or have only partially done so, as to when they would do so.

We also understand that the recent government crisis in Portugal has delayed disbursement of the remaining $100 million pledged by the United States.

We believe it is important that the United States, in cooperation with its European allies and other interested Western nations, continues to support this nascent democracy as it struggles through difficult political and economic times provided the Portuguese remain determined to reform and improve their economy and social programs.

The correspondence follows:

WASHINGTON, D.C.,
August 16, 1978.

HON. CYRUS R. VANCE,
Secretary of State,
Department of State,
Washington, D.C.

DEAR MR. SECRETARY: We were distressed to learn that as of August 15, 1978 only some $279 million of the more than $750 million pledged by the United States and our allies to help the Government of Portugal cope with pressing economic problems has been disbursed and that the United States Government has disbursed $200 million or over two-thirds of the money made available to date.

We are further troubled that the West German Government which played a leading role with the United States in organizing financial help for this fledgling democracy is apparently yet to disburse any funds.

We would like to know why more of the pledged money has not been disbursed, why the West Germans have not disbursed any funds and what we are doing to have other donor commitments honored and funds disbursed. It might be well to delay the disbursement of the remaining $100 million of our own loan until other donors have disbursed to the Portuguese a majority of the funds they promised to give.

We appreciate your consideration of this matter.

Sincerely yours,

LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East.

PAUL FINDLEY,
Ranking Minority Member, Subcommittee on Europe and the Middle East.

WASHINGTON, D.C.,
September 8, 1978.

HON. LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, Committee on International Relations, House of Representatives.

DEAR MR. CHAIRMAN: The Secretary has asked me to respond to your letter of August 16th, also signed by Mr. Findley, in which you expressed concern that some countries which cooperated with the United States in the $750 million international lenders group for Portugal have not yet disbursed their pledges. I am sending a similar reply to Mr. Findley.

The information provided to the Subcommittee as a result of your August 8 meeting with the Director of the the Office of Western European Affairs and the desk officers for Portugal and Spain was the most recent of the periodic updatings of disbursements of pledged loans. It did not include any disbursements after June 1978. As a result of conversations with our embassies in Bonn and Lisbon, we are pleased to report that the West German loan of 420 million deutsche marks ($204.13 million), in which you were particularly interested, was disbursed in its entirety on July 7. This information was provided by telephone to Mr. Soriano of the Committee staff at the end of August.

During the past year, in cooperation with the Treasury Department, the Department has repeatedly encouraged prompt conclusion of loan agreements by the other 13 lenders and rapid disbursement of those loans. In 1977, on July 13, September 3, and December 24, instructions were sent to our embassies in all participating countries to ascertain the status of loan negotiations and to encourage rapid disbursement. Department officials in Washington and abroad have also discussed the loans with diplomats of the participating countries. Prior to the release of the initial $200 million of the $300 million U.S. loan on May 12, 1978, Norway, Venezuela, and Switzerland had disbursed all of their loans and Canada and the U.K. had released half of their loans. On June 9, 1978, the Department again instructed the embassies in countries which had not disbursed to call on host governments for information about when disbursement could be anticipated. The total amount disbursed by all participating countries was at least $489 million as of the end of July. Another telegram was dispatched to embassies in all the participating countries on September 8, 1978, with particular emphasis on obtaining the plans for disbursement by those countries which have released none of their pledges (France, Italy, and Belgium) and those which have released substantial portions but not the entire amount of their loans (Japan, the United Kingdom, Sweden, the Netherlands, and Canada).

In response to the September 8 telegram our embassies in countries involved in the lenders group are currently submitting the latest information on loan disbursements. We shall report to you shortly on the status of all loans pledged by members of the group.

Sincerely,

DOUGLAS J. BENNET,
Assistant Secretary
for Congressional Relations.●

A BILL TO PROVIDE JOBS AND TRAINING FOR THE HARD-TO-EMPLOY

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1978

● Mr. BROWN of Ohio. Mr. Speaker, in the 10 years that I have served on the Joint Economic Committee, I believe that I have dealt with every major economic enigma that confronts our Nation. But there is one economic problem that I truly believe is the most devastating to society. That problem is structural unemployment—that is, unemployment essentially caused by low skills; skills so few and so minimal that the person literally faces a life of unemployment or at best only occasional employment.

Think, for example, what a life of unemployment means to the 50 percent of big city minority youths who are structurally unemployed. Try to realize their frustration. Try to imagine their outrage if this Congress continues to give them unworkable answers to their desperate problem.

The structurally unemployed live in despair, knowing that they will have to depend on the charity of the State and that they will never know the freedom and opportunity of holding a permanent job. It is because of their desperate situation and their inevitable and hopeless future that the structurally unemployed present this country with its most severe test.

To meet this test, I am, today, introducing a bill that will deal directly with structural unemployment. This bill puts to use our most potent weapon in fighting this or any economic probem—the private sector.

But by the private sector I do not mean just business, but the entire private sector—labor, business, schools, religious organizations, citizen groups, and other members of the local community. Under this bill, all segments of the nongovernmental sector will work together to match the structurally unemployed with available jobs. This community combination has proved highly successful in many localities across the country for the opportunities industrialization centers, the Committee for Economic Development, and other organizations that deal directly with structural unemployment.

The bill provides a wage subsidy paid to employers for training and employment. States would approve acceptable employer programs and petition the Secretary of Labor for the subsidy money. The subsidy, which begins at 50 percent of the wage, is decreased at 6-month intervals until it ends after 2 years of employment.

The 2-year length of the subsidy program will insure that the person who is hired becomes a valuable employee by the time the subsidy terminates, which will help guarantee that the job becomes permanent. Also, the subsidy is lower at higher wages, on the theory that less of a hiring incentive is necessary for a person who is skilled enough to warrant a higher wage.

I stress that this subsidy would only be paid if training is provided. Training is the key to the problem. If structural unemployment is caused by low skills, then any bill that does not stress training for a specific job is a waste of time and money. This bill will establish training for an existing job need as a requirement in order to provide the structurally unemployed with what they need most.

The bill also establishes a priority system for approving subsidies to private employers. These various priorities, which do not exclude other employers, will direct the subsidies to the areas where they are most needed and will be most successful.

The first priority established by this bill is the targeting of subsidies to areas of high unemployment. It is an unfortunate fact of our economy that structural unemployment is most severe in the

most desperate of economic situations. This fact leads to the structurally unemployed not only lacking skills but facing a job market so depressed that they have only a small chance of receiving employment or training. They have lost man's most important defense—hope.

The second priority is for small business. The Joint Economic Committee has studied the problem of structural unemployment in many forums. The opinion that the committee has heard time and time again over the years is that the most dynamic solution to this problem is small business. The reasons are simple. Every community has a great number of small businesses. These are the employers that are most responsive to wage breaks. And these are the employers whose condition and needs are most known to the rest of the community.

As I said earlier, this concept of community is very important to solving the problem of structural unemployment. The biggest problems that face any training and employment program are the location of jobs and job retention. Local, private organizations that draw together various segments of the community to solve the problem of structural unemployment have shown a far greater success in placing people in permanent jobs than any Federal Government training program. It is because of the impressive record of these organizations that this bill offers its final priority to those employers who use these organizations in finding employees. This priority guarantees that the hired worker will be carefully matched to the specific job. And just as importantly, these organizations will provide the support services after employment which are so critical to the newly hired low-skill employee. The use of these organizations—called intermediate organizations—separate this bill from other employment and training bills. And judging from the unmatched success of intermediate organizations, it makes this bill superior.

No bill dealing with unemployment, no matter how high its principles, is assured of success. We have seen solid, intelligent legislation bogged down by redtape and legislative language. Many times the result is that in the end very little aid reaches those who need it. Often our efforts fail to be of monumental accomplishment and, instead, are monuments to waste and inefficiency. This bill offers two provisions that guarantee that the subsidies will help those who need it the most.

The first provision addresses the question of which potential employees are eligible for the subsidy. In other words, who are structurally employed? This bill uses a simple but reliable definition for structural unemployment that prevents the loss of time and effort just trying to figure out who can be hired under the subsidy.

The place of the usual, complicated, unverifiable eligibility criteria, those eligible under this bill are simply those who have been out of work for at least 5 weeks and those ineligible to receive unemployment compensation.

Inability to receive unemployment compensation identifies workers who have been out of work for a long time and workers who have such low skills that their spotty pattern of employment provides them with only a short time period of unemployment compensation. Also, this simple definition would include youths who have never held a job and, therefore, are not eligible for unemployment compensation. Likewise eligible would be the growing number of women who, by personal choice or economic hardship, have returned to the labor market after an absence of many years and with low marketable skills.

Highly skilled workers would not be eligible under this definition unless they faced dire economic circumstances. The reason is that highly trained workers who lose their job would receive unemployment compensation for a long period of time. This is so because the highly trained worker has had substantial contributions made in his name to the unemployment compensation fund. He or she would not be eligible for this subsidy until that compensation ran out, by which time most highly trained workers will have found another job.

The second feature of this bill which improves efficiency is a minimum paperwork provision. This provision provides that no State will receive any Federal money for job subsidization until that State has assured the Secretary of Labor that its modus operandi requires a minimum of paperwork on the part of the employer. This unique feature ingrains administrative efficiency in the program at its inception. This is far different than other bills that start a program and then find out it is impossible to administer.

Mr. Speaker, we must solve this problem because millions are unemployed and have little chance for employment. We must solve this problem because our slumping economy needs their input. But most crucially, we must solve this problem to help millions of people who find their lives robbed of security, opportunity, and, most of all, hope.●

BALANCE(S) OF POWER SERIES: BOOK III(G)(ii)—NORTHEAST ASIA

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, in the last Thursday's issue of the CONGRESSIONAL RECORD, I inserted the first part of an article entitled, "Japan and the Future Balance in Asia" by Henry S. Rowen, appearing in the Orbis, Summer, 1977 edition. The conclusion of Mr. Rowen's article follows:

POSSIBLE JAPANESE DEFENSE POSTURES

Many Japanese perceive two principal rivalries in the world: the Sino-Soviet and the U.S.-Soviet. In regard to the former, they have been trying to maintain a posture of "equidistance" (recently with a tilt toward Peking). They have not seen themselves centrally involved in the latter rivalry.

Perhaps the fact that Japan is more immediately under pressure in its relations with China vis-a-vis the Soviet Union makes that contest especially prominent. The United States-versus Soviet competition is seen as more remote. Moreover, to many on the Left, the American ties and troop presence suggest that Japan could get drawn unwittingly into a conflict. On the other hand, the United States' role in offsetting Soviet strength is important to most Japanese' sense of security.

The Japanese have, understandably, a strong preference for the status quo, which enables them to concentrate on economic growth. Ther low-profile foreign policy minimizes the likelihood of being pulled into a conflict, and Japan's alliance with the United States, its strong economy, and its capacity to mobilize give the Japanese hedges against uncertainty. However, the trends described above raise the possibility that the status quo may not survive. We must examine, therefore, the several broad directions that Japan might choose in the next decade:

(1) *No Major Change.*—This implies continuing with a narrow self-defense orientation, continuing to depend on the United States for essential protection, retaining a low political profile, and continuing to focus on economic growth.

(2) *Strengthened Self-Defense*—This course could lead in time to Japan's playing a wider, tacit regional role; later, Japan might take on an explicit regional role.*

(3) *A Heavily Armed, Neutral Japan.*—At some point in the future, perhaps in response to a major international shock, Japan might strike out on an independent path, build a large defense establishment, develop nuclear weapons, and loosen or even end its mutual defense relationship with the United States.

These three positions do not exhaust the possibilities. For instance, a Japan which no longer had a treaty relationship with the United States could, as Japanese on the Left have argued, seek to be both neutral and disarmed. This prospect seems remote.

Course 1: No major change

The "No Major Change" course provides for incremental improvements in the Japanese defense posture as the economy grows. It finds powerful support in the long-standing view that there are no serious threats to Japan. This alternative would produce a level of defense spending in 1986 of about $10 billion (in 1976 dollars), assuming an annual 5 per cent real growth rate for the economy and defense spending at 1 per cent of GNP. Spending in this amount would permit maintenance of present force levels and limited missions while substantially improving antisubmarine air-defense and ground-force equipment. The resulting posture would not be insignificant, but Japan, by itself, would not have the capacity to defend its sea lines of communication at a distance or to influence regional developments strongly. Within this framework, however, useful cooperation between Japan and South Korea could take place—improvements in their political relationship permitting.

Whether future Japanese governments will judge that "No Major Change" will be

* This opinion does not exclude the possibility of eventual Japanese possession of nuclear weapons. A Japan so armed might maintain, as do Britain and France, an alliance with the United States. However, the internal political changes associated with Japanese acquisition of such weapons might open a good deal of political distance between America and Japan.

adequate, we can only guess; at present, the odds substantially favor this course.

Course 2: Strengthened self-defense

A policy of "Strengthened Self-Defense" would mean increases in defense spending. Over a decade, the share of GNP devoted to defense might approach that of the NATO countries, 3 or 4 per cent. At 3 per cent of GNP by 1986, the defense budget would be about $30 billion (1976 dollars), and over the ten-year period the aggregate would be around $150 billion. Allowing for increasing real costs, maintenance of the existing force would cost perhaps $60 billion, leaving a substantial $90 billion for force modernization and expansion.

With resources of this magnitude, Japan could create a strong and technologically advanced military force. In addition to being far better able to counter Soviet naval and air strength in the Pacific, Japan would have the capacity to alter the military balance in Korea and to influence the Sino-Soviet balance.

An almost certain issue would be Japan's possession of capabilities that would appear to be offensive in nature—longer-range ships and aircraft, tactical cruise missiles, and so on. The ASDF might also acquire a ground-attack mission. An even greater departure from Japan's post-1945 posture would be the acquisition at some point of sea-based air power (e.g., V/STOL aircraft on sea-control ships).

This course, while offering important advantages in an uncertain environment, would have palpable risks. The most critical would be the heightened possibility of involvement in a U.S.-Soviet conflict not centering on Japan or perhaps not even originating in the region. Plausible Japanese objectives in such a contingency would be (1) to avoid direct involvement, (2) to prevent domination of Japan by any hostile power, and (3) to avoid isolation from the United States as a consequence of Japan's failure to help us in a serious struggle with the Soviet Union.

These objectives, however, could be in sharp conflict. The Japanese would have strong reasons to avoid direct involvement while at the same time wanting us to succeed.[10] Many possible options exist in the case of a conflict originating elsewhere: (1) Stay out altogether and deny America the use of bases in Japan; (2) Provide only tacit support (e.g., substitution of Japanese for U.S. forces in Japan or at sea, thus freeing our forces for use elsewhere); (3) Provide some symbolic and material support (e.g., giving only logistic support to U.S. forces and allies); (4) Allow U.S. use of bases in Japan except for direct combat operations, or allow the United States to use them even for combat operations; (5) Use Japanese forces in "defensive" missions only (e.g., escorting convoys and providing other ASW surveillance around Japan); or (6) Use Japanese forces "offensively." How far the Japanese would be willing to go down this list would depend not only on the perceived threat to Japan and the strength of Japanese forces but on the balance between their desire for noninvolvement and their fear of the possible consequences of noninvolvement. It is important to note that the Japanese might be able to provide considerable help without actively involving themselves in combat (viz., through Option 4), and even a modest probability of Japanese participation would go a long way toward determining some conflicts.

[10] The Japanese are not likely to forget that it does not pay to be allied to a loser. Recall that the Soviets, after the defeat of Germany in 1945, quickly transferred forces to the east in order to defeat the Kwantung Army in Manchuria.

The "Strengthened Self-Defense" course might also pose problems for the United States, despite assumed close ties between Japan and the United States. Certainly Japan's capacity to make trouble would be greatly increased, and an armed Japan would have a political character somewhat different than it does today.

What would be the likely effect on other nations? Which nations might feel threatened? It has been widely held in Japan and elsewhere that a rearmed Japan would be an alarming force in the world. This was understandable in the 1950s and 1960s, but would it be in the 1980s? After more than thirty years, it is difficult to see what the Japanese could do that they have not already done to make it clear that they do not have political and military designs against others. Those who express alarm over Japanese militarism have memories, understandably bitter, of a now remote past, or they hold theories about innate characteristics of the Japanese people which to most people are unpersuasive. Nonetheless, many Koreans might be alarmed and also the Chinese. For instance, how might China view a Japanese navy regularly patrolling the sea lanes off the cost of China? Such worries would be greatly eased if U.S. commitment and a tangible U.S. military presence continues. This also would be true for more distant countries in Southeast Asia as well as for Australia and New Zealand. In time some of these nations might even favor alliance ties to Japan through a collective security system also including the United States.

This course is also consistent with Japanese development of closer ties to China. Indeed, a Chinese-Japanese-United States alignment is not excluded, although it is likely to come about only in response to clearly threatening Soviet moves.

On balance, some approximation to this course seems most likely to meet American needs for the 1980s, and may meet Japanese needs. But change from a narrow self-defense concept, if it comes, will be slow. We would not press the Japanese on this doctrinal issue; instead, there are many specific tasks, described below, to be carried out.

Course 3: A heavily armed, neutral Japan

The third course, that of a "Heavily Armed, Neutral Japan," is consistent with the view that the period since 1945 has been unnatural for the Japanese, since they have been so dependent on a foreign power. Indeed, this is an unprecedented relationship for Japan, inconsistent with its geographic, cultural and linguistic insularity. Although practiced in assimilating ideas and techniques from others, the Japanese have done so selectively and have adapted these borrowings to the Japanese culture.

This tendency toward political and cultural isolationism conflicts with the powerful outward pull of Japanese global economic interaction. But the Japanese have shown great skill at decoupling economic relationships from political and military ones. In time, Japan might sharply reduce its dependence on the United States and acquire much greater military capacity—possibly including nuclear arms—while vigorously pursuing economic interests worldwide.

What processes or events might bring about such a change? One possibility is a grave crisis in which it suddenly becomes evident that the United States cannot or will not protect Japan. Another is a political victory by a faction committed to a policy of nondependence on the United States. Whatever the cause, it is clear that Japan could over time acquire very substantial military strength.

This "Heavily Armed, Neutral Japan" course includes, more than the others, the possibility of Japanese nuclear weapons, which might be proposed in accordance with the theory of "proportional deterrence," wherein a medium-size nation can deter a larger one by its ability to inflict civil damage on the latter, even though the medium-size state might suffer far more damage. There is something to this theory, but the asymmetry in capacity suggests that there would be an important difference in bargaining strength. And, too, some kinds of risks would be heightened. Moreover, a Japanese nuclear force designed to kill large numbers of Russians or Chinese is not likely to appear to meet realistic national defense needs.

Yet Japan's economy is nearly at the great-power level, and it seems entirely in the Japanese national character that if Japan were to acquire nuclear weapons at all, it would do so on a substantial scale. The British and French model of small, largely symbolic forces does not fit the Japanese style: the Japanese do not do things by halves. Japan could allocate $10 billion a year to a nuclear force, an amount quite sufficient to support a substantial nuclear program. Even so, Japan would face serious difficulties. The essential requirement of having a secure force is not met simply by assumption. Fixed bases (e.g., missile silos) are already vulnerable, and mobile nuclear forces would be difficult to operate on Japan's terrain.

In the field of nuclear submarines, Japan would be starting out from scratch, and it would have to contend with Soviet undersea surveillance and attack techniques of the late 1980s. If the Japanese submarine fleet were to be small in order to limit costs (say, on the scale of Britain's force, which at times has no more than one of its four submarines on station), then Soviet antisubmarine forces might have a good chance of locating most or all of that fleet. Moreover, if the Japanese were to seek the ability to strike most of the Soviet Union, they either would have to face long transits or build missiles and submarines with ranges comparable to that of the U.S. Trident 1.[11]

Another possibility is the use of cruise missiles in diesel-electric submarines such as Japan already has. The high accuracy attainable with these missiles mean that small warheads producing low collateral damage would be feasible. Also, very high accuracy means that, for some missions, they could be effective with non-nuclear warheads, a capability that might be of particular interest to the Japanese.

Japan has a broad industrial base which could be put to work on nuclear weapons and delivery vehicles. Further, neither the international system of IAEA safeguards nor U.S. agreements in regard to cooperation on nuclear technology preclude Japan from having—without violation—direct and ready access to nuclear-explosive materials. Indeed, these agreements (not only in the case of Japan but, unhappily, much more widely) do not prevent non-weapon states from being within days of the ability to explode a nuclear device—again, without violation. In the Ford and Carter administrations, we have begun to understand the incoherence of existing rules on nuclear energy as they relate to our nonproliferation objectives, and the United States has begun to try changing them. Whatever rules emerge from the current rethinking, Japan will never-

[11] For further analysis of the problems a Japanese nuclear-submarine program would face, see A. Wohlstetter *et al.*, *Moving Toward Life in a Nuclear Armed Crowd?* a report to the U.S. Arms Control Disarmament Agency, 1976.

theless have a formidable capacity to develop nuclear weapons if it so chooses.[12]

It seems most unlikely, however, that Japan will do so in the foreseeable future. Domestic political obstacles are formidable, and nonnuclear weapons seem adequate for almost any military mission Japanese forces might have to undertake. The strongest case for Japanese nuclear weapons is that they could deter a nuclear attack; thus, so long as the U.S. guarantee has essential credibility, Japan is not likely to want nuclear weapons. This judgment, however, also assumes that South Korea, Taiwan or some other country in the region will not acquire nuclear weapons. It should be an important objective of American and Japanese policy to encourage these regional states to maintain their nonnuclear status.

Japanese nuclear weapons aside, a more independent, armed Japan which has preserved its democratic institutions and has no ambition to greatly extend its influence over the smaller states of Asia could contribute importantly to regional stability. Japan might, in effect assume the role of "protector" of the small nations against the power of the Soviet Union or China. In this role, Japan might partially or even wholly replace the United States. But this course of action poses dangers much more serious than those of the two alternatives. For one thing, great and dangerous changes in Japanese domestic politics might occur. For another, a more heavily armed Japan without ties to the United States, would be viewed with alarm. Remote as this prospect seems, major and sometimes abrupt shifts in Japan's external relations have occurred before, and they cannot be excluded for the future.

CONFLICTING POLITICAL TRENDS IN JAPAN

Two conflicting political trends will affect Japan's defense policies: (1) the progressive weakening of the Liberal Democratic Party (LDP) and (2) the gradual lessening of political opposition to the self-defense forces and to the U.S.-Japanese security treaty. The first trend makes it more difficult for the government to muster a majority on defense issues and on defense spending. The Socialist and Communist parties still formally oppose the security treaty, although JSP (Japanese Socialist Party) opposition has been weakened by Chinese support of the treaty. Only the JSP proposes unarmed neutrality. Even the Communists support a people's armed force. Clearly, then, defense is acquiring greater legitimacy. This suggests that if Japan's external environment worsens, a political basis for a substantially larger defense program will exist.

The results of the 1976 elections (in which the conservative LDP lost heavily) does not imply a popular shift against defense. The votes lost went predominantly to the New Liberal Club and other middle-of-the-road parties. That opponents of the self-defense forces and the security treaty are now generally less militant means that contention on these issues is now within the range of normal politics.

The public opinion polls show increasing support in Japan for stronger defense. In a poll taken in 1976 on attitudes toward security issues, 76 per cent of the respondents supported the self-defense forces, and 50 per cent supported both the self-defense forces and the security treaty with the United States. Support for the treaty varied predictably by party, but members of the Japanese Communist Party (JCP) were evenly divided on this issue—31.5 per cent in favor, 32.6 per cent opposed.[13] Futhermore, JCP supporters favored the self-defense forces by 51.1 per cent to 28.9 per cent.[14]

This support, to to be sure, is for defense spending under the threshold of 1 per cent of GNP. Assuming little change in Japan's external environment and given the loss in LDP strength, the 1 per cent barrier, or something close to it, will probably remain effective. The environment, however, is changing, and if it is seen to become substantially more dangerous, that barrier is likely to be breached.

IMPLICATIONS FOR ACTION

At the very least, this analysis suggests the importance of strengthening ties between the United States and Japan. Despite notable obstacles of culture and language, there is much that supports the relationship and the Japanese see it as worth the cost. Increased cooperation implies reducing the asymmetry of the present relationship—although that asymmetry will not be eliminated soon. The United States should accept some changes in its independent stance and operating procedures with regard to Japan. For its part, Japan should gradually broaden its concept of self-defense.

COMPLEMENTARITY

Both partners should take the idea of "complementarity" more seriously and exploit comparative advantages in their mutual defense effort. The United States has not done so, the nature of the security treaty has not required it, nor has the sense of threat motivated it. To date, unilateral American and Japanese decisions have given the United States flexibility and have suited Japan's desire to avoid involvement in dangerous situations. Looking ahead, the case for complementarity is stronger.

Japan has advantages in surveillance around Japan, in ground facilities, in availability of skilled people, in close-in naval operations, in merchant-ship operation, in deployment of surface-to-air defensive missiles, and in its large and accessible industrial base. America's advantages include its advanced and rapidly deployable air and naval forces, its worldwide intelligence and surveillance network, its airlift capability, its sophisticated munitions—non-nuclear as well as nuclear—and its ability to operate in areas remote from Japan. The tailoring of our forces to exploit these respective advantages would build a strong sense of commitment and improve efficiency; it would somewhat reduce both parties' capacity for independent action, a price that the United States, at least, should be willing to pay. Taking Japanese defense more seriously also implies that Americans should not hesitate to make recommendations to the Japanese on the basis of our technical and combat experience, and also that the United States should be more consistent in its support of Japanese efforts.

SPECIFIC CONTINGENCIES

Much is to be gained by jointly focusing on specific contingencies. The absence of specific goals makes it difficult to establish performance standards for our forces or even to present a plausible justification for their existence. Contingency planning has been much easier for West European and Korean defense: the clear-and-present danger of attack helps focus attention.[15] But there are meaningful and concrete tasks to be carried out—especially in air defense and the protection of Japan's sea lanes. Possible goals are to assure that a certain minimum number of ships could get in and out of Japan each month (subgoals might include criteria for undersea surveillance and target acquisition, provision of escorts, and armament of merchant ships) or to assure that the Soviet naval route from the Sea of Japan to the Pacific could be effectively and rapidly blocked. Another possibility is to cooperate in protecting the sea lines of communication to Alaska. A related possibility—to think what was once completely unthinkable—might be to arrange for MSDF use of bases in the Philippines under certain circumstances (if we retain those bases).

Contingencies in Korea should be reexamined. For example, the ability to send air-defense tracking information directly between Japan and South Korea would be of mutual benefit, and the creation of such a link would be a useful signal to the Soviet Union. Also, the gains from Japanese-Korean cooperation in the production of some types of weapons and in the operation of repair facilities could be large.

Specific performance goals would also have the useful effect of shifting from a nearly exclusive focus on resource input (i.e., the share of GNP allocated to defense) to output (i.e., the tasks ahead). In the end, if neither we nor the Japanese can identify important, specific goals for our forces, we should not be surprised to find that they have low combat effectiveness or that they are subject to budget cuts.

INTELLIGENCE AND SURVEILLANCE

Intelligence and surveillance activities are consistent with Japan's restrictive definition of defense. Yet, one of Japan's weaknesses is its poor ability to collect information on the strength, technical characteristics and movements of other nation's forces. The United States shares some of its intelligence information, but this is largely general in character. There are problems in regard to sharing information with Japan (which has an even more porous security system than we do), but there is reason to ask whether we are doing enough. Part of the problem may be that the relevant American bureaucracies want a quid pro quo; it might help if the Japanese had more trading material. Geography puts the Japanese in good position to supply information on critical undersea movements, on the airspace around Japan, and on adjoining land areas, especially the Soviet maritime provinces. Japan may have other areas of information advantage, in North Korea, for example.

MOBILIZATION PREPARATIONS

Japanese preparations for possible crises could be made more effective if coordinated with American provisions for reinforcements, logistic support and increasing weapons production. The time required in a crisis for a large increase in strength could probably be greatly shortened.

COOPERATIVE RESEARCH AND DEVELOPMENT

Many Japanese and Americans hold that Japanese-style R&D is adaptive and incremental rather than original. This view seems somewhat overstated. Japanese products in

[12] Japan is in a key position to help bring about changes in the international rules which might reduce the dangers of nuclear energy while still enabling nations to enjoy its benefits. The proposed changes, which would limit wide access to plutonium and highly enriched uranium, would restrict technically unnecessary, economically dubious and exceptionally dangerous activities. The problem is not that Japan is likely to make a sudden move to acquire nuclear explosives—domestic opposition is powerful. But if there is to be wider international appreciation of the proliferation dangers inherent in certain types of nuclear power, then Japan, and other major industrial states, will have to be in the vanguard. So far, it is not clear that a consensus on the changes needed will emerge among the industrial powers.

[13] *Sankei Shimbun*, January 1, 1976. See also the poll results published in the November 3, 1976, issue.

[14] Masamichi Inoki, "Japan's National Security," *Japan Echo*, vol. 3, no. 3 1976 (trans. from *Shokun*, May 1976).

[15] To argue that some Japanese-American planning should focus on specific contingencies is not inconsistent with my earlier observation that decisions on America's Asian force posture should not be dominated by focus on a few specific scenarios.

many lines (e.g., ship designs) are superior to those offered by others, and Japanese auto producers have recently been more innovative than have those of Detroit. But very large investments in defense technology, over a long period of time, will be needed if Japan is to build up a competency comparable to that of the Soviet Union or the United States. This suggests that military R&D ventures with American firms might be attractive. The United States is weak in some fields of technology, most obviously in ground-force equipment. Perhaps the Japanese could be of help here, as well as in other fields in which they excel or have promise. U.S. firms, too, should be interested: the Japanese military-procurement market is growing rapidly, despite Japan's preference for producing most of its hardware domestically. Today, there is a billion-dollar market annually, and this could well become much larger in the 1980s.

NOW IS THE TIME TO ACT

It will be objected that the present state of Japanese party politics and the American preference for autonomy preclude moving very far along these lines. However, those enmeshed in American domestic politics may well find the reality of growing Soviet strength, combined with a continued low-profile military policy on the part of Japan, increasingly hard to accept; the inherent tension of such a situation would undermine political support for a continued American presence in Asia. There is no doubt that action along the five lines described above would have to be taken step by step and implemented over a long period. Improved consultative machinery, however, does exist in the U.S.-Japanese Subcommittee on Defense Cooperation, one of whose functions is to discuss joint countermeasures for emergencies. Now is the time to press more vigorously on substance.

With any luck at all, the more troublesome possibilities will not emerge. We should certainly hope so, for the present balance in Asia, with all its latent problems, will be difficult to improve on. But if unfavorable trends continue to develop and impact on East Asia, both Japan and America will face some hard choices. Japan's political culture and the leaders it produces have been conservative in both familiar senses. This implies little change, but it also suggests latent support for defense efforts which, sooner or later, may be seen as important to undertake. It is very much in the American interest to see that these efforts develop within a framework of close cooperation—which implies a continued, visible and strong American presence in the region.●

1980 OLYMPIC GAMES

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1978

● Mr. DERWINSKI. Mr. Speaker, the setting of the 1980 Olympic games in Moscow is causing a great deal of discussion as to whether the Soviet Union is employing this event to their political advantage. One area of special concern is the attempt to stage some of the events in the Baltic States for propaganda purposes. As we and most countries of the free world do not recognize the forcible occupation and incorporation of Estonia, Latvia, and Lithuania by the Soviet Union, I wish to insert a statement issued by the Estonian American National Council which I believe expresses the feelings of the Baltic peoples and others held captive in the U.S.S.R.:

OLYMPIC GAMES 1980

As part of the Olympic Games in Moscow, a Yachting Regatta will be held in Tallinn, capital of the Soviet-occupied Republic of Estonia.

The Soviet Russian rulers in Estonia are using this event for their political propaganda purposes.

Most countries of the free world have never recognized the forcible annexation of the three Baltic States, Estonia, Latvia and Lithuania, by the Soviet Union. This illegal act took place in 1940 as a result of the notorious pact between Stalin and Hitler.

Since then Soviet Russia has made efforts to cover up this international crime. By bringing the Olympic Regatta to the territory of an occupied country, the Russians intend to give the impression that conditions there are quite "normal" and the incorporation of Estonia into the Soviet Union a generally accepted fact.

During the period of Estonia's freedom, Estonian athletes participated under their national colors in Olympic Games and other international contests. If Estonia would be a free country, all the people would have greeted with pleasure the Olympic Regatta in Tallinn, a well-known center of yachting on the Baltic Sea. However, under present circumstances the Estonians look at this event with mixed feelings nor dare they express freely their thoughts about it.

As a commendable example of understanding of the Estonian problem, we quote in English translation the following passage of an article in the Norwegian yachting magazine "Seilsport" (No. 2–1977):

"Should or ought Norwegian yachting sportsmen or those from other free countries take part in a sporting contest with the Russians on occupied Estonian territory in 1980? If Germany had won the last war, what would the Norwegians have said and thought when German-arranged winter Olympics had been held in Oslo? Would not a participation in Tallinn be a mockery against all freedom-loving people over the whole world, and especially against the occupied Estonians?

Should not the Norwegian yachting sportsmen and organizations show a straight-forward adherence to leading principles of life among free people and abstain from participating in Tallinn, and preferably take the initiative to a similar attitude among yachting sportsmen of other countries?"

The Estonian community in the free world is appealing to all concerned to realize under what conditions the Olympic Regatta is being held in Estonia and to refrain from any acts which would damage the justified claims for freedom of the Estonian people or the international status of the Republic of Estonia.●

HARRIS POLL SHOWS NATIONWIDE SUPPORT FOR GUN CONTROL LAW

HON. S. WILLIAM GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1978

● Mr. GREEN. Mr. Speaker, the issue of gun control legislation has been vehemently debated in Congress and other forums for many years. To date, the Congress has not seen fit to pass the strict laws which many of us believe are necessary to aid in the fight against crime, while at the same time recognizing the rights of legitimate gun owners.

One of the paradoxes of this congressional failure to act is that public opinion polls favor stricter gun control laws. In my own 18th Congressional District of Manhattan, 83.2 percent of my constituents said that they favored Federal legislation requiring handgun control in a questionnaire I sent out this spring. Of the 10 questions asked, this elicited the greatest number of favorable responses for action on the Federal level.

In a recent letter from one of my constituents, I received the full results of a nationwide Louis Harris poll which shows increasing support around the country for gun control laws. The survey, released on August 7, shows that 80 percent of the public favors a Federal law "requiring that all handguns people own be registered by Federal authorities." This support is slightly higher than a similar survey in 1975. I found it most interesting that of the 43 percent of the people who own guns, 71 to 27 favor Federal mandatory registration of handguns.

I believe that this demonstration of public support deserves the attention of all Members of the House as they consider this very important issue. It is for this reason that I am placing in the CONGRESSIONAL RECORD the full text of the Harris survey results sent to newspaper subscribers around the country.

SUPPORT OF A GUN CONTROL LAW REACHES RECORD HIGH

(By Louis Harris)

Support for gun control legislation in the United States is now higher than at any time in recent years. However, the anti-gun control forces are able to mobilize their supporters more effectively than those who oppose them.

According to a recent Harris Survey of 1,500 adults nationwide, an 80–18 percent majority favors a federal law "requiring that all handguns people own be registered by federal authorities." This is slightly higher than the 77–19 percent who favored such legislation back in 1975. Among the 43 percent of the public who own guns, federal mandatory registration of handguns is favored by 71–27 percent.

By 73–24 percent, a majority would also favor "requiring that a permit be obtained by anyone who purchases a rifle." Back in 1975, a smaller 66–30 percent majority felt this way. Among gun owners, a 59–39 percent majority now favors requiring permits in order to purchase a rifle. Such permits are not now required under the law.

There has been no change in the 73–25 percent majority that continues to favor "federal laws which would control the sale of guns, such as making all persons register all gun purchases no matter where the purchases are made." Among gun owners, a 61–37 percent majority also favors gun control.

Gun owners turn out to be a substantial segment of the population these days, with 43 percent of the public reporting that someone in their household owns a gun. By region, the highest ownership can be found in the South, where 57 percent report ownership, followed by the West, where 46 percent own guns. Rural areas have a 61 percent gun ownership, followed by small towns at 50 percent and cities at 34 percent. Significantly, 45 percent of all whites own a gun, compared with a much lower 26 percent of blacks.

What kind of guns belong to gun-owning families?

At the top of the list are rifles, owned by 72 percent of all gun owners, up from 71 percent in 1976. Nearly one third of all the families in the country now own a rifle.

A substantial 65 percent of all gun owners possess a shotgun. This means that 28 percent of the nation's households own a shotgun.

47 percent of all gun owners have a pistol or handgun. This means that one in every five families has a handgun in the house.

Finally, 8 percent of all gun owners possess a muzzle-loader.

The findings of the Harris Survey indicate that the extent of gun ownership has not changed substantially over the past decade. As the population has grown, gun ownership has grown at about the same rate.

Serious efforts to exercise some federal control over the sale and possession of guns began after the assassinations of John and Robert Kennedy and Martin Luther King, Jr. in the 1960s. But legislation in Congress has been bottled up largely through the efforts of the anti-gun control lobby, led by the National Rifle Association.

Members of Congress know that sizable majorities of the public favor various forms of gun control, but when the legislative chips are down, the heavy pressure comes from the anti-gun control group and it seems to be decisive. This is surprising considering the arithmetic of the political situation.

In the latest Harris Survey, the 80 percent of Americans who favor federal registration of all handguns were asked if they would reject a candidate for Congress mainly on the grounds that he took a stand against gun control. By 57–33 percent, members of this group said no, they would not reject a candidate for this reason. The bottom line, then, turns out to be that a 26 percent segment of the public not only supports gun control but also would vote against a congressional candidate if he opposed it.

As for the 18 percent minority who oppose the federal registration of all handguns, 45 percent of them indicate that they would vote against any candidate who favors this form of gun control. The bottom line here is that 8 percent of the public not only oppose gun control but also would reject any congressional candidate who is for it.

Despite these numbers, the anti-gun control group has simply been more effective politically than those who support control.

TABLES

Between June 27th and July 1st, the Harris Survey asked the cross section:

"Do you favor or oppose federal laws which would control the sale of guns, such as making all persons register all gun purchases no matter where the purchases are made?"

FEDERAL LAWS CONTROLLING SALE OF GUNS

[In percent]

	1978	1975
Favor	73	73
Oppose	25	24
Not sure	2	3

"Anyone can now purchase a rifle without a permit. Do you feel a permit should be required by law in order for anyone to purchase a rifle, or do you think such a permit is not necessary?"

PERMIT FOR PURCHASING RIFLES

[In percent]

	1978	1975
Permit should be required	73	66
No permit necessary	24	30
Not sure	3	4

"Do you favor or oppose a federal law requiring that all handguns people own be registered by federal authorities?"

FEDERAL LAW REQUIRING HANDGUN REGISTRATION

[In percent]

	1978	1975
Favor	80	77
Oppose	18	19
Not sure	2	4

"Do you favor or oppose a federal law requiring that all handguns people own be registered by federal authorities?"

FEDERAL LAW REQUIRING HANDGUN REGISTRATION

[In percent]

	Own guns	Don't own guns
Favor	71	88
Oppose	27	10
Not sure	2	2

●

CALVARY LUTHERAN CHURCH

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1978

● Mr. RINALDO. Mr. Speaker, I would like to bring to my colleagues' attention an important anniversary that has just been celebrated in the 12th Congressional District of New Jersey, which I represent.

This past Saturday, September 16, marked the 50th anniversary of the Calvary Lutheran Church of Cranford.

Organized by 25 men and women on September 16, 1928, Calvary has grown over the years to a congregation of 816 baptized members. They come from many towns in my area, including Clark, Colonia, Cranford, Edison, Elizabeth, Fanwood, Garwood, Kenilworth, Linden, Mountainside, Plainfield, Rahway, Roselle, Roselle Park, Scotch Plains, Union, and Westfield.

After renting facilities for several years, Calvary purchased part of its present property at 108 Eastman Street in 1936. The present sanctuary and education building were dedicated in 1966.

Over the years, Calvary has been actively involved in its community, and it has a long tradition of dedicated, faithful pastors—extending back to 1929, when William F. Behrens, Jr., was its head. From 1942 to 1951, William F. Niebanck led the congregation, and since 1951 the pastor has been the Reverend Arnold J. Dahlquist. Reverend Dahlquist has been especially active in social reform issues, and he has been ably served by Walter H. Wagner and Gordon L. Huff.

Since the first worship service in the summer of 1928, Calvary has had an active, and devoted, lay leadership, the current president, Douglas Nordstrom, who is a constituent in my district, is a lifelong member of Calvary.

At the same time, the entire congregation of Calvary has set a Christian example for others to follow. It has supported a humanity community program in Newark, and also participated in "we care too." It also helped to relocate and support a Vietnamese family. Additionally, the care corps and charity sewing have given time, talent, and skill to the needy.

A number of staff members deserve particular recognition for their active work at Calvary.

They are Donald Anderson, Judith Anderson, Betty Dahlquist, Elwood Henning, Jean Henning, Erskine Roberts, and Mary Lou Stevens.

Mr. Speaker, the past 50 years have witnessed tremendous changes in our country. During that half century, Calvary Lutheran Church has continued to grow to meet the needs of its congregation and community. But it has always held fast to the example of Christ, and has not wavered in its devotion to serve God.

The members of Calvary have been blessed, and they have shared those blessings with others. I salute them on their 50th anniversary and wish them 50 more years of dedicated and rewarding service to God and humanity.●

THE CORNER HOUSE CHRISTIAN CHURCH IN HUBBARD, OHIO CELEBRATES 150TH ANNIVERSARY

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1978

● Mr. CARNEY. Mr. Speaker, the Corner House Christian Church in Hubbard Township, Ohio, will celebrate its 150th anniversary with a 3-day observance from September 29 to October 1.

The family of Christians, now known as Corner House Christian Church, began in 1828, in the home of Baptist believer Jessie Hall; Walter Scott, an evangelist for the Mahoning Association, spoke to them and urged them to become an independent church. The congregation that met in the Hall home became the Corner House Church of Christ, and adopted and applied the New Testament teachings as its only guide and took "Bible names for Bible things", "the name of Christian for its members", and the slogan "Where the Bible speaks we will speak, and where the Bible is silent we are silent", and strived to restore the Christian way of unity that appeared in the New Testament Churches. These principles are still the core of motivation for the local independent congregation, that for all but 6 of the past 150 years has held services on the corner of Chestnut Ridge Road and Route 7 in Hubbard Township.

At one time, a log house and two frame buildings of the church were destroyed by fire. Today, the congregation with 686 members on its roll, meets in a brick church house, with a parsonage,

a cemetery, and a recreation area to serve the community. The Lord's supper is served every Sunday at both the morning and evening services. Mr. Kenneth W. Sherrod is the minister serving the congregation, along with 7 elders, 10 deacons, 6 trustees, and 11 deaconesses.

During the celebration, Mr. Leroy Garrett, premier historian for the Christian and Churches of Christ, will be at the Corner House Church presenting bits of interesting and humerous church history. On Friday, September 29, there will be an old fashioned "singspiration." Activities for Saturday, September 30, will include: A display of hobbies, crafts, and historical items in the church building; games for people of all ages; the opening of the corner stone which was sealed 50 years ago at the 100th anniversary celebration; and a picnic supper on the church grounds. October 1 is homecoming Sunday, and 50-year members and their families will be honored during the 10:45 a.m. worship service. At 3 p.m., there will be a dedication of the new church sign donated by the Peter Snyder family, and a birthday cake and ice cream to top off a grand 150th anniversary celebration. A special gift will be given to each family attending.

Mr. Speaker, I want to extend my special congratulations and my sincere best wishes, to Pastor Kenneth W. Sherrod, to the 50-year members, and to all the families who worship at the Corner House Christian Church in Hubbard, on their 150th anniversary.●

ILLINOIS BRICK LEGISLATION H.R. 11942

HON. HAROLD L. VOLKMER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1978

● Mr. VOLKMER. Mr. Speaker, today I have placed in the record an amendment to the Illinois Brick legislation, H.R. 11942, a bill amending section 4 of the Clayton Act to permit consumers, businesses, and governments injured by anti-trust violations to recover whether or not they have dealt directly with the anti-trust violator.

The amendment I will offer when this bill comes to the floor, deals only with section 5 of the bill which retroactively applies the act to litigation pending on the date of enactment. My amendment would make the bill applicable to only those cases filed on or after the date of enactment of the bill.

I have serious doubts as to the wisdom of retroactive application. There are two possible constitutional objections to such application. Because the bill would make the so-called pass on defense available to defendants, direct purchaser plaintiffs who have suits pending at this time and have relied on the Supreme Courts 1968 decision in Hanover Shoe are now in danger of having their claims reduced or their suits dismissed. The high costs associated with preparation for antitrust litigation and the punitive damages at stake will, in effect, go down the drain as a result of retroactive application. I believe that a strong argument could be made that this would amount to deprivation of property without due process of law as required by the fifth amendment.

The second constitutional objection raised is that the separation of powers set forth in our constitution is violated by our actions overturning a Supreme Court decision and then retroactively applying our action to those cases pending. We are replacing the Supreme Court's statement as to what the law has been for pending actions under the Clayton Act, and substituting the views of this Congress as to what it feels the law should have been. By applying this legislation to pending actions we are intruding into a role reserved for the judiciary.

Beyond the constitutional objections raised by retroactive application, I believe it is a legislatively unwise policy. Retroactive application of H.R. 11942 would hamper private enforcement of our antitrust laws begun during the period of the Illinois Brick decision. Retroactive application would encourage the reopening of cases settled or dismissed on the basis of Illinois Brick. This encouragement is disruptive to the stability of our legal system.

For these reasons I urge the House during consideration of the Illinois Brick legislation, H.R. 11942, to apply the legislation prospectively rather than retroactively.●

INS COMMISSIONER CASTILLO ON ALIEN SMUGGLING

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1978

● Mr. UDALL. Mr. Speaker, several months ago I introduced H.R. 11581, legislation which would authorize the seizure and disposition of vehicles used to illegally transport persons into the United States. Identical bills have since been introduced in the House by Representatives ASHBROOK and MCDONALD, and in the U.S. Senate by Senators HUDDLESTON and DECONCINI.

This proposal has been endorsed by the chief patrol agents of the U.S. Border Patrol in Tucson, Ariz., and Yuma, Ariz., and by the assistant U.S. attorney for Arizona, Michael Hawkins. In a report printed by the House Judiciary Subcommittee on Immigration, Representative HAMILTON FISH includes this measure as one of the recommendations he made after taking a trip to the border area.

Just before the August recess, Senator DECONCINI chaired a hearing of the Senate Judiciary Subcommittee on Immigration in order to look at this legislation. Testimony was heard from numerous witnesses, including Leonel Castillo, Commissioner of the U.S. Immigration and Naturalization Service. Mr. Castillo expressed his support for this bill, and I wanted to share his comments with my colleagues.

The comments follow:

TESTIMONY OF LEONEL J. CASTILLO

I am pleased to be here this morning to testify in favor of legislation which will allow the INS to impound vehicles used in the smuggling of aliens.

I am sure that you are all aware of the effects of alien smuggling. Not only do a large number of undocumented aliens enter our country through this route, but the smuggled aliens are victimized and brutalized by the professional smuggler. Smugglers often will demand an alien's entire life savings in order to arrange the illegal entry. The smuggling operation may involve cramming large numbers of persons into tiny spaces, false bottoms, or hidden compartments where they must remain without food, water, proper ventilation, or sanitation for many hours. Such inhumane conditions have resulted in the death or serious injury of some smuggled aliens.

In his message to the Congress on immigration policy last summer, the President stated his commitment to smuggling prevention. In response, I created an Office of Anti-Smuggling Activities to coordinate the nationwide anti-smuggling effort.

We now have approximately 106 full time anti-smuggling agents operating in the field, and we will be adding 164 additional anti-smuggling agents during Fiscal Year 1979. The total number of alien smuggling violations presented to United States Attorneys for prosecution during the first three quarters of Fiscal Year 1978 was 32 per cent greater than the number presented for prosecution during the entire Fiscal Year 1977. Even more significantly, the Anti-Smuggling Unit has investigations pending on more than 400 individuals identified as top level participants in major smuggling rings.

Although we have made tremendous strides administratively in the anti-smuggling effort, we are still faced with some persistent problems. One of the greatest of these is the repeat use of vehicles by smugglers. At present, the INS has no authority to impound vehicles used in alien smuggling. As a result, when we make a smuggling arrest the owner of the vehicle may simply claim it from us. Often the vehicle is back in use for smuggling by the next day.

I can illustrate this with several examples from the Chula Vista Border Patrol Sector where our officers have apprehended and successfully sought prosecution of a large number of smuggling rings. A 1978 Ford one ton stake bed truck was purchased on April 14, 1978. On April 18, the truck was stopped with smuggled aliens in it. The owner picked it up from storage the same day, and on April 29, the truck again was involved in a smuggling apprehension. Again, the owner picked it up from storage the same day. The next day, April 30, the truck was stopped carrying smuggled aliens. Perhaps exercising an abundance of caution, the owner waited two days, until May 2, before picking up the truck. Thereafter, the vehicle was stopped and seized by the Customs Service, which does have impoundment authority. In another case, a 1967 Chevrolet pickup engaged in smuggling operations was stopped by INS officers twelve times between April, 1977 and March, 1978.

These are merely several examples of the blatant repeat violations which we encounter. In the Chula Vista Sector, 828 of the 3600 vehicles intercepted while transporting undocumented aliens during Fiscal Year 1977 were repeaters. Nationwide, the repeat rate is about 20 percent. Without new legislation, this "revolving door" phenomenon will continue.

S. 3093 presents a simple and straightforward approach to the problem. The bill amends section 274 of the Immigration and Nationality Act, 8 U.S.C. 1324, to provide for the seizure and forfeiture of any vessel, vehicle, or aircraft which has been, or is being, used in transporting any alien into the United States in violation of law. The bill would apply to common carriers only where the owner or other person in charge was a consenting party or privy to the illegal act. There would be no forfeiture where the owner could establish that the unlawful act was committed by a person who had illegally acquired possession of the vehicle, vessel, or aircraft.

The bill also provides that any conveyance subject to seizure under the bill could be seized without warrant if the seizure were incident to an arrest or the Attorney General had probable cause to believe that the conveyance had been used in the illegal bringing in, transportation, or harboring of undocumented aliens. The Supreme Court appears to view the validity of such a provision as an open question. See *Calero-Toledo* v. *Pearson Yacht Leasing Co.*, 416 U.S. 663, 680 n. 14 (1974). However, at least some lower courts have ruled that, absent circumstances where a warrant would not be required, seizures for forfeiture purposes may not be made without a warrant. *See, e.g., United States* v. *One 1972 Chevrolet Nova*, 560 F. 2d 464, 467–68 (1st Cir. 1977); *United States* v. *McCormick*, 502 F. 2d 281 (9th Cir. 1974); *Melendez* v. *Schultz*, 356 F. Supp. 1205, 1210–11 (D. Mass. 1973) (three-judge court). While other courts have ruled that a warrant is not necessary, *see, e.g., United States* v. *White*, 488 F. 2d 563 (6th Cir. 1973); *United States* v. *Franzolino*, 367 F. 2d 1013 (2nd Cir. 1966), the decisions requiring a warrant in forfeiture situations, absent exigent circumstances or other situations where a warrant would not be required, would cast serious doubt on the constitutional validity of the approach adopted in the bill unless steps are taken to demonstrate that Congress does not intend to authorize seizures beyond those allowed under the Fourth Amendment.

The bill would adopt the procedures applicable in seizure and forfeiture cases under the customs laws. Provisions of the bill would be enforced by officers designated by the Attorney General who would have the same duties and authorities as customs officers for the purpose of enactment of the bill. Proceedings instituted against vessels would be subject to the rules for admiralty and maritime claims.

The Department of Justice has strongly and consistently supported the enactment of legislation of this type. This legislation would increase the costs associated with smuggling operations and thereby decrease the number and size of those operations.

Since I became Commissioner, the INS has made great progress administratively toward more effective and efficient administration of our immigration and nationality laws. We realize, however, that there is a limit to what we can do administratively. Many improvements, although quite simple and desirable, require your support in the form of new legislation. Some of these measures were contained in the INS "efficiency bill" which was submitted to Congress by the Attorney General on June 21, 1978. S. 3093 is another measure which would greatly increase the efficiency and effectiveness of our operations, and is needed in the fight against smuggling. I strongly urge its passage.

Thank you. I would be pleased to answer questions.●

"CITIZENSHIP FOR GUREVICH"

HON. LIONEL VAN DEERLIN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1978

● Mr. VAN DEERLIN. Mr. Speaker, Friday, I introduced a bill to allow Vladimir Gurevich, a marine biologist living and working in San Diego, to be eligible for early U.S. citizenship.

To properly pursue his research in marine mammals, Mr. Gurevich must attend international scientific conferences, yet because of his "stateless" position, and because he left the Soviet Union under a cloud in 1974, he feels it is dangerous to travel outside the United States.

As a Jewish intellectual, Mr. Gurevich experienced discrimination and persecution throughout his life in Russia. The bill would help him complete the transition to his new life in the United States, by allowing him to enjoy the protections of citizenship a year ahead of schedule.

In the following article from the San Diego Union, Mr. Gurevich tells what his life was like in Russia and why he would like to become a U.S. citizen.

INDEPENDENCE SPELLS LIFE FOR RUSSIAN IMMIGRANT

(By Don Learned)

For some 216 million Americans, yesterday was Independence Day.

But not for Vladimir Gurevich.

For him, independence day was April 26, 1974—the nerve-wracking day when he stood harassed in a line at the Moscow Airport preparing to end his life in Communist Russia . . . on his way to beginning a new life in San Diego.

Today, the 39-year-old marine biologist is working in research studies of whales and dolphins at the Hobbs-Sea World Research Institute in San Diego's aquatic playground.

And as Americans celebrated—in their own holiday fashion—the 201st anniversary of their fight for freedom against colonial British rule, Gurevich has time for thoughts of his own on the ideas of freedom and independence.

Personally, they have come to mean that his life is "quieter" and happier—and it's not hard to understand why.

Ever been followed for nine months, footstep by footstep, by a government agent in a war of nerves you can only lose?

Ever been dropped in position from senior scientist to lab technician because you filed an official application the government did not like?

Ever stood in a line on the last day you can leave a country—facing jail if you don't—only to be told the plane is full and you cannot leave?

Gurevich has. The incidents are all part of the Soviet system he grew up into and chose to leave.

He is not bitter or angry towards his former homeland.

He simply says: "The country is great, the people are good and the system is bad."

The words are, in a way, a reflection of his personality, a man almost totally absorbed by his work at the present.

He is a full-time zoologist during the day at Sea World and is studying by night at Scripps Institute of Oceanography for the American equivalent of his Russian doctorate in marine biology.

In build and in his steady prodding manner, he brings to mind the image of the Russian bear symbol, his body reflecting the muscles of the days he was training in hopes of becoming an Olympic wrestler.

"Actually I feel much more quiet, much better," he says of his life in the United States.

So, if one mentions that not many Americans would be thinking about freedom on July 4 and asks if he has any thoughts on the subject, his immediate reaction is one of surprise.

Asked what Americans have got, he begins a rambling response:

"A lot of things.

"Nobody lives like Americans, in any country . . . I've traveled through Europe . . . not there. It's a great country, the richest country in the world . . . there is also great opportunity. . . .

"The system here is much better . . . not perfect . . . much better than Russia. There is no comparison.

"Americans think that dictatorships are more efficient? . . . can you name me any dictator who finished okay. In my mind, democracy is much more efficient than any dictatorship.

"Also, there is individual freedom . . . many things are up to you. You can be successful. But there, even though you are talented, you can be held down."

But none of these is the reason, his wife, Gurevich-Marina, and young daughter, Ilena, left Russia.

The reason is the fifth line of the "passport" that Russian citizens carry with them at all times.

"If it says Russian, or Georgian, or Ukrainian, that's okay."

But Gurevich's said Jewish—in a land where persecution of Judaism is a long-standing tradition.

The first thoughts of Gurevich's leaving the Soviet Union came from his father, a journalist with the Investia newspaper, who once had a good position but later ran into heavy harassment during "Big Joe" time, the Stalin era.

"Yeah, I had trouble through all my life," he says.

"Americans will maybe never understand this point. It was very hard to get into a university. I applied and passed all the tests and was turned down because I was a Jew. The second time I did only A grade and there was no reason to say me no.

"It's also very hard to get a job. In America, when you've got young people, old people coming down to take a job, nobody cares about your nationality. But in Russia, everybody have a passport."

The Moscow-born student earned a degree in biology and began seven years of work in Russia's fur farming industry, studying breeding and other habits of animals.

He later returned to Moscow State University for further study and began working with dolphins in the White Sea and the Bering Sea—a prelude to his work here.

The problems really began when he went to the Foreign Office and applied for permission to leave the country.

"This is very dangerous, of course, because I lose my job. Not completely. Officially they cannot fire you. I was a senior scientist and I become a lab technician. They not fired me, but, how you say, I got a lower position."

Toward the end of the 2½ years he waited for the application to be approved.

"They follow me eight or nine months. They follow me everywhere. I go to movie. Ice house. Every day. Every minute. Everywhere.

"They had a guy who followed me. And I knew him. He knew me. He seem to me he had a problem with his stomach, his ulcer. And I run around all day and he came to me and he say, wait a minute. Let's go get something to eat. And I say, yeah, okay. Let's go."

Why did they do that?

"Just a war with my nerves."

Did they succeed?

"I had two car accidents."

When permission to leave did come, Gurevich and his family had 10 days to pack some possessions—six huge boxes, mostly books.

On the last day, a Friday, they were at the end of the line, waiting from 8:30 in the morning till 2 in the afternoon.

"When I get to the front, they say no, no more space on the plane. I say look, I have long day. I have official visa. This is last day I can stay in the country officially. They say no."

(He found out later that a man who could not leave on his last Friday went back to the Foreign Office on Monday and wound up spending three years in jail for being in the country illegally.)

"They were very simple. Very brief. Very short. They don't care. They have no wish to help. It was a very hard time because I don't know what to do."

What saved Gurevich was that a friend working in the other airport—the one used for foreigners, without lines, without long inspections—somehow got him through customs there.

"I don't know how she did it, how she got permission. I don't know if she got in trouble. It was a unique case for me. I know of no one who has done it that way."

He flew on an Austrian flight to Vienna.

"I find out later there is plenty of free space on the first plane . . . from my friends who went on the plane . . . I met them in Vienna later. The inspectors did not wish to bother."

After looking for work traveling through Europe, he came to the United States in October 1974.

A friend, Dr. William E. Evans, of the Hobbs research unit, was his sponsor for coming into the country and helped get him his job at Sea World. He has been busy there from almost the first day he hit American soil.

He is an authority on the beluga white whale and is studying its behavior at the sea park. He is also doing acoustical studies involving hearing of dolphins.

His wife, meanwhile, has been given creditation to teach at Miramar College and is working to get creditation to teach at the university level.

And in a lot of ways, life hasn't changed that much in the switch between countries.

Gurevich is still highly work-oriented, in the scientist mold, as he was there. Money is about the same more here, but more expensive costs, too. There hasn't been much time for sampling the night life; maybe two or three movies in as many years. He eats pretty much the same food as before.

But Gurevich says there are differences.

"I can work and do whatever I want."

In Russia, attending a foreign conference took nine months of paperwork and approval. Here, though he is not yet a citizen and must go through extra forms, it took only a few weeks.

Nor does he see the same sort of prejudice against Jews he felt there—"not for me, anyway."

He sums it up:

"For me personally, I feel much more quiet, more secure." ●

NATIONAL PORT WEEK—SEPTEMBER 17–23, 1978

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1978

● Mr. MURPHY of New York. Mr. Speaker, yesterday was the first day of National Port Week. The week of September 17–23, 1978 has been proclaimed by the Congress and President Carter as a time when we recognize the vital role our ports have played in making the United States the world's greatest trading Nation.

The legislation, House Joint Resolution 773, was cosponsored by 222 of our colleagues in this body, and Senators INOUYE and CANNON introduced the resolution in the Senate. I thank all of you who joined in this resolution.

I also want to thank the Governors of Alaska, American Samoa, California, Florida, Georgia, Illinois, Indiana, Kentucky, Massachusetts, Michigan, Nevada, New Jersey, New Mexico, New York, Oklahoma, South Carolina, South Dakota, Texas, Vermont, and Virginia. These Governors have issued proclamations inviting the people of their State to join in the observance of National Port Week.

I also especially thank President Carter for taking the time during the Camp David summit to review the legislation, and issue the signed proclamation. A copy of the Executive proclamation follows.

Mr. Speaker, I am also inserting into the RECORD an article from the June 1978 issue of American Seaport magazine entitled "A Dollar Value for U.S. Ports." The article answers the question as to why a special week for U.S. ports.

A PROCLAMATION BY THE PRESIDENT OF THE UNITED STATES OF AMERICA ON NATIONAL PORT WEEK, 1978

Since the days of its early settlement, the United States has been dependent on water transportation for its trade. Populations tended to locate around harbors, which rapidly became the economic centers of the New World. Now there are some 170 commercial seaports in this country, as well as numerous inland ports on our navigable inland waterways. The result has been the creation of a network of ocean and inland ports that includes many of the country's most important centers of industry, distribution, finance, and education.

Ports provide the vital link between land and water carriers. The port industry contributes enormously to the Nation's economy. It facilitates international trade, employs significant numbers of people, provides substantial personal and business incomes, and generates revenues for State and local governments.

Now, therefore, I, Jimmy Carter, President of the United States of America, in order to remind Americans of the importance of the port industry of the United States to our national life, do hereby designate the seven calendar days beginning September 17, 1978, as "National Port Week." I invite the Governors of the several States, the chief officials of local governments, and the people of the United States to observe such week with appropriate ceremonies and activities.

In witness whereof, I have hereunto set my hand this ——— day of September, 1978, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States the two hundred and third.

JIMMY CARTER.

A DOLLAR VALUE FOR U.S. PORTS

(By John M. Pisani)

Since the days of early settlement, the United States has been dependent on water transportation of its trade. Populations tended to locate around harbors, which rapidly became the economic centers of the New World. In just over 200 years, this dependency on shipping and trade has led to the development of some 170 commercial seaports in this country, occupying only 1,650 miles or a mere 3 percent of our national shoreline.

In addition to these coastal gateways, numerous inland ports emerged along navigable waterways as the nation expanded westward. The end result has been the creation of a network of ocean and inland ports which comprise many of the country's important centers of commerce, industry, distribution, finance, education and culture.

Functionally, ports perform the vital interface role of transshipping cargo between land and water carriers. But their essential reason for being is to further the economic development of their surrounding communities through the provision of jobs, income and tax revenues. Thus, U.S. ports uniquely mirror the economies of the regions they serve. They are sensitive to population and industrial growth, to raw material patterns and to government policy. They serve, but do not in themselves create trade.

LIMITED INFORMATION

Although most people have been generally aware that the ports mean much in the nation's economic life, no one could say how much in definitive terms. The extent of available information concerning the annual amount of economic activity generated by the U.S. port system has been limited to the knowledge that the industry:

Handles over 1.7 billion tons of waterborne commerce valued in excess of $200 billion;

Contributes over $5 billion to the U.S. Treasury in Customs collections and $1 billion to the Balance of Payments; and

Invests some $300 million in marine terminal development.

The recent completion of the first nationwide economic evaluation of the U.S. port industry for the Maritime Administration under a two year research and development contract to let the Port Authority of New York and New Jersey has filled this information vacuum. The analysis was accomplished through the creation of an input (purchases)—output (sales) model with data supplied by the Commerce Department's Bureau of Economic Analysis.

The Maritime Administration study demonstrates in quantifiable terms the extent to which the nation's economy relies on the port industry. It shows that the total direct and indirect impact of the industry in terms of its sales of services to its users—domestic and foreign shippers, and passengers, and private and government customers—was approximately $56 billion in 1977. This means that the total impact of U.S. ports on the economy averaged about $153 million per day during last year.

These figures are quite distinct from the "value added" to gross national product. Using the value added concept, which omits cumulative resale values, the port industry's total contribution to GP in 1977 was approximately $30 billion or $82 million per day.

INDUSTRY IMPACT

The Port Authority research team also found that the industry was directly and indirectly responsible for:

1,046,800 jobs, or one job in the national economy for each 600 tons of foreign waterborne commerce handled through ports;

Personal income of $19.2 billion;

Business income totalling $7.4 billion;

Federal taxes of $10.4 billion; and

State and local taxes amounting to $4 billion.

International traders are by far the best customers of the U.S. port industry. In 1977, some $32 billion of port revenues was generated from the industry handling of waterborne exports and imports. This meant that each ton of our foreign trade cargo moved last year produced port revenues of $44. Application of the 1.6 multiplier generated for the port industry by the input-output model meant that each ton contributed direct and indirect port revenues of $70 to the U.S. economy in 1977. (The model gave a multiplier of 1.6 for the chain reactions initiated by all purchases for port industry operations throughout the nation. This meant that each dollar of sales to the port industry produced $1.60 in sales within the economy. This consisted of $1 direct sales plus 60 cents of indirect sales.)

The findings reported in the Maritime Administration study dramatically show that the port industry in the United States is a vital part of the national economy, not only because of its strategic function in assuring the flow of cargoes, but also because of the chain of economic activity that it generates. Its services to the economy in terms of sales, purchases, jobs, income and taxes are on a par with those of other major industries. The dollars that continuously flow into and out of the port industry affect in some way each and every industry in the economy.

Who has been responsible for the development of U.S. ports as valuable assets to the national economy?

Shoreside port development in the U.S. traditionally has been carried out by both public and private interests. Public port authorities, functioning under cities, counties, and states, are the primary developers of transfer facilities for handling general cargo. At some ports, such as in Charleston, South Carolina, port authority staff operate marine terminals while at others, such as in New York, the port authority acts strictly as a landlord and leases all facilities to private terminal operators.

On the other hand, bulk facilities, particularly for petroleum, are predominantly owned and operated by private corporations as an integral part of their total production to consumption physical distribution system.

AUTHORITIES DOMINATE

Municipal and country authorities still are the dominant form of local public port administration. They are centered mostly on the Pacific, Gulf and Great Lakes coasts. State port agencies, on the other hand, are concentrated mostly on the East Coast, particularly in the South Atlantic.

Although creatures of government, public ports engage competitively in commercial enterprise. This public utility/private business role has allowed public ports to respond more quickly to shipper service needs while at the same time attracting economic development to local communities.

Except for some federal grant programs with non-port related objectives, public ports must depend on reinvestment revenues and/or bond issues for financing expansion programs. This public sector of the port industry owns nearly 50 percent of some 2,000 deep draft marine terminals with a total investment, since 1946, of approximately $4 billion.

The existing concept of the public port authority, therefore, with all its diversity of structure and mission, has proven its value consistently in the past. The necessary new terminals and services have been developed to accommodate expanding trade and modern ship types.

These landslide port development activities of local public agencies are basically matched by the Federal Government on the water side. The U.S. Army Corps of Engineers constructs and maintains all main shipping channels while the U.S. Coast Guard provides navigational aids and oversees port safety.

MARAD ROLE

The Maritime Administration is the third major federal organization that contributes to the development of the U.S. port capabilities. It is the federal port promoter, planner and technical adviser in peacetime and the federal port controller in time of national emergency.

Beyond these three agencies, there are some 50 other federal bodies that carry out responsibilities impacting on ports. All of these agencies basically have non-port related goals and objectives, but influence the course of port development. For example, there are: regulatory agencies such as the Environmental Protection Agency, the Federal Maritime Commission and the Occupational Safety and Health Administration; inspectional agencies such as U.S. Customs, Agriculture, Public Health, and Immigration; and promotional agencies such as the Commerce Department's Industry and Trade Administration, Economic Development Administration and National Oceanic and Atmospheric Agency.

This fragmentation of federal port-related activities mirrors the uncoordinated policy towards ports in this country. This does not appear to be in concert with the traditional non-Federal Government towards ports embodied in Article I, Section 9 of the Constitution, which states in part ". . . No preference shall be given by any regulation of commerce or revenue to ports of one State over those of another . . ."

This initial statement of federal port policy has been continually reinforced by subsequent Executive and Congressional actions supporting non-federal involvement in the development of shoreside port facilities. Thus, unlike many foreign trading nations, such as the United Kingdom, Canada, Japan, France and the Netherlands, for example, who centrally plan, develop and finance their ports, the U.S. port industry has attained its current state of development without federal master planning and financial aid. This autonomous capability to respond rapidly and take risks on new technology at the local level in a competitive market has been the U.S. port system's cornerstone.

Dramatic technological improvements have been made in ocean transportation of general and bulk cargoes in the last 15 years. The advent of intermodal containerships, roll/on-roll/off carriers, barge-carrier vessels, supersized crude tankers, combination bulk ships, liquid natural gas carriers and slurry vessels are but a few examples. Each of these developments has had a significant impact on transforming a highly labor intensive port industry, characterized by low productivity and high operating costs, into a highly capital intensive, increasingly automated, and more productive segment of the total ocean transportation system.

SHORESIDE EFFICIENCY

U.S. port management recognized clearly in the sixties that the efficiency of terminal facilities and cargo transfer methods must keep pace with vessel productivity increases, if the full benefits of new high technology shipping in the form of reduced total system cost were to be realized.

Resolution of the broad range of major issues and problems, however, currently facing U.S. ports will result in additional changes in technology, trade and government policy that will require continued industry adaptation in the future.

Cited here are a few of the industry's expressed concerns.

1. Federal Control. The industry is opposed to any federal assumption of its marine terminal development role.

2. Excessive Regulation. There is a definite need for better balance between environmental protection and economic development; better integration of port development requirements into state coastal zone management planning; and better and more timely processing of construction and dredging permits by government at all levels.

3. Facilities Cost and Funding Crunch. U.S. ports are caught in a financial cross current of increases in facility costs, due to capital intensive technology, inflation, impact of mandated government regulations, local sharing of federal waterway projects, etc., and a growing scarcity of local funds to meet these increased costs.

4. Labor Stoppages. Ports are most frequently affected by waterfront strikes although rarely directly involved in disputes. This is one of the few times, when ports gain the public's attention.

5. Waterway Development. There is a need for a consistent federal policy toward waterway development, standardization of evaluation criteria, availability of adequate dredging equipment and opposition to user charges.

6. Deepwater Ports. A clear federal policy is needed on the development of deepwater ports to handle very large crude carriers and its relationship to a federal energy policy.

7. Free Trade. Ports support the maintenance of a free trade policy and oppose protectionist measures.

8. Regulatory Jurisdictions. There is a need to resolve the FMC and ICC overlapping jurisdiction dispute relative to ocean and inland rates because it has discouraged development of international, intermodal transportation.

9. Panama Canal. Ports seek assurance of a stable rate structure and continued access by international shipping.

WHAT'S IN STORE

What of the future? What can the port industry expect to happen in the remaining years of the twentieth century?

Improvements in vessel productivity will continue to be made and these will further stimulate the need for new or improved port terminal design and operation.

Much of the stimulus for this continuing development will come from the steadily growing volume and changing nature of U.S. foreign trade itself, which currently amounts to over 800 million tons annually. Maritime Administration forecasts indicate that this volume will increase to over 1.4 billion tons annually by the year 2000.

Therefore, increased demand will be exerted on vessel operators and public ports to achieve further productivity increases to hold down the costs of shipping the projected growth in general cargo and bulk commodities. This translates into a steady pressure for new technology to increase the speed and efficiency with which these cargoes can be moved.

Thus there will be a clear need for further port development in the United States to handle the future volume of waterborne commerce. Because of the large scale increases in cargo throughout, however, brought about by advanced port technology, additions to marine terminal capacity are likely to be more incremental than quantum.

Facility costs, however, will rise due to continued high cost technology, inflation and mandated governmental requirements and be accompanied by narrow financial margins for port bodies to absorb these increased costs.

Increased port development funding from state and local governments to cover deficits that future facilities may incur will continue to be more difficult to obtain, because competition for limited local monies with other public priorities of the urban and state environment is likely to remain severe.

Therefore, public ports will be required to assume a more "pay as you go" position depending more and more on the reinvestment of port earnings for development purposes and the most efficient use of other financial resources. Depressed port usage charges over time will have to become more remunerative to cover facility costs and increase revenues.

FEDERAL IMPACT

Federal aid for shoreside port development is another possibility. Until recently, U.S. ports have staunchly resisted any concept of federal assistance, fearing that it would lead to federal control and restrict the competitive structure of the industry. But this attitude is changing as more and more individual public ports apply for and receive funds from a diverse number of non-port related federal agencies. This type of federal aid, while it may not *per se* diminish local control of port development, is and will continue to impact on the competitive relationship of ports.

It is not my intention here to debate the relative merits or problems associated with federal assistance to ports. Suffice it to say, however, that the port industry in the future must come to grips with and place in proper perspective this question of more or less federal involvement in local marine terminal development.

Similarly, the Federal Government will continue to play a major role in several highly sensitive and extremely non-revenue producing areas of local ports. These include coastal zone management, waterfront renewal, marine fire protection, harbor traffic control, pollution control, cargo security, and waterfront labor productivity, stability and safety. Most of these areas constitute matters of significant public interest not easily absorbed into the business approach of local public port agencies, yet nevertheless needed and of a port nature.

The port industry, with one hand, has pressed the Federal Government into resolving these problem areas, but with the other, has performed a delicate balancing act to keep the government from intruding into the historical preserve of the public port agency, namely, marine terminal construction and commerce development.

These latter two limited areas were appropriate for the close of World War II when they constituted the dominant port needs at that time. It doesn't appear that this approach, however, can be sustained indefinitely in the future. Unless the public port industry changes its posture, it could ultimately cease to be the caretaker of the nation's ports, which would in my opinion be an unfortunate situation.

SLOW CHANGE

The Federal Government role in waterway development is not likely to change dramatically in the foreseeable future. By the end of the century, some major seaports may have federally constructed shipping channels of 50 feet or more. Private or state-owned offshore deepwater port facilities should be operating on the Gulf and Atlantic coasts by that time.

It is only a question of time and type before users of the inland waterways will have to start paying a fee. Great Lakes shippers have been paying user charges since the St. Lawrence Seaway opened in 1959. Attempts will continue to be made to extend user charges to deep draft ports and harbors on the other three coasts.

Before the end of this century, an effort will be made to establish a cohesive national port policy and to consolidate the major federal port related agencies to enforce the policy and deal on a more unified basis with port matters.

Coordinated port planning on a regional basis is, I believe, a necessity for today's strong public concern for the protection of the environment. The growing trend for public ports to amalgamate themselves into large groups for planning purposes will continue to gain momentum. I believe some elements of the port industry recognize that this is essential if they are going to compete effectively for local and state monies. It is clear that as resources become more scarce in the future, port planning becomes more important and must adopt as broad a viewpoint as is possible, to be truly effective.

The American port industry is a national asset. It has a proven track record. I believe it will continue to grow to meet the expanding needs of the nation's waterborne commerce as well as enhance the economy.●

PEACE AT CAMP DAVID

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1978

● Mr. RANGEL. Mr. Speaker, this evening's address by President Carter before a joint session of Congress is one of those unique moments in history when a peaceful and amicable solution to a long and bitter armed confrontation is within our grasp.

The President must be praised for his courage and ability in bringing these two confrontation states together at a time when all the world was prepared to concede that the spirit of the Sadat initiative of late last year had been lost. The achievements at Camp David take on an even greater significance when one realizes that the parties came together without any prior commitments on the nature of the talks and the extent that each side was prepared to compromise in order to reach an agreement.

It must not be forgotten that the political risks for both Prime Minister Begin and President Sadat were and are great.

Because of the highly emotional nature of the issues involved, both men had to realize that were their efforts to be successful they would incure severe criticism from some of their closest friends and supporters.

Yet the achievements of Camp David clearly show that both Sadat and Begin were and are sincere in their desire to achieve peace, no matter what the risk.

We can now only hope and pray that the achievements of Camp David will culminate in an overall peace between all the parties who have had to suffer during the past 30 years.●

MIA SIGHTINGS—VI

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1978

● Mr. DORNAN. Mr. Speaker, during the past several days, I have been inserting documents into the RECORD, letters from Vietnamese refugees concerning sightings and other relevant information on American personnel listed as "Missing in Action" in Southeast Asia. I have been exchanging these letters with the Defense Intelligence Agency in order to have the information contained within them investigated and, if possible, verified. Once again, I cannot stress enough the importance of Members of this House refraining from a premature acceptance of the view that the American personnel listed as "Missing in Action" ought to be presumed dead.

It is my firm conviction that we are approaching an informational threshold on this entire question. If the testimony of Ngo Phi Hung, that he saw 49 living Americans in Vietnam, is upheld in its integrity after a thorough analysis of the Defense Intelligence Agency, then we may assume that other testimony, such testimony as is found in letters and oral reports from Vietnamese refugees, is likewise true. These reports keep coming in increasing numbers. They are to be thoroughly sifted by competent authorities.

We should also pay attention to corroborating evidence.

For example, recently members of my staff interviewed a 75-year-old Vietnamese refugee living in Maryland, Mr. Pham Huy Giang, formerly a public works engineer under the South Vietnamese government. Giang claims that, late in 1975, he visited a Communist "victory" exposition in Gia Long Palace in Saigon where the Communist had on display photos and identification cards of pilots who had been shot down in the air war over Vietnam.

There were, in the words of Giang, at least 1,000 of these cards, including photos of wives and children, scattered randomly over a large table at the "victory" exposition. Accompanying the exposition of the military identification cards and photos, was the inscription: "Here are the photos and identification cards of Americans we have captured after their planes went down." Unfortunately, Giang said, there was no indication of whether these documents belong to men who were alive or dead.

I would only say this, Mr. Speaker: If the Communists in South Vietnam were to obtain and keep the identification cards and photos of so many men, then they must have some idea where these men are, or were, located. It is not easy to believe that a Communist regime, otherwise so methodical, would fail to keep accurate records. Again, Mr. Speaker, I am perfectly willing to admit that my assessment of the situation may be in error. But, this is where the Vietnamese Communists must be forthcoming. This is where we can effectively discuss the long-

term future of our relations with Vietnam in a fruitful fashion. We cannot pass up the diplomatic opportunities that we are now afforded. But the central issue must remain the status of those Americans listed as "Missing in Action" in Vietnam and elsewhere.

Consider the conditions. According to the testimony of the Members who visited Vietnam with Mr. MONTGOMERY, Vietnam's economic situation is chaotic. There are food shortages. There is a great need for outside assistance in the form of technical and agricultural assistance. We have been told that Vietnam faces serious diplomatic and political problems with China to the North and Cambodia to the West. We know that the Vietnamese are having grave difficulties. A normalization of relations with the United States would certainly be in Hanoi's best interests.

If Hanoi could turn up live Americans, I do not see how the United States could fail to move in a positive direction on the question of normalizing relations and related, outstanding problems. It would be the very best foundation for forgetting the past, and finally, putting the dark memories of the Vietnam war behind us, once and for all. That, I am sure, would also be in the interests of the regime in Hanoi.

I say this, Mr. Speaker, because there is reason to believe that Hanoi may not, in fact, have as much control over the situation as many of us might assume. On September 15, 1978, I inserted a copy of a letter from a refugee who claimed that 30 American POW's—along with their Vietnamese guards—were gunned down by Cambodian Khmer Rouge forces in the region of Bokor Mountain, Kapot Province, in November or December of 1974. There is also some evidence of stubborn resistance by certain Communist elements in South Vietnam who, for a number of reasons, refuse to politically unite with the Hanoi regime. These dissident South Vietnamese forces may also be holding living American prisoners of war, captured during the fighting with American troops in the long course of American involvement in South Vietnam. Again, it is an area where Hanoi may not have direct control, but the Vietnamese Communist regime could certainly exercise leverage over their former allies, if such is the case, and secure the release of any living Americans.

Once again, I hope and pray that the Vietnamese will be forthcoming on this issue. And, finally, we may put our minds to rest.●

SEVENTY-FIVE YEARS OF OUTSTANDING COMMUNITY SERVICE

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1978

● Mr. STARK. Mr. Speaker, on September 29, the Plumbers and Gas Fitters Union, Local No. 444, will celebrate the 75th anniversary of its organization in Alameda County, Calif.

For the past 75 years, Local No. 444 has played an active and important role in the development and building of industrial, commercial, residential, utilities, marine, and environmental projects throughout Alameda County. The union has worked diligently and successfully to secure decent wages, working conditions, and health and retirement benefits for its members. Local No. 444 has also pursued social goals through its active participation in the local, State, and Federal legislative and political process. Today, under the leadership of business manager George A. Hess, Plumbers and Gas Fitters Local No. 444 has a strong affirmative action program and is helping to open the doors to steady employment for minorities and women wishing to enter the construction industry.

I know that my colleagues join me in congratulating the Plumbers and Gas Fitters Local Union No. 444 for 75 years of outstanding service to laboring men and women in Alameda County.●

MY FINANCIAL STATEMENT AS OF DECEMBER 31, 1977 FOLLOWS

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1978

● Mr. DOWNEY. Mr. Speaker, in keeping with a practice I began in 1975, I am publishing my financial statement for 1977. I believe that public officials have an obligation to make a full financial disclosure in order to have on the public record the sources of all income, and taxes paid so that no question as to self-enrichment or conflict of interest can ever arise.

INCOME FOR 1977

Salary—U.S. House of Representatives	$54,275.00
Other income:	
Honorariums	2,833.00
Mileage reimbursement	114.00
Total income	58,212.00
Less Business Expenses Non-Reimbursable	8,380.00
Adjusted Gross Income	49,832.00
Itemised Deductions:	
Medical	120.00
Taxes	6,481.00
Interest Expenses	58.00
Contributions	195.00
Miscellaneous Congressional Expenses	2,902.00
Grant to Travel & Study Foreign Programs (included in AGI under Honorariums	2,648.00
Net adjusted gross income	37,428.00
Less Personal Exemption	750.00
1977 Taxable Income	36,678.00
Federal Income Tax Paid	11,790.00
New York State Income Tax Paid	4,456.00

Statement of net worth, December 31, 1977.

Assets:	
Cash value, congressional retirement system	11,035.77
Personal Property (approximately)	10,000.00
Liabilities: None.	
Total assets	21,035.77

I have no outside business interest, and no connection with any business entity, except in an honorary capacity, that does business with the Federal Government, or subject to Federal regulatory agencies.●

MANOLO REYES

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1978

● Mr. PEPPER. Mr. Speaker, I would like to call the attention of our colleagues to a recent article dealing with Cuban-Americans which appeared in one of the top Canadian news magazines MacLean's.

Dr. Manolo Reyes, who was interviewed in the article, is a dear and close friend who is deeply involved with the plight of Cubans living in the United States. Dr. Manolo has led numerous attempts to combat communism in Cuba through legal political means and has aided thousands of Cubans who desired to acquire American citizenship. His many appearances before Congress have resulted in a greater understanding of the pain, anguish, and expectations which exiled Cuban-Americans feel. I insert this article at this point in the RECORD:

THE ENEMY GROWS OLDER

(By William Lowther)

Manolo Reyes pushed a loaded .38 across his desk. For a man with his name on a death list he looked awfully confident. "Do you think they'll take me easy?" he asked. A macho gesture, a touch of cowboy. But the atmosphere in Little Havana that has convinced him to carry a gun is real enough. At 54, the laugh and worry lines mingle in his face. He speaks with a lilting Spanish accent:

"The killings began about four years ago. It was a Good Friday. Jose de la Torriente was the first one. He was an old man. They shot him in his own house and left behind a list of 10 names. Since then, six of the men on that list have been assassinated. A seventh committed suicide. An eighth had his legs blown off. There is only me and one other left on the hit parade. No one has been caught. But all of us, all the men on the list had only one enemy—Fidel. And he has agents here."

"Here" is Miami, specifically the huge Cuban ghetto known as Little Havana, home to more than half the 700,000 Cubans who live in exile in the United States. They have been described as the best-trained army of terrorists in the world today, and they possess an enormous potential for violence against the detested Castro regime and its supporters. They have been here for 18 years, since they fled or were forced out when Fidel Castro led his ragged rebel troops down from the Sierra Maestra hills to turn their island into a Communist stronghold. And not since the death of John F. Kennedy (in which some suggest they played a sinister role) has anyone in a position of real power considered the exiles to have any chance

to return, victoriously, to overthrow the "dictator."

At one time nearly 60 per cent of the Cuban men in the Miami area were in the pay of the Central Intelligence Agency (CIA) and received intense tuition as guerrilla fighters. But that connection ended years ago—they have been on their own for a good decade, their violence and hatred smouldering. They are fiercely anti-Communist, bursting with rage against Castro. The years of frustration since the disastrous Bay of Pigs fiasco, the abortive, CIA-backed attack on Cuba in 1961, have blinded many of them to reason.

But now, curiously, this society in microcosm believes again that it has a part to play in international affairs. It believes that Castro is overstepping the boundaries of his power, at home and abroad. The Cubans in exile say that not since the early '60s has the time been more opportune to strike out again against the man they call, with bitter familiarity, "Fidel."

There are dozens of factions and groupings among the exiles, but basically they fall into two schools. One, led by men like Manolo, wants to combat the Communists through strictly legal political means—through Washington, the United Nations, the World Court. Others believe that diplomatic pressure is a waste of time. They want to attack the Castro regime at home and abroad with violence. They have formed a "secret army" which has conducted literally dozens of bombings against pro-Castro targets. They have kidnapped and murdered Cuban officials. They have blown up an airliner, killing all aboard, and they have launched flotillas of highly armed speedboats to harass Cuban and Soviet shipping in the Caribbean. Even now four men are waiting to stand trial on charges that they violated the U.S.-Cuban neutrality laws by preparing "a military and naval expedition" against the territory and dominion of the Republic of Cuba.

This summer coincidentally, through a set of unrelated circumstances, both the violent and the nonviolent factions in Miami have fresh hope for damaging the Castro regime. They see new ways emerging for them to influence events.

The bearded revolutionary has become vulnerable, they say, as a result of his adventurism in Africa. Cuba, by most estimates, now has well over 40,000 soldiers on that continent. For a poor albeit well subsidized country with fewer than 10 million people, it is a huge commitment to foreign wars from which the only gain is likely to be a spurious ideological nature. Allowing for the difference in populations, the Cuban venture is on the same scale as the United States' in Vietnam in 1968. It's fair to say that every Cuban family has a relative or at least knows a soldier in Africa.

Not surprisingly, this is leading to a good deal of quiet dismay and uneasiness at home. At least that is what the exiles in Miami believe. The intelligence they receive from relatives and sources back on the island indicates that dissatisfaction is growing. But there is no obvious pressure to "bring the boys home." This is partly because the Communist system is well enough organized to stamp out the fires of rebellion before they catch hold, and partly because of high unemployment at home. Work is scarce and Africa is a chance for promotion and equality. Most Cubans are mulatto or black yet nearly all the top jobs in Havana are held by whites. Colored soldiers, especially junior officers, are far commoner in the units in Africa than in the Cuban forces as a whole. Thus race plays its part.

In the back bar of Centro Vasco, Little Havana's classiest restaurant, a Bay of Pigs veteran explained: "You see Fidel, he has this charisma. He is a genius. We don't deny that. A genius, but an evil genius. He holds the people under a spell. The spell could be broken by his death. There is no one of stature to succeed him. No one can take his place. If we could kill him now it would be possible to rally the people to revolt. With all that is happening in Africa, the time is right for action. We must let the Cuban people back home know that we are still ready and prepared to help them."

The world is a very different place viewed from the neat, narrow streets of Little Havana. Ideals that seem absurd elsewhere take on new reason when explained over *café cubano* in the crowded sidewalk bars. You can easily believe that you are in the real thing, the real Havana, and forget that it's a transplant. Virtually no English is spoken in the shops and cafés. The Spanish culture thrives. Stores with statues of saints, stone-studded crosses and religious paraphernalia flourish. Old men gather in dusty little squares to play dominoes. The gourmets agree that little Havana restaurants serve Cuban food superior to those "back home." Black bean soup and variations on paella are the specialities.

Back of the main street—the Tamiami Trail—are bright rows of white and pastel stucco houses. There is a safe and secure air. It looks like a good place to bring up the kids. It's hard to believe that it's also a hotbed of plots, counter-plots and conspiracy. But it is.

For the last few months, a fragile peace seems to have fallen over the area. There have been no bombings, murders or kidnappings in the Cuban community. The list with Manolo's name on it would appear to have been put on the shelf. And the state and federal anti-terrorist squads who keep a close watch on the community believe they know why it's so quiet. In off-the-record talks, police officers acknowledge that Castro does indeed have agents in Miami. They were all working—Manolo still is—to tackle Castro through such international organizations as the UN and World Court. Those who favor terror tactics see what might be called the "Manolo faction" as a waste of time, a hindrance. They want to discourage that approach at any price.

Eighty per cent of the 100 and more bombings and killings in the Miami area since 1974 remain unsolved. Congressional hearings, grand juries and the like have been markedly ineffective. However, when arrests are made or convictions handed down, the persons involved turn out to be known members of the community with long records of anti-Castro activity. So the current full in terrorism has been caused, the police believe, by two factors. First, several exile leaders with records of violence are now awaiting trial on a variety of terrorist charges and police say their sympathetic colleagues are lying low so as not to prejudice the cases. Second, and equally important, there are indications that the pro-attack group is concentrating its efforts directly against Cuba, 110 miles away. Buoyed by the belief that the people are fed up with Castro's Africa policies, the exiles want to make the most of what could be a passing opportunity.

"I really would put absolutely nothing past them," says one leader of the state's anti-terrorist squad. A Cuban himself, he adds: "These people are very intelligent and quite fanatical. They are prepared to lose their lives, to become martyrs for the only cause that means anything to them."

Their record is quite extraordinary. The four men now awaiting trial on charges of violating American neutrality laws—Armando Lopez Estrada, Pedro Gil, Juan Arce and Isidoro Pineiro—were arrested after police found weapons cache and three powerboats they said were to be used in a naval raid on Cuba. Among weapons in the haul: a 20mm cannon, a 50-calibre machine-gun, a 30-calibre machine-gun and five AR-15 automatic rifles. They have claimed that in conducting raids on Cuba they were "pursuing a legitimate goal of the U.S. government." The prosecutor in turn argues that the United States does not sanction private armies. "Fifteen years ago, perhaps, the U.S. did give approval for raids," he said. "Now there is no authorization and this amounts to a recruitment of a private or secret army." It is reflective of the atmosphere and mood of Miami however that up to this point the legal system, as applied locally, has tended to work in favor of the Cubans and turn a blind eye to raids into the Caribbean. Even now the betting is that the four will eventually have their case dismissed on some legal technicality.

The naval expeditions are aimed at keeping the Cuban authorities disturbed and on edge. A couple of random examples: On February 12, 1976, when the Soviet freighter Dzhordano Bruno was sitting motionless 35 miles off Cuba's north coast, a small boat raced up and raked it with heavy machine-gun fire. The Soviets said no one was injured. About two months later, two Cuban fishing boats were similarly attacked. This time, one fisherman was killed.

But it is the exile community's more visible acts of terrorism that get the publicity. Perhaps the most noted came in October, 1976, when a Cubana airliner was sabotaged en route to Cuba from Barbados. Seventy-three people were killed.

But as the police point out it's not just those who serve Castro but also those who oppose terrorist actions in general who fall victim to the renegades. Emilio Milian, news director of Miami's most popular Spanish-language radio station, had his legs blown off when he turned on the ignition of a car—shortly after broadcasting an editorial pleading for an end to terrorism. It happened two years ago but although several known terrorists have been questioned (one of them failed a lie detector test) no one has been convicted.

Leaders of the terrorist bands are hard to identify. However a pediatrician, Dr. Orlando Bosch, has emerged as a major figure. He was caught firing a bazooka at a Polish ship in Miami harbor in 1968 and was sentenced to 10 years in prison. Released on parole after four years, he returned to the movement and is now under arrest in Venezuela charged along with three other men in connection with the Cubana airliner bombing.

Many of the pro-violence Cubans have connections with the Bay of Pigs Fighters Association Assault Brigade 2506, formed by invasion veterans. To a man they are fiercely anti-Castro.

In a dimly lit bar just off a Little Havana side street, two of the men who once worked for the CIA and conducted raids against Cuba talked into the early morning hours recently about their hoes. Roberto Carballo—a dramatic dashing individual with thick black wavy hair, shirt opened to show an ornate silver cross—said: "I don't believe that the present Cuban regime can exist without Fidel. He controls everything. If he were gone, if he were killed, all that he has done would crumble. Have you seen the pictures of him lately? He has a big fat paunch now. And he is one of the biggest liars alive. I was at the Bay of Pigs invasion. I was the only member of the brigade to escape after we were captured. You know there were only 1,260 of us landed, 106 were killed. Fidel said that we killed only 92 of his troops but that was a lie. We killed about 800 of them. I myself saw them carrying the bodies away in trucks."

Urbano Menendez, a big man with a gentle face, added: "It is so easy to fight Fidel in Miami. All you have to do is talk about it and nothing else. But it will be another thing if the real chance is presented again for us to invade the island. We are always asking ourselves how many of the Cuban men here would really stand and fight. Of course it depends on who blows the horn. In the end you can only really know for yourself. Many of our people have done very well in America. They are successful and wealthy businessmen. Would they give that up to go back to Cuba? We can't turn back the clock. Things have changed a great deal."

Indeed. Things are still changing. Manolo Reyes put away his gun. We were talking in his plush little office—refrigerated bar and mirror-fronted desk—on the third floor of the hospital where he works as vice-president in chage of communications and patient relations. A self-promoter, he has testified 12 times in the last eight years before Congress as a "leader of the Cuban community in exile."

His schemes for bringing down Castro through complex arguments and unlikely power plays in Washington and New York are trotted out with over-practised fluency. It's not from these dubious ploys that Manolo will ever hurt Cuba, rather it's from one of his other pursuits—the welfare of the exiled community. For he has led a drive to persuade the patriotic Cubans to take out American citizenship. "I decided that as a special tribute to the United States I would convince my brothers to become Americans. Does this mean we are renouncing our roots, our country, our history? No, you love and always will love the mother who gave you your body and soul, but you also love the woman who helps you raise your children. You cannot compare them. Cuba is our mother, America is our wife."

In 1976, when Manolo started his drive, 30,000 Cuban exiles became Americans. Last year another 22,000 took the oath of allegiance. This year at least as many are expected to follow suit. The result is that for the first time since they went into exile the Cubans have become a voting political force. They are gathering clout in Congress. Their ballots can be relied upon to elect anti-Castro candidates who will, through the committees and caucuses, fight against any Washington-Havana reconciliation and recognition.

It is at least partly as a result of a national sentiment against Cuban troops in Africa that President Jimmy Carter is now taking the hardest line of his own administration to label the island as a Soviet satellite totally under the Kremlin's thumb. In so doing, Carter has rejected the friendship overtures Castro has been making with increasing frequency this year. This latest development has come as a sweet relief to Little Havana. For the president started his regime with moves towards Cuba. Diplomats were swapped, treaties signed, agreements reached on fishing and freedom of passage. Now, with the impasse over Africa, relations again look ready to slump.

Last word from Manolo: "The Cuban people are not Communists at heart. What are Cuban boys doing fighting in Africa? Cuba is famous for rum, the conga and maracas. We are not warriors."

A FRAMEWORK FOR PEACE

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1978

● Mr. ANDERSON of California. Mr. Speaker, the peoples of the United States, Israel, Egypt, and the world, received truly wonderful news last night. Thirteen days of effort at Camp David have borne fruit. A framework for peace in the Mideast has been agreed to by the leaders of two countries that have been at odds for 30 years.

I imagine most of us have now seen the photograph of Prime Minister Begin and President Sadat embracing, with President Carter applauding at their side. All three of these leaders deserve our applause. They have been working hard at bringing peace to a region of the world that is of such great importance to us. There can be no more worthy endeavor.

Let us not mistake these accords for a final peace agreement. They are not. But we are certainly nearer to such an agreement than we were a month ago. For this we can all be thankful, and say to Messrs. Begin, Sadat, and Carter, "Congratulations, gentlemen, on a job well done." ●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, September 19, 1978, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 20

9:00 a.m.

Agriculture, Nutrition, and Forestry
Nutrition Subcommittee
To hold hearings to examine the curriculum offered by medical schools in nutrition education.
1318 Dirksen Building

Judiciary
Administrative Practice and Procedures Subcommittee
To resume hearings on S. 2011, proposed Regulatory Reduction and Congressional Control Act.
2228 Dirksen Building

10:00 a.m.

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Finance
To continue markup of H.R. 13511, to reduce income taxes.
2221 Dirksen Building

2:00 p.m.

Commerce, Science, and Transportation
To hold hearings on the objectives a national tourism policy should seek to achieve.
235 Russell Building

Conferees
On S. 2640, to reform the Civil Service laws.
S-146, Capitol

2:30 p.m.

*Human Resources
Labor Subcommittee
To continue hearings on S. 3060, proposed National Workers Compensation Standards Act.
4232 Dirksen Building

3:00 p.m.

Conferees
On H.R. 15, authorizing funds through FY 1983 for elementary and secondary education programs.
EF-100, Capitol

SEPTEMBER 21

9:00 a.m.

Judiciary
Constitution Subcommittee
To resume hearings on S. 1845, to prevent unwarranted invasions of privacy by prohibiting the use of polygraph type equipment for certain purposes.
5110 Dirksen Building

9:30 a.m.

Environment and Public Works
To hold hearings on the nomination of Richard M. Freemen, of Illinois, to be a Member of the Board of Directors of the TVA.
4200 Dirksen Building

Judiciary
Antitrust and Monopoly Subcommittee
To resume hearings on conglomerate mergers and their effect on the economy, on a community, and on employees.
4232 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs
To hold hearings on the use of export controls and export credits for foreign policy purposes.
5302 Dirksen Building

Commerce, Science, and Transportation
Business meeting on pending calendar business.
235 Russell Building

Finance
To continue mark up of H.R. 13511, to reduce income taxes.
2221 Dirksen Building

Rules and Administration
To further consider S.J. Res. 143, authorizing the FDR Memorial Commission to proceed with construction of a Memorial in West Potomac Park.
301 Russell Building

Select Small Business
To resume hearings to explore problems concerning capital formation of small independent enterprises.
424 Russell Building

2:00 p.m.

Conferees
On H.R. 15, authorizing funds through FY 1983 for elementary and secondary education programs.
H-228, Capitol

SEPTEMBER 22

9:30 a.m.

Human Resources
Labor Subcommittee
To resume hearings on S. 3060, proposed National Workers' Compensation Standards Act.
4232 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs
To continue hearings on the use of export controls and export credits for foreign policy purposes.
5302 Dirksen Building

Finance
To continue mark up of H.R. 13511, to reduce income taxes.
2221 Dirksen Building

• Judiciary
Administrative Practices and Procedure Subcommittee
To hold hearings on S. 2662, proposed Regulatory Control Act.
2228 Dirksen Building

SEPTEMBER 25

8:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To resume hearings to examine the Federal Government's role in food safety and quality, with emphasis on the nitrite situation.
322 Russell Building

SEPTEMBER 26

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on problems of small business defense contractors.
5302 Dirksen Building
Commerce, Science, and Transportation
To hold hearings on the nomination of Marvin S. Cohen, of Arizona, to be a Member of the Civil Aeronautics Board.
235 Russell Building
Environment and Public Works
Nuclear Regulation Subcommittee
To hold hearings to receive testimony on nuclear reactor safety systems from NRC Chairman Hendrie.
4200 Dirksen Building
Finance
Public Assistance Subcommittee
To hold hearings on H.R. 10848 and H.R. 12972, to modify the disability aspects of the Supplemental Security Income program.
2221 Dirksen Building
Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on the FBI Charter concerning overall policy.
2228 Dirksen Building
Conferees
On H.R. 15, authorizing funds through FY 1983 for elementary and secondary education programs.
H-328, Capitol
2:00 p.m.
Commerce, Science, and Transportation
To resume hearings on the objectives a national tourism policy should seek to achieve.
235 Russell Building

SEPTEMBER 27

9:00 a.m.
Governmental Affairs
Civil Service and General Service Subcommittee
To hold hearings on S. 1390, to authorize certain National Guard employment to be credited for civil service retirement, and S. 1821, to provide paid leave for Federal employees participating in athletic activities as an official representative of the U.S.
3302 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on financing of future energy needs.
5302 Dirksen Building
1:30 p.m.
Conferees
On H.R. 15, authorizing funds through FY 1983 for elementary and secondary education programs.
S-207, Capitol

SEPTEMBER 28

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on national export policy.
235 Russell Building
10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on financing of future energy needs.
5302 Dirksen Building
Select Small Business
To resume hearings to explore problems concerning capital formation of small independent enterprises.
424 Russell Building
2:00 p.m.
Commerce, Science, and Transportation
To resume hearings on the objectives a national tourism policy should seek to achieve.
235 Russell Building

OCTOBER 3

9:30 a.m.
Human Resources
Labor Subcommittee
To hold oversight hearings on the administration of the Occupational Safety and Health Administration Act (P.L. 91-596).
4232 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the Council on Wage and Price Stability.
5302 Dirksen Building

OCTOBER 4

9:30 a.m.
Human Resources
Labor Subcommittee
To continue oversight hearings on the administration of the Occupational Safety and Health Administration Act (P.L. 91-596).
4232 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the Council on Wage and Price Stability.
5302 Dirksen Building

OCTOBER 5

9:30 a.m.
Human Resources
Labor Subcommittee
To continue oversight hearings on the administration of the Occupational Safety and Health Administration Act (P.L. 91-596).
4232 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To hold oversight hearings on international housing programs.
5302 Dirksen Building

OCTOBER 6

10:00 a.m.
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To continue oversight hearings on international housing programs.
5302 Dirksen Building

OCTOBER 10

9:00 a.m.
Armed Services
Manpower and Personnel Subcommittee
To hold hearings on alleged abuses in U.S. Marine Corps recruiting practices.
1114 Dirksen Building

OCTOBER 11

9:00 a.m.
Armed Services
Manpower and Personnel Subcommittee
To continue hearings on alleged abuses in U.S. Marine Corps recruiting practices.
1114 Dirksen Building

SENATE—*Tuesday, September 19, 1978*

(Legislative day of Wednesday, August 16, 1978)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT MORGAN, a Senator from the State of North Carolina.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Hear the words of the fifth chapter of the Gospel of Matthew.

Blessed are the pure in heart: for they shall see God.

Blessed are the peacemakers: for they shall be called the children of God.

Dear Lord and Father of mankind, grant to all of us that purity of heart and that clarity of mind which qualifies us to be makers of peace in this turbulent, terror-ridden world. Give us grace to join those leaders whose patient, concerted, and skillful work has opened the door and pointed the pathway to enduring peace. Grant to them and to us the faith to expect much and the courage to dare much. Give Thy higher wisdom to those in consultation this very moment on this Capitol Hill, and be with those who travel afar with tidings of peace. May some miracle of grace remove the obstacles, overcome the barriers, and surmount the impediments to the advancement of Thy kingdom. Keep us all in Thy love and in accord with Thy will that the end may be consistent with the beginning.

We pray in the name of the Prince of Peace. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 19, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT MORGAN, a Senator from the State of North Carolina, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. MORGAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The majority leader, the Senator from West Virginia, is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I reserve my time for the moment.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The minority leader, the Senator from Tennessee (Mr. BAKER) is recognized.

Mr. BAKER. Mr. President, I have no requirement for my time under the standing order, and I am happy to yield it to the majority leader or to anyone else who may need it.

Mr. HARRY F. BYRD, JR. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. Yes. If the Senator will withhold momentarily, I will be delighted to yield.

ASIAN/PACIFIC AMERICAN HERITAGE WEEK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 1007.

The ACTING PRESIDENT pro tempore. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 1007) authorizing and requesting the President to proclaim the 7-day period beginning on May 4, 1979, as "Asian/Pacific American Heritage Week".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the joint resolution be considered as having been read the first and second time and the Senate proceed to its immediate consideration.

The ACTING PRESIDENT pro tempore. Without objection, the joint resolution will be considered as having been read twice by its title.

Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

● Mr. MATSUNAGA. Mr. President, I rise in support of Senate Joint Resolution 72, authorizing the President to proclaim annually a week during the first 10 days of May as "Pacific/Asian American Heritage Week."

Throughout the United States, over 4 million Americans trace their ancestry to Asia and the Pacific islands. Yet even though these individuals constitute a significant minority group, most Americans are unaware of the history of Pacific and Asian Americans in the United States, and their contributions to our Nation's cultural heritage.

The history of Pacific and Asian Americans is a history of proud accomplishments and triumph over adversity. Through their labor, Chinese Americans helped build the Nation's transcontinental rail system, and made major contributions to the growth of farming and agriculture. Native Hawaiians developed the first constitutional monarchy in the Pacific, and were deeply involved in the American whaling enterprises of the 19th century. In the Second World War, the 100th Infantry Battalion and the 442d Regimental Combat Team, composed of Japanese-American volunteers, became the most decorated unit in the U.S. military history.

As individuals, Pacific and Asian Americans have brought honor and distinction to the United States. In 1957, Chinese Americans Chem Ning Yang and Tsung Dao Lee received international recognition as recipients of the Nobel Prize in physics. Dr. Thomas Noguchi, the Los Angeles County Coroner, is a nationally known figure in forensic medicine. In the arts, both Minoru Yamasaki and I. M. Pei, architect of the new East Building of the National Gallery of Art, have received international acclaim. In sports, from my home State of Hawaii, Duke Kahanamoku, a native Hawaiian, won fame for winning gold medals in swimming at the 1932 Olympics, and this fall, U.S.C. football fans will cheer the exploits of Samoan-born Mosi Tatupu, now a resident of Hawaii. In politics, four Asian-Americans have been elected to the U.S. Senate—former Senator Hiram L. Fong and Senators DANIEL K. INOUYE, SAMUEL I. HAYAKAWA and myself. Congressmen NORMAN MINETA and DANIEL AKAKA presently serve in the U.S. House of Representatives, while Patsy Mink, a former Congresswoman, recently served briefly as an Assistant Secretary of State. George Ariyoshi is the only Governor of a State in the Union who is of Asian ancestry.

Mr. President, the purpose of the resolution before this body is twofold. First, it seeks to foster an increased national awareness of the history and contributions of Asian and Pacific Americans, and second, it is intended to imbue a renewed sense of pride among our citizens of Pacific and Asian ancestry. In this regard, the pending resolution is consistent with prior congressional actions, designating a Hispanic Heritage Week and setting aside February as Black History Month.

The dates designated in the resolution are particularly significant. May 7, 1979 will mark the 136th anniversary of the arrival of the first Japanese who immigrated to America. May 10, 1979 will be the 110th anniversary of the driving of the Golden Spike, signifying the contributions of Chinese Americans to building the transcontinental railroad.

Until very recent times, it was believed that there was only one acceptable road to Americanism for citizens of Pacific and Asian ancestry: to give up all of the things which were familiar and dear to them in the country from which they had come, and to submerge their old way of living, their thinking, and their personality into the one acceptable mode. Cultural differences were recognized only to the extent that it was felt they should be erased—the sooner, the better. This belief inevitably created unfortunate family tensions between parents, who wished to preserve the old country culture, and children and grandchildren, who regarded such culture as incompatible with the American way of life.

The recent resurgence of ethnic and cultural pride is particularly gratifying since pride in one's own ethnic background fosters a spirit of understanding and appreciation of our neighbor's or friend's cultural heritage. Observance of an annual Pacific and Asian American Heritage Week, especially in the Nation's schools, would contribute toward a better understanding of the cultural contributions made by Asian Americans and Pacific islanders to our American way of life.

Mr. President, I believe that as a nation of citizens of diverse backgrounds, we become more American by developing a keener sense of appreciation of our ethnic heritage. Therefore, Mr. President, I urge the adoption of the resolution.●

The ACTING PRESIDENT pro tempore. The joint resolution is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the joint resolution.

The joint resolution was read the third time.

The ACTING PRESIDENT pro tempore. The joint resolution having been read the third time, the question is, Shall it pass?

The joint resolution (H.J. Res. 1007) was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FEDERAL DISTRICT COURT ORGANIZATION ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 3375.

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 3375) entitled "An Act to amend title 28 of the United States Code to make certain changes in the places of holding Federal district courts, in the divisions within judicial districts, and in judicial district dividing lines", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal District Court Organization Act of 1978".

PLACES OF HOLDING COURT

SEC. 2. (a) The last sentence of section 97(a) of title 28, United States Code, is amended to read as follows:

"Court for the Eastern District shall be held at Ashland, Catlettsburg, Covington, Frankfort, Jackson, Lexington, London, Pikeville, and Richmond.".

(b) The last sentence of section 104(a)(1) of title 28, United States Code, is amended to read as follows:

"Court for the eastern division shall be held at Aberdeen, Ackerman, and Corinth.".

DIVISIONS WITHIN JUDICIAL DISTRICTS

SEC. 3. (a)) Section 98(c) of title 28, United States Code, is amended to read as follows:

"Western District

"(c) The Western District comprises the parishes of Acadia, Allen, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Caldwell, Cameron, Catahoula, Claiborne, Concordia, Jefferson Davis, De Soto, East Carroll, Evangeline, Franklin, Grant, Iberia, Jackson, Lafayette, La Salle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Saint Landry, Saint Martin, Saint Mary, Tensas, Union, Vermilion, Vernon, Webster, West Carroll, and Winn.

"Court for the Western District shall be held at Alexandria, Lafayette, Lake Charles, Monroe, Opelousas, and Shreveport.".

(b) Section 114 of title 28, United States Code, is amended—

(1) in paragraph (2), by striking out "Sheridan, Steele, Stutsman, and Wells" and inserting in lieu thereof "Steele, and Stutsman";

(2) in paragraph (3), by striking out "Bottineau,", "McHenry,", and "Pierce,"; and

(3) by amending paragraph (4) to read as follows:

"(4) The Northwestern Division comprises the counties of Bottineau, Burke, Divide, McHenry, McKenzie, Mountrail, Pierce, Renville, Sheridan, Ward, Wells, and Williams.".

JUDICIAL DISTRICT DIVIDING LINES

SEC. 4. (a) Section 89 of title 28, United States Code, is amended—

(1) in the first paragraph of subsection (a), by inserting "Madison," immediately after "Liberty,"; and

(2) in the first paragraph of subsection (b), by striking out "Madison,".

(b)(1) Section 93 of title 28, United States Code, is amended to read as follows:

"§ 93. Illinois

"Illinois is divided into three judicial districts to be known as the Northern, Central, and Southern Districts of Illinois.

"Northern District

"(a) The Northern District comprises two divisions.

"(1) The Eastern Division comprises the counties of Cook, De Kalb, Du Page, Grundy, Kane, Kankakee, Kendall, Lake, La Salle, McHenry, and Will.

"Court for the Eastern Division shall be held at Chicago.

"(2) The Western Division comprises the counties of Boone, Carroll, Jo Daviess, Lee, Ogle, Stephenson, Whiteside, and Winnebago.

"Court for the Western Division shall be held at Freeport and Rockford.

"Central District

"(b) The Central District comprises the counties of Adams, Brown, Bureau, Cass, Champaign, Christian, Coles, De Witt, Douglas, Edgar, Ford, Fulton, Greene, Hancock, Henderson, Henry, Iroquois, Knox, Livingston, Logan, McDonough, McLean, Macoupin, Macon, Marshall, Mason, Menard, Mercer, Montgomery, Morgan, Moultrie, Peoria, Piatt, Pike, Putnam, Rock Island, Sangamon, Schuyler, Scott, Shelby, Stark, Tazewell, Vermilion, Warren, and Woodford.

"Court for the Central District shall be held at Danville, Peoria, Quincy, Rock Island, and Springfield.

"Southern District

"(c) The Southern District comprises the counties of Alexander, Bond, Calhoun, Clark, Clay, Clinton, Crawford, Cumberland, Edwards, Effingham, Fayette, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jasper, Jefferson, Jersey, Johnson, Lawrence, Madison, Marion, Massac, Monroe, Perry, Pope, Pulaski, Randolph, Richland, St. Clair, Saline, Union, Wabash, Washington, Wayne, White, and Williamson.

"Court for the Southern District shall be held at Alton, Benton, Cairo, and East Saint Louis.".

(2) Section 133 of title 28, United States Code, is amended by striking out the item relating to Illinois and inserting in lieu thereof the following:

"Illinois:

"Northern	13
"Central	2
"Southern	2".

(c) Section 112 of title 28, United States Code, is amended—

(1) in the first paragraph of subsection (a), by inserting "Columbia," immediately after "Clinton,", by inserting "Greene," immediately after "Fulton,", and by inserting "Ulster," immediately after "Tompkins,"; and

(2) in the first paragraph of subsection (b), by striking out "Columbia,", "Greene,", and "Ulster,".

EFFECTIVE DATE

SEC. 5. (a) The amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

(b) Nothing in this Act shall affect the composition or preclude the service of any grand or petit juror summoned, empaneled, or actually serving in any judicial district on the effective date of this Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent for its immediate consideration.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to its consideration.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate concur in the House amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the Senate concurred in the House amendments.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER TO HOLD H.R. 10965 AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as it is received, H.R. 10965 be held at the desk pending further disposition.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I now yield to the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.).

Mr. HARRY F. BYRD, JR. I thank the majority leader.

The ACTING PRESIDENT pro tempore. The Senator from Virginia is recognized.

THE MIDDLE EAST

Mr. HARRY F. BYRD, JR. Mr. President, last evening in the Chamber of the House of Representatives was one of the most dramatic joint sessions of Congress that I have attended.

I especially congratulate and commend the President of the United States on his address last evening. I commend him for the bold approach which he took to the Middle East problem when he invited President Sadat and Prime Minister Begin to meet with him at Camp David.

I also commend him for his persistence and patience in long negotiations which took place between the two Middle East leaders.

President Carter devoted untold hours in an effort to bring to agreement, at least in a general way, two great leaders from another part of the world.

It is too early, I think, to judge just how successful the Camp David conference will eventually be. Certainly at this point it offers much hope to the world. It offers hope that an area long troubled is making progress toward a just and lasting peace.

I have only one question that I wish to put to the distinguished majority leader as I assume that he above all others would have knowledge of such a fact, if indeed it is a fact.

The press dispatches from the Middle East have indicated that, as a part of the agreements which were worked out at Camp David, the United States would build American airbases in the Middle East.

Nothing was said about that last evening.

I think it is important that the American people know all the facts. If the reports coming out of the Middle East are in error, I hope that those in a position to do so would so indicate to the American people.

But if the reports coming out of the Middle East are accurate, then I hope that all of the facts would be laid on the table.

So my question to my distinguished colleague, the majority leader, is: Does he have information in regard to these Middle East reports that the United States has agreed to build American airbases in that area?

Mr. ROBERT C. BYRD. Mr. President, this subject was referred to by the President yesterday at the White House when he briefed a number of Members of the House and Senate, and I want to be absolutely accurate when I respond to the Senator, so I will withhold any further comment until I have gotten an accurate, precise response for the Senator, and I will put it in the RECORD.

Mr. HARRY F. BYRD, JR. I thank the Senator. As I say, my reason for raising the point is that I think it is very important that all the cards be put on the table. I think the American people have a right to know just what commitments have been made in their name as a result of the recent negotiations.

Mr. ABOUREZK. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. I yield.

Mr. ABOUREZK. I heard the President say yesterday there were no commitments made of specifics. The only commitment made to Israel on the airfields was that Israel would consult with the United States. There was no commitment to provide money. But I think you and I both know what "consult" means. They will come over here and ask for the money and Congress will give it to them, and that will be the end of it. So all they needed to do was to have an agreement to consult.

Mr. HARRY F. BYRD, JR. I am not expressing criticism of whatever might have been done for the simple reason that I do not know what has been done.

Mr. ABOUREZK. I am.

Mr. HARRY F. BYRD, JR. But if commitments have been made for American airbases, if commitments have been made for American military presence, if commitments have been made in any way that involve the United States or its citizens, then I hope that all the facts will be made available. Now is the time to make such facts available. I appreciate what the distinguished majority leader has just said.

Mr. ROBERT C. BYRD. Mr. President, may I say further the President stated at that conference, which was attended by Mr. ABOUREZK and others, and during which Mr. ABOUREZK addressed several questions to the President, that there were no commitments under the table. He said, no commitments under the table.

I am going to get for the Senator from Virginia precisely what was said and what the facts are in respect to the two bases to which he has alluded. I want to be absolutely correct when I respond, and I will do that on the record. But the President assured us during our personal attendance that everything—I will not use the word commitment—but he assured us that there were no commitments under the table. Everything is right out on top of the table, and I want to get the Senator the precise information on the question he asked. I would be doing a disservice to him and to the President and to the countries involved if I were to do anything other than to get an exact, accurate response for the Senator.

Mr. HARRY F. BYRD, JR. I think the Senator from West Virginia is so correct. The President made no mention of American airbases in his speech last evening, so I was surprised to read the press reports from the Middle East. I thank the Senator from West Virginia.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, if I may, the Senator from Wisconsin had asked me to yield to him, so I will yield to him first, and then, if the distinguished Senator from South Dakota wishes me to, I will yield to him.

NOW IS THE TIME TO RATIFY THE GENOCIDE CONVENTION

Mr. PROXMIRE. I thank the distinguished majority leader.

Mr. President, could there be a better time to ratify the Genocide Convention?

As millions focus on the outstanding steps taken by leaders in the Middle East, so must we also focus on our international humanitarian duty, a duty that is highlighted even more today.

It is obvious from the events at Camp David that the international community respects the leadership the United States has offered in efforts toward peace. And rightly so—we should be proud because the agreements reached on American soil mark a positive turning point in the history of the Middle East conflict. Before the summit, continuous stalemate had defeated peaceful negotiations throughout a 30-year period.

Mr. President, I could not agree more with President Carter when he said Sunday night:

> I hope that the foresight and the wisdom that have made this session a success will guide these leaders and the leaders of all nations as they continue the progress towards peace.

Mr. President, from such actions states of the world can clearly see our dedication to peace-seeking diplomacy, supported by our commitment to human rights.

But, Mr. President, the Senate is missing a prime opportunity to show it truly means business in human rights.

For nearly 30 years this Chamber has ignored the most fundamental of all human rights, a right clearly protected by the Genocide Convention—the right to live.

Mr. President, there is no better time than now to ratify this important human rights treaty. There is no better time than now to express consistency in our policies toward peace.

I thank the distinguished majority leader, and I yield the floor.

SPECIAL ORDER

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). The remaining time of the majority leader is yielded to the Senator from South Dakota (Mr. ABOUREZK).

Mr. ABOUREZK. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. Do I have a special order for 15 minutes this morning?

The PRESIDING OFFICER. Yes, the Senator does.

Mr. ABOUREZK. May I use that time?

The PRESIDING OFFICER. Yes; the majority leader, if he has any remaining time, the Senator from South Dakota can have that.

Mr. CHAFEE. Mr. President, will the Senator yield for a question? I would like to ask one quick question. Where are we now? After we have finished the special order of 15 minutes then what happens?

The PRESIDING OFFICER. The Senate will then proceed to the consideration of the natural gas conference report if any Senator wishes to address it.

Mr. CHAFEE. So that will be the conclusion of morning business for 15 minutes?

The PRESIDING OFFICER. There is no order for morning business at the moment.

Mr. CHAFEE. I see.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

(Mr. PROXMIRE assumed the chair.)

MIDDLE EAST SUMMIT AGREEMENT

Mr. ABOUREZK. Mr. President, amidst the euphoria of the moment, and in the face of the substantial media hype underway on the Middle East summit agreement, it is difficult to offer any analysis or conclusions on the agreement that differ from what seems to be a developing bandwagon in its favor.

I can recall the same sort of self-deluding congratulations at the time of the Sinai II agreement signing in 1975, when some of us expressed the fear that even that minimal, but separate, agreement would tear apart the Arab world with tragic consequences for everyone involved.

Of course, that happened in Lebanon. There were some 60,000 people who died as a result of the aftershock of the Sinai II agreement.

Now we are presented with, and are asked to support, the final, separate peace agreement between Israel and Egypt that contains, in my view, the

seeds of destruction of untold numbers of people in the Middle East, and the suffering of untold millions more.

I will try to outline the major points of the two agreements, both as I understand them from a reading, and from responses to questions directed to President Carter and Secretary of State Vance during their briefings of the Congress on Monday.

First of all, if the Knesset agrees to withdrawal of the settlements from the Sinai, a separate peace agreement between Israel and Egypt will become formalized.

The second agreement, which purportedly sets out a framework for peace in the Middle East, outlines how the future of the West Bank and Gaza is to be determined. The terms of that document provide for withdrawal of Israel's military forces in unspecified numbers from the West Bank, with part of that military force to remain within the West Bank area in "cantonments."

This redeployment, as I said, has no specific numbers placed on it. Yesterday on television Prime Minister Begin said he had not agreed to any specific numbers, which means that one or two troops withdrawn would satisfy whatever requirement was placed upon him.

The agreement states that immediately upon the election of the so-called administrative council of the West Bank and Gaza, the Israeli military government and its civilian administration will be withdrawn.

The agreements stand by themselves. In other words, the separate treaty between Egypt and Israel does not rise or fall, depending on the establishment of a final agreement regarding the Palestinians. Thus, if nothing more were to happen vis-a-vis the West Bank, the agreement between Egypt and Israel would remain in place.

With respect to settlements on the West Bank, while President Carter has said there is a freeze during the period of negotiation on new settlements, he has also said there is no prohibition on the expansion of existing West Bank settlements, a practice which, in fact, Israel has undertaken in the past to avoid the appearance of new settlements being established.

The agreement itself is silent on the question of the settlements, so we must assume that Mr. Begin has unilaterally agreed to maintain the freeze.

And again on television last night, Prime Minister Begin said that he had only agreed to a freeze on the settlements for 3 months, during the period of time Israel and Egypt were negotiating, while the President said during his briefings yesterday that it was to be during the 5-year period of negotiation on the status of the West Bank and Gaza.

In any event, the new arrangements spelled out in the summit agreement are in total contradiction to our previous position on settlements and, in fact, are in total violation of the Geneva Civilians Convention of 1949, a treaty of the United States which all the parties at the recent summit have long ago ratified.

Article 49, paragraph 6, of that convention specifically states that—

> The occupying power shall not deport or transfer part of its own civilian population into the territory it occupies.

Article 47 of the same convention states that protected persons in the occupied territories cannot be deprived of the benefits of the convention by any change introduced, as a result of the occupation of a territory, into the institutions or government of the territory, nor by annexation, as in the case of Jerusalem, nor by any agreement between the authorities of the occupied territories, for example, a quisling government, and the occupying power. The United States has always claimed the settlements were illegal, based on that convention, that is, until the signing of their agreement Sunday night.

The key point, however, is the concept of self-determination, or the lack of it, provided to the Palestinians in this agreement. The words of significance which run all the way through the document are the words, "by agreement of all the parties." "All the parties" refers primarily to Israel, Egypt, Jordan, and the Palestinian "Administrative Council."

Thus it is provided that all the parties must agree on the procedures for establishing the so-called self-governing authority in the West Bank and Gaza. Israel is given the right to veto those procedures. Israel is also given the right of veto over a number of other actions, such as:

First. Which Palestinians other than those from the West Bank and Gaza may be included in the Egyptian and Jordanian delegations.

Second. The nature of the so-called self-governing authority to be exercised in the West Bank and Gaza.

Third. Which refugees displaced by the 1967 war can return to the West Bank and Gaza.

Fourth. Any decision made by the Palestinians on the grounds of security for Israel, which provision eliminates what little was left of the label "self-rule."

Fifth. The final status, following the 5-year interim period, of the West Bank and Gaza. Specifically, and this is the most important point, Israel can veto a Palestinian decision establishing an independent Palestinian State.

This interpretation was confirmed to me by Secretary Vance, who told me that Israel not only could veto such a state, but, he said, Israel very likely would exercise such a veto to prevent a Palestinian State from coming into existence.

So, Mr. President, the dreaded hour has finally arrived, the separate peace treaty between Egypt and Israel, which President Sadat swore would not come from him, and for which Israel has hoped for so long a time. It is a revival of the "Begin plan" of last November which was rejected out of hand by President Sadat. It is the exchange of a great deal of sand in the Sinai for the elimination of Egypt as any kind of negotiating threat. It is the ratification of the expansionist dreams of Israel.

Now, with the inclusion of President Carter, what was reprehensible last year has now become a "great victory." The continued denial of self-determination for the Palestinians is given a sheen and a gloss designed to cover over what it really is—an Israeli occupation under a different name, but this time with a quisling government to make legal what was previously illegal. What other name can honestly be given to such an arrangement, conceived by the occupying power, Israel, and approved by the United States and Egypt, the only two powers who might have prevented it?

This action not only denies the right of self-determination to the Palestinians, but its result can only be large-scale disruption throughout the Arab world. Without Egypt, the military balance will be tipped overwhelmingly in favor of Israel. Too weak militarily to threaten, or even to negotiate on an equal basis, the remaining members of the Arab bloc will, in all probability, suffer deep divisions amongst themselves, much as they did in 1975. Radicalism, and all that comes with it, will be greatly encouraged, since radicalism is the only real alternative left to people who have been denied a normal political outlet. The upheavals will reverberate throughout the Middle East, and the cost in human suffering in that part of the world simply to raise President Carter's popularity rating here at home will not, I think, be worth it.

I reserve the remainder of my time.

Mr. CRANSTON. Mr. President, will the Senator yield to me at this point?

Mr. ABOUREZK. I yield.

Mr. CRANSTON. Will the Senator from New York forgive me if I proceed very briefly on a totally extraneous matter?

Mr. MOYNIHAN. Be happy to.

The ACTING PRESIDENT pro tempore (Mr. MORGAN) assumed the chair.

THE BUNKER CHAIRS

Mr. CRANSTON. Mr. President, during this time of truly momentous historic development, it is not altogether unfitting that we pause briefly to take note of a less momentous but also, in its way, historic event. Tonight, in a special ceremony in the Hall of Flags in the National Museum of History and Technology, the Smithsonian Institution will formally take possession for the ages of two distinctive artifacts of modern American culture: the chairs of Archie and Edith Bunker.

Millions of Americans have laughed at and with Archie Bunker and his family on the great TV series "All in the Family," and we have all laughed each time

Archie got upset when someone sat in his chair. Well, the Smithsonian has selected that chair, along with Edith's, to be preserved as "part of the cultural legacy of our country."

As a Californian proud of the immense contributions my State has made to the entertainment industry, I am especially proud of the achievements of fellow Californian Norman Lear, originator, producer, and guiding spirit of "All in the Family," and of his extraordinarily talented cast, Carroll O'Connor, Jean Stapleton, Bob Reiner, and Sally Struthers. My congratulations to them all.

All around the Washington area, Mr. President, we have beds about which people proudly claim that "Washington slept here." Now we have a chair about which we can proudly say "Archie sat here."

Mr. PROXMIRE. Mr. President, will the Senator from California yield?

Mr. CRANSTON. I yield.

Mr. PROXMIRE. I congratulate the Senator from California on his statement. I was delighted to see "All in the Family" receive the Emmy Awards that they received—six of them, I think—on Sunday night. But I think what was missed is that, although it has brought a great deal of joy and laughter to millions of Americans, it has also done more to diminish prejudice and bias, by getting people to laugh at the prejudices we all hold, than almost any other action that has taken place in the last 10 years. I think it is very, very hard for us to really appreciate the effect of this kind of satire and this kind of intelligent, thoughtful, probing irony that so many people can identify with. I think if we have made progress since the great civil rights actions of 15 or 20 years ago in overcoming our biases, there is no activity that has done more to accomplish it than this program, "All in the Family."

Mr. CRANSTON. I absolutely agree with the Senator.

Mr. ABOUREZK. Mr. President, I agree with everything Senator PROXMIRE and Senator CRANSTON have said, but I want to add a little bit to that.

It is not known here, but Jean Stapleton, in fact, has portrayed Eleanor Roosevelt to a degree better than anybody I have ever seen in that kind of portrayal. She did so and brought her film here at the time we had hearings on the Eleanor Roosevelt Memorial near Hyde Park, N.Y.

There is another reason besides everything other Senators have said: I held a fund raiser in Los Angeles, Calif., in 1972, when I was running for the Senate. I had pledges of thousands of dollars from people who came to that fund raiser. The only one who ever fulfilled his pledge and sent his money in was Norman Lear.

I just want to say that I especially appreciate that program and all the other programs that he produces.

Mr. CRANSTON. Mr. President, I thank my colleagues for their contributions to this discussion. Had other Senators known that this would occur at this moment they would have been here to add their thoughts. It is absolutely true that in addition to entertaining and giving the joy of laughter to so many tens of millions of Americans, a great contribution has been made to our Nation and our society by "All in the Family" in terms of dealing with bigotry and prejudices of all sorts in our society in a way that has leavened the atmosphere and greatly reduced, I believe, bigotry in our society. A tremendous contribution has been made.

INVESTMENT OF NEW YORK CITY AND STATE PENSION FUNDS IN NEW YORK CITY OBLIGATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 1115.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 4007) to amend the Internal Revenue Code of 1954 to designate the home of a State legislator for income tax purposes, and for other purposes.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to its consideration.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Finance with an amendment to strike all after the enacting clause and insert the following:

SECTION 1. QUALIFIED STATUS OF PARTICIPATING PENSION PLANS.

(a) GENERAL RULE.—A participating pension plan shall not be considered to fail to satisfy the requirements of section 401(a) of the Internal Revenue Code of 1954, and shall not be considered to have engaged in a prohibited transaction described in section 503(b) of such Code, merely because—

(1) during the period beginning on July 1, 1978, and ending on June 30, 1982, the plan acquires city indebtedness which meets the requirements of section 2 or

(2) the plan continues to hold any city indebtedness acquired—

(A) pursuant to this Act or Public Law 94-236, or

(B) before November 26, 1975.

(b) ACQUISITION OF INDEBTEDNESS PURSUANT TO AGREEMENT.—The acquisition of city indebtedness by a participating pension plan under an agreement for the acquisition of city indebtedness meets the applicable requirements of section 2 if—

(1) the agreement is not disapproved by the Secretary under subsection (c), and

(2) the plan certifies to the Secretary (and furnishes to the Secretary and to the appropriate committees of the Congress such supporting information and documentation as the Secretary shall require) that the acquisition—

(A) is made under the agreement, and

(B) meets the applicable requirements of section 2 (determined without regard to the provisions of subsections (b), (c), and (f) of section 2).

(c) SIXTY-DAY PERIOD FOR DISAPPROVAL.—

(1) IN GENERAL.—Before entering into an agreement described in subsection (b), and before acquiring any city indebtedness not covered by such an agreement, the participating pension plan shall notify the Secretary of the proposed agreement or acquisition. If the Secretary determines (not later than 60 days after the date of such submission or such shorter period as the Secretary may establish) that such agreement or acquisition does not meet any requirement of section 2, the Secretary shall disapprove such agreement or acquisition (as the case may be). For purposes of this subsection, an amendment, or a waiver of any provision, of such an agreement shall be treated as a new agreement.

(2) NOTIFICATION.—The Secretary shall, not later than the 10th day after the close of the period applicable under paragraph (1), notify the appropriate committees of the Congress of the determinations he has made with respect to the submission and the reasons on which such determinations were based.

SEC. 2. REQUIREMENTS.

(a) LIMITATIONS ON AMOUNT OF DEBT TO BE ACQUIRED.—

(1) PERCENTAGE LIMITATIONS.—In acquisition of city indebtedness by a participating pension plan does not meet the requirements of this section if—

(A) AGGREGATE LIMIT ON ACQUISITIONS BY CITY PLANS.—In the case of a city plan, the plan acquires any city indebtedness after June 30, 1979, and before the city plans meet the percentage limitation on holdings of city indebtedness applicable under this subparagraph for the 12-month period ending on the most recently preceding June 30. The percentage limitation on holdings of city indebtedness under this subparagraph is not met if the value of city indebtedness held by all city plans exceeds a percentage of the aggregate assets of all city plans equal to—

(i) 40 percent for the 12-month period ending on June 30, 1979,

(ii) 36 percent for the 12-month period ending on June 30, 1980,

(iii) 33 percent for the 12-month period ending on June 30, 1981, and

(iv) 30 percent for the 12-month period ending on June 30, 1982.

(B) LIMIT ON ACQUISITIONS BY EACH CITY PLAN.—In the case of a city plan, the plan requires any city indebtedness which, when added to other city indebtedness held by such plan, would cause such holdings to exceed 50 percent of the assets of such plan at the time of the acquisition.

(C) LIMIT ON ACQUISITIONS BY STATE PLAN.—In the case of a State plan, the plan acquires any city indebtedness which, when added to other city indebtedness held by such plan, would cause such holdings to exceed 10 percent of the assets of such plan at the time of the acquisition.

(D) DETERMINATIONS OF WHETHER THE PERCENTAGE LIMITATIONS HAVE BEEN MET.—

(i) AGGREGATE LIMIT.—For the purpose of determining whether the percentage limitation on holdings of city indebtedness under subparagraph (A) has been met for any 12-month period described in that subparagraph, the plan shall use the arithmetic mean (expressed as a percentage) of 4 fractions, the numerators of which are the value of city indebtedness held by all city plans as of the close of each calendar quarter within the 12-month period for which the determination is being made and the denominators of which are the value of the assets of

all city plans as of the close of each such calendar quarter. If the percentage limitation under subparagraph (A) is not met for a 12-month period on the basis of the 4 fractions for the 4 calendar quarters within that 12-month period, the plan shall make a redetermination for that 12-month period as of the close of the first calendar quarter, if necessary, the second calendar quarter and, if necessary, the third calendar quarter following the 12-month period using the 4 fractions for the 12-month period and the fraction or fractions for the additional quarter or quarters. If the value of city indebtedness or plan assets is not available for any quarter at the time the determination of the fraction for that quarter is being made, the plan shall use a value derived from interpolations from the most recently available semiannual valuations.

(ii) PLAIN LIMIT.—In making a determination of whether or not an acquisition of city indebtedness meets the requirements of subparagraph (B) or (C), the plan shall make determinations based on the most current data available as to the holdings of city indebtedness and on the basis of the most recently available semi-annual valuation of assets of the plan.

(2) METHOD OF VALUATION.—For purposes of this subsection—

(A) city indebtedness is to be valued by the plan at its face value, and

(B) all other assets are to be valued by the plan under methods determined by the Secretary to be consistent with the methods of valuing assets for purposes of section 412 of the Internal Revenue Code of 1954.

(b) STANDARDS.—

(1) OVERALL STANDARD.—The overall standard used by the Secretary under this Act in determining whether or not to disapprove an agreement for the acquisition of city indebtedness under section 1(c) shall be the extent to which the acquisition of city indebtedness under the agreement will, in the case of a city plan—

(A) maintain the ability of the city—

(i) to make future contributions to the plan or trust, and

(ii) to satisfy its future obligations to pay pension and retirement benefits to members and beneficiaries of such plan or trust, and

(B) protect the sources of funds to provide retirement benefits for members and beneficiaries of the plan or trust.

(2) FACTORS TO BE TAKEN INTO ACCOUNT.—In determining whether or not to disapprove such an agreement the Secretary shall take into account (among other factors) the terms of the obligations which are to be acquired under the agreement.

(3) FISCAL PARTICIPATION BY PRIVATE SOURCES OR PUBLIC CREDIT MARKETS.—The Secretary shall disapprove any such agreement unless he has received assurances to his satisfaction that there will be significant participation in the acquisition of city indebtedness by the State, an agency of the State, or private sources, or through public credit markets.

(c) REQUIREMENTS WITH RESPECT TO FISCAL CONDITION OF THE CITY.—

(1) SUBSTANTIAL PROGRESS TOWARD A BALANCED BUDGET BY 1982.—An acquisition of city indebtedness by a participating pension plan during any fiscal year beginning after June 30, 1979, does not meet the requirements of this section unless the Secretary has determined for such fiscal year that the city is making substantial progress toward operating under expense budgets which do not show a deficit.

(2) PRINCIPLES TO BE APPLIED UNDER PARAGRAPH (1).—The Secretary shall make the determination required under paragraph (1) on the basis of—

(A) whether or not the requirements of paragraph (5) of section 103 of the New York City Loan Guarantee Act of 1978 (as such Act is in effect on the date of enactment of this Act) are being met, and

(B) the annual audited financial statements of the city prepared in accordance with generally accepted accounting principles (including principles applicable to municipal governments which provide for a clear division between operating outlays and revenues on the one hand and capital expenditures and revenues on the other hand) and in accordance with generally accepted auditing standards.

(d) PLANS HAVING NEGATIVE CASH FLOW.—

(1) IN GENERAL.—An acquisition of any city indebtedness by a city plan does not meet the requirements of this section if the plan would have a negative cash flow for the fiscal year of acquisition.

(2) SPECIAL RULES.—For purposes of paragraph (1)—

(A) cash flow shall be determined by the plan for each fiscal year, and also whenever the plan enters into an agreement which must be submitted to the Secretary under section 1(c) (including any amendment of, or waiver under, such an agreement),

(B) cash flow shall be determined in the same manner as provided in paragraph (3) of subsection (e), and

(C) the effect of completed and proposed acquisitions during the plan year on the cash flow shall be taken into account.

(e) REPORTS.—

(1) Annual report by plans on receipts, disbursements, holdings, and cash flow.—

(A) ANNUAL REPORT.—An acquisition of any city indebtedness by any participating city pension plan does not meet the requirements of this section unless, for each preceding plan year beginning after June 30, 1978, and ending more than 8 months and 15 days before the date of the acquisition, the plan has submitted an annual report which meets the requirements of paragraph (2) to the Secretary and to the appropriate committees of the Congress.

(B) PROJECTED CASH FLOW.—An acquisition of city indebtedness by any participating city pension plan for any plan year does not meet the requirements of this section unless the plan has submitted to the Secretary and to the appropriate committees of the Congress a statement showing the projected cash flow for the plan year.

(2) ANNUAL REPORT BY INDEPENDENT PUBLIC ACCOUNTANT.—An annual report does not meet the requirements of this paragraph unless it—

(A) includes an analysis of compliance by the plan throughout the fiscal year with the requirements of this paragraph unless it—

(A) includes an analysis of compliance by the plan throughout the fiscal year with the requirements of subparagraphs (A) and (B) of subsection (a) (1),

(B) is prepared in accordance with generally accepted accounting principles, and

(C) meets the requirements of paragraph (3) of section 103(a) of the Employee Retirement Income Security Act of 1974, as in effect on the date of enactment of this Act (without regard to the last 4 sentences of subparagraph (A) of that paragraph).

(3) RULES FOR DETERMINING CASH FLOW.—For purposes of paragraph (1)(B), the cash flow—

(A) shall take into account contributions and other income (such as dividends and interest) on the one hand and the payment of benefits and expenses on the other hand, and

(B) shall not take into account items properly chargeable to capital account (such as the proceeds from the sale or redemption of assets), other than—

(i) payment of principal during the period a debt is outstanding,

(ii) payment of principal at maturity or redemption, and

(iii) proceeds from the sale of obligations having a maturity of one year or less at the time of sale.

(f) CITY MUST COMPLY WITH REQUIREMENTS OF SECTION 103(7) OF NEW YORK LOAN GUARANTEE ACT OF 1978.—An acquisition of city indebtedness by a city pension plan for any plan year does not meet the requirements of this section unless, at the time of the acquisition, the Secretary has determined that the requirements of paragraph (7) of section 103 of the New York City Loan Guarantee Act of 1978, as in effect on the date of enactment of this Act, have been met.

SEC. 3. NOTIFICATION OF PLANS AND CITY OF ACQUISITIONS WHICH FAIL TO MEET REQUIREMENTS OF THE ACT; REGULATIONS.

(a) NOTIFICATION OF PLANS AND CITY.—

(1) NOTICE OF FAILURE TO MEET REQUIREMENTS.—Whenever the Secretary determines that an acquisition of city indebtedness has not met one of the requirements of section 2, he shall notify the participating plan or plans involved.

(2) NOTICE OF POSSIBLE PROSPECTIVE FAILURE.—The Secretary shall notify each participating pension plan and the city whenever he finds, based on information available to the Secretary, that a future acquisition of city indebtedness will fail to meet the requirements of section 2 because of the requirement of subsection (a)(1)(A) or (c) of that section, and he shall notify the participating pension plan concerned and the city whenever it appears that a future acquisition of city indebtedness by that plan will fail to meet the requirements of section 2 for any other reason.

(b) REGULATIONS.—The Secretary of the Treasury or his delegate is authorized to prescribe such regulations as may be necessary to carry out the provisions of this Act.

SEC. 4. DEFINITIONS AND SPECIAL RULES.

For purposes of this Act—

(1) PARTICIPATING PENSION PLAN.—The term "participating pension plan" means any city plan or State plan.

(2) CITY PLAN.—The term "city plan" means any of the following:

(A) the New York City employees' retirement system,

(B) the teachers' retirement system for the city of New York,

(C) the New York City Police Pension Fund, article 2,

(D) the New York City Fire Department Pension Fund, article 1-B, and

(E) the board of education retirement system for the city of New York.

(3) STATE PLAN.—The term "State plan" means any of the following:

(A) the New York State employees' retirement system,

(B) the New York State policemen's and firemen's retirement system, and

(C) the New York State teachers' retirement system.

(4) APPROPRIATE COMMITTEES OF THE CONGRESS.—The term "appropriate committees of the Congress" means the Committee on Ways

and Means of the House of Representatives and the Finance Committee of the Senate.

(5) REFERENCES TO PLAN INCLUDE REFERENCES TO TRUST.—A reference to a plan includes a reference to any trust forming a part thereof.

(6) CITY INDEBTEDNESS.— The term "city indebtedness" means any city obligation or any State financing agency obligation.

(7) CITY OBLIGATION.—The term "city obligation" means any indebtedness for money borrowed by the city.

(8) STATE FINANCING AGENCY OBLIGATION.—The term "State financing agency obligation" means any indebtedness for money borrowed by the State financing agency.

(9) STATE FINANCING AGENCY.—The term "State financing agency" means any agency or instrumentality of the State of New York duly authorized by such State to act on behalf of or in the interest of the city, and no other subdivision of the State, with respect to the city's financial affairs.

(10) CITY.—The term "city" means the city of New York.

(11) FISCAL YEAR.—The term "fiscal year" means a 1-year period beginning on July 1 or, where the Secretary determines it to be appropriate, the plan year of a participating pension plan.

(12) SECRETARY.—The term "Secretary" means the Secretary of the Treasury. Except as provided in section 3, no function, power, or duty of the Secretary under section 1, section 2, or this section may be delegated.

(13) ACQUISITION.—The term "acquisition" includes—

(A) a purchase or an exchange (whether pursuant to a rollover or otherwise), and

(b) to the extent provided in regulations prescribed by the Secretary, any modification in the terms of an obligation or in the rights of the holder of an obligation.

SEC. 5. RELATIONSHIP OF THIS ACT TO PUBLIC LAW 94-236.

Effective on the date of the enactment of this Act, the waiver of the requirments of section 401(a) and 503(b) of the Internal Revenue Code of 1954 contained in subsection (a) of the first section of Public Law 94-236 shall not apply to acquisition of city indebtedness on or after such date.

SEC. 6. FEDERAL FINANCIAL PARTICIPATION IN STATE PLANS FOR CHILD SUPPORT.

(a) IN GENERAL.—Section 455(a) of the Social Security Act is amended—

(1) by striking out the semicolon at the end of paragraph (2), and inserting in lieu of such semicolon a period, and

(2) by striking out all that follows paragraph (2).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on July 1, 1978.

The ACTING PRESIDENT pro tempore. The Senator from New York.

Mr. MOYNIHAN. Mr. President, this is a measure reported from the Finance Committee as an accompanying measure to the New York City loan guarantee legislation which the Senate adopted sometime ago and which the President has now signed.

In order for the city of New York's employee pension funds to be able to purchase debt obligations——

Mr. ROBERT C. BYRD. Mr. President, may we have a little better order so the Senator can be heard?

The ACTING PRESIDENT pro tempore. The Senate will be in order.

Mr. MOYNIHAN. In order for the New York City employee pension funds to purchase more bonds of the city of New York, in order for the city to carry forward its financial plan, the pension funds must be exempted from Federal legislation which requires that portfolios be distributed over a wide range of obligations, and in particular that a pension fund not heavily invest in the securities of the employer.

This exception was made 3 years ago. It is repeated and extended in the present legislation.

I would particularly like to acknowledge the work of Senator BENTSEN, who was most concerned that the rights of members of these pension plans be protected even in the face of the complex fact that unless these investments are made the larger security of all the city pension funds would be jeopardized. I think we have struck a fair balance. I think this legislation meets its purpose.

I would like to make a general statement in order that the Senate would know of the situation in New York City.

I have been, I hope, appropriately expressive of the gratitude Senator JAVITS and I feel to the entire body for the assistance we have had so far. But I also find it necessary to state that all New York City has obtained in this loan legislation is the right to go deeper in debt and, in the process, to pay a higher rate of interest than is the case for other municipalities.

There has been no transfer of resources in this matter. It is to the point of transfer of resources that I will speak very briefly.

The other day on the floor the Senate dealt with the question of the President's labor-intensive public works program. Leading the debate on behalf of the President's position, I said this was a test of the President's urban policy. The Senate will recall the test was failed rather conspicuously. As I recall, we obtained 21 votes.

We are in jeopardy with respect to the countercyclical revenue-sharing measures; the CETA program is not what we hoped it would be; public works is certainly jeopardized although not finally lost. In consequence, it is simply the case that the projected budgets of the city of New York are now much more tenuous than they were even 6 months ago.

This legislation, as you know, Mr. President, requires a balanced budget by fiscal year 1982. Further, it provides that the Secretary of the Treasury will only issue loan guarantees if he is satisfied that there is progress toward that balanced budget. It is not something we wait 4 years to discover whether we have achieved.

In full candor, I must inform the Senate that this situation is tenuous and growing more so. Just yesterday the mayor of New York had to announce a hiring freeze. There will be more such in the years ahead.

The falling off of Federal programs providing aid to cities, most of which were begun as countercyclical measures—and the Congress would with some reason think that at the end of 13 quarters of expansion such programs might be dispensed with for the economy as a whole—is calamitous to the city for it has still not recovered from the recession. Our prognosis is not good. This should be understood. It is only for the purpose of having this in the record that I rise.

I would like to thank the majority leader for his unfailing courtesy in looking to the seeming unending emergencies of the world's greatest city.

Mr. President, that is the extent of my remarks and I move passage of the bill.

● Mr. JAVITS. Mr. President, on June 28, 1978, the Senate voted overwhelmingly in favor of the New York City Loan Guarantee Act of 1978, which was the first part of the President's program to continue support for the city of New York.

Today, with Senate passage of H.R. 4007, that includes a Finance Committee amendment filed by my colleague, Senator MOYNIHAN, the city and its people now have the necessary tools to comply with the strict provisions of the city's 4-year financial plan. This bill allows New York City and State pension fund trustees to acquire New York City and other relevant securities like those of the Municipal Assistance Corp. (MAC) without violation of the fiduciary standards established in the Internal Revenue Code of 1954.

It is important to note that the purchase of securities by these pension funds has staved off bankruptcy for New York City since 1975. The extension of this authorization is a vital element in the consummation of any financial plan for New York City which will accomplish the objective recommended by the President and the Secretary of the Treasury.

The city now has the opportunity to attain financial viability and to continue as the great national and world city which is its true character and role. Clearly, the road to recovery is full of danger. Recent Federal budget cuts in vitally needed social services programs must be offset by fiscal austerity measures, such as those already proposed by Mayor Koch, if the city is to regain access to the public credit markets.

The keystone of the plan is now in place, and it is my expectation that in coming years we will make all Americans proud of New York City.

There remains one additional action, House Joint Resolution 1068, an appropriations resolution required by the authorizing legislation to complete the program on the New York City Loan Guarantees. This resolution has already passed the House, been approved by the Senate Appropriations Committee, and

is awaiting Senate floor action. I lend my strong support to its consideration at the earliest possible time.●

The ACTING PRESIDENT pro tempore. If there be no further amendment to be proposed, the question is on agreeing to the amendment in the nature of a substitute.

The committee amendment was agreed to.

The ACTING PRESIDENT pro tempore. The question is on the engrossment of the committee amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The ACTING PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 4007) as amended, was passed.

The title was amended so as to read:

An act relating to the application of certain provisions of the Internal Revenue Code of 1954 to specified transactions by certain public employee retirement systems created by the State of New York, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MOYNIHAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. I thank the distinguished Senator for his diligence and devotion to his State and city.

Mr. President, I yield the floor.

THE NATION NEEDS A GOOD ENERGY BILL

Mr. BAYH. Mr. President, I rise today as one of a bipartisan group of Senators to urge my colleagues to join in passing a constructive energy package, that can get through the Congress before we adjourn and will be a positive step forward in dealing with our national problems. I believe that the recommittal motion, which we will offer, is a rational and sound alternative to the deadlock over energy policy that has existed for almost a year now. Our recommittal motion instructs the House/Senate energy conferees to report the utility and conservation bills, which have been virtually completed since last fall, but kept off the Senate floor, to the Senate floor for final approval. In addition it instructs the conferees to also report back to the Senate sections of the gas bill facilitating transfer of surplus and emergency gas to the interstate market when necessary. Together with the coal conversion conference report, on which the Senate has already acted, and the residential tax credits for solar and conservation investment—which we have also passed—these measures represent a helpful beginning to resolving our energy problems.

Mr. President, I want to make clear that I rise in support of this alternative and in opposition to the pending natural gas conference report only after prolonged and serious consideration of the matter before us. I am well aware of the President's deep commitment to securing passage of the natural gas conference report as one part of his energy package. I have been a strong supporter of the President's. I have been very moved by his arguments, and reluctant to go against him when he so obviously believes it is important for the Nation to secure passage of this gas bill as part of the energy package. But, in all good conscience, I cannot agree with the advice he is getting on this issue. I also rise in support of this alternative with all due respect by my colleagues who have labored long and hard on the natural gas conference report. They have worked hard on the bill and they have tried to meet their responsibilities as best they could. The issue of resolving the problems that have resulted from a dual market system and the desire of producers to be free of regulation has been deeply controversial for over 20 years, and one on which feelings and convictions run deep. Billions of dollars were at stake in their decisions. Conferees brought widely different philosophical beliefs to the conference, and represented very different constituencies. Their task was not easy.

Now that the issue is back before the full Senate, Mr. President, every Member of this body is faced with a very difficult decision. Supporters of the natural gas conference report have called it one of the most important votes of this session of the Congress, as have the President and prominent members of his administration. Faced with these presentations, none of us will make a decision lightly. I know I have not. As a Senator from a State which is dependent on gas for residential, industrial, and agricultural uses, and one which has experienced the ravages of severe natural gas shortages, and lived under the threat of curtailment, I know personally—in a way many of my colleagues from other regions of the country may not—what such shortages mean—to local communities, to States, to regions, and to the national economy.

And so, Mr. President, I preface my remarks with these observations, because I want my colleagues, and the President, to know that I have not arrived at this position easily and that I wanted an equitable, beneficial, and rational resolution to the natural gas question—and, indeed, the entire energy package—as much as any Member of this body.

Having said all this, Mr. President, and having thought long and hard about my responsibilities to my constituents and the Nation, I have reluctantly come to the conclusion that I cannot, in good conscience, support the conference report that has been sent back to us. Instead, I will vote in favor of the alternative policy embodied in the recommittal motion that will be offered later in this debate.

The pressure to put aside our doubts and approve the conference report has been enormous. The press writes daily about the need for "an energy bill." The President has said passage of this bill is a test of our national will; that the eyes of the world are on the Congress; that the strength of the dollar will be compromised without it; that future industrial growth and economic health depend on it.

I urge my colleagues to examine these arguments closely before they give assent to a bill—any bill—just to say we have done something. This conference report is not the President's energy package, it is but one of five bills in that package. I do not believe this bill will have the effects its proponents claim. Rather, I believe this bill is more likely to harm, than help, the Nation. I believe there are positive steps we can take now which will be constructive.

THE NATURAL GAS CONFERENCE REPORT IS NOT EQUIVALENT TO THE NATIONAL ENERGY PLAN

As you know, Mr. President, the national energy plan consisted of five separate legislative proposals: A conservation bill, a coal conversion bill, a utility reform bill, a natural gas pricing proposal, and an energy tax bill. The Senate considered each of these measures separately, at great length, and passed them along to the conferees as soon as they were approved on the Senate floor. The House of Representatives, on the other hand, considered the President's proposals as a package, at one time, and have treated them as such in the conference.

The conferees finished the work, in essence, on the conservation bill on November 1, 1977; on the coal conversion bill on November 11, 1977; on the utility bill on December 1, 1977. For whatever reason, we have not been permitted to act on these bills, despite the urging of many of us that we do so, with the exception of the coal conversion report, which the Senate considered in July, when the President was in Europe at the economic summit conference. The House has still not acted on this conference report. The conferees on the energy tax bill have chosen not to continue their work, awaiting action on the natural gas bill. In lieu of a comprehensive energy tax proposal, this month the Senate passed the residential tax credits for solar and conservation investments that the tax conferees had agreed on. We are awaiting action by the House on that bill.

Mr. President, it is important for us all to remember that each of these proposals was made with particular and specific goals in mind. The conservation bill was included in the package to put an end to the wasteful use of energy so apparent in the United States, compared to other industrialized nations. The coal conversion bill was included to stimulate conversion of utilities and industry off oil and gas to coal and other alternative energy sources, as was the energy tax bill. The utility bill was included to deal with failures on the part of our State public service commissions to provide equitable rates to different groups of

consumers and make most efficient and effective use of existing generation and transmission facilities. And finally, Mr. President, the natural gas proposal was included, in the wake of a winter of severe gas shortages, in order to remedy the distortions produced by a poorly performing dual gas market system.

Since the natural gas bill has been reported, its proponents have shifted to new arguments in its behalf—stressing the important contribution its passage will have for reducing oil imports, and thus reducing our balance-of-payments deficit, and stopping erosion of the dollar.

I must say, Mr. President, with all due respect to my colleagues on the other side of this issue, that this was never the intent of the President's natural gas proposal, and I do not believe this will be the effect of the natural gas conference report before us today. In fact, many have argued that this bill will, instead, increase our use of oil, further aggravating our problems. Nor do I believe it is an equitable answer for dealing with our gas supply situation, which was its original intent.

Mr. President, when the administration sent the national energy plan to the Congress in April 1977, it predicted the following savings from the five proposals that made up the energy package:

The energy tax bill, 43 percent.

The coal conversion bill, 37 percent.

The conservation bill, 19 percent.

The utility reform bill, 1 percent.

The natural gas bill, 0 percent.

Throughout the year-long debate on the energy package, the administration consistently maintained, as reflected in the above figures, that the wellhead tax—which would have put a tax on oil at the wellhead to bring all domestic oil prices up to OPEC prices—was the "centerpiece" of the national energy plan and would be responsible for saving the bulk of reductions in oil consumption that the administration desired. Further oil savings were to come as a result of the conversion and conservation bills. The natural gas proposal was never meant to save oil. I repeat, the natural gas proposal—one of the five bills in the national energy plan—was never meant to save oil. This was made clear again in July 1977 in the "National Energy Plan Savings Estimate" released by the White House which said:

> Increased availability of gas to the residential and commercial sector and incremental pricing of natural gas would have no effect on oil imports.

It is only recently, with the certain death of the wellhead tax proposal, that the argument has begun to be made that the natural gas conference report will save oil, save the dollar, and solve our import problem.

The first hint of this switch came in July shortly after the conferees had supposedly agreed to a compromise gas bill. At that time, the Department of Energy released a study claiming that the natural gas conference report would save 300,000 barrels of oil per day in imports compared to continuation under the existing gas system. This month, with final agreement by the conference, suddenly the estimates began to escalate. First we were told the import savings would be 500,000 barrels per day by 1985; then 1 million. Estimates now circulated by the Department are that it will save 1.4 million barrels of oil per day. Mr. President, I must submit that someone is playing with numbers here, and that such estimates are well-near impossible, given the elaborate assumptions on which they are based, and that no one has explained to my satisfaction why the so-called gas compromise will produce these results.

In fact, Mr. President, much of the information I have received from those in the business indicates that rather than save oil, this bill will stimulate increased oil imports. This is the information I have received, for example, from the gas distribution companies in my State that have large industrial customers.

I plan to address this question further later in my remarks. Right now I just reiterate that it is only in the last month, since the conference report has been signed, that the argument is suddenly being made that the natural gas bill is crucial to save oil, crucial to the dollar, and crucial for our world image. As late as this July, when the President was in Europe at the economic summit, the administration was insisting that America could only convince our trading partners of our resolve by raising domestic oil prices up to world levels. Now, with a gas deregulation proposal before us, this argument has been put on the back burner. Suddenly, the debate on oil prices has been shelved for the moment. Instead we are being told that it is the natural gas bill that is the litmus test of the national will; that it is the natural gas bill that will save oil; that it is the natural gas bill that will save the dollar.

I point out to my colleagues that this argument is directly contrary to the original national energy plan, which relied on conversion to coal and tough conservation measures to help solve our economic and energy problems. In fact, until recently, most administration officials argued that gas was much too "good" a fuel to be used for anything but the most essential purposes—and should not be wasted in boilers, when other fuels could do the job.

I urge my colleagues to look very closely at the premises on which current argument for this bill rests. In its simplest form, the argument is that this conference report will reduce oil imports because:

It will bring significantly more gas than the existing system will; and

That users in the interstate market, assured of adequate and stable gas supplies, will substitute gas for oil, thus reducing oil imports.

Supporters of this bill argue that its passage is essential for achieving increased interstate supplies. Further, they argue that these increased supplies will reduce oil consumption and relieve the pressure on the dollar. In order to bring this about, they are asking the American public to pay anywhere from $29 to $41 billion—depending on whose figures you accept—over the next 6 years and more thereafter, to reap these benefits.

Mr. President, we owe it to the citizens of this country to examine these assumptions very closely before asking them to reach deeper down into their pockets, at a time of reduced purchasing power, pinched family budgets, skyrocketing taxes, soaring utility bills, and increasing inflation, to transfer billions of dollars to gas producers that our people desperately need to keep for themselves.

IS THIS PRICE REALLY NECESSARY FOR INCREASED INTERSTATE GAS SUPPLIES?

Last fall, in anticipation of the Senate's consideration of his original natural gas proposal, which ended the dual market system by extending price and nonprice regulations to the whole Nation, President Carter had a few things to say about the relationship of gas prices to gas supplies. In September 1977, the President said:

> . . . deregulation of natural gas prices would provide windfall profits without increasing supply. Deregulation would cost consumers an extra $70 billion by 1985, but would increase supplies very little if any.

In October 1977, the President reiterated this opinion:

> If we tripled the price of oil and natural gas, there could be no substantial increase in the rate of exploration. It would be just an enormous windfall of profits.

This May—3 short months ago—the distinguished Senator from Washington—Senator JACKSON, the chairman of the Senate Energy Committee, with whom I have been associated in earlier debates on this issue—commented on the conference report:

> We are unable to predict any amount of new gas flowing into the interstate market from the bill. No one can predict that.

Mr. President, we should not try to fool ourselves or others on this issue. The difficulties encountered in gas consuming States since the late 1960's have arisen primarily because two different markets for natural gas currently exist in this country. Pipelines serving the producing States, or intrastate market, have been permitted to bid for gas at any price. Pipelines serving the nonproducing States, or interstate market, have been subject to price ceilings.

This system was designed to protect consumers from economic blackmail at the hands of natural gas producers. Up until 1968, it worked reasonably well. In fact, at the onset of the Nixon administration, gas was selling at slightly lower prices in the intrastate market than in the consuming States. Companies were guaranteed an adequate return on investment and gas supplies were flowing freely in both markets. Producers were not happy with Government regulation. As businessmen, naturally they wanted to be free to get what they could. But the system was working.

Then, in 1968, President Nixon's appointee to the Federal Power Commis-

sion, John Nassikas, announced that a round of price increases were in order. Since that time, the push for deregulation has gathered full steam and we have seen enormous and inflationary price increases in both gas markets, shortages in the interstate market, and the cry that only higher and higher prices will get enough gas into the interstate market.

Mr. President, the price increases for newly discovered natural gas since 1968 have been truly astounding. Ten years ago, the average price for new gas sold to pipelines serving nonproducing States was about 19 cents per Mcf, compared to about 18 cents in the producing States. By 1974, new gas was selling in the interstate market for 56 cents per Mcf, three times the price in 1969. Today it is selling at about $1.50—almost seven times greater than a decade ago. These increases, plus the unregulated short-term sales and direct purchases between industrial users and producers now permitted, have raised the average price of all gas sales in the interstate market from 19 cents in 1968 to about 96 cents per Mcf today. Projections under this bill, Mr. President, for the interstate market, are that residential customers will be paying $3.30 per Mcf for gas in 1985. Industrial customers in the interstate market will be paying considerably more than they are paying now, about $2.45, and a great deal more than their counterparts in the producing States, because of the discriminatory nature of the incremental pricing provisions. In 1985, when price controls come off, prices will likely rise further.

Before we put this burden on consumers and industry alike, Mr. President, we must ask if these increases will really produce the increases proponents predict. Or, without the temptation of deregulation, will gas producers put their shut-in reserves into the interstate market in any case, making equal or almost equal amounts of gas available as would flow from this bill? Or are alternative energy sources a better deal?

Mr. President, I have asked several times for a breakdown of administration estimates of where their predicted additional supplies will come from and how much of the price tag associated with the bill really pays for gas we would not otherwise get. The answers, to say the least, are imprecise.

Some things are clear:

Some of what is called new gas under this bill—which gets healthy price hikes and eventual deregulation—is either gas already discovered or offshore gas which will go into the interstate market by law under the existing system;

Some of what is called special development incentive gas—which gets price hikes—is already discovered and dedicated to the interstate market; and

Currently producing stripper wells will get higher prices.

So, we will be paying higher prices for this gas—old gas or gas that must go to the interstate market anyhow—as ransom money for whatever new supplies this bill will get to the interstate market. And how much are these new supplies, Mr. President, if we exclude Alaskan gas—which we can have with or without this bill?

Administration figures now estimate a 5-percent increase in supply—or 1 trillion cubic feet of gas by 1985. Earlier the Department of Energy estimated less. And the Congressional Budget Office even less. That translates into something on the order of $16 to $60 per mcf for these additional supplies, Mr. President, according to the arithmetic of my friend from Ohio. This is far less than projected unit costs of alternatives such as SNG or coal gasification, for example, both of which are being actively explored by gas companies in my State.

Mr. President, I suggest that this bill is less a carefully drawn compromise, targeting increases to areas where it will pay off, than the result of a shopping list of requests put together to get nine Senate signatures on a conference report. It will result in sharply increased prices to industry, to the agricultural community, and to small businesses and homeowners. It will get only marginally increased supplies to the interstate market, if any, at an exorbitant price.

I point out, Mr. President, that while we are debating this bill, the intrastate market is saturated and prices have fallen there from over $2, in some cases, to $1.60 to $1.75. Producers have no place to sell their gas but the interstate market. And they have been selling it.

After almost 5 years of no new dedications to the interstate market in the early 1970's, higher regulated prices have had their impact. After 5 years of no new gas to the consuming States, producers are putting it there. In 1976, 2.8 trillion cubic feet of new gas was voluntarily dedicated to consuming States—until those wells run out—25 percent of current usage. In 1977, 8.6 Tcf was dedicated—or 80 percent of usage. These are astounding figures, Mr. President, and indicate that paying $41 billion to producers is not the only way to get the gas we need.

While gas may have been priced too low in the past, Mr. President, recent price increases are now adequate and have spurred drilling from 900 new wells in 1973 to 2300 last year. Drilling is at a peak. If this bill fails, FERC will likely issue a biennial price adjustment which will make our market very attractive to producers—since it is the only market they will have to consistently absorb their surpluses. The shut-in surplus gas in Texas and Oklahoma—that has been withheld until this debate is over—will cross State lines because producers need that cash to pay off their investments.

And demand in the producing States can only continue to go down. With price increases there, industry and utilities in producing States have already begun to switch to other, cheaper fuels—No. 6 fuel oil, coal and nuclear. Under the Coal Conversion Act, utilities and large industrial boilers must switch off gas. In Texas right now, 90 percent of electricity is generated with gas. This will not be permitted under the Coal Conversion Act. With this loss of market in the producing States, gas producers should be happy to sell their gas to consuming States at the cost plus 15 percent profit allowed by FERC.

The gas producers of this country have been playing economic blackmail, withholding a vital resource from the public in order to build political pressure to lift all price controls. If they succeed, we will have unnecessarily high prices for gas in this country in the not too far distant future. If they fail, they will sell their gas at prices more than adequate to give them a profit and stop withholding it.

Mr. President, existing law allows short-term 60-day purchases by the interstate market at unregulated prices if purchasers need these supplies. It also permits direct purchases by industry at unregulated prices. The alternative gas bill I am supporting would also restore the President's ability to allocate gas and permit additional emergency purchases should we unexpectedly suffer another period of shortage in the consuming States. Our recommittal motion would permit 2-year interstate contracts for purchase of surplus intrastate gas. While these provisions would mean paying higher prices for these extra gas supplies, at least we will only be paying more for what we need and will not otherwise get. And we will not be faced with certain deregulation.

Other recent developments reinforce my opinion that the existing system will work better in the future:

All future offshore gas will go to the interstate market;

FERC has authority to grant increased prices to truly high cost gas; and

This May, the Supreme Court rendered a ruling in the Southland case which could potentially bring large quantities of old gas into the interstate market. In a last minute change to the conference report, in order to get the minimum number of signatures necessary, this ruling was nullified. If our alternative is accepted, the Southland decision will stand and may further contribute to an equitable distribution of national gas supplies.

Mr. President, I submit that $29 billion or $41 billion is too high a price to pay for the minimal increases we have been promised.

The 3- to 6-percent increase in gas supplies promised by this bill, at blackmail prices, would certainly cost more per unit than alternative energy sources.

Further, I would add at this point, that those in the business of producing gas—the independent domestic gas producers—who do most of the exploratory drilling, discover most of the new fields, and discover half of our new reserves—are opposing this bill because they feel that it will reduce new gas supplies, because of its complexity—over 20 different pricing categories and a new structure of costly Government regulation that will lead to endless delay and litigation. The independent gas producers have called this bill a "blueprint for disaster, leading to less gas, not more." Some of my colleagues from gas-producing States, such as the Senator from Wyoming (Mr. HANSEN), who is the ranking Republican member of the Energy Committee, and the Senator from Louisiana (Mr. LONG),

who is chairman of the Finance Committee, as well as the two Senators from Oklahoma, and others, have made the same point.

The head of FERC's division of enforcement, responsible for administering this bill, in an August 14 memorandum to FERC chairman Curtis, wrote that—

> The proposal is so complex, ambiguous, and contradictory that it would be virtually impossible for this Commission to enforce in a conscientious manner. At best, the legislation would require lengthy litigation—including in all likelihood a number of Supreme Court decisions—before the meaning of the provisions is settled.

The memorandum further stated:

> The potential for abuse is enormous, particularly in view of the fact that each producer is responsible for designating the pricing categories into which production from each source falls. Because of the economic incentives to classify production in the highest price category, every ambiguity will become an obstacle to fair and effective enforcement of the pricing structure.

I understand that Chairman CURTIS has had a new review done on the conference report, subsequent to the last minute changes made that purportedly added $12 to $13 billion to its price tag. Although I have not yet seen it, I gather this evaluation indicates that some of the ambiguities and administrative problems with the bill have been dealt with. However, and I am sure this is the most generous appraisal FERC could come up with, this latest memo purportedly concludes that the bill still creates a "most difficult" challenge for FERC and can only be enforced if Congress substantially increases the regulatory apparatus—to the tune of 300 new employees at a cost of $30 million to expand the bureaucracy. Further, I understand, it states that it may take years of litigation to establish what the conference report really means.

Mr. President, this prediction is not the "price certainty" that DOE is telling us is necessary to get the increased supplies they project under this bill. Right now gas is priced on the basis of one criterion—the date it is found. Under this bill, 23 different pricing categories rest on such factors as: Well depth; drilling date; date lease signed; formation type; distance from existing well; rate of flow; and date gas discovered.

The regulatory commissions of the various States are charged with making these determinations. Then FERC must approve them. Then the courts must hear challenges over them. No wonder the independent producers—who discover most of the new gas in this country—and who do not have a platoon of lawyers and accountants working for them like the majors do—oppose this bill. No wonder that we will have to increase the bureaucracy by 300 people to try and administer it—and have a "difficult challenge" at best and a collapse of the system at worst.

Mr. President, this bill does not do away with the two-market system which has been at the root of our natural gas supply problems. It continues differences in pricing provisions between the two markets for all but new gas; it continues differences in curtailment and allocation provisions between the two markets—which will allow future shortages and shutdown in consuming States—of factories, hospitals, and schools—while gas is used for nonessential purposes in producing States; it establishes a new discriminatory pricing system for industrial customers in the two markets which may have a devastating impact on the economies of the consuming States and the Nation as a whole. It does not meet the principles which characterized the President's original proposal—of continued price ceilings, price incentives only for truly new gas and high cost gas, elimination of the dual market system and administrative simplicity. It may well lead to production of less gas. It certainly does not offer the certainty—or even the likelihood—of significant supply increases to the interstate market.

IS THE CONFERENCE REPORT THE ONLY WAY TO BRING ALASKAN GAS ON STREAM?

Mr. President, one of the factors that made me most reluctant to oppose this conference report is the fact that it contains provisions necessary for progress on the Alaskan gas pipeline. As some of my colleagues may remember, I was an early and strong supporter of the trans-Canadian Alaskan gas pipeline that the administration recommended and the Congress approved last year. It is with great reluctance that I take any step which might further delay this project.

The Alaskan gas pipeline has been held hostage to the natural gas bill, as it were, along with the other portions of the national energy plan. This is unfortunate. It has probably caused a delay in the early delivery of Canadian gas which this project promised, its final completion date, and added to the ultimate cost of the pipeline.

But this bill is not the only way to get the pipeline. Instead, we can incorporate the Alaska gas pricing provisions in the conference report in the recommittal motion, and have the pipeline without further delay. To this end I have introduced an amendment with several of my colleagues to modify the recommittal motion to instruct the conferees to report back to the Senate those provisions dealing with Alaska gas.

Mr. President, a positive vote on this amendment, by those on both sides of the natural gas bill, should assure that the Alaska gas provisions will be included in any subsequent recommittal motion that may be offered should the first motion fail.

The Alaska gas pipeline has widespread support in Congress. The Senate approved it by a vote of 87 to 2. The House approved it by voice vote. The President has made clear his strong belief that construction of the pipeline is in the national interest. The only remaining obstacle is the setting of a price for Alaska gas, which is necessary before gas sales contracts can be signed and financial arrangements for the project completed. The Alaska gas pricing provisions in the conference report will stabilize the price of Alaska gas and permit private financing for its construction. These provision are in no way logically related to the rest of the bill. The fate of the pipeline should stand on its own merits and not hang on the outcome of the controversial natural gas conference report. Progress on the project has already been unnecessary delayed for a year, because of congressional debate over deregulation of natural gas prices.

Giving a final green light to this project is the most immediate way of avoiding future natural gas shortages. It will mean the predelivery of 1.04 billion cubic feet of additional Canadian gas from Alberta to the lower 48 States in 1980 due to early construction of the southern spurs of the system, which will deliver gas both east and west of the Rockies. Alaskan gas will come on line at the rate of 2 billion cubic feet per day in early 1984, increasing to 2.4 billion cubic feet per day by 1990. Finally, construction of the pipeline offers the possibility of continued imports of Canadian gas, currently running at 2.7 billion cubic feet per day, if necessary.

The reserves at the Prudhoe Bay field on the North Slope of Alaska, estimated at 26 trillion cubic feet, are likely to permit gas flow at this rate for 25 to 30 years. Undiscovered reserves elsewhere in Alaska could run as high as 72 to 185 trillion cubic feet. Construction of this pipeline is a safe, reliable, and efficient way of significantly increasing American natural gas supplies to the parts of the country that need new supplies most. And we can have it without this bill.

WILL THE NATURAL GAS CONFERENCE REPORT SAVE OIL IMPORTS AND STABILIZE THE VALUE OF THE DOLLAR?

So far, Mr. President, I have addressed the question as to whether or not the natural gas conference report will lead to significant gas supply increases for the interstate market. I have stated my opinion that I do not believe it will. In closing, I would like to address myself to the question as to what impact this proposal might have on our oil imports, trade deficit, and the value of the dollar.

Earlier in my remarks, Mr. President, I noted that the purpose for including a natural gas proposal in the national energy plan was to bring about a more equitable distribution of the Nation's natural gas supplies than has existed over the last decade under the dual market system. And I indicated that at that time, and, in fact, up until the very last month or so, no oil savings were claimed for this conference report.

Recently, administration officials and other proponents of this bill have argued that it will reduce our oil imports because of switches from oil to gas that will take place as a result of its passage. From what I have been able to gather, this is supposed to occur as a result, primarily, of increased industrial use of gas.

Mr. President, information I have received from gas companies in my State, which serve large industrial customers, indicate exactly the opposite is likely to occur. That is, it leads to the conclusion that if industrial energy purchasing patterns are affected at all by this bill, it will be in the direction of forcing further conversion from gas to oil, wherever possible, rather than from oil to gas.

NIPSCO—Northern Indiana Public

Service Co.—the gas utility serving industry in northern Indiana—reports that passage of this conference report will cost them 24 percent of current sales, because their major industrial customers have told them they will switch to oil, where possible, if this part of the energy plan passes. In addition, because the provisions of this bill which deal with industrial gas prices apply only to nonproducing States, NIPSCO believes that industry will be discouraged from expanding or locating in Indiana, resulting in a loss of job opportunities for people working and living there. Finally, NIPSCO estimates that gas bills for their residential customers could increase by 49 percent—I repeat, 49 percent—because the loss of industrial customers will make the costs of gas to their residential and commercial customers so much higher, as they pick up overhead and transportation costs that are now shared among all types of users. Surely, Mr. President, the analysis done by this major gas supplier does not lead me to believe that this bill will save oil.

Similar conclusions have been reached by Citisens' Gas and Coke, a natural gas distributor in the Indianapolis area. In commenting on the natural gas conference report, Citisens' wrote:

> I believe the intent of this portion of the report is to drive industrial gas boiler customers to coal. However, considering the constrictions on the use of coal, such as stockpiling and pollution control devices, it is our feeling, substantiated by discussion with other utilities which have polled their industrial customers, that these customers will switch to oil. This will only compound our energy problem and aggravate our economic problem through an increased balance of payments deficit.

Charles Cicchetti, chairman of the Wisconsin Public Service Commission, noted the same effects in Wisconsin. In a letter to all Senators, Mr. Cicchetti wrote:

> Wisconsin's industry would be forced to convert to higher priced energy, probably foreign oil. Wisconsin would lose jobs to gas producing states. Furthermore, Wisconsin residential gas customers would have to pay both the higher costs of the "deregulated" gas and a higher share of the fixed costs of the distribution utilities caused by industrial conversion from natural gas.

According to figures sent to my office by the Department of Energy on August 24, 1978, the industrial heartland of the country—Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin—will be paying the highest industrial prices for natural gas by 1985 of any part of the Nation. Also subject to these high prices are heavy industry in the mid-Atlantic region—Delaware, Maryland, Pennsylvania, Virginia, and West Virginia. According to industrial representatives and gas distribution spokesmen, gas prices to industry in these regions will be such, by 1985, Mr. President, that conversion to oil will be cheaper than conversion to or continued use of gas. In addition, discriminatory pricing against these parts of the country will likely be an economic death-knell for future industrial growth and cause loss of jobs, economic dislocation and hardship, as well as even higher than predicted gas prices for residential, agricultural, and commercial users of gas.

Mr. President, I submit that this makes no sense. This is not in the national interest. And it certainly is not in the interest of the people residing in these States. It will mean economic hardship. It will mean loss of jobs. It will mean increased oil imports and more economic problems.

Beyond this argument, Mr. President, noted economists and leaders in the business community have questioned the extent to which oil imports are responsible for causing the recent and dramatic erosion of the value of the dollar.

Oil imports, once the Nation's leading import, are now, according to July Department of Commerce figures, in third place behind machinery and transport equipment. While the amount of oil imports, and their cost, have increased dramatically in the 1970's, since the Arab oil embargo, and OPEC price increases, so far 1978 oil imports are down 13 percent and our trade deficit with the OPEC nations appears to be stabilizing while it is getting worse vis-a-vis the Big Seven OECD nations.

Mr. President, in 1973 we were paying other nations $8.4 billion for oil. Last year we paid $45 billion. No doubt this has contributed to our current trade deficit. But other factors are more responsible for its increase, as well as the erosion of the dollar. Nonoil imports have increased, in the same time period, from $62 to $107 billion. And since 1975 our exports have not grown at earlier rates. The natural gas bill is not going to arrest this trend. If anything, it will aggravate it because higher energy prices to our industries and manufacturers will make their products less competitive abroad. The $2.5 billion in import savings that may result from the increased gas supplies predicted under this bill will barely make a dent in our $152 billion trade deficit.

I am not an economist, Mr. President, but to me these trade figures indicate that something besides our oil imports is to blame for the worsening deficit; that nonoil trade problems are increasing, while the oil situation may be stabilizing. Passing this conference report, with the minimal chance that it might result in a slight decline in imports, but more likely will have no effect or a negative effect on our energy situation, and our economy, will not solve these other problems. It will not help us export more farm goods, or machinery. And, if industry in fact converts to oil, because of this bill—and there is and will be an oil glut to accommodate this type of switch for the next few years—the conference report will only aggravate our economic problems.

Further, economists are now questioning the extent to which oil imports, and even our overall trade deficit, are related to pressure on the dollar. In June, the Congressional Budget Office noted that—

> Other variables play a more pivotal role in determining the balance of payments than oil imports.

In late August, the Wall Street Journal argued that—

> The dollar fell not primarily because the U.S. imports too much oil, but because the U.S. created too many dollars. If the expansion of world dollar reserves is not arrested, it would continue to fuel world inflation even if the energy problem could be solved tomorrow.

Mr. President, as has been pointed out by others who have spoken on this point, energy imports and exports do not seem to be related to the value of different currencies today. Canada is an energy exporter and her dollar is losing value relative to other currencies. Japan and Germany are heavy energy importers—but their currencies are gaining value. Robert Slighton, vice president of Chase Manhattan Bank, wrote to the Business Roundtable in August that the major problem with the dollar now is inflation:

> "The argument that passage of the compromise gas bill would play an important role in halting the decline in the dollar and strengthening the U.S. balance of payments outlook is at best highly exaggerated and at worst just plain wrong.

Mr. Slighton noted that any short-run positive effect of passing the legislation would not be permanent and that—

> In the longer run, the legislation could actually result in some weakening of the dollar as foreign exchange markets come to perceive that the long run supply of natural gas in the U.S. is as likely to be reduced as increased under the new regulatory regime.

The letter goes on to state that the major source of weakness of the dollar now is not a weak current or prospective trade balance, but accelerated inflation and a monetary policy which can only worsen the inflationary spiral. Further, it noted that—

> It is by no means clear that the market will perceive the compromise bill as resulting in an enhanced long-run supply of natural gas . . . (rather) our belief is that once market analysts have time to examine the legislation carefully, they are likely to conclude that the status quo provides at least as much production incentive as the proposed regulatory regime.

Mr. President, this bill will likely add to the inflationary spiral, thus worsening the plight of the dollar. Twenty-seven percent of the energy used in this country is natural gas. About half of all homes are heated with gas. Our homeowners and small businessmen are going to see significant increases in their utility bills with this legislation. Most of my constituents are already finding it hard to pay their bills. Every business that uses gas in the industrial process will be charged higher prices for their gas. These increases will ripple through the economy—making all our products more expensive and adding to the already growing cry for wage and salary increases. This can only further hurt the dollar.

Mr. President, we cannot magically label this conference report a "national energy policy" and expect it to solve all our problems by telling our trading partners that it will. Those overseas concerned about the dollar will not be long fooled by this bill. If our rhetoric has so escalated that passage might have a temporary salutory effect, it will not last. And then our credibility will be even worse. Passing a bad bill—and calling it an energy policy—will not solve America's problems.

The natural gas conference is not the national energy plan. It is one part of that plan, and was never meant as a means of cutting oil imports, reducing inflation or saving the dollar. I regret very much that some proponents of this conference report have escalated the rhetoric used in its defense to this level. In the short run, if we recommit this bill, and pass a stripped down version of it—minus the pricing provisions—I believe we will be acting in the Nation's best interests. We may see some disconcerting headlines—"The United States Cannot Pass an Energy Bill" or "The United States Congress is in Disarray" or "President Carter's Energy Plan Goes Down to Defeat," because of the arguments being developed to get a majority of votes behind this bill.

Such headlines, and analyses, are unfortunate and untrue. I hope this debate will clarify exactly what is and what is not at stake in the Senate this week.

I urge my colleagues to join with me in supporting the recommittal motion that will be offered by Senators METZENBAUM, ABOUREZK, HANSEN, BARTLETT, LONG, and others. This should assure that by the end of the session we will have passed a good deal of what the President proposed last year.

These are provisions which make sense and to which virtually all of the Senate and House conferees have agreed. I do not see why, if this is the Senate's will, the conferees should not speedily adopt them and permit us to vote on the rest of the energy package. I, for one, will be willing to work next year, with the administration and the rest of my colleagues, on additional measures that are reasonable responses to the energy problems this Nation faces.

Mr. President, assenting to our alternative proposal over this bill shows no lack of national discipline. Rather, it tells me that we will not permit ourselves to be stampeded into passing a bad bill so we can say we have done something.

An editorial that recently appeared in the Scripps-Howard papers summed it up best by saying:

> Here is a time when doing almost nothing is better than great showboating actions to make the public think "Government is rising to the energy crisis."

NATURAL GAS POLICY ACT OF 1978—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

AMENDMENT 3600

Mrs. HUMPHREY. Mr. President, I call up printed amendment number 3600 to the instructions contained in the motion offered by the Senator from Ohio, Mr. METZENBAUM to recommit the conference report on H.R. 5289.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Minnesota (Mrs. Humphrey) for herself, Mr. BAYH, Mr. ANDERSON, and Mr. STEVENS, proposes amendment numbered 3600.
>
> At the end of the instructions contained therein add the following: "*Provided, however*, That all provisions of the conference report pertaining to natural gas produced in Alaska be incorporated in the conference report reported back.".

Mrs. HUMPHREY. Mr. President, my amendment instructs the conferees to report back the bill with the provisions in H.R. 5289 pertaining to natural gas produced in Alaska.

Specifically my amendment instructs the conferees to report back with the following sections included: Section 2(36); sections 101(a)(1), 101(a)(2), 101(a)(3), 101(b)(3), 101(b)(4), 101(b)(6), 101(b)(7), 101(b)(8); sections 109(a)(4), 109(b)(1); section 110; sections 203(a)(8), 203(a)(9)(A), 203(a)(9)(B), 203(a)(9)(C); section 203(b)(1); sections 207(b), 270(c)(2); section 208; sections 601(a)(1)(A), 601(a)(1)(D), 601(b)(1)(A)(i), 601(c)(1), and 601(c)(2)(A), and with such conforming language and/or definitions as may be required.

My sole purpose in offering this amendment is to assure the financing of the pipeline to bring Alaskan natural gas to the contiguous 48 States if the motion by the Senator from Ohio is successful.

Mr. President, this amendment was thoroughly discussed by my distinguished colleagues, Senators BAYH and STEVENS, last Friday. I hope we can all agree to support it.

I yield the floor.

Mr. METZENBAUM. Does the Senator from Alaska care to be heard now?

Mr. STEVENS. I thank the Senator from Ohio, not now.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, as I stated before when the amendment of the Senator from Minnesota was introduced, I am happy to support the amendment she is offering to the motion offered by the Senator from Ohio. The effect of this amendment will be to add the provisions that are in the conference committee bill as outlined in its report to the bill that would be reported back from the conference if the motion to recommit offered by the Senator from Ohio is successful. I believe this is the correct procedure to follow because of the great importance of the provisions pertaining to the Alaska natural gas pipeline. Provisions contained in the report provide a ceiling price for the gas produced in Alaska at $1.45 per million Btu's. The provisions also provide for rolled-in pricing for Alaska's gas and provide for the treatment to be given to the facilities that are needed for transporting Alaska's gas to the markets of the south 48.

Mr. President, those provisions are most important because they eliminate much of the uncertainty concerning the financeability of the Alaska natural gas pipeline. Adoption of these provisions will enable that pipeline to proceed as scheduled. The line will be financed because some certainty would exist regarding the pricing of Alaska's gas, the handling of the cost of conditioning the gas, and the mechanism of rolled-in pricing.

It is important, I think, to keep in mind that there are some people who do not support the construction of the Alaska natural gas transportation system as it was outlined by the President in his decision. For that reason, any hearings before the Federal Energy Regulatory Commission could result in litigation concerning any decision made by FERC. By placing these items in the conference committee bill or in the bill that would be reported back from the conference should the motion to recommit be adopted, we can assure the financial institutions of this Nation—in fact, of the world, because there will be an international interest in financing this pipeline—that we have done as much as we can to eliminate the uncertainty concerning the actual ceiling price for Alaska's gas and the treatment of the costs of conditioning the gas.

I am indebted to the Senator from Minnesota and to the Senator from Indiana for their consideration and for offering this motion to assure that the recommital motion of the Senator from Ohio would include the Alaska gas pipeline provision.

Mr. President, I ask unanimous consent that the summary of the sections that would be included in this bill if the recommital motion is successful be printed in the RECORD following my statement, along with a statement of the specific sections that would be included in the motion to recommit if it is adopted.

Mr. METZENBAUM. Reserving the right to object, and I shall not object, I just make the observation that at an appropriate point, I am prepared to accept the amendment, as soon as the Senator from Alaska understands that we have not had an opportunity to check into those particular sections. I do not want my silence with respect to the subject to be interpreted as total agreement. That being merely a drafting matter, certainly the intent of the parties is very clear and unequivocal and I just want to make certain that my own position on the subject is not misinterpreted. For the record, I do not object.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I support the amendment that has been offered by the distinguished Senator from Minnesota and other Senators. This does not, however, lessen to any degree mv opposition, which is total, to the motion to recommit it with instructions.

I do congratulate the distinguished Senator from Minnesota, the distinguished Senator from Indiana, and the distinguished Senator from Ohio and others on the amendment to the instructions which are contained in the motion by Mr. METZENBAUM. As a matter of fact, I ask unanimous consent that I may be joined as a cosponsor of the amendment proposed by Senator HUMPHREY.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I thank the majority leader. The statement of the Senator from Ohio is acceptable to me. The information that I have placed in the RECORD has been prepared by the staff. If there is an error in it, we would be most ready to accommodate the Senators.

I have discussed this amendment of the Senator from Minnesota with Senator JACKSON, and he authorized me to state that he finds the amendment acceptable and I am sure he has conveyed that to the Senator from Ohio, also. It is my hope that this will be a noncontroversial matter, as I think it should be. It is a most necessary amendment to insure the transportation system that will provide the Nation with access to 10 percent of our reserves of natural gas is built. I think it is a very worthwhile amendment.

Mr. METZENBAUM. I did not mean in any manner to suggest that drafting of the language was inappropriate, but merely want to preserve the record in case there is some reason to discuss some specifics in connection with that language. I am certain that, if and when the motion to recommit is adopted with this amendment added to it, we shall have no difficulty with respect to the language pertaining to Alaska.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY

2(36). Defines Prudhoe Bay Unit of Alaska as the area subject to the unit agreement approved by the State.

Sec. 101. Provides for and describes an inflation adjustment factor to permit increases in ceiling price as provided for in conference report. In new conference report this provision would be limited to gas from the Prudhoe Bay Unit of Alaska, which is transported through Alaska Natural Gas Transportation System.

Sec. 109. Establishes a ceiling price for Alaskan gas of $1.45 per million BTUs.

Sec. 110. Provides that the maximum price can include amounts needed to recover costs of State severance taxes. Limitation is imposed on State severance taxes to those in effect or enacted before December 1, 1978, unless the increase applies to both inter- and intra-State gas.

Also allows ceiling price to be increased to cover costs of conditioning the gas.

Sec. 208. Is the general provision relating to what is to be incrementally priced under conference report.

Alaskan gas is entitled to rolled in pricing in the conference report and so any subsequent conference report should provide guaranteed rolled-in pricing for Alaskan gas.

This section will have to be significantly modified since in the present conference report it is part of an entire scheme to mandate incremental pricing. In any subsequent bill it would probably be alone, and extensive revisions would be required to provide the same treatment for Alaskan gas.

Sec. 207. Provides that gas imported into the United States under the prebuilding arrangement be rolled in.

President's decision recommended prebuilding of certain southern parts of the project to allow Alberta gas to be imported into the U.S. temporarily.

As gas transported through the Alaska Natural Gas System it is entitled to rolled-in pricing. It is our intent that application of this section be limited strictly to gas transported through part of the Alaska Natural Gas Transportation System.

Sec. 208. Provides for rolled-in pricing of acquisition cost and transportation costs of Alaskan gas.

Sec. 601. Required provisions to coordinate with Natural Gas Act and to limit FERC review since Congress will have acted to set price of Alaskan gas.

The motion to recommit should be interrupted as specifically instructing the conferees to report back with the following sections included: Section 2(36); sections 101(a)(1), 101(a)(2), 101(a)(3), 101(b)(3), 101(b)(4), 101(b)(6), 101(b)(7), 101(b)(8); sections 109(a)(4), 109(b)(1); section 110; sections 203(a)(8), 203(a)(9)(A), 203(a)(9)(B), 203(a)(9)(C); section 203(b)(1); section 207(b), Section 207(c)(2); section 208; sections 601(a)(1)(A), 601(a)(1)(D), 601(b)(1)(A)(i), 601(c)(1), and 601(c)(2)(A), and with such conforming language and/or definitions as may be required.

Mr. BAYH. Mr. President, I join with my colleague from Alaska and my colleagues from Minnesota in calling up this amendment to modify the recommittal motion that has been made by Senator METZENBAUM and others. The purpose of this amendment is clear. It is meant to assure that the fate of the Alaska gas pipeline should stand on its own merits and not hang on the outcome of the controversial natural gas conference report.

The Senate has reached agreement to vote on this recommittal motion on the natural gas conference report today. If this motion fails, others may be offered. The motion offered today will instruct the conferees to report certain nonpricing sections of the natural gas conference back to the Senate as a substitute for the conference report now pending. The amendment we are offering to the Metzenbaum recommittal motion will modify the instructions to include the provisions in the conference report dealing with the Alaska gas pipeline.

Senator STEVENS and I have copies of the language we reference in our amendment available for those of our colleagues who may be interested. The provisions included in our amendment deal only with the Alaska gas pricing provisions and mirror the agreement of the conferees to the letter. It is our understanding that the only provisions included, which might possibly have an impact on gas supplies not associated with the Alaska gas project, are sections 207(b) and 207(c)(2).

Our inclusion of these provisions is meant to assure that costs incurred as a result of the early delivery of Canadian gas associated with this project are rolled in. If, despite our best information, there are other contracts that could be covered by these provisions, I would like to state clearly that this was not our intent and that the conferees should make whatever drafting changes are necessary to mold the language to our intent.

A positive vote on this amendment, by those on both sides of the natural gas bill, should assure that the Alaska gas provisions will be included in any subsequent recommittal motion that may be offered should the first motion fail.

The Alaska gas pipeline has widespread support in Congress. The Senate approved it by a vote of 87 to 2. The House approved it by voice vote. The President has made clear his strong belief that construction of the pipeline is in the national interest. The only remaining obstacle is the setting of a price for Alaska gas, which is necessary before gas sales contracts can be signed and financial arrangements for the project completed. The Alaska gas pricing provisions in the conference report will stabilize the price of Alaska gas and permit private financing for its construction. These provisions are in no way logically related to the rest of the bill. The fate of the pipeline should stand on its own merits and not hang on the outcome of the controversial natural gas conference report. Progress on the project has already been unnecessarily delayed for a year because of congressional debate over deregulation of natural gas prices.

Giving a final green light to this project is the most immediate way of avoiding future natural gas shortages. It will mean the predelivery of 1.04 billion cubic feet of additional Canadian gas from Alberta to the lower 48 States in 1980 due to early construction of the southern spurs of the system which will deliver gas both east and west of the Rockies. Alaskan gas will come on line at the rate of 2 billion cubic feet per day in early 1984, increasing to 2.4 billion cubic feet per day by 1990. Finally, construction of the pipeline offers the possibility of continued imports of Canadian gas, currently running at 2.7 billion cubic feet per day, if necessary. The reserves at the Prudhoe Bay Field on the North Slope of Alaska, estimated at 26 trillion cubic feet, are likely to permit gas flow at this rate for 25–30 years. Undiscovered reserves elsewhere in Alaska could run as high as 72 to 185 trillion cubic feet. Construction of this pipeline is a safe, reliable and efficient way of significantly increasing American natural gas supplies to the parts of the country that need new supplies most.

No matter what any Senator's position on the pending conference report, I urge all my colleagues to support this amendment, meant to insure construction of the pipeline regardless of the division in the Senate on the conference report. An affirmative vote by the Senate for the pipeline should assure that if the first recommittal motion fails, the pipeline provisions will be included in any subsequent recommittal motions that will be offered. A rejection of this amendment could be construed as a lack of support in the Senate for this project and would not be in anyone's interest.

Mr. President, I feel that those Members of the Senate realize that the full resolution of the energy problem confronting this country today involves more than the passage of one piece of legislation. The matter in dispute before us right now, the great controversy, is how to dispose of the natural gas pricing mechanisms of this country. On that there is, to say the least, significant difference of opinion.

Although there is no unanimity of feeling on how the Alaska natural gas problem should be resolved, I think

there is a great majority of support for the proposition that expeditious and equitable distribution of Alaska gas is an important plan in building an energy program for this country. Thus, it seems only right that this plan should be included, not only in the original proposal that is supported by the administration, but in the recommital motion, which is supported by the Senator from Ohio.

We have to get that gas down to the lower 48. It has to be distributed in a way that the entire country gets it and not have what happened in the Alaskan oil situation that existed, as far as natural gas.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ZORINSKY). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont.

Mr. STAFFORD. Mr. President, this afternoon at 3 p.m. we will be voting on a motion to recommit the conference report on H.R. 5289—the Natural Gas Policy Act of 1978.

Some little time ago I concluded that while the act is far from perfect, it is much better than no action at all and should be supported.

Therefore, for several weeks I have been prepared to oppose recommitting the act, action almost certain to result in no act at all.

This Senator has very recently returned from a 10-day meeting of the International Parliamentary Union in Bonn, Germany. Parliamentarians from 72 nations were present including representatives from the parliaments of the industrialized western nations with whom the United States is usually closely associated.

Although worldwide energy problems were not among the several subjects of formal deliberation and resolution at this conference, the energy difficulties of the United States in particular, and the world generally, the perceived lack of a U.S. policy on energy, our trade imbalances, and the fall of the dollar, all believed to be related, were very frequent topics of informal discussions, especially among our allies in the industrialized nations.

It became very clear to me, as a result of such discussions and conversations with our allies and representatives at Bonn that adoption of the Natural Gas Policy Act on our past, even though far from perfect, would be perceived as a strong positive move on the part of the United States to establish a national energy policy. I believe it would strengthen the dollar, and that belief is shared by representatives of the Western nations at Bonn, West Germany.

I suggest this as an additional reason for voting against recommittal of the conference report this afternoon and later voting for its adoption at the time that question arises.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Vermont for the statement that he has made. I am also grateful for his reference to his recent experiences and discussions in Europe with leaders there.

I feel that that information not only has a direct bearing on this issue, but will be very helpful for the Senate to have.

I congratulate him and I thank him.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I have much respect for the distinguished Senator from Vermont. I congratulate him. I think he was just recently elected to one of the international bodies. I know that he has great stature in the international community, as well as in this Nation.

I also know that he reports accurately to us. I am certain that there is a concern internationally with respect to an adequate national energy plan for this Nation.

Yet, I would have to point out to him that I am certain that those who are most knowledgeable in the international community, who would have the greatest concern about the value of the dollar, the strength of the American economy, would also be smart enough and wise enough to recognize that a bill that has been described as not much of a bill, as a bill being the only bill in town and for that reason we have to pass it, a bill that has been described by Mr. Strauss, or the international trade negotiator, as being a C-minus bill and a bill that will not contribute to solving the problems of this Nation with respect to natural gas, will be perceived by the international community for that which it is once they have had an opportunity to examine into it.

But having said that, I think it may be an appropriate time at this point to bring the attention of the Senate to the fact that regardless of what the international community might think, the energy policy task force of the Consumer's Federation of America, which is the Nation's largest energy coalition of consumer, labor, public power, farm, and urban organizations feels that no natural gas bill is better than a bad bill, and this is unquestionably a bad bill, so they stated in a letter to the editor in the Cleveland Plain Dealer dated September 17, 1978.

Mr. President, I ask unanimous consent that there be printed in the RECORD the entire letter from Ellen Berman, Director of Energy Policy Task Force.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

[From the Cleveland Plain Dealer, Sept. 17, 1978]

GAS DEREGULATION BILL WOULD HARM OHIO

Judging from its editorials, The Plain Dealer is so eager to see a national energy bill enacted, at any price, that it has ignored the disastrous consequences that natural gas regulation would bring with it. The Energy Policy Task Force of the Consumer Federation of America, the nation's largest energy coalition of consumer, labor, public power, farm and urban organizations, however, feels that no natural gas bill is better than a bad bill. And this is unquestionably a bad bill.

The deregulation agreement that has emerged from the House-Senate conference committee, and which is to be voted on in the Senate this week, would wreak economic havoc on Ohioans and Ohio's industry, and on consumers across the country. The conference agreement guarantees only one thing—that consumers will have to pay much more for gas. It does not guarantee that consumers will receive increased or even ample supplies of gas.

The higher gas prices mandated by the agreement will mean that consumers will pay producers a minimum of $20 billion more over the next six years, according to the conservative estimate of the Department of Energy. David Sweet, a member of the Public Utilities Commission of Ohio, calculates that Ohioans, who use 5% of the nation's natural gas, would pay $1.5 billion more through 1985 for this bill. That translates into nearly $600 more for the average family. As always, the poor and elderly would be the hardest hit.

In exchange for this exorbitant price, Ohioans would not be assured of ample gas supplies or equal access to all the nation's gas reserves. The conference agreement allows consumers in gas-producing states to buy gas at prices higher than those that will be permitted in interstate markets, so gas would remain more plentiful in the gas-producing states.

Ohio's industry would be badly hurt, too. The conference agreement would pass on all the initial costs of deregulation to industrial users of gas while exempting industrial users in the gas-producing states. Fuel costs for Ohio industry would soar and Ohio would lose jobs to industry in gas-producing states.

As costly as the bill would be in jobs and dollars, the worst defect for Ohioans may be that the bill provides no assurance that the specter of last winter's shortages and layoffs will not be repeated. The bill does not contain the authority for directing gas from the plentiful intrastate market to consuming states like Ohio in times of shortage.

The defeat of this bill would not mean that the United States would be left without a gas policy. The United States already has a natural gas policy in the Natural Gas Act of 1938. What is needed is for the new Federal Energy Regulatory Commission (FERC) to enforce the law more vigorously and effectively than its predecessor, the FPC, did during the previous two administrations. We believe that FERC already has ample authority to ensure that adequate supplies reach the interstate market, and it shows promise of exercising this authority.

We agree with The Plain Dealer that this country needs a national energy plan. But that can certainly be accomplished without inclusion of the catastrophic natural gas bill.

President Carter has called conservation the "cornerstone" of his energy plan. If the gas bill is defeated, congressional leaders will release the conservation, coal conversion and utilities portions of the national energy plan, which they have held hostage to the natural gas bill. These portions of the plan, which can be swiftly enacted, would provide a sound basis for a national energy policy.

ELLEN BERMAN,
Director,
Energy Policy Task Force.

Mr. METZENBAUM. I believe that the point they make in the headline of that particular letter that the gas deregulation bill would harm Ohio is to me, and to the concerns of my constituents, and I think to the concerns of many other Members of this Senate, to the constituents of many other Members of this Senate, more important than the mis-

taken impression or perception that the international community might have with respect to this legislation, because there can be no doubt about it that it is not going to help the American economy, it is not going to help the value of the dollar, to have a bill that, by its terms, is inflationary, that increases the price of natural gas, that costs the American people more, that both directly and indirectly will add to the inflationary spiral.

That cannot be good for the value of the dollar, that cannot be good for the American economy, that cannot be good for the stability of money markets, and it can be very bad, not alone for the people who live in Ohio, but for the people who live in all of the other States in this Nation that are consuming States.

I cannot believe that the people of Europe, or those others in the international community, think that it is good and more help to the American economy to have industries move from the Northeast and Midwest and other parts of the Nation which are considered as consuming States, move to the Southwest where the oil is produced by reason of the fact that industry under this bill gains if it operates in a producer State and loses if it operates in a consumer State.

I cannot believe that the international community can think it is good if we have a piece of legislation that places the burden, more of the burden, on the residential users of this country, rather than on the industrial users.

So, Mr. President, having noted that the Senator from Minnesota has now arrived in order that he might address himself to the question of the Alaska pipeline amendment, I yield the floor to him in order that he may address himself to that question, so that all of us may dispose of the Alaska pipeline amendment at an early moment, because I think some of us would like to be present to share in the meeting with the prime minister from Israel.

Mr. ANDERSON. Mr. President, I wish to speak in support of the amendment offered by Senator HUMPHREY and others to include the Alaskan gas pricing provisions in the recommittal instructions to the conferees.

By 1985, Minnesota will hopefully be receiving 30 to 40 percent of its natural gas from Alaskan reserves. These supplies can only become a reality if we can get the Alaskan gas pipeline built. We do not seek Federal funds for construction of this line. Our request is far simpler. We must insure a stable price for gas delivered from Alaska to the lower 48 in order to enable the consortium building the line to secure private financing for construction of the line.

Alaskan gas holds the greatest promise for new supplies. Construction of the line will mean the predelivery of 1.04 billion cubic feet of additional Canadian gas from Alberta to the lower 48 States in 1980 due to early construction of the southern spurs of the system which will deliver gas both east and west of the Rockies. Alaskan gas will come on line at the rate of 2 billion cubic feet per day in early 1984, increasing to 2.4 billion cubic feet per day by 1990. Construction of the pipeline offers the possibility of continued imports of Canadian gas, currently running at 2.7 billion cubic feet per day. Gas from the Prudhoe Bay field is likely to run at a rate of 26 trillion cubic feet for a period of 25 to 30 years. Natural gas from undiscovered reserves elsewhere in Alaska could run as high as 185 trillion cubic feet.

We need this natural gas in the lower 48. Construction of an Alaskan gas pipeline is the most reliable means of heading off future gas shortages.

If the motion to recommit the natural gas conference report is successful, as I hope it will be, I want to insure that the Alaskan gas pricing provisions are a part of the alternative natural gas bill which the conferees can report to the Senate for its concurrence.

I thank the distinguished majority leader, Senator BYRD, the chairman of the Senate Energy Committee, Senator JACKSON, and Senator METZENBAUM for their cooperation and I move consideration of the amendment.

(Mrs. ALLEN assumed the chair).

Mr. McCLURE. Madam President, I commend the Senator from Vermont for his comments. I appreciate very much not only the statement he has made but the facts which are contained in the statement, which I think are compelling. I compliment him on the understanding of the issue and the fact that he has informed himself upon the issue in order to come to this conclusion.

Mr. President, while I have the floor, I might also mention that I very much support the amendment of the Senator from Minnesota (Mrs. HUMPHREY) with respect to the Alaska pipeline, because I think it is important that it be adopted.

I am a little confused, however, by the support of some of the people who oppose this bill on the basis of allowing intrastate gas to move in intrastate commerce with absolutely no control over the price. I had understood that the opposition to the bill was on the basis that it was going to raise the price to consumers. Now I find the motion to recommit stating that the interstate supplies will be without price limitation.

I am also surprised, then, when I see the motion of the Senator from Minnesota with regard to the Alaska pipeline, to find that, again, the people who have opposed this measure have abandoned their opposition to the failure of the Alaska pipeline provision to require incremental pricing.

I can only assume from those two things that the real motivation is the destruction of the bill, rather than the construction of any legitimate position upon natural gas or pricing or protection of the consumer.

I shall, however, support the amendment with regard to the Alaska pipeline, because I think it does address a very critical problem that must be addressed, and must be addressed in this Congress, if we are going to get that pipeline built in time to avoid the reduction in supply of oil that would accompany the impossibility of marketing the Alaskan natural gas in this country.

I am not certain that the Alaska pipeline can be financed—that has yet to be seen—but I am certain that it cannot be financed if we do not have the provision which is being offered now as an amendment to the motion to recommit. It preserves the opportunity to the promoters of that pipeline to approach the producers of the gas for contracts, to approach potential consumers of that gas for contracts. It would then make it possible at least to approach the problem of financing and then possibly the construction of that pipeline, a very difficult undertaking in terms of production, in terms of sales, in terms of financing, as well as in terms of construction of the pipeline. But that gas will move down to the upper Midwest of the United States. I also am hopeful that it would firm up supplies to my State, although it probably would not come directly to my State, because 70 percent of the gas supply sold in my State comes from Canada.

There are opportunities to increase and augment the supply of natural gas to the Pacific Northwest by reason of the Alaska pipeline, although the pipeline itself may not bring any Alaskan gas to the Northwest.

Madam President, again, I am somewhat confused about the motivations of the motion to recommit, because it certainly cannot be called a protection for the consumer in its price provisions; yet, that is the guise under which it is flying.

I must assume, then, from what I can determine of the effect of the motion to recommit that it is not a genuine attempt to protect the consumer but a genuine attempt to kill the bill.

Madam President, I yield the floor.

Mr. METZENBAUM. Madam President, I point out to my good friend, the Senator from Idaho, who is far more knowledgeable than I on subjects such as these, that he is reading something different from what I am reading and understanding as the import and the thrust and the language of our amendment.

There is something in our amendment that makes it possible for intrastate gas to move into the interstate market without control over its price. As a matter of fact, the language comes directly from the conference committee report. As we understand that language, it provides that it may move in interstate commerce subject to FERC control as to pricing and that those prices must relate to the weighted average of intrastate gas at that particular point.

So that when my friend from Idaho says there is nothing in our amendment that protects the consumer, I think he reads the language totally different from the way we do.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. METZENBAUM. For a question.

Mr. McCLURE. For a comment, and then I will ask the question.

Mr. METZENBAUM. All right.

Mr. McCLURE. I do not want to misrepresent what the Senator is for. I am reading the "Dear Colleague" letter of September 18. It is a letter, incidentally, that is signed by eight Senators, including the Senator from Ohio. It says in the third paragraph:

Under the substitute proposal, surplus gas now in the intrastate market can be sold to interstate consumers without coming under FERC jurisdiction.

If it does not come under FERC jurisdiction, then it is not subject to any price control, and it will be sold at whatever the negotiated price may be. If, on the other hand, it does come under FERC jurisdiction, then it does not avoid the criticism that has been leveled against it, that we have to depend upon FERC to free up those supplies.

That is the reason I made the comment I did, and I ask the Senator if, as a matter of fact, I misread the "Dear Colleague" letter.

Mr. METZENBAUM. I am not at all suggesting that the Senator from Idaho is misrepresenting the "Dear Colleague" letter. But I say to the Senator from Idaho that we do not pass legislation around here on the basis of "Dear Colleague" letters.

The Senator possibly could be correct with respect to the "Dear Colleague" letter, but if the Senator will refer to the language of the motion which is before the Senate, a copy of which is on his desk, he will note that it makes very clear the sections we are talking about from the bill.

Therefore, I do not think there can be any question about the fact that under the language of this conference committee report, which is the specific language we are putting into this, it would be under FERC control, and it would be based only upon surplus gas coming from the intrastate market into the interstate market.

Mr. McCLURE. Madam President, will the Senator yield further?

Mr. METZENBAUM. I yield.

Mr. McCLURE. First of all, I do not think the Senator would want to be misunderstood as saying that the "Dear Colleague" letter is inaccurate.

Mr. METZENBAUM. I do not have the "Dear Colleague" letter before me. Let me read to the Senator what is in the conference committee report.

Mr. McCLURE. Before the Senator does that, I make this comment: The implication of the letter and my understanding of the motion is that the price is not controlled, under the Senator's motion to recommit. The amount of money that could be charged for transportation would be subject to controls, but the wellhead price would not be controlled, and the ultimate cost to the consumer would not be under the control of FERC.

I think that is consistent with the "Dear Colleague" letter which the Senator has signed and is the result of the language which is in his motion to recommit.

Mr. METZENBAUM. Let me direct my friend's attention to page 43 of the conference committee report. It reads:

(b) COMMISSION APPROVAL OF SALES.—

(1) IN GENERAL.—The Commission may, by rule or order, authorize any intrastate pipeline to sell natural gas to—

(A) any interstate pipeline; and

(B) any local distribution company served by any interstate pipeline.

(2) RATES AND CHARGES.—

(A) MAXIMUM FAIR AND EQUITABLE PRICE.—The rates and charges of any intrastate pipeline with respect to any sale of natural gas authorized under paragraph (1) shall be fair and equitable and may not exceed the sum of—

(i) such intrastate pipeline's weighted average acquisition cost of natural gas;

And that has to do with the cost of the natural gas, not just the pipeline's charges:

(ii) an amount computed in accordance with the rule prescribed under subparagraph (B); and

(iii) any adjustment permitted under subparagraph (C).

Therefore, I have to say to my friend from Idaho that although he may have been informed that it has only to do with restrictions as pertains to the pipeline's charges, certainly that language which says, "such intrastate pipelines weighted average acquisition costs of natural gas," certainly is applicable here.

If the Senator is saying that something in this bill is making it possible for us to come in and control the price of that intrastate gas, then I would have to agree with him on that point.

Mr. McCLURE. Madam President, will the Senator yield?

Mr. METZENBAUM. I yield.

Mr. McCLURE. I thank the Senator for yielding because I think it is important that we at least understand what the intentions are of the authors of the motion to recommit.

Let me say to the Senator from Ohio that the language which he has read does not vest in the Federal Energy Regulatory Commission the authority to look at acquisition cost of the gas or to control it. They are permitted under that language to look at it from the standpoint of what the ultimate sale price will be but not to control the acquisition cost.

Mr. METZENBAUM. The Senator is correct. They look at it and they can determine what the weighted acquisition cost is but there is no control of intrastate gas prices.

Mr. McCLURE. If that is the case, then the intrastate gas price is uncontrolled and the amount that will be paid by the consumer is totally outside of the control of FERC except for the acquisition cost which will be passed through regardless of what it is and the regulation of the reasonable charges for the transportation and distribution of that gas in intrastate markets.

If the Senator from Ohio can tell me how then FERC can protect the consumer against high wellhead costs I would be grateful for the explanation.

Mr. METZENBAUM. I will respond to the Senator from Idaho and say to him that I do not want to mislead him nor anyone else, and I gather and I assume from what he is saying it is terrible that FERC does not have the right to control those intrastate prices. I agree with him. It is terrible.

Mr. McCLURE. Madam President, will the Senator yield?

Mr. METZENBAUM. Not at this point. Let me complete my thought if I may.

Mr. McCLURE. Surely.

Mr. METZENBAUM. This is the language we are talking about that prevents brokering. It prevents the add-on charges by the pipeline company for the cost over and above their cost. But what we are really talking about at this point is not everything that I would like to have in the bill. And I am glad that the Senator from Idaho recognizes that there is some merit to that, but it is obvious that he and I and many others are not in agreement on that.

If the Senator from Idaho will permit at this point, I wonder if we could dispose of the Alaska pipeline issue at this point?

Mr. McCLURE. I am very happy to at this moment, if I may have the floor to respond.

I will not delay this discussion because certainly the Senator from Ohio and I approach this problem from diametrically opposite positions, and I am not at all unhappy that the motion to recommit permits unregulated prices in the intrastate market to be passed on as costs to the consumer. That is deregulation, which I happen to favor.

But I am a little surprised that the motion to recommit is being put forward as a way to protect the consumer against unregulated prices, when, as a matter of fact, on this subject of the availability of intrastate gas to the interstate market it is precisely that. It is a total deregulation of the price of intrastate gas as it will move into the interstate market.

Mr. METZENBAUM. Madam President, will the Senator yield?

Mr. McCLURE. I am happy to yield.

Mr. METZENBAUM. Only with respect to surplus gas and only under FERC control.

Mr. McCLURE. Of course, it is only surplus gas that would be moving because no other gas would be moving. As a matter of fact, it is that 1 trillion cubic feet that we are trying to get into the interstate market that is one of the reasons for doing away with the dual pricing system, and the Senator would permit the dual pricing system and still permit the consumer to pay the full unregulated cost which I would submit will be much higher under the Senator's proposal than it would be under the conference report.

Second, the Alaska pipeline provision that I will support in the amendment of the Senator from Minnesota allows that gas to move through and be rolled into the rate base exactly as the conference report has suggested it would, and again the Senator from Ohio has been consistently throughout all of this debate vehemently opposing that kind of provision that will permit that gas to move forward at essentially market prices.

So in a couple of respects it seems to me I must conclude that the Senator from Ohio is not so much trying to protect the consumer by the provisions of the motion to recommit as he is trying to protect the consumer by making certain that the conference report never does get adopted.

Mr. METZENBAUM. No; I am not willing to accept that concept. I think what I am saying is that a reasonable compromise under emergency conditions is appropriate in the country's interest, and I believe also we are recognizing in connection with the Alaska pipeline the need

for the additional gas that will be forthcoming from there, and we cannot do that unless we provide a means to finance it.

Mr. McCLURE. I am very happy to recognize that the Senator from Ohio now recognizes we are going to have adequate supply. We have to have adequate supplies and if we try to control the price we are going to stifle the supply. That I think has been the root of the argument all along, and I welcome his addition to the ranks of those who have seen wisdom.

Mr. METZENBAUM. Only because I cannot find much use in trying to get the last word with my good friend from Idaho, Madam President, I now suggest we take up the matter of the Alaska pipeline amendment.

Mr. STEVENS. Madam President, may I renew the motion of the Senator from Minnesota to amend the motion offered by the Senator from Ohio.

Mr. McCLURE. Before doing that and again not to have the last word but so that this record in this particular instance may reflect the full range of the opinion which the Senator from Idaho has with respect to the pricing provisions of the motion to recommit, in addition to what I have said already, interstate purchasers of surplus intrastate gas must pay the intrastate pipeline an amount over and above the weighted average acquisition cost to cover the cost of gas the intrastate must purchase to keep its customers from paying more than they would have without such sales.

I think if the Senator looks at the results of the motion to recommit, far from protecting the consumers better than the conference report does, both in supply and in price, the motion to recommit is much worse than the conference report.

Mr. METZENBAUM. Madam President, as I understand the rules it is not possible for me to accept this amendment to my motion to recommit and that the parliamentary procedure requires a voice vote. Unless there be further discussion, I am prepared to vote at this point.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. STEVENS. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM. Madam President, one more unanimous-consent request: At this point I ask unanimous consent that there be an element of humor added to this debate in connection with the Natural Gas Pricing Act, and that an article by Art Buchwald entitled "Charge of the Light • • • and Oil and Gas Brigade" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CHARGE OF THE LIGHT . . . AND OIL AND GAS BRIGADE

(By Art Buchwald)

When President Carter first introduced his energy bill, he described it as the "moral equivalent of war." The bill now being debated in the Senate bears no resemblance to the one Carter asked for. What went wrong?

To find out I went to see an energy general at his headquarters. He had charts all over the war room and his aides were pushing dollar signs back and forth across a large map on the table.

"How's the war going?" I asked.

"Everything's going according to plan," he replied. "Our boys should be home from the Senate by Christmas."

"Reports from the front lines indicate your people took a terrible mauling from the oil and gas companies, and the energy bill that the commander-in-chief was hoping to get is in ruins."

The general scowled. "We had to destroy the bill to save it."

"But didn't your people surrender on every major front?"

"We didn't surrender," he said. "We made an orderly retreat. When you're waging the moral equivalent of war, you have to expect casualties. We lost the battle on deregulation of gas, and we suffered a setback on the excise profits tax on oil, and we were hit with a surprise attack in our attempts to make industry switch from gas to coal. But we decided they weren't worth fighting for. Our main objective now is to rescue the energy bill before it is killed."

"I thought the original objective was to protect the consumer and conserve our oil and gas supplies."

"The consumer is safe," the general said "He may have to pay more for gas and oil if the bill is saved, but you can't fight a moral war without some civilians getting hurt. The strategy of the commander-in-chief is to win the hearts and minds of the people so we can have free elections in 1980."

"What about conservation? Your forces seem to have lost that battle."

"We haven't lost the battle. We've just changed our tactics. Instead of charging up the hill, we have the enemy surrounded. If they expect to survive, they're going to have to produce more oil and gas. Our troops are dug in and our intelligence indicates morale amongst the major oil companies is dropping every day. It's only a matter of time before the energy forces that have been fighting us will wave the white flag."

"They seem to have won everything they wanted. Even if they sued for peace tomorrow what will your side have gained?"

The general said bitterly, "The media keeps saying we're losing. But there is more at stake here than whether we win or lose a few skirmishes. Do you realize if we don't save the energy bill, the entire prestige of the United States will go down the drain? The dollar will be attacked and the national will of Americans to fight for energy will be in doubt."

An aide put several more dollar signs on the map.

"What's he doing?" I asked the general.

"We have to put more bucks into the line," the general said. "Our original estimates of what this war would cost every American were much lower than we thought."

"Why don't you people just quit and start all over again?"

"Because," said the general tartly, "the commander-in-chief doesn't want to go down in history as the first president to have lost a moral equivalent of war."

Mr. GARN. Madam President, we have heard a lot of discussion from the other side about alternatives in this debate. They continually repeat that those of us who are opposed to the bill and support the motion to recommit "have no alternatives."

Let me first say, before going into a discussion of the motion to recommit, that this is a peculiarly bankrupt argument. Surely, it is the minimum responsibility of those who propose any bill that they prove that it is better than the situation in effect now. In fact, the distinguished manager of the bill put it quite well in his opening remarks when he said, "If this bill is not a major step forward toward a sound natural gas pricing policy, we should defeat it."

I agree with the distinguished manager of the bill. We disagree on whether it is a sound step forward. I think it is not and should be defeated.

I think that remark alone answers the question as to alternatives, which has been made repeatedly. It has even been stated that it would be tragic for the country not to "have a natural gas pricing policy." But it is certainly better to have no policy, if that is what the current situation is, than to have policy that is positively harmful.

Even though a physician and a faith healer may not have agreed on policy as to the secrets of health, they can both agree that a person should reject a cup of poison.

Two different religions may have no common religious policy, but they can still reject fire worship without being asked, "Where is your alternative?" In short, it is certainly better to have no philosophy than to have a philosophy of self-destruction as proposed in this particular bill.

Certain Greek cities, we are told, had a policy that anyone proposing new laws had to do so from a platform in the public market—with a rope around his neck. If the law was adopted, they removed the rope. If it was rejected, they removed the platform.

Perhaps adoption of this classical system would insure that we got no more of these C-minus bills or D-minus bills that we are told to pass because it is in the interests of the country, but do not worry about the details of the bill. Let us just forget them. We must have the bill.

Let me add one other comment in the same vein. Under this bill the Government for the first time takes over complete regulation of intrastate gas sales. One of the things which is done under this regulation is to cancel the legal and property rights of parties who previously found gas with their own money in complete good faith. They now find the fruits of their labor taken away from them.

I refer specifically to the sections controlling existing intrastate contracts and intrastate roll-overs—sections 105, 106 (b).

Under this bill, a person who found gas and decided to sell it, let us say, for a period of 5 years at a fixed price, understanding that at the end of that period the gas would be his to do with as he chose, now finds that the Government has in effect confiscated much of his property. Once this intrusion takes place, who can place any faith in the

Government's assurances of what will be the future course of policy?

On Friday, there was considerable colloquy between the Senator from Illinois and the chairman of the committee as to the course of the administration's policy with regard to future extensions of regulation, or diminishing of whatever deregulation occurs in this bill. The Senator from Illinois noted that he had received "an unequivocal answer" from "representatives of the President, speaking on his behalf," who said "that at no time during the Carter administration would the President attempt to change the deregulatory direction of this bill except in case of a total, all-out national emergency." (S. 15218)

Now, of course, these representatives are speaking on behalf of the same President who has already changed his direction at least three times on natural gas matters during the course of the last 2 years. They also include the same representative who time and again during the proceedings in this gas matter has made assurances to Senators with regard to their actions or the actions of the President which have not proven to be true.

So, quite frankly, it would be an extremely gullible producer or citizen who would put his money at risk in a fashion where the proceeds could be confiscated by changes in regulatory direction in the future. It is, in fact, another of the many tragedies of this type of regulation that it tends to force citizens to put their money into the most short-term and liquid instruments rather than investing for the longer haul because of the uncertainty of Federal regulation.

Of course, it is possible that the representatives were simply relying on the phrasing of the question by noting that they would not "attempt to change the deregulatory direction of this bill" because there is very little deregulatory direction in this bill. The bill provides for less deregulation in 1985 than there is now. And it provides the means for the President at his whim and without further legislation to impose total control on all gas markets. So I suppose that they would have little fear of making a commitment not to change that direction.

I, for one, feel that this bill is extremely complex, too complex, and creates many new tiers of pricing levels and, for the first time, goes into States and regulates intrastate sales of gas. Traditionally States have been allowed to regulate that gas within their own borders.

I wonder what kind of precedent we are setting with natural gas or other types of products, minerals, whatever, within a State? I suppose that if for no other reason I would vote against this particular conference report because of the Federal Government's intrusion for the first time into the rights of States to regulate sales that are purely within their own boundaries, bcause I do feel it will set a precedent in other areas that we will continue to find the Federal Government deciding that it is in the national interest to take away the rights of States, and that the Federal Government will now regulate sales of many other products within the boundaries of the States.

I am sorry we cannot go back to what many of us feel is the real answer to this energy crisis. Not phased deregulation with long, long years of rules and regulations and forms imposed upon producers and individuals and States. I think we would be amazed if we had the courage, had the real courage, to go for immediate and total deregulation of both natural gas and oil. I think we would be surprised at the amount of new oil and gas we would find in this country.

I think we would be surprised at how rapidly over a period of a relatively few years we could become independent of the Third World countries for purchasing of our energy supplies.

I think we would be amazed at what would happen to the retail price of gasoline and fuel oil. I think we would find that, by producing a surplus, the market forces would work and the consumer would be paying less than he will under government regulation. Anyone can look at the gas pumps in this country today and find out that the price of retail gasoline is less than the regulated prices posted on the pumps. They are not at the level allowed by government.

We find we have a surplus on the west coast due to Alaska oil which is being shipped to Japan because we cannot use it. I think hindsight will show us that the law of supply and demand does work and is in the consumer's interest.

With all of those who cry that we must have this to protect the consumer, if we really wanted to protect the consumer we would deregulate immediately and totally and we would find that unregulated prices would be less than attempting through taxation and regulation to raise our prices to the world market level.

So I do intend to support the motion to recommit. I do intend, if that fails, to vote against this conference report; because, in my judgment, it is in the best interests of the American people to do so.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Madam President, going to the fourth track, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1058, which is the Budget Waiver Act with respect to the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 532) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 991, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S 991. Such waiver is necessary because (1) S. 991 is an unusually complex bill which establishes a new Cabinet-level Department of Education and transfers to it the functions of the Education Division of the Department of Health, Education, and Welfare, as well as certain functions of other agencies; and (2) the Administration did not indicate its position on this bill until the middle of April 1978, and did not present substantive comments relative to S. 991 until May 17, 1978. This late action on the part of the Administration made it impossible for the committee to consider and act on the bill by May 15, 1978.

Mr. ROBERT C. BYRD. Madam President, I move to reconsider the vote by which the resolution was agreed to.

Mr. RIBICOFF. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF EDUCATION ORGANIZATION ACT OF 1978

Mr. ROBERT C. BYRD. Madam President, I now ask unanimous consent that the Senate, in accordance with the agreement on the natural gas conference report and without prejudice to the Public Broadcasting bill, proceed to the consideration of Calendar Order No. 1000, S. 991, the Department of Education Organization Act, with the understanding that there be no amendment on busing received today, and that the bill be before the Senate no longer than until 3 o'clock p.m. today, without any understanding as to when it shall be further called up except that the majority leader, after consultation with the minority leader, may be authorized to call it up at a future date.

Mr. STEVENS. Madam President, reserving the right to object, is my understanding correct that the intent would be to call it up after a vote on the energy bill; is that correct?

Mr. ROBERT C. BYRD. That it would not come up today at all.

Mr. STEVENS. No, the vote on a week from tomorrow.

Mr. ROBERT C. BYRD. Oh, I am sorry if I left that impression. The bill would be before the Senate no longer than until 3 o'clock p.m. today; and, of course, under the natural gas conference report agreement, anything must be set aside for that conference report if any Senator wishes the floor. After the vote on the motion to recommit today, and still in accordance with the natural gas conference report agreement, if no Senator seeks the floor with respect to the conference report, the Senate would take up the Public Broadcasting Service bill under the order of yesterday, and I believe there is a time agreement on that; I know there is. Hopefully the Senate can dispose of that bill today.

What I am saying with respect to the Department of Education bill is that it would not come up again today, and it would be up to the majority leader, after consultation with the minority leader, to determine when it would again be called up for the resumption of consideration; and that there would be no busing amendment offered today.

Mr. STEVENS. Reserving the right to object, and again I shall not object, as I understand, this is still subject to concurrence as far as calling up the Department of Education bill again. There are some of us who have amendments; I specifically have an amendment, and I will be out of town on Friday. I know

the Senator from Connecticut will be out of town on Thursday. I wanted to make sure that I would not be foreclosed on that amendment.

Mr. RIBICOFF. If the Senator will yield, I will be out of town until Tuesday, so the Senator from Alaska is fully protected.

Mr. STEVENS. I feel confident in that protection, and I do not object.

Mr. ROBERT C. BYRD. For the further information of the Senator from Alaska, we are now operating on a triple track system, and can even go beyond that; so it is a multiple track system.

Is there objection to the request of the Senator from West Virginia?

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I hope we can make at least some progress on that measure today.

Mr. RIBICOFF. I thank the majority leader and the acting minority leader for an opportunity to bring up this most important piece of legislation.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 991) to establish a Department of Education, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs with an amendment in the nature of a substitute.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. RIBICOFF. Madam President, I ask unanimous consent that the following staffers of the Committee on Governmental Affairs be permitted to remain on the Senate floor during the consideration and votes on S. 991, to establish a Department of Education, and for other purposes: Dick Wegman, Marilyn Harris, Bob Heffernan, and Jon Greenblatt; Charlottee Tsoucalas, Terry Jolly, Bob Harris, Cheryl Davis, Dru Smith, Tom Cator, John Childers, Lawrence Grisham, Brian Conboy, Link Hoewing, Nancy Anderson, Carl Flair, Mary Ann Simpson, Martina Pearson, and Jill Porter; and the following staffers from the Committee on Human Resources: Franklin Zweig, Jean Frohlicker, Marsha McCord, Greg Fusco, and Steve Paradise.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Madam President, for the first time in the history of this body, we are considering legislation to create a separate, Cabinet-level Department of Education.

In January of 1965, I introduced a bill to create a Department of Education. Now, some 13 years later, the full Senate is considering the concept.

More than 60 Senators—Democrats, Republicans, moderates, liberals, and conservatives—have sponsored this legislation. This is not, by any means, a partisan issue.

The Committee on Governmental Affairs gave very serious consideration to S. 991 and reported the bill unanimously.

I wish to thank Senator PERCY, the ranking minority member of the Governmental Affairs Committee, and the other committee members for their support of this legislation.

We are indebted to American education for the vital role it plays in the development and success of this Nation. Democratic government depends on an informed and educated public. Education is important to the American people. This country was built on the basic belief that hard work, commonsense, and education are the keys to a successful and happy life. A recent Harris poll showed 90 percent of the public surveyed felt "achieving quality education for children" was very important. Another showed 75 percent of those surveyed believe a "free, unlimited education" is a major factor to our country's future success.

Today, more than 50 million people in the United States are directly involved with education. Total education spending approaches the $180 billion level, nearly 10 percent of the gross national product. State and local governments spend more money on education than anything else—approximately 40 percent of their budgets.

Yet today education programs in the Federal Government are buried four and five levels deep within the massive Department of Health, Education, and Welfare. They are scattered among 40 Federal agencies. Their leadership is split between a Commissioner of Education and an Assistant Secretary for Education. They are smothered by the overwhelming and dominant concerns of health and welfare. Their coordination is almost nonexistent.

Although the Federal Government spends more than $25 billion on education for over 300 programs there is no visibility or accountability in the Federal Government. Education is not represented at the Cabinet table with other important concerns such as agriculture, labor, transportation, and housing. HEW's responsibilities are so vast and the HEW Secretary is spread so thinly that inevitably some programs suffer from lack of attention. Education is often the victim of neglect and poor interdepartmental competition with massive health and welfare programs. Out of HEW's $180 billion budget, at least $168 billion will be expended for health and welfare.

The creation of a Department of Education remedies institutional deficiencies presently existing within HEW. By removing education from HEW, we will achieve a number of benefits:

There will be one high-level Federal official who will speak for education in the Federal Government.

The administration of and attention given to all three components—education, health, and welfare—will improve as a result of the reorganization.

By separating education from the overwhelming influences of health and welfare, the Congress will be better able to clearly evaluate budget allotments for education.

The legislation goes far toward achieving a significant measure of consolidation of the widely scattered Federal education programs. Altogether, more than 170 programs would be incorporated in the new Department.

Creation of the new department will provide better opportunities for Congress and the President to focus more clearly on better management of education programs.

The head of the new department, the Secretary of Education, will be more accountable to Congress and the public for Federal education services.

A Secretary of Education will improve the administration of Federal education programs. A major problem in the Education Division of HEW now is that the structure and lines of authority are unclear and often confusion. Education responsibilities are fragmented within HEW between the Assistant Secretary for Education and the Commissioner of Education. Little in the way of responsibility is assigned to the Assistant Secretary. Most programs are under the purview of the Commissioner of Education—a position evidenced by frustration. In the last 12 years, the commissionership has changed hands 13 different times.

A Department of Education would allow education programs to be administered by a clearly ordered structure, where the lines of authority and responsibility are clearly defined. This would be a sound administrative and managerial move. The American Society for Public Administration, for the first time in its history, has endorsed the creation of a Cabinet department—the Department of Education. They state:

> The addition of another Cabinet Department would not unduly stretch the President's span of major organizational control. On the other hand, coordination of educational programs to minimize unnecessary administrative burdens and expense for educational institutions and to rationalize inconsistent educational policies would be facilitated if a Cabinet official were given this as a major assignment.

Coordination is necessary to reduce costs and redtape. The situation today is one where there are many Federal education officials, each promulgating their own rules, their own regulations, and their own paperwork requirements. There is inevitably some overlap and duplication. This increases costs for States and localities. For example, Illinois State Superintendent Joseph Cronin told the Governmental Affairs Committee that his State's education agency employs 20 individuals at average salaries of $15,000 each just to keep up with Federal paperwork.

The Governmental Affairs Committee has considered carefully the question of whether a Department of Education means Federal interference in State and local policymaking. States, localities, and institutions have the constitutional right to determine their own individual educational needs and policies. The Federal effort in education is designed to assist and complement States, localities, and institutions which provide education services. It has important programs in education which greatly benefit States and localities. For example, Federal programs designed to guarantee equal educational opportunities or assist in providing more opportunities for the handicapped to have a quality education are good examples of how the Federal Government assists States and local governments.

Thus, effective management, more visibility, and increased status does not mean "more control." Creating a Department of Education is not a "backdoor" way of controlling education in the United States. Instead, better management of Federal education resources by the Secretary of Education will mean improved accountability, coordination, and advocacy.

I believe the bill before the Senate is a product that reflects careful study.

The bill will significantly improve the design and management of Federal education programs.

It directs the new department to involve parents, students, and the public more directly in developing and implementing education programs.

It stresses the importance of maintaining good intergovernmental relations, and closer cooperation with State, local, tribal, and private agencies.

It balances educational interests by placing them on an equal footing with each other.

It works toward strengthening interagency coordination of Federal education programs.

It gives proper recognition to and increased status for the Department's many and varied components. The bill names high-level officers for:

Elementary and secondary education. This officer will administer approximately $6 billion for elementary and secondary education programs participated in by more than 48 million students.

Postsecondary education. The Assistant Secretary for Postsecondary Education will have program spending authority in the approximate amount of $3.6 billion. He or she will help coordinate programs designed to improve postsecondary educational opportunities.

Indian education. Federal Indian education functions and programs totalling more than $500 million annually would be consolidated into a new Office of Indian Education, headed by an Assistant Secretary for Indian Education.

Child nutrition. Location of children's feeding programs in the new Office of Child Nutrition will provide a uniform administrative chain between the Federal Government and State education agencies which administer 95 percent of the programs at the State level.

Handicapped. An Office of Special Education and Rehabilitative Services will combine the functions of the Office of Education's Bureau of Education for the Handicapped and the Office of Human Development Service's Rehabilitation Services Administration into a comprehensive program of education and rehabilitative services for the handicapped.

Civil rights. An Office of Civil Rights—independent of the Department's programs headed by an executive level IV, who reports directly to the Secretary—will continue and improve the Federal commitment to insuring access by every individual to equal educational opportunities.

Intergovernmental relations. An Assistant Secretary will insure a State and local perspective on a continuing basis in all the Department's activities and will work with the Intergovernmental Advisory Council on Education in advising the Secretary of intergovernmental problems, progress, and concerns.

Research and Improvement. An Office of Educational Research and Improvement, containing the National Institutes of Education, the Fund for the Improvement of Postsecondary Education, the National Center for Educational Statistics, and certain science education programs, will assist in the development of new knowledge about the educational process.

Occupational, adult, and community education. This officer will provide needed visibility for education assistance to States and localities in delivering effective education and training and adult community services.

Madam President, the Department has widespread public support. I ask unanimous consent that the list of the more than 70 organizations which support the concept of a Department of Education be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ORGANIZATIONS SUPPORTING DEPARTMENT OF EDUCATION

Alliance of Associations for the Advancement of Education.
American Alliance for Health, Physical Education, and Recreation.
American Association of Colleges of Teachers Education.
American Association of Community and Junior Colleges.
American Association of School Administrators.
American Association of University Professors.
American Association of Workers for the Blind.
American Choral Directors Association.
American Coalition of Citizens with Disabilities.
American Dance Guild.
American Dietetic Association.
American Educational Research Association.
American Federation of State, County, and Municipal Employees.
American Library Association.
American Personnel and Guidance Association.
American School Food Service Association.
American Society for Public Administration.
American Theatre Association.
American Vocational Association.
Americans for Democratic Action.
Americans for Indian Opportunity.
Association of Childhood International.
Association for Supervision and Curriculum Development.
Children's Foundation.
Citizens Committee for a Cabinet Department of Education.
Coalition of American Public Employees.
Coalition of Independent College and University Students.
College Art Association of America.
College Band Directors National Association.
College Music Society.
Committee on Research in Dance.
Council for Educational Development and Research.
Council for Exceptional Children.
Council of Chief State School Officers.
Council of State Administrators of Vocational Rehabilitation (Executive Committee)
Education Commission of the States.
El Congreso.
Home Economics Education Association.
International Council of Fine Arts, Deans.
International Reading Association.
Music Educators National Conference.
Music Teachers National Association.
National Art Education Association.
National Association for the Deaf.
National Association of College Wind and Percussion Instructors.
National Association of Elementary School Principals.
National Association of Mexican-American Women.
National Association of Secondary School Principals.
National Association of Schools of Art.
National Association of Schools of Music.
National Association of State Boards of Education.
National Association of State Directors of Migrant Education.
National Audio-Visual Association.
National Committee for Citizens in Education.
National Congress of Parents and Teachers.
National Council of La Raza.
National Council of State Agencies for the Blind.
National Council of Teachers of Math.
National Dance Association.
National Education Association.
National Federation of the Blind.
National Governors Association.
National Guild of Community Schools of the Arts.
National Rehabilitation Association.
National School Boards Association.
National School Public Relations Association.
National Student Association.
National Student Lobby.
National University Extension Association.
National Urban League.
Overseas Education Association.
Speech Communication Association.
State Higher Education Executive Officers Association.
Student National Education Association.
U.S. Catholic Conference Secretariat for the Spanish Speaking.
Young Audiences, Inc.

Mr. RIBICOFF. As my colleagues know, President Carter and Vice President MONDALE have attached a high priority to the establishment of the Department of Education this year. The committee has worked closely and harmoniously with the President's reorganization project for the past year in developing S. 991.

Madam President, for too long education has suffered for lack of attention, status, visibility, and focus in the Federal Government. The Federal education effort is considerable in size. The new department would consist of programs having a total budget of approximately $17 billion. It would rank in size higher than six other Cabinet departments.

Federal education programs are too important to be mismanaged or smothered in bureaucracy. The Federal education effort must be efficient, effective, and helpful to States, localities, and other agencies.

We need a Department of Education, and I urge my colleagues to support this measure.

Mr. DOMENICI. Will the Senator yield for a unanimous-consent request?

Mr. RIBICOFF. I yield.

Mr. DOMENICI. Madam President, I ask unanimous consent that Letitia Chambers and Eileen Winkelman of my staff be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Madam President, if the Senator will further yield, I ask unanimous consent that Mary Ann Simpson of my staff be granted the privileges of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RIBICOFF. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Madam President, I ask unanimous consent that the distinguished Senator from Alabama (Mrs. ALLEN) be added as a cosponsor of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. I do want to point out that no person in this body is more concerned with the education of our young people than the distinguished Senator from Alabama. The late Senator Jim Allen was a cosponsor of this legislation. I talked with him directly in fashioning this bill. I know what this legislation meant to him.

In many conversations over the past months with the present Senator from Alabama, MARYON ALLEN, she has continuously expressed her concern that we give the children of Alabama and the children of this Nation the best possible education.

We do not believe that the huge expenditures that are being made by the Federal Government today are properly doing the job that has to be done. So much remains to be done that I consider it a privilege and most important to have the Senator from Alabama cosponsor this legislation with us.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call re rescinded.

The PRESIDING OFFICER (Mr. FORD). Without objection, it is so ordered.

UP AMENDMENT NO. 1841

(Purpose: to refine certain provisions relating to Indian education)

Mr. DOMENICI. Mr. President, I send to the desk an unprinted amendment and ask that it be immediately considered.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) for himself and Mr. MELCHER proposes unprinted amendment No. 1841.

Mr. DOMENICI. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 57, strike out lines 12 through 20, and insert the following:

(b) The transfer of functions from the Secretary of the Interior or the Department of the Interior shall not modify or eliminate any eligibility requirments for participation in programs administered by the Secretary of the Interior or the Department of the Interior which were in existence on the date before the date of enactment of this Act.

(c) The trust responsibility of the United States as contained in treaties, laws, and Executive Orders, administered by the Secretary of the Interior on the day before the date of enactment of this Act for the education and training of Indians, Alaskan Natives, and Aleuts shall be continued by the Secretary and shall not be altered in any way.

On page 57, line 21, strike out "(c)" and insert "(d)".

On page 58, between lines 6 and 7, insert the following:

(e) The provisions of the Indian Self-Determination and Education Assistance Act shall be applicable to all functions administered by the Secretary through the Assistant Secretary for Indian Education—transferred by this Act to the Secretary from the Secretary of the Interior or the Department of the Interior

(f) The provisions of the Indian Self Determination and Education Assistance Act shall be applicable where appropriate to all functions administered by the Secretary through the Assistant Secretary for Indian education transferred by this Act to the Secretary from the Secretary of Health, Education, and Welfare or the Department of Health, Education, and Welfare

On page 58, line 7, strike out "(d)" and insert "(g)".

On page 68, between lines 2 and 3, insert the following new sections:

NATIONAL COUNCIL ON INDIAN EDUCATION

SEC. 217. (a) There is hereby established as an advisory committee, to be known as the National Council on Indian Education (hereinafter referred to as the "Indian Council"), which shall consist of fifteen members who are Indians, Alaskan Natives, and Aleuts. The members of the Indian Council shall be appointed by the President.

(b)(1) The President shall appoint to the Indian Council—

(A) one individual from each of the twelve service areas or districts, as determined by the Commissioner of the Bureau of Indian Affairs of the Department of the Interior; and

(B) three other individuals.

(2) The President shall appoint members to the Indian Council from lists of nominees furnished by tribal governments. Not more than two of the three members appointed pursuant to paragraph (1)(B) shall be from Indian tribes which are not Federally recognized.

(C) Members of the Indian Council shall be appointed for a term of two years, except that the term of office of the members first appointed shall expire, as designated by the President at the time of appointment, seven at the end of one year and eight at the end of two years.

(d) The President shall designate one of the members of the Indian Council as the Chair of the Indian Council.

(e) Eight members of the Indian Council shall constitute a quorum, but a lesser number may hold hearings. Any vacancy in the Indian Council shall not affect its power to function.

(f) The Indian Council shall—

(1) advise the Secretary and the Assistant Secretary for Indian Education concerning priorities and guidelines for the administration of all functions of the Office of Indian Education established in section 211;

(2) advise the Secretary and the Assistant Secretary for Indian Education with respect to the administration (including the development or regulations and of administrative practices and policies) of any educational program in which Indian children or adults participate or from which they can benefit, including title III of the Act of September 30, 1950 (Public Law 874, Eighty-First Congress), and section 810 of the Elementary and Secondary Education Act of 1965;

(3) review applications for assistance under title III of the Act of September 30, 1950 (Public Law 874, Eighty-First Congress), section 810 of the Elementary and Secondary Education Act of 1965, and section 314 of the Adult Education Act, and make recommendations to the Secretary and the Assistant Secretary for Indian Education concerning the approval of such applications;

(4) evaluate programs and projects carried out under any program of the Department or the Department of Health and Welfare in which Indian children or adults can participate or from which they can benefit, and disseminate the results of such evaluations;

(5) assist the Secretary and the Assistant Secretary for Indian Education in developing criteria and regulations for the administration and evaluation of grants made under section 303(b) of the Act of September 30, 1950 (Public Law 874, Eighty-First Congress) and for other functions of the Office of Indian Education established under section 211;

(6) provide technical assistance to local educational agencies, institutions, and organizations to assist them in improving the education of Indian children; and

(7) submit to the Congress not later than June 30 of each year a report on its activities, including—

(A) recommendations concerning the improvement of Federal educational programs in which Indian children and adults participate, or from which they can benefit; and

(B) a statement of the recommendations of the Indian Council to the Secretary and the Assistant Secretary for Indian Education concerning the funding of any such Federal programs for Indian children and adults.

(g) With respect to the functions of the Indian Council under paragraphs (3), (4), and (6) of subsection (f), the Indian Council is authorized to contract with any public or private nonprofit agency, institution, or organization for assistance in carrying out such functions.

(h) From the sums appropriated pursuant to section 400(d) of the General Education Provisions Act which are available for the purposes of section 411 of such Act and for part D of such Act, the Secretary shall make available such sums as may be necessary to enable the Indian Council to carry out its functions under this section.

REPEAL AND REDESIGNATION

SEC. 218. (a) Section 422 of the Indian Education Act is repealed.

(b) Any reference to the National Advisory Council on Indian Education in any rule, regulation, or law other than section 422 of the Indian Education Act shall be deemed to refer and apply to the National Council on Indian Education established under section 217.

On page 75, line 10, insert "and trust responsibilities" immediately after the word "functions".

On page 82, beginning with line 23, strike out through line 4 on page 83 and insert the following:

"(e)(1) Any function administered by the Office of Indian Education established under section 211 and which is subject to section 12 of the Act of June 18, 1934 (25 U.S.C. 472), or any other Indian preference law in effect on the day before the effective date of this Act shall continue to be subject to such law."

On page 40, in the table of contents, insert immediately after item Sec. 216. the following:

"Sec. 217. National Council on Indian Education.

"Sec. 218. Repeal and redesignation."

Mr. DOMENICI. Mr. President, as a long-time supporter of legislation to create a separate, Cabinet-level Department of Education, I am most pleased that S. 991 has reached the Senate floor today, and hope for its prompt passage. The Senate Governmental Affairs Committee deserves high praise for its commitment to the bill and for its successful effort to bring it to the floor before the close of the 95th congressional session. I commend particularly my able colleague, (Mr. RIBICOFF), and my able colleague (Mr. PERCY) for their leadership in this effort.

I believe it is time to take the "E" out of HEW. Educational matters are not receiving the high priority attention they deserve under the present structure at the Department of Health, Education, and Welfare. I do not believe that is anyone's fault; I just do not think it can happen with a combined department. All too often, educational matters get lost in the shuffle at this burgeoning bureaucracy. Our Nation's commitment to the expansion of educational opportunities necessitates a separate Department of Education devoted solely to educational matters. Support for the measure runs high in my State among educators and parents. It is my hope that the new Department of Education, once it is created, will be more truly responsive to the educational needs of educators and consumers of education programs throughout the country.

My position in favor of this legislation might best be summarized by the closing remarks in my testimony on this issue which I presented to the Governmental Affairs Committee:

I am an advocate of education. I believe our children are the greatest resources of this country. Just as individual children need attention from their parents and teachers, so education needs priority attention from the Federal Government. I believe the Congress should establish that priority by creating a separate Department of Education.

While I am a strong supporter of S. 991, I do have concerns about the section which includes Indian education programs in the new Department. While I support the transfer of Indian programs to the new Department, do have questions concerning specific legislative language affecting this transfer.

Responsibility for Indian education is currently split between the Office of Education in HEW and the Bureau of Indian Affairs in the Department of the Interior. S. 991 proposes that Indian education be transferred from both agencies to the new Department, and creates an Assistant Secretary for Indian Education to administer the programs.

I have long been concerned about the quality of education in schools administered by the BIA, since approximately one-half of all Indian children drop out of these schools before they reach the secondary level. The major mission of the BIA is not (nor was it meant to be) education. By moving Indian schools administered by the BIA to an agency whose sole responsibility is education, I believe the quality of education for our Indian students can be improved significantly. At the same time, the BIA, relieved of the responsibility for running schools, can focus more clearly upon its major missions so that it can more effectively serve the Indian people.

As a Senator from a State with the second largest Indian population in the Nation, I have been very active on behalf of my Indian constituents, and thus have a great interest in all issues affecting Indian people. Because of this interest I attended a portion of the hearing held on this school issue by the Government Affairs Committee. On reading the testimony from the various tribal groups and Indian organizations, I noted that the Indian people are split on this issue, with some favoring the transfer while other groups fear that the transfer would have an adverse effect.

In analyzing the testimony, four major themes were apparent. First, many feared that the transfer would abrogate the trust responsibility of the U.S. Government with regard to Indian children. Second, there was concern that program eligibility requirements would be changed, eliminating some current participants. Third, there was concern that the gains made by passage of the Indian Self-Determination and Education Assistance Act would be lost. And finally, some felt that the Indian tribes and Indian people would have no control over the schools.

These issues raised by Indian organizations are certainly valid, and I agree with the assessment that a transfer which does not address these issues could have a negative effect for Indian people. I have therefore studied the language of S. 991 and found that certain changes need to be made in order to assure a transfer which will protect the interest of our Indian and Alaskan Native population.

Mr. President, I have sent to the desk an unprinted amendment. It is now under consideration. This amendment addresses the concerns expressed by Indian tribes and organizations. This amendment will:

First. Assure that eligibility requirements for program participation are not modified in any way by the transfer.

Second. Clarify that the trust responsibility of the United States with regard to Indian education will be continued unaltered by the Secretary of Education.

Third. Clarify the applicability of the Indian Self-Determination and Education Assistance Act to functions administered by the Secretary through the Assistant Secretary for Indian Education.

This amendment assures that the provisions of the Indian Self-Determination and Educational Assistance Act apply: First, to programs transferred from the Secretary of Interior without modification, and second, to programs transferred from the Secretary of HEW when such programs are consistent with the intent of that act.

Mr. President, in the bill before the Senate, Indian education is transferred to this new Secretary of Education and to the new department.

Mr. President, the fourth objective of the amendment that is pending will:

Create a National Council on Indian Education to be appointed by the President from nominees submitted by tribal organizations. This Council will have extensive responsibilities, including advising the Secretary concerning the administration of all programs for Indian children and setting priorities and developing guidelines, regulations, and evaluations for all functions administered by the Office of Education.

The Council will submit to the Congress each year a report on its activities, along with recommendations for the improvement of Federal education programs serving Indian children and adults.

As a Senator concerned with the needs and the rights of our American Indian population, I feel this amendment will protect their interests while providing an opportunity for vast improvement in Indian education programs. The most important considerations are our Indian children and the education and opportunities available to them. Therefore, I strongly support the transfer of all Indian education programs to the new Department of Education, with the changes contained in my amendment.

Mr. President, I ask the distinguished chairman and floor manager of the bill if he will engage in a colloquy for clarification purposes with me?

Mr. RIBICOFF. I am pleased to.

May I express my gratitude and appreciation to the Senator from New Mexico for his constructive support. I find it absolutely essential to rely on those Members of this body who have special knowledge and experience in various fields.

The Senator from New Mexico, I believe, has probably one of the largest populations of Indian children in all the 50 States. His experience and knowledge of Indian affairs and Indian education is absolutely essential to assure that what we are doing will actually benefit the Indian children.

I am more than pleased to engage in a colloquy with the distinguished Senator from New Mexico.

Mr. DOMENICI. I thank my good friend.

Let me say, as the Senator knows and as I indicated in my opening remarks, there is not unanimous feeling on this issue among the Indian people. But I do believe the distinguished Senator had a similar experience at one time when we were talking about Indian health years ago.

Mr. RIBICOFF. May I say, when I was designated a member of the Kennedy Cabinet, one of my first discussions with President Kennedy was the basic concern and problem with Indian health and Indian education. The President asked me to look into these matters. I was appalled at the low state of health and education given to the Indians at large cost and what we considered a poor job being done by the Bureau of Indian Affairs.

When I was Secretary, we did get around to doing something about Indian health and transferring it out of the Bureau of Indian Affairs and into HEW where it became a matter of prime concern and prime importance in trying to improve it.

I am sure the distinguished Senator from New Mexico and the distinguished Senator from Arizona on this floor will attest to the great improvement in every phase of health for the Indians, especially in the Western States where they have a large population.

I left the cabinet and never did get around to the second phase of President Kennedy's directive about Indian education. But I did always feel in our surveys that the Indian children were being shortchanged, that for the large sums of money we were spending we were not giving the Indian children the benefit of the education they deserved.

It is my hope that in transferring Indian education to a Department of Education, where it is up front, we will have someone who is concerned with education, who has orders from Congress to do something about improving the education of Indian children. I know there are some who would like to keep it where it is, but the safeguards of the rights of Indians in self-determination, trust responsibility, and Indian preference must be maintained.

The amendment that has been offered by the distinguished Senator from New Mexico, joined in by the Senator from Montana (Mr. MELCHER), whose State also has a large Indian population, improves what we seek to achieve and makes certain that our objectives are spelled out clearly in the act.

I express my appreciation and gratitude to the distinguished Senator from New Mexico.

Mr. DOMENICI. I understand that the report of the Governmental Affairs Committee on this legislation specifies that the programs, services, and funds administered by the Assistant Secretary for Indian Education not be channeled through State education agencies. Is that correct?

Mr. RIBICOFF. The Senator from New Mexico is absolutely correct. The committee feels there will be more efficient use of Federal Indian education funds whenever there is a direct funding relationship between the Federal Government and Indian tribes and organizations. By transferring these programs to the Department of Education, we do not intend that these Indian education programs be connected to or administered by State education agencies. This is not to say, however, that we are discouraging States from aiding Indian education, but they certainly are not going to control it.

Mr. DOMENICI. As I understand it S. 991 specifically mandates that existing Indian preference laws, where now applicable, shall continue to be applicable in the new Department. Is that right?

Mr. RIBICOFF. Again, the Senator is correct. The committee fully supports the aims of Indian preference in employment in the programs aiding Indian education. We believe Indian preference should be strengthened in the new Department's Office of Indian Education. Under this bill, Indian preference will continue to apply in exactly the same way it now applies.

However, I do want to point out that the committee does not intend that, under this legislation, Indian preference apply to those schools contracted for under the Indian Self-Determination Act by Indian tribes. Those schools should continue to have the right to hire their own qualified Indian and non-Indian educators, as they wish.

Mr. DOMENICI. I also understand that S. 991 provides for the continued application of the Indian Self-Determination Act in those programs transferred from the Bureau of Indian Affairs. Am I correct?

Mr. RIBICOFF. That is correct. As the Senator knows, it has been 3 years since Congress passed into law the Indian Self-Determination and Educational Assistance Act. The full impact of this landmark legislation has yet to be felt in Indian country. The committee strongly supports the concept of self-determination. We want to make absolutely certain the new Assistant Secretary for Indian Education and the new Office of Indian Education recognize the importance of self-determination and take strong steps to implement the law. We fully expect self-determination will be reinforced and strengthened as a means for increasing the level of local control of education by Indian people.

Mr. DOMENICI. How will S. 991 affect existing eligibility standards for Indian education programs?

Mr. RIBICOFF. The legislation preserves all eligibility standards, of both the Office of Education (HEW) and the BIA Indian education programs. They will not change as a result of this transfer.

Mr. DOMENICI. How will programs and services for school construction be affected by S. 991?

Mr. RIBICOFF. The Governmental Affairs Committee fully intends that with the transfer of the BIA school system, funds and authorities for the construction and improvement of Indian schools will also be transferred to the Department of Education.

Mr. DOMENICI. I think it is important that the new Department fully recognize the special and unique nature of the Indian people's "civil rights." Has the committee considered this?

Mr. RIBICOFF. Yes, the committee has indeed given serious thought to the protection of these unique "rights." The committee report directs the Secretary of Education to establish in the new Office for Civil Rights authorized in the bill a separate branch for Indian affairs. We believe this will be a strong step to insure that Indian people will not lose their "Indianness" by this reorganization. The Office for Civil Rights will most likely be concerned with maintenance of the trust responsibility, Indian preference in employment and contracts, self-determination and other important rights of the Indian people.

Mr. DOMENICI. As the distinguished floor manager knows, my amendment on Indian education abolished the existing National Advisory Council on Indian Education and replaces it with a new council with broadened jurisdiction.

Mr. RIBICOFF. I commend the Senator from New Mexico for taking this step. It is clearly evident that the mandate of the existing council is not sufficiently broad enough to cover all of the new transferred authorities of the new Office of Indian Education. The new council will go a long way toward giving Indian people more input at the Washington level. I would hope, however, that the President would make a strong effort to reappoint those members now on the existing council to the new council so that they may complete the remainder of their terms. Does the Senator from New Mexico concur with that recommendation?

Mr. DOMENICI. I certainly do.

Mr. President, I thank Senator MELCHER for his assistance in this matter. His support and cosponsorship of this amendment indicates his dedication to the educational needs of our young Indian people.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. RIBICOFF. I am pleased to yield to the distinguished Senator from Arizona.

Mr. GOLDWATER. Mr. President, I hardly know where to start my discussion, because I understand that the pending business is the amendment of the Senator from New Mexico, which I probably will support but which I have some qualms about, and that the basic business that confronts us in this early discussion is the transfer of Indian education to a central bureau of education. So I will address myself first to the amendment of the Senator from New Mexico, with some remarks that will apply to any solution we might try to come to relative to Indian affairs.

I am proud to represent my State of Arizona, which has more native Indians than any other State in the Nation. In fact, almost 25 percent of the native Indians of our country live in Arizona. There are 15 different tribes, speaking three different basic language roots, living on 19 different reservations, or about 27 percent of our land.

Mr. President, that very fact should spell out to my colleagues what always has been a basic problem in approaching Indian affairs. We say we want to solve the Indian problem. Well, there are 400 tribes within the continental limits of the United States and 300 tribes in Alaska, and each tribe has a different, specific problem. So when we say we are going to solve the problem of the American Indian, there is no such thing, and there is no way we can do it in one fell swoop.

However, if you were to ask me to name a problem that has been common to all tribes down through the years we have been abusing our Indian friends, it would be education; and if you were to ask my appraisal of the Bureau of Indian Affairs' approach to education, I would have to say that over the years it has been rather dismal.

However, I am happy to report that there has been a turn, particularly in my State, where, as I say, we have native Indians. They speak their own language. They are not too anxious to learn English. They have their own cultures; they do not want to lose their cultures. They have their own religions, and they do not want to lose them. This has been the problem that was set up between the Indian tribes and the Bureau of Indian Affairs.

For example, a young Apache from the San Carlos Reservation—this example could be applied to any one of the tribes—would be sent to a BIA school, where the first thing he was told was that he had to learn English. Most Indian children want to learn English, because they know that, sooner or later, they have to use it in commerce or in getting along with their white friends. But then the BIA approach would be, "You have to forget the culture of your tribe, because you are going to live among a white population whose cultures are different," and the Indian began to rebel.

The Apache did not want to lose the culture that had been handed down through the centuries—a culture, I must say, on which those of us who live in the Southwest depend upon very heavily for our own cultural sources.

Then came the problem of religion. Some of our tribes—such as the Hopi Tribe and the Zuni Tribe in the State of New Mexico—have more than 250 gods. Some of them worship legends. Some, like our Navaho people, will find their gods living on five different mountains, and every mountain has something to do with an aspect of their life. They believe in these things.

For example, the Navaho, who weave the beautiful rugs, were taught that the "Spider Woman" taught them how to weave; and out of respect to the "Spider Woman," they always leave a little hole in the blanket, so the "Spider Woman" can get through it. This has been handed down.

They still practice in their religion what we call sand paintings, which, in effect, become an alter for the person who is being prayed for.

When the Bureau of Indian Affairs began to tell the Indian child that he would have to give up these concepts of religion and take up white man's religion the Indians really rebelled. In fact, it got so bad that up to about 15 years ago the Indians would not allow their children, in the main, to attend schools. This was not true across the board. We had some tribes who lived much closer to white communities than the one I have been talking about where they more or less in a natural way had taken on many of the things that the BIA tried to teach.

So what happened? When it became very apparent that in some of our larger tribes, the Navaho, the two Apache tribes, the Hopi. and I must say, Mr. President, that as to our tribes—and this is another problem—our tribes range from maybe 25 members to over 100,000 members, and this is true across the United States. So that presents a problem. But what happened when this rebellion set in? A number of us, who were close to the Indians and who lived with them, talked to the BIA and pointed out where they were wrong, that they should not take the attitude that culture was wrong, that the Indian had to change his religion, and we urged them to confer with tribal leaders and chiefly with members of the families, and when these conferences ended the BIA gave up on these ancient approaches and now they teach the native tongue where this was never done before.

Mind you, that is not easy because in the case of the Navaho language, the Hopi language, the Apache languages, which are related to the Navaho, there is no printed language. There is no alphabet. There is no printed vocabulary. So we were successful in getting the BIA to change so that today they stress their native language by teaching it, and I must say very happily that it is also available to white students in our colleges. These languages are so difficult to understand that, for example, as to the Hopi language, I have only known one white man in my life who could speak it, and it was used, as Senators know, during World War II in the Pacific, in the open, and it so confused the Japanese that they gave up ever trying to understand either the Hopi or the Navaho.

They now stress culture, the importance of the Indian child retaining the ability to produce pottery, to produce baskets, to produce rugs, to produce silver, and so forth and so on.

They stress their religion and stress their language, although they do stress English to the point that the Indian children learn it.

Mr. President, there is no great feeling of unanimity amongst the Indian tribes in this country in having their education transferred to one central agency.

I have, for example, a list here of practically every State, and in each of these States practically every Indian tribe is represented as being opposed to it.

My friend from New Mexico, of course, shares with my State the gigantic Navaho population, and yet in his State the Mescalero Apache Tribal Council, the Navaho, the Picuris Pueblo, and the Tesuque Pueblo Council all oppose it.

In my State every tribe opposes it, and I am going to have this printed in the RECORD, Mr. President, so that my colleagues will have the benefit of knowing the tribes in their State that now oppose the transfer of education to a central agency.

I ask unanimous consent that this list be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

POSITION OF FEDERALLY RECOGNIZED TRIBES OR ORGANIZATIONS REPRESENTING FEDERALLY RECOGNIZED TRIBES ON TRANSFER OF BIA EDUCATION TO DEPARTMENT OF EDUCATION

State, tribe or organization opposed to transfer:

Alaska: Aklak Village, Alaska Federation of Natives, Association of Village Council Presidents, and Tanana Chiefs.

Arizona: Ak Chin Community Council, Arizona Inter-Tribal Council, Cocopah Tribal Council, Colorado River Tribal Council, and Fort McDowell Mohave-Apache Community Council.

Havasupai Tribal Council, Hopi Tribal Council, Hualapai Tribal Council, Kaibab Tribal Council, Navajo Tribal Council, Papago Council, Salt River Pima-Maricopa Community Council, San Carlos Council, White Mountain Apache Tribal Council, Yavapai Apache Community Council (Camp Verde), Yavapai-Prescott Board of Directors, and Yavapai Tonto Apache (Payson).

California: Barona General Council, Big Pine General Council, Bishop Tribal Council, Cedarville Rancheria, Covelo Community Council (Round Valley), Dry Creek Tribal Council, Fort Bidwell Community Council, Fort Independence General Council, Hoopa Valley Business Council, La Jolla General Council, Laytonville General Council, Lone Pine Tribal Council, Manchester Community Council, Morongo General Council, Pala General Council, Pauma General Council, Pechanga Tribal Council, Rincon Business Committee, San Manuel General Council, San Pasqual General Council, Santa Rosa General Council Rancheria, Santa Rosa General Council Reservation, Santa Ynez General Council, and Soboba General Council.

Tuolumne Community Council, Twenty-nine Palms General Council, Viejas Tribal Council (Baron Long), Resighnini Rancheria, Inter-Tribal Council of California, Big Laguna Rancheria, Bridgeport Indian Colonoy, Cold Springs Rancheria, Hopland Rancheria, Stewart's Point Rancheria, Cycuan Reservation, and Table Mt. Reservation.

Colorado: Southern Ute Tribal Council, and Ute Mountain Tribal Council.

Florida: Miccousukee Business Committee, and Seminole Tribal Council.

Idaho: Coeur d'Alene Tribal Council, Fort Hall Business Council (Shoshone-Bannock), Idaho Inter-Tribal Conference, Kootenai Tribal Council, and Nez Perce Tribal Executive Committee.

Iowa: Sac and Fox Tribal Council.

Kansas: Iowa Executive Committee, Kickapoo Tribal Council, and Prarie Potawatomi Business Committee.

Michigan: Bay Mills Executive Council, Hannaville Community Council, Inter-Tribal Council of Michigan, Keweenaw Bay Tribal Council (L Anse), Michigan Inter-Tribal Education Committee, and Saginaw-Chippewa Tribal Council (Isabella).

Minnesota: Boise Forte Reservation Business Committee, Fond du Lac Reservation Business Committee, Grand Portage Reservation Business Committee, Leech Lake Reservation Business Committee, Mille Lacs Reservation Business Committee, Minnesota Chippewa Tribal Executive Committee, Red Lake Tribal Council, and White Earth Reservation Business Committee.

Montana: Blackfeet Tribal Business Council, Chippewa Cree Business Committee (Rocky Boy's), Crow Tribal Council, Flathead Tribal Council, and Fort Belknap Community Council.

Nevada: Duckwater Shoshone Tribal Council, Fallon Paiute Shoshone Business Council, Pyramid Lake Paiute Tribal Council, and Shoshone Paiute Business Council (Duck Valley).

New Mexico: Mescalero Apache Tribal Council, Navajo, Picuris Pueblo Council, and Tesuque Pueblo Council.

New York: Cayuga Nation, Oneida Nation of New York, and St. Regis Mohawk Council of Chiefs (Akwesasne).

North Dakota: Devils Lake Sioux Tribal Council (Ft. Totten), Fort Berthold Tribal Business Council, Standing Rock Tribal Council, Turtle Mountain Tribal Council, and United Tribes Education Technical Center.

Oklahoma: Absentee-Shawnee Business Committee, Caddo Executive Committee, Cheyenne-Arapaho Business Committee, Citizen Potawatomi Business Committee, Comanche Business Committee, Creek Nation of Oklahoma, Delaware Executive Board, Eastern Shawnee Tribal Council, Fort Sill Apache Business Committee, Iowa Tribal Council, Kaw Business Council, Kickapoo Council, Kiowa Business Committee, Miami Business Committee, Otoe-Missouri Business Committee, Ottawa, Pawnee Business Council, Peoria, Ponca Business Committee, Quapaw Tribal Business Committee, Sac and Fox Business Committee, Seminole Nation (Oklahoma), Seneca-Cayuga Tribal Business Committee, Tokawa Business Committee, Wichita Executive Committee, and Wyandotte Council.

Oregon: Umatilla Board of Trustees and Warm Springs Tribal Council.

South Dakota: Lower Brule Sioux Tribal Council, Oglala Sioux Tribal Council (Pine Ridge), Rosebud Sioux Tribal Council, Sisseton-Wahpeton Sioux Tribal Council, Standing Rock Sioux Tribal Council, and Yankton Sioux Tribal Business and Claims Committee.

Utah: Uintah and Ouray Tribal Business Committee.

Washington: Chehalis Business Council, Colville Business Council, Kalispel Business Committee, Lower Elwha Community Council, Lummi Business Council, Makah Tribal Council, Nisqually Community Council, Puyallup Tribal Council, Spokane Business Council, Squaxin Island Tribal Council, Tulalip Board of Directors, Upper Skagit Tribal Council, and Yakima Tribal Council.

Wisconsin: Great Lakes Inter-Tribal Council, Inc., Lac Courte Oreille Governing Board, Lac du Flambeau Tribal Council, Menominee Restoration Committee, Oneida Executive Committee, Red Cliff Tribal Council, Sokaogon Chippewa Tribal Council (Mole Lake), Stockbridge-Munsee Tribal Council, and Wisconsin Winnebago Business Committee.

Louisiana: Chitimacha Tribal Council and Coushatta Tribal Council.

NATIONAL INDIAN ORGANIZATIONS WHICH OPPOSE TRANSFER OF BIA EDUCATION TO DEPARTMENT OF EDUCATION

National Congress of American Indians.
National Tribal Chairmen's Association.
American Indian Scholarships, Inc.
National Indian Education Association.
American Indian Higher Education Consortium.
Coalition of Indian Controlled School Boards.
Association on American Indian Affairs.

Mr. GOLDWATER. Mr. President, I also ask unanimous consent that a letter from the National Congress of American Indians, which also opposes this transfer, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SEPTEMBER 15, 1978.

Re S. 991.

DEAR SENATOR: On behalf of the National Congress of American Indians, we wish to reaffirm our strong support of the floor amendment to be offered by Senator Stevens to delete the proposed transfer of Indian Education programs from the Bureau of Indian Affairs to the proposed new Department of Education.

We are opposed to the Domenici-Melcher amendments, which do not meet the wishes or needs of American Indian Tribes.

American Indian people believe it is the proposed transfer, itself which would be harmful; and that no amount of perfecting amendments will protect our efforts to provide the best education possible for our children.

Sincerely,

ALBERT W. TRIMBLE,
Executive Director.

Mr. GOLDWATER. Mr. President, I do not want to seem overly critical of putting education in one department, but I can recall when I first came to this body nearly 25 years ago, I wholeheartedly opposed Federal aid to education and I grew to be known as an opponent of education. No. I was an opponent of the Federal Government having anything to do with the education of my children in the elementary schools.

I do not think we have to look far to find out that those of us who opposed Federal aid to elementary education were absolutely right. I think I can withstand any argument that never in the history of this country has elementary education been at such a low level as we find it today, and the States are very rare that can turn out acceptable students for colleges from their elementary school system.

I do not want to risk having a central bureau of education. I am going to oppose this when it comes to a final vote, because I have seen no proof that the Department of Health, Education, and Welfare has adequately handled the educational problem at our elementary level. Forget the college level. The Federal Government has been tied up in colleges ever since we have been a republic. It sometimes makes me laugh to hear people talk about the separation of church and state when this Federal Government has been supporting some of our largest colleges ever since we drew up a declaration.

So, Mr. President, I hope that when the time comes for a vote on the Domenici amendment we can agree to it. I do not think it will do a lot of good, because we have too much dissension between the Indian tribes, and the Senator knows it.

It took us over 25 years in Arizona to bring our 15 tribes together so that they would even talk to each other. It was sort of a victory like we celebrated last night. And even with them now talking to each other we do not get much done, because they are still dominated by one big tribe and the little tribes do not like that.

I do not see how moving Indian education under one department is going to help them, because we have not solved the basic problem of really how to educate them, and I doubt seriously that a department that has not yet contributed anything to the betterment of education amongst white children can hope to do any better in the education of the children of some 400 tribes within our continental limits and 300 tribes in Alaska.

So I am going to vote for the Domenici amendment, because I think it is worth a try, and I am going to oppose putting Indian education under any central agency.

Lord knows, it is bad enough now without messing it up more by putting it under some Federal bureaucracy.

I thank the Chair.

Mr. PERCY. Mr. President, the Senator from Illinois has benefited from listening to the discussion by our distinguished colleague from Arizona, Senator GOLDWATER, who has had a lifelong interest in Indian affairs and has probably done more than any other individual of whom I know to further their legitimate interests and to assist them in every way to stand on their own feet and to be proud Americans.

I know that this comes as probably somewhat of a surprise, but we have 20,000 American Indians living in the city of Chicago. Certainly, regarding the education of those who have decided to move to an urban community, such as Chicago, there is an absolute necessity for them to have a command of the English language.

The Senator from Illinois has been disturbed that once the Indian leaves the reservation, in a sense, and moves into an area like Chicago, the reach, assistance, and help to the American Indians has not always been there.

The Senator from Illinois would have to really disagree, however, with my distinguished colleague that there has been any relationship between the poor quality of education we may have in various areas of the country at the primary level, and the Federal Government's becoming involved. I think the Senator from Illinois would have to say that the quality of education would have been worse. I cannot see that the 8.2-percent average provided in Federal support for the education of our children is in any way controlling our educational system. It is an assist and a help in many areas. There is too much paperwork involved and too much in administrative costs and I would prefer block grants, but I do not think that we can say that the Federal Government is controlling education.

The first priority must be put on moving toward a balanced budget. But as we can relieve costs in other areas we will probably have to assist in education more, providing we can do so in such a way that it leaves control absolutely in the hands of the local community without the hand of the Federal Government intervening.

I would like to go to the amendment of my distinguished colleague, Senator DOMENICI, because the Senator from Illinois——

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. PERCY. Yes, of course.

Mr. GOLDWATER. Mr. President, the Senator from Illinois has brought up yet another problem, and that is regarding those Indians who move from reservations to the cities. Here again you will find no general pattern.

For example, on the reservations of New Mexico, Utah, and Arizona, where the native Indians live, most Indians

who go to school, graduate from college, go back to live with their families to try to improve the life of their families.

I might say that at the present time, and I believe I am right, we have now over 3,000 graduate degrees among our college people; I think we have now 10 Ph. D.'s, two lawyers, and one doctor, and this has been done, I must say, without the aid of the Federal Government. It has been done with tribal funds.

When the Senator gets to the question of what happens to an Indian who comes to Chicago who cannot handle English, then there is a different problem. I think that is a problem that can be handled. If an Indian decides to leave the reservation, I think in the school system of every city there should be a training school—I forget what we used to call it—where basic skills are taught, where the English language is taught so that if he wants to stay, he will not work with any handicap.

We find, say, a Navajo who wants to leave a reservation and come down South to work in the field, he has very little trouble getting along, because he has had a basic knowledge of English. But this is just another problem.

Before the Senator engages with my friend from New Mexico in colloquy I will point out that my chief worry about Federal aid to education has always been that the Federal Government has got its hand too far into the business of running schools in my district. They tell our school system what books are appropriate; they establish standards for teachers; they establish standards for pay. The National Education Association, I think we can say today, is probably the most powerful union in the United States.

My children are all educated or have been exposed to it and have taken various degrees. But I would rather have the parents of my grandchildren have something to say about what the school is going to be like. If they do not like the books that are being used they have a right in Maricopa County, Ariz., to say so, not to be told by some bureaucrat 2,500 miles away in Washington "We know what is best for your child." That, I have to say to my good friend from Illinois, is my basic worry.

I agree with him if we can make this money available in block grants, just write out a check to the State of Illinois or the State of Arizona and get the meddling and no-nothing hands of Washington out of it, I think you would see a great improvement in our educational system.

I thank the Senator for allowing me to finish my little colloquy.

Mr. PERCY. I appreciate the Senator's comments very much, indeed. I think in revenue sharing we have demonstrated that we do best on the Federal level by raising the money and then granting it back to the States and local communities in such a way that there is a minimum of overhead. One-thirtieth of 1 percent is the estimated cost of supervising the revenue-sharing program, which dispenses 6.5 billion a year. We set that up originally so that there would be a minimum amount of paperwork, a minimum amount of bureaucracy, and a maximum leeway in the local community and at the State level. That kind of approach strengthens the Federal system, and I hope we can move in the direction of bloc grants.

Now, to return to the amendment of the distinguished Senator from New Mexico. As I understand it, the amendment now before the Senate would create a National Council on Indian Education; clarify the applicability of the Indian Self-Determination Act and Education Assistance Act to functions which would still be administered by BIA; clarify the trust responsibility of the United States regarding Indian education; and assure that the eligibility requirements for program participation not be modified in any way by the transfer.

If that is the correct understanding of the amendment, the Senator from Illinois would certainly find this an improvement over the pending legislation, and would find it very acceptable. I know of no objection on this side of the aisle.

Mr. DOMENICI. The Senator is correct in his assumption of what it does. As I indicated in my remarks regarding my amendment—and the Senator from Illinois was unavoidably detained at that point—we went through the record of the hearing and found that wherever there were objections by the Indian people or Indian tribes and groups that basically they fit in these categories, and we have attempted to cover all of them by this amendment as best we could. The Senator is absolutely correct.

Mr. PERCY. Mr. President, I ask unanimous consent that Lenora Moragne of Senator DOLE's staff have the privileges of the floor during the discussion of and votes on the pending legislation; and also Alan Bennett of the Governmental Affairs Committee staff, and Eric Hultman of the Judiciary Committee staff, have the same privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I shall not oppose the amendment of the Senator from New Mexico, but I want to make it clear that it does not obviate the need for my amendment, the amendment I shall offer, as soon as the Senator from New Mexico's amendment is disposed of.

It is my understanding that the committee will accept the Domenici amendment. The National Congress of American Indians and all of those with whom I have been working, in connection with the problem pertaining to the transfer of Indian education programs from the BIA to the new Department of Education, are opposed to the Domenici amendment.

I see no reason to have a vote on it, however, because in the event my amendment is adopted, it would strike the section that the Domenici amendment would amend, and it is my understanding that my amendment would carry with it the language of the Domenici amendment in the event it would be adopted.

I just want to make certain the Senate understands that this amendment is not acceptable to the American Indian tribes. It does not have the support of the organizations which do articulate the need of the American Indian people, and I do not think it meets their objections as they presented them to the committee and presented them to those of us who attempt to speak for the Indian people here in the Senate.

Mr. RIBICOFF. Mr. President, the Domenici amendment is acceptable to the manager of the bill. I think it is an excellent amendment. It improves the bill and helps clarify any questions on Indian education.

The PRESIDING OFFICER. The Senator from South Dakota was seeking recognition next.

Mr. ABOUREZK. Mr. President, I just want to say that I would like to be heard a little bit longer in debate on the Stevens amendment, but I will not be able to be present, because I have another commitment I have to get to now. But, before the Senate acts on this amendment, I would like to say a word or two about the Stevens amendment and the proposal by the Government Affairs Committee to transfer Indian education out of the Bureau of Indian Affairs into the new Department of Education.

This is one of the most difficult decisions I have had to make since I have been in politics. The reason is that a great many Indian tribes—not all of them, but a great many—are opposed to a transfer of Indian education functions out of the BIA.

I do not pretend to speak for the Indian people in any respect, but I want to try to describe the relationship between the Indian tribes and the Bureau of Indian Affairs since I have been privileged to deal in the area of Indian affairs. It is a kind of love-hate relationship. In fact, they severely and vehemently dislike the Bureau of Indian Affairs and the patronizing attitude and manner with which the BIA treats tribes and the Indian people themselves. But any time that anybody says "We are going to abolish the BIA" or abolish one of the functions of the BIA, the Indians are the first to rush to their defense.

The reason for that is, I think, that the Indians feel the BIA is all they really have. They are pretty vulnerable. They are subject to attack by the dominant society, by the power establishment in any community in which they live, and they are very much afraid to have any other agency try to represent them, even though they will be the first to confess that the Bureau of Indian Affairs does the poorest job of anybody they can imagine. I do not think any Member of this body will disagree with that.

So my policy has always been to try to do legislatively what the tribes have indicated they wish or want me to do. I would say this is the first time I have departed from that, and I want to make clear my reasons why I am supporting Senator RIBICOFF's and Senator PERCY's attempt to transfer the Indian Education Office out of the BIA into the new department.

I support it simply because I think the very vicious training ground of Indian politics, which is manifested primarily in the area offices around the country, has taken over in this case. Any time the Bureau of Indian Affairs and its very

practiced bureaucrats see a threat to their survival, to their jobs, to their positions, they run to the tribes and say, "This is tantamount to termination."

The word "termination" to Indians is a word like "extermination" is to Jews; it is that serious to them. Any time the Bureau of Indian Affairs talks to the Indian people and says "You are going to be terminated" by this law or this action, they immediately rush to the defense of the Bureau of Indian Affairs, and that is the design. That is deliberate. That is exactly why the bureaucrats do it.

In this instance, I believe the best thing that can happen for the country and for the Indian people is to transfer education out of the Bureau of Indian Affairs and the hopeless state in which it is found in that agency. I do not know how well the Department of Education will do it, but they cannot possibly do it any worse than the Bureau of Indian Affairs has done, and for God's sake I hope they can do it better.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. ABOUREZK. I yield.

Mr. GOLDWATER. Mr. President, I find myself in absolute and complete accord with my friend from South Dakota in his remarks about the BIA. They do try to prevail on Congress, they do try to prevail on the tribes.

But as I said before the Senator came to the floor, as bad as the BIA has been, I think we have in HEW a perfect example of how not to run the country. That is the major reason why I am going to object to transferring this function, not that I think they are going to be any better off under BIA, particularly, but at least we have the BIA moving more in the Indians' direction now than they ever have before. I have seen such disastrous results to education under HEW that I cannot abide the thought of extending that to any other group of people. I just hate to think of an education department having anything more to do with teaching white children or black children or Mexican-Americans. They just are not geared to do the job, and the major reason, I believe, is that they are under the complete domination of the National Education Association. I would rather take my chances as a part of the BIA than to join the new Department of Education.

Mr. RIBICOFF. Mr. President, if the Senator will yield for a moment, I think this colloquy between the Senator from Arizona and the Senator from South Dakota indicates the need for a Department of Education.

I agree completely with my distinguished colleague that education under HEW has not done the job. Let me explain something to the distinguished Senator from Arizona.

In a period of 12 years, we have had 13 different Commissioners of Education. There has been no continuity. The Secretary of HEW has so many programs, so many tasks, and so many burdens, the one segment of the department that gets the least attention is education. That was a concern of mine when I was Secretary, and it has been a concern of every succeeding Secretary. When these outstanding educators come into HEW to administer education programs, they feel the frustration, they feel the lack of progress that has been called to our attention by the distinguished Senator from Arizona. We realize, with all the money we are spending and the lack of progress that is being achieved, the time has come to pull all the education programs under a Secretary of Education who has the necessary authority.

Just a year ago the Commissioner of Education had to go to a conference with the President at the White House. When he came to the gate, the attendant at the gate did not know who he was and would not let him in. You cannot imagine that happening with a member of the Cabinet; at least he could come in by the door. The Commissioner of Education cannot come in the front door.

I am deeply impressed with the discussion that has taken place. I think it is most important to have this discussion between the Senator from Arizona, the Senator from Alaska, the Senator from New Mexico, and the Senator from South Dakota, because we are involving here men who have specific knowledge and experience with Indians and Indian education. The time has come to bring these matters out in the open, because the statistics we have on Indians show that Indian education is an absolute disgrace, that the Indians are being shortchanged. We find that the record shows that today the achievement rates of Indian students continue to stay far below the national average. Dropout rates for Indian children at the elementary and secondary level exceed 50 percent. Dropout rates for Indian students in post-secondary institutions exceed 75 percent.

I listened with a great deal of interest to the deep knowledge of the mores, experience, and customs of the Indians in Arizona as related by the Senator from Arizona. That is the first I had ever heard it. I respect it, and I respect the need and the desire of the Indians to preserve their traditions. I love traditions. I do not want to eliminate tradition. I think it is absolutely essential that we keep in continuity the past, the present, and the future. A society disintegrates which dishonors the past.

But what we are seeking, with the help of the Senator from New Mexico and the Senator from South Dakota, is to try to assure that as a result of this debate and discussion, when the Secretary of Education comes into office, when there is an Assistant Secretary for Education in Indian Affairs or Indian Education, they will look at this record and understand that there is a concern.

The concern is not just on the part of Senators from States with Indians; it is a concern that every American has, a concern that every Senator has, to improve education and not to neglect the Indians, not to neglect the Indian children.

That is why I accepted the amendment by the Senator from New Mexico and the Senator from Montana.

I felt that what they were doing was nailing down, and nailing down tightly, that there would be no encroachment whatever on Indian prerogatives and Indian rights. This has been doubly assured by the Senator from South Dakota.

The Senator from South Dakota has talked to me numerous times, and he has told me of his concerns. He has told me about the rivalries. He has told me of his commitment to the welfare of Indians. I do not think anyone in this country has to have an explanation from the Senator from South Dakota when it comes to Indians, and everything that has to do with Indians and human beings. I welcome his support for this improvement.

May I say to the distinguished Senator from Arizona, irrespective of when or how this bill comes into existence—and I hope that the Indian education will be part of this measure—I personally will continue to work with the Senator from Arizona, the Senator from New Mexico, the Senator from South Dakota, and the distinguished chairman of the Subcommittee on Human Resources, the Senator from Rhode Island, to assure that we improve the education of Indian children.

I think one of the great disgraces in America in the treatment of the lowest ebb of any segment of the American population must be reserved for the Indians of our Nation.

Out of this colloquy, I am positive will come a great improvement in Indian education, the colloquy from the people on this floor who are for this measure and those who are against this measure.

I express my appreciation and gratitude to the Senator from South Dakota, the Senator from New Mexico, and the Senator from Arizona, whether they support this proposal or not.

Mr. ABOUREZK. Mr. President, I think what Senator GOLDWATER said about educational programs in HEW are severely lacking is very accurate. I do not disagree with that at all. Like Senator RIBICOFF, I am very hopeful that things will improve under the Department of Education.

I want to say another word about the Bureau of Indian Affairs, and the area directors in particular who have mastered the art of Indian politics to probably the highest degree. One director of the Indian health service said in my presence once that Indian politics would be a good training ground for anybody who wants to run for President. I think it is probably true. It is the most cutthroat kind of politics I have ever seen in my life. Anybody who has been involved in it would not disagree with that.

I was going to use another word there but I thought better of it. [Laughter.]

In any event, I had a hearing earlier this year on the Bureau of Indian Affairs. One of the witnesses used to be a superintendent in the Bureau of Indian Affairs. He later came on my staff as an Indian specialist after he left the Bureau of Indian Affairs. In fact, I hired him from the Bureau of Indian Affairs. He had more knowledge of the internal operations of the BIA than anybody I had ever seen. He was a critic of the BIA who had worked for them for years and maintained his honesty and independence all that time, which is very difficult to do.

He described the actions of the area directors and those other politicians, bureaucrat politicians, in the Bureau of Indian Affairs. He described them with two words: survival management. He said it is survival not of the Indian people, but of the bureaucrats in the BIA. That is all they are concerned about, nothing else. Survival of their jobs, of their positions, of themselves. And the more the Indians fail, the more happy they are and the more successful they become. That is exactly what it is.

No matter how bad it is in the Department of Education or in HEW, I do not think it can be as bad as in the Bureau of Indian Affairs. I will say why. Even though they stopped the practice, for a number of years they were experimenting on Indian children on how to get rid of the Indian problem by getting rid of Indians. They did it by taking children out of their homes. They took them away from their mothers, took them to a boarding school, and never let them see their families again.

They have stopped that practice, thank God. But who knows when this bunch of experimenters will start it again? If there is a permissive Congress, if there is nobody here jumping at them, they might just try it all over again. They say one way to treat the Indians is this way and another is that way, but, "We know what is good for the Indians."

Mr. GOLDWATER. Will the Senator yield?

Mr. ABOUREZK. I yield.

Mr. GOLDWATER. I cannot argue with what the Senator said about the Bureau of Indian Affairs. I fought this group before I got into politics. I have tried my influence on every President I have known. I have tried all during my life to get something done about it. As the Senator said, they are a pretty powerful bunch. I think one of the mistakes I made in 1964 was I did not go to their school long enough.

If the Senator will further yield for a moment, I just want to relate a problem or two that we are going to be faced with, and which the BIA is faced with.

I have to say that in my first 12 years here I served on the Educational Subcommittee and I had the pleasure of being chairman of it for one term. The distinguished chairman from Connecticut has mentioned the record of Indians. I think if we took it across the board, the record might even be worse. We can take isolated cases of isolated tribes where their school attendance records are as good as the whites, where their ambition to go further in education is every bit as good as the whites. I cannot say that these are in the majority by any means, but they do exist.

The Senator from South Dakota is well aware of the problem that I am going to mention. The biggest tribe in this country, the Navaho tribe, almost 140,000 people, live in what we call seminomadic conditions. They do not live in pueblos like the Hopis, Zunis, and other tribes in our Southwest. They live in isolated family groups. Here there may be two or three hogans, which is what they call their house, and over here, 10 miles, is another one.

When it comes time to getting these children in school, talk about a problem of busing. We have been wagoning and busing Indian children as long as I can remember, trying to get them to the few schools that we can afford. I do not advocate that we build a school at every crossroads. We could not do that.

For example, children who live where the Senator and I have just visited, in Black Mountain, live 40 miles from the nearest high school. So they ride horseback or they walk and stay in the town where the high school is.

This is not going to be an easy problem to change. I would hope that we could magically bring these seminomadic peoples into living in the communities where they could develop schools, hospitals, and their own industrial abilities.

I might mention that when we are talking about Indians, particularly the Indians I know, we are not talking about what I would call dumbbells. The highest IQ's known to this country come out of the Hopi Indian children. Do not ask me why. We have been investigating that for years. But I can say that standing outside the Indian school in Phoenix will be all of the electronics people from the factories around Phoenix, waiting to grab ahold of a Hopi young man. Here is a young man who probably never saw a light bulb before he went to school. Yet give him 2 months on schematic drawings and he can outproduce any white man in the institution. Why? We do not know.

Two of the best men I have ever appointed to the military academies have been Hopi Indians. They outperformed the whites all around the periphery of the big reservation.

So, again, we are not dealing with people who do not have basic knowledge. We are dealing with people who just have not had exposure to schools. I must say where they have been exposed to schools they have not been the kind of schools we would like to see.

In summing up, Mr. President, we do have problems. I do not care whether it goes over to another bureau or remains with the Bureau of Indian Affairs; getting our Indian children to school or getting them to stay in school is not an easy thing.

I think of one more thing. One of the prosperous crops of my Navajo Indians is what we call the piñon nut. It comes off the pine tree. Every first frost of October, all the kids quit school and go out and pick piñon nuts. Those are the little things that happen out of adherence to their family ways of life and their culture, their religion. We are not going to solve this thing, as much as we would like to. If the move is successful to put this under one bureau, I shall help in every way that I can, because I should like to see the education of our Indians improved. I should like to see their chances improved with the white people when they go out to work among them.

I thank the Senator.

Mr. DOMENICI and Mr. BARTLETT addressed the Chair.

The PRESIDING OFFICER (Mr. INOUYE). Who yields time?

Mr. RIBICOFF. There is no control over time. The Senator is entitled to whatever time he wants.

Mr. STEVENS. I have the management of the time on this side. Does the Senator from Oklahoma wish some time?

Mr. BARTLETT. Yes, I should like to speak on this if someone will yield to me. I do not know whether the Senator has any time or not.

Mr. RIBICOFF. There is a half hour on the Domenici amendment, but I would be pleased to yield on the bill to the distinguished Senator from Oklahoma.

Mr. DOMENICI. I wonder if the Senator from Oklahoma would have any objection to adopting the Domenici amendment? I understand the Senator from Oklahoma wants to oppose the transfer. However, this has nothing to do with the Domenici amendment.

Mr. BARTLETT. I wanted to speak very briefly on the amendment. I oppose the amendment.

Mr. DOMENICI. Fine.

Mr. BARTLETT. Mr. President, I have here from Albert W. Trimble, executive director of the National Congress of American Indians, the letter which was introduced earlier by the distinguished Senator from Arizona (Mr. GOLDWATER). In that letter, on behalf of the National Congress of American Indians, he expresses strong support of the floor amendment by Senator STEVENS. He also opposes the Domenici-Melcher amendment, which does not, according to him, meet the needs or wishes of the American Indian tribes.

My personal opinion is that the Domenici amendment really does not do anything. It does not really provide any needed clarification. Therefore, it is just a sort of camouflage for the bill itself.

I am very concerned about the bill. I am tempted to talk on the bill because the other Senators were discussing provisions that are in the bill, but I shall not do that. I just want to express my opposition to the Domenici amendment and that I hope it will be voted down.

Mr. DOMENICI. Mr. President, I understand the basic issue as to whether or not Indian education should be transferred to the Department of Education. I hope we will hear a lively debate on the transfer issue this afternoon.

In all deference to my good friends (Mr. BARTLETT and Mr. GOLDWATER), who have indicated that there is Indian opposition to this Domenici-Melcher amendment which clarifies the treaty language, I do believe that the opposition is based upon opposition to the transfer in toto, not to the clarifying amendments. I cannot imagine that they would really be opposed to a clarification which stipulates that the Indian Self-Determination and Education Assistance Act still applies after the transfer.

I cannot imagine that Indian preference and its clarification being attendant on transfer are opposed by these various groups.

I do not believe that a National Council on Indian Education advising the Assistant Secretary would be opposed. I believe the opposition stems from the fact that many of those groups—and I acknowledge that—do not want the Bureau of Indian Affairs to get out of the

education business at all. It is for that reason that they oppose the amendment.

I yield my time and move the adoption of the Domenici amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. DOMENICI. I move to reconsider the vote by which the amendment was agreed to.

Mr. RIBICOFF. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PELL. Mr. President, I ask unanimous consent that the privilege of the floor be granted to Richard Jerve of the staff of the Committee on Human Resources; Mark Ash and Allen Bloom of Senator METZENBAUM's staff; Tom Polgar of Senator MORGAN's staff; and Karyn Mandan of Senator CRANSTON's staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I commend the Senator from New Mexico for his clarifying amendment. I think it is a very useful and good thing to have.

I also want to say how much our Subcommittee on Education has appreciated the opportunity of working with the Committee on Governmental Affairs toward this excellent bill that has emerged. I am delighted at the opportunity for cooperation that has been given to our staff and to us.

The bill that is before us, I think, is a truly excellent one, one in support of which I am glad to rise. It creates a Cabinet-level Department of Education. I have long supported such a department and I am proud to be an original cosponsor of this legislation.

Why? The education division alone has a budget of $9.1 billion, more than the budget of four Cabinet agencies. Yet this division, made up of the offices of the Assistant Secretary of Education, the Office of Education, and the National Institute of Education, would be only a part of the Department of Education as envisioned in S. 991. S. 991 would also include in the new Department the Education Directorate of the National Science Foundation, along with the school lunch programs, the overseas dependent schools, Indian education, now as clarified by the excellent Domenici amendment, and college housing programs.

While I recognize that inclusion of these programs may be controversial to some of my colleagues, I believe that the Senate should support as broadly-based an Education Department as possible.

Current education efforts are fragmented among a large number of agencies, with no mechanism to coordinate their provisions or to measure their impact on States, school districts, and institutions. A single department would provide the structure for such coordination.

In addition, it is my belief that funds for education are kept artificially low by the very structure of the Department of Health, Education, and Welfare. More than 90 percent of HEW's budget is considered uncontrollable, as costs of such programs as social security and medicare rise annually.

As a result, the portions of the HEW budget which are subject to the annual appropriation process continue to feel the squeeze of static funding. Education, as the largest controllable program area in HEW, is always the area that budget-cutters look to first as they seek to keep funding at a reasonable level.

Cabinet-level representation for education would allow education to be judged on its own merits, rather than in competition with other domestic programs with scarce dollars. It would also provide for direct access to the President of the voice of education.

This voice deserves to be heard, for education is vital to our Nation's continued growth and development. More than 65 million people are involved in education enterprises, nearly one in every three of our citizens. Surely an "industry" of this size and scope deserves Cabinet rank.

Finally, I note President Carter's deep commitment to the creation of a Department of Education, and I applaud him for that commitment.

In conclusion, I wish to say what an excellent job I believe the Senator from Connecticut, as chairman of the Committee on Governmental Affairs, has done, and what a fine bill it is. Think how many years it has taken to emerge, and, thanks to the Senator from Connecticut, it is finally adopted and voted on.

Mr. RIBICOFF. I thank the distinguished Senator from Rhode Island because, under his leadership, we have made great strides in education. The Senator from Rhode Island is concerned and knowledgeable in this entire field. His support for this Department has great significance and meaning, because his responsibility in the authorization process in all education programs gives him the special insights into why we need this Department.

Accompanying him in this support is the distinguished Senator from Washington (Mr. MAGNUSON), chairman of the Appropriations Committee. Hardly a day goes by that Senator MAGNUSON does not ask me, "When is this bill coming up?" Because of his responsibility for education appropriations, there is no one in this body who is more concerned with the necessity of having a separate Department of Education to make sure that the job is being done and the full amount of taxpayers' value is being received from the sums we are spending in the field of education.

AMENDMENT NO. 3588

(Purpose: To eliminate the transfer of Indian education programs from the Secretary of the Interior to the Secretary, and for other purposes)

Mr. STEVENS. Mr. President, I call up my amendment No. 3588.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS), for himself, Mr. YOUNG, Mr. GOLDWATER, Mr. CHILES, Mr. ANDERSON, Mr. BARTLETT, Mr. CHURCH, Mrs. HUMPHREY, Mr. HANSEN, Mr. BURDICK, Mr. JACKSON, Mr. GRAVEL, and Mr. MATHIAS proposes amendment numbered 3588.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 48, strike out line 1.

On page 48, line 2, strike out "(C)" and insert "(B)".

On page 48, line 3, strike out "(D)" and insert "(C)".

On page 48, line 5, strike out "(E)" and insert "(D)".

On page 48, line 7, strike out "(F)" and insert "(E)".

On page 48, line 9, strike out "(G)" and insert "(F)".

On page 48, line 11, strike out "(H)" and insert "(G)".

On page 48, line 12, strike out "(I)" and insert "(H)".

On page 48, line 13, strike out "(J)" and insert "(I")".

On page 48, line 14, strike out "(K)" and insert "(J)".

On page 49, strike out lines 3 through 7.

On page 51, beginning with the word "programs" on line 3, strike out through the word "individuals" on line 6 and insert "certain programs relating to the education of Indians, Alaskan Natives, and Aleuts".

On page 56, line 8, strike out "section 304" and insert "section 303".

On page 56, beginning with line 15, strike out through line 13 on page 58.

On page 58, line 16, strike out "SEC. 212." and insert "SEC. 211.".

On page 59, line 6, strike out "section 305" and insert "section 304".

On page 59, line 11, strike out "SEC. 213." and insert "SEC. 212.".

On page 60, line 4, strike out "SEC. 214." and insert "SEC. 213.".

On page 60, line 12, strike out "SEC. 215." and insert "SEC. 214.".

On page 66, line 2, strike out "SEC. 216." and insert "SEC. 215.".

On page 75, strike out lines 7 through 24.

On page 76, line 3, strike out "SEC. 304." and insert "SEC. 303."

On page 77, line 14, strike out "SEC. 305." and insert "SEC. 304.".

On page 78, line 12, strike out "SEC. 306." and insert "SEC. 305.".

On page 78, line 21, strike out "SEC. 307." and insert "SEC. 306.".

On page 79, line 3, strike out "SEC. 308." and insert "SEC. 307.".

On page 79, line 12, strike out "SEC. 309." and insert "SEC. 308.".

On page 82, beginning with line 23, strike out through line 12 on page 83 and insert the following:

"(e) Nothing in this Act shall be construed to prevent the application of any Indian preference law in effect on the day before the date of enactment of this Act to any function transferred by this Act and subject to any such law on the day before the date of enactment of this Act. Any function transferred by this Act and subject to any such law shall continue to be subject to any such law.".

On page 86, between lines 9 and 10, insert the following:

"(J) Office of Indian Education;".

On page 86, line 10, strike out "(J)" and insert "(K)".

On page 86, line 11, strike out "(K)" and insert "(L)".

On page 87, strike out lines 9 and 10.

On page 87, line 11, strike out "(4)" and insert "(3)".

On page 87, line 14, strike out "(5)" and insert "(4)".

On page 106, line 1, strike out "(9)" and insert "(8)".

On page 107, beginning with line 20, strike out through line 15 on page 112.

On page 112, line 18, strike out "SEC. 511." and insert "SEC. 510.".

On page 113, line 2, strike out "SEC. 512." and insert "SEC. 511.".

On page 113, line 19, strike out "SEC. 513." and insert "SEC. 512.".

On page 40, in the table of contents, strike out item Sec. 211. and redesignate items Sec. 212. through Sec. 216. as items Sec. 211. through Sec. 215., respectively.

On page 40, in the table of contents, strike out item Sec. 303. and redesignate items Sec. 304. through Sec. 309. as items Sec. 303. through Sec. 308., respectively.

On page 41, in the table of contents, strike out item Sec. 510. and redesignate items Sec. 511. through Sec. 513. as items Sec. 510. through Sec. 512., respectively.

Mr. STEVENS. Mr. President, I ask unanimous consent that these amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, it is with deep regret that I rise to oppose the chairman of our committee with regard to one of the provisions of this bill. Although I am not a cosponsor of this bill, I do believe in the establishment of a separate Department of Education.

I do believe, however, because I was called on as a member of the Governmental Affairs Committee to chair the hearing when the Indian people from throughout the country came in to object to this particular provision that my amendment would delete, or the total concept of my amendment would delete, the transferring of the Bureau of Indian Affairs' schools and education programs from the Department of Interior to the new Department of Education, that it is incumbent upon me to speak at some length about it.

The Indian people of our country made a great case when they came before the Governmental Affairs Committee and pleaded with us to delete these provisions that would transfer the BIA schools and education programs from the Department of the Interior to the new Department of Education.

I say this without criticism of other members of the committee because I know we are all busy, but I was there alone, and these people came in from throughout the country, distinguished leaders of their own communities, who represented a great many Indian tribes that have existing relationships with our Federal Government, and they opposed this provision.

There are some from the Indian community who disagree. But the overwhelming majority of the American Indian people oppose the transfer of the BIA schools and education programs as contemplated by this bill.

For example, the National Tribal Chairmen's Association and the National Congress of American Indians, representing over 200 tribes nationwide, testified against this transfer at the hearing I chaired. At that time it was quite clear that the Indians oppose this administratively forced transfer. They oppose it because they feel that the bill does not adequately address trust responsibility or their tribal sovereignty rights.

As has been stated, and the Senator from Oklahoma put the letter from the National Congress of American Indians in the RECORD, they do not feel the Domenici amendment protects those rights and they oppose the bill's provisions even as amended by the Domenici amendment.

I spent a substantial portion of my career in the Department of the Interior and was Chief Counsel of the Department of the Interior.

I know the defects of the BIA operation as it has applied to the Indian trust responsibility despite the good intentions of the BIA.

The Indians themselves have been very forceful in their criticism of the BIA operations. But to be categorical and to be concise and candid about criticism does not mean they seek to do away with the entity that now is showing responsiveness to their needs.

The Bureau of Indian Affairs has had the historic responsibility of fulfilling treaty and statutory obligations to the tribes for over 100 years. This is what the Indians refer to as trust ressponsibility. With it go the assurances that include tribal involvement in the development of Indian policy, standards for recognition, and eligibility of members of the federally recognized tribes for services, assurances of Indian preference in hiring, and processes for implementation of the Indian Self-Determination and Education Assistance Act.

Just 3 years ago we passed the Indian Self-Determination and Education Assistance Act. This act recognizes the obligation of the United States to respond to the strong expression of the Indian people for self-determination by assuring maximum Indian participation in the direction of educational as well as other Federal services to Indian communities, to make these services more responsive to the needs and desires of those communities. I am convinced that we are breaking the promises we made in that legislation if this forced transfer of BIA schools and education programs is mandated by the Congress.

Mr. President, as one who served for some 6 years on the Interior Appropriations Subcommittee of our Appropriations Committee in the Senate, let me point out one of the major defects in this proposal.

All of the Indian matters that come before the Appropriations Committee are in the Interior Appropriations Subcommittee coverage.

We deal with housing programs, we deal with employment programs, we deal with community programs of water and sewer, we even deal with the health service that normally would be in the HEW budget.

We deal most specifically with the educational needs of the Indian community in relationship to all of the other requirements for Federal funding.

I think the record is clear that we have had an increasing response to the requests of the Indian community as they have come forward under the Indian Self-Determination Act to be more and more involved in the education of their children.

Now it is proposed to take the school functions, the BIA programs, away from BIA and put them in the new Department of Education, a department that has no track record, a department that deals with different committees in the Congress, both authorization committees and appropriations committees. It deals with people that had nothing to do with Indian affairs and will have nothing else to do with it except as it might involve the Department of Education.

If self-determination means anything, it means the Indian people ought to be listened to in terms of how Congress reacts to their demands.

I think that nothing will show that the Federal Government speaks still with forked tongues to the Indian people than to do this, to transfer the Indian function for education to the new Department of Education against their will.

People talk about self-determination around here. The Indians have spoken and we have an obligation to listen to them.

The whole point of self-determination is to allow the decisions affecting Indians to be made in the tribal council rooms and not in Washington, D.C.

Congress jeopardizes that commitment if we allow this transfer against the express wishes of the American Indian people.

Self-determination is just now beginning to take hold firmly in the Indian community. Ten years ago there were two tribally operated contract schools. Now there are 35, and a number awaiting contracts when funds become available.

Indians and Alaskan Natives are going to college for the first time in significant numbers. These college-educated Indians hold the promise of a better future for Indian education, better than the new megastructure such as the Department of Education could provide.

A promise was made to the Indian community by this administration that tribal leaders would be consulted before initiating changes that would directly affect them.

This bill is in direct violation of that promise. The least we can do in the Senate is to respect the stated wishes of the native Americans and provide an opportunity for tribal input before restructuring Indian education programs.

The House Committee on Government Operations wisely chose to leave the Bureau of Indian Affairs schools and education programs in the Department of the Interior.

I realize some of my colleagues may object to leaving schools and education programs with the Bureau of Indian Affairs because of the shortcomings of the Bureau's past efforts in education, and those have been commented upon here before. As I said, as the ranking minority member on the Interior Appropriations Subcommittee, I know something of those complaints, too.

Some of my colleagues in the Senate may be familiar with a GAO study completed recently outlining the problems in BIA education. This study has identified areas where improvement is required and has recommended changes. The Bureau deserves the opportunity to try to correct these problems, and the Indian people who are becoming more

and more in control of BIA deserve the right, under self-determination, to try to bring the Bureau around as they believe it should be operated under the Indian Self-Determination Act. I do not think we will accomplish anything by sending these same problems over to a new department of education, which will be disorganized and getting its feet wet in many other pressing issues.

But it needs a track record first, to justify the support of the Indian people over the Bureau, when the Bureau now has shown, in recent years, an inclination to make the changes that are requested by the Indian people.

Several years ago, Dr. Rufus Miles, of Princeton, who was formerly Director of Administration at HEW, did a study on a Cabinet level Department of Education which served as the basis of the legislation before us today.

It was Dr. Miles' recommendation that the Indian education programs remain in the Bureau of Indian Affairs because the Office of Education has no trained professionals in school administration and cannot fulfill the goals of the Indian Education and Self-Determination Act. He further stated that moving Indian education to the Department of Education would be an encumbrance on the new Department and hamper its chances for success. If the Indian schools were poorly managed, it would lead to severe criticism of the top level management of the new Department, thus tending to subordinate the Department's leadership and planning responsibilities to those of the day-to-day administration of a school system.

Let me emphasize that. Nowhere else in the Federal Government is there day-to-day administration of a school system as there is in the Indian area.

If the Department were successful in significantly upgrading the level of Indian education programs, it could lead to pressures for the Federal Government to become more directly involved in the day-to-day operations of schools throughout the Nation.

So, in addition to being a poor alternative from the point of view of the Indians, so far as the original proponent of this Cabinet level Department of Education is concerned, it was a no-win proposition for the new Department to be saddled with this additional responsibility.

All of the other programs which are being put into the new department are now part of the Department of Health, Education, and Welfare. The school nutrition programs and the Head Start programs will remain in their current status. Some might say that these programs are not truly educational in nature and that Indian education is so we need to consolidate all of the Federal efforts in this area.

The significant difference between BIA education programs and the other Federal educational activities is that the Bureau, in many instances, acts as a local educational agency. The Bureau is responsible for hiring teachers, determining curriculum, building maintenance, building construction, running boarding schools, and a host of other activities which set it apart from the grant and loan processing functions of the present Office of Education. It is quite possible that the native American community may, at some future date, choose to have the BIA education programs included in the Department of Education. The point is that the choice should be theirs. Other than producing a nice diagram of Federal education activities, I would challenge any of my colleagues to tell me how the lot of the individual Indian child will be improved if the Indian education programs are consolidated in this new department. They will have the same teachers, the same books, the same building, and the same funding. But they will lose control, because under the BIA, the Indian people now know they have control over their education programs.

The education budget of the Bureau of Indian affairs is the single largest account—and one of the largest within the entire Department of Interior. However, it pales in comparison to the title I programs, impact aid funding, and basic educational opportunity grants of the Office of Education. The BIA education function in connection with the HEW education budget is miniscule, but it is extremely important to the Indian people. In Interior, the problems stand out, and thus the Interior Appropriations Subcommitte is in a position to push for improvements that are necessary. In the Department of Education, attention will be focused on the big money accounts and the Indian education program will be the forgotten stepchild. Grants-manship is what gains attention in HEW. The individual Indian child and his family count at the Bureau.

The Office of Indian Education, now part of the Department of Education, has not, in my opinion, and that of the Indians, proved to be a success. They fund a program for 1 year only—with no guarantees for a continuation grant. Just as the people have begun working on the part B and C program funded in 1 fiscal year, they have discovered that they will not be refunded for the next year. Education in the Indian community cannot work that way. A long-term commitment must be made. We cannot allow the education of Indian children to be affected by every new educational fad which sweeps the Nation. With the Bureau programs offering the only opportunity for direct Federal intervention in education from kindergarten through college, I can foresee the native American children being used as guinea pigs for every new scheme developed by the National Institute of Education, the Office of Bilingual Education and the Office of Civil Rights. The way this bill now stands, we have no guarantee that this will not happen.

This would be the only operation portion of the new Department of Education. In the day to day operation of schools, in the maintenance of schools, this is the only involvement in the curriculum directly from a Federal level.

Within this new department, if this bill is passed as it stands, is the perfect test tube area to try out all the new dreams and schemes of those people who are involved in the new Department of Education. I can see that the Indian people do not want that to happen, and they want a way to guarantee that it will not happen. So they have asked many of us personally to take an interest in this bill for the purpose of trying our best to take out of this bill the proposals to transfer the BIA education programs to this new department.

I cannot emphasize enough the importance of the Indian self-determination act during consideration of this new department. The American Indian community is watching us to see if we will live up to that commitment we made, in which the Federal Government—Congress and the Executive—promised Indian control over Indian programs to the maximum extent possible. If we force this transfer, against almost the unanimous objection of the tribes, we will have done irreparable damage to the Federal relationship with the Indian tribes and Alaskan Native people. Congress will have demonstrated to the Indian people that the Federal Government does not truly believe that Indians are capable of knowing what is best for themselves; and in the final analysis, without regard to their views, Congress and the executive branch will have the final say.

I urge that the Senate adopt this amendment, which has been cosponsored by Senator YOUNG, Senator GOLDWATER, Senator CHILES, Senator ANDERSON, Senator BARTLETT, Senator CHURCH, Senator HUMPHREY, Senator HANSEN, Senator BURDICK, Senator JACKSON, Senator MATHIAS, and my colleague from Alaska. This would leave the Indian education programs where they are, in the Department of the Interior, where the Indians feel they have the most recognition and will receive the best treatment in the future.

Mr. President, I take great pleasure in announcing that the chairman of the Committee on Energy and Natural Resources, my good friend from Washington, Senator JACKSON, supports this amendment.

I call attention to the fact that after this year is passed, the jurisdiction over Indian affairs will revert to his committee.

I note also that Senator BARTLETT, who has been the ranking Republican on the Select Committee on Indian Affairs, opposes the provisions of the bill and supports my amendment.

We have contacted over 200 tribes or Indian organizations that have asked to be listed as opposing the transfer of these function to the new Department of Education.

I point out, significantly, that leading that list is the Alaska Federation of Natives, which represents 201 Indian, Eskimo, and Aleut villages. About 75,000 Native American people in the AFN oppose the provisions of this bill, as I have stated.

Mr. President, I ask unanimous consent that the position of these organizations which represent these federally recognized tribes be printed in the RECORD.

There being no objection, the material

was ordered to be printed in the RECORD, as follows:

POSITION OF FEDERALLY-RECOGNIZED TRIBES OR ORGANIZATIONS REPRESENTING FEDERALLY-RECOGNIZED TRIBES ON TRANSFER OF BIA EDUCATION TO DEPARTMENT OF EDUCATION

State, tribe or organization opposed to transfer:

Alaska: Alaska Federation of Natives, representing 201 Indian, Eskimo, and Aleut Villages.

Arizona: Ak Chin Community Council Arizona Inter-Tribal Council, Cocopah Tribal Council, Colorado River Tribal Council, Fort McDowell Mohave-Apache Community Council.

Havasupai Tribal Council, Hopi Tribal Council, Hualapai Tribal Council, Kaibab Tribal Council, Navajo Tribal Council, Papago Council, Salt River Pima-Maricopa Community Council, San Carlos Council, White Mountain Apache Tribal Council, Yavapai Apache Community Council (Camp Verde), Yavapai-Prescott Board of Directors, Yavapai Tonto Apache (Payson).

California: Barona General Council, Big Pine General Council, Bishop Tribal Council, Cedarville Rancheria, Covelo Community Council (Round Valley), Dry Creek Tribal Council, Fort Bidwell Community Council, Fort Independence General Council, Hoopa Valley Business Council, La Jolla General Council, Laytonville General Council, Lone Pine Tribal Council, Manchester Community Council, Morongo General Council, Pala General Council, Pauma General Council, Pechanga Tribal Council, Rincon Business Committee, San Manuel General Council, San Pasqual General Council, Santa Rosa General Council Rancheria, Santa Rosa General Council Reservation, Santa Ynez General Council, Soboba General Council, Tuolumne Community Council, Twenty-nine Palms General Council, Viejas Tribal Council (Baron Long), Resighnini Rancheria, Inter-Tribal Council of California, Big Laguna Rancheria, Bridgeport Indian Colony, Cold Springs Rancheria, Hopland Rancheria, Stewart's Point Rancheria, Cycuan Reservation, Table Mt. Reservation.

Colorado: Southern Ute Tribal Council, Ute Mountain Tribal Council.

Florida: Miccosukee Business Committee, Seminole Tribal Council.

Idaho: Coeur d'Alene Tribal Council, Fort Hall Business Council (Shoshone-Bannock), Idaho Inter-Tribal Conference, Kootenai Tribal Council, Nez Perce Tribal Executive Committee.

Iowa: Sac and Fox Tribal Council.

Kansas: Iowa Executive Committee, Kickapoo Tribal Council, Prairie Potawatomi Business Committee.

Michigan: Bay Mills Executive Council, Hannahville Community Council, Inter-Tribal Council of Michigan, Keweenaw Bay Tribal Council (L Anse), Michigan Inter-Tribal Education Committee, Saginaw-Chippewa Tribal Council (Isabella).

Minnesota: Boise Forte Reservation Business Committee, Fond du Lac Reservation Business Committee, Grand Portage Reservation Business Committee, Leech Lake Reservation Business Committee, Mille Lacs Reservation Business Committee, Minnesota Chippewa Tribal Executive Committee, Red Lake Tribal Council, White Earth Reservation Business Committee.

Montana: Blackfeet Tribal Business Council, Chippewa Cree Business Committee (Rocky Boy's), Crow Tribal Council, Flathead Tribal Council, Fort Belknap Community Council.

Nevada: Duckwater Shoshone Tribal Council, Fallon Paiute Shoshone Business Council, Pyramid Lake Paiute Tribal Council, Shoshone Paiute Business Council (Duck Valley).

New Mexico: Mescalero Apache Tribal Council, Navajo, Picuris Pueblo Council, Tesuque Pueblo Council.

New York: Cayuga Nation, Oneida Nation of New York, St. Regis Mohawk Council of Chiefs (Akwesasne).

North Dakota: Devils Lake Sioux Tribal Council (Ft. Totten), Fort Berthold Tribal Business Council, Standing Rock Tribal Council, Turtle Mountain Tribal Council, United Tribes Education Technical Center.

Oklahoma: Absentee-Shawnee Business Committee, Caddo Executive Committee, Cheyenne-Arapaho Business Committee, Citizen Potawatomi Business Committee, Comanche Business Committee, Creek Nation of Oklahoma, Delaware Executive Board, Eastern Shawnee Board, Eastern Shawnee Tribal Council, Fort Sill Apache Business Committee, Iowa Tribal Council, Kaw Business Council, Kickapoo Council, Kiowa Business Committee, Miami Business Committee, Otoe-Missouri Business Committee, Ottawa, Pawnee Business Council, Peoria, Ponca Business Committee, Quapaw Tribal Business Committee, Sac and Fox Business Committee, Seminole Nation (Oklahoma), Seneca-Cayuga Tribal Business Committee, Tonkawa Business Committee, Wichita Executive Committee, Wyandotte Council.

Oregon: Umatilla Board of Trustees, Warm Springs Tribal Council.

South Dakota: Lower Brule Sioux Tribal Council, Oglala Sioux Tribal Council (Pine Ridge), Rosebud Sioux Tribal Council, Sisseton-Wahpeton Sioux Tribal Council, Standing Rock Sioux Tribal Council, Yankton Sioux Tribal Business and Claims Committee.

Utah: Uintah and Ouray Tribal Business Committee.

Washington: Chehalis Business Council, Colville Business Council, Kalispel Business Committee, Lower Elwha Community Council, Lummi Business Council, Makah Tribal Council, Nisqually Community Council, Puyallup Tribal Council, Spokane Business Council, Squaxin Island Tribal Council, Tulalip Board of Directors, Upper Skagit Tribal Council, Yakima Tribal Council.

Wisconsin: Great Lakes Inter-Tribal Council, Inc., Lac Courte Oreille Governing Board, Lac du Flambeau Tribal Council, Menominee Restoration Committee, Oneida Executive Committee, Red Cliff Tribal Council, Sokaogon Chippewa Tribal Council (Mole Lake), Stockbridge-Munsee Tribal Council, Wisconsin Winnebago Business Committee.

Louisiana: Chitimacha Tribal Council, Coushatta Tribal Council.

NATIONAL INDIAN ORGANIZATIONS WHICH OPPOSE TRANSFER OF BIA EDUCATION TO DEPARTMENT OF EDUCATION

National Congress of American Indians.
National Tribal Chairmen's Association.
American Indian Scholarships, Inc.
National Indian Education Association.
American Indian Higher Education Consortium.
Coalition of Indian Controlled School Boards.
Association on American Indian Affairs.

Mr. STEVENS. Mr. President, it is my hope that those people who represent these Indian tribes and organizations and the States from which they come will take heed of their position.

Again, I emphasize that the Indian people have informed me that they do support the new Department of Education but they do not support the transfer of these functions to it.

They also have indicated to me that, if they are properly consulted and if the terms under which the transfer will take place in the future were explained to their organizations and discussed with them and their tribal councils, it is entirely possible that they would accept and support a transfer of these functions to the new Department of Education after it has developed a track record. But they should not be compelled to accept what other people think is best for them.

● Mr. JACKSON. Mr. President, I have cosponsored Senator STEVENS' amendment deleting the transfer of the Indian education programs of the Bureau of Indian Affairs to the Department of Education. A good many tribes in my State of Washington have opposed the transfer, including the Affiliated Tribes of Northwest Indians. This transfer would be a setback to Indian self-determination and to the ability of Indian people to control their destiny.

Transfer of these programs to a new, larger, and more diffused bureaucracy would reduce the effectiveness of the Indian education programs by making it ever more difficult for Indian tribes to maintain personal and effective relationships with the Government personnel responsible for Indian programs.

The concept of self-determination is less than 8 years old. That concept, along with Indian preference, is just beginning to make its impact on the BIA, its administrators, and the Indian tribes. The Federal Government does have a special responsibility to provide adequate education for Indian people. The last thing we want to happen is for the children to suffer. Tribal control of education and other contract services is crucial to the continuing improvement of the socioeconomic condition of the tribes.

Over my term in Congress, I have consistently opposed bills which would decrease the control all people, and particularly Indian people, have over their own lives and the education of their children. I, therefore, oppose the transfer and support Senator STEVENS' amendment to delete the transfer from S. 991.●

Mr. STEVENS. Mr. President, I ask unanimous consent that Jill Porter, of Senator MATHIAS' staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. MATHIAS. Mr. President, while I am a cosponsor of S. 991 to create a Cabinet-level Department of Education, I am opposed to those provisions of the bill that would transfer American Indian Schools and education programs from the Bureau of Indian Affairs, Department of the Interior, to the new Department.

The overwhelming majority of American Indian tribes, and the national organizations that represent the tribes' interests, such as the National Congress of American Indians and the National Tribal Chairmen's Association, are against what they perceive to be a forced transfer of their educational programs against their best interests and the best interests of their children. American Indian tribes across the country have contacted the Congress to oppose the transfer.

I urge my colleagues to listen to the virtually unanimous voice of the Indian people in this matter and join the tribes in their efforts to have the transfer deleted.

Felix Cohen, the eminent jurist and former solicitor for Indian Affairs of the Department of the Interior, once proposed a matter-of-fact definition of self-government. Self-government, he said, means that form of government in which decisions are made by the people most directly affected. American Indians have left no doubt that they believe a forced transfer would be harmful to their efforts to make a better life for themselves and their children.

It is now more than 30 years since Felix Cohen proposed his simple definition of self-government, but less than 4 years since Congress said essentially the same thing when we passed the Indian Self-Determination and Education Assistance Act (Public Law 93–638) by overwhelming margins. One of the findings of Congress in that act, whose purpose was to mandate the right of American Indian tribes to operate their own educational as well as other programs, was that:

> The prolonged Federal domination of Indian service programs has served to retard rather than enhance the progress of Indian people and their communities . . . and has denied to the Indian people an effective voice in the planning and implementation of programs for the benefit of Indians which are responsive to the true needs of Indian communities.

The hopes aroused by the Indian Self-Determination Act are, the tribes believe, just beginning to be fulfilled. Ten years ago there were two tribally operated contract schools, today there are 35 and a number more awaiting contracts when funds are available. Ten years ago 2,660 Indian students attended college with the aid of BIA scholarships; today, 20,000 Indians do so.

Perhaps most important, the tribes believe that to transfer their programs against their wishes would violate the principle and spirit of local self-government. Indeed, to force the Indian people into the new Department against their will would be almost to guarantee from the outset the development of an inimical relationship in which educational progress would be impossible.

One of the purposes of S. 991 is to "encourage the increased involvement of parents, students, and the community in the decisionmaking process relating to education." The decision of Indian parents, students, and communities is clear at this point, and I join with them in the hope that the Senate will respect their wishes and support them in their efforts to provide the best education possible for their children through the BIA.

There are no federally recognized Indian tribes in my State of Maryland. However, a danger to the well-being of American Indian tribes endangers all other minorities in our land. "And who of us," Felix Cohen asked, "is not a member of some minority?" ●

INDIAN SELF-DETERMINATION IN EDUCATION

● Mr. CHURCH. Mr. President, I rise today in strong support of the Stevens amendment to S. 991, which would maintain Indian self-determination in their education programs, rather than eliminating it by incorporating them into the Department of Education which S. 991 would establish.

Self-determination has been the paramount desire of Native Americans throughout our history, but it is only in recent years that Congress has seriously responded to this most basic of all human rights. The efforts of Robert F. Kennedy in my own State of Idaho focused congressional attention on the necessity of Indians' being responsible for their own affairs. I joined those efforts, and they led to the enactment of the Indian Self-Determination and Education Assistance Act, Public Law 93–638, as recently as 1975.

S. 991 would establish a Cabinet-level Department of Education, and I support that concept. Nevertheless, I must strongly oppose the provisions in S. 991 which would dismantle Public Law 93–638, and would, in my judgment, represent yet another abrogation of a promise by the United States to Native Americans.

Mr. President, the importance of this issue is underscored by the fact that Idaho Indian Tribes are unanimous—together with the vast majority of Indians throughout the country—in support of the Stevens Amendment. I submit for the Record correspondence I have had from the All Idaho Indian Conference and on behalf of every Idaho Indian Tribe.

Mr. President, I have been impressed repeatedly over the years with the fact that Indians alone hold the ability to solve Indian problems, and they must have the responsibility to meet them. These problems include education of Indian children. I urge the Senate not to renege on the promises we have made, and to adopt the Stevens Amendment.

The material follows:

IDAHO INTER-TRIBAL POLICY BOARD, INC.,
Boise, Idaho, April 18, 1978.

FRANK CHURCH,
Russell Senate Office Building,
Washington, D.C.

HONORABLE SIR: Representatives of the Idaho Indian Tribal Governments met in Boise, Idaho on April 12 through 14, 1978, to discuss issues of Importance to Native Americans. More than 150 Native Americans joined together to make their feelings clear to the public. Of special concern to the group attending the "All Idaho Indian Conference" is the disposition of S.B. 991: The Department of Education Act. The Conference unanimously agreed to condemn the act because of its counter-productive effects for Indian people nation wide. As chairman of the Conference, of the Idaho Inter-Tribal Policy Board, and of my Tribe: The Nez Perce, I ask that you consider carefully your position on S.B. 991 in light of the Resolution attached.

Respectfully yours,

WILFRED A. SCOTT,
Chairman,
All Idaho Indian Conference.

RESOLUTION

Idaho All Indian Conference, a conference of the peoples of the five Indian Tribes in the States of Idaho, Shoshone-Bannock, Couer d'alene, Kootenai, Shoshone Paiute, and Nez Perce, do hereby resolve;

Whereas, Bill S–991, the Department of Education Bill introduced by the Honorable Senator Ribicoff, is a bill designed to transfer the Indian Education Programs of the Bureau of Indian Affairs to a new executive department, and

Whereas, this transfer would jeopardize specific trust responsibilities obliged on the Government of the United States of America under treaties executed and in force between the United States and the sovereign Indian Tribes and their governments, and

Whereas, the proposed new department will not be charged with specific responsibilities focused on the special and diverse Indian Education concerns, and

Whereas, Bill S–991 will transfer Indian Education programs from the Bureau of Indian Affairs, an agency organized to recognize Tribal sovereignties and to implement trust responsibilities of the United States Government to Indian Tribes, and

Whereas, Bill S–991 will create administrative problems for Tribal Governments who rely on the Bureau of Indian Affairs for the execution of Indian Education Programs, and

Whereas, Bill S–991 will, in effect, abrogate the trust responsibilities of the United States Government to the various Indian Tribes with regards to Indian Education and force Tribal Governments to compete for educational funds with numerically larger groups of people, and

Whereas, there are no provisions in Bill S–991 to provide a policy of Indian Preference in hiring within the proposed Department of Education and,

Whereas, Bill S–991 is contrary to the statuatory objective of Federal Indian Policy, "an orderly transition from Federal domination of programs for and services to Indians, to an effective and meaningful participation by the Indian people in the planning, conduct, and administration of these programs."

Now, therefore be it resolved; the Idaho All Indian Conference, i.e. the five Indian Tribes within the State of Idaho, is in complete opposition to placing Interior BIA schools and any Indian related Education programs in Bill S–991 and efforts to transfer Indian Education Programs from the Bureau of Indian Affairs to the proposed Department of Education, and

Be it further resolved, the Idaho All Indian Conference urges the President and Congress of the United States of America to solicit the input from the various Tribal Government as to the future organization and direction of Indian Education Policy Development and Program Management.

The foregoing resolution has been adopted at the spring Conference of the Idaho Indian Tribes, April 12, 13, and 14, 1978 at the Rodeway Inn, Boise, Idaho.

FORT HALL, *Indiana,*
July 12, 1978.

Hon. FRANK CHURCH,
U.S. Senator,
Senate Office Building,
Washington, D.C.

DEAR SENATOR: The Shoshone-Bannock tribes of Indians is in support of Senator TED STEVENS' amendment to Senate Bill 991 (Department of Education bill). The amendment excludes the Bureau of Indian Affairs from the creation of the Department of Education. The tribes feel a split of the Bureau of Indian Affairs will erode the trust responsibilities and the United States' commitment through her treaties. We ask that the amendment be re-introduced on the floor.

GILBERT C. TETON,
Chairman,
Shoshone-Bannock Tribes of Indians.

COEUR D'ALENE TRIBAL COUNCIL,
Plummer, Idaho, May 4, 1978.

FRANK CHURCH,
Russell Senate Office Building,
Washington, D.C.

DEAR MR. CHURCH: The Coeur d'Alene Tribe wishes to go on record as opposing S-991 (The Department of Education Bill) introduced by Senator Ribicoff.

Specifically, we are concerned about the United States Government's trust responsibility to the Indian people and Indian Education. Under the proposed Bill, this new Department of Education will not be charged with specific responsibility to the special trust relationship of the Federal Government to Indian people and the specific concerns of Indian Education.

In response to Senator Ribicoff's letter to Charles E. Trimble (NCAI), we do not favor the transfer of any portion of the Bureau's Indian Education programs to a new and separate Department of Education. We feel that under the present system, we do control the direction of Indian Education and Indian Education Programs, which is Indian self-determination and in line with P.L. 93–638.

We as a small Tribe would not be able to compete numerically with the larger Tribes for Education funds. We also oppose the fact that there is no provision for Indian Preference in employment in this new Department.

Perhaps there is merit in the development of a separate Department of Education, however, there are many questions unanswered, plus the time factor did not allow for the thorough consideration of the proposal.

Sincerely,

BERNARD J. LASARTE,
Chairman, Coeur d'Alene Tribe.

Whereas, S–991 (The Department of Education Bill) has been introduced by Senator Abraham Ribicoff, and

Whereas, this Bill is to establish a new and separate Department of Education and proposes to transfer the Bureau of Indian Affairs Education Programs to this new Department, and

Whereas, S–991 does not speak directly to the special trust responsibility of the United States Government to the Indian people and to the Education of Indian people, and

Whereas, the future of Indian Education Programs will be jeopardized if removed from the Bureau of Indian Affairs.

Therefore, be it resolved that the Bureau of Indian Affairs Education Programs not be included within S–991.

CERTIFICATION

The foregoing resolution was adopted at a meeting of the Coeur d'Alene Tribal Council, held at the Coeur d'Alene Sub-Agency, near Plummer, Idaho on May 3, 1978 with the required quorum present by a vote of 5 for and 0 against.

BERNARD J. LASARTE,
Chairman, Coeur d'Alene Tribal Council.
EVANGELINE ABRAHAM,
Secretary, Coeur d'Alene Tribal Council.

KOOTENAI TRIBE OF IDAHO,
Bonners Ferry, Idaho, April 25, 1978.

Hon. ABRAHAM RIBICOFF,
U.S. Senate, Committee on Governmental Affairs, Washington, D.C.

DEAR SENATOR RIBICOFF: Submitted are comments from the Kootenai Tribe of Idaho as you requested in your letter of April 4, 1978. Consideration from the Tribe is focused on the Indian students at the reservation level and how a new Department of Education could be a deterrent toward successfully educating our Indian students in the future. The Tribal concern is whether the new Department of Education would recognize the unique relationship the American Indians possess with the Federal Government or would the American Indians be treated as just another minority. There are no assurances in the recommendations that Indian Tribes will be recognized for their sovereign rights through their respective treaties with the Federal Government. It is dangerously possible that the lack of understanding with the upper echelon in any new department of education could hinder or destroy by conglomerating Indian education funds and allocating these funds on competitive basis.

Your committee should not ignore the special educational needs of the many full-bloods that the Federal Government is especially responsible to and who continue to strive for their betterment in their education and employment goals.

1. (A). No—To include Bureau of Indian Affairs schools to a new Department of Education would greatly jeopardize the trust responsibility of the Federal Government and endanger the sovereignty of all Indian Tribes. Basically Bureau of Indian Affairs schools are an essential need for the education of many Indian students who are victims of neglect either through broken homes or death of their parents. Many of these students would not be able to function effectively in a public school situation and could possibly be destined toward correctional institutions.

(B). Yes—The selection of an all Indian School Board would be necessary, however, this board should be carefully screened before selections are made. This board should have dual concerns of upgrading the curriculum to equal public school standards and also to develop curriculum to stress the identity of the Indian students.

(C). Yes—Tribes will need representation at this level for recognition and services for their educational needs to all Reservation Indians. However, we are still opposed to the transfer of the Bureau of Indian Affairs functions to a new Department of Education.

2. No—The possibilities of this recommendation would endanger Bureau of Indian Affairs administered services of the Johnson O'Malley and Continuing Education Programs to reservation Indian Tribes. There are no assurances that the Johnson O'Malley and the Continuing Education Program funds would continue to direct services to Indian Tribes.

3. To allow high priority to Reservation Tribes for funding, as major educational problems and needs exist within the public schools, Tribal schools and Bureau of Indian Affairs schools. More emphasis to encourage Tribes to develop a comprehensive long range plan to develop their goals and objectives accordingly without limitations to financial assistance from the Federal Government, and to enable Reservation Indian Tribes to achieve toward their objectives and goals.

The administration responsibilities should be focused at the energy level with the Bureau of Indian Affairs by the fact they are most familiar, as the Tribes are, with the existing reservation problems and needs for the improvement of Indian Education for our Indian students.

Sincerely,

DIXIE A. COOPER,
Chairperson, Kootenai Tribe of Idaho. ●

Mr. DOMENICI. Mr. President, will Senator PERCY yield me 5 minutes?

The PRESIDING OFFICER. There is no restriction on time.

Mr. PERCY. There is no time agreement on the bill. The Senator may take whatever time he chooses.

Mr. DOMENICI. Mr. President, let me say at the outset that I support the transfer of the Bureau of Indian Affairs' role in Indian education to the new Department of Education. It is very difficult for me to stand and oppose the distinguished Senator from Alaska on a matter that concerns the Indian people. In my 5½, going on 6 years in the Senate I have found Senator STEVENS one of the strongest advocates of the Indian people and native Alaskans of any Senator in this body.

I found his role on the Appropriations Subcommittee one of genuine concern about the issues of Indian education and Indian health. I have sought Senator STEVENS' counsel on the many Indian problems I have encountered. However, on this particular issue, it appears to me that a decision to leave Indian education within the BIA assumes that the BIA will improve upon its record in the area of Indian education. I do not agree with that assumption.

The views of the Indian people on this issue have been listened to from the start. I have reviewed the entire record and I understand the concern that the Indian people have with the transfer. We are all traditional people, and they are among the most traditional people. Their concerns have been prompted by certain people within the bureaucracy.

However, with the adoption of the Domenici-Melcher amendment, they need not fear. What could their fears be?

The Bureau of Indian Affairs has not done a good job. I need not repeat what the Senator from Arizona, Senator GOLDWATER, said about Indian education and how poorly we have done. I need not repeat what the Chairman of the Select Committee on Indian Affairs, Senator ABOUREZK, said about the matter.

My amendment protects the Indian trust relationship, the Indian sovereignty relationship, and Indian preference. It also creates an Assistant Secretary for Indian Education. Furthermore the amendment creates by statute a council to advise the Assistant Secretary on Indian Education. It appears to me that these are adequate safeguards and that our Indian people need not fear.

There is a split among Indians in my State on this issue. However, for the most part, the Pueblos in New Mexico support what I am trying to do. The all Indian Pueblo Council, which represents most of the Pueblo Indians in my State, is anxious to try the transfer, as long as my clarifying language is included in the bill.

Obviously, there is nothing to lose. I do not understand what my opponents believe we could lose. We protected the trust relationship. There is nothing sacred about Indian education programs being under the Bureau of Indian Affairs. That was also created by Congress, just as we are creating the Department of Education here today.

I recall talking with my good friend, Senator RIBICOFF, about Indian health. He informed me that he was the Secretary of HEW when Indian health was still in the Bureau of Indian Affairs, and I am certain the same arguments were made: "It has been run by the Bureau. The Bureau knows how to do it."

All the fears that are injected into this issue were injected then. Yet we moved Indian health out of the Bureau into the professional health delivery system of the U.S. Government, the Public Health Service.

I can attest, after 5½ years in the Senate, that Indian health is substantially better today than it was 5½ years ago.

I believe those who were here before me when Indian health programs were part of the Bureau would have to attest that it is many times better today than it was before. It is moving in the direction of providing some real health delivery opportunities to Indian people which never would have been there had Indian health matters not been moved to the Public Health Service.

I think the same thing is going to happen in Indian education. In this new department there will be a better chance for the Indian people of our country to preserve their traditions, their culture, and to receive the quality education they so richly deserve. I sincerely believe that our Indian people will be substantially better off shortly after the adoption and creation of this department. There will be a better opportunity for their voices to be heard. Unfortunately they go unheard today.

I am convinced that the new council which will be created by my amendment will have some real input to the Assistant Secretary for Education of the Indian People.

I greatly respect and admire the distinguished Senator from Alaska, my good friend from Oklahoma, Senator BARTLETT, and the other Senators who share their views. However, I am firmly convinced of two things. There is no serious risk involved in this transfer. Second, there is indeed a chance that our Indian people will get a much better opportunity to be educated properly. The American people will get more for the money they spend on Indian education than they will if Indian education programs remain in the BIA.

I commend the committee not only for the entire bill but for the particular diligence they put into Indian education. They communicated with Indian leaders and Indian people across this land. They submitted questionnaires to Indian leaders and Indian people across the land. They set aside ample time for hearing on just this issue, and I commend them for that.

They could have been less diligent in this matter, which is a small part of the total function of the Department of Education.

As we conclude this discussion, I urge Senators to vote not only for this bill but for this transfer. If it does not work, we can do something about it later. I assure you that we have protected our Indian people as well as they are protected now. The chances of their getting something better for their children, in my opinion, really rests within the new Department of Education, not within the BIA.

Mr. RIBICOFF. Mr. President, as floor manager of this legislation, I strongly oppose the Stevens amendment.

For the past 150 years, primary responsibility for Indian education has rested with the Bureau of Indian Affairs. The BIA's performance record is a national disgrace.

Today, achievement rates of Indian students continue to stay far below the national average;

Dropout rates for Indian children at the elementary and secondary level exceed 50 percent;

Dropout rates for Indian students in postsecondary institutions exceed 75 percent.

The condition of Indian education is extremely poor. Indian education will simply not improve if it is left in the BIA. Should the Stevens amendment be adopted, we could expect another 150 years of stagnation by one of the most inefficient agencies of the Federal Government—the BIA.

Report after report, study after study has been issued over the years condemning the BIA's performance and suggesting corrective action.

Nothing has worked.

Even the moving and powerfully written Senate report, "Indian Education: A National Tragedy, A National Challenge," issued in 1969 under the direction of Senator KENNEDY, has been largely ignored by the BIA. Few of its recommendations have been implemented. The poor condition of Indian education described in that report nearly a decade ago has not changed.

Indian education today is still a national tragedy.

Yet how can we expect an agency which is predominantly concerned with natural resources and land management to have the expertise and ability to improve Indian education?

The fact is nearly every Cabinet department has special programs for Indians in its field of expertise. For example, the Labor Department has a $62 million Indian employment program, HUD has $30 million in Indian housing, and HEW has the $370 million Indian health service. Why should we leave Indian education out of the Education Department?

BIA's institutional weaknesses inhibit an effective Indian education policy. The Bureau's area offices usually view education as a secondary function. The BIA Director of Education has little input in the system.

Despite congressional mandates, tribes still have little influence or local control over Indian education. Fewer than 35 tribes have contracted with the BIA for school operations. The BIA has slowly implemented the Indian Self-Determination Act.

The Bureau's education budget has been mismanaged and spent inefficiently. In 1977, the BIA spent as much as $13,000 per student in its day schools, and as much as $22,000 per student in its boarding schools. The nationwide average per pupil cost for children in public schools in 1977 was $1,561, $2,000 less than the average amount spent in BIA day schools. For large sums like these, we could send Indian students to some of the finest college preparatory schools in the country, where tuition now averages just $6,000 or $7,000 per year.

Members of the Senate should note that the per-pupil costs for the Defense Department's overseas dependents schools—which will also be transferred to the Department of Education—are much lower than those of the BIA. Even though the DOD schools are spread out across the world, their per-pupil costs did not exceed $2,500 in 1977.

The sad reality is, in spite of these large sums of money, Indian students are receiving an education of very low quality. The American taxpayer, and the Indian people, are not getting the most out of their dollars.

The Federal Government has an obligation to provide Indian people an education of equal or superior quality to that afforded the rest of the country.

But today there is no comprehensive strategy for Indian education. The BIA has refused to develop one.

Indian education programs are fragmented between two different agencies—the Office of Education and the BIA. The $500 million we spend each year for Indian education is split nearly evenly between these two agencies. They rarely talk with each other. There is no coordination between the two.

The Federal Government has no high-ranking Indian education official to tackle these tough problems. There is a Director of Education in BIA and a Deputy Commissioner in OE. Both are submerged in bureaucracy. Since 1966, the average tenure of the BIA Education Director has been just 9 months.

These are all serious problems that cannot be remedied within BIA. In examining the past performance of the BIA, I can find no justification for leaving education in that agency.

The Governmental Affairs Committee consulted extensively with Indian people on this proposed reorganization. The Indian people had a number of legitimate concerns with the original version of S. 991. As reported by the committee, the bill before the Senate today addresses their concerns:

It sets up a distinct, tangible office in the new Department of Indian Education, headed by an Assistant Secretary. The office will be on an equal footing with other interests in the Department.

The bill contains a provision requiring the Department to uphold the trust responsibility.

It insures the transfer will not change existing eligibility standards of BIA and OE programs.

It provides specifically for the continuation of existing Indian preference laws in the new Department.

It amends the Indian Self-Determination Act to make its provisions fully applicable to the new Department.

The legislation directs the Secretary of Education to institute more local control of education by Indian people.

It provides for Indian representation on the Intergovernmental Advisory Council on Education.

The legislation provides for a 3-year phase-in period for BIA schools which will allow for the transfer to be conducted with little disruption and much consultation.

S. 991 will not terminate the Federal responsibility for assisting Indian education. It will enhance it. I believe it will be the single greatest improvement of the Federal effort in this area.

In 1961 when I was Secretary of HEW, we worked hard to complete the transfer of Indian health services from

BIA to HEW. By all accounts, Indian medical services have dramatically improved since the transfer.

Likewise, I expect Indian education will improve greatly by the transfer we are considering today.

We are serious about doing something to improve the education of Indians, Alaskan Natives, and Aleuts. As long as it remains in BIA, it will never significantly improve.

I hope the Stevens amendment is defeated.

Mr. PERCY. Mr. President, I ask unanimous consent that a letter from Secretary Andrus, Secretary of Interior, and an accompanying statement by the President of the United States, Jimmy Carter, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., September 11, 1978.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: I am writing to urge your support for S. 991, the Department of Education Organization Act of 1978. The President considers this an important initiative, and urges passage this year. The creation of a Department of Education represents a vital step in increasing the Government's capacity to provide visible and effective leadership in addressing our country's educational needs.

Let me further urge support for the transfer of the Indian education programs now located in the Interior Department to the new Department. The Federal Government spends over $500 million annually on education programs for Indians, divided almost equally between BIA and the Office of Education. Placing all of these programs in one Department will permit for the first time a comprehensive approach to Indian education policy development and management.

Indian tribes and their members enjoy certain special relationships with the Federal Government, and great care has been taken to protect those relationships in S. 991. Self-determination policies, Indian preference in personnel actions, eligibility criteria, and the trust relationship have been protected by specific provisions in the bill. A separate office for Indian education reporting directly to the Secretary will give Indians a strong policy voice at the Federal level. To minimize disruption and ensure adequate consultation with all Indian people, S. 991 provides that the transfer of the BIA schools is to be phased in over a three-year period.

In a recent message, the President commented on the importance of the special relationships that the Federal Government has with Indian tribes and pledged that the transfer of the BIA programs would not diminish them. I am enclosing a copy of that statement. I believe that this offers a significant opportunity for improving Indian education.

Sincerely,

CECIL D. ANDRUS,
Secretary.

Enclosure.

THE WHITE HOUSE,
Washington, July 19, 1978.

Under my proposal for a Cabinet Department of Education, the Indian education programs now located in the Bureau of Indian Affairs (BIA) would be moved to the new Department. I have recommended this transfer because I believe it will make Federal school-based programs more effective.

This transfer will not change the special relationships between the government and Indian tribes and Indian people in any way. These relationships include Federal trust responsibilities, Indian self-determination, and Indian preference in hiring. My goal is to improve the delivery of education services to Indians while maintaining these special relationships.

It is especially important that we maintain educational services to Indians without interruption, protect their civil rights, preserve the integrity of the education programs, and strengthen participation of parents, tribes, and Indian people in the education of their youth. A clear recognition of the importance of these issues will help us achieve an orderly, phased transfer of the BIA programs to the new department, while protecting the interests of Indian people. I expect and hope that Indian tribes and Indian people will work with my Reorganization Project staff to assure that these objectives are met.

Throughout the Nation, our educational systems are facing important challenges. For the first time, the new department will permit a coordinated and high-level response to these challenges. I ask Indian tribes and Indian people to join with us in shaping a new Department of Education that is responsive to their concerns and worthy of their support.

JIMMY CARTER.

Mr. PERCY. Mr. President, I would like to say that I regretfully have to oppose the pending amendment for three reason, the first being the overriding reason for the transfer is the poor nature of Indian education. For example, 50 percent of Indian students entering elementary school will have dropped out before they finish high school; 75 percent of Indian college students will drop out. The potential for improving Indian education will be greater if jurisdiction for it lies with a department whose sole purpose is education.

The bill creates an office within the Department of Education solely devoted to improving Indian education headed by an Assistant Secretary. In addition, the committee expects and urges that that Assistant Secretary be of Indian, Alaska Native, or Aleutian origin.

The bill directs the Secretary of Education and the Assistant Secretary for Indian education to institute more local control of Indian education by the Indian people themselves. This is in keeping with our belief that primary policy responsibility for school should reside with the local community.

Mr. STEVENS. Mr. President, there are others who have indicated that they wished to speak. I see the Senator from Oklahoma is here.

I would just say again, as far as I am concerned it does little good to say that we submitted questionnaires to the Indian people and to say that we held hearings and asked them to come in and discuss a proposal made by the Federal Government.

The commitment was made to them that they would be consulted before such a change would even be suggested. The promise was made to them that we would go to their councils and we would work with them to try to figure out what was the best course to take with regard to BIA schools and education programs and other Indian programs.

I find it very difficult and sad that I do not have the support of the Senator from New Mexico on this matter, but it is quite clear to me, as the one who did chair the hearings, that their complaint is twofold: first, they oppose this; and, second, they vehemently object to the procedure which denies them the consultation they were guaranteed. They were guaranteed in the Indian Self-Determination Act the right to consultation, and they were guaranteed that by President Carter. President Carter sent a telegram to every tribal chairman, and promised that this administration would consult with the Indian people in their tribal councils before making decisions which would affect the Indian people.

I am not being political, because they came before me as I represented the chairman of the committee and all other members of the committee, and the record is clear, that it was the Indian people who raised this question of the commitment that was made to them that changes like this would not even be suggested without consultation with them in their tribal councils. Now that is the second portion of their objection, and I think it is valid, just as valid as their total opposition to the transfer itself, which is their opposition based upon the fact that they were not consulted as the President had committed his administration to consulting with the tribal leaders prior to making such a representation.

I again say to the chairman and the ranking minority member of the committee, while we can have complete support for a Department of Education, that is, I think, it is like taking ROTC from the Department of Defense and turning it over to the Department of Education, that it makes no sense because these people are part of a whole community, an Indian community, as such. There is a different type of community in most places of the country than the non-Indian or native communities, and they work with problems all the way across the community, not only educational programs but the whole concept of the modernization and improvement of their way of life which is involved in their council operations. This takes it away from them at the very time they have achieved a degree of responsibility and control under acts we passed in this Congress just within the last 6 to 8 years. It takes away from them the very reasons for self-determination, and that is the control over the educational programs of their own children.

I think if we propose to do this for all of the unincorporated areas—let us just assume this was all the unincorporated areas of the United States, and the Federal Government came along and said, "We can do it better than the local people; let us put this in the Department of Education and manage their daily functions from Washington"—the reaction would be overwhelming. But that is exactly what this says. This is a local school responsibility, and the only reason it comes into the Federal Government at all is because of the Federal Government's prestige and responsibility to the Indian people. And the beneficiaries of that trust have demanded that

the educational function stay with the BIA.

I hope the Senate will not let the Indian people down in this regard today.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BARTLETT. Mr. President, will someone yield me time? I do not know how time is being allocated.

The PRESIDING OFFICER. There is no limitation on time.

Mr. BARTLETT. Fine.

Mr. METZENBAUM. Mr. President, will the Senator from Oklahoma yield for a question?

Mr. BARTLETT. I yield for a question?

Mr. METZENBAUM. Yes.

Mr. BARTLETT. I yield.

Mr. METZENBAUM. Is the Senator going to address himself to the Indian Affairs matter?

Mr. BARTLETT. Yes.

Mr. METZENBAUM. I would like to say to the Senator from Oklahoma and others concerned that there is a priority understanding with respect to the natural gas bill. If this matter can be concluded in 10 or 15 minutes, I see no particular problem with it. If not, I would raise the point, but I am certainly willing to stand back for 10 or 15 minutes.

Mr. STEVENS. Mr. President, if I may say so, the Senator from Oklahoma has been waiting, and if the Senator from Ohio will accord him the courtesy of listening to his remarks, I think it would be appropriate. There are other Senators who wish to speak also. The Senator from Ohio is entitled to time before the vote on this motion, of course; I would respect the Senator's wishes in that respect.

Mr. METZENBAUM. May I suggest that we accord the Senator from Oklahoma appropriate time?

Mr. STEVENS. Such time as he may wish, and then afterwards set this aside, with the consent of the chairman. That is the understanding, that the energy bill comes first. I know Senator GOLDWATER wishes to be heard, and other Senators have indicated that they wish to be heard, but they are not present.

Mr. METZENBAUM. That is satisfactory.

Mr. STEVENS. However, first I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BARTLETT. I certainly understand the request of the Senator from Ohio, and I will be fairly brief.

Mr. President, the Indian people throughout this country have every reason to expect this Congress to adopt Senator STEVENS' amendment. Having received in 1975—just 3 years ago—through enactment of the Indian Self-Determination and Education Assistance Act, this Congress expression of support for maximum Indian participation in the policymaking decisions that affect their lives and well-being and in the direction of programs and services administered and delivered for their benefit, the Indian people are probably just as perplexed as I am as to why in the face of overwhelmingly strong opposition to the transfer of Indian schools and education programs the proposal to transfer these activities to the new Department of Education was advanced by the administration at all.

When President Carter, on October 14, 1976, delivered his special message to American Indians, it was replete with assurances that Indian self-government will prevail in the administration's handling of the affairs of Indian people; that decisions affecting Indian tribes would be made in the tribal council rooms and not in Washington, D.C. A most impressive ending to that message must have been music to the ears of Indian people throughout the country, when the President stated:

> Finally, I will not take unilateral action on any issue regarding Indian affairs or Indian programs without full consultation with tribal representatives. Ours will be a Government of participation, of action, of program involvement, and of true self-government.

First I want to address myself to the first part, the Indian self-determination. Certainly it is true that the Bureau of Indian Affairs can be severely criticized for their inadequate and inept handling of Indian education. But I think by the same token the Bureau of Education of HEW can likewise be criticized for their inept handling of education.

There are many Indian students in our public school system. In fact, in Oklahoma there are more Indian youngsters in our public school system than there are in the Indian schools. And I think that our public school system in Oklahoma ranks fairly well nationally.

But I would like to point out that the Johnson-O'Malley funds which are to be available in public schools for the special needs of Indians have not really been utilized effectively or efficiently for them and their needs.

One of their great needs is counseling. They have a different culture. They look upon competition in schools differently from the white students. They have special needs that have not been met in the public schools.

So, I do not see the reason for the great desire to move very quickly to transfer this to the Department of Education, and I presume to the public school system. I think that perhaps the public schools do offer a great opportunity for some Indian students, but only with adequate counseling and only with special consideration of Indian culture and Indian needs.

I am reminded by the apparent reverse action here—or at least the effort to reverse the action on Indian self-determination by the President and this committee to take away Indian education from the Indians themselves—that self-determination started the first effort among the Indians at having their own school boards, of having responsibility for the first time for their own educational system. Obviously, in 3 years you can only effect a beginning; you cannot very well adequately establish a real change in an education program.

So, just at the time when we had told the Indians of this country that we want them to determine their own future, we then take away the opportunity for them to do that, as far as the very important area which their education is to them is concerned.

Education, of course, is most basic to the continuation, perpetuation, and instruction in their culture. By invading this very important area, I think we are guilty of breaking our word once again to the Indians. The President, through his action, is doing likewise. It reminds me of the letter he wrote to Governor Boren of Oklahoma concerning deregulation of natural gas, saying he was for it. This was 17 days before the election. But now he is for controls on natural gas. Here again is an example of his completely reversing himself, and this time to the Indian people.

I would say to the distinguished floor manager that it reminds me of when I was young, and we used to have cowboy and Indian games. I learned then about "Indian giving." I do not know whether the distinguished Senator from Connecticut has ever heard about Indian giving. But Indian giving, to me as a boy, was portrayed as Indians giving their word or giving something of tangible value to someone else, and then later taking it back.

I would like to say to the distinguished Senator from Connecticut that that really is not Indian giving. I really found out as an adult, a few years later, what Indian giving is. I learned it at several Indian pow-wows which I attended. At these pow-wows, they quite often will pick out one or more people who are men or women to be honored by the tribe.

As they honor them, they have a special dance in which the honoree and his family make a parade and dance around the area. Then the men, in the several cases I saw, would stand in front of all the other Indians. The other Indians as they kept dancing, would bring gifts to him. These gifts could either be money or they could be blankets, various things of value, which they would place at the foot of the honoree.

Then as the gift giving part was finished, the honoree would pick up the gifts. Then he would dance around the dancing area and he would give these out. He would give these gifts, money, blankets, and other things of value, to the older people, to the obviously poorer people, and those who would have need for either the money or the gifts.

This is Indian giving. It is the kind of giving I think we should emulate rather than the kind of Indian giving that we have thought for so long was really Indian giving, which is white man giving. It is the white man saying, "Yes, we will recognize Indian self-determination, but for now we are not going to give the chance to the Indians to develop their Indian committees on education, to do the job they know needs to be done."

The record clearly shows that 90 to 95 percent of the federally recognized tribes and Indian interest organizations oppose this transfer. They list a number of reasons for their objections.

Although the Governmental Affairs Committee made an effort to address these objections in the bill, it is obviously still not satisfactory to Indian tribes as the mail, telephone calls, and office visits continue to call attention to Indian opposition to the transfer.

Mr. President, I have a rather lengthy speech which quotes many of the reactions of Indian tribes throughout the country to the proposed transfer, which indicates just how strongly they feel about this matter, and lists major reasons why the transfer should not take place, reasons that are based on the Indians' experience in dealing with the Federal Government for many, many years.

To me, their reasons make sense and are clearly reason enough to let the Indian schools and education programs remain where they presently are, at the focal point of Indian activity in the Bureau of Indian Affairs.

I ask unanimous consent that my speech be made a part of the RECORD at the conclusion of these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BARTLETT. I think possibly the Colorado River Indian Tribe in Arizona hit the nail on the head in its response to the question of transferring education programs to the new department, when they stated:

> It is not a new department that is needed but implementation of the promises, goals, and objectives that have been expressed in the past.

Mr. President, my State has more Indian tribes than any other State, 37, and it has more Indians than any other State. All the tribes and all the responses I have received from my State have indicated their strong opposition to this transfer of Indian education to the new department.

Obviously, the new department will know very little about the special requirements and needs of Indian education. I would tell the distinguished floor manager it has been my experience in Oklahoma that this is a very unique need that the Indians have. They do not compete the same way. They are not as many white children, wanting to raise their hand to answer a question. They will not raise their hand when they think one of their friends does not know the answer. They do not want to show them up. So they do have a different culture, a very good one. It is one that we could imitate, if we would, in many regards.

I think we are getting ourselves into something here that the committee was not equipped to properly assess, nor was the President properly advised, nor would the Congress be acting in good faith to the Indians of this country if they continued this provision in the Education Act.

I introduced legislation on a new Department of Education some years ago, and I have a bill in now. So I am in favor of a new department. I think it is most important that we have it. But I am just as strongly opposed to the new department taking over the responsibilities of the Indians because they know absolutely nothing about them. BIA does have a lot of knowledge.

I do think we are on the right track in dealing with the self-determination bill which gives primary responsibility to the Indians, which gives them the opportunity of devising a sensible program.

I earnestly urge my colleagues to oppose this provision in the bill, to support the Stevens amendment, and to make sure that the Indians are going to be dealt with squarely, and with justice.

EXHIBIT 1

STATEMENT BY MR. BARTLETT

I rise today in support of Senator Stevens' amendment to S. 991, the Department of Education Organization Act of 1978.

I oppose the transfer of BIA schools and education programs to the proposed Department of Education for many of the same reasons the vast majority of Indian people and Indian interest organizations do.

During the 93rd Congress, I actively supported the enactment of the Indian Self-Determination and Education Assistance Act which was designed to provide maximum Indian participation in matters affecting Indian people and Indian lives. In enacting this Legislation in 1975, Congress declared policy in part with the following words:

"The Congress hereby recognizes the obligation of the United States to respond to the strong expression of the Indian people for self-determination by assuring maximum Indian participation in the direction of educational as well as other Federal services to Indian communities so as to render such services more responsive to the needs and desires of those communities."

Approximately one year later on October 14, 1976, President Carter delivered a special message to American Indians that was replete with assurances that Indian self-government will prevail in the handling of the affairs of Indian people, that decisions affecting Indian tribes will be made in the Tribal Council rooms and not in Washington, D.C. The President ended his special message to the Indian people by stating that:

"Finally, I will not take unilateral action on any issue regarding Indian affairs or Indian programs without full consultation with tribal representatives. Ours will be a government of participation, of action, of program involvement, and of true self-government."

In view of the Congress' declared policy in enacting the Self-Determination Act and the President's pronounncements that true-government will prevail in deciding Indian issues, I find it difficult to understand how the Administration and the Governmental Affairs Committee on July 11, ignored the expressed wishes of the vast majority of recognized Indian tribes and took action to transfer the BIA schools and education programs to the new Department of Education.

The Committee report on this action states that comments and input were actively solicited from more than 350 tribes and organizations across the country, but the report does not speak to the results of that solicitation. If I may, Mr. President, I would like to share with my colleagues some of the responses the Committee received from recognized tribal governing bodies and Indian interest organizations across the country. These comments represent the views of the vast majority of Indian tribes contacted who are served by the schools and education programs the Committee wishes to transfer.

From the National Tribal Chairmen's Association, National Congress of American Indians, and the Alaska Federation of Natives, all organizations that represent the federally recognized tribes in the United States the response was "an emphatic and uncompromising no to the transfer of Indian education out of the BIA, Department of the Interior, to the proposed Department of Education."

The Shoshone-Bannock Tribe of Idaho: "We are convinced that, regardless of any assurance to the contrary, to place our BIA and tribal schools in such a Department would lead to public school control of everything. We oppose very strongly any attempt to erode the basic structure, however gradual, of the current system."

Colorado River Indian Tribes of Arizona: "After all the years it has taken the Bureau of Indian Affairs to understand the operation of government schools for our youth, it would take much longer and more to orient a new Department. It is not a new department that is needed but implementation of the promises, goals, and objectives that have been expressed in the past."

Red Cliff Band of Lake Superior Chippewa of Wisconsin: "Our tribe and many others believe that the BIA has not been perfect in the past, but through years of struggle, turmoil, and negotiation, we have gotten the BIA in a place where they are finally acting as the advocate and trust agency it was intended to be. We urge you to leave BIA education programs in the Indian Bureau where we have guarantees of improved quality education programs while we have major unresolved issues with USOE. . . ."

Lac Courte Oreille Tribal Governing Board of Wisconsin: "We regard this proposed transfer as an effort to evade the trust responsibility and commitments of the Federal Government."

Mescalero Apache Tribe of New Mexico: "We strongly feel that the Federal Government has a distinct and unique relationship to Indian people and tribes through treaties, etc., and should not lose this identity by lumping us and our special needs in with all other programs concerning education, for fear of being lost in a giant mass of educational gobbledygook . . . We do not favor transferring the operational and policy responsibility of the Bureau of Indian Affairs schools to such a department as the trend to more local Indian control of these schools needs to continue rather than be relinquished."

Comanche Indian Tribe of Oklahoma: "The concept of including those educational functions now assigned to the Assistant Secretary of Interior for Indian Affairs in a new Department of Education would not result in any improvement in Indian education systems. The transfer of the BIA-run school system to the Department of Education would lead to total elimination of schools separately established and identified for Indians."

The views of the Comance Tribe are representative of responses my office received from other tribes in my State of Oklahoma. The United Tribes of Western Oklahoma and Kansas comprising a total of 23 tribes—21 Oklahoma tribes and 2 Kansas tribes and representing more than 55,000 Indian members—are "unanimously opposed to the transfer of the Bureau of Indian Affairs education programs and services to the proposed Department of Education." I could go on and on with responses from Federally recognized tribes that oppose this transfer. It is clear to me that 90 to 95 percent of the Federally recognized tribes and Indian interest organizations throughout the country do not want Indian education programs moved to the proposed new department. To proceed with this action, which certainly runs counter to the desires of the Indian people, is not in line with either the declared policy of Congress in enacting the Indian Self-Determination and Education Assistance Act or the President's pronouncements that true self-government will prevail in Indian affairs matters.

Indian tribes must have a focal point, an agency with which to deal on all matters relating to Indians. Despite its management and organizational problems the BIA re-

mains the focal point for the tribes and has an understanding of the magnitude of the problems. To separate this trust obligation from the lead agency charged with administering the trust responsibility to American Indians is the beginning of the end of the trust and would diminish the agency's advocacy role to a level of ineffectiveness. One of the reasons President Carter gave for not including transfer of Veteran's Education Programs to the new Department is that he was committed to one-stop shopping for Veterans. That same one-stop commitment is equally appropriate for Indians as it is for veterans. By placing Indian education programs in the new Department, Indian tribes will be forced to compete with larger, more powerful constituent groups. Experience has shown that when an Indian program is begun by another department or agency that has no long range goal in Indian affairs or little sensitivity to the desires of Indian people, Indians are just another disadvantaged minority. Indians are not "just another" minority; Indians are the only minority with which the Federal Government has a long-standing unique legal and historical relationship. The problems are similar to other minorities; the relationship with the Federal Government is not. It will be difficult if not impossible for tribes to stand on an equal footing with outside special interest groups who will influence decision making within this new Department of Education. A good example of what happens to Indian programs in an agency with little or no experience in administering to Indian needs is the Department of Housing and Urban Development's efforts to provide safe, decent and sanitary housing for Indian and Alaska Natives.

There is no assurance that improvements in Indian education will be achieved any faster or to any greater degree by placing it in a new structure than can be achieved in its present location. Historically USOE has given little or poor service to Indian education programs, which attests to the USOE's lack of commitment and understanding of tribal educational and social needs at the reservation level. USOE is a grant-oriented agency without even a general background in providing services to Indian tribes and communities, and I can see no advantage to placing Indian education programs in this setting. Surely the transfer is not considered necessary if the programs are to be funded and managed adequately. There is no convincing explanation as to why Indian programs can only be adequately funded and managed if removed from the BIA.

Most importantly, the true goal of Indian self-determination cannot be achieved with the transfer of Indian education. Indian people are striving for self sufficiency and control over all aspects of their lives; education is the method of attaining these goals, but such cannot be achieved if education occurs in a social, political, or economic vacuum. Indian people must have a part in directing Indian education policies and emphasis must follow if they are to see the concepts of self-determination come to fruition.

Indian opposition to this transfer is based on many years experience in dealing with the Federal Government. The apparent determination of the Administration to proceed with the transfer despite the wishes of the vast majority of Indian tribes indicates that, in an effort to provide an organizationally-efficient government, the Carter Administration is signaling an end to the BIA and fragmentation of all of the functions housed therein. To remove Indian education programs from the BIA which represents approximately two-thirds of the employees and approximately one-third of the budget, would reduce the Bureau's stature in the Department of Interior which the Indian people have worked many years to achieve and destroy the only true advocacy agency for Indian people existing in our governmental structure.

Mr. President, in view of the detrimental effect removal of this major function from the Bureau of Indian Affairs will have on the agency and the Indians' faith in their trustee, the Federal Government, I ask my colleagues to support Senator Stevens' amendment so Indian tribes will know that at least some of us listen to what they have to say and believe it is they who know what is best for their well-being.

NATURAL GAS POLICY ACT

Mr. JACKSON. Will the Senator yield for a unanimous-consent request?

Mr. RIBICOFF. I yield.

Mr. JACKSON. Mr. President, I ask unanimous consent that David Johnson, of Senator MUSKIE's staff, be granted the privileges of the floor in connection with the debate on the natural gas conference report.

The PRESIDING OFFICER (Mr. ANDERSON). Without objection, it is so ordered.

Mr. STEVENS. Mr. President, did my good friend from Montana wish me to yield? I wanted to have a colloquy with the Senator from Connecticut about this amendment. The energy conference report does take priority. We are prepared, with the majority leader's consent, to enter into an agreement that there be 40 minutes on each side on my amendment and the amendment would come up following the disposition of the energy bill on Wednesday, the 27th, if that would meet with the approval of the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I just cannot see that far down the road beyond the disposition of the conference report at the moment.

Mr. STEVENS. May we enter into the 40 minutes on each side?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. Subject to the chairman's request, I would be agreeable to that.

Mr. RIBICOFF. That is agreeable to the manager of the bill.

The PRESIDING OFFICER. Is there objection? If not, it is so ordered.

The Senator from Montana.

Mr. HATCH. If the Senator will yield, I ask unanimous consent that Chris Palmer of my staff be granted the privileges of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Montana.

UP AMENDMENT NO. 1842

(Purpose: To provide for a unified approach to rural family education)

Mr. MELCHER. In light of the unanimous-consent agreement on the Stevens amendment, I ask unanimous consent that it be in order to present an amendment at this time on the education bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MELCHER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes an unprinted amendment numbered 1842.

Mr. MELCHER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 54, immediately after the period on line 11, insert the following: "The Secretary, through the Assistant Secretary for Occupational, Adult, and Community Education, shall also provide a unified approach to rural family education through the coordination of programs within the Department and shall work with the Federal Interagency Committee on Education to coordinate related activities and programs of other Federal departments and agencies.".

Mr. MELCHER. Mr. President, the amendment I am offering today to S. 991 does not create any new Federal programs. What it does, is give to the planned Office of Occupational, Adult, and Community Education the specific authority to coordinate existing educational programs scattered throughout the new Department of Education and work with the Federal Interagency Committee on Education to coordinate support functions located in related Federal agencies, into a unified family education approach to better serve the needs of our Nation's rural economically disadvantaged families.

For many years now, those of us representing States with large rural constituencies have been aware that most of the Federal programs that have been created to break the cycle of structural poverty in the United States have been of little benefit to the rural poor. The nature of the problem lies not in the substance of the programs, but in the nature of their delivery. Authority for administering the programs is divided up, bureaucratically, with very little coordination at the point of delivery. One office concentrates on vocational and occupational education, another on education for home management, another on adult basic education, another on special education for children, yet another on health education, and so on down the line. Such fragmentation has been possible in dealing with urban populations, because of the close geographical proximity of the families that take part—although even here I think many of our planners are beginning to realize that without better overall coordination the result is unnecessary overlap of some programs and gaps between others. This reduces the beneficial impact on the families that take part, and leads to waste and inefficiency.

But what is an inconvenience in an urban setting becomes an insurmountable difficulty in rural areas. For example, in Montana vocational educational schools are often hundreds or more miles apart, as are adult education centers, counseling centers, child development centers, career education centers, and so on. More important it seems never to be the same

hundred miles. Often our rural disadvantaged do not even have the ability to seek out and find help when the services are so fragmented and geographically scattered. These problems are not unique to Montana. I am sure they exist throughout much of rural America, and they require attention if we are not to continue to discriminate against our rural families.

In Montana, we have tried to meet some of the needs of rural disadvantaged families in our State, as well as North Dakota, South Dakota, Wyoming, Nebraska, and Idaho, by providing an integrated family education program in a residential setting. The key concept which governs this approach is that the families are brought together in a residential setting, and a broad range of educational and supporting services are provided—treating the entire family as a unit. The families, recruited from within the six-State region, take up residence in existing facilities on what used to be Glasgow Air Force Base near Glasgow, Mont. They reside there for approximately 9 months while they take part in an educational program designed to meet the needs of the entire family. This includes vocational education and career education for the head of household (and sometimes the spouse as well), education in home management and parental responsibility, consumer education, basic adult education, elementary and secondary education, health education, and special education programs when needed. As you can see from this list we offer the student families the entire range of educational services to be included in the new Department of Education. Central to this entire approach is the concentration of services and the focus on the entire family as a productive and mutually supportive unit.

The program has, we believe, been very successful on the limited level that we have been able to maintain it, without the support of a coordinated Federal effort. It is an approach which goes beyond the traditional concept of "job training." In treating the educational needs of the entire family together in a residential setting, it represents an effective way to not only improve employability, but also increase the standard of living and participation in the community for disadvantaged families.

The viability of this approach has long been recognized by those in close contact with it. It has received strong support during its 6 years of existence from the Governors of the region, the congressional members of the six States, the regional governmental councils, the agencies within the region, and most important of all from the student families who participate.

This approach has also begun to gain national recognition. President Carter has called for more attention to the development of a sound American family. In announcing the White House Conference on Families to be convened in Washington during 1981, he stated that—

The main purpose of the Conference will be to examine the strengths of American family life, the difficulties faced, and the ways in which family life is affected by public policies.

The President proclaimed that—

Government policy should be aimed at strengthening and supporting the family as our most vital and enduring social resource.

This is a laudable goal and I wholly support it. However, I do not think that we must or should wait until 1981, or after, to take the first step to see that our disadvantaged rural families have full access to the kinds of educational services that can help to improve all facets of their life. The Office of Occupational, Adult, and Community Education is the right place to coordinate a family educational approach. The Government Affairs Committee's report states that a major mission of the Office of Occupational, Adult, and Community Education is to coordinate a "blend" of programs that will "improve the quality of life and coordinate education and work programs" for the American people. I believe that part of this mission should be to give the Office of Occupational, Adult, and Community Education the authority to assist in meeting the needs of the rural family as a unit, and to coordinate efforts from all sectors of the Department of Education, and other related agencies, to accomplish this goal.

My amendment is a modest request, in light of the dozens of programs and some $17 billion of authority to be assigned to the new Department of Education—however, it is vitally important to thousands of rural families that may be helped by better coordination at the Federal level. I urge my colleagues to support this amendment.

Mr. RIBICOFF. The Melcher amendment is acceptable to the manager of the bill, Mr. President.

Mr. PERCY. It is acceptable as far as I know. I know of no objection on this side.

Mr. MELCHER. I thank the Senators and I yield back the remainder of my time.

Mr. RIBICOFF. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1843

(Purpose: To insure that the Department of Education carries out Career Education programs consistent with the structure of Public Law 95-207)

Mr. RIBICOFF. Mr. President, on behalf of the Senator from Maine (Mr. HATHAWAY) I send an amendment to the desk and ask that it be stated. It is in behalf of the Senator from Maine (Mr. HATHAWAY).

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Connecticut (Mr. RIBICOFF) on behalf of himself and Mr. HATHAWAY proposes unprinted amendment No. 1843:

On page 50, between lines 20 and 21, insert the following:

"(4) administration of programs pertaining to career education;".

On pages 50, 51 and 52, redesignate "(6)", "(7)", "(8)", "(9)", "(10)", "(11)", "(12)", "(13)", "(14)", "(15)", and "(16)" as "(7)", "(8)", "(9)", "(10)", "(11)", "(12)", "(13)", "(14)", "(15)", "(16)" and "(17)", respectively.

On page 71, line 25, strike out the period and insert ": and ".

On page 71, after line 25, insert the following:

"(xiv) under the Career Education Incentive Act.".

On page 85, line 7, strike out "subsection (b)" and insert in lieu thereof "subsections (b) and (c)".

On page 86, strike out line 5.

On page 86, lines 6-11, redesignate "(F)", "(G)", "(H)", "(I)", "(J)", and "(K)" as "(E)", "(F)", "(G)", "(H)", "(I)", and "(J)", respectively.

On page 86, after line 25, insert the following:

"(c) The Secretary may not alter, consolidate or discontinue the Office of Career Education, or reallocate the functions vested in such Office by the Career Education Incentive Act, Section 406 of the Education Amendments of 1974, or any other statute prior to October 1, 1983 unless (A) funds are not appropriated to carry out the provisions of such Act for any fiscal year preceding such date and (B) a period of ninety days has passed after the receipt by the Committee on Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of notice given by the Secretary containing a full and complete statement of the action proposed to be taken pursuant to this subsection and the facts and circumstances relied upon in support of the proposed action. After October 1, 1983 such Office shall not be altered, consolidated or discontinued, or its functions reallocated unless a period of ninety days has passed after the receipt by the Committee on Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of notice given by the Secretary containing a full and complete statement of the action proposed to be taken pursuant to this subsection and the facts and circumstances relied upon in support of the proposed action.".

On page 87, line 1, strike out "(c)" and insert "(d)".

Mr. HATHAWAY. Mr. President, the intention of this amendment is to insure that the new Department of Education carries out the purpose of the Career Education Incentive Act consistent with the structure envisioned by Congress in enacting that legislation, which was signed into law on December 13, 1977.

The amendment would require that for the next 5 fiscal years the Office of Career Education could not be discontinued or consolidated unless for any year Congress failed to appropriate funds to carry out the purposes of that act and unless the conditions already established in section 413 of the committee bill were complied with. Those conditions allow discontinuation or alteration of a number of statutorily created offices if a period of 90 days has passed after notification to the Senate Committee on Human Resources and the House Committee on Education and Labor, including a complete justification for the rationale behind the reorganization.

This aspect of my amendment thus provides for a limited exception to the reorganization provisions contained in the committee's bill. But, for reasons I shall explain, I believe this exception is vitally needed if Congress clearly expressed goals regarding career education are to be fulfilled.

The amendment also would include administration career education programs in the functions of the Department listed in section 203 of the bill, and would explicitly include the carrying

out of the Career Education Incentive Act in the transferred functions listed in section 301 of the bill.

Together, these changes will insure that the 5-year career education program so recently enacted by Congress will receive appropriate, focused attention in the new department.

The Career Education Incentive Act was intended by Congress to instill career education concepts into the elementary and secondary levels over a 5-year period of time. At the conclusion of this time period, all Federal funding would cease. Consistent with this, the act provides authorizations of $50 million in fiscal year 1979, $100 million in fiscal year 1980 and fiscal year 1981, $50 million in fiscal year 1982 and $25 million in fiscal year 1983. Concurrent with these bell-shaped authorizations, the required non-Federal share of the part of State and local education agencies gradually increases over the same period, from no match required in fiscal year 1979 and 1980, to 25 percent in fiscal year 1981, 50 percent in fiscal year 1982, and 75 percent in fiscal year 1983. In this way, when Federal expenditures cease, the State and local education agencies will be in a position to undertake the entire burden.

This unusual, built-in sunset feature will require a smoothly functioning administrative structure for career education at the Federal level. Further, because career education by its very nature integrates basic educational skills, specific job skills, and knowledge of available job opportunities and requirements, it is essential that coordination of all relevant Federal programs and policies be carried out.

With this in mind, the Career Education Incentive Act requires that administration at the Federal level be undertaken by the Office of Career Education, established within the Office of the Commissioner of Education by the Education Amendments of 1974. Under this organizational structure, the relevant elements of all appropriate Federal educational programs can be focused to achieve the goals of career education. Equally important, States and local educational agencies can look to one location for assistance in carrying out their career education plans. Under the new bill this office must continue to exist within the office of the Secretary and its functions must be continued lest the will of Congress and the needs of the States be frustrated.

At this point in time it is especially important that we underline our commitment to the importance of career education and that we insure its continued integrity in the new department.

I am fearful that unless these amendments are incorporated into the pending bill, the administration will attempt to submerge career education in the interstices of a disinterested bureaucracy as part of a conscious effort to impede its progress rather than carrying out the law as enacted by Congress.

The Career Education Incentive Act was passed overwhelmingly by Congress in spite of administration opposition. For fiscal year 1979, the first program year under the act, Congress will provide between $22.5 and $25 million for elementary and secondary career education formula grants, despite administration opposition.

Despite the requirements of section 431 of the General Education Provisions Act, regulations have yet to be published in the Federal Register, a full 9 months after the bill was signed, and 1 month after the final deadline.

For all of these reasons it is necessary to incorporate into the legislation establishing this new Department of Education explicit provisions preserving the programmatic integrity of career education.

Mr. President, I appreciate very much that the distinguished Senator from Connecticut offered this amendment on my behalf. I did just arrive back from Maine and I am prepared to offer the amendment myself.

This would simply exempt the Career Education Office from the reorganization provisions of the bill, which would otherwise provide that the Secretary may abolish any one of 10 offices including the Career Education Office after 90 days of consultation with the House and Senate committees. Since the Career Education Act is only a 5-year bill, I thought it would be better to allow this office to be abolished only if Congress did not appropriate any money for that.

Mr. RIBICOFF. Mr. President, the amendment has a good purpose and is acceptable to the manager of the bill.

Mr. PERCY. Mr. President, there is no objections on the minority side. The amendment is acceptable.

Mr. HATHAWAY. I thank the Senators.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

● Mr. SASSER. Mr. President, the legislation we are considering today is a long-needed step in improving our Nation's Federal education policy.

For many years, the education experts in Congress and across the country have stressed the need to remove the education programs from the Department of Health, Education, and Welfare and establish a separate Department of Education in the Cabinet. And in my campaign for the Senate and since the beginning of my term, I have witnessed almost unprecedented support in my State of Tennessee for a Department of Education.

This bill, Mr. President, has my unqualified support.

I wish to commend the distinguished chairman of the Committee on Governmental Affairs, the distinguished floor manager of S. 991, Senator RIBICOFF, for his tireless efforts in behalf of this bill. He is a friend of the education community and, without his leadership, we would not have a Department of Education bill before the Senate today.

Mr. President, one of our Nation's most eloquent spokesmen for education was our late colleague, Hubert Humphrey. In considering this historic legislation today, it is wise to recall Senator Humphrey's testimony to the Governmental Affairs Committee last year:

So many offices and institutions deal with education in the federal government, that speaking about an education policy is mere wishful thinking. Yet, even though education is left to the states in our system, this lack of coherent education policy on the federal level has caused an undue burden on state and local authorities. Much of this burden stems from a fragmenting of federal education decision and policy making. It is caused by a duplication and reduplication of requirements on local education authorities.

The Department of Education Act, S. 991, correctly emphasizes the primary role that State and local governments have in the education of our children. This local control is essential and is the backbone of our public school system.

But the Federal Government must be prepared to meet its obligations in assisting the States. We must realize that State and local governments are reaching the breaking point in their ability to raise revenues for public schools, and we must be prepared to provide imaginative leadership in this critical period for education. Federal assistance must be maintained at an adequate level and our efforts must be well-coordinated. A fragmented HEW can no longer offer the necessary leadership.

A Department of Education in the Cabinet will allow us to consolidate and coordinate efforts at the Federal level. At the same time, by eliminating overlapping and conflicting jurisdictions, we can save the State and local governments time and money, we can cut paperwork, avoid duplication, and give greater emphasis to those areas where Federal involvement is needed. I was particularly impressed by the endorsement of S. 991 by Dr. Sam H. Ingram, the commissioner of the Tennessee Department of Education. Dr. Ingram believes that having a single Department of Education in the Cabinet will improve the ability of each State to carry out its education policies in a unified, comprehensive manner.

The current Federal approach to education is fragmented and only adds to the problem instead of the solution. Public education remains one of the most important services that Government can provide for its citizens. It is, literally, an investment by each generation in the success of the next. A Department of Education is essential to keeping that promise. A Department of Education will give us the most bang for each education buck. It is a sensible and long-needed bill, and I urge its passage.●

Mr. METZENBAUM. Is the Senator from Connecticut prepared to yield the floor?

Mr. RIBICOFF. I have no choice. Other people want recognition, but the Senator from Ohio has been most indulgent. I personally do not dare, have the temerity, to ask for any more requests. It is up to the Senator from Ohio and other Members on the floor.

Mr. PERCY. I have just one remaining piece of business, Mr. President. I send to the desk a modification to my amendment 3409 and ask that it be printed in the RECORD at this time.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 3409

On page 48, strike out line 2.

On page 48, line 3, strike out "(D)" and insert "(C)".

On page 48, line 5, strike out "(E)" and insert "(D)".

On page 48, line 7, strike out "(F)" and insert "(E)".

On page 48, line 9, strike out "(G)" and insert "(F)".

On page 48, line 11, strike out "(H)" and insert "(G)".

On page 48, line 12, strike out "(I)" and insert "(H)".

On page 48, line 13, strike out "(J)" and insert "(I)".

On page 48, line 14, strike out "(K)" and insert "(J)".

On page 49, line 10, strike out "section 203 (11)" and insert "section 203 (10)".

On page 49, line 15, strike out "(13)" and insert "(12)".

On page 50, strike out line 24.

On line 51, line 1, strike out "(6)" and insert "(5)".

On page 51, line 3, strike out "(7)" and insert "(6)".

On page 51, line 7, strike out "(8)" and insert "(7)".

On page 51, line 10, strike out "(9)" and insert "(8)".

On page 51, line 12, strike out "(10)" and insert "(9)".

On page 51, line 15, strike out "(11)" and insert "(10)".

On page 51, line 23, strike out "(12)" and insert "(11)".

On page 51, line 24, strike out "(13)" and insert "(12)".

On page 52, line 5, strike out "(14)" and insert "(13)".

On page 52, line 8, strike out "(15)" and insert "(14)".

On page 52, line 12, strike out "(16)" and insert "(15)".

On page 55, strike out lines 12 through 23.

On page 56, line 3, strike out "Sec. 210." and insert "Sec. 209.".

On page 56, line 8, strike out "304." and insert "303.".

On page 56, line 16, strike out "Sec. 211." and insert "Sec. 210.".

On page 56, line 23, strike out "303" and insert "302".

On page 58, line 16, strike out "Sec. 212." and insert "Sec. 211.".

On page 59, line 6, strike out "305" and insert "304".

On page 59, line 11, strike out "Sec. 213." and insert "Sec. 212.".

On page 60, line 4, strike out "Sec. 214." and insert "Sec. 213.".

On page 60, line 12, strike out "Sec. 215." and insert "Sec. 214.".

On page 66, line 2, strike out "Sec. 216." and insert "Sec. 215.".

On page 74, strike out all beginning with line 14 through line 6 on page 75.

On page 75, line 9, strike out "Sec. 303." and insert Sec. 302.".

On page 76, line 3, strike out "SEC. 304." and insert "Sec. 303.".

On page 77, line 14, strike out "Sec. 305." and insert "Sec. 304.".

On page 78, line 12, strike out "Sec. 306." and insert "Sec. 305.".

On page 78, line 21, strike out "Sec. 307." and insert "Sec. 306.".

On page 79, line 3, strike out "Sec. 308." and insert "Sec. 307.".

On page 79, line 12, strike out "Sec. 309." and insert "Sec. 308.".

On page 82, line 24, strike out "section 211" and insert "section 210".

On page 83, line 11, strike out "section 211" and insert "section 210".

On page 106, line 1, strike out "(9)" and insert "(8)".

On page 40, in the table of contents, strike out item "Sec. 209. Office of Child Nutrition.".

On page 40, in the table of contents, renumber items Sec. 210. through Sec. 216. as items Sec. 209. through Sec. 215., respectively.

On page 40, in the table of contents, strike out item "Sec. 302. Transfers of functions from the Department of Agriculture.".

On page 40, in the table of contents, renumber items Sec. 303. through Sec. 309. as items Sec. 302. through Sec. 308, respectively.

Mr. PERCY. I thank the distinguished Senator from Ohio for holding off so we could finish our business.

Mr. ROTH. Mr. President, I have two or three things I would like to take up.

Mr. METZENBAUM. If the Senator from Delaware will yield, is this on the Natural Gas Pricing Act?

Mr. ROTH. No, it is not.

Mr. METZENBAUM. The Senator from Ohio has sat back, patiently waiting, until a number of persons were heard in connection with the pending education matter. As the Senator from Delaware is aware, there is a priority understanding with respect to the Natural Gas Pricing Act. Without being disrespectful to him at this point, I would like to claim the floor in order that the last 50 minutes may be devoted to the Natural Gas Pricing Act debate.

NATURAL GAS POLICY ACT OF 1978—CONFERENCE REPORT

The Senate resumed consideration of the conference report.

The PRESIDING OFFICER. Who yields time?

The Senator from Ohio.

Mr. METZENBAUM. Mr. President, this morning, I engaged in a colloquy with the distinguished Senator from Idaho (Mr. MCCLURE), who suggested that the motion to recommit and the provisions in connection with that motion were not sufficiently protective of consumers, although making clear his point that he is a strong advocate of deregulation, suggesting that, in some manner, we are doing violence to the very concerns about which we were speaking. It is true, in a strict sense, that the Federal Energy Regulatory Commission—Mr. President, may we have order? It seems to me there is a caucus over there.

The PRESIDING OFFICER. May we have order? Will the Senators clear the aisles?

Mr. METZENBAUM. I thank the Chair.

It is true that, in a strict sense, the Federal Energy Regulatory Commission will not have direct control over the wellhead price of gas allowed to reach the interstate market by the surplus provisions, but the real fact is that the sale cannot be made in the first instance unless FERC agree to approve the sale. If FERC decides that the prices are too high and the acquisition costs are more than they should be, then FERC is in a position to deny the approval in the first instance.

In addition, these provisions apply only to surplus gas. It is a fact that, under these provisions, in order to protect the consumer, the wellhead price, the acquisition price of the pipeline, may not exceed the average acquisition cost. This is a safeguard against the practice known as brokering, where pipeline companies which were really set up to transport gas from one part of the country to another found themselves able to make literally millions of dollars and, in some instances, billions of dollars by being able to broker gas from the intrastate market into the interstate market. So, in some instances, if they paid $2.30 per thousand cubic feet for gas under a new contract by reason of the provisions in this legislation, they would only be able to sell it for that which would be the average price, which might be $1.40, might be $1.60, might be $1.90.

That restriction in the conference report and also in our language, which is provided for in the motion to recommit, does provide some element of protection for the consumer. The restriction actually is a rollback from the current practice because, under the present procedures, 60-day sales are currently being made, or were in the recent past, at prices between $2.25 and $2.50 per Mcf, which is way above the average new gas price in the intrastate market, which, today, is roughly $1.80 per Mcf.

Surplus gas under the provision in the congressional alternative, as well as that in the conference report, because the language is the same, will now be made available at significantly lower prices. That is the point that my friend from Idaho failed to emphasize this morning.

I should further point out that he talked about something in a "Dear Colleague" letter. I do not happen to have that "Dear Colleague" letter before me at the present time, but certainly, there can be no question about the fact that the motion to recommit, while not being a panacea, not being the total answer for consumers, not being all that I would like it to be and my cosponsors would like it to be, is a step in the right direction. It does not include those provisions that are in the conference committee report, which will add $29 to $41 billion in additional costs to the American people in the next 7 years between now and 1985, or an average cost of about $800 per family between now and 1985. So I say that, although certainly no one argues that the proposal that we are making to recommit is the perfect answer, we do not claim that, but we claim that it is far more perfect than the proposal that has been offered to the Senate in the pending measure in the conference report.

Mr. President, I reserve the remainder of my time.

Mr. JACKSON. Mr. President, I yield such time as the distinguished lady from Alabama may need at this time.

Mrs. ALLEN. Mr. President, by coincidence today marks my 100th day in service to the State of Alabama and the Nation as a Member of the United States Senate. Those days have been filled with sadness and excitment, frustration and fulfillment, and above all education—never-ending day-in-day-out education. In those few days I have been called upon by my constituents and my colleagues here to make decisions upon matters of critical importance to Alabama and the Nation that—111 days ago—I considered the special province and expertise of my late husband, Senator Jim Allen.

Today marks another "decision day" for me and for all our colleagues. We are testing whether this Congress, as representative of the diverse interests and concerns of our vast country, can agree upon a beginning point for a national energy policy, which is the No. 1 or No. 2 domestic problem facing the Nation.

This past Sunday night, in a precedent-shattering announcement, our President revealed a breakthrough in foreign policy which our country, certainly, and the whole world has been waiting for 30 years. Can we do any less than make a breakthrough today on a domestic policy which has been on the national agenda for nearly the same amount of time?

Like most of our colleagues, Mr. President, I have heard from every conceivable group, organization, business, and individuals from all walks of life and of all political persuasions in my State with reference to the natural gas policy conference report.

Based on my brief but educational tenure in the Senate, and based upon my daily contacts throughout the State of Alabama, I answer "yes" to the question of supporting the conferees, because I recognize the need for a national energy policy of which this bill is the centerpiece. And, Mr. President, I also recognize the simple fact that neither this Congress nor any Congress will agree unanimously on just exactly what is the proper course for such an energy policy. The answer, then, is a "yes" with respect to the legislative approach before us on this segment of the national energy policy.

The people of Alabama demand that I take a stand on the energy issue of the day, and I say "yes" to the creation of a policy and "no" to the recommittal motion, which in effect is a vote for doing nothing.

Mr. President, I believe I know what Jim Allen would have done had he been faced with the unenviable choices we have before us; I believe I have properly gaged the tone and temper of the vast majority of the people of Alabama about our country's energy policy, therefore, I believe I am right in joining with the distinguished chairman of the Senate Energy and Natural Resources Committee, the majority leader, the majority of the conferees on this measure, and some of the producers of natural gas, and consumers of natural gas, in supporting passage of this critical part of the total package of energy-related bills in the 95th Congress.

And, Mr. President, it is my humble opinion that this Congress must act on this bill before it adjourns, and before it turns to other pressing public business.

Last year, after voting 103 times on matters relating to the natural gas pricing policy, Jim Allen made up part of that four vote majority that passed S. 2104, the Pearson-Bentsen natural gas deregulation measure. Passage of that bill by the Senate set the stage for a confrontation with the House that has lasted to this moment. The result of that deadlock called for compromise. And, a compromise we have. The bill does not go far enough in the direction a majority of the Senate desired in 1977, but it does move the country, with deliberate pace, in the direction envisioned by the Senate just a year ago.

In accepting the work of the conferees, we are taking a tiny step at getting the Government out of the hair of the entrepreneur who seeks, profitably, to increase domestic natural gas supplies. Those of us who basically favor total deregulation and decontrol of the Government's impact on the free market in energy did not get all we wanted in this bill, but we have made a step in the right direction. A small step is better than no step.

While I have not participated in all of the debate on this measure to date, it has never been far from my mind. As I have travelled the State of Alabama over the past few weeks, I can assure you that this debate, this issue, has been on the minds of the people of Alabama. I have studied the reports—both pro and con—I have listened with respect to the conference report's detractors and with equal respect to the conference report's supporters. I have weighed the consequences of not acting as we are asked to do and found the "no go," "stand part," "status quo," arguments, unconvincing.

Mr. President, the natural gas conference report is a sound compromise that will be good for the Nation, and we must pass it or admit that the Congress of the United States cannot act on a demonstrated national need.

The terms of the compromise will increase supplies of our premium fuel for the consumers while providing price certainty and new markets for the natural gas producers. Those who oppose the bill—for whatever reason—admit the fact that substantial additional quantities of natural gas will flow into the interstate market at prices below that of displaced alternate fuels if the legislation is enacted.

We are starting the country on a period of pricing certainty which has been lacking for 25 years. In spite of the reported complexity of the legislation, we are embarking on a new system of pricing which will replace that which all agree is an antiquated and generally unworkable system—particularly in times of crisis and shortages. The conference report opens the interstate market to producers, allowing gas now backed up in the intrastate market to flow into the interstate market where it is sorely needed.

The compromise, Mr. President, concentrates the rewards of higher prices where they are most needed—on the discovery of, and development of, new, high-cost gas. The system of incremental pricing is a sore point across the length and breadth of the industrial world. However, the policy envisioned in the legislation protects the residential and small commercial consumers who most need protection from excessive price increases, and in fluctuations in prices due to uneven demand in the intrastate market. While I have heard a great deal of opposition to the incremental pricing system and the categories of natural gas that will be created, I am emboldened to note that some of the detractors of this particular bill in 1977, voted in support of S. 2104 which contained the outlines of just such a pricing system.

The language of the conference report is designed to, by 1985, reduce our country's dependence on high-cost foreign crude oil by a significant amount. No one truly believes that this bill will be the cure-all for our national gas energy problems. But, Mr. President, a decisive and clear-cut congressional vote on this measure is a necessary step in the direction of getting our country off dead center relative to energy demands.

I support the conference report because it is apparent that we have argued long enough; we have debated long enough; we have considered long enough; we have procrastinated long enough in formulating a response to the new era of international economic reality where "energy" is the rock upon which all free economies will stand or flounder. It has been 5 years since the OPEC oil embargo. It is time for Congress to act.

And let us make no mistake about this being our last best chance for making the desired step toward a national energy policy. Last Friday, the distinguished majority leader and the distinguished chairman of the Senate Energy Committee explained why it is all but impossible to contemplate a "better" bill coming down the legislative chute this year, next year, or the year following. Where does that put us should they be right, or even half-right? It puts our country in the position of waiting, just waiting, hoping for a better combination of circumstances, before acting on something as vital as the creation of a national energy policy.

The majority of the American people do not believe we can afford to wait, 1, 2, 4, or 5 years, before we make up our mind on how to marshal our enormous resources to move in the direction of solving our vexing energy problems.

The time to act is now. The vehicle for action is before us in the report of the conferees on H.R. 5289. We must approve this bill as a demonstration to the American people that its Congress does respond to public needs.

Critics will say the bill is not perfect. Is any piece of legislation that leaves these halls perfect? Many call the bill complex—too complex—for rational enforcement. That has been the cry of many against the present system for years, and those who cried the loudest helped fashion this compromise. The bill, it is claimed, will cost this group, or that group, too much money, one way or another. What bill would not? No bill? Of course not. Were the present system to remain intact, natural gas prices would continue to soar and there would be no certain means of moving scarce supplies from one part of the country to another in response to demand.

Mr. President, the critics of the legislation point the finger at the conferees and say, "do it again," but offer nothing as a substitute other than standing pat. Many of those same critics of this bill have been the most vociferous in support of a national energy policy.

One does not make scrambled eggs without cracking eggs and we cannot

make a national energy policy without cracking some of the fossilized thinking about various components of energy policy that we have had for decades.

Mr. President, we cannot move ahead without taking a step and H.R. 5289 is a step in the direction of creating the energy policy most admit we need. I support passage of the conference report, and disapprove of the motion that would, effectively, kill the establishment of a natural gas-pricing policy and a national energy policy, by recommitting it to the conference committee. I urge my colleagues to join in making this historic step for the country by supporting passage of the conference report.

Several Senators addressed the Chair.

Mr. JACKSON. Will the Senator yield for a second?

Mr. ROBERT C. BYRD. Yes.

Mr. JACKSON. Mr. President, I want to commend the distinguished gentlelady from Alabama for an excellent statement, a well-reasoned statement, a responsible statement. I think she summed it up very well when she said that the choice here is really a question of doing something or doing nothing.

I commend her for an excellent statement on this subject.

Mr. ROBERT C. BYRD. Mr. President, I join with the distinguished manager of the conference report in expressing commendations to the distinguished Senator from Alabama (Mrs. ALLEN) on the decisions she has reached to vote against recommittal and to support the national energy policy that is envisioned in this conference report, along with the other conference reports dealing with the energy policy.

Her statement is forthright. It is courageous. I think that it is the right decision. I compliment her and I thank her.

Mr. JACKSON. Mr. President, I yield such time as the distinguished Senator from California may require.

Mr. CRANSTON. I thank the distinguished chairman and I compliment him on his very prolonged and effective work on this measure.

Mr. JACKSON. I thank my colleague.

Mr. CRANSTON. Mr. President. I intend to vote for the conference committee report on natural gas pricing.

No miracles will flow from passage of this piece of the energy package. It is far from perfect. It does not totally satisfy me. Some of my fellow Californians support it, some are uncertain, some oppose it.

Nobody can say with absolute certainty what will happen—good or bad—if we pass this bill. Just as nobody can say with absolute certainty what will happen—good or bad—if we do not.

But my judgment tells me that for all its uncertainties, for all its possible flaws, this bill offers a better prospect for our country than the alternatives: No bill at all or, what is more likely, a bill that would bring about much more rapid and complete deregulation.

Mr. President, this compromise legislation has been depicted—oversimply and erroneously—as a bill deregulating natural gas. Period. Nothing more.

True, controls over new natural gas are scheduled to end January 1, 1985 under the bill.

But the bill also does this:

First. It expands regulation—to cover a major category of natural gas that is presently exempt from control. For the first time, instrastate gas—which constitutes 40 percent of the national supply—will be brought under Federal regulation. This provision is of particular importance to my State of California which desperately needs the natural gas that producers are keeping off the interstate market.

Second. It perpetuates the regulation of old gas—for an indefinite period.

Third. It brings under price control about 15 to 20 percent of our national new gas production—or about 50 percent of the new gas flowing in most pipelines—which currently escapes regulation because it falls under short-term or emergency sales, and

Fourth. It continues Federal regulation of new gas for 6 additional years—and possibly more.

Even after 1985, the bill provides that after a lapse of 6 months, regulation can be reinstituted for as long as 18 months by the President (unless Congress disapproves) or by Congress (by concurrent resolution), any time prior to June 30, 1987. Congress can, of course, then enact more permanent regulation legislation if it wishes.

Clearly this bill cannot categorically be labeled "deregulated." And it certainly is not a bill for total, immediate deregulation.

That is why the U.S. Chamber of Commerce opposes it.

"Although styled a deregulation bill," the Chamber notes, "it is, rather, a comprehensive and near total regulation of the gas industry."

And that is why the Independent Petroleum Association of America says:

> Though widely publicized as a "deregulation" proposal, the compromise in fact would *increase* rather than remove or decrease regulation. (Emphasis theirs.)

Much closer to a real deregulation bill was the measure the Senate passed last October—and which I opposed.

The Senate bill, which the majority of this body still favors, would have immediately eliminated all controls over new onshore gas. And it would have ended regulation of new offshore gas in 5 years—with no provision for temporary congressional or Presidential reimposition of controls.

That is the sort of bill we are trying to stop with this compromise.

As the Congressional Budget Office points out:

> There is no doubt but that the compromise agreement provides for lower consumer prices in 1985 than does the Senate bill.

Mr. President, I shall vote for the conference bill for a number of reasons.

I feel it strikes a reasonable balance in resolving a highly complex, highly controversial problem. It is, in the classic and best sense, a compromise. And I have concluded that it is an acceptable compromise both for the good of our Nation and for my State of California.

I believe this bill is important to our future. It should move us towards a stable, workable national energy policy.

It should help shore up the American dollar by assuring our NATO friends and allies around the world that we are serious about dealing with our energy problem. The current weakness of the U.S. dollar abroad has many causes. But none is more important than our negative balances of trade and payments, caused primarily by our heavy dependence on foreign oil.

This bill should help us cut back on enormous trade deficits created by our continuing heavy imports of foreign oil. If we continue to remain so dependent on foreign oil, we will be forced to pay even more for it as the value of the dollar keeps going down. This will further worsen our trade imbalance, further weaken world confidence in the dollar, and further aggravate inflation here at home.

The bill should lessen our dependence on Arab oil—with two significant consequences. We will be less vulnerable to Arab price increases or embargoes. And we will be less vulnerable to Arab pressures on our foreign policy decisions in the Middle East and elsewhere.

The bill should bolster our national economy, reduce inflationary pressures, and insure continuing employment in industries heavily dependent on natural gas.

Finally, I believe strongly that this bill is vital to my State of California. It offers promise of more plentiful supplies of natural gas—something California desperately needs.

California is the most gas-dependent State in the Nation. Fifty percent of our nontransportation energy comes from natural gas. Unlike other areas of the country, California cannot readily switch to coal or to large scale use of oil: doing so would radically worsen our already critical smog and air pollution problems.

But producers in the Southwest, from whom we in California buy 65 percent of our gas, are cutting back drastically in their deliveries. Southern California Gas Co. alone, for example, was cut back 23 percent last year. We must get more gas to survive. The Stanford Research Institute estimates that the growing gas shortage, unless reversed, could throw 800,000 Californians out of work by the mid-1980's.

How do we get additional gas? One way is to get our present suppliers to sell us more. But right now they will not. Billions of cubic feet of Southwestern gas are being withheld from us and from other out-of-State customers because interstate sales are subject to price controls while intrastate sales are not. Producers sell as much high-priced, unregulated gas as they can within their own States. What they cannot sell that way, they prefer to leave in the ground. While southern California, for instance, was consuming 2 billion cubic feet a day, Texas gas wells last summer produced 3 billion cubic feet a day below their capacity.

This bill—far from a "deregulation"

bill—seeks to meet this problem by, for the first time, imposing the same regulations on intrastate as on interstate gas. As a result, California will, for the first time, have equal access to Texas' rich supplies of natural gas. California, if this bill passes, will have parity with all other consumers of Texas gas—something we have never had before.

The additional supplies of natural gas that should become available to California under this bill can significantly improve our air quality by reducing our use of smog-producing oil. It can reduce the likelihood that we will be forced to produce oil in sanctuaries like those in Santa Barbara Channel designed to protect our beautiful coast. And natural gas is a far preferable alternative to nuclear energy which, because of its dangers, its uncertainties, and its costs, troubles millions of Californians, myself among them.

In addition we can reasonably expect substantial additional supplies of gas from new wells which will be developed as a result of the gradual deregulation of new gas production.

Where else can Californians hope to get natural gas? Alaska.

The proposed Alaska gas pipeline is designed to transport about 800 billion cubic feet of gas annually by the mid 1980's. A substantial portion would be headed for California. Almost 20 percent of southern California's gas supply is expected to come through that pipeline by 1985.

But the pipeline will not be built soon—perhaps it will never be built—if this bill is killed. Two important provisions are specifically designed to encourage investors by making Alaskan gas much more marketable for long term contractual suppliers. One exempts Alaskan gas from incremental pricing. The other provides "rolled in" pricing so Alaskan gas can meet the competition.

Passage of this bill would give investors the kind of pricing information they need to have the confidence to invest in the $10 billion project. Failure to pass this bill could mean years of delay in getting the pipeline started. And with each year of delay adding another $1 billion to the cost, a long enough delay will ultimately kill any chance of getting the gas pipeline built.

Now, what is going to happen to the price of gas that the consumer is going to have to pay?

For Californians—and for most of the Nation—the hard, unpleasant fact is that natural gas prices are going to go up. Inescapably, with or without this bill. They are already going up. The startling fact is that natural gas prices have gone up 500 percent over the past 6 years—with present regulation and price control laws.

Foreign gas costs even more. (Mexican gas: $2.60 per million cubic feet compared to an average $1.15 for natural gas in California.) Alternative fuels cost more yet: Like liquefied natural gas (LNG) $3.50–$4; and synthetic natural gas (SNG) $5–$8. Foreign oil costs far more than natural gas, too, as we all know only too well.

This bill will not stop the current increases in gas prices. But I believe the Congressional Budget Office is correct in concluding:

> The inflationary . . . effects of the bill are minimal and . . . residential consumers are protected from rapid price increases. Even by 1985, the residential cost of natural gas will still be less than that of alternative fuels such as heating oil or electricity.

And as the California State Energy Commission noted last March: "If Congress fails to act, new gas prices may increase even more rapidly than they would under legislation now being considered" because of price increases that will probably be granted by the Federal Energy Regulation Commission.

Mr. President, over the next several days we will be voting on a number of recommittal motions with instructions. Some of them will be superficially attractive. Some may appear to be substantial improvements over the conference bill. Some may look so good that many of us who support the bill may be tempted to vote for them.

But they all will have one fatal flaw: None of them will ever become law. I am absolutely convinced that none of them could ever get out of conference. Their approval by the Senate will accomplish absolutely nothing—except to kill this bill and the one chance Congress has to enact a reasonable energy program.

And there is a worse possibility. Killing this bill may lead to both total, almost immediate deregulation, and runaway high prices—the very thing many of us fear the most.

We face a very real likelihood that if this compromise fails, Congress may vote for more immediate decontrol next year. That is what antiregulation Senators are predicting. I hope they are wrong. But—in view of the Senate passage of the Pearson-Bentsen deregulation amendment last October and the narrow defeats of the comparable Krueger proposals in the House—I am not at all sure they are wrong.

Mr. President, the compromise before us, warts and all, deserves the support of every one of us who favors continued regulation.

It may not be all that we want. But if we hold out for more, we may well end up with much, much less.

The compromise bill will, in all probability, open up new supplies of badly needed natural gas and help deter any new push for nuclear energy, at least in California. It should help strengthen the dollar abroad and reduce inflationary pressures at home. It will reduce our dependency on politically and economically costly Arab oil. And it will—along with provisions for energy conservation, coal conversion, and utility rate reform already approved by the conference committee—give us the beginnings of a national energy policy that will convince Americans and the world that we are serious about meeting our energy crisis.

I earnestly urge my colleagues to adopt the conference report.

Mr. ROBERT C. BYRD. Mr. President, we live in a time of difficult, urgent, and sometimes painful decisions.

It is my opinion that this U.S. Senate has acted courageously in meeting the challenges before it during this 95th Congress.

Today, we are confronted with another test.

As we pull our cars up to the gasoline pumps, we are reminded that nearly half of our oil is imported from sources that are only as certain as the whims of man and the stability of a particular region.

As we buy a loaf of bread from the supermarket, we are reminded that the purchasing power of our dollar does not go as far as it did last year.

As colder weather approaches, we are reminded of the frozen rivers of early 1977, and we wonder whether this winter will bring staggering unemployment and blackouts because of shortages in the natural gas supply.

Today, we are reminded of all these things; and because of these and many other reasons, I oppose the motion to recommit the natural gas conference report.

I am guided in my belief by one basic question, really, and it is this: If the U.S. Senate does not muster the will to make the tough decisions on our energy problem, who, then, will?

Recommittal is inaction. We will have shadowboxed with this monumental task for 17 months during this Congress and then walked away at the final minute of the final round, without having delivered the telling punch.

Let us divest this motion of its rhetoric and get down to what we all should know to be the basic fact. Recommittal of this conference report will be the death knell of legislative action on natural gas.

This opportunity is not likely to come our way again in the near future. It is not realistic to expect that we can pass a "stripped-down" version of the report and then return at an early date to begin work all over again, from the ground up, on the gas pricing and regulation question.

We have devoted months to this legislation: to debate, to votes, and to painstaking negotiations. We have reviewed, discussed, and studied every nook and cranny, every detail and every nuance of this issue. If we cannot fashion a compromise now, what evidence is there that a better result—or any result— will be forthcoming next year, or the next year, or the next? This problem has defied resolution for more than 3 decades, and there is no legislative magic to be summoned for a better compromise.

Recommittal means failure to deal with our serious natural gas problems. The entire natural gas policy and plan would be buried.

There would be no long-term national energy policy with respect to natural gas pricing and regulation.

If we succeed in defeating the motion to recommit, and if we succeed in adopting the conference report—and I anticipate that we will succeed in both instances—the national interest will be served.

This bill will establish a single, national market for natural gas, and this will serve to bring more gas into the interstate pipeline system. It will protect the residential user, the farmer, and the small businessman against sharply accelerating costs.

This bill will help moderate our reliance on imported crude oil—imports which contribute heavily to our adverse balance of payments.

One of the major factors behind the weakness of the dollar is our trade deficit. An energy policy that will help us to reduce our dependence on foreign oil and on imports of foreign gas should generate international support for the dollar.

This is particularly important to the average American who experiences one of the consequences of a weaker dollar in the form of higher prices. Not only must an individual pay the higher dollar costs of imports, but, on an overall basis, the decline of the dollar in relation to foreign currencies during the past 12 months is estimated to have added a full percentage point to the U.S. inflation rate. This affects every American.

In short, adoption of the conference report should produce substantial benefits for the dollar. Of equally great importance for the dollar is the symbolic value of adoption of the conference report. It is this broad aspect of the question which none of us can afford to overlook.

The value of the dollar is determined as much by what we do as by what our trading partners expects us to do. Right now, they are uncertain about whether we will deal with our fundamental economic problems—the large trade deficits, the energy situation, and high inflation. Adoption of the conference report on next Wednesday, a week from tomorrow, as part of the overall energy package, will assure our trading partners that we are ready to take the necessary steps to put our house in order. The net result should be increased support for the dollar.

I feel that it is vitally important that we demonstrate to the international community our determination to take action against conditions which produce an unstable dollar. An unstable dollar is particularly disruptive to international economic relations. It works against the achievement of economic growth here at home as well as in all the other democratic industrial nations.

European leaders with whom I spoke this past summer emphasized their concern about these points. They view this as the litmus test of our economic probity.

Mr. President, for days now, Senators have argued eloquently and persuasively all points of view on this issue. On the threshold of this important vote, I am reminded of an excerpt from a speech made by Senator William H. Seward in the Senate on May 26, 1854. He said:

> Questions sometimes occur, which seem to have two right sides. Such were the questions that divided the English nation between Pitt and Fox—such the contest between the assailant and the defender of Quebec. The judgment of the world was suspended by its sympathies, and seemed ready to descend in favor of him who should be most gallant in conduct. And so, when both fell with equal chivalry on the same field, the survivors united in raising a common monument to the glorious but rival memories of Wolfe and Montcalm.

Mr. President, our national interests will not be served if only monuments to our energy problems are built. We must settle this issue, and we must settle it soon—and by soon, I mean now.

Knowing that an uncertain future may be as close as the next sunrise, we must not vote for recommittal and thus become the guardians of the status quo and the defenders of a defeated energy policy.

Let us vote up or down on this issue, for all the world to see, and bear the weight of our decision, and not our indecision.

Therefore, Mr. President, I urge that the Senate today vote against this motion to recommit. I say this with all due respect to those who support the motion to recommit. I respect their integrity and their desire to do what they think best. Mr. President, but this motion, if it were to carry, would sabotage the efforts of 17 months in this Congress, the best chance we have had in more than three decades to the finding of a solution to our natural gas pricing problem.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. JACKSON. Mr. President, I take this opportunity commending the distinguished majority leader for the role that he has played in our effort to bring to the Senate the opportunity to vote on a major piece of legislation that will honestly and truly do something about our No. 1 problem, that is, oil imports.

The majority leader, the distinguished Senator from West Virginia, has given of himself over and over again, day after day, week after week, month after month, to get action, and I cannot speak too highly of the contribution that he has made in our quest for a national energy policy.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Washington, the manager of the conference report, for his overly-charitable remarks concerning me.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Mr. President, I yield 4 minutes to the Senator from South Dakota.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. ABOUREZK. Mr. President, today we are considering a bill that by consensus, should not exist. My colleague, the chairman of the Energy and Natural Resources Committee, has repeatedly stated that he does not agree with the provisions of this bill. The President has repeatedly told the people of this country that he would not collaborate with the energy companies to raid the purses of the working and middle classes. The leaders of the House-Senate conference on the natural gas section of the energy plan declared themselves committed to the principles of the President's initial proposal.

Outside the Government, other groups object to the provisions of the bill. Consumer groups, the National Association of Regulatory Utility Commissioners, independent oil and gas producers, the chamber of commerce, the farmers union, major industrial users, trade unions—none of these have anything good to say about this proposed piece of legislation. But unlike the national political leadership, these groups actually oppose the passage of the conference report.

The supporters of this bill ask us to vote for the conference report "because it is there"—as if we could make this one the sow's ear into a silk purse. As if we would not in fact be making a bad bill into a bad law and setting in motion inflationary waves whose eventual strength cannot be predicted. Even the Wage Price Board will not touch the question of how much inflation this bill could cause.

Those who have any sympathy for the "because it is there" argument should remember that this bill did not come before us by accident. It took a massive effort to get it here. In view of this I have a hard time taking seriously the claims that we should ignore the massive flaws in the bill and vote for it because it serves some symbolic purpose.

When the administration last January cajoled and coerced a small and select group of Senators and Congressmen into private discussions of just how much the producing States wanted before they would release any of the gas supplies they have been holding, Secretary Schlesinger had already decided that the administration would take any bill the group came up with. Any bill. Schlesinger dismissed the President's early concern over windfall profits for the industry—after all, with all the resources of the executive branch at their command, the administration could demand congressional acceptance of any bill, even one that contained deregulation.

The administration was obviously willing to go out on a limb for deregulation—the worse the bill got, the more the administration could portray the vote on natural gas as a vote of confidence in the administration itself. It figured its chances on that issue were better. Nevertheless, the focus has still remained on the contents of the bill, and it is clear to me that there are many members of this body who wonder whether voting for this compromise would really help the administration after all.

There are real long-term political dangers in the game the administration is playing. If this bill were a bottle of bad wine at a dinner party, the guests, wanting to be polite, wanting to save the host embarrassment, might drink the wine. If the wine were very bad, and the host very sincere and important, the guests might even compliment the wine and ask for seconds. Let me assure you that this is no favor to the sincere host. Not only do the guests risk getting sick from the wine, but the host will simply be encouraged to go out and buy more of the stuff. Now I do not think that we are dealing with a naive host in this case. Mr. Schlesinger knows quite well how bad the wine is. And if we drink it down with a will, the latest energy czar will chuckle into his sleeve about what a clever fellow he is and take a drink of wine from his no doubt excellent private stock.

When we are in the U.S. Senate talking about laws that will shift billions of dollars from one group of people to another, the consequences of trying to

"save" the President's face are going to be much more severe than the consequences of drinking bad wine. But I am convinced that much of our constituent's cynicism about government—and much of the outcry against regulation and bureaucracy—arises from the passage of similar legislation—on equally specious grounds—for similar motives of political appeal.

I fear, Mr. President, that we in the Senate are being used. The American consumer is being used. The image of the United States is being used. This bill will not change the course of history, though the administration has decided to portray it that way. This bill will not reverse or otherwise determine the future of American prestige in the world. This bill will not break the budget of most American families. This bill is not even "the energy bill' but only one-fifth of it. It proposes to do something—raise the price of natural gas to the equivalent of OPEC oil prices—which is very probably possible to do under existing law.

No, this bill in reality is not what it has been made to seem in appearance. It will not stand between us and "Eurodollar panic." And I repeat, it will not even destroy the purchasing power of the working American. It will only be another brick in the wall of higher and higher prices for basic necessities that has been growing up around the working family. A wall that has been put in place brick by brick with the assistance of the elected government. As the Wall Street Journal pointed out in a recent article called Polling the Pollsters,

> The "tax revolt" is as much a protest against rising prices, skyrocketing utility bills and high interest rates as against high taxes or big government.

Each time there is a chance to give the American public a little help in keeping its head above the top of the wall—as in the labor law reform bill, or the consumer protection agency bill, or antitrust reform—those efforts are smashed. Apparently, the prestige of the United States does not rest on the fair treatment it accords the mass of working people who labor to make it great. The President never goes out a limb for those measures, as he goes out on a limb for the powerful business interests who will be the direct—and perhaps the only—beneficiaries of the natural gas compromise bill. Apparently, giving them greater "incentives" is crucial to the national interest, just as it is crucial to the national interest that Federal employees be held to no more than a cost-of-living pay increase; or that postal workers, and teachers and police and firemen—not to mention steelworkers, autoworkers, textile workers, and so forth—not receive wage increases above the level of inflation.

Congress cannot defeat the President's natural gas bill—the administration defeated its own natural gas bill months ago when it abandoned the principles that formed the essential basis of its new "national" policy.

Early in December a group of the President's Senate supporters met to discuss the situation facing the conferees. After that meeting, Chairman JACKSON released a statement briefly laying out what any compromise would have to contain for it to be preferable over current policy.

He said:

> The following items are essential to our support of any natural gas bill to be reported from this conference committee.

I continue quoting from the chairman's statement.

> First, there must be price regulation of all new gas. We are willing to agree to a small increase in the House new gas price of $1.75.

Mr. President, under the compromise now before us, the operation of a 10-percent annual escalator will put the new gas price at $2 to begin with. This price is higher than the current average new gas price in the unregulated intrastate market.

Again, quoting:

> New gas must be limited to gas produced from new reservoirs. We are not willing to allow a higher price for gas produced from extensions of existing reservoirs.

Mr. President, under the compromise, new gas prices will indeed apply to gas from existing reservoirs—simply and directly, this essential preservation of the distinction between truly new gas and truly old gas was abandoned.

Again, quoting from Chairman JACKSON's statement:

> Incremental pricing must be included and it must cover both interstate and intrastate gas.

Mr. President, under the compromise incremental pricing does not cover intrastate gas. It does not treat all new gas alike. It does not treat like consumers alike.

And finally:

> The new price legislation must not include a phase-out of new gas price controls regardless of what happens to oil price controls.

Mr. President, under the compromise, as we all know very well by now, some gas is deregulated within a year, and price controls on other gas expire in 1985.

The chairman concluded his statement by saying that:

> If the conferees are not willing to include these principles, we will have to admit that our negotiations are at an impasse and that there will be no gas price policy bill this year.

Mr. President, that was a strong statement and a reasonable one. It represents the reality of why we are here in the first place—not to funnel money to industry, but to formulate consistent national policies where national interests are at stake.

At that point last winter, neither the supporters of continued regulation, nor those who wanted full decontrol had found any areas of agreement. Trial balloons from each group had met with no success. Days of discussion among members and staff succeeded only in demonstrating the gulf that separated the two sides.

Yet, we are now confronted with the very bill the leadership said was unacceptable. What is so important about this bill that the leadership has abandoned its principles to bring it out?

The statement of principles from the Senate conferees and their chairman held through Christmas, when the deregulation forces among the Senate conferees came forth with a proposal that was promptly labeled the "Christmas turkey." It was soundly denounced by other members of the conference who rejected it with a 16-to-2 vote.

Senator JACKSON issued a statement specifying that no bill which failed to extend the allocation authority contained in the emergency Natural Gas Act to intrastate gas would serve the national interest.

The bill now before us does not, of course, contain such authority—but Senator JACKSON went further, saying in no uncertain terms that:

> The national interest requires that all new natural gas be treated alike. With serious energy shortages in the offing, we cannot continue to insulate the 40 per cent of the Nation's natural gas burned in the intrastate markets from some Federal control. We cannot perpetuate the situation where intrastate natural gas can be used for low priority industrial uses while the high priority needs of small businesses and homeowners go unfilled elsewhere in the country.

I could not have stated that problem better myself, Mr. President, But the compromise now before us does not treat all new natural gas alike. New natural gas in the intrastate market is not subject to national curtailment priorities. New natural gas in the intrastate market is not subject to incremental pricing. New natural gas in the instrastate market is not subject to emergency allocation.

We are writing into law with this bill precisely the situation the chairman said we must have new legislation to correct. Under the compromise, intrastate natural gas can be used for low priority industrial use while the high priority needs of small businesses and homeowners go unfilled elsewhere.

I must ask again, Mr. President, what is so important about this bill that requires us to abandon the very principles that would have justified its passage?

After 2 months of discussion last winter, it was clear to members of the conference that no gas bill responsive to the public's need to be protected against exploitation by the oil and gas industry was possible. And it was also impossible to get a bill that would create a uniform national market for natural gas, over the objections of conservatives determined to maintain intrastate consumers on a different footing than those in the interstate market. Conferees began to prepare to fold up their tents and go home.

Enormous pressure to continue meeting then came from the administration. They used the press to announce that they were prepared to accept a "compromise" which included prices tantamount to deregulation. Not only did these announcements undercut any remaining ability by the majority of the conferees to protect the consumer, but they set in motion the process which brought us to the position of debating a bill which has no merits.

Suddenly, after the bill had already died a couple of what would eventually become many deaths, the administration entered the picture in a big way. Secretary Schlesinger began a series of visits to the hill. The President seemed to re-

verse his stand on deregulation. Schlesinger told reporters that the White House would accept deregulation and prices of $2. His statements made the front page of the New York Times. They also made a mockery of the conference leader's efforts to hold the line against the deregulation forces. These combined with a heavy barrage of administration accusations that the conferees were holding up the entire energy package—a package whose integrity would be lost without this one component—according to the administration. It was the beginning of the end.

In the meantime, our distinguished and very able colleague from Louisiana, Mr. RUSSELL LONG, whose knowledge of the oil and gas industry is exceeded only by his knowledge of politics, was sitting on what the President had proclaimed to be the "centerpiece" of the energy plan. Perhaps you remember the crude oil equalization tax? This "centerpiece" was largely ignored by the press, which was intent on reporting the refusal of the gas conferees to move toward a compromise. The Finance Committee escaped the accusations that were heaped on the gas conferees—whose main crime at that point seemed to be that they were holding fast for a consistent national gas policy.

No, the distinguished and amiable Mr. LONG went about his business, free from the intense and constant pressure to "get a bill," "get a bill," any bill—this of course meant an industry bill, because the industry, unlike the administration, was prepared to accept no bill rather than one which did not reach their price objectives.

No, RUSSELL LONG sat tight. As a result, we are not in here today discussing a crude oil equalization tax, with the Secretary telling the country and the world that the value of the dollar depends on it; oil import reduction depends on it; and Western civilization as we know it depends on it. The President's energy program lost its centerpiece long ago, with no fanfare and no ill effects for the Western World as we know it. So we're here discussing natural gas price deregulation, as if the value of the dollar and Western civilization depends on that.

In the meantime, as the likelihood of a crude oil tax bill faded from sight, the administration pursued a gas bill with more and more zeal. The small group of conferees continued to meet privately, conducting negotiations over every item of the legislation, away from the public eye. They did not have to contend with the obstructive presence of those conferees who were committed to a new gas policy that would actually treat all new gas alike, and insure that gas users paid no more than a reasonable price.

Even without these individuals to cause trouble, the ad hoc conferees had rough sledding.

Each time the producer demands would seem to have gone too far, Secretary Schlesinger would appear. He would pull a few rabbits out of his hat, make a few veiled threats, find another principle to sacrifice to the great god of gas revenues. When the talk faltered, Schlesinger was there to help clothe a special price increase in regulatory language, or to draw subtle and arbitrary distinctions between "too much" and "too much." The bill's complexities come largely from this procedure, so will big fees for fancy lawyers that will argue interpretations and definitions if this bill passes. What the ad hoc conferees could not agree on, they left ambiguous, to avoid confronting any contradictions that threatened their unholy alliance.

From time to time, I got reports on what went on in the secret sessions. The group dwelled with loving concern on the situation of the gas producer. A typical problem might be one where a producer buys a lease which had previously been owned by another lessor. An old nonproducing well stands on that lease. Is not it necessary to give any gas flowing from that well the new gas price, since otherwise you would be forcing the individual to drill an unnecessary new well just to get more money for the gas, when it would be cheaper and more efficient for him to go through the old well?

Now if that level of concern and detail were lavished on the consumer, perhaps people would become interested in Government again. Let us take a family living in a good-sized uninsulated house in South Dakota with an income of $9,000 per year (which is a decent income for South Dakota), two children, and a gas furnace. That family's heating bill went from $38 during a bad month two winters ago to $68 for a bad month last winter, and every hope that family had of buying a new, more efficient furnace, or installing insulation disappeared as the utility bill ate away a larger and larger share of the household budget every month. Should not we write in a provision to take care of that householder, as we write in a provision to take care of the businessman with his old well on a new lease? Believe me, the question never even comes up.

Between Christmas and May 4 of this year, the official conferees did not meet in public. And I assure you that if the conference had continued to meet in public, we would not be here discussing this messy deregulation proposal. Open meetings, covered by the press, would have let the public know too much about how it was being sold out.

By meeting secretly, Schlesinger and the others hoped to avoid challenges by the public or "troublesome" members of Congress or the press. Public criticism was muted by the administration's portrayal of the situation as a struggle for supremacy between an obstinate Congress and the President, rather than as a struggle by certain interests in Congress to preserve some shred of the President's program. They expected to emerge with their verbal accord all sewn up like a well-tailored suit with the tucks, and pockets and the smooth rich lining carefully hidden inside.

Drafting the details of a new natural gas bill in private meetings may have made the job look easier, but there are costs to working in secret..

It almost worked. The headlines of the papers said "Carter wins victory on gas accord." Then people involved in the agreement found that the suit, with all its details, did not quite fit. It was not quite big enough. By then it was summer. The bill seemed to die another death, but the administration resurrected it yet again. They managed to find room for a few billion dollars worth of alterations here and there, and a couple of patches for holes in other garments, and finally they got a majority of signers on the conference report.

Of course, it was more like an old-fashioned horse trade worked out in smoke-filled rooms, accommodating the particular needs of the participants, with the President's man sitting in, than a recognizable national policy. But a little twisted imagery can make anything into shinning public policy if you try hard.

But even after the bare majority of signatures was obtained, the report faced more ups and downs. A Department of Energy analysis prepared by the Energy Information Administration indicated that the conferees had worked out an incremental pricing provision which reversed the intention of the House and Senate to protect residential gas consumers from the effects of the new high prices established by legislation. The administration's own shop went on to tell us that marketed natural gas production would decline by about 1.5 trillion cubic feet below present levels if the compromise were to become law—despite price hikes which add up to at least $30 billion over the next 7 years.

The official analysis also estimated that as a result of the legislation, oil imports might decline by 300,000 barrels per day. But none of these figures seemed to justify passing a $30 to $40 billion transfer of income from consumers to oil companies, so the administration does not use them. Secretary Schlesinger has his own private numbers, which he uses to show that the natural gas compromise will do just about everything the administration ever claimed the entire energy package would do. In particular, of course, it is supposed to lower imports by 500,000 barrels a day immediately and by a full million barrels by 1985—with a $5 billion (or sometimes Schlesinger says $6 billion, or $7 billion, or $8 billion, depending on the day of the week—savings on the balance of payments deficit, compared to the paltry $1.6 billion associated with the Department of Energy original estimate.

If the truth were acknowledged, the Carter energy plan was lost long ago: the Senate rejected most of the original utility rate reform proposal; it slipped a catch-all exemption into the coal conversion bill, and it agreed in May to deregulate the price of natural gas. What Congress has before it is a very different animal, and not basically different from the National Energy Policy that is in place right now.

What the compromise really does of course is confuse everyone. However, certain provisions are not confusing:

The bill sets a "protective" new gas ceiling price higher than the average price now being paid in the unregulated intrastate market—$2 per mcf as opposed to an unregulated average price of about $1.83 per mcf. This discrepancy is even greater than it appears, since the price of gas in the unregulated market

includes State taxes of around 7.5 percent, and the price established by the compromise is a wellhead price that does not include the tax.

The bill deregulates four categories of gas one year after enactment.

As of January 1, 1978, it eliminates the ceiling on all "new" gas and classifies old gas as new gas.

It establishes at least 17 different categories of gas, each subject to different regulatory treatment.

It treats old gas as "new" gas when it comes from:

State-owned lands;

"Special" wells deeper than 5,000 feet;

"Special" wells shallower than 5,000 feet (2 years later);

Certain contracts that exceed $1.00/mcf in 1984;

Coal mines;

Offshore gas discovered since July 1976; and

"Noncommercial" properties (which produced in small quantities before 1977).

It gives the Federal Energy Regulatory Commission (FERC) authority to OK prices in excess of interim ceiling prices where "necessary."

It pushes the price for gas from old wells producing less than 60 mcf/day in 1977 up to $2.09 to start with.

It effectively forbids emergency allocation of intrastate gas by the President.

It relies on "exempt" sales of gas outside the regulatory structure to take care of emergency shortages.

It maintains two gas markets by exempting intrastate consumers from the incremental pricing structure.

It creates incremental pricing that charges a disproportionately higher share of new price increases to residential consumers and a lower share to industrial users (the reverse of the House and Senate intent).

It eliminates the requirement of "prudent operation" of wells by gas sellers, which opens the door for them to manipulate the rate of production.

It understates the real new gas price. Costs of gathering, treating, and compressing gas will be added to the initial wellhead price, rather than included in, as is currently the case.

That is what the compromise does. But what would a continuation of the status quo do? It is not a panacea; it is not even the ideal gas policy. But I hope that we are beginning to be somewhat suspicious of panaceas at this point, and arrogant claims at this point.

The Natural Gas Act and the Federal Energy Regulatory Commission have been operating well recently.

The existing policy was well drafted; the regulations written under it are flexible and increasingly well tested. Under a tough and capable Commission like the one we have got now, it can accomplish at least as much as the compromise and maybe more. And I believe it can do this at less cost, with less uncertainty, and with less damage to the concept of government itself than the proposed compromise.

The current FERC has already shown itself to be far better at its job than any commission of the past decade. So let us look at where we would be without any new legislation. First, we do not need the compromise to end the shortage of gas that appeared in the interstate market in the 1970's. Under the current policy, the latest cost-based price has resulted in the highest drilling rate the Nation has seen. Drilling rigs are put to work as fast as they come off the assembly line. More gas was added to our reserves last year than in any year of the past decade. Three times the 1975 discoveries went into the interstate market that year. This drilling rate may slow the rate of decline in our supply of domestic gas, but even then it will not reverse it. That is why economists have rejected deregulation time and time again.

Producing states are overflowing with gas supplies, and independent producers have stated their readiness to sell gas at the current regulated price of $1.45—unless Congress offers them more with this gold-plated compromise.

Most future gas discoveries are expected to come from offshore where, by law, all gas must go to interstate users at regulated prices. And if higher prices are ever called for, FERC has the power to raise prices as high as necessary to attract new gas supplies. The only condition is that the price increase actually must result in increased gas.

If no legislation affecting gas pricing is passed by this Congress, FERC would proceed to set a new national ceiling price in the following manner:

FERC would institute a "national area rate proceeding" in which all interested parties would submit data—including gas producers, distribution companies, utilities, and so forth, and also including the Secretary of Energy if he wished.

The Commissioners would then examine that testimony in light of their own calculations of costs of production, which would be based on the method applied in the proceeding of November 1976 which yielded the $1.45 rate for new contracts and 93¢ for 1975 biennium gas. This was known as opinion 770A.

The FERC rate, once decided, could be appealed by any of the intervening parties, first to the commission itself, and then to the courts. Although both producers and consumers appealed opinion 770, the new price went into effective immediately, and was upheld by the court the following summer.

FERC operating under the current law as embodied in the Natural Gas Act would continue to use actual costs of production as the basis for any new ceiling price.

Some observers speculate that the methodology of 770A could yield a current "cost-based" price of $1.90 per mcf. However, the new national area rate would apply only to new contracts entered into after the decision, so the actual cost to consumers would differ greatly from a similar price set by legislation which extends the definition of "new" gas and lifts ceiling prices for all old gas as well.

In addition, it is critical to point out that the law does not require that the price set by the FERC be cost-based, except that, in the absence of full cost justification, the FERC must show the tangible benefits to consumers. This is the "end result test" established in FPC against Hope Natural Gas Co. In that case the court stipulated that if the FPC wanted to offer "incentive" prices above the actual cost plus a fair rate of return, it had to show that more gas would in fact result, and had to establish a basis for the level of "incentive." A number of other court cases make the same judgment.

Further, FERC has established several circumstances in which gas can be sold to interstate purchasers above the cost-based rate. These include small producer rates, emergency purchase exceptions, and direct purchase exceptions.

Nothing prevents FERC setting the rates at whatever level is necessary actually to elicit new supply, a price which could, in theory, equal the intrastate price.

Certain options are available to interstate users who have had problems obtaining gas under the regulated rates.

Industrial users suffering from unemployment, or otherwise qualifying as "essential industries" have the right to purchase gas directly from producers at unregulated prices.

Interstate pipelines suffering curtailment of any priority customers can purchase gas from intrastate pipelines at unregulated prices, and the FPC has the authority to set compensation rates, including amounts to adjust for the higher cost of replacement gas (gas purchase adjustment clauses), for 60 days. The FPC has been granting such purchases and extending them for an additional 60 wherever necessary. The average price of gas sold on 60-day certificates in 1976 was $1.21 mcf.

Limited term certification by the FERC has also allowed interstate users to buy gas on short-term contracts at rates above the national ceiling. In 1976 the average limited term price was 60 percent higher than the average interstate price.

Now, Mr. President, it so happens that the industry has never succeeded in demonstrating that any price beyond a cost-based price would bring on more supplies than would result from a cost-based price. Only legislation which abandons the "just and reasonable" standard for setting a gas price can provide a price higher than necessary to gas producers. That explains the proposed compromise which gives the producers higher prices and gets nothing in return.

To continue, the compromise bill will not help reduce our energy consumption. It will not reduce our oil imports. It could increase them. And since it will not reduce our oil imports appreciably, it will have no significant impact on our balance of payments deficit.

Under current policy, manufacturing industries are gradually reducing their dependency on gas. In 1972, natural gas was 38 percent of all energy consumed. By 1977, it was only 30 percent, with the entire reduction coming from manufacturing.

Under the compromise, industries in the interstate market report that they will not conserve. Instead, they will convert to oil because of abrupt and discriminatory price increases flowing from the incremental pricing provision. One State utility commissioner calls the compromise "an industrial gas conversion bill and an incentive for jobs to move from consuming to producing States." Replacing gas with oil will add to our imports and our balance-of-payments problems.

The authors of this compromise may have invested so much time and ego in this bill that they can no longer perceive the potential benefits of the existing law. President Carter and the Energy Committee leadership may be stuck in the position of throwing good money after bad. We are not so constrained. For the rest of the Congress to assume that the FERC will not act to carry out its responsibility is to assume that the public interest can never prevail, either in the legislative or in the regulatory arena. The current commission could, if given a chance, restore integrity to the regulatory process.

I will cite one example of FERC changes that will increase supply. In a recent decision, FERC instructed the major oil companies to begin selling all of their offshore production to interstate consumers. Until that decision, the big oil companies had reserved large quantities of interstate gas for use in their own plants at a time when communities across the United States were facing massive gas cut-offs.

There is no reason the FERC cannot call on its powers under the Natural Gas Act to create a smoothly functioning national market. No reason, unless Congress buries the Commission and the consumers—and the producers—under the massive burdens of the pending natural gas "compromise."

At a time when even legitimate regulation by Government is under attack as more costly, more time consuming, and more obstructive than it is valuable, passing a piece of legislation which creates innumerable rules based on no consistent principle is worse than self-defeating. It undermines the support for future Government actions which may be necessary and worthwhile, but will fall victim to the criticisms which will inevitably be raised against the regulations adopted to implement this bill. It has occurred to me that the major oil companies support the compromise first because they have sunk costs in their legal staffs, and second, because they figure if you give the Federal Government enough red tape, it will hang itself.

Our current policy is to allow energy use to be determined largely by the market. Large increases in energy prices have been moderated somewhat by Government controls, but the price of energy to consumers has still risen more in the United States than in any other major industrial countries. These high prices have already established an incentive for millions of energy users—residential and industrial—to cut back on their consumption. What is needed now is not Government-imposed price increases, but time. Time for people and businesses to make an adjustment to these new pricing levels without experiencing serious economic dislocation or hardship, as is likely for many of the 40 million families that use natural gas to heat their homes if we adopt this compromise.

Mr. President, I wish at this point to read an excellent analysis of our existing energy policy and how it operates.

ANALYSIS

HOW CURRENT REGULATORY POLICY OPERATES

Natural gas accounts for about 26 percent of the total energy consumed in the United States, with petroleum providing 48 percent, and coal 18 percent. Hydroelectric and nuclear power provide the remaining 7 percent. Between 1972 and 1977, natural gas consumption fell by about 7 percent, with all of the decrease coming from the manufacturing sector.

The natural gas industry has three major sectors:

The production market is the market for gas at the wellhead. Producers of natural gas search out and develop natural gas reserves and then contract with a pipeline company to deliver gas to the company over a set time period. While the discovery of gas has historically been a by-product of the search for oil, refinements in geological techniques have made it possible to explore and develop separate gas and oil prospects. Twenty-five oil companies supply about 80 percent of the natural gas purchased by pipelines in the U.S.

The pipeline companies, which link the production and distribution markets, do not act as common carriers. Instead, they purchase gas in the field from producers (at "wellhead" prices), transport it to markets and sell it either to distribution companies for resale, or directly to industrial customers. The largest 12 pipeline companies control about 70 percent of the total sales revenues.

Natural gas pipelines require a large investment in plant relative to short-term revenues. During the 20-year period from 1950–70, pipeline companies invested an average $1 billion in annual plant additions. Borrowed money is an important source of capital for pipelines, and often represents as much as 75 percent of externally-generated capital. The success of this method of financing is clear from the substantial growth, consistent dividends, and strong earnings of the industry. Between 1965 and 1975, return on net investment increased from 6.6 percent to 10 percent. Natural gas pipelines have consistently had higher earnings than other utilities.

The distribution market is composed of distribution companies, usually local public utilities, which sell gas to residential, commercial and industrial consumers. The West South Central states, which include Texas and Louisiana, consume about 300 mcf of gas per capita, compared to the national average of about 90 mcf, and 20 mcf for New England. Consumption by industries accounts for about 80 percent of the total usage in producing states.

Approximately 60 percent of all natural gas in the U.S. is subject to Federal Energy Regulatory Commission (FERC) regulation, which began in 1938 and was expanded in 1954. The price of "new" natural gas sold in interstate commerce is currently about $1.50 per thousand cubic feet (mcf). Intrastate gas is not subject to regulation; and, consequently, its price has been higher than the price of regulated interstate gas (intrastate natural gas is currently selling at between $1.50 and $2 per mcf). Ever since 1954, the major oil companies have sought to remove price controls from all natural gas.

Increasing demand

Natural gas was not widely used and marketed until after World War II, at which time it gained in popularity because it could be delivered to homes via pipeline, its cost was low, it burned cleanly, and its heating value was high. It became the preferred residential and commercial fuel and also found many industrial applications. This demand led to the construction of interstate pipelines, which required large sums of money. In order to sell interstate, a producer had to guarantee 20 years of gas delivery, which gave financial institutions a basis on which to make long-term investment plans.

FPC REGULATION

Background

The controversy over natural gas producer price regulation began soon after passage of the 1938 Natural Gas Act, a statute that gave the FPC jurisdiction over interstate pipeline transportation of natural gas and sales by pipeline companies to local distributors. However, the act did not regulate the sales of gas to pipelines by producers or sales by local distributors to ultimate consumers. The Act required that the FPC set "just and reasonable" rates for gas without specifying any formula.

In 1954, the United States Supreme Court ruled (in Phillips Petroleum Co. v. Wisconsin) that the 1938 Act had intended the FPC to regulate wholesale gas prices, thus giving the Commission authority to fix ceilings on the first sale prices of gas in interstate commerce. In this decision, the Court stressed that the "primary aim" of the Natural Gas Act was "protection of consumers against exploitation at the hands of the natural gas companies."

In the 1960's, the FPC began to set ceiling prices based on the cost of producing gas in various geographical areas. The rates guaranteed producers would recoup all costs and make a rate of return on investment comparable to other industries. Although producers opposed the area rates and the principles used to shape them, they continued to sell interstate pipelines all the gas they needed through the 1960's. In 1969, however, after an unsuccessful suit against the area rate, gas producers began to revise down their estimates of reserves.

In 1969, the FPC under a new chairman appointed by Richard Nixon, decided to make substantial new rate increases to encourage the industry to produce more gas. In addition, various alternative pricing procedures offered exemptions from the FPC ceiling. New commitments under area rates declined sharply. From 1971 to 1976, gas sold under area rates decreased from 52% to 18% of new commitments. The special pricing rules have constituted administrative deregulation, and account for the inordinate 400% rise in average prices between 1970 and 1976. The major changes in FPC regulatory policy are described below:

Rulemaking

In 1970, the FPC adopted a rulemaking procedure in place of the previous adversary proceeding. In setting prices by rule making (instead of the customary policy of trial-type hearings which take three or four years to resolve) the FPC solicits written statements from all parties, make its own inquiries, and then decides without permitting cross-examination or discovery of new evidence.

Emergency exemption

Under the emergency sales exemption, producers could sell gas to interstate consumers without regard to any protective ceiling price. In originating the procedure in 1970, the FPC placed a 60-day limit on such sales, which increased to 180 days for the winter of

1973–74. The 180-day emergency order was stayed by the U.S. Court of Appeals on December 10, 1973, pursuant to a motion by consumer organizations. The stay was vacated by the Supreme Court on December 20, 1973. The 180-day option expired in March 1974.

Under the 60-day emergency sales, natural gas dedicated in 1976 was selling at an average price of $1.25/mcf.

Limited term certificates

Under a 1972 policy of limited term certificates, producers could earmark short term supplies to the interstate market at higher than the prevailing area rates. Under the area rate concept, producers were required to contract for long periods (usually 20 years), and they could not remove their gas from interstate commerce even after contracts expired, unless they got the FPC's permission. Under limited term pricing, the producers could get price increases more frequently and could switch their gas to the intrastate market upon expiration of a contract.

Of all the FPC's new pricing concepts, limited term certificates is the only procedure not brought under litigation. For that reason and the flexibility of committing gas to the interstate system for only brief periods, producers consider it the most attractive of the FPC's deregulation options.

Natural gas that has been dedicated to interstate commerce through limited term certificates has been selling at approximately 44¢ more than the average for all interstate gas in 1977—approximately $1.21 per mcf.

Optional pricing

Under an optional pricing procedure adopted in 1973, producers and pipelines could agree to higher than area rates for long-term supplies of new gas, provided they convinced the FPC that the higher rates were needed to draw gas away from long-term intrastate contracts, that producer costs merited the increase, and that the rate did not exceed those for other sources of supply (such as oil or gas from non-conventional sources).

The Commission in 1976 authorized two sales under this procedure, one for $1.44 per mcf, and one for $1.52 per mcf. Seven more cases are pending, with prices of about $2.95 per mcf.

Small producers

Prices charged by small producers (those selling fewer than 10 billion cubic feet of gas a year) were deregulated in 1971. This procedure was overturned by the U.S. Court of Appeals (Texaco v. FPC), and as of July 7, 1976, small producers were subjected by the FERC to a maximum rate somewhat higher than the national area rate.

Emergency Natural Gas Act

Legislation passed in February of 1977 allowed pipelines and industries threatened with shortages to bid for gas from intrastate producers at unregulated rates. Although this particular authority has expired, in effect it did not differ from the 60-day emergency pricing procedure.

Other rulings

The FPC offered special incentives in south Louisiana and the Gulf Coast to producers dedicating gas to the interstate market. Those incentives include the tying of future price escalations to the attainment of the industry-wide interstate dedication goal and the forgiving of previously ordered refund obligations in proportion to interstate dedications.

The FERC allows regulated pipeline rates to include research and development costs, and briefly allowed advance payments to producers for exploration and development.

HOW FERC WOULD SET THE PRICE OF NATURAL GAS IF NO BILL IS PASSED

FERC would institute a "national area rate proceeding" in which all interested parties would submit data—including gas producers, distribution companies, utilities, etc., and also including the Secretary of Energy if he wished.

The Commissioners would then examine that testimony in light of their own calculations of costs of production, which would be based on the method applied in the proceeding of November 1976 which yielded the $1.45 rate for new contracts and a 93¢ rate for 1974–75 vintage gas (known as Opinion 770A).

The FERC rate, once decided, could be appealed by any of the intervening parties, first to the Commission itself, and then to the courts. When both producers and consumers appealed Opinion 770, the new price went into effect immediately, and was upheld by the Court the following summer.

FERC operating under the current law as embodied in the Natural Gas Act would continue to use actual costs of production as the basis for any new ceiling price.

Some observers speculate that the methodology of 770A could yield a current "cost-based" price of $2.00 per mcf. However, the new national area rate would apply *only* to new contracts entered into after the decision, so the actual cost to consumers would differ greatly from a similar price set by legislation which extends the definition of "new" gas and lifts ceiling prices for old gas as well.

In addition, it is critical to point out that the law does not require that the price set by the FERC be cost-based, except that in the absence of full cost justification, the FERC must show the tangible benefits to consumers. This is the "end result test" established in FPC v Hope Natural Gas Company, in which the Court stipulated that if the FPC wanted to offer "incentive" prices above the actual cost plus a fair rate of return, it had to show that more gas would actually result, and had to establish a basis for the level of "incentive." A number of other courts cases make the same judgment.

In addition, FERC has established several circumstances in which gas can be sold to interstate purchasers above the cost-based rate. These include small producer rates, emergency purchase exceptions, direct purchase exceptions (as detailed below).

Nothing prevents FERC setting the rates at whatever level is necessary actually to elicit new supply, a price which could in theory, equal the intrastate price.

Mr. President, after listening to part of the majority leader's speech, he was doing nothing more than repeating arguments that I have heard over several months by supporters of this monstrosity legislation.

First of all, we heard that this compromise report, or this natural gas conference report, would increase production of natural gas. That was the argument by Schlesinger, by Carter, and other supporters.

When that was disproved, when it was discovered and learned that it would not get one more drip of natural gas out of the ground, then they turned to other arguments. For example, at some point during the debate they said it would decrease oil imports.

The President said last year when he was on our side, before he switched sides the second time, that this bill, this deregulation would not decrease oil imports one bit. In fact, with the increase in price of natural gas what it really will do is it will make people switch over to residual fuel oil instead of natural gas and increase the use of oil, half of which is being imported into this country.

Then the third argument that they came up with is that it would strengthen the dollar.

As Senator RUSSELL LONG said, and we have repeated a number of times, you cannot take any empty piece of paper, write "Energy Plan" on it and expect to fool international finance people, people who deal in changing money for a living.

So the last argument that they used, and they have been using this quite heavily, along with another argument, they have been saying, "Well, if you cannot buy any of the other arguments what you can do is vote for the bill because it will increase the confidence in the President. The President is low in the polls. He needs his confidence increased."

Now that he has taken care of the Palestinian problem I submit that we do not need to increase his confidence by raising the price of natural gas because that is all that remains in this bill. There is nothing in it that will increase production and save the dollar. It will not do anything more for the President's poll figures.

The only thing that remains in it now is high prices for the American public.

Second, the thing I wish to say about it, Mr. President, is that the majority leader has argued that we should not vote for recommittal of this bill because that would kill it; what we should do is vote up and down instead, and he has presented a strange kind of catch-22 situation.

What that amounts to is that you should not vote against recommittal because that may kill it due to the perfidy of the conferees. That is what he is saying. But you should vote up and down on it and then once we get around to that, if we lose this, he is going to say, "Do not vote against it because that will kill the bill."

We have heard just about every conceivable argument that they can come up with.

I simply urge my colleagues to vote for the motion to recommit. It is the only way to get a decent gas bill out this year.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Mr. President, I yield 3 minutes to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I ask unanimous consent that Sally Rogers of Senator THURMOND's staff and Deming Cowles of Senator GRAVEL's staff be accorded the privilege of the floor during consideration and votes on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, the Congress has been considering energy legislation for nearly 18 months. The natural gas pricing initiatives proposed by the administration in April of 1977 were misdirected, and unfortunately the conference report pending before the Senate is unworkable.

Mr. President, I have listened to the debate on the natural gas pricing conference report. The Senator from Kansas is concerned that this Congress adopt

legislation that is in the best interest of the United States. However, in good conscience, I cannot support this conference report.

CONSUMERS HURT

Mr. President, the conference report, if adopted into law, will cause economic hardship on the American consumer. It will cause more inflation at a time when prices are soaring at double-digit levels.

The Department of Energy calculates that over the next 6 years, consumers will pay producers $29 billion more than if the present system of natural gas pricing remains in effect. Consumer groups estimate that the increased costs will be even higher—from $35 to $50 billion. No one really knows how costly the bill will become.

The natural gas conference report particularly hurts residential users of gas. Unlike the Senate-passed gas bill, the pricing mechanism in the conference report will sharply increase the price of gas to residential consumers, because most residences are unable to convert to alternative fuels, the American working man can expect higher and higher utility bills. Naturally, the poor and the elderly will be the hardest hit.

Mr. President, the conference report is an administrative nightmare. The complicated pricing system will be an administrative monstrosity. The Director of Enforcement for the Federal Energy Regulatory Commission calls the measure "complex, ambiguous and contradictory," and "impossible to administer conscientiously." The report defines more than 20 categories of gas. FERC will have to approve and monitor separate pricing systems for each type of gas. FERC now has a backlog of 15,000 filings awaiting action. Major oil companies have recently defended their violations of the 1973–74 oil pricing regulations with the excuse that the regulations were too complex to understand. How will the companies respond when faced with the tangled system that the report would establish?

In its last-ditch effort to coerce a majority of conferees to sign the conference report, the administration claimed that the legislation was urgently needed to reverse the slide of the dollar. If the legislation has any effect at all, it will have nothing more than a fleeting psychological effect on the dollar.

We must decide to vote on the gas bill based on its merits, not based on pressure from abroad.

One of the major sources of weakness in the dollar is the weakening expectation about inflation. Indeed, the dollar remains weak even though there have been reports that the trade deficit has peaked and will decline in 1979.

Mr. President, the natural gas price bill is all that is left of the administration's national energy plan. The centerpiece of the plan—the crude oil equalization tax—is on the critical list and is not likely to be revived.

Mr. President, because Kansas is a producing State, I am naturally concerned that the bill spreads Federal controls into the intrastate market. Extension of Federal control to an unregulated and free market is simply bad policy, and, in fact, will not result in any new incentives for gas discovery.

Mr. President, the conference report is controversial. The administration has lobbied hard. However, in the final analysis the costs of this bill outweigh its benefits.

Mr. President, I think the distinguished Senator from South Dakota has just more or less summarized what many of us consider to be the flaws in this legislation.

This is not a gas policy measure. There is no additional gas to be produced. It is more regulation, more bureaucracy, but no more natural gas to be produced, and it does not reduce imports.

That is the same argument the administration made on the crude oil equalization tax and the same argument the administration made on the so-called import fees: Somehow we are going to reduce oil imports by passing various pieces of legislation.

The Senator from Kansas will only say this: A year ago we were told, in fact over a year ago, that the centerpiece of the administration's energy plan was the crude oil equalization tax. That measure passed the House of Representatives. It was not passed by the Senate. In fact it was offered as an amendment and defeated by a margin of about 5 to 1.

As a matter of strategy and public relations when it was obvious that the crude oil equalization tax was dead the administration shifted then to the centerpiece being the so-called Gas Pricing Act.

I suggest that this does not produce any additional gas. It produces a lot more regulation, a lot of gas in this Chamber, but it does not do anything for the American consumer.

It has been pointed out that we are talking about millions and billions of dollars. There is no incentive for producers. Kansas produces some natural gas. I have not seen any great support for this measure from my small producers in Kansas or any support from consumers.

I suggest that this is a desperate effort to give the administration some credibility in the energy area. All they need to do is send us an energy bill, not a tax bill, or not a bill for more regulation. Then I think Congress would respond and I do not say that in criticism of anyone in the Senate. I applaud all the conferees who worked many, many hours on this so-called compromise, but it is not a compromise. It is not a policy measure. It is a regulatory measure that brings more regulation and higher costs to the American consumer and more regulation to the producer.

I thank the distinguished Senator from Ohio for yielding. I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Mr. President, I yield 5 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the Senate is approaching a critical vote which may bring to a close one of the most protracted and closely contested debates of this century. More than any other issue in recent memory, the natural gas portion of the national energy plan has been honed down over months and months of work to a compromise so carefully crafted, so narrowly precise, and so fragile that it has been difficult for many Senators to stand firmly and resolutely on the ground that remained.

However, the President has called upon us to vote for the compromise to help bolster the dollar. Some of my colleagues have called for passage of this bill as the only alternative available—an imperfect document, to be sure, they say, but the best we can achieve. Others see this bill as so deeply flawed that it constitutes an outrage, either because it does not deregulate completely or because it does not maintain today's prices.

But slowly and reluctantly, Senators have begun to take sides. I want to make clear that I respect the work of my colleagues on the Energy Committee who labored with such patience to bring a bill back to this Chamber. They deserve our thanks. And I respect the arguments the President has made and the intensity with which he has pressed his case. His concern about our international fiscal situation is very deeply held. He has commitments to leaders of other countries, which he intends to honor, and the legislation before us presents him, he believes, with that opportunity.

Yet, when the dust has settled, I feel confident about my intention to vote to recommit this conference report to the conferees with instructions to preserve those portions which establish the emergency powers of the President regarding natural gas supplies, but to eliminate those portions dealing with natural gas prices. In fact, I believe such a course of action is the only way to avoid years of litigation and uncertainty. Moreover, I am convinced, that this legislation will not have any substantial effect on the soundness of the dollar. Let me first discuss those two issues with you.

Let me start with the nature of the crisis. We have been told repeatedly that the decline of the dollar on the world money markets is directly related to the failure of Congress to enact the administration's energy plan and, in particular, the natural gas bill. I will accept, uncritically for the sake of argument, the proposition that the decline of the dollar is a very serious matter. What I want to examine here is the proposition that there is some connection between the behavior of the dollar on the world market and this natural gas bill.

The theory behind the dollar-natural gas connection runs something like this: Americans are energy gluttons, and our gluttony is protected by price controls on domestic oil and gas, which encourages consumption. Raising the price of gas will encourage conservation, reduce imports, and improve our balance of payments, causing confidence in the dollar to rise.

While it is true that America consumes a great deal of the world's energy, we may not understand that Americans have

been subjected to energy price increases as great or greater than those in the rest of the industrial world. The average price of energy has already gone up more than 200 percent since 1972. The average wholesale price of natural gas alone this past June was more than 300 percent higher than the 1972 average, according to the Bureau of Labor Statistics.

In New England, between 1970 and 1976 the price of residual oil increased 312 percent. Electricity went up 92 percent and showed the highest absolute increase—$6 per million Btu's. Natural gas went up 155 percent during this time, distillate oil 125 percent, and gasoline 80 percent. Thus, it makes no sense to claim that Americans have not been given any incentive to conserve and therefore, need another stiff price increase. In New England, we have already borne the full brunt of higher prices, and we have already made dramatic cutbacks in consumption.

Our Nation, as a whole, has not done badly in saving energy either. A recent study by the American Enterprise Institute indicates that our industrial energy conservation has exceeded that of any major industrial nation. In total conservation, we have outperformed all our major competitors except those in which industry accounts for a much larger portion of energy consumption.

But, it has been argued, we strated with much higher levels of consumption and it is time we pushed conservation even further by letting our energy costs rise to levels being paid by the rest of the world. This argument is a two-edged sword. Before we accept it, we ought to carefully examine the motives and interests of its proponents.

I wonder how many realize that in Japan the real price of oil is approaching the 1973, preembargo levels. What has happened is simple. The price of oil is set by OPEC in terms of dollars. As inflation has eroded the value of the dollar, the real cost of oil has fallen. But for those who purchase oil in currencies that have remained stable—such as the yen and the deutchmark—oil prices have declined dramatically. In fact, Germany and Japan are in danger of reentering the era of cheap oil.

But oil is not the only commodity traded in the world and the decline of the dollar has had a different effect in other markets. It has increased the value of American goods overseas. The Japanese or German consumer is now getting more for his money when he buys American goods. So, when Japanese Prime Minister Fukuda called for action to stabilize the dollar during his visit to Saudi Arabia last week, he was not expressing concern for our welfare, but for his country's trading position. His concern is not with our consumption of oil, but rather his country's consumption of American goods.

When we begin to examine the real causes of the decline of the dollar, we do not have to look very far before discovering inflation as a major culprit. I fail to understand, however, how inflation will be reduced by legislation which guarantees that the price of a major component of the GNP inflator—natural gas—will increase at a rate as much as 4.2 percent higher than inflation. How can inflation be eased by a decision to increase prices faster than the rate of inflation?

Another argument heard frequently is that this legislation will help reduce energy consumption, thereby reducing imports. This bill may reduce natural gas consumption, but it will not reduce energy consumption.

If higher prices would prompt a shift from gas to coal, we would at least be using a domestic fuel. But under the incremental pricing provisions of this bill, the industrial price of natural gas rises to the switching point with heating oil as the alternative fuel. In fact, owing to the complexity of the legislation, the inevitable delays—which I will discuss later—and the possibility of curtailment, industrial users are likely to convert to oil well before the switching price is reached.

Rather than improve the dollar's soundness, this bill will have just the opposite effect. Oil imports will increase, causing further deficits in our balance-of-payments account—not the remedy one would prescribe to improve the value of the dollar.

Finally, if we think back to the days when the national energy plan was first proposed, and if we look at econometric models used to indicate the effect of higher prices on imports, we will find that the entire energy package—oil prices brought to world level by means of taxation plus the natural gas bill—was never expected to reduce imports by more than 500,000 barrels per day. The crude oil tax, which would have accounted for most of that very small savings, is dead, as we all know. What we are left with is, at best, ragged, inconclusive evidence that the natural gas bill would have any effect on imports or improve the value of the dollar.

In truth, what has happened is that when the standby gas tax collapsed and the oil tax collapsed, natural gas became the only symbolic gesture left to indicate to the world our seriousness about energy. For that reason, all international arguments left over from gasoline and oil have been brought to bear on the most unlikely subject of all, natural gas.

Proponents now stake their claim on a symbolic gesture. Like "business confidence" in this country, "international confidence" in the dollar is as much shadow as substance, and does, momentarily, respond to gesture as much as to reality. Yet, the symbolic gesture is a gesture of our own creation and a poor one at that.

In the end, we are dealing here with matters of pride and perception, not economic reality and national welfare.

Let me now turn to this legislation itself. A look at the bill tells us why so few defend it on its own merit. It is, in brief, a regulatory monstrosity. The costs of its enforcement will be enormous, both for the Government and in private legal expenses. For additional litigation, this bill is a lawyer's delight.

The natural gas bill creates 23 separate categories of natural gas, to give you an idea of its complexity, let me read just 4 of the 23 classifications.

New natural gas from a new well 2.5 miles from a marker well, a well which produced in commercial quantities between January 1, 1970, and April 20, 1977.

New natural gas from a new well 1,000 feet deeper than a marker well.

Special development incentive onshore gas from wells drilled after February 19, 1977, in an old reservoir within 2.5 miles of an existing well, if drilled to a depth less than 5,000 feet and not committed to interstate commerce.

Stripper gas from nonassociated wells producing 60 million cubic feet per day over 3 consecutive months.

The correct classification of each of these types of gas must come from reports made by the producers themselves. Yet, there is no way the Federal Energy Regulatory Commission can adequately review the determinations made by the producers regarding the correct classification of the 11,000 new gas wells completed in 1977 or the larger number of new wells which will be completed in 1978 and 1979.

The statute imposes an extremely short 45-day-period for the Commission to reach an interim judgment and a 120-day period for the final determination. If the Commission contests even a small number of determinations, producers will seek administrative and judicial review. Further delay will result. If the Commission does not contest these determinations, producers' classifications will be allowed to stand without examination.

From this one example, I see an infinite possibility for delay and confusion. The incremental pricing provision is another such example.

Industrial customers will be faced with uncertainty about the price they will have to pay. They first must wait until the complicated process of incrementally pricing the 23 types of gas by the FERC and the interstate pipelines is completed and then wait for the State regulatory commissions and State distribution systems. Industrial customers, for whom a secure source of supply and not price is frequently the issue, have expressed strong opposition to this provision precisely for this reason.

Moreover, the incremental pricing provision may accelerate the movement of industries using natural gas away from the northern industrial States to the producer States, which, under the provisions of the bill, do not have to incrementally price their gas. The Northern Indiana Public Service Co., which serves a half million customers in northern Indiana, estimates it will lose 24 percent of industrial load and could lose as much as 49 percent. The company's losses on the industrial side can only be made up by residential customers. Equally important, the company fears loss of industrial customers to producers.

In short, the bill will not work. It is simply too complicated. There are too many questions that will inevitably be subjected to the slow process of litigation. It leaves consumers and industrial users with no way to make reasonable predictions about their energy costs. It is

unenforceable. It requires too many decisions to be made on a well-by-well or reservoir-by-reservoir basis.

The bill creates a set of incentives that will produce not gas, but inefficiency. The economic rewards provided in this bill will not go to the firms that are most skilled in finding and producing new gas, but to those with the most skilled and well-connected legal counsel. Talent and energy that should go toward drilling holes in the ground will go toward drilling holes in this bill.

The way to make money under this bill is not by risking capital on new exploration. Rather, it is by finding ways of converting old gas reservoirs into higher-priced new gas reservoirs. If anyone doubts this, they should look at the rate at which "old crude" oil has become "new crude" oil, largely through the work of clever lawyers.

Last year, advocates of deregulation contended that higher prices for natural gas would produce greater supplies. I did not agree then and cited studies showing that complete decontrol would bring in only 5 or 6 percent more natural gas. Yet, proponents now claim that a bill with lower price incentives is needed to bring on greater production.

I want to remind Senators that the means of increasing production is already available in the form of the Federal Energy Regulatory Authority. Sufficient authority already exists to establish prices which will bring forth gas at a "just and reasonable" price and to vary that price according to conditions. The FERC has done so in numerous cases, most recently for Alaskan gas and geopressurized methane.

If, as many believe, significant supplies exist below 15,000 feet, we do not need this legislation to deregulate such gas and establish an incentive price. If gas in tight sands or in devonian shale or in pressurized brine costs more to produce and evidence exists that a higher price will bring forth additional supplies that, too, can be handled by FERC.

But the oil and gas producers want more than special incentives of this kind. The provisions of this bill will decontrol all gas eventually and insure that gas in conventional areas produced at conventional costs will receive unconventional prices.

This bill does not even give us the benefits of outright deregulation. It does not test the argument that new supplies would be available in a free market. Instead, the bizarre complexities of this bill will distort the oil industry's incentives. The safe and certain way to make money will be to move existing reserves into the higher priced categories, converting "old gas" into "new gas." Genuine exploration in conventional fields may cease altogether.

If some means could be found to give the benefits of a deregulated price to independent firms—to firms without ties to OPEC without the major oil company's long record of monopolistic practices—a strong case could be made that new supplies would appear. The independents in this country are the real wildcatters who will find the frontier oil and gas. But this legislation does not provide such incentives. Instead, it extends the benefits across-the-board, to the bold and the timid, to the wildcatter and the fatcatter alike.

And so, Mr. President, for these reasons I will vote to recommit the conference report. It is, indeed, time to come to terms with the natural gas issue, to put it to rest and get on with the remainder of the national energy plan. I know the temptation to accept this bill—to accept any bill—is strong. Perhaps we could be spared another exhausting exercise next year or thereafter. Perhaps we could tell the country that the Congress takes the energy crisis seriously. Our international partners could be reassured about our intention to conserve.

I wish the facts justified this course of action. I regret that an examination of the bill does not bear out these hopes. It is unfortunate that the legislation holds so little promise of bolstering the dollar or ending confusion and uncertainty about natural gas pricing. But the facts are otherwise and the proper course is clear. We have fought too many years to maintain the "just and reasonable" cost principle to give it up now. This is not a time to choose symbol over substance. It is time to rely on existing law and precedent, not plunge into the labyrinth of uncertainty which lies ahead.

And so, in summary, Mr. President, I join the Senators from Ohio and South Dakota, Senators METZENBAUM and ABOUREZK, in urging the recommittal of this legislation before the Senate.

The arguments have been made. They have been repeated here this afternoon. The impact of this legislation on the rate of inflation of the country, I believe, will be significant.

The case for an increase of production has failed as a convincing argument, both in the earlier part of this year, when we were arguing about higher prices in natural gas, and in the conference report itself.

I think from an administrative point of view it is an absolute monstrosity, Mr. President, with 23 classifications of gas. For example, here are two of the different classifications we are talking about.

Special development incentive onshore gas from wells drilled after February 19, 1977, in an old reservoir within 2.5 miles of an existing well, if drilled to a depth less than 5,000 feet and not committed in interstate commerce.

Second, stripper gas from nonassociated wells producing 60 mcf per day over 3 consecutive months.

The whole elaborate difficult procedure of appeals from judgments made on the basis of classifications like this means, I think, it is going to be unpredictable for producers and for the commercial and business enterprises in this country. I think basically it is unfair to the consumer.

Finally, Mr. President, I vote for the recommittal of this measure because I do believe it is possible to develop an alternative measure which can meet the criteria stated by the President as an objective for a legitimate energy policy.

I do not vote for recommittal as a matter of killing this legislation but in the firm belief that something better can be developed, and can be developed in the closing days of this Congress.

I think there have been presented here suggestions and recommendations of what those provisions ought to be. It seems to me that the wisest course, both from an energy point of view, from the consumer's point of view, from the economic point of view, and from industry's point of view, is to support the motion of the Senator from Ohio and the Senator from South Dakota.

I reserve the remainder of my time.

Mr. METZENBAUM. Mr. President, I yield 3 minutes to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I think I should address the procedural questions involved. Over the last several days we have been treated to long disquisitions concerning the cluttered state of the Senate's docket, and the great difficulties in coming to any agreement on natural gas. I think that neither of these factors is the relevant consideration.

As explained earlier, it is not going to be a question of hammering out a completely new bill upon recommital. The language in the sections to be included has been well specified, and these are sections which passed both the House and Senate conferees in a vote on June 12 by 14 to 0 among the Senate conferees, and by voice vote among the House conferees. Even one of those speaking up for the bill, the Senator from Montana, has correctly noted that these are not matters in controversy between the House and Senate.

In addition, we have now had the absolute assurance by the chairman of the committee and the chairman of the Senate conferees that if the motion to recommit is adopted he will uphold the position of the Senate. The only question which then remains is whether the House conferees and the administration would, in fact, try to make good on the threats currently being made.

Mr. President, it has been their argument that the country must have some type of an energy bill. It has been their argument that it will be impossible to get any action next year. And it is their argument that the worst thing that could happen would be to do nothing.

Under those circumstances, can you really believe that they would, simply out of spite, refuse to go along with reporting back good and useful provisions, on which there is virtually unanimous agreement? I do not find that to be a credible proposition.

Similarly, the spectre has been raised that some filibuster might be staged against the conference report as reported back. Again, this appears to me to be an idle threat. Those of us who support the motion to recommit are certainly not going to filibuster against that which we have wrought, and similarly those who oppose the motion to recommit are exactly the ones arguing that we must have some type of bill this year and that next year nothing can be done.

So, it appears to me that the question on the motion to recommit boils down

to the true merits of the bill. The bill does not represent an advance in natural gas policy. The motion to recommit is an effective means of salvaging from the bill those good and useful provisions on which there is little disagreement and to rescue them from their current captivity in the innards of the Rube Goldberg machine that the conferees have built.

The VICE PRESIDENT. Who yields time?

Mr. METZENBAUM. Mr. President, I yield myself the remainder of the time.

Mr. President and Members of the Senate, we have before us a bill today that everyone has agreed is not a good bill. The only argument that has been made for it is that it is the only bill in town. It is a C-minus bill. That somehow Helmut Schmidt and the Western European bankers are going to be concerned about what we do here today.

Nobody claims it is going to produce any more natural gas except some claim it will be an insignificant amount additional.

The cost to the American people for every 1,000 cubic feet additional gas, no matter whose figure you use, whether you use the figure of the most conservative figure or the highest figure, will be anywhere from 10 times to 40 times the amount we are paying for natural gas at the present time.

For every additional 1,000 cubic feet the consumer will pay anywhere from $16 per thousand per cubic feet to $60 per thousand cubic feet, and the present price in interstate commerce is $1.50.

Now, Mr. President, the argument has been made that we needed this bill to move gas from the intrastate market to the interstate market. That is possible under the motion to recommit with instructions. But the original basis of the administration's proposal was that there would be mandatory allocation, that we would give the President the right to move gas and go in and take it from the intrastate market and move it into the interstate market. As a matter of fact, it was stated that that was an irreducible minimum, that nothing less than that would be acceptable to some of those who finally wound up signing the conference committee report. But that is not in the legislation anymore, and there is no mandatory allocation.

The argument was made we were going to protect the residential user. But the fact is that although this Senate tried to protect the residential user, and the House tried to protect the residential user, when they got behind those closed doors and worked out this conference committee report, it was the residential user who was made to pay the additional cost for natural gas, and the industrial user is the one protected.

Then between industrial users in the Northeast and the Midwest, and those in the producing States, the consumer States as against the producer States, this bill did something special in those closed door meetings, when some of us who are members of the conference committee were not permitted to attend. This bill provided that the industrial users in the consuming States would be required to pay more than the industrial users in the producing States. What an incentive that provides! What an impact upon our economy to make it possible to move more and more industry from those parts of the country that are fighting for their very existence into those parts of the country that are today doing extremely well.

I say that we do not want to kill the bill but it would be better to have no bill than this bill.

We are proposing a positive alternative. We are proposing a bill that makes it possible, gives the President the authority that he needs, to move gas into priority users on an allocation basis, and it makes it possible for the Federal Energy Regulatory Commission to move surplus gas from the intrastate market to the interstate market under controlled conditions with respect to price.

We also accepted this morning an amendment having to do with the Alaska pipeline. This proposal that we make is a congressional alternative. It is a way of saying to the House, "Here is a measure that you can live with without having such a negative impact upon the American economy, without it being inflationary, without it making it more difficult for residential users."

The VICE PRESIDENT. The Senator's time has expired.

The Chair recognizes the Senator from Washington for 1 minute.

Mr. JACKSON. Mr. President, the issue is very simple. On the one hand we have before the Senate a bill, after 17 months, that gives us a program that will provide a saving, by 1985, of 1.5 million barrels of oil a day. The motion to recommit, Mr. President, offers the Senate a no-bill. All it does is provide for certain emergency relief, and then, Mr. President, as an afterthought—it was not even in their program—they discovered that Alaska gas was needed. Now they have amended it—amended it after a bill.

But after 17 months, they come in with a no-bill. I would have greater respect for a motion to recommit that offered a comprehensive program to deal with the most urgent domestic problem that confronts this Nation.

As to the charge of secret meetings, we would not have had a Middle East settlement without some secrecy. And we would not have had a conference report on this bill without a chance to express our views quietly and effectively.

Mr. HEINZ. Mr. President, I rise in opposition to this motion to recommit. The fact is that this motion is simply a tactic to kill the bill. While this conference report is a compromise and is complicated and far from perfect, I am convinced that it would be a mistake to end up with no bill. While flawed, the conference report is the beginning of a national energy policy. To shelve the conference report is to defeat the prospect of any national energy policy now or for the future.

I have carefully examined the conference report compromise. And I share the sentiments of those who correctly observe that it means an unnecessarily complicated regulatory framework. The people of this country want less Government redtape, not more, and this argument weighs against the bill.

But the gas consumers in this country, particularly the residential consumers, small businesses, and others from my State of Pennsylvania, want two protections above all from any natural gas legislation. First, they want their supply protected. Second, they want their pocketbooks protected against rising utility bills.

The past two winters have amply demonstrated to Pennsylvania's residential, commercial, and industrial consumers the need for an adequate, reliable supply of gas. Curtailments and interruptions of supply have been tremendously costly in terms of layoffs, plant shutdowns and school and business closings. This compromise will help forestall the recurrence of such disasters by providing incentives for increased supplies of gas and insuring that they will be available to consuming States. Moreover, it will alleviate immediate supply problems by allowing interstate pipelines access to the current surplus of intrastate gas.

Estimates of the additional gas the bill will make available in 1985 range from 0.7 to 5.0 trillion cubic feet, not including the additional supplies the Alaska gas pipeline will bring on line. In addition, by bringing interstate and intrastate prices more in line, the compromise will insure that supplies of gas currently being held in producing States will flow into interstate pipelines to consuming States like Pennsylvania.

In addition to increasing supplies, the compromise will protect residential and commercial consumers from excessive price increases. The bill does not deregulate currently flowing interstate gas, which is an important part of current residential supplies.

Moreover, the incremental pricing provisions of the bill make sure that the cost of new, more expensive gas will be passed on to industrial users, insulating consumers from the increased expense. The independent Energy Information Administration, for example, estimates that in 1985 residential prices under this compromise will be only 9 cents—per million Btu—greater than under current law. Natural gas will continue to be significantly less expensive than alternative forms of energy suitable for residential uses. I supported the incremental pricing provisions of the Pearson-Bentsen bill which the Senate passed last year, and I continue to believe strong incremental pricing language is necessary to protect residential consumers, particularly the elderly, from price increases.

It is important to remember, moreover, that failure to enact this legislation will mean failure to stimulate increased production of gas domestically and therefore an increased reliance on synthetic natural gas and imported LNG, both of which are far more expensive. Similarly, pipeline gas from either Mexico or Canada would cost far more than we would currently pay for existing intrastate gas supplies. It makes no sense to pay foreign producers more than we are willing to pay American producers.

The compromise will help insure not

only more domestic gas production but also that a higher volume of gas will flow through interstate pipelines. This will prevent a huge cost increase to consumers during the periods of shortage we have had and would in the future otherwise experience. Approximately 56 percent of a consumer's gas bill in the mid-Atlantic region is for transportation charges and other fixed costs. If less gas flows through the pipelines, the Federal Energy Regulatory Commission must concentrate those same fixed costs on a smaller volume of gas, thus increasing the cost per unit of gas.

As a result, reductions in volume have a tremendous impact on consumers' gas bills, even though they may be using no more gas. Therefore, we must protect consumer's pocketbooks by insuring an adequate supply of natural gas for the interstate pipelines on which Pennsylvania and other States depend. This compromise bill will do that by insuring increased suoplies from the intrastate market and new drilling.

Mr. President, the motion to recommit the bill with instructions to report back only its emergency provisions is simply not an adequate remedy for either my State's consumers or our Nation's energy problems. It would result in little or no increase in production. That is bad in itself. He is clearly not in our national interest to allow ourselves to maintain our dependence on imported energy supplies, especially when we can produce more domestically. Worse still, I think the recommittal would result in higher prices. If the recommittal motion were adopted, the existing relationship between intrastate and interstate markets would be maintained, a relationship heavily weighted in favor of keeping supplies in the producing States.

Nor would the emergency purchase provisions successfully deal with industrial supply problems, since industry's primary need is for certainty and reliability of supply, which the emergency program cannot provide.

The emergency provisions could also result in higher prices for residential and commercial consumers, since such purchases would not be protected by incremental pricing and the higher costs could be passed through directly to individual consumers.

Mr. President, this compromise conference report, as I said earlier, is not a perfect one. Of particular concern are the regulatory burden the bill could impose on producers and its failure to extend the incremental pricing provisions to intrastate industrial users. On balance, however, with respect to the critical questions of increasing supply and maintaining reasonable prices for consumers, this bill represents a distinct improvement over the recommital motion. While it may be that better legislation may be offered at another time, it would be an irresponsible act to sacrifice their compromise prematurely by recommitting it. I hope my colleagues will join in defeating this attempt by selfish special interests to forestall a reasonable first step toward a national energy policy.

● Mrs. HUMPHREY. Mr. President, there are very few issues which this Nation faces that are as critical as meeting our energy needs. Solving our energy problems must be one of our top priorities. We need an energy policy. We need responsible programs which stimulate production and increase conservation. We need to develop responsible programs which will reduce our dependency on foreign energy supplies. Unfortunately, this natural gas conference report would not accomplish those objectives and, in fact, may create as many problems as it purports to solve.

The only justification for increasing the price of natural gas is to increase its supply. None of us wants a natural gas shortage in the winter. But we should not compound the supply problem by charging residential consumers more for natural gas, when it is clear that there will not be a significant increase in the supply of gas. In the last 7 years, there has been an eightfold increase in the price of natural gas, yet natural gas supplies have not shown any such similar increase.

Mr. President, I fail to see how this bill will do anything else but raise the price of gas to consumers without appreciably increasing the supply to them. The Department of Energy's own Energy Information Agency, in a June 19, 1978, analysis of the conference report, shows that this legislation substantially increases the retail price of natural gas far beyond the price that either the House or the Senate had previously accepted in their respective bills. But, equally serious is the fact that the agency's analysis supports my statement that the higher prices created by the conference report will not create similar increases in supply.

Furthermore, Mr. President, this conference report inequitably and disproportionately shifts the burden of increased natural gas prices from industry to the consumer. While both the House and the Senate bills provided for a decrease in the retail price of gas for residential consumers and an increase in the price of gas for industrial users, the conference report really does just the opposite. It results in the smallest increase in industrial prices, in comparison to the House and Senate bills, at the expense of dramatically increased residential consumer prices. To further burden American workers, whose paychecks are being stolen by spiraling inflation, is unconscionable and I will not be a party to it.

The intent of both the House and the Senate was to protect residential consumers and small businesses from sharply increased natural gas prices, and at the same time provide an incentive to large industrial users to shift to other sources of energy by raising their price for gas. This conference report does nothing less than remove any incentive for industrial users to convert to other sources of energy. There is no justifiable reason for transfering the economic burden of higher natural gas prices from industry to residential consumers and small businesses.

Mr. President, I know that many of my colleagues believe that this bill is vitally important to efforts to reduce our balance-of-trade deficit. I, too, want to strengthen the value of the dollar and reduce our trade deficit. Certainly, our energy imports are one reason for the weakness of the dollar, but surely there are other more important reasons, the most significant of which is simply an oversupply of dollars which are held by foreigners.

Some of my colleagues argue that our oil imports are causing this oversupply of dollars abroad. They are correct that oil imports send our dollars overseas. But let me point out that the United States is currently importing approximately 1.1 million fewer barrels of oil per day this year than last year. The DOE study projects that the so-called compromise in the conference report on natural gas legislation will reduce oil imports by 600,000 barrels per day, a reduction of approximately 5 percent. For that marginal decrease, we are asked to raise prices by $29 billion. That is an unacceptable trade-off. Furthermore, we should understand that the domestic rate of inflation, and fear abroad that we cannot control inflation, as well as slow economic growth in Germany, Japan, and our other principal trade countries are at the heart of the problem of dollar devaluation.

Mr. President, the Library of Congress has analyzed the impact of the conference report on Minnesota. The study indicates that Minnesotans would pay an additional $1.26 billion over the next 7 years. The average Minnesota homeowner would experience a 71-percent increase in the cost of natural gas he or she consumes. This bill would have a devastating effect on Minnesota's economy, result in the loss of jobs, create economic hardship for residential consumers, and perhaps would ruin the lives of many citizens.

I am sure that all of my colleagues share the common objective of increased supplies of natural gas at reasonable prices. But the simple fact is that this bill will not do that. I cannot vote, in good conscience, for this bill with all its problems, just because we need a natural gas bill. I do not subscribe to the notion that any bill is better than no bill at all. After careful study, I am forced to conclude that the present law is better than that proposed in the conference report.●

● Mr. CHILES. Mr. President, after listening to the considerable debate of the last weeks concerning the natural gas conference report, I want to state my support for the compromise and my opposition to efforts to recommit the bill to conference.

For too long the Congress has struggled with the issue of natural gas policy. No beneficial purpose can be served by further delay and there is little reason to suppose that additional consideration by the conferees would result in an improved bill. The divisions and disagreements on this issue are fundamental and strongly held. In many respects there has been no ground for compromise which is why the conference has been such an extraordinarily difficult process.

It is an achievement of no little consequence that a compromise was hammered out. Not to pursue this compromise

and pass a natural gas bill in this Congress could well mean no natural gas legislation for the foreseeable future. Certainly the Senate leadership has indicated that if we fail this year there is not much prospect of another natural gas measure in 1979 or 1980. Continuation of our current policy of drift will not serve to reverse the decline in energy supplies but will aggravate the decline in the dollar.

Obviously the fact that a conference report was accomplished after months of debate and discussion is not reason enough to argue for its passage. We cannot and should not pass a bill simply so we can say that the Congress has acted on the natural gas issue. Some have made this charge and maintain the bill now before the Senate will not help our supply or economic situation.

I disagree. It is my assessment that the compromise represents a workable and beneficial policy. It is hardly a perfect measure. It is substantially different from the Senate passed version which I actively supported. It does not include all the provisions I would prefer and I doubt that it is 100 percent satisfactory to hardly any Member of Congress. Such is the nature of compromises.

In evaluating the conference report my concerns included whether the legislation would increase natural gas supplies, whether it would treat consumers fairly, and how the economy may be affected.

Adoption of the conference report will result in increased supplies of natural gas flowing into the interstate market at prices below that of displaced alternate fuels. The Congressional Budget Office estimates that production will increase by at least 0.7 trillion cubic feet and possibly by 1.4 trillion cubic feet.

Further, the bill will facilitate construction of the Alaska gas pipeline, resulting in a total increase of 30 percent in interstate gas by 1985. This translates into a saving of approximately 1.4 million barrels per day of imported oil by 1985 and a $6 to $8 billion a year reduction in our trade deficit.

The conference report aims for reasonable prices for industrial and residential consumers. Under the bill the supply of gas throughout the Nation will increase for residential and industrial users at prices well below the cost of any other substitute fuels. Residential consumers are shielded from abrupt price increases by incremental pricing provisions and with the resulting increased gas supplies home hook-ups can be resumed throughout the country.

At the most, the Congressional Budget Office estimates that by 1985 the conference report will cost all consumers between 5 to 8 percent more than current policy.

The potential effect on our economy is a prime consideration in whether the conference report should pass. There has been speculation that the inflation rate may be aggravated by passage of the legislation. Studies by the Congressional Budget Office, however, refute this charge. The CBO estimates virtually no effect on the inflation rate with a maximum increase of less than one-tenth of 1 percent a year.

The beneficial effect on the strength of the dollar resulting from enactment will have a direct impact on our Nation's economic well-being. The dollar's erosion against other currencies is linked to our failure to enact a national energy policy, our continued heavy reliance on imported oil and the very substantial trade deficit we suffer.

Since April of last year, the dollar's value has declined 16 percent against the German mark, 34 percent against the Swiss franc and 31 percent against the Japanese yen. The President has indicated that leaders of the world's major economic countries attribute a substantial part of the dollar's decline to the lack of a U.S. energy policy. A continued slide in the value of the dollar can only serve to adversely affect the Nation's inflation rate.

On balance the natural gas conference report represents perhaps the best compromise that can be achieved in this Congress. It has obvious benefits from the standpoint of increased energy supplies and the strength of the dollar.

Failure to enact this legislation would mean a continued absence of policy on natural gas for this year and perhaps years to come. From an energy and economic standpoint we just cannot afford that.●

Mr. PERCY. Mr. President, on yesterday, September 18, 1978, I sent to all Members of the Senate the following "Dear Colleague" letter:

DEAR COLLEAGUE: We will be voting tomorrow on a motion to recommit the natural gas compromise bill to conference with instructions. I think we are all aware that this gas bill has a lot of problems. There is a great temptation to vote it back to conference and hope for a better bill next year.

In a colloquy on the Senate floor on Friday, I asked what the reality of that hope was. Senator Jackson said that recommitting the bill with instructions will kill the bill. Senator Robert Byrd said this:

"What would happen if we send this report back to conference? We would have to deal with a new conference report, signed by 13 out of 25 of the House conferees, and 9 out of 17 of Senate conferees. Time is running out, and the sands in the hour glass are dropping one by one by one. So just forget it. There will not be a bill."

What is the likelihood of a bill next year, if we fail this year? The chairman of the Energy Committee stated that:

"I do not intend, unless I am overruled in the committee, and I would doubt that, to take up a natural gas bill, a comprehensive bill, in 1979 or 1980, because we have top priority legislation pending that has to take precedence.

Senator Mark Hatfield, next year's ranking minority member of the Energy Committee, agreed completely. Senator Robert Byrd said that if we kill this bill, "Those who think they will get something better soon had just better forget it."

With these three leaders on record, I am convinced that the reality of the situation is that it is this compromise or nothing for several years.

Several assurances I received on Friday make the natural gas conference report more attractive. I was concerned that in the long phase-in period before deregulation took place, policy could be changed which might reverse the trend toward market pricing. Ambassador Strauss, Secretary Schlesinger and Mr. Stu Eisenstat, Chairman of the White House Domestic Council, each assured me that the Carter Administration would do nothing to change the deregulatory direction of this bill. Senator Jackson assured me that the Energy Committee would use its oversight jurisdiction to hold the Administration to that commitment.

But this raised the more fundamental issue of modifying and amending the natural gas compromise in years to come. Senator Mark Hatfield told me, and I think we can all concur with this from our own experience, that "if it is possible to get a bill of this kind adopted, it is easier to correct it once on the statute books, than starting from square one." And Senator Jackson committed the Energy Committee to looking at amendatory legislation to correct problems that might arise.

On the Senate floor on Friday, I raised four potential problem areas: criminal penalties becoming a disincentive to drill, incremental pricing provisions driving large industrial gas users to convert to oil or to move to a gas-producing state, the burden of regulation on small gas producers, and the cost of the regulatory program of this legislation. On each of these issues, Senator Jackson responded with arguments I consider satisfactory. But more important, he reiterated his commitment to work to amend the bill, if these problems do indeed become serious.

We have all been provided by colleagues, constituents and interest groups with plenty of reasons to vote against this compromise. And we have all been provided by the Administration and other colleagues, constituents and interest groups, with plenty of reasons to vote in favor of the bill.

There are merits to the arguments on both sides. But if we adopt the compromise, we can get to work on improving it next year. If we kill it outright or by recommitting it, we will not get the chance to improve the status quo for several years. And I have heard very few arguments in favor of the gas pricing system in effect today.

On the basis of these considerations, and the overwhelming need to begin implementing a national energy policy, I urge you to vote against recommittal tomorrow. I hope that you will support the compromise.

Sincerely,

CHARLES H. PERCY,
U.S. Senator.

The VICE PRESIDENT. Under the previous order, the Senate will now proceed to vote on the motion to recommit the conference report with instructions, by the Senator from Ohio (Mr. METZENBAUM). The yeas and nays have been ordered, and the clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair keep the well clear. All Senators have tally sheets on their desks. I ask also that the clerk repeat the name of each Senator and his response after he votes.

The VICE PRESIDENT. The well will be cleared. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE) and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

The result was announced—yeas 39, nays 59, as follows:

[Rollcall Vote No. 378 Leg.]

YEAS—39

Abourezk	Hansen	Packwood
Anderson	Haskell	Proxmire
Baker	Hatch	Riegle
Bartlett	Hayakawa	Roth
Bayh	Hollings	Sarbanes
Bellmon	Humphrey	Schmitt
Bentsen	Johnston	Schweiker
Biden	Kennedy	Scott
Byrd, Harry F., Jr.	Laxalt	Thurmond
Curtis	Long	Tower
Dole	Lugar	Wallop
Garn	McGovern	Weicker
Goldwater	Metzenbaum	
	Nelson	

NAYS—59

Allen	Griffin	Moynihan
Bumpers	Hart	Muskie
Burdick	Hatfield, Mark O.	Nunn
Byrd, Robert C.	Hatfield, Paul G.	Pearson
Cannon	Hathaway	Pell
Case	Heinz	Percy
Chafee	Hodges	Randolph
Chiles	Huddleston	Ribicoff
Church	Inouye	Sasser
Clark	Jackson	Sparkman
Cranston	Javits	Stafford
Culver	Leahy	Stennis
Danforth	Magnuson	Stevens
DeConcini	Mathias	Stevenson
Domenici	Matsunaga	Stone
Durkin	McClure	Talmadge
Eagleton	McIntyre	Williams
Eastland	Melcher	Young
Ford	Morgan	Zorinsky
Glenn		
Gravel		

NOT VOTING—2

Brooke	Helms

So the motion to recommit was rejected.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. JACKSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The VICE PRESIDENT. The Senate will be in order.

Mr. PERCY. Mr. President, I should like to congratulate the majority leader and the chairman of the Energy Committee on the last vote.

I believe it was a very difficult vote. Senators have thought long and hard about this issue. I do feel that the decision made by the majority leader to fight to keep this bill from being recommitted was wise. The next fight that we are going to have is to keep the bill from being defeated. The bill is in the national interest and in the interest of the constituents from our respective States.

The alternative is simply no legislation at all, no national energy policy. I cannot imagine a more disastrous message to send out to the world. We would be saying that the Senate of the United States, after all these months of deliberation, cannot come to grips with this issue and cannot enact a national energy policy. Without the gas bill, the centerpiece, all else is for naught.

I thank the majority leader for his leadership and the position he took. I thank him for the way in which he went about gaining what I think is an outstanding victory. I trust there will be the same result a week from Wednesday.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator for his very kind comments and his very gracious and overly generous praise. I am deeply grateful.

Mr. President, I should like to ask a question at this time.

Mr. FORD. Mr. President, may we have order?

The PRESIDING OFFICER (Mr. PAUL G. HATFIELD). The Senator will suspend. The Senate will be in order.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I merely protect the floor at this time to inquire whether or not the Senate wishes to proceed with the natural gas conference report or go to the public broadcasting bill, for which there is an order at this time in the event the Senators do not wish to proceed with the natural gas bill.

Mr. LONG addressed the Chair.

Mr. PERCY. May I direct a question to the majority leader?

Mr. LONG. Will the Senator yield to me?

Mr. ROBERT C. BYRD. Yes.

Mr. LONG. Let me say that it has been my feeling for some time that in the event the motion to recommit does not carry, those of us who do not feel disposed to vote for this conference report should have an opportunity to propose a broader compromise. I know that those of us who favor the producer side of the argument find a lot of things in the bill that we can live with very well. What bothers us is the monstrous amount of bureaucracy that will be entailed, the fact that the bill, in my judgment, will require the expenditure of more money for lawyers and accountants and court reporters and stenographers and filing clerks than you pay for oil field workers. It really does not help the cause of deregulation to put every cubic foot of gas under Federal regulation.

On the other side of the argument are those who have been approaching this from the consumer point of view and, I understand, quite wisely felt that they did not want to concede that they are going to have to live with the big price increases that are in this bill. From our point of view, we would be willing to sell gas at a cheaper price if we could be spared the tremendous amount of bureaucracy, uncertainty, court litigation, criminal prosecution and fines, and goodness knows what else that is in this bill, needlessly and far beyond any purpose that the bill could serve. So perhaps at this point, we shall be able to persuade our friends from the consumer States to realize that they are going to have to make some concessions that they did not want to make. They can look at the bill now and see what is in it.

If this bill becomes law, as sure as I am talking here, everybody in this country is going to get a big increase in their gas bill. In my State, it will not be their gas bill they will be complaining about so much as they will be screaming about their electric bill. Everybody will tell their constituents, "That is the best we could do, it was this or nothing, so we voted to give you this bill."

Mr. President, the things that are in the bill that would help to give some additional production are things that we all enthusiastically support. What we object to from the consumer point of view is things in this bill that are going to keep you from getting more gas. You are going to pay a tremendous increase in price, and you are not going to get the increase in supply you ought to be getting.

I hope those from the consumer areas will recognize the fact that they are going to have to pay these prices. The billions of dollars we are talking about are something they are ultimately going to have to pay. They yet have the opportunity—if they will come together with those of us who are concerned about the bureaucracy, the fantastic amount of needless litigation, the reditape, hearings, delays, and uncertainty in this bill—to help us get together with something that means both a lower price for the consumer yet would encourage more production. Even if we limit it just to provisions that are already in the conference report, we could produce a better bill than this. I hope we have the opportunity to spend some time discussing this matter over the next day or so to see if we cannot work out a broader agreement, one that will have a great deal more support.

I can show Senators from consuming States just a couple of things that they will be better off with in this bill. With that, I think we would have some additional support from producing States, or those interested in the producing problems. I hope very much that those from the producing States would also consider what there is in this bill that they find essential, that must be here. Because, Mr. President, I would think anybody, whether he is thinking about the producer or the consumer, could list provision after provision in this conference report that he would like to spare his constituents.

I hope we shall have the opportunity to work for that. For that reason, I think it would serve a purpose if the Senate did move on to other legislation. We are not asking for any quarter; we just feel it would serve the purpose of all if we could have a little time to get together and see what we can work out that people on both sides of the issue could, perhaps, agree upon.

Mr. ROBERT C. BYRD. Mr. President, I am sorry, the Senator from Illinois did not yield the floor. I thought he had yielded the floor when he yielded to me. I release the floor back to him.

I would like to inquire, so the Senate will know how soon this afternoon it might proceed to the public broadcasting bill, how many Senators wish to speak at this time, now, on the natural gas pricing conference report, which has the first priority.

Mr. METZENBAUM. I do.

The PRESIDING OFFICER. And

other Senators do. All right; how long does the Senator anticipate?

Mr. METZENBAUM. Not more than 5 or 10 minutes at the most.

Mr. ROBERT C. BYRD. The Senator from Virignia wants about the same and the Senator from Wyoming about the same and the Senator from Montana the same.

It appears, Mr. President, that at around 4 p.m., the Senate will likely go on the public broadcasting bill.

I thank the Senator for yielding.

HISTORY OF REGULATION OF NATURAL GAS

● Mr. ABOUREZK. Mr. President, during early days of the gas industry, it became obvious that building competing pipelines to deliver gas to the communities would be wasteful and costly. It was obvious that once a pipeline was in place, consumers would lose their ability to shop around for better prices than their local distribution company was offering. Pipelines would be in the same situation when it came to signing contracts with producers, once the major pipelines were in place. For these reasons, the gas industry was considered a kind of monopoly which would have a great affect on the public interest. States where the industry operated created commissioners to set rates that would allow companies to earn a fair profit and also protect consumers from monopoly pricing.

The need for Federal regulation over the interstate market came about because the individual State regulatory commissions were powerless to influence transactions where gas crossed State lines. The Supreme Court had ruled that various State commissions were prohibited from regulating the price that pipeline companies charged to local distributors. The pipeline companies often charged as much as the market would bear.

In the 1930's, discovery of large reserves of natural gas in Texas, Oklahoma, and Kansas made available a cheap and abundant supply of gas. It was so cheap that oil companies flared most of it in the field. Pipelines could buy this gas for 1 to 3 cents, since the oil producers considered it a waste product. Nonetheless, the interstate nature of the pipeline system created a no man's land that allowed the companies to take full advantage of their position to reap monopoly profits from consumers, in spite of the State regulatory commissions.

In 1938, Congress acted to plug this "regulatory gap" by passing the Natural Gas Act. In the act, the Congress cites a Federal Trade Commission report which showed that there was heavy concentration both in production and distribution of natural gas. "The four largest producer groups account for about 72 percent of the output of natural gas produced by 32 holding company groups in 1930." The Commission concluded on the basis of its detailed investigation of the industry:

> The prime characteristic of the situation described is of a steadily developing concert of interests dominating the producing, transporting, and distribution branches of the industry. (S. Doc. No. 92, pt 83-A, 70th Cong., 1st Sess. published 1936)

During the first 10 years of FPC regulation, the gas industry remained a buyer's market as far as pipeline companies were concerned. With the rapid growth of demand for natural gas after World War II, pipelines began to lose their bargaining power to the major oil companies that produced most of the gas.

In 1947, natural gas producers made their first attempt to get legislation passed which would exempt them from regulation. The producers were reacting to a ruling of the FPC and the appeals court in the famous case, Interstate Natural Gas Co. against FPC. In this case the FPC ruled in 1943 that the Interstate Natural Gas Co. had to reduce the price of certain of its sales of natural gas from a large gas field in Louisiana. The FPC's jurisdiction to regulate such sales was upheld by the Supreme Court on June 16, 1947. The court stated firmly:

> We have held that these sales are in interstate commerce. It cannot be doubted that their regulation is predominantly a matter of national, as contrasted to local concern. All the gas sold in these transactions is destined for consumption in States other than Louisiana. Unreasonable charges exacted at this point of the interstate movement becomes perpetuated in large part in fixed items of costs which must be covered by rates charged subsequent purchasers of the gas, including the ultimate consumers. It was to avoid such situation that the Natural Gas Act was passed.

The FPC's jurisdiction over certain interstate sales of natural gas aroused the anger of some natural gas producers, especially the major oil companies. They viewed the extension of Federal regulation to the producing level as a violation of what they considered their exempt status under the Natural Gas Act. Unable to convince the Supreme Court of this, the producers next set out to get Congress to pass a bill specifically exempting them from regulation. It must be noted that in 1945 the FPC had inaugurated a comprehensive investigation of the natural gas industry. The results of the inquiry led the FPC to believe it had to broaden its jurisdiction over gas production if it was to carry out its responsibilities under the Natural Gas Act.

Only the House passed the 1947 producer's exemption bill. In the meantime, the results of the FPC study showed that it could no longer protect natural gas users against price gouging by regulating interstate pipeline prices only. The study's findings were powerful enough to change the mind of the Chairman of the FPC (Leland Olds) who had previously supported exempting producers from regulation. The majority of the FPC now supported regulation of producer prices. (By the way, Olds' reversal prompted a drive by producer-interests to prevent his reconfirmation.) Alarmed by the threat, producers again turned to Congress. They relied on the same arguments which have become all too familiar to Members of recent Congresses—the specter of a shortage.

The debate on the Kerr-McGee bill, introduced to prohibit regulation of producers' prices was heated. The opposition to deregulation was led by Senator Paul Douglas of Illinois joined by Senators Kefauver, Morse, Gillette, Brewster, and Humphrey.

Douglas presented figures showing that the majority of companies controlling the Nation's natural gas reserves were major oil companies, such as Standard Oil of New Jersey (Exxon), Phillips Petroleum, the Texas Co. (Texaco), and so forth. And these companies had control of most of the major gas fields. In this regard, Douglas remarked,

> . . . The control of individual fields by one, two, or three companies is the greatest factor in making the selling of gas monopolistic in nature because once lines are laid, the bargaining power of the pipe line company is so diminished that it is practically extinct. (Cong. Rec., 3729, March 21, 1950)

Many of the issues raised in 1950 are the same as those raised by proponents of deregulation in 1975, 1976 and 1978.

Senator George Aiken, Vermont Republican, pointed out during the 1950 debate that—

> It has been represented that if the Senate does not approve (deregulation), producers of natural gas in the Southwest will not sell gas to interstate pipelines and, as a result, the New England states will not get gas.

But he concluded:

> Economic coercion of members of Congress deserves our most serious consideration. I am sure we all agree that this is not a sound basis for determining public policy.

The final vote in the House of Representatives on the Kerr bill to exempt producers from regulation was 176 in favor and 174 opposed. In the Senate, the bill had been passed by a comfortable margin. This left the final decision up to President Truman. Truman, on April 15, 1950 vetoed the legislation saying it was not in the national interest. Truman noted "the concentration of ownership of natural gas reserves" by a few major companies limited competion. He stated that the continuance of the FPC's authority to regulate sales of gas to interstate pipelines "will adequately protect the public interest by permitting the Commission to prevent unreasonable and excessive prices which would give large windfall profits to gas producers, at the expense of consumers, with no benefit to the Nation in terms of additional exploration, and production."

Senator Aiken's scorn for the gas industry's empty threat was confirmed by events. After the 1950 deregulation bill was vetoed, the dual market continued to operate, and increasing amounts of gas were dedicated year after year to the regulated interstate pipelines.

Meanwhile, the gas interests turned their attention to the FPC, where more sympathetic appointees had replaced those responsible for suggesting regulation of producers. In 1951, the Commission refused to exercise jurisdiction over a natural gas sale by Phillips Petroleum Co., then the biggest in the business.

Phillips claimed that its sales of natural gas did not come under the FPC's jurisdiction and four of the Commissioners agreed with the company. The FPC refused to assume jurisdiction. The State

of Wisconsin and other States and towns appealed the decision and the U.S. circuit court of appeals reversed the FPC ruling in 1953 and ordered the Commission to exercise its authority over Phillips. In June of 1954, the Supreme Court in a now-famous action, affirmed the decision.

The producers, who thought they had a complaint Commission, were outraged by the Supreme Court's decision. They immediately put pressure on the Congress to nullify the Court's decision by enacting legislation to exempt producers from regulation. The oil and gas industry mounted a massive lobbying and public relations effort (planned by the public relations firm of Hill and Knowlton) funded with contributions totaling nearly $2 million. With Eisenhower, a sympathetic President, in the White House, the gas producers were convinced that they would at last win the battle for deregulation. The debate in Congress in 1956 thus centered on the Harris-Fulbright bill. Most of the issues were identical to those debated in 1950. Again, Senator Paul Douglas led the fight in opposition to deregulation.

In summing up his opposition to the bill, Douglas said:

> "• • • The passage of the Fulbright bill would inevitably mean a large increase in the price of gas in the field, amounting to at least 10 cents per thousand cubic feet; that the increase would be passed on to the pipelines; that the protections in the bill are grossly inadequate, indeed, almost nonexistent; that the pipelines would pass the price increase on to the distributing companies; that the residential customers, 21 million families who have to pay most if not all of the $600 million a year which would be charged. (Cong. Rec. 1248, January 25, 1956.)

Agreeing with the opponents of the bill, Senator John F. Kennedy explained why he thought the Senate should reject the legislation:

> . . . I agree with the general principle that regulation by the Federal Government of any business activity should be undertaken only where there is the clearest demonstration that such regulation is absolutely necessary to protect the interest of the public. Applying that principle to the natural gas situation now before us, it seems to me abundantly clear that the nature of the industry calls for regulation.
>
> When we talk about the public interest, and when we weigh the interests of the 20 million consumers dependent upon natural gas against the interests of the major companies which control the great percentage of production of natural gas, it seems to me there is no doubt that the interests of consumers would best be served by the defeat of the bill. The companies which would be subject to regulation have all flourished in recent years, and their future prospects are excellent." (Cong. Rec., 1262–63, January 25, 1956)

Senator Hennings of Missouri pointed to the fundamental issue in the debate over regulation:

> We hear these days very unctuous eulogies of the virtues of free enterprise from those who would destroy it completely by monopoly.
>
> The greatest enemy within this country of a truly competitive free enterprise is the creeping, and hidden, and camouflaged monopolist who, year in and year out, has sought to fix prices, in one way or another, according to one principle and one alone—all that the traffic will bear under the seller's control.
>
> That is what the real originators within the big oil companies, of the pending measure, aim to do, under the vague, fine-spun and legalistic phrase "reasonable market price."
>
> We have seen how, within the past 10 years, their relentless efforts have been defeated once by the Congress, once by the Executive, and once by the U.S. Supreme Court. We have seen today how they have returned to the attack.

Again, it looked as if the pro-deregulation forces had victory in their grasp. But on February 3, 1956 the Republican Senator from South Dakota, Francis Case told the Senate that he had been offered and had refused a $2,500 campaign contribution from a representative of the Superior Oil Co. of Texas, a large gas producer.

Case told the Senate:

> I cannot vote for the bill as it stands. In the light of evidence personal to me that the bill has prospects of unusual monetary profit to some, and that with that profit would go the means for a continuing effort to influence the course of government for private gain, I must vote to maintain in people's Government the opportunity to control the profits from a monopoly product.

The campaign contribution offered to Senator Case came out of a fund established by Superior Oil Co. chairman, Howard B. Keck. The account was administered by Elmer Patman, an attorney for Superior. Patman hired a Nebraska lawyer, John Neff, whose job included sounding out various Senators on the upcoming vote on the Harris-Fulbright bill. Among those Senators selected by Neff for a contribution was Francis Case. After Case's dramatic revelation, the Senate formed a special committee, tilted in favor of deregulation supporters to investigate the contribution. The Senate committee found the attempted bribe to be "improper" but not "illegal." A Federal grand jury, however, did not agree and returned indictments in July, 1956 against Superior Oil, Neff and Patman. They all pleaded guilty, and the court fined Superior $10,000 and the two attorneys $2,500 each.

Despite the fact that Congress passed the bill and despite the fact that he favored the legislation, President Eisenhower refused to sign it saying:

> . . . A body of evidence has accumulated indicating that private persons, apparently representing only a very small segment of a great and vital industry, have been seeking to further their own interest by highly questionable activities. These include efforts that I deem to be so arrogant and so much in defiance of acceptable standards of propriety as to risk creating doubt among the American people concerning the integrity of governmental processes.

Essentially, this ended for a period the major battle over producer regulation. While the Harris bill was introduced again in 1958, it did not come to a vote. In 1959 it was again introduced, and defeated. When John Kennedy was elected President the FPC began serious efforts to construct a "just and reasonable" regulatory framework which was fair to both producers and consumers. Yet the producers continued to challenge the FPC's authority to set gas prices. Most of the battles during the 1960's took place at the FPC and in the courts.

Supplies did not dry up after this second failure to end price controls. In fact, the volume of gas sold in interstate commerce increased from 5 trillion cubic feet to 8 trillion cubic feet between 1954 and 1961, and the regulated price advanced steadily, from an average of 9.5 cents per Mcf to 16.5 cents per Mfc. Intrastate sales represented far smaller volumes, and intrastate prices lagged behind the regulated price.

The period of 1960–68 was marked by constant clashes between the Commission and oil and gas companies. Former Republican Commissioner Charles R. Ross (who served from September 1961 to September 1968) recalled that

> . . . Throughout this period the industry suffered badly because of its misguided attempts to force changes at the commission. The following actions all served to cause the Commission to question the industry's credibility: constant blatant attempts to pull power plays in Congress; repetitive instances of crying wolf; unwillingness to disclose complete and accurate industry data; failure to make the Natural Gas Advisory Council as effective an advisory voice as the Electric Advisory Council; the holding back of the pipeline companies from seeking to contest the higher wellhead rates and their threat to pull out of pipeline production if they did not get what they want; the delight of the industry at the rough handling that Chairman Swidler received at the hand of Albert Thomas, chairman of the House Appropriations Subcommittee on regulatory agencies; obvious efforts to influence President Johnson to dump me, as well as attempts to name the industry's own people to the commission; and the opposition to Canadian imports as a supplement to our reserves. ("Producer Regulation; A Commissioner's Viewpoint" by Charles R. Ross in *Regulation of the Natural Gas Producing Industry*, Ed. by Keith C. Brown, John Hopkins University Press 1971).

Despite all of this, the FPC managed to establish a method for computing a fair price, and issued its first ceiling rate in 1965. This and following ceiling prices were based on the historical production costs for each geographical area. They included a 12 percent rate of return on invested capital for procedurers. The Supreme Court rejected the producers' claim that the ceiling was too low, on the ground that each year the producers discovered enough new gas to replace their entire production—and then some.

After this Supreme Court decision for the first time in the history of the U.S. gas industry, additions to reserves dropped below production. The companies had good reason to expect higher prices—and achievement of their long-sought goal of deregulation—during the Nixon administration. Upon his appointment to the FPC chairmanship, John Nassikas announced that he wanted a "Nassikas round of gas rate increases." But despite his resolve, Nassikas could not simply ignore the Natural Gas Act and use his regulatory powers to eliminate regulation.

What Nassikas managed to do was substitute a policy of "gradual deregulation" for the FPC's statutory responsi-

bility to regulate. He ushered in a series of increases in ceiling prices which culminated in the $1.42 rate promulgated in August of 1976. The average price for new gas sold to interstate pipelines was 19.2 cents when Nassikas assumed the chairmanship of the FPC in 1969, 5 years later it had risen to 56 cents.

While the regulated rate was increasing, the FPC was taking other steps to increase the earnings of the producers. It tried to end price regulation for small producers, but ran into trouble in the courts. In 1972, the Commission proposed an "optional procedure" for carrying out its task of setting prices for producers. It would allow producers to raise their prices above the regulated rate unless the FPC intervened to prevent it. The late Senator Philip Hart, Michigan Democrat, denounced the "optional procedure" as a "blatant and arrogant usurpation of the legislative function * * * manifestly anticonsumer and pro-industry."

Between 1973 and 1975, the Commission proposed several other piecemeal deregulation measures, including unregulated 180-day "emergency" sales (challenged and ultimately barred by the courts); 60-day "emergency" sales, and direct purchases in which industrial users could buy directly from producers without regard to any ceiling price. The last two of these are currently in effect.

In 1976, the Carter administration's first act on energy was to propose further "emergency" deregulation to end the shortage of gas that appeared that cold January. As a result, interstate pipelines used these emergency purchases to maintain or increase sales to low-priority customers that had alternate fuel capacity. Intrastate producers used the opportunity to make some quick sales of surplus gas at $2.25—a price substantially higher than they were getting from normal intrastate sales.

But, this bleak picture of the way regulation has failed to protect consumers need not apply to future regulation. There is evidence that the existing law, based on the fact that consumers have little bargaining power once they are hooked into the gas pipeline, can meet the needs of the market today. Even before the adoption of the $1.45 ceiling price, the rapid decline in exploration had been arrested. In 1977, new additions to reserves amounted to 11.9 trillion cubic feet, 58 percent more than was added in 1976, and the largest increase since 1968. What is more important, new additions to reserves for the interstate market in 1977 were 8.5 trillion cubic feet—three times what they had been in 1976. Demand in the intrastate market is unlikely to grow as fast as new reserve additions. Currently, a trillion cubic feet of gas is backed up awaiting a decision on new prices. Some producers have announced their readiness to sell to interstate customers even at the prevailing regulated rate of $1.50. At the same time, the FERC under the chairmanship of Charles Curtis has moved to examine whether loopholes in the ceiling price should be eliminated.

Finally, gas from the Outer Continental Shelf promises to supply an increasing proportion of U.S. demand—and all OCS production must by law be sold to interstate consumers. Again, the FERC recently ended a practice which allowed major producers to divert this gas to use in their own refineries, thus depriving the interstate market of much needed new supplies.

There is every reason to believe that the regulations will at last operate as intended—to encourage the greatest production at the most efficient price. Let us not abandon this on the doorstep of success.●

THE REGULATORY REFORM ACT

Mr. SPARKMAN. Will the Senator from Illinois yield to me?

Mr. PERCY. I am going to make a unanimous-consent request, then I shall yield the floor.

Mr. President, I should like to draw attention to the fact that I trust that, early next year, one of our urgent pieces of business will be S. 600, the Regulatory Reform Act, which we trust will be voted out by the Committee on Governmental Affairs, in which I am privileged to have the majority leader join as a principal cosponsor, together with Senator RIBICOFF, the chairman of the Committee on Governmental Affairs.

CHAIRMAN KAHN PROVEN RIGHT; AIRLINES PROSPER AND CONSUMERS BENEFIT

Mr. PERCY. Mr. President, it seems that each month during the 15-month tenure of Civil Aeronautics Board Chairman Alfred E. Kahn, the Nation's airlines have surged ahead in passenger loads and profits. August of 1978 was no exception. Here are just a few examples:

Braniff International reported a 38.3 percent increase in passenger traffic, the fourth consecutive monthly increase. The Texas-based airlines listed new routes and bargain fares as the reason for this surge.

American Airlines said that for the third consecutive month it set a record with an increase of 27.7 percent in traffic.

Washington, D.C.-based Allegheny Airlines said that business was up 17 percent from last August with an impressive 67.1 percent of airline seats filled compared with 60.1 percent a year ago.

The Nation's largest air carrier, United Airlines, reported that its business increased 30.8 percent, the third consecutive month of record revenue passenger miles and the seventh consecutive month of double digit growth. United said it also set a record for daily average passenger load factor—the percentage of seats occupied in scheduled service—during the jet era, filling 74.4 percent of its seats for the month.

National Airlines said that August traffic was up 30 percent over the same month last year, continuing a pattern of increased passenger growth and profits.

North Central Airlines said its August traffic rose 43 percent to 195.7 million revenue passenger miles from 137 million in August 1977.

Of course, the statistics do not fully reflect the new-found satisfaction of millions of Americans. They are now able to take advantage of budget vacation opportunities that were only dreams a short while ago, and can arrange more frequent family reunions, made less costly by discount fares. The excitement of returning home or visiting faraway places cannot be reduced to a ledger sheet. At a time when inflation is making it more and more difficult for working families to make ends meet, Chairman Kahn is to be congratulated for helping to make it possible for people of moderate means to travel by air.

Economist Eliot Janeway has written an excellent column on airline regulatory reform which appeared on September 11, 1978, in the Chicago Tribune. The article focuses on Kahn and states:

. . . Kahn has easily proven to be the most successful of President Carter's appointees of the alphabet agencies.

I concur. We are all very grateful to CAB Chairman Kahn for his bold initiatives.

A fascinating account of his tenure is contained in an excellent National Journal article of August 26, 1978, written by Ms. Linda E. Demkovich. I ask that "A Pleasant Surprise for Wall Street," by Eliot Janeway, and "The Pros and Kahns of Airline Deregulation," by Linda Demkovich be printed in the RECORD at the conclusion of my remarks.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, Sept. 11, 1978]

A PLEASANT SURPRISE FOR WALL STREET

(By Eliot Janeway)

NEW YORK—If markets are people, people who make names for themselves become market-makers. Chairman Alfred Kahn, for example, of the Civil Aeronautics Board [CAB] in Washington, is being looked to as a new Wall Street messiah.

The CAB has enjoyed control over rate-making for the airlines; and the country, as well as the industry, has suffered for it. But Kahn has easily proven to be the most successful of President Carter's appointees of the "alphabet agencies." In fact, the prominence he has won has come as something of a pleasant surprise.

Kahn's prior tour of duty as chairman of the New York State Public Service Commission did not reveal any hint that he might plump for all-out deregulation, although, of course, deregulation isn't feasible for electric and gas utilities as it is for transportation companies. Neither did any spirited advocacy on his part when he was still professor at Cornell University.

But the Kahn doctrine—self-regulation by airlines proposing fare cuts of up to 50 per cent and increases of up to 5 per cent, plus cuts in their bureaucracies—has worked. Overnight, it has freed the public to latch onto airline travel as the one conspicuous bargain within reach. The contrast with the ongoing gallon in the cost of everything else could not have been more dramatic.

The response has been electric, as the around-the-clock mob scenes in airports show. Old rules of thumb about off-peak travel times are dead as the dodo. So is the time-honored dependence of commercial airlines on a relatively small number of people in higher income brackets who fly often. Planes are now being loaded up with new classes of customers, who may or may not be "repeaters."

Even overseas flights are carrying more Americans out of the country—proof that

dollar devaluation isn't working as promised to close the trade gap. Apparently, air fare bargains are offsetting the exchange losses Americans are suffering overseas because of the dollar's slide.

Back in Wall Street, the response of the market-makers and their customers has been at least as enthusiastic. Against the background of a sputtering rally losing momentum, the great airline move of recent months has made market history.

Not only have airline securities performed sensationally; even Pan American has made a sudden recovery.

The Street may often be slow to catch on to a new idea, but it's quick to run with it once it has. Its more prominent and articulate figures have big plans for Kahn. They don't see what more he can do for them, or the market, at the CAB—after all, the airlines have had their move, and have probably overdone it.

Specifically, the next move the Street's movers and shakers are talking about is not in stocks. It's for Kahn to switch from the CAB to the ICC.

Before it became the target of investigation for scud, the ICC's claim to rank as the worst agency in Washington was hard to dispute. Certainly, one place to start processing complaints against the government for inflating costs, deflating earnings, and slowing the wheels of progress is the ICC. The Street's way of thanking Kahn for his hand in the airline move is to vote its confidence in him and hope that he moves over to the chairmanship of the ICC.

THE PROS AND KAHNS OF AIRLINE DEREGULATION

(By Linda E. Demkovich)

Alfred E. Kahn: hero or goat? Ask airline officials what they think of the unconventional chairman of the Civil Aeronautics Board and you will hear it both ways.

Take two of the industry giants, for example. Delta Air Lines, which recorded the highest profits of the 10 long-distance domestic airlines in 1977, contends that Kahn's deregulation policies will disrupt service to smaller cities and lead ultimately to a system run by a few big carriers. United Airlines, which had higher operating revenues and carried more passengers last year than any of its rivals, agrees with Kahn's philosophy that there's plenty of room for everyone and the more competition, the better.

Since it was created in 1938, the CAB has acted to shield airlines from competition by stringently regulating where they could fly and how much they could charge to fly there. Kahn is taking steps to change all that.

Under his direction, the board is giving domestic carriers latitude to lower their fares—and eventually to raise them—without first getting CAB approval. It is also testing the theory of multiple permissive entry by awarding certain domestic routes to all eligible and fit carriers that want to fly them, instead of singling out one or a few airlines to provide service between cities. Finally, the board has approved new rules that should help charter airlines, damaged by some of the board's other innovations, to compete with the scheduled airlines.

If these policies succeed, it may be only a matter of time before the CAB puts itself out of the regulatory business entirely.

Kahn's chairmanship, which began in May 1977, coincides with a period of unprecedented prosperity for the airline industry. In the first half of 1978, air traffic increased by 16.3 per cent over the same period in 1977, with more than 180 million passengers on scheduled U.S. domestic and international flights. June traffic was up 21.9 percent over the same month a year ago. Typically loaded only to 50 per cent to 55 per cent of capacity, airplanes recently have been flying with an average of 70 per cent of their seats occupied—which means that on the more popular routes, prospective patrons must be turned away. Profits in 1978 are expected to reach between $800 million and $1 billion, which would make it the best money-making year in the history of commercial aviation.

The economy, of course, has had a lot to do with the upsurge in traffic. But it is clearly Kahn's policy of encouraging discount fares—a policy that began under his predecessor, John E. Robson—that has helped airlines to attract large numbers of customers who might otherwise have found cheaper ways to travel, or simply stayed at home.

Yet Kahn is hardly the darling of the airlines.

A number of key carriers, led by Delta and Trans World Airlines (TWA) among the trunks and Allegheny Airlines among the regional carriers, argue that his deregulation strategy holds an inherent danger: oligopoly. By opening up routes to all comers, they warn, Kahn exposes the industry to an eventual takeover by a handful of giants. In time, the weaker companies would have to line up mergers or go out of business. Either way, many small and medium-sized cities would find themselves without adequate air service.

Delta has taken legal issue with Kahn. In a suit challenging the CAB's preliminary decision to open the Las Vegas-Dallas/Fort Worth route—a market served exclusively and profitably by Delta—to Braniff International and Texas International Airlines, Delta charges that Kahn has overstepped the bounds of current law.

(If Congress acts on its airline deregulation bill this year, the outcome of the court test would probably matter less. Initially controversial, the legislation now would do little more than add legal weight to actions the board already has taken.)

Still, Kahn's policies have more industry support—or at least less opposition—than at the height of the deregulation debate in Congress last year. A number of carriers, including United, Pan American World Airways, which is excluded from flying domestic routes under the existing regulatory scheme, and Frontier Airlines, one of the top three regional lines, seem to share his view that the airlines are in a better position than the government to know what routes and what prices are going to be profitable.

There seems to be no discernible pattern among those who support or oppose what the board is doing under Kahn. Size, type of route configuration, financial stability—those factors seem less important than management's sense that competition would (or would not) be good for the financial health of the industry.

Kahn, meanwhile, seems unruffled by the controversy and, if anything, determined to stir up even more. In an interview, he said he intends to proceed with his deregulation strategy, case by case, unless the courts tell him otherwise.

No longer an "apostle of gradualism," Kahn said he now wants to move as rapidly as the law allows toward a totally free system.

CUT-RATE FARES

Like a peanut butter and jelly sandwich, airline deregulation has two key ingredients: flexible pricing and freedom of entry into the marketplace. Without the latter, which promises to bring in competitors, airlines would have little incentive to offer lower fares.

Airlines, with tacit CAB approval, have traditionally been reluctant to offer discounts for fear that their profits would suffer. When one carrier chose to introduce a new fare, its rivals were dragged along reluctantly.

In the spring of 1975, for example, National Airlines introduced a "no frills" fare to Florida that brought cries of outrage from its two chief competitors, Delta and Eastern Air Lines. Once the CAB authorized it, however, Delta and Eastern were forced to copy it. The same thing happened in the spring of 1977, when American Airlines applied to the board for its transcontinental "super saver" fare. United and TWA strongly opposed it, but were compelled to imitate it after it had CAB approval.

So far, the wave of discounts has been a boon both to the traveler and to the industry. But there are signs that the appeal may be wearing off.

For one thing, the fares have so many conditions that airline employees who try to explain them are getting as confused as the customers. For example: beginning Sept. 25, United's "freedom fare," available on 35 per cent of its coach seats to any city it serves, will offer passengers a 30 per cent mid-week discount and a 15 per cent Friday-through-Sunday discount (except between 9 p.m. and 6:59 a.m., when the discount rates are 30 per cent and 25 per cent), if reservations are made at least seven days in advance and the return flight isn't before the first Sunday after departure, up to 45 days. That's just one type of discount. United also offers "super saver," "super coach," night coach, a variety of excursion fares, senior citizens fares, the "Las Vegas jackpot" fare and so on.

More important, however, many carriers fear the discounts are ceasing to be profitable. With planes near capacity, they say they are no longer attracting enough new business to offset the lower fares.

They also warn that the windfall that hit the airline industry in 1978 is probably, as one industry official described it, "a short-term bonanza" produced as much by a strong economy as by discount fares. Also, the airlines had enough excess capacity so that filling planes with less than full-fare passengers was profitable. With forecasts of economic recession on the horizon, and the existing fleets carrying above-normal loads, most companies say they don't expect the bonanza to last much longer.

Herbert Kelleher, president of Southwest Airlines, which is exempt from CAB regulation because it operates only in Texas, discounts the importance of the state of the economy to airline profitability. Since 1963, when Southwest initiated cut-rate fares, the company has prospered.

"We've demonstrated again and again, in good times and bad, that we can gain enormous increases in traffic," Kelleher said. In one two-year period in the 1960s, during a lull in the economy, Southwest doubled its share of the market, he said.

But Kelleher may be in a minority. Many of the airlines may want to restore normal fares on at least some of their routes before too much longer.

Kahn, however, intends to ensure that travelers continue to get the benefits of price competition. Thus, on about Sept. 1, a fare policy modeled on the one used by Southwest will take effect and codify what the CAB has been doing case by case for the past year or so.

Until then, fares will continue to be computed according to mileage, regardless of ridership between cities. The new CAB rules will allow the airlines to discount their basic coach rates by as much as 50 per cent and sometimes 70 per cent without prior approval by the CAB.

In general, the carriers say they like the new authority to cut fares, although most argue for the flexibility to raise fares as well. Under the policy that will take effect in September, airlines will be allowed to raise fares by 10 per cent in markets where four or more non-stop carriers are operating and 5 per cent in markets with less competition.

Kahn conceded that the formula is more restrictive than the airlines would like, but said it should become more palatable as new

markets open up. In addition, he said, carriers may appeal for higher fares if they can demonstrate to the board that 10 per cent increases are insufficient to cover costs. "We are aware that there may be markets getting inadequate service now because their rates are too low," he said.

OPENING MARKETS

Step two of Kahn's deregulation strategy—to ease restrictions so that new and existing airlines can gain access to markets closed under the current system—is already bearing fruit.

Chicago's Midway Airport provides a good example. Midway, a bustling traffic center in the 1950s, all but closed down when O'Hare International Airport, now billed as the busiest airport in the world, opened in 1962. At the moment, Delta is the only scheduled carrier operating regular flights out of Midway. For more than 15 years, the city of Chicago has been trying to restore service to its "other" airport.

Kahn is finally giving it the chance. On July 12, the CAB announced it will award new route authority between Midway and six cities to five carriers, including two new companies, Midway Airlines and Midway (Southwest), a subsidiary of Texas-based Southwest Airlines. At the same time, the board began to consider applications from 21 carriers (including the two new lines, plus Federal Express and DHL, a courier service) to 17 additional markets.

A second case involves Oakland International Airport, which asked the CAB in April 1977 to open service into 22 markets. Like Midway, the Oakland facility was losing traffic to another giant, in this case San Francisco International Airport. In April of this year, the board granted service awards to six carriers in 15 of the 22 markets.

The Midway and Oakland cases are less controversial than they might be because no airline is threatened with the loss of its monopoly service between two cities. But to Kahn, they will serve as the precedents he needs to carry out his freedom of entry policy elsewhere.

Currently, the CAB is considering six cases, including the one in which Delta has filed suit, in which it plans to test multiple entry after it resolves the legal and environmental implications.

Kahn won the first round in the Delta suit when the U.S. Court of Appeals for the District of Columbia refused to grant Delta's request to delay letting two other airlines enter the Las Vegas-Dallas/Fort Worth route. It may be next spring before the case is decided. By that time, Delta says, even if the court rules in its favor, it's going to be hard to undo what the board has done.

In the process of developing its theory, the CAB has cut one time-consuming and expensive step out of the regulatory process. No longer will it wade through the requests of all qualified applicants to serve a particular new route. Instead, any airline can provide service; the market will determine how many airlines can operate profitably.

Kahn's affinity for cutting corners has upset some of the airlines. James W. Callison, Delta's general counsel, said that Kahn, as an economist, "seems to think that due process gets in the way" of his plans.

Furthermore, Callison said in an interview, the CAB chairman has gone beyond his legal authority. "The real question we raise," he said, "is whether [Kahn] isn't arrogating to himself the power of Congress."

Kahn and other backers of deregulation counter that it's a matter of interpretation, that the board is simply reading the law in light of the changes that have occurred in the airline industry since the Civil Aeronautics Act (52 Stat. 923) was enacted in 1938. Unless the court rules otherwise, Kahn said, he feels free—"market by market"—to proceed with the effort to deregulate the industry.

The entry of new airlines into routes now served by only one or two carriers is likely to promote Kahn's goal of cutting air fares. David Boies, counsel to the Senate Judiciary Subcommittee on Antitrust and Monopoly, said the next wave of fare discounts "will not be an effort to attract new business but to take business away." The effects of that effort, he said, probably will not be felt for another 18 months to two years.

In view of what Kahn has done already, many of the airlines may have begun to rue their earlier stance against legislation permitting modest deregulation. Under the automatic entry provision of the bill (S 2493) that the Senate passed in April, carriers would be able to select one new route in 1979 and 1980 (assuming enactment in 1978) and two new routes each year thereafter. The House bill (HR 12611), which is expected to go to the floor soon, calls for a one-year experiment in which a carrier could enter one new market.

Kahn concedes that the automatic entry provisions of the legislation are modest by comparison to what the board has initiated. "The main value of the legislation to me is its declaration of policy, which will increase the likelihood of our being sustained in the courts," he said.

In addition, said several congressional aides who have been following the legislation, it is important that the changes be enacted so that Kahn's successors don't reverse what the present board has done.

FEAR OF NOT FLYING

The threat of a "General Motors of the airline industry" hangs over many of the carriers like the sword of Damocles. Translated, GM means United.

United, which accurately calls itself the "largest airline in the free world," favors deregulation, other airlines speculate, because it has been effectively stopped from growing under the existing regulatory system. Because of its vast resources, they say, United could afford to enter new markets and drive away competitors, even if it had to sustain temporary losses.

Monte Lazarus, United's senior vice president for government affairs, said the company's size is not a factor in its proderegulation stance. He said it hopes more competition will allow the industry to overcome its history of "dismal" earnings and meet its $60 billion in capital requirements by 1990.

"Sure, we've been shut out for a long time on routes," he said, "but if the board did nothing henceforth, [United] wouldn't suffer."

The carriers that side with Kahn are just as suspicious of Delta's motives. Delta, based in Atlanta, has become the most profitable of the major carriers because of its ability to carry passengers along its own routes to major market centers. Its potential competitors feel Delta is afraid that if another carrier invaded its territory, it might lose its dominance along some of its more profitable routes.

Location could be another part of the story. Frontier, which operates a route system out of Denver that is similar to Delta's, favors a freer entry policy.

Lawrence Bishop, Frontier's vice president for corporate communications, said that the population growth in the mountain states might explain Frontier's difference of opinion with Delta. "The cities are smaller, but the potential for growth is bigger," he said.

Until now, he said, getting new route awards from the CAB has been "like pulling teeth." So a free entry policy should be good for a company such as Frontier that wants to expand.

Does Frontier fear the competition? Bishop said no: "Ninety per cent of our profits now come from routes where we're competing with one or more carriers."

But other carriers apparently are not convinced by the optimism of the Frontiers and Uniteds. To them, the threat of control by a handful of big carriers outweighs any advantage that more competition might have to offer.

If Kahn's multiple entry theory is applied everywhere, said a spokesman for TWA, the airlines would soon resemble the automobile industry. "Before long, there own't be any Packards, Studebakers or Reos around."

Kahn said that the "possibility" of oligopoly is not reason enough to prevent competition. But he clearly does not envision that possibility as likely.

"If you open up only a couple of markets, there is always a danger that the incumbent carriers will try to smother the opportunities," he said. "That's why I am so persuaded that we have to move faster and open up a lot of markets."

He pointed out that the smaller airlines are still pounding on the CAB's door to seek entry rights into markets where they would be competing with giants such as Delta and Eastern. And the small carriers have so many advantages over the bigger ones—lower labor costs, higher productivity, equipment better adopted to specialized markets—"that I'm convinced they will find niches in which they can operate."

One early industry response to the threat of competition may come in the form of merger applications. Two such applications—between Continental Air Lines and Western Air Lines and between North Central Airlines and Southern Airways—already are pending before the CAB, and industry observers say more may follow, especially if National accepts Pan Am's recent offer to merge the two lines.

According to Kahn, the initial applications for mergers might represent a "psychological rushing for security blankets." But since the board is opening up new markets to the carriers, it is less likely to look kindly on those that want to expand their system the "easy" way. "I'm not saying we're flatly opposed to these mergers, but we're going to put a very heavy burden of proof on them," he said.

Delta's Callison said the board should look at history. "Every time we've gone through one of these [economic] cycles, and we've gone through them regularly since World War II, the industry has shrunk in size. It's happening all over again. Conditions are pushing the industry toward a smaller and smaller oligopoly, and I'm not sure that's good for the public."

OTHER FEARS

If deregulation forces some airlines out of business, it also may leave some small and medium-sized cities without airlines to serve them. That argument provided the basis for much of the early congressional resistance to the deregulation bill. *(See NJ 7/30/77, p. 1193.)*

In response, proponent points out that the airlines have been abandoning routes with regularity—nearly 200 since the mid-1960s—under existing policies.

"Regulation has never historically kept airlines on unprofitable routes," said Philip J. Bakes, the CAB's general counsel. In addition, Bakes said, the kind of service provided to small towns in the past often has not served the needs of the people.

Commuter airlines, fast becoming an important part of the air transportation system, might provide at least part of the answer. Currently, there are about 200 commuter companies, serving over 600 communities and transporting over eight million passengers a year.

The major advantage of the commuters over the bigger lines is their ability to schedule more flights per day because they don't have to fill up such large planes. "At first, people [in small cities] don't like to lose their big shiny jets," said Tulinda Deegan, director of government affairs for the Commuter Airlines Association of America. "But they soon find that increased services make up for it."

Another related problem is the job security of airline employees. In its efforts to serve travelers better, some airlines argue, the CAB seems to have forgotten that employees are an equally important part of the public interest equation.

"If one airline goes down the tubes, who's going to hire the 50-year-old captain or the 57-year-old mechanic?" an attorney for the Air Line Pilots Association asked. Even if they were hired, he said, they would drop back to the bottom of the seniority list.

"I do have to admit that greater competition creates greater [job] insecurity," Kahn said, "but that's something that we should protect through general social security, unemployment compensation and severance pay arrangements." But more competition, he added, should produce even more jobs.

"I see no necessary conflict between the interest of consumers and the interest of the financial side of the industry," Kahn said. "There is no reason why it cannot earn good profits and pay excellent wages while also providing consumers the benefits of competition."

A final concern of some of the carriers is what they call "selective deregulation"—the deregulation of fares and entry combined with new regulations governing other aspects of the business. The CAB's attempt to impose smoking rules is one example. Another is a proposal asking the airlines' cooperation in putting together a quality-of-services index for consumer information purposes.

These efforts, one airline official said, constitute "a meddlesome interference with our business."

"The thing we fear most is uneven regulation, and that's exactly what's happening today," said another. "The CAB is a very, very inconsistent regulator."

"We're subject to more detailed regulation and reporting than ever before," said a third official.

Kahn's reply: "Absolute propagandistic garbage." In the past year or two, he said, the agency has cut the amount of paperwork requirements by nearly 45 per cent, and its efforts to reduce the amount of evidence required at hearings should help even more. "If [the airlines] don't know the difference between simply providing consumer information and the government telling carriers who may go in and who may not and in which markets and what prices they may charge," Kahn said, "then they ought to go back to law school."

Nonetheless, many airlines now insist that if deregulation is going to be a fact of life, it should be total. In other words, abolish the CAB and turn its consumer protection and safety functions over to the Federal Trade Commission and the Transportation Department.

Kahn probably would like nothing better.

THE VICTIMS OF DISCOUNT FARES

On Sept. 11, Overseas National Airways will make its last flight. A supplemental, or charter, air carrier, Overseas National is going out of business, victim of the recent wave of fare discounting by scheduled U.S. airlines.

That's not the whole story, of course. Overseas National, which began operating in 1950, has had a string of hard luck, including the loss of two of its planes in 46 days during the winter of 1976. More recently, a strike by McDonnell Douglas Corp. delayed delivery of a plane it was counting on during the three-month summer peak, a period that Overseas National president James W. Bailey called the equivalent "of Easter Sunday at church."

But the promotional fares offered by the regularly scheduled airlines were the last straw, Bailey said. The company felt their impact late in 1977, when cancellations began to mount. Even if the new plane had been delivered on time, "the discount fares eventually would have caused us to take this action," he said.

The story of Overseas National, although extreme, suggests the problems facing the charter airline industry. Until recently, charter flights were the only source of low-fare travel available in this country. But soon after the scheduled carriers began heavily promoting special discount fares in April 1977, the charters began losing business. In June, for example, the number of Americans traveling abroad went up by only 1.9 per cent over June 1977. The scheduled airlines recorded a 30 per cent increase in the number of passengers; the charters, on the other hand experienced a 36 per cent decline in passengers.

Currently, the charter industry has only about five viable carriers—the biggest being World Airways and Trans International Airlines, with Evergreen International Airlines gaining in strength. The industry has diminished gradually since 1962, when Congress cut the number of supplementals from 100 to 13.

Bailey said he doesn't think the rest of the industry will necessarily follow Overseas National's path to liquidation. "Those with financial strength and desire will eventually come out all right," he said.

The Civil Aeronautics Board (CAB), which has encouraged the airlines to discount their fares as part of its attempt to deregulate the industry, nevertheless has been concerned by the situation facing the charters. CAB chairman Alfred E. Kahn said he recognized the danger last fall and tried to moderate the special fares, fearing they were "too sudden" and might drive the charters out of business. But President Carter overruled him, and so now, Kahn said, the CAB has to give the charters a break.

On Aug. 17, the board approved new rules to establish a single "public charter" class and eliminate many of the restrictions (advance purchase requirements and limitations on the length of stay and group size) in an effort to help them compete. The rules do not waive the requirement that the supplementals sell through tour operators, however. (Sen. Howard Cannon, chairman of the Senate Commerce, Science and Transportation Committee and its Subcommittee on Aviation, introduced legislation (S. 3363) in August that would allow charters to sell a small percentage of their tickets directly.)

In addition, Kahn said that he will be looking out for the best interests of the charters as the U.S. negotiates its air treaties with other countries. The United States, already has obtained multiple landing rights in Israel and the Benelux nations, and hopes to get a similar agreement with West Germany later this year.

"But when it comes right down to it," he said, "I'm not in the business of protecting the supplementals. I'm in the business of giving them the fairest and fullest opportunity to compete, but I don't believe that one preserves competition in the last analysis by maintaining artificial restrictions to protect individual competitors."

Edward J. Driscoll, president of the National Air Carrier Association, the charters' trade group, said the industry will watch carefully to see what the board does. "So far, all we've had are promises," he said. And he asked whether Kahn is looking at the big picture as he moves to deregulate the industry. "Are you just pulling strings, and starting something you don't know the end result of?"

Mr. PERCY. Mr. President, this is an example of what can happen to the vitality of American industry as it is deregulated.

DEPARTMENT OF ENERGY IGNORES RECYCLING

Mr. PERCY. Mr. President, I wish to bring to the attention of my colleagues a "brown-bag" luncheon meeting focusing on the "feasibility of waste recycling." The speaker, Mr. Neil Seldman of the Institute for Local Self-Reliance, will discuss the potential for Federal involvement in this field. The meeting will be held this Wednesday, September 20, from 12 to 2 p.m., in room 2117, Waterside Mall.

An organization known as FAT—the Friends of Appropriate Technology—will sponsor the luncheon. FAT is an informal network of people interested in exploring alternatives to large-scale, energy- and resource-intensive technology. Its 250 members represent government agencies, congressional offices, and citizens' groups.

In the past year, FAT meetings have focused on issues such as appropriate technology in less developed countries, the Family Farm Development Act, the social and political implications of appropriate technology, and the sweat-equity work of the New York City 11th Street Movement. FAT has also helped to establish monthly study groups on appropriate technology at the Commerce Department, the Department of Energy, and the Environmental Protection Agency.

RECYCLING HAS MANY BENEFITS

The year of sanitary landfill is fast receding as the amount of open space available for garbage disposal near urban centers diminishes. Even if land were still available, however, we could no longer afford to disregard the resource and energy value of our Nation's solid waste.

Recycling offers numerous advantages as a way to handle solid waste. It is resource- and energy-efficient; it is economically competitive with other means of solid waste management; and it is socially constructive.

Reuse of materials such as aluminum, steel, paper, and glass cuts down vastly on the energy required for their manufacture. Using recycled rather than virgin materials creates energy savings of 95 percent in aluminum manufacturing, 74 percent in steel manufacturing, 30 percent in paper manufacturing, and 25 percent in glass production.

Recycling also cuts down on resource consumption. The United States today imports 75 percent of its tin, 81 percent of its aluminum, and 66 percent of its newsprint. Trimming our demand for these commodities will reduce domestic inflation and improve our international balance of payments.

Jobs are an added benefit of recycling. Every $15,000 of capital spent on recycling produces a new job. By setting up recycling centers, many urban neighborhoods have reduced their unemployment, provided valuable training in local government administration, and created a source of revenue.

FEDERAL INDIFFERENCE

All these factors bode well for recycling as a solid-waste management technology. It is a new technology, however, and will benefit from further development. Unfortunately, the Federal Government has neglected to give recycling the attention it deserves.

The Department of Energy is now working on a commercialization plan, designed to identify innovative energy technologies which are worthy of Federal support. I am sorry to learn that this plan has failed to include recycling. Instead, it has focused upon the large-scale conversion of solid wastes into usable energy. Most commonly, these plants use heat generated by burning wastes to produce steam for electricity.

Garbage-to-energy technology faces many problems. Unlike recycling operations, which are flexible in scale, current designs for garbage-to-energy facilities call for large, centralized plants which depend upon a guaranteed supply of garbage for the expected life of the facility. To insure such a supply, some privately owned plants have obtained contracts requiring municipalities to pay penalties if these quotas are not met. Subscribing municipalities thus have an economic stake in perpetuating the throw-away consumption habits of their residents.

Air pollution is another problem associated with garbage-generated energy. Electrostatic precipitators, installed to minimize dangerous emissions, must be finely adjusted to the composition, temperature, moisture-content, and velocity of released gasses. Because garbage varies in composition and moisture-content, unacceptable amounts of heavy metals and particulates often escape. Toxic gasses from burning plastic are an additional hazard.

In contrast to recycling operations, energy-generating waste plants produce few new jobs. For every $1.8 million invested, only one job is created.

Converting solid waste into energy may be suitable in some circumstances, but we must not overlook its drawbacks. By the same token, we must recognize the important contribution which recycling can make to solid-waste management. The upcoming FAT-sponsored meeting should prove interesting and informative. I urge my colleagues to take advantage of this opportunity to learn more about this issue.

ORDER OF PROCEDURE

Mr. PERCY. Mr. President, I yield the floor.

Mr. SPARKMAN. Mr. President, will the Senator yield to me long enough to call up a conference report?

Mr. METZENBAUM. For the purpose of calling up a conference report, I yield to the Senator from Alabama without losing my right to the floor.

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object, is this a conference report or a request for a conference?

Mr. SPARKMAN. It is to ask for a conference with the House and appoint conferees.

Mr. HARRY F. BYRD, JR. And to appoint conferees. I say to the Senator from Ohio that this matter is going to take a little time, so he can decide whether to yield at this point or not. The Senator from Virginia is going to speak for a little while, so I know it is going to take a while.

Mr. METZENBAUM. That being the case, I say to my good friend from Alabama that if this matter is going to take more than just a moment, I think we ought to keep the discussion on the floor on the natural gas bill. I have no objection if it is just a matter of yielding the floor for 1 or 2 minutes, but I gather from the comments of the Senator from Virginia that that is not what he has in mind.

Mr. SPARKMAN. I cannot know what the Senator from Virginia has in mind. I think I know what his position is going to be.

Mr. HARRY F. BYRD, JR. I say to the Senator from Alabama that I do not expect to speak long, but I do expect to speak.

Mr. SPARKMAN. I presume that the Senator from Virginia knows that the amendment he is interested in is in the Senate bill.

Mr. HARRY F. BYRD, JR. I am well aware it is in the Senate bill, but I want to address myself to it, nevertheless.

Mr. ROBERT C. BYRD. Mr. President, perhaps I can be of help.

The conference report on natural gas has first priority under the agreement. I want to help the Senator from Alabama get his conference report up, if possible. Could we agree on a time limitation on the conference report that Mr. SPARKMAN——

Mr. HARRY F. BYRD, JR. This is not a conference report.

Mr. ROBERT C. BYRD. I am sorry, I thought it was.

Mr. HARRY F. BYRD, JR. It is a request for a committee of conference.

Mr. ROBERT C. BYRD. I see.

Mr. SPARKMAN. I am merely asking that the matter go to conference and we appoint conferees.

Mr. HARRY F. BYRD, JR. All I am asking is that I have an opportunity to speak on that. I approve of what the Senator from Alabama wants done, but I want to present my views on the case.

Mr. ROBERT C. BYRD. Could the Senator from Virginia indicate how much time he will need and we will try to get it, because it will take unanimous consent under the agreement.

Mr. HARRY F. BYRD, JR. I do not want to make a firm time, but I would say 10 or 15 minutes, maybe 20 minutes.

Mr. JAVITS. If the Senator will yield to me, I would want a few minutes to reply, not an extraordinary amount, but 5 or 10 minutes.

Mr. METZENBAUM. Under those circumstances, I believe we are on the natural gas bill, I have no objection to yielding for the purpose of 1 minute on an agreed-upon matter, but it is obviously a matter that is contentious. I suggest it take its normal place after we get done with this discussion.

Mr. ROBERT C. BYRD. Would the Senator allow me to make one request?

I ask unanimous consent that there be 30 minutes on the matter the Senator from Alabama is attempting to call up, with 20 minutes for the Senator from Virginia, 10 minutes for the Senator from New York, and 10 minutes for Mr. SPARKMAN.

If we can get 40 minutes out of 30, it is a real bargain.

Mr. JAVITS. Mr. President, reserving the right to object, and I hope not to object, will these minutes, whatever they are, be used today? Because I cannot agree to tomorrow.

Mr. ROBERT C. BYRD. They would be used before the day is out.

Mr. JAVITS. That is fine.

Mr. ROBERT C. BYRD. But not interfere with the Senate's proceeding now on this natural gas matter, I hope they would come after the public broadcasting measure, because the Senator from South Carolina is here ready to lead the charge on that and it was indicated we were going to have it up after 3:30 today.

So, Mr. President, will the Chair put the request?

Mr. FORD. Reserving the right to object, Mr. President, if I may, just for a point of information, if this motion is agreed to, then we go to the natural gas matter and we have four or five speakers who will take 5 minutes or so each, about 30 minutes. Then do we come to this, or go to the communications?

Mr. ROBERT C. BYRD. We would stay on natural gas as long as Senators wish to stay on it, then go to the public broadcasting, but before the day is over go to Mr. SPARKMAN's motion.

Mr. FORD. I have no objection, Mr. President.

The PRESIDING OFFICER. Is there objection?

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object, I want to cooperate with the able Senator from Alabama and I will not take much time, but I would like to make just a few remarks.

Mr. SPARKMAN. I have no objection.

Mr. ROBERT C. BYRD. So that would be 20 minutes for the Senator from Virginia (Mr. HARRY F. BYRD, JR.), 10 minutes for Senator JAVITS, 10 minutes for Senator SPARKMAN, and the Senator from Virginia (Mr. HARRY F. BYRD, JR.) indicated he would not take all that, so I hope it will be less than 30 minutes.

The PRESIDING OFFICER (Mr. SASSER). Without objection, it is so ordered.

The Senator from Ohio.

NATURAL GAS POLICY ACT OF 1978—CONFERENCE REPORT

Mr. METZENBAUM. Mr. President, I appreciate the majority leader's efforts to work out an orderly schedule for the disposition of the Senate's business. But I would like to address myself to the comments made by the distinguished Senator from Louisiana.

He hit the nail right on the head when he said that the conference committee report does provide that there will be a big increase in the gas bill for the consumers of this country, and that is correct. That is an indisputable fact. That part of the bill is not the part that concerns the Senator from Louisiana. It is the part that concerns the Senator from Ohio.

The fact is that we will use the next 8 days to attempt to fashion a new kind of compromise, a piece of legislation that will cut costs to the American people, while not imposing any additional bureaucracy or complex legislation on the producers of this country, because that serves no useful purpose whatsoever.

It should be pointed out, and I represent to the Senate, that at least five Members of the Senate have indicated that although they did not vote to recommit the bill, they are prepared to vote down the bill. They are prepared to kill the bill, and that may be the only alternative left to the Members of the Senate.

But I believe these next 8 days can be used advantageously to see whether or not we can create a piece of legislation that will do a job that is fair to the American people while not imposing a burden on the producers.

Mr. SCOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. SCOTT. Mr. President, I have heard this proposal referred to as the national energy bill, and this is a misnomer.

We are talking about a gas pricing bill, not a national energy bill. It does not have anything in it about the use of nuclear energy. I do not believe it has anything in it about the use of coal, our most abundant fossil fuel. It does not have anything in it about the use of oil.

This is a bill to establish a price mechanism for natural gas. I believe we all ought to think about it within that limitation.

I voted for the motion to recommit, because I believe that the bill before us will only result in higher prices for natural gas.

I believe that the producers and distributors of natural gas will have a great deal of discretion as to whether they will use the highest priced gas or they will use the lower priced gas. If we believe that the businessman attempts to make a profit, it seems logical he would not use the highest priced gas.

I would like to see a truly national energy policy. I would like to see a policy developed through our committee or on the floor, if necessary, that would provide more energy for this country. We live in an industrial Nation. We need more energy, not the rationing of a scarce product, if we are going to increase productivity in this country, if we are going to help our balance-of-payments problem, if we are going to have more of the material things of life for the American citizens. That is not in this bill that is before us.

All that is in the bill, as I see it, and I am not on the committee, I certainly was not on the conference committee, but I have looked at the conference report and have acquired a general familiarity with the matter, it just appears to me that it is a method to raise the price of natural gas.

One thing this country does not need is more inflation.

Mr. President, I will comment further sometime in the future on this matter. I know that the distinguished Senator from South Carolina wishes to speak on another matter. It was said that it was hoped we would get off the natural gas bill in half an hour.

However, I think we should talk in terms of what is really in this bill and what is not in the bill. If we talk in terms of a national energy policy, this bill is not it. We have to look somewhere else for a national energy policy.

I yield the floor.

Mr. HANSEN. Mr. President, when we discuss the tactical future of the gas bill, one other factor should be kept in mind. We have already explained why it is clear that we can salvage the portions of the gas bill that are good and noncontroversial.

If, however, the bill goes to the House intact, the House will not have that option, as they cannot recommit a bill which has been passed by one of the two Houses. Their only choice will be up or down.

And we should not overestimate the appeal of the full conference report in the other body. I have here a dear colleague letter in opposition to the gas bill signed by a very broad spectrum of House Members.

I note that it appears very unlikely that there will be any significant Republican support for the bill in the House, which is quite different from the situation here. In addition, the strong opposition of such influential Democrats as JOHN MOSS and PHILLIP BURTON, among consumer State representatives, and BOB KRUEGER and JOE WAGGONNER, among producer State representatives, means that the bill may have very tough sledding over there.

While I do not agree that the total defeat of any gas bill would be a very great tragedy, those in this body who wish, as do I, to see some reasonable gas bill adopted, should consider that the motion to recommit may well be the best means to reach that end.

Mr. President, I ask unanimous consent to have printed in the RECORD a "Dear Colleague" letter signed by JOHN J. RHODES, JOHN B. ANDERSON, CLARENCE J. BROWN, JOHN E. MOSS, PHILLIP BURTON, and TOBY MOFFETT.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C., *September 19, 1978.*

DEAR COLLEAGUE: Last Thursday, September 14, we invited all Members to join in bipartisan support of the Senate's effort to recommit the natural gas pricing conference report. Response to our invitation has been encouraging.

Today the Senate will vote on recommittal. Regardless of the outcome, we remain strongly opposed to this most counterproductive legislation. We urge you to join us in this opposition.

Sincerely,

JOHN J. RHODES,
JOHN B. ANDERSON,
CLARENCE J. BROWN,
JOHN E. MOSS,
PHILLIP BURTON,
TOBY MOFFETT.

Mr. HANSEN. Mr. President, I ask unanimous consent that another "Dear Colleague" letter, signed by quite a number of Members of the House of Representatives, on both sides of the aisle, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C., *September 6, 1978.*

DEAR COLLEAGUE: The Senate will soon begin consideration of the natural gas pricing conference report. At that time, a bipartisan coalition of 24 Senators will move to recommit the conference report with instructions to report an alternative bill which would contain provisions already agreed on by the conferees. These provisions would permit the transfer and sale of surplus and emergency supplies of natural gas to the interstate market under certain circumstances and would allow the President to allocate supplies of natural gas in times of emergency. The motion will also require the conferees to complete action on the utility and conservation parts of the National Energy Act which have been delayed pending consideration of the gas legislation.

We strongly support this Senate effort, and if the motion to recommit with instructions passes, we intend to move in the conference that the House accept the Senate instructions. However, if the motion to recommit the conference report with instructions fails in the Senate and the original conference report passes, we intend to strongly oppose passage of this most counterproductive legislation and urge you to support us in this effort.

Our individual reasons for opposition to the present bill vary due to our differing constituent interests and philosophical views. Nonetheless, we oppose the natural gas agreement due to one or more of the following serious defects:

1. The proposal is hopelessly complex and confusing. FERC's own Office of Enforcement has labeled the proposal "so complex, ambiguous and contradictory that it would be virtually impossible for this [Federal Energy Regulatory] Commission to enforce it in a conscientious and equitable manner."

2. The proposal will not produce more gas than the status quo.

3. The proposal increases consumer prices without any assurance of additional gas supplies.

4. The incremental pricing provisions unfairly penalize industrial users in the Northeast and Midwest which are dependent on interstate supplies of natural gas. As a result, a significant relocation of factories and jobs could occur.

5. Without any apparent logic, the proposal creates at least 20 categories of natural gas. Certain of these categories that are not now regulated are brought under Federal controls temporarily or indefinitely; certain now-regulated categories are deregulated; and certain now-regulated categories remain subject to Federal price controls indefinitely.

Because of these serious deficiencies, virtually no organization supports this legislation. Major industrial users of natural gas oppose this bill because they will pay more for their natural gas without receiving any assurances of increased supplies. Labor and consumer groups oppose the bill because of the economic impact that it will have on lower and middle income consumers. Small independent natural gas producers oppose this measure because they fear that they will be unable to cope with the bill's uncertainty, complexity, and confusion.

Attached is a summary of the major provisions of the bill and of the motion to recommit. We urge your careful review of this material, and we ask your support in opposing this legislation if the motion to recom-

mit the conference report with instructions fails in the Senate.

Sincerely,

John J. Rhodes, Clarence J. Brown, John E. Moss, Peter H. Kostmayer, John B. Anderson, Anthony Toby Moffett, Andrew Maguire, Fortney H. (Pete) Stark, James T. Broyhill, Bill Archer, Larry Winn, Jr., Tim Lee Carter, Henry J. Hyde, Mickey Edwards, W. Henson Moore, Robert L. Livingston, Richard T. Schulze, and Paul Findley.

Samuel L. Devine, Frank Horton, Norman F. Lent, James M. Collins, Dave Stockman, William A. Steiger, Jack F. Kemp, Ralph S. Regula, Marjorie S. Holt, John N. Erlenborn, Manuel Lujan, Jr., Elford A. Cederberg, Tom Hagedorn, Gene Taylor, John Paul Hammerschmidt, Clarence E. Miller, Philip M. Crane, and Robert McClory.

Wes Watkins, Glenn English, James R. Jones, Hamilton Fish, Jr., Ronald A. Sarasin, Lawrence Coughlin, Jack Hightower, Edwin B. Forsythe, Benjamin A. Gilman, Barber B. Conable, Jr., William F. Goodling, David F. Emery, George Hansen, Ron Marlenee, G. William Whitehurst, Thomas N. Kindness, Edward R. Madigan, John W. Wydler, Edward J. Markey, Robert A. Young, Phillip Burton, Donald M. Fraser, and Robert W. Edgar.

SUMMARY OF NATURAL GAS POLICY ACT OF 1978

1. Federal price controls extended over all intrastate natural gas for the first time.

2. Establishes over 20 categories of natural gas, each of which differs either in price treatment or in definition or both. Each of the nearly 10,000 successful gas wells drilled each year in this country will be subject to State regulatory authority, FERC and judicial determinations as to the category and price treatment to be accorded gas produced from such well. (There are no time deadlines placed on the final determinations made under this bill).

3. Controls over virtually all gas are to remain in effect until at least January 1, 1985—and possibly until 1989.

4. At any time between June 31, 1985 and July 1, 1987, either Congress or the President (subject to Congressional veto) can reimpose controls for 18 months, thus potentially extending controls until January 1, 1989.

5. Industrial boiler fuel users on interstate pipelines will pay the increased costs associated with pipeline purchases of higher cost gas.

6. Bill establishes a myriad of prices ranging from $2.09 per Mcf to $.54 per Mcf.

7. Contains emergency purchase and allocation authority.

8. Establishes agricultural and industrial process and feedstock curtailment priorities.

9. Preempts State's ability to determine end user prices within State.

10. Essentially eliminates industrial use of Order 533 direct purchase provisions.

SUMMARY OF MOTION TO RECOMMIT WITH INSTRUCTIONS

1. Any interstate pipeline or local distribution company may be authorized to purchase emergency supplies of natural gas.

2. President may order any pipeline to transport natural gas in times of emergency.

3. In order to meet the needs of high-priority users of natural gas, President may allocate surplus volumes of gas in the interstate market.

4. FERC authorized to permit intrastate pipeline to assign its right to receive surplus natural gas to an interstate pipeline upon such terms and conditions as the FERC deems appropriate.

5. Intrastate pipelines authorized to transport natural gas on behalf of any interstate pipeline or any local distribution company served by an interstate pipeline.

6. FERC may authorize intrastate pipeline to sell natural gas to any interstate pipeline or any local distribution company served by an interstate pipeline without affecting its jurisdictional status.

Mr. HANSEN. Mr. President, I make these points, and these are made in the "Dear Colleague" letters signed by a number of House Members:

The proposal is hopelessly complex and confusing. FERC's own Office of Enforcement has labeled the proposal "so complex, ambiguous and contradictory that it would be virtually impossible for this (Federal Energy Regulatory) Commission to enforce it in a conscientious and equitable manner."

The proposal will not produce more gas than the status quo.

The proposal increases consumer prices without any assurance of additional gas supplies.

The incremental pricing provisions unfairly penalize industrial users in the Northeast and Midwest which are dependent on interstate supplies of natural gas. As a result, a significant relocation of factories and jobs could occur.

Without any apparent logic, the proposal creates at least 20 categories of natural gas. Certain of these categories that are not now regulated are brought under Federal controls temporarily or indefinitely; certain now-regulated categories are deregulated; and certain now-regulated categories remain subject to Federal price controls indefinitely.

Mr. MELCHER. Mr. President, quite often during the debate on the natural gas conference report, some very general statements have been made on regulations which have not been rebutted and have not been clarified. I wish the senior Senator from Louisiana were present on the floor at this point, because some of the statements he made a few moments ago deserve to have a response. It is for that purpose that I address my remarks at this time.

The senior Senator from Louisiana spoke about the administrative nightmare in the natural gas conference report with respect to reporting and the paperwork necessary for producers. He mentioned, I believe, that it would entail numerous additional lawyers for gas companies. I believe he intimated that it would lead to new litigation and delay in sales of gas waiting for decision by the courts.

Forget for a moment the pending natural gas conference report. What happens now, under the present law? That point is not being addressed by the senior Senator from Louisiana.

The point that is in the conference report, the bill presented to us, that deals with paperwork and elimination of the burden of required reports goes at least to two points:

First, section 4 of the Natural Gas Act requires, in many instances, nonpricing reporting because of nonpricing regulation. Under the existing Natural Gas Act regulations, a great deal of reporting is caused. It is a heavy burden. It is there now in place.

The Federal Power Commission, since its creation in the 1930's, and then after the Phillips Supreme Court case in 1954, resulted in added regulations that increased tremendously all during those years to the amount of paperwork required of producers in interstate sales. That had nothing to do with price. These were nonpricing regulations. That heavy and costly burden of regulations exists now under present law.

The bill before us in this conference report repeals that part of section 4 of the Natural Gas Act; that is, I repeat, an outright repeal of those regulations dealing with "nonpricing regulations" reporting.

In terms of section 7 of the Natural Gas Act, the conference report also repeals the requirement of reporting on abandonment. That may not sound like a great deal as we discuss it in the Senate, but I can assure Senators that the producing companies that have to make those reports and file them—many of them every 30 days—can attest to the heavy paperwork, and the burden that places upon them. Those requirements are repealed.

The agency that will enforce these requirements, in the proposed conference report is FERC, the Federal Energy Regulatory Commission. I should like now to read an assessment that I received today from that commission. It is entitled "An Assessment of the Administrative Burdens Under the Natural Gas Conference Report."

I quote:

Three areas under the bill will require the most significant administrative effort—wellhead pricing, incremental pricing, and the agricultural and industrial curtailment priorities.

First, the wellhead pricing provisions of the bill will lead to a significant reduction in the regulatory burdens under the Natural Gas Act of 1938. For virtually all new wells, producers selling in interstate commerce will not be required to file, and the FERC will not be required to process, certificate applications, rate increase filings, or abandonment applications or to conduct rate determination proceedings.

I state, out of context, that those are the parts in section 4 and section 7 of the Natural Gas Act that are going to be repealed by this conference report.

I read again from the assessment by the Federal Energy Regulatory Commission:

The vast majority of FERC's current caseload deals with producer regulation. For example, the projected 1979 caseload for the Commission is 47,522 cases and producer certificates and rate filings under the Natural Gas Act constitute 81 percent or 37,682. Those types of cases would be eliminated for the future.

Mr. President, that is 37,682 of those 47,522 cases, and the 37,682 is a reduction of cases. We cannot possibly talk about what this conference report requires in paperwork without talking about what it eliminates in paperwork. The interest of gas producers — particularly independents—the wildcatters that discover natural gas and then sell it on a contract—is whether or not the overwhelming requirements of Federal reports under the existing requirements of the Natural Gas Act will continue under the pending bill.

Mr. President, I think that the statement of Charles Curtis, chairman of the Federal Energy Regulation Commission says a lot about what will be the reduction in paperwork for interstate sales. That is welcome news and an advantage in the proposed new law.

I want to get to intrastate sales.

If the senior Senator from Louisiana would have explained it more thoroughly, he would have told us that under existing law for intrastate sales, in their State, Louisiana governs, and in my State, Montana governs on intrastate sales, as it is in all the producing States.

This conference report brings intrastate sales under the tent of Federal control.

Does it pose, then, a terrific new problem for paperwork for producers on intrastate sales? As it has been explained to me, the answer is no.

I have asked the Federal Energy Regulatory Commission, Charles Curtis and Donald Smith—Charles Curtis being the chairman and Donald Smith one of the commissioners—what is it going to mean to a producer in Montana if the sale is going to be intrastate? And here is what they said.

They will file with the Montana State Oil and Gas Commission a notice of a producer. They will ask that commission for a price. That is the State commission. The State commission will set the price based on this bill, and they will tell the producer who in turn will execute a contract with a gas company and file that contract with the State commission and go about his business of producing and selling the gas under the terms of that contract.

The part that FERC would play in that would be one of oversight and one of spotchecking to see that there were no mistakes made in the pricing and that the contract did not violate the law. Mr. President, here is the complete letter from Mr. Curtis:

FEDERAL ENERGY REGULATORY COMMISSION,
Washington, D.C., September 19, 1978.

Hon. JOHN MELCHER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MELCHER: This is in reply to your letter of September 19, 1978, inquiring with respect to the proposed Natural Gas Policy Act of 1978 (NGPA) how a producer who drills a new well, onshore, and who affects the sale to an interstate purchaser will be able to establish the price ceiling applicable to gas produced from such well. In responding, I will make two basic assumptions. First, it is assumed that the gas produced from the new well is not dedicated or committed to interstate commerce. Second, I have assumed that the gas is to be sold under a contract pursuant to which the purchaser has agreed to pay the highest maximum lawful price applicable production from the new well under the NGPA.

In such circumstances, several possibilities present themselves. Initially, I would point out that section 101 provides that natural gas which qualifies under more than one provision of the Act shall be entitled to the highest applicable price unless the parties have agreed by contractual terms to be bound to a lesser price (see subsections (b)(5) and (9)).

Given the assumptions set out in the first paragraph to this letter, a producer could expect to encounter the following requirements in determining the price eligibility for gas produced from a new well:

(1) If drilling of the well was commenced on or after February 19, 1977, the producer could qualify for the Section 109 price of $1.45 per million Btu's adjusted for inflation back to April 1977. Drilling records establishing the "spud" date of the well would conclusively establish eligibility. Nothing more is required.

(2) A producer may alternatively establish eligibility for the Section 103 price of $1.75 per million Btu's adjusted for inflation back to April 1977. Here, eligibility is demonstrated merely by showing that surface drilling began on or after February 19, 1977 (i.e., the spud date), and that the well satisfied any applicable state well spacing requirements and was not within a proration unit. It is generally the case that waiver from a state agency is required in order to drill within an existing proration unit. Accordingly, both producers and state agencies are likely to have geological records which are readily ascertainable to demonstrate eligibility under this pricing category. Indeed, state production maps may be all that is required to demonstrate eligibility beyond the showing of the spud date for the well.

(3) A producer could also seek qualification for the new gas price under Section 102 for any new well which was commenced on or after February 19, 1977. In this case, qualification depends on whether the new well is 2½ miles or more from a "marker well" or is producing from a completion location located at a depth at least 1,000 feet below the deepest completion location of any marker well within 2½ miles. Also, a producer may qualify a new gas well for the new gas price if it is producing from a new reservoir. The determinations under section 102 will be more difficult. Essentially, much of the burden will fall upon the state agency to derive information from its existing records demonstrating eligibility or to collect additional information as may be necessary to meet the statutory standards. It is difficult to make any general comment at this time concerning the administrative difficulties which will be encountered and the time necessary to conclude the determination process. We have engaged in certain preparatory dialogues with a number of state agencies in an effort to seek ways to effectively and efficiently administer these provisions of the Act. That work still progresses and will, of course, intensify if the legislation is enacted.

I should also note, parenthetically, that following the first year after date of enactment, a producer may, in certain circumstances, be able to qualify a new well for the deregulated price treatment provided under section 107 for "high-cost" gas. Conceivably, also, after some production history is developed, a well spudded after February 19, 1977, could qualify under the stripper well category.

In terms of your assessment of the administrative burdens, I should call your attention to the interim collection procedures set out in section 503(e). Generally speaking, these provisions allow a producer, either pursuant to implementing rules to be promulgated by this Commission or under the terms of this statute itself, to charge the highest price to which he believes he is entitled subject to refunding those amounts which may ultimately be determined to be overcharges. In this respect, I would refer you to the discussion of these procedures appearing at pages 72 through 78 of the Section by Section Analysis which I previously submitted to Senator Jackson.

I hope the foregoing is responsive to your question. I would be happy to amplify my comments if you require further information and analysis.

Sincerely,

CHARLES B. CURTIS,
Chairman.

That process is not envisioned as to taking much time. It will be in terms of days, not months, in terms of days. That process is not envisioned in delaying the producer from selling his natural gas any longer than a matter of days. That is important in the cash flow of the producer.

Is there something in the bill that will hamstring intrastate sales?

Let me point out this, and I am quoting again from the assessment from the FERC assessment:

In regard to incremental pricing, the commission will be required to assemble data to a degree of specificity not heretofore required, . . .

That is, on the incremental pricing.

And to conduct two extensive rulemakings within 18 months after the enactment of the bill.

Mr. President, we decided we wanted incremental pricing, but will it apply to intrastate sales? And the answer to that is no, not unless the individual State enacts statutes of its own requiring it and all of the producing States have always refused to have incremental pricing as part of their State statutes regarding the sale of natural gas.

So, also, in this regard, the incremental pricing features in the conference report bill, which will require a new entry by the Federal people into the field to regulate the incremental pricing, need not ever apply except to interstate sales unless a particular State passed statutes of their own affecting their own State, and only in that case would those incremental pricing regulations that the commission will have to develop come into effect on interstate sales.

Finally, Mr. President, the question how does the implementation of the agricultural priority place a burden on FERC: they explain in their assessment that "that will require a limited reopening of the existing curtailment cases before the Commission for the purpose of establishing the entitlements.

However, recent court rulings may require reopening of many of the curtailment plans without regard to this legislation.

In this respect, Chairman Curtis concluded that:

Taking this, the flexibility under the bill, into account and also taking into consideration the more important factors that the curtailment activities of FERC are currently extensive and requirements for reexamination of curtailment policies exist independent of the Natural Gas Policy Act, it appears that the additional requirements of the NGPA will add only incrementally to what already will require a major commitment of Commission resources.

Mr. President, on that point we know how important agricultural priority is. It is part of what we deem is absolutely essential for the agricultural industry of this country.

So, in that regard, we are placing an extra burden on FERC, and they will have to develop regulations on that.

I think, in all fairness, Mr. President,

it can be said that criticism of this natural gas conference report on the basis that it will add additional paperwork and additional burdens and cost to producers is not founded in fact; that the elimination of parts of section 4 reporting and section 7 procedures on abandonment which are repealed by this act, eliminates a tremendous amount of paperwork that now exists under the Natural Gas Act, and that it would be fair to say that there will likely be less paperwork under this new bill than there is under the current act pertaining to interstate sales.

Mr. President, I ask unanimous consent that the full assessment of the administrative burdens under the natural gas conference report from the Federal Energy Regulatory Commission be printed in the RECORD.

There being no obejction, the material was ordered to be printed in the RECORD, as follows:

AN ASSESSMENT OF THE ADMINISTRATIVE BURDENS UNDER THE NATURAL GAS CONFERENCE REPORT

Three areas under the bill will require the most significant administrative effort—wellhead pricing, incremental pricing, and the agricultural and industrial curtailment priorities.

First, the wellhead pricing provisions of the bill will lead to a significant reduction in the regulatory burdens under the Natural Gas Act of 1938. For virtually all new wells, producers selling in interstate commerce will not be required to file, and the FERC will not be required to process, certificate applications, rate increase filings, or abandonment applications or to conduct rate determination proceedings. The vast majority of FERC's current caseload deals with producer regulation. For example, the projected 1979 caseload for the Commission is 47,522 cases and producer certificates and rate filings under the Natural Gas Act constitute 81 percent or 37,682. Those types of cases would be eliminated for the future. The FERC will not be required to conduct extended rate proceedings. As Chairman Curtis concludes, "It is reasonable to expect that the Commission's present caseload attributable to functions now conducted under the Natural Gas Act will significantly diminish in future years." In place of those Natural Gas Act functions, the Commission will be required to oversee and review the administration of the price ceilings under the bill.

The Commission will establish guidelines for state or USGS administration of these price ceilings, but will be involved in the routine administration of these functions only in a review capacity. For the most part, the Commission will be able to confine its review workload to those cases that present clear error on the part of the initial fact finder. As Chairman Curtis notes, wellhead pricing provisions of the Natural Gas bill provide "seemingly difficult problems of administration but (also) considerable opportunity to evolve a creative and efficient mechanism for giving effect to the policies enunciated in the Act."

With respect to the state or USGS initial administration of the new gas pricing standards, it should be noted that the standards for establishing eligibility for price are basically readily determinable facts such as distance and depth in relation to old wells. The states should be able to quickly establish a routine for these matters that would require little additional administrative burden. The classification of new reservoirs is a somewhat more complex determination but such inquiries proceed along well established lines of geological inquiry. The states of Louisiana and Texas, for example, routinely today define reservoirs for purposes of establishing proration units. In the past, Texas has provided an incentive for discovery of new oil reservoirs that is analogous to the purposes of the Natural Gas bill. Newly discovered oil reservoirs were allowed an exemption from production limits.

Thus, while states will have somewhat increased administrative responsibilities under the Natural Gas bill, it is not foreseen that large increases in personnel will be required. Representatives of the FERC and the Interstate Oil Compact Commission have had several meetings to discuss approaches to implementation of this legislation. Preliminary discussions have also been held with the State Commissions or agencies that will have the majority of responsibility under the Act. FERC is also planning schedules for expedited proceedings to implement the Act in conjunction with the states.

In regard to incremental pricing, the Commission will be required to assemble data to a degree of specificity not heretofore required, and to conduct two extensive rulemakings within eighteen months after the enactment of the bill. However, once the principles are established and the data base regarding the affected users is in place, the future administration of incremental pricing will flow into the Commission's normal pipeline rate-making process. Chairman Curtis concluded that "In short, implementation of Title II (incremental pricing) implies a significant statistical effort and some lesser modifications to the Commission's procedures. However the workload, policy and procedural requirements appear achievable."

The implementation of the agricultural priority will require a limited reopening of the existing curtailment cases before the Commission for the purpose of establishing the entitlements. However, recent court rulings may require reopening of many of the curtailment plans without regard to this legislation. In this respect, Chairman Curtis concluded that "Taking this (the flexibility under the bill) into account, and also taking into consideration the more important factors that the curtailment activities of FERC are currently extensive and requirements for reexamination of curtailment policies exist independent of the Natural Gas Policy Act, it appears that the additional requirements of the NGPA will add only incrementally to what already will require a major commitment of Commission resources."

Mr. MELCHER. Mr. President, I yield the floor.

PUBLIC TELECOMMUNICATIONS FINANCING ACT OF 1978

Mr. HOLLINGS. Mr. President, while Senators have now concluded momentarily their remarks on the natural gas conference report, under the previous order and agreement I ask that the Senate proceed to the consideration of Calendar Order No. 789, S. 2883, the Public Telecommunications Financing Act of 1978.

The PRESIDING OFFICER (Mr. HODGES). The order has been entered to that effect.

Mr. HOLLINGS. All right.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2883) to amend the Communications Act of 1934 to extend and improve the provisions of such Act relating to long-term financing for the Corporation for Public Broadcasting and relating to certain grant programs for public telecommunications, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation with amendments as follows:

On page 2, line 16, after "1934" insert "(47 U.S.C. 390)";

On page 2, line 22, strike "public telecommunications services" and insert "noncommercial educational and cultural radio and television programs";

On page 3, line 2, strike "public telecommunications services" and insert "noncommercial educational and cultural radio and television programs for ";

On page 3, line 4, strike "owned" and insert "operated";

On page 3, line 5, strike "by" and insert "by,";

On page 3, line 7, after "provide" insert "such noncommercial";

On page 3, line 7, strike "services" and insert "programs";

On page 3, line 11, after "1934" insert "(47 U.S.C. 391)";

On page 3, line 25, after "1934" insert "(47 U.S.C. 392)";

On page 4, line 8, strike "five-year" and insert "5-year";

On page 4, line 12, strike "an entity which is eligible to be licensed or is licensed by the Federal Communications Commission as a noncommercial educational broadcast station" and insert "a public broadcast station";

On page 4, line 16, strike "system of public" and insert "noncommercial";

On page 4, line 16, strike "broadcast stations" and insert "telecommunications entity; or";

On page 4, line 17, strike "nonprofit foundation, corporation, institution, or association organized primarily for educational or cultural purposes; or (D) a State or local government (or any agency thereof), or a political or special purpose subdivision of a State" and insert "system of public telecommunications entities";

On page 5, line 11, after "technologies" insert "and coordination with State educational television and radio agencies, as appropriate";

On page 5, line 18, after "in" strike "the" and insert "an";

On page 5, line 20, strike "per centum" and insert "percent";

On page 6, line 5, after "(a)" insert "of this section";

On page 6, line 18, after "393" insert "of this subpart";

On page 6, line 19, after "(e)" insert "of this section";

On page 6, line 22, strike "ownership" and insert "operation";

On page 7, line 2, after "such" insert "other";

On page 7, line 4, strike "ten" and insert "10";

On page 7, line 9, strike "an agency, institution, foundation, corporation, or association" and insert "a station, entity, or system";

On page 7, line 11, after "(a)(1)" insert "of this section";

On page 8, line 4, after "including" insert "a complete and itemized inventory of all telecommunications facilities under the control of such recipient, and";

On page 8, line 20, after "(a)" insert "of this section,";

On page 9, line 4, after "1934" insert "(47 U.S.C. 393)";

On page 9, line 8, strike "for Public Broadcasting";

On page 9, line 17, after "(a)" insert "of this section";

On page 9, line 20, strike "unserved by public broadcasting" and insert "not receiving noncommercial educational and cultural programs";

On page 10, line 2, strike "owned" and insert "operated";

On page 10, line 5, after "provide" insert "noncommercial";

On page 10, line 6, strike "services" and insert "programs";

On page 10, line 7, after "391" insert "of this subpart";

On page 10, line 8, strike "per centum" and insert "percent";

On page 10, line 9, after "available" insert "to extend delivery of noncommercial educational and cultural programs to areas not receiving such programs through grants";

On page 10, line 11, strike "the creation" and insert "facilities";

On page 10, line 12, strike "for the expansion of the service areas";

On page 10, line 14, strike "creation and expansion" and insert "facilities";

On page 10, line 21, strike "per centum" and insert "percent";

On page 11, line 3, after "1934" insert "(47 U.S.C. 394)";

On page 11, line 6, strike "appropriate" and insert "the Corporation, public telecommunications entities, and as appropriate with other";

On page 11, line 9, after "390" insert "of this subpart";

On page 11, line 10, strike "five-year" and insert "5-year";

On page 11, beginning with line 14, insert the following:

"(b) The Secretary of Commerce shall prepare annually a comprehensive and detailed inventory of funds distributed by Federal departments and agencies to public telecommunications entities during the preceding fiscal year.

On page 11, line 18, strike "(b)" and insert "(c)";

On page 11, line 18, strike "shall be";

On page 11, line 19, strike "and a" and insert "an annual";

On page 11, line 20, after "plan," insert "and the inventory required in subsection (b)";

On page 12, line 1, after "Congress" insert "on or before the 31st day of December of each year";

On page 12, line 7, after "202" insert "of this title";

On page 12, line 17, after "392A" insert "(47 U.S.C. 392A)";

On page 12, beginning with line 21, insert the following:

(2) by inserting above section 395(a), as so redesignated in paragraph (1) of this section, the following new heading:

"DECLARATION OF PURPOSE; GRANTS AND CONTRACTS";

On page 13, line 2, strike "(2)" and insert "(3)";

On page 13, line 3, after "(1)" insert "of this section";

On page 13, line 6, strike "(3)" and insert "(4)";

On page 13, line 7, after "(1)" insert "of this section";

On page 13, line 10, strike "(4)" and insert "(5)";

On page 13, line 11, after "(1)" insert "of this section";

On page 13, line 14, strike "(5)" and insert "(6)";

On page 13, line 15, after "(1)" insert "of this section";

On page 13, line 18, strike "(6)" and insert "(7)";

On page 13, line 19, after "(1)" insert "of this section";

On page 13, line 22, strike "(7)" and insert "(8)";

On page 14, line 1, after "(1)" insert "of this section";

On page 14, line 4, strike "(8)" and insert "(9)";

On page 14, line 5, after "(1)" insert "of this section";

On page 14, line 8, strike "(9)" and insert "(10)";

On page 14, line 9, after "(1)" insert "of this section";

On page 15, line 8, after "392" insert "of this part";

On page 15, line 11, strike "(10)" and insert "(11)";

On page 15, line 13, strike "(11)" and insert "(12)";

On page 15, line 19, strike "(12)" and insert "(13)";

On page 15, line 24, after "1934)" insert "(47 U.S.C. 396(a))";

On page 16, line 2, after "declares" insert "that";

On page 16, line 3, strike "that";

On page 16, line 7, strike "(6)" and insert "(2)";

On page 16, line 7, strike "that";

On page 16, line 10, strike "programming and services; and" and insert "radio and television programs;";

On page 16, line 12, strike "(2)" and insert "(3)";

On page 16, line 12, strike "that";

On page 16, line 16, strike "(3)" and insert "(4)";

On page 16, line 17, strike "broadcasting" and insert "telecommunications";

On page 16, line 21, strike "(4)" and insert "(5)";

On page 16, line 22, strike "public broadcast programming" and insert "noncommercial educational and cultural radio and television programs";

On page 17, line 4, strike "(5)" and insert "(6)";

On page 17, line 6, strike "public broadcasting" and insert "noncommercial educational and cultural radio and television programs";

On page 17, line 10, strike "a" and insert "the Corporation for Public Broadcasting";

On page 17, line 11, strike "be created to";

On page 17, line 12, strike "to";

On page 17, line 17, after "1934" insert "(47 U.S.C. 396(d)(1)";

On page 17, line 19, after "Board" delete the colon and insert "as Chairman;";

On page 17, line 22, after "1934" insert "(47 U.S.C. 396(g))";

On page 18, line 2, strike "may" and insert "is authorized to";

On page 18, line 7, strike "television or radio broadcast stations and noncommercial";

On page 18, line 13, strike "public television or radio" and insert "noncommercial educational and cultural radio or television";

On page 18, line 15, strike "television or radio broadcast stations and noncommercial";

On page 18, line 17, strike "stations or";

On page 18, line 20, strike "broadcast stations and noncommercial";

On page 18, line 25, after "freedom of" strike "the";

On page 18, line 25, strike "television or radio broadcast" and insert "telecommunications";

On page 19, line 2, strike "stations and noncommercial" and insert "public";

On page 9, line 11 strike "broadcast stations" and insert "telecommunications entities";

On page 19, line 15, strike "public television or radio" and insert "noncommercial educational and cultural radio and television";

On page 19, line 17, strike "for national or regional noncommercial distribution" and insert "to be made available for use by public telecommunications entities";

On page 19, line 21, strike "broadcast stations and noncommercial";

On page 19, line 22, after "financing" insert "the production or acquisition of";

On page 19, line 23, after "noncommercial" insert "educational and cultural radio and";

On page 19, line 24, strike "and radio programming costs of" and insert "programs by";

On page 19, line 25, strike "stations and";

On page 20, line 1, strike "thereto" and insert "to programs";

On page 20, line 2, strike "stations and";

On page 20, line 3, after "maintain," insert "or contribute to,";

On page 20, line 4, strike "public" and insert "noncommercial educational and cultural radio and";

On page 20, line 5, strike "or radio";

On page 20, line 7, strike "television or radio" and insert "telecommunications";

On page 20, line 14, strike "television or radio" and insert "radio and television";

On page 20, line 14, strike "and services";

On page 20, line 15, strike "broadcast stations and noncommercial";

On page 21, line 1, after "use of" insert "broadcast and";

On page 21, line 3, after "dissemination" insert "to the public";

On page 21, line 4, strike "television or radio" and insert "radio and television";

On page 21, line 4, strike "programs," and insert "programs;";

On page 21, line 5, strike "except that any such contracts entered into shall be effective only to the extent or in such amounts as are provided in advance in appropriation Acts, and;" and insert "and";

On page 21, line 11, strike "subsection" and insert "section";

On page 21, beginning with line 12, insert the following:

Nothing contained in this paragraph (2) shall be construed to commit the Federal Government to provide any sums for the payment of any obligation of the Corporation which exceeds amounts provided in advance in appropriation Acts.

On page 21, line 18, strike "and consistent with the provisions of this subpart,";

On page 22, line 3, strike "producing, acquiring, scheduling, or distributing programs" and insert "producing programs, scheduling programs for dissemination, or disseminating programs to the public";

On page 22, line 13, after "1934" insert "(47 U.S.C. 396(h))";

On page 22, beginning with line 21, strike through and including page 23, line 2, and insert in lieu thereof the following:

"(2) Subject to such terms and conditions as may be established by public telecommunications entities receiving space satellite interconnection facilities or services purchased or arranged for, in whole or in part, with funds authorized under this part, other public telecommunications entities shall have reasonable access to such facilities or services for the distribution of educational and cultural programs to public telecommunications entities. Any remaining capacity shall be made available to other persons for the transmission of noncommercial educational and cultural programs and program information relating to such programs, to public telecommunications entities, at a charge or charges comparable to the charge or charges, if any, imposed upon a public telecommunications entity for the distribution of noncommercial educational and cultural programs to public telecommunications entities. No such person shall be denied such access whenever sufficient capacity is available.".

On page 23, line 22, after "1934" insert "(47 U.S.C. 396(i))";

On page 24, line 1, strike "for transmittal to" and insert "and";

On page 24, line 2, strike "31st" and insert "15th";

On page 24, line 2, strike "December" and insert "February";

On page 24, line 8, strike "on public telecommunications";

On page 24, line 9, after the semicolon insert "and";

On page 24, beginning with line 10, strike through and including line 13;

On page 24, line 14, strike "(D)" and insert "(C)";

On page 24, line 19, strike "five" and insert "5";

On page 24, line 20, strike "programming and";

On page 25, line 2, strike "section" and insert "subsection";

On page 25, line 3, strike "396";

On page 25, line 3, after "(1)" insert "of this section";

On page 25, line 7, after "1934" insert "(47 U.S.C. 396(k))";

On page 25, line 16, strike "per centum" and insert "percent";

On page 26, line 13, after "(1)" insert "of this subsection";

On page 27, line 8, strike "per centum" and insert "percent";

On page 27, line 11, strike "per centum" and insert "percent";

On page 27, line 14, strike "per centum" and insert "percent";

On page 28, line 12, strike "per centum" and insert "percent";

On page 28, line 3, after "available" insert "by the Secretary of the Treasury";

On page 28, line 4, strike "(1)(C)" and insert "(2)(A)";

On page 28, line 7, strike "per centum" and insert "percent";

On page 28, line 8, after "available" insert "by the Secretary of the Treasury";

On page 28, line 9, strike "(1)(C)" and insert "(2)(A)";

On page 28, line 11, after "(g)(2)" insert "of this section";

On page 28, line 12, after "(B)" insert "of this paragraph";

On page 28, line 16, after "(g)(2)" insert "of this section";

On page 28, line 17, after "(B)" insert "of this paragraph";

On page 28, line 18, strike "per centum" and insert "percent";

On page 28, beginning with line 21, strike "subsection to the Public Broadcasting Service, National Public Radio, or to the licensee or permittee of any public broacast station" and insert "part to any public broadcasting entity or public telecommunications entity";

On page 28, line 25, strike "organization" and insert "entity";

On page 29, line 7, strike "personnel matters" and insert "matters relating to personnel, proprietary information, litigation and other matters requiring the confidential advice of counsel, or the purchase of property or services whenever the premature exposure thereof would compromise the business interests of any such entities";

On page 29, beginning with line 14, strike "subsection to the licensee or permittee of any public broadcast station" and insert "part to any public broadcasting entity or public telecommunications entity";

On page 29, line 17, strike "the" and insert "any";

On page 29, line 17, after "and" insert "any";

On page 29, line 19, after "(1)(3)(B)" insert "of this section";

On page 29, line 21, strike "establish and";

On page 29, line 22, strike "the percentage" and insert "its division";

On page 29, line 23, after "(3)(A)" insert "of this subsection";

On page 30, line 2, after "(3)(A)" insert "of this subsection";

On page 31, line 1, after "(3)(A)" insert "of this subsection";

On page 31, line 2, strike "may" and insert "shall";

On page 31, line 21, after "1934" insert "(47 U.S.C. 396(1)(3))";

On page 31, beginning with line 23, strike through and including page 32, line 8, and insert in lieu thereof the following:

"(3)(A) Within 1 year after the date of enactment of this Act, the Comptroller General of the United States, in consultation with the Corporation and as appropriate with others, shall adopt accounting principles which shall be uniformly used by all public telecommunications entities receiving funds under this part. Such principles shall be designed to account fully for all funds received and expended for public telecommunications purposes by such entities. All financial information of such entities relating to such purposes, including all funds received by such entities from any private or governmental source, and all funds expended for any purpose, may be audited by the Comptroller General of the United States, who shall have access to all books, records, accounts, reports, and other materials of such entities.

On page 32, line 23, strike "noncommercial broadcast licensee or permittee" and insert "public broadcasting entity and public telecommunications entity";

On page 33, line 1, strike "subpart" and insert "part";

On page 33, line 9, strike "Corporation" and insert "Comptroller General of the United States";

On page 33, line 11, strike "General Accounting Office" and insert "Corporation";

On page 33, line 14, strike "and operations that" and insert "as";

On page 33, line 16, strike "(other than a broadcasting licensee or permittee)";

On page 34, line 3, after "The" insert "Comptroller General of the United States and the";

On page 34, line 4, strike "its" and insert "their";

On page 34, line 8, after the period, strike through and including line 12;

On page 34, line 15, after "1934" insert "(47 U.S.C. 393)";

On page 34, line 20, strike "except to the extent authorized in subsection (b).";

On page 34, line 25, strike "of" and insert "or";

On page 35, line 6, after "C" insert "of this part";

On page 35, beginning with line 16, insert the following:

"(B) The Secretary shall provide for close coordination with the Commission in the administration of the Secretary's responsibilities under this section which are of interest to or affect the functions of the Commission so that, to the maximum extent possible consistent with the enforcement responsibilities of each, the reporting requirements of public broadcast licenses shall be uniformly based upon consistent definitions and categories of information.

On page 36, line 9, strike "require to satisfy itself that the recipient is in compliance with this subsection. The Corporation shall monitor the equal employment opportunity practices of each recipient, and provide technical assistance as necessary, throughout the duration of the grant or contract" and insert "require";

On page 36, line 14, strike "Based upon its responsibilities under paragraph (3), the" and insert "The";

On page 36, line 18, strike "31st" and insert "15th";

On page 36, line 18, strike "December" and insert "February";

On page 36, beginning with line 20, strike "Secretary in order to determine whether recipients are in compliance with paragraph (1)" and insert "Secretary";

On page 36, line 23, after "396(1)" insert "of this part";

On page 36, line 25, strike "and with any analysis";

On page 37, line 6, after "(1)" insert "of this subsection";

On page 37, line 7, strike "direct" and insert "inform";

On page 37, line 7, after "Corporation" insert "of such determination, including any order";

On page 37, line 10, strike "comply with such directive" and insert "thereupon so reduce or suspend such payments";

On page 37, beginning with line 18, insert the following:

"(6) The provisions of paragraphs (2), (3), (4) and (5) of this subsection shall not apply to any recipient having less than five full-time employees.

On page 37, line 21, strike "the" and insert "this";

On page 38, line 6, after "1934" insert "(47 U.S.C. 397)";

On page 38, line 15, strike "Broadcasting authorized to be established in subpart C of this part" and insert "Broadcasting";

On page 38, beginning with line 17, insert the following:

"(3) The term 'interconnection' means the use of microwave equipment, boosters, translators, repeaters, communication space satellites or other apparatus or equipment for the transmission and distribution of television or radio programs to public telecommunications entities.

On page 38, line 22, strike "(3)" and insert "(4)";

On page 38, line 24, strike "(which may include the selection and scheduling of programs for such distribution)";

On page 39, line 3, strike "(4)" and insert "(5)";

On page 39, line 9, strike "(5)" and insert "(6)";

On page 39, line 21, strike "(6)" and insert "(7)";

On page 40, line 17, strike "(7)" and insert "(8)";

On page 40, line 22, strike "distributing" and insert "disseminating";

On page 40, line 23, after "video" insert "noncommercial educational and cultural";

On page 40, line 23, after "programs" insert "to the public";

On page 41, line 3, strike "(8)" and insert "(9)";

On page 41, line 5, strike "net earnings" and insert "income or assets,";

On page 41, line 7, strike "private shareholder or individual" and insert "officer or employee thereof, except as reasonable compensation for services";

On page 41, line 10, strike "(9)" and insert "(10)";

On page 41, beginning with line 19, insert the following:

"(11) The term 'public broadcasting entity' means the Corporation, any licensee or permittee of a noncommercial educational broadcast station, or any nonprofit institution engaged in the production, acquisition, distribution, or dissemination of educational and cultural radio or television programs.

On page 41, line 25, strike "(10)" and insert "(12)";

On page 42, line 1, strike "as used in subpart B";

On page 42, line 3, strike "(B) receives funds from the Corporation under section 396(k); and (C) distributes public television or radio program services to the public" and insert "and (B) disseminates noncommercial educational and cultural radio or television programs to the public";

On page 42, line 8, strike "(11)" and insert "(13)";

On page 43, line 1, strike "(12)" and insert "(14)";

On page 43, line 5, strike "(13)" and insert "(15)";

On page 43, line 5, strike "broadcast stations'" and insert "telecommunications entities'";

On page 43, line 6, strike "two or more" and insert "combination of";

On page 43, line 7, strike "television or

radio stations" and insert "telecommunications entities";

On page 43, line 8, strike ", on a formal or informal basis,";

On page 43, line 10, strike "programming and";

On page 43, line 18, after "201" insert "of this Act";

On page 43, line 20, after "1934" insert "(47 U.S.C. 396(k)(1))";

On page 43, line 21, after "306" insert "of this Act";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Public Telecommunications Financing Act of 1978".

TITLE I—CONSTRUCTION AND PLANNING OF FACILITIES

DECLARATION OF PURPOSE

SEC. 101. (a) The heading for part IV of title III of the Communications Act of 1934 is amended to read as follows:

"PART IV—ASSISTANCE FOR PUBLIC TELECOMMUNICATIONS DEMONSTRATIONS; CORPORATION FOR PUBLIC BROADCASTING".

(b) The heading for subpart A of part IV of title III of the Communications Act of 1934 is amended to read as follows:

"Subpart A—Assistance for Public Telecommunications Facilities".

(c) Section 390 of the Communications Act of 1934 (47 U.S.C. 390) is amended to read as follows:

"DECLARATION OF PURPOSE

"SEC. 390. The purpose of this subpart is to assist (through matching grants) in the planning and construction of public telecommunications facilities in order to achieve the following objectives: (1) extend delivery of noncommercial educational and cultural radio and television programs to as many citizens of the United States as possible by the most efficient and economical means, including the use of broadcast and nonbroadcast technologies; (2) increase noncommercial educational and cultural radio and television programs for, and facilities available to and operated by, minorities and women; and (3) strengthen the capability of existing public television and radio stations to provide such noncommercial educational and cultural programs to the public.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 102. Section 391 of the Communications Act of 1934 (47 U.S.C. 391) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 391. There are authorized to be appropriated $40,000,000 for each of the fiscal years 1979, 1980, and 1981, to be used by the Secretary of Commerce to assist in the planning and construction of public telecommunications facilities as provided in this subpart. Sums appropriated under this subpart for any fiscal year shall remain available until expended for payment of grants for projects for which applications approved by the Secretary of Commerce pursuant to this part have submitted within the fiscal year.".

CONSTRUCTION AND PLANNING

SEC. 103. (a) Section 392 of the Communications Act of 1934 (47 U.S.C. 392) is amended to read as follows:

"GRANTS FOR CONSTRUCTION AND PLANNING

"SEC. 392. (a) For each project for the construction of public telecommunications facilities there shall be submitted to the Secretary of Commerce an application for a grant containing such information with respect to such project as the Secretary may require, including the total cost of such project, the amount of the grant requested for such project, and a 5-year plan outlining the applicant's projected facilities requirements and the projected costs of such facilities requirements. Each applicant shall also provide assurances satisfactory to the Secretary that—

"(1) the applicant is (A) public broadcast station; (B) noncommercial telecommunications entity; or (C) system of public telecommunications entities;

"(2) the operation of such public telecommunications facilities will be under the control of the applicant;

"(3) necessary funds to construct, operate, and maintain such public telecommunications facilities will be available when needed;

"(4) such public telecommunications facilities will be used only for noncommercial educational or cultural purposes;

"(5) the applicant has participated in comprehensive planning for such public telecommunications facilities in the area which the applicant proposes to serve, and such planning has included an evaluation of alternate technologies and coordination with State educational television and radio agencies, as appropriate; and

"(6) the applicant will make the most efficient use of the grant.

"(b) Upon approving any application under this section with respect to any project for the construction of public telecommunications facilities, the Secretary of Commerce shall make a grant to the applicant in an amount determined by the Secretary, except that such amount shall not exceed 75 percent of the amount determined by the Secretary to be the reasonable and necessary cost of such project.

"(c) The Secretary of Commerce may provide such funds as the Secretary deems necessary for the planning of any project for which construction funds may be obtained under this section. An applicant for a planning grant shall provide such information with respect to such project as the Secretary may require and shall provide assurances satisfactory to the Secretary that the applicant meets the eligibility requirements of subsection (a) of this section to receive construction assistance.

"(d) Any studies conducted by or for any grant recipient under this section shall be provided to the Secretary of Commerce, if such studies are conducted through the use of funds received under this section.

"(e) The Secretary of Commerce shall establish such rules and regulations as may be necessary to carry out this subpart, including rules and regulations relating to the order of priority in approving applications for construction projects and relating to determining the amount of each grant for such projects.

"(f) In establishing criteria for grants pursuant to section 393 of this subpart and in establishing procedures relating to the order of priority established in subsection (e) of this section in approving applications for grants, the Secretary of Commerce shall give special consideration to applications which increase minority and women's operation of, and participation in, public telecommunications entities. The Secretary shall take affirmative steps to inform minorities and women of the availability of funds under this subpart, and the localities where new public telecommunications facilities are needed, and to provide such other assistance and information as may be appropriate.

"(g) If, within 10 years after completion of any project for construction of public telecommunications facilities with respect to which a grant has been made under this section—

"(1) the applicant or other owner of such facilities ceases to be a station, entity, or system described in subsection (a)(1) of this section; or

"(2) such facilities cease to be used in whole or in part for noncommercial public telecommunications purposes (unless the Secretary determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so),

the United States shall be entitled to recover from the applicant or other owner of such facilities the amount bearing the same ratio to the value of such facilities at the time of such determination (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facilities are situated), as the amount of the Federal participation bears to the cost of construction of such facilities.

"(h) Each recipient of assistance under this subpart shall keep such records as may be reasonably necessary to enable the Secretary of Commerce to carry out the functions of the Secretary under this subpart, including a complete and itemized inventory of all telecommunications facilities under the control of such recipient, and records which fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.

"(i) The Secretary of Commerce and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of any recipient of assistance under this subpart that are pertinent to assistance received under this subpart.".

(b) The provisions of section 392(g) of the Communications Act of 1934, as added by subsection (a) of this section, shall apply to any grant made under section 392 of such Act before, on, or after the date of the enactment of this Act. Any authority and responsibilities of the Secretary of Health, Education, and Welfare regarding the administration of such grants are hereby transferred to the Secretary of Commerce.

CRITERIA FOR APPROVAL AND EXPENDITURES BY SECRETARY OF COMMERCE

SEC. 104. Section 393 of the Communications Act of 1934 (47 U.S.C. 393) is amended to read as follows:

"CRITERIA FOR APPROVAL AND EXPENDITURES BY SECRETARY OF COMMERCE

"SEC. 393. (a) The Secretary of Commerce, in consultation with the Corporation, public telecommunications entities, and as appropriate with others, shall establish criteria for making construction and planning grants. Such criteria shall be consistent with the objectives and provisions set forth in this subpart, and shall be made available to interested parties upon request.

"(b) The Secretary of Commerce shall base determinations of whether to approve applications for grants under this subpart, and the amount of such grants, on criteria developed pursuant to subsection (a) of this section and designed to achieve—

"(1) the provision of new telecommunications facilities to extend service to areas presently not receiving noncommercial educational and cultural programs;

"(2) the expansion of the service areas of existing public telecommunications entities;

"(3) the development of public telecommunications facilities operated by and available to minorities and women; and

"(4) the improvement of the capabilities of existing public broadcast stations to provide noncommercial educational and cultural programs.

"(c) Of the funds appropriated pursuant

to section 391 of this subpart, not less than 75 percent shall be available to extend delivery of noncommercial educational and cultural programs to areas not receiving such programs through grants for facilities of new public telecommunications entities and of existing public telecommunications entities, and preoperational expenses associated with such facilities. In choosing among applicants for grants, the Secretary shall compare the advantages of alternate technologies on the basis of costs and benefits.

"(d) The total of the grants made under this subpart from the appropriation for any fiscal year for the construction of public telecommunications facilities in any State may not exceed 8½ percent of such appropriation".

LONG-RANGE PLANNING FOR FACILITIES

SEC. 108. Section 394 of the Communications Act of 1934 (47 U.S.C. 394) is amended to read as follows:

"LONG-RANGE PLANNING FOR FACILITIES

"SEC. 394. (a) The Secretary of Commerce, in consultation with the Corporation, public telecommunications entities, and as appropriate with other parties, shall develop a long-range plan to accomplish the objectives set forth in section 390 of this subpart. Such plan shall include a detailed 5-year projection of national needs for public telecommunications, the broadest and nonbroadest public telecommunications facilities required to meet such needs, and the expenditures necessary to provide those facilities.

"(b) The Secretary of Commerce shall prepare annually a comprehensive and detailed inventory of funds distributed by Federal departments and agencies to public telecommunications entities during the preceding fiscal year.

"(c) The plan required in subsection (a), updated annually, an annual summary of the activities of the Secretary of Commerce in implementing the plan, and the inventory required in subsection (b) shall be submitted concurrently to the President and the Congress on or before the 31st day of December of each year.".

TITLE II—TELECOMMUNICATIONS DEMONSTRATIONS

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. Section 395(h) of the Communications Act of 1934, as so redesignated in section 202 of this title, is amended by striking out "September 30, 1977, and $250,000 for the period July 1, 1976, through September 30, 1976, to carry out the provisions of this section." and inserting in lieu thereof "September 30, 1979, to be used by the Secretary of Health, Education, and Welfare to carry out the provisions of this section.".

TECHNICAL AMENDMENTS

SEC. 202. Part IV of title III of the Communications Act of 1934 is amended—

(1) by redesignating section 392A (47 U.S.C. 392A) as section 395 and inserting above the heading for such section the following new heading:

"Subpart B—Telecommunications Demonstrations";

(2) by inserting above section 395(a), as so redesignated in paragraph (1) of this section, the following new heading:

"DECLARATION OF PURPOSE; GRANTS AND CONTRACTS";

(3) by inserting above section 395(b), as so redesignated in paragraph (1) of this section, the following new heading:

"Application Approval";

(4) by inserting above section 395(c), as so redesignated in paragraph (1) of this section, the following new heading:

"Amount of Grant or Contract; Payment";

(5) by inserting above section 395(d), as so redesignated in paragraph (1) of this section, the following new heading:

"Uses of Funds";

(6) by inserting above section 395(e), as so redesignated in paragraph (1) of this section, the following new heading:

"Nonbroadcast Telecommunications Facilities";

(7) by inserting above section 395(f), as so redesignated in paragraph (1) of this section, the following new heading:

"Duration of Funding of Demonstration";

(8) by inserting above section 395(g), as so redesignated in paragraph (1) of this section, the following new heading:

"Summary and Evaluation";

(9) by inserting above section 395(h), as so redesignated in paragraph (1) of this section, the following new heading:

"Authorization of Appropriations";

(10) by inserting after section 395(h), as so redesignated in paragraph (1) of this section, the following new subsections:

"Records; Access by Secretary and Comptroller General

"(i)(1) Each recipient of assistance under this subpart shall keep such records as may be reasonably necessary to enable the Secretary of Health, Education, and Welfare to carry out the Secretary's functions under this subpart, including records which fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(2) The Secretary of Health, Education, and Welfare and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this subpart.

"Rules and Regulations

"(j) The Secretary is authorized to make such rules and regulations as may be necessary to carry out this subpart, including regulations relating to the order of priority in approving applications for projects under section 392 of this part or to determining the amounts of grants for such projects.";

(11) in section 395 thereof, by striking out the heading for such section;

(12) by redesignating section 395 as section 395(k) and inserting above it the following new heading:

"Assistance by Commission; Coordination With Commission and Corporation";

and

(13) by redesignating subpart B as subpart C.

TITLE III—CORPORATION FOR PUBLIC BROADCASTING

DECLARATION OF POLICY

SEC. 301. Section 396(a) of the Communications Act of 1934 (47 U.S.C. 396(a)) is amended to read as follows:

"SEC. 396. (a) The Congress hereby finds and declares that—

"(1) it is in the public interest to encourage the growth and development of public radio and television broadcasting, including the use of such media for instructional, educational, and cultural purposes;

"(2) it is in the public interest to encourage the growth and development of nonbroadcast telecommunications technologies for the delivery of noncommercial educational and cultural radio and television programs;

(3) that expansion and development of public telecommunications and of diversity of its programing depend on freedom, imagination, and initiative on both local and national levels;

"(4) that the encouragement and support of public telecommunications, while matters of importance for private and local development, are also of appropriate and important concern to the Federal Government;

"(5) that it furthers the general welfare to encourage noncommercial educational and cultural radio and television programs which will be responsive to the interests of people both in particular localities and throughout the United States, and which will constitute an expression of diversity and excellence;

"(6) that it is necessary and appropriate for the Federal Government to complement, assist, and support a national policy that will most effectively make noncommercial educational and cultural radio and television programs available to all the citizens of the United States;

"(7) that the Corporation for Public Broadcasting private corporation should be to facilitate the development of public telecommunications and to afford maximum protection from extraneous interference and control.".

CHAIRMAN OF THE BOARD

SEC. 302. Section 396(d)(1) of the Communications Act of 1934 (47 U.S.C. 396(d)(1)) is amended by striking out "President shall designate one of the members first appointed to the Board as Chairman; thereafter the".

PURPOSES AND ACTIVITIES OF CORPORATION

SEC. 303. Section 396(g) of the Communications Act of 1934 (47 U.S.C. 396(g)) is amended to read as follows:

"Purposes and Activities of Corporation

"(g)(1) In order to achieve the objectives and to carry out the purposes of this subpart, as set out in subsection (a) of this section, the Corporation is authorized to—

"(A) facilitate the full development of public telecommunications in which programs of high quality, obtained from diverse sources, will be made available to public telecommunications entities, with strict adherence to objectivity and balance in all programs or series of programs of a controversial nature;

"(B) assist in the establishment and development of one or more interconnection systems to be used for the distribution of noncommercial educational and cultural radio or television programs so that all public telecommunications entities may disseminate the programs at times chosen by the entities;

"(C) assist in the establishment and development of one or more systems of public telecommunications entities throughout the United States; and

"(D) carry out its purposes and functions and engage in its activities in ways that will most effectively assure the maximum freedom of telecommunications systems and local public telecommunications entities from interference with, or control of, program content or other activities.

"(2) In order to carry out the purposes set forth in subsection (a) of this section, the Corporation may—

"(A) obtain grants from and make contracts with individuals and with private, State, and Federal agencies, organizations, and institutions;

"(B) contract with or make grants to national, regional, and other systems of public telecommunications entities, public broadcast stations, noncommercial telecommunications entities, and independent production entities for the production or acquisition of noncommercial educational and cultural radio and television programs to be made available for use by public teelcommunications entities;

"(C) make payments to existing and new public telecommunications entities to aid in financing the production or acquisition of noncommercial educational and cultural radio and television programs by such entities, particularly innovative approaches to programs, and other costs of operation of such entities;

"(D) establish and maintain, or contribute to, a library and archives of noncommercial educational and cultural radio and television programs and related materials and develop public awareness of, and disseminate information about, public telecommunications services by various means, including the publication of a journal;

"(E) arrange, by grant to or contract with appropriate public or private agencies, organizations, or institutions, for interconnection facilities suitable for distribution and transmission of educational and cultural radio and television programs to public telecommunications entities;

"(F) hire or accept the voluntary services of consultants, experts, advisory boards, and panels to aid the Corporation in carrying out the purposes of this subpart;

"(G) conduct (directly or through grants or contracts) research, demonstrations, or training in matters related to public television or radio broadcasting and the use of nonbroadcast communications technologies for the dissemination of noncommercial educational and cultural television or radio programs;

"(H) make grants or contracts for the use of broadcast and nonbroadcast telecommunications technologies for the dissemination to the public of noncommercial radio and television programs; and

"(I) take such other actions as may be necessary to accomplish the purposes set forth in subsection (a) of this section.

Nothing contained in this paragraph (2) shall be construed to commit the Federal Government to provide any sums for the payment of any obligation of the Corporation which exceeds amounts provided in advance in appropriation Acts.

"(3) To carry out the foregoing purposes and engage in the foregoing activities, the Corporation shall have the usual powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act, except that the Corporation is prohibited from—

"(A) owning or operating any television or radio broadcast station, system, or network, community antenna television system, interconnection system or facility, program production facility, or any public telecommunications entity, system, or network; and

"(B) producing programs, scheduling programs for dissemination, or disseminating programs to the public.

"(4) All meetings of the Board of Directors of the Corporation shall be open to the public under such terms, conditions, and exceptions as are set forth in subsection (k)(4) of this section.".

INTERCONNECTION SERVICE

SEC. 304. Section 396(h) of the Communications Act of 1934 (47 U.S.C. 396(h)) is amended to read as follows:

"Interconnection Service

"(h)(1) Nothing in this Act, or in any other provision of law, shall be construed to prevent United States communications common carriers from rendering free or reduced rate communications interconnection services for public television or radio services, subject to such rules and regulations as the Federal Communications Commission may prescribe.

"(2) Subject to such terms and conditions as may be established by public telecommunications entities receiving space satellite interconnection facilities or services purchased or arranged for, in whole or in part, with funds authorized under this part, other public telecommunications entities shall have reasonable access to such facilities or services for the distribution of educational and cultural programs to public telecommunications entities. Any remaining capacity shall be made available to other persons for the transmission of noncommercial educational and cultural programs and program information relating to such programs, to public telecommunications entities, at a charge or charges comparable to the charge or charges, if any, imposed upon a public telecommunications entity for the distribution of noncommercial educational and cultural programs to public telecommunications entities. No such person shall be denied such access whenever sufficient capacity is available.".

ANNUAL REPORT TO CONGRESS

SEC. 305. Section 396(i) of the Communications Act of 1934 (47 U.S.C. 396(i)) is amended to read as follows:

"Report to Congress

"(i)(1) The Corporation shall submit an annual report for the preceding fiscal year ending September 30 to the President and the Congress on or before the 15th day of February of each year. The report shall include—

"(A) a comprehensive and detailed report of the Corporation's operations, activities, financial condition, and accomplishments under this subpart and such recommendations as the Corporation deems appropriate;

"(B) the plan required in paragraph (2) of this subsection; and

"(C) the summary of the annual report provided to the Secretary of Health, Education, and Welfare pursuant to section 398(b)(4) of this subpart.

"(2) The Corporation, in consultation with public telecommunications entities, and as appropriate with others, shall create a 5-year plan for the development of public television and radio services. Such plan, updated annually, and a summary of activities under such plan, shall be included in the report required in paragraph (1)(A) of this subsection.

"(3) The officers and directors of the Corporation shall be available to testify before appropriate committees of the Congress with respect to such report, the report of any audit made by the Comptroller General pursuant to subsection (l) of this section, or any other matter which such committees may determine.".

FINANCING; OPEN MEETINGS AND FINANCIAL RECORDS

SEC. 306. Section 396(k) of the Communications Act of 19344 (47 U.S.C. 396(k)) is amended to read as follows:

"Financing; Open Meetings and Financial Records

"(k)(1)(A) There is hereby established in the Treasury a fund which shall be known as the Public Broadcasting Fund (hereinafter in this subsection referred to as the 'Fund'), to be administered by the Secretary of the Treasury.

"(B) There is authorized to be appropriated to the Fund, for each of the fiscal years 1978, 1979, and 1980, an amount equal to 40 percent of the total amount of non-Federal financial support received by public broadcasting entities during the fiscal year second preceding each such fiscal year, except that the amount so appropriated shall not exceed $121,000,000 for fiscal year 1978, $140,000,000 for fiscal year 1979, and $160,000,000 for fiscal year 1980.

"(C) For each of the fiscal years 1981, 1982, and 1983, there is authorized to be appropriated to the Fund an amount equal to four-ninths of the total amount of non-Federal financial support received by public broadcasting entities during the fiscal year second preceding each such fiscal year, except that the amount so appropriated shall not exceed $180,000,000 for fiscal year 1981, and $200,000,000 for each of the fiscal years 1982 and 1983.

"(D) Funds appropriated under this subsection shall remain available until expended.

"(2)(A) The funds authorized to be appropriated by this subsection shall be used by the Corporation solely for its grants, contracts, and administrative costs. The Corporation shall determine the amount of non-Federal financial support received by public broadcasting entities during each of the fiscal years referred to in paragraph (1) of this subsection for the purpose of determining the amount of each authorization, and shall certify such amount to the Secretary of the Treasury, except that the Corporation may include in its certification non-Federal financial support received by a public broadcasting entity during its most recent fiscal year ending before September 30 of the year for which certification is made. Upon receipt of such certification, the Secretary of the Treasury shall make available to the Corporation, from such funds as may be appropriated to the Fund, the amount authorized for each of the fiscal years pursuant to the provisions of this subsection.

"(B) Funds appropriated and made available under this subsection shall be disbursed by the Secretary of the Treasury on a quarterly basis, in such amounts as the Corporation certifies will be necessary to meet its financial obligations in the succeeding quarter.

"(3)(A) The Corporation shall reserve for distribution among the licensees and permittees of public television and radio stations an amount equal to (i) not less than 40 percent of the funds disbursed by the Corporation from the Fund under this section in each fiscal year in which the amount disbursed is $88,000,000 or more, but less than $121,000,000; (ii) not less than 45 percent in each fiscal year in which the amount disbursed is $121,000,000 or more, but less than $160,000,000; and (iii) not less than 50 percent in each fiscal year in which the amount disbursed is $160,000,000 or more.

"(B) The Corporation shall establish an annual budget according to which it shall make grants for production or acquisition of public television or radio programs, for interconnection facilities and operations, and for distribution of funds among public telecommunications entities. All funds contained in such budget shall be distributed to entities outside the Corporation and shall not be used for the general administrative costs of the Corporation, the salaries or related expenses of Corporation personnel and members of the Board, or for expenses of consultants and advisers to the Corporation. During each of the fiscal years 1981, 1982, and 1983, such budget shall consist of not less than 95 percent of the funds made available by the Secretary of the Treasury to the Corporation pursuant to paragraph (2)(A) of this subsection.

"(C) In fiscal year 1981, the Corporation may expend an amount equivalent to not more than 5 percent of the funds made available by the Secretary of the Treasury during such fiscal year pursuant to paragraph (2)(A) of this subsection for those activities authorized under subsection (g)(2) of this section which are not among those grant activities described in subparagraph (B) of this paragraph.

"(D) In fiscal years 1982 and 1983, the amount which the Corporation may expend for activities authorized under subsection (g)(2) of this section which are not among those grant activities described in subparagraph (B) of this paragraph shall be 105 percent of the amount derived for the preceding fiscal year.

"(4) Funds may not be distributed pursuant to this part to any public broadcasting entity or public telecommunications entity

unless the governing board of any such entity holds open meetings preceded by reasonable notice to the public. All persons shall be permitted to attend any meeting of the board, and no member of the public shall be required, as a condition to attendance at a meeting of a governing board, to register his or her name or to provide any other information. Nothing contained in this paragraph shall be construed to prevent the governing board from holding executive sessions to consider matters relating to personnel, proprietary information, litigation and other matters requiring the confidential advice of counsel, or the purchase of property or services whenever the premature exposure thereof would compromise the business interests of any such entities.

"(5) Funds may not be distributed pursuant to this part to any public broadcasting entity or public telecommunications entity that does not maintain for public examination copies of any annual financial and any audit reports submitted to the Corporation pursuant to subsection (1)(3)(B) of this section.

"(6)(A) The Corporation, in consultation with public television and radio licensee, shall review annually its division of funds reserved pursuant to paragraph (3)(A) of this subsection, and the criteria and conditions regarding the division and distribution of such funds among public television and radio stations.

"(B) The funds reserved for public broadcast stations pursuant to paragraph (3)(A) of this subsection shall be divided into two portions, one to be distributed among radio stations and one to be distributed among television stations. The Corporation shall make a basic grant from the portion reserved for television stations to each licensee and permittee of a public television station that is on-the-air. The balance of the portion reserved for television stations and the total portion reserved for radio stations shall be distributed to licensees and permittees of such stations in accordance with eligibility criteria that promote the public interest in public broadcasting, and on the basis of a formula designed to—

"(i) provide for the financial needs and requirements of stations in relation to the communities and audiences such stations undertake to serve;

"(ii) maintain existing, and stimulate new, sources of non-Federal financial support for stations by providing incentives for increases in such support; and

"(iii) assure that each eligible licensee and permittee of a public radio station receives a basic grant.

"(7) No distribution of funds pursuant to this subsection shall exceed, in any fiscal year, one-half of a licensee's or permittee's total non-Federal financial support during the fiscal year second preceding the fiscal year in which such distribution is made.

"(8) Funds distributed pursuant to paragraph (3)(A) of this subsection shall be used at the discretion of the recipient for purposes relating to the provision of public television and radio programming, including, but not limited to—

"(A) producing, acquiring, broadcasting, or otherwise disseminating public television or radio programs;

"(B) procuring national or regional program distribution services that make public television or radio programs available for broadcast or other dissemination at times chosen by stations;

"(C) acquiring, replacing, or maintaining facilities, and real property used with facilities, for the production, broadcast, or other dissemination of public television and radio programs; and

"(D) developing and using nonbroadcast communications technologies for public television or radio programming purposes.".

FINANCIAL MANAGEMENT AND RECORDS

SEC. 307. Section 396(1)(3) of the Communications Act of 1934 (47 U.S.C. 396(1)(3)) is amended to read as follows:

"(3)(A) Within 1 year after the date of enactment of this Act, the Comptroller General of the United States, in consultation with the Corporation and as appropriate with others, shall adopt accounting principles which shall be uniformly used by all public telecommunications entities receiving funds under this part. Such principles shall be designed to account fully for all funds received and expended for public telecommunications purposes by such entities. All financial information of such entities relating to such purposes, including all funds received by such entities from any private or governmental source, and all funds expended for any purpose, may be audited by the Comptroller General of the United States, who shall have access to all books, records, accounts, reports, and other materials of such entities.

"(B) Each public broadcasting entity and public telecommunications entity receiving funds under this part shall be required—

"(i) to keep its books, records, and accounts in such form as may be required by the Corporation;

"(ii) to undergo an annual audit by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State, which audit shall be in accordance with auditing standards developed by the Comptroller General of the United States in consultation with the Corporation; and

"(iii) to furnish annually to the Corporation a copy of the audit report required pursuant to clause (ii), as well as such other information regarding finances as the Corporation may require,

"(C) Any recipient of assistance by grant or contract under this section, other than a fixed price contract awarded pursuant to competitive bidding procedures, shall keep such records as may be reasonably necessary to disclose fully the amount and the disposition by such recipient of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(D) The Comptroller General of the United States and the Corporation, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of any recipient of assistance that are related to assistance received under this section.

EQUAL EMPLOYMENT OPPORTUNITY

SEC. 308. Section 398 of the Communications Act of 1934 (47 U.S.C. 398) is amended to read as follows:

"FEDERAL INTERFERENCE OR CONTROL PROHIBITED; EQUAL EMPLOYMENT OPPORTUNITY

"SEC. 398. (a) Nothing contained in this part shall be deemed (1) to amend any other provision of, or requirement under, this Act; or (2) to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over public telecommunications, or over the Corporation or any of its grantees or contractors, or over the charter or bylaws of the Corporation, or over the curriculum, program of instruction, or personnel of any educational institution, school system, or public telecommunications entity.

"(b)(1) Equal opportunity in employment shall be afforded to all qualified persons by all public telecommunications entities receiving funds pursuant to subpart C of this part (hereinafter in this subsection referred to as 'recipients'), and no person shall be subjected to discrimination in employment by any such recipient on the grounds of race, color, religion, national origin, or sex.

"(2)(A) The Secretary of Health, Education, and Welfare is authorized and directed to enforce this subsection and to prescribe such rules and regulations as may be necessary to carry out the Secretary's functions under this subsection.

"(B) The Secretary shall provide for close coordination with the Commission in the administration of the Secretary's responsibilities under this section which are of interest to or affect the functions of the Commission so that to the maximum extent possible consistent with the enforcement responsibilities of each, the reporting requirements of public broadcast licensee shall be uniformly based upon consistent definitions and categories of information.

"(3) The Corporation shall incorporate into each grant agreement or contract with any recipient entered into on or after the effective date of the rules and regulations prescribed by the Secretary of Health, Education, and Welfare pursuant to paragraph (2), a statement indicating that, as a material part of the terms and conditions of the grant agreement or contract, the recipient will comply with the provisions of paragraph (1) and the rules and regulations prescribed pursuant to paragraph (2). Each recipient shall provide to the Corporation any information that the Corporation may require.

"(4) The Corporation shall provide an annual report for the preceding fiscal year ending September 30 to the Secretary of Health, Education, and Welfare on or before the 15th day of February of each year. The report shall contain information in the form required by the Secretary. The Corporation shall submit a summary of such report to the President and the Congress as part of the report required in section 396(1) of this part. The Corporation shall provide other information in the form which the Secretary may require in order to carry out the Secretary's functions under this subsection.

"(5) Whenever the Secretary of Health, Education, and Welfare makes a final determination, pursuant to the rules and regulations which the Secretary shall prescribe, that a recipient is not in compliance with paragraph (1) of this subsection, the Secretary shall inform the Corporation of such determination, including any order to reduce or suspend any further payments of funds under this part to the recipient and the Corporation shall thereupon so reduce or suspend such payments. Resumption of payments shall take place only when the Secretary certifies to the Corporation that the recipient has entered into a compliance agreement approved by the Secretary. A recipient whose funds have been reduced or suspended may apply at any time to the Secretary for such certification.

"(6) The provisions of paragraphs (2), (3), (4), and (5) of this subsection shall not apply to any recipient having less than five full-time employees.

"(c) Nothing in this section shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the content or distribution of public telecommunications programs and services, or over the curriculum or program of instruction of any educational institution or school system.".

TITLE IV—GENERAL PROVISIONS

DEFINITIONS

SEC. 401. Section 397 of the Communications Act of 1934 (47 U.S.C. 397) is amended to read as follows:

"DEFINITIONS

"SEC. 397. For the purposes of this part—

"(1) The term 'construction', as applied to public telecommunications facilities, means acquisition (including acquisition by lease), installation, and modernization of public telecommunications facilities and planning and preparatory steps incidental thereto.

"(2) The term 'Corporation' means the Corporation for Public Broadcasting.

"(3) The term 'interconnection' means the use of microwave equipment, boosters, translators, repeaters, communication space satellites or other apparatus or equipment for the transmission and distribution of television or radio programs to public telecommunications entities.

"(4) The term 'interconnection system' means any system of interconnection facilities used for the distribution of programs to public telecommunications entities.

"(5) The term 'meeting' means the deliberations of at least the number of members of a governing body required to take action on behalf of such body where such deliberations determine or result in the joint conduct or disposition of the governing body's business, but only to the extent that such deliberations relate to public broadcasting.

"(6) The terms 'noncommercial educational broadcast station' and 'public broadcast station' mean a television or radio broadcast station which (A) under the rules and regulations of the Federal Communications Commission in effect on the date of the enactment of the Public Telecommunications Financing Act of 1978, is eligible to be licensed by the Commission as a noncommercial educational radio or television broadcast station and which is owned and operated by a public agency or nonprofit private foundation, corporation, or association; or (B) is owned and operated by a municipality and which transmits only noncommercial programs for educational purposes.

"(7) The term 'non-Federal financial support' means the total value of cash and the fair market value of property and services (except for personal services of volunteers) received—

"(A) as gifts, grants, bequests, donations, or other contributions for the construction or operation of noncommercial educational broadcast stations, or for the production, acquisition, distribution, or dissemination of educational television or radio programs, and related activities, from any source other than (i) the United States or any agency or establishment thereof; or (ii) any public broadcasting entity; or

"(B) as gifts, grants, donations, contributions, or payments from any State, or any educational institution, for the construction or operation of noncommercial educational broadcast stations or for the production, acquisition, distribution, or dissemination of educational television or radio programs, or payments in exchange for services or materials respecting the provisions of educational or instructional television or radio programs.

"(8) The term 'noncommercial telecommunications entity' means any enterprise which (A) is owned and operated by a State, a political or special purpose subdivision of a State, a public agency or nonprofit private foundation, corporation, or association; and (B) has been organized primarily for the purpose of disseminating audio or video noncommercial educational and cultural programs to the public by means other than a primary television or radio broadcast station, including, but not limited to, coaxial cable, optical fiber, broadcast translators, cassettes, discs, microwave, or laser transmission through the atmosphere.

"(9) The term "nonprofit', as applied to any foundation, corporation, or association, means a foundation, corporation, or association, no part of the net earnings income or assets of which inures, or may lawfully inure, to the benefit of any officer or employee thereof, except as reasonable compensation for services.

"(10) term 'pre-operational expenses' means all nonconstruction costs incurred by new telecommunications entities before the date on which they begin providing service to the public, and all nonconstruction costs associated with expansion of existing entities before the date on which such expanded capacity is activated, except that such expenses shall not include any portion of the salaries of any personnel employed by an operating broadcasting station or other telecommunications entity.

"(11) The term 'public broadcasting entity' means the Corporation, any licensee or permittee of a noncommercial educational broadcast station, or any nonprofit institution engaged in the production, acquisition, distribution, or dissemination of educational and cultural radio or television programs.

"(12) The term 'public telecommunications entity' means any enterprise which (A) is a public broadcasting station or a noncommercial telecommunications entity; and (B) disseminates noncommercial educational and cultural radio or television programs to the public.

"(13) The term 'public telecommunications facilities' means apparatus necessary for production, interconnection, captioning, broadcast, or other distribution of programming, including, without limitation, studio equipment, cameras, microphones, audio and video storage or reproduction equipment or both, signal processors and switchers, towers, antennas, transmitters, translators, microwave equipment, mobile equipment, satellite communications equipment, instructional television fixed service equipment, subsidiary communications authorization transmitting and receiving equipment, cable television equipment, video and audio cassettes and discs, optical fiber communications equipment, and other means of transmitting, emitting, storing, and receiving images and sounds, or intelligence, except that such term shall not include the buildings to house such apparatus, with the exception of small equipment shelters which are part of satellite Earth stations, translators, microwave interconnection facilities, and similar facilities.

"(14) The term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

"(15) The term 'system of public broadcast stations' telecommunications entities' means any two or more combinations of public telecommunications entities acting cooperatively, to produce, acquire, or distribute programs, or to undertake related activities.".

TECHNICAL AMENDMENT

SEC. 402. Part IV of title III of the Communications Act of 1943 is amended by redesignating subpart C as subpart D.

EFFECTIVE DATES

SEC. 403. The provisions of this Act, and the amendments made by this Act, shall take effect on October 1, 1978, except that the amendments made by sections 102 and 201 of this Act, and the provisions of section 396(k)(1) of the Communications Act of 1934 (47 U.S.C. 396(k)(1)) (as amended by section 306 of this Act), shall take effect on the date of the enactment of this Act.

The PRESIDING OFFICER. Time for debate on this bill is limited to 2 hours, to be equally divided and controlled by the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Michigan (Mr. GRIFFIN), with 1 hour on any amendment in the first degree, except an amendment to be offered by the Senator from Wisconsin (Mr. PROXMIRE), over which there shall be 2 hours; with 30 minutes on any amendment in the second degree; and with 20 minutes on any debatable motion, appeal, or point of order.

The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the privilege of the floor be accorded during the consideration of S. 2883 to the following staff members from various Senators' offices: John Smith, Gordon Funk, Aubrey Sawis, Keith Geeslin, Ray Strausberger, Ward White, Mary Jo Manning, Steve Holloway, Kevin Curtain, Tom Dougherty, and Martha Malony.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, will the Senator yield for a similar request?

Mr. HOLLINGS. I yield.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that Ken Dameron of my staff be accorded the privilege of the floor during debate on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from South Carolina has the floor.

Mr. HOLLINGS. Mr. President, this bill reflects a consensus in most important respects with the House Commerce Committee bill, H.R. 12605, which passed the House on July 10, 1978. In April of this year Congressman VAN DEERLIN, chairman of the House Subcommittee on Communications, and I introduced companion bills, building upon the administration bill and strengthening several of its provisions, in particular those relating to public accountability, equal employment opportunity, and reduction of duplication and waste by public broadcasting entities. In May, the Senate Committee on Commerce, Science, and Transportation held 2 days of hearings on S. 2883 and reported out the bill with certain technical and other amendments which clarify and strengthen the objectives of this legislation.

Mr. President, the bill before the Senate today reflects the views of many who take a keen interest in the welfare of public broadcasting in this country. It is the product of many efforts, including those of Senators CANNON and FORD, other members of the committee, the chairman of the House Communications Subcommittee, the administration, and a broad segment of the public broadcasting community.

The chief objectives it seeks to accomplish are as follows. First, it continues the present system of multiple-year advance authorizations for noncommercial educational and cultural radio and television programs and provides for moderate increases in the funding levels. Second, it encourages the growth and development of nonbroadcast, as well as broadcast, communications technologies to insure that public programing is available to as many citizens of the United States as possible, by the most efficient and economical means. Third, this bill stimulates new efforts to expand opportunities for minorities and women in employment, training, and operation of public telecommunications facilities. Fourth, S. 2883 clarifies the mission of the Corporation for Public Broadcasting and reduces unnecessary overlap of the Corporation's activities with other public broadcasting organizations. Fifth,

the bill facilitates access to the system by independent program producers. Sixth, it mandates long-term planning for future needs by both the Corporation and the Department of Commerce, which is given new responsibilities in administering Federal assistance for construction and expansion of public telecommunications facilities. Seventh and significantly, this bill provides greater participation by, and accountability to, the public by all recipients of the public's funds, but does not permit the Government to interfere with sensitive program content or other related activities of these recipients.

Enactment of this bill will reinforce and expand the mission of the two principal programs of Federal support for public broadcasting—assistance for construction and improvement in communications facilities, and assistance for production of noncommercial educational and cultural programs.

This bill recognizes the technological changes that are occurring in the communications field by expanding the concept of "public broadcasting" to one of "public telecommunications." The goal is to consider the service provided and not the way in which the service is provided. In the past only traditional, over the air facilities were considered to be eligible for Federal support. In this bill, cable, translators, and other innovative methods of transmission can be funded. The objective is to encourage the extension of noncommercial educational and cultural television and radio program services to areas of the country and segments of the population presently unserved by public broadcasting. It is estimated that the signal of public radio can be received in about 60 percent of American homes, and that only 50 percent of the public receive an acceptable quality public television signal. Since all taxpayers support public broadcasting, it is imperative that a larger percentage of the public receive good public broadcast service. Hence, this bill mandates the Secretary of Commerce to make grants to applicants proposing to reach more viewers by the most efficient means. Moreover, so as to insure that the reach of public telecommunications extends to unserved or underserved populations, the bill directs the Secretary to devote no less than three-fourths of the money made available to applicants proposing improved or expanded service. The remaining funds would be used to replace equipment or obtain new equipment to better serve the station's present audience.

The bill authorizes a level of $40 million, an increase of $10 million over the current authorization, to assist in the expansion and improvement in facilities for public telecommunications. This increase recognizes the critical need for financial support of both new entrants and existing broadcasters. At this authorization level, it is likely that the level of spending for improvements in equipment and other facilities needs of existing stations can continue to increase over levels devoted to these purposes in the past few years. Thus, the committee feels that existing public broadcasters should suffer no setback in support from this program due to eligibility of new technologies for facilities funds. At the same time applications of other distribution technologies will be able to demonstrate how innovation and imagination can be put to practical use in providing public television and radio programs to the public.

The second major part of this bill involves the Federal commitment to public television and radio programing. This bill continues the present system of multiyear authorizations for the activities of the Corporation for Public Broadcasting, the congressionally established vehicle for distributing funds for the production and dissemination of noncommercial educational and cultural programing. S. 2883 reauthorizes the "public broadcasting fund" for 3 years—fiscal years 1981, 1982, and 1983—and increases the level of Federal support over previous fiscal years.

In the first fiscal year (1981) a total of $180 million is authorized, as compared to $160 million for fiscal year 1980. Another $20 million increase is set for fiscal year 1982 and 1983, at a level of $200 million in each of these 2 years. These multiyear authorizations will remain coupled with the practice of 2-year advance appropriations.

The multiyear authorization mechanism which this bill continues has served several important purposes, for both public broadcasting and the Congress. Chaos and uncertainty were the unhappy result of the annual authorization and appropriation process which existed during the first 7 years of the Public Broadcasting Act. The annual authorization and appropriation process retarded long-term planning and made public broadcasting more vulnerable to pressures from the executive and the legislative branch. Public broadcasting took on the appearance of a beleaguered Federal Government agency. The multiyear advance authorization process instituted in 1975 removed many of these difficulties for the first time.

In addition, the 3-year advance authorization in S. 2883 will permit Congress to exercise a more thorough oversight of the activities of public telecommunications. This bill provides several new standards for public accountability, openness, and EEO, under which public telecommunications must operate in the future. We want to gage carefully the progress made under these new rules. The 3-year cycle will enable public broadcasting to adjust to the new standards, and it will enable the Congress to judge the record of their performance. In this way, when the advance authorization period expires, Congress will have a track record on which it may assess that performance.

At the end of this authorization period, the Congress must look at the important question of financial support for public telecommunications—what sources that support should come from and in what amounts. Further, we must review the various technologies that have been given application in the public telecommunications facilities program and whether nonbroadcast technologies should receive financial support for their operations from the Public Broadcast Fund. Three years should provide us with the experiences and insights needed to answer these important questions.

Of equal importance to the level of annual authorizations is the provision which reduces the ratio by which recipients of Federal support earn their entitlement. Under current law, the matching formula is 2.5 to 1, which means a station must raise $2.50 in order to get $1 of Federal matching funds. Beginning in fiscal year 1981 that ratio will be reduced to 2.25 to 1. While the ratio has been modified to provide greater rewards for the efforts of local broadcasters to raise local support, the ratio is still maintained at a level which guarantees that the bulk of support for public broadcasting will still come from sources other than the Federal Government. Any much lower level would tip the scale toward excessive Federal assistance, undermining the need for public broadcasting to be independent of improper governmental pressure.

Mr. President, I think that this bill makes important new strides in the national commitment to public telecommunications: increased authorization levels, continued adherence to the idea of advanced year funding, a greater degree of Federal assistance consonant with the funds raised. However, hand in hand with this increased commitment to public telecommunications goes a correspondingly larger obligation on the part of the recipients of that assistance to be accountable to the American public for the expenditure of the public's money. This bill mandates important new procedures to be followed by all recipients of Federal support, either from the Department of Commerce or from the Corporation for Public Broadcasting, to manage their grant money prudently and to be prepared to document all uses made of Federal financial assistance. For example, the bill requires the keeping of inventories of all equipment purchased in whole or in part with Federal money. All recipients of money from the Corporation must undergo an independent annual audit, based upon uniform accounting principles, and to disclose to the public all reports, audits, and other financial information submitted to CPB.

These financial management provisions are not designed to invite or allow governmental intrusion into the operations and editorial decisions of public broadcasters. Recognizing the sensitivity of the public broadcast media to even the potential of such interference, this bill is closely worded to avoid any implication that the financial management and audit provisions authorize any agency of the Government, or the Congress, to invade the provinces of the editor, the program developer, or any activities relating to program content. The objective of these provisions is to encourage better management practices among telecommunications entities and to give the public the information it needs in order to understand how funds are being spent by such entities.

This bill incorporates other provisions

designed to open up the processes of public telecommunicators to the public which supports them and which they are pledged to serve. Meetings of the governing boards of public stations and other direct recipients of CPB support must be open to the public, except for certain limited situations. As I mentioned, financial records submitted to CPB must also be made available for public examination.

The bill also opens up the system of program production and distribution to independent producers by affording conditional access by such people to the public television satellite distribution system soon to go into nationwide operation. The purpose of this provision is to open the door to what has been termed a "closed club" of major public program producers to new, at times untried, sources of programing creativity. Due to a printer's error in the committee report (95–858, at page 19) on this bill, there is some confusion as to what the satellite access provisions would accomplish.

The satellite access provision will afford an added measure of assistance to small independent producers who are seeking to solicit offers to buy a program or series or financial backing for a planned program. The provision is not intended to afford any person not qualifying as a public telecommunications entity to disseminate programs directly to the public.

The idea of public accountability is also reflected in the provisions relating to equal employment opportunity. This bill institutes clear and forceful standards to assure that recipients of Federal money do not discriminate, and that they take affirmative steps to seek out new employees from the minority communities and among women. The bill also requires the Secretary of Commerce to take special steps to encourage the participation of minorities and women in the management and operation of public telecommunications facilities. (I will offer today several additional amendments to clarify the scope of these EEO provisions so as to make even clearer our intent that poor EEO performance by the benficiaries of Federal assistance will no longer go unheeded.)

The bill eliminates any uncertainty over which agency should enforce EEO over public broadcasting and other public telecommunications entities. The FCC already administers its own EEO rules and policies as to its public television and radio licensees. This bill gives the Department of HEW additional authority to assure equal employment opportunity over all recipients of assistance, whether licensed by the FCC or not. I anticipate that both the FCC and HEW will exercise their respective responsibilities in this area energentically, and in coordinated fashion to avoid duplication and confusion in their regulation. I do not anticipate that each agency will simply "pass the buck" to the other, but that they will make continuing efforts to carry out their separate mandates from Congress. In particular, I expect the Department of HEW to review in an affirmative fashion all EEO information supplied to it from the Corporation, as provided in this bill, and rely upon the periodic review procedures of the FCC in this regard.

Mr. President, I think that public telecommunications in this country is at a crossroads. It must make fundamental decisions on its future direction. These decisions should not be made by the Congress or any agency of the Government. This bill expresses a vote of confidence in the ability of those in public telecommunications to make those decisions correctly, without overbearing guidance from the Government. That confidence could not be more expressly shown than in the increased levels of financial support, continuation of multiyear authorizations, and maintenance intact of the basic system of nongovernmental public broadcasting outlets throughout the country.

Public telecommunications, nevertheless, must be more accessible and responsive to the general public, to minorities and women, to new sources of creativity, and to the whole range of special interests concerned with the future of public telecommunications. Without such accessibility and responsiveness, public telecommunications cannot hope to reach a new sound definition of its nature and mission. S. 2883 gives public telecommunications the means to achieve the objectives of openness, responsiveness, and accountability. S. 2883 gives to those directly involved the tools to make public telecommunications into the system of excellence originally conceived by the Congress in enacting the first major Public Broadcasting Act in 1967. S. 2883 will help public broadcasting achieve the credibility and stability it needs in order to become a major force in the new telecommunications era we are entering.

IMPROVING PUBLIC BROADCASTING

Mr. SCHMITT. Mr. President, I support S. 2883, the "Public Telecommunications Financing Act of 1978." This bill substantially increases the Federal monetary commitment to a public telecommunications system, while providing the system with incentives to achieve the openness and excellence the public rightfully expects and deserves.

S. 2883 contains new authorizations of $580 million on a matching basis during fiscal years 1981, 1982, and 1983. The ratio of private funds to Federal money has been decreased from 2.50 to 1 to 2.25 to 1. This money is to be used for funding grants for production and acquisition of noncommercial, educational and cultural programs, interconnection of program distribution facilities and operations, and for discretionary grants to public television and radio stations.

The bill further authorizes $40 million annually through fiscal year 1981 to assist in the planning and construction of public telecommunications facilities. This provision is intended to extend the delivery of noncommercial, educational and cultural radio and television programs to unserved areas.

The bill as amended authorizes $1 million for telecommunications demonstrations in fiscal years 1979, 1980, and 1981. This money is to be used to promote the development of nonbroadcast facilities and services for the distribution of health, educational, and social service information.

Since 1962, the Federal Government has demonstrated its commitment to a public communications system. Initially, this commitment consisted of a program of matching grants which were used to assist the development of noncommercial educational television broadcasting stations in unserved areas of the country. Since that time, the Federal Government's role has expanded to include assisting the development of a public broadcasting system which includes radio. Today there are approximately 260 noncommercial television stations and 959 noncommercial radio stations on the air.

This bill recognizes that other technologies are now available for the dissemination of educational and cultural radio and television programs. Therefore, it provides assistance to public telecommunications entities which are defined as "any enterprise which (A) is a public broadcasting station or a noncommercial telecommunications entity and (B) disseminates noncommercial educational and cultural radio or television programs to the public." Coaxial cable, fiber optics, and lasers are among the technologies that can benefit from this bill.

In the 16 years since the Federal Government's initial commitment, public support for the system has grown. As a result of the combined resources of the Federal Government, State and local governments and the public, quality programing for diverse audiences is closer to realization.

However, many problems remain unsolved. There was evidence before the Communications Subcommittee of political influence, waste, and inefficiency, and lack of control over inventory. The internecine rivalry between the Corporation for Public Broadcasting (CPB) and the Public Broadcasting Service (PBS), including the possible overlap in their functions, National Public Radio's lack of fiscal responsibility, and the apparent limited opportunity for independent producers, have not promoted the public interest.

What concerned me most, however, was the evidence of the inappropriate desire of some officials in public broadcasting to transform the system into a fourth network in competition with the three commercial networks. I was pleased to read therefore a recent statement by Charles Allen, the program manager of the Los Angeles Public Television Station KCET, that the inauguration of public broadcasting's satellite distribution system has ended "the Public Broadcasting Service's perennial dilemma over whether it should strive to be a fourth TV network." His statement continued, "the increasing selection and flexibility provided by the satellite . . . will present each public station opportunities to program specifically for its market."

I hope Mr. Allen's prediction is accurate. In my judgment, the Congress cannot allow public moneys to be used to foster the development of a centralized public broadcasting network. The hear-

ings of our Communications Subcommittee clearly indicate that the potential for abuse is great with such a system. As the public broadcasting satellite distribution system is phased-in, the Congress should insure that the potential for "selection and flexibility" in that system is fulfilled.

Along these lines, Mr. President, it is most important to insure that independent producers have access to the public telecommunications distribution system. We do not need a fourth network but we do need a reservoir of good programs. Independent production entities or persons should be able to distribute programs without a centralized "gate keeper" making evaluative judgments about content. This desire is consistent with the original Public Broadcasting Act's intent to bring to the American people "programs of high quality obtained from diverse sources * * * made available to (local) stations who choose to use them at times chosen by the (individual) stations."

Again, Mr. President, to insure a reservoir of such programing, the individual stations must have the same opportunity to develop, distribute, and air programs some of which may be local in appeal, others of which may well have a broader, regional or national appeal. In any event, they should not have to air programs which are part of the so-called network system simply because they are not allowed to develop alternatives.

Unfortunately, I cannot represent that this bill will cure all the ills of the public broadcasting system. However, I can say with confidence that this bill, in conjunction with a responsible attitude on the part of the officials in the system and vigilance by the public, may assist public broadcasting in achieving its original goals.

As I have already indicated, the bill increases the Federal financial contribution. However, that increase is tied to more effective accountability of public broadcasting to the public it serves. The bill requires GAO, in consultation with CPB and others, to develop accounting principles that will be used uniformly by public telecommunications entities. It requires them to undergo an annual audit by independent auditors and maintains and strengthens the present authority of GAO and CPB to audit recipients of assistance. Specifically, it permits GAO to audit all financial information that relates to public telecommunications purposes "including all funds received by such entities from any private or governmental source, and all funds expended for any purpose. * * *" This language is intended to permit a comprehensive review of the financial operations of these recipients.

The bill also establishes a policy of open meetings for all public telecommunications entities, including CPB, PBS, NPR, and any other nonprofit institutions engaged in the production, acquisition, distribution, or dissemination of educational and cultural radio or television programs.

The bill outlines clear standards and procedures for enforcement of equal employment opportunity through rules, regulations, reporting requirements, and the penalty of loss or reduction of Federal support for violations.

In summary, Mr. President, S. 2883 will help public broadcasting "get its house in order" so that all segments of the American public will have available the quality programing that the public broadcasting system has promised for so long.

Mr. President, in addition there are two areas of concern that need to be emphasized for the purposes of legislative history. The majority and minority managers agree on the following statements:

Title I of S. 2883 provides Federal support of the planning and construction of public telecommunications facilities. Applicants for facility construction grants under title I, must provide certain assurances to the Secretary of Commerce. Among the required assurances is that the planning for such facilities has been coordinated with the appropriate State agency. It is expected that in fulfilling this requirement, applicants will provide copies of their applications for construction grants to the designated State agency.

Title III provides new audit and accounting procedures. In light of financial abuses that become evident during our Communications Subcommittee hearings, the committee developed new procedures which I expect will insure greater financial accountability for the expenditure of public funds, as well as those received from private sources. While it is recognized that this extends the Comptroller General's access to all financial information of public telecommunications entities receiving Federal funds, the committee believes this to be necessary as in fact, all moneys received by public telecommuncations entities are from the public. Community service grants received from CPB are often commingled with funds received from the facilities grant program, as well as moneys received from private sources. If the public is to receive an accurate financial accounting reflecting the receipt and expenditure of funds, it is necessary to expand the Comptroller General's authority. However, I want to emphasize that it was not the committee's intention to require licensees to establish duplicative financial reporting systems. University or college licensees, for example, which are subjected to comprehensive annual audits by a State will not be required to obtain an additional annual independent audit because of the provisions of this bill.

UP AMENDMENT NO. 1844

Mr. HOLLINGS. Mr. President, I send to the desk several technical amendments. I have just checked these with my ranking colleague, the distinguished Senator from Michigan (Mr. GRIFFIN). These technical amendments are being offered, and I request their immediate consideration en bloc. I ask unanimous consent that they be considered en bloc, three amendments.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS) proposes an unprinted amendment numbered 1844, being technical amendments.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, line 2, insert the following:

"SEC. 106. The position of Deputy Assistant Secretary of Commerce for Communications and Information, established in Department of Commerce Organization Order Numbered 10-10 (effective March 26, 1978), shall be compensated at the rate of pay in effect from time to time for level V of the Executive Schedule under section 5316 of title 5, United States Code".

On page 8, immediately after line 25, insert the following new subsections:

"(c) The personnel employed in connection with or in support of, or as an integral part of the mission of, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with the functions transferred to the Secretary of Commerce from the Secretary of Health, Education and Welfare by subsection (b) of this section, subject to section 202 of the Budget and Accounting Procedures Act of 1950, are hereby transferred to the Secretary of Commerce for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall only be used for the purposes for which the funds were originally authorized and appropriated.

"(d) The Director of the Office of Management and Budget, in consultation with the Secretary of Commerce and the Secretary of Health, Education and Welfare, is authorized and directed to make such determinations as may be necessary with regard to the transfer of the functions transferred to the Secretary of Commerce from the Secretary of Health, Education and Welfare by subsection (b) of this section and to make such additional incidental dispositions of personnel, assets, liabilities, contacts, property, records, and unexpended balances of appropriations, allocations, and other funds held, used, arising from, available to or to be made available in connection with the functions transferred by subsection (b) of this section, as he may deem necessary to accomplish the purposes of this Act.".

On page 29, line 8, immediately after "to", insert "individual".

On page 35, line 5, strike "qualified".

On page 35, line 6, strike "entities" and insert in lieu thereof "entities and public broadcasting entities".

On page 12, line 11, insert the following immediately after "1979,": "$1,000,000 for the fiscal year ending September 30, 1980, and $1,000,000 for the fiscal year ending September 30, 1981,".

On page 29, line 18, immediately after "reports", insert "or other information regarding finances".

On page 16, line 16, strike "that".

On page 16, line 21, strike "that".

On page 17, line 4, strike "that".

On page 17, line 10, strike "that".

On page 17, line 11, strike "private corporation".

On page 19, transpose lines 20 and 21.

Mr. HOLLINGS. These amendments accomplish the following objectives:

To authorize a second executive schedule position within the National Telecommunications and Information Administration of the Department of Commerce, at the same rate of compensation

already provided for. This amendment would not constitute a pay raise.

To clarify the transfer of personnel and assets for the educational broadcasting facilities program from the Department of Health, Education, and Welfare to the Department of Commerce.

To assure that the "personnel matters" exemption to the open meeting requirement of the bill relates to the privacy of individual, specific employees, not to discussion of general personnel policy matters, which should be open to the public.

To make the EEO provisions in the bill apply to all job applicants and employees.

To make all recipients of funds from the Corporation for Public Broadcasting subject to the bill's EEO provisions, including PBS and NPR.

To provide for authorizations of appropriations for telecommunications demonstrations to run concurrently with the telecommunications facilities authorizations.

Several clerical and technical changes to delete redundant wording, conform parallel language and correct a printing error.

These have been cleared, and I ask that they be considered en bloc and agreed to en bloc.

The PRESIDING OFFICER. The Chair would remind the Senator from South Carolina that there are committee amendments pending, and it will require unanimous consent to consider these at this time. Is the Senator seeking that unanimous consent?

Mr. HOLLINGS. That is right. I seek such unanimous consent.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator is also asking that these be considered en bloc, and is asking unanimous consent?

Mr. HOLLINGS. Yes.

Mr. PROXMIRE. I understand the Senator is offering those amendments and that they be considered as original text?

Mr. HOLLINGS. Correct.

The PRESIDING OFFICER. Without objection, they will be considered en bloc.

The question is on agreeing to the amendment of the Senator from South Carolina.

The amendment was agreed to.

Mr. HOLLINGS. I yield to my ranking member.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that privileges of the floor be granted to Hugh Hadden and Eric Hultman of Senator THURMOND's office; Tim McKeever of Senator STEVENS' staff; and Mr. Marc Steinberg of my staff.

The PRESIDING OFFICER (Mr. STONE). Without objection, it is so ordered.

Mr. GOLDWATER addressed the Chair.

Mr. JAVITS. Mr. President, I ask unanimous consent that Senator GOLDWATER may yield to me without losing his right to the floor, and that I will only keep it for a minute.

Mr. GRIFFIN. I thought the Senator wanted to make a unanimous-consent request for privileges of the floor.

Mr. JAVITS. No.

Mr. GRIFFIN. Mr. President, this bill before us today, the Public Telecommunications Financing Act of 1978, represents the first thorough effort by Congress to examine the Public Broadcasting Act since its passage in 1967.

The Public Broadcasting Act has the most worthwhile objective of attempting to meet the educational and cultural needs of the American public. As part of this objective, the Educational Television Facilities Act provides important grant program funding to public stations so that they may purchase needed equipment and construct necessary facilities.

The bill before us today amends these acts in an attempt to make public broadcasting more effective and responsive to the public interest.

Of particular relevance is that S. 2883, the bill we are now considering, amends the Public Broadcasting Act of 1967. There can be little question that when enacted, this act represented an unprecedented undertaking: the creation of a private corporation; namely, the Corporation for Public Broadcasting, authorized to expend Federal appropriations for the full development of educational broadcasting.

Our legislative mandate to the Corporation for Public Broadcasting requires that in funding noncommercial licensees, the Corporation is authorized to—

facilitate the full development of educational broadcasting in which programs of high quality, obtained from diverse sources, will be made available to noncommercial educational television or radio broadcast stations, with strict adherence to objectivity and balance in all programs or series of programs of a controversial nature . . .

In mandating that the Corporation adhere to objectivity and balance in all programs of a controversial nature, Congress declined, for sound constitutional reasons, to become involved in the program judgments of publicly funded licensees.

Nevertheless, the U.S. court of appeals has made it clear that Congress alone has the oversight responsibility to enforce the statutory mandates of the act. This can be best accomplished, held the court, through our control over the appropriation process.

Although Congress should not and cannot act constitutionally as a censor over noncommercial licensees funded by the Corporation, it is clear that we do have certain responsibilities in controlling the purse strings: First, whether the Corporation is facilitating the full development of educational broadcasting in which programs of high quality, obtained from a variety of sources, will be made available to noncommercial educational broadcast stations? Second, because these programs are funded by the public, as a whole, do they present an objective and balanced presentation of the controversial issues raised?

It is solely up to us, not the individual citizen or any other entity, to assure that these statutory mandates are carried out. Because of the importance of this issue, I will during consideration of this bill offer an amendment which will help assure Congress that it will exercise this oversight function in a responsible manner.

Finally, Mr. President, I want to acknowledge the outstanding leadership of the chairman of the Communications Subcommittee, the Senator from South Carolina (Mr. HOLLINGS). He has guided this important legislation through the Senate with skill and adroitness. He has given the Senator from Michigan every courtesy in the consideration of this bill.

In addition, I want to express my appreciation to the Senator from New Mexico (Mr. SCHMITT) and the Senator from Arizona (Mr. GOLDWATER) for their exceptionally able participation in the development of this legislation; particularly their attendance at the committee hearings on this bill.

Mr. President, I now yield the floor.

Mr. GOLDWATER. Mr. President, I yield such time to the Senator from New York as he may desire, without losing my right to the floor.

UP AMENDMENT NO. 1845

Mr. JAVITS. Mr. President, if I may have Senator PROXMIRE's attention, I have another hearing and I have a small procedural amendment which I will describe first before asking unanimous consent to have it considered. It will take just 1 minute.

This bill calls for uniform accounting principles by stations which get any loans or assistance from the FBC. Channel 13 in New York feels it may be too onerous for them—and other stations Senator HOLLINGS informs me have similar problems—so we are about to write into the uniformity section the following words: "taking into account organizational differences between and among various categories of such public telecommunications entities."

If there is no objection, I ask unanimous consent that the amendment may now be considered and adopted as part of the bill, notwithstanding the pendency of committee amendments, and I send the amendment to the desk.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The clerk will report the amendment.

The second assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) proposes an unprinted amendment numbered 1845.

The amendment is as follows:

On page 32 line 14 after the word "part" insert the following: ", taking into account organizational differences between and among various categories of such public telecommunications entities"

Mr. JAVITS. There is no further debate necessary unless there is objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York.

The amendment was agreed to.

Mr. JAVITS. I thank my colleagues.

The PRESIDING OFFICER. Does the Senator from South Carolina wish to of-

fer the committee amendments and offer them as original text?

Mr. HOLLINGS. I so make that request.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The committee amendments were agreed to.

UP AMENDMENT NO. 1846

(Purpose: To prohibit certain discrimination by the Federal Government in providing programs)

Mr. GOLDWATER. Mr. President, I send to the desk an unprinted amendment and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Arizona (Mr. GOLDWATER) proposes an unprinted amendment numbered 1846.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 38, line 2, strike out the quotation marks and the period following, and between such line and line 3 insert the following:

"(d) Any department, agency, or part of the Federal Government which provides a television or radio program to a public broadcasting entity shall make such program available, on the same basis, to commercial broadcasting licensees.".

Mr. GOLDWATER. Mr. President, our consideration of S. 2883, the "Public Telecommunications Financing Act of 1978," provides an appropriate occasion to discuss a subject which has required more of my attention during this administration than in any other that I can remember: the manipulation of the electronic media by the White House.

I realize that it is not new for an incumbent administration to try to use the media so that the administration and its policies are cast in a favorable light. Unfortunately, this practice probably started with the advent of broadcasting, despite the fact that freedom of the press, including the electronic press, is one of our most cherished freedoms.

In 1975 it was reported in an article by Prof. Fred Friendly in the New York Times Magazine that the fairness doctrine was used by Presidents Kennedy and Johnson to stifle criticism of their administrations from conservative broadcasters. In fact, according to Friendly, the landmark Red Lion decision which upheld the FCC's personal attack rules, resulted from these campaigns to silence the opposition.

More recently, of course, the Nixon administration was accused of attempting to intimidate the media, and according to the White House tapes, President Nixon even threatened to use the FCC's license renewal processes against his media opponents. I am sure that there are examples of abuses in other administrations that will be revealed with the passage of time.

Unfortunately, the Carter administration is breaking new ground in its attempts to acquire a favorable media image. White House staff members are even trying to manage the news. This administration has moved menacingly first into public broadcasting and more recently into the commercial area.

I am sure that many of my colleagues are aware of what some are now calling the "Horowitz Affair." According to news reports the White House decided to use the Vladimar Horowitz concert to bring the Carter cultural philosophy to the American people. Public Broadcasting, which is subsidized by Federal funds, was chosen as the vehicle to achieve this purpose. Public Broadcasting participated willingly. What else would we expect? Soon after President Carter's inauguration, the president of the Public Broadcasting Service, Lawrence Grossman, and the president of a Washington public broadcasting station, WETA, wrote to President Carter that:

The Public Broadcasting Service, which is a membership organization of 267 local public television stations in communities around the country, and WETA Washington, which serves the stations as a major producer of current events programs, would be pleased to work with you to open channels of communication with the American people.

The request for coverage of the Horowitz concert came from Barry Jagoda, then the President's media advisor. Mr. Jagoda, at the time, was involved in drafting authorization legislation affecting public broadcasting's future, development of the President's budget with respect to public broadcasting, and assisting in the selection of nominees for the board of directors of the Corporation of Public Broadcasting. Of course at the same time, Mr. Jagoda was in charge of polishing up the President's tarnished media image.

The concert was a great success, but the White House role did raise serious questions about government influence over PBS programing. As a result of press reports, I asked the subcommittee chairman, Senator HOLLINGS, to invite Mr. Jagoda to testify before our subcommittee, to explain his role in effecting communications policy and nominations to communications positions. Mr. Jagoda declined to testify. I still have some questions that I would like to ask him, but in July he was replaced by Gerald Rafshoon. The subcommittee chairman and I conferred with Mr. Rafshoon shortly after his appointment. He assured us that he understood the sensitive relationship between the White House and the media.

However, soon thereafter the White House became more aggressive in its attempts to influence coverage by commercial broadcasters. The August 1, 1978 edition of the CBS Evening News reported that:

(u)nder the guidance of the Administration's new image builder (Gerald Rafshoon), the White House has gone into the television business.

Now, Mr. President, I am very concerned about this. I know that my chairman is concerned about this. We have discussed it, and I am appealing to him through these words to set up hearings at a proper time so that we can get into this whole question. But I want to continue just for a short while.

According to the report, the White House is now offering Cabinet members for interviews by local television stations at the taxpayers' expense. Costs for the tape, equipment, crew, and shipment of the tape airfreight to the station are all borne by the taxpayers.

Even more disturbing is the fact that the local stations contacted by the White House are not permitted to interview a Cabinet member of their choice, but must take whomever the administration is featuring. Apparently, many stations have been delighted to "get an interview with a member of the Cabinet, which they otherwise could not afford," and are taking advantage of the White House offer. It was not clear from the CBS report just how extensively Mr. Rafshoon intends to distribute these Government tapes.

This practice strikes me as a clear-cut abuse of television in an attempt to present news favorable to the administration. There is a very real danger that stations, which must be licensed by the Federal Communications Commission, may feel compelled to provide administration spokesmen with a forum, even though they are not in a position to select the Cabinet member they desire.

The initiation of this practice so soon after the controversy surrounding the White House staff efforts to influence programs on public broadcasting, indicates that the White House staff is not yet sufficiently sensitized to the delicate constitutional issues raised by Government interference in the electronic media.

The purpose, Mr. President, of my amendment—and I do not intend to press it—is to make it possible for the established networks, CBS, ABC, and NBC, to attend these Sunday afternoon or Sunday evening expositions of high culture at the White House if they care to. Maybe they do not want to; but if they care to, I think they should be allowed to, just as public broadcasting is allowed to. We do not know whether they care to or not, because we have not had hearings, and I implore my chairman to hold hearings as soon as possible, to see whether they care to attend these cultural extravaganzas.

I think the American people can always stand a little more culture, but I do not know as all of them want to pay for all the time.

Further, an announcement that PBS will televise a series of special events honoring world-renowned concert artists this fall raises a further question about White House intentions to use public broadcasting for political purposes and the apparent willingness of PBS to be used for that purpose. I believe we must consider this legislation in this context of White House efforts to subvert the first amendment. It may be necessary in the future to consider whether additional action is appropriate to insure that commercial and public broadcasting are free of governmental influence.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. GOLDWATER. That is the intent

of my amendment. I yield to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I commend the distinguished Senator from Arizona for this amendment, and also for his excellent statement. I think few of us realize the overwhelming effect that radio and particularly television have on our society. It is tremendous.

We also realize the great dominant office in this country is that of the Presidency; and if the President is able to have an influence on the culture of this country, it is something that we should be aware of.

I intend to dwell on this subject further a little later in connection with an amendment I intend to offer in connection with the influence an administration—any administration, whether it is Kennedy, Johnson, Nixon, Ford, or Carter—can have on the commercial television stations, and why we should be very much aware of that, and aware of the fact that there is a kind of censorship in this country if we open our eyes to it. We should be constantly aware of that, and keep our eyes open; so I particularly congratulate the Senator from Arizona on his efforts along that line in connection with the amendment he is offering.

Mr. GOLDWATER. Mr. President, what the Senator from Wisconsin has said is very true. If these cultural afternoons or evenings were made available to the other networks, I would not complain. As I say, they may not want to bother with them. But it does not take a great deal of imagination or understanding to understand the terrific impact of a genius like Horowitz being brought into our living rooms on a Sunday afternoon or Sunday evening from the White House, by a Public Broadcasting System.

Not only that, they are using equipment that we have paid for as American taxpayers. They are mailing these pieces out across the country at our expense. There is a grave question in my mind about the legality of that.

In fact, the Compliance Division of the Programing Section of the FCC believes there is no legal restriction on programing of public events by commercial TV. On the other hand, there is no FCC rule allowing commercial television access to events occurring at public places, and it has been held that the Government can deny access to commercial broadcasters if it wishes.

I do not care whether it is a Democratic President or a Republican President, because I have to admit the Republicans have been guilty of this just as Democrats are being guilty of it, but I would like to see some better understanding come about as to whether they are violating the law or not, or as to whether these other networks can go into the White House at these cultural events and participate.

Mr. WEICKER. Mr. President, will the Senator yield?

Mr. GOLDWATER. I yield.

Mr. WEICKER. Mr. President, I commend the Senator from Arizona on his amendment, and more particularly on his words of admonition. There is no question as to the fact that this should be a matter of concern to the Senate now, under the circumstances that the Senator has described.

Certainly, in hearings held over the past several years, regardless of administration, the issue has been raised. As the Senator from Wisconsin says, this is a matter that has enormous impact, and in the hands of any administration, ill-used it could in effect be a method of thought control in this country; it is as simple as that.

I do not know how we are going to get away from this, whether it be influence by Congress, which also has a hold on public television, or influence by the Executive, until the day comes that we set up some kind of program policy with massive financing, and then get the heck out of that business and allow the moneys to take care of public broadcasting either to be seed money to attract other money, or in some other fashion. Because there is always a danger in Congress having a connection with public broadcasting.

But I will also note, at this juncture, that if there is a problem of the Chief Executive being in television, there is also one of the two political parties, because as the rules are worded and intrepreted, the only candidates who are going to be heard are the Republican and Democratic candidates. So let us understand that these principles we are speaking of also apply to us in this body.

But I think what the Senator from Arizona has put forth here is terrific, and believe me, I have a strange feeling that there is something very prophetic in what he is saying to the U.S. Senate at this juncture. We have to come to grips with the problem sooner or later, or it will come back to haunt us.

Mr. GOLDWATER. Mr. President, I yield to the chairman.

Mr. HOLLINGS. Mr. President, let us be a little bit more deliberate and a little bit more cautious before we charge and try to convict the President and the administration on what could well be a bum rap. That does not mean that we are not concerned. As the Senator from Arizona has pointed out, the Horowitz affair did bring out the inference that the White House was pressuring Public Broadcasting to cover it.

We do know that the former PR representative of the President bragged openly about his influence, and called the Public Broadcasting bill, the one we now have under consideration, his bill at one time.

Of course, it is not. It is our bill from the Commerce Committee. In fact, we did the principal draftsmanship on it even before the House did, and then we got our distinguished colleague on the House side, LIONEL VAN DEERLIN to submit it there at the same time we submitted ours.

We did have that conference with Mr. Jagoda separately, and since that time he has moved on, and we have had a conference with Mr. Gerry Rafshoon, and explained our concerns.

I reiterate my concern, similar to that of the Senator from Arizona, that we not have Presidential and political influence over the policies and programing of Public Broadcasting. I do not think, necessarily, that has occurred. When I heard about the TV articles, and my friend Senator GOLDWATER was courteous enough to correspond with me and sent me one article, I did call Mr. Rafshoon and ask him about it. It was his answer at that time that the Public Broadcasting Service had called and asked the White House for coverage on Mr. Rostropovich, a particular program, and similar cultural programs that they have. As of this minute, as lawyers we could say the best evidence is that Public Broadcasting is the one that requested, and the best evidence is that no one has been excluded. That is why I say let us be very cautious before we indict, try, and convict, because these folks who write magazine articles just love to run off and make a touchdown in the wrong direction.

With respect to access, I agree with what the Senator from Arizona was reading as to the FCC rules and regulations. I know, as a Senator, that if I have a hearing or if I have a news conference, in our committee, for example, that is equally accessible to both Public Broadcasting and to commercial TV.

If the Senator would like to require that, I could see no danger in it. At least, we would have it with us in conference to see if we could find something wrong with it with the conferees on both sides.

The amendment now reads, "Any department, agency, or part of the Federal Government which provides a television or radio program."

I think as the Senator has indicated, "which provides access to an event of such department, agency, or executive department to a public broadcasting entity, they shall make such access available on the same basis," not the program or whatever it is, I think the only one department we have formulating programs in that sense is HEW. Maybe there are some in Defense. I think access is well taken. I do not think they are excluded from it, and I see no danger to it.

I have asked the President's public relations counsel, Mr. Rafshoon, to contact the Senator from Arizona. I think he has done that and they have set up a time when they can confer. We will watch it closely. We remember the movies put out during the war on Vietnam under President Johnson. Under President Nixon, I happened to support the appointment of Clement Haynsworth, in fact suggested it, and I wish the Senate had confirmed him. He is a distinguished judge now in the Fourth Judicial Circuit and many Senators since that time have regretted their failure to vote confirmation. The executive department orchestrated appearances for the Senator from South Carolina at that time because the executive department has that power. They know how to get exposure for their supporters.

It will not be an easy thing to write in the law. The President, such as coming in the night before last on TV at 11 o'clock, was breaking in on all the programs, but no one would dispute the reasonableness of that. It was historical.

That was access to commercial and to public broadcasters as well.

The President is our President, and if he goes culturally I would have thought some of my friends distant from our section of the country would have said, "Well, now, he is at least getting some culture, instead of just fishing in a pond with country music. Now we have Rostropovich and Horowitz. We down South now are getting a little culture, and it is good to show the President getting that exposure."

I really do not believe that the President is demanding what perhaps happened in the Horowitz case. On the contrary, public broadcasters are the ones who requested it. But let us make sure that access is equally available, as it is with any one of our particular events, hearings or otherwise, here in the legislative branch. I readily accede to that. We can still continue.

As I was telling the Senator in our brief conversation about this amendment, we will bring this up at a hearing.

Mr. GOLDWATER. Mr. President, I realize this is an easy case to state but it is not an easy case to decide, particularly on the floor of the Senate when the idea of the amendment just struck me literally a few hours ago. I am meeting with Mr. Rafshoon on Thursday, I believe. I do not know if this is the subject he wants to discuss with me or not, but I assume after today it will enter into the conversation at some length.

I have great respect for my chairman. We have worked together very, very well. I would like to have his assurance that we could hold at least one hearing and invite the networks and Public Broadcasting. We may find that the networks do not give a darn about this thing.

In fact, I kind of yield to the southerners; I like that hillbilly music. It is hard for me to understand that high-falutin stuff. Maybe I ought to listen to Mr. Rafshoon more often.

If the Senator will give me the assurance that we will hold a hearing sometime before the end of this year on this subject, giving our own staff members, which I will have to admit I surprised today, a chance to look into the law and legalities of this, and allow the FCC a chance to present what they consider the legalities or illegalities, I do not care to push my amendment. I merely want to get something started that will clear this thing up.

Mr. HOLLINGS. Very well, I will make those assurances to the Senator and even further assurances about other matters. One of the articles was that there was some question about the equipment, the tapes, and the cost. We want to cover that, too. I understand the Department of Defense assigns the communications team to the White House. The team is really on the payroll of the Defense Department.

Mr. GOLDWATER. That particular kind of abuse, as I see it, stems from whoever it is in the administration selecting a Cabinet member and having him available to answer telephone questions or make his own speech using equipment that comes, I believe, from the Pentagon. The statement was equipment that is not being used by other departments of the Government. But somebody has to operate it; somebody has to provide the visual tapes; somebody has to mail it. It costs money. I would like to get that cleared up. If they can use surplus equipment out of the Pentagon for those purposes, I suggest that the party not in power might be able to do the same thing.

Mr. HOLLINGS. Let us have that hearing because I have different feelings. I do not think it is surplus. I think the President ought to be covered. I know executive departments and the various cabinet members are constantly out proposing programs, listening, having hearings, going public. I am not going to get prudish about this, but here are Senators, individuals, and we are constantly being interviewed and sending tapes back home ourselves. We are in a similar kind of situation of trying to make certain that our views and our conduct in office in Washington are brought to the people at home. What is the difference?

In fact, I complained about a Coast Guard plane. We can get into all kinds of good subjects of equity. I was trying to get the Coast Guard into an ocean agency. The claim has always been that they kept the Coast Guard in Transportation so that was fast, clean travel for that Secretary and all the rest of the Secretaries. We brought up the actual travel documents to show how they were racing them all around the country.

So when the Senator gets the tapes, maybe we can get the planes and maybe get some of these other areas. We will get into all kinds of extraneous subjects. Let us not press it at this particular time when we frankly do not know.

Mr. GOLDWATER. The big difference, of course, is that the Senator and I pay for it. We do not have the Department of Defense or the Department of Interior making available facilities for events which involve the Senator from South Carolina and the Senator from Arizona.

If the Senator will give me his assurance that he will have such a hearing that can be perfectly well set up by the staff, I shall be very happy to withdraw.

Mr. HOLLINGS. I give the Senator that assurance.

The PRESIDING OFFICER. Does the Senator withdraw his amendment?

Mr. GRIFFIN. Will the Senator yield to me before doing that?

Mr. GOLDWATER. I yield to the Senator from Michigan before I withdraw the amendment.

Mr. GRIFFIN. I do not want to talk him out of withdrawing his amendment, but I point out to the Senator from Arizona that if the bill before us passes, we shall be authorizing, 5 years in advance, public television program operation. I shall have an amendment to limit that to 3 years, which is what we have been doing in the past. It is true, of course, that even though we pass an authorization bill 5 years ahead, I suppose that it is possible that the Senator from Arizona could have some hearings and try to get a bill passed that would have some effect on public broadcasting. The only thing I can say to the Senator from Arizona and to others is that it is an awful lot of years to have some impact at a point where there is an authorization bill going through.

I think we would be making a big mistake as far as our own responsibilities are concerned if we do not cut that authorization back to 3 years rather than 5 years, so that we will at least have an opportunity in that period of time to do something to this legislation.

Mr. GOLDWATER. I agree with the Senator. I think 5 years is too long and I shall vote with him on 3.

Mr. GRIFFIN. I just wanted to make that point.

Mr. GOLDWATER. I should hate to see this amendment offered and defeated, because we have not had adequate time to prepare our arguments. I think defeat of this amendment could indicate political favoritism by one side or the other, or political naivete, whichever he wants to choose.

Mr. President, I ask unanimous consent that I may withdraw my amendment.

The PRESIDING OFFICER. The Senator does not need unanimous consent. If the Senator wants to withdraw his amendment, he may do that.

The amendment was withdrawn.

UP AMENDMENT NO. 1847

(Purpose: To authorize volunteer services to be counted as "non-federal financial support" for matching grants provided by the Corporation for Public Broadcasting)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) proposed an unprinted amendment numbered 1847.

Mr. JOHNSTON. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 39, strike lines 21 through 24 and add the following:

"(7) The term 'nonfederal financial support' means the total value of cash and the fair market value of property and services (including, to the extent provided in the second sentence of this paragraph, the personal services of volunteers) received—."

On page 40, add between lines 16 and 17, the following new sentence:

"Such term includes the fair market value of personal services of volunteers but only with respect to such services provided to public telecommunications entities and only, with respect to such an entity in a fiscal year, to the extent that the value of the services does not exceed 5 percent of the non-federal support of the entity in that fiscal year."

Mr. JOHNSTON. Mr. President, this amendment authorizes volunteer services to be counted as non-Federal revenue for matching grants provided by the Corporation for Public Broadcasting. It further provides a safeguard by setting a 5-percent limitation in the amount of non-Federal financial support attributed to volunteer services. This limitation will facilitate oversight by the Corporation for Public Broadcasting.

This amendment would allow Public Broadcasting stations to count volunteer services, as telephone answerers during pledge periods or on-the-air talent, as private matching funds up to 5 percent of the total non-Federal contributions received by a public telecommunications entity in a fiscal year. I want to emphasize, of course, that the total Federal matching contribution for this purpose is limited by Congress in the Public Telecommunications Financing Act of 1978 that we are now considering.

Mr. President, many Public Broadcasting stations, according to testimony before the House Subcommittee on Communications, are hard put to survive as broadcasters. This amendment will help these hard-pressed public stations to survive and to stay in business. Many precedents exist in other programs for this kind of matching fund treatment, including Heart Start, the Community Services Administration, the United Planning Organization, and the arts and humanities. In effect, this amendment also gives to low- and middle-income citizens the ability to contribute to public broadcast programing by making their contribution in services rather than in dollars.

Mr. President, the Corporation for Public Broadcasting should and, I believe, will provide guidelines detailing how volunteer service contributions shall be treated, putting limits, for example, on the number of hours a week and the maximum compensation per hour of volunteers and that sort of thing. The Corporation for Public Broadcasting should promulgate concise and simple rules or guidelines to implement a standard method of recording the value of volunteer services.

Mr. President, I think this in an excellent amendment to award the legitimate and important contributions of volunteers and to allow hard put public broadcasting stations to survive. I hope the chairman will accept it.

Mr. HOLLINGS. Mr. President, my distinguished friend from Louisiana talked to me about this. I have been trying my level best to determine what should be a dependable system for measuring volunteer services. There have been misgivings by those who had considered it heretofore. The argument for limiting the level to 5 percent—I think that this limitation is in the House bill—was that volunteer contributions could be subjected to abuse. The 5 percent would soon be considered inadequate and proponents would want 10 or 15 percent. It is one of these things that, in my opinion, is uncontrollable. As a veteran member of the Budget Committee, I hesitate getting into this area. Yet it may very well be an excellent idea.

We do not want to stultify the activity and enthusiasm that has brought public television to this particular point. I agree with the Senator's constituents on that point: Is there some way we can get the Corporation for Public Broadcasting to make us a study and recommendation? Every group wants to take a little percent here, a little percent there. The result is that to the Corporation for Public Broadcasting has no discretion. It would be all percentaged, with little room for innovation or creativity.

If the Senator would not press amendment at this time, we can get a recommendation from CPB.

I am not opposing his amendment, nor am I accepting it. I think if we had a rollcall, I would have to ask that it be opposed at this time, because I do not want it fixed in the bill. I have not heard from the CPB, and we have not been able to get a reasonable, rational form or dependable basis for measuring volunteer contributions.

Mr. JOHNSTON. Mr. President, do I understand the chairman to be saying that we could seek that opinion from the Corporation for Public Broadcasting?

Mr. HOLLINGS. Yes, and if they cannot give us one by the time of the conference, at least they could make a study and make a recommendation to us.

The chairman of the full Committee on Commerce is on the floor. He will assure the Senator from Louisiana and I will assure him that we will take it up as an amendment to this act at a later date, after study of that recommendation.

Mr. JOHNSTON. What the chairman is saying is if we can get a recommendation that is consonant with good sense and good budgetary practice prior to the conference, the chairman of the subcommittee would be inclined to look on it favorably.

Mr. HOLLINGS. Favorably, yes, sir.

Mr. JOHNSTON. Mr. President, in view of that attitude on the part of the chairman of the subcommittee and his statement that he does tend to look on this favorably, that he does want to encourage volunteer activity, it is my belief that the Corporation for Public Broadcasting could give that opinion prior to conference and I believe it is in their interest to do so; I certainly would want to go along with the wishes of the chairman of the subcommittee and withdraw this amendment at this time, with the assurance that we get the Corporation for Public Broadcasting immediately to give us that opinion.

So, Mr. President, I thank the subcommittee chairman and I withdraw the amendment at this point.

Mr. HOLLINGS. I thank my distinguished colleague.

The amendment was withdrawn.

Mr. CANNON. Mr. President, I ask unanimous consent that Beverly Charles, of Senator JAVITS' staff, and Patty White, of Senator HAYAKAWA's staff, be granted the privilege of the floor during consideration of this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, may I say to my distinguished colleague from Louisiana, who is bound to be here longer than any of the rest of us, because he has just been reelected for a 6-year term, I can assure him that we will certainly look at him with deference on this point when it comes up. I congratulate him on his recent victory. That point is in the House bill, as he knows and we will certainly give consideration to it in line with the assurance from the distinguished chairman of the subcommittee.

Mr. JOHNSTON. Mr. President, I thank my distinguished colleague from Nevada for those kind comments. I only hope he will not use my 6-year and 2-month term as an excuse for delaying the matter that long.

Mr. CANNON. Mr. President, the main purpose of S. 2883 is to extend and increase the authorization of funds for public broadcasting, improve the efficiency of the system, and expand its reach to viewers not being adequately served at the present time.

In 1975, Congress established the practice of authorizing public broadcast programing funds several years in advance, combining this with appropriations 2 years in advance. S. 2883 continues that practice by authorizing money through fiscal year 1983. The principle of multiple-year authorizations and advance appropriations continues to be sound, not only because it insures stability and continuity of program production, but also because it performs an important first amendment function. Public television and radio programing must be insulated from external political intrusion to the maximum extent possible, and freedom from annual authorization legislation provides the independence necessary to insulation without removing important standards of public accountability.

The bill does not effect any major changes in the system, but it does contain some modest provisions designed to strengthen financial management practices, increase public access to information and broaden the opportunities available to public broadcasting. The bill will make public broadcasting available to groups who have been unserved or underserved in the past, including minority groups, viewers in rural areas beyond the reach of existing transmitters, and independent producers who feel they have sometimes encountered a "not-produced-here" syndrome when attempting to sell their programs to public television and radio distributors.

Responsibility for enforcing equal employment opportunity is assigned to HEW. Past legislation had not clearly indicated who the responsible agency should be, and the Corporation for Public Broadcasting has asserted that its nongovernmental status would be compromised if it were asked to carry out this enforcement role.

The General Accounting Office is authorized to establish accounting principles for public television and radio stations and to follow up with audits where appropriate. In fiscal year 1977, the Corporation was able to audit fewer than one-third of its station grantees; of that number, 44 percent were classified as having "serious" deficiencies. Funds from all sources are frequently commingled by the recipients, making it difficult to distinguish the uses of public and private moneys. The bill gives GAO authority to examine the utilization of all such funds, but it clearly does not allow GAO, or any other Government en-

tity, to get involved in programing decisions.

Besides requiring stations to open their books to greater public scrutiny, the measure establishes a sunshine requirement for board meetings, with certain exceptions for matters which ought to be discussed in private, such as individual personnel matters and legal discussions.

Independent program producers and others may have access to the satellite interconnection system if excess capacity exists. The public television stations have in the past distributed their programs through A.T. & T. cables and microwave towers, but they are now in the process of changing over to a satellite distribution system. With most of the money coming from the Corporation for Public Broadcasting, four channels on a Western Union satellite are being leased for distribution to dish antennas on the ground. S. 2883 provides that excess channel time will be available to independent producers seeking to sell or distribute their programs to stations.

The facilities program presently located at the Department of Health, Education, and Welfare is being transferred to the Commerce Department and is further amended by S. 2883 to place important emphasis on extending the reach of public broadcasting to areas which do not receive adequate public signal reception. Funds for the purchase of all equipment, such as cameras and transmitters, is authorized at a level of $40 million in each of the years 1979 through 1981. This increase of $10 million over current levels is necessary in order to insure that equipment replacement activities can continue at adequate levels at the same time that increased expenditures are set aside for expanded coverage. Three-fourths of the funds appropriated must be spent to start new stations or extend the reach of existing stations to areas not presently served. Equally important, the fund is opened up for application to nonbroadcast technologies where appropriate. For small towns, remote from broadcast transmitters, the facilities money could be used to purchase access rights to cable TV systems. Rural school districts might find video tape recorders to be more cost-effective than new broadcast stations, and the particular needs of each unserved segment of the public could be met under the revised criteria of this legislation by the most appropriate means, without regard to the type of facilities or method of transmissions involved.

In sum, S. 2883 is a progressive, farsighted bill. The Public Telecommunications Financing Act of 1978 will strengthen our public television and radio system and enable it to achieve its goal of programing excellence, while at the same time making it more responsive and accountable to the people it serves. Open meetings and open account books will expose it to the fresh winds of public opinion. We hope better access to the satellite interconnection system coupled with renewed interest by public stations will bring an infusion of new creative talent. Clear responsibility for EEO enforcement will assure a more diverse representation of viewpoints into the studios and management offices. A strong facilities program will mean that all taxpayers—who support public broadcasting—will be better able to receive its programs and will be more likely to view programing that reflects their interests. The bill is a firm step toward a strong, well-financed, and innovative public telecommunications system, and I urge its adoption by the Senate.

Mr. President, I thank my distinguished colleague, the chairman of our subcommittee, for his leadership in this very important field.

Mr. HOLLINGS. I thank the Senator from Nevada for his wonderful help on this measure.

The PRESIDING OFFICER. Who yields time?

UP AMENDMENT NO. 1848

(Purpose: Relating to obscenity in broadcasting)

Mr. THURMOND. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND) proposes unprinted amendment numbered 1848:

At the end of the bill insert a new section as follows:

"PROHIBITION OF CERTAIN TELEVISION BROADCASTING

"SEC. 332. (a) The Congress finds that in view of the purpose of this Act, as stated in section 301, 'to maintain the control of the United States over all the channels of interstate and foreign radio transmission', television broadcasting stations should in the public interest be prohibited from broadcasting programs portraying nudity, obscenity, explicit sexual activity, gross physical violence or morbid torture, any of which are offensive to the public taste and morals.

"(b) The Commission shall as soon as practicable prescribe regulations prohibiting such broadcasting stations from broadcasting such portrayals of nudity, obscenity, explicit sexual activity, gross physical violence or morbid torture."

Mr. THURMOND. Mr. President, I rise today to offer an amendment which I believe may ultimately affect the attitudes, behavior, and moral fiber of the citizens of this great Nation.

With the advent of the television, all Americans—old and young, rich and poor—were given the opportunity to become a more meaningful part of our society. This medium was a giant step in modern technology and mass communications. Broad vistas of opportunities and challenges were opened to all who viewed these "images-on-screen." People could travel to the four corners of the Earth without leaving their living room. The confines of a classroom or library were removed, giving way to a vehicle through which all Americans could become better educated and improve their status of life. The impact of this invention is immeasurable, yet, Mr. President, this great gift to mankind has become a two-edged sword.

Recently, many Americans have become concerned about the effects that the television has had on young people during their maturation process. Educators like Dr. Benjamin Bloom, of the University of Chicago, maintain that by the time a child reaches 5 years of age, he has undergone as much intellectual growth as will occur over the next 13 years. According to the noted television pollster, A. C. Nielsen, children under the age of 5 watch an average of 23.5 hours of television a week. On the other hand, adults have a far greater appetite for television, consuming an alarming 44 hours per week; however, the effects on young people can be enormous and possibly dangerous. It has been estimated that by the time of one's high school graduation, today's typical teenager will have logged approximately 15,000 hours before a television screen. These are perhaps the most important years of an individual's life. They are growing years, the learning years.

Mr. President, I stand today not as a foe and archenemy of the field of television and its related industries, but rather as both a concerned parent of our children 7 years of age or younger, and as an advocate of responsible television programing. The question I place before the Senate today in the form of this amendment is whether we, as Senators, owe a duty to require responsible regulation of an industry which profoundly affects the attitudes, behavior and general complement of Americans.

Each of us recognizes that television broadcasting is unique because it is directed indiscriminately toward the public. In a different way from other media of mass communication, it is both pervasive and intrusive. The passive act of watching television is different, practically, socially and physically from obtaining literature or gaining admission to a movie theater. To gain access to risque literature or motion pictures, a consumer must enter a store or theater and make a purchase. Bookstore and theater proprietors can easily exclude persons who are under age and thus reduce the likelihood that young children will be exposed to matters that are deemed unacceptable for their consumption.

Furthermore, the use of magazines, books, and movies are matters which parents find it both simple, and natural, to regulate. Parents can monitor both the movies their children see and the books they read. But television broadcasts are much more difficult for parents to supervise. Such broadcasts are easily accessible to young persons even in the privacy of the home, without the need for comparable affirmative acts. The offensive matter may be received and consumed with no one the wiser.

Thus, unlike a bookstore owner or theater operator, a broadcast licensee has no comparably effective means of sorting out and excluding youthful customers. Moreover, as is widely known and widely deplored in our society, television viewing for young children is an experience largely devoid of direct parental supervision. Although most parents monitor their children's viewing and listening habits some of the time—particularly during later evening hours when parents themselves place heavy reliance on broadcast media to satisfy

their entertainment needs—it is unrealistic to expect such close oversight all the time.

Mr. President, it is those times when unsupervised children are most likely in the audience that I express particular concern. It is at this time that I believe broadcasters must use the "public interest" standard, and program accordingly. A broadcaster should not force parents to accept the risk that their children will be exposed to portrayals of nudity, obscenity, and gross physical violence while in the privacy of their own home.

Mr. President, I believe that a licensee television network or station should conduct itself as a fiduciary with obligations to present those views and voices which are representative of the communtiy which it serves. Also, the courts have long recognized the existence of a special societal interest in protecting young children from sexually explicit material. This interest is warranted not only by the State's interest in the moral and emotional adjustment of children, but also a recognition of parents' right to rear their children according to their own best judgment.

Therefore, Mr. President, I believe it is entirely appropriate for Congress, through legislation, to assist the FCC to determine and define the standards by which the "public interest" is judged. It seems to me that an elementary standard of the "public interest" would be to take into account the concern that millions of Americans share about the level of sexual material, violence and carnage entering their homes.

Today, I am offering this amendment which would empower the FCC to prohibit television stations from broadcasting portrayals of nuditiy, obscenity, explicit sexual activity, gross physical violence, or morbid torture, any of which is offensive to the public taste and morals. The public deserves to be protected from broadcasting policies that undermine the moral fiber of Americans. I urge my colleagues to support this amendment.

Mr. President, all this amendment does is this: It simply provides that television broadcasting stations, in the public interest, should be prohibited from broadcasting programs—of what kind? Programs portraying nudity. Is there a Senator in this Chamber who wants that kind of program broadcast? As to programs portraying obscenity, I cannot believe there is a Senator here who wants that. I am sure no Senator wants programs that portray expicit sexual activity, gross physical violence, or morbid torture. Phychiatrists have testified to the effect that these things cause a great deal of violence among the young people of this country, when they see them on television.

We believe that the public feels that it is offensive to the public taste and morals for those things to be broadcast.

That is all the amendment does, except that it is provided that the Commission, as soon as practicable, shall prescribe regulations prohibiting such broadcasting stations from broadcasting the things I have mentioned—that is nudity, obscenity, explicit sexual activity, gross physical violence, or morbid torture.

Mr. President, we feel that the public is entitled to this protection. We feel that parents want their children protected from these things that appear on television.

If it is desired to have risque shows, let those shows appear in theaters or where people can make their choice. But when those things appear on television, they practically have no choice. The children in their homes want to see shows, and these programs appear whether they like them or not. There they are, and the children are going to see them. It certainly does not do the children good to see the programs of this kind.

I realize that the question might be raised as to the first amendment or about censorship, but I say this to the Senate, in good faith: The first amendment does not mean that anybody can say anything. The courts have held that. In other words, if a man rushes into a threater and yells, "Fire" when there is no fire, he has no right to do that. That is not freedom of speech as exercised and as construed under the Constitution.

We believe that this Commission should use its discretion and prohibit programs of the type I have mentioned. Suppose it is a form of censorship. A lot of things are forms of censorship. Freedom of speech does not mean that you have a right to say anything, anywhere, anytime, or show pictures anywhere, anytime.

We feel that this is important for the public good.

I ask my distinguished and esteemed colleague from South Carolina whether he can accept this amendment and see if we can have it adopted in conference.

Mr. HOLLINGS. Mr. President, I think my senior colleague knows better.

I say this as to the concern and what has been done for a most difficult subject: To begin with, Congress has been concerned with preventing obscenity, profanity, and indecency. Under title 18 of the United States Code, section 1464, both the Justice Department and the Federal Communications Commission are empowered to enforce the prohibition against obscenity, profanity, and indecency on the air waves. So the fundamental law is on the books.

Incidentally, I would not want to be technical at this point, but I do not think the amendment amends any section of our bill and further it is not germane because our bill has to do with Public Broadcasting, and it does not discuss program content. But I am not raising those points of order.

On the contrary, I am trying to address the concerns of the senior Senator from South Carolina.

The general law that the Senator speaks of is now on that book, and he agrees with it, and I agree with it. While there have been many attempts and failures in enforcement, the most recent case, of course, is Pacifica Foundation versus the FCC, or better known as the "seven dirty words" case, wherein a radio broadcaster just continually, habitually and constantly kept pumping into the airwaves a raucous set of four-letter, indecent words, during the daytime when children could hear and were likely to hear. As the Senator says you cannot close their ears, and it can be heard.

The Supreme Court recently upheld the Commission, against that particular broadcaster holding that that broadcast was illegal under the Constitution and the criminal code. In other words, that was an upholding of a finding with respect to obscenity.

Generally speaking, obscenity and indeceny have been equated as one and the same thing. In the FCC law it is not.

Mr. President, the Court went on to find that the true principal test of obscenity is whether or not the matter in question appeals to the prurient interests and has no literary value or redeeming social value to it.

But over and above that general rule, the FCC just without those particular tests can rule against indecency. But the hangup is that of attempting to be a King Solomon. How do you define obscenity? And therein we have tried, as the Senator from South Carolina knows. We constitutionally are somewhat restricted because of the difference in not the clear-cut cases, but the difference in opinion and difference in morals and customs. The Senator started out by saying just that, that what he would hope to do would be to affect the attitudes and moral fiber of our society. Perhaps personally I could agree with him but as a U.S. Senator let me say that I am not sure that we could agree on each one of the particular items that would be included in that fiber. When you come down to it what is obscene in language? Where does nudity begin and where does it end?

I also saw the 60-minute program during which there were bikini-clad, bathing suit-clad young ladies on the screen. Now many a beauty queen wins a contest as a result of that bathing suit exposure. Some will say that that is indecent; others will say it is prize-winning.

You could go right down the particular items of this amendment in a similar fashion: What is sexual activity, what is gross physical violence, and what is morbid torture.

As to the broadcasters, it should be stated for all to know and realize, that there is some feeling of public responsibility and morality amongst broadcasters. They have in the National Association of Broadcasters a morality-obscenity code, and they tried to do some self-policing though we do not think it is adequate, and the PTA does not think it is adequate either. The American Medical Association does not think it is adequate. By bringing to the advertisers' attention the undesirability of these particular type programs, the PTA and AMA have been able to get them off the air.

National advertisers heretofore regularly paid for such programs because they got the greatest viewing audience and hence the greatest exposure for the sale of their particular product. As a result of the PTA and AMA, they are now being self-restricted and are canceling certain contracts and going to more family-type programs and those acceptable to the general public.

I applaud the work of the Parent-Teachers Association and the American Medical Association and I try with our Communications Subcommittee to bolster that in our oversight responsibility and bring the broadcasters to task and find out what they are doing.

CBS in particular had one gentleman who impressed me at our oversight hearings, showing how they took their particular movies and scripts and removed scenes they believed to be excessively violent, obscene or indecent. Each of the networks have similar reviews for all its programing, and this is healthy and helpful.

I think we have them moving in the right direction. I know that under our former chairman, Senator Pastore, with whom I was serving at that particular time on the subcommittee, we asked the question. What could we do constitutionally to control programing, especially the area of children's viewing, to insure that we have a family viewing time until after 9 o'clock at night? They adopted the family hour and it has been brought before the courts and found unconstitutional because of the way it was agreed to by the networks and the matter is presently on appeal.

So it had not been a lack of interest or a lack of concern, but there is an equal right here. There is an equal right. Some would say: "I put you to the wall. When you vote against this amendment you are voting for obscenity and for nudity and for morbid torture."

But I think our society is mature and understanding and realizes that there cannot be this kind of blanket condemnation and then have it enforced any better than the general law that we now have on the books pertaining to obscenity, profanity and indecency on the airways under title 18, section 1464.

And we may contest under that law and the FCC can move under that section and the broadcasters can move under that section, but we should not take the public broadcasting bill and act as if we do not give any concern whatever.

On the contrary, I have outlined our concerns, and I would hope that the Senator would not press the amendment because I am confident, as the Senator appeared before our committee and had a hearing, it was considered by his colleagues. As he said, he knows of no Senator who wants to knowingly present obscenity on the public airwaves, and that is very true. But then to get down to a redefining and a specifying under the law itself what that conduct really constitutes and how to block out conduct defined by judgment, you need a King Solomon. We continue to work on it, and I think the best approach is with the general statute that we now have on the books, coupled with the awareness that the public is beginning to demonstrate more and more every day. That was the pitch, incidentally, of the "60 Minutes" program, namely, that if the public did not turn it on, if they did not buy the products advertised, they could really cut it out in that fashion, and you would see far, far less nudity, obscenity, violence, and morbid torture.

But nothing was more morbid torture in all of our eyes than the news reports of the war in Vietnam, and no one in a second would say you could not have had those reports. It brought back the morbid torture of the war in Vietnam. Everyone would agree that those news reports were unfortunate but were properly carried on the airwaves and had a marked effect on this country in its conduct of its foreign policy and its venture into various wars around this globe.

We are going to continue. I would ask the senior Senator to press further in his campaign against obscenity and morbid torture and physical violence. I know this Senator will continue to press as the chairman of the subcommittee. But I do not know any better pressing that can be done at this particular moment other than the general statutes, and to use our oversight responsibilities and, as a committee, bring these broadcasters and bring the advertisers in and continue to do it in that particular fashion.

I think that is the effective fashion. I do not like to lead the public to believe that we are all-powerful. There are certain things a Senator cannot do. I wish this Senator really could put in one bill and stop inflation without throwing the country into a depression. I wish there was a bill that I could put in that would immediately hire all the unemployed. I know everybody is for Humphrey-Hawkins. Nobody believes in unemployment. But if there were some law, some practicable, reasonable, realistic approach to actually hire everybody in the country and finance it without throwing us into recession, depression, inflation, and generally wrecking the economy, every Senator would put that bill in.

I think we mislead, and we have been guilty of that so long—we mislead our constituency—when we act like other Senators do not care. We say, "Mr. Voter, I care. I am worried. But, you know, that hooky crowd up in Washington, they are not careful about this and they do not worry, and we just have to keep fighting."

I think that is one of the greatest disservices we can render our constituency, when we act as if obscenity can be done with a new statute.

We have the general statute on the books. The amendment to this particular Public Broadcasting bill is not going to enhance that in any fashion. I think the offering of the amendment and the dialog between the senior Senator and myself are going to have a helpful effect again on the broadcasters. But I hope he will not press the amendment further because then we will have to go into further debate. I would like to hear from the Senator, so let me yield at this time.

Mr. THURMOND. Mr. President, I realize it would be too late in this session to hold any hearings this year, and I am wondering if the distinguished Senator will—and I am sure he will—carry strict surveillance over this programing and also set some hearings for sometime next year on this question we have been discussing?

Mr. HOLLINGS. Very, very definitely. I am sorry that the Senator from Pennsylvania (Mr. HEINZ) left, because I have been interested in children's broadcasting, and he has a children's endowment bill. We have had before us the children's advertising on sugared cereals where we opposed language in the Federal Trade Commission appropriation because we thought it was a function of the authorizing or legislative committee not the appropriations committee to address the issue. So we are going to be going into all children's programing in the authorizing commerce committee, we will go directly into those being affected by these obscenities, nudities, and physical violence and morbid torture.

So, we are definitely going to set those hearings next year, and we would welcome the Senator's appearance at that time.

Mr. THURMOND. Mr. President, in view of the fact that hearings will be held on these matters concerning children in which, as a parent, I am very interested, and for the other parents of this country, too, I am willing to withdraw this amendment and let the hearings be held, and we will see what comes out of that.

I wish to thank the distinguished Senator.

Mr. HOLLINGS. I thank my distinguished colleagues for bringing it to our attention.

The PRESIDING OFFICER. The amendment is withdrawn.

UP AMENDMENT NO. 1849

(Purpose: To delete funding past fiscal year 1981)

Mr. GRIFFIN. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER (Mr. METZENBAUM). The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. GRIFFIN) proposes an unprinted amendment numbered 1849.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 25, strike all from "For" on line 23 through "1983" on line 24, and insert in lieu thereof "For the fiscal year 1981."

On page 26, lines 4–5, strike "and $200,000,000 for each of the fiscal years 1982 and 1983"

On page 28, strike line 1, and insert in lieu thereof "During the fiscal year 1981, such.".

On page 28, strike lines 14–19.

Mr. GRIFFIN. Mr. President, at the present time the Corporation for Public Broadcasting has advance authorizations for 3 years and advance appropriations for 2 years.

Under the bill we are about to adopt we will extend the authorization so the Corporation will be authorized for 5 years in advance.

I believe that Congress, and particularly the committee on which I have the honor to serve with the Senator from South Carolina, who is chairman of this subcommittee, has a responsibility that we delegate away when we pass a bill

that extends an authorization 5 years into the future.

I have no particular quarrel with the idea that the Corporation for Public Broadcasting should not be required or expected to come to Congress each year for the next year's funding or authorization, but I think we are quite generous under the present arrangement where the Corporation has a 3-year advance authorization. Also, which is very unusual they actually receive appropriations 2 years in advance.

The Corporation has considerable flexibility and opportunity to plan and to operate without feeling, so to speak "under the gun" of the Congress.

There are many policy questions connected with public broadcasting, and we have heard a few of them aired today on the Senate floor.

The courts have ruled that Congress has an oversight responsibility with respect to public broadcasting, and that the Congress recognizes that responsibility.

We abdicate this responsibility if we do not exercise that oversight authority. That does not mean we become censors or become programers of public broadcasting. No one is suggesting that, but still, it seems to me, we have a very important responsibility.

I know I will hear the argument that we still have oversight responsibility even with the passage of the bill as it has been reported. That is true.

But I believe the public is better protected, and there is more assurance that we will exercise our oversight responsibility, if, at reasonable intervals, new authorizing legislation is required. As a matter of fact we are talking about sunset legislation that applies across the board to invoke that principle. It seems to me that it is even more appropriate in this situation.

This is an amendment similar to the one I offered in the committee. As I recall it lost by a rather narrow margin. However, it is a question that I would like to put before the Senate for a rollcall vote. I will say to the distinguished chairman of my subcommittee I do not really believe there is a need to take a great deal of time on the amendment.

I will be glad to yield the floor.

Mr. HOLLINGS. Mr. President, before I point out the mechanics, let me discuss briefly the year-by-year funding mechanism previously provided for public broadcasting, this is, annual authorizations and appropriations. I wish the Senator from Arizona were here now. That scheme permitted real political influence over public broadcasting. That was our experience some 4, 5, and 6 years ago, causing the Congress in the main to institute forward funding in order to remove public broadcasting from the annual year-to-year type of political pressures and influence.

Let me point out another mechanical aspect of the Federal funding. Public broadcasting is required to raise, under present law—we have a change in the law in our Senate bill to $2.25—$2.50 for every $1 of Federal funds.

A public broadcasting station—wondering how much it must raise to match—has a pretty good idea what its budget is going to be by the endeavor it puts out to solicit and bring in private contributions.

The fiscal year 1981 appropriation will be contained in the fiscal year 1979 Labor-HEW appropriation bill, which we have yet to pass. So the public broadcasters do not know to this minute what is going to be in that target here. That will have to be done this year, 1978. This amount will only be for matching activity; the Treasury obviously will not disburse the funds until the beginning of 1981.

Let me emphasize that we are at this minute under 2-year authorizations. So this present bill extends us for 3 more years, 1981, 1982, and 1983. The Corporation for Public Broadcasting, the administration itself, asked for 5 more years. The House bill has 3.

Mr. GRIFFIN. Would that have made it 7 years from now?

Mr. HOLLINGS. That would have made it 7 years; yes.

Mr. GRIFFIN. That would have been something.

Mr. HOLLINGS. That is right. I resisted that, as the distinguished ranking Republican member knows, but what we did was cut it to 3, so that in sum total it would be for a 5-year period.

But let us return to the mechanic of funding. During fiscal 1979, public broadcasters will engage in their fundraising activity all over the land to match that target amount, and then, in 1980, these same broadcasters will compile their individual fundraising results and send that information to the Corporation for Public Broadcasting. In fiscal year 1980 the CPB will audit the reports, and certify that aggregate amount to the Treasury.

Then at the beginning of 1981, the proper level of Federal funds is disbursed to the Corporation for Public Broadcasting.

Mr. President, in no event does the Corporation for Public Broadcasting receive more than has been previously authorized or appropriated. However, without forward funding there would be a whip effect, great difficulty in making long-term planning. The distinguished Senator's amendment would severely hamper that advance planning process.

Mr. GRIFFIN. Of course, to keep our arithmetic straight, we have to keep in mind that they already have 2 years advance authorization; so under my amendment they would have 1 more year, which would be 3 years.

Mr. HOLLINGS. That is right; keep the arithmetic straight. They presently have in the law the 2 years—fiscal year 1979 and 1980. This bill would now authorize 3 years, and we think this is orderly procedure.

There are many reasons. We did not choose the 3-year period arbitrarily. There are several factors that led the committee to determine that the 3-year authorization was the most desirable length of time.

Under the reform concept involved in S. 2883, 3 years are needed for us to obtain the information on which to act and guide us in our congressional oversight, and not hurt it. Any shorter period would mean we would be acting without the information sought to be provided by S. 2883. The major objective of multiyear authorizations is always that of insulating public broadcasting against political influence, and giving it as much autonomy as possible. Since we have been talking with the distinguished leaders of the nations of Egypt and Israel about the difference between sovereignty and autonomy all day, we can borrow that word. We have afforded discussion within the committee in our hearings, and I want to note also that on the House side, they also agreed to the additional 3-year authorization.

As the Senator indicates, you can argue, you can talk about the oversight and elaborate more on the politics, but this 3 years is the general consensus and recommendation. It is not necessarily wholly in harmony with the Corporation for Public Broadcasting itself, because they would like to have a 5-year authorization, but being on the Budget Committee, I try to cut back on the multiyear bills because there are too many uncontrollables now.

I think the 3-year authorization is a proper compromise authorization. It passed the full committee almost unanimously—the Senator from Michigan did disagree; he has his amendment there, and I would suggest, unless there is further discussion, we go ahead and vote the amendment up or down.

Mr. GRIFFIN. I agree with the Senator.

Mr. HOLLINGS. Does the Senator wish the yeas and nays?

Mr. GRIFFIN. Yes.

Mr. HOLLINGS. The Senator does wish an up-or-down vote on this amendment.

Mr. GRIFFIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. GRIFFIN. I suggest the absence of a quorum.

Mr. HOLLINGS. Well, let me cover several other matters while we get a quorum here.

We can also send for our distinguished friend the Senator from Wisconsin, who had a matter he would like to bring up on the floor, and is waiting. And if we can withhold there, Mr. President, I could go into one dialog we were going to have between the distinguished Senator from Connecticut (Mr. WEICKER) and myself. We wanted to have this exchange relative to the long-range planning requirement.

Again, here is another Senator who says the issue is not just censorship, not just the White House and the Executive, but the Congress itself.

COLLOQUY BETWEEN SENATOR WEICKER AND SENATOR HOLLINGS

Mr. WEICKER. Mr. President, I have several questions I would like to ask the distinguished floor manager of this bill.

I am particularly interested in section 305 which requires the Corporation for Public Broadcasting to create and update annually, a 5-year plan for the de-

velopment of television and radio services. That is certainly a laudable objective. I note, however, that in contrast to the House bill, S. 2883 would require that this plan be submitted annually to the Congress. Can the Senator assure us that such reports are for informational purposes only, and that it is not the intention of this provision to have the Congress influence the programing plans of public television entities or the Corporation?

Mr. HOLLINGS. I can assure the Senator that we do not intend this 5-year plan to be a vehicle for the Congress to meddle in the programing of the public television and radio stations on the Corporation. Our goal here is to force the Corporation to plan ahead, to go through the discipline each year of looking down the road, of anticipating problems, of setting goals and objectives. This is simply good management.

Mr. WEICKER. Then the Senator is saying that it would be inappropriate for the Congress, having received these plans from CPB, to try and influence the programing of public television and radio, either directly or through punitive action with regard to appropriations?

Mr. HOLLINGS. That is correct.

Mr. WEICKER. Has the committee considered the possible "chilling effect" upon the Corporation's program planning that this provision would have without the assurances that the Senator has just given us? And given our common desire to avoid congressional intrusion into public broadcast programing, do the benefits of this provision outweigh the misinterpretations to which it might be subject?

Mr. HOLLINGS. I hope my replies to the Senator's questions will provide the kind of assurance he and others are seeking. There should be no misinterpretation here—we are not trying to let Congress meddle in television and radio programing. Instead we are trying to bring to the Corporation the sound business practices it needs to do a more effective job in the future.

Mr. WEICKER. I raise these questions because the Senator from South Carolina and I have just gone through this kind of exercise on the question of children's advertising on television. In that case we tried to make it clear that the Constitution and not the Government should be the arbiter of what this Nation sees, hears, or reads. The Senator's replies here today assure me that our intentions in that case will be carried through to this bill.

I thank the Senator.

Now, Mr. President, I ask for the yeas and nays on the amendment of the Senator from Michigan.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. McCLURE. Will the Senator yield?

Mr. HODGES. I yield.

Mr. McCLURE. I believe there is an effort being made to get a sufficient second for the yeas and nays. I wonder if I might at this time raise a question with respect to a provision in the bill and perhaps get some assurances, or at least some feeling, from the managers of the bill concerning a problem which is not directly touched upon by this bill which is pending before us now, S. 2883, but is in the House-passed bill.

It is an issue of considerable concern to me and, I imagine, to the Members of this body. I refer to the provision in H.R. 12605 which would, for the first time, permit editorializing by public broadcasting stations.

Under section 399 of the Communications Act, no noncommercial educational broadcasting station may engage in editorializing or may support or oppose any candidate for political office. The House bill would eliminate this prohibition for all stations and substitute a new provision merely prohibiting them from supporting or opposing candidates for public office. The Senate bill contains no such language and leaves section 399 intact.

Mr. President, I believe it would be extremely unwise and unfortunate for the Congress to amend section 399 and permit public telecommunications entities to express their opinions on political candidates or editorialize on public issues in any way.

To remove the prohibition against editorializing is contrary to the purpose for which the public broadcasting system was conceived and the charter under which it was established. Public broadcasters are, themselves, not unanimous or enthusiastic in their support for this proposed change. Moreover, to allow noncommercial broadcasters to become embroiled in politics and political debate would, in my opinion, destroy the integrity and nonpartisan framework of the public broadcasting service, impair popular acceptance and support for a public-financed telecommunications system, and jeopardize continued congressional support for the Corporation for Public Broadcasting, the Public Broadcasting Service, and National Public Radio.

This issue was thoroughly debated when the 90th Congress considered and passed the Public Broadcasting Act of 1967, and it was decided then that a prohibition against editorials by noncommercial educational outlets was advisable. The conference report on the legislation establishing the Corporation for Public Broadcasting (S. 1160) stated:

> It should be emphasized that these provisions are not intended to preclude balance, fair, and objective presentation of controversial issues by non-commercial, educational broadcast stations. These provisions are consistent with the requirements of section 396(g)(1)(A) of the Communications Act of 1934—

Which was also added at that time—

> Which require that programs or series of programs of a controversial nature which are made available by the Public Broadcasting Corporation must adhere strictly to objectivity and balance.

Although the legislation contained this language preventing editorializing as well as a provision for a bipartisan board of directors (CPB), some Members of Congress warned that the danger that noncommercial television could become a partisan political tool was not entirely eliminated. Although it was assumed then that stations would adopt a fairminded approach when presenting "fair" and "unbiased" documentaries, public affairs and news programs, there was, and is, no guarantee of objectivity or balance. Of course, it is impossible to appear "impartial" or "nonpartisan" or even "fair" to every viewer.

As we all know, there have been instance when Public Broadcasting has been criticized for exhibiting bias and a woeful lack of objectivity in its programing. On several occasions PBS has offered programs which have seemed to many viewers to contain blatantly partisan content or even left-wing propaganda. Fortunately, these deplorable instances have not been commonplace and the major portion of noncommercial programing has been fare of exceptional quality and without controversial overtones. Moreover, local public radio and TV outlets, such as those in Idaho, have done a good job of presenting both sides of the question when covering public issues of interest to local communities. Still, I shudder at the idea of giving taxpayer-supported, noncommercial broadcasting stations carte blanche to do whatever their management might want, to offer controversial programing, without strict adherence to objectivity and balance.

Let my position be completely clear: I oppose Government restrictions on free speech and, as a general rule, I do not favor Federal controls on broadcasting.

Mr. GRIFFIN. Will the Senator yield so we may ask for the yeas and nays on the Griffin amendment?

Mr. McCLURE. I yield without losing my right to the floor so that we might ask for the yeas and nays on the Griffin amendment.

Mr. HOLLINGS. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McCLURE. I doubt that the so-called fairness doctrine and other such FCC regulations have done much to guarantee fairness in programing. I suspect they have been counterproductive, by creating a chilling effect on broadcasting and even preventing local broadcasters from exploring controversial issues.

But public noncommercial radio and TV is not the same as private commercial broadcasting. Since taxes are being used to support the public telecommunications system in our Nation, the public broadcast licensees have a duty to see that the programing they offer—especially the presentation of controversial public issues—is nonpartisan, balanced, and fair. Many local public broadcasters share my views on this matter. Recently I received a letter from the general manager of a public radio and TV facility in Idaho critical of the House bill. He said in part, and I quote:

> I do not feel it is appropriate for these stations to provide editorial comment. Our station has a policy that on controversial issues, we seek both sides of the issue and provide adequate time for the issue to be presented. Comment by responsible people representing the various viewpoints are welcome. However, the station does not take an official position on either side.

For these reasons, Mr. President, I believe that any relaxation of the section 399 prohibition against editorializing by noncommercial public broadcasters must be resisted. I, for one, would oppose any future Federal funding for a public telecommunications system which could be exposed to the vagaries of politics and the pressures of partisanship.

I strongly urge the Senate conferees, particularly the distinguished chairman and ranking member of the Communications Subcommittee, to insist that the language of the House bill be stricken on this point and that the section 399 prohibition remain as provided in the Senate bill.

Mr. President, I wonder if the distinguished Senator from South Carolina would comment with respect to the intentions of the Senate conferees in regard to the House provision striking the prohibition of editorial comment?

Mr. HOLLINGS. I simply say, Mr. President, that my sentiments are those of the Senator from Idaho. The fact of the matter is that I agree with him that if we allow editorializing or sponsorship of political candidates, it could be the death knell of public broadcasting. That is precisely the matter of concern which we discussed with the distinguished Senator from Arizona.

Section 399 of the Communications Act of 1934 provides:

> No noncommercial educational broadcasting station may engage in editorializing or may support or oppose any candidate for political office.

This is the intent of the committee, that we adhere to that provision although modified in the House bill, the section is not changed in our bill.

Mr. McCLURE. I appreciate the comment of the Senator. I know that he will be one of the more influential of the Senate conferees when they go to conference with the House on this measure. I assume the comment that was made is that it would be the intention of the conferees to insist that that language be stricken when they get to conference. Am I correct in that assumption?

Mr. HOLLINGS. Yes.

I yield to the Senator from New Mexico.

Mr. SCHMITT. I cannot guarantee that I shall be a member of the conference committee, but certainly, if I am, I completely agree with what both the Senator from Idaho and the Senator from South Carolina have said. This is a completely inappropriate authority for Public Broadcasting and we shall do everything we can to assure that the House position does not prevail on this issue.

I have a distinct impression that the conferees on the Senate side feel strongly enough on this issue that the House, in fact, will not prevail.

Mr. McCLURE. I thank the Senator.

Mr. SCHMITT. I also compliment the Senator for his statement on this subject. I think it expresses the sentiment of a large majority of the Senate and we shall do our best to assure that it is also the sentiment of the Congress as a whole.

Mr. McCLURE. I thank the Senator for that comment. It is my understanding that the Senator from Michigan also shares that feeling. I do not want to put words in his mouth in assuming that and I shall allow him to speak for himself.

I should like to say that, as a Member of the other body when the act was passed some years ago, one of the great reservations I had in my mind was whether or not the Public Broadcast System could be immune from manipulation on behalf of or against certain elements in our society. I voted for it and I have supported public broadcasting since that time. I am happy to say that the worst fears of those who were afraid it might happen have not been realized. The best judgment that has been given is that the objectivity level has been very high, not uniform and not total, and judgment may vary upon that score.

As for the Senator from Idaho, I have not been displeased with their ability to refrain from trying to persuade the public or propagandize the public toward a particular point of view. If they ever move away from that standard, I think they will be in very grave difficulty in both Houses of Congress because, certainly, we do not want a Government propaganda agency funded by the taxpayers' dollars.

Mr. President, I understand that we are about ready to vote on the amendment of the Senator from Michigan. Is that correct?

Mr. HOLLINGS. That is correct. As soon as he returns, we are going to yield back our time, and the yeas and nays have been ordered.

Will the Senator yield?

Mr. McCLURE. I am happy to yield.

Mr. HOLLINGS. What we are trying to do, Mr. President, is give stability to public broadcasters. They never have had real stability. We have never been able to guarantee absolute political independence. That is what we are doing under this 5-year proposal. That is why the committee, after due deliberation, defeated a similar amendment in executive session. I ask that our colleagues turn this amendment down at this time in favor, of course, of the 5-year program.

The 3-year forward funding provision of this bill is added on to the remaining 2 years we have in the law right now. In other words, under the law, today, we have an authorization for 1979 and 1980. The bill we are now voting on will pick up the years 1981, 1982, and 1983. If you favor the Griffin amendment, you just cut it back 2 years and it will only be a 1-year funding provision under this bill.

The yeas and nays have been ordered, Mr. President.

Mr. SCHMITT. Mr. President, if the Senator will yield, it is my understanding that the Senator from Michigan has no further comment and is willing to yield back the remainder of his time. I do so in his behalf.

Mr. HOLLINGS. I have just been given word that the Senator from Nevada would like to be heard on this amendment.

Mr. McCLURE. Mr. President, I asked the Senator from Michigan if it would be all right that I ask unanimous consent to be added as a cosponsor to his amendment. He indicated that it would. I therefore make that unanimous-consent request at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, we are prepared to yield back our time; we are ready to vote.

Mr. SCHMITT. I yield back our time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Delaware (Mr. BIDEN), the Senator from Iowa (Mr. CLARK), the Senator from Colorado (Mr. HASKELL), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from New Hampshire (Mr. McINTYRE), the Senator from Georgia (Mr. NUNN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Connecticut (Mr. RIBICOFF) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mrs. HUMPHREY) and the Senator from Iowa (Mr. CLARK) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Wyoming (Mr. HANSEN), the Senator from North Carolina (Mr. HELMS), the Senator from Kansas (Mr. PEARSON), the Senator from Virginia (Mr. SCOTT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The result was announced—yeas 20, nays 63, as follows:

[Rollcall Vote No. 379 Leg.]

YEAS—20

Allen	Domenici	Packwood
Baker	Garn	Schmitt
Bartlett	Griffin	Schweiker
Bellmon	Hatch	Wallop
Chafee	Hayakawa	Young
Curtis	Laxalt	Zorinsky
Dole	McClure	

NAYS—63

Anderson	Hart	Metzenbaum
Bayh	Hatfield, Mark O.	Morgan
Bentsen	Hatfield, Paul G.	Moynihan
Bumpers	Hathaway	Muskie
Burdick	Heinz	Nelson
Byrd, Harry F., Jr.	Hodges	Pell
Byrd, Robert C.	Hollings	Percy
Cannon	Huddleston	Proxmire
Case	Jackson	Randolph
Chiles	Javits	Riegle
Church	Johnston	Roth
Cranston	Kennedy	Sarbanes
Culver	Leahy	Sasser
Danforth	Long	Sparkman
DeConcini	Lugar	Stafford
Durkin	Magnuson	Stevens
Eagleton	Mathias	Stevenson
Eastland	Matsunaga	Talmadge
Ford	McGovern	Thurmond
Glenn	Melcher	Weicker
Gravel		Williams

NOT VOTING—17

Abourezk	Haskell	Pearson
Biden	Helms	Ribicoff
Brooke	Humphrey	Scott
Clark	Inouye	Stennis
Goldwater	McIntyre	Tower
Hansen	Nunn	

So the amendment (UP No. 1849) was rejected.

UP AMENDMENT NO. 1850

(Purpose: To place a limit on salaries of officers of the Corporation, the Public Broadcasting Service, and National Public Radio)

Mr. McCLURE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 1850.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 17, between lines 19 and 20, insert the following:

COMPENSATION OF OFFICERS AND EMPLOYEES

SEC. 303. Section 396(e)(1) of the Communications Act of 1934 is amended by inserting after the first sentence the followingg new sentence: "No officer or employee of the Corporation may be compensated by the Corporation at an annual rate of pay which exceeds the rate of pay in effect from time to time for level I of the Executive Schedule under section 5312 of title 5, United States Code.".

Redesignate sections 303 through 308 as sections 304 through 309, respectively.

On page 31, line 18, strike out the closing quotation marks and the second period, and after line 18 insert the following:

"(9) Funds may not be distributed pursuant to this subsection to the Public Broadcasting Service or National Public Radio (or any successor organization) unless assurances are provided that no officer or employee of the Public Broadcasting Service or National Public Radio (or any successor organization), as the case may be, will be compensated at an annual rate of pay which exceeds the rate of pay in effect from time to time for level I of the Executive Schedule under section 5312 of title 5, United States Code.".

Mr. McCLURE. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, will the Senator yield for 1 minute?

Mr. McCLURE. I yield.

Mr. JAVITS. Mr. President, may we have order?

The PRESIDING OFFICER (Mr. MATSUNAGA). The Senate will be in order. Members will please cease conversation. Senators will take their seats. Staff members will retire to the assigned seats in the rear of the Chamber.

Mr. JAVITS. Mr. President, I would like the attention of the manager of the bill.

Senator CRANSTON and I are deeply interested in the handicapped, and we have noticed that in the nondiscrimination section of the bill, respecting employment by all public telecommunication entities receiving funds pursuant to subpart C, and so forth, which is contained in section 398(b), at page 35, the question of discrimination is limited to the grounds of race, color, religion, national origin, and sex. It does not includes the handicapped.

We realize that Secretary Kreps, who is going to have administration of this, is a very enlightened lady. We realize, also, that the Senator would like to have some concept as to what it would mean to include the handicapped in this particular section, but that the manager of the bill is very strongly in favor of a fair employment opportunity for the handicapped, as are we.

Therefore, the suggestion has been made—and we would like to have his views and confirmation—that he could get a letter from the Secretary of Commerce, before the matter goes to conference, as to what will be the policy of the PBC respecting this question of discrimination regarding the handicapped.

Mr. HOLLINGS. Mr. President, I thank the Senator from New York and the Senator from California for bringing this to the attention of the Senate. It concerns me.

We all have been concerned with the handicapped. I have dealt directly with that particular provision in education matters. My only misgiving, momentarily, is that I do not know the impact on the telecommunications facilities fund. I am sure that Secretary Kreps will give us a satisfactory answer.

I say to the Senator that we have spent a good deal of time with respect to equal employment opportunity for minorities and for women under this bill. We put strong EEO provisions in this bill after good, comprehensive hearings.

However, we were not apprised of the specific matter of including the handicapped in this bill until a few days ago.

So I ask the Senator's forbearance until we can get that letter from Secretary Kreps as to her particular policy now, with her new functions and duties under this bill. I am sure it will be satisfactory. Then we can look closely at that $40 million telecommunications facilities fund and realistically provide ample funding for all its purposes. I do not want to include it in this particular statutory language. Of the 75 percent allocated for new and expanded existing telecommunications facilities, and 25 percent to refurbish present public broadcasting stations. I am concerned of possible excessive dilution of this limited fund, but do want to focus directly on the issue.

Mr. JAVITS. Mr. President, under the circumstances, and considering that the Senator is on our side, that solution seems satisfactory to me.

Mr. HOLLINGS. I am sure the Senator from California would want to join in this.

Mr. CRANSTON. Mr. President, I conferred with both Senators during the rollcall vote that was just completed.

Mr. McCLURE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Idaho has the floor. Does the Senator from Idaho yield to the Senator from California?

Mr. McCLURE. What is the time limit on the Senator's amendment?

The PRESIDING OFFICER. Thirty minutes to each side.

Mr. McCLURE. Mr. President, I do not wish to cut off the colloquy, but it is my time that is being consumed.

Mr. HOLLINGS. Let us yield time on the bill. Is that satisfactory to the Senator from Idaho?

Mr. McCLURE. Of course.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the time consumed by the Senator from New York, the Senator from South Carolina, and the Senator from California with respect to the provision for the handicapped be allocated to the bill, not to the amendment of the Senator from Idaho.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. I wish that there had been an opportunity in the hearings to go into this matter.

I wish we had time in the Chamber to consider the matter now, but the manager of the bill feels that it is necessary to learn more before dealing with the problem intelligently.

Senator JAVITS, I know, wishes to proceed but understands the difficulties of proceeding at this time.

I concur with the suggestion made by the Senator from New York and accepted by the Senator from South Carolina that we write and see what response we get from the Secretary. If the response does not give satisfactory assurances and I am not sure there can be satisfactory assurances without specific provisions in the law, then we do have an understanding, as I take it, that there will be hearings on this matter and we can move forward with legislation to deal with the problem.

Mr. HOLLINGS. Very definitely, I say to the Senator, that we will get the communication from the Secretary of Commerce. If there is any question or any feeling on the part of any of the parties concerned or any Senator concerned that we should have hearings, I would welcome those hearings, at which time we would hear from the Secretary and other interested parties. If necessary, we would simply proceed to amend the Public Broadcasting Act again, We can always amend and provide further.

Mr. CRANSTON. There will be a vehicle available for that purpose—that is, legislation to deal with this problem.

Mr. HOLLINGS. Yes.

Mr. CRANSTON. With that understanding, fine. I had been prepared to offer an amendment with regard to handicapped individuals. As a result of the assurances by the floor manager, I will not offer that amendment now. I ask unanimous consent that the text of the amendment and a floor statement in support of it be printed at this point in the RECORD.

There being no objection, the amendment and statement were ordered to be printed in the RECORD, as follows:

On page 3, line 5, strike out "minorities and women" and insert in lieu thereof "minorities, women, and handicapped individuals".

On page 6, line 22, strike out "minority and women's" and insert in lieu thereof "minority, women's, and handicapped individuals".

On page 6, lines 24 and 25, strike out "minority and women" and insert in lieu thereof "minorities, women, and handicapped individuals".

On page 10, lines 2 and 3, strike out "minorities and women" and insert in lieu thereof "minorities, women, and handicapped individuals".

On page 35, line 10, strike out "sex" and insert in lieu thereof "sex; and no otherwise qualified handicapped individual shall, solely by reason of his or her handicap, be subjected to discrimination in employment by any such recipient".

On page 38, between lines 16 and 17, insert the following new paragraph:

"(3) The term 'handicapped individual' means any such individual as defined in section 7 (6) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 706(6))."

On page 38, line 22, strike out "(4)" and insert in lieu thereof "(5)".

On page 39, line 3, strike out "(5)" and insert in lieu thereof "(6)".

On page 39, line 9, strike out "(6)" and insert in lieu thereof "(7)".

On page 39, line 21, strike out "(7)" and insert in lieu thereof "(8)".

On page 40, line 17, strike out "(8)" and insert in lieu thereof "(9)".

On page 41, line 3, strike out "(9)" and insert in lieu thereof "(10)".

On page 41, line 10, strike out "(10)" and insert in lieu thereof "(11)".

On page 41, line 19, strike out "(11)" and insert in lieu thereof "(12)".

On page 41, line 25, strike out "(12)" and insert in lieu thereof "(13)".

On page 42, line 8, strike out "(13)" and insert in lieu thereof "(14)".

On page 43, line 1, strike out "(14)" and insert in lieu thereof "(15)".

On page 43, line 5, strike out "(15)" and insert in lieu thereof "(16)".

FLOOR STATEMENT

Mr. President, the amendments I offer for myself, Mr. JAVITS, the ranking minority member of the Committee on Human Resources, and Mr. RANDOLPH, the chairman of the Subcommittee on the Handicapped, are designed to make specific that handicapped individuals are covered by appropriate provisions with respect to special consideration and equal employment opportunity requirements.

Mr. President, the report to accompany S. 2883 asserts that "since all taxpayers support public broadcasting, it is imperative that service to unserved or underserved populations be substantially increased". In this regard, the bill, as reported, includes as a "basic objective" the involvement by and increase of non-commercial, educational and cultural radio and television service to minorities and women. To accomplish this end, the secretary of commerce is required to take affirmative steps to inform minorities and women of the availability of funds and the localities where new public telecommunications facilities are needed and to provide such other assistance and information as may be appropriate. Further, the secretary is required to give special consideration to applications which increase minority and women operation of, and participation in, public telecommunications entities.

In addition, with respect to the approval of applications for construction and planning grants, the Secretary of Commerce is required to base determinations of whether to approve an application, in part, on criteria designed to achieve "the development of public telecommunications facilities operated by and available to minorities and women".

Mr. President, the requirements for special consideration, and so forth, that I have cited do not include handicapped individuals among the covered groups. I find this apparent oversight unfortunate.

As indicated recently by Stanley Fleishman, the counsel for the California Association of the Physically Handicapped:

"Television confers status on those individuals and groups it selects for placement in the public eye, telling the viewer who and what is important to know about, think about, and have feelings about".

But, as emphasized by Mr. Fleishman, with respect to fair treatment in television, "virtually no progress has been made on behalf of people with handicaps".

Mr. President, the place to start in order that progress might be made is right here with public broadcasting. As stressed in the committee report, it is imperative that service to unserved or underserved populations—such as handicapped individuals—be substantially increased.

The proposed amendment would place handicapped individuals on the same footing as minorities and women with respect to steps to be taken to increase participation. Again I quote from the committee report—"public broadcasting must be responsive to the needs and interests of all segments of the population, especially to the needs and interests of disadvantaged groups." Certainly, handicapped individuals comprise one such group.

In addition to including handicapped individuals on equal footing with minorities and women with respect to such special consideration, the proposed amendment would extend the bill's equal employment opportunity requirements to include handicapped individuals.

Mr. President, recently, I received from a constitutent a letter with respect to a complaint he had filed under section 504 of the Rehabilitation Act of 1973 concerning discrimination by a public broadcaster against the deaf and hearing impaired.

In response, Frances Farmer, director of the Intergovernmental Affairs Office for Civil Rights, of the Department of Health, Education, and Welfare, wrote that Congress recently held hearings to determine what agency will have responsibility for enforcing civil rights provisions as part of its consideration of the Public Broadcasting Financing Act of 1978. She said:

"Because the corporation for public broadcasting receives Federal funds from several sources (including this department) and is licensed by the Federal Communications Commission, there was disagreement about which agency should have civil rights enforcement responsibility. . . . I regret that I am unable to provide specific information about civil rights enforcement in public television broadcasting. We will hold your complaint and contact you when the Congress decides which agency shall have enforcement responsibility."

Unfortunately, with respect to complaints based on handicap, under the bill, as reported, there would continue to be disagreement.

No protection is extended to handicapped individuals and no determination is made as to enforcement responsibility. The proposed amendment would remedy this failure to include handicapped individuals among those covered by the equal employment requirements added by the bill, for which H.E.W. is given enforcement responsibilities.

In addition, the proposed amendment would make specific that, for the purposes of this act, handicapped individuals would be defined as presently defined, for purposes of Civil Rights programs, in the rehabilitation act of 1973. This provision would assure administrative ease and avoid confusion caused by having different definitions.

In sum, Mr. President, the proposed amendments make specific that, with respect to equal employment opportunities, special consideration requirements, and other Civil Rights obligations handicapped individuals, are included.

Mr. JAVITS. I thank my colleagues.

Mr. HOLLINGS. I thank my colleagues.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I did not make a request in regard to time, because I expect I will not take all of my time on this amendment. It is a relatively simple amendment and can be explained very quickly.

The amendment I have offered will place a limit on the salaries of public broadcasting executives.

This amendment would provide that no officer or employee of the Corporation for Public Broadcasting could be compensated at an annual rate of pay above level I rates under the Executive Schedule. And I might just note that level I rates are the rates paid for Cabinet officers, and they are currently fixed at $66,000 per year.

Further, funds would not be distributed by the Corporation to the Public Broadcasting Service or National Public Radio unless it receives assurances that no officer or employee of PBS or NPR will be compensated at an annual rate above Executive Level I.

This amendment is identical to language contained in the public broadcasting bill passed by the House. I refer to sections 303 and 307 of H.R. 12605.

The purpose of this amendment is to insure that no official at any public telecommunications organization which receives Federal funds will be paid more than $66,000 a year. I do not believe this is an unreasonable restriction. And I see no good reason why an executive at the Corporation for Public Broadcasting, the Public Broadcasting Service, or National Public Radio should receive a higher salary than a Cabinet Secretary.

All of these public broadcasting entities receive Federal funding, and there is a necessary commingling of private contributions and public moneys in the funds from which the Corporation, PBS, and NPR compensate their employees. The taxpayers of this Nation have a legitimate interest and concern in having their tax dollsrs in these funds used wisely and effectively. They also have a stake in the growth and development of a public telecommunications system in this country.

I think it is fair to say that the American people are not interested in paying public broadcasting executives exorbitantly high salaries.

The purposes for which long-term financing is to be provided under this legislation are laudable. I do not quarrel with spending the people's taxes on improving the facilities, operations and programing of our Nation's public radio and TV systems. But the limited funds that we can afford to authorize at this juncture for the development of public broadcasting in the near future should be used carefully.

Noncommercial telecommunications services are not yet widely appreciated, understood, or supported by the public. It would be unfortunate if this fledgling public medium which is supposed to serve the people were to develop an image of profligacy and fat-cat elitism.

The Corporation for Public Broadcasting, PBS, and NPR does not have to pay extraordinarily large salaries to attract good talent. I have found that those employed at public radio and TV stations in Idaho and elsewhere are dedicated, motivated, and talented professionals. Like school administrators and other public officials, they hold jobs which depend on public support and for which they provide a public service. They take immense pride in their work. They do not expect to be rewarded for their efforts as if they were high-priced corporate executives, nor do they expect officials at CPB, PBS, and NPR to be so highly paid.

Public broadcasting is not in competition with commercial broadcasting. It performs a wholly different function, it provides a different kind of service and it operates in a different way. The Commerce Committee's report on this legislation makes this point quite clear. At page 20, for instance, the report states that

> The Committee is concerned about the trend toward accumulation of centralized "network" powers in public broadcasting . . . From the very first, the Congress has made clear its determination that public broadcasting not develop into a "fourth" network . . .

I share the committee's concern. Accordingly I do not believe that either the Corporation or the CPB-funded public radio and TV organizations should pay their executives at levels comparable to ABC, CBS, or NBC officials.

In the wake of proposition 13 and in light of increasing public demands for Government to exercise frugality, to eliminate frills and to limit spending, I think it would be unwise for the Members of the Senate not to accept the House's language and approve some modest limits on the salary levels of public radio and TV personnel. For these reasons I hope that the Senate will approve this amendment.

Mr. President, it seems to me that Cabinet officers, Secretaries of the President's Cabinet, are certainly as deserving of pay as are officials of the public broadcasting system.

I might note, Mr. President, that it has been argued and undoubtedly will be argued that there are not very many above this and I will not save very much money. Let me answer that argument before it is made, Mr. President, by indicating that, indeed, it will not save very much money; therefore, it cannot be much of an imposition unless it is the intention of those within the public broadcasting service to have a very large increase in salaries in their near future.

Mr. President, there is now no limitation on the salary that can be paid except the judgment of those who are setting the salary schedule and not Congress, and this is taxpapers' money commingled with private funds that pay these salaries.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, I yield myself a few minutes.

I understand the Senator wants the yeas and nays. Do we have enough Senators in the Chamber?

Mr. McCLURE. They have already been ordered.

The PRESIDING OFFICER. The yeas and nays have already been ordered.

Mr. HOLLINGS. They have been ordered. Excuse me. All right.

Mr. McCLURE. I thank the Senator.

Mr. HOLLINGS. I shall be as brief as I possibly can, not because this is unimportant, but because there are strong arguments both ways.

There is an argument on the sides of the Corporation—if it is a private entity, without political influence, and let us try to treat it as such. If we start legislating salary limitations we treat it as a governmental entity. That would be my real objection in this particular matter.

When one talks about "fat cat" elitism, I could make a nice talk on that particular score. The truth is that the salary levels in this particular industry are as follows: The ABC chairman receives $750,000 plus stock options, totaling in excess of a million dollars. The CBS chairman receives $500,000 plus stock options; the NBC chairman receives $300,000 plus stock options; and then the different presidents as well as the chairmen. One can come right down, Mr. President, to the weatherman. If we can get a break here and go on home and turn on the television weatherman in this town we are going to listen to a gentleman, Mr. Willard Scott, who makes between $80,000 and $90,000 a year.

I do not know about elitism, but when we finally get down to the weatherman then you and I have to look at whether that is right or that is wrong, that is what they are paying him. I certainly do not recommend that we try to equal it. The Corporation is bringing in now as its president the president of the University of Michigan to replace Mr. Loomis, and it is reported—but I am not certain of this—that he would be paid at the same level of $70,000. I do not think that level to be exorbitant. On the contrary, I am confident if he is coming from the University of Michigan he is taking a cut in pay. You see, CPB officers do not make honoraria by going out and making talks or writing articles or the like. Nor can they own a farm or run a farm and make earned income there. Rather we just look at the salary levels and see whether we have got a public problem, and if you will turn to page 137 of the particular hearing, you will find there are only three individual positions which exceed the Senator's proposed salary ceiling: Involved at $69,352, $70,000, and $62,000. If we pass the Senator from Idaho's amendment, then what we have done is to say, in a demeaning sense, is, "Look, you really are a governmental entity," and all the Government saves is approximately $8,000. That is why the committee resisted a salary level.

With that stated, Mr. President, I would be glad to hear from any other Senator and yield back the balance of our time.

We will have to oppose the amendment because, while the Corporation may be paying a little bit more than the distinguished Presiding Officer and I are paid, and we are going to pay, it is not excessive, it is not fat cat elitism. Furthermore, we do have committee oversight here, and if it really is the fat cat elitism charged, I am going to be hollering louder than the Senator from Idaho.

The PRESIDING OFFICER. Does the Senator from Idaho yield back his time?

Mr. McCLURE. Mr. President, I do not question that the Senator from South Carolina can yell louder than the Senator from Idaho. I think that has been demonstrated, and I yield that award to him. [Laughter.]

But I would say this: that the Senator has mentioned the salaries of executives of the three networks, multibillion dollar enterprises, who get very high salaries indeed.

I might point out that, I think, it has been reported in the public press that Secretary Blumenthal in his last 18 months as president of Bendix Corp., received in pay and stock options something like $2 million. He is now working for the Government and for the taxpayers of this country at $66,000 a year.

It does not seem to me, Mr. President, that you can ask any more of men who will become Secretaries or the President in the President's cabinet than you would ask of people who are going to serve the taxpayers as executives of the public broadcast media.

I might add, too, Mr. President, I do not know of any restriction on outside income that these men have, and I am not sure it is correct to represent to us that they can have no outside income. They may not be able to earn outside income, and I know my good friend from Maine feels very deeply about the restrictions that have been voted on the floor of the Senate on activities of Members of this body, and that is a sentiment that I share fully, that the coupon clippers are not necessarily more important to this body than are those who may earn some money outside these Chambers.

But, Mr. President, it seems to me that $66,000 a year is sufficient for the men who will be the executives of these public broadcast media if that is an appropriate level for the President's Cabinet officers.

Mr. President, it just seems to me to be beyond any kind of reasonable argument to say that because they are in the broadcast media they, therefore, must be paid more or at least permitted to be paid more.

Saying that, Mr. President, I do not mean to say anything at all to detract from my confidence in the oversight committee. I am conscious of that fact that there is an oversight committee. But there is a very great increase in the amount of money and the stability of that funding for these purposes that I suspect the executives will be trying to get a portion of that increase if this legislation becomes law without any limitation placed upon the salary schedule.

Finally, Mr. President, not because I think we are going to change anybody's mind within the hearing of either of us on the floor, but there is a provision

which the House has put in their bill, and at least the other body has seen fit to establish a limit on this compensation, just as the Congress has placed limits on others who receive payment from the Federal Treasury, from the taxpayers of this country.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, is there a Senator who wishes a rollcall on final passage? I have been trying to indicate to my colleagues whether there is going to be any other rollcall votes tonight. I think this will be the last rollcall. I know the Senator from Wisconsin has a very important matter to discuss, but I think we can reconcile it, once we make that record, without a rollcall.

Before I yield back, I would simply say we are not talking about only the funds in the bill, at $200 million; public broadcasters must raise at least $500 million which added to our $200 million is a $700 million budget. The responsibility is very great, but I did get down to the weatherman. You did not get me down to the weatherman who gets $80,000 and $90,000 a year, and there are plenty of weathermen giving the weather, and I hope we can close quickly enough to go home and get the weather report.

Mr. CURTIS. Mr. President, will the distinguished Senator yield?

Mr. HOLLINGS. I yield.

Mr. CURTIS. I do not think we have had very good weather at that price.

[Laughter.]

Mr. HOLLINGS. I yield back the remainder of my time.

Mr. McCLURE. Mr. President, let me just end by saying the salary schedules in the public broadcast media seem to be more similar to salaries by other public bodies rather than those of private entities. If, as a matter of fact, we are going from $200 million to $500 million, does that imply we go from $70,000 a year salary to $150,000 a year salary? That is a concern this Senator has. Since it is taxpayers' funds that are being spent here, money taken away from the hard-working people of this country, not at their request but at the order of the Congress of the United States, we have a right and they have a right to expect that we will establish as limits for compensation exactly the same level that is established for Cabinet members, $66,000 a year at current salary levels.

Mr. HOLLINGS. Mr. President, 1 minute on the bill before I yield my time. Under section 396(e)(1) on page 68 of the Communications Act of 1934, there is a prohibition against any outside compensation. It is in the act.

Mr. McCLURE. Outside compensation is different from outside income, as the Senator from Maine was very vocal about in expressing it before this body and, incidentally, that distinction——

Mr. HOLLINGS. It is earned income, and that is what I referred to in my earlier remarks.

Mr. McCLURE. It failed to impress this body at that time, and I hope it will impress the body at this time.

● Mr. DOLE. Mr. President, I rise in support of the amendment which would place a cap on the salaries of officials of the Corporation for Public Broadcasting, National Public Radio, and the Public Broadcasting System.

This limitation strikes me as a reasonable response to a genuine public concern about the salaries of Government corporations and independent organizations that receive funding from the Federal Government. There are, of course, valid reasons for insulating the Public Broadcasting System from the political pressures that would surely arise if it were another agency of the Government.

However, one danger of such insulation is that the salaries of officials will get out of hand. This amendment handles the problem without endangering the independence of CPB, NPR, and PBS. I agree with the House limitations and believe that we should include them in the Senate bill as well.

The amendment limits the salaries to that rate of pay in effect for level I of the executive schedule. Right now, that limit stands at $66,000.

There are only three officials, two at PBS and one at CPB that would currently be affected. As such, this is a modest proposal and would not cause major realinements of salaries. However, it will serve as a barrier to future increases in pay above the level I rate.

This amendment is an appropriate approach to the problem and I urge its adoption.●

Mr. HOLLINGS. I yield back the remainder of my time.

Mr. McCLURE. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. PAUL G. HATFIELD). All time having been yielded back, under the previous order, a rollcall vote having been ordered, the question is on agreeing to the amendment of the Senator from Idaho.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from New Hampshire (Mr. McINTYRE), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Connecticut (Mr. RIBICOFF) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mrs. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Wyoming (Mr. HANSEN), the Senator from North Carolina (Mr. HELMS), the Senator from Kansas (Mr. PEARSON), the Senator from Virginia (Mr. SCOTT), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 33, nays 48, as follows:

[Rollcall Vote No. 380 Leg.]

YEAS—33

Anderson	Domenici	Metzenbaum
Baker	Eagleton	Morgan
Bellmon	Garn	Muskie
Byrd, Harry F., Jr.	Griffin	Roth
Chafee	Hatch	Sasser
Church	Hatfield, Mark O.	Schmitt
Clark	Hayakawa	Schweiker
Curtis	Heinz	Stafford
Danforth	Laxalt	Talmadge
DeConcini	Leahy	Thurmond
Dole	McClure	Zorinsky

NAYS—48

Bartlett	Hathaway	Pell
Bentsen	Hodges	Percy
Bumpers	Hollings	Proxmire
Burdick	Jackson	Randolph
Byrd, Robert C.	Javits	Riegle
Cannon	Johnston	Sarbanes
Case	Kennedy	Sparkman
Chiles	Long	Stevens
Cranston	Lugar	Stevenson
Culver	Magnuson	Stone
Durkin	Mathias	Wallop
Ford	Matsunaga	Weicker
Glenn	McGovern	Williams
Gravel	Meicher	
Hart	Moynihan	
Haskell	Nelson	
Hatfield, Paul G.	Nunn	
	Packwood	

NOT VOTING—19

Abourezk	Hansen	Ribicoff
Allen	Helms	Scott
Bayh	Huddleston	Stennis
Biden	Humphrey	Tower
Brooke	Inouye	Young
Eastland	McIntyre	
Goldwater	Pearson	

So the amendment (UP No. 1850) was rejected.

The PRESIDING OFFICER. The Senator from New Mexico.

UP AMENDMENT NO. 1851

(Purpose: To require an annual report from the National Telecommunications and Information Administration)

Mr. SCHMITT. Mr. President, very quickly, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> The Senator from New Mexico (Mr. SCHMITT) proposes an unprinted amendment numbered 1851.

Mr. SCHMITT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 43, between lines 10 and 11, insert the following:
>
> NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION ANNUAL REPORT
>
> SEC. 402. The National Telecommunication and Information Administration shall make an annual report to Congress not later than January 31 of each calendar year, beginning with the calendar year 1980. Such report shall contain information on the activities of the Administration with respect to—
>
> (1) domestic communications;
> (2) international communications;
> (3) Government communications;
> (4) spectrum plans and policies; and
> (5) any other matters.
>
> On page 43, lines 12 and 16, redesignate sections 402 and 403 as sections 403 and 404, respectively.

Mr. SCHMITT. Mr. President, Reorga-

nisation Plan No. 1 of 1977 and the implementing Executive Order 12046 abolished the Office of Telecommunication Policy (OTP) in the Executive Office of the President and largely transferred its functions to the Secretary of Commerce. With this reorganization, the Secretary of Commerce became principal advisor to the President on telecommunications policy. The Secretary is responsible for the development and implementation of telecommunications policy by the executive branch.

The National Telecommunications and Information Administration (NTIA), under the direction of the Assistant Secretary of Commerce for Communications and Information, was created within the Department of Commerce to perform the functions delegated to the Secretary.

During the time that OTP was responsible for telecommunications policy, an annual report was submitted on an informal basis to the Congress on the principal activities of that Office. I believe it would be useful to the Congress to be kept informed of the principal activities of NTIA and, therefore, I am offering this amendment which requires an annual report to the Congress on NTIA's activities within the following areas: Domestic communications, international communications, Government communications, spectrum plans and policies, as well as any other matters that may be of interest to the Congress.

Mr. President, I believe that the majority manager of this bill has agreed to the amendment. I see that the majority manager has disappeared momentarily, but I can vouch for his agreement.

Mr. President, I am prepared to yield back the remainder of my time. I believe the Senator is in agreement with this amendment for an annual report from NTIA. I have no further comment.

Mr. HOLLINGS. That is the position of the manager of the bill. We agree to the amendment and yield back our time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. SCHMITT. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

(The following proceedings occurred during Mr. SCHMITT's remarks.)

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me for a few moments?

Mr. SCHMITT. I will be happy to yield.

Mr. ROBERT C. BYRD. Mr. President, I sought the floor to inquire as to whether or not any Senator intends to ask for the yeas and nays on any amendment to the bill today or on final passage of the bill today.

The PRESIDING OFFICER. Will the Senator suspend until we have order in the Chamber, please?

The Senate will come to order.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, Mr. SCHMITT has an amendment. Will the Senator ask for the yeas and nays?

Mr. SCHMITT. No, I will not.

Mr. HOLLINGS. Mr. President, the managers will not request the yeas and nays on passage.

Mr. PROXMIRE. Mr. President, I will withdraw my amendment after discussing it.

Mr. McCLURE. If the Senator will yield, I thank the Senator from Wisconsin for allowing me to go ahead of his amendment because he did not expect to have a rollcall vote on his amendment and I did expect to have a rollcall vote on mine. That was done by the Senator from Wisconsin to accommodate the other Senators.

Mr. PROXMIRE. I thank the Senator very much.

Mr. ROBERT C. BYRD. Mr. President, I believe there is a general understanding that there will be no more rollcall votes today on this measure, which includes final passage. Following this measure there will be a message from the House in connection with which Mr. SPARKMAN will speak concerning the appointment of conferees. There will not be a vote. Mr. SASSER will bring up a legislative conference report. I understand there will be no vote on that matter.

Mr. PROXMIRE. Mr. President, I will speak on shipbuilding claims but there will be no rollcall vote.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when these matters are disposed of there be a period for the transaction of routine morning business. Mr. PROXMIRE, I believe, wants to speak at some length.

Mr. PROXMIRE. Yes, on the shipbuilding claims, and that will take some time.

Mr. ROBERT C. BYRD. We will not need morning business because we will have the natural gas report before us, and a Senator can speak on other matters.

Mr. JAVITS. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. JAVITS. We have spoken with Senator HOLLINGS about giving Senator SASSER 2 minutes on the business of appointing conferees, and then Senator SPARKMAN will want to speak. There would be 10 minutes overall.

Mr. ROBERT C. BYRD. Very well, I make that request, Mr. President.

The PRESIDING OFFICER. Will the Senator repeat the request?

Mr. JAVITS. Two minutes on the conference report to be brought up by Senator SASSER and 10 minutes overall on the appointment of conferees by Senator SPARKMAN. We can go ahead now and dispose this bill momentarily and then return to it.

Mr. SCHMITT. Reserving the right to object, Mr. President, it will only take a minute or two to complete the action that I began.

Mr. ROBERT C. BYRD. Mr. President, I ask that the request that has just been made follow action on the amendment by Mr. SCHMITT.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank all Senators.

ROUTINE MORNING BUSINESS TODAY—ORDER TO RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business following the statement by Mr. PROXMIRE later today on shipbuilding claims; and that, at the close of that morning business period, which, Mr. President, I ask not to extend beyond 30 minutes overall, the Senate then stand in recess until the hour of 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL ORDER FOR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, Mr. BARTLETT be recognized for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE BRANCH APPROPRIATIONS, 1979—CONFERENCE REPORT

Mr. SASSER. Mr. President, I submit a report of the committee of conference on H.R. 12935 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12935) making appropriations for the legislative branch for the fiscal year ending September 30, 1979, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of August 9, 1978.)

Mr. SASSER. Mr. President, the 1979 legislative branch appropriation bill, as agreed to in conference, is $1,118,244,000 which is the same as the Senate bill, $26 million below the budget estimates, and well within the $1.2 billion ceiling set for this bill in the first concurrent resolution. The bill is also subject to a further reduction of 5 percent which the Members included in the Senate bill by a rollcall vote of 72–0.

The conference report is the product of a great deal of preparation and effort on the part of both Houses to reach a compromise. Mr. SHIPLEY, Mr. ARMSTRONG, and their fellow conferees were most courteous and gracious to us in our joint effort.

Mr. President, I do not think it is necessary to go over the details of the conference report. The report has been available for some weeks now and I am sure this has given the Members an opportunity to become aware of the result of the conference.

I wish to express my sincere thanks to the distinguished ranking minority member of the subcommittee (Mr. SCHWEIKER) for his support and assistance during the conference.

I also want to express my thanks and appreciation to Mr. Terry Sauvain, the subcommittee clerk, Mr. Pete Bonner of the minority staff, and Mr. Paul Cooksey of Senator SCHWEIKER's staff, for their splendid work.

Mr. President, because this conference report has already been adopted by the House of Representatives and because the chairman of the House conferees included in the RECORD a tabulation which sets out completely the action of the conference, I ask unanimous consent that the usual tabulation of figures be incorporated in the RECORD by reference.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See page 26758 of the RECORD of August 17, 1978.)

Mr. SASSER. Mr. President, before offering the motions, I yield to the distinguished Senator from Pennsylvania for any remarks he may wish to make at this time.

Mr. SCHWEIKER. Mr. President, this conference report is essentially the same bill approved by the Senate August 3, 1978. Significantly, it retains the 5-percent across-the-board cut which we approved.

I support it and I commend the chairman of our subcommittee (Mr. SASSER) for his strong leadership in this area.

This 5-percent cutback, however, did generate some early questions when the conferees attempted to determine the impact such an across-the-board cut would have on the various agencies funded by this bill. Because of the procedure for increasing salaries under Public Law 91–656, the Federal Salary Comparability Act, annual budget increases are mandated by law. For instance, beginning last October 1977, a mandatory 7-percent increase was authorized, and the fiscal year 1978 second supplemental appropriations bill made the necessary funds available to pay this increase.

Since the salaries and other operating expenses for agencies and subagencies are normally combined into an overall budget figure, it has been difficult to compare nonsalary services on a year-to-year basis. For example, nonsalary services would include new books for the Library of Congress, computer rental services for the Congressional Budget Office, or outside consultant services contracted by the Office of Technology Assessment.

When the House and Senate conferees met on this bill, we agreed that all future budget requests should include a separate breakdown for nonsalary services. All future nonsalary requests will compare the current request with the previous year's appropriation, plus any supplemental increases, and will include both the funding level and the percentage of the increase or decrease.

I think this is a very worthwhile bookkeeping change, which I hope might focus more attention on the size of budget increases.

Mr. SASSER. Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. SASSER. I move to reconsider the vote by which the conference report was agreed to.

Mr. SCHWEIKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SUPPLEMENTARY FINANCING FACILITY OF THE INTERNATIONAL MONETARY FUND

The PRESIDING OFFICER. Under the previous order, the Senator from Alabama is recognized.

Mr. SPARKMAN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 9214.

The PRESIDING OFFICER (Mr. PAUL G. HATFIELD) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 9214) to amend the Bretton Woods Agreement Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from Alabama yield to me?

Mr. SPARKMAN. Mr. President, I yield to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, first I want to express appreciation to the Senator from Wisconsin and the Senator from South Carolina for permitting this measure to come up at this time. I might say in this connection that the Senator from Wisconsin has been sitting here, waiting to speak, since 4 o'clock and it is now 1 minute before 7 o'clock. I am grateful to the Senator from Wisconsin and the Senator from South Carolina.

I say also that I am most grateful to the distinguished Senator from Alabama, the chairman of the Committee on Foreign Relations (Mr. SPARKMAN). I shall not be speaking on the legislation itself.

Mr. JAVITS. Will the Senator yield?

Mr. HARRY F. BYRD, JR. Yes.

Mr. JAVITS. Will he leave 3 minutes for me and ask the Chair to remind him when he has used 7 minutes?

Mr. HARRY F. BYRD, JR. I ask the Chair to remind the Senator from Virginia when 3 minutes remain.

The PRESIDING OFFICER. The Chair will remind the Senator.

Mr. HARRY F. BYRD, JR. Since this matter was first brought up this afternoon, I have had a chance to talk with the Senator from Alabama, who will be the chairman of the Senate conferees. The matter is which the Senator from Virginia is interested is not the bill itself but an amendment which is incorporated in that piece of legislation. The amendment the Senator from Virginia is interested in is now locked into the bill, so it will not be necessary to take much time of the Senate.

On July 31, 1978, the Senate adopted this amendment to the legislation which the Senate is now discussing:

> Beginning with the fiscal year 1981, the total budget outlays of the Federal Government shall not exceed its receipts.

That amendment was adopted, approved by the Senate, by a vote of 58 to 28, more than 2 to 1.

On September 14, the House of Representatives, in a motion made by Mr. GRASSLEY of the State of Iowa, instructed the House conferees to accept the Senate amendment. So the amendment to which the Senator from Virginia is now directing his remarks is locked into the bill.

It has been passed by the Senate by a 2 to 1 vote and the House of Representatives, on September 14, by a vote of 286 to 91, instructed its conferees to accept the amendment mandating a balanced budget beginning in fiscal year 1981.

While, technically, it still needs to be approved by the committee of conference, all of us know, of course, that the conferees on the part of the Senate and of the House, are honorable individuals and while they are not bound legally, they are bound morally. So as a practical matter, this amendment is now locked into the legislation.

Prior to the action of the House, I had expected to take a little more time of the Senate. But because of the House action, that will not be necessary.

Mr. President, I reserve the remainder of my time and yield 3 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, I rise because I think this amendment if construed very narrowly has the potential of becoming a critical bone in the throat of the United States, or, if construed broadly, could, or I believe, express the feeling of the Congress that by fiscal year 1981 we should have a balanced budget.

If we construed the amendment literally, we could conceivably jeopardize the borrowing ability of the United States and the ability of any bond rating group to give the United States a clean bill of health for the issuance of U.S. securities. The most eloquent statement as to why the amendment should be construed broadly rather than narrowly is found in the report of the Banking Committee majority on the Full Employment and Balanced Growth Act of 1977, Report No. 95–1177. It says as follows:

> The Banking Committee recognized that a balanced budget may be counter-productive at times; for example, during periods of recession, or in times of national emergency such as when there is a need for new and expanded military expenditures. The Banking Committee agreed that in times of national emergency, such as wars or other events, there may be good reason for the balanced budget goal to be set aside temporarily.

Now, it is very critical that we crank this view into what is being said here. We are not automatons, and if this Na-

tion is in difficulty and in real danger, a balanced budget simply is not going to be done, notwithstanding that it is in the law.

The provision of the amendment has no sanctions and no operative section. In my judgment, it simply expresses the will and desire of the Congress.

Senator BYRD is 100-percent right; when he said we passed it 2 to 1, I would, however, like to remind my colleagues that it was passed without debate at a very late hour in the day.

I voted against it for the very reasons I have just stated. This is a very eloquent expression of proposition 13 psychology. But it is also a very eloquent expression of where proposition 13 psychology could lead us.

Therefore, it is my duty to insure that this view is on the record.

In view of the fact that this amendment is, as Senator BYRD says, part of a very important bill which may be signed into law, this amendment must be administered and construed, according to the way the Banking Committee has defined what can and cannot be a balanced budget expectation.

I thank my colleague for yielding.

Mr. HARRY F. BYRD, JR. Mr. President, I say that what the Banking Committee report may or may not say, or some other committee report may or may not say, has little to do with the proposition before us.

I will read precisely what the legislation is that was approved by the Senate:

> Beginning with fiscal year 1981, the total budget outlays of the Federal Government shall not exceed its receipts.

The House of Representatives by a recorded vote in overwhelming numbers, 286 to 91, instructed its conferees to accept that amendment.

For myself, I have every confidence in those who will be Senate conferees, with the distinguished Senator from Alabama being the chairman of the Senate conferees.

If I recollect correctly, of those who will be appointed conferees, most of those voted against the balanced budget amendment when it was before the Senate. But all of them are honorable men and I am certain that the conferees will support the position of the Senate, just as the House conferees will support the mandated position of the House of Representatives.

Mr. SPARKMAN. Mr. President, I say to the Senator from Virginia that he probably knows that I was included; among those who voted against that proposal.

I agree fully with what the Senator from New York has said about what could happen. I certainly do not foresee its happening. I hope we will be able to meet the requirements of it.

But the Senate did approve that amendment and the conferees will certainly, I am sure, go along unanimously with what the Senate has already passed, and the House of Representatives, too.

Mr. HARRY F. BYRD, JR. I thank the Senator from Alabama.

Mr. SPARKMAN. Mr. President, has the matter been laid before the Senate?

The PRESIDING OFFICER. Yes, it has.

Mr. SPARKMAN. Mr. President, I move that the Senate insist on its amendment and agree to the conference requested by the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint the conferees on the part of the Senate whose names I believe the clerk has.

The motion was agreed to; and the Presiding Officer (Mr. PAUL G. HATFIELD) appointed Mr. SPARKMAN, Mr. CHURCH, Mr. SARBANES, Mr. PROXMIRE, Mr. STEVENSON, Mr. CRANSTON, Mr. CASE, Mr. JAVITS, Mr. BROOKE, and Mr. HEINZ conferees on the part of the Senate.

THE NEGOTIATIONS AT CAMP DAVID

Mr. SPARKMAN. Mr. President, President Carter has earned the gratitude of peace loving people everywhere by his able leadership in the negotiations at Camp David. President Sadat and Prime Minister Begin have shown true statemenship in reaching agreement on the two historic documents that culminated those negotiations. Let us hope that the momentum toward peace will continue until at last there is a full settlement in the Middle East.

Mr. President, today both President Sadat and Prime Minister Begin appeared before the Foreign Relations Committee with a great many of the Senators and perhaps even some Members of the House of Representatives in attendance.

It was a great manifestation, I feel, of their interest in permanent peace in the Middle East, and their zeal in working toward that end.

Mr. President, I ask unanimous consent that the two documents by President Carter, and signed by Mr. Begin and President Sadat, be printed in the RECORD.

There being no objection, the documents were ordered to be printed in the RECORD, as follows:

A FRAMEWORK FOR PEACE IN THE MIDDLE EAST AGREED AT CAMP DAVID

Muhammad Anwar al-Sadat, President of the Arab Republic of Egypt, and Menachem Begin, Prime Minister of Israel, met with Jimmy Carter, President of the United States of America, at Camp David from September 5 to September 17, 1978, and have agreed on the following framework for peace in the Middle East. They invite other parties to the Arab-Israeli conflict to adhere to it.

PREAMBLE

The search for peace in the Middle East must be guided by the following:

The agreed basis for a peaceful settlement of the conflict between Israel and its neighbors is United Nations Security Council Resolution 242, in all its parts.*

After four wars during thirty years, despite intensive human efforts, the Middle East, which is the cradle of civilization and the birthplace of three great religions, does not yet enjoy the blessings of peace. The people of the Middle East yearn for peace so that the vast human and natural resources of the region can be turned to the pursuits of peace and so that this area can become a model for coexistence and cooperation among nations.

The historic initiative of President Sadat in visiting Jerusalem and the reception accorded to him by the Parliament, government and people of Israel, and the reciprocal visit of Prime Minister Begin to Ismailia, the peace proposals made by both leaders, as well as the warm reception of these missions by the peoples of both countries, have created an unprecedented opportunity for peace which must not be lost if this generation and future generations are to be spared the tragedies of war.

The provisions of the Charter of the United Nations and the other accepted norms of international law and legitimacy now provide accepted standards for the conduct of relations among all states.

To achieve a relationship of peace, in the spirit of Article 2 of the United Nations Charter, future negotiations between Israel and any neighbor prepared to negotiate peace and security with it, are necessary for the purpose of carrying out all the provisions and principles of Resolutions 242 and 338.

Peace requires respect for the sovereignty, territorial integrity and political independence of every state in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force. Progress toward that goal can accelerate movement toward a new era of reconciliation in the Middle East marked by cooperation in promoting economic development, in maintaining stability, and in assuring security.

Security is enhanced by a relationship of peace and by cooperation between nations which enjoy normal relations. In addition, under the terms of peace treaties, the parties can, on the basis of reciprocity, agree to special security arrangements such as demilitarized zones, limited armaments areas, early warning stations, the presence of international forces, liaison, agreed measures for monitoring, and other arrangements that they agree are useful.

FRAMEWORK

Taking these factors into account, the parties are determined to reach a just, comprehensive, and durable settlement of the Middle East conflict through the conclusion of peace treaties based on Security Council Resolutions 242 and 338 in all their parts. Their purpose is to achieve peace and good neighborly relations. They recognize that, for peace to endure, it must involve all those who have been most deeply affected by the conflict. They therefore agree that this framework as appropriate is intended by them to constitute a basis for peace not only between Egypt and Israel, but also between Israel and each of its other neighbors which is prepared to negotiate peace with Israel on this basis. With that objective in mind, they have agreed to proceed as follows:

A. West Bank and Gaza

1. Egypt, Israel, Jordan and the representatives of the Palestinian people should participate in negotiations on the resolution of the Palestinian problem in all its aspects. To achieve that objective, negotiations relating to the West Bank and Gaza should proceed in three stages:

(a) Egypt and Israel agree that, in order to ensure a peaceful and orderly transfer of authority, and taking into account the security concerns of all the parties, there should be transitional arrangements for the West Bank and Gaza for a period not exceeding five years. In order to provide full autonomy to the inhabitants, under these arrangements the Israeli military government and its civilian administration will be withdrawn as soon as a self-governing authority has been freely elected by the inhabitants of these areas to replace the existing military government. To negotiate the details of a transitional arrangement, the Government of Jordan will be invited to join the negotiations on the basis of this framework. These new arrangements should give due consideration both to the principle of self-government by the inhabitants of these territories and to the legitimate security concerns of the parties involved.

(b) Egypt, Israel, and Jordan will agree on the modalities for establishing the elected self-governing authority in the West Bank and Gaza. The delegations of Egypt and Jordan may include Palestinians from the West Bank and Gaza or other Palestinians as mutually agreed. The parties will negotiate an agreement which will define the powers and responsibilities of the self-governing authority to be exercised in the West Bank and Gaza. A withdrawal of Israeli armed forces will take place and there will be a redeployment of the remaining Israeli forces into specified security locations. The agreement will also include arrangements for assuring internal and external security and public order. A strong local police force will be established, which may include Jordanian citizens. In addition, Israeli and Jordanian forces will participate in joint patrols and in the manning of control posts to assure the security of the borders.

(c) When the self-governing authority (administrative council) in the West Bank and Gaza is established and inaugurated, the transitional period of five years will begin. As soon as possible, but not later than the third year after the beginning of the transitional period, negotiations will take place to determine the final status of the West Bank and Gaza and its relationship with its neighbors, and to conclude a peace treaty between Israel and Jordan by the end of the transitional period. These negotiations will be conducted among Egypt, Israel, Jordan, and the elected representatives of the inhabitants of the West Bank and Gaza. Two separate but related committees will be convened, one committee, consisting of representatives of the four parties which will negotiate and agree on the final status of the West Bank and Gaza, and its relationship with its neighbors, and the second committee, consisting of representatives of Israel and representatives of Jordan to be joined by the elected representatives of the inhabitants of the West Bank and Gaza, to negotiate the peace treaty between Israel and Jordan, taking into account the agreement reached on the final status of the West Bank and Gaza. The negotiations shall be based on all the provisions and principles of UN Security Council Resolution 242. The negotiations will resolve, among other matters, the location of the boundaries and the nature of the security arrangements. The solution from the negotiations must also recognize the legitimate rights of the Palestinian people and their just requirements. In this way, the Palestinians will participate in the determination of their own future through:

(1) The negotiations among Egypt, Israel, Jordan and the representatives of the inhabitants of the West Bank and Gaza to agree on the final status of the West Bank and Gaza and other outstanding issues by the end of the transitional period.

(2) Submitting their agreement to a vote by the elected representatives of the inhabitants of the West Bank and Gaza.

(3) Providing for the elected representatives of the inhabitants of the West Bank and Gaza to decide how they shall govern themselves consistent with the provisions of their agreement.

(4) Participating as stated above in the work of the committee negotiating the peace treaty between Israel and Jordan.

2. All necessary measures will be taken and provisions made to assure the security of Israel and its neighbors during the transitional period and beyond. To assist in providing such security, a strong local police force will be constituted by the self-governing authority. It will be composed of inhabitants of the West Bank and Gaza. The police will maintain continuing liaison on internal security matters with the designated Israeli, Jordanian, and Egyptian officers.

3. During the transitional period, representatives of Egypt, Israel, Jordan, and the self-governing authority will constitute a continuing committee to decide by agreement on the modalities of admission of persons displaced from the West Bank and Gaza in 1967, together with necessary measures to prevent disruption and disorder. Other matters of common concern may also be dealt with by this committee.

4. Egypt and Israel will work with each other and with other interested parties to establish agreed procedures for a prompt, just and permanent implementation of the resolution of the refugee problem.

B. Egypt-Israel.

1. Egypt and Israel undertake not to resort to the threat or the use of force to settle disputes. Any disputes shall be settled by peaceful means in accordance with the provisions of Article 33 of the Charter of the United Nations.

2. In order to achieve peace between them, the parties agree to negotiate in good faith with a goal of concluding within three months from the signing of this Framework a peace treaty between them, while inviting the other parties to the conflict to proceed simultaneously to negotiate and conclude similar peace treaties with a view of achieving a comprehensive peace in the area. The Framework for the Conclusion of a Peace Treaty between Egypt and Israel will govern the peace negotiations between them. The parties will agree on the modalities and the timetable for the implementation of their obligations under the treaty.

C. Associated Principles.

1. Egypt and Israel state that the principles and provisions described below should apply to peace treaties between Israel and each of its neighbors—Egypt, Jordan, Syria and Lebanon.

2. Signatories shall establish among themselves relationships normal to states at peace with one another. To this end, they should undertake to abide by all the provisions of the Charter of the United Nations. Steps to be taken in this respect include:

(a) full recognition;

(b) abolishing economic boycotts;

(c) guaranteeing that under their jurisdiction the citizens of the other parties shall enjoy the protection of the due process of law.

3. Signatories should explore possibilities for economic development in the context of final peace treaties, with the objective of contributing to the atmosphere of peace, cooperation and friendship which is their common goal.

4. Claims Commissions may be established for the mutual settlement of all financial claims.

5. The United States shall be invited to participate in the talks on matters related to the modalities of the implementation of the agreements and working out the timetable for the carrying out of the obligations of the parties.

6. The United Nations Security Council shall be requested to endorse the peace treaties and ensure that their provisions shall not be violated. The permanent members of the Security Council shall be requested to underwrite the peace treaties and ensure respect for their provisions. They shall also be requested to conform their policies and actions with the undertakings contained in this Framework.

For the Government of the Arab Republic of Egypt:

For the Government of Israel:

Witnessed by:

Jimmy Carter, President of the United States of America.

TEXT OF UNITED NATIONS SECURITY COUNCIL RESOLUTION 242 OF NOVEMBER 22, 1967

(Adopted unanimously at the 1382nd meeting)

The Security Council,

Expressing its continuing concern with the grave situation in the Middle East,

Emphasizing the inadmissibility of the acquisition of territory by war and the need to work for a just and lasting peace in which every State in the area can live in security,

Emphasizing further that all Member States in their acceptance of the Charter of the United Nations have undertaken a commitment to act in accordance with Article 2 of the Charter,

1. Affirms that the fulfillment of Charter principles requires the establishment of a just and lasting peace in the Middle East which should include the application of both the following principles:

(i) Withdrawal of Israeli armed forces from territories occupied in the recent conflict;

(ii) Termination of all claims or states of belligerency and respect for and acknowledgement of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognised boundaries free from threats or acts of force;

2. Affirms further the necessity:

(a) For guaranteeing freedom of navigation through international waterways in the area;

(b) For achieving a just settlement of the refugee problem;

(c) For guaranteeing the territorial inviolability and political independent of every State in the area, through measures including the establishment of demilitarised zones;

3. Requests the Secretary-General to designate a Special Representative to proceed to the Middle East to establish and maintain contacts with the States concerned in order to promote agreement and assist efforts to achieve a peaceful and accepted settlement in accordance with the provisions and principles of this resolution.

4. Requests the Secretary-General to report to the Security Council on the progress of the efforts of the Special Representative as soon as possible.

TEXT OF UNITED NATIONS SECURITY COUNCIL RESOLUTION 338

(Adopted by the Security Council at its 1747th meeting, on 21/22 October 1973)

The Security Council

1. Calls upon all parties to the present fighting to cease all firing and terminate all military activity immediately, no later than 12 hours after the moment of the adoption of this decision, in the positions they now occupy;

2. Calls upon the parties concerned to start immediately after the cease-fire the implementation of Security Council Resolution 242 (1967) in all of its parts;

3. Decides that, immediately and concurrently with the cease-fire, negotiations start between the parties concerned under appropriate auspices aimed at establishing a just and durable peace in the Middle East.

FRAMEWORK FOR THE CONCLUSION OF A PEACE TREATY BETWEEN EGYPT AND ISRAEL

In order to achieve peace between them, Israel and Egypt agree to negotiate in good faith with a goal of concluding within

*The texts of Resolutions 242 and 338 are annexed to this document.

three months of the signing of this framework a peace treaty between them.

It is agreed that:

The site of the negotiations will be under a United Nations flag at a location or locations to be mutually agreed.

All of the principles of U.N. Resolution 242 will apply in this resolution of the dispute between Israel and Egypt.

Unless otherwise mutually agreed, terms of the peace treaty will be implemented between two and three years after the peace treaty is signed.

The following matters are agreed between the parties:

(a) the full exercise of Egyptian sovereignty up to the internationally recognized border between Egypt and mandated Palestine;

(b) the withdrawal of Israeli armed forces from the Sinai;

(c) the use of airfields left by the Israelis near El Arish, Rafah, Ras en Naqb, and Sharm el Sheikh for civilian purposes only, including possible commercial use by all nations;

(d) the right of free passage by ships of Israel through the Gulf of Suez and the Suez Canal on the basis of the Constantinople Convention of 1888 applying to all nations; the Strait of Tiran and the Gulf of Aqaba are international waterways to be open to all nations for unimpeded and nonsuspendable freedom of navigation and overflight;

(e) the construction of a highway between the Sinai and Jordan near Elat with guaranteed free and peaceful passage by Egypt and Jordan; and

(f) the stationing of military forces listed below.

STATIONING OF FORCES

A. No more than one division (mechanized or infantry) of Egyptian armed forces will be stationed within an area lying approximately 50 kilometers (km) east of the Gulf of Suez and the Suez Canal.

B. Only United Nations forces and civil police equipped with light weapons to perform normal police functions will be stationed within an area lying west of the international border and the Gulf of Aqaba, varying in width from 20 km to 40 km.

C. In the area within 3 km east of the international border there will be Israeli limited military forces not to exceed four infantry battalions and United Nations observers.

D. Border patrol units, not to exceed three battalions, will supplement the civil police in maintaining order in the area not included above.

The exact demarcation of the above areas will be as decided during the peace negotiations.

Early warning stations may exist to insure compliance with the terms of the agreement.

United Nations forces will be stationed: (a) in part of the area in the Sinai lying within about 20 km of the Mediterranean Sea and adjacent to the international border, and (b) in the Sharm el Sheikh area to ensure freedom of passage through the Strait of Tiran; and these forces will not be removed unless such removal is approved by the Security Council of the United Nations with a unanimous vote of the five permanent members.

After a peace treaty is signed, and after the interim withdrawal is complete, normal relations will be established between Egypt and Israel, including: full recognition, including diplomatic, economic and cultural relations; termination of economic boycotts and barriers to the free movement of goods and people; and mutual protection of citizens by the due process of law.

INTERIM WITHDRAWAL

Between three months and nine months after the signing of the peace treaty, all Israeli forces will withdraw east of a line extending from a point east of El Arish to Ras Muhammad, the exact location of this line to be determined by mutual agreement.

For the Government of the Arab Republic of Egypt:

For the Government of Israel:

Witnessed by:

Jimmy Carter, President of the United States of America

The PRESIDING OFFICER (Mr. PAUL G. HATFIELD). The Chair would like to take this opportunity, as a Senator from the State of Montana, to thank the chairman of the Committee on Foreign Relations for his invitation to attend those meetings that were held today.

Mr. SPARKMAN. I thank the Chair.

U.S. AID TO THE MIDDLE EAST

Mr. CASE. Mr. President, Secretary of State Vance today begins a trip to Jordan, Saudi Arabia, and Syria to discuss with leaders of those countries the results of the Camp David meeting.

I wish him well in his efforts and realize, as I am sure we all do, the delicacy and importance of the peace efforts.

Recognizing the delicate situation, the Senate Appropriations Committee, on which I serve, last Thursday approved a foreign aid appropriations bill containing $90 million in U.S. foreign aid to Syria. The Carter administration had requested the money but it was defeated by the House of Representatives during its floor debate on the bill, H.R. 12931. It is too early to tell what the Senate and the conference committee might do regarding the Syrian funds, but the attitudes of Members are likely to be affected by the Syrian response toward the agreements reached at the Camp David summit.

I also want to note that the Appropriations Committee approved an amendment Senator EAGLETON offered and I seconded to provide $50 million in foreign military sales credits for Lebanon. The committee report language makes it clear that the committee believes the reconstituted Lebanese army should protect all the religious communities in that country and replace the Syrian forces as expeditiously as possible.

I cite this background because it relates to the Camp David summit and its aftermath.

As I said yesterday in a press statement, the only discordant note in the chorus of well deserved acclaim which has greeted the achievements reached at Camp David has come from those who oppose—and there are still those who do oppose—the survival of Israel as an independent nation.

President Carter, Prime Minister Begin, and President Sadat deserve high praise for their wisdom, courage, and persistence.

Our task now is to convince the remaining moderate Arabs that their true best interest dictates their support of the leadership which President Sadat has shown. For such support is crucial to the final success of all efforts to bring peace to the Middle East.

THE NEED FOR ELECTRONIC FUND TRANSFER LEGISLATION

Mr. HEINZ. Mr. President, my distinguished colleague from Massachusetts, Senator BROOKE, has a long-standing interest in the question of consumer protections in electronic fund transfers (EFT) in his capacity as ranking minority member of the Senate Banking Committee. Senator BROOKE is necessarily absent from the Senate today, and I ask unanimous consent that his statement on the need for Senate action on EFT legislation, with an accompanying article on this subject, be printed in its entirety in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY MR. BROOKE

I call the attention of my colleagues to an article in Parade Magazine entitled "Banking By Computer, Is Your Money Safe?" This article illustrates the need for prompt consideration by the Senate of legislation to provide consumer protections in electronic fund transfers, (EFT).

EFT is a new and rapidly growing form of banking which relies on computer and other electronic signals, rather than checks or other paper instruments, to transfer funds to or from bank accounts. EFT has the potential to offer consumers faster, more convenient, and lower cost banking services. However, these new electronic banking services operate outside existing state laws governing checks and Federal law covering credit cards.

Significant policy questions including consumer liability for funds withdrawn with a lost or stolen EFT card, bank responsibility to promptly investigate and correct computer errors, what records the customer receives, and responsibility to complete transfers if there is a technical malfunction are now left unanswered or for the financial institution to decide. The Parade magazine article points to some of the problems this uncertainty has created.

In May of this year, the Banking Committee reported to the Senate S. 3156, a bill to settle these questions and provide consumer protections in electronic banking. Several amendments to this bill have been filed and should be discussed on the floor. I hope my colleagues will agree that we owe the banking public prompt attention to the problems raised by EFT. The House has already passed companion legislation, H.R. 13007. I sincerely believe this body should promptly consider S. 3156 so that we can go to conference with the House and enact EFT consumer protection legislation during this Congress.

I ask that the text of the Parade magazine article be printed in the RECORD.

[From Parade, Sept. 17, 1978]

BANKING BY COMPUTER: IS YOUR MONEY SAFE?

(By Lisa Berger)

Consumers are discovering that the latest credit card look-alike—a plastic "access" card used to make automatic withdrawals, deposits or money transfers from bank accounts 24 hours a day—offers new risks with its conveniences:

In Ann Arbor, Mich., a woman's access card and secret identification number were stolen. The thief emptied here checking account and overdrew her savings account by almost $100. The bank did not notify her of the savings loss, her checks bounced, and her credit record suffered.

A woman in Chicago was mailed an access card and personal identification number without her knowledge. Both were intercepted and used to empty her $600 account

and create a $1200 overdraft. A month later, the bank announced that she was overdrawn and froze her other account. It took two months and an attorney to release her money.

The Citizens and Southern Bank in Atlanta, Ga., told a Congressional staff that its computer tape containing information about customers' electronic money transactions had been destroyed. The bank had no duplicate records and had to rely on customer complaints to learn how much was in their accounts.

Computerized banking—called "electronic fund transfers" (EFT)—is spreading and may soon become as common as writing checks. The Electronic Money Council, a group of financial institutions set up to promote EFT, says that more than 10 percent of the country's banks, savings and loan institutions and credit unions either offer or plan to offer some kind of computer-based banking service.

FOUR COMPUTER SERVICES

EFT includes four services: automated teller machines operated by the customer, retail-store computers that automatically verify checks or immediately transfer money from a person's bank account to the store automatic payment of regular bills and deposit of salary checks, and pay-by-phone systems which allow a customer to call his bank and order payment to third parties.

Most popular are the automatic tellers—computer terminals, activated by access cards, located at either banks or other convenient locations such as shopping centers. Congress estimates that there are currently 9000 such machines in the country, making about 200 million yearly transactions.

Rep. Henry Reuss (D., Wis.)—chairman of the House Committee on Banking, Finance and Urban Affairs, which is sponsoring a bill to regulate EFT—warns: "Consumers are generally unaware of or confused about the differences between EFT cards and credit cards and thus are unaware of the risk of losing their life savings. Every day more and more cases are reported in which consumers have lost thousands of dollars."

Many banks tell customers only in fine print that access cards may not include a liability limit. (Federal law limits individual credit-card losses to $50.) Except in seven states that have a $50-limit law (Wisconsin, Iowa, Colorado, Minnesota, Montana, New Mexico and Kansas), individual banks decide how responsible they are for money lost through access cards.

The most vulnerable part of the new system is the customer's personal identification number (PIN), used with the access card to make transactions.. If a customer's card is stolen, his money is supposedly safe if the PIN is not disclosed. But the system is not foolproof.

Spencer Nilson, a Los Angeles financial expert, reports: "From eight to 10 people in any bank know the PIN of anybody in that bank. It's not possible to send out a form letter notifying me of my PIN without a programmer, supervisor, mail clerk or secretary knowing what it is if they want to."

Dishonest bank employees may be only one danger. Surveys of customers in Wisconsin and Syracuse, N.Y., revealed that even though banks tell people to memorize their PIN's, more than half wrote their number on the access card or kept it in their wallets.

Banks have even let customers choose their own PIN to help them memorize it, but the system is still vulnerable. Thomas Whiteside, author of *Computer Capers*, a book on computer crime, tells of a man who broke the system in France by impersonating a bank officer and telling customers they were getting a new number for security reasons. He then extracted their current PIN and with a counterfeit access card stole 66,000 francs ($15,400).

Security was one of the issues studied by the ad hoc National Commission on Electronic Fund Transfers, established by Congress to recommend legislation. Former commission member Albert Foer says that, according to government security experts, EFT systems are "totally vulnerable."

Foer cites a personal example: "At my bank there is an automated teller machine that cannot be used without strangers having the opportunity to look over my shoulder and not only learn about my transaction but watch me enter my PIN."

He says that EFT are least safe when people make cash deposits, because there's no way of proving how much is put in. The terminal receipt could differ with the actual amount deposited.

SHORTCHANGED

A Boston consumer complained to his Congressman that when he tried to withdraw $100 from a money machine, he only received $90 although the receipt showed the full amount. The next person in line was shortchanged $20. Fortunately, enough people complained about the machine, and the bank reimbursed them.

These experiences highlight Foer's main caution about EFT. "The problem," he says, "is that if an error or unauthorized use occurs, the consumer could be left without funds for a substantial period of time."

Other people fear that EFT will fall victim to the mushrooming field of computer crime. Donn Parker, who investigates all types of computer abuse at Stanford Research Institute, says the EFT machine is potentially the most vulnerable type of computer. "It has the greatest risk because of the large number of transactions." He speculates that criminals may regard the EFT computer as a new kind of "vault" just waiting to be cracked.

Parker's studies of hundreds of computer crime cases show that while the average bank fraud or embezzlement nets less than $100,000, the average computer bank fraud totals $430,000.

Not all computer crime requires ultrasophisticated knowledge. Parker's studies show that most computer crime is actually "data diddling" instead of exotic technical manipulation. The famous Equity Funding Insurance Company fraud, involving $200 million in fabricated assets, was pulled off by feeding fake information into company computers.

Financial expert Nilson told a Congressional hearing that he could easily crack a cash dispenser. "I know it and anybody could know it," he said. "Built into the system is a very easy way to gain access to it for someone who knows how to get in."

Both Nilson and Parker fear that organized crime may move into the EFT field. Investigators found that data processors at Chicago banks were dipping into bank computer accounts to pay off loan shark and gambling debts. "EFT will be the biggest change in conducting business since we went off the barter system, and organized crime knows it," warns Nilson.

Three bills are pending before Congress that would strengthen computer crime laws and protect EFT users. Both House and Senate legislation would limit consumer liability to $50 unless the consumer reveals his PIN, fails to notify the bank of a theft or, in the House bill, writes the PIN on his card.

The liability issue is the most controversial. Many bankers prefer a "negligence" requirement making consumers liable if they handle access cards irresponsibly. But consumer groups are coposed to using negligence as a standard because, they say, it's too hard to prove. Without a $50 liability limit, says Jerry Hogan of Consumer Federation of America, "a customer could be wiped out."

Under a negligence rule, if a person's account were broken into, banks could argue that the customer was responsible. An Ohio woman, for instance, lost $1350 after her access card and secret number were stolen from her home. Although she claimed she didn't know about the theft or illicit withdrawal and offered to take a lie detector test to prove it, the bank decided she was negligent and would not reimburse her.

HOW TO PROVE NEGLIGENCE?

Other problems arise in trying to prove customer negligence: If a stolen access card is etched with its secret number, how does the bank prove who put it there? What happens when an unsolicited card and number are intercepted in the mail, used to steal from an account, and the customer claims the card was never received? What if an account is emptied with a counterfeit card that's never discovered?

The House Subcommittee on Consumer Affairs, which introduced the Electronic Fund Transfers Act, says the liability issue is the most important for consumers. I don't think we should wait for all sorts of consumer tragedies before we provide consumer protection such as limits on consumer liability for losses," explains subcommittee chairman Frank Annunzio.

Lawmakers are uncertain whether EFT legislation will pass this year. Until it does, it's "buyer beware" when using the newest plastic card.

MUHAMMAD ALI ACHIEVES WORLD ACCLAIM

● Mr. PERCY. Mr. President, last Friday night's heavyweight championship boxing match between Leon Spinks and Muhammad Ali should lay to rest any doubts that Muhammad Ali is the greatest heavyweight boxer ever.

The bee has not lost its sting, as many believed. And for the first time, and possibly the last, a man has regained the championship title a third time.

Life has not always been easy for Muhammad Ali. The style in which he overcame all of the obstacles life placed before him truly makes him a champion.

Growing up as a streetfighter in Louisville endowed him with a perspective and understanding that many people do not possess. He rose from an obscure background to gain such international acclaim that millions of people around the world are inspired by his success. He is an epic hero to the oppressed during times of despair.

Having been stripped of his title in 1964 because he refused military service for religious reasons, and again losing it 7 months ago to Leon Spinks, he has achieved a distinction that no heavyweight boxer in the history of the sport has ever known.

This exemplified the kind of man Muhammad Ali is and the qualities needed to be a true champion. He spent more time and energy; showed more determination and perserverance; and worked harder and more intensely than any other fighter of his time.

His skilled trainer, Angelo Dundee, once said of Ali:

I knew I had a winner. Of all the fighters I've ever known, only he could make the heavy bag sing when he hit it.

Ali has done more for boxing than perhaps any other athlete in the world. His personal dynamism seems to create electricity in a crowd as no other U.S. sports figure.

But Ali's significance goes far beyond the boxing ring. He became the symbol of racial pride to millions of blacks in the heat of the civil rights movement. He became a hero to the thousands of young people during the tumultuous sixties because of his stand against the Vietnam war. And he has been one of the most effective goodwill ambassadors our Nation has ever known.

Mr. President, I first met Ali when he was a guest on my public service television program, "Your Senator Reports," and have had several opportunities since to realize the depth of Ali's commitment to peace, justice and the needs of every citizen.

I was particularly impressed when just 2 weeks after he lost his championship title to Leon Spinks last February—even though he was physically and emotionally bruised—he rose above the defeat to do a charity bout I had invited him to in Springfield, Ill. The proceeds were donated to the Illinois Youth Service Bureau, whose efforts were aimed at counteracting community conditions that breed delinquency. This is indicative of his deep-rooted sincerity to help those who are less fortunate.

Ali's victory last Friday night was a victory for all that he stands for nationally and internationally. And it proves that the bee has not lost his sting; that the butterfly is afloat and soaring. Ali is, indeed, "The Champ."

At this time, I ask unanimous consent to print in the RECORD an outstanding article written last March by a former staff member and close friend of mine, Cal Fentress—now senior editor of New Times magazine—that best capsulizes Ali's career.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE CHAMP

(By Calvin Fentress)

After he beat up Muhammad Ali in Vegas, Leon Spinks recalled that as a kid in St. Louis he was the nicest guy on the block—"a very tough block," he quickly added. It must have been. You've got to be tough to wrinkle a legend.

Spinks' up-from-the-ghetto, Marine-to-riches story is itself a more stirring tale than Sylvester Stallone ever dreamed of. But Leon is only life-size. It's not *his* fault that no one will ever name a stadium for him (as they did for Ali the other day in Bangladesh) or mount a children's TV show around his strength and cunning (as they have for Ali in Chicago).

AH, AH, AH . . . He has been with us forever—manchild, gadfly, butterfly, bee, quickening our days, quenching our blood thirst. Live and in color, we've watched it all: Louisville, the Olympics, the Muslims; Liston, Frazier, Foreman; the grace, the guts, the heart. The fastest mouth this side of Mailer.

"He was good for the sport," said second-ranked Jimmy Young after the Spinks fight. Saying Ali is good for boxing is like saying oxygen is good for breathing: "I *am* boxing," exclaimed Ali, and that was closer to the mark. For the last two years, he was fighting mostly on memory, winning decisions he didn't deserve, a one-man over-the-hill gang clinging to the gravy train. But even then, there were flashes of his younger self—faster than fast, the swiftest, slickest heavyweight anyone ever did see.

The scalpel, not the bludgeon, was Ali's weapon of choice. Gawky beside him, his foes played bull to Ali's matador. He was the Fred Astaire of the ring, a top hat among the cauliflower. Hit, move, slip, slide—*zip, zip pop, pop* . . . the whistling jab faster than a serpent's tongue, lashing the sweat off opponents' heads . . . You didn't have to love boxing to appreciate an *artiste* in action.

Final tribute? Nonsense. Ali, boy and man, Cassius and Muhammad, has gotten up from worse than this. *Frazier* was worse than this—"the next thing to death," Ali called it after the Thrilla in Manila (and he *won*). The irreverent Spinks is merely the latest (little does he suspect) in a long line of memorable Ali foils: the Bear, the Rabbit, the Acorn; Dundee, Bundini, Cossell; Sonji, Belinda, Veronica—supporting players all, all with their moments on the stage. His stage.

Final tribute? Preposterous. Ali will be back. I believe, oh Lord, I believe. Rematch, victory, retirement, the legend secure forever. And if not, what the hell—the legend is secure already. Like the Beatles (who came to watch him train), Ali is immutable, a benchmark of his time.

In the McLuhan age, Madison Square Garden could never hold him. (Even his name couldn't hold him.) Munich, Tokyo, Toronto, Kinshasa, Djakarta, Dublin—Ali fought everywhere, sometimes putting whole nations on the map as he went. He was our first global superstar.

And what staying power! Early on he mastered the care and feeding of the media, and he's milked it ever since. Even in defeat, we found him more compelling than any other gladiator of his age (notice who was on *Time's* cover the week after Spinks' championship victory). For two decades, he put us on, knew that we knew, and put us on some more. We needed him, and he knew that, too.

All was inescapable to the public as well. He made sure of that. In and out of the ring, he took the big chances. He made a lot, spent a lot, gave a lot away—and it wasn't all money. Jeer him or cheer him, he was our main man and the best game in town.

The jive, the taunts, the *name* . . . wearing his blackness like a medal—it was all too uppity for many. Ali, reported the *New York Times* in 1967, was "intolerable to a large segment of white America." There remain disbelievers, of course. But call him what they will—an overrated blowhard, whatever—Ali is untouchable; his long dominance of his craft speaks for itself. Besides, his finest hours were never confined to the ring.

In his autobiography, the words stand like a tombstone midst the list of his fights; In Exile: April, 1967 to September 1970. Three years a champion, his biggest paydays at hand, Ali was barely 25 when he refused induction into the Army; for that exercise of conscience, he was sentenced to five years in prison and stripped of his title by the nowludicrous World Boxing Association.

At 25, 26, 27, 28, Ali found himself in involuntary retirement, banned in his own country from the only profession he had ever known, his passport lifted so he couldn't practice it in any other, prime championship years slipping away forever. It was four years before the Supreme Court unanimously overturned his draft evasion conviction, seven before he would regain his title. The heavyweight championship of the world is no small thing, least of all to the son of a black Kentucky sign painter, and Ali plainly reveled in it. His enduring glory is that he let it all go. It wasn't worth the killing. As he put it for the rest of us, "I ain't got no quarrel with the Viet Cong."

Even in the ring, Ali infrequently seemed bent on mayhem. Through the years it was said that he lacked the killer instinct, that he couldn't finish his man (though he usually finished him enough). "There was always something in me that rebelled against boxing," he once explained. "I always had this image of two slaves in the ring."

"You wuz robbed," Ali's handlers insisted after he lost to Spinks. "I wasn't robbed," said Ali later that night. "We're all going to lose in life. You lose your mother, you lose your father, you lose people you love." But Ali is beyond defeat now, his championship season as incandescent as the lightning in his jab. When Leon Spinks is savored only by trivia buffs, the memory of Ali—sleek and strong and sassy—will still be young and easy under the apple boughs . . . *zip, zip, pop, pop, POW!*

Mr. HOLLINGS. Mr. President, I heard in the speech of the Senator from Illinois that we get into morbid torture. Later I heard a good boxer tell me that neither one threw a good punch. This could bar the Leon Spinks and Muhammad Ali championship bout if we adopt this amendment.

I hope the Senator will listen closely. This is a heated debate here.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1111.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 544) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to consideration of H.R. 11092, a bill to amend the Act of December 22, 1974 (88 Stat. 1712) relating to the Navajo and Hopi Indian Relocation Commission.

The PRESIDING OFFICER. Without objection, the resolution is considered and agreed to.

The resolution (S. Res. 544) is as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to consideration of H.R. 11092, a bill to amend the Act of December 22, 1974 (88 Stat. 1712) relating to the Navajo and Hopi Indian Relocation Commission. This waiver is necessary because the Commission estimates that during fiscal year 1979 it will relocate approximately five hundred families of the estimated one thousand one hundred Navajo and Hopi families to be relocated from areas of the joint use area partitioned to the respective Navajo and Hopi Tribes of which the relocatees are not members. H.R. 11092 increases the authorization of appropriations for the operation of the Commission from $500,000 a year to $1,000,000 a year. In anticipation of enactment of H.R. 11092 the House and Senate Committees on appropriations have reported out appropriations bills which increase the appropriations for the operation of the Commission (by $460,000 and $430,000 respectively) over and above the $500,000 presently authorized by the Act of December 22, 1974. The existing authorization for the Commission's operating expenses is insufficient for the Commission's enormous task in relocating the estimated five hundred families and fulfilling their other duties under the law during fiscal year 1979. The increased authorization will enable the Commission to hire the additional personnel needed to adequately carry out their activities.

H.R. 11092 passed the House of Representatives April 11, 1978, however, the Senate Select Committee was not able to take action on the bill until well after May 15, 1978, because of ongoing research and investigation of other issues related to the implementation of the relocation efforts.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. DECONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1189), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE RESOLUTION

Section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House or the Senate to consider any bill or resolution which directly or indirectly authorizes the enactment of new budget authority for a fiscal year unless that bill or resolution is reported in the House or Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year. Because H.R. 11092 authorizes enactment of new budget authority which would be available in fiscal year 1979, and the bill was reported after May 15, 1978, a resolution waiving section 402(a) with regard to H.R. 11092 must be adopted before the Senate may consider the bill. In reporting favorably on Senate Resolution 544, the Budget Committee is recommending that the Senate proceed to consideration of H.R. 11092, but is not otherwise prejudging the merits of the bill.

BUDGET CONSIDERATIONS

H.R. 11092 increases the authorization for operating expenses of the Navajo and Hopi Indian Relocation Commission from $500 thousand to $1 million. The bill also creates a Navajo and Hopi Indian Relocation Coordinating and Planning Committee, to coordinate the efforts of the several agencies involved in relocation activities.

According to the Select Committee on Indian Affairs, failure to enact this bill will frustrate needed reforms to establish more efficient and effective operations by the Commission. The bill will have no significant new budgetary impact because the Interior and Related Agencies Appropriation bill, which has already passed the House and Senate, includes funding for the Commission at a level near full funding of this authorization.

To permit orderly consideration of H.R. 11092, the Budget Committee reports favorably on Senate Resolution 544 and recommends its adoption.

NAVAHO AND HOPI INDIAN RELOCATION COMMISSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for not to exceed 3 minutes to the consideration of Calendar No. 1081.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 11092) to increase the authorization of appropriations under the Act of December 22, 1974 (88 Stat. 1712).

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Select Committee on Indian Affairs with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Navajo and Hopi Indian Relocation Commission Amendments of 1978".

SEC. 2. Section 12(b) of the Act of December 22, 1974 (88 Stat. 1712, 1716) is amended by inserting before the period at the end of the sentence the following: ": *Provided*, That effective March 1, 1979, no person who is serving in an elected Federal, State, or local public office shall be eligible to serve or continue to serve as a member of the Commission".

SEC. 3. The first sentence of section 12(e) of the Act of December 2, 1974 (88 Stat. 1712, 1717) is amended by inserting before the period at the end thereof the following: ": *Provided*, That effective October 1, 1978, no such member shall be paid more than $28,000 during any fiscal year".

SEC. 4. Section 13(c)(5) of the Act of December 22, 1974 (88 Stat. 1712, 1718) is amended by striking out "thirty" and inserting in lieu thereof "one hundred and twenty".

SEC. 5. (a) Section 25(a) of the Act of December 22, 1974 (88 Stat. 1712, 1723) is amended by striking out "$500,000" and inserting in lieu thereof "$1,000,000".

(b) The Navajo and Hopi Indian Relocation Commission is authorized, subject to the approval of the Committees on Appropriations of the House of Representatives and the Senate, to utilize not to exceed $400,000 of the appropriations otherwise available to them for the fiscal year ending September 30, 1978, for the administration and operation of the Commission under the Act of December 22, 1974 (88 Stat. 1712).

SEC. 6. (a) There is hereby established a Navajo and Hopi Indian Relocation Coordinating and Planning Committee (hereinafter referred to as the "Committee").

(b) The Committee shall be composed of one member and the executive director of the Navajo and Hopi Indian Relocation Commission, the Secretary of the Interior or his designee, provided that the Secretary may not designate other than an Under Secretary or Assistant Secretary, the Director of the Joint Use Administration or his designee, the Secretary of Health, Education, and Welfare or his designee, the Chairman of the Navajo Tribe or his designee, and the Chairman of the Hopi Tribe or his designee.

(c) The Secretary of the Interior or his designee shall serve as the Chairman of the Committee. In the absence of the Secretary or his designee the Director of the Joint Use Administration shall serve as Chairman of the Committee.

(d) Five members of the Committee shall constitute a quorum.

(e) A number of the Committee who is an officer or employee of the United States shall serve without additional compensation. Each Federal department or agency shall reimburse their officers or employees for travel, subsistence, and other expenses incurred by them in the performance of their duties as members of the Committee. All nongovernmental members of the Committee shall be reimbursed for travel, subsistence, and other expenses incurred by them in the performance of their duties as members of the Committee by the Department of the Interior.

(f) The designees of the Committee shall be named by the respective Federal agencies and tribes within forty-five days of the date of the enactment of this Act and the first meeting of the Committee shall be held within sixty days of such date.

(g) The Committee shall have the following responsibilities:

(1) Assess the allocation and adequacy of Federal and tribal services being provided to relocatees who are residing within the relocation area and those who have been relocated on or off the respective reservations. Such assessment shall identify specific problems associated with the delivery and adequacy of the services provided and shall further include specific recommendations to the Federal agencies and tribes concerning what steps they should take to ensure that the Federal and tribal programs and services are coordinated, funded, and allocated in a manner which will adequately meet the needs of the relocatees.

(2) Submit semiannual reports to the Congress by February 1 and August 1 of each year concerning the assessment of services required by subsection (g)(1) including an assessment of services required by subsection (g)(1) including an assessment of the degree of coordination which is taking place between the Commission, the Navajo and Hopi tribal officials, and the respective Federal agencies.

(3) Within sixty days after the Commission submits its "relocation plan" to the Congress pursuant to section 13(c) of the Act of December 22, 1974 (88 Stat. 1712, 1717) the Committee shall submit a report to the Congress assessing the feasibility of implementation and the adequacy of the relocation plan in meeting the mandates of said section 13(c).

(4) Each tribe and Federal agency represented on the Committee which does not agree with the respective majority reports of the Committee required by subsections (g)(2) and (3) of this section shall submit their separate views to the Congress at the time the respective Committee reports are submitted.

(h) The head of each Federal agency not represented on the Committee but identified by the Committee as being necessarily involved in the implementation of the relocation plan and the provision of services shall submit semiannual reports to the Congress on April 1 and October 1 each year detailing the level of funding and services being provided to the relocatees prior to and following their relocation and the degree to which such funding and services conform to the assessments and recommendations made by the Committee. Such reports shall further specify the degree to which such respective Federal agencies are consulting and coordinating with the Commission with regard to the feasibility of implementing the "relocation plan".

(i) The Joint Use Administration shall provide the staff, supplies, and equipment necessary for the preparation of the reports of the Committee and the meetings of the Committee.

(j) The Department of the Interior shall provide for the publication of the reports required of the Committee including any separate views of the respective members. The respective Federal agencies which are not members of the Committee shall bear the expenses of the preparation and publication of the reports required of them.

(k) The Committee shall cease to exist when the Commission has expired.

Mr. DECONCINI. Mr. President, I ask unanimous consent that Karl Funke have the privilege of the floor during the consideration of this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1852

(Purpose: To provide a life estate to certain members of the Navajo and Hopi Tribes who would otherwise be required to relocate)

Mr. DECONCINI. Mr. President, I send to the desk an amendment to H.R. 11092. It has been cleared by the chairman of the Select Committee on Indian Affairs, Mr. ABOUREZK, and members of the minority on that committee.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI) proposes an unprinted amendment numbered 1852.

Mr. DECONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, beginning with line 12, strike out all through line 15 and insert in lieu thereof the following:

SEC. 4. Section 13(c)(5) of the Act of December 22, 1974 (88 Stat. 1712, 1718), is amended to read as follows:

"(5) take effect one hundred and twenty days (excluding Saturdays, Sundays, and holidays, and any day on which either House is not in session) after the date of submission to the Congress pursuant to subsection (a) of this section, unless during such one hundred and twenty day period one House of the Congress adopts a resolution disapproving such plan: *Provided, however,* that the Commission is authorized and directed to proceed with voluntary relocations as promptly as practicable following its first meeting.".

At the end of the bill, add the following:

SEC. 7. (a)(1) Notwithstanding the provisions of the Act of December 22, 1974 (88 Stat. 1712), in any case in which a Navajo or Hopi individual believes that he or she can qualify as an eligible applicant (as defined by subsection (e)(1) of this section), such individual is authorized, within the forty-eight month period following the effective date of the relocation plan pursuant to the Act of December 22, 1974, to file an application with the Navajo and Hopi Indian Relocation Commission requesting that he or she be granted a life estate in lands in accordance with this section. Such application shall be submitted in such manner, and contain such information, as the Commission shall prescribe.

(2) If the Commission determines, on the basis of such application, timely filed, that the applicant is an eligible applicant, the Commission shall make available to such applicant a limited tenure, of such land as the Commission determines necessary, in order to avoid the necessity of relocating such applicant, and his or her spouse and dependents, if residing with such applicant. Such tenure shall consist of the right of use and occupancy of such land, including a grazing area of such size as the Commission determines necessary in order to enable such applicant to raise livestock in such numbers as are necessary to meet a subsistence level for such applicant, his or her spouse, and dependents residing with such applicant, for a term ending at the death of the applicant or the death of the spouse of the applicant, whichever last occurs. Nothing in this Act shall preclude such applicant from making improvements within the area covered by such tenure. Nothing in this section shall be construed as prohibiting any such applicant who receives a life estate under this section from relinquishing, prior to its termination, such estate at any time and voluntarily relocating. Upon relinquishing such estate, by such means or instrument as the Secretary of the Interior shall prescribe, such applicant shall be entitled to relocation benefits from the Secretary of the Interior comparable to those provided by subsections (b), (c), and (d) of section 15 of such Act of December 22, 1974.

(b) The Secretary of the Interior is authorized to receive, consider, and pay any claim received by it from the Navajo Tribe, or Hopi Tribe, for compensation for any losses or other expenses incurred by such tribe by reason of such life estates conferred pursuant to this section. Such claims shall be submitted at such time, in such manner, and contain such information, as the Secretary of the Interior may prescribe. Any payment made pursuant to a claim filed under this subsection shall be in lieu of rental payments under section 16 of the Act of December 22, 1974, with respect to lands covered by such claim.

(c) Notwithstanding any other provision of law, the Secretary of the Interior shall compensate the head of such household, who receives a life tenure of land under an application submitted pursuant to this section, for the fair market value of the habitation and other improvements owned by such head of a household within the area from which he, but for such tenure, was required to relocate. Such compensation shall be paid to the estate of such head and shall be based on the fair market value of such habitation and improvements as of the time of the expiration of such tenure, and, except as hereinafter provided, shall not be payable until such time. Any such compensation or assistance owing to the estate of any such head shall be paid and distributed in accordance with the last will and testament of such head, or in the event no such valid will and testament is left, such compensation shall be paid and distributed to his heirs in accordance with the laws of the tribe of which such head is a member. Notwithstanding the foregoing provisions of this subsection, in any case in which any such compensation would be payable to the estate of any such applicant, such compensation shall, in the event such applicant relinquishes such life estate prior to its termination in accordance with subsection (a)(3) of this section, be payable to such applicant at the time of the relinquishment of such life estate. Such payment shall be in lieu of any other payment pursuant to subsection (a) of section 15 of the Act of December 22, 1974.

(d)(1) Any such eligible applicant, and his or her spouse and dependents so living on the Navajo Reservation shall be subject to the jurisdiction of the Navajo Tribe and any such eligible applicant and his or her spouse and dependents so living on the Hopi Reservation shall be subject to the jurisdiction of the Hopi Tribe, except that the land laws of the Navajo Tribe shall not be applicable to any tenure granted to a member of the Hopi Tribe, and the land laws of the Hopi Tribe shall not be applicable to any tenure granted to a member of the Navajo Tribe.

(2) Within ninety days following the date of the enactment of this subsection, the Secretary shall promulgate such regulations as may be necessary to assure that in the case of a life estate granted pursuant to this section, no person may reside on the land covered by such life estate other than the applicant, his or her spouse, and the applicant's dependents, except that such regulations may provide that in case of illness or disability persons necessary to attend upon and care for such applicant, spouse, or dependent may reside on such lands during such illness or disability. Such regulations shall further provide for the right of all residents and visitors to the lands covered by such life estate to have access thereto by use of all established roads or ways leading thereto.

(3) The Secretary of the Interior is authorized to take such action as may be necessary in order to assure the protection, until relocated, of the rights and property of individuals subject to relocation pursuant to the Act of December 22, 1974, or any judgment of partition pursuant thereto, including any individual authorized to reside on land covered by a life estate conferred pursuant to this section.

(4) With respect to any individual referred to in paragraph (3) of this subsection, the Secretary shall take such action as may be necessary to assure that such individuals are not deprived of benefits or services by reason of their status as an individual subject to relocation.

(e) As used in this section, the term—

(1) "eligible applicant" means, with respect to a Navajo or Hopi individual, an individual—

(A) who on December 22, 1974, maintained a place of abode in an area from which such applicant, but for this section, would be required to relocate, and who, but for this section would be relocated in an area other than an area comprising a part of the reservation of which such individual is a member or an area made a part of any such reservation by reason of a final judgment of partition or the Act of December 22, 1974; and

(B) who on or before the date of application for a life estate, was at least forty years of age; and

(C) with respect to whom the Commission determines, if required to relocate, would most likely be unable to earn a livelihood by reason of age, mental or physical disability, inability to adequately speak the English language, lack of education or skill, or otherwise;

(2) "Commission" means the Navajo and Hopi Relocation Commission;

(3) "dependent" shall have the same meaning as that provided by section 152 of the Internal Revenue Code of 1954.

(f) Notwithstanding any other provision of this section, any applicant who meets the requirements of clause (C) of subsection (e)(1) by reason of his or her mental or physical disability shall not be required to meet the requirements of clause (B) of subsection (e)(1).

(g) The Secretary of the Interior is authorized to make available to applicants receiving a life tenure under this section such assistance, during that tenure, as may be necessary to enable such applicant to feed and maintain that applicant's livestock.

(h) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SEC. 8. (a) Section 11(a) of the Act of December 22, 1974 (88 Stat. 1712), is amended by inserting a comma immediately after "Arizona" and the following: "Utah,".

(b) The Commission is authorized to purchase, with appropriated funds, such lands, not to exceed 25,000 acres, in the aggregate, as the Commission determines necessary to enable it to relocate members of the Navajo tribe pursuant to the Act of December 22, 1974. Title to such lands so acquired by the Commission, if contiguous or adjacent to the Navajo Reservation, shall be taken by the United States in trust for the benefit of the Navajo Tribe. With respect to such lands so acquired which are not so contiguous or adjacent to such reservation, the Commission is authorized to transfer title to such lands to the head of a household and his or her spouse so relocated thereon.

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section:

SEC. 9. Effective December 22, 1974, paragraph (4) of section 5(a) of the Act of December 22, 1974, is repealed.

SEC. 10. Notwithstanding any other provision of law to the contrary, the Commission shall on a preferential basis provide relocation assistance and relocation housing under subsections (b), (c), and (d) of section 15 of the Act of December 22, 1974, to the head of each household of members of the Navajo Tribe who were evicted from district 6 of the Hopi Indian Reservation a consequence of the survey conducted by the Department of the Interior in 1972: *Provided,* That such heads of households have not already received equivalent assistance from Federal agencies.

Mr. DECONCINI. Mr. President, this amendment will modify Public Law 93-531, the Navaho-Hopi Settlement Act, which was designed to resolve the Hopi-Navaho joint-use area land dispute.

The Navaho-Hopi Settlement Act established procedures for the resolution of a century-old dispute between the Hopi and Navaho Tribes over joint-use area lands in Arizona. The act basically provides for a negotiated settlement of the dispute, or failing agreement, a mediated settlement to be approved by the district court. Guidelines for mediation and court settlement are set forth in the act and mechanisms are established for the transition period following a settlement.

Negotiations having failed, the mediator, William Simkin, filed his report to the court on December 12, 1975. The report recommended partition of the lands between the tribes and set out a line of partition. Hearings and filings of briefs were held through 1976. On February 10, 1977, the court issued its judgment of partition in which it confirmed the report of the mediator and ordered that the lands be partitioned in the manner set out in the report.

Since the issuance of the partitioning judgment by the U.S. District Court for the District of Arizona, the Relocation Commission—a three-member panel, established by Public Law 93-531 to administer the required relocation of trial members—has begun to formulate its relocation plan for approximately 3,500 Navahos and 32 Hopis who must move. However, on May 15, 1978, the U.S. Court of Appeals for the Ninth Circuit vacated the original partition decree. Although the substance of the court's opinion is important, its most dramatic effect will be to delay the submission of the relocation plan to Congress. The Relocation Commission, according to Public Law 93-531, cannot submit its plan until the district court issues its decision on the full, final line of partition.

Thirty days following the plan's submission to Congress it becomes effective. According to the law, the Commission must complete the entire relocation plan 5 years after its effective date.

The act directs the Commission to make relocation incentive payments of decreasing value each year after the plan is in effect to households which voluntarily enter into relocation contracts with the Commission. Additionally, payments and programs to make restitution for dwelling and improvements, as well as funds for new housing after relocation, are authorized.

Mr. President, the intent of this law to resolve a century-old land dispute is admirable. However, implementation problems have arisen which should be considered. The law authorizes the Secretary of the Interior to transfer, upon the payment of fair market value, up to 250,000 acres of Bureau of Land Management lands to the Navaho Tribe so as to restore a portion of the Navaho land base lost in partitioning. The additional land would be used by those Navahos required to relocate.

Although a draft environmental impact statement has been issued, and hearings were completed last Friday, no land has been transferred to the Navahos. Bureau of Land Management land in the House Rock Valley-Paria Plateau area of Arizona is one of the areas being considered for purchase. The purchase of land in this area is strongly opposed by ranchers in the vicinity and various environmental and wildlife organizations. Even if this land transaction were consummated, it is estimated that only 10 percent of the Navaho families now living on the Hopi portion of the joint-use area would be accommodated.

An alternative suggestion has been to relocate at least a portion of the Navajos in urban areas such as Gallup, Flagstaff, or Albuquerque. Many of these relocatees have no skills that would allow them to become productive members of an urban population and in all probability they would be forced onto the welfare rolls.

The Senate Committee on Interior and Insular Affairs, in its report which accompanied H.R. 10337, as amended, now Public Law 93-531, recognized the serious impact relocation would have if not handled properly:

> The Committee believes it vitally important, that the plan take into account all social, economic, cultural, and other adverse impacts of relocation on persons involved in the relocation and be developed to avoid or minimize, to the extent possible, such impacts. The plan must also identify the sites to which such households are to be relocated and assure that housing and related community facilities are available at the relocation sites. The Committee believes this requirement is particularly important in effecting the purpose of minimizing the adverse impacts of relocation.

In view of the fact that lands have not yet been found for most of the relocatees, the committee's intent "of minimizing the adverse impacts of relocation" may not be implemented.

Mr. President, not only will relocatees possibly suffer "adverse impacts," but many have lived their entire lives on the joint-use area, and it is home. I recently received a letter which vividly illustrates the plight of those residing in the disputed area:

> We, the McCabes, of Tolani Lake (Area 5-B), would like to express our true feelings about our land . . .
>
> Our late father, Everett McCabe, Sr., was born on this land that we now live on and he is buried on the land, too. Our father worked on the land so that we can have a home. We were all born on this land and he raised all 12 of us along with our mother until he died in 1956. Now there are 81 of us including all our children and mother. Our grandmother and her family have been moved three times before for the same problems. It is high time that we, the children and grandchildren, put our foot down and demand our rights. So this is where we all stop and stay for the rest of our lives.
>
> Our father and mother had a grazing permit (350) for this land and they raised sheep, cattle, and horses. They built homes, wells, dikes, fences, and planted trees and corn. To this day we still have all of what they built we still plant corn, and plus fond memories of our childhood and our families. We know every square foot of our land. Our relatives and friends live close by and this is our happiness. . . .

Hearings, conducted by the Senate Select Committee on Indian Affairs in February of this year on S. 1714, a bill I introduced to lessen the impact of relocation, gave me additional incentive to pursue modification of Public Law 93-531. The hearings were held in Winslow, Ariz., with over 200 Navahos and Hopis in attendance.

Also, on May 27, of this year, Senator ABOUREZK and I visited the joint-use area and personally talked with many of those who will be required to relocate. This personal contact indicated to me that the Congress has no choice but to help these people.

Several legislative alternatives have been reviewed, all of which would help alleviate the relocation problems previously discussed. After listening to many of the relocatees and studying various proposals, I am convinced that some form of life estate should be provided—at least for those most adversely affected by relocation.

Therefore, Mr. President, the amendment that I am offering today is a modified version of S. 1714, the bill that I introduced on June 17, 1977. This proposal will assist those who are most adversely affected by relocation—the elderly. They will be allowed to live out their remaining years on their traditional homelands with sufficient livestock for their livelihood.

This amendment provides for limited life estates. In order to qualify for the life estate, one of the spouses of the household must be at least 40 years of age, and it must be determined that the household cannot be relocated within the boundaries of the tribal reservation of which the household is a member.

After meeting these two criteria, then it must be established that the head of household does not have the necessary job skills to compete in an urbanized society. Heads of households who are disabled may receive life estates without meeting the age requirement.

The life estate bill I originally introduced, S. 1714, required that the Secretary of the Interior implement the program. A major modification is included in this amendment—the Navaho-Hopi Relocation Commission will be required to implement the life estate program. This change will not extend the life of the Commission because the life estates must be granted prior to the expiration of the 5-year relocation period. Assistance to those receiving a life estate will be provided through the Secretary of the Interior. Thus, the Commission will end its duties related to the relocation process as envisioned in Public Law 93-531.

This amendment will require the Commission to grant life estates with enough land for the family to maintain livestock at a subsistance level. Further, the Secretary of the Interior is authorized to give assistance to those who maintain livestock.

The remaining major provisions in the amendment include:

First. Those receiving life estates will be able to make improvements on the property during the tenure of the life estate.

Second. The life estate will remain in effect until the head of household or spouse dies, whichever is later.

Third. A one-House veto of the Commission's plan is added.

Fourth. The Relocation Commission will be authorized to purchase up to 25,000 acres for relocation purposes. No condemnation authority is granted—the sales are voluntary.

Mr. President, this amendment will provide for a more humane relocation than is called for in present law. I urge my colleagues to support it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. If there be no further amendment, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

An Act to amend the Act of December 22, 1974 (88 Stat. 1712) relating to the Navajo and Hopi Indian Relocation Commission.

Mr. DECONCINI. Mr. President, I thank the Senator from South Carolina (Mr. HOLLINGS) for permitting time in which to handle this matter. I know he has been here a long time today. I also thank Senator PROXMIRE for permitting this matter to be taken up at this time, as a personal favor to me.

It is not that I would not want to stay and listen to the fine speeches, but I promise to read them tomorrow in the RECORD.

REPORT ON AMERICAN FOREIGN POLICY INTERESTS IN EUROPE, THE MIDDLE EAST, AND INDIA (S. DOC. NO. 95–125)

Mr. PROXMIRE. Mr. President, on behalf of Mr. WILLIAMS, the chairman of the Senate Delegation on American Foreign Policy Interests in Europe, the Middle East, and India, I am submitting the report of the delegation to the Senate and I ask unanimous consent that it be printed as a Senate document.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC TELECOMMUNICATIONS FINANCING ACT OF 1978

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Who yields time?

UP AMENDMENT NO. 1853

(Purpose: To repeal the equal time requirement and the fairness doctrine as applied to broadcasting solely by radio)

Mr. PROXMIRE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposed an unprinted amendment numbered 1853.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert a new section as follows:

REPEAL OF EQUAL TIME REQUIREMENT AND FAIRNESS DOCTRINE AS APPLIED TO RADIO BROADCASTING

SEC. 404. (a) Section 309 of the Communications Act of 1934 is amended by inserting at the end thereof the following:

"(i) Notwithstanding any other provision of this part, effective on and after the date of the enactment of this subsection for the purposes of this part as applied to broadcasting solely by radio (excluding television broadcasting), the term 'public interest, convenience, and necessity' shall not be construed to give the commission jurisdiction to require the provision of broadcast time to any person or persons or for the expression of any viewpoint or viewpoints.".

(b) Section 315 of such Act is amended by inserting at the end thereof the following:

"(e) The provisions of this section shall not apply to broadcasting solely by radio (excluding television broadcasting).".

(c) The amendments made by this section shall be effective on the date of enactment of this Act.

Mr. PROXMIRE. Mr. President, the amendment I have just sent to the desk would abolish the so-called fairness doctrine and equal time rule as they apply to radio.

Since 3 o'clock or 3:30 this afternoon, we have been discussing public broadcasting, and it is fascinating that the principal emphasis of the discussion has been on how to keep public broadcasting free of political interference. I think that was a constructive effort. I wholeheartedly support public broadcasting. I believe it has greatly improved the quality of broadcasting generally, as well as enriched the lives of the American people, and I am happy to vote for and support this legislation.

However, we must recognize that public broadcasting is funded by Government, controlled by Government, directed by Government; that all the officials are appointed by the Federal Government. There is no question that there is no way that public broadcasting can be insulated—or should be insulated, for that matter—from the control of Congress, control of the President of the United States, and the direction, fundamentally, of the President of the United States and Congress.

I believe that is consistent with a free society only because the principal broadcasting in this country is not public broadcasting but private, outside the aegis, outside the control, outside the domination of the Federal Government.

My amendment would recognize that it is time, because of technological developments; it is time, because of the fundamental convictions of our Founding Fathers and of the overwhelming majority of Americans, that we should have freedom of the press. It is time to recognize that the reality of freedom of the press can be achieved only if we have freedom of the electronic media from government regulation and government control.

This is a first, small, modest step. We should recognize that the great majority of people do not get their news from newspaper. I think there is an illusion that they do. Seventy-six percent of the people say that they get their principal news—and many of them, their exclusive news—from radio and television.

At the present time there is no question that there is no freedom of the press for radio and television. They are censored; they are licensed; they are subject to not only oversight by the FCC but also to the denial of their license if they do not comply with the Federal regulations. There is no question that this is a censorship.

If you talk to any owner of a station or become involved in any way in a station's operation, you know how sensitive they are to that kind of Government regulation and that kind of Government control.

I contend that, for many reasons, the time has come to end that control, that political control of the private sector, and I think the place to begin is with radio.

We should recognize, for example, the number of newspapers we have in New York City and the number of radio stations. The number of newspapers is something like 3, or perhaps 4, and the number of radio stations is something like 50.

There is no question that with the advent of FM, the number of radio stations in communities throughout this country is going to increase greatly.

So if we really believe in freedom, we should recognize that we no longer can argue the scarcity argument. In the old days, you could say that there were only a certain number of frequencies available and that they could be allocated fairly only by the Government.

If we do not require a certain standard of fairness and a standard of equal time, and so forth, of the radio stations, it will mean that the plutocrats, who have the money to buy a radio station, are going to determine—not the Government, not society as a whole—who should have access to it.

We should see what has happened with freedom for our newspapers; because, while it is not unique, it is almost unique in this world that a Government permits its newspapers to operate with an amendment that prohibits any Government censorship or Government interference.

As I say, one-city ownership is characteristic in this country. It is hard to find any city except the big ones, such as New York and Chicago, that has more than one newspaper.

In a metropolis like in our State, Milwaukee, for instance, there is one ownership. The Milwaukee Journal Co. owns both newspapers, and that is true in the overwhelming majority of cities in this country, one ownership, monopoly ownership of the newspapers.

Yet, Mr. President, they are free and they should be free, and the first amendment to the Constitution guarantees their freedom from Government regulation, Government censorship, and Government control.

How is that operated?

Well, years ago I worked on my doctoral dissertation and the subject of it was, "developing standards for evaluating the political content of the American newspaper," and in the course of working on that thesis, which I have never finished, I discovered that American newspapers have vastly improved. They have improved in professionalism. They have improved far more than they would have, in my judgment, if they had an FCC applying to newspapers.

They have op-ed pages where they have an editorial page, of course, expressing their view, but in most cases opposite the editorial page they have the expression of columnists and others who disagree with their viewpoint.

Take a look at the Washington papers. You can see that. Take a look at your own hometown paper. The Chicago Tribune, which I think has been recognized as one of the most biased, one-sided papers in the country, has had that reputation, but it changed and improved vastly. Opposite their editorial page, they have the expressions of columnists who vigorously disagree with the Chicago Tribune line and do so every day.

But even more important is the fact that you have the professionalism of the reporters. It is only a relatively recent phenomenon that we had journalism schools. We have now developed reporters who take great pride in objectivity and they are taught to be objective, fair, and comprehensive, and that has greatly expanded and improved our coverage.

In what other ways have newspapers become more fair and unbiased? Here is how:

For one thing, by expanding their coverage. There was a time—not too long ago—when we could not read stories about environmental and health hazards, such as those caused by insecticides, food additives, and other previously arcane chemicals.

There was time, too, when we did not see stories about social concerns, such as crime-ridden neighborhoods, venereal diseases, old age, population growth, race relations, and school curriculum.

Women's rights, it is true, have been reported on since long before the Bloomer Girls. But now we get searching reports on what women's rights really mean.

The list is endless. But fair coverage means that problems, advances, and experimentation in areas of life affecting all of us are covered in all their aspects.

Mr. President, take the argument that many people for many years—I guess some still subscribe to it—that newspapers can be forced by their advertisers to support a particular viewpoint, an economic viewpoint or a particular social viewpoint, or even an individual who is a heavy advertiser.

Mr. President, anyone who really knows newspapers knows that is no longer true. You rarely hear the charge. When it is made it is made out of ignorance. There is no advertiser who is going to make a newspaper publisher knuckle under. If there is any example of that I would like to hear it because I have never seen it. I do not know anyone who maintains it, and that is no longer the situation. They police their advertising. There is no advertising pressure on the editorial concept.

So, with no licensing, no censorship, just with freedom, responsible vigorous journalism has flourished.

Mr. President, one of the best examples of that, of course, has been with the development during the worst scandal that hit this country in perhaps the last century, and that was the Watergate scandal.

What was the reason why the President of the United States so occupying the most powerful office in this country, maybe in the world, was forced to leave office? There is no question that it was not because of any governmental group or any agency. While the House of Representatives played a part in this matter, there is no question that the drive that forced a correction of this situation in our society and in our Government came from the free press, came from the newspapers.

I think everyone acknowledges that, Mr. President.

Mr. President, I think the clearest way we can understand how unnecessary and improper is the Federal Communications Commission control of radio and television is to ask ourselves why not try an FCC for newspapers. I challenge anyone to propose on the floor of the Senate or the floor of the House of Representatives or propose seriously anywhere that we provide for a new commission which would apply equal time or fairness doctrine for newspapers.

Why not? Why not? Why should not we apply it to newspapers if we apply it to radio? As I point out we have many radio stations in communities throughout the country and throughout the country far more radio stations than newspapers.

It is far easier for someone to start a radio station. It takes far less capital than to start a newspaper. And the radio stations, as I pointed out, are a vital source of news for the American people.

So, Mr. President, I think that anyone who supports the notion that we should have a continuation of the fairness doctrine for radio or equal time rule, I should ask why they would not apply it to newspapers.

Mr. President, let me also point out that the denial of first amendment rights to the radio stations and to television is self-defeating.

Under the fairness doctrine, for example, broadcasters are required to, first, devote a reasonable amount of time to the discussion of controversial issues, and second, afford reasonable opportunities for opposing viewpoints.

In 1972, NBC broadcast a documentary entitled, "Pensions: The Broken Promise," which dealt with corporate pension plans and how they often do not keep faith with the workers they are intended to benefit.

The airing of the program led to the filing of a fairness doctrine complaint with the FCC.

NBC claimed in defending itself that the subject of private pension plans was not controversial because as far as it knew the subject had not been dealt with previously on network television.

CATCH 22

Accuracy in Media, Inc., complained that contrasting viewpoints were not aired on the progrm.

The FCC rejected AIM's allegation of distortion but did decide that NBC had violated the fairness doctrine. It then ordered the network to broadcast balancing material.

NBC said that it had done a fair job and had no intention of giving the subject more air time.

Before moving on to what happened in the courts, I should point out a "Catch 22" aspect of this situation. I do so because it is but one example of the nightmare of complexities that accompanies the attempt to administer the fairness doctrine. Had NBC devoted more time to the subject, giving additional viewpoints, there would have been no issue before the FCC. So in order to prove its point, to test the matter in the courts, NBC could air no more shows on the subject without making its case moot.

Now back to the courts. A three-judge panel of the District of Columbia Court of Appeals ruled in favor of NBC, saying that this country needs investigative reporting. Subsequent court actions left this ruling intact.

What is the lesson of the Pensions case? It is this. The fairness doctrine can interfere with journalistic discretion, particularly in investigative reporting.

RESTRICTING BROADCAST REPORTS

Just think of the implications if the court had decided the other way. Such a ruling would have meant that Government could, in the words of fairness doctrine analyst Fred Friendly:

Substitute its judgment for that of the network as to what issue was involved in a broadcast documentary and order that more

air time be given to elements that the journalist never thought central to the story.

The end result would be to restrict broadcast efforts at investigative reporting because of the difficulty in airing any program that took a point of view or was controversial.

But wait a minute, you might say. There is no problem here. NBC won its case. It was home free and clear. There is no lingering aftereffect.

True? Not necessarily.

The result of that requirement is that fear of losing a license persuades stations to avoid controversy. We could have a far more stimulating society, far greater opportunity for people to express controversial views—no question about it—if we did not have the kind of licensing situation we have and the requirement of compliance with equal time and the fairness doctrine.

Mr. President, I wish to call the attention of the Senate to the experience of one television network with the fairness doctrine and how self-defeating that is if we expect to achieve the kind of controversial discussion that we wish to achieve.

NBC's problems in airing two television documentaries help to illustrate the point.

Let us look at how NBC reportedly agonized over its 1975 television documentary on handguns entitled, "A Shooting Gallery Called America?"

According to New York Times writer John J. O'Connor, complaints from the public even before the program was shown caused a rewriting of the script to avoid fairness doctrine complaints to the FCC after the fact.

And, O'Connor further reports, this documentary on a controversial issue of public importance—gun control—drew little response from a national television audience of about 10 million (381 complaints out of the 441 letters received in the 2 weeks after the show) because it failed to take a stand.

CHILLING EFFECT

If O'Connor is right, then this is a good example of the chilling effect on journalism caused by governmental control of broadcasting.

I believe NBC executives should not have felt the hot breath of the FCC and its fairness doctrine on the backs of their necks. For if O'Connor is correct, the existence of the fairness doctrine indirectly restrained the producers of "Shooting Gallery."

And if O'Connor is right, if NBC news executives ordered a new script for the "Shooting Gallery" because of the fairness doctrine, I wonder if it was because of the time and expense NBC went through before the FCC and the courts in the wake of its 1972 documentary on "Pensions: The Broken Promise?"

I firmly believe that broadcast journalists would not be chilled into blandness and sameness if it were not for governmental controls as exercised through the FCC's fairness doctrine.

I believe that without the fairness doctrine there would be more, not less, programing of controversial issues.

Restrictions like the fairness doctrine are, in my view, self-defeating. Their proponents want diversity of ideas and the presentation of controversial and contrasting points of view. What they promote, instead, is sameness, blandness, timidity, and conformity. The American people are the losers.

Now, Mr. President, the most important reason why the censorship of radio through the fairness doctrine-equal time rule is wrong is because it is dangerous.

DANGEROUS DENIAL: THE TYRANNY OF GOVERNMENT

Denying broadcasters their first amendment rights is wrong for a final reason. It is dangerous.

Letting Government be the final arbiter of "fairness," for example, confers immense power. This is especially true when that same Government decides on the granting of broadcast licenses.

Three examples from the recent past remind us how the power of Government—although often exercised in the name of "fairness"—can amount to the tyranny of Government.

These examples all involve past Presidents of the United States. The President, of course, is the head of Government, the same Government that controls broadcasters through the Federal Communications Commission.

In recalling the stories that follow, it is important to remember, too, that the President himself appoints the members of the FCC and designates who shall be Chairman.

NIXON ADMINISTRATION

My first example comes from the Nixon administration. Relevant episodes from that period are still fresh in our minds. I need only cite some of them briefly here.

FCC Chairman Dean Burch called CBS President Frank Stanton in November 1969 to request a transcript of that network's news analysis after a Nixon address the night before.

Vice President Agnew made his famous Des Moines speech 9 days later blasting the network's news coverage and reminding them that they held licenses at the pleasure of the FCC.

CBS President Stanton reported that there were a number of White House phone calls over the succeeding 3 years conveying displeasure with news broadcasts.

There was a memo of September 1970 from Charles Colson to H. R. Haldeman proposing that the White House get a ruling from the FCC on the "role of the President, when he uses TV." This, Colson argued, would have "an inhibiting impact on the networks."

There was, too, the December 1972 Indianapolis speech by Clay T. Whitehead, director of the White House's Office of Telecommunications Policy, condemning the "ideological plugola" and "elitist gossip" of network news.

And there was, finally, President Nixon on tape telling Haldeman that:

> The main thing is the Post is going to have damnable, damnable problems out of this one. They have a television station. . . . And they're going to have to get it renewed.

KENNEDY AND JOHNSON ADMINISTRATIONS

But this is not a partisan matter. Fred Friendly has reported that the Kennedy and Johnson administrations, with financial backing from the Democratic National Committee, used the fairness doctrine to subdue right-wing radio commentators who were critical of administration goals.

These clandestine campaigns, which reportedly began in 1963, were also meant to inhibit stations from carrying commentary supporting Senator BARRY GOLDWATER, who was then a prospective Presidential candidate.

Friendly reported that both the Kennedy and Johnson administrations maintained professionally staffed organizations that monitored stations carrying right-wing commentary and then demanded time for reply under the fairness doctrine.

Such demands for air time, which the stations would have to provide at no cost, were regarded by many broadcasters as harassments that they chose to avoid. As a result, they either dropped the commentaries or diluted them. This, according to Friendly, was exactly what the White House had in mind.

What do these three examples of the abuse of Government power tell us?

It is wrong to deny broadcasters their first amendment rights because a free press—and that should include free broadcasters—is needed to protect us all from the tyranny of Government power.

WHY NOT TAKE A CHANCE ON FREEDOM?

What I have been saying tonight can be reduced to this simple thought: Why not take a chance on freedom? If it is power we are concerned about, and we should be, the power of the electronic media is a pygmy compared to the power of Government.

In 1977, U.S. News & World Report surveyed the leading citizens of this country in business, labor, the universities, the newspapers and the Government as to who were the people who ran America.

Where did the electronic media rate? Think of this:

The only person from the media who was rated in the 10 most influential Americans was Walter Cronkite and he was a distant ninth. In fact, Cronkite was the only electronic media person in the 30 most influential Americans.

Who are the most influential? The answer is emphatic. It is Government. Eight of the top 10 persons who run America were Government officials.

By denying the electronic media their first amendment rights, we give the big guy—Government—more power and from the less influential—the media—we take it away.

To those who would claim that it is safer to take a chance on Government than a chance on freedom and a free press, there are two clear rebuttals.

GOVERNMENTAL POWER

First, governments traditionally have gathered more and more power unto themselves without regard to the liberties of their citizens. Europe and South America and Asia are replete with such examples. And we in this country can cite some near-misses, the most recent being, of course, what we have come to know by the shorthand term of Watergate.

And second, it is easy for a government, with its power to give jobs and favors, to present a solid front in con-

trolling information about itself. But it is impossible, with members of a free press competing among themselves, to conspire to suppress information about Government or anything else. As Jefferson once said, whoever heard of a newspaper suppressing a government?

You might say whoever heard of a radio station suppressing a government? The reverse, as I demonstrated here, has happened. It happened in this country, it happened recently, and it is likely to happen again and again.

Freedom of the press can be abused by individual reporters, papers, magazines, broadcasters, or broadcasting stations. But, with competition the drive to be best, to be first with the news, to make money—there is little or no danger of all elements of the press forming a clique or cabal to take over the Government, or—and most important—to deceive the citizens, their customers.

FREE SOCIETY IS BEST

As long as the Government is kept from the neck of the press by the first amendment, the public should be informed. And that is why the first amendment was written the way it was—as a direct prohibition against governmental interference with five basic freedoms: Of religion, of speech, of press, of assembly, of redress.

Let us not brush away the wisdom of the men who wrote the Constitution and its Bill of Rights.

But it is easy to do that. Look at what the Government has done already through abridging the freedom of the press by imposing controls over the content of radio and television broadcasts.

If there is any risk in the belief that, in Jefferson's words:

> . . . the people . . . may safely be trusted to hear everything true and false, and to form a correct judgment.

And there is—then it is the risk inherent in any free society. But a free society is not the safest way of life. It is only the best.

Mr. President, for the reasons that I have been discussing, I shall continue my efforts to secure enactment of S. 22, so that not only radio—but all broadcasters—may be freed from the burdens of the fairness doctrine and the equal-time rule.

MODEST STEP

But if I am right in pursuing the goals sought to be realized through enactment of S. 22, then surely it is proper to ask that we take this more modest step of abolishing the fairness doctrine and the equal-time rule in the case of radio broadcasting.

And that is what can be achieved through approval of the amendment that I offer today.

Am I pursuing a hopeless cause through the introduction of this amendment? Some may think so.

And I am the first to admit that this fight has been a long one. I have been trying since 1975 to get Senate approval of my bill to abolish the fairness doctrine and the equal-time rule for both radio and television.

Earlier this year the Senate Communications Subcommittee held hearings on this bill. But nothing further has happened. The measure still languishes in subcommittee.

I confess, too, that I am partly to blame for this state of affairs. After all, I had a part in the establishment of the fairness doctrine. I was one of its early supporters.

But since then I have seen the light. And I hope my colleagues will join me in this new vision and this new insight.

Mr. President, I do not stand alone in wanting to take this limited but important step toward giving fuller meaning to our first amendment's guarantee of freedom of the press.

The same concept is included as a part of the Communications Act "rewrite" that was introduced earlier this year in the House of Representatives by Congressman LIONEL VAN DEERLIN, the chairman of the House Communications Subcommittee, and that unit's ranking Republican, Congressman LOU FREY.

Mr. President, this is coming. The Senate is going to have to face it. The House is going to have to face it. There are those in the committee on the House side that favor this kind of freedom for the communications media.

SCARCITY ARGUMENT

Chairman VAN DEERLIN has stressed—and quite rightly, in my view—that the so-called "scarcity argument" can no longer be used in attempting to justify continuing governmental control over radio programing content.

Mr. President, the hard facts speak for themselves in this regard. On January 1, 1977, the latest date for which figures are available, there were 8,173 radio stations on the air in this country. This compares with a total of 2,946 radio stations on the air for that same date in 1952, an increase of over 177 percent.

And contrast these figures with similar data for newspapers in this country. In 1977, we had only 2,412 newspapers in the United States; 25 years earlier, in 1952, the figure was 2,331.

Let us look, too, at related comparative figures for two cities in the United States—Milwaukee and New York.

In Milwaukee, at the end of 1977, there were 24 radio stations on the air—21 commercial and 3 public. And contrast this with the two newspapers that were being published in Milwaukee on that same date.

In New York City, there were, at the end of 1977, 40 radio stations operating—33 commercial and 7 public—as compared with 10 newspapers.

These same kinds of relative figures are repeated in city after city throughout the United States.

MULTIPLICITY OF VOICES

In view of this multiplicity of voices that radio provides, how can a "scarcity argument" be reasonably offered as a sound basis for restrictions like the fairness doctrine and equal-time rule?

These restrictions are even more ill-conceived when we stop to realize that our Nation's citizens receive information and ideas not only from radio but also from a multitude of other sources, including television, newspapers, books, magazines, newsletters, educational institutions, private and public organizations, and many more.

The pluralism reflected in these competing sources of news and views is the best protection we can have against possible "abuses" by radio broadcasters.

And once a democratic society gives up on this kind of protection—and looks instead to Government "protection"—the freedoms we all enjoy are put in jeopardy.

Mr. President, having said all this, I am going to withdraw my amendment at this time. The bill presently before us—S. 2883—may not, in the view of some, be the most appropriate vehicle through which to attempt to achieve what my amendment seeks.

I do not want to see the important issue that lies at the heart of my amendment obscured by procedural diversions that might accompany its introduction at this point.

But I do want my colleagues to know that I shall continue to pursue the vital aims of this amendment—and other related efforts on behalf of fuller first amendment freedoms for the broadcast media—whenever the opportunity arises.

Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn.

Mr. HOLLINGS. Mr. President, I learned before I ever saw public service that once a judge has ruled with you, you never continue to argue the case.

The PRESIDING OFFICER. On what amendment is the Senator speaking?

Mr. HOLLINGS. I will take time on the bill to answer my friend on a most important doctrine even though the amendment has been withdrawn; because, yes, we will be here fighting just as vigorously on the other side, because I feel, as a new student of this field, that there is no question about the efficacy and wisdom of a fairness doctrine.

The Senator starts out by saying, "Wait a minute, you can't insulate the public radio or public TV from the control of Congress, from the control of the President; you have to take things right on down; you have to admit it is being controlled, and continually, by the doctrine."

Then what is the point of a fairness doctrine to try to protect you from political controls? It is a non sequitur. If you follow the Senator's argument, the only thing that has really faced us at all, and established credibility, and continues to get support for public broadcast media generally, is the fairness doctrine.

This started out some years back, after the Radio Act was passed in 1912, and there is a reference to it in my general statement, which I ask to have inserted in the RECORD at this point.

WHAT S. 22 WOULD DO

S. 22 would eliminate the ban on editorializing by public broadcasting stations and reveal the equal time provision for candidates for public office. It would also wipe out all of the Commission's other powers to review the content of programing broadcast by commercial

stations. The effects were summarized by Robert L. Shayon in his testimony at the 1975 fairness doctrine hearings, which dealt with an earlier incarnation of the Proxmire bill containing language similar to this year's bill:

Now, if the Congress passes this bill, the FCC would be precluded from comparing rival proposals for program service both in applications for construction permits or from considering past and promised performance in license renewal applications. Program service could not be considered in petitions to deny or in "jump applications." The entire process of ascertainment . . . would be thrown out. The Commission could not require information from licensees about categories of programs nor could it specify percentages for either adequate, substantial or superior service. A licensee could with impunity drop all news and public affairs programs, all local programs, broadcast his or her partisan political views and make personal attacks without according anyone the right to reply or the public the opportunity to hearing opposing views. A television station could put on an hour of children's programs on Saturday morning and devote as much as 30 minutes of that hour to commercials addressed to children. . . . (I)t would throw the whole question of obscenity into the criminal statutes. . . . The Commission would have no discretion or review of content including four-letter words.

A POSSIBLE HIDDEN AGENDA: ALTERNATIVES TO THE FAIRNESS DOCTRINE

The fairness doctrine is tolerated and even embraced by some broadcasters because they believe that its demise would precipitate the passage of more draconian measures designed to break up the concentration of control in the broadcasting industry.

William Sheehan, president of ABC News, candidly admitted that strategy in the 1975 hearings:

One difficulty we have with the outright repeal proposal is that there is no assurance that if the fairness doctrine were taken off the books, it would not be replaced with a new and more onerous obligation. . . . The large vacuum which some perceive would result from a complete elimination of the fairness doctrine would likely lend renewed credence to those who have argued for a system of mandatory broadcast access. In our view, such a system would be wrong for the public, and unworkable for the broadcaster.

Not only would the repeal generate political pressures for mandatory access and related measures; it might give the courts a plausible basis for imposing such measures on constitutional grounds. Henry Geller has compared the broadcast license to public auditoriums to find such a requirement:

Suppose the Government were to license the use of the main park in Jackson to one party, the White Citizens Council, for three years, and allow no one else to use that park for parades, rallies, etc.; and suppose black groups sought the right to present their parades or rallies. Clearly they would succeed in striking down the above governmental action as unconstitutional.

Public interest groups have supported the doctrine as a second-best choice; many have stated that they would prefer to replace the fairness concept with more basic changes. Thus, Frank Lloyd, representing the Citizens Communications Center at the 1975 hearings, stated that his organization had—

Consistently attempted to foster alternatives * * *. We have argued for structural, economic, and other objective, content-neutral forms of regulation that would better insure the first amendment goals of diversification of viewpoints and increased public access. We have fought for these alternatives, arguing that they pose less risk than existing, potentially subjective forms of FCC regulation.

Lloyd then listed a series of structural reforms which he had advocated. Most of them involved an antitrust approach designed to break up concentrations of ownership. They included:

The Prime Time Access Rule, now a part of FCC regulations, which bans the networks from using 1 of the 4 prime-time station hours each night.

Divestiture of local newspaper-television-radio crossownership, partially implemented in FCC rules and subject to possible expansion by the courts.

Elimination of coowned AM and FM radio stations, still allowed under present regulations.

Enforcement of the "top 50 markets" policy. Now under review by the Commission, it would prevent broadcasters from acquiring more than three television stations—or two VHF stations—in the top 50 cities.

Breakup of clear channel radio stations into numerous local outlets.

Drop-in of additional VHF channels and improvement of UHF television.

Elimination of restrictions on pay cable, which has since occurred in the Home Box Office case.

Elimination of broadcast-cable crossownership, currently imposed by FCC rules.

Elimination of newspaper-cable crossownership, already in effect under a rule affecting acquisitions and subject to expansion under a court challenge which could apply it to existing crossownerships.

In addition to his antitrust measures, Lloyd supported a mandatory access concept proposed by the Committee for Open Media. In a subsequent 1977 decision, *National Citizens Committee for Broadcasting* v. *FCC*, 41 RR 2d 1311, the District of Columbia Circuit Court of Appeals directed the Commission to reconsider the COM proposal, which would establish a presumptive compliance with the fairness doctrine for stations which set aside 1 hour per week for public access. Half of the time would be opened up on a first-come-first-served basis, and the other half would be offered to representative spokespersons selected by the licensee.

The most prestigious proponent of structural reforms has been David L. Bazelon, who in 1975 was chief judge of the District of Columbia Circuit Court of Appeals. In a speech that year at Duke University, Bazelon attacked the main rationale used to justify the fairness doctrine—scarcity of spectrum.

(I)t is important to distinguish between the power gained by oligopoly in the production of news and entertainment programming for radio and TV and the power inherent in the medium. . . . The problem is not "scarcity" . . . but rather simple, old-fashioned concentration of economic power and ownership of TV facilities. . . . (T)he major concentration is caused by the dominance of the networks in the programming field. The dominance of the networks makes enforcement of diversification of ownership policies an insufficient effort to deal with the concentration of economic power in TV programming.

Bazelon then went on to propose a number of policies to increase the diversity of programing outlets:

The first step is to limit the networks' ability to sell blocks of programming to the licensees and to increase the feasibility of new networks. Second, the Commission should act to encourage the development of cable, in both pay and nonpay forms, and the further development of UHF. . . . (T)here should be provision for common carrier public stations or common carrier time periods on regular public stations, to which access may be had by lottery or through bidding. . . . A fourth strategy would be to . . . increase the viability of minority taste programming by introducing some form of subscriber TV service.

Proposals like those advocated by Bazelon and Lloyd raise questions of the possible consequences of a repeal of the fairness doctrine and related measures like the equal time rule. A repeal could generate strong political pressure for structural reforms, and arguments that mandatory access in such a context should be viewed as a constitutional requirement by the courts.

LEGAL HISTORY OF THE FAIRNESS DOCTRINE

This section summarizes seriatim the major legal developments leading up to and articulating the fairness doctrine.

The Federal Government began general regulation of the spectrum when Congress passed the Radio Act of 1912, which forbade operation of radio transmitters without a license from the Secretary of Commerce and Labor. Problems of interference were rare prior to the first World War, but military research accelerated hardware development. The first standard broadcast stations were established in 1921, and by 1923 there were several hundred such stations throughout the country. In 1924 the Secretary of Commerce established a policy of assigning specified frequencies to particular stations. When the number of applicants exceeded the number of available frequencies. the Secretary initiated a policy of dividing frequencies into time segments, limiting the hours of operation of stations to enable several stations to use the same channel.

Court decisions restricted the Secretary's power. In *Hoover* v. *Intercity Radio Co.*, 286 F. 1003, the District of Columbia Circuit Court of Appeals held that the Secretary had no statutory authority to deny a license to an otherwise legally qualified applicant on the ground that the proposed station would interfere with existing private or Government stations. In 1926 an Illinois district court held that the Secretary had no power to impose restrictions as to frequency, power, and hours of operation, and that a station's use of a frequency not assigned to it was not a violation of the Radio Act of 1912. *United States* v. *Zenith Radio Corp.*, 12 F. 2d 614. Soon thereafter the Acting Attorney General issued an opinion stating his agreement with the district court, and the next day the Secretary of Commerce announced that he

was withdrawing from attempts to regulate radio transmission.

The resulting chaos led to passage of the Radio Act of 1927, which created the Federal Radio Commission. Its main provisions were later incorporated in the Communications Act of 1934, including power to license in the "public interest, convenience, or necessity." Section 3(h) expressly provided, and still provides, that:

A person engaged in radio broadcasting shall not . . . be deemed a common carrier.

Early decisions laid the groundwork for the fairness doctrine. In 1929 the Federal Radio Commission held that the "public interest requires ample play for the free and fair competition of opposing views and the commission believes that the principle applies * * * to all discussion of importance to the public." Great Lakes Broadcasting Co., 3 F.R.C. Ann. Rep. 32, 33 (1929), rev'd on other grounds, 59 App. D.C. 197, 37 F. 2d 993, cert. dismissed, 281 U.S. 706 (1930). For an extended period the licensee was obliged not only to cover and to cover fairly the views of others, but also to refrain from expressing his own personal views. Mayflower Broadcasting Corp., 8 F.C.C. 333 (1940).

The Commission made its first explicit statement of the fairness doctrine in its 1949 report on editorializing by broadcast licensees. The report repealed the ban on editorializing and established a twofold requirement, first, that the broadcaster cover important issues, and second, that it provide coverage of various viewpoints on the controversial issues it did cover.

Congress endorsed the doctrine in 1959. While amending the statutory requirement of section 315's equal time provision to except certain appearances of candidates on news programs, it added language stating that the change constituted no exception "from the obligation imposed upon them under this act to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance." Act of September 14, 1959, 1, 73 Stat. 557, amending 47 U.S.C. 315 (a). The language which survived in the statute is comparatively mild compared to the language initially proposed by Senator PROXMIRE, which read as follows:

(B)ut nothing in this sentence shall be construed as changing the basic intent of Congress with respect to the provisions of this act, which recognizes that television and radio frequencies are in the public domain, that the license to operate in such frequencies requires operation in the public interest, and that in newscasts, news interviews, news documentaries, on-the-spot coverage of news events, and panel discussions, all sides of public controversies shall be given as equal an opportunity to be heard as is practically possible. 105 Cong. Rec. 14457.

The Proxmire amendment was altered in conference and survived in the language cited above.

The doctrine began to take a more definite shape in 1963, when the FCC sent a letter to the Cullman Broadcasting Co. of Cullman, Ala., ordering it to play a tape sent to it by the Citizens Committee for a Nuclear Test Ban Treaty. In language which was often cited in later decisions, the Commission said:

Where a licensee permits the use of its facilities for the expression of views on controversial local or national issues of public importance such as the nuclear weapons test ban treaty, he must afford reasonable opportunities for the presentation of contrasting views by spokesmen for other responsible groups. . . . (T)he public's paramount right to hear opposing views of controversial issues of public importance cannot be nullified by . . . the inability of the licensee to obtain paid sponsorship of the broadcast time. . . .

The background of the Cullman letter did not become public knowledge until 1975, when Fred Friendly published an article on the fairness doctrine in the New York Times magazine. It stated:

It was in 1963 that the doctrine began to change from a vague public-interest policy to an instrument of politics and inhibition. That year, President Kennedy worried that one of the noblest goals of his Administration—the nuclear test-ban treaty with the Soviet Union—was being jeopardized by right-wing commentators who denounced the treaty and argued against its ratification. His political strategists monitored stations broadcasting such commentary and then prompted test-ban treaty advocates to demand time to state their side of the issue, citing the fairness doctrine in their letters to the stations involved. The campaign resulted in a dramatic number of broadcasts favoring the treaty in areas of the country where such views might not otherwise have been heard. The White House believed this political use of the fairness doctrine had made an important contribution to the eventual Senate vote to ratify.

The most famous fairness doctrine case came in 1969—*Red Lion Broadcasting Co.* v. *F.C.C.*, 395 U.S. 367. The Red Lion decision actually involved two cases which were consolidated for purposes of review. In one of them, the FCC had ordered the Red Lion Broadcasting Co. to offer reply time following a personal attack on a journalist named Fred J. Cook. The attack had come during a 15-minute broadcast by the Reverend Billy James Hargis as part of a "Christian Crusade" series. Hargis attacked Cook's latest book, "Goldwater: Extremist on the Right," and claimed by that Cook had been fired by a newspaper for making false charges against city officials; that Cook had then worked for a Communist-affiliated publication; that he had defended Alger Hiss and attacked J. Edgar Hoover and the Central Intelligence Agency; and that he had now written a "book to smear and destroy Barry Goldwater."

The Supreme Court upheld the FCC's directive to provide reply time for Cook, and it also sustained the Commission in the face of a challenge to its personal attack rules, adopted after the Red Lion litigation was begun. Those rules had been challenged in a separate action by the Radio Television News Directors Association.

Fred Friendly's New York Times Magazine article in 1975 created a minor scandal and played a significant role in that year's fairness doctrine hearings with its revelations about the background of the Red Lion case:

Fred Cook, it turns out, did not bring his action against WGCB simply as an offended private citizen; instead, his actions grew out of a politically motivated campaign to use the fairness doctrine to harass stations airing right-wing commentary, an effort inspired and managed by the White House and the Democratic National Committee and financed in large measure with political contributions.

Emboldened by the Red Lion opinion, the commission revoked the license of a station in Media, Pa., which was indirectly controlled by the Reverend Carl McIntire. *Brandywine-Main Line Radio* v. *FCC*, 473 F.2d 16 (1972) upheld the decision. The station had refused to offer reply time after broadcasting statements by McIntire which were said to be "deliberate distortions of the facts relating to various public issues such as race relations, religious unity, foreign aid, et cetera." The minister was also said to have made "'intemperate' attacks on other religious denominations and leaders, various organizations, governmental agencies, political figures, and international organizations."

In *Columbia Broadcasting System* v. *Democratic National Committee*, 412 U.S. 94 (1973), the Supreme Court overturned a lower court ruling which might have provided a mandatory access alternative to the fairness principle. The decision upheld an FCC ruling that television stations were free to impose a flat ban on all paid public issue announcements. The Burger opinion stated that Congress had consistently rejected efforts to impose on broadcasters a "common carrier" right of access for all persons wishing to speak out on public issues. The chief justice emphasized that the Commission was—

Entitled to take into account the reality that in a very real sense listeners and viewers constitute a "captive audience." . . . The "captive" nature of the broadcast audience was recognized as early as 1924, when Commerce Secretary Hoover remarked at the Fourth National Radio Conference that "the radio listener does not have the same option that the reader of publications has—to ignore advertising in which he is not interested—and he may resent its invasion of his set." *Id.* at 127–128.

The Court nevertheless held open the possibility that:

(c) Conceivably at some future date Congress or the Commission—or the broadcasters—may devise some kind of limited right of access that is both practicable and desirable. *Id.* at 131.

Twenty-five years after its first report dealing with the fairness doctrine, the Commission issued a second fairness report in 1974. The main accomplishment of that document was to reverse the earlier direction set by the FCC in the 1960's. In a decision which was upheld in *Banzhaf* v. *F.C.C.*, 405 F. 2d 1082 (D.C. Cir. 1968), the Commission had issued a ruling requiring radio and television station which carried cigarette advertising to devote a significant amount of broadcast time to presenting the case against cigarette smoking. Though it later sought to distinguish cigarettes as a special case, the Commission found itself in trouble when the District of Columbia Circuit Court of Appeals refused to accept the limitation and found no logical basis on which to distinguish advertisements for high-powered auto-

mobiles. The excessive pollution caused by such automobiles was said to constitute a public health threat. *Friends of the Earth* v. *FCC*, 449 F. 2d 1164 (D.C. Cir. 1971). In its 1974 fairness report, the Commission's response was to retract the Banzhaf decision and limit the doctrine's application to commercials "which are devoted in an obvious and meaningful way to the discussion of public issues."

A case which is often mentioned in discussions of the fairness doctrine is *Miami Herald Publishing Co.* v. *Tornillo*, 418 U.S. 241 (1974). That decision struck down a Florida statute which sought to provide a right of access to persons attacked in newspapers.

The last major case dealing with the doctrine was National Broadcasting Co. against FCC, a 1974 D.C. Circuit ruling popularly dubbed Pensions.[1] In it the court reversed a Commission ruling that NBC had failed to present both sides of a controversial public issue, the quality of private employee pension plans. The FCC had acted in response to a petition by Accuracy in Media, Inc., which complained about the allegedly one-sided presentation concluding with the following summation by narrator Edwin Newman:

Our own conclusion about all this, is that it is almost inconceivable that this enormous thing has been allowed to grow up with so little understanding of it and with so little protection and such uneven results for those involved.

The situation, as we've seen it, is deplorable.

The Court of Appeals reversed the Commission, concluding that NBC had acted reasonably and in good faith (516 F.2d at 1125–32).

CURRENT FCC RULES IMPLEMENTING THE DOCTRINE

Several Commission regulations give detailed outline to the fairness doctrine. They include:

The personal attack rule, section 73.123 (a) and (b), which read as follows:

(a) When, during the presentation of views on a controversial issue of public importance, an attack is made upon the honesty, character, integrity or like personal qualities of an identified person or group, the licensee shall, within a reasonable time and in no event later than one week after the attack, transmit to the person or group attacked (1) notification of the date, time and identification of the broadcast; (2) a script or tape (or an accurate summary if a script or tape is not available) of the attack; and (3) an offer of a reasonable opportuntiy to respond over the licensee's facilities

(b) The provisions of paragraph (a) of this section shall not be applicable (i) to attacks on foreign groups or foreign public figures; (ii) to personal attacks which are made by legally qualified candidates, their authorized spokesmen, or those associated with them in the campaign, or other such candidates, their authorized spokesmen, or persons associated with the candidates in the campaign; and (iii) to bona fide newscasts, bona fide news interviews and on-the-spot coverage of a bona fide news event (including commentary or analysis contained in the foregoing programs, but the provisions of paragraph (a) shall be applicable to editorials of the licensee).

This section applies to AM radio.

Sections 73.300, 73.598, 73.679, and 76.209 apply identical personal attack rules to commercial FM, noncommercial FM, television, and origination cablecasting, respectively. All track the language of the AM provision cited above.

The fairness doctrine has not been further delineated in FCC rules. Commission practice since 1962 has been to review alleged violations on a case-by-case basis, without waiting until the station comes up for a license renewal. It has not attempted to impose any requirements governing the precise amount of time accorded to different sides of controversial issues under the fairness doctrine.

The equal time provision, which applies to political candidates, is separate and distinct from the fairness doctrine. The fairness doctrine has not been interpreted as requiring equal time for opposing viewpoints.

As I say, back in 1929, Mr. President, the Federal Radio Commission held:

The public interest requires ample play for the free and fair competition of opposing views.

I repeat that. This is back in 1929, this is not the fairness doctrine. This is what was the thinking back in President Hoover's day, when he was Secretary of Commerce just before he became President:

The public interest requires ample play for the free and fair competition of opposing views, and the Commission believes that the principle applies. . . . to all discussions of importance to the public.

There you are. Adding up the first amendment rights going back to Jefferson, let us remember it was Jefferson who said:

As between a free newspaper and a free government, I would select a free newspaper.

He knew which could control the most.

He knew, as we all do now, that it was not "We, the press" or "We, the Congress," or "We, the Supreme Court," but, as stated in the preamble to the Constitution, "We the people of the United States, in order to form a more perfect union," and so on.

Let us look and find out whose first amendment rights, under that Constitution, are to be protected.

The people's rights. Because the distinguished presiding officer, myself, the Senator from Wisconsin, and everyone else in here, presumably has no radio station rights or franchise. But we certainly have airwaves that belong to us. Those airwaves belong to the people of the United States, and, admittedly are to be used for the public benefit. For that reason we instituted a franchise system of licensing after hearing, and the licenses are given that exclusive franchise, with certain duties, under a public trust.

Oh, I have been to some of the broadcasters' conventions, and I have heard talk about the fairness doctrine, and they really begin to think they own the public's airwaves, that they have got a right. You know, everyone has a right to everything: A right to trial, a right to a lawyer—we cannot finance it all. It seems they have a right, not to equality of opportunity, but to equality of results; "I have a first amendment freedom of speech right."

If we were to assume that to be the case, heavens above, you would assume no one could have access to the airwaves. You would assume as our friend Henry Geller did, that they could come on the air, as just like the case of a public park.

I think he was alluding to a particular case at the time, that you would have a public park in a town, and you would say no one else in that town could use that public park to demonstrate or parade except the Ku Klux Klan. How long would that last? I think they tried that once here.

Notwithstanding what we are doing with respect to 8,000 or 9,000, a little less than 10,000 broadcast and TV station owners, what about the two hundred twenty million nine hundred ninety some thousand other Americans? Are not we the group? Are not we the people, the ones who are really guaranteed, with the fairness doctrine, the first amendment right?

That is the freedom of speech. Where have we placed ourselves as a people? Let me refer, if you please, to Justice Burger under the Columbia Radio Broadcasting System case in 1973. The Chief Justice emphasized that the Commission was entitled to take into account the reality that in a very real sense listeners and viewers—that is, we the people—constitute a captive audience.

The captive nature of the broadcast audience was recognized as early as 1924, to quote Justice Burger, "When Commerce Secretary Hoover remarked at the Fourth National Radio Conference that, 'The radio listener does not have the same option that the reader of publications has, to ignore advertising in which he is not interested, and he may resent its invasion of his set.' " He is in the captive audience.

We the people have the first amendment. The Constitution is for we the people of the United States, not we the 10,000 licensees. Do not try to slough this off and compare it to newspapers. Physically speaking, there is not any more spectrum in certain areas to allocate. All you need for a new newspaper is money. And in some cases there are eleemosynary publications which are mailed without charge. I can get a press and grind out anything and get it around. I can always get a newspaper. Do not worry about that. Of course, the great dangers are the big mergers and buy-ups, according to the program the Senator from Wisconsin was quoting.

The truth is that in the large cities the spectrum is overallocated. You cannot get any more spectrum for broadcast without major changes in present allocation policy. You can go to the rural areas, technically, but you cannot take from those areas and increase in saturated areas.

[1] 516 F.2d 1101, *reversal vacated & rehearing en banc granted*, 516 F.2d 1155, *rehearing en banc vacated*, 516 F.2d 1156, *second reversal vacated as moot & remanded with direction to vacate initial order and dismiss complaint*, 516 F.2d 1180 (D.C. Cir. 1974).

Incidentally, under the conference report that we agreed to just last week with respect to the Federal Communications Commission appropriations, increased the appropriations to try to technically redesign sets and improve the UHF spectrum channels so as to increase that portion of the spectrum. That is fine, but that is the difference.

In the newspaper you can print what you want to and others will buy or not buy it. They are not captives.

Recognizably, once you turn on a set, and we all have them, radio being what we are talking about, then we are as Chief Justice Berger has said, "a captive audience."

The fairness doctrine goes to just exactly what the Senator is concerned about, first amendment rights, only he speaks for first amendment rights for some 10,000 at most. Actually, if you want to get technical there, there are only 933 in public radio broadcasting. He is talking, if you please, in his amendment, which was proposed and withdrawn, for 933 Americans as composed to the almost 220 million that I speak for, the people in general.

Mr. PROXMIRE. Will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. PROXMIRE. I am delighted the distinguished Senator from South Carolina has chosen to respond to this. I was afraid he would not. I am very impressed. He always is a very brilliant speaker, very logical, and very persuasive. I do hope with his quick mind and his great ability he does not take as long as I did to change my mind.

As he knows, I was one of the principal authors of the fairness doctrine back in 1958. How wrong I was. It took me a while to learn, but the Senator from South Carolina is a quicker learner.

Mr. HOLLINGS. With that remark, Mr. President, the Senator from South Carolina now is ready to move for third reading.

Mr. PROXMIRE. May I tell the distinguished Senator that, of course, what he has done is he has said he does not want to talk about just the rights of a few thousand radio station owners or a few hundred television station owners, but it is the right of the people which counts.

How right he is. That is exactly what the Founding Fathers had in mind when they wrote freedom of the press as the first amendment to the Constitution. They were not thinking of the owners of the newspapers. They were thinking about the people who get the newspapers, who read the newspapers, who rely on the newspapers for news.

No matter how my friend from South Carolina squirms, no matter how he moves, no matter what magic he weaves with his oratory, he cannot escape from the fact that the newspapers of this country have been free of censorship; they have not had an FCC guiding them. They have not had to be licensed. They have been free.

What have we gotten out of that? Greatly improved newspapers, a greatly improved press. We have had freedom of Government domination or censor. I have cited specific instance after specific instance of Democratic and Republican Presidents who, to some extent, have tried, and succeeded to some extent, in dominating newspapers.

Furthermore, I think the Senator from South Carolina should recognize this is not 1929 which he quotes, but this is 1978, a time when the technology has transformed electronic media. We now have far more, as I pointed out—and I would like him to meet this argument—far more radio stations available, far more easily and cheaply available, than newspapers. We have a situation in which the people get their news primarily not from newspapers but from radio and television.

So if the Senator really believes in freedom of the press, if he believes in the competition of ideas, if he believes what our Founding Fathers found was necessary, that you have to protect the people from the Government itself by prohibiting the Government from interference or interfering with the freedom of the newspapers and protect the people in doing so, then I say you should apply that to radio and television and do as the House subcommittee itself is doing, or the direction in which they are moving, exempt radio from the fairness doctrine and the equal time rule. Then you have real freedom, real competition, and a far more vigorous electronic media.

Mr. HOLLINGS. If the Senator is going to quote the Founding Fathers, let us agree they never heard of a radio spectrum. But where a speaker can enlarge upon his own speech, transmitting it in a controlled fashion, namely on radio waves, air waves—to broadcast it—then your licensing becomes necessary to protect the spectrum. For the few, for the benefit of the many we have that licensing scheme, and invest licensees with the public trust. It sometimes seems that they do not want that public trust once they have it, but you ought to hear them when they apply for a initial license. We do not want to go into all of that. The fact is they do have a public trust; they do have certain responsibilities arising out of that trust.

If the Senator is right about his analogy, there is nothing due the minorities nothing due the handicapped, nothing due with respect to sex discrimination. I am sure the Senator, as a leader in civil rights, would not want to say, since the Founding Fathers did not have any blacks in radio stations when they passed the Constitution, they would never get any. I am confident of that.

What he is trying to say now is once a broadcaster has received that license he then does not owe any more duties to the people who gave him that privilege to broadcast. I am saying that he does. I am saying one of his duties is to provide balanced treatment to the American people on controversial and important issues. That has been a finding substantiated by this Congress and the courts under the Constitution. I think it is sound.

Mr. PROXMIRE. I say to my good friend, take a chance on freedom. It has worked for the American newspapers brilliantly. Our newspapers have vastly improved. Our people are more informed because the newspapers have done a better job. The job they did on Watergate was probably the finest job newspapers ever did in this country. I think we all would have to agree they are more competitive, more comprehensive, than ever before. If you give that kind of freedom to radio and television there is no reason they should not develop along the same lines with exactly the same kind of free competition we believe in in the economic marketplace. I say apply it to the area of good ideas.

Mr. HOLLINGS. Very well. Mr. President, are there any further amendments?

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 903, H.R. 12605.

I am replacing the Senate bill with the House bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 12605) to amend the Communications Act of 1934 to extend and improve the provisions of such Act relating to long-term financing for the Corporation for Public Broadcasting and relating to certain grant programs for public telecommunications, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the bill.

Mr. HOLLINGS. Mr. President, I move to strike all after the enacting clause of H.R. 12605 and that the text of S. 2883, as amended, be substituted for the text of H.R. 12605 as reported and as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from South Carolina.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 12605) was passed.

Mr. HOLLINGS. I move to reconsider the vote by which the bill was passed.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of H.R. 12605, as it passed the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that consideration of S. 2883 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I move that the Senate insist on its amendments to H.R. 12605, as passed by the Senate, and request a conference thereon with the House of Representatives and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer (Mr. PAUL G. HATFIELD) appointed Mr. CANNON, Mr. HOLLINGS, Mr. MAGNUSON, Mr. GRIFFIN, and Mr. SCHMITT conferees on the part of the Senate.

Mr. HOLLINGS. Mr. President, I thank my distinguished colleague from Wisconsin for his interest, his indulgence, and his courtesy in this matter, and for his consideration. I thank particularly the Presiding Officer and the Senator from Alaska, who has been leading the way.

NATURAL GAS POLICY ACT OF 1978—CONFERENCE REPORT

Mr. PROXMIRE. Mr. President, what is the parliamentary situation now?

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the conference report on H.R. 5289.

The Senate resumed consideration of the conference report.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, is there any time limitation?

The PRESIDING OFFICER. There is no time limitation.

THE GREAT NAVY SHIPBUILDING BAILOUT

Mr. PROXMIRE. Mr. President, I shall speak as briefly as I can, but I think this is an extremely important matter that I am taking up tonight and I must call it to the attention of the Senate because of the time involved.

When the Senate adjourns tonight, the bell will have tolled on the payment of a $359 million bailout on one defense contractor, and by the end of the Friday session, the bell will have tolled on a $182 million bailout to another Navy contractor. A total of $541 million in bailouts will have been tacitly approved by the Senate.

These bailouts are incorrectly referred to as "settlements" of Navy shipbuilding claims disputes. But they are not settlements at all. The $541 million is being handed over to the shipbuilders as sweeteners above and beyond what the Navy experts found were owing to the contractors for their claims.

The Navy experts found General Dynamics' claim of $544 million is worth $125 million. In other words, they found that it is worth less than one-fourth of what they claimed.

I might point out that this Navy Board that made this finding was a competent, expert, professional board, whose findings have not been challenged. They found that Litton's claim of $1.1 billion is worth $312 million or less than a third of what they claimed, about 30 percent. If the Navy had settled the claims on the basis of the Navy experts' findings, a fair and equitable settlement could have been achieved. Instead, the Secretary of the Navy took the findings of his experts and added in lump sum payments totaling $541 million. As a result, the taxpayer is being forced to pay $978 million for claims which the Navy experts found are worth only $437 million.

Uncle Sugar—in this case, Uncle Sap—is handing over to the two defense contractors $541 million in "financial relief."

The distinguished cartoonist for the Washington Post, Herblock, was so outraged that he drew these two cartoons, which I have here in the back of the Chamber. The cartoons point to the marvelous position that defense contractors find themselves in. What they do is say to the Pentagon, "Pay off or we will stop production and you will not get your ships." As Herblock points out in the cartoon on the far side, the Pentagon waves its white flag and caves in—gives in.

I want to point out in detail how outrageous this settlement is. Before I do that, I call attention to the other cartoon by Herblock, "Arrivals and Departures," pointing out how the President of the United States, by vetoing the aircraft carrier, saved hundreds of millions of dollars. However, we turn around and ship out those hundreds of millions of dollars—not to get any hard equipment, not to strengthen our military force, but just as a payoff to incompetent, inefficient contractors above their contracts and above their value in claims.

Navy Secretary Claytor says, in defense of these bailouts, that they will avoid "years of litigation, with a substantial risk of greater cost to the Government as well as disruption of vital Navy shipbuilding programs."

In addition, Claytor says that the large losses which the two shipbuilders are being forced to accept will discourage other contractors from attempting "to obtain the kind of relief that these settlements provide for." Let us take a look at each of these justifications. First, the argument that the two contractors are suffering large losses.

Mr. President, the contracts that are the basis for the claims in question will not be completed for several years. Many of the ships in question are still under construction and will not be delivered for months and years to come. Thus, we are talking about hypothetical losses which the shipbuilders may realize when the contracts are fully performed. There may, in fact, be no such losses, or they may be far below present estimates.

As I point out, if the estimated losses, which only the contractor has estimated—the Navy has not made an estimate, only the contractor has—if they have, which they may very well have, exaggerated these losses, then they can lose money. They can lose over $100 million, for example, and make a nice fat profit on the loss. That is how bad these contracts are.

The hypothetical losses can even be transformed into profits at the taxpayers' expense.

But even if there are losses, the bailouts are unjustified. Where is it written that the taxpayer must spend his money to reduce or eliminate losses incurred by defense contractors?

The two shipbuilders have experienced large cost overruns on their ship contracts. The cost overruns are the cause of the claims. Why did the cost overruns occur and who should be responsible for them?

These are precisely the questions the Navy experts addressed when they examined the claims. They concluded, as I indicated earlier, that most of the responsibility is the shipbuilders'. They rejected most of the shipbuilders' claims. The reason they rejected most of their claims is that the shipbuilders themselves are responsible for most of the cost overruns.

There is ample evidence that the cost overruns occurred because of the incompetence and mismanagement of the two defense contractors.

We had hearings on this before the Joint Economic Committee. We have had hearings over the last 2 years on this. We have documented this incompetence. We have had people from the shipyards come in and testify to it. Management personnel has done so. Labor personnel has done so. The incompetence is outrageous and they do not like it.

The bailouts are thus a huge subsidy of waste, incompetence and inefficiency. But worse—much worse—they are a precedent that could invite a Niagara of waste, incompetence and inefficiency.

NATIONAL SECURITY

The concern has been created in the minds of many Senators that without the bailouts the Navy may not get the ships that are vital to the national security. This is a legitimate concern raised by the actions of the Navy. After all, when the Navy quakes in its boots and raises a white flag—as Herblock has depicted in his dramatic cartoon—every time the shipbuilder threatens to shut down unless its demands are met, we are entitled to question whether the ships will be built.

But I asked this question directly to Secretary Claytor in a hearing less than 2 weeks ago. On September 8 I asked Claytor if the Navy was afraid that it would not get the ships unless these payments were made. Claytor said the Navy knew it could get the ships. Secretary Claytor testified that the construction of the ships would not be stopped.

Of course, the Navy can see to it that its ships are built. There is ample recourse through the courts and the law to obtain ships needed for national security.

In the few instances of threatened shutdowns by Navy shipbuilders in recent years, the Navy has obtained injunctions from the courts requiring construction to continue.

I challenged the Secretary of the Navy and the Assistant Secretary to cite me one case where they could not get the injunction. They could not, because there were not any.

Would the contractors go bankrupt if they were not bailed out by the Navy? The answer is no. The Secretary of the Navy has testified and the facts confirm the Navy's conviction that neither of these firms would go bankrupt if they

were not saved from their own mismanagement.

HUGE FIRMS CAN SURVIVE LOSSES

These firms are not little Mom and Pop stores.

Litton is the 69th largest industrial firm in the country. Last year it had sales of more than $3.4 billion—I repeat, $3.4 billion. It has more than $850 million in equity. It is doing so well that its stock is selling near its high for the year.

After this settlement was made, the Secretary said that we are imposing a tremendous loss on these people. The stock went up sharply and near to its high. It is now virtually at its high for the year. One of the highest levels ever.

General Dynamics is the 85th largest firm in the country. Last year its sales exceeded $2.9 billion—that is not a penny ante operation. Its equity is in excess of $730 million. So they have lots of equity. They can afford to take a loss. Like Litton, General Dynamics' stock is also selling near its high for the year, up around $90. It was down less than one-third of that earlier in the year.

It is true that if the estimates are accurate these firms will suffer serious losses. But this is precisely what the free enterprise system is supposed to be all about. If a firm is incompetent and wasteful, it is supposed to pay the price.

The Federal Government is not supposed to step in and babysit with them and pay them hundreds of millions—give them welfare checks, in effect. So neither firm will go bankrupt if they are not bailed out. And the shipbuilding will continue. It will not be interrupted because the Navy can go to court and require its continuation, and the Secretary of the Navy said he would do that.

Why then, this surrender of $541 million to pay off incompetence and waste?

NAVY FEARS LITIGATION

The reasons given by Secretary Claytor really boil down to one, that is to end the litigation.

Why is the Navy afraid of litigation? Litigation means the Navy fights for what it believes the Government has coming to it. It means the Government does not cave in. The Herblock cartoon, showing the Pentagon caving in to the shipbuilder's demands with the white flag of surrender being waved out of the window of the Pentagon to give in to the shipbuilders, because the shipbuilders wheel up—right off the bat— their big gun: The threat to stop production of ships, gives a vivid dramatization of what is happening. Secretary Claytor says he is not frightened by the shipbuilder's threat to stop production. He says he knows he will get the production. What really scares him enough to whip out the white flag seems to be the prospect of a court fight.

Why should it?

Mr. President, if ever there was a reason for having a court make a decision, here it is: No trial has been held. And a trial should be held. The facts should be adduced, in full. We do not know them. All we have is representations by the shipbuilders If the Navy and the contractors cannot agree to a settlement on the merits of the claims, the contractors have a right to appeal to the Armed Services Board of Contract Appeals. They also have the right to appeal an adverse decision of the Board to the courts. They have not done that. A court trial would determine who is legally responsible for the increased costs beyond any doubt. To date the record suggests that that responsibility is mostly the contractors. That is why the Navy experts rejected most of the claims. In spite of that, the Navy is about to pay the contractors $541 million over and above the value of their claims, the money of all the taxpayers listening here tonight.

NAVY EXPERT FINDING UNQUESTIONED

Consider the implications of this decision. No one has questioned the validity of the findings of the Navy experts. There is not one shred of evidence in the congressional hearings that the claims are worth a dime more than what the Navy experts say they are worth. It is significant to me that the contractors themselves have been silent on the matter.

The reason is clear. The Navy established two teams of professional contracts specialists to evaluate the claims. They spent many months examining the voluminous documentation submitted by General Dynamics and Litton. At the end of that process they concluded the claims were worth only a fraction of their face value. Those findings are unchallenged.

Instead, Secretary Claytor has come up with reasons to give the contractors the value of the claims plus more than one-half of a billion dollars. But when you scrutinize the Secretary's reasons they fall apart.

There is no realistic danger of a work stoppage. The Navy will get its ships with or without a bailout.

There is no danger of bankruptcy. The contractors are capable of taking their losses and surviving.

There is a possibility of protracted litigation. But what of it? The Government has gone to court before and it will go again. In this case the Navy should be willing to go to court to enforce its contractual rights.

ENFORCE CONTRACTUAL RIGHTS

The Navy will be better off and the taxpayers will be better off if the Navy's contractual rights are enforced. The alternative—the cave-in Secretary Claytor has arranged—is a disgrace and a waste of taxpayers' funds.

Mr. President, what is the average citizen to make of the Navy's actions? I described the situation in my August newsletter. Here is what one citizen, a resident of Sturgeon Bay, Wis., wrote:

> I just finished reading your August report concerning the Navy Shipbuilding Handouts!
>
> I am grateful for your continued concern and alertness to this rip-off of the American taxpayer. It's no wonder that a proposition 13 passed in California and that similar bills will pass in other states. What this says is that the taxpayers are concerned and are frustrated about what they can (or can't) do about it. I feel that daily we approach a taxpayers revolt type of situation because of this sort of goings-on.

Mr. President, this reaction is typical of the many communications I have received in recent weeks. I believe it typifies the sense that many citizens have that the Navy is not protecting their interests. The feeling has become widespread that the Navy kowtows to its contractors.

TRIAL NEEDED

Mr. President, if there were a million dollars at stake, a trial would be logical, but this is not $1 million, it is $541 million, that is a million dollars for every minute that has expired since 11:15 this morning. I think the presiding officer who sat so patiently through this may be moved by that concept. Every minute that has passed, there is another $1 million going out, since 11:15 this morning, to make up the $540 million we are talking about.

Mr. President, what is the matter with this country of ours? Where is the fight and fire that made this country free in 1776? Where is the sense of sacrifice, the raw courage that cost hundreds of thousands of deaths in the war between the States?

Where is the sense of idealism and gallant bravery that this country showed so nobly in World War I and World War II when American boys gave their lives to combat tyranny?

What has happened to the spirit of a country when the top ranking officials in the U.S. Navy fall on their knees quailing before a defense contractor?

This is the fighting Navy? John Paul Jones' great motto—I have not yet begun to fight—has thrilled and inspired Americans for generations. And American Navy heroes have chosen death by fire or drowning for this Nation. Capt. James Lawrence told his officers while wounded in the War of 1812 not to give up the ship.

But today? The John Paul Jones spirit has fled the Pentagon, not before shock and shell of a mighty sea battle, not before the keening drive of an enemy torpedo or the vast concussion of a nuclear bomb, but before the prospect of a fight, where? In court. In court.

The Navy has decided that it will not fight for its rights and the rights of all American taxpayers in court. John Paul Jones—where are you?

As I said, Mr. President, it is the precedent that is most serious here. Consider what the Navy with congressional concurrence is doing.

It is saying to defense contractors: Waste your manpower and material. Hire hundreds of untrained, unskilled personnel as General Dynamics did in this case, according to testimony before our committee. Mismanage your manpower. Allow productivity to fall. Whatever your losses are we will pay half. If it is millions—forget it. It is only the taxpayers' money. If it is hundreds of millions—that is just as easy.

Where is the incentive for holding down cost in those circumstances, Mr. President? What happens to the free enterprise system when you subsidise the losers?

SUBSIDIZE INEFFICIENCY

Newport News, another major shipbuilder, said exactly that in a recent letter to the Navy—they want some of this

gravy, too. This firm wrote the Secretary that if their competition—General Dynamics and Litton—are bailed out under Public Law 85–804, they want exactly the same treatment. They want the bailout too.

Now Newport News is not losing money. It is building ships for the U.S. Navy and making a profit. But it says the Navy has used Public Law 85–804 to bail out two of their big competitors. To do this and not to give Newport News the same treatment is worse than unfair. Newport News argues that if they do not get the same treatment it means that the inefficient are rewarded, the efficient penalized. So now Newport News is asking for more money even though it is making a profit on its Navy contracts.

GOVERNOR LONGLEY COMMENTS

Mr. President, the Governor of Maine, James B. Longley—he is not a Democrat, he is not a Republican, he is an independent who is not running for reelection and therefore has no political motivation—has written a fascinating letter in which he points out that the Bath Shipbuilding firm in his State has done a remarkably efficient job, producing their ships under cost, without overruns and on time.

He expresses outrage that this particular give-away to General Dynamics and Litton is being made. I will quote from Governor Longley's letter of August 31, 1978:

> Furthermore, as a Governor who has worked with the Republicans and Democrats in the Legislature to bring fiscal responsibility to the State of Maine, I want to plead with the Congress and in particular, our own Congressional Delegation, that they join with Senator PROXMIRE and Representative DOWNEY in fighting any voluntary payment of cost overruns by defense contractors except those that the Pentagon can legitimately say are proper. I feel as a Governor of one of the fifty states as well as a taxpayer that the Pentagon is participating along with other federal bureaucrats and professional politicians in "ripping off" from the pocketbooks and paychecks of American taxpayers to the extent they "pay-off" firms that are guilty of "rip-off" rather than fighting our defense through the courts based on what is right rather than bow down to hard-handed and unfair lawyers representing large defense contractors on the basis of a threat that they will take us to court.
>
> As a matter of fact, if it wasn't so ironic and sad, it would be amusing to find that the very organization charged with the defense of the country, namely the Pentagon, frequently throws in the towel rather than defend the American taxpayer. Hopefully, the Pentagon, the organization charged with the defense of we the citizens, will strongly resist and insist on proof in the courts through litigation in fairness as well as defense for the taxpayers as opposed to General Dynamics' and Litton Industries and Ingalls Shipbuilding attempts to further rip-off the citizens and taxpayers and the very defense budgets designed to protect innocent citizens of Maine and America.

That is the protest of the Governor of Maine, Governor Longley, against this outrageous payment which goes into effect when we adjourn in a few minutes.

MAGIC: LOSSES BELOWS PROFITS

Now, Mr. President, the Secretary argues that the precedent is not going to be serious for what may seem at a glance to be a practical reason. He argues that no firm would deliberately lose money just because the Federal Government might come in and pick up half the loss.

I want to return to the question of the hypothetical losses because there is some logic to this argument, Mr. President. But the trouble is that it does not fit the agreement the Secretary has made in this case, and here is why.

What this agreement says to future contractors is go ahead and lose money—make your incompetence so conspicuous that there will be testimony on the record that such glaring inefficiency must be accompanied by very big losses. This conspicuous waste and incompetence is on the record in the General Dynamics and Litton Electric Boat cases.

Then make a very big estimate of loss—say, four times larger than you are likely to suffer. The alleged loss cannot be audited when the Secretary makes his deal. No one can predict the future so there is no limit on the loss you can estimate.

Under this kind of agreement, you can lose plenty and end up with a fat profit. For example:

Say you estimate a $400 million loss after the Navy has paid you in full for the part of the claims the Navy finds is the Navy's fault. The Navy agrees to pay you an additional $200 million. That is one-half of your estimated losses. And they say that amount. But your real losses turn out to be not $400 million but only $100 million. The Navy has already paid $200 million, so you are $100 million in the black, and that is just the beginning. Under the General Dynamics settlement, the Navy will get one-half or $150 million of the $300 million reduction in cost below the estimates, and you will get $150 million, so that is a beautiful $250 million profit for your firm, although it actually lost $100 million. Thanks to the Navy, the contractor has used taxpayers' funds to turn a loss into a profit.

In other words, you go out and lose $100 million, and you end up with a $250 million profit. There is no reason why that cannot be exactly the result of this contract—if not in this case, where I think the losses are very severe, in future cases, because the precedent has been established and the framework and the formula put into effect.

DANGEROUS PRECEDENT

Mr. President, if you think this kind of precedent will not appeal to defense contractors and become a dangerous and immensely expensive precedent, you must believe in the tooth fairy, Goldilocks and the Three Bears, and that the Chicago Cubs are going to win the World Series.

So the prospects of losing money will not keep contractors from going this route. Anyone who has ever been in business knows that one of the easiest things on the face of the Earth to do is to lose money. There are a million ways to do it, all perfectly legal. You can even tell your conscience that you are helping the economy by providing jobs to people who do not have to do anything but come in and collect the taxpayers' money. And in this case your loss will actually blossom into a beautiful, big, fat, juicy profit.

Defense contractors take note. The Secretary of the Navy and the Congress of the United States have now said to defense contractors, "Come and get it. All you need is management with plenty of brass, imagination and enough visible incompetence to convince a casual observer that your losses could be huge."

Both the Electric Boat Division of General Dynamics in Groton, Conn., and the Ingalls Shipbuilding Division of Litton at Pascagoula, Miss., have demonstrated incompetence. We have pages of testimony in our hearing records documenting gross inefficiency.

The Navy is rewarding inefficiency. It is paving the way for future claims based on cost overruns which result from contractor inefficiency.

Even now there is reason to believe, according to Admiral Rickover, that the contractors are preparing the ground for new claims.

TRIDENT OVERRUN NEXT?

Does anyone doubt that there will be a large claim on the Trident? I am informed that there is an estimated $500 million cost overrun on the first seven Tridents.

How large a claim will be filed on the Trident contract? What will the Navy do if General Dynamics threatens to stop construction unless demands for a new bailout are met?

Mr. President, the Navy has failed to take any steps toward solving the underlying causes of shipbuilding claims. The agreements they have entered into with General Dynamics and Litton are simply payoffs. The contractors are being given hush money to stop complaining about past cost overruns.

When the new cost overruns grow large enough they will be back. There will be new demands for bailouts.

When that happens, the political appointees in the Pentagon who put together the present bailout agreements will be long gone. The Navy experts will be here worrying about what the next group of political appointees will do. And the taxpayers will be here to pay the bill.

Mr. President, it was suggested to me by people who feel deeply about this matter, who have worked on this, that I should speak all night on this matter, or that I should at least speak for 9 hours—1 minute for every million dollars it is costing the taxpayers. But I recognize how much of a sacrifice has been made by the Presiding Officer and the distinguished officials of the Senate who are sitting in the front of the Chamber, so I will not do that. I was sorely tempted to do that, because I think we have to do something to wake up this country and wake up this Congress.

Apparently, there was no protest in the Armed Services Committee about this giveaway. I cannot understand that. I can understand how people want to spend a half-billion dollars on some program I may not approve or vote against; but I cannot, for the life of me, understand how Senators can so overwhelmingly say that we are going to give $500 million away to defense contractors because they have been incompetent and say they are losing money. That is exactly what we are doing here.

I am not going to press my resolution of disapproval tonight, because I recognize that I do not have the votes for it. I have made this speech tonight and brought in these cartoons and made this presentation because I hope we can move the Senate to recognize what is going on.

I serve notice that when the authorization bill comes before the Senate, requesting $209 million, which is part of the money to pay these claims—the Navy has hundreds of millions of dollars available, but not enough to pay these claims—when that comes before the Senate, I am going to do my best with an amendment to knock it out. I hope Senators will at least recognize the situation under those circumstances. That is the least we can do for the American taxpayer.

Mr. PELL. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. PELL. I thank the Senator very much.

Mr. President, I have listened to the Senator's exposition—deeply held, very sincere—and I congratulate him on his thoroughness and detail.

I should like to present a different viewpoint and hope our colleagues will bear in mind the positive merits of this agreement, because the mark of any good settlement is the fact that it represents the absolute bottom line for both parties.

I believe that that characterization can truly be applied to this settlement, which was arrived at only after long negotiations which threatened to fall through right up to the 11th hour.

The settlement announced on June 9 prevented the threatened shutdown of the Electric Boat facilities at Groton, Conn., and Quonset Point, R.I., which would have involved the layoff of over 8,000 workers, a great many of whom are from my own State of Rhode Island.

I know how hard the parties worked to settle this claim, because I was in telephone contact with both Secretary Claytor and Chairman Lewis in the final days before the threatened shutdown, and I know that both the Navy and General Dynamics made significant 11th hour compromises in a great effort to settle the claim.

It is conceivable that the shipbuilding would have gone on under a court injunction. But if there had been a preliminary injunction, and I am fully aware the Navy was prepared to ask for it, we should bear in mind that the Government would have been ordered by the court to pay a higher percentage of the General Dynamics claim than is authorized by this settlement. This is what happened in one such case, involving Litton Industries, where the Government had to pay 91 percent of the shipbuilder's costs under a preliminary injunction.

Frankly, the settlement was painful for both sides. General Dynamics will take a $359 million fixed loss, the largest ever assumed by a contractor in dealings with the Navy, and representing more money than Electric Boat has earned in profits in its 80-year history. An essential element of all Navy discussions with General Dynamics was the concept of a severe fixed loss as the key to any settlement. This was the crucial issue which led to the collapse of the negotiations in March and the threatened shutdown. General Dynamics, with extreme reluctance, agreed to the unprecedented loss after the Navy compromised and agreed to the substantial initial progress payment of $300 million to relieve the unreimbursed costs which the company has been financing under existing contracts.

I would also point out that the costly and traumatic claim process has led Electric Boat to take an entirely new approach to ship construction. The new shipbuilding management has taken decisive action to reduce overhead and increase productivity. The settlement announced June 9 contains significant incentives for cost reductions by Electric Boat, as well as providing a flexible and reasonable method of resolving any future unforeseen costs without another claim. This settlement clearly does not create a bad precedent for the Navy because no sane contractor would choose the claim process merely to achieve the kind of relief provided by this settlement. Indeed, this claim process has a negative impact on the willingness of private shipyards to build Navy ships.

I urge my colleagues to view this settlement in light of the alternative—a long and very costly legal battle lasting years and seriously impairing the Nation's all important submarine building program. It is necessary that Electric Boat return to shipbuilding without the destructive and contentious controversy which has occupied the time and attention of Navy and General Dynamics officials for years. The result to the American taxpayer would almost certainly be more costly if the Congress disapproves these settlements and sends the parties back to court. A disruption for any period in the 688 class submarine program will have potentially catastrophic consequences for our strategic preparedness in the world. The Nation needs these submarines, which are the keystone of our naval forces and combat readiness.

In testimony before the House earlier this month on these settlements, the General Accounting Office took the position that these settlements are the only realistic option available to the Government in dealing with the cost overruns problem. For Congress to disapprove these settlements simply does not make any sense, from the standpoint of either the American taxpayer or the national security. The long months of hard negotiations tied up the resources of far too many people, and raised fears about job security in the minds of thousands of workers, but the end result is a reasonable solution of the 688 class claims and the underlying problems between the Navy and Electric Boat. I urge my colleagues to sustain this settlement and let the Navy and Electric Boat get on with the business of supplying combat-ready ships for our Naval fleet.

I yield the floor.

Mr. PROXMIRE. Mr. President, I wish to tell my good friend from Rhode Island that I do greatly respect him, admire him and like him, but I myself disagree with him as vigorously as I know how on this particular issue.

As usual he is doing a fine job in defending what he feels is the interest of his State, and I certainly respect that and admire him.

Mr. President, in the first place, he starts out by saying this is the absolute bottom line. How does he know? There is nothing that is going to keep General Dynamics from coming in again and again saying they have additional claims.

Mr. PELL. Both sides have said so.

Mr. PROXMIRE. They have not signed any agreement that they will not come in again. They are free to come in with more claims. They indicated they will, and the indications are they will do exactly that.

Mr. President, he talked about long negotiations. I am sure that there were efforts on the part of the Secretary of the Navy and Assistant Secretary Hidalgo in this particular case.

The fact is what they did is something that as far as I know is unprecedented. There may be an example of it before. What they have done is taken an estimate of the contractor, his estimate alone, unverified as to what his losses are. He said, all right, we will give you half those losses after the Navy has made a very careful examination over a period of many months as to what the Navy should pay in additional claims, because of costs that the Navy was responsible for.

Now the Navy did request changes. The Navy did delay production. In some cases, the Navy did not give information. In all those cases the Navy is paying in full, including the entire cost of inflation, but they found that was only one-third of the claims.

Then they go ahead and they pay half of what the contractor himself says would be the loss.

Here is the problem with the reasoning of the Senator from Rhode Island. The Senator says no one in his right mind wants to do this again. No one wants to lose money. The fact is there is no way that we know they are going to lose money. I say it is the contractor's estimate. They have every incentive to making the most gigantic kind of estimates they can think of and that they can dream up.

Then, if the estimate falls short—and I will give an example here—if the estimate is $400 million and they actually lost $100 million, for instance, the Federal Government has already given $200 million. That is $100 million profit for them, although they made a loss of $1 million. In addition to that, they get back a substantial proportion. In fact, in the General Dynamics case they get back half of the cost reductions so they are making a $250 million profit.

I think this is an absolutely outrageous ripoff. It is protested by Admiral Rickover vigorously. The professional Navy

thinks it is very bad. The people who have to work with these ships, who depend on our security, who want a strong Navy say this is wrong, and I think under these circumstances I feel that we can settle more cheaply by going to court. I think just there is no way that can stand up.

I say the people who are expert on this tell us that all the Navy will owe is about a third of what the claims are and $540 million less than is being settled.

One other technical point: The distinguished Senator from Rhode Island pointed out that in one case a court injunction was secured against the Pascagoula, Miss., shipyards and in that case the Government had to pay 91 percent of the cost of the claims under the court order. I might point out that was a temporary order, a temporary order which would only apply for a relatively brief period of time, and it would not, of course, apply to the overall contract.

The whole thing would be reconciled based on the finding at the end of the period.

At any rate, all I am asking for, it seems to me, is perfectly reasonable. Before the Federal Government pays a nickel we should know what the facts are. We do not know the facts now. We should have a trial to determine the facts. We should at least require the contractor to exhaust the remedy at the Contract Board of Appeals before we give this kind of a handout to them, particularly when they are big firms and are not going to go bankrupt anyway.

Mr. PELL. I thank my colleague for his kind introductory remarks. I understand the sincerity and seriousness with which he reviews this matter.

I would add though that the question of whether this is an open door for more claims or whether it is a one-time procedure I think has been pretty well answered by the report of the House Armed Services Committee which has already said in its report that the committee has the express understanding that this is a one-time action which will, in fact, settle the shipbuilding claims problem.

My understanding as a nonlawyer is if it did go to court it would take a great many years, more than a half dozen years, before it will finally be laid to rest.

Mr. PROXMIRE. May I say to the Senator these ships are not going to be finished tomorrow or next month or next year, as the Senator knows. They are going to continue on for years, so this is an ongoing matter.

While fighting a battle in court for an individual citizen such as the Senator from Rhode Island or myself might be expensive, when we are dealing with a half billion dollars, there is no question but the court costs would be a tiny fraction of the amount at stake here, and the decision would then be determined based on the facts, based on an understanding of what all the facts showed, and not based on some guess and based primarily on what the contractor himself says his own losses are.

I thank the distinguished Senator and I am sure we are going to enjoy joining battle again when this matter comes up on the procurement bill.

Mr. President, I yield the floor.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will now transact morning business for not to exceed 30 minutes.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 10:30 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 1427. An act for the relief of Marie Grant;

H.R. 3460. An act for the relief of William J. Elder and the estate of Stephen M. Owens, deceased;

H.R. 5097. An act for the relief of Dr. Daryl C. Johnson;

H.R. 6760. An act for the relief of Charles M. Metott; and

H.R. 12772. An act to facilitate the exchange of certain lands in the State of Oregon, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. EASTLAND).

At 12:44 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House agrees to amendments of the Senate to H.R. 7819, an act to complement the Vienna Convention on Diplomatic Relations.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 8729. An act to provide assistance to airport operators to prepare and carry out noise compatibility programs, to provide assistance to aircraft operators to comply with noise standards, and for other purposes.

At 2:25 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House has passed the following bill, without amendment:

S. 3271. An act to amend the pilot project workfare provision of the Food Stamp Act of 1977.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 11887. An act to amend title 38, United States Code, to increase the rates of dependency and indemnity compensation for parents, and for other purposes.

At 4:19 p.m. a message from the House of Representatives delivered by Mr. Berry, announced that the House has passed the following bills, without amendment:

S. 1896. An act to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal year 1979; and

S. 3272. An act to amend the Packers and Stockyards Act, 1921, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 105. A concurrent resolution authorizing the printing of additional copies of the final report and of volume II of the executive session hearings on the Korean influence inquiry.

The message further announced that the House insists upon its amendments to the bill (S. 3067) to extend the Commission on Civil Rights for 3 years, to authorize appropriations for the Commission, to effect certain changes to comply with other changes in the law, and for other purposes, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. EDWARDS of California, Mr. SEIBERLING, Mr. DRINAN, Mr. VOLKMER, Mr. BEILENSON, Mr. BUTLER, and Mr. MCCLORY were appointed managers of the conference on the part of the House.

The message also announced that the House has passed the following bills, each with amendments in which it requests the concurrence of the Senate:

S. 1626. An act to clarify the status of the Librarian of Congress under subchapter I of chapter 63 of title 5, United States Code, relating to annual and sick leave; and

S. 2101. An act to modify the boundary of the White River National Forest in the State of Colorado.

The message further announced that the House has passed the following bill, with an amendment in which it requests the concurrence of the Senate:

S. 2399. An act to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 and other laws to meet obligations under the Convention on Psychotropic Substances relating to regulatory controls on the manufacture, distribution, importation, and exportation of psychotropic substances, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to H.R. 8449, an act for the relief of Lourdes Marie Hudson.

The message also announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 7108. An act to amend the Tariff Schedules of the United States in order to suspend the duty on Yankee Dryer Cylinders until the close of December 31, 1981;

H.R. 7296. An act to designate the new Terminal Radar Approach Control Federal Building in Hempstead, Long Island, N.Y., as the "Charles A. Lindbergh Federal Building";

H.R. 7305. An act to designate a certain Federal building in Champaign, Ill., the "William L. Springer Building";

H.R. 8812. An act to name a certain Federal building in Jonesboro, Ark., the "E. C. 'Took' Gathings Building";

H.R. 9628. An act to suspend until the close of June 30, 1980, the duty on certain nitrocellulose;

H.R. 9911. An act to continue until the close of June 30, 1981, the existing suspension of duties on certain forms of zinc;

H.R. 9945. An act to amend the act creating the Indian Claims Commission to repeal the provision limiting the activities of Commissioners during the 2 years following their terms of office;

H.R. 10625. An act to continue the existing suspension of duty on natural graphite until the close of June 30, 1981;

H.R. 11168. An act to provide for the conveyance of certain public lands in San Bernardino County, Calif., to the town of Red Mountain, and for other purposes;

H.R. 11671. An act to designate a certain Federal building in Big Stone Gap, Va., the "C. Bascom Slemp Building";

H.R. 12393. An act to provide for nationwide service of subpoenas in all suits involving the False Claims Act, and for other purposes;

H.R. 12634. An act to designate a building in Pittsburg, Kans., as the "Joe Skubitz Social Security Administration Center";

H.R. 13187. An act to designate the U.S. Post Office and Federal Building in Griffin, Ga., the "John J. Flynt, Jr. Federal Building";

H.R. 13481. An act to name the post office and Federal building in Portland, Maine, the "Frederick G. Payne Building";

H.R. 13808. An act to designate the "Omar Burleson Federal Building"; and

H.R. 13809. An act to designate the "George Mahon Federal Building".

At 4:58 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House agrees to the amendments of the Senate to H.R. 12841, an act to prohibit issuance of regulations on the taxation of fringe benefits, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1678) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended.

The message further announced that the House disagrees to the amendment of the Senate to H.R. 12050, an act to amend the Internal Revenue Code of 1954 to provide a Federal income tax credit for tuition; agrees to the conference requested by the Senate on disagreeing votes of the two Houses thereon; and that Mr. ULLMAN, Mr. BURKE, of Massachusetts, Mr. ROSTENKOWSKI, Mr. VANIK, Mr. BURLESON of Texas, Mr. CONABLE, and Mr. DUNCAN of Tennessee were appointed managers of the conference on the part of the House.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 13514. An act to name a certain Federal building in Shreveport, La., the "Joe Waggonner Federal Building".

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 7108. An act to amend the Tariff Schedules of the United States in order to suspend the duty on Yankee Dryer Cylinders until the close of December 31, 1981; to the Committee on Finance.

H.R. 7296. An act to designate the new Terminal Radar Approach Control Federal Building in Hempstead, Long Island, N.Y., as the "Charles A. Lindbergh Federal Building"; to the Committee on Environment and Public Works.

H.R. 7305. An act to designate a certain Federal building in Champaign, Ill., the "William L. Springer Building"; to the Committee on Environment and Public Works.

H.R. 8729. An act to provide assistance to airport operators to prepare and carry out noise compatibility programs, to provide assistance to aircraft operators to comply with noise standards, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 8812. An act to name a certain Federal building in Jonesboro, Ark., the "E. C. 'Took' Gathings Building"; to the Committee on Environment and Public Works.

H.R. 9628. An act to suspend until the close of June 30, 1980, the duty on certain nitrocellulose; to the Committee on Finance.

H.R. 9911. An act to continue until the close of June 30, 1981, the existing suspension of duties on certain forms of zinc; to the Committee on Finance.

H.R. 10625. An act to continue the existing suspension of duty on natural graphite until the close of June 30, 1981; to the Committee on Finance.

H.R. 11168. An act to provide for the conveyance of certain public lands in San Bernardino County, Calif., to the town of Red Mountain, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 11671. An act to designate a certain Federal building in Big Stone Gap, Va., the "C. Bascom Slemp Building"; to the Committee on Environment and Public Works.

H.R. 11887. An act to amend title 38, United States Code, to increase the rates of dependency and indemnity compensation for parents, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 12393. An act to provide for nationwide service of subpoenas in all suits involving the False Claims Act, and for other purposes; to the Committee on the Judiciary.

H.R. 12634. An act to designate a building in Pittsburg, Kans., as the "Joe Skubitz Social Security Administration Center"; to the Committee on Environment and Public Works.

H.R. 13187. An act to designate the U.S. Post Office and Federal Building in Griffin, Ga., the "John J. Flynt, Jr. Federal Building"; to the Committee on Environment and Public Works.

H.R. 13481. An act to name the post office and Federal building in Portland, Maine, the "Frederick G. Payne Building"; to the Committee on Environment and Public Works.

H.R. 13514. An act to name a certain Federal building in Shreveport, La., the "Joe Waggonner Federal Building"; to the Committee on Environment and Public Works.

H.R. 13808. An act to designate the "Omar Burleson Federal Building"; to the Committee on Environment and Public Works.

H.R. 13809. An act to designate the "George Mahon Federal Building" to the Committee on Environment and Public Works.

HOUSE BILL HELD AT THE DESK

The following bill was read by title and held at the desk pursuant to the order of September 18, 1978:

H.R. 9945. An act to amend the act creating the Indian Claims Commission to repeal the provision limiting the activities of Commissioners during the 2 years following their terms of office.

REPORTS OF THE COMMITTEES

The following reports of committees were submitted:

By Mr. ABOUREZK, from the Select Committee on Indian Affairs, with an amendment and an amendment to the title:

S. 857. A bill to amend the Indian Education Act and certain other related education assistance programs to provide Federal financial assistance to Hawaiian Natives, and for other purposes (Rept. No. 95-1199).

By Mr. ABOUREZK, from the Select Committee on Indian Affairs, with an amendment:

S. 2460. A bill to amend the Indian Self-Determination and Education Assistance Act (Rept. No. 95-1200).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. CHURCH (for himself and Mr. WILLIAMS):

S. 3502. A bill to amend title XVI of the Social Security Act to permit States to replace supplementary payments with vendor payments on behalf of residents of certain facilities, and for other purposes; to the Committee on Finance.

By Mr SASSER:

S. 3503. A bill to amend certain provisions of the Tennessee Valley Authority Act of 1933, as amended, relating to the charge rates for power of the Tennessee Valley Authority; to the Committee on Environment and Public Works

By Mr. THURMOND:

S. 3504. A bill for the relief of Anita Singh; to the Committee on the Judiciary.

By Mr. MOYNIHAN (for himself, Mr. CRANSTON, and Mr. LONG):

S 3505. A bill to amend the Social Security Act to improve the operation of the aid to families with dependent children program and thereby provide fiscal relief for State and local welfare costs as a first step toward providing Federal funding equal to at least 75 percent of the present level of State and local welfare costs; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHURCH (for himself and Mr. WILLIAMS):

S. 3502. A bill to amend title XVI of the Social Security Act to permit States to replace supplementary payments with vendor payments on behalf of residents of certain facilities, and for other purposes; to the Committee on Finance.

SSI STATE SUPPLEMENTATION

● Mr. CHURCH. Mr. President, on behalf of myself and Senator WILLIAMS, I introduce for appropriate reference a bill to amend the supplemental security income (SSI) law to allow States flexibility when making payments for the care of SSI recipients who are residents of group care facilities. This bill would also significantly enhance the State's ability to audit and maintain standards for group care facilities serving SSI residents.

In 1976, two laws were enacted which directly affected the SSI supplements made by the States. First, Public Law 94-585 required the States to "pass-along" SSI cost-of-living increases by continuing the existing levels of all cash

State supplements or by maintaining in cash supplements the aggregate prior year's expenditure for these payments.

The second statute, Public Law 94-566 (the Keys amendment), required the States to define and enforce standards for group care facilities in which SSI recipients resided. It also provided, in effect, that vendor payments based on need, made by State or local governments on behalf of residents of group care facilities, will not be considered as income in determining one's SSI eligibility and payment level. Such vendor payments are made to group care facilities for services provided to SSI recipients.

However, a problem has arisen. Many States have been paying a substantial part of their SSI State supplements to persons who reside in group care facilities. Some States would like to make these payments directly to the facilities and contribute "to the care of the SSI recipient" instead of paying the supplement to the individual directly. This would also enable States to have authority to audit the financial records of the group care facilities receiving vendor payments. Moreover, States would have a greater control in assuring "what is purchased is in fact being provided."

Under the current SSI statute, States that make supplementary payments to individuals who then turn over these amounts to group care homes must continue to make these payments, because they are controlled by the pass-along requirement. This provision requires States to continue their cash supplements from the previous year or maintain in cash supplements the aggregate supplementary payment expenditures of the prior year. Some States would prefer to purchase group care through vendor payments and be allowed to deduct this amount from the previous year's expenditure level to be met under the pass-along provision.

My bill would make two major changes. First, it would permit States to replace SSI cash supplements to individuals residing in group care facilities with vendor payments to these facilities. Second, if a State has opted to maintain a previous year's total expenditures for supplementary payments instead of passing along Federal benefit increases, the State would be allowed to reduce its previous year's expenditure by the amount replaced by vendor payments. The vendor payments would not be controlled by the pass-along. However, if a State discontinued vendor payments it would be required to restore the cash supplements replaced by the vendor payments.

These two changes would allow the States greater flexibility in controlling group care facilities. For example, Idaho administrators tell me that direct vendor payments would permit the State to conduct financial audits of facilities and develop a cost-related reimbursement formula for these facilities. By allowing vendor payments to be used to purchase group care, States would have far greater authority to enforce standards of care as required by Public Law 94-56.

In addition, this bill would provide States relief from the penalties that the law imposes, because they were unable to meet all the requirements of the pass-along provision for State supplementary payments for the past year. States have complied to the best of their ability with the spirit of the law so that SSI beneficiaries have not been adversely affected. Current law penalizes States by taking away all of their Federal medicaid funds, even though they may have just barely missed meeting the technical requirements of the law. My bill would give the States an additional 1-year grace period to meet the pass-along requirements for State supplementation.

Mr. President, the method of supporting and administering group and domiciliary care homes differs from State to State. These differences, as well as differences in State supplementary payments, have caused administrative obstacles which usually result in poorer standards of care. My bill would permit States to remove these obstacles and to develop more effective methods in controlling group care facilities. The Senate Committee on Aging has a longstanding interest in improving care in these facilities. I believe that allowing the States auditing and access authority to enforce better standards of care is consistent with the committee's position to give States a more direct role in enforcing these standards. I urge my colleagues to support this measure.

Mr. President, I ask unanimous consent that the text of this bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3502

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Section 1618(b) of the Social Security Act is amended by inserting "(1)" after "(b)", and by adding the following new paragraph (2):

"(2)(A) In determining whether a State meets the requirements of this subsection with respect to any twelve-month period in which the State begins to make vendor payments of the type described in subparagraph (C), and (if in the twelve-month period in which the State first makes vendor payments, the State begins those payments after the first month of the twelve-month period) with respect to the subsequent twelve-month period, there shall be excluded from the State's expenditures in the preceding twelve-month period (according to a methodology prescribed by the Secretary) the amount of State supplementary payments replaced by vendor payments.

"(B) In determining whether a State meets the requirements of this subsection with respect to any twelve-month period in which the State discontinues making vendor payments of the type described in subparagraph (C), and (if in the twelve-month period in which the State discontinues making vendor payments, the State discontinues them after the first month of the twelve-month period) with respect to the subsequent twelve-month period, there shall be added to the State's expenditures in the preceding twelve-month period (according to a methodology prescribed by the Secretary) the amount of State supplementary payments which had previously been excluded on account of the vendor payments that the State is discontinuing.

"(C) The term 'vendor payments' as referred to in this subsection means vendor payments begun after June 30, 1977, to institutions, foster homes, or group living arrangements on behalf of residents of such institutions, homes or arrangements, made in lieu of State supplementary payments formerly payable to individuals in such categories of living arrangements.".

(b) Section 1618(b) is further amended by adding the following new paragraph (3):

"(3) The Secretary shall not find that a State has failed to meet the requirements imposed by paragraph (4) of subsection (a) with respect to the levels of its supplementary payments for individuals in categories of living arrangements for a particular month or months if for such month or months, the State makes vendor payments to those individuals as described in subparagraph (2) (C) in replacement of State supplementary payments previously made.".

SEC. 2. Section 1618(a) of such Act is amended by striking out "June 30, 1977" each place it appears and inserting in lieu thereof in each instance "June 30, 1978".

SEC. 3(a) The amendments made by the first section of this Act shall be effective after the date of the enactment of this Act.

(b) The amendments made by section 2 of this Act shall be effective with respect to calendar quarters beginning after June 30, 1977, and no reductions in payments to States pursuant to title XIX of the Social Security Act shall be made under section 1618 of such Act for any quarter beginning prior to June 30, 1978.●

● Mr. WILLIAMS. Mr. President, I am pleased to join my good friend Senator CHURCH in sponsoring legislation to allow States greater flexibility, under supplemental security income (SSI) law, in making payments on behalf of SSI recipients who are housed in group care facilities. Partly because of requirements in currently existing SSI law, the States cannot respond fully to the needs of SSI recipients residing in such group care facilities as boarding homes that provide personal services. The legislation which I propose would allow my own State to implement an integral part of its effort to alleviate what is acknowledged to be a "boarding home crisis."

In 1976, two statutes were enacted which directly affected State supplements to Federal SSI payments. Public Law 94-585 required States to "pass along" SSI cost-of-living increases. States can meet this requirement by either preserving the existing supplemental payment to individual recipients or by maintaining the previous year's aggregate expenditure for these payments. Public Law 94-566, in addition to requiring States to develop standards for group care facilities in which SSI recipients reside, provided that payments made on behalf of these residents directly to the vendors of such facilities not be considered as income in determining an individual's SSI eligibility. In effect, this provision means that a State cannot count vendor payments as part of its supplemental payment for purposes of fulfilling the pass-along requirement.

In many States, a large share of the SSI State supplement is paid to individuals residing in group care facilities. Some States would like to make these payments directly to the operators. By so doing, a State could create a system of cost-based reimbursement as an incentive for these facilities to expand and upgrade their services. In addition, a system of direct payments would place the State in a better position to monitor these

facilities and to insure that the rights of the SSI recipients themselves are observed.

By allowing States to replace SSI cash supplements to individuals in group care facilities with vendor payments to these facilities, the legislation being proposed today would allow the States much greater flexibility in meeting the pass-along provision and in providing for the special needs of these SSI recipients. Let me emphasize that this bill in no way mandates the States to institute a system of vendor payments. Instead, it merely makes this option available to States who wish to use it.

The administrative obstacles created by the current system of supporting group care homes can only lead to lower standards of service. The bill I am introducing along with the distinguished chairman of the Senate Special Committee on Aging, Senator CHURCH, would remove these obstacles and allow States to develop more effective systems of monitoring group care facilities. I strongly urge my colleagues to support this legislation.

I have received a letter that outlines the need for this bill from Ann Klein, the commissioner of the New Jersey Department of Human Services. Mr. President, I ask unanimous consent that the text of this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

TRENTON, N.J.,
August 25, 1978.

Hon. HARRISON A. WILLIAMS, JR.,
U.S. Senate,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: To achieve a partial solution to the boarding home crisis in New Jersey, we are requesting your support for legislation to permit vendor payments made by States on behalf of Supplemental Security Income recipients to be counted as State Supplementation to SSI. Currently, the Social Security Act provides that State Supplementation must be paid directly to the recipient which therefore excludes vendor payments. As a result, we cannot redirect existing Supplementation funds for vendor payments since a maintenance of effort of the aggregate Supplement funds is required. Although we agree with the concept that a State should be required to maintain its aggregate SSI Supplementation expenditures, we do believe that there should be a provision allowing some of these payments to be redirected to licensed sheltered boarding homes on a variable rate basis on behalf of the SSI residents without violating this maintenance of effort requirement.

I've included a copy of this proposal and an example of how this legislation could be drafted although modifications may be needed to meet the needs of other States. The benefits generated by this proposal are expected to be as follows:

The quality of licensed sheltered boarding homes would increase. Since all of these facilities receive the same flat rate from the SSI residents, there is currently little or no incentive to expand services. Under a variable rate system, these facilities would be reimbursed for adding more costly services. This would also allow us to justify upgrading the State Standards for licensure.

These facilities would become more efficient. Since these facilities would be audited, a determination would be made regarding the appropriate cost of the services provided in determining each facility's rate. This would encourage better management of these facilities and curb any excess profits that some facilities may be making under the current flat rate system.

It should expand the quantity of shelter care placements. One of the causes of the boarding home problem is that there is an insufficient supply of these facilities. As a result, it is a sellers market and SSI recipients are often forced to live in inadequate housing because they have no other alternatives. Reimbursing facilities on a cost rather than a flat rate basis would make the shelter care business more attractive to invest in. We also expect that this would provide an incentive for unlicensed boarding homes to meet the higher standards for licensure.

It would reduce the number of inappropriate placements in nursing homes. An Urban Health Institute study found that 10 percent of all persons in long term care institutions could be discharged if there were appropriate lower levels of care available in the community. The Study concluded that the most appropriate community placement for most of these persons would be in congregate facilities that provided upgrade services. Such facilities, the Study found, were not available in sufficient quantity.

The rights of residents could be better protected. Through auditing of these facilities, the State could assure that the $30 earmarked for personal spending is given to the SSI recipient. Currently, these funds are sometimes retained by the facility. It is also likely that with greater State involvement in monitoring these facilities, that other serious abuses would be discovered and remedied.

A more rational shelter care system could be developed. Little is known currently about shelter care facilities since there has been little government involvement. For example, although we believe that it will be necessary to increase the State's SSI Supplement to these facilities, it is unclear what the amount of that increase should ultimately be since it is not known how much it actually costs to operate these facilities. Without this information some of these facilities could make wind-fall profits if there were a substantial increase in the shelter care rate. Once a variable rate system is established, we would consider utilization review which would assure that these shelters matched the individual needs of the residents.

We believe that this proposal along with the Congregate Housing Services Act of 1978 which you recently introduced would substantially improve the housing needs of the elderly and disabled population. These very vulnerable individuals deserve our assistance and protection.

If I can be of any further assistance, please let me know.

Sincerely,

ANN KLEIN,
Commissioner.●

By Mr. SASSER:

S. 3503. A bill to amend certain provisions of the Tennessee Valley Authority Act of 1933, as amended, relating to the charge rates for power of the Tennessee Valley Authority; to the Committee on Environment and Public Works.

TVA FUEL ADJUSTMENT

● Mr. SASSER. Mr. President, today I want to introduce a bill for the benefit and protection of the Tennessee Valley. This bill prohibits the Tennessee Valley Authority from using automatic fuel adjustment rate increases. This bill also requires that all rate increases be approved by the Board of Directors of the TVA.

The use of the automatic fuel adjustment clause, which began in an effort to meet the problem of rapidly rising costs of coal, has become a fiscal bypass for inefficient contracting procedures and for lax control of the price of electricity.

Since its inception in 1974, the fuel adjustment clause has raised rates to Tennessee Valley consumers of electricity by 36 percent. These routine, undiscussed increases are not in the public interest.

In August of 1974, when the fuel adjustment clause became effective, the residential rate per 1,000 kilowatthour was $17.18. The October, 1978 residential rate for 1,000 kWh will be $29.81. This is an increase of $12.63, of which approximately 50 percent, or $6.30 is attributable to the fuel adjustment clause. The fuel adjustment has accounted for a 36 percent increase in the 1974 rate.

A recent study by the Congressional Research Service and the Intergovernmental Relations Subcommittee led to the conclusion that:

> Utilities whose rate increase requests were subjected to formal proceedings obtained only half of what they asked for in 1977. It is possible that the $11 billion increase obtained through automatic FAC's [fuel adjustment clauses] might have been similarly reduced had it been submitted to evidentiary hearings.

While the study did not include the TVA increases, I have no doubt that TVA's increases would have been lower had each increase been subjected to closer scrutiny rather than being systematically passed on to consumers. If all rate increases required the affirmative vote of the Board of Directors, such increases and the costs which necessitate them would be carefully, fully and publicly considered.

This seems to have been the case since David Freeman assumed his position as Chairman of the Board of Directors of the Tennessee Valley Authority. While I am encouraged by Chairman Freeman's attitude toward rate increases in general and automatic fuel adjustment increases in particular, I wish to insure that the pernicious habit of automatically passing on, without question, all fuel costs is replaced by a system of careful consideration by the Board of all rate increase proposals.

On August 30, I outlined my objections to fuel adjustment increases to Mr. Freeman when I appeared before the Board of Directors to testify against a proposed rate increase. The Board did, in fact, reject the increase. At that time, I told Chairman Freeman that:

> I think elimination of the clause would set up a firmer cost discipline at TVA and encourage greater efficiency of operation. This would serve notice that TVA is sharpening its cost-cutting pencil and looking for more competitive prices.

There is no more crucial issue facing the people of the Tennessee Valley than escalating electric rates. In large part because of TVA's aggressive marketing of "all electric" homes, the national trend of rate increases in recent years has been borne more heavily by the consumers of the valley and particularly by those in the valley who can least afford it: the poor, the elderly, and the handicapped.

Continual, unquestioned rate increases must be stopped. I intend to use my in-

fluence to stop such increases. This bill is the opening shot in the battle to halt this inequitable practice.

Further, I intend to determine Mr. Richard Freeman's attitude on this matter when his nomination to the Board of Directors of the Tennessee Valley Authority is considered.

It is time to discontinue a practice that has been widely criticized for its unfairness and inequity.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3503

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (f) of section 15d of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. 831n-4(f)), is amended by adding at the end thereof the following new sentence: "The Corporation, notwithstanding any other provision of law, shall not put into effect any increase in the cost of power sold by the Corporation unless the Corporation has first approved such increase by an affirmative vote of the board, including any increase associated with or arising out of or in connection with the purchase by the Corporation of fuel for the production of power.".●

By Mr. MOYNIHAN (for himself, Mr. CRANSTON, and Mr. LONG):

S. 3505. A bill to amend the Social Security Act to improve the operation of the aid to families with dependent children program and thereby provide fiscal relief for State and local welfare costs as a first step toward providing Federal funding equal to at least 75 percent of the present level of State and local welfare costs; to the Committee on Finance.

STATE AND LOCAL WELFARE REFORM AND FISCAL RELIEF ACT OF 1978

● Mr. MOYNIHAN. Mr. President, the bill I am introducing today, on behalf of myself and Senators CRANSTON and LONG, embodies several revisions to S. 3470, the State and Local Welfare Reform and Fiscal Relief Act of 1978, which we introduced on August 25. The changes rectify certain technical problems that have been called to our attention and are faithful to the spirit of our original announcement of June 28.

Although the sponsors of this bill still hope that the Congress will see fit to adopt our proposal this year, we are aware that the administration's strong opposition to it inevitably diminishes that prospect.

I wish to be absolutely clear about my own interest in this matter. A year ago, I introduced President Carter's comprehensive welfare reform bill in the Senate. The Subcommittee on Public Assistance held extensive hearings on that measure. I watched with deepening disappointment as those who strove to see it enacted found themselves unable to move that bill, and later variations on that bill, even to the stage of full committee consideration in the House of Representatives.

Following that failure, my colleagues and I set about to see if we could devise a more modest bill that would achieve important goals in the area of welfare reform and that would perhaps stand a realistic chance of enactment in the final months of the 95th Congress. We have now offered such a proposal, only to be met with the strong opposition of the administration and some groups that favor a more "comprehensive" (and expensive) approach.

If our present effort comes to nought, I will expect the administration to come forth with a new proposal early in the 96th Congress. We should be clear that the stated reason for the administration's opposition to our bill, as communicated in Mr. Eizenstat's letter of September 14 to Senator KENNEDY, is a desire "to insure that the Senate avoids any action this session that might jeopardize substantial reform next year." It is therefore incumbent upon the administration to deliver the substantial reform of which they speak, and I will certainly bend every effort to help them do so.

Should they again fail, I will again attempt to craft a bill that could be enacted by the Congress—at least one that could be enacted if it were not again opposed by the administration. As Senator from New York, I cannot in conscience sit quietly by as a lasting stalemate in welfare reform continues to contribute both to the fiscal distress of my State and city and to the steady erosion of benefits available to our dependent mothers and children—some 1.5 million in all. I commence to wonder whether for too long now we have allowed abstract ideological notions about welfare reform conceptions with little chance of enactment to stymie urgently needed, if less ambitious, changes in our public assistance structure.

I ask unanimous consent that there be printed in the RECORD a fact sheet outlining the major provisions of the bill and the text of the bill itself.

There being no objection, the bill and fact sheet were ordered to be printed in the RECORD, as follows:

S. 3505

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "State and Local Welfare Reform and Fiscal Relief Act of 1978".

BLOCK GRANTS TO STATES

SEC. 2. (a) Section 403 (a) of the Social Security Act is amended by striking out all which precedes paragraph (2) and inserting in lieu thereof the following:

"SEC. 403. (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid and services to needy families with children, for each quarter beginning after June 30, 1979, and before October 1, 1984.

"(1) in the case of any State other than Puerto Rico, the Virgin Islands, and Guam, an amount equal to one-fourth of the adjusted base period amount for such State (as determined under section 412) plus any supplemental grant payable to such State under section 413;".

(b) Part A of title IV of the Social Security Act is amended by adding at the end thereof the following new sections:

"ADJUSTED BASE PERIOD AMOUNT

"SEC. 412. (a)(1) The base period amount for any State shall be equal to—

"(A) the total amount which the Secretary determines would have been payable to such State for the fiscal year beginning October 1, 1977 (hereinafter in this section referred to as the base period) under paragraphs (1), (3), and (5) of section 403 (a), taking into account the provisions of section 1116 of this Act and section 9 of the Act of April 19, 1950 (64 Stat. 47), but without regard to subsections (c) through (j) of section 403 (as in effect during such period), and excluding the amounts payable to such State with respect to social and supportive services provided pursuant to section 402(a)(19)(B); plus

"(B) an amount which bears the same ratio to $660,000,000 as the amount expended as aid to families with dependent children under the State plan of such State during the month of June 1978, bears to the amount expended as aid to families with dependent children under the State plans of all States (other than Puerto Rico, Guam, and the Virgin Islands) during such month, plus

"(C) an amount which bears the same ratio to $660,000,000 as the amount allocated to such State under section 106 of the State and Local Fiscal Assistance Act of 1972, for the most recent entitlement period for which allocations have been made under such section prior to the date of the enactment of this subsection, bears to the total of the amounts allocated to all States under such section 106 for such period.

"(2) The adjusted base period amount for any State for the fiscal year beginning October 1, 1977, shall be equal to the base period amount.

"(3) The adjusted base period amount for any State for the fiscal year beginning October 1, 1978, and each fiscal year thereafter, shall be equal to the base period amount as adjusted in accordance with subsections (b), (c), and (d).

"(b) The adjusted base period amount as determined under subsection (a) shall be increased for each fiscal year, starting with the fiscal year beginning on October 1, 1978, by an amount equal to the product of—

"(1) the adjusted base period amount as determined for the preceding fiscal year, and

"(2) a percentage equal to the percentage increase (if any) in the Consumer Price Index prepared by the Department of Labor, and used in determining cost-of-living increases under section 215(i) of this Act, for the second quarter of the preceding fiscal year as compared to such index for the second quarter of the second preceding fiscal year (rounded to the nearest one-tenth of one percent).

For purposes of this subsection the Consumer Price Index for any quarter shall be the arithmetical mean of such index for the three months in such quarter.

"(c) The adjusted base period amount as determined under subsection (a) and increased under subsection (b) shall be increased (in the case of a State having an increase in population) for each fiscal year, starting with the fiscal year beginning on October 1, 1978, by an amount equal to the product of—

"(1) the adjusted base period amount as determined for the preceding fiscal year, and

"(2) a percentage equal to the percentage increase in the population of the State on January 1 of the preceding fiscal year as compared to the population of the State on January 1 of the second preceding fiscal year (as determined by the Secretary not later than April 15 of the preceding fiscal year, on the basis of the best estimates available from the Bureau of the Census, and rounded to the nearest one-tenth of one percent).

"(d)(1) for purposes of this subsection the term 'low payment State' means a State in which the average monthly payment of aid to families with dependent children under the State plan during the base period to a family whose income consisted solely of payments made under the State plan approved under this part, when combined with the average monthly bonus value (within such State) of food stamps for which such family was eligible during such period, was less than—

"(A) $170 for a family consisting of 1 member,

"(B) $219 for a family consisting of 2 members,

"(C) $261 for a family consisting of 3 members,

"(D) $334 for a family consisting of 4 members,

"(E) $394 for a family consisting of 5 members,

"(F) $444 for a family consisting of 6 members, or

"(G) $548 for a family consisting of 7 or more members.

"(2) The adjusted base period amount of any low payment State shall be increased with respect to payments made to the State for quarters starting with the first full quarter beginning after June 30, 1979, with respect to which the average monthly payment of aid to families with dependent children under the State plan is increased (subject to the limitation in paragraph (3)) to that amount (as estimated by the Secretary) which would have been the adjusted base period amount (as determined under subsections (a), (b), and (c)) for such State if the increased average monthly payment level of aid to families with dependent children in such State had been payable during the base period with respect to those recipients who were receiving aid to families with dependent children during such period.

"(3) No increase in the average monthly payment of aid to families with dependent children shall be considered an increase for purposes of paragraph (2) to the extent that such increase results in any average monthly payment amount for any family, which amount, when combined with the average monthly bonus value (within such State) of food stamps for which such family is eligible, exceeds the average monthly payment level for a family of the same size set forth in subparagraphs (A) through (G) of paragraph (1).

"(4) Determinations under this subsection shall be made in the manner prescribed by the Secretary on the basis of such surveys, samples, or other methodologies, as may be specified in regulations promulgated by him not later than 90 days following the date of enactment of the State and Local Welfare Reform and Fiscal Relief Act of 1978.

"SUPPLEMENTAL GRANTS TO STATES WITH HIGH UNEMPLOYMENT

"SEC. 413. (a) The Secretary shall pay to any State for each quarter a supplemental grant equal to the product of—

"(1) one-fourth of the adjusted base period amount for such State (as determined under section 412); and

"(2) the excess unemployment percentage for such quarter (as determined under subsection (b)).

"(b) The excess unemployment percentage for any State for each quarter shall be the percentage (rounded to the nearest one-tenth of one percent) equal to the remainder (if any) obtained by subtracting from the insured unemployment rate in such State for such quarter (as estimated by the Secretary based upon the weekly rate of insured unemployment used in making determinations under section 203(e) of the Federal-State Extended Unemployment Compensation Act of 1970) the greater of—

"(1) the insured unemployment rate in such State (as so estimated) during the corresponding calendar quarter during the base period (as defined in section 412(a)); or

"(2) 6 percent.

"(c) Notwithstanding any provision of section 403(b) to the contrary, a supplemental grant payable for any quarter under this section shall be paid as soon as practicable after the unemployment statistics required in order to compute the amount of such grant become available to the Secretary.".

PASS-THROUGH TO LOCAL JURISDICTIONS

"SEC. 3. Section 402(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (28);

(2) by striking out the period at the end of paragraph (29) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(38) provide that the State shall pay to any political subdivision thereof so much of such subdivision's proportional share (based upon the amount of its contribution for such quarter under the State plan as a portion of the total amount of all such contributions by subdivisions in such State) of that portion of the amount paid to such State under section 403(a) for each quarter which is payable by reason of the provisions of subparagraphs (B) and (C) of section 412(a)(1) (as such portion would be increased under the provisions of section 412 (b), (c), and (d) if it comprised the entire base period amount) as does not exceed 100 percent of the amount contributed by such political subdivision for such quarter under the State plan.".

LIMITATION ON USE OF GRANT

SEC. 4. Section 403 of the Social Security Act is amended by adding at the end thereof the following new sentence: "Grants made to any State under the provisions of subsection (a)(1) may be used by such State only for social welfare purposes, except that any increase in such grant for any fiscal year, beginning with fiscal year 1981, over the previous fiscal year, resulting from the cost-of-living adjustment under section 412(b), must be passed on to recipients of aid under the State plan unless there is a finding by the State agency, conveyed in writing to the Secretary, that additional payments are not necessary to provide adequate benefits to such recipients. The State agency shall establish and publish the definition of adequacy of benefits pursuant to State administrative procedures. A State's determination on the adequacy of benefits shall be accorded the weight of substantial evidence in any judicial proceedings relating to such determination.".

CONFORMING CHANGES

SEC. 5. (a) Section 403(a)(3) of the Social Security Act, except as it applies to Puerto Rico, the Virgin Islands, and Guam, is repealed.

(b) Paragraph (5) of section 403(a) of the Social Security Act is amended by striking out "in the case of any State" and inserting in lieu thereof "in the case of Puerto Rico, the Virgin Islands, and Guam".

(c) Section 1116 of such Act is amended—

(1) by striking out "403 (a),"; and

(2) by inserting after "1603(a)" the following: ", and paragraph (2) of section 403 (a),".

(d) Section 403(a) of such Act is amended in the first sentence following paragraph (5) by striking out "paragraph (1) or (2)" and inserting in lieu thereof "paragraph (2)".

(e) Section 408(c) of such Act is repealed.

(f) Section 431(a) of such Act is amended by inserting ", including the making of payments to States for social and supportive services provided pursuant to section 403 (a)(19) (G)" before the period at the end of the first sentence thereof.

EFFECTIVE DATE

SEC. 6. The amendments made by this Act shall become effective on July 1, 1979.

FACT SHEET: STATE AND LOCAL WELFARE REFORM AND FISCAL RELIEF ACT OF 1978

(Revised, September 19, 1978)

1. Declares that this bill is a "first step toward providing Federal funding equal to at least 75 percent of the present level of State and local welfare costs".

2. Converts federal financial participation in the program of Aid to Families with Dependent Children (A.F.D.C.) from the present matching formula to a system of block grants for a period of five years beginning with FY 1980.

3. Each state's block grant in 1980 will be the sum of present federal A.F.D.C. spending in that state plus a portion of approximately $1.5 billion. The additional funds are distributed among the states according to a formula identical to that used for A.F.D.C. fiscal relief in the 1977 Social Security Amendments (except that the base periods are updated).

4. In subsequent years, state block grants will be adjusted in the following ways:

(a) Increased to keep pace with changes in the consumer price index.

(b) Increased if state population rises.

(c) Temporarily augmented if the state experiences very high unemployment.

(d) In those states where welfare benefit levels (including Food Stamps) are less than 65 percent of the federal poverty line, the block grants will be increased to the extent that benefits are increased to that level.

5. In states where local governments participate in A.F.D.C. financing, the additional federal funds must be "passed through" to offset local welfare costs.

6. Funds provided under the block grant may only be used for social welfare purposes; additional funds resulting from the annual cost of living increase must ordinarily be passed through to A.F.D.C. recipients to provide them with adequate welfare benefits.

7. Savings resulting from improved administration, reduction in fraud and error, successful placement of welfare recipients in employment and from other improvements permitted under Section 402 of the Social Security Act will be wholly retained by the states (or localities). Additional welfare costs not covered by itemized adjustments in the block grant must be absorbed by them.

8. In F.Y. 1979, this bill would provide fiscal relief of approximately $400 million to states and localities on the same basis as set forth above.●

● Mr. CRANSTON. Mr. President, Senators LONG and MOYNIHAN and I are reintroducing today our proposed "State and Local Welfare Reform and Fiscal Relief Act of 1978." We first introduced this measure as S. 3470 on August 25.

Mr. President, on September 12, Senator MOYNIHAN chaired a hearing on this proposal before the Public Assistance Subcommittee of the Senate Finance Committee. The changes in the legislation being introduced today reflect some of the concerns expressed by various witnesses with respect to the need for inclusion of various adjustments in the size of the block grants States will be entitled to receive under the proposal, and include certain technical and clarifying changes.

LIMITATION ON TIME FOR BLOCK GRANT APPROACH

Mr. President, one of the most significant changes from S. 3470 is a provision

limiting the block grant to a fixed period of years—5 years—so that we can have an opportunity to reassess its effectiveness in stimulating reforms on the local level and the adequacy of the levels established to assist States and localities in meeting the needs of welfare recipients.

Many of the witnesses at the hearings testified about their concern that over a period of time, the initial block grant would not—even with the adoption of cost-effective procedures and elimination of unnecessary expenditures—keep pace with the inflationary costs of welfare programs and unforeseen additional costs for States and localities. Establishing a fixed period of time for the initial block grant provides assurances that Congress will examine the situation again to assess these needs.

This fixed-time approach also is designed to make clear that we do not view this as a permanent resolution—that we are not abandoning efforts to bring about comprehensive welfare reform.

PROVISIONS TO ENCOURAGE STATES WITH LOW BENEFITS TO RAISE BENEFITS

Mr. President, many witnesses testified about their concerns that States with extraordinarily low-benefit levels would be unable under the block grant approach to raise benefits to adequate levels. The revised bill contains a provision—which was part of our original outline released last June but not included in S. 3470—to provide increases in the block grant to States with benefits below 65 percent of the poverty line when these States raise their benefit levels—up to that 65-percent figure. Although this proposal does not provide the national minimum benefit level that many seek to have enacted, it does provide an incentive for States to move in that direction.

UNEMPLOYMENT AND POPULATION ADJUSTMENTS TO BLOCK GRANT

Mr. President, today's proposal also contains adjustments to the block grant based upon exceptionally high unemployment rates in a State or increases in a State's population. These adjustments—again part of our original outline of last June—will provide a State with increased funds to meet the potential increases in AFDC caseloads arising from these factors.

EARNED INCOME TAX CREDITS AND TARGETED JOBS CREDIT

Mr. President, in our original outline of last June, we also proposed substantial expansion of the current earned income tax credit and welfare recipient employment tax credit. Expansion and improvement of these programs is vital to achieving welfare reform. The Finance Committee is currently working on our earned income tax credit proposal, and I am hopeful that they will include provisions along the lines outlined in our proposal. In addition to continuing to support the expansion of the employment tax credit and a strong outreach and marketing effort by the Labor Department along the lines we originally described, I have joined with Senator NELSON in his proposal to expand the categories of individuals covered by the new targeted employment tax credit for AFDC and disabled SSI recipients to include as well economically disadvantaged Vietnam-era veterans and youths between the ages of 18 and 24, and handicapped individuals. I think this kind of effort to encourage employment through the private sector is critical to our efforts to reduce dependency upon public assistance and other federally subsidized programs. Action on both of these proposals will be taken by the Finance Committee very shortly. Adoption of these proposals is critical to our overall welfare reform efforts in this area.

MOVEMENT FORWARD IN WELFARE REFORM

Mr. President, many of the witnesses at the hearing last week expressed their desire for broader and more comprehensive reforms of our welfare system. However, it is clear that these costly and controversial measures cannot be enacted in this Congress.

Mr. President, I still believe that something worthwhile can be achieved in this Congress. I hope that the three changes being made from S. 3470 by the bill we introduce today will bring about a reassessment on the part of those who have expressed reservations about the approach of the former measure. I reiterate my view, which I expressed at the hearing last week, that unless action is taken now to relieve the local communities, States, and individual taxpayers from the intolerable welfare burden by providing fiscal relief in a fiscally responsible manner, it is the welfare recipients—the mothers and children who need assistance from the AFDC program for their basic survival—who will be the ones to suffer from the results of congressional inaction.

Mr. President, I ask unanimous consent that the text of my testimony before the Public Assistance Subcommittee of the Senate Finance Committee be printed in the RECORD at this point.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY OF SENATOR ALAN CRANSTON

Mr. Chairman and members of the Subcommittee, I am pleased to be here today to speak on behalf of S. 3470, the proposed "State and Local Welfare Reform and Fiscal Relief Act of 1978". I thank the Chairman, who for so long has been a leader in the effort to achieve welfare reform, and Senator Long, who has likewise played such a vital role in this field, for their efforts in developing this legislation.

Mr. Chairman, I think it is important to begin by stressing that I don't believe that S. 3470 provides the answer to the concerns of many about the problems inherent in our current welfare system. I know that you recognize and share my view that this proposal is only a "first step" towards the kinds of reforms that are needed in the present system. It does not contain all of the measures I would like to see enacted, but it is an important and significant first step in that direction that we can and should take *now*.

There are many who oppose providing fiscal relief to states and localities without comprehensive reform of the welfare system. I cannot accept that position. Unless strong action is taken now to relieve the local communities, states, and individual taxpayers from the intolerable welfare burden by providing relief in a fiscally responsible manner, I am convinced that welfare recipients—the mothers and children who need assistance from the A.F.D.C. program for their basic survival—will be the ones who will suffer from the results of Congressional inaction. There are already signs throughout the country of widespread dissatisfaction over the cost of welfare programs for local and state governments. I have also heard some of our colleagues in the Senate voice very serious concerns about continuing the present open-ended federal commitment to ever-expanding A.F.D.C. caseload. This dissatisfaction may soon find itself expressed in the form of reduction of benefits for those who most need help unless steps are taken now to provide relief in a manner that will induce and stimulate cost-effective administration of welfare programs.

I know that there are many individuals who have expressed concern and reservations about the proposal to provide federal assistance through the block-grant approach. While I think we certainly must be careful to examine the full implications of this change and to be sure that sufficient flexibility is built into such a block grant to meet needs in future years, I nevertheless feel that this approach merits careful consideration. It provides incentives for states and localities to develop innovative, cost-effective programs on the local level within the existing federal framework. Perhaps by stimulating various constructive activities on the state and local levels, we can develop models to guide our future efforts on the federal level in the area of welfare reform. This block-grant approach also provides real incentives for local governments to find jobs for welfare recipients who can—and should—work and leave more resources available to support those who truly need our help.

Mr. Chairman, because the block-grant approach is so new, it would be agreeable to me to try it out for two fiscal years—FY 1980 and 1981—so that we can find out its true impact and effects. I urge the Committee to consider this approach.

Mr. Chairman, in our original plans for this legislation, we included strong provisions to strengthen the existing welfare recipient employment tax credit and the earned income tax credit. Expansion and improvement of these programs is vital to achieving welfare reform, but it can also serve other important public policy purposes. That is why I have joined with Senator Nelson in his proposal to expand the categories of individuals covered by the new targeted employment tax credit for A.F.D.C. and disabled S.S.I. recipients to include as well as economically disadvantaged Vietnam-era veterans and youths between the ages of 18 and 24, and handicapped individuals. I think this kind of effort to encourage employment through the private sector is critical to our efforts to reduce dependency upon public assistance and other federally-subsidized programs.

In conclusion, Mr. Chairman, let me reiterate my view that we must take a first step now towards providing state and local governments with fiscal relief in a manner designed to stimulate reduction of welfare costs, eliminate unnecessary expenditures, and allow us to provide adequate support in a humane and caring fashion for those who truly need our help. I strongly believe that unless we take these first steps now, those most in need may in the very near future be the ones who will suffer the most by our inaction. We cannot continue to hold this relief hostage for the broader comprehensive reforms which must also be addressed.●

ADDITIONAL COSPONSORS

S. 1674

At the request of Mr. LAXALT, the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of S. 1674, a bill to amend the Internal Revenue Code to limit employers' recordkeeping and information return requirements with respect to employees' tips.

S. 1974

At the request of Mr. NELSON, the Senator from Colorado (Mr. HART) and the Senator from Wyoming (Mr. WALLOP) were added as cosponsors of S. 1974, the Regulatory Flexibility Act.

S. 2860

At the request of Mrs. ALLEN, the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of S. 2860, the Solar Power Satellite Research, Development, and Demonstration Program Act of 1978.

S. 3111

At the request of Mr. MOYNIHAN, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 3111, a bill to amend the Internal Revenue Code of 1954 to allow the charitable deduction to taxpayers whether or not they itemize their personal deductions.

S. 3136

At the request of Mr. BAKER, the Senator from Tennessee (Mr. SASSER) was added as a cosponsor of S. 3136, a bill to amend section 15d of the Tennessee Valley Authority Act of 1933 to provide that expenditures for pollution control facilities will be credited against required power investment return payments and repayments.

S. 3176

At the request of Mr. LAXALT, the Senator from Nevada (Mr. CANNON) and the Senator from Texas (Mr. BENTSEN) were added as cosponsors of S. 3176, a bill to amend section 118 of the Internal Revenue Code of 1954 to clarify the treatment of contributions in aid of construction to regulated electric or gas utilities.

S. 3414

At the request of Mr. WALLOP, the Senator from Utah (Mr. GARN) and the Senator from South Dakota (Mr. MCGOVERN) were added as cosponsors of S. 3414, a bill to amend the Internal Revenue Code of 1954 to provide that nonresident aliens are taxable on gain from the sale or exchange of farming property and undeveloped real property at capital gains rates.

S. 3453

At the request of Mr. WALLOP, the Senator from Idaho (Mr. MCCLURE) was added as a cosponsor of S. 3453, a bill to limit imports of feeder and slaughter cattle and to authorize a trade agreement for that purpose in lieu of statutory quotas.

SENATE JOINT RESOLUTION 152

At the request of Mr. WILLIAMS, the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of Senate Joint Resolution 152, requesting the President to designate the month of June as "National First Aid Month."

SENATE JOINT RESOLUTION 155

At the request of Mr. ZORINSKY, the Senator from New Mexico (Mr. DOMENICI) and the Senator from Montana (Mr. PAUL G. HATFIELD) were added as cosponsors of Senate Joint Resolution 155, to increase the price support for milk, wheat, corn, soybeans, and cotton, to not less than 90 per centum of the respective parity prices therefor, and for other purposes.

SENATE JOINT RESOLUTION 161

At the request of Mr. CHAFEE, the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Vermont (Mr. STAFFORD), and the Senator from Oregon (Mr. MARK O. HATFIELD) were added as cosponsors of Senate Joint Resolution 161, to authorize the U.S. Navy Memorial Foundation to erect a memorial in the District of Columbia.

AMENDMENT NO. 849

At the request of Mr. NELSON, the Senator from Colorado (Mr. HART) and the Senator from Wyoming (Mr. WALLOP) were added as cosponsors of amendment No. 849 intended to be proposed to S. 1974, the Regulatory Flexibility Act.

AMENDMENT NO. 3409 (AS MODIFIED)

At the request of Mr. PERCY, the Senator from Tennessee (Mr. BAKER), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from Missouri (Mr. EAGLETON), the Senator from Kentucky (Mr. FORD), the Senator from Colorado (Mr. HASKELL), the Senator from Hawaii (Mr. INOUYE), the Senator from Ohio (Mr. METZENBAUM), the Senator from Maryland (Mr. SARBANES), the Senator from Vermont (Mr. STAFFORD), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of amendment No. 3409 (as modified) intended to be proposed to S. 911, a bill to establish a Department of Education, and for other purposes.

AMENDMENTS SUBMITTED FOR PRINTING

INTERSTATE HORSERACING ACT OF 1978—S. 1185

AMENDMENTS NOS. 3602 THROUGH 3616

(Ordered to be printed and to lie on the table.)

Mr. STEVENSON submitted 15 amendments intended to be proposed by him to S. 1185, a bill to regulate interstate commerce with respect to parimutuel wagering on horseracing, to maintain the stability of the horseracing industry, and for other purposes.

NATIONAL PARK SYSTEM AMENDMENTS—S. 2876

AMENDMENTS NOS. 3617 AND 3618

(Ordered to be printed and to lie on the table.)

Mr. MATHIAS submitted two amendments intended to be proposed by him to S. 2876, a bill to provide for increases in appropriations ceilings for development ceilings, land acquisition for boundary changes in certain units of the National Park System, and for other purposes.

DEPARTMENT OF EDUCATION—S. 991

AMENDMENTS NOS. 3619 THROUGH 3621

(Ordered to be printed and to lie on the table.)

Mr. SCHMITT submitted three amendments intended to be proposed by him to S. 991, a bill to establish a Department of Education, and for other purposes.

NOTICES OF HEARINGS

COMMITTEE ON HUMAN RESOURCES

● Mr. CRANSTON. Mr. President, I wish to announce hearings of the Human Resources Committee on S. 2020, my bill to amend the Longshoremen's and Harbor Workers' Act to clarify its coverage. The hearings will be held on Thursday, September 28, 1978, 10 a.m. to 12 noon, in room 4232, Dirksen Senate Office Building, Washington, D.C.●

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

● Mr. LEAHY. Mr. President, I wish to announce that there has been a time change in the upcoming nitrite hearings before the Subcommittee on Agricultural Research and General Legislation. The subcommittee will meet at 9:30 a.m., Monday, September 25 in room 324, Russell, to hear from Donald Kennedy, Commissioner, Food and Drug Administration, and Carol Foreman, Assistant Secretary for Food and Consumer Services, USDA. Anyone wishing further information should contact the committee staff at 224-2035.●

AUTHORITY FOR COMMITTEE TO MEET

SUBCOMMITTEE ON THE CONSTITUTION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Constitution Subcommittee of the Committee on the Judiciary be authorized to meet during the session of the Senate today to hold a hearing on S. 1845, the Polygraph Control and Civil Liberties Protection Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON GOVERNMENT EFFICIENCY IN THE DISTRICT OF COLUMBIA AND THE COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Governmental Affairs Subcommittee on Government Efficiency in the District of Columbia be permitted to meet at 2 p.m. today on three District bills. Does the Senator know anything about this?

I also ask unanimous consent that the Judiciary Committee may be permitted to meet tomorrow during the session.

Mr. President, I withdraw the two requests momentarily and I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from Utah.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I now renew my request for the meeting of the Committee on the Judiciary and the Governmental Affairs Subcommittee on Government Efficiency tomorrow.

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

NEW TRACER FOR TERROR BOMBINGS

● Mr. STEVENSON. Mr. President, we are on the verge of a technological breakthrough in preventing terrorist and criminal bombings and in apprehending individuals who engage in such activities. Already scientists have developed a system whereby microscopic particles, or "taggants," are placed in all explosives; these taggants would allow the explosives to be traced to the point of sale or theft even after detonation. This should provide substantial aid in capturing criminal and terroist bombers. Soon it will be possible to add another type of taggant to explosives which will enable authorities to detect the presence of explosives before detonation; the lifesaving potential of this innovation is self-evident. S. 2236, an Act to Combat International Terrorism, would establish a program that requires the taggants to be added to explosives. This program then is designed to attack the grave problem of criminal and terrorist bombings.

Mr. President, I would like to share with my colleagues two excellent pieces, one from the Christian Science Monitor of August 31, and the other from the Washington Post of September 18, which discuss the desirability of tagging explosives of all types, and I would like to ask that they be printed in the RECORD.

The articles follow:

[From the Christian Science Monitor, Aug. 31, 1978]

NEW TRACER FOR TERROR BOMBINGS

(By Peter C. Stuart)

WASHINGTON.—Federal explosives experts have spent thousands of hours investigating the bombing that ripped through a baggage area at New York's La Guardia Airport in December, 1975, killing 11 persons and injuring 75.

They have been unable to discover even what type of explosive was used.

The unsolved La Guardia bombing is no exception. Only 8 percent of federal bombing cases result in arrests.

Bombings account for 90 percent of the domestic terrorist incidents in the United States—reaching a record 1,058 explosions last year. Clearly, if the nation is to control terrorism, it must control bombings.

LEGISLATIVE POSSIBILITY

Government explosives specialists say they have developed an important technique to help in this effort, and Congress will decide next month whether to include it as part of a broader antiterrorism bill.

The technique, which involves the use of explosives "taggants," promises to give authorities an effective means of combating terrorist bombings. But it has run into opposition from Washington's powerful gun lobbyists, who fear it may also interfere with the ammunition supplies of legitimate sportsmen.

The method is the product of five years of work by a team of technicians from the explosives and arms industries, security ranks, airlines, universities, and the government. It calls for manufacturers to insert chemical materials into explosives. This would help in tracing bombs after they were detonated (using taggants that are indestructible and coded as to origin) and in detecting concealed bombs before they are detonated (using taggants that emit a vapor).

BREAKTHROUGH CLAIMED

"This is a major breakthrough," says Richard J. Davis, assistant secretary of the Treasury for enforcement and operations. "It will not solve all our bombing cases, but will help us solve more of them—and more quickly."

Taggants are ready to be put into the most common bomb-making ingredients—dynamite and the other so-called "cap-sensitive" explosives, used in 30 percent of criminal bombings—as soon as a factory is built to produce them. These common explosives cause the bulk of bombing fatalities, injuries, and property damage. Taggants for other types of explosives would be phased in by 1981.

Once explosives are tagged, the puny arrest rate for bombings should grow by a margin of anywhere from 50 percent to 400 percent, according to a government-commissioned study.

Any increase in the detection of unexploded bombs and in deterrence of would-be bombers is much harder to predict quantitatively.

But Treasury official Davis says it would be well worthwhile in human terms: "To make use of a technique that can identify a bomb before it goes off and kills or hurts people, on a cost-beneficial basis, is a rather important thing to try and do."

The financial cost is estimated to be modest, adding 1½ cents to the price of a pound of explosives.

CONTROVERSY OVER POWDER

The bomb-control provisions of the anti-terrorism bill would stir barely a murmur of controversy, were it not that the materials slated for tagging include the black and smokeless powders used by target shooters, antique firearms collectors, and other gun buffs.

The National Rifle Association is concerned that the taggants might impair weapons and their ballistic performance, and that the record-keeping required of dealers and buyers threatens to impose what an NRA lobbyist calls "ammunition control."

The powder favored by gun enthusiasts also happens to be the second most common explosive in bombs in this country, used in 19.8 percent of the bombings tabulated last year by the Treasury's Bureau of Alcohol, Tobacco, and Firearms, accounting for eight deaths and 73 injuries.

"It's the most convenient explosive to use," John G. Krogman, acting director of the bureau, says. "You just stick it in a pipe."

Treasury officials want authority to tag black and smokeless powders if testing now under way finds that taggants are harmless in gun use.

They worry that exempting powders used as propellants in firearms, as one House subcommittee has already done, would provide terrorist bombers a giant loophole through which to secure a continued supply of untraceable explosives.

"We have no doubt that the NRA has a great ability to influence members of Congress," Mr. Davis says. "But this issue is not a gun-control issue, and we hope Congress doesn't allow it to be turned into one."

[From the Washington Post, Sept. 18, 1978]

KEEP YOUR POWDER TAGGED

An ingenious new weapon against criminal bombing and terrorism has come under fire from groups who use old-fashioned, muzzle-loading firearms for sport and show. One might think that futuristic technology could hold its own against the flintlock, especially when better public protection is at stake. But the National Rifle Association has taken up the muzzle-loaders' banner, and the outcome in Congress is in doubt.

At issue is a plan that would make bombs less anonymous and much easier to trace. The system, developed by federal agencies, industry representatives and other experts, involves tagging explosives by mixing in microscopic particles with identifying codes. The tiny tags, which could be found after a blast, would tell where and when that batch of explosives had been made. With those codes fed into existing record-keeping systems, investigators could track the materials at least through the last legal sale. Another kind of tag being developed would enable security forces to detect bombs more easily in letters, luggage and the like.

This is a noteworthy use of space-age technology with obvious public benefits. Identification tagging of dynamite and other cap-powered explosives is ready to start as soon as Congress approves the program. Within a year or two, the experts think they can perfect tagging of black and smokeless powders, which are often used in pipe bombs and have been involved in over one-fifth of the criminal "explosives incidents" reported to the FBI in recent years.

That's where the NRA comes in. Black and smokeless powders are also used, lawfully, by people who reenact historic battles, target-shoot with antique firearms and reproductions, or reload bullets at home. There are also the symphony orchestras that do full-blast renditions of the "1812 Overture." The orchestras have not been heard from, but the NRA certainly has. It argues that innocent hobbyists could certainly be hurt—not by the tagging but by the record-keeping stores would have to do. Keeping track of powder packages need not be a major new chore, since everyone who buys even a pound of black or smokeless powder must already fill out a form. The NRA fears, though, that any new rules could cause some retailers to stop selling the powders. And it fears that powder-tagging could lead to ammunition-tagging or even—you guessed it— registration of guns.

Thus the gun group wants smokeless powder and sporting-grade black powder exempted from the tagging program now being advanced in the Senate and House. In our view, that would be a dangerous mistake. It would amount to putting on a different kind of tag—an invitation to criminals to make more bombs with these easily bought materials because they will be the hardest to trace. Instead of encouraging potential terrorists, Congress should spur the tagging program on. It wouldn't make it all that much harder to reenact the battle of Manassas—if that's your worry—or to perform the "1812 Overture." And it would almost certainly make it easier to combat criminals bent on terrorist bombings. Even the NRA ought to be in favor of that.●

FREE ENTERPRISE KEEPS AMERICA HEALTHY

● Mr. MATHIAS. Mr. President, there are those that say that the free enterprise system is no longer significant in a world of government cartels and subsidized corporations. I would disagree with that judgment.

The free enterprise system has long been responsible for the vigor and inventiveness of the American economy. Even when our economy experiences such ills as inflation and depression, the competitive free enterprise system remains its cornerstone and promises to be its best remedy. We have the highest standard of living in the world and much of that success can be attributed to our economic freedom.

Nonetheless, the world is full of naysayers and criticism abounds, so it is good when someone reaffirms our faith in the competitive free enterprise system. One such person is the executive director of the Carroll County, Md., Chamber of Commerce, Charles D. Schaffer.

This year, the Carroll County commissioners declared July 1 as "Free Enterprise Day." Charlie was asked to point out a few of the virtues of free enterprise and those comments appeared in the Carroll County Times.

The observations he makes on economic freedom and enterprise are well worth my colleagues' attention.

Mr. President, I ask that the article entitled "Free Enterprise Keeps America Healthy," from the Carroll County Times be printed in the RECORD.

The article follows:

FREE ENTERPRISE KEEPS AMERICA HEALTHY

The Carroll County Commissioners have declared Saturday, July 1 as Free Enterprise Day. Consequently, it is appropriate to point out a few of the virtues of:

THE COMPETITIVE FREE ENTERPRISE SYSTEM

The free enterprise system is the economic counterpart of the political free society. It is the only way men have yet discovered to combine effective cooperation in production with individual liberty. In fact, the private enterprise has been and remains one of the most productive and energizing elements in the modern world.

ECONOMIC FREEDOM

The object of liberty, as against government, is to be let alone. Economic liberty means that each person is free to use his resources in his own way to satisfy his own wants. Economic freedom means that farms and factories in this country can be privately owned and operated. It means that an individual or a corporation is free to create new and better ways to produce goods and services, and to reduce costs.

In the free society, the individual may become self-employed, a jobholder or a job-maker; his role depends on his applied ability, his means and his will. Anyone is free, ideally, to try any activity he wishes that is not illegal.

The free society is a system of voluntary contract. Voluntary contract means mutual exchanges of promises, free from force or fraud. Coercion and lying deceit are not within the ethics of freedom.

Economic freedom is the opposite of a government-planned or operated economy. It is the opposite of a government controlled labor market or "nationalized" industries. It is the opposite of unnecessary hampering and restricting government rules, regulations, and infringements. It is the opposite of government-created monopolies, of government-assigned investment or production quotas.

Economic freedom is the opposite of any establishment of favored firms, producing government-specified goods and services for the "public interest," as defined by government, at the pleasure and by the indulgence of benevolent government officials. The market responds to the highly diversified and varied interests of the consumer.

THE LIMITS TO ECONOMIC FREEDOM

The great enemy of the free society, both political and economic, is concentrated power-monopoly. Ideally, the enterprise economy comprised of many competitors leaves no possibility of coercive monopoly.

Economic freedom, like political freedom, has limits. Freedom does not imply that the individual has the right to run roughshod over the rights of others. It does not imply that there is no need whatever for rules of the game, for umpiring, and for regulations and control to guard free trade itself and to prevent monopoly. Thus, in the sphere of economics, the free society prefers to use the coercive force of government to prevent coercion of some citizens by others and to maintain the marketplace from force or fraud.

For this reason, effective government must enforce the rules of the competitive game. And for this reason, Congress has enacted the antitrust laws. In the public interest, also, industries of high technology and monopoly tendency are regulated. Also, there are certain needed controls on transportation, and communication. Other limitations on all-out economic freedom are in areas of national defense interest, where freedom jeopardizes the defense potential. These include notably research having to do with military and space technology and with nuclear energy.

However, we must be careful to guard against excessive and unnecessary regulation and interference with business. Experience has shown that this can be counter-productive.

Nor should government compete in business with its own citizens. The public sector should not compete with the private sector. An economic system half public and half free will eventually result in the government ownership and operation of the means of production and distribution of goods and services.

FREEDOM TOLERATES DIVERSITY

The ethical claim of economic freedom is the claim to one's just deserts. It can be demonstrated that, under enterprise assumptions, we get out of the productive process the value of what we put into it.

The principle requires no government preachments or presumptions. There is no preachment that each should produce according to his abilities. There is no presumption that government can set a free man's needs. Not, "From each according to his ability: to each according to his needs." Rather, the prescription of a free society is, "From each according to his own free will; to each according to his contribution to production."

Indeed, the competitive free enterprise system takes the individual and his skills as they are. Free enterprise economics demonstrates competitive efficiency under certain limited assumptions, for example, that individuals (1) are rational, (2) are knowledgeable, and (3) want freedom.

FREEDOM PROMOTES EDUCATION

It is clear that the free society has excelled in setting social policy to proliferate general education and scientific progress. In the free society, the government may not preempt education for government does not have a monopoly of the truth. So we have our great and glorious private educational institutions and our modest and quiet ones, operating freely side by side with public education in tolerance and mutual respect.

ECONOMIC FREEDOM IMPROVES MAN'S LOT

The massive growth of general education, of scientific progress, and of democracy has coincided both in time and place with the emergence of the free enterprise system of organizing the marketplace. Is this mere accident? And it has been in the free society where the innovating power of intellectual and economic freedom has been steadily applied to improving the common lot of ordinary people in growing numbers without the loss of freedom or the coercion of centralist authority.

THE ROLE OF ENTERPRISE

An enterprise, according to Webster, is "an attempt or project, especially one which involves activity, courage, energy, or the like; a bold, arduous, or hazardous attempt; an important undertaking."

The heart of enterprise is risk taking. Risk-taking demands boldness; it is arduous; it puts energy and courage to the test of performance. Enterprise calls for the determined rebel to remain at war with the status quo. "For every new idea, there are 1,000 men to stand forth and defend the past."

FREE ENTERPRISE STIMULATES CREATIVITY

Our ideal is freedom of enterprise. The word "freedom" here means exactly that anyone is free to take the risk of success or failure in any legal venture.

Free enterprise is a social device for stimulating creative individuals to undertake the risks of new ways of producing things attractive to consumers. Freedom of entry into a business or industry is vital for the producer. It is as vital as freedom of choice for the consumer. Without freedom of entry there is no way for the new man to challenge the industrial status quo.

PROFITS REFLECT THE CONSUMER'S WANTS

After all, why take risks or innovate? Why take the risk of the enterpriser? The answer is the chance of unusual reward. Profit—the right to a residual share of earnings after all other costs are paid—gives that chance. Exceptional effort and determination are offered exceptional chance of reward.

Profits have a social function. Russian and East European communists are only now beginning to learn it. For society, profits measure the excess in value of goods and services, over their other costs of production, that consumers are willing to pay for wanted products.

Profits, in short, give society a way to tell what consumers want. And consumers, when society lets them tell, want products of convenience, well-made and attractive, with style and taste and newness; they want some originality, some individuality, some elegance—along with lower and lower cost.

Profits have an economic function. The drive for profits leads to more efficiency in production. The producer can increase profits either by upping prices and sales or by reducing costs. Facing competition, the producer cannot get far by upping prices. He risks losing sales. So he is given a powerful drive to cut costs. Cutting costs means getting more output with the same input. When producers cut costs, while producing wanted goods, everyone benefits.

Profits, finally, lead to good management of people. It is not accident that businesses facing competition lead the world in courtesy to customers. The bored bureaucrat has a sinecure and does not care for customers.

But the astute businessman must give his customers courteous treatment or see them walk down the street to a competitor's shop.

Helping to preserve our competitive free enterprise system and the concept of the free market place is everybody's business. It is not only our business—it is your business and responsibility too.—CHARLES D. SCHAFFER.●

ERA: NO TIME LIMIT ON EQUALITY FOR MEN AND WOMEN

● Mr. BAYH. Mr. President, the need to extend the time period for the ratification of the proposed 27th amendment to the Constitution—the equal rights amendment—has been acknowledged by the testimonies of both the National Women's Political Caucus and the National Council of Negro Women. Each group in their affirmation, reiterates the necessity for the adoption of the equal rights amendment as a legal and moral foundation to end sex discrimination in our country, for there is no piece of legislation, including the Civil Rights Act, that would have the legal impact of permanence of a constitutional amendment.

The purpose for the 7-year time limit customarily set by Congress for the ratification of most amendments since the 18th, is twofold: First, to avoid having unratified amendments "floating around" after interest in them has waned, and second, to show that some kind of "contemporaneous consensus" existed on the proposed amendment. The vitality of the current ERA debate attests to the continued public interest, and public opinion polls reveals that support for the ERA has remained consistently high, therefore, it is believed that contemporaneous consensus exists to justify an extension of the time period for ratification.

Mr. President, I now ask that the testimonies of the National Women's Political Caucus and the National Council of Negro Women, along with the article by Roy Wilkins, "Rallying Blacks to ERA" which appeared in the July 7, 1978 issue of the Gary Post Tribune, be printed in the RECORD.

The material follows:

STATEMENT BY MILDRED JEFFREY

My name is Mildred Jeffrey. I am pleased to present to the Constitutional Amendments Subcommittee a statement in support of S. J. Res. 134, a resolution to extend the ratification period of the Equal Rights Amendment. I am appearing here today as Chair of the National Women's Political Caucus, a multi-partisan organization of 35,000 members and contributors. Our members include Republican and Democratic activists, elected officials, women and men from all walks of life who share a common concern for issues of importance to women. Our long range goal is to bring women into active and significant participation in American politics.

Passage of the Equal Rights Amendment has been our priority issue since our inception in 1971, for we believe that ERA is necessary to provide a legal and moral foundation to eradicate sex discrimination in this country. NWPC's strategy for achieving ratification is to elect pro-ERA state legislators and to unseat legislators who have consistently voted against constitutional equality for women and men. We have established a special political committee, the NWPC ERA Fund, which has already in 1978 contributed over $100,000 to targeted candidates in unratified states.

While it is possible that ERA could be ratified before March 22, 1979, we believe that Congress should extend the deadline to insure ratification of ERA. We believe those committed to ending sex discrimination will unite behind this proposal to extend the ratification period.

In my testimony I will discuss why we believe Congress has both the responsibility and the authority to extend the ratification period. I will review the current political situation throughout the country and touch on the legislative history of ERA in unratified states. Though this committee has heard from legal scholars who are much better versed than I in the technical complexities of extension and related questions, I will briefly review the legal issues to show why we believe Congress has the clear authority to pass S. J. Res. 134 without a rescission amendment or a two-thirds vote requirement.

CONGRESSIONAL RESPONSIBILITY FOR ERA

The Equal Rights Amendments is a necessary moral and legal foundation to end sex discrimination in our country. Support for the amendment, as demonstrated in numerous public opinion polls, has remained strong and consistent. Yet a handful of legislators in a few states have played politics with this fundamental human rights issue and blocked its final ratification. The 95th Congress can show its support for equal rights by extending the ratification period to insure passage of this amendment.

Sex discrimination is still prevalent in our country. The U.S. Civil Rights Commission report released this week states that women still earn only half as much as white males and that women with college degrees earn less than men with high school degrees. The study found that there is "virtually no financial ladder" for women, since there has been little or no improvement in the earnings of full-time working women between the ages of 20 and 44. Though Title VII of the Civil Rights Act provides important language for ending sex discrimination in employment, there are still many instances of discrimination. Title IX of the Education Amendments of 1972 provides language to end sex discrimination in education, but enforcement has been inadequate. HEW currently has 1,400 sex discrimination cases pending in their files. The Civil Rights Act and other legislation can go far to end sex discrimination, but no piece of legislation has the legal impact or permanence of a Constitutional amendment.

The need for ERA also becomes clear when you review the current laws in our country. Many, many laws at both the federal and state level condone sex discrimination. At the federal level, a title-by-title review of the U.S. Code in 1977 revealed over 800 sex-biased laws, the cumulative effect of which is to assign women, on the basis of their sex, to subordinate roles. State law codes are also permeated with sex discrimination. For instance, in Georgia the family home belongs to the husband, even if the wife supports the husband and makes the payments on the home. In Virginia, a husband's property cannot be seized to pay his wife's debts, but a wife's property can be seized to pay her husband's debts. In West Virginia and Maine, if a husband and wife run a business together, the profits belong to the husband. Only with passage of ERA can these antediluvian laws be revised in a systematic and efficient way.

ERA opponents have claimed that the Fourteenth Amendment is sufficient to prohibit sex discrimination. We disagree and our position was well articulated by Justice Lewis Powell in his opinion on the Bakke case:

". . . The court has never viewed such classification (gender-based distinctions) as inherently suspect or as comparable to racial or ethnic classification for the purpose of equal protection analysis."

How fortunate we are to have Supreme Court Justice make such a compelling case for ERA.

The inconsistent decisions that the courts have been rendering on gender-based discrimination laws further point up the urgency of ERA. Recently, women have achieved some victories in the courts. Only last Friday, Judge Sirica in the District Court here in Washington ruled that the Navy must allow women to serve on Navy ships and that individual ability, not a person's gender, must be the sole qualification for ship duty. In recent years, the Supreme Court has struck down pension and social security laws that provided disparate treatment for men and women. During this same period, however, the courts have also upheld laws that perpetuate sex discrimination. Women's groups were shocked last year when the Supreme Court denied a young woman in Philadelphia the opportunity to attend an all boys public technical school, and said that the Philadelphia school district can continue its exclusionary admissions policy. Also, a Florida state court upheld an automatic property tax exemption for widows, a policy that clearly discriminates against needy widowers. What these contradictory decisions tell us is that we need ERA to establish a national policy against sex discrimination. We need a fundamental permanent standard that will tell judges, legislators, employers, unions, educators and all other citizens that discrimination based on sex violates the legal and moral foundations of our society. That is why the Equal Rights Amendment was written and that is why it must become part of our Constitution.

Support for ERA remains consistently strong. If you were in town July 9, you must have seen the tens of thousands of men and women who assembled in the heat and humidity of the Mall to march for ERA. Public opinion polls have shown consistent majority support for ERA. Since 1975, when ERA questions were first included on the Gallup and Harris Polls, support for the amendment has changed by only one percentage point. The July 1978 Harris and Gallup Polls show that ERA is supported by over 57% of those surveyed. A regional breakdown of the Harris Poll shows that ERA is supported by a majority in every region of the country. As the Harris Survey states:

"Indeed, the key to the ERA majority today is the fact that majorities of nearly all groups favor it."

The same Harris Poll shows that a strong majority (57–40 percent) favors Congress extending the time limit for ratification. Again, this support is consistently strong in every region of the country. Many organizations from all walks of American life support ERA. For instance, more than 200 organizations and 20 city and country governments have gone on record that they will only hold conventions in states that have ratified ERA. A partial list of the more than 200 organizations who support the extension of the ERA ratification period is attached to this testimony.

Though support has been demonstrably strong throughout the ratification process, several factors have impeded ratification. Misrepresentation and misunderstandings have been bandied about by ERA opponents.

Fears have been planted, cultivated and harvested, even though numerous responsible, impartial authorities have spoken against them. If I believed ten percent of the nonsense opponents attribute to ERA, I would think twice about supporting it. But we know what ERA is really about: it's about ending discrimination based on sex . . . and that is all. Thirty-five states representing approximately 75% of this country's population have seen through the nonsense and have ratified ERA. We expect others will soon follow.

A handful of legislators have prevented ratification. Political deals, often unrelated to ERA have stopped ratification in some states. The writers of the Constitution intended the state legislatures to consider Constitutional amendments, yet in five states (Alabama, Arkansas, Mississippi, Utah and Virginia) ERA has not yet had a recorded vote in both Houses of the legislature. Certainly every citizen has a right to have her/his elected representative cast a vote on such an important issue as a Constitutional amendment. In Virginia, Majority Leader Jim Thompson consistently kept ERA bottled up in the House Privileges and Elections Committee. ERA supporters worked together in the last election and defeated Thompson.

Earlier this year, partisan in-fighting, leadership struggles and parliamentary maneuvers prevented Illinois from passing ERA. Illinois requires a supra-majority of three-fifths to ratify ERA. Without this unnecessary requirement, Illinois would already have ratified, since both Houses have passed it by a majority vote.

The most frustrating examples of these instances of political chicanery are the legislators who ran for office on a platform supporting ERA, who accepted help from ERA supporters and then voted against ERA when their vote was needed. Nine legislators in Nevada voted against ERA in 1977 after having voted for it in 1975 and 1976. All nine had been endorsed and received contributions from pro-ERA groups. We are doing something about these double-crossers in the 1978 election. In the North Carolina Senate, ERA lost by only two votes. One of the "no" votes was cast by James McDuffie, who had been elected in 1976 with our support because he favored ERA. NWPC/ERA Fund worked with others to oust the turn-coat McDuffie and he came in last in a field of five candidates in the May 1978 primary.

We who support ERA have been dismayed by some of the things that have taken place in the ratification process. We were appalled that anyone would take seriously some of the nonsense propagated by ERA opponents. We were shocked that someone would consider something as important as a Constitutional amendment in terms of where he would go to the bathroom. We were stunned when legislators stalled in committee such an important issue and wouldn't let every legislator vote on ERA. We were horrified when legislators who had run as ERA supporters turned against ERA when it was time to vote. We are angry about these things—but we are also very determined. We have redoubled our efforts. We're lobbying in small towns and large cities, we're lobbying in the state legislatures, we're raising money and working in campaigns. We're showing legislators that they can't play foot-loose and fancy-free with ERA any more. We're in there to win and we'll keep at it until we do. This is our responsibility and our commitment.

We think the Congress also has a responsibility for ERA. We've talked about how important ERA is for our country, how vital it is that it become a part of our Constitution. We think the overwhelming majority of this Congress will agree with the overwhelming majority of Americans that ERA should be ratified. Now I think it is necessary to show your support for ERA in a concrete way by granting this time extension for ratification. NWPC hopes that three more states will ratify by the March deadline, but the extension will provide sufficient time to insure ratification. The Congress initiated ERA in 1972 because it believed it would benefit in a very fundamental way the citizens of our country. To continue the commitment to equality made by the 92nd Congress, we ask you to extend the ratification period.

CONGRESSIONAL AUTHORITY FOR ERA EXTENSION

I know that during the past two days eminent legal scholars have addressed the legality of extension and the two-thirds and rescission questions. Let me just state for the record that NWPC endorses the statements prepared by Ruth Bader Ginsberg, Thomas Emerson and Laurence Tribe in which they all conclude that Article V of the Constitution clearly grants Congress the power to set a deadline for ratification of a constitutional amendment, and that nothing in the Constitution or relevant scanty case law prohibits Congress from altering that time period.

Congress first established a time limit for ratification with the 18th amendment. It then became customary for Congress to include a seven year time limit on most subsequent amendments. The purpose of the seven year limit was two-fold: 1) to avoid having unratified amendments "floating around" after interest in them had substantially waned, and 2) to show that some kind of "contemporaneous consensus" existed on the proposed amendment. Clearly, the vitality of the current ERA debate attests to the continued public interest in ERA and belies any view that the issue is dormant. Additionally, our previous discussion of both current and past public opinion polls reveals that support for ERA has remained consistently high. More organizations than ever before have gone on record in support of ERA and have taken the additional steps of joining the boycott of unratified states and supporting extension. Since interest in and support for ERA is clearly strong, we believe the necessary "contemporaneous consensus" exists to justify an extension of the time period for ratification.

Opponents of extension argue that ratified states may feel "cheated" by an extension because they ratified on the assumption that the deadline would occur on March 22, 1779. We reject this notion for two reasons. First, each state has ratified only the text of the amendment, not the instruction on time which is contained in the resolving clause. Secondly, the Caucus has been involved in the ratification process in numerous states and we have never seen any evidence that the seven year limit played a role in any legislator's decision to vote for ERA.

Constitutional law experts have also debated the question of whether a simple majority or a two-thirds vote of Congress is required to pass extension. NWPC supports the conclusions reached by Professors Ginsberg, Tribe and Emerson that the Constitution requires only a simple majority vote by both the Senate and House to pass S. J. Res. 134 and H. J. Res. 638. Because the time limit is part of the resolving clause and not part of the amendment, the time limit is a mere procedural detail, and not subject to the same two-thirds standard required of the amendment itself.

Now I would like to address rescission—an issue which has impaired rational consideration of the extension measure. Rescission has been attached to extension for political reasons. It is essentially unrelated to extension in any legal sense. A rescission amendment is totally unacceptable to NWPC.

Rescission first came up in connection with the Fourteenth and Fifteenth Amendments (though there is some important correspondence on the subject by the founding fathers). The Supreme Court has held that the Congress sitting at the time three-quarters of the states have ratified must validate or reject rescissions. In the past, Congress has consistently rejected rescissions. NWPC believes that precedent is the soundest guide to the rescission question and that it is unnecessary and premature to act on the issue before ratification is complete.

Furthermore, proponents of rescission fail to recognize that the "ground rules" governing ratification do not prohibit a state from passing a rescission resolution. The legislatures in three states (Nebraska, Tennessee and Idaho) have recently attempted to rescind their ratification of ERA. We believe that an extension of the deadline would in no way preclude additional states from attemtping to rescind. Congress does not need to grant any additional authority on rescission, and to do so would be gratuitous.

Finally, we are totally opposed to rescission because it would set a dangerous precedent for future amendments. Congressionally sanctioned rescission would promote chaos in the traditional process of ratification. If Congress explicitly permits state legislatures to ratify one year and rescind the next, how will any amendment ever be ratified? How will a state's decision on an amendment be counted if it has acted in several contradictory ways? We strongly urge you to reject any rescission provision.

* * * * *

In the past decade, there has been much debate about the role of women in our society. Many assume that, because women are becoming more vocal about their concerns, they are making tremendous progress toward equality. It is therefore important to step back and take a good, realistic look at what is actually happening to women. The report of the U.S. Civil Rights Commission, released this week, is an important indicator of the tragic situation women are in our society. The report shows in cold, hard facts that women have not made any significant progress toward economic and social equality with white men since 1960. There is something drastically wrong with a society that discriminates against half of its population.

The Equal Rights Amendment is absolutely necessary to end this continuing pattern of discrimination. If we allow the amendment to be defeated we as a country are going on record in favor of discrimination against half our citizens solely because of their sex. On the other hand, when we ratify ERA, our country will say in a clear, permanent and unshakeable way that women and men should be treated as equals. We ask that you insure that ERA become a part of our Constitution by extending the time period for ratification.

ORGANIZATIONS SUPPORTING EQUAL RIGHTS AMENDMENT EXTENSION

ABC Maintenance Development Corporation.

Alexandria (VA) Commission on the Status of Women.

Amalgamated Clothing and Textile Workers Union.

Amalgamated Meat Cutters and Butcher Workmen of North America.

American Alliance for Health, Physical Education, and Recreation.

American Anthropological Association.

American Association of University Professors.

American Association of University Women.

American Baptist Women.

American Civil Liberties Union.

American College of Nurse/Midwives.
American College Personnel Association.
American Federation of Government Employees.
American Federation of Labor-Congress of Industrial Organizations (AFL-CIO).
American Federation of State, County and Municipal Employees.
American Federation of Teachers.
American Friends Service Committee.
American Home Economics Association.
American Jewish Committee.
American Library Association Committee on the Status of Women in Librarianship.
American Newspaper Women's Club.
American Personnel and Guidance Association.
American Society for Public Administration.
American Society of Planning Officials.
American Women in Radio and Television.
Americans for Democratic Action.
Arlington (VA) Democratic Committee.
Association for Intercollegiate Athletics for Women.
Association for Women in Mathematics.
Association for Women in Science, Inc.
Association of Flight Attendants.
Barbers, Beauticians and Allied Industrial International Association.
B'nai B'rith Women.
Cambridge (MA) Democratic City Committee.
Catholics Act for ERA.
Chicago Catholic Women.
Christian Feminists.
Church of the Brethren Washington Office.
Council for Women's Rights.
Cincinnati Teachers Association.
Coalition of Labor Union Women.
Communications Workers of America.
Consumer Federation of America.
COPUS (Coalition of Independent College and University Students).
Council for Women's Rights.
Democratic National Committee.
Democratic Socialist Organizing Committee.
8th Day Center for Justice.
Elizabeth (NJ) Teachers Union.
Federally Employed Women.
Federation of Jewish Philanthropies.
Feminist Congress of Greater Cincinnati (OH).
Friends Committee on National Legislation.
Gay Pride Conference.
Gray Panthers.
Housewives for ERA.
Humanist Association of the National Capitol Area.
Independent Student Coalition.
Institute of Women Today.
Intercollegiate Association for Women Students.
International Association for Personnel Women.
International Association of Machinists and Aerospace Workers.
International Ladies' Garment Workers' Union.
International Union of Electrical, Radio, and Machine Workers.
International Union of Operating Engineers.
International Women's Year Commission and Continuing Committee.
Jewish Labor Committee.
Jewish Peace Fellowship.
Jewish Welfare Board.
Latin American Studies Association.
Leadership Conference on Civil Rights.
Los Angeles (CA) City Commission on the Status of Women.
MANA (Mexican American Women's National Association).
Medical Library Association.
Michigan State University Board of Trustees.
Michigan State University Students for ERA.
National Alliance of Black Feminists.
NAWB, National Assembly of Women Religious.
National Association for the Advancement of Colored People.
National Association of Counties.
National Association of Cuban-American Women.
National Association of Human Rights Workers.
National Association of Social Workers.
National Association of Women Business Owners.
National Association of Women Lawyers.
National Coalition of American Nuns.
National Conference of Puerto Rican Women.
National Congress of Hispanic American Citizens.
National Consumers League.
National Council of Administrative Women in Education.
National Council of Churches, Division of Church and Society.
National Council of Jewish Women.
National Council of Negro Women.
National Council of Senior Citizens.
National Council of Alcoholism Forum Conference, Women's Track.
National Education Association.
National Federation of Business and Professional Women's Clubs.
National Federation of Temple Sisterhoods.
National Gay Task Force.
National Jewish Community Relations Advisory Council.
National Legal Aid and Defender Association.
National Organization for Non-Parents.
National Organization for Women.
National Organization for Women Legal Defense and Education Fund.
National Panel of American Women.
National Student Association.
National Student Lobby.
National Woman's Party.
National Women's Health Network.
National Women's Political Caucus.
Network (A Religious Lobby for Social Justice).
New American Movement.
New Democratic Coalition.
New Jersey Organization for the Women's Plan of Action.
New York University Law Women.
Newspaper Guild, The.
Northwest Women's Action Conference.
Office & Professional Employees International Union.
Oil, Chemical and Atomic Workers International Union.
Oklahoma Governor's Commission on the Status of Women.
Organization of Women for Legal Awareness.
Pennsylvania Human Relations Commission.
Pennsylvania Social Services Union.
Pennsylvania State Education Association.
Planned Parenthood Federation.
Priests for Equality.
Producers Guild of America, Inc.
Public Interest Law Center of Philadelphia.
Quixote Center.
Religious Committee for ERA (Interfaith Organization of Catholic, Protestant, and Jewish Groups).
Retail Clerks International Union.
Rural American Women, Inc.
Sacramento (CA) Women in Advertising.
San Jose (CA) State University, Associated Students of.
San Mateo County (CA) Central Labor Council.
Santa Cruz (CA) Commission on the Status of Women.
Service Employees Intenational Union.
Sevice Employees International Union Joint Council 45 (PA).
St. Joan's International Alliance.
Syracuse (NY) Education Association.
UAW-International Union, United Automobile, Aerospace & Agricultural Implement Workers of America.
Unitarian Universalist Association Executive Committee.
Unitarian Universalist Women's Federation.
United Church of Christ Office for Church and Society.
United Farm Workers of America.
United Methodist Church Board of Global Ministries Women's Division.
United Methodist Family Life Committee.
United Presbyterian Church, Synod of the Trinity.
West Virginia Women's Commission.
Wisconsin Education Association Council.
Women's National Democratic Club Political Action Committee.
Women in Communications, Inc.
Women's Action Alliance, Inc.
Women's American ORT (Organization for Rehabilitation and Training).
Women's Bureau, U.S. Department of Labor.
Women's Equity League.
Women's Institute for Freedom of the Press.
Women's International League for Peace and Freedom.
Women's Law project.
Women's Legal Defense Fund.
Women's Lobby.
Women's Ordination Conference.
York County (PA) Democratic Committee.
Young Women's Christian Association.
Zero Population Growth.

STATE, COUNTY, AND RESOLUTIONS

Delaware State Senate.
Detroit, Michigan.
Essex County, New Jersey.
Forty Fort, Pennsylvania.
Hudson County, New Jersey.
Los Angeles, California.
Montgomery County, Maryland.
Ocean County, New Jersey.
Pasadena, California.
Seattle, Washington.
Sonoma County, California.
Union County, New Jersey.
Washington, Pennsylvania.
Washtenaw County, Michigan.
Ypsilanti, Michigan.

NATIONAL COUNCIL OF NEGRO WOMEN, INC., TESTIMONY GIVEN TO THE SENATE SUBCOMMITTEE ON CONSTITUTION

I am Dorothy I. Height, President of the National Council of Negro Women, a 43 year old organization composed of a coalition of 27 national affiliated organizations and involved individuals, with an outreach to 4 million women throughout the country.

Since its founding by Mary McLeod Bethune, the National Council of Negro Women has worked to advance opportunities and the quality of life for Black women in every walk of life.

I am here today to speak in support of the proposed extension for ratification of the ERA. Of particular importance is the understanding of what the ERA will mean to our society. The public has been flooded with sensational misrepresentation of the

effects of the amendment, financially backed by a consortium of interest groups who feel they have more at stake in the status quo than in moving our culture toward implementation of the spirit of this constitution, guaranteeing basic human rights to its citizens with every piece of social legislation, it has taken time for society to lessen its fears of the change and to understand the positive effects of the change on the society. The ERA does not take away rights, protection and guarantees of liberties. It extends basic rights and opportunity to both men and women. The ERA is not for white middle class women only, it's for Black, Brown, Yellow, Red and White women and men from every economic level.

Although the opposing forces have worked to divide feminist and minority interest, major organizations that represent minority constituencies, are fighting for ERA—understanding its particular importance to their specialized needs and concerns. The additional time period is crucial to allowing these organizations to help their constituencies unlearn the misinformation that went hand in hand with the scare tactics of the anti-ERA forces. In several of the states where ERA was not ratified, thousands of leaflets were passed out by anti-ERA forces using a quote from a former officer of the National Council of Negro Women saying that ERA would be detrimental to Black women—it would make them "lifters and toters". This quote was issued several years ago when the previously proposed ERA would have voided protective state legislation limiting the number of pounds a woman could be forced to lift. With Black women being in abundance in the service trades, this was of concern to us. However, this state legislation has since been repealed making the present ERA necessary as a protection to both men and women. Even though NCNW has taken a strong stand in support of the present ERA, this out-of-date literature was utilized to deliberately misinform Black women. Black women have a right to be properly informed. The public has a right to be informed. The three year extension will give the public the necessary time to sort fact from fiction and truly understand that this is a universal civil rights issue.

I would like to feel that our legislators believe in the basic rights of people because ERA is a fundamental human rights issue and it will not go away after March 1979. Can we afford to spend the time and energies of our Congress, our state legislators and the public by beginning the process once again when we have so many other crucial issues to address?

[From the Post-Tribune, July 7, 1978]

RALLYING BLACKS TO ERA

(By Roy Wilkins)

NEW YORK.—The proposed 27th Amendment to the U.S. Constitution, the Equal Rights Amendment, is in dire trouble. With only three states needed for ratification, the Illinois legislature rejected it twice last month and dashed the hopes of reversing a trend against the simple phrase, "Equality of rights under the law shall not be denied or abridged by the United States or by any States on account of sex."

Just as the public debate over affirmative action has been muddled by some blacks who say they are opposed to "racial quotas," there are women who are vocal in their opposition to ERA. That is proving to be a critical factor, as male legislators, in the main, consider the views of their electorate and assess the mood of the people about equal rights for women.

In 20th century America, there are still many women who prefer "inferior" status, or think they do. The problem, as ERA backers see it, is that some women fear they will lose the special protection and status the law gives them; laws, which, for example, exclude women from the military draft and give them alimony and child support payments in cases of separation or divorce.

Feminists reply that ERA will continue the test of who is able to support in separation and divorce cases, for alimony and child support. Presently we are reminded that only 38 percent of fathers are making full child support payments one year after the divorce decree. Child custody, we are assured, will be based on which parent can better care for the child.

And as for the draft, women would be eligible; but Congress already has the power to conscript women.

ERA supporters emphasize that what is sought is equality—putting an end to the practice of demanding higher qualifications for women than for men in the armed forces, and in such occupations such as police officers, and thereby opening up new career opportunities and benefits to women.

The problems which face ERA are as much cultural, then, as they are political. It is a public education campaign that feminists seem to be losing, as they lobby diligently for three more states to ratify ERA. America is used to its women in the home, taking care of children, cooking, cleaning, and having the males be the breadwinners.

The irony is that some of the opposition to ERA comes from black males who, by virtue of race discrimination, have found it difficult to hold onto a job. Some black men and women see the ERA as a guarantee of "jobs for white women." They prefer not to have the white or black woman compete with black men in a shrinking job market. These "cultural" considerations are probably more responsible for the rising opposition to ERA than groundless fears that ERA will "desexregate" restrooms.

If there is a serious and candid discussion of the ERA on its merits, ERA will prevail. This nation needs a new attitude toward its female citizens. Women are not inferior persons, and they shouldn't be second-class citizens. The laws should not be used to deny women equality under the guise of benevolence.

ERA should not be viewed only as a statement of national commitment to equality for women. It should also be seen as benefit for males. ERA can help liberate men by doing away with sexist customs. ERA would prohibit assumptions (based on sexual stereotypes) upon who is the proper guardian for children in a divorce case: it would require in each case that the welfare of the child be the criterion in determining child custody.

Once blacks know the facts regarding the Equal Rights Amendment there's no question they will support its ratification. This is not to say that there aren't already many black supporters of the proposed amendment. The NAACP has already endorsed it and called upon its 1700 branches to campaign for ERA ratification. It is not a trade-off of rights; both groups, women and blacks, have been assigned inferior status in this society.

Americans need to correct their bias and sexual stereotypes immediately. That is wholly within the power of each citizen, but the first step can be the constitutional pronouncement of that intention.●

THE SAN FRANCISCO PEAKS

● Mr. GOLDWATER. Mr. President, earlier this year I wrote the President of the United States suggesting that we seriously consider declaring the San Francisco Mountains in Arizona a holy shrine. I did this because these beautiful mountains, the tallest in Arizona, are sacred to both the Hopi Indians and the Navajo Indians. The President, I am happy to say, has expressed keen interest in it, and after we have had a time to study the situation for the balance of this year, I fully intend to introduce legislation to accomplish this in the next Congress. There are parts of the San Francisco Mountains that are already in use for purposes of skiing, now called the snow bowl, so any preservation of the mountains would have to exclude that area, but it cannot be seen from the general points of the compass from which the mountain is viewed.

The Navajo people are extremely interested in this, as are the Hopi, but I was visited by a group of Navajos during my last visit to the reservation, some 3 weeks ago, and they presented me with a resolution on which they are securing signatures, which in turn, will be passed on to the Department of the Interior. In order that my colleagues may have a better understanding of just what these mountains and other mountains mean to the Navajo and the Hopi people, I ask that the resolution against the development of the San Francisco peaks be printed in the RECORD.

The resolution follows:

RESOLUTION AGAINST DEVELOPMENT OF THE SAN FRANCISCO PEAKS

Whereas, the undersigned are members of the Navajo Tribe of Indians presently residing on the Navajo Reservation located in the northern portion of the State of Arizona, and

Whereas, we have learned that the United States Government, through the United States Forest Service, is thinking about allowing its Snow Bowl ski area permittee to expand their operations on the San Francisco Peaks, and

Whereas, we understand that this contemplated development will mean that the earth will be dug up on the mountains, and some trees will have to be removed, the road to the ski area will be enlarged and widened, and that the other changes on the mountain will occur as a result of the planned development, and

Whereas, the San Francisco Peaks in general, and Mount Humphrey in particular, are sacred to the members of the Navajo Tribe of Indians and to me personally for many reasons, only some of which are detailed below, we oppose all planned development of the mountain.

(a) The San Francisco Peaks has a unique religious significance on our daily religious lives; it has complete bearing on our daily personal lives and the longevity of our existences, and has complete connection with our daily songs and prayers to our cosmic gods.

The Navajo Indian Tribe embraces the San Francisco Peaks as its church, where their offerings of turquoise, white shells, abalone shells, jet black shells, native silver, blue pollen, pollen, prayers and songs are expressed at the foot of the peaks, on the sides and on the top of the peaks. The San Francisco Peaks is like a shrine where the Navajo people communicate through their offerings with their cosmic gods that are residing on the top of the peaks and elsewhere, unseen by human eyes.

That barks of the pine trees, the Douglas fir, the Spruce trees, the Spanish sword cactus and the hundred of different herbs that grow on the peaks are used in the religious ceremonies of the Navajo peoples.

The basic principle of the Navajo religion is based on nature, the mountains, the

rivers, the oceans, the stars and the universe and all of nature as they are living beings just as the human race. The Navajo people are nature's children. To this concept, the Navajo people exist with their sacred mountains, their sacred rivers, their sacred earth—that they walk on in beauty. The other sacred mountains or religious shrines, naming only six (6), while there are more, are as follows: (1) East Spanish Fork, (2) Mount Taylor, (3) San Francisco Peaks, (4) Hesperus Mountains, (5) Huerfano Mountains, and (6) Governor Knob.

The sphere within the six (6) sacred shrines forms what may be referred to as the hogan of the Navajo people; each of the sacred mountains is recognized as a corner post of the hogan; within the space or the center of the sacred mountains the Navajo people reside and the sacred mountains are the outer boundaries of the Navajo people's aboriginal land.

(b) The sacred mountains have been placed under the care of the Navajo people. The San Francisco Peaks, and the area surrounding them, have been placed under our care, under the care of our ancestors and of their ancestors before them. One reason that the mountain is sacred and that we object to development of it is that the mountain brings rain to the people. We use its forest, trees, and plants for medicine. The mountain is there for the benefit of the people.

It is known that the sacred mountains speak to each other. Sisnajini speaks to Tsodzil', Doko'o-sliid (the San Francisco Peaks) speaks to Dibentsa. These sacred mountains are endowed with plants, food and medicine. They bring harmony and balance to the people. People live according to the mountains.

The mountain also is a teacher. It teaches people the way of life. If the white man desecrates, ruins, or develops the mountain, its teaching will be lost to the people. The gods have ordained that these mountains are the bodies and lives of the people. The Navajo people also know this. The mountain teaches our young their responsibilities as Navajo and Indian people. It keeps our traditions, prayers and songs intact for future generations. We cannot and will not allow the mountain to be ruined for the benefit of a few.

The white man does not know the mountain. He does not know its benefits. He does not know how to treat it. He does not know how to live with the mountain. For example, a road has been built from the eastern side of the mountain. This past Christmas white people have cut many trees from the mountain. As soon as Christmas is over, these trees are thrown out in the trash and hauled to dumps. This glaring fact shows the white man's misuse of the mountain. Navajos view the mountain as sacred and would not do this to its trees. Navajos use the trees for their benefit, for shelter, medicine and food. The white man uses the trees for ornaments, with no respect for the trees or the mountain. The result of the white man's attitude is that the trees end up in trash and dumps.

The white man is supposed to have an organization, the Forest Service, to protect the trees. What has become of them? What is their philosophy which allows the destruction of the trees? These people are supposed to be trained concerning the effects of destruction of the trees. But if this destruction of the trees continues, the mountain will be left bare as a result of the white man's thinking.

In the east is the sacred mountain, Sianajini, to the south the sacred mountain is Tsodzil'. And to the north the sacred mountain is Dibentsa. The people who live in these areas protect those mountains. They will not allow their destruction. Likewise, the people who live in the west, by Doko-o-sliid, are its protectors. We look up to the mountain. The mountain is the mother of our people. We Navajos living in the west do not want any kind of destruction or desecration of our mountain to take place. Our ancestors and their medicine men have always protected the mountain. That is why it remains whole. The mountain has been protected in the past and it is our responsibility to protect it in the present day.

Doko'o-sliid was set in the west and adorned with abalone shells. Doko'o-sliid was made to speak to Dibentsa, the sacred mountain of the north. And Dibentsa looks and speaks to Doko'o-sliid. The sacred mountains were made to speak and to look at each other and to remain as a whole together. The destruction of one mountain affects all of the other sacred mountains. They are interrelated and speak to and look at each other.

The sacred mountains provide life. The white man has never learned this. He has learned some things, like water will provide power. He has learned some of the benefits that can be derived from the mountains, but often what the white man thinks of as benefits from the mountains are taken at the cost of the destruction of the mountains. The basis of life is derived from the mountains.

The benefits of the mountains known to Navajos and other Indian people are different from the white man's benefits and are in harmony with the mountain itself. These benefits have been known for a long time. For example, we make a mixture of plants called mountain tobacco, which is used for medicinal purposes. It heals people and animals.

The plans for these mountains have been derived from the gods. According to their plans the sacred mountains have been made. First Man and First Woman, First Girl and First Boy knew of the mountains' existence and of the plans that were made. Just as white missionaries and Christians have their gods and their Jesus, we have our ways and our religion. Many of the ways that we respect and practice our religion are similar to the ways of the white man.

Doko'o-sliid is used as a place of prayer, and offerings are made to the gods that live there. At the mountain we make prayers for Navajo young people who go overseas to fight for the American people and in the wars of the Americans. We ask the mountain to help our children so that they may be safe and return home to our lands. We look to the mountain to help us and our children who are helping the white people fight their wars.

Leave the sacred mountain alone. If white people want to develop and destroy, there are other mountains and other places which are not sacred to the people. Take your development, destruction and desecration elsewhere if this is what will benefit you white people as human beings. If these are your values take them some place else. We have our values, and we know what is right. We have been here for centuries and we know what is sacred and of benefit to us.

According to the ancestral laws of our people, although those laws are not written, the holy mountains have names. They are not to be desecrated. They are the names of the gods. The mountains are beings. Stop this development. We know now that the white man does not know what is sacred.

Our medicine men have learned the uses of plants in administering medicines. When doctors are unable to heal, often we do. We know the Yei-Bi-Chai healing rites and chants. We know the Night Way and Blessing Way and other related songs and prayers. We know other songs and prayers as the Mountain Way, the Enemy Way and the Shooting Way. Many times when all else fails, medicine from these mountains has healed the sick and wounded and restored balance and harmony among the people. The mountains have protected us from destructive forces.

Who are these white man who are making plans regarding the mountains? Do these men have pollen? Do these men have an offering to give to the mountains? Do these men know the prayers, legends and songs from the feet of the mountain to its head? Do these men have the necessary things to allow them to approach the mountain and ask for its benefits, instead of just taking from the mountain? Does the white man feel that he can take what does not belong to him? Perhaps we can give the white man an offering to take to the mountain. Then he will learn to do things the right way, and will no longer wish to develop the sacred mountain.

(c) Our medicine men carry a medicine pouch in their medicine bag. This pouch has within itself four more pouches. In each of these four pouches are soils from each of the four sacred mountains of the Navajos—each pouch represents a sacred mountain and each pouch is identified by the cuts made on the lip of the pouch. The stone in the middle of the four pouches is representative of the inside of the sacred mountain.

Among those pouches are also carved images of a horse, a sheep and a cow. These are representative of the importance of the horse, sheep and cow to the existence of the Navajos. Tied around the pouch is a string of turquoise—for the sacredness of the mountain soil deserves only the turquoise. Every medicine man has a pouch like this. This allows us to have within reach the soils of the four sacred mountains, wherever we may be. This is important to us for the well being of ourselves and to our medicine. If we allow the white man to dig away at our sacred mountain he is also tearing at this pouch and destroying its sacrodness. He is, in essence, destroying our very soil. We must not allow the white man to desecrate our religion and thereby our soil.

Doko'o-sliid, begins with a single cloud to bring us rain, it brings us the snow in the winter and it also brings the wind. We go up on Doko'o-sliid for our medicine and we go there to pray and when we see it from our home, it tells us things are well and good. If we destroy the mountain, we will also destroy the rain, the snow, the wind and we will destroy the serene life we have now under Doko'o-sliid's eyes.

We will no longer be able to see the clouds as they drift forth from Doko'o-sliid, bringing us rain, nor will we be able to seek comfort by the sight of our sacred mountain, for we will have violated her and we will not be worthy of her powers.

There are other mountains, why do you not tear at those other mountains? There are other areas you can develop for recreation—why do you have to invade the sacred areas. We state again, we can not state any stronger, our determined opposition to the proposed development of the Doko'o-sliid mountain. Listen well to our medicine man for they speak for Doko'o-sliid.

(d) When our people get sick offerings are made on Doko'o-sliid mountain to our gods to make the patient well. If the patient is well enough to travel he and his medicine man must travel to Doko'o-sliid to make an offering to our gods. This offering includes presenting abolone, shells, jet black shells, native silver and blue pollen to the gods. Piece by piece these offerings are made to our gods and then placed on the ground and left there. If the patient is not well enough to travel a family member must go with the medicine man to make the offerings.

Our people have been making these offerings for hundreds of years. The remains of these offerings are scattered throughout the peaks in innumerable locations known only to the patient (or his representative) and his medicine man. The ceremonies and the offerings involved cost a great deal of money and have a deep significance to our people.

(e) Two of our gods, i.e. Evening Boy and Evenings Girl, reside in the San Francisco Peaks. Thus the Peaks, and the mountain involved here, are our shines as therein our

gods dwell. Digging in the Peaks partially destroys the home of our gods and injures the holiness of our shrines. Every time the government performs excavations and digs in the Peaks, the holiness of our shrines therein is lessened; if the government keeps digging in the Peaks, they will not be holy anymore.

(f) Attached to this resolution is a copy of the law passed by the Congress and signed by the Great White Father, our President, guaranteeing and protecting our religious freedom and ability to practice our religion. The government's contemplated development of the Peaks injures and destroys our shrines and our ability to practice our religion and thus violates this new law.

(g) The Forest Service in its Environmental Impact Statement about the Peaks did not consider the new law described above. If the Forest Service develops the Peaks without considering the effect of the new land and the effect development has on our religion, then the Forest Service breaks this new promise to our people just like it has broken its promise in the past.

Wherefore, be it resolved, That the undersigned adamantly opposes all development, excavations, cuttings and other disturbances of our holy place, the San Francisco Peaks and Agassis Peak now and for all times and,

Be it further resolved, That the undersigned specifically opposes all the proposed, planned, and contemplated development covered in the Forest Service's Environmental Impact Statement relating to the Snow Bowl operations on Agassis Peak.●

FLORIDA CONSUMERS PROTECTED BY CONFERENCE REPORT

● Mr. STONE. Mr. President, last week I announced my support for the conference report on natural gas pricing. As I said in that announcement, this conference report represents a reasonable compromise on a subject which has divided the Congress and the country for decades.

Regional as well as policy differences have been difficult to resolve. Throughout consideration of this bill, I have been especially concerned about the impact of this legislation on Florida. Florida's continuing economic development requires secure and adequate energy supplies. The well-being of Florida's citizens means that energy must be reasonably priced. I have discussed Florida's special energy problems on many occasions with the able chairman of the Senate Energy Committee, Senator JACKSON, who has always been understanding and helpful. We were able to reach agreement on certain provisions in the Senate bill, retained in this conference report, which protect Florida's electric ratepayers from sudden and sharp rate increases which would otherwise have resulted.

Although Florida, like the rest of the country, will be moving toward greater utilization of coal for the generation of electricity, an abrupt prohibition of Florida's use of natural gas for the generation of electricity of excessive pricing for this use would have resulted in millions of dollars in higher electric rates for Florida consumers. This would have also meant greatly increased foreign oil imports because few of Florida's present generating plants can convert from natural gas to coal.

The conference report wisely protects against such a result and I am indebted to the chairman of the Energy Committee for his cooperation in this respect. I am pleased to say that we have saved millions of dollars in higher electric bills for Florida consumers by drafting this legislation to take into account Florida's special energy problems.●

AMALGAMATED MEAT CUTTERS—DISTRICT LOCAL 1, NEW YORK

● Mr. JAVITS. Mr. President, I am pleased to call to the attention of the Senate that October 22, 1978 will mark the 25th anniversary of the establishment of District Local 1 of the Amalgamated Meat Cutters and Butcher Workmen of North America.

District Local 1, located in Utica, N.Y., represents the finest traditions of the trade union movement and stands as a notable example of the success of our Nation's commitment to industrial democracy through the right of workers to organize and to bargain collectively with their employers.

It is the labor movement, with this union in the forefront, that has helped to create the great wealth of this country and has made it possible for so many to share that wealth. It has fought to improve conditions for all working Americans by the enactment of landmark Federal legislation establishing the 8-hour day, the minimum wage, occupational safety and health regulation, equal employment opportunity, pension reform and so many others.

District Local 1 can rightfully take pride in the part it has played in these efforts. It is the direct descendant of the first two unions of butcher workers in New York State dating back to the 1890's. These two unions located in Syracuse and Utica played a significant role in the establishment of the International Union in 1897, with John F. Hart of Utica elected the first vice president of the fledgling international union.

District Local 1 was formed in 1953 with the merger of locals in Syracuse, Utica, Auburn, Geneva, Rochester, Jamestown, and Albany—a merger brought about by the inspired leadership of Joseph Belsky and Samuel J. Talarico.

Mr. President, I ask that the remarks of Joseph C. Talarico, president of District Local 1, at the commemoration of the union's 25th anniversary be printed in the RECORD.

The remarks follow:

Mr. TALARICO. Today marks the 25th Anniversary of the establishment of District Local 1. It is traditional on such occasions to pause and look back at the accomplishments made by our predecessors. We can learn much from history and the achievements of those who came before us must stand as a monument to inspire us, to guide us, and yes, to chastise us if we break faith with the promise that is Labor.

But today I want to break with tradition, and talk about the future, remembering always that our resolve has been fashioned from the bitter struggle endured by those who came and fought before us . . . Men and women, who fought for decency, dignity, a fair wage, better working conditions.

The names of all those who died in Scranton, in Chicago, in Boston and hundreds of other places will not be found in any history book, but their sacrifices must be indelibly fixed in our memories. We keep faith with them by keeping faith with the dream that is America.

The struggle for human rights is never-ending. The easier path is to look beyond the continental shelf of North America and look to the Third World nations and those behind the Iron Curtain.

Though concerned with brutality everywhere, we must not be detracted from those conditions at home that effect our treatment of minorities, the poor and workers.

Some may question that priority, but working towards the elimination of social injustice is a goal to which all of Labor must re-dedicate itself.

Despite the fact that the old days of labor strife, violence and turbulence are behind us, we still must do battle with those who would exploit workers.

Today, however, we are engaged in a different kind of fight, though less violent, it could prove to be more insidious—a fight aimed at disfranchising workers and their families from unions.

Those who oppose us do so with a sophistication and knowledge of human behavior that has serious consequences not only for us as trade unionists, but as a nation.

We face foes, who in their determintaion to control labor, would recreate a climate of divisiveness and suspicion that can cause us irreparable damage as a nation.

Alert to the danger, we must show our solidarity and our unfailing faith in this nation.

That is a challenge from which there can be no retreat.

Faced with high unemployment, inflation and the shocking realization of a shortage of resources, it is not uncommon for people to respond to the calls of demagogues, to seek quick solutions where there are none, and scapegoats upon whom to affix blame.

Yet, we live in a country where people have a highly developed sense of social consciousness.

The seemingly incompatibility of times must not be allowed to diminish our concern for human rights, for freedom, for dissent.

Those were principles for which our forefathers fought.

Today we commemorate a quarter century of service to our members by reaffirming our belief in those basic principles set forth by our founders.

"No man is an island", and "we are our brother's brother."●

IOWA'S ENDANGERED SPECIES PROGRAM

● Mr. CULVER. Mr. President, the Congress enacted the Endangered Species Act of 1973 in recognition of the fact that, while the natural order dictates that species may gradually appear and disappear on earth, man's activities all too often have accelerated this evolutionary process. The real tragedy of this fact is that, in most instances, these plants and animals are extirpated before their value to human health and welfare is known. Consider the horseshoe crab, an organism that has existed for millions of years. Only recently have we discovered its value as a detector of toxins in human blood. How tragic it would have been if this crab had become extinct, like the passenger pigeon or the Carolina parakeet, before its life-saving potential was identified.

The authorization for the Endangered Species Act expires on September 30, 1978. Throughout consideration of legislation to extend the program, attention has been devoted to determining whether the administration of the act is too rigid,

and unfortunately this discussion has led some individuals to call for the total emasculation of the act or ad hoc exemptions of projects. On July 19, the Senate passed S. 2899, a bill which Senator BAKER and I introduced to establish a seven-member Endangered Species Committee. This committee is charged with arbitrating irresolvable conflicts that arise between the law and Federal projects only after serious efforts have been made to resolve these impasses under normal procedures. This proposal continues the act's strong protections for endangered species and establishes a stronger procedure for reducing impasses which will occur in the future. The House Merchant Marine Committee is now considering similar legislation.

Mr. President, I fear that because of the significant public attention that has been devoted to such recent conflicts with the act as Tellico Dam, we have lost sight of the fact that the Endangered Species Act is basically essential to our survival on this planet. Though S. 2899 makes the necessary improvements in the act, it is based on the important medical, scientific, aesthetic and cultural reasons for saving endangered species.

Last year, the Iowa Conservation Commission established a State endangered species program, listing those plants and animals which are endangered or threatened in Iowa. In the July 1978 edition of the Iowa Conservationist, State Ecologist Dean M. Roosa has written an excellent article describing this important program and explaining reasons for protecting such species. Entitled "Endangered! Twilight of an Era or Dawn of a New Day?" The article discusses Iowa's endangered plants and vertebrates, including the mountain lion, least tern, and the swamp birch. As Dr. Roosa states, "A goal of a well-conceived endangered species program is to prevent needless, premature extirpations and extinctions."

I ask that Dr. Roosa's article be printed in the RECORD.

The article follows:

ENDANGERED! TWILIGHT OF AN ERA OR DAWN OF A NEW DAY?

Have we learned to care in time to save our endangered species? In late 1977, the State Conservation Commission adopted a list of plants and animals considered to be endangered or threatened in Iowa. This was the state's first attempt to identify and actively manage rare forms of wildlife and plants. Let's look at the importance of preserving these rare organisms, what type of organism becomes endangered, why one species and not another becomes endangered and what a private citizen can do.

Many species have vanished from Iowa in the past 100 years; the large herbivores, the buffalo and elk, were first to go, followed soon by the large carnivores, the black bear, gray wolf and mountain lion. Some, like the deer and beaver, were extirpated but have been reestablished and now flourish as a result of good wildlife management. The trend continues as evidenced by the near disappearance of the Red-shouldered Hawk in the early 1960's, the near loss of the spotted skunk in the past two decades, the near depletion of the Upland Sandpiper, Least Tern and Peregrine Falcon and by the almost total loss of the lovely Pink Ladyslipper. Many people are concerned; others feel it not important, saying that species become extinct naturally. This latter is true, but consider the following: extinction in the 'natural' world occurred at a rate of about one species per 1,000 years; by 1950, this rate was a species each year. Natural extinction is a process for culling the species which cannot adapt to natural changes; man has so drastically altered the planet that today's extinctions are those species which cannot adapt to man's technology.

Many of the surviving species have been forced into small refuges almost like islands in a hostile environment, or have been forced from their 'niche' altogether. A 'niche' is the habitat which supplies the requirements of a species; some species have narrow, specialized niches, other have broad, general niches. The latter have adapted well and thrive; the former have vanished or have become greatly reduced in number. Animals or plants which become endangered, in addition to having special niches and being unable to adapt, may have some of the following characteristics: they compete with humans for space or food; have low numbers of offspring and a long juvenile period; exist at the top of a food chain; are prized for their beauty or the beauty of their pelt.

We must relate the species to their environment; each species is part of an ecosystem which contains an exceedingly large number of different kinds of organisms. This is called diversity and helps to provide stability for natural ecosystems, a balancing of nature's forces. This large number of organisms exhibit a nearly infinite range of sensitivity; a few cannot tolerate even subtle changes in their environment and when such changes do occur, the more tolerant organisms increase in response to decreased competition. Increases in the populations of House Sparrows, Starlings and certain blackbirds are easily observed examples. Each time an organism is removed the ecosystem or community becomes less stable, less complex and more vulnerable to disease and disorder. In this way, sensitive species may act as an 'early warning system', heralding changes not yet felt by human populations. For example, our first indication that certain pesticides were disruptive to metabolic activities was from the effect on falcons and eagles. Consider the consequences if we had been obliged to wait until changes began occurring in humans!

Less obvious reasons compel our commitment to saving rare species. Each species has a unique genetic complement. Once a species is destroyed, man has no means of recreating it, despite our marvelous technology. We have no way of knowing what the future needs of man may be and this genetic resource may be of inestimable value to mankind. Many people, out of strong moral conviction, simply respect the right to existence of all living things. They feel a deep appreciation for the wild and rare treasures of nature and feel a grave sense of responsibility for the preservation of the richness of our natural heritage for future generations. We can put a price tag on the sight of a Northern Harrier coursing the fields, the call of an Upland Sandpiper, the beauty of a Pink Lady-slipper or the knowledge that Iowa yet has places wild enough to harbor Prairie Rattlesnakes and Bobcats?

Some people take an emotional approach to saving rare species. Emotion alone, however sincere, will not save rare species; it must be coupled with research to learn the ecological parameters of each species and the translation of this knowledge into management. This management may range from leaving the species alone to propagating it in captivity, as in the case of the successful captive-raising of peregrine falcons at Cornell University. Some will defy attempts to learn their secrets; some will yield their secrets easily. A few, whose problems are complex, subtle and tied to the entire community, may never be fathomed or may take world-wide implications as in the case of the Bald Eagle and the DDT ban. Our goal in learning the secrets of their ecological needs is to apply this knowledge to their well-being and hopefully remove them from the endangered species' list.

Realism must be present in an endangered species program—the realism that we cannot save everything, that we must have priorities and that extinctions and extirpations will occur in spite of our best efforts. A goal of a well-conceived endangered species program is to prevent needless, premature extirpations and extinctions.

It is futile to speak of endangered species without centering on endangered habitats; only by protecting buffered tracts which include a rare species habitat can we insure adequate space and long-term survival. Frequently this preserved habitat is suitable for many of our native wildlife species including game and other species known to be directly beneficial to man. These areas, or parts of them, may be compatible with other uses such as hiking, photography, educational purposes, hunting, or simply as wild places for man's comfort and appreciation—a refuge for a rare and fragile species may also provide respite for city-weary mankind. This is where the private citizen can help. Only about two percent of Iowa's land is publicly owned. This is not enough to provide space for recreation and protection of rare species; it is certainly not enough land to adequately minister to the needs of future generations. Only by public support for increased appropriations for land acquisition in the next few years can the Conservation Commission locate and acquire sufficient land to provide safe habitat for our endangered co-inhabitants of Earth. We hope you will help.

IOWA'S ENDANGERED VERTEBRATES

What is the impact of the disappearance of an animal from the state or from the world? Unimportant? Unfortunate? A tragedy? Your answer will depend on your job, your past training and your ecological education. "We're doing all right without the dinosaurs, aren't we?" is a trite retort and scarcely relevant. Because we evolved as a race in the company of natural systems and a full array of wild species, perhaps we are closer to them than we may think. Many people believe we simply do not have the moral right to consciously cause the extinction of a species. Do you believe any species have been extirpated (gone from our state) in our history? Many. A few are the Whooping Crane, Long-billed Curlew, Elk, Gray Wolf, Gilt Darter and River Redhorse. Do you think any species have become extinct in your lifetime? Yes. Since settlement of this country, the Carolina Paroquet, Passenger Pigeon and Bison (as a wild species) have disappeared; they all once called Iowa their home. At this very minute, two other species are teetering on the brink of the void of extinction and may well already be over the edge; these are the Ivory-billed Woodpecker, and, closer to home, the Black-footed Ferret of the Great Plains just west of Iowa. Unimportant? Perhaps. But one thing is for sure—once a species is gone, we have no way of recreating it, despite our sophisticated technology.

What is being done to protect the very rare animals in Iowa? In 1977, the Conservation Commission adopted a list of threatened and endangered vertebrates; it is cooperating with nearby states to determine the status of animals that occur in both states; it is re-introducing certain animals that are very rare or extirpated; hopefully, a joint venture with nearby states and the federal government will be initiated this year to learn as much as possible about the biology of the Indiana Bat and the Peregrine Falcon, both on the federal endangered species list. Attempts are being made to determine what endangered or threatened species occur on state-owned land so their welfare can be considered in management decisions. We are working with scientists throughout Iowa to learn the location of the most important sites of endangered and threatened species. Our goal is to prevent needless, premature extirpations.

Following is a listing of vertebrates which the Conservation Commission, acting in conjunction with specialists throughout Iowa, considers to be in jeopardy. Terminology used in compiling the lists is as follows:

Extinct—no longer found on this planet.

Extirpated—no longer found in the state as a breeding population.

Endangered—in danger of becoming extirpated if its habitat worsens or no management steps are taken.

Threatened—in danger of becoming endangered if its habitat worsens or no management steps are taken.

Undetermined—known to exist in low numbers, but of which insufficient information is available to make judgment on its status.

MAMMALS

Iowa is a meeting ground for mammals whose ranges center in other parts of the country. The Red Squirrel, Woodland Vole, Grasshopper Mouse, Pygmy Shrew and Meadow Jumping Mouse are examples of mammals whose normal ranges are more northern; the Big Free-tailed Bat and Cotton Rat are examples of animals with a southern distribution; a number of species from the eastern deciduous woodland terminate their ranges in Iowa; relict species, like the Red-backed Vole, are hold-overs from an earlier age. Some, like the Pronghorn and Prairie Dog, were restricted and nearly prevented from becoming part of the Iowa fauna by the barrier effect of the Missouri River. These factors combine to make Iowa an interesting place to study mammals.

Large-scale conversion of the tall-grass prairie to agricultural use, draining of most wetlands and grazing or logging of most woodlands has had an adverse effect on Iowa mammals; however, 60 of the 72 native species yet occur in the state, though some are sporadic visitors and others are very rare. The status of the very rare is given in the following list.

Insectivora—Insect-eating animals

Pygmy Shrew (*Microsorex hoyi*), undetermined.

Least Shrew (*Cryptotis parva*), undetermined.

Chiroptera—Bats

Keene's Myotis (*Myotis keenii*), threatened.

Indiana Bat (*Myotis sodalis*), endangered.

Evening Bat (*Nycticeius humeralis*), extirpated.

Rodentia—Rodents

Plains Pocket Mouse (*Perognathus flavescens*), endangered.

Grasshopper Mouse (*Onycomys leucogaster*), endangered.

Red-backed Vole (*Clethrionomys gapperi*), endangered.

Woodland Vole (*Microtis pinetorum*), endangered.

Porcupine (*Erethizon dorsatum*), extirpated.

Carnivora—Flesh-eating Animals

Gray Wolf (*Canis lupus*), extirpated.

Black Bear (*Ursa americana*), endangered.

Fisher (*Martes pennanti*), extirpated.

Ermine (*Mustela erminea*), undetermined.

Long-tailed Weasel (*Mustela frenata*), undetermined.

Wolverine (*Gulo gulo*), extirpated.

Spotted Skunk (*Spilogale putorius*), undetermined.

River Otter (*Lutra canadensis*), threatened.

Mountain Lion (*Felis concolor*), extirpated.

Lynx (*Lynx canadensis*), extirpated.

Bobcat (*Lynx rufus*), endangered.

Artiodactyla—Hoofed Animals

American Elk (*Cervus elophus*), extirpated.

Bison (*Bison bison*), extirpated.

Pronghorn (*Antilocarpa americana*), extirpated.

BIRDS

There is good documentation of historical trends in Iowa's bird populations. R. M. Anderson wrote a statewide review of the status of birds in 1907; Phil DuMont wrote a similar report in 1933 and in 1970, Woodward Brown published a status update. These works, along with information from the members of the Iowa Ornithologists' Union and field biologists of the State Conservation Commission, were utilized in compiling a list of rare birds for Iowa. One Iowa bird appears on the federal endangered species list. This is the Peregrine Falcon, which migrates through Iowa and nested in northeast Iowa in years past and still may do so. The Bald Eagle is on the federal list, but it has not been known to nest in Iowa since about the turn of the century.

Following is a list of the status of Iowa's rarest birds. It pertains only to nesting populations.

Podicipedidae—Grebes

Eared Grebe (Podiceps caspicus), threatened.

Anatidae—Ducks and Swans

Trumpeter Swan (Olor buccinator), extirpated.

Accipitridae—Kites, Hawks and Eagles

Swallow-tailed Kite (Elanoides forficatus), extirpated.

Sharp-shinned Hawk (Acipiter striatus), extirpated.

Cooper's Hawk (Accipiter cooperi), threatened.

Red-shouldered Hawk (Buteo lineatus), endangered.

Broad-winged Hawk (Buteo platypterus), threatened.

Bald Eagle (Haliaeetus leucocephalus), extirpated.

Northern Harrier (Circus cyaneus), endangered.

Peregrine Falcon (Falco peregrinus), endangered.

Tetraonidae—Grouse

Greater Prairie Chicken (Tympanuchus cupido), extirpated.

Sharp-tailed Grouse (Pediocetes phasianellus), extirpated.

Gruidae—Cranes

Whooping Crane (Grus americana), extirpated.

Sandhill Crane (Grus canadensis), extirpated.

Charadriidae—Plovers

Piping Plover (Charadrius melodus), endangered.

Scolopacidae—Sandpipers

Long-billed Curlew (Numenius americanus), extirpated.

Upland Sandpiper (Bartramia longicauda), endangered.

Laridae—Terns

Least Tern (Sterna albifrons), endangered.

Columbidae—Pigeons and Doves

Passenger Pigeon (Ectopistes migratorius), extinct.

Psittacidae—Parrots and Paroquets

Carolina paroquet (Conuropsis carolinensis), extinct.

Cuculidae—Cuckoos

Black-billed Cuckoo (Coccyzus erythropthalamus), undetermined.

Tytonidae—Barn Owls

Barn Owl, (Tyto abia), endangered.

Strigidae—Owls

Burrowing Owl (Speotyto cunicularia), endangered.

Long-eared Owl (Asio otus), threatened.

Short-eared Owl (Asio flammeus), extirpated.

Tyrannidae—Tyrant Flycatchers

Say's Phoebe (Sayornis saya), threatened.

Laniidae—Shrikes

Loggerhead Shrike (Lanius ludovicianus), threatened.

Vireonidae—Vireos

Bell's Vireo (Vireo bellii), undetermined.

Parulidae—Wood Warblers

Blue-winged Warbler (Vermivora pinus), threatened.

Yellow Warbler (Dendroica petechia), undetermined.

Birds seem to be accurate and sensitive indicators of the general condition of the environment; hawks are on the top of a food chain and reflect the general health of their prey; certain warblers need quite specific sites for nesting. When a species disappears from the state, as in the case of at least ten Iowa birds, we should be moved to action.

REPTILES AND AMPHIBIANS

Iowa's herpetofauna includes over 70 species or subspecies. These reptiles and amphibians constitute an interesting and important part of the state's fauna. There are no known extirpations in Iowa, although the Wood Turtle, Speckled Kingsnake, Western Slender Glass Lizard and Great Plains Skink exist in very low numbers and may well soon disappear from the state. Habitat destruction, largely through degradation of streams and draining of marshes, has forced these animals into smaller and smaller areas; for example, the Massasauga once occurred widely across the state, but is now found in a very few widely scattered locations.

Iowa occupies an important position in reptile and amphibian protection; it is located on the fringe of many species' ranges and thus can act as a sentinal for changes in population shifts or declines. What happens on the edge of an animal's range may be a forecast for the future of its entire range. These organisms can be useful in making inferences about our past environmental conditions. They are slow to migrate, adapt poorly and have narrow environmental tolerances. Thus, relict populations can give a clue to what conditions existed during postglacial times. With a fairly static human population in Iowa and with the concern shown in recent years for rare species, perhaps we can protect our remaining populations so they will always be part of the Iowa landscape.

Testudinata—Turtles

Kinosternidae—Mu·k and Mud Turtles

Stinkpot (*Sternotherus odoratus*), threatened.

Illinois Mud Turtle (*Kinosternon flavesens spooneri*), endangered.

Emydidae—Box and Water Turtles

Wood Turtle (*Clemmys insculpta*), endangered.

Ornate Box Turtle (*Terrapene ornata*), threatened.

Red-eared Turtle (*Chrysemys scripta*), threatened.

Blanding's Turtle (*Emydoidea blandingi*), threatened.

Squamata—Skinks, Lizards and Snakes

Sinicidae—Skinks

Five-lined Skink (*Eumeces fasciatus*), threatened.

Great Plains Skink (*Eumeces obsoletus*), endangered.

Anguidae—Glass Lizards

Western Slender Glass Lizard (*Ophiosaurus attenuatus*), endangered.

Colubridae—Water, Earth and Rat Snakes

Diamondback Water Snake (*Natrix rhombifera*), threatened.

Yellow-bellied Water Snake (*Natrix erythrogaster*), threatened.

Graham's Water Snake (*Natrix grahami*), threatened.

Western Earth Snake (*Virginia valeriae*), threatened.

Black Rat Snake (*Elaphe obsoleta*), threatened.

Speckled Kingsnake (*Lampropeltis getulus*), endangered.

Viperidae—Pit Vipers and Rattlesnakes

Northern Copperhead (*Agkistrodon contortrix*), endangered.

Prairie Rattlesnake (*Crotalus viridis*), endangered.

Massasauga (*Sistrurus catenatus*), threatened.

Caudata—Salamanders and Newts

Ambystomatidae—Mole Salamanders

Small-mouthed Salamander (*Ambystoma texanum*), threatened.

Blue-spotted Salamander (*Ambystoma laterale*), endangered.

Salamandridae—Newts

Central Newt (*Notophthalmus viridescens*), endangered.

Anura—Frogs and Toads

Pelobatidae—Spadefoot Toads

Plains Spadefoot (*Scaphiopus bombifrons*), threatened.

Hylidae—Tree frogs and Allies

Spring Peeper (*Hyla crucifer*), threatened.

FISH

Perhaps members of Iowa's aquatic communities have been most seriously affected by human activities, particularly pollution, stream channelization and agricultural intensification. The fish populations in the state have not been intensively studied for over twenty years, but it appears that a number of species are either gone from Iowa's waters or in some danger of disappearing. Fortunately Seth Meek and Ellsworth Call did considerable collecting just before the turn of the century so we have some idea of what species were present then. Later workers did follow-up studies in some of the areas to determine what species were still present and it appears that at least seven species have disappeared from Iowa. Following is a report on the status of Iowa's rarest species of fish:

Petromyzontidae—Lampreys

Chestnut Lampery (*Ichthyomyzon castaneus*), threatened.

American Brook Lamprey (*Lampetra lamottei*), threatened.

Acipenseridae—Sturgeons

Lake Sturgeon (*Acipenser fulvescens*), endangered.

Pallid Sturgeon (*Scaphirhynchus albus*), endangered.

Clupidae—Herrings

Alabama Shad (*Alosa alabamae*), extirpated.

Skipjack Herring (*Alosa chrysochloris*), threatened.

Esocidae—Pikes

Grass Pickerel (*Esox americanus*), threatened.

Cyprinidae—Minnows

Redside Dace (*Clinostomus elongatus*), extirpated.

Southern Redbelly Dace (*Chrosomuseythrogaster*), threatened.

Sturgeon Chub (*Hybopsis gelida*), extirpated.

Sickelfin Chub (*Hybopsis meeki*), endangered.

Lake Chub (*Couesius plumbeus*), endangered.

Gravel Chub (*Hybopsis x-punctata*), threatened.

Pugnose Shiner (*Notropis anogenus*), threatened.

Ironcolor Shiner (*Notropis chalybaeus*), extirpated.

Blacknose Shiner (*Notropos heterolepis*), endangered.

Weed Shiner (*Notropis texanus*), threatened.

Silverband Shiner (*Notropis shumardi*), endangered.

Topeka Shiner (*Notropis topeka*), threatened.

Pugnose Minnow (*Notropis emiliae*), undetermined.

Pearl Dace (*Semotilus margarita*), endangered.

Catostomidae—Suckers

Lake Chubsucker (*Erimyzon sucetta*), extirpated.

River Redhorse (*Moxostoma carinatum*), extirpated.

Black Redhorse (*Moxostoma dugesnei*), endangered.

Cyprinodontidae—Killifishes

Starhead Topminnow (*Fundulus notti*), endangered.

Plains Topminnow (*Fundulus sciadicus*), endangered.

Centrarchidae—Sunfishes

Longear Sunfish (*Lepomis megalotis*), endangered.

Crystal Darter (*Ammocrypta asprella*), undetermined.

Western Sand Darter (*Ammocrypta clara*), threatened.

Mud Darter (*Etheostoma asprigene*), threatened.

Bluntnose Darter (*Etheostoma chlorosomum*), threatened.

Least Darter (*Etheostoma microperca*), endangered.

Orangethroat Darter (*Etheostoma spectabile*), endangered.

Gilt Darter (*Percins evides*), extirpated.

Aphredoderidae—Pirate Perch

Pirate Perch (*Aphredoderus sayanus*), undetermined.

IOWA'S ENDANGERED PLANTS

Contrary to the impression many people have that Iowa has little to offer except agricultural crops, it is an interesting place to study and appreciate native wild plants. The diversity of plant life is a result of the state's physical location; it is a meeting ground for plants from the Great Plains, the boreal region and the eastern deciduous woodland. The dissected topography of northeast Iowa, especially in the 'driftless area', provides habitats reminiscent of those normally found in northern Minnesota or northern Wisconsin and here are found such rare plants as Bunchberry, Bearberry, Dwarf Scouring Rush, Shinleaf, Blueberry and Twinflower. The dry, west-facing loess hills in western Iowa along the Missouri River provide habitat similar to that of the Great Plains and here are found many species characteristic of western United States. Careful looking may turn up rare plants such as Buffalo Grass, Buffalo Berry, Tumble Grass, Western Beard-tongue and Prickly-pear Cactus. In the dry woodlands of southern Iowa, habitats similar to those in the Ozarks harbor trees like Pawpaw, Persimmon, Sassafras and Blue Ash. The dissected, moist woodlands of eastern Iowa, where elements of the eastern deciduous woodland end, may disclose such beautiful, delicate and rare plants as Pink Ladyslipper, Monkshood, Muskroot and Twinleaf.

Iowa has some very unusual habitats where some of the rarest plants of the state are found. In northwest Iowa a number of 'fens' are found; these are springy areas on hillsides with upwelling, calcareous water where one may find rare plants like Arrow-grass, Grass of Parnassis, Northern Green Orchid and Beaked Rush. The only true bog in Iowa is in the northern part of the state and contains some very rare plants such as Cotton Grass and the insect-eating Sundew. Because so many of Iowa's marshes and prairie potholes have been drained, some marsh or aquatic plants are having trouble existing in the state. Some of the rarest are Bogbean, Mare's tail, Water Horsetail, Wild Rice, Water Marigold and Water Shield. Aspen bogs in northern Iowa still harbor Adder's tongue fern, White Lady-slipper, and Swamp Birch. Growing around ice caves in northeast Iowa are plants that normally are found in boreal America. Sandy areas in Iowa furnish some exceedingly rare plants like the curious lower vascular plant Meadow Spike-moss, Erect Dayflower, Royal Fern, Cinnamon Fern and Golden Corydalis.

Travelling around Iowa, poking into the remote corners, may pay dividends like seeing a plant so rare that it occurs in only one place in the state, or you may see over 90 percent of the world's population of a certain species. These are experiences to be savored; they may not be possible in tomorrow's world.

While some Iowa plants are very rare, others have not been so lucky as to survive; because most of our state has been plowed, drained or grazed, and because many of our streams have been channelized, many plants lost their prime habitat and have disappeared. Over 80 plants which formerly grew here can no longer be found and at least 35 others are now known from a single location in Iowa. Many of these rarities require special habitats and specific conditions; in many cases, the less human visitation, the better; in other cases, a form of management is needed.

Only recently has the government begun to think about the problem of protecting rare species of plants. In December of 1973, passage of the U.S. Endangered Species Act (Public Law 93-205) supplied the needed impetus for the protection of endangered and threatened plants as well as animals. In January, 1975, the Secretary of the Smithsonian Institution presented to Congress House Document No. 94-51, "A Report on Endangered and Threatened Plant species of the United States", which listed 2,099 species, or approximately 10 percent of the native flora. Three plants which occur in Iowa appeared on this list; they are Monkshood (Aconitum noveboracense), Mead's Milkweed (Asclepias meadii) and Prairie Bushclover (Lespedeza leptostacya). Considerable field checking has occurred to determine the status of these plants in Iowa. They are proposed for inclusion on the federal endangered and threatened species list; at present, only Monkshood appears on the federal list and is termed 'threatened'.

We have identified the plants considered endangered or threatened; they deserve our utmost caution and loving care if they are to be a part of our children's world. We are attempting to locate all sites in Iowa of plants termed 'endangered'; when found, the site should be protected—acquired by the state, if possible. This is where public support of the Commission's acquisition program is essential. We will need your help.

Following is a list of the plants thought to be in the most danger of not surviving in Iowa; they are termed 'endangered'. Because of space limitations, only the endangered plants are listed below, but a complete list of endangered, threatened, extirpated (gone from Iowa) or 'status undetermined' plants may be obtained from the Conservation Commission.

Lower Vascular Plants

Adiantaceae (Maidenhair Fern Family):

Purple Cliffbrake, Pellaea atropurpurea.

Aspleniaceae (Spleenwort Family):

Glandular Wood Farm, Marginal Shield Fern, Limestone Oak Fern, Rusty Cliff Fern,

Western Cliff Fern, Dryopteris intermedia, Dryopteris marginalis, Gymnocarpium robertianum, Woodsia ilvensis, Woodsia orgegana.

Equisetaceae (Horsetail Family):

Dwarf Scouring Rush, Woodland Horsetail, Equisetum scirpoides, Equisetum sylvaticum.

Ophioglossaceae (Adder's-tongue Family):

Leather Grape Fern, Least Grape Fern, Adder's-tongue Fern, Botrychium multifidum, Botrychium simplex, Ophioglossum vulgatum.

Osmundaceae (Flowering Fern Family):

Cinnamon Fern, Osmunda cinnomomea.

Selaginellaceae (Spikemoss Family):

Meadow Spike-moss, Selaginella eclipes.

Lycopodiaceae (Clubmoss Family):

Running Clubmoss, Round-branched Clubmoss, Crowfoot Clubmoss, Rock Clubmoss, Lycopodium clavatum, Lycopodium dendroideum, Lycopodium flabelliforme, Lycopodium porophilum.

Dicots

Acanthaceae (Acanthus Family):

Water Willow, Justicia americana.

Asclepiadaceae (Milkweed Family):

Eared Milkweed, Wooly Milkweed, Mead's Milkweed, Asclepias auriculata, Asclepias lanuginosa, Asclepias meadii.

Asteraceae (Aster Family):

Forked Aster, Water Marigold, Spreading Goldenrod, Aster furcatus, Bidens beckii, Solidago patula.

Berberidaceae (Barberry Family):

Twinleaf, Jeffersonia diphylla.

Betulaceae (Birch Family):

Swamp Birch, Betula pumila.

Boraginaceae (Borage Family):

Northern Lungwort, Mertensia paniculata.

Caprifoliaceae (Honeysuckle Family):

Twinflower, Linnaea borealis.

Capparidaceae (Caper Family):

James' Cristatella, Cristatella jamesii.

Caryophyllaceae (Pink Family):

Field Chickweed, Cerastium arvense.

Cistaceae (Rockrose Family):

Poverty Grass, Pinweed, Hudsonia tomentosa, Lechia intermedia.

Cornaceae (Dogwood Family):

Bunchberry Cornus canadensis.

Droseraceae (Sundew Family):

Sundew Drosera rotundifolia.

Elatinaceae (Waterwort Family):

Waterwort Elatine trianda.

Ericaceae (Health Family):

Bearberry Prince's Pine Huckleberry Shinleaf Low Sweet Blueberry Velvet-leaf Blueberry Arctostaphylos uva-ursi Chimaphila umbellata Gaylussacia baccata Pyrola secunda Vaccinium angustifolium Vaccinium myrtilloides.

Fabaceae (Leguminosae) (Pea Family):

Fragrant False Indigo Rattle Vetch Prairie Bush Clover Silky Prairie Clover Amporpha nana Astragalus striatus Lespedeza leptostachya Petalostemon villosum.

Haloragaceae (Water-milfoil Family):

Rough Water Milfoil Mermaid Weed Myriophyllum pinnatum Proserpinaca palustris.

Hippuridaceae (Mare's-tail Family):

Mare's-tail Hippurus vulgaris.

Hypericaceae (St. John's-wort Family):

Northern St. John's-wort Hypericum borealе.

Lamiaceae (Mint Family):

Blue Giant Hyssop Agastache foeniculum.

Lentibulariaceae (Bladderwort Family)

Humped Bladderwort, Flat-leaved Bladderwort, Small Bladderwort, Utricularia gibba, Utricularia intermedia, Utricularia minor.

Lythraceae (Loosestrife Family):

Water Willow, Decodon verticillatus.

Melastomataceae (Melastoma Family):

Meadow Beauty, Rhexia virginica.

Menyanthaceae (Buckbean Family):

Bogbean, Menyanthes trifoliata.

Nymphaeaceae (Water-lily Family):

Water Shield, Brasenia schreberi.

Papavaraceae (Poppy Family):

Golden Corydalis, Corydalis aurea.

Polygalaceae (Milkwort Family):

Pink Milkwort, Polygala incarnata.

Portulacaceae (Purslane Family):

Fameflower, Rough-seeded Fameflower, Talinum parviflorum, Talinum rugospermum

Ranunculaceae (Crowfoot Family):

Monkshood, Aconitum noveboracense.

Rubiaceae (Madder Family):

Partridge Berry, Mitchella repens.

Salicaceae (Willow family):

Shining Willow, Bog Willow, Salix lucida, Salix pedicellaris.

Saxifragaceae (Saxifrage Family):

Golden Saxifrage, Northern Currant, Chrysosplenium iowense, Ribes hudsonianum.

Scrophulariaceae (Figwort Family):

Round-stemmed False, Foxglove, Pale False Foxglove, American Brookline, Kitten-tails, Gerardia gattingeri, Gerardia Skinneriana, Veronica americana, Wulfenia bulli.

Violaceae (Violet Family):

Green Violet, Hybanthys concolor.

Vitaceae (Vine Family):

Summer Grape, Vitis aestivalis.

Monocots

Cyperaceae (Sedge Family):

Clustered Sedge, Crawford's Sedge, Slender Sedge, Intermediate Sedge, Rocky Mountain Sege, Deep Green Sedge, Purple Spike-rush, Dwarf Spike-rush, Tall Cotton-grass, Slender Cotton-grass, Slender Fimbristylis, Prairie Bulrush.

Carex aggregata, Carvex crawfordii, Carex leptalea, Carex media, Carex sarimontana, Carex tonsa, Eleocharis atropurpurea, Eleocharis coloradoensis, Eriophorum angustifolium, Eriophorum gracile, Fimbristylis autumnalis, Scirpus paludosus.

Hydrocharitaceae (Frog's-bit Family):

Tapegrass, Vallisneria americana.

Juncaceae:

Alpine rush, Green's rush, Juncus alpinus, Juncus greenii.

Liliaceae (Lily Family):

Nodding Wild Onion, Allium cernuum.

Orchidaceae (Orchid Family):

Pink Ladyslipper, Pale Green Orchid, Prairie-fringer Orchid, Hooded Lady's Tresses, Cypripedium reginae, Habenaria flava, Habenaria leucophaea, Spiranthes romanzoffiana.

Poacese (Graminae) (Grass Family):

Buffalo Grass, Rice Grass, Slim-leaved Panicum, Weak Bluegrass, Tumble Grass, Spear Grass.

Buchloe dactyloides, Oryzopsis pungens, Panicum linearifolium, Poa languida, Schedonnardus paniculatus, Stipa comata.

Pontederiaceae (Pickerel Weed Family):

Mud Plantain, Heteranthera limosa.●

EXCESSIVE GOVERNMENT SPENDING

● Mr. STONE. Mr. President, most Members of Congress have now come to understand the absolute necessity of reducing the level of Federal Government spending. I believe the public is beginning to appreciate the relationship between excessive Federal spending and the inflation which now plagues our economy.

It is certainly one of my highest priorities to work toward the reduction of Federal Government spending and toward the elimination of the unacceptably high deficits incurred in recent years. This year I have joined other Senators in various efforts to reduce excessive Government spending. One of the most recent efforts was an amendment to the budget resolution for fiscal year 1979 to reduce by $30 billion the President's budget. Although this amendment was not adopted, I am pleased to call the Senate's attention to the fact that the Wall Street Journal, in its editorial of September 18, 1978, gives support to this effort. It is my hope that we can work toward the development of greater support in the Congress for the next few years to achieve a real reduction in Government spending which would thereby bring inflation under control.

I ask that the Wall Street Journal editorial of September 18, 1978, be printed in the RECORD.

The editorial follows:

THE BUDGET "BATTLE"

Senate and House budget conferees, it seems, are locked in gentlemanly combat over House insistence on authorizing a further $2 billion for "soft" public works in the 1979 budget. The Senate wants no further authorization, and as a result of the dispute Congress failed to meet its Sept. 15 deadline for agreeing on a second budget resolution for fiscal 1979.

This little tempest will not become a major crisis, we can safely assume. Great institutions don't crumble over a piddling $2 billion. Some compromise will be found and there will be agreed-upon targets for authorizations, outlays, revenues, the federal deficit and the federal debt for 1979.

But the struggle does give occasion for wondering if the congressional budget process, now three years old, will ever begin to accomplish what was intended when it was devised. It was intended to bring self-discipline to Congress by having that body set a budget ceiling that would force members and committees to hold their individual spending appetites in check.

The idea was that the size of the federal budget and the federal deficit would be determined by economic assessments. If the nation were suffering inflationary pressures, for example, an attempt would be made to put the budget into surplus to relieve the pressures. In a recession a deficit could be tolerated to help preserve jobs and demand. A large brain trust, the Congressional Budget Office, was set up to help with such calculations.

But the "soft" public works fight shows that it isn't so easy to persuade a major committee—House Public Works in this case—to give up some goody, even if there isn't room for it under the budget umbrella and the umbrella is already too big. Individual appetites still count for something in Congress.

The difficulty is emphasized by the fact that the $2 billion authorization isn't something most people would consider to be of crucial importance. There will be an appropriation for soft public works in fiscal 1979 anyway, under existing authorizations. The authorization could be extended next year. A lot of people wonder whether soft public works, which focus on projects that employ unskilled labor, are worth all the trouble it takes to organize them. If a budget item like this can't be scrapped, what can be?

As it happens, a bold attempt was made in the Senate to make the intended budget process work. Nine Senators—Proxmire, Hatch, Hayakawa, DeConcini, Bentsen, Roth, Stone, Harry F. Byrd, Jr., and Thurmond—proposed to cut 1979 budget authority to

$540 billion. That would still be an increase of 7% from a year ago, but it would be some $30 billion under the President's budget authority target and would offer prospects for wedging the federal deficit down to a more reasonable level.

Well, it didn't work. The Senate adopted the $557 billion authority of its own Budget Committee. Deficits of $40 billion or more will be with us for some time, it seems, even though everyone agrees that inflation is the nation's number one problem.

And the House, fighting for that $2 billion public works pork, isn't even content with the generosity the Senate has already displayed in a budget authority target that is up 11% from a year ago.

Senator Proxmire put his finger on the problem by saying on the floor that the budget process hasn't changed the reluctance of his fellow Senators to attack someone else's spending project. "Senators soon learn that the best way to get along is to go along and that the 'something in it for everybody policy' is easier to live with than rocking the boat," said the Wisconsin Senator.

The soft public works battle shows how true that is. It is an exaggeration, quite clearly, to call it a battle when there is so little evidence that anyone has really begun to fight.●

EMPLOYEE RETIREMENT INCOME SECURITY ACT

● Mr. JAVITS. Mr. President, I ask to have printed in the RECORD the transcription of a speech which I delivered on September 10 in Atlanta. It was the keynote address at the Annual Educational Conference of the International Foundation of Employee Benefit Plans, there.

The speech follows:

EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Thank you very much, Bill Oliver, and thank you very much ladies and gentlemen for the warmth of your reception. I suggest that you relax for the next three-quarters of an hour and let me do the work. I hope you will absorb a good deal of what I have to say for I am supposed to give you your keynote address. This is a very important field to me as I will explain in a moment.

I would like to say that normally I would handle questions after I speak. I hope you will forgive me, but I have had a slight bout with a very thorough medical examination. It was touch and go as to whether I would appear at all today. I wanted very much to do it, so I am here with all my doctors very worried about it. I hope you will forgive me if I leave the answers to questions to Peter Turza sitting right there with the stripped yellow tie who is on the platform with me. He will be here during your conference, and his answers will be authoritative. I will be committed by whatever he tells you about particular aspects of either ERISA itself or of the ERISA Improvements Act of 1978.

I am very flattered by the size of this audience and by the invitation of the International Foundation, which I know is a very important organization particularly with respect to multiemployer plans which so deeply concern us in ERISA. I thank Bill Oliver for the warmth and graciousness of his introduction. I was met at the plane today by Lee Polachek, your Executive Vice President. Also gracing the platform is Bill Ward, who is your Chairman Elect, Helen Kleczka, who is, I understand, a very distinguished officer of this organization, and your past president, Charles Jackson.

When Bill was speaking, I noted two things which appealed to me very deeply. He spoke of the enigma known as ERISA. And he spoke of good old fashioned American ingenuity. These points, naturally, are not in my prepared text, but I would like to address them first. That is why I said let's relax and enjoy the afternoon.

You know, ERISA is an enigma in terms of the statute and the related law. But I would rather have an enigma than a disgrace to the national honor of the United States; and the pension plans of this country were a disgrace before the coming of ERISA. Sure, before ERISA you had few enigmas. But you also had very little justice. As far as the worker was concerned, whoever administered the pension plan was the final word. And the reality was that American workers didn't care much about pension plans, except with some of the very major companies where they were really a factor. As for the rank and file's attitude toward pension plans, well, maybe they'd get a pension or maybe they wouldn't. They really didn't know too much about it or they didn't count on it too heavily.

Now the law is an enigma because people are counting on pension plans, and they must consider the limitations of Social Security and the strictures of our economy. People are beginning to know what pension plans contain, and they are beginning to understand that they are critical elements in employment. And that goes for big and small employers, which is the way it ought to be in the U.S.A. So, if ERISA is an enigma, it is an enigma very well worth dealing with and very well worth resolving in the interest of 35 million people who are covered by these plans. And ultimately, governmental plans will also be covered by the law—there isn't any real reason why they should be excluded.

To emphasize for you the importance of pension plans, I want to say that I called an economic conference the other day about a matter quite unrelated to the one we are discussing today. One of the chief executive officers of one of America's greatest companies—and when I say greatest, I mean the first five—said that the main source of capital for the future as far as his enterprise was concerned as well as most other enterprises were the pension funds. He said they will dominate capital supply for the American industrial and business machines.

How true that is when we note that private pension fund assets today total $280 billion. So that you get a concept of that sum, there is something called M-1 that the Federal Reserve Board always talks about. M-1 means the amount of cash and demand deposits in the United States for corporations and individuals. M-1 amounts to roughly $330 billion on the average. So private pension funds will very soon, within two or three years, equal the aggregate amount of cash and demand deposits of the United States. And when you add to this $280 billion which protects the pensions as I said, of about 35 million Americans, $130 billion which is held by State and local government plans and another $55 billion which is held by federal retirement programs outside of Social Security, you come to close to $500 billion of capital funds which are in the hands of pension funds. These funds today total about ⅓ of the nations financial securities. By 1985, not very long from now, these assets are expected to aggregate $1,000 billion—one trillion dollars—about ⅔ of the gross national product of the United States every year. And eventually, within the foreseeable future, pension assets will provide nearly one-half of all the external capital raised by U.S. enterprises.

It is an enigma—ERISA, that is. It is an enigma which will be resolved. As I said a moment ago, Senator Williams and I who are largely responsible for this legislation, with the magnificent aid of Senator Lloyd Bentsen of Texas, a member of the Finance Committee and a man who is essentially business dedicated but who like Senator Williams and I, who are very labor oriented, took a deep interest is this proposition as a very fundamental element of the business system of the United States, have created this enigma. But by this enigma we have also overcome deep injustices and the disgrace of unregulated pension plans in the United States. This law is very susceptible of being made viable and being made a very rational instrument for fairness and for high enterprise as far as workers are concerned.

Now I take my lead from the second part of what Bill Oliver said, "good old fashioned American ingenuity." Yes, I agree with that, but I add to it, Bill, "good old fashioned American ingenuity and fairness—and fairness." I represent 18 million people with Senator Moynihan, also of New York. There are two senators in every state, no matter how large or how small, and there is a congressman in every district. I have found that many of these enigmas can be resolved often very practically by the intercession of your legislators. Most of them will come to me or Senator Williams or to Senator Bentsen or to some other senator or congressman who takes an ardent hand in these matters. I have found very few cases where there is not a practical way out. In some cases, the employer has to do something; in other cases, the employees have to do something. In many cases, the Administration has to do something. But very few cases, even today, notwithstanding the reputation of ERISA, cannot be resolved.

I have one last point. An effort was made for a time—and mind you, I am given to plain speaking and I hope you will forgive me for that; you won't misunderstand me—for a time, an effort was made to drag down ERISA, to destroy it, by people who sought to kill it on the charge that it called for too much paperwork. Now, I am all for condemning paperwork as much as anybody else, but again that cannot be used as a means to destroy a great social reform. Paperwork must be cut down, and human beings are very capable of cutting it down. But it should not be utilized as a means for destroying this great law. And yet, so superficial, unfortunately, are many people, either unintentionally or by design, that in the last few years, ERISA came very close to being destroyed by those who were against paperwork, as if paperwork would feed hungry mouths or look after older people or do all the things which these pension and welfare funds do.

Now it is not hard to see why pension plans have developed into one of the truly essential elements of our economic system. Yet, some critics have suggested scrapping the private pension system and merging it into one colossal federal retirement program. Such a move in my opinion would be a terrible mistake. It would harm retirees and the nation as a whole. Certainly there are problems, as I have just explained in some detail, with the private retirement system, but to establish one federal retirement program with Social Security as its cornerstone, would be jumping from the frying pan into the fire. Anyone familiar with the recently highlighted financing problems of Social Security and its lack of advance funding should know that the private pension system with these hundreds of billions of dollars of rapidly growing assets looks extraordinarily healthy when compared with Social Security.

In my view, what we need is a national retirement income policy which will coordinate the various elements of the retirement income continuum. Private pension plans should be coordinated with Social Security but should not be merged into Social Security.

Last September in Chicago at a comparable meeting, I called for the active development of a national policy on retirement income. On July 12, the President established a Presidential Commission on Pension Policy which has the responsibility, and I quote, "to develop national policy for retirement survivor and disability program". This Commission will study private, federal, state and local pension programs. And I believe the work of the Commission will accelerate the growth of a concensus that a coordinated national retirement income policy must be developed and implemented. I am also hopeful that the various studies which have been launched will conclude that the best way to implement such a national retirement income program is to establish a single retirement income agency.

I come now to the bill which Senator Williams and I have proposed. Senator Williams is from New Jersey and is Chairman of the Human Resources Committee which has primary jurisdiction in these matters. He and I have had an enviable partnership in this matter and in many others of a completely bipartisan character. And I might tell you what I think about my own role with respect to ERISA. I believe that two of the greatest landmarks in my long legislative career are, first, the War Powers resolution which for the first time in 200 years restrains the power of the President, as in Vietnam, to put us in war without a declaration of war and, second, ERISA. That is my own judgment as to the importance of my own work.

Senator Williams and I have been partners in all of these employee benefit matters. He and I have proposed the ERISA Improvements Act of 1978, known in the Senate as S. 3017. We have proposed that a single Employee Benefits Commission be established to administer ERISA. Such a single agency is supported by many groups including the AFL-CIO. It would combine most of the jurisdiction and personnel of the existing agencies and would become the key administrative mechanism for implementing a coherent retirement income policy. Our proposal for a single agency is very similar to what the Administration has done, for example, in the energy field. It consolidates a multiplicity of administrative units into one and charges the single entity with the implementation of an important national policy. It is my judgment that a national policy on retirement is just as vital as a national policy on energy.

The Administration has submitted its ERISA Reorganization Plan to us, and I happen also to be a member of the Governmental Affairs Committee which handles Reorganizations. The ERISA Reorganization program is a small, good, but small, first step toward better administration of the pension benefit law. But as the Plan sponsors admit, the Reorganization Plan is only an interim measure. It will be followed on or before April 30, 1980, by a definitive recommendation, namely, the Administration's long-term proposal. I hope that concern for the national good and the welfare of retirees will override shortsighted concerns about jurisdiction between Congressional committees or executive departments and will give us a single agency.

Let us remember that as of today, there are three agencies administering ERISA—The Department of Labor, the Treasury Department, and the Pension Benefit Guaranty Corporation. And, if the *Daniel* case stands up, we will have the Securities and Exchange Commission, and with the transfer of jurisdiction of various types of discrimination to the Equal Employment Opportunity Commission, we may have the EEOC, too. You can see how all signs point to the absolute need for a unification of administration in this field.

I believe this interim Reorganization Plan is likely to be approved, provided that it is made very, very clear that it is short term and that it is to be succeeded by a definitive plan, as I said, on or before April 30, 1980. Under the interim Plan, the Treasury Department will have authority for minimum standards including vesting and funding, but the Labor Department will have a veto over certain minimum standards matters which would, and I quote, "significantly impact on or substantially affect collectively bargained plans." It would seem that many minimum standards matters would substantially affect such collectively bargained plans and that the two agencies may not be out of each other's hair much more than they are now in this particular area. Thus, my emphasis on the fact that it has to be considered interim.

Again, with the respect to fiduciary matters under the interim Plan, the Labor Department will have primacy, although the Treasury Department will still administer the Internal Revenue Code's exclusive benefit rule. The Labor Department will, however, have a veto power over the Treasury's disqualification of a plan for violation of the exclusive benefit rule. In addition, both agencies, Labor and Treasury, will maintain their current enforcement powers even with respect to the substantive areas over which the other agency has the lead role. The IRS will retain tax enforcement powers, and the Department of Labor will retain equitable enforcement powers. There is much overlap of authority, therefore, built into this Reorganization Plan, and I hope variations on the old dual jurisdiction theme will not be heard in the future. But still there is some effort to do better, especially respecting the granting of prohibited transaction exemptions, to which I will refer in a moment.

As the population grows older, it is clear that the need for retirement income in addition to social security will become more urgent. Now, this brings me to a subject of great sensitivity to which I would like now to refer. That is the problem of plan terminations. ERISA has become a convenient scapegoat as the cause for increased plan terminations since 1974. But a recent study by the General Accounting Office, which is the watchdog office of the Congress, concluded that, and I quote, "economic and other factors played a more significant role in decisions to terminate pension plans," than did ERISA. Since 1977, the ratio of new plans to terminated plans has in fact increased, and I predict will continue to increase, particularly as workers become more knowledgeable with respect to pension benefits, and employers recognize the morale value of such plans. For the first six months of this year alone, 34,122 new plans have been established against an estimated 8,290 which have been terminated. The number of new plans has increased sharply over prior years, and I think this promising trend will continue.

In view of this trend, I hope you will forgive me if I state that I must be highly critical of employers who terminated their pension plans even though business conditions did not absolutely require them to do so. I view a private pension as a benefit earned in an ongoing business rather than a gift from an employer. A loyal employee who has worked at least five years for the employer and who by his or her labor has contributed to the success of the enterprise should receive some form of employer-provided pension benefit in his or her later years. The employer owes at least this to the men and women who have spent a good piece of their lives in the enterprise.

In non-union situations, I think there will be greater efforts to unionize employers where private pension plans are not provided. Where there is unionization, I believe we will see tougher bargaining and more strikes where private pensions are not a element of employment. On the whole, I hope with experience in hand and with the knowledge that American productivity is in the cellar, as they say in baseball, as compared with the ten leading industrial nations in the world, that employers, who other than for business reasons are proposing to terminate pension plans, will give it another thought, both in the interest of their own businesses and worker productivity and in the interest of the Nation.

PROPOSALS TO ASSIST MULTIEMPLOYER PLANS

I come now to the subject of multiemployer plans which have given us quite a headache in respect to ERISA. I am well aware of the unique problems which multiemployer plans have. In addition to the paperwork reductions which Senator Williams and I have included in our pending bill which will benefit all plans, our bill also contains provisions to try to deal with multiemployer plan problems.

For example, our bill will require employers who are obligated to contribute under the terms of collectively bargained plans to make such contributions in accordance with the terms of a plan. We give the fiduciary the power to enforce this new statutory right and to recover reasonable attorney's fees and the costs of the action. Personally, I am also willing to consider expanding this new statutory duty so that fiduciaries will be clearly able to enforce plan provisions requiring reasonable liquidated damages because of delinquencies in making contributions. Such liquidated damages will assist in making the plan whole for costs of collection other than attorney's fees and for lost investment earnings.

Our bill further permits multiemployer plans to return a mistaken employer contribution within one year. Now this is a fine distinction, and I beg you to listen closely. By the way, I love applause, but I cannot tell you how much I appreciate the fact that you are listening—it is critically important to me; and this is a very subtle distinction, so listen to it carefully. Our bill permits multiemployer plans to return an employer contribution within one year after the plan administrator knows that the contribution was made by a mistake of fact rather than under the present rule which requires the return within one year after the contribution is made. Mind the difference, one year after the plan administrator knows or finds out that there has been a mistaken payment, as contrasted with one year after the mistaken payment is made, even if he does not know. The present rule, in our judgment, has proved to be particularly difficult for multiemployer plans which cover many small employers with inadequate bookkeeping systems. A plan may now be accepting mistaken contributions in good faith on both sides on behalf of employees who should not be participating in the plan. But if the mistake is discovered after more than one year, under present law, the contribution cannot be returned. That is the situation we must correct, and I believe we will correct.

Our bill also has a number of other technical provisions. Again, this may be dull and boring, but I beg you to listen, because it is very important:

We facilitate reciprocal agreements between plans to increase portability—this is one of the big things we have not yet dealt with in ERISA, but it can be done by agreement between plans;

We permit the crediting of service for eligibility purposes on a plan year basis rather than a year based on the commencement of employment;

We permit the summation of different benefit accrual rates over the course of a participant's career rather than having the last accrual rate apply retroactively for all years of service;

We broaden the suspension of benefits rule if a retiree is reemployed;

We permit plans to comply with final regulations even if such regulations differ from temporary or proposed rules which were followed by the plan;

We permit by statute the use of the elapsed time method of crediting service; and

We require the funding method to take account of future plan amendments.

These and many other provisions affecting multiemployer plans are quite complicated and may require further fine-tuning in light of the comments which we have received in the course of hearings on our bill.

Now in addition to the provisions of our bill, I think we ought to talk about other ideas which you may want to discuss at this conference. Other amendments may be considered to have merit, and I will look forward with very great anticipation to your recommendations. I will take them seriously, and if given to me in adequate form, I will see that they become part of the record of our hearings.

The time has come, in my judgment, to take a hard look at the efficacy of ERISA's prohibited transaction provisions. The key to making these proscriptions workable is the exemption procedure. The evidence to date is that this procedure has not worked as well as we had hoped. I think the Administration's Reorganization Plan, which I described to you, will somewhat open the administrative bottleneck by removing the deleterious effect of dual jurisdiction. But I am concerned that even with the solution of the dual jurisdiction problem, the exemption procedure may not work the way it was intended. The complexity of the issues raised by exemption applications and the inadequate number of trained agency personnel to deal with them leads me to raise the question of our permitting some "play in the joints" in the body of prohibited transaction law. I do not want this ERISA protection, as desirable as it is, to become an artificial and impractical impediment to perfectly acceptable business transactions which will benefit the very plans which our law was meant to protect.

I also want to discuss our amendments repealing the well-known *Daniel* case. I would like to speak about that because those provisions are open to amendment because we are convinced they ought to be changed. I think further refinement of our bill respecting *Daniel* is in order. We should, among other things, make clear that a participant's interest in most types of pension plans is not a security. Both Senator Williams and I are convinced of that. But, it may be appropriate to do something about fraud. In my judgment, it would not be desirable to incorporate the whole body of the anti-fraud law contained in the Securities Act into the already densely populated area of pension plan regulation. As Mr. Oliver said, we should not add to the enigma; we should subtract from it.

But I think it is not inappropriate to give serious consideration to adding an antifraud provision to ERISA which will supplement the existing ERISA antifraud prohibitions. While I think it is unwise to add yet another agency to the complex of ERISA administration, to wit, the SEC, I believe basic fairness and equity may require that we do something about antifraud provisions stronger than those in ERISA today. In addition, further study should be given to the possibility of facilitating some retroactive form of relief for individuals like Mr. Daniel, who had a short break in service. Enabling federal courts to hear state common law fraud actions even where there is no diversity jurisdiction and thereby making federal class actions more available may be extremely useful in order to do justice in such cases as the *Daniel* case. The feasibility of this idea, which does not involve the creation of a new retroactively effective federal cause of action, needs to be assessed.

PLAN TERMINATION INSURANCE

It is estimated that there are now about 2,000 defined benefit multiemployer plans which cover about 8 million participants. We deal in big numbers here. A PBGC study found recently that about 10% of these plans which cover 1.3 million workers out of the 8 million workers are experiencing financial difficulties that could result in plan termination over the next 10 years.

Now, one idea that has been kicked around—and I hope we will not only kick it around but kick it out of this auditorium—is the idea that all of these plans are going to go bust at the same time. If they did, it would involve an estimated PBGC liability of almost $5 billion. That liability figure would require an annual premium of about $80 per participant per year for multiemployer defined benefit plans. But we know that that probably won't happen. If, within the next ten years only those plans projected to become insolvent are considered alone, the net cost, if they all go broke, is $560 million and the requisite premium to take care of that kind of disaster would not be $80 but rather $9 per participant for multiemployer, defined benefit plans. Obviously, an $80 premium would send all the multiemployer plans into a tailspin and is therefore unthinkable. We must not let it happen; I will do my utmost to see that it does not happen.

The July 1 PBGC study sets out a series of options dealing with the problems of the multiemployer termination insurance program. Their suggested alternatives include redefining multiemployer plans, changing minimum funding standards, and instituting a plan reorganization program to encourage the continuation of plans. The PBGC also suggested providing financial assistance to ongoing plans or revising insurance guarantees and employer liabilities for terminated plans. Changes in the phase-in rules for the guarantee of benefit increases and in employer liability upon withdrawal from a continuing plan were also mentioned in the July 1 report.

PBGC estimates that premiums can be held down by requiring stricter funding rules and greater deferral of the phase-in of benefit increase guarantees and by removing the current net worth limit on employer liability. The agency estimates that these changes alone would hold premiums to the $12–20 range rather than the $45–80 range which has been talked about. Whether the foregoing mix changes is the one we should choose is still an open question. Much discussion and analysis will have to be engaged in, and I hope you will give these issues an honored place at this conference.

Because time is of the essence, I think it is essential that the Administration send its Title IV recommendations to the Congress no later than November 1 of this year. Senator Williams and I have requested Secretary of Labor Marshall to have the Administration's proposals to us by that date.

I should add that the Senate Committee report on the Second Supplemental Appropriations Bill directs the Department to send the Title IV recommendations to the Congress by November 1.

If the Administration does not meet this deadline, I can assure you that the Congress will develop its own program and will move ahead on its own. I consider the revision of Title IV a matter of the highest urgency which must be dealt with as soon as possible. The protection of too many covered workers hangs in the balance for there to be any more delay in making ERISA's Title IV insurance a completely viable program.

CONCLUSION

Ladies and gentlemen, I have detained you for some time, and I close as follows.

The overriding concern behind the ERISA Improvements Act of 1978 and the other changes which I have discussed today is to strengthen the private pension system. Our bill removes unwarranted hindrances to plan growth, proposes new ideas for expanding pension coverage, and proposes new improved protection for millions of working men and women.

I feel that those attending this conference share my commitment to strengthen the U.S. private pension system. I urge you to hold up your end and let your Senators and Congressmen know where you stand on these important issues as voting time is very near. We are probably only 6 to 7 weeks away from the close of this Congress and possibly from voting on parts of the ERISA Improvement Act of 1978.

Finally, a personal word. After all, I do not believe—and I hope many of you here agree with me—that man does not live by bread alone. There has got to be some satisfaction and some joy in the job; some feeling of contribution to the society in which one lives; some view that when you lift your head from the desk at which you are working and look out the window, you see the great horizon beyond you, as well as a magnificent country with magnificent people and magnificent resources, knowing full well that what ails us we have the power to correct. And while we may be stumbling at the moment, we will, as our 200 year history demonstrates, show our best when in the worst trouble.

And I would like to assure those of you who are in the employee benefits field, that in view of our aging population and our fine health care system, our society gives greater longevity, good health, and enjoyment of life than any civilization on Earth of any appreciable size has ever known before. You who work in employee benefits have not only knowledge but a critical place in making this miracle come to pass. I hope that whenever you get really stewed up about the enigma of ERISA, vexed with me and my colleagues, bored with details, and annoyed with your job, you will remember that what you are doing will make happy the lives of millions of Americans for generations to come. Thank you.●

ERA: RESCISSION

● Mr. GARN. Mr. President, a great amount of material is being written and distributed in regard to House Joint Resolution 638, the joint resolution purporting to extend the ratification deadline for the Equal Rights Amendment (ERA). I hope this material is being studied by our colleagues and their staffs, for the decisions that we make on this resolution will have an impact on our primary national policies for decades to come. In fact, because we are dealing with the amendment process, we are dealing with one of the most vital components of any national charter. As John W. Burgess said in his book "Political Science and Comparative Constitutional Law:"

[The amending power] is the most important part of a constitution. Upon its existence and truthfulness, i.e., its correspondence with real and natural conditions, depends the question as to whether the state shall develop with peaceful continuity or shall suffer alternations of stagnation, retrogression and revolution. A constitution, which may be imperfect and erroneous in its other parts, can be easily supplemented and corrected, if only the state be truthfully organized in the constitution; but if this be not accomplished, error will accumulate until nothing short of revolution can save the life of a state.

In short, Mr. President, article V of the Constitution of the United States is perhaps the most critical element of the document, because through the processes

of article V defects in the other parts of the Constitution may be cured. Let us not be lulled into thinking House Joint Resolution 638 deals with benign issues; it deals with fundamental issues, in fact, some of the most fundamental issues that a written document can deal with.

In my consideration of these issues, I have found a comment from the Louisiana Law Review (vol. 37, 1977) of particular help. I ask that Grover Rees' excellent analysis be printed in the RECORD.

The material follows:

RESCINDING RATIFICATION OF PROPOSED CONSTITUTIONAL AMENDMENTS—A QUESTION FOR THE COURT

Since it was proposed by Congress in 1972, thirty-five state legislatures have indicated their assent to the proposed Equal Rights Amendment.[1] Three of these—Tennessee, Nebraska and Idaho—have passed resolutions rescinding their ratifications.[2] Should three more states ratify, it will become impossible to determine the content of the Constitution without first deciding whether the rescissions were constitutionally permissible.

RESCISSION: THE ORIGINAL UNDERSTANDING

Although the Constitution does not explicity provide for rescission of resolutions ratifying amendments,[3] it is reasonable to suggest that the controversy is artificial, in light of the general rule that a legislative body may rescind any of its own actions, at least until they have taken effect.[4] Obviously, once three-quarters of the state legislatures have unequivocally ratified an amendment and it has become effective as part of the Constitution, it can only be repealed by the normal amending process prescribed in Article V.[5] In the absence, however, of some textual or logical limitation on a legislature's right to withdraw its assent to a *proposed* amendment, such power is implicit in the legislature's right to prescribe its own rules.

The tenth amendment to the Constitution would seem to butress the presumption in favor of such state legislative power. However, the power to ratify amendments to the Federal Constitution has been held to be a "federal function" exercised by the state legislatures by virtue of a special grant of power in Article V, and not a reserved power of the states under the tenth amendment.[6] Notwithstanding this construction, state legislatures may apply their own rules to the ratification procedure,[7] even provisions requiring "supermajorities" for passage of ratification resolutions.[8] A rule providing for rescission of resolutions would seem to be no exception.

The most exhaustive attempt at a principled defense of the proposition that a legislature may *not* rescind its ratification was made by John Alexander Jameson in his treatise on constitutional conventions.[9] Judge Jameson found, in the constitutional provision that an amendment is valid "when ratified" by three-fourths of the state legislatures,[10] a grant of special power to each legislature which "when exercised . . . by ratifying . . . ceases to be a power. . . ."[11] Passage by a legislature of a ratifying resolution is, in this view, a sort of sacramental act, which may take only a moment to consummate but which is forever binding on the legislature (and on the whole nation).[12] Jameson also advanced a reliance theory according to which one state's ratification "induces" similar action by other states.[13] Why this is true, or why it should make any difference so long as any state so "induced" may restore itself to its original position by rescinding its own ratification, was not explained.

In finding that a ratification becomes "effective" and therefore irrevocable the moment it is passed by the legislature, Judge Jameson blurred the distinction between one state's passage of a resolution, and the completion of the whole process by which the amendment becomes a part of the Constitution. Indeed, he professed to see no difference between rescission before three-quarters of the states had ratified, and afterward;[14] and his horror of a theory which might justify secession (by a state's "rescission" of the Constitution itself)[15] virtually compelled his conclusions.[16]

Judge Jameson's arguments—all, as will be shown, all the important precedents and authorities relied on by those who would deny a state the right to rescind—are rooted in the philosophical and political currents of the Reconstruction Era.[17] Whatever the felt necessities of those times, it is suggested that the framers of the Constitution probably intended, and that the integrity of our constitutional structure certainly demands, that a state be able to reconsider its ratification of a proposal which has not yet become part of the Constitution.

In *The Federalist* No. 85, Hamilton argued that the amending procedure was designed to ensure that "the will of the requisite number" should prevail.[18] The Constitution would be amended "whenever [three-fourths of the] States, were united in the desire of a particular amendment."[19] This emphasis on *consensus* as the essential ingredient in the amending process contrasts sharply with Jameson's assertion, a century later, that the framers had intended each separate legislature's ratification to be irrevocable, regardless of whether a consensus among the states ever existed. If, for example, 38 state legislatures have ratified an amendment over a seven-year period, but 20 of the 38 have rescinded their ratifications, it cannot be said that 38 states were ever "united in the desire" for the amendment.

Those members of the Constitutional Convention who expressed their feelings on the matter saw the amending process as a means of procuring changes about which there was a broad consensus.[20] They rejected the standard of unanimity as too difficult to achieve,[21] but felt that a substantial minority of the states should be able to block changes favored by a majority,[22] and were generally fearful of frequent amendments.[23] Thus it would seem that any ambiguity in the language of Article V ought to be resolved in favor of the interpretation which would make it *more difficult* to amend, and which would prevent change absent a sufficiently broad consensus.

The United States Supreme Court has recognized consensus, and not the formality of a certain number of isolated legislative acts, as the *sine qua non* for ratification:

[A]s ratification is but the expression of the approbation of the people and is to be effective when had in three-fourths of the states, there is a fair implication that it must be sufficiently contemporaneous in that number of states to reflect the will of the people in all sections at relatively the same period. . . .[24]

The Court's doctrine that an amendment proposed by Congress must be ratified within a "reasonable time" is based on the *possibility* that after such a period has elapsed, even if some states should ratify an "old" proposal, other states which had ratified earlier might no longer be participating in a current consensus.[25] A fortiori, if one or more states have given a positive indication that they no longer support the amendment, they cannot be said to be part of a consensus.[26]

While disagreement exists on the merits of individual proposed amendments, experience has strengthened the view that resort to the amendment process should be made only in extraordinary situations.[27] Thus the canon of construction proposed above—that ambiguities be resolved in favor of the construction which would make amendment more difficult—has been suggested in other contexts, not as a means of being faithful to the precise wishes of the framers, but as a prudential means of protecting the Constitution from hasty alterations which might not reflect an enduring consensus.[28] One reflection of this attitude was the passage by the United States Senate, in 1973, of a measure expressing support for the view that a state ought to be able to rescind its ratification.[29]

The view that Article V should be read to permit rescission is further strengthened by the general construction of that Article as allowing a state to ratify an amendment after a prior negative action.[30] It is difficult to conceive of the Constitutional Convention promulgating a plan by which pro-amending forces have the unlimited opportunity to bounce back from a defeat, while denying the same right to those who prefer to keep the Constitution as it is.[31]

In view of the foregoing, it is not surprising that the validity of the recent rescissions has not been challenged on the merits. Apparently, no one now claims that the Constitution compels state ratifications to be irrevocable. Rather, the issue has been labelled a "political question," to be resolved by Congress, whose decision on the matter will not be questioned by the courts. Yet no court has ever confronted the issue, and the authorities cited for the proposition are at best questionable.[32]

POLITICAL QUESTIONS: PRINCIPLE OR PRETEXT?

Controversy as to the proper scope of the "political questions" doctrine is inextricable from the debate over the foundations of judicial review.[33] The classical justification for judicial review—the "private rights model" grounded in *Marbury v. Madison*[34]—is that the Supreme Court is the highest court in the land. As such, the Court has a duty to vindicate the rights of private parties. When the outcome of a case within the Court's jurisdiction must turn on a construction of the Constitution, the Court is bound to decide what the Constitution says about the case. Whenever the Court has the power to interpret the Constitution, it also has a duty to exercise that power.[35] Therefore, when the Court labels a question "political" it has already interpreted the Constitution and determined *either* (1) that the Constitution has given the political branch unlimited freedom of action in a certain area, so that nothing it could do in this area would be unconstitutional; *or* (2) that while a certain action of the political branch might be unconstitutional, the Constitution has given that branch the authority to *adjudicate* the question, so that the Court has no power to decide whether the action was constitutional.[36] In the first category are, inter alia, the President's power to recognize any foreign government he wishes[37] and the power of the political branch to decide when a certain expenditure is for the "general welfare."[38] In the second category—the only "true political questions" wherein the Court refrains from evaluating the constitutionality of a decision made by another branch—are Congress's right to judge the qualifications of its own members,[39] and the impeachment process.[40] In the classical view, once a case is properly before the Court, its duty to decide all issues can only be superseded by a clear, "textually demonstrable" grant of adjudicative power to some other institution.[41]

Marbury did not assert that the Court's duty to construe the Constitution was unique within the structure of government; in the private-rights model, the views of the Supreme Court will prevail over those of the other branches primarily because of the Court's power to issue writs which other officials are bound to obey.[42] Modern theorists,

Footnotes at end of article.

on the other hand, emphasize not the Court's duty to litigants who happen to be before it, but the Court's special role as the pre-eminent interpreter of the Constitution.[46] As these same theorists have come to reject the idea of a "mechanical" application of the text of the Constitution to modern problems, the Court has been pictured as an institution with the unique mission of making principled value judgments about legislative and executive decisions.[46] This "special function model" has obvious consequences for the political questions doctrine: if the Court is to be concerned primarily with the long-range effects that its decisions have on society, rather than with strict fidelity to the text of the Constitution in adjudicating certain private disputes, then it is free to choose carefully the areas in which it will render judgments.[48] In order to enhance its own effectiveness as a social institution, the Court may want to avoid certain areas altogether—especially areas in which the public, or the other branches of government, might resist its authority.[49]

Professor Bickel saw the political questions doctrine as the ultimate weapon in the Supreme Court's arsenal of discretionary devices for avoiding constitutional adjudication.[47] Rejecting the classical view, he argued that—

"Only by means of a play on words can the broad discretion that the courts have in fact exercised be turned into an act of constitutional interpretation governed by the general standards of the interpretive process. The political-question doctrine simply resists being domesticated in this fashion. There is . . . about it . . . something greatly more flexible, something of prudence, not construction and not principle. And it is something that cannot exist within the four corners of *Marbury* v. *Madison*." [48]

In *Baker* v. *Carr*,[49] Justice Brennan made an attempt to "domesticate" the political questions doctrine by calling it—

"Essentially a function of the separation of powers. Prominent on the surface of any case held to involve a political question is found a textually demonstrable constitutional commitment of the issue to a coordinate political department; or a lack of judicially discoverable and manageable standards for resolving it; or the impossibility of deciding without an . . . initial policy determination of a kind clearly for nonjudicial discretion; or the impossibility of a court's undertaking independent resolution without expressing lack of the respect due coordinate branches of government; or an unusual need for unquestioning adherence to a political decision already made; or the potentiality of embarrassment from multifarious pronouncements by various departments on one question." [50]

Although Justice Brennan began by tying the doctrine to the constitutional limits on the Court's powers, the criteria he specified seem more consistent with the view that there are "prudential" political questions. Only the criterion of "textually demonstrable constitutional commitment" is truly consistent with the classical view of the political question.[51] In a case where there is a *total* absence of judicially discoverable and manageable standards, or where it is *literally* impossible to decide a case without impermissible policy judgments, the political question doctrine would seem superfluous, since it is difficult to imagine how a plaintiff in such a case could prove an actual violation of a specific constitutional right. In the other instances listed by Justice Brennan, the classical view of judicial review would call for a decision by the Court.

It is probable, however, that Justice Brennan was attempting merely to summarize the *history* of the political questions doctrine. As will be shown,[52] the holding in *Baker v. Carr* itself, as well as the modern Court's treatment of other matters involving the political process, suggest that the doctrine is much narrower than Justice Brennan's thesis statement implies.

THE JUSTICIABILITY OF THE AMENDING PROCESS

There is nothing in Article V to suggest that whether a constitutional amendment has been ratified is a political question.[53] Congress is given the power (but not the sole power) to *propose* amendments for ratification by the states [54] and to choose whether ratification will be by state legislatures or by state conventions.[55] These are not adjudicative functions,[56] and there is no language comparable to that granting the Senate power to "try" impeachment and render "judgment" therein [57] or to the provision that "[e]ach house shall be the judge" of its members' qualifications.[58] It is reasonable to suppose that the "necessary and proper" clause [59] of the Constitution grants Congress the power to provide for promulgation of amendments and other "housekeeping" matters; [60] but it should be equally clear that no such "housekeeping" measure can be used as a pretext for substantive restrictions on the power granted to the states by Article V.[61]

In *Hollingsworth v. Virginia*,[62] decided in 1798, the Supreme Court indicated that questions about the amending process are justiciable rather than political. The plaintiff contended that the eleventh amendment had not been properly adopted, since the President had not been given the opportunity to sign or veto the Congressional resolution proposing the amendment. Defendant argued that the Constitution gives the President no role in the amending process. Apparently, neither the Court nor the parties entertained the idea that this question of law ought to be decided by another branch of government; the Court held that the amendment had become part of the Constitution.[63]

Luther v. Borden,[64] a major political questions case decided by the Court in 1849, contains a remark [65] which commentators have regarded as a dictum to the effect that the Court will let Congress decide whether states have ratified amendments to the Federal Constitution.[66] The case has nothing to do with such amendments, however; and the statement makes perfect sense when construed as part of the case's *holding* that Congress would be allowed to decide which of two rival state governments was the legitimate one, and therefore which *state* constitution was in effect.[67] *Luther v. Borden* rested in part upon a construction of the Guaranty Clause,[68] and in part upon the idea that the right of Congress to seat its own members implicitly included a right to "recognize" state governments.[69] It cannot easily be construed as acknowledging a Congressional veto power over the procedures of state governments whose legitimacy is unquestioned.[70]

Yet there was an instance in which Congress exercised just such a veto power without being directly rebuked by the courts. On July 20, 1868, Secretary of State William Seward announced that he had received documents from legislatures in at least three-fourths of the states purporting to certify ratification of the fourteenth amendment.[71] He noted, however, that he had also received official notice that Ohio and New Jersey had withdrawn their consent to the amendment. Expressing his "doubt and uncertainty" as to the legality of these resolutions, he certified that if the Ohio and New Jersey ratifications were still in force, the amendment was valid as part of the Constitution.

On the following day, both houses of Congress passed a resolution delaring that three-fourths of the states, including Ohio and New Jersey, had ratified and that the amendment was part of the constitution.[72] The record of the proceedings suggests bluntly that the Republican majority neither knew nor cared whether the Constitution gave states the right to rescind. The Senate passed the resolution without debate and without a roll-call vote.[73] In the House, the entire debate appears to have lasted only a minute or two.[74] A Massachusetts Republican moved to send the resolution, not to the Judiciary Committee, but to the Committee on Reconstruction. A Democrat protested that "it is an important question, and should go to the committee on the Judiciary." The Republican floor leader then indicated that his intention was to "pass it now," without any committee consideration at all. After some discussion of the idea of adding Georgia to the list (on the strength of a telegram in the possession of the Speaker which a Democrat suggested was a fabrication),[75] the resolution was passed by a near-perfect party line vote.[76] The Congressmen who voted that Ohio and New Jersey could not rescind were, virtually man for man, those who five months earlier had voted to impeach President Andrew Johnson for his refusal to obey unconstitutional orders.[77] It should be emphasized that this Congressional action was never tested in court. By the time the Supreme Court was called upon to construe the fourteenth amendment, in the 1873 *Slaughterhouse Cases*,[78] four additional states had ratified the amendment [79] so that ratification *vel non* by Ohio and New Jersey was a moot point.[80]

Apparently, the resolution of the Reconstruction Congress was not regarded as an important precedent even by contemporaries.[81] The discussion over including Georgia—whose ratification would have brought the total to three-fourths even without Ohio and New Jersey [82]—suggests that the Republican leadership was not entirely confident the gambit would succeed. Moreover, two years later New York rescinded its ratification of the fifteenth amendment,[83] and the Secretary of State did not certify the amendment as valid until enough states had ratified so that New York's action was moot.[84] Shortly thereafter, the Senate twice rejected attempts to declare that no state might rescind its ratification of any future amendment.[85]

The next amendment whose validity was questioned before the Court was the eighteenth. In *The National Prohibition Cases*,[86] the Solicitor General, and Charles Evans Hughes as *amicus* for several states, argued that the challenges were non-justiciable.[87] The principal authorities for this contention appear to have been the Congressional resolution of 1868 [88] and Judge Jameson's statement that, while the Court has the *power* to decide the validity of an amendment, "perhaps" the Court "ought" to accept the judgment of Congress in order to avoid a "spectacle." [89] The state courts, however, which had handled a large volume of litigation involving the validity of state constitutions and amendments, had been virtually unanimous in holding amending procedures subject to judicial review.[90] Implicitly rejecting the suggestion that it had no power to adjudicate the issues, the Court decided all questions in the eight cases before it—including questions about the procedures Article V requires of Congress as well as of state legislatures.

THE COLEMAN DECISION: HARD CASES MAKE BAD LAWS

In several subsequent cases involving the validity of the eighteenth and nineteenth amendments, the Court decided further legal questions involving the amending process.[91] By the 1930's, a review of a line of Court decisions spanning three centuries should have compelled the conclusion that the Court's duty "to say what the law is" [92] included the duty to pass on the constitutionality of amending procedures.[93] Yet in 1939, the Court in *Coleman v. Miller* [94]—without purporting to reverse prior jurisprudence [95]—injected the political questions doctrine into the ratification process. The case does not

Footnotes at end of article.

easily yield its precise holdings, and the reasons and authorities which might have persuaded a majority of the Court on any point are even more difficult to discern. Only two Justices joined Chief Justice Hughes in the statement styled "the opinion of the Court"; [96] the divisions in the Court were "sufficient to confound prophets of all schools. . . ." [97]

Coleman involved a constitutional amendment proposed by Congress in 1924 to overrule a controversial Supreme Court decision on child labor.[98] At first, few states had ratified the amendment, and many had rejected it.[99] After nine years, however, there was a surge of interest in the child labor amendment: between 1933 and 1937 twenty-two states ratified, bringing the total to twenty-eight, only eight short of the required number.[100] Kansas legislators who had opposed ratification sued in state court to enjoin state officials from certifying that Kansas had ratified. They claimed the Kansas resolution was invalid on three grounds: (1) a "reasonable time" had elapsed between the proposal by Congress in 1924 and the ratification by Kansas in 1937; (2) Kansas had passed a resolution rejecting the amendment, and they argued that this barred the state from subsequently ratifying; (3) the Lieutenant Governor had cast a tie-breaking vote in favor of the resolution, an act which the plaintiffs suggested was unconstitutional. The Court affirmed a judgment of the Kansas Supreme Court rejecting these attacks on the resolution.[101]

Chief Justice Hughes' opinion held the question whether a reasonable time had elapsed to be a political question, not on the basis of a textually demonstrable commitment of the adjudication of this issue to Congress, but because such a determination would involve "an appraisal of a great variety of relevant conditions, political, social and economic. . . ." [102] The opinion points out that Congress could have prescribed a "reasonable time" when it proposed the amendment, and implies that an evaluation of the salient conditions is essentially the same kind of judgment whether it is made in advance or after attempted ratification by three-fourths of the states.[103]

Declaring that the effect of a previous rejection on a subsequent ratification should also be decided by Congress, the Hughes opinion relied on the precedent set by the Reconstruction Congress in 1868, adding cryptically that "[t]his decision by the political departments of the Government . . . has been accepted." [104]

The Court was evenly divided on whether the legality of the Lieutenant Governor's participation was a justiciable or a political question.[105] The effect of this non-decision was to deprive the Hughes opinion of any consistency, since evidently all three Justices subscribing to it voted to decided on the merits as to the Lieutenant Governor's role.[106] These Justices, therefore, believed the Court powerless to decide whether a state's ratification is invalid on account of the lapse of a reasonable time (a mixed question of law and fact), or an account of a prior rejection (a question of law); but held the same Court competent to decide whether the same ratification is invalid because of the participation of the Lieutenant Governor (also a question of law).

Trying to unravel *Coleman v. Miller*, a contemporary observer suggested a rational basis for the Hughes opinion: on this particular set of facts, the effect of Kansas' prior rejection may have been "too closely linked with the time allowable for ratification" to allow resolution of the two issues in separate fora.[107] This view is especially plausible if the power to define a "reasonable time" is seen as a corallary of the power to propose amendments. A body having the power to propose may also have the power to limit the life of its proposals; [108] there is no reason to insist that the limitation be stated in years. An alternative formula, stating that a reasonable time would expire after seven years or at the occurrence of a certain event, whichever comes first, might be desirable—particularly if the event, such as rejection of the amendment, might indicate the expiration of a consensus.

Acknowledging that Congress has the power to include limitations in its own proposals does not necessarily imply a Congressional right to impose such limitations retroactively after a number of states have ratified. However, if the question before the Court involves divining past legislative intent—what limitations Congress intended when it proposed the amendment, both as to time and as to the effect of a rejection—then deferring to the judgment of Congress on these *facts* is not the same as abrogating the power to decide questions of *law*.[109] Under this analysis, the three Justices' willingness to adjudicate the Lieutenant Governor issue is defensible, since this was a question of constitutional law unrelated to any power granted to Congress by Article V.

The question whether a state may rescind its ratification, unlike the question whether a rejection causes a reasonable time to elapse, cannot be rationally included within Congress' power to propose amendments. If Congress were to decide against rescission, it would not be limiting its own proposal; rather, it would be "bootstrapping" to constitutional consensus where none exists. If the Hughes opinion in *Coleman v. Miller* was based on the Congressional power to define a reasonable time, therefore, the citation of the Reconstruction precedent was unnecessary and inappropriate. If not, the apparent endorsement of that precedent must still be regarded as mere dictum on the question of rescission, which was not before the Court in *Coleman*.

Justice Black's concurring opinion [110] in *Coleman* is not so easily dispensed with.[111] Joined by Justices Roberts, Frankfurter and Douglas, he advanced an internally consistent theory:

"Undivided control of [the amending] process has been given by . . . Article [V] exclusively and completely to Congress. The process itself is "political" in its entirety, from submission until an amendment becomes part of the Constitution, and is not subject to judicial guidance, control or interference at any point." [112]

Resting his opinion on a "textually demonstrable constitutional commitment" rather than on any difficulties the Court might have in deciding, Justice Black might have cited the constitutional language on which he based his conclusion. Yet he cited no such language, for the simple reason that nothing in Article V suggests that its interpretation should be handled differently from the interpretation of other parts of the Constitution.[113] Nor did Justice Black cite any historical materials showing that the farmers meant to give Congress authority to bind the Court as to construction of Article V. Indeed, the available records suggest exactly the contrary.[114]

The Black opinion cited only one authority which related to constitutional amendments: a flagrant misquotation of *Leser v. Garnett*.[115] That case held "notice" from "the Legislatures of Tennessee and of West Virginia," certified by the Secretary of State, "conclusive upon the courts." [116] Justice Black translated thus:

"Final *determination* by *Congress* that ratification by three-fourths of the States has taken place 'is conclusive upon the courts.' " [117]

It should be stressed that Justice Black was not arguing that Congress has broad discretion to *act* under Article V; he affirmed that Congress "is governed by the Constitution." [118] Rather, he saw the courts as conclusively bound by an *adjudication* by Congress that its own action was constitutional.[119] To pose the extreme case, if Congress were to propose an amendment, then immediately declare that it had been ratified by the states—when in fact the world could see that not a single state had ratified—the courts would be powerless to declare the amendment invalid, and would be bound to decide future cases as though the amendment were part of the Constitution. The only answer to such a theory is that it is dead wrong. It might also be very dangerous.

JUDGING AMENDMENTS: A FUNCTIONAL ANALYSIS

The concurring opinion in *Coleman* could not have been written by the Hugo Black we now remember, whose very critics remarked on his zeal for fidelity to the text of the Constitution and the intention of the framers. Rather, it was written by the former New Deal Senator who had come to the Court with a mission. Indeed, the votes of all nine Justices in *Coleman* might best be explained by reference to the contemporary controversy over the Court's role as a "counter-majoritarian" institution.[120]

The Child Labor Amendment was proposed in order to overrule a Supreme Court decision imposing substantive due process limitations on the right of Congress to make economic regulations—regulations which presumably had the support of a majority of Americans. It is easy to see how popular regard for the Court might be diminished by its declaring such an amendment invalid.

Judicial review of the amending process, if abused, would confirm the worst suspicions of those who accuse the Court of being a "super-legislature." Some modern observers have suggested that this danger—not so much the actual risk that the Court will improperly invalidate amendments which seek to curb its power, but rather the risk that the people will think the Court is deciding on this basis—would justify the relegation of all issues affecting the amending process to the status of "prudential" political questions.[121]

But the argument proves too much. It fails to consider the alternative. Perhaps the best cure for popular cynicism over the Court's role as a "super-legislature"—a body concerned with imposing the policies favored by its members rather than with construing the Constitution according to neutral principles—is simply judicial restraint. Even the loosest constructionists ought to be persuaded of the wisdom of a strict exegetical approach when the Court is deciding whether the Constitution has been amended. If there is one class of cases in which the Justices ought to strive to forget their personal sympathies, to use a "mechanical" formula involving text, intent and logic, this must be it. Respect for the Court and for the Constitution itself—not in the sense of agreement with every pronouncement, but in the more important sense of a willingness to be governed, born of confidence in the integrity of the institutions—demands that the rules be the same for all amendments; it is particularly important to apply the same rules to amendments which would limit the Court's role and to those which would expand it. Whatever the Court's proper role when it construes provisions universally accepted as part of the Constitution, it must be no more than a "referee" when deciding whether a provision is in the Constitution at all.

The case for judicial restraint in reviewing constitutional amendment procedures is based on the assumption that when a controversy arises in this area, the final decision must rest with someone who can be counted on to "adjudicate" rather than to "legislate." Constitutional amendments may be designed to overturn Court decisions, but they may also seek to limit (or to enhance) the powers of Congress, of the President, or

Footnotes at end of article.

of the states. Since it is impossible to find a final arbiter without an institutional conflict of interest, it is essential that the ultimate power of decision rest with the branch *most likely* to find and apply the law without injecting its own interests and passions. By disposition, by training, and by their relative insulation from the political process, the Justices of the Supreme Court are more capable of rendering such a neutral judgment than Congressmen, Presidents and state legislators.[123]

Congress has something of a bad track record at adjudication. The handling of the 1866 resolution concerning the rescissions of Ohio and New Jersey is a case in point.[124] The impeachment of Andrew Johnson, on what are now generally acknowledged to be unconstitutional grounds, is another.[124] A candidate who challenges the official results of a congressional election seems more likely to convince the House or Senate that his cause is just if he is a member of the majority party.[125] A conviction after impeachment, or a congressional judgment as to the qualifications of a Congressman, may not be subject to judicial review, even if based on unconstitutional grounds.[126] The record in these areas, however, suggests that it would hardly be wise for the Courts to surrender "prudentially" to Congress the power to say whether an amendment has become part of the Constitution.

Even assuming every Congress would rise above partisan politics, and would also separate the issue of an amendment's desirability from the question of whether it had been properly passed, it would be virtually impossible to eliminate the problem of inconsistent adjudications. One Congress would not have the power to bind all future Congresses.[127] Dealing with the E.R.A., Congress might find that a state has no constitutional power to rescind its ratification. Five years later, a different Congress might read the Constitution and reach the opposite conclusion. Since this is a question of law and not of fact, it would seem that an adjudication by a subsequent Congress—even though made in the context of another amendment—would have the effect of raising new constitutional doubts as to the validity of amendments previously thought to have been ratified.

The other side of the coin is equally unappealing. Suppose, in the context of an amendment strongly favored by Congress, a question of law was decided in a way which made it possible to amend the Constitution rather easily. Subsequently, when considering a drastic and demagogic amendment which had clearly negotiated this lower hurdle, Congress would be unable to reverse itself without giving rise to justified skepticism about the integrity of the constitutional amending process. Of course, the Court would face the same dilemma if it made such a decision. However, it is submitted that the Court would be more likely, when considering the "nice" amendment, to keep in mind the possibility that "bad" amendments would be proposed in the future, and thus not arrive at a strained interpretation of Article V in the service of easing the path of the former.

It can be argued that inconsistent standards *ought* to be applied to different amendments—that a close question of law should be decided one way so that the Equal Rights Amendment will pass, and another way if it is necessary to defeat a proposal to repeal the Bill of Rights. Even if one were to accept this idea, with all it implies about how seriously one really takes the concept of a rule of laws and not of men, it would be bad to repose in Congress the discretion as to which amendments are subjected to "strict scrutiny." It has been suggested that the Court should refrain from adjudicating the question of ratification, since it might have a stake in the outcome.[128] But Congress has a bigger stake, not only insofar as Congressional power might be limited or expanded by a proposed amendment, but also in that Congress always plays a role in the proposal of the amendment.[129] Elihu Root stated the effect of giving Congress the dual roles of proponent and supreme judge:

"It would certainly be vain for a constitution to declare or imply limitations upon the power to amend it, if those limitations could be transgressed at will by the very persons who were intended by the people to be restrained and confined . . . ."[130]

It must be noted that the sympathies of Congress will, with rare exceptions, be in favor of the amendments it has proposed by a two-thirds margin.[131] To concede to Congress the right to apply inconsistent standards to questions of law, with the underlying assumption that policy considerations will influence the application of these standards, is to give Congress the power to amend the Constitution *unilaterally* when it favors the amendment; and to block amendments through a third political step, after proposal and ratification, when it opposes them.[132]

The members of the Constitutional Convention feared that Congress might gain such power. Edmond Randolph's original proposed Constitution expressly provided that the Constitution should be amended "without requiring the assent of the National Legislature."[133] Every member whose reflections on the matter have been preserved seems to have assumed that since the Constitution was a limitation on the powers of Congress, and on the powers of a majority of the states to harm the interests of a minority, it was important to protect the amending process from manipulation by Congress or even by a simple majority of the states.[134] Only one member of the convention was outspoken in favor of a major role for Congress in the amending process, and his proposals were defeated.[135] Not until the last week of the Convention was it decided to give Congress any more than a ministerial role even in the *proposal* of amendments;[136] later, Hamilton defended the arrangement by pointing to the limited congressional role, and observing:

"We may safely rely on the disposition of the State legislatures to erect barriers against the encroachments of the national authority."[137]

It is submitted that the concerns which moved the framers to limit the role of Congress are still important. Even those who regard state or sectional interests as unworthy of protection must acknowledge that the Constitution protects other minority interests; and that these interests are equally threatened by granting a single majoritarian institution the effective power to amend the Constitution, as they would be by granting that same institution the final authority on all matters of constitutional interpretation.

A final reason must be advanced against the Court's abrogation of its authority: in each case, consider the worst that could possibly happen. Hamilton called the Supreme Court the "least dangerous" branch of government, not because it will always reach the right decision, but because it has "neither force nor will, but merely judgment."[138] The worst fears of the most unrelenting opponents of judicial power can never be realized, without at least the acquiescence of the other branches of government. Generally, such co-operation will be forthcoming, even when the other branches disagree with the construction of the Constitution put forth by the Court. However, a truly corrupt decision, an attempted judicial *coup d'etat*, might not be enforced; and the knowledge of this would presumably deter even a thoroughly corrupt judge. If it were to become firmly established, however, that Congress was the final judge of the validity of constitutional amendments, such a *coup*, in the form of a proposal of an amendment followed by a declaration that it had been ratified, would be irresistible except by armed rebellion.

BAKER, POWELL, AND THE REJECTION OF UNPRINCIPLED AVOIDANCE

Subsequent Supreme Court cases leave considerable doubt about the vitality of the political questions doctrine, and particularly about whether there is anything left of *Coleman*. It was in *Baker v. Carr*,[139] the legislative reapportionment case, that Justice Brennan listed the traditional bases of the political questions doctrine, including the "impossibility of deciding" because of a lack of manageable evidence or a need to make policy judgments;[140] but the holdings in that case and its progeny suggest that the "impossibility" category may be an empty set.[141] Certainly the evidence in *Coleman* was no more complicated, no more "social, political and economic,"[142] than that which the federal courts have routinely considered in reapportionment cases. *Baker* also held that issues involving *state* governments are not political questions,[143] implicitly overruling prior cases.[144] Since it is the state legislatures whose procedures are in question, this may mean the Court will not hesitate to rule on whether these procedures are constitutional.[145] Nor should a declaration by Congress make any difference; if Congress should declare Tennessee's legislature to be apportioned constitutionally, there is no reason to believe the Court would accept this determination as conclusive.

Powell v. *McCormack*[146] was perhaps the most important political questions case in this century. Reacting to allegations of crime and abuse of office by Adam Clayton Powell, Congress voted to exclude him at the beginning of the session. This was almost certainly unconstitutional, since the Constitution prescribes only age, citizenship and residence as qualifications for the office,[147] and provides that Congress may "expel" a member only by a two-thirds vote.[148] It seemed, however, that Congress would succeed in "expelling" Powell under the pretext of "excluding" him,[149] since the right of Congress to judge the qualifications of its own members is the strongest case of a "textually demonstrable constitutional commitment" of an issue to resolution by a branch other than the Court.[150]

Chief Justice Warren, however, speaking for a nearly unanimous Court[151] (including, perhaps significantly, Justice Black), ruled that Powell had a right to his seat. The Court announced a view of the political questions doctrine even narrower than the classical view:[152]

[A] determination of petitioner Powell's right to sit would require no more than an interpretation of the Constitution. Such a determination falls within the traditional role accorded courts to interpret the law . . . Our system of government requires that federal courts on occasion interpret the constitution in a manner at variance with the construction given the document by another branch. The alleged conflict that such an adjudication may cause cannot justify the courts' avoiding their constitutional responsibility.[153]

The Court examined each of the criteria listed in *Baker v. Carr*, and found them inapplicable. Most significantly, *Powell* seems to say that even a broad constitutional grant of *adjudicative* power to Congress may not be exercised unconstitutionally; the only unreviewable power Congress might have would be to determine whether Powell in fact met the qualifications of age, citizenship and residence.[154]

Professor Gunther has expressed doubt whether, after *Powell*, "any constitutional questions remain which the Court is likely to find committed to other branches for final decision."[155] Certainly the "prudential" considerations were as strong in *Powell*, where Congress had already made its decision as to its internal affairs, as they would be in a constitutional amendment case, where Congress might or might not have expressed a view on the question. And the "textually demonstrable constitutional commitment" was much stronger in *Powell* than in any Article V case.[156] Since whether a state may rescind its ratification, like whether Congress could exclude Powell, is a pure question of law which "would require no more than an interpretation of the Constitution,"[157] the Court should not hesitate to decide the issue.

The contribution made by the Court in *Powell* to a sound resolution of the controversy over the amending process was not limited to its undermining of the theoretical foundations of *Coleman*. The *Powell* Court also confronted a number of past instances of Congressional "exclusion" of constitutionally qualified members-elect, and found the value of such precedents "quite limited." The notion underlying *Coleman*—that if the Court finds a precedent in past Congressional action, it need not undertake its own evaluation of the constitutionality of such action[158]—was summarily rejected.

"That an unconstitutional action has been taken before surely does not render that same action any less unconstitutional at a later date. . . . The relevancy of [such] cases is limited largely to the insights they afford in correctly ascertaining the draftsmen's intent. Obviously, therefore, the precedential value of these cases tends to increase in proportion to their proximity to the Convention in 1787."[159]

Given the time, circumstances and manner of its adoption, it would be difficult to underestimate the value of the Reconstruction resolution on rescission of proposed amendments as an aid in determining the intent of the framers of Article V. Accordingly, after *Powell* all authority for the proposition that rescission is a political question—*i.e.*, the Reconstruction resolution and the dictum in *Coleman* relying on that resolution—should be regarded as obsolete.

JUSTICE STEVENS AND THE ERA

The *Coleman* doctrine of partial non-justiciability of constitutional amendment questions was never accepted very enthusiastically by the lower federal courts, which tended to use guarded language about justiciability and then rule on the merits as to adoption of constitutional amendments.[160] The recent opinion in *Dyer v. Blair*[161] deserves noting because it involves ratification of the Equal Rights Amendment and because it was written by Justice Stevens shortly before his accession to the Supreme Court.

A majority of the members of the Illinois House and Senate had voted to ratify the E.R.A. A legislative rule, however, required a three-fifths majority vote so the ratifying resolution failed. Plaintiffs, members of the legislature, argued that this rule was unconstitutional and requested that the court enjoin state officials to certify ratification.

Then-Judge Stevens rejected defendants' contention "that Congress has sole and complete control over the entire amending process, subject to no judicial review."[162] He pointed out that Justice Black's *Coleman* opinion was not the opinion of the Court, and that the Supreme Court had previously rejected the "political question" contention. Applying *Baker* and *Powell*, the court found that a mere interpretation of the Constitution was required, and that the risk of conflict with the views of Congress could not justify a failure to decide. The court distinguished the Hughes opinion in *Coleman* on the ground that there was no exolicit congressional precedent concerning "super-majority" requirements and on the ground that, unlike the "reasonable time" involved in *Coleman*, the meaning of the term "ratification" must be the same for every amendment proposed by Congress and therefore is a non-political question.[163]

The *Dyer* opinion contains a thorough exposition of the history and purpose of Article V, as well as the Supreme Court opinions prior to *Coleman*, which indicates that Justice Stevens regards the amending process as justiciable, virtually in its entirety.[164] Had *Dyer* been a Supreme Court decision rather than the opinion of a three-judge panel, it is unlikely that such care would have been taken to distinguish *Coleman*.[165] The reasoning of *Coleman* is clearly inconsistent with that of *Powell*,[166] and then-Judge Stevens applied the latter to the constitutional amending process in *Dyer*.

CONCLUSION

The constitutional requirement of a consensus of three-fourths of the states for ratification can only be met by recognizing that a state can rescind its ratification of a proposed amendment. This is a question of constitutional law which must be decided in a court, not by Congress. The view that the question is justiciable and that states may rescind is consistent with the text and the history of Article V, with all Supreme Court cases prior to *Coleman* v. *Miller*, with the nearly unanimous view in the state courts, and with the reasoning of federal court decisions since *Coleman*. The limitations placed on the political questions doctrine by *Baker* v. *Carr and Powell* v. *McCormack* clearly render the question of rescission justiciable.

The contrary view—that whether states may rescind is a political question—is supported only by the resolution of the Reconstruction Congress, and by dictum in the discredited *Coleman* decision.

For those whose enthusiasm for the particular amendment now being considered might incline them to a "prudential" view that rescission should be a political question, it might be instructive to consider a few possible consequences of this view:

(1) Immediately after proposal of an amendment by Congress, all but one of the needed states ratify. The amendment then stalls due to sectional opposition. Two years later, an unexpected consequence of the yet-unratified amendment comes to light, perhaps because of court decisions in related areas. Constitutional scholars are agreed that the amendment would have this undesirable effect. All 37 previously ratifying states rescind, but Congress (perhaps feeling compelled by its prior decision regarding the E.R.A.) declares the rescissions invalid. Any one state is now free to make the amendment part of the Constitution, even if no other state now favors the amendment.

(2) Sufficient states have apparently ratified an amendment, but procedural attacks have been made on the ratifications of several states. Congress considers the question, the House concluding that the amendment is part of the Constitution, the Senate concluding it is not. The stalemate continues, and eventually the Supreme Court hears a case which must turn on whether the amendment is valid. It cannot be argued that the amendment is invalid unless "approved" by both houses, since ratification occurs as the date the last state ratifies. Very simply, either the House or the Senate is *wrong*, and the Court, having ruled the matter a "political question," is powerless to act.[167]

(3) The Louisiana Legislature, on the same day, ratifies both the Equal Rights Amendment and an anti-abortion amendment. One week later, the legislature votes to rescind both amendments. Congress rules that Louisiana may rescind the E.R.A., but not the anti-abortion amendment.

(4) The ultimate scenario, wherein Congress proposes an amendment, then immediately declares that it has been ratified, has already been suggested. Variations make the idea more plausible: Suppose Congress perceived a "national emergency" and declares that any state not explicitly rejecting the amendment within two weeks would be deemed to have ratified?[168]

(5) Note that a joint resolution of Congress only requires a simple majority in each House. Thus Congress could "judge" a proposal which received less than two-thirds of the votes cast, perhaps declaring the proposal effective on the basis that absent members might have voted in favor. If there is no judicial review, a simple majority in Congress could effectively propose and ratify an amendment.

Constitutional law scholars will recognize here the traditional "parade of horribles."[169] These are extreme examples; a longer list could be compiled of more plausible dangers partaking of the elements of the above. Yet, perhaps alone among decisions the Court can make, the declaration that an issue is a political question attaches to all cases involving the issue, not just those in which the doctrine is convenient.[170] So those who would drag Tennessee, Nebraska and Idaho, kicking and screaming, into an artificial constitutional consensus, leaving the construction of Article V forever in the hands of Congress, are leading the parade.—*Grover Rees III*

FOOTNOTES

[1] 35 CONG. Q. WEEKLY REP. 179 (Jan. 29, 1977).

[2] *Id.; Equal Rights Amendment Gains in Two States*, N.Y. Times, Feb. 10, 1977, at 18.

[3] "The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or on the Application of the Legislature of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by Conventions in three-fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate." U.S. CONST. art. V.

[4] L. CUSHING, ELEMENTS OF THE LAW AND PRACTICE OF LEGISLATIVE ASSEMBLIES IN THE UNITED STATES OF AMERICA § 1260 (Irish University Press reprint 191) (1st ed. Boston 1856); *cf.* L. ORFIELD, AMENDING THE FEDERAL CONSTITUTION 67 (1942) [hereinafter cited as ORFIELD].

[5] *See* ORFIELD, *supra* note 4, at 72.

[6] Leser v. Garnett, 258 U.S. 130, 136–37 (1922); Hawke v. Smith, 253 U.S. 221 (1920).

[7] Since the state legislature is performing a "federal function" in ratifying, it may make its own rules even where inconsistent with the state constitution. Dyer v. Blair, 390 F. Supp. 1291 (N.D. Ill. 1975) (Stevens, Cir. J.); *cf.* Leser v. Garnett, 258 U.S. 130, 137 (1922). *See generally* ORFIELD, *supra* note 4, at 61–78.

[8] Dyer v. Blair, 390 F. Supp. 1291, *esp.* 1305 n. 34 (N.D. Ill. 1975) (Stevens, Cir. J.).

[9] J. JAMESON, CONSTITUTIONAL CONVENTIONS 629–33 (4th ed 1887) [hereinafter cited as JAMESON].

[10] U.S. CONST. art. V.

[11] JAMESON, *supra* note 9, at 628.

[12] *Id.* at 632.

[13] *Id.* at 632–33.

[14] *Id.* at 633.

[15] *Id.*

[16] Jameson has been widely relied upon, apparently because he was first to publish a comprehensive theory on ratifications and rescissions. But when a contemporary accused him of bias, he proudly replied that his work had been written, "every line of it, literally,

Footnotes at end of article.

to the beating of the Union drums," expressly to refute theories "which had made possible and easy the wicked revolt of the South." *Id.* at 657 (app. C).

[17] See note 16, *supra;* text at notes 71–80, 86–89, 104, *infra*.

[18] THE FEDERALIST No. 85 (A. Hamilton).

[19] *Id.*

[20] *See id.* No. 39 (J. Madison); No. 43 (J. Madison); No. 85 (A. Hamilton); 1 M. FARRAND, THE RECORDS OF THE FEDERAL CONVENTION OF 1787: 476, 478 (rev. ed. 1937) [hereinafter cited as FARRAND].

[21] *See* 1 FARRAND, *supra* note 20, at 476, 478; 3 *id.* at 120–21.

[22] *See* 2 *id.* at 148, 555, 557–59, 629–31.

[23] *See* 2 *id.* at 629–31; 3 *id.* at 127.

[24] Dillon v. Gloss, 256 U.S. 368, 375 (1921).

[25] *See* ORFIELD, *supra* note 4, at 75–76.

[26] *See* S. REP. No. 336, 92d Cong., 1st Sess. 14 (1971).

[27] *See id.* at 6; *id.* at 18–19 (separate views of Messrs. Bayh, Burdick, Hart, Kennedy and Tunney). *Cf.* materials cited in note 28, *infra*.

[28] *See, e.g.*, Black, *Amending the Constitution: A letter to a Congressman*, 82 YALE L.J. 189 (1972); *Federal Constitutional Convention: Hearings on S. 2307 before the Subcomm. on Separation of Powers of the Comm. on the Judiciary, United States Senate*, 90th Cong., 1st Sess. 60, *esp.* 60–61, 67 (1967) (statement of Alexander Bickel) [hereinafter cited as *1967 Hearings*]; *id.* at 237–38 (memorandum by Robert G. McCloskey). Professor McCloskey suggests "the amending process should be made as difficult as the language and intent of the Constitution will permit. We have the oldest stable constitutional system in the world; and I think its stability is related to its . . . relative immutability." *Id.* at 238.

[29] 119 CONG. REC. 22731–37 (1973). The bill sought, *inter alia*, to enact into law the states' right to rescind ratifications of proposed amendments. S. 1272, 93d Cong., 1st Sess. § 13(a) (1973). It died in the House Judiciary Committee. *See* 119 CONG. REC. 28138 (1973). Even had the bill been enacted, it could not have had the force of law, since: (1) if the Constitution compels either result on the rescission question, the bill could neither modify nor add anything to the constitutional rule; (2) if Congress can make the rules about rescission, then a mere statute would not be binding on future Congresses, whose own legislative acts would automatically repeal any prior inconsistent legislation. *Cf.* Black, *supra* note 28, at 192. Passage by the Senate of the measure favoring the state right to rescind is important, however, as the last expression by either House, outside the context of the E.R.A. controversy, on the fairness and desirability of the rule.

[30] *See* JAMESON, *supra* note 9, at 624–29; ORFIELD, *supra* note 4, at 70–71. *Coleman v. Miller*, 307 U.S. 433 (1939), held the effect of a prior rejection to be a political question to be resolved by Congress—but even if this holding is still valid, Congress in theory is obliged to honor any rule implicit in the Constitution. See discussion of *Coleman* in the text at notes 94–121, *esp.* 118–19, *infra*.

[31] *See* ORFIELD, *supra* note 4, at 72 & n. 108.

[32] Even outside the context of the current controversy, most commentators have presumed the question of rescission to be nonjusticiable; the presumption is based not on text, history or logic, but on the dubious precedents discussed in the text at notes 71–85 & 94–170, *infra*. *See, e.g.*, ORFIELD, *supra* note 4, at 26 & n. 68.

[33] *See* Scharpf, *Judicial Review and the Political Question: A Functional Analysis*, 75 YALE L.J. 517 (1966); Wechsler, *Toward Neutral Principles of Constitutional Law*, 73 HARV. L. REV. 1 (1959).

[34] 5 U.S. (1 Cranch) 137 (1803).

[35] This Comment will not discuss the principles underlying certiorari jurisdiction. The discussion here should be understood to apply once a case is before the Court, whether on appeal or certiorari. *See* Gunther, *The Subtle Vices of the "Passive Virtues"—A Comment on Principle and Expediency in Judicial Review*, 64 COLUM. L. REV. 24–25 (1964).

[36] *See* Wechsler, *supra* note 33, at 9.

[37] "[H]e shall . . . receive Ambassadors and other public Ministers . . . ." U.S. CONST. art. II, § 3. *See* LIBRARY OF CONGRESS, CONGRESSIONAL RESEARCH SERVICE, THE CONSTITUTION OF THE UNITED STATES OF AMERICA REVISED AND ANNOTATED 541–44 (1973 ed.) [hereinafter cited as CONSTITUTION ANNOTATED].

[38] U.S. CONST. art. I, § 8, cl. 1. *See* CONSTITUTION ANNOTATED, *supra* note 37, at 136–41.

[39] "Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members . . . ." U.S. CONST. art. 1, § 5. *See* Wechsler, *supra* note 33, at 8.

[40] *See* U.S. CONST. art. I § 3, cl. 6; Wechsler, *supra* note 33, at 8.

[41] *See* Wechsler, *supra* note 33, at 7–9. A commitment strongly *implied* by the text of the Constitution would meet this standard; Professor Wechsler suggests that the Guaranty Clause includes such an implicit commitment. *Id.* at 8. Cf. the text at notes 64–70, *infra*.

[42] *See* 5 U.S. (1 Cranch) 137, 147 (1803).

[43] *See, e.g.*, A. BICKEL, THE LEAST DANGEROUS BRANCH 1–33 (1962) [hereinafter cited as BICKEL].

[44] *See, id., passim, esp.* 58. *See generally* G. GUNTHER, CONSTITUTIONAL LAW CASES AND MATERIALS 1532–35 (1975) [hereinafter cited as GUNTHER].

[45] *See* BICKEL, *supra* note 43 *passim;* Scharpf, *supra* note 33, at 549–66.

[46] *Cf.* Scharpf, *supra* note 33, 549–55.

[47] BICKEL, *supra* note 43, at 183.

[48] *Id.* at 125–26.

[49] 369 U.S. 186 (1962).

[50] *Id.* at 217.

[51] See the text & note 41, *supra*.

[52] See the text at notes 139–66, *infra*.

[53] *See* ORFIELD, *supra* note 4, at 13.

[54] U.S. CONST. art. V.

[55] *Id.*

[56] *Cf.* Scharpf, *supra* note 33, at 539–40.

[57] U.S. CONST. art. I, § 3, cl. 6.

[58] *Id.* art. 1, § 5.

[59] *Id.* art. I, § 8, cl. 18.

[60] *See* Comment, *Proposed Legislation on the Convention Method of Amending the Constitution*, 85 HARV. L. REV. 1612, 1617–18 (1972). Current legislation gives the duty of promulgating amendments which have been ratified to someone called the Administrator of General Services. *See* 1, U.S.C. §§ 106b, 112 (1970). Prior to 1951, the Secretary of State was responsible for promulgating amendments. 3 Stat. 439 (1818); 65 Stat. 710–11 (1951).

[61] *See* ORFIELD, *supra* note 4, at 63–65; *cf. Proposed Legislation*, *supra* note 60, at 1618.

[62] 3 U.S. (3 Dall.) 378 (1798).

[63] *Id.* at 381. It cannot logically be maintained that the issue of justiciability was not before the Court, merely because no party *argued* that the validity of the amendment was non-justiciable. If the question was not justiciable, by definition the Court would be bound not to decide it.

[64] 48 U.S. (7 How.) 1 (1849).

[65] "In forming the constitutions of the different States, after the Declaration of Independence, and in the various changes and alterations which have since been made, the Political Department has always determined whether the proposed constitution or amendment was ratified or not by the people of the State, and the judicial power has followed its decision." *Id.* at 39.

[66] *See, e.g.*, ORFIELD, *supra* note 4, at 5; Clark, *The Supreme Court and the Amending Process*, 39 VA. L. REV. 621, 630 (1953); Dodd, *Amending the Federal Constitution*, 30 YALE L.J. 321, 327 (1921).

[67] The statement cannot be regarded even as a dictum on Federal amendments, since it did not even *purport* to say anything about such amendments. *See* Dyer v. Blair, 390 F. Supp. 1291, 1299–1300 n.20 (N.D. Ill. 1975) (Stevens, Cir. J.).

[68] 48 U.S. (7 How.) at 42–46.

[69] *Id.* at 42.

[70] *See* Dyer v. Blair, 390 F. Supp. 1291, 1299–1300 n.20 (N.D. Ill. 1975) (Stevens, Cir. J.).

[71] 15 Stat. 706 (1868).

[72] CONG. GLOBE, 40th Cong., 2d Sess. 4266, 4295–96 (1868).

[73] The Senate had previously debated the legality of the Ohio rescission, but its validity was opposed primarily on the theory that—the Southern states being ineligible to participate—three-fourths of the states had already ratified, making the amendment already a part of the Constitution prior to the Ohio rescission. *Id.* at 876–78.

[74] *Id.* at 4295–96.

[75] *Id.* at 4296. Georgia actually ratified that day. H. Doc. No. 124, 90th Cong., 1st Sess. 15 (1967). However, the Speaker's ambivalent attitude toward the telegram suggests it may have been previously prepared, in anticipation of a favorable Georgia vote.

[76] The vote was 127 in favor, 33 opposed. Only one Republican voted with the Democratic minority against the resolution. CONG. GLOBE, 40th Cong., 2d Sess. 4296 (1868); S. Doc. No. 8, 92d Cong., 1st Sess., BIOGRAPHICAL DIRECTORY OF THE AMERICAN CONGRESS, 1774–1971 *passim* (1971).

[77] *Compare* CONG. GLOBE, 40th Cong., 2d Sess. 1402 (1868) *with id.* at 4296. Except for absentees—and for the one Republican mentioned in note 76, *supra*—the two votes were identical. For a discussion of the constitutionality of Johnson's impeachment, see R. BERGER, IMPEACHMENT: THE CONSTITUTIONAL PROBLEMS 252–96 (1973).

[78] 83 U.S. (16 Wall.) 36 (1873).

[79] H. Doc. No. 124, 90th Cong., 1st Sess. 15 (1967).

[80] Another question about the validity of the adoption of the fourteenth amendment—the fact that the Reconstruction Act compelled the Southern states to ratify as a condition of readmission to the Union—was not mooted by the subsequent ratifications, since it involved more than four states. *See* Suthon, *The Dubious Origin of the Fourteenth Amendment*, 28 TUL. L. REV. 22 (1953). However in *White v. Hart*, 80 U.S. (13 Wall.) 646, 649 (1872), the Court indicated in dictum that such a ratification was "a voluntary and valid offering," apparently alluding to the fact that ratification was a *quid pro quo* which Georgia was technically free not to deliver. In context, it is clear that the Court addressed the merits of the question, and did not, as has been suggested (*see, e.g.*, ORFIELD, *supra* note 4, at 18), mean to say that ratification is a political question. Other arguments for the validity of the Civil War Amendments are that they have been adopted by usage or acquiescence; that they were adopted by implication when the twenty-first amendment was adopted, since it specified the eighteenth by its number, implicitly acknowledging prior amendments as valid; or that the Southern states really did legally secede from the Union, and were thereafter only conquered territories, so that only three-fourths of the "loyal states" were needed to ratify. *See generally* United States v. Gugel, 119 F. Supp. 897 (E.D. Ky. 1954); CONG. GLOBE, 40th Cong., 2d Sess. 876–78 (1868); ORFIELD, *supra* note 4, at 73–74, 78–81. In short, abandonment of the idea that the Court will not review the procedure by which new amendments are adopted would not make it necessary to jettison the fourteenth amendment.

[81] *See* Corwin & Ramsey, *The Constitutional Law of Constitutional Amendment*, 26 NOTRE DAME LAW. 183, 204–06 (1951).

[82] Twenty-eight states were required, assuming all thirty-seven (including the old Confederacy as well as West Virginia, created without the consent of Virginia's Confederate government) were eligible to participate. *Without* Georgia *or* either of the two rescinding states, the total number of ratifications was only twenty-seven. *See* 15 Stat. 706, 707 (1868).

[83] CONG. GLOBE, 41st Cong., 2d Sess. 377 (1870).

[84] *Id.* at 1477. The proclamation listed New York among states which "had ratified," and added that the New York legislature had passed resolutions "claiming to withdraw" its ratification. *Id.* at 2290.

[85] *See id.* at 3971; *id.*, 3d Sess. at 1381 (1871).

[86] 253 U.S. 350 (1920).

[87] *See* Dodd, *supra* note 66, at 323.

[88] *See id.* at 323, 346.

[89] JAMESON, *supra* note 9, at 627. *See* Dodd, *supra* note 66, at 323.

[90] *See, e.g.*, Carpenter v. Cornish, 83 N.J.L. 696, 85 A. 240 (1912); Collier v. Frierson, 24 Ala. 100 (1854). *See generally* ORFIELD, *supra* note 4, at 14–15; Dodd, *supra* note 66, at 323, 327.

[91] In *Hawke v. Smith*, 253 U.S. 221 (1920), a companion to the *National Prohibition Cases* (see the text at notes 86–90, *supra*), the Court held that ratification is a power bestowed by the Constitution directly on state legislatures or state conventions, and not on the states themselves, so that the states may not restrict their legislatures as to ratification. In *Dillon v. Gloss*, 256 U.S. 368 (1921), the Court held that Article V requires amendments to be ratified within a "reasonable time"; that Congress may prescribe a time when proposing an amendment, provided the time is actually reasonable; that seven years was reasonable; and that an amendment is part of the Constitution as of the time the necessary states have ratified, not as of the time of proclamation by the Secretary of State.

In *Leser v. Garnett*, 258 U.S. 130 (1922), the Court held the nineteenth amendment to be validly adopted, over an argument that Article V imposes *substantive* limitations as to what type of amendments may be made to the Constitution. Plaintiffs also alleged that two state legislatures had violated their own rules, and thus had not validly adopted the amendment; but the Court held that notice by the proper legislative officials to the Secretary of State was binding on him, and "being certified" by him, on the courts. *Id.* at 137. This holding was later misconstrued as an endorsement of the political questions doctrine (see the text at notes 115–17, *infra*), but since it purported only to indicate what sort of evidence courts would accept to prove legislative actions, and since it assumed the Secretary of State to be performing a ministerial function, consistent with the true wishes of the legislature, it certainly cannot be read as acknowledging in the Secretary (much less in Congress) any discretion to derogate from state legislative intentions, or to decide questions of constitutional law. That *Leser* signalled no departure from the doctrine of the justiciability of the amending process is confirmed by the Court's holding in *United States v. Sprague*, 282 U.S. 716 (1931), that the power of Congress to choose between ratification by legislatures or conventions is based on "the plain language of article 5." *Id.* at 729. Far from finding limitations on judicial power to review that article, the Court announced canons of construction to be applied to Article V in the same manner as to other constitutional provisions. *Id.* at 731–32.

[92] Marbury v. Madison, 5 U.S. (1 Cranch) 137, 177–78 (1803).

[93] It is significant that a book written in 1936, then apparently the only attempt to catalogue all political questions, (*see* Scharp, *supra* note 33, at 517 n.*) did not mention the amending process, not even as a *potential* source of such questions. C. POST, THE SUPREME COURT AND POLITICAL QUESTIONS (1936).

[94] 307 U.S. 433 (1939).

[95] The opinion of the Court referred, with apparent approval, to *Dillon* and *Leser*. *Id.* at 451–53. Justice Black criticized the Court for its inconsistency in not overruling *Dillon*. *Id.* at 458.

[96] *Id.* at 435. Justices Black, Roberts, Frankfurter and Douglas dissented on the threshold question of standing, which consumed the bulk of the Court's opinion. *Id.* at 437–46, 456–57, 460–70. Justices Butler and McReynolds joined the opinion of the Court as to standing, but dissented on the merits. *Id.* at 470–74. Only Justices Stone and Reed joined Chief Justice Hughes on all issues.

[97] Note, 48 YALE L.J. 1455 (1939). See note 96, *supra*.

[98] 43 Stat. 670 (1924); *see* Coleman v. Miller, 307 U.S. 433, 435 & n.1 (1939). The amendment would have effectively overruled *Hammer v. Dagenhart*, 247 U.S. 251 (1918). *See* Scharpf, *supra* note 33, at 567.

[99] *See* Coleman v. Miller, 307 U.S. 433, 473 n.* (1939) (Butler, J., dissenting).

[100] *See id.* Thirty-six of the forty-eight states were required.

[101] 307 U.S. at 432–37.

[102] *Id.* at 453.

[103] *Id.* at 453–54. But see the text at notes 107–09, *infra*.

[104] *Id.* at 449–50. The court obliquely suggested a theoretical basis for its acceptance of the Reconstruction precedent when it added that "in accordance with this historic precedent" the efficacy of ratification after rejection would be a political question, "with the ultimate authority in the Congress in the exercise of its control over the promulgation of the adoption of the amendment." *Id.* at 450. Yet to the exact extent that Congressional control over promulgation is more than an implied "housekeeping" power, it needs a principled defense, which the Court did not attempt. See the text at notes 59–61, *supra* and materials cited in note 61, *supra*.

[105] 307 U.S. at 446–47.

[106] The four Justices joining in the Black opinion regarded the question as political. *Id.* at 456–60. Apparently Justice McReynolds was absent for discussion of this issue. *See* Note, 28 GEO. L.J. 199, 200 n.7. Thus Chief Justice Hughes and Justices Stone, Reed and Butler must have found it justiciable.

[107] ORFIELD, *supra* note 4, at 20.

[108] *See* Dodd, *supra* note 66, at 341.

[109] This distinction is suggested by then-Judge Stevens' opinion in *Dyer v. Blair*, 390 F. Supp. 1291, 1301–03 & n.24 (N.D. Ill. 1975).

[110] 307 U.S. at 456–60.

[111] A technical basis for diminishing the weight accorded to the Black opinion, however, is that after these Justices stated their belief that plaintiffs had no standing (307 U.S. at 456), everything that followed was unnecessary to decision, and therefore mere dictum. In *Dyer v. Blair*, 390 F. Supp. 1291 (N.D. Ill. 1975), then-Judge Stevens also felt bound to disregard the Black opinion since "a majority of the Court refused to accept" it, and since it was inconsistent with prior Supreme Court holdings. *Id.* at 1299–1300.

[112] 307 U.S. at 459.

[113] *See* ORFIELD, *supra* note 4, at 13; *Proposed Legislation*, *supra* note 60, at 1637–38.

[114] See the text at notes 133–37, *infra*.

[115] 258 U.S. 130 (1922). *See* 307 U.S. at 457 & n.2.

[116] 258 U.S. at 137.

[117] 307 U.S. at 457 (emphasis added). But see note 91, *supra*.

[118] *Id.*

[119] *See id.* at 457–59.

[120] Justices Butler and McReynolds, the remnant of the "four horsemen" who had stricken New Deal legislation on substantive due process grounds, felt the issues were justiciable. Roosevelt appointees Black, Frankfurter and Douglas were joined by Roberts, regarded as a "swing man" on the New Deal, in advocating a sweeping doctrine of Congressional power over the constitutional amending process. Chief Justice Hughes and Justice Stone, regarded as "moderates," were joined by Reed, the most "conservative" Roosevelt appointee, in taking a "middle course." Political and economic analyses of Supreme Court voting are generally not helpful and often misleading (*see* Wechsler, *supra* note 33, at 13–14), but when so little reason and authority can be given for such a radical change in jurisprudence, resort to these sources is perhaps necessary.

[121] This "hot potato" analysis of *Coleman* is advanced in Scharpf, *supra* note 33, at 587–89.

[122] This point is at the heart of the "special function" argument for judicial review. See the text at notes 42–44, *supra*. It has been suggested that while the Court might be the most suitable forum for final review of ordinary legislation, this "functional" argument does not apply to constitutional amendments. Professor Orfield suggests exactly the contrary: "If orderly procedure is essential in the enactment of ordinary statutes, should it not be even more so as to the adoption of important and permanent constitutional amendments?" ORFIELD, *supra* note 4, at 21.

[123] See the text at notes 71–80, *supra*.

[124] See note 77, *supra*.

[125] *See* 107 CONG. REC. 24 (1961) (Indiana officials certified Republican as winner of House seat; motion to seat the Republican pending congressional investigation of close election rejected, 186 Republicans in favor, 252 Democrats opposed. Party breakdown at 17 Cong. Q. ALMANAC 401, 506 (1961)); 121 CONG. REC. S1014–15 (daily ed. Jan. 28, 1975) (motion to seat Republican certified as winner of close New Hampshire Senate election, pending investigation, rejected 34–58, with only one Democrat in favor and only one Republican opposed. Party breakdown at 31 CONG. Q. ALMANAC 700, 2–8 (1975)). *See also* D. MORGAN, CONGRESS AND THE CONSTITUTION 122–139, *esp.* 132 table 4 (1966).

[126] *But see* Powell v. McCormack, 395 U.S. 486 (1969), discussed in the text at notes 146–59, *infra*.

[127] See note 29, *supra*.

[128] See the text and notes 121–22, *supra*.

[129] Article V provides that amendments may be proposed either by a two-thirds vote of each house of Congress, or by a convention called by Congress at the request of two-thirds of the state legislatures. It has been suggested that Congress might have wide discretion in regulating such a convention. *See 1967 Hearings*, *supra* note 28, *passim*. But see materials cited in note 61, *supra*.

[130] *See* Dodd, *supra* note 66, at 323.

[131] However, Congress might oppose an amendment proposed by the convention method, or by a previous Congress.

[132] See illustrations in the text at notes 167–69, *infra*.

[133] 1 FARRAND, *supra* note 20, at 117; *see* 1 *id.* at 22.

[134] *See* 1 *id.* at 202–03; 2 *id.* at 629–31; 3 *id.* at 367–68; 4 *id.* at 61.

[135] *See* 2 *id.* at 467–68; 3 *id.* at 367–78.

[136] *See* 2 *id.* at 557–59.

[137] THE FEDERALIST No. 85 (A. Hamilton).

[138] *Id.* No. 78 (A. Hamilton).

[139] 369 U.S. 186 (1962).

[140] *Id.* at 217. The passage referred to is reproduced in the text at note 50, *supra*.

[141] *See, e.g.*, Reynolds v. Sims, 377 U.S. 533 (1964); GUNTHER, *supra* note 44, at 1631 & n.3.

[142] Coleman v. Miller, 307 U.S. 433, 453 (1939).

[143] 369 U.S. at 210.

[144] *See* Moyer v. Peabody, 212 U.S. 78 (1909); Scharpf, *supra* note 33, at 538 n.73.

[145] When they ratify, the state legislatures are performing a "federal function." See the text at notes 6–8, *supra*. However, the basis on which state actions are distinguished from Federal actions in *Baker* is apparently that the former can be invalidated without a risk of "embarrassment" to co-ordinate branches of the federal government; this "prudential" distinction should put *all* state legislative actions within reach of the federal judiciary.

[146] 395 U.S. 486 (1969).

[147] U.S. Constr. art. I, § 2, cl. 2.

[148] *Id.* art. I, § 5.

[149] The motion to "exclude" Powell did carry by the two-thirds which would have been necessary to "expel" him; but the Court expressed doubt as to whether the required two-thirds vote would have been obtained if the motion had been to expel. 395 U.S. at 508–10.

[150] Impeachment is the only other example of an explicit textual commitment which had been thought unreviewable by the Court. *See* Wechsler, *supra* note 33, at 8.

[151] Only Justice Stewart dissented, on grounds of mootness. Justice Douglas filed a separate concurring opinion. 395 U.S. at 551–74.

[152] The Court's cursory citation of the various types of "prudential" considerations listed in *Baker* is deceptive in light of the concluding statement that whenever "an interpretation of the Constitution" is all a case calls for, these "prudential" considerations are automatically absent. *Id.* at 549. This statement, for which the Court relies on *Marbury*, would indicate an effective return to the classical view of the political question. But the Court's willingness to overlook an apparent "textual commitment" of the issue to resolution by Congress suggests an even narrower view.

[153] *Id.* at 548–49.

[154] The Court explicitly leaves this question open. *Id.* at 520–21 & n.41. Justice Douglas, concurring, states that a determination of fact by Congress as to a member's qualifications would be unreviewable. *Id.* at 552. Thus, by falsely "finding" Powell to be under 25 years of age, Congress might have insulated its decision from judicial review. This distinction—that congressional determinations of fact may be unreviewable, whereas questions of law will always be reviewed by the court—is applied to the amending process by then-Judge Stevens in *Dyer v. Blair*, 390 F. Supp. 1291, 1301–03 & n.24 (N.D. Ill. 1975). Under this analysis, a certification by state legislative officials, or perhaps by the federal official authorized to certify ratifications, that a state had voted to rescind, would be conclusive on the Court; but the legal effect of such a vote would be decided by the Court itself. *See id.* at 1301 n.24.

[155] Gunther, *supra* note 44, at 482.

[156] See the text at notes 53–58, *supra*.

[157] 395 U.S. at 548.

[158] See the text at note 104, *supra*.

[159] 395 U.S. at 546–47.

[160] *See, e.g.*, Trombetta v. Florida, 353 F. Supp. 575 (M.D. Fla. 1973); Petuskey v. Rampton, 307 F. Supp. 235 (D. Utah 1969), *rev'd on other grounds*, 431 F.2d 378 (10th Cir. 1970), *cert. denied*, 401 U.S. 913 (1971); United States v. Gugel, 119 F. Supp. 897 (E.D. Ky. 1954).

[161] 390 F. Supp. 1291 (N.D. Ill. 1975).

[162] *Id.* at 1299.

[163] *Id.* at 1302–03.

[164] *Id.* at 1302–07. Then-Judge Stevens clearly regarded the history and text of Article V as susceptible of judicial interpretation; the point of law he decided is perhaps *less* explicit on the face of article V than the question of whether rescission is permissible.

[165] Then-Judge Stevens felt bound by strict rules of *stare decisis*. *See id.* at 1299–1300. It is significant that his opinion advances a logical defense of the *Coleman* holding that Congress may determine a "reasonable time," but simply notes, and distinguishes, *Coleman* on the question of prior rejections and ratifications. *Id.* at 1301–02 & n.25.

[166] The *Coleman* holding as to "reasonable time" may be consistent with *Powell*. See the text at notes 107–10 & 165, *supra*. But since the effect of prior ratification would seem to call simply for an interpretation of the Constitution, it seems impossible to reconcile the *Coleman* dictum on this question with *Powell*. *Cf.* Dyer v. Blair, 390 F. Supp. 1291, 1301 (N.D. Ill. 1975).

[167] Some authorities have also suggested that the President must have a role in any congressional action on an amendment, other than the act of proposing. Black, *supra* note 28, at 206–09; *1967 Hearings*, *supra* note 28, at 23–24 (statements of Senators Tydings and Proxmire). A presidential veto could thus prevent resolution of any political questions involved in determining the validity of an amendment.

[168] Similar arguments, directed more to partisan politics than to constitutional exegesis, were advanced in the 1868 Senate debate over the effect of Ohio's rescission. Cong. Globe, 40th Cong., 2d Sess. 876–78 (1868).

[169] Credit for promulgating this phrase has been given to Thomas Reed Powell. Arnold, *Professor Hart's Theology*, 73 Harv. L. Rev. 1298, 1305 & n. 26 (1960). It is a venerable technique, and a good one for evaluating the possible effects of actions which may be irreversible. Thus Professor Black calls our attention to the dimensions of the amending power: it can ". . . change the presidency to a committee of three, hobble the treaty power, make the federal judiciary elective, repeal the fourth amendment, make Catholics ineligible for office, and move the national capital to Topeka. These are (in part at least) cartoon illustrations. But the cartoon accurately renders the *de jure* picture, and seems exaggerated only because we now conceive that at least some of these actions have no appeal to anybody." Black, *The Proposed Amendment of Article V: A Threatened Disaster*, 72 Yale L.J. 957, 959 (1963).

[170] It is suggested, for instance, that even the Court's deplorable decision on the merits in *Korematsu v. United States*, 323 U.S. 214 (1944), the Japanese exclusion case, was preferable to Justice Jackson's suggestion that the issue be declared a political question (*id.* at 242–48), since this would have been a declaration by the Court that it would never have authority to intervene in any case involving similar government repression of American citizens in time of war. *See* Scharpf, *supra* note 33, at 535–38, 562–66.●

TOBACCO PRODUCTION RESEARCH

● Mr. HUDDLESTON. Mr. President, I have received numerous expressions of thanks and appreciation from tobacco farmers and others interested in tobacco for this body's wisdom in restoring $3.106 million to the USDA budget for tobacco production research. There is no question that the Senate's actions will enable research vital to tobacco to continue, and I am confident that both producers and consumers will greatly benefit from the research funded by the bill.

Senator Jesse Helms of North Carolina was instrumental in our efforts to restore the funding for tobacco research. From the first meeting we had with USDA officials in my office, to the success we had in obtaining a favorable recommendation for the funding from the Senate Agriculture Committee, to the approval by the Appropriations Committee, and to the final actions on the Senate floor, Jesse Helms was there offering his full support, encouragement, and effective leadership—as he always does on tobacco matters.

I understand that Senator Helms will be returning to this body upon his recuperation from his back operation, and I just wanted him to know how much his actions have meant to so many tobaccomen. ●

OUR MIA'S: BARGAINING CHIPS FOR HANOI

● Mr. GRIFFIN. Mr. President, like many other Americans, I share the anguish of families and friends of our servicemen still missing in action or unaccounted for in Southeast Asia.

Throughout the Vietnam conflict, and continuing to this day, our Government—with varying degrees of emphasis—has attempted to obtain a full accounting of our missing. At this time, there still remain more than 2,400 Americans missing or unaccounted for.

For the most part, our Government's efforts have been met with cynical assertions by the Vietnamese that information on our MIA's would not be forthcoming until the United States paid reparations to Vietnam. On numerous occasions, representatives of the Socialist Republic of Vietnam publicly acknowledged that they possessed information on our MIA's, but brazenly refused to provide it.

Ignoring humanitarian and legal obligations, the Government of Vietnam has regarded and treated MIA information as a bargaining chip to extort aid or other concessions from the United States. For political and economic advantage, the Government of Vietnam repeatedly has played on the grief and anguish of the families of our MIA's.

Now, suddenly, Vietnam has dropped its demand for so-called "reparations" and has come forward with new information and also with the remains of 11 American servicemen missing in action.

One of the 11 servicemen whose remains were returned was a brave airman from my own State of Michigan, Air Force Senior M/Sgt. Walter L. Ferguson of Detroit.

A number of factors seem to be involved—and humanitarian concern does not appear to be one of them.

The Vietnamese have not had a sudden change of heart. They have not developed a new concern for the families and friends of our MIA's. They have found that normalized relations with the United States are becoming an urgent necessity.

One of the more important factors prompting Vietnam's newly discovered reasonableness is economic need.

Vietnam's economy is in a shambles, and there are shortages of almost everything. Vietnam is a net importer of food; it has little industry and almost no exports to generate hard currency for the imports it needs.

Despite continuing aid from the Soviet Union and substantial assistance from the World Bank and the International Monetary Fund, Vietnam would benefit greatly from American aid and trade.

Politically, Vietnam could also benefit greatly from normalized relations with the United States.

Normalization would enhance Vietnam's prestige in the international community and also would lend a measure of protection from an increasingly hostile China.

Vietnamese-Chinese relations have deteriorated considerably in recent months, because of alleged mistreatment of ethnic Chinese living in Vietnam and also because of disputes over oil and gas rights in the South China Sea.

Clearly, Vietnam has a lot to gain from a normalization of relations with the United States and little if anything to lose.

Dropping its insistence on reparations and coming forward with additional information on MIA's is a small price to pay for Vietnam's expected benefits.

Vietnam is clearly acting in its own interest and we should not be deceived into thinking that recent events portend a new, more reasonable, and peace-loving Vietnam.

We should normalize relations with Vietnam only if it is clearly in our interest to do so, and at this time I see little reason to do so.

There is strong evidence that the Vietnamese continue even now to withhold information on our MIA's.

In fact, one of the conclusions of the recent report of the President's Commission on Americans Missing and Unaccounted For in Southeast Asia was that the Vietnamese were still holding back information on our MIA's. The report stated:

> Although they almost certainly have at least some additional MIA information available, they did not provide it to the Commission during its visit.

This conclusion was echoed just a few days ago by Congressman W. Henson Moore in a report issued by the congressional delegation which just returned from Vietnam in August. Congressman Moore stated that—

> There is no question in my mind . . . that they have not yet given us all the information they could possess.

Both President Ford and President Carter have said that there must be a full accounting for our MIA's before any normalization of relations. I strongly concur in that position, and I sponsored a Senate resolution to that effect in February of last year.

There is no reason to reward Vietnam with aid, trade, or recognition at this time. They callously have played on the American desire for a full accounting of our MIA's and continue to use this issue as political bait.

In addition, Vietnam has been guilty of gross violations of the human rights of its inhabitants. Since the fall of Saigon in 1975, more than 1 million people have been detained in "reeducation" camps and tens of thousands of persons are still being held without trial and, in most cases, without being charged. Vietnam also has been pursuing a forced relocation program that has forcibly uprooted more than 1.3 million people from what was formerly South Vietnam and relocated them in remote rural areas.

Despite the Carter administration's outspoken policies on human rights, these gross violations of human rights have received little attention by the administration. In fact, so far as is known, these violations have never even been raised officially in discussions with the Government of the Socialist Republic of Vietnam.

I believe it is time for the Carter administration should raise the human rights issue with the Government of Vietnam. I also believe the administration must continue to emphasize that the matter of our MIA's is a continuing obstacle to normalization of relations.

Until our MIA's are accounted for and until there are substantial improvements in the area of human rights, there should be no diplomatic recognition of Vietnam.

Mr. President, Mitch Kehetian, the managing editor of the Macomb Daily (Michigan) summed up my feelings very eloquently in an open letter he recently addressed to President Carter. In that letter Mr. Kehetian urged the President to "remain firm in his commitment to the human rights of the men who never came back * * *."

That is a haunting phrase. It describes well the obligation that we have to those men who gave their lives in service to their country.

We should not sacrifice the human rights of those men in our haste to normalize relations with Vietnam.

I ask that the text of Mr. Kehetian's open letter, as well as the accompanying list of missing Americans be printed in the Record.

The material follows:

> An Open Letter to The President: MIA's Deserve Same Human Rights We Champion
>
> Jimmy Carter,
> *The White House, 1600 Pennsylvania Avenue, Washington, D.C.*
>
> Dear President Carter: Last January, while visiting with you and 34 other newspaper editors from across our country, you reiterated your conviction to the cause of human rights—and to resolving the tragic story of our servicemen who never came back from the war in Indo-China.
>
> In place of our regular editorial page today, I am taking the liberty of addressing you on the still unresolved MIA question, and listing the names of 2,512 missing Americans as provided in the form of a petition from former President Gerald R. Ford.
>
> This initial list, prepared in 1976, includes more than 700 servicemen who were then listed as missing in action (MIA). The remainder were known to have been killed in action but their bodies were never recovered.
>
> Recent developments now indicate that Vietnam, and Laos, are willing to assist in the location of the still missing Americans.
>
> Though the remains of more than 20 Americans have been returned by Vietnam and Laos in the past two years, the MIA question is still a tragic open chapter in our history that must be resolved.
>
> The petition list provided by former President Ford, and which he signed as a private citizen, was in support of the local Fraser VFW Post in its search for our county's remaining MIA, Air Force Capt. Robert Tucci.
>
> When the Fraser VFW delegation attempted to present the list to Vietnamese officials at the Hanoi embassy in Paris on June 4, 1976, the embassy refused to accept Mr. Ford's "complete list."
>
> Now there is talk, according to Frank Sieverts of the U.S. State Department, that Vietnam may be "quite receptive" to the idea of releasing information about recovered American remains at a "lower echelon" government level rather than dealing with official U.S. delegations—which tends to raise political questions.
>
> We recognize the dilemma Hanoi and Laos face each time the remains of missing Americans are released to visiting delegations. The dilemma arises because many of the remains are of men our government long had insisted were alive at the time of capture—an insistence corroborated by Hanoi's own admission during the height of the war.
>
> The case of Capt. Tucci is but one example.
>
> But in our haste to foster the normalization of relations with Vietnam and Laos, for whatever self-interest motives, I would hope you will remain as firm to your commitment to the human rights of the men who never came back as was Mr. Ford in preparing the petition list of 2,512 missing Americans.
>
> I would also urge that the list of names on this page be given to the governments of Laos and Vietnam, and that you insist our own military search teams be allowed to assist in the recovery of missing Americans.
>
> While I recognize that the recovery of all remains is an impossibility, I do believe that a truly sincere offer to assist in the search for American remains will ease the pain for hundreds of MIA families.
>
> Public pressure, and the White House, can do it.
>
> As an example, when Mr. Leonard Woodcock went to Hanoi last year, he returned with word of another Michigan MIA. Navy pilot Walter Estes. Ten years ago, Hanoi publicly boasted of having captured the Williamston (Mich.) airman and for the next 10 denied it could account for his whereabouts.
>
> At the Paris peace talks in 1970, Howard Isham presented evidence that Hanoi could account for Navy pilot Vincent Monroe of New Jersey, but Hanoi denied any knowledge of his fate. Yet, when Congressman G. V. Montgomery and his delegation visited Hanoi last month, the Vietnamese were able to release the remains of this airman.
>
> There are literally hundreds of similar cases, we fear. For that reason, we can understand Hanoi's desire to release remains with little fanfare—presumably to avoid questioning on how these men died in captivity.
>
> A glance at the names on this page represents America.
>
> They deserve more than a glance.
>
> The individuals these names represent, and their families, who still wait for word, deserve the same basic human rights we champion around the troubled world.
>
> The return of their remains is still worth more than the oil rights Vietnam now dangles as bait.
>
> Sincerely Yours,
>
> Mitch Kehetian,
> *Managing Editor, The Macomb Daily.*
>
> PETITION
>
> I, in my capacity as a citizen of the United States of America, and in the interest of humanity, demand that a full accounting be made for the Americans still missing in Southeast Asia.
>
> Abrams, Lewis H., Acalotto, Robert J., Acosta-Rosario, Humberto, Adachi, Thomas T., Adam, John Q., Adams, John R., Adams, Lee A., Adams, Oley N., Adams, Samuel, Adams, Steven H., Adkins, Charles L., Adrian, Joseph D., Ahlmeyer, Heinz, Jr., Alberton, Bobby J., Albright, John S.
>
> Aldern, Donald D., Aldrich, Lawrence L., Alford, Terry L., Alfred, Gerald O., Algaard, Harold L., Allard, Michael J., Allard, Richard M., Allee, Richard K., Allen, Henry L., Allen, Merlin R., Allen Thomas R., Allen, Wayne C., Alley, Gerald W., Alley, James H., Allgood, Frankie E.
>
> Allinson, David J., Alloway, Clyde D., Alm,

Richard A., Almendariz, Samuel, Altizer, Albert H., Altus, Robert W., Alwan, Harold J., Amesbury, Harry A., Jr., Ammon, Glendon L., Amos, Thomas H., Anspacher, William H., Jr., Anderson, Denis L., Anderson, Gregory L., Anderson, Robert D., Anderson, Thomas E.

Anderson, Warren L., Andre, Howard V., Jr., Andrews, Stuart M., Andrews, William R., Angell, Marshall J., Angstadt, Ralph H., Anselmo, William F., Anspach, Robert A., Antunano, Gregory A., Apodaca, Victor J., Jr., Appleby, Ivan D., Applehans, Richard D., Ard, Randolph J., Armitstead, Steven R., Armond, Rober L.

Armstrong, Frank A., Armstrong, John W., Arnold, William T., Arroyo-Baez, Gerasimo, Ashall, Alan F., Ashby, Clayborn W., Jr., Ashby, Donald R., Sr., Ashlock, Carlos, Asire, Donald H., Asmussen, Glenn E., Aston, Jay S., Austin, Carl B., Austin, Charles D., Austin, Ellis E.

Austin, Joseph C., Auxier, Jerry E., Avery, Allen J., Avery, Robert D., Avolese, Paul A., Avore, Malcolm A., Ayers, Darrell E., Ayers, Richard L., Ayers, Gerald F., Ayers, James H., Babcock, Ronald L., Babula, Robert L., Bacik, Vladimir H., Backus, Kenneth F.

Bader, Arthur E., Jr., Badley, James L., Badolati, Frank N., Bailey, John E., Bailey, John H., Baker, Arthur D., Balamoti, Michael D., Balcom, Ralph C. Baldridge, John R., Jr., Bancroft, William W., Jr., Bankowski, Alfons A., Bannon, Paul W., Barber, Robert F., Barber, Thomas D., Barden, Howard L., Bare, Williams C., Barker, Jack L.

Barnes, Charles R., Barnett, Charles E., Barnett, Robert R., Barr, John F., Barras, Gregory I., Bartocci, John E., Bates, Paul Jennings, Jr., Batt, Michael L., Bauder, James R., Bauman, Richard L., Baxter, Bruce R., Beach, Arthur J., Beals, Charles E., Bebus, Charles J., Becerra, Rudy M.

Beck, Edward E., Beck, Terry L., Becker, James C., Beckwith, Harry M., III, Bednarek, Jonathan B., Beecher, Quentin R., Beene, James A., Begley, Burris N., Behnfeldt, Roger E., Belcher, Glenn A., Belcher, Robert A., Belknap, Harry J., Bel, Holly G., Bell, Marvin E., Bell, Richard W., Benedett, Daniel A., Bennefeld, Steven H.

Bennett, Harold G., Bennett, Robert E., III, Bennett, Thomas W., Jr., Bennett, William G., Benson, Lee D., Benton, Gregory R., Jr., Benton, James A., Berdahl, David D., Beresik, Eugene P., Berg, Bruce A., Berg, George P., Bergevin, Charles Lee, Berry, John A., Berube, Kenneth A., Bessor, Bruce C., Beutel, Robert D., Beyer, Thomas J.

Bessold, Steven N., Bibbs, Wayne, Biber, Gerald M., Bidwell, Barry A., Biediger, Larry W., Bifolchi, Charles L., Biggs, Earl R., Billipp, Norman K., Bingham, Klaus Y., Birchim, James D., Bird, Leonard A., Biscailus, Robert L., Bischoff, John M., Bishop, Edward J., Jr., Biss, Ralph C., Bittenbender, David F.

Bivens, Herndon, A., Bixel, Michael S., Black, Paul V., WO, Blackburn, Harry L., Jr., Blackman, Thomas J., Blackwood, Gordon B., Blair, Charles E., Blankenship, Charles H., Blassie, Michael J., Blessing, Lynn, Blevins, Lural L., III, Blodgett, Douglas R., Bloodworth, Donald B., Bloom, Darl R., Bloom, Richard M., Bobe, Raymond E., Bodahl, Jon K., Bodden, Timothy R.

Bodenschatz, John E., Boffman, Alan B., Boggs, Paschal G., Bogiages, Christos C., Jr., Bohlig, James R., Bohlscheid, Curtis R., Bois, Claire R. A., Boles, Warren W., Bollinger, Arthur R., Bolte, Wayne L., Boltze, Bruce E., Bond, Ronald D., Bond, Ronald L., Bookout, Charles F., Booth, Gary P., Booth, James E.

Booth, Lawrence R., Boose, Delmar G., Borah, Daniel V., Jr., Borden, Murray L., Borja, Domingo R. S., Borowski, John A., Bors, Joseph C., Borton, Robert C., Jr., Bosiljevac, Michael J., Bossio, Galileo F., Bossman, Peter R., Boston, Leo S., Bott, Russell P., Bouchard, Michael L., Bower, Irvin L., Jr., Bower, Joseph E., Bowers, Richard L., Bowles, Dwight P., Bowling, Roy H.

Bowman, Frank, Bowman, Michael L., Boyanowski, John G., Boyd, Walter, Boyer, Alan L., Boyle, William, Bradshaw, Robert S., III, Bram, Richard Craig, Branch, James A., Brand, Joseph W., Brandenburg, Dale, Brandt, Keith A., Bogard, Lonnie P., Brashear, William J., Brasher, Jimmy Mac, Brassfield, Andrew T., Brauner, Henry P.

Brazik, Richard, Breeding, Michael H., Breiner, Stephen E., Bremmer, Dwight A., Brennan, Herbert O., Brenning, Richard D., Brett, Robert A., Jr., Breuer, Donald C., Brice, Eric E., Bridges, Jerry G., Bridges, Phillip W., Briggs, Ernest F., Jr., Briggs, Ronald D., Brigham, Albert, Brinckmann, Robert E.

Broms, Edward J., Jr., Brooks, John H. R., Brooks, Nicholas G., Brooks, William L., Brower, Ralph W., Brown, Donald A., Brown, Donald H., Jr., Brown, Earl C., Brown, Edward D., Jr., Brown, Frank M., Jr., Brown, George R., Brown, Harry W., Brown, James A., Brown, James W., Brown, Joseph O., Brown, Robert M., Brown, Thomas E., Brown, Wayne G.

Brown, Wilbur R., Brown, William T., Brownlee, Charles R., Brownlee, Robert W., Bruch, Donald W., Jr., Brucher, John M., Brunson, Jack W., Bucher, Bernard L., Buck, Arthur C., Buckley, Louis, Jr., Buckley, Victor P., Buell, Kenneth R., Buerk, William C., Bullard, William H., Bullock, Larry A., Bundy, Norman A., Bunker, Park G.

Burd, Douglas G., Burgess, John Lawrence, Burkart, Charles W., Burke, Michael J., Burnes, Robert W., Burnett, Donald F., Burnett, Sheldon J., Burnham, Donald D., Burnham, Mason I., Burns, Frederick J., Burns, John R., Burns, Michael P., Burris, Donald D., Jr., Busch, Jon T., Bush, Elbert W., Bush, John R., Bush, Robert E., Bush, Robert I.

Bushnell, Brian L., Butler, Dewey R., Butler, James E., Butt Richard L., Byars, Earnest R., Bynum, Neil S., Byrd, Hugh M., Jr., Byrne, Joseph H., Cadwell, Anthony B., Caffarelli, Charles J., Cairns, Robert A., Caldwell, Floyd D., Calhoun, Johnny C., Call, John Henry, III, Callahan, David F., Callahan, Richard J.

Callies, Tommy L., Calloway, Porter E., Cameron, Virgil K., Campbell, Clyde W., Campbell, William E., Caniford, James K., Cannon, Francis E., Canup, Franklin H., Capling, Elwyn R., Cappelli, Charles E., Caras, Franklin A., Carlock, Ralph L., Carlson, John W., Carlson, Paul V., Carlton, James E., Jr., Carpenter, Howard B., Carpenter, Nicholas M., Carpenter, Ramey L.

Carr, Donald G., Carrier, Daniel L., Carroll, John L., Carroll, Patrick H., Carroll, Roger W., Carter, Dennis R., Carter, George W., Carter, Gerald L., Carter, James D., Carter, James L., Carter, William T., Cartwright, Billie J., Cartwright, Patrick G., Carver, Harry F., Case, Thomas F.

Casey, Donald F., Cassell, Robin B., Castillo, Richard, Castro, Reinaldo A., Causey, John B., Cavalli, Anthony F., Cavender, Jim R., Cayce, John D., Cecil, Alan B., Cestare, Joseph A., Chambers, Jerry L., Champion, James A., Chan, Peter, Chandler, Anthony G., Chaney, Arthur F.

Chapa, Armando, Jr., Chapman, Peter H., II, Chapman, Rodney M., Charvet, Paul C., Chavez, Gary A., Chavira, S., Cherry, Allen S., Chesnutt, Chambless M., Chestnut, Joseph L., Chiarello, Vincent A., Chipman, Ralph J., Chomel, Charles D., Chomyk, William, Chorlins, Richard D., Christensen, Allen D., Christensen, John M.

Christensen, William M., Christian, David M., Christiano, Joseph, Christiansen, Eugene F., Christie, Dennis R., Christophersen, Keith A., Chubb, John J., Churchill, Carl R., Chwan, Michael D., Cichon, Michael D., Cichon, Walter A., Clark, Cecil J., Claflin, Richard A., Clapper, Gean P., Clark, Donald E., Jr.

Clark, Jerry P., Clark, John C., II, Clark, Lawrence, Clark, Philip S., Jr., Clark, Richard C., Clark, Robert A., Clark, Stanley S., Clark, Stephen W., Clark, Thomas E., Clarke, Fred L., Clarke, George W., Jr., Claxton, Charles P., Clay, Eugene L., Clay, William C.

Cleary, Peter M., Clem, Thomas D., Cleve, Reginald D., Cline, Curtis R., Clinton, Dean E., Clydesdale, Charles F., Coady, Robert F., Coakley, William F., Coalston, Echol W., Jr., Coates, Donald L., Cobbs, Ralph B., Cochran, Isom C., Jr., Cochrane, Deverton C., Cody, Howard R., Coen, Harry B.

Cogdell, William K., Cohron, James D., Cole, Legrande O., Jr., Cole, Richard M., Jr., Coleman, Jimmy L., Collamore, Allan P., Collaso, Raphael L., Collette, Curtis D., Collins, Arnold, Collins, Guy F., Collins, Richard F., Collins, Theotis, Collins, Willard M., Colombo, Gary L., Coltman, William C.

Colwell, William K., Comer, Howard B., Jr., Compa, Joseph J., Jr., Compton, Frank R., Conaway, Gary L., Conaway, Lawrence Y., Condit, Douglas C., Condit, William H., Jr., Condrey, George T., Confer, Michael S., Conger, John E., Jr., Conklin, Bernard, Conley, Eugene O., Conlon, John F., III, Conner, Edwin R.

Conner, Lorenza, Connolly, Vincent John, Connor, Charles R., Consolvo, John W., Conway, James B., Cook, Dennis P., Cook, Donald G., Cook, Dwight W., Cook, Glenn R., Cook, Joseph F., Cook, Kelly F., Cook, William R., Cook, Wilmer P., Cooke, Calvin C., Cobley, David L., Cooley, Orville D., Coons, Chester L., Coons, Henry A.

Cooper, Daniel D., Cooper, Richard W. Jr., Cooper, William E., Copack, Joseph S. Jr., Copenhaver, Gregory S., Copley, William M., Corbitt, Gilland W., Cordova, Robert J., Cordova, Robert J., Cordova, Sam G., Cornfield, Stan L., Corle, John T., Cornelius, Johnnie C., Cornelius, Samuel B., Cornwell, Leroy J. III.

Corona, Joel, Cota, Ernest K., Cotten, Larry W., Cozart, Robert C. Jr., Craddock, Randall J., Craig, Philip C., Crain, Carroll O. Jr., Cramer, Donald M., Crandall, Gregory S., Graven, Andrew J., Creamer, James E. Jr., Crear, Willis C., Creed, Barton S. LT.

Cressman, Peter R., Crew, James A., Crews, John H. III, Cristman, Frederick L., Crockett, William J., Crody, Kenneth L., Crone, Donald E., Crook, Elliott, Cropper, Curtis N., Crosby, Bruce A. Jr., Crosby, Frederick P., Crosby, Herbert C., Crosby, Richard A., Cross, Ariel L.

Cross, James E., Crossman, Gregory J., Crosson, Gerald J. Jr., Crow, Raymond J. Jr., Crowley, John E., Croxdale, Jack L. II, Crumm, William J., Cruz, Carlos R., Cruz, Raphael, Cudlike, Charles J., Cunningham, Carey J., Cunningham, Kenneth L., Curlee, Robert L. Jr., Curran, Patrick R.

Curry, Keith S. W., Cushman, Clifton E., Cuthbert, Bradley G., Cuthbert, Stephen H., Cutver, Fred C. Jr., Czerwier, Raymond C., Czerwonka, Paul S., Daffron, Thomas C., Dahill, Douglas E., Dailey, Douglas V., Dale, Charles A., Dallas, Richard H., Dalton, Randall D., Danielson, Benjamin F.

Danielson, Mark C. CAP, Darcy, Edward J. SMS, Dardeau, Oscar M. Jr., Darr, Charles E., Davidson, David A., Davies, Joseph E., Davis, Brent E., Davis, Charlie B. Jr., Davis, Daniel R., Davis, Donald V., Davis, Edgar F., Davis, Francis J., Davis, Gene E., Davis, Ricardo G., Davis, Robert C.

Dawes, John J., Dawson, Clyde D., Dawson, Daniel G., Dawson, Frank A., Dawson, James V., Day, Dennis I., Dayao, Rolando C., Dayton, James L., De Herrera, Benjamin D., De Soto, Ernest L., Dean, Donald C., Dean, Michael F., Deane, William L., Debiasio, Raymond V., Decaire, Jack L.

Deere, Donald T., Deicheimann, Samuel M., Deitsch, Charles E., Deleidi, Richard A., Delong, Joe L., Demmon, David S., Dempsey, Jack I., Dempsey, Walter E. Jr., Dennany, James E., Dennis, William R., Dennison, James R., Denton, Manuel R., Derby, Paul D., Derrickson, Thomas G. II.

Deuso, Carroll J., Deuter, Richard C., Dewberry, Jerry D., Dewispelaere, Rexford J., Dexter, Bennie L., Dexter, Ronald J., Di Tom-

maso, Robert J., Diamond, Stephen W., Dibble, Morris P., Dickens, Delma E., Dickson, Edward A., Dilger, Herbert H., Dillender, William E., Dillon, David A., Dinan, David T. III, Dingwall, John F.

Dion, Laurent N., Dix, Craig M., Dixon, Daivd L., Doby, Herb, Dodge, Edward R., Dodge, Ronald W., Dolan, Thomas A., Donahue, Morgan J., Donato, Paul N., Donnelly, Verne G., Donovan, Leroy M., Donovan, Michael L., Dooley, James E., Dority, Richard C., Dotson, Jefferson, S.C.

Doughtie, Carl L., Douglas, Thomas E., Dove, Jack P. Sr., Downing, Donald W., Doyle, Michael W., Draeger, Walter F. Jr., Drake, Carl W., Dreher, Richard E., Driver, Dallas A., Dubbelo, Orie J. Jr., Ducat, Bruce C., Ducat, Phillip A., Duckett, Thomas A., Dudash, John Francis, Dudley, Charles G.

Duensing, James A., Duffy, John E., Dugan, John F., Dugan, Thomas W., Duggan, William Y., Duncan, James E., Duncan, Robert E., Dunlap, William C., Dunlop, Thomas E., Dunn, Joseph P., Dunn, Michael E., Dunn, Richard E., Dusing, Charles G., Duvall, Dean A., Dyczkowski, Robert R.

Dye, Melvin C., Dyer, Blenn C., Dyer, Irby III, Eads, Dennis K., Earle, John S., Earli, David J., Earnest, Charles M., East, James B. Jr., Eaton, Curtis A., Eaton, Norman D., Echanis, Joseph Y., Echevarria, Raymond L., Eckley, Wayne A., Ecklund, Arthur G., Edgar, Robert J.

Edmondson, William R., Edmunds, Robert C. Jr., Edwards, Harry J., Edwards, Harry Sanford Jr., Egan, James T. Jr., Egan, William P., Egger, John C. Jr., Ehrlich, Dennis M., Eidsmoe, Norman E., Eilers, Dennis L., Eisenberger, George J., Eisenbraun, William F., Elkins, Frank C., Ellen, Wade L., Ellerd, Carl J.

Elliott, Robert M. Elliott, Andrew J., Elliott, Jerry W., Elliott, Robert T., Ellis, Billy J., Ellis, Randall S., Ellis, William Jr., Ellison, John Cooley, Elzinga, Richard G., Emrich, Roger G., Engen, Robert J., Englander, Lawrence J., Entrican, Danny D., Erickson, David W., Erwin, Donald E.

Escobedo, Julian Jr., Eschenshied, John L., Estes, Walter O., Estocin, Michael J., Evancho, Richard, Evans, Billy K. Jr., Evans, Cleveland Jr., Evans, James J., Evans, William A., Eveland, Mickey, E., Evert, Lawrence G., Fallon, Patrick M., Fanning, Hugh M. Fanning, Joseph P., Fantle, Samuel III.

Farlow, Craig L., Farris, William F., Featherston, Fieldin W., III, Fegan, Ronald J., Feldhaus, John A., Fellenz, Charles R., Fellows, Allen E., Fenelev, Francis J., Fenter, Charles F., Ferguson, Douglas D., Ferguson, Walter, Jr., Ferguson, Walter L., Pickler, Edwin J., Fiezel, Clifford W., Finch, Melvin W.

Finger, Sanford I., Finley, Dickie W., Finn, William R., Finney, Arthur T., Finney, Charles E., Fischer, John R., Fischer, Richard W., Fisher, Donald E., Fisher, Donald G., Fitts, Richard A., Fitzgerald, Joseph E., Fitzgerald, Paul L., Jr., Fivelson, Barry F., Flanagan, Sherman E., Jr.

Flanigan, John N., Fleming, Horace H. III, Flynn, George E. III, Fobair, Roscoe H., Foley, Brendan P., Foley, John J. III, Forame, Peter C., Ford, Edward, Ford Randolph W., Forman, William S., Forrester, Ronald W., Fors, Gary H., Fortner, Frederick J., Foster, Marvin L., Foster, Paul L.

Foster, Robert E., Foulks, Ralph E., Jr., Fowler, Donald R., Fowler, James A., Fowler, James J., Fowler, Roy G., Frakes, Dwight G., Francisco, San D., Franklin, Charles E., Franks, Ian J., Fransen, Albert M., Jr., Frawley, William D., Frazier, Paul R., Frederick, David A., Frederick, Peter J., Frederick, William V., Freng, Stanley J., Frenves, Edmund H., Frink, John W., Fritsch, Thomas W., Frosio, Robert C., Fryar, Bruce C., Frye, Donald P., Fryer, Bennie L., Fryer, Charles W., Fullam, Wayne E., Fuller, James R., Fuller, William O., Fullerton, Frank E.

Gage, Robert H., Galbraith, Russell D., Gallagher, Donald L., Gallagher, John T., Galant, Henry J., Galvin, Ronald E., Gan, Leonardo M., Ganley, Richard O., Ganoe, Berman, Jr., Garbett, Jimmy R., Garcia, Andres, Garcia, Richardo M., Gardner, Glenn V., Gardner, John G., Gardner, John H.

Garrett, Maurice E., Jr., Garside, Frederick T., Garwood, Robert R., Gassman, Fred A., Gates, Albert H., Jr., Gates, James W., Gatewood, Charles H., Gatwood, Robin F., Gaughan, Robert C., Gauley, James P., Gause, Bernard Jr., Gauthier, Dennis L., Gee, Paul S., Gehrig, James M., Jr., Geist, Stephen J.

George, James E., Jr., Gerstel, Donald A., Gervais, Donald P., Getchell, Paul E., Giammarino, Vincent F., Giannangeli, Anthony R., Gierak, George G., Jr., Gilbert, Paul F., Gilchrist, Robert M., Gillen, Thomas E., Ginn, David L., Gist, Tommy E., Giandon, Gary A., Gianville, John T. Jr.

Glasson, William A. Jr., Glover, Calvin C., Glover, Douglas J., Godfrey, Johnny H., Godwin, Solomon H., Greeden, Gene W., Goeglein, John W., Goetsch, Thomas A., Goff, Kenneth B. Jr., Golberg, Lawrence H., Gold, Edward F., Gollahon, Gene R., Gois, John B., Gomez, Robert A., Gonzales, David, Gonzalez, Jesus A., Gonzalez, Jose J.

Goodman, Russell C., Goodrich, Edwin R. Jr., Goodwin, Charles B., Gopp, Thomas A. CPL., Gore, Paul E. MMI, Gorsuch, William D. A., Gorton, Thomas F., Gosen, Lawrence D., Goss, Bernard J., Gould, Frank A., Gourley, Laurent L., Govan, Robert A., Grace, James W., Graf, Albert S.

Graf, John G., Graffe, Paul L., Graham, Allen U., Graham, Dennis L., Graham, Gilbert J., Graham, James S., Graniela, Jose A. Jr., Grantham, Robert E., Graucert, Hans H., Graustein, Robert S., Groves, Richard C., Gravitto, Connie M., Gray, Harold E. Jr., Grayson, William R., Graziosi, Francisco C., Green, Donald G.

Green, Frank C. Jr., Green, George C., Jr., Green, Gerald, Green, James A., Green, Larry E., Green, Norman M., Green, Robert B., Green, Thomas F., Greenleaf, Joseph G., Greenley, Jon A., Greenwood, Robert R., Jr., Greer, Robert L., Gregory, Paul A., Gregory, Robert R.

Grelling, David S., Grella, Donald C., Grenzebach, Earl W. Jr., Grewell, Larry I., Griffey, Terrence H., Griffin, Rodney L., Griffith, John G., Griffith, Robert S., Grissett, Edwin R. Jr., Grosse, Christopher A., Groth, Wade L., Grubb, Peter A., Guajardo, Hilario H.

Guerra, Paul A., Guillermin, Louis F., Guillet, Andre R., Guillory, Edward J., Guillory, Hubia J., Gumbert, Robert W., Jr., Gunn, Alan W., Haas, Leon F., Hackett, Harley B., III, Hacket, James E., Hagan, John R., Hagen, Craig, L., Hagerman, Robert W. Halfley, Michael F.

Haight, Stephen H., Hall, William W., Hale, John D., Hall, Donald J., Hall, Fredrick M., Hall, Gary L., Hall, Harley H., Hall, James S., Hall, James W., Hall, Walter L., Hall, Walter R., Hallberg, Roger C., Halpin, David P., Halpin, Richard C., Hamilton, Dennis C.

Hamilton, John S., Hamilton, Roger D., Hamm, James E., Hammond, Dennis W. S., Handrahan, Eugene A., Hanley, Larry J., Hanley, Terrence H., Hanna, Kenneth, Hanratty, Thomas M., Hansen, Lester, A., Hamilton, Eugene D., Hanson, Robert T., Jr., Hanson, Stephen P., Hanson, Thomas P.

Harber, Stephen J., Hardie, Charles D., Hardy, Arthur H., Hardy, John K., Jr., Hargrove, Joseph N., Hargrove, Olin, Jr., Harley, Lee D., Harned, Gary A., Harper, Ralph L., Harper, Richard K., Harris, Bobby G., Harris, Cleveland S., Harris, Gregory J., Harris, Jeffrey L., Harris, Paul W., Harris, Reuben, B.

Harris, Stephen W., Harrison, Donald L., Harrison, Larry G., Harrison, Robert H., Harrold, Patrick E., Hart, Joseph L., Hart, Thomas T., III, Hartness, Greeg, Hartney, James C., Hartsheim, John F., Harvey, Jack R., Harwood, James A., Harworth, Elroy E., Hassenbeck, Paul A.

Hassenger, Arden K., Hastings, Steven M., Hatley, Joel C., Hattori, Masaki, Hauber, Leslie J., Hauher, Robert D., Haviland, Roy E., Havranek, Michael W., Hawkins, Edgar L., Hawthorne, Richard W., Hayden, Glenn M., Heep, William A., Heideman, Thomas E., Heiskell, Lucius L., Heitman, Steven W., Helber, Lawrence N.

Held, John W., Hellbach, Harold J., Helmich, Gerald R., Helwig, Roger D., Hemmel, Clarence J., Hempel, Barry L., Hendrix, Jerry W., Henn, John R., Jr., Harris, Harold L., Henninger, Howard W., Henry, David A., Hensley, Ronnie L., Hensley, Thomas T., Hentz, Richard J., Hepler, Frank M., Hernandez, Frank S., Herold, Richard W., Herreid, Robert D., Herrera, Frederick D., Herrick, James W., Jr.

Herrin, Henry H., Jr., Herrold, Ned R., Hesford, Peter D., Hess, Frederick W., Jr., Hess, Gene K., Hessom, Robert C., Hestle, Roosevelt, Jr., Hetrick, Raymond H., Hewitt, Samuel E., Heyne, Raymond T., Hickman, Vincent J., Hicks, Prentice W., Hicks, Terrin D.

Hiemer, Jerry A., Hilbrich, Barry W., Hill, Arthur S., Jr., Hill, Billy D., Hill, Charles D., Hill, Gordon C., Hill, John R., Hill, Joseph A., Hill, Rayford J., Hill, Richard D., Hill, Robert L., Hills, John R., Hilton, Robert L., Hines, Vaughn M.

Hise, James H., Hockridge, James A., Hodges, David L., Hodgson, Cecil J., Hoeffs, John H., Hoff, Michael G., Hoff, Sammie D., Hoffman, Terry A., Hogan, Jerry F., Holdeman, Robert E., Holden, Elmer L., Holguin, Luis G., Holland, Lawrence T., Holley, Tilden S.

Hollinger, Gregg N., Hollingsworth, Hal T., Holm, Arnold E., Jr., Holman, Gerald A., Holmes, David H., Holmes, Frederick L., Holmes, Lester E., Holt, James W., Holt, Robert A., Holton, Robert E., Holtzman, Ronald L., Hom, Charles D., Homuth, Richard W., Hoover, Earl P., Jr., Hoppe, Gary D., Horchar, Andrew A.

Horne, Stanley H., Horsky, Robert M., Hosken, John C., Hoskins, Charles L., Hoskins, Donald R., Hoskinson, Robert E., House, John A., II, Housh, Anthony F., Howard, Lewis, Jr., Howard, Luther H., Howell, Carter A., Howes, George A., Hrdlicka, David L., Huard, James L., Hubbs, Donald R.

Huberth, Eric J., Hubler, George L., Huddleston, Lynn R., Hudgens, Edward M., Huggins, Bobby G., Hule, Litchfield P., Hull, James L., Hume, Kenneth E., Hummel, John F., Humphrey, Galen F., Huneycutt, Charles J., Jr., Hunsicker, James E., Hunt, James D., Hunt, Leon A.

Hunt, Robert W., Hunt, William B., Hunter, James Q., Hunter, Russell P., Jr., Huntley, John N., Hurst, John C., Huss, Roy A., Huston, Charles G., Hyde, Jimmy D., Hyde, Michael L., Hynds, Wallace G., Jr., Iandoli, Donald, Ibanez, Di Reyes.

Innes, Roger B., Ireland, Robert N., Irsch, Wayne C., Irwin, Robert H., Ivan, Andrew, Jr., Jablonski, Michael J., Jackson, Carl E., Jackson, James T., Jackson, James W., Jr., Jackson, Paul V., III, Jackson, William B., Jacobs, Edward J., Jr., Jacobsen, Timothy J., Jacques, James J., Jakovac, John A.

Jamerson, Larry C., James, Samuel L., Janousek, Ronald J., Jarvis, Jeremy M., Jefferson, James M., Jefferson, Perry H., Jeffords, Derrell B., Jeffs, Clive G., Jenkins, Paul L., Jenne, Robert E., Jensen, George W., Jerome, Stanley M., Jewell, Eugene M., Jimenez, Juan M., Johns, Paul F., Johns, Vernon Z., Johnson, Allen L., Johnson, August D., Johnson, Bruce G., Johnson, Dale A., Johnson, Edward H.

Johnson, Frankie B., Johnson, Gary L., Johnson, Guy D., Johnson, James R., Johnson, Randolph L., Johnson, Richard H., Johnson, Robert D., Johnson, Stanley G., Johnson, William D., Johnston, Steven B., Johnstone, James M., Jones, Bobby M., Jones, George E., Jones, Grayland, Jones, James E.

Jones, James G., Jones, John E., Jones, Johnny M., Jones, Louis F., Jones, Orvin C.,

Jr., Jones, Thomas P., Jones, William E., Jordan, Larry M., Jourdenais, George H., Judd, Michael B., Jurecko, Daniel E.

Kahler, Harold, Kane, Bruce E., Kane, Richard R., Kardell, David A., Karger, Barry E., Karina, Joseph J., Jr., Karst, Carl F., Kasch, Frederick M., Kaster, Leonard L., Kearns, Joseph T. Jr., Keefe, Douglas O., Keiper, John C., Keller, Jack E.

Keller, Wendell R., Kelley, Daniel M., Kemmerer, Donald R., Kemp, Clayton C., Jr., Kemp, Freddie, Kennedy, James E., Kennedy, John W., Kenney, Harry J., Kent, Robert D., Kerr, Ernest C., Jr., Kerr, Everett O., Kerr, John C. G., Ketchie, Scott D., Ketterer, James A., Kibbey, Richard A., Kiefel, Earnst P., Jr.

Kieffer, William L., Jr., Kier, Larry G., Killcullen, Thomas M., Killen, John D., III, Killian, Melvin J., Kilpatrick, Larry R., Kimsey, William A., Jr., King, Charles D., King, Donald L., King, Gerald E., King, Michael E., King, Paul C., Jr., King Ronald R., Kinkade, William L.

Kinsman, Gerald F., Kipina, Marshall F., Kirby, Bobby A., Kirksey, Robert L., Kitchens, Perry C., Klemm, Donald M., Klenda, Dean A., Klenert, William F., Klimo, James R., Klinck, Harrison H., Kline, Robert E., Klinger, Michael L., Klinke, Donald H., Klugg, Joseph R.

Klute, Karl E., Kmetyk, Jonathan P., Knabb, Kenneth K., Jr., Knapp, Fredric W., Knapp, Herman L., Knebel, Thomas E., Knight, Henry C., Knight, Larry C., Knight, Larry D., Knight, Roy A., Jr., Knockel, Charles A., Knuckey, Thomas W., Knutsen, Donald P., Knutson, Richard A., Koenig, Edwin L., Kohler, Delvin L.

Kohlrusch, William F., Kollmann, Glenn E., Kolstad, Thomas C., Kommendant, Aado, Konyu, William M., Kooi, James W., Koonce, Terry T., Koons, Dale F., Kosko, Walter, Koslosky, Howard M., Kott, Stephen J., Kraner, David S., Krausman, Edward L., Kravitz, James S., Krech, Melvin T., Kroboth, Stanley N.

Krogman, Alva R., Krommenhoek, Jeffrey, Kroske, Harold W., Jr., Krupa, Frederick, Krusi, Peter H., Kryszak, Theodore E., Kubley, Roy R., Kuhlman, Robert J., Jr., Kuhlman, Charles F., Kulland, Byron K., Kusick, Joseph G., Kuykendall, Willie C., Kwortnik, John C., La Bohn, Gary R., La Grand, William J., La Haye, James D., La Plant, Kurt E., La Voo, John A., Lacey, Richard J., Ladewig, Melvin E.

Lafayette, John W., Lagerwall, Harry R., Laker, Carl J., Lambton, Bennie R., Lamp, Arnold W. Jr., Lancaster, Kenneth R., Lane, Charles Jr., Lane, Glen O., Lane, Mitchell S., Laney, Billy R., Lannom, Richard C., Lapham, Robert G.

Laporte, Michael L., Latimer, Clarence A., Laureano-Lopez, Ismael, Lauterio, Manuel A., Lautzenheiser, Michael, Lawrence, Bruce E., Lawrence, Gregory P., Laws, Delmer L., Laws, Richard L., Lawson, Karl W., Leaver, John M., Jr., Ledbetter, Thomas I.

Lee, Albert E., Lee, Charles R., Lee, Glenn H. N., Lee, Leonard M., Leeper, Wallace W., Leeser, Leonard C., Leet, David L., Leetun, Darel D., Lefever, Douglas P., Lehnhoff, Edward W., Jr., Lehrke, Stanley L., Lemcke, David E., Lemmons, William E.

Lemon, Jeffrey C., Leonard, Marvin M., Leonard, Robert B., Leonor, Leonardo C., Lerner, Irwin S., Lester, Roderick B., Letchworth, Edward N., Levan, Alvin L., Levis, Charles A., Lewandowski, Leonard J., Jr., Lewellen, Walter E., Lewis, Charlie G., Lewis, James W.

Lewis, Larry G., Lewis, Merrill R., Jr., Liles, Robert L., Jr., Lillund, William A., Lilly, Carroll B., Lilly, Lawrence E., Lindahl, John C., Lindbloom, Charles D., Lindewald, Charles W., Jr., Lindland, Donald F., Lindsey, Marvin N., Lindstrom, Ronnie G., Lineberger, Harold B. Link, Robert C., Lint, Donald W., Little, Danny L.

Livingston, Richard A., Lloyd, Allen R., Locker, James D., Lockhart, George B., Lodge, Robert A., Logan, Jacob D., Loheed, Hubert B., Lomax, Richard E., Loney, Ashton N., Long, Carl E., Long, George W., Long, John H. S., Longanecker, Ronald L., Lono, Luther A.

Lopez, Robert, Lopez, Robert C., Lord, Arthur J., Lovegren, David E., Lowry, Tyrrell G., Lucas, Larry F., Lucki, Albin E., Lukenbach, Max D., Luker, Russell B., Lull, Howard B., Jr., Lum, David A., Luna, Carter P., Luna, Donald A., Lundy, Albro L., Jr.

Lunsford, Herbert L., Luttrell, James M., Lynn, Dole W., Lynn, Robert R., Lyon, Donovan L., Lyon, James M., MacCann, Henry E., Mac Laughlin, Donald C., Jr., MacDonald, George D., Mackedanz, Lyle E., Macko, Charles, Maddox, Notley G., Madison, William L., Madsen, Marlow E., Magee, Patrick J., Magee, Ralph W., Magers, Paul G., Magnusson, James A., Jr.

Mahan, Douglas F., Mahoney, Thomas P. III, Mailhes, Lawrence S., Mallon, Richard J., Malone, Jimmy M., Mamiya, John M., Mancini, Richard M., Mangino, Thomas A., Mangus, Arlie R., Mann, Robert L., Manning, Ronald J., Manor, James, Manske, Charles J., Mape, John C., Marik, Charles W., Marker, Michael W., Marshall, Danny G., Marshall, James A., Marshall, Richard C., Martin, Aubrey G., Martin, David E., Martin, Douglas K., Martin, Duane W.

Martin, James E., Martin, Jerry D., Martin, John B., Martin, John M., Martin, Larry E., Martin, Richard D., Martin, Russell D., Martin, Sammy A., Martinez-Mercado, Edwin J., Marvin, Robert C., Mascari, Phillip L., Mason, James P., Mason, William H., Massucci, Martin J., Masterson, Michael J.

Masuda, Robert S., Mateja, Alan P., Matejov, Joseph A., Matocha, Donald J., Matteson, Glenn, Matthes, Peter R., Mauterer, Oscar, Maxwell, Calvin W., Maxwell, James R., Maxwell, Samuel C., May, David M., May, Michael F., Mayer, Roderick L.

Mayercik, Ronald M., Maysey, Larry W., Mc Ateer, Thomas J., Mc Bride, Earl P., Mc Cants, Leland S. III, Mc Clellan, Paul T. Jr., Mc Connaughay, Dan D., Mc Connell, Jerry, Mc Cormick, John V., Mc Coy, Meril O. Jr., Mc Crary, Jack, Mc Cubbin, Glenn D., Mc Daniel, John L., Mc Daniel, Morris L. Jr.

Mc Donald, Emmett R., Mc Donald, Kurt C., Mc Donnell, John T., Mc Donough, John R., Mc Elhanon, Michael O., Mc Elroy, Glenn D., Mc Elroy, John L., Mc Ewen, James A., Mc Gar, Brian K., Mc Gonigle, William D., Mc Gouldrick, Francis J., Mc Grane, Donald P., Mc Grath, James P., Mc Intosh, Ian.

Mc Kain, Bobby L., Mc Kay, Homer E., Mc Kenney, Kenneth D., Mc Kinley, Gerald W., Mc Kinney, Neil B., Mc Knight, George P., Mc Lamb, Harry L., Mc Laughlin, Olen B., Mc Lean, James H., Mc Manus, Truman J., Mc Phail, William T., Mc Phee, Randy N., Mc Pherson, Fred L., Mc Vey, Lavoy D.

Mc Whorter, Henry S., McAndrews, Michael W., McCarty, James L., McCleary, George C., McCormick, Carl O., McCormick, Michael T., McDonald, Joseph W., McDonell, R. D., McElvain, James R., McGarvey, James M., McGrath, William D., McIntire, Scott W., McKinney, Clemie, McKittrick, James C.

McLaughlin, Arthur V., McLeod, Arthur E., McLeod, David V. Jr., McMahan, Robert C., McMican, M. D., McMurray, Fred H. Jr., McPherson, Everett A., McQuade, James R., McRae, David E., Meadows, Eugene T., Mearns, Arthur S., Meder, Paul O. Mein, Michael H., Meldahl, Charles H., Mellow, Frederic M., Melton, Todd M.

Menges, George B., Mercer, Jacob E., Meroney, Virgil K. III, Metoyer, Bryford G., Metz, James H., Metzler, Charles D., Meyer, William M., Meyers, Roger A., Mickelsen, William E. Jr., Midnight, Francis B., Millikin, Richard M. III, Milius, Paul L., Millard, Charles W., Miller, Carl D., Miller, Carleton P. Jr., Miller, Curtis D., Miller, Glenn E.

Miller, Malcolm T., Miller, Michael A., Miller, Richard A., Miller, Robert C., Miller, Robert L., Miller, Wyatt Jr., Milliner, William P., Millner, Michael, Mills, James B., Mills, James D., Mims, George I. Jr., Minnich, Richard W. Jr., Minor, Carrol W., Mirrer, Robert H., Mishuk, Richard E. Mitchell, Albert C., Mitchell, Carl B., Mitchell, Donald W., Mitchell, Gilbert L., Mitchell, Thomas B.

Mixter, David I., Miyazaki, Ronald K., Moe, Harold J., Mongilardi, Peter Jr., Monroe, Vincent D., Montez, Anastacio, Montgomery, Ronald W., Moon, Walter H., Mooney, Fred, Moorberg, Monte L., Moore, Herbert W. Jr., Moore, James R., Moore, Jerry L., Moore, Maurice H., Moore, Ralph E.

Moore, Raymond G., Moore, Scott F., Moore, Thomas, Moore, William J., Moore, William R., Moran, Richard A., Moreida, Manual J., Moreira, Ralph A. Jr., Moreland, James L., Moreland, Stephen C., Moreland, William D., Morgan, Burke H., Morgan, Charles E., Morgan, Edwin E.

Morgan, James S., Morgan, Thomas R., Morgan, William J., Moriarty, Peter G., Morin, Richard G., Morley, Charles F., Morrill, David W., Morrill, Merwin L., Morris, George W. Jr., Morris, Robert J. Jr., Morrison, Glenn R. Jr., Morrison, Joseph C., Morrissey, Richard T., Morrissey, Robert D.

Morrow, Larry K., Morrow, Richard D., Mosburg, Henry L., Moser, Paul K., Moshier, Jim E., Mossman, Harry S., Mossman, Joe R., Mowrey, Glenn W., Mowrey, Richard L., Mulhauser, Harvey, Mullen, William F., Mullins, Harold E., Mundt, Henry G. II

Munoz, David L., Muren, Thomas R., Murphy, Barry D., Murphy, Terence M., Murphy, Larron D., Murray, Joseph V., Murray, Patrick P., Musetti, Joseph T. Jr., Musil, Clinton A. Sr., Musselman, Stephen O., Myers, David G., Nahan, John B. III, Nash, John M., Neal, Dennis P.

Neeld, Bobby G., Neislar, David P., Nellans, William L., Nelson, David L., Nelson, James R., Nelson, Jan H., Nelson, Richard C., Nelson, William H., Ness, Patrick L., Neth, Fred A., Netherland, Roger M., Neville, William E., Newberry, Wayne E., Newburn, Larry S.

Newell, Michael T., Newman, James C. Jr., Newman Larry J., Newton, Charles V., Newton, Donald S., Newton, Warren E., Nichols, Hubert C. Jr., Nickerson, William B., Nickol, Robert A., Nidds, Daniel R., Niedecken, William C., Nightingale, Randall J., Nipper, David, Nobert, Craig R., Nolan, Joseph P. Jr.

Nopp, Robert G., Nordahl, Lee E., Norris, Calvin A., Norton, Michael R., Nyhof, Richard E., Nyman, Lawrence F., Nystrom, Bruce A., Nystul, William C., O'Brien, John L., O'Brien, Kevin, O'Grady, John F., O'Hara, Robert C., Oakley, Linus L., Ochab, Robert, Odonnell, Michael D., Odonnell, Samuel, Jr.

Offutt, Gary P., Ogden, Howard, Jr., Okerlund, Thomas R., Oldham, John S., Olds, Ernst A., Olmstead, Stanley E., Olsen, Floyd W., Olson, Barry A., Olson, Delbert, A., Olson, Gerald E., Omelia, Dennis W., Oneill, Douglas L., Orell, Quinlan R., Orr, Warren R., Jr., Osborn, Geoffrey H., Osborne, Edwin N., Jr., Osborne, Rodney D., Osborne, Samuel W., Jr., Ostermeyer, William H., Ott, Edward L. III, Ott. Patrick L.

Ott, William A., Overlock, John F., Owen, Clyde C., Owen, Robert D., Owen, Timothy S., Owens, Fred M., Owens, Joy L., Pabst, Eugene M., Packard, Ronald L., Padgett, David E., Padgett, Samuel J., Padilla, David E., Page, Albert L., Jr., Page, Gordon L., Col.

Painter, John R., Jr., Palacios, Luis F., Palen, Carl A., Palenscar, Alexander J., Palmer, Gilbert S., Palmgren, Edwin D., Panek, Robert J., Sr., Pannabecker, David E., Pantall, James R., Parcels, Rex L., Jr., Parish, Charles C., Parker, Charles L., Jr., Parker, David W.

Parker, Frank C., III, Parker, John J., Parker, Maxim C., Parker, Thomas A., Parker, Udon, Parker, Woodrow W., II, Parks, Joe, Parks, Raymond F., Parra, Lionel, Jr., Parsley, Edward M., Parson, Don B., Jr., Parsons, Donald E., Parsons, Michael D.

Partington, Roger D., Parschall, Ronald P., Pasekoff, Robert E., Pastva, Michael J., Pate, Gary, Patterson, Bruce M., Patterson, James K., Pattillo, Ralph N., Patton, Kenneth J., Patton, Ward K., Paul, Craig A., Paul, James L., Pauley, Marshall I., Paulson, Merlyn L.

Pawlish, George F., Paxton, Donald E., Payne, Kylis T., Payne, Norman, Peace, John D., III, Peacock, John R., II, Pearce, Dale A., Pearce, Edwin J., Pearson, Robert R., Pearson, William R., Pederson, Joe P., Pender, Orland J., Jr., Pennington, Ronnald K.

Pepper, Anthony J., Periaho, Gordon S., Perkins, Cecil C., Jr., Perrine, Elton L., Perry, Otha L., Perry, Randolph Allen, Jr., Perry, Richard Clark, Perry, Thomas H., Peters, Charles H., Peterson, Gaylord D., Peterson, Gilbert R., Peterson, Dennis W., Peterson, Mark A., Pettis, Thomas E.

Pfaffmann, Charles B., Pharris, William V., Phelps, Jesse V., Phelps, William, Phillips, Daniel R., Phillips, David J., Jr., Phillips, Elbert A., Phillips, Marvin F., Phillips, Robert P., Phipps, James L., Pick, Donald W., Pierce, Walter M., Piersanti, Anthony J., Jr.

Pierson, William C., III, Pietrzak, Joseph R., Pietsch, Robert E., Pittman, Alan D., Pike, Dennis S., Pike, Peter X., Pilkington, Thomas H., Pineau, Roland R., Pirker, Victor J., Pirruccello, Joseph S., Jr., Pitman, Peter P., Pitt, Albert, Pittman, Robert E., Pitzen, John R., Plants, Thomas L., Plassmeyer, Bernard H.

Platt, Robert L., Jr., Fleiman, James E., Plowman, James E., Plumadore, Kenneth L., Pogreba, Dean A., Pollin, George J., Polster, Harmon, Pool, Jerry L., Poole, Charlie S., Poor, Russell A., Port, William D., Posey, George R., Potter, William J., Jr., Potter, William T., Potts, Larry P., Powell, Lynn K., Powell, William E., Powers, John L., Powers, Lowell S., Powers, Trent R., Powers, Vernie R., Poynor, Daniel R., Prater, Roy D.

Prather, Martin W., Presiss, Robert F., Jr., Prentice, Kenneth M., Preston, James A., Prevedel, Charles F., Provost, Albert M., Prewitt, William R., Price, Bunyan, D., Jr., Price, William M., Pridemore, Dallas P., Prinm, Severo J., III, Pringle, Joe H., Prudhomme, John D., Pruett, William D., Puentes, Manuel R.

Puggi, Joseph D., Pugh, Denis G., Purcell, Howard P., Putnam, Charles L., Pyles, Harley B., Quinn, Michael E., Rackley, Inzar W., Jr., Ragland, Dayton W., Ralston, Frank D., III, Ramirez, Armando, Ramos, Rainer S., Ramsay, Charles J.

Ramsden, Gerald L., Rawsower, Irving B., II, Ransbottom, Frederick J., Rash, Melvin D., Rattin, Dennis M., Ratzel, Wesley D., Rausch, Robert E., Ravenna, Harry M., III, Rawsthorne, Edgar A., Ray, James M., Ray, Ronald E., Raymond, Paul D., Read, Charles H. W., Jr.,

Reald, Rollie K., Reardon, Richard J., Reed, James W., Reed, Terry M., Reedy, William H., Jr., Reese, Gomer David, III, Reeves, John H., Rehe, Richard R., Rehn, Gary L. Reid, Harold E., Reid, Jon E., Reilly, Edward D. Jr., Reilly, Lavern G., Reinecke, Wayne C., Reiter, Dean Wesley.

Reitmann, Thomas E., Renelt, Walter A., Reno, Ralph J., Rex, Robert A., Rex, Robert F., Rexroad, Ronald R., Reynolds, David R., Rhodes, Ferris A., Jr., Rice, Thomas, Jr., Rich, Richard, Richardson, Dale W., Richardson, Floyd W., Richardson, Stephen G.

Rickel, David J., Ricker, William E., Rickman, Dwight G., Riggins, Robert P., Riggs, Thoams F., Riordan, John M., Rios, Noel L., Rissi, Donald L., Ritchey, Luther E., Jr., Rittichier, Jack C., Rivenbaugh, Richard W., Roark, Anund C., Roark, James D.

Roark, William M., Robbins, Richard O., Roberson, John W., Roberts, Gerald R., Roberts, Harold J., Jr., Roberts, Michael L., Roberts, Richard D. Roberts, John H. Robertson, John L., Robertson, Leonard, Robertson, Mark J., Robinson, Edward, Robinson, Floyd H.

Robinson, Kenneth D., Robinson, Larry W., Robinson, Lewis M., Roby, Charles D., Rockett, Alton C., Jr., Rodrigeuz, Albert E., Roe, Jerry L., Roehrich, Ronald L., Rogers, Billy L., Rogers, Charles E., Rogers, Edward F., Roggow, Norman L., Romano, Gerald M., Romero, Victor., Roming, Edward L., Romine, Albert W., Roraback, Kenneth, M.

Rosato, Joseph F., Rose, Luther L., Rosenbach, Robert P., Ross, Douglas A., Ross, Ulynn Jr., Ross, Joseph S., Rossano, Richard J., Roth, Billie L., Rowley, Charles S., Rozo, James M. Rucker, Emmett, Jr., Rudolph Robert D, Ruffin, James T., Rumbaugh, Elwood E., Runnels, Glyn L., Jr., Rupinski, Bernard F., Rusch, Stephen A., Russell, Donald M., Russell, Peter J., Russell, Richard L., Ryan, William C., Jr., Ryder, John Leslie. Rykoskey, Edward J.

Saavedra, Robert, Sadler, Mitchell O. Jr., Saegaert, Donald R., Sage, Leland C. C., Salazar, Fidel G., Sale, Harold R. Jr., Salinas, Mercedes P., Salley, James Jr., Salsarulo, Raymond P., Sampson, Leslie V., Sanchez, Jose R., Sanderlin, William D., Sanders, William S., Sandner Robert L., Sandovall, Antonio A.

Sands, Richard E., Sansone, Dominick, Sansone, James J., Sargent, James R., Sather, Richard C., Sause, Bernard J. Jr., Savoy, M. J., Sayre, Leslie B., Scaife, Kenneth D., Schaneberg, Leroy C., Scharf, Charles J., Schell, Richard J., Scherdin, Robert F., Scheurich, Thomas E.

Schiele, James F., Schimberg, James P., Schimmels, Eddie R., Schmidt, Peter A., Schmidt, Walter R., Schmittou, Eureka L., Schoderer, Eric J., Schoeppner, Leonard J., Scholz, Klaus D., Schoonover, Charles D., Schott, Richard S., Schreckengost, Fred T., Schroeffel, Thomas A., Schuler, Robert H. Jr., Schultz, Ronald J.

Schultz, Sheldon D., Schumann, John R., Schworer, Ronald P. Scott, Dain V., Scott, David L., Scott, Martin R., Scott, Mike J., Scott, Vincent C., Jr., Scrivener, Stephen R., Scull, Gary B., Scungio, Vincent A., Sculock, Lee D., Jr., Seablom, Earl F., Seagraves, Melvin D., Searfus, William H.

Seeley, Douglas M., Sennett, Robert R., Serex, Henry M., Setterguist, Francis L., Seuell, John W., Seward, William H., Sexton, David M., Seymour, Leo E., Shafer, Philip R., Shank, Gary L., Shanks, James L., Shanley, Michael H. Jr., Shark, Earl E., Sharp, Samuel A., Jr.

Shaw Edward B., Shaw, Gary F., Shay, Donald E., Jr., Shea, James P., Shea, Michael J., Shelton, Charles E., Sherman, John B., Sherman, Peter W., Sherman, Robert C., Shewmake, John D., Sr., Shimek, Samuel D., Shine, Anthony C., Shingledecker, Armon D., Shinn, William C., Shoneck, John R.

Shorack, Theodore J., Jr., Shriver, Jerry M., Shue, Donald M., Sumway, Geoffrey R., Siegwarth, Donald E., Sigafoos, Walter H. III., Sikkink, Roy D., Silva, Claude A., Silver, Edward D., Simmons, Robert E., Simpson, Joseph L., Simpson, Max C., Simpson, Robert L.

Simpson, Walter S., Singer, Donald M., Singleton, Daniel E., Slow, Gale R., Sisson, Winfield W., Sitek, Thomas W., Sittner, Ronald N., Sizemore, James E., Skarman, Orval H., Skeen, Richard R., Skibbe, David W., Skiles, Thomas W., Skinner, Owen G., Skivington, William E., Jr., Small, Burt C., Jr., Smallwood, John J., Smiley, Stanley K., Smith, Carl A., Smith, David R., Smith, Dean, Jr., Smith, Edward D., Jr., Smith, Gene A., Smith, George C., Smith, Hallie W., Smith, Harding E., Sr., Smith, Harold V., Smith, Harry W., Smith, Herbert E., Smith, Howard H., Smith, Joseph S., Smith, Lewis P. II, Smith, Richard D., Smith, Robert N., Smith, Roger L., Smith, Ronald E.

Smith, Victor A., Smith, Warren F., Jr., Smith, William A., Jr., Smith, William M., Smith, William W., Smoot, Curtis R., Snider, Hughie F., Soucy, Ronald P., Souller, Duwayne, Soyland, David P., Sparenberg, Bernard J., Sparks, Donald L., Sparks, Jon M., Spencer, Dean C. III., Spencer, Warren R., Spengler, Henry M. III, Spilman, Dyke A., Spindler, John G., Spinelli, Domenick A., Spinler, Darrell J., Spitz, George R., Sprague, Stanley G., Sprick, Doyle R., Springston, Theodore, Jr., Sprott, Arthur R., Jr., Squire, Boyd E., Stacks, Raymond C., Staehli, Bruce W.,

Stafford, Ronald D., Stancil, Kenneth L., Standerwick, Robert L., Sr., Stanley, Charles I., Stanley, Robert W., Stanton, Ronald, Stark, Willie E., Staton, Robert M., Jr., Steadman, James E., Stearns, Roger H., Steen, Martin W., Stegman, Thomas, Steimer, Thomas J., Stephensen, Mark L.

Stephenson, Howard D., Stephenson, Richard C., Stevens, Larry J., Stevens, Philip P., Stewart, Donald D., Stewart, Jack T., Stewart, Paul C., Stewart, Peter J., Stewart, Robert A., Stewart, Virgil G., Stickney, Phillip J., Stine, Joseph M., Stinson, William S., Stoddard, Clarence W. Jr.

Stolz, Lawrence G., Stone, James M., Stonebraker, Kenneth A., Story, James C., Stoves, Merritt III, Stow, Lilburn R., Stowers, Aubrey E. Jr., St. Pierre, Dean P., Strait, Douglas F., Straley, John L., Strange, Floyd W., Stratton, Charles W., Strawn, John T.

Stride, James D. Jr., Stringer, John C. II, Stringham, William S., Strobridge, Rodney L., Strohlein, Madison A., Strong, Henry H., Jr., Stroven, Wiliam H., Stuart, John F., Stubberfield, Robert A., Stubbs, William W., Stuckey, John S. Jr., Stuifbergen, Gene P., Stuller, John C., Suber, Randolph B., Sulander, Daniel A.

Sullivan, Farrell Jr., Sullivan, James E., Sullivan, John B. III, Sullivan, Martin J., Sullivan, Robert J., Sutter, Frederick J., Sutton, William C., Suydam, James L., Swanson, John W. Jr., Swanson, Jon E., Swanson, Roger W., Swanson, William E.

Swigart, Paul E. Jr., Switzer, Jerrold A., Swords, Smith III, Sykes, Derri, Sseyller, Edward P., Tadios, Leonard M., Talken, George F., Talley, James L., Taop, John P., Tapp, Marshall L., Tatum, Lawrence B., Taylor, Danny G., Taylor, Edd D., Taylor, Edmund B. Jr., Taylor, Fred, Taylor, James H., Taylor, James L.,

Taylor, Neil B., Taylor, Philip C., Taylor, Ted J., Taylor, Walter J. Jr., Teague, James E., Templin, Erwin B. Jr., Teran, Refugio T., Terls, Lothar G. T., Terrell, Keavin L., Terrill, Philip B., Terry, Oral R., Terry, Ronald T., Terwillinger, Virgil B., Thackerson, Walter A. Jr., Thomas, Daniel W., Thomas, Darwin J., Thomas, Harry E., Thomas, James C., Thomas, James R., Thomas, Kenneth D. Jr., Thomas, Leo Tarlton Jr.

Thomas, Robert J., Thomeson, Benjamin A., Jr., Thompson, David M., Thompson, Donald E., Thompson, George W., Thompson, Melvin C., Thompson, William James, Thompson, William Joseph, Thoresen, Donald N., Thorne, Larry A., Thornton, Larry C., Thornton, William D., Jr., Thum, Richard C., Thurman, Curtis F., Tice, Paul D., Tiderman, John M.

Tiffin, Rainford, Tigner, Lee M., Timmons, Bruce A., Tipping, Henry A., Todd, Larry R., Todd, Robert J., Todd, William A., Tolbert, Clarence O., Toms, Dennis L., Toomey, Samuel Kamu III, Towle, John C., Townsend, Francis W., Trampski, Donald J.

Traver, John G. III, Travis, Larry, Lynn M., Treece, James A., Thembley, J. Forrest G., Trent, Alan R., Trier, Robert D., Trimble, James M., Trimble, Larry A., Tritt, James F., Trivelpiece, Steve M., Tromp, William L., Trowbridge, Dustin C., Trudeau, Albert R., Trujillo, Joseph F.

Trujillo, Robert S., Tubbs, Glenn E., Tucci, Robert L., Tucker, Edwin B., Tucker, James H., Tucker, Timothy M., Tunnell, John W., Turner, Frederick R., Turner, James H., Turner, Kelton R., Turoee, Michael S., Tycz, James N., Tys, Michael J., Tyler, George E.

Uhlmansiek, Ralph E., Underwood, Paul G., Underwood, Thomas W., Uplinger, Bar-

ton J., Upner, Edward C., Urquhart, Paul D., Utley, Russel K., Vaden, Woodrow W., Van Artsdalen, Clifford, Van Buren, Gerald G., Van Campen, Thomas C., Van Cleave, Walter S., Vanbendegom, James L.

Vandegeer, Richard, Vanden Eykel, Martin D. II, Vandyke, Richard H., Vanrenselaar, Larry J., Varnado, Michael B., Vaughan, Robert R., Vennik, Robert N., Versace, Humbert R., Vescelius, Milton J., Jr., Viado, Reynaldo R., Villeponteaux, James H., Jr., Vinson, Bobby G., Viscount, Francis E., Vlahakos, Peter G., Vogt, Leonard F., Jr.

Wade, Barton S., Wadsworth, Dean A., Wagner, David R., Wagner, Raymond A., Wald, Gunther H., Walker, Bruce C., Walker, Kenneth E., Walker, Lloyd F., Walker, Michael S., Walker, Orien J., Jr., Walker, Samuel F., Jr., Walker, Thomas T., Walker, William J., Wall, Jerry M.

Wallace, Arnold B., Wallace, Charles F., Wallace, Hobart M., Jr., Wallace, Michael J., Wallace, Michael W., Waller, Therman M., Walling, Charles M., Walsh, Francis A., Jr., Walsh, Richard A. III, Walters, Donovan K., Walters, Tim L., Walters, William, Walton, Lewis C., Wann, Donald L., Wanzel, Charles J. III, Ward, Neal C.

Ward, Ronald J., Ware, John A., Warren, Arthur L., Warren, Ervin, Warren, Gray D., Washburn, Larry E., Waterman, Craig H., Waters, Samuel E., Jr., Watkins, Robert J., Jr., Watson, Frank P., Watson, Jimmy L., Watson, Ronald L., Wax, David J., Weaks, Melvin L., Weatherby, Jack W., Weaver, George R., Jr., Weger, John, Jr., Weimorts, Robert F.

Weisner, Franklin L., Weissmueller, Courtney E., Weitkamp, Edgar W., Jr., Weitz, Monek, Welch, Robert J., Wellons, Phillip R., Wells, Robert J., Welsh, Larry D., Welshan, John T., Wenaas, Gordon J., Werdehoff, Michael R., West, John T., Westbrook, Donald E., Westcott, Gary P., Wester, Albert D., Weston, Oscar B., Jr., Westwood Norman P., Jr.

Wheeler, Eugene L., Wheeler, James A., White, Charles E., White, Danforth E., White, James B., Whited, James L., Whiteside, Richard L., Whitford, Lawrence W., Jr., Whitmire, Warren T. Jr., Whitt, James W., Whittaker, Richard L., Whittemore, Frederick H., Whittle, Junior L., Wickham, David W., II, Widdis, James W., Jr.

Widdison, Imlay S., Widener, James E., Widner, Danny L., Widon, Kenneth H., Wiechert, Robert C. Wiehr, Richard D., Wiggins, Wallace L., Wilbrecht, Kurt M., Wilburn, John E., Wilburn, Woodrow H. Wiles, Marvin B. C., Wiley, Richard D., Wilke, Robert F., Wilkins, Calvin W., Wilkins, George H.

Wilkinson, Clyde D., Wilkinson, Dennis E., Willett, Robert V., Jr., Williams, Billie J., Williams, David B., Williams, David R., Williams, Eddie L., Williams Edward W., Williams, Howard K., Williams, James E., Williams, James R., Williams, Leroy C., Williams, Thaddeus E., Jr., Williamson, Don I., Williams, Robert J., Williams, Roy C., Williams, Thaddeus E. Jr., Williamson, Don I., Williamson, James D., Willing, Edward A., Wills, Francis D., Wilson, Claude D., Wilson, Gordon S., Wilson, Harry T., Wilson, Marion E., Wilson, Mickey A., Wilson, Peter J., Wilson, Richard, Jr., Wilson, Robert A., Wilson, Roger E., Wilson, Wayne V.

Wimbrow, Nutter J., II, Windeler, Charles C., Jr., Winkler, John A., Winningham, John Q., Winston, Charles C., III, Winters, Darryl G., Winters, David M., Wiseman, Bain W., Jr., Wistrand, Robert C., Wogan, William M., Wolfe, Donald F., Wolfe, Thomas H., Wolfkeil, Wayne E., Wolosyk, Donald J., Wolpe, Jack, Wong, Edward P. E., Jr., Wonn, James C., Wood, Don. C.

Wood, Patrick H., Wood, Rex S., Wood, Walter S., Wood, William C., Jr., Woods, David W., Woods, Gerald E., Woods, Lawrence, Woods, Robert F., Woodworth, Samuel A., Worcester, John B., Worrell, Paul L., Worst, Karl E., Worth, James F., Wortham, Murray L., Worthington, Richard C., Jr., Wozniak, Frederick J., Wright, Arthur.

Wright, David I., Wright, Donald L., Wright, Frederick W., Wright, Gary G., Wright, James J., Wright, Jerdy A., Wright, Thomas T., Wrobleski, Walter F., Wrye, Blair C., Wynne, Patrick E., Xavier, Augusto M., Yarbrough, William P., Jr., Yeakley, Robin R. Yeeno, Richard C., Jr., Yonan, Kenneth J., Young, Barclay B., Young, Charles L., Young, Jeffrey J.

Young, Robert M., Zavocky, James J., Zawtocki, Joseph S., Zempel, Ronald L., Zerbe, Michael R., Zich, Larry A., Zimmer, Jerry A., Zissu, Andrew G., Zollicoffer, Franklin, Zook, David H., Jr., Zook, Harold Jacob, Zorn, Thomas O., Jr., Zubke, Delano D., Zukowski, Robert J., Zutterman, Joseph A., Jr.

GERALD R. FORD.

MAY 29, 1976.●

BRUCE CATTON: CIVIL WAR "REPORTER"

● Mr. GRIFFIN. Mr. President, a native son of Michigan and an award-winning chronicler of the American Civil War died recently—perhaps where he would have wished—near his beloved Crystal Lake in Michigan's northwest Lower Peninsula. This north woods country was home to Bruce Catton. Here he grew up, and here he returned nearly every summer to work on his numerous histories.

Catton—who considered himself "a reporter, not a historian"—was winner of the Pulitzer Prize for history and the National Book Award in 1954 for "A Stillness at Appomattox," third in his famous trilogy on the Army of the Potomac.

He was a first-rate historian (despite his preference for "reporter")—the first, it is said, to use regimental histories as a source. And despite the fact that he did not publish his first book until the age of 49, Catton produced 17 major works in his lifetime before dying at the age of 78.

Born in Petoskey, Mich., on October 9, 1899, Catton grew up near Benzonia, not far from my hometown of Traverse City. It was this boyhood that he later chronicled in "Waiting for the Morning Train," a moving autobiographical memoir depicting America in the early 20th century.

As a young lad in Benzonia, Catton's early interest in the Civil War was kindled by stories he heard from aging veterans of the Union Army. So vivid were their recollections that Catton once said:

> I think I had the impression then . . . that the Civil War had been fought 10 miles east of Benzonia and just five years before I was born.

In fact, in the 1960's, Catton credited those Civil War veterans who sparked what became his life's work by dedicating his massive three-volume "Centennial History of the Civil War" to "the one-time members of E. P. Case Post No. 372, Grand Army of the Republic, who now sleep in the village cemetery at Benzonia, Michigan."

As a young man, Catton studied history at Oberlin College but dropped out to become a Navy gunner in World War I. He then returned to his studies for a short time, but left again to launch his career as a newspaperman. Over the next two decades, Catton reported for newspapers in Cleveland, Boston, and Washington. At the outbreak of World War II, he went to work for the Government as Director of Information for the War Production Board.

Catton's first book, a recollection of his own experiences in the war, was published in 1948. Then, inspired by some forgotten Civil War narratives he had found in an old bookstore during the 1930's (apparently some of the best of the many regimental histories that appeared between 1865 and 1910), Catton determined to write a novel of the Army of the Potomac. But he failed.

Catton described his attempt this way:

> Well, I got 200 pages down, and it was awful. Dreadful. But the factual parts, where the armies were moving, when the battles were fought, that wasn't bad.
>
> So I scrapped the fictional parts and just wrote what I always wanted to write, the story of the Army of the Potomac. It was just as impromptu as that.

This began the now-famous trilogy, "Mr. Lincoln's Army" and "Glory Road"—published in 1951 and 1952, respectively—and "A Stillness at Appomattox", which was published in 1953 and brought its author worldwide fame.

Next Catton helped launch the unique "American Heritage" magazine, which is credited with bringing the study of history out of the textbooks and into the hands of an eager public. He served as its editor 1954-59, and as senior editor thereafter until his death.

In these years, Catton published 10 more books on the Civil War—all of which received high praise—including "This Hallowed Ground," "Terrible Swift Sword," "Never Call Retreat," and "Gettysburg: The Final Fury." "Whatever else it is," Catton once said, "history ought to be a good yarn."

We in Michigan also remember Catton for "Michigan: A Bicentennial History," which was published during our Nation's birthday. In it, Catton used the history of our State to make a point for intelligent conservation. I recall with special pride receiving one of the first copies of this volume inscribed by the author to "a fellow Michigander."

This November, Catton's final work, "The Bold and Magnificent Dream: America's Founding Years, 1492–1815," will be published. Appropriately, it was written in collaboration with his only child, William, a professor at Middlebury College in Vermont.

Catton himself never graduated from college. But in recognition of his contributions to American history, many great schools of letters bestowed honorary doctorates upon him including, among others, Oberlin, Northwestern, Syracuse, and Harvard.

Catton also served as a director of the Ford Foundation's Fund for the Republic and received from President Ford in 1977 the nation's highest civilian award, the Presidential Medal of Freedom.

That he should be so honored is no surprise to those who are familiar with Bruce Catton's works. From his background as a reporter, as a painstaking

collector of facts, Bruce Catton of Michigan produced some of the best there is to read about the American Civil War. Perhaps he will forgive us if we credit him as being both an outstanding reporter and an outstanding historian.●

TAGGING EXPLOSIVES

Mr. STEVENS. Mr. President, a recent editorial in the Washington Post considered the issue of "tagging." As the editorial pointed out, a system has been developed which involves tagging certain kinds of explosives by mixing in microscopic particles with identifying codes. The program involving identification tagging of dynamite and other cap-powered explosives is ready to start as soon as Congress approves the program.

However, the technology has not yet been developed for the tagging of black and smokeless powders. As you may know, black and smokeless powders are used primarily for reenacting historic battles, target shooting with antique firearms and reproductions and reloading bullets at home. The National Rifle Association, which opposes mandating tagging for black and smokeless powders before the technology has even been developed, has been accused by the Washington Post as seeing the ghost of gun registration behind every door. Whether or not this is another back-door attempt at gun control is really not even the question here. The really frightening aspect is the increasing trend of Government to control and regulate every aspect of our lives. We are witnessing a twofold assault—the erosion of individual rights and the emergence of a political elite which believes that Government can act more responsibly than its citizens. As Justice Louis Brandeis said a half century ago:

> The greatest dangers to liberty lurk in the insidious encroachment by men of zeal, well meaning but without understanding.

First, as I mentioned, there is no technology available to tag powders. No studies have yet been done regarding the impact of taggants on firearms, trajectories, shelf life of powders, and so forth. The Bureau of Alcohol, Tobacco and Firearms have admitted that, even if they now had the technology, it would be impossible to estimate the effectiveness of tagged or untagged detection with any degree of accuracy.

Second, based on BATF's own figures, black and smokeless powders are involved in only 9.3 and 13.9 percent of criminal bombings. Of those, an unknown percent are not commercially manufactured powders and, therefore, would not be tagged. Generally, black and smokeless powders are not used for what are commonly known as terrorist activities because, as Mr. Atley Peterson, the Spesial Assistant to the Director for Research and Development of BATF stated:

> They (black and smokeless powders) produce a low order explosion, loss of life, injuries and property damage are small.

Third, the program would require dealers to keep and cross-reference existing forms on black powder and, if smokeless powder is also tagged, the program would require a horrendous recordkeeping system regarding every half-pound or pound of propellant used by sportsmen throughout the country. Even with that kind of recordkeeping system the purchaser of black or smokeless powder could not be identified because when taggants are added by the manufacturer they are added to thousands of pounds at a time. That powder is divided into small cans and sold to numerous dealers who, in turn, sell it to even more numerous customers. Each can, of course, has the same identifying tag and is indistinguishable from thousands and thousands of other cans.

Complete records would have to be kept on each can. Members of the industry have estimated that the additional cost per can before it reaches the dealer would average 80 cents. The additional cost of handling by the dealer is estimated at 20 cents to 50 cents over that. Therefore, the consumer is paying $1.00 to $1.30 extra per can of propellant at an estimated annual cost of $10 million.

Of course, the consumer (also known as the taxpayer) would foot the bill for the entire tagging program at an estimated $19.4 million per year. For that expenditure, the BATF hypothesizes a 50-percent increase over the current arrest rate of 8 percent. Last year there were 355 "incidents" involving the use of black and smokeless powders. BATF's definition of "explosive incidents" includes noncriminal accidents, stolen explosives, recovered explosives, seized explosives threats, and hoax devices as well as criminal accidents and bombings. Therefore the number of criminal bombings is much less than the 355 incidents listed. But, even taking the whole batch of 355 incidents, simple math tells us that there were approximately 28 arrests and a 50-percent increase in the arrest rate would be an additional 14 arrests at the most optimistic estimate—and let me emphasize that not all those arrests would involve bombing incidents.

So, the scenario goes like this; if we can find a safe and efficient technology for tagging black and smokeless powders and, if all black and smokeless powder used in incidents is commercially manufactured sporting grade powder and, if the proposed terrorist decides to buy the powder instead of making a homemade bomb out of materials which are more highly explosive than black or smokeless powder, we may have a slight increase in the arrest rate.

Well, Mr. President, the public may be gradually growing immune to the tremendous waste promulgated by the bureaucratic elite but, no one should accept such a tremendous expenditure for such a small hypothetical result. This is yet another example of well-meaning civil servants jumping into the fire without the necessary information. This time, let us not just "fall into" something in the "hope" that it will work out.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. If there is no further morning business, morning business is closed.

RECESS UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER. Pursuant to the previous order, the Senate now stands in recess until 10 o'clock tomorrow morning.

In accordance with the order previously entered, at 8:40 p.m., the Senate recessed until tomorrow, September 20, 1978, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 19, 1978:

THE JUDICIARY

Carin Ann Clauss, of Virginia, to be U.S. district judge for the District of Columbia, vice Howard F. Corcoran, retired.

DEPARTMENT OF JUSTICE

H. Brooks Phillips, of Mississippi, to be U.S. marshal for the northern district of Mississippi.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

J. Clay Smith, Jr., of the District of Columbia, to be a member of the Equal Employment Opportunity Commission for the term expiring July 1, 1982, vice Colston A. Lewis, term expired.

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

Norval Morris, of Illinois, to be Administrator of Law Enforcement Assistance, vice Richard W. Velde, resigned.

Homer F. Broome, Jr., of California, to be Deputy Administrator for Administration of the Law Enforcement Assistance Administration, vice Paul E. Wormell, resigned.

Henry S. Dogin, of New York, to be Deputy Administrator for Policy Development of the Law Enforcement Assistance Administration, vice Henry F. McQuade, resigned.

HOUSE OF REPRESENTATIVES—*Tuesday, September 19, 1978*

The House met at 11 a.m.

Rev. William A. Tleck, St. Stephen's Methodist Church, Bronx, N.Y., offered the following prayer:

> O Fathers' God, from whom every good and perfect law proceedeth, we acknowledge anew and with gladness Thy sovereignty of righteousness, grace, and goodness. We rejoice that from such a blessed sovereignty derive the sanctions which give validity to our laws and vitality to our institutions. We thank Thee for the brooding presence of those who have peopled these Halls over the years, and who remind us that to lose our heritage is to lose our destiny. Bless to us the realization that our Nation's history is our

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

Nation's judgment, and continually replenish us in our awareness of the critical role we have in shaping that history. Be with all who come to mind as we think of loved ones, friends, and family, and indeed that larger family which is our constituency. And now, we pray, attend us in the tasks that await us, for Thy name's sake. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1678) entitled "An act to amend the Federal Insecticide, Fungicide, and Rodenticide Act as amended."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2701) entitled "An act to amend the Water Resources Planning Act (79 Stat. 244, as amended)."

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 3067) entitled "An act to extend the Commission on Civil Rights for three years, to authorize appropriations for the Commission, to effect certain changes to comply with other changes in the law, and for other purposes," request a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BAYH, Mr. KENNEDY, Mr. METZENBAUM, Mr. MATHIAS, and Mr. HATCH to be the conferees on the part of the Senate.

POSTPONING VOTES ON H.R. 12326, H.R. 12303, AND H.R. 12460

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the unfinished business of September 18, 1978, on motions to suspend the rules and pass the bills, H.R. 12326, H.R. 12303, and H.R. 12460, on which the yeas and nays were ordered, be postponed until debate has been completed on all motions to suspend the rules today, and that it shall be in order to debate each of said motions for 5 minutes prior to the vote thereon.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, can the gentleman tell us what the reason for the request is?

Mr. WRIGHT. If the gentleman will yield, Mr. Speaker, I will be glad to describe to the gentleman the reason for this request.

President Sadat of Egypt at this very moment is being received by the House Committee on International Relations; and the leadership, both Republican and Democratic, is invited and expected to be present. We felt that it might be an unnecessary rudeness to our distinguished visiting head of state if Members were interrupted by repeated rollcalls during the time when he was trying to give us his report on the meeting at Camp David. Therefore, in deference to President Sadat and to all which has happened, we thought it would not inconvenience the Members to any degree if we simply postponed the votes on each of the three remaining suspension bills until we were ready to vote later in the day.

Mr. BAUMAN. Further reserving the right to object, Mr. Speaker, I think the objective is a worthy one.

I wonder whether the gentleman will amend his request so that the time allotted for the debate will be equally divided between the opponents and proponents of the legislation.

The SPEAKER. The Chair will inform the gentleman from Maryland that such an agreement could be reached with the chairman and ranking member of each committee involved.

Mr. WRIGHT. Yes, that is the agreement; that was implicit in the request.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

REV. WILLIAM A. TIECK

(Mr. BINGHAM asked and was given permission to address the House for 1 minute.)

Mr. BINGHAM. Mr. Speaker, on behalf of the House, I am happy to extend our welcome today to a constituent of whom I am very proud, the Reverend William A. Tieck, who just gave us a beautiful prayer.

Mr. Speaker, Reverend Tieck has served for 32 years as pastor of St. Stephen's Methodist Church in the Kingsbridge-Marble Hill area of New York City. He is retiring this year from that post and has accepted a post as pastor of the Edgehill Church, also in the Bronx, of which I am proud to be a member.

Reverend Tieck has served not only as the unofficial historian of the community of Riverdale, in which I have my home, and has published two books in that capacity, but he has been a leader in many community activities, has received many awards, and served as the chairman of the community council, a group of community organizations. In many ways he has served not only as the spiritual leader in our community, but as a force for good and for the betterment of the community in many, many ways.

Mr. Speaker, I feel privileged to have been able to arrange for Reverend Tieck to be invited to give the prayer this morning.

SMITHSONIAN INSTITUTION HONORS "ALL IN THE FAMILY" TV PROGRAMS

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRADEMAS. Mr. Speaker, since January 12, 1971, when Archie and Edith Bunker made their television debut, they and the other characters of the much honored television series "All in the Family" have been weekly visitors into the homes of millions of Americans.

In recognition of the unique contribution made by this program to American culture, the Smithsonian Institution tonight will receive the two chairs used by Archie and Edith. Presenting the chairs on behalf of himself and the cast will be Norman Lear, who, as creator and producer of the show, brought added dimensions to American humor and broke new ground for American television.

It is fitting that the Smithsonian Institution is receiving symbols of the series in the same week that the program and its cast once again have been honored by the National Academy of Television Arts and Science's Emmy Awards.

For the fifth time in its 8 years on television, the show was named the outstanding comedy series.

Carroll O'Connor, who portrays Archie, and Jean Stapleton, who plays the role of his wife Edith, were for the third time named outstanding lead performers in a television comedy.

Bob Reiner, cast as Mike, won his second Emmy for best supporting actor. Sally Struthers, who plays Gloria, previously has been honored for her work.

Also receiving awards Sunday night were director Paul Bogart, and writers Bob Weiskopf, Bob Schiller, Barry Harman, and Harve Brosten.

Mr. Speaker, I salute Norman Lear, the members of the "All in the Family" cast and all those who have made possible this outstanding achievement in American television. Mr. Lear and the cast are in the Capitol today and we extend them a warm welcome.

GENERAL LEAVE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the subject of the Smithsonian Institution's honoring the "All in the Family" TV program.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

ABRUPT CANCELLATION OF CONTRACT STUDY TO DETERMINE SCOPE OF ILLEGAL ALIEN POPULATION IN THIS COUNTRY

(Mr. BURGENER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGENER. Mr. Speaker, several weeks ago, the U.S. Immigration and Naturalization Service terminated for the convenience of the Government a contract study to determine the scope of the illegal alien population in this country for which the Congress has appropriated $1 million. The contractor has spent $750,000 and was approaching a conclusion providing the best count on illegal aliens ever made. This vital information could have served as a base point for future policy and the INS enforcement effort as well.

The abrupt cancellation of the survey calls into question the motives of the INS, which is charged with regulating the flow of aliens into this country.

Notwithstanding the fact that the contractor appears to have performed adequately, and, in fact, most of the delays in completing the survey have been admitted by the Immigration and Naturalization Service itself, it now appears that Congress will have appropriated $1 million and have nothing to show for it.

I hope Director Castillo will offer the House a full explanation of the cancellation of the contract. It is particularly disturbing in view of the Director's own public relations efforts to advise illegal aliens about assistance available in applying for permanent resident alien status.

In another part of today's CONGRESSIONAL RECORD, I am inserting a most timely and excellent editorial on this subject from the Los Angeles Times.

IT MUST BE THE PARENTS' FAULT

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, why do D.C. students not have a better record of academic achievement? It must be the fault of the parents.

The headline in Sunday's Washington Post said there was only one merit scholar from the public schools of the District of Columbia. We would have anticipated 28 merit scholars from the public schools of the District based on the average number that qualified as semifinalists in the National Merit Scholar Competition. Why does the District have only 1 instead of 28 which would have been equal to the average school system?

Washington has typical, average American youngsters. The D.C. schools provide the highest priced education. The national school average for cost per pupil is $1,739, but in D.C. the cost per pupil is $2,368. This is top quality.

Washington, D.C., has outstanding teachers based on the pay scale. The national pay average of teachers is $14,244. But in D.C. the average classroom teacher's annual salary is $18,000.

It is obvious that money does not determine quality of education. Recently, I read that a Harvard sociologist made a survey and determined that parents' interest was the biggest incentive for students' improved academic achievement.

In making this comparison, bear in mind that this is a 12th grade evaluation. There are 5,600 D.C. seniors out of a total enrollment of 115,000 which already reflect the attrition as the incompetent students have dropped out. Based on average size, and yearly classes, we would have anticipated about 8,800 seniors instead of only 5,600.

My first suggestion would be to improve the discipline in the D.C. schools. We read that it is difficult to maintain proper learning environment because of disrespectful students. Where students do not respond to discipline, I would have a designated school for these problem youngsters. To develop respect for discipline requires the full cooperation of the parents.

Washington, D.C., has only 1 instead of 28; it proves what we all know. You cannot buy a good education. Spending money for high quality teachers will not make your youngsters smart. Youngsters must have the desire for educational achievement and this comes from enthusiastic, interested parents.

APPOINTMENT OF CONFEREES ON S. 3067, EXTENDING CIVIL RIGHTS COMMISSION ACT OF 1978

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3067) to extend the Commission on Civil Rights for 3 years, to authorize appropriations for the Commission, to effect certain changes to comply with other changes in the law, and for other purposes, with House amendments thereto, insist upon the House amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mr. WRIGHT). Is there objection to the request of the gentleman from California? The Chair hears none and, without objection, appoints the following conferees: Mr. EDWARDS of California; Mr. SEIBERLING, Mr. DRINAN, Mr. VOLKMER, Mr. BEILENSON, Mr. BUTLER, and Mr. MCCLORY.

There was no objection.

PRIVATE CALENDAR

The SPEAKER pro tempore. This is Private Calendar Day. The Clerk will call the first individual bill on the Private Calendar.

MORRIS AND LENKE GELB

The Clerk called the bill (H.R. 3084) for the relief of Morris and Lenke Gelb.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

IRENE HOFFMAN

The Clerk called the bill (H.R. 5612) for the relief of Irene Hoffman.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

BALL STATE UNIVERSITY AND THE AMERICAN ASSOCIATION OF COLLEGES FOR TEACHER EDUCATION

The Clerk called the bill (H.R. 1415) for the relief of Ball State University and the American Association of Colleges for Teacher Education.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

LESTER BRUCE PRIDAY

The Clerk called the bill (H.R. 1446) for the relief of Lester Bruce Priday.

There being no objection, the Clerk read the bill, as follows:

H.R. 1446

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provision of section 212(a)(23) of the Immigration and Nationality Act, Lester Bruce Priday may be issued a visa and admitted to the United States for permanent resident if he is found to be otherwise admissible under the provisions of that Act: *Provided,* That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ROLANDO R. GAZA AND TERESITA C. GAZA

The Clerk called the bill (H.R. 2655) for the relief of Rolando R. Gaza and Teresita C. Gaza.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ESTABLISHING TRUE LOCATION OF ANGELES NATIONAL FOREST

The Clerk called the bill (H.R. 11451) to establish the true location of a portion of northerly boundary of the Angeles National Forest, located in Los Angeles County, Calif., on the common line between sections 16 and 17, township 4 north, range 10 west, San Bernardino meridian, and to establish the center quarter corner of said section 16.

There being no objection, the Clerk read the bill, as follows:

H.R. 11451

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) The north one-half of section 16, township 4 north, range 10 west, San Bernardino meridian, was conveyed by the United States to Harry M. Miller by Patent recorded August 18, 1922, in book 2611 at page 336, Official Records of Los Angeles County as to a portion thereof, and the remainder to Herbert Colbeck by Patent re-

corded December 4, 1923, in book 2883 at page 144, Official Records of said county; and

(b) The south one-half of section 16 and section 17 of said township and range are now part of the Angeles National Forest. A question has arisen as to the true location of the common boundary of the Angeles National Forest and the private lands in said section 16; and

(c) The section corners and quarter-corners of said section 16 were established by the United States Government surveyors and depicted upon the official plats of said township approved by the United States Surveyor General on April 24, 1905, and December 4, 1917; and

(d) The southeast, northeast, and northwest corners and the north and east quarter-corners have been recovered; however, the southwest corner and the south and west quarter-corners of said section 16 have been thoroughly searched for on several occasions by both public and private surveyors without success; and

(e) The Los Angeles County surveyor, while running the boundary of the Angeles National Forest in 1933, being unable to find the original west quarter-corner of said section 16, set a monument marked "County Surveyor's Monument Forest Reserve Cor. R.E. 62 J-249-FB", at the theoretically correct location of said west quarter-corner to wit: one-half mile south of the found northwest corner and one mile west of the found east quarter-corner of said section 16; and

(f) Numerous surveyors and private parties have accepted said county surveyor's monument marked "Forest Reserve Corner" for the past forty years as the true west quarter-corner of said section 16 and have subdivided, resubdivided, and improved such private lands by constructing houses, roads, wells, utilities, and pipelines within the north half of said section in relation thereto; and

(g) There are currently numerous parcels of land in private ownership within the north half of said section 16, the boundaries of which would be seriously disrupted should the west quarter-corner of said section be reestablished in any location other than that of the 1933 county surveyor's monument marked "Forest Reserve Corner".

SEC. 2. (a) In order to dispel any uncertainty and to insure that the boundaries of said private land not be needlessly disrupted, it is hereby found and declared that the 1933 county surveyor's monument market "County Surveyor's Monument Forest Reserve Cor. R.E. 62 J-249-FB", which was set at a point one-half mile south of the northwest corner and one mile west of the east quarter-corner of said section 16, as said corners and monument are shown on the county surveyor's map B-745 on file in the Office of the County Engineer of the County of Los Angeles, is at the true location of said west quarter-corner as originally set by the Government Land Office Survey or in 1912 and depicted upon the plat of township 4 north, range 10 west, San Bernardino meridian, approved December 4, 1917.

(b) It is further found and declared that the south line of the north half of said section is a line connecting the east and west quarter-corners hereinabove mentioned and that the center quarter-corner of said section is located at the midpoint of the south line of the north half of said section 16 as hereinabove established.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

BATAVIA TURF FARMS, INC.

The clerk called the bill (H.R. 12556) for relief of Batavia Turf Farms, Inc.

There being no objection, the Clerk read the bill, as follows:

H.R. 12556

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Batavia Turf Farms, Incorporated (hereinafter referred to as the farms), doing business in Genesse County, New York, an amount to be determined by the Secretary of Agriculture (hereinafter referred to as the Secretary) to have been lost by the farms during any calendar year commencing with the calendar year 1977, through no fault of its own, as a result of restrictions on the movement of grass sod from the farms under the Federal golden nematode quarantine and supporting regulations in part 301, sections 301.85 and 301.85-1 through 301.85-10 of title 7, Code of Federal Regulations, which deal with measures designed to prevent the spread of the golden nematode. Prior to the payment of any amount of money, the farms shall submit to the Secretary such information as determined by the Secretary to be necessary to determine any losses incurred by the farms. The amounts paid to the farms shall be in full settlement of any and all claims of the farms in a calendar year, resulting from restrictions on the movement of articles under the Federal golden nematode quarantine and regulations during calendar year 1977 and in subsequent calendar years.

SEC. 2. No more than 10 per centum of the amount appropriated in this Act shall be paid to or received by any agency or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $2,000.

SEC. 3. The provisions of this Act shall expire on December 31, 1982.

With the following committee amendment:

Page 2, beginning line 5, delete the sentence which reads:

In the event of a dispute between the Secretary and the farms as to the amount due to the farms, the final determination shall be subject to binding arbitration by a person or persons agreed to by the Secretary and the farms.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LOURDES MARIE HUDSON

Mr. EILBERG. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 8449) for the relief of Lourdes Marie Hudson, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 1, line 7, strike out "Hudson" and insert "Hudson,".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman from Pennsylvania (Mr. EILBERG) explain just briefly what the difference between the bill and the Senate amendment is?

Mr. EILBERG. Mr. Speaker, if the gentleman will yield, the Senate in its wisdom decided that a comma was necessary after the adopting parents' names as they appeared in the bill.

Mr. ROUSSELOT. Mr. Speaker, may I ask the gentleman, was the Senate in its wisdom right?

Mr. EILBERG. We have no objection to the amendment.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR PRINTING OF PROCEEDINGS INCIDENT TO PRESENTATION OF A PORTRAIT OF THE HONORABLE AL ULLMAN

Mr. HAWKINS, from the Committee on House Administration, submitted a privileged report (Rept. No. 95-1580) on the resolution (H. Res. 1285) to provide for the printing of the proceedings incident to the presentation of a portrait of the Honorable AL ULLMAN, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR PRINTING OF REPORT ENTITLED "FREEDOM OF INFORMATION REQUESTS FOR BUSINESS DATA AND REVERSE-FOIA LAWSUITS"

Mr. HAWKINS, from the Committee on House Administration, submitted a privileged report (Rept. No. 95-1581) on the resolution (H. Res. 1338) providing for the printing of the report entitled "Freedom of Information Requests for Business Data and Reverse-FOIA Lawsuits," which was referred to the House Calendar and ordered to be printed.

REPORT ON SENATE CONCURRENT RESOLUTION AUTHORIZING PRINTING OF ADDITIONAL COPIES OF VOLUMES 1 AND 2 OF COMMITTEE PRINT ENTITLED "A LEGISLATIVE HISTORY OF THE WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972"

Mr. HAWKINS, from the Committee on House Administration, submitted a privileged report (Rept. No. 95-1582) on the Senate concurrent resolution (S. Con. Res. 90) authorizing the printing of additional copies of volumes 1 and 2 of the committee print entitled "A Legislative History of the Water Pollution Control Act Amendments of 1972," which was referred to the House Calendar and ordered to be printed.

REPORT ON SENATE CONCURRENT RESOLUTION AUTHORIZING REPRINTING OF BOOK II OF SENATE REPORT ENTITLED "INTELLIGENCE ACTIVITIES AND THE RIGHTS OF AMERICANS"

Mr. HAWKINS, from the Committee on House Administration, submitted a privileged report (Rept. No. 95-1583) on the Senate concurrent resolution (S. Con. Res. 96) authorizing the reprinting of book II of the Senate report entitled "Intelligence Activities and the Rights of Americans," which was referred to the House Calendar and ordered to be printed.

REPORT ON SENATE CONCURRENT RESOLUTION AUTHORIZING PRINTING OF ADDITIONAL COPIES OF COMMITTEE PRINT ENTITLED "PRELIMINARY GUIDE TO EXPORT OPPORTUNITIES TO JAPAN"

Mr. HAWKINS, from the Committee on House Administration, submitted a privileged report (Rept. No. 95-1584) on the Senate concurrent resolution (S. Con. Res. 97) authorizing the printing of additional copies of the committee print entitled "Preliminary Guide to Export Opportunities to Japan," which was referred to the House Calendar and ordered to be printed.

REPORT ON SENATE CONCURRENT RESOLUTION AUTHORIZING PRINTING OF ADDITIONAL COPIES OF FINAL REPORT AND VOLUME II OF EXECUTIVE SESSION HEARINGS ON KOREAN INFLUENCE INQUIRY

Mr. HAWKINS, from the Committee on House Administration, submitted a privileged report (Rept. No. 95-1585) on the Senate concurrent resolution (S. Con. Res. 105) authorizing the printing of additional copies of the final report and of volume II of the executive session hearings on the Korean influence inquiry, which was referred to the House Calendar and ordered to be printed.

AUTHORIZING PRINTING OF ADDITIONAL COPIES OF FINAL REPORT AND VOLUME II OF EXECUTIVE SESSION HEARINGS ON KOREAN INFLUENCE INQUIRY

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate concurrent resolution (S. Con. Res. 105) authorizing the printing of additional copies of the final report and of volume II of the executive session hearings on the Korean influence inquiry.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore (Mr. NATCHER). Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 105

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Select Committee on Ethics five thousand additional copies of its final report to the Senate, and two thousand additional copies of volume II of its executive session hearings, on the Korean influence inquiry.

The SPEAKER pro tempore. The Chair recognizes the gentleman from California (Mr. HAWKINS).

Mr. HAWKINS. Mr. Speaker, this Senate concurrent resolution authorizes the printing of additional copies of the final report of the Korean influence inquiry by the Senate. Because of the nature of it and because it is now in the process of being printed for publication, the other body has requested that we use this method to expedite the printing of it so that it might be made available during this session of Congress.

Mr. Speaker, I know of no opposition to the resolution. I have conferred with the minority side in connection with the resolution, and I have not heard of any opposition to considering it in this manner. I, therefore, ask that it be approved.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated, and after those motions, to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

HAZARDOUS MATERIALS TRANSPORTATION AUTHORIZATIONS

Mr. ROONEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11871) to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal year 1979, as amended.

The Clerk read as follows:

H.R. 11871

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 115 of the Hazardous Materials Transportation Act (49 U.S.C. 1812) is amended—

(1) by striking out "and" immediately after "1976,"; and

(2) by inserting immediately before the period at the end thereof the following: ", and not to exceed $5,000,000 for the fiscal year ending September 30, 1979.".

The SPEAKER pro tempore. Is a second demanded?

Mr. BROYHILL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. ROONEY) will be recognized for 20 minutes, and the gentleman from North Carolina (Mr. BROYHILL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. ROONEY).

Mr. ROONEY. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. ROONEY. Mr. Speaker, H.R. 11871 is a 1-year authorization of the Hazardous Materials Transportation Act. The bill is identical to S. 1896; both bills authorize $5 million for the Materials Transportation Bureau for 1 year, the same level of funding as in fiscal year 1977 and fiscal year 1978.

The Hazardous Materials Transportation Act was enacted in 1974 by the 93d Congress and gives the Secretary of Transportation broad authority to prescribe regulations governing the storage, packaging and transportation of hazardous materials by any mode of transport. Under the act, the Secretary has the power to find that a particular quantity or form of material in commerce may pose such an unreasonable risk to health and safety or property as to be hazardous and thus should be regulated in such a way so as to overcome this risk.

The Department of Transportation has established the Materials Transportation Bureau, and within the Bureau, the Office of Hazardous Materials Operations. The Bureau is responsible for the formulation and issuance of regulations concerning all facets of the transportation of hazardous materials. The individual agencies retain the responsibility for inspection, compliance and enforcement of the regulations, but work with the Materials Transportation Bureau in developing regulations that specifically cover only one particular mode of transportation.

My subcommittee was particularly interested in the Bureau's actions in the area of hazardous materials on railroads because of the recent explosions resulting from railroad accidents.

This summer the Bureau and FRA revised the regulations concerning the installation of shelf couplers, head shields and thermal painting of existing jumbo tank cars which transport so much of our Nation's hazardous materials. I am hopeful that measures such as these will reduce the likelihood of the type of tragedies that were so prevalent in the news earlier this year.

I introduced H.R. 11871, authorizing appropriations for implementing the Hazardous Materials Transportation Act at the level of the President's budget request of $3,727,000. After taking testimony from the National Transportation Safety Board and the Bureau, and consulting with the Public Works Committee, which also has jurisdiction over this act, the subcommittee amended the bill, raising the authorization to $5 million,

the level at which it was authorized in fiscal years 1977 and 1978.

Mr. BROYHILL. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I want to commend the gentleman from Pennsylvania (Mr. ROONEY), the distinguished chairman of the subcommittee, and the ranking minority member, the distinguished gentleman from North Carolina (Mr. BROYHILL), for their work on this very important measure.

Mr. Speaker, I urge my colleagues to support this bill.

Mr. Speaker, I rise in support of H.R. 11871, a bill which authorizes an appropriation of $5 million under the Hazardous Materials Transportation Act for fiscal year 1979 and commend the gentleman from Pennsylvania, Mr. Rooney, the distinguished Commission chairman and the gentleman from Kansas, Mr. SEBELIUS, the ranking minority member for bringing this measure to the floor.

Since the Hazardous Materials Transportation Act became law on January 3, 1975, the need for the continuity of its provisions has become apparent. According to the act, the Secretary of the Department of Transportation delegated the major rulemaking responsibility to the Materials Transportation Bureau (MTB). Prior to this delegation of authority, regulatory responsibility was under the respective operating administration whose mode of transportation was being used with certain hazardous materials. For example, the Federal Aviation Administration, the Federal Highway Administration, the Federal Railroad Administration and the U.S. Coast Guard had responsibility in regulating the transportation of hazardous materials within their domain. More and more, however, the shipment of hazardous materials crossed over from the unimodal lines and a need for uniform, comprehensive regulations containing all forms of transportation became essential. With the limited exception of the Coast Guard's formulation of regulations regarding bulk transportation of hazardous materials by waterways, the MTB was assigned primary responsibility for forming and carrying out hazardous materials regulation.

Progress under MTB's leadership in overseeing the various operating administrations has been significant. For example, MTB has taken on the extremely important task of keeping each operating administration under the DOT informed of changes within the other transportation organizations which could affect them. MTB has undertaken major programs in educating the public and in publicising developments in hazardous materials transportation. An example can be seen in the MTB's recently issued 1978 edition of "Emergency Action Guide for Selected Hazardous Material" which contains essential information for steps to take in the event of spills involving volatile, toxic, gaseous, or flammable material shipped in bulk. This important guide has had a distribution of 1½ million copies.

MTB has also consolidated its regulations, eliminating close to 700 pages and will attain even further clarity in the near future. Examples of this include regulations dealing with shipping paper, marking and labeling which were consolidated into much needed uniform labels to ease transfers of hazardous material between the various modes of transportation and enabling identification of hazardous material by personnel in all modes who need to be alerted to the potential risks. Even more to the Bureau's credit, the MTB has initiated international conferences seeking to provide uniformity in identification systems of hazardous material on a worldwide basis.

The MTB also has taken steps to force more safety measures on jumbo tank cars which are carrying an increasing percentage of volatile materials and have been involved in numerous accidents and tragedies. To combat these dangers, the MTB has ordered specification 112 and 114 tank cars to have headshield and protective head jackets which would reduce the number of punctures so often a major cause of these hazardous spills. All new cars built after January 1, 1978, must have this needed protection and tank cars now have until 1979 to be refitted with these specifications. Following recent hearings held by the MTB, the Secretary of Transportation announced an accelerated schedule for these essential regulations.

Mr. Speaker, in light of these important changes in hazardous material transportation, we must not only commend the successes of the DOT's Materials Transportation Bureau, but realize the need for its continued existence with added appropriations to carry out the necessary programs for the next fiscal year. The President's budget request for fiscal year 1979 for the MTB is $3.2 million. However, Mr. Speaker, I concur with the committee's funding recommendation because the need for constant updating of problem solving strategies within the sphere of hazardous material transportation can best be accomplished at the $5 million funding level the committee has authorized.

In conclusion, I believe H.R. 11871 is essential legislation in this day of widespread transportation of potentially hazardous material and I urge my colleagues to approve this necessary funding so that MTB can continue to oversee essential precautionary measures in this area.

Mr. BROYHILL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROONEY. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. JOHNSON).

Mr. JOHNSON of California. Mr. Speaker, this bill authorizes appropriations for fiscal year 1979 for the Office of Hazardous Materials Operations located in the Department of Transportation. The bill was referred jointly to the Committee on Interstate and Foreign Commerce and the Committee on Public Works and Transportation.

On April 19, two of our subcommittees (Aviation and Surface Transportation) held hearings on this bill and referred it to the full committee. On May 10, 1978, after the Committee on Interstate and Foreign Commerce had reported H.R. 11871, the Committee on Public Works and Transportation agreed to concur in the result reported by the Committee on Interstate and Foreign Commerce, and notified that committee of its concurrence by a letter. That letter is set forth at page 6 of House Report 95–1170, part I.

Today, I take this opportunity to state my personal support of this bill, and I urge that it be favorably acted upon by the House.

● Mr. ANDERSON of California. Mr. Speaker, I rise in support of the bill, H.R. 11871, to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal year 1979.

The Transportation Safety Act of 1974 vested all hazardous materials, powers, functions, and duties in the Secretary of Transportation. It consolidated regulatory and enforcement authority over transportation of hazardous materials in Commerce for the first time. The legislation led to the creation of the Materials Transportation Bureau as the coordinating agency for most of the hazardous materials transportation safety program. The Bureau exercises compliance and enforcement authority over container manufacturers and intermodal shippers of hazardous materials, but the Department's operating administrations retain jurisdiction responsibility for enforcement and compliance actions relating to unimodal transportation of hazardous materials.

Both the Public Works and Transportation and Interstate and Foreign Commerce Committees held hearings on this measure and are in agreement with the level authorized. I know of no controversy surrounding this bill and urge its passage.●

● Mr. HOWARD. Mr. Speaker, I support passage of H.R. 11871, a bill which, if enacted, would authorize $5 million for the operation of the Office of Hazardous Materials Operations of the Materials Transportation Bureau, Department of Transportation.

Last April, three House subcommittees heard testimony on the necessary funding level for the Office of Hazardous Materials Operations. At the conclusion of the hearings, all were in agreement that the funding level for fiscal year 1979 should be $5 million.

The authorization is for only 1 year. Next year it will be necessary to repeat this procedure. At that time a thorough review of this Office's operations will be conducted in order to determine its effectiveness.●

● Mr. DEVINE. Mr. Speaker, I rise in support of H.R. 11871, which provides an authorization of $5 million for fiscal year 1979 so that the Department of Transportation may carry out is responsibilities under the Hazardous Materials Transportation Act. This authorization will be the same as it has been for the last 2 years.

Mr. Speaker, the responsibility for carrying out the Hazardous Materials Transportation Act falls within the Materials Transportation Bureau of the Department of Transportation. That bureau has been in existence for nearly 4

years. During that time, it has made some progress in improving the governmental role with respect to the transportation of hazardous materials. For example, the Department of Transportation Emergency Response System for Hazardous Materials provides the standby capacity for responding to accidents when they occur. In my judgment, the Department is to be commended as is the Manufacturing Chemists Association which works closely with the Department in establishing and operating the Chemical Transportation Emergency Center. That center has the capability of quickly notifying local authorities whenever there is an accident involving hazardous materials.

The Department has also entered into the area of testing in order to achieve as little risk as possible in containers or vehicles carrying hazardous materials.

Over the last 6 years, the number of fatalities resulting from hazardous materials transportation accidents has averaged 22 per year. The number of injuries from hazardous materials accidents has increased from 253 in 1971 to 820 in 1976. The number of accidents has increased from 2,256 to 11,898. In all probability, that increase will continue as the need for transporting more hazardous materials also grows. The goal all of us in Government should seek is to insure that accidents involving hazardous materials do not cause injuries or loss of life. This legislation will enable the Department to continue its efforts to develop guidelines and standards to reduce the risk of injury-producing accidents involving hazardous materials.

It has become clear to me, Mr. Speaker, both in this area and in the area of railroad safety that we simply cannot afford to be too prudent because of the dire consequences which can result from costly and unnecessary accidents. There are times when I have literally held my breath for fear of additional train accidents simply because a railroad fails to follow the safety laws. I have been particularly concerned over the past month and a half about the Norfolk & Western Railroad. As you know, that railroad has been on strike and is operating through the use of management employees. I sincerely hope that the management of that railroad takes extra care so as to assure the absence of accidents which could cause severe damage to their own supervisory personnel or to the public at large. I have urged Secretary Adams to considerably beef up the inspection and surveillance of the N. & W. operations during this period of the strike. It is difficult enough to assure safety on the railroads when both management and labor are in close cooperation. It is extremely difficult to achieve safe operations under the adverse conditions presented by a strike.

Mr. Speaker, I support this bill as another step in our efforts to sensibly utilize the resources of government in order to achieve a safer society.●

● Mr. SKUBITZ. Mr. Speaker, I rise in support of H.R. 11871, which authorizes appropriations of $5 million for fiscal year 1979 to carry out the Hazardous Materials Transportation Act. This represents an authorization identical to the authorizations approved for fiscal year 1977 and fiscal year 1978. Of those authorizations, $2.9 million was appropriated during fiscal year 1977 and approximately $3.6 million was appropriated in fiscal year 1978.

As you know, Mr. Speaker, in the Railroad Safety Act of 1970, Congress directed the Department of Transportation to evaluate existing controls over the transportation of hazardous material and to make recommendations for improving safety in that area. The Hazardous Materials Transportation Act of 1975 grew out of recommendations made by the Department of Transportation. The Materials Transportation Bureau is divided into the Office of Hazardous Materials Operations and the Office of Pipeline Safety Operations. Since its creation, the Bureau has gone a long way toward consolidating Government activities in assuring that the transportation of hazardous material is as safe as possible.

Mr. Speaker, this adoption of this bill will authorize moneys so that the activities under the Hazardous Materials Transportation Act can be continued in fiscal year 1979. The economy of this Nation is heavily dependent upon the safe and efficient transportation of thousands of materials which can create hazards if improperly transported. Adoption of this bill will continue this country's dedication toward further reducing the relatively small risk now inherent in the transportation of many materials needed in a modern industrial society.●

● Mr. MADIGAN. Mr. Speaker, I support the $5 million authorization for fiscal year 1979 contained in H.R. 11871 for the purpose of carrying out the responsibilities authorized under the Hazardous Materials Transportation Act of 1974. The amount of authorization is the same as Congress authorized in 1978 and 1977. The bill as originally introduced had contained a request for $3.7 million which is more in line with the amount which had been appropriated for the current fiscal year. The committee increased that amount because it recognized that DOT can and should do more in carrying out its responsibilities under the act.

Let me briefly state some background information. In the Rail Safety Act of 1970, the Congress called for a thorough evaluation of the existing laws and programs relating to the transportation of hazardous materials irrespective of transportation mode. The Department of Transportation reported to Congress that there was a need for greater consolidation of the Government's efforts at regulating the packaging and shipping of hazardous materials. In 1974, Congress passed the Hazardous Materials Transportation Act which was signed into law on January 3, 1975. That act pulled together hazardous materials transportation regulatory responsibility which had previously been with Federal Aviation Administration, Federal Highway Administration, Federal Railroad Administration, and the U.S. Coast Guard. Those activities were placed in the Materials Transportation Bureau which was divided into two parts—the Office of Hazardous Material Operations and the Office of Pipeline Safety Operations. The Office of Pipeline Safety Operations had been in existence since the Natural Gas Act of 1968.

Needless to say, the first couple of years under the new regulation were a shakedown period for the Department of Transportation. During much of that time, there was not even a permanent director for the Materials Transportation Bureau.

During the last 2 years, the Materials Transportation Bureau has consolidated and standardized its regulations, eliminating approximately 700 pages, and expects further clarification in its regulations. During the next few years, I would hope that the Bureau would continue to simplify, reevaluate and strengthen existing regulations.

While the Materials Transportation Bureau was given responsibility for promulgating the regulations relating to hazardous material shipments, their inspection role has been primarily to deal with intermodal shipments. The primary responsibility for the inspections to assure compliance with Government regulations continues to be with the FAA, the FHA, the FRA, and the U.S. Coast Guard. I am particularly concerned that our general program of Government inspections in order to obtain compliance with safety rules and regulations has inherent difficulties. There is no way that the Federal Government can become a neighborhood policeman for the enforcement of every standard and regulation promulgated in Washington. In the years to come, I am hopeful that all of us will be able to devise performance standards which place the primary policing responsibility on industry, rather than on a Washington police force.

Mr. Speaker, I support this legislation because the authorization is clearly needed. I would hope, however, that the Department can do a better job both in promulgating necessary regulations and in achieving compliance with those regulations. Hazardous materials must be transported in order to keep our economy functioning. That transportation, however, should not be a menace to the public. It must be conducted in a safe manner and utilize safe containers.

I intend to carefully watch the actions of the Department in spending the money contained in this authorization.●

Mr. ROONEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. ROONEY)

that the House suspend the rules and pass the bill H.R. 11871, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. ROONEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1896) to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal year 1979, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1896

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 115 of the Hazardous Materials Transportation Act (49 U.S.C. 1812) is amended by—

(1) striking out "and" immediately after "1976,"; and

(2) inserting ", and not to exceed $5,000,000 for the fiscal year ending September 30, 1979" immediately after "1978".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 11871) was laid on the table.

EXPATRIATION PROVISIONS OF IMMIGRATION AND NATIONALITY ACT

Mr. EILBERG. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13349) to repeal certain sections of title III of the Immigration and Nationality Act, and for other purposes, as amended.

The Clerk read as follows:

HR. 13349

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsections (b), (c), and (d) of section 301 and section 350 of the Immigration and Nationality Act are hereby repealed, effective as of the date of enactment of this Act.

SEC. 2. Paragraphs (5) and (8) of section 349 and sections 352, 353, 354, and 355 of the Immigration and Nationality Act are hereby repealed.

SEC. 3. Section 301 of the Immigration and Nationality Act is amended by striking out "(a)" after "SEC. 301.", and by redesignating paragraphs (1) through (7) as subsections (a) through (g), respectively.

SEC. 4. Section 349 of the Immigration and Nationality Act is amended by inserting "(a)" after "SEC. 349.", and by renumbering paragraphs (6), (7), and (9) as paragraphs (5), (6), and (7), respectively.

The SPEAKER pro tempore. Is a second demanded?

Mr. McCLORY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. EILBERG) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. McCLORY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. EILBERG).

Mr. EILBERG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 13349, which has been favorably reported by the Judiciary Committee, has been cosponsored by all of the members of the Subcommittee on Immigration, Citizenship, and International Law. It is a noncontroversial bill which is strongly supported by the Departments of State and Justice and it will mean a great deal to all U.S. citizens who reside abroad.

This bill corrects an inequity which has developed in our citizenship law, by repealing section 301(b) of the Immigration and Nationality Act.

Under present law, there is only one group of U.S. citizens which are subject to the extraordinary step of expatriation for failure to reside for a certain period of time in the United States.

Section 301(b) now provides that a U.S. citizen since birth can be stripped of his U.S. citizenship if he does not reside in the United States for 2 years between the ages of 14 and 28. This applies to persons born abroad of a U.S. citizen parent and an alien parent. Many such individuals have lived their entire lives as U.S. citizens and suddenly are expatriated at the age of 26 because they are unable to satisfy this residence requirement. No other group of U.S. citizens must meet such a requirement.

We have received hundreds of letters from Americans abroad many of whom are employed with the U.S. Government or by U.S. corporations. These letters cite the hardship and inconvenience caused by section 301(b) and the committee does not believe that this residence requirement is necessary for the proper administration of our naturalization laws. The immigration law already provides that a U.S. citizen may not transmit citizenship to his children born abroad unless the parent has previously resided in the United States. H.R. 13349 does not change these transmission requirements.

H.R. 13349 also repeals certain other sections of the Immigration and Nationality Act which provide for loss of U.S. citizenship. These provisions no longer have any significant operative effect. All of these sections except one were declared unconstitutional by the Supreme Court years ago. The remaining section has been so limited in scope by Supreme Court decisions that it no longer serves any useful purpose. These same Supreme Court decisions have made the continuing existence of the residence requirement of section 301(b), clearly inequitable. The Departments of State and Justice strongly endorse this legislation as do thousands of our citizens around the world and I urge its approval.

Mr. McCLORY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the motion to suspend the rules and pass H.R. 13349. I am most pleased that this bill has been scheduled for consideration and commend the leadership for that action.

Mr. Speaker, this bill would repeal section 301(b) of the Immigration and Nationality Act; the only section of our present immigration law whereby natural-born U.S. citizens can lose their citizenship merely through the passage of time. Section 301(b) now provides that a natural-born U.S. citizen who is born outside the United States of one citizen parent and one alien parent, will lose that citizenship if he or she fails to return to the United States to reside here for 2 years after the age of 14, but prior to reaching the age of 28 years. This section first appeared in the Immigration and Nationality Act in 1934, and historical rationale for its inclusion is unclear. However, I suggest it is the product of a time when the number of U.S. citizens residing abroad was significantly lower than it is today. In 1934, there were few, if any, multinational corporations sending U.S. citizens abroad for extended periods of time. It was also uncommon for our own Government to station its employees, in significant numbers, throughout the world. However, it is commonplace today for our citizens to work for U.S. employers and the U.S. Government, outside of the United States for decades, even for virtually their entire adult lives. It follows with the greatly increased number of U.S. citizens abroad, that marriages between our citizens and citizens of other nations have taken place. It is the children of such marriages that are directly affected by this bill.

Such children, who are U.S. citizens at birth, now face the possibility of losing their U.S. citizenship if they fail to return to the United States after the age of 14, but before they reach the age of 26 years, and remain here for at least 2 years.

This residence requirement only applies to citizens who derive their citizenship through section 301(e)(7). All other natural-born citizens have no fear of loss of citizenship unless they take specific overt acts to renounce it.

I can personally attest to the knowledge of the United States and loyalty to our system of at least three citizens who could lose that citizenship under section 301(b).

Though my grandchildren were born in Switzerland, their mother, my daughter, is a U.S. citizen and her husband is a Swiss national. My daughter and her husband have an older son who was born in the United States, and has no fear of losing that citizenship. I am proud to say that the three younger grandchildren born in Switzerland are as genuinely American as any young boy or girl who resides his or her entire life within our shores. American flags drape their rooms and they follow American affairs as enthusiastically and take pride in the American citizenship as fully as any

American who derives his or her citizenship in any other way.

The bill we consider today repeals this section: 301(b) from the Immigration and Nationality Act, and thereby eliminates this outmoded and illogical requirement now placed on one class of natural-born U.S. citizens.

It should be noted that the bill does not replace section 301(A)(7) of the Immigration and Nationality Act, which requires a U.S. citizen to have spent at least 5 years in the United States after the age of 14, before he or she can transmit U.S. citizenship to a child born outside the United States. Therefore, this bill would not permit the evolution of several generations of persons claiming U.S. citizenship who have never been present in the United States.

This bill also repeals sections of the nationality section of the Immigration and Nationality Act which have been declared unconstitutional; namely sections 349(a)(5), 349(a)(8), and 352. It also repeals sections which become meaningless by enactment of this bill.

In addition, it repeals section 350, a rarely used provision which requires a child of an American citizen who is born abroad to take an Oath of Allegiance to the United States before a U.S. Diplomatic or Consular Officer prior to the expiration of a 3-year period after the U.S. citizen has voluntarily sought or claimed benefits of nationality of any foreign state.

In summary then, this bill repeals several sections of the Immigration and Nationality Act which either have been declared unconstitutional, or have operated to work unnecessary hardships on U.S. citizens with respect to their natural-born rights as citizens.

I congratulate the Subcommittee on Immigration for bringing this matter to the House, and strongly urge my colleagues to vote to suspend the rules and pass H.R. 13349.

● Mr. FISH. Mr. Speaker, I join Mr. EILBERG and Mr. McCLORY in support of this bill, and urge the adoption of the motion to suspend the rules and pass H.R. 13349.

As was pointed out, the bill would repeal several sections of the naturalization title of the Immigration and Nationality Act which have been held unconstitutional by the U.S. Supreme Court. In addition, it repeals section 301(b), whereby natural-born citizens who hold citizenship pursuant to section 301(a)(7), can lose their citizenship by failing to return to the United States for 2 years between the ages of 14 and 28 years.

Repeal of this section is favored by both the Departments of State and Justice. They report difficulty in administering that section, and hardship resulting from its application in some cases.

This bill does nothing to section 301(a)(7) which requires a U.S. citizen to spend 10 years in the United States, 5 of which are after the age of 14, before he or she can transmit U.S. citizenship to a child—if the child's other parent is an alien.

The bill removes the only provision (section 301(b)) whereby a U.S. citizen at birth can, merely through the passage of time and absence from the country, lose their citizenship. This provision has outlived its usefulness, and I concur in the opinion that it should be repealed.

I support enactment of H.R. 13349.●

Mr. EILBERG. Mr. Speaker, I have no further requests for time.

Mr. McCLORY. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. EILBERG) that the House suspend the rules and pass the bill H.R. 13349, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. EILBERG. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 13349, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

REVISE UNITED STATES CODE, TITLE 49, TRANSPORTATION LAWS

Mr. EILBERG. Mr. Speaker, I move to suspend the rules and pass the bill H.R. 10965, to revise, codify, and enact without substantive change, the Interstate Commerce Act and related laws as subtitle IV of title 49, United States Code, "Transportation," as amended.

The Clerk read as follows:

H.R. 10965

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That certain general and permanent laws of the United States, related to transportation, are revised, codified, and enacted as title 49, United States Code, "Transportation", as follows:

TITLE 49—TRANSPORTATION

Subtitle
I. [Reserved—Department of Transportation]
II. [Reserved—Transportation programs]
III. [Reserved—Air transportation]
IV. Interstate commerce
V. [Reserved—Miscellaneous]

SUBTITLE IV—INTERSTATE COMMERCE

Chapter
101. General provisions.
103. Interstate Commerce Commission.
105. Jurisdiction.
107. Rates, Tariffs, and Valuations.
109. Licensing.
111. Operations of Carriers.
113. Finance.
115. Federal-State Relations.
117. Enforcement: Investigations, Rights, and Remedies.
119. Civil and Criminal Penalties.

Chapter 101—GENERAL PROVISIONS

Sec.
10101. Transportation policy.
10102. Definitions.
10103. Remedies as cumulative.

§ 10101. Transportation policy

(a) To ensure the development, coordination, and preservation of a transportation system that meets the transportation needs of the United States, including the United States Postal Service and national defense, it is the policy of the United States Government to provide for the impartial regulation of the modes of transportation subject to this subtitle, and in regulating those modes—

(1) to recognize and preserve the inherent advantage of each mode of transportation;

(2) to promote safe, adequate, economical, and efficient transportation;

(3) to encourage sound economic conditions in transportation, including sound economic conditions among carriers;

(4) to encourage the establishment and maintenance of reasonable rates for transportation without unreasonable discrimination or unfair or destructive competitive practices;

(5) to cooperate with each State and the officials of each State on transportation matters; and

(6) to encourage fair wages and working conditions in the transportation industry.

(b) This subtitle shall be administered and enforced to carry out the policy of this section.

§ 10102. Definitions

In this subtitle—

(1) "broker" means a person, other than a motor carrier or an employee or agent of a motor carrier, that as a pincipal or agent sells, offers for sale, negotiates for, or holds itself out by solicitation, advertisement, or otherwise as selling, providing, or arranging for, transportation by motor carrier for compensation.

(2) "carrier" means a common carrier and a contract carrier.

(3) "car service" includes (A) the use, control, supply, movement, distribution, exchange, interchange, and return of locomotives, cars, other vehicles, and special types of equipment used in the transportation of property by a rail carrier, and (B) the supply of trains by a rail carrier.

(4) "common carrier" means an express carrier, a pipeline carrier, a rail carrier, a sleeping car carrier, a motor common carrier, a water common carrier, and a freight forwarder.

(5) "contract carrier" means a motor contract carrier and a water contract carrier.

(6) "control", when referring to a relationship between persons, includes actual control, legal control, and the power to exercise control, through or by (A) common directors, officers, stockholders, a voting trust, or a holding or investment company, or (B) any other means.

(7) "express carrier" means a person providing express transportation for compensation.

(8) "freight forwarder" means a person holding itself out to the general public (other than as an express, pipeline, rail, sleeping car, motor, or water carrier) to provide transportation of property for compensation and in the ordinary course of its business—

(A) assembles and consolidates, or provides for assembling and consolidating, shipments and performs or provides for break-bulk and distribution operations of the shipments;

(B) assumes responsibility for the transportation from the place of receipt to the place of destination; and

(C) uses for any part of the transportation a carrier subject to the jurisdiction of the Interstate Commerce Commission under subchapter I, II, or III of chapter 105 of this title.

(9) "highway" means a road, highway, street, and way in a State.

(10) "motor carrier" means a motor common carrier and a motor contract carrier.

(11) "motor common carrier" means a per-

son holding itself out to the general public to provide motor vehicle transportation for compensation over regular or irregular routes, or both.

(12) "motor contract carrier" means a person, other than a motor common carrier, providing motor vehicle transportation for compensation under continuing agreements with a person or a limited number of persons—

(A) by assigning motor vehicles for a continuing period of time for the exclusive use of each such person; or

(B) designed to meet the distinct needs of each such person.

(13) "motor private carrier" means a person, other than a motor carrier, transporting property by motor vehicle when—

(A) the transportation is as provided in section 10521(a)(1) and (2) of this title;

(B) the person is the owner, lessee, or bailee of the property being transported; and

(C) the property is being transported for sale, lease, rent, or bailment, or to further a commercial enterprise.

(14) "motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on a highway in transportation, or a combination determined by the Commission, but does not include a vehicle, locomotive, or car operated only on a rail, or a trolley bus operated by electric power from a fixed overhead wire, and providing local passenger transportation similar to street-railway service.

(15) "person", in addition to its meaning under section 1 of title 1, includes a trustee, receiver, assignee, or personal representative of a person.

(16) "pipeline carrier" means a person providing pipeline transportation for compensation.

(17) "rail carrier" means a person providing railroad transportation for compensation.

(18) "railroad" includes—

(A) a bridge, car float, lighter, and ferry used by or in connection with a railroad;

(B) the road used by a rail carrier and owned by it or operated under an agreement; and

(C) a switch, spur, track, terminal facility, and a freight depot, yard, and ground, used or necessary for transportation.

(19) "rate" means a rate, fare, or charge for transportation.

(20) "sleeping car carrier" means a person providing sleeping car transportation for compensation.

(21) "State" means a State of the United States and the District of Columbia.

(22) "tariff", when used in reference to a contract carrier, means a schedule.

(23) "transportation" includes—

(A) a locomotive, car, vehicle, motor vehicle, vessel, warehouse, wharf, pier, dock, yard, property, facility, instrumentality, or equipment of any kind related to the movement of passengers or property, or both, regardless of ownership or an agreement concerning use; and

(B) services related to that movement, including receipt, delivery, elevation, transfer in transit, refrigeration, icing, ventilation, storage, handling, and interchange of passengers and property.

(24) "United States" means the States of the United States and the District of Columbia.

(25) "vessel" means a watercraft or other artificial contrivance that is used, is capable of being used, or is intended to be used, as a means of transportation by water.

(26) "water carrier" means a water common carrier and a water contract carrier.

(27) "water common carrier" means a person holding itself out to the general public to provide water transportation for compensation.

(28) "water contract carrier" means a person, other than a water common carrier, providing water transportation for compensation under an agreement with another person, including transportation on a vessel provided to a person other than a carrier subject to the jurisdiction of the Commission under this subtitle when the vessel is used to transport only the property of the other person.

§ 10103. Remedies as cumulative

The remedies provided under this subtitle are in addition to remedies existing under another law or at common law.

Chapter 103—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER I—ORGANIZATION

Sec.
10301. General.
10302. Divisions of the Commission.
10303. Secretary of the Commission; public records.
10304. Employee boards.
10305. Delegation of authority.
10306. Conduct of proceedings.
10307. Office and sessions.
10308. Admission to practice.
10309. Access to records by congressional committees.
10310. Reporting official action.
10311. Annual report.

SUBCHAPTER II—ADMINISTRATIVE

10321. Powers.
10322. Initial decisions—nonrail proceedings.
10323. Rehearing, reargument, and reconsideration—nonrail proceedings.
10324. Commission action.
10325. Judicial review—nonrail proceedings.
10326. Limitations in rulemaking proceedings related to rail carriers.
10327. Commission action and appellate procedure in rail carrier proceedings.
10328. Intervention.
10329. Service of notice in Commission proceedings.
10330. Service of process in court proceedings.

SUBCHAPTER III—JOINT BOARDS

10341. Jurisdiction.
10342. Establishment.
10343. Powers.
10344. Administration.

SUBCHAPTER IV—RAIL SERVICE PLANNING OFFICE

10361. Organization.
10362. Duties.
10363. Director.
10364. Powers.

SUBCHAPTER V—OFFICE OF RAIL PUBLIC COUNSEL

10381. Organization.
10382. Duties; standing.
10383. Director.
10384. Office staff.
10385. Powers.
10386. Reports.
10387. Budget requests and estimates.
10388. Authorizations of appropriations.

SUBCHAPTER I—ORGANIZATION

§ 10301. General

(a) The Interstate Commerce Commission is an independent establishment of the United States Government.

(b) The Commission is composed of 11 members appointed by the President, by and with the advice and consent of the Senate. The President shall designate one of the members as Chairman. Not more than 6 members may be appointed from the same political party.

(c) The term of each member of the Commission is 7 years and begins when the term of the predecessor of that member ends. An individual appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed, is appointed for the remainder of that term. When the term of office of a member ends, the member may continue to serve until a successor is appointed and qualified. The President may remove a member for inefficiency, neglect of duty, or malfeasance in office.

(d) A member of the Commission may not have a pecuniary interest in, hold an official relation to, or own stock in or bonds of, a carrier providing transportation by any mode and may not engage in another business, vocation, or employment.

(e) A vacancy in the membership of the Commission does not impair the right of the remaining members to exercise all of the powers of the Commission. The Commission may designate a member to act as Chairman during any period in which there is no Chairman designated by the President.

(f) Subject to the general policies, decisions, findings, and determinations of the Commission, the Chairman is responsible for administering the Commission. The Chairman may delegate the powers granted under this subsection to an officer, employee, or administrative unit of the Commission. The Chairman shall—

(1) appoint and supervise, other than regular and full time employees in the immediate offices of another member, the officers and employees of the Commission, including attorneys to provide legal aid service to the Commission and its members, to represent the public interest in investigations and proceedings of the Commission, and to represent the Commission in any case in court;

(2) appoint the heads of major administrative units with the approval of the Commission;

(3) distribute Commission business among officers and employees and administrative units of the Commission;

(4) prepare requests for appropriations for the Commission and submit those requests to the President and Congress with the prior approval of the Commission; and

(5) supervise the expenditure of funds allocated by the Commission for major programs and purposes.

(g) The Commission shall have a seal that shall be judicially recognized.

(h) The expenses of the Commission shall be paid after presentation and approval by the Chairman of itemized vouchers.

§ 10302. Divisions of the commission

(a) The Interstate Commerce Commission may establish and assign Commissioners to serve on as many divisions as may be necessary and may designate any division as an appellate division. Each division shall be composed of at least 3 Commissioners. The Commission may assign a Commissioner to serve on more than one division.

(b) Unless otherwise directed by the Commission—

(1) the Commissioner senior in service of the Commissioners on a division is chairman of the division; and

(2) the Chairman of the Commission, or another Commissioner designated by the Chairman, may serve on a division temporarily, when there is a vacancy in the membership of the division or when another Commissioner is absent or unable to serve.

(c) The Commission shall designate each division numerically or by a term descriptive of the function of that division.

§ 10303. Secretary of the Commission; public records

(a) The Chairman of the Interstate Commerce Commission, with its approval, shall appoint the Secretary of the Commission.

(b) The Secretary is the custodian of public records filed with the Commission. Copies of classifications, tariffs, and all arrangements filed with the Commission under this subtitle, and the statistics, tables, and figures contained in reports made to the Commission under this subtitle, are public records. A public record, or a copy or extract of it, certified by the Secretary under the seal of the Commission is competent evidence in a proceeding of the Commission and in a judicial proceeding.

§ 10304. Employee boards

The Interstate Commerce Commission may establish employee boards composed of at least 3 employees. An employee who is a director or assistant director of a bureau, a chief of a section, an employee designated by the Commission, or an attorney may serve on a board.

§ 10305. Delegation of authority

(a) The Interstate Commerce Commission may delegate to a division, an individual Commissioner, an employee board, or an employee appointed under section 3105 of title 5, a matter before the Commission for action, including a matter referred to it by either House of Congress or by Congress. However, the Commission may not delegate a matter required to be referred to a joint board under section 10341 of this title, or a function vested in the Commission under this chapter. The Commission may change or rescind a delegation under this subsection at any time. When a Commissioner of employee cannot act on a matter delegated under this section because of absence or another reason, the Chairman of the Commission may designate another Commissioner or employee, as the case may be, to serve temporarily until the Commission otherwise orders.

(b) Delegation to a division of a matter related to the validity of rates shall be made according to the character of regulation exercised. The delegation of any such matter may not be made according to the kind of class of carrier involved or to the form or mode of transportation in which that carrier may be engaged.

(c) A division, individual Commissioner, employee board, or an employee may act on a matter delegated under subsection (a) of this section. When acting under this section, a division, individual Commissioner, board, or an employee has the same power and authority and is subject to the same duties and obligations as the Commission. Action taken under this section has the same force and is taken in the same manner as if taken by the Commission.

§ 10306. Conduct of proceedings

(a) A majority of the Interstate Commerce Commission, a division, or an employee board is a quorum for the transaction of business. A Commissioner, the Secretary of the Commission, a member of an employee board, or an employee delegated to act under section 10305 of this title may administer oaths.

(b) A party may appear and be heard before the Commission, a division, an individual Commissioner, a board, or an employee delegated to act under section 10305 of this title in person or by an individual admitted to practice under section 10308 of this title. A hearing before the Commission, a division, an individual Commissioner, a board, or an employee shall be made public on the request of an interested party.

(c) The Commission shall conform its forms for giving notice and their manner of service, to the extent practical, to those used by the courts of the United States.

(d) Votes and other official acts of the Commission, a division, an individual Commissioner, an employee board, or an employee delegated to act under section 10305 of this title shall be recorded and shall be made public on the request of an interested party.

(e) A member of a board and an employee delegated to act under section 10305 of this title may not have a pecuniary interest in, hold an official relation to, or own securities of a carrier providing transportation by any mode.

(f) The Commission shall review at least once every 3 years and revise as necessary the rules of practice for matters related to rail carriers adopted under section 305(c) of the Railroad Revitalization and Regulatory Reform Act of 1976 (90 Stat. 53).

§ 10307. Office and sessions.

(a) The principal office of the Interstate Commerce Commission is in the District of Columbia. Until otherwise provided by law, the Commission may obtain suitable offices for its use and may procure all necessary office supplies.

(b) General sessions of the Commission are held at its principal office. However, the Commission may hold special sessions in any part of the United States, for the convenience of the public or the parties and to avoid delay and expense. The Commission, an individual Commissioner, an employee board, or an employee delegated to act under section 10305 of this title may conduct proceedings under this subtitle in any part of the United States for the convenience of the parties.

§ 10308. Admission to practice

Subject to section 500 of title 5 the Interstate Commerce Commission may regulate the admission of individuals to practice before it and may impose a reasonable admission fee.

§ 10309. Access to records by congressional committees

(a) When the Committee on Interstate and Foreign Commerce of the House of Representatives or the Committee on Commerce, Science, and Transportation of the Senate makes a written request for a record in the possession or under the control of the Interstate Commerce Commission related to a matter involving a rail carrier providing transportation subject to this subtitle, the Commission shall send that record or a copy to the committee by the 10th day after the date of receipt of the request. If the record is not sent, the Commission shall send a written report to that committee within the 10-day period stating the reason why the record has not been sent and the anticipated date on which it will be sent. If the Commission transfers a record in its possession or under its control to another department, agency, or instrumentality of the United States Government, or to a person, it must condition the transfer on the guaranteed return of the record by the transferee to the Commission so that the Commission can comply with this subsection.

(b) Subsection (a) of this section does not apply to a record obtained by the Commission from a person subject to regulation by it if the record contains trade secrets or commercial or financial information of a privileged or confidential nature. Subsection (a) of this section does not limit other authority of Congress, either House of Congress, or a committee or subcommittee of either House, to obtain a record.

§ 10310. Reporting official action

(a) The Interstate Commerce Commission shall make a written report of each proceeding conducted on complaint or on its own initiative and furnish a copy to each party to that proceeding. The report shall include the findings, conclusions, and the order of the Commission and, if damages are awarded, the findings of fact supporting the award. The Commission may have its reports published for public use. A published report of the Commission is competent evidence of its contents.

(b)(1) When actions of the Commission in a matter related to a rail carrier is taken by the Commission, a division, a group of Commissioners, an individual Commissioner, an employee board, an employee delegated to act under section 10305 of this title, or another individual or group of individuals designated to take official action for the Commission, the written statement of that action (including a report, order, decision and order, vote, notice, letter, policy statements, or regulation) shall indicate—

(A) the official designation of the individual or group taking the action;

(B) the name of each individual taking, or participating in taking, the action; and

(C) the vote or position of each participating individual.

(2) If an individual member of a group taking an official action referred to in paragraph (1) of this subsection does not participate in it, the written statement of the action shall indicate that the member did not participate. An individual participating in taking an official action is entitled to express the views of that individual as part of the written statement of the action. In addition to any publication of the written statement, it shall be made available to the public under section 552(a) of title 5.

§ 10311. Annual report

The Interstate Commerce Commission shall prepare and send to the Congress an annual report before April 3 of each year. The Commission shall include in the annual report information that may be of value in answering questions related to regulation of transportation and the names and pay of individuals employed by the Commission. The Commission may include in its annual report, or send to Congress at any time, recommendations for additional legislation related to regulation of transportation.

SUBCHAPTER II—ADMINISTRATIVE

§ 10321. Powers

(a) The Interstate Commerce Commission shall carry out this subtitle. Enumeration of a power of the Commission in this subtitle does not exclude another power the Commission may have in carrying out this subtitle. The Commission may prescribe regulations in carrying out this subtitle.

(b) The Commission may—

(1) inquire into and report on the management of the business of carriers providing, and brokers for, transportation and service subject to this subtitle;

(2) inquire into and report on the management of the business of a person controlling, controlled by, or under common control with those carriers or brokers to the extent that the business of that person is related to the management of the business of that carrier or broker; and

(3) obtain from those carriers, brokers, and persons information the Commission decides is necessary to carry out this subtitle.

(c)(1) The Commission, an individual Commissioner, an employee board, and an employee delegated to act under section 10305 of this title may subpena witnesses and records related to a proceeding of the Commission from any place in the United States, to the designated place of the proceeding. If a witness disobeys a subpena, the Commission, or a party to a proceeding before the

Commission, may petition a court of the United States to enforce that subpena.

(2) Subpena may be signed by a Commissioner, the Secretary of the Commission, or a member of a board when the subpena relates to a matter delegated to the board under section 10305 of this title.

(3) The district courts of the United States have jurisdiction to enforce a subpena issued under this section. Trial is in the district in which the proceeding is conducted. The court may punish a refusal to obey a subbena as a contempt of court.

(d)(1) In a proceeding, the Commission may take the testimony of a witness by deposition and may order the witness to produce records. A party to a proceeding pending before the Commission may take the testimony of a witness by deposition and may require the witness to produce records at any time after a proceeding is at issue on petition and answer.

(2) If a witness fails to be deposed or to produce records under paragraph (1) of this subsection, the Commission may subpena the witness to take a deposition, produce the records, or both.

(3) A deposition may be taken before a judge of a court of the United States, a United States magistrate, a clerk of a district court, or a chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court, or court of common pleas of any State, or a notary public who is not counsel or attorney of a party or interested in the proceeding.

(4) Before taking a deposition, reasonable notice must be given in writing by the party or the attorney of that party proposing to take a deposition to the opposing party or the attorney of record of that party, whoever is nearest. The notice shall state the name of the witness and the time and place of taking the deposition.

(5) The testimony of a person deposed under this subsection shall be taken under oath. The person taking the deposition shall prepare, or cause to be prepared, a transcript of the testimony taken. The transcript shall be subscribed by the deponent.

(6) The testimony of a witness who is in a foreign country may be taken by deposition before an officer or person designated by the Commission or agreed on by the parties by written stipulation filed with the Commission. A deposition shall be filed with the Commission promptly.

(e) Each witness summoned before the Commission or whose deposition is taken under this section and the individual taking the deposition are entitled to the same fees and mileage paid for those services in the courts of the United States.

§ 10322. Inital decisions—nonrail proceedings

(a) When testimony is taken at a public hearing, an individual Commissioner, an employee board, or an employee delegated to act under section 10305 of this title shall issue an initial decision that includes a statement of reasons for the decision and an order. The decision and order shall be filed with the Interstate Commerce Commission. An initial decision becomes an action of the Commission on the 20th day after the initial decision is served on the interested parties, including persons referred to in section 10326(b) of this title if the proceeding involves a motor carrier, unless—

(1) an exception to the initial decision is filed by an interested party during that 20-day period or by the end of an extended period if authorized by the Commission, or a division or board designated by the Comission; or

(2) the Commission, or a division or board designated by the Commission, stays or postpones the initial decision.

(b) Before an initial decision of an individual Commissioner, a board, or an employee becomes an action of the Commission, a division or board designated by the Commission, or the Commission, may review the initial decision on its own initiative and shall review the initial decision if exception to it is filed under subsection (a)(1) of this section. An initial decision may be reviewed on the record on which it is based or by a further hearing. If an initial decision is reviewed, it is stayed or postponed pending final determination of the matter, and it is an action of the Commission only after the final determination is made.

§ 10323. Rehearing, reargument, and reconsideration—nonrail proceedings

(a) The Interstate Commerce Commission may grant rehearing, reargument, or reconsideration of a decision that has become an action of the Commission. A party to the proceeding may apply for rehearing, reargument, or reconsideration under Commission regulations. Except as provided in subsection (b)(2) of this section, the Commission may limit the right to apply for rehearing, reargument, or reconsideration of a decision of the Commission or a division to a proceeding or class of proceedings involving issues of general transportation importance.

(b)(1) An application for rehearing, reargument, or reconsideration shall be considered and acted on—

(A) by the Commission if the action of the Commission was taken by it; or

(B) by the Commission, or by an appellate division designated by the Commission, if the initial decision was made by a division, individual Commissioner, board, or employee.

(2) An application for rehearing, reargument, or reconsideration shall be granted and referred to an appellate division for action if—

(A) the matter was delegated for an initial decision to an individual Commissioner, board, or employee;

(B) the application is filed by the 20th day after the date the initial decision became an action of the Commission under section 10322 (a) of this title; and

(C) the matter has not been previously reviewed under section 10322(b) of this title.

(c) The Commission or an appellate division may change a decision of a division, an individual Commissioner, board, or employee if the decision appears unreasonable after rehearing, reargument, or reconsideration. However, the subsequent decision is subject to rehearing, reargument, or reconsideration under this section.

§ 10324. Commission action

(a) Unless otherwise provided in this subtitle, the Interstate Commerce Commission may determine, within a reasonable time, when its actions, other than an action ordering the payment of money, take effect. However, an action of the Commission in a proceeding involving a motor carrier, a broker, a water carrier, or freight forwarder may not take effect for 30 days.

(b) An action of the Commission remains in effect under its own terms or until superseded. The Commission may change, suspend, or set aside any such action on notice. Notice may be given in a manner determined by the Commission. A court of competent jurisdiction may suspend or set aside any such action.

(c) An action of the Commission is enforceable unless—

(1) application for rehearing, reargument, or reconsideration is made under section 10323 of this title before the effective date of the action; or

(2) the Commission stays or postpones the action.

§ 10325. Judicial review—nonrail proceedings

A civil action to enforce, enjoin, suspend, or set aside an action of the Interstate Commerce Commission taken by a division, individual Commissioner, employee board, or employee delegated to act under section 10305 of this title may be started in a court of the United States only—

(1) on denial of an application for rehearing, reargument, or reconsideration; or

(2) if the application is granted, after a rehearing, reargument, reconsideration or other disposition by the Commission or an appellate division under section 10323 of this title.

§ 10326. Limitations in rulemaking proceedings related to rail carriers

(a) When, under section 553(e) of title 5, an interested person (including a governmental authority) petitions the Interstate Commerce Commission to begin a rulemaking proceeding in a matter related to a rail carrier providing transportation subject to this subtitle, the Commission, or a division, an individual Commissioner, an employee board, an employee delegated to act under section 10305 of this title, or another person authorized to act on behalf of the Commission for any part of the proceeding, shall grant or deny that petition by the 120th day after receiving it. If the petition is granted, the Commission, or its delegate, shall begin an appropriate proceeding as soon as practicable. If the petition is denied, the reasons for the denial shall be published in the Federal Register.

(b)(1) If a petition is denied or action is not taken within the 120-day period under subsection (a) of this section, the petitioner may begin a civil action in an appropriate court of appeals of the United States for an order directing the Commission to begin a proceeding to take the action requested in the petition. A civil action under this subsection must be filed by the 60th day after the date of the denial or by the 60th day after the end of the 120-day period, whichever is appropriate.

(2) The court of appeals shall order the Commission to begin the action requested in the record before the Commission or its court finds that the action requested in that petition is necessary and failure to take that action will result in the continuation of practices that are not consistent with the public interest or are not in accordance with this subtitle. The finding of the court must be based on a preponderance of the evidence in the record before the Coommission or its delegate, or, if the civil action is based on a petition on which action was not taken, in a new proceeding before the court. The court may not require the Commission to take action under this subtitle other than to begin a rulemaking proceeding.

§ 10327. Commission action and appellate procedure in rail carrier proceedings.

(a) Notwithstanding sections 10322, 10328, and 10324(c) of this title, this section applies to a matter before the Interstate Commerce Commission involving a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title. However, other sections of this subtitle related to action of the Commission in proceedings involving rail carriers supersede this section to the extent that they are inconsistent with the provisions of this section related to deadlines.

(b) A division, individual Commissioner, employee board, or employee delegated under section 10305 of this title to make an initial decision in a matter related to one of those rail carriers shall complete all evidentiary proceedings related to the matter by the 180th day after assignment of the matter. The initial decision shall be submitted to the Commission in writing. If evidence is submitted in writing or testimony is taken at a public hearing, the initial decision shall be submitted to the Commission in writing by the 120th day after completion of all evidentiary proceedings and shall include—

(1) specific findings of fact;

(2) specific and separate conclusions of law;

(3) an order; and

(4) justification of the findings of fact, conclusions of law, and order.

(c) The Commission, or a division designated by the Commission, may void the requirement of an initial decision under subsection (b) of this section and may require the matter to be considered by the Commission or that division on finding that the matter involves a question of Commission policy, a new or novel issue of law, or an issue of general transportation importance, or that it is required for the timely execution of its functions.

(d) In a proceeding under this section, after the parties have had at least an opportunity to submit evidence in written form, the Commission shall give them an opportunity for briefs, written statements, or conferences of the parties. A conference of the parties must be chaired by a division, an individual Commissioner, an employee board, an employee delegated to act under section 10305 of this title, or an employee designated by the Commission.

(e) Copies of an initial decision under subsection (b) of this section shall be served on the interested parties. An initial decision becomes an action of the Commission on the 20th day after it is served on the interested parties, unless—

(1) an interested party files an appeal during the 20-day period, or by the end of an additional period of not more than 20 days, if authorized by the Commission or division designated by the Commission; or

(2) the Commission stays or postpones the initial decision under subsection (g)(2) or (j) of this section within the period or additional period referred to in clause (1) of this subsection.

(f)(1) Before an initial decision becomes an action of the Commission, the Commission, or a division or board designated by the Commission, may review the initial decision on its own initiative, and shall review ah initial decision if an appeal is filed under subsection (e)(1) of this section. However, a board may not decide an appeal from an initial decision if the appeal may be further appealed to the Commission.

(2) An initial decision may be reviewed on the record on which it is based or by a further hearing. If an initial decision is reviewed, it shall be stayed pending final determination of the matter, and it is an action of the Commission only after the final determination is made. If an appeal is filed under subsection (e)(1) of this section, the final determination shall be made by the 180th day after the appeal is filed.

(3) Review of, or appeal from, an initial decision shall be conducted under section 557 of title 5. The Commission may prescribe rules limiting and defining the issues and pleadings on review under section 557(b) of that title.

(g)(1) The Commission may, at any time on its own initiative because of material error, new evidence, or substantially changed circumstances—

(A) reopen a proceeding;

(B) grant rehearing, reargument, or reconsideration of an action of the Commission; and

(C) change an action of the Commission.

An interested party may petition to reopen and reconsider an action of the Commission under this paragraph under regulations of the Commission.

(2) The Commission may grant a rehearing, reargument, or reconsideration of an action of the Commission that was taken by a division designated by the Commission if it finds that—

(A) the action involves a matter of general transportation importance; or

(B) the action would be affected materially because of clear and convincing new evidence or changed circumstances.

An interested party may petition for rehearing, reargument, or reconsideration of an action of the Commission under this paragraph under regulations of the Commission. The Commission may stay an action pending a final determination under this paragraph. The Commission shall complete reconsideration and take final action by the 120th day after the petition is granted.

(h) An action of the Commission under this section and an action of a designated division under subsection (c) of this section is effective on the 30th day after service on the parties to the proceeding unless the Commission provides for it to become effective on an earlier date.

(i) Notwithstanding this subtitle, an action of the Commission under this section and an action of a designated division under subsection (c) of this section is final on the date on which it is served, and a civil action to enforce, enjoin, suspend, or set aside the action may be filed after that date.

(j) The Commission may extend a time period established by this section for a period of not more than 90 days. The extension shall be granted if a majority of the Commissioners agree to it by public vote. The Commission shall send a written annual report to each House of Congress about extensions granted under this subsection. The report shall specify each extension granted (classified by the type of proceeding involved) together with the reasons for and duration of each extension.

(k) If an extension granted under subsection (j) of this section is not sufficient to allow for completion of necessary proceedings, the Commission may grant a further extension in an extraordinary situation if—

(1) at least 7 Commissioners agree to the further extension by public vote; and

(2) not later than the 15th day before expiration of the extension granted under subsection (j) of this section, the Commission submits a written report to the Congress that a further extension has been granted. The report shall include—

(A) a full explanation of the reasons for the further extension;

(B) the anticipated duration of the further extension;

(C) the issues involved in the matter before the Commission; and

(D) the names of personnel of the Commission working on the matter.

§ 10328. Intervention

(a) Designated representatives of employees of a carrier may intervene and be heard in a proceeding arising under this subtitle that affects those employees.

(b) Under regulations of the Interstate Commerce Commission, reasonable notice of, and an opportunity to intervene and participate in, a proceeding under this subtitle related to transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title that is, or is proposed to be, provided in a State shall be given to interested persons and to the authority of that State having jurisdiction to regulate transportation by motor vehicles in intrastate commerce on the highways of that State, or, if there is no such authority, to the chief executive officer of the State.

§ 10329. Service of notice in Commission proceedings

(a)(1) A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title shall designate an agent in the District of Columbia, on whom service of notices in a proceeding before, and of actions of, the Commission may be made.

(2) A motor carrier, a broker, a water carrier, or a freight forwarder providing transportation or service subject to the jurisdiction of the Commission under subchapter II, III, or IV of chapter 105 of this title shall designate an agent by name and post office address on whom service of notices in a proceeding before, and of actions of, the Commission may be made.

(b) A designation under subsection (a) of this section shall be in writing and filed with the Commission. A motor carrier or broker providing transportation under a certificate or permit issued under this subtitle shall also file the designation with the authority of each State in which it operates having jurisdiction to regulate transportation by motor vehicle in intrastate commerce on the highways of that State. The designation may be changed at any time in the same manner as originally made.

(c) Except as otherwise provided, notices of the Commission shall be served as follows:

(1) A notice of the Commission to a rail, express, sleeping car, or pipeline carrier is served on its designated agent at the office or usual place of residence in the District of Columbia of that agent. A notice of action of the Commission shall be served immediately on the agent or in another manner provided by law. If that carrier does not have a designated agent, service may be made by posting the notice in the office of the Secretary of the Commission.

(2) A notice to a motor carrier or broker is served personally or by mail on the motor carrier or broker or its designated agent. Service by mail on the designated agent is made at the address filed for the agent. When notice is given by mail, the date of mailing is considered to be the time when the notice is served. If a motor carrier or broker does not have a designated agent, service may be made by posting a copy of the notice in the office of the secretary or clerk of the authority having jurisdiction to regulate transportation by motor vehicle in intrastate commerce on the highways of the State in which the carrier or broker maintains headquarters and in the office of the Secretary of the Commission.

(3) A notice to a water carrier or freight forwarder is served personally or by mail on the water carrier or freight forwarder or its designated agent. Service by mail on the designated agent is made at the address filed for the agent. When notice is given by mail, the date of mailing is considered to be the time when notice is served. If a water carrier or freight forwarder does not have a designated agent, service may be made by posting the notice in the office of the Secretary of the Commission.

(d) In a proceeding involving the lawfulness of classifications, rates, or practices of (1) a rail, express, sleeping car, or pipeline carrier that has not designated an agent under this section, or (2) a freight forwarder, service of notice of the Commission on an attorney in fact who filed the tariff for the car-

rier constitutes service of notice on the carrier.

(e) In a proceeding involving the lawfulness of classifications, rates, or practices—

(1) service of notice of the suspension of a tariff on an attorney in fact of a carrier or broker, except a freight forwarder, constitutes service of notice on the carrier or broker if that attorney filed the tariff and, if the carrier is a water carrier, the notice specifies the classifications, rates, or practices involved; and

(2) service of notice of the suspension of a joint tariff or schedule on a carrier or a broker, except a freight forwarder, that filed that tariff or schedule to which another carrier or broker is a party and, if the carrier is a water carrier, the notice specifies the classifications, rates, or practices involved, constitutes service of notice on all carriers or brokers that are parties to the joint tariff.

Service of notice under this subsection may be made by mail on that attorney or carrier at the address shown in the tariff.

§ 10330. Service of process in court proceedings

(a) A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title shall designate an agent in the District of Columbia on whom service of process in an action before a district court may be made. Except as otherwise provided, process in an action before a district court shall be served on the designated agent of that carrier at the office or usual place of residence in the District of Columbia of that agent. If the carrier does not have a designated agent, service may be made by posting the notice in the office of the Secretary of the Commission.

(b) A motor carrier or broker providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title, including a motor carrier or broker operating within the United States while providing transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country, shall designate an agent in each State in which it operates by name and post office address on whom process issued by a court with subject matter jurisdiction may be served in an action brought against that carrier or broker. The designation shall be in writing and filed with the Commission and with the authority of each State in which the motor carrier or broker operates having jurisdiction to regulate transportation by motor vehicle in intrastate commerce on the highways of that State. If a designation under this subsection is not made, service may be made on any agent of the carrier or broker within that State.

(c) A designation under this section may be changed at any time in the same manner as originally made.

SUBCHAPTER III—JOINT BOARDS

§ 10341. Jurisdiction.

(a) The Interstate Commerce Commission may refer a matter related to motor carriers providing, or brokers for, transpotation subject to the juisdiction of the Commission under subchapter II of chapter 105 of this title, to a joint board established under section 10342 of this title for action. When the operation of a motor carrier or broker involves not more than 3 States, the Commission shall refer the following matters to a joint board for action when an opportunity for a proceeding is required or when the Commission finds that it is desirable:

(1) an application for a certificate, permit, or license.

(2) a suspension, changed, or revocation of a certificate, permit, or license.

(3) an application for approval and authorization of a consolidation, merger, or acquisition of control or of an operating contract.

(4) a complaint about a violation by a motor carrier or broker of a requirement established under section 10321(a), 10525, 11101(b), or 11142(b) of this title.

(5) a complaint about rates of motor carriers or practices of brokers.

(b) Notwithstanding subsection (a) of this section, if the Commission is prevented by legal proceedings from referring a matter to a joint board, the Commission may determine the matter under subchapter II of this chapter.

§ 10342. Establishment

(a) The Interstate Commerce Commission may establish and abolish joint boards as necessary to carry out section 10341 of this title. Except as provided in this section, a joint board is composed of a member from each State in which transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title is, or is proposed to be, provided. The Commission may appoint an individual nominated under subsection (b) of this section as a member of a joint board.

(b) The member of a joint board from a State shall be nominated by the State authority having jurisdiction to regulate intrastate transportation by motor vehicle on the highways of that State. If there is no such authority in that State or if that authority does not nominate a member when requested by the Commission, the chief executive officer of the State may nominate the member. If both that State authority and the chief executive officer of that State do not nominate a member when requested, the board is constituted without a member from that State if the Commission has appointed members for at least 2 other States to the board.

(c) When a matter required to be referred to a joint board involves the operation of a motor carrier in or through a place outside the United States, if only one State is involved or if only one State nominates an individual to be a member of the joint board, that State may nominate and the Commission may appoint not more than 3 members to the board.

(d) A substitution in the membership of a joint board may be made at any time in the same manner as an initial nomination and appointment under this section.

§ 10343. Powers

(a) When conducting a proceeding involving a matter referred under section 10341 of this title, a joint board may make an initial decision under section 10322 of this title. Subchapter II of this chapter applies to an initial decision of a joint board. However, a joint board may report to the Interstate Commerce Commission its conclusions on evidence received without making an initial decision. When a joint board makes a report instead of an initial decision, the Commission shall decide the matter. The Commission may consider the conclusions of the joint board in making its decision.

(b) A joint board may make an initial decision or report of its conclusions only by a majority vote. However, if only one member of the board participates in the proceeding, that member shall make the initial decision alone.

(c) When a member of a joint board does not participate in a proceeding referred to that board, after notice of the proceeding, the State from which that member was appointed waives its right to act in that proceeding. The waiver does not affect the duty or power of remaining members of the board to continue the proceeding and make an initial decision.

(d) In addition to decisions made under subsection (a) of this section, the Commission shall decide a matter referred to a joint board when—

(1) the authority of each State from which a member of the board may be appointed waives action on a matter referred to that board;

(2) a joint board does not act, or cannot agree, on a matter referred to it in 45 days after the matter is referred to it (or in another period authorized by the Commission); or

(3) a member is nominated for only one State, except as provided in section 10342(c) of this title.

§ 10344. Administration

(a) Meetings and procedures of joint boards shall be conducted under regulations of the Interstate Commerce Commission. The Commission may designate an employee appointed under section 3105 of title 5 to advise and assist a joint board.

(b) When practicable and when directed by the Commission, a proceeding involving a matter referred to a joint board shall be held at a place in the United States that is convient to the parties to the proceeding.

(c) The members of joint boards and employees designated to advise and assist them under subsection (a) of this section may administer oaths, subpena witnesses and the production of records, and take depositions under section 10321 of this title related to matters referred to the boards.

(d) When carrying out this subtitle, members of joint boards shall receive an allowance for travel and subsistence expenses as the Commission shall provide.

(e) A member of a joint board may not have a pecuniary interest in, hold an official relation to, or own securities of, a carrier providing transportation by any mode.

(f) The Administrator of General Services shall assign space and facilities in the Interstate Commerce Commission building not required by the Commission for the use of the national organization of the State commissions and their represenetatives. The space and facilities shall be available for the use of joint boards and for members and representatives of those boards cooperating with the Commission or with another department, agency, or instrumentality of the United States Government. If suitable space is not available in the Interstate Commerce Commission building, the Administrator shall assign space in another building in convenient proximity to it.

SUBCHAPTER IV—RAIL SERVICES PLANNING OFFICE

§ 10361. Organization

The Rail Services Planning Office is an office in the Interstate Commerce Commission.

§ 10362. Duties

(a) In this section—

(1) "avoidable costs of providing transportation", "reasonable management fee", "reasonable return on the value", and "revenue attributable to the rail properties" have the same meanings as they have when used in section 744 of title 45.

(2) "avoidable cost of providing rail freight transportation" has the same meaning as it has when used in section 10905(b)(2)(A) of this title.

(b) The Rail Services Planning Office shall—

(1) assist the Interstate Commerece Commission in studying and evaluating proposals, submitted to the Commission under subchapter III of chapter 113 of this title for

a merger, consolidation, unification, or coordination project, joint use of tracks or other facilities or acquisition or sale of assets involving a rail carrier subject to this subtitle;

(2) assist the Commission in developing, with respect to economic regulation of transportation, policies likely to result in a more competitive, energy-efficient, and coordinated transportation system using each mode of transportation to its maximum advantage to meet the transportation needs of the United States;

(3) assist States and local and regional transportation authorities in deciding whether to provide rail transportation continuation subsidies to continue in operation particular rail properties, by establishing criteria for determining whether particular rail properties are suitable for rail transportation continuation subsidies;

(4) conduct continuously an analysis of the national rail transportation needs, evaluate the policies, plans, and programs of the Commission on the basis of the analysis, and advise the Commission of the results of the evaluation;

(5) maintain regulations that contain—

(A) standards for the computation of subsidies for rail passenger service (except passenger transportation compensation disputes subject to the jurisdiction of the Commission under section 562(a) of title 45) that are consistent with the compensation principles described in the final system plan established under the Regional Rail Reorganization Act of 1973 (87 Stat. 985), as amended, and which avoid cross-subsidization among commuter, intercity, and freight rail transportation; and

(B) standards for determining emergency commuter rail passenger transportation operating payments under section 1613 of this title;

(6) maintain, and from time to time revise and republish after a proceeding under section 553 of title 5, standards for determining the revenue attributable to the rail properties, the avoidable costs of providing transportation, a reasonable return on the value, and a reasonable management fee;

(7) maintaine regulations that—

(A) develop an accounting system permitting the collection and publication by the Consolidated Rail Corporation or bv profitable rail carriers providing transportation over lines scheduled for abandonment, of information necessary for an accurate determination of the attributable revenues, avoidable costs, and operations of light density lines as operating and economic units; and

(B) determine the avoidable cost of providing rail freight transportation; and

(8) carry out other duties conferred on the Office by law.

(c) The criteria referred to in subsection (b)(3) of this section shall provide that rail properties are suitable for rail transportation continuation subsidies if the cost of the required subsidy to the taxpayers for the properties each year is less than—

(1) the cost of termination of rail transportation over the properties measured by increased fuel consumption and operational costs for alternative modes of transportation;

(2) the cost to the gross national product in terms of reduced output of goods and services;

(3) the cost of relocating or assisting, through unemployment, retraining, and welfare benefits, individuals and firms adversely affected if the rail transportation is terminated; and

(4) the cost to the environment measured by damage caused by increased pollution.

(d) The Office may at any time revise and republish the standards and regulations required by this section to incorporate changes made necessary by the accounting system developed under subsection (b)(7) of this section.

§ 10363. Director

(a) The Director is the head of the Rail Services Planning Office and is responsible for administering and carrying out the duties of the Office.

(b) The Director is appointed for a term of 6 years by the Chairman of the Interstate Commerce Commission with the concurrence of at least 5 members of the Commission. The Director may be removed by the Commission only for cause.

(c) The Director is appointed without regard to those provisions of title 5 governing appointments in the competitive service and is paid without regard to chapter 51 and subchapter III of chapter 53 of title 5. However, the annual rate of basic pay of the Director may not exceed the rate for GS-18.

(d) The Director is subject to the direction of, and shall report to, a Commissioner or the Chairman, as designated by the Chairman.

§ 10364. Powers.

(a) With the concurrence of the Commissioner designated under section 10363(d) of this title or, if the Director of the Rail Services Planning Office and the Commissioner disagree (and that Commissioner is not the Chairman), with the concurrence of the Chairman of the Commission, the Director may enter into agreements or other transactions necessary to carry out the duties of the Office. The transactions may be entered into with any person, including a governmental authority, and without regard to section 5 of title 41.

(b) On written request of the Director for assistance, each department, agency, and instrumentality of the United States Government shall consider the request, and may furnish assistance the Director considers necessary to carry out the duties of the Office. Assistance may be furnished on a reimbursable or nonreimbursable basis. Assistance includes the transfer of an officer or employee, with the consent, and without prejudice to the position and rating, of the officer or employee.

SUBCHAPTER V—OFFICE OF RAIL PUBLIC COUNSEL

§ 10381. Organization

The Office of Rail Public Counsel is an independent office affiliated with the Interstate Commerce Commission.

§ 10382. Duties; standing

(a) The Office of Rail Public Counsel—

(1) may petition the Interstate Commerce Commission to begin a proceeding on a matter within the jurisdiction of the Commission involving a rail carrier subject to this subtitle;

(2) may seek judicial review of Commission action on a matter involving a rail carrier providing transportation subject to this subtitle, to the extent, and on the same basis, that a person may seek judicial review;

(3) shall solicit, study, evaluate, and present before an informal or formal proceeding of the Commission, the views of those communities and users of rail transportation affected by a proceeding begun by, or pending before, the Commission, when the Director of the Office determines, for whatever reason (such as size or location), that any such community or user might not otherwise be represented adequately at the proceeding;

(4) shall—

(A) before the Commission and other departments, agencies, and instrumentalities of the United States Government when the policies and activities of any such department, agency, or instrumentality affect rail transportation subject to the jurisdiction of the Commission, evaluate and represent the public interest in safe, efficient, reliable, and economical rail transportation; and

(B) assist in constructively representing that public interest by other means;

(5) in carrying out its duties under clauses (1)–(4) of this subsection, shall assist the Commission in developing a public interest record in proceedings before the Commission; and

(6) shall carry out other duties conferred on the Office by law.

(b) The Office has standing as a party to any informal or formal proceeding that is pending or begun before the Commission involving a rail carrier providing transportation subject to this subtitle.

§ 10383. Director

(a) The Director is the head of the Office of Rail Public Counsel and is responsible for administering and carrying out the duties of the Office.

(b) The Director is appointed by the President, by and with the advice and consent of the Senate, for a term of 4 years.

(c) The Director is paid without regard to chapter 51 and subchapter III of chapter 53 of title 5. However, the annual rate of basic pay of the Director may not exceed the rate for GS-18.

§ 10384. Office staff

The Director of the Office of Rail Public Counsel may—

(1) appoint and fix the pay of employees of the Office; and

(2) procure under section 3109 of title 5, the temporary or intermittent services of experts and consultants.

§ 10385. Powers

(a) Without regard to section 5 of title 41, the Director of the Office of Rail Public Counsel may enter into agreements or other transactions necessary to carry out the duties of the Office.

(b) On request of the Director for information, each department, agency, and instrumentality of the United States Government may furnish the information requested.

§ 10386. Reports

The Director of the Office of Rail Public Counsel shall submit each month to the Chairman of the Interstate Commerce Commission a report on the activities of the Office for the preceding month. In its annual report to Congress, the Commission shall include its evaluation and recommendations with respect to the activities, accomplishments, and shortcomings of the Office.

§ 10387. Budget requests and estimates

The Office of Rail Public Counsel shall submit its budget requests and budget estimates concurrently to Congress and to the President.

§ 10388. Authorizations of appropriations

Not more than $1,000,000 may be appropriated to the Office of Rail Public Counsel for the fiscal year ending September 30, 1978, to carry out this subchapter.

CHAPTER 105—JURISDICTION

SUBCHAPTER I—RAIL, RAIL-WATER, EXPRESS, AND PIPELINE CARRIER TRANSPORTATION

Sec.
10501. General jurisdiction.
10502. Express carrier transportation.
10503. Railroad and water transportation connections and rates.
10504. Exempt rail mass transportation.
10505. Authority to exempt rail carrier transportation.

SUBCHAPTER II—MOTOR CARRIER TRANSPORTATION

10521. General jurisdiction.

10522. Exempt transportation between Alaska and other States.
10523. Exempt motor vehicle transportation in terminal areas.
10524. Transportation furthering a primary business.
10525. Exempt motor carrier transportation entirely in one State.
10526. Miscellaneous motor carrier transportation exemptions.

SUBCHAPTER III—WATER CARRIER TRANSPORTATION

10541. General jurisdiction.
10542. Exempt bulk transportation.
10543. Exempt incidental water transportation.
10544. Miscellaneous water carrier transportation exemptions.

SUBCHAPTER IV—FREIGHT FORWARDER SERVICE

10561. General jurisdiction.
10562. Exempt freight forwarder service.

SUBCHAPTER V—RAIL, RAIL-WATER, EXPRESS, AND PIPELINE CARRIER TRANSPORTATION

§ 10501. General jurisdiction

(a) Subject to this chapter and other law, the Interstate Commerce Commission has jurisdiction over transportation—

(1) by rail carrier, express carrier, sleeping car carrier, water common carrier, and pipeline carrier that is—

(A) only by railroad;

(B) by railroad and water, when the transportation is under common control, management, or arrangement for a continuous carriage or shipment; or

(C) by pipeline or by pipeline and railroad or water when transporting a commodity other than water, gas, or oil; and

(2) to the extent the transportation is in the United States and is between a place in—

(A) a State and a place in another State;

(B) the District of Columbia and another place in the District of Columbia;

(C) a State and a place in a territory or possession of the United States;

(D) a territory or possession of the United States and a place in another such territory or possession;

(E) a territory or possession of the United States and another place in the same territory or possession;

(F) the United States and another place in the United States through a foreign country; or

(G) the United States and a place in a foreign country.

(b) The Commission does not have jurisdiction under subsection (a) of this section over—

(1) the transportation of passengers or property, or the receipt, delivery, storage, or handling of property, entirely in a State (other than the District of Columbia) and not transported between a place in the United States and a place in a foreign country except as otherwise provided in this subtitle; or

(2) transportation by a water common carrier when that transportation would be subject to this subchapter only because the water common carrier absorbs, out of its port-to-port water rates or out of its proportional through rates, a switching, terminal, lighterage, car rental, trackage, handling, or other charge by a rail carrier for services in the switching, drayage, lighterage, or corporate limits of a port terminal or district.

(c) This subtitle does not affect the power of a State, in exercising its police power, to require reasonable intrastate transportation by carriers providing transportation subject to the jurisdiction of the Commission under this subchapter unless the State requirement is inconsistent with an order of the Commission issued under this subtitle or is prohibited under this subtitle.

§ 10502. Express carrier transportation

The Interstate Commerce Commission has jurisdiction under this subchapter, and not under subchapter II or III of this chapter, over transportation of an express carrier—

(1) by motor vehicle, to the extent the transportation was subject to the jurisdiction of the Commission on September 18, 1940, under part I of the Interstate Commerce Act (24 Stat. 379), as amended; and

(2) by water in providing express transportation.

§ 10503. Railroad and water transportation connections and rates

(a) When a rail carrier and a water common carrier may or do provide jointly, transportation, not entirely in one State from a place in the United States to another place in the United States, even if part of the transportation is outside the United States, the Interstate Commerce Commission has the following jurisdiction over that transportation:

(1) To establish a physical connection between the railroad lines of the rail carrier and the dock at which an interchange is to be made, the Commission may—

(A) require the rail carrier to make a suitable connection between its lines and tracks that have been constructed from the dock to the limits of the railroad right-of-way;

(B) subject to the same restrictions on findings of public convenience and necessity and other matters that are imposed on construction under sections 10901, 10902, and 10907 of this title, require the rail carrier or water common carrier, or both, to construct to the dock at least one track connecting with the lines of the rail carrier;

(C) determine and prescribe the conditions under which a connecting track is to be operated; and

(D) in the construction or operation of the track, determine the sum to be paid to, or by, either carrier.

(2) The Commission may—

(A) prescribe proportional rates, maximum proportional rates, minimum proportional rates, or maximum and minimum proportional rates, of a rail carrier to and from the ports to which the passengers or property is transported by the water common carrier; and

(B) determine the passengers, property, vessels, and on which conditions those rates apply.

In this paragraph, "proportional rates" means those rates that differ from the corresponding local rates to and from a port and apply only to passengers or property brought to the port or carried from the port by a water common carrier.

(b) The Commission may act under this section only after a full hearing. An order entered as the result of an action may be conditioned on giving security for the payment of an amount of money or the discharge of an obligation that is required to be paid or discharged under that order.

§ 10504. Exempt rail mass transportation

(a) In this section—

(1) "local public body"—

(A) has the same meaning given that term by section 1608(c)(2) of this title; and

(B) includes a person or entity that contracts with the local public body to provide transportation services.

(2) "rail mass transportation" means transportation services described in section 1608(c)(5) of this title that are provided by rail.

(b) The Interstate Commerce Commission does not have jurisdiction under this subtitle over rail mass transportation provided by a local public body if—

(1) the Commission would have jurisdiction but for this section; and

(2) the fares of the local public body, or its authority to apply to the Commission for changes in those fares, is subject to the approval or disapproval of the chief executive officer of the State in which the transportation is provided.

§ 10505. Authority to exempt rail carrier transportation

(a) In a matter related to a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under this subchapter, the Commission shall exempt a person, class of persons, or a transaction or service because of the limited scope of the transaction or service, when the Commission finds that the application of a provision of this subtitle—

(1) is not necessary to carry out the transportation policy of section 10101 of this title;

(2) would be an unreasonable burden on a person, class of persons, or interstate and foreign commerce; and

(3) would serve little or no useful public purpose.

(b) The Commission may begin a proceeding under this section on its own initiative or on application by the Secretary of Transportation or an interested party. The Commission may specify the period of time during which the exemption is effective.

(c) The Commission may revoke an exemption, to the extent it specifies, when it finds that application of a provision of this subtitle to the person, class, or transportation is necessary—

(1) to carry out the transportation policy of section 10101 of this title;

(2) to achieve effective regulation by the Commission; and

(3) to serve a useful public purpose.

(d) The Commission may act under this section only after an opportunity for a proceeding.

SUBCHAPTER II—MOTOR CARRIER TRANSPORTATION

§ 10521. General jurisdiction

(a) Subject to this chapter and other law, the Interstate Commerce Commission has jurisdiction over transportation by motor carrier and the procurement of that transportation to the extent that passengers, property, or both, are transported by motor carrier—

(1) between a place in—

(A) a State and a place in another State;

(B) a State and another place in the same State through another State;

(C) the United States and a place in a territory or possession of the United States to the extent the transportation is in the United States;

(D) the United States and another place in the United States through a foreign country to the extent the transportation is in the United States; or

(E) the United States and a place in a foreign country to the extent the transportation is in the United States; and

(2) in a reservation under the exclusive jurisdiction of the United States or on a public highway.

(b) This subtitle does not—

(1) affect the power of a State to regulate intrastate transportation provided by a motor carrier;

(2) authorize the Commission to prescribe or regulate a rate for intrastate transportation provided by a motor carrier;

(3) allow a motor carrier to provide intrastate transportation on the highways of a State; or

(4) except as provided in section 11504(b) of this title, affect the taxation power of a State over a motor carrier.

§ 10522. Exempt transportation between Alaska and other States

To the extent that transportation by a motor carrier between a place in Alaska and a place in another State under section 10521 of this title is provided in a foreign country—

(1) the Interstate Commerce Commission does not have jurisdiction to impose a requirement over conduct of the motor carrier in the foreign country conflicting with a requirement of that country; but

(2) the motor carrier, as a condition of providing transportation in the United States, shall comply, with respect to all transportation provided between Alaska and the other State, with the requirements of this subtitle related to rates and practices applicable to the transportation.

§ 10523. Exempt motor vehicle transportation in terminal areas

(a)(1) The Interstate Commerce Commission does not have jurisdiction under this subchapter over transportation by motor vehicle provided in a terminal area when the transportation—

(A) is a transfer, collection, or delivery;

(B) is provided by—

(i) a rail carrier subject to the jurisdiction of the Commission under subchapter I of this chapter;

(ii) a water carrier subject to the jurisdiction of the Commission under subchapter III of this chapter; or

(iii) a freight forwarder subject to the jurisdiction of the Commission under subchapter IV of this chapter; and

(C) is incidental to transportation provided by the carrier or service provided by the freight forwarder that is subject to the jurisdiction of the Commission under any of those subchapters.

(2) Transportation exempt from the jurisdiction of the Commission under paragraph (1) of this subsection is subject to the jurisdiction of the Commission under subchapter I of this chapter when provided by such a rail carrier, under subchapter III of this chapter when provided by such a water carrier, and under subchapter IV of this chapter when provided by such a freight forwarder.

(b)(1) Except to the extent provided in paragraph (2) of this subsection, the Commission does not have jurisdiction under this subchapter over transportation by motor vehicle provided in a terminal area when the transportation—

(A) is a transfer, collection, or delivery; and

(B) is provided by a person as an agent or under other arrangement for—

(i) a rail carrier or express carrier subject to the jurisdiction of the Commission under subchapter I of this chapter;

(ii) a motor carrier subject to the jurisdiction of the Commission under this subchapter;

(iii) a water carrier subject to the jurisdiction of the Commission under subchapter III of this chapter; or

(iv) a freight forwarder subject to the jurisdiction of the Commission under subchapter IV of this chapter.

(2) Transportation exempt from the jurisdiction of the Commission under paragraph (1) of this subsection is considered transportation provided by the carrier or service provided by the freight forwarder for whom the transportation was provided and is subject to the jurisdiction of the Commission under subchapter I of this chapter when provided for such a rail carrier or express carrier, under this subchapter when provided for such a motor carrier, under subchapter III of this chapter when provided for such a water carrier, and under subchapter IV of this chapter when provided for such a freight forwarder.

§ 10524. Transportation furthering a primary business

The Interstate Commerce Commission does not have jurisdiction under this subchapter over the transportation of property by motor vehicle when—

(1) the property is transported by a person engaged in a business other than transportation; and

(2) the transportation is within the scope of, and furthers a primary business (other than transportation) of the person.

§ 10525. Exempt motor carrier transportation entirely in one State

(a) The Interstate Commerce Commission shall exempt transportation of a motor carrier subject to the jurisdiction of the Commission under this subchapter from compliance with this subtitle when—

(1) the motor carrier provides transportation entirely in one State; and

(2) the Commission finds that the nature or quantity of transportation provided by the motor carrier does not substantially affect or impair uniform regulation by the Commission of motor carrier transportation in carrying out the transportation policy of section 10101 of this title.

(b) The Commission may begin a proceeding under this section on its own initiative or on application of a motor carrier, a State authority having jurisdiction to regulate intrastate transportation by motor vehicle on the highways of that State, or an interested party. An application must be under oath and must contain information required by Commission regulation. The Commission may exempt the transportation by motor carrier or class of motor carriers. When an exemption is granted, the Commission shall issue a certification of exemption describing the conditions required by the public interest under which the certificate is issued.

(c) When an application for exemption is accompanied by a certificate of the authority of the State in which the applicant provides transportation stating the finding of the State authority that the applicant is entitled to a certificate of exemption under this section, the exemption is effective on the 60th day after the application is filed with the Commission unless the Commission denies the application before that date. If not denied before that date, the exemption remains effective until the Commission thereafter denies or revokes it.

(d) The Commission may revoke any part of an exemption granted under this section when it finds that the nature or quantity of the transportation by the motor carrier or class of motor carriers is, or is likely substantially to affect or impair uniform regulation by the Commission of motor carrier transportation in carrying out the transportation policy of section 10101 of this title. If the exemption is revoked, the Commission shall restore without further proceedings the authority any such motor carrier had to provide transportation subject to the jurisdiction of the Commission under this subchapter at the time the exemption was effective.

(e) State regulation of the operations of a motor carrier covered by an exemption under this section is not a burden on interstate or foreign commerce.

§ 10526. Miscellaneous motor carrier transportation exemptions

(a) The Interstate Commerce Commission does not have jurisdiction under this subchapter over—

(1) a motor vehicle transporting only school children and teachers to or from school;

(2) a motor vehicle providing taxicab service and having a capacity of not more than 6 passengers and is not operated on a regular route or between specified places;

(3) a motor vehicle owned or operated by or for a hotel and only transporting hotel patrons between the hotel and the local station of a common carrier;

(4) a motor vehicle controlled and operated by a farmer and transporting—

(A) the farmer's agricultural or horticultural commodities and products; or

(B) supplies to the farm of the farmer;

(5) a motor vehicle controlled and operated by a cooperative association (as defined by section 1141j(a) of title 12) or by a federation of cooperative associations if the federation has no greater power or purposes than a cooperative association, except that if the cooperative association or federation provides transportation for compensation between a place in a State and a place in another State, or between a place in a State and another place in the same State through another State—

(A) for a nonmember that is not a farmer, cooperative association, federation, or the United States Government, the transportation (except for transportation otherwise exempt under this subchapter)—

(i) shall be limited to transportation incidental to the primary transportation operation of the cooperative association or federation and necessary for its effective performance;

(ii) may not exceed in each fiscal year 15 percent of the total transportation of the cooperative association or federation between those places, measured by tonnage; and

(iii) shall be provided only after the cooperative association or federation notifies the Commission of its intent to provide the transportation; and

(B) the transportation for all nonmembers may not exceed in each fiscal year, measured by tonnage, the total transportation between those places for the cooperative association or federation and its members during that fiscal year;

(6) a motor vehicle carrying, for compensation, only property

and that property consists of—

(A) ordinary livestock;

(B) agricultural or horticultural commodities (other than manufactured products thereof);

(C) commodities listed as exempt in the Commodity List incorporated in ruling numbered 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission, other than frozen fruits, frozen berries, frozen vegetables, cocoa beans, coffee beans, tea, bananas, or hemp, or wool imported from a foreign country, wool tops and noils, or wool waste (carded, spun, woven, or knitted); and

(D) cooked or uncooked fish, whether breaded or not, or frozen or fresh shellfish, other than fish or shellfish that have been treated for preserving, such as canned, smoked, pickled, spiced, corned, or kippered products;

(7) a motor vehicle used only to distribute newspapers;

(8) transportation by motor vehicle incidental to transportation by aircraft; or

(9) the operation of a motor vehicle in a national park or national monument.

(b) Except to the extent the Commission finds it necessary to exercise jurisdiction to carry out the transportation policy of section 10101 of this title, the Commission does not have jurisdiction under this subchapter over—

(1) transportation provided entirely in a municipality, in contiguous municipalities, or in a zone that is adjacent to, and commercially a part of the municipality or municipalities, except—

(A) when the transportation is under common control, management, or arrangement

for a continuous carriage or shipment to or from a place outside the municipality, or zone; or

(B) that in transporting passengers over a route between a place in a State and a place in another State, or between a place in a State and another place in the same State through another State, the transportation is exempt from the jurisdiction of the Commission only if the motor carrier operating the motor vehicle also is lawfully providing intrastate transportation of passengers over the entire route under the laws of each State through which the route runs;

(2) transportation by motor vehicle provided casually, occasionally, or reciprocally but not as a regular occupation or business, except when a broker or other person sells or offers for sale passenger transportation provided by a person authorized to transport passengers by motor vehicle under an application pending, or certificate or permit issued, under this subtitle; or

(3) the emergency towing of an accidentally wrecked or disabled motor vehicle.

SUBCHAPTER IV—FREIGHT FORWARDER SERVICE TRANSPORTATION

§ 10541. General jurisdiction

(a) Subject to this chapter and other law, the Interstate Commerce Commission has jurisdiction over transportation insofar as water carriers are concerned—

(1) by water carrier between a place in a State and a place in another State, even if part of the transportation is outside the United States;

(2) by water carrier and rail carrier or motor carrier from a place in a State to a place in another State, except that if part of the transportation is outside the United States, the Commission only has jurisdiction over that part of the transportation provided—

(A) by rail carrier or motor carrier that is in the United States; and

(B) by water carrier that is from a place in the United States to another place in the United States; and (3) by water carrier or by water carrier and rail carrier or motor carrier between a place in the United States and a place outside the United States, to the extent that—

(A) when the transportation is by rail carrier, the transportation is provided in the United States;

(B) when the transportation is by water carrier to a place outside the United States, the transportation is provided by water carrier from a place in the United States to another place in the United States before transshipment from a place in the United States to a place outside the United States; and

(C) when the transportation is by water carrier from a place outside the United States, the transportation is provided by water carrier from a place in the United States to another place in the United States after transshipment to a place in the United States from a place outside the United States.

(b) If transportation by a carrier would be subject to the jurisdiction of the Commission under both subsection (a) of this section and subchapter I of this chapter, then that transportation is subject to the jurisdiction of the Commission under subsection (a) of this section. However, that transportation is also subject to the jurisdiction of the Commission under subchapter I of this chapter to the extent that this subtitle imposes requirements on transportation by carriers subject to the jurisdiction of the Commission under subchapter I that are not imposed on transportation by carriers subject to the jurisdiction of the Commission under subsection (a) of this section.

(c) This subtitle does not—

(1) affect the power of a State to regulate intrastate transportation provided by a water carrier; or

(2) authorize the Commission to prescribe or regulate a rate for intrastate transportation by a water carrier.

§ 10542. Exempt bulk transportation

(a)(1) The Interstate Commerce Commission does not have jurisdiction under this subchapter over transportation by a water carrier of commodities in bulk that, under an existing custom of the trade in the handling and transportation of commodities in bulk as of June 1, 1939—

(A) are loaded and carried without wrappers or containers; and

(B) are received and delivered by the carrier without transportation mark or count.

(2) This subsection does not apply to transportation subject to chapter 23A of title 46 on September 18, 1940.

(b) The Commission does not have jurisdiction under this subchapter over transportation by a water contract carrier of commodities in bulk in a non-oceangoing vessel on a normal voyage during which—

(1) the cargo space of the vessel is used for carrying not more than 3 commodities in bulk; and

(2) the vessel passes in or through waters that are international for navigational purposes by a treaty to which the United States is a party.

(c) The Commission does not have jurisdiction under this subchapter over transportation by water carrier of liquid cargoes in bulk in tank vessels—

(1) designed exclusively for transporting such a cargo; and

(2) certified under regulations of the Secretary of Transportation under section 391a of title 46.

§ 10543. Exempt incidental water transportation

(a)(1) The Interstate Commission does not have jurisdiction under this subchapter when the transportation—

(A)(i) is provided in a terminal area and is a transfer, collection, or delivery; or

(ii) is flotage, car ferrying, lighterage, or towage;

(B) is provided by—

(i) a rail carrier subject to the jurisdiction of the Commission under subchapter I of this chapter; or

(ii) a motor carrier subject to the jurisdiction of the Commission under subchapter II of this chapter; and

(C) is incidental to transportation provided by the carrier subject to the jurisdiction of the Commission under either of those subchapters.

(2) Transportation exempt from the jurisdiction of the Commission under paragraph (1) of this subsection is subject to the jurisdiction of the Commission under subchapter I of this chapter when provided by such a rail carrier and under subchapter II of this chapter when provided by such a motor carrier.

(b)(1) Except to the extent provided in paragraph (2) of this subsection, the Commission does not have jurisdiction under this subchapter over transportation by water when the transportation—

(A)(i) is provided in a terminal area and is a transfer, collection, or delivery; or

(ii) is flotage, car ferrying, lighterage, or towage; and

(B) is provided by a person as an agent or under other arrangement for—

(i) a rail carrier or express carrier subject to the jurisdiction of the Commission under subchapter I of this chapter;

(ii) a motor carrier subject to the jurisdiction of the Commission under subchapter II of this chapter; or

(iii) a water carrier subject to the jurisdiction of the Commission under this subchapter.

(2) Transportation exempt from the jurisdiction of the Commission under paragraph (1) of this subsection is considered transportation provided by the carrier for whom the transportation was provided and is subject to the jurisdiction of the Commission under subchapter I of this chapter when provided for such a rail carrier or express carrier, under subchapter II of this chapter when provided for such a motor carrier, and under this subchapter when provided for such a water carrier.

§ 10544. Miscellaneous water carrier transportation exemptions

(a) Except to the extent the Interstate Commerce Commission finds it necessary to exercise jurisdiction to carry out the transportation policy of section 10101 of this title, the Commission does not have jurisdiction under this subchapter over transportation by water carrier when the transportation is provided—

(1) entirely in one harbor or between places in contiguous harbors, other than transportation under common control, management, or arrangement for a continuous carriage or shipment to or from a place outside the limits of the harbor or the contiguous harbors;

(2) by a vessel of not more than 100 tons carrying capacity or 100 indicated horsepower;

(3) by a vessel carrying only passengers and equipped to carry not more than 16 passengers;

(4) by a ferry;

(5) by a water carrier transporting equipment of contractors used, or to be used, in construction or repair for the water carrier; or

(6) to carry out salvage operations.

(b) The Commission may exempt from its jurisdiction under this subchapter the transportation of passengers between places in the United States through a foreign port when the Commission finds its jurisdiction is not necessary to carry out the transportation policy of section 10101 of this title. The Commission may begin a proceeding under this subsection on its own initiative or on application of an interested party.

(c) The Commission shall exempt from its jurisdiction under this subchapter the transportation of commodities by water contract carrier when the Commission finds that the transportation is not actually and substantially competitive with transportation provided by a carrier subject to the jurisdiction of the Commission under subchapter I or II of this chapter because of the inherent nature of the commodities transported, their requirement of special equipment, or their shipment in bulk. The Commission may prescribe conditions applicable to an exemption under this subsection. The Commission may begin a proceeding under this subsection on application of a water contract carrier.

(d)(1) The Commission does not have jurisdiction under this subtitle over transportation by a water common carrier provided between the 48 contiguous States and Alaska if, before January 3, 1959—

(A) the carrier provided that transportation, was also a motor common carrier, and has continued to provide the transportation since before that date; and

(B) the transportation was subject to chapters 23 and 23A of title 46.

(2) The transportation remains subject to the jurisdiction of the Federal Maritime Commission.

(e) The Commission shall exempt the transportation of property on a vessel furnished by a water contract carrier to a per- Commission may exempt the transportation or service subject to the jurisdiction of the Commission under this subtitle when the person uses the vessel to transport its own property and the Commission finds its jurisdiction is not necessary to carry out the transportation policy of section 10101 of this title. The Commission may begin a proceeding under this section on its own initiative or an application of an interested party. The

Commission may exempt the transportation by person or class of persons. The Commission shall specify the period of time during which the exemption is effective. The Commission may revoke the exemption when it finds that its jurisdiction over the transportation of the property is necessary to carry out the transportation policy of section 10101. The Commission may deny or revoke an exemption only after an opportunity for a proceeding.

(f)(1) The Commission shall exempt the transportation of property by a water carrier under this subchapter when the Commission finds that the carrier is transporting only the property of a person owning substantially all of the voting stock of the carrier. When an exemption is granted, the Commission shall issue a certificate of exemption. The Commission may begin a proceeding under this subsection on its own initiative or on application of an interested party.

(2) The Commission may revoke an exemption granted under this subsection when it finds the water carrier is no longer entitled to the exemption. If the exemption is revoked, the Commission shall restore without further proceedings the authority the water carrier had to provide transportation subject to the jurisdiction of the Commission under this subchapter at the time the exemption became effective.

SUBCHAPTER IV—FREIGHT FORWARDER SERVICE

§ 10561. General jurisdiction

(a) Subject to this chapter and other law, the Interstate Commerce Commission has jurisdiction over service that a freight forwarder—

(1) undertakes to provide; or

(2) is authorized or required under this subtitle to provide; to the extent transportation is provided in the United States and is between—

(A) a place in a State and a place in another State, even if part of the transportation is outside the United States;

(B) a place in a State and another place in the same State through a place outside the State; or

(C) a place in the United States and a place outside the United States.

(b) The Commission does not have jurisdiction under subsection (a) of this section over service undertaken by a freight forwarder using transportation—

(1) of an air carrier subject to chapter 20 of this title; or

(2) by motor vehicle exempt under section 10526(a)(8) of this title.

§ 10562. Exempt freight forwarder service

The Interstate Commerce Commission does not have jurisdiction under this subchapter over—

(1) service provided by, or under the direction of, a cooperative association (as defined by section 1141j(a) of title 12) or by a federation of cooperative associations, if the federation has no greater power or purposes than a cooperative association;

(2) service subject to the jurisdiction of the Commission and provided with respect to only one of the following categories:

(A) ordinary livestock;

(B) fish (including shellfish);

(C) agricultural or horticultural commodities (other than manufactured products thereof); or

(D) used household goods;

(3) the service of a shipper or a group of shippers in consolidating or distributing freight on a nonprofit basis, for the shipper or members of the group to secure carload, truckload, or other volume rates; or

(4) the service of an agent of a shipper in consolidating or distributing pool cars when the service is provided for the shipper only in a terminal area in which the service is performed.

Chapter 107—RATES, TARIFFS AND VALUATIONS

SUBCHAPTER I—GENERAL AUTHORITY

Sec.
10701. Standards for rates, classifications, through routes, rules, and practices.
10702. Authority for carriers to establish rates, classifications, rules, and practices.
10703. Authority for carriers to establish through routes.
10704. Authority and criteria: rates, classifications, rules, and practices prescribed by Interstate Commerce Commission.
10705. Authority: through routes, joint classifications, rates, and divisions prescribed by Interstate Commerce Commission.
10706. Rate agreements: exemption from antitrust laws.
10707. Investigation and suspension of new rail carrier rates, classifications, rules, and practices.
10708. Investigation and suspension of new nonrail carrier rates, classifications, rules, and practices.
10709. Determination of market dominance in rail carrier rate proceedings.
10710. Elimination of discrimination against recyclable materials.
10711. Effect of certain sections on rail rates and practices.

SUBCHAPTER II—SPECIAL CIRCUMSTANCES

10721. Government traffic.
10722. Special passenger rates.
10723. Charitable purposes.
10724. Emergency rates.
10725. Special freight forwarder rates.
10726. Long and short haul transportation.
10727. Demand-sensitive rates.
10728. Separate rates for distinct rail services.
10729. Rail carriers; incentive for capital investment.
10730. Rates and liability based on value.
10731. Investigation of discriminatory rail rates for transportation of recyclable or recycled materials.

SUBCHAPTER III—LIMITATIONS

10741. Prohibitions against discrimination by common carriers.
10742. Facilities for interchange of traffic.
10743. Payment of rates.
10744. Liability for payment of rates.
10745. Continuous carriage of freight.
10746. Transportation of commodities manufactured or produced by a rail carrier.
10747. Transportation services or facilities furnished by shipper.
10748. Transportation of livestock by rail carrier.
10749. Exchange of services and limitation on use of common carriers by freight forwarders.
10750. Demurrage charges.

SUBCHAPTER IV—TARIFFS AND TRAFFIC

10761. Transportation prohibited without tariff.
10762. General tariff requirements.
10763. Designation of certain routes by shippers or Interstate Commerce Commission.
10764. Arrangements between carriers: copy to be filed with Interstate Commerce Commission.
10765. Water transportation under arrangements with certain other carriers.
10766. Freight forwarder traffic agreements.

SUBCHAPTER V—VALUATION OF PROPERTY

10781. Investigation and report by Interstate Commerce Commission.
10782. Requirements for establishing value.
10783. Cooperation and assistance of carrier.
10784. Revision of property valuations.
10785. Finality of valuation; notice, protest, and review.
10786. Applicability.

SUBCHAPTER I—GENERAL AUTHORITY

§ 10701. Standards for rates, classifications, through routes, rules, and practices

(a) A rate, classification, rule, or practice related to transportation or service provided by a carrier subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title must be reasonable. A through route established by such a carrier must be reasonable. Divisions of joint rates by those carriers must be made without unreasonable discrimination against a participating carrier and must be reasonable.

(b)(1) A rate for transportation provided by a rail carrier subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title that contributes, or would contribute, to the going concern value of that carrier does not violate subsection (a) of this section because it is below a reasonable minimum rate for the service rendered or to be rendered. This subsection does not prohibit increasing a rate to a level that contributes to the going concern value of a rail carrier if the increase is otherwise reasonable. The increased rate is presumed reasonable if it does not exceed the incremental costs of rendering the transportation to which the increase applies.

(2)(A) A rate for transportation by a rail carrier that equals or exceeds the variable costs of providing the transportation is presumed to contribute to the going concern value of the rail carrier proposing the rate. However, the presumption may be rebutted by clear and convincing evidence.

(B) Variable and incremental costs shall be determined under formulas prescribed by the Commission. However, when making a determination of variable costs, the Commission shall, on application of the rail carrier proposing the rate, determine only the costs of that carrier and only those costs of the specific service in question unless the specific information is not available. The Commission may not include in variable costs an expense that does not vary directly with the level of transportation provided under the proposed rate.

(c) A common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I or III of chapter 105 of this title may not discriminate in its rates against a connecting line of another carrier providing transportation subject to the jurisdiction of the Commission under either of those subchapters or unreasonably discriminate against that line in the distribution of traffic that is not routed specifically by the shipper.

(d) In a proceeding to determine whether a rate for transportation or service provided by a common carrier subject to the jurisdiction of the Commission under subchapter II, III, or IV of chapter 105 of this title complies with subsection (a) of this section, the good will, earning power, or certificate or permit under which that carrier is operating may not be considered or admitted as evidence of the value of the property of that carrier. When the carrier receives a certificate or permit under chapter 109 of this title, it is considered to have agreed to this subsection for itself and for all transferees of that certificate or permit.

§ 10702. Authority for carriers to establish rates, classifications, rules, and practices

(a) A common carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title shall establish—

(1) rates, including divisions of joint rates, and classifications for transportation and

service it may provide under this subtitle; and

(2) rules and practices on matters related to that transportation or service, including rules and practices on—

(A) issuing tickets, receipts, bills of lading, and manifests;

(B) carrying of baggage;

(C) the manner and method of presenting, marking, packing, and delivering property for transportation; and

(D) facilities for transportation.

(b) A contract carrier providing transportation subject to the jurisdiction of the Commission under chapter 105 of this title shall establish, and file with the Commission, actual and minimum rates for the transportation it may provide under this subtitle and rules and practices related to those rates. However, this subsection does not require a motor contract carrier to maintain the same rates and rules related to those rates for the same transportation provided to shippers served by it. The Commission may grant relief from this subsection when relief is consistent with the public interest and the transportation policy of section 10101 of this title. The Commission may begin a proceeding under this subsection on application of a contract carrier or groups of contract carriers or on its own initiative for a water contract carrier or group of water contract carriers.

§ 10703. Authority for carriers to establish through routes

(a) A carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title shall establish through routes as follows:

(1) Rail, express, sleeping car, and pipeline carriers shall establish through routes with each other and shall establish rates and classifications applicable to those routes.

(2) Rail and water common carriers shall establish through routes with each other and shall establish rates and classifications applicable to those routes.

(3) A motor common carrier of passengers shall establish through routes with other carriers of the same type and shall establish individual and joint rates applicable to them.

(4)(A) A motor common carrier of property may establish through routes and joint rates and classifications applicable to them with other carriers of the same type, with rail and express carriers, and with water common carriers, including those referred to in subparagraph (D) of this paragraph.

(B) A motor common carrier of passengers may establish through routes and joint rates applicable to them with rail carriers or water common carriers, including those referred to in subparagraph (D) of this paragraph, or both.

(C) Water common carriers shall establish through routes with each other and shall establish rates and classifications applicable to those routes and may establish—

(i) through routes and rates and classifications applicable to them with motor common carriers; and

(ii) through routes and joint rates and classifications applicable to them with water common carriers referred to in subparagraph (D)(ii) of this paragraph.

(D) A through route or joint rate or classification authorized to be established with a carrier referred to in this subparagraph may be established with a water common carrier providing transportation subject to—

(i) the jurisdiction of the Commission under subchapter III of chapter 105 of this title; or

(ii) section 801 or sections 843–848 of title 46 (including persons holding themselves out to transport goods by water but not owning or operating vessels) and providing transportation of property between Alaska or Hawaii and the other 48 States.

A through route and a rate, classification, rule, or practice related to a through route with a water common carrier referred to in this subparagraph is subject to the provisions of this subtitle governing the type of carrier establishing the rate, classification, rule, or practice.

(b) A carrier providing transportation subject to the jurisdiction of the Commission under subchapter I or III of chapter 105 of this title that establishes a through route with another carrier under this section shall establish rules for its operation and provide—

(1) reasonable facilities for operating the through route; and

(2) reasonable compensation to persons entitled to compensation for services related to the through route.

§ 10704. Authority and criteria: rates, classifications, rules, and practices prescribed by Interstate Commerce Commission

(a)(1) When the Interstate Commerce Commission, after a full hearing, decides that a rate charged or collected by a carrier for transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title, or that a classification, rule, or practice of that carrier, does or will violate this subtitle, the Commission may prescribe the rate (including a maximum or minimum rate, or both), classification, rule, or practice to be followed. The Commission may order the carrier to stop the violation. When a rate, classification, rule, or practice is prescribed under this subsection, the affected carrier may not publish, charge, or collect a different rate and shall adopt the classification and observe the rule or practice prescribed by the Commission.

(2) The Commission shall maintain standards and procedures for establishing revenue levels for rail carriers providing transportation subject to its jurisdiction under that subchapter that are adequate, under honest, economical, and efficient management, to cover total operating expenses, including depreciation and obsolescence, plus a reasonable and economic profit or return (or both) on capital employed in the business. The Commission shall make an adequate and continuing effort to assist those carriers in attaining revenue levels prescribed under this paragraph. However, a rate, classification, rule, or practice of a rail carrier may be maintained at a particular level to protect the traffic of another carrier or mode of transportation only if the Commission finds that the rate or classification, or rule or practice related to it, reduces or would reduce the going concern value of the carrier charging the rate. Revenue levels established under this paragraph should—

(A) provide a flow of net income plus depreciation adequate to support prudent capital outlays, assure the repayment of a reasonable level of debt, permit the raising of needed equity capital, and cover the effects of inflation; and

(B) attract and retain capital in amounts adequate to provide a sound transportation system in the United States.

(b)(1) When the Commission decides that a rate charged or collected by—

(A) a motor common carrier for providing transportation subject to its jurisdiction under subchapter II of chapter 105 of this title by itself, with another motor common carrier, with a rail, express, or water common carrier, or any of them;

(B) a water common carrier for providing transportation subject to its jurisdiction under subchapter III of chapter 105 of this title; or

(C) a freight forwarder for providing service subject to its jurisdiction under subchapter IV of chapter 105 of this title;

or that a classification, rule, or practice of that carrier, does or will violate this chapter, the Commission shall prescribe the rate (including a maximum or minimum rate, or both), classification, rule, or practice to be followed.

(2) When prescribing a rate, classification, rule, or practice for transportation or service by common carriers other than by rail carrier, the Commission shall consider, among other factors, the following:

(A) the effect of the prescribed rate, classification, rule, or practice on the movement of traffic by that carrier; and

(B) the need for revenues that are sufficient, under honest, economical, and efficient management, to let the carrier provide that transportation or service.

(3) If the carrier is a motor or water common carrier or a freight forwarder, the Commission shall also consider the need, in the public interest, of adequate and efficient transportation or service by that carrier at the lowest cost consistent with providing that transportation or service.

(4) If the carrier is a motor common carrier or a freight forwarder, the Commission shall also consider the inherent advantages of transportation by motor common carrier or the inherent nature of freight forwarding, respectively.

(c)(1) When the Commission finds that a minimum rate of a contract carrier for transportation subject to the jurisdiction of the Commission under subchapter II or III of chapter 105 of this title, or a rule or practice related to the rate or the value of the service under it, violates this chapter or the transportation policy of section 10101 of this title, the Commission may prescribe the minimum rate, rule, or practice for the carrier that is desirable in the public interest and will promote that policy. In prescribing the rate, the Commission may not give a motor or water contract carrier an advantage or preference in competition with a motor or water common carrier, respectively, if an advantage or preference is unreasonable or inconsistent with the public interest and the transportation policy of section 10101 of this title.

(2) When prescribing a minimum rate, or rule or practice related to a rate, for a contract carrier, the Commission shall consider—

(A) the cost of the transportation provided by the carrier; and

(B) the effect of a prescribed minimum rate, or rule or practice, on the movement of traffic by that carrier.

(d) In a proceeding involving competition between carriers of different modes of transportation subject to this subtitle, except rail carriers, the Commission, in determining whether a rate is less than a reasonable minimum rate, shall consider the facts and circumstances involved in moving the traffic by the mode of carrier to which the rate is applicable. Subject to the transportation policy of section 10101 of this title, rates of a carrier may not be maintained at a particular level to protect the traffic of another mode of transportation.

(e) In a proceeding involving a proposed increase or decrease in rail carrier rates, the Commission shall specifically consider allegations that the increase or decrease would (1) change the rate relationships between commodities, ports, places, regions, areas, or other particular descriptions of traffic (without regard to previous Commission consideration or approval of those relationships), and (2) have a significant adverse effect on the competitive positions of shippers or consignees served by the rail carrier proposing the increase or decrease. The Commission shall investigate to determine whether the change or effect violates this subtitle when it finds that those allegations are substantially supported on the record. The investigation may be made either before or after the

proposed increase or decrease becomes effective and either in that proceeding or in another proceeding.

(f) The Commission may begin a proceeding under this section on its own initiative or on complaint. A complaint under subsection (a) of this section must be made under section 11701 of this title, but the proceeding may also be in extension of a complaint pending before the Commission. A complaint under subsection (c) of this section must contain a full statement of the facts and the reasons for the complaint and must be made under oath.

§ 10705. Authority: through routes, joint classifications, rates, and divisions prescribed by Interstate Commerce Commission

(a)(1) The Interstate Commerce Commission may, and shall when it considers it desirable in the public interest, prescribe through routes, joint classifications, joint rates (including maximum or minimum rates or both), the division of joint rates, and the conditions under which those routes must be operated, for a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I, II (except a motor common carrier of property), or III of chapter 105 of this title. When one of the carriers on a through route is a water carrier, the Commission shall prescribe a differential between an all-rail rate and a joint rate related to the water carrier if the differential is justified.

(2) The Commission may require a rail carrier to include a through route substantially less than the entire length of its railroad and any intermediate railroad operated with it under common management or control if that intermediate railroad lies between the terminals of the through route only when—

(A) required under section 10741–10744 or 11103 of this title;

(B) one of the carriers is a water carrier;

(C) inclusion of those lines would make the through route unreasonably long when compared with a practicable alternative through route that could be established; or

(D) the Commission decides that the proposed through route is needed to provide adequate, and more efficient or economic, transportation.

The Commission shall give reasonable preference, subject to this subsection, to the rail carrier originating the traffic when prescribing through routes.

(3) The Commission may not prescribe—

(A) a through route, classification, practice, or rate between a street electric passenger railway not engaged in the general business of transporting freight in addition to its passenger and express business and (i) a rail carrier of a different character, or (ii) a water common carrier; or

(B) a through route or joint rate applicable to it to assist a participating carrier to meet its financial needs.

(b) The Commission shall prescribe the division of joint rates to be received by a carrier providing transportation subject to its jurisdiction under chapter 105 of this subtitle when it decides that a division of joint rates established by the participating carriers under section 10703 of this title, or under a decision of the Commission under subsection (a) of this section, does or will violate section 10701 of this title. When prescribing the division of joint rates of a rail or water carrier under this subsection, the Commission shall consider—

(1) the efficiency with which the carriers concerned are operated;

(2) the amount of revenue required by the carriers to pay their operating expenses and taxes and receive a fair return on the property held and used for transportation;

(3) the importance of the transportation to the public;

(4) whether a particular participating carrier is an originating, intermediate, or delivery line; and

(5) other circumstances that ordinarily, without regard to the mileage traveled, entitle one carrier to a different proportion of a rate than another carrier.

(c) If a division of a joint rate prescribed under a decision of the Commission is later found to violate section 10701 of this title, the Commission may decide what division would have been reasonable and order adjustment to be made retroactive to the date the complaint was filed, the date the order for an investigation was made, or a later date that the Commission decides is justified. The Commission may make a decision under this paragraph effective as part of its original decision.

(d) When the Commission suspends, for investigation, a rail or water common carrier tariff that would cancel a through route, joint rate, or classification without the consent of all carriers that are parties to it or without authorization of the Commission, the carrier proposing the cancellation has the burden of proving that cancellation is consistent with the public interest without regard to subsection (a)(2) of this section. In determining whether a cancellation involving a rail carrier is consistent with the public interest, the Commission shall, to the extent applicable—

(1) compare the distance traveled and the average transportation time and expense required using (A) the through route, and (B) alternative routes, between the places served by the through route;

(2) consider any reduction in energy consumption that may result from cancellation; and

(3) consider the overall impact of cancellation on the shippers and carriers that are affected by it.

(e)(1) The Commission may begin a proceeding under subsection (a) or (b) of this section on its own initiative or on complaint and may take action only after a full hearing. The Commission must complete all evidentiary proceedings to adjust the division of joint rates for transportation by rail carrier within one year after the complaint is filed if the proceeding is brought on complaint or within 2 years after the commencement of a proceeding on the initiative of the Commission and must take final action by the 270th day after completion of the evidentiary proceedings. The Commission may decide to extend such a proceeding to permit its fair and expeditious completion, but when the Commission cannot meet those time limits, it must report its reasons to Congress.

(2) When a carrier begins a proceeding to adjust the division of joint rates for transportation by a rail carrier under this section by filing a complaint with the Commission, the carrier must also file all of the evidence in support of its position with the complaint and, during the course of the proceeding may only file rebuttal or reply evidence unless otherwise ordered by the Commission.

(3) When the Commission receives a notice of intent to begin a proceeding to adjust the division of joint rates for transportation by a rail carrier under this section, the Commission shall allow the party filing the notice the same right to discovery that a party would have on filing a complaint under this section.

(f) When there is a shortage of equipment, congestion of traffic, or other emergency declared by the Commission, it may prescribe temporary through routes that are desirable in the public interest on its own initiative or on application without regard to subsection (e) of this section, subchapter II of chapter 103 of this title, and subchapter II of chapter 5 of title 5.

§ 10706. Rate agreements: exemption from antitrust laws

(a)(1) In this subsection—

(A) "affiliate" means a person controlling, controlled by, or under common control or ownership with another person and "ownership" refers to equity holdings in a business entity of at least 5 percent.

(B) "single-line rate" refers to a rate or allowance proposed by a single rail carrier that is applicable only over its line and for which the transportation (exclusive of terminal services by switching, drayage or other terminal carriers or agencies) can be provided by that carrier.

(2)(A) A rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title that is a party to an agreement of at least 2 rail carriers or an agreement with a class of carriers referred to in subsection (c)(1)(B)–(E) of this section, that relates to rates (including charges between rail carriers and compensation paid or received for the use of facilities and equipment), classifications, divisions, or rules related to them, or procedures for joint consideration, initiation, or establishment of them, shall apply to the Commission for approval of that agreement under this subsection. The Commission shall approve the agreement only when it finds that the making and carrying out of the agreement will further the transportation policy of section 10101 of this title and may require compliance with conditions necessary to make the agreement further that policy as a condition of its approval. If the Commission approves the agreement, it may be made and carried out under its terms and under the conditions required by the Commission, and the Sherman Act (15 U.S.C. 1, et seq.), the Clayton Act (15 U.S.C. 12, et seq.), the Federal Trade Commission Act (15 U.S.C. 41, et seq.), sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9), and the Act of June 19, 1936, as amended (15 U.S.C. 13, 13a, 13b, 21a) do not apply to parties and other persons with respect to making or carrying out the agreement. However, the Commission may not approve or continue approval of an agreement when the conditions required by it are not met or if it does not receive a verified statement under subparagraph (B) of this paragraph.

(B) The Commission may approve an agreement under subparagraph (A) of this paragraph only when the carriers applying for approval file a verified statement with the Commission. Each statement must specify for each rail carrier that is a party to the agreement—

(i) the name of the carrier;

(ii) the mailing address and telephone number of its headquarter's office; and

(iii) the names of each of its affiliates and the names, addresses, and affiliates of each of its officers and directors and of each person, together with an affiliate, owning or controlling any debt, equity, or security interest in it having a value of at least $1,000,000.

(3)(A) An organization established or continued under an agreement approved under this subsection shall make a final disposition of a rule or rate docketed with it by the 120th day after the proposal is docketed. Such an organization may not—

(i) permit a rail carrier to participate in agreements related to, or to vote on single-line rates proposed by another rail carrier, or on rates related to a particular interline movement unless that rail carrier can practicably participate in that movement; or

(ii) permit, provide for, or establish a procedure for joint consideration or joint action to protest or seek the suspension of a rate or classification filed by a rail carrier under section 10707 of this title when that rate or classification is established by independent action.

(B) Subparagraph (A) (i) and (ii) of this paragraph does not apply to—

(i) general rate increases or decreases if the agreement gives shippers, under specified procedures, at least 15 days' notice of the proposal and an opportunity to present comments on it before a tariff containing the increases or decreases is filed with the Commission; or

(ii) broad tariff changes that are of at least substantial general application throughout the area where the changes will apply.

(C) In any proceeding in which a party alleges that a rail carrier voted or agreed on a rate or allowance in violation of this subsection, that party has the burden of showing that the vote or agreement occurred. A showing of parallel behavior does not satisfy that burden by itself.

(b) A common carrier providing transportation or service subject to the jurisdiction of the Commission under chapter 105 of this title (except a rail carrier) that is a party to an agreement of at least 2 carriers related to rates (including charges between carriers and compensation paid or received for the use of facilities and equipment), allowances, classifications, divisions, or rules related to them, or procedures for joint consideration, initiation, or establishment of them, may apply to the Commission for approval of that agreement under this subsection. The Commission shall approve the agreement only when it finds that the making and carrying out of the agreement will further the transportation policy of section 10101 of this title and may require compliance with conditions necessary to make the agreement further that policy as a condition of approval. If the Commission approves the agreement, it may be made and carried out under its terms and under the conditions required by the Commission, and the antitrust laws, as defined in section 12 of title 15, do not apply to parties and other persons with respect to making or carrying out the agreement.

(c)(1) In this subsection, carriers are classified as follows:

(A) Rail, express, and sleeping car carriers are a class.

(B) Pipeline carriers are a class.

(C) Motor carriers are a class.

(D) Water carriers are a class.

(E) Freight forwarders are a class.

(2) The Commission may not approve an agreement under this section—

(A) between or among carriers of different classes unless, in addition to the finding required under subsection (a) or (b) of this section, the Commission finds that the agreement is limited to matters related to transportation under joint rates or over through routes;

(B) related to a pooling, division, or other matter to which subchapter III of chapter 113 of this title applies; or

(C) establishing a procedure for determination of a matter through joint consideration unless the Commission finds that each party to the agreement has the absolute right under it to take independent action before or after a determination is made under that procedure.

(d) The Commission may require an organization established or continued under an agreement approved under this section to maintain records and submit reports. The Commission, or its delegate, may inspect a record maintained under this section.

(e) The Commission may review an agreement approved under subsection (a) or (b) of this section and shall change the conditions of approval or terminate it when necessary to comply with (1) the public interest and subsection (a), or (2) subsection (b). The Commission shall postpone the effective date of a change of an agreement under this subsection for whatever period it determines to be reasonably necessary to avoid unreasonable hardship.

(f) The Commission may begin a proceeding under this section on its own initiative or on application. Action of the Commission under this section (1) approving an agreement, (2) denying, ending, or changing approval, (3) prescribing the conditions on which approval is granted, or (4) changing those conditions, has effect only as related to application of the antitrust laws referred to in subsection (a) or (b) of this section.

(g) The Commission shall review each agreement approved under subsection (a) of this section periodically, but at least once every 3 years (1) to determine whether the agreement or an organization established or continued under one of those agreements still complies with the requirements of that subsection and the public interest, and (2) to evaluate the success and effect of that agreement or organization on the consuming public and the national rail freight transportation system. If the Commission finds that an agreement or organization does not conform to the requirements of that subsection, it shall end or suspend its approval. The Commission shall report to the President and Congress the results of the review as a part of its annual report under section 10311 of this title.

(h)(1) The Federal Trade Commission, in consultation with the Antitrust Division of the Department of Justice, shall prepare periodically an assessment of, and shall report to the Commission on—

(A) possible anticompetitive features of—

(i) agreements approved or submitted for approval under subsection (a) of this section; and

(ii) an organization operating under those agreements; and

(B) possible ways to alleviate or end an anticompetitive feature, effect, or aspect in a manner that will further the goals of this subtitle and of the transportation policy of section 10101 of this title.

(2) Reports received by the Commission under this subsection shall be published and made available to the public under section 552(a) of title 5.

§ 10707. Investigation and suspension of new rail carrier rates, classifications, rules, and practices

(a) When a new individual or joint rate or individual or joint classification, rule, or practice related to a rate is filed with the Interstate Commerce Commission by a rail carrier providing transportation subject to its jurisdiction under subchapter I of chapter 105 of this title, the Commission may begin a proceeding, on its own initiative or on complaint of an interested party, to determine whether the proposed rate, classification, rule, or practice violates this subtitle. The Commission must give reasonable notice to interested parties before beginning a proceeding under this subsection but may act without allowing an interested party to file an answer or other formal pleading in response to its decision to begin the proceeding.

(b)(1) The Commission must complete a proceeding under this section and make its final decision by the end of the 7th month after the rate, classification, rule, or practice was to become effective. However, if the Commission reports to Congress by the end of the 7th month that it cannot make a final decision by that time and explains the reason for the delay, it may take an additional 3 months to complete the proceeding and make its final decision. If the Commission does not reach a final decision within the applicable time period, the rate, classification, rule, or practice—

(A) is effective at the end of that time period; or

(B) if already in effect at the end of that time period, remains in effect.

(2) If an interested party has filed a complaint under subsection (a) of this section, the Commission may set aside a rate, classification, rule, or practice that has become effective under this section if the Commission finds it to be in violation of this chapter.

(c)(1) Pending final Commission action in a proceeding under subsection (a) of this section, the Commission may suspend the proposed rate, classification, rule, or practice for 7 months after the time it would otherwise go into effect or, if a report is made under subsection (b) of this section, for 10 months after the time it would otherwise go into effect. However, the Commission may suspend a rate under this subsection only if it appears from specific facts shown by the verified complaint of a person that—

(A) without suspension, the proposed rate change will cause substantial injury to the complainant or the party represented by the complainant; and

(B) it is likely that the complainant will prevail on the merits.

(2) The burden is on the complainant to prove the facts required under paragraph (1) (A) and (B) of this subsection.

(d) If the Commission does not suspend a proposed rate increase that is the subject of a proceeding under this section, the Commission shall require the rail carriers involved to account for all amounts received under the increase until the Commission completes the proceeding or until 7 months after the increase becomes effective, whichever occurs first, or, if the proceeding is extended under subsection (b) of this section, until the Commission completes the proceeding or until 10 months after the increase becomes effective, whichever occurs first. The accounting must specify by whom and for whom the amounts are paid. When the Commission takes final action, it shall require the carrier to refund to the person for whom the amounts were paid that part of the increased rate found to be justified, plus interest at a rate equal to the average yield (on the date the proposed increase is filed) of marketable securities of the United States Government having a duration of 90 days. When any part of a proposed rate decrease is suspended and later found to comply with this subtitle, the rail carrier may refund any part of the portion of the decrease found to comply with this subtitle if the carrier makes the refund available equally to the shippers who participate in the rate according to the relative amounts of traffic shipped at that rate.

(e) In a proceeding under this section, the burden is on the carrier proposing the changed rate, classification, rule, or practice to prove that the change is reasonable. The Commission shall specifically consider proof that the proposed rate, classification, rule, or practice will have a significantly adverse effect (in violation of section 10701, 10741–10744, or 11103 of this title) on the competitive posture of shippers or consignees affected by the proposed rate, classification, rule, or practice. The Commission shall give proceedings under this section preference over all other proceedings related to rail carriers pending before it and make its decision at the earliest practical time.

§ 10708. Investigation and suspension of new nonrail carrier rates, classifications, rules, and practices

(a)(1) The Interstate Commerce Commission may begin a proceeding to determine the lawfulness of a proposed rate, classification, rule, or practice immediately, on its own initiative or on application of an interested party when—

(A) a new individual or joint rate or individual or joint classification, rule, or practice affecting a rate is filed with the Commission by a common carrier, other than a rail carrier, under this subtitle; or

(B) a new or reduced rate or rule or practice that causes a reduction of a rate is filed with the Commission by a contract carrier under this subtitle.

(2) The Commission must give reasonable notice before beginning a proceeding under this section but may act without allowing an interested carrier to file an answer or other formal pleading in response to its decision to begin the proceeding. The Commission may take whatever final action on a rate, classification, rule, or practice under this section, after a full hearing (whether completed before or after the rate, classification, rule, or practices goes into effect), as it could in a proceeding begun after a rate, classification, rule, or practice became effective.

(b) Pending final Commission action in a proceeding under subsection (a) of this section, the Commission may suspend the proposed rate, classification, rule, or practice at any time for not more than 7 months beyond the time it would otherwise go into effect by (1) delivering to each affected carrier, and (2) filing with the proposed rate, classification, rule, or practice, a statement of reasons for the suspension. If the Commission does not take final action during the suspension period, the proposed rate, classification, rule, or practice is effective at the end of that period. However, if an increase in a rate for, or related to, transportation of property by an express, sleeping car, or pipeline carrier becomes effective under this subsection, the Commission may require the interested carrier to account for all amounts received under it and specify by whom and on whose behalf those amounts were paid. When the Commission takes final action, it may require the carrier to refund with interest, to the persons on whose behalf those amounts were paid, the part of the increased rate found to be in violation of this subtitle.

(c) In a proceeding under this section, the burden is on the carrier proposing the changed rate, classification, rule, or practice to prove that the change is reasonable. The Commission shall give proceedings under this section preference over all other proceedings related to that type of carrier pending before it and make its decision at the earliest practical time.

§ 10709. Determination of market dominance in rail carrier rate proceedings

(a) In this section, "market dominance" means an absence of effective competition from other carriers or modes of transportation for the transportation to which a rate applies.

(b) When a rate for transportation by a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title is challenged as being unreasonably high, the Commission shall determine, within 90 days after the start of a proceeding under section 10707 of this title to investigate the lawfulness of that rate, whether the carrier proposing the rate has market dominance over the transportation to which the rate applies. The Commission may make that determination on its own initiative or on complaint. A finding by the Commission that the carrier does not have market dominance is determinative in a proceeding under this subtitle related to that rate or transportation unless changed or set aside by the Commission or set aside by a court of competent jurisdiction.

(c) When the Commission finds in any proceeding that a rail carrier proposing or defending a rate for transportation has market dominance over the transportation to which the rate applies, it may then determine that rate to be unreasonable if it exceeds a reasonable maximum for that transportation. However, a finding of market dominance does not establish a presumption that the proposed rate exceeds a reasonable maximum. This subsection does not limit the power of the Commission to suspend a rate under section 10707(c) of this title. However, if the Commission has found that a carrier does not have market dominance over the transportation to which the rate applies, the Commission may suspend an increase in that rate as being in excess of a reasonable maximum for that transportation only if it specifically changes or sets aside its prior determination of market dominance.

§ 10710. Elimination of discrimination against recyclable materials

The Interstate Commerce Commission shall maintain regulations that will eliminate discrimination against the transportation of recyclable materials in rate structures and in other Commission practices where discrimination exists.

§ 10711. Effect of certain sections on rail rates and practices

Sections 10701 (a) and (b), 10707, 10709, 10727, and 10728 of this title, related to rail carriers, do not—

(1) modify the application of sections 10701(c), 10726, 10741–10744, or 11103 of this title in determining whether a rate or practice complies with this subtitle;

(2) make a competitive practice that is unfair, destructive, predatory, or otherwise undermines competition that is necessary in the public interest comply with this subtitle;

(3) affect a law in existence on February 5, 1976, or the authority of the Interstate Commerce Commission related to rate relationships between ports; or

(4) affect the authority and responsibility of the Commission to guarantee the equalization of rates in the same port.

SUBCHAPTER II—SPECIAL CIRCUMSTANCES

§ 10721. Government traffic

(a)(1) Except as provided in this section, the full applicable commercial rate shall be paid for transportation for the United States Government by a common carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under this subtitle. Section 5 of title 41 does not apply when transportation for the United States Government can be obtained from a common carrier lawfully operating in the area where the transportation will be provided. When prescribing rates for transportation or service by those common carriers, the Commission shall consider increased revenues those carriers receive under this subsection to reflect those increases in appropriate readjustments of their rates.

(2) Paragraph (1) of this subsection does not apply, and the law related to compensation for transportation for the United States Government in effect immediately before September 18, 1940, applies to a rail carrier if that carrier, or its predecessor in interest, received a grant of land from the United States to aid in constructing the railroad it operates but did not file a release with the Secretary of the Interior before September 18, 1941, of claims against the United States Government to, or arising out of, lands that were granted, claimed to have been granted, or claimed should have been granted to that carrier or its predecessor in interest. This paragraph does not require a rail carrier to reconvey to the United States land patented or certified to it or prevent the patent of land that the Secretary of the Interior found was sold by the carrier to an innocent purchaser for value or as preventing the patent of land listed or selected by the carrier and finally approved by the Secretary of the Interior to the extent that issuance of those patents is authorized by law.

(b)(1) A common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I, II, or III of Chapter 105 of this title may transport individuals for the United States Government without charge or at reduced rates. The carriers may transport custom inspectors and immigration officers without charge. A common carrier providing transportation or service subject to the jurisdiction of the Commission under chapter 105 of this title shall provide transportation for the United States Postal Service under chapters 50 and 52 of title 39, and may transport property for the United States Government, a State, or municipal government without charge or at reduced rates.

(2) Unless a carrier is advised by the United States Government that disclosure of a quotation or tender of a rate established under paragraph (1) of this subsection for transportation provided to the United States Government would endanger the national security, the carrier shall file the quoted or tendered rate, including a retroactive rate made after the transportation has been provided, concurrently, with the Commission and the department, agency, or instrumentality of the United States Government for which the quotation or tender was made or for which the proposed transportation is to be provided. A carrier may quote or tender a rate established under an agreement made and approved under section 10706 of this title, but the exemption from the antitrust laws provided by that section applies only when the filing requirements of this paragraph are met.

(c) A different policy, rule of rate making, system of accounting, method of determining costs of transportation, value of property, or rate of return may not be applied to a water carrier owned or controlled by the United States Government than is applied to a water carrier providing transportation subject to the jurisdiction of the Commission under subchapter III of chapter 105 of this title.

§ 10722. Special passenger rates

(a) A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I, II, or III of chapter 105 of this title may establish mileage, excursion, and commutation passenger rates including joint interchangeable 5,000 mile passenger rates with the privilege of carrying an amount of baggage without charge for at least 1,000 miles. A carrier that establishes a rate under this subsection may issue tickets reflecting that rate. A carrier that establishes a joint interchangeable 5,000 mile passenger rate shall also establish rules related to that rate specifying the amount of baggage that may be carried without charge under it.

(b) A common carrier providing transportation subject to the jurisdiction of the Commission under one of those subchapters may establish reduced rates for individuals when the cost of that transportation is an expense of an individual who—

(1) is a member of the armed forces of the United States or another country when that individual is traveling in uniform on official leave, furlough, or pass; or

(2) has been released from the armed forces of the United States not more than 30 days before beginning that transportation and is traveling home or to a prospective place of abode.

(c) A common carrier providing transportation subject to the jurisdiction of the Commission under one of those subchapters may provide transportation without charge for an individual who is—

(1) a necessary caretaker of livestock, poultry, milk, or fruit;

(2) an executive officer, general chairman, or counsel of an employee organization authorized to represent employees of that carrier under chapter 8 of title 45;

(3) an employee in charge of the mails when working or traveling to or from work;

(4) a newsboy on a train;

(5) a baggage agent; or

(6) a witness attending a legal investigation in which that carrier has an interest.

(d)(1) In this subsection—

(A) "employee of a carrier" includes an individual who—

(i) is furloughed, pensioned, or not on active duty because of advanced age or infirmity that occurred while the individual was employed by that carrier;

(ii) is being transported for purposes of reemployment by that carrier; or

(iii) was killed while employed by a carrier.

(B) "family" refers to the family of an individual named in clause (A) of this paragraph and includes the widow or minor child of an employee who died while employed by a carrier.

(2) A common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I, II, or III of chapter 105 of this title may provide transportation without charge for officers and employees (and their families) of that carrier, another carrier (by exchange of passes or tickets), or a telegraph, telephone, or cable company. A freight forwarder providing service subject to the jurisdiction of the Commission under subchapter IV of that chapter may provide services related to movement of property for those individuals without charge. However, transportation of, or service provided for, household goods must be due to a change in the place of employment of an officer or employee while employed by that carrier.

§ 10723. Charitable purposes

(a)(1) A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I, II, or III of chapter 105 of this title may provide transportation without charge for—

(A) an indigent or homeless individual (including an individual transported by a hospital, charitable organization, or municipal government and the necessary agents employed in that transportation);

(B) an individual who is confined to or about to enter or return home after discharge from a—

(i) Veterans' Administration facility;

(ii) State home for disabled volunteer soldiers; or

(iii) soldiers' and sailors' home, under an arrangement with the board of managers of that facility;

(C) a minister of religion; and

(D) an individual who is confined to a hospital or charitable facility.

(2) A common carrier providing transportation or service subject to the jurisdiction of the Commission under chapter 105 of this title may provide transportation for property without charge or at a reduced rate for—

(A) a charitable purpose, including transportation referred to in paragraph (1) of this subsection; or

(B) use in a public exhibition.

(b)(1) A common carrier subject to the jurisdiction of the Commission under subchapter I, II, or III of that chapter may provide transportation without charge to an individual who is—

(A) engaged only in charitable work;

(B) injured in an accident (together with the physicians and nurses attending that individual); or

(C) a traveling secretary of a railroad Young Men's Christian Association.

(2) That carrier may also establish a rate and related rule equal to the rate charged for the transportation of one individual when that rate is for the transportation of—

(A) a totally blind individual and an accompanying guide or a dog trained to guide the individual; or

(B) a disabled individual and accompanying attendant when required because of the disability.

§ 10724. Emergency rates

(a) A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I, II, or III of chapter 105 of this title may transport passengers without charge to provide relief during general emergencies.

(b)(1) The Commission may authorize a common carrier providing transportation or service subject to its jurisdiction under chapter 105 of this title to give reduced rates for service and transportation of property to or from an area in the United States to provide relief during emergencies. When the Commission takes action under this subsection, it must—

(A) define the area of the United States in which the reduced rates will apply;

(B) specify the period during which the reduced rates are to be in effect; and

(C) define the class of persons entitled to the reduced rates.

(2) The Commission may specify those persons entitled to reduced rates by reference to those persons designated as being in need of relief by the United States Government or by a State government authorized to assist in providing relief during the emergency. The Commission may act under this subsection without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5.

§ 10725. Special freight forwarder rates

(a) A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I, II, or III of chapter 105 of this title may establish—

(1) assembling rates and related classsifications and rules for transportation of less-than-carload or less-than-truckload shipments to a place for further movement as part of a carload or truckload shipment; and

(2) distribution rates and related classifications and rules for transportation of less-than-carload or less-than-truckload shipments moving from a place to which those shipments have moved as a part of a carload or truckload shipment.

(b) A rate and related classification and rule established under subsection (a) of this section applies to freight forwarders and other persons using common carrier transportation under like conditions and may differ from other rates and related classifications and rules that contemporaneously apply to the same common carrier transportation when the difference is justified by a difference in the respective conditions under which that transportation is used. A rate referred to in subsection (a) (1) or (2) of this section may not be established to cover the line-haul transportation between the principal concentration place and the principal break-bulk place.

(c) When establishing a rate, classification, rule, or practice, a motor common carrier providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title may consider the type of property tendered to it by a freight forwarder for transportation when the property is in parcels that do not exceed 70 pounds in weight or 100 inches in length and girth combined. The carrier may establish the lowest rate for the transportation that allows it to receive adequate compensation for transporting the property.

§ 10726. Long and short haul transportation

(a)(1) A carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I or III of chapter 105 of this title (except an express carrier) may not charge or receive more compensation for the transportation of property of the same kind or of passengers—

(A) for a shorter distance than for a longer distance over the same line or route in the same direction (the shorter distance being included in the longer distance); or

(B) under a through rate than under the total of the intermediate rates it may charge or receive under this chapter. This paragraph does not authorize a carrier to charge or receive equal compensation for transportation over a shorter distance than a longer distance.

(2) Notwithstanding paragraph (1) of this subsection, a carrier operating over a circuitous line or route to or from a place in competition with another carrier of the same type that operates over a more direct line or route may establish a rate (otherwise complying with this chapter) for that transportation to meet the rate of the carrier operating over the more direct line or route. A rate established for transportation over a circuitous route under this subsection is not evidence of the compensatory character of rates in other proceedings.

(b) In special cases, the Commission may authorize a carrier to charge less for transportation over a longer distance than it charges for transportation over a shorter distance. The Commission may prescribe the extent to which a carrier authorized to charge less under this subsection may be granted relief from subsection (a) of this section. However, the Commission may not authorize a rate—

(1) to or from the more distant place unless it is reasonably compensatory; or

(2) because of potential water competition not actually in existence.

(c) A rail carrier that reduces a rate for the transportation of property in competition with a water route to or from competitive places may increase the rate only if, after a proceeding, the Commission finds that the increase is proposed because of a change in conditions other than the elimination of water competition.

(d) The Commission shall begin a proceeding under subsection (b) of this section on application of a carrier. A carrier may file a proposed rate with its application, and if the application is approved, the Commission shall allow the rate to become effective one day after the approval becomes effective.

§ 10727. Demand-sensitive rates

(a) The Interstate Commerce Commission shall maintain standards and procedures to permit seasonal, regional, or peak-period demand rates for transportation by rail carrier subject to its jurisdiction under subchapter I of chapter 105 of this title, that—

(1) provide sufficient incentives *to shippers*, through rescheduling and advance planning, to reduce peak-period shipments;

(2) generate additional revenue for rail carriers;

(3) make better use of the national supply of freight cars;

(4) improve—

(A) the transportation of property by rail carriers;

(B) the level of employment by rail carriers; and

(C) the financial stability of markets served by rail carriers.

(b) The Commission shall submit to Congress an annual report on the implementation of rates under this section and shall include recommendations for additional legislation needed to make it easier to establish those rates.

§ 10728. Separate rates for distinct rail services

(a) A rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may, on its own initiative or at the request of a shipper or receiver of property, establish separate rates for distinct rail services to—

(1) encourage competition;

(2) promote increased reinvestment by rail carriers; and

(3) encourage and make easier increased non-railroad investment in the production of rail services.

(b) The Commission shall maintain expeditious procedures to permit separate rates for distinct rail services to—

(1) encourage those services to be priced in accordance with the cash-outlay incurred by the carrier and the demand for them; and

(2) enable shippers and receivers to evaluate transportation and related rates and alternatives.

§ 10729. Rail carriers; incentive for capital investment

(a) A proposed rate, classification, rule, or practice for transportation by a rail carrier subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title requiring a total capital investment of at least $1,000,000 to implement shall be established and become effective under this section. This section applies whether the investment is made individually or collectively by the carrier or by a shipper, receiver, or agent for any of them, or by a third party.

(b) A rail carrier may file a notice of intent to establish a rate, classification, rule, or practice under subsection (a) of this section with the Commission. The notice must include a sworn affidavit detailing the anticipated capital investment. Unless the Commission after holding a proceeding under subsection (c) of this section, decides by the 180th day after the notice is filed that the proposed rate, classification, rule, or practice would violate this subtitle, the carrier may establish that rate, classification, rule, or practice at any time during the next 180 days, and it may become effective 30 days after it is established. Once a rate, classification, rule, or practice becomes effective under this section, the Commission may not, for 5 years, suspend or set it aside as violating section 10701, 10726, 10741–10744, or 11103 of this title. However, the Commission may order the rate, classification, rule, or practice to be revised to a level equal to the variable costs of providing the transportation when the Commission finds the level then in effect reduces the going concern value of the carrier.

(c) On request of an interested person, the Commission shall hold a proceeding to investigate and determine whether the rate, classification, rule, or practice proposed to be established under this section complies with this subtitle. The Commission must give reasonable notice to interested parties before beginning a proceeding under this subsection but may act without allowing an interested party to file an answer or other formal pleading.

§ 10730. Rates and liability based on value

The Interstate Commerce Commission may require or authorize a carrier providing transportation or service subject to its jurisdiction under subchapter I, II, or IV of chapter 105 of this title, to establish rates for transportation of property under which the liability of the carrier for that property is limited to a value established by written declaration of the shipper, or by a written agreement, when that value would be reasonable under the circumstances surrounding the transportation. A rate may be made applicable under this section to livestock only if the livestock is valuable chiefly for breeding, racing, show purposes, or other special uses. A tariff filed with the Commission under subchapter IV of this chapter shall refer specifically to the action of the Commission under this section.

§ 10731. Investigation of discriminatory rail rates for transportation of recyclable or recycled materials

(a) In this section—

(1) "recyclable material" means material collected or recovered from waste for a commercial or industrial use whether the collection or recovery follows end usage as a product.

(2) "virgin material" means raw material, including previously unused metal or metal ore, woodpulp or pulpwood, textile fiber or material, or other resource that, through the application of technology, is or will become a source of raw material for commercial or industrial use.

(b) When appropriate, the Interstate Commerce Commission shall—

(1) investigate the rate structure for the transportation of recyclable or recycled materials and competing virgin material by rail carriers providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title and the manner in which that rate structure has been affected by successive general rate increases approved by the Commission for those carriers;

(2) determine whether those rate increases affect any part of the rate structure in violation of section 10701 or 10741 of this title and order the rate found to be in violation of either of those sections removed from the rate structure; and

(3) report to the President and Congress, in each of the annual reports of the Commission for 1978 and 1979, and in other appropriate reports, all proceedings started or completed under this subsection.

(c) A determination under subsection (b)(2) of this section may be made only after a public hearing. During the hearing, the real carriers have the burden of proving that rate increases that affect the rate structure applicable to the transportation of those competing materials comply with sections 10701 and 10741 of this title.

(b) In cooperation with the Commission, the Secretary of Transportation shall maintain a research, development, and demonstration program to develop and improve transport terminal operations, transport service characteristics, transport equipment, and collection and processing methods to facilitate the competitive and efficient transportation of recyclable or recycled materials by rail carriers providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title.

SUBCHAPTER III—LIMITATIONS

§ 10741. Prohibitions against discrimination by common carriers

(a) A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may not charge or receive from a person a different compensation (by using a special rate, rebate, drawback, or another means) for a service rendered, or to be rendered, in transportation the carrier may perform under this subtitle than it charges or receives from another person for performing a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances. A common carrier that charges or receives such a different compensation for that service unreasonably discriminates.

(b) A common carrier providing transportation or service subject to the jurisdiction of the Commission under chapter 105 of this title may not subject a person, place, port, or type of traffic to unreasonable discrimination. However, subject to subsection (c) of this section, this subsection does not apply to discrimination against the traffic of another carrier providing transportation by any mode.

(c) A common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I, II, or III of that chapter may not subject a freight forwarder providing service subject to the jurisdiction of the Commission under subchapter IV of that chapter to unreasonable discrimination whether or not the freight forwarder is controlled by that carrier.

(d) Differences between the rates, classifications, rules, and practices of water and rail common carriers in effect for their respective types of transportation do not constitute a violation of this section or an unfair or destructive competitive practice under this subtitle.

§ 10742. Facilities for interchange of traffic

A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I or III of chapter 105 of this title shall provide reasonable, proper, and equal facilities that are within its power to provide for the interchange of traffic between, and for the receiving, forwarding, and delivering of passengers and property to and from, its respective line and a connecting line of another common carrier under either of those subchapters.

§ 10743. Payment of rates

(a) Except as provided in subsection (b) of this section, a common carrier (except a pipeline or sleeping car carrier) providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under this subtitle shall give up possession at destination of property transported by it only when payment for the transportation or service is made.

(b)(1) Under regulations of the Commission governing the payment for transportation and service and preventing discrimination, those carriers may give up possession at destination of property transported by them before payment for the transportation or service. The regulations of the Commission may provide for weekly or monthly payment for transportation provided by motor common carriers and for periodic payment for transportation provided by water common carriers.

(2) Such a carrier (including a motor common carrier being used by a freight forwarder) may extend credit for transporting property for the United States Government, a State, a territory or possession of the United States, or a political subdivision of any of them.

§ 10744. Liability for payment of rates

(a)(1) Liability for payment of rates for transportation for a shipment of property by a shipper or consignor to a consignee other than the shipper or consignor, is determined under this subsection when the transportation is provided by a rail, motor, or water common carrier under this subtitle. When the shipper or consignor instructs the carrier transporting the property to deliver it to a consignee that is an agent only, not having beneficial title to the property, the consignee is liable for rates billed at the time of delivery for which the consignee is otherwise liable, but not for additional rates that may be found to be due after delivery if the consignee gives written notice to the delivering carrier before delivery of the property—

(A) of the agency and absence of beneficial title; and

(B) of the name and address of the beneficial owner of the property if it is reconsigned or diverted to a place other than the place specified in the original bill of lading.

(2) When the consignee is liable only for rates billed at the time of delivery under paragraph (1) of this subsection, the shipper or consignor, or, if the property is reconsigned or diverted, the beneficial owner, is liable for those additional rates regardless of the bill of lading or contract under which the property was transported. The beneficial owner is liable for all rates when the property is reconsigned or diverted by an agent but is refused or abandoned at its ultimate destination if the agent gave the carrier in the reconsignment or diversion order a notice of agency and the name and address of

the beneficial owner. A consignee giving the carrier, and a reconsignor or diverter giving a rail carrier, erroneous information about the identity of the beneficial owner of the property is liable for the additional rates.

(b) Liability for payment of rates for transportation for a shipment of property by a shipper or consignor, named in the bill of lading as consignee, is determined under this subsection when the transportation is provided by a rail or express carrier under this subtitle. When the shipper or consignor gives written notice, before delivery of the property, to the line-haul carrier that is to make ultimate delivery—

(1) to deliver the property to another party identified by the shipper or consignor as the beneficial owner of the property; and

(2) that delivery is to be made to that party on payment of all applicable transportation rates;

that party is liable for the rates billed at the time of delivery and for additional rates that may be found to be due after delivery if that party does not pay the rates required to be paid under clause (2) of this subsection on delivery. However, if the party gives written notice to the delivering carrier before delivery that the party is not the beneficial owner of the property and gives the carrier the name and address of the beneficial owner, then the party is not liable for those additional rates. A shipper, consignor, or party to whom delivery is made that gives the delivering carrier erroneous information about the identity of the beneficial owner, is liable for the additional rates regardless of the bill of lading or contract under which the property was transported. This subsection does not apply to a prepaid shipment of property.

(c)(1) A rail carrier may bring an action to enforce liability under subsection (a) of this section. That carrier must bring the action during the period provided in section 11706(a) of this title or by the end of the 6th month after final judgment against it in an action against the consignee, or the beneficial owner named by the consignee or agent, under that section.

(2) A water common carrier may bring an action to enforce liability under subsection (a) of this section. That carrier must bring the action by the end of the 2d year after the claim accrues or by end of the 6th month after final judgment against it in an action against the consignee or beneficial owner named by the consignee by the end of that 2-year period.

(3) A rail or express carrier may bring an action to enforce liability under subsection (b) of this section. That carrier must bring the action during the period provided in section 11706(a) of this title or by the end of the 6th month after final judgment against it in an action against the shipper, consignor, or other party under that section.

§ 10745. Continuous carriage of freight

A carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may not enter a combination or arrangement to prevent the carriage of freight from being continuous from the place of shipment to the place of destination whether by change of time schedule, carriage in different cars, or by other means. The carriage of freight by those carriers is considered to be a continuous carriage from the place of shipment to the place of destination when a break of bulk, stoppage, or interruption is not made in good faith for a necessary purpose, and with the intent of avoiding or unnecessarily interrupting the continuous carriage or of evading this subtitle.

§ 10746. Transportation of commodities manufactured or produced by a rail carrier

A rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may not transport from a State or territory or possession of the United States to another State, territory, or possession or a foreign country, an article or commodity that—

(1) is manufactured, mined, or produced by the carrier or under its authority; or

(2) is owned by the carrier or in which it has an interest.

However, a rail carrier may transport such an article or commodity when it is necessary and intended for use in the business of that carrier. This section does not apply to timber and products manufactured from timber.

§ 10747. Transportation services or facilities furnished by shipper

A carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title may publish in a tariff filed with the Commission under subchapter IV of this chapter a charge or allowance for transportation or service for property when the owner of the property, directly or indirectly, furnishes a service related to or an instrumentality used in the transportation or service. The Commission may prescribe the maximum reasonable charge or allowance a carrier subject to its jurisdiction may pay for a service or instrumentality furnished under this section. The Commission may begin a proceeding under this section on its own initiative or on application.

§ 10748. Transportation of livestock by rail carrier

(a) Transportation entirely by railroad of ordinary livestock in carload lots to public stockyards shall include necessary services of unloading and reloading in route, delivery of inbound shipments at those stockyards into suitable pens, and receiving and loading outbound shipments at those stockyards. A rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may charge a shipper, consignee, or owner an extra amount for those services only if, under Commission regulations, the unloading or reloading in route is at the request of the shipper, consignee, or owner, to try an intermediate market, or to comply with quarantine regulations.

(b) Subsection (a) of this section does not affect the duties and liabilities of a rail carrier in existence on February 28, 1920, under a law related to the transportation of other than ordinary livestock or the duty of providing transportation for shipments other than shipments to or from public stockyards.

§ 10749. Exchange of services and limitation on use of common carriers by freight forwarders

(a) A common carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title may contract with a telephone, telegraph, or cable company to exchange services.

(b) A freight forwarder providing service subject to the jurisdiction of the Commission under subchapter IV of chapter 105 of this title may use a carrier, including a carrier referred to in this subsection, to transfer, collect, or deliver in a terminal area. However, to provide other services, a freight forwarder may only use—

(1) a rail express, motor, or water common carrier providing transportation subject to the jurisdiction of the Commission under chapter 105 of this title including—

(A) a motor common carrier providing exempt transportation under section 10525 or 10526(a)(8) of this title; or

(B) a water common carrier providing exempt transportation under section 10542(a) of this title or transportation between places in Alaska or Hawaii and betwen those places and other places in the United States,

(2) an air carrier subject to the jurisdiction of the Civil Aeronautics Board under chapter 20 of this title; or

(3) the Alaska Railroad.

§ 10750. Demurrage charges

A rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title shall compute demurrage charges, and establish rules related to those charges, in a way that fulfills the national needs related to—

(1) freight car use and distribution; and

(2) maintenance of an adequate supply of freight cars to be available for transportation of property.

SUBCHAPTER IV—TARIFFS AND TRAFFIC

§ 10761. Transportation prohibited without tariff

(a) Except as provided in this subtitle, a carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title shall provide that transportation or service only if the rate for the transportation or service is contained in a tariff that is in effect under this subchapter. That carrier may not charge or receive a different compensation for that transportation or service than the rate specified in the tariff whether by returning a part of that rate to a person, giving a person a privilege, allowing the use of a facility that affects the value of that transportation or service, or another device.

(b) The Commission may grant relief from subsection (a) of this section to contract carriers when relief is consistent with the public interest and the transportation policy of section 10101 of this title. The Commission may provide under this subtitle. A motor on application of a contract carrier or group of contract carriers and on its own initiative for a water contract carrier or group of water contract carriers.

§ 10762. General tariff requirements

(a)(1) A carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title (except a motor common carrier) shall publish and file with the Commission tariffs containing the rates and (A) if a common carrier, classifications, rules, and practices related to those rates, and (B) if a contract carrier, rules and practices related to those rates, established under this chapter for transportation or service it may provide under this subtitle. A motor common carrier shall publish and file with the Commission tariffs containing the rates for transportation it may provide under this subtitle. The Commission may prescribe other information that motor common carriers shall include in their tariffs. A motor contract carrier that serves only one shipper and has provided continuous transportation to that shipper for at least one year may file only its minimum rates unless the Commission finds that filing of actual rates is required in the public interest.

(2) Carriers that publish tariffs under paragraph (1) of this subsection shall keep them open for public inspection. A rate contained in a tariff filed by a common carrier providing transportation or service subject to the jurisdiction of the Commission under subchapter II, III, or IV of chapter 105 shall be stated in money of the United States. A tariff filed by a motor or water contract carrier or by a freight forwarder providing transportation or service subject to the jurisdiction of the Commission under subchapter II, III, or IV of that chapter, respectively, may not become effective for 30 days after it is filed.

(b)(1) The Commission shall prescribe the form and manner of publishing, filing, and keeping tariffs open for public inspection under this section. The Commission may prescribe specific charges to be identified in a tariff published by a common carrier providing transportation or service subject to its jurisdiction under subchapter I, III, or IV of that chapter, but those tariffs must identify plainly—

(A) the places between which property and passengers will be transported;

(B) terminal, storage, and icing charges (stated separately) if a carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of that chapter;

(C) terminal charges if a common carrier providing transportation or service subject to the jurisdiction of the Commission under subchapter III or IV of that chapter;

(D) privileges given and facilities allowed; and

(E) any rules that change, affect, or determine any part of the published rate.

(2) A joint tariff filed by a carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of that chapter shall identify the carriers that are parties to it. The carriers that are parties to a joint tariff, other than the carrier filing it, must file a concurrence or acceptance of the tariff with the Commission but are not required to file a copy of the tariff. The Commission may prescribe or approve what constitutes a concurrence or acceptance.

(c)(1) When a common carrier providing transportation or service subject to the jurisdiction of the Commission (A) under subchapter I of chapter 105 of this title proposes to change a rate, or (B) under another subchapter of that chapter proposes to change a rate, classification, rule, or practice, the carrier shall publish, file, and keep open for public inspection a notice of the proposed change as required under subsections (a) and (b) of this section.

(2) When a contract carrier providing transportation subject to the jurisdiction of the Commission under subchapter II or III of chapter 105 of this title proposes to establish a new rate or to reduce a rate, directly or by changing a rule or practice related to the rate or the value of service under the rate, the carrier shall publish, file, and keep open for public inspection a notice of the new or reduced rate as required under subsections (a) and (b) of this section.

(3) A notice filed under this subsection shall plainly identify the proposed change or new or reduced rate and indicate its proposed effective date. A proposed change and a new or reduced rate may not become effective for 30 days after the notice is published, filed, and held open as required under subsections (a) and (b) of this section.

(d)(1) The Commission may reduce the 30-day period of subsections (a) and (c) of this section if cause exists. The Commission may change the other requirements of this section if cause exists in particular instances or as they apply to special circumstances.

(2) The Commission may prescribe regulations for the simplification of tariffs by carriers providing transportation subject to its jurisdiction under subchapter I of chapter 105 of this title and permit them to change rates, classifications, rules, and practices without filing complete tariffs that cover matter that is not being changed when the Commission finds that action to be consistent with the public interest. Those carriers may publish new tariffs that incorporate changes or plainly indicate the proposed changes in the tariffs then in effect and kept open for public inspection. However, the Commission shall require that all rates of rail carriers and rail rate-making associations be incorporated in their individual tariffs by the end of the 2d year after initial publication of the rate, or by the end of the 2d year after a change in a rate becomes effective, whichever is later. The Commission may extend those periods if cause exists, but if it does, it must send a notice of the extension and a statement of the reasons for the extension to Congress. A rate not incorporated in an individual tariff as required by the Commission is void.

(e) The Commission may reject a tariff submitted to it by a common carrier under this section if that tariff violates this section or regulation of the Commission carrying out this section.

(f) The Commission may grant relief from this section to contract carriers when relief is consistent with the public interest and the transportation policy of section 10101 of this title. The Commission may begin a proceeding under this subsection on application of a contract carrier or group of contract carriers and on its own initiative for a water contract carrier or group of water contract carriers.

§ 10763. Designation of certain routes by shippers or Interstate Commerce Commission

(a)(1) When a person delivers property to a rail carrier for transportation subject to the jurisdiction of the Interstate Commerce Commission under subchaper I of chapter 105 of this title, the person may direct the carrier to transport the property over an established through route. When competing rail lines constitute a part of the route, the person shipping the property may designate the lines over which the property will be transported. The designation must be in writing. A carrier may be directed to transport property over a particular through route when—

(A) there are at least 2 through routes over which the property could be transported;

(B) a through rate has been established for transportation over each of those through routes; and

(C) the carrier is a party to those routes and rates.

(2) A carrier directed to route property transported under paragraph (1) of this subsection must issue a through bill of lading containing the routing instructions and transport the property according to the instructions. When the property is delivered to a connecting carrier, that carrier must also receive and transport it according to the routing instructions and deliver it to the next succeeding carrier or consignee according to the instructions.

(b) If no direction is made under subsection (a) of this section, the Commission may designate the route over which the property may be transported after arrival at the end of the route of one carrier or at a junction with the route of another carrier when the property is to be delivered to another carrier for further transportation. The Commission may act under this subsection when the public interest and a fair distribution of traffic require that action.

(c) The Commission may prescribe exceptions to the authority of a person to direct the movement of traffic under subsection (a) of this section.

§ 10764. Arrangements between carriers; copy to be filed with Interstate Commerce Commission

(a)(1) A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title shall file with the Commission a copy of each arrangement related to transportation affected by this subtitle that the carrier has with another common carrier. The Commission may require other carriers and brokers subject to its jurisdiction under chapter 105 to file a copy of each arrangement related to transportation or service affected by this subtitle that they have with other persons.

(2) When the Commission finds that filing a class of arrangements by a carrier subject to its jurisdiction under subchapter I of that chapter is not necessary in the public interest, the Commission may except the class from paragraph (1) of this subsection.

(b) The Commission may disclose the existence or contents of an arrangement between a contract carrier and a shipper filed under subsection (a) of this section only if the disclosure is—

(1) limited to those parts of the arrangement that are necessary to indicate the extent of its failure to conform to a tariff then in effect under section 10762 of this title; or

(2) consistent with the public interest and made as a part of the record in a formal proceeding.

§ 10765. Water transportation under arrangements with certain other carriers

(a) The Interstate Commerce Commission may require a common carrier providing transportation or service subject to its jurisdiction under chapter 105 of this title that makes an arrangement with a water carrier (whether or not subject to its jurisdiction under this subtitle) providing transportation from a port in the United States to another country for the through transportation of property from a place in the interior of the United States to another country to make similar arrangements with steamship lines that provide transportation from that port to that country.

(b) A carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title that transports property from a place in the United States through another country to a place in the United States shall publish and keep open for public inspection tariffs as required under section 10762 of this title. The tariffs shall identify the through rate established for that transportation to the United States from another country to which the carrier accepts property for shipment from the United States. Unless the through rates are available for public inspection under that section, the property is subject to customs duties applicable to property produced in another country before the property may be admitted to the United States.

§ 10766. Freight forwarder traffic agreements

(a) A freight forwarder providing service subject to the jurisdiction of the Interstate Commerce Commission under subchapter IV of chapter 105 of this title may agree with another freight forwarder to load traffic jointly between places served under this subtitle. However, the Commission may cancel, suspend, or require changes in the agreement when the Commission finds the agreement is inconsistent with the transportation policy of section 10101 of this title.

(b) A freight forwarder providing service subject to the jurisdiction of the Commission under that subchapter may contract with motor common carriers providing transportation subject to the jurisdiction of the Commission under subchapter II of that chapter, to provide transportation for the forwarder. A copy of that contract must be filed with the Commission. The contract may govern use by the freight forwarder of the services and instrumentalities of the motor common carrier and the compensation to be paid for the transportation. However, the parties to a contract must establish reasonable conditions and compensation that are consistent with the transportation policy of section 10101 of this title and do not unreasonably discriminate against a party or another freight forwarder. When a contract under this subsection governs line-haul transportation of property for a total distance of at least 450 highway miles in truckload lots between concentration and break-bulk places, the compensation paid to a motor common carrier under the contract may not be less than the rate for that transportation established under

this chapter. When the Commission finds that a contract, or its conditions or compensation, under this subsection is or will be inconsistent with this subsection, the Commission shall prescribe consistent conditions and compensation.

(c) The Commission may begin a proceeding under this section on its own initiative or on complaint.

SUBCHAPTER V—VALUATION OF PROPERTY

§ 10781. Investigation and report by Interstate Commerce Commission

(a) The Interstate Commerce Commission shall investigate, establish, and report the value of all property owned or used by each carrier providing transportation subject to its jurisdiction under subchapter I of chapter 105 of this title, except a street, suburban, or interurban electric rail carrier not operated as a part of a general railroad system of transportation. However, the Commission may investigate, establish, and report the value of property owned or used by such an electric rail carrier when the Commission decides that action is desirable in the public interest. When the Commission makes an investigation required to be made under this section, it must—

(1) inventory and list the property of that carrier in detail;

(2) indicate the value established under section 10782 of this title for that property; and

(3) classify the physical property under classifications that conform, as nearly as practicable, to the classification of expenditures prescribed by the Commission for railroads and equipment.

(b) Except as provided in subsection (a) of this section, the Commission may prescribe—

(1) the procedure to be followed when conducting an investigation under this subchapter;

(2) the form in which to submit the results of the valuation; and

(3) the classification of the elements that make up the established value.

The report for each investigation conducted under this subchapter shall indicate the value of the property of each common carrier as a whole and separately identify the value of its property in each State and territory and possession of the United States in which the property is located.

§ 10782. Requirements for establishing value

(a) In carrying out an investigation of a common carrier required under section 10781 of this title, the Interstate Commerce Commission shall—

(1) establish, for each piece of property except land owned or used by the carrier as a common carrier, the original cost to date, cost of reproduction new and cost of reproduction less depreciation, and analyze the methods used to establish those costs and the reasons for differences among them;

(2) establish other values, and elements of value, of that property and analyze the methods used to establish them and the reasons for differences between them and the cost values established under clause (1) of this subsection;

(3) establish separately from improvements, the original cost on the date of dedication to public use of all lands, rights-of-way, and terminals owned or used by the carrier as a common carrier and establish their current value;

(4) identify property not held by the carrier as a common carrier, its original cost, and current value and analyze the methods of valuation used;

(5) establish the amount and value of assistance or grant of right of way made to the carrier, or to a previous corporation that operated its property, by the United States Government or by a State, county, or municipal government, or by an individual, association, or corporation and the amount and value of any concession and allowance made by the United States Government or another of those governments in consideration of that assistance; and

(6) identify the grants of land to that carrier, or to a previous corporation that operated its property, by the United States Government, or by a State, county, or municipal government, the amount of money derived from the sale of part of those grants, the value of the unsold parts (established as of the date acquired and currently), and the amount and value of any concession and allowance made by the carrier to the United States Government, or another of those governments, in consideration of that assistance or grant of land.

(b) The Commission may prescribe elements to consider in establishing the cost to date of property owned or used by a carrier. However, in establishing that cost, the Commission shall investigate and include in those elements—

(1) the history and organization of the corporation that currently operates the property and of previous corporations that also operated that property;

(2) increases or decreases of securities during reorganization of that corporation of such a previous corporation;

(3) money received through the issuance of securities by that corporation or such a previous corporation;

(4) syndicating, banking, and other financial arrangements under which those securities were issued and the expenses thereof;

(5) the net and gross earnings of those corporations; and

(6) the expenditure of all money and the purposes of those expenditures in as much detail as the Commission determines to be necessary.

§ 10783. Cooperation and assistance of carriers

(a) Each common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title shall cooperate with and assist the Commission in valuing property under this subchapter. The Commission may order those carriers to—

(1) give to the Commission maps, profiles, contracts, engineering reports, and other records to assist it in investigating and establishing the value of that carrier's property; and

(2) assist the Commission in valuing property under this subchapter in other ways, including giving its agents free access to its right-of-way, property, and records on request.

(b) A rail carrier whose property is being valued under this subchapter shall—

(1) transport employees of the United States Government who are making surveys and other examinations of the physical property of that carrier in the course of that valuation when reasonably required by them in the actual discharge of their duties;

(2) transport and store the cars of the United States Government that are used to house and maintain those employees when reasonably required during the valuation; and

(3) transport supplies necessary to maintain those employees and the property of the United States Government actually used on the railroad during the valuation.

(c) The transportation required to be provided under subsection (b) of this section is considered a special service for which the Commission may prescribe the compensation to be paid. A rail carrier shall give the Commission an accurate accounting of the transportation provided under this section when required by the Commission.

(d) The Commission shall keep records compiled under this subchapter open for public inspection. However, the Commission may order those records closed to the public but must state its reasons for closing them.

§ 10784. Revision of property valuations

(a) When the Interstate Commerce Commission completes an initial valuation of property under this subchapter, it shall thereafter correct, revise, and supplement that valuation, including previous inventories and classifications, by keeping itself informed of new construction, changes in condition, quantity, use, and classification of property on which an initial valuation was made and the cost of all improvements to, and changes in investment, in that property. The Commission may keep itself informed of current changes in costs and values of railroad property to carry out this section.

(b) The Commission may order a carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title to give it reports and information needed to carry out this section.

§ 10785. Finality of Valuation: Notice, Protest, and Review

(a) The Interstate Commerce Commission shall notify the carrier, the Attorney General, and the chief executive officer of each State in which property being valued under this subchapter is located, of the completion of a tentative valuation of that property. The Commission may also notify other parties. The notice must be sent by certified mail and must indicate the valuation established for each of that carrier's classes of property. A valuation of property under this subchapter becomes final if a protest is not filed within 30 days after notice of the tentative valuation of that property is given. When the tentative valuation becomes final under this subsection, the effective date is the date of the tentative valuation.

(b) When a carrier files a protest of a tentative valuation, the Commission shall begin a proceeding to consider the protest. If the Commission decides that a tentative valuation should be changed, it may make the necessary changes. The tentative valuation, as changed, becomes final and is effective on the date of the final action of the Commission under this subsection.

(c) The Commission shall publish final valuations and classifications of property established under this subchapter. A final valuation or classification that has become effective under this subchapter is prima facie evidence of the value of the property in a proceeding under this subtitle and in a judicial proceeding to enforce, enjoin, set aside, annul, or suspend an action of the Commission.

(d) When evidence is introduced at the trial of an action involving a final valuation of property established by the Commission and found by the court to be different from the evidence offered to the Commission during a proceeding under subsection (b) of this section or in addition to that evidence and substantially affecting the valuation, the court shall send a copy of that evidence to the Commission and stay further proceedings in the action. The court may determine the duration of the stay of proceedings. The Commission shall consider the evidence and may change the final valuation established under this subchapter. The Commission shall complete its action and report to the court in the time determined by the court. If the Commission changes the valuation, the court must substitute the valuation as changed for the original valuation and give its judgment on the substituted valuation. If the Commission does not change the original valuation, the court must give judgment on the original valuation.

§ 10786. Applicability

In addition to common carriers providing transportation subject to the jurisdiction of

the Interstate Commerce Commission under subchapter I of chapter 105 of this title, this subchapter applies to receivers and operating trustees of those carriers.

Chapter 109—LICENSING

SUBCHAPTER I—RAILROADS AND FERRIES

Sec.
10901. Authorizing construction and operation of railroad lines.
10902. Authorizing action to provide adequate, efficient, and safe facilities.
10903. Authorizing abandonment and discontinuance of railroad lines and rail transportation.
10904. Filing and procedure for applications to abandon or discontinue.
10905. Offers of financial assistance to avoid abandonment and discontinuance.
10906. Offering abandoned rail properties for sale for public purposes.
10907. Exceptions.
10908. Discontinuing or changing interstate train or ferry transportation subject to State law.
10909. Discontinuing or changing train or ferry transportation in one State.

SUBCHAPTER II—OTHER CARRIERS AND MOTOR CARRIER BROKERS

10921. Requirement for certificate, permit, or license.
10922. Certificates of motor and water common carriers.
10923. Permits of motor and water contract carriers and freight forwarders.
10924. Licenses of motor carrier brokers.
10925. Effective periods of certificates, permits, and licenses.
10926. Transfers of certificates and permits.
10927. Security of motor carriers, brokers, and freight forwarders.
10928. Temporary authority for motor and water carriers.
10929. Temporary authority for previously exempt water transportation.
10930. Limitations on certificates and permits.
10931. Motor common carriers providing transportation entirely in one State.
10932. Motor carrier savings provisions.
10933. Authorizing abandonment of freight forwarder service.

SUBCHAPTER I—RAILROADS AND FERRIES

§ 10901. Authorizing construction and operation of railroad lines

(a) A rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may—

(1) construct an extension to any of its railroad lines;

(2) construct an additional railroad line;

(3) acquire or operate an extended or additional railroad line; or

(4) provide transportation over, or by means of, an extended or additional railroad line;

only if the Commission finds that the present or future public convenience and necessity require or will be enhanced by the construction or acquisition (or both) and operation of the railroad line.

(b) A proceeding to grant authority under subsection (a) of this section begins when an application is filed. On receiving the application, the Commission shall—

(1) send a copy of the application to the chief executive officer of each State that would be directly affected by the construction or operation of the railroad line;

(2) send an accurate and understandable summary of the application to a newspaper of general circulation in each area that would be affected by the construction or operation of the railroad line;

(3) have a copy of the summary published in the Federal Register;

(4) take other reasonable and effective steps to publicize the application; and

(5) indicate in each transmission and publication that each interested person is entitled to recommend to the Commission that it approve, deny, or take other action concerning the application.

(c)(1) If the Commission—

(A) finds public convenience and necessity, it may—

(i) approve the application as filed; or

(ii) approve the application with modifications and require compliance with conditions the Commission finds necessary in the public interest; or

(B) fails to find public convenience and necessity, it may deny the application.

(2) On approval, the Commission shall issue to the rail carrier a certificate describing the construction or acquisition (or both) and operation approved by the Commission.

§ 10902. Authorizing action to provide adequate, efficient, and safe facilities

The Interstate Commerce Commission may authorize a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title to take action necessary to provide adequate, efficient, and safe facilities to enable the rail carrier to perform its obligations under this subtitle, including extension of any of the carrier's railroad lines after issuance of a certificate under section 10901 of this title. The Commission may authorize a rail carrier to act under this section only if it finds that the expense involved will not impair the ability of the carrier to perform its obligations to the public. The Commission may conduct a proceeding on its own initiative or on application of an interested party.

§ 10903. Authorizing abandonment and discontinuance of railroad lines and rail transportation

(a) A rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may—

(1) abandon any part of its railroad lines; or

(2) discontinue the operation of all rail transportation over any part of its railroad lines;

only if the Commission finds that the present or future public convenience and necessity require or permit the abandonment or discontinuance. In making the finding, the Commission shall consider whether the abandonment or discontinuance will have a serious, adverse impact on rural and community development.

(b)(1) A proceeding to grant authority under subsection (a) of this section begins on application filed with the Commission. Subject to section 10904–10906 of this title, if the Commission—

(A) finds public convenience and necessity, it shall—

(i) approve the application as filed; or

(ii) approve the application with modifications and require compliance with conditions that the Commission finds are required by public convenience and necessity; or

(B) fails to find public convenience and necessity, it shall deny the application.

(2) On approval, the Commission shall issue to the rail carrier a certificate describing the abandonment or discontinuance approved by the Commission. Each certificate shall also contain provisions to protect the interests of employees. The provisions shall be at least as beneficial to those interests as the provisions established under section 11347 of this title and section 565(b) of title 45.

(c) Except as provided in sections 10905 and 10906 of this title—

(1) if a certificate is issued without an investigation under section 10904(c) of this title, the abandonment or discontinuance may take effect under the certificate on the 30th day after the issuance of the certificate; or

(2) if a certificate is issued after an investigation under section 10904(c) of this title, the abandonment or discontinuance may take effect under the certificate on the 120th day after the issuance of the certificate.

§ 10904. Filing and procedure for applications to abandon or discontinue

(a)(1) An application for a certificate of abandonment or discontinuance under section 10903 of this title, and a notice of intent to abandon or discontinue, must be filed with the Interstate Commerce Commission at least 60 days before the day on which the abandonment or discontinuance is to become effective.

(2) When a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title files an application and notice of intent, the notice shall include—

(A) an accurate and understandable summary of the rail carrier's application and the reasons for the proposed abandonment or discontinuance; and

(B) a statement indicating that each interested person is entitled to recommend to the Commission that it approve, deny, or take other action concerning the application.

(3) The rail carrier shall—

(A) send by certified mail a copy of the notice of intent to the chief executive officer of each State that would be directly affected by the proposed abandonment or discontinuance;

(B) post a copy of the notice in each terminal and station on each portion of a railroad line proposed to be abandoned or over which all transportation is to be discontinued;

(C) publish a copy of the notice for 3 consecutive weeks in a newspaper of general circulation in each county in which each such portion is located;

(D) mail a copy of the notice, to the extent practicable, to all shippers that have made significant use (as designated by the Commission) of the railroad line during the 12 months preceding the filing of the application; and

(E) attach to the notice filed with the Commission an affidavit certifying the manner in which clauses (A)–(D) of this paragraph have been satisfied.

(b) The burden is on the person applying for the certificate to prove that the present or future public convenience and necessity require or permit the abandonment or discontinuance.

(c)(1) During the period between the date the application is filed through the day immediately before the date proposed in the application that the abandonment or discontinuance become effective, the Commission shall, on petition, and may, on its own initiative, begin an investigation to assist it in determining what disposition to make of the application. The order to conduct the investigation must be served on any affected rail carrier not later than the 5th day before the proposed effective date of the abandonment or discontinuance. An investigation may include public hearings at any location reasonably adjacent to the railroad line involved in the abandonment or discontinuance. The hearing may be held on the request of an interested party or on the initiative of the Commission.

(2) If an investigation is not conducted, the Commission shall act under section 10903(b) of this title by the last day of the period referred to in paragraph (1) of this subsection. If an investigation is to be conducted, the Commission shall postpone the proposed effective date of any part of the abandonment or discontinuance. The postponement shall be for a reasonable period of time necessary to complete the investigation.

(d)(1) In this subsection, "potentially subject to abandonment" has the meaning given the term in regulations of the Commission. The regulations may include standards that

vary by region of the United States and by railroad or group of railroads.

(3) Each rail carrier shall maintain a complete diagram of the transportation system operated, directly or indirectly, by the carrier. The carrier shall submit to the Commission and publish amendments to its diagram that are necessary to maintain the accuracy of the diagram. The diagram shall—

(A) include a detailed description of each of its railroad lines potentially subject to abandonment; and

(B) identify each railroad line for which the carrier plans to file an application for a certificate under subsection (a) of this section.

(3) If an application for a certificate is opposed by—

(A) a shipper or other person that has made significant use (as determined by the Commission) of the railroad line involved in the proposed abandonment or discontinuance during the 12-month period before the filing of the application for a certificate; or

(B) a State or political subdivision of a State in which any part of the railroad line is located;

the Commission may issue a certificate under section 10903 of this title only if the railroad line has been described and identified in the diagram or amendment to the diagram of the rail carrier that was submitted to the Commission at least 4 months before the date on which the application was filed.

§ 10905. Offers of financial assistance to avoid abandonment and discontinuance

(a) In this section—

(1) "avoidable cost" means all expenses that would be incurred by a rail carrier in providing transportation that would not be incurred if the railroad line over which the transportation was provided were abandoned or if the transportation were discontinued. Expenses include cash inflows foregone and cash outflows incurred by the rail carrier as a result of not abandoning or discontinuing the transportation. Cash inflows foregone and cash outflows incurred include—

(A) working capital and required capital expenditure;

(B) expenditures to eliminate deferred maintenance;

(C) the current cost of freight cars, locomotives, and other equipment; and

(D) the foregone tax benefits from not retiring properties from rail service and other effects of applicable federal and State income taxes.

(2) "reasonable return" means—

(A) if a rail carrier is not in reorganization, the cost of capital to the rail carrier, as determined by the Interstate Commerce Commission; and

(B) if a rail carrier is in reorganization, the mean cost of capital of rail carriers not in reorganization, as determined by the Commission.

(b) When the Commission finds under section 10903 of this title that the present or future public convenience and necessity require or permit abandonment or discontinuance, it shall publish the finding in the Federal Register. If, within 30 days after the publication, the Commission finds that—

(1) a financially responsible person (including a governmental authority) has offered financial assistance to enable the rail transportation to be continued over that part of the railroad line to be abandoned or over which all rail transportation is to be discontinued; and

(2) it is likely that the assistance would be equal to—

(A) the difference between the revenues attributable to that part of the railroad line and the avoidable cost of providing rail freight transportation on the line, plus a reasonable return on the value of the line; or

(B) the acquisition cost of that part of the railroad line;

the Commission shall postpone the issuance of a certificate authorizing abandonment or discontinuance for a reasonable time, not to exceed 6 months, to enable the person or government authority to enter into an agreement with the rail carrier to provide the assistance or to buy that part of the railroad line and to continue to provide rail transportation over the line. Thereafter, the Commission shall determine the extent to which the avoidable cost of providing rail transportation plus a reasonable return on the rail properties involved exceed the revenues attributable to the railroad line or the rail transportation proposed to be abandoned or discontinued. On notice to the Commission that such an agreement has been executed, the Commission shall further postpone the issuance of the certificate as long as the agreement, or an extension or modification of the agreement, is in effect.

(c) The rail carrier shall provide promptly to a party considering offering financial assistance under subsection (b) of this section—

(1) its most recent reports on the physical condition of that part of the railroad line involved in the proposed abandonment or discontinuance; and

(2) traffic, revenue, and other data necessary to determine the amount of financial assistance that would be required to continue rail transportation over that part of the railroad line.

§ 10906. Offering abandoned rail properties for sale for public purposes

When the Interstate Commerce Commission finds under section 10903 of this title that the present or future public convenience and necessity require or permit abandonment or discontinuance, the Commission shall find further whether the rail properties that are involved in the proposed abandonment or discontinuance are suitable for use for public purposes, including highways, other forms of mass transportation, conservation, energy production or transmission, or recreation. If the Commission finds that the rail properties proposed to be abandoned are suitable for public purposes, the properties may be sold, leased, exchanged, or otherwise disposed of only under conditions provided in the order of the Commission. The conditions may include a prohibition on any such disposal for a period of not more than 180 days after the effective date of the order, unless the properties have first been offered, on reasonable terms, for sale for public purposes.

§ 10907. Exceptions

(a) Notwithstanding sections 10901 and 10902 and subchapter III of chapter 113 of this title, and without the approval of the Interstate Commerce Commission, a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may enter into arrangements for the joint ownership or joint use of spur, industrial, team, switching, or side tracks.

(b) The Commission does not have authority under sections 10901–10906 of this title over—

(1) the construction, acquisition, operation, abandonment, or discontinuance of spur, industrial, team, switching, or side tracks if the tracks are located, or intended to be located, entirely in one State; or

(2) a street, suburban, or interurban electric railway that is not operated as part of a general system of rail transportation.

§ 10908. Discontinuing or changing interstate train or ferry transportation subject to State law

(a) When a discontinuance or change in any part of the transportation of a train or ferry operating between a place in a State and a place in another State—

(1) is proposed by a carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title; and

(2) is subject to the law of a State, or to a regulation or order of, or proceeding pending before, a court or other authority of a State;

the carrier, notwithstanding that law, regulation, order, or proceedings, may discontinue or change the transportation—

(A) if it files a notice of the proposed discontinuance or change with the Commission at least 30 days before the discontinuance or change is intended to be effective and carries out the discontinuance or change under that notice;

(B) if it mails a copy of the notice to the chief executive officer of each State in which the train or ferry is operated and posts a copy of the notice at each station, depot, or other facility served by the train or ferry; and

(C) except as otherwise provided by the Commission under this section.

(b) On petition or on its own initiative, the Commission may conduct a proceeding on the proposed discontinuance or change if it begins the proceeding between the date the carrier files the notice under subsection (a) of this section and the date on which the discontinuance or change is intended to be effective. After the proceeding begins, the Commission may order the carrier proposing the discontinuance or change to continue any part of the transportation pending completion of the proceeding and the decision of the Commission if the Commission serves a copy of its order on the carrier at least 10 days before the date on which the carrier intended the discontinuance or change to be effective. However, the Commission may not order the transportation continued for more than 4 months after the date on which the carrier intended the discontinuance or change to be effective.

(c) If, after a proceeding completed either before or after the proposed discontinuance or change has become effective, the Commission finds that any part of the transportation is required or permitted by present or future public convenience and necessity and will not unreasonably burden interstate or foreign commerce, the Commission may order the carrier to continue or restore that transportation for not to exceed one year from the date of the Commission order. On expiration of the Commission order, the jurisdiction of each State involved in the discontinuance or change is no longer superseded except to the extent this section is again invoked.

§ 10909. Discontinuing or changing train or ferry transportation in one State

(a) When a carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title has proposed a discontinuance or change of any part of the transportation of a train or ferry operated by it entirely in one State and—

(1) the law of the State prohibits the discontinuance or change;

(2) the carrier has requested the State authority having jurisdiction over the discontinuance or change for permission to discontinue or change the transportation and the request has been denied; or

(3) the State authority has not acted finally by the 120th day after the carrier made the request;

the carrier may petition the Commission for permission to discontinue or change the transportation.

(b) When a petition is filed under subsection (a) of this section, the Commission shall notify the chief executive officer of the State in which the train or ferry is operated concerning the petition. Before acting on the petition, the Commission shall give interested parties a full hearing. If such a hearing is requested, the Commission shall give all interested parties at least 30 days notice of the

hearing and shall hold the hearing in the State in which the train or ferry is operated. The Commission may cooperate with, and use the services, records, and facilities of, the State in carrying out this section.

(c) The Commission may grant permission to the carrier to discontinue or change any part of the transportation if the Commission finds that—

(1) the present or future public convenience and necessity require or permit the discontinuance or change to be authorized by the Commission; and

(2) continuing the transportation, without the proposed discontinuance or change, will constitute an unreasonable burden on the interstate operations of the carrier or on interstate commerce.

SUBCHAPTER II—OTHER CARRIERS AND MOTOR CARRIER BROKERS

§ 10921. Requirement for certificate, permit, or license

Except as provided in this subchapter or another law, a person may provide transportation or service subject to the jurisdiction of the Interstate Commerce Commission under subchapter II, III, or IV of chapter 105 of this title or be a broker for transportation subject to the jurisdiction of the Commission under subchapter II of that chapter, only if the person holds the appropriate certificate, permit, or license issued under this subchapter authorizing the transportation or service.

§ 10922. Certificates of motor and water common carriers

(a) Except as provided in this section and section 10930(a) of this title, the Interstate Commerce Commission shall issue a certificate to a person authorizing that person to provide transportation subject to the jurisdiction of the Commission under subchapter II or III of chapter 105 of this title as a motor common carrier or water common carrier, respectively, if the Commission finds that—

(1) the person is fit, willing, and able—

(A) to provide the transportation to be authorized by the certificate; and

(B) to comply with this subtitle and regulations of the Commission; and

(2) the transportation to be provided under the certificate is or will be required by the present or future public convenience and necessity.

(b) A person must file an application with the Commission for a certificate to provide transportation as a motor common carrier or water common carrier. The Commission may approve any part of the application or deny the application. The application must—

(1) be under oath;

(2) contain information required by Commission regulations; and

(3) be served on persons designated by the Commission.

(c)(1) Subject to section 10927(a) of this title, each certificate issued to a person to provide transportation as a motor common carrier shall specify—

(A) the transportation to be provided by the carrier;

(B) any of the regular routes over which, any of the places between which, and off-route places at which, the carrier may provide transportation; and

(C) if transportation is not over regular routes or between specified places, the area in which the carrier may provide transportation.

(2) Under regulations of the Commission, a motor common carrier may occasionally deviate from the regular routes, or the places specified in the certificate, or both.

(3) If a motor common carrier transports passengers, the Commission may authorize transportation of the passengers only over a regular route and between specified places, except to the extent the carrier is authorized to provide special or charter transportation.

(4) A certificate of a motor common carrier to transport passengers may include authority to transport—

(A) newspapers, baggage of passengers, express, or mail in the same motor vehicle with the passengers; and

(B) baggage of passengers in a separate motor vehicle.

(d) Each certificate issued to a person to provide transportation as a water common carrier shall specify each route over which, and each port between which, the carrier may provide transportation.

(e)(1) A motor common carrier may provide transportation under a certificate only if the carrier complies with conditions the Commission finds are required by public convenience and necessity, including conditions—

(A) on extending routes of the carrier; and

(B) to carry out requirements established by the Commission under this subtitle.

(2) The Commission may prescribe necessary conditions under which a water common carrier provides transportation, including conditions on extending routes of the carrier.

(3) The Commission may prescribe conditions when the certificate is issued and at any time thereafter. The Commission may not prescribe a condition preventing—

(A) a motor common carrier or water common carrier from adding to its equipment and facilities or its transportation within the scope of the certificate to satisfy business development and public demand; or

(B) a water common carrier, if the carrier has authority to provide transportation over completed parts of a waterway project authorized under law, from extending its transportation over the uncompleted parts of the project when opened for navigation to satisfy business development and public demand.

(f) A certificate issued under this section does not confer a proprietary or exclusive right to use the public highways or public waterways.

§ 10923. Permits of motor and water contract carriers and freight forwarders

(a) Except as provided in this section and section 10930 of this title, the Interstate Commerce Commission shall issue a permit to a person authorizing the person to provide transportation subject to the jurisdiction of the Commission under subchapter II or III of chapter 105 of this title as a motor contract carrier or water contract carrier, respectively, or to provide service subject to that jurisdiction under subchapter IV of chapter 105 as a freight forwarder, if the Commission finds that—

(1) the person is fit, willing, and able—

(A) to provide the transportation or service to be authorized by the permit; and

(B) to comply with this subtitle and regulations of the Commission; and

(2) the transportation or service to be provided under the permit is or will be consistent with the public interest and the transportation policy of section 10101 of this title.

(b)(1) A person must file an application with the Commission for a permit to provide transportation as a contract carrier or to provide service as a freight forwarder. The Commission may approve any part of the application or deny the application. The application must—

(A) be under oath;

(B) contain information required by Commission regulations; and

(C) be served on persons designated by the Commission.

(2) In deciding whether to approve the application of a person for a permit as a motor contract carrier, the Commission shall consider—

(A) the number of shippers to be served by the carrier;

(B) the nature of the transportation proposed to be provided;

(C) the effect that granting the permit would have on the transportation of carriers protesting the granting of the permit; and

(D) the effect that denying the permit would have on the person applying for the permit, its shippers, or both, and the changing character of the requirements of those shippers.

(3) The Commission may not deny any part of an application for a freight forwarder permit filed by a corporation controlled by, or under common control with—

(A) a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I, II, or III of chapter 105 of this title, because of the relationship between the corporation and that carrier; and

(B) a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 only because the service to be provided by the corporation will compete with service provided by another freight forwarder subject to subchapter IV of that chapter.

(c) Each permit issued to a person—

(1) to provide transportation as a motor contract carrier is subject to section 10927(a) of this title and shall specify the transportation to be provided by the carrier;

(2) to provide transportation as a water contract carrier shall specify the transportation to be provided by the carrier; and

(3) to provide service as a freight forwarder shall specify the nature or general description about which the service is to be provided, the area in which, and the area between which, the service may be provided by the freight forwarder.

(d)(1) The Commission may prescribe necessary conditions under which a contract carrier or freight forwarder provides transportation or service. The Commission may prescribe the conditions when the permit is issued and at any time thereafter.

(2) The permit for a motor contract carrier shall specify necessary conditions, including each person or number or class of persons for which the carrier may provide transportation—

(A) to ensure that the carrier provides transportation as a motor contract carrier and within the scope of the permit; and

(B) to carry out requirements established by the Commission under this subtitle.

(3) Subject to the permit and its conditions, a motor contract carrier may substitute or add to its equipment and facilities as requests for its transportation develop. The Commission may not prescribe a condition preventing—

(A) a water contract carrier from substituting or adding contracts within the scope of the permit to satisfy the requirements of business development and public demand; and

(B) a water contract carrier or freight forwarder from adding to its equipment and facilities, and transportation or service, as the case may be, within the scope of the permit to satisfy the requirements of business development and public demand.

§ 10924. Licenses of motor carrier brokers

(a) The Interstate Commerce Commission shall issue, subject to section 10927(b) of this title, a license to a person authorizing the person to be a broker for transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title, if the Commission finds that—

(1) the person is fit, willing, and able—

(A) to be a broker for transportation to be authorized by the license; and

(B) to comply with this subtitle and regulations of the Commission; and

(2) the transportation for which the person is to be a broker will be consistent with the public interest and the transportation policy of section 10101 of this title.

(b)(1) The broker may provide the trans-

portation itself only if the broker also has been issued a certificate or permit to provide the transportation under this subchapter. A broker may use only the transportation of a motor carrier holding a certificate or permit issued under this subchapter.

(2) This subsection does not apply to a motor carrier having a certificate or permit issued under this subchapter or to an employee or agent of the motor carrier to the extent the transportation is to be provided entirely by the motor carrier, with other motor carriers holding certificates or permits or with rail, express, or water common carriers.

(c) A person must file an application with the Commission for a license to be a broker for motor carrier transportation. The Commission may approve the application or any part of it, or deny the application.

(d) Commission regulations shall provide for the protection of travelers and shippers by motor vehicle, to be observed by brokers

§ 10925. Effective periods of certificates, permits, and licenses

(a) Each certificate, permit, and license issued under section 10922, 10923, or 10924 of this title is effective from the date specified in it and remains in effect except as otherwise provided in this section.

(b) On application of the holder of a certificate, permit, or license, the Interstate Commerce Commission may amend or revoke any part of the certificate, permit, or license On complaint or on its own initiative and after notice and an opportunity for a proceeding, the Commission may suspend, amend, or revoke any part of a certificate, permit, or license—

(1) if a motor carrier, broker, or freight forwarder, for willful failure to comply with this subtitle, a regulation or order of the Commission, or a condition of its certificate. permit, or license; and

(2) if a water carrier, for willful failure to comply with section 10701(a) or 11101(a) of this title, a regulation or order of the Commission, or a condition of its certificate or permit.

(c)(1) Except on application of the holder, the Commission may revoke a certificate or permit of a motor carrier or freight forwarder, or a license of a broker, only after the Commission has issued an order to the holder under section 11701 of this title requiring compliance with this subtitle, a regulation of the Commission, or a condition of the certificate, permit, or license of the holder, and the holder willfully does not comply with the order.

(2) Except on application of the holder, the Commission may suspend, amend, or revoke a certificate or permit of a water carrier only after the Commission has issued an order to the holder under section 11701 of this title requiring compliance with section 10701(a) or 11101(a) of this title, and the holder willfully does not comply with the order.

(3) The Commission may act under paragraph (1) or (2) of this subsection only after giving the holder of the certificate, permit, or license at least 30 days to comply with the order.

(d)(1) Without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5, the Commission may suspend a certificate of a motor carrier, a permit of a freight forwarder, or a license of a broker—

(A) if a motor carrier or broker, for failure to comply with section 10701, 10702, 10761, 10762, 10924(d), or 10927 (b) or (d) of this title, or an order or regulation of the Commission prescribed under those sections; and

(B) if a freight forwarder, for failure to comply with section 10762 or 10927 (c) or (d) of this title, or an order or regulation of the Commission prescribed under those sections.

(2) The Commission may suspend the certificate, permit, or license only after it gives notice of the suspension to the holder at least 15 days before the date the suspension is to begin. The suspension remains in effect until the holder complies with those applicable sections.

§ 10926. Transfers of certificates and permits

Except as provided in this subtitle, a certificate or permit issued under section 10922 or 10923 of this title—

(1) if a certificate or permit of a motor carrier, may be transferred under regulations of the Interstate Commerce Commission;

(2) if a certificate or permit of water carrier, may be transferred under regulations prescribed by the Commission to protect the public interest and to insure compliance with this subtitle; and

(3) if a permit of a freight forwarder, may be transferred under regulations prescribed by the Commission to insure compliance with this subtitle, if the Commission finds that the person to whom the permit is to be transferred satisfies section 10923 (a) and (b) of this title. However, if the proposed transfer would affect the interests of employees of a freight forwarder, the Commission shall require a fair and equitable arrangement to protect the interests of those employees before the transfer is effective.

§ 10927. Security of motor carriers, brokers, and freight forwarders

(a)(1) The Interstate Commerce Commission may issue a certificate or permit to a motor carrier under section 10922 or 10923 of this title only if the carrier files with the Commission a bond, insurance policy, or other type of security approved by the Commission. The security must be sufficient to pay, not more than the amount of the security, for each final judgment against the carrier for bodily injury to, or death of, an individual resulting from the negligent operation, maintenance, or use of motor vehicles under the certificate or permit, or loss or damage to property (except property referred to in paragraph (3) of this subsection), or both. A certificate or permit remains in effect only as long as the carrier satisfies the requirements of this paragraph.

(2) A motor carrier operating in the United States when providing transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country shall comply with the requirements of sections 10329 and 10330 that apply to a motor carrier providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title. To protect the public, the Commission may require any such motor carrier to file the type of security that a motor carrier is required to file under paragraph (1) of this subsection.

(3) The Commission may require a motor common carrier providing transportation under a certificate to file with the Commission a type of security sufficient to pay a shipper or consignee for damage to property of the shipper or consignee placed in the possession of the motor common carrier as the result of transportation provided under this subtitle. A carrier required by law to pay a shipper or consignee for loss, damage, or default for which a connecting motor common carrier is responsible is subrogated, to the extent of the amount paid, to the rights of the shipper or consignee under any such security.

(b) The Commission may issue a broker's license to a person under section 10924 of this only if the person files with the Commission a bond, insurance policy, or other type of security approved by the Commission to ensure that the transportation for which a broker arranges is provided. The license remains in effect only as long as the broker complies with this subsection.

(c)(1) The Commission may require a freight forwarder providing service under a permit issued under section 10923 of this title to file with the Commission a bond, insurance policy, or other type of security approved by the Commission. The security must be sufficient to pay, not more than the amount of the security, for each final judgment against the freight forwarder for bodily injury to, or death of, an individual, or loss of, or damage to, property (other than property referred to in paragraph (2) of this subsection), resulting from the negligent operation, maintenance, or use of motor vehicles by or under the direction and control of the freight forwarder when providing transfer, collection, or delivery service under this subtitle.

(2) The Commission may require a freight forwarder providing service under a permit to file with the Commission a bond, insurance policy, or other type of security approved by the Commission sufficient to pay, not more than the amount of the security, for loss of, or damage to, property for which the freight forwarder provides service under this subtitle.

(d) The Commission may determine the type and amount of security filed with it under this section.

§ 10928. Temporary authority for motor and water carriers

Without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5, the Interstate Commerce Commission may grant a motor carrier or water carrier temporary authority to provide transportation to a place or in an area having, respectively, no motor carrier or water carrier capable of meeting the immediate needs of the place or area. Unless suspended or revoked, the Commission may grant the temporary authority for not more than 180 days. A grant of temporary authority does not establish a presumption that permanent authority to provide transportation will be granted under this subchapter.

§ 10929. Temporary authority for previously exempt water transportation

When transportation exempt from the jurisdiction of the Interstate Commerce Commission under section 10544 (a)–(c) of this title becomes subject to the jurisdiction of the Commission, the water carrier may continue to provide the transportation without a certificate or permit issued under this subchapter for a period of 120 days beginning on the day the transportation becomes subject to the jurisdiction of the Commission. If the carrier applies to the Commission within that period for a certificate or permit to provide the transportation previously exempt, the Commission shall issue to the carrier the appropriate certificate or permit authorizing the transportation. The Commission shall issue each such certificate and permit without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5.

§ 10930. Limitations on certificates and permits

(a) Except when the Interstate Commerce Commission finds good cause consistent with the public interest and the transportation policy of section 10101 of this title—

(1) a person may not hold both a certificate of a motor common carrier and a permit of a motor contract carrier issued under this subchapter, or both a certificate of a water common carrier and a permit of a water contract carrier issued under this subchapter to transport property over the same route or in the same area; and

(2) if a person controls, is controlled by, or is under common control with, another person—

(A) one of them may not hold a certificate of a motor common carrier, while the other holds a permit of a motor contract carrier, to transport property over the same route or in the same area; and

(B) one of them may not hold a certificate of a water common carrier, while the other holds a permit of a water contract carrier, to transport property over the same route or in the same area.

(b)(1) A person may not hold a permit of a freight forwarder issued under this subchapter if the person is a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I, II, or III of chapter 105 of this title.

(2) Except for motor vehicle transportation subject to the jurisdiction of the Commission under subchapter IV of chapter 105 of this title by section 10523(a)(2) of this title, a permit may not authorize a freight forwarder to conduct direct rail, water, or motor carrier transportation subject to the jurisdiction of the Commission under subchapter I, II, or III of that chapter.

(3) Except when the Commission finds that service to be provided as a freight forwarder is consistent with the public interest and the transportation policy of section 10101 of this title, a person may not hold a permit of a freight forwarder when—

(A) the principal business of the person is manufacturing and selling, or buying and selling, or both manufacturing and selling and buying and selling articles or commodities, and the service of a freight forwarder (or similar assembling, consolidating, and shipping service is provided by the person for its own business) is commonly used to transport the articles or commodities; or

(B) the person controls, is controlled by, or is under common control with, a person referred to in clause (A) of this paragraph.

§ 10931. Motor common carriers providing transportation entirely in one State

(a) A motor common carrier may provide transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of this title without a certificate issued by the Commission under section 10922 of this title, when—

(1) the carrier provides transportation entirely in one State;

(2) the carrier is not controlled by, controlling, or under common control with a carrier providing transportation outside the State;

(3) the carrier has applied for, and has been issued, a certificate of public convenience and necessity by the State authority having jurisdiction to issue such a certificate, permitting the carrier to provide intrastate transportation by motor vehicle; and

(4) the intrastate certificate was issued after, and the certificate states that—

(A) notice was given to interested parties through publication in the Federal Register of the filing of the application by the carrier and the desire of the carrier to provide transportation otherwise under the jurisdiction of the Commission within the limits of the certificate issued by the State authority;

(B) reasonable opportunity to be heard was given; and

(C) the State authority considered and found that the public convenience and necessity require that the carrier be permitted to provide transportation under the jurisdiction of the Commission within limits that do not exceed the scope of the certificate issued by the State authority.

(b) An interested party that opposed issuing the certificate to a motor common carrier in a proceeding before a State authority may petition the Commission for reconsideration of a decision of the State authority. On reconsideration, the Commission, based on the record before the State authority, may affirm, reverse, or change that decision, but only with respect to the transportation subject to Commission jurisdiction.

(c) The Commission may require, before a motor common carrier provides transportation authorized under this section, that—

(1) a certified copy of the carrier's intrastate certificate and other appropriate information be filed with the Commission; and

(2) the carrier comply with applicable requirements established by the Commission.

(d)(1) The Commission shall issue a certificate of registration to a motor common carrier authorizing the carrier to provide transportation under this section. The authority granted under the certificate is subject to all other applicable provisions of this subtitle. Except as otherwise provided in this subsection and subchapter III of chapter 113 of this title, the certificate of registration may be transferred if it is transferred with the intrastate certificate. Transfer of the intrastate certificate without the certificate of registration revokes the certificate of registration.

(2) The certificate of registration issued by the Commission is valid as long as the motor common carrier provides transportation entirely in the State from which it received its intrastate certificate and is not controlled by, controlling, or under common control with, a carrier providing transportation outside the State.

(e)(1) On the 180th day after the termination, restriction in scope, or suspension of the intrastate certificate, the authority granted under this section to provide transportation is revoked or likewise restricted unless the intrastate certificate is renewed or reissued or the restriction is removed by that 180th day.

(2) Transportation authorized under this section may be suspended or revoked by the Commission under section 10925 of this title.

§ 10932. Motor carrier savings provisions

(a) Except as specifically provided in a certificate or permit, the holder of a motor carrier certificate or permit issued as the result of an application filed before September 2, 1950, authorizing the carrier to provide transportation in the United States or between the United States and a foreign country (to the extent the transportation is in the United States), may provide the transportation between a place in the United States and a place in a territory or possession of the United States—

(1) without being authorized to do so by the Interstate Commerce Commission; and

(2) to the same extent and subject to the same conditions of the certificate or permit of the carrier.

(b)(1) A motor common carrier providing transportation under an intrastate certificate issued by a State and under a certificate of registration issued by the Commission under section 206(a)(7) of the Interstate Commerce Act (76 Stat. 912) that has been in effect since October 15, 1962, may continue to provide transportation otherwise subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title—

(A) if the certificate of the State authorizing intrastate transportation is limited to a specified period of time, only for that period;

(B) subject to all other applicable provisions of this subtitle;

(C) as long as the carrier provides transportation only in the State issuing the intrastate certificate; and

(D) as long as the carrier is not controlled by, controlling, or under common control with, a carrier providing transportation outside the State.

(2) Except as provided in subchapter III of chapter 113 of this title, the certificate of registration issued by the Commission may be transferred if it is transferred with the intrastate certificate. Transfer of the intrastate certificate without the certificate of registration revokes the certificate of registration.

(3) On the 180th day after the termination, restriction in scope, or suspension of the intrastate certificate, the authority granted under the certificate of registration is revoked or likewise restricted unless the intrastate certificate is renewed or reissued or the restriction is removed by that 180th day. The certificate of registration may be suspended or revoked by the Commission under section 10925 of this title.

(c) Under regulations of the Commission, a motor common carrier transporting passengers under a certificate issued by the Commission as the result of an application filed before January 2, 1967, or under a reissuance of the operating authority provided in the certificate, may provide transportation to any place subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title for special and chartered parties.

(d) The Commission may not prescribe a condition for a motor contract carrier permit issued before August 23, 1957, that restricts the authority of the carrier—

(1) to substitute similar contracts within the scope of the permit; or

(2) to add contracts within the scope of the permit, unless the Commission, on its own initiative or on petition of an interested carrier, finds that the scope of the transportation to be provided by the motor contract carrier under any such additional contract is not confined to transportation provided by a motor contract carrier as defined after August 21, 1957.

§ 10933. Authorizing abandonment of freight forwarder service

When a freight forwarder is controlled by, or under common control with, a common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I, II, or III of chapter 105 of this title, the freight forwarder may abandon any part of the service it provides subject to the jurisdiction of the Commission under subchapter IV of chapter 105, only if the Commission finds the abandonment is consistent with the public interest and the transportation policy of section 10101 of this title. On making the finding, the Commission shall issue to the freight forwarder a certificate describing the abandonment authorized by the Commission.

Chapter 111—OPERATIONS OF CARRIERS

SUBCHAPTER I—GENERAL REQUIREMENTS

Sec.
11101. Providing transportation and service.
11102. Classification of carriers.
11103. Use of terminal facilities.
11104. Switch connections and tracks.
11105. Protective services.
11106. Identification of motor vehicles.
11107. Leased motor vehicles.
11108. Water carriers subject to unreasonable discrimination in foreign transportation.

SUBCHAPTER II—CAR SERVICE

11121. Criteria.
11122. Compensation and practice.
11123. Situations requiring immediate action.
11124. Rerouting traffic on failure of rail carrier to serve the public.
11125. Directed rail transportation.
11126. Distribution of coal cars.
11127. Service of freight forwarders.
11128. Water emergencies; embargoes imposed by carriers.

SUBCHAPTER III—REPORTS AND RECORDS

11141. Definitions.
11142. Uniform accounting systems.
11143. Depreciation charges.
11144. Records: form inspection; preservation.

11145. Reports by carriers, lessors, and associations.

SUBCHAPTER I—GENERAL REQUIREMENTS

§ 11101. Providing transportation and service

(a) A common carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title shall provide the transportation or service on reasonable request. In addition, a motor common carrier shall provide safe and adequate service, equipment, and facilities.

(b) The Commission may prescribe requirements for continuous and adequate transportation and service provided by motor common carriers and freight forwarders subject to the jurisdiction of the Commission under subchapters II and IV of chapter 105 of this title and for transportation of baggage and express by such motor common carriers of passengers.

(c) The Commission may not regulate the duration of, or the amount of compensation payable under, an arrangement between a motor carrier and another party to use, with a driver, a motor vehicle not owned by that carrier to transport property when—

(1) the motor vehicle—

(A) to be used is that of a farmer or a cooperative association or a federation of cooperative associations under section 10526 (a)(4) or (5) of this title or a motor private carrier;

(B) it is used regularly in the transportation of (i) property referred to in section 10526(a)(6) of this title, or (ii) perishable products manufactured from perishable property referred to in that section; and

(C) is to be used by the carrier in a single movement or in one or more of a series of movements, loaded or empty, in the general direction of the general area where the motor vehicle is based; or

(2) the motor vehicle to be used has completed a movement exempt under section 10526(a)(6) of this title and is next to be used by that carrier in a loaded movement in any direction or in a movement referred to in clause (1)(C) of this subsection, or both.

§11102. Classification of carriers

The Interstate Commerce Commission may classify and maintain requirements for groups of carriers included in the terms "motor common carrier", "water common carrier", "motor contract carrer", or "water contract carrier" and for brokers, when required because of the special nature of the transportation provided by them.

§11103. Use of terminal facilities

(a) The Interstate Commerce Commission may require terminal facilities, including main-line tracks for a reasonable distance outside of a terminal, owned by a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title, to be used by another rail carrier if the Commission finds that use to be practicable and in the public interest without substantially impairing the ability of the rail carrier owning the facilities or entitled to use the facilities to handle its own business. The carriers are responsible for establishing the conditions and compensation for use of the facilities. However, if the carriers cannot agree, the Commission may establish conditions and compensation for use of the facilities under the principle controlling compensation in condemnation proceedings. The compensation shall be paid or adequately secured before a carrier may begin to use the facilities of another carrier under this section.

(b) A rail carrier whose terminal facilities are required to be used by another carrier under this section is entitled to recover damages from the other carrier for injuries sustained as the result of compliance with the requirement or for compensation for the use, or both, as appropriate, in a civil action, if it is not satisfied with the conditions for use of the facilities or if the amount of the compensation is not paid promptly.

§ 11104. Switch connections and tracks

(a) On application of the owner of a lateral branch line of railroad, or of a shipper tendering interstate traffic for transportation, a common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title shall construct, maintain, and operate, on reasonable conditions, a switch connection to connect that branch line or private side track with its railroad and shall furnish cars to move that traffic to the best of its ability without discrimination in favor of or against the shipper when the connection—

(1) is reasonably practicable;

(2) can be made safely; and

(3) will furnish sufficient business to justify its construction and maintenance.

(b) If a common carrier fails to install and operate a switch connection after application is made under subsection (a) of this section, the owner of the lateral branch line of railroad or the shipper may file a complaint with the Commission under section 11701 of this title. The Commission shall investigate the complaint and decide the safety, practicability, justification, and compensation to be paid for the connection. The Commission may direct the common carrier to comply with subsection (a) of this section only after a full hearing.

§ 11105. Protective services

A rail or express carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may arrange for a person to furnish to or for the carrier a protective service against heat or cold for property transported by it subject to that jurisdiction only when the Commission finds the arrangement to be reasonable and in the public interest.

§ 11106. Identification of motor vehicles

(a) The Interstate Commerce Commission may—

(1) issue and require the display of an identification plate on a motor vehicle used in transportation subject to its jurisdiction under subchapter II of chapter 105 of this title; and

(2) require the carrier to pay the reasonable cost of the plate.

(b) A carrier may use an identification plate only as authorized by the Commission.

§ 11107. Leased motor vehicles

Except as provided in section 11101(c) of this title, the Interstate Commerce Commission may require a motor carrier providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title that uses motor vehicles not owned by it to transport property under an arrangement with another party to—

(1) make the arrangement in writing signed by the parties specifying its duration and the compensation to be paid by the motor carrier;

(2) carry a copy of the arrangement in each motor vehicle to which it applies during the period the arrangement is in effect;

(3) inspect the motor vehicles and obtain liability and cargo insurance on them; and

(4) have control of and be responsible for operating those motor vehicles in compliance with requirements prescribed by the Secretary of Transportation on safety of operations and equipment, and with other applicable law as if the motor vehicles were owned by the motor carrier.

§ 11108. Water carriers subject to unreasonable discrimination in foreign transportation

(a) The Interstate Commerce Commission may relieve a water carrier providing transportation subject to the jurisdiction of the Commission under subchapter III of chapter 105 of this title, from the requirements of this subtitle when a rate, rule, or practice established by a person providing water transportation to or from a port in a foreign country in competition with that carrier unreasonably discriminates against that carrier. The Commission may relieve that carrier to the extent and for the period of time necessary to end or ease the discrimination if the relief is in the public interest and consistent with the transportation policy of section 10101 of this title.

(b) The Commission may begin a proceeding under this section on its own initiative or on application.

SUBCHAPTER II—CAR SERVICE

§ 11121. Criteria

(a) A rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title shall furnish safe and adequate car service and establish, observe, and enforce reasonable rules and practices on car service. The Commission may—

(1) require a rail carrier to file its car service rules with the Commission; and

(2) require that carrier to incorporate those rules in its tariffs.

(b) The Commission may designate and appoint agents and agencies to make and carry out its directions related to car service and matters under section 11123–11125, 11127, and 11128(a)(1) of this title.

§ 11122. Compensation and practice

(a) The regulations of the Interstate Commerce Commission on car service shall encourage the purchase, acquisition, and efficient use of freight cars. The regulations may include—

(1) the compensation to be paid for the use of a locomotive, freight car, or other vehicle;

(2) the other terms of any arrangement for the use by a rail carrier of a locomotive, freight car, or other vehicle not owned by the rail carrier using the locomotive, freight car, or other vehicle, whether or not owned by another carrier, shipper, or third person; and

(3) sanction for nonobservance.

(b)(1) The rate of compensation to be paid for each type of freight car shall be determined by the expense of owning and maintaining that type of freight car, including a fair return on its cost giving consideration to current costs of capital, repairs, materials, parts, and labor. In determining the rate of compensation, the Commission shall consider the transportation use of each type of freight car, the national level of ownership of each type of freight car, and other factors that affect the adequacy of the national freight car supply.

(2) The Commission may increase a rate of compensation determined under paragraph (1) of this subsection by an incentive element only when the Commission finds that the supply of a type of freight car is inadequate and an incentive element will compensate freight car owners, contribute to sound car service practices (including efficient utilization and distribution of cars), and encourage the acquisition and maintenance of a car supply adequate to meet the needs of commerce and national defense. The Commission may exempt that incentive element from the compensation to be paid by a carrier or group of carriers when the Commission finds that exemption is in the national interest.

§ 11123. Situations requiring immediate action

(a) When the Interstate Commerce Commission considers that a shortage of equipment, congestion of traffic, or other emergency requiring immediate action exists in a section of the United States, the Commission may—

(1) suspend any care service rule or practice;

(2) take action during the emergency to promote service in the interest of the public and of commerce regardless of the ownership (as between carriers) of a locomotive, car, or other vehicle on terms of compensation the carriers establish between themselves subject to subsection (b)(2) of this section;

(3) require joint or common use of terminals, including mainline tracks for a reasonable distance outside of those terminals, on terms of compensation the carriers establish between themselves, subject to subsection (b)(2) of this section, when that action will best meet the emergency and serve the public interest; and

(4) give directions for preference or priority in transportation, embargoes, or movement of traffic under permits.

(b)(1) Except as provided in paragraph (2) of this subsection, the Commission may act under this section on its own initiative or on application without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5.

(2) When the carriers do not agree on terms of compensation under subsection (a)(2) of this section or on terms for joint or common use of terminals under subsection (a)(3) of this section, the Commission may establish for them in a later proceeding terms of compensation the Commission finds to be reasonable.

§ 11124. Rerouting traffic on failure of rail carrier to serve the public

(a) When the Interstate Commerce Commission considers that a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title cannot transport the traffic offered to it in a manner that properly serves the public, the Commission may direct the handling, routing, and movement of the traffic of that carrier and its distribution over other railroad lines to promote commerce and service to the public. Subject to subsection (b)(2) of this section, the carriers may establish the terms of compensation between themselves.

(b)(1) Except as provided in paragraph (2) of this subsection, the Commission may act under this section on its own initiative or on application without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5.

(2) When the carriers do not agree on the terms of compensation under this section, the Commission may establish the terms for them in a later proceeding.

§ 11125. Directed rail transportation

(a) When a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title cannot transport the traffic offered to it because—

(1) its cash position makes its continuing operation impossible;

(2) transportation has been discontinued under court order; or

(3) it has discontinued transportation without obtaining a required certificate under section 10903 of this title;

the Commission may direct the handling, routing, and movement of the traffic available to that carrier and its distribution over the railroad lines of that carrier by another carrier to promote service in the interest of the public and of commerce. Subject to subsection (b) of this section, the Commission may act without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5.

(b)(1) Action of the Commission under subsection (a) of this section may not remain in effect for more than 60 days. However, the Commission may extend that period for an additional designated period of not more than 180 days if cause exists.

(2) The Commission may not take action that would—

(A) cause a directed carrier to operate in violation of section 421 of title 45; or

(B) impair substantially the ability of a directed carrier to serve its own patrons adequately, or to meet its outstanding common carrier obligations.

(3) A directed carrier is not responsible, because of the direction of the Commission, for the debts of the other carrier.

(4) A directed carrier shall hire the employees of the other carrier, to the extent that they previously provided that transportation for the other carrier, and assume the existing employment obligations and practices of the other carrier for those employees including agreements governing rate of pay, rules and working conditions, and employee protective conditions for the period during which the action of the Commission is effective.

(5) A directed carrier may apply to the Commission for payment of an amount equal to the amount by which (A) the total expenses of that carrier incurred in or attributable to the handling, routing, and moving the traffic over the lines of the other carrier for the period during which the action of the Commission is effective, including renting or leasing necessary equipment and an allocation of common expenses, overhead, and a reasonable profit, exceed (B) the direct revenues from handling, routing, and moving that traffic over the lines of the other carrier during that period. The carrier must submit a current record of those total expenses to the Commission. The Commission shall certify promptly, to the Secretary of the Treasury, the amount to be paid. The Secretary shall pay that amount by the 90th day after the end of the period during which the direction of the Commission is effective, and funds are authorized to be appropriated for that payment. The Commission may audit any such record.

§ 11126. Distribution of coal cars

(a) Subject to subsection (b) of this section, a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title shall make a reasonable distribution of cars for transportation of coal among the coal mines served by it whether the mines are located on its line or are customarily dependent on it for car supply. If the supply of available cars does not equal the requirements of the mines, the carrier shall maintain and apply reasonable ratings of the mines and count each car furnished to or used by a mine for transportation of coal against that mine. However, coal cars supplied by shippers or receivers are deemed not to be a part of the carrier's fleet and are not counted in determining a question about distribution or car count under subsection (b) of this section or section 10102, 10501, 10701–10703, 10707, 10721(b), 10722(c)–(d), 10723(a)–(b)(1), 10724(a), 10741–10744, 10746, 10749, 10750, 10901, 10902, 10907, 11101, 11103–11105, 11121–11125, 11127, 11128(a)(1), 11501(c), 11505(a), 11702(a)(1), 11703, 11901(d)–(e)(2), 11902, 11903, 11905, 11907, 11915, or 11916 of this title.

(b)(1) In this subsection, "unit-train service" means the movement of a single shipment of coal of at least 4,500 tons, tendered to one carrier, one bill of lading, at one origin, on one day, and destined to one consignee, at one plant, at one destination, over one route.

(2) Unit-train service and non-unit-train service as deemed to be separate and distinct classes of service. A distinction shall be made between them and between the cars used in each class of service. A question about the reasonableness of, our discrimination in, the distribution of cars shall be determined within each class and not between them, notwithstanding a section referred to in subsection (a) of this section.

§ 11127. Service of freight forwarders

(a)(1) When the Interstate Commerce Commission considers that a shortage of equipment, congestion of traffic, or other emergency requires immediate action at a place in the United States, the Commission may—

(A) suspend any service, equipment, or facilities requirement applicable to a freight forwarder under the jurisdiction of the Commission under subchapter IV of chapter 105 of this title;

(B) take action to promote transportation in the interest of the public and of commerce; and

(C) give directions for preference or priority in transportation, embargoes, or movement of traffic under permits.

(2) When the Commission considers that any such freight forwarder cannot properly serve the public by providing service for the traffic offered it, the Commission may require the handling, routing, and movement of that traffic in another manner to promote commerce and service to the public. When the equipment or facilities of another freight forwarder are required to be used, the freight forwarders may establish terms of compensation between themselves subject to subsection (b)(2) of this section.

(b)(1) Except as provided in paragraph (2) of this subsection, the Commission may act under this section on its own initiative or on application without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5.

(2) When the freight forwarders do not agree on the terms of compensation under this section, the Commission may establish the terms for them in a later proceeding.

§ 11128. War emergencies; embargoes imposed by carriers

(a)(1) When the President, during time of war or threatened war, certifies to the Interstate Commerce Commission that it is essential to the defense and security of the United States to give preference or priority to the movement of certain traffic, the Commission shall direct that preference or priority be given to that traffic under sections 11123(a)(4) and 11127(a)(1)(C) of this title.

(2) When the President, during time of war or threatened war, demands that preference and precedence be given to the transportation of troops and material of war over all other traffic, all carriers providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title shall adopt every means within their control to facilitate and expedite the military traffic.

(b) An embargo imposed by any such carrier does not apply to shipments consigned to agents of the United States Government for its use. The carrier shall deliver those shipments as promptly as possible.

SUBCHAPTER III—REPORTS AND RECORDS

§ 11141. Definitions

In this subchapter—

(1) "carrier", "broker", and "lessor" include a receiver or trustee of a carrier (except a freight forwarder), broker, and lessor, respectively.

(2) "lessor" means a person owning a railroad, water line, or a pipeline that is leased to and operated by a carrier providing transportation subject to the jurisdiction of the

Interstate Commerce Commission under subchapter I of chapter 105 of this title, and a person leasing a right to operate as a motor carrier or water carrier to another.

(3) "association" means an organization maintained—

(A) by or in the interest of a group of carriers (except water carriers) or brokers providing transportation or service subject to the jurisdiction of the Commission under chapter 105 of this title that performs a service, or engages in activities, related to transportation under this subtitle; or

(B) only by water carriers providing transportation subject to the jurisdiction of the Commission under subchapter III of chapter 105 of this title that engages in activities related to the fixing of rates, publication of classifications, or filing of tariffs by water carriers.

§ 11142. Uniform accounting systems

(a) The Interstate Commerce Commission shall prescribe, for rail carriers providing transportation subject to this subtitle, a uniform cost and revenue accounting and reporting system (1) under generally accepted accounting principles uniformly applied to those carriers and (2) after consideration of appropriate economic principles. To the extent possible, the system shall be cost effective, without duplication, and compatible with the present and desired managerial and responsibility accounting requirements of those carriers. The Commission may prescribe a uniform accounting system for classes of carriers providing, and brokers for, transportation subject to the jurisdiction of the Commission under subchapters II, III, and IV of chapter 105 of this title.

(b)(1) To obtain the most accurate cost and revenue information about light density railroad lines, main line operations, factors used to establish rates, and other regulatory areas of responsibility, the Commission shall identify and define, for each facet of rail transportation—

(A) operating and nonoperating revenue accounts;

(B) direct cost accounts for determining fixed and variable costs for materials, labor, and overhead components of operating expenses and the assignment of those costs to various functions, services, or activities, including maintenance-of-way, maintenance of equipment (locomotive and car), transportation (train, yard and station, and accessorial services), and general and administrative expenses; and

(C) indirect cost accounts for determining fixed, common, joint, and constant costs, including the cost of capital, and the method for the assignment of those costs to various functions, services, or activities.

(2) Reports required under the rail accounting system must include information considered appropriate for disclosure under generally accepted accounting principles or the requirements of the Commission or of the Securities and Exchange Commission. To the extent possible, the Interstate Commerce Commission should require that information be reported or disclosed only for essential regulatory purposes including rate change requests, abandonment of facilities requests, responsibility for peaks in demand, cost of service, and issuance of securities.

(3) The Commission shall review the rail accounting system periodically, but at least once every 5th year after 1977, and revise the system as necessary to conform it to generally accepted accounting principles compatible with the managerial and responsibility accounting requirements of those carriers and to keep it in compliance with this section.

§ 11143. Depreciation charges

The Interstate Commerce Commission shall, for a class of carriers providing transportation subject to its jurisdiction under subchapter I or III of chapter 105 of this title, and may, for a class of carriers providing transportation subject to its jurisdiction under subchapter II of that chapter, prescribe, and change when necessary, those classes of property for which depreciation charges may be included under operating expenses and a rate of depreciation that may be charged to a class of property. The Commission may classify those carriers for purposes of this section. A carrier for whom depreciation charges and rates of depreciation are in effect under this section for any class of property may not—

(1) charge to operating expenses a depreciation charge on a class of property other than that prescribed by the Commission;

(2) charge another rate of depreciation; or

(3) include other depreciation charges in operating expenses.

§ 11144. Records: form; inspection; preservation

(a) The Interstate Commerce Commission may prescribe the form of records required to be prepared or compiled under this subchapter—

(1) by carriers, brokers, and lessors, including records related to movement of traffic and receipts and expenditures of money; and

(2) by persons furnishing cars or protective service against heat or cold to or for a rail or express carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title to the extent related to those cars or that service.

(b) The Commission, or an employee designated by the Commission, may on demand and display of proper credentials—

(1) inspect and examine the lands, buildings, and equipment of a carrier, broker, or lessor; and

(2) inspect and copy any record of—

(A) a carrier, broker, lessor, or association;

(B) a person controlling, controlled by, or under common control with a carrier if the Commission considers inspection relevant to that person's relation to, or transaction with, that carrier; and

(C) a person furnishing cars or protective service against heat or cold to or for a rail or express carrier if the Commission prescribed the form of that record.

(c) The Commission, or an employee designated by the Commission, may, during normal business hours, inspect and copy any record related to motor vehicle transportation of a cooperative association or federation of cooperative associations required to notify the Commission under section 10526(a)(5) of this title. However, the Commission may not prescribe the form of records to be maintained by a cooperative association or federation of cooperative associations.

(d) The Commission may prescribe the time period during which operating, accounting, and financial records must be preserved by carriers, brokers, lessors, and persons furnishing cars or protective services.

§ 11145. Reports by carriers, lessors, and associations

(a) The Interstate Commerce Commission may require—

(1) carriers, brokers, lessors, and associations, or classes of them as the Commission may prescribe, to file annual, periodic, and special reports with the Commission containing answers to questions asked by it; and

(2) a person furnishing cars or protective services against heat or cold to a rail or express carrier providing transportation subject to this subtitle, to file reports with the Commission containing answers to questions about those cars or services.

(b)(1) An annual report shall contain an account, in as much detail as the Commission may require, of the affairs of the carrier, broker, lessor, or association for the 12-month period ending on the 31st day of December of each year. However, when an annual report is made by a motor carrier, a broker, or a lessor or an association maintained by or interested in one of them, the person making the report may elect to make it for the 13-month period accounting year ending at the close of one of the last 7 days of each calendar year if the books of the person making the report are kept by that person on the basis of that accounting year.

(2) An annual report shall be filed with the Commission by the end of the 3d month after the end of the year for which the report is made unless the Commission extends the filing date or changes the period covered by the report. The annual report and, if the Commission requires, any other report made under this section, shall be made under oath.

Chapter 113—FINANCE

SUBCHAPTER I—CARRIER SECURITIES, EQUIPMENT TRUSTS, AND SECURITY INTERESTS

Sec.
11301. Authority of certain carriers to issue securities and assume obligations and liabilities.
11302. Issuance of securities and assumption of obligations and liabilities by motor carriers.
11303. Equipment trusts: recordation; evidence of indebtedness.
11304. Security interests in certain motor vehicles.

SUBCHAPTER II—OWNERSHIP

11321. Limitation on ownership of certain water carriers.
11322. Restrictions on officers and directors.
11323. Limitation on ownership of other carriers by freight forwarders.

SUBCHAPTER III—COMBINATIONS

11341. Scope of authority.
11342. Limitation on pooling and division of transportation or earnings.
11343. Consolidation, merger, and acquisition of control.
11344. Consolidation, merger, and acquisition of control: general procedure and conditions of approval.
11345. Consolidation, merger, and acquisition of control: rail carrier procedure.
11346. Consolidation, merger, and acquisition of control: expedited rail carrier procedure.
11347. Employee protective arrangements in transactions involving rail carriers.
11348. Interstate Commerce Commission authority over noncarrier that acquires control of carrier.
11349. Temporary operating approval for transactions involving motor and water carriers.
11350. Responsibility of the Secretary of Transportation in certain transactions.

SUBCHAPTER IV—FINANCIAL STRUCTURE

11361. Scope of authority: changes in financial structure.
11362. Criteria for approval and authority.
11363. Assent of holders of securities and certain other instruments.
11364. Procedure.
11365. Effect of change on other persons.
11366. Reports.
11367. Application of other laws.

SUBCHAPTER I—CARRIER SECURITIES, EQUIPMENT TRUSTS, AND SECURITY INTERESTS

§ 11301. Authority of certain carriers to issue securities and assume obligations and liabilities

(a) In this section—

(1) "carrier" means a rail or sleeping car carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title (except a street, suburban, or interurban electric railway not operated as

a part of a general railroad system of transportation), and a corporation organized to provide transportation by rail carrier subject to that subchapter.

(2) "security" means a share of capital stock, a bond, or other evidence of interest in, or indebtedness of, a carrier.

(b)(1) Subject to subchapter I of chapter 2A, chapter 2B, and subchapter I of chapter 2D of title 15, the Commission has exclusive jurisdiction to approve the issuance of securities by a carrier and the assumption of an obligation or liability related to the securities of another person by a carrier. A carrier may not issue securities or assume those obligations or liabilities without the approval of the Commission. No other approval is required. A security issued or obligation or liability assumed by a carrier in violation of this subsection or in violation of a condition prescribed by the Commission under subsection (d) of this section is void. However, a security or obligation issued or assumed under authority of this section is not void for failure to comply with a procedural requirement of this section or other matter preceding entry of the order of the Commission.

(2) Paragraph (1) of this subsection does not apply to notes issued by a carrier if the notes mature not more than 2 years after their date of issue and total (with all then outstanding notes have a maturity of not more than 2 years) not more than 5 percent of the par value of the then outstanding securities of that carrier. If the securities do not have a par value, the par value of those securities is the fair market value on the date of issue. Paragraph (1) of this subsection applies to a subsequent funding of notes referred to in this paragraph.

(c)(1) A carrier issuing notes referred to in subsection (b)(2) of this section shall file a certificate of notification with the Commission by the end of the 10th day after they are issued. That notification must include substantially the same matter required by the Commission for an application for authority to issue other securities.

(2) A carrier that pledges, repledges, or otherwise disposes of a security referred to in an application for authority or a certificate of notification under this section as pledged or held unencumbered in the treasury of that carrier shall file a certificate of notification with the Commission by the end of the 10th day after it disposes of the security.

(d)(1) The Commission may begin a proceeding under this section on application of a carrier. Before taking final action, the Commission must investigate the purpose and use of the securities issue or assumption and the proceeds from it. The Commission may approve any part of the application and may require the carrier to comply with appropriate conditions. After an application is approved under this section, the Commission may change a condition previously imposed or use that may be made of the securities or proceeds for good cause shown subject to the requirements of this section. The Commission may approve an application under this section only when it finds that the securities issue or assumption—

(A) is for a lawful object within the corporate purpose of the carrier and reasonably appropriate for that purpose;

(B) is compatible with the public interest;

(C) is appropriate for or consistent with the proper performance by the carrier of service to the public as a common carrier; and

(D) will not impair the financial ability of the carrier to provide the service.

(2) An application or certificate must be made under oath and signed and filed for the carrier by a designated executive officer who knows the matters stated in the application or certificate. On receipt of an application of a carrier under this section, the Commission shall have a copy of the application served on the chief executive officer of each State in which that carrier operates. The appropriate authorities of those States are entitled to be admitted as parties to a proceeding under this section to represent the rights and interests of their people and States.

(e) The Commission shall require a carrier that issues securities, including notes, under this section to submit reports to it. The reports must identify the disposition of those securities and the application of the proceeds from their disposition

(f) This section does not imply a guaranty or obligation of those securities by the United States Government. This section does not apply to securities issued or obligations or liabilities assumed by the United States Government, a State, or an instrumentality or political subdivision of one of them.

§ 11302. Issuance of securities and assumption of obligations and liabilities by motor carriers

(a) Except as provided in this section, section 11301 of this title applies to—

(1) motor carriers providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of this title;

(2) corporations organized to provide transportation as carriers subject to the jurisdiction of the Commission under that subchapter; and

(3) corporations authorized by the Commission to acquire control of at least one motor carrier subject to its jurisdiction under that subchapter.

(b) Section 11301 of this title does not apply when the total value of capital stock (or principal amount of other securities to be issued) and the value of capital stock and principal amount of other securities then outstanding is not more than $1,000,000, or to notes of a maturity of not more than 2 years that aggregate not more than $300,000. Notes that, with other outstanding notes of a maturity of not more than 2 years, aggregate that amount may be issued without regard to the percentage limitations applicable under section 11301(b)(2) of this title. The value of capital stock having no par value is the fair market value on the date of issue of that stock, and the value of capital stock that has a par value is the fair market value on the date of issue or the par value, whichever is greater.

(c) This section does not apply to the United States Government, State, or an instrumentality or political subdivision of one of them.

§ 11303. Equipment trusts: recordation; evidence of indebtedness

(a) A mortgage (other than a mortgage under the Ship Mortgage Act, 1920), lease, equipment trust agreement, conditional sales agreement, or other instrument evidencing the mortgage, lease, conditional sale, or bailment of railroad cars, locomotives, or other rolling stock or vessels, intended for a use related to interstate commerce may be filed with the Interstate Commerce Commission. An assignment of a right or interest under one of those instruments and an amendment to that instrument or assignment including a release, discharge, or satisfaction of any part of it may also be filed with the Commission. The instrument, assignment, or amendment must be in writing, executed by the parties to it, and acknowledged or verified under Commission regulations. When filed under this section, that document is notice to, and enforceable against, all persons. A document filed under this section does not have to be filed, deposited, registered, or recorded under another law of the United States, a State (or its political subdivisions), or territory or possession of the United States, related to filing, deposit, registration, or recordation of those documents. This section does not change the Ship Mortgage Act, 1920.

(b) The Commission shall maintain a system for recording each document filed under subsection (a) of this section and mark each of them with a consecutive number and the date and hour of their recordation. The Commission shall maintain and keep open for public inspection an index of documents filed under that subsection. That index shall include the name and address of the principal debtors, trustees, guarantors, and other parties to those documents and may include other facts that will assist in determining the rights of the parties to those transactions.

§ 11304. Security interests in certain motor vehicles

(a) In this section—

(1) "motor vehicle" means a truck of rated capacity (gross vehicle weight) of at least 10,000 pounds, a highway tractor of rated capacity (gross combination weight) of at least 10,000 pounds, a property-carrying trailer or semitrailer with at least one load-carrying axle of at least 10,000 pounds, or a motor bus with a seating capacity of at least 10 individuals.

(2) "lien creditor" means a creditor having a lien on a motor vehicle and includes an assignee for benefit of creditors from the date of assignment, a trustee in bankruptcy from the date of filing of the petition in bankruptcy, and a receiver in equity from the date of appointment of the receiver.

(3) "security interest" means an interest (including an interest established by a conditional sales contract, mortgage, equipment trust, or other lien or title retention contract, or lease) in a motor vehicle when the interest secures payment or performance of an obligation.

(4) "perfection", as related to a security interest, means taking action (including public filing, recording, notation on a certificate of title, and possession of collateral by the secured party), or the existence of facts, required under law to make a security interest enforceable against general creditors and subsequent lien creditors of a debtor, but does not include compliance with requirements related only to the establishment of a valid security interest between the debtor and the secured party.

(b) A security interest in a motor vehicle owned by, or in the possession and use of, a carrier having a certificate or permit issued under section 10922 or 10923 of this title and owing payment or performance of an obligation secured by that security interest is perfected in all jurisdictions against all general, and subsequent lien, creditors of, and all persons taking a motor vehicle by sale (or taking or retaining a security interest in a motor vehicle) from, that carrier when—

(1) a certificate of title is issued for a motor vehicle under a law of a jurisdiction that requires or permits indication, on a certificate or title, of a security interest in the motor vehicle if the security interest is indicated on the certificate;

(2) a certificate of title has not been issued and the law of the State where the principal place of business of that carrier is located requires or permits public filing or recording of, or in relation to, that security interest if there has been such a public filing or recording; and

(3) a certificate of title has not been issued and the security interest cannot be perfected under paragraph (2) of this subsection, if the security interest has been perfected under the law (including the conflict of laws rules) of the State where the principal place of business of that carrier is located.

(c) This section does not affect a security interest perfected before January 1, 1959.

SUBCHAPTER II—OWNERSHIP

§ 11321. Limitation on ownership of certain water carriers

(a) (1) Notwithstanding sections 11343 and 11344 of this title, a carrier, or a person controlling, controlled by, or under common control with a rail, express, sleeping car, or pipeline carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may not own, operate, control, or have an interest in a water common carrier or vessel carrying property or passengers on a water route with which it does or may compete for traffic.

(2) The Commission may decide, after a full hearing, questions of fact related to competition or the possibility of competition under this subsection on application of a carrier. A carrier may file an application to determine whether an existing service violates this subsection and may request permission to continue operation of a vessel or that action be taken under subsection (b) of this section. The Commission may begin a proceeding under this subsection on its own initiative or on application of a shipper to investigate the operation of a vessel used by a carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of that chapter if the carrier has not applied to the Commission and had the question of competition or the possibility of competition determined under this subsection.

(b) Notwithstanding subsection (a) of this section, the Commission may authorize a carrier providing transportation subject to the jurisdiction of the Commission under that subchapter to own, operate, control, or have an interest in a water common carrier or vessel that is not operated through the Panama Canal and with which the carrier does or may compete for traffic when the Commission finds that ownership, operation, control, or interest will still allow that water common carrier or vessel to be operated in the public interest advantageously to interstate commerce and that it will still allow competition, without reduction, on the water route in question. However, section 11343 of this title also applies to a transaction or interest under this subsection if the transaction or interest is within the scope of that section. The Commission may begin a proceeding under this subsection on application of a carrier. An authorization under this subsection is not necessary for a carrier that obtained an order of extension before September 18, 1940, under section 5(21) of the Interstate Commerce Act (37 Stat. 567), as amended, if the order is still in effect.

(c) The Commission may take action under this section only after a full hearing. An order entered as a result of the action may be conditioned on giving security for the payment of an amount of money or the discharge of an obligation that is required to be paid or discharged under that order.

§ 11322. Restrictions on officers and directors

(a) A person may hold the position of officer or director of more than one carrier as defined in section 11301(a)(1) of this title only when authorized by the Interstate Commerce Commission. The Commission may authorize a person to hold the position of officer or director of more than one of those carriers when public or private interests will not be adversely affected.

(b) An officer or director of a carrier referred to in subsection (a) of this section may not—

(1) receive, for the benefit of that officer or director, a thing of value in relation to the negotiation, hypothecation, or sale of a security issued or to be issued by that carrier;

(2) share in the proceeds from the negotiation, hypothecation, or sale of a security issued or to be issued by that carrier; or

(3) participate in making or paying dividends of an operating carrier from funds included in a capital account.

§ 11323. Limitation on ownership of other carriers by freight forwarders

(a) A freight forwarder, or a person controlling, controlled by, or under common control with a freight forwarder, providing service subject to the jurisdiction of the Interstate Commerce Commission under subchapter IV of chapter 105 of this title, may not acquire control of a carrier providing transportation subject to the jurisdiction of the Commission under subchapter I, II, or III of that chapter. However, this subsection does not prohibit a carrier providing transportation under subchapter I, II, or III of chapter 105 from acquiring control of another such carrier under subchapter III of this chapter but subject to section 11321.

(b) A director, officer, employee, or agent of a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I, II, or III of chapter 105 of this title or a person controlling, controlled by, or under common control with one of those carriers, may not, for that person's pecuniary benefit, own, lease, control, or hold stock in a freight forwarder providing service subject to the jurisdiction of the Commission under subchapter IV of that chapter. However, this subsection does not prohibit the holding of a director's qualifying shares of stock from which no personal pecuniary benefit is derived by the holder.

(c) This subtitle does not prohibit a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I, II, or III of chapter 105 of this title or a person controlling, controlled by, or under common control with one of those carriers from controlling a freight forwarder. When that control exists, a rate, classification, rule, or practice of one of those carriers may not be found to be unlawful because of the relationship.

SUBCHAPTER III—COMBINATIONS

§ 11341. Scope of auhority

(a) The authority of the Interstate Commerce Commission under this subchapter is exclusive. A carrier or corporation participating in or resulting from a transaction approved by the Commission under this subchapter may carry out the transaction, own and operate property, and exercise control or franchises acquired through the transaction without the approval of a State authority. A carrier, corporation, or person participating in that transaction is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let that person carry out the transaction, hold, maintain, and operate property, and exercise control or franchises acquired through the transaction. However, if a purchase and sale, a lease, or a corporate consolidation on merger is involved in the transaction, the carrier or corporation may carry out the transaction only with the assent of a majority, or the number required under applicable State law, of the votes of the holders of the capital stock of that corporation entitled to vote. The vote must occur at a regular meeting, or special meeting called for that purpose, of those stockholders and the notice of the meeting must indicate its purpose.

(b) A power granted under this subchapter to a carrier or corporation is in addition to and changes it powers under its corporate charter and under State law. Action under this subchapter does not establish or provide for establishing a corporation under the laws of the United States.

§ 11342. Limitation on pooling and division of transportation or earnings

(a) A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I, II, or III of chapter 105 of this title may not agree or combine with another of those carriers to pool or divide traffic or services or any part of their earnings without the approval of the Commission under this section or sections 11124 and 11125 of this title. The Commission may approve and authorize the agreement or combination if the carriers involved assent to the pooling or division and the Commission finds that a pooling or division of traffic, services, or earnings—

(1) will be in the interest of better service to the public or of economy of operation; and

(2) will not unreasonably restrain competition.

(b) The Commission may impose conditions governing the pooling or division and may approve and authorize payment of a reasonable consideration between the carriers.

(c) This section affects an agreement or combination filed with the Commission before March 19, 1941, to which a water common carrier providing transportation subject to the jurisdiction of the Commission under subchapter III of chapter 105 of this title is a party only when the Commission determines that the agreement or combination does not meet the requirements for approval and authorization under subsection (a) of this section.

(d) The Commission may begin a proceeding under this section on its own initiative or on application.

§ 11343. Consolidation, merger, and acquisition of control

(a) The following transactions involving carriers providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I (except a pipeline carrier), II, or III of chapter 105 of this title may be carried out only with the approval and authorization of the Commission:

(1) consolidation or merger of the properties or franchises of at least 2 carriers into one corporation for the ownership, management, and operation of the previously separately owned properties.

(2) a purchase, lease, or contract to operate property of another carrier by any number of carriers.

(3) acquisition of control of a carrier by any number of carriers.

(4) acquisition of control of at least 2 carriers by a person that is not a carrier.

(5) acquisition of control of a carrier by a person that is not a carrier but that controls any number of carriers.

(6) acquisition by a rail carrier of trackage rights over, or joint ownership in or joint use of, a railroad line (and terminals incidental to it) owned or operated by another rail carrier.

(b) A person may carry out a transaction referred to in subsection (a) of this section or participate in achieving the control or management, including the power to exercise control or management, in a common interest of more than one of those carriers, regardless of how that result is reached, only with the approval and authorization of the Commission under this subchapter. In addition to other transactions, each of the following transactions are considered achievements of control management:

(1) A transaction by a carrier has the effect of putting that carrier and persons affiliated with it, taken together, in control of another carrier.

(2) A transaction by a person affiliated with a carrier has the effect of putting that carrier and persons affiliated with it, taken together, in control of another carrier.

(3) A transaction by at least 2 persons acting together (one of whom is a carrier or is affiliated with a carrier) has the effect of putting those persons and carriers and persons affiliated with any of them, or with any of those affiliated carriers, taken together, in control of another carrier.

(c) A person is affiliated with a carrier under this subchapter if, because of the relationship between that person and a carrier, it is reasonable to believe that the affairs of another carrier, control of which may be acquired by that person, will be managed in the interest of the other carrier.

(d) (1) Approval and authorization by the Commission are not required if the only parties to a transaction referred to in subsection (a) of this section are motor carriers providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title and the aggregate gross operating revenues of those carriers were not more than $300,000 during a period of 12 consecutive months ending not more than 6 months before the date of the agreement of the parties covering the transaction. However, the approval and authorization of the Commission is required when a motor carrier that is controlled by or affiliated with a carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of that chapter is a party to the transaction.

(2) The approval and authorization of the Commission are not required if the only parties to a transaction referred to in subsection (a) of this section are street, suburban, or interurban electric railways that are not controlled by or under common control with a carrier that is operated as part of a general railroad system of transportation.

§ 11344. Consolidation, merger, and acquisition of control: general procedure and conditions of approval

(a) The Interstate Commerce Commission may begin a proceeding to approve and authorize a transaction referred to in section 11343 of this title on application of the person seeking that authority. When an application is filed with the Commission, the Commission shall notify the chief executive officer of each State in which property of the carriers involved in the proposed transaction is located and shall notify those carriers. If a motor carrier providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title is involved in the transaction, the Commission must notify the persons specified in section 10328(b) of this title. The Commission shall hold a public hearing when a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of that chapter is involved in the transaction unless the Commission determines that a public hearing is not necessary in the public interest.

(b) In a proceeding under this section, the Commission shall consider at least the following:

(1) the effect of the proposed transaction on the adequacy of transportation to the public.

(2) the effect on the public interest of including, or failing to include, other rail carriers in the area involved in the proposed transaction.

(3) the total fixed charges that result from the proposed transaction.

(4) the interest of carrier employees affected by the proposed transaction.

(c) The Commission shall approve and authorize a transaction under this section when it finds the transaction is consistent with the public interest. The Commission may impose conditions governing the transaction. When the transaction contemplates a guaranty or assumption of payment of dividends or of fixed charges or will result in an increase of total fixed charges, the Commission may approve and authorize the transaction only if it finds that the guaranty, assumption, or increase is consistent with the public interest. When a rail carrier, or a person controlled by or affiliated with a rail carrier, is an applicant and the transaction involves a motor carrier, the Commission may approve and authorize the transaction only if it finds that the transaction is consistent with the public interest, will enable the rail carrier to use motor carrier transportation to public advantage in its operations, and will not unreasonably restrain competition. When a rail carrier is involved in the transaction, the Commission may require inclusion of other rail carriers located in the area involved in the transaction if they apply for inclusion and the Commission finds their inclusion to be consistent with the public interest.

§ 11345. Consolidation, merger, and acquisition of control: rail carrier procedure

(a) If a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title is involved in a proposed transaction under section 11343 of this title, this section and section 11344 of this title also apply to the transaction. The Commission shall publish notice of the application in the Federal Register by the end of the 30th day after the application is filed with the Commission and after a certified copy of it is furnished to the Secretary of Transportation. However, if the application is incomplete, the Commission shall reject it by the end of that period. The order of rejection is a final action of the Commission under section 10327 of this title.

(b) Written comments about an application may be filed with the Commission within 45 days after notice of the application is published under subsection (a) of this section. Copies of those comments shall be served on the Secretary of Transportation and the Attorney General, each of whom may decide to intervene as a party to the proceeding. That decision must be made by the 15th day after the date of receipt of the written comments, and if the decision is to intervene, preliminary comments about the application must be sent to the Commission by the end of the 15th day after the date of receipt of the written comments.

(c) The Commission shall require that applications inconsistent with an application, notice of which was published under subsection (a) of this section, and applications for inclusion in the transaction, be filed with it and given to the Secretary of Transportation by the 90th day after publication of notice under that subsection.

(d) The Commission must conclude evidentiary proceedings by the 240th day after the date of publication of notice under subsection (a) of this section. However, if the application involves the merger or control of at least 2 class I railroads, as defined by the Commission, it must conclude evidentiary proceedings by the end of the 24th month after the date of publication of notice under subsection (a) of this section. The Commission must issue a final decision by the 180th day after the date it concludes the evidentiary proceedings. If the Commission does not issue a decision that is a final action under section 10327 of this title, it shall send written notice to Congress that a decision was not issued and the reason why it was not issued.

(e) The Commission may waive the requirement that an initial decision be made under section 10327 of this title and make a final decision itself when it determines that action is required for the timely execution of its functions under this subchapter or that an application governed by this section is of major transportation importance. The decision of the Commission under this subsection is a final action under section 10327 of this title.

(f) The Secretary of Transportation may propose changes in transactions governed by this section when a rail carrier is involved. The Secretary may appear before the Commission to support those changes.

§ 11346. Consolidation, merger, and acquisition of control: expedited rail carrier procedure.

(a) A rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title or the Secretary of Transportation may apply, before January 1, 1982, for authority for and approval of a merger, consolidation, unification or coordination project (as described in section 1654(c) of this title), joint use of tracks or other facilities, or acquisition or sale of assets involving one of those rail carriers, under this section instead of sections 11344 and 11345 of this title. The Secretary may apply under this section only when the parties to the application that are rail carriers providing transportation subject to the jurisdiction of the Commission under subchapter I of that chapter that consent to an application by the Secretary. A rail carrier may apply under this section only if it sent the proposed transaction to the Secretary for a report under section 11350 of this title at least 6 months before applying under this section.

(b) When the Commission notifies persons required to receive notice that an application has been filed under this section, the Commission must include in the notice a copy of the application, a summary of the proposed transaction, and the applicant's reasons and public interest justification for the transaction. When the Commission notifies the Secretary of Transportation that an application has been filed under this section, the Commission shall also request the report of the Secretary prepared under section 11350 of this title. By the 10th day after receiving an application under this section, the Commission shall send notice of the proposed transaction to—

(1) the chief executive officer of each State that may be affected by the execution or implementation of the proposed transaction;

(2) the Attorney General;

(3) the Secretary of Labor; and

(4) the Secretary of Transportation (unless the Secretary is the applicant under subsection (a) of this section).

(c) The Commission shall designate a panel of the Commission to make a recommended decision on each application under this section. The panel must begin a proceeding by the 90th day after the date the Commission receives the application, complete the proceeding by the 180th day after the application is referred to it, and give its recommended decision and certify the record to the entire Commission by the 90th day after the proceeding is completed. The panel may use employees appointed under section 3105 of title 5 and the Rail Services Planning Office in conducting the proceeding, evaluating the application and comments received about it, and determining whether it is in the public interest to approve and authorize the transaction under the last sentence of subsection (d) of this section. To carry out this subsection, the panel may make rules and rulings to avoid unnecessary costs and delay. In making its recommended decision, the panel shall—

(1) request the views of the Secretary of Transportation about the effect of the transaction on the national transportation policy, as stated by the Secretary, and consider the report submitted under section 11350 of this title;

(2) request the views of the Attorney Gen-

eral about the effect of the transaction on competition; and

(3) request the views of the Secretary of Labor about the effect of the transaction on rail carrier employees, particularly whether the proposal contains adequate employee protection provisions.

The Secretaries and the Attorney General shall send their written views to the panel. Those statements are available to the public under section 552(a) of title 5.

(d) When the recommended decision and record of a proceeding under this section are certified to the entire Commission, it must hear oral argument on the matter certified to it and make a final decision by the 120th day after receiving the recommended decision and record. The Commission may extend a time period under subsection (c) of this section or under this subsection but must make its final decision by the end of the 2d year after receipt of the application by the Commission. The Commission shall consider the report of the Secretary of Transportation under section 11350 of this title in making its final decision. The final decision must be accompanied by a written opinion stating the reasons for the Commission action. The Commission may—

(1) approve the transaction if the Commission determines the transaction is in the public interest;

(2) approve the transaction with conditions and modifications that it determines are in the public interest; or

(3) disapprove the transaction if it determines the transaction is not in the public interest.

§ 11347. Employee protective arrangements in transactions involving rail carriers

When a rail carrier is involved in a transaction for which approval is sought under sections 11344 and 11345 or section 11346 of this title, the Interstate Commerce Commission shall require the carrier to provide a fair arrangement at least as protective of the interests of its employees who are affected by the transaction as the terms imposed under this section before February 5, 1976, and the terms established under section 565 of title 45. Notwithstanding this subtitle, the arrangement may be made by the rail carrier and the authorized representative of its employees. The arrangement and the order approving the transaction must require that the employees of the affected rail carrier will not be in a worse position related to their employment as a result of the transaction during the 4 years following the effective date of the final action of the Commission (or if an employee was employed for a lesser period of time by the carrier before the action became effective, for that lesser period).

§ 11348. Interstate Commerce Commission authority over noncarrier that acquires control of carrier

(a) When the Interstate Commerce Commission approves and authorizes a transaction under sections 11344 and 11345 of this title in which a person not a carrier providing transportation subject to the jurisdiction of the Commission under chapter 105 of this title acquires control of at least one carrier subject to the jurisdiction of the Commission, the person is subject, as a carrier, to the following provisions of this title that apply to the carrier being acquired by that person, to the extent specified by the Commission: section 10764, subchapter III of chapter 111, and sections 11301, 11302, 11709, 11711, 11901(f), (h)(1), 11909(a)(1), (b), and 11911(a).

(b) When a person subject to sections 11301, 11302, 11322, 11709, and 11911 of this title because of acquiring control of a carrier, applies to the Commission for authority to issue securities or assume obligations or liabilities under those sections, the Commission may authorize the issue or assumption only when it finds the issue or assumption—

(1) is consistent with the proper performance of public transportation by the carrier that is controlled by that person;

(2) will not impair the ability of the carrier to provide public transportation; and

(3) is consistent with the public interest in other respects.

§ 11349. Temporary operating approval for transactions involving motor and water carriers

(a) Pending determination of an application filed with the Interstate Commerce Commission under this subchapter for approval of a consolidation or merger of the properties of at least 2 motor carriers or at least 2 water carriers, or of a purchase, lease, or contract to operate the properties of at least one motor carrier or at least one water carrier, the Commission may approve, for a period of not more than 180 days, the operation of the properties sought to be acquired by the person proposing in the application to acquire those properties. The Commission may approve operation of motor carrier properties when it appears that failure to grant the approval may result in destruction of or injury to those motor carrier properties the person is seeking to acquire, or substantially interfere with their future usefulness in providing adequate and continuous service to the public. The Commission may approve the operation of water carrier properties only for good cause shown.

(b) The Commission may take action under subsection (a) of this section without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5. Transportation provided by a motor carrier under a grant of approval under this section is subject to this subtitle.

§ 11350. Responsibility of the Secretary of Transportation in certain transactions

(a) When a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title sends a proposed transaction to the Secretary of Transportation under section 11346 (a) of this title or the Secretary develops a proposed transaction for submission to the Commission under that section, the Secretary shall publish a summary and a detailed account of the transaction in the Federal Register and give notice of the transaction to the Attorney General and to the chief executive officer of each State in which property of a rail carrier involved in the transaction is located. The Secretary shall initiate an informal proceeding on the proposed transaction under section 553 of title 5.

(b) By the 10th day after an application is submitted to the Commission under section 11346 of this title, the Secretary shall complete and send to the Commission a study of the proposed transaction about—

(1) the needs of rail transportation in the geographical area affected by the transaction;

(2) the effect of the transaction on competition in rail transportation and other modes of transportation in the geographical area affected by the transaction;

(3) the environmental impact of the transaction and of alternative choices of action;

(4) the effect of the transaction on employment;

(5) the cost of rehabilitation and modernization of track, equipment, and other facilities, with a comparison of the potential savings or losses from other possible choices of action;

(6) the rationalization of the rail system;

(7) the impact of the transaction on shippers, consumers, and rail carrier employees;

(8) the effect of the transaction on communities in the geographical area affected by the transaction and on geographical areas contiguous to the affected areas; and

(9) whether the proposed transaction will improve rail service.

SUBCHAPTER IV—FINANCIAL STRUCTURE

§ 11361. Scope of authority: changes in financial structure

(a) The authority of the Interstate Commerce Commission to act under this subchapter is exclusive. The Commission may approve and authorize a carrier, as defined in section 11301(a)(1) of this title, to change (1) a part of a class of its securities, as defined in section 11301(a)(2) of this title, or (2) a part of an instrument under which a class of its securities is issued or a class of its obligations is secured. When a change is approved and authorized by the Commission under this subchapter, the carrier may carry out the change notwithstanding an express provision in the affected instrument or a State law and without getting other approval from the Commission or from a State authority. A person participating in carrying out a change that is approved and authorized under this subchapter is exempt from all other law, including State and municipal law, as necessary to let that person carry out the change.

(b) The Commission may not approve an application filed under this section by a carrier that is in equity receivership or reorganization under section 205 of title 11.

(c) A power granted to a carrier under this subchapter changes its powers under its corporate charter and under State law.

(d) This subchapter does not affect the negotiability of a security of a carrier or of the obligation of a carrier that assumed liability related to a security. This subchapter does not apply to an equipment-trust certificate under which a carrier is obligated, to an evidence of indebtedness of a carrier the payment of which is secured solely by equipment, or to another instrument under which that equipment-trust certificate or evidence of indebtedness was issued or by which either of them is secured.

§ 11362. Criteria for approval and authority

(a) A carrier may apply to the Interstate Commerce Commission for approval and authority to make a change under this subchapter. To approve a proposed change, the Commission must find that the proposed change—

(1) is within the scope of section 11361 of this title;

(2) will be in the public interest;

(3) will be in the best interests of the carrier, of each class of its stockholders, and of the holders of each class of the carrier's obligations that are affected by the change; and

(4) will not be against the interests of a creditor of the carrier who is not affected by the change.

If the change involves an issuance of securities, the Commission must also make the findings required under section 11301(d)(1) of this title.

(b)(1) The Commission shall begin a proceeding under this section on receipt of an application but may require an applicant to get assurances of assent to the change from the holders of the outstanding shares of the securities that will be affected by the change before continuing with the proceeding. The Commission may determine the percentage of the principal amount or number of those shares needed to establish assurance of assent to the change. A class of securities is considered to be affected by a proposed change only if the change is proposed to a part of that class or to a part of an instrument under which that class was issued or by which it is secured. However, if a proposed change is to an instrument under which at least 2 classes of securities were issued and are outstanding or secured by that instrument, only those classes to which the change is related are considered to be affected. The Commission shall divide the

securities to be affected by a proposed change under this subchapter into reasonable classes for purposes of this subchapter.

(2) On receipt of an application of a carrier under this section the Commission shall notify, and file a copy of the application with, the chief executive officer of each State in which that carrier operates. The appropriate authorities of those States are entitled to be admitted as parties to a proceeding under this section to represent the rights and interests of their people and States.

(c) The carrier must give notice of the proceeding to the holders of the class of securities affected. The Commission may direct the carrier to give notice to other persons the Commission determines to have an interest in the proceeding. The carrier may give notice under this subsection only after it gets assurances of assent when they are required under this section.

(d) The Commission may impose conditions governing the proposed change. The Commission may determine the effective date for a change it approves and authorizes under this subchapter and may allow it to become effective on publication of a declaration to that effect by the carrier. After an application is approved, the Commission may change a condition imposed and impose supplemental requirements for good cause shown subject to the requirements of this subchapter.

§ 11363. Assent of holders of securities and certain other instruments

(a)(1) After making the findings required under section 11362(a) of this title, the Commission may approve and authorize the change if it is assented to by the holders of at least 75 percent of the aggregate principal amount or number of outstanding shares of each class of securities affected by the change. The Commission may increase the percentage required for assent under this subsection for a class of shares when an increase is in the public interest and—

(A) 75 percent of the shares in that class are held by less than 25 security holders; or

(B) that class is entitled to vote for the election of directors of the carrier and the Commission determines that the assent of at least 25 percent of the security holders of that class are controlled by the carrier or a person controlling the carrier.

(2) The carrier may withdraw its application after the Commission makes the findings required under section 11362(a) of this title. If the application is not withdrawn, the Commission must require the carrier to submit the proposed change, with conditions imposed by the Commission, to the holders of each class of its securities affected by the change for their assent or rejection.

(b)(1) In determining the percentage of outstanding securities when making a finding under section 11362(a) of this title, a security that secures an evidence of indebtedness of the carrier or of a company controlling or controlled by the carrier is considered to be outstanding unless the Commission determines that the proposed change does not materially affect the interest of the holder of that evidence of indebtedness. When that security is considered to be outstanding, assent to a proposed change may be given, notwithstanding another instrument, only—

(A) if the security is pledged as security under an instrument under which an evidence of indebtedness was issued and is outstanding, by the holder of a majority of the principal amount of the evidence of indebtedness; or

(B) if the security secures an evidence of indebtedness not issued under an instrument under which an evidence of indebtedness was issued, by the holder of the evidence of indebtedness.

(2) In addition to a submission required under subsection (a) of this section, the Commission shall require the carrier to submit a proposed change to a security referred to in this subsection, with requirements imposed by the Commission, to the holder of the evidence of indebtedness referred to in paragraph (1) (A) and (B) of this subsection as appropriate, for assent or rejection. A carrier is not required to submit the change to the trustee of the instrument referred to in that paragraph.

(c) If the Commission determines that the assent of the holder of a security not entitled to vote for the election of directors of the carrier or an evidence of indebtedness is in the control of the carrier or of a person controlling the carrier, that security or evidence of indebtedness is not considered to be outstanding.

§ 11364. Procedure

(a) The Commission may prescribe the manner in which assents, assurances of assent, or rejections of the security holders may be solicited whether the solicitation is made before or after the Commission approves and authorizes the proposed change.

(b) The Commission may approve a bank or trust company, incorporated under the law of the United States or a State, that is a member of the Federal Reserve System and has a capital and surplus of at least $2,000,000, to receive assents and revocations of assents from security holders. The Commission may require the security holders to send those assents and revocations to that bank or trust company. That bank or trust company shall certify the result of the submission to the Commission. The Commission may rely on that certification as conclusive evidence in determining the result of that submission.

§ 11365. Effect of change on other persons

(a) When a change becomes effective under this subchapter, the change is binding on, and changes the rights of—

(1) each holder of a security of the carrier of each class affected by the change; and

(2) a trustee or other party to an instrument under which a class of securities has been issued or by which it is secured.

(b) An authorization and approval of a change under this subchapter is authority for, and approval of, a corresponding change of the obligation of another carrier that assumed liability related to that class of securities if that carrier consents to the change in writing. When consent is given, the corresponding change becomes effective when the change of the class of securities or instrument becomes binding. A person who is liable or obligated on a class of securities issued by a carrier is a carrier with respect to that class of the purposes of this subchapter.

§ 11366. Reports

A carrier receiving approval and authorization to make a change under this subchapter shall report the action taken by it in making that change to the Interstate Commerce Commission. The Commission may require periodic or special reports.

§ 11367. Application of other laws

(a) Section 78n(a) of title 15 does not apply to a solicitation related to a proposed change under this subchapter.

(b) If the Interstate Commerce Commission finds an issuance of a security, that is an interest in a railroad equipment trust as defined in section 77c(a)(6) of title 15, under this subchapter complies with section 11301 of this title, it is considered to be an issuance subject to section 11301 within the meaning of section 77c(a)(6) of title 15. Section 77e of that title does not apply to the issuance, sale, or exchange of certificates of deposit representing securities of, or claims against, a carrier that are issued by committees in proceedings under this subchapter. Those certificates and transactions under this subchapter are exempt from subchapter I of chapter 2A of title 15.

Chapter 115—FEDERAL-STATE RELATIONS

11501. Interstate Commerce Commission authority over intrastate transportation.
11502. Conferences and joint hearings with State authorities.
11503. Tax discrimination against rail transportation property.
11504. Withholding State and local income tax by certain carriers.
11505. State action to enjoin rail carriers from certain actions.
11506. Registration of motor carriers by a State.
11507. Prison-made property governed by State law.

§ 11501. Interstate Commerce Commission authority over intrastate transportation

(a)(1) The Interstate Commerce Commission shall prescribe the rate, classification, rule, or practice for transportation or service provided by a carrier subject to the jurisdiction of the Commission under subchapter I or IV of chapter 105 of this title when the Commission finds that a rate, classification, rule, or practice of a State causes—

(A) between persons or localities in intrastate and foreign commerce, unreasonable discrimination against those persons or localities in interstate or foreign commerce; or

(B) unreasonable discrimination against or imposes an unreasonable burden on interstate or foreign commerce.

(2) The Commission may make a finding under this subsection involving a carrier providing transportation subject to its jurisdiction under subchapter I of chapter 105 of this title without separating interstate and intrastate property, revenues, and expenses, and without considering the total operations, or their results, of a carrier or group of carriers operating entirely in one State.

(b)(1) The Commission has exclusive authority to prescribe an intrastate rate for transportation provided by a rail carrier subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title when—

(A) a rail carrier files with an appropriate State authority a change in an intrastate rate, or a change in a classification, rule, or practice that has the effect of changing an intrastate rate, that adjusts the rate to the rate charged on similar traffic moving in interstate or foreign commerce; and

(B) the State authority does not act finally on the change by the 120th day after it was filed.

(2) When a rail carrier files an application with the Commission under this subsection, the Commission shall prescribe the intrastate rate under the standards of subsection (a) of this section. Notice of the application shall be served on the State authority.

(c) The Commission may take action under this section only after a full hearing. Action of the Commission under this section supersedes State law or action taken under State law in conflict with the action of the Commission.

§ 11502. Conferences and joint hearings with State authorities

(a)(1) In carrying out this subtitle as it applies to a class of persons providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under subchapter I, III, or IV of chapter 105 of this title, the Commission may—

(A) confer and hold joint hearings with the State authorities having regulatory jurisdiction of that class when the conference or hearing is related to an investigation of the relationship between rate structures and practices of carriers providing transportation or service subject to the jurisdiction of

the State authorities and of the Commission, and the Commission may take action as a result of the investigation that may affect the ratemaking authority of a State; and

(B) cooperate with and use the services, records, facilities of the State authorities.

(2) In carrying out this subtitle as it applies to motor carriers and brokers providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title, the Commission may—

(A) confer and hold joint hearings with State authorities;

(B) cooperate with and use the services, records, and facilities of State authorities; and

(C) make cooperative agreements with a State to enforce the economic laws and regulations of a State and the United States concerning highway transportation.

(b) When an investigation under this subtitle involving a common carrier providing transportation or service subject to the jurisdiction of the Commission under subchapter I or IV of chapter 105 of this title, is about a rate, classification, rule, or practice of a State, the Commission shall notify the interested State of the proceeding before disposing of the issue.

(c) When a representative of a State authority sits with the Commission in an investigation about a carrier subject to the jurisdiction of the Commission under subchapter I or III of chapter 105 of this title, the representative may be given an allowance for travel and subsistence expenses. The Commission may determine the amount of the allowance.

§ 11503. Tax discrimination against rail transportation property

(a) In this section—

(1) "assessment" means valuation for a property tax levied by a taxing district.

(2) "assessment jurisdiction" means a geographical area in a State used in determining the assessed value of property for ad valorem taxation.

(3) "rail transportation property" means property, as defined by the Interstate Commerce Commission, owned or used by a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title.

(4) "commercial and industrial property" means property, other than transportation property and land used primarily for agricultural purposes or timber growing, devoted to a commercial or industrial use and subject to a property tax levy.

(b) The following acts unreasonably burden and discriminate against interstate commerce, and a State, subdivision of a State, or authority acting for a State or subdivision of a State may not do any of them:

(1) assess rail transportation property at a value that has a higher ratio to the true market value of the rail transportation property than the ratio that the assessed value of other commercial and industrial property in the same assessment jurisdiction has to the true market value of the other commercial and industrial property.

(2) levy or collect a tax on an assessment that may not be made under clause (1) of this subsection.

(3) levy or collect an ad valorem property tax on rail transportation property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

(4) impose another tax that discriminates against a rail carrier providing transportation subject to the jurisdiction of the Commission under subchater I of chapter 105 of this title.

(c) Notwithstanding section 1341 of title 28 and without regard to the amount in controversy or citizenship of the parties, a district court of the United States has jurisdiction, concurrent with other jurisdiction of courts of the United States and the States, to prevent a violation of subsection (b) of this section. Relief may be granted under this subsection only if the ratio of assessed value to true market value of rail transportation property exceeds by at least 5 percent, the ratio of assessed value to true market value of other commercial and industrial property in the same assessment jurisdiction. The burden of proof in determining assessed value and true market value is governed by State law. If the ratio of the assessed value of other commercial and industrial property in the assessment jurisdiction to the true market value of all other commercial and industrial property cannot be determined to the satisfaction of the district court through the random-sampling method known as a sales assessment ratio study (to be carried out under statistical principles applicable to such a study), the court shall find, as a violation of this section—

(1) an assessment of the rail transportation property at a value that has a higher ratio to the true market value of the rail transportation property than the assessed value of all other property subject to a property tax levy in the assessment jurisdiction has to the true market value of all other commercial and industrial property; and

(2) the collection of an ad valorem property tax on the rail transportation property at a tax rate that exceeds the tax ratio rate applicable to taxable property in the taxing district.

§ 11504. Withholding State and local income tax by certain carriers

(a)(1) In this subsection, an employee is deemed to have earned more than 50 percent of pay in a State or subdivision of a State if the employee—

(A) performs regularly assigned duties on a locomotive, car, or other track-borne vehicle in at least 2 States and the mileage traveled in one State or subdivision of that State is more than 50 percent of the total mileage traveled by the employee while employed during the calendar year; or

(B) is engaged principally in maintaining roadways, signals, communications, and structures or in operating motortrucks from railroad terminals in at least 2 States and the percent of the time worked by the employee in one State or subdivision of that State is more than 50 percent of the total time worked by the employee while employed during the calendar year.

(2) A rail, express, or sleeping car carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title shall withhold from the pay of an employee referred to in paragraph (1) of this subsection only income tax required to be withheld by the laws of a State, or subdivision of that State—

(A) in which the employee earns more than 50 percent of the pay received by the employee from the carrier; or

(B) that is the residence of the employee (as shown on the employment records of the carrier), if the employee did not earn in one State or subdivision more than 50 percent of the pay received by the employee from the carrier during the preceding calendar year.

(b)(1) In this subsection—

(A) "State" includes a State, territory, or possession of the United States, and the Commonwealth of Puerto Rico.

(B) an employee is deemed to have earned more than 50 percent of pay in a State or subdivision of a State in which the mileage traveled by the employee in that State or subdivision is more than 50 percent of the total mileage traveled by the employee while employed during the calendar year.

(2) A motor carrier providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title and a motor private carrier shall withhold from the pay of an employee having regularly assigned duties on a motor vehicle in at least 2 States, only income tax required to be withheld by the laws of a State, or subdivision of that State—

(A) in which the employee earns more than 50 percent of the pay received by the employee from the carrier; or

(B) that is the residence of the employee (as shown on the employment records of the carrier), if the employee did not earn in one State or subdivision more than 50 percent of the pay received by the employee from the carrier during the preceding calendar year.

(c)(1) In this subsection, an employee is deemed to have earned more than 50 percent of pay in a State or subdivision of that State in which the time worked by the employee in the State or subdivision is more than 50 percent of the total time worked by the employee while employed during the calendar year.

(2) A water carrier providing transportation subject to the jurisdiction of the Commission under subchapter III of chapter 105 of this title or a water carrier or class of water carriers providing transportation on inland or coastal waters under an exemption under this subtitle shall file income tax information returns and other reports only with—

(A) the State and subdivision of residence of the employee (as shown on the employment records of the carrier); and

(B) the State and subdivision in which the employee earned more than 50 percent of the pay received by the employee from the carrier during the preceding calendar year.

(3) This subsection applies to pay of a master, officer, or seaman who is a member of the crew on a vessel engaged in foreign, coastwise, intercoastal or noncontiguous trade or in the fisheries of the United States.

(d) A rail, express, sleeping car, motor, and motor private carrier withholding pay from an employee under subsection (a) or (b) of this section shall file income tax information returns and other reports only with—

(1) the State and subdivision of residence of the employee; and

(2) the State and subdivision in which withholding of pay is required under subsection (a) or (b) of this section.

§ 11505. State action to enjoin rail carriers from certain actions

(a) The attorney general of a State or transportation regulatory authority of a State or area affected by a violation of sections 10901–10907 of this title, may bring a civil action to enjoin a rail carrier from violating those sections.

(b) A transportation regulatory authority of a State affected by an abandonment of service by a freight forwarder in violation of section 10933 of this title may bring a civil action to enjoin the abandonment.

§ 11506. Registration of motor carriers by a State

(a) In this section, "standards" and "amendments to standards" mean the specification of forms and procedures required by regulations of the Interstate Commerce

Commission to prove the lawfulness of transportation by motor carrier referred to in section 10521(a) (1) and (2) of this title by—

(1) filing and maintaining certificates and permits issued to the motor carrier by the Commission;

(2) registering motor vehicles operating under the certificates and permits;

(3) filing and maintaining proof of required insurance coverage or qualifications as a self-insurer; and

(4) filing the name of a local agent for service of process.

(b) The requirement of a State that a motor carrier, providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title and providing transportation in that State, register the certificate or permit issued to the carrier under section 10922 or 10923 of this title is not an unreasonable burden on transportation referred to in section 10922 or 10923 of this title is not an unreasonable burden on transportation referred to in section 10521(a) (1) and (2) of this title when the registration is completed under standards of the Commission under subsection (c) of this section. When a State registration requirement imposes obligations in excess of the standards, the part in excess is an unreasonable burden.

(c)(1) The Commission shall maintain standards and amendments to standards (A) prepared and certified to it by the national organization of the State Commissions, and (B) prescribed by the Commission. If the national organization determines to withdraw entirely standards prescribed by the Commission, the Commission shall prescribe new standards by the end of the first year after the national organization determines to withdraw the standards.

(2) An amendment to the standards prepared and certified by the national organization and prescribed by the Commission is effective when the amendment is prescribed or at another time as determined by the national organization.

(d) The national organization shall consult with the Commission and representatives of motor carriers subject to the State registration requirements when preparing amendments to the standards. Different amendments may be prescribed for each class of motor carriers as warranted by the differences in the operations of each class.

(e) This section does not—

(1) authorize standards in conflict with regulations of the Commission; or

(2) affect the authority of the Commission to interpret its regulations and certificates and permits issued under section 10922 or 10923 of this title.

§ 11507. Prison-made property governed by State law

Goods, wares, and merchandise produced or mined in a penal institution or by a prisoner not on parole or probation and transported into and used, sold, or stored in a State or territory or possession of the United States, is subject to the laws of that State, territory, or possession. This section does not apply to commodities produced in a penal institution of the United States Government for its use.

Chapter 117—ENFORCEMENT: INVESTIGATIONS, RIGHTS, AND REMEDIES

Sec.
11701. General authority.
11702. Enforcement by the Interstate Commerce Commission.
11703. Enforcement by the Attorney General.
11704. Action by a private person to enjoin abandonment of service.
11705. Rights and remedies of persons injured by certain carriers.
11706. Limitation on actions by and against common carriers.
11707. Liability of common carriers under receipts and bills of lading.
11708. Private enforcement: motor carrier and freight forwarder licensing.
11709. Liability for issuance of securities by certain carriers.
11710. Liability when proeprty is delivered in violation of routing instructions.

§ 11701. General authority

(a) The Interstate Commerce Commission may begin an investigation under this subtitle on its own initiative or on complaint. If the Commission finds that a carrier or broker is violating this subtitle, the Commission shall take appropriate action to compel compliance with this subtitle. The Commission may take that action only after giving the carrier or broker notice of the investigation and an opportunity for a proceeding.

(b) A person, including a governmental authority, may file with the Commission a complaint about a violation of this subtitle by a carrier providing, or broker for, transportation or service subject to the jurisdiction of the Commission under this subtitle. The complaint must state the facts that are the subject of the violation and, if it is against a water carrier, must be made under oath. The Commission may dismiss a complaint it determines does not state reasonable grounds for investigation and action. However, the Commission may not dismiss a complaint made against a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title because of the absence of direct damage to the complainant.

(c) A formal investigative proceding begun by the Commission under subsection (a) of this section related to a rail carrier is dismissed automatically unless it is concluded by the Commission with administrative finality by the end of the 3d year after the date on which it was begun.

§ 11702. Enforcement by the Interstate Commerce Commission

(a) The Interstate Commerce Commission may bring a civil action—

(1) to enjoin a rail carrier from violating section 10901–10907 or 10933 of this title, or a regulation prescribed or certificate issued under any of those sections;

(2) to enforce section 10930 or 11323 of this title, or subchapter III of chapter 113 of this title and to compel compliance with the order of the Commission under any of those sections and that subchapter;

(3) to enforce an order of the Commission, except a civil action to enforce an order for the payment of money, when it is violated by a carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title;

(4) to enforce this subtitle (except a civil action under a provision of this subtitle governing the reasonableness and discriminatory character of rates), or a regulation or order of the Commission or a certificate or permit issued under under this subtitle when violated by a motor carrier or broker providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title;

(5) to enforce this subtitle (except a civil action under a provision of this subtitle governing the reasonableness and discriminatory character of rates), or a regulation or order of the Commission or a certificate or permit issued under this subtitle, except a civil action to enforce an order for the payment of money, when violated by a carrier providing transportation subject to the jurisdiction of the Commission under subchapter III of chapter 105 of this title; and

(6) to enforce this subtitle, or a regulation or order of the Commission or permit issued under this subtitle when violated by a carrier providing service subject to the jurisdiction of the Commission under subchapter IV of chapter 105 of this title.

(b) In a civil action under subsection (a) (4) of this section—

(1) trial is in the judicial district in which the motor carrier or broker operates;

(2) process may be served without regard to the territorial limits of the district or of the State in which the action is instituted; and

(3) a person participating with a carrier or broker in a violation may be joined in the civil action without regard to the residence of the person.

§ 11703. Enforcement by the Attorney General

(a) The Attorney General may, and on request of the Interstate Commerce Commission shall, bring court proceedings to enforce this subtitle or a regulation or order of the Commission or certificate or permit issued under this subtitle and to prosecute a person violating this subtitle or a regulation or order of the Commission or certificate or permit issued under this subtitle.

(b) The United States Government may bring a civil action on behalf of a person to compel a common carrier providing transportation or service subject to the jurisdiction of the Commission under chapter 105 of this title to provide that transportation or service to that person in compliance with this subtitle at the same rate charged, or on conditions as favorable as those given by the carrier, for like traffic under similar conditions to another person.

§ 11704. Action by a private person to enjoin abandonment of service

An interested person may bring a civil action to enjoin an abandonment of service in violation of section 10933 of this title or a certificate issued under that section.

§ 11705. Rights and remedies of persons injured by certain carriers

(a) A person injured because a carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title does not obey an order of the Commission, except an order for the payment of money, may bring a civil action to enforce that order under this subsection.

(b)(1) A common carrier providing transportation or service subject to the jurisdiction of the Commission under chapter 105 of this title is liable to a person for amounts charged that exceed the applicable rate for transportation or service contained in a tariff filed under subchapter IV of chapter 107 of this title.

(2) A common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I or III of chapter 105 of this title is liable for damages sustained by a person as a result of an act or omission of that carrier in violation of this subtitle.

(3) A common carrier providing transportation or service subject to the jurisdiction of the Commission under subchapter II or IV of chapter 105 of this title is liable for damages resulting from the imposition of rates for transportation or service the Commission finds to be in violation of this subtitle.

(c)(1) A person may file a complaint with the Commission under section 11701(b) of this title or bring a civil action under subsection (b)(1) or (2) of this section to enforce liability against a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I or III of chapter 105 of this title. A person may begin a proceeding under section 10704 or 10705 of this title to enforce liability under subsection (b)(3) of this section by filing a complaint with the Commission under section 11701(b) of this title.

(2) When the Commission makes an award under subsection (b) of this section, the Commission shall order the carrier to pay the amount awarded by a specific date. The Commission may order a carrier providing transportation subject to the jurisdiction of the Commission under subchapter I or III of chapter 105 of this title to pay damages only when the proceeding is on complaint. The person for whose benefit an order of the Commission requiring the payment of money is made may bring a civil action to enforce that order under this paragraph if the carrier does not pay the amount awarded by the date payment was ordered to be made.

(d)(1) When a person begins a civil action under subsection (b) of this section to enforce an order of the Commission requiring the payment of damages by a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I or III of chapter 105 of this title, the text of the order of the Commission must be included in the complaint. In addition to the district courts of the United States, a State court of general jurisdiction having jurisdiction of the parties has jurisdiction to enforce an order under this paragraph. The findings and order of the Commission are competent evidence of the facts stated in them. Trial in a civil action brought in a district court of the United States under this paragraph is in the judicial district (A) in which the plaintiff resides, (B) in which the principal operating office of the carrier is located, (C) if a rail carrier, through which the railroad line of that carrier runs, or (D) if a water carrier, in which a port of call on a route operated by that carrier is located. In a civil action under this paragraph, the plaintiff is liable for only those costs that accrue on an appeal taken by the plaintiff.

(2) All parties in whose favor the award was made may be joined as plaintiffs in a civil action brought in a district court of the United States under this subsection and all the carriers that are parties to the order awarding damages may be joined as defendants. Trial in the action is in the judicial district in which any one of the plaintiffs could bring the action against any one of the defendants. Process may be served on a defendant at its principal operating office when that defendant is not in the district in which the action is brought. A judgment ordering recovery may be made in favor of any of those plaintiffs against the defendant found to be liable to that plaintiff.

(3) The district court shall award a reasonable attorney's fee as a part of the damages for which a carrier is found liable under this subsection. The district court shall tax and collect that fee as a part of the costs of the action.

§ 11706. Limitation on actions by and against common carriers

(a) A common carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title must begin a civil action to recover charges for transportation or service provided by the carrier within 3 years after the claim accrues.

(b) A person must begin a civil action to recover overcharges under section 11705(b)(1) of this title within 3 years after the claim accrues. If that claim is against a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I or III or chapter 105 of this title and an election to file a complaint with the Commission is made under section 11705(c)(1), the complaint must be filed within 3 years after the claim accrues.

(c)(1) A person must file a complaint with the Commission to recover damages under section 11705(b)(2) of this title within 2 years after the claim accrues.

(2) A person must begin a civil action to recover damages under section 11705(b)(3) of this title within 2 years after the claim accrues.

(d) The 3-year period under subsection (b) of this section is extended for 6 months from the time written notice is given to the claimant by the carrier of disallowance of any part of the claim specified in the notice if a written claim is given to the carrier within that 3-year period. The 3-year period under subsection (b) of this section and the 2-year period under subsection (c)(1) of this section are each extended for 90 days from the time the carrier begins a civil action under subsection (a) of this section to recover charges related to the same transportation or service, or collects (without beginning a civil action under that subsection) the charge for that transportation or service if that action is begun or collection is made within the appropriate period.

(e) A person must begin a civil action to enforce an order of the Commission against a carrier for the payment of money within one year after the date the order required the money to be paid.

(f) This section applies to transportation for the United States Government. The time limitations under this section are extended, as related to transportation for or on behalf of the United States Government, for 3 years from the date of (1) payment of the rate for the transportation or service involved, (2) subsequent refund for over-payment of that rate, or (3) deduction made under section 244 of title 31, whichever is later.

(g) A claim related to a shipment of property accrues under this section on delivery or tender of delivery by the carrier.

§ 11707. Liability of common carriers under receipts and bills of lading

(a)(1) A common carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under subchapter I, II, or IV of chapter 105 of this title shall issue a receipt or bill of lading for property it receives for transportation under this subtitle. That carrier and any other common carrier that delivers the property and is providing transportation or service subject to the jurisdiction of the Commission under subchapter I, II, or IV are liable to the person entitled to recover under the receipt or bill of lading. The liability imposed under this paragraph is for the actual loss or injury to the property caused by (1) the receiving carrier, (2) the delivering carrier, or (3) another carrier over whose line or route the property is transported in the United States or from a place in the United States to a place in an adjacent foreign country when transported under a through bill of lading and applies to property reconsigned or diverted under a tariff filed under subchapter IV of chapter 107 of this title. Failure to issue a receipt or bill of lading does not affect the liability of a carrier. A delivering carrier is deemed to be the carrier performing the line-haul transportation nearest the destination but does not include a carrier providing only a switching service at the destination.

(2) A freight forwarder is both the receiving and delivering carrier. When a freight forwarder provides service subject to this subtitle and uses a motor common carrier providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title to receive property from a consignor, the motor common carrier may execute the bill of lading or shipping receipt for the freight forwarder with its consent. With the consent of the freight forwarder, a motor common carrier may deliver property for a freight forwarder on the freight forwarder's bill of lading, freight bill, or shipping receipt to the consignee named in it, and receipt for the property may be made on the freight forwarder's delivery receipt.

(b) The carrier issuing the receipt or bill of lading under subsection (a) of this section or delivering the property for which the receipts or bill of lading was issued is entitled to recover from the carrier over whose line or route the loss or injury occurred the amount required to be paid to the owners of the property, as evidenced by a receipt, judgment, or transcript, and the amount of its expenses reasonably incurred in defending a civil action brought by that person.

(c)(1) A common carrier may not limit or be exempt from liability imposed under subsection (a) of this section except as filed provided in this subsection. A limitation of liability or of the amount of recovery or representation or agreement in a receipt, bill of lading, contract, rule, or tariff filed with the Commission in violation of this section is void.

(2) If loss or injury to property occurs while it is in the custody of a water carrier, the liability of that carrier is determined by its bill of lading and the law applicable to water transportation. The liability of the initial or delivering carrier is the same as the liability of the water carrier.

(3) A common carrier of passengers may limit its liability under its passenger rate for loss or injury of baggage carried on passenger trains, boats, or motor vehicles, or on trains, or boats, or motor vehicles carrying passengers.

(4) A common carrier may limit its liability for loss or injury of property transported under section 10730 of this title.

(d) A civil action under this section may be brought against a delivering carrier in a district court of the United States or in a State court. Trial, if the action is brought in a district court of the United States is in a judicial district, and if in a State court, is in a State, through which the defendant carrier operates a railroad or route.

(e) A carrier may not provide by rule, contract, or otherwise, a period of less than 9 months for filing a claim against it under this section and a period of less than 2 years for bringing a civil action against it under this section. The period for bringing a civil action is computed from the date that person receives written notice from the carrier that it has disallowed any part of the claim specified in the notice.

§ 11708. Private enforcement: Motor carrier and freight forwarder licensing

(a) If a person provides transportation by motor vehicle or service of a freight forwarder in clear violation of section 10921–10924, 10927, 10930–10932, or 11323 of this title, a person injured by the transportation or service may bring a civil action to enforce any such section. In a civil action under this section, trial is in the judicial district in which the person who violated that section operates.

(b) A copy of the complaint in a civil action under subsection (a) of this section shall be served on the Interstate Commerce

Commission and a certificate of service must appear in the complaint filed with the court. The Commission may intervene in a civil action under subsection (a) of this section. The Commission may notify the district court in which the action is pending that it intends to consider the matter that is the subject of the complaint in a proceeding before the Commission. When that notice is filed, the court shall stay further action pending disposition of the proceeding before the Commission.

(c) In a civil action under subsection (a) of this section, the court may determine the amount of and award a reasonable attorney's fee to the prevailing party. That fee is in addition to costs allowable under the Federal Rules of Civil Procedure.

§ 11709. Liability for issuance of securities by certain carriers

A carrier issuing a security or assuming an obligation or liability that is void under section 11301 of this title and its directors, officers, attorneys, and other agents who participate in authorizing, issuing, hypothecating, or selling that security, or in authorizing the assumption of that obligation or liability, are jointly and severally liable for the damages sustained by a person who acquires for value, in good faith, and without notice that the issue or assumption is void (1) that security, or (2) a security under which an assumption or liability is void. If a security void under that section is acquired directly from the carrier issuing it, the holder may rescind the transaction and recover the consideration given for the security when it is surrendered to that carrier.

§ 11710. Liability when property is delivered in violation of routing instructions

(a)(1) When a carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title diverts or delivers property to another carrier in violation of routing instructions in the bill of lading, both of those carriers are jointly and severally liable to the carrier that was deprived of its right to participate in hauling that property for the total amount of the rate it would have received if it participated in hauling the property.

(2) A carrier is not liable under paragraph (1) of this subsection when it diverts or delivers property in compliance with an order or regulation of the Commission.

(3) A carrier to whom property is transported is not liable under this subsection if it shows that it had no notice of the routing instructions before transporting the property. The burden of proving lack of notice is on that carrier.

(b) The court shall award a reasonable attorney's fee to the plaintiff in a judgment against the defendant carrier under subsection (a) of this section. The court shall tax and collect that fee as a part of the costs of the action.

Chapter 119—CIVIL AND CRIMINAL PENALTIES

Sec.
11901. General civil penalties.
11902. Civil penalty for accepting rebates from common carrier.
11903. Rate, discrimination, and tariff violations.
11904. Additional rate and discrimination violations.
11905. Transportation of passengers without charge.
11906. Evasion of regulation of motor carriers and brokers.
11907. Interference with railroad car supply.
11908. Abandonment of service by freight forwarder.
11909. Record keeping and reporting violations.
11910. Unlawful disclosure of information.
11911. Issuance of securities; disposition of funds; restriction on ownership.
11912. Consolidation, merger, and acquisition of control: violation by a person not a carrier.
11913. Disobedience to subpenas.
11914. General criminal penalty when specific penalty not provided.
11915. Punishment of corporation for violations committed by certain individuals.
11916. Conclusiveness of rates in certain prosecutions.

§ 11901. General civil penalties

(a) Except as otherwise provided in this section, a common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title, an officer or agent of that carrier or a receiver, trustee, lessee, or agent of one of them, knowingly violating an order of the Commission under this subtitle is liable to the United States Government for a civil penalty of $5,000 for each violation. Liability under this subsection is incurred for each distinct violation. A separate violation occurs for each day the violation continues.

(b) A common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title, or a receiver or trustee of that carrier, violating a regulation or order of the Commission under section 10761, 10762, 10764, 10765, or 11126(a)(2) or (b) of this title is liable to the United States Government for a civil penalty of $500 for each violation and for $25 for each day the violation continues.

(c) A carrier, receiver, or trustee violating subchapter V of chapter 107 of this title, or a regulation under that subchapter, is liable to the United States Government for a civil penalty of $500 for each violation. A separate violation occurs each day the violation continues.

(d) A person knowingly authorizing, consenting to, or permitting a violation of sections 10901–10907 of this title or of a condition of a certificate or a regulation under any of those sections, is liable to the United States Government for a civil penalty of not more than $5,000.

(e)(1) A carrier, receiver, or operating trustee violating an order or direction of the Commission under section 11123, 11124, 11125, 11127, or 11128(a)(1) of this title is liable to the United States Government for a civil penalty of at least $100 but not more than $500 for each violation and for $50 for each day the violation continues.

(2) A rail carrier, receiver, or operating trustee violating section 11126 of this title is liable to the United States Government for a civil penalty of $100 for each violation. A separate violation occurs for each car not counted when a car count is required under that section.

(f)(1) A person required under subchapter III of chapter 111 of this title to make, prepare, preserve, or submit to the Commission a record concerning transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title that does not make, prepare, preserve, or submit that record as required under that subchapter, is liable to the United States Government for a civil penalty of $500 for each violation.

(2) A carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title, and a lessor, receiver, or trustee of that carrier, violating section 11144(b)(1) of this title, is liable to the United States Government for a civil penalty of $100 for each violation.

(3) A carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title, a lessor, receiver, or trustee of that carrier, a person furnishing cars or protective services against heat or cold, and an officer, agent, or employee of one of them, required to make a report to the Commission or answer a question that does not make the report or does not specifically, completely, and truthfully answer the question, is liable to the United States Government for a civil penalty of $100 for each violation.

(4) A separate violation occurs for each day a violation under this subsection continues.

(g) A person required to make a report to the Commission, answer a question, or make, prepare, or preserve a record under this subtitle concerning transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title, or an officer, agent, or employee of that person that (1) does not make the report, (e) does not specifically, completely, and truthfully answer the question, (3) does not make, prepare, or preserve the record in the form and manner prescribed by the Commission, or (4) does not comply with section 10921 of this title, is liable to the United States Government for a civil penalty of not more than $500 for each violation and for not more than $250 for each additional day the violation continues.

(h)(1) Trial in a civil action under subsections (a)–(f) of this section is in the judicial district in which the carrier has its principal operating office or in a district through which the railroad of the carrier runs.

(2) Trial in a civil action under subsection (g) of this section is in the judicial district in which (A) the motor carrier or broker has its principal office, (B) the motor carrier or broker was authorized to provide transportation under this subtitle when the violation occurred, (C) the violation occurred, or (D) the offender is found. Process in the action may be served in the judicial district of which the offender is an inhabitant or in which the offender may be found.

§ 11902. Civil penalty for accepting rebates from common carrier

A person (1) delivering property to a common carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title for transportation under this subtitle or for whom that carrier will transport the property as consignor or consignee for that person from a State or territory or possession of the United States to another State or possession, territory, or to a foreign country, and (2) knowingly accepting or receiving by any means a rebate or offset against the rate for transportation for, or service of, that property contained in a tariff filed with the Commission under subchapter IV of chapter 107 of this title, is liable to the United States Government for a civil penalty in an amount equal to 3 times the amount of money that person

accepted or received as a rebate or offset and 3 times the value of other consideration accepted or received as a rebate or offset. In a civil action under this section, all money or other consideration received by the person during a period of 6 years before an action is brought under this section may be included in determining the amount of the penalty, and if that total amount is included, the penalty shall be 3 times that total amount.

§ 11903. Rate, discrimination, and tariff violations

(a) A person that knowingly offers, grants, gives, solicits, accepts, or receives by any means transportation or service provided for property by a common carrier subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title (1) at less than the rate in effect under chapter 107 of this title, or (2) by practicing discrimination, shall be fined at least $1,000 but not more than $20,000, imprisoned for no more than 2 years, or both.

(b) A carrier providing transportation or service subject to the jurisdiction of the Commission under chapter 105 of this title or an officer, director, receiver, trustee, lessee, agent, or employee of a corporation that is subject to the jurisdiction of the Commission under that chapter, that willfully does not file and publish its rates or tariffs as required under chapter 107 of this title or observe those tariffs until changed under law, shall be fined at least $1,000 but not more than $20,000, imprisoned for not more than 2 years, or both.

(c) When acting in the scope of their employment, the actions and omissions of persons acting for or employed by a carrier or shipper that is subject to subsection (a) or (b) of this section are considered to be the actions and omissions of that carrier or shipper as well as that person.

(d) Trial in a criminal action under this section is in the judicial district in which any part of the violation is committed or through which the transportation is conducted.

§ 11904. Additional rate and discrimination violations

(a)(1) A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title, and when that carrier is a corporation, an officer, employee, or agent of the corporation, that by any means knowingly and willfully assists a person in getting, or willingly permits a person to get, transportation provided under this subtitle for property at less than the rate in effect for that transportation under chapter 107 of this title, shall be fined not more than $5,000, imprisoned for not more than 2 years, or both.

(2) A person, or officer or agent of the person, that (A) delivers property for transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title, or for whom that carrier transports property as consignor or consignee, and (B) knowingly and willfully by any means gets or attempts to get that property transported at less than the rate in effect for that transportation under chapter 107 of this title, shall be fined not more than $5,000, imprisoned for not more than 2 years, or both.

(3) A person, or an officer or agent of a corporation or company that by payment of anything of value, solicitation, or in any other way, induces or attempts to induce a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title, or any of its officers or agents, to discriminate unreasonably against another consignor or consignee in the transportation of property shall be fined not more than $5,000, imprisoned for not more than 2 years, or both.

(b) A person, or an officer, employee, or agent of that person, that (1) knowingly offers, grants, gives, solicits, accepts, or receives a rebate, concession, or discrimination in violation of a provision of this subtitle related to motor carrier transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title, or (2) by any means knowingly and willfully assists or permits another person to get transportation that is subject to the jurisdiction of the Commission under that subchapter at less than the rate in effect for that transportation under chapter 107 of this title, shall be fined at least $200 but no more than $500 for the first violation and at least $250 but not more than $2,000 for a subsequent violation.

(c)(1) A water carrier providing transportation subject to the jurisdiction of the Commission under subchapter III of chapter 105 of this title, or an officer, agent, or employee of that carrier, that knowingly and willfully by any means offers, grants, or gives, or intentionally permits a person to get, transportation provided under that subchapter at less than the rate in effect for that transportation under chapter 107 of this title, shall be fined not more than $5,000.

(2) A person that knowingly and willfully by any means solicits, accepts, or receives transportation provided under subchapter III of chapter 105 of this title at less than the rate in effect for that transportation under chapter 107 of this title, shall be fined not more than $5,000.

(3) Trial in a criminal action under this subsection is in the judicial district in which any part of the violation is committed.

(d)(1) A freight forwarder providing service subject to the jurisdiction of the Commission under subchapter IV of chapter 105 of this title, or an officer, agent, or employee of that freight forwarder, that knowingly and willfully assists a person in getting, or willingly permits a person to get, service provided under that subchapter at less than the rate in effect for that service under chapter 107 of this title, shall be fined not more than $500 for the first violation and not more than $2,000 for a subsequent violation.

(2) A person that knowingly and willfully by any means gets, or attempts to get, service provided under subchapter IV of chapter 105 of this title at less than the rate in effect for that service under chapter 107 of this title, shall be fined not more than $500 for the first violation and not more than $2,000 for a subsequent violation.

§ 11905. Transportation of passengers without charge

A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I, II, or III of chapter 105 of this title that provides transportation of passengers without charge except as provided in section 10721 (b), 10722 (c) and (d) (if the transportation is for its employees on sleeping and express cars or linemen of telegraph and telephone companies), 10723(a)(1) (other than paragraph (1)(A) of that subsection when transportation is arranged by a municipal government), or 10724(a) of this title, shall be fined at least $100 but not more than $2,000. An individual who uses a free ticket for, or accepts transportation subject to the jurisdiction of the Commission under those subchapters, except as provided in those sections, shall be fined at least $100 but not more than $2,000.

§ 11906. Evasion of regulation of motor carriers and brokers

A person, or an officer, employee, or agent of that person that by any means knowingly and willfully tries to evade regulation provided under this subtitle for motor carriers or brokers shall be fined at least $200 but not more than $500 for the first violation and at least $250 but not more than $2,000 for a subsequent violation.

§ 11907. Interference with railroad car supply

(a) A person that offers or gives anything of value to another person acting for or employed by a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title intending to influence an action of that other person related to supply, distribution, or movement of cars, vehicles, or vessels used in the transportation of property, or because of the action of that other person, shall be fined not more than $1,000, imprisoned for not more than 2 years, or both.

(b) A person acting for or employed by a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title that solicits, accepts, or receives anything of value (1) intending to be influenced by it in an action of that person related to supply, distribution, or movement of cars, vehicles, or vessels used in the transportation of property, or (2) because of the action of that person, shall be fined not more than $1,000, imprisoned for not more than 2 years, or both.

§ 11908. Abandonment of service by freight forwarder

A freight forwarder controlled by or under common control with a common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I, II, or III of chapter 105 of this title, or a director, officer, receiver, operating trustee, lessee, agent, or employee of that freight forwarder or common carrier, that knowingly authorizes or permits a violation of section 10933 of this title, shall be fined not more than $5,000.

§ 11909. Record keeping and reporting violations

(a) A person required to make a report to the Interstate Commerce Commission, or make, prepare, or preserve a record, under subchapter III of chapter 111 of this title about transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title that knowingly and willfully (1) makes a false entry in the report or record, (2) destroys, multilates, changes, or by another means falsifies the record, (3) does not enter business related facts and transactions in the record, (4) makes, prepares, or preserves the record in violation of a regulation or order of the Commission, or (5) files a false report or record with the Commission, shall be fined not more than $5,000, imprisoned for not more than 2 years, or both.

(b) A person required to make a report to the Commission, answer a question, or make, prepare, or preserve a record under this subtitle about transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title, or an officer, agent, or employee of that person, that (1) willfully does not make that report, (2) willfully does not specifically, completely, and truthfully answer that question in 30 days from the date the Commission requires the question to be answered, (3) willfully does not make, prepare, or preserve that record in the form and manner prescribed by the Commission, (4) knowingly and willfully falsifies, destroys, mutilates, or changes that report or record, (5) knowingly and willfully files a false report or record with the Commission, (6) knowingly and willfully makes a false or incomplete entry in that record about a business related fact or transaction, or (7) knowingly and willfully makes, prepares, or preserves a record in violation of a regulation or order of the Commission, shall be fined not more than $5,000.

(c) A person required to make a report to the Commission, answer a question, or make, prepare, or preserve a record under this subtitle about transportation subject to the jurisdiction of the Commission under subchapter III of chapter 105 of this title, or an officer, agent, or employee of that person, that (1) willfully does not make that report, (2) willfully does not specifically, completely and truthfully answer that question in 30 days from the date the Commission requires the question to be answered, (3) willfully does not make, prepare, or preserve that record in the form and manner prescribed by the Commission, (4) willfully falsifies, destroys, mutilates, or changes that report, or record, (5) willfully makes a false or incomplete entry in the record about a fact or transaction required under this subtitle, (6) willfully makes, prepares, or preserves a record in violation of a regulation or order of the Commission, or (7) knowingly and willfully files a false report or record with the Commission, shall be fined not more than $5,000. Trial in a criminal action under this subsection is in the judicial district in which any part of the violation is committed.

(d) A freight forwarder, or an officer, agent, or employee of that freight forwarder, required to make a report to the Commission, answer a question, or make, prepare, or preserve a record under this subtitle about transportation subject to the jurisdiction of the Commission under subchapter IV of chapter 105 of this title that (1) willfully does not make that report, (2) willfully does not specifically, completely, and truthfully answer that question in 30 days from the date the Commission requires the question to be answered, (3) willfully does not make, prepare, or preserve that record in the form and manner prescribed by the Commission, (4) knowingly and willfully falsifies, destroys, mutilates, or changes that report or record, (5) knowingly and willfully files a false report or record with the Commission, (6) knowingly and willfully makes a false or incomplete entry in that record about a fact or transaction related to the business of that freight forwarder, or (7) knowingly and willfully makes, prepares, or preserves a record in violation of a regulation or order of the Commission, shall be fined not more than $5,000.

§ 11910. Unlawful disclosure of information

(a)(1) A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title, or an officer, agent, or employee of that carrier, or another person authorized to receive information from that carrier, that knowingly discloses to another person, except the shipper or consignee, or a person who solicits or knowingly receives (A) information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier for transportation provided under this subtitle without the consent of the shipper or consignee, and (B) that information may be used to the detriment of the shipper or consignee or may disclose improperly, to a competitor the business transactions of the shipper or consignee, shall be fined not more than $1,000.

(2) A motor carrier or broker providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title or an officer, receiver, trustee, lessee, or employee of that carrier or broker, or another person authorized by that carrier or broker to receive information from that carrier or broker may not knowingly disclose to another person, except the shipper or consignee, and another person may not solicit, or knowingly receive, information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier or broker for transportation provided under this subtitle without the consent of the shipper or consignee if that information may be used to the detriment of the shipper or consignee or may disclose improperly to a competitor the business transactions of the shipper or consignee.

(3) A common carrier providing transportation subject to the jurisdiction of the Commission under subchapter III of chapter 105 of this title, or an officer, receiver, trustee, lessee, agent, or employee of that carrier, or another person authorized by that carrier or person to receive information from that carrier, that knowingly and willfully discloses to another person, except the shipper or consignee, or a person that solicits or knowingly and willfully receives (A) information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier for transportation provided under that subchapter without the consent of the shipper or consignee, and (B) that information may be used to the detriment of the shipper or consignee or may disclose improperly, to a competitor, the business transactions of the shipper or consignee, shall be fined not more than $2,000. Trial in a criminal action under this paragraph is in the judicial district in which any part of the violation is committed.

(4) A freight forwarder providing service subject to the jurisdiction of the Commission under subchapter IV of chapter 105 of this title, or an officer, agent, or employee of that freight forwarder, or another person authorized by that freight forwarder, or person to receive information, who knowingly and willfully discloses to another person, except the shipper or consignee, or a person that solicits or knowingly and willfully receives (A) information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that forwarder for service provided under that subchapter without the consent of the shipper or consignee, and (B) that information may be used to the detriment of the shipper or consignee or may disclose improperly, to a competitor the business transactions of the shipper or consignee, shall be fined not more than $100 for the first violation and not more than $500 for a subsequent violation. A separate violation occurs each day the violation continues.

(b) This subtitle does not prevent a carrier or broker providing transportation subject to the jurisdiction of the Commission under chapter 105 of this title from giving information—

(1) in response to legal process issued under authority of a court of the United States or a State;

(2) to an officer, employee, or agent of the United States Government, a State, or a territory or possession of the United States; or

(3) to another carrier or its agent to adjust mutual traffic accounts in the ordinary course of business.

(c) An employee of the Commission delegated to make an inspection or examination under section 11144 of this title who knowingly discloses information acquired during that inspection or examination, except as directed by the Commission, a court, or a judge of that court, shall be fined not more than $500, imprisoned for not more than 6 months, or both.

§ 11911. Issuance of securities; disposition of funds; restriction on ownership

(a) A director, officer, attorney, or agent of a carrier defined in section 11301(a)(1) of this title or of a person to which that section is made applicable by section 11302(a) of this title that knowingly agrees to or concurs in (1) an issue of securities or assumption of obligations or liability in violation of section 11301 of this title, (2) a disposition of securities in violation of an order of the Interstate Commerce Commission, or (3) an application not authorized by the Commission of the funds derived by the carrier through a disposition of securities shall be fined at least $1,000 but not more than $10,000, imprisoned for at least one year but not more than 3 years, or both.

(b) A person that violates section 11322 of this title shall be fined at least $1,000 but not more than $10,000, imprisoned for at least one year but not more than 3 years, or both.

§ 11912. Consolidation, merger, and acquisition of control: violation by a person not a carrier

A person, other than a common carrier, that violates section 11343, 11344, 11345, 11346, or 11347 of this title shall be fined not more than $5,000.

§ 11913. Disobedience to subpenas

A person not obeying a subpena or requirement of the Interstate Commerce Commission to appear and testify or produce records shall be fined at least $100 but not more than $5,000, imprisoned for not more than one year, or both.

§ 11914. General criminal penalty when specific penalty not provided

(a) When another criminal penalty is not provided under this chapter, a common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title, and when that carrier is a corporation, a director or officer of the corporation, or a receiver, trustee, lessee, or person acting for or employed by the corporation that, alone or with another person, willfully violates this subtitle or an order prescribed under this subtitle, shall be fined not more than $5,000. However, if the violation is for discrimination in rates charged for transportation, the person may be imprisoned for not more than 2 years in addition to being fined under this subsection. A separate violation occurs each day a violation of section 11321(a) or 11342 of this title continues.

(b) When another criminal penalty is not provided under this chapter, a person

that knowingly and willfully violates a provision of this subtitle or a regulation or order prescribed under this subtitle, or a condition of a certificate or permit issued under this subtitle related to transportation that is subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title, shall be fined at least $100 but not more than $500 for the first violation and at least $200 but not more than $500 for a subsequent violation. A separate violation occurs each day the violation continues.

(c) When another criminal penalty is not provided under this chapter, a person that knowingly and willfully violates a provision of this subtitle or a regulation or order prescribed under this subtitle, or a condition of a certificate or permit issued under this subtitle related to transportation that is subject to the jurisdiction of the Commission under subchapter III of chapter 105 of this title, shall be fined not more than $500. A separate violation occurs each day the violation continues. Venue in a criminal action under this subsection is in the judicial district in which any part of the violation was committed.

(d) When another criminal penalty is not provided under this chapter, a person that knowingly and willfully violates a provision of this subtitle or a regulation or order prescribed under this subtitle or a condition of a permit issued under this subtitle related to service that is subject to the jurisdiction of the Commission under subchapter IV of chapter 105 of this title, shall be fined not more than $100 for the first violation and not more than $500 for a subsequent violation. A separate violation occurs each day the violation continues.

§ 11915. Punishment of corporation for violations committed by certain individuals

An act or omission that would be a violation of this subtitle if committed by a director, officer, receiver, trustee, lessee, agent, or employee of a common carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title that is a corporation is also a violation of this subtitle by that corporation. The penalties of this chapter apply to that violation. When acting in the scope of their employment, the actions and omissions of individuals acting for or employed by that carrier are considered to be the actions and omissions of that carrier as well as that individual.

§ 11916. Conclusiveness of rates in certain prosecutions

When a carrier files with the Interstate Commerce Commission or publishes a particular rate under chapter 107 of this title or participates in one of those rates, the published or filed rate is conclusive proof against that carrier, its officers, and agents that it is the legal rate for that transportation or service in a proceeding begun under section 11902 or 11903 of this title. A departure, or offer to depart, from that rate is a violation of those sections.

CONFORMING AND TECHNICAL PROVISIONS

SEC. 2. (a)(1) Title 18, United States Code, is amended—

(A) by striking out of the first definition of section 831 "common, contract, or private carrier, or freight forwarder as those terms are used in the Interstate Commerce Act, as amended" and substituting "common, contract, or motor private carrier, as those terms are defined in section 10102 of title 49"; and

(B) by striking out of section 835(c) "by the Interstate Commerce Act" and substituting "under subtitle IV of title 49".

(2) The Internal Revenue Code of 1954 (26 U.S.C. 1) is amended—

(A) by striking out of section 48(a)(2)(B)(ii) "subject to part I of the Interstate Commerce Act" and substituting "providing transportation subject to subchapter I of chapter 105 of title 49";

(B) by striking out of section 185(e)(3)(B) "section 19a of part I of the Interstate Commerce Act (49 U.S.C. 19a)" and "such section 19a" and substituting "subchapter V of chapter 107 of title 49" and "such subchapter V", respectively;

(C) by striking out of section 250(a)(1) "common carrier by railroad (as defined in section 1(3) of the Interstate Commerce Act (49 U.S.C. 1(3))" and substituting "rail carrier (as defined in section 10102(17) of title 49)";

(D) by striking out of section 281(d)(1)(A) "subject to part I of the Interstate Commerce Act (49 U.S.C. 1 and following)" and substituting "providing transportation subject to subchapter I of chapter 105 of title 49";

(E) by striking out of section 281(d)(1)(B) "subject to part I of the Interstate Commerce Act" and substituting "providing transportation subject to subchapter I of chapter 105 of title 49";

(F) by striking out of section 354(c) "section 20b of the Interstate Commerce Act" and substituting "subchapter IV of chapter 113 of title 49";

(G) by striking out of section 3231(g) "express company, sleeping-car company, or carrier by railroad, subject to part I of the Interstate Commerce Act (49 U.S.C., chapter 1)" and substituting "express carrier, sleeping car carrier, or rail carrier providing transportation subject to subchapter I of chapter 105 of title 49"; and

(H) by striking out of section 6362(f)(9) "26, 226A, or 324 of the Interstate Commerce Act" and substituting "section 11504 of title 49".

(3) Title 28, United States Code, is amended—

(A) by striking out of section 1445(b) "section 20 of Title 49" and substituting "section 11707 of title 49";

(B) by striking out of section 2321(c) "the cases and proceedings under section 20 of the Act of February 4, 1887, as amended (24 Stat. 386; 49 U.S.C. 20), section 23 of the Act of May 16, 1942, as amended (56 Stat. 301; 49 U.S.C. 23), and section 3 of the Act of February 19, 1903, as amended (32 Stat. 848; 49 U.S.C. 43)" and substituting "enforcement actions and actions to collect civil penalties under subtitle IV of title 49"; and

(C) by striking out of section 2323 "actions under section 20 of the Act of February 4, 1887, as amended (24 Stat. 386; 49 U.S.C. 20), section 23 of the Act of May 16, 1942, as amended (56 Stat. 301; 49 U.S.C. 23), and section 3 of the Act of February 19, 1903, as amended (32 Stat. 848; 49 U.S.C. 43)" and substituting "enforcement actions and actions to collect civil penalties under subtitle IV of title 49".

(4) Title 39, United States Code, is amended—

(A) by striking out of section 5201(2) "motor carrier, or an express company" and substituting "motor common carrier, or express carrier";

(B) by striking out section 5201(5) and substituting the following:

"(5) 'motor common carrier' means a motor common carrier, except a passenger-carrying motor vehicle of such a carrier, within the meaning of section 10102(11) of title 49, that holds a certificate of public convenience and necessity issued by the Commission;";

(C) by striking out the section 5201(6) "company" and "section 1(3) of title 49" and substituting "carrier" and "section 10102(7)", respectively;

(D) by striking out of section 5203 "motor carrier" each time it appears and substituting "motor common carrier" in each place; and

(E) by striking out of section 5215(a) "motor carrier" and substituting "motor common carrier".

(5) Section 308(c)(1) of title 44, United States Code, is amended by striking out "section 66 of title 49" and substituting "section 244 of title 31".

(b) Section 11503 of title 49, as stated in the first section of this Act, is effective after February 4, 1979.

LEGISLATIVE PURPOSE AND CONSTRUCTION

SEC. 3. (a) Sections 1 and 2 of this Act restate, without substantive change, laws enacted before May 16, 1978, that were replaced by those sections. Those sections may not be construed as making a substantive change in the laws replaced. Laws enacted after May 15, 1978, that are inconsistent with this Act are considered as superseding it to the extent of the inconsistency.

(b) A reference to a law replaced by sections 1 and 2 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

(c) An order, rule, or regulation in effect under a law replaced by sections 1 and 2 of this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or suspended.

(d) An action taken or an offense committed under a law replaced by sections 1 and 2 of this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

(e) An inference of a legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of the caption or catchline thereof.

(f) If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision of this Act is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications.

REPEALS

SEC. 4. (a) The repeal of a law by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal.

(b) The laws specified in the following schedule are repealed except as provided in subsection (c) of this section and except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before the date of enactment of this Act:

SCHEDULE OF LAWS REPEALED—STATUTES AT LARGE

Date	Chapter or Public Law	Section	Statutes at Large Volume	Page
1887				
Feb. 4	104	(less 25, 203(a) (22), (23), 204(a)(1) ("qualifications" through period), (a)(2) ("qualifications" through period), (a)(3), (a)(3a), (a)(5), 220(f), 226).	24	379.
1889				
Mar. 2	382		25	855.
	411	1 (proviso)	25	954.
1891				
Feb. 10	128		26	743.
1893				
Feb. 11	83		27	443.
1895				
Feb. 8	61		28	643.
1903				
Feb. 19	708		32	847.
1906				
Mar. 7	P. R. 8		34	823.
Mar. 21	P. R. 11		34	824.
June 29	3591		34	584.
1908				
Apr. 13	143		35	60.
1909				
Feb. 25	193		35	648.
1910				
June 18	309		36	539.
1912				
Aug. 24	390	11 (less last par. on p. 567)	37	566.
1913				
Mar. 1	92		37	701.
Oct. 22	32	1 (last full par. on p. 219 and all language before the heading "United States Courts" on p. 221).	38	219, 221.
1914				
Aug. 1	223	1 (5th full par.)	38	627.
1915				
Mar. 4	176		38	1196.
1916				
Aug. 9	301		39	441.
29	417	1 (2d full par.)	39	604.
1917				
May 29	23		40	101.
Aug. 9	50		40	270.
10	51		40	272.
1920				
Feb. 28	91	(less 1,213, 411 "Sec. 26," 500)	41	456.
May 8	172	1 (1st par.)	41	509.
1921				
Feb. 26	72		41	1145.
27	81		41	1149.
June 10	20		42	27.
1922				
Feb. 24	70		42	393.
June 7	210		42	624.
Aug. 18	280		42	827.
Sept. 22	413		42	1025.
1923				
Mar. 3	233		42	1443.
1924				
June 7	325		43	633.
1925				
Jan. 30	120		43	801.
1926				
July 3	761		44	835.
1927				
Feb. 26	217		44	1247.
Mar. 4	510	(less 6)	44	1446.
1929				
Jan. 19	79		45	1084.
1930				
Apr. 23	208		46	251.
1932				
Mar. 15	78		47	65.
1933				
Feb. 28	136		47	1368.
June 16	91		48	211.
1934				
June 13	498		48	954.
19	648	1 (2d full par.)	48	1056.
	652	602(b)	48	1102.
1935				
Feb. 2	3		49	19.
May 23	136		49	287.
June 14	247		49	376.
July 16	383		49	481.
Aug. 9	498	(less 1 "Sec. 204(a)(1) ('qualifications' through period), (a)(2) ('qualifications' through period), (a)(3), (a)(5), 225").	49	543.
12	509		49	607.
1937				
July 5	432		50	475.
Aug. 25	776		50	809.
1938				
June 23	601	1107(j)	52	1029.
29	811		52	1236.
1940				
Jan. 7	938		54	1226.
Sept. 18	722	(less 14(b), 20(b)(4), 24 "Sec. 220 (f)", 322, 331)	54	898.
1942				
Mar. 27	199	101–103 (title I)	56	176.
May 16	318		56	284.
Aug. 7	552		56	746.
1945				
Nov. 12	299		57	590.
1944				
Sept. 27	423		58	751.
1945				
May 16	128		59	169.
Dec. 12	573		59	606.
1946				
Feb. 20	32		60	21.
1948				
Apr. 9	180	(less 3)	62	162.
June 3	386		62	295.
12	457		62	386.
17	491		62	472.
24	622		62	602.
1949				
May 24	139	133	63	108.
June 29	272		63	280.
July 26	361		63	479.
Aug. 2	379		63	485.
1950				
Sept. 1	835		64	574.
Dec. 20	1140		64	1113.
1952				
June 27	477	402(g)	66	277.
July 3	170	1(a)(25), (26)	66	332.
9	599		66	479.
10	648		66	542.
16	881		66	724.
1953				
June 30	165		67	115.
July 31	292		67	244.
1954				
July 22	563		68	526.
1956				
July 27	759		70	702.
Aug. 3	928		70	983.
1957				
July 11	85–99		71	292.
Aug. 13	85–124		71	343.
14	85–135	4	71	352.
16	85–150		71	368.
22	85–163		71	411.
28	85–176		71	452.
31	85–246		71	564.
Sept. 7	85–309		71	631.
1958				
Aug. 12	85–625		72	568.
23	85–728		72	821.
26	85–762	1	72	859.
Sept. 2	85–857	13(a)	72	1264.
1960				
June 11	86–507	1(38)	74	202.
July 12	86–615		74	382.
1961				
Apr. 1	87–16		75	41.
Sept. 14	87–247		75	517.
1962				
Aug. 24	87–595		76	397.
Sept. 27	87–707		76	635.
Oct. 15	87–805		76	911.
1963				
Dec. 17	88–208		77	402.
1965				
July 24	89–86		79	263.
27	89–93		79	284.
Sept. 6	89–170		79	648.
1966				
May 26	89–430		80	168.
Oct. 15	89–670	8(d)	80	943.
Nov. 10	89–804		80	1521.
1968				
July 26	90–433		82	448.
Oct. 17	90–586	1	82	1149.
1970				
Oct. 15	91–452	243–245	84	931.
Dec. 23	91–569	1–3	84	1499.
28	91–590		84	1587.
1972				
July 7	92–338		86	423.
13	92–348	5, 6	86	463.
1973				
July 10	93–69	201–202 (title II)	87	166–168.
Dec. 27	93–201		87	838.
1974				
Jan. 2	93–236	205, 601(e)	87	993, 1021.
Feb. 8	93–249		88	11.
Oct. 28	93–496	14	88	1532.
Dec. 21	93–528	6(b)	88	1709.
1975				
Jan. 2	93–585	9	88	1918.
Feb. 28	94–5	3	89	7.
1976				
Feb. 5	94–210	201, 202 (less (f)), 203–212, 301–307, 308(a)(3), 309, 310, 312, 402, 403, 801, 802, 804 "Sec. 304(j)", 809(c).	90	34–38, 39–56, 57–60, 62–66, 125–130, 139, 146.
Apr. 21	94–273	11(4)	90	378.
Oct. 19	94–555	206, 218, 220(i)–(o)	90	2621, 2628, 2630.
1978				
Feb. 15	95–231		92	29.

REORGANIZATION PLANS

Year	Plan No.	Section	Statutes at Large Volume	Page
1969	1		83	859.

(c) The laws specified in the schedule in subsection (b) of this section, as they existed on October 1, 1977, are not repealed to the extent—

(1) those laws (A) vested functions in the Interstate Commerce Commission, or in the chairman or members of the Commission, related to the transportation of oil by pipeline, and (B) vested functions and authority in the Commission, or an officer or component of the Commission, related to the establishment of rates or charges for the transportation of oil by pipeline or the valuation of any such pipeline; and

(2) those functions and authority were transferred by sections 306 and 402(b) of the Department of Energy Organization Act (91 Stat. 581, 584, 42 U.S.C. 7155, 7172(b)).

(d) The repeals, by subsection (b) of this section, of section 1(a) (25), (26) of the Act of July 3, 1952, chapter 570, the Act of June 30, 1953, chapter 165, and the Act of July 31, 1953, chapter 169, are effective on September 14, 1978.

The SPEAKER pro tempore. Is a second demanded?

Mr. McCLORY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. EILBERG) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. McCLORY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. EILBERG).

Mr. EILBERG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 10965 restates the Interstate Commerce Act and related laws without substantive change and enacts those laws as subtitle IV of title 49 of the United States Code. The bill is a part of the legislative requirement of the Office of the Law Revision Counsel to prepare a proposed codification of those titles of the United States Code that have not been enacted into positive law.

The Law Revision Counsel selected title 49 for codification at this time because of congressional mandates and prior codification efforts in the transportation area. Because the Interstate Commerce Commission was required to submit a proposed codification of the Interstate Commerce Act and related laws to Congress by February 4 of this year, the Office gave priority to those laws. The Office expects the balance of title 49 to be ready for consideration by the Committee on the Judiciary during the 96th Congress.

Earlier drafts of H.R. 10965 and of a proposed report to accompany the bill have been circulated to obtain comments from the Interstate Commerce Commission and from interested members of the public. Other Government agencies also commented on the drafts. The Interstate Commerce Commission supports passage of the bill. The Law Revision Counsel is satisfied that H.R. 10965, as amended, is an accurate restatement of existing law without substantive change.

Mr. McCLORY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join my colleague in supporting enactment of H.R. 10965, a bill to revise, codify, and enact without substantive change the Interstate Commerce Act and related laws as subtitle IV of title 49, United States Code, "Transportation."

As the distinguished gentleman from Pennsylvania (Mr. EILBERG) stated, this bill was prepared by the Office of the Law Revision Counsel of the House of Representatives in compliance with the requirements of law to codify those titles of the Code that have not yet been enacted into positive law. Those requirements were imposed on the Office in 1974 when the Office was established by the House as an independent, nonpartisan office under the speaker.

A number of earlier drafts of the bill were circulated and reviewed by the Interstate Commerce Commission, other interested Government agencies, and members of the public. The Law Revision Counsel and the Commission are satisfied the bill is an accurate restatement of existing law without substantive change.

I urge my colleagues to support H.R. 10965.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. EILBERG) that the House suspend the rules and pass the bill H.R. 10965, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

GENERAL LEAVE

Mr. EILBERG. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 10965, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

INCREASE VETERANS BURIAL ALLOWANCE

Mr. CARNEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12258) to amend title 38, United States Code, to increase the maximum amount which the Administrator of Veterans' Affairs may pay for the funeral expenses of a veteran from $250 to $350.

The Clerk read as follows:

H.R. 12258

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 902(a) of title 38, United States Code, relating to funeral expenses, is amended by striking out "$250" and inserting in lieu thereof "$350".

SEC. 2. The amendment made by the first section of this Act shall apply to the funeral expenses of veterans dying after September 30, 1978.

The SPEAKER pro tempore. Is a second demanded?

Mr. HAMMERSCHMIDT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. CARNEY) will be recognized for 20 minutes, and the gentleman from Arkansas (Mr. HAMMERSCHMIDT) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. CARNEY).

Mr. CARNEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the proposed legislation would increase the veterans' burial allowance from $250 to $350. The current $250 level was established in 1958. There has been no increase in this allowance since that time, although Public Law 93-43, approved June 18, 1973, authorized payment of a plot or interment allowance of $150, in addition to the basic statutory burial allowance of $250.

Therefore, today the maximum allowed is $400, of which $250 is supposed to help defray burial and funeral expenses, and $150 is to help pay the plot or interment cost.

The veterans' burial allowance is payable where the deceased veteran was discharged under conditions other than dishonorable, and was either a wartime or Korean conflict or Vietnam era veteran; or a peacetime veteran entitled to service-connected compensation at the time of death or discharge, or retired for disability incurred in the line of duty.

Mr. Speaker, the veterans' burial allowance has not been increased in 20 years. In 1958, the average funeral cost of an adult American was $661, not including the cost of the cemetery plot. In 1976, the average funeral cost of an adult American was $1,348, not including the cost of the cemetery plot—an increase of more than 100 percent in 18 years.

The Congressional Budget Office has estimated that the reported bill would cost about $31.7 million during the next fiscal year. The projected cost is included in our budget allocation.

I hope this bill will receive unanimous support by the House.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Arkansas (Mr. HAMMERSCHMIDT).

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 12258 to increase by $100 the minimum amount the Veterans' Administration may pay for the funeral expenses of a veteran.

The statutory burial provision dates back to 1917—the War Risk Insurance Act, which was amended in 1923 to extend payment of burial expenses to veterans. At that time the allowance was $100 but was subsequently raised to $150 in 1946.

The last increase in this allowance occurred 20 years ago in 1958 when it was increased to the present $250.

While the Veterans' Administration opposes this legislation, we on the Veterans' Affairs Committee feel this benefit applicable to veterans was never intended to be connected with the payment of similar benefits by other Federal departments or agencies.

During the hearings on this measure, representatives of the American Legion, Veterans of Foreign Wars, and AMVETS testified in support of the increase.

Mr. Speaker, I support this bill and urge its favorable consideration by my colleagues.

● Mr. ROBERTS. Mr. Speaker, the reported bill would increase the current burial allowance for veterans who die of non-service-connected causes. Although funeral and burial expenses have increased substantially during the past several years, the current allowance of $250 has not been increased since 1958; therefore, I urge my colleagues to support this measure and I hope that the bill is adopted.

Mr. Speaker, I want to commend the very able chairman of our Subcommittee on Cemeteries and Burial Benefits, the distinguished gentleman from Ohio, Mr. CHARLES CARNEY, for the leadership he has displayed during this Congress in behalf of our veterans and their families. This is the fourth cemetery bill the House has passed during this session which was recommended by Mr. CARNEY's subcommittee. I commend him, Mr. Speaker, for the major role he has played this year in our entire legislative program that will benefit millions of veterans throughout the country.

Mr. Speaker, I also want to commend the gentleman from Indiana, ELWOOD HILLIS, for his cooperation and support as ranking minority member of the subcommittee. He too has rendered great service in behalf of our Nation's veterans and their dependents. Both of these gentlemen have worked hard to see that an adequate level of benefits and services are provided our veterans and I want to take this time to acknowledge their great work.●

● Mr. HILLIS. Mr. Speaker, I rise in support of H.R. 12258 which will provide an increase in the VA burial allowance for the first time in 20 years—from the current $250 to $350. Some will oppose this legislation on the grounds there is already too much duplication of Federal burial benefits. To them I would say that all veterans do not qualify for all Federal programs and this legislation will significantly assist the families of our veterans in their period of bereavement and I feel the increase is indeed justified in view of the inflation our Nation has experienced in the past few years.

The committee feels the funeral and burial allowance was never intended to be connected with the payment of benefits to individuals by other agencies or departments of the Federal Government. Additionally, the average cost of funeral and burial expenses has more than doubled during the past 20 years.

I urge a favorable vote on this piece of legislation.●

● Mr. GILMAN. Mr. Speaker, I rise in support of H.R. 12258, a bill to increase veterans' burial allowances, and I commend the Veterans' Affairs Committee for bringing this timely measure before the House.

Under present law, when a veteran dies of non-service-connected causes, two burial benefits are awarded; $150 for a plot interment allowance and $250 for the basic statutory burial allowance. The last increase in the basic allowance was granted in 1958, and since that time, Veterans' Committee estimates indicate that burial expenses have more than doubled.

H.R. 12258 increases the statutory burial allowance from $250 to $350 for veterans dying after fiscal year 1978—after September 30, 1978.

I urge my colleagues to support this bill so that this House may take the long overdue step toward assisting our veterans obtain the much needed dignity in the death that their loyal service to our Nation warrants.●

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time.

Mr. CARNEY. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. CARNEY) that the House suspend the rules and pass the bill, H.R. 12258.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CARNEY. Mr. Speaker, I ask unanimous consent that I may be permitted to revise and extend my remarks made during consideration of the bill H.R. 12258, and that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the same legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

OVERSEAS CITIZENS VOTING RIGHTS ACT AMENDMENTS

Mr. DAVIS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 703) to improve the administration and operation of the Overseas Citizens Voting Rights Act of 1975, and for other purposes, as amended.

The Clerk read as follows:

S. 703

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That section 2 of the Overseas Citizens Voting Rights Act of 1975 (42 U.S.C. 1973dd) is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new paragraph:

"(4) 'official postcard' means a postcard application for registration to vote and for an absentee ballot in the form provided in section 204(d) of the Federal Voting Assistance Act of 1955 (42 U.S.C. 1973cc-14(d)).".

SEC. 2. Section 3 of the Overseas Citizens Voting Rights Act of 1975 (42 U.S.C. 1973dd-1) is amended by inserting before the period the following: "or, in lieu thereof, an alternative form of identification consistent with this Act and applicable State or district requirements, if a citizen does not possess a valid passport or card of identity and registration".

SEC. 3. Section 4 of the Overseas Citizens Voting Rights Act of 1975 (42 U.S.C. 1973dd-2) is amended by adding at the end thereof the following new subsection:

"(c) In carrying out the provisions of this section, it is recommended that each State—

"(1) accept any official postcard which is duly executed by any person who meets the requirements in section 3 of this Act as a simultaneous application for registration under such States' election laws and for an absentee ballot under such State's absentee balloting laws;

"(2) if a special application is required for registration by mail, provide that the necessary forms will be sent with the absentee ballot and may be returned with it;

"(3) authorize and instruct the State or local election officials, upon receipt of any official postcard application or any other application for registration to vote or an absentee ballot, to mail immediately to the applicant a ballot, instructions for voting and returning the ballot, and a self-addressed envelope; and

"(4) provide that there be printed across the face of each envelope the words 'Official Election Balloting Material—Via Air Mail', or similar language.".

SEC. 4. The Overseas Citizens Voting Rights Act of 1975 (42 U.S.C. 1973dd et seq.) is amended—

(1) by redesignating sections 5, 6, 7, and 8 as sections 7, 8, 9, and 10, respectively; and

(2) by inserting after section 4 the following new sections:

"CURRENT ABSENTEE VOTING INFORMATION

"SEC. 5. (a) The Presidential designee under section 201 of the Federal Voting Assistance Act of 1955 (42 U.S.C. 1973cc-11) (hereinafter in this Act referred to as the 'Presidential designee') shall request, when appropriate, each State to furnish him with information on the current absentee registration and voting procedures of each State pertaining to citizens entitled to vote in Federal elections under this Act. Such information shall include election dates, officers to be elected, any provisions under such State's law requiring the removal of the name of any person from such State's voter registration roll (for whatever reason), and information related to the number of absentee voters in such State who are entitled to vote in Federal elections under this Act. Where consistent with their respective duties, appropriate departments or agencies of the Federal Government shall assist and cooperate with the Presidential designee, both in the collection of such information and in its dissemination to persons who meet the requirements in section 3 of this Act.

"(b) The Secretary of State shall publicise, in the manner best designed to reach the persons meeting the requirements in section 3 of this Act—

"(1) the right of such persons to vote in Federal elections and the procedures available to such persons to enforce that right, as provided in this Act; and

"(2) with the assistance of the Postmaster General, the availability of expedited mail delivery of balloting material under this Act.

The Presidential designee shall notify all appropriate State and local election officials of such availability under this Act and under the Federal Voting Assistance Act of 1955 (42 U.S.C. 1973cc et seq.).

"PRINTING AND TRANSMITTING OF POSTCARDS; FREE POSTAGE; PUBLICITY

"SEC. 6. (a) The Administrator of General Services shall cause to be printed and distributed to the Department of Justice, the Department of State, and any other appropriate department or agency of the Federal Government official postcards for use in accordance with the provisions of this Act as directed by the Presidential designee. Such departments or agencies shall deliver or make available such postcards to persons meeting the requirements in section 3 of this Act not later than August 15 immediately before any general Federal election for use in such election. To the extent practicable, such postcards shall also be made available at appropriate times to such persons for use in special or primary Federal elections.

"(b)(1) The Postmaster General, the Attorney General, the Secretary of State, and the head of any other appropriate department or agency of the Federal Government shall facilitate the transmission of balloting material, including official postcards, absentee ballots, voting instructions, and envelopes for the return of such ballots, to and from persons meeting the requirements in section 3 of this Act.

"(2) Any balloting material sent from the United States to any person meeting the requirements in section 3 of this Act shall be sent by priority airmail or by the most expedited postal service available.

"(3) Any balloting material sent to the United States by any person meeting the requirements in section 3 of this Act shall be returned by priority airmail or by the most expedited service available, wherever practicable. Such material may be mailed from any Armed Forces post office in an overseas area established as provided in section 406 of title 39, United States Code, unless otherwise prohibited by any treaty or other agreement between the United States and a foreign country. In the case of ballots executed outside the United States by any person, such ballots may be segregated from other forms of mail and placed in special bags marked with special tags printed and distributed by the Postmaster General for this purpose.

"(c) Official postcards, ballots, voting instructions, and envelopes, whether transmitted individually or in bulk, shall be free of postage, including airmail postage, when sent from the United States in the United States mails.".

SEC. 5. Section 9 of the Overseas Citizens Voting Rights Act of 1975 (42 U.S.C. 1973dd–5), as so redesignated in section 4(1), is amended—

(1) by inserting "(a)" before "Nothing"; and

(2) by adding at the end thereof the following new subsection:

"(b) The exercise of any right to register or vote in Federal elections by any citizen outside the United States shall not affect the determination of his place of residence or domicile for purposes of any tax imposed under Federal, State, or local law.".

SEC. 6. The Overseas Citizens Voting Rights Act of 1975 (42 U.S.C. 1973dd et seq.), as amended in section 4, is further amended by adding at the end thereof the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 11. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.".

SEC. 7. Section 101 of the Federal Voting Assistance Act of 1955 (42 U.S.C. 1973cc) is amended—

(1) by inserting "(a)" before "The"; and

(2) by adding at the end thereof the following new subsection:

"(b) Each State shall enable every citizen in the following categories who is absent from the place of his voting residence to register absentee and to vote by absentee ballot in any Federal election, as defined in section 2(1) of the Overseas Citizens Voting Rights Act of 1975 (42 U.S.C. 1973dd(1)), held in his election district or precinct if he is otherwise eligible to vote in that election:

"(1) Members of the Armed Forces while in the active service, and their spouses and dependents.

"(2) Members of the Merchant Marine of the United States, and their spouses and dependents.

The rights granted in this section shall be supplemental to the voting rights presently enjoyed by these citizens under other Federal and State laws.".

SEC. 8. Section 202 of the Federal Voting Assistance Act of 1955 (42 U.S.C. 1973cc–12) is amended by inserting after "voting procedures," the following: "any provision under such State's law requiring the removal of the name of any person from such State's registration roll (for whatever person), information related to the number of absentee voters in a State who are entitled to vote in Federal elections under this Act,".

SEC. 9. Section 203 of the Federal Voting Assistance Act of 1955 (42 U.S.C. 1973cc–13) is amended—

(1) in paragraph (1), by striking out "Council of State Governments" and inserting in lieu thereof "government of the several States"; and

(2) by striking out paragraph (3) and inserting in lieu thereof the following new paragraph:

"(3) the Postmaster General and the heads of the departments and agencies concerned to facilitate the transmission of balloting materials to and from persons to whom this Act is applicable. Any balloting material sent from the United States to such persons shall be sent by priority airmail or by the most expedited postal service available. Any balloting material sent to the United States by such persons shall be returned by priority airmail or by the most expedited service available, wherever practicable. In the case of ballots executed outside the United States by any such person, such ballots may be segregated from other forms of mail and placed in special bags marked with special tags printed and distributed for this purpose."

SEC. 10. Section 204 of the Federal Voting Assistance Act of 1955 (42 U.S.C. 1973cc–14) is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding the provisions of subsections (a), (b), and (c), the Presidential designee shall design, for purposes of carrying out the provisions of this Act and the Overseas Citizens Voting Rights Act of 1975, a single form of postcard application for registration to vote and for an absentee ballot. The Presidential designee is empowered to promulgate such form by regulation and upon adoption of such form, subsections (a), (b), and (c) of this section shall have no effect.".

SEC. 11. (a) Section 2401(c) of title 39, United States Code, is amended—

(1) by inserting after "title" a comma and the following: "the Overseas Citizen Voting Rights Act of 1975,"; and

(2) by striking out "Act" before the period and inserting in lieu thereof "Acts".

(b) Section 3627 of title 39, United States Code, is amended by striking out "or under the Federal Voting Assistance Act of 1955" and inserting in lieu thereof "under the Federal Voting Assistance Act of 1955, or under the Overseas Citizens Voting Rights Act of 1975".

(c) Section 3626 of title 39, United States Code, is amended by adding at the end thereof the following new subsection:

"(e)(1) In the administration of this section, the rates for third-class mail matter mailed by a qualified political committee shall be the rates currently in effect under former section 4452 of this title for third-class mail matter mailed by a qualified nonprofit organization.

"(2) For purposes of this subsection—

"(A) the term 'qualified political committee' means a national or State committee of a political party, the Republican and Democratic Senatorial Campaign Committees the Democratic National Congressional Committee, and the National Republican Congressional Committee;

"(B) the term 'national committee' means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level; and

"(C) the term 'State committee' means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level.".

The SPEAKER pro tempore. Is a second demanded?

Mr. WIGGINS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from South Carolina (Mr. DAVIS) and the gentleman from California (Mr. WIGGINS) will be recognized for 20 minutes each.

The Chair now recognizes the gentleman from South Carolina (Mr. DAVIS).

Mr. DAVIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill, S. 703, is intended to improve administration and operation of the Overseas Citizen Voting Rights Act of 1975 and the Federal Voting Assistance Act of 1955.

The bill was unanimously reported by the Committee on House Administration on August 15, 1978. It had previously passed the Senate on a voice vote.

The Overseas Citizens Voting Rights Act and the Federal Voting Assistance Act were adopted by Congress to facilitate and encourage registration and voting by members of the Armed Forces, merchant marine and other citizens residing overseas. The committee found that, despite the enactment of these two bills, many U.S. citizens residing abroad cannot exercise their constitutional right to vote in Federal elections, or are inhibited from so doing.

The committee found numerous reasons for the lack of overseas registration and voting. Among those reasons were the following:

Inconsistent and conflicting State laws;

Administrative impediments imposed by the several States;

Unintentional gaps in coverage between the two acts; and

A fear that the exercise of the Federal franchise will subject them to some form of taxation by the several States. The committee bill attempts to deal with these and other problems.

Generally, Mr. Speaker, the committee bill will do the following:

First. It would require that the several States provide by law for absenteee registration and voting in Federal elections by members of the Armed Forces and the merchant marine and their dependents.

Second. The Secretary of Defense is required to design a standardized postcard to serve as a simultaneous application for both registration and absentee ballot.

Third. The bill encourages the States to accept the standardized postcard as a simultaneous application for registration and absentee ballot.

Fourth. It would extend coverage to include U.S. citizens who, while they do not have current passports or State Department cards or identity, do possess other acceptable forms of identification.

Fifth. The Secretary of State is required to publicize at the various embassies and consulates around the world, the fact that absentee registration and voting materials are available.

Sixth. The bill provides that election materials sent by the States overseas shall be handled expeditiously and shall be free from postage.

Seventh. The bill provides that the exercise by an overseas citizen of his right to register and vote shall not affect the determination of that citizen's residence or domicile for tax purposes.

Eighth. The bill also provides that certain qualified political committees might utilize the third-class postal rate applicable to a nonprofit organization.

Ninth. Finally, the bill makes other provision to generally expedite the exercise of overseas citizens voting rights.

Mr. Speaker, this bill has broaden bipartisan support. It is supported by the Republican National Committee, the Democratic National Committee and the League of Women Voters. The significant votes in the House and the Senate have been unanimous. The bill grants no new rights or privileges to our overseas citizens, many of whom are serving in the Armed Forces or other governmental positions—S. 703 merely assures that these American citizens may have the same rights and opportunities to exercise the franchise as to we here at home.

Mr. Speaker, I strongly urge my colleagues to join me in support of S. 703.

Mr. WIGGINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to this bill and urge my colleagues not to vote to suspend the rules and pass a bill which should not be considered under this procedure. Instead, in my view, it should not be supported under any procedure.

The real purpose of the bill, Mr. Speaker, has been hidden; and I want to make it clear to my colleagues precisely what is at issue here.

In a previous Congress we authorized U.S. citizens who reside abroad and who do not claim a domicile in any State to vote nevertheless in the State of their last domicile. I thought that was bad policy and bad law; but that bill nevertheless passed the Congress.

The reason, Mr. Speaker, that these U.S. citizens who reside abroad do not wish to maintain a domicile in a given State in the United States, although they are free to do so, is that they do not wish to pay State taxes in that State. Accordingly, as a matter of personal choice, these are free citizens of the United States who reside abroad, but do not have a connection with any State in the Union.

We gave them the right to vote in the State of their last domicile in earlier legislation; but many of these citizens abroad are fearful of voting in the State of their last domicile because they believe that State may impose State taxes upon them if they do so. I sympathize with their problem. No one wishes to pay taxes but, on the other hand, all the rest of us do, and all the rest of us who vote in States typically pay taxes in those States.

But these U.S. citizens residing abroad do not wish to bear that burden. Accordingly, they have been lobbying the Congress for an amendment to the law which we passed just several years ago to exempt them from the payment of State taxes by reason of the fact of their voting in a particular State. That is the purpose of this bill. It has other provisos in it, which I suppose contain needed amendments to prior laws, but that is incidental, Mr. Speaker, to the main purpose of the legislation. I do not identify with and, in fact, oppose the main purpose of the legislation. I do not support the notion that a U.S. citizen residing abroad may vote for Federal officials, in the State of California, for example—State officials in the State of California, for example—without bearing his fair share of State taxes, if that is a sufficient constitutional connection with the State to justify the imposition of any tax upon that citizen.

However, this bill takes the opposite tack and it excludes such citizens from tax liability in the States. Since I do not agree with that premise, and I hope the Members do not, I urge that this bill be defeated on suspension and that some of its salutary provisions—and there are some—be considered separately in the next Congress.

Accordingly, Mr. Speaker, I urge a no vote on the legislation. I reserve the remainder of my time.

Mr. THOMPSON. Mr. Speaker, I yield myself such time as I may consume. I would like to say that I understand my distinguished friend's constitutional concerns but respectfully disagree with them.

The 24th amendment to the U.S. Constitution guarantees the right of every citizen to vote in Federal elections, and it prohibits the States from denying its citizens the right to vote "by reason of failure to pay any toll or other tax."

The Committee realizes that the right of overseas citizens to register and vote is not expressly conditioned on the payment of any State tax. However, it seemed clear to the committee, and the other body so found, that thousands of overseas citizens were effectively discouraged from voting in the 1976 Federal elections due to a fear of State taxation. In fact, Mr. Speaker, a survey conducted by the U.S. Chamber of Commerce found that 43.8 percent of overseas citizens not voting in 1976 listed concern about State tax liability as their primary concern. What we have, I would say to the gentleman, is a de facto condition precedent of State taxation, and I submit that this de facto condition precedent is encompassed by the 24th amendment. As a legal matter, however, S. 703 will probably not make much change in the ultimate tax liability of overseas citizens. Seven States have no personal income tax. Twelve States do not tax overseas citizens on overseas income. And 17 States have issued opinions stating overseas citizens would not be subject to taxation solely for voting.

Finally, Mr. Speaker, it should be kept in mind that under S. 703 voting in a Federal election would be an entirely neutral act for tax purposes. S. 703 would not prohibit a State from imposing a tax on an overseas citizen for some other basis such as the use of State services or on a property in the State. And, of course, S. 703 applies only to Federal elections. Voting in a State or local election would leave the State free to use such voting as sufficient reason for tax purposes.

I think this, Mr. Speaker, that S. 703 is constitutional and will lend uniformity to the Federal tax statutes and should be enacted.

Mr. DAVIS. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from South Carolina.

Mr. DAVIS. Mr. Speaker, I would like to address one portion of this bill dealing with the taxation question again. While the understanding is that this mandatory area, the registration and absentee ballots, et cetera, are only applicable for Federal elections; is that correct?

Mr. THOMPSON. That is correct.

Mr. DAVIS. However, if an overseas voter wishes to participate in the election of State and local officials, in addition to the Federal elections, the act of voting for the State or the local official could constitute sufficient contact with the State to provide the basis for the imposition of some tax uniformly applied for all the citizens of that State and this would not be precluded by this bill; is that correct?

Mr. THOMPSON. The bill does preclude States or local governments from imposing any tax on an overseas citizen who votes in a Federal election under the act. Any obligation to the State is a matter for the State to determine.

Mr. DAVIS. But if at the same time he solicited the Federal ballot, he solicited a State and local ballot, what is the situation?

Mr. THOMPSON. That is a matter entirely for the State to determine.

Mr. DAVIS. In other words, this act would not preclude taxation if the individual requested those ballots. This act only goes to the Federal election.

Mr. THOMPSON. That is exactly correct.

Mr. DAVIS. That might be an interpretation for the States themselves to determine, whether a sufficient contact was made by the request.

Mr. THOMPSON. Yes, by the rendering of a State service or in the judgment of the State for citizens of that State for citizens of that State abroad to vote in State or local elections by absentee ballot, the discretion would lie entirely within the State, except if the voter wants exclusively to vote in a Federal election, in which case they would have no right to impose a tax on that basis.

Mr. DAVIS. Mr. Speaker, I thank the gentleman from New Jersey.

Mr. ST GERMAIN. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. However, when the ballot is sent to that individual overseas, at least from the State I come from, the ballot is on the Federal officials, the President, the Vice President and Members of the House and the Senate and then the State officials.

Now, how is a determination made, pray tell, as to whether the individual voted only in the Federal or in the Federal and the State?

Mr. THOMPSON. In that case, I say to the gentleman from Rhode Island and the Providence Plantations, the State from which the gentleman comes would make the determination, and in this instance would print a separate Federal ballot.

Mr. ST GERMAIN. There would be the requirement for a separate ballot?

Mr. THOMPSON. Yes.

Mr. ST GERMAIN. Does the legislation require a separate Federal ballot?

Mr. THOMPSON. Yes; if the State wanted so to do, then whatever action they take with respect to their State and local elections is a matter for the State's determination.

Mr. ST GERMAIN. But this is left to the discretion of the State as far as a separate ballot is concerned?

Mr. THOMPSON. Yes; it is.

Mr. WIGGINS. Mr. Speaker, I yield to the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I think we should be aware of the fact that under the present conditions we are depriving thousands, possibly tens of thousands of American citizens of the right to vote simply because they reside abroad and because we would impose as a condition on the right to vote the payment of a State or local tax.

Mr. WIGGINS. Mr. Speaker, the gentleman is absolutely incorrect in making that statement.

Mr. McCLORY. Mr. Speaker, as I understand this legislation, the only condition which is being eliminated insofar as the right to vote is concerned is the condition that the person may vote in a Federal election without the imposition of a State or local tax. It seems to me that this is entirely reasonable and that the question as to whether or not the person chooses to vote in a local election in which a local tax might apply is something on which the State is going to make the decision.

Mr. WIGGINS. Let us make this clear. There are no conditions upon the right of an overseas resident to vote if he is otherwise qualified to vote. The payment of the tax is not a condition. You do not have to pay the tax first to get to vote, nor is the tax imposed upon you solely because you do so.

Mr. McCLORY. Mr. Speaker, if the gentleman will yield further, the practical effect of the present law is that, if a person exercises the right to vote in a particular State, even if the person desires to vote only for Federal officials, the State at the present time, may, and I am sure in many instances does, impose a tax.

There is no question involved here as far as the imposition of Federal income taxes on Americans who reside abroad. That question is something we will take care of in the Congress in other legislation. What we are trying to take care of here is to tell the States that they have no right to impose State or local taxes on American citizens who reside abroad and who desire to vote in Federal elections, which it seems to me they should have a right to do without having this State or local tax imposed or without their running the danger of having it imposed.

Mr. WIGGINS. Mr. Speaker, I appreciate the gentleman's view.

Mr. Speaker, I have a couple of quick observations to make. The gentleman from South Carolina (Mr. DAVIS)—or perhaps it was the gentleman from Rhode Island—made it clear that we are going to have two sets of ballots to administer this law.

The State tax is appropriate if the overseas citizen votes in a State election but is inappropriate under the bill if he votes only in a Federal election. When we have a common ballot, with Federal officials and State officials on that ballot, obviously the ballot itself has to be inspected in order to determine whether the voter has voted for State as well as Federal officials. This is intolerable, of course. We cannot permit the inspection of ballots in which the voter is identified. States will be driven to printing dual ballots, and that is more than a little administrative inconvenience.

Mr. Speaker, a second point needs to be made. Notwithstanding the views of the distinguished committee chairman, this is not a poll tax under the 24th amendment. This is not a tax imposed which conditions the right to vote, nor is it a tax imposed only upon those who do vote.

Mr. Speaker, I wish to make one final point, and then I will yield time to my friend, the gentleman from Minnesota (Mr. FRENZEL). We are by this bill limiting the power of a State to levy its own taxes, and I think a fair question to ask is this: Where in the world do we get this power? Where does the Federal Government get the right to tell an individual State that it cannot impose its own taxes upon those who are proper subjects of those taxes? A close examination of the source of this Federal power leaves us empty-handed. It is a usurpation, it appears to me, of State power. It is an exercise of naked Federal power against the legitimate rights of States.

Mr. Speaker, this bill ought to be defeated.

Mr. Speaker, I now yield such time as he may consume to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I wish to endorse the statement made by the gentleman from South Carolina (Mr. DAVIS) when he described the bill and some of its virtues. I would like also to associate myself with the argumentation given by the distinguished chairman of the committee, the gentleman from New Jersey (Mr. THOMPSON).

This bill is a good bill. It is needed to make whole the Overseas Voting Rights Act which we passed in 1975. As most of the gentlemen who have spoken here have already indicated, this bill refers to income taxes of States only, and not to income taxes of the Federal Government.

Those who wish to vote in Federal elections, Mr. Speaker, ought to be able to do so, and they should not be prevented by the threat of taxation by any one of the several States from carrying out the free use of their own franchise.

The gentleman from New Jersey (Mr. THOMPSON) has already stated that in 37 States there is no problem because these taxes are not a threat to overseas residents. I would like to have the RECORD show that in the case of Rhode Island—and there was a query from a Member from Rhode Island—that is a State in which no State taxes are levied on foreign source income. That is also true in the case of the home State of the gentleman from California (Mr. WIGGINS), and in the case of the gentleman from New Jersey (Mr. THOMPSON).

Mr. DAVIS. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from South Carolina.

Mr. DAVIS. Mr. Speaker, I would like to allay one of the fears on the part of some of the Members. My State is a State that does have State taxes, but we are also a State where our standard election procedure is to print a separate Federal ballot. It has always been this way, and I would say it is not a great inconvenience to be able to separate that one item and put one Senator and one Representative in a given area or put the Presidential electors and a representative in an area, and these are the only ballots we are talking about being mandated in this bill.

Mr. Speaker, I think that should be clarified, that we are not creating great administrative havoc by having this one little extra ballot, which is something that has to be printed anyway in most States.

Mr. FRENZEL. I thank the gentleman for his contribution.

I would continue, Mr. Speaker, by saying that there are somewhere in the range of 750,000 Americans resident outside the borders of the United States. Most of these people do not vote. At least one-half of those who do not vote, according to the chamber of commerce survey cited by the gentleman from New Jersey, do not do so because they are nervous about the threat of paying a State income tax.

The right to cast a vote in our Federal election is a precious one which has been zealously guarded by the Supreme Court. This bill seeks to give that right extra protection, and will in this case certainly be upheld.

It is a matter of the 14th amendment. It is also a matter of the reasonableness clause. We ought to take every step we can to protect the precious franchise of these Americans abroad who may or may not choose to participate in State elections but definitely want to participate in Federal elections.

The Americans whose vote we seek to protect are citizens. They are subject to U.S. laws, including the Tax Code. They are citizens in every respect except they are afraid to vote. They need the protection in this bill.

Mr. Speaker, I know of no valid reason why this bill should not be passed, and I urge the House to do so promptly.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. I thank the gentleman for yielding.

Mr. Speaker, I was concerned about paying State taxes. I am concerned about the serviceman and the servicewoman. How does this affect those service persons overseas?

Mr. FRENZEL. As I understand it, the American personnel in the military are covered by an entirely separate law. We do not change this law at all by the bill which is before the House at the moment.

I think I am imposing upon the time of my leader, and maybe the gentleman could ask the distinguished chairman that question.

Mr. WIGGINS. Mr. Speaker, I will say that the servicemen overseas are subject to State taxes if they are domiciliaries of the State and earn sufficient income.

Mr. THOMPSON. Mr. Speaker, the point I would like to make to my colleague, the gentleman from Mississippi (Mr. MONTGOMERY), is that the gentleman from Minnesota (Mr. FRENZEL) is exactly correct. They are covered under a separate act. Because of the extensive experience of the Department of Defense, this legislation calls for them to draft the form which is universally used for overseas personnel. Had the gentleman from Minnesota given the number of Americans abroad to include the military, it would have been many more than the 750,000 civilians.

Mr. MONTGOMERY. If the gentleman will yield, I think the gentleman has answered my question.

Mr. WIGGINS. If the gentleman will yield, no, it has not been answered. The gentleman is concerned, I believe, about whether or not a serviceman overseas is subject to State taxes if he votes in the State. This bill does not address that subject. The bill to which the gentleman from New Jersey referred is a registration bill. It has nothing to do with taxes.

Mr. MONTGOMERY. If the gentleman will yield, the committee report says that the Secretary of Defense will draw up the postal card.

Mr. WIGGINS. The postal card is a registration form. We cry crocodile tears over the 750,000-odd U.S. citizens abroad who might have to pay State taxes if they vote in States. Maybe we should also think of the tens of millions of U.S. citizens who reside in the United States and who vote in their State and, by reason of that fact, and others, pay taxes in their State. How about a little sympathy for them?

Mr. THOMPSON. Mr. Speaker, I would like the record to show that I am sympathetic with them and that they do enjoy on an everyday basis State services which, obviously, someone who is abroad does not enjoy.

Mr. DAVIS. Mr. Speaker, I have no further requests for time.

Mr. WIGGINS. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. THOMPSON) that the House suspend the rules and pass the Senate bill S. 703, as amended.

The question was taken.

Mr. WIGGINS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

H.R. 13149, EXTEND REPORT DATE ON FOOD STAMP PILOT PROJECT WORKFARE PROVISIONS

Mr. RICHMOND. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13149) to amend the pilot project workfare provisions of the Food Stamp Act of 1976.

The Clerk read as follows:

H.R. 13149

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, The last sentence of section 17(b)(2) of the Food Stamp Act of 1977 is amended by striking everything after "Act," and inserting in lieu thereof the following: "shall issue an interim report no later than October 1, 1979, and shall issue a final report describing the results of such pilot projects no later than October 1, 1980."

The SPEAKER pro tempore. Is a second demanded?

Mr. JOHNSON of Colorado. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. RICHMOND) will be recognized for 20 minutes, and the gentleman from Colorado (Mr. JOHNSON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. RICHMOND).

Mr. RICHMOND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 13149, a bill to amend the pilot project workfare provisions of the Food Stamp Act of 1977, simply extends by 18 months the time for the Department of Agriculture to undertake a workfare experiment in 14 parts of the country as part of the new food stamp program we enacted last year. The Committee on Agriculture approved it on a vote of 32 to 3. "Workfare" is a term describing the performance of public service work for State or local units of government by food stamp recipients capable of so working in return for their food stamp benefits.

In September 1977, the Congress mandated such an experiment to take place in 14 projects across the country (two Nutrition and Service administrative regions). We originally thought that the experiment could begin by October 1977, and conclude no later than March 1979. Accordingly, we required a final report to be filed describing the results of the experiment by March 29, 1979. Unfortunately, there has been considerable delay in implementing the new food stamp program. Final regulations remain to be promulgated (hopefully in October) before the new program can start to take effect and, even then several months will be needed to assure thorough and full implementation in all of the States.

Since the workfare pilot projects depend upon the regulations being in place and operative, the Department of Agriculture requested that we add another 18 months to the legislative life of the projects in order to assure that there would be sufficient time to test the value of workfare. Therefore, we determined to postpone the target date for the final report until October 1, 1980, which means that the projects should be able to run for approximately 15 months (January 1979 to April 1980), a sufficient period for the collection of useful data, with a period of approximately 5 additional months within which to analyze that data and prepare the final report. To guarantee that the Congress is kept up to date on the progress of the pilot projects, we have required interim reports on an annual basis on or before October 1, 1978, and 1979.

The Department of Agriculture has agreed to furnish the Committee on Agriculture as well as the Senate Committee on Agriculture, Nutrition, and Forestry the unevaluated raw data flowing from project operations as soon as possible after the projects shut down in 1980 so that the committees may undertake their own analyses of the projects' successes and failures.

The technical legal reasons why this 18-month extension is so essential are spelled out in the Department's letter requesting that the bill be considered, which is attached.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., June 5, 1978.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Enclosed for the consideration of Congress is a proposed bill to extend until October 1, 1980, the final reporting date established in section 17(b)(2) of the Food Stamp Act of 1977 (Public Law 95-113) for the food stamp workfare demonstration project.

Current legislation requires that a final report be submitted on March 29, 1979. Our

general counsel has advised us that since the section of the statute authorizing workfare makes specific reference to other provisions of the program which are being revised (such as the elimination of the purchase requirement and the new benefit levels), we may not legally commence workfare project operation until these new provisions are in effect. As you know, the Department published the initial package of proposed regulations to implement Public Law 95-113 on May 2, 1978. Final regulations are scheduled to be published in late summer, and actual State agency implementation of the new provisions should commence by January 1979. In order to maintain the timetable for the final workfare report established by current legislation, both project operation and evaluation would have to take place during the first 3 months of 1979. Our general counsel has further advised that extension of the project beyond the operational date is not legislatively authorized and could not withstand legal challenge. Taking those two factors, concurrently, it will be very difficult to conduct the congressionally mandated workfare project under the parameters of the current legislation, since the projects would have only a few months of operation. It is impossible to have any meaningful test in so short a period of time.

The proposed legislation would allow for a final report no later than October 1, 1980. This will allow the workfare projects to run through about April 1, 1980, so that all local operations may have at least 1 full year of operation, and then allow 6 months for the final collection and tabulation of data and preparation of the report. The proposed legislation retains the interim report due on September 28, 1978, and provides for an additional interim report by October 1, 1979.

The Office of Management and Budget advises that there is no objection to the presentation of this proposed bill from the standpoint of the administration's program.

A similar letter is being sent to the President of the Senate.

Sincerely,

BOB BERGLAND, *Secretary.*

Mr. JOHNSON of Colorado. Mr. Speaker, I yield myself such time as I may consume.

H.R. 13149 extends the final reporting date for the workfare pilot projects until October 2, 1980, and requires an interim report on the progress of the pilot projects before October 2, 1979.

The Food Stamp Act of 1977 (Public Law 95-113) provided for the implementation by the Department of Agriculture of 14 pilot projects (2 each in the 7 administrative regions of the Food and Nutrition Service) involving the performance of work by food stamp recipients in exchange for their food stamp benefits. The recipients would be employed in a public service capacity for a State or local unit of government already sponsoring public service employment for a period of hours equal each month to the value of the household's food stamp allotment.

The law contemplated progress reports on those projects no later than 6 months (March 29, 1978) and 12 months (September 29, 1978) following enactment, as well as a final report on March 29, 1979.

Implementation of the program has been delayed pending preparation of regulations to administer the 1977 act. Accordingly, H.R. 13149 would extend the period of authorization for the pilot project workfare provisions until October 1, 1980, and further, would give discretionary authority for the Secretary to extend the projects until the termination of the act's authorization, which is September 30, 1981. USDA tells us they expect to get these projects underway in early 1979.

● Mr. FINDLEY. Mr. Speaker, I am delighted by the numerous indications that the Department of Agriculture is prepared to move promptly and vigorously to implement the workfare pilot projects once this bill is enacted into law. Last year, when we sought to include workforce as part of the revised food stamp program, there was some concern that the Department found workfare so distasteful that it would drag its feet rather than put it into effect. But now the Department is exhibiting appropriate flexibility in abiding by the will of Congress and is, indeed, acting in very good faith to initiate this demonstration perhaps by as early as January 1, 1979.

I understand that the Department is willing to provide the States in which the 14 projects are located with 100 percent of the costs associated with the recordkeeping and data collection aspects of the demonstration which may be substantial, even though the Department believes it is bound by the legislative history of the 1977 law not to furnish any cost-sharing for the administration or operational expenses involved in testing welfare, including, for example, the cost of providing the workers with supplies and of supervising them. States may, of course, employ revenue-sharing funds to support project operations. I further understand that the Department is planning to conduct an outreach campaign with the governors of the States to attempt to secure 14 sponsors so that the test may proceed at full strength. This bill is necessary to permit the demonstration to proceed without interruption so that we may obtain sufficient information by 1980 to enable the Congress to decide in 1981 whether the success or failure of workfare warrants its expansion, continuation, or termination.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. RICHMOND).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

Mr. RICHMOND. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 3271) to amend the pilot project workfare provisions of the Food Stamp Act of 1977.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate bill as follows:

S. 3271

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the last sentence of section 17(b)(2) of the Food Stamp Act of 1977 is amended by striking everything after "Act," and inserting in lieu thereof the following: "shall issue an interim report no later than October 1, 1979, and shall issue a final report describing the results of such pilot projects no later than October 1, 1980.".

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 13149) was laid on the table.

GENERAL LEAVE

Mr. RICHMOND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

HUMANE METHODS OF SLAUGHTER ACT

Mr. FOLEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1464) to amend the Federal Meat Inspection Act for purposes of requiring that meat inspected and approved under such act be produced only from livestock slaughtered in accordance with humane methods, as amended.

The Clerk read as follows:

H.R. 1464

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Humane Methods of Slaughter Act of 1978".

SEC. 2. Section 3 of the Federal Meat Inspection Act (21 U.S.C. 603) is amended by inserting "(a)" immediately before the first sentence and adding at the end thereof a new subsection (b) as follows:

"(b) For the purpose of preventing the inhumane slaughtering of livestock, the Secretary shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of the method by which cattle, sheep, swine, goats, horses, mules, and other equines are slaughtered and handled in connection with slaughter in the slaughtering establishments inspected under this Act. The Secretary may refuse to provide inspection to a new slaughtering establishment or may cause inspection to be temporarily suspended at a slaughtering establishment if the Secretary finds that any cattle, sheep, swine, goats, horses, mules, or other equines have been slaughtered or handled in connection with slaughter at such establishment by any method not in accordance with the Act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1901-1906) until the establishment furnishes assurances satisfactory to the Secretary that all slaughtering and handling in connection with slaughter of livestock shall be in accordance with such a method.".

SEC. 3. Section 10 of the Federal Meat Inspection Act (21 U.S.C. 610) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and inserting after subsection (a) a new subsection (b) as follows:

"(b) slaughter or handle in connection with slaughter any such animals in any manner not in accordance with the Act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1901-1906);".

SEC. 4. Section 20(a) of the Federal Meat Inspection Act (21 U.S.C. 620) is amended by inserting after the first sentence a new sentence as follows: "No such carcasses, parts of carcasses, meat or meat food products shall be imported into the United States unless the livestock from which they were produced was slaughtered and handled in connection with slaughter in accordance with the Act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1901-1906).".

SEC. 5. The Act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1901-1906) is amended by—

(a) inserting before the period at the end of section 2(b) "and handling in connection with such slaughtering";

(b) repealing sections 3, 4(c), and 5;

(c) striking out "for purposes of section 3 hereof" in section 4(b);

(d) inserting "and" after the semicolon at the end of section 4(a); and

(e) striking out the semicolon at the end of section 4(b) and inserting a period in lieu thereof.

SEC. 6. Nothing in this Act shall be construed to prohibit, abridge, or in any way hinder the religious freedom of any person or group. Notwithstanding any other provision of this Act, in order to protect freedom of religion, ritual slaughter, and the handling or other preparation of livestock for ritual slaughter are exempted from the terms of this Act. For the purposes of this section the term "ritual slaughter" means slaughter in accordance with section 2(b) of the Act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1902(b)).

SEC. 7. The provisions of this Act shall become effective one year after the date of enactment. However, such provisions shall not apply to a person, firm, or corporation for such additional period of time, not to exceed eighteen months, as may be determined by the Secretary, if the Secretary, upon application, finds that compliance with the provisions of this Act on its effective date would cause undue hardship on such person, firm, or corporation.

Amend the title so as to read: "A Bill to amend the Federal Meat Inspection Act to require that meat inspected and approved under such Act be produced only from livestock slaughtered in accordance with humane methods, and for other purposes.".

The SPEAKER pro tempore. Is a second demanded?

Mr. SEBELIUS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Washington (Mr. FOLEY) will be recognized for 20 minutes, and the gentleman from Kansas (Mr. SEBELIUS) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I rise in support of the bill (H.R. 1464). This legislation would amend the Federal Meat Inspection Act to require the Secretary of Agriculture to survey all inspected establishments to determine whether humane methods of slaughter, and handling in connection with slaughter, are being used.

Effective 1 year after date of enactment, Federal and State inspected establishments would be required to employ methods of slaughter, and handling in connection with slaughter, which are in accordance with the Humane Slaughter Act of 1958. This bill would also repeal provisions of the Humane Slaughter Act which became obsolete on the effective date of the bill. These include provisions which heretofore limited application of humane slaughter and handling requirements to those who sell meat to the Federal Government, required the Secretary to provide for the separate identification of humanely slaughtered carcasses, and gave the Secretary discretionary authority to appoint an advisory committee to assist in the implementation of the act. H.R. 1464 is a noncontroversial measure. An overwhelming majority of meat packers already employ humane methods of slaughter because such methods have proven more economical. The bill entails no additional cost to the Government since both the survey and enforcement of the humane slaughter requirements of the bill would be carried out by existing personnel.

Ritual slaughter is not affected in any way by this bill. Both the provision of the Humane Slaughter Act which finds ritual slaughter according to the tenets of the Jewish faith or any other religious faith to be humane, and the provisions exempting ritual slaughter and the handling or other preparation of livestock for ritual slaughter from the terms of that act are preserved intact. In addition, ritual slaughter, and handling in connection with such slaughter, are specifically exempt from the provisions of this bill.

The Committee on Agriculture reported this bill by voice vote last June and the Senate passed a companion measure last month. With two exceptions the House and Senate versions of the legislation are substantially identical. The two exceptions are: First, the House bill would give the Secretary authority to temporarily suspend inspection where he finds that livestock have been slaughtered by other than humane methods. The Senate measure would in addition authorize the Secretary to refuse inspection to a new plant until it furnished satisfactory assurances that humane methods of slaughter and handling would be employed.

Second, although neither the Senate nor the House bills would become effective until 1 year after enactment, the House bill would empower the Secretary to postpone this effective date for up to 6 months longer if hardship would otherwise result to a slaughtering establishment. The Senate bill would authorize the Secretary to postpone the effective date indefinitely. The purpose of the Senate provision was to allow the Secretary to give States which must enact laws at least equal to the Federal statute in order to maintain inspection programs, a reasonable time for their legislatures to do so. I am advised that it would be reasonable to give such States up until mid-1981 or until about 18 months after the effective date of the bill to enact the requisite State legislation.

Under my motion, I am suggesting that the House suspend the rules and pass the bill with certain noncontroversial amendments. Under my motion the House would: First, adopt language from the Senate bill which grants the Secretary authority to refuse inspection to new plants until satisfactory assurances are given that humane methods of slaughter will be employed but modify the language to confine its application to this type of situation; and second, retain the House provision limiting the period during which the Secretary could postpone the effective date of the bill, but increase the period from the present 6 months to 18 months. I have been assured that these provisions are acceptable to the representatives of the meat packing industry and animal protection groups which have actively followed the legislation, and the Department of Agriculture has informally indicated that it has no objection. My amendments also include such other nonsubstantive technical amendments as are necessary to conform this bill to the measure passed by the Senate. I would then propose that we then return the measure as so amended to the other body. I am assured informally that the Senate will in all likelihood accept the bill with these changes.

I urge my colleagues to agree to the motion and pass the bill with the amendments which I have outlined.

Mr. SEBELIUS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the time has come to require humane methods of slaughtering and handling for all meat sold in the United States as is provided for in H.R. 1464.

Over the last 20 years the American people have become increasingly concerned over the proper handling and slaughtering of livestock and humane treatment of animals. The first landmark legislation in this area was the Humane Slaughter Act of 1958, which required all meat sold to the Federal Government to be slaughtered and handled according to several humane methods. The Animal Welfare Act of 1976 was a further indication of our growing consciousness of the merciful treatment of animals. Now is the time to refine and expand the initial humane slaughter legislation to all domestic and imported meat with the passage of H.R. 1464.

In the years following the enactment of the Humane Slaughter Act in 1958, meat packers and processors have discovered that the adoption of humane slaughter methods reduces the incidence of injury to animals, and bruises and broken bones that results in condemned meat. The risk of injury to packing plant workers is also lessened. Therefore, the economic incentive of utilizing humane slaughter methods has expanded to many more packing plants than just those who sell meat to the Federal Government. In fact, the U.S. Department of Agriculture figures show that only 11 percent of the federally inspected packing plants, 5 percent of the State inspected plants and 12 percent of the foreign packing plants exporting meat to the United States continue to use nonhumane slaughtering practices.

Type of plant	Total plants	Number [1]	Percent [1]
Federally inspected	1,771	196	11
State inspected	2,564	136	5
Foreign exporting to United States	522	64	12

[1] Number which slaughter some or all species nonhumanely.

Of the approved humane slaughter methods, the application of the captive bolt stunner is the most widely used method for killing cattle and the administration of a high voltage electric current is the most widely used method of killing hogs and sheep. Shooting with firearms (generally with a .22 rifle) and the administration of carbon dioxide gas are rarely used today.

Yet, the concern by many Americans over the isolated, but persistent reports of continued cruelty to and abuse of livestock at the few plants that are not already using humane methods justify the imposition of a humane slaughtering and handling standard for all meat sold in the United States. This bill, if signed into law, would be enforceable by fines of up to $1,000 and imprisonment of up to 1 year, or both.

Most imported meat is slaughtered in accordance with our law, with the exception of sheep in Australia and possibly New Zealand. This bill would permit them to comply within 12 months following enactment, or 18 months if a hardship existed.

Mr. Speaker, this bill will in no way restrict the freedom of members of the Jewish faith or other religions to conduct ritual slaughter in accordance with their faith. H.R. 1464 and the Humane Slaughter Act specifically exempts kosher and other ritual slaughter methods.

I would like to point out that the Senate passed a companion bill by Mr. DOLE, S. 3042, by unanimous vote on August 7.

For these reasons, I join with the distinguished chairman of the Agriculture Committee, Mr. FOLEY, in urging the passage of this bill.

I yield back the balance of my time.

● Mr. BROWN of California. Mr. Speaker, the House today has passed the Humane Methods of Slaughter Act of 1978, a bill that broadens the scope of the Humane Slaughter Act of 1958. This bill is a tribute to those, in and out of Congress, who worked so hard for its passage. I would especially like to note the efforts of Mr. POAGE, the author of the original Act and longtime supporter of humane legislation.

In passing this legislation, Congress does not create a new maze of regulation but simply adds a new category, a new box to be checked on existing inspection forms. Cost of compliance is slight and the number of firms that are effected is only 176 out of 3,900 plants, the rest having previously complied with the 1958 act. The bill also extends the humane slaughter requirement to all meat imports, again effecting very few operations, in this case only about 1 percent of the plants that export meat to the United States.

The passage of this legislation takes us one step closer to complete assurance that the meat that we consume is not the result of some animal's pain and suffering. With such technological resources as we posses, there is no reason for us to allow unnecessary cruelty to our livestock. And humane slaughter methods also reduce bruising of the meat estimated to run almost $50 worth of damaged meat for every 100 animals slaughtered. The American Meat Institute members agree that humane slaughter methods are efficient methods and testified in support of this bill.

In addition to Mr. Poage's efforts and the efforts of numerous humane organizations and individuals, I would like to again acknowledge the work of the late Dr. Frederick Thomsen, formerly president of the Humane Information Services. Dr. Thomsen worked for years for the passage of this legislation and for the improvement of animal protection in general. This bill should be viewed as a fitting memorial to Dr. Thomsen and a living reminder of the efforts of humane groups everywhere.●

Mr. FOLEY. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. FOLEY) that the House suspend the rules and pass the bill H.R. 1464, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to require that meat inspected and approved under the Federal Meat Inspection Act be produced only from livestock slaughtered in accordance with humane methods, and for other purposes.".

A motion to reconsider was laid on the table.

Mr. FOLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3092) to amend the Federal Meat Inspection Act to require that meat inspected and approved under such act be produced only from livestock slaughtered in accordance with humane methods, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3092

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Humane Methods of Slaughter Act of 1978".

SEC. 2. Section 3 of the Federal Meat Inspection Act (21 U.S.C. 603) is amended by inserting "(a)" immediately before the first sentence and adding at the end thereof a new subsection (b) as follows:

"(b) For the purposes of preventing the inhumane slaughtering of livestock, the Secretary shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of the method by which cattle, sheep, swine, goats, horses, mules, and other equines are slaughtered and handled in connection with slaughter in the slaughtering establishments inspected under this Act. The Secretary may refuse to provide inspection or cause inspection to be temporarily suspended at a slaughtering establishment if the Secretary finds that any cattle, sheep, swine, goats, horses, mules, or other equines have been slaughtered or handled in connection with slaughter at such establishment by any method not in accordance with the Act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1901–1906), until the establishment furnishes assurances satisfactory to the Secretary that all slaughtering and handling in connection with slaughter of livestock shall be in accordance with such a method.".

SEC. 3. Section 10 of the Federal Meat Inspection Act (21 U.S.C. 610) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and inserting after subsection (a) a new subsection (b) as follows:

"(b) slaughter or handle in connection with slaughter any such animals in any manner not in accordance with the Act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1901–1906);".

SEC. 4. Section 20(a) of the Federal Meat Inspection Act (21 U.S.C. 620) is amended by inserting after the first sentence a new sentence as follows: "No such carcasses, parts of carcasses, meat or meat food products shall be imported into the United States unless the livestock from which they were produced was slaughtered and handled in connection with slaughter in accordance with the Act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1901–1906).".

SEC. 5. The Act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1901–1906), is amended by—

(a) inserting before the period at the end of 2(b) "and handling in connection with such slaughtering";

(b) repealing sections 3, 4(c), and 5;

(c) striking out "for purposes of section 3 hereof" in section 4(b);

(d) inserting "and" after the semicolon at the end of section 4(a); and

(e) striking out the semicolon at the end of section 4(b) and inserting a period in lieu thereof.

SEC. 6. Nothing in this Act shall be construed to prohibit, abridge, or in any way hinder the religious freedom of any person or group. Notwithstanding any other provision of this Act, in order to protect freedom of religion, ritual slaughter and the handling or other preparation of livestock for ritual slaughter are exempted from the terms of this Act. For the purposes of this section the term "ritual slaughter" means slaughter in accordance with section 2(b) of the Act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1902(b)).

SEC. 7. The provisions of this Act shall become effective one year after the date of enactment. However, such provisions shall not apply to a person, firm, or corporation for such additional period of time as may be determined by the Secretary, if the Secretary, upon application, finds that compliance with the provisions of this Act on its effective date would cause undue hardship on such person, firm, or corporation.

MOTION OFFERED BY MR. FOLEY

Mr. FOLEY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FOLEY moves to strike out all after the enacting clause of the Senate bill, S. 3092, and insert in lieu thereof the text of H.R. 1464, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to require that meat inspected and approved under the Federal Meat Inspection Act be produced only from livestock slaughtered in accordance with humane methods, and for other purposes.".

A motion to reconsider was laid on the table.

A similar House bill (H.R. 1464) was laid on the table.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the legislation just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

PACKERS AND STOCKYARDS ACT AMENDMENTS

Mr. FOLEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 9482) to amend the Packers and Stockyards Act of 1921, as amended.

The Clerk read as follows:

H.R. 9482

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 305 of the Packers and Stockyards Act, 1921 (7 U.S.C. 206), is amended by adding immediately before the period at the end thereof the following: ": *Provided, however*, That rates and charges based upon percentages of the gross sales prices of livestock shall not be prohibited merely because they are based upon such percentages rather than on a per head basis".

(a) in the introductory paragraph, by deleting "unjust, unreasonable, or discriminatory" and inserting in lieu thereof "violative of sections 304, 305, or 307";

(b) in subsection (a) thereof—

(1) by deleting "just and reasonable" and inserting after the word "May" the following: "in accordance with the standard set forth in section 305";

(2) by deleting "as both the maximum and minimum" and inserting in lieu thereof "as the maximum or minimum or both";

(3) by inserting immediately before the semicolon at the end thereof ": *Provided, however*, That the Secretary shall prescribe the rate or charge, or rates or charges, on a percentage or per head basis at the election of the stockyard owner or market agency, or on any other basis elected by the stockyard owner or market agency unless the Secretary finds such other basis to be violative of section 305"; and

(c) in subsection (b), by deleting "more or less than the rate or charge" and inserting in lieu thereof "other than the rate or charge or rates or charges".

SEC. 3. The Secretary shall appoint an interagency task force within the Department of Agriculture for the purpose of analyzing and recommending methods by which any livestock sellers, or their agents, may furnish to livestock marketing agencies, dealers or packers, who purchase livestock or provide marketing services, information concerning the existence of any lien or security interest in or against such livestock. The Secretary shall submit a report of the findings and conclusions of such task force, including legislative recommendations, to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives no later than February 1, 1979.

The SPEAKER pro tempore. Is a second demanded?

Mr. SEBELIUS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Washington, (Mr. FOLEY) and the gentleman from Kansas, (Mr. SEBELIUS) will be recognized for 20 minutes each.

The Chair now recognizes the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the bill (H.R. 9482), to amend the Packers and Stockyards Act of 1921.

This bill amends section 305 and 310 of the Packers and Stockyards Act, 1921, to make clear that country auction barn tariffs which assess charges for the sale of livestock on the basis of a percentage of the sales price rather than on a per-head basis are lawful under that act. It also requires the Secretary of Agriculture, in the exercise of his regulatory authority to prescribe stockyard rates, to do so on a per-head basis or on any other just, reasonable, and nondiscriminatory basis elected by the stockyard.

This bill would also clarify section 310 of the act to make clear that the Secretary of Agriculture has authority to prescribe either maximum or minimum rates or charges, or both. This amendment is not intended to disturb the existing situation at large terminal stockyards at which several market agencies may operate. The Secretary has for many years had authority to prescribe a single uniform rate for all market agencies operating at a particular stockyard. This amendment does not disturb that authority.

Finally, this bill would require the Secretary of Agriculture to establish an interagency task force within the Department of Agriculture to study and report to the Congress with respect to methods by which sellers of livestock or their agents might disclose the existence of liens or other security interests in the livestock which they sell to packers or through auction barns.

Mr. Speaker, when the Packers and Stockyards Act was first enacted in 1921, most of the Nation's livestock was sold through a relatively few large terminal markets which for the most part were located at major railroad terminals. These markets were relatively few in number by comparison with today and they held a virtual monopoly over trade in livestock. Accordingly, Congress brought them under regulation under public utility principles. In the ensuing years, and particularly after World War II, more and more livestock were traded at small country auction barns throughout the United States which were not subject to the Secretary's jurisdiction. By the mid-1950's, there were some 2,000 such auction markets and there was some concern over the fact that the Secretary no longer had jurisdiction over the great majority of livestock market transactions. Accordingly, in 1958, Congress brought all auction markets selling livestock in interstate commerce under regulation. Congress did not at that time address the types of tariff then in use. But percentage or value-based tariffs were widely prevalent and the legislative history reflects no intention on the part of Congress to change the existing practice.

In recent administrative proceedings, the Packers and Stockyards Administration has interpreted the Packers and Stockyards Act to prohibit percentage or value-based tariffs. To the surprise of many of us, this interpretation has been sustained on appeal. This has worked particular hardship on the auction markets involved in those proceedings and has brought into question the validity of the tariffs at the some 900 auction barns which presently employ percentage or value-based tariffs.

At hearings conducted around the country both by the Subcommittee on Livestock and Grains and by the Packers and Stockyards Administration there was near unanimous support for the principle that the auction markets should continue to be able to establish their charges on a percentage basis and, indeed, on any other basis which the Secretary finds to be lawful. Therefore this bill amends the act to make clear that percentage tariffs do not violate the Packers and Stockyards Act, and that the Secretary must prescribe rates on such percentage, per-head, or other lawful basis as the stockyard owner elects.

The bill preserves residual jurisdiction on the part of the Secretary of Agriculture over auction barn rates and charges to provide against possible unjust discrimination between sellers or other contingencies which might warrant Federal intervention. However, the Secretary has indicated his intention to permit rates and charges to be established by the auction barns on such basis as they may choose and to allow the level of rates to be determined by competition in the marketplace.

Finally, there has been a minor but persistent problem involving failure of livestock sellers to disclose to auction barns or to packers the existence of liens against livestock which they sell. Where the holders of such liens trace such livestock to an auction barn or packer, the auction barn or packer must satisfy such liens even though they had no way of knowing of their existence and frequently have no recourse against the livestock seller. This bill would require the Secretary of Agriculture to study this problem and recommend such legislation as he may deem appropriate by February 1, 1979.

Mr. Speaker, this bill has the support of the administration and of practically every one of the hundreds of witnesses who testified at the hearing conducted by the committee and by the Packers and Stockyards Administration. It was reported unanimously by the Committee

on Agriculture. A companion bill, S. 3272, has already passed the Senate, and my motion includes adoption of a few nonsubstantive grammatical amendments which are necessary to conform the language of the House bill precisely to that of the Senate bill. I know of no controversy attending this measure. It will dispel a cloud which otherwise would overhang the tariffs of practically half the auction barns in the country. It is a good bill. It is needed. And, I urge my colleagues to support it.

Mr. SEBELIUS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 9482.

Testimony in hearings held by both the House Agriculture Committee and U.S. Department of Agriculture overwhelmingly favored deregulation of stockyard commission rates by giving auction barns the option of charging either on a percentage basis—(normally 2 to 3 percent of the gross sales price)—or a per-head basis (which in Kansas ranges from about $1.75 to about $3 or $4 per head). However, it was felt that the Packers and Stockyards Administration should still retain standby authority to step in and adjust rates should they get out of line in relation to an auction market's quality of service. I am glad that this bill encompasses that thinking.

Competition, not the Government, is the best way to regulate the auction markets. Stockmen are smart enough to figure out which stockyard offers the best service and sales price for the money. They know when they are overcharged. Yet, the livestock marketing business has been one of the lowest margin types of operations in the United States today, and a tremendous cashflow is also involved. There is no question but that these businesses must be allowed to make enough money to continue to provide quality services. Sections 1 and 2 of this bill, which give the auction market the option of setting tariffs on either a percentage or per-head basis, take care of this problem in an appropriate fashion.

H.R. 9482 also addresses a problem that has plagued the livestock marketing industry for a long time—the selling of mortgaged livestock which have liens or security interests. This bill directs the Secretary of Agriculture to appoint an interagency task force within the Department of Agriculture to analyze the problem and make legislative recommendations to Congress by February 1, 1979. I am hopeful that this will lead to a permanent and meaningful solution to this gadfly in the livestock marketing process.

For these reasons, I join with the distinguished chairman of the Agriculture Committee, Mr. FOLEY, in urging my colleagues to vote overwhelmingly for this bill's passage.

Mr. Speaker, I would like to pay tribute to the gentleman from Arkansas (Mr. THORNTON), who is the author of the bill and who did all of the strong work. We are going to miss the gentleman from Arkansas (Mr. THORNTON) in that committee next year, because he is going back to Arkansas to practice a little law as I understand.

Mr. Speaker, he has done a good job on this legislation. He has been a valued member of the committee.

Mr. THORNTON. Mr. Speaker, will the gentleman yield?

Mr. SEBELIUS. I yield to the gentleman from Arkansas.

Mr. THORNTON. Mr. Speaker, I thank the gentleman from Kansas (Mr. SEBELIUS) very much for his kind remarks.

I do rise in strong support of this legislation which will, as has been mentioned by our distinguished chairman and by the gentleman from Kansas, afford the opportunity for competition to establish the rates for services rendered by market agencies.

I thank the gentleman very much for his comments.

Mr. SEBELIUS. Mr. Speaker, I would like to ask the gentleman from Arkansas (Mr. THORNTON) the following question:

Section 1(b) of the bill would amend section 310 of the Packers and Stockyards Act to delete the phrase "as both the maximum and minimum" and insert in lieu thereof the phrase "as the maximum or minimum or both." Would this amendment have any effect upon the present authority of the Secretary, which has been in effect for many years, to prescribe a uniform schedule of rates for all market agencies operating at a particular stockyard?

Mr. THORNTON. Mr. Speaker, if the gentleman will yield, the answer is "No," the amendment would not disturb that authority. As you indicate, for many years, in prescribing the rates to be charged at a stockyard where the stockyard company furnishes the stockyard facilities and certain basic services, and several market agencies furnish the buying and selling and related services, the Secretary has prescribed a uniform rate schedule for all the market agencies at that market. It is the intent of this amendment of section 310 of the act, to preserve that authority while giving the Secretary flexibility, for example, in the manner in which the level of rates is prescribed. Under the amendment, the Secretary could prescribe the maximum rates to be charged, or he could prescribe the minimum rates, or a combination of the maximum and minimum, or he could prescribe the precise rates to be charged. But I am assured that the Secretary intends to continue the policy that whatever rates are prescribed for a particular market would be charged by all of those agencies operating at that market.

Mr. SEBELIUS. Mr. Speaker, I yield 1 minute to the gentleman from Arkansas (Mr. HAMMERSCHMIDT).

Mr. HAMMERSCHMIDT. Mr. Speaker, I want to congratulate the distinguished chairman of the committee, the gentleman from Washington (Mr. FOLEY), for bringing this bill to the floor; and I also thank the distinguished ranking member of the subcommittee, the gentleman from Kansas (Mr. SEBELIUS).

Beyond that, Mr. Speaker, I want to congratulate and thank my distinguished colleague, the gentleman from Arkansas (Mr. THORNTON), for his work on this bill. It is my understanding that in consultation with the U.S. Department of Agriculture, the gentleman from Arkansas (Mr. THORNTON) developed an amendment in the nature of a substitute which is in essence the substance of this bill which has been reported by the committee.

Again, Mr. Speaker, I congratulate him.

Mr. Speaker, as a cosponsor of the Packers and Stockyards Act amendments I urge my colleagues to act swiftly and approve this critical bill which will lift the onerous and costly Federal ratemaking procedures and standards which are presently being applied to auction barns and which threaten to drive many of these markets out of business.

Under this measure small rural auction barns operating in competition with one another will no longer be treated as public utilities whose rates and charges can only be established after elaborate and costly application of Federal ratemaking machinery. However, it will not disturb the jurisdiction of the Secretary of Agriculture over the rates and charges of stockyards which operate without effective competition.

The Packers and Stockyards Act of 1921 provided the Secretary of Agriculture with the authority to set rates and charges at stockyards so that they might be reasonable, just, and nondiscriminatory. At that time, the 71 existing terminal stockyards were operating without effective competition and were rightfully subjected to the Federal ratemaking process designed for public utilities. During the following years, however, increased livestock marketing caused the creation of small stockyards, known as auction barns. When these barns came under the authority of the Secretary of Agriculture in 1958, they were also made subject to Federal regulations setting tariffs by per-head commissions, as determined by an involved formula devised by the Packers and Stockyards Administration.

These restrictive ratemaking procedures which served a legitimate purpose when applied to monopolistic practices of the large stockyards of the early 1920's are creating a damaging situation now that the livestock market has been decentralized.

The Arkansas Livestock Auction Sales Association has demonstrated the gravity of the situation in the very persuasive and compelling manner and has urged legislative assistance to save their industry. There are 1,980 auction barns throughout the United States. In comparison to that number, only a minuscule number of these barns are of the type which Congress considered in 1921 and subjected to regulation as public utilities, yet the same ratemaking policies are being applied to all.

This proposal will ease the plight of small, locally owned auction barns, but will at the same time leave undisturbed the jurisdiction of the Secretary of Agriculture over the very large facility and the isolated facility at which there is no effective competition. I hope my distinguished colleagues will join with me and take a positive step to eliminate one antiquated and excessive Federal regulation which has a potentially devastating effect on the private sector.

● Mr. ALEXANDER. Mr. Speaker, I rise

in support of H.R. 9482, legislation which will make clear that small auction barns can assess charges for the sale of livestock not only on a per-head basis, but also based on the percentage of the gross sale price. This legislation will aid small auction barns who, under Packers and Stockyards Agricultural Marketing Service regulations that would require a per-head rather than percentage commission, have been threatened out of existence.

I think the need for this legislation was best spelled out to me by the owner of such an auction barn in my district, Billy Nix of Ash Flat, Ark. I would like to share with my colleagues the text of a letter that Billy wrote to me earlier this year outlining how these regulations would affect his family-owned and run operation.

APRIL 24, 1978.

BILL ALEXANDER,
House Office Building,
U.S. Capitol,
Washington, D.C.

SIR: I am writing this letter to call to your attention the fact that our whole way of life and the business our family has worked a lifetime to establish is at stake in the recent Packers and Stockyards proposal of Regulations under the disguise of deregulation. I am referring to the proposal published in the federal register March 30, 1978 by the Packers and Stockyards Agricultural Marketing Service, U.S. Department of Agriculture as to its proposed policy statement relating to regulation of rates and charges in tariffs charged for stockyard services.

We were in business in 1959 in the livestock auction at Melbourne, Arkansas and were building our new barn at Ash Flat, which we opened in January 1960. We have also had interests in the Jonesboro Livestock Auction and the Farmer's and Ranchers Livestock Auction in Batesville, Arkansas for short periods of time. We have been selling on 3% commission for 19 years without raising our commission and were not considering doing so. We started out paying employees 75¢ per hour and we are now paying from $2.65 to $7.00 an hour. In all of these years we have never had a customer complain to us because the farmers realize that the more commission we make, the more they take home. It only stands to reason that more interest is taken by the marketman who operates on a percentage rather than by the head.

The percentage concept is upgrading the quality of livestock because the marketman spends time and advertising on good quality livestock to get more money for both his customer and his market. When everyone is forced to sell by the head, the quicker you can get the livestock through the barn the better. It will cease to be an operation on quality and price but on head count only.

What has happened to the free enterprise system when the government tells you the only way you can charge is by the head no matter what quality animal you are selling or what the charge as long as you charge the same per head? What about a sick or blind animal that sells for maybe $1.00 and we are required to collect $3.50 to $7.00 by the head as to size not quality or value? We have been told by the P. & S. not to use unfair and unreasonable practices on small farmers but the same as large producers. It seems unfair to us to charge the small farmer $3.50 to sell his $25.00 grade calf and charge $3.50 to sell a registered calf valued at $200.00 for the large producer. Our charge would now be .75¢ on the $25.00 calf and $6.00 on the $200.00 calf.

It is strange to us that in 1974 and 1975 when cattle were at their lowest that selling by the head was never mentioned. Now that cattle prices are getting better so that we overcome our losses from then, P. & S. comes back with this per head basis. We believe this put around one half of the barns out of business and the farmers will be back to having to ship their livestock to distant markets and only a few will control the market. In 1974 and 1975 when the commission was low the farmers income was also low, so we never thought of changing to a per head charge. We knew that the farmer needed every penny that he could get.

The P. & S. contends that the cost to the market is the same regardless of the price livestock are bringing. What about the operating capital for bonds and the amount the market must have in ready cash for the accounts receivable checks mailed in but not received within the 72 hours we are allowed before we must pay for them ourselves? For a Friday auction the offices are not open and the mail isn't delivered on Sundays and with all of the Monday holidays, this must be paid to the custodial account by the market. The price livestock are bringing sets the amount the market must have on hand at all times to assume this risk. The higher livestock are the bigger the bad checks are and the more risk involved in crippled and accidential death loss. Also our insurance is all based on the price cattle are bringing, never on the number of head.

Judicial Officer Campbell has referred to the operation of a livestock auction as equal to that of an owner-operator of an individual taxi cab. He also stated that the investment is generally less than $50,000.00. We would be glad for you to come by and look our property over including real-estate, trucks, machines, equipment, feed, and supplies that we have invested in our operation. We have an average of $130,000.00 of our own money tied up in accounts receivable alone.

Another one of their contentions is that it only takes one day to run an auction. There are four in our family that work full time putting in from 10 to 15 hours a day each. We have six employees working daily and on our sale day which is Friday we have 30 working. Our son, Mike, who is the auctioneer was five years old at the time we built this barn and he has worked everyday in this business. He would get off of the school bus here.

I am sorry this letter is so long, but there is no way you can defend a lifetime of work, investment and way of life in a few words.

Yours truly,

BILLIE NIX,
President.

Mr. Speaker, as a cosponsor of this legislation, I urge its adoption.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. FOLEY) that the House suspend the rules and pass the bill H.R. 9482, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. FOLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3272) to amend the Packers and Stockyards Act, 1921, and for other purposes, a bill similar to H.R. 9482, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3272

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Packers and Stockyards Act, 1921, is amended as follows:

(a) Section 305 of the Act (7 U.S.C. 206) is amended by inserting immediately before the period at the end thereof the following: ": *Provided,* That rates and charges based upon percentages of the gross sales prices of livestock shall not be prohibited merely because they are based upon such percentages rather than on a per head basis"; and

(b) Section 310 of the Act (7 U.S.C. 211) is amended by—

(1) in the introductory paragraph, striking out "unjust, unreasonable, or discriminatory" and inserting in lieu thereof "violative of section 304, 305, or 307";

(2) in subsection (a) thereof—

(A) striking out "just and reasonable" and inserting after the word "May" the following: "in accordance with the standard set forth in section 305";

(B) striking out "as both the maximum and minimum" and inserting in lieu thereof "as the maximum or minimum or both";

(C) inserting immediately before the semi-colon at the end thereof ": *Provided,* That the Secretary shall prescribe the rate or charge, or rates or charges, on a percentage or per head basis at the election of the stockyard owner or market agency, or on any other basis elected by the stockyard owner or market agency unless the Secretary finds such other basis to be violative of section 305"; and

(3) in subsection (b), striking out "more or less than the rate or charge" and inserting in lieu thereof "other than the rate or charge or rates or charges".

SEC. 2. The Secretary of Agriculture shall appoint an interagency task force within the Department of Agriculture for the purpose of analyzing and recommending methods by which any livestock sellers, or their agents, may furnish to livestock marketing agencies, dealers, or packers, who purchase livestock or provide marketing services, information concerning the existence of any lien or security interest in or against such livestock. The Secretary shall submit a report of the findings and conclusions of such task force, including legislative recommendations, to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives no later than February 1, 1979.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 9482) was laid on the table.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

FARMER-TO-CONSUMER DIRECT MARKETING ACT AMENDMENTS

Mr. FOLEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R.

12101) to amend the Farmer-to-Consumer Direct Marketing Act of 1976 for the purposes of directing the Secretary of Agriculture to make grants to assist persons in developing innovative methods of direct marketing and extending the authorization of appropriations of such Act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 12101

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7(b) of the Farmer-to-Consumer Direct Marketing Act of 1976 is amended to read as follows:

"(b) For purposes of carrying out the provisions of section 5, there is authorized to be appropriated $1,500,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979.".

The SPEAKER pro tempore. Is a second demanded?

Mr. GRASSLEY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Washington (Mr. FOLEY) and the gentleman from Iowa (Mr. GRASSLEY) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 12101, a bill which amends the Farmer-to-Consumer Direct Marketing Act of 1976 to extend for 1 year at a level of $1.5 million the authorization of appropriations to fund farmer-to-consumer direct marketing pilot projects in the various States.

The Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3001 and the following), was enacted October 8, 1976, to promote the development and expansion of direct marketing of agricultural commodities from farmers to consumers. The purpose of the act is to improve the economic viability of farmers, particularly small farmers, and to improve the quality and lower the cost of food to consumers.

Section 7(b) of the act authorizes appropriation of $1.5 million for each of the fiscal years ending September 30, 1977, and September 30, 1978, to fund and evaluate pilot information and technical assistance projects in various States designed to demonstrate the types of activities which best facilitate direct marketing from farmers to consumers. Due to the fact that the act did not become effective until after fiscal year 1977 had begun—October 8, 1976—the regular appropriation act for that year contained no funding for the pilot projects.

The 1977 supplemental—enacted in September 1977—and 1978 regular appropriation acts provided a total of $2 million which has been employed by the Secretary of Agriculture to fund 23 promising prototype projects in 23 States and Puerto Rico. However, the 1978 growing season is the first for these pilot projects. It was intended at the time the act was passed that the pilot project program span at least two growing seasons. This is necessary in order that approaches showing promise during the first growing season may be replicated during the second under different circumstances to demonstrate whether and in what circumstances they are consistently effective in accomplishing their twin purposes of improving farmer income and at the same time improving quality but reducing cost to the consumer. Congress can then make an informed judgment as to whether further Federal support is warranted and, if so, what form such support should take.

In accordance with congressional intent, the Secretary has established the existing projects on a 2-year basis. This bill extends for 1 year the authorization for these projects at the existing level of $1.5 million in order to permit completion and evaluation of the 2-year pilot direct marketing assistance program as originally intended. This extension is essential if American farmers are to improve their return and consumers are to obtain quality food at lower cost under improved direct marketing methods developed as a result of this most worthwhile program. The bill was ordered reported by a rollcall vote of 26 to 6 in the presence of a quorum.

Mr. Speaker, I urge the Members to join me in support of this measure.

Mr. GRASSLEY. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I suppose if a Member stands up to argue against a million-and-a-half-dollar piece of legislation, it might take as much time and cost as much money to argue against that bill as spending the money in the first place, and to a budget of a half trillion dollars, it kind of looks like a spit in the ocean, comparatively speaking. But somewhere along the way these million-and-a-half-dollar bills add up to $500 billion budgets, and we have to start someplace, and there is no place better to start than on what was originally labeled 3 years ago when it passed this House as a "temporary" piece of legislation.

First of all, in opposition to this bill, we have to consider the fact that it is before the House in violation of section 402(a) of the Budget Act, because it authorizes money for fiscal year 1979. This bill, in other words, was not reported by the date that it was supposed to have been reported, by May 15 of 1978. Section 402(a) says:

"SEC. 402. (a) REQUIRED REPORTING DATE.—Except as otherwise provided in this section, it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year."

The Budget Control Act, let me remind the Members, was intended for legislation of this type, and I think it is unwise, without some degree of consideration and sophistication, to willy-nilly grant waivers and continue to grant waivers. If we do this on such a sporadic and unthoughtful way, we are going to jeopardize the credibility of the Budget Control Act, and we are going to ruin its effectiveness in what otherwise is turning out to be a very effective control on spending.

If so, if it is our intention to willy-nilly ignore the Budget Control Act as we are doing by bringing this bill before the House, then we ought to admit it and eliminate the budget control process entirely.

No; in fact, there is provision in the Budget Control Act granting waivers, but they ought to only be used for the most severe cases of need for the waiver. That is the only way the Budget Control Act will fulfill its original intent.

Beyond that point, there is another good reason for opposing this bill. The need for reauthorization ought to be questioned at this point, for this legislation was sold to the House in November of 1975 as a bill that was temporary and experimental.

It is a perfect example of those many bills that we were told we ought to vote for because it is "temporary." In fact, the original sponsor said, "It is only a temporary provision, so let us try it out and see what it will do.

It was sold by a former Member of this House as a 1-year bill. The gentleman from Ohio (Mr. MILLER) asked the gentleman who sponsored this original legislation at the time this bill was being discussed in November of 1975 about it being a temporary measure and the sponsor of the bill answered, and I quote from the CONGRESSIONAL RECORD: "I hope it"—meaning the bill—"does not grow. This is only a 1-year bill."

So we have an opportunity today in the consideration of the reauthorization of this bill to insure that this is, in fact, only a temporary bill, a temporary 1-year bill.

Third, this bill is unneeded, because the Extension Service of the U.S. Department of Agriculture already has authority to conduct both research and educational activities in the area of direct marketing.

Some States have done this. Why let the States do it? That is where it ought to be done, because circumstances differ in varying States and, you know, it just is not possible for us in this Congress in Washington, D.C., to pour in one mold all the different circumstances of this country that should neatly fit, but won't, into it. That is why we have State extension services that have worked so well to satisfy those differing needs. Because they already have the authority, we ought to let them continue to exercise that authority and not add to the mountain of programs we have by the passage of this bill.

Mr. Speaker, the fourth reason for being against the bill and the last reason, is that even beyond the fact that we are being asked to extend what was originally 3 years ago sold to us as a temporary bill, there are suggestions from whence ideas like this originate, in the minds of those people, that this bill ought to be expanded, as evidenced by the original bill. It called for a $3 million, 3-year extension.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. GRASSLEY. Yes, I yield for a short period of time.

Mr. FOLEY. Mr. Speaker, I think the gentleman would acknowledge that the Senate reported a bill prior to the Budget Act deadline. That bill would reauthorize direct marketing assistance under section 5 of the Farmer-to-Consumer Direct Marketing Act for 3 years at an annual authorization ceiling of $3 million. I believe that the gentleman would also concede that H.R. 12101, as reported by the Committee on Agriculture, would reauthorize this program for only 1 year at a ceiling of $1.5 million. The committee took this action in order to permit the Secretary of Agriculture to carry out the 2-year program originally contemplated when we first passed this legislation. We are not agreeing to the extension of this act beyond the term originally contemplated. We are not going along with the proposal of the Senate to extend the program for 3 years at an annual level of $3 million. I think the gentleman should at least give the Committee on Agriculture credit for that action, which the gentleman joined in bringing about.

Mr. GRASSLEY. Mr. Speaker, I agree, the gentleman's statement is correct.

The distinguished chairman's request gives me an opportunity, by his asking me to yield, to say that it is not possible for the bill the way it was passed in the House, as opposed to the way it was passed in the Senate, that that is going to give an opportunity for compromise at something above the House-passed bill.

I would suggest that the chairman of the subcommittee, in his action in the full committee, suggested that we vote out of the House committee the 3 year, $3 million bill of the Senate's and probably that is the direction the chairman of our subcommittee is going to want us to take.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. GRASSLEY. I yield to the chairman of the committee.

Mr. FOLEY. Mr. Speaker, I will assure the gentleman on the record today that if there is a conference, and the committee of conference brings back to the House a bill which provides for as much as $1 more than the authorization contained in this bill, I will join him in asking the House to defeat the conference report. If the authorization level contained in this bill is increased by so much as 1 cent in conference, I will take the well and ask the Members to defeat the conference report.

Mr. Speaker, does that satisfy the gentleman about my intentions?

Mr. GRASSLEY. Mr. Speaker, it satisfies me.

Mr. FOLEY. If there is anything more I can say, I will be glad to do so. I will absolutely oppose any conference report that extends by any amount either the authorization ceiling or the 1 year extension provided for by H.R. 12101.

If the Senate fails to agree to this limitation, as far as I am concerned, I will then do what the gentleman from Iowa (Mr. GRASSLEY) is asking the House to do now: I will oppose enactment of the bill.

Mr. GRASSLEY. Mr. Speaker, the gentleman from Washington (Mr. FOLEY) has made his point well. But this does give me an opportunity to say that in the minds of Members who are suggesting legislation like this, they not only want to extend the existing temporary program beyond the time we thought it would go out of existence, making it more permanent or at least not a temporary program, but they also want to expand it to include $2 million, as was suggested in the original bill, for what is called competitive grants for the development of so-called innovative marketing techniques.

This was in the reauthorization bill as originally introduced. This was not just the extension of the so-called temporary bill that was suggested to us 3 years ago and passed, but it was also the incorporation of other programs as well.

So I will submit to the House, Mr. Speaker, even taking into consideration what the distinguished chairman of the committee said, that this is not a temporary program, it is going to be a permanent one, and now we have an opportunity to say "no" to this temporary program.

Mr. EVANS of Delaware. Mr. Speaker, will the gentleman yield?

Mr. GRASSLEY. I yield to the gentleman from Delaware.

Mr. EVANS of Delaware. Mr. Speaker, I thank my distinguished colleague for yielding.

Mr. Speaker, I have asked for this time only for the purpose of asking a question of the gentleman from Iowa (Mr. GRASSLEY).

What has been accomplished by this experimental bill? What benefit did the farmers receive? What benefits did the consumers receive? Did it accomplish anything?

Mr. GRASSLEY. Mr. Speaker, the only way I can answer the gentleman is to say that according to the committee report the evidence is not in yet and that time is needed to continue this program in order to analyze it. I believe that answers the gentleman's question.

Now, to some that might be a justification for the continuation of the program. To me, I think it puts further in jeopardy the reasons for the bill in the first place, and, second, I wonder if we will ever get enough evidence in to convince us, or will that continue to be an excuse to continually reauthorize the program?

In my judgment not much has been accomplished by the program.

Mr. EVANS of Delaware. Mr. Speaker, will the gentleman yield further?

Mr. GRASSLEY. I yield to the gentleman from Delaware.

Mr. EVANS of Delaware. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I just want to congratulate the gentleman from Iowa (Mr. GRASSLEY) on his statement. I have seen the gentleman in action on the Committee on Banking, Finance and Urban Affairs, I have seen him elsewhere, and he has always been one Member who is concerned about the expenditure of the taxpayer's funds.

Mr. GRASSLEY. Mr. Speaker, I thank the gentleman.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. GRASSLEY. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, my understanding is that this was originally supposed to be a temporary program, started in 1975 and continued in 1976, covering two marketing years.

May I ask the gentleman, what innovative ideas came out of these reports? Does the gentleman know?

Mr. GRASSLEY. I do not know.

Mr. ROUSSELOT. Were they presented to the committee?

Mr. GRASSLEY. No, because according to the committee report, there were 23 projects in 23 different States, and they were supposed to cover two growing seasons. However, they did not, and so that is the reason the program should be reauthorized, we are told.

Mr. ROUSSELOT. They were supposed to cover two marketing years beginning in 1976?

Mr. GRASSLEY. Yes.

Mr. ROUSSELOT. Do we have any idea what we got for this money?

Mr. GRASSLEY. I do not.

Mr. ROUSSELOT. We are going to hear about that, I suppose?

Mr. GRASSLEY. Yes.

Mr. ROUSSELOT. Well, I hope we learn more than we have to date.

Mr. Speaker, I reserve the balance of my time.

Mr. FOLEY. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. RICHMOND).

Mr. RICHMOND. Mr. Speaker, H.R. 12101 extends for 1 year the Farmer to Consumer Direct Marketing Act at its current funding level of $1.5 million. The act provides grants to States to experiment with ways of expanding direct marketing opportunities between farmers and consumers, the two groups of our society which have suffered most and benefited least from the inflationary spiral of food prices.

As an urban member of the House Agriculture Committee, I am sensitive to consumer complaints about the high cost of food and the limited selection of fresh fruits and vegetables. I am also aware that a large portion of our valuable farmland is being paved over by urban and suburban expansion into traditional agricultural areas. Each year the number of farmers is decreasing. If we are to keep our small family farmers in business and protect their land, we must be sure that they have local markets for their goods.

The Direct Marketing Act was conceived by Congress in 1976 to do two things: Aid family farmers whose lands are near more populated areas to stay in business and make it possible for more consumers to purchase fresh, field ripened produce at generally lower prices.

Although the original act authorized $1.5 million for each of fiscal years 1977 and 1978, only $500,000 was appropriated in September of 1977 and full funding was made available late this year. A total of 23 projects have been funded to date in 23 States and Puerto Rico but, because of incomplete and delayed funding, this summer is the first operating

season of these programs, all of which are designed to run for 2 years.

Thanks to the impetus of this act, many States are experimenting with innovative ways of bringing farmers and consumers together. In my own State of New York, for instance, we have roadside stands set up at service areas on our thruway.

During the summer months, when families of tourists are driving through some of the most beautiful farm country in America, they have a chance to sample our wholesome agricultural products and, at the same time, keep those farmlands in operation. We are also experimenting with groups of farmers packaging and processing their own products so that they can stay in business throughout the year.

In order to complete the planned cycle of the experimental programs and perform a thorough and complete evaluation of their effectiveness, it is necessary for the program to be continued through 1979 at its original and current funding level of $1.5 million. Such funds will allow the Department of Agriculture to duplicate, in other areas through grants to the States, those projects which show mutual economic advantage to consumers and farmers alike. This legislation is strongly supported by the National Association of State Departments of Agriculture as well as by a large number of consumer groups.

Thank you.

The SPEAKER pro tempore. The time of the gentleman from New York (Mr. RICHMOND) has expired.

Mr. GRASSLEY. Mr. Speaker, I yield 3 minutes to the gentlewoman from Massachusetts (Mrs. HECKLER).

Mrs. HECKLER. Mr. Speaker, I rise in support of H.R. 12101, which extends for 1 year our Farmer-to-Consumer Direct Marketing Act.

When I first voted for this act, I could not have forecast how it would be dramatically implemented in Massachusetts. I would like to give credit publicly to our new secretary of agriculture for the State of Massachusetts, a position that has really been filled by his efforts, Mr. Frederick Winthrop, who had the good judgment to create inner city projects in Boston.

I visited a number of these markets where not one truck-farmer appeared, but a collection of farmers offering city dwellers the opportunity to buy fresh garden produce—beautiful produce—from them. Two very interesting results came from the demonstration projects.

First of all, the people in the inner city had not one truck stand, but a collection, a central theater where a number of farmers came in and displayed the wide variety of their wares. The people were able to buy produce at lower prices and of a higher quality.

Second, a very interesting ramification occurred in the farming community. In the State of Massachusetts we do not have vast farms. We have largely truck farmers. The market created by this bill and the incentive to produce generated many larger growing areas because the truck farmers for the first time felt there was some support for their efforts.

There are other potential and innovative processes that can come about. For example, there is great discussion about establishing a community canning facility which would be available to people who want to come in and do their canning with professional assistance. Large quantities of seasonal produce could be purchased at lower prices and preserved for use during the winter.

The end result is that farmers are encouraged and consumers are getting a better deal. It has been a project that has, in my judgment, been wisely conceived. I think the analysis by the Department of Agriculture, when they complete their studies, will be positive. What I would like to see in my poorest areas would be an expansion of the farmer's market where consumers could avail themselves of less expensive, nutritious foods.

Some of my colleagues have voted for the billions of dollars for farm subsidies and farm credit in this Congress, and now they are quibbling over $1.5 million in authorizations.

The SPEAKER pro tempore. The time of the gentlewoman from Massachusetts has expired.

Mr. FOLEY. Mr. Speaker, I yield 2 additional minutes to the gentlewoman from Massachusetts.

Mr. EVANS of Delaware. Mr. Speaker, will the gentlewoman yield?

Mrs. HECKLER. I will be glad to yield to the gentleman from Delaware.

Mr. EVANS of Delaware. Mr. Speaker, I thank the gentlewoman from Massachusetts for yielding. I support the concept of new and innovative marketing techniques. So far, I have seen that one of the things we have accomplished is that more people understand that farmer's markets, or roadstand markets, might be a good opportunity to sell farm products. That is something that has been around for decades, I believe.

Second, the gentlewoman from Massachusetts suggests that farmer's markets in the inner city, such as one that has been established in Boston, might be a good idea, and I agree. We have had a farmer's market in Wilmington, Del., for decades, and it does accomplish something. But, I fail to see the need for the Federal Government's involvement in this as opposed to the State government and other local communities, who can see the situation more closely.

Mrs. HECKLER. I would first like to thank my chairman for yielding.

Mr. Speaker, I would like to say that this goes beyond the roadstand market. This is an expansion of markets because many, many producers come in from the far outlying towns and offer their wares in a centralized profitable location. The Massachusetts program was sparked by the Federal Government's involvement, although the grant was very, very small, less than $100,000. Nonetheless, four markets opened in Boston in just 1 month in July—in the inner city.

I believe the program is bringing fresh produce back to the consumer in a dramatic way that is capturing attention beyond the roadside stands which have been available for so many years.

It is, second, sparking the consideration of the canning and alternative preservative facilities for the local citizenry.

This innovative approach is in line with the new concentration on natural foods and nutrition in our food habits by bringing to these cities fresh produce that was not readily available before.

Mr. GRASSLEY. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I thank my colleague for yielding.

I would like to direct a question to my friend, the gentleman from Washington (Mr. FOLEY), chairman of the committee.

I listened with interest to his very brief and exact statement of what he would oppose if it would happen in conference that the boundaries of funding would be extended beyond what is contained here. We do not hear that often on the floor. It is very gratifying to know that is the position of the chairman. But one thing I did not hear: Does the gentleman take the same position regarding the expansion of the time of this bill? I understand the Senate has a 3-year provision; this is for 1 year.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, while I believe that I have already addressed the gentleman's question in my earlier remarks, and I think the record will so indicate, I am nevertheless happy to do so again.

If in conference there is so much as 1 cent or 1 day added to the amount or period of the authorization contained in H.R. 12101, I will personally take the well to oppose the adoption of the conference report. I do not believe legislation should be enacted which goes beyond the parameters established in the bill reported by the House Agriculture Committee.

Mr. ASHBROOK. I thank my colleague.

Can we extend on from that the assumption that this is a 1-year bill and when that 1 year is over the gentleman would take the same position or is he reserving his opinion as to what might happen or transpire as a result of the reports coming back?

Mr. FOLEY. My position at the present time is that we should extend this program for just 1 year in order to permit the 2-year pilot project program originally contemplated in Farmer-to-Consumer Direct Marketing Act to be completed. As the gentleman well knows, the amount of money actually allocated to this program is up to the Appropriations Committee. The bill which the Committee on Agriculture has reported carries forward for 1 year the present limit of $1.5 million. At the end of that time I shall have to see whether the results of the pilot project evaluations justify an ongoing Federal program. I would certainly say that I am not presently committed to an extension of this program. But I would like to have an opportunity to make a judgment after the results are in. Obviously it would require another act of Congress before

any specific program could be carried on.

My interest in this bill is confined to an interest in seeing to it that the original intention of Congress that the pilot projects under the Farmer-to-Consumer Direct Marketing Act be conducted for two growing seasons at the originally authorized level of $1.5 million is carried out.

I will certainly assure the gentleman that, before I would come back in the future and ask for any additional time and money, I would have to be persuaded that there is a necessity for some ongoing program. I think the evidence ought to be very strong before we do take on such a program.

Mr. ASHBROOK. I thank my colleague for that statement. I agree that it is difficult to prejudge and decide what our position will be. It may be very possible the reports on this demonstration project will convince us at that time it is necessary to extend. But with that assurance from the chairman I certainly feel a lot better. I thank the gentleman for his comments.

The SPEAKER pro tempore. The Chair will state that the gentleman from Iowa (Mr. GRASSLEY) has 2 minutes remaining.

Mr. GRASSLEY. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, having again reviewed the past history on this bill and the clear statement of its author, Mr. Vigorito, at that time, in answer to a question by Mr. MILLER of Ohio, I think that we should review that statement. That answer was very clear. Mr. Vigorito said, in answer to the question by Mr. MILLER concerning the time needed to implement the program:

> I hope it does not grow. This is only a one-year bill.

Now this innovative program—and I agree with my colleague, the gentleman from Delaware (Mr. EVANS) that there has been ample opportunity to produce all such innovative material. But that innovative material is not now available for whatever reasons, and I think it is very clear that we are not going to get that much more for an additional $1,500,000.

As has already been stated, you do not need additional reports to learn how to establish innovative marketing programs for fresh produce. The farmers already do it on their own without mountains of Federal reports. I urge the House to vote down H.R. 12101.

Mr. FOLEY. Mr. Speaker, I yield back the balance of my time.

Mr. GRASSLEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. FOLEY) that the House suspend the rules and pass the bill H.R. 12101, as amended.

Mr. GRASSLEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

NATIONAL WEATHER SERVICES ACT

Mr. FUQUA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13715) to improve the operational weather programs of the National Oceanic and Atmospheric Administration, to affirm the Federal responsibility for the provision of effective weather and related services, to assure to the maximum possible extent that all available Federal resources are utilized in a coordinated manner for weather-related research, development, and technology, and for other purposes.

The Clerk read as follows:

H.R. 13715

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "National Weather Services Act of 1978".

FINDINGS

SEC. 2. The Congress finds that recent technological advances have resulted in dramatic changes in the manner in which weather and weather-related services are provided both domestically and internationally. At the same time, shifting priorities and the potential for weather-related disasters have increased the demand for improved weather services. Such services, and the better coordination thereof, are needed to increase aircraft safety; to enable agriculture to cope more effectively with drought, water shortages, and storms; to assure that weather-related information will be more effectively disseminated and communicated to the public generally in the most timely manner feasible; to facilitate and safeguard offshore oil and gas operations and marine transportation, fisheries, and recreation; and to facilitate efforts to meet the increasing environmental, energy, and food needs of the Nation and the world.

PURPOSE

SEC. 3. It is the purpose of this Act to affirm the Federal responsibility for the collection of weather data and the provision of weather services and supporting weather-related research, development, and technology; to maintain effective weather services programs; and in general to improve the provision of weather services in the public interest.

COORDINATION

SEC. 4. (a) The Secretary of Commerce (hereinafter referred to as the "Secretary"), utilizing the facilities, equipment, and personnel of the National Weather Service and the related functions and capabilities of the National Oceanic and Atmospheric Administration, shall be responsible for the coordination of weather-related activities of the Federal Government.

(b) The Secretary is authorized to provide weather services requested by other Federal departments and agencies, to be financed by direct appropriations or by interdepartmental transfer of funds, property, and personnel authority.

(c) The Secretary of Defense shall provide meterological services for support of the military components which cannot be effectively accommodated by other Federal departments or agencies.

(d) Nothing in this Act shall be construed as changing related functions and activities of other Federal departments and agencies as previously authorized by Congress.

AUTHORITY FOR FUNCTIONS AND ACTIVITIES

SEC. 5. (a) The Secretary shall have charge of and be responsible for—

(1) forecasting the weather and issuing warnings for storms and other damaging weather conditions;

(2) forecasting and issuing warnings for river flow, floods, storm surges, and surface water supplies;

(3) forecasting and issuing warnings for weather-related oceanic conditions and for seismic seawaves;

(4) weather forecasts, advices, and warnings in the public interest for the benefit of agriculture, commerce, environmental protection, energy use and conservation, natural resource management and protection, air and marine navigation and safety, public safety and welfare, and transportation;

(5) providing climatological services;

(6) observing, reporting, collecting, distributing, processing, and disseminating, in cooperation with other Federal agencies, meteorological, hydrological, climatological, and oceanic data and information;

(7) conducting research and development in connection with the functions and activities under this Act, including the study of thunderstorms, tornadoes, hurricanes, and other severe environmental disturbances;

(8) developing coordinated interagency operational plans for providing specialized weather services; and

(9) such other functions and activities as may be deemed necessary and appropriate to carry out the provisions of this Act.

(b) In carrying out the functions and activities set forth in subsection (a), the Secretary is authorized to—

(1) construct, alter, modernize, relocate, operate, and maintain facilities and equipment, including the purchase of land or the acquistion of an estate therein for such facilities, in the United States or in locations outside of the United States, in cooperation with the Department of State, other Federal departments and agencies, and foreign countries;

(2) furnish food, clothing, and shelter without repayment therefor to Federal Government employees as necessary for the operation of facilities and equipment, subject to such regulations and limitations as may be promulgated by the Secretary;

(3) establish and maintain facilities and equipment for the printing of environmental maps, bulletins, circulars, forms, and other related charts and publications;

(4) purchase, operate, and maintain environmental satellite systems, aircraft and other airborne devices, and special environmental instruments and equipment, including motor vehicles, without regard to the provisions of any other law;

(5) coordinate all meteorological and supporting research activities of the Federal Government to assure optimum use of available resources;

(6) engage in joint projects and cooperative agreements for the public benefit with any person, firm, or other entity, public or private, including nonprofit organizations, research organizations, public organizations or agencies including Federal, State, county, and municipal agencies and departments, universities, colleges, boards of trade, chambers of commerce, and other local associations of businessmen, business organizations, and individuals, the cost of which may be apportioned equitably, as determined by the Secretary; and

(7) perform services, make studies, and engage in joint projects and cooperative agreements with international organizations and agencies and foreign countries, in cooperation with the Secretary of State.

(c) The Secretary of State shall provide general policy guidance with respect to this Act and shall undertake international negotiations as required with respect to international operations, as outlined in paragraphs (1) and (7).

(d) Subject to the approval of the Office of Management and Budget, and without

charge to the Secretary, other Federal departments and agencies are authorized to transfer to the Secretary facilities, equipment, and supplies which are surplus to their needs and are necessary to carry out the provisions of this Act. The Secretary is also authorized to transfer to other Federal departments and agencies facilities, equipment, and supplies which are surplus to the Secretary's needs.

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. There are hereby authorized to be appropriated to carry out the purposes and provisions of this Act such sums as may be specified in annual authorization Acts hereafter enacted. Appropriations made pursuant to this section shall remain available until expended.

REPEAL OF EXISTING LAWS

SEC. 7. Effective on and after the date of the enactment of this Act, the following statutes are repealed:

Act of—	Chapter, number or Public Law	Provisions repealed	Statutes at large
Oct. 1, 1890	1266	Secs. 1, 3, 4, 9	26:653–4
Aug. 8, 1894	238	Matter under center headings "Weather Bureau" and "General Expenses, Weather Bureau".	28:272–4
Mar. 2, 1895	169	Matter under center headings "Weather Bureau", "Contingent Expenses, Weather Bureau", and "General Expenses, Weather Bureau".	28:736–8
Apr. 25, 1896	140	Matter under center heading "Weather Bureau"	29:107–8
July 8, 1898	(No.) 57	All	30:752
May 20, 1926	344	Sec. 5(e)	44:571
July 1, 1943	182	Matter in title III under center heading "Weather Bureau".	57:300–1
Feb. 12, 1946	4	All	60:4
June 2, 1948	373	All	62:286
June 16, 1948	483	All	62:470
Mar. 28, 1960	(Public Law) 86–397	Sec. 2	74:11
Aug. 19, 1964	(Public Law) 88–448	Sec. 401(m)	78:491

The SPEAKER pro tempore. Is a second demanded?

Mr. HOLLENBECK. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida (Mr. FUQUA) and the gentleman from New Jersey (Mr. HOLLENBECK) will be recognized for 20 minutes each.

The Chair now recognizes the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the major purpose of this bill is to clarify and define the responsibilities of the National Weather Service. National policies, responsibilities, and programs regarding weather services and supporting research have never been prescribed as a whole by the Congress. This bill would provide the National Weather Service with an up-to-date statutory charter for the first time in its long history.

As things stand today, there are many legislative references, some dating back more than 100 years, without clear, concise statements of policy on important weather-related issues currently facing the Nation. Furthermore, these various scattered pieces of legislation do not form a coherent whole.

Mr. Speaker, approximately 1 year ago, our distinguished colleague from Texas (Mr. MILFORD) introduced H.R. 13715 following several lengthy discussions with current and past officials of the National Weather Service. It was his intention to be as constructive and helpful as possible, to identify the needs of the Service, and to incorporate the best ideas in this legislation. I am sure it is fair to say that the bill before us today is strongly supported by top management of the National Weather Service.

The Subcommittee on Transportation, Aviation and Weather, which is chaired by Mr. MILFORD, held 8 days of hearings on this bill during May, June, and July of this year. They received the testimony of 31 witnesses representing all interested parties. This bill incorporates agreed-on changes in the statutory framework of the National Weather Service.

This bill sets forth a comprehensive statement of national policies and goals for the provision of weather services to the general public and to specialized user groups such as the aviation, marine, and agricultural interests, and provides a clear congressional mandate to conduct programs necessary to meet those national goals.

Among other things, this bill specifies that the Secretary of Commerce shall be responsible for forecasting the weather and issuing warnings for storms and other damaging weather conditions; for providing weather-related services to other Government agencies; and for conducting appropriate research and development.

This bill also focuses responsibility for interagency coordination of weather-related activities of the Federal Government upon the Secretary of Commerce.

Most important of all, under the terms of this bill, Congress henceforth would specify the direction, scope and authorized funding levels for weather services and supporting research. Annual, comprehensive congressional reviews of overall weather service needs, as prescribed by this bill, will do much to avoid piecemeal, often inadequate programs.

Mr. Speaker, recent years have witnessed a dramatic increase in the demand for specialized weather services needed by such agencies as U.S. Department of Agriculture, Federal Aviation Administration, Environmental Protection Agency, among others. There is every reason to expect that future environmental, energy, and food problems will require new or expanded weather services. I anticipate that issues will arise with an even greater frequency as to how much weather service is enough, and what is the scope of the Government's responsibilities. The annual authorization procedure will provide Congress an opportunity to address such questions on a regular basis.

In conclusion, Mr. Speaker, I urge my colleagues to support H.R. 13715. This bill is not controversial; it is timely; it has the support of the administration and of our committee; and, it has no budgetary consequences.

Mr. HOLLENBECK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 13715, the National Weather Service Act of 1978. In my view this legislation constitutes only the beginning of a concerted effort to develop comprehensive programs for research in weather and climate phenomena.

In order to adequately exercise oversight over complex technical programs such as weather forecasting and the long and short term analysis and understanding of climatic changes, it is essential that Congress conduct annual authorization for program funding.

H.R. 13715 provides an excellent beginning for the initiatives which are anticipated the next Congress. Not only must we facilitate the provision of timely and complete weather data to all users, we must understand far better the trends of climatic change. The basic welfare of all people is inseparable from the effects of weather and climate conditions.

Traditionally, the world has tended to regard weather phenomena as being beyond the scope of human ability to alter. While some scientists maintain that man's contribution to atmospheric contamination is negligible compared to the contribution from pine forests, volcanic eruptions and other sources, the majority of experts find adequate evidence to the contrary. Their message is that continued discharge of atmospheric pollutants including such nontoxic materials as CO_2 and nitrogen, runs the risk of creating an irreversible condition which would have catastrophic impact on the Earth's environment. Indeed, some scientists—undoubtedly some would call them "alarmists"—now claim that some of the more recent aberrations in the Earth's weather patterns have been caused by the insertion of atmospheric contaminants by man's activities. Among such aberrations is the severe extended drought in the Sahel, accompanied by the extreme rainfall in monsoon areas. Such excesses in traditional weather patterns have also been experienced in this country in recent years.

The relationship between the provision of adequate and timely weather and climatic data and the economic and social welfare of people is inseparable.

During this Congress, I introduced the Energy Technology Policy and Planning Act of 1978, as well as a similar bill dealing with materials planning and technological change. These bills call for

long range comprehensive planning relating technological and environmental change to public policies. Future activities of the National Weather Service and the U.S. climate program would provide essential ingredients for such planning.

I intend to reintroduce these measures in the 96th Congress when I shall seek your support. Today, I urge you to join with me and my colleagues on the Committee on Science and Technology in their unanimous support for H.R. 13715. Thank you.

● Mr. BROWN of California. Mr. Speaker, I would very briefly like to clarify the relationship between this legislation, which is basically an "organic act" for the National Weather Service, and H.R. 9708, the Organic Act for the National Oceanic and Atmospheric Administration (NOAA), which is the parent agency of the NWS. H.R. 9708 was introduced shortly after the predecessor to the NWS Act and was jointly referred to the Merchant Marine and Fisheries Committee and to the Science and Technology Committee. NOAA, established in 1970 by Reorganization Plan No. 4, represents a consolidation of widely diversified programs and related legislation concerning the oceans and the atmosphere. In response to concerns that NOAA's authorities are outdated and inadequate and that its missions are often unclear, attempts are being made to develop a single, comprehensive charter for NOAA's activities. Within this effort, the Subcommittee on the Environment and the Atmosphere, which I chair, has focused on NOAA's atmospheric side.

Hopefully, I have succeeded in pointing out that the goals of the NWS legislation and the NOAA Organic Act are both similar and complementary. However, neither bill adequately addresses several important policy issues relating to atmospheric research and weather services, but these issues are now beginning to be fully explored and resolved. For these reasons, it was the original intention of the Science Committee to consider both bills together as component steps in developing a truly comprehensive Organic Act for NOAA. Although we plan to further refine the current version of the NOAA Organic Act, we decided to defer any effort to report it this year due to the lateness of the session. Meanwhile, we have moved forward with the NWS legislation with the understanding that it will eventually be merged with the broader NOAA Organic Act, probably in the next Congress.

One of the most important policy issues which I feel must be considered prior to the development of a NOAA Organic Act is what the respective responsibilities of the Federal Government and the private sector should be for providing weather services. For example, there is, at present, no policy which prevents a private meteorological firm from issuing forecasts which contradict those of the National Weather Service. In the event of a major weather disaster, this situation could lead to severe consequences as well as raise the issue of liability.

Another issue which deserves attention is the respective atmospheric research and development roles of various Federal agencies, including NOAA, NASA, NSF, and the Department of Energy. Finally, I should point out that one of our overriding concerns related to weather services should be to evaluate the potentially profound impacts which technological advances will have upon weather services. In particular, the utilization of so-called continuous, remote sensing technologies, based both on land and in space, promises tremendous improvements in short-term, local weather forecasts.

Therefore, the Subcommittee on the Environment and the Atmosphere, in cooperation with the Senate Commerce, Science and Transportation Committee, the American Meteorological Society, and the National Academy of Sciences, has planned two workshops this fall involving both the scientific and user communities at which these issues would be discussed and alternative policy approaches would be identified. We anticipate that this effort will provide the groundwork for redrafting the NOAA Organic Act for introduction in the 96th Congress in a manner which resolves the major policy issues regarding weather services and research, while consolidating related statutory authorities. In conclusion, I would urge you to support this legislation as an important first step in providing NOAA with a truly comprehensive, balanced legislative charter.●

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FUQUA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. FUQUA) that the House suspend the rules and pass the bill H.R. 13715.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

NATIVE LATEX COMMERCIALIZATION ACT

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12559) to establish a research and development effort resulting in the commercialization of native latex rubber, as amended.

The Clerk read as follows:

H.R. 12559

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Native Latex Commercialization Act of 1978".

SEC. 2. Congress recognizes that natural latex rubber is a commodity of vital importance to the economy, defense, and general well-being of the Nation. The United States is totally dependent upon foreign sources for its supplies of natural (Hevea) latex, which total about one million tons per year. Synthetic rubber, which is manufactured from petroleum feedstocks, cannot be substituted for natural rubber. The Congress further recognizes that certain plant species of the genus Parthenium, native to Texas and Mexico, as well as other plants are known to contain commercial quantities of extractable latex. During World War II, through research carried out in the emergency rubber project, the United States demonstrated that Parthenium latex is a promising and realistic substitute to Havea latex. Further research and development are needed, especially into methods for increasing latex yields, before commercialization of native Parthenium latex by private industry is feasible. Such commercialization would not only relieve the Nation's dependence upon foreign latex sources, but it would also provide a valuable cash crop for arid and semiarid regions of the United States and additional industry and employment opportunities for people of the United States. It is the policy of Congress, therefore, to provide for the development and demonstration of economically feasible means of culturing Parthenium, and other hydrocarbon-containing plant species, for the extraction of commercial latex and other products.

SEC. 3. As used in this Act—

(1) The term "Secretary" means the Secretary of Agriculture.

(2) The term "State" means each of the fifty States, the District of Columbia, and the Commonwealth of Puerto Rico.

(c) The term "commercialization" refers to the stage in the development or advancement of a technology at which point private enterprise is willing to invest in a full scale production facility.

(d) The term "native" refers to hydrocarbon-containing plants which may be cultured in North America, especially members of the genus Parthenium (known as Guayule).

SEC. 4. The Secretary is authorized and directed to coordinate and carry out research leading to and culminating in the commercialization of latex from Parthenium or other hydrocarbon-containing plants.

SEC. 5. There is hereby established a National Advisory Committee to assist the Secretary in carrying out the purposes and activities of this Act. (1) The Advisory Committee shall assist the Secretary in—

(a) developing a plan establishing goals, timetables, and tasks to be undertaken in carrying out the purposes of the section;

(b) establishing broad policy for implementing the plan carrying out the purposes of the section;

(c) establishing criteria for evaluating and awarding of contracts for research, development, and demonstration projects; and

(d) reviewing and advising the Secretary with respect to grants, contracts, and project expenditures above $250,000.

(2) The Advisory Committee shall consist of one representative each of the Departments of Agriculture and Commerce, the Bureau of Indian Affairs of the Department of the Interior, the National Science Foundation, the National Academy of Sciences, and the private sector.

SEC. 6. The Secretary shall conduct, promote, and sponsor basic and applied research, technology development, and technology transfer leading to effective and economical methods for large scale culturing of plantations and the extraction and production

of latex from such crops. Such research will include, but not be limited to—

(a) carrying out extensive seed collections from wild plants in Texas, Mexico, and other areas and borrowing or purchasing seeds from other sources;

(b) developing a stockpile of Parthenium seeds, such stockpile to be appropriately classified and stored at a suitable facility;

(c) carrying out breeding and selection programs for the purpose of improving latex yields, expanding insect and disease resistance, and broadening the ranges of drought and cold tolerance of the Parthenium plant;

(d) establishing a system of experimental plantings in arid and semiarid regions of the United States having suitable climatic and soil conditions for the culture of Parthenium;

(e) carrying out specific studies on the effects of irrigation on plant growth and latex yield and survival potential;

(f) developing equipment needed to carry out nursery operations, planting, cultivating, harvesting, transporting the crop, and other necessary agricultural activities;

(g) further refining present extraction and manufacturing technologies and future extraction and manufacturing technologies, including technologies which utilize solar energy, and

(h) analyzing the economic feasibility of private production and manufacture of native Parthenium latex.

SEC. 7. The Secretary shall establish and maintain a bank of all pertinent research data on native latex including extant United States Government publications and records from the emergency rubber project. Such data shall be made available to other Federal and State agencies and private persons who are interested or involved in native latex research, development, or manufacture.

SEC. 8. The Secretary, in consultation with the Secretary of State, is authorized and encouraged to enter into cooperative projects with the Government of Mexico in order to accomplish appropriate aspects of the research and development provided for in this Act. Such cooperative projects should include, but not be limited to, projects to determine the economic feasibility of latex extraction and processing.

SEC. 9. The Secretary is authorized to accept financial or other assistance from any State or public agency to aid in carrying out the provisions of sections 5, 6, and 7 of this Act and to enter into contracts with respect to such assistance and to enter into agreements with any State or public agency for the purpose of demonstrating, transferring, or applying results of research relating to native latex.

SEC. 10. In carrying out the provisions of this Act, the Secretary is authorized to—

(a) make grants to States, educational institutions, scientific organisations, and Indian tribes as defined in the Indian Self-Determination and Education Assistance Act (Public Law 93-638, 88 U.S.C. 2203), and enter into contracts with such institutions and organizations and with industrial or engineering firms;

(b) acquire the services of biologists, agronomists, foresters, geneticists, chemists, engineers, economists, and other personnel by contract or otherwise;

(c) utilize the facilities of Federal and State scientific laboratories;

(d) establish and operate necessary facilities, pilot plants, and plantations to carry out the continuous research, testing, development, and programing necessary to effectuate the purposes of this Act;

(e) acquire secret processes, technical data, inventions, patent applications, patents, licenses, land and interests in land (including water rights), plants and facilities, and other property or rights by purchase, license, lease, or donation;

(f) assemble and maintain pertinent and current literature and publications, patents and licenses, land and interests in land;

(g) cause onsite inspections to be made of promising projects, domestic or foreign, and in the case of projects located in the United States, cooperate and participate in their development when the Secretary determines that the purpose of this Act will be served thereby;

(h) foster and participate in regional, national, and international conferences relating to native latex culture or manufacture;

(i) coordinate, correlate, and publish information with a view to advancing the development of native latex technology; and

(j) cooperate with other Federal departments and agencies, with State and local departments, agencies, and instrumentalities, and with interested persons, firms, institutions, and organizations.

SEC. 11. In carrying out the provisions of this Act, the Secretary shall insure that his activities are closely coordinated with the activities of other Federal agencies such as the Department of the Interior, National Science Foundation, Department of Commerce, Bureau of Indian Affairs, Federal Energy Administration, Energy Research and Development Administration, Economic Development Administration, Department of Defense, Treasury Department, Federal Preparedness Agency, and others in order to prevent duplication of effort, insure compatibility with ongoing programs and policies, and to fully exploit the opportunities inherent in the culture and manufacture of native latex.

SEC. 12. Relative to the definitions of, title to, and licensing of inventions made or conceived in the course of or under any contract or grant pursuant to this Act, and notwithstanding any other provisions of law, the provisions of sections 9 and 10 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908-9) shall govern.

SEC. 13. The Secretary may dispose of any latex, resin, wax, pulp, and any other byproducts resulting from operations under this Act. All moneys received from dispositions under this section shall be paid into the Treasury as miscellaneous receipts.

SEC. 14. The Secretary may issue rules and regulations necessary to effectuate the purposes of this Act.

SEC. 15. The Secretary shall submit to the President and the Congress, no later than December 31, 1980, and each year thereafter through 1982, a report on the status of the research, development, and other work underway under sections 4, 5, 6, 7, and 8 of this Act. Such report shall (1) recommend specific directions for further research, development and other work, and (2) recommend funding levels for various elements of the overall project.

SEC. 16. There is authorized to be appropriated for the fiscal year beginning October 1, 1979, the sum of $5,000,000, for the fiscal year beginning October 1, 1980, the sum of $10,000,000, for the fiscal years beginning October 1, 1981, and beginning October 1, 1982, the sums of $20,000,000 each, to carry out the purposes of this Act, such sums to remain available until expended.

The SPEAKER pro tempore. Is a second demanded?

Mr. GRASSLEY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. DE LA GARZA) and the gentleman from Iowa (Mr. GRASSLEY) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. I yield myself so much time as I may consume.

Mr. Speaker, this is an attempt to assist the United States of America in an effort to provide our own natural rubber. As most of my colleagues know, all of the natural rubber used in the United States is imported from several countries such as Brazil, Malaysia, and Nigeria. It was during World War II that in a research project we used a native plant which is called "guayule" that produces the same result as natural rubber, this was used during World War II very effectively during the war effort. After the war, because of the low cost of petroleum, we went back to using the petroleum base for synthetic rubber, and we went back to the areas where we imported the natural rubber from.

This is an attempt to bring back that effort and provide some modest funds for research by several universities in cooperation with the industry to bring us back hopefully to where we might produce our own natural rubber. This is the beginning of what we would hope would be the end result of providing all of the natural rubber that we might need for our industrial and military efforts.

Mr. HOLLENBECK. Mr. Speaker, I yield 5 minutes to the gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. Mr. Speaker, I rise in support of H.R. 12559, the Native Latex Commercialization Act of 1978.

Native latex rubber is a commodity of vital importance to the economy and general well-being of our country. Our country imports 100 percent, which equals about a million tons annually, of the natural rubber we use. Synthetic rubber, which is produced from petroleum feedstocks, cannot be used as a substitute for natural rubber.

There is a plant, native to Southwestern United States and Mexico that, through research and cultivation, could alleviate our total dependence on foreign sources for our natural rubber supplies. That plant is guayule.

Guayule is a member of the sunflower family, a bushy perennial shrub which grows about 2 feet high in a semiarid environment.

During World War II, the emergency rubber project demonstrated that guayule is a promising and realistic substitute for natural rubber. Toward the end of that program, 15 tons of rubber were produced daily in two factories in California.

The purpose of this bill is to provide the Secretary of Agriculture with authority to carry out research culminating in the commercialization of rubber from guayule and similar plants. It establishes a National Advisory Committee to assist the Secretary in developing a plan, establishing goals and policy, and setting criteria for reviewing and awarding research contracts. Research will include seed collections, breeding programs, expanding insect and disease resistance, developing appropriate equipment, and analyzing the economic feasibility of private production and manufacture of guayule.

In addition to the possible decrease in imports of rubber, the commercialization of guayule would also provide a valuable cash crop for arid and semiarid regions, and additional industry and employment for people in the southwest region of the United States, an area which suffers from chronic unemployment.

This bill passed both the Committee on Agriculture and the Committee on Science and Technology with strong support. It authorizes appropriations totaling $55 million over the next 4 years. Mr. Speaker, this bill calls for research that in the past proved beneficial, and for the future, proves promising. I urge my colleagues to support this bill.

Mr. DE LA GARZA. Mr. Speaker, I yield 2 minutes to the gentlemen from California (Mr. BROWN).

Mr. BROWN of California. Mr. Speaker, I am only one of several Members of the House who have taken an interest in the subject of the development of rubber from native American plants over the years I would like to pay tribute to the senior Member of the House who has had that interest, the distinguished gentleman from Texas (Mr. POAGE) who has been a proponent of this program for many, many years.

My interest in this legislation stems from a number of sources including a report of the National Academy of Sciences recommending a major program in this area. The report is entitled, "Guayule: An Alternative Source of Natural Rubber." It was referred to during the course of the hearings, and its recommendations are included in the bill before us.

But I have here another document from which I would like to quote very briefly, which may be of interest to some of the Members. It is entitled in this section, "Discussion of a Possible Connection of the United States Government With the Guayule Industry." It goes on to state, "it would appear that the Government might be interested in encouraging the guayule industry in the United States in view of"—and it lists about six or eight reasons. Then later on occurs this quotation:

> We are personally convinced that under real encouragement the production of guayule rubber would develop rapidly into an important industry in the United States.

I have said that many times, and many other Members have said that many times. But I quote from a report issued in 1930 by a certain Maj. Dwight D. Eisenhower of the U.S Army. That was 48 years ago. We made an abortive effort to develop that guayule industry during World War II, but we still have not followed through with the recommendations made by Major Eisenhower 48 years ago. I think today we may have the opportunity to remedy that defect by the enactment of this legislation.

I am glad, therefore, on behalf of the Science and Technology Committee, to join my distinguished colleague on the Committee on Agriculture in urging passage by the House of H.R. 12559, the Native Latex Commercialization Act of 1978.

This bill, also known as the "guayule bill," would provide for a long-range program of research and development aimed at the commercialization of rubber production based on the guayule plant. The bill would authorize the sum of $55 million spread over a period of 4 years to initiate this program. Under the provisions of the bill the Department of Agriculture would be given the responsibility for carrying out this effort.

Latex or natural rubber is an essential ingredient in a wide range of products needed to keep our modern industrial society operating. Today every pound of new natural rubber which we use must be imported. These imports amount annually to well over half a billion dollars, and all indications are that our need for natural rubber will continue to grow.

Furthermore, the manufacture of synthetic rubber, which is based chiefly on petroleum, is also, with the price rises for oil, contributing a growing share to the imbalance of payments. As the need to conserve the world's petroleum resources increases it will be more and more important to develop other sources for petroluem products such as synthetic rubber.

The production of natural rubber from the guayule plant is not new. During the Second World War the Forest Service operated an extensive guayule program, the "Emergency Rubber Project," which in 3 years produced 3 million pounds of rubber. But at the end of the war the availability of Malaysian rubber and the expectation that synthetic rubber would be available in near-unlimited quantities led to the termination of this project.

The time is overdue for the resurrection of a domestic rubber industry. The world demand for rubber is rising and so is the demand of American industry. Within another few years we can expect to spend $1 billion annually on natural rubber imports. If a successful domestic rubber industry can be achieved, a gradual but significant reduction in the need for imports can be achieved.

In the process, we can create a new source of employment in the Southwestern States where guayule can be cultivated. During World War II, the emergency rubber project employed 10,000 people. The bill before us would authorize grants to be made to Indian tribes. I expect that when guayule production is proved to be a commercially feasible source of rubber Indians and other groups in the Southwest will find it a viable crop.

H.R. 12559 would authorize the Secretary of Agriculture to carry out research leading to the commercialization of guayule rubber and to establish a National Advisory Committee. The authority for the Secretary would include the conduct and sponsorship of research, the establishment of seed collections and experimental plantings, the development of harvesting and extraction technology, and the performance of economic studies. The Secretary would also be authorized to work with the States and other public agencies and to cooperate with the Government of Mexico where the guayule plant also grows wild and where a significant development effort already is underway.

Mr. Speaker, this bill was reported unanimously by the Committee on Science and Technology. I urge the Members of the House to give it their support.

Mr. HOLLENBECK. Mr. Speaker, I yield 2 minutes to the gentleman from South Dakota (Mr. ABDNOR).

Mr. ABDNOR. Mr. Speaker, I, too, rise in support of the legislation.

I would just like to direct a question of the gentleman from California (Mr. BROWN), if I might.

I also would like to include at this point a letter I received from Dr. Raymond A. Moore, director of experiment station, South Dakota State University.

The letter is as follows:

> SOUTH DAKOTA STATE UNIVERSITY,
> *Brookings, S. Dak., September 1, 1978.*
>
> Hon. JAMES ABDNOR,
> *House of Representatives, Longworth House Office Building, Washington, D.C.*
>
> DEAR CONGRESSMAN ABDNOR: Dean Dearborn has shared with me your letter of August 16 and a copy of the bill H.R. 12559 (Native Latex Commercialization Act of 1977). I convened the energy committee of the Agricultural Experiment Station and we went over the bill rather carefully. This committee is very excited about the possibility of producing energy from agricultural plants and products. It does appear that the bill is written specifically for the southwestern part of the United States, with special emphasis on Guayule. We are quite certain that that plant cannot be grown successfully in South Dakota. We do have latex bearing plants that are commonly grown in South Dakota; however the yield of latex is probably quite low. We are thinking quite specifically of the Euphorbia species. We would like to see the bill changed or expanded to include all latex bearing plants, not just those which yield Parthenium latex. We also believe that the authority to carry out the research and development program should be within the Department of Agriculture rather than Commerce.
>
> Finally, we believe that some emphasis should be placed on by-product development. It might very well be that by-product utilization will be required to make energy production economically feasible.
>
> Even without the changes that we have suggested we believe the bill is good and deserving of support. I personally believe that some day agriculture will be able to take care of its own energy requirements and in addition contribute much more to the energy desires of our society. This bill is a step in that direction. We have several energy projects underway in the Agricultural Experiment Station now and plan to initiate some research in the area covered by this bill especially if it were broadened as we suggested. We would like to expand this program. We would also like to discuss this with you personally whenever your schedule would allow.
>
> Sincerely yours,
>
> R. A. MOORE,
> *Director, Experiment Station.*

Mr. Speaker, Dr. Moore is concerned that the wording of the bill seems to indicate a bias toward the southwestern portion of the country. I am not suggesting it does at all, but he does state further that latex bearing plants which grow in South Dakota are not mentioned.

Just as a point of clarification, is it not the intent of the committee that all latex bearing plants are potentially subject to research under this bill and that institutions, such as South Dakota State University, may receive grant assistance to conduct such research?

Mr. BROWN of California. Mr. Speaker, will the gentleman yield?

Mr. ABDNOR. I certainly will.

Mr. BROWN of California. Mr. Speaker, I want to assure the gentleman from South Dakota that the legislation is worded in such a way that it includes latex from any native American plant and the research program contemplated in the legislation is specifically applicable to every State in the United States, so that if the gentleman's State has research programs which warrant support under this bill, they certainly would be eligible.

Mr. ABDNOR. Mr. Speaker, I appreciate that, and I am sure Dr. Moore will appreciate it.

Mr. DE LA GARZA. Mr. Speaker, I yield 1 minute to the gentleman from Arkansas (Mr. THORNTON).

Mr. THORNTON. Mr. Speaker, I rise to join my colleagues on the Science and Technology Committee and on the Agriculture Committee in support of H.R. 12559.

In doing so I want to pay tribute to the work done by the gentleman from California, the Honorable GEORGE BROWN. Mr. BROWN is a distinguished member of the Subcommittee on Science, Research and Technology on which I have the privilege of serving as chairman. It was a special pleasure for me to find that Mr. BROWN was willing to serve with me as cochairman of the all-day hearing which was held on this bill in June, and I want to thank him for giving us on the Science Committee the benefit of his long-standing interest and study of this subject.

I also want to thank the distinguished gentleman from Texas (Mr. DE LA GARZA), who served as the other cochairman at our joint hearings. Mr. DE LA GARZA, has been a strong supporter of this legislation and is an effective and fair chairman of the Subcommittee on Department Investigations, Oversight, and Research, on which I serve. I also want to congratulate the chairman of the Agriculture Committee, the gentleman from Washington (Mr. FOLEY), and the chairman of the Committee on Science and Technology, the gentleman from Texas, (Mr. TEAGUE) for their cooperation which led to the development of this legislation in a form which allowed it to be brought to the floor under suspension today.

This bill would authorize for the first year $5 million, and for succeeding years amounts of $10 million, $20 million, and $20 million. It would place responsibility for this small but important program in the Department of Agriculture where we hope and expect that it will be pursued vigorously.

I think it is worth emphasizing that the aim of this effort is the commercialisation of guayule production. This is not a program which we expect will require an open-ended commitment of Federal funds, even though support will undoubtedly be needed beyond the 4 years that would be authorized by the bill. All the testimony we have heard suggests that there is a very good chance that commercial feasibility can be achieved, perhaps within a decade. The potential contribution to employment and to the expected reduction in our import needs make this program of domestic natural rubber development especially important.

A comprehensive research, development, and demonstration effort aimed at obtaining increased rubber yields from the guayule plant, and at improving the extraction and manufacturing processes is needed before commercialization can be achieved. This bill would provide for such an effort. I urge my colleagues to support this legislation.

Mr. HOLLENBECK. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in support of H.R. 12559, the Native Latex Commercialization Act of 1978 and I urge my colleagues to support this bill.

As I noted in remarks to our subcommittee in June, contrary to popular belief, synthetic rubber has not supplanted natural rubber: Indeed, about one-third of rubber consumption consists of natural rubber, most of it coming from hevea grown in Southeast Asia. As is the case of other minerals and materials, the United States is totally dependent upon foreign sources for its supplies of natural rubber. These supplies are vulnerable not only to political disruption, but hevea trees are potentially vulnerable to disease which could wipe out Southeast Asia's rubber crop. It is important, therefore, that the United States begin to develop alternative sources of critical materials such as natural rubber. I have consistently supported that position in several bills I introduced this session dealing with national materials policy.

H.R. 12559, in addition, will assist in developing an agricultural potential for the Southwest, where limited rainfall severely hinders normal agriculture. This could be of great use in reducing the high unemployment which occurs amongst the Indians of the Southwest.

To summarize, H.R. 12559 recognizes an important need; namely, to develop alternative sources of materials. I am heartened to see us attempting for once to anticipate this need with regard to rubber, rather than waiting until a crisis descends.

The levels of funding to the authorized are appropriate for fiscal years 1980, 1981, and 1982. The postponement in the program until 1980 will permit the administration to carry out the feasibility study it has requested when presenting testimony. By providing the backup dates, however, the bill gives the administration an incentive to complete its study on time.

Mr Speaker, I urge my colleagues to join me in supporting this bill. I particularly commend my colleague, Mr. BROWN of California, for his leadership on this legislation. As in so many issues, his foresight in perceiving potential problems as well as opportunities, whether in environmental protection or in the development of material and energy resources, has been remarkable. I hope that by its action today, the House will also exhibit the same foresight shown by my distinguished colleague in his sponsorship of the legislation by adopting H.R. 12559.

Mr. DE LA GARZA. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, in the motion made for the bill, as amended, there is an amendment, a technical amendment requested by the Budget Committee, wherein we comply with their request that none of the agencies contract for any period that would extend beyond the authorization period or the appropriation period to satisfy the budget.

Mr. Speaker, finally, I would say that this is one of those rare efforts where two subcommittees have joined together, one from the Committee on Agriculture and one from the Committee on Science and Technology. They held hearings and we all agreed this was a worthwhile effort in the interests of the country.

With that, I hope all my colleagues will support this worthwhile piece of legislation.

● Mr. LLOYD of California. Mr. Speaker, 32 years ago, the Congress terminated a program to grow and process natural rubber from the guayule plant. Today, this country has begun a rediscovery of the economic benefits that this plant can bring to the Southwest and the Nation as a whole. And with this program to research a "new crop", a "new" crop known to the Aztecs 500 years ago, we have opened the door to the research and commercialization of numerous resource saving and marginal area crops.

This program is not a long-shot research project. The economics of guayule has been proven before and, with increasing oil prices and a growing shortage of natural hevea rubber, guayule is once again on the verge of commercial viability. The research funded by this program will bring the agronomic and processing technology developed in the intervening years to practical application on guayule. The Government will provide the catalyst for private investment in guayule production and processing and will accelerate a growing private interest in this product. In addition, the Government is in a position to allow the native Americans of the Southwest to share in the benefits from this program and develop a strong economic base.

Part of the processing research will be directed toward the development of by-products of the latex processing. The wax from guayule leaves is a very high-grade wax and the bagesse, or fibrous parts of the shrub, may have value as paper or cardboard. A recent examination of guayule processing shows a by-product credit of 12 to 20.5 cents per pound of rubber, bringing the net cost of guayule latex to between 29 and 54 cents per pound by 1985. With current natural rubber selling for more than 50 cents per pound, the commercialization of this products looks very good.

We have begun a short-term project to bring the technology surrounding this plant up to date. I consider this legislation a prime example of the role of Government research geared toward commercialization since this is a short-term program that catalyzes private effort and then ends, letting private market forces take over. Other areas of research should follow this example so that we can terminate research that should have passed to private industry years ago, or have been terminated altogether, and free up money for inquiry at the fringes of our expertise.

I would like to acknowledge the effort to many people in getting this legislation passed. Foremost among these is my colleague, Mr. POAGE, who has been interested and involved in the guayule commercialization effort since the Emergency Rubber Project (ERP) during World War II. I would also like to acknowledge Mr. Hugh Anderson, president of the Pacific Rubber Growers, who was also involved in the ERP and who has provided resource and inspiration to the effort culminating in the passage of this bill. Numerous others have deggedly pursued research on this crop and other arid crops of great potential and I hope that they take heart in our action today.●

● Mr. ANDERSON of California. Mr. Speaker, I rise in support of H.R. 12599, the Native Latex Commercialization Act of 1978. This legislation would start a program of research and development of the guayule plant for the production of latex rubber.

Presently the United States imports 100 percent of its natural rubber; this amounts to almost 900,000 tons of rubber at a cost of over $800 million. Natural rubber accounts for 35 percent of our rubber consumption, while synthetic rubber, which is derived from petroleum, accounts for the remaining 65 percent.

Both of these sources are adding to our mounting deficit of payments and contributing to the decline of the American dollar on the international market.

Mr. Speaker, there is an alternative available. In the Southwestern United States grows a native plant, the guayule bush, which contains latex rubber. In 1910 guayule accounted for 10 percent of the world's supply of natural rubber. During World War II, when our foreign sources of latex rubber were cut off, an emergency rubber project was started, and nearly 3 million tons of rubber were produced.

With the advent of synthetic rubber, the cost-effectiveness of extracting rubber from guayule was diminished, and the use of this as a source of latex was virtually stopped.

But today, with the cost of imported oil rising, and the yield of latex per acre increasing due to genetic research and improved harvesting methods, it is very possible that the guayule plant can be used to supplement our natural rubber supply.

Eight private scientists in Mexico have started a guayule processing plant, that has brought interest from persons all over the world. U.S. researchers believe they can improve on this process. In July the Department of Transportation announced that a radial tire made from guayule rubber had passed their high speed and endurance tests. Slowly, progress is being made. But more research is needed to determine where the best locations for guayule farms are situated, and what types of cultivation techniques will produce the most rubber.

An important result from the commercialization of guayule is the effect it will have on the high unemployment rate among Indians in the Southwest. According to the Bureau of Indian Affairs, approximately 39 percent of the total Indian reservation labor force of 137,000 were unemployed in 1974, and another 19 percent were employed only on a seasonal, part-time basis. Conventional crops are not providing the reservations with an economic product. Possibly a plant which thrives in a semi-arid environment such as guayule can provide this area with an economic product. If so, a guayule agribusiness could reduce the funds which the Federal Government now pays to some tribal governments. According to a National Academy of Sciences report, "Much Indian land appears suitable for growing guayule."

Mr. Speaker, as sponsor of similar legislation, H.R. 13238, I wholeheartedly support the concept of this bill, and urge its passage.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. DE LA GARZA) that the House suspend the rules and pass the bill H.R. 12559, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture be discharged from further consideration of the Senate bill (S. 1816) to amend the Public Works and Economic Development Act of 1965 to authorize a program of research, development, and demonstration of guayule rubber production and manufacture as an economic development opportunity for the southwestern States, a bill similar to the bill just passed by the House, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1816

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Guayule Rubber Demonstration and Economic Development Act of 1978".

SEC. 2. Title V of the Public Works and Economic Development Act of 1965 is amended by inserting at the end thereof a new section as follows:

"GUAYULE RUBBER DEMONSTRATION PROJECT

"SEC. 518. (a)(1) The Congress recognizes that the development of a natural rubber industry, based on the guayule plant, would convey substantial economic benefits to peoples living in arid regions of the United States. Such an industry would comprise the agricultural production of the guayule plant and the development of processing and manufacturing facilities to extract the rubber and convert it to a usable or salable form.

"(2) The Congress further recognizes that natural rubber is a commodity of vital importance to the economy, defense, and general well-being of the Nation. The United States is totally dependent upon foreign sources for its supplies of natural (Hevea) rubber, which total about eight hundred thousand metric tons per year. Synthetic rubber manufactured from petroleum feedstocks cannot in all cases be substituted for natural rubber.

"(3) The Congress further recognizes that certain plant species of the genus Parthenium (guayule), native to Texas and the Republic of Mexico, are known to contain commercial quantities of extractable rubber. During World War II, through research carried out in the emergency rubber project, the United States demonstrated that guayule rubber is a promising and realistic substitute for Hevea rubber.

"(4) It is the policy of Congress, therefore, to provide for the development and demonstration of economically feasible means of cultivating and manufacturing guayule for the extraction of natural rubber and other products to benefit the Nation and promote the economic development of the Southwest.

"(b) As used in this section, the term

"(1) 'Secretary' means the Secretary of Commerce.

"(2) 'State' means each of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico; and Indian tribes as defined in the Indian Self-Determination and Education Assistance Act (P.L. 93-638, 88 Stat. 2203); and

"(3) 'Regional Commissions' refers to the Regional Action Planning Commissions established pursuant to this title.

"(c) The Secretary, acting through the Regional Commissions, is authorized and directed to initiate and carry out research, development, and demonstration projects to test and demonstrate the economic feasibility of the commercialization of natural rubber from the guayule plant to benefit the Nation and promote economic development of the Southwest. Such activities may include, but shall not be limited to—

"(1) increasing seed stock from wild plants in Texas, the Republic of Mexico, and other areas and borrowing or purchasing seed from other sources;

"(2) breeding and selection programs for the purpose of improving rubber yield, expanding insect and disease resistance, and broadening the ranges of cold and drought tolerance of the guayule plant;

"(3) conducting studies on the planting, cultivation, harvesting, and transporting the crop;

"(4) conducting research and development of extraction and processing techniques;

"(5) economic analysis of the production of guayule, including usable byproducts;

"(6) studying the environmental, social, and economic impacts of the commercial development of guayule in the Southwest;

"(7) evaluating the commercial marketability of guayule rubber; and

"(8) developing pertinent material and records on natural guayule rubber which shall be available to other Federal and State agencies and private persons who are interested in or involved in natural rubber research, development, or manufacture.

"(d)(1) There is hereby established a National Advisory Committee to assist the Secretary in carrying out the purposes and activities of this section. The Advisory Committee shall assist the Secretary in—

"(A) developing a plan establishing goals, timetables, and tasks to be undertaken in carrying out the purposes of the section;

"(B) establishing broad policy for implementing the plan carrying out the purposes of the section;

"(C) establishing criteria for evaluating and awarding of contracts for research, development, and demonstration projects; and

"(D) approving expenditures above $250,000.

"(2) The Advisory Committee shall consist of a representative of the Department of

Agriculture, the Bureau of Indian Affairs of the Department of Interior, the National Science Foundation, National Academy of Sciences, the private sector and the Federal Co-Chairmen of the appropriate Regional Action Planning Commission.

"(e) The Secretary, in consultation with the Secretary of State, is authorized and encouraged to enter into cooperative projects with the Government of Mexico to accomplish appropriate aspects of the research and economic development provided for in this section. Such cooperative projects shall include, but not be limited to, projects to determine the economic feasibility of guayule-based agricultural and manufacturing enterprises.

"(f) The Secretary is authorized to accept financial or other assistance from any State or public agency to aid in carrying out the provisions of this section, and to enter into contracts with respect to such assistance and agreements with any State or public agency for the purpose of demonstrating, transferring, or applying results of research and economic development of guayule rubber.

"(g) In carrying out the provisions of this section, the Secretary, acting through the Regional Commissions, is authorized to—

"(1) make grants to States, educational institutions, associations of educational institutions, and other specific organizations and enter into contracts with such institutions and organizations and with industrial or engineering firms;

"(2) acquire the services of biologists, agronomists, foresters, geneticists, engineers, economists, and other personnel by contract or otherwise;

"(3) utilize the facilities of Federal and State institutions and other scientific laboratories;

"(4) establish and operate necessary facilities and pilot plants to carry out the continuous research, testing, development, and programing necessary to effectuate the purposes of this section;

"(5) acquire secret processes, technical data, invention, patent applications, patents, licenses, land and interests in land (including water rights), plants and facilities, and other property or rights by purchases, license, lease, or donation; and

"(6) foster and participate in regional, national, and international conferences relating to guayule culture and natural rubber manufacture.

"(h) One year after enactment of this section, the Secretary shall provide a report to Congress on the implementation of the program. No later than thirty-six months after enactment of this section, the Secretary shall report to the Congress on the status and findings of the demonstration program and plans for the remaining authorization.

"(i) Each grant contract, agreement or other arrangement entered into pursuant to this section relating to scientific research shall contain provision governing the disposition of inventions produced thereunder in a manner which will protect the public interest and the person or organization which developed the invention: *Provided, however*, That nothing in this section shall authorize the Secretary to enter into grants, contracts, agreements, or other arrangements inconsistent with any provisions of law affecting the issuance or use of patents.

"(j) No more than 3 per centum of funds authorized under this section shall be available for administration and management of the program.

"(k) There are authorized to be appropriated $5,000,000 for each of the fiscal years ending September 30, 1979, and September 30, 1980, and $10,000,000 for each of the fiscal year ending September 30, 1981, and September 30, 1982. Funds appropriated under this paragraph shall be available for obligation until the last day of the fiscal year after the year for which such funds are authorized.".

MOTION OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DE LA GARZA moves to strike all after the enacting clause of S. 1816 and to insert in lieu thereof the text of H.R. 12559, as passed the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To establish a research and development effort resulting in the commercialization of native latex rubber."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 12559) was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the order of the House of September 18, 1978, and the order of the House of today, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

The first three votes will be in the following order, with 5 minutes of debate equally divided to precede the vote on each motion:

H.R. 12326, by the yeas and nays;
H.R. 12303, by the yeas and nays; and
H.R. 12460, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series, and all of the subsequent votes on motions debated today will likewise be reduced to 5 minutes. Those subsequent votes will be taken in the following order:

S. 703, by the yeas and nays; and
H.R. 12101, by the yeas and nays.

DEVELOPMENTAL DISABILITIES ACT AUTHORIZATION, 1978

The SPEAKER pro tempore. Pursuant to the order of the House of September 18, 1978, the unfinished business is the question of suspending the rules and passing the bill H.R. 12326, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The gentleman from Florida (Mr. ROGERS) and the gentleman from Kentucky (Mr. CARTER) will each be recognized for 2½ minutes.

The Chair now recognizes the gentleman from Florida (Mr. ROGERS).

GENERAL LEAVE

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I see no point in taking much time. This bill was explained yesterday. The 5-minute debate today is just to allow us to recall for the Members the main points of the bill before the vote.

This legislation extends the authority for the Developmental Disabilities program. This includes authorizations for State formula grants to support planning, programs, and activities for the developmentally disabled, as well as protection and advocacy systems. Additionally, it extends the authority for support of university-affiliated facilities, which carry out interdisciplinary training and service demonstration projects for the developmentally disabled.

Mr. Speaker, this is a bill that is needed. It is a continuation of programs authorized under current law to serve the needs of a very disadvantaged population. I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. The gentleman from Kentucky (Mr. CARTER) is recognized for 2½ minutes.

Mr. CARTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 12326 revises and extends for 3 years the Developmental Disabilities Program Authorities.

I strongly support this legislation—and I believe this program is one of the best examples of the effective use of very minimal Federal funding. The dollars provided in this legislation are used to stimulate States' efforts to serve the developmentally disabled.

Mr. Speaker, it is estimated that some 10 million of our citizens suffer from disabilities incurred during their developmental years—and of that group—at least 2 million have a severe handicap. This legislation was created to serve their needs—since these individuals often "fall through the cracks" of existing programs.

I am also very pleased that this legislation clarifies current law to include the condition of "dyslexia" in the list of conditions that can be covered by this program.

In conclusion, Mr. Speaker, the population identified by this legislation needs our support—and this program has made significant progress in serving the needs of the developmentally disabled. I strongly urge that my colleagues adopt this legislation.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The question is on the motion offered by the

gentleman from Florida (Mr. ROGERS) that the House suspend the rules and pass the bill H.R. 12326, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 396, nays 3, not voting 33, as follows:

[Roll No. 796]

YEAS—396

Abdnor
Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Corman
Cornell
Cornwell
Coughlin
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Dicks
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frenzel
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Lederer
Leggett
Lehman
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Metcalfe
Meyner
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Rudd
Runnels
Ruppe
Russo
Ryan
Santini
Sarasin
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shuster
Sikes
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stark
Steers
Steiger
Stockman
Stokes
Stratton
Studds
Stump
Taylor
Thompson
Thone
Thornton
Traxler
Treen
Trible
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Waxman
Weaver
Weiss
Whalen
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—3

Collins, Tex.
McDonald
Symms

NOT VOTING—33

Ammerman
Armstrong
Burke, Calif.
Burke, Mass.
Clay
Cotter
Crane
Dent
Dickinson
Diggs
Early
Eckhardt
Flowers
Frey
Gammage
Goldwater
Harrington
Krueger
Leach
Luken
Meeds
Mikva
Milford
Miller, Calif.
Neal
Pepper
Pritchard
Quie
Risenhoover
Shipley
Steed
Teague
Tsongas

The Clerk announced the following pairs:

Mr. Dent with Mr. Crane.
Mr. Pepper with Mr. Frey.
Mr. Shipley with Mr. Dickinson.
Mr. Steed with Mr. Quie.
Mr. Early with Mr. Pritchard.
Mr. Cotter with Mr. Goldwater.
Mr. Ammerman with Mr. Diggs.
Mr. Mikva with Mr. Eckhardt.
Mr. Teague with Mr. Luken.
Mrs. Burke of California with Mr. Flowers.
Mr. Clay with Mr. Harrington.
Mr. Krueger with Mr. Leach.
Mr. Gammage with Mr. Miller of California.
Mr. Neal with Mr. Risenhoover.
Mr. Meeds with Mr. Tsongas.

So (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b)(3) of rule XXVII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all of the additional motions to suspend the rules on which the Chair has postponed further proceedings.

NURSE TRAINING AMENDMENTS OF 1978

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 12303, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. ROGERS) that the House suspend the rules and pass the bill H.R. 12303, as amended, on which the yeas and nays are ordered.

The gentleman from Florida (Mr. ROGERS) and the gentleman from Kentucky (Mr. CARTER) will be recognized for 2½ minutes each.

The Chair recognizes the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume, but I will not take the 2½ minutes.

Mr. Speaker, as the Members of the House know, each of the three Commerce Committee bills which will be voted on this afternoon were thoroughly considered yesterday.

By agreement, a total of 5 minutes has been allotted to me and to the gentleman from Kentucky (Mr. CARTER) on each of the bills just to refresh the Members' memories.

Mr. Speaker, H.R. 12303, the Nurse Training Amendments Act of 1978, extends existing nurse training program authorities for 2 fiscal years at the existing authorization level. This is a noncontroversial measure which will continue the program of support for the training of nurses needed to provide health care in America.

Mr. Speaker, I strongly urge that the House adopt this legislation.

I reserve the balance of my time.

Mr. CARTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I strongly support this legislation which continues authority for our nurse training programs at virtually the same authorization level as the current year.

This bill includes continued authorizations for:

Capitation support to nursing schools;

Support for nurse practitioner programs;

Advanced nurse training programs; and

And existing loan and scholarship programs.

Also we added a new authority to provide support to private non-profit and public institutions to cover the costs of training licensed, registered nurses to become nurse anesthetists.

Nurse anesthetists are doing a tremendous job in many of our rural and medically underserved areas. We know, for example, that nurse anesthetists provide more than 65 percent of the anes-

thesis services in hospitals or less than 100 beds.

In general, Mr. Speaker, the nursing profession does an outstanding job of providing needed health care to our people. As a physician—I know that to be true. But we still lack nurses in medically underserved areas of this country. Also only about 3 percent of the nursing profession has received a masters or doctorate degree which is usually needed for teaching and administrative work. For these reasons—I believe continued Federal support of nurse training programs is necessary.

We have requested HEW to conduct a study—through the Institute of Medicine if possible—to evaluate our Nation's need for nurses in the future and to make recommendations about the proper role of the Federal Government's support in this area.

I look forward to the results of that study in 1979 and I urge favorable consideration of this legislation.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I want to congratulate the chairman of the committee, the gentleman from Florida (Mr. ROGERS), and the ranking minority member, my good friend, the gentleman from Kentucky (Mr. CARTER), for bringing forth this worthwhile bill.

As the old saying goes, "Never turn your back to a nurse."

Mr. Speaker, I hope that this bill is passed unanimously.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. ROGERS) that the House suspend the rules and pass the bill H.R. 12303, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 392, nays 12, not voting 28, as follows:

[Roll No. 794]

YEAS—392

Abdnor
Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Corman
Cornell
Cornwell
Coughlin
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dicks
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Ellberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frenzel
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kemp
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Lederer
Leggett
Lehman
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Metcalfe
Meyner
Michel
Mikulski
Mikva
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Perkins
Pettis
Pickle
Pressler
Preyer
Price
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Rudd
Runnels
Ruppe
Russo
Ryan
Santini
Sarasin
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shuster
Sikes
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stanceland
Stanton
Stark
Steers
Steiger
Stockman
Stokes
Stratton
Studds
Taylor
Thompson
Thone
Thornton
Traxler
Treen
Trible
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Walsh
Wampler
Watkins
Waxman
Weaver
Weiss
Whalen
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—12

Badham
Bennett
Burleson, Tex.
Collins, Tex.
Hansen
Kelly
McDonald
Pike
Poage
Stump
Symms
Waggonner

NOT VOTING—28

Ammerman
Armstrong
Burke, Calif.
Burke, Mass.
Clay
Cotter
Crane
Dickinson
Diggs
Early
Flowers
Frey
Gammage
Harrington
Krueger
Leach
Luken
Meeds
Milford
Miller, Calif.
Pepper
Pritchard
Quie
Risenhoover
Shipley
Steed
Teague
Tsongas

The Clerk announced the following pairs:

Mr. Ammerman with Mr. Frey.
Mr. Cotter with Mr. Crane.
Mr. Early with Mr. Pritchard.
Mr. Meeds with Mr. Leach.
Mr Shipley with Mr. Tsongas.
Mr. Pepper with Mr. Risenhoover.
Mr. Miller of California with Mr. Quie.
Mr. Gammage with Mr. Dickinson.
Mr. Krueger with Mr. Diggs.
Mr. Teague with Mr. Harrington.
Mr. Steed with Mr. Flowers.
Mrs. Burke of California with Mr. Luken.
Mr. Clay with Mr. Milford.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was annouced as above recorded.

A motion to reconsider was laid on the table.

Mr. ROGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2416) to amend title VIII of the Public Health Service Act to extend for 2 fiscal years the program of assistance for nurse training, a similar bill to H.R. 12303, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2416

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. (a) This Act may be cited as the "Nurse Training Amendments of 1978".

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

SEC. 2. Section 801 (relating to authorizations for construction grants) is amended by inserting after "for fiscal year 1978" the following: "and for each of the next two fiscal years".

SEC. 3. (a) Subsections (a) and (b) of section 805 (relating to loan guarantees and interest subsidies) are each amended by striking out "1978" and inserting in lieu thereof "1980".

(b) Subsection (e) of such section is amended by inserting after "in fiscal year 1978" the following: "and in each of the next two fiscal years".

SEC. 4. Subsection (f) of section 810 (relating to capitation grants) is amended by inserting after "fiscal year 1978" the following "and for each of the next two fiscal years".

SEC. 5. The first sentence of subsection (d) of section 820 (relating to special project grants and contracts) is amended by striking out "and" after "1977", and by inserting before the period the following: ", $20,000,000 for the fiscal year ending September 30, 1979, and $20,000,000 for the fiscal year ending September 30, 1980".

SEC. 6. Subsection (b) of section 821 (relating to advanced nurse training programs) is amended by inserting after "for fiscal year 1978" the following: "and for each of the next two fiscal years".

SEC. 7. Subsection (e) of section 822 (relating to nurse practitioner programs) is amended by striking out "for fiscal year 1978" and inserting in lieu thereof "each for the fiscal year ending September 30, 1978, and for the next two fiscal years".

SEC. 8. Subsection (b) of section 830 (relating to traineeships) is amended by inserting before the period "and for each of the next two fiscal years".

SEC. 9. (a) Subsection (b)(4) of section 835 (relating to loan agreements) is amended by striking out "1978" and inserting in lieu thereof "1980".

(b) Section 837 (relating to authorizations for student loan funds) is amended (1) by inserting before the period in the first sentence "and for each of the two fiscal years", (2) by striking out "fiscal year 1979" and inserting in lieu thereof "the fiscal year ending September 30, 1981", and (3) by striking out "October 1, 1978" and inserting in lieu thereof "October 1, 1980".

(c)(1) Subsection (a) of section 839 (relating to distribution of assets) is amended by striking out "September 30, 1980, and not later than September 30, 1977" and inserting in lieu thereof "September 30, 1981 and not later than December 30, 1983".

(2) Paragraph (1) of such subsection is amended by striking out "1980" and inserting in lieu thereof "1983".

(3) Subsection (b) of such section is amended by striking out "1980" each place it occurs and inserting in lieu thereof "1983".

SEC. 10. (a) Subsection (b) of section 845 (relating to scholarship grants) is amended (1) by striking out "next two fiscal years" in the first sentence and inserting in lieu thereof "next four fiscal years", (2) by striking out "1979" and inserting in lieu thereof "1981", and (3) by striking out "1978" and inserting in lieu thereof "1980".

(b) Subsection (c)(1) of such section is amended (1) by striking out "next two fiscal years" in subparagraph (A) and inserting in lieu thereof "next four fiscal years", (2) by striking out "1978" in subparagraph (B) and inserting in lieu thereof "1980", and (3) by striking out "1979" in such subparagraph and inserting in lieu thereof "1981".

SEC. 11. Subsection (e)(2)(B) of section 788 is amended by (1) striking out "$5,000,000" and inserting in lieu thereof "$10,000,000" and (2) inserting "for the fiscal years ending September 30, 1978, and September 30, 1979" after "subsection (b)".

MOTION OFFERED BY MR. ROGERS

Mr. ROGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROGERS moves to strike out all after the enacting clause of the Senate bill (S. 2416) and insert in lieu thereof provisions of H.R. 12303, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To amend title VIII of the Public Health Service Act to extend for two fiscal years the program of assistance for nurse training, and for other purposes.".

A motion to reconsider was laid on the table.

A similar House bill, H.R. 12303, was laid on the table.

House Resolution 1300 was laid on the table.

HEALTH CENTERS AMENDMENTS OF 1978

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 12460, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The gentleman from Florida (Mr. ROGERS) will be recognized for 2½ minutes, and the gentleman from Kentucky (Mr. CARTER) will be recognized for 2½ minutes.

The Chair now recognizes the gentleman from Florida (Mr. ROGERS).

PARLIAMENTARY INQUIRY

Mr. BROYHILL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. BROYHILL. Mr. Speaker, it is my understanding the time is to be divided between the pros and the cons on this bill, and, therefore, since I oppose the bill, I wish to be recognized for one-half the time.

The SPEAKER pro tempore. The Chair would like to advise the gentleman from North Carolina (Mr. BROYHILL) that the time for the minority will go to the gentleman who was recognized on yesterday to demand a second and who was not challenged at that time. That gentleman is the gentleman from Kentucky (Mr. CARTER).

The gentleman from Florida (Mr. ROGERS) is recognized for 2½ minutes.

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to refresh the memories of the Members on the debate yesterday on the Health Centers Amendments of 1978. The major provisions of this bill are that it extends the community health centers program, the community mental health centers program, and the migrant health program for 3 fiscal years and the HMD program for 1 additional year. It is an essential bill because these programs are providing primary health care services which are needed and which are substituting for more expensive inpatient health services.

For instance, if I may, I will just remind the Members that because we have developed community mental health centers we have been able to reduce psychiatric hospital beds in the Nation by 36 percent. Closing these beds has meant tremendous savings, and establishing these centers has meant that we can treat people in their own communities. The community mental health programs of the Nation are based on the programs that we are presenting here. It is essential for us to continue these programs.

I think the Members will also be interested in knowing something about community health centers.

Mr. BROYHILL. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. If I have time, I will yield later.

Mr. Speaker, I want to bring to the attention of the House what has happened in the community health centers programs. For instance, in three recent studies the savings in hospital costs for patients using community health centers have been very well calculated. Let me just quote from the findings of these three studies for those Members who are interested in saving money on health costs.

First, a 1973 study conducted in Rochester, N.Y. found that the hospital admission rate for children served by a community health center was one-half of the rate for other children in the some community.

The SPEAKER pro tempore. The time of the gentleman from Florida (Mr. ROGERS) has expired.

Mr. ROGERS. I thank the Chair.

The SPEAKER pro tempore. The Chair will inquire, will the gentleman from Kentucky (Mr. CARTER) yield a portion of his time to the gentleman from North Carolina (Mr. BROYHILL)?

Mr. CARTER. Mr. Speaker, I shall be happy to yield a portion of my time to the gentleman from North Carolina (Mr. BROYHILL) after I have made the statement I wish to present.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. BAUMAN. Mr. Speaker, it is not the purpose of the gentleman from Maryland to try to keep any Member from speaking, but earlier in the day a unanimous-consent request was made by the majority leader, and at that time the gentleman from Maryland specifically asked the Chair whether the 5 minutes on these bills would be divided between those Members in favor and those Members opposed. The Chair said that was his understanding.

This is a $2 billion authorization bill, and if only two Members are going to speak in favor of it, some Member who knows what is in the bill and is opposed to it ought to be allowed to speak. The gentleman from North Carolina (Mr. BROYHILL) has made that claim as a member of the committee.

Mr. Speaker, I can say one thing: There will not be any more unanimous-consent requests of this native allowed if such remarks are not going to be adhered to.

Mr. CARTER. Mr. Speaker, in all fairness, I will yield one-half of my time to the gentleman from North Carolina (Mr. BROYHILL), and I will allow him to speak at this time, if that is alright.

The SPEAKER pro tempore. The gentleman from North Carolina (Mr. BROYHILL) is recognized for 1¼ minutes.

Mr. BROYHILL. Mr. Speaker, no one is taking issue with the gentleman from Florida concerning the purposes and the good things that some of these programs are doing. What we are taking issue with is the tremendous increase in authorizations that have been placed in this bill.

Some of us have put out a "Dear Colleague" on this, to try to explain to the Members the huge jump in authorization. As a member of another committee, the Budget Committee, we have learned one thing: If we are going to get control of this budget, we have to make sure that these authorizations are at least within

some bounds of reason. If we are going to continue to give these high expectations to these people who are operating these programs, no wonder we are going to continue to have a continued busting of the budget as we have had for the last few years.

Mr. Speaker, during the current fiscal year, the appropriations for all of these programs is $360 million. Yet what they are proposing to do is to go up in the authorization to almost double that, over $700 million, by 1981. All I am saying is: Let this bill come up in a normal procedure so that we can at least have some moderate funding level.

Mr. CARTER. Mr. Speaker, I strongly support this bill which revises and extends the following health care delivery programs for 3 years:

Community health centers;

Migrant health centers;

Community health mental health centers;

State mental health programs; and

Rape prevention program.

This bill also authorizes a program of technical assistance for 3 years to assist these centers in planning and development. Finally—this legislation provides for a 1-year extension of "the health underserved rural areas program"—known as "HURA"—and provides 1 additional year of new authorization for the health maintenance organization program.

Mr. Speaker, it is essential that we continue these programs.

There are about 49 million Americans who live in medically under-served areas of this country. These centers programs were created to provide needed health care to those populations who lack adequate services and facilities.

Over 5 million Americans have received direct services through these programs—but many millions more still do not have access to the medical care they need.

These health centers emphasize preventive care through early diagnosis and treatment of conditions. In general they provide a less costly form of health care.

I strongly urge my colleagues to support this legislation.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. ROGERS) that the House suspend the rules and pass the bill H.R. 12460, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 301, nays 102, not voting 29, as follows:

[Roll No. 795]

YEAS—301

Abdnor
Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Ashley
Aspin
AuCoin
Bafalis
Baldus
Barnard
Baucus
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brown, Calif.
Buchanan
Burgener
Burke, Mass.
Burton, John
Burton, Phillip
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clay
Cochran
Cohen
Coleman
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cornwell
Coughlin
Daniel, Dan
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Dicks
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
Ertel
Evans, Colo.
Evans, Del.
Evans, Ind.
Fary
Fascell
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Fuqua
Garcia
Gaydos
Gialmo
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Green
Gudger
Hamilton
Hammer-schmidt
Hanley
Hannaford
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hillis
Holland
Hollenbeck
Holtzman
Horton
Howard
Huckaby
Hughes
Ire.and
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Le Fante
Lederer
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lujan
Lundine
McCloskey
McCormack
McFall
McHugh
McKinney
Maguire
Mann
Markey
Marks
Marlenee
Mathis
Mattox
Mazzoli
Metcalfe
Meyner
Mikulski
Mikva
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Perkins
Pickle
Pressler
Preyer
Price
Pursell
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Santini
Sarasin
Sawyer
Scheuer
Schroeder
Sebelius
Seiberling
Sharp
Sikes
Simon
Sisk
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stark
Steers
Stokes
Stratton
Studds
Thompson
Thone
Thornton
Traxler
Trible
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walsh
Wampler
Watkins
Waxman
Weaver
Weiss
Whalen
Whitehurst
Whitley
Whitten
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—102

Archer
Ashbrook
Badham
Bauman
Bennett
Blouin
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Burleson, Tex.
Burlison, Mo.
Butler
Clawson, Del
Cleveland
Collins, Tex.
Conable
Corcoran
Cunningham
D'Amours
Daniel, R. W.
Devine
Dornan
Edwards, Ala.
English
Erlenborn
Evans, Ga.
Fenwick
Flynt
Foley
Frenzel
Gephardt
Gibbons
Goldwater
Gradison
Grassley
Guyer
Hagedorn
Hall
Hansen
Hightower
Holt
Hubbard
Hyde
Ichord
Jacobs
Jeffords
Kasten
Kelly
Kemp
Lagomarsino
Latta
Livingston
Lott
McClory
McDade
McDonald
McEwen
McKay
Madigan
Mahon
Marriott
Martin
Michel
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Myers, Gary
O'Brien
Pease
Pettis
Pike
Poage
Quayle
Roberts
Robinson
Rousselot
Rudd
Runnels
Ruppe
Russo
Ryan
Satterfield
Schulze
Shuster
Skelton
Stanton
Steiger
Stockman
Stump
Symms
Taylor
Treen
Waggonner
Walker
White
Wiggins
Wilson, Bob
Wydler
Young, Tex.

NOT VOTING—29

Ammerman
Armstrong
Breaux
Burke, Calif.
Burke, Fla.
Cotter
Crane
Dickinson
Diggs
Early
Flowers
Frey
Gammage
Harrington
Krueger
Leach
Luken
Meeds
Milford
Miller, Calif.
Pepper
Pritchard
Quie
Risenhoover
Shipley
Skubitz
Steed
Teague
Tsongas

The Clerk announced the following pairs:

On this vote:

Mr. Ammerman and Mr. Pepper for, with Mr. Teague against.

Mr. Cotter and Mr. Gammage for, with Mr. Breaux against.

Until further notice:

Mrs. Burke of California with Mr. Frey.
Mr. Diggs with Mr. Leach.
Mr. Early with Mr. Krueger.
Mr. Risenhoover with Mr. Dickinson.
Mr. Miller of California with Mr. Milford.
Mr. Shipley with Mr. Skubitz.
Mr. Steed with Mr. Quie.
Mr. Harrington with Mr. Pritchard.
Mr. Flowers with Mr. Luken.
Mr. Meeds with Mr. Tsongas.

So (two-thirds having voted in the affirmative) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

OVERSEAS CITIZENS VOTING RIGHTS ACT AMENDMENTS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill (S. 703), as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. THOMPSON) that the House suspend the rules and pass the Senate bill (S. 703), as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 326, nays 78, not voting 28, as follows:

[Roll No. 796]

YEAS—326

Abdnor
Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Ashley
Aspin
AuCoin
Bafalis
Baldus
Barnard
Baucus
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brown, Calif.
Buchanan
Burgener
Burke, Mass.
Burton, John
Burton, Phillip
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chisholm
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cohen
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Corman
Cornell
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Dicks
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Ertel
Evans, Colo.
Evans, Del.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Garcia
Gaydos
Gialmo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Green
Gudger
Guyer
Hagedorn
Hammer-schmidt
Hanley
Hannaford
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hillis
Hollenbeck
Holt
Horton
Howard
Hughes
Hyde
Jacobs
Jeffords
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kemp
Keys
Kildee
Kostmayer
Krebs
LaFalce
Le Fante
Lederer
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, Md.
Lujan
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Marks
Marlenee
Marriott
Mathis
Mattox
Mazzoli
Metcalfe
Meyner
Mikulski
Mikva
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Moss
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, John
Myers, Michael
Natcher
Neal
Nix
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Perkins
Pickle
Pressler
Preyer
Price
Pursell
Quayle
Quillen
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Rodino
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Ruppe
Russo
Ryan
Santini
Sarasin
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shuster
Simon
Sisk
Skubitz
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stark
Steers
Steiger
Stockman
Stokes
Stratton
Studds
Thompson
Thone
Thornton
Traxler
Trible
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Walgren
Walker
Walsh
Waxman
Weaver
Weiss
Whalen
White
Whitehurst
Whitley
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—78

Archer
Ashbrook
Barnard
Bauman
Bennett
Bevill
Brown, Ohio
Broyhill
Burleson, Tex.
Burlison, Mo.
Butler
Chappell
Cochran
Collins, Tex.
Cornwell
Cunningham
Devine
Edwards, Okla.
English
Erlenborn
Evans, Ga.
Flippo
Flynt
Fowler
Fuqua
Gephardt
Goldwater
Grassley
Hall
Hansen
Hubbard
Huckaby
Ichord
Ireland
Jenkins
Jenrette
Jones, Okla.
Kelly
Kindness
Lagomarsino
Latta
Long, La.
Lott
McDonald
Mann
Martin
Miller, Ohio
Montgomery
Moorhead, Calif.
Mottl
Myers, Gary
Nichols
O'Brien
Pettis
Pike
Poage
Rahall
Roberts
Robinson
Roncalio
Rousselot
Rudd
Runnels
Satterfield
Sikes
Skelton
Slack
Stump
Symms
Taylor
Treen
Volkmer
Waggonner
Wampler
Watkins
Wiggins
Young, Alaska

NOT VOTING—28

Ammerman
Armstrong
Burke, Calif.
Burke, Mass.
Cotter
Crane
Dickinson
Diggs
Early
Flowers
Frey
Gammage
Harrington
Krueger
Leach
Luken
Meeds
Milford
Miller, Calif.
Nedzi
Pepper
Pritchard
Quie
Risenhoover
Shipley
Steed
Teague
Tsongas

The Clerk announced the following pairs:

Mr. Ammerman with Mr. Frey.
Mr. Pepper with Mr. Leach.
Mr. Teague with Mr. Quie.
Mr. Cotter with Mr. Pritchard.
Mr. Gammage with Mr. Dickinson.
Mr. Krueger with Mr. Milford.
Mr. Shipley with Mr. Tsongas.
Mr. Diggs with Mr. Luken.
Mr. Miller of California with Mr. Flowers.
Mr. Steeds with Mr. Harrington.
Mr. Early with Mr. Risenhoover.
Mrs. Burke of California with Mr. Nedzi.
Mr. Meeds with Mr. Crane.

Mr. FOUNTAIN changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof), the rules were suspended and the Senate bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FARMER-TO-CONSUMER DIRECT MARKETING ACT AMENDMENTS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 12101, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. FOLEY) that the House suspend the rules and pass the bill H.R. 12101, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 236, nays 163, not voting 33, as follows:

[Roll No. 797]

YEAS—236

Abdnor
Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Annunzio
Applegate
Ashley
Aspin
AuCoin
Baldus
Barnard
Baucus
Beard, R.I.
Bedell
Bellenson
Benjamin
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Caputo
Carney
Carr
Cavanaugh
Chisholm
Clay
Cochran
Cohen
Coleman
Collins, Ill.
Conyers
Corman
Cornell
Cornwell
D'Amours
Daniel, Dan
Danielson
Davis
de la Garza
Dellums
Dent
Derrick
Dicks
Dingell
Dodd
Downey
Drinan
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Ertel
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fisher
Fithian
Flood
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Fraser
Garcia
Gaydos
Gephardt
Gialmo
Gilman
Ginn
Glickman
Gonzalez
Gore
Green
Gudger
Hamilton
Hanley
Hannaford
Harkin
Harris
Hawkins
Heckler
Heftel
Hillis
Holtzman
Howard
Huckaby
Hughes
Ire.and
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Le Fante
Lederer
Leggett
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lundine
McCormack
McHugh
McKay
Maguire
Mahon
Markey
Marlenee
Mathis
Mattox
Metcalfe
Meyner
Mikulski
Mikva
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Pa.
Moss
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Michael
Natcher
Neal
Nix
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Perkins
Pickle
Pressler
Preyer
Price
Pursell
Quayle
Rahall
Rangel
Reuss
Richmond
Rinaldo
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Roybal
Ryan
Sarasin
Scheuer
Schroeder
Sebelius
Seiberling
Sharp
Sikes
Simon
Sisk
Skelton
Skubitz
Smith, Iowa
Solarz
Spellman
Spence
St Germain
Staggers
Stark
Stokes
Studds
Thompson
Thornton
Traxler
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Wampler
Waxman
Weaver
Weiss
Whalen
White
Whitten
Wilson, C. H.
Wilson, Tex.
Wirth
Wright
Yates
Yatron
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—163

Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Bennett
Bevill
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Carter
Chappell
Clausen, Don H.
Clawson, Del
Cleveland
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Cunningham
Daniel, R. W.
Delaney
Derwinski
Devine
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
English
Erlenborn
Evans, Del.
Evans, Ga.
Fenwick
Findley
Fish
Flippo
Flynt
Forsythe
Fountain
Frenzel
Fuqua
Gibbons
Goldwater
Goodling
Gradison
Grassley
Guyer
Hagedorn
Hall
Hammer-schmidt
Hansen
Harsha
Hefner
Heftel
Hillis
Hollenbeck
Holt
Horton
Hubbard
Hyde
Ichord
Ireland
Jacobs
Johnson, Colo.
Jones, Okla.
Kasten
Kelly
Kemp
Kindness
Lagomarsino
Latta
Lehman
Lent
Livingston
Lott
Lujan
McClory
McCloskey
McDade
McEwen
McKinney
Madigan
Marks
Marriott
Martin
Mazzoli
Michel
Miller, Ohio
Mollohan
Moorhead, Calif.
Murphy, Ill.
Myers, John
Myers, Gary
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Pease
Pettis
Pike
Poage
Quillen
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Rodino
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Ruppe
Russo
Ryan
Santini
Sarasin
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shuster
Simon
Sisk
Skubitz
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stark
Steers
Steiger
Stockman
Stokes
Stratton
Studds
Thompson
Thone
Traxler
Trible
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Walgren
Walker
Walsh
Waxman
Weaver
Weiss
Whalen
White
Whitehurst
Whitley
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

McDonald	Poage	Stratton
McEwen	Preyer	Stump
McKinney	Railsback	Symms
Madigan	Regula	Taylor
Mann	Rhodes	Thone
Marks	Roberts	Treen
Marriott	Robinson	Trible
Martin	Rostenkowski	Vander Jagt
Mazzoli	Rousselot	Volkmer
Michel	Rudd	Waggonner
Miller, Ohio	Runnels	Walgren
Mollohan	Ruppe	Walker
Moorhead, Calif.	Russo	Walsh
	Santini	Watkins
Mottl	Satterfield	Whitehurst
Murphy, Ill.	Sawyer	Whitley
Murtha	Schulze	Wiggins
Myers, Gary	Shuster	Wilson, Bob
Myers, John	Slack	Winn
Nichols	Smith, Nebr.	Wolff
O'Brien	Snyder	Wydler
Patten	Stangeland	Wylie
Pease	Stanton	Young, Alaska
Pettis	Steiger	Young, Fla.
Pike	Stockman	

NOT VOTING—33

Ammerman	Flowers	Nedzi
Armstrong	Frey	Pepper
Burke, Calif.	Gammage	Pritchard
Burke, Mass.	Harrington	Quie
Cederberg	Krueger	Quillen
Cotter	Leach	Risenhoover
Crane	Luken	Shipley
Dickinson	McFall	Steed
Diggs	Meeds	Steers
Duncan, Oreg.	Milford	Teague
Early	Miller, Calif.	Tsongas

The Clerk announced the following pairs:

On this vote:

Mr. Ammerman and Mr. Pepper for, with Mr. Teague against.

Mr. Cotter and Mrs. Burke of California for, with Mr. Leach against.

Mr. Early and Mr. Nedzi for, with Mr. Gammage against.

Until further notice:

Mr. Shipley with Mr. Cederberg.
Mr. Risenhoover with Mr. Frey.
Mr. Krueger with Mr. Luken.
Mr. Diggs with Mr. Milford.
Mr. Meeds with Mr. Crane.
Mr. McFall with Mr. Dickinson.
Mr. Steed with Mr. Duncan of Oregon.
Mr. Miller of California with Mr. Flowers.
Mr. Harrington with Mr. Quie.
Mr. Tsongas with Mr. Quillen.
Mr. Steers with Mr. Pritchard.

Mr. STRATTON changed his vote from "yea" to "nay."

So (two-thirds not having voted in favor thereof), the motion was rejected.

The result of the vote was announced as above recorded.

AUTHORIZING APPROPRIATIONS FOR MILITARY RESERVATIONS AND PUBLIC LANDS CONSERVATION PROGRAMS

Mr. LEGGETT. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 13745) to authorize appropriations to carry out conservation programs on military reservations and public lands during fiscal years 1979, 1980, and 1981.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. FORSYTHE. Mr. Speaker, reserving the right to object, I reserve the right to object, Mr. Speaker, because this is a bill that the House did pass. It passed with a substantial vote. It is an extension of the Sikes Act, a very important act for the conservation of game on Federal Government lands. On the Senate side amendments were added which caused it to be vetoed by the White House. We have now brought the bill back with the House language and in a fashion that I believe can now be accepted by the President. I believe that we do also have concurrence in the Senate to again accept the House-passed language in this bill.

I would be happy to yield to either my chairman, the gentleman from California (Mr. LEGGETT), or the gentleman from Florida (Mr. SIKES) if they have additional comments.

I yield to the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Speaker, I thank my colleague for yielding.

This is legislation that this House passed before the President vetoed the bill, because the authorization was too large and also because certain mandatory requirements were imposed on the Executive to report back to the Congress in the event that this program was not funded. These two objectionable features of the vetoed bill have been removed from the existing legislation.

We are funding more for the Department of the Interior, the Department of Agriculture, and the Department of Defense than are included in existing law, but less than was included in the vetoed bill. It is less than $27 million.

This was the understanding with the administration, that they would support a bill which included an authorization of less than $27 million.

I believe that everybody supports this legislation in its current form. It did pass out of our subcommittee and the full committee unanimously when it was last heard.

Mr. FORSYTHE. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Florida, (Mr. SIKES)

Mr. SIKES. Mr. Speaker, I want to thank my distinguished colleagues, Mr. MURPHY, chairman of the Merchant Marine and Fisheries Committee; Mr. LEGGETT, chairman of the Subcommittee on Fisheries, Wildlife Conservation, and the Environment; Mr. DINGELL, the ranking majority member; and Mr. FORSYTHE, the ranking minority member, for their assistance in bringing the bill H.R. 13745 to the floor today. All are among the cosponsors of the bill. In particular do I express appreciation to my dear friend of many years, the distinguished gentleman from Michigan (Mr. DINGELL) for his constant efforts to add to the effectiveness of this legislation and for his contribution to the content of the bill.

The purpose of this legislation is to extend and increase the authorization of appropriations for the Sikes Act to carry out fish and wildlife conservation and rehabilitation, and public outdoor recreation programs on military reservations and on certain other federally owned lands during fiscal years 1979, 1980, and 1981.

A bill to extend this authorization passed both the House and Senate earlier this year but, because of restrictions added by Senate amendments, the President vetoed the measure. The bill before us today, H.R. 13745, is intended to overcome the President's objections to the legislation and was prepared after consultation with members of his staff.

This legislation has been in effect for many years. The original Sikes Act of 1960, known as Public Law 86–97, authorized fish and wildlife programs on military lands. Its success in these programs led to the 1974 amendments which extended the act's provisions to other public lands including national forests, national resource lands, national energy lands, and National Aeronautics and Space Administration lands.

An indication of the importance which is now ascribed to the bill lies in the fact that, although the act originally called for 25.4 million acres of land on military reservations, the total scope has now expanded to 659 million acres. In many areas the bill has been self-financing through fees for use permits. There are areas, however, where the need for conservation and recreation programs simply cannot be met except by direct Federal funding. The authorization for funds provided in this bill is to ensure more general application of the act.

In addition to emphasis on improvement and greater utilization of recreation facilities, the act directs that comprehensive plans for fish and wildlife habitat improvements on eligible lands be developed and implemented by Federal agencies through cooperative agreements with State fish and wildlife agencies.

There are many who see the value of the program and have worked to take advantage of its opportunities but much more could be accomplished if we have a greater degree of cooperation from Government agencies that are affected. The public will be the beneficiary. With the growing diversity of outdoor recreation pursuits and with energy and economic problems forcing many people to seek recreation nearer home, I am confident the bill has served a useful purpose. Obviously, the first requirement is to extend the act. I feel there has been growing recognition of its value and I trust with the continued support of the committee and the Congress we can make this legislation an even more useful instrument in the years ahead.

Mr. FORSYTHE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California (Mr. LEGGETT)?

There was no objection.

The Clerk read the bill as follows:

H.R. 13745

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Sikes Act Amendments of 1978".

SEC. 2. Section 106 of the Act of September 15, 1960 (16 U.S.C. 670f(b)) is amended by striking out subsection (b) and inserting in lieu thereof the following new subsections:

"(b) There are authorized to be appropriated to the Secretary of Defense not to exceed $1,500,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981, to carry out this title, including the enhancement of fish

and wildlife habitat and the development of public recreation and other facilities. The Secretary of Defense shall, to the greatest extent practicable, enter into agreements to utilize the services, personnel, equipment, and facilities, with or without reimbursement, of the Secretary of the Interior in carrying out the provisions of this section.

"(c) There are authorized to be appropriated to the Secretary of the Interior not to exceed $3,000,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981, to carry out such functions and responsibilities as the Secretary may have under cooperative plans to which such Secretary is a party under this section, including those for the enhancement of fish and wildlife habitat and the development of public recreation and other facilities.".

SEC. 3. Section 209 of the Act of September 15, 1960 (16 U.S.C. 670o), is amended to read as follows:

"SEC. 209. (a) There are authorized to be appropriated the sum of $10,000,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981, to enable the Secretary of the Interior to carry out his functions and responsibilities under this title, including data collection, research, planning, and conservation and rehabilitation programs on public lands. Such funds shall be in addition to those authorized for wildlife, range, soil, and water management pursuant to section 318 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1748), or other provisions of law.

"(b) There are authorized to be appropriated the sum of $12,000,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981, to enable the Secretary of Agriculture to carry out his functions and responsibilities under this title. Such funds shall be in addition to those provided under other provisions of law. In requesting funds under this subsection the Secretary shall take into account fish and wildlife program needs, including those for projects, identified in the State comprehensive plans as contained in the program developed pursuant to the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended (16 U.S.C. 1601–1610).".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed. and a motion to reconsider was laid on the table.

ARMED FORCES SURVIVOR BENEFITS

Mr. NICHOLS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3702) to amend title 10, United States Code, "to make certain changes in the Retired Serviceman's Family Protection Plan and the Survivor Benefit Plan as authorized by chapter 73 of that title, and for other purposes", with the Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

TITLE I—ANNUITIES UNDER SURVIVOR BENEFIT PLAN

DEFINITION OF BASE AMOUNT

SEC. 101. Section 1447(2) of title 10, United States Code, is amended to read as follows:

"(2) 'Base amount' means—

"(A) in the case of a person who dies after becoming entitled to retired or retainer pay, the amount of monthly retired or retainer pay to which the person—

"(i) was entitled when he became eligible for that pay; or

"(ii) later became entitled by being advanced on the retired list, performing active duty, or being transferred from the temporary disability retired list to the permanent disability retired list;

"(B) in the case of a person who would have become eligible for retired pay under chapter 67 of this title but for the fact that he died before becoming sixty years of age, the amount of retired pay for which the person would have been eligible—

"(i) if he had been sixty years of age on the date of his death, for purposes of an annuity to become effective on the day after his death in accordance with a designation made under section 1448(e) of this title, or

"(ii) upon becoming sixty years of age (if he had lived to that age), for purposes of an annuity to become effective on the sixtieth anniversary of his birth in accordance with a designation made under section 1448 (e) of this title; or

"(C) any amount which is less than the amount otherwise applicable under clause (A) or (B) with respect to an annuity provided under the Plan and which is designated by the person providing the annuity on or before (i) the first day for which he becomes eligible for retired or retainer pay, in the case of a person who elects to provide an annuity by virtue of eligibility under section 1448(a)(1)(A) of this title, or (ii) the end of the ninety-day period beginning on the date on which he receives the notification required by section 1331(d) of this title that he has completed the years of service required for eligibility for retired pay under chapter 67 of this title, in the case of a person who elects to provide an annuity by virtue of eligibility under section 1448(a)(1)(B) of this title, but not less than $300;

as increased from time to time under section 1401a of this title.".

APPLICATION OF SURVIVOR BENEFIT PLAN

SEC. 102. (a) Subsection (a) of section 1448 of title 10, United States Code, is amended to read as follows:

"(a)(1) The program established by this subchapter shall be known as the Survivor Benefit Plan. The following persons are eligible to participate in the Plan:

"(A) Persons entitled to retired or retainer pay.

"(B) Persons who would be eligible for retired pay under chapter 67 of this title but for the fact that they are under sixty years of age.

"(2) The Plan applies—

"(A) to a person who is eligible to participate in the Plan under paragraph (1)(A) and who is married or has a dependent child when he becomes entitled to retired or retainer pay, unless he elects not to participate in the Plan before the first day for which he is eligible for that pay, and

"(B) to a person who (i) is eligible to participate in the Plan under paragraph (1)(B), (ii) is married or has a dependent child when he is notified under section 1331(d) of this title that he has completed the years of service required for eligibility for retired pay under chapter 67 of this title, and (iii) elects to participate in the Plan (and makes a designation under subsection (e)) before the end of the ninety-day period beginning on the date he receives such notification.

A person described in subclauses (i) and (ii) of clause (B) who does not elect to participate in the Plan before the end of the ninety-day period referred to in such clause shall remain eligible, upon reaching sixty years of age and otherwise becoming entitled to retired pay, to participate in the Plan in accordance with eligibility under paragraph (1)(A).

"(3)(A) If a person who is eligible under paragraph (1)(A) to participate in the Plan who is married elects not to participate in the Plan at the maximum level, or elects to provide an annuity for a dependent child but not for his spouse, that person's spouse shall be notified of that election.

"(B) If a person who is eligible under paragraph (1)(B) to participate in the Plan and who is married does not elect to participate in the Plan at the maximum level, or elect to provide an annuity for a dependent child but not for his spouse, that person's spouse shall be notified of that action.

"(4)(A) An election under paragraph (2)(A) not to participate in the Plan is irrevocable if not revoked before the date on which the person first becomes entitled to retired or retainer pay.

"(B) An election under paragraph (2)(B) to participate in the Plan is irrevocable if not revoked before the end of the ninety-day period referred to in such paragraph.

"(5) A person who is not married when he becomes eligible to participate in the Plan but who later marries or acquires a dependent child, may elect to participate in the Plan, but his election must be written, signed by him, and receivable by the Secretary concerned within one year after he marries or acquires that dependent child. Such an election may not be revoked. His election is effective as of the first day of the first calendar month following the month in which his election is received by the Secretary concerned. In the case of a person who is eligible to participate in the Plan under paragraph (1)(B), such an election shall include a designation under subsection (e).".

(b) Subsection (b) of such section is amended—

(1) by striking out "entitled to retired or retainer pay" and inserting in lieu thereof "eligible to participate in the Plan"; and

(2) by adding at the end thereof the following new sentence: "In the case of a person who is eligible to participate in the Plan under subsection (a)(1)(B), such an election shall include a designation under subsection (e).".

(c) Such section is further amended by adding at the end thereof the following new subsection:

"(e) In any case in which an election to participate in the Plan provides for a designation under this subsection, the person making the election shall designate whether, in the event he dies before becoming sixty years of age, the annuity provided shall become effective on the day after the date of his death or on the sixtieth anniversary of his birth.".

PAYMENT OF ANNUITY

SEC. 103. Section 1450 of title 10, United States Code is amended—

(1) by inserting "(or on such other day as he may provide under subsection (j))" in subsection (a) after "of this title applies" the first time such words appear therein; and

(2) by adding at the end thereof the following new subsections:

"(j) An annuity elected by any person eligible to participate in the Plan by virtue of section 1448(a)(1)(B) shall be effective in accordance with the designation made by such person under section 1448(e).

"(k) Where the annuity has been adjusted under subsection (c) of this section and there is no entitlement to compensation under section 411(a) of title 38 due to remarriage of the spouse after reaching age sixty, such annuity shall be readjusted to the rate of entitlement existing prior to the adjustment under subsection (c) of this section if the amount of any refund made under subsection (e) of this section is repaid.".

AMOUNT OF ANNUITY

SEC. 104. (a) The first sentence of subsection (a) of section 1451 of title 10, United States Code, is amended to read as follows: "The monthly annuity payable to a widow, widower, or dependent child who is entitled under section 1450(a) of this title to an annuity shall be—

"(1) 55 percent of the base amount, if the annuity is provided under eligibility to provide an annuity under section 1448(a)(1)(A) of this title, or

"(2) a lesser percentage (determined by the Secretary of Defense in accordance with subsection (d)) of the base amount, if the annuity is provided under eligibility to provide an annuity under section 1448(a)(1)(B) of this title.".

(b) The last sentence of subsection (a) of section 1451 of such title is amended to read as follows: "For the purpose of the preceding sentence, a widow or widower shall not be considered as entitled to a benefit under subchapter II of chapter 7 of title 42 to the extent that such benefit has been offset by deductions under section 403 of title 42 on account of work.".

(c) Subsection (b) of such section is amended to read as follows:

"(b) The monthly annuity payable under section 1450(a)(4) of this title shall be—

"(1) 55 percent of the retired or retainer pay of the person who elected to provide that annuity after the reduction in such pay in accordance with section 1452(c) of this title, if the annuity is provided by a person eligible to participate in the Plan by virtue of section 1448(a)(1)(A) of this title, or

"(2) a lesser percentage (determined by the Secretary of Defense in accordance with subsection (d)) of the retired pay of the person who elected to provide that annuity after the reduction in such pay in accordance with section 1452(c) of this title, if the annuity is provided by a person eligible to participate in the Plan by virtue of section 1448(a)(1)(B) of this title.

A person who provides an annuity which is determined in accordance with clause (2) and who dies before becoming sixty years of age and is otherwise entitled to retired pay shall be considered to have been entitled to retired pay, for the purpose of such clause, at the time of his death, and the retired pay of such person for the purpose of such clause shall be computed on the basis of the rates of basic pay in effect on the date on which the annuity is to become effective in accordance with the designation of such person under section 1448(e) of this title.".

(d) Such section is further amended by adding at the end thereof the following new subsection:

"(d) The percentage to be applied by the Secretary of Defense in determining the amount of an annuity under subsection (a)(2) or (b)(2) shall be 55 percent reduced by such amount as the Secretary shall by regulation prescribe, taking into consideration the age of the person electing to provide the annuity at the time of such election, the difference in age between such person and the beneficiary of the annuity, whether such person provided for the annuity to become effective (in the event he died before becoming sixty years of age) on the day after his death or on the sixtieth anniversary of his birth, appropriate group annuity tables, and such other factors as the Secretary considers relevant.".

SEC. 105. Section 4 of the Act entitled "An Act to amend chapter 73 of title 10, United States Code, to establish a Survivor Benefit Plan, and for other purposes", approved September 21, 1972 (Public Law 92-425), is amended—

(a) by striking out "$2,100" in subsections (a)(3) and (b) and inserting in lieu thereof "$2,340"; and

(b) by adding at the end thereof the following new subsection:

"(c) If at any time after the date of the enactment of this subsection the maximum annual income limitation provided for in section 541(b) of title 38, United States Code, is increased by any amount, the maximum annual income limitation set forth in subsection (a)(3) of this section and the dollar figure set forth in the first sentence of subsection (b) of this section (relating to the computation of annuities payable under this section) shall be increased by a like amount effective on the date on which any such increase with respect to such section 541(b) first takes effect.".

REDUCTION IN RETIRED PAY

SEC. 106. (a) The first sentence of subsection (a) of section 1452 of title 10, United States Code, is amended by striking out "shall be reduced each month" and all that follows in such sentence and inserting in lieu thereof "shall be reduced each month—

"(1) by an amount equal to 2½ percent of the first $300 of the base amount plus 10 percent of the remainder of the base amount, if the person is providing an annuity under eligibility to provide an annuity under section 1448(a)(1)(A) of this title; or

"(2) by an amount prescribed under regulations of the Secretary of Defense, if the person elects an annuity by virtue of eligibility under section 1448(a)(1)(B).".

(b) Subsection (c) of such section is amended to read as follows:

"(c) The retired or retainer pay of a person who has elected to provide an annuity to a person designated by him under section 1450(a)(4) of this title shall be reduced—

"(1) in the case of a person who elects to provide an annuity by virtue of eligibility under section 1448(a)(1)(A) of this title, by 10 percent plus 5 percent for each full five years the individual designated is younger than that person; or

"(2) in the case of a person who elects to provide an annuity by virtue of eligibility under section 1448(a)(1)(B) of this title, by an amount prescribed under regulations of the Secretary of Defense.

However, the total reduction under clause (1) may not exceed 40 percent. The reduction in retired or retainer pay prescribed by this section shall continue during the lifetime of the person designated under section 1450(a)(4) of this title or until the person receiving retired or retainer pay changes his election under section 1450(f) of this title.".

NOTIFICATION

SEC. 106. Section 1331(d) of title 10, United States Code, is amended by adding at the end thereof the following new sentence: "Such notice shall include notification of the elections available to such person under the Survivor Benefit Plan established under subchapter II of chapter 73 of this title and the effects of such elections.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 107. (a) The first sentence of section 1449 of title 10, United States Code, is amended by striking out "the first sentence of subsection (a), or subsection (b)," and inserting in lieu thereof "subsection (a)(2) or (b)".

(b) Section 1450(d) of such title is amended by striking out "section 8339(i)" and inserting in lieu thereof "section 8339(j)".

(c) Section 1450(f) of such title is amended by striking out "the last three sentences of section 1448(a)" and inserting in lieu thereof "section 1448(a)(5)".

TRANSITION

SEC. 108. With respect to any individual who—

(1) is eligible for retired pay under chapter 67 of title 10, United States Code, on the date of the enactment of this Act but for the fact that such individual is under sixty years of age, or

(2) receives, before the end of the nine-month period beginning on the date of the enactment of this Act, a notification that such individual has completed the years of service required for eligibility for such retired pay,

the ninety-day period referred to in section 1447(2)(C) of title 10, United States Code (as amended by section 101 of this Act), and in sections 1448(a)(2) and 1448(a)(4)(B) of title 10, United States Code (as amended by section 102(a) of this Act), shall be considered to end at the end of the one-year period beginning on the date of the enactment of this Act.

EFFECTIVE DATES

SEC. 109. (a) Except as provided by subsection (b), the provisions of this title and the amendments made by this title shall take effect on October 1, 1978, or the date of the enactment of this Act, whichever is later, and shall apply to annuities payable by virtue of such amendments for months beginning on or after such date.

(b) The amendment made by section 106 shall apply to notifications under section 1331(d) of title 10, United States Code, on and after the date of the enactment of this Act.

TITLE II—MEDICAL AND DENTAL CARE

SEC. 201. (a) Section 1076 of title 10, United States Code, is amended by (1) redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and (2) adding after subsection (b) a new subsection (c) as follows:

"(c) Under joint regulations to be prescribed by the Secretary of Defense and the Secretary of Health, Education, and Welfare a dependent of a member or former member who—

"(1) is deceased,

"(2) had, prior to his death, completed the years of service required for eligibility for retired pay under chapter 67 of this title but had not, because of age, become entitled to such pay, and

"(3) had elected, prior to death, to participate in the Survivor Benefit Plan provided for under subchapter II of chapter 73 of this title,

may, upon request, on or after the date on which such member or former member would have become entitled to retired pay under chapter 67 of this title had such member or former member attained sixty years of age and made timely application for such retired pay, be given the medical and dental care prescribed in section 1077 of this title in facilities of the uniformed services, subject to the availability of space and facilities and the capabilities of the medical and dental staff.".

(b) Section 1086(c)(1) of such title is amendeded to read as follows:

"(1) Persons covered by sections 1074(b) and 1076 (b) and (c) of this title, except persons covered by section 1072(2)(F) of this title.".

(c) The first sentence of section 1087 of such title is amended by inserting "and (c)" after "1076(b)".

SEC. 202. The amendment made by section 201 shall become effective on October 1, 1978, or the date of the enactment of this Act, whichever is later.

TITLE III—RETIRED SERVICEMEN'S FAMILY PROTECTION PLAN

SEC. 301. (a) Section 1434(a) of title 10, United States Code, is amended by—

(1) striking out "or remarries" in clause (1) and inserting in lieu thereof "or the spouse remarries prior to age sixty"; and

(2) striking out "or remarriage of that spouse" in clause (3) and inserting in lieu thereof "of that spouse or the remarriage of that spouse prior to age sixty".

(b) Section 1434 of title 10, United States Code, is further amended by adding at the end thereof a new subsection as follows:

"(c) Whenever retired or retainer pay is increased under section 1401(a) of this title, each annuity that is payable under this subchapter on the day before the effective date of that increase to a spouse or child of a member who died on or before March 20, 1974, shall be increased at the same time by the same total per centum.".

SEC. 302. Each annuity that is payable under subchapter I of chapter 73 of title 10, United States Code, on the day before the date of enactment of this Act to a spouse or child of a member of the uniformed services who died on or before March 20, 1974, shall be increased effective as of the first day of the first calendar month following the month in which this Act is enacted, or as of October 1, 1978, whichever is later, by the total per centum that retired or retainer pay has been increased under section 1401a of that title since September 21, 1972.

SEC. 303. No benefits shall accrue to any person by virtue of the enactment of this Act for any period prior to the first day of the first calendar month following the month in which this Act is enacted or prior to October 1, 1978, whichever is later.

Mr. NICHOLS (during the readings). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The Clerk read the House amendment to the Senate amendment, as follows:

[House amendment to the Senate amendment to H.R. 3702]

In lieu of the matter proposed to be inserted by the amendment of the Senate, insert the following:

That this Act may be cited as the "Uniformed Services Survivors' Benefits Amendments of 1978".

TITLE I—ANNUITIES UNDER RETIRED SERVICEMEN'S FAMILY PROTECTION PLAN

SEC. 101. (a) Section 1434 of title 10, United States Code, is amended—

(1) by striking out "or remarries" in subsection (a)(1) and inserting in lieu thereof "or, if the spouse remarries before age 60, when the spouse remarries";

(2) by striking out "or remarriage of that spouse" in subsection (a)(3) and inserting in lieu thereof "of that spouse or the remarriage of that spouse before age 60"; and

(3) by adding at the end thereof the following new subsection:

"(e) Whenever there is an increase in retired and retainer pay under section 1401a of this title, each annuity that is payable under this subchapter on the day before the effective date of that increase to a spouse or child of a member who died on or before March 20, 1974, shall be increased by the same percentage as the percentage of that increase, effective on the effective date of that increase.".

(b) No benefits shall accrue to any person by virtue of the amendments made by subsection (a) for any period prior to the first day of the first calendar month following the month in which this Act is enacted or October 1, 1978, whichever is later.

SEC. 102. Each annuity that is payable under subchapter I of chapter 73 of title 10, United States Code, on the day before the date of the enactment of this Act to spouse or child of a member of the uniformed services who died on or before March 20, 1974, shall be increased effective as of the first day of the first calendar month following the month in which this Act is enacted, or as of October 1, 1978, whichever is later, by the percentage increase in retired and retainer pay under section 1401a of that title since September 21, 1972.

TITLE II—ANNUITIES UNDER SURVIVOR BENEFIT PLAN

DEFINITION OF BASE AMOUNT

SEC. 201. Section 1447(2) of title 10, United States Code, is amended to read as follows:

"(2) 'Base amount' means—

"(A) in the case of a person who dies after becoming entitled to retired or retainer pay, the amount of monthly retired or retainer pay to which the person—

"(i) was entitled when he became eligible for that pay; or

"(ii) later became entitled by being advanced on the retired list, performing active duty, or being transferred from the temporary disability retired list to the permanent disability retired list;

"(B) in the case of a person who would have become eligible for retired pay under chapter 67 of this title but for the fact that he died before becoming 60 years of age, the amount of monthly retired pay for which the person would have been eligible—

"(i) if he had been 60 years of age on the date of his death, for purposes of an annuity to become effective on the day after his death in accordance with a designation made under section 1448(e) of this title; or

"(ii) upon becoming 60 years of age (if he had lived to that age), for purposes of an annuity to become effective on the 60th anniversary of his birth in accordance with a designation made under section 1448(e) of this title; or

"(C) any amount which is less than the amount otherwise applicable under clause (A) or (B) with respect to an annuity provided under the Plan and which is designated by the person providing the annuity on or before (i) the first day for which he becomes eligible for retired or retainer pay, in the case of a person providing an annuity by virtue of eligibility under section 1448(a)(1)(A) of this title, or (ii) the end of the 90-day period beginning on the date on which he receives the notification required by section 1331(d) of this title that he has completed the years of service required for eligibility for retired pay under chapter 67 of this title, in the case of a person providing an annuity by virtue of eligibility under section 1448(a)(1)(B) of this title, but not less than $300;

as increased from time to time under section 1401a of this title.".

APPLICATION OF SURVIVOR BENEFIT PLAN

SEC. 202. (a) Subsection (a) of section 1448 of title 10, United States Code, is amended to read as follows:

"(a)(1) The program established by this subchapter shall be known as the Survivor Benefit Plan. The following persons are eligible to participate in the Plan:

"(A) Persons entitled to retired or retainer pay.

"(B) Persons who would be eligible for retired pay under chapter 67 of this title but for the fact that they are under 60 years of age.

"(2) The Plan applies—

"(A) to a person who is eligible to participate in the Plan under paragraph (1)(A) and who is married or has a dependent child when he becomes entitled to retired or retainer pay, unless he elects not to participate in the Plan before the first day for which he is eligible for that pay; and

"(B) to a person who (i) is eligible to participate in the Plan under paragraph (1)(B), (ii) is married or has a dependent child when he is notified under section 1331(d) of this title that he has completed the years of service required for eligibility for retired pay under chapter 67 of this title, and (iii) elects to participate in the Plan (and makes a designation under subsection (e)) before the end of the 90-day period beginning on the date he receives such notification.

A person described in subclauses (i) and (ii) of clause (B) who does not elect to participate in the Plan before the end of the 90-day period referred to in such clause shall remain eligible, upon reaching 60 years of age and otherwise becoming entitled to retired pay, to participate in the Plan in accordance with eligibility under paragraph (1)(A).

"(3)(A) If a person who is eligible under paragraph (1)(A) to participate in the Plan and who is married elects not to participate in the Plan at the maximum level, or elects to provide an annuity for a dependent child but not for his spouse, that person's spouse shall be notified of that election.

"(B) If a person who is eligible under paragraph (1)(B) to participate in the Plan and who is married does not elect to participate in the Plan at the maximum level, or elects to provide an annuity for a dependent child but not for his spouse, that person's spouse shall be notified of that action.

"(4)(A) An election under paragraph (2)(A) not to participate in the Plan is irrevocable if not revoked before the date on which the person first becomes entitled to retired or retainer pay.

"(B) An election under paragraph (2)(B) to participate in the Plan is irrevocable if not revoked before the end of the 90-day period referred to in such paragraph.

"(5) A person who is not married when he becomes eligible to participate in the Plan but who later marries or acquires a dependent child may elect to participate in the Plan, but his election must be written, signed by him, and received by the Secretary concerned within one year after he marries or acquires that dependent child. Such an election may not be revoked. His election is effective as of the first day of the first calendar month following the month in which his election is received by the Secretary concerned. In the case of a person providing an annuity by virtue of eligibility under paragraph (1)(B), such an election shall include a designation under subsection (e).".

(b) Subsection (b) of such section is amended—

(1) by striking out "entitled to retired or retainer pay" and inserting in lieu thereof "eligible to participate in the Plan"; and

(2) by adding at the end thereof the following new sentence: "In the case of a person providing an annuity under this subsection by virtue of eligibility under subsection (a)(1)(B), such an election shall include a designation under subsection (e).".

(c) Such section is further amended by adding at the end thereof the following new subsection:

"(e) In any case in which a person electing to participate in the Plan is required to make a designation under this subsection, the person making such election shall designate whether, in the event he dies before becoming 60 years of age, the annuity provided shall become effective on the day after the date of his death or on the 60th anniversary of his birth.".

PAYMENT OF ANNUITY

SEC. 203. Section 1450 of title 10, United States Code, is amended—

(1) by inserting "(or on such other day as he may provide under subsection (j))" in subsection (a) after "of this title applies" the first place it appears therein; and

(2) by adding at the end thereof the following new subsections:

"(j) An annuity elected by any person providing an annuity by virtue of eligibility under section 1448(a)(1)(B) of this title shall be effective in accordance with the designation made by such person under section 1448(e) of this title.

"(k) If a widow or widower whose annuity has been adjusted under subsection (c) subsequently loses entitlement to compensation under section 411(a) of title 38 because of the remarriage of such widow or widower, and if at the time of such remarriage such widow or widower is 60 years of age or more, the amount of the annuity of such widow or widower shall be readjusted, effective on the effective date of such loss of compensation, to the amount of the annuity which would be in effect with respect to such widow or widower if the adjustment under subsection (c) had never been made, but such readjustment may not be made until the widow or widower repays any amount refunded under subsection (e) by reason of the adjustment under subsection (c).".

AMOUNT OF ANNUITY

SEC. 204. (a) The first sentence of subsection (a) of section 1451 of title 10, United States Code, is amended to read as follows: "The monthly annuity payable to a widow, widower, or dependent child who is entitled under section 1450(a) of this title to an annuity shall be—

"(1) 55 percent of the base amount, if the annuity is provided by virtue of eligibility under section 1448(a)(1)(A) of this title, or

"(2) a lesser percentage (determined by the Secretary of Defense in accordance with subsection (d)) of the base amount, if the annuity is provided by virtue of eligibility under section 1448(a)(1)(B) of this title.".

(b) The last sentence of subsection (a) of such section is amended to read as follows: "For the purpose of the preceding sentence, a widow or widower shall not be considered as entitled to a benefit under subchapter II of chapter 7 of title 42 to the extent that such benefit has been offset by deductions under section 403 of title 42 on account of work.".

(c) Subsection (b) of such section is amended to read as follows:

"(b) The monthly annuity payable under section 1450(a)(4) of this title shall be—

"(1) 55 percent of the retired or retainer pay of the person who elected to provide that annuity after the reduction in such pay in accordance with section 1452 (c) of this title, if the annuity is provided by virtue of eligibility under section 1448(a)(1)(A) of this title; or

"(2) a lesser percentage (determined by the Secretary of Defense in accordance with subsection (d)) of the retired pay of the person who elected to provide that annuity after the reduction in such pay in accordance with section 1452(c) of this title, if the annuity is provided by virtue of eligibility under section 1448(a)(1)(B) of this title.

A person who provides an annuity which is determined in accordance with clause (2) and who dies before becoming 60 years of age and is otherwise entitled to retired pay shall be considered to have been entitled to retired pay, for the purpose of such clause, at the time of his death, and the retired pay of such person for the purpose of such clause shall be computed on the basis of the rates of basic pay in effect on the date on which the annuity is to become effective in accordance with the designation of such person under section 1448(e) of this title.".

(d) Such section is further amended by adding at the end thereof the following new subsection:

"(d) The percentage to be applied by the Secretary of Defense in determining the amount of an annuity under subsection (a)(2) or (b)(2) shall be 55 percent reduced by such amount as the Secretary shall by regulation prescribe, taking into consideration the age of the person electing to provide the annuity at the time of such election, the difference in age between such person and the beneficiary of the annuity, whether such person provided for the annuity to become effective (in the event he died before becoming 60 years of age) on the day after his death or on the 60th anniversary of his birth, appropriate group annuity tables, and such other factors as the Secretary considers relevant.".

REDUCTION IN RETIRED PAY

SEC. 205. (a) The first sentence of subsection (a) of section 1452 of title 10, United States Code, is amended by striking out "shall be reduced each month" and all that follows in such sentence and inserting in lieu thereof "shall be reduced each month—

"(1) by an amount equal to 2½ percent of the first $300 of the base amount plus 10 percent of the remainder of the base amount, if the person is providing an annuity by virtue of eligibility under section 1448(a)(1)(A) of this title; or

"(2) by an amount prescribed under regulations of the Secretary of Defense, if the person is providing an annuity by virtue of eligibility under section 1448 (a)(1)(B).".

(b) Subsection (c) of such section is amended to read as follows:

"(c) The retired or retainer pay of a person who has elected to provide an annuity to a person designated by him under section 1450(a)(4) of this title shall be reduced—

"(1) in the case of a person providing the annuity by virtue of eligibility under section 1448(a)(1)(A) of this title, by 10 percent plus 6 percent for each full five years the individual designated is younger than that person; or

"(2) in the case of a person providing the annuity by virtue of eligibility under section 1448(a)(1)(B) of this title, by an amount prescribed under regulations of the Secretary of Defense.

However, the total reduction under clause (1) may not exceed 40 percent. The reduction in retired or retainer pay prescribed by this section shall continue during the lifetime of the person designated under section 1450(a)(4) of this title or until the person receiving retired or retainer pay changes his election under section 1450(f) of this title.".

NOTIFICATION

SEC. 206. Section 1331(d) of title 10, United States Code, is amended by adding at the end thereof the following new sentence: "Such notice shall include notification of the elections available to such person under the Survivor Benefit Plan established under subchapter II of chapter 73 of this title and the effects of such elections.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 207. (a) The first sentence of section 1449 of title 10, United States Code, is amended by striking out "the first sentence of subsection (a), or subsection (b)," and inserting in lieu thereof "subsection (a)(2) or (b)".

(b) Section 1450(d) of such title is amended by striking out "section 8339(i)" and inserting in lieu thereof "section 8339(j)".

(c) Section 1450(f) of such title is amended by striking out "the last three sentences of section 1448(a)" and inserting in lieu thereof "section 1448(a)(5)".

TRANSITION

SEC. 208. With respect to any individual who—

(1) would be eligible for retired pay under chapter 67 of title 10, United States Code, on the effective date of this title but for the fact that such individual is under 60 years of age; or

(2) receives, before the end of the nine-month period beginning on the effective date of this title, a notification that such individual has completed the years of service required for eligibility for such retired pay;

the 90-day period referred to in section 1447 (2)(C) of title 10, United States Code (as amended by section 201 of this Act), and in sections 1448(a)(2) and 1448(a)(4)(B) of title 10, United States Code (as amended by section 202(a) of this Act), shall be considered to end at the end of the one-year period beginning on the effective date of this title.

MINIMUM INCOME FOR CERTAIN SURVIVORS

SEC. 209. Section 4 of the Act entitled "An Act to amend chapter 73 of title 10, United States Code, to establish a Survivor Benefit Plan, and for other purposes", approved September 21, 1972 (10 U.S.C. 1448 note), is amended—

(1) by striking out "$2,100" in subsections (a)(3) and (b) and inserting in lieu thereof "$2,340"; and

(2) by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection (c):

"(c) The amounts specified in subsections (a)(3) and (b) shall be increased by the Secretary concerned whenever there is an increase in the limitation on annual income for purposes of eligibility for benefits under section 541(b) of title 38, United States Code. Any such increase under the preceding sentence shall be in the same amount, and shall have the same effective date, as such increase in limitation on annual income.".

EFFECTIVE DATES

SEC. 210. (a) Except as provided in subsection (b), the provisions of this title and the amendments made by this title shall take effect on October 1, 1978, or on the date of the enactment of this Act, whichever is later, and shall apply to annuities payable by virtue of such amendments for months beginning on or after such date.

(b) The amendment made by section 206 shall apply to notifications under section 1331(d) of title 10, United States Code, after the date of the enactment of this Act.

TITLE III—MEDICAL AND DENTAL CARE

SEC. 301. Subsection (b) of section 1076 of title 10, United States Code, is amended to read as follows:

"(b) Under regulations to be prescribed jointly by the Secretary of Defense and the Secretary of Health, Education, and Welfare, a dependent of a member or former member—

"(1) who is, or (if deceased) was at the time of his death, entitled to retired or retainer pay or equivalent pay; or

"(2) who died before attaining age 60 and at the time of his death (A) would have been eligible for retired pay under chapter 67 of this title but for the fact that he was under 60 years of age, and (B) had elected to participate in the Survivor Benefit Plan established under subchapter II of chapter 73 of this title;

may, upon request, be given the medical and dental care prescribed by section 1077 of this title in facilities of the uniformed services, subject to the availability of space and facilities and the capabilities of the medical and dental staff, except that a dependent of a member or former member described in clause (2) may not be given such medical or dental care until the date on which such member or former member would have attained age 60.".

SEC. 302. The amendment made by section 301 shall become effective on October 1, 1978, or on the date of the enactment of this Act, whichever is later.

Mr. NICHOLS (during the reading). Mr. Speaker, I ask unanimous consent that the House amendment to the Senate

amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

Mr. MITCHELL of New York. Mr. Speaker, reserving the right to object, I do so only for the purpose of affording the chairman of the Subcommittee on Military Compensation an opportunity to explain the import of these amendments.

Mr. NICHOLS. Mr. Speaker, if the gentleman will yield the Senate has acted on H.R. 3702, improvements to the survivor benefit plan for military retirees. The Senate deleted some of the most beneficial changes such as the reduction in the social security offset from 100 to 50 percent and the recalculation of the member's contribution. However, many significant provisions remain. And the Senate amended the bill to incorporate the provisions of H.R. 11797, a bill that passed the House and extends survivor benefit plan protection to reservists before they reach age 60.

The House amendments are simply clarifying, stylistic, and technical in nature. There are no substantive changes.

The Senate approved only some of the provisions of H.R. 3702 as it passed the House:

First. CPI adjustments for retired serviceman's family protection plan widows whose retired spouse died before having the full opportunity to elect into the current survivor benefit plan;

Second. Reinstatement of full survivor benefit plan payments for a widow receiving DIC payments who remarries after age 60; and

Third. Elimination of the social security offset for widows over age 62 who are ineligible for social security benefits because of their social security covered employment.

The Senate added two provisions not originally in the House-passed bill:

First. Continuation of RSFPP annuities in the case of a widow who remarries after age 60; and

Second. Increase in the benefits available under the minimum income provision of the survivor benefit plan.

The Senate did not approve other provisions in H.R. 3702 as it passed the House:

First. Reduction of the social security offset from 100 percent of the social security attributable to military service to 50 percent;

Second. Modification of the formula for calculating the member's contribution;

Third. Elimination of the social security offset when there is a widow and one child and when the widow is receiving social security benefits based on her own earnings; and

Fourth. Elimination of the amount of social security offset based on periods of active duty of less than 30 days when the reservist received a refund of social security contributions.

One of the major reasons for not acting favorably on these last four provisions was the high budget cost between now and the year 2000, and the lack of actuarial calculations concerning the present status of the plan. The Senate report requires the Department of Defense to provide this latter information by February of next year. I strongly concur in this request and would hope that the Department would accomplish this task as soon as possible so that other provisions might be considered early in the next Congress.

The bill, H.R. 11797, extending survivor benefit protection to reservists who have completed 20 years of creditable service but who have not yet reached age 60, was adopted by the Senate with an amendment to delay receipt of medical care to the time the member would have reached age 60. The House-passed bill conferred medical benefits at the same time as the annuity began. The Senate included the provisions of H.R. 11797 as an amendment to H.R. 3702.

I am certain that the original sponsors of H.R. 3702, the gentleman from New York (Mr. STRATTON)—who managed H.R. 3702 admirably on the floor initially—and the gentleman from California (Mr. BOB WILSON)—who is one of the most effective proponents of the survivor benefit plan—are particularly disappointed in the Senate action. Although I am, of course, also disappointed that all of the provisions of H.R. 3702 were not accepted by the Senate, I believe that they are adamant in wanting to wait for further actuarial information.

Mr. MITCHELL of New York. Mr. Speaker, I strongly support the objectives of the bill.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama that the House amendment to the Senate amendment be considered as read and printed in the RECORD?

There was no objection.

The SPEAKER pro tempore. Is there objection to the first request of the gentleman from Alabama (Mr. NICHOLS)?

There was no objection.

A motion to reconsider was laid on the table.

PROVIDING FOR REFUND OF TAX ON DISTILLED SPIRITS, WINES, RECTIFIED PRODUCTS, AND BEER

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 1920) to amend section 5064 of the Internal Revenue Code of 1954 to provide for refund of tax on distilled spirits, wines, rectified products, and beer lost or rendered unmarketable due to fire, flood, casualty, or other disaster, or to breakage, destruction, or other damage (excluding theft) resulting from vandalism or malicious mischief while held for sale, with Senate amendment thereto, and concur in the Senate amendment with amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

SECTION 1. REFUND OF TAX ON ALCOHOLIC BEVERAGE LOSSES RESULTING FROM DISASTER, VANDALISM, OR MALICIOUS MISCHIEF

(a) IN GENERAL.—So much of section 5064 of the Internal Revenue Code of 1954 (relating to losses caused by disaster) as precedes subsection (c) is amended to read as follows:

"SEC. 5064. LOSSES RESULTING FROM DISASTER, VANDALISM, OR MALICIOUS MISCHIEF.

"(a) PAYMENTS.—The Secretary, under such regulations as he may prescribe, shall pay (without interest) an amount equal to the amount of the internal revenue taxes paid or determined and customs duties paid on distilled spirits, wines, rectified products, and beer previously withdrawn, which were lost, rendered unmarketable, or condemned by a duly authorized official by reason of—

"(1) fire, flood, casualty, or other disaster, or

"(2) breakage, destruction, or other damage (but not including theft) resulting from vandalism or malicious mischief,

if such disaster or damage occurred in the United States and if such distilled spirits, wines, rectified products, or beer were held and intended for sale at the time of such disaster or other damage. The payments provided for in this section shall be made to the person holding such distilled spirits, wines, rectified products, or beer for sale at the time of such disaster or other damage.

"(b) CLAIMS.—

"(1) PERIOD FOR MAKING CLAIM; PROOF.—No claim shall be allowed under this section unless—

"(A) filed within 6 months after the date on which such distilled spirits, wines, rectified products, or beer were lost, rendered unmarketable, or condemned by a duly authorized official, and

"(B) the claimant furnishes proof satisfactory to the Secretary that the claimant—

"(i) was not indemnified by any valid claim of insurance or otherwise in respect of the tax, or tax and duty, or the distilled spirits, wines, rectified products, or beer covered by the claim; and

"(ii) is entitled to payment under this section.

"(2) MINIMUM CLAIM.—Except as provided in paragraph (3)(A), no claim of less than $250 shall be allowed under this section with respect to any disaster or other damage (as the case may be).

"(3) SPECIAL RULES FOR MAJOR DISASTERS.—If the President has determined under the Disaster Relief Act of 1974 that a 'major disaster' (as defined in such Act) has occurred in any part of the United States, and if the disaster referred to in subsection (a)(1) occurs in such part of the United States by reason of such major disaster, then—

"(A) paragraph (2) shall not apply, and

"(B) the filing period set forth in paragraph (1)(A) shall not expire before the day which is 6 months after the date on which the President makes the determination that such major disaster has occurred.

"(4) REGULATIONS.—Claims under this section shall be filed under such regulations as the Secretary shall prescribe."

(b) CLERICAL AMENDMENTS.—The table of sections for subpart E of part I of subchapter A of chapter 51 of such Code is amended by striking out the item relating to section 5064 and inserting in lieu thereof the following:

"Sec. 5064. Losses resulting from disaster, vandalism, or malicious mischief."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to disasters (or other damage) occurring on or after the first day of the first calendar month which

begins more than 90 days after the date of the enactment of this Act.

Mr. ULLMAN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, I will ask this question: I think the Members would like to know the answer. As I understand it, there are 4 or 5 bills we are going to bring up in this manner; is that not correct?

Mr. ULLMAN. Mr. Speaker, if the gentleman will yield, the answer is "Yes."

Mr. ASHBROOK. Mr. Speaker, the question I have is this: I know some of these are substantive bills and are necessary. The only question I have is: Are there any amendments that have been passed in the Senate that are nongermane, any amendments that are of any real substance?

Mr. ULLMAN. Perhaps that is true in some of the bills, but not in this one.

Mr. ASHBROOK. Those are amendments that are nongermane?

Mr. ULLMAN. No, I believe they are all germane, although there was one on which there may have been some question.

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Speaker, I think the ones to be passed by unanimous consent involve only germane amendments, although I may be subject to correction. However, there are several on which we are going to ask to go to conference. Those contain nongermane amendments, but the others involving unanimous consent are not included.

Mr. ASHBROOK. Mr. Speaker, I appreciate that assurance, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the House amendments to the Senate amendment.

The Clerk read the House amendments to the Senate amendment, as follows:

Page 3, line 1, of the Senate engrossed amendment, strike out "or the distilled spirits" and insert in lieu thereof "on the distilled spirits".

Page 4, line 1, of the Senate engrossed amendment, strike out "Amendments" and insert in lieu thereof "Amendment".

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Oregon?

Mr. CONABLE. Mr. Speaker, reserving the right to object, will the distinguished chairman of the committee explain this measure to us?

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the chairman of the committee.

Mr. ULLMAN. Mr. Speaker, as passed by both the House and the Senate, H.R. 1920 provides for repayments by the Treasury of the excise taxes and customs duties on distilled spirits, wines, rectified products, or beer held for sale, if these products are lost or ruined by fire, flood, casualty, other disaster, or vandalism.

Alcohol excise taxes are payable before the products are shipped by the producer. As compared with the taxes on other products, the prepaid excise taxes on alcoholic beverages constitute a high portion of the costs of the product in the hands of wholesalers or retailers. In some cases, more than half the cost of distilled spirits may represent taxes. Thus, if alcoholic products held for sale are destroyed after taxes have been paid, a large portion of the loss will be attributable to prepaid taxes which cannot be passed on to consumers.

Under present law, the Treasury can pay the tax amounts to the merchant only if the loss results from a major disaster as declared by the President. However, there are other events which likewise can result in substantial losses of alcoholic products. For this reason, the bill expands the events which permit tax refunds to include uninsured losses caused by fire, flood, casualty, other disasters, or vandalism. Theft losses are not covered.

To avoid imposing serious administrative burdens on the Internal Revenue Service, the bill requires that the tax payment claimed on account of any single disaster must be at least $250, except in the case of loss from a major disaster as declared by the President.

The bill would reduce budget receipts by about $500,000 annually.

When H.R. 1920 was considered by the Senate Finance Committee, that committee added to the bill the substance of H.R. 2984 as passed by the House, relating to an exemption for certain farm trailers from the manufacturers excise tax imposed on trailers and semitrailers. On the Senate floor, the provisions of H.R. 2984 were deleted from the pending bill, H.R. 1920.

The substance of H.R. 1920 as passed by both the House and Senate is identical. However, because of the Senate floor action which I described, it is necessary to make clerical and technical amendments to the bill as passed by the Senate.

Mr. Speaker, both the House and Senate have approved the substance of this bill, and I urge the House to concur in the Senate amendments with the House amendments.

Mr. CONABLE. Mr. Speaker, H.R. 1920 as passed by the other body is identical to the bill which passed the House. It permits the refund of the alcohol tax in situations where the product is rendered unmarketable because of damage, vandalism, or malicious mischief.

The alcohol tax is paid by the distiller and passed along to the retailer as a cost of the product. The magnitude of the tax is often a large fraction of the product's cost. Under current law a retailer may receive a refund of the alcohol tax only for damage sustained in a Presidentially declared "major disaster." H.R. 1920 permits a refund in situations of lesser casualty damage than major disasters, vandalism, or malicious mischief. The amount of the refund claim must exceed $250. This provision is intended to prevent the administrative burden which would occur if small claims were permitted.

Mr. Speaker, H.R. 1920 as passed by the other body is identical to the House-passed bill. However, some other provisions were first added and then deleted by the other body. I urge my colleagues to accept the bill.

Mr. Speaker, I withdraw my reservation of objection.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Oregon?

There was no objection.

A motion to recensider was laid on the table.

REVOCATION OF ELECTION TO RECEIVE RETIRED PAY AS A JUDGE OF THE TAX COURT

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 8811) to amend section 7447 of the Internal Revenue Code of 1954 with respect to the revocation of an election to receive retired pay as a judge of the Tax Court, with Senate amendments thereto, and concur in the Senate amendments Nos. 1 and 2 with amendments.

The Clerk read the title of the bill.

Page 4, after line 6, insert:

SEC. 3. FUTA TREATMENT OF GROUP LEGAL SERVICE PLAN CONTRIBUTIONS.

SEC. 3. (a) Section 3306(b) of the Internal Revenue Code of 1954 (relating to the definition of wages for purposes of the Federal Unemployment Tax Act) is amended—

(1) by striking out "or" at the end of paragraph (10);

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(12) any contribution, payment, or service, provided by an employer which may be excluded from the gross income of an employee, his spouse, or his dependents, under the provisions of section 120 (relating to amounts received under qualified group legal services plans).".

(b) Section 3121(a) of such Code (relating to the definition of wages for purposes of the Federal Insurance Contributions Act) is amended—

(1) by striking out the period at the end of subparagraph (15) and inserting in lieu thereof "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(16) any contribution, payment, or service, provided by an employer which may be

excluded from the gross income of an employee, his spouse, or his dependents, under the provisions of section 120 (relating to amounts received under qualified group legal services plans).".

(c) Section 209 of the Social Security Act is amended—

(1) by striking out "or" at the end of subsection (n);

(2) by striking out the period at the end of subsection (o) and inserting in lieu thereof "; or"; and

(3) by inserting after subsection (o) and before the sentence beginning with "For purposes of this title, in the case of domestic service" the following new subsection:

"(p) Any contribution, payment, or service, provided by an employer which may be excluded from the gross income of an employee, his spouse, or his dependents, under the provisions of section 120 of the Internal Revenue Code of 1954 (relating to amounts received under qualified group legal services plans).".

(d) The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1976.

Page 4, after line 6, insert:

SEC. 4. INVOLUNTARY CONVERSION OF SPECIALLY VALUED FARM, ETC., REAL PROPERTY.

(a) IN GENERAL.—Section 2032A of the Internal Revenue Code of 1954 (relating to valuation of certain farm, etc., real property) is amended by adding at the end the following new subsection:

"(h) SPECIAL RULES FOR INVOLUNTARY CONVERSION OF QUALIFIED REAL PROPERTY.—

"(1) TREATMENT OF CONVERTED PROPERTY.—

"(A) IN GENERAL.—If there is an involuntary conversion of an interest in qualified real property and the qualified heir makes an election under this subsection—

"(i) no tax shall be imposed by subsection (c) on such conversion if the cost of the qualified replacement property equals or exceeds the amount realized on such conversion, or

"(ii) if clause (i) does not apply, the amount of the tax imposed by subsection (c) on such conversion shall be the amount determined under subparagraph (B).

"(B) AMOUNT OF TAX WHERE THERE IS NOT COMPLETE REINVESTMENT.—The amount determined under this subparagraph with respect to any involuntary conversion is the amount of the tax which (but for this subsection) would have been imposed on such conversion reduced by an amount which—

"(i) bears the same ratio to such tax, as

"(ii) the cost of the qualified replacement property bears to the amount realized on the conversion.

"(2) TREATMENT OF REPLACEMENT PROPERTY.—For purposes of subsection (c)—

"(A) any qualified replacement property shall be treated in the same manner as if it were a portion of the interest in qualified real property which was involuntarily converted, except that with respect to such qualified replacement property the 15-year period under paragraph (1) of subsection (c) shall be extended by any period, beyond the 2-year period referred to in section 1033(a)(2)(B)(i), during which the qualified heir was allowed to replace the qualified real property,

"(B) any tax imposed by subsection (c) on the involuntary conversion shall be treated as a tax imposed on a partial disposition, and

"(C) paragraph (7) of subsection (c) shall be applied—

"(i) by not taking into account periods after the involuntary conversion and before the acquisition of the qualified replacement property, and

"(ii) by treating material participation with respect to the converted property as material participation with respect to the qualified replacement property.

"(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) INVOLUNTARY CONVERSION.—The term 'involuntary conversion' means a compulsory or involuntary conversion within the meaning of section 1033.

"(B) QUALIFIED REPLACEMENT PROPERTY.—The term 'qualified replacement property' means—

"(i) in the case of an involuntary conversion described in section 1033(a)(1), any real property into which the qualified real property is converted, or

"(ii) in the case of an involuntary conversion described in section 1033(a)(2), any real property purchased by the qualified heir during the period specified in section 1033(a)(2)(B) for purposes of replacing the qualified real property.

Such term only includes property which is to be used for the qualified use set forth in subparagraph (A) or (B) of subsection (b)(2) under which the qualified real property qualified under subsection (a).

"(4) CERTAIN RULES MADE APPLICABLE.—The rules of the last sentence of section 1033(a)(2)(A) shall apply for purposes of paragraph (2)(B).

"(5) ELECTION.—Any election under this subsection shall be made at such time and in such manner as the Secretary may by regulations prescribe.".

(b) ADJUSTMENT OF BASIS.—Section 1016 of such Code (relating to adjustments to basis) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) INCREASE IN BASIS IN THE CASE OF CERTAIN INVOLUNTARY CONVERSIONS.—

"(1) IN GENERAL.—If there is a compulsory or involuntary conversion (within the meaning of section 1033) of any property the basis of which is determined under section 1023 and an additional estate tax is imposed on such conversion under section 2032A(c), then the adjusted basis of such property shall be increased by an amount which bears the same ratio to such tax with respect to the conversion of that property as—

"(A) the net appreciation in value of such property, bears to

"(B) the excess of—

"(i) the value of such property for purposes of chapter 11 as determined with respect to the estate of the decedent without regard to section 2032A; over

"(ii) the value of such property for purposes of chapter 11 as determined with respect to the estate of the decedent with regard to section 2032A.

"(2) NET APPRECIATION IN VALUE.—For purposes of this subsection, the net appreciation in value of any property shall be determined in accordance with section 1023(f)(2) except that—

"(A) the adjusted basis taken into account shall be increased by any adjustment under section 1023,

"(B) the fair market value of such property shall be determined without regard to section 2032A, and

"(C) any net appreciation in value in excess of the amount determined under paragraph (1)(B) shall be disregarded.

"(3) TIME ADJUSTMENT MADE.—Any adjustment under paragraph (1) shall be deemed to have occurred immediately before the compulsory or involuntary conversion.".

(c) CONFORMING AMENDMENT.—Paragraph (1) of section 2032A(f) of such Code (relating to period of limitations) is amended by inserting "(or if later in the case of an involuntary conversion to which an election under subsection (h) applies, 3 years from the date the Secretary is notified of the replacement of the converted property or of an intention not to replace)" immediately before ", and".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to involuntary conversions after December 31, 1976.

The Clerk read the Senate amendments, as follows:

Mr. ULLMAN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the House amendments to Senate amendments Nos. 1 and 2.

The Clerk read House amendments to Senate amendments Nos. 1 and 2, as follows:

On the first page of the Senate engrossed amendments, strike out lines 2 through 4 and insert the following:

SEC. 3. TREATMENT OF GROUP LEGAL SERVICE PLAN CONTRIBUTIONS FOR PURPOSES OF UNEMPLOYMENT AND SOCIAL SECURITY TAXES.

(a) Section 3306(b) of the Internal Revenue

Page 2 of the Senate engrossed amendments, strike out lines 9 through 13 and insert the following:

(1) by striking out "or" at the end of paragraph (15);

(2) by striking out the period at the end of paragraph (16) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(17) any contribution, payment, or service pro-

* * * * *

(2) Concur in the Senate amendment numbered 2 with the following amendments:

Page 5 of the Senate engrossed amendments, strike out lines 2 through 7 and insert the following:

to such qualified replacement property—

"(i) the 15-year period under paragraph (1) of subsection (c) shall be extended by any period, beyond the 2-year period referred to in section 1033(a)(2)(B)(i), during which the qualified heir was allowed to replace the qualified real property, and

"(ii) the phaseout period under paragraph (3) of subsection (c) shall be appropriately adjusted to take into account the extension referred to in clause (i),

Page 6, line 21, of the Senate engrossed amendments, strike out "paragraph (2)(B)" and insert in lieu thereof "paragraph (3)(B)(ii)".

Mr. ULLMAN (during the reading). Mr. Speaker, I ask unanimous consent that the House amendments to Senate amendments numbered 1 and 2 be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Oregon?

Mr. CONABLE. Mr. Speaker, reserving the right to object, and I will not object, I want to say that I support H.R. 8811, as passed by the other body. H.R. 8811 comes back to us with the same original provision as passed the House plus two clarifying amendments to the tax law.

First, H.R. 8811 corrects an anomaly in the treatment of retirement plans of judges of the U.S. Tax Court. Present law permits a Tax Court judge to be covered either by the civil service retirement system or the Tax Court retirement system. Once a judge makes an election for coverage in the Tax Court system it is irrevocable. The situation exists whereby a judge, with other Federal service, was appointed to the Tax Court and elected to join its retirement system but failed to become eligible for benefits because of a shortened tenure. The result of this forced election is that an individual with considerable Federal service can be left without a pension. H.R. 8811 corrects this situation by permitting the revocation of elections to join the Tax Court retirement system.

The second provision of H.R. 8811 clarifies the tax treatment of qualified group legal services programs contained under the Tax Reform Act of 1976. The 1976 act recognized group legal services plans as qualified employee benefits, that is, their cost was deductible by the employer but the employee was not imputed with income. The amendment of the other body specifies that amounts paid for group legal service plans are not wages for purposes of FICA or FUTA taxes. This treatment is consistent with other employee benefit plans.

Finally, the other body clarified the treatment of involuntary conversion of real property to which the special use valuation provisions of the Federal tax apply. Special use valuation permits farm land to be appraised at its farming value for estate tax, instead of at some higher value which other commercial use might produce. Tre estate tax law recaptures the benefit conferred by the special use valuation if the farm is disposed of within 15 years. Situations can occur whereby the special use valuation property is involuntarily converted, such as by condemnation, and the recapture applies even though the proceeds received, because of the conversion, are reinvested in farming property.

The amendment of the other body specifies that where the proceeds of the involuntary conversion are reinvested in farm property then the estate tax recapture would not be applied. This is consistent with the overall treatment of involuntary conversions contained elsewhere in the Internal Revenue Code.

Mr. Speaker, H.R. 8811 is a bill which will correct an unusual situation in the retirement coverage of U.S. Tax Court judges as well as codify two common sense interpretations of the Tax Reform Act of 1976. I urge support for H.R. 8811.

Mr. ULLMAN. Mr. Speaker, if the gentleman will yield, H.R. 8811, as passed by the House, allows an individual who has filed an election to receive retired pay as a U.S. Tax Court judge to revoke that election at any time before retired pay would begin to accrue. As a result, the individual can then seek to qualify for benefits under the civil service retirement system, but not under both systems.

The Senate added two other provisions to H.R. 8811.

The first Senate amendment conforms the treatment of employer contributions to a qualified legal services plan for payroll tax purposes with the treatment of such contributions for income tax purposes. Under the Tax Reform Act of 1976, amounts contributed by an employer to a qualified group legal services plan for employees are excluded from an employee's gross income. However, since the 1976 act did not expressly exclude these amounts from the definition of "wages" which are subject to payroll taxes under the Federal Insurance Contributions Act (FICA) and the Federal Unemployment Tax Act (FUTA), a question has arisen whether the excludable amounts are subject to FICA and FUTA payroll taxes. The Senate amendment provides that any contribution, payment, or service which is excludable from an employee's gross income under the qualified group legal services plan provisions also is to be excluded from wages for FICA and FUTA payroll tax purposes. The House amendments make amendments of a technical nature to this Senate-added provision.

The second Senate amendment corrects an inequity which results under present law if certain property specially valued for Federal estate tax purposes is later involuntarily converted.

Under present law, real property used as a farm for farming purposes or in a closely held trade or business may be valued for Federal estate tax purposes by reference to its actual use, rather than at its fair market value determined on the basis of highest and best use.

To assure that such special use valuation property continues to be used for farming or for other closely held business uses, a recapture rule is provided. In general, this rule results in recapture of the estate tax benefit of the special valuation if the heir disposes of the property or changes its use within 15 years of the death of the decedent.

Under present law, this recapture rule applies to special use valuation property which is involuntarily converted, such as by condemnation, even if the proceeds of the conversion are reinvested in property used for the same special use.

The Senate amendment provides that if an involuntary conversion of qualified real property takes place, no recapture of the estate tax benefit will occur if the property is replaced by other real property of at least equal value to be used for the same use. To the extent involuntarily converted property is not replaced, the recapture tax would be taken into account as a basis adjustment in determining gain or loss for income tax purposes in a manner similar to the adjustment made on account of estate taxes. The House amendments make amendments of a technical nature to this Senate-added provision.

Mr. Speaker, the two provisions added by the Senate to H.R. 8811 are meritorious. The first Senate amendment clarifies a provision of the 1976 Tax Reform Act with respect to payroll tax treatment of employer contributions to qualified legal services plans. The second Senate amendment corrects an inequity which, under present law, arises on condemnation or other involuntary conversion of certain farm or business property. I urge that the House concur in the Senate amendments to H.R. 8811 with the House amendments thereto.

Mr. CONABLE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the first request of the gentleman from Oregon?

There was no objection.

A motion to reconsider was laid on the table.

INTERNATIONAL TRADE COMMISSION APPROPRIATIONS, 1979

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 11005) to provide authorization of appropriations for the U.S. International Trade Commission for fiscal year 1979, with the Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 1, line 9, strike out "$12,813,000" and insert "$13,113,000".

Mr. ULLMAN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the House amendment to the Senate amendment.

The Clerk read the House amendment to the Senate amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert "$12,963,000".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

Mr. CONABLE. Mr. Speaker, reserving the right to object, I join the distinguished chairman of the Trade Subcommittee, Mr. VANIK, in his support of this legislation.

As the gentleman from Ohio has already explained, this authorization bill for the U.S. International Trade Commission originally passed the House in the amount of $12,813,000 which was some $300,000 less than the Commission requested. The committee made such a reduction in authorization as an incentive for the Commission to pursue operating economies. The Commission budget process lies outside OMB control.

The bill is before us now with an amendment from the other body authorizing the Commission the full $13,113,000 it originally requested. Because the amendment is not that far from the authorization in the bill passed by the House and in view of the fact that the Commission is sure to experience increased activity in the coming fiscal year in antidumping investigations and, most importantly, in assisting our negotiators at the Multilateral Trade Negotiations in Geneva, I urge the passage of this bill as amended by the Senate.

Mr. CONABLE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

A motion to reconsider was laid on the table.

PROHIBITING ISSUANCE OF REGULATIONS ON TAXATION OF FRINGE BENEFITS

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 12841) to prohibit the issuance of regulations on the taxation of fringe benefits, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, line 19, after "ALLOWANCES" insert "OR SUBSISTENCE ALLOWANCES NEGOTIATED IN ACCORDANCE WITH STATE LAW".

Page 2, line 23, after "allowance" insert "or a subsistence allowance negotiated in accordance with State law".

Page 2, line 24, strike out "and".

Page 2, after line 24, insert:

(2) such individual elects, on or before April 15, 1979, and in such manner and form as the Secretary of the Treasury may prescribe, to have this section apply to such allowance, and

Page 2, line 25, strike out "(2)" and insert "(3)".

Page 3, line 6, after "allowance" insert "or subsistence allowance negotiated in accordance with State law".

Mr. ULLMAN (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate amendments be dispensed with, and that they be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Oregon?

Mr. CONABLE. Mr. Speaker, reserving the right to object, there have been a number of requests from our colleagues about what happened to this bill. It has now come back as passed by the House, and it has been changed in a modest way.

Mr. SPEAKER, I rise in support of H.R. 12841, concerning the taxation of fringe benefits.

The bill, as passed by the House, only benefited subsistence allowances granted State troopers pursuant to a statute. The Senate extended the bill's provisions to include meal allowances granted State troopers as a result of negotiated settlements. Thus, as amended the bill provides uniform treatment for meal allowances granted State troopers.

In other respects, the bill as passed by both the House and the Senate is substantively the same.

I urge the immediate adoption of H.R. 12841 as amended.

Mr. FORSYTHE. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from New Jersey.

Mr. FORSYTHE. Mr. Speaker, I am very happy that the Ways and Means Committee has brought this bill back. I think the amendments, as I understand it, on the Senate side do not in an way affect the real concern of the basic legislation as passed by the House. I urge the House to adopt the amendments.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, do we have now a prospective bill, or just for years in the past?

Mr. CONABLE. This covers past years, as I understand it.

Mr. VOLKMER. Does it cover both? If I remember, when we passed it, it was only past years. Is that correct? That was all that was in it. Has the Senate taken care of the future also?

Mr. CONABLE. My understanding is that it would relieve situations that have sprung up in the past. As to the future, the law is frozen, but only for a certain period of time, and the House is going to have to legislate with respect to fringe benefits generally if people receiving this type of fringe benefits in the future are to be home free.

Mr. VOLKMER. At least we have this dealing with past tax years taken care of.

Mr. CONABLE. At least for the time being.

Mr. VOLKMER. I believe this concerns many of us, and the equity of it. I appreciate what the gentleman has done here, and I think he has taken care of it for the time being, a very serious problem.

Mr. CONABLE. I believe the gentleman understands also that there are a number of fringe benefit problems that need to be dealt with. The IRS has shown a tendency to try to expand the tax base by including fringe benefits within the area of compensation it says is subject to income tax. We have frozen that in this bill. There was a special provision relative to the State troopers that has been broadened by this bill, as amended, and it is my understanding now that the ball is back in Congress court with respect to fringe benefits and their tax status.

The IRS is not going to be able to extend their interpretation of the treatment of fringe benefits to the disadvantage of middle-class taxpayers. However, it is a limited freeze, and the time will come when this House must consider how it wants to treat as a matter of tax policy all kinds of fringe benefits.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, I strongly support H.R. 12841, and I commend the Ways and Means Committee for bringing this before the House. I think the Senate amendments actually add to the bill.

I urge my colleagues to adopt this.

Mr. CONABLE. Mr. Speaker, I withdraw my reservation of objection.

Mr. ULLMAN. Mr. Speaker, H.R. 12841, as passed the House, prohibits the Treasury Department from issuing final regulations dealing with the taxation of employee fringe benefits before 1980. It also prohibits the Treasury from issuing any ruling or regulation prior to 1980, which would change the treatment of certain commuting expenses to temporary worksites. Also, the bill provides for the exclusion from income for certain subsistence allowances paid to State police officers between 1970 and 1978. Finally, the bill provides an income tax exclusion for meals furnished an employee for the convenience of the employer although the employer imposes a partial charge for the meal.

The Senate added two amendments to the provision concerning the exclusion for cash meal allowances for State troopers. As passed by the House, the exclusion would apply in certain cases where a State trooper received a cash meal allowance. To eliminate any possible adverse consequences upon retirement benefits when they are based on gross income, the Senate added an amendment to make the exclusion elective rather than mandatory. Thus, if a State trooper wishes to avoid any possible adverse effects on his retirement benefits, he or she simply would not claim the benefits of the exclusion for cash meal allowances.

In addition, the Senate added an amendment that would extend the exclusion to meals furnished to State police officers pursuant to a negotiated agreement under State law, as well as to allowances specifically provided for in the State statutes. As I understand it, the

amendment relates to the procedure used in Montana to provide subsistence allowances to State highway patrolmen. In general, these allowances are negotiated pursuant to State law. Further State action on the negotiated allowances would arise in the appropriations process. The amendment would treat these allowances the same as those which had been provided by statute in other States.

These amendments are noncontroversial.

Mr. Speaker, I urge the House to concur in the Senate amendments and approve H.R. 12841, as amended, so that the bill may be sent to the President without further congressional action.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

A motion to reconsider was laid on the table.

H.R. 12050, PROVIDING FEDERAL INCOME TAX CREDIT FOR TUITION

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 12050) to amend the Internal Revenue Code of 1954 to provide a Federal income tax credit for tuition, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon? The Chair hears none, and appoints the following conferees: Messrs. ULLMAN, BURKE of Massachusetts, ROSTENKOWSKI, VANIK, BURLESON of Texas, CONABLE, and DUNCAN of Tennessee.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the various measures just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

CONFERENCE REPORT ON S. 1678 FEDERAL PESTICIDE ACT OF 1978

Mr. FOLEY. Mr. Speaker, I call up the conference report on the Senate bill (S. 1678) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 12, 1978.)

Mr. FOLEY (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. FOLEY. Mr. Speaker, I yield myself such time as I may consume, and I rise in support of the conference report on the bill S. 1678, the Federal Insecticide, Fungicide, and Rodenticide Act of 1978.

Mr. Speaker, I rise in support of the conference report on the bill S. 1678, the Federal Pesticide Act of 1978.

I am pleased to bring you a report which is the culmination of efforts that began almost a year and a half ago with hearings before the House Committee on Agriculture and comparable hearings in the Senate at which time the attention of both Committees was called by scores of witnesses to the need for significant changes in the Federal Insecticide, Fungicide, and Rodenticide Act.

The conference substitute meets these concerns by extending and amending the act to improve the operation of the Federal pesticide program by giving States significant new powers in pesticide regulation and simplifying procedures which have bogged down the administration of the program since the major changes made by the 1972 amendments to the act. It also helps assure agricultural producers the continued availability of herbicides and pesticides needed for maintaining our productive capacity in the United States.

The Senate bill passed June 29, 1977, and the House bill passed the House on October 31, 1977. The conference committee began meeting early this year to resolve a number of difficult issues. With good will and perseverance by the House and Senate conferees on both sides of the aisle, we were able to fashion a conference substitute which provides a major and significant overhaul of existing law. The conference substitute maintains the basic intent of the House bill. It meets concerns expressed in that bill so as to satisfy many divergent interests in pesticide regulation—the farm community, public concern for the environment, the need for cooperative assistance of the States in administration of the act and many others interested in sound pest control legislation, such as the pesticide manufacturers both large and small, pesticide applicator firms, and food processors.

The conference report was signed by all House conferees. It has, as I am sure the gentleman from Virginia the ranking member of the committee (Mr. WAMPLER), will agree, the full support of the minority in its adoption.

I wish to commend my colleague in the Senate, Senator TALMADGE, who headed the Senate conferees, for his usual wise and fair counsel. I also wish to thank Mr. DE LA GARZA, chairman of the Department Investigations, Oversight, and Research Subcommittee; Mr. WAMPLER, the ranking minority member; and Mr. THONE, the ranking minority member of the subcommittee; Mr. FITHIAN of Indiana, Mr. HIGHTOWER of Texas and many others in our committee for their contributions to the resolution of the differences.

EXTENSION OF AUTHORIZATION

The conference report, first, extends the authorization for the pesticide programs operated by the Environmental Protection Agency through September 30, 1979. It authorizes appropriations of $54.5 million in the current fiscal year and up to $70 million for the year beginning October 1, 1978.

STATE AUTHORITY

First. One of the most significant factors in the conference substitute is the enhanced authority of the States over the program. The conference substitute expands and revises the conditions under which a State can approve additional uses of a federally registered pesticide for use in a State to meet special local needs if registration for such use has not previously been denied or cancelled by EPA.

The conference substitute provides that a registration issued by a State will not be effective for more than 90 days if disapproved by the Administrator within that period. Prior to disapproval the Administrator must advise the State of the Administrator's intention to disapprove and the reasons therefor, and provide the State time to respond. The Administrator may not, however, prohibit or disapprove a registration issued by a State on the basis of lack of essentiality of a pesticide, or if its composition and use patterns are similar to those of a federally registered pesticide.

In no instance may a State issue a registration for a food or feed use unless there exists a tolerance or exemption under the Federal Food, Drug, and Cosmetic Act that permits the residues of the pesticide on the food or feed. If the Administrator determines that a registration issued by a State is inconsistent with the Federal Food, Drug, and Cosmetic Act, or the use of a pesticide under a registration issued by a State constitutes an imminent hazard, he may immediately disapprove the registration.

If the Administrator finds in accordance with standards set forth in regulations issued under section 25 of FIFRA that a State is not capable of exercising adequate controls to assure that such registration will be in accord with the purposes of FIFRA or has failed to exercise adequate controls, the Administrator may suspend the authority of the State to register pesticides until such time as the Administrator is satisfied that the State can and will exercise adequate controls. Prior to any such suspension, the Administrator must advise the State of the Administrator's intention, of conducting applicator training and certification programs. If funds sufficient to pay 50 percent of the costs for any year are not appropriated, the share of each State and Indian tribe will be reduced in a like proportion in allocating available funds.

The minor use issue has been a major source of controversy surrounding FIFRA since the act was amended in 1972. The basic problem concerns high value crops requiring very small amounts of pesticides.

A typical example of this problem is found in forest tree nurseries. In the 13 southern States there are only about 1,300 acres of forest nurseries with an annual crop valued at $13 million. It costs only about $75 per acre per year to control the weeds with pesticides in these nurseries. Without pesticides the cost can go as high as $700 per acre.

Pesticide registrants are reluctant to register products for control of a pest problem when only a small amount of the product is needed. The small profit realized by the manufacturer is not worth the expense and effort involved in meeting the requirement of registration.

However, the amendments to FIFRA that are being considered here today will provide the flexibility necessary to resolve this very critical problem. I, along with every member of the committee, am sure that with these new amendments the minor uses problem will be resolved in a way that is safe to both man and the environment.

Second. The conference substitute also gives States important new enforcement authority. Those States that have entered into cooperative enforcement agreements with the Administrator would have primary enforcement responsibility under the act. In addition, with respect to other States, there would be a rapid evaluation, to be completed no later than 6 months after the date of enactment of the conference substitute, of State applicator certification and training plans approved by the Administrator under section 4 of FIFRA. Those States that are determined to have section 4 plans adequate for enforcement purposes would also have primary enforcement responsibility for pesticide use violations.

Under the conference substitute, if the State does not correct an enforcement deficiency in 90 days, the Administrator may rescind, in whole or in part, the State's primary enforcement responsibility. Further, neither new section 26 nor 27 of FIFRA limits the authority of the Administrator to enforce FIFRA, when he determines that emergency conditions exist that require immediate action on the part of the Administrator and the State authority is unwilling or unable adequately to respond to the emergency.

Third. The conference substitute assists States in another important regard. It provides that, effective with the fiscal year beginning October 1, 1978, there are authorized to be appropriated annually such funds as may be necessary for the Administrator to provide through cooperative agreements an amount equal to 50 percent of the anticipated cost to each State and Indian tribe, as agreed to under such cooperative agreement, of conducting applicator training and certification programs. If funds sufficient to pay 50 percent of the costs for any year are not appropriated, the share of each State and Indian tribe will be reduced in a like proportion in allocating available funds.

REGISTRATION AND REREGISTRATION

First. Provisions have been included in the conference report to simplify procedural problems which have stalled the registration process and the reregistration of some 40,000 pesticides by EPA. The conference substitute adopts the basic provisions of the Senate and House bills which authorize conditional registration of pesticides in certain situations even though some of the data required to complete registration or reregistration have not yet been generated or reviewed by EPA for validity or sufficiency. Safeguards are included to protect the public interest. This authority would be exercised on a case-by-case basis and would apply to situations to enable a pesticide to be conditionally registered for a period sufficient to obtain the data required by EPA.

Second. In addition, provisions of the House bill have been continued to allow EPA to classify any currently registered pesticide without waiting for completion of the drawn out process of reregistration. This will facilitate implementation of requirements of existing law which limit the use of restricted pesticides to certified applicators.

Third. The conference substitute also includes provisions for settling a long-standing controversy over compensation for manufacturers whose test data—after submission to EPA to back up registration requests—are used by other firms as part of their later registration applications.

The conference substitute provides that—

First, all test data submitted after December 31, 1969, will be compensable for a period of 15 years from the date the data are submitted;

Second, in the case of pesticides registered after the date of enactment of this provision, there will be a period of exclusive use for data submitted in support of the registration of a product containing a new active ingredient running for 10 years from the date the product is registered, except that there will be no exclusive use for defensive data; and

Third, there will be a period of exclusive use for data submitted in support of the new use registration of a product equal to the time exclusivity remaining under any 10-year exclusive use period of the product.

When data supporting the registration of a pesticide first registered after the date of enactment of the conference substitute that are given exclusive use protection are used within the 10-year period of exclusive use to support the registration of a different product, such data shall continue to have exclusive use protection for the balance of the 10-year period. If such data are used to support the registration of a different product after the expiration of the 10-year period of exclusive use, such data shall not be eligible for any additional period of exclusive use.

It is my judgment that by reaching a decision to allow a period of exclusive use and an additional period of compensatory use for this test data, we will, hopefully, have resolved a very bitter and long-standing controversy between the manufacturing corporations and those who formulate pesticides. It was a particularly difficult and complex issue and a subject of great controversy also in the deliberations of the Agriculture Committee and Committee of Conference.

It is in the interest, I believe, of the agricultural community and of the American consumers everywhere that we have safe and effective pesticides and herbicides and that there be a flow of new research to provide for new basic ingredients and new formulations of those ingredients.

Mr. Speaker, I believe that this section is one of the most critical in the bill, and I believe that all who had a part in attempting to resolve it can be proud.

Fourth, the conference substitute adopts a basic provision of the House bill with respect to trade secrets of pesticide manufacturers to clarify the information that would be available for disclosure to the public. Health and safety data submitted by manufacturers to the EPA will be available to the public. Any data authorized for release to the public if used to support another person's registration would be subject to the exclusive use and compensation requirements of the act.

The conference substitute places limits on disclosure of information to foreign and multinational pesticide producers as contained in the House bill with an important modification. The Administrator would be authorized to disclose information in connection with a public proceeding conducted under the act which information is relevant to a determination as to whether a pesticide or any ingredient therein causes unreasonable adverse effects on health or the environment. These, of course, would be subject to restrictions on the availability of information provided elsewhere in FIFRA.

Fifth, the conference substitute also adopts the House amendment relating to the interim administrative review process familiarly called RPAR (Rebuttable Presumption Against Registration). Under the conference substitute it is provided that the interim review process must be based on a validated test or other significant evidence raising prudent concerns of unreasonable adverse risk to man or the environment and that notice of the definitions of such test and significant evidence will be published by the Administrator in the Federal Register.

To avoid the time-consuming RPAR process, the Administrator is directed to establish suitable scientific protocols for the development of human exposure data; to work cooperatively with the registrants in the assembling and collection of such data; and then to evaluate and weigh such data prior to initiating an RPAR process. If humans or their environment are not at risk or the potential for exposure is minimal, the Administrator is directed to forego the RPAR process and proceed with the reregistration of the pesticide product.

COMMERCIAL APPLICATORS

Special provisions are included in the conference substitute relating to commercial applicators specifically regarding penalties that may be imposed for violation of the act by such persons and conditions imposed as a prerequisite for inspection of books and records and the establishments of such persons.

First. If there is a violation of FIFRA by a commercial applicator who holds or applies an unregistered pesticide, or a use diluation of any such pesticide, such person would be considered a distributor of pesticides and would be subject to the higher civil and criminal penalties set forth in section 14 of FIFRA (that is a civil penalty of not more than $5,000 for each offense and a criminal penalty of not more than a $25,000 fine and one year imprisonment). Likewise, commercial applicators who violate FIFRA while using pesticides registered for restricted use would be subject to the same higher penalties.

On the other hand, any such person who violates the act while holding or applying a pesticide registered for general use, or a use dilution of a pesticide registered for general use, would be subject to the lower penalties as set forth in sections 14(a)(2) of FIFRA. These civil penalties are amended to permit a penalty of up to $500 for the first offense and up to $1,000 for each subsequent offense. Under current law initial violations may result in a warning but not a money penalty. The criminal penalty cannot exceed $1,000 fin and 30 days imprisonment.

Second. Under the conference substitute the Administrator does not have authority to inspect the books and records, and enter the establishments of commercial applicators without a warrant except when the Administrator, rather than the State, has primary enforcement authority with respect to the pesticide use provisions of FIFRA. In such event, however, the Administrator may inspect the books and records and the establishment of commercial applicators regardless of whether the pesticide is unregistered or registered for general use or restricted use. Before undertaking any such inspection, the owner of the establishment must be presented with appropriate credentials of the person making the inspection and a written statement of the reason for the inspection, including a statement as to whether a violation of law is suspected.

MISCELLANEOUS

I have discussed some of the more important issues that are contained in the report. There are a number of others that are likewise important and which largely comport with provisions of the bill previously adopted by the House. These include provisions relating to use of a registered pesticide in a manner inconsistent with its labeling, the use of a pesticide at a stronger concentration than that specified on the label, requirement for a study of pesticide application methods, arbitration procedures to resolve disputes on data requirements, waiver of data requirements pertaining to efficacy, changes in classification from restricted use to general use, changes in effective dates for certain required actions, conditions imposed on pesticides and devices intended for export to allow foreign countries to be better informed concerning pesticides received from the United States, and provisions relating to experimental use permits and pesticide research.

Reference to these many items reflects the comprehensive nature of the conference report. It is the result of many months of serious effort. I am convinced the report will do much to enhance the workability and acceptability of the Federal pesticide program. I urge the Members to join me in voting for this much needed measure.

I will, of course, stand ready to explain to any Member of the House any questions which that Member might have with respect to the bill.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Speaker, I thank the distinguished chairman for yielding.

I notice on page 43 of the conference report, under the heading "Congressional veto of regulations," it appears that the House-passed amendment providing for a congressional veto of the regulations under FIFRA was deleted in the conference.

For the benefit of the House, I wonder whether the chairman would review the proceedings by which that decision was arrived at. As I understand it, there was some back-and-forth discussion on that question.

Mr. FOLEY. As the gentleman knows, this was a very difficult part of the conference committee's work. I personally believe that the decision to drop the House review or veto power of regulations would not have occurred except for some extraordinary situations which relate to the FIFRA law, which are, in my judgment, unique, in the regulatory process.

Under FIFRA, 60 days advance notice of proposed regulations and 30 days advance notice of the final form of regulations is required to be made to the congressional Agriculture Committees as well as to the Secretary of Agriculture and an independent scientific advisory panel. Both the Secretary and the scientific advisory panel have an opportunity to express any concerns to EPA, the Committee on Agriculture and the public and publish their comments in the Federal Register before the regulations became final. A similar advance notice of proposed cancellation of registration is required under the act.

The Agriculture Committees, thus, have an opportunity to make their comments known to EPA before regulations are final.

Thus, we have established in advance of the publication of regulations a more elaborate procedure to insure careful review by Congress and the public than is required under the traditional legislative veto that the gentleman from Georgia (Mr. LEVITAS) has been so active in proposing.

If a congressional veto provision were added to FIFRA, final action on regulations would be delayed for an additional 90 days resulting in a total delay in excess of a half year prior to the issuance of any new regulations under the act.

Any such added delay would be adverse to the interest of the farm community, the States and others who benefit from provisions of the conference substitute which simplify the stringent requirements of the act in a commonsense manner, delegate authority to the States and resolve the major controversies that have beset the pesticide program for many years.

There is an additional consideration for our actions. Congress has imposed what is in effect a 1-year sunset provision on the act. Each year EPA is required to seek an extension and justify activities it has taken during the intervening period. Any problems that arise during the year can be dealt with effectively through this oversight process. Witness, for example, the conference report now before the Members. To be frank about it, in addressing some of the complexities of this particular bill, we ran into the problem that we were not completed with the legislation until the 1-year authorization had expired, and we had to accept the Senate 2-year authorization in order to avoid an immediate review of the legislation. For those two reasons, one, because the act contains highly elaborate prospective review provisions before any action can be adopted, and, secondly, because this committee has followed the practice of keeping the program under such short authorization so that the entire program is subject to frequent review, we felt that the specific regulation review by both Houses of Congress would be not necessary and not as justified in this instance as I know the gentleman feels it is in most other programs.

I would like to say one other thing with respect to this bill. It is hoped by this bill that we will be able to make this program a little more balanced in the direction of providing those necessary chemicals and herbicides, of course, with an eye on the safety of the environment needed for the production of the food and fiber that this

country will need in the future. Those who have worked on this bill on both sides of the aisle have committed themselves to try and remove what they feel were inhibitions and problems in the administration of this program and develop a more agriculturally oriented program than has been operated in the past.

Some things, like conditional registration and added State authority involve, in our view, extremely important new directions for this program. I feel those new directions are not only in the interest of American agriculture but in the interest of American consumers. To have the most complicated preregulation process of any in the Federal Government, followed by postfinal regulation review and a very short authorization period, might make the program extremely difficult to administer. I hope that the work that has been done by the Committee on Agriculture and others here today, who have contributed much to the process by which a very fine conference report has been returned to the House—that all that effort will not come to grief over this issue. I feel that if there is any program which has full congressional review of the regulatory process, it is the Federal Insecticide, Fungicide and Rodenticide Act.

Mr. WAMPLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this conference report, and I urge my colleagues to vote in favor of its adoption.

Some of you may have wondered what happened to the FIFRA legislation since the House passed its bill last October 31, 1977. For one thing, we were unable to get to conference with the Senate on this measure before adjournment in the first session. Next, the committee's legislative schedule to meet the May 15 deadline imposed by the Budget Act hampered our efforts to conclude a conference with the Senate on this bill. Third, and finally, the differences that had to be reconciled between the House and Senate versions of the 1978 amendments to FIFRA were numerous and substantial.

That we are able to present to the Members the conference report which we are now considering is in no small part due to the efforts of the gentleman from Washington (Mr. FOLEY), the chairman of the subcommittee, the gentleman from Texas (Mr. DE LA GARZA) and other conferees. I particularly wish to commend the minority members of the conference, Messrs. THONE, GRASSLEY, MARLENEE, and Mrs. HECKLER, who have made major contributions to this legislation.

Mr. Speaker, the gentleman from Nebraska (Mr. THONE) made a major contribution in guiding this legislation through the subcommittee and the full committee, and he can take a large measure of satisfaction that much of the House bill is incorporated in the conference report.

I should mention to you at this point that if you page through the joint explanatory statement in the conference report, you see a preponderance of the differences resolved with the words;

The conference substitute adopts the House provision.

This conference report which the House conferees bring you contains much more of the House bill than the Senate version.

What were the big differences to be resolved? They included; improved compensation for data provisions; conditional registrations so as to cut down on application time; enlarged State registration and enforcement authority; the reform of EPA's rebuttable presumption against registration process; and many other provisions which we believe improve FIFRA.

Whether or not the 1978 amendments to FIFRA actually improve on the operations of EPA—give better and broader choices on pesticides to farmers and other pesticide and chemical users, balance a need to conduct more research with a need to protect company trade secrets, protect the general health and environment of our citizens—will have to await actions by EPA officials, pesticide producers, State agencies, and others.

In the meantime, I believe all these constituencies will be best served if our committee continues to give considerable oversight to the manner in which FIFRA, as now amended, impacts on the country as a whole. I favor, therefore, a process whereby we have annual authorizations for the pesticide and FIFRA-related programs of the Environmental Protection Agency.

There are presently scheduled hearings on nitrites before the Committee on Agriculture and a hearing scheduled on a bill I introduced, H.R. 13543, which directs the Administrator of EPA to request the National Academy of Science to conduct a study concerning the standardization of certain tests for determining potential carcinogenicity. I offered this legislation because of the differing approaches of Federal agencies in dealing with possible or potential cancer-causing substances.

I must confess that the response to this bill has been very positive. There is interest in the bill in Government agencies, consumer groups, and a host of others. I firmly believe it will be a help to farmers and producers of farm products. However, the interest in it and the increased shift in EPA of pesticides from general to restricted use or outright cancellation illustrates that EPA is one of those agencies we must study so as to give to the general public—which must be perplexed and puzzled by the different Federal agency conclusions and judgments reached using different scientific data, different legislative standards for banning products on the market, et cetera—some assurance that a better and more uniform Federal agency policy will be adopted with regard to this very serious problem.

Turning to the very controversial provisions of this conference report, which I have stated have been largely resolved in favor of the House position, I will not try to review them all but cite some—not all—of the more important ones.

Perhaps the most controversial provisions had to do with section 3(c)(1)(D)—relating to exclusive use and data compensation—and section 10—relating to protection of trade secrets. The conference substitute provides for data compensation for data submitted to EPA after December 31, 1969, for a period of 15 years after original submission.

Registration of products under FIFRA after enactment of this act will have an exclusive use period of 10 years, except for defensive data. In addition, support data, if later used for new registrations, will continue to be subject to exclusive use rights for any time remaining under the 10-year period.

In addition to the above compromise, the trade secret amendments to section 10 follow the House provisions, including the procedures for EPA disclosure of information necessary to protect against unreasonable risk of injury to health or the environment. A binding arbitration provision on data compensation—where the parties cannot reach agreement—helps to round out what appears to be a compromise acceptable to EPA, the pesticide industry, formulators, and farm organizations. Farmers will hopefully be the greatest beneficiaries, because I believe this bill will give the impetus to the research necessary to assure new and improved pesticides in the future.

State enforcement and registration authority is strengthened in the language of the conference report over that which appears in existing law. It largely follows the language of the House bill. I strongly favor this expansion of State authority.

State agencies have proved to be quite effective in dealing with matters relating to pesticides and other chemicals. In many circumstances, States have taken initiatives that the EPA could well emulate. I favor getting as much authority as we reasonably can to those local government entities—in this case the State—that are closest to the problems.

Another important House provision retained in the conference report directs EPA in its regulations and administration of its programs to differentiate between agricultural and nonagricultural products. I am aware that EPA claims they treat these products differently now, but those who wish to register products argue that that is not the case. I trust this amendment will settle the issue.

Authority for simplified registration provided in the House version is retained in the conference report. Currently, the reregistration of pesticides directed to be undertaken in 1975 by Congress is barely underway. This authority given EPA will enable it to more decisively get the reregistration task underway and on a schedule for completion in a reasonable time period.

The amendment to FIFRA which reforms EPA's interim administrative review process—to develop a risk-benefit evaluation of the ingredients of a pesticide or any of its uses—a rebuttable presumption against registration—RPAR—

prior to EPA initiating a formal action to cancel, suspend, or deny registration of such pesticide—should be a great improvement in how EPA goes about the business of shortcutting the more formal and lengthy cancellation process.

The conference report adopts the House position, with some refinements, which provides that the RPAR process must be based on a "validated test raising prudent concerns of unreasonable adverse risk to man or to the environment." EPA representatives in the conference gave assurances that it could abide by this new standard.

However, the conferees were careful, in my view, to insist that language appear in the joint explanatory statement such that I trust EPA will not attempt to use some new process—such as generic registration—that would undo what Congress has made clear it does not want used in any EPA process to clear up its dockets by unduly impinging on the rights or interests of registrants.

I might also say, Mr. Speaker, that the conference report also adopted the House amendments to FIFRA relating to the scientific advisory panel. In my opinion, EPA has not been fully utilizing this panel. If EPA can provide this panel with some personnel assistance and then utilize it to provide more scientific analyses and advice, I believe that better decisions will be made at EPA.

Mr. Speaker, there are other provisions in the conference report relating to definitions of commercial applicators which give some commonsense leeway to farmers in purchasing their own pesticides for use by commercially certified applicators, and it contains exceptions relating to the use of lower solution pesticides until a study can be used to measure any adverse effects they may have, and other amendments that may improve FIFRA programs for farmers.

Also, Mr. Speaker, the conference report adopts a House provision requiring the administrator of EPA in coordination with the Secretary of Agriculture to establish and maintain a list of pests in order of priority that need to be brought under control to insure improved agricultural production. It appears that such a requirement will aid farmers and Federal agencies in any initiative taken under an integrated pest management program, as well as aiding in the cost benefit evaluations in programs undertaken by EPA, particularly in the use of pesticides.

This latter provision dovetails with another House amendment adopted that requires the EPA Administrator to coordinate research under FIFRA with that undertaken by the Department of Agriculture.

Mr. Speaker, I believe that the conference report presented to us today will provide genuine reform in the field for FIFRA programs; however, it depends to a great extent on the willingness of EPA officials, farm representatives, environmental organizations, and others, to work toward that goal.

Meanwhile, Mr. Speaker, if we in the Congress have misjudged the effect that a particular provision in the 1978 act will have on the effectiveness of FIFRA programs, I urge all those affected to advise us of that fact, so that changes can be made in the law; however, I would urge them only to do so after first trying to work to make this legislation a successful reform measure.

Mr. THONE. Mr. Speaker, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from Nebraska.

Mr. THONE. Mr. Speaker, in lieu of any brilliance or profundity here, I am going to confine myself to strict brevity; but I did want to make a couple points.

No. 1, at the full committee level and in conference, this House owes considerably to the chairman of the Committee on Agriculture, the gentleman from Washington (Mr. FOLEY), who skillfully handled the conference with the Senate.

Also, I would like to acknowledge the work of the ranking Republican member, the gentleman from Virginia (Mr. WAMPLER), who also at that stage made a major contribution.

At the subcommittee level, I would like to acknowledge the fine work of our colleague, the gentleman from Texas (Mr. DE LA GARZA).

I would like to make one other brief acknowledgement before I sit down; that is, for the work done by the gentleman from Indiana (Mr. FLOYD FITHIAN). The gentleman from Indiana and I really did work the art of the possible in the highly complex stages of this bill that were alluded to by the chairman of the committee, the gentleman from Washington (Mr. FOLEY).

Lastly, let me say this. I think probably the most important provision in this bill, I would say to the gentleman from Virginia, is that sunset provision.

I think that this particular agency, the Environmental Protection Agency, and especially in the administration of this law, needs to be held on a tight rein.

Mr. Speaker, I rise in support of the adoption of the conference report on S. 1678, amendments to the Federal Insecticide, Fungicide, and Rodenticide Act.

This conference report represents the work of many individuals who have hammered out this compromise. This legislation has been under consideration by the House and Senate for nearly 18 months. The plain facts are that it is indeed a compromise and no one segment is entirely happy with all aspects of this legislation. Many individual citizens, representatives of farm organizations, chemical manufacturers, pesticide formulators, pest control operators, and officials of EPA and State environmental agencies among others have provided advice and guidance as solutions have been sought to bring some semblance of order out of a very complex, chaotic situation.

In 1972, major amendments to the pesticide law, originally enacted in 1947, were enacted but we have continually faced problems in pesticide registration. In 1975, additional amendments were adopted but still the problem persists. In response to this situation, this legislation was introduced and today we can say that this compromise assures the availability of pesticides for agriculture while at the same time providing needed safeguards against unreasonable adverse effects on human health and the environment.

Many folks have recommended that we do away with the Environmental Protection Agency, expressing the feeling that the Agency is the cause of all the problems being experienced in this area. This feeling stems from the frustrations experienced by the public and Congress in the implementation of the pesticide law. Pesticides have not been made available to farmers and many pesticide formulators have had difficulty remaining in business. No one, to my knowledge, has seriously entertained support for this approach but I do feel, as do others, that this legislation as offered here today does provide the wherewithal for all concerned to get on with the business at hand of registering and classifying pesticides. The tools are here and I say that we should all work together to reach the goal that has so far eluded us for the past 6 to 8 years. Douglas Costle, the Administrator of EPA has pledged his cooperation and I feel we should give him the opportunity to prove that EPA can indeed make this legislation work as envisioned by so many.

This legislation gives more authority to the individual States, provides for new procedures to register pesticides, provides for greater effort so that we can have safer and more effective chemicals and also provides for research on biologically integrated alternatives for pest control. The authorization for the implementation of pesticide programs extends through September 30, 1979, so it will be necessary to review the effects of this legislation sometime next year in order to decide whether further amendments are needed or whether a simple extension of the present law will suffice. Under these circumstance, I recommend that this legislation be adopted so that EPA can get on with the implementation of these amendments.

Mr. WAMPLER. Mr. Speaker, I thank the gentleman from Nebraska for his contribution and for his invaluable service as a member of the Committee on Agriculture and also as a member of the conference committee.

Mr. Speaker, I now yield such time as she may consume to the distinguished gentlewoman from Nebraska (Mrs. SMITH).

Mrs. SMITH of Nebraska. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the conference report on the Federal Pesticide Act of 1978, the bill which amends the Federal Insecticide, Fungicide and Rodenticide Act.

I commend all of those who have had a hand—especially my colleague from Nebraska, the Honorable CHARLEY THONE—in resolving the differences between the Senate and House versions of this complex bill.

Admittedly, this is a compromise on which there has been considerable give and take. It should be noted, however, that the compromise has produced many

improvements over the chaotic situation we have now in the certification, registration and regulation of the chemicals our farmers and ranchers need to control weeds and pests.

I refer particularly to the provisions which strengthen the role of the States, such as the primary enforcement responsibility and the authority to issue regulations to meet special local needs. These changes will bring the States into closer partnership with the Environmental Protection Agency in administering this regulatory program. This is good. It can only help bring some sunlight and direction into the murky area of Federal regulation where untold problems abound. The input of the States will be of tremendous value in expediting the solution of these problems which have such an impact on the agricultural economy.

Other changes in the law will institute simplified registration procedures, including a provision for "conditional" registration under certain conditions. These amendments are designed to further accelerate the availability of chemicals so that they can be used while time-consuming paperwork is in progress without jeopardizing protection for man and the environment.

It must be emphasized that this legislation primarily extends the authority for pesticide programs operated by EPA through September 30, 1979. It may be that more examination and refinement of the programs is needed. If so, we have this extension of time in which to conduct further hearings and to recommend additional changes.

Nebraska is one of the States which suffered from a grasshopper infestation this year. Our farmers and ranchers encountered difficulties getting the chemicals they needed. They ran into redtape and delays. Before the grasshoppers descend upon us again, EPA, with the help of the States, and the new procedures, may be in a better position to come to the aid of the people these programs are designed to benefit.

It is important that we adopt the conference report and put these changes on the books. I respectfully urge my colleagues to join in voting for passage of the report.

Mr. WAMPLER. Mr. Speaker, I thank the gentlewoman from Nebraska (Mrs. SMITH).

Mr. Speaker, I now yield such time as he may consume to the distinguished gentleman from Iowa (Mr. GRASSLEY), who serves on the Committee on Agriculture and also served as a member of the conference committee.

Mr. GRASSLEY. Mr. Speaker, I rise in support of the conference report on S. 1687, the Federal Pesticide Act of 1978.

While I am not sure that we have gone far enough in removing the many obstacles which have been in the path of the production of pesticides, I am pleased that we have proceeded this far with amendments to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Time will tell if those responsible for administering these amendments will do so in the spirit in which Congress has intended. For, what we need is increased research on pesticides to assure farmers of a continuing supply of pesticides which are a near necessity in today's modern farming practices.

There are a couple of points which I would like to address briefly. First, during subcommittee markup on this legislation, I offered an amendment to reform the process employed by the Environmental Protection Agency (EPA) in its public interim review procedure of a pesticide prior to cancellation of the registration—familiarly known as rebuttable presumption against registration procedure (RPAR). This procedure was supposedly designed to wave a red flag when there were positive indications that a pesticide could pose possible adverse effects on man and his environment. However, in some instances it had become a fishing expedition where someone, no matter how qualified, could make claims or allegations about the dangers of the pesticide that would result in the chemical being placed on the RPAR list. This type of procedure did not allow for a prudent assessment of the benefits of the chemical to be considered and in many cases it caused tremendous economic harm to a person who had devoted time and resources to developing the pesticide, because of the public's perception of the potential danger of the pesticide once it is placed on this suspect (RPAR) list. In short, my amendment in subcommittee was intended to correct this problem and give some balance to risks and benefits and require EPA to act prudently and reasonably when employing this procedure.

I am pleased that my colleagues agreed with me and kept the substance of my amendment as a part of this legislation in the conference report. The Senate companion bill did not contain a comparable provision and the House and Senate conference committee on this legislation adopted a modified version of my amendment. It now provides that the interim administrative review process must be based on a validated test or other significant evidence raising prudent concerns of unreasonable adverse risk to man or the environment and that notice of the definitions of such test and significant evidence will be published by the Administrator in the Federal Register. The Administrator is to insure that pesticides shall be subject to the RPAR process only on the basis of a validated test or other significant evidence—and not on the basis of unsubstantiated claims, that the term "validated tests" be defined as a test conducted and evaluated in a manner consistent with accepted scientific procedures, and that the term "other significant evidence" be defined as evidence that relates to the uses of a pesticide and their adverse risk to man or to the environment. It is the intent of the conferees that "other significant evidence" of adverse risk mean factually significant information and is not to include evidence based only on misuse of the pesticide.

During conference committee consideration on FIFRA, the late Senator James Allen was very helpful in the support of my amendment. Senator Allen offered report language for the committee's consideration which was accepted, dealing with the procedures which should be used when a product is under special review. In essence, the administrator of EPA is directed to notify in writing the registrant of a pesticide product under special review of the exact scope and nature of any alleged unreasonable adverse effects to human health or the environment, prior to initiating an RPAR process. Such notification will be by private communication and afford the registrant a reasonable opportunity to correct or clarify such claim or allegation through the submission of information or data related to the claimed risk associated with its pesticide product.

This in turn in many cases could obviate the need for an RPAR to issue. This notification process will furnish a greater degree of protection for the property rights of pesticide registrants and ameliorate the indictment-like characteristics of the RPAR process. It is because of such reasonable and commonsense legislative initiatives that Senator James Allen was admired and respected in the Congress.

To avoid the time-consuming RPAR process, the administrator is therefore directed to establish suitable scientific protocols for the development of human exposure data; to work cooperatively with the registrants in the assembling and collection of such data; and then to evaluate and weigh such data prior to initiating an RPAR process. If humans or their environment are not at risk or the potential for exposure is minimal, the administrator will necessarily forgo the RPAR process.

I feel that this is a great step forward and I trust that the administrator will strive to administer this section as dictated in the 1978 amendments to FIFRA.

Another issue which had been of some concern to me which I believe we have corrected so as to allow farmers to purchase pesticides—sometimes at discounts—at the end of one season and store them to be used the next and applied by a certified applicator. Previously, it had been illegal to sell a restricted-use pesticide to a person who was not a certified applicator and the conference report addresses this point and provides that it will no longer be unlawful. This will allow a farmer who is not a certified applicator to buy restricted-use pesticides and store them to be applied at a later date by a certified applicator without fear of running afoul of the law.

I am also pleased with the provisions of this legislation which gives more authority to the States. I feel the States are qualified and know the local situation far better than some bureaucrat in Washington and are just as qualified—or more so—to enforce and administer certain programs.

There are several other important provisions in this legislation which I feel are a step in the right direction in FIFRA program administration. The burden now lies with the administrator to see that the wishes of Congress are carried out.

Mr. WAMPLER. Mr. Speaker, I reserve the balance of my time.

Mr. FOLEY. Mr. Speaker, I yield such time as he may consume to the chairman of the subcommittee, the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Speaker, I join my colleagues in complimenting the chairman of the committee and the ranking minority member of the full committee. And on the subcommittee I cannot express adequate appreciation to the ranking minority member, the gentleman from Nebraska (Mr. THONE), as well as all the other Members who cooperated in this endeavor with special mention of my colleague from Texas (Mr. HIGHTOWER) who was of tremendous assistance to me during the markup of this bill.

Mr. Speaker, this legislation, as has been mentioned, is a very technical piece of legislation. The industry, the users, the formulators, and the distributors were, we might say, literally in complete disarray and disagreement. This agency that is involved was perhaps one of the most distrusted agencies throughout the country. If one mentioned EPA or FIFRA in the farming or ranching areas, they were probably right on top of the "least liked" list.

Mr. Speaker, we have done our part here in the Congress and hopefully in a few minutes, with the adoption of this conference report, considering all the different areas in which there was disagreement, we have done what we might call the "art of the possible," which is what legislation is. Good legislation, that is.

Everyone joined in this effort, everyone was giving and taking, and not everyone was entirely satisfied. But we are satisfied that this is the most we could do, this is the most beneficial, and this is the most equitable solution under the circumstances from the standpoint of the user, the manufacturer, and everyone in between.

What I would like to say now is that we have done our part, and with this new era of cooperation with the agency, I might add to me that this means salutary progress as a result of our efforts, because the agency is now listening to the Congress, is cooperating with us, and is in constant dialog with us.

So I think it would be a challenge to that agency that we now have formulated what we think is a workable piece of legislation.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. DE LE GARZA. I yield to the gentleman from Washington.

Mr. FOLEY. I thank the gentleman for yielding.

Mr. Speaker, I just want to take a moment to say that, in the Committee on Agriculture, an amendment to hold either an independent agency, such as EPA, or an agency within the Department of Agriculture to relatively short authorizations for the purpose of oversight is known as the de la Garza amendment. The gentleman from Texas (Mr. DE LA GARZA) has been in the forefront of those who feel it is the responsibility of the standing committees with authorization responsibility to exercise effective and continued oversight of complex and important programs under their jurisdiction. I want to pay tribute to his efforts in this regard, which are well understood and appreciated, I know, by members of the Committee on Agriculture. In a broader context, I think his efforts should be recognized by the entire House.

Mr. WAMPLER. Mr. Speaker, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Virginia.

Mr. WAMPLER. Mr. Speaker, I wish to associate myself with the remarks of the chairman of the Committee on Agriculture.

Mr. FOLEY. He is precisely accurate in this regard, because the gentleman from Texas (Mr. DE LA GARZA) has for many years in our committee strongly advocated annual authorization review of the programs over which our committee has jurisdiction, programs in the Department of Agriculture, in particular and those in the Environmental Protection Agency. I commend him for this effort, because I think it does permit our committee, in fact the entire Congress, to monitor the implementation programs which are designed to help American agriculture, to help the consumers, and I want the record to show that we on the minority side, particularly, appreciate his contribution.

Mr. DE LA GARZA. I appreciate the kind words of the gentleman, unmerited as they might be.

Finally, in conclusion, Mr. Speaker, I would like to say this: I am satisfied that Mr. Costle, the administrator of EPA, and all of the individuals concerned in that agency, have assured me that they have, or will try to take, the commonsense approach to the problems out in the field. So we hope that with this legislation, on which all of us have worked so hard and on which all of us have given some and on which all of us have now agreed upon, that they will continue that effort and promise of cooperation, that effort of using commonsense out in the field, so that all of us, the Congress and the executive, would finally prevail in doing what was intended by the initial concept of this law—that we provide safe insecticides, pesticides, and fungicides to the users, that we protect them and the crops which they produce, that we provide equity from the manufacturer and the formulator, that we protect the environment, and finally that we do all of these things in the concept of those two very simple words, "common sense."

So I would hope that my colleagues would support this conference and that we might move forward in this new era of cooperation between that agency and the Congress, and that we do so for the benefit of all concerned. I thank you Mr. Speaker.

Mr. FOLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Speaker, first, I would like to thank my good friend and colleague, the distinguished chairman, for yielding to me.

It had been my intention to urge the Members of the House to reject this conference report because the conferees had eliminated the provision for congressional veto of regulations which I feel is so important. And I felt perhaps it would be useful to let the Members of the House, as we approach November 7, have the opportunity to let their constituents at home know whether or not they believe, really, not just in terms of rhetoric, but in terms of reality, whether the Members of this House believe that the elected Congress and not the unelected bureaucrats ought to write the laws that govern the people of this Nation. We have seen in the last few years a continuing increase of rules and regulations having the force and effect of law written not by people elected to, accountable to, and responsible to the public, to the citizens, but rather written by the unelected bureaucracy. I think we have noted in this body a tendency to draw back from that approach and let the elected officials make the decision through the device of a congressional veto.

However, after studying this conference report very carefully and listening to the most persuasive arguments offered by the distinguished chairman of the committee, and by the chairman of the subcommittee and the ranking minority members, it seems to me that this would be a good test case. The conference report keeps the Environmental Protection Agency on a short leash, and certainly if there is an agency that needs to be kept on a short leash, it is the Environmental Protection Agency.

There are a number of provisions written into this which will provide prereview by this committee and other committees of the Congress for the regulatory activity of the Environmental Protection Agency. I think that since we are only talking about a 1-year authorization, we can see how responsive EPA will be. It may be that EPA, as the chairman of the subcommittee has said, is becoming responsive, and I think in large part because they are scared to death that if they are not they are going to get a congressional veto put upon them.

But, I would like to ask either the chairman of the committee or the chairman of the subcommittee (Mr. DE LA GARZA) if it would be possible during this 1-year authorization for his subcommittee to monitor carefully the regulatory activity to ascertain and to report back to the Congress whether or not the EPA is following the congressional intent and is being responsive to the wishes of the elected Congress, and let us know so that next year when we get back here a decision can be made.

Mr. DE LA GARZA. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I will be happy to yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Speaker, let me assure the gentleman that this has been a major and constant effort on our part, as far as having legislative oversight over this Agency. As the gentleman mentioned, and even before the gentleman allowed us the honor of having him as a Member of this Congress, we have been working on that effort.

As far as this Member is concerned, this Agency has made a 180-degree turn now. We have constant dialog, and I am satisfied that under this new leadership they are doing everything possible to carry out the intent of the Congress. This subcommittee has had continuous oversight, and I do not know what vehicle we would use for us to report back to the

Congress. But, I certainly will do anything that I can within the constraints of having a vehicle to advise the Members of the House as to what the situation is.

I can assure the gentleman now, at this point, that the dialog is constant between the Agency and at least myself and the staff, and I am sure that it will continue so because of the shortness of the authorization. But, I will find a proper vehicle to so report at an opportune time.

Mr. LEVITAS. I thank my colleague from Texas.

The SPEAKER pro tempore. The time of the gentleman from Georgia has expired.

Mr. FOLEY. Mr. Speaker, I yield 1 additional minute to the gentleman from Georgia.

Mr. WAMPLER. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I will be happy to yield to the gentleman from Virginia.

Mr. WAMPLER. Mr. Speaker, I thank the gentleman for yielding. Let me assure the gentleman from Georgia, speaking for the minority, that we will cooperate with the chairman of the full committee and the chairman of the subcommittee to see that the intent just expressed is carried out. We share the gentleman's concern, as he has expressed repeatedly, on effective oversight for all branches of the executive department.

Mr. LEVITAS. I thank the gentleman from Virginia.

Mr. Speaker, let me say this: I looked at the calendar for today. There are two other bills which do contain a congressional veto, which I believe we will adopt. Tomorrow or the next day, we will have an opportunity to make the vote on the congressional veto at this session of Congress, when hopefully this House will defeat the conference report on the Federal Trade Commission amendments.

So, rather than involving ourselves in this 1-year reauthorization on this issue and because a short leash has been put out, it seems to me that with some reservations and some reluctance I will not urge the Members to vote against this conference report for that reason.

Mr. FOLEY. Mr. Speaker, I yield 1 minute to the gentleman from Indiana (Mr. FITHIAN).

Mr. FITHIAN. Mr. Speaker, I just wanted to rise and pay my compliments to the distinguished chairman of the full committee and the subcommittee and the ranking minority member, the gentleman from Virginia (Mr. WAMPLER). In the beginning when this struggle began on this bill, it seemed as though a compromise might elude us altogether. There is one person who helped the gentleman from Nebraska (Mr. THONE) and myself and others on the subcommittee to pull together in a compromise which ultimately got out of the subcommittee and the full committee, and that is my friend, the gentleman from Texas (Mr. HIGHTOWER).

It has been a very long road for this extremely technical but important bill. I am happy to see this harmonious result.

Mr. FOLEY. Mr. Speaker, I yield myself 1 minute.

I did not want to get into a discussion of individual Members and their contributions because I think that this legislation, perhaps more than any other bill that the Agriculture Committee has worked on, has required more effort and patience from each member of the committee, both on the majority and minority sides. This effort, combined with the diligent work of the combined staff, has produced this legislation. This has been a difficult bill.

While I appreciate the remarks of the gentleman from Indiana (Mr. FITHIAN) and the gentleman from Nebraska (Mr. THONE), I want to say that this bill has been the product of the greatest cooperation and joint effort by all of the members of the Committee on Agriculture. I am satisfied that we bring this conference report to the floor with the conviction that all members of the committee and the staff have done our very best to finalize good legislation which we can recommend unanimously to our colleagues.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the Senate bill S. 1678, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

CONFERENCE REPORT ON H.R. 12936, APPROPRIATIONS FOR DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Mr. BOLAND. Mr. Speaker, I call up the conference report on the bill (H.R. 12936) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1979, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 13, 1978.)

Mr. BOLAND (during the reading). Mr. Speaker, I ask unanimous consent that the further reading of the statement be dispensed with.

The SPEAKER pro tempore (Mr. LEVITAS). Is there objection to the request of the gentleman from Georgia?

There was no objection.

The SPEAKER pro tempore (Mr. LEVITAS). The gentleman from Massachusetts (Mr. BOLAND) is recognized for 30 minutes and the gentleman from Pennsylvania (Mr. COUGHLIN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Massachusetts, Mr. BOLAND.

Mr. BOLAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we bring back to the House today the conference report on the 1979 HUD-independent agencies appropriation bill. As I have remarked in past years—we always face difficult issues in this bill. It is a complicated bill involving the Department of Housing and Urban Development and 17 independent agencies comprising a total appropriation of over $67 billion.

This year was no exception. But I am pleased to report that we have resolved all of our differences and brought back to the House what I believe is a constructive and well thought out conference agreement.

The total amount in this conference report is $67,911,419,000. The House passed this bill on June 19 with a total of $68,208,848,000. The Senate passed the bill on August 7 and approved a total of $67,656,624,000. The conferees have brought back a report that is $1,606,115,000 under the budget request.

The conference report is also $7,231,796,000 below the comparable amount of new obligational authority for the agencies and department in this bill for fiscal year 1978. I should point out, however, that approximately $6 billion of the decline from last year is directly attributable to a substantial amount of subsidized housing budget authority carried forward from 1978 into 1979.

Turning to specifics, the conference agreement has approved $31,757,925,000 for the Department of Housing and Urban Development. We are recommending that $1,322,297,000 of new annual contract authority and $24,395,848,000 of new budget authority be made available for HUD's subsidized housing programs. Current estimates are that this will be sufficient to reserve an additional 393,000 subsidized housing units in fiscal year 1979.

In other major program areas within HUD, the bill includes $3,750,000,000 for community development grants; $400,000,000 for urban development action grants; $53,000,000 for the section 701 comprehensive planning grant program; $230,000,000 for section 312 rehabilitation loans; and $10,000,000 for a new congregate services pilot program.

The bill also includes $5,403,946,000 for the Environmental Protection Agency—of which $1,203,946,000 is for the operating programs of the agency and $4,200,000,000 is for the massive wastewater treatment construction grants appropriation.

Mr. Speaker, so that there is no misunderstanding concerning the intent of Congress on the issue of advanced wastewater treatment, let me read from the statement of the managers accompanying the conference report:

> The committee of conference agrees that grant funds may be used for construction of new facilities providing treatment greater than secondary as defined by the Environmental Protection Agency in 40 CFR 133, dated August 17, 1973 (38 FR 22298), amended July 26, 1976 (41 FR 30786) and

October 7, 1977 (42 FR 54664), only if the incremental cost of the advanced treatment is $1 million or less, or if the Administrator personally determines that advanced treatment is required and will definitely result in significant water quality and public health improvements.

Also, the conferees agreed on a total of $4,350,200,000 for the National Aeronautics and Space Administration; $911,000,000 for the National Science Foundation; $7,045,000 for the Selective Service System; and $18,355,691,000 for the Veterans Administration.

I am particularly pleased to report to the House that included in the funds approved for the VA is an increase of $103,814,000 above the budget for health related veterans programs.

Mr. Speaker, I will include in the remarks a table showing the action taken on each item in comparison with 1978, the budget estimates, and the actions of both the House and Senate.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY, HUD—INDEPENDENT AGENCIES APPROPRIATION BILL, 1979 (H.R. 12936)

[Note.—All amounts are in the form of appropriations unless otherwise indicated.]

Agency and item	New budget (obligational) authority fiscal year 1978 [1]	Budget estimates of new budget (obligational) authority fiscal year 1979 [2]	New budget (obligational) authority recommended in House bill	New budget (obligational) authority recommended in Senate bill	Conference action	Conference action compared with: New budget (obligational) authority fiscal year 1978	Conference action compared with: Budget estimates of new budget (obligational) authority fiscal year 1979	Conference action compared with: House bill	Conference action compared with: Senate bill
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
TITLE I									
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT									
Housing Programs									
Annual contributions for assisted housing (contract authority)	$31,483,563,000	$24,650,950,000	$24,650,950,000	$24,140,745,000	$24,395,848,000	−$7,087,715,000	−$255,102,000	−$255,102,000	+255,103,000
(increased limitation for annual contract authority)	(1,184,295,000)	(1,334,950,000)	(1,334,950,000)	(1,310,424,000)	(1,322,297,000)	(+138,002,000)	(−12,653,000)	(−12,653,000)	(+11,873,000)
Rent Supplement (contract authority)	24,300,000					−24,300,000			
Housing payments (appropriation to liquidate contract authority)	(4,382,000,000)	(4,503,000,000)	(4,463,000,000)	(4,460,000,000)	(4,460,000,000)	(+78,000,000)	(−43,000,000)	(−3,000,000)	
Housing for the elderly or handicapped (authority to borrow)	750,000,000	800,000,000	800,000,000	800,000,000	800,000,000	+50,000,000			
Congregate services program				20,000,000	10,000,000	+20,000,000	+10,000,000	+10,000,000	−10,000,000
Payments for operation of low-income housing projects	685,000,000	729,000,000	723,000,000	729,000,000	727,000,000	+42,000,000	−2,000,000	+4,000,000	−2,000,000
Troubled projects operating subsidy		74,000,000	74,000,000	74,000,000	74,000,000	+74,000,000			
Federal Housing Administration Fund	15,000,000	352,290,000	352,290,000	352,290,000	352,290,000	+337,290,000			
Government National Mortgage Association									
Emergency mortgage purchase assistance (recapture of repayments)				(4,000,000,000)	(1,000,000,000)	(+1,000,000,000)	(+1,000,000,000)	(+1,000,000,000)	(−3,000,000,000)
Special assistance functions: (authority to borrow)		1,500,000,000	500,000,000	500,000,000	500,000,000	+500,000,000	−1,000,000,000		
(recapture of repayments)	(2,000,000,000)	(500,000,000)	(1,500,000,000)	(1,500,000,000)	(1,500,000,000)	(−500,000,000)	(+1,000,000,000)		
Payment of participation sales insufficiencies	16,587,000	20,477,000	20,477,000	20,477,000	20,477,000	+3,890,000			
Total Housing Programs	32,974,450,000	28,126,717,000	27,120,717,000	26,636,512,000	26,879,615,000	−6,094,835,000	−1,247,102,000	−241,102,000	+234,103,000
Community planning and Development									
Community development grants	3,600,000,000	3,750,000,000	3,750,000,000	3,750,000,000	3,750,000,000	+150,000,000			
Urban development action grants	400,000,000	400,000,000	400,000,000	380,000,000	400,000,000				+20,000,000
Comprehensive planning grants	57,000,000	57,000,000	50,000,000	57,000,000	53,000,000	−4,000,000	−4,000,000	+3,000,000	−4,000,000
Rehabilitation loan fund		245,000,000	245,000,000	230,000,000	230,000,000	+230,000,000	−15,000,000	−15,000,000	
Urban homesteading		20,000,000	20,000,000	20,000,000	20,000,000	+20,000,000			
Total Community Planning and Development	4,057,000,000	4,472,000,000	4,465,000,000	4,437,000,000	4,453,000,000	+396,000,000	−19,000,000	−12,000,000	+16,000,000
Federal Insurance Administration									
Flood Insurance	91,000,000	114,000,000	90,000,000	85,000,000	85,000,000	−6,000,000	−29,000,000	−5,000,000	
Neighborhoods, Voluntary Associations and Consumer Protection									
Housing counseling assistance	5,000,000	8,000,000	10,000,000	8,000,000	9,000,000	+4,000,000	1,000,000	−1,000,000	+1,000,000
Policy Development and Research									
Research and technology	52,000,000	62,000,000	56,000,000	59,000,000	57,500,000	+5,500,000	−4,500,000	+1,500,000	−1,500,000
Management and Administration									
Salaries and expenses, Department of Housing and Urban Development	237,934,000	279,570,000	271,553,000	275,851,000	273,810,000	+36,276,000	−5,760,000	+2,257,000	−2,041,000
(By transfer, FHA funds)	(239,929,000)	(250,255,000)	(250,255,000)	(250,255,000)	(250,255,000)	(+10,326,000)			
Total, Department of Housing and Urban Development	37,416,984,000	[3] 33,062,287,000	32,013,270,000	31,501,363,000	31,757,925,000	−5,659,059,000	−1,304,362,000	−255,345,000	+256,562,000

See footnotes at end of table.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY, HUD—INDEPENDENT AGENCIES APPROPRIATION BILL, 1979 (H.R. 12936)—Continued

[Note.—All amounts are in the form of appropriations unless otherwise indicated.]

Agency and item	New budget (obligational) authority fiscal year 1978 [1]	Budget estimates of new budget (obligational) authority fiscal year 1979 [2]	New budget (obligational) authority recommended in House bill	New budget (obligational) authority recommended in Senate bill	Conference action	Conference action compared with: New budget (obligational) authority fiscal year 1978	Conference action compared with: Budget estimates of new budget (obligational) authority fiscal year 1979	Conference action compared with: House bill	Conference action compared with: Senate bill
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
FUNDS APPROPRIATED TO THE PRESIDENT									
Federal Disaster Assistance Administration									
Disaster relief	$450,000,000	$200,000,000	$200,000,000	$200,000,000	$200,000,000	−$250,000,000			
Total, title I, Department of Housing and Urban Development:									
New budget (obligational) authority	37,866,984,000	33,262,287,000	32,213,270,000	31,701,363,000	31,957,925,000	−5,909,059,000	−$1,304,362,000	−$255,345,000	+$256,562,000
Appropriations	5,609,121,000	6,311,337,000	6,262,320,000	6,260,618,000	6,262,077,000	+652,956,000	−49,260,000	−243,000	+1,459,000
Contract authority	31,507,863,000	24,650,950,000	24,650,950,000	24,140,745,000	24,395,848,000	−7,112,015,000	−255,102,000	−255,102,000	−255,103,000
Authority to borrow	750,000,000	2,300,000,000	1,300,000,000	1,300,000,000	1,300,000,000	+550,000,000	−1,000,000,000		
(Appropriation to liquidate contract authority)	(4,382,000,000)	(4,503,000,000)	(4,463,000,000)	(4,460,000,000)	(4,460,000,000)	(+78,000,000)	(−43,000,000)	(−3,000,000)	
(Increased limitation for annual contract authority)	(1,184,295,000)	(1,334,950,000)	(1,334,950,000)	(1,310,424,000)	(1,332,297,000)	(+138,002,000)	(−12,653,000)	(−12,653,000)	(+11,873,000)
(limitation on corporate funds to be expended)	(239,929,000)	(250,255,000)	(250,255,000)	(250,255,000)	(250,255,000)	+(10,326,000)			
TITLE II INDEPENDENT AGENCIES									
AMERICAN BATTLE MONUMENTS COMMISSION									
Salaries and expenses	6,463,000	6,240,000	6,240,000	6,240,000	6,240,000	−223,000			
CONSUMER PRODUCT SAFETY COMMISSION									
Salaries and expenses	40,461,000	41,463,000	40,000,000	40,000,000	40,000,000	−461,000	−1,463,000		
DEPARTMENT OF DEFENSE—CIVIL									
Cemeterial Expenses, Army Salaries and expenses	5,000,000	5,200,000	5,100,000	5,100,000	5,100,000	+100,000	−100,000		
ENVIRONMENTAL PROTECTION AGENCY									
Agency and regional management	76,046,000	84,185,000	84,185,000	84,185,000	84,185,000	+8,139,000			
Research and development	319,547,000	324,128,000	328,028,000	328,528,000	328,528,000	+8,981,000	+4,400,000	+500,000	
Abatement and control	526,173,000	664,929,000	664,115,000	710,940,000	692,915,000	+166,742,000	+27,986,000	+28,800,000	−18,025,000
Enforcement	72,837,000	95,555,000	94,555,000	94,755,000	94,755,000	+21,918,000	−800,000	+200,000	
Buildings and facilities		2,563,000	1,063,000	1,063,000	1,063,000	+1,063,000	−1,500,000		
Construction grants:									
Appropriation	4,500,000,000	4,500,000,000	4,200,000,000	4,250,000,000	4,200,000,000	−300,000,000	−300,000,000		−50,000,000
(appropriation to liquidate contract authority)	(5,000,000,000)	(1,400,000,000)	(1,400,000,000)	(1,400,000,000)	(1,400,000,000)	(−3,600,000,000)			
Scientific activities overseas (special foreign currency program)	4,000,000	4,000,000	2,500,000	2,500,000	2,500,000	−1,500,000	−1,500,000		
Total, Environmental Protection Agency	5,498,603,000	5,675,360,000	5,374,446,000	5,471,971,000	5,403,946,000	−94,657,000	−271,414,000	+29,500,000	−68,025,000
EXECUTIVE OFFICE OF THE PRESIDENT									
Council on Environmental Quality and Office of Environmental Quality	2,854,000	3,126,000	2,926,000	3,026,000	3,026,000	+172,000	−100,000	+100,000	
Office of Science and Technology Policy	2,800,000	2,621,000	2,476,000	2,476,000	2,476,000	−324,000	−145,000		
Total, Executive Office of the President	5,654,000	5,747,000	5,402,000	5,052,000	5,502,000	−152,000	−245,000	+100,000	
GENERAL SERVICES ADMINISTRATION									
Consumer Information Center	4,700,000	1,186,000	1,166,000	1,146,000	1,146,000	−3,554,000	−40,000	−20,000	
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE									
Office of Consumer Affairs	1,800,000	1,737,000	1,700,000	1,700,000	1,700,000	−100,000	−37,000		

See footnotes at end of table.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY, HUD—INDEPENDENT AGENCIES APPROPRIATION BILL, 1979 (H.R. 12936)—Continued

[Note.—All amounts are in the form of appropriations unless otherwise indicated.]

Agency and item	New budget (obligational) authority fiscal year 1978 [1]	Budget estimates of new budget (obligational) authority fiscal year 1979 [2]	New budget (obligational) authority recommended in House bill	New budget (obligational) authority recommended in Senate bill	Conference action	Conference action compared with: New budget (obligational) authority fiscal year 1978	Conference action compared with: Budget estimates of new budget (obligational) authority fiscal year 1979	Conference action compared with: House bill	Conference action compared with: Senate bill
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION									
Research and development	$8,013,000,000	$3,305,100,000	$3,292,200,000	$3,290,700,000	$3,292,200,000	+$279,200,000	−$12,900,000		+$1,500,000
Construction of facilities	160,940,000	152,500,000	134,690,000	148,500,000	147,500,000	−13,440,000	−5,000,000	+$12,810,000	−1,000,000
Research and program management	889,761,000	914,000,000	907,000,000	914,000,000	910,500,000	+20,739,000	−3,500,000	+3,500,000	−3,500,000
Total, National Aeronautics and space administration	4,063,701,000	4,371,600,000	4,333,890,000	4,353,200,000	4,350,200,000	+286,499,000	−21,400,000	+16,310,000	−3,000,000
NATIONAL COMMISSION ON AIR QUALITY									
Salaries and expenses	500,000	4,000,000	2,000,000	2,000,000	2,000,000	+1,500,000	−2,000,000		
NATIONAL INSTITUTE OF BUILDING SCIENCES									
Salaries and expenses	1,000,000		1,000,000	500,000	750,000	−250,0000	+750,000	−250,000	+250,000
NATIONAL SCIENCE FOUNDATION									
Research and related activities	785,050,000	850,400,000	806,400,000	836,400,000	827,000,000	+41,950,000	−23,400,000	+20,600,000	+9,400,000
Science education activities	73,200,000	77,600,000	82,600,000	77,600,000	80,000,000	+6,800,000	+2,400,000	−2,600,000	+2,400,000
Scientific activities overseas (special foreign currency program)	4,900,000	6,000,000	4,900,000	3,000,000	4,000,000	−900,000	−2,000,000	−900,000	+1,000,000
Total, National Science Foundation	863,150,000	934,000,000	893,900,000	917,000,000	911,000,000	+47,850,000	−23,000,000	+17,100,000	−6,000,000
SELECTIVE SERVICE SYSTEM									
Salaries and expenses	6,633,000	9,500,000	7,045,000	9,500,000	7,045,000	+412,000	−2,455,000		−2,455,000
DEPARTMENT OF THE TREASURY									
Payments to State and local government fiscal assistance trust fund	6,854,924,000	6,854,924,000	6,854,924,000	6,854,924,00	6,854,924,000				
Antirecession financial assistance fund	1,400,000,000	(4)				−1,400,000,000			
Office of Revenue Sharing, salaries and expenses	7,500,000	7,493,000	7,200,000	7,200,000	7,200,000	−300,000	−293,000		
New York City seasonal financing fund, administrative expenses	1,150,000	1,150,000	1,050,000	1,050,000	1,050,000	−100,000	−100,000		
Total, Department of the Treasury	8,263,574,000	6,863,567,000	6,863,174,000	6,863,174,000	6,863,174,000	−1,400,400,000	−393,000		
VETERANS ADMINISTRATION									
Compensation and pensions	9,606,400,000	9,577,300,000	9,577,300,000	9,577,300,000	9,577,300,000	−29,100,000			
Readjustment benefits	2,665,225,000	2,193,300,000	2,193,300,000	2,144,000,000	2,144,000,000	−521,225,000	−49,300,000	−49,300,000	
Veterans insurance and indemnities	3,465,000	5,750,000	5,750,000	5,750,000	5,750,000	+2,285,000			
Medical care	4,924,649,000	5,279,699,000	5,362,618,000	5,299,699,000	5,334,374,000	+409,725,000	+54,675,000	−28,244,000	+34,675,000
Medical and prosthetic research	111,053,000	112,667,000	127,607,000	120,212,000	122,847,000	+11,794,000	+10,180,000	−4,760,000	+2,635,000
Medical administration and miscellaneous operating expenses	43,316,000	47,855,000	47,058,000	47,058,000	47,058,000	+3,742,000	−797,000		
General operating expenses	581,850,000	622,074,000	616,258,000	615,670,000	615,964,000	+34,114,00	−6,110,000	−294,000	+294,000
Construction, major projects	393,689,000	295,855,000	348,890,000	330,701,000	365,560,000	−28,129,000	+69,705,000	+16,670,000	+34,859,000
Construction, minor projects	95,234,000	121,147,000	119,297,000	85,401,000	85,401,000	−9,833,000	−35,746,000	−33,896,000	
Grants for construction of State extended care facilities	15,000,000	5,000,000	15,000,000	5,000,000	10,000,000	−5,000,000	+5,000,000	−5,000,000	+5,000,000
Assistance for health manpower training institutions	53,411,000	75,000,000	47,437,000	47,437,000	47,437,000	−5,974,000	−27,563,000		
Grants to the Republic of the Philippines	1,700,000					−1,700,000			
Loan guaranty revolving fund (limitation on obligations)	(575,000,000)					−575,000,000			
Supply fund	20,000,000					−20,000,000			
Total Veterans Administration	18,514,992,000	18,335,647,000	18,460,515,000	18,278,228,000	18,355,691,000	−159,301,000	+20,044,000	−104,824,000	+77,463,000
Total, title II, Independent Agencies:									
New budget (obligational) authority	37,276,231,000	36,255,247,000	35,995,578,000	35,955,261,000	35,954,493,000	−1,322,737,000	−301,753,000	−42,084,000	−1,767,000
(appropriation to liquidate contract authority)	(5,000,000,000)	(4,400,000,000)	(1,400,000,000)	(1,400,000,000)	(1,400,000,000)	(−3,600,000,000)			
(limitation on obligations)	(575,000,000)					(−575,000,000)			

See footnotes at end of table.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY, HUD—INDEPENDENT AGENCIES APPROPRIATION BILL, 1979 (H.R. 12936)—Continued

[Note.—All amounts are in the form of appropriations unless otherwise indicated.]

Agency and item	New budget (obligational) authority fiscal year 1978 [1]	Budget estimates of new budget (obligational) authority fiscal year 1979 [2]	New budget (obligational) authority recommended in House bill	New budget (obligational) authority recommended in Senate bill	Conference action	Conference action compared with: New budget (obligational) authority fiscal year 1978	Conference action compared with: Budget estimates of new budget (obligational) authority fiscal year 1979	Conference action compared with: House bill	Conference action compared with: Senate bill
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
TITLE III									
CORPORATIONS									
FEDERAL HOME LOAN BOARD									
(limitation on administrative expenses)	($17,367,000)	($18,258,000)	($17,793,000)	($17,793,000)	($17,793,000)	(+$426,000)	(−$465,000)		
(limitation on nonadministrative expenses)	(27,800,000)	(30,290,000)	(30,290,000)	(29,895,000)	(29,895,000)	(+2,095,000)	(−395,000)	(−$395,000)	
Federal Savings and Loan Insurance Corporation: (limitation on administrative expenses)	(899,000)	(960,000)	(940,000)	(940,000)	(940,000)	(+41,000)	(−20,000)		
Total, title III, Corporation	(46,066,000)	49,508,000)	(49,023,000)	(48,628,000)	(48,628,000)	(+2,562,000)	(−880,000)	(−395,000)	
RECAPITULATION									
Grand total, titles I, II, and III:									
New budget (obligational) authority	75,143,215,000	69,517,534,000	68,208,848,000	67,656,624,000	67,911,419,000	−7,231,796,000	−1,606,115,000	−297,429,000	+$254,795,000
Appropriations	42,885,352,000	42,566,584,000	42,257,898,000	42,215,879,000	42,215,571,000	−669,781,000	−351,013,000	−42,327,000	−308,000
Contract authority	31,507,863,000	24,650,950,000	24,650,950,000	24,140,745,000	24,395,848,000	−7,112,015,000	−255,102,000	−255,102,000	+255,031,000
Authority to borrow	750,000,000	2,300,003,000	1,300,003,000	1,300,000,000	1,300,000,000	+550,000,000	−1,000,000,000		
(appropriations to liquidate authority)	(9,382,000,000)	(5,903,000,000)	(5,863,000,000)	(5,860,000,000)	(5,860,000,000)	(−3,522,000,000)	(−43,000,000)	(−3,000,000)	
(increased limitation for annual contract authority)	(1,184,295,000)	(1,334,950,000)	(1,334,950,000)	1,310,421,000)	(1,322,297,000)	(+138,002,000)	(−12,653,000)	(−12,653,000)	(+11,873,000)
(limitation on corporate funds to be expended)	(285,995,000)	(299,763,000)	(299,278,000)	(298,883,000)	(298,883,000)	(+12,888,000)	(−880,000)	(−395,000)	
(limitation on obligations)	(575,000,000)					(−575,000,000)			

[1] Includes all supplementals.

[2] Includes the following budget amendments:

H. Doc. 95-331:

Department of Housing and Urban Development:	
Rehabilitation loan fund	$150,000,000
Environmental Protection Agency:	
Agency and regional management	100,000
Abatement and control	46,960,000
Enforcement	700,000
Total, H. Doc. 95-331	197,760,000

[3] Budget estimates of $35,000,000 transmitted in S. Doc. 95-106 and $200,000,000 transmitted in S. Doc. 95-113 not considered due to lack of authorization.

[4] Budget estimate of $1,040,000,000 transmitted in S. Doc. 95-106 not considered due to lack of authorization.

Mr. COUGHLIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the chairman, the gentleman from Massachusetts (Mr. BOLAND), has very ably pointed out that this is a good conference report. As always, the chairman is a tough man when it comes to a conference and he did a superb job.

The conference report is actually under the House bill. Hence, I would only like to briefly point out a couple of highlights. For the first time, we fund, in the amount of $10 million, a pilot program of congregate services. This is an item that was not considered by the House because the authorization legislation had not been enacted in time and it was not requested by HUD.

Let me read from the Senate appropriations report as to what was discussed in the original program.

It says that "a full meals program must be part of each congregate housing service package," as well as housekeeping assistance and transportation to reach shopping and other community activities.

The committee and the members of the conference were very concerned that this could be extremely duplicative of other programs already in existence which provide meals, transportation, and other services.

Mr. Speaker, the Senate asked for $20 million to provide for this program. The House reduced it to $10 million. I frankly wish we could have reduced it even further because I am worried about duplication. However, the House has provided very strong language in the statement of the managers of the conference which indicates that this is just a pilot program and that it should not duplicate other programs.

Second, we held as closely as we could to the House position, which cut a substantial number of positions from those requested by HUD. We ended up cutting a meager 150 new positions from the total of 1,410 new positions requested. Mr. Speaker, 115 of those were cut from community planning and development. They were supposed to be monitors who would have looked over the shoulders of local communities and made redtape in what is supposed to be a flexible, locally run program.

Mr. Speaker, that is exactly what the community development block grant program was designed to prevent. It was designed not to be a program full of redtape, but a program in which local communities could make their own decisions. Therefore, we felt that increasing the number of bureaucrats would make more problems and that there was no need for these additional people.

Mr. Speaker, in passing, at least this Member has concern that HUD may be becoming a political dumping ground of sorts. We read recent reports in the newspapers. We know the number of schedule C positions, which are political appointments, has doubled since the beginning of this administration. I think this warrants careful watching. Providing jobs for unemployed politicos is not part of the mission of our Department of Housing and Urban Development.

Mr. Speaker, in the area of the National Aeronautics and Space Administration, the conference did include an item which was not in the House bill. This was funds for the construction of Space Shuttle launch pad B at the Kennedy Space Center in the amount of $12.8 million. The House did agree with the Senate's position that if, indeed, pad B was needed, it was better to allow for construction of it now while construction equipment was already on the site doing the work on pad A. The result would be a contract price considerably lower under those circumstances. It would be more economical to work on it now rather than to put it off into the future.

Finally, as the chairman has mentioned, the conference does provide a

considerable amount over the budget in Veterans' Administration medical care. It is $32.3 million over the budget for 1,500 additional staff years to keep existing hospital beds open, $18 million over the budget for 700 additional staff years to meet anticipated increases in outpatient caseload, and $4,375,000 over the budget for staffing new medical facilities.

Mr. Speaker, the committee and the members of the conference felt that these funds were vitally important in order to provide adequate health care for veterans.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. COUGHLIN. I am happy to yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for yielding.

I take this time only to call the committee's attention to an amount which was added by the other body, in the amount of $4.9 million for the continuation of the EPA's Chesapeake Bay program. Approximately half of that amount is to be used for abatement and control under the Environmental Protection Agency, which administers this program.

The reason I call it to the committee's attention is that this program was never enacted by an authorizing committee, but rather, came in the form of an appropriation 2 years ago. Originally it was suggested that the EPA would expend these funds for the general purposes of preserving the Chesapeake Bay.

While I certainly support this appropriation and have, in fact, myself sponsored legislation dealing with the preservation of the Chesapeake Bay, it occurs to me that the gentleman's committee might wish next year to take a very close look at the manner in which this program is being administered. Some controversies have arisen as to the manner in which EPA is handling it. The local office of EPA has assigned 10 staffers to conduct the Chesapeake Bay program and they are located in Philadelphia far from the Bay itself. It might well be that Congress may want to provide some legislative guidelines to govern any such appropriation so that the money is spent wisely and not in duplication of other EPA or other Federal agency expenditures.

I think it is best to do that now while the program is at mid-point rather than to waste, if, indeed, any waste does occur, over a period of 5 years both energy and dollars that could be better spent. I say that as one who endorses the EPA program but has concerns about it.

I thank the gentleman for yielding.

Mr. COUGHLIN. Mr. Speaker, I yield such time as he may consume to the gentleman from South Dakota (Mr. ABDNOR).

Mr. ABDNOR. Mr. Speaker, consideration of the conference report on H.R. 12936, which contains appropriations for the Environmental Protection Agency, provides an opportunity to call to the attention of my colleagues some real problems in that Agency's proposed amendments to its drinking water regulations pertaining to synthetic organic chemicals. These should concern us all and not just those who represent the large urban communities initially to be subject to these regulations.

I have had a long-time interest in assuring our citizenry plentiful supplies of safe drinking water at a reasonable cost. Recently, I introduced H.R. 13752 which would amend the Safe Drinking Water Act and the Consolidated Farm and Rural Development Act to authorize the Farmers Home Administration to make grants of up to 90 percent of the cost of bringing small communities—those with a population of less than 5,500 have priority—into compliance with EPA's drinking water regulations.

I am concerned about those EPA programs which impose these compliance burdens. The clearest current example is the Agency's proposed regulations to limit the amount of trihalomethanes in drinking water and to require installation of granular activated carbon systems to screen out certain organic chemicals.

As proposed, these regulations would initially apply only to large water systems serving more than 75,000 persons. In addition, systems serving between 10,000 and 75,000 would be required to monitor THM levels. However, if EPA goes forward to issue those regulations in final form, one should reasonably anticipate that sooner or later EPA may well seek to extend them to smaller systems. The monitoring requirement portends future application of the regulations to these smaller systems.

The National Drinking Water Advisory Council, appointed by EPA, and others have recommended extension of the proposed regulations to cover all community water systems, large and small alike. Moreover, in the February 9, 1978, Federal Register EPA asked for public comment on "How rapidly should the phasing to include smaller systems be instituted?" While EPA may be limiting the application of these proposed regulations "initially," I recognize that future extensions will likely impact smaller communities such as those in my district and State.

Of course, residents of smaller communities should get the protection of the Safe Drinking Water Act, too, but I understand that there is still considerable dispute about the extent of any health hazard to humans stemming from synthetic organic chemicals. I would commend the members of the Appropriation Committee for its report on H.R. 12936, which explicitly recognizes the need for further research and advise EPA to complete its homework in this area before going ahead with the proposed regulations.

There is a great deal of controversy surrounding cost estimates for compliance with the proposed regulations as well. EPA raised its own cost estimates, showing capital outlays going possibly above $800 million. Industry estimates of cost are truly staggering, several times the revised EPA figures, and they seem to have been carefully prepared and soundly based. The Council on Wage and Price Stability has sharply attacked EPA's proposals because they are not based on a sound cost-benefit analysis. One thing is certain—the cost will be substantial.

Generally, because of economies of scale, I would expect that the per customer cost of compliance with regulations such as those proposed by EPA would be higher in smaller systems than in larger ones. EPA's own figures (43 Fed. Reg. 29143) and the comments of industry and the Council on Wage and Price Stability bear this out. This is also an important factor to be kept in mind by anyone who would measure the true long-range impact of EPA's proposal. Considerations such as these led me to introduce H.R. 13752.

My purpose in making this statement is to highlight for my colleagues the possible fiscal burden that these regulations will impose upon all communities to which they ultimately may be applied, whether large or small. Look not only at the costs "initially" imposed on larger communities but also on the costs likely to be incurred in smaller communities in the easily foreseeable future.

I urge that EPA, in choosing its course, be truly sensitive to costs as the Safe Drinking Water Act requires, and consider carefully whether the balance of evidence on the issue of health risk justifies imposing this cost.

As the Council on Wage and Price Stability recently recommended in its comments on the proposed regulations, EPA should more carefully examine the costs and benefits of the various alternatives before requiring massive expenditures of inherently limited resources.

Mr. COUGHLIN. Mr. Speaker, I have no further requests for time, and reserve the remainder of my time.

Mr. BOLAND. Mr. Speaker, I have no further requests for time.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 6: Page 4, after line 9, insert:

CONGREGATE SERVICES PROGRAM

For contracts with and payments to public housing agencies and nonprofit corporations for congregate services programs as authorized by the Congregate Housing Services Act of 1978, $20,000,000, to remain available until September 30, 1984.

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BOLAND moves that the House recede from its disagreement to the amendment of the Senate numbered 6 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

CONGREGATE SERVICES PROGRAM

For contracts with and payments to public housing agencies and nonprofit corporations for congregate services programs as authorized by the Congregate Housing Services Act of 1978, $10,000,000, to remain available until September 30, 1984.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 8: Page 5, strike out lines 17 to 20 inclusive and insert:

For assistance payments to owners of eligible multifamily housing projects, in the program of operating subsidies for troubled multifamily housing projects under the Housing and Community Development Amendments of 1978, $74,000,000, together with any excess rental charges collected after September 30, 1977, to remain available until September 30, 1980.

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BOLAND moves that the House recede from its disagreement to the amendment of the Senate numbered and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 9: Page 6, after line 10, insert:

EMERGENCY MORTGAGE PURCHASE ASSISTANCE

The aggregate amount of purchases and commitments authorized to be made pursuant to section 313 of the National Housing Act, as amended (12 U.S.C. 1723e), out of recaptured Emergency Mortgage Purchase Assistance authority, if further increased by $4,000,000,000.

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BOLAND moves that the House recede from its disagreement to the amendment of the Senate numbered 9 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

EMERGENCY MORTGAGE PURCHASE ASSISTANCE

The aggregate amount of purchases and commitments authorized to be made pursuant to section 313 of the National Housing Act, as amended (12 U.S.C. 1723e), out of recaptured Emergency Mortgage Purchase Assistance authority, is increased by $1,000,000,000.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 32: Page 21, line 11, after "applies" insert: ": *Provided further*, That none of the funds provided by this Act shall be used to pay an investigator, through a grant, at more than the maximum rate paid for GS-18".

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BOLAND moves that the House recede from its disagreement to the amendment of the Senate numbered 32 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert: ": *Provided further*, That none of the funds provided by this Act shall be used to pay an investigator, through a grant, at more than the maximum rate paid for GS-18, unless expressly approved by the Director of the National Science Foundation".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 42: Page 27, line 23, strike out "$348,890,000" and insert "$330,701,000".

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BOLAND moves that the House recede from its disagreement to the amendment of the Senate numbered 42 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$365,560,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 47: Page 37, after line 16, insert:

SEC. 407. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals for projects not specifically solicited by the Government: *Provided*, That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BOLAND moves that the House recede from its disagreement to the amendment of the Senate numbered 47 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the last amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 48: Page 38 after line 16, insert:

SEC. 408. None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the maximum rate paid for GS-18, unless specifically authorized by law.

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BOLAND moves that the House recede from its disagreement to the amendment of the Senate numbered 48 and concur therein.

The motion was agreed to.

A motion to reconsider the votes by which the action was taken on the several motions was laid on the table.

GENERAL LEAVE

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include tables, charts, and other extraneous material, on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

CONFERENCE REPORT ON S. 3040, AMTRAK IMPROVEMENT ACT OF 1978

Mr. ROONEY. Mr. Speaker, I call up the conference report on the Senate bill (S. 3040) to amend the Rail Passenger Service Act to extend the authorization of appropriations for an additional fiscal year, to provide for public consideration and implementation of a rail passenger service study, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. NATCHER). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of August 11, 1978.)

Mr. ROONEY (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. ROONEY) will be recognized for 30 minutes, and the gentleman from Texas (Mr. COLLINS) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. ROONEY).

Mr. ROONEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Amtrak Improvement Act of 1978 as agreed upon by the committee of conference is a bill which should be particularly pleasing to the overwhelming majority of us who voted for the House bill in June. In essence this bill contains almost every provision included in the House bill.

The House bill provided $600 million for an operational subsidy during fiscal year 1979. The Senate bill provided for only $510 million for this purpose, but they receded from the position. The House members pointed out that $600 million would be required to operate the present system and we wanted to assure the preservation of the present route structure for the entire fiscal year 1979.

The House bill provided $130 million for capital expenditures in fiscal year 1979. You will recall, this amount is considerably less than the amount requested by Amtrak, but it was believed by the House that this amount would be sufficient pending a resolution of the question of the future of the route structure.

The Senate provided for $120 million for this purpose, but readily agreed that our amount was more realistic to present needs.

Of particular importance to many Members was a provision in the House bill which would prevent the discontinuance of any train before October 1, 1979. The bill provides that the Secretary of Transportation will conduct a route structure study and submit his recommendations to the Congress before December 31, 1978. The conferees also adopted a procedure for approval of the route structure study which follows closely the pattern established for the final system plan mandated by the Regional Rail Reorganization Act of 1973. The approval procedure agreed upon provides that the Secretary's final recommendations will take effect October 1, 1979, unless either the House or Senate adopts a resolution of disapproval within the first 90 calendar days after the Secretary's recommendations are received by the Congress.

There were a number of provisions in the House bill for which there were no comparable provisions in the Senate bill. I am glad to inform you that the Senate agreed to each of these provisions in the House bill. For example, this bill retains the House provision which would require the Secretary of Transportation to submit a report to the Congress on the conflict between the needs of commuter rail passenger service and intercity rail passenger service in the Northeast Corridor.

Similarly, this bill contains the House provision requiring the Comptroller General, in consultation with the Secretary of Transportation and the Interstate Commerce Commission, to report on the economic relationship of the fare structure to Amtrak to the intercity bus industry.

The House bill contained a provision requiring that all purchases amounting to more than $100,000 must be made in the United States. The Senate had a similar provision but it set the threshold at $1 million. The Senate provision however, was not as comprehensive as the House version. Therefore, this bill contains the House amendment, but accepts the Senate threshold figure of $1 million because there are many types of equipment costing considerably more than $100,000 which are not manufactured in this country.

There are a number of other provisions contained in the House bill, and as I said, each was agreed to by the Senate and is contained in this bill.

It can therefore be seen that in every important issue the conferees have agreed with the House provision, As I stated at the outset, I am sure this is a bill with which the vast majority of us can agree, and I ask your support.

Mr. COLLINS of Texas. Mr. Speaker, I yield myself such time as I may consume.

Today we are considering a conference report on the Amtrak improvement bill originally debated here this year. I am disappointed to find that the conferees have retained several of the most harmful provisions from the original bill. I remain firmly opposed to these provisions, and I feel now, as I did earlier, that the bill represents an unwise expenditure which would perpetuate the overbudgeted, under-utilized status Amtrak has held for the last five years. Amtrak's passenger rail service cannot be economically justified.

The basic fallacy of the Amtrak situation is that outside of the Northeast corridor, Amtrak does not provide an essential service to most American citizens. Although Amtrak has increased the number of train routes, and spent almost $3 billion in taxpayers' revenues over the last 8 years, the fact is that less than 2 percent of intercity passengers use railroads nationwide. They have been unable to increase substantially the number of people riding trains; only 15.6 percent more passengers in 1977 than in the first year of operation in 1972. This picture is vividly described in a recent GAO report:

> Amtrak's biggest problem is that there are not enough people who want to use the train for intercity travel. While Amtrak attracted about 3 million more passengers in fiscal year 1977 than it did in 1972, it did so by substantially increasing the number of trains available. The number of revenue passengers per train miles decreased. . . . Air travel is much quicker and more convenient for time-sensitive travelers . . . and on longer trips, almost the same price as Amtrak. Buses go more places, usually at a lower cost to travelers. Automobiles give travelers more control over where and when they can travel, and is more economical when more than one traveler is involved.

Amtrak does not serve all of the country equally, all taxpayers must foot the bill for its services. Can it be justified that taxpayers who will never use Amtrak; never see an Amtrak train; and who work hard for their pay should be required to subsidize the vacations of Amtrak travelers to the extent of 83.5 percent—or even 100 percent?

We cannot justify burdening the American taxpayer with this costly and financially unstable system, which does nothing to increase transportation options. Amtrak represents essentially an expensive, inflationary duplication of efforts, because it services routes where unsubsidized, private transportation is already sufficient. In addition, public polls reveal that the vast majority of Americans have no intention of ever using Amtrak, and its termination would work no hardship on this country.

Amtrak could surely take a lesson in efficient business management from some other forms of transportation services—for example, Trailways, which is a national busline. Figures contrasting the experiences of Trailways and Amtrak are undeniable proof of the need for more sound business logic in passenger rail services.

	Trailways	Amtrak
1977 annual revenue	$240,000,000	$270,000,000
1978 Federal subsidy	0	$600,000,000
Communities served	5,500	500
Employees	8,000	17,000

	Trailways	Amtrak
1977 passengers	22,000,000	19,000,000
Route miles	70,000	27,000
Profitable	yes	no

Trailways, alone, serves 10 times as many communities, more route miles, more people, with more schedules, and at one-third the cost with half the number of employees.

Why not admit that Amtrak is a losing proposition and be done with it?

Amtrak has failed, but with so much Government regulation, how could it have a chance to succeed? The type of half-government/half-free enterprise system under which it is forced to operate has meant certain doom from the beginning. We have put Amtrak management in an impossible situation by adding train after train and not permitting them to eliminate even those trains which lose over $100 per passenger every time they run. It is impossible for Amtrak to behave as a well-run business because, under the present circumstances, it cannot take a train off for fear of the political repercussion such an action may have. Now is the time to let our country's needs, not politics, determine our transportation policy.

It is obvious that the Amtrak system needs change. Both DOT and GAO demand that something be done. Unfortunately, those who consent that change is needed, want, for a variety of reasons, to postpone decisive action until October 1979. Why must we put it off for over a year and waste untold millions in taxpayers' dollars in the process? A total of $3 billion has been wasted by Amtrak since its inception 8 years ago. Are we to purposefully freeze any change which might improve that situation? I personally support striking language from this legislation which would prohibit any rate modifications or terminations prior to October 1, 1979.

We must keep a clear view of the needs and desires of the American people. All too often, especially in an election year, the temptation to maintain the status quo is powerful, and often blinding. If Amtrak provides repetitious service at inflated rates to a mere fraction of the citizenry, let us not be afraid to call off this experiment. We must fight our hesitancy to stop a Government program once it is created, and, instead, weigh the costs and benefits in an open-minded balance.

Mr. ROONEY. Mr. Speaker, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Pennsylvania.

Mr. ROONEY. I thank the gentleman for yielding.

Mr. Speaker, I would like to comment on my colleague's erroneous statement that the bus companies have no subsidies. Has the gentleman ever taken

into consideration the billions of dollars the American taxpayers have put into the highway subsidies since 1956?

Mr. COLLINS of Texas. I have seen many buses today that on the back of them have a sign which says how much taxes they pay. I have never seen Amtrak put up a sign of how much taxes they pay. Buses pay taxes for license, gasoline, equipment, franchise and many others. Amtrak rides tax free.

Mr. ROONEY. Let me tell the gentleman that the gasoline taxes paid by the bus companies has not been enough to constitute a fair share especially since Amtrak must pay a similar tax for its fuel.

Mr. COLLINS of Texas. I appreciate the gentleman's remarks.

Mr. ROONEY. Mr. Speaker, I would like to state that it is essential that Members know that the distinguished colleague from the great State of Texas made the same plea when our bill was considered, and overwhelmingly adopted, in June. Mr. COLLINS was not a member of the committee of conference. Every member of the conference committee, both majority and minority, agreed with this report.

Although I have some problems with Amtrak, nevertheless I think we ought to give it another year under the able leadership of its new president, Mr. Alan Boyd.

Mr. Speaker, I yield to the distinguished chairman of the full committee, the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, on June 23, the House-passed legislation authorizing appropriations for Amtrak for fiscal year 1979, providing for public consideration and implementation of a rail passenger service route reexamination undertaken by the Secretary of Transportation, and making other statutory improvements to enhance rail passenger service. The House bill differed from that of the Senate and a conference was needed. The conferees have met and filed their report.

The report in many respects follows the House version but contains several provisions from the Senate bill. I will summarize briefly the key points of disagreement between the two versions and the recommended solution:

First, the report authorizes appropriations for Amtrak for fiscal year 1979 in the amounts of $600 million for operating expenses, including operating expenses in the Northeast Corridor, $130 million for capital acquisition and improvement grants, and $25 million for permanent debt retirement. These authorization levels are identical to those contained in the House-passed version. The Senate figures for these three categories were $510 billion, $120 million, and $25 million respectively.

Second, the report directs the Secretary of Transportation, in cooperation with Amtrak, to undertake a comprehensive study of the Amtrak route system and to formulate recommendations on an optimal national rail passenger route system, based upon current and future market and population requirements. In anticipation of the legislation, the Secretary submitted his preliminary recommendations to Congress last May. The Rail Services Planning Office in the Interstate Commerce Commission has already held nationwide public hearings in areas where service would be modified or affected. The Secretary's final recommendations are required to be submitted to the Congress by December 31, 1978.

The Secretary's final recommendations shall be deemed approved after 90 calendar days of continuous session of Congress unless either House passes a resolution of disapproval. This language generally follows the Senate version, except that the period of time for congressional review has been enlarged from 60 to 90 days. The House version had required both Houses to vote to approve the recommendations before they would become effective.

However, in conformity with the House version, the report provides that, with minor exceptions, the Amtrak route system presently in effect shall not be modified or restructured prior to October 1, 1979, or the beginning of fiscal year 1980. This provision should insure an orderly transition to a new system if the Secretary's recommendations are approved.

Third, Amtrak is placed under a domestic purchase preference or "buy America" requirement. This provision was in both versions, and the conferees adopted the Senate figure of $1,000,000, in lieu of the House figure of $100,000, as the threshold purchase amount for which the requirement shall apply. This requirement may be suspended if the Secretary of Transportation determines that it is inconsistent with the public interest, that cost of compliance would be unreasonable, or that supplies are not reasonably available or of satisfactory quality.

Fourth, the report requires Amtrak to institute a model rail safety system program for the rest of the railroad industry, as provided in the House version. However, the conferees eliminated the $250,000 authorization specifically provided for this purpose, and Amtrak is required to fund the program out of general operating expenses.

Fifth, the report changes the law with respect to compensation paid to railroads by Amtrak for use of their tracks and facilities, using an incremental cost concept as a benchmark. The House version contained no such language, and the conferees agreed upon a compromise position.

Finally, the conferees adopted House provisions enhancing State-supported Amtrak service, authorizing Amtrak operation of commuter service, dealing with Amtrak budget proposals and submissions and addressing Amtrak's competition with the intercity bus industry. The conferees also adopted House provisions increasing the Federal share of railroad terminal conversion projects from 60 to 80 percent, requiring certain studies related to rail passenger service, and earmarking $27 million of the existing $1.75 billion authorization for the Northeast Corridor project to reimburse State, local, or regional transportation authorities for equipment modification or replacement costs resulting from the electrification conversion of the corridor.

We are at a watershed point in Amtrak's history, and I believe we have formulated a constructive approach toward solving Amtrak's problems. Rail passenger service has a vital place in the national passenger transportation network, particularly in light of the growing scarcity of energy resources. With sufficient ridership, the passenger train is the most energy-efficient of all passenger transportation modes. At a time when we are importing approximately 45 percent of our domestic petroleum needs and experts have forecast a worldwide oil shortage by the mid-to-late 1980's, it is our responsibility to provide the American public with a safe, reliable, and energy-efficient form of passenger service. This approach represents a step toward fulfillment of that responsibility. Therefore, I urge its adoption.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I travel Amtrak twice a week in the coaches. I know how essential it is, and how crowded those coaches are. But, I must confess, Mr. Chairman, that some of the remarks of my colleague from Texas concerning the expense of running lines at $100 per passenger really do describe excessive costs.

Also, what we are going to do about 150 miles being considered a day's work? I have been troubled, I will tell the chairman in all honesty, by the remark of a very able former commmissioner of transportation in my State, who told me that if we continue like this, we cannot possibly run the railroads properly in this Nation.

It is apparently impossible under the conditions that prevail in railroading in America today. He mentioned something similar to the 150 miles constituting a full day's work.

Mr. STAGGERS. The gentlewoman would not want to kill Amtrak just because it is not efficient. It is something we know we need. We had better work to correct its problems. England, Japan and other nations have fine railroad systems that are run by the Government and of course they operate at a loss. Amtrak is also operating at a loss but we hope we can rebuild passenger service to the point where we have a much more efficient system.

Mrs. FENWICK. Mr. Speaker, I have been here 3 years and I see no change. I will just be honest with the gentleman about Amtrak. The new chairman, who has testified before our Small Business Committe—I forget his name, I am sorry to say—struck me as an extremely competent man. I think he used to run the Missouri Pacific or Missouri Southwest. He struck me as extremely able. But I do wish we could somehow feel we are going to address these problems.

Mr. STAGGERS. Let me say to the gentlewoman, this is the reason he is the new President. He is competent. The gentlewoman is right. He has run a rail-

road. He was head of the CAB and then DOT, when it was created. He knows something about what transportation economics are all about. But give him a chance. He has just taken office. He has to have a chance to make some of the improvements that need to be made.

Mrs. FENWICK. But if he is going to run up against Congress itself, if we are not going to allow him to cut out lines that are not profitable, what can he do?

Mr. STAGGERS. Let us not say "if." But let us not go that far. Let us give this man a chance. He knows what he is doing. He is competent. Let us give him a chance.

Mrs. FENWICK. I do not like to interrupt the chairman, but will the chairman work with this man to help him eliminate some of these useless runs?

Mr. STAGGERS. I will work with the gentleman to try to make the system more efficient. That is the reason he is there. I thank the gentlewoman.

Mrs. FENWICK. I thank the chairman.

Mr. SKUBITZ. Mr. Speaker, in order to get the record straight, if the gentlewoman from New Jersey referred to Alan Boyd, I am fearful we have him serving on the wrong railroad and the wrong board. Allen Boyd was an official of the Illinois Central Gulf, not the Missouri Pacific; and he was Chairman of the CAB, not the FAA.

Now that we have got that straight, permit me to submit my views on the conference report.

Mr. Speaker, I signed the conference report and recommend its approval. The conference bill provides enough money for Amtrak to continue all of its trains until October 1, 1979. Since this is my last term in Congress, it will become the problem of my colleagues as to what happens to Amtrak after that date. Over the years, I have been a strong supporter of intercity rail passenger service. I realize that the airplane has the glamour of the 21st century and that the automobile has won the hearts and minds of most Americans. Nevertheless, I am convinced that it would be shortsighted if this Nation were to junk intercity rail passenger service.

Over 20 million people a year ride the trains and those people may ultimately be considered the enlightened people of our time. The energy crisis is viewed today as an illusion, because there are no longer long lines at the gas station. Those of us who have studied the problem know that in fact the energy crisis does exist. It would behoove more Americans to begin to use mass transportation by railroads in order to preserve what energy we have.

I have contended for a number of years that the policies of this Government should be directed toward the end result of strengthening rail passenger service in order to conserve energy and strengthen Amtrak. The conference bill contains a provision added to the House bill at my insistence which will require Amtrak to exert a greater effort toward doing business with the U.S. Postal Service. I would urge the U.S. Postal Service to do all it can to give business to Amtrak so as to reduce the operating losses which have become a serious plague to Amtrak.

Amtrak lost over $500 million this year and I can understand the concern expressed by many of my colleagues about Amtrak being a waste of money. I think it is incumbent upon the new President of Amtrak to do all that he can to reduce Amtrak's losses. Likewise, we in Congress should do all that we can to encourage greater utilization of Amtrak by the Government itself. We should also do all that we can to encourage Amtrak to provide better service so that it can attract more passengers.

This bill, Mr. Speaker, is entitled "The Amtrak Improvement Act of 1978." I believe it does contain measures which will improve the operation of Amtrak. A number of amendments were offered by Mr. MADIGAN that should encourage Amtrak to be financially responsible. Other amendments were offered which require the Secretary of Transportation to thoroughly reevaluate where we are going with Amtrak and how its service can be improved.

Secretary Adams has assured our committee that he intends to reexamine Amtrak's entire route structure with an eye toward having Amtrak trains run where they are needed and will be used. He has also indicated that he shall examine the entire structure of Amtrak so that it can be made more efficient. He will have his report to the Congress by the end of the year. I urge my colleagues in the next Congress to take his recommendations seriously and work closely with the Department of Transportation in order to make Amtrak work. Mr. Speaker, I am not here to make excuses about Amtrak's past failures. Nevertheless, I think it is well to keep in mind that Amtrak is a relatively young company. It did not begin operations until May of 1971. In the 7 years of its operations, it has had to combat the indifference of the executive branch of Government and the insolence of many railroads. A business analyst examining Amtrak could rightfully conclude that the corporation has just "begun to get off the ground."

Alan Boyd was just recently named President of Amtrak. He is uniquely qualified to make Amtrak work. He is a former president of a railroad, he is a former Secretary of Transportation, and he is a former Chairman of the Civil Aeronautics Board. I am confident that within the months to come all of us will see improved performance by Amtrak. This bill provides the money necessary for Amtrak to continue its operations and sets into motion the process whereby Amtrak can be made into a strong corporation.

Finally, Mr. Speaker, let me refer to one specific provision in the bill which created considerable discussion by the conferees. The Senate bill contained a lengthy provision amending section 402 of the Rail Passenger Service Act to provide that compensation for both services and use of tracks and facilities was to be based on an "avoidable" cost concept. The effect of that provision would have been to overrule the so-called Texas and Pacific case which is presently before the court of appeals. In that case, the Commission held that the Texas and Pacific was entitled to compensation from Amtrak for services based on an incremental cost basis, but that track and facilities were not to be based on the incremental cost basis. It seems to me that the Commission was trying to find some method of compensation for the Texas and Pacific Railroad which would be different than the compensation method used for railroads who had joined Amtrak, thereby relieving themselves of the obligation to provide intercity rail passenger service. The Texas and Pacific Railroad had no intercity rail passenger service when Amtrak was created. Consequently, they had received no benefit by the establishment of Amtrak and could not be expected to in effect let Amtrak use its track and facilities at no cost or virtually no cost.

The conferees did not want to interfere with the adjudication of the Texas and Pacific case. That was the first reason that the Senate provision was not adopted. The second reason that the Senate provision was not adopted was that it contained a specific avoidable cost formula which would apply to all railroad property and services whether or not a railroad had good track and facilities or bad track and facilities. Consequently, the conference substituted a provision which simply placed track and facilities in the category whereby incremental costs would become a threshold for determining what constituted just and reasonable compensation. Of course, Amtrak and any railroad can make any sort of agreement they want to as long as they are able to agree. Subsection 402(a) comes into effect only when a railroad and Amtrak are unable to agree and the matter must be adjudicated by the Commission. The conference substitute and the report by the committee of conference makes it clear that this is a change in the law and the conferees expect the Commission and the courts to give the amendment prospective application only. Furthermore, the conferees do not intend to affect any existing contracts between railroads and Amtrak. Neither do the conferees intend for incentive payments to be made only for improvement in track and facilities. In other words, a railroad which has high-quality track and facilities should be entitled to some payment above incremental costs for their high-quality track or facilities as opposed to track and facilities of another railroad which may be in bad condition. The incentive feature of section 402 has been retained but with the inclusion of track and facilities, the term incentive will be broader than simply "on time" performance.

Mr. Speaker, I urge adoption of the bill as reported by the committee of conference.

I am sure that under the leadership of the chairman of the Subcommittee on Transportation and Commerce of the Committee on Interstate and Foreign Commerce, the gentleman from Pennsylvania (Mr. ROONEY), who has followed this program very carefully throughout the years and has been far more critical than most of us regarding Amtrak and will continue to carefully supervise Amtrak and see to it that the taxpayers of America get a dollar's worth for every dollar they pay in taxes.

Mr. ROONEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I take this time to say that I want to commend the gentleman from Kansas (Mr. SKUBITZ) for his comments and to also commend the gentleman for the cooperation he has consistently given the committee. Almost every bill that has been reported out of our committee has been reported out unanimously.

I might point out, Mr. Speaker, that the House bill contained a provision requiring all purchases of more than $100,000 must be made in the United States. That is the "buy American" clause. The Senate bill had a similar provision, but it set the threshold at $1 million. The Senate's provision was not as comprehensive as the House provision and, therefore, the conference report contains the House provision. We did, however, accept the threshold of the Senate bill, because there are a number of pieces of equipment that cost more than $100,000 that are not manufactured in this country.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. ROONEY. I yield such time as he may consume to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Speaker, first of all, I want to pay credit to the members of the conference committee, the chairman, and I would add the able chairman, the gentleman from West Virginia (Mr. STAGGERS) and the subcommittee chairman, the gentleman from Pennsylvania (Mr. ROONEY) and, of course, the gentleman from Kansas (Mr. SKUBITZ) our ranking minority member, for the work that they have done on this issue.

Mr. Speaker, let me further say that I rise in support of the conference report on the bill S. 3040, the Amtrak Improvement Act.

Amtrak has suffered through a long period of neglect and mismanagement but I am confident that our national rail passenger system is now entering into an era of revitalization.

I might state that in Minnesota we have, on an internal basis, appropriated money in order to keep the lines going. We have had a good relationship with Amtrak and we would like to see that continue. We are working to try to develop on a statewide basis general support for this type of program. It is good to see some commitment coming from the Federal level. Hopefully with the new equipment that is planned for those lines in the northern tier of States, I think the future for the passenger service is, indeed, bright if we continue to provide all Americans with a responsible national rail system, and in the ongoing process I believe that we have taken the necessary initial steps.

I urge my colleagues to support the conference report.

Mr. ROONEY. Mr. Speaker, I have no further requests for time.

Mr. SKUBITZ. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Speaker, I thank the gentleman from Kansas for yielding.

I want once again to emphasize the broad basis for the problem we are having with this Amtrak conference report. When Amtrak, as a passenger railroad, a railroad which last year took in only $270 million, comes in and asks Congress for $600 million to continue going, that means that 33 cents out of every dollar they spend is all they get back in revenue. We cannot keep Amtrak Railroad going on that basis. This is no longer a temporary matter. Amtrak has been going on and on in this inefficient way for years and years and years.

Mr. Speaker, the place for the railroad is in the freight business. I think our distinguished chairman, Mr. STAGGERS, who is certainly the greatest advocate of railroads around, will agree that the place for the railroads is in the freight business. We should take freight cars and load them up from one side to the other. Freight trains are efficient, and they are able to make money. They can take the same amount in revenues and a lower amount in expenses and actually show in the black.

However, when trains get into the passenger business, the economics are just not there. Railroads are for freight.

Mr. SKUBITZ. Mr. Speaker, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Speaker, I agree with the gentleman that the more profitable part of this business is the freight business.

May I ask the gentleman from Texas (Mr. COLLINS) whether he voted for or against the slurry pipeline bill?

Mr. COLLINS of Texas. As I remember, I voted for the slurry pipeline bill.

Mr. SKUBITZ. That is going to take millions and millions of dollars of freight business away from the railroads, and they will be in here for some more money.

Mr. COLLINS of Texas. As times changed, we were not riding the horse anymore. Then we went into trains.

It might be that the slurry pipeline will be one of the ways railroads will get less freight, but I want to see the railroads in the freight business, where they will be on good solid ground. Amtrak is not actually a good freight carrier, but that is the way to make the money, in the freight business, not passengers.

Mr. ROONEY. Mr. Speaker, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Pennsylvania.

Mr. ROONEY. Mr. Speaker, does the gentleman from Texas (Mr. COLLINS) know what the average rate of return on investment is received by railroads today on their freight business? It is only 1 percent.

Mr. COLLINS of Texas. Does the gentleman know what the grocery stores make? They make one-half of 1 percent, but they are still operating. I do not object to people making one-half of 1 percent or 1 percent. What I object to is this Amtrak outfit which loses 66 percent. That is what they are doing. They are losing 66 percent on every dollar. Amtrak is a losing business. There is no way out of it.

Every year we hear the same arguments. Every year we say that we are going to study it for another year.

This is the year to just say, Let us keep railroads in the freight business. Let us put the Amtrak railroads in the freight business where they belong, and let us take Amtrak, once and for all, out of the passenger business, where they do not belong.

Mr. Speaker, Amtrak was formed, because all of the private railroad carriers lost their shirts. They formed this Amtrak Corporation so they could unload the passenger business. Private railroads tried to unload the passenger business, as they could not make it. Therefore, we cannot expect Amtrak to make it, because not only are they in the passenger business, but they are burdened with governmental intervention. Amtrak has every headache it could have. Name it, and they have it.

One of the best ways to help Amtrak would be to vote down this conference report when it comes up today for a vote.

Mr. ROONEY. Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina (Mr. JENRETTE).

Mr. JENRETTE. Mr. Speaker, I want to compliment the chairman of the subcommittee and the chairman of the full committee for their fine work in seeing that an institution is continued, and that is passenger rail service.

With respect to freight service, I would agree with my friend, the gentleman from Texas (Mr. COLLINS), that money is probably going to be made in the freight business.

Mr. Speaker, I hope the chairman will not think that I am not being germane, but I find myself in somewhat of a quandary when I look at the Postal Service which we are subsidizing and I look at Amtrak which we are subsidizing. The Postal Service and Amtrak do not even have contracts whereby the mail can be placed on Amtrak trains.

Mr. Speaker, that gives me great concern. Here we have two pseudo governmental corporations which are running side by side. The Postal Service runs about eight trucks a day to New York City. We run several Amtrak trains. Why does not the president of Amtrak and the president of the Postal Service not look at things like this so as to try to do away with some of this duplication?

I have talked with the chairman of the full committee. He is in great sympathy with my position. I think that probably we in Congress as we pass this bill today—and I fully support it—should remember when we appropriate funds for

the Postal Service in the future that, if nothing else, the Postal Service and Amtrak should sit down and try to do something together to save some money. We talk about saving energy every day, and the Postal Service is running eight trucks or more back and forth each day to New York City.

Again, Mr. Speaker, I compliment the gentleman from Pennsylvania. It is a hard job to get a bill like this one together.

Mr. STAGGERS. Mr. Speaker, will the gentleman yield?

Mr. JENRETTE. I yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Speaker, in section 19 of our bill we directed Amtrak to use all feasible means, including taking into account the needs of the Postal Service in establishing schedules, to attract and serve the bulk mail needs of the U.S. Postal Service. This provision prevailed in conference. If Amtrak were carrying a greater share of the mail of this country today instead of it going to the trucks, I would agree with the gentleman.

If the mail were taken off the trucks and put on the rails, we would use thousands of gallons less gasoline each day, and we would be making an important contribution to reducing Amtrak's deficit. That is one way we can address Amtrak's problems, and I am glad the gentleman mentioned it, because we do have a provision to that effect in the conference report.

Mr. SKUBITZ. Mr. Speaker, will the gentleman yield?

Mr. JENRETTE. The gentleman knows I will be happy to yield to the gentleman from Kansas.

Mr. SKUBITZ. I thank the gentleman for yielding.

Initially, I submitted an amendment to this bill mandating that the Post Office Department contract with Amtrak for the delivery of mail wherever and whenever feasible. We do not have jurisdiction over the postal service so the language in the bill is the best we could do and yet avoid sequential referral.

I would certainly join my colleague if I were in the Congress in legislation that would mandate that the postal authority use the trains whenever possible. I thank the gentleman.

Mr. JENRETTE. I thank the gentleman from Kansas. I appreciate it. I would say also, if I might take just a minute longer, I hate to bring up any name of any major corporation, but a corporation that has headquarters in Wilmington, Del., studied every mode of transportation for bringing goods into Delaware. Because of the supervising engineer in Camden, S.C., the home of my colleague, the gentleman from South Carolina (Mr. HOLLAND) who represents that district, he determined that Amtrak was the best and most dependable source to use—and this was the DuPont Corp.—because of that decision, Amtrak has $10,000 additional each year in revenue. I would hope that the grassroots efforts for Amtrak would extend beyond that and that we would have other corporations begin looking at the utilization of Amtrak services.

Lastly, and I have run the whole gamut, in 1975 in the authorization bill I placed—which the chairman allowed me to—an amendment on Amtrak that would allow the State to request the president of Amtrak to do a study for regional passenger service in seasonal or resort areas. I do not know if this is in the bill now. I do not know that anything was ever done, but there are many areas now that have a massive amount of people moving there for so many months a year, and then out, and it might be a good idea that Amtrak look at these routes on a seasonal basis. I believe the bill provides, Mr. Speaker, that routes must be year-round, I believe it is year-round routes only, that they had no facilities for seasonal routing. But it seems to me as we are in the energy situation that if Amtrak can go to a place, even if it can only go 4 or 5 months a year, it would be helpful and beneficial to the country.

With that, and having run the whole area, Mr. Speaker, I appreciate the gentleman's yielding, and I support the bill.

Mr. ROONEY. Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina (Mr. HOLLAND).

Mr. HOLLAND. I thank the gentleman for yielding.

Mr. Speaker, I only want to take a few seconds to pose a question. I heard our distinguished chairman talking about the gentleman who is now president of Amtrak. It sounds to me as though he is almost good enough to be elected to Congress. I am wondering by way of information what the present salary is that we are paying the president of Amtrak.

Mr. ROONEY. Mr. Speaker, if the gentleman will yield, the president, incidentally, is Mr. Boyd. He is new on board. He came on board last month. His salary is $85,000.

Mr. HOLLAND. That is the beginning salary?

Mr. ROONEY. That is the salary.

Mr. HOLLAND. The present salary. I recall debate some year or two ago about raising the man at that time to $125,000.

Mr. ROONEY. No, no. That is the statutory salary, $85,000.

Mr. HOLLAND. We did have debate, as I recall it, in the past about raising one of these people.

Mr. STAGGERS. Mr. Speaker, will the gentleman yield?

Mr. HOLLAND. I yield to the gentleman from West Virginia.

Mr. STAGGERS. I thank the gentleman for yielding.

It used to be $125,000, and we reduced it to $60,000. We did not have particularly competent people running Amtrak, in my opinion. The President's salary was raised to $85,000. Almost every independent manufacturing company or railroad in the private sector of this land pays its executives much more than that, and in order to get somebody who was competent, we had to increase the salary.

Mr. HOLLAND. Mr. Speaker, I am in full accord with the gentleman. I know you have to pay somebody good money to do a good job. I only wish this Congress would apply the same standard to its own Members.

● Mr. MADIGAN. Mr. Speaker, I support the adoption of S. 3040, as reported by the conferees. I would like to highlight some of the provisions in the bill which I had proposed in the House and were retained by the conferees.

Section 3 of the bill removes the exemption presently enjoyed by Amtrak from going through the Office of Management and Budget and for that matter even the Department of Transportation. My amendment was adopted on the House floor and I am pleased that it was retained in the bill reported by the committee of conference.

Section 601 of the Rail Passenger Service Act now provides that "no officer or agency of the United States shall have any authority to require the Corporation to submit its legislative recommendations, proposed testimony, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress." The effect of that provision, Mr. Speaker, has been that we in Congress have had to act as arbiters between Amtrak and the various branches of Government over countless decisions involving the provision of intercity rail passenger service. In my judgment, the results of such an undisciplined and adversarial environment has been a deterioration of intercity rail passenger service. With the enactment of this bill, Amtrak will now have the discipline of working with the Department of Transportation and the Office of Management and Budget rather than working in opposition to those institutions. In the long run, Amtrak will benefit from this provision as will the Congress and the taxpayers.

The route reexamination study required by section 4 of the bill will provide an additional opportunity for examining what other means, if any, should be adopted to assure greater financial responsibility by Amtrak. I support Amtrak because good intercity rail passenger service is needed in many parts of the country. I am fearful, however, that unless Amtrak's mounting deficit is curtailed, the entire future of intercity rail passenger service will be in jeopardy. I am hopeful that the Secretary's route reexamination will concentrate on better Amtrak management practices and the continuation of routes based upon absolute need rather than the indirect need for generating political support.

Section 11 of the conference bill contains my provision changing the status of Amtrak from a strictly profit corporation to one that should be operated and managed as though it were a for-profit corporation. This amendment recognizes that in reality, Amtrak has not been a for-profit corporation. It also distinguishes Amtrak from ConRail which I for one shall insist be a for-profit corporation within the near future

and I believe ConRail can realistically obtain that goal.

Section 12 of the bill ties in with the study being undertaken by the Secretary of Transportation. That provision which I had adopted at the committee level requires the Secretary to evaluate the common stock status of Amtrak. As you know, four railroads including the estate of the Penn Central now own all of the common stock in Amtrak. I am hopeful that the Secretary will particularly examine the possibilities for converting that common stock into some sort of employee stock option program. I do not feel that the Government should own Amtrack outright, but neither do I feel comfortable knowing that three active railroads and one former railroad company now own all of the common stock in Amtrak. I am particularly concerned about this matter since Amtrak has acquired substantial property and other holdings since its formation in 1971.

Section 13 of the bill contains a provision which I had adopted at committee for Amtrak to establish a model railroad safety system program. Since Amtrak is being so heavily financed by the Government, the least we can require is that Amtrak set an example for other railroads when it comes to railroad safety. My provision required that Amtrak work closely with labor organizations in order to develop and implement a truly comprehensive safety program affecting not only the operation of Amtrak trains but also work practices in the many shops and other facilities run by Amtrak. The report by the Office of Technology Assessment which was issued last January and concerned railroad safety in general called for greater cooperation between management, labor organizations, and the Government. Any program developed and implemented by Amtrak should attempt to achieve that goal. Likewise, the OTA report called for a more systematic and comprehensive approach for achieving safety. Amtrak in developing a program should pull together and coordinate all of its existing safety practices. In addition, it should carefully examine its accident record to date and develop ways and means for preventing recurrence of such accidents. Finally, the program developed by Amtrak for railroad safety should be far more than simply a manual or new rule book. It should be a complete set of practices which in fact prevent accidents and reduce injuries.

Mr. Speaker, there are a number of other provisions in the bill relating to Amtrak and its effect on both competition and subsidy needs. These are important provisions which I know will be given careful consideration by the new Amtrak management.

Amtrak provides a service which is particularly needed on the east coast, in the Midwest, and the Far West. This bill provides Amtrak with an opportunity to maximize its potential where intercity rail passenger service is most needed. It is purposely an authorization for a period of 1 year so that the Congress can carefully review the steps Amtrak has taken to improve its service and financial performance.

I urge the adoption of the bill as reported by the committee of conference.●

● Mr. JENRETTE. Mr. Speaker, as today we are considering the conference report on Amtrak Improvement Act of 1978, I wish to point out an example of public support for Amtrak regarding an area of concern to me. Since the beginning of my serving Congress, I have worked closely with Amtrak locating alternative revenue sources for the nationwide rail passenger system. Historically speaking, mail and express revenues have made the difference between red and black ink for passenger train operation. I would like to call the attention of this body to the work of a private citizen helping Amtrak to demonstrate the excellent potential which can be realized by Amtrak express.

Thanks to the efforts of a resident of Camden, S.C., we have a perfect example of what it means for Amtrak to have grassroots support.

Mr. Bernard E. Ransom is an engineering supervisor in the du Pont textile plant in Camden. He was instrumental in inaugurating the shipment of materials via Amtrak express between Camden and the du Pont home office in Wilmington. This was done after du Pont conducted extensive tests of all other modes of transport.

As a result, Amtrak express is earning some $10,000 yearly and is providing reliable overnight service. Additional shipments now are being sent from Camden to Orlando, Fla.

Amtrak has a bright future in supplying express service just as it does in handling U.S. mail. Part of that future is in the hands of interested citizens such as Mr. Ransom. He is to be congratulated for his worthwhile efforts.

We believe that this story should be more widely known and that Amtrak officials should place additional emphasis on express. It is hard to believe that Amtrak has only one full-time salesman on its staff for selling express service. Yet in spite of the lack of top-level sales and marketing emphasis, shippers are learning about the service and are spending more than $2 million a year for their shipments.

Express was once an important source of revenue for passenger trains. So was U.S. mail.

Both should be returned to that vital role.●

● Mr. DEVINE. Mr. Speaker, I signed and support the report of the conferees on S. 3040, the Amtrak Improvement Act of 1978.

Quite frankly, I have been disappointed in the performance of Amtrak since it was created in 1970. Amtrak has failed to improve intercity rail passenger service. Amtrak has also failed to decrease the amount of Government subsidy needed for its operation.

The amount of operating subsidy approved for the conferees is $600 million, the same as what was in the bill we had passed. In addition to that sum, there is authorized $130 million for capital expenditures and $25 million for debt reduction. In total this bill contains an authorization of $755 million for fiscal year 1979. It is small wonder that taxpayer associations and others are pointing to Amtrak as an extravagant waste of tax dollars.

Having said that, Mr. Speaker, let me point to several things in the bill which do give me some hope for the future. First of all, section 3 of the bill removes the exemption which had been applicable to Amtrak with respect to the Office of Management and Budget. The effect of section 3 will be to require Amtrak to come under closer supervision by the administration. I am confident that the Office of Management and Budget and the Department of Transportation will require greater justification for Amtrak expenditures. This bill gives them the power to do just that.

Second, section 4 of the bill directs the Secretary of Transportation to continue his route reexamination structure. In his preliminary report, the Secretary suggests approximately a 20 percent reduction in Amtrak. I think the taxpayers deserve much more of a reduction. This section requires the Secretary to report to Congress no later than the end of the year. I am hopeful that his report will show how further savings can be applied to Amtrak.

The bill reported by the conference committee adopts a Senate provision which will permit the Secretary's recommendations to go into effect unless either House of Congress specifically disapproves of them within 90 legislative days. In my judgment, this is an improvement over what was contained in the House bill. The House bill had a provision which, quite frankly, was unworkable in that it required approval by both Houses of Congress before the Secretary's recommendations could go into effect. I had offered an amendment in committee which would have adopted a provision similar to the one in the Senate bill. I am pleased that the conferees accepted the approach I had suggested in my amendment.

Mr. Speaker, I urge the rejection of the conference report. In my judgment, the present level of operation is extravagant, but I am encouraged by the fact that this bill sets into motion a thorough reexamination of Amtrak. In this time of inflation and high taxation, we should all do everything we can to save taxpayers' dollars. Amtrak will have cost the taxpayers over $10 billion by 1982. This bill alone is a three-quarter-billion-dollar burden on the taxpayer. Its only redeeming feature is that it reflects the fact that Congress recognizes that Amtrak can no longer expect to receive limitless funds from the Congress.●

Mr. ROONEY. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. COLLINS of Texas. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 266, nays 127, not voting 39, as follows:

[Roll No. 798]

YEAS—266

Addabbo
Akaka
Alexander
Ambro
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Applegate
Ashbrook
Ashley
Aspin
AuCoin
Baldus
Baucus
Bauman
Beard, R.I.
Bedell
Bellenson
Benjamin
Bennett
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Brademas
Breckinridge
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Mich.
Buchanan
Burlison, Mo.
Burton, John
Byron
Carney
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conte
Conyers
Corcoran
Corman
Cornwell
Coughlin
D'Amours
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Derwinski
Dicks
Dingell
Downey
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Emery
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fish
Fisher
Fithian
Flood
Florio
Ford, Mich.
Ford, Tenn.
Fowler
Fraser
Frenzel
Fuqua
Garcia
Gaydos
Giaimo
Gilman
Ginn
Glickman
Gonzalez
Gore
Green
Guyer
Hamilton
Hanley
Hannaford
Harkin
Harris
Hawkins
Heckler
Hefner
Hightower
Hillis
Holland
Hollenbeck
Holtzman
Horton
Howard
Hubbard
Hughes
Hyde
Ichord
Ireland
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Tenn.
Jordan
Kastenmeier
Kasen
Keys
Kildee
Kindness
Kostmayer
LaFalce
Le Fante
Lederer
Leggett
Lehman
Lent
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lundine
McClory
McCloskey
McCormack
McDade
McHugh
McKay
McKinney
Madigan
Maguire
Mann
Marks
Marlenee
Mattox
Mazzoli
Metcalfe
Meyner
Mikulski
Mikva
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Moss
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Michael
Natcher
Nedzi
Nix
Nolan
Nowak
Oakar
Oberstar
Ottinger
Patten
Patterson
Pattison
Pease
Perkins
Pettis
Pickle
Pike
Preyer
Price
Pursell
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Rodino
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Santini
Sawyer
Scheuer
Schroeder
Schulze
Selberling
Sharp
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stark
Steers
Stokes
Stratton
Studds
Thompson
Thone
Traxler
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Walgren
Walsh
Wampler
Waxman
Weaver
Weiss
Whalen
White
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—127

Abdnor
Anderson, Calif.
Andrews, N.C.
Archer
Badham
Bafalis
Barnard
Beard, Tenn.
Bevill
Bowen
Breaux
Brooks
Brown, Ohio
Broyhill
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Cederberg
Clawson, Del
Coleman
Collins, Tex.
Conable
Cornell
Crane
Cunningham
Daniel, Dan
Daniel, R. W.
de la Garza
Devine
Dornan
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
English
Erlenborn
Fenwick
Flippo
Flynt
Forsythe
Fountain
Gephardt
Gibbons
Goldwater
Goodling
Gradison
Grassley
Gudger
Hagedorn
Hall
Hammer-schmidt
Hansen
Harsha
Heftel
Holt
Huckaby
Jacobs
Jenkins
Jones, N.C.
Jones, Okla.
Kasten
Kelly
Kemp
Krebs
Lagomarsino
Latta
Levitas
Livingston
Lott
Lujan
McDonald
Mahon
Marriott
Martin
Mathis
Michel
Milford
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Mottl
Myers, Gary
Myers, John
Neal
Nichols
Obey
Panetta
Poage
Pressler
Quayle
Quillen
Roberts
Robinson
Roncalio
Rousselot
Runnels
Ruppe
Russo
Ryan
Sebelius
Shuster
Sikes
Skelton
Snyder
Steed
Steiger
Stockman
Stump
Symms
Taylor
Thornton
Treen
Trible
Vander Jagt
Volkmer
Waggonner
Walker
Watkins
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Bob
Wydler
Young, Alaska

NOT VOTING—39

Ammerman
Armstrong
Burke, Calif.
Burke, Mass.
Burton, Phillip
Caputo
Cotter
Dickinson
Diggs
Dodd
Eilberg
Findley
Flowers
Foley
Frey
Gammage
Harrington
Jeffords
Krueger
Leach
Luken
McEwen
McFall
Markey
Meeds
Miller, Calif.
Murphy, N.Y.
O'Brien
Pepper
Pritchard
Quie
Risenhoover
Rudd
Sarasin
Satterfield
Shipley
Teague
Tsongas
Wilson, C. H.

The Clerk announced the following pairs:

Mr. Markey with Mr. Caputo.
Mr. Ammerman with Mr. Sarasin.
Mr. Phillip Burton with Mr. Quie.
Mr. Cotter with Mr. Pritchard.
Mr. Eilberg with Mr. Rudd.
Mr. Gammage with Mr. Leach.
Mr. Pepper with Mr. Findley.
Mr. Shipley with Mr. Dickinson.
Mr. Teague with Mr. Frey.
Mr. Murphy of New York with Mr. McEwen.
Mr. McFall with Mr. Tsongas.
Mr. Krueger with Mr. Risenhoover.
Mr. Dodd with Mr. Harrington.
Mr. Diggs with Mr. Luken.
Mr. Foley with Mr. O'Brien.
Mrs. Burke of California with Mr. Miller of California.
Mr. Satterfield with Mr. Meeds.
Mr. Charles H. Wilson of California with Mr. Flowers.

Messrs. VOLKMER, RUPPE, and EDWARDS of Oklahoma changed their vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERRING JURISDICTION ON U.S. COURT OF CLAIMS ON THE CLAIM OF COMMANDER EDWARD WHITE RAWLINS, U.S. NAVY (RETIRED)

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 1445) conferring jurisdiction upon the U.S. Court of Claims to hear, determine, and render judgment upon the claim of Comdr. Edward White Rawlins, U.S. Navy (retired) with the Senate amendment thereto, and disagree to the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 2, after line 13 insert:

SEC. 3. If such court renders judgment in favor of such claim, such court may award, in addition to any amount awarded for retroactive active-duty pay and allowances and retirement pay, reasonable litigation costs, and a reasonable attorney's fee in an amount not to exceed five percent of the amount awarded for retroactive active-duty pay and allowances and retirement pay.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 12598, FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 1979

Mr. FASCELL. Mr. Speaker, I call up the conference report on the bill (H.R. 12598) to authorize appropriations for fiscal year 1979 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, to make changes in the laws relating to those agencies, to make changes in the Foreign Service personnel system, to establish policies and responsibilities with respect to science, technology, and American diplomacy, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 6, 1978.)

Mr. FASCELL (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement of the managers.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida is recognized for 30 minutes.

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 12598, the Foreign Relations Authorization Act for fiscal year 1979.

The main purpose of this bill is to authorize appropriations for fiscal year 1979 for the Department of State, the International Communication Agency, the Board for International Broadcasting, and for related Government programs and activities. The conference substitute authorizes appropriations totaling $1,969,710,000 which is $27,030,000 less than the Senate amendment, $29,974,000 more than the original House bill, and $57,470,000 above the executive branch request.

The increase in the executive branch request contained in the conference substitute is due largely to additional authorizations for migration and refugee assistance for Soviet and Eastern European refugees migrating to Israel and for refugees in Africa. The remainder of the increase is designed to fund various congressional initiatives such as the Commission on Hunger and Malnutrition, the Commission on Security and Cooperation in Europe, and to strengthen the effectiveness of certain programs and activities within the various foreign affairs agencies of the Government.

The total amount authorized in this conference report for the conduct of foreign affairs is essentially within the guidelines set for this purpose in the second concurrent resolution on the budget for fiscal year 1979.

The conference report contains specific fiscal year 1979 authorizations totaling $1,399,253,000 for the Department of State, $420,577,000 for the International Communication Agency, $88,180,000 for the Board for International Broadcasting, $200,000 in additional annual funding for the Commission on Security and Cooperation in Europe, $60,000,000 for the execution of the International Tin Agreement, and $1,500,000 for the Commission on Hunger and Malnutrition. The conference report also retains supplemental fiscal year 1978 authorizations of $37,275,000 for payment of U.S. arrearages to the United Nations Educational, Cultural, and Scientific Organization and $10,468,000 for the Board for International Broadcasting.

Mr. Speaker, in addition to the authorization of appropriations, the conference report also retains various identical or modified policy and administrative provisions which were contained in either the House or Senate versions of the bill.

Among such provisions in title I, relating to the Department of State, are House-passed provisions which earmark $945,000 for the United Nations Conference on Science and Technology for Development; authorize foreign mission solar energy projects, earmark $25 million for assistance to refugees settling in Israel and $5 million for African refugees, consolidate administrative services of foreign affairs agencies; and create posts of Undersecretary of State for Management and Assistant Secretary of State for International Narcotics Matters.

Title I also contains the following identical or modified Senate provisions: authorization of a memorial statue of George Marshall, which has already passed the House as separate legislation; clarification of existing authority to exclude certain aliens from the United States; assistance to bereaved U.S. families; systematic information-sharing between the Department of State and the Foreign Affairs Committees of the House and Senate; sense of the Congress statements on assistance to minority enterprises and the use of diplomatic and official passports; and policy provisions on travel restrictions on U.S. passports and travel restrictions on foreign citizens.

In title II, relating to the International Communication Agency, the conference report retains, in addition to those provisions in both House and Senate versions, Senate provisions detailing the mission of the newly organized agency, authorizing release of an agency film on Roy Wilkins, and a modified version of the Senate provision calling for a gradual expansion of exchange-of-persons activities.

Title III, relating to the Board for International Broadcasting, retains the House provision on the Board's representational expenses and combines House and Senate provisions on the composition of the BIB Board of Directors.

Title IV, entitled "Foreign Service and other Personnel," retains the House provisions on special allowances for certain personnel and for computation of annuities for certain retirees. Title IV also includes Senate provisions on the employment of family members overseas, rest and recuperation travel, reducing family separations during temporary assignments, and a review of Foreign Service personnel requirements and compensation.

Title V retains a series of provisions contained in the House bill which set forth policies and responsibilities for science and technology in foreign policy.

Title VI, "Policy Provisions," retains the House-passed provision on United Nations Palestinian rights units and includes various identical or modified provisions from the Senate amendment involving international communications policy, international efforts to protect marine mammals, international journalistic freedom, an international food reserve, congressional findings regarding the Spanish democracy, discriminatory trade practices affecting U.S. foreign relations, nuclear-powered satellites, atrocities in Cambodia and Uganda, equitable treatment of U.S. citizens living abroad, United States-Canadian negotiations on air quality, and the Cuban presence in Africa.

Title VII, "Miscellaneous Provisions," includes the House provision prohibiting aid or reparations to Vietnam, and a similar version of the House provision prohibiting the use of funds under this act to implement the Panama Canal Treaties without appropriate authorization, the House provision on travel documentation of aliens and U.S. citizens, and modified versions of the Senate provisions on reporting and coordination of international agreements, and the use of foreign air carriers.

Mr. Speaker, the annual Foreign Relations Authorization Act, which covers three agencies and usually affects numerous existing statutes, is by nature a long and complex bill. The committee of conference had to resolve more than 80 differences between the two Houses. The managers on the part of the House strove to uphold the House position of substantive differences and to insure that those Senate provisions which were adopted were compatible with the House-passed bill and with the rules of the House. I believe that we were successful in that effort.

I urge the adoption of the conference report.

Mr. BUCHANAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join the distinguished chairman of our Subcommittee on International Operations (Mr. FASCELL) in urging the adoption of this conference report.

I will speak only briefly because this report differs little from that which passed this body in May.

As the chairman has made plain, the increase over the budget request is substantially the result of an additional administration request for refugee assistance which was submitted subsequent to House passage of this bill.

Our subcommittee had many, many hearings on this legislation and spent many hours in conference resolving some 76 differences between the House and Senate versions. In the overwhelming majority of the cases, the House provisions were adopted.

With regard to the Panama Canal amendment added on the floor, the committee of conference retained, with only a slight modification, the prohibition on the use of funds in this bill for the direct or indirect implementation of the Panama Canal treaties.

The budgets for each of the agencies covered in this legislation, the Department of State, the International Communication Agency and the Board for International Broadcasting, are very tightly drawn but will, in my judgment, enable these agencies to better respond to the demands placed upon them.

Again, Mr. Speaker, I urge the adoption of this conference report.

Mr. FASCELL. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Wisconsin (Mr. ZABLOCKI), the chairman of the full Committee on International Relations.

Mr. ZABLOCKI. Mr. Speaker, I rise in support of the conference report on H.R. 12598, the Foreign Relations Authorization Act for fiscal year 1979.

The contents of the conference report have been ably explained by the distinguished and able gentleman from Florida, the chairman of the Subcommittee on International Operations. I would, however, like to take this opportunity to discuss one of the major provisions of the conference report.

Title V, entitled "Science, Technology, and American Diplomacy," is the product of an 8-year-long study by the Committee on International Relations. In our study, we explored the interactions of

science and technology with the conduct of American foreign policy. We found three significant problems toward which title V is directed.

First, we found there was no policy to guide the application of science and technology to problems of international affairs. Sections 501 and 502 provide a policy directing the U.S. Government to assess scientific and technological developments for diplomatic opportunities or problems. These sections further direct the U.S. Government to use science and technology as tools of diplomacy where appropriate to do so.

Second, we found poor coordination of international scientific and technological activities of the U.S. Government with overall foreign policy. Section 503 should significantly improve this shortcoming by instructing the President to insure that the Secretary of State is informed and consulted before any agency takes any major action primarily involving science or technology involving another nation, international organization, or international scientific commission. This provision should facilitate coordination of international activities with overall foreign policy. Furthermore, section 503 provides the Congress with an opportunity to play a major role in the formulation implementation and evaluation of international scientific and technological activities by requiring an annual report on these activities beginning in 1980.

Third, we concluded that there were organizational and structural deficiencies with the Department of State in the area of scientific and technological policy coordination. To remedy these deficiencies, the conference report includes section 504 which charges the Secretary of State with primary responsibility for coordination and oversight with respect to all major science or science and technology agreements and activities between the United States and foreign countries.

Furthermore, section 504 gives the Secretary of State new authority to procure studies, analyses, and training assistance on the application of science and technology to problems of international relations. This authority is intended to give the Department of State the authority it needs to support the creation of centers at academic institutions and nongovernmental research organizations which in turn will generate an infrastructure capable of supporting both government and private sector personnel, research, and operational needs in international scientific and technological activities.

Mr. Speaker, H.R. 12598 is one of the most important bills before the Congress each year in that it enables the Department of State and our foreign affairs agencies to carry out their vital tasks. I would like to commend my fellow conferees on the part of the House and, in particular, the gentleman from Florida, for their leadership, diligence and cooperation in bringing the conference to a successful conclusion.

I urge the adoption of the conference report.

Mr. FASCELL. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 239, nays 153, not voting 40, as follows:

[Roll No. 799]

YEAS—239

Addabbo
Akaka
Alexander
Ambro
Anderson, Ill.
Annunzio
Applegate
Ashley
Aspin
AuCoin
Baldus
Beard, R.I.
Bedell
Bellenson
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breckinridge
Brodhead
Broomfield
Brown, Calif.
Brown, Mich
Brophill
Buchanan
Burke, Fla.
Burlison, Mo.
Burton, John
Burton, Phillip
Carr
Carter
Cavanaugh
Cederberg
Chisholm
Clay
Cleveland
Collins, Ill.
Conte
Corcoran
Corman
Cornell
Cornwell
Coughlin
D'Amours
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derwinski
Dicks
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Erlenborn
Ertel
Evans, Colo.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flood
Florio
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Fraser
Garcia
Giaimo
Gibbons
Gilman
Gonzalez
Gore
Gradison
Green
Hamilton
Hanley
Hannaford
Harris
Hawkins
Heckler
Heftel
Hillis
Holland
Hollenbeck
Holtzman
Horton
Howard
Hyde
Ireland
Johnson, Calif.
Jordan
Kastenmeier
Kildee
Krebs
LaFalce
Le Fante
Lederer
Lehman
Lent
Lloyd, Calif.
Long, La.
Long, Md.
Lundine
McCloskey
McCormack
McDade
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Marks
Mazzoli
Metcalfe
Meyner
Mikulski
Mikva
Milford
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Pa.
Moss
Murphy, Ill.
Murtha
Myers, Michael
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Perkins
Pettis
Pickle
Pike
Poage
Preyer
Price
Pursell
Rangel
Reuss
Richmond
Rinaldo
Roberts
Roe
Rogers
Roncalio
Rooney
Rosenthal
Rostenkowski
Roybal
Ruppe
Ryan
Santini
Sawyer
Scheuer
Schroeder
Seiberling
Sharp
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Stanton
Stark
Steers
Steiger
Stokes
Stratton
Studds
Thompson
Thornton
Traxler
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Walgren
Walsh
Waxman
Weiss
Whalen
Whitehurst
Whitten
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—153

Abdnor
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Archer
Ashbrook
Badham
Bafalis
Barnard
Baucus
Bauman
Beard, Tenn.
Benjamin
Bennett
Bevill
Breaux
Brinkley
Brooks
Brown, Ohio
Burgener
Burleson, Tex.
Butler
Byron
Chappell
Clausen, Don H.
Clawson, Del
Cochran
Cohen
Coleman
Collins, Tex.
Conable
Conyers
Crane
Cunningham
Daniel, Dan
Daniel, R. W.
Derrick
Devine
Duncan, Tenn.
Edwards, Okla.
Emery
English
Evans, Del.
Evans, Ga.
Evans, Ind.
Fithian
Flippo
Flynt
Fountain
Frenzel
Fuqua
Gaydos
Gephardt
Ginn
Glickman
Goldwater
Goodling
Grassley
Gudger
Guyer
Hagedorn
Hall
Hammer-schmidt
Hansen
Harkin
Harsha
Hefner
Hightower
Holt
Hubbard
Huckaby
Hughes
Ichord
Jacobs
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kasten
Kazen
Kelly
Kemp
Keys
Kindness
Kostmayer
Lagomarsino
Latta
Levitas
Livingston
Lloyd, Tenn.
Lott
Lujan
McClory
McDonald
Marlenee
Marriott
Martin
Mathis
Mattox
Michel
Miller, Ohio
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Myers, Gary
Myers, John
Nichols
Oakar
Pressler
Quayle
Quillen
Rahall
Railsback
Regula
Rhodes
Robinson
Rose
Rousselot
Runnels
Russo
Satterfield
Schulze
Sebelius
Shuster
Sikes
Skelton
Smith, Nebr.
Snyder
Spence
Staggers
Stangeland
Steed
Stockman
Stump
Symms
Taylor
Thone
Treen
Trible
Volkmer
Waggonner
Walker
Wampler
Watkins
Weaver
White
Whitley
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—40

Ammerman
Armstrong
Burke, Calif.
Burke, Mass.
Caputo
Carney
Cotter
Dickinson
Diggs
Dingell
Eilberg
Flowers
Foley
Frey
Gammage
Harrington
Jeffords
Krueger
Leach
Leggett
Luken
McEwen
Markey
Meeds
Miller, Calif.
Murphy, N.Y.
O'Brien
Pepper
Pritchard
Quie
Risenhoover
Rodino
Rudd
Sarasin
Shipley
Teague
Tsongas
Wiggins
Wilson, C. H.
Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Eilberg for, with Mr. Gammage against.

Mr. Cotter for, with Mr. Risenhoover against.

Mr. Rodino for, with Mr. Teague against.

Until further notice:

Mr. Ammerman with Mr. Flowers.

Mrs. Burke of California with Mr. Caputo.

Mr. Markey with Mr. Frey.

Mr. Murphy of New York with Mr. Leach.

Mr. Shipley with Mr. McEwen.

Mr. Foley with Mr. O'Brien.

Mr. Pepper with Mr. Leggett.

Mr. Diggs with Mr. Pritchard.

Mr. Dingell with Mr. Quie.

Mr. Krueger with Mr. Rudd.

Mr. Carney with Mr. Sarasin.

Mr. Charles H. Wilson of California with Mr. Wiggins.

Mr. Miller of California with Mr. Dickinson.

Mr. Meeds with Mr. Luken.

Mr. Harrington with Mr. Tsongas.

Messrs. BEVILL, FLIPPO, and NICHOLS changed their vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 13750, SUGAR STABILIZATION ACT OF 1978

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 95-1587) on the resolution (H. Res. 1354) providing for consideration of the bill (H.R. 13750) to implement the International Sugar Agreement between the United States and foreign countries; to protect the welfare of consumers of sugar and those engaged in the domestic sugar-producing industry; to promote the export trade of the United States; and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 13778, DEPARTMENT OF EDUCATION ORGANIZATION ACT

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 95-1588) on the resolution (H. Res. 1355) providing for consideration of the bill (H.R. 13778) to establish a Department of Education, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 3816, FEDERAL TRADE COMMISSION AMENDMENTS OF 1977

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 95-1589) on the resolution (H. Res. 1356) waiving certain points of order against the conference report on the bill (H.R. 3816) to amend the Federal Trade Commission Act to expedite the enforcement of Federal Trade Commission cease and desist orders and compulsory process orders; to increase the independence of the Federal Trade Commission in legislative, budgetary, and personnel matters; and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 11302, ENVIRONMENTAL RESEARCH, DEVELOPMENT, AND DEMONSTRATION AUTHORIZATION ACT OF 1979

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 11302) to authorize appropriations for environmental research, development, and demonstrations for the fiscal year 1979, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CONFERENCE REPORT ON H.R. 12222, INTERNATIONAL DEVELOPMENT AND FOOD ASSISTANCE ACT OF 1978

Mr. ZABLOCKI. Mr. Speaker, I call up the conference report on the bill (H.R. 12222) to amend the Foreign Assistance Act of 1961 to authorize development and economic assistance programs for fiscal year 1979, to make certain changes in the authorities of that Act and the Agricultural Trade Development and Assistance Act of 1954, to improve the coordination and administration of United States development-related policies and programs, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 7, 1978.)

Mr. ZABLOCKI (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. ZABLOCKI) will be recognized for 30 minutes, and the gentleman from Michigan (Mr. BROOMFIELD) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support and explanation of the conference report on H.R. 12222, the International Development and Food Assistance Act of 1978.

The provisions of the conference report with respect to development assistance are essentially the same as the bill passed by the House.

The major difference between the conference report and the House-passed bill is that the Economic Support Fund (ESF), previously known as security supporting assistance, is not in this report. The House had included a $1.855 billion ESF authorization in the development assistance bill, while the Senate put ESF in the international security assistance legislation. Under the circumstances, the conferees agreed to include ESF in the conference on international security assistance legislation this year rather than in the development assistance bill. ESF thus was in the conference on S. 3075, the International Security Assistance Act of 1978, when it was passed by the House on September 12.

The conference report we are considering today authorizes $1.795 billion for development assistance, $38 billion less than the House authorized for this purpose. This figure includes a 5-percent reduction on total funds authorized, excluding the American schools and hospitals abroad program. This figure is $43.5 million below the administration request for development assistance and somewhat greater than the development assistance total approved by the Senate.

The funds authorized in this conference report provide for assistance to many of the poorest countries in the world, and more importantly, to many of the world's poorest people.

Specifically, the report authorizes, subject to the 5-percent cut formula mentioned above, $665.2 million for food and nutrition programs, $224.8 million for family planning, $148.5 million for health assistance, $109 million for education, and $126 million for technical assistance and special development programs. The bill also authorizes U.S. voluntary contributions to United Nations and other international development efforts, provides for disaster and refugee assistance, supports the American schools and hospitals abroad program, and institutes reforms in the food for peace program.

The conference report also includes several amendments designed to improve the food for peace program, which were not at issue between the House and Senate. These are provisions allowing payment of transportation costs for food for development shipments to the poorest countries and a limited rescheduling of debt obligations for them in connection with the food for development program, and for a study on the effectiveness of food assistance which will be helpful for our future review of food aid.

There were some 60 instances of difference between the House and Senate versions of H.R. 12222. In most regards, however, the House and Senate approaches were compatible, and the managers for the House believe that the resulting conference report maintains fairly the principal development assistance features of the House-passed bill.

The major resolutions reached by the conferees are as follows:

On improved coordination and consolidation of U.S. development assistance programs, the conferees agreed to the basic House position, directing the President to strengthen coordination of U.S. policies which impact on developing nations. The conferees urged the President to consider establishment of an International Development Cooperation Administration, which would supersede the Agency for International Development, to have primary responsibility for U.S. development-related activities.

The committee of conference also agreed with the House provision requiring the establishment of a unified personnel system for the Agency for International Development. Regulations setting up this system are to be submitted to Congress by March 15, 1979, and Con-

gress will have 90 days in which to review them.

The Senate also agreed to the House provision to repeal section 115 of the Foreign Assistance Act, thereby permitting the use of both development and economic support funds in the same country in the same year. Any such use of development assistance funds will have to be fully justified on economic development grounds.

The conference committee accepted a compromise provision on health policy language. The new language maintains health and population assistance authorizations in one account, and gives added emphasis to the role of AID as the primary source of U.S. health-related assistance to developing countries.

On human rights, the conferees agreed to a House provision authorizing AID to spend $1.5 million to encourage positive human rights activities in developing countries. With regard to human rights reports, the conference committee agreed with the House that these reports should be prepared by the Secretary of State. They also accepted the Senate provision identifying countries for which human rights reports are required as those countries which receive U.S. assistance funds.

The conference committee agreed to a Senate provision to consolidate provisions of the Foreign Assistance Act concerning policy with regard to the relatively least developed countries. In addition, this new section also provides that the repayment terms for previous assistance to these poorest countries should accord with the present policy of making assistance to these countries available on a grant basis. The President, therefore, is authorized, on a case-by-case basis, to permit the least developed countries to set up special accounts in their own countries to use for development purposes the paybacks due on their earlier loans from the United States.

The House managers accepted several Senate provisions which were not in the House bill, including provisions regarding program and policy evaluation procedures for AID, a sense of Congress resolution concerning U.N. development program coordination, and earmarking of $2 million in disaster assistance funds to help control locusts plagues in Africa, and establishment of the AID Auditor General as a statutory position.

The Senate managers also agreed to a number of House provisions not in their bill. In addition to the AID consolidation and coordination provision and personnel reforms I described earlier, they accepted other House provisions regarding assistance to African refugees, reimbursable technical assistance, and a U.S. contribution to the U.N. Trust Fund on South Africa.

The House and Senate bills both contained repeals of various obsolete provisions of the Foreign Assistance Act, and the conferees accepted all the repeals from both bills.

House and Senate bills both contained provisions prohibiting assistance to Vietnam, Cambodia, Uganda, and Cuba. The conferees accepted the Senate formulation of this prohibition, which does not specify a prohibition on trade, as this would not be germane to this act, and which does not specify that assistance either directly or indirectly be prohibited. The conferees intend that the prohibition does not apply to U.S. contributions to international organizations, a position which agrees with the action taken recently by the House during consideration of foreign aid appropriations.

Mr. Speaker, the House managers believe that the conference report is a good one. It maintains the principal features of the House bill and is improved in some respects by inclusion of Senate modifications.

We urge its adoption by the House.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 12222, the International Development and Food Assistance Act of 1978.

This legislation authorizes funds for the U.S. bilateral development assistance program for fiscal year 1979. The total authorization provided for in the conference agreement is $1,795,000,000. This figure is $43.5 million less than the President's budget request for fiscal year 1979 and $38.1 million less than the amount authorized in H.R. 12222 as it originally passed the House on May 15. This sum reflects the result of a conference compromise applying a 5 percent reduction to the original total authorization level agreed upon by the conferees, not including the $25 million authorization for the American schools and hospitals abroad program under section 214 of the Foreign Assistance Act of 1961, as amended.

The conference agreement retains the emphasis in the House bill on refining and consolidating the provisions of the Foreign Assistance Act in which Congress established the U.S. foreign aid policy that U.S. assistance should concentrate on helping the poor majority in developing countries to meet their own basic human needs. The language of those provisions of the law dealing with rural development, food and nutrition, population, health, and energy has been clarified.

A number of obsolete or redundant provisions of the Foreign Assistance Act of 1961 are repealed by the legislation before us today. Several other matters worth mentioning are dealt with in the conference agreement. In the interests of time, I would just like to touch on a few of these points.

In order to reinforce the legislative policy of focusing U.S. assistance on basic human needs and self-help development programs in which the poor majority can participate, the conference report follows the House bill's position that U.S. bilateral development assistance should be concentrated on projects which do not entail large-scale capital transfers. Recognizing that occasionally projects involving such transfers will be necessary, the conference report urges that such projects be undertaken in a multilateral arrangement.

The conference agreement also continues and encourages an expansion of the valuable and efficient role played by private voluntary organization (PVO's) in development assistance and in handling disaster relief assistance. Experience with these fine private agencies has generally shown the development and food assistance programs in which they are involved to be among the most effective in terms of both costs and development results.

This legislation gives the President somewhat more flexibility by permitting him to provide both development assistance and economic support funds to any country in the same fiscal year where exceptional circumstances require this action. Congress must, of course, still be given prior notification, under procedures in existing law, when the President's exercise of this authority results in a modification of aid programs already justified to Congress in the regular annual budget presentation materials.

All in all, this conference agreement represents a very acceptable compromise between the House and Senate positions. I do regret that the conferees did not retain the language of the House bill which would have provided more comprehensive coverage in the human rights area by requiring reports on all countries. Perhaps this defect can be remedied next year.

In any event, the authorization levels in this conference report are reasonable, and the total is less than the total in the original House bill. The substantive provisions of the compromise are also generally good.

I urge the House to adopt the conference report on H.R. 12222.

Mr. Speaker, at this time I would like to yield 2 minutes to the gentleman from Kansas (Mr. WINN).

Mr. WINN. Mr. Speaker, I thank the gentleman from Michigan for yielding.

Mr. Speaker, I also rise in support of the conference report on H.R. 12222, the International Development and Food Assistance Act of 1978. This legislation authorizes funds for fiscal year 1979 for the continuation of U.S. bilateral economic assistance for self-help development programs. Their purpose is to aid the poor majority of the people in the less developed countries to participate in and benefit from equitable and productive growth in their economies and standards of living.

There is little in the way of major initiatives in this bill, and therefore this conference report is primarily concerned with reconciling a number of comparatively small differences between the texts passed by the House and Senate, respectively. The main thrust of this year's authorization bill is the consolidation, streamlining, and reinforcement of general and specific policy language already set out by Congress in existing provisions of the Foreign Assistance Act of 1961, as amended.

For example, the conference agreement on H.R. 12222, following the Senate language, reemphasizes the policy that U.S. private investment should, so

far as practicable, be encouraged in development programs supported by the United States. It also reinforces the legislative policy that U.S. aid programs encourage the integration of women in the development process in their countries.

Several provisions of the conference agreement are intended to increase the efficiency and cost effectiveness of U.S. development assistance programs. The bill directs the Administrator of the Agency for International Development (AID) to improve evaluation and assessment procedures, calls for improved administrative coordination and consolidation of U.S. assistance programs, encourages AID to increase its use of competitive procurement practices, and creates a statutory position of Auditor General of AID reporting directly to the Administrator.

The conference agreement authorizes a total of $1,795,000,000 for development assistance programs in the areas of food, nutrition and rural development, health, population, education, energy, and the environment, as well as disaster assistance, and aid to American sponsored or supported schools and hospitals abroad. The funds in this legislation are necessary to U.S. efforts to meet international humanitarian needs and to help promote equitable growth and prospects for long-term international economic stability. I urge the House to approve the conference report on H.R. 12222.

Mr. BROOMFIELD. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I would like to ask several questions of my colleague, the chairman of the committee, the gentleman from Wisconsin (Mr. ZABLOCKI).

I notice that the conferees capitulated to the Senate on my amendment which would have prohibited indirect aid to Communist countries. The chairman seemed to gloss over that. It does seem to be totally different from that standpoint. Do I understand it is the intent of the conferees to allow taxpayers' money to go indirectly to Communist countries, to Vietnam and Cambodia and Cuba? That seems to be the substance of what has been accomplished by knocking out my amendment. Is that the intention of the conferees?

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Speaker, I thank the gentleman for yielding.

It is certainly not the intent of the conferees to condone the use of U.S. taxpayers' money for purposes contrary to which the gentleman believes they should be used, but there is no way of controlling just how our contributions to the multilateral institutions, for example to the United Nations or other international organizations, will be used. There is no way of controlling their use of our contributions. I admire the gentleman's intent, and as I told him privately, if there were any possible way of doing what he wants I would heartily support him. I am in agreement with his views. But as the gentleman knows, in the conference there is give and take. The Senate conferees were adamant. They pointed out repeatedly that adoption of that amendment would not bring about the situation intended by the gentleman from Ohio. They insisted that our position was unacceptible. Therefore, we had to capitulate, to use the gentleman's starkly descriptive language.

Mr. ASHBROOK. Let me say to my friend and colleague, I think the American taxpayers would be rather astounded to hear that there is nothing we could do. We could simply not send the money there, and that is the purpose of the amendment. So what we are saying in effect is that the conferees have capitulated to the position of the Senate which does allow the taxpayers' money to be used indirectly by multilateral agencies to aid the Communist countries named, that is Vietnam and Cambodia and Cuba. That is the bottom line of what we are talking about, no matter what niceties of the debate might be.

So I just object to the argument that there is nothing we could do but to place our taxpayers' money in the hands of a multilateral agency or organization and they hold the smoking gun and we say we cannot do anything. I just do not buy that.

I understand the gentleman's position and the position of the Senate, but I think the American taxpayers ought to realize that in this conference report we do allow the American taxpayers' money to go to Communist countries indirectly, and we all know that here, and it is the responsibility of all those who vote for this conference report.

Mr. ZABLOCKI. Mr. Speaker, if the gentleman will yield further, I think the first question we must ask ourselves is this: Is it in our country's national interest to belong to the international organizations, to belong, for example, to the United Nations and to the World Bank and to the various other international organizations? And if we come to the conclusion that, yes, it is in our country's national interest to belong to those international organizations because they promote the interests of the United States, then the answer is that, yes, we must put in our contribution. And if we put in our contribution then we cannot have final control under the charters at the various organizations.

I think the primary issue is, and certainly it is my opinion, that it is in our interest to belong to these international organizations.

As far as using that money directly or indirectly, or using our contribution directly or indirectly to assist the countries that are listed, basically, as the gentleman knows, there is absolutely no direct aid from us to these countries.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 additional minutes to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, let me say to my friend the chairman that I do not believe he states the issue correctly. At least, in my opinion, the fundamental issue here is not whether it is not in our interest to belong to these agencies, the question is, more properly whether or not it is in our interest to belong to these agencies regardless of what they do. The chairman says it is in our interest to belong to these organizations regardless of what they do, it is in our interest to belong to these multilateral agencies, regardless of what they do, regardless of how they spend the money, regardless of what position they may take. I do not think the gentleman would agree with that.

Mr. ZABLOCKI. The answer to the gentleman is "No."

Certainly instructions to our representatives in these international organizations is not to support loans or assistance to these countries that are listed, but we do not make the final decisions that are adopted by these organizations.

I must point out to the gentleman that even though aid programs and loans are made to these countries by international organizations they are made for humanitarian purposes, for the improvement of life in these particular areas. I know the gentleman from Ohio (Mr. ASHBROOK) has charity in his heart and has concern for the poorest of the poor people.

Mr. ASHBROOK. Mr. Speaker, let me just regain my last minute to make one point.

I think we would all want to draw the line somewhere, and the question is where the line should be drawn. I remember during the Watergate era that some of the diehard Members on this side of the aisle, when I was criticizing the President and they were not criticizing the President, I said to them well, at what point would you criticize the President? And there was a thirty second silence, and I said well, there is nothing up with which you would not put before you draw the line. I think that this is the place where we should draw the line. I think this committee would be hard pressed to find a place as to where they would draw the line.

Mr. ZABLOCKI. If the gentleman will yield further, we do have a vote, as the gentleman knows, on setting the policy.

Mr. ASHBROOK. A vote on what line?

Mr. ZABLOCKI. On the setting of policy.

The SPEAKER pro tempore. The time of the gentleman has again expired.

Mr. BROOMFIELD. I yield 2 additional minutes to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. Go ahead.

Mr. ZABLOCKI. Mr. Speaker, we have a vote and I can assure the gentleman that our votes are not cast in favor of the decisions such as the gentleman refers to, but we do not have control of the final decision. After all, these international lending agencies and international organizations are run in a democratic manner, so we do have a voice, we do have the right to object. We do

not support some of the policies and in the final analysis we do not vote for them but we do not have full control over them.

Mr. ASHBROOK. You do not have the vote but we do, as the elected representatives here.

Mr. ZABLOCKI. We do have a vote.

Mr. ASHBROOK. You do not have a vote to demand that they follow our particular wishes, but we do as Congressmen, as Representatives, have the responsibility of determining where we draw the line. I guess that is the only question that I would ask this committee: Where, at what point do we ever actually draw the line? I am inclined to think that the Committee on International Relations wil not draw a line anywhere.

Mr. ZABLOCKI. The gentleman knows we have drawn the line on direct aid. If the gentleman wants to draw the line further down then it should be done in the legislation that authorizes funds for our contributions to the development banks and other international organizations legislation. Perhaps the gentleman should seek U.S. withdrawal from the organizations.

Mr. ASHBROOK. I will only say that the gentleman has drawn an invisiable line.

Mr. ZABLOCKI. Let me repeat, withdrawal is the only way the gentleman can effectively bring about what he intends with the kind of position he takes.

Mr. ASHBROOK. Mr. Speaker, I would merely conclude by saying that a lot of people want to withdraw behind that invisible line which has been drawn because direct aid means nothing as long as there is money to be used indirectly to accomplish the same purpose which the gentleman indicates will not be done directly.

Mr. Speaker, I thank the gentleman for yielding.

Mr. BROOMFIELD. I yield myself 1 minute.

Mr. Speaker, would the chairman respond to a colloquy.

While I am opposed to indirect aid, I would point out that out of a total authorization of $1.8 billion, there are just one or two U.N. programs, among the several funded by this legislation under which the countries in question may receive some U.N. aid.

Other than those few programs, I do not see where we are giving even any indirect aid to Communist countries; is that not correct?

Mr. ZABLOCKI. The gentleman is correct.

Mr. BROOMFIELD. Mr. Speaker, I yield back the balance of my time.

Mr. ZABLOCKI. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 231, nays 159, not voting 42, as follows:

[Roll No. 800]

YEAS—231

Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Annunzio
Ashley
Aspin
AuCoin
Baldus
Baucus
Beard, R.I.
Bedell
Bellenson
Benjamin
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Brademas
Brodhead
Broomfield
Brown, Calif.
Brown, Mich.
Buchanan
Burlison, Mo.
Burton, John
Burton, Phillip
Carr
Carter
Cavanaugh
Cederberg
Chisholm
Clay
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Cornell
Cornwell
Coughlin
D'Amours
Danielson
Delaney
Dellums
Dicks
Dodd
Dornan
Downey
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Erlenborn
Evans, Colo.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flood
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Fraser
Frenzel
Garcia
Gephardt
Gilman
Glickman
Gonzalez
Goodling
Gore
Gradison
Green
Hamilton
Hanley
Hannaford
Harkin
Harris
Hawkins
Heckler
Heftel
Hillis
Hollenbeck
Holtzman
Horton
Howard
Hughes
Hyde
Johnson, Calif.
Johnson, Colo.
Jordan
Kastenmeier
Keys
Kildee
Kostmayer
Krebs
LaFalce
Le Fante
Lederer
Leggett
Lehman
Lent
Lloyd, Calif.
Long, La.
Long, Md.
Lundine
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mann
Marks
Martin
Mazzoli
Metcalfe
Meyner
Mikulski
Mikva
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Moss
Murphy, Ill.
Murtha
Myers, Gary
Myers, Michael
Natcher
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
Ottinger
Patten
Patterson
Pattison
Pease
Perkins
Pettis
Preyer
Price
Pritchard
Pursell
Railsback
Rangel
Reuss
Rhodes
Richmond
Rinaldo
Rodino
Roe
Roncalio
Rooney
Rosenthal
Rostenkowski
Ruppe
Ryan
Scheuer
Schroeder
Schulze
Selberling
Sharp
Simon
Sisk
Skubitz
Smith, Iowa
Solarz
Spellman
St Germain
Stanton
Stark
Steers
Steiger
Stockman
Stokes
Stratton
Studds
Thompson
Thornton
Traxler
Treen
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Waxman
Weiss
Whalen
Wiggins
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—159

Abdnor
Andrews, N.C.
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bennett
Bevill
Bowen
Breaux
Brinkley
Brooks
Brown, Ohio
Broyhill
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Chappell
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Coleman
Collins, Tex.
Corcoran
Crane
Cunningham
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Dent
Derrick
Derwinski
Devine
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Ertel
Evans, Ga.
Evans, Ind.
Fithian
Flippo
Florio
Flynt
Frey
Fuqua
Gaydos
Gibbons
Ginn
Goldwater
Grassley
Gudger
Guyer
Hagedorn
Hall
Hammer-schmidt
Hansen
Harsha
Hefner
Hightower
Holt
Hubbard
Huckaby
Ichord
Ireland
Jacobs
Jenkins
Jenrette
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kasten
Kazen
Kelly
Kindness
Lagomarsino
Latta
Levitas
Livingston
Lloyd, Tenn.
Lott
Lujan
McClory
McDonald
Mahon
Marlenee
Marriott
Mathis
Mattox
Michel
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Myers, John
Neal
Nichols
Oakar
Panetta
Pickle
Pike
Poage
Pressler
Quayle
Quillen
Rahall
Regula
Roberts
Robinson
Rogers
Rose
Rousselot
Roybal
Runnels
Russo
Santini
Satterfield
Sawyer
Sebelius
Shuster
Sikes
Skelton
Slack
Smith, Nebr.
Snyder
Spence
Staggers
Stangeland
Steed
Stump
Symms
Taylor
Thone
Trible
Waggonner
Walker
Walsh
Wampler
Watkins
Weaver
White
Whitley
Whitten
Wilson, Bob
Wilson, C. H.
Young, Alaska
Young, Fla.

NOT VOTING—42

Ammerman
Armstrong
Breckinridge
Burke, Calif.
Burke, Mass.
Caputo
Carney
Cotter
Dickinson
Diggs
Dingell
Drinan
Eilberg
Evans, Del.
Flowers
Foley
Fountain
Gammage
Giaimo
Harrington
Holland
Jeffords
Kemp
Krueger
Leach
Luken
Markey
Meeds
Milford
Miller, Calif.
Murphy, N.Y.
O'Brien
Pepper
Quie
Risenhoover
Rudd
Sarasin
Shipley
Teague
Tsongas
Whitehurst
Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Carney for, with Mr. Gammage against.

Mr. Cotter for, with Mr. Risenhoover against.

Mr. Drinan for, with Mr. Teague against.

Until further notice:

Mr. Eilberg with Mr. Breckinridge.
Mr. Markey with Mr. Caputo.
Mr. Shipley with Mr. Kemp.
Mrs. Burke of California with Mr. Leach.
Mr. Pepper with Mr. O'Brien.
Mr. Murphy of New York with Mr. Rudd.
Mr. Giaimo with Mr. Sarasin.
Mr. Ammerman with Mr. Quie.
Mr. Dingell with Mr. Whitehurst.
Mr. Krueger with Mr. Milford.
Mr. Meeds with Mr. Luken.
Mr. Foley with Mr. Holland.

Mr. Diggs with Mr. Dickinson.
Mr. Tsongas with Mr. Evans of Delaware.
Mr. Miller of California with Mr. Flowers.
Mr. Fountain with Mr. Harrington.

Mr. MAHON changed his vote from "yea" to "nay."

Mr. D'AMOURS changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to House Resolution 1350, agreed to on September 15, 1978, the Speaker did on September 19, 1978, make certification to the U.S. Attorney for the District of Columbia, as required by House Resolution 1350, of the refusal of Hancho C. Kim to answer a question in a proceeding being conducted by the Committee on Standards of Official Conduct.

CONFERENCE REPORT ON H.R. 11401, NASA AUTHORIZATION FOR FISCAL YEAR 1979

Mr. FUQUA. Mr. Speaker, I call up the conference report on the bill (H.R. 11401) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of August 17, 1978.)

Mr. FUQUA (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with, as I intend to explain this to the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida (Mr. FUQUA) will be recognized for 30 minutes, and the gentleman from New York (Mr. WYDLER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the committee on conference on the bill (H.R. 11401) authorizing funds for the National Aeronautics and Space Administration for fiscal year 1979 has successfully concluded its work. The conference report before you includes eight changes in the NASA research and development program line items, and one change in the construction of facilities line items. The net result of the House and Senate is a $30 million increase in amount requested ($4,371,600,000) for fiscal year 1979. An increase of less than seven-tenths of 1 percent (0.69 percent) in the amount requested by the administration.

The following actions, representing a net increase of $23,000,000, was taken by the conference committee:

Funds were added to:

First, support future space program definition ($4 million).

Second, provide funds for Spacelab life science experiments ($2 million).

Third, increase space applications programs of the State and local level and provide for the definition of a Stereosat Satellite ($6 million).

Fourth, augment efforts in technology utilization including bioengineering ($3 million).

Fifth, enhance aeronautical research and technology programs ($11 million).

Sixth, increase effort to define the technology necessary for solar satellite power systems ($2 million).

Funds were decreased to:

First, realize savings as conventional launch vehicles are phased out of NASA programs ($2.5 million)

Second, provide a general reduction in rehabilitation and modification funds for NASA facilities ($2.5 million)

I am including a summary of the action taken for the record.

In addition to the increases and decreases noted, language amendment to the basic act was included which clarifies the NASA role in bioengineering technology. A reporting requirement has also been included in the bill with respect to NASA policy regarding standards of conduct, financial disclosure, and conflicts of interest. A technical amendment reparagraphing two construction of facilities line items was also agreed to by the conferees.

In conclusion, the conferees on both sides of the aisle are to be congratulated for their efforts in bringing the conference report to the floor. The conference report before you reflects the need to exercise prudent economy while encouraging full utilization of the potential of space. I urge adoption of this report.

NASA FISCAL YEAR 1979—SUMMARY

Fiscal year 1979	Budget request	House action	Senate committee action	Committee of conference
Research and development:				
Space Shuttle	$1,439,300,000	$1,443,300,000	$1,443,300,000	$1,443,300,000
Space flight operations	311,900,000	308,900,000	318,900,000	315,900,000
Expendable launch vehicles	76,500,000	71,500,000	76,500,000	74,000,000
Physics and astronomy	285,500,000	285,500,000	285,500,000	285,500,000
Lunar and planetary exploration	187,100,000	187,100,000	187,100,000	187,100,000
Life sciences	40,600,000	40,600,000	42,600,000	42,600,000
Space applications	274,300,000	288,300,000	274,300,000	280,300,000
Technology utilization	9,100,000	14,600,000	9,100,000	12,100,000
Aeronautical research and technology	264,100,000	292,300,000	264,100,000	275,100,000
Space research and technology	108,300,000	111,300,000	111,300,000	111,300,000
Energy technology applications	3,000,000	6,000,000	4,000,000	5,000,000
Tracking and data acquisition	305,400,000	304,400,000	305,400,000	305,400,000
Total	3,305,100,000	3,353,800,000	3,322,100,000	3,337,600,000
Construction of facilities	152,500,000	147,500,000	152,500,000	150,000,000
Research and program management	914,000,000	914,500,000	914,000,000	914,000,000
Grand total	4,371,600,000	4,415,300,000	4,388,600,000	4,401,600,000

Mr. WYDLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a good conference report. The bill passed the House overwhelmingly. Actually, we have come back from our conference with the Senate with a bill that is at a lower dollar figure than the bill was when it left the House floor. I think we have represented the House's interests well. Among other things that I think is important in the conference is the fact that we did, as the House wanted to do, increase to some extent the amount of money that is being spent on aeronautics research.

I think that emphasis is a good one for the Congress to maintain at a time when the agency seems somewhat reluctant to give to aeronautical research the emphasis it deserves.

Mr. Speaker, I urge the Members on this side of the aisle to support the conference report. I think the program is well planned for next year, and I hope that everyone on both sides of the aisle will be able to give it the backing that it deserves.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. YATES. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 321, nays 54, not voting 57, as follows:

[Roll No. 801]

YEAS—321

Abdnor
Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Ashley
Aspin
AuCoin
Badham
Bafalis
Barnard
Baucus
Bauman
Bellenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bonior
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Conte
Corcoran
Corman
Cornwell
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Derrick
Derwinski
Dicks
Dodd
Dornan
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Ga.
Fary
Fascell
Fisher
Fithian
Flippo
Flood
Florio
Flynt
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Fray
Fuqua
Garcia
Gaydos
Giaimo
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harris
Harsha
Hawkins
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Horton
Howard
Hubbard
Huckaby
Ichord
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kildee
Kindness
LaFalce
Lagomarsino
Le Fante
Lederer
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Mahon
Mann
Marks
Marlenee
Marriott
Mathis
Mazzoli
Metcalfe
Mikulski
Milford
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nowak
Oakar
Oberstar
Panetta
Patten
Patterson
Pattison
Pease
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quillen
Railsback
Rangel
Regula
Reuss
Rhodes
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rostenkowski
Rousselot
Runnels
Ruppe
Ryan
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Sharp
Shuster
Sikes
Slack
Smith, Iowa
Snyder
Solarz
Spellman
St Germain
Staggers
Stange.and
Stanton
Steed
Steers
Stockman
Stokes
Stratton
Stump
Symms
Taylor
Thompson
Thone
Thornton
Traxler
Treen
Trible
Tucker
Udall
Van Deerlin
Vander Jagt
Vanik
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Whalen
Whitley
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—54

Baldus
Bedell
Brodhead
Broyhill
Collins, Tex.
Cornell
Dellums
Devine
Evans, Ind.
Fenwick
Findley
Fish
Frenzel
Gephardt
Gibbons
Goodling
Holtzman
Hughes
Hyde
Jacobs
Keys
Kostmayer
Krebs
Latta
McDonald
Maguire
Martin
Mattox
Michel
Mikva
Miller, Ohio
Minish
Mottl
Nolan
Obey
Ottinger
Quayle
Rahall
Richmond
Rosenthal
Roybal
Russo
Seiberling
Simon
Skelton
Skubitz
Stark
Steiger
Studds
Vento
Volkmer
Weaver
Weiss
Yates

NOT VOTING—57

Ammerman
Armstrong
Beard, R.I.
Beard, Tenn.
Bolling
Burke, Calif.
Burke, Mass.
Burton, John
Caputo
Coleman
Conyers
Cotter
Dent
Dickinson
Diggs
Dingell
Drinan
Eckhardt
Eilberg
Evans, Del.
Flowers
Foley
Gammage
Harrington
Heckler
Ireland
Jeffords
Kemp
Krueger
Leach
Leggett
Lehman
Luken
Markey
Meeds
Meyner
Miller, Calif.
Moss
Murphy, N.Y.
O'Brien
Pepper
Quie
Risenhoover
Rudd
Sarasin
Shipley
Sisk
Smith, Nebr.
Spence
Teague
Tsongas
Ullman
Waxman
White
Whitehurst
Wilson, C. H.
Young, Tex.

The Clerk announced the following pairs:

Mrs. Burke of California with Mr. Caputo.
Mr. Cotter with Mr. Leach.
Mr. Drinan with Mr. Rudd.
Mr. Gammage with Mr. Sarasin.
Mr. Ammerman with Mr. Quie.
Mr. Pepper with Mr. Ireland.
Mr. Teague with Mr. Luken.
Mr. Risenhoover with Mr. Dickinson.
Mr. Eilberg with Mr. Flowers.
Mr. Markey with Mr. Harrington.
Mr. Shipley with Mr. Beard of Tennessee.
Mr. Murphy of New York with Mr. Coleman.
Mr. Dingell with Mr. Evans of Delaware.
Mr. Krueger with Mr. O'Brien.
Mr. Meeds with Mrs. Smith of Nebraska.
Mr. Foley with Mr. Spence.
Mr. Diggs with Mr. Whitehurst.
Mr. Burke of Massachusetts with Mr. Conyers.
Mr. John L. Burton with Mr. Beard of Rhode Island.
Mr. Dent with Mr. Eckhardt.
Mrs. Meyner with Mrs. Heckler.
Mr. Miller of California with Mr. Kemp.
Mr. Lehman with Mr. Leggett.
Mr. Moss with Mr. White.
Mr. Tsongas with Mr. Charles H. Wilson of California.
Mr. Ullman with Mr. Sisk.
Mr. Waxman with Mr. Jeffords.

Mr. FISH and Mr. MARTIN changed their vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT FOR FISCAL YEAR 1979

Mr. FUQUA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 11400) to authorize the appropriation of specified dollar amounts for each of the National Science Foundation's major program areas (and certain subprograms), and to provide requirements relating to period of availability and transfers of the authorized funds, with the Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "National Science Foundation Authorization Act for Fiscal Year 1979".

SEC. 2. (a) There is authorized to be appropriated to the National Science Foundation $934,400,000 for the fiscal year 1979.

(b) Funds authorized for the fiscal year 1979 shall be available for the following categories:

(1) Mathematical and Physical Sciences and Engineering, $266,300,000.

(2) Astronomical, Atmospheric, Earth and Ocean Sciences, $225,300,000.

(3) United States Antarctic Program, $48,500,000.

(4) Biological, Behavioral, and Social Sciences, $156,000,000.

(5) Science Education Programs, $87,700,000.

(6) Applied Science and Research Applications, $73,500,000, of which not less than 15 per centum shall be expended to small business concerns, and of which $2,000,000 is available for a "Handicapped Research Program".

(7) Scientific, Technological, and International Affairs, $22,300,000.

(8) Program Development and Management, $51,800,000.

SEC. 3. In addition to such sums as are authorized by section 2, not to exceed $3,000,000 is authorized to be appropriated for expenses of the National Science Foundation incurred outside the United States to be paid for in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States.

SEC. 4. Appropriations made pursuant to this Act may be used, but not to exceed $5,000 in fiscal year 1979 for official consultation, representation, or other extraordinary expenses upon the approval or authority of the Director of the National Science Foundation, and his determination shall be final and conclusive upon the accounting officers of the Government.

SEC. 5. Appropriations made pursuant to this Act shall remain available for obligation, for expenditure, or for obligation and

expenditure, for such period or periods as may be specified in Acts making such appropriations.

SEC. 6. No funds may be transferred from any particular category listed in section 2 for any fiscal year to any other category or categories listed in such section for that year if the total of the funds so transferred from that particular category would exceed 10 per centum thereof, and no funds may be transferred to any particular category listed in section 2 for any fiscal year from any other category or categories listed in such section for that year if the total of the funds so transferred to that particular category would exceed 10 per centum thereof, unless—

(1) a period of thirty legislative days has passed after the Director of the National Science Foundation or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate and to the Committee on Science and Technology of the House of Representatives and to the Committee on Human Resources of the Senate a written report containing a full and complete statement concerning the nature of the transfer and the reason therefor, or

(2) each such committee before the expiration of such period has transmitted to the Director, written notice to the effect that such committee has no objection to the proposed action.

SEC. 7. Notwithstanding any other provision of this or any other Act, the Director of the National Science Foundation shall keep the Committee on Science and Technology of the House of Representatives and the Committee on Human Resources of the Senate fully and currently informed with respect to all of the activities of the National Science Foundation.

SEC. 8. (a) The Director of the National Science Foundation, in consultation with the Director of the Office of Science and Technology Policy, the Secretary of Energy, the Administrator of the National Aeronautics and Space Administration, and technical experts in public agencies, private organizations, and academic institutions, is authorized to determine the need to provide support under this Act for a study of the feasibility of transmitting solar energy to Earth by using orbital structures manufactured from lunar or asteroidal materials, and the impact of such a feasibility study, if any, on existing National Science Foundation programs.

(b)(1) If the Foundation determines that such a feasibility study is necessary, the Foundation is authorized to conduct such a study directly or by grants or contracts with public agencies, private organizations, or academic institutions.

(2) At the conclusion of any such study the Foundation shall prepare and submit to the President and to the Congress a report of the study, together with such recommendations as the Foundation deems appropriate.

(3) There are authorized to be appropriated $500,000 for the fiscal year 1979, to carry out the provisions of this subsection.

Mr. FUQUA (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the House amendment to the Senate amendment.

The Clerk read the House amendment to the Senate amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

That this Act may be cited as the "National Science Foundation Authorization Act for Fiscal Year 1979".

SEC. 2. (a) There is hereby authorized to be appropriated to the National Science Foundation for the fiscal year 1979 for the following categories:

(1) Mathematical and Physical Sciences and Engineering, $265,700,000.

(2) Astronomical, Atmospheric, Earth, and Ocean Sciences, $224,700,000.

(3) United States Antarctic Program, $51,200,000.

(4) Biological, Behavioral, and Social Sciences, $157,000,000.

(5) Science Education Programs, $84,800,000.

(6) Applied Science and Research Applications, $69,700,000.

(7) Scientific, Technological, and International Affairs, $23,500,000.

(8) Program Development and Management, $53,300,000.

(b) Of the total amount authorized under subsection (a)(6)—

(1) $2,000,000 is authorized for a "Handicapped Research Program";

(2) $200,000 is authorized for the design of a program in Appropriate Technology; and

(3) not less than 12.5 per centum shall be expended to small business concerns.

SEC. 3. Appropriations made under the authority provided in sections 2 and 5 shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making the appropriations.

SEC. 4. From appropriations made under this Act, not more than $5,000 may be used for official consultation, representation, or other extraordinary expenses upon the determination of the Director of the National Science Foundation, and his determination shall be final and conclusive upon the accounting officers of the Government.

SEC. 5. In addition to the sums authorized by section 2, not more than $4,500,000 is authorized to be appropriated for the fiscal year 1979 for expenses of the National Science Foundation incurred outside the United States, to be paid for in foreign currencies that the Treasury Department determines to be excess to the normal requirements of the United States.

SEC. 6. Funds may be transferred among the categories listed in section 2(a), but neither the total funds transferred from any category nor the total funds transferred to any category may exceed 10 per centum of the amount authorized for that category in section 2, unless—

(1) thirty legislative days have passed after the Director of the National Science Foundation or his designee has transmitted to the Speaker of the House of Representatives, to the President of the Senate, to the Committee on Science and Technology of the House of Representatives, and to the Committee on Human Resources of the Senate a written report containing a full and complete explanation of the transfer involved and the reason for it, or

(2) before the expiration of thirty legislative days both the Committee on Science and Technology of the House and the Committee on Human Resources of the Senate have written to the Director to the effect that they have no objection to the proposed transfer.

SEC. 7. Notwithstanding any other provision of this or any other Act, the Director of the National Science Foundation shall keep the Committee on Science and Technology of the House of Representatives and the Committee on Human Resources of the Senate fully and currently informed with respect to all of the activities of the National Science Foundation.

SEC. 8. (a) The Director of the National Science Foundation, in consultation with the Director of the Office of Science and Technology Policy, the Secretary of Energy, the Administrator of the National Aeronautics and Space Administration, and technical experts in public agencies, private organizations, and academic institutions, in authorized to determine the need to provide support under this Act for a study of the feasibility of transmitting solar energy to Earth by using orbital structures manufactured from lunar or asteroidal materials, and the impact of such a feasibility study, if any, on existing National Science Foundation programs.

(b)(1) If the Foundation determines that such a feasibility study is necessary, the Foundation is authorized to conduct such a study directly or by grants or contracts with public agencies, private organizations, or academic institutions.

(2) At the conclusion of any such study the Foundation shall prepare and submit to the President and to the Congress a report of the study, together with such recommendations as the Foundation deems appropriate.

(3) Of the funds authorized in section 2, $500,000 shall be available to carry out the provisions of this subsection.

Mr. FUQUA (during the reading). Mr. Speaker, I ask unanimous consent that the House amendment to the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Florida?

Mr. HOLLENBECK. Mr. Speaker, I reserve the right to object.

Mr. Speaker, I join my colleague, Mr. HARKIN, in urging the House to adopt the amendment to H.R. 11400. The figures represent the same overall level of spending as that recommended by our committee and passed by the House, while in individual categories they represent an even compromise with the Senate figures.

I believe this is an equitable and sound compromise, which strengthens basic research supported by the National Science Foundation, and would authorize greatly increased support for science education, where I believe the Foundation is doing some extremely interesting and important work. I am also particularly heartened to see that the initial cut proposed by the Senate in authorized expenditures for Antarctic programs has been at least partially restored in the compromise. After my colleague's visit to Antarctica last winter, I am impressed with the importance of the work this country is doing there, with the need to strengthen U.S. presence in the Antarctic, and with the importance of better understanding of the environmental forces and potential resources which exist there. As the designated agency responsible for managing all the U.S. activities in that area, it falls upon the Foundation to carry out all U.S. activities in Antarctica, and I am heartened

to see that this work is being encouraged by the language of the compromise.

Mr. Speaker, I, too, understand that the Senate will accept this amendment if adopted by the House and I urge my colleagues to join me in supporting the amendment to H.R. 11400. Mr. HARKIN and the staff deserve our great appreciation for their efforts in fashioning this compromise.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Florida?

Mr. HARKIN. Mr. Speaker, I reserve the right to object, and I do so only to lend my support to the unanimous consent request of the gentleman from Florida (Mr. FUQUA).

Mr. Speaker, the bill, H.R. 11400, provides authorization for the activities of the National Science Foundation for fiscal year 1979 in the total amount of $934.4 million. This is the same total amount as was presented earlier this year when the bill was passed in the House and in the Senate. Within this fixed total the amendment adjusts each line item slightly. The amount of each line item in the amendment falls between the House-passed figure and the Senate-passed figure. Line items are as follows:

NSF FISCAL YEAR 1979 AUTHORIZATION COMPARISON

Category	Budget request	House passed	Senate passed	Amendment
Mathematical and physical sciences and engineering	268.3	265.1	266.3	265.7
Astronomical, atmospheric, Earth, and ocean sciences	227.3	224.1	225.3	224.7
Biological, behavioral, and social sciences	158.0	158.0	156.0	157.0
Antarctic program	50.7	53.1	48.5	51.2
Science education	77.6	82.0	87.7	84.8
Applied science and research applications	67.0	67.0	73.5	69.7
Scientific, technological and international affairs	24.3	24.3	22.3	23.5
Program development and management	54.8	54.8	51.8	53.3
Foreign currency	6.0	6.0	3.0	4.5
Total	934.0	934.4	934.4	934.4

The bill earmarks funds for four specific items: First, $2 million for handicapped research; second, $200,000 for the design of a program in appropriate technology; third, $500,000 for a solar satellite feasibility study; and fourth, 12.5 percent of applied research funds for expenditure to small businesses.

The chairmen and ranking minority members of the House and Senate committees and subcommittees with jurisdiction over this bill make the following recommendations for the use of the funds authorized in certain categories, as follows:

SCIENCE EDUCATION

The amount authorized by the amendment for science education is $84.8 million. This is $7.2 million above the request of $77.6 million. It is recommended that the Foundation give first priority to funding each program in science education at the level of the request for the program. Recommended funding levels for certain programs, including the increase of $7.2 million, are as follows:

[In millions of dollars]

Program	Increase over request	Recommended program level
Undergraduate research participation and student-originated studies	$2.5	$2.5
Minorities, women, and the handicapped in science	0.7	3.2
Minority institution graduate fellowships	1.3	3.3
Minority institutions science improvement	—	5.0
Resource centers for science and engineering	—	2.8
Science for citizens	0.5	2.2
Ethics and values in science and technology	0.2	1.5
Increase emphasis on educational opportunities for women	2.0	2.0
Total	7.2	22.5

The $2 million recommended for increased emphasis on educational opportunities for women should be distributed among those existing science education programs where it can be used most effectively to increase the participation of women in science; it is not intended for a distinct line item program. In the science for citizens program it is recommended that the increase be used to continue and expand ongoing activities consistent with the mission of the Foundation and its experience.

APPLIED SCIENCE AND RESEARCH APPLICATIONS

In the category of applied science and research applications, in addition to the requirements of the bill for handicapped research, appropriate technology, and small business, it is recommended that $1.2 million be available for the State science, engineering, and technology program and that of the funds available in the 12.5 percent set-aside for small business $3.5 million be available for the small business innovation program.

TWO-YEAR AUTHORIZATION

It is recommended that the Foundation present a 2-year line item authorization to the Congress for fiscal years 1980 and 1981.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Florida (Mr. FUQUA)?

There was no objection.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 8149, CUSTOMS PROCEDURAL REFORM

Mr. VANIK. Mr. Speaker, I call up the conference report on the bill (H.R. 8149) to provide customs procedural reform, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the statement.

(For conference report and statement see proceedings of the House of August 17, 1978.)

Mr. VANIK (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Speaker, I request the immediate consideration of the conference report on H.R. 8149, the Customs Procedural Reform and Simplification Act. On August 17, 1978, the conference report and statement of managers was filed with the House, and on August 25, the report was submitted to the Senate and agreed to the same day.

Mr. Speaker, this bill provides long-needed reform and is designed to build flexibility into the customs laws, and permit the use of more modern procedures which will increase the productivity and efficiency of these statutes.

The final version reflects the legitimate interests of the private sector while also permitting the U.S. Customs Service to modernize and simplify its procedures. The bill enjoys widespread support in the importing community and among business interests in general.

The conference agreement accommodated what basically are procedural differences between the versions of the bill or passed by the two Houses and are set forth in the conference report.

Title I of the bill would allow customs to institute up-to-date business methods and adopt accepted financial practices in conjunction with computerized techniques in the processing of importations.

The effect of the relevant title I provisions would be to permit the Secretary of Treasury to alter the customs practices and procedures with respect to the entry, clearance, and verification processes applicable to commercial imports. Title I also amends section 592 of the Tariff Act of 1930, the so-called penalty and fraud provision, by modifying the appropriate penalty levels and expanding the availability of judicial review.

Title II amends various provisions of the customs laws in an effort to avoid undue administrative expense or simplify the entry procedures for certain noncommercial importations. Most of the provisions adjust monetary levels for administrative purposes, or make compensation for inflationary factors.

An important provision in this regard is an increase in the personal duty exemption for returning residents from $100 to $300, and from $200 to $600 for residents returning from the U.S. insular possessions. In addition, the next $600 worth of goods purchased by a traveler will be subject to a flat duty rate, thus speeding up the processing of persons arriving in the United States.

Mr. Speaker, this bill is the first major piece of legislation to facilitate the customs clearance of merchandise since the 1950's. Both the private and the public sectors endorse the bill, which will benefit individual travelers as well as importing businesses by reducing the long delays at our ports of entry. I recommend that the House approve the conference report.

Mr. Speaker, I yield to the gentleman from Oklahoma (Mr. JONES).

Mr. JONES of Oklahoma. Mr. Speaker, passage of this conference report will create the first substantial reforms in our customs laws since the early 1950's. Since that time the value of U.S. imports, the amount of duties collected, and the number of passengers passing through customs have increased over 500 percent; yet customary procedures for handling this workload have remained unchanged.

The bill agreed to in conference differs in no significant way from the legislation which passed the House last October. That bill was the product of very close work between the Congress, the Treasury Department, and the importing community. Let me comment briefly on two important provisions.

First, the House bill removed the basic inequities in section 592, the so-called penalty and fraud provision of customs law. In the past, importers were subject to large fines irrespective of the nature of their violation and were effectively precluded from judicial review of customs decisions. H.R. 8149 creates maximum penalty levels and burden of proof requirements for three levels of culpability and provides de novo judicial review in the courts.

The Senate added an amendment to this section which would apply the old law to section 592 cases already under investigation. This amendment was modified in conference to cover only the cases involving the dumping of Japanese televisions which caused the concern in the first place.

Second, the House bill raised the duty-free exemption for returning residents from $100 to $250 and from $200 to $500 for residents returning from U.S. insular possessions. The Senate bill doubled these increases. The conference report has settled on values of $300 and $600. These increases should significantly speed the customs clearance of international passengers.

H.R. 8149 is only the first step we must take in modernizing the Customs Service. As international trade continues to grow in the future, we will want to improve the statistics which customs gathers. We will want to increase our emphasis on preventing unfair international competition. And we must review how customs can best handle its numerous responsibilities across 96,000 miles of our country's borders.

These are broader issues to be addressed in the future. But today H.R. 8149 represents a successful effort for the Congress, the administration, and the people we serve to make our laws and our Government more just and effective. As the Customs Service moves into its third century, it is good to record these small steps we take and to review how much further we still have to go.

Mr. Speaker, I want to pay particular tribute to the chairman of our subcommittee, the gentleman from Ohio (Mr. VANIK), and to the ranking Republican member of the task force, the gentleman from Minnesota (Mr. FRENZEL), who worked so hard to pass this legislation.

Mr. Speaker, I urge adoption of the conference report.

Mr. VANIK. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER. Mr. Speaker, I join my colleague in supporting the conference report to accompany H.R. 8149, customs procedural reform.

Both the House and the Senate have devoted considerable time and effort toward the achievement of major reforms in the administrative and judicial procedures of U.S. Customs. Modernization, greater efficiency and control, and equity with respect to judicial review were desperately needed. The conference report now before us is the culmination of more than 2 years of task force investigations, extensive public hearings, and discussions among various interested parties as well as legislative action.

Many of the differences between the House and Senate versions of the bill were the result of efforts to clarify, simplify, or fine-tune the provisions as put forward in the respective versions. The compromises, therefore, were noncontroversial and merely a selection of the best way to accomplish a particular objective. However, there were a few important substantive differences that had to be resolved.

One important difference involved the amount of personal exemption accorded returning residents of the United States on articles purchased abroad. The House bill would have increased the personal exemption from $100 to $250 in general and from $200 to $500 for those persons arriving from American Samoa, Guam, and the Virgin Islands. The Senate version would have increased the personal exemption from $100 to $500 and from $200 to $1,000, respectively.

The compromise reached would set the personal exemption at $300 in general and at $600 for individuals returning from the insular possessions. I believe this figure adequately reflects the inflation rate and other economic factors that this country has experienced since the exemption was originally established.

Also, an important part of the compromise on this issue included an expansion of the special treatment afforded travelers returning from the insular possessions. Articles brought back would no longer have to accompany the traveler, but could be mailed back from the insular possessions through a voucher system that would insure the $600 limit was not exceeded.

A second issue that had to be resolved was whether to require periodic renewal of customhouse brokers' licenses. The House bill would have required renewal of such licenses every 3 years. The Senate wanted to delete this provision altogether. Conferees decided that licensed brokers would be required every 3 years to report to customs as to whether they were still actively engaged in business as a customhouse broker and the name and address under such business is being transacted.

House conferees were satisfied with the compromise because it provides for adequate review of practicing brokers and their location, and allows customs to keep an updated list of who is and is no longer in the brokerage business.

Another issue that created a great deal of discussion in its resolution involved changes the bill made in section 592 of the Tariff Act of 1930, especially with regard to pending investigations of dumping of television receivers. The revised section would establish penalties against persons who through fraud, gross negligence or negligence imports or attempts to import goods through the use of false statements or other false pretenses. The bill also makes revisions in the judicial review procedures under this section. Thus the fraud and penalty section is made less arbitrary and certain burden of proof requirements are shifted to the Federal Government.

The conflict between the House and the Senate arose out of the effective date of these provisions. The Senate desired to protect investigations, no matter how cursory or preliminary, already underway with respect to dumping of television sets by the Japanese. The House, on the other hand, felt that the fairer treatment provided by the bill should apply prospectively to all cases except those where official notice of investigation had been issued by customs.

The compromise reached would give the special consideration to TV cases that was desired by the Senate, to the extent that the receivers are a product of Japan and are the subject of antidumping procedures. For these cases, the burden of proof would be on the Federal Government to establish a violation by a preponderance of the evidence rather than by clear and convincing evidence as required under the bill. In any case, the bill's requirement that violations be tried de novo would apply across the board on the date of enactment.

The House conferees viewed the Senate amendment as a special interest amendment on behalf of Zenith Corp., and, therefore, fought hard to have it removed from the bill altogether. However, it appeared that this needed legislation might fail to be enacted if some compromise were not reached in this area. What we have agreed to is much

better than originally proposed by the Senate, even though it is still distasteful to many of the House conferees.

Mr. Speaker, the conference report reflects, in general, improvements over both versions of the bill. It is an important piece of legislation even though it contains one or two flaws. I urge my colleagues to approve the conference report at this time.

Mr. Speaker, I yield such time as he may consume, up to a point, to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, this conference report is a good one. It should be passed promptly.

It is wholly a legislative initiative. A House task force worked for over a year in response to complaints from importers, brokers, traders, and customs officials. Extensive hearings, many of them in the field, formed the basis of extensive revision in the section 592 of the customs law and in other sections of the law relating to customs procedures.

I believe H.R. 8149 will provide a more efficient customs procedures. I know it will give us a fairer system in the revision of section 592.

One important feature is the new duty exemption limit of $300 per person for purchases abroad and the flat 10 percent duty rate on purchases from $300 to $600. This will relieve travelers from onerous duty rates and relieve the Customs Service of unnecessary administration.

Our distinguished colleague from Oklahoma (Mr. JONES) deserves the thanks and congratulations of all of us for his great leadership on this bill.

Mr. Speaker, the other body was helpful in this conference report. The Senate amendments were constructive and contributed to the improvement of the bill. Only amendment No. 58, the so-called Curtis amendment, flaws the final product. No. 58 was modified so it is not as harmful as it was in its original Senate form.

Overall, H.R. 8149 is a fine bill. It should be passed.

Mr. STEIGER. Mr. Speaker, I yield back the balance of my time.

Mr. VANIK. Mr. Speaker. I yield such time as he may consume to the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Speaker. I wish to commend my distinguished friend, the chairman of the subcommittee. Mr. VANIK, for this progressive piece of legislation. I appreciate all the work that has gone into this conference and the bill that preceded it.

I applaud the effort to simplify the customs procedure, and I know that it will be of great benefit to all concerned. There are areas which I am sure we need to look at further, but this is a good first step.

Also I would like to thank and congratulate the efforts of the subcommittee in providing a $300 returning tourist exemption. This is very important to my area of south Texas and it will also be of tremendous assistance to our neighbor and sister Republic of Mexico. I am sure they will consider our efforts as a friendly gesture, but more important, it will be of mutual benefit, so for all of us, I can respectfully say "muchas gracias."

Mr. VANIK. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. QUILLEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 360, nays 1, not voting 71, as follows:

[Roll No. 802]

YEAS—360

Abdnor
Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Bellenson
Benjamin
Bennett
Bevill
Bingham
Blanchard
Blouin
Boggs
Boland
Bonior
Bonker
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burlison, Mo.
Butler
Byron
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cornell
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Dicks
Dingell
Dodd
Dornan
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Flynt
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harris
Harsha
Hawkins
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Jacobs
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Lederer
Leggett
Lehman
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Metcalfe
Meyner
Michel
Mikulski
Mikva
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Sharp
Shuster
Sikes
Simon
Skelton
Skubitz
Slack
Smith, Iowa
Snyder
Solarz
Spellman
St Germain
Staggers
Stangeland
Stanton
Stark
Steed
Steers
Steiger
Stockman
Stratton
Studds
Stump
Symms
Taylor
Thompson
Thone
Thornton
Traxler
Treen
Trible
Tucker
Udall
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Weaver
Weiss
Whalen
White
Whitley
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zeferetti

NAYS—1

Bodell

NOT VOTING—71

Ammerman
Anderson, Ill.
Armstrong
Beard, Tenn.
Biaggi
Bolling
Brademas
Breckinridge
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burton, John
Burton, Phillip
Caputo
Clay
Conyers
Cornwell
Cotter
Dent
Dickinson
Diggs
Drinan
Eckhardt
Eilberg
Evans, Del.
Florio
Flowers
Foley
Gammage
Harrington
Heckler
Horton
Ireland
Jeffords
Jenrette
Kemp
Krueger
Leach
Lent
Litken
Markey
Meeds
Milford
Miller, Calif.
Moss
Murphy, N.Y.
O'Brien
Pepper
Quayle
Quie
Railsback
Risenhoover
Rudd
Sarasin
Selberling
Shipley
Sisk
Smith, Nebr.
Spence
Stokes
Teague
Tsongas
Ullman
Waxman
Whitehurst
Whitten
Wilson, C. H.
Wirth
Young, Alaska
Young, Tex.
Zablocki

The Clerk announced the following pairs:

Mr. Ammerman with Mr. Anderson of Illinois.

Mr. Brademas with Mr. Young of Alaska.

Mr. Pepper with Mr. Dickinson.

Mr. Murphy of New York with Mr. Spence.

Mr. Shipley with Mr. Railsback.

Mr. Ireland with Mr. Horton.

Mr. Burleson of Texas with Mr. Leach.

Mr. Burke of Massachusetts with Mr. O'Brien.

Mr. John L. Burton with Mr. Quayle.

Mr. Cornwell with Mr. Whitehurst.

Mr. Phillip Burton with Mrs. Smith of Nebraska.

Mr. Florio with Mr. Beard of Tennessee.

Mr. Eilberg with Mr. Caputo.

Mr. Drinan with Mr. Evans of Delaware.

Mr. Miller of California with Mrs. Heckler.

Mr. Moss with Mr. Kemp.

Mr. Risenhoover with Mr. Lent.

Mr. Stokes with Mr. Quie.

Mr. Ullman with Mr. Sarasin.

Mr. Waxman with Mr. Rudd.

Mr. Cotter with Mr. Luken.

Mr. Dent with Mr. Krueger.

Mr. Markey with Mr. Whitten.

Mr. Zablocki with Mr. Meads.

Mr. Wirth with Mr. Diggs.

Mr. Conyers with Mr. Milford.

Mr. Clay with Mr. Sisk.

Mr. Teague with Mr. Tsongas.

Mr. Gammage with Mr. Harrington.

Mr. Foley with Mr. Flowers.

Mr. Charles H. Wilson of California with Mr. Breckinridge.

Mr. Biaggi with Mrs. Burke of California.

Mr. Jenrette with Mr. Eckhardt.

Mr. Selberling with Mr. Jeffords.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. FOUNTAIN. Mr. Speaker, on rollcall No. 800, H.R. 12222, I was engaged in a telephone conversation in the telephone booth just off the floor of the House and did not receive notice of the call for the vote.

Had I been recorded, I would like the RECORD to show that I would have voted "no."

PROVIDING THAT MEMBERS OF CONGRESS MAY ELECT AT RETIREMENT CONVERSION FROM GROUP LIFE INSURANCE TO INDIVIDUAL LIFE INSURANCE

Mr. NIX. Mr. Speaker. I ask unanimous consent that the Post Office and Civil Service be discharged from further consideration of (H.R. 14125) to amend chapter 87 of title 5, United States Code, to provide that Members of Congress may elect at retirement partial (in lieu of full) conversion from group life insurance to individual life insurance, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

H.R. 14125

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 8706(a) of title 5, United States Code, relating to conversion of life insurance, is amended by adding at the end thereof the following new sentence: "At the time of retirement, any Member of Congress entitled under subsection (b) of this section to have life insurance continued upon retirement may elect to convert, under the conversion provisions provided by this subsection, to an individual policy of life insurance not to exceed 75 percent of the amount of life insurance in force immediately before retirement.".

(b) The third sentence of section 8706(b) of title 5, United States Code, relating to continuation of life insurance, is amended by inserting before the period at the end thereof the following: "; except that, if such employee elected under the last sentence of subsection (a) of this section to convert to an individual policy of life insurance, then the amount of life insurance continued under this subsection shall be reduced at the time of retirement to 25 percent of the life insurance in force for such employee immediately before retirement".

SEC. 2. The amendments made by the first section of this Act shall apply to any individual retiring on or after the later of—

(1) October 1, 1978; or

(2) the date of the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MODIFYING PORTION OF SOUTH BOUNDARY OF SALT RIVER PIMA-MARICOPA INDIAN RESERVATION IN ARIZONA

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3002) to modify a portion of the south boundary of the Salt River Pima-Maricopa Indian Reservation in Arizona, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. SKUBITZ. Mr. Speaker, reserving the right to object, will the gentleman kindly tell us what this bill is about?

Mr. UDALL. Mr. Speaker, if the gentleman will yield, this bill is identical to the House bill H.R. 12344 as reported a month ago. It ratifies and implements an agreement between the United States and the Salt River Pima-Maricopa Indians and the city of Mesa, and other interested parties, and will settle expensive litigation pending between all these parties, and will settle some quiet title claims. This legislation on the Salt River project is supported by the entire Arizona delegation. I know of no controversy about it.

Mr. Speaker, I am satisfied with the explanation and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3002

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS AND POLICY

SECTION 1. (a) The Congress hereby finds that—

(1) the Salt River Pima-Maricopa Indian Reservation was established on Federal lands for the purpose of providing a place for members of the Salt River Pima-Maricopa Indian community to live in peace and prosperity with other persons in Arizona;

(2) at the time of the erection of such reservation, a portion of the south boundary was established to follow the course of the Salt River;

(3) the United States granted patents for, and leaseholds and other interests in, lands adjacent to such boundary for sand and gravel excavation and for other purposes to persons who were not members of such Indian community;

(4) subsequent to the establishment of such boundary, the course of the Salt River shifted, creating uncertainty with respect to the precise location of such boundry; and

(5) by an Executive order, the Secretary of the Interior located and permanently fixed such boundary in a location which included within such reservation, lands for which the United States had previously issued patents, leaseholds, and other interests, causing confusion and an ongoing controversy between such Indian community and persons holding such patents, leaseholds, and other interests.

(b) The Congress hereby declares that it is the policy of the Congress to resolve, without costly and lengthy litigation, the dispute between the Salt River Pima-Maricopa Indian community and the persons referred to in subsection (a)(3) over the location of the south boundary of the Salt River Pima-Maricopa Indian Reservation.

MODIFICATION OF SOUTH BOUNDARY

SEC. 2. The south boundary of the Salt River Pima-Maricopa Indian Reservation in Arizona (hereinafter in this Act referred to as the "reservation"), created by the Executive order issued on June 14, 1879, shall be modified in accordance with the provisions of sections 3 and 4 of this Act. Any portion of such boundary established by this Act sha'l be fixed and permanent and not ambulatory.

RESERVATION LANDS

SEC. 3. (a)(1) The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") shall acquire by purchase or condemnation the lands described in paragraph (2). Upon acquisition, such lands shall be added to the reservation. The acquisition of lands under this subsection, and payment for such lands under section 5(b) of this Act, shall be deemed to have been pursuant to condemnation by the United States.

(2) The lands authorized to be acquired in paragraph (1) are located in township 1 north, range 5 east, Gila and Salt River base and meridian, Arizona, and are those portions of the land in—

(A) the south half of the southeast quarter of section 7 of such township and range;

(B) the south half of the southwest quarter of section 8 of such township, and range; and

(C) the southwest quarter of the southeast quarter of section 4 of such township and range;

which lie north of that boundary line representing the middle of the south channel of the Salt River and the south boundary of the Salt River Indian Reservation as shown of record on a map entitled "Township 1 North, Range 5 East, of the Gila and Salt River Meridian, Arizona, Dependent Resurvey and Survey of the South Boundary of Salt River Indian Re-ervation" which consists of four sheets, dated August 17, 1972, and is on file and available for public inspection at the Department of the Interior, Bureau of Land Management, Washington, District of Columbia.

(b) Upon the acquisition of the lands described in subsection (a), the reservation shall include all lands in township 1 north, range 5 east, Gila and Salt River base and meridian, Arizona, lying north of that boundary line representing the middle of the south channel of the Salt River and the south boundary of the Salt River Indian Reservation as shown of record on the map referred to in subsection (a)(2), except for any portion of the following parcels of land:

(1) the north half of the northwest quar-

ter of section 18 of such township and range;

(2) the north half of the northeast quarter of section 18 of such township and range;

(3) the north half of the southeast quarter of the northeast quarter of section 8 of such township and range;

(4) the northwest quarter of the northwest quarter of section 9 of such township and range;

(5) the northeast quarter of the northwest quarter of section 9 of such township and range;

(6) the southeast quarter of the northwest quarter of section 3 of such township and range;

(7) the north half of the north half of the southwest quarter of section 3 of such township and range;

(8) the southwest quarter of the northeast quarter of section 3 of such township and range; and

(9) the northeast quarter of the northeast quarter of section 3 of such township and range;

(c) The boundary of the reservation shall be extended to include the following parcels of land:

(1) in township 2 north, range 6 east, Gila and Salt River base and meridian, Arizona—

(A) the area between the reservation boundary created by the Executive order issued on June 14, 1879, as amended, and a line parallel to and 150 feet north of the concrete canal lining on the northerly edge of the South Canal within the west 1,000 feet of section 13 of such township and range;

(B) any portion of the southeast quarter of the southeast quarter of section 14 of such township and range lying south and east of the reservation boundary created by the Executive order issued on June 14, 1879, as amended;

(C) the area between the reservation boundary created by the Executive order issued on June 14, 1879, as amended and a line parallel to and 150 feet north of the top of the concrete canal lining on the northerly edge of the South Canal in sections 24, 23, 22, and 27 of such township and range and the east half of sections 28 of such township and range, except for approximately 16 acres of land described as that part of the west half of the southwest quarter of section 27 of such township and range lying north of the South Canal;

(D) the area between the reservation boundary created by the Executive order issued on June 14, 1879, as amended, and the north line of the south half of the southwest quarter of section 28 of such township and range;

(E) the area between the reservation boundary created by the Executive order issued on June 14, 1879, as amended, and the north line of the south half of the south half of sections 29 and 30 of such township and range; and

(F) the north 600 feet of the Granite Reef Reserve in lots 2 and 3 of section 13 of such township and range; and

(2) in township 2 north, range 5 east, Gila and Salt River base and meridian, Arizona, the south 450 feet of the Evergreen Reserve in the west half of the northwest quarter of the northwest quarter of the southeast quarter of section 23.

(d) Any lands added to the reservation under this Act shall become a part of the reservation in all respects and upon all the same terms as if such lands had been included in the Executive order issued by the President on June 14, 1879, as amended, except that such lands shall remain tribal lands and shall not be subject to allotment to individual Indians.

STATUS OF ARIZONA CANAL AND OTHER RECLAMATION PROJECT LANDS

SEC. 4. (a) The United States shall have, free of any claim of Indian title or trusteeship by the Salt River Pima-Maricopa Indian community, all rights and interests in, and absolute and unqualified title to, the following parcels of land:

(1) those portions of the Arizona Canal right-of-way within the exterior boundaries of the Salt River Indian Reservation as defined by the March 29, 1913, accepted United States general land office resurveys of township 2 north, range 5 east and township 2 north, range 6 east of the Gila and Salt River base and meridian, Arizona, and supplemental surveys dated September 30, 1924, plats of which are of record in the Arizona State Office of the Bureau of Land Management, United States Department of the Interior, Phoenix, Arizona;

(2) that portion of the reservation in section 13, township 2 north, range 6 east, Gila and Salt River base and meridian, Arizona, lying between the southerly prolongation of the west line of lot 2 and the southerly prolongation of the east line of lot 3 of section 13 and lying between the southerly boundaries of lots 2 and 3 and the southerly reservation boundary created by the Executive order issued on June 14, 1879, as amended;

(3) United States Reclamation Service Reserve (Granite Reef), which consists of lots 2 and 3 in section 13, township 2 north, range 6 east, Gila and Salt River base and meridian, Arizona, except the north 600 feet of such lost 2 and 3, title to which has been confirmed in the United States for the benefit of the Salt River Pima-Maricopa Indian community; and

(4) United States Reclamation Service Reserve (Evergreen), which consists of lot 9 and the west half of the northwest quarter of the northwest quarter of the southeast quarter of section 23, township 2 north, range 5 east, Gila and Salt River base and meridian, Arizona, except the south 450 feet of such Reserve, title to which has been confirmed in the United States for the benefit of the Salt River Pima-Maricopa Indian community.

(b) The reservation boundary shall be modified to exclude from the reservation the parcels of land described in paragraphs (1) through (4) of subsection (a).

COMPENSATION

SEC. 5. (a)(1) The Secretary shall determine the fair market value of those portions of the parcels of land described in paragraphs (1) through (9) of section 3(b) of this Act which lie north of the boundary line referred to in section 3(b) of this Act, and shall pay an amount equal to such fair market value or $1,964,520, whichever is greater, to the Salt River Pima-Maricopa Indian community.

(2) Acceptance of the payment described in paragraph (1) shall constitute a complete release and satisfaction of any claim which the Salt River Pima-Maricopa Indian community may have against the United States or holder of any interest with respect to any right, title, or interest in any portion of the parcels of land described in paragraphs (1) through (9) of section 3(b) of this Act which are located north of the boundary line referred to in section 3(b) of this Act.

(b)(1) Except as otherwise provided in paragraph (2), the Secretary shall determine the fair market value of each parcel of land acquired by the United States and added to the Reservation pursuant to section 3(a)(1) of this Act, and shall pay an amount equal to such fair market value to the owner, under a patent issued by the United States, of such parcel.

(2) If the aggregate of all amounts to be paid under paragraph (1) is less than the sum of $1,951,740, in lieu of such payments under paragraph (1), the Secretary shall pay such sum to the owners, under patents issued by the United States, of the parcels of land acquired by the United States and added to the reservation pursuant to section 3(a)(1) of this Act. In determining the amount of any payment to any person under this paragraph with respect to such parcels of land, the proportion of the amount of the payment to any person to $1,951,740 shall be equal to the proportion of the amount of the acreage of such parcel which such person owns, under a patent issued by the United States, to the total acreage of such parcels.

(3) Acceptance of the payment described in paragraph (1) or (2) by any person shall constitute a complete release and satisfaction of any claim which such person may have against the United States, the Salt River Pima-Maricopa Indian community, or holder of any interest with respect to any right, title, or interest in any portion of the parcels of land described in subparagraphs (A), (B), or (C) of section 3(a)(2) of this Act which are located north of the boundary line referred to in section 3(a)(2) of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. Effective October 1, 1979, there are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Mr. RHODES. Mr. Speaker, my remarks will be brief and to the point. H.R. 12344 has been introduced to settle a long-standing dispute between the Salt River Pima-Maricopa Indian community and its neighbors regarding a portion of the southern boundary of the community's reservation. This bill represents the fruition of 2 years of hard work on the part of the tribe, the Salt River project, the city of Mesa, and many other people to settle the conflicting claims about this boundary once and for all.

The southern boundary of the Salt River Reservation in the One North, Five East township is a remarkable example of the inequities resulting from misleading, if not downright erroneous, Federal land records. This problem has clouded titles to lands long occupied under good faith color of title, and inevitably this has generated strife among neighbors who otherwise live together in harmony and good will. You will hear testimony today from the Indian community, the Salt River project, and the city of Mesa, and other interested parties concerning the history of this matter and the events that contributed to all of the confusion and prejudice and damage that the land claimants have suffered as a result of the Federal Government's actions. In so doing, keep in mind that this controversy has been the subject of extensive litigation by the various claimants. In agreeing to this legislative compromise, all parties have agreed to dismiss the various suits and counter suits against each other, and have made substantial settlements so they would not have to continue lengthy, expensive legal suits which have only served to exacerbate feelings of ill will between the Indian and non-Indian communities.

I believe that the passage of this bill would be in the best interests of the United States as well as the people of

Arizona. The interest of the United States, of course, incorporates the interest of the Indian community and the public interest in seeing that this matter be settled once and for all with a minimum of expense and delay. Moreover, the passage of this bill would permit the central Arizona project's activities on the reservation to go forward without the complications ensuing from the Indian community's other problems. Because of all of these considerations, I believe that the testimony that will be heard today will show conclusively that H.R. 12344 represents a timely solution to a dispute between one Indian tribe and its neighbors, and perhaps demonstrates how other such conflicts between other tribes and communities can be peaceably resolved so as to promote harmony and the further economic development of all concerned in a spirit of good will and mutual assistance.

The Senate bill was ordered to be read a third time, was read the third time and passed.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 12344) was laid on the table.

MINIMUM WAGE INCREASES

(Mr. BARNARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARNARD. Mr. Speaker, inflation is robbing this Nation, and we must not stand idly by and watch the problem grow worse at the very time such a large part of our efforts are turned to ending it. Next January, we will see inflation jump another half-a-percent on the top of the base rate then current. This jump will come when the minimum wage increases by 9.4 percent to $2.90 an hour.

Although the wholesale price index fell for the first time in over a year last month, we must not become complacent and feel that the crisis is past. All of the increases we have seen so far this year have not filtered through the economy yet, and the probable oil price increase will add still more to the inflation rate We cannot stand another burst caused by the increase of the minimum wage on top of all the other increases of the preceding twelve months.

Treasury Secretary Michael Blumenthal and Federal Reserve Chairman William Miller have both condemned this increase as inflationary and called for its postponement. They have been joined by former Federal Reserve Chairman Arthur Burns, former Chairman of the Council of Economic Advisors Arthur Okun, and many other economists.

The increase will not even help the people it is aimed at, for even this year's increase has resulted in employers who traditionally rely on minimum wage earners reducing hours, cutting employment, and replacing unskilled workers with older, more experienced employees. These workers replace the very people who most need this work—women, minorities, and youth, who now make up most of the problem unemployed—and reduce them to unemployment or underemployment.

On June 29, Chairman MILLER stated to the Joint Economic Committee that:

> The minimum wage has been inflationary. The increase at the beginning of this year was quite large percentage-wise and immediately showed up in a number of sectors—the Service sector particularly—in the economy and contributed to our inflation. . . . I would personally welcome any way possible to defer or change what is going to happen next January 1 to put it off for a couple of years or something so that we do not have another burst of inflationary impact running through a sector of the economy.

Two days later, Secretary Blumenthal, in response to a question at the National Press Club supported the idea and stated:

> The problem is really one that has to be addressed to the Congress whether or not that is politically feasible quite apart from whether or not the Administration would propose it. Given the inflationary pressures that are serious, given the fact that this inflation loses us jobs and is bad for everybody . . . that is a matter I would look on positively.

Because of the tremendous harm that would result from a minimum wage increase next January, I propose that Congress act immediately to delay its introduction until January 1, 1980, and I am introducing legislation to do that today. Not only will this move to defer the inflationary impact of the next hike, it will give Congress the opportunity to study in depth the entire concept of minimum wages and automatic increases in the opening months of the 96th Congress. For it is readily apparent that the effects of these practices demand close scrutiny—and significant modification.

This proposal does not mean that I would deny working Americans an acceptable standard of living. I believe that everyone who works should be paid a fair and equitable wage. The Federal minimum wage was originally introduced to provide this equity in wage distribution. Ironically though, the unfortunate fact is that rapid escalations will totally undermine the intended purpose of the minimum wage.

Service-oriented industries such as retailing, fast-food distribution, and hospitals employ the great majority of workers covered by minimum wage. These industries are labor intensive and operate on relatively narrow profit margins. Consequently, they are least able to absorb the cost of minimum wage increases. Faced with these unmanageable costs, they respond by hiring fewer new employees, especially the unskilled or inexperienced. Many full-time employees are reduced to part-time status. Overtime for experienced employees is increased to cover staff deficiencies because it proves to be cheaper to pay overtime than to pay additional employees the minimum wage. Thus, employment gains are thrown into a tailspin—while consumer prices begin to soar when industry can no longer absorb increased labor costs.

Teenagers suffer in another way. The youth market is traditionally transient, seasonal, and on the whole, unskilled. Therefore, it is more sensitive to cyclic changes in the economy. The 1977 amendment abolished the youth differential scale. This system allowed employers to hire teens for below the minimum wage.

In the past, employers have been willing to hire teenagers because the cost of their lower wages was relatively easy to absorb. But each minimum wage increase tightens the teenage job market. The 1966 increase alone threw one quarter of a million teenagers out of work. An article in the August 15, 1978, Wall Street Journal shows that the same thing is happening today not only to teenagers, but to minorities, women, and students. Chairman MILLER has also come out in favor of restoring the youth differential scale, a position with which I wholeheartedly concur.

Of course we will not stop inflation just by delaying minimum wage increases. Inflation is a many-faceted issue that calls for broad, and often stringent measures, to control its multiple causes. However, it is equally important that we do not worsen the problem at the same time we are trying to solve it. Minimum wage increases, if allowed to go into effect on schedule, will irrefutably do exactly that.

TOURISM: OUR NATION'S GREATEST ASSET—PART III

(Mr. SKUBITZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SKUBITZ. Mr. Speaker, yesterday, in my continuing effort to underscore the importance of tourism, I described the functions and weaknesses of the U.S. Travel Service. Despite the burden of a bureaucratic and overstuffed headquarters, the regional offices of the USTS have done their level best to build the tourist bridge to the United States, and overcome many of their self-imposed handicaps.

I am shocked, Mr. Speaker, at the attempt by the State Department to close the offices of the USTS in London. The USTS offices in London are neither staffed nor funded by the Department of State and hence outside of their jurisdiction. This closing can only be regarded, once again, as a clumsy attempt to substitute Foggy-Bottom personnel for competent and knowledgeable commercial officers, who are considered experts in the travel trade.

Today, in part III, I will focus on the operation of a specific regional office of the U.S. Travel Service which I have studied with particular care.

THE LONDON OFFICE OF USTS: SCOPE OF ACTIVITY, PROGRAMS, AND IMPACT ON THE COMMUNITY

The London office of the U.S. Travel Service is one of only six regional USTS offices. It shares responsibility for the development of tourism for all of Europe with the regional offices in Paris, France, and in Frankfurt, Germany. The regional office in London covers all of the United Kingdom as "primary market"

and Ireland, all of Scandinavia, and the Netherlands as "special markets."

The United Kingdom with a population of 56 million is a prime market for U.S. destination travel. Researchers have found time and again that the United States is "the most desired" destination for the majority of people. With our dollar at its new low in value, and the growth of package tours and competitive trans-Atlantic airfares, the United States is psychologically and financially within the reach of the "cloth cap" traveller as they are known in Britain. According to the figures that have been made available to me, United Kingdom visitors to the United States have increased since 1970 as follows:

In 1970, 292,752.
In 1972, 388,710, plus 32 percent.
In 1974, 450,077, plus 16 percent.
In 1976, 538,486, plus 19 percent.
In 1978 (est.), 650,000, plus 21 percent.

It is interesting to note that the travel trade in the United Kingdom estimates that every traveller to the United States spends an average of $1,800 while in the United States, excluding airfare.

Despite these startling and welcome figures, this market is in no way a "piece of cake" for the U.S. travel industry. Competing for the same tourist dollar are 66 national tourism offices which spent a total of $8 milon to promote destinations other than the United States in 1977.

Some $60.8 million was spent on tourism consumer advertising in the United Kingdom market during calendar year 1977. Of this total amount, less than $3 million is estimated to be U.S. oriented. In addition to the 66 national tourism offices, the advertisers can be broken down into 64 airlines, 89 holiday camp and resort organizations, 56 hotel chains, 20 railways, 72 shipping lines and agents, 149 companies specialized in promoting foreign tours and holidays, and 57 specialized travel agents advertising nationally.

Of far greater concern is that $7.9 million was spent in 1977 to directly promote and sell countries other than the United States. Only $383,000 was spent directly selling the United States as a travel destination.

The total budget for the U.S. Travel Service to promote the United States as a destination and to encourage and develop domestic tourism is only $15 million. By comparison, the British Tourist Authority has a budget in excess of $25 million for the promotion of tourism in the United Kingdom. The BTA, in addition to its main office in London, maintains offices in Argentina, Australia, Belgium, Brazil, Denmark, France, Germany, Holland, Italy, Japan, Mexico, New Zealand, the United States—four offices—New York, Los Angeles, Chicago, and Dallas—Canada, Norway, South Africa, Spain, Sweden, and Switzerland. The British Tourist Authority's budget, despite the extreme financial problems which the country has encountered, has been increased regularly.

The USTS office in London which is viewed by the trade as one of the most efficient and effective national tourist offices in Britain carries out the following major programs:

U.S.A. TRAVEL CENTERS

Some 2,600 Travel Centers have been established throughout the United Kingdom to promote the United States as a travel destination. More than 500 of the "U.S.A. Travel Centers" participate financially with USTS in cooperative U.S. advertising and promotion programs.

EDUCATION AND FAMILIARIZATION

"U.S.A. Travel Centers" and other travel trade contacts are serviced by regular visits from USTS personnel; U.S. sales seminars are conducted throughout the country, and in addition, USTS organizes or participates in numerous familiarization trips to the United States for travel trade personnel.

SALES DEVELOPMENT

In order to expand the market, USTS encourages new and more travel operators to enter the "Visit USA" field and to promote new gateways and new U.S. destinations for vacationers and holiday makers from abroad.

VISIT USA

To support and assist foreign wholesalers and operators with the production and promotion of "Visit USA" programs, the USTS provides technical support, product promotion and in some cases financial support to participating operators.

LITERATURE DISTRIBUTION

Literally millions of U.S. sales brochures and promotional publications are distributed to the consumer through "USA Travel Centers."

FILMS AND PHOTOS

A wide range of travel films is available to the travel trade through USTS London. In addition, USTS maintains, through a contractor, a large photographic library of black and white photographs and colored transparencies.

PRESS RELATIONS AND FAMILIARIZATION

Through USTS's press relations contractor, USTS provides regular U.S. travel information and backup material to TV, radio, and printed news media. This program also includes U.S. familiarization visits by recognized travel writers and accredited journalists.

CONSUMER ADVERTISING

An annual consumer advertising campaign, focusing this year on value for money in U.S. travel: "America 1978—there has never been a better time." Consumers are encouraged to visit a travel agent or a "U.S. Travel Center" for further information on the United States.

MARKET RESEARCH

Annual conversion studies and other pertinent field information relating to USTS's marketing plans for the following year are prepared.

It is not surprising that despite its measly resources the U.S. Travel Service in London has received considerable acclaim from the public, the trade, and the press.

In conclusion, I would like to quote from an August 31, 1978, editorial in Travel News:

At such a point in time, how foolish it is for the powers-that-be in Washington even to contemplate shutting down the United States Travel Service Office in London. The USTS has done a tremendous job in developing pleasure traffic to the United States and in servicing those tour operators and travel agents who have built the tourist bridge across the Atlantic . . . to force the USTS to shut up shop in London in the interest of saving a pretty modest number of dollars would, to say the least of it, be a false economy.

Tomorrow, I shall describe for you the impact of closing the USTS Office in London.

Thank you, Mr. Speaker.

CONGRESS SHOULD INVESTIGATE THE PLOT TO OVERTHROW NICARAGUA'S GOVERNMENT

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RUDD. Mr. Speaker, it has been charged in the nationally syndicated column of respected journalist Paul Scott that elements of the U.S. Central Intelligence Agency have provided covert assistance to the Sandinista Communist guerrillas, to help their efforts to overthrow Nicaragua's duly constituted government.

I would like to include Mr. Scott's column in the RECORD at the conclusion of my remarks.

These most serious charges come on the heels of evidence that the Sandinista guerrillas are being led by Mexican Marxist Victor Manuel Tirado, and that guerrilla training and other support is being provided by Castro Cuba, Costa Rica, and possibly even Venezuela.

Far from being an internal uprising, what has been termed a "civil war" in the press, the Sandinista terrorist assault appears to be a carefully orchestrated plot, instigated and supported by outsiders, to topple another anti-Communist government in Central America.

I believe that the Congress has a duty to immediately investigate these charges of CIA covert assistance to the Sandinista guerrillas, and other behind-the-scenes activities of our State Department officials and foreign interlopers in Nicaragua.

I am today writing to the chairmen respectively of the House Permanent Select Committee on Intelligence, and the House International Relations Committee, to request that they initiate such an investigation and hearings on this matter of vital importance to our country.

Mr. Speaker, I am most concerned about the administration's failure to stand strongly behind our Central American friends in Nicaragua, in the face of this guerrilla insurgency.

It is a moral outrage that our leaders are not publicly condemning the Sandinista insurgency, and leading efforts to support the Government of Nicaragua in its defense against armed overthrow by Communist revolutionaries.

Our Ambassador to the Organization of American States, Gale McGee, yesterday even further encouraged the insurgency in a statement before the OAS permanent council.

In light of our Government's behind-the-scenes overtures and dealings with the Sandinista revolutionaries, Ambassador McGee made the shocking statement that "generosity and sympathetic understanding" would be required from the United States and other OAS members when "the peaceful democratic solution" becomes a reality in Nicaragua.

Implicit in the Ambassador's statement is an acceptance of the Marxist line that the Sandinista guerrillas are a part of the "democratic solution," which is an outrage coming from a member of our own Government's diplomatic corps.

Also implicit in the Ambassador's statement was a veiled bribe to the supporters and those who are not yet supporting the Sandinista insurgency that the United States stands ready to generously shell out foreign aid to help rebuild Nicaragua, once the Communist-led overthrow of the Nicaraguan Government has taken place and the revolutionaries have wrecked the country.

This Communist-inspired assault, aimed at the takeover of Nicaragua, has been underway since 1959.

Leftist elements in our own country—led by such organizations as the Institute for Policy Studies, the pro-Marxist Washington Office on Latin America, and certain influential people in the media—have sympathized with that objective.

These leftist elements have attempted, with some success, to direct U.S. foreign policy to assist in achieving the Marxist goal in Central America, and to manipulate congressional hearings and action on that policy.

It was not until this administration, however, that key U.S. officials favorable to the Marxists' so-called "democratic solution," who have attained top policy-making roles in the State Department, have been able to implement United States behind-the-scenes encouragement and support of an armed Communist assault against a duly constituted Government in Central America.

Mr. Speaker, Nicaragua is a friend and ally of the United States. But it has been a long-time goal of Fidel Castro and other Communist revolutionary leaders to overthrow this nation in Central America, and to establish another Cuba in our hemisphere.

Let me say that I served on diplomatic assignment for our country in Nicaragua and other Latin American nations before my election to the Congress.

For almost 20 years, Nicaragua has been continuously beset with Communist-inspired terrorism and guerrilla warfare in varying degrees. This revolutionary activity has been sponsored and supported by Fidel Castro.

Many people seem to have forgotten that Castro targeted Nicaragua, along with Panama, for takeover only 6 months after he came to power in January 1959.

In that year, two Castro-supported armed invasions outside Cuba occurred in Panama and Nicaragua.

The first invasion, in Panama, by a mixed Panamanian-Cuban guerrilla force, had as its objective the seizure of the Panama Canal after a period of guerrilla insurgency in the countryside.

The guerrillas were confronted and surrendered to an Organization of American States' team in May 1959.

Only one month later, another Castro-supported force of 114 invaders, led by Nicaraguan publisher Pedro Joaquin Chamorro, tried to overthrow the Government of Nicaragua by force and violence.

That invasion also failed, and Chamorro was imprisoned.

Chamorro was released from jail in 1960, and until his murder last January he led the opposition to the Nicaraguan Government and encouraged the Sandinista elements.

Let there be no question that the 20 years of guerrilla revolutionary activity and insurgency in Nicaragua, and the current Marxist-led assault against the government fueled by Chamorro's death, have been inspired and fomented by Fidel Castro and his forces.

Chamorro's own newspaper, La Prensa, published testimony of Tomas Borge Martinez, a leader of 110 terrorists tried by the Nicaraguan Government in 1977, which documented Castro's involvement.

Borge proved the government's claim that the Frente Sandinista de Liberacion Nacional—the FLSN—was Cuban-trained and equipped.

Borge testified that a dozen or more Nicaraguan revolutionary leaders went to Cuba for training as early as 1960.

Here is a verbatim statement made by Borge at his trial, as reported by Chamorro's opposition newspaper, La Prensa—

The Nicaraguans were lodged in a Havana barracks known as the Fifth District. After the Bay of Pigs invasion, the Cuban Government decided to give us a higher level of military training. The Nicaraguans heard it said that they were the first Latin American group to receive this type of collaboration from the Cuban Government.

I should note for the record, Mr. Speaker, that this Cuban interest in helping the Marxist revolutionaries from Nicaragua after the April 1961, Bay of Pigs invasion was prompted by Nicaragua's having been a staging area for anti-Castro Cubans, who were also being aided by our own Government under President Kennedy.

Mr. Speaker, there is no doubt that our own Government's so-called "human rights" campaign has fallen into the hands of the revolutionaries.

Nicaragua is not a bastion of freedom. How could it be? For the past 20 years, it has been the target of continuous Communist-inspired terrorism and guerrilla warfare. Freedom as we know it is not possible under those circumstances.

Charges of human rights violations in Nicaragua are mostly coming from those who support or favor the revolutionary elements in Nicaragua, against whom action has been taken to quell the terrorism and to maintain as much peace and security for the people as possible.

The current state of siege in Nicaragua will either end in defeat of the Communist insurgents, which will allow the country to return to its attempts to increase security and freedom for all Nicaraguans—or it will end in the Communist overthrow of the Nicaraguan Government, which will deny freedom to the Nicaraguan people and threaten the security and freedom of their Latin American neighbors.

A Communist overthrow of the Nicaraguan Government, or a so-called "coalition government" including the Sandinistas which would be one step towards total Communist control, will have been abetted and assisted by our own Government's tragic policy and actions if it occurs.

Our Government made a similar tragic mistake in 1959, when we followed the same misguided and morally bankrupt policy that the replacement of a semi-military anti-Communist government by insurgent revolutionaries would lead to "a return to democracy."

The government that we sold down the river to Communist rule in 1959 was the Cuban Government of Fulgencio Batista. The Communist revolutionary who was supported by our own Government, and who was hailed as the shining hero to bring freedom and democracy to this neighboring island, was none other than Fidel Castro.

I remember the glowing tributes of Castro by the New York Times, Edward R. Murrow of CBS television, and other prominent U.S. opinion leaders.

How wrong they were then. And our Government is just as wrong today not to take the strongest possible action to support the current Government of Nicaragua against a Communist-inspired overthrow.

The administration's dogmatic human rights policy has rendered it unable to support and take strong action in behalf of an anti-Communist military government—and a vital ally of the United States.

This vacillation is being interpreted by Communist elements throughout the world, as well as our anti-Communist friends, as a sure sign of weakness on the part of the United States.

Such a sign of weakness will prompt the Soviet Union and its client revolutionary regime in Cuba to concentrate on increasing targets of opportunity throughout the world, including our own hemisphere.

Nicaragua is a key country in Central America. It contains a potential transoceanic canal site, in the event that one is needed in addition to the Panama Canal. If Nicaragua falls under Marxist rule, that site will be denied to free world nations, and the governments of Costa Rica, Honduras, El Salvador, and other Latin American nations will be immediately endangered.

Congress must take a firm stand and demand action by the administration now, if we hope to head off further tragic circumstances that could lead to possible war to protect our own security and freedom in the foreseeable future.

[From The Washington News-Intelligence Syndicate, Sept. 13, 1978]

CIA INVOLVED WITH NICARAGUAN GUERRILLAS

(By Paul Scott)

WASHINGTON, D.C., September 13.—The Sandinista guerrillas, whose abortive offen-

sive against President Anastasio Somoza's government in Nicaragua left more than one hundred dead, are receiving covert help from elements within the Central Intelligence Agency and several U.S. journalists as well as from Communist Cuba.

Anti-Castro Cubans, who have succeeded infiltrating the ranks of the guerrillas, report that covert CIA agents in Nicaragua, Mexico, and Costa Rica have been spotted meeting with guerrilla leaders.

What these intelligence agents are doing isn't completely clear although the guerrillas usually have large sums of money to use to buy military supplies following the clandestine get togethers.

There is also evidence that a "third party group", operating as a neutral in the fighting in Nicaragua, is being used by certain elements within the CIA to channel information, food, medicine, and money into the guerrilla forces.

This alarming information indicates the urgent need for an immediate full-scale congressional investigation to determine involvement of these intelligence "operatives" and their contacts with private foreign policy study groups in the U.S. and State Department officials since there is no evidence that President Carter has authorized the CIA or any other government agency to support the guerrillas.

U.S. military intelligence sources, who will not discuss the CIA involvement, report the guerrillas are receiving most of their arms from Cuba, Panama and Mexico via Costa Rica. The recent offensive was launched from bases set up in Costa Rica by the guerrillas.

These guerrilla bases are now being reinforced with newly trained terrorists from Cuba for the "second wave" of the military action against the Nicaraguan government. This is expected to take place later this month or early in October.

USING U.S. NEWSMEN

In addition to their meetings with CIA agents, leaders of the guerrillas also have been getting together with several far-left U.S. newsmen, including Tad Szulc, former New York Times reporter and free-lance writer, whose international communist links are carefully documented in U.S. security files.

Since returning from a secret meeting with guerrilla officials, Szulc has been making the rounds at the State Department and on Capitol Hill spouting the Marxist guerrilla's official line. It goes like this:

The U.S. should quietly increase its links with the Sandinista guerrilla leaders, to lessen the anti-American feeling and, then create a situation in which the revolutionaries would collaborate with the non-violent opposition in Nicaragua in ousting the Somoza government.

To accomplish the coalition, the guerrilla leaders would even accept an inter-American peacekeeping force, dispatched to Nicaragua to arrange for the transition from the Somoza government.

INTERNATIONAL TERRORIST GROUP

What Szulc isn't saying in trying to influence these officials is that the hard core Sandinista guerrillas are recent volunteers for the transnational terrorist war against Israel and want Nicaragua as a base to carry out their activities against Jewish and anti-communist groups in Latin America and the U.S.

According to the highly respected publication, "The Jewish Week," the Sandinistas emerged early in 1978 as the "Latin American connection" for radical anti-Israel activity, making a series of announcements aligning themselves with the Palestine Liberation Organization (PLO) and other Palestinian groups committed to eliminating Israel.

Little known outside Nicaragua until last month, the Sandinistas attracted world attention by capturing more than 1,500 hostages in the presidential palace and trading them for 58 political prisoners, $500,000 and safe passage to asylum in Panama.

The official name of the group is the Sandinista Front for the Liberation of Nicaragua (FSLN). The group takes its name from Augusto Cesar Sandino, a guerrilla leader killed fighting against the U.S. Marines who occupied Nicaragua and helped put the Somoza family in power in 1937.

THE PLO CONNECTION

On February 5, the PLO and the Sandinistas released a "joint communique" in Mexico City, which according to Radio Havana, was to "emphasize the bonds of solidarity which exist between the two revolutionary organizations."

The communique attacked the "racist state of Israel" for its reported military sales to anti-communist Latin American countries, for serving as an enclave of "U.S. imperialism" in the Middle East, and particularly for alleged Israeli economic and military aid to Nicaragua.

Significantly, the communique was put out at a major Moscow-front gathering called the Continental Conference of Latin America and the Caribbean for Peace, Sovereignty and Economic Independence.

The conference was sponsored by Moscow's international "peace and disarmament" organ, the World Peace Council, an organization reportedly run by the Central Committee of Communist Party, USSR, and the KGB, the Soviet secret police and espionage organization.

This newly established tie-in between the PLO and the Sandinistas and their Moscow and Cuban connections clearly indicates the international communist-terrorist threat that would face the U.S. in Nicaragua if these forces shoot their way to power. Congress must move now to force an end to any help that elements within the CIA are giving these terrorists.

MIDDLE EAST UNDERSTANDING A MAJOR ACHIEVEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GOLDWATER) is recognized for 5 minutes.

● Mr. GOLDWATER. Mr. Speaker, last night's joint session of the Congress was, perhaps, the most momentous of my time as a Member of the House. Having the heads of state from two countries which have found it so difficult to peacefully coexist, in our chamber, on the occasion of achieving an understanding on a settlement of their disputes, was a major achievement for our foreign policy initiatives.

To observe Prime Minister Begin and President Sadat in such a spirit of cooperation is a tribute to President Carter for his diligent work to reach this agreement. His patience and perseverance at such great risk for a resolution to the problems which beset the Middle East, are worthy of our highest praise.

I salute our President and the heads of state from Israel and Egypt for their most significant contribution to the cause of World peace. There is little more that I can add to what has already been said, Mr. Speaker, but it is with a great sense of pride that the United States has played so important a role in reaching this point.●

LIMITING SEARCH WARRANTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 5 minutes.

● Mr. PREYER. Mr. Speaker, the Committee on Government Operations recently approved without dissent a report recommending that third parties not believed to be connected with a crime be protected from unannounced searches. Such legislation would curb the impact of the Supreme Court's recent decision in Zurcher against Stanford Daily, the much-discussed newspaper search warrant case.

I am pleased to see that the Washington Post has endorsed the committee's position in recommending protection for third parties generally, not just for news organizations. The Post also agrees with the committee's recommendation that protection should be provided at the State and local levels as well as the Federal level, while recognizing as did the committee that there is an open constitutional question whether Congress can directly impose such standards on State and local authorities.

As chairman of the Subcommittee on Government Information and Individual Rights, which conducted the hearings which led to the full committee's report, I urge Members to read this editorial. I endorse the Post's conclusion that Congress should enact legislation as quickly as possible in this area. The editorial follows:

LIMITING SEARCH WARRANTS

When the Supreme Court announced its decision last spring broadening the use of search warrants in criminal cases, we anticipated a sharp debate over the wisdom of its ruling. No such debate has yet materialized. Instead, the discussions and studies under way on Capitol Hill and inside the administration are aimed at deciding how sharply Congress should curtail the effects of what the court has done. There seem to be few politicians or federal administrators who are prepared to defend a decision that makes it possible for law-enforcement officers to search the private papers and files of all individuals, whether or not they have been implicated in criminal activity.

That decision came in the case of a California newspaper whose files were searched by police seeking (without success) pictures of a particular crime. The court said warrants for searches of that kind can be issued without advance notification to the newspaper or without a prior request that it provide the material voluntarily, so long as there is probable cause to believe it has the evidence the police want.

Most newspapers quickly denounced the decision and called for legislation to overturn it. While that united front may well have something to do with the cold shoulder the decision has received in Congress—no politician wants to alienate the local press in an election year—the effort to change the decision developed much wider support once the realization sank in that it applies to the files of lawyers, doctors, clergymen and ordinary citizens as well as newspapers. A dozen bills, with more than 50 sponsors, have

been introduced. Three congressional committees have held hearings (more are scheduled) and the House Committee on Government Operations has recommended, without dissent from any of its 43 members, that Congress take action.

The problem is that there is no agreement about what that action should be. Some of the bills would bar judges from authorizing such searches of offices without first attempting to get the evidence in other ways. Others would include the files and papers of lawyers, doctors and clergymen in the ban. Still others would prevent all such searches. Some of the bills would limit only federal officials; others attempt to limit state officials as well.

Our view is that Congress should go as far as it constitutionally can in overturning the court's decision. A surprise search of anyone's papers and files—ours or yours—could expose to the police confidential material beyond what they might be entitled to see, and could also be highly disruptive and embarrassing. As Assistant Attorney General Philip B. Heymann said last summer, "Any decent government should attempt to use the least force possible in dealing with its citizens." Searches ought not to take place if requests or subpoenas will produce the evidence—from newspapers, lawyers, doctors, clergymen or ordinary citizens. Searches of those not implicated in crime can be justified only if the police have reason to believe the evidence will be destroyed or hidden if a request for it is made.

Congress should not hesitate in applying those principles to searches by federal officers. Whether it can apply them to searches by state officers as well is unclear. Some constitutional experts say it can through its power under the 14th Amendment; others say it can, at least as far as the news media are concerned, under the commerce clause; others say it can't. We expect the question to be more fully aired later this month when Attorney General Griffin Bell presents the administration's proposals. Once he does, the last reason for delay on the subject will be gone, and Congress should legislate as quickly as possible.●

SPEAK, MR. SPEAKER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. ROBERTS) is recognized for 5 minutes.

● Mr. ROBERTS. Mr. Speaker, today I would like to bring to the attention of my colleagues the fact that a new book, "Speak, Mr. Speaker," has been prepared by the Staff of the Sam Rayburn Library. This 500-page book is actually an autobiography of Sam Rayburn.

Although Mr. Sam never wrote his memoirs, the many letters, speeches, and interviews collected by the editors set out a chronological history of this Nation and the world as seen through the eyes of this great American.

This Congress, this Nation, and his native State were, indeed, fortunate to have been served by Speaker Rayburn Those who knew him considered Mr. Sam to be a master in handling the congressional process and in dealing with the executive branch, during both Republican and Democratic majorities. Six U.S. Presidents from Wilson through Johnson respected and relied upon Sam Rayburn's abilities.

I cannot deny my personal affection and esteem for my predecessor. Each of us would do well to attempt to emulate his conduct and decorum in Congress. It was, indeed, a great honor to know and work with Mr. Rayburn, and as this Nation moves ahead in an increasingly complex world, reflection by each of us upon the thoughts and feelings of this gentleman and statesman would seem prudent. Therefore, I highly commend this book to you and would suggest that if interested you contact the Sam Rayburn Library, Bonham, Tex. 75418.●

COMMENTS OF HON. RICHARD L. OTTINGER ON JOINT SESSION OF CONGRESS ON THE CAMP DAVID SUMMIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. OTTINGER) is recognized for 5 minutes.

● Mr. OTTINGER. Mr. Speaker, I include herewith my statement on the momentous congressional joint session on the Camp David summit agreements last night and the text of the framework agreements reached there:

It was a tremendous thrill to be in the House of Representatives at the joint session of Congress last night and to feel the welling of cheers and applause as Prime Minister Begin and President Sadat shook hands together and committed themselves to the effort towards peace in the Middle East.

I look forward to meeting with each of them separately tomorrow to hear further details on their accomplishments. I am deeply heartened by the events of Camp David, and I congratulate President Carter, Prime Minister Begin and President Sadat on their remarkable achievement—despite the clear pitfalls that lie ahead. For the first time in history has the right of Israel to exist peacefully with her Arab neighbors been formalized in an actual agreement. The willingness of the Egyptians to negotiate a separate peace with Israel, that guarantees a free access to the Suez Canal, the exclusion of the Palestine Liberation Organization as a required participant in future West Bank discussions, have moved Israel and her neighbors closer to peace than they have ever been in the 30 years of Israel's existence—for these achievements we must all be very grateful.

I am honeful that the spirit of Camp David will persist, starting with Secretary Vance's mission tomorrow, so that this framework can be turned into a true and lasting peace for the Middle East.

A FRAMEWORK FOR PEACE IN THE MIDDLE EAST AGREED AT CAMP DAVID

SEPTEMBER 17, 1978.

Muhammad Anwar al-Sadat, President of the Arab Republic of Egypt, and Menachem Begin, Prime Minister of Israel, met with Jimmy Carter, President of the United States of America, at Camp David from September 5 to September 17, 1978, and have agreed on the following framework for peace in the Middle East. They invite other parties to the Arab-Israeli conflict to adhere to it.

PREAMBLE

The search for peace in the Middle East must be guided by the following:

The agreed basis for a peaceful settlement of the conflict between Israel and its neighbors is United Nations Security Council Resolution 242, in all its parts.*

After four wars during thirty years, despite intensive human efforts, the Middle East, which is the cradle of civilization and the birthplace of three great religions, does not yet enjoy the blessings of peace. The people of the Middle East yearn for peace so that the vast human and natural resources of the region can be turned to the pursuits of peace and so that this area can become a model for coexistence and cooperation among nations.

The historic initiative of President Sadat in visiting Jerusalem and the reception accorded to him by the Parliament, government and people of Israel, and the reciprocal visit of Prime Minister Begin to Ismailia, the peace proposals made by both leaders, as well as the warm reception of these missions by the peoples of both countries, have created an unprecedented opportunity for peace which must not be lost if this generation and future generations are to be spared the tragedies of war.

The provisions of the Charter of the United Nations and the other accepted norms of international law and legitimacy now provide accepted standards for the conduct of relations among all states.

To achieve a relationship of peace, in the spirit of Article 2 of the United Nations Charter, future negotiations between Israel and any neighbor prepared to negotiate peace and security with it, are necessary for the purpose of carrying out all the provisions and principles of Resolutions 242 and 338.

Peace requires respect for the sovereignty, territorial integrity and political independence of every state in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force. Progress toward that goal can accelerate movement toward a new era of reconciliation in the Middle East marked by cooperation in promoting economic development, in maintaining stability, and in assuring security.

Security is enhanced by a relationship of peace and by cooperation between nations which enjoy normal relations. In addition, under the terms of peace treaties, the parties can, on the basis of reciprocity, agree to special security arrangements such as demilitarized zones, limited armaments areas, early warning stations, the presence of international forces, liaison, agreed measures for monitoring, and other arrangements that they agree are useful.

FRAMEWORK

Taking these factors into account, the parties are determined to reach a just, comprehensive, and durable settlement of the Middle East conflict through the conclusion of peace treaties based on Security Council Resolutions 242 and 338 in all their parts. Their purpose is to achieve peace and good neighborly relations. They recognize that, for peace to endure, it must involve all those who have been most deeply affected by the conflict. They therefore agree that this framework as appropriate is intended by them to constitute a basis for peace not only between Egypt and Israel, but also between Israel and each of its other neighbors which is prepared to negotiate peace with Israel on this basis. With that objective in mind, they have agreed to proceed as follows:

A. West Bank and Gaza

1. Egypt, Israel, Jordan and the representatives of the Palestinian people should participate in negotiations on the resolution of the Palestinian problem in all its aspects. To achieve that objective, negotiations relating to the West Bank and Gaza should proceed in three stages:

*The texts of Resolutions 242 and 338 are annexed to this document.

(a) Egypt and Israel agree that, in order to ensure a peaceful and orderly transfer of authority, and taking into account the security concerns of all parties, there should be transitional arrangements for the West Bank and Gaza for a period not exceeding five years. In order to provide full autonomy to the inhabitants, under these arrangements the Israeli military government and its civilian administration will be withdrawn as soon as a self-governing authority has been freely elected by the inhabitants of these areas to replace the existing military government. To negotiate the details of a transitional arrangement, the Government of Jordan will be invited to join the negotiations on the basis of this framework. These new arrangements should give due consideration both to the principle of self-government by the inhabitants of these territories and to the legitimate security concerns of the parties involved.

(b) Egypt, Israel, and Jordan will agree on the modalities for establishing the elected self-governing authority in the West Bank and Gaza. The delegations of Egypt and Jordan may include Palestinians from the West Bank and Gaza or other Palestinians as mutually agreed. The parties will negotiate an agreement which will define the powers and responsibilities of the self-governing authority to be exercised in the West Bank and Gaza. A withdrawal of Israeli armed forces will take place and there will be a redeployment of the remaining Israeli forces into specified security locations. The agreement will also include arrangements for assuring internal and external security and public order. A strong local police force will be established, which may include Jordanian citizens. In addition, Israeli and Jordanian forces will participate in joint patrols and in the manning of control posts to assure the security of the borders.

(c) When the self-governing authority (administrative council) in the West Bank and Gaza is established and inaugurated, the transitional period of five years will begin. As soon as possible, but not later than the third year after the beginning of the transitional period, negotiations will take place to determine the final status of the West Bank and Gaza and its relationship with its neighbors, and to conclude a peace treaty between Israel and Jordan by the end of the transitional period. These negotiations will be conducted among Egypt, Israel, Jordan, and the elected representatives of the inhabitants of the West Bank and Gaza. Two separate but related committees will be convened, one committee, consisting of representatives of the four parties which will negotiate and agree on the final status of the West Bank and Gaza, and its relationship with its neighbors, and the second committee, consisting of representatives of Israel and representatives of Jordan to be joined by the elected representatives of the inhabitants of the West Bank and Gaza, to negotiate the peace treaty between Israel and Jordan, taking into account the agreement reached on the final status of the West Bank and Gaza. The negotiations shall be based on all the provisions and principles of UN Security Council Resolution 242. The negotiations will resolve, among other matters, the location of the boundaries and the nature of the security arrangements. The solution from the negotiations must also recognize the legitimate rights of the Palestinian people and their just requirements. In this way, the Palestinians will participate in the determination of their own future through:

(1) The negotiations among Egypt, Israel, Jordan and the representatives of the inhabitants of the West Bank and Gaza to agree on the final status of the West Bank and Gaza and other outstanding issues by the end of the transitional period.

(2) Submitting their agreement to a vote by the elected representatives of the inhabitants of the West Bank and Gaza.

(3) Providing for the elected representatives of the inhabitants of the West Bank and Gaza to decide how they shall govern themselves consistent with the provisions of their agreement.

(4) Participating as stated above in the work of the committee negotiating the peace treaty between Israel and Jordan.

2. All necessary measures will be taken and provisions made to assure the security of Israel and its neighbors during the transitional period and beyond. To assist in providing such security, a strong local police force will be constituted by the self-governing authority. It will be composed of inhabitants of the West Bank and Gaza. The police will maintain continuing liaison on internal security matters with the designated Israeli, Jordanian, and Egyptian officers.

3. during the transitional period, representatives of Egypt, Israel, Jordan, and the self-governing authority will constitute a continuing committee to decide by agreement on the modalities of admission of persons displaced from the West Bank and Gaza in 1967, together with necessary measures to prevent disruption and disorder. Other matters of common concern may also be dealt with by this committee.

4. Egypt and Israel will work with each other and with other interested parties to establish agreed procedures for a prompt, just and permanent implementation of the resolution of the refugee problem.

B. Egypt-Israel

1. Egypt and Israel undertake not resort to the threat or the use of force to settle disputes. Any disputes shall be settled by peaceful means in accordance with the provisions of Article 33 of the Charter of the United Nations.

2. In order to achieve peace between them, the parties agree to negotiate in good faith with a goal of concluding within three months from the signing of this Framework a peace treaty between them, while inviting the other parties to the conflict to proceed simultaneously to negotiate and conclude similar peace treaties with a view to achieving a comprehensive peace in the area. The Framework for the Conclusion of a Peace Treaty between Egypt and Israel will govern the peace negotiations between them. The parties will agree on the modalities and the timetable for the implementation of their obligations under the treaty.

C. Associated principles

1. Egypt and Israel state that the principles and provisions described below should apply to peace treaties between Israel and each of its neighbors—Egypt, Jordan, Syria and Lebanon.

2. Signatories shall establish among themselves relationships normal to states at peace with one another. To this end, they should undertake to abide by all the provisions of the Charter of the United Nations. Steps to be taken in this respect include:

(a) Full recognition;

(b) Abolishing economic boycotts;

(c) Guaranteeing that under this jurisdiction the citizens of the other parties shall enjoy the protection of the due process of law.

3. Signatories should explore possibilities for economic development in the context of final peace treaties, with the objective of contributing to the atmosphere of peace, cooperation and friendship which is their common goal.

4. Claims Commissions may be established for the mutual settlement of all financial claims.

5. The United States shall be invited to participate in the talks on matters related to the modalities of the implementation of the agreements and working out the timetable for the carrying out of the obligations of the parties.

6. The United Nations Security Council shall be requested to endorse the peace treaties and ensure that their provisions shall not be violated. The permanent members of the Security Council shall be requested to underwrite the peace treaties and ensure respect for their provisions. They shall also be requested to conform their policies and actions with the undertakings contained in this Framework.

For the Government of the Arab Republic of Egypt:

_____.

For the Government of Israel:

_____.

Witnessed by:

JIMMY CARTER,
President of the United States of America.

FRAMEWORK FOR THE CONCLUSION OF A PEACE TREATY BETWEEN EGYPT AND ISRAEL

In order to achieve peace between them, Israel and Egypt agree to negotiate in good faith with a goal of concluding within three months of the signing of this framework a peace treaty between them.

It is agreed that:

The site of the negotiations will be under a United Nations flag at a location or locations to be mutually agreed.

All of the principles of U.N. Resolution 242 will apply in this resolution of the dispute between Israel and Egypt.

Unless otherwise mutually agreed, terms of the peace treaty will be implemented between two and three years after the peace treaty is signed.

The following matters are agreed between the parties:

(a) The full exercise of Egyptian sovereignty up to the internationally recognised border between Egypt and mandated Palestine;

(b) The withdrawal of Israeli armed forces from the Sinai;

(c) The use of airfields left by the Israelis near El Arish, Rafah, Ras en Nagb, and Sharm el Sheikh for civilian purposes only, including possible commercial use by all nations;

(d) The right of free passage by ships of Israel through the Gulf of Suez and the Suez Canal on the basis of the Constantinople Convention of 1888 applying to all nations; the Strait of Tiran and the Gulf of Aqaba are international waterways to be open to all nations for unimpeded and nonsuspendable freedom of navigation and overflight;

(e) The construction of a highway between the Sinai and Jordan near Elat with guaranteed free and peaceful passage by Egypt and Jordan; and

(f) The stationing of military forces listed below.

STATIONING OF FORCES

A. No more than one division (mechanized or infantry) of Egyptian armed forces will be stationed within an area lying approximately 50 kilometers (km) east of the Gulf of Suez and the Suez Canal.

B. Only United Nations forces and civil police equipped with light weapons to perform normal police functions will be stationed within an area lying west of the international border and the Gulf of Aqaba, varying in width from 20 km to 40 km.

C. In the area within 3 km east of the international border there will be Israeli limited military forces not to exceed four infantry battalions and United Nations observers.

D. Border patrol units, not to exceed three battalions, will supplement the civil police in maintaining order in the area not included above.

The exact demarcation of the above areas will be as decided during the peace negotiations.

Early warning stations may exist to insure compliance with the terms of the agreement.

United Nations forces will be stationed: (a) in part of the area in the Sinai lying within about 20 km of the Mediterranean Sea and adjacent to the international border, and (b) in the Sharm el Sheikh area to ensure freedom of passage through the Strait of Tiran; and these forces will not be removed unless such removal is approved by the Security Council of the United Nations with a unanimous vote of the five permanent members.

After a peace treaty is signed, and after the interim withdrawal is complete, normal relations will be established between Egypt and Israel, including: full recognition, including diplomatic, economic and cultural relations; termination of economic boycotts and barriers to the free movement of goods and people; and mutual protection of citizens by the due process of law.

INTERIM WITHDRAWAL

Between three months and nine months after the signing of the peace treaty, all Israeli forces will withdraw east of a line extending from a point east of El Arish to Ras Muhammad, the exact location of this line to be determined by mutual agreement.

For the government of the Arab Republic of Egypt:

_____.

For the Government of Israel:

_____.

Witnessed by:

JIMMY CARTER,
President of the United States of America.●

THE PLYMOUTH CONGREGATIONAL CHURCH CELEBRATES ITS 125TH ANNIVERSARY: SEPTEMBER 24, 1853–SEPTEMBER 24, 1978

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. HANLEY. Mr. Speaker—

Pride in the past is a fine incentive for further achievements in the years ahead.

That is how Preston Mitchell, a member of Plymouth Church, summed up the sentiments that prevailed during the celebration of the church's centennial. That was 25 years ago. The members of Plymouth Church have every right to take pride in its achievements throughout the past 125 years.

Plymouth Congregational Church was not the first Congregational Church in Syracuse. Many of the first members were "orphans" from the disbanded First Congregational Church, noted for its strong stand against slavery. Members of this church, including some who later joined Plymouth, took an active part in the Underground Railroad, and were involved in the famous "Jerry Rescue" in 1851. A slave, William McHenry, known, as "Jerry" had escaped from his master in Missouri, and found refuge and employment in Syracuse. His master undertook legal action to have Jerry returned, and he was arrested. During his trial, Abner Bates and Ira Cobb extinguished the lights in the courtroom and assisted McHenry in his escape to Canada.

After various problems caused the First Congregational Church to dissolve, several of its members sought to form their own church. On September 24, 1853 under the guidance of Joel Danforth, A. G. Salisbury, and Abner Bates the new church was organized. The basis of the organization was the deep belief that in the Kingdom of God there can be neither bondsman nor master. The new church was called Plymouth in emulation of Plymouth Church in Brooklyn, whose pastor, Henry Ward Beecher, was an implacable foe of slavery.

The first meeting place of their own, later known as the Wooden Chapel, was designed and constructed by Horatio N. White, a noted architect. Mr. White also designed the old Court House, and the Hall of Languages—the first building of Syracuse University. Both buildings are still standing. The building was dedicated in February, 1855, with the first prayer offered by Rev. Daniel Waldo, a former Chaplain of the House of Representatives. Born in 1792, and a member of the Continental Army, "Father Waldo", as he was known, became Chaplain of the House at the age of 94. He performed his duties efficiently and was reported to be highly regarded by the House.

A new church, again designed by Horatio N. White, in a Norman style architecture was dedicated on August 3, 1859. And by 1873, Plymouth Church was the largest Protestant Church in Syracuse.

In 1925 Burns Lyman Smith donated the famous "Landing of the Pilgrims" silhouette that still stands in a triangular plot of ground between Madison Street and Onondaga Street to serve as a constant reminder that it was these courageous Pilgrims who fled the old order and brought the congregational way to the new world.

In April, 1961 Plymouth became a unit member of the United Church of Christ, but to preserve tradition they still think and speak of themselves as the Plymouth Congregational Church.

The present pastor of Plymouth, Frederick F. Lowry, will open the observance of the 125th anniversary with a service on September 24 with a sermon entitled "Plymouth Congregational Church-United Church of Christ: A Past and A Present." And on October 1, Rev. Richard McCollum, who was ordained at Plymouth in 1969, will preach a sermon entitled: "Plymouth Congregational Church-United Church of Christ: A Future."

Other anniversary activities include a banquet on October 30, and an antique quilt display. The display features a quilt made by the women of the parish, with each block of the quilt portraying some segment of the church's history.

Later in the fall, members of Plymouth will present a play entitled "Winds of Freedom" by Rhonda Scott, which revolves around the "Jerry Rescue."

Plymouth Congregational Church is one of the few Syracuse churches to remain on its original site. It has grown as Syracuse has grown and has played a very important part in the community. I ask you to join me in saluting the Plymouth Congregational Church on its 125th anniversary.●

PERSONAL EXPLANATION

Mr. MIKVA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. MIKVA. Mr. Speaker, I was unable to be present on the House floor for an hour on Wednesday, September 13, 1978, for rollcall votes No. 768 and No. 769 as I was attending a conference dealing with taxation, which took place away from the Capitol. Had I been present, I would have voted "yes" on both rollcall No. 768, a motion to order the previous question on the rule for H.R. 8729, Aircraft Noise Reduction Act, and rollcall No. 769, House Resolution 1293, the rule under which H.R. 8729 was being considered.

I was also unable to be present for rollcall vote No. 793. Had I been present, I would have voted "aye" on H.R. 12326, the Developmental Disabilities Act amendments.●

CHICAGO TRIBUNE EDITORIAL ON AIRPLANE NOISE REDUCTION

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. MIKVA. Mr. Speaker, the Congress this year has an opportunity to take a major step forward to reduce the problem of airplane noise. I am pleased that the House has taken the lead in this important national effort when it recently passed the Airport and Aircraft Noise Reduction Act.

At this time, Mr. Speaker, I would like to share with my colleagues an editorial by the Chicago Tribune of September 18, 1978, which persuasively sets forth the reasons for congressional approval of the airplane noise reduction bill:

ON PAYING FOR SILENCE

A lot of the same people who clamored a couple of years ago for stricter controls on airplane noise are now complaining about the means by which Congress is considering speeding up these controls. They say it will enable the airlines to make the necessary improvements "at taxpayer expense."

The truth is neither as simple nor as offensive as this makes it seem.

First, it would not be at general taxpayer expense. What the bill proposes is to finance about a third of the $6 to $8 that noise-abatement improvements will cost by 1985 out of a fund derived from a special tax on airline tickets and shipments. The improvements would therefore be financed by airline users, not by those who have chosen to live near airports and would benefit from quieter planes.

Second, it would not mean an increase in the ticket tax. The proposed 2 percent tax on tickets would be offset by a 2 percent reduction in the existing 8 percent tax for the Aviation Trust Fund, which is intended for airport costs and has accumulated a substantial surplus.

Third, the use of tax funds—even if they

were to come from general revenues—could easily be justified in this instance, though normally we would oppose it. The present case is not normal. About 1,600 of the planes now in service met all federal standards when they were bought. The present noise law amounts to a retroactive disapproval of all these planes. It is much as if a homeowner were required to rebuild his house because it didn't comply with a new change in the building code.

This means that the engine nacelles of these planes would have to be insulated [thereby increasing weight and adding substantially to fuel consumption]; or new engines put in; or the entire plane replaced, long before it would otherwise be necessary.

The cost of meeting the noise reduction standards, the airlines say, will be from to $6 to $8 billion. Of this, about a third is attributable to the retroactive nature of the law. This $2 to $3 billion is about the same amount that the proposed tax would yield. The fund would be managed by the government, and released on the basis of applications from the airlines. If an airline chose only to put in insulation, it could collect from the government for up to 90 per cent of the cost, since the insulation would do the airline no good and would, in fact, increase fuel costs.

If a line chose to buy new engines, the government would foot 75 percent of the bill. If it chose to replace the plane, the government would pay for only 25 to 40 per cent of the cost, the assumption being that the new plane increased the assets of the airline.

Whether the precise percentages and amounts are accurate we'll have to leave up to experts. But it is hard to dispute the principle that when the government orders an enormously costly change in equipment it has already approved—a change required only for the comfort of people who may never even ride a plane—the government should foot part of the bill.

If opponents think this is too great an imposition on the taxpayers—especially for a noise-control program that doesn't even pretend to deal with the Concorde—perhaps they should go back to Square 1 and rethink the anti-noise laws.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. PEPPER (at the request of Mr. WRIGHT), for September 19, 20, 21, and 22, on account of official business.

Mr. COTTER (at the request of Mr. WRIGHT), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MOORE) to revise and extend their remarks and include extraneous material:)

Mr. GOLDWATER, for 5 minutes, today.

(The following Members (at the request of Mr. HEFNER) to revise and extend their remarks, and to include extraneous matter:)

Mr. BINGHAM, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. PREYER, for 5 minutes, today.

Mr. ROBERTS, for 5 minutes, today.

Mr. OTTINGER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MOORE) and to include extraneous matter:)

Mr. BURGENER.

Mr. REGULA.

Mr. VANDER JAGT.

Mr. DORNAN in four instances.

Mr. GOODLING in two instances.

Mr. WHITEHURST.

Mr. RHODES.

Mr. FINDLEY.

Mr. CUNNINGHAM.

Mr. GARY A. MYERS.

(The following Members (at the request of Mr. HEFNER) and to include extraneous material:)

Mr. TEAGUE.

Mr. VENTO in three instances.

Mr. LLOYD of California.

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mr. CARNEY in two instances.

Mr. SIKES in two instances.

Mr. THOMPSON.

Mr. AMBRO.

Mr. MOFFETT.

Mr. JENRETTE in two instances.

Mr. FISHER in two instances.

Mr. DE LUGO.

Mr. COTTER.

Ms. OAKAR.

Ms. MIKULSKI.

Mr. WON PAT.

Mr. PATTISON of New York.

Mr. BRECKINRIDGE in four instances.

Mr. BENJAMIN.

Mr. MCDONALD in three instances.

Mr. RYAN.

Mr. MAGUIRE.

Mr. MOTTL.

Mr. NOLAN.

Mr. ZEFERETTI.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

H.R. 1427. For the relief of Marie Grant;

H.R. 3460. For the relief of William J. Elder and the estate of Stephen M. Owens, deceased;

H.R. 5097. For the relief of Dr. Daryl C. Johnson;

H.R. 6760. For the relief of Charles M. Metott; and

H.R. 12772. To facilitate the exchange of certain lands in the State of Oregon, and for other purposes.

ADJOURNMENT

Mr. HEFNER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 55 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, September 20, 1978, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4993. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of certain defense equipment to Austria (transmittal No. 78-100), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

4994. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of certain defense equipment to Iran (transmittal No. 78-101), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

4995. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2-267, "To amend the District of Columbia Unemployment Compensation Act," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4996. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2-268, "To increase the single-family residental real property tax exemption; to classify real property in the District of Columbia for purposes of establishing real property tax rates; to provide an expanded property tax credit for certain renters and homeowners in the District of Columbia, and for other purposes," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4997. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2-269, "To amend the District of Columbia Air Quality Control Regulations Relating to the Sulfur Content of Fuels," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4998. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2-270, "To provide for the transportation of District of Columbia students on the Metrobus and Metrorail Transit Systems at a reduced fare of 10 cents and to authorize the payment of a school transit subsidy to the Washington Metropolitan Area Transit Authority," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4999. A letter from the Assistant Secretary of the Interior, transmitting the Department's views on H.R. 12533, the proposed Indian Child Welfare Act of 1978; to the Committee on Interior and Insular Affairs.

5000. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Amber H. Moss, Jr., Ambassador-designate to Panama, and by members of his family, pursuant to section 6 of Public Law 93-126; to the Committee on International Relations.

5001. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting notice of a proposed increase in the funding level of the Agency's fiscal year 1978 program in Mali, pursuant to section 653(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

5002. A letter from the Director, Defense Security Assistance Agency, transmitting a quarterly report on foreign military sales as of June 30, 1978, pursuant to section 36 (a) of the Arms Export Control Act; to the Committee on International Relations.

5003. A letter from the Director, Defense Security Assistance Agency, transmitting addenda to the quarterly report on foreign military sales as of June 30, 1978, pursuant to section 36(a) of the Arms Export Control Act; to the Committee on International Relations.

5004. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Austria (transmittal No. 78-100), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

5005. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Iran (transmittal No. 78-101), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

5006. A letter from the Secretary of Energy, transmitting recommendations for implementation of a program of Federal financial assistance for demonstrating production and conservation of energy, pursuant to section 19(1)(1) of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended (92 Stat. 69); to the Committee on Science and Technology.

5007. A letter from the Executive Secretary, Agricultural Policy Advisory Committee for Trade Negotiations, transmitting the committee's report on the U.S.-Indian Tropical Products Agreement, dated July 26, 1978, pursuant to section 135(e)(1) of the Trade Act of 1974; to the Committee on Ways and Means.

5008. A letter from the Chairman, U.S. Consumer Product Safety Commission, transmitting a supplemental appropriation request for fiscal year 1979, pursuant to section 27(k)(1) of Public Law 92-573; jointly, to the Committees on Appropriations, and Interstate and Foreign Commerce.

5009. A letter from the Chairman, U.S. Consumer Product Safety Commission, transmitting the Commission's fiscal year 1980 budget estimates, pursuant to section 27(k)(1) of Public Law 92-573; jointly, to the Committees on Appropriations, and Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HAWKINS: Committee House Administration. House Resolution 1285. Resolution to provide for the printing of the proceedings incident to the presentation of a portrait of the Honorable Al Ullman (Rept. No. 95-1580). Referred to the House Calendar.

Mr. HAWKINS: Committee on House Administration. House Resolution 1338. Resolution providing for the printing of the report entitled "Freedom of Information Requests for Business Data and Reverse-FOIA Lawsuits" (Rept. No. 95-1581). Referred to the House Calendar.

Mr. HAWKINS: Committee on House Administration. Senate Concurrent Resolution 90. Concurrent resolution authorizing the printing of additional copies of volumes 1 and 2 of the committee print entitled "A Legislative History of the Water Pollution Control Act Amendments of 1972" (Rept. No. 95-1582). Referred to the House Calendar.

Mr. HAWKINS: Committee on House Administration. Senate Concurrent Resolution 96. Concurrent resolution authorizing the reprinting of book II of the Senate report entitled "Intelligence Activities and the Rights of Americans" (S. Rept. 94-755) (Rept. No. 95-1583). Referred to the House Calendar.

Mr. HAWKINS: Committee on House Administration. Senate Concurrent Resolution 97. Concurrent resolution authorizing the printing of additional copies of the committee print entitled "Preliminary Guide to Export Opportunities to Japan" (Rept. No. 95-1584). Referred to the House Calendar.

Mr. HAWKINS: Committee on House Administration. Senate Concurrent Resolution 105. Concurrent resolution authorizing the printing of additional copies of the final report and of volume II of the executive session hearings on the Korean influence inquiry (Rept. No. 95-1585). Referred to the House Calendar.

Mr. BROOKS: Committee on Government Operations. H.R. 12171. A bill to strengthen the right of access of the Comptroller General to public and certain private records, to allow for limited auditing of unvouchered expenditures, and for other purposes (Rept. No. 95-1586). Referred to the Committee of the Whole House on the State of the Union.

Mr. LONG of Louisiana: Committee on Rules. House Resolution 1354. Resolution providing for the consideration of H.R. 13750. A bill to implement the International Sugar Agreement between the United States and foreign countries; to protect the welfare of consumers of sugar and those engaged in the domestic sugar-producing industry; to promote the export trade of the United States; and for other purposes (Rept. No. 95-1587). Referred to the House Calendar.

Mr. MEEDS: Committee on Rules. House Resolution 1355. Resolution providing for the consideration of H.R. 13778. A bill to establish a Department of Education and for other purposes (Rept. No. 95-1588). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 1356. Resolution waiving certain points of order against the conference report on H.R. 3816. A bill to amend the Federal Trade Commission Act to expedite the enforcement of Federal Trade Commission cease and desist orders and compulsory process orders; to increase the independence of the Federal Trade Commission in legislative, budgetary, and personnel matters; and for other purposes (Rept. No. 95-1589). Referred to the House Calendar.

Mr. REUSS: Committee on Banking, Finance and Urban Development. H.R. 14072. A bill to facilitate the implementation of monetary policy and to promote competitive equality among commercial banks; with amendment (Rept. 95-1590). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BARNARD:

H.R. 14114. A bill to postpone the increase in the minimum wage and the adjustment to the tip credit under the Fair Labor Standards Act of 1938; to the Committee on Education and Labor.

By Mr. COCHRAN of Mississipoi (for himself, Mr. GOODLING, Mr. GUYER, Ms. KEYS, Mr. MCDADE, and Mr. PICKLE):

H.R. 14115. A bill to clarify the circumstances under which territorial provisions in licenses to manufacture, distribute, and sell trademarked soft drink products are lawful under the antitrust laws; to the Committee on the Judiciary.

By Mr. DICKS:

H.R. 14116. A bill to reorganize the executive branch of the Government and increase its economy and efficiency by establishing Offices of Inspector General within the Departments of Agriculture, Commerce, Housing, and Urban Development, the Interior, Labor, and Transportation, and within the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration, and for other purposes; to the Committee on Government Operations.

By Mr. JACOBS (for himself, Mr. MOFFETT, Mr. PATTERSON of California, and Mr. WAGGONNER):

H.R. 14117. A bill to amend title II of the Social Security Act to provide that renewal commissions, received by a retired insurance agent from life insurance policies which were sold by him before his retirement, shall not be taken into account in determining his net earnings from self-employment for purposes of the earnings test; to the Committee on Ways and Means.

By Mr. MATHIS (for himself, Mr. WAMPLER, Mr. SPENCE, Mr. WALKER, Mr. WHITLEY, Mr. GOODLING, and Mr. RAILSBACK):

H.R. 14118. A bill to prohibit the Secretary of Agriculture from prohibiting the use of nitrites as a food preservative on the basis of any carcinogenic effect nitrites may be represented to have until a satisfactory substitute preservative is commercially available; to the Committee on Agriculture.

By Mr. MATHIS (for himself, Mr. WAMPLER, Mr. ASHBROOK, Mr. BLOUIN, Mr. BOWEN, Mr. CORCORAN of Illinois, Mr. ROBERT W. DANIEL, Jr., Mr. DUNCAN of Tennessee, Mr. ERTEL, Mr. EVANS of Georgia, Mr. FINDLEY, Mr. FORSYTHE, Mr. GRASSLEY, Mr. HAGEDORN, Mr. HARSHA, Mr. JOHNSON of Colorado, Mr. KINDNESS, Mr. LAGOMARSINO, Mr. LATTA, Mr. LOTT, Mr. LUKEN, Mr. MADIGAN, Mr. MARTIN, Mr. SEBELIUS, and Mr. SKELTON):

H.R. 14119. A bill to prohibit the Secretary of Agriculture from prohibiting the use of nitrites as a food preservative on the basis of any carcinogenic effect nitrites may be represented to have until a satisfactory substitute preservative is commercially available; to the Committee on Agriculture.

By Mr. MATHIS (for himself, Mr. WAMPLER, Mr. SPENCE, Mr. WALKER, Mr. WHITLEY, Mr. GOODLING, and Mr. RAILSBACK):

H.R. 14120. A bill to prohibit the Secretary of Agriculture and the Secretary of Health, Education, and Welfare from prohibiting the use of nitrites as a food preservative on the basis of any carcinogenic effect nitrites may be represented to have until the development of a satisfactory alternative food preservative; jointly, to the Committees on Agriculture, and Interstate and Foreign Commerce.

By Mr. MATHIS (for himself, Mr. WAMPLER, Mr. ASHBROOK, Mr. BLOUIN, Mr. BOWEN, Mr. CORCORAN of Illinois, Mr. ROBERT W. DANIEL, Jr., Mr. DUNCAN of Tennessee, Mr. ERTEL, Mr. EVANS of Georgia, Mr. FINDLEY, Mr. FORSYTHE, Mr. GRASSLEY, Mr. HAGEDORN, Mr. HARSHA, Mr. JOHNSON of Colorado, Mr. KINDNESS, Mr. LAGOMARSINO, Mr. LATTA, Mr. LOTT, Mr. LUKEN, Mr. MADIGAN, Mr. MARTIN, Mr. SEBELIUS, and Mr. SKELTON):

H.R. 14121. A bill to prohibit the Secretary of Agriculture and the Secretary of Health, Education, and Welfare from prohibiting the use of nitrites as a food preservative on the basis of any carcinogenic effect nitrites may be represented to have until the development of a satisfactory alternative food preservative; jointly, to the Committees on Agriculture, and Interstate and Foreign Commerce.

By Mr. MATHIS:

H.R. 14122. A bill to amend title XVIII of the Social Security Act with respect to the payment for drugs and biologicals under part B of the medicare program; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. STAGGERS (by request):

H.R. 14123. A bill to amend the Railroad Retirement Act of 1974 with respect to the computation of certain annuity amounts; to the Committee on Interstate and Foreign Commerce.

By Mr. STUMP:

H.R. 14124. A bill to repeal the Metric Conversion Act of 1975 (89 Stat. 1007); to the Committee on Science and Technology.

By Mr. NIX:

H.R. 14125. A bill to amend chapter 87 of title 5, United States Code, to provide that Members of Congress may elect at retirement partial (in lieu of full) conversion from group life insurance to individual life insurance; to the Committee on Post Office and Civil Service.

By Mr. GARY A. MYERS:

H.R. 14126. A bill entitled "Department of Energy Organization Act Amendments of 1978"; to the Committee on Interstate and Foreign Commerce.

By Mr. PICKLE:

H.R. 14127. A bill to amend the Internal Revenue Code of 1954 to exclude from the gross estate of any individual benefits payable under certain State judicial plans, and for other purposes; to the Committee on Ways and Means.

By Mr. MAHON:

H.J. Res. 1139. Joint resolution making continuing appropriations for the fiscal year 1979, and for other purposes; to the Committee on Appropriations.

By Mr. FARY:

H. Con. Res. 714. Concurrent resolution expressing the sense of the Congress relating to films and broadcasts which defame, stereotype, ridicule, demean, or degrade ethnic, racial, and religious groups; to the Committee on Interstate and Foreign Commerce.

By Mr. ZABLOCKI (for himself, Mr. WRIGHT, Mr. FASCELL, Mr. FRASER, Mr. ROSENTHAL, Mr. WOLFF, Mr. BINGHAM, Mr. RYAN, Mr. SOLARZ, Mrs. MEYNER, Mr. STUDDS, Mr. IRELAND, Mr. PEASE, Mr. DE LA GARZA, Mr. CAVANAUGH, Mr. YATRON, Mr. BROOMFIELD, Mr. FINDLEY, Mr. BUCHANAN, Mr. BURKE of Florida, Mr. WINN, Mrs. PETTIS, Mr. ANDERSON of Illinois, Mr. HYDE, and Mr. YATES):

H. Con. Res. 715. Concurrent resolution commending President Carter of the United States, President Sadat of Egypt, and Prime Minister Begin of Israel for the courageous steps they have taken to resolve the differences between Egypt and Israel and to bring about a comprehensive, just, and durable peace in the Middle East; to the Committee on International Relations.

By Mr. DORNAN (for himself, Mr. BRADEMAS, Mr. DELANEY, Mr. FLOOD, Mr. HARSHA, Mr. MONTGOMERY, Mr. MURPHY of Illinois, Mr. NOWAK, Mr. PEASE, Mr. KEMP, Mr. CORCORAN of Illinois, Mr. EILBERG, Mr. MOORHEAD of California, Mr. ROBINSON, and Mr. LAGOMARSINO):

H. Con. Res. 716. Concurrent resolution expressing the sense of Congress with respect to the Baltic States; to the Committee on International Relations.

By Mr. SOLARZ (for himself, Mr. EDGAR, Mr. PATTERSON of California, and Mr. CHAPPELL):

H. Con. Res. 717. Concurrent resolution expressing the sense of Congress that the Attorney General, under the authority of the Immigration and Nationality Act, should parole into the United States Cambodian refugees currently held in camps in Thailand; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII,

482. The SPEAKER presented a memorial of the Legislature of the Territory of the Virgin Islands, relative to the proposed equal rights amendment to the Constitution; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. MIKULSKI:

H.R. 14128. A bill to authorize the appointment of Col. Mary Agnes Hallafen, U.S. Army, retired, to the grade of brigadier general on the Retired List of the United States Army; to the Committee on Armed Services.

By Mr. MOORHEAD of California:

H.R. 14129. A bill for the relief of Vista Unlimited, Inc.; to the Committee on the Judiciary.

By Mr. PATTERSON of California:

H.R. 14130. A bill for the relief of Pedro Sagasti-Bilbao, Sylvia Alvarez De Sagasti, Veronica del Pilar Sagasti-Alvarez, Karyn Sagasti-Alvarez, and Pedro Sagasti-Alvarez; to the Committee on the Judiciary.

By Mr. STANTON:

H.R. 14131. A bill for the relief of Nelson M. Collier; to the Committee on the Judiciary.

By Mr. FISHER:

H. Res. 1367. Resolution to refer H.R. 12856, a bill for the relief of Elena Schwarze-Chamier, to the Chief Commissioner of the Court of Claims; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

538. By the SPEAKER: Petition of Tim McCormack and other members of the Ohio Senate, Columbus, relative to natural gas price deregulation; to the Committee on Interstate and Foreign Commerce.

539. Also, petition of the Coal Marketing Subcommittee, Virginia Coal and Energy Commission, Richmond, relative to resolution of the Norfolk and Western Railway strike; to the Committee on Interstate and Foreign Commerce.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1

By Mr. FRENZEL:

(To the amendment in the nature of a substitute (H.R. 13850) offered by Mr. DANIELSON.)

—On page 2, lines 8 and 9, strike out ", and any individual who becomes a candidate in any election for the office of Member".

On page 2, lines 17 and 18, strike out "(1) Except as provided in paragraph (2), each" and insert "Each".

On page 2, lines 19 and 20, strike out ", other than an individual who becomes a candidate in any election for the office of Member,".

On page 3, strike out lines 6 through 9, and on line 10 strike out "(B)" and insert "(2)".

On page 3, strike out line 15 and all that follows thereafter through page 4, line 2.

On page 4, line 3, strike out "(c)" and insert "(b)".

On page 4, lines 3 and 4, strike out "or an individual who is a candidate for the office of Member".

On page 12, line 4, after the word "destroyed" strike out the comma, insert a period, and strike out all that follows through and including line 8.

On page 15, strike out lines 12 through 22, and redesignate the succeeding paragraphs accordingly.

—On page 3, lines 16 and 17, strike out "October 1, 1978," and insert "January 1, 1979,".

—On page 7, line 10, immediately before the period insert "or any deposit in a personal savings account which bears interest".

—On page 8, immediately after line 5, insert the following:

(7) The identity of all positions held as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, and any educational or other institution, except that this paragraph shall not require the reporting of positions held in any religious, social, fraternal, charitable, or political entity.

—On page 8, immediately after line 5, insert the following:

(8) A description of the date, parties to, and terms of any agreement or arrangement with respect to: (A) future employment; (B) a leave of absence during the period of the reporting individual's Government service; (C) continuation of payments by a former employer other than the United States Government; and (D) continuing participation in an employee welfare or benefit plan maintained by a former employee.

—On page 8, strike out lines 12 through 19, and insert:

(1) not more than $2,500,

(2) greater than $2,500, but not more than $5,000,

(3) greater than $5,000, but not more than $10,000,

(4) greater than $10,000, but not more than $25,000,

(5) greater than $25,000.

—On page 9, lines 17 through 19, strike out "; and from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit." and insert a period.

—On page 10, line 25, after "holdings" insert "at the time his interest in the trust was originally placed in such trust, if available,".

—On page 11, strike out lines 14 through 25, and insert:

(c) Any person requesting a copy of a report may be required to pay a reasonable fee to cover the cost of reproduction or mailing of such report, excluding any salary of any employee involved in such reproduction or mailing. A copy of such report may be furnished without charge or at a reduced charge if it is determined by the Clerk or Secretary that waiver or reduction of the fee is in the public interest because furnishing the information may be considered as primarily benefiting the public.

—On page 12, strike out lines 1 through 8 and insert the following:

(d)(1) Any report filed under this title shall be available for public inspection for a period of five years, so long as the reporting individual remains in a position designated in section 101, after which the report shall be destroyed.

(2) If the individual who filed the report is no longer within any position designated in section 101 and so notifies the Clerk or Secretary, the report shall, one year after such notification, no longer be available for public inspection. Such report shall be retained by the Clerk or Secretary for the remainder of the five-year period after which it shall be destroyed.

(3) If an individual specified in paragraph (2) returns to any position designated in section 101 during such five-year period, his report shall again be made available for public inspection for the remainder of that five-year period.

—On page 12, strike out lines 17 through 19 and insert the following:

(D) for use, directly or indirectly, in the solicitation of money for any purpose, other than for a political purpose.

—Page 20, strike out lines 8 through 19.

Page 20, line 6, strike out "(f)" and insert in lieu thereof "(d)".

Page 20, line 20, strike out "(d)" and insert in lieu thereof "(b)".

Page 20, line 21, strike out "(f)" and insert in lieu thereof "(d)".

Page 21, line 1, strike out "(e)" and insert in lieu thereof "(c)".

Page 21, lines 2, 6, and 7, strike out "(f)" and insert in lieu thereof "(d)".

Page 21, line 6, strike out "(d), and (e)" and insert in lieu thereof "(b), and (c)".

Page 22, line 20, strike out "(g)" and insert in lieu thereof "(e)".

Page 23, lines 2 and 3, strike out "(d) and (e)" and insert in lieu thereof "(b) and (c)".

Page 26, lines 5 and 6, strike out "subsections (a), (b), and (c)" and insert in lieu thereof "subsection (a)".

Page 26, line 15, strike out "(e)" and insert in lieu thereof "(c)".

Page 29, lines 22 and 23, strike out "candidates for the office of President or Vice President,".

Page 30, strike out lines 10 through 12.

Page 30, line 13, strike out "(f)" and insert in lieu thereof "(e)".

Page 34, line 6, strike out the comma and all that follows through line 13 and insert in lieu thereof a period.

Page 35, line 22, strike out "(d)" and insert in lieu thereof "(b)".

—Page 21, strike out lines 1 through 6.

Page 20, line 6, strike out "(f)" and insert in lieu thereof "(e)".

Page 20, line 21, strike out "(f)" and insert in lieu thereof "(e)".

Page 21, line 7, strike out "(f)" and insert in lieu thereof "(e)".

Page 21, line 8, strike out "(d), and (e)" and insert in lieu thereof "(d)".

Page 22, line 20, strike out "(g)" and insert in lieu thereof "(f)".

Page 23, lines 2 and 3, strike out "subsections (d) and (e)" and insert in lieu thereof "subsection (d)".

Page 26, strike out lines 14 through 18.

Page 26, line 19, strike out "(d)" and insert in lieu thereof "(c)".

Page 27, line 2, strike out "(e)" and insert in lieu thereof "(d)".

Page 28, line 14, strike out "(f)" and insert in lieu thereof "(e)".

Page 29, line 8, strike out "(g)" and insert in lieu thereof "(f)".

—Page 24, line 15, insert immediately before the period the following: "or any deposit in a personal savings account which bears interest".

—Page 26, strike out line 22 and all that follows through page 27, line 1, and insert in lieu thereof the following:

(1) up to $2,500;
(2) from $2,500 to $5,000;
(3) from $5,000 to $10,000;
(4) from $10,000 to $25,000;
(5) greater than $25,000.

—Page 27, line 2, after "report" insert "referred to in section 202(a)".

Page 27 line 4, after "individual" insert "and each report referred to in section 202 (b) shall also contain information listed in paragraphs (1), (3), (4), and (5) of subsection (a) respecting the spouse of the reporting individual,".

Page 27, line 7, strike out "In" and insert in lieu thereof "With respect to information listed in paragraph (2) of subsection (a), in".

Page 27, line 11, strike out "In" and insert in lieu thereof "With respect to information listed in paragraph (2) of subsection (a), in".

—On page 27, lines 21 through 23, strike out ", and (iii) from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit." and insert a period.

—Page 29, line 6, strike out the comma and all that follows through line 7 and insert in lieu thereof a period.

—Page 29, strike out lines 8 through 10 and insert in lieu thereof the following:

(g) Political campaign funds including campaign receipts and expenditures shall not be included in any report filed pursuant to this part.

—Page 30, line 21, strike out "101" and insert in lieu thereof "201".

—Page 32, strike out line 7 and all that follows through page 33, line 7.

Page 33, line 8, strike out "(c)" and insert in lieu thereof "(b)".

Page 33, line 24, strike out "(d)" and insert in lieu thereof "(c)".

—Page 32, line 7, strike out "shall" and insert in lieu thereof "may".

—Page 33, line 2, insert immediately before the period the following: ", except that a copy of such report may be furnished without charge or at a reduced fee if it is determined by the agency that waiver or reduction of the fee is in the public interest because furnishing the information may be considered as primarily benefiting the public".

—Page 33, strike out lines 3 through 7.

—Page 33, lines 17 and 18, strike out "political, charitable, or other purpose" and insert in lieu thereof "purpose other than for a political purpose".

—Page 33, line 24, insert "(1)" after "(d)".

Page 34, after line 13, insert the following new paragraph:

(2) With respect to any individual who files a report pursuant to section 201(e), such report, and any other report filed by such individual pursuant to section 201(a) or 201(d), shall, on or after the date which is one year after the date on which the report is filed pursuant to section 201(e), no longer be available for public inspection. Any such report shall be retained by the agency with which the report was filed, or by the Director of the Office of Government Ethics, as the case may be, for the remainder of the five-year period referred to in paragraph (1), after which it shall be destroyed. If such individual returns to any position designated in section 201(f) during such five-year period, any such report shall again be made available for public inspection for the remainder of such five-year period.

—Page 35, strike out lines 1 through 18.

Page 35, line 20, strike out "208" and insert in lieu thereof "207".

Page 36, line 2, strike out "209" and insert in lieu thereof "208".

—Page 37, line 9, insert immediately before the semicolon "or State or local governments or political subdivisions thereof".

—Page 44, line 18, strike out "or judicial".

—Page 44, line 24, strike out ", or," and all that follows through "to" on page 45, line 2.

—Page 45, line 19, strike out "(1)".

Page 45, line 20, strike out "knowingly" and all that follows through page 46, line 6, and insert in lieu thereof the following: "appears personally as agent or attorney for, or otherwise represents, any other person (except the United States), in any formal or informal appearance before ".

—Page 47, line 18, strike out ", or," and all that follows through "to" on line 21.

—Page 48, line 8, strike out "or" and all that follows through "both" on line 9.

—Page 52, strike out line 1 and all that follows through page 66, line 10.

—Page 52, strike out lines 7 through 10.

Page 52, line 11, strike out "(c)" and insert in lieu thereof "(b)".

Page 52, line 16, strike out "(d)" and insert in lieu thereof "(c)".

Page 52, line 22, strike out "(e)" and insert in lieu thereof "(d)".

Page 53, line 15, strike out "(f)" and insert in lieu thereof "(e)".

Page 53, lines 21 and 22, strike out "(c) and (d)" and insert in lieu thereof "(b) and (c)".

Page 56, line 25, strike out "subsections (a) and (b)" and insert in lieu thereof "subsection (a)".

Page 57, line 11, strike out "(d)" and insert in lieu thereof "(c)".

Page 64, line 7, strike out the comma and all that follows through line 11 and insert in lieu thereof a period.

—Page 52, strike out lines 16 through 21.

Page 52, line 22, strike out "(e)" and insert in lieu thereof "(d)".

Page 53, line 15, strike out "(f)" and insert in lieu thereof "(e)".

Page 53, lines 21 and 22, strike out "subsections (c) and (d)" and insert in lieu thereof "subsection (c)".

Page 57, strike out lines 10 through 13.

Page 57, line 14, strike out "(d)" and insert in lieu thereof "(c)".

Page 57, line 22, strike out "(e)" and insert in lieu thereof "(d)".

Page 59, line 11, strike out "(f)" and insert in lieu thereof "(e)".

Page 60, line 9, strike out "(g)" and insert in lieu thereof "(f)".

—Page 55, line 8, insert immediately before the period the following: ", or any deposit in a personal account which bears interest".

—Page 57, strike out lines 17 through 21 and insert in lieu thereof the following:

(1) up to $2,500;
(2) from $2,500 to $5,000;
(3) from $5,000 to $10,000;
(4) from $10,000 to $25,000;
(5) greater than $25,000.

—Page 57, line 22, after "report" insert "referred to in section 302(a)".

Page 57, line 24, after "individual" insert ", and each report referred to in section 302(b) shall also contain information listed in paragraphs (1), (3), (4), and (5) of subsection (a) respecting the spouse of the reporting individual,".

Page 58, line 3, strike out "In" and insert in lieu thereof "With respect to information listed in paragraph (2) of subsection (a), in".

Page 58, line 7, strike out "In" and insert in lieu thereof "With respect to information listed in paragraph (2) of subsection (a), in".

—On page 58, lines 17 through 19, strike out ", and (iii) from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit." and insert a period.

—Page 60, line 6, strike out the comma and all that follows through line 8 and insert in lieu thereof a period.

—Page 60, strike out lines 9 thorugh 11 and insert in lieu thereof the following:

(g) Political campaign funds, including campaign receipts and expenditures, shall not be included in any report filed pursuant to this title.

—Page 62, strike out line 14 and all that follows through page 63, line 13.

Page 63, line 14, strike out "(c)" and insert in lieu thereof "(b)".

Page 64, line 4, strike out "(d)" and insert in lieu thereof "(c)".

—Page 62, line 14, strike out "shall" and insert in lieu thereof "may".

—Page 63, line 8, insert immediately before the period the following: ", except that a copy of such report may be furnished without charge, or at a reduced fee, if it is determined by the Committee that waiver or reduction of the fee is in the public interest because furnishing the information may be considered as primarily benefiting the public".

—Page 63, strike out lines 9 through 13.

—Page 63, line 23, strike out "political, charitable, or other purpose" and insert in lieu thereof "purpose other than for a political purpose".

—Page 64, line 4, insert "(1)" after "(d)".

Page 64, after line 11, insert the following new paragraph:

(2) With respect to any individual who files a report pursuant to section 301(d), such report, and any other report filed by

such individual pursuant to section 301(a) or 301(c), shall, on or after the date which is one year after the date on which the report is filed pursuant to section 301(e), no longer be available for public inspection. Any such report shall be retained by the Committee for the remainder of the five-year period referred to in paragraph (1), after which it shall be destroyed. If such individual assumes a position as a judicial officer or employee again during such five-year period, any such report shall again be made available for public inspection for the remainder of such five-year period.

—Page 65, strike out lines 3 through 24.

Page 66, line 2, strike out "308" and insert in lieu thereof "307".

Page 66, line 6, strike out "309" and insert in lieu thereof "308".

—On page 65, strike lines 9–16 and insert:

(b) The provisions of this title requiring the reporting of information shall supersede any general requirement under any other provision of law or regulation with respect to the reporting of information required for purposes of preventing conflicts of interest or apparent conflicts of interest. Such provisions of this title shall not supersede the requirements of section 7342 of title 5, United States Code.

—The title is amended to read: "A bill to require certain officers and employees of the United States to file reports as to their income and financial holdings and transactions, and for other purposes.".

H.R. 1

By Mr. PANETTA:

(Amendment to the amendment in the nature of a substitute.)

—On page 44, after line 9, add the following new section:

COMPLAINT PROCEDURES

SEC. 224. (a)(1) Any person who believes a violation of title II of this Act or any other statute, rule, or regulation designed to prevent conflicts of interest has occurred may file a complaint with the Office of Government Ethics. Such complaint shall be in writing, shall be signed and sworn to by the person filing such complaint, and shall be notarized. Any person filing such a complaint shall be subject to the provisions of section 1001 of title 18, United States Code. The Commission may not conduct any investigation under this subsection or take any other action under this subsection, solely on the basis of a complaint of a person whose identity is not disclosed to the Commission.

(2) The Office upon receiving any complaint under paragraph (1), shall refer such complaint to the agency in which the officer or employee who is the subject of the complaint works except in the case of complaints involving the President, the Vice President, the head of each agency, a Presidential appointee in the Executive Office of the President who is not subordinate to the head of an agency in that Office, and a full-time member of a committee, board or commission appointed by the President which shall be investigated by the Office. The agency or office conducting the investigation shall notify the person involved of such alleged violation and shall make an investigation of such alleged violation in accordance with the provisions of this subsection.

(3) Any investigation under paragraph (2) shall be conducted expeditiously and shall include an investigation, conducted in accordance with the provisions of this subsection, of reports and statements filed by any complainant under this title.

(4) The agency or office conducting the investigation shall afford any person who receives notice of an alleged violation under paragraph (2), a reasonable opportunity to demonstrate that no action should be taken against such person by the agency or Office under this Act.

(5) Thirty days after a matter was referred to an agency under paragraph (2), the agency shall report to the Office on what action has been taken on the complaint and the agency shall report to the Office every thirty days thereafter on the status of such complaint until a final resolution with respect to the complaint has been reached by the agency.

(6) Upon the conclusion of an investigation of a complaint filed under this subsection, the complainant and the subject of such a complaint shall be notified of the resolution of such complaint and the reasons therefor.

(7) If the agency or office conducting the investigation determines that a violation has occurred, it may: (A) take appropriate administrative action; and (B) refer the matter to the Department of Justice for civil or criminal enforcement.

(8) In any case in which the agency or Office conducting an investigation refers an apparent violation to the Attorney General, the Attorney General shall respond by report to the Office with respect to any action taken by the Attorney General regarding such apparent violation. Each report shall be transmitted no later than 60 days after the date the Commission refers any apparent violation, and at the close of every 60-day period thereafter until there is final disposition of such apparent violation. The Commission may from time to time prepare and publish reports on the status of such referrals.

H.R. 1

By Mrs. SCHROEDER:

(To the amendment in the nature of a substitute (H.R. 13850).)

—Page 32, line 25, strike the period and insert in lieu thereof ", if the reporting is an officer or employee of the agency at the time the application is received."

Page 63, line 3, strike the period and insert in lieu thereof ", if the reporting individual is an officer or employee in the Judicial branch at the time the application is received."

—Page 64, after line 3, insert the following: "Such remedy shall be in addition to any other remedy available under statutory or common law."

H.R. 11392

By Mr. WIRTH:

(To the amendment in the nature of a substitute (committee print of June 23, 1978).)

—Page 49, after the matter following line 24 insert the following new section:

RESIDENTIAL ENERGY GRANT PROGRAM

SEC. 705. (a) There is authorized to be appropriated to the Department of Energy for the fiscal year ending September 30, 1979, not to exceed $1.2 billion. Subject to the requirements of this section, such funds shall be available for the residential energy grant program described in subsection (b). Functions of the Secretary under this section (other than prescribing rules) shall be carried out by the Assistant Secretary for Conservation and Solar Applications.

(b) The residential energy grant program referred to in subsection (a) is a grant program, which the Secretary of Energy shall establish by rule, under which any person shall be entitled, upon proper application, to receive a grant in an amount, for any calendar year, equal to the sum of—

(1) the qualified energy conservation expenditures, plus

(2) the qualified renewable energy source expenditures, plus

(3) the qualified hydrogen expenditures.

(c) Applications for grants under this section shall be in such form and made at such time and in such manner as the Secretary of Energy shall, by rule, prescribe, and shall provide proof of purchase or such other verification as the Secretary considers appropriate.

(d)(1) For purposes of this section, in the case of any dwelling unit, the qualified energy conservation expenditures are 20 percent of so much of the energy conservation expenditures made by the person during the calendar year with respect to such unit as does not exceed $2,000.

(2) For purposes of this section, in the case of any dwelling unit, the qualified renewable energy source expenditures are the following percentages of the renewable energy source expenditures made by the person during the calendar year with respect to such unit:

(A) 30 percent of so much of such expenditures as does not exceed $2,000, plus

(B) 20 percent of so much of such expenditures as exceeds $2,000 but does not exceed $10,000.

(3) For purposes of this section, in the case of any dwelling unit, the qualified hydrogen energy expenditures are 20 percent of so much of the hydrogen energy expenditures made by the person during the calendar year with respect to such unit as does not exceed $2,000.

(4) If for any prior calendar year a grant was made to the person under this section with respect to any dwelling unit by reason of energy conservation expenditures or renewable energy source expenditures, paragraph (1), (2), or (3) (whichever is appropriate) shall be applied for the calendar year with respect to such dwelling unit by reducing each dollar amount contained in such paragraph by the prior year expenditures taken into account under such paragraph.

(5) No grant shall be available under this section with respect to any calendar year if the amount which would (but for this paragraph) be allowable with respect to any application is less than $10.

(e) For purposes of this section—

(1) The term "energy conservation expenditure" means an expenditure made on or after April 20, 1977, by the person for insulation or any other energy-conserving component (or for the original installation of such insulation or other component) installed in or on a dwelling unit—

(A) which is located in the United States, the Virgin Islands, or Guam,

(B) which is used by the person as his principal residence, and

(C) the construction of which was substantially completed before April 20, 1977.

(2)(A) The term "renewable energy source expenditure" means an expenditure made on or after April 20, 1977, by the person for renewable energy source property installed in connection with a dwelling unit—

(i) which is located in the United States, the Virgin Islands, or Guam, and

(ii) which is used by the person as his principal residence.

(B) The term "renewable energy source expenditure" includes only expenditures for—

(i) renewable energy source property,

(ii) labor costs properly allocable to the site preparation, assembly, or installation of renewable energy source property, or

(C) The term "renewable energy source expenditure" does not include any expenditure properly allocable to a swimming pool used as an energy storage medium or to any other energy storage medium which has a function other than the function of such storage.

(3)(A) The term "hydrogen energy expenditures" means an expenditure made on or after April 20, 1977, by the person for hydrogen energy property and installation installed in connection with a dwelling unit—

(i) which is located in the United States, the Virgin Islands, or Guam, and

(ii) which is used by the person as his principal residence.

(B) The term "hydrogen energy expenditures" includes only expenditures for—

(i) hydrogen energy property, and

(ii) labor costs property allocable to the onsite preparation, assembly, or installation of hydrogen energy property, or to the modification of conventional property for the use of hydrogen as a fuel.

(4) The term "insulation" means any item—

(A) which is specifically and primarily designed to reduce when installed in or on a dwelling (or water heater) the heat loss or gain of such dwelling (or water heater),

(B) the original use of which begins with the person,

(C) which can reasonably be expected to remain in operation for at least 3 years, and

(D) which meets the performance and quality standards, if any, which—

(i) have been prescribed by the Secretary of Energy, by rule, and

(ii) are in effect at the time of the acquisition of the item.

(5) The term "other energy-conserving component" means any item (other than insulation)—

(A) which is—

(i) a furnace replacement burner designed to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

(ii) a device for modifying flue openings designed to increase the efficiency of operation of the heating system,

(iii) an electrical or mechanical furnace ignition system which replaces a gas pilot light,

(iv) a storm or thermal window or door for the exterior of the dwelling,

(v) an automatic energy-saving setback thermostat,

(vi) caulking or weather stripping of an exterior door or window,

(vii) a heat pump which replaces an electric resistance heating system,

(viii) meters which display the cost of energy usage,

(ix) a replacement fluorescent lighting system,

(x) an evaporative cooling device,

(xi) is an item (other than a fireplace) which is designed to use wood and peat as a fuel for space heating, the heating of water or cooking of food, or any combination thereof, including any controls, ducts, stovepipes, footing or other item (other than a chimney) necessary for the safe and efficient operation of any such item, or

(xii) an item of the kind which the Secretary of Energy, by rule, as increasing (by conversion or otherwise) the energy efficiency of the dwelling,

(B) the original use of which begins with the person,

(C) which can reasonably be expected to remain in operation for at least 3 years, and

(D) which meets the performance and quality standards, if any, which—

(i) have been prescribed by the Secretary of Energy, by rule, and

(ii) are in effect at the time of the acquisition of the item.

In establishing rules under this paragraph, the Secretary of Energy shall prescribe (i) guidelines setting forth the criteria which are used in the determination of whether an item is an energy-conserving component, and (ii) a procedure under which a manufacturer of an item may request the Secretary of Energy to specify or certify that item as an energy-conserving component.

(6) The term "renewable energy source property" means property—

(A) which, when installed in connection with a dwelling—

(i) uses solar energy in either an active or passive method the primary purpose of which is heating or cooling such dwelling or providing hot water for use within such dwelling, or in the production of electricity,

(ii) uses wind energy for nonbusiness residential purposes,

(iii) is necessary to distribute or use geothermal deposits which provide geothermal energy to heat or cool such building or provide hot water for use within such building, or

(iv) uses any other form of renewable energy which the Secretary of Energy specifies by rule,

(B) the original use of which begins with the person,

(C) which can reasonably be expected to remain in operation for at least 5 years, and

(D) which meets the performance and quality standards, if any, which—

(i) have been prescribed by the Secretary of Energy, by rule, and

(ii) are in effect at the time of the acquisition of the property.

(7) The term "hydrogen energy property" means property—

(A) which, when installed in connection with a dwelling—

(i) uses hydrogen as a fuel for the purpose of heating or cooling such dwelling or providing hot water for use within such dwelling, or

(ii) is used in the electrolysis of water for the production of hydrogen,

(B) the original use of which begins with the taxpayer,

(C) which can reasonably be expected to remain in operation for at least 5 years, and

(D) which meets the performance and quality standards, if any, which—

(i) have been prescribed by the Secretary of Energy, by rule, and

(ii) are in effect at the time of the acquisition of the property.

(8) Performance and quality standards shall be prescribed by the Secretary of Energy under paragraphs (4), (5), (6), and (7) only after consultation with the Secretary of Housing and Urban Development, and other appropriate Federal agencies.

(9)(A) Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when original installation of the item is completed.

(B) In the case of renewable energy source expenditures in connection with the construction or reconstruction of a dwelling, such expenditures shall be treated as made when the original use of the constructed or reconstructed dwelling by the person begins.

(C) The amount of any expenditure shall be the cost thereof.

(D) If less than 80 percent of the use of an item is for nonbusiness residential purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness residential purposes shall be taken into account. For purposes of the preceding sentence, use for a swimming pool shall be treated as use which is not for residential purposes.

(10) The determination of whether or not a dwelling unit is a person's principal residence shall be made under principles similar to those applicable to section 1034 of the Internal Revenue Code of 1954, except that—

(A) no ownership requirement shall be imposed, and

(B) the period for which a dwelling is treated as the principal residence of the person shall include the 30-day period ending on the first day on which it would (but for this subparagraph) be treated as his principal residence.

(11) No grant shall be available under this section for expenditures with respect to any item described in paragraph (5)(A)(xii) which are to be installed in any metropolitan or other area after the date on which—

(A) the Administrator of the Environmental Protection Agency certifies to the Secretary of Energy that the emissions from such items would cause air quality in such area to be in violation of any Federal law, or

(B) the Secretary of Agriculture certifies to the Secretary that additional consumption of wood in connection with such items would endanger forests in that area.

(f)(1) In the case of any dwelling unit which is jointly occupied and used during any calendar year as a principal residence by 2 or more individuals—

(A) the amount of the grant shall be available under this section by reason of energy conservation expenditures or by reason of renewable energy source expenditures (as the case may be) made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as one person; and

(B) each of such individuals shall be entitled to receive a grant under this section for the calendar year (subject to the limitation of paragraph (5) of subsection (d)) in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

(2) In the case of an individual who holds stock as a tenant-stockholder (as defined in section 216 of the Internal Revenue Code of 1954) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3) of the Internal Revenue Code of 1954) of any expenditures of such corporation.

(3)(A) In the case of an individual who is a member of a condominium management association with respect to a condominium which he owns, such individual shall be treated as having made his proportionate share of any expenditures of such association.

(B) For purposes of this paragraph, the term "condominium management association" means an organization which meets the requirements of paragraph (1) of section 528(c) of the Internal Revenue Code of 1954 (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

(g) This section shall not apply to expenditures made after October 1, 1979.

(h) To the extent not presently authorized and utilized by any agency of the United States in the assessment and collection of income taxes, no procedure or practice which utilizes onsite inspection of the residence of an individual shall be employed to determine if that individual is entitled to a grant, unless such procedure or practice provides that such inspection shall take place only with the written consent of such individual.

(i) Each Federal agency and instrumentality shall, to the maximum extent practicable, cooperate with the Secretary of Energy in carrying out the grant program under this section.

H.R. 11733

By Mr. GOLDWATER:

—Page 166, line 5, insert the following new subsection:

"(c) Any report submitted to the Secretary shall be updated at least once each year by the chief motor vehicle official of the State involved, except in instances where no further official action by such State official regarding the status of the individual's operator's license or driving history remains to be taken."

Page 167, line 24, after "SEC. 225." and before the word "effective" insert "(a)"

And, on page 168, after line 16, insert the following new subsection:

"(b) Any individual who knowingly transmits or causes to be transmitted to the Secretary for inclusion in the files, records, or reports of the National Driver Registry any information regarding the operator's license status or driving history of any individual which is inaccurate or false shall be liable for criminal prosecution for such act, and, upon conviction, shall be fined in an amount not to exceed $10,000, or sentenced to a prison term not to exceed five years, or both."

—Page 168, line 21, after the word "title" strike out the period and insert the following new proviso: "; *Provided*, That no funds authorized for the procurement of automatic data processing equipment and electronic communication equipment under this section shall be expended until the Secretary has reported to the Public Works and Transportation Committee of the House of Representatives, and the Commerce, Science and Transportation Committee of the Senate the total procurement and installation costs of such equipment, and the anticipated costs to be or already incurred by the States in meeting the requirements of sections 221, 222, 223 and 227 of this title;

"*And, Provided Further*, That such report shall have been before such committees for 30 legislative days prior to procurement."

H.R. 11733

By Mr. MITCHELL of Maryland:

—Page 103, immediately before line 8, insert the following:

ADVANCES TO STATES

SEC. 114. Section 124 of title 23, United States Code, is amended by inserting immediately before the first sentence thereof the following: "(a)". Such section 124 is further amended by adding at the end thereof the following new subsection:

"(b) Notwithstanding subsection (a) of this section, if the Secretary of Transportation determines that any toll bridge, toll tunnel, or approach thereto, which meets the requirements of section 129 of this title is necessary to complete an essential gap in the Interstate System then, upon request of the State highway department, the Secretary shall, at any time during construction of such bridge, tunnel, or approach and for one year after it is opened to traffic, and subject to the conditions and limitations of such section 129, advance to such State 100 per centum of the cost of construction of such bridge, tunnel, or approach. So much of the amount so advanced that exceeds the Federal share of such construction cost shall be repaid to the United States as follows:

"(1) 50 per centum within one year of the date such bridge, tunnel, or approach is opened to traffic,

"(2) 25 per centum within two years of such date of opening, and

"(3) 25 per centum within three years of such date of opening.

Any advance made to a State under this subsection shall be from the funds apportioned to said State for the interstate system.".

Renumber succeeding sections and references thereto accordingly.

H.R. 12452

By Mr. DUNCAN of Oregon:

—Page 213, line 18, insert close quotation marks and a period at the end of such line and strike out line 19 and all that follows through line 2 on page 225 and insert in lieu thereof the following:

TRANSFER OF YOUNG ADULT CONSERVATION CORPS

SEC. 3. The Act of August 13, 1970 (16 U.S.C. 1701), is amended—

(1) by inserting immediately after the enacting clause the following:

"TITLE I—YOUTH CONSERVATION CORPS";

(2) by redesignations sections 1 through 6 as sections 101 through 106, respectively;

(3) by striking out "section 6" in section 104(d) (as redesignated by paragraph (2) of this section) and inserting in lieu thereof "section 106";

(4) by striking out "Act" each place it appears in sections 101 through 106 (as redesignated by paragraph (2) of this section) and inserting in lieu thereof "title"; and

(5) by adding at the end thereof the following new title:

"TITLE II—YOUNG ADULT CONSERVATION CORPS

"STATEMENT OF PURPOSE

"SEC. 201. It is the purpose of this title to establish a Young Adult Conservation Corps to provide employment and other benefits to youths who would not otherwise be currently productively employed, through a period of service during which they engage in useful conservation work and assist in completing other projects of a public nature on Federal and non-Federal public lands and waters.

"ESTABLISHMENT OF YOUNG ADULT CONSERVATION CORPS

"SEC. 202. To carry out the purposes of this title, there is hereby established a Young Adult Conservation Corps to carry out projects on Federal or non-Federal public lands or waters. The Secretaries of the Interior and Agriculture shall administer this title through interagency agreements. Pursuant to such interagency agreements, Secretaries of the Interior and Agriculture shall have responsibility for the management of each Corps center, including determination of Corps members' work assignments, selection, training, discipline, and termination, and shall be responsible for an effective program at each center.

"SELECTION OF ENROLLEES

"SEC. 203. (a) Enrollees of the Corps shall be selected by the Secretaries of the Interior and Agriculture.

"(b)(1) Membership in the Corps shall be limited to individuals who, at the time of enrollment—

"(A) are unemployed;

"(B) are between the ages 16 to 23, inclusive;

"(C) are citizens or lawfully permanent residents of the United States or lawfully admitted refugees or parolees; and

"(D) are capable, as determined by the Secretaries of the Interior and Agriculture, of carrying out the work of the Corps for the estimated duration of each such individual's enrollment.

"(2) Individuals who, at the time of enrollment, have attained age 16 but not attained age 19 and who have left school shall not be admitted to membership in the Corps unless they give adequate assurance, under criteria established by the Secretaries of the Interior and Agriculture, that they did not leave school for the purpose of enrolling in the Corps and obtaining employment under this title.

"(c) The Secretaries of the Interior and Agriculture shall make arrangements for obtaining referral of candidates for the Corps from the public employment service, prime sponsors designated under section 101 of the Comprehensive Employment and Training Act, sponsors of Native American programs designated under section 302 of such Act, sponsors of migrant and seasonable farmworker programs under section 303 of such Act, and such other agencies and organizations as the Secretaries of the Interior and Agriculture may deem appropriate. The Secretaries of the Interior and Agriculture shall undertake to assure that an equitable proportion of candidates shall be referred from each State.

"(d) In referring candidates from each State in accordance with subsection (c), preference shall be given to youths residing in rural and urban areas within each such State having substantial unemployment, including areas of substantial unemployment determined by the Secretary of Labor under section 125 of the Comprehensive Employment and Training Act to have rates of unemployment equal to or in excess of 6.5 per centum.

"(e)(1) No individual may be enrolled in the Corps for a total period of more than twelve months, with such maximum period consisting of either one continuous twelve-month period, or three or less periods which total twelve months, except that an individual who attains the maximum permissible enrollment age may continue in the Corps up to the twelve-month limit provided in this subsection only as long as the individual's enrollment is continuous after having attained the maximum age.

"(2) No individual shall be enrolled in the Corps if solely for purposes of membership for the normal period between schools terms.

"ACTIVITIES OF THE CORPS

"SEC. 204. (a) Consistent with each interagency agreement, the Secretary of the Interior or Agriculture, as appropriate, shall determine the location of each residential and nonresidential Corps center. The Corps shall perform work projects in such fields as—

"(1) tree nursery operations, planting, pruning, thinning, and other silviculture measures;

"(2) wildlife habitate improvements and preservation;

"(3) range management improvements;

"(4) recreation development, rehabilitation, and maintenance;

"(5) fish habitat and culture measures;

"(6) forest insect and disease prevention and control;

"(7) road and trail maintenance and improvements;

"(8) general sanitation, cleanup, and maintenance;

"(9) erosion control and flood damage;

"(10) drought damage measures;

"(11) other natural disaster damage measures; and

"(12) integrated pest management, including activities to provide the producers of agricultural commodities with information about the appropriate amount of chemical pesticides which, when used in conjunction with nonchemical methods of pest control (A) will provide protection against a wide variety of pests, (B) will preserve to the greatest extent possible the quality of the environment, and (C) will be cost effective.

"(b)(1) The Secretaries of the Interior and Agriculture shall undertake to assure that projects on which work is performed under this title are consistent with the Forest and Rangeland Renewal Resources Planning Act of 1974, as amended by the National Foreign Management Act of 1976, and such other standards relating to such projects as each Secretary shall prescribe consistent with other provisions of Federal law.

"(2) The Secretaries of the Interior and Agriculture shall place individuals employed as Corps members into jobs which will diminish the backlog of relatively labor intensive projects which would otherwise be carried if adequate funding were made available.

"(c) To the maximum extent practicable, projects shall—

"(1) be labor intensive;

"(2) be projects for which work plans could be readily developed;

"(3) be able to be initiated promptly;

"(4) be productive;

"(5) be likely to have a lasting impact both as to the work performed and the benefit to the youths participating;

"(6) provide work experience to participants in skill areas required for the projects;

"(7) if a residential program, be located, to the maximum extent consistent with the objectives of this title in areas where existing residential facilities for the Corps members are available; and

"(8) be similar to activities of persons employed in seasonal and part-time employment in agencies such as the National Park Service, United States Fish and Wildlife Service, Bureau of Reclamation, Bureau of Land Management, Bureau of Indian Affairs, Forest Service, Bureau of Outdoor Recreation, and Soil Conservation Service.

"(d)(1) The Secretaries of the Interior and Agriculture may provide for such transportation, lodging, subsistence, medical treatment, and other services, supplies, equipment, and facilities as they may deem appropriate to carry out the purposes of this title. To minimize transportation costs, Corps members shall be assigned to projects as near to their homes as practicable.

"(2) Whenever economically feasible, existing but unoccupied or underutilized Federal, State, and local government facilities and equipment of all types shall, where appropriate, be utilized for the purposes of the Corps centers with the approval of the Federal agency, State, or local government involved.

"(e) The Secretaries of the Interior and Agriculture, in carrying out the purpose of this title shall work with the Department of Health, Education, and Welfare to make suitable arrangements whereby academic credit may be awarded by educational institutions and agencies for competencies derived from work experience obtained through programs established under this title.

"CONDITIONS APPLICABLE TO CORPS ENROLLEES

"SEC. 205. (a) Except as otherwise specifically provided in this subsection, Corps members shall not be deemed Federal employees and shall not be subject to the provisions of law relating to Federal employment including those regarding hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits:

"(1) For purposes of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) and title II of the Social Security Act (42 U.S.C. 401 et seq.), Corps members shall be deemed employees of the United States and any service performed by a person as a Corps member shall be deemed to be performed in the employ of the United States.

"(2) For purposes of subchapter 1 of chapter 81 of title 5 of the United States Code, relating to compensation to Federal employees for work injuries, Corps members shall be deemed civil employees of the United States within the meaning of the term 'employee' as defined in section 8101 of title 5, United States Code, and provisions of that subchapter shall apply, except that the term 'performance of duty' shall not include any act of the Corps member while absent from the member's assigned post of duty, except while participating in an activity (including an activity while on pass or during travel to or from such post of duty) authorized by or under the direction and supervision of the Secretaries.

"(3) For purposes of chapter 171 of title 18 of the United States Code, relating to tort claims procedure, Corps members shall be deemed civil employees of the United States within the meaning of the term 'employee of the Government' as defined in section 2671 of title 28, United States Code, and provisions of that chapter shall apply.

"(4) For purposes of section 5911 of title 5 of the United States Code, relating to allowances for quarters, Corps members shall be deemed civil employees of the United States within the meaning of the term 'employee' as defined in that section, and provisions of that section shall apply.

"(b) The Secretaries of the Interior and Agriculture shall, in consultation with the Secretary of Labor, establish standards for—

"(1) rates of pay which shall be at least at the wage required by section 6(a)(1) of the Fair Labor Standards Act of 1938;

"(2) reasonable hours and conditions of employment; and

"(3) safe and healthful working and living conditions.

"STATE AND LOCAL PROGRAMS

"SEC. 206. (a) The Secretaries of the Interior and Agriculture may make grants or enter into other agreements—

"(1) after consultation with the Governor, with any State agency or institution;

"(2) after consultation with appropriate State and local officials, with (A) any unit of general local government, or (B)(i) any public agency or organization, specifically including the Federal Extension Service and the cooperative extension service of any State with respect to projects described in section 204(a)(12), or (ii) any private nonprofit agency or organization which has been in existence for at least two years;

for the conduct under this title of any State or local component of the Corps or of any project on non-Federal lands or waters or any project involving work on both non-Federal and Federal lands and waters.

"(b) No grant or other agreement may be entered into under this section unless an application is submitted to the Secretary of the Interior or the Secretary of Agriculture, as the case may be, at such times as each such Secretary may prescribe. Each grant application shall contain assurances that individuals employed under the project for which the application is submitted—

"(1) meet the qualifications set forth in section 203(b);

"(2) shall be employed in accordance with section 205(b); and

"(3) shall be employed in activities that—

"(A) will result in an increase in employment opportunities over those opportunities which would otherwise be available,

"(B) will not result in the displacement of currently employed workers (including partial displacement such as reduction in the hours of nonovertime work or wages or employment benefits),

"(C) will not impair existing contracts for services or result in the substitution of Federal for other funds in connection with work that would otherwise be performed,

"(D) will not substitute jobs assisted under this title for existing federally assisted jobs, and

"(E) will not result in the hiring of any youth when any other person is on layoff from the same or any substantially equivalent job.

"(c) Thirty percent of the sums appropriated to carry out this title for any fiscal year shall be made available for grants under this section for such fiscal year and shall be made on the basis of total youth population within each State.

"SECRETARIAL REPORTS

"SEC. 207. The Secretaries of the Interior and Agriculture shall jointly prepare and submit to the President and to the Congress a report detailing the activities carried out under this title for each fiscal year. Such report shall be submitted not later than February 1 of each year following the date of enactment of this title. The Secretaries shall include in such report such recommendations as they deem appropriate.

"ANTIDISCRIMINATION

"SEC. 208. The Corps shall be open to youth from all parts of the country of both sexes and youth of all social, economic, and racial classifications.

"TRANSFER OF FUNDS

"SEC. 209. Funds hereinafter appropriated which are necessary to carry out their responsibilities under this title shall be made available to the Secretaries of the Interior and Agriculture in accord with interagency agreements between the Secretaries of the Interior and Agriculture.".

Page 225, lines 4 and 8, redesignate sections 3 and 4 as sections 4 and 5, respectively.

H.R. 12452

By Mr. DUNCAN of Oregon:

(To the amendment in the nature of a substitute offered by Mr. JEFFORDS.)

—Insert close quotation marks and a period at the end of section 706 of the Comprehensive Employment and Training Act as proposed by the amendment in the nature of a substitute offered, strike out all of title VIII of such Act as so proposed, and insert at the end of such amendment the following new section:

TRANSFER OF YOUNG ADULT CONSERVATION CORPS

SEC. 3. The Act of August 13, 1970 (16 U.S.C. 1701), is amended—

(1) by inserting immediately after the enacting clause the following:

"TITLE I—YOUTH CONSERVATION CORPS";

(2) by redesignations sections 1 through 6 as sections 101 through 106, respectively;

(3) by striking out "section 6" in section 104(d) (as redesignated by paragraph (2) of this section) and inserting in lieu thereof "section 106";

(4) by striking out "Act" each place it appears in sections 101 through 106 (as redesignated by paragraph (2) of this section) and inserting in lieu thereof "title"; and

(5) by adding at the end thereof the following new title:

"TITLE II—YOUNG ADULT CONSERVATION CORPS

"STATEMENT OF PURPOSE

"SEC. 201. It is the purpose of this title to establish a Young Adult Conservation Corps to provide employment and other benefits to youths who would not otherwise be currently productively employed, through a period of service during which they engage in useful conservation work and assist in completing other projects of a public nature on Federal and non-Federal public lands and waters.

"ESTABLISHMENT OF YOUNG ADULT CONSERVATION CORPS

"SEC. 202. To carry out the purposes of this title, there is hereby established a Young Adult Conservation Corps to carry out projects on Federal or non-Federal public lands or waters. The Secretaries of the Interior and Agriculture shall administer this title through interagency agreements. Pursuant to such interagency agreements, the Secretaries of the Interior and Agriculture shall have responsibility for the management of each Corps center, including determination of Corps members' work assignments, selection, training, discipline, and termination, and shall be responsible for an effective program at each center.

"SELECTION OF ENROLLEES

"SEC. 203. (a) Enrollees of the Corps shall be selected by the Secretaries of the Interior and Agriculture.

"(b)(1) Membership in the Corps shall be limited to individuals who, at the time of enrollment—

"(A) are unemployed;

"(B) are between the ages 16 to 23, inclusive;

"(C) are citizens or lawfully permanent residents of the United States or lawfully admitted refugees or parolees; and

"(D) are capable, as determined by the Secretaries of the Interior and Agriculture, of carrying out the work of the Corps for the estimated duration of each such individual's enrollment.

"(2) Individuals who, at the time of enrollment, have attained age 16 but not attained age 19 and who have left school shall not be admitted to membership in the Corps unless they give adequate assurance, under criteria established by the Secretaries of the Interior and Agriculture, that they did not leave school for the purpose of enrolling in the Corps and obtaining employment under this title.

"(c) The Secretaries of the Interior and Agriculture shall make arrangements for obtaining referral of candidates for the Corps from the public employment service, prime sponsors designated under section 101 of the Comprehensive Employment and Training Act, sponsors of Native American programs designated under section 302 of such Act, sponsors of migrant and seasonable farmworker programs under section 303 of such Act, and such other agencies and organizations as the Secretaries of the Interior and Agriculture may deem appropriate. The Secretaries of the Interior and Agriculture shall undertake to assure that an equitable proportion of candidates shall be referred from each State.

"(d) In referring candidates from each State in accordance with subsection (c), preference shall be given to youths residing in rural and urban areas within each such State having substantial unemployment, including areas of substantial unemployment determined by the Secretary of Labor under section 125 of the Comprehensive Employment and Training Act to have rates of unemployment equal to or in excess of 6.5 per centum.

"(e)(1) No individual may be enrolled in the Corps for a total period of more than twelve months, with such maximum period consisting of either one continuous twelve-month period, or three or less periods which total twelve months, except that an individual who attains the maximum permissible enrollment age may continue in the Corps up to the twelve-month limit provided in this subsection only as long as the individual's enrollment is continuous after having attained the maximum age.

"(2) No individual shall be enrolled in the Corps solely for purposes of membership for the normal period between school terms.

"ACTIVITIES OF THE CORPS

"Sec. 24. (a) Consistent with each interagency agreement, the Secretary of the Interior or Agriculture, as appropriate, shall determine the location of each residential and nonresidential Corps center. The Corps shall perform work projects in such fields as—

"(1) tree nursery operations, planting, pruning, thinning, and other silviculture measures;

"(2) wildlife habitats improvements and preservation;

"(3) range management improvements;

"(4) recreation development, rehabilitation, and maintenance;

"(5) fish habitat and culture measures;

"(6) forest insect and disease prevention and control;

"(7) road and trail maintenance and improvements;

"(8) general sanitation, cleanup, and maintenance;

"(9) erosion control and flood damages;

"(10) drought damage measures;

"(11) other natural disaster damage measures; and

"(12) integrated pest management, including activities to provide the producers of agricultural commodities with information about the appropriate amount of chemical pesticides which, when used in conjunction with nonchemical methods of pest control (A) will provide protection against a wide variety of pests, (B) will preserve to the greatest extent possible the quality of the environment, and (C) will be cost effective.

"(b)(1) The Secretaries of the Interior and Agriculture shall undertake to assure that projects on which work is performed under this title are consistent with the Forest and Rangeland Renewal Resources Planning Act of 1978, as amended by the National Foreign Management Act of 1976, and such other standards relating to such projects as each Secretary shall prescribe consistent with other provisions of Federal law.

"(2) The Secretaries of the Interior and Agriculture shall place individuals employed as Corps members into jobs which will diminish the backlog of relatively labor intensive projects which would otherwise be carried out if adequate funding were made available.

"(c) To the maximum extent practicable, projects shall—

"(1) be labor intensive;

"(2) be projects for which work plans could be readily developed;

"(3) be able to be initiated promptly;

"(4) be productive;

"(5) be likely to have a lasting impact both as to the work performed and the benefit to the youths participating;

"(6) provide work experience to participants in skill areas required for the projects;

"(7) if a residential program, be located, to the maximum extent consistent with the objectives of this title in areas where existing residential facilities for the Corps members are available; and

"(8) be similar to activities of persons employed in seasonal and part-time employment in agencies such as the National Park Service, United States Fish and Wildlife Service, Bureau of Reclamation, Bureau of Land Management, Bureau of Indian Affairs, Forest Service, Bureau of Outdoor Recreation, and Soil Conservation Service.

"(d)(1) The Secretaries of the Interior and Agriculture may provide for such transportation, lodging, subsistence, medical treatment, and other services, supplies, equipment, and facilities as they may deem appropriate to carry out the purposes of this title. To minimize transportation costs, Corps members shall be assigned to projects as near to their homes as practicable.

"(2) Whenever economically feasible, existing but unoccupied or underutilized Federal, State, and local government facilities and equipment of all types shall, where appropriate, be utilized for the purposes of the Corps centers with the approval of the Federal agency, State, or local government involved.

"(e) The Secretaries of the Interior and Agriculture, in carrying out the purpose of this title shall work with the Department of Health, Education, and Welfare to make suitable arrangements whereby academic credit may be awarded by educational institutions and agencies for competencies derived from work experience obtained through programs established under this title.

"CONDITIONS APPLICABLE TO CORPS ENROLLEES

"Sec. 205. (a) Except as otherwise specifically provided in this subsection, Corps members shall not be deemed Federal employees and shall not be subject to the provisions of law relating to Federal employment including those regarding hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits:

"(1) For purposes of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) and title II of the Social Security Act (42 U.S.C. 401 et seq.), Corps members shall be deemed employees of the United States and any service performed by a person as a Corps member shall be deemed to be performed in the employ of the United States.

"(2) For purposes of subchapter 1 of chapter 81 of title 5 of the United States Code, relating to compensation to Federal employees for work injuries, Corps members shall be deemed civil employees of the United States within the meaning of the term 'employee' as defined in section 8101 of title 5, United States Code, and provisions of that subchapter shall apply, except that the term 'performance of duty' shall not include any act of the Corps member while absent from the member's assigned post of duty, except while participating in an activity (including an activity while on pass or during travel to or from such post of duty) authorized by or under the direction and supervision of the Secretaries.

"(3) For purposes of chapter 171 of title 18 of the United States Code, relating to tort claims procedure, Corps members shall be deemed civil employees of the United States within the meaning of the term 'employee of the Government' as defined in section 2671 of title 28, United States Code, and provisions of that chapter shall apply.

"(4) For purposes of section 5911 of title 5 of the United States Code, relating to allowances for quarters, Corps members shall be deemed civil employees of the United States within the meaning of the term 'employee' as defined in that section, and provisions of that section shall apply.

"(b) The Secretaries of the Interior and Agriculture shall, in consultation with the Secretary of Labor, establish standards for—

"(1) rates of pay which shall be at least at the wage required by section 6(a)(1) of the Fair Labor Standards Act of 1938;

"(2) reasonable hours and conditions of employment; and

"(3) safe and healthful working and living conditions.

"STATE AND LOCAL PROGRAMS

"Sec. 206. (a) The Secretaries of the Interior and Agriculture may make grants or enter into other agreements—

"(1) after consultation with the Governor, with any State agency or institution;

"(2) after consultation with appropriate State and local officials, with (A) any unit of general local government, or (B)(i) any public agency or organization, specifically including the Federal Extension Service and the cooperative extension service of any State with respect to projects described in section 204(a)(12), or (ii) any private nonprofit agency or organization which has been in existence for at least two years;

for the conduct under this title of any State or local component of the Corps or of any project on non-Federal lands or waters or any project involving work on both non-Federal and Federal lands and waters.

"(b) No grant or other agreement may be entered into under this section unless an application is submitted to the Secretary of the Interior or the Secretary of Agriculture, as the case may be, at such times as each such Secretary may prescribe. Each grant application shall contain assurances that individuals employed under the project for which the application is submitted—

"(1) meet the qualifications set forth in section 203(b);

"(2) shall be employed in accordance with section 205(b); and

"(3) shall be employed in activities that—

"(A) will result in an increase in employment opportunities over those opportunities which would otherwise be available.

"(B) will not result in the displacement of currently employed workers (including partial displacement such as reduction in the hours of nonovertime work or wages or employment benefits),

"(C) will not impair existing contracts for services or result in the substitution of Federal or other funds in connection with work that would otherwise be performed,

"(D) will not substitute jobs assisted under this title for existing federally assisted jobs, and

"(E) will not result in the hiring of any youth when any other person is on layoff from the same or any substantially equivalent job.

"(c) Thirty percent of the sums appropriated to carry out this title for any fiscal year shall be made available for grants under this section for such fiscal year and shall be made on the basis of total youth population within each State.

"SECRETARIAL REPORTS

"Sec. 207. The Secretaries of the Interior and Agriculture shall jointly prepare and submit to the President and to the Congress a report detailing the activities carried out under this title for each fiscal year. Such report shall be submitted not later than February 1 of each year following the date of enactment of this title. The Secretaries shall include in such report such recommendations as they deem appropriate.

"ANTIDISCRIMINATION

"Sec. 208. The Corps shall be open to youth from all parts of the country of both sexes and youth of all social, economic, and racial clasifications.

"TRANSFER OF FUNDS

"Sec. 209. Funds hereinafter appropriated which are necessary to carry out their responsibilities under this title shall be made available to the Secretaries of the Interior and Agriculture in accord with interagency agreements between the Secretaries of the Interior and Agriculture.".

H.R. 12452

By Mr. MOFFETT:

—Page 32, line 17, insert "representatives of handicapped individuals," immediatelly before "organizations of the elderly,".

—Page 34, line 18, insert "representatives of handicapped individuals," immediately after "veterans organizations,".

(Amendment to the amendment in the nature of a substitute offered by Mr. JEFFORDS.)

—In section 109(b) of the Comprehensive Employment and Training Act as proposed by the amendment in the nature of a substitute, insert "representatives of handicapped individuals," immediately before "organizations of the elderly,".

—In section 110(a)(3)(B) of the Comprehensive Employment and Training Act as proposed by the amendment in the nature of a substitute, insert "representatives of handicapped individuals," immediately after "veterans organizations,".

H.R. 12452

By Mr. PRESSLER:

(To the amendment in the nature of a substitute offered by Mr. JEFFORDS.)

—Insert the following at the end of section 121(c)(1)(A)(ii) of the Comprehensive Employment and Training Act as proposed by the amendment in the nature of a substitute offered by the gentleman from Vermont:

"In the case of Native American entities described under section 302(c)(1), the Secretary may provide such waivers as the Secretary determines are necessary to prevent severe hardships to participants."

H.R. 12452

By Mr. RICHMOND:

—Page 104, line 15, insert immediately after the period the following new sentence: "For the purpose of carrying out this subsection, the Secretary shall reserve from funds available for this title an amount equal to not less than one percent of the amount allocated pursuant section 202(a).".

H.R. 12452

By Mr. RICHMOND:

(To the amendment in the nature of a substitute offered by Mr. Jeffords.)

—Insert at the end of section 301(c) of the Comprehensive Employment and Training Act as proposed by the amendment in the nature of a substitute, the following new sentence: "For the purpose of carrying out this subsection, the Secretary shall reserve from funds available for this title an amount equal to not less than one percent of the amount allocated pursuant section 202(a).".

H.R. 12611

By Mr. McHUGH:

—Page 117, line 14, at the end thereof, insert the following new subsections to the proposed new section 419:

"Essential Air Transportation

"(e)(1) For the purposes of this section, 'essential air transportation' means scheduled air transportation of persons of the extent, character, and quality which the Board finds necessary to satisfy the needs of the community concerned for air transportation to one or more communities of interest and to insure the community's access to the Nation's air transportation at rates, fares, and charges which are not unjust, unreasonable, unjustly discriminatory, unduly preferential, or unduly prejudicial."

"(2) In no case shall the extent of essential air transportation be determined by the Board to be less than two daily round trips, five days per week, to at least one community of interest.

"(3) In determining criteria for the character and quality of essential air transportation, the Board shall consider the community's needs for among other services, the frequency of service, the advance reservation of passenger seats, baggage handling and insurance, pressurized or other specialized equipment, timely departures and arrivals, joint fares, and the establishment of single plane or connecting plane service to points beyond the primary community or communities of interest.

"(4) As soon as practicable after enactment of this section, but not later than January 1, 1980, the Board shall, by rule, and after the consultation required by subsection (c), establish the criteria for essential air transportation for all points.

"Reduction of Air Service Below Essential Levels

"(f) No air carrier shall terminate, suspend, or reduce air transportation to any point below the standards of essential air transportation established by the Board unless such air carrier has given the Board, the appropriate State agency or agencies, and the communities affected at least 90 days notice of its intent to do so. Upon receipt of such notice, the Board may require the air carrier to postpone such termination, suspension or reduction in service for an additional 90-day period and shall assist the communities affected to secure essential air transportation from another air carrier, whether or not such alternate air transportation is to be compensated under this section.

"Continuity of Guaranteed Air Service

"(g)(1) Upon receipt of a notice required by subsection (f) for a point specified in subsection (a)(1), the Board shall require the air carrier to postpone such termination suspension, or reduction in service until another air carrier has begun to provide essential air transportation. If the Board requires an air carrier to postpone an intended service change for more than 90 days, then the Board shall, in accordance with the procedures of subsection (b), compensate such air carrier for any losses that the air carrier demonstrates that it incurred in complying with this requirement, unless such air carrier is already provided compensation under this section or section 406.

"(2) With respect to any point specified in subsection (a)(1), unless the Board has completed the consultation required by subsection (c) and determined the essential air transportation for such point, either individually or by rules adopted under subsection (e)(4), the Board shall, upon petition of any appropriate representative of such point, prohibit any termination, suspension, or reduction of air transportation which reasonably appears to deprive such point of essential air transportation, until the Board has completed such determination.

"(3) The Board's authority under this subsection shall cease to be in effect on the last day of the tenth year which begins after the date of enactment of this section."

Page 117, line 18, insert the following items at the end thereof:

"(e) Essential Air Transportation

"(f) Reduction of Air Service Below Essential Levels

"(g) Continuity of Guaranteed Air Service."

H.R. 12611

By Mr. YOUNG of Alaska:

—Page 138, after line 18, insert the following new section:

LABOR DISPUTES

Sec. 33. Within 10 days after the date of enactment of this section, the President, pursuant to section 10 of the Railway Labor Act, shall create a board to investigate and report on the dispute between Wein Air Alaska, Incorporated, and the Air Line Pilots Association. Such board shall report its findings to the President within thirty days from the date of its creation.

Renumber the succeeding sections of the bill accordingly.

H.R. 13059

By Mr. McCLORY:

—Page 77, after line 3, insert the following new section:

Sec. 170. (a) The first section of Public Law 92-367 is amended by repealing the final sentence.

(b) The second sentence of section 2 of Public Law 92-367 (86 Stat. 506) is amended by striking the "and" after "inspection" and striking the period after "property" and inserting in lieu thereof the following: "and (5) dams located within a State having an approved program under section 8 of this Act.".

(c) Public Law 92-367 (86 Stat. 506) is amended further by adding at the end thereof the following new sections:

"Sec. 7. There is authorized to be appropriated to the Secretary of the Army, acting through the Chief of Engineers (hereinafter

referred to as the 'Secretary'), $15,000,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981. Sums appropriated under this section shall be distributed annually among the States on the following basis: one-third equally among those States that have established dam safety programs approved under the terms of section 8 of this Act, and two-thirds in proportion to the number of dams located in each State that has an established dam safety program under the terms of section 8 of this Act to the number of dams in all States with such approved programs. In no event shall funds distributed to any State under this section exceed 50 per centum of the reasonable cost for implementing an approved dam safety program in such State.

"SEC. 8. (a) In order to encourage the establishment and maintenance of effective programs intended to assure dam safety to protect human life and property, the Secretary shall provide assistance under the terms of section 7 of this Act to any State that establishes and maintains a dam safety program which is approved under this section. In evaluating a State's dam safety program, under the terms of subsections (b) and (c) of this section, the Secretary shall assure himself that such program includes the following:

"(1) a procedure whereby, prior to any construction, the plans for any dam will be reviewed to provide reasonable assurance of the safety and integrity of such dam over its intended life;

"(2) a procedure to determine, during and following construction and prior to operation of each dam built in the State, that such dam will be operated in a safe and reasonable manner;

"(3) a procedure to inspect every dam within such State at least once every two years;

"(4) a procedure for more detailed and frequent safety inspections, if warranted;

"(5) the State has or can be expected to have authority to require those changes or modifications in a dam, or its operation, necessary to assure the dam's safety;

"(6) the State has or can be expected to develop a system of emergency procedures that would be utilized in the event a dam fails or for which failure is imminent together with an identification for those dams where failure could be reasonably expected to endanger human life, of the maximum area that could be inundated in the event of the failure of such dam, as well as identification of those necessary public facilities that would be affected by such inundation;

"(7) the State has or can be expected to have the authority to assure that any repairs or other changes needed to maintain the integrity of any dam will be undertaken by the dam's owner, or other responsible party; and

"(8) the State has or can be expected to have authority and necessary funds to make immediate repairs or other changes to, or removal of, a dam in order to protect human life and property, and if the owner does not take action, to take appropriate action as expeditiously as possible.

"(b) Any program which is submitted to the Secretary under the authority of this section shall be deemed approved one hundred and twenty days following its receipt by the Secretary unless the Secretary determines that such program fails to reasonably meet the requirements of subsection (a) of this section. If the Secretary determines such a program cannot be approved, he shall immediately notify such State in writing, together with his reasons and those changes needed to enable such plan to be approved.

"(c) The Secretary shall review periodically the implementation and effectiveness of approved State dam safety programs. In the event the Secretary finds that a State program under this Act has proven inadequate to reasonably protect human life and property, he shall revoke approval of such State program and withhold assistance under the terms of section 7 of this Act until such State program has been reapproved.

"SEC. 9. There is authorized to be appropriated in the fiscal year ending September 30, 1979, or any fiscal year thereafter and remain available the sum of $20,000,000 to be placed in a revolving fund by the Secretary, such funds to be available for loans, on terms established by the Secretary, to any owner for any dam required to make repairs, to replace, or to make other safety improvements in such dam under any safety program approved under section 8 of this Act, if such owner can demonstrate to the Secretary that other funds are not reasonably available.

"SEC. 10. The Secretary shall be responsible for reviewing the procedures and standards utilized in the design and safety analysis of dams constructed and operated under authority of the United States, and to monitor State implementation of this Act. The Secretary shall review as expeditiously as possible the plans and specifications on all dams specifically authorized by Congress prior to initiation of construction of such dam, and file an advisory report on the safety of such dam with the appropriate agency, the appropriate State, and the Congress. The Secretary is authorized to utilize the expertise of other agencies of the United States and to enter into contracts for necessary studies to carry out the requirements for this section.

"SEC. 11. The head of any agency of the United States that owns or operates a dam, or proposes to construct a dam in any State, shall, when requested by such State, consult fully with such State on the design and safety of such dam and allow officials of such State to participate with officials of such agency in all safety inspections of such dam.

"SEC. 12. The Secretary shall, at the request of any State that has or intends to develop a dam safety program under section 8 of this Act, provide training for State dam safety inspectors. There is authorized to be appropriated to carry out this section $1,000,000 for the fiscal year ending September 30, 1979, and $500,000 during each of fiscal years ending September 30, 1980 and September 30, 1981.

"SEC. 13. The Secretary, in cooperation with the National Bureau of Standards, shall undertake a program of research in order to develop improved techniques and equipment for rapid and effective dam inspection, together with devices for the continued monitoring of dams for safety purposes. The Secretary shall provide for State participation in such research and periodically advise all States of the results of such research. There is authorized to be appropriated to carry out this section $1,000,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981.".

Renumber succeeding sections and references thereto accordingly.

—Page 78, line 9, immediately after "SEC. 173." insert "(a)".

Page 78, after line 17, insert the following new subsection:

(b) The Secretary of the Army, acting through the Chief of Engineers, shall inspect the Lake-in-the-Hills Dam, Lake-in-the-Hills, Illinois, and perform detailed engineering studies to determine the structural integrity of the dam and spillway. A report shall be submitted to Congress, and a copy thereof furnished the Illinois Department of Transportation, Division of Water Resources, setting forth the results of such inspection and recommendations of the Secretary of the Army of the necessary measures to assure the safety of the dam, spillway, and surrounding areas.

EXTENSIONS OF REMARKS

GRACIELA OLIVAREZ: "OPENING A DOOR FOR THE POOR"

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent to insert in the RECORD an article by Jacqueline Trescott in the Washington Post of September 16, 1978, concerning Graciela Olivarez, Director of the Community Services Administration.

Graciela Olivarez is a most remarkable person, as the article to which I refer makes clear.

I first had the privilege of getting acquainted with her when some years ago she was a student at the law school of the University of Notre Dame, in the congressional district I have the honor to represent.

Graciela Olivarez is giving outstanding leadership in her position of responsibility as Director of the Community Services Administration and I am pleased to call her work to the attention of my colleagues.

I insert the article, "Opening a Door for the Poor," at this point in the RECORD:

OPENING A DOOR FOR THE POOR—GRACIELA OLIVAREZ LEADS THE ADMINISTRATION'S ANTIPOVERTY FORCES

(By Jacqueline Trescott)

When Graciela Olivarez recalls her 18 years as a secretary, heat crisps her tone. "The door to the bosses' offices closed," she begins, still exasperated though 16 years have passed.

"I envied the traveling salesmen, the guys who would come back and talk about the road. The secretaries typed their reports, never got to see the field," she continues, tapping the secretary's envy—perfect, long fingernails—on her office coffee table. "But I hated that door. It indicated that the secretary wasn't important enough or trusted enough to hear. I try not to close my door, except when I am on the phone."

The frustration of that long lesson emerged

as a determination to push her way out of the minority backseat and the typing pool. She has scored: As director of the Community Services Administration, she is the highest-ranking Hispano-American and the third highest-ranking woman in the Carter administration. This week she has been leading the administration's observation of National Hispanic Heritage Week with a series of town meetings across the country.

What she needs above all are double doses of that fiery determination at CSA, the national anti-poverty agency that succeeded the Office of Economic Opportunity. The old OEO, born with the loud cry for social healing in the 1960s, was beleaguered in its infancy and quickly pulled apart by its own internal bumbling, the weariness of confrontation tactics and conservative reluctance at subsidizing the poor. The job was tough and directors from Sargent Shriver to Howard Phillips, the architect of the dismantlement, were maligned by various factions.

Olivarez, the ninth director in 10 years, has inherited a fractured agency that may be phased into oblivion by the administration's federal reorganization plan. She was challenged, she says, by the uphill struggle and intrigued by President Carter's tactic of interviewing her in Spanish.

"I had lost track of OEO/CSA. I knew it had been through battles, a lot of gutting," says Alivarez, her brown wide-set eyes staring intently, "but what I saw was the chance to get a nation to understand that the poor are not lazy, shiftless, living on someone's tax dollar. I understand the frustration of the taxpayer, as well as the person on the bottom."

In the early days of OEO, Oliveraz was working for a private foundation in Phoenix, earning $5,000 a year, and supporting her mother, a sister, a brother and her son. A radio show on an all-Spanish station had earned her a reputation as a community leader and she was appointed to the first advisory committee for OEO.

In the company of Hubert Humphrey, Whitney Young and John Kenneth Galbraith, Olivarez was the only poor person. "I tried very hard to emulate them. I didn't want to stand out like a sore thumb. If you saw pictures of me from that time, I looked like a 'cat-eyes'—all made up. I would always have my hair done in the latest bouffant style," says Olivarez, moving her arms above her currently curly hair.

Not only was she trying to belong but she was compensating for what she considered "inferior looks. For a long time, I was tall, skinny with buck teeth and acne."

"Eventually I changed, I wasn't afraid to speak my mind, in my language. And Shriver once said I was the 'pepper' of the commission. And I said he better hope that I never became the chili."

It took some years for Olivares, now 50, to develop that peppery feistiness.

She grew up in the segregated mining town of Sonora, Ariz., during the Depression and was forced to leave high school to support her family.

Her father, a machinist in the copper mines for 35 years, had emigrated from Spain. Her mother, a Mexican American, gave piano lessons to stretch the family budget for five children. "We had role models, and I grew up feeling anyone who discriminated against me was losing out."

When her parents split up, she moved to Phoenix, where certain forms of discrimination were legal. "There the public pools were closed to blacks and Mexicans and both groups had to sit in the movie theater balconies. It was a gradual erosion of my confidence in the system."

At age 20, after spells of unemployment and odd jobs, Olivares ended up at a radio station, where she worked as a secretary, engineer, announcer and talk show host. The mail she received from the show opened her eyes, she says, to the complexities of discrimination. Defying moderate Mexican-American strategy, she joined the black civil rights leaders who were picketing a Mexican restaurant that didn't serve blacks. In 1962 activist Robert Choate, who was starting a children's concerns foundation, asked Olivarez to be his liaison with the Hispanic community and she left radio.

Despite the progress her annual salary remained in the four-figure range.

When she met Rev. Theodore Hesburgh, the president of Notre Dame University in 1966, he told her, "I wouldn't make it in a union card society without the card. He promised to waive the entrance requirements if I wanted to go to law school," says Olivarez. "I hadn't thought about any other schooling. I was bitter, frustrated and I felt: Why should I give up three years of my life?"

But in 1967, with her son from a brief marriage and a nephew, she registered. She was one of few brown, female, divorced and older students. "I went through a lot of self-analysis. It was the first time I was alone. And this will fly in the face of the feminists but I loved being domestic," says Olivarez. "The most important thing was I discovered the library, a whole new world of reading. I almost ruined my eyes." Her activism continued as she forced the university to open the sports facilities and the infirmary to women.

In 1970 Olivarez became the first woman graduate of the Notre Dame Law School and, as predicted, the doors opened.

She returned to Phoenix to direct an OEO-funded program and part of her $22,000-a-year salary went to buy her dream machine, a ¾-ton Ford pickup truck.

Before her appointment to CSA in 1977, she worked in New Mexico for five years, teaching at the state university and working for Gov. Jerry Apodaca.

"Everytime we would send Grace out, the press secretary would say, 'Don't forget to mention the governor.' When President Carter told me he was taking Grace away from a couple of years, I said 'you can have her,' recounts a chuckling Apodaca, who retains considerable fondness for Olivarez, despite her frequent inability to follow the press secretary's orders.

Some might call the assembly window-dressing but the Equal Employment Opportunity Commission would surely smile on the motley battalion in Olivares's office.

Three black males, two white males, one white female, one Indian female, one Spanish-American male, one Cuban female, one Japanese-American male. And, she says, as she rattles off this list, "A Buddhist, two Jews, one Bahai. Also a man who is having a sex-change operation."

Internally, there are some grumblings that the make-up of her staff isn't proof that Olivares has mastered the art of impartiality. Charges of a "Mexican Mafia" has floated in recent months and some black employes fear that they will lose their ranks to Hispanics in an internal realignment. Yet she is regarded by some civil rights activists as important to any alliance between blacks and Hispanics, who expect to be the nation's largest minority by the late 1980s.

In her first 18 months at CSA, Olivares has concentrated on boosting morale, sprucing up the agency's reputation, trying to make peace with her congressional critics and eliminating any overlap in the work of CSA and ACTION. Both Olivares and Sam Brown, the director of ACTION, the combined volunteer programs agency, deny the rumors of a rivalry.

Once again Olivares finds herself involved in the world of the poor—but this time as a viceroy of the government antipoverty forces.

"I am very apprehensive about being the problem solver. I am acutely aware of the fickleness of upward mobility. I can be poor again, anytime." says Olivarez, quietly. "In this job I see the fine line more clearly. I know I can walk out my apartment, get hit, be handicapped, and not have services."

Her concern and her insistence on procedure fused interestingly last May.

For five days a half-dozen Mexican-American farmers were camped outside CSA's office on 19th Street, their families and babies in tow. They wanted to see Olivarez. She refused, insisting they go through channels, meeting her general counsel first. But she made sure the children had orange juice and food. When the farmers finally agreed to see the counsel, she agreed to join the meeting.

In her apartment on upper Connecticut Avenue, Olivarez has a growing collection of Afro-Cuban jazz albums, nearly 150 now, and a jungle of plants—pineapples, sweet potatoes and avocadoes.

Books abound: Plenty of pop psychology. "Your Erogenous Zones," "Love and Addiction," a bevy of running books. "I like to help the staff identify their problems and then direct them to the professional help," says Olivarez who carried "Aristole For Everyone" in her tote bag last week.

One of her constant worries is her son, Victor, 19, now a college student in the Southwest. "This is the first time we have been apart," she says quietly. And she prays. "I still light my candles at home," she says. "But as I become older the less I want to practice my religion in public. Occasionally I stop off at St. Matthews." (Her Catholic upbringing partly shaped her staunch anti-abortion stance, which in 1975 caused the National Women's Political Caucus to rescind a speaking invitation to her.)

In other areas related to her background Olivarez hasn't been quite as self-confident.

Once she considered Mexican food "poverty food" but now serves her dinner guests tacos and enchiladas. "Eventually I became more secure about who I was," says Olivarez. Now, for instance she laughs, "I don't care anymore about beauty. I have found that the minute you accept yourself, you find people have been accepting you all along."

What she enjoys are long walks, a habit helped along right now by her carless state. "Washington is the prettiest city in the U.S., no other city is a garden," and she looks out the window at a wall of concrete but insists on finding some poetry nonetheless: "Coming from a desert, any blade of grass and patch of water is a miracle."●

INDUSTRY'S ASSAULT ON WORKPLACE SAFETY

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. VENTO. Mr. Speaker, in the short time that I have served in Congress there has been a thundering chorus of voices critical of Government regulation.

Regulatory reform is certainly one of the greatest challenges that we face. However, while calling attention to the stampede to implement these "reforms," Coleman McCarthy warns of industry's drive to destroy the effectiveness of Occupational Safety and Health Administration standards.

The text of McCarthy's article in today's Washington Post follows:

[From the Washington Post, Sept. 19, 1978]

INDUSTRY'S ASSAULT ON WORKPLACE SAFETY

(By Colman McCarthy)

Two voices are talking to America's 80 million workers about health and safety. One is

the government's, backed by a growing coalition of labor unions intent on securing the most crucial fringe benefit of all: a safe workplace.

The other belongs to those employers who have persuaded a few of their conservative friends in Congress that both small and big business are being unjustly pestered by regulation-happy bureaucrats snooping into the shops and factories. Weaken the Occupational Safety and Health Act, they demand. Get the feds off our back.

If a third voice is heard, it is the muffled cry of the worker himself, who knows bitterly that the violence of occupational death, disease and injury is staggering. Federal officials estimate an annual 390,000 cases of occupational disease, 2.2 million disabling injuries and as many as 100,000 deaths.

Last week, the government was heard from again when Joseph Califano, secretary of health, education and welfare, reported findings that at least 20 percent of future cancer cases will be work related. The study confirmed what public-interest organizations like the Health Research Group have been warning for years, and what even the Department of Labor has recognized for some time.

Instead of being able to deal with the urgency of warding off workplace death and disease, federal officials have been forced to ward off industry assault on the law and the Occupational Safety and Health Administration. Earlier this year, when the agency issued a few mild proposals to limit the exposure of workers to cancer-causing chemicals, it was pounced upon by an industry group.

"There is no cancer epidemic as implied by OSHA," said the American Industrial Health Council. After pressing the shopworn line that uncounted billions will be needed for compliance, the council argued that "socially acceptable risk is the only practical answer to dealing with this problem."

If argued that way—as a matter of profits and freedom from regulatory hassle—then it is easy enough to ignore the findings that 67,000 workers will die annually from exposure to asbestos. But if seen as the sweatshops of the 19th century becoming the cancer shops of the 20th, then talk of "socially acceptable risk" becomes the crudest mask for institutional violence.

The urgency now is to shift the discussion back to where it belongs—a question of the legal and moral rights of workers. Disasters in such high-risk industries as construction, petrochemicals, transportation and manufacturing regularly produce day-after headlines. But months or years after, when dry-prose Federal reports are issued on the safety violations that caused the tragedies, little notice is taken. We have a high consciousness of the problem as the bodies are removed from the exploded grain elevator or collapsed scaffolding but low consciousness about preventing deaths the next time somewhere else.

Shifting the discussion back to the essentials that led to the 1970 safety law will be arduous work. Efforts to weaken OSHA and its enforcement methods—such as they are—are constant. This past year, Congress has stagnated in a debate about legislation to exempt from OSHA's power most employers with 10 or fewer workers, as well as other businesses. That would mean an exemption of nearly 3 million workplaces, or almost 70 percent of the sites now covered by the law.

The bother of this debate has meant that more crucial questions of ethics have been necessarily put aside. What is the moral obligation of an employer whose worker comes down with a work-related cancer? What is socially acceptable risk when what is gambled is the health of the worker next to the coke oven and not of the owner in the boardroom? What is owed a family left fatherless because of a preventable factory accident? How long can a firm be allowed to do business if its safety record is poor? How much profit should be devoted to industrial hygiene?

Here and there, a few companies are voluntarily performing death-defying acts of courage by investing extra sums in health and safety. But not enough have come forward. As a result, instead of a philosophy of prevention of accidents and disease we have a tactic of prevention of safety: block OSHA, demoralize the worker, weaken the law.●

ILLEGAL ALIENS

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. BURGENER. Mr. Speaker, regardless of one's feelings on the subject, there is an invasion in daily progress from the Republic of Mexico into the United States of America. Although the invasion is peaceful, it is nonetheless illegal, and this Congress and this administration has so far chosen to do nothing but wring its hands and make feeble pronouncements about the problem.

We ought to start, perhaps, with at least as scientific an inventory as we can muster about the number of illegal aliens now living in our own country. At least it would give us valuable information from which we might begin to formulate a national approach. There are grave economic, cultural, social, and ethical problems created by this phenomenon which is virtually out of control. There are serious and unresolved questions about how and if we can assimilate another culture and another language.

In view of all this, it was most alarming for the Immigration and Naturalization Service to recently cancel a study, most of which had been paid for by the taxpayers, just before it reached a conclusion and perhaps the first realistic estimate of the number of illegal aliens in our country. For this reason I am inserting in the CONGRESSIONAL RECORD, the excellent editorial on the subject from the Los Angeles Times edition of Sunday, September 17, 1978. The editorial follows:

IT'S TOO IMPORTANT TO GUESS

An economist, forecasting the behavior of the California economy, includes no figures for illegal immigrants in his statistical model. He knows they exist. He knows that without their numbers in his model, his forecast will not reflect the real world. Since nobody has made a reliable estimate of the size of the illegal immigrant community, his alternative is to guess. If he guesses, he must choose a number between 2 million, the low estimate of the national population of illegal immigrants, and 12 million, the high number. He declines to trade one distortion for another, but he wonders why there is a mystery in the first place and why nobody tries to make a reliable count.

Planning for any activity that requires fairly firm population estimates—education, transportation, energy production, housing—also is off the mark to the degree that population figures do not include illegal immigrants. Without statistics, public discussion of the policies the United States should adopt on the question of illegal immigrants is left completely to emotion. Is the so-called "silent invasion" on a scale that threatens the jobs of citizens? Or can the United States accommodate illegal immigrants with relative ease?

Until recently, it appeared that a study for which Congress appropriated $1 million in 1976 might put an end to the guesswork.

Under contract to the Immigration and Naturalization Service, a Washington contractor, specializing in research and surveys among minority groups, undertook about 10,000 interviews in homes in neighborhoods where illegal immigrants have settled. The survey covered 12 states, including California, where most illegal immigrants come from Mexico, and Florida, where large numbers come from the Caribbean and Central America.

Using sampling techniques similar to those used to estimate unemployment in the United States, the contractor expected to translate the interviews into a firm estimate of illegal immigrants by December. The result would have been only a well-educated guess, to be sure, but it would have been done with accepted sampling techniques, and, even allowing for statistical error, the number would have been closer to the fact than any that now exists.

Then, last week, the agency canceled the contract, with no more explanation than a standard terminating letter saying the action was taken "for the convenience of the government." In an interview, the contracting officer said the contractor had already spent $750,000 and would need more money to finish, but in view of the fact that the original appropriation was for $1 million, money did not seem, on the face of it, to be a serious problem. There was no indication that the federal government over the past 15 years, had fallen down on the job.

The immigration service has said it will take over the raw data and finish the project itself. That may not be possible, regardless of whether it would be desirable. The contractor says he has an agreement in writing that he is not obliged to turn over raw data because it contains home addresses for illegal immigrants who were interviewed during the study. Surrendering the information, he says, would make him an informer.

As things now stand, not only is there no estimate of the number of illegal immigrants in the United States, there is no full explanation for not having one. Given the serious and long-term policy implications involved in this case, Congress should move quickly to find out precisely why the contract was canceled and why it has nothing to show for its money.●

WLAD RADIO WINS AWARDS

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. MOFFETT. Mr. Speaker, it is with great pride that I cite radio station WLAD in Danbury, Conn., for its remarkable news-gathering operations.

WLAD has received well-deserved recognition for its outstanding coverage of local events. Under the guidance of its able general manager, Patrick Crafton, and its very capable news director, Judd Everhart, WLAD has set the pace for news broadcasting in western Connecticut. It has done so without benefit of a network affiliation, preferring instead to utilize its own reporters for onsite coverage, with continuing emphasis on local affairs.

Mr. Everhart's efforts, however, have earned him accolades that extend well beyond his own listenership. Most recently, the Connecticut Associated Press Broadcasters Association honored him for his coverage of a number of major stories; the WLAD news staff won 16 first place and 32 honorable mentions in the AP's weekly news contests during the year; that translates into 48 weeks out of 52, in which Judd Everhart was in contention for top honors on a statewide basis.

WLAD contributed a total of 163 news stories to the State AP wire in 1977, ranking second in our entire State. It is, however, the quality rather than the quantity of its news stories that marks WLAD's performance.

My congratulations to the news department and the entire staff at WLAD.●

RESULTS OF 1978 SURVEY

HON. RALPH S. REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. REGULA. Mr. Speaker, from time to time I assess the opinions of my constituents in the 16th District of Ohio via a questionnaire I mail districtwide.

I find the information provided by these questionnaires helpful as I evaluate my position on current issues.

I have just completed tabulation of the questionnaire mailed last month and would like to have the following results printed in the RECORD so my colleagues also may be aware of the views of a representative section of Americans:

[In percent]

	Favor	Oppose
Do you favor a strong NATO alliance as part of the U.S. defense effort	88	12
Should regulations to protect the environment be moderated?	73	27
Do you support further research-development of nuclear power plants?	82	18
Do you favor using general revenue funds to pay for Social Security?	38	62
Would you support increased tariffs on imports, such as steel, which threaten domestic jobs even though prices would be increased for those products?	64	36
Do you support government efforts to register firearms?	35	65
Do you favor tax deductions for home insulation improvements?	59	41
Would you support a constitutional amendment requiring an annual balanced federal budget unless a emergency were declared by the President and Congress?	91	9
Do you favor legislation which prohibits federal funds being used to pay for abortions for individuals eligible for Medicare?	66	34
Do you believe a higher gasoline tax would effectively discourage consumption?	10	90
Do you favor tuition tax credits for those:		
Who attend elementary and secondary schools?	31	69
Who attend colleges?	57	43
Should the U.S. be militarily stronger than the Soviet Union?	79	21
Or be roughly equal in power?	72	28
Or be content with a deterrent threat?	19	81

●

CLINICAL LABORATORY IMPROVEMENT ACT

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. ROGERS. Mr. Speaker, H.R. 10909, the Clinical Laboratory Improvement Act, has been granted a rule by the Rules Committee, and I expect the House will have the opportunity to consider the legislation shortly.

This legislation was considered and reported by two committees, the Committee on Interstate and Foreign Commerce, which initiated the legislation, and the Committee on Ways and Means. Because of the involvement of the two committees, and the desirability of coordinating the positions of the committees on any amendments which may be offered to the bill during its consideration on the floor, the rule for H.R. 10909 limits amendments only to committee amendments and those amendments which are printed in the RECORD available to the Members 48 hours in advance of floor action.

I want to alert the Members to the provisions of the rule, so that if amendments are intended, they can take steps to meet the requirements for prior notice.

In accordance with the rule, I wish to notify my colleagues of my intention to offer an amendment. The amendment does the following:

First, increases the factors on which variation in licensure fees can be based, by allowing variations relating to complexity of tests performed and to participation in accreditation programs;

Second, eliminates requirements for providing certain information on contractual relationships to the health systems agency since the information is not sufficiently useful for planning purposes to justify the arrangements which would be necessary for the HSA to separate it from disclosable information;

Third, tightens the conditions for revocation of a laboratory's license so that it occurs only if the person who is convicted of fraud or of engaging in prohibited acts has a direct or indirect control interest in the laboratory, or is an officer or managing employee;

Fourth, includes a technical provision, necessary to bring the legislation into conformity with the requirements of the Budget Act, which limits the authority of the Secretary to enter into contracts to the amounts provided in advance by appropriation; and

Fifth, makes minor technical and correcting amendments.

The text of the amendment follows.

AMENDMENT TO H.R. 10909, AS REPORTED OFFERED BY MR. ROGERS

Page 2, in the table of contents add after the item relating to section 104 the following new item:

Sec. 105. Study of clinical laboratory services.

Page 4, line 12, strike out "(A)" and insert in lieu thereof "(i)".

Page 4, line 20, strike out "(B)" and insert in lieu thereof "(ii)".

Page 4, line 21, strike out "purposes" and insert in lieu thereof "purpose".

Page 8, line 6, strike out "(i)" and insert in lieu thereof "(1)".

Page 8, line 8, strike out "(ii)" and insert in lieu thereof "(2)".

Page 8, line 12, strike out "(iii)" and insert in lieu thereof "(3)".

Page 14, line 4, insert "and complexity" after "volume".

Page 14, line 5, insert before the period the following: "and may prescribe variances in such fees to reflect a laboratory's participation in an accreditation program conducted by a qualified public or nonprofit private entity with an agreement with the Secretary under section 377(a)".

Page 14, line 6, strike out "(1)".

Page 14, line 9, strike out "(A)" and insert in lieu thereof "(1)".

Page 14, line 11, strike out "(B)" and insert in lieu thereof "(2)".

Page 14, line 14, strike out "(C)" and insert in lieu thereof "(3)".

Page 14, line 14, insert "(A)" after "applicant".

Page 14, line 16, strike out "(i)".

Page 14, line 20, strike out "(ii)" and insert in lieu thereof "(B) to the Secretary of".

Page 15, strike out line 1 and all that follows through page 16, line 2.

Page 16, line 14, insert "reasonable" before "differences".

Page 18, line 18, strike out "(d)" and insert in lieu thereof "(d)(1)".

Page 19, strike out lines 1 and 2 and insert in lieu thereof the following: "tion became final."

"(2) The Secretary may revoke the license of a laboratory if any person who has a direct or indirect ownership or control interest of 5 percent or more in the laboratory, or who is an officer, director, agency, or managing employee (as defined in section 1126 (b) of the Social Security Act) of the laboratory, is not eligible to apply for a license for a laboratory under paragraph (1).

Page 21, line 1, strike out "(b)" and insert in lieu thereof "(b)(3)".

Page 22, line 15, insert "and complexity" after "volume".

Page 22, line 16, insert before the semicolon the following: "and may provide for variances in such fees to reflect a laboratory's participation in an accreditation program conducted by a qualified public or nonprofit private entity with an agreement with the State under section 377(a)".

Page 33, line 21, insert after the period the following sentence: "The authority of the Secretary to enter into contracts under subsections (a), (b), and (c) shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.".

Page 34, line 6, strike out "tests and procedures" and insert in lieu thereof "clinical laboratory services" and in line 7 insert "clinical laboratory" before "services" the second time it occurs.

Page 34, line 26, strike out "section" and insert in lieu thereof "title".

Page 40, line 8, insert "of title III" after "part H" and beginning in line 17 strike out

"the Clinical Laboratory Improvement Act of 1978" and insert in lieu thereof "this Act".

Page 56, strike out lines 16 and 17 and insert in lieu thereof the following: "the applicable requirements of section 1861(e)(9), the second sentence of section 1861(s), or part H of title III of the".

Page 56, line 25, insert "reasonable" before "administrative".

Page 57, strike out lines 19 and 20 and insert in lieu thereof the following: "Laboratory Improvement Act of 1978 meets the applicable requirements of section 1861(e)(9) or the second sentence".

Page 58, line 3, insert "reasonable" before "administrative".●

THE SPREAD OF PACIFISM IN OUR GOVERNMENT—ADDRESS OF PAST NATIONAL COMMANDER, THE AMERICAN LEGION

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. TEAGUE. Mr. Speaker, I wish to call to the attention of my colleagues the address of Maj. Gen. Robert E. L. Eaton, USAF, retired, before the annual convention of the American Legion, Department of Maryland, in Ocean City, Md., on July 12, 1978. General Eaton is a past National Commander of the American Legion and I am sure that you will find his remarks to be thought provoking.

General Eaton graduated from West Point in 1931 and served with distinction in the Air Force until his retirement in 1961. While serving in the Air Force he held many posts of responsibility and received many awards. However, his most distinguished service has been service that he has devoted to his country as part of the American Legion. He was National Commander in 1973 and 1974.

In his remarks, Past National Commander Eaton points out that we are steadily becoming more pacifist in our approach to our foreign relations and defense problems. He quotes from a talk given by Congressman SAMUEL S. STRATTON of the Armed Services Committee before the American Defense Preparedness Association, and refers to a talk by the Honorable Paul Nitze, a former Deputy Secretary of Defense, in his speech before the American Legion. In both of these, our increase in weakness, both in our actions in foreign policy and in our appropriations for defense, is emphasized.

It is interesting to note in relation to this subject the comments of the distinguished chairman of our Armed Services Committee contained in his letter to the President concerning the veto of the fiscal year 1979 authorization bill:

You may recall that I wrote to you a year ago expressing my concern about the impact on national defense capability of a series of decisions which include the cancellation of the B-1, the cancellation of the short range attack missile (SRAM), the termination of the production of the Minuteman III missile, and the slowdown of the development funding for the MX missile system. At that time, I expressed the hope that the Congress could work with the administration to provide necessary defense systems. Since that time, we have had the cancellation of production of the enhanced radiation weapon, the indecision in response to the demonstrated need to protect the vulnerability of our land-based ICBMs, the proposed withdrawal of forces from Korea and now the veto of a defense authorization bill and a determined effort to stop another large aircraft carrier.

I am sure that my colleagues would like to read Past National Commander Eaton's remarks at this point:

SPEECH OF MAJ. GEN. ROBERT E. L. EATON

Mr. Commander, distinguished guests, delegates to the 60th Annual Convention of our Department, I am pleased to be here and have the opportunity to present some of my thoughts concerning the strange world in which we presently find ourselves.

There are those who speak who attempt to be clever; there are those who speak who attempt to be funny; there are those who speak who attempt to be serious—very seldom do you have a speaker who can do all three. In my case, I am not going to even attempt any of those. I am going to attempt to be short and to the point in a language which we understand.

We were just favored today by an excellent address by our National Vice Commander. He covered in detail many of the things that are concerning all of us. Without being repetitive I would like to join with him in emphasizing the seriousness of our national problem, particularly in the field of national defense and foreign policy.

I am encouraged by a speech that I heard by a Congressman from New York—The Honorable Samuel S. Stratton, a democrat and a senior member of the House of Representatives Armed Services Committee. In a talk to the American Defense Preparedness Association on the 20th of March he expressed the grave concern of the House Armed Services Committee about the present and future status of our national defense as a result of the monetary cuts in the defense budget that have already been made and continue to be made by the Executive Branch of the Government. He referred to the B-1 bomber, the nuclear carrier, the M-X missile, and the reduction of military strength in Korea. He pointed out that the annual budget for defense, which despite an increased requirement for NATO, is at the lowest level since 1950.

More important than the enumeration of budgetary cuts, he alluded graphically and with considerable emphasis to the confusing and misleading pronouncements by our Government concerning military strength. This policy, in the face of repeated monetary reductions, seems to follow a pattern of "talk loudly and carry a switch," rather than, as Theodore Roosevelt said "speak softly and carry a big stick." This echoes what Thomas Fuller, a writer many centuries ago, advised in his Introduction And Prudentiam "Let not thy will roar when thy power can but whisper."

Several of these pronouncements referred to by Congressman Stratton regarding our military capabilities are becoming increasingly frequent. There was the speech the President made at Wake Forest assuring us of the importance of adequate military strength. Then at Salt Lake City the President said, "We aren't going to let the Russians push us around." The President's address at Fort Hood, Texas and his speech at the U.S. Naval Academy gave a picture of strength and resolution which reassured everyone. But the policy of asserting a strong military posture, and at the same time failing to back it up with adequate military funding, can only result in accentuating our national weakness. This course of action is confusing to our friends and is encouraging to our enemy. Congressman Stratton quoted from the Book of Corinthians in the New Testament, Chapter 14, Paragraph 8, which says, "for if the trumpet give an uncertain sound who shall prepare himself for battle?" Well, it is hard for us to understand why we, the leaders of the free world, cannot give the necessary clear, sharp signal. We ask, "What is going on?" Our grave concern and apprehension are easy to understand, but the underlying philosophy is catastrophic in its implication.

I think the best explanation to this dilemma is the increased acceptance of pacifism in various parts of our Government. The tenets of pacifism are simple and easy to understand:

First, the pacifist has, as a primary objective, peace at any price. No freedom is worth defending—our freedom or any other freedom.

Secondly, the pacifist fosters a no win philosophy in waging war. Back in the era of Secretary of Defense Robert McNamara we first heard the no win concept of war as related to nuclear war. This thinking brought about the advancement of the concept of Mutual Assured Destruction theory in any nuclear war. Under this approach to war reasonable leaders on both sides would have to believe that neither side if using nuclear weapons could hope to overcome the other side, but rather, complete destruction of each would result—hence, Mutual Assured Destruction. The important aspect of this concept is that the Soviets have not accepted the approach, and they continue to prepare for nuclear war. This argument was advanced, also, during our commitment in Southeast Asia where it was easy for the press and others to say that the war could not be won anyway. A philosophy of no win was adopted during this war where we took military action only "to send the enemy a message in the hope that the enemy would quit."

Thirdly, the pacifist promotes a military posture deliberately weaker than possible enemies, such as the Soviets, for all types of war. Then, in case of a confrontation with them, it will be a matter of "you've got to give up or else." Followed to its logical conclusion the pacifist approach leads to the bottom line on confrontation—"better Red than dead."

Let us take a look at how this posture of pacifism translates into our action in foreign affairs and defense. A good example took place two years ago in our conflict in Angola. At that time we were engaged in encouraging one of the factions favorable to us in the internal upheaval that was going on. Actually, the faction favorable to us was within sight of the capital of Angola, but the pacifist hysteria took over. We pulled out our support, and the result was that the Marxist faction backed by Cuba and the Soviets won out. Thus, Angola has become a typical Marxist country with all the repressions that go with such a regime. Our attitude was that we might become committed to intervention militarily which, of course, was not indicated at all. The guiding principle was simply the pacifist line.

Next, let us consider our action in Panama. Here, the controlling element was that if we did not give up the Canal, we would have to take on a guerrilla war in Panama. Panama's population is about 1.2 million and the fear of taking on this small country in a guerrilla exercise overwhelmed our leaders. Of course, the President of Panama helped us out in his television appearance on the day of the final vote when he pointed out to all the world that if the vote had not gone in his direction, he would have taken the Canal by force. The ashes of a once great republic did not, in this instance, give birth to a phoenix.

So it goes everywhere. Take the Middle

East as another example where there is a rushing back and forth and jawboning without anyone assuming that we have any capability or will to play a really strong hand. But the Soviets, on the other hand, twice in recent times have mobilized their divisions for the purpose of intervening in the Middle East. And, of course, in each instance we have backed down in the face of force.

Then, of course, we can turn to Rhodesia where there is a smell of defeat in the air—not just for the Rhodesians, but for our foreign policy. In Rhodesia, a country of 6 or 7 million people, we are actively encouraging the patriotic front, a Marxist combination whose stated purpose is to take over "with the gun." If this happens we will see repressions and droves of people in that country will "go to the wall." Those "going to the wall" will be predominantly Blacks who have been involved in the present government of Rhodesia.

A similar course of action is being undertaken in Southwest Africa where the new republic, Namibia, is to be established. We are again supporting the Southwest African Peoples' Organization (SWAPO) where the leader safely based in Angola has stated that he intends to take Southwest Africa "with the gun." In the instances of Rhodesia and Southwest Africa, unexplainably we find ourselves on the side of the Marxist—a side that will always be opposed to our interests.

So we come to the next application of the pacifist approach—the SALT talks have been much with us in recent months and years. We have become confused about the issues and pronouncements by the pacifists who are implementing our negotiations. At the meeting of the National Executive Committee of The American Legion last spring we were favored by a talk given by The Honorable Paul Nitze who, under a previous Democratic Administration, was Deputy Secretary of Defense, Secretary of Navy and head of the planning activity of the State Department. He was also, at one time, a chief negotiator for SALT. The thrust of his talk established firmly the idea that the American people are prepared to support a strong foreign policy and the American people are also prepared to support an adequate military force to back up such a policy. He then went on to explain how the present negotiations do nothing but limit our strength with no corresponding reductions or even proposed reductions in armaments on the part of the Soviets at all. In fact, the Soviets have used SALT as a basis for increasing their armaments. So, when it is time for us to consider this most important matter we must consider what Paul Nitze told us: "The crucial point is that if one enjoys a clear superiority in this most terrible realm of possible violence, all manner of situations involving lower levels of violence or of pressure are opened up for possible exploitation. It will be dangerous to challenge the Soviet Union militarily in Europe, in the Middle East or Africa, in the Far East, or on the seas, under the threat of escalation to a level of violence where we cannot prudently meet the challenge."

Of course, all of the discussions about adequate military strength run counter to that element in our Government which would prefer to see less defense expenditures for armaments, no matter how substantially they are required, and direct funds instead into social programs. I am always reminded of what British Air Chief Marshall Slessor once said, "It is customary in democratic countries to deplore expenditures on armaments as conflicting with the requirements for social services. There is a tendency to forget that the most important social service that a Government can do for its people is to keep them alive and free."

I think that we in The American Legion are in step with the best thoughts on defense and foreign policy when we agree with Congressman Sam Stratton and The Honorable Paul Nitze—both of whom strongly oppose our Government's pacifistic position on defense and foreign policy.

Many centuries ago, when Rome was resisting the barbarians, the barbarians breached the barricades when it need not have happened. Rome had more forces at the wall, they were better equipped, their method of fighting was more sophisticated, and in every way the victory should have gone to the defenders—the Romans defending the wall. But the barbarians prevailed, and the reason was simple—the Romans had lost their will to fight. The sons of ancient Rome no longer led their legions throughout the world, but relied on others to take their place while they lived in idleness and dissipation in Rome. There are those who think that *we* have lost the will to fight. High levels of our Government in recent years have felt that we are in retreat world-wide and, therefore, our Department of State should negotiate and maneuver at all times, keeping in mind our basic pacifist philosophy and lack of will, the best terms possible.

Let us consider the parade of our defeats in recent decades. We begin with Korea, where we accepted less than complete victory. It went on to Southeast Asia where we were defeated ignominiously. It continued in Angola where we were at best a poor second in the contest. It continued in Panama—yes, Panama—there the barbarians are breaching the barricades, too. And now in Southern Africa the barricades are being breached and we can promise our people nothing but another defeat. Yet we propose to negotiate a SALT agreement which can contribute only to our weakness. And so it goes.

As we stand at the barricades along with Japan, Korea, Formosa, NATO, the Middle East, Pakistan, Iran, and yes, Southern Africa, we must in some way turn around the concept that we are pacifist and will not show the strength necessary for our side to win.

All of this depends basically on strength—a strength that must be preserved. I would like to leave you with two thoughts on the subject. One thought was expressed by General Nathan Twining, then the retiring Chairman of the Joint Chiefs of Staff in September 1960: "The American capability for decisive, war-winning response to any attack must be kept sure whatever the costs. It is the only reliable guarantee of peace. Forces that cannot win will not deter." Another thought was expressed by Dionysius more than 2,300 years ago: "It is a law of nature, common to all mankind, which time shall neither annul nor destroy, that those who have greater strength and power shall bear rule over those who have less."●

HEALTH PROGRAMS AMENDMENTS

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. PICKLE. Mr. Speaker, yesterday the House of Representatives passed H.R. 13817, the Health Programs Amendments Under the Social Security Act. The bill amends provisions to increase nonphysician participation in professional standards review organizations—PSRO's. I supported the bill in committee and on the floor although I raised a strong objection to the bill in committee on the ground that it did not include optometrists on the National PSRO Council nor on the advisory committee to the national council.

It seems to me to be patently unfair that optometrists are subject to review by the PSRO, but have no formal mechanism to make suggestions or have a say in what kind of guidelines might be set. Since optometrists are undoubtedly equally familiar with just what constitutes quality optometric care than are neurologists or obstetricians, dentists or laymen, I think they should be represented on State and national supervisory boards, and it ought to be made clear in this legislation.

I introduced a bill that would have required each independent health care group to evaluate its own specific practices and needs. In addition, since optometry is the third largest independent health care profession in the country, I think one optometrist should be on the national council.

Peer review was the idea behind the Professional Standards Review Organization in the first place. Therefore I would hope that we would soon include optometrists on the council and on Statewide council advisory groups. I am confident, based on conversations with members of the committee, that this is the intent and expectation.●

HAWAII TAPS A VOLCANO FOR POWER

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. HEFTEL. Mr. Speaker, as you know, the development of potential forms of energy is a wide field with even wider implications. Geothermal energy is one example of a source of dependable and unlimited power that can be exploited. Hot water from deep wells, a source of high quality steam heat, has excellent potential for use in the development of energy self-sufficiency as well as for the development of industry. I am pleased to share with you an article from the August 17, 1978, Washington Post describing the initiative developers in Hawaii are taking in the exploitation of this resource.

The article follows:

[From the Washington Post, Aug. 17, 1978]

HAWAII TAPS A VOLCANO FOR POWER

(By Lou Cannon)

KILAUEA, HAWAII.—The volcanoes that created this largest and lushest of the Hawaiian islands and occasionally endanger it now hold the promise of making this tourist-laden state energy self-sufficient and industrialized.

Design work has begun on a $6 million generating plant financed by federal, state and local governments with the assistance of the Hawaiian Electric Co. the pilot plant will be powered by steam from the world's hottest geothermal well.

At the same time, Hawaii is encouraging various consortiums pioneering in the undersea industry of manganese nodule mining to build a refining plant here that will make it economically worthwhile to develop the vast geothermal resources underlying the Kilauea volcano.

"We have a new ball game here," says Hideto Kono, state director of planning and economic development. "Petroleum is no longer a dependable source. Activities will grow in places where there are dependable alternative sources of energy."

The potential "dependable sources" of energy in Hawaii are not limited to geothermal ones alone.

The island of Hawaii already obtains more than a third of its electrical energy from the burning of bagasse, a sugar cane residue that resembles crumpled straw. On the crowded island of Oahu, where most of the state's 800,000 residents live, contracts will be awarded within the next few weeks for the collection of solid waste that will be compacted and used as fuel.

More exotic forms of energy development lie ahead, ranging from eucalyptus tree farms for firewood in the researching of ocean thermal energy to an experimental 16-day energy-generating windmill.

But it is in geothermal energy, where the expected resource is large and the technology well developed, that Hawaii's future seems brightest.

The island of Hawaii, most southern and easterly of the chain that comprises the nation's 50th state, is twice the size of Delaware, rich in volcanoes and sparse in population.

Six years ago the University of Hawaii organized the Hawaii Geothermal Project and after long study drilling commenced on a four-acre site near the town of Pahoa in the eastern rift zone of the Kilauea volcano.

Two years ago the drillers were rewarded with the discovery of an unusually hot well—676 degrees Fahrenheit—at the relatively shallow level of 6,450 feet. The well has been tested periodically since, most recently with 42 days of continuous operation, and has continued to produce high-quality steam. Now, with federal and county assistance, the state has decided to build a three-megawatt pilot generating plant on this site.

Bill H. Chen, the University of Hawaii engineering professor who directs the geothermal project, believes that the intensely hot waters tapped by the well may be part of a vast underground lake that runs from the crater of the volcano to the ocean nearly 40 miles away. The reserves are presently incalculable, but could produce thousands of megawatts of electrical energy.

Development of the geothermal steam is planned in stages. After the pilot plant has been completed and tested in 1980, plans call for construction of a 23 megawatt plant. After that, Kono envisions a 110 megawatt plant that will serve a manganese nodule refinery a decade from now. Ultimately, says Kono, the geothermal well could produce 500 megawatts of electrical energy annually, energy enough to provide power for a city of a half-million for a year.

In terms of energy availability alone this may be severely understating the resource because other volcanoes in Hawaii are thought to possess similar underground reservoirs. But the economics of development are more difficult.

While most regions in the United States are hard-pressed to meet the energy needs of their populations, the big island of Hawaii must find a use for the excess energy it is capable of generating.

Potential uses include development of an energy intensive alumina bauxite refining industry or piping the energy to the Puna Sugar Mill 15 miles away where another federally funded study is trying to determine the feasibility of using geothermal steam in sugar processing.

But the best long-term prospect appears to be the manganese nodule industry, which, because of the huge capital investment needed for deep-sea mining, is expected to locate in countries with stable governments and in states that desire industrial development. Hawaii is strategically located near the richest field of manganese nodules in the Pacific, a band stretching from about 1,000 miles south of the island toward the coast of Baja California.

But in the economic calculus for the project there are many variables, ranging from the world price of petroleum to the now-depressed world price of nickel, one of four minerals extracted from the manganese nodules.

But the biggest variable is the volcano. Because of the same intense volcanic activity that produces the steam, Kilauea holds peril as well as promise for potential developers.

Within sight of the well are two irregularly shaped mounds that were the vents—the places where lava escaped—in a 1955 eruption. From these vents a lifeless river of gray rock now extends to the sea.

The volcano erupted again last year at a site 20 miles away from the well. Because of the volcanic hazards, the Hawaiian Electric Co. is unwilling to participate in extensive commercial development until a costly backup system—which could be activated if the geothermal plant were threatened—is built.

This has led the state and county to think in terms of a government-developed system that would be devoted to industry rather than residential use.

"It's an unacceptable proposition to have your electricity interrupted for a few days at home because of a volcanic eruption," says Chen. "But a large industry could live with this risk if its potential profit is great enough."

Chen believes that a power plant can be located in a relatively safe place and the wells dispersed so that a volcanic eruption would leave most of the system intact.

There appears to be substantial public support for the geothermal plant and accompanying industrialization. Government and private employers here are deluged with job applications, many of them from island residents who have left and want to return.

"People think of Hawaii as grass shacks and hula skirts, and we're responsible for it because we promoted it," says John P. Keppeler, managing director for the county of Hawaii.

"But it isn't an accurate image. We have a skilled labor force here and one that needs work because sugar is depressed, and we have lots of resources. The story up to now has been Oahu and Maui. The story of the next 20 years is going to be development and energy on the big island of Hawaii." ●

STEPHEN PARK, SCHERERVILLE, IND.

HON. ADAM BENJAMIN, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. BENJAMIN. Mr. Speaker, on Sunday, September 17, I was privileged to participate in the dedication of Stephen Park in Schererville, Ind., at the invitation of the Town Trustee Richard Krame and the Park and Recreation Council.

Stephen Park is named after Mathilda Stephen, and her late husband, John, who donated 10 acres and made another 10 acres of land available to the town of Schererville to form a 20 acre park, its largest.

This new park is only one of several new developments on the former 180-acre family farm of the Stephen family. Grimmer and Watson Schools are located in fields the Stephens used to plant corn and beans. The now long-time farm also includes Casa Bella, Spring Hill, Sherwood Forest, and Shady Oaks subdivisions.

In a recent Post Tribune interview in her Shady Oaks home, Mrs. Stephens recalled life on the farm:

"We got up at 5 o'clock every morning, milked the cows and fed the animals. Then at 4 in the afternoon we had to do the milking and feeding all over again," she said.

During the 40 years the Stephens farmed the area, they kept 50 to 60 head of cattle. "We raised corn, oats, sovbeans, and hay," said Mrs. Stephen. "I took care of chickens and turkeys. They were my hobby and my way of raising money."

Mrs. Stephen raised some 500 chickens and 100 turkeys each year and at holiday times had to call on her sisters to help prepare the fowl for customers. (She had plenty of help with eight sisters and two brothers.)

Born a Schumacher, she grow up in her parent's home in Schererville. The late Mr. Stephen also lived in Schererville all his life.

John and Mathilda were married on October 24, 1916, in St. Michael Catholic Church where they celebrated their golden wedding anniversary in 1966.

They had four children, nine grandchildren and seven great-grandchildren. John died in 1974, shortly before their 58th anniversary. The beautiful family was introduced by Assistant Lake Schools Superintendent Fred Jones, a family member.

John was well-known in the area for his concertina playing. He was in demand for weddings and square dances, and he performed regularly at the Halfway House between Crown Point and Cedar Lake, Ind.

"Many times," his wife recalls, "we would stay out dancing so late that when we got home it was almost time to milk the cows."

Mrs. Stephen's talent is displayed in the rugs she knitted and crocheted to decorate her home and won prizes at the Lake County Fair.

She also had a way with flowers, filling her garden every year with roses, peonies, dahlias, and cannas.

"They used to call me the Flower Lady," she said. Although she no longer gardens, Mrs. Stephens still uses her knitting needles with samples of this summer's handiwork evident throughout her home.

Feeding the threshing crew was a highlight of a farm wife's year, she recalled during the interview. All the farmers in the area would work together threshing, filling silos, shredding corn, and storing fodder while their wives cooked a feast.

The big meal was served at noon with an entire table covered with food. Usually the men ate so much they had to take a nap before heading back into the fields. By suppertime the men's appetites had returned for the lighter community meal shared then.

Mr. and Mrs. Stephen retired in 1960 and their son, John, took over the farm, raising grain for a decade after the cattle were sold. Meanwhile, his parents began selling off parcels of their land with the first 10 acres going to the developer of Sherwood Forest which has become the town's largest subdivision.

John and Mathilda Stephen contributed substantially to the development of Northwest Indiana and the expanding Schererville Community. Their work and dedication exemplify the lost American tradition—to give a perpetual and thoughtful gift to the community in which they raised their family, shared their friends and made their living.

This Sunday, September 22d, Mathilda will celebrate her 80th birthday. Because of her contribution to America, her love of mankind and her vivacious personality which brings out the best in those around her—I know that my colleagues join me in wishing Tillie a most joyous and healthy 80th birthday and many more in the years to come.●

CARTER'S HUMAN RIGHTS POLICY—A STUDY IN INCONSISTENCY

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. GOODLING. Mr. Speaker, from its very beginning the Carter administration has made human rights an integral part of its foreign policy. Seemingly rejecting the quiet diplomacy of the Kissinger years, the administration has publicly denounced foreign powers for their treatment of individuals and acted to restrict trade, loans, and financial aid and every sort of American favor to states that violate basic human rights. According to a State Department spokesman, "(the administration has) sought to move human rights concerns from the periphery to the center of diplomatic discourse."

But as many of my colleagues have pointed out in the past, the execution of this policy has been inconsistent. I rise today to join those voices that ask the administration to reexamine its foreign policy and, in particular, one of its most important components—human rights. Why have I come to this conclusion?

I should like to begin my explanation by bringing to my colleagues' attention what can only be considered a startling example of how this human rights policy has, through its cynical and inconsistent application, caused an injustice to a domestic industry, injured an ally struggling against civil disorder, and called into question our own dedication to human rights.

Some months ago, the Allis-Chalmers hydro-turbine division, which is located in my district, was informed that the Export-Import Bank had denied issuance of a letter of interest to Argentina. This financing was needed so that Argentina could buy 20 hydro-turbines from Allis-Chalmers that would be used to increase their production of electricity. The Department of State recommended to the Export-Import Bank that it not proceed with the transaction because of the human rights situation in Argentina. As a result of this recommendation the Export-Import Bank told Argentina—"Sorry, no deal." I am sure this is a familiar story to many of my colleagues, who have had constituent interests adversary affected by the application of human rights criteria in foreign trade matters decisions.

But what is so startling about this Allis-Chalmers case, and perhaps others as well, is that the decision the Export-Import Bank made in consultation with the Department of State is in direct contradiction to the letter and spirit of the law under which it was made.

The Export-Import Bank Act of 1945, as amended, stipulates that the Bank "shall also take into account, in consultation with the Secretary of State, the observance of and respect for human rights in the country to receive the exports supported by a loan or financial guarantee and the effect such exports may have on human rights in such country." So, the Bank must take into account not only the general atmosphere of human affairs in the country in question, but also the nature of the products to be exported and their effect on human rights. This amendment has two obvious and interrelated purposes, first, to interject into America's international financial dealings the Carter administration's concern for human rights and second, to require that the nature of the products themselves be considered so as to avoid irrational restrictions on trade. We should not, for example, fail to send baby food to a Third World nation because they do not afford due process of law to criminals.

Now this understanding of the law is reflected time and again by State Department officials. In testimony before a subcommittee of the House Banking, Finance and Urban Affairs Committee, Deputy Assistant Secretary of State, Mark L. Schneider, a key human rights watchdog, echoes the full intention of this amendment of the Export-Import Bank Act:

> When reviewing U.S. economic instruments, including bank loans, the Interagency Group examines the human rights situation in the country including trends in the situation . . . and the nature of assistance (i.e. to what extent it meets basic human needs).

Clearly then, when considering the Allis-Chalmers sale, the Export-Import Bank and Department of State are obligated to weigh the effect hydroturbines will have on human rights and to what extent they may help meet or fail to meet basic human needs.

In this context it is useful to note some of the factors the Carter administration takes into consideration when formulating its foreign policy vis-a-vis a particular country. According to spokesman Mark Schneider, human rights include, among other things, "the right to such vital needs as food, shelter, health care and education."

Leaving aside the question of the validity of this understanding of "rights," we must now ask these questions: Does not the production of electricity quite clearly impact upon the basic human rights conditions the President's foreign policy seeks to improve? Can a nation really supply the vital needs of food, shelter, health care, and education without electricity?

But if the State Department and Export-Import Bank are following the law, then they must have concluded that the Allis-Chalmers sale of hydroturbines to Argentina will have an adverse effect on human rights. The law implicity dictates that a connection be found between the products sold and the effect of those products on human rights and human needs. We have seen a linkage between hydroturbines and human needs in Argentina but can the Export-Import Bank and the State Department demonstrate that this equipment will have an adverse effect upon the human rights situation in Argentina? Of course they cannot. In State Department's explanation to me of the loan denial no connection was even hinted at. So why has the loan been denied?

Because of this irrational application of the law, 1,000 workers in the Allis-Chalmers hydroturbine division will be adversely effected, the Argentinians may turn elsewhere for their hydropower needs, perhaps even to the Soviets, and our whole policy on human rights is seen to be foolish.

If this were not enough, allow me to startle you again with yet another strange execution of foreign policy with regard to Argentina.

On August 31, the International Relations Committee received a 30-day notice of proposed issuance of an export license involving the sale of two CH47C helicopters to Argentina. According to the notice, "The helicopters are to be used for logistic support purposes by the Argentinian Army." I understand that they are to be unarmed and unarmored and I congratulate the State Department on its decision because these helicopters are to be used for air-sea rescue. But what I would like to know is: Why helicopters and not hydroturbines? It should be noted that—even though consideration of these two sales took place under differing legislative and administrative procedures—the same human rights questions had to be confronted by the same interagency group before one sale could be denied and the other approved. In fact, in its letter of transmittal to our International Relations Committee regarding these helicopters, the Department of State explicity stated that human rights had been taken into consideration in granting the license. Again I must ask: Why helicopters and not hydroturbines?

I think the Department of State must explain several things. Is there a connection between the sale of hydroturbines and President Videla's ability to deny human rights? If there is no connection, how do you square the Export-Import Bank loan denial with the legal obligations set forth in the Export-Import Bank Act of 1945? If the human rights situation in Argentina is looked upon with such favor that we can now sell them helicopters, why does the Department of State condemn the sale of hydroturbines?

Mr. Speaker, what I am bringing to your attention today only skims the surface of what has become a cynical, confused and counter-productive human rights policy—a policy that cannot even be applied consistently within a given country. One can only imagine what a nightmare we would find if we examined this policy on a global basis.

Finally, all of this suggests a broader question. Are we not doing a disservice to our true dedication to human dignity by playing fast and loose with the law, not to mention common sense? How can we defend, without a blush, our sale of sophisticated drilling equipment to the Soviets, so that they may increase their crucial oil reserves, while simultaneously denying a better electrical system to impoverished and embattled Argentinians? In effect, the administration is telling the world that they believe the Soviets, who deny liberty as a fundamental principle of their regime, have a better record on human rights than the Argentinians.

Against this backdrop, Mr. Speaker, it is imperative that the administration begin immediately to review a policy that is seriously undermining this Nation's ability to conduct an effective foreign policy. Moreover, its continuance along current lines will call into question our own dedication to human rights as it is sure to create the impression that the United States espouses a human rights policy predicated not on principle but expediency.●

WON PAT LAUDS PRESIDENT CARTER

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. WON PAT. Mr. Speaker, as a member of the House Armed Services Committee I am as deeply committed to peace as I am to insuring that no nation possess the military might to subjugate this country.

In recent years our attention has been centered on the increasingly hostile mood surrounding the Middle East. There were times when we wondered if Israel would ever be at peace with its Arab neighbors.

Today, thanks to the genius and boundless energy of President Jimmy Carter, peace in the Middle East is closer to being a reality than anyone would have dared to guess only 30 days ago. Peace is at hand because of the vision of one man, President Carter, and the devotion to the cause of peace by President Sadat of Egypt and Prime Minister Begin of Israel.

I doubt that no one is more surprised at the rapid turn of events than are these two leaders of great, but warring nations. President Sadat, in particular, must be deeply pleased that the historic peace initiative which he led in January of this year has a new lease on life.

Without question, peace will not be easy. These two countries and their Arab neighbors have much to resolve. Longstanding questions of deep sensitivity must be dealt with before we can expect lasting peace.

The ultimate peace, however, can only come in the hearts and minds of the people themselves. In the short time that has passed since President Carter returned from Camp David, we have seen some criticize the agreement Mr. Carter brought about. I pray that those who see nothing but gloom seek to view the world through the eyes of President Carter who knows that nothing is impossible if we really wish it to be so.

Mr. Speaker, the people of this Nation have long waited for peace in the Middle East. The history of American efforts toward this goal is long and proud. But nothing we have ever done can match the marathon session President Carter just held with Messrs. Begin and Sadat at Camp David. It was readily apparent from the beginning almost 2 weeks ago that Mr. Carter was going to do his level best to bring these two leaders to the point of peace.

And today, he has carried out his mission to an extent none could have foreseen. All parties to the meetings deserve credit for their willingness to negotiate. But no one is more responsible for the final outcome than is Jimmy Carter. Almost alone, he has accomplished the impossible. He has brought the Middle East—and perhaps the world—from the brink of world war to the brink of peace. Nothing he will do in his Presidency may ever be so well remembered as the meetings at Camp David.

I salute President Carter for his remarkable achievements. Truly, we and all of the world are fortunate that this great man is in a position to make his vision of peace ours as well. Thank you.●

TRIBUTE TO FRANK DEXTER LANTERMAN

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. MOORHEAD of California. Mr. Speaker, I would like to take this moment to honor a man who has been one of a rare breed in American politics. I offer this commendation with a sense of honor and ease because few men deserve praise and acclaim more than Frank Dexter Lanterman.

Frank Lanterman is retiring from the California Assembly after 28 distinguished, colorful, successful and grandly entertaining years. During his career, Frank devoted himself to the public good with uncommon vigor and verve. He had a flair for enlightened banter that was unequalled. His sense of whimsey and humor made him a legend with his friends, colleagues and constituents.

I know this to be a fact because I have been an admiring acquaintance for nearly a generation and a warm friend for more than a decade. It would be impossible in a short space to describe Frank the man, or to give him the credit he so unquestionably deserves.

In the eulogies which have followed his retirement, he has been described as an "acknowledged champion of independent higher education," a "benefactor of the handicapped," and an "ever-vigilant representative of the taxpayers."

He has been fondly dubbed the "grand old man of the Assembly" and with scant exaggeration, he has been called "the last of the near-heroic figures."

The adjectives used to describe Frank have been venerable, sage, avuncular, astute, puckish and many others. But while it is easy to put an adjective on Frank, it is difficult to tag him with a political label.

In the realm of monetary affairs, he has been resolute in his fidelity to fiscal sanity. He has been indomitable in his pursuit of sound and sensible tax policies in State government.

Few men have had Frank's mastery of the arcane world of ways and means. And fewer still possess his ability for instant and accurate recall of salient and germane facts and figures.

There has been no accounting of the dollars Frank Lanterman has saved California taxpayers during his nearly three decades of stewardship and diligent overseeing of the treasury. Suffice it to say, it has been considerable.

But as noteworthy as have been Frank's efforts on behalf of fiscal responsibility, his labors for the betterment of the handicapped have been even more meritorious, even more praiseworthy.

In California, he is the man most responsible for ending the custodial warehousing of mentally ill persons in State hospitals; for reintroducing civil liberties in the involuntary commitment process; and for providing community-based, inpatient treatment for persons with mental disorders.

He is the principal architect of the Lanterman-Petris-Short Act, which establishes and governs California's community mental health programs. This act has been singled out as one of the outstanding mental health programs in the Nation and has been used as a guide in many other States.

He is also the author of the Lanterman Development Disabilities Act, which emphasizes community care and provides a wide array of service alternatives for parents of developmentally disabled children.

His contributions go on and on. Because of these gifts of service, labor and love, the added joys and comforts which have come to his benefactors have been immeasurable. So too, I am certain is their gratitude.

I, too, am grateful for all the time he has devoted to the public good, for his hours of service to others, for his rare and restorative wit, for his unique and delightful panache and for his warm, expanding and instructive friendship.

Frank Lanterman is the quintessential public office holder. He has provided an example we all would do well to study, to grow from and to emulate.

His life and career have enriched the lives of many people, including mine. For this I am extremely thankful.●

BUDGET BALANCING MADE EASY

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. WHITEHURST. Mr. Speaker, recently I received a letter from a good friend and constituent of mine, Mr. William B. Copeland of Norfolk, Va. With his letter, he enclosed a copy of the editorial which appeared in the Friday, September 1, 1978, edition of the Wall Street Journal.

Because I think that the points raised in the letter and the editorial deserve serious consideration, I am placing both of them in the RECORD at this point:

WILLIAM B. COPELAND,
Norfolk, Va., September 4, 1978.

Congressman G. WILLIAM WHITEHURST,
House Office Building,
Washington, D.C.

DEAR BILL: I hope you didn't miss the Wall Street editorial on the Budget, last Friday. Just in case you might have I am enclosing a copy.

I am taking the liberty of sending a copy of this letter and a copy of the editorial to each of your colleagues in the House. I am also sending copies to each member of the Senate.

Unless some conscientious National Representatives face up to our mounting fiscal crisis our whole economy is "going down the drain."

Sincerely,

BILL.

[From the Wall Street Journal, Sept. 1, 1978]

BUDGET BALANCING MADE EASY

When you ask around Washington why Congress doesn't stop inflation by cutting federal spending, you are apt to hear a lot of defeatist talk about "uncontrollable" items and the like.

This, of course, is utter nonsense. Every dollar of the $500 billion the federal government spends is controllable. Indeed, Congress is charged explicitly by the Constitution with controlling the budget. What people really mean when they say "uncontrollable" is that Congress has made promises to a lot of people and finds it politically inconvenient to withdraw them.

Hence, we have chronic high inflation, public confidence in Congress is at a dangerously low ebb, and there is a strong grassroots movement to take matters out of the hands of Congressmen. In 22 states, the legislatures have passed resolutions calling for a constiutional convention for the purpose of making a balanced federal budget a constitutional requirement. If 34 states so vote, the Constitution requires Congress to call such a convention.

We're not saying that such a historic event will happen, but if it should it would be a colossal vote of no confidence in the United States Congress. The people would be saying that they have finally decided that Congress can't be trusted with money.

To avoid such disgrace, we would urge congress to adopt its own version of zero-base budgeting. Instead of asking where to cut spending, it should start asking what federal spending is of any value to the nation. It's surprising how simple the problem then becomes.

Of major federal activities, national defense and foreign policy seem to us to be the only truly essential ones. The private sector or state and local government could do others, in many cases far more economically. Indeed Washington became the great expansionary colossus it is today, most such activities—welfare, education, transportation, etc.—were so conducted, with generally favorable results.

For the sake of argument, however, we will add several other things the federal government can perhaps justify, even if it doesn't always do them well. Social Security in its simplest form, as an income transfer to the aged and before it became an uncontrollable grab bag, had merit. The federal government also has had good success in supporting broad research—in agriculture, medicine, nuclear development, space exploration and the like. It probably would be imprudent to tinker with that. We would also not deny Washington the task of gathering national statistics. And a case can be made for a Federal Reserve System, although England fared quite nicely for centuries with a private central bank.

Beyond that, the marginal utility of Washington drops sharply. With a few exceptions, such as food inspection and the air safety operations of the Federal Aviation Administration, we doubt that the public would notice the demise of most federal regulatory agencies, except through price declines and an abundance of lawyers looking for jobs. There would be a sharp and sudden tax saving from shutting down the Department of Energy and the Department of Agriculture and transferring any useful research they do to some department for general research that would also take in NASA, etc.

At the Department of Transportation, Amtrak and Conrail should be auctioned to the highest bidders, who would then retain only those parts that have genuine usefulness. There would be huge tax savings. Urban transit should be left up to the cities, where it belongs, forcing them to find efficient means of moving commuters. Similarly, public housing can be safely left to the cities and states, which are in a better position than Washington to measure true needs.

With the cuts we have in mind, we could imagine a federal budget somewhere close to half the size of the present budget. That would leave room for a sharp cut in taxes, some of which would make room for states to finance a loss of grants from Washington. There would also be room in that budget cut to reduce the federal debt, all of which would lower inflation and interest rates generally and certainly reverse the alarming rise in interest costs the federal government pays.

What we've sketched here will be regarded in Washington as an end-of-summer's dream, ignorant of the political realities of the Potomac, where the combined lobbies of special interests protect all the domains we have so casually demolished. We would not deny it. Similarly, the possibility of that constitutional convention looks pretty remote, too, at the moment. But strange things are happening. A few years ago, who would have dreamed that a curmudgeon named Howard Jarvis would turn the whole state of California on its ear? We're simply offering our advice early, in case it's needed in a hurry.●

A TRIBUTE TO JOHN McCRAW

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Ms. MIKULSKI. Mr. Speaker, on September 1, Maryland lost a truly outstanding citizen. John McCraw, who had lived in Baltimore since 1925, was known not only as a professional musician, but also as a dedicated and gifted recreation leader. The outstanding part about these accomplishments is the fact that John lost his sight at the age of 10.

After attending the Maryland School for the Blind, John graduated from Morgan State College in Baltimore, with a B.S. in education. All during this time, John devoted much of his energy to music and learning to play the piano. Since 1944 John has worked as a professional musician, besides which, he has taught travel training, worked as a medical transcriber, and taught in the public school system as a substitute teacher.

When John was elected to a position on the National Federation of the Blind Executive Committee in July 1977, there was no question in anyone's mind that he should have the job. He had long been a favorite with those in the movement who know him, and he was the president of one of the most rapidly growing affiliates in the federation—the NFB of Maryland.

John McCraw worked during the day as a recreationist for the city of Baltimore. A few years ago an article about John appeared in a recreation journal. The following are excerpts from that article:

> John T. McCraw is unique to recreation, . . . he is the only blind recreationist working in Baltimore City. Hundreds of children know "Mr. John " as the "big man" who plays the piano, conducts physical exercise, teaches games, and accompanies them on trips. Handicapped adults look forward to talk sessions with John; retarded teens and adults look to him for fun and counsel and sing and dance to his music. Handicapped seniors relate to his dignity, gentleness and humor.

As a recreation director and musician, John had two careers. But the federation was as much a career as either the State NFB affiliate or his executive committee membership. Besides these many activities, John was also chairman of the Board of Blind Industries and Services of Maryland; chairman of the board of Constant Care Community Health Center; member of the Board of Library for the Blind and Physically Handicapped; and member of the board of the mayor's Media for the Handicapped.

John will be frequently thought of for the major contributions that he made to so many of our lives. All of those who knew John, wish his family strength during this difficult time.●

THE SEVENTH ANNUAL NATIONAL HUNTING AND FISHING DAY

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. SIKES. Mr. Speaker, on Saturday, September 23, the nation's sportsman and conservationists will participate in the seventh annual observance of National Hunting and Fishing Day, first celebrated in 1962 following unanimous passage of a House resolution which I was proud to sponsor along with many of my colleagues.

National Hunting and Fishing Day has been requested by Congress or authorized by the President every year since and has quickly grown into one of the Nation's most meaningful and effective conservation programs.

National Hunting and Fishing Day has been very popular with the American people. This event has significant meaning to the more than 55 million hunters and fishermen who have contributed so greatly to conservation and the improvement of outdoor recreation in this country.

Each year National Hunting and Fishing Day has been an outstanding success in hundreds of programs held at State fairs, schools, military installations, shopping centers, and many other facilities. The idea has also spread to Europe and South America. Since its initial observance in 1972 which involved 4 million people, NHF Day has grown tremendously. It is difficult to put into words the many exciting aspects and accomplishments of the most recent NHF Day observances. However, in trying to assess the overall impact and effectiveness of National Hunting and Fishing Day. it is clear that the day has done more to promote the sporstman's role in conservation and to insure a healthy future for the hunting and fishing sports than any other program in existence. Also, NHF Day has made major progress in its attempt to involve all Americans in the effort to conserve this Nation's wildlife and wild places. The day has served to show millions of Americans the differences between conservation—the wise use of natural resources—and preservation—the total nonuse of resources.

On National Hunting and Fishing Day this year, as in past years, thousands of American sportsmen, through their clubs and organizations and through individual effort, will work to explain the sportsmen's role in conservation and to enlist public support for conservation activities. Through films and lectures at sportsmen's clubs and with displays and demonstrations at shopping centers and other public areas, sportsmen will work through the framework of the National Hunting and Fishing Day to spread the conservation message to all Americans.

The National, State, and local significance of these activities has been underscored by the unanimous endorsement of our 50 Governors and proclamations by more than 500 mayors and local officials.

Several years ago, a prominent outdoor magazine labeled National Hunting and Fishing Day as our "newest sporting tradition"—as much a part of the outdoor scene as sunrise in a duck blind or opening day on a favorite trout stream. As we approach September 23, 1978, and the seventh annual observance of National Hunting and Fishing Day, it becomes clear that our "newest" sporting tradition has scored well in the proverbial test of time and has graduated from the "newest" to the greatest and most meaningful activities in the history of the hunting and fishing sports.

I am pleased to have had a role in National Hunting and Fishing Day and want to again congratulate the Nation's sportsmen for their historic role in conservation. I am sure their good work will be continued and I urge my colleagues to join me in supporting their efforts.●

THE CASE FOR IAN SMITH'S RHODESIA PLAN

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. McDONALD. Mr. Speaker, few persons in this city have suffered more indignities, slings, and arrows than Mr. Ken Towsey has in the many years he has directed the Rhodesian Information Office. Harassed in every possible way by the executive branch of our Government, he has steadfastly kept to his job, under almost impossible conditions, trying to pierce the marshmallow curtain of our Department of State and liberal press establishment which sees, hears, and prints nothing about the Rhodesian side of the question. Therefore, I was pleased when the Washington Star lifted this curtain and permitted Mr. Towsey to place an article in the Sunday edition espousing the view of Rhodesian Government. The article follows:

[From the Washington Star, Sept. 17, 1978]

THE CASE FOR IAN SMITH'S RHODESIA PLAN

(By Kenneth Towsey)

Rhodesia brings out some serious cases of moral astigmatism. It is naive to suppose, as some do, that the conflict in Rhodesia is between an artful white contrivance and what has archly been called "authentic" black majority rule. The conflict is essentially between democracy and totalitarianism.

There is nothing remotely fraudulent, as some people suggest, about Rhodesia's constitutional agreement of last March. It was freely negotiated between Mr. Smith, accepting the principle of majority rule, and the leaders of three major black political parties, acknowledging for their part the need to provide special safeguards to preserve white confidence in a dramatic shift of political power.

The need to preserve the confidence of whites is not arguable in view of the immense contribution they have made and can continue to make to Rhodesia's economic prosperity. Certainly the necessity was fully endorsed by the black contracting parties to the March agreement.

One of the ways in which this has been done is to give whites for a limited period 28 seats in a legislature of 100, but without power to join with any other minority group to form a government. The temporary overrepresentation of ethnic minorities has been a feature of a number of constitutions (e.g. Kenya, Tanzania and Zambia), bridging the transition from colonialism to sovereign independence.

The American constitution itself departs from the principle of a strict equality of voting power for reasons which the Founding Fathers deemed sensible. They gave every state two senators regardless of population, and thus it is possible for 70 million citizens represented by 51 senators to frustrate the will of 130 million citizens represented by 49 senators. I do not believe that too many Americans lie awake at night worrying about the inequity of this arrangement. A foreigner might well be forgiven for thinking it was none of his business.

It is patently absurd to pretend, as some do, that the constitutional safeguards which will protect Rhodesia's judiciary and her civil and armed services from political manipulation are devices to perpetuate white political control. The protected agencies are the machinery of government with no political will of their own. The levers of control will be in the hands of black politicians once the new constitution becomes operative.

Ministers of the elected government will be more fortunate than the inheritors of power in previous colonial situations because they will have at their service efficient administrative machinery. When the old colonial regimes were liquidated most of the public servants packed their bags and went home. In Rhodesia, public servants go home every night, and this is one of the reasons why Rhodesia (doubtless transmuted into Zimbabwe) will begin its new life with infinitely better prospects of viability than most of its African neighbors—always supposing the West is willing to give it a chance.

To define the conflict, there is on the one hand an agreement, negotiated between disparate political forces with powerful popular support, that is working towards a multiracial, multi-party democracy based on free elections and a constitutional bill of rights. On the other hand there is a loose political alliance, one of whose leaders, Robert Mugabe, makes no secret of the fact that his preferred Zimbabwe will be a Marxist, one-party state in which elections would be a luxury. The other leader, Joshua Nkomo, is ideologically more reticent but heavily indebted to the Soviets for support.

They both seek, from separate bases in Mozambique and Zambia, to establish their ascendancy by force of arms. To this end they have between them, over the last six years, killed more than 2,000 black and 200 white civilians.

The World Council of Churches recently rewarded them with a grant of $85,000. To date the beneficiaries of this largesse, apart from their broader depredations, have butchered 37 missionaries and members of mission families. Their most recent exploit was to shoot down a Rhodesian civil aircraft with a Soviet surface-to-air missile, and to massacre most of the survivors, including two children aged 4 and 11, with automatic rifle fire. It was "an outrage that stinks in the nostrils of heaven," said the Anglican dean of Salisbury at a memorial service for the dead. It was also an outrage that elicited no word of condemnation from official London or Washington.

To suggest, as some do, that the perpetrators of this and other atrocities represent the authentic voice of black Rhodesia is to reject most of the evidence on who supports whom on the Rhodesian scene. But why not let the matter be judged at the polls?

The leaders of the Patriotic Front are as welcome as the leaders within the Transitional Government to test their popularity at internationally observed elections now being organized in terms of the agreement of last March. Nkomo and Mugabe will be required to put their (Russian) guns away, but that does not seem to be an unreasonable condition of participation if we are looking for an unintimidated popular choice, and one hopes we are.

To assert, as some do, that the internal settlement is a failure is not so much a criticism as an admission of guilt. At this stage the settlement is neither a success nor a failure. It is an uncompleted enterprise

That it is having difficulties is undeniable. The difficulties primarily arise from the relatively poor response to the ceasefire-cum-amnesty appeal issued by the Transitional Government some months ago. The reasons for this are not far to seek, and these reasons have precious little to do with any alleged deficiencies in the constitutional agreement.

First, the men with the guns live in an environment which does not embrace the concept of amnesty, and they are deeply suspicious of the consequences of responding to the offer. Second, they perceive that the West continues to offer hostility, in the form of economic warfare, to the government in Salisbury (talk of neutrality is hokum) whilst the Patriotic Front receives unlimited and unrestrained support from the Soviets. In these circumstances a prudent man is careful about burning boats. Third, the discouragement offered to prospective defectors by a ruthless leadership is terribly compelling.

Notwithstanding these considerations there have developed in certain areas local arrangements negotiated between security force commanders and guerrilla commanders whereby an armed truce is respected on both sides. It is to be hoped these arrangements can multiply and develop into a permanent peace.

It is, of course, within the capacity of the West to encourage this process by offering something more supportive than the back of its hand to the government in Salisbury, and by discouraging neighbor states from fomenting armed aggression across Rhodesia's borders. If the West remains hostile to the democratic forces in Salisbury, and if it declines to use its very considerable leverage to restrain the militancy (including the terror tactics) of the totalitarian forces, the conflict will continue unabated. Bitter and angry Rhodesian blacks and whites will not submit to domination by forces that are ideologically repugnant to them.

A solution of the Rhodesian problem will remain elusive until the West makes it abundantly clear to the totalitarian forces and their sponsors that they will not be permitted to shoot their way into power. There is no evidence that the West is doing anything of the kind.

A decent concern on the part of the West for human rights, in the shape of the lives of innocent black and white Rhodesians, and for democratic principle, in the shape of free elections being recognized as the basis of political authority, is something that is long overdue.●

NATIONAL PORT WEEK

HON. LEO C. ZEFERETTI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. ZEFERETTI. Mr. Speaker, I am pleased to announce that Sunday, September 17 marked the beginning of "National Port Week." Earlier this year, myself and several other members of the House cosponsored a joint resolution that sets aside the week of September 17 to recognize and honor our Nation's ports. Throughout history, our great ocean and inland ports have provided the facilities necessary for sustained economic stimulation, stabilization and expansion. The diligent efforts and cooperation of Federal, State and local governments and private industry have led to the development of our Nation's proud port tradition.

Aside from insuring economic prosperity through efficient international and domestic commerce, our ports have given us our American heritage, and have served as the focal point of our national defense. Today our Port Caucus, with 120 distinguished members, strives to guarantee the safety and vitality of America's ports, connecting waterways, and maritime workers.

As a representative from Brooklyn, I have witnessed the development of the port of New York City, one of the world's finest natural harbors, as it has contributed to meeting the needs of our international and domestic commerce. New York City harbor and its connecting waterways are but one link in a transcontinental system that encompasses a vast network of urban centers of trade, finance, culture and defense. Thus, it is with great pride that I join together with my colleagues in Government and my friends in industry to salute our port communities, which have made us the world's greatest trading nation.●

ENERGY AND ENVIRONMENTAL PROBLEMS

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. AMBRO. Mr. Speaker, I would like to express my admiration for the work done by Mr. BEVILL and the Public Works Subcommittee on the fiscal year 1979 public works appropriations. As always, the long hours spent by the subcommittee and its excellent staff are reflected in a balanced, carefully considered bill.

I was especially pleased to see the foresight shown in addressing environmental research and development programs within the Department of Energy. Included within that funding package is money directed to the computer science and mathematics program at the Lawrence Berkeley Laboratory.

The CSAM group at LBL has an impressive history of system development in computer graphics and information analysis. They have actively adapted to the needs of nontechnical users, and they have done an excellent job. As their approach to computerized information analysis receives increased attention in the future, I am confident that a much greater understanding of energy and environmental problems will be the result. I am equally sure that the CSAM group will be viewed as an essential contributor to the entire field as it develops.

It is my understanding that in fiscal year 1979 approximately $500,000 in operating and $350,000 in capital equipment money are required. To date, the Department of Energy has agreed to provide at least $180,000 in operating expenses money and a minimum of $350,000 in capital equipment funds. Congressional action provides the additional $320,000 in operating funds necessary to maintain this program at a satisfactory level in anticipation of the massive influx of 1980 census data. The program, then, will be receiving $500,000 minimum in operating expenses and $350,000 in capital equipment funds from the Department of Energy in fiscal year 1979.●

INDUSTRY'S ASSAULT ON WORKPLACE SAFETY

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. MAGUIRE. Mr. Speaker, this morning I read an excellent analysis by Colman McCarthy in the Washington Post of what I believe is an unsettling trend of some thinking today: the belief that regulations designed to protect the lives, health and livelihood of American workers are unnecessary or incompatible with the economic interests of business, or both.

Such important OSHA regulations as the proposed cotton dust and berylium standards have even come under attack from such prominent administration figures as James Schlesinger, Charles Schultz, Barry Bosworth and others who, under the rubric of a rather narrowly calculated cost-effectiveness, argue that we cannot afford to keep our workers healthy by protecting them as fully from hazard as our technological ability might permit and our medical knowledge might suggest.

That is nonsense. Moreover, we will save money in the long run by investing in a cleaner, healthier environment now. Those who argue otherwise cannot see the forest for the trees.

I wish to call to my colleagues' attention the Colman McCarthy article which properly focuses on the legal and moral rights of workers, as well as the needs and obligations of business, from the Washington Post, September 19, 1978.

INDUSTRY'S ASSAULT ON WORKPLACE SAFETY

Two voices are talking to America's 90 million workers about health and safety. One is the government's, backed by a growing coalition of labor unions intent on securing the most crucial fringe benefit of all: a safe workplace.

The other belongs to those employers who have persuaded a few of their conservative friends in Congress that both small and big business are being unjustly pestered by regulation-happy bureaucrats snooping into the shops and factories. Weaken the Occupational Safety and Health Act, they demand. Get the feds off our back.

If a third voice is heard, it is the muffled cry of the worker himself, who knows bitterly that the violence of occupational death, disease and injury is staggering. Federal officials estimate an annual 390,000 cases of occupational disease, 2.2 million disabling injuries and as many as 100,000 deaths.

Last week, the government was heard from again when Joseph Califano, secretary of health, education and welfare, reported findings that at least 20 percent of future cancer cases will be work related. The study confirmed what public-interest organizations like the Health Research Group have been warning for years, and what even the Department of Labor has recognized for some time.

Instead of being able to deal with the urgency of warding off workplace death and disease, federal officials have been forced to ward off industry assault on the law and the Occupational Safety and Health Administration. Earlier this year, when the agency issued a few mild proposals to limit the exposure of workers to cancer-causing chemicals, it was pounced upon by an industry group.

"There is no cancer epidemic as implied by OSHA," said the American Industrial Health Council. After pressing the shopworn line that uncounted billions will be needed for compliance, the council argued that "socially acceptable risk is the only practical answer to dealing with this problem."

If argued that way—as a matter of profits and freedom from regulatory hassle—then it is easy enough to ignore the findings that 67,000 workers will die annually from exposure to asbestos. But if seen as the sweatshops of the 19th century becoming the cancer shops of the 20th, then talk of "socially acceptable risk" becomes the crudest mask for institutional violence.

The urgency now is to shift the discussion back to where it belongs—a question of the legal and moral rights of workers. Disasters in such high-risk industries as construction, petrochemicals, transportation and manufacturing regularly produce day-after headlines. Butt months or years after, when dry-prose federal reports are issued on the safety violations that caused the tragedies, little notice is taken. We have a high consciousness of the problem as the bodies are removed from the exploded grain elevator or collapsed scaffolding but low consciousness about preventing deaths the next time somewhere else.

Shifting the discussion back to the essentials that led to the 1970 safety law will be arduous work. Efforts to weaken OSHA and its enforcement methods—such as they are—are constant. This past year, Congress has stagnated in a debate about legislation to exempt from OSHA's power most employers with 10 or fewer workers, as well as other businesses. That would mean an exemption of nearly 3 million workplaces, or almost 70 percent of the sites now covered by the law.

The bother of this debate has meant that more crucial questions of ethics have been necessarily put aside: What is the moral obligation of an employer whose worker comes down with work-related cancer? What is socially acceptable risk when what is gambled is the health of the worker next to the coke oven and not of the owner in the boardroom? What is owed a family left fatherless because of a preventable factory accident? How long can a firm be allowed to do business if its safety record is poor? How much profit should be devoted to industrial hygiene?

Here and there, a few companies are voluntarily performing death-defying acts of courage by investing extra sums in health and safety. But not enough have come forward. As a result, instead of a philosophy of prevention of accidents and disease we have a tactic of prevention of safety: block OSHA, demoralize the worker, weaken the law.●

APPOINTMENT OF COL. MARY AGNES HALLAREN TO BRIGADIER GENERAL

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Ms. MIKULSKI. Mr. Speaker, today I am introducing a private bill to authorize the appointment of Col. Mary Agnes Hallaren, U.S. Army, retired, to the grade of brigadier general on the retired list of the U.S. Army.

I have chosen this time because on September 21, Mary A. Hallaren will retire from her third career, executive director of Women in Community Services, Inc. (WICS). WICS is a voluntary coalition of Church Women United, the National Councils of Catholic, Jewish, and Negro Women, plus the American GI Forum. This coalition serves young women living in poverty through a contract with the National Job Corps.

This is the same Mary A. Hallaren (colonel, U.S. Army, retired) whose military career started in July 1942 when she was selected for the first officers candidate class of the newly formed Women's Auxiliary Army Corps at Fort Des Moines, Iowa.

She was Director of the Women's Army Corps from May 7, 1947, to January 3, 1953, the longest term of any Director WAC. It was largely because of her vision, courage, and dedicated leadership that the WAC became a permanent part of the Regular Army and Reserve on June 12, 1948.

Yet she was denied the rank of brigadier general because of a law that restricted the promotion of women beyond the rank of colonel. In fact, at that time in our history, the only woman who could receive the rank of colonel was the Director WAC. This law, which blatantly discriminated against women, was changed by Public Law 90–130. Unfortunately the law was passed too late to benefit Mary Hallaren. As I continue to recount her splendid career, I know that you will agree that this injustice should be corrected. My bill will not cost the taxpayers any money because I am not asking for back pay or other benefits. I am asking only for the change in rank. I think that it is a matter of simple justice to give this outstanding woman proper acknowledgement for her achievement during her military career.

Long before she became Director WAC, Mary Hallaren had shown signs of leadership and fearlessness. In 1942, she was appointed commanding officer of the First WAAC Separate Battalion, which underwent extensive overseas training in the United States, and in July 1943 arrived in Scotland under command of Capt. Mary A. Hallaren, the first WAAC battalion to serve in the European Theater of Operations in World War II. Following her tour as Director WAC, Colonel Hallaren served in the Heaquarters of the European Command and the Office of the Secretary of Defense until her retirement in June 1960.

One of the most respected leaders of the Women's Army Corps, 5-foot-high Colonel Hallaren is known to the Army as the Little Colonel, formerly Captain Peewee. She is also one of the most decorated members of the WAC, having been awarded the Legion of Merit with two Oak Leaf Clusters; the Bronze Star Medal with one Cluster; the French Croix de Guerre avec l'Etoile de Vermeil; and the Legion d'Honneur.

A native of Lowell, Mass., and educated in the parochial and public schools there, Miss Hallaren started her first career as a teacher in the elementary and junior high schools of Lowell and Lexington. She learned to pilot an airplane from a group of men she had joined, who purchased a small private hedgehopper, but her 5-foot torso gave her such a hard time reaching the pedals, that she was forced to design a makeshift platform to cover the gap. One of her great regrets is that her diminutive height prevented her from qualifying to fly an Army plane.

If Mary Hallaren had been born a man, her military career would not have been limited. At this stage in our history when we are all striving to insure that all citizens receive equal treatment under the law, this gesture of bestowing the rank of brigadier general on Mary Hallaren is certainly a simple and just step. I hope my colleagues will support me in this effort.

BIOGRAPHICAL DATA ON MARY A. HALLAREN

Date and Place of Birth: 4 May 1907. Lowell, Massachusetts.

Education: Lowell State Teachers' College (Teaching Certificate); George Washington University (AB Degree); Boston University, Harvard Graduate School.

Career: Present Position: Executive Director, Women In Community Service, Inc. February 1965–.

Civilian: Teacher, Elementary and Junior High School (15 years) Special Work: Remedial Reading.

Volunteer, worked with underprivileged families, contacts through schools (tutoring, etc.).

Lecturer, re walking tours in United States, Alaska, Canada, Europe, Near East, Latin and South America.

Military: August 1942, graduated from first Officer Candidate School, Fort Des Moines, Iowa.

PROMOTIONS

29 August 1942, Second Lieutenant.

7 May 1947, Colonel, Director, Women's Army Corps.

Assignments (Administrator, Advisor, Director).—

October 1942, Commander, First WAC Separate Battalion.

July 1943, WAC Staff Advisor, Strategic Air Force, England, France, Germany ('43–45).

July 1945, WAC Staff Advisor, European Theatre of Operations.

June 1946, Deputy Director, Women's Army Corps.

May 1947, Director, Women's Army Corps.

May 1953, J–1, Hq., U.S. European Command, Indigenous Labor Agreements w/ NATO Countries, U.S. Dependent Schools, Europe.

May 1957–60, Office of Secretary of Defense (MP&R).

CITATIONS/DECORATIONS

Bronze Star Medal, Legion of Merit, Croix de Guerre avec l'Etoile de Vermeil, Oak Leaf Cluster to Legion of Merit, Commendation Medal, Commendation Medal with Medal Pendant (Oak Leaf Cluster), Second Oak Leaf Cluster to Legion of Merit, WAAC Service Medal, EAME Campaign Medal, Legion d'Honneur.●

SENATE—*Wednesday, September 20, 1978*

(Legislative day of Wednesday, August 16, 1978)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT C. BYRD, a Senator from the State of West Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal God, most high, in whose word it is written, "They that wait upon the Lord shall renew their strength," we pause to worship Thee not only in words and outward ceremony, but in the depths of our spirit and in truth. The toil and thought of daily life leave us little time to think of Thee, yet hour after hour we are aware that Thou dost not forsake us. We have only one offering to make—ourselves, our souls, our minds, and our bodies in Thy service. Come upon us afresh as we seek to serve the Nation and the world. Renew us within until all thought grows reverent, all work is hallowed, and faith reconsecrates all common things as sacraments of love.

We pray in the name of the Great Redeemer. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 20, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KANEASTER HODGES, JR., a Senator from the State of Arkansas, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. HODGES thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

Mr. ROBERT C. BYRD. I yield to the distinguished minority whip.

THE JOURNAL

Mr. STEVENS. Mr. President, I ask unanimous consent that the Journal of the proceedings to date be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

U.S. COMMITMENTS IN THE MIDDLE EAST

Mr. STEVENS. Mr. President, I have just made a statement to the press, and I wish to put it in the RECORD so there is no misunderstanding about it.

Following the meeting that President Sadat had with the Foreign Relations Committee yesterday, which was attended by many Members of the Senate, I had the impression that President Sadat was very much concerned about the future role of Egypt in terms of the problems that are developing in the emerging states of Africa. The President repeatedly indicated that he thought that the United States should provide backing to his efforts to maintain stability in those areas, and I was left with the question, as I came back to the Senate floor from that meeting, as to whether there had been any commitments made by the administration to President Sadat which concerned, not the accords with Israel, but the role that Egypt will play in providing assistance to these emerging nations which wish to maintain an independent course, away from the expanding influence of the U.S.S.R.

I do not know of any such commitments, but I feel that it is incumbent upon us to ask the question as to whether there were any. I do believe that in relationship to the Camp David accords—a great victory for President Carter and the result of a tremendous effort on his part—we ought to know whether any peripheral agreements or commitments have been made to either side with regard to the discussions that were held at Camp David, that did not involve Egypt-Israel relations.

I thank the majority leader for yielding to me.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Alabama (Mr. SPARKMAN), the chairman of the Committee on Foreign Relations, has two conference reports. I yield to him for that purpose.

INTERNATIONAL DEVELOPMENT AND FOOD ASSISTANCE ACT OF 1978—CONFERENCE REPORT

Mr. SPARKMAN. Mr. President, I submit a report of the committee of conference on H.R. 12222 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12222) to amend the Foreign Assistance Act of 1961 to authorize development and economic assistance programs for fiscal year 1979, to make certain changes in the authorities of that Act and the Agricultural Trade Development and Assistance Act of 1954, to improve the coordination and administration of United States development-related policies and programs, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 7, 1978.)

Mr. SPARKMAN. Mr. President, the conference report and accompanying statement provide a detailed explanation of the recommendations of the Committee of Conference. At this time, I will highlight briefly the most important provisions of the conference report.

This legislation includes authorization for fiscal year 1979 appropriations of $1.795 billion for development assistance, international disaster assistance, and contributions to international organizations. This authorization is approximately an even split between the amount authorized by the House bill and the Senate amendment. The total in the bill is $43.5 million less than the amount requested by the President.

By adopting a modified version of the Senate amendment reducing the total amount authorized in the bill by 5 percent, with the exception of funds authorized for the American schools and hospitals abroad program, the committee of conference reduced the total amount authorized in the bill by approximately $93 million.

Although the total of the authorizations included in this conference report is below the President's request, I believe that full appropriation of these authorizations will provide an adequate level of funding for development assistance programs in fiscal year 1979.

Mr. President, since the passage of the New Directions legislation several years ago, our development aid programs have been focused on assistance to the poor

majority of people in developing countries. The International Development Assistance Act of 1978 continues that emphasis. In addition, this legislation provides a long overdue clarification of the objectives of U.S. development assistance programs. Section 101 states:

United States development cooperation policy should emphasize four principal goals:

(1) the alleviation of the worst physical manifestations of poverty among the world's poor majority;

(2) the promotion of conditions enabling developing countries to achieve self-sustaining economic growth with equitable distribution of benefits;

(3) the encouragement of development processes in which individual civil and economic rights are respected and enhanced; and

(4) the integration of the developing countries into an open and equitable international economic system.

The adoption of this revised statement of policy and objectives, along with the clarification of other provisions, the deletion of obsolete provisions and the consolidation of existing reporting requirements, provide an updated, more easily administered Foreign Assistance Act.

Mr. President, the principal policy issues resolved in the conference are as follows:

The committee of conference adopted a compromise provision on population and health assistance which emphasizes the continuing role and responsibility of AID as the primary source of U.S. health assistance to developing countries. This same provision continued the existing prohibition against using funds authorized in this bill to pay for the performance of abortions.

The House provision encouraging the President to use not less than $1.5 million of development assistance funds to encourage or promote increased adherence to civil and political rights was adopted.

The Senate position continuing the American schools and hospitals abroad program was sustained over House language which would have restricted this assistance to no more than four institutions in the same country during any fiscal year, excluding any institutions receiving assistance as of September 30, 1978.

The Senate amendment prohibiting assistance to Vietnam, Cambodia, Uganda, or Cuba was adopted instead of the House version which prohibited direct or indirect assistance. Although the House version would have affected U.S. contributions to international organizations and programs authorized by this legislation, the Senate provision does not.

The Senate position concerning the inclusion of authorizations for the economic support fund in the International Security Assistance Act of 1978 as opposed to the inclusion of the ESF in this legislation was adopted.

Mr. President, this conference report represents a fair and sound compromise between the positions of the House and Senate. By adopting the best provisions of both bills, we have been able to improve on the work of both Houses.

I believe that the conference report deserves the support of the Senate, and I urge its passage.

● Mr. JAVITS. Mr. President, the distinguished chairman of the Committee on Foreign Relations (Mr. SPARKMAN) has given an excellent account of the conference report on the International Development Assistance Act of 1978. I agree with my friend and colleague that this conference report represents a fair and sound compromise between the positions of the House and Senate and is most deserving of our support.

Mr. President, at this juncture I would like to make some general observations concerning this conference report. On January 25 of this year, I joined with a number of my colleagues as a cosponsor of S. 2420, the International Development Cooperation Act of 1978, which reflected the concerns and the desires of our beloved colleague, the late Hubert H. Humphrey.

At the time we introduced S. 2420, I noted that this bill was an important step in modernizing and providing for closer coordination within the U.S. Government in the formulation and delivery of the various U.S. foreign assistance programs.

In addition, I pointed out the bill recognized that economic growth in the developing countries was an important and primary interest of the United States because of the benefits that accrue not only to the developing countries but also to the United States and the other industrialized countries. Economic growth in the Third World will provide the industrialized countries with the expanding markets that the present international economy so urgently requires in order to bring a stable world economic position and to avoid continued confrontation in the trade and monetary fields.

And finally, I said the bill recognized that important economic and technological changes have made for an interdependent world to which private as well as the governmental channels of assistance were relevant.

Unfortunately, due to the prolonged debate over the Panama Canal Treaties, the committee did not have the time to devote to studying the implications of the various organizational issues raised by S. 2420. However, I hope that we will address these questions in the new session of Congress which convenes this January.

Mr. President, despite the time constraints imposed upon us by the Panama Canal treaties debate, significant initiatives in S. 2420 were, nevertheless, incorporated into the International Development and Food Assistance Act of 1978. A number of policy statements which more sharply define the various activities of our bilateral aid program were added to H.R. 12222.

I am gratified that the Senate and House conferees agreed to keep my amendment dealing with the relatively least developed countries (RLDC's) in the final bill.

I believe that the amendment dealing with the RLDC's is an important step in meeting the need of the least developed countries for debt relief. The amendment specifically earmarks, in the first instance, that the funds be converted into local currency to be used for development projects determined jointly by the beneficiary government and the United States.

This amendment will represent a clear signal of the U.S. intention to help those countries whose economies need all the external assistance possible and to seek also to help themselves. Their condition has been exacerbated especially by the fivefold increase in the price of oil by the OPEC cartel, which has eaten away at their already scant resources.

Furthermore, I would like to stress that the amendment dealing with the relatively least developed countries is an important political step for the United States. It will remove from the current North-South debate a contentious issue which has been viewed by many of these relatively least developed countries as an important constraint on their economic growth. In including this language, we will be joining other industrialized countries in forgiving the official debts of these, the poorest countries.

The Senate and House conferees also agreed to a new title III of the Foreign Assistance Act. This title spells out congressional concerns regarding the coordination and administration of development-related programs and policies of the United States. I believe title III is an important policy directive from the Congress and embodies one of the central concerns of S. 2420. Effective coordination of our development programs with the overall formulation and implementation of U.S. foreign economic policy should be a priority concern of our Government. It is my hope that the executive branch will understand the need for strengthened coordination of the development-related programs and policies of the United States.●

I move the adoption of the conference report.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the conference report.

The report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. SPARKMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FOREIGN RELATIONS AUTHORIZATIONS ACT, 1979—CONFERENCE REPORT

Mr. SPARKMAN. Mr. President, I submit a report of the committee of conference on H.R. 12598 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12598) to authorize appropriations for fiscal year 1979 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, to make changes in the laws relating to those agencies, to make changes in the Foreign Service personnel system, to establish policies and responsibilities with respect to science, technology, and American diplomacy, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 6, 1978.)

Mr. SPARKMAN. Mr. President, the conference report on H.R. 12598, the Foreign Relations Authorization Act for fiscal year 1979, provides a detailed explanation of the recommendations of the committee of conference. Because these recommendations closely parallel the legislation passed by the Senate, I will not take up the Senate's time with a detailed discussion of that bill.

The primary purpose of the legislation is to authorize fiscal year 1979 appropriations for the State Department, the International Communications Agency, and the Board for International Broadcasting. Concerning these budgetary amounts, I ask unanimous consent to have printed in the RECORD a table comparing the executive branch requests in the various authorization categories, the amounts approved by the House, the Senate amendments to those figures and the final conference agreement.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

BUDGET ISSUES—FISCAL YEAR 1979

[In thousands of dollars]

	Executive branch request	House bill	Senate amendment	Conference
Department of State:				
Administration of foreign affairs	$830,143	$849,139	$835,143	$849,118
International organizations and conferences	412,781	412,781	450,261	412,826
International commissions	19,973	20,773	20,773	20,773
Migration and refugee assistance	56,336	91,336	116,536	116,536
Subtotal, Department of State	1,319,233	1,374,029	1,422,713	1,399,253
International Communication Agency	413,327	417,327	423,577	420,577
Board for International Broadcasting	85,180	88,180	88,180	88,180
Commission on Security and Cooperation in Europe	0	200	0	200
International Tin Agreement	60,000	60,000	60,000	60,000
Commission on Hunger and Malnutrition	0	0	1,500	1,500
Return of the "Guernica" to Spain	0	0	500	0
Total	1,877,740	1,939,736	1,936,470	1,969,710

Mr. SPARKMAN. The overall figure approved by the conference committee is slightly larger than that approved by the Senate. The increase is the result of additional costs caused by:

First, the need to strengthen visa processing in connection with the President's undocumented alien program;

Second, the funding of expenses involved with the U.N. Conference on Science and Technology;

Third, the need to strengthen the Department of State's ability to apply science and technology to foreign policy;

Fourth, increased rental acquisitions;

Fifth, increased language training;

Sixth, the need to strengthen the legal staff of the Consular Bureau;

Seventh, the need to regulate the employment status of seasonal employees of the Passport Office; and

Eighth, the need to increase the annual authorization of the Commission on Security and Cooperation in Europe.

Concerning the nonbudgetary or policy amendments, a number of which were significant, I believe the conference was reasonably successful from the Senate perspective. Many of the provisions in the Senate-passed version have been retained with little or no revision. Included among those provisions are strong policy statements on:

First, the Cuban presence in Africa;

Second, atrocities in Cambodia and Uganda;

Third, the World Alternative Energy Conference;

Fourth, prospective bilateral United States-Canadian negotiations on air quality standards;

Fifth, the establishment of a Commission on Hunger and Malnutrition;

Sixth, the negotiation of an international agreement with respect to the safe use of nuclear-powered satellites;

Seventh, the review of discriminatory trade practices;

Eighth, the establishment of an International Food Reserve;

Ninth, actions necessary to support international journalistic freedom; and

Tenth, actions needed to protect certain marine resources. Thus, in both its policy and budgetary provisions, H.R. 12598 contains a significant portion of the bill which passed the Senate.

Mr. President, I ask unanimous consent that a statement that has been prepared by Senator MCGOVERN be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STATEMENT BY SENATOR MCGOVERN

I believe that in the Committee of Conference on this bill a very fair compromise was achieved by the conferees. The Senate version of the bill contained a considerable number of amendments which had been added by the Foreign Relations Committee and by Floor action. Most of these provisions have been retained in the version agreed to by the Committee of Conference and I therefore find the conference report to represent a very satisfactory outcome from the Senate point of view.

I believe that the legislative history must be especially clear regarding two provisions of this conference report.

The first relates to implementation of the Panama Canal Treaties. The House version raised an extremely serious constitutional question. It prohibited implementation of the Panama Canal Treaties until such implementation was authorized by an act of Congress—in effect, nullifying the Senate's approval of those treaties and requiring their reapproval by both Houses of Congress.

I need not point out that that is not precisely the scheme contemplated by our Constitution. It has long been established that certain provisions of treaties may be self-executing—that is, they may become law of the land in the United States without the enactment of implementing legislation. While the Panama Canal Treaties contain a number of non-self-executing provisions—which will require the enactment of implementing legislation—the treaties also contain a number of self-executing provisions, such as those authorizing the transfer of property. But the House version, by refusing to recognize that fact, suggested that the Senate's approval of these treaties was somehow less than legally sufficient. It represented, in reality, an attempted incursion on the constitutional role of the Senate in the treaty-making process, and it was thus firmly and unequivocally rejected by the Senate conferees.

As a result, the corresponding provision appearing in the conference report, although its language may appear similar, is in fact completely different. It does not require reapproval of the treaties by the Congress. Instead, it permits implementation of the treaties to the full extent provided for by the Constitution, which clearly authorizes the implementation of the self-executing provisions. The treaties, having been ratified, are the supreme law of the land. The President is authorized by the Constitution—indeed directed—to "take care that the laws be faithfully executed." Thus the President has full authority under the Constitution to plan and prepare for implementation of the Treaties prior to their entry into force.

In sum, as modified by the conference committee, the provision in question now bears no resemblance to the provision which originally appeared in the House bill. It has no operative legal effect and its presence in this legislation must not be allowed to cause confusion either in the executive branch or in the Government of Panama.

The second provision of the conference report in which the legislative history must be clear is the amendment relating to the "third agency rule." As the joint statement of the managers notes, the amendment was

dropped in conference only because it was deemed unnecessary—section 15(b) of the Basic Authority of the Department of State already requires so-called "third agency" information to be transmitted to the foreign affairs committees when a request is made under that section. The procedure described in the joint statement does not derogate from that requirement; it does not in any way imply a right to refuse to transmit "third-agency" information. Simply put, the law continues to require the department or agency to which the request is made to transmit the requested information regardless of the source of that information and regardless of whether that source may object.

Finally, I refer to a number of provisions in this conference report which strengthen the "Case Act," the law requiring the transmission to Congress of all international agreements. I believe that two items of correspondence will be of interest to the Senate in connection with these new amendments. The first is a response to a letter Senator Sparkman wrote to Secretary Vance recently asking that he set forth the criteria applied by the Department of State in determining whether a given arrangement constitutes an international agreement within the meaning of the Case Act. I ask that the response by the Chairman be entered at this point in the RECORD.

The material follows:

DEPARTMENT OF STATE,
Washington, D.C., June 23, 1978.

Hon. JOHN SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN: The Secretary has asked me to reply to your letter of June 7 concerning the criteria applied by the Department of State in determining whether a given arrangement constitutes an international agreement within the meaning of the Case Act.

I have enclosed a copy of a statement issued in March, 1976 by the Legal Adviser to key personnel in the Department and sent to all diplomatic posts. This statement lists and discusses the several criteria applied by the Department in making determinations pursuant to the Case Act. In addition, I have enclosed a letter from the Acting Secretary of State in September, 1973, which is relevant to this problem.

Both of these documents were published by the Congressional Research Service of the Library of Congress in its study entitled "International Agreements: An Analysis of Executive Regulations and Practices" (Committee Print, 95th Congress, 1st Session, March, 1977, pp. 49–62), prepared for the use of the Senate Committee on Foreign Relations.

If you have further questions on this matter, you may wish to contact Mr. Arthur W. Rovine, in the Office of the Legal Adviser, on 632–1074.

Sincerely,

DOUGLAS J. BENNET, Jr.,
Assistant Secretary for Congressional Relations.

Enclosures: 1. Criteria Statement, March, 1976. 2. Letter from Acting Secretary, September, 1973.

DEPARTMENT OF STATE,
THE LEGAL ADVISER,
March 12, 1976.

To Key Department Personnel.
From L.—Monroe Leigh.
Subject: Case Act Procedures and Department of State Criteria for Deciding What Constitutes an International Agreement.

On February 20, 1976, the Comptroller General issued a Report on U.S. Agreements with the Republic of Korea which stated that certain agencies of the Government have not been submitting to the State Department or the Congress all agency-level agreements which they have concluded. The Report states that some agencies have apparently interpreted agreements concluded by agency personnel or agreements of a subordinate or implementing character to be outside the reporting requirements of the Case Act (P.L. 92–403, 1 U.S.C. 112b). The Case Act requires that all international agreements other than treaties be submitted by the Department of State to the Congress no later than 60 days after their entry into force.

The GAO Report called for "clarification of the reporting requirements and improved controls over the reporting of agreements." The Report listed 34 Korean agreements concluded after passage of the Case Act but never submitted by the agencies involved to the Department of State for transmittal to the Congress.

This Report by the GAO, in addition to legislative proposals now before the Congress calling for Congressional authority to disapprove executive agreements, has raised the question of how the Department of State Legal Adviser decides what constitutes an international agreement within the meaning of the Case Act and of the law requiring publication of international agreements (1 U.S.C. 112a).

The following discussion should be brought immediately to the attention of all personnel with responsibilities for the negotiation and conclusion of international agreements, implementing or operating agreements, or government level agreements.

A. It is essential that all international agreements concluded by any officer or representative of the U.S. Government be transmitted to the Assistant Legal Adviser for Treaty Affairs no later than 20 days after entry into force. Most agreements enter into force upon signature. The 20-day limit must be met if the Department is to meet its obligations to process and transmit the agreements to Congress no later than 60 days after entry into force in accordance with the Case Act.

B. Whenever a question arises whether any document or set of documents, including an exchange of diplomatic notes or of correspondence, constitutes an international agreement within the meaning of the Case Act, the documents must be sent for decision to the Assistant Legal Adviser for Treaty Affairs. See also 11 FAM 723.6 and 723.7.

C. The following statement is designed to provide basic guidance with respect to the criteria applied by the Legal Adviser in deciding what constitutes an international agreement. While difficult judgments will have to be made in many cases, it is hoped that the principles set forth below will permit officers in the field to focus on the right questions, and to know when there is an issue for which further guidance from the Department should be sought.

For purposes of implementing legal requirements with respect to publication of international agreements and transmittal of international agreements to Congress, the Legal Adviser applies the following criteria in deciding what constitutes an international agreement:

1. Intention of the parties to be bound in international law;
2. Significance of the arrangement;
3. Requisite specificity, including objective criteria for determining enforceability;
4. The necessity for two or more parties to the arrangement;
5. Form.

1. Intention of the parties to be bound in international law.

The central requirement is that the parties intend their undertaking to be of legal, and not merely political or personal, effect. Documents intended to have political or moral weight, but not intended to be legally binding, are not international agreements. An example is the Final Act of the Helsinki Conference on Cooperation and Security in Europe.

In addition, the agreement must be governed by international law. Most instruments are silent as to governing law, but the intent is normally to seek guidance from rules of international law when questions arise with respect to interpretation or application. However, if the agreement specifies another legal system as entirely governing interpretation or application, we do not consider the arrangement to be a true international agreement. An example of the latter is a foreign military sales contract governed in its entirety by the law of the District of Columbia.

2. Significance of the arrangement.

It is our interpretation of sections 112a and 112b that minor or trivial undertakings, even if couched in legal language and form, do not constitute international agreements. Significance of the obligations undertaken is cited in the House Report on the Case Act (House Rept. 92–1301) as a relevant variable in deciding whether a particular document is an international agreement under the Act. Senator Case himself excluded "trivia" from the coverage of the Act (Hearings on S. 596, October 21, 1971, p. 65).

We have not developed detailed guidelines to assist in deciding what level of significance must be reached before a particular arrangement becomes an international agreement. This must remain a matter of judgment, taking into account the entire context of the particular transaction. It is frequently a matter of degree. For example, a promise to sell one map to a foreign nation is not an international agreement; a promise to sell one million maps probably is an international agreement. At what point between one and one million the transaction turned into an agreement is difficult to say.

The attached letter from Acting Secretary of State Kenneth Rush in September, 1973, to all Government departments and agencies addresses itself to this problem. It requires agencies to transmit to the Department for possible transmittal to the Congress "any agreements of political significance, any that involve a substantial grant of funds, any involving loans by the United States or credits payable to the United States, any that constitute a commitment of funds that extends beyond a fiscal year or would be a basis for requesting new appropriations, and any of that involve continuing or substantial cooperation in the conduct of a particular program or activity, such as scientific, technical, or other cooperation, including the exchange or receipt of information and its treatment."

3. Requisite specificity, including objective criteria for determining enforceability.

International agreements require a certain precision and specificity setting forth the legally binding undertakings of the parties. Many international diplomatic undertakings are couched in legal terms, but are unenforceable promises because there are no objective criteria for determining enforceability of such undertakings. For example, a promise "to help develop a more viable world economic system" lacks the specificity essential to the constitute a legally binding international agreement. At the same time, undertakings as general as those of Articles 55 and 56 of the U.N. Charter have been held to create internationally

binding obligations (though not self-executing ones).

4. The necessity for two or more parties to the arrangement.

While unilateral commitments on occasion may be legally binding and may be significant in international relations, they do not constitute international agreements. For example, a promise by the President to send money to Country Y to help earthquake victims, but without any obligation whatever on the part of Country Y, would be a gift and not an international agreement. It might be an important undertaking, but not all undertakings in international relations are in the form of treaties or executive agreements. There may be a difficult question whether a particular undertaking is truly unilateral in nature, or is part of a larger bilateral or multilateral set of undertakings. Parallel "unilateral" undertakings by two or more states may constitute an international agreement.

5. Form.

While form as such is not normally an important factor in the law of treaties and international agreements, it does deserve some weight. Documents which do not follow the customary form for international agreements, as to matters such as style, final clauses, signatures, entry into force dates, etc., may or may not be international agreements under the law. Failure to use the customary form may on occasion constitute evidence of a lack of intent to be legally bound by the arrangement. On the other hand, if the general content and context reveals an intention to enter into a legally binding relationship, the lack of proper form will not be decisive.

Two types of international arrangements which frequently cause difficulty in this context are agency-to-agency agreements and implementing agreements.

a. Agency-to-Agency Agreements.

Despite variations in prior practice, it is currently our position that agency level agreements are international agreements for purposes of publication and transmittal to the Congress if they meet the above criteria. The fact that an agreement is signed by a particular department or agency of the United States Government, is not determinative. Agencies can and do bind the U.S. Government in international law, and it is questionable whether any Government agency has a separate legal personality. What is important is the substance of the agreement. This is of particular current significance since many departments and agencies are now signing international agreements in their own name. The Rush letter was designed to ensure that the Department is made aware of these agreements in a timely fashion and is placed in a position to transmit them to the Congress, if in its view it is required to do so by the Case Act.

b. Implementing Agreements.

Implementing agreements present still more complicated problems. Assuming that an implementing agreement meets the criteria specified above, the question then becomes how precisely it is anticipated and identified in the underlying agreement it is designed to implement. For example, suppose the underlying agreement calls for the sale by the United States of 1000 tractors, and a subsequent implementing agreement requires a first installment on this obligation by the sale of 100 tractors of the Brand X variety.

In that case, the implementing agreement, is sufficiently identified in the underlying agreement, and would not be subject to the requirements of sections 112a and 112b. However, if the underlying agreement is general in nature, and the implementing agreement meets the specified criteria, it might well be subject to sections 112a and 112b. For example, if the "umbrella" agreement calls for the conclusion of "agreements for agricultural assistance," but without further specificity, then a particular agricultural assistance agreement subsequently concluded in "implementation" of that obligation, provided it meets the specified criteria, would constitute an international agreement independent of the "umbrella" agreement. It would be an "implementing agreement," but nevertheless subject to publication and Case Act requirements.

D. All officers who have not done so should familiarize themselves with the provisions of the Circular 175 Procedure, which sets forth detailed guidelines and information on Department procedures in the negotiation, signature, publication, and registration of treaties and other international agreements of the United States. The Circular 175 Procedure is found at Volume 11 of the Foreign Affairs Manual, Section 700.

Enclosures: 1. The Case Act. 2. Rush letter.

[Public Law 92–403, 92nd Congress, S. 596
August 22, 1972]

An act to require that international agreements other than treaties, hereafter entered into by the United States, be transmitted to the Congress within sixty days after the execution thereof.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 1, United States Code, is amended by inserting after section 112a the following new section:

"§ 112b. United States international agreements; transmission to Congress

"The Secretary of State shall transmit to the Congress the text of any international agreement, other than a treaty, to which the United States is a party as soon as practicable after such agreement has entered into force with respect to the United States but in no event later than sixty days thereafter. However, any such agreement the immediate public disclosure of which would, in the opinion of the President, be prejudicial to the national security of the United States shall not be so transmitted to the Congress but shall be transmitted to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives under an appropriate injunction of secrecy to be removed only upon due notice from the President."

SEC. 2. The analysis of chapter 2 of title 1, United States Code, is amended by inserting immediately between items 112a and 113 the following:

"112b. United States international agreement; transmission to Congress."

Approved August 22, 1972.

DEPARTMENT OF STATE,
Washington, September 6, 1973.

Dear Sir: I want to invite your personal attention to the problem of ensuring that all international agreements to which the United States becomes a party are cleared, prior to conclusion, with the Department of State and are submitted; after conclusion, by the Department of State to the Congress, as required by the Case Act (Public Law 92–403; 1 USC 112b). Although cooperation by the various executive departments and agencies has, in general, been most gratifying, there remain difficulties, particularly in achieving mutual understanding of the types of agreements covered by the applicable law and in assuring sufficient awareness by officers and employees of the implications for the operations of their department or agency. It may well be that a combination of new regulations and broad educational efforts within each affected department and agency will suffice to eliminate these difficulties, and I hope you will ensure that the necessary action is taken within your jurisdiction.

A recent Report by the Comptroller General, "U.S. Agreements with and Assistance to Free World Forces in Southeast Asia Show Need for Improved Reporting," B–159451, April 24, 1973, has recommended that the Congress consider legislation requiring that the Secretary of State submit annually to the Congress a list of all such subordinate and implementing agreements made involving substantial amounts of U.S. funds or other tangible assistance, together with estimates of the amounts of such funds or other assistance. I believe that such legislation should be unnecessary. Certainly it is preferable to bring about full cooperation through our own efforts.

On August 15, 1973 the Department of State published in the Federal Register a Public Notice inviting comment on a proposed revision of its Circular 175 Procedure, and related procedures, regarding the authorization, negotiation and conclusion of treaties and other international agreements (38 Fed. Reg. 22084). We would appreciate the opportunity to discuss with you any particular questions or problems that you may have regarding the application of that procedure, which we hope will provide a satisfactory basis for instructions within each of the departments and agencies concerned.

In connection, I would also note that neither the form in which an agreement is expressed nor the fact that an agreement is of a subordinate or implementing character in itself removes the agreement from the requirements of the Case Act or of the law regarding the publication of international agreements (1 U.S.C. 112a). The determination whether an instrument or a series of instruments constitutes an international agreement that is required to be transmitted to the Congress and to be published is based upon the substance of that agreement, not upon its form or its character as a principal agreement or as a subordinate or implementing agreement.

As the subject matter of our international agreements is, in general, as broad as the scope of our foreign relations, it is not practicable to enumerate every type of agreement which the Department of State should receive from the other executive departments and agencies. However, it seems clear that texts should be transmitted to the Department of State of the agreements referred to in the recommendations of the Comptroller General and of any agreements of political significance, any that involve a substantial grant of funds, any involving loans by the United States or credits payable to the United States, any that constitute a commitment of funds that extends beyond a fiscal year or would be a basis for requesting new appropriations, and any that involve continuing or substantial cooperation in the conduct of a particular program or activity, such as scientific, or other cooperation, including the exchange or receipt of information and its treatment. In general, the instruments transmitted to the Congress pursuant to the Case Act, and those published (other than those classified under E. O. 11652), should reflect the full extent of obligations undertaken by the United States and of rights to which it is entitled pursuant to instruments executed on its behalf.

The fact that an agency reports fully on its activities to a given Committee or Committees of Congress, including a discussion of agreements it has entered into, does not

exempt the agreement concluded by such agency from transmission to the Congress by the Department of State under the Case Act.

In the event of a question whether any particular document or series of documents constitutes an international agreement, inquiry may be made of the Assistant Legal Adviser for Treaty Affairs in the Department of State, telephone 632-1074. We look forward to your continued cooperation in ensuring compliance with these requirements.

Sincerely,

KENNETH RUSH,
Acting Secretary.

The second correspondence concerns how the State Department's criteria applied to the declaration issued in Bonn on July 17 after the Economic Summit Meeting. I ask that there appear in the RECORD at this point an August 14 response by the Assistant Secretary for Congressional Relations to a July 27 letter to the Secretary asking the Department's views on this question.

The material follows:

DEPARTMENT OF STATE,
Washington, D.C., August 14, 1978.

Hon. JOHN SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate

DEAR MR. CHAIRMAN: The Secretary has asked that I reply to your letter of July 27 requesting the Department's views on the legal significance of the declaration issued in Bonn on July 17 after the economic summit meeting. You have also asked for our opinion on the circumstances under which such a declaration would be considered legally binding.

While the declaration issued in Bonn is an important political commitment, it is not an international agreement within the meaning of United States law or international law since the parties did not evidence an intent to be legally bound. There is no indication of intention to depart from the established international practice of concluding non-binding communiques at the conclusion of a summit meeting. Accordingly, while we expect that the Bonn summit participants will comply with the accord, it is not a legally binding commitment.

The circumstances under which such a declaration would be considered legally binding will depend on the specific facts involved as measured against such criteria as intention of the parties to be bound in international law; significance of the arrangement; requisite specificity, including objective criteria for determining enforceability; the necessity for two or more parties to the arrangement; and the form of the document. I am enclosing a copy of a department memorandum which discusses each of these criteria in more detail.

Sincerely,

DOUGLAS J. BENNET, Jr.,
Assistant Secretary for Congressional Relations.

Enclosures: As stated.

JULY 27, 1978.

Hon. CYRUS R. VANCE,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: The purpose of this letter is to request the views of the Department regarding the legal significance of the declaration issued in Bonn on July 17 at the end of the two-day economic summit meeting.

The United States, in this declaration, appears to enter into broad international commitments. According to the version which appeared in the July 18 *New York Times*, the United States pledges that "by year's end, measures will be in effect that will result in oil savings of approximately 2.5 million barrels per day by 1985. In order to achieve these goals, the United States will establish a strategic oil reserve of one billion barrels. It will increase coal production by two-thirds, it will maintain the ratio between growth and gross national product and growth and energy demand at or below 0.8 and its oil consumption will grow more slowly than energy consumption."

One could conceivably construe this language, on its face, to be legally binding, although I understand that this was intended to be merely a statement of policy rather than an obligatory international agreement. Would you please inform the Committee of the Department's position concerning the legal status of this declaration? Also, please provide the Committee with the Department's views on the general subject of whether, and under what circumstances, such a declaration would be considered legally binding.

Sincerely,

JOHN SPARKMAN,
Chairman.

● Mr. PELL. Mr. President, I fully endorse this conference report and urge its adoption by the Senate.

In order that the legislative history of section 402, special allowances, may be complete I request that my exchange of letters with the Department of State concerning this section be inserted in the RECORD at this point.

The letters follow:

COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., August 16, 1978.

Mr. BEN H. READ,
Deputy Undersecretary of State for Management, Washington, D.C.

DEAR BEN: This will confirm our oral agreement regarding the proposal that you raised in your letter of July 28.

In return for your support for a substitute for Section 413 of the House version of the FY 1979 Foreign Relations Authorization bill (H.R. 12598), I agreed to support Section 408 of the House bill. The substitute for Section 413, which was agreed to by the conferees, deleted the repeal of that portion of my amendment to the FY 1978 authorization bill prohibiting overtime pay, leaving only the repeal of my amendment's provision for a compensatory $250 per annum pay increase for all Foreign Service officers of classes 8–5.

Section 408, also agreed to by the conferees, authorizes the Secretary to pay a special allowance to Foreign Service officers "who are required because of the nature of their assignments to perform additional work on a regular basis in substantial excess of normal requirements." With regard to the statement in paragraph two of your letter of July 28 as to how this allowance would be administered, I agreed to everything except the key last sentence and proposed a modified version, which you accepted, which will be incorporated into the Statement of Managers as follows:

"The Managers have agreed (a) that in applying the authority granted in Section 408, the Secretary of State should ensure that no officer working in the immediate office of a Principal Officer of the Department of State, i.e., persons paid at Executive Levels I, II, or III, would benefit from the special allowance; and (b) that the grades of the positions eligible for consideration for the special allowance should be limited to grades FSO–8 through 4."

With every good wish.

Every sincerely,

CLAIBORNE PELL.

DEPUTY UNDER SECRETARY OF STATE
FOR MANAGEMENT,
Washington, D.C., July 28, 1978.

Hon. CLAIBORNE PELL,
United States Senate.

DEAR CLAI: As you know, Jerry Christiansen of your office and Dwight Mason of mine have been discussing a possible arrangement whereby we would urge the House Conferees to accept a substitute for Section 413 of the House version of the Foreign Relations Authorization (that Section would repeal your amendment of last year terminating overtime pay for Foreign Service Officers on October 1, 1978) in return for your support of Section 408 of the House version (Section 408 authorizes the Secretary to pay a special allowance to Foreign Service Officers "who are required because of the nature of their assignments to perform additional work on a regular basis in substantial excess of normal requirements"). Under our proposal, the first section of your amendment would remain intact but the second part—the general pay increase of $250—would be repealed.

If the proposed special allowance were to be approved and enacted, we would wish to undertake a survey of the entire situation. Our intent, subject to the results of that survey would be to authorize this special allowance only for specific positions that require (among other things) either a minimum work week of 50 hours or one routinely requiring unusual working hours or shifts. Qualifying positions would be reviewed periodically to determine whether or not continuation of the allowance was justified. Addition of new positions to the list would be handled in the same manner. The allowance would not be computed on an hourly basis but rather would be a flat amount. No Class Four or above officer working in the immediate office of a Principal Officer of the Department (i.e., persons paid at Executive Levels I, II or III) would benefit from the allowance.

I anticipate that the principal beneficiaries of this special allowance would be officers assigned to the Department's Operations Center, its Executive Secretariat and to the Sinai Support Mission.

Sincerely,

BEN H. READ.●

Mr. SPARKMAN. I move the adoption of the conference report.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the conference report.

The report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. SPARKMAN. Mr. President, I move to lay that motion on the table.

Mr. ROBERT C. BYRD. Mr. President, agreed to.

The motion to lay on the table was agreed to.

I yield to my delightful friend, the distinguished Senator from Wisconsin.

INTERDEPENDENCE AND HUMAN RIGHTS

Mr. PROXMIRE. Mr. President, "interdependence" has become a reality in the last decade. And rightly so.

The world is shrinking. Jet planes streak daily from North America to Europe in a few hours. Around the world is something done on a vacation, rather than in 80 days.

The wars of our century have been world wars, and the skirmishes between nations are seen in terms of their global implications. Battlefields are countries. War theaters are continents.

Mr. President, today, more than at any other time in history, the nations of the world cooperate to meet their food and energy needs. The European Common Market nations band together to search for North Sea oil. The United States—the world's bread basket—relies upon its neighbors to fill its larder.

Mr. President, as the world community attempts to unite over these basic issues of food and energy, the need for recognizing a uniform standard of human dignity becomes paramount. The need for concerted efforts to protect human rights is clearer than it has ever been.

Yet the Senate refuses to cooperate on human rights by ratifying the Genocide Convention, a treaty which protects nothing more—nothing less—than the most basic right of all—the right to live.

Mr. President, have we forgotten that our Nation was instrumental in formulating a treaty that addresses this most basic of human needs? Have we forgotten about the need to ratify the Genocide Convention?

In a spirit of international cooperation, the Genocide Convention recognizes a potential that lurks at the heart of even the most civilized of nations: the potential for a nation to kill systematically and brutally its own people.

Mr. President, the genocide treaty will define the unspeakable crime of genocide in terms all nations can understand. It will be an important step to help protect the lives of all citizens, regardless of their ethnic, racial, religious, or national origin. What could be more simple than that?

Why then have we delayed 30 years in ratifying this most fundamental of human rights treaties? Why have we not cast our lot with the nations striving to forge a new, more humane definition of human rights?

There is simply no excuse strong enough to justify our failure to join 83 nations—among them, our most trusted allies—in condemning mass murder.

Mr. President, we must ratify the Genocide Convention.

I thank my good friend, the majority leader, and I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator from Wisconsin.

Mr. President, I believe the distinguished Senator from Oklahoma has a special order. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. Does the minority leader yield back his time?

Mr. ROBERT C. BYRD. Mr. President, on behalf of the minority leader, I yield back his time.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Oklahoma is recognized for not to exceed 15 minutes.

SALT II AND THE BACKFIRE BOMBER

Mr. BARTLETT. Mr. President, the Backfire bomber question will be among the last SALT II disputes settled. The Soviet Union has insisted that the Backfire bomber is a medium bomber with a tactical mission and should not be dealt with at SALT II. The United States has emphasized the intercontinental capability of the Backfire bomber. However, the United States apparently has agreed to exclude the Backfire bomber from the SALT II ceiling of 2,250 strategic nuclear launch vehicles if, and only if, restrictions are included which would severely constrain its use as a strategic bomber. Agreeing upon such verifiable and effective restrictions for the Backfire has thus far not been possible.

Because the Soviet Union officially refuses to discuss the Backfire issue at Geneva, and because of the great difficulty in resolving that issue, President Carter has reserved for himself the resolution of the Backfire problem. How President Carter settles the Backfire issue will determine the way in which the American people evaluate the SALT II agreements and the President's leadership.

The Tupolev, TU–26, the Soviet bomber whose production model is known to NATO as the Backfire–B, is a swing-wing, Mach 2 aircraft slightly shorter than the American B–1 strategic bomber and weighs about two-thirds as much. The Backfire would be 50 percent longer and 100 percent heavier than the stretched version of the existing FB–111, to be known as the FB–111H, which has been proposed in lieu of the cancelled B–1 bomber.

Precise discussions of the range of the Backfire bomber are difficult. First, because of a lack of technical information about the aircraft, different methods of estimating its performance legitimately produce different results. Second, the range and payload of any Backfire depends largely on the way in which it flies each type of mission. Generally, greater range can be achieved by flying at higher altitudes, at lower speeds, and with lighter payloads.

With an operational payload on the order of 20,000 pounds, the Backfire bomber is capable of flying great distances. Different sources estimate the range of the Backfire, under optimal conditions, at between 3,600 and 6,300 statute miles. Estimates of its combat radius vary from less that 2,600 statute miles to almost 3,400 statute miles. The combat radius for typical hi-lo-hi missions runs some 350 to 550 statute miles less. On missions conducted entirely at low altitude, according to an analysis in the International Defense Review, the radius of the Backfire may be as low as 1,550 statute miles. The same analysis estimated the range of the Backfire with a single refueling at 5,400 statute miles. Lower estimates and much higher estimates exist.

The significance of the Backfire bomber's range is made clearer when that range is compared with the range of other strategic aircraft and with the distance to potential targets.

Past and present strategic bombers have had ranges as follows: The B–29 (2,000 statute miles), the TU–4 (3,000), the FB–111A (3,800), the B–47 (4,000), the TU–16 Badger (4,000), the MYA–4 Bison (6,000), the B–1 (8,000), the TU–95 Bear (8,000), the B–36 (10,000), and the B–52H (12,500). Thus, the Backfire–B with a range between 4,000 and 6,000 statute miles compares favorably with these strategic aircraft, and with future strategic aircraft such as the FB–111H with its range of perhaps 6,500 statute miles. It should be remembered that, in 1959, the United States still had some 1,300 B–47 bombers as part of its strategic forces targeted against the Soviet Union. As can be seen, the B–47 was far less capable than the Backfire. The combat radius of the B–47 was some 1,600 statute miles. Because of its present capability, and because of likely improvements, the Backfire bomber is best considered in the category of aircraft like the B–1 and the FB–111H.

The significant theater capability of the aircraft is obvious. Operating out of Murmansk, the Backfire can attack shipping throughout the North Atlantic, perhaps as far south as the Azores and return to its Russian bases. In the Pacific, operating out of Petropavlovsk, the Backfire can attack American carriers as far south as Guam and as far to the east as Hawaii. With inflight refueling, this range could be extended.

As a strategic bomber, the capability of the Backfire is less certain because the unrefueled ranges are for different "mission profiles." Generally, it is thought that the Backfire bomber, flying hi-lo-hi missions from bases in the Soviet Union and returning to those bases without refueling will be able to attack targets only in the northernmost parts of the United States.

However, the Soviet Union probably would not use its Backfire bombers in that way. With air-to-air refueling, the Backfire could cover all or nearly all of the United States. no matter which range estimate is accepted. Also, the Backfire can clearly cover all of the United States on one-way missions which might recover in Cuba or Mexico.

Much confusion exists about the nature of such one-way strategic missions. They are not "suicide" missions. The attacking bomber moves on past its target to an area where the crew, and perhaps the aircraft, might be recovered. For years, the United States relied upon aircraft with ranges far less than that of the Backfire to conduct strategic attacks on the Soviet Union. Many of these aircraft faced little chance of escaping the boundaries of the Soviet Union. In some cases, the pilots planned to eject from their planes before they crashed for lack of fuel. In the early 1950's, the U.S. Navy even experimented with the P2V Neptune as a strategic bomber. This aircraft could take off from a carrier, but could not land on the carrier. It would have attacked the Soviet Union then attempted to recover in a third country or ditch near friendly ships.

Even after the advent of bombers which fly 10,000 or more miles, the one-way mission is still a day-to-day con-

sideration. Many U.S. bombers are programed to recover in foreign countries after traversing the Soviet Union to carry out their mission. Also, because of certain "Fail Safe" procedures, these long-range bombers may consume a large amount of fuel waiting for final clearance to begin their penetration of Soviet Airspace. Under such circumstances, many aircraft would still not be able to clear Soviet airspace before they would run out of fuel. Crews are trained for this possibility. In light of these facts, the one-way mission recovering in Mexico or Cuba is not unusual, but rather routine.

Thus, no matter what the actual range of the Backfire bomber, if Moscow wishes to use it as a strategic bomber, Moscow can use it effectively.

Should the Backfire bomber be counted at SALT? The Soviet Union says no, arguing that it is a "medium" bomber not a "heavy" bomber, or "long range" bomber. Clearly, a large part of the Backfire bomber force will be deployed with Soviet Naval Aviation, and Defense Secretary Brown has reported that the Soviet Union is building a new aircraft which is clearly a "heavy" bomber.

Nevertheless, the International Institute of Strategic Studies defines a "heavy" bomber as one that has a range of 6,000 statute miles unrefueled at optimum altitude with no weapons. By some estimates, the Backfire bomber has that range. Many other estimates place its range very close to that definition. Thus, the United States can at least make the case that the backfire should count as a "heavy" bomber at SALT II. Because of the agreement to rely upon "national technical means of verification", however, the burden of proof is upon the United States, not the Soviet Union. It remains to be seen how adamantly President Carter will press the case.

Whatever definition of "heavy" bomber is used at SALT II, I believe that it would be wrong to exclude the Backfire bomber from that agreement. In consenting to the ratification of the SALT I Interim Agreement on Offensive Arms, the Congress noted that the Soviet Union was granted superiority in numbers of missiles, a superiority countered by the large American bomber force which was not restricted. If the American bomber force is now included under the SALT II ceiling, and the Backfire is excluded, the Soviet Union will be able to maintain its larger number of missiles while also deploying an unrestricted number of strategic Backfire bombers. Thus, excluding the Backfire will not only permit the Soviet Union to deploy strategic systems above the SALT II ceilings, but it will also have the destabilizing effect of permitting the Soviet Union to deploy a larger number of intercontinental ballistic missiles with which to threaten a first strike against the United States.

Furthermore, counting the Backfire under the SALT II ceiling sets an excellent precedent which will discourage the deployment of "Gray Area" systems which can circumvent the intended restrictions. Certainly the Soviet Union ought not to be given the benefit of the doubt on "Gray Area" systems, especially when it refuses to cooperate in verification.

Some observers have suggested that the Backfire issue is relatively minor, no matter how good the case for counting this Soviet bomber. One form of this argument notes that missiles play a more important role in Soviet strategic planning than do bombers. Certainly the Soviet bomber force of some 150 Bear and Bison bombers is smaller than the American force of approximately 350 B-52's. However, it should be remembered that the American bomber force is a second strike force likely to suffer heavy losses in any surprise attack. Soviet strategic forces, with its preponderance of heavy intercontinental ballistic missiles, is an emerging first strike force which can anticipate that its bombers will not be destroyed on the ground.

In general, those who are least concerned about whether or not the Backfire bomber is counted also believe in "finite deterrence", that is, that both sides have enough and that any more is irrelevant. That is a view not shared by the Joint Chiefs of Staff, who insist that Backfire be counted. Nor is it a view that many Europeans find comfortable. Nevertheless, it is unlikely that the Backfire bomber will be counted. For that reason, the Carter administration is attempting to find a way to deal with Backfire without including it under the SALT II ceilings.

In a July 25th press conference, Gen. David Jones, the Chairman of the Joint Chiefs, indicated that the JCS still believe that the Backfire should be counted and that restrictions being proposed at SALT II by the Soviets are neither reasonable nor verifiable. Jones implied, however, that other steps might be taken which would make SALT II acceptable even if Backfire were not counted. These involved deployment of defensive systems to counter Backfire and offensive systems to compensate for Backfire. Let us examine these options.

Mere assurances from the Soviet Union that the Backfire bomber will not be deployed against the United States are meaningless. However, some steps which impinge upon the strategic effectiveness of the Backfire would be of value. Unfortunately, such steps proposed thus far do not greatly reduce the Backfire threat to the United States and thus do not remove the Backfire issue at SALT II.

For example, the Backfire bomber could be banned from Arctic bases. Unfortunately, the deployment of Backfire bombers to Arctic bases involves little more than a decision, whereas the development of defenses against an Arctic-based Backfire attack would take some time. Also, the prohibition on Arctic basing loses its significance as long as the Backfire can be refueled in the air. Some efforts have been made to negotiate limits on the refueling capability of Backfire. Backfires could have their refueling probes removed and could be banned from participation in air-to-air refueling. Verification, however, would be quite difficult. Backfires could be fitted with refueling probes which are not visible, and air crews could be trained in other aircraft and in simulators. It should be remembered that the extensive in-flight training in air-to-air refueling conducted by American air crews is designed to keep peacetime accident rates down and would not be necessary to achieve a wartime operational capability.

Limits have also been proposed on the number of Backfire and tanker aircraft, but large numbers of these aircraft already exist and many more are obviously planned. Recent reports indicate the production rate of the IL-76 "candid" transport which would make an excellent tanker has been increased, as has that of the Backfire. No matter what is agreed, vertification will be difficult and the Soviet Union will still have a large number of Backfire bombers which can be sent on strategic missions. Most of the restrictions suggested thus far would be more effective on paper than in reality. In any case, these constraints, such as a ban on refueling and Arctic basing, do not take into account the sizable improvement in intercontinental capability of the Backfire which aeronautical engineers say is possible with existing technology. Thus, as General Jones has suggested, these collateral restraints are generally not verifiable and not effective.

What, then, is to be done about the Backfire? Several Members of Congress have suggested that we have no choice but to exclude the Backfire or else lose a SALT II agreement. They have suggested that the United States bite the bullet and spend $4 billion or more on improved air defenses to counter the Backfire. In my view, this is a false dichotomy. First, I believe that a bad SALT II agreement, such as one which excludes the Backfire bomber, is worse than no SALT II agreement. Second, the United States needs to expand and improve its now almost nonexistent air defenses with or without restrictions on Backfire. New satellite based systems and new technologies such as the Airborn Warning and Control Systems (AWACs) and new interceptors, such as the F-14 with its Phoenix missile and the F-15, will make this easier.

The failure to negotiate significant restrictions on the Backfire bomber will, however, result in the need for even more of these costly air defenses. In essence, we will have failed to reduce a Soviet capability and will be forced to respond by increasing our own capability. The problem is amplified by the fact that the same Backfire bombers which threaten the North Atlantic and Europe, dictating the need for improved air defenses there, will also threaten the United States and the Pacific and require improved defenses in those areas also. In short, the Backfire is a highly flexible system which provides a multiplier against Western defenses because it can be used in so many ways. There is no reason why Soviet naval Backfires cannot conduct strategic missions. U.S. Navy aircraft have had that mission for years.

Another response to compensate for the exclusion of the Backfire from the SALT II ceilings would be to increase our own offensive deterrent forces. Though this, too, reduces the chances that SALT II would result in decreased defense expenditures, it would permit the United States to maintain equality and parity.

Some have suggested that the United States build its own Backfire, either a B-1 that counts at SALT, since the United States does not have sufficient non-MIRVed systems to reach the SALT II ceilings, or FB-111H's which would not count. Such an approach would not reduce the Soviet ICBM advantage under SALT, but it would permit the United States to maintain a manned penetrating bomber force into the 1990's and beyond, a doubtful possibility for our existing large, cumbersome B-52's against the massive, upgraded Soviet air defense which are expected. It would also give the United States a more flexible bomber force. The United States might also expand its plans for the deployment of other weapons systems such as MX.

In my view, it would be a major failure of the SALT process if the Backfire bomber is not counted. It would symbolize that "Gray Area" systems will be a legitimate means for the Soviet Union to circumvent the spirit of a SALT agreement. It would suggest that the goal of the Soviet Union at SALT is advantage, not equality. It would suggest that Moscow wishes to modernize its strategic bomber force without cutting the number of its destabilizing intercontinental ballistic missiles. The Backfire problem also brings out the difficulties of relying on national technical means of verification.

Whether the Backfire is counted or not, the United States must take major and immediate steps to improve both its offensive and defensive strategic forces. Also, because Backfire is a superb theater system, as is that other outstanding "Gray Area" system, the SS-20, the United States must improve its theater nuclear and conventional forces. In particular, I believe the United States should look toward development and deployment of a new theater ballistic missile, either a medium or intermediate-range ballistic missile.

How President Carter handles the Backfire issue may well give us our best picture of the President's views on national defense and the Soviet threat. If he agrees to exclude the Backfire from SALT II then he should demand compensating concessions from the Soviet Union. SALT II should be judged by what it contains, not by what the United States can do to compensate for its inequities. The Congress, in Public Law 92-448 called for an equal agreement. If, overall, SALT II is unequal in its effect, the Senate should reject it. I personally believe it would be better to forego, or delay, SALT II until the Backfire bomber is included, I also believe we should expand SALT II now to deal with civil defense, air defense, and all "Gray Area" systems such as Backfire and the SS-20.

ROUTINE MORNING BUSINESS

(The following proceedings occurred during Mr. BARTLETT's address and are printed at this point by unanimous consent:)

The ACTING PRESIDENT pro tempore. The Senator's 15 minutes have expired. Does the Senator seek some additional time?

Mr. BARTLETT. Yes; I ask unanimous consent to proceed for 1½ minutes.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. ROBERT C. BYRD. Yes, Mr. President; for 10 years, I have objected to extensions of 15-minute orders. The Senator will understand that I do it for that reason.

In order to help the Senator, I ask unanimous consent that there now be a period for the transaction of routine morning business, with statements therein limited to 5 minutes each; that the Senator be recognized; and that there be no break in his statement.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered, and the Senator is recognized for 5 minutes.

Mr. BARTLETT. Mr. President, I shall only accept 1½ minutes and I thank the distinguished Senator from West Virginia for the additional time.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

DEPARTMENT OF EDUCATION ORGANIZATION ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, now within the framework of the unanimous-consent agreement on the natural gas bill, that the Senate resume consideration of Calendar Order No. 1000, S. 991.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 991) to establish a Department of Education, and for other purposes.

The Senate resumed consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CHILES. Mr. President, I welcome this opportunity to strongly urge my colleagues here in the Senate to give favorable consideration to the creation of a Cabinet-level Department of Education as part of the Federal reorganization of education functions.

The time for fundamental improvement of our broad educational system is now. While education will always be an area of American life in which local, State and private influence is predominant, there is a need for improving the Federal educational services designed to help overcome the major problems and difficult challenges facing our educational systems. Some of these problems and challenges include: A decline in student achievement and in the public confidence in the quality of education, unacceptably high rates of high school dropouts and unemployed youth, and the isolation of educational institutions from family life and community services. I firmly believe that the establishment of a Department of Education will enable the Federal Government to effectively assist State, local, and private agencies to achieve higher standards of quality and to maximize existing Federal resources to serve special needs children and assure a wider degree of parent participation in the educational process.

Education is far too important to be scattered piecemeal among various governmental departments and agencies which are too often busy with other, sometimes dominant, concerns. Too often, State and local educational administrators, our constituents, go from agency to agency, piecing together a package of grants and approvals. They are continually snarled in the redtape of Federal regulations, reporting requirements and the duplication of efforts. Finally, this is not only a waste of time, it is time taken away from the education of our Nation's children.

The result of our present system means that we have no effective Federal management. A Secretary of Education would convey to the American people and to the officials of the executive, legislative, and judicial branches of the Federal and State governments the importance that we as a nation place on education. But more importantly, consolidating education functions will provide a more efficient mechanism for the coordination of the numerous programs in a sensible, workable and effective framework.

Education is one of the Nation's largest businesses. Upwards of 65 million Americans are directly involved in education. Education is the Nation's second largest fiscal commitment. What the schools do shapes society for generations.

The establishment of a Cabinet-level Department will improve the Federal Government's capacity to support the States and local communities in their efforts to provide an equal chance for quality education to all our citizens. This bill has my strong support, and I look forward to successful completion of this legislation at the earliest possible time.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 3409 (AS MODIFIED)

Mr. STEVENS. Mr. President I call up amendment No. 3409 (as modified) and ask for its consideration.

The ACTING PRESIDENT pro tempore. The clerk will report. Will the Senator please send the amendment to the desk. The clerk does not have the amendment.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS), for Mr. PERCY, Mr. TALMADGE, Mr. MCGOVERN, Mr. DOLE, Mr. ABOUREZK, Mrs. ALLEN, Mr. ANDERSON, Mr. BAKER, Mr. BARTLETT, Mr. BELLMON, Mr. BENTSEN, Mr. BROOKE, Mr. BURDICK, Mr. CANNON, Mr. CASE, Mr. CHILES, Mr. CHURCH, Mr. CLARK, Mr. CRANSTON, Mr. CULVER, Mr. CURTIS, Mr. DANFORTH, Mr. EAGLETON, Mr. EASTLAND, Mr. FORD, Mr. GOLDWATER, Mr. HAWKINS, Mr. HASKELL, Mr. PAUL G. HATFIELD, Mr. HAYAKAWA, Mr. HELMS, Mr. HODGES, Mr. HUDDLESTON, Mrs. HUMPHREY, Mr. INOUYE, Mr. JACKSON, Mr. JOHNSTON, Mr. KENNEDY, Mr. LEAHY, Mr. LUGAR, Mr. MCINTYRE, Mr. MELCHER, Mr. METZENBAUM, Mr. MORGAN, Mr. NELSON, Mr. NUNN, Mr. PROXMIRE, Mr. RIEGLE, Mr. ROTH, Mr. SASSER, Mr. SCHMITT, Mr. SPARKMAN, Mr. STAFFORD, Mr. STENNIS, Mr. STONE, Mr. THURMOND, Mr. TOWER, Mr. WALLOP, Mr. YOUNG, and Mr. ZORINSKY proposes an amendment numbered 3409 (as modified).

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 48, strike out line 2.

On page 48, line 3, strike out "(D)" and insert "(C)".

On page 48, line 5, strike out "(E)" and insert "(D)".

On page 48, line 7, strike out "(F)" and insert "(E)".

On page 48, line 9, strike out "(G)" and insert "(F)".

On page 48, line 11, strike out "(H)" and insert "(G)".

On page 48, line 12, strike out "(I)" and insert "(H)".

On page 48, line 13, strike out "(J)" and insert "(I)".

On page 48, line 14, strike out "(K)" and insert "(J)".

On page 49, line 10, strike out "section 203(11)" and insert "section 203(10)".

On page 49, line 15, strike out "(13)" and insert "(12)".

On page 50, strike out line 24.

On page 51, line 1, strike out "(6)" and insert "(5)".

On page 51, line 3, strike out "(7)" and insert "(6)".

On page 51, line 7, strike out "(8)" and insert "(7)".

On page 51, line 10, strike out "(9)" and insert "(8)".

On page 51, line 12, strike out "(10)" and insert "(9)".

On page 51, line 15, strike out "(11)" and insert "(10)".

On page 51, line 23, strike out "(12)" and insert "(11)".

On page 51, line 24, strike out "(13)" and insert "(12)".

On page 52, line 5, strike out "(14)" and insert "(13)".

On page 52, line 8, strike out "(15)" and insert "(14)".

On page 52, line 12, strike out "(16)" and insert "(15)".

On page 55, strike out lines 12 through 23.

On page 56, line 3, strike out "SEC. 210." and insert "SEC. 209.".

On page 56, line 8, strike out "304." and insert "303.".

On page 56, line 16, strike out "SEC. 211." and insert "SEC. 210.".

On page 56, line 23, strike out "303" and insert "302".

On page 58, line 16, strike out "SEC. 212." and insert "SEC. 211.".

On page 59, line 6, strike out "305" and insert "304".

On page 59, line 11, strike out "SEC. 213." and insert "SEC. 212.".

On page 60, line 4, strike out "SEC. 214." and insert "SEC. 213.".

On page 60, line 12, strike out "SEC. 215." and insert "SEC. 214.".

On page 66, line 2, strike out "SEC. 216." and insert "SEC. 215.".

On page 74, strike out all beginning with line 14 through line 6 on page 75.

On page 75, line 9, strike out "SEC. 303." and insert "SEC. 302.".

On page 76, line 3, strike out "SEC. 304." and insert "SEC. 303.".

On page 77, line 14, strike out "SEC. 305." and insert "SEC. 304.".

On page 78, line 12, strike out "SEC. 306." and insert "SEC. 305.".

On page 78, line 21, strike out "SEC. 307." and insert "SEC. 306.".

On page 79, line 3, strike out "SEC. 308." and insert "SEC. 307.".

On page 79, line 12, strike out "SEC. 309." and insert "SEC. 308.".

On page 82, line 24, strike out "section 211" and insert "section 210".

On page 83, line 11, strike out "section 211" and insert "section 210".

On page 106, line 1, strike out "(9)" and insert "(8)".

On page 40, in the table of contents, strike out the following item:

"Sec. 209. Office of Child Nutrition.".

On page 40, in the table of contents, renumber items Sec. 210. through Sec. 216. as items Sec. 209. through Sec. 215., respectively.

On page 40, in the table of contents, strike out item

"Sec. 302. Transfers of functions from the Department of Agriculture.".

On page 40, in the table of contents, renumber items Sec. 303. through Sec. 309, as items Sec. 302. through Sec. 308, respectively.

Mr. STEVENS. Mr. President, have Senator PERCY's changes and modifications in this amendment been incorporated in the version the clerk has at the desk?

The ACTING PRESIDENT pro tempore. The clerk indicates that they have. The clerk has the modified printing.

Mr. STEVENS. Senator PERCY has asked me to call up his amendment. The purpose of his amendment would be to strike the proposed transfer of the child nutrition programs. He has outlined to the committee a number of sound reasons for keeping these programs in the U.S. Department of Agriculture.

I ask unanimous consent that the statement that Senator PERCY would have made in support of his amendment if he were here be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STATEMENT OF SENATOR PERCY

My amendment would strike the proposed transfer of the child nutrition programs. There are a number of sound reasons for keeping these programs in USDA.

First, a Department of Education will, as it should be, be dominated by educators. Educators have had a history of not placing high priority on the placement of these programs within the schools. In testimony received by the Committee, the Food Research and Action Center, a non-profit anti-hunger advocacy center, stated that—

"A good portion of our effort has been in the area of School Lunch and School Breakfast Program expansion. Time after time we have found that state and local Boards of Education have been at best uninterested, and at worst obstructionists, in this expansion effort. FRAC and/or Legal Services attorneys have brought numerous lawsuits seeking to expand school lunch programs in local areas. These lawsuits, brought on behalf of low-income plaintiffs, resulted in the establishment of school lunch programs in Hartford, Connecticut; Bridgeport, Connecticut; Mount Vernon, New York; Cleveland, Ohio; and the State of Rhode Island, among others. In many of these areas, litigation would not have been required if state and local Boards of Education and education administrators had viewed the school food prgrams as integral parts of an educational environment."

FRACs testimony continues—

"In short, in the past, poor people have not been able to look to education administrators and policy makers to spearhead the need for school food programs. Instead, these administrators have often taken the position that such programs are expensive, administratively burdensome, and must take a distant backseat to other education priorities."

In addition to FRAC's testimony, The Children's Foundation testified that it is completing a study on barriers to the implementation of the school breakfast program. The study is entitled "I'd Rather Go to Hell Than Run a Breakfast Program." This was the direct quote of a local school official. It is indicative of the view that many such officials have of these programs.

Second, the transfer will jeopardize the funding of the child nutrition programs. Since educators have not generally viewed nutrition programs as a vital part of the educational process, it is reasonable to assume that a Federal Department of Education would be no more responsive to the importance of such programs. When faced with budgetary constraints, these programs will be seen as expandable. This would be particularly true of those child nutrition programs with little or no connection to school systems, such as the summer food and day care feeding programs.

Third, USDA would still keep the research support vital to these programs. USDA is increasing its research in both nutrition and agricultural economics. It would be counterproductive to remove the child nutrition programs from a Department that is presently equipped to do research in areas directly related to the improvement of these programs.

Fourth, although the Administration has pledged its continued support for the commodities aspect of these programs, this guarantee may become worthless several years down the road as the programs become dominated by educators. Moreover, we must not lose sight of one of the original reasons behind the creation of the school lunch program, which was commodity support. Instead of paying farmers not to grow crops, we are paying them for their surplus crops and using those surplus crops to feed undernourished children. This is a much more efficient use of taxpayers' money. As Senator Talmadge brought to our attention, "The school lunch program today constitutes the only effective means through which the Secretary of Agriculture can provide price and market stability to those farm commodities that do not enjoy the protection of government price support programs."

Fifth, one approach to improving the quality of meals in these programs requires training food service personnel to procure and prepare food more effectively and economically. USDA has the expertise to accomplish this and is initiating activities in this area. A Department of Education is less likely to attack such a problem or to have the expertise to do so effectively.

Sixth, the transfer is opposed by a broad spectrum of groups, including agriculture groups, child-oriented public interest groups, nutritionists, and school food administrators. This grouping includes the American School Food Service Association, which is the largest national association representing people who direct, manage, and work in school

nutrition programs at the State and local level. These groups have worked the closest with and are the most knowledgeable on the child nutrition programs.

Seventh, the President's Reorganization Project is presently conducting a study of the Federal nutrition effort. This study is not scheduled to be completed until next year. As a result, the transfer of these programs at this time would be premature.

Regarding nutrition education, I would again like to quote one of our witnesses, Mr. Hendrik Wentink of the Poultry and Egg Institute of America. He states:

". . . while nutrition education historically has nowhere received the emphasis it has deserved, it cannot be disputed that the USDA is exerting aggressive leadership in the area today. Secretary Bergland has formed a Human Nutrition Policy Committee to coordinate all USDA nutrition programs including food assistance, safety, quality research and education. Interim regulations to implement nutrition education grants to the states under the 1977 Child Nutrition Act amendments have been promulgated. The Department is conducting a novel nutrition awareness project which will test out a multimedia approach for issuing and reinforcing nutrition messages. Authority under recent amendments of the National School Lunch Act to prohibit the sale of "junk food" in participating schools is being invoked. The focus of Extension activities is being expanded to reach urban areas more effectively. The very substantial Expanded Food & Nutrition Program within the Extension Service is developing a special program to emphasize nutrition counseling for food stamp users. And these are far from all the fronts of the USDA's nutrition education campaign."

It has been stated that the best place for nutrition education is in the schools. I agree. But I also ask, if educators are so interested in nutrition education, why have they not instituted these programs in the schools? The answer, of course, is that they are not interested. In fact, they are so disinterested that they have actually promoted nonnutritious "junk foods" in the schools. In order to raise extra money, they have candy and soda machines in the schools. These junk food machines compete with the nutritious lunches served in the school cafeteria. Congress recognized this problem, a problem created by educators, last year when it mandated USDA to ban the sale of junk foods that compete with the school lunch program. USDA has responded to that mandate and that ban is going into effect this summer. How can we justify transfering these programs to a Department which will be dominated by such insensitive interests?

In conclusion, the question has been asked, "Where will these programs best operate and serve our nation's children?" The answer is that they will best operate and serve our children in USDA. As the former Ranking Minority Member of the Select Committee on Nutrition and Human Needs, I have watched with great satisfaction the growth of the child nutrition programs. Due to the work of the Nutrition Committee, we have come to understand that it is vitally important that our food, nutrition and agricultural policies be coordinated. As Senator Talmadge stated in a letter to the Committee, co-signed by the entire Senate Committee on Agriculture, Nutrition and Forestry, USDA is the best place for achieving maximum coordination. In the letter, he states:

"GAO in a recent report on nutrition research, found 'a lack of central focus and coordination' to be the number one barrier to progress in the area. We feel certain that progress in evolving a food and agricultural policy is equally dependent on having a central focus. If the development of a national energy policy demanded a new Department of Energy to coordinate and pull together all aspects of the problem, then we insist that the same principle applies to the development of a national food, nutrition, and agriculture policy. The nutrition programs should not be sent to other agencies or departments; indeed the food-related functions of other departments should be consolidated within the Department of Agriculture."

As I have shown, educators have a marked disinterest in nutrition education and in the school feeding programs. On the other hand, USDA has demonstrated great interest and enthusiasm. Transfer of these programs would not solve any problems, it would only create new ones. The child nutrition programs should and must remain in a broad-based Department of Agriculture.

SAVE THE DEPARTMENT OF AGRICULTURE

Mr. TALMADGE. Mr. President, I rise to support the amendment by my distinguished colleague from Illinois, Mr. PERCY. The child nutrition programs operated by this Government belong in, and should remain in, the U.S. Department of Agriculture.

All 18 members of the Committee on Agriculture, Nutrition, and Forestry endorse that concept. Fifty-nine Members of the Senate endorse that concept. The House Government Operations Committee endorses that concept. And one is finally led to wonder why we had to face this situation, when so few support the idea of transferring these programs to the new Department of Education?

The child nutrition programs are designed to achieve health, agricultural, and income maintenance objectives. The largest of these programs happen to operate primarily in the schools. The transfer of these programs to an education department seems to be predicated more on the fact that both child nutrition programs and traditional education programs are run through schools, than on potential benefits to child nutrition, education, or administration at any level of Government.

The legislative history of the National School Lunch Act of 1946 indicates that it was enacted to fulfill four objectives. Subsequent legislation expanding the program, or adding new programs, has reiterated the same objectives:

To safeguard the health and nutritional well-being of the Nation's children.

To provide a domestic outlet for commodities acquired through the Department's price support and surplus removal activities.

To promote good eating habits in children by exposing them to a variety of wholesome foods; and

To provide economic assistance to low income families.

Over the past year, the greatest single concern expressed about the child nutrition programs in the media has been the quality of meals served to children and the need to upgrade these meals. The very success or failure of the school food programs rest on the quality of meals.

When meals do not satisfy nutritional standards, or are thrown away rather than eaten, the basic purposes of the program are subverted and millions of dollars of Federal funds are wasted.

To serve quality school meals, schools need to know how to purchase and prepare foods that contain proper nutrient levels, are appetizing, and are economical. To make progress toward these goals, school food service personnel need assistance in how to procure high quality food economically, how to process and prepare it, and how to store it so that nutrient values are retained.

School food personnel who are not skilled in procurement can end up with ground beef that has a high fat content, foods with high salt or sugar content, or other nutritional quality problems. In addition, schools can pay higher amounts than are necessary for food items.

To help school districts across the country do a better job is a major undertaking. The Department of Agriculture is taking on this task and has the necessary expertise to do so. A Department of Educaton is unlikely to have either the inclination or the expertise to get into this area.

In rural Georgia, a USDA expert has helped a nine-school district cooperative education service agency develop an integrated program of food procurement which allows school to purchase better food at a lower cost.

In Nashville, Tenn.; Fresno, Calif.; and southwestern Colorado; USDA specialists have acted as a catalyst in developing a system of direct purchases of fresh produce from local farmers. This has eliminated the extra charges of middlemen and improved the quality of the food served to school children. These projects have also had significant nutrition education aspects, with farmers explaining food production in the classroom and children occasionally picking fresh produce at nearby farms. These projects show great future potential, and USDA is developing model projects for expansion. The projects help develop markets for family farmers at the same time that they improve lunches for children.

A primary reason why small, local food purchasers, such as school districts and hospitals, have had difficulty achieving the efficiency USDA has in large scale community operations is a lack of current price information and how to use that information.

Through the Market News Services of the Agricultural Marketing Service, USDA has been providing up-to-date price information to producers, processors, and wholesalers for years. Now, USDA has developed an information kit which explains to institutional food buyers how to take advantage of current price information to economize on food procurement. This project was a cooperative effort involving the Agricultural Marketing Service and the Food and Nutrition Service.

Another key area in child nutrition is the basic nutritional standards that USDA establishes for meals. These standards are based on nutrition research conducted by USDA's Science and Education Administration (SEA). The Department recently established a Human Nutrition Center within SEA as a focal point for research in this area.

The Food and Nutrition Service (FNS) works with SEA to design research that will provide information in determining the nutritional standards needed in these programs and to test specific proposals for alterations in meal patterns used in the programs.

Recently, FNS proposed the most major changes in the school lunch meal pattern since the passage of the National School Lunch Act in 1946. These proposals were based on several years of work by SEA. Plans are now in final stages for field tests in hundreds of schools of these and other changes in the meal patterns. USDA's Economics, Statistics, and Cooperatives Service (ESCS) is playing a major role in designing and developing these field tests, which will carefully analyze both economic and nutritional impacts of the proposed change.

In addition, SEA, FNS, and ESCS are also working together to mount major nutritional evaluations of the child nutrition programs. The National Food Consumption Survey, conducted by SEA, is collecting information on participation in child nutrition programs and its nutritional impact. SEA is now discussing plans with FNS and ESCS for a major, multiyear nutritional evaluation of the school lunch program, and has been provided funds by Congress for this purpose.

Elsewhere in SEA, the Human Nutrition Center is conducting research into such areas as the importance of trace minerals in the diets of children—research that is also vital to, and coordinated with, the operation of child nutrition programs.

Finally, to help assure that the best quality food is provided with the available resources, ESCS is now involved in 16 major studies concerning FNS food assistance programs. Most of these studies are concentrated in the child nutrition area. ESCS is now conducting studies on the proper level of both food and administrative reimbursements for the summer food program, and on related questions of food quality and food prices and profit margins by private vendors in the summer program.

ESCS has designed an array of studies on the nutritional, economic, administrative, and agricultural impacts of providing cash in lieu of commodities to school districts and is involved in the field tests of changes in school meal patterns. Most of these studies cut across several disciplines—from nutritional to agricultural economics—and it is not likely they could be adequately handled by a Department of Education.

In the foreseeable future, the Federal Government will come into possession of increasing stores of surplus agricultural commodities. A Department of Education would have no particular concern with the use of the child nutrition programs as a domestic outlet for surplus commodities.

The existence of agricultural stabilization and children nutrition programs within USDA permits the development of an integrated food and nutrition policy that uses surpluses when they exist, and maintains the necessary framework for this function by providing commodities purchased at market prices when surpluses have been exhausted.

USDA is able to serve a dual objective—both to support the agricultural economy and to provide nutritious food items to schools and other institutions that care for children.

Even during periods of surplus, USDA supplements the surpluses with purchases of other, nonsurplus commodities that schools need. Such a balanced approach would be difficult to work out with a split jurisdiction on which USDA procures and ships commodities but a Department of Education administers the programs where the commodities are used.

Two particular problems would be likely to arise as a result of a transfer. Housing these programs in a Department of Education could lead to an emphasis on providing more in the way of cash subsidies and less in commodities, with possible adverse effects on agricultural producers. At the same time, a transfer could lead to adverse effects on the types and variety of those commodities that would still be provided to schools.

There is now a balance in the Department's commodity purchase decisions between serving the needs of schools and moving surplus agricultural products.

The reason generally given for moving the child nutrition programs to a Department of Education is to facilitate educational administration at the State and local level. Upon close examination, this contention turns out to be weak.

Commodities would still come from USDA. States would have to deal with two Federal Departments in the operation of food service programs, not one.

The uniformity of Federal program requirements directed through Treasury and OMB circulars, plus integration that has already occurred between FNS and the Office of Education, means that little additional administrative simplification could take place. The particular records and administrative requirements in the child nutrition programs stem from the distinct reimbursement structures carefully constructed for these programs by Congress over the past 30 years. By and large, the same records would still have to be kept. They would simply be submitted by the State to a Department of Education rather than to USDA.

Transfer of these programs to an education department offers no significant opportunities for long-range reduction in administrative costs and burdens at Federal, State, or local levels.

The short-term disruption caused by transfer would be an added cost. Where opportunities exist for reducing administrative costs by integrating FNS and Office of Education activities, integration now takes place.

While a transfer would not accomplish much in the administrative area, it could seriously jeopardize the strength and well-being of the child nutrition programs.

Among educators, child nutrition programs are often perceived as an expendable service to education. Faced with budgetary constraints and the need for trade-offs, Federal education administrators might sacrifice child nutrition efforts.

Successful food service is usually found in schools where administrators view the child nutrition programs as an integral part of the education program, while poor quality food service is frequently found in schools where child nutrition programs are viewed as ancillary to the education program.

Some States are contemplating the shifting of responsibility for the administration of such programs out of State education departments, and Texas has already announced plans for such a move.

Moving the child nutrition programs to a Department of Education would place the programs in an organization which is not concerned with the formulation or execution of nutrition policy; and second, it would whittle away at the total array of interests competing within the Department of Agriculture.

Overall, there is little real gain from moving child nutrition programs to an Education Department. There is risk of substantial loss, however, from such a move. The linkages with human nutrition research, food and consumer economics, agricultural impact studies, food specification writing, and food inspection in USDA would all be lost. Program operation and commodity purchases would be split, thus making the commodity operation more susceptible to pressures to act largely as a surplus removal operation.

The new Education Department would have little ability to work with States and school districts to buy more economically, to purchase cooperatively, to enter into direct marketing arrangements with farmers, or to make high quality nutritional purchases.

On February 28 of this year the Committee on Agriculture, Nutrition, and Forestry unanimously reported to the Senate a simple resolution calling for the maintenance of a strong and independent Department of Agriculture.

A hold was placed on that resolution so that the Senate could not consider it.

I am not one to go about looking for conspiracies, but I am led to wonder whether there are not those in Congress and elsewhere who look forward to the demise of USDA through a whittling away of functions, using Federal reorganization and efficiency as an excuse.

While some attempt to take child nutrition away from the Department, others are making blatant and public attempts to steal the natural resource functions of USDA, partially through discrediting outstanding public servants, such as the Chief of the Forest Service, in the press.

Others have been moving stealthily to capture the rural development functions of the Department.

I can understand their avarice. Since I have been chairman of the Senate Committee on Agriculture, Nutrition, and Forestry, I have always sought to make the USDA a broad-based Department that represents farmers, consumers, and city dwellers.

The USDA is conservatively operated.

Its agencies rank among the best insofar as Federal employee productivity is concerned. Agriculture's share of the Federal budget has declined sharply over the past decade, to only about 3 percent of the Federal budget. Only $6 billion of the funds for the Department of Agriculture are for agricultural programs, while $8.6 billion are for food and nutrition programs. This means that just 1.2 percent of the 1978 Federal budget was earmarked for the support of agricultural programs.

I am not so much concerned about the declining share of the Federal budget for agriculture, because this decline is a tribute to agriculture's success in meeting its obligations.

My distinguished colleague from South Dakota, Mr. McGovern, made an outstanding statement about Federal reorganization as it impacts on the Department of Agriculture, on February 8 of this year, when he introduced, with Senator Dole, S. 2519. I ask that this statement be included in the Record at this point:

> It seems to me that it might be well to examine this reorganization process as it has been set up, to see what kinds of conclusions might be reached.
>
> First of all it has been established on a functional or incremental basis, which presumes that like kinds of activities ought to be lumped together so as to avoid duplication of effort.
>
> What concerns me about this presumption is that certain agencies are multifaceted in their activities. For instance, the Department of Agriculture manages and conserves national forest lands. This management is tied 'ntimately to national wood and fiber policy on private lands. Most of the private forest lands are held by farmers, whose land is also the base from which we get our food. These private lands are protected through the policies of the Soil Conservation Service. Farm income is protected by the Farmers Home Administration and the Agricultural Stabilization and Conservation Service, as well as other USDA agencies. Various shifts in farm and forestry economies, such as the pitifully low prices farmers are now receiving, having a decided impact on the economies of rural towns, which leads naturally into the department's rural development efforts.
>
> Like the facets on a diamond ring, these functions are irrevocably tied together into a related package of Federal efforts that serve rural America.
>
> The second question that a functional approach to reorganization raises is the desirability of competition between agencies. General Motors, which I think we will agree has had some business success, is organized along competitive lines. The Oldsmobile Division competes with the Buick Division, which competes with the Chevrolet Division, for customers of automobiles. This organizational success, and others like it, would seem to indicate that—while there is a definite need to streamline the Government and eliminate excessive overlap of functions—there is something to be said for having agencies compete with one another. A merging of agencies on a purely functional basis could certainly lead to departmental complacency and bureaucratic laxity. If you have the only store in town, it is easy to forget about customer service.
>
> There is no way to make successful a functional reorganization of the Government; if we have not learned that, as a result of the creation of the Department of Transportation and the Department of Housing and Urban Development, then we have learned nothing. There remain large chunks of Government activity dealing with housing and transportation which remain outside the jurisdiction of both of these agencies, and that is why Senator McGovern's statement is so compelling.
>
> The taxpayers are not telling us to move the organization boxes around in an exercise of managerial hokus-pokus. They want the Government to be leaner and more effective. They want it to spend less money and employ fewer people.
>
> In transferring the child nutrition programs to an education department, the opportunities for reductions in cost or administrative burdens in accounting requirements are virtually nonexistent. The accounting manuals used at the local level for both FNS and Office of Education programs were developed by the same accounting firm, with the specific aim of making accounting procedures in both agencies' programs compatible. Differences in these accounting procedures reflect the differences between food service and other educational services. In addition, OMB Circular A-102 sets general standards on Federal accounting requirements for all Federal grain-in-aid programs.
>
> Therefore, the proposal to move the nutrition programs will save the taxpayers not one thin dime, while the cost of the transfer will be substantial.
>
> But, as I said, the piecemeal dismantling of USDA is the broader issue. I for one do not intend to sit idly by while this raid on USDA is being conducted by people who do not even know how to spell "farm." I am appalled that certain persons in the executive branch and Congress are literally falling all over themselves to see how many functions they can yank out of USDA.
>
> Mr. President, I call on my colleagues in the Senate to vote for the Percy amendment. I call on my colleagues to save the Department of Agriculture.

CHILD NUTRITION PROGRAMS AND NEW DEPARTMENT OF EDUCATION

● Mr. DOLE. Mr. President, today a bill to establish a new Department of Education (S. 991) has come to the floor, calling for reorganizing a number of existing Federal programs to form a basis for this new Department. The idea of Government reorganization is not new: The record shows that nearly 100 reorganization plans affecting some 240 departments and agencies were submitted by Presidents between 1939 and 1968.

The idea of stripping the child nutrition programs from the Department of Agriculture to provide a basis for this reorganization is new, however. As one of the early cosponsors of Senator Percy's amendment to oppose this transfer, I would like to say a few words in support of the courageous stand taken by the distinguished Senator from Illinois.

A BIT OF HISTORY

We are all quite familiar with this issue, but a bit of recent history is in order. Last April 14 the President asked Congress to create a Cabinet-level Department which would control some 164 or so education programs scattered among the Government, with a budget of $17.5 billion and a staff of some 23,000 persons. This new Department would include the higher education programs outside DHEW's Education Division, the overseas Defense Department schools, the Bureau of Indian Affairs schools, and the USDA child nutrition and nutrition education programs. We are all too familiar with the major arguments for a new Department:

A new Department would give education more budgetary clout.

A new Department would eliminate scattering of the over 300 education programs in some 40 Federal agencies, and provide the basis for a national educational policy.

A new Department would provide prestige to an educational entity that encompasses nearly one-third of the population as either students, teachers, or administrators and who deserve representation at the cabinet level.

Of course the justification for the transfer of the child nutrition programs is that they would bring a $3 billion budget base to this new Department.

The merits of a new Department of Education were never the issue with the Senate Agriculture Committee. However, we have gone on record on more than one occasion to oppose the transfer of the child nutrition programs, including the training and nutrition education support services.

AGRICULTURE COMMITTEE OPPOSES TRANSFER

Mr. President, on several earlier occasions I joined with the other 17 Members of the Senate Agriculture Committee and denounced the child nutrition transfer proposal. We held many serious reservations about such a move:

First, why education at this time? Why not wait until Congress is ready to overhaul the health and welfare programs?

Second, why strip the child nutrition programs from agriculture at a time when it is becoming increasingly clear that food, agriculture and nutrition are interrelated? As ranking minority member of the Senate Nutrition Subcommittee I am more and more convinced that agriculture and nutrition must be brought into closer coordination.

Third, why pull school meals from the several basic components of the Department of Agriculture which have contributed to their development and expansion; such as the wholesome agricultural products of the commodity distribution program, our national land-grant system of education and research assistance, the human nutrition research laboratories, and of course the nutrition information and education services? All these key elements of the Department have been instrumental in the advancement of school meals since the inception of the National School Lunch Act of 1946.

Fourth, why interrupt our efforts toward policy development? We cannot successfully develop a new food, farm, and nutrition policy with programs fragmented all over the executive branch of Government.

Fifth, why cut back on USDA's broad base? The scope of the Department of Agriculture must remain broad and diversified if the Department is to serve its constituents better.

Next, why be shortsighted? The administration has obviously overlooked the "separation of powers" concept; too little regard is being paid to the importance of the education committees in both the House and the Senate in the whole reorganization process.

And finally, why ignore American politics? There has been too little attention given to our political system. Increased rationality has been given as the desirable and attainable objective but proponents ignored the political aspects of education which must be at least acknowledged if the reorganization is to have either initial or long-term success.

AGRICULTURE COMMITTEE OPPOSES SPLIT

Mr. President, the administration has not stopped with the child nutrition meal programs. In recent weeks the administration has been desperately working toward a fall-back position; namely the separation of these school meal programs from the "training and nutrition education program" (Sec. 19, Public Law 95-166)—the $26 million annual education and training support services designed to upgrade the quality of meals at school.

True, $26 million is only a fraction of the $3 billion child nutrition program budget, but the separation of the education and training program from the feeding program is an ill-thought-out move for several reasons:

First, Congress reason for legislating a companion education and training component to address growing allegations of stagnant participation rates, inferior food quality, and resultant food and beverage waste in the school meals.

Our intent for this State grant program was to strengthen, support, and even enhance school meal service, and rid the program of these allegations of taxpayer waste. Thus the emphasis on training school cafeteria personnel to put a better meal on the table, and preparing students to better accept that meal.

Second, these education funds are to be used to provide workshops and other training sessions for school cafeteria personnel on the production and service of high quality and nutritious meals; as well as instruct students about diet and its relationship to good health, and develop a core of teachers to do this instruction.

The "purpose" of this grant program as outlined in Public Law 95-166 makes clear that the training and education provision was designed to encourage effective dissemination of information to children "participating or eligible to participate in the school lunch and related child nutrition programs." It goes on to make clear that "such nutrition education programs shall fully use as a learning laboratory in the school lunch and child nutrition programs." Throughout the legislation the emphasis is school-cafeteria-based education and training.

Mr. President, the need for an education and training program to save school meals is well-documented. Results of the only national profile of school food service personnel (a sample of 23,000 schools and 8,500 personnel) issued in February 1977 definitely highlights the need for training of school cafeteria personnel. Survey findings revealed that:

Better than 6 out of 10 workers were promoted or hired as managers without prior training;

Only 3 out of 10 school cafeteria workers completed training in the last 10 years;

Principal reasons for wanting training were to: improve job performance, increase knowledge, learn new food service techniques;

Forty-four percent of the respondents indicated a desire for more training. Mr. President, these grim statistics speak for themselves.

MANY SUPPORTERS OPPOSE TRANSFER

Mr. President, in conclusion, let me remind my colleagues that at last count some 3 dozen organizations had rallied behind the drive to oppose the transfer of any child nutrition program from the Department of Agriculture. They represent thousands of nutrition and health professionals, consumers and consumer groups, farm commodity organizations, and the like. I ask that this list of organizations be printed in the RECORD.

Let me hasten to add that this organizational support is in addition to the 60 cosponsors of the amendment (including all members of Senate Agriculture Committee) to oppose the transfer introduced by the distinguished Senator from Illinois.

The list follows:

ORGANIZATIONS OPPOSING THE TRANSFER OF ANY OF THE CHILD NUTRITION PROGRAMS FROM THE DEPARTMENT OF AGRICULTURE TO A NEW DEPARTMENT OF EDUCATION

1. American Home Economics Association.
2. The Children's Foundation.
3. American School Food Service Association.
4. Department of Health, City of Detroit.
5. Society of Nutrition Education.
6. Department of Public Health, Commonwealth of Massachusetts.
7. Center for Science in the Public Interest.
8. National Fisheries Institute.
9. County of Bergen, New Jersey, Department of Health.
10. The National Grange.
11. Healthy America, Inc.
12. Director of Food Service, Harlem, Illinois, Public School.
13. Center of Community Change.
14. National Association of Counties.
15. Mid-Continent Farmers Association.
16. National Council of Farmers Cooperatives.
17. National Milk Producers Federation.
18. National Farmers Union.
19. Food Research and Action Center.
20. Community Nutrition Institute.
21. National Rural Electric Cooperative Association.
22. Poultry and Egg Institute of America.
23. National Cattlemen's Association.
24. National Turkey Federation.
25. Amalgamated Meat Cutters and Butcher Workmen (AFL-CIO).
26. American Academy of Pediatrics.
27. Congress Watch.
28. Consumer Federation of America.
29. Council for Responsible Nutrition.
30. National Broiler Council.
31. National Dried Bean Council.
32. Peanut Growers of Alabama and Georgia.
33. United Egg Producers.
34. American Farm Bureau Federation.●

Mr. STEVENS. I would state that I think he has made a good case for maintaining these child nutrition programs in the Department of Agriculture.

Mr. CHILES. Mr. President, I concur in the remarks of the Senator from Alaska. On behalf of Senator RIBICOFF, I request that the Percy amendment be accepted by unanimous consent.

The ACTING PRESIDENT pro tempore. Is there objection? Hearing none, the question is on agreeing to the amendment of the Senator from Illinois.

The amendment was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TALMADGE subsequently said: Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. TALMADGE. Has a motion to reconsider been made and tabled on the so-called Percy amendment?

The ACTING PRESIDENT pro tempore. It has.

Mr. TALMADGE. I thank the Chair, and I appreciate the courtesy of my distinguished friends from Florida and Alaska giving me this privilege.

UP AMENDMENT NO. 1854

(Purpose: To redesignate the Department of Health, Education, and Welfare as the Department of Health and Human Services)

Mr. CHILES. Mr. President, I send to the desk a Humphrey amendment to redesignate the Department of Health, Education, and Welfare as the Department of Health and Human Services, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida (Mr. CHILES), for Mrs. HUMPHREY proposes an unprinted amendment numbered 1854.

Mr. CHILES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 67, line 17, strike out "Welfare" and insert "Human Services".

On page 106, line 20, strike out "Welfare" and insert "Human Services".

On page 107, line 2, strike out "WELFARE" and insert "HUMAN SERVICES".

On page 107, line 4, strike out "Welfare" and insert "Human Services".

On page 107, line 5, strike out "welfare" and insert "human services".

On page 110, line 5, strike out "Welfare" and insert "Human Services".

Page 111, line 16, strike out "Welfare" and insert "Human Services".

On page 111, line 21, strike out "Welfare" and insert "Human Services".

On page 112, line 2, strike out "Welfare" and insert "Human Services".

On page 112, line 8, strike out "Welfare" and insert "Human Services".

On page 112, line 21, strike out "Welfare" and insert "Human Services".

On page 113, line 4, strike out "Welfare" and insert "Human Services".

On page 113, line 6, strike out "Welfare" and insert "Human Services".

On page 113, line 13, strike out "Welfare" and insert "Human Services".

On page 113, line 14, strike out "Welfare" and insert "Human Services".

On page 113, line 15, strike out "Welfare" and insert "Human Services".

Mr. CHILES. Mr. President, I ask unanimous consent that a statement by Mrs. HUMPHREY be printed in the RECORD prior to the passage of the amendment by Mrs. HUMPHREY.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STATEMENT BY MRS. HUMPHREY

S. 991 is a bill of great importance to the children of this country and to the future of this Nation. Education is one of the most important aspects of our lives and will continue to become increasingly more important as we address the social, economic, and technological problems that this country faces. Education is the key to conquering these problems and the key to fulfilling the dreams and aspirations of our citizens.

I strongly support this legislation to create a cabinet-level Department of Education. This bill will consolidate the more than 300 educational programs scattered among nearly 40 agencies. It will improve coordination of Federal education programs and help remedy their confusing, fragmented network.

Through this consolidation, we can pinpoint more nearly the problems in education today. We can address more effectively the educational needs of special children, which for too long have received a totally inadequate response—including the mentally or physically handicapped child.

Most importantly, the bill reaffirms our commitment to a sound educational system. We need a highly visible, high-ranking Federal official who can be held accountable for the successes and failures of our Federal education programs, who can be an effective manager and who can be a strong advocate for education. By creating the position of Secretary of Education, this bill fulfills those needs.

I was pleased to offer an amendment to this bill in Committee to transfer vocational rehabilitation programs from HEW to the Department of Education, to create an Assistant Secretary for and an office of Special Education and Rehabilitative Services. My amendment was adopted by voice vote.

There are overwhelming advantages to this transfer. First, the effectiveness of the Education for All Handicapped Children Act will be enhanced. Closer relationships between this program and vocational rehabilitation will improve the exchange of expertise and technology between the programs.

Second, better coordination between these programs will facilitate the development of more comprehensive approaches to preparing handicapped young people to make the transition from secondary education to work.

Third, leaving vocational rehabilitation in a Department of Health and Welfare will heighten concern in the handicapped community that efforts will be made to reorient vocational rehabilitation along a welfare line by making eligibility for services contingent on income.

This transfer would open the opportunity for developing new and broader roles for rehabilitation services which is distinct from welfare. It would also protect the program more from attempts to consolidate it with general social services and the welfare-related service programs in the Department of Health and Welfare.

I should like to emphasize that my amendment to transfer vocational rehabilitation to the Department of Education should in no way be interpreted to denigrate the importance of the medical and social aspects of rehabilitation. Medical services and research have been in the forefront of the rehabilitation movement and should continue to have the highest priority of RSA, particularly the medical research and training centers. The professional training program of RSA is the only program which supports the training of physicians in rehabilitation medicine, a field of extreme shortage. It should be continued and expanded also.

In closing, let me make two additional points. First, in developing an agency of this nature, some may question if the Federal government is becoming too embroiled in an area that has traditionally been the responsibility of local and state authorities. I believe that this department will not necessarily further involve the Federal government, but will improve its current involvement. Education nationwide must be a shared Federal-State-local responsibility if we are to provide the kind of quality education our children deserve. As costs increase, this responsibility becomes an awesome task that requires cooperation and improved coordination among all parties involved. Only in this manner can we hope to meet tomorrow's educational needs today.

Second, Mr. President, as the bottom line, we should evaluate this legislation on the basis of whether or not it enhances the educational opportunity of the student. I believe it does and urge my colleagues to support the bill.

Mr. CHILES. Mr. President, I believe this amendment has been cleared on both sides, but I will yield to the Senator from Alaska.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Mr. STEVENS. It is my understanding that this amendment of Senator HUMPHREY's has been agreed to. It seems to be appropriate to make that change in the portion of the Department of Health, Education, and Welfare which will remain after this bill becomes law.

Mr. CHILES. We are ready to vote.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Minnesota.

The amendment was agreed to.

Mr. CHILES. Mr. President. I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1855

(Purpose: To require the Congress to prescribe for the Department for each fiscal year an end strength for personnel)

Mr. CHILES. Mr. President, I send to the desk an amendment sponsored by Senator ROTH to require Congress to prescribe for the Department for each year an end strength for personnel, and I move that it be accepted, along with his introductory statement, by unanimous consent.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida (Mr. CHILES), for Mr. ROTH, proposes an unprinted amendment numbered 1855.

Mr. CHILES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 64, between lines 10 and 11, insert the following new section:

ANNUAL AUTHORIZATION OF PERSONNEL

SEC. 403. Notwithstanding any other provision of this

(1) Congress shall authorize the end strength as of the end of each fiscal year for personnel for the Department. Except as provided in subsection (b)(1) for the fiscal year beginning October 1, 1978, and ending September 30, 1979, Congress shall authorize the end strength for any fiscal year by prescribing the maximum number of personnel that may be employed by the Department on the last day of such fiscal year. No funds may be appropriated for any fiscal year to or for the use of personnel of the Department unless the end strength for personnel of the Department for that fiscal year has been authorized by law.

(2) The end strength for personnel authorized by law for the Department for any fiscal year shall be apportioned among the offices and agencies of the Department in such numbers as the Secretary shall prescribe. Except as provided in subsection (b)(2), the Secretary shall, within 120 days after the enactment of legislation authorizing the end strength for personnel of the Department for any fiscal year, prepare and transmit to the Congress a report showing the allocation of such personnel among the offices and agencies of the Department. Such report shall include expanations and justifications for the allocations of personnel made by the Secretary among the offices and agencies of the Department.

(3) In computing the authorized end strength for personnel of the Department for any fiscal year, there shall be included all direct-hire and indirect-hire personnel employed to perform functions of the Department whether employed on a full-time, part-time, or intermittent basis, but excluding special employment categories for students and disadvantaged youth, including temporary summer employment.

(4) Whenever any function, power, duty, or activity is transferred os assigned in any fiscal year after the effective date of this Act to the Department from a department or agency outside of the Department, the end strength for personnel authorized for the Department for such fiscal year shall be adjusted to reflect any increases or decreases in personnel required as a result of such transfer or assignment.

(b)(1) For the fiscal year beginning October 1, 1978, and ending September 30, 1979, the Department is authorized an end strength for personnel equal to the sum of (A) the number of personnel to be employed by the Department under the authorizations provided by other sections of this Act, and (B) the number of personnel transferred, under authority of this Act, to the Department from other departments and agencies of the Government during such fiscal year, as determined by the Director of the Office of Management and Budget. If the Secretary determines such action is necessary for the effective administration of the Department, he may employ additional personnel during such fiscal year in excess of the number authorized under the preceding sentence, but the number of such additional personnel may not exceed 1 percent of the number authorized under the preceding sentence.

(2) For the fiscal year beginning October 1, 1978, and ending September 30, 1979, the Secretary shall prepare and transmit the report required by subsection (a)(2) within 120 days after the effective date of this Act.

On page 40, in the table of contents, insert immediately after item Sec. 402, the following:

Sec. 403. Annual authorization of personnel.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Mr. STEVENS. Mr. President, if Mr. ROTH were here today, he would have made a statement on behalf of this amendment. It is my understanding that this amendment will add a new section under title IV of the bill which would place a staff ceiling on the new department. The amendment includes a 1-percent leeway in current staff estimates for the department to allow for flexibility in staffing requirements.

Mr. President, I ask unanimous consent that the complete statement Senator ROTH would have delivered be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STATEMENT OF SENATOR ROTH

The amendment I am proposing to S. 991, a bill to create a separate Department of Education is a simple one. My amendment would add a new section to the bill under Title IV which would place a staff ceiling on the new department. My amendment includes 1 percent leeway in current staff estimates for the Department to allow for flexibility in staffing requirements. However, I do feel that a ceiling is necessary to exercise some Congressional control over the burgeoning bureaucracy. The Governmental Affairs Committee in considering this bill did not anticipate any staff additions outside of the executive positions newly authorized in the bill. One of the major criticisms of creating a new department of education has been the fear that in its authorization Congress is beefing up a bureaucracy which is already bloated and straining an overtaxed budget. I feel we must be responsive to this concern. We need to emphasize that cost containment for the new Department is as important an objective as the intent to provide education with the priority needed to insure its appropriate attention, and in fact, is desirable in terms of management, efficiency, and accountability in the federal involvement in the educational process. This amendment is not without precedent. Language is incorporated into the authorization for the Department of Defense's civilian staff to place a ceiling annually on these personnel levels. I submit for the RECORD at this time a table showing total Federal Civilian Employment for the Month of June covering a five year period from 1973 to 1978.

The table follows:

TOTAL FEDERAL CIVILIAN EMPLOYMENT FOR JUNE 30, SELECTED YEARS, ALL AREAS (INCLUDES CEILING AND NONCEILING)

	1973	1974	1975	1976	1977	1978
Total, all branches	2,824,242	2,893,119	2,896,944	2,883,134	2,893,334	2,937,214
Executive branch, total	2,780,574	2,847,071	2,848,014	2,832,641	2,840,148	2,882,661
Executive Office of President	4,805	5,751	1,918	1,889	1,836	1,627
Executive departments	1,697,347	1,746,682	1,736,872	1,733,457	1,749,392	1,784,591
State	34,523	33,396	30,376	30,457	30,578	30,502
Treasury	108,036	116,213	121,546	125,600	127,321	131,243
Department of Defense	1,052,639	1,070,004	1,041,829	1,010,261	1,008,690	1,007,092
Justice	47,709	50,531	51,541	53,982	53,259	55,241
Interior	74,146	76,919	80,198	81,844	87,437	83,696
Agriculture	113,313	116,203	120,999	128,052	131,756	138,303
Commerce	34,884	35,759	36,278	37,569	39,661	41,580
Labor	14,049	14,487	14,834	16,730	17,096	21,895
Health, Education, and Welfare	128,417	142,159	147,125	155,096	159,469	161,050
Housing and Urban Development	18,249	17,274	17,101	16,579	17,948	17,928
Transportation	71,382	73,737	75,035	77,287	76,177	76,037
Energy						20,024
Independent agencies	1,078,422	1,094,638	1,109,224	1,097,295	1,088,920	1,096,443
Post Office	697,932	707,202	699,174	675,653	658,390	651,090
Veterans' Administration	198,421	202,361	213,143	222,313	224,178	239,760

It is interesting to note from this chart that the most dramatic decreases in federal civilian employment over the 5-year period are in the Department of Defense. It is also interesting to note that language placing a ceiling on federal civilian employment for the Department of Defense was introduced in 1973.

My amendment does not set an exact numerical ceiling for the transition year but provides for the sum of the number of the new personnel authorized in S. 991 and the number of personnel determined by the Office of Management and Budget to be transferred to the new Department on the effective date of the act. Because of the uncertainty of the transfer of some personnel whose functions may have been divided in the current Department of Health Education and Welfare, it has not been possible for the Office of Management and Budget to give an exact numerical requirement. However, they have estimated the figure of personnel for the Department to be approximately 24,700. My amendment will require the Secretary of the Department of Education to report to the Congress within 120 days after the effective date of the Act the exact number of the end strength for personnel for the fiscal year beginning October 1, 1978 and ending September 30, 1979. It is my understanding that this language is acceptable to my esteemed colleague Senator Ribicoff and there will be every conscientious effort made to establish a ceiling at the lowest possible level. This ceiling would then be reviewed and established annually through Congressional action. I move for the adoption of my amendment.

Mr. STEVENS. It is my understanding that both the majority and minority of the committee are prepared to accept the amendment.

Mr. CHILES. That is correct.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Delaware.

The amendment was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ZORINSKY). Without objection it is so ordered.

Mr. ROBERT C. BYRD. The Chair is in great form today. I like that baritone voice.

I ask unanimous consent, Mr. President, that on an amendment to the Department of Education bill by Mr. HAYAKAWA, there be a 2-hour limitation, to be equally divided and controlled in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT REQUEST—NATURAL GAS CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a vote on final adoption of the conference report on next Wednesday—may I say, I have already discussed this with the minority leadership, and I know that the distinguished Republican Whip is going to be constrained to object to this request, but I have been asked on my side of the aisle to make the request. I do it just because I have been asked to do it and knowing that I shall not be able to achieve it.

I ask unanimous consent that the vote up or down on the conference report on natural gas pricing occur next Wednesday at 2 p.m. rather than at 1 p.m., as previously agreed to.

Mr. STEVENS. Mr. President, reserving the right to object and, as the majority leader stated, I am constrained to object. Knowing that the request has been made, and we do have an agreement, one of the Members on our side has made arrangements to depart from Washington following the 1 o'clock vote. On that basis, I am constrained to object.

The PRESIDING OFFICER. The objection of the Senator from Alaska is heard.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THIRTY-MINUTE RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate, at 11:40 a.m., recessed until 12:10 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. FORD).

DEPARTMENT OF EDUCATION ORGANIZATION ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, the Senate is presently awaiting the arrival of Mr. SCHMITT of New Mexico who, I understand, has been conducting a hearing and who has an amendment or some amendments to the Department of Education bill.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I understand that Mr. SCHMITT has—three?

Mr. STEVENS. I believe he has three amendments, but whatever he has he will offer today, as I understand.

Mr. ROBERT C. BYRD. I ask unanimous consent that upon the disposition of the amendments by Mr. SCHMITT to the Department of Education bill, that bill then be set aside with the following time agreement thereon:

That there be 1 hour on the bill itself, to be equally divided between and controlled by Mr. RIBICOFF and Mr. PERCY;

That there be a 2-hour limitation on an amendment by Mr. HELMS, to be equally divided and controlled in accordance with the usual form; that when the Senate resumes the consideration of the Department of Education bill, following the disposition of the amendments by Mr. STEVENS——

Mr. STEVENS. We have an agreement of 40 minutes to each side.

Mr. ROBERT C. BYRD. On which there is a time limit already, there be one amendment by Mr. HAYAKAWA, on which there is already a time limitation.

Mr. STEVENS. No——

Mr. ROBERT C. BYRD. Of 2 hours.

Mr. STEVENS. Oh, yes, 2 hours.

Mr. ROBERT C. BYRD. That there be one amendment by Mr. HAYAKAWA, on which there be a time limitation of 2 hours; and that upon the disposition of those amendments the bill be advanced to third reading, without further amendments or motions, appeals, or points of order to be in order.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, reserving the right to object, I would ask only that the majority leader modify that to permit a motion to recommit should one be made.

Mr. ROBERT C. BYRD. Very well, I so modify the request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. STEVENS. That protects them both ways.

Mr. ROBERT C. BYRD. Mr. President, I thank the minority leader and other Senators.

It is hoped that upon the disposition of the amendments by Mr. SCHMITT the Senate can go to the vocational rehabilitation bill and work on that during the afternoon, and also during the afternoon, that the Senate can take up the New York City appropriations matter.

It would be the intention of the leadership, once Mr. SCHMITT's amendments are disposed of today, to lay the Department of Education bill aside temporarily and go to the other measures I have mentioned.

With that, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FORD). Without objection, it is so ordered.

TIME-LIMITATION AGREEMENTS—S. 991

Mr. ROBERT C. BYRD. Mr. President, with further regard to the agreement on the Department of Education bill, I ask unanimous consent with regard to Mr. HAYAKAWA, who may want to move to recommit the bill, that there be a 1 hour limitation on the motion to recommit, the 1 hour time limitation to be equally divided in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on amendment No. 3620 by Mr. SCHMITT, amendment No. 3621 by Mr. SCHMITT, and amendment No. 3619 by Mr. SCHMITT, there be a time limitation on each as follows: One hour under the control of Mr. SCHMITT and 30 minutes under the control of Mr. RIBICOFF; provided further that on amendment No. 3619, any tabling motion be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Is that all satisfactory to the distinguished Senator from New Mexico?

Mr. SCHMITT. Mr. President, if the Senator will yield, I thank him and the distinguished majority whip for their effort in this matter. It is a perfectly satisfactory agreement and I hope that within the next week, when the bill is finally disposed of, it will be done expeditiously and, of course, favorably on my side.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. STEVENS. Will the majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. There is no agreement as to when the majority leader will call up the bill, but it is the understanding that it will not be this week?

Mr. ROBERT C. BYRD. The understandings, I believe, when the order was entered, that the majority leader will call it up at a future time after consultation with the minority leader or his designee. I make that request if it is not agreed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That when the Senate resumes consideration of S. 991 (Order No. 1000), a bill to establish a Department of Education, and for other purposes, the Senator from New Mexico (Mr. Schmitt) is recognized to call up amendments No. 3620, 3621, or 3619 in any order, on each of which there shall be 1½ hours, to be divided and controlled with 1 hour to the Senator from New Mexico (Mr. Schmitt) and ½ hour to the Senator from Connecticut (Mr. Ribicoff), and with no tabling motion to be in order on amendment No. 3619.

Ordered further, That after the disposition of the Schmitt amendments, the Senator from Alaska (Mr. Stevens) be recognized to call up an amendment on which there shall be 80 minutes, to be equally divided and controlled by the mover of such and the manager of the bill.

Ordered further, That after the disposition of the Stevens amendment, the Senator from California (Mr. Hayakawa) to recognized to call up an amendment on which there shall be 2 hours, to be equally divided and controlled by the mover of such and the manager of the bill.

Ordered further, That after the disposition of the Hayakawa amendment, the Senator from North Carolina (Mr. Helms) be recognized to call up an amendment on which there shall be 2 hours, to be equally divided and controlled by the mover of such and the manager of the bill.

Ordered further, That after the disposition of the Helms amendment, the Senate proceed to third reading of the bill, without any further amendment, motion, appeal, or point or order being in order, except a motion to recommit to be offered by the Senator from California (Mr. Hayakawa), on which there shall be 1 hour.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the Senator from Connecticut (Mr. Ribicoff) and the Senator from Illinois (Mr. Percy).

THIRTY-MINUTE RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate, at 12:51 p.m., recessed until 1:21 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. SARBANES).

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STAFFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR—S. 2600

Mr. STAFFORD. Mr. President, I ask unanimous consent that during the consideration of this bill, the following members of the staff be allowed unlimited access to the floor: Patria G. Forsythe, Betty Griffin, Jo Ellen Hetherington, Helyn Eagle, Jacqueline Jackson, Jan Zarro, Kathy Roy, Peter Harris,

Peter Parham, Judy Robinson, Marcia McCord, Jack Wickes, Shelly Edelman, Ellen Akst, Craig Polhemus, Jack Andrews, Polly Gault, Mike Francis, Sue Walbridge, Sherri Kramer, Fran Paris, Ginny Eby, Nancy Olson, Mary Arneson, Susan Zilstra, David Morse, and Sandra Walker.

The PRESIDING OFFICER. It is the Chair's understanding that the Senator's unanimous-consent request for staff presence applies to the consideration of S. 2600, the Rehabilitation Amendments of 1973, when that will be laid before the Senate; is that correct?

Mr. STAFFORD. The Chair's understanding is correct. The Senator should have stated the number of the bill to start with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STAFFORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REHABILITATION, COMPREHENSIVE SERVICES, AND DEVELOPMENTAL DISABILITIES AMENDMENTS OF 1978

Mr. ROBERT C. BYRD. Mr. President, within the confines of the natural gas conference report agreement, and in accordance with that agreement, I ask unanimous consent that the Senate now proceed to the consideration of Calendar Order No. 820, S. 2600.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2600) to amend the Rehabilitation Act of 1973 to extend certain programs established in such act, to establish a comprehensive services program for the severely handicapped, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Human Resources with an amendment to strike all after the enacting clause and insert the following:

That (a) this Act may be cited as the "Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978".

(b) Except as otherwise specifically provided, whenever in title I of this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Rehabilitation Act of 1973 (29 U.S.C. 701).

TITLE I—AMENDMENTS TO THE REHABILITATION ACT OF 1973

VOCATIONAL REHABILITATION SERVICES: AUTHORIZATION OF APPROPRIATIONS

SEC. 101. (a) Section 100(b)(1) is amended by striking out "and" after "1977" and inserting before the period at the end of such paragraph a comma and "$813,000,000 for fiscal year 1979, $880,000,000 for fiscal year 1980, $945,000,000 for fiscal year 1981, $1,015,000,000 for fiscal year 1982, and $1,090,000,000 for fiscal year 1983".

(b)(1) Section 100(b)(2) is amended by striking out "and" after "1976," and by inserting after "1978" a comma and the following: "$50,000,000 for the fiscal year ending September 30, 1979, $60,000,000 for the fiscal year ending September 30, 1980, and $70,000,000 for the fiscal year ending September 30, 1981, and for each succeeding fiscal year ending prior to October 1, 1983".

(2) Section 100(b)(2) is further amended by striking out "and part D of this title (relating to the study of comprehensive needs of individuals with the most severe handicaps)".

(3) The last sentence of section 100(b)(2) is amended to read as follows "Twenty-five per centum of the sums appropriated under this paragraph for fiscal year 1979, and 30 per centum of such sums appropriated for fiscal year 1980 and thereafter, shall be available for independent living programs.".

(c) Section 112(a) is amended by inserting after "1976," the following: "and for each succeeding fiscal year ending prior to October 1, 1983".

STATE PLANS

SEC. 102. (a) Section 101(a)(7) is amended by striking out "and" at the end of clause (A), and by inserting before the semicolon at the end thereof a comma and the following: "and (C) provisions relating to the establishment and maintenance of minimum standards to assure the availability of personnel trained to communicate in the client's native language or mode of communication".

(b) Section 101(a)(11) is amended by adding at the end thereof a comma and the following: "specifically including arrangements for the coordination of services to individuals eligible for services under this Act and under the Education of the Handicapped Act and the Vocational Education Act of 1963".

(c) Section 101(a)(18) is amended by inserting "personnel" before "working in the field of vocational rehabilitation".

(d) Section 101(a) is amended—

(1) by striking the "and" at the end of paragraph (18);

(2) by striking the period at the end of paragraph (19) and inserting in lieu thereof a semicolon and "and"; and

(3) by inserting at the end thereof the following new paragraph:

"(20) provide satisfactory assurances to the Commissioner that, except as otherwise provided in part D, the State shall provide vocational rehabilitation services to handicapped American Indians residing in the State to the same extent as the State provides such services to other significant segments of the population of handicapped individuals residing in the State.".

SCOPE OF SERVICES; TELECOMMUNICATIONS SERVICES

SEC. 103. (a) Section 103(a)(1) is amended by striking out "emotional" and inserting in lieu thereof "mental or emotional".

(b) Section 103(b) is amended by striking out "and" at the end of clause (1), by striking out the period at the end of clause (2) and inserting in lieu thereof a semicolon and the word "and", and by adding at the end thereof the following new clause:

"(3) the use of existing telecommunication systems (including telephone, television, satellite, and radio, and other similar systems) which have the potential for substantially improving service delivery methods, and the development of appropriate programing to meet the particular needs of handicapped individuals.".

PROCEDURAL SAFEGUARDS

SEC. 104. (a) Part A of title I is amended by adding at the end thereof the following new section:

"PROCEDURAL SAFEGUARDS

"SEC. 105. (a) Any State agency which receives assistance under this Act shall establish and maintain procedures to assure that any individual served under this Act is guaranteed procedural safeguards.

"(b) The procedures required by this section shall include, but shall not be limited to—

"(1) an opportunity for the individual to examine all relevant records respecting the development and implementation of an individualized written rehabilitation program under this Act, or the refusal to develop or implement such a program;

"(2) written prior notice to the individual whenever a providing agency—

"(A) refuses to initiate or change,

"(B) refuses to develop, or

"(C) refuses to implement,

an individualized written rehabilitation program as provided under this Act; and

"(3) an opportunity to present complaints with respect to any matter described in clause (2) of this subsection.

"(c)(1) Whenever a complaint has been received under subsection (b) of this section, the individual shall have an opportunity for an impartial hearing which shall be conducted by the State agency. No hearing conducted pursuant to this paragraph shall be conducted by an employee of such agency, or by any employee of any other agency or grantee which is involved in the written individualized rehabilitation program of the individual, or by any person having a personal or professional interest which would conflict with his or her objectivity in the hearing.

"(2) Any party to any hearing conducted pursuant to paragraph (1) of this subsection shall be accorded—

"(A) the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of handicapped persons,

"(B) the right to present evidence and confront, cross-examine, and compel the attendance of witnesses,

"(C) the right to a written or electronic verbatim record of such hearing, and

"(D) the right to written findings of fact and decisions.

"(3) A decision made in a hearing conducted pursuant to paragraph (1) of this subsection shall be final, except that any party involved in such hearing may appeal such decision under the provisions of subsection (d) of this section. A decision made under subsection (d) of this section shall be final, except that any party may bring an action under subsection (e) of this section.

"(d) Any party aggrieved by the findings and decision made under subsection (c) of this section may appeal such decision to arbitration by a panel of three persons consisting of one person designated by the head of the State agency, one person designated by the individual, and a third person selected by the head of the State agency and the individual, who shall serve as chairman.

"(e) Any party aggrieved by the findings and decision made under subsection (d) of this section shall have the right to bring a civil action with respect to the complaint presented pursuant to this section, which action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. In any action brought under this subsection the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and, basing its decision on the preponderance of the evidence, shall

grant such relief as the court determines is appropriate.

"(f) No civil action may be brought under this section for monetary damages.".

"Sec. 105. Procedural safeguards.".

(b) The table of contents is amended by adding after item 104 the following new item:

STATE ALLOTMENTS

SEC. 105. (a) Section 110(a) is amended by striking out "less than one-quarter of 1 per centum of the amount appropriated under subsection (b)(1) of section 100, or $2,000,000" and inserting in lieu thereof "less than one-third of 1 per centum of the amount appropriated under subsection (b)(1) of section 100, or $3,000,000".

(b) Section 110(a) is further amended by inserting "(1)" after the section designation and by adding at the end thereof the following new paragraph:

"(2) Notwithstanding the provisions of paragraph (1) of subsection (a), for the fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983, each State shall be entitled to an allotment of amounts appropriated under subsection (b)(1) of section 100 in excess of the amount appropriated under subsection (b)(1) of section 100 for the fiscal year 1978, bearing the same ratio of the amount appropriated in excess of the amount appropriated under subsection (b)(1) of section 100 for the fiscal year 1978 as the population of the State bears to the population of all States.".

(c) The first sentence of section 110(b) is amended by inserting after "1973," the following: "or if a State received, due to the maintenance of effort provisions, less than 80 per centum as the Federal share expended by the State for the program (exclusive of non-Federal dollars used for construction),".

CLIENT ASSISTANCE

SEC. 106. Section 112(a) is further amended by striking out "no less than 7 nor more than 20".

AMERICAN INDIAN VOCATIONAL REHABILITATION GRANTS

SEC. 107. (a) Part D of title I is amended to read as follows:

"PART D—AMERICAN INDIAN VOCATIONAL REHABILITATION PROGRAM

"VOCATIONAL REHABILITATION SERVICES GRANTS

"SEC. 130. (a) The Commissioner is authorized, in accordance with the provisions of this part, to make grants to tribal organizations of Indian tribes located on Federal and State reservations to pay 90 per centum of the costs of vocational rehabilitation services for handicapped American Indians residing on such reservations.

"(b) No grant may be made under this part unless an application therefor has been submitted to and approved by the Commissioner. The Commissioner may not approve an application unless the application—

"(1) is made at such time, in such manner, and contains such information as the Commissioner may require;

(2) contains assurances that the rehabilitation services provided under this part to handicapped American Indians residing on a reservation in a State shall be, to the maximum extent feasible, comparable to rehabilitation services provided under this title to other handicapped individuals residing in the State; and

"(3) contains assurances that the application was developed in consultation with the State agency designated under section 101(a)(1).

The provisions of clauses 1 and 3 of section 102(a) of the Indian Self-Determination and Education Assistance Act, shall be applicable to any application submitted under this part.

"(c) In addition to any amounts authorized to be appropriated under any other provision of this Act and for the purpose of carrying out grant programs for American Indian vocational rehabilitation services in accordance with the provisions of this part, there is authorized to be appropriated an amount equal to 1 per centum of the amount appropriated under section 100(b)(1) (for the purpose of making grants to States under part B) for the fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983.

"(d) For the purpose of computing the allotment of any State under section 110(a) the number of American Indians residing on a reservation to be served under this part pursuant to such application shall be subtracted from the population used for such State in section 110(a)(1) as follows:

"(1) 33 per centum of such American Indians in the first fiscal year following the fiscal year in which such application was approved;

"(2) 66 per centum of such American Indians in the second fiscal year following the fiscal year in which such application was approved; and

"(3) 100 per centum of such American Indians in the third fiscal year following the fiscal year in which such application was approved.

"(e) Any application approved under this part shall be effective for not less than twelve months except as determined otherwise by the Commissioner pursuant to prescribed regulations. The State shall continue to provide vocational rehabilitation services under its State plan to American Indians residing on a reservation whenever such State includes any such American Indians in its State population under section 110(a)(1).

"EVALUATION

"SEC. 131. Not less than forty-two months after the date of enactment of the Rehabilitation Comprehensive Services and Developmental Disabilities Amendments of 1978, the Secretary shall submit to the Congress an evaluation of the programs conducted under this part. Such evaluation shall be conducted by persons other than persons immediately responsible for administration of such programs. Such evaluation shall include, but not be limited to—

"(1) an examination of the comparability of vocational rehabilitation services provided under this part to services provided to other handicapped individuals under section 101; and

"(2) the extent to which services provided under this part have been made available to all handicapped American Indians residing on reservations wherein the tribal organization has been approved for a grant under this part.".

(b) The table of contents is amended by striking out Part D and inserting in lieu thereof the following:

"PART D—AMERICAN INDIAN VOCATIONAL REHABILITATION PROGRAM

"Sec. 130. Vocational rehabilitation service grants.

"Sec. 131. Evaluation.".

INNOVATION AND EXPANSION GRANTS

SEC. 108. (a) The first sentence of section 121(a) is amended by—

(1) striking out "or" after "handicaps"; and

(2) inserting before the period a comma and the following: "or of special programs for independent living.".

(b) The first sentence of section 121(b) is amended by striking out "three" and inserting in lieu thereof "five", and by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1983".

RESEARCH AND TRAINING; AUTHORIZATION OF APPROPRIATIONS

SEC. 109 (a) Section 201(a)(1) is amended by striking out "and" after "1976," and by inserting after "1978" the following: ", $40,000,000 for the fiscal year ending September 30, 1979, $46,000,000 for the fiscal year ending September 30, 1980, $53,000,000 for the fiscal year ending September 30, 1981, $60,000,000 for the fiscal year ending September 30, 1982, and $69,000,000 for the fiscal year ending September 30, 1983".

(b) Section 201(a)(2) is amended by striking out "and" after "1977," and by inserting after "1978" a comma and the following: $35,000,000 for the fiscal year ending September 30, 1979, $40,000,000 for the fiscal year ending September 30, 1980, $46,000,000 for the fiscal year ending September 30, 1981, $52,000,000 for the fiscal year ending September 30, 1982, and $60,000,000 for the fiscal year ending September 30, 1983".

RESEARCH BY PRIVATE ORGANIZATIONS

SEC. 110. (a)(1) Section 200 is amended by striking out "to State and public or nonprofit agencies and organizations".

(2) Section 202(a) is amended by striking out "public or nonprofit" and inserting in lieu thereof "public or private".

(b) Title II is amended by adding at the ending thereof the following new section:

"DEFINITIONS

"SEC. 205. For the purpose of this title, the term 'public' or 'private agencies or organizations' means any such agencies or organizations whether nonprofit or profitmaking.".

REPEAL OF SET-ASIDE

SEC. 111. The second sentence of section 201(a)(1) is repealed.

RESEARCH AND TRAINING CENTERS

SEC. 112. (a) The second sentence of section 202(a) is amended by—

(1) inserting "(including basic medical and scientific research)" after "activities"; and

(2) inserting atfer "social" a comma and "psychiatric".

(b) Section 202(b)(1) is amended by striking out "rehabilitation research personnel" and inserting in lieu thereof "rehabilitation personnel".

(c) Section 202(b)(2)(A) is amended by striking out "psychological" and inserting in lieu thereof "psychiatric, psychological".

(d) Section 202(b) is amended by inserting immediately at the end of paragraph (5) the following new paragraph:

"(6) Conduct of a research program concerning the use of existing telecommunications systems (including telephone, television, satellite, and radio, and other similar systems) which have the potential for substantially improving service delivery methods, and the development of appropriate programming to meet the particular needs of handicapped individuals.".

TRAINING

SEC. 113. (a) Section 203(b) is amended by inserting after "work" a comma and the following: "rehabilitation psychiatry".

(b) Section 203 is amended by adding at the end thereof the following new subsection:

"(c) The Secretary shall measure and evaluate the impact of the training programs authorized by this section, shall determine training needs for personnel necessary to provide services to handicapped individuals, and shall develop a long-term rehabilitation manpower plan designed to target resources on areas of personnel shortage.".

SPECIAL FEDERAL RESPONSIBILITIES

SEC. 114. (a)(1) The first sentence of section 301(a) is amended by striking out "for the fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, September 30, 1977, and September 30, 1978" and inserting in lieu thereof "for each fiscal year ending prior to October 1, 1983".

(2) The last sentence of section 301(a) is amended by striking out "October 1, 1980" and inserting in lieu thereof "October 1, 1985".

(b) Section 302(a) is amended to read as follows:

"SEC. 302. (a) For the purpose of making grants and contracts under this section, there is authorized to be appropriated such sums as may be necessary for each fiscal year ending prior to October 1, 1983.".

(c)(1)(A) Section 304(a)(1) is amended to read as follows:

"(1) For the purpose of making grants under this section for special projects and demonstrations (and research and evaluation connected therewith), there are authorized to be appropriated such sums as may be necessary for each fiscal year ending prior to October 1, 1983.".

(B) Section 304(b)(1) is amended by striking out "programs and facilities" and inserting in lieu thereof "and operating programs and the renovation and construction of facilities, where appropriate".

(2) Section 304 is amended by adding at the end thereof the following new subsection:

"(f) The Secretary, subject to the provisions of section 306, shall make grants to State and public nonprofit agencies and organizations for paying part or all of the cost of initiation of recreation programs to provide handicapped individuals with recreational activities to aid in the mobility and socialization of such individuals. The activities authorized to be assisted under this subsection may include, but are not limited to, scouting and camping, 4-H activities, sports, music, dancing, handicrafts, art, and homemaking. No grant may be made under the provisions of this subsection unless the agreement with respect to such grant contains provisions to assure that, to the extent possible, existing resources will be used to carry out the activities for which the grant is to be made, and that with respect to children the activities for which the grant is to be made will be conducted after school.".

(d) Section 305(a) is amended by striking out "for the fiscal years" and all that follows through "1978" and inserting in lieu thereof "for each fiscal year ending prior to October 1, 1983".

ADMINISTRATION AND EVALUATION

SEC. 115. (a) Section 400(a)(2) is amended by inserting after "work" a comma and the following: "rehabilitation psychiatry".

(b) Section 403 is amended by striking out "the fiscal years" and all that follows through "1978" and inserting in lieu thereof "each fiscal year ending prior to October 1, 1983".

(c) Section 405(d) is amended to read as follows:

"(d) There are authorized to be appropriated for carrying out this section $600,000 for each fiscal year ending prior to October 1, 1983.".

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SEC. 116. (a)(1) Section 502(a) is amended to read as follows:

"SEC. 502. (a)(1) There is established within the Federal Government the Architectural and Transportation Barriers Compliance Board (hereinafter referred to as the 'Board') which shall be composed as follows:

"(A) Six members shall be appointed by the President from among members of the general public of whom five shall be handicapped individuals.

"(B) The remaining members shall be the heads of each of the following departments or agencies (or their designees whose positions are executive level IV or higher):

"(i) Department of Health, Education, and Welfare.

"(ii) Department of Transportation.

"(iii) Department of Housing and Urabn Development.

"(iv) Department of Labor.

"(v) Department of the Interior.

"(vi) Department of Defense.

"(vii) General Services Administration.

"(viii) Veterans' Administration.

"(ix) United States Postal Service.

The President shall appoint, from among the public members who are handicapped individuals, the first Chairman of such Board who shall serve for a term of not more than two years; thereafter, the Chairman shall be elected by a vote of a majority of the Board for a term of one year.

"(2)(A) The term of office of each appointed member of the Board shall be three years; except that (i) the members first taking office shall serve, as designated by the President at the time of appointment, two for a term of one year, two for a term of two years, and two for a term of three years, and (ii) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed.

"(B) No individual appointed under paragraph (1)(A) of this subsection who has served as a member of the Board may be reappointed to the Board more than once unless such individual has not served on the Board for a period of two years prior to the effective date of such individual's appointment.

"(3)(A) Members of the Board who are not regular full-time employees of the United States shall, while serving on the business of the Board, be entitled to receive compensation at rates fixed by the President, but not to exceed the daily rate prescribed for GS-18 under section 5332 of title 5, United States Code, including traveltime, for each day they are engaged in the performance of their duties as members of the Board; and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties under this section.

"(B) Members of the Board who are employed by the Federal Government shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties under this section.

"(C) For any matter upon which a vote of the Board is taken, any vote by a member specified in paragraph (1)(B) of this subsection shall be counted as one-half of one vote and any vote by a member appointed by the President shall be counted as one vote.".

(b)(1) Section 502(b)(1) is amended to read as follows: "(1) insure compliance with the standards prescribed pursuant to the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968 (including the application of that Act to the United States Postal Service) including but not limited to enforcing all standards under that Act, and insuring that all waivers and modifications of standards are based upon findings of fact and are not inconsistent with the provisions of such Act and this section;".

(2) Section 502(b) is amended by striking out "and" at the end of clause (5), by striking out the period at the end of clause (6) and inserting in lieu thereof a semicolon and "and", and by adding at the end thereof the following new clauses: "(7) sue and be sued in its own name, and be represented by its own legal counsel, in all Federal, State, and local courts; (8) establish minimum guidelines and requirements for the standards issued pursuant to the Act of August 12, 1968, as amended, commonly known as the Architectural Barriers Act of 1968; and (9) insure that public conveyances, including rolling stock, are readily accessible to, and usable by, physically handicapped persons.".

(c)(1) The first sentence of section 502(d) is amended by striking out "or contracts with", and by inserting after "organizations" "or contracts with private nonprofit or for-profit organizations".

(2) The second sentence of section 502(d) is amended by striking out "The" and inserting in lieu thereof "Except as provided in paragraph (3) of subsection (e), the".

(3) The last sentence of section 502(d) is amended by inserting "or public conveyance or rolling stock" after "building" and by striking out "prescribed pursuant to the Act cited in subsection (b) of this section" and inserting in lieu thereof "enforced under this section".

(4) Section 502(d) is amended by adding at the end thereof the following new sentences: "Pursuant to chapter 7 of title 5, United States Code, any complainant or participant in a proceeding under this subsection may obtain review of a final order issued in such proceeding. The executive director shall have the authority, at the direction of the Board, to bring a civil action in the appropriate United States district court to enforce, in whole or in part, any final order of the Board under this subsection.".

(5) Section 502(d) further is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraph:

"(2) The Board shall develop, in consultation and coordination with other concerned Federal departments and agencies and agencies within the Department of Health, Education, and Welfare, and provide appropriate technical assistance to any public or private activity, person, or entity affected by regulations prescribed pursuant to this title with respect to architectural and transportation barriers accessibility. Any funds appropriated to any such department or agency for the purpose of providing such assistance may be transferred to the Board for the purpose of carrying out this paragraph. The Board may arrange to carry out its responsibilities under this paragraph through such other departments and agencies for such periods as the Board determines is appropriate. In carrying out its technical assistance responsibilities under this paragraph, the Board shall establish a procedure to insure separation of its compliance and technical assistance responsibilities under this section.".

(d) Section 502(e) is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraphs:

"(2) The Executive Director shall exercise general supervision over all personnel employed by the Board (other than hearing examiners and their assistants). The Executive Director shall have final authority on behalf of the Board, with respect to the investigation of alleged noncompliance in the issuance of formal complaints before the Board, and shall have such other duties as the Board may prescribe.

"(3) For the purpose of this section, an order of compliance issued by a hearing examiner shall be deemed to be an order of the Board and shall be the final order for the purpose of judicial review.".

(e) Section 502(h) is amended by striking out "and" after "1976," and inserting before the period "and $3,500,000 for fiscal year 1979 and each of the four succeeding fiscal years".

GENERAL PROVISIONS AMENDMENTS

SEC. 117. (a)(1) Section 2(4) is amended to read as follows:

"(4) insure appropriate use of rehabilitation facilities in providing rehabilitation services to handicapped individuals, and assist in the construction, development, and improvement of such facilities;".

(2) Section 2(5) is amended by inserting before "psychological" the following: "psychiatric,".

(b) Section 3(b) is amended by inserting before "psychological" the following: "psychiatric,".

(c)(1) Section 7(1) is amended by striking out "alteration and renovation" and inserting in lieu thereof "alteration, or renovation".

(2) Section 7(4)(B) is amended by inserting after "medical" a comma and the following: "psychiatric".

(3)(A) Section 7(10)(A) is amended by inserting after "medical" a comma and the following: "psychiatric".

(B) Section 7(10)(F) is amended by inserting before "psychological" the following: "psychiatric,".

(d) Section 7 is amended by inserting at the end of the section the following new paragraph:

"(15) The term 'independent living program' means, for purposes of title I of this Act, a set of organized specially designed services and activities of such scope and duration designed to assist individuals with the most severe handicaps in the achievement and maintenance of such life activities as self-care, communication, learning, mobility, and any other life activity necessary to enhance the ability to function in society and in the community and to prepare for appropriate employment.".

NONDISCRIMINATION PROGRAM PROVISIONS; INTERAGENCY COORDINATING COUNCIL

SEC. 118. (a) Title V of this Act is amended by adding at the end thereof the following new sections:

"REMEDIES AND ATTORNEY'S FEES

"SEC. 505. (a)(1) The remedies, procedures, and rights set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16), including the application of section 706(f) through (k) (42 U.S.C. 2000e-5 (f) through (k)), shall be available, with respect to any complaint under section 501 of this Act, to any employee or applicant for employment aggrieved by the final disposition of such complaint, or by the failure to take final action on such complaint.

"(2) The remedies, procedures, and rights set forth in title VI of the Civil Rights Act of 1964 shall be available to any person aggrieved by any act or failure to act by any recipient of Federal assistance or Federal provider of such assistance under section 504 of this Act.

"(b) In any action or proceeding to enforce or charge a violation of a provision of this title, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

"INTERAGENCY COORDINATING COUNCIL

"SEC. 506. There shall be established an Interagency Coordinating Council (hereinafter referred to in this section as the 'Council') composed of the Secretary of Health, Education, and Welfare, the Secretary of Labor, the Attorney General, the Chairman of the United States Civil Service Commission (or successor authority), and the Chairman of the Architectural and Transportation Barriers Compliance Board. The Council shall have the responsibility for developing and implementing agreements, policies, and practices designed to maximize effort, promote efficiency, and eliminate conflict, competition, duplication, and inconsistencies among the operations, functions, and jurisdictions of the various departments, agencies, and branches of the Federal Government responsible for the implementation and enforcement of the provisions of this title, and the regulations prescribed thereunder. On or before July 1 of each year, the Council shall transmit to the President and to the Congress a report of its activities, together with such recommendations for legislative or administrative changes as it concludes are desirable to further promote the purposes of this section.".

(b) The table of contents is amended by adding the following items at the end of title V:

"Sec. 505. Remedies and attorney's fees.

"Sec. 506. Interagency Coordinating Council.

COMPREHENSIVE SERVICES FOR SEVERELY HANDICAPPED INDIVIDUALS

SEC. 119. (a) The Rehabilitation Act of 1973 is amended by inserting at the end thereof the following new title:

"TITLE VI—COMPREHENSIVE SERVICES FOR SEVERELY HANDICAPPED INDIVIDUALS

"PART A—GENERAL PROVISIONS

"SHORT TITLE

"SEC. 601. This title may be cited as the 'Comprehensive Services for Severely Handicapped Individuals Act of 1978'.

"DEFINITIONS

"SEC. 602. For purposes of this title:

"(1) The term 'severely handicapped individual' means an individual who has a mentally or physically handicapping condition or combination of such handicapping conditions which—

"(A) is expected to continue indefinitely;

"(B) indicates a need for life-long or extended duration for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services;

"(C) requires the provision of comprehensive services because of significant functional limitations in at least two of the following life activities:

"(i) self-care;

"(ii) communication;

"(iii) learning;

"(iv) mobility; or

"(v) capacity for independent living; and

"(D) constitutes a substantial barrier to such individual's ability to function in society.

"(2)(A) The term 'nonprofit facility for severely handicapped individuals' means a facility for severely handicapped individuals which is owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(B) The term "nonprofit private institution of higher learning' means an institution of higher learning which is owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"INDIVIDUALIZED WRITTEN PROGRAM

"SEC. 603. (a) As a condition of receiving Federal funds under section 612, each State shall provide assurances to the Secretary that an individual written program is developed for each severely handicapped individual provided comprehensive services by the State. The Secretary shall prescribe regulations for the development of such individualized programs which are in accordance with the provisions of section 102 of this Act and regulations prescribed thereunder modified as may be appropriate to provide comprehensive services for severely handicapped individuals as defined in section 602 of this title.

"(b) The Secretary shall prescribe procedures to insure that the individualized written program required under this section shall, for each individual, be coordinated with the individualized written rehabilitation program, habilitation plan, or education program for such individual required under section 102 of this Act, section 112 of the Developmental Disabilities Services and Facilities Construction Act, and section 612(4) and 614(a)(5) of the Education of All the Handicapped Children Act of 1975, respectively.

"PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

"SEC. 604. (a) The Secretary shall require as a condition to a State receiving an allotment under section 614 and payments under section 612 for any fiscal year after the fiscal year ending September 30, 1979, that the State provide the Secretary satisfactory assurances that (1) the State has in effect a system to protect and advocate the rights of severely handicapped individuals, and (2) such system will (A) have the authority to pursue legal, administrative, and other appropriate remedies to insure the protection of the rights of such individuals who are receiving services under this title within such State, and (B) is independent of any State agency that provides services under this title to such individuals.

"(b) The Secretary shall take such action as may be necessary to insure that the States coordinate the system to advocate and protect the rights of such individuals with the system to protect and advocate the rights of persons with developmental disabilities required under section 113 of the Developmental Disabilities Services and Facilities Construction Act.

"(c)(1) In order to assist States in developing and maintaining systems to meet the requirements of this section, the Secretary shall allot to the States the sums appropriated under paragraph (2) of this section in the same manner as funds are allotted under section 614 of this title and paid under section 612 of this title.

"(2) In order to make payments of allotments under this subsection to carry out the purposes of this section there are authorized to be appropriated $20,000,000 for the fiscal year ending September 30, 1979, $20,000,000 for the fiscal year ending September 30, 1980, $25,000,000 for the fiscal year ending September 30, 1981, $25,000,000 for the fiscal year ending September 30, 1982, and $25,000,000 for the fiscal year ending September 30, 1983.

"EMPLOYMENT OF HANDICAPPED INDIVIDUALS

"SEC. 605. As a condition of providing assistance under this title, the Secretary shall require that each recipient of assistance take affirmative action to employ and advance in employment qualified handicapped individuals on the same terms and conditions required with respect to the employment of such individuals under the provisions of this Act which govern employment (1) by State rehabilitation agencies and rehabilitation facilities, and (2) under Federal contracts and subcontracts.

"ADMINISTRATION

"SEC. 606. In the administration of this title, the Secretary is authorized to apply any provision of title I of this Act, modified as necessary to meet the special needs of severely handicapped individuals, which is consistent with the provisions of this title.

"PART B—STATE GRANTS FOR PROVISION OF COMPREHENSIVE SERVICES AND PLANNING FOR SEVERELY HANDICAPPED INDIVIDUALS

"DECLARATION OF PURPOSE; AUTHORIZATION OF APPROPRIATIONS

"SEC. 611. (a) The purpose of this title is to authorize grants to States to assist in developing and implementing comprehensive services for severely handicapped individuals.

"(b) In order to carry out the provisions of this title, there are authorized to be appropriated $110,000,000 for the fiscal year ending September 30, 1979, $170,000,000 for the fiscal year ending September 30 1980, $230,000,000 for the fiscal year ending September 30, 1981, $280,000,000 for the fiscal year ending September 30, 1982, and $350,000,000 for the fiscal year ending September 30, 1983.

"(c)(1) Not less than 30 per centum of the funds paid to a State under section 614 shall be used by such State for the purpose of making grants pursuant to section 617 of this Act for the support of funding, coordination, and development of projects and programs with respect to independent living and other programs services.

"(2) The Secretary may waive all or part of such 30 per centum requirement specified in paragraph (1) if he determines, on the

basis of evidence submitted by such State, that such State does not have and cannot feasibly use the funds required to be expended for the purposes specified in paragraph (1).

"PAYMENTS TO STATES

"SEC. 612. (a) From each State's allotment under this part for any fiscal year (including any additional allotments made to such State under section 614(b)), the Secretary shall pay to such State an amount equal to the Federal share of the cost of comprehensive services for severely handicapped individuals under the State plan approved under section 615, including expenditures for the administration of the State plan, except that the total of such payments to such State for such fiscal year may not exceed its total allotment under section 614, including any additional allotments made to such State under section 614(b) for such year. No payment shall be made in an amount which would result in a violation of the provisions of the State plan approved under section 615.

"(b) The method of computing and paying amounts under subsection (a) shall be as follows:

"(1) The Secretary shall, prior to the beginning of each calendar quarter or other period for payment which he prescribes by regulation, estimate the amount to be paid to each State under the provisions of subsection (a) for such quarter or period. Such estimate shall be based on such records and information furnished by the State as the Secretary may require, as well as any other investigation as the Secretary may find necessary.

"(2) The Secretary shall pay in each calendar quarter or payment period, from the allotment available for each State, the amount estimated for such quarter or period under paragraph (1). The Secretary shall reduce or increase as the case may be such payment by any amount which he finds that his estimate of the amount to be paid to the State for the prior quarter or payment period was greater or lesser than the amount which should have been paid to the State for such prior quarter or period under subsection (a). Payments shall be made—

"(A) prior to audit or settlement by the General Accounting Office;

"(B) through the disbursing facilities of the Treasury Department; and

"(C) in such installments as the Secretary may determine.

"(c) If the Secretary, after investigation, has reason to believe that any act (or failure to act) has occurred requiring action to withhold payments and after he has given the State agency so designated notice of opportunity for hearing pursuant to such section, payment under this section may be withheld, in whole or in part, pending corrective action or action based on such hearing.

"SCOPE OF COMPREHENSIVE SERVICES FOR SEVERELY HANDICAPPED INDIVIDUALS

"SEC. 613. Comprehensive services for severely handicapped individuals provided under this title are any goods or services as may be necessary to enhance the ability of a severely handicapped individual to live independently or to function in society and, if appropriate, secure and maintain appropriate employment. Such goods and services may include—

"(1) those goods and services specified in paragraphs (1) through (11) (especially paragraphs (3), (4), (6), (8), (10), and (11)) of section 103(a) of this Act, to the extent such goods and services are appropriate to carry out the provisions of this title;

"(2) physical, mental, and psychotherapeutic services;

"(3) recreational and leisure time activities; and

"(4) preschool services, including physical therapy, development of language and communication skills, and general child development services.

"ALLOTMENT OF FUNDS

"SEC. 614. (a) From the sums appropriated for any fiscal year pursuant to section 611(b) of this title, each State shall be allotted for payment under section 612 an amount which bears the same ratio to such sums as the population of such State bears to the population of all States, except that—

"(1) each State shall be allotted not less than one-half of 1 per centum of the amounts made available under section 611 (b) for the fiscal year for which the allotment is made except that for purposes of this paragraph, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands; and

"(2) Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands shall each be allotted not less than one-eighth of 1 per centum of the amounts made available under section 611 (b) for the fiscal year for which the allotment is made.

"(b)(1) If by the end of the sixth month of the fiscal year for which sums have been appropriated under section 611(b) the amount allotted to a State has not been paid to such State under such section because of such State's failure to qualify for such sums in accordance with the provisions of this title, the Secretary shall make reallotment of the total amounts not paid to the States in an amount which bears the same ratio to the total amount to be reallotted as the population of each qualifying State bears to the population of all qualifying States.

"(2) The Secretary may make available for reallotment in accordance with the provisions of paragraph (1) of this subsection such amounts paid in any fiscal year to any State under section 612 which he determines, after consultation with such State, will not be used by such State during such fiscal year for carrying out the provisions of this title.

"(3) If the Secretary determines pursuant to paragraph (2) that a State will not use any of the amounts paid pursuant to section 612, such State shall not be eligible for reallotment of funds under paragraph (1) or (2).

"(4) Funds made available by the Secretary through reallotment pursuant to paragraph (1) or (2) of this subsection shall remain available for expenditure until the end of the fiscal year following the fiscal year in which such funds become available for reallotment.

"(c) Whenever the State plan approved in accordance with section 615 provides for participation of more than one State agency in administering or supervising the administration of designated portions of the State plan, the State may apportion its allotment among such agencies in a manner which, to the satisfaction of the Secretary, is reasonably related to the responsibilities assigned to such agencies in carrying out the purposes of the State plan. Funds so apportioned to State agencies may be combined with other State or Federal funds authorized to be spent for other purposes, if the purposes of the State plan will receive proportionate benefit from the combination.

"(d) Whenever the State plan approved in accordance with section 615 provides for cooperative or joint effort between States or between or among agencies, public or private, in more than one State, portions of funds allotted to one or more such cooperating States may be combined in accordance with the agreements between the agencies involved.

"ANNUAL STATE PLANS

"SEC. 615. (a) For each fiscal year in which a State desires to participate in the program authorized under this title, a State shall submit to the Secretary for approval a State plan to provide for a program of comprehensive services for severely handicapped individuals designed to enhance the ability of such severely handicapped individuals to function in society and, if appropriate, secure and maintain appropriate employment. Such plan shall be submitted consistent with procedures established by the Secretary with respect to State plans submitted under section 101 of this Act and pursuant to any additional regulations the Secretary may prescribe. Such plan shall be prepared and submitted in accordance with the provisions of sections 616 and 619, and to the maximum extent feasible, in conjunction with the development and submission of the State plan prepared pursuant to section 101 of this Act.

"(b) The State plan required under subsection (a) shall—

"(1) designate the State agency or agencies administering the vocational rehabilitation plan pursuant to title I of this Act as the agency or agencies to administer the provisions of this title;

"(2) describe the quality, scope, and extent of the comprehensive services being provided to severely handicapped individuals and specify the State's goals and plans with respect to the distribution of grants pursuant to the independent living and service programs established under section 617 of this title;

"(3) provide assurances that comprehensive services will be provided only in accordance with the individualized written program required under section 603(a) and describe the efforts undertaken to assure appropriate coordination and consultation in the preparation of such written programs with the plan and programs specified in section 603(b);

"(4) provide that special efforts will be undertaken to provide technical assistance to urban and rural poverty areas with respect to the provision of comprehensive services for severely handicapped individuals and describe such efforts;

"(5)(A) provide assurances that efforts will be undertaken by the appropriate State agency or agencies to eliminate the inappropriate placement of severely handicapped individuals in institutions and to improve the quality of care provided by institutions providing services to severely handicapped individuals; and (B) describe the efforts undertaken by the State during the previous year with respect to such efforts;

"(6) provide for the maximum utilization of all available resources, including—

"(A) community education programs; and

"(B) volunteers serving under the Domestic Volunteer Service Act of 1973 and through other appropriate voluntary organizations, so long as volunteer services supplement and do not provide substitutes for the services of paid employees;

"(7) specify plans for maximizing the use of telecommunication systems, sensory, and other technological aids and devices which have the potential for improving and providing comprehensive services for severely handicapped individuals;

"(8) provide for the adequate staffing and support of the State council on severely handicapped individuals;

"(9) contain such additional information and assurances as the Secretary finds necessary to carry out the provisions of this part;

"(10) conform to such other requirements consistent with the purposes and provisions of this title as the Secretary by regulation may prescribe; and

"(11) specify that the plan required under this section is in accordance with goals and timetables set forth in the long-range plan required under section 616.

"(c) The provisions of subsections (b), (c), and (d) of section 101 of this Act shall

apply to any State plan submitted to the Secretary pursuant to this section.

"LONG-RANGE PLAN

"SEC. 616. (a)(1) Within eighteen months of the date of enactment of this title, each State, as a condition of receipt therefore of its allotment under this title, shall submit to the Secretary a long-range plan concerning the provision of appropriate services under this Act for all severely handicapped individuals residing within such State. Such long-range plan shall include goals and timetables for identifying and providing services under this title to all severely handicapped individuals residing within such State and plans for coordinating available public and private resources with programs and activities to be carried out under this title.

"(2) As part of the annual State plan submitted under section 615 of the fiscal year ending September 30, 1981, and for each fiscal year thereafter, each State shall annually update its long-range plan submitted under paragraph (1).

"(b)(1) From the funds allotted and paid to a State under section 614—

"(A) not more than 10 per centum or $60,000, whichever is the greater, for the fiscal year ending September 30, 1979, and

"(B) not more than 6 per centum or $35,000, whichever is the greater, for the fiscal year ending September 30, 1980,

shall be used by each State for developing the long-range plan required under subsection (a)(1).

"(2) From the funds allotted and paid to a State under section 614, not more than 6 per centum or $35,000, whichever is the lesser, for the fiscal year ending September 30, 1981, and each succeeding fiscal year shall be used by each State for the purpose of updating the long-range plan as required under subsection (a)(2).

"INDEPENDENT LIVING AND OTHER SERVICE PROGRAMS

"SEC. 617. (a) A State receiving payments under this title shall make grants to local public agencies, private nonprofit organizations, or tribal organizations of Indian tribes located on Federal and State reservations, for the establishment or operation of centers to provide services for severely handicapped individuals, such as independent living centers, designed to enable such individuals to secure and maintain employment or to enhance their ability to live independently or function in the society.

"(b) In order to be eligible for a State grant under this section, an agency, organization, or tribal organization shall submit an application containing such information and assurances as shall be prescribed by such State agency, including assurances that such agency, organization, or tribal organization will provide services exclusively to severely handicapped individuals including—

"(1) attendant care and training of personnel to provide such care;

"(2) referral and counseling services with respect to attendant care;

"(3) intake counseling to determine the need for specific services;

"(4) community group living arrangements;

"(5) education and training necessary for living in the community and participating in community activities;

"(6) housing and transportation referral and assistance;

"(7) surveys, directories, and other activities to identify appropriate housing and accessible transportation and provide housing referral, transportation, and other support services;

"(8) health maintenance services;

"(9) peer counseling;

"(10) individual and group social and recreational activities; and

"(11) such other services as may be necessary and not inconsistent with the provisions of this title.

"FEDERAL SHARE; NONDUPLICATION

"SEC. 618. (a)(1) The Federal share of any allotment under this part may not exceed 80 per centum of the necessary cost thereof as determined by the Secretary, except that if the project is located in an urban or rural poverty area, the Federal share may not exceed 90 per centum of the project's necessary costs as so determined.

"(2) The non-Federal share of the cost of any project assisted by a grant or allotment under this title may be provided in kind.

"(b) In determining the amount of any State's Federal share of the expenditures incurred by it under a State plan approved under section 615, there shall be disregarded (1) any portion of such expenditures which are financed by Federal funds provided under any provision of law other than section 614, and (2) the percentage of non-Federal funds required to be expended in programs similar to the programs established under this title.

"STATE COUNCILS ON SEVERELY HANDICAPPED INDIVIDUALS

"SEC. 619. (a)(1) Each State which receives assistance under this part shall establish a State Council on Severely Handicapped Individuals which will serve as an advocate for severely handicapped individuals. The members of a State's Council on Severely Handicapped Individuals shall be appointed by the Governor of such State from among the residents of that State. The Governor of each State shall make appropriate provisions for the rotation of membership on the Council of his respective State. Each State Council on Severely Handicapped Individuals shall at all times include in its membership representatives of the principal State agencies, local agencies, and nongovernmental agencies and groups concerned with the provision of services to severely handicapped individuals in that State. At least one-half of the membership of such State Council shall consist of individuals who—

"(A) are severely handicapped individuals or the parents or guardians of such individuals;

"(B) are generally representative of the population of severely handicapped individuals in such State; and

"(C) are not officers or employees of any State agency or any other entity which receives funds or provides services under this part.

"(2) Not more than 25 per centum of the members of a State Council appointed pursuant to paragraph (1) may also serve as members of that State's State Planning Council established under section 137 of the Developmental Disabilities Services and Facilities Construction Act. The Chairman of such State Planning Council or his designee shall serve as a nonvoting ex officio member of the Council established under this section.

"(b) Each State Council on Severely Handicapped Individuals shall—

"(1) advise regarding, supervise the development of, and approve the State plan required by this part;

"(2) monitor and evaluate the implementation of such State plan;

"(3) to the maximum extent feasible, review and comment on all State plans in the State which relate to programs affecting severely handicapped individuals prior to the submission of such State plan to the Secretary for approval;

"(4) submit to the Secretary, through the Governor, such periodic reports on its activities as the Secretary may reasonably require;

"(5) submit to the Federal Council on Handicapped Individuals, through the Governor, recommendations to assist the Federal Council on Handicapped Individuals concerning (A) the development of a national policy to address the needs of severely handicapped individuals and (B) the development of a plan to implement such policy; and

"(6) coordinate its activities with the State Planning Council established under section 137 of the Developmental Disabilities Services and Facilities Construction Act.

"(c) Each State receiving assistance under this part shall provide adequate staff and support for the State Council on Severely Handicapped Individuals to insure that the Council is able to carry out the provisions of this Act.

"PART C—DEMONSTRATIONS AND MODELS FOR CENTERS AND SERVICES TO MEET SPECIAL NEEDS OF SEVERELY HANDICAPPED INDIVIDUALS

"DEVELOPMENT AND DEMONSTRATION OF MODELS FOR CENTERS AND SERVICES

SEC. 621. (a) The Secretary is authorized and directed to provide financial assistance by grants to or contracts with public agencies or private nonprofit institutions for the development and demonstration of models for centers and the provision of services to meet the special needs of severely handicapped individuals. Such models shall include—

"(1) the establishment and operation of training centers to create and utilize the best methods of appraising and developing the employment potential of severly handicapped individuals, including programs to—

"(A) provide training and continuing education for habilitation and rehabilitation personnel and other employment-oriented personnel with respect to the employment of severely handicapped individuals;

"(B) develop model procedures for testing and evaluating the employment potential of severely handicapped individuals;

"(C) develop model training programs for severely handicapped individuals to teach skills which will lead to appropriate employment;

"(D) develop new approaches and techniques for the placement and followup of severely handicapped individuals in employment; and

"(E) provide information services regarding education, training, employment, and placement for severely handicapped individuals;

"(2) the establishment and operation of models for independent living and community service centers for severely handicapped individuals, including—

"(A) a continuum of alternative living arrangements for severely handicapped individuals, which may include community-based group homes, other community living arrangements, or centers designed to enhance the ability of such individuals to function in society including services for adults residing in such communities who are incapable of caring for themselves without help or supervision;

"(B) appropriate specialized, generic, and interdisciplinary services (which may include home support services), transportation, communication, recreation, and related services;

"(3) models of services for preschool age severely handicapped children, including—

"(A) early intervention, parent counseling, infant stimulation, early identification, diagnosis, and evaluation of severely handicapped children up to the age of three;

"(B) such physical therapy, language development, pediatric, nursing, and psychiatric services as are necessary for such children; and

"(C) appropriate services for the parents of such children, including psychiatric services, parent counseling, and training.

"(b) No grant or contract may be made under this section unless an application therefor is submitted to and approved by the Secretary. Such an application shall be submitted in such form and such manner and contain such information as the Secretary may require. In determining whether to approve an application under this section, the Secretary shall consider the needs of the severely handicapped individuals in the area to be served by the applicant and the capability of the applicant to develop and apply new methods and techniques.

"(c) Pursuant to regulations which the Secretary shall prescribe, funds under this section may be used to cover part of the cost of renovation or modernization of facilities to be used in connection with an activity assisted under a grant or contract made under this section.

"(d) The Secretary shall take such action as may be necessary to coordinate the program of models for independent living authorized under subsection (a)(2) with the special programs for independent living authorized under section 121(a) of this Act.

"(e)(1) There are authorized to be appropriated $60,000,000 for the fiscal year ending September 30, 1979, $85,000,000 for the fiscal year ending September 30, 1980, $115,000,000 for the fiscal year ending September 3, 1981, $140,000,000 for the fiscal year ending September 30, 1982, and $140,000,000 for the fiscal year ending September 30, 1983 to carry out the provisions of this section.

"(2) Not more than 10 per centum of the funds appropriated for any fiscal year under this subsection shall be used for renovation or modernization of facilities pursuant to subsection (c).

"RESEARCH, TRAINING, AND EVALUATION

"SEC. 622. (a) The Secrtary, through the Commissioner, is authorized to make grants to and contracts with public agencies and nonprofit private organizations and academic institutions to pay part of the cost of projects for planning and conducting research, demonstrations, studies, and related activities to develop methods, procedures, and devices to assist in the provision of comprehensive services for severely handicapped individuals. The Commissioner shall coordinate grants and contracts under this subsection with grants and contracts under other appropriate programs of the Department of Health, Education, and Welfare.

"(b) The Secretary, through the Commissioner, is authorized to make grants to and contracts with public agencies and nonprofit private organizations and academic institutions to pay part of the cost of projects for training, traineeships, and related activities designed to assist in increasing the quality of training, and numbers of personnel trained to provide comprehensive services for severely handicapped individuals and perform such other functions as may be necessary to the development of such comprehensive services. The Commissioner shall coordinate grants and contracts made under this subsection with grants and contracts made under other appropriate programs of the Department of Health, Education, and Welfare.

"(c)(1) The Secretary shall provide for the continuing evaluation of all programs and activities conducted pursuant to this title. The evaluation process shall include an examination of—

"(A) the cost of all programs and activities in relation to their effectiveness in achieving stated goals;

"(B) the impact of all programs and activities on the lives of severely handicapped individuals; and

"(C) the implications of all programs and activities under this title for related programs.

"(2) The Secretary is authorized to require such information as may be needed from recipients of assistance under this title and to conduct, either directly or through grants or contracts, evaluation studies to carry out his duties under subsection (a) of this section.

"(d) The Secretary shall report to Congress annually concerning the conditions affecting severely handicapped individuals. The report shall include—

"(1) the results of the evaluations required under subsection (c);

"(2) a report on the level of accomplishment in research and development;

"(3) comments on the quality of services received by severely handicapped individuals; and

"(4) recommendations for future research, training, evaluation, services, procedures, and legislation needed to improve the lives of severely handicapped individuals.

"(e)(1) There are authorized to be appropriated $12,000,000 for the fiscal year ending September 30, 1979, $15,000,000 for the fiscal year ending September 30, 1980, $18,000,000 for the fiscal year ending September 30, 1981, $21,000,000 for the fiscal year ending September 30, 1982, and $24,000,000 for the fiscal year ending September 30, 1983 to carry out the provisions of this section.

"(2) Of the amounts appropriated under this subsection in each fiscal year, not more than 2 per centum shall be made available to carry out evaluations under subsection (c) with respect to programs carried out under part B of this title.".

(b) The table of contents of such Act is amended by inserting at the end thereof the following new items:

"TITLE VI—COMPREHENSIVE SERVICES FOR SEVERELY HANDICAPPED INDIVIDUALS

"PART A—GENERAL PROVISIONS

"Sec. 601. Short title.
"Sec. 602. Definitions.
"Sec. 603. Individualized written program.
"Sec. 604. Protection and advocacy of individual rights.
"Sec. 605. Employment of handicapped individuals.
"Sec. 606. Administration.

"PART B—STATE GRANTS FOR PROVISION OF COMPREHENSIVE SERVICES AND PLANNING FOR SEVERELY HANDICAPPED INDIVIDUALS

"Sec. 611. Declaration of purpose; authorization of appropriations.
"Sec. 612. Payments to States.
"Sec. 613. Scope of comprehensive services for severely handicapped individuals.
"Sec. 614. Allotment of funds.
"Sec. 615. Annual State plans.
"Sec. 616. Long-range plan.
"Sec. 617. Independent living and other service programs.
"Sec. 618. Federal share; nonduplication.
"Sec. 619. State Councils on Severely Handicapped Individuals.

"PART C—DEMONSTRATION AND MODELS FOR CENTERS AND SERVICES TO MEET SPECIAL NEEDS OF SEVERELY HANDICAPPED INDIVIDUALS

"Sec. 621. Development and demonstration of models for centers and services.
"Sec. 622. Research, training and evaluation.".

TITLE II—FEDERAL COUNCIL ON HANDICAPPED INDIVIDUALS

COUNCIL ESTABLISHED

SEC. 201. There is established a Federal Council on Handicapped Individuals (hereinafter referred to as the "Council"), which shall provide advice and assistance to the President concerning the problems and needs of handicapped and severely handicapped individuals.

DUTIES OF THE COUNCIL

SEC. 202. (a) The Council shall—

(1) advise and assist the President on matters relating to the special needs of handicapped and severely handicapped individuals;

(2) review and evaluate on a continuing basis all policies, programs, and activities concerning handicapped individuals, severely handicapped individuals, and persons with developmental disabilities conducted or assisted by all Federal departments and agencies, including programs established or assisted under the Rehabilitation Act of 1973, the Comprehensive Services for Severely Handicapped Individuals Act of 1978, and the Developmental Disabilities Services and Facilities Construction Act, with a view toward determining the effectiveness of all Federal policies, programs, and activities in meeting the needs of handicapped and severely handicapped individuals;

(3) serve as an ombudsman on behalf of handicapped and severely handicapped individuals by making recommendations to the President and to the Congress with respect to Federal policies, programs, and activities concerning handicapped and severely handicapped individuals;

(4) inform the public about the problems and needs of handicapped and severely handicapped individuals by collecting and disseminating information, conducting or commissioning studies and publishing the results thereof, conducting public hearings, and by issuing publications and reports; and

(5) provide public forums for discussing and publicizing the problems and needs of handicapped and severely handicapped individuals by conducting or sponsoring conferences, workshops, and other such meetings.

(b) The Council shall make such interim reports as it deems advisable and shall make an annual report of its findings and recommendations to the President not later than March 31 of each year. The President shall transmit each such report to the Congress together with his comments and recommendations.

MEMBERSHIP OF THE COUNCIL; APPOINTMENTS; CONDUCT OF BUSINESS

SEC. 203. (a) The Council shall be composed of fifteen members, to be appointed by the President with the advice and consent of the Senate. The members of the Council shall be appointed so as to be representative of handicapped and severely handicapped individuals, national organizations concerned with severely handicapping conditions, providers of services to the handicapped, business concerns, and labor organizations. At least five members of the Council shall be handicapped or severely handicapped individuals.

(b) Members of the Council shall be appointed to serve for a three-year term, except that the terms of office of the members first appointed shall expire, as designated by the President at the time of appointment, five at the end of one year, five at the end of two years, and five at the end of three years. Members shall be eligible for reappointment and may serve after the expiration of their terms until such time as their successors have been appointed by the President and have been confirmed by the Senate.

(c) Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

(d) The President shall designate the Chairman from among the members appointed to the Council. The Council shall meet at the call of the Chairman but not less often than four times a year. The Secretary of Health, Education, and Welfare shall be an ex officio member of the Council.

(e) Eight members of the Council shall constitute a quorum and any vacancy in the Council shall not affect its power to function.

(f) The Council shall make such bylaws, rules, and regulations as are necessary to carry out its functions under this Act.

COMPENSATION OF COUNCIL MEMBERS

SEC. 204. Each member of the Council who is not a regular full-time employee of the United States shall be entitled to receive compensation at a rate equal to the rate paid a GS-18 under the General Schedule contained in section 5332 of title 5, United States Code, including travel-time, for each day he is engaged in the actual performance of his duties as a member of the Council, and while serving on the business of the Council away from his home or regular place of business, may be allowed travel expenses, including per diem in lieu of subsistance, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service. Members of the Council who are officers or employees of the United States Government shall serve without additional compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

RESPONSIBILITIES OF THE SECRETARY

SEC. 205. The Secretary of Health, Education, and Welfare shall make available to the Council such staff, information, and other assistance as it may require to carry out its activities.

AUTHORIZATION OF APPROPRIATIONS

SEC. 206. (a) There are authorized to be appropriated for the purpose of carrying out the provisions of this title $1,200,000 for fiscal year 1979 and each succeeding fiscal year ending prior to October 1, 1983.

(b) Of the amounts appropriated under subsection (a), $200,000 shall be made available in each fiscal year for the employment of staff for the Council.

TITLE III—AMENDMENTS TO THE DEVELOPMENTAL DISABILITIES SERVICES AND FACILITIES CONSTRUCTION ACT

DEFINITIONS

SEC. 301. Paragraph (7) of section 102 of the Developmental Disabilities Services and Facilities Construction Act is amended so as to read as follows:

"(7) The term 'developmental disability' means a severe chronic disability of a person which—

"(A) is attributable to a mental or physical impairment or combination of mental and physical impairments;

"(B) is manifested before such person attains age twenty-two;

"(C) is likely to continue indefinitely;

"(D) results in substantial functional limitations in three or more of the following areas of major life activity:

"(i) self-care;
"(ii) receptive and expressive language;
"(iii) learning;
"(iv) mobility;
"(v) self-direction;
"(vi) capacity for independent living;
"(vii) economic self-sufficiency; and

"(E) reflects the need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services to be individually planned and coordinated during the lifetime of such person or for an extended period of time.".

NATIONAL ADVISORY COUNCIL REPEALED

SEC. 302. Section 108 of the Developmental Disabilities Services and Facilities Construction Act is repealed.

SPECIAL REPORT REQUIRED

SEC. 303. The Development Disabilities Services and Facilities Construction Act is amended by inserting immediately after section 107 the following new section:

"SPECIAL REPORT REQUIRED

"SEC. 108. (a) The Secretary shall make a special report to the Congress concerning the impact of the modification of the definition of 'developmentally disabled' contained in section 102(7) of this Act made by section 301 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978. The report shall include—

"(1) an analysis of the impact of the modification of such definition on all categories of persons with developmental disabilities receiving services under this Act prior to the date of enactment of such modification, and for each of the two succeeding fiscal years, including—

"(A) the number of persons with developmental disabilities in all categories served before and after the date of enactment of such modification; and

"(B) the amounts expended under this Act for all categories of persons with developmental disabilities before and after the date of enactment of such modification; and

"(2) an assessment, evaluation, and comparison of services provided to persons with developmental disabilities provided prior to the date of enactment of such modification and for each of the two succeeding fiscal years.

"(b) The Secretary shall submit the report required under subsection (a) within 30 months of the date of enactment of this section.".

EVALUATION SYSTEM

SEC. 304. (a) Section 110(a) of the Developmental Disabilities Services and Facilities Construction Act is amended by striking out "The Secretary, in consultation with the National Advisory Council on Services and Facilities for the Developmentally Disabled, shall" and inserting in lieu thereof "The Secretary shall".

(b) Section 110(d) of such Act is amended by striking out "The Secretary, in consultation with the National Advisory Council on Services and Facilities for the Developmentally Disabled, may" and inserting in lieu thereof "The Secretary may".

PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

SEC. 305. Section 113(b)(2) of the Developmental Disabilities Services and Facilities Construction Act is amended by—

(1) striking out "and" after "1977,"; and

(2) striking out the period at the end thereof and inserting in lieu thereof ", and $12,000,000 for the fiscal year ending September 30, 1979, and for each of the four succeeding fiscal years.".

AUTHORIZATION OF APPROPRIATIONS; DEMONSTRATION GRANTS

SEC. 306. Section 123(a) of the Developmental Disabilities Services and Facilities Construction Act is amended—

(1) by striking out "1977, and" and inserting in lieu thereof "1977,";

(2) by striking the period at the end thereof and inserting in lieu thereof a comma; and

(3) by adding immediately at the end thereof the following: "$12,000,000 for the fiscal year ending September 30, 1979, $14,000,000 for the fiscal year ending September 30, 1980, $16,000,000 for the fiscal year ending September 30, 1981, and $18,000,000 for each of the fiscal years ending September 30, 1982, and September 30, 1983.".

AUTHORIZATION OF APPROPRIATIONS; CONSTRUCTION

SEC. 307. Section 127 of the Development Disabilities Services and Facilities Construction Act is amended—

(1) by striking out "1977, and" and inserting in lieu thereof "1977,";

(2) by striking out the period at the end thereof and inserting in lieu thereof a comma; and

(3) by inserting immediately at the end thereof the following: "and $3,000,000 for each of the succeeding fiscal years ending prior to October 1, 1983.".

AUTHORIZATION OF APPROPRIATIONS FOR ALLOTMENTS

SEC. 308. Section 131 of the Development Disabilities Services and Facilities Construction Act is amended—

(1) by striking out "and" after "1977," and

(2) by striking the period at the end thereof and inserting in lieu thereof ", $65,000,000 for the fiscal year ending September 30, 1979, $70,000,000 for the fiscal year ending September 30, 1980, $75,000,000 for the fiscal year ending September 30, 1981, $75,000,000 for the fiscal year ending September 30, 1982, and $75,000,000 for the fiscal year ending September 30, 1983.".

STATE ALLOTMENTS

SEC. 309. Section 132(a)(1)(B)(i)(II) of the Developmental Disabilities Services and Facilities Construction Act is amended by striking out "$150,000," and inserting in lieu thereof "$250,000,".

STATE PLANS

SEC. 310. Section 13(b) of the Development Disabilities Services and Facilities Construction Act is amended—

(1) by striking the word "and" at the end of paragraph (29);

(2) by striking the period at the end of paragraph (30) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by inserting the following new paragraph immediately after paragraph (30):

"(31) provide assurances that the State has undertaken affirmative steps to assure the participation in programs under this Act of individuals generally representative of the population of the State, with particular attention to the participation of members of minority groups.".

STATE PLANNING COUNCILS

SEC. 311. (a) Section 137(a) of the Developmental Disabilities Services and Facilities Construction Act is amended to read as follows:

"SEC. 137. (a) Each State which receives assistance under this part shall establish a State Planning Council which will serve as an advocate for persons with developmental disabilities. The members of a State's State Planning Council shall be appointed by the Governor of such State from among the residents of that State. The Governor of each State shall make appropriate provisions for the rotation of membership on the Council of his respective State. Each State Planning Council shall at all times include in its membership representatives of the principal State agencies, local agencies, and nongovernmental agencies and groups concerned with services to persons with developmental disabilities in that State. At least one-half of the membership of such a Council shall consist of persons who—

"(1) are persons with developmental disabilities or the parents or guardians of such persons; and

"(2) are not officers or employees of any State agency or any other entity which receives funds or provides services under this part.".

(b) Section 137(b) of such Act is amended—

(1) by striking out in subsection (b)(1) "supervise" and inserting in lieu thereof "advise regarding and supervise";

(2) by striking "and" at the end of paragraph (3);

(3) by redesignating paragraph (4) as paragraph (5); and

(4) by inserting immediately after paragraph (3) the following new paragraph:

"(4) coordinate its activities with the State Council on Severely Handicapped Individuals established in the State under section 619 of the Comprehensive Services for Severely Handicapped Individuals Act of 1978, and".

GRANT AUTHORITY

SEC. 312. Section 145 of the Developmental Disabilities Services and Facilities Construction Act is amended—

(1) by striking out "The Secretary, after consultation with the National Advisory Council on Services and Facilities in the Developmentally Disabled, may" and inserting in lieu thereof "The Secretary may";

(2) by redesignating subsections (b) through (f) as subsections (c) through (g), respectively;

(3) by inserting immediately after subsection (a) the following new subsection:

"(b) The Secretary shall establish procedures to insure participation of persons with developmental disabilities and their parents or guardians in determining priorities to be utilized by the Secretary in making project grants under the provisions of this section."; and

(4) by striking out the period at the end of subsection (e) and inserting in lieu thereof: "and for each succeeding fiscal year ending prior to October 1, 1983.".

SHORT TITLE

SEC. 313. Section 101 of the Developmental Disabilities Services and Facilities construction Act is amended to read as follows:

"SHORT TITLE

"SEC. 101. This title may be cited as the 'Developmental Disabilities Assistance and Bill of Rights Act'.".

TITLE IV—READER SERVICES FOR THE BLIND; INTERPRETER SERVICES FOR THE DEAF

SHORT TITLE

SEC. 401. This title may be cited as the "Reader Services for the Blind, Interpreter Services for the Deaf, and Rehabilitation Services for the Older Blind Act of 1978".

PART A—READER SERVICES FOR THE BLIND

DECLARATION OF PURPOSE

SEC. 411. The purpose of this part is—

(1) to provide reading services to blind persons through (A) the employment of persons who by reading aloud can provide blind persons with ready access to printed information, (B) the purchase, production, storage, and distribution of Braille materials and sound recordings, and (C) the purchase, storage, and distribution of equipment which allows blind persons to have private individual access to printed materials by mechanical and electronic means;

(2) to authorize grants to States to provide reading services to blind persons who are not otherwise eligible for such services through State and Federal programs; and

(3) to expand the quality and scope of reading services available to blind persons by assuring that, to the maximum extent possible, the services provided pursuant to this part will meet the individual reading needs of blind persons in elementary, secondary, and postsecondary education, and employment.

AUTHORIZATION OF APPROPRIATIONS

SEC. 412. In order to carry out the purposes of this part, there are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1979; $10,000,000 for the fiscal year ending September 30, 1980; and for each succeeding fiscal year, there are further authorized to be appropriated such additional sums as the Congress may determine to be necessary.

STATE ENTITLEMENTS AND ALLOCATIONS

SEC. 413. (a) From the sums authorized under section 412 of this part, each State shall be entitled to an amount which bears the same ratio to the total amount of such sums as the population of the State bears to the population of all the States which apply for funds pursuant to section 414 of this part. In no case shall a State receive less than $25,000.

(b) Whenever the Secretary determines that any amount of a State's allocation for any fiscal year will not be utilized by such State in carrying out the purposes of this part, he shall make such amount available for carrying out the purposes of this part to one or more other States which he determines will be able to use additional amounts during such year for carrying out such purposes.

STATE APPLICATIONS

SEC. 414. (a) Any State that desires to receive payments pursuant to section 413 of this part for any fiscal year shall submit an application to the Secretary. Such application may be a part of the State's plan for vocational rehabilitation services for the blind submitted to the Secretary pursuant to section 101(a) of the Rehabilitation Act of 1973. In order to be approved by the Secretary, the application must—

(1) designate to administer the reading services program—

(A) the State blind commission or other agency of the State designated under the State plan for vocational rehabilitation services to the blind pursuant to section 101(a)(1) of the Rehabilitation Act of 1973, if such agency includes an identifiable administrative unit that—

(i) is primarily concerned with vocational rehabilitation or vocational and other rehabilitation of the blind and is responsible for the vocational rehabilitation program provided to the blind by such State agency;

(ii) has a full-time director who is directly responsible to the chief administrative officer of such agency and whose functions may not be delegated to any other officer not directly responsible to such director;

(iii) has a staff employed on such rehabilitation work of such identifiable administrative unit all or substantially all of whom are employed full time on such work;

(iv) is located at an organizational level and has an organizational status within such State agency comparable to that of the other major organizational units of such agency; and

(v) develops and administers its own budget; or

(B) an agency of the State, other than an agency described in subparagraph (A) of this paragraph, if such agency is a State agency primarily concerned with vocational rehabilitation or vocational and other rehabilitation of handicapped individuals and includes a bureau division, or other identifiable administrative unit that meets the requirements set forth in clauses (i) through (v) of paragraph (1)(A) of this subsection.

(2) contain the plans, policies, and methods to be followed in providing reading services to the blind, including—

(A) a description of the quality, extent, and scope of reading services provided through any other federally or nonfederally assisted program and how funds allotted to the State pursuant to section 413 of this part will be used to complement and augment rather than duplicate or replace the services provided by such other programs;

(B) a description of the steps to be taken to ensure that, to the maximum extent possible, the reading services provided under this part meet the individual needs of blind persons for access to printed information related to their participation in elementary, secondary, and postsecondary education and in employment;

(C) assurances satisfactory to the Secretary that blind persons who receive the direct services of a reader shall have control over the recruitment, training, retention, scheduling, and supervision of such reader, and that such blind persons shall fix the rate of compensation of such reader within guidelines for compensation of readers to be established by the State agency designated to administer the reading services program under paragraph (1) of this subsection;

(D) assurances satisfactory to the Secretary that no person providing reading services to the blind under this part and receiving compensation for such services will be paid at an hourly rate which is less than the rate established under section 6(a) of the Fair Labor Standards Act, as amended (29 U.S.C. 206(a)(1); and

(E) a description of the conditions for eligibility for participation of blind persons in the reading services program authorized under this part and, where appropriate, a statement of the priorities for service that are based on an assessment of the needs of the blind for such service as determined by the State, and the procedures to insure that such conditions for eligibility and priorities for service shall be developed in consultation with interested blind persons and organizations of blind persons;

(3) provide assurances satisfactory to the Secretary that such methods of administration, other than methods relating to the establishment and maintenance of personnel standards, as are found by the Secretary to be necessary will be followed;

(4) provide assurances satisfactory to the Secretary that eligibility of blind persons for reading services authorized under this part shall be determined without regard to individual economic need;

(5) provide assurances satisfactory to the Secretary that no residence requirement will be imposed that excludes from services under this part any blind person who is present in the State;

(6) provide assurances satisfactory to the Secretary that the views of blind persons and organizations of blind persons will be taken into account in resolving matters of general policy arising in the administration of the reading services program;

(7) provide assurances satisfactory to the Secretary that the State agency designated to administer the reader services program under paragraph (1) of this subsection will make such reports in such form and containing such information as the Secretary may from time to time reasonably require and will keep such records and afford such access thereto as the Secretary finds necessary to ensure the correctness and verification of such reports; and

(8) provide assurances satisfactory to the Secretary that the funds paid to the State under this part will be disbursed and accounted for in accordance with necessary fiscal control and fund accounting procedures.

(b)(1) The Secretary shall approve any application submitted by a State under subsection (a) if, after review of such application, he determines that it meets the requirements of subsection (a). The Secretary shall disapprove any application submitted by a State under subsection (a) if, after review of such application, he determines that it does not meet the requirements of subsection (a).

(2) Whenever the Secretary, after reasonable notice and opportunity for a hearing, finds that a State agency, in the administration of an application approved under paragraph (1) has failed to comply with any requirements set forth in such application, the Secretary, after giving appropriate notice to the State agency, shall make no further payments to such State agency under section 415 of this part until the Secretary is satisfied that there is no longer any failure to comply with the requirements involved.

(3) If any State is dissatisfied with the Secretary's action under paragraph (1) or (2) of this subsection, such State may appeal to the United States district court for the district where the capital of such State is located and judicial review of such action shall be on the record in accordance with the provisions of chapter 7 of title 5, United States Code (5 U.S.C. 701).

PAYMENTS TO STATES

SEC. 415. (a) From the amounts allotted to each State pursuant to section 413 of this part, the Secretary shall pay to that State an amount equal to the amount expended by the State for carrying out the purposes of this part in such State, including expenditures for the administration for the reading services program, except that the total of such payments to such State for any fiscal year may not exceed its allotment for such year under section 413 of this part.

(b) Payments under this part may be made in advance or by way of reimbursement and in such installments as the Secretary may determine necessary.

DEFINITIONS

SEC. 416. For the purposes of this part—

(a) The term "blind person" means a person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees. In determining whether a person is blind, there shall be an examination by a physician skilled in diseases of the eye, or by an optometrist, whichever the person shall select.

(b) The term "reading services" means—

(1) employment of persons who through reading aloud can afford blind persons ready access to printed information.

(2) transcription of printed information into braille or sound recording if such transcription is performed pursuant to individual requests from blind persons for such service,

(3) the storage and distribution of braille materials and sound records,

(4) the purchase, storage, and distribution of equipment and materials necessary for the production, duplication, and reproduction of such braille materials and sound recordings, and

(5) the purchase, storage, and distribution of equipment provided to blind persons that affords such persons private individual access to printed materials by mechanical or electronic means.

(c) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(d) The term "State" includes the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands; and for the purpose of American Samoa and the Trust Territory of the Pacific Islands, the appropriate State agency designated as provided in section 514(a)(1) shall by the Governor of American Samoa or the High Commissioner of the Trust Territory of the Pacific Islands, as the case may be.

PART B—INTERPRETER SERVICES FOR THE DEAF

FINDINGS AND PURPOSES

SEC. 421. (a) The Congress finds that—

(1) section 504 of the Rehabilitation Act of 1973 has provided a mandate that barriers to handicapped individuals must be removed;

(2) most efforts for the removal of such barriers have been directed toward the removal of architectural barriers; and

(3) there is a need to remove communications barriers which affect deaf individuals wherever they exist.

(b) It is the purpose of this part—

(1) to provide for the training of a significant number of interpreters to meet the needs of deaf individuals throughout the Nation; and

(2) to establish a mechanism for the efficient delivery of interpreter services to deaf individuals.

INTERPRETER SERVICES

SEC. 422. Title II of the Rehabilitation Act of 1973 is amended—

(1) by redesignating section 205 (as added by section 110(b) of this Act) as section 206;

(2) by redesignating section 204 as section 205; and

(3) by inserting immediately after section 203 the following new section:

"INTERPRETER SERVICES

"SEC. 204. (a) The Secretary, through the Office for Handicapped Individuals in the Office of Human Development Services (hereinafter referred to as the 'Office for Handicapped Individuals'), may establish not more than twelve programs under this section for the purpose of training a sufficient number of interpreters to meet the communications needs of deaf individuals. Such programs shall be established at locations throughout the Nation which are designed to provide for the most efficient delivery of interpreter services.

"(b)(1) The interpreter training programs specified in paragraph (2) shall be eligible to serve as base centers for purposes of providing services under this section, upon meeting the requirements established in this section.

"(2) The programs referred to in paragraph (1) are the interpreter training programs maintained at the following institutions: Gallaudet College in Washington, District of Columbia; Saint Paul Technical Vocational Institute in Saint Paul, Minnesota; California State University in Northridge, California; Seattle Central Community College in Seattle, Washington; Delgado College in New Orleans, Louisiana; and the National Technical Institute for the Deaf in Rochester, New York.

"(c) The Secretary may establish six additional centers which have ongoing operating programs for training interpreters and are so situated that they can provide training for individuals in States in geographic areas to insure that every part of the Nation is served.

"(d) Any base center or additional center which desires to maintain a program under this section may submit an application to the Office for Handicapped Individuals. Such application shall be submitted in such form, and in accordance with such procedures, as the Secretary may require. Any such application shall—

"(1) provide for the development of a five-year program which—

"(A) demonstrates the capacity to provide interpreter services to deaf individuals in need of such services; and

"(B) includes plans for the delivery of such services in specific areas of need designated by the Secretary; and

"(2) contain such other information as the Secretary many require.

"(e) The Office for Handicapped Individuals shall approve any application which meets the requirements of this section.

"(f)(1) Any base center or additional center which maintains a program under this section may, in connection with such program, provide for the training or retraining of teachers who are involved in providing instruction to deaf individuals but who are not certified as teachers of deaf individuals. Short-term, in-service training may also be provided to teachers of deaf individuals.

"(2) Interpreters who provide services required under the Education for All Handicapped Children Act of 1975 may be trained in any program maintained by a base center or additional center under this section, except that funds for such training shall be drawn from funds appropriated under the Education for All Handicapped Children Act.

"(g) Any base center or additional center maintaining a program under this section may provide for the establishment and operation of satellite centers for the training of interpreters, upon a determination that such satellite centers are necessary or appropriate for the efficient delivery of interpreter services to deaf individuals in need of such services.

"(h) Any interpreter trained in any program maintained by a base center or additional center under this section shall be required to meet minimum standards established in the Registry for Interpreters of the Deaf.

"(i) There is authorized to be appropriated to carry out the provisions of this section $8,000,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, September 30, 1982, and September 30, 1983.".

"NATIONAL NETWORK OF SERVICES FOR DEAF INDIVIDUALS

SEC. 423. Title III of the Rehabilitation Act of 1973 is amended by redesignating section 306 as section 307, and all cross-references thereto, and by inserting immediately after section 305 the following new section:

"NATIONAL NETWORK OF SERVICES FOR DEAF INDIVIDUALS

"SEC. 306. (a) The Secretary shall establish a program under this section designed to provide for the establishment of information and referral centers, and interpreter referral centers for deaf individuals, in each State.

"(b) From sums appropriated under this section for any fiscal year, each State shall be entitled to an amount which bears the same ratio to such sums as the number of deaf individuals residing in such State bears to the number of deaf individuals residing in all States.

"(c) Any State which desires to receive funds under this section may submit an application to the Secretary. Such application shall be submitted in such form, at such times, and in accordance with such procedures, as the Secretary may require. Such application shall—

"(1) provide assurances that such program will be operated throughout the State in areas specifically selected to provide central locations for the provision of services to deaf individuals;

"(2) include a plan which describes, in sufficient detail, the manner in which information and referral services, and interpreter referral services, will be provided to deaf individuals;

"(3) provide assurances that the State agency responsible for the program operated under this section will seek to enter into contractual or other arrangements, to the extent appropriate, with private nonprofit organizations comprised of deaf individuals (or private nonprofit organizations which have the primary purpose of providing assistance or services to deaf individuals) for the operation of such programs; and

"(4) contain such other information as the Secretary may require.

"(d) The Secretary shall approve any application which meets the requirements of this section.

"(e)(1) Interpreter referral services which are provided through any program operated under this section shall be designed to provide a pool of available interpreters for specific geographical areas. Such services may be made available to any public agency or private nonprofit organization which is involved in the delivery of assistance or service to deaf individuals, in order to assist in the efficient delivery of such services.

"(2) The costs of providing interpreter services may be defrayed by the referral center responsible for the provision of such serv-

ices, during the first year in which such center in operation. At the end of such period, agencies receiving such services through referrals made by the center shall reimburse the center for the cost of such services.

"(f) Any interpreter who desires to participate in services provided under this section shall be required to meet minimum standards established in the Registry for Interpreters for the Deaf.

"(g) Any funds allocated under this section for use by an interpreter referral center may be used only for the provision of interpreter services. Such funds shall not be used to defray administrative or related costs.

"(h) No funds made available under this section may be used for the provision of assistance or services to deaf individuals who are receiving rehabilitation services as clients under any other provision of this Act.

"(i) Funds made available under this section may be used for the purchase or rental of equipment necessary to provide assistance or services to deaf individuals.

"(j) There is authorized to be appropriated to carry out the provisions of this section $15,000,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, September 30, 1982, and September 30, 1983.".

PART C—REHABILITATION SERVICES FOR OLDER BLIND PERSONS

DECLARATION OF PURPOSE

SEC. 431. The purpose of this part is to authorize grants to States—

(a) to assist in the development of plans for meeting the needs for services of older blind persons;

(b) for evaluation of the needs of older blind persons for rehabilitation services and personal adjustment services; and

(c) for the provision of rehabilitation and personal adjustment services for older blind persons in order to assist such persons to adjust to blindness and to render such persons more capable of caring for their individual needs.

AUTHORIZATION OF APPROPRIATIONS

SEC. 432. In order to carry out the purposes of this part, there are authorized to be appropriated $10,000,000 for the fiscal year ending September 30, 1979, $20,000,000 for the fiscal year ending September 30, 1980, and $30,000,000 for the fiscal year ending September 30, 1981. For each of the succeeding fiscal years, there are authorized to be appropriated such additional sums as may be necessary to carry out the provisions of this part.

SCOPE OF REHABILITATION SERVICES FOR OLDER BLIND PERSONS

SEC. 433. (a) Rehabilitation services for older blind persons provided under this part are any goods or services necessary to assist an older blind person to adjust to blindness and to render such person more capable of caring for his individual needs, including—

(1) prevention of blindness services, including outreach services, visual screening, surgical or therapeutic treatment necessary to prevent, correct, or substantially modify eye condition and other disabilities, and necessary hospitalization in connection therewith;

(2) provision of eyeglasses and other visual aids, and mobility and self-help aids;

(3) adjustment services such as mobility training, Braille instruction and equipment;

(4) daily living activities and other rehabilitation teaching services;

(5) individual and family counseling; and

(6) supportive services such as guide services, reader services, and transportation services necessary to assure delivery of services.

(b) Whenever rehabilitation services are provided for a group of older blind persons, such services may include—

(1) the establishment and maintenance of a register of the blind;

(2) the establishment and the maintenance of materials, equipment, and textbook centers and the distribution of such materials, equipment, and textbooks, including talking book machines, cassette tape players, brailled and large print books, special aids such as needles and Braille typewriters, talking books, and tapes;

(3) the warehousing, sale, and distribution of aids, appliances, and devices used by blind persons; and

(4) necessary costs of administering programs providing services for the blind under the State application approved in accordance with section 435.

(c) Any medical or medically related services (other than those related to screening and evaluation) or any supportive services related to maintenance under subsections (a) and (b) of this section shall be provided only after full consideration of eligibility of the blind individual for any similar benefit by way of pension, compensation, and insurance.

STATE ENTITLEMENTS AND ALLOCATIONS

SEC. 434. (a) From the sums authorized under section 432, each State shall be entitled to an amount which bears the same ratio to the total amount of such sums as the population of the State bears to the population of all the States which apply for funds pursuant to section 435.

(b) Whenever the Secretary determines that any amount of a State's allocation for any fiscal year will not be utilized by such State in carrying out the provisions of this part, he shall make such amount available for carrying out the provisions of this part to one or more other States which he determines will be able to use additional amounts during such year for carrying out such provisions.

STATE APPLICATIONS

SEC. 435. (a) Any State that desires to receive an allocation pursuant to section 434 for any fiscal year shall submit an application to the Secretary. Such application may be a part of the State's plan for vocational rehabilitation services submitted to the Secretary pursuant to section 101(a) of the Rehabilitation Act of 1973. The application must—

(1) designate to administer the older blind persons rehabilitation program established under this part—

(A) the State blind commission or other agency which administers the State plan for vocational rehabilitation services to the blind pursuant to section 101(a) of the Rehabilitation Act of 1973 if such agency includes an identifiable administrative unit that—

(i) is primarily concerned with vocational rehabilitation or vocational and other rehabilitation of the blind and is responsible for the vocational rehabilitation program provided to the blind by such State agency.

(ii) has a full-time director who is directly responsible to the chief administrative officer of such agency and whose functions may not be delegated to any other officer not directly responsible to such director,

(iii) has a staff employed on such rehabilitation work of such identifiable administrative unit all or substantially all of whom are employed full time on such work,

(iv) is located at an organizational level and has an organizational status within such State agency comparable to that of the other major organizational units of such agency, and

(v) develops and administers its own budget; or

(B) an agency of the State, other than an agency described in subparagraph (A) of this paragraph, if such agency is a State agency primarily concerned with vocational rehabilitation or vocational and other rehabilitation of handicapped individuals and includes a bureau, division, or other identifiable administrative unit that meets the requirements set forth in clauses (i) through (v) of paragraph (1)(A) of this subsection;

(1)(A) of this subsection;

(2) set forth the plans, policies, and methods to be followed in providing services for rehabilitation of older blind persons and for the administration and supervision of the program;

(3) describe the quality, extent, and scope of rehabilitation services for older blind persons through any other federally or nonfederally assisted program and how funds allotted to the State pursuant to section 434 of this part will be used to complement and augment rather than duplicate or replace the services provided by such other programs;

(4) describe the conditions for eligibility for participation of blind persons in the rehabilitation services program authorized under this part and, where appropriate, a statement of the priorities for services that are based on an assessment of the need of the blind for such services as determined by the State, and a procedure to insure that such conditions and priorities will be developed in consultation with interested blind persons and organizations of blind persons;

(5) provide assurance satisfactory to the Secretary that eligibility of blind persons for rehabilitation services authorized under this part shall be determined without regard to individual economic need;

(6) provide assurances satisfactory to the Secretary that no residence requirement will be imposed that excludes from services under this part any older blind person who is present in the State;

(7) provide assurances satisfactory to the Secretary that the views of blind persons and organizations of blind persons will be taken into account in resolving matters of general policy arising in the administration of the rehabilitation services under the program established under this part;

(8) provide for cooperation by the State agency designated under paragraph (1) with other public and private agencies concerned with the blind or older persons and for joint undertakings among such agencies to further the effectiveness of rehabilitation services for older blind persons;

(9) provide such methods of administration, other than methods relating to the establishment and maintenance of personnel standards, as are found by the Secretary to be necessary for the proper and efficient administration of the program;

(10) contain provisions relating to the establishment and maintenance of minimum standards governing facilities and personnel utilized in the provision of rehabilitation services for older blind persons consistent with the provisions of the State program for vocational rehabilitation services under title I of the Rehabilitation Act of 1973;

(11) provide that the State agency designated under paragraph (1) will make such reports in such form and containing such information as the Secretary may from time to time reasonably require to carry out his functions under this part, and comply with such provisions as he may from time to time find necessary to verify the correctness of such reports;

(12) provide assurances satisfactory to the Secretary that funds paid to the State under this part will be disbursed and accounted for in accordance with necessary fiscal control and fund accounting procedures.

(b)(1) The Secretary shall approve any application submitted by a State under subsection (a) if, after review of such application, he determines that it meets the requirements of subsection (a). The Secretary shall disapprove any application submitted by a State under subsection (a) if, after review of such application, he determines that

it does not meet the requirements of subsection (a).

(2) Whenever the Secretary, after reasonable notice and opportunity for a hearing, finds that a State agency, in the administration of an application approved under paragraph (1) has failed to comply with any requirements set forth in such application, the Secretary, after giving appropriate notice to the State agency, shall make no further payments to such State agency under section 435 of this part until the Secretary is satisfied that there is no longer any failure to comply with the requirements involved.

(3) If any State is dissatisfied with the Secretary's action under paragraph (1) or (2) of this subsection, such State may appeal to the United States district court for the district where the capital of such State is located and judicial review of such action shall be on the record in accordance with the provisions of chapter 7 of title 5, United States Code (5 U.S.C. 701).

PAYMENTS TO STATES

SEC. 436. (a) From the amounts allotted to each State pursuant to section 434 of this part, the Secretary shall pay to that State an amount equal to the amount expended by the State for carrying out the provisions of this part in such State, including expenditures for the administration of the rehabilitation services for the program established under this part, except that the total of such payments to such State for any fiscal year may not exceed its allotment for such year under section 434 of this part.

(b) Payments under this part may be made in advance or by way of reimbursement and in such installments as the Secretary may determine to be necessary.

DEFINITIONS

SEC. 437. (a) The term "blind" means a person who is blind under State law, including such a person who has one or more other disabling conditions.

(b) The term "older blind person" means individuals whose combination of blindness and age makes gainful employment unattainable.

(c) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(d) The term "State" includes the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands, and for the purposes of American Samoa and the Trust Territory of the Pacific Islands, the appropriate State agency designated as provided in section 435(a)(1) shall be the Governor of American Samoa or the High Commissioner of the Trust Territory of the Pacific Islands.

Mr. STAFFORD. Mr. President, I am delighted that the chairman of the Subcommittee on the Handicapped of the Committee on Human Resources, the distinguished Senator from West Virginia (Mr. RANDOLPH), is now here. I know that he has been detained by his necessary attendance at a meeting of his party's Policy Committee. Otherwise, he would have been here earlier. I am happy to welcome Senator RANDOLPH to the proceedings on S. 2600.

Mr. RANDOLPH. Mr. President, there is continuing appreciation by me of the utmost cooperation by the ranking minority member of the Subcommittee on the Handicapped, Senator ROBERT STAFFORD of Vermont.

All of the members of our Subcommittee on the Handicapped of the Committee on Human Resources approach this subject matter today, as other subject matter that we bring into this forum, with no partisanship whatsoever. It does not surface in our subcommittee. I have stressed that in the past, and I reinforce it today.

The pending measure, S. 2600, as reported from the Committee on Human Resources, has within it the Rehabilitation, Comprehensive Services, and Developmental Disability Amendments of 1978.

This legislation represents the culmination of efforts which began June 17, 1977, the date on which S. 1712, the Rehabilitation Amendments of 1977, was introduced.

Since the introduction of that bill, joined by the knowledgeable Senator from Vermont, who is the ranking member of the subcommittee, we have held 18 hearings and taken testimony from 201 witnesses.

The recommendations of each of the witnesses, the reports of the U.S. Department of Health, Education, and Welfare, and the recommendations of the White House Conference on Handicapped Individuals, which was held in May of 1977, have been carefully studied.

In addition, during the 95th Congress, I personally have spoken with several hundred persons who are handicapped themselves or who are in the field of the handicapped.

This has been a very moving experience for me, as I know it has been for the Senator from Vermont (Mr. STAFFORD) to have discussed all of these recommendations with a wide variety of people who are involved with programs for the handicapped and with parents of young handicapped children.

The one basic fact that came through to me as perhaps the largest gap that we now have in our services to and for the handicapped are those severely handicapped children and adults who, despite our several efforts, remain unserved. By unserved I mean that they are receiving, and I make this statement with vigor, they are receiving no services at all.

I truly believe it is this population to which Secretary Califano of the Department of Health, Education, and Welfare, was referring when he said in a recent speech:

> Handicapped Americans have been an oppressed and often hidden minority beset by demoralizing indignities and who are detoured out of the mainstream of life.

It is my genuine hope that Secretary Califano give top priority to those severely handicapped individuals who are excluded from programs because they have, as several witnesses stated in our hearings, the "wrong" disease or because they are stricken with a handicap after they have become adults. This action would reflect positively the policy of recognizing the human rights of all as proclaimed by this administration.

This measure contains the major thrust of the policy of the Committee on Human Resources, which is equality for all handicapped Americans. In addition to the reauthorization of the Vocational Rehabilitation Act, the provisions include comprehensive services and training for severely handicapped, the developmentally disabled, and protection and advocacy for all handicapped Americans.

As lawmakers and as citizens we must help protect the rights of these severely handicapped persons. Equity for severely handicapped Americans is essential to our national security.

If we violate the rights of our fellow citizens we violate our commitment to the principle which protects us all. Our work on this measure affirms not only the rights of these severely and profoundly handicapped individuals but also strengthens the rights and protection of all citizens.

Mr. President, as chairman of the Subcommittee on the Handicapped of the Committee on Human Resources, I will highlight some of the provisions of the pending measure, which the subcommittee developed.

Mr. President, S. 2600, as reported, the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, represents the culmination of efforts which began June 17, 1977, the date of which S. 1712, the Rehabilitation Amendments of 1977, was introduced. Since the introduction of that bill I have held 18 hearings and taken testimony from 201 witnesses. The recommendations of each of the witnesses, the reports of the Department of Health, Education, and Welfare, and the recommendations of the White House Conference on Handicapped Individuals, which was held in May of 1977, have been carefully studied. In addition, during this 95th Congress I personally have spoken with several hundred people who are handicapped themselves or who are in the field of the handicapped.

It has been a great experience for me to have discussed all of these recommendations with a wide variety of people who are involved with programs for the handicapped and with parents of young handicapped children. The one fact that came through as perhaps the largest gap in our services to the handicapped is those severely handicapped children and adults who despite our efforts remain unserved. And by unserved I mean they are receiving no services at all.

REHABILITATION ACT AMENDMENTS

Title I of S. 2600 extends the Rehabilitation Act for 5 years and provides for increases in the authorization levels for these vitally important programs. There are a number of amendments which have as their purpose addressing a need or sharpening the focus of a program. For example, we have attempted to alleviate the problems experienced by the minimum allotment States by increasing their proportion of the funds to one-third of 1 percent of $3 million, whichever may be greater. Another amendment removes the limitation on the number of client assistance projects. Other amendments propose refinements to the research and training programs in title II of the Rehabilitation Act of 1973. There are also changes which will strengthen the role of the Architectural

and Transportation Barriers Compliance Board.

COMPREHENSIVE SERVICES FOR SEVERELY HANDICAPPED

As chairman of the Subcommittee on the Handicapped, I have had major concerns about the needs of the severely handicapped and about how best to approach meeting the multitude of needs that these persons may have. As this legislation was developed, it became clear that if this Nation was to make a commitment to provide comprehensive services to severely handicapped persons, this commitment should be made to all severely handicapped persons, not just to persons with a specific disability.

For this reason, the committee has adopted a functional definition. At the outset, it must be clear that section 119 of title I of S. 2600 is targeted on those very severely handicapped persons who need multiple, continuing, and probably lifelong services and treatment and who may have little or no vocational potential. It is well to note, however, that there are severely handicapped persons who have much to contribute—if they have access to necessary support services.

Title I of S. 2600 adds a new title VI to the Rehabilitation Act which authorizes a State grant program; it is intended that both the increase in authorizations and the additional service requirements will stimulate the States to immediately provide more services as well as work toward a goal of comprehensive services to all severely handicapped persons. Each State must have as a goal the provision of comprehensive services to all severely handicapped persons residing within their State. Each State, however, does have the flexibility to decide its own time lines and develop a long-range plan attuned to its needs in order to meet the goal of full service. States will be required to spend a specified amount of their State allotment to develop a detailed long-range plan with the goal of comprehensive services to all severely handicapped persons, and will be further required to annually reassess the planning activities and update the long-range plan. These planning activities are to be done in consultation with severely handicapped persons, organizations representing such persons, and service providers.

This legislation also includes a section entitled "Demonstrations and Models for Centers and Services To Meet Special Needs of Severely Handicapped Individuals." The discretionary programs authorized by this part would assist not only in providing models of exemplary services but also by providing services to severely handicapped persons.

One of the areas where handicapped Americans have been subjected to unconscionable discrimination, in that they have been unable to secure their rightful role as independent citizens, has been in the area of employment. It is the judgment of the committee that many severely handicapped individuals are judged to be unemployable while in school and therefore are never given the training necessary for employment. Then, because they have no employable skills, they are relegated to activity or developmental centers or workshops to do arts and crafts with no further attempt at training. Giving up too early on these individuals is inconsistent with the committee's belief that every severely handicapped person is entitled to an opportunity to develop to the greatest extent possible.

The committee concurs with the statement of the Industry-Labor Council of the White House Conference on Handicapped Individuals that:

> Problems facing handicapped persons in the work place are not industrial problems, and are not labor problems. They are people problems, requiring cooperation and good will if solutions are to be found.

This section was developed as an instrument to meet some of those needs.

A model for the centers intended in this section is Human Resources, Inc., located in Albertson, N.Y. Dr. Henry Viscardi, director of this center, who served on the Industry-Labor Council and as chairman of the White House Conference on Handicapped Individuals, has demonstrated that if reasonable accommodations can be made to an individual's handicap, the goal of a productive life can be achieved by handicapped Americans.

It is the expectation of the committee that a center such as this one should set the pattern for any additional area centers in the future: This would assure:

First, maximum effectiveness in the organization and operation of such a center;

Second, building upon previous experience and existing facilities, especially in the special education-vocational rehabilitation interface; and

Third, the most substantial skill, experience, and capacity in providing a broad program of service, research, training, technical assistance, and utilization in the field of rehabilitation of severely handicapped youth and adults.

The area centers for the handicapped would create and use the best methods of appraising and developing the employment potential of severely handicapped persons. In addition to providing model training programs for the severely handicapped, the centers would also serve as training programs for rehabilitation workshop and other employment personnel.

The model training programs for the severely handicapped would not just be limited to those persons who would be placed in sheltered workshops; training programs would also be developed for persons who have the potential for placement in competitive employment. Another equally important objective of the program would be to develop new approaches and techniques for the placement and followup of severely handicapped individuals in competitive employment.

Of equal importance is the independent living program. This program would emphasize the development and demonstration of a continuum of alternative living arrangements for severely handicapped individuals including the establishment of group homes and other community living arrangements or facilities. During the hearings in the first session of this Congress, many witnesses noted the need for independent living programs. Presently, severely handicapped adults have few choices in living arrangements. They may live at home with a relative; they may be relegated to a nursing home or an institution; and perhaps, if they are very fortunate, and in rare instances, they may reside in a community based living situation. This program is a vital part of this new legislative thrust.

The community service center program is intended to stimulate community-based activities to meet the social, psychosocial, recreational, and informational needs of severly handicapped individuals and their families.

The models for services for preschool severely handicapped children will develop and demonstrate services in the areas of early intervention, parent counseling, infant stimulation, early identification, diagnosis and evaluation. The value of these services has been well demonstrated in other programs.

In testimony presented by Dr. Robert Hawakins and Dr. Joseph B. Moriarty of West Virginia University, the committee was impressed with the desperate need for a variety of services for severely handicapped children below the age of 3. Dr. Hawkins' presentation spoke to the critical need for comprehensive integrated services that would address the problems of identification, treatment, and the prevention of either the handicap itself or the needless hardship that the handicap produces later on in life for the handicapped individuals, their families and society at large. Dr. Hawkins made clear the need for a modest program to establish a small-scale innovative approach that will experiment to find the best solutions to these problems. A limited number of comprehensive early childhood centers for handicapped childen would represent a significant step in the right direction.

RESEARCH AND TRAINING

The committee bill extends the authorization in the section on "Research and Training." The research progam assists in the development of improved service and treatment programs and other activities. The training progam emphasizes the training of both professional and paraprofessional personnel who can serve the handicapped in a wide variety of ways.

An important addition to this section is an amendment to permit the eligibility of private, profitmaking agencies or organizations as recipients for grants or contracts under this section since the Rehabilitation Services Administration has been unable to avail itself of the expertise and ingenuity of the private for-profit sector. The committee charges the Department of Health, Education and Welfare and the Commissioner of the Rehabilitation Services Administration with the responsibility to insure

that funds granted or contracted under this amendment are used for the benefit of handicapped individuals and that patents and development rights remain with the public. The committee bill further amends section 202 of the Rehabilitation Act of 1973 to clarify that research activities may include basic medical and scientific research.

An example of the benefit which can be gained was brought to the attention of the Subcommittee on the Handicapped by Mrs. Nanette Fabray MacDougall. In her testimony she related her own experience at the Ear Research Institute which is located in the St. Vincent Medical Center in Los Angeles. The Ear Research Institute's activities include clinical and applied research in diagnosis, treatment and rehabilitation of patients with disorders of the ear. Its major purpose is to bridge the gap between advances made in basic research and their widespread application to persons suffering from hearing impairment and other disorders of the ear.

The Walt Disney Hearing Rehabilitation Research Center is a separate wholly-owned, nonprofit subsidiary of the Ear Research Institute. This center conducts hearing rehabilitation research and focuses on rehabilitation of profoundly deaf adults who have undergone cochlear implant, a surgical technique which restores partial hearing to aging deafened persons. This center is unique and would serve as a model for other hearing rehabilitation centers.

FEDERAL COUNCIL ON THE HANDICAPPED

Title II of this bill establishes a Federal Council on the Handicapped which is to provide advice and assistance to the President on the problems and needs of handicapped and severely handicapped individuals. This council will serve as the focal point for coordinating programs and efforts on behalf of handicapped individuals. The chairperson is expected to function at the executive level in the policy and decisionmaking process. The Federal council is to constantly review and evaluate all policies, programs, and activities affecting handicapped and severely handicapped persons, is to serve as an ombudsman on behalf of the handicapped and severely handicapped, is to inform the public about the problems and needs of these persons, and provide public forums for discussing the problems and needs of handicapped and severely handicapped persons.

The Federal Council on Handicapped Individuals created in this bill is one of many responses to recommendations of the White House Conference on Handicapped Individuals; the estabilshment of this council will fulfill a promise made to the White House Conference delegates. The work of this council should begin immediately. For this reason I am asking that the Secretary of Health, Education and Welfare assign the staff of the Office for Handicapped Individuals to the task of initiating the establishment of the council. This experienced staff can begin immediately to work on the implementation of this essential part of our new legislation. In this way, we will not experience the usual delays because of lack of personnel; we can begin immediately with the vital and necessary work of establishing this Council.

REHABILITATION SERVICES FOR OLDER BLIND PERSONS

The committee recognizes that older blind persons in the United States generally do not receive rehabilitation and adjustment services which are as complete as those provided to younger blind people who are in school or who are working. The comprehensive service needs study, which was set up by the Congress in the Rehabilitation Act of 1973 to determine the direction in which future rehabilitation services should go, stressed that care for the older blind was a neglected area. The committee has therefore prepared legislation addressing the special needs of the aged blind, and intends that the funds allocated be used to supplement rather than replace vocational rehabilitation resources which presently aid the older blind.

In 1972 and 1973, Congress attempted to meet the needs of the older blind by supplying amendments to the Rehabilitation Act which were later compromised away because of a Presidential veto. However, in 1978, with the documentation of the Congress' own comprehensive service needs study and the example of numerous successful demonstration projects showing that the needs can easily be handled with techniques already in use, the committee intends to establish the authority for programs which will specifically help the older blind.

More than half of the nearly 500,000 blind persons in this country are past retirement, and are in need of a whole spectrum of special services related to their age. Because their blindness has descended upon them in their later years—usually due to degenerative diseases such as diabetes, cataracts, and glaucoma—they must undergo reorientation and adjustment training which is geared to their unique circumstances. In addition, they will need special services related to housing, transportation, recreation, and reading which younger, active blind persons already have access to through vocational rehabilitation programs.

Legislation addressed to the elderly in general, such as that in the Older Americans Act or in title XX of the Social Security Act, has been inadequate in providing solutions to the special problems of blindness in older persons. The loss of eyesight affects an older person's ability to function more acutely than other conditions of advancing age, but even further, blindness will often impair an older person's desire to live independently and constructively. Untreated blindness in an unrehabilitated older person will almost always lead to total dependence and depressing isolation from normal social activity.

While allowing for overall Federal supervision of the rehabilitation of older blind persons programs through the Rehabilitation Services Administration, the committee has chosen to utilize the State vocational rehabilitation agencies serving the blind as primary administrative authorities, responsible for developing the eligibility criteria and priorities for service—in consultation with interested blind persons and organizations of blind persons within each State; insuring that rehabilitation services for the older blind are provided so as to complement, to the maximum extent possible, existing services for the blind, rather than duplicate them; insuring that eligibility conditions will not include economic need or length of residency; establishing preventions of blindness services, sight restoration and visual aids and medical services in connection therewith, mobility training and personal adjustment services, self-help aids, counseling, guide, and reader services, and transportation services necessary to assure the availability of other services.

Also, the committee calls for provisions to strengthen library services to the older blind within each State.

The committee is cognizant of the specialized nature of rehabilitation services for the older blind and therefore regards it as essential that knowledgeable administrators and personnel skilled in rehabilitation and related services for the blind have direct supervisory control over these programs. To assure that this will be the case, the committee had included the requirement that the vocational rehabilitation agency serving the blind which is designated to administer the older blind program must be at least an identifiable administrative unit with a full-time director and staff which develops and administers its own budget.

All of the provisions of this bill, and in particular those which impact on the severely handicapped, not only provide opportunities to handicapped Americans to aspire to certain goals but also provide the means by which they can reach those goals.

Remembering the statement by President Carter at the White House Conference on Handicapped Individuals, where he expressed his strong desire to see the role of the Federal Government in helping handicapped individuals significantly enhanced, I feel confident the programs we have authorized in S. 2600 will assist in achieving that desire.

Mr. President, since I first brought to the Congress, in 1936, the Randolph-Sheppard Act for the Blind, I have made a deep and personal commitment to do my utmost to alleviate inequities which cause discrimination against and among handicapped individuals. If there were a legacy for posterity that I, as chairman of the Subcommittee on the Handicapped, could leave I would want it to be full service for all severely handicapped individuals in the next 5 years. I think it is one which all of us would deem our finest accomplishment.

Mr. President, in order that all Senators and the public may have full understanding of the various major new

provisions of this measure, I ask unanimous consent that there be printed in the RECORD at this point pertinent excerpts from the committee report 95–890 accompanying S. 2600 as reported.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

[Excerpts from Committee Report No. 95–890]

COMPREHENSIVE SERVICES FOR SEVERELY HANDICAPPED INDIVIDUALS ACT OF 1978

Section 119 of the bill adds a new title VI to the Rehabilitation Act of 1973, as amended, entitled "Comprehensive Services for Severely Handicapped Individuals."

COMPREHENSIVE SERVICES

This title establishes a new program which has as its thrust the delivery of comprehensive services to the severely handicapped individuals of this Nation. It is intended that this title will help resolve the multiple problems experienced by severely handicapped Americans as they seek services so necessary to their health and well being. The intent of this legislation is to build State services and service systems to increase the number of and improve the quality of services for severely handicapped individuals and to assist the States in developing and implementing comprehensive services for all severely handicapped persons.

The committee has major concerns about the needs of the severely handicapped and about how best to approach meeting the multitude of needs of severely handicapped individuals. As this legislation was developed, it became clear that if this Nation were to make a commitment to provide comprehensive services to severely disabled persons, this commitment should be made to all severely handicapped persons.

For this reason, the committee has adopted a functional definition of severely handicapped individuals. At the outset, it must be clear that this bill is targeted on those very severely handicapped persons who need multiple, continuing, and probably lifelong services and treatment and who may have little or no vocational potential. It is well to note, however, that there are severely handicapped persons who have much to contribute—if they have access to necessary support services.

SCOPE OF COMPREHENSIVE SERVICES FOR SEVERELY HANDICAPPED INDIVIDUALS

This part establishes that severely handicapped individuals have access to services and right to treatment required to minimize, to the extent possible, the debilitating effects of their handicaps. Advances in modern technology, treatment, and teaching techniques have demonstrated that investing in appropriate services and treatment, particularly early in life, can substantially reduce the cost of supporting and caring for severely handicapped individuals over their lifetimes.

The committee recognizes that the services to the severely handicapped to be provided under this title are many and varied. Such goods and services are those as may be necessary (a) to enhance the ability of a severely handicapped individual to live independently, to function in society, and to secure and maintain appropriate employment, (b) to have improved access to recreation and leisure-time activities, and (c) to participate, where appropriate, in preschool developmental activities. Such services include but are not limited to the following:

(1) Evaluation of functional level, strengths, and weaknesses for program planning purposes including diagnosis and related services;

(2) Vocational, self-care, independent living, and other training services including the provision of such services to parents and/or guardians as necessary to improve the care, training, and functioning ability of such severely handicapped persons;

(3) Physical, mental and psychotherapeutic services, including, but not limited to, (a) corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition which constitutes a substantial handicap to the further development of an otherwise severely handicapped individual, (b) necessary hospitalization in connection with such surgery or treatment, (c) prosthetic orthotic devices, (d) eyeglasses and visual services as prescribed by a physician skilled in the diseases of the eye, (e) special services (including transportation and dialysis), artificial kidneys, and supplies necessary for the treatment of individuals suffering from endstage renal disease;

(4) Interpreter services for deaf individuals and reader services for individuals determined to be blind;

(5) Telecommunications, sensory, and other technological aids and devices;

(6) Preschool services when included but are not limited to, physical therapy, development of language and communication skills, and general child development services;

(7) Training in recreational and leisure-time activities including the training of personnel to provide such services to severely handicapped individuals;

(8) Supervised living arrangements;

(9) Independent living services; and

(10) Transportation in connection with any habitation or rehabilitation services.

ANNUAL STATE PLANS

It is the intent of the committee that the agency or agencies administering the vocational rehabilitation plan designated under section 101(a)(2)(A) of the Rehabilitation Act of 1973, be designated as the State agency or agencies to administer comprehensive services for severely handicapped individuals under the provisions of this title.

The reason for this is that the State vocational rehabilitation agency presently has the responsibility to provide comprehensive services to severely handicapped individuals with vocational potential, and the acumen, expertise, and specialty resources required for effectively serving the severely handicapped individuals already exist primarily in State vocational rehabilitation agencies. Since the essential requisites for the effective provision of such services are closely related to the basic components of effective vocational rehabilitation services, it is logical to place primary responsibility for comprehensive services for the severely handicapped in the state vocational rehabilitation agency. The potential for costly duplication of effort and resources is also minimized, which is extremely important to the committee.

The committee emphasizes that the State plan be designed to serve first those severly handicapped individuals who are found to be unserved. It is the intention of the committee that priorities be adhered to during the period of time covered by the plan. It has come to the attention of the committee that rehabilitation agencies operating within larger "umbrella" agencies occasionally find their funds shifted to meet some funding emergency in another State agency. In the view of the committee, this would constitute a shift of priorities which would have to be reviewed and approved by the Secretary. The committee wishes to note that a broader philosophy in the administration of the title VI program must be applied by the State vocational rehabilitation agencies as compared to the more narrow vocational approach of the title I program.

In order to encourage coordination between services provided under this act and other social services, this legislation provides in section 615(b)(6) for the maximum feasible utilization of resources available under community education programs. Under the Community Schools and Comprehensive Community Education Act (title X of the Elementary and Secondary Education Amendments of 1978, as reported by this committee in S. 1753), community education funds granted under the Elementary and Secondary Education Act may be credited as non-Federal matching funds for community services (including those provided under this act) implemented in a community school and where there is a necessary relationship with community education.

The consequence of this provision would be to encourage related community services to work out collaborative agreements with community education programs. By so doing, the related community service program (such as those funded under this act) is able to credit the amount of the community education grant received by the State or local education agency under the Elementary and Secondary Education Act as non-Federal local matching money. This incentive becomes operative only pursuant to an agreement with such a school. Where applicable, the committee believes that this provision, in conjunction with the provision for maximum use of community education resources in section 615(b)(6) of this act, can generate important incentives to coordination of service and efficient use of school facilities. The use of community education funds as non-Federal matching funds was included in title X of the Elementary and Secondary Education Act.

Community education emphasizing the coordination of community service within the school holds promise as a possible avenue for alleviating the problem of fragmentation of services. For many segments of the American population, including many handicapped individuals, such fragmentation is a major obstacle to receipt of expected benefits of Government programs.

The committee believes that the needs of handicapped persons should be met through the use of all available resources, including community education, and that education policies, systems, and facilities should contribute fully to local community well-being. School facilities should be available, where appropriate to provide such services.

It is the purpose of section 615(b)(6) of this legislation and the expressed intent of the committee, therefore, that where services to handicapped individuals are determined to be a desirable element of the community education program, these services be provided in collaboration with existing local delivery services. "Collaboration" means that specific agreements between the schools and other public agencies will be developed and implemented, including contractual arrangements. Agreements should address issues of program content, personnel, and facility use, among others.

The act requires the States, as a condition to receiving funds under part B of the act, to provide assurances that the State has established as a goal the provision of comprehensive services to all severely handicapped individuals residing within the State and that the State is developing timetables to

meet this goal. It is the intent of the committee to alert the States that all severely handicapped persons have a right to appropriate services and that such services must become available, if not immediately, at some specified time in the future. The timetable for meeting this goal is left to the individual States. However, it is expected that the States will move as quickly as possible to implement this requirement. It can be anticipated that subsequent revisions and extensions of this act will take cognizance of the progress made toward this goal and respond accordingly.

This section further requires the State plan to specify a program to (A) eliminate inappropriate placement of severely handicapped individuals in institutions, and (B) improve the quality of care provided in institutions caring for severely handicapped individuals. There has been a tendency to assume that anything done in the community satisfied the requirement of part A and a general resistance to allocating funds for part B.

The committee recognizes that residential facilities and institutions continue to be a component of the service system for those severely handicapped individuals who require such specialized 24-hour-a-day services. The committee does not intend to ignore the plight of the many severely handicapped individuals for whom such services are appropriate and necessary. Therefore, it is required that States indicate in their State plan how the quality of care provided by such institutions is to be improved and what funds are to be used for this purpose.

LONG-RANGE PLAN

The committee intends that the States develop effective long-range plans for services to severely handicapped individuals and that sufficient funds for that purpose be made available. There is a general tendency for States to focus on the provision of direct services to the exclusion of planning. The legislation requires that within 18 months of the date of enactment of this title, each State receiving funds under the State grant program shall submit to the Secretary a long-range plan for the provision of appropriate services for all severely handicapped individuals residing within that State.

Such long-range plan should:

(1) Establish a goal of providing comprehensive services to all severely handicapped individuals residing within the State.

(2) Set forth priorities, policies, and procedures for the expenditures of funds under the plan which the Secretary determines are designed to assure effective and continuous State planning, evaluation, and delivery of services (both public and private) for severely handicapped individuals.

(3) Specify the number and kind of services and facilities available and accessible to severely handicapped individuals, as well as a breakdown of the types of agencies providing services to severely handicapped individuals.

(4) List the number of severely handicapped individuals residing within the State, specified according to age groups such as preschool, elementary, and secondary school age, young adult, adult, and elderly.

(5) Identify the gaps in the provision of comprehensive services provided to severely handicapped individuals residing within the State, together with a breakdown of such service gaps by type and geographical location.

(6) Set forth solutions for remedying the service gaps so identified, including, but not limited to:

(a) The initiation of new projects;

(b) The development of cooperative relationships between agencies in order to assure the availability of services to severely handicapped individuals;

(c) The coordination of all available resources in the public and private sectors for the provision of comprehensive services to severely handicapped individuals; and

(d) The development of a plan to facilitate access to comprehensive services by severely handicapped individuals and their families.

(7) Specify the activities by the State to insure the provision of comprehensive services to all severely handicapped individuals residing within the State in each of the following major service areas:

(a) Alternative community living arrangement services for the purpose of providing suitable residential arrangements in the community, such as in-home services, foster care services, protective services, group living services, respite care, staff training, placement, and maintenance services, and family support services;

(b) Infant and preschool services, such as early intervention, parent training and counseling, infant stimulation, and early identification, diagnosis, and evaluation;

(c) Nonvocational, social developmental assistance, such as training in daily living activities, day activity centers, mobility training, transportation assistance, and recreation and leisure activities; and

(d) Individualized case management, including, but not limited to, the assessment of a severely handicapped individual's developmental and vocational potential, counseling, referral and regular follow-along activities; and

(8) Provide assurances that the long-range plan be developed and annually updated in consultation with the State Council on Severely Handicapped Individuals.

The committee bill has provided that of each State's allotment not more than 10 per centum or $60,000, whichever is the greater, for the fiscal year ending September 30, 1979, and not more than 6 per centum or $35,000, whichever is the greater, for the fiscal year ending September 30, 1980, shall be used by each State for developing the long-range plan requirements.

INDIVIDUALIZED WRITTEN PROGRAMS

The individualized program is the primary vehicle for accountability in this program. The intent of this provision is to insure that these programs are developed through a careful analysis of the capabilities and needs of each individual, that this analysis is translated into specific short- and long-term goals and objectives, that specific procedures are identified to achieve the objectives, and that criteria are developed to permit evaluation of progress.

The committee wishes to clarify that the State, in assuring to the Secretary that the State has such individual programs in effect for each severely handicapped individual, is also responsible for insuring that the individualized programs are developed in accordance with the provisions of section 615. Although the program is to be developed by the program or agency primarily responsible for delivering or coordinating services, it is the State which is responsible for the quality and effectiveness of the programs.

The committee intends that the individualized program be comprehensive enough to address all of the needs of the severely handicapped person and not just those needs which can be met by the agency developing the program. For example, if an individual is enrolled in a workshop with the program developed by workshop personnel but the person requires speech therapy (or other service) which is not provided through the workshop, the program must account for this need and show how the need is to be satisfied. An individualized program which does not address all of the service needs of the individual will not satisfy the requirements of this act.

PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

It is the intention of the committee that severely handicapped individuals have available to them the resources of a protection and advocacy system. The States are required to assure to the Secretary that such a system is established in order to receive an allotment. It is the intent of the committee that the States have the option to either develop separate advocacy systems for the severely handicapped or incorporate such services within existing advocacy programs, which in the judgment of the States best meets the needs of the severely handicapped as required in section 604.

INDEPENDENT LIVING AND OTHER SERVICE PROGRAMS FOR SEVERELY HANDICAPPED INDIVIDUALS

The committee is concerned that there are inadequate numbers of exemplary service centers throughout the country to meet the needs of severely handicapped individuals. Independent living centers and exemplary service centers have been developed throughout the country—a few of them in universities—and the committee now wants to see these models of service training in community settings. The committee wants to make clear that the purpose of this section is to provide the opportunity for program development by local public agencies and private nonprofit organizations and certain Indian tribes. The committee seeks to provide diversification in the delivery of these much needed services.

In the use of the term "comprehensive" the committee intends that such service centers respond to the broad range of needs of this severely handicapped population through the direct provision of services or through appropriate review and follow-up services. It is the hope of the committee that Federal funds authorized under this section will be used to expand and coordinate services at existing programs, as well as encourage the development of new programs; however, States should undertake to assure that services are not duplicative or other resources in the community.

The ultimate goal of the committee is to assure that severely handicapped individuals within the area served by these centers receive the services so desperately needed. The method for accomplishing this will naturally vary in accordance with community needs and existing resources. Diversity is to be encouraged.

STATE COUNCILS

The committee believes that there is a need for handicapped individuals and providers of services to the severely handicapped to be actively involved in the development of activities and programs to serve the severely handicapped. The committee views the State councils as a partnership between consumers and providers which has been organized to serve as cooperative planners of activities to meet the special needs of the severely handicapped.

The committee expects that the State council will fulfill its major role of advising regarding the development of the State plan.

Input from the consumers represented on the council should reflect priorities of service to those severely handicapped who are receiving no services.

DEVELOPMENT AND DEMONSTRATION OF MODELS FOR CENTERS AND SERVICES FOR SEVERELY HANDICAPPED INDIVIDUALS

1. *Training centers.*—It is the judgment of the committee that many severely handicapped individuals are judged to be unemployable while in school and therefore never given the training necessary for employment. Then, because they have no employable skills, they are relegated to activity or development centers or workshops to do arts and crafts with no further attempt at training. Giving up too early on these individuals is inconsistent with the committee's belief that every severely handicapped person is entitled to an opportunity to develop to the greatest extent possible.

The committee concurs with the statement of the Industry-Labor Council of the White House Conference on Handicapped Individuals that, "problems facing handicapped persons in the work place are not industrial problems, and are not labor problems. They are people problems, requiring cooperation and good will if solutions are to be found." This section was developed to meet some of those needs.

A model for the centers intended in this section, located in the Northeast, currently carries on many of these activities. It is the expectation of the committee that a center such as this one could be funded under these amendments so as to set the pattern for any additional area centers in the future. This would assure:

(1) maximum effectiveness in the organization and operation of such a center;

(2) building upon previous experience, and existing facilities, especially in the special education-vocational rehabilitation interface; and

(3) the most substantial skill, experience, and capacity in providing a broad program of service, research, training, technical assistance, and utilization in the field of rehabilitation of severely handicapped youth and adults.

Applied research at a northwest university over the past years has demonstrated without a doubt that moderately and severely retarded individuals can be trained for jobs and placed successfully in such jobs. Individuals with IQ's in the forties and fifties, after an average of only 7 months of training, are now employed and earning at least the statutory minimum wage in the food service industry. These are individuals who had been in workshops for years and supported under Supplementary Security Income benefits before training.

This training program costs approximately $5,500 per individual for evaluation, training, placement, and followup for 2 years. When one compares these cost figures it becomes evident that the procedures developed at this center are remarkedly cost efficient. The cost of training through the CETA program, for example, averages $6,500 per individual for a full year which is sometimes extended beyond the initial year. The Job Corps provisions of the Labor Department estimate the cost of training at $7,700 per individual.

The committee emphasizes that these centers are not meant to reduce or relieve the responsibilities with respect to the employment or advancement in employment of an otherwise qualified severely handicapped individual.

2. *Independent living and community service centers for severely handicapped individuals.*—Testimony at committee hearings suggested that a tendency existed for some States and communities to find a community living model that appeared to satisfy the needs of severely handicapped individuals without making the effort to determine whether or not that was the best model or whether a variety of models might serve better than a single model.

Severely handicapped individuals face a variety of complex problems in attempting to become as independent as possible. Many, if not most, of these individuals could be gainfully employed, with certain limitations, or a part-time basis, but the complexities of daily living can force them into a totally dependent situation.

The purpose of this section is to provide funds for the exploration of new models of independent living and community centers. Such models, supported under grants or contracts, are expected to be innovative and explorative in nature and designed to provide States and communities with reasonable, alternative strategies for rehabilitation of severely handicapped individuals to become as independent and self-sufficient as possible.

The Commissioner is given the broadest possible discretion for the use of funds appropriated under this section in an effort to encourage the development of creativity and imaginative plans and ideas. Regulations and guidelines issued with reference to this section should maintain and encourage this flexibility.

This flexibility in funding, however, is to be counterbalanced by a strong commitment to evaluation of the effect of the project. A strong and effective evaluation plan is to be included as a part of all project support under this section. The Commissioner is encouraged to develop an overall evaluation strategy to determine the relative benefits derived from the various models.

The committee directs the Commissioner to provide assurances in the regulations that the various independent living programs, models, and activities in this act are coordinated by the State agency.

3. *Models of services for preschool age severely handicapped children.*—Severely handicapped children below the age of 3 years and their parents are desperately in need of a variety of services. The children require very careful evaluation from several professional disciplines and educational/treatment services appropriate to meet their needs. The parents require some assistance to fulfill the 24-hour responsibility for the care of these children, some instruction in how to cope with these children in the homes, and often psychological and psychiatric counseling to help them to adjust to the trauma of having become parents of a severely damaged child.

There are currently private nonprofit organizations which attempt to provide services to handicapped children below the age of 3 years. Many of these were parent initiated and designed along educational models. Such programs often do not have the professional resources to serve any but the moderately handicapped, yet often find themselves attempting to care for children who are at high risk. For example, within the area around Seattle, Wash., there are 12 preschools serving children within this age range. The children in these schools are most often moderately retarded with very secondary handicaps. Some of these children, however, are multiple handicapped and require a full range of health-related services as well as instructors and attendants.

The model programs envisioned by this legislation would provide facilities to serve these seriously damaged children who require extension health-related services. It can be expected that some of these programs would be attached to children's hospitals or similar facilities. The purpose of these model programs would be to demonstrate how to provide direct care, training, and services to this select population of severely damaged children, to provide technical assistance, and resources to other preschool programs within the community serving this age range, and to provide services, either directly or indirectly to the families of such children.

The committee is aware that the Office of Education has the authority to support preschool programs for handicapped children, both on a formal basis and project grant basis. However, the concept of "education" is far too limited when one considers the complexities of very young, severely handicapped children. The physical and developmental problems of these infants and young children are often life threatening to the extent that skilled management is essential. Care for the physical development of these children must take precedence over the development of educational, treatment or developmental programs.

The purpose of these models programs for severely handicapped children is to obtain experience with broad based comprehensive services for these children.

These very young, very handicapped children will be entering public school programs at the age of 3. These preschool programs will be able to assist the public schools in providing services to all these children. The children will enter the schools with the best possible medical, psychiatric, and educational evaluation and with from 1–3 years experience under the guidance of experts in early child development. Furthermore, the preschool program will be in a position to assist the schools in planning for these children, in the delivery of services to these children, and in insuring that appropriate health resources are available as the child goes through the early school years.

It should be noted that the committee expects close coordination and cooperation between Rehabilitation Services Administration and the Bureau of Education for the Handicapped on these projects.

The committee wants to make it clear that the purpose of this section is to determine the feasibility of initiating and expanding service programs at the community level rather than in universities. Universities are ideal settings for the development of new models of services, but ultimately these models must be tried in other settings.

RESEARCH, TRAINING AND EVALUATION

Severely handicapped individuals and their problems have been ignored to a great extent by our society. Because of this, there is a limited base for knowledge on which to build cost effective, practical programs to meet the needs of these individuals. There have been years of research on the problems of mildly and moderately handicapped people and this research has led to improvement in all aspects of life for this population. This section represents a new beginning designed to build a knowledge base to eventually improve the life situation for the severely handicapped.

Research.—Effective research takes time, money, and above all, knowledgeable and committed researchers. With the significant exception of medical research, there are very few researchers experienced in research with this population. Experience with the Office of Education programs for the severely and profoundly retarded has demonstrated a willingness of grant applicants to become experts on a moment's notice, but this is a far cry from a researcher who has spent years in the development of his own knowledge and skills in the pursuit of solutions to very difficult problems.

The Secretary is cautioned that a new field of study will develop and will progress only

as experts within that field have the time to develop their own skills and knowledge. There will be no quick solution to complex problems which have existed since the beginning of our industrialized society. Research programs should be built with care; expanding as the knowledge base expands. Programmatic grants of 5-year duration with option for 5-year renewal should be given serious consideration. A critical mass of investigators sharing and building knowledge together often can accomplish more in less time than individual investigators working alone on a short-term projects.

The committee expects that programs of research will be developed in all of the areas listed in the legislation but not necessarily limited to those areas.

An effective, national research program requires both a carefully conceived plan of action plus the flexibility to move quickly into new areas as new ideas emerge. This means that a plan of action is to be developed prior to committing Federal funds but that some percent of the funds must be kept apart from the plan for investment in new ideas on a moment's notice. Strict adherence to a formalized plan could mean as much as a two-year delay in getting out new ideas, something considered totally inappropriate from a research and development point of view.

Federal research programs have been plagued throughout their history by the problems of life continuing costs which limit flexibility and available funds in years subsequent to the awarding of initial grants. The Secretary should consider the development of a process for committing funds out of 1 fiscal year for the full, multipe-year term of a project. This would result in less (and hopefully higher prioritized) projects for funding in any given year but with funds available each year to support new projects. This approach assures that funds will be available each year for the support of new ideas.

Training.—The committee has noted that almost without exception federally supported training programs relating to handicapped individuals are focused on children. Both the Maternal and Child Health and Office of Education programs support the training of professional personnel to work with children.

Federal programs which support training of personnel to work with handicapped children do not have an emphasis on children with severely handicapping conditions.

The value of federally supported training programs has been to attract personnel into areas which would otherwise be a low priority. This approach was very successfully demonstrated through the Office of Education's training program to prepare teachers of handicapped children. It should have the same effect in attracting handicapped as well as nonhandicapped students into work with the severely handicapped.

The provisions of this section are designed to do for the severely handicapped, both children and adults, what the Office of Education's program did in the development of teachers for handicapped school children. The committee recommends that the structure of training programs managed for the Maternal and Child Health Agencies be used as a model for the training programs under this authority.

The committee wishes to emphasize that this authority allows for the provision of stipends for traineeships. This is very important for attracting people into this field and must not be ignored by the administrative agencies.

The committee believes that the Secretary in the making of grants or contracts should consider the following three items. These items are listed in order of priority. The first is that there is a need for a balanced program; the second is that these programs will be interdisciplinary in nature; and the third allows for training within the individual disciplines and for paraprofessionals.

It is not expected that each grantee will offer training in all of the areas listed but that the Secretary will assure that training programs will be supported at one or more institutions in the various areas. Priority must be given, however, for those programs which offer interdisciplinary training and cut across several areas.

Research and Training Coordination.—It is a well known fact that services to the severely handicaped call for interdisciplinary efforts. It is our hope that by requiring coordination of research and training programs we will not only encourage but also prioritize programs which are truly collaborative activities.

Evaluation and Studies.—The committee continues its interest in the evaluation of effectiveness of federally assisted programs but is disappointed in the efforts to date to accomplish this. It is possible that the mandate to evaluate federally assisted programs has not been taken seriously and that funds have not been allocated in sufficient amounts for this purpose. The committee recognizes that evaluation studies are complex and expensive and that funds expended for evaluation efforts are not then available for direct services to handicapped individuals. It is the opinion of the committee, however, that a prudent investment in evaluation activities will increase the availability of funds for direct service through the redirection of funds from ineffective and wasteful programs to those that have demonstrated their value. There are several areas of specific concern which have been brought to the attention of the committee as needing evaluation. These include the large expenditure of funds over the past several years for the numerous conferences, symposiums and meetings which seem to absorb an ever increasing amount of Federal dollars. It is the hope of this committee that the Secretary will provide this committee with objective data on the extent to which programs achieve objectivity and whether the objectivity will be worth the cost.

The committee expects the Secretary to obtain the best possible advice from experts in the field of evaluation in order to mount the most effective evaluation program.

The committee further recommends that the Secretary provide for the conduct of an objective collaborative study of the consequences of deinstitutionalization. The committee has concern for the welfare of severely handicapped individuals who now live within communities. There is a normal fear that these individuals, particularly those with severe intellectual limitations, might become lost in the community, not receive the services they need, and actually be further disadvantaged. There is some question as to the effectiveness of the services delivery system to assure that each and every one of these individuals continues to receive the attention required. There have been reports of problem areas because community services were inadequately prepared to receive large numbers of individuals returning from institutions. At least one State agency has reported that lack of adequate staffing has made it impossible to develop an appropriate individualized plan for all severely handicapped individuals and to insure that plans were appropriately executed when they were developed.

Good intentions, as important as they are, cannot substitute for appropriate services. The study will assist the committee to learn if these good intentions have helped or hurt the severely handicapped.

The committee intends that this study shall be detailed and that it will provide longitudinal data from many parts of the country and from many different settings. The committee must know in detail the problems experienced by the severely handicapped in the areas of training opportunities, home situations, employment, health and mental health, and leisure time.

The committee is aware of the problems associated with possible invasion of privacy and the Secretary is cautioned that such a study must be designed in such a way as to protect the rights of the individuals involved. It is expected that this study will continue for 4 or 5 years or more. A study of this magnitude can normally be done only once and must be carefully designed at the outset. Experience with similar studies has indicated the need for careful planning; pilot studies and training of cooperative personnel are of utmost importance.

There have been a number of highly useful studies completed during recent years which can provide important guidelines for the method to be used in the proposed study. These include the Office of Education's project PRIME, the Head Start Follow Through, and the NINCDS perinatal study. Investigators associated with these studies could provide valuable advice and assistance in the planning and development of this study.

The committee has been impressed with the ability of some Federal agencies to manage and coordinate studies of this type. The most recent example has been the Office of Education's intermural research program for the research on the education of handicapped children in the conduct of project PRIME. A combination of Federal management, planning, development, coordination, and data analysis, with data collection accomplished through grants or contracts with participating agencies seems a reasonable approach to studies of this sort. The committee would like to encourage the Secretary to look into his own resources within the Department of Health, Education, and Welfare for the development and management of this study, making use of grants and contracts for the actual conduct of this study. The committee requests that in addition to an annual status report of this study interim reports of the progress of this project be sent to the Subcommitee on the Handicapped on a more frequent basis.

TITLE II OF S. 2600—FEDERAL COUNCIL ON HANDICAPPED INDIVIDUALS

The committee is concerned that the needs of handicapped and severely handicapped individuals are not being communicated adequately at the highest levels of government. This fact was documented by those attending the White House Conference on Handicapped Individuals and is reflected in their recommendations. The views of the handicapped must be heard by those in a position to respond. For this reason, the committee has established a Federal Council on Handicapped Individuals, which will provide advice and assistance to the President and the administration. The primary responsibility of the Council will be to develop a national policy regarding all handicapped Americans.

Additional functions of the Council are detailed in the legislation. In essence, this Council will review and comment on all programs of the Federal Government relative to handicapped individuals and will serve as an ombudsman and an information source to promote the cause of handicapped individuals throughout the United States. It is expected that the Council will develop mechanisms for obtaining information and advice from other handicapped groups and individuals to assist in the formation of recommendations and plans for the future. The

Federal Council is expected to maintain a liaison with the State councils on the severely handicapped to receive and react to their recommendations.

It is the intent of the committee that the Council will function as an independent body responsible for its own rules, bylaws and operating procedures and will not be under the control of any one agency of the Federal Government. The Council shall have its own staff and its own budget. Furthermore, it is the express wish of the committee that the Council not be co-located with any agency of the Government responsible for the administration of legislation relating to handicapped individuals. Experience from the past has indicated that when such councils are co-located with an administrative program, too much attention is given to that particular program at the exclusion of the other, broader concerns which are the rightful responsibilities of such councils.

The committee bill provides $1,200,000 for the Council to carry out its responsibilities and further directs that $200,000 is to be made available for the employment of staff for the Council. The committee intends for the Council to be adequately staffed so that it may effectively carry out its mandate.

* * * * *

TITLE IV OF S. 2600—READER SERVICE FOR THE BLIND; INTERPRETER SERVICES FOR THE DEAF AND HEARING IMPAIRED

Title IV of S. 2600 has three major provisions: (1) Reader services for the blind, (2) interpreter services for the deaf, and (3) rehabilitation services for the older blind.

READER SERVICES FOR THE BLIND

The committee received testimony from organizations representing the blind which pointed out the communication barriers faced by blind persons who are not able to read ordinary inkprint. The committee is concerned that these barriers are most commonly confronted in elementary, secondary, and postsecondary education and in employment. It has been estimated that 70 percent of the employable blind population is either unemployed or underemployed, but regardless of the exact statistic, there is ample evidence to substantiate our Nation's failure to utilize the productive capacity of employable blind persons.

The committee believes that there are many causes for this, but a major one relates to the communication barriers which are imposed by lack of sight. Much activity in education, public service, business, and industry necessarily involves paperwork and recordkeeping, a factor which places blind persons at a disadvantage unless they have access to alternative methods for receiving the information (for example, by means of a sighted persons to read the print material). In adopting legislation, such as the provisions of title V of the Rehabilitation Act of 1973 as amended and the Education for All Handicapped Children Act, the Congress has made a commitment to the handicapped that, to the maximum extent possible, they shall be fully integrated into the mainstream of life in America. The committee recognizes this commitment and the need for continuing the process of removing barriers which impede the progress of our handicapped citizens.

Access to printed information imposes a unique problem for the blind, and the committee feels that this is an area which requires special legislation. With the single exception of reader services for blind clients of vocational rehabilitation, assistance to the blind in overcoming the communication barriers imposed by lack of sight is minimal. The library service programs which do exist offer a general reading collection without the flexibility necessary to meet the specialized educational and employment related reading needs of an increasingly active blind population.

The committee sees reading assistance for the blind as an important support service which can enable blind persons to participate more effectively in education and employment opportunities. Reading demands for anyone are highly individualized; it is intended therefore that reading services be offered so as to respond to individual needs. It is also intended that reading services to be provided will not duplicate or replace those programs already operational; rather the new authority is designed to augment and supplement current effort.

While allowing for overall Federal supervision of the reading services program through the Rehabilitation Services Administration, the committee has chosen to utilize the State vocational rehabilitation agencies serving the blind as primary administrative authorities, responsible for developing the eligibility criteria and priorities for service (in consultation with interested blind persons and organizations of blind persons within the State); ensuring that the reading services are provided so as to meet (to the maximum extent possible) the individualized reading needs of the blind of the State who are participating in elementary, secondary, postsecondary education, and employment; ensuring that eligibility conditions will not include economic needs or length of residency; establishing (where sighted readers are employed to provide service to the blind) guidelines for compensation of such readers; and performing other administrative functions necessary for the effective delivery of reading services to the blind. The committee intends that reading services programs will be conducted in a creative and responsive fashion, including where appropriate (1) employment of persons who through reading aloud can afford blind persons ready access to printed information, (2) transcription of printed information into Braille or sound recording, pursuant to the individual requests of blind persons, (3) the storage and distribution of Braille materials and sound recordings, (4) the purchase, storage, and distribution of equipment and materials necessary for the production, duplication, and reproduction of such Braille materials and sound recordings, and (5) the purchase, storage, and distribution of equipment provided to blind persons that affords such persons private individual access to printed materials by mechanical or electronic means. The committee is cognizant of the specialized nature of reading services for the blind and therefore regards it as essential that knowledgeable administrators and personnel (skilled in rehabilitation and related services for the blind) have direct supervisory control over these programs. To assure that this will be the case, the committee has included the requirement that the vocational rehabilitation agency serving the blind which is designated to administer the reading services program to the blind must be at least an identifiable administrative unit with a full-time director and staff which develops and administers its own budget. The Federal funds authorized for the reading services program are to be allocated to the States on a population basis with the proviso that no State shall be entitled to less than $25,000 annually.

PROGRAMS FOR DEAF AND HEARING IMPAIRED INTERPRETERS FOR THE DEAF

The committee bill adds a new section to title II of the Rehabilitation Act of 1973 to provide for the establishment of not more than 12 programs for the purpose of training interpreters for the deaf and authorizes $8 million for fiscal year 1979 through 1983.

The committee notes that a study, "The Deaf Population of the United States," by Jerome D. Schein and Marcus T. Delk, Jr., cites the following statistics:

PREVALENCE AND PREVALENCE RATES FOR HEARING IMPAIRMENTS IN THE CIVILIAN NONINSTITUTIONALIZED POPULATION, BY DEGREE AND AGE AT ONSET: UNITED STATES, 1971

Degree	Age at onset	Number	Rate per 10,000
All hearing impairment	All ages	13,362,842	6,603
Significant bilateral	do	6,548,842	3,236
Deafness	do	1,767,046	873
Do	Prevocational [1]	410,522	203
Do	Prelingual [2]	201,626	100

[1] Prior to 19 years of age.
[2] Prior to 3 years of age.

In spite of the obvious need for interpreters for the deaf indicated above, there are only approximately 1,600 certified interpreters in the United States. In response to this need for additional interpreters and in response to the requirements imposed by section 504 and Public Law 94–142, the committee has authorized the Secretary, through the Office for Handicapped Individuals in the Office of Human Development Services to establish not more than 12 programs for the purpose of training a sufficient number of interpreters to meet the communication needs of deaf individuals. The committee intends for base centers to be maintained at the following locations: Gallaudet College in Washington, D.C.; Saint Paul Technical Vocational Institute in Saint Paul, Minn.; California State University in Northridge, Calif.; Seattle Central Community College in Seattle, Wash.; Delgado College in New Orleans, La.; and the National Technical Institute for the Deaf in Rochester, N.Y. An additional six centers may be established by the Secretary if such centers have ongoing operating programs for training interpreters and if such centers are geographically situated so that every part of the Nation is served.

Centers which wish to maintain a program pursuant to this new authority may make application for the development of a 5-year program to provide interpreter services to deaf individuals in need of such services in specific geographic areas of need as identified by the Secretary.

In addition, centers maintaining programs under this authority may provide for short-term and inservice training and training or retraining of teachers who instruct deaf individuals and who are not certified as teachers of deaf individuals.

The committee notes that interpreters who provide services required under the Education for All Handicapped Children Act of 1975 may be trained in the centers established pursuant to the committee bill, except that funds for training such interpreters shall be drawn from funds appropriated under the Education for All Handicapped Children Act.

Any centers maintaining programs established under the committee bill may provide for the establishment and operation of Satellite centers for training of interpreters if such satellite centers are necessary or appropriate for the efficient delivery of interpreters services to deaf individuals in need of such services.

The committee intends that interpreters trained in any base center or additional center authorized by the committee bill shall be required to meet minimum standards established in the Registry of interpreters for the Deaf.

NATIONAL NETWORK OF SERVICES FOR DEAF INDIVIDUALS

The committee bill amends title III of the Rehabilitation Act of 1973 by adding a new section 306 which authorizes the Secretary to establish information and referral centers and interpreter referral centers for deaf individuals in each State. The committee

bill authorizes $15 million for fiscal year 1979 through 1983 to carry out these activities.

The committee expects that such State programs will be operated throughout the State in areas specifically selected to provide central locations for the provision of services to deaf individuals and that the State agency responsible for the program will involve, through contractual or other arrangements, to the extent appropriate, private, nonprofit organizations comprised of deaf individuals or which provide assistance or services to deaf individuals as a primary organizational purpose. The committee intends that the interpreter services provided under this new program are to be made available to any public agency, or private nonprofit organization which is involved in the delivery of assistance or services to deaf individuals. It is expected that the cost of these interpreter services may be defrayed by the referral center during the first year in which the center is in operation; however, at the end of the first year of operation, any agency receiving interpreter services is expected to reimburse the referral center for the cost of interpreter services.

Funds allocated under section 306 for use by interpreter referral shall not be used (1) to defray administrative or related costs and (2) to pay for the provision of assistance or services to deaf individuals receiving rehabilitation services as clients under any other provision of the Rehabilitation Act. Funds may, however, be used for the purchase or rental of equipment necessary to provide assistance of services to deaf individuals.

The committee expects any interpreter participating in services provided under this authority to meet the minimum standards established in the Registry of Interpreters for the Deaf.

REHABILITATION SERVICES TO OLDER BLIND PERSONS

The need for a special direct service program to older blind persons has long been recognized in the Congress, and an attempt was made in rehabilitation bills in 1972 and 1973 to provide the necessary legislative authority. Unfortunately, these rehabilitation bills were vetoed by the President, and in the 1973 compromise which resulted, the older blind persons program was almost entirely excluded.

Section 304(b) of the Rehabilitation Act of 1973 does contain authority for special projects to demonstrate how services can be provided to the older blind. During fiscal year 1978, there are six such projects, having total appropriations of $769,000. These projects have been highly successful, demonstrating techniques required to assist this largely unserved population.

The committee's awareness of these unmet needs of older blind persons has resulted in the inclusion of a provision in the committee bill establishing a new program of rehabilitation services to older blind persons whose combination of age and blindness makes gainful employment unattainable.

The committee is concerned that more than half of the blind population (approximately 265,000 of the estimated 500,000 legally blind persons) in the United States are over age 65. Diseases such as cataracts, glaucoma, and diabetes are prevalent among this group, and for many persons, there is no cure. Older blind persons are forced to depend on family members, friends or custodial care. Existing assistance to the older blind person amounts to income maintenance, health services and library services. Programs such as social services, housing assistance for elderly and handicapped, and older Americans program do not address the special problems of dependency (the loss of ability and the will to function) which confront older blind citizens.

Older blind persons have not had access to the rehabilitation and adjustment services provided to blind adults of working age. The comprehensive service needs study, mandate by the Congress in the Rehabilitation Act of 1973, commented on the lack of rehabilitation and adjustment services to older blind individuals and recommended that older blind persons should have available to them a broad range of services. The committee bill includes in its scope of services to be made available to older blind persons a wide range of services and goods to assist the older blind person to adjust to his blindness and to increase his independence.

The committee bill establishes a nationwide rehabilitation program for older blind individuals, authorizes an allotment of Federal funds for each State or initiating such services, requires the administration of the program to be placed in the State Blind Commission or other agency administering the State plan for vocational rehabilitation services to the blind, and provides authorizations in the amount of $10 million for fiscal year 1979, $20 million for fiscal year 1980, and $30 million for fiscal year 1981.

Mr. STAFFORD. Mr. President, as the ranking member of the Subcommittee on the Handicapped and a chief cosponsor of S. 2600, I join with my distinguished colleague and chairman of the subcommittee (Mr. RANDOLPH), in giving my full support to this bill. The reservations I expressed at the introduction of S. 2600 no longer exist.

S. 2600 extends the vocational rehabilitation program and the developmental disabilities program for 5 more years. Also, the bill creates new programs to provide more and better services to handicapped individuals. The bill allows the rehabilitation program to grow and serve more handicapped individuals and provide these individuals with greater opportunities to maximize their potential.

Since Senator RANDOLPH has so ably summarized the bill, I will now direct my remarks to a few issues and programs which should be highlighted.

PROCEDURAL SAFEGUARDS

The procedural safeguards section of S. 2600 is designed to provide a formal process to protect the rights of the vocational rehabilitation client participating in the program. This section is similar in function to the due process language adopted by the Congress in the Education for all Handicapped Children Act, Public Law 94–142.

The procedural safeguards provision establishes the following client rights: First, access to records respecting the development and implementation of an individualized written rehabilitation program; second, written prior notice whenever a providing agency refuses to initiate, develop, change or implement the individualized written rehabilitation plan; third, an opportunity to present complaints with reference to any matter regarding the individualized written rehabilitation program; and fourth, the right to an impartial due process hearing.

If the client's objections or complaint cannot be resolved on an informal basis, then the client has the right under the procedure established by this section to an impartial due process hearing to be conducted by the State agency. If the matter is not satisfactorily resolved in the hearing, then the person may appeal the decision to an arbitration panel. Further appeal may be made to any State court of competent jurisdiction or to a district court of the United States.

It is important to note that this section applies to the handicapped individual who is an "accepted" vocational rehabilitation client and is a participant in the program. Procedural safeguards under section 105 do not apply to an applicant for the vocational rehabilitation program.

A responsive State rehabilitation agency should have no problems with such a procedural safeguards system, and in fact, should be instrumental in planning and implementing this program. While some States, such as Oregon, have already incorporated procedural safeguard programs into their State plans, this is not the case for the majority of the States. The procedural safeguards program is supportive of the vocational rehabilitation system's desire and effort to better serve their clients. Since the decisions made by the vocational rehabilitation agency are significant and of lifelong impact, I feel that the handicapped individual's rights should be protected by the establishment of a formal process to protect them.

RECREATION PROGRAM

Participation in sports and other forms of recreation are points of common interest in our country. For the handicapped individual, recreation is now available due to advances in technology and equipment and the concerns of people in the physical education and recreation areas.

In recognition of the recreational and social needs of handicapped individuals, a new section has been added to the Rehabilitation Act entitled "Recreation Programs for Handicapped Individuals." This section authorizes the Secretary of HEW to make grants to States and public nonprofit agencies and organizations for the purpose of initiating recreation programs for handicapped individuals.

At the present time, recreational programs for the handicapped are limited. This section is intended to stimulate the development of existing community-based recreation programs for use by handicapped individuals. These programs should also be coordinated with other recreational activities in the community.

Handicapped individuals should participate in existing recreation programs to the maximum extent feasible. However, realistically speaking, the handicapped do have specialized needs that necessitate adaptive equipment and programming as well as personnel attuned to their needs. This section is designed to support the handicapped individuals' desire to participate in regularly scheduled recreation programs. Simply stated, Mr. President, the goal of this section is to provide new and expanded recreational activities to handicapped individuals in all areas of the country.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

The committee bill contains several amendments to the Architectural and Transportation Barriers Compliance Board established by section 502 of the Rehabilitation Act of 1973. These amend-

ments make the following changes in section 502: First, add six public members to the Board, five of whom are disabled; second, add a representative of the U.S. Postal Service; third, provide for technical assistance to public and private agencies and institutions for the removal of architectural and transportation barriers to accessibility; and fourth, provide the Board the ability to enforce its compliance orders.

Mr. President, the committee's actions to involve handicapped consumers on the board is a result of our recognition that architectural and transportation barriers affect a small group of our population in a very significant way. It is the disabled who are most adversely affected by the barriers which inhibit their mobility in this society. While a 3 to 6 inch step is no barrier to the vast majority of the population of the United States, it is an insurmountable barrier to someone in a wheelchair. The reality of barriers may only be a passing thing to the nondisabled individual, but it is a constant concern and frustration to the handicapped individual. By placing handicapped individuals on the Board in a decision-making role, it is the committee's hope that the board will approach the matter of barrier removal in a realistic manner without unnecessary delay.

With the implementation of section 504, many individuals, institutions and States are at a loss as to how they can meet the compliance standards. In taking these problems into consideration, the bill provides the board with a technical assistance capability to assist any public or private entity in the removal of architectural and transportation barriers which impede the mobility of handicapped individuals.

The committee bill also gives the board the right to issue compliance orders to enforce the standards of the Architectural Barriers Act of 1968. Under the committee amendments, the board must insure that all waivers and modifications of the act are based upon findings of fact. Also to provide for better enforcement of the act and to strengthen the activities of the Board, the committee bill provides that the board can sue and be sued in its own name and be represented by its own legal counsel in the courts.

The committee feels that these modifications of the law are necessary to assist the Board in accomplishing its goal of a barrier-free environment for handicapped individuals. Under existing law, the Board has no formal legal avenue available to enforce its judgments. Quite frankly, Mr. President, if the Board's orders are to have meaning, they must be enforceable.

The committee bill provides for the Board to be represented by its own counsel because it is an independent regulatory agency enforcing accessibility and usability standards. This type of independent agency traditionally is represented by its own lawyers. For example, the Federal Trade Commission, Interstate Commerce Commission, and the Security and Exchange Commission have the same type of authority as we are granting the Board.

An important factor in the decision to give the Board independent legal counsel was the fact that the Board is a unique agency enforcing architectural barrier standards against the Federal Government. The Board must have power to represent itself to maintain its independence from Federal agencies against whom the Board enforces the law. If the Department of Justice had control over Architectural and Transportation Barrier Compliance Board litigation, then the Board would be forced to reprove its causes before the Justice Department in order to get the order enforced against another Federal agency.

Also, the creation of self-representation for the Board helps avoid a potential conflict of interest for the Department of Justice. For example, it is conceivable that the Justice Department could be the recipient of an order by the Board to enforce accessibility, in a courthouse, prison, jail, police station, or other Federal buildings which the Justice Department occupies. Also, the Justice Department may provide financial assistance through the Law Enforcement Assistance Administration to a State agency, which may be subject to compliance orders issued by the Board.

Mr. President, I will offer an amendment later in the debate to clarify the language of the committee bill in regard to the Board's self-representation and the relationship to the Department of Justice's responsibility in this area.

DEVELOPMENTAL DISABILITIES

In keeping with the advancement of awareness and mainstreaming of handicapped individuals, the Developmental Disabilities Act is extended for 5 more years by S. 2600.

The major change in the existing law by the committee bill is the definition of developmental disabilities. A broader and more functional definition of developmental disabilities is adopted in S. 2600, rather than the categorical definition of the existing law. The new functional definition is intended to cover everyone under the current definition and to add other individuals with similar characteristics.

A specific listing of disabilities in a definition may wrongly assume that any person with that disability is developmentally disabled. The new definition is a functional definition and thus avoids stereotyping individuals by their disability. The new definition should lead to better access and appropriate services for individuals, rather than a categorical label for people.

Mr. President, I ask unanimous consent that the portion of the committee report stating the committee's view of the new definition be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEFINITION OF DEVELOPMENTAL DISABILITIES

The major change adopted by the committee (section 301 of the committee bill) is the revised functional definition of developmental disabilities contained in the ABT Developmental Disabilities Definition Task Force Report and supported by a majority of the task force. This report was developed under a contract by the Developmental Disabilities Office of the Department of Health, Education, and Welfare to ABT Associates, Inc. of Cambridge, Mass. for the purpose of conducting a study in accordance with Section 301(b) of Public Law 94-103 with respect to the definition of developmental disabilities. The task force produced two definitions: One definition is functional in nature and was supported by the majority of the task force, and the second definition is categorical in nature and was supported by the minority of the task force.

The committee adopted the majority definition of the ABT task force because it is more inclusive than the present definition of a developmental disability.

According to the ABT Report, a developmental disability is a form of inability or limitation in performing roles and tasks expected of an individual within a social environment (ABT, p. 11).

The phrase "disability of a person which" is meant to convey the point that the term "developmental disability" is not a general catchall for an arbitrary collection of existing labels attached to diseases, condition or syndromes, such as cerebral palsy or mental retardation. Mental retardation is not a developmental disability per se. Some people with mental retardation, on the other hand, have a developmental disability if their situation reflects all aspects of the definition. The "developmentally disabled" are a group of people with their experiences circumscribed by the definition. They are not defined by inference drawn from a clinical label. (ABT, p. 11).

A developmental disability is characterized by the cumulative effect of meeting all of the criteria listed in the definition.

The phrase "is attributable to a mental or physical impairment or a combination of mental and physical impairments" is to show that the mental or physical impairment is greatly involved in the person's disability. The terms "mental" and "physical" are used because they are commonly used and accepted in the field (VR, social security). The impairment requirement of the definition is intended to be very broad and nontechnical, extending to all neurological, sensory, biochemical, intellectual, cognitive, perceptual, and affective impairments. While the term, "impairment" is intended to have the broadest application possible in the mental and physical domains, it is not intended to include social problems.

The language relating to combination of physical and mental impairments is utilized to avoid the debates of recent years over whether a particular impairment should be characterized as physical or mental. In many cases impairments are interrelated, falling into both domains (ABT, p. 12).

The overwhelming majority of task force members felt that functional limitations should be included as an element in the definition and specified in enough detail to help focus on the population of concern. "Functional limitations" are based on the individual's inability to meet age-specific expectations in certain performance areas. A 3-year-old may not be proficient in many critical performance areas (independent living capacity, for example) but if they are not substantially below the norm of the performance of 3-year-old for independent activity, then they are not "functionally limited" within the meaning of the definition (ABT, p. 16).

The majority recommendation of the task force was that the appropriate basis for the definition should be the characteristics of the disability and its impact on the person's ability to function, not the specific conditions or diagnostic categories of the individual with a disability. The definition, therefore, is intended to cut across a wide number of specific diagnostic conditions to include a subgroup of individuals within these categories of conditions who met certain criteria as spelled out in the definition (ABT, p. 18).

The definition is intended to cover everyone currently covered under the definition and is also intended to add other individuals with similar characteristics. In this definition, individuals with the conditions currently listed in the law—autism, cerebral palsy, dyslexia, epilepsy, or mental retardation—would be included if they meet the following criteria: Manifestation prior to age 22, expectation of continuing indefinitely, substantial functional limitation, and need for multiple services for an extended period. It is not the intent, however, to exclude anyone who legitimately should have been included under the current definition (ABT, p. 19).

The committee would further add that the original Developmental Disabilities Act was enacted in 1970—over 8 years ago. Since that time great strides have been made in making society aware of the fact that handicapped people exist and can be productive citizens if provided the appropriate programs and opportunities. Also, a great deal of progress has been made in the legal rights area with the enactment of section 504 of the Rehabilitation Act of 1973 and other laws affecting the handicapper regarding affirmative action in employment and accessibility to programs and activities and buildings.

By using the ABT majority definition, the committee feels that the common needs of the developmentally disabled can be met, without the potential antagonisms between groups representing conditions included in the definition in the existing law groups excluded from the definition.

The functional definition of developmental disabilities used by the committee in title III should lead to better access and appropriate use of services rather than categorical labeling of individuals.

The revised definition used by the committee in title III will expand the target group to be served by the act by approximately 300,000 to 400,000 persons. The following table represents estimates developed by ABT Associates of the population to be served, utilizing the new definition. Although the estimate totals 2.8 million persons, an actual population of approximately 2 million persons constitute the target group since there is a considerable number of multiple handicapped persons with overlapping impairments within the group.

Estimates of the population to be served within the proposed definition of developmental disabilities include:

	Percent	Millions
Mentally retarded (profound, severe, moderate, a few mild)	0.5	1.0
Cerebral palsy	.3	.6
Epilepsy	.25	.5
Autism	.05	.1
Learning disabled (chronic, socially impaired)	.2	.2
Other severe chronic (e.g., deaf-blind, multiple handicapped, deaf, osteogenesis imperfecta, cystic fibrosis, spina bifida, muscular dystrophy)	.2	.4
Total (plus or minus 2,000,000 allowing for overlaps)		2.8

Since 1974, Congress has appropriated almost level funding for the Developmental Disabilities Act. The committee is also aware that during that same period, the Congress expanded the population to be served under the act by amending the definition in 1975, and now again in 1978. Because of these facts, the committee wishes to make clear that the gap-filling services provided under the Developmental Disabilities Act to individuals already receiving service should not be diminished as a result of the revised definition; however, the committee does expect that the planning process will immediately address all disability groups covered by the functional definition. In addition, developmentally disabled individuals with those disabilities named in the existing law are to receive a proportionate share of any new funding.

To insure equity, the committee has instructed the Department of Health, Education, and Welfare to report to the Congress within 2 years (with interim reports every 6 months), following enactment of this legislation on the numbers of individuals served, by disability category, under this legislation with its revised definition. The report is to focus on whether the revised definition results in a diminution of services to individuals with disabilities specifically mentioned in current law.

Mr. STAFFORD. Mr. President, the original Developmental Disabilities Act was enacted in 1970—over 8 years ago. Since that time, great strides have been made on behalf of handicapped individuals and by the disabled themselves for better programs, more consumer involvement and more awareness on the part of society. This extension of the Developmental Disabilities Act should help continue the progress.

As a final note, I would like to mention that the State minimum allocation for the developmental disabilities program has been raised to $250,000 by the committee bill. This will help to provide increased programing and gap filling services to those developmentally disabled individuals living in small rural States.

COMPREHENSIVE SERVICES FOR SEVERELY HANDICAPPED INDIVIDUALS

Mr. President, before closing, I would like to mention one more very significant new initiative of the committee bill.

The new "Comprehensive Services for Severely Handicapped Individuals" title establishes a new program directed to serve the most severely handicapped individuals.

The disabled population to be served by this new title of the Rehabilitation Act of 1973 are those individuals who are currently not being served by the vocational rehabilitation programs. These unserved individuals are the severely handicapped, and are usually found in our residential institutions. These severely handicapped individuals are going without the necessary support services to aid in maximizing their potential.

In the past, the severely handicapped have been shoved into the background because of the length of time and cost factors required to help them gain their maximum independence. Severity of the handicap and cost factor should not be a requirement as to whether or not an individual is eligible for services.

This new title will bring services to those severely handicapped individuals who have not been able to receive services. This program should have a major impact on the lives of severely handicapped Americans.

Mr. President, other new programs including grants to American Indians, independent living program, interpreters for the deaf, reader services for the blind, and older blind services will greatly benefit handicapped individuals and are in keeping with the progressive movement of the U.S. Congress to insure that handicapped individuals receive the best in programing and services.

Mr. President, I hope that all my fellow colleagues will join with the committee in passing S. 2600.

Mr. JAVITS. Mr. President, as the ranking minority member of the Human Resources Committee, which reported S. 2600, as a staunch advocate of the rights of disabled Americans, and as the author of numerous provisions of law which have expanded opportunities of the handicapped for rehabilitation, employment, and independent living, I support strongly this legislation.

S. 2600 provides for the critical improvement and refining of service programs for the handicapped and the developmentally disabled, and properly expands structures currently in place to protect the rights of these citizens, who for so long were neglected members of our society. This bill, Mr. President, is the fruit of the labors of the chairman of the full Human Resources Committee, Senator WILLIAMS, and especially, the chairman of the Subcommittee on the Handicapped, Senator RANDOLPH, and the ranking member of that subcommittee, Senator STAFFORD. The subcommittee held 18 days of hearings during this Congress on programs for the handicapped. Testimony was heard from numerous witnesses, both the handicapped themselves and those representing handicapped individuals whose suggestions were most beneficial to the gestation of this bill.

Mr. President, one of the most significant features of S. 2600 is the modification of the State allocation formula for basic services, section 110 of the Rehabilitation Act. Before proceeding to a consideration of the programmatic and administrative provisions of the bill, I should like to discuss with my colleagues the action taken by the Human Resources Committee in reporting S. 2600 with this moderate formula change and the reasons therefor.

The current formula has been extant in the vocational rehabilitation program since 1954, when it was adopted from the Hill-Burton Hospital Survey and Construction Act. This formula is based on relative State population multiplied by an inverse factor of State per capita income relative to national per capita income. But the per capita income factor is squared, thereby giving much greater weight to that element of the formula, causing the development of a serious inequity among the States over the last 24 years. For, when the Hill-Burton formula was introduced into this program in 1954, it served, properly, to stimulate the growth of vocational rehabilitation activity in States where progress had only materialized slowly—specifically, the low per capita income States.

Since the introduction of the formula for "startup" allocations in 1954, major changes of both an economic and programmatic nature have occurred which, the committee found, necessitated a change in the formula:

First, the use of this formula to encourage States to provide rehabilitation services began in 1954 when the Federal share for the vocational rehabilitation program was only $21.8 million. The fiscal year 1978 appropriation for this program is $760 million, a Federal commitment 34 times larger than in 1954. The need for the Federal Government

to encourage startup of basic rehabilitation services no longer is a valid basis for allotting funds among the States.

As Federal appropriations for the vocational rehabilitation program have increased since 1954, the effect of the formula has been to increase the disparity of funding among the States. By fiscal year 1973, for example, the 25 States receiving the lowest per capita allotments for vocational rehabilitation services contained virtually 75 percent of the Nation's population. The committee did not believe that this perpetually increasing disparity was the intent of Congress in its authorization of the formula in 1954, or in subsequent reauthorization.

Second, the committee found that per capita income is, at best, an imprecise measurement of a State's relative ability to pay for vocational rehabilitation services, and is weighted in current law so heavily as to discriminate against the majority of handicapped persons who live in higher per capita income States.

In testimony before the Subcommittee on the Handicapped on March 14, 1978, the vocational rehabilitation directors of the States of California, Illinois, and New York stated that their States could, cumulatively, provide services to an additional 68,000 handicapped persons in need of such services, if these States received even the national average per capita allocation.

Third, administrators of State vocational rehabilitation programs indicated to the committee that annual fluctuations in per capita income within and among States make State planning for anticipated Federal funds in this program most difficult. Population trends tend to be more stable than those of per capita income, and some administrators have indicated a preference for greater stability of funding based upon the population factor, which will assist States in short- and middle-term program planning.

Fourth, the difference in ability to pay between low and high per capita income States is not nearly so great now as it was in 1954. Higher taxation and costs of living, and massive public debts due to the provision of essential social services in the higher per capita income States have eroded a once substantial gap among States in relative ability to pay for vocational rehabilitation and other social services.

Mr. President, on August 5 of last year, I introduced, with Senator WILLIAMS, chairman of the Human Resources Committee, and five other members of this body, S. 2042, which would have phased in a population-based formula over a 5-year period. S. 2042 was, in part, based on the findings of a study authorized by the Rehabilitation Act of 1973, to evaluate the allotment of funds under part B.

That study, prepared for HEW by JWK International Corp., and completed in 1974, found that the best general measure of an allocation's equity is the extent to which the allocation matches the relative size of the population of citizens to be rehabilitated. The current Hill-Burton allocation formula "deviates significantly" from this "equity index," according to the study, and "introduces substantial inequities in allocating funds to States."

Both Senator WILLIAMS, the other cosponsors, and I, believe that S. 2042 would have provided handicapped individuals who require rehabilitation services a more equitable opportunity to obtain these services regardless of their State of residence, and would have offered a reasonable solution to this long-standing formula dilemma.

However, Mr. President, we realized that although S. 2042 contained a provision to "hold-harmless" State allocations at the fiscal year 1978 level, certain States would receive no additional funding over the 5-year phase-in period. As sponsors of S. 2042, we seriously considered the impact this might have on those States' programs, particularly assuming increased costs of providing rehabilitation services in all States. Thus, the Human Resources Committee, taking into account such concerns during markup of S. 2600, arrived at what it believes to be a fair and equitable formula which provides for annual program growth in all States.

Specifically, S. 2600 provides that the existing Hill-Burton formula is utilized to determine State allotments in appropriations to the fiscal year 1978 level of $760 million. Appropriations above this level ($53 million authorized in the first year), will be distributed on the basis of relative population among the States. This will insure that all States will receive increasing annual allotments.

Again, S. 2600 provides that the Hill-Burton formula in present law will remain in effect each year for the first $760 million of appropriations. Only new funds appropriated above that amount will be distributed on a proportional population basis. Those States with per capita incomes below the national average will continue to receive a far greater distribution per capita than States with per capita incomes above the national average. Therefore, no substantial change in the relative disparities among the States in per capita allotment will occur.

Mr. President, the principal objective of the Federal vocational rehabilitation program is to make services available to eligible persons. The Human Resources Committee, in favorably reporting S. 2600 with this modest formula change, intends that services be equitable regardless of a handicapped individual's State of residence, and believes that the formula revision included in the bill will increase such equity.

I ask unanimous consent that two charts, done for the Committee by the Congressional Research Service, indicating the current per capita allocation for States under the existing formula, and the per capita allocations for 3 years with the committee formula and authorization levels in S. 2600, be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

APPROXIMATE ALLOCATIONS (DOLLARS PER PERSON) FISCAL YEAR 1979–83 FOR SEC. 110(A) OF REHABILITATION ACT OF 1973 AS AMENDED BY S. 2600

[Fiscal 1979: Hypothetical $760,000,000 in current formula; $53,000,000 in population formula: Total appropriation $813,000,000. Fiscal year 1980: Hypothetical $760,000,000 in current formula: $120,000,000 in population formula: Total appropriation $880,000,000. Fiscal year 1981: Hypothetical $760,000,000 in current formula; $185,000,000 in population formula: Total appropriation $945,000,000. All appropriations are reduced by a constant percentage for grants to territories other than Puerto Rico: 0.3182 percent. Minimum: $3,000,000 or ½ of 1 percent of appropriation, whichever is greater. Warning: All estimates based on 1974–76 per capita income and 1977 population data. Population not reduced as provided in sec. 130(B), American Indian Year program.]

State	Fiscal year—				State	Fiscal year—			
	1978	1979	1980	1981		1978	1979	1980	1981
Alabama	4.91	5.08	5.37	5.67	Nebraska	3.22	3.73	4.04	4.33
Alaska	4.91	7.37	7.37	7.74	Nevada	3.16	4.74	4.74	4.98
Arizona	3.71	4.09	4.40	4.69	New Hampshire	3.87	4.00	4.31	4.60
Arkansas	4.88	5.17	5.48	5.78	New Jersey	2.51	2.58	2.88	3.18
California	2.60	2.82	3.12	3.42	New Mexico	4.75	4.83	5.14	5.44
Colorado	3.17	3.46	2.77	4.06	New York	2.66	2.84	3.14	3.44
Connecticut	2.26	2.55	2.85	3.15	North Carolina	4.43	4.60	4.91	5.21
Delaware	3.44	5.15	5.15	5.41	North Dakota	3.79	4.59	4.59	4.82
District of Columbia	7.87	7.64	7.96	8.26	Ohio	3.42	3.55	3.86	4.15
Florida	3.45	3.80	4.11	4.41	Oklahoma	4.10	4.27	4.59	4.88
Georgia	4.19	4.47	4.78	5.08	Oregon	3.41	3.68	3.99	4.29
Hawaii	2.58	3.35	3.35	3.52	Pennsylvania	3.39	3.52	3.83	4.12
Idaho	3.90	4.25	4.57	4.86	Puerto Rico	6.98	7.64	7.96	8.26
Illinois	2.45	2.61	2.92	3.22	Rhode Island	3.49	3.65	3.96	4.26
Indiana	3.56	3.78	4.09	4.39	South Carolina	4.83	4.95	5.27	5.56
Iowa	3.14	3.62	3.93	4.22	South Dakota	4.06	4.65	4.98	5.26
Kansas	3.10	3.44	3.75	4.04	Tennessee	4.48	4.72	5.03	5.32
Kentucky	4.60	4.70	5.02	5.31	Texas	3.64	3.85	4.16	4.46
Louisiana	4.61	4.78	5.08	5.37	Utah	4.38	4.75	5.06	5.36
Maine	4.58	4.76	5.07	5.37	Vermont	4.40	6.21	6.21	6.52
Maryland	2.77	3.01	3.32	3.62	Virginia	3.41	3.81	3.92	4.21
Massachusetts	3.15	3.30	3.61	3.91	Washington	3.03	3.15	3.46	3.75
Michigan	2.95	3.27	3.57	3.87	West Virginia	4.59	4.69	5.00	5.30
Minnesota	3.35	3.64	3.95	4.25	Wisconsin	3.61	3.83	4.14	4.44
Mississippi	5.61	5.81	6.12	6.42	Wyoming	4.93	7.39	7.39	7.78
Missouri	3.79	4.00	4.32	4.81					
Montana	3.79	4.16	4.47	4.77	Total Federal	3.45	3.69	4.00	4.29

Mr. JAVITS. Mr. President, S. 2600 amends the Rehabilitation Act of 1973, reauthorizes programs established by the act, establishes a comprehensive services program for the severely handicapped, and extends the Developmental Disabilities Assistance and Bill of Rights Act. One of its most significant provisions, previously discussed, which the Human Resources Committee saw fit to add to the bill during markup, makes more equitable the allocation of Federal funds under title I of the act, public law 93–212.

S. 2600 extends the authorizations under the Rehabilitation Act for 3 years, through 1981.

Section 102 of the bill provides for specific arrangements for the coordination of services provided under the act and under the Education of the Handicapped Act and the Vocational Education Act of 1963.

Section 104 of the bill adds procedural safeguards to State rehabilitation activities. These safeguards include: first, the right to review relevant records, and to submit complaints, regarding the development and implementation of individualized written rehabilitation programs, and to receive prior notification from a providing agency of any difficulties involved in the implementation of individualized written rehabilitation programs; second, a listing of the rights to be accorded to any party granted a hearing because of a complaint (including the right to informed counsel, impartial judgment, and to appeal); and third, the right to subsequent civil action for such relief as the court may determine is appropriate, excepting that no civil action may be brought under this section for monetary damages.

Section 107 amends title I to provide authorization for a program of grants to tribal organizations of Indian tribes located on Federal and State reservations to pay 90 percent of the costs of vocational rehabilitation services for handicapped American Indians residing on such reservations. The allocation thus given to American Indians is computed by means of a formula which subtracts the number of American Indians who will be served under the provisions of the act from the total number of handicapped individuals in the State. S. 2600 also insures that State plans will include assurances that services provided to handicapped American Indians in each State are comparable to those provided to other groups.

Section 108 of the bill amends title I of the act by including "special programs for independent living" as a fundable activity under part C, the component of innovation and expansion grants to States of title I.

Section 109 of the bill extends authorization for appropriations for training and research through fiscal year 1983, as follows:

RESEARCH

Fiscal year 1979, $38 million; fiscal year 1980, $44 million; and fiscal year 1981, $51 million.

TRAINING

Fiscal year 1979, $34 million; fiscal year 1980, $38 million; fiscal year 1981, $41 million.

Section 110 expands the universe of eligible research grantees to include private, profitmaking agencies or organization, as well as supporting public and/or nonprofit agencies or organizations.

Section 111 of the bill repeals the requirement that a certain percentage (20 percent in the first fiscal year, 25 percent thereafter) of appropriations for research must be set aside for the establishment and support of rehabilitation engineering research centers. This set-aside is no longer necessary because of increased funding resources.

The bill also broadens the research component of the act to provide for the utilization of psychiatric theory and knowledge in research projects, demonstrations, solving rehabilitation problems, and other related activities, and provides that rehabilitation psychiatry be included as a field eligible for training grants or contracts.

Section 116 of S. 2600 makes organizational improvements regarding the role of the Architectural and Transportation Barriers Compliance Board, strengthening it so that it might more fully enforce the Architectural Barriers Act of 1968 and broadening its base and scope of activities. Heretofore, the Board was composed of members drawn from HEW and the Departments of Transportation, Housing and Urban Development, Labor, the Interior, Defense, and the General Services Administration and Veterans' Administration. Added to this Board is the U.S. Postal Service and six "general public" members, five of whom must be handicapped. Furthermore, the bill establishes a voting procedure which would give the public members a majority voice. This will expedite and make more efficient the removal of architectural and transportation barriers to the handicapped.

The addition of the U.S. Postal Service to the Board, and the addition of clarifying language to the provision makes clear that the Postal Service must comply with requirements for architectural accessibility of buildings to handicapped citizens.

This section also provides that the Board may offer technical assistance, and develop such assistance, to any public or private individual or entity with respect to the removal of architectural and transportation barriers. Such technical assistance, however, will not include assistance in effecting the removal of nonstructural barriers (for example, reassigning classes or other services to accessible sites, delivery of health, welfare, and other services to alternate accessible sites), as such activity does not fall within the Board's jurisdiction.

The bill further provides that the Board must establish minimum guidelines and requirements for the standards issued pursuant to the Architectural Barriers Act of 1968; and that the Board must assure that public conveyances, including rolling stock, are readily accessible to, and usable by, handicapped persons.

Finally, section 116 increases the authorization of appropriations for the Board to $3 million per year through 1981.

Section 118 amends title V of the act to provide that the remedies, procedures, and rights in the Civil Rights Act of 1964 shall be available with respect to complaints under section 501 and 504 of the Rehabilitation Act (section 501 concerns employment and section 504 concerns federally assisted programs). Further, the new section provides that a reasonable attorney's fee may be allowed as part of the costs.

TITLE VI

Section 119 of the bill adds a new title VI to the Rehabilitation Act, entitled "Comprehensive Services for Severely Handicapped Individuals." Using a functional rather than a categorical definition of "severely handicapped", this new title will extend services to meet the needs of all individuals who have "a mentally or physically handicapping condition or combination of such conditions which are expected to continue indefinitely; indicate a need of lifelong or extended duration for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services; require the provision of comprehensive services because of significant functional limitations in at least two of the following life activities which are self-care communication, learning, mobility, capacity for independent living, and constitute a substantial barrier to such individual's ability to function in society."

The new title VI requires, as a condition of a State's receiving Federal funds, that the State provide the Secretary satisfactory assurances that the State has in effect a system designed to protect and advocate the rights of severely handicapped individuals, and that such system has authority to pursue legal, administrative, and other appropriate remedies to insure the protection of the rights of those individuals receiving services within such State.

This system must be independent of any State agency which provides services under this title, and must be coordinated with the similar State system established under section 113 of the Developmental Disability Assistance and Bill of Rights Act.

The new title VI also requires that all recipients of Federal assistance take affirmative action to employ and advance in employment qualified handicapped individuals on the same terms and conditions required with respect to the employment of such individuals under the provisions of the Rehabilitation Act which govern employment by State rehabilitation agencies and rehabilitation facilities, and under Federal contracts and subcontracts.

The administration of this title is to be conducted along the same lines as the administration of the activities established pursuant to the existing rehabilitation program.

Allotments to States are based on a population formula, with each State's allocation based upon its relative share of total national population, with a small State minimum of one-half of 1 percent of the total appropriation.

Furthermore, section 614(d) provides for the combining of portions of State

funds for States involved in cooperative or joint efforts under the provisions of this title, or between or among agencies, public or private, in more than one State.

Section 613 of the new title VI details the scope of comprehensive services for severely handicapped individuals, including "any goods or services as may be necessary to enhance the ability of a severely handicapped individual to live independently or to function in society and, if appropriate, secure and maintain appropriate employment".

Long-range planning will further enhance the ability of severely handicapped individuals to live independently. Section 616 of the new title VI provides that, 18 months after enactment, each State, as a condition of receipt of its allotment under this title, shall submit to the Secretary a long-range plan outlining its planned provision of maximized services under this title.

Section 617 of the new title provides that States shall make grants to local public agencies, private nonprofit organizations, or tribal organizations located on Federal and State reservations, for the establishment or operation of independent living centers, or any centers which provide services to severely handicapped individuals. These centers are designed to enable the severely handicapped to develop employment skills, find employment, and live independently.

Section 618 establishes Federal share and nonduplication guidelines for the comprehensive services program. The Federal share may not exceed 80 percent of the project's total cost, except if such project is located in urban or rural poverty areas—if so, the Federal share may not exceed 90 percent. The non-Federal share of the cost of any project federally assisted under this title may be provided in kind.

Section 619 provides that there shall be, for States receiving assistance under this title, a State Council on Severely Handicapped Individuals, which will serve as an advocate of the interests of the severely handicapped. Members of this Council shall be appointed by the Governor, and at least one-half of the members will be severely handicapped individuals or the parents or guardians of such individuals.

The Council's purpose to develop and approve the State plan required by this part of the title, implementing such plan, and advise the Secretary and the Federal Council as to its effectiveness and as to future planning.

Section 621 of the new title authorizes the Secretary to provide grants and contracts for the development and demonstration of models for centers to provide services to the severely handicapped. Such models will concern themselves with employment, independent living, and services for preschool age severely handicapped children.

Of the funds authorized to be appropriated under this section, not more than 10 percent shall be used for the renovation or modernization of facilities. This section authorizes to be appropriated: $50 million for fiscal year-1979; $55 million for fiscal year-1980; and $60 million for fiscal year-1981.

Heretofore, all provisions for activities concerning severely handicapped individuals established in the act have been based on categorical definitions of "severely handicapped", and have been scattered haphazardly and relatively ineffectively throughout the act. Furthermore, where there has been an emphasis on the needs of severely handicapped individuals, that emphasis has been on vocational training and placement, rather than on more basic living needs. The new title VI will remedy the flaws implicit in the current approach to the needs of the severely handicapped by consolidating, coordinating, and making more effective all definitions, services, training and research concerning such individuals, and by establishing a new orientation towards helping such individuals live independently in society.

Mr. President, such a drive to enable severely handicapped individuals to live independently is absolutely essential to the welfare of these individuals and to the integrity of the rehabilitation program. Employment for the severely handicapped is a worthy goal, and under the new title VI will remain a primary objective. But first things must come first; before one may engage in gainful and meaningful employment, one must have the means simply to live, independently and with dignity. The ability to live with the elemental independence and dignity which we so often take for granted is the hope and dream of our severely handicapped citizens—and the new title VI represents an important step towards the realization of that dream.

S. 2600—TITLE III

Title III amends the Developmental Disabilities Facilities and Construction Act, first enacted in 1963. Existing law defines "developmental disability" as "a disability of a person which: first, is attributable to mental retardation, cerebral palsy, epilepsy or autism; second, is attributable to any other condition of a person found to be closely related to mental retardation because such condition results in similar impairment of general intellectual functioning or adaptive behavior to that of mentally retarded persons or requires treatment or services similar to those required for such persons; or third, is attributable to dyslexia resulting from such a disability; originates before such person reaches the age of 18; has continued or can be expected to continue indefinitely; and constitutes a substantial handicap to such person's ability to function normally in society."

S. 2600 revises the definition of "developmental disability" to provide that "the term developmental disability" is a severe chronic disability of a person which is attributable to a mental or physical impairment, or combination of mental and physical impairments; is manifested before such person attains age 22; is likely to continue indefinitely; results in substantial functional limitations in three or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction capacity for independent living; economic self-sufficiency; and reflects the need for a combination and sequence of special, interdisciplinary or generic care, treatment, or other services to be individually planned and coordinated during the lifetime of such person or for an extended period of time."

The amended version of the definition of "developmentally disabled" as adopted by the committee, S. 2600, is the revised functional definition recommended by the National Task Force on the Definition of Developmental Disabilities established pursuant to Public Law 94-103.

This functional definition recognizes the developmentally disabled as a group of people with their experience circumscribed by the definition and not defined by a clinical label. In order to be "developmentally disabled," an individual, however labeled, must exist in a situation which reflects all aspects at the functional definition. Functional limitations are included in order to assure that the basis for the definition rests on the characteristics of the disability and the impact on the person's ability to function, not the specific conditions or diagnostic categories of the individual with a disability. (Functional limitations are based on the individual's ability to meet age-specific expectations in certain areas.) The definition is intended to include everyone currently served under the existing definition. This functional definition will expand the target group to be served by the act by approximately 300,000 to 400,000 persons. According to estimates developed by the Developmental Disabilities Task Force, 2 million persons will be served by utilizing the new definition.

By using the functional definition, the common needs of all the developmentally disabled can be met and better access and appropriate use of services rendered.

To ensure that all those currently served through the developmental disabilities program continue to be served and to determine the impact of the revised definition, title III provides that the Secretary make a special report to Congress concerning the modification of the definition of "developmentally disabled." Such reports shall include: first, an analysis of the impact of the modification of such definition in all categories of persons with developmental disabilities receiving services under the act prior to the date of enactment of such modification for each of the 2 succeeding fiscal years, and second, an assessment, evaluation, comparison of services provided for the same time period, and shall be submitted within 30 months of the date of enactment.

Title I, section 108 of the Developmental Disabilities Services and Facilities Construction Act is repealed by title III, section 302 of S. 2600. Title III repeals the National Advisory Council on Services and Facilities for the Developmentally Disabled in favor of the new Federal Council on Handicapped Individuals, a recommendation of the White House Conference on the Handicapped.

Title III authorizes $10,000,000 to assist States in establishing systems to protect and advocate the rights of developmentally disabled persons for fiscal year September 30, 1979, and $12,000,000 and $13,000,000 for the 2 succeeding years. This additional authorization for funds is necessary to assist States to implement and expand this vitally important protection system.

The revised functional definition of "developmentally disabled" (section 301) enlarges the developmental disability target population and thus requires a larger and continued allotment to meet the needs of developmentally disabled persons.

Thus section 308 extends State allotments under the developmental disabilities program for 3 years and provides for the following authorizations: $45 million for fiscal year ending September 30, 1979, $45 million for fiscal year ending September 30, 1980, $45 million for the fiscal year ending September 30, 1981. Minimum State allotments are increased from $150,000 to $250,000.

Section 311(a) amends the existing State Developmental Disability Planning Council provision to provide for the rotation of membership on the council of each State, and that at least one-half of the membership of such council instead of one-third as required by the present law, shall consist of persons with developmental disabilities or the parents or guardians of such persons, and of persons who are not officers or employees of any State agency or any other entity which receives funds or provides services under this act.

Section 312 extends for 3 years the authorization for special projects grants and authorizes $20 million for each of these fiscal years.

Section 313 of S. 2600 amends section 101 of the Developmental Disabilities Services and Facilities Act to change the title thereof to the "Developmental Disabilities Assistance and Bill of Rights Act."

Mr. President, I urge my colleagues to support S. 2600.

Mr. President, I ask unanimous consent that Robert Wenger, of the staff of the Subcommittee on Handicapped of the Committee on Human Relations, may be granted the privilege of the floor during consideration of this bill and votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STAFFORD. Mr. President, I ask unanimous consent that Pamela Melton of Senator THURMOND's staff have the privileges of the floor during the consideration and votes on S. 2600; additionally, Mr. President, I ask unanimous consent that Jane Yanulis of Senator DURKIN's staff, Larry Patton of Senator PROXMIRE's staff, Tom Polgar of Senator MORGAN's staff, and Ted Blanton of Senator MOYNIHAN's staff have the privileges of the floor during the consideration of S. 2600.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, I ask unanimous consent that Ed King, of my staff, have the privileges of the floor during the consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, once again, the Senate, as well as all handicapped Americans, owes thanks to the floor manager of S. 2600, Senator RANDOLPH, whose vision and leadership have done so much to improve the lives of the handicapped.

The bill he brings before us today would reauthorize the Vocational Rehabilitation Act and the Developmental Disabilities Act, the two major Federal programs designed to aid the disabled. The bill would also authorize new programs to expand services to special populations, such as the blind.

In addition, the bill would establish a major new program which would provide comprehensive services to severely handicapped individuals.

The vocational rehabilitation program is one of the oldest and most successful Federal programs, and I wholeheartedly support its continuation. Several cost benefit analyses of this program have been conducted, and they all conclude that the benefits derived from the vocational rehabilitation program are worth many times its cost.

For example, the 303,000 people rehabilitated in 1976 earned $1.3 billion in that year, a net increase of $1.1 billion over their earnings prior to entering the rehabilitation system. If we assume that these clients return roughly 6 percent of their additional earnings to the Federal Treasury in taxes, then rehabilitation results in a net gain of $66 million in Federal revenue alone.

This contribution is over and above the savings that result from the removal of handicapped people from public assistance rolls and public institutions.

The new program of services to the severely handicapped proposed in S. 2600 would represent a major expansion in Federal resources committed to the estimated 7.5 million severely handicapped who have received few, if any, rehabilitative services under existing programs.

Ostensibly, many of the activities provided for in this program are already underway in the developmental disabilities program, which would be reauthorized by this bill through fiscal year 1983.

A few weeks ago, in recommending favorably on a resolution waiving a provision of the Budget Act with regard to this bill, the Budget Committee expressed its concern over the possible duplication of programs extended and proposed in this bill.

The Budget Committee's report on the waiver resolution stated in part:

> The Budget Committee has a continuing concern about the pressure on Federal spending created by duplication and overlap in authorized spending.

The Budget Committee, in expressing this concern, was not voicing opposition to any one program or beneficiary group. The committee neither intends that any essential services for the developmentally disabled be eliminated nor that services be deprived to those severely handicapped who remain unserved.

Rather, it was expressing its belief that true control over Federal spending—rather than being achieved through across-the-board spending cuts such as those passed by the Senate in recent weeks—can only come through careful evaluation of Federal programs to eliminate duplication and waste.

I understand that the sponsors of this bill have included language to foster coordination among programs included in the bill. I applaud these attempts and will support any efforts at further coordination as the programs are implemented.

In that same waiver report the Budget Committee also recommended that the authorization period for the vocational rehabilitation program be shortened from 5 to 3 years.

The reason for this recommendation, as stated in the committee's report on the waiver resolution, is the Budget Committee's concern over "long-term commitments involving increasing expenditures in entitlement programs." The report goes on to say:

> Such programs should be reviewed more frequently in light of changing needs and condition.

Mr. President, in expressing these concerns, the Budget Committee does not deny the need of the handicapped for assistance. To the contrary, the committee is very much aware of the needs of the handicapped and supports funding for programs for the handicapped.

Moreover, I believe that the vast majority of Americans wholeheartedly support these programs.

For these reasons I intend to support this bill.

VINLAND NATIONAL CENTER

● Mrs. HUMPHREY. Mr. President, today while we are considering S. 2600, which extends and establishes a comprehensive services program for the severely handicapped, it provides an opportune time to tell my colleagues of a unique facility which is being established in the State of Minnesota. The facility is known as Vinland National Center. And, although it is in the initial stages of planning, it will in time offer to persons who are handicapped a program of sports training and health-care skills.

In 1976, when we celebrated our Nation's Bicentennial, the people of Norway presented a gift of $200,000 to the citizens of our Nation. The gift was to signify the strong bonds of friendship that exist between the Norwegian and American people.

It was the wish of the Norwegian Storting (parliament) that the gift would help establish in Minnesota a health sports center for the handicapped. The Vinland National Center is to be patterned after the successful Health Sports Center at Beitostolen in Norway.

The Beitostolen Center operates from the premise that sports provide a positive contribution to improving an individual's health and well-being. Health sports are viewed as physiologically and psychologically strengthening, and therefore, enhance occupational and social opportunities for the handicapped.

Thus, the purpose of Vinland National

Center is to provide an opportunity for the handicapped to participate in a rigorous program to build and maintain health. Life enrichment programs will also be a substantial part of this innovative approach.

The center will be a national model and a unique resource as it moves the handicapped person from the level of traditional rehabilitation process to that of participating in physical activities and health care training. Minnesota's magnificent changing panorama of seasons provides ample opportunity to learn and become skillful at a variety of sports. In addition to the physical regimen, a life enrichment program of the arts would be an integral part of a stay at Vinland Center. A provision has been made to collect the data learned from participating in this type of health maintenance program, and to disseminate the material gathered, so that all of society may benefit from the information.

It is anticipated that approximately 1,500 residents and 50 nonresidential participants with disabilities from throughout the Nation will be at the center for periods of 2 to 4 weeks. Approximately 50 people will be associated with the permanent staff in specialized education and internship programs for periods of varying duration.

The center will be located in Lakeland, Minn., about 25 miles south of Minneapolis and St. Paul. The Lakeville site is characterized by rolling, open fields and steep slopes, both forested and clear, with frontage on Marion Lake. The terrain is well-suited to the variety of seasonal sports in which one can participate in Minnesota.

The program that is being developed at Vinland Center is comprehensive, and the progressive dissemination of public information on its activities can have a beneficial impact on the health of our society itself. I believe that through this type of program the benefits to the handicapped and to society that are being developed in Minnesota, will truly benefit the Nation.●

● Mr. WILLIAMS. Mr. President, I ask my colleagues to join me in voting for the passage of the Rehabilitation, Comprehensive Services and Developmental Disabilities Act of 1978. This bill is vital to the realization of the goals of all disabled Americans.

In recent years, there has been a growing awareness of the rights and the needs of persons with disabilities which have not been adequately addressed. The concept of rehabilitation has changed in this decade from a system that "helps and takes care" of disabled persons to one that provides services to enable them to live independently and reach their full potential.

S. 2600 would extend the programs that are authorized under the Rehabilitation Act of 1973 for 5 more years. Further, S. 2600 would establish comprehensive services for the severely handicapped which would encourage States to meet the needs, for the first time, of persons who are not currently served. The programs provided under this act include independent living, employment training, and other such services with the primary objective of enabling persons to live with dignity within their own communities.

S. 2600 would provide authority to establish model centers and demonstration programs to serve the severely handicapped, including models for training centers, models for services to preschoolage severely handicapped children, and models for independent living.

S. 2600 would also establish, at the recommendation of the White House Conference on Handicapped Individuals, a Federal council on the handicapped. The council would advise the President and Congress of the needs of handicapped individuals, drawing on their experiences, and I am certain that such consumer input will enable the Federal Government to be more responsive to the needs of disabled citizens.

S. 2600 would extend for 5 more years the Developmental Disabilities Act with a broader, more functional definition of developmental disability. This will insure that this vulnerable population will receive the planning services which are contemplated by the act. The Developmental Disabilities Act has enabled States to adequately plan for serving this segment of our population, and I strongly support the extension of this important legislation.

In addition, S. 2600 would establish reader services for the blind, interpreter services for the deaf, and rehabilitation services for old blind Americans. These ancillary services would assist these segments of the disabled population to remain independent and to live with dignity.

Over the last year we have seen many encouraging developments for our Nation's disabled. With the signing of the regulations implementing section 504 of the Rehabilitation Act of 1973 by the Secretary of Health, Education, and Welfare, this administration has assured prohibitions on discrimination for persons with disabilities by anyone receiving Federal funds. In addition, Public Law 94-142, the Education for All handicapped Children Act, although still in its initial stages of implementation, mandates that our Nation's handicapped children receive a free, appropriate public education in the least restrictive environment. Such comprehensive laws are commendable accomplishments.

Mr. President, in the past the Congress has provided opportunities which enable disabled persons to fully participate in society. S. 2600 continues to carry out our national commitment to developing a comprehensive policy for the disabled. I urge my colleagues to enact this most worthwhile legislation.●

UP AMENDMENT NO. 1856

(Purpose: Defining the term "Reservation")

Mr. BARTLETT. Mr. President, I have an unprinted amendment which I send to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BARTLETT) proposes an unprinted amendment numbered 1856:

On page 163, line 11, insert the following:

"(e) The term "Reservation" includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and lands held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act."

Mr. BARTLETT. Mr. President, on page 77 of this legislation, part D, it deals with American Indian vocational rehabilitation programs and the vocational rehabilitation services grants.

I think it is very important, and I want to compliment the chairman and the ranking member of the committee, to be including this because the American Indians normally are made a part of all the various programs of this kind, and I certainly think it is most important and vital to them and their future that they also be included.

There is a problem, however. It provides that the commission is authorized to make grants to tribal organizations on Federal and State reservations. All the Indians are not on Federal and State reservations. So we have followed in this amendment the customary language which defines "reservation" to include Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act.

So this amendment has the effect of having this provision on page 77, which starts on page 77, to include all Indians, including Oklahoma Indians and the Alaska Natives, as well as others.

My understanding, I will say to the floor manager of the bill, is that this is acceptable, and I will be happy to yield the floor.

Mr. STAFFORD. Mr. President, just for clarification, I might ask the distinguished Senator from Oklahoma on his amendment, as we have it, it refers to page 163, line 11, but I assume he is talking about an amendment which would be on page 77 of the bill.

Mr. BARTLETT. The substance of the bill that deals with the American Indians is on page 77, and that was my reference. However, the amendment goes into definitions which start on page 162, section 437, and would be subparagraph (e) actually continuing on page 163, as the Senator from Vermont has said.

Mr. STAFFORD. I might say, Mr. President, we are prepared to accept the amendment. I can speak both for the majority manager of the bill and myself, but I think we had better have a quorum call to clarify where we understand it is going to go in the bill.

Mr. BARTLETT. It clearly goes on page 163. It is a new subparagraph (e), and it goes just as you say. It relates to provisions in the bill that affect the Indians on page 77.

Mr. STAFFORD. With that understanding, Mr. President——

Mr. BARTLETT. You can put it any place you want it. It should be in the definition section because it clearly is a definition.

Mr. STAFFORD. Mr. President, I think, to make sure we get this exactly in the right place, that I will suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BARTLETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, I would like to amend my unprinted amendment No. 1856 to read as follows:

On page 75, between lines 17 and 18, insert the following:

"(f)"

That is the only change.

The PRESIDING OFFICER. The Senator has a right to modify his amendment. The amendment is so modified.

The amendment, as modified, is as follows:

On page 79, between lines 17 and 18, insert the following:

"(f) The term "Reservation" includes Indian reservations, public domain, Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act."

Mr. BARTLETT. Mr. President, I think that satisfies the distinguished Senator from Vermont, and I thank him for bringing this to our attention. Certainly this is the proper place in the bill. The place where we had placed it was not the proper place.

Mr. STAFFORD. Mr. President, in behalf of the minority, I am ready to accept the amendment, and I believe my partner is also.

Mr. RANDOLPH. Yes; we think the amendment is helpful. We are grateful that the Senator from Oklahoma has brought it to our attention, and it will be incorporated, we hope, in the bill as passed.

Mr. BARTLETT. I thank the chairman and the ranking minority member of the committee for their consideration.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment (UP No. 1856) was agreed to.

Mr. STAFFORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1857

(Purpose: To reduce the number of years for which appropriations are authorized from five to three, and to reduce the amounts for which appropriations are authorized in certain programs)

Mr. RANDOLPH. Mr. President, I send to the desk an amendment in the form of a committee amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. RANDOLPH) proposes an unprinted amendment numbered 1857 on behalf of himself and the following other members of the committee: Mr. STAFFORD, Mr. WILLIAMS, Mr. JAVITS, Mr. PELL, Mr. KENNEDY, Mr. NELSON, Mr. EAGLETON, Mr. CRANSTON, Mr. HATHAWAY, Mr. RIEGLE, Mr. SCHWEIKER, Mr. HATCH, Mr. CHAFEE, and Mr. HAYAKAWA.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 69, line 24, insert the word "and" immediately after "1980,".

On page 70, beginning with "1981," on line 1 strike out through "1983" on line 2 and insert "1981".

On page 70, line 5, strike out "$50,000,000" and insert "$45,000,000".

On page 70, line 6, strike out "$60,000,000" and insert "$50,000,000".

On page 70, line 7, strike out "$70,000,000" and insert "$55,000,000".

On page 70, beginning with the second comma on line 8, strike out through "1983" on line 9.

On page 70, lines 17 and 18, strike out "fiscal year 1980 and thereafter" and insert "for the fiscal years 1980 and 1981".

On page 70, line 22, strike out "1983" and insert "1981".

On page 76, line 10, strike out "1983" and insert "1981".

On page 78, line 19, strike out "1983" and insert "1981".

On page 79, line 19, strike out "forty-two" and insert "thirty".

On page 80, beginning with the word "by" on line 21 strike out through the end of line 22.

On page 81, line 2, strike out "1983" and insert "1981".

On page 81, line 7, strike out "$40,000,000" and insert "$38,000,000".

On page 81, line 8, strike out "$46,000,000" and insert "$44,000,000".

On page 81, line 9, strike out "$53,000,000" and insert "and $51,000,000".

On page 81, beginning with the second comma on line 10, strike out through "1983" on line 12.

On page 81, line 15, strike out "$35,000,000" and insert "$34,000,000".

On page 81, line 16, strike out "$40,000,000" and insert "$38,000,000".

On page 81, line 17, strike out "$46,000,000" and insert "and $41,000,000".

On page 81, beginning with the second comma on line 18, strike out through "1983" on line 20.

On page 84, line 6, strike out "1983" and insert "1981".

On page 84, line 9, strike out "1985" and insert "1983".

On page 84, line 14, strike out "1983" and insert "1981".

On page 84, line 21, strike out "1983" and insert "1981".

On page 85, line 23, strike out "1983" and insert "1981".

On page 86, line 4, strike out "1983" and insert "1981".

On page 86, line 8, strike out "1983" and insert "1981".

On page 92, lines 4 and 5, strike out "$3,500,000" and insert "$3,000,000".

On page 92, line 5, strike out "four" and insert "two".

On page 99, line 7, strike out "$20,000,000" and insert "$12,000,000".

On page 99, line 8, strike out "$20,000,000" and insert "$15,000,000".

On page 99, line 9, strike out "$25,000,000" and insert "and $18,000,000".

On page 99, beginning with the second comma on line 10, strike out through "1983" on line 12.

On page 100, line 13, strike out "$110,000,000" and insert "$90,000,000".

On page 100, line 14, strike out "$170,000,000" and insert "$110,000,000".

On page 100, line 15, strike out "$220,000,000" and insert "and $150,000,000".

On page 100, beginning with the second comma on line 16, strike out through "1983" on line 18.

On page 110, line 6, strike out "1981," and insert "1980,".

On page 110, line 14, strike out "6" and insert "3".

On page 110, line 14, strike out "$35,000," and insert "$17,500,".

On page 110, strike out lines 19 through 24 and insert the following:

"(2) From the funds allotted and paid to a State under section 614—

"(A) not more than 3 per centum or $17,500, whichever is the greater, for the fiscal year ending September 30, 1980, and

"(B) not more than 6 per centum or $35,000, whichever is the greater, for the fiscal year ending September 30, 1981,

shall be used by each State for updating the long-range plan as required under subsection (a)(2).

On page 119, line 9, strike out "$60,000,000" and insert "$50,000,000".

On page 119, line 10, strike out "$85,000,000" and insert "$55,000,000".

On page 119, line 11, strike out "$115,000,000" and insert "and $60,000,000".

On page 119, beginning with "1981," on line 11, strike out through "1983" on line 14 and insert "1981".

On page 121, line 24, strike out "$12,000,000" and insert "$7,000,000".

On page 121, line 25, strike out "$15,000,000" and insert "$9,000,000".

On page 122, line 1, strike out "$18,000,000" and insert "and $11,000,000".

On page 123, beginning with "1981," on line 1, strike out through "1983" on line 4 and insert "1981".

On page 127, line 13, strike out "1983" and insert "1981".

On page 131, line 3, strike out ", and $12,000,000" and insert "$10,000,000".

On page 131, beginning with the word "and" on line 4, strike out through the word "years" on lines 5 and insert "$12,000,000 for the fiscal year ending September 30, 1980, and $13,000,000 for the fiscal year ending September 30, 1981".

On page 131, line 16, strike out "$12,000,000" and insert "$8,000,000".

On page 131, line 17, strike out "$14,000,000" and insert "$10,000,000".

On page 131, line 18, strike out "$16,000,000" and insert "and $12,000,000".

On page 131, beginning with the second comma on line 19, strike out through "1983" on line 21.

On page 131, beginning with line 22, strike out through the end of line 7 on page 132.

On page 132, line 9, strike out "Sec. 308." and insert "Sec. 307.".

On page 132, line 13, strike out "$65,000,000" and insert "$45,000,000".

On page 132, line 14, strike out "$70,000,000" and insert "$50,000,000".

On page 132, line 15, strike out "$75,000,000" and insert "and $55,000,000".

On page 132, beginning with the second comma on line 16, strike out through "1983" on line 19.

On page 132, line 21, strike out "Sec. 309." and insert "Sec. 308.".

On page 133, line 2, strike out "Sec. 310." and insert "Sec. 309.".

On page 133, line 18, strike out "Sec. 311." and insert "Sec. 310.".

On page 135, line 7, strike out "Sec. 312." and insert "Sec. 311.".

On page 135, strike out lines 22 through 24 and insert the following:

(4) by striking out the word "and" after "1977," in subsection (e), and by inserting immediately before the period in such subsection a comma and the following: "$20,000,000 for fiscal year 1979, $22,000,000 for fiscal year 1980, and $26,000,000 for fiscal year 1981".

On page 136, line 2, strike out "Sec. 313." and insert "Sec. 312.".

On page 137, line 14, strike out "$5,000,000" and insert "$4,000,000".

On page 137, line 15, strike out the semicolon and "$10,000,000" and insert a comma and "$6,000,000".

On page 137, beginning with the semicolon on line 16, strike out through the word "necessary" on line 19 and insert a comma and the following: "and $8,000,000 for the fiscal year ending September 30, 1981".

On page 150, beginning with "$8,000,000" on line 10, strike out through "1983" on line 13 and insert the following: "$7,000,000 for the fiscal year ending September 30, 1979, $7,000,000 for the fiscal year ending September 30, 1980, and $8,000,000 for the fiscal year ending September 30, 1981".

On page 153, beginning with "$15,000,000" on line 13, strike out through "1983" on line 16 and insert the following: "$12,000,000 for the fiscal year ending September 30, 1979, $13,000,000 for the fiscal year ending September 30, 1980, and $14,000,000 for the fiscal year ending September 30, 1981".

On page 154, line 10, strike out "$10,000,000" and insert "$8,000,000".

On page 154, line 11, strike out "$20,000,000" and insert "$10,000,000".

On page 154, lines 12 and 13, strike out "$30,000,000" and insert "$12,000,000".

On page 154, beginning with the word "For" on line 13, strike out through the period on line 16.

Mr. RANDOLPH. Mr. President, this amendment to the pending measure (S. 2600) is one that has the approval of all of the members of the authorizing committee, the 15 members of the Committee on Human Resources.

The amendment reduces the number of years for which the authorizations are made, and reduces the authorizations themselves. This committee amendment responds to budgetary concerns, which have been brought to our attention by the administration and by our own Senate Budget Committee.

The amendment reduces the number of years authorized by S. 2600 from 5 to 3, thereby eliminating authorizations totaling approximately $3.4 billion for fiscal years 1982 and 1983. It further reduces the authorizations for fiscal years 1979, 1980, and 1981 by approximately $500 million.

I think that we should have the record very clear in connection with this amendment. In making these reductions we considered each program carefully and acted only after determining that services to handicapped individuals would not—I emphasize would not—be curtailed as a result of these reductions.

Mr. STAFFORD. Does the distinguished Senator yield the floor?

Mr. RANDOLPH. Yes, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. STAFFORD. Mr. President, before I comment on the pending committee amendment, I ask unanimous consent that Maria Falcone of Senator LUGAR's staff, Eileen Winkelman of Senator DOMENICI's staff, Emily Root of Senator TOWER's staff, and Mary Ann Simpson of Senator STEVEN's staff be granted the privilege of the floor during the consideration of and votes on the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STAFFORD. Mr. President, the committee amendment will reduce the number of years of authorizations in S. 2600 from 5 to 3 and the authorization level for the 3 years by $471,900,000.

The committee's amendment to reduce the authorization levels in addition to the number of years is aimed at accommodating the administration and avoiding a Presidential veto. The President is seeking for lower authorization levels in all programs contained in S. 2600 and all legislation that is being considered by the Congress this year and in succeeding years. I feel that the reduction contained in the committee amendment will aid in this goal.

I must note, however, that no program has been eliminated by this amendment. All programs contained in S. 2600 as reported have received cuts in authorization levels by this amendment. The committee's intent is to see that all existing and new programs receive some funding in order to carry out the intent of this legislation. By reducing all programs we have insured that the new programs will have a chance to get off the ground to advance the rehabilitation of handicapped individuals.

Mr. President, I feel that the committee has made a significant effort to accommodate the wishes of this Congress and I ask my fellow Senators to support the committee's amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment (UP No. 1857) of the Senator from West Virginia.

The amendment was agreed to.

Mr. RANDOLPH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3441

(Purpose: To establish a National Institute of Handicapped Research, and for other purposes)

Mr. RANDOLPH. Mr. President, I send to the desk a printed amendment, introduced on August 4, for myself, Mr. WILLIAMS, Mr. STAFFORD, Mr. JAVITS, Mrs. HUMPHREY, and Mr. MATHIAS and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. RANDOLPH) for himself, Mr. WILLIAMS, Mr. STAFFORD, Mr. JAVITS, Mrs. HUMPHREY, and Mr. MATHIAS proposes an amendment numbered 3441.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 81, beginning with line 3, strike out through line 3 on page 82 and insert the following:

"DECLARATION OF PURPOSE

"SEC. 109. Section 200 is amended to read as follows:

"'DECLARATION OF PURPOSE

"'SEC. 200. The purpose of this title is to—

"'(1) provide for a comprehensive and coordinated approach to the administration and conduct of rehabilitation research, rehabilitation demonstration projects, and related activities for the rehabilitation of handicapped individuals, including programs designed to train persons who intend to provide rehabilitation services and persons who intend to conduct rehabilitation research by authorizing Federal assistance in accordance with a plan for rehabilitation research developed under this title;

"'(2) facilitate the distribution of information concerning developments in rehabilitation procedures, methods, and devices to rehabilitation professionals and to handicapped individuals to assist such individuals to live more independently;

"'(3) improve the distribution of technological devices and equipment for handicapped individuals by providing financial support for the development and distribution of such devices and equipment; and

"'(4) increase the scientific and technological information presently available in the field of rehabilitation.'.

"RESEARCH AND TRAINING: AUTHORIZATION OF APPROPRIATIONS

"SEC. 110. Section 201(a) is amended to read as follows:

"'AUTHORIZATION OF APPROPRIATIONS

"'SEC. 201. (a) There are authorized to be appropriated—

"'(1) for the purpose of providing for the expenses of the National Institute of Handicapped Research under section 202, other than expenses to carry out sections 203 and 204, such sums as may be necessary for the fiscal year ending September 30, 1979, and for each of the four succeeding fiscal years;

"'(2) for the purpose of carrying out section 203, $40,000,000 for the fiscal year ending September 30, 1979, $46,000,000 for the fiscal year ending September 3, 1980, $53,000,000 for the fiscal year ending September 30, 1981, $60,000,000 for the fiscal year ending September 30, 1982, and $69,000,000 for the fiscal year ending September 30, 1983;

"'(3) for the purpose of carrying out section 204, such sums as may be necessary for the fiscal year ending September 30, 1979, and for each of the four succeeding fiscal years; and

"'(4) for the purpose of carrying out section 205, $35,000,000 for the fiscal year ending September 30, 1979, $40,000,000 for the fiscal year ending September 30, 1980, $46,000,000 for the fiscal year ending September 30, 1981, $52,000,000 for the fiscal year ending September 30, 1982, and $60,000,000 for the fiscal year ending September 30, 1983.'.

"NATIONAL INSTITUTE OF HANDICAPPED RESEARCH

"SEC. 111. Title II is amended—

"(1) by redesignating section 202 as section 203, by redesignating section 203 as section 205, and by redesignating section 204 as section 206; and

"(2) by inserting immediately after section 201 the following new section:

"'NATIONAL INSTITUTE OF HANDICAPPED RESEARCH

"'SEC. 202. (a) In order to promote and coordinate rehabilitation research and to more effectively carry out the programs under sections 203 and 204, there is established a National Institute of Handicapped Research

(hereinafter in this title referred to as the "Institute"). The Institute shall be headed by a Director (hereinafter in this title referred to as the "Director"). In the performance of his functions, the Director shall be directly responsible to and shall report to the Secretary.

"'(b) The Institute shall be responsible for—

"'(1) administering the programs under sections 203 and 204;

"'(2) disseminating information acquired through rehabilitation research funded by the Institute to other Federal, State, and local public agencies and to private organizations engaged in research relating to rehabilitation or providing rehabilitation services;

"'(3) coordinating Federal programs and policies relating to research in rehabilitation;

"'(4) disseminating educational materials to primary and secondary schools, institutions of higher education, and to public and private entities concerning the improvement of the quality of life of handicapped individuals;

"'(5) conducting an education program to inform the public about ways of providing for the rehabilitation of handicapped individuals, including information relating to family care and self care;

"'(6) conducting conferences, seminars, and workshops (including in-service training programs) for rehabilitation personnel concerning advances in rehabilitation research and rehabilitation engineering; and

"'(7) producing, in conjunction with the Department of Labor, the National Center for Health Statistics, the Bureau of the Census, the Social Security Administration, and other Federal departments and agencies as may be appropriate, statistical reports and studies on the employment, health, income, and other demographic characteristics of handicapped individuals and disseminating such reports and studies to rehabilitation professionals and others to assist in the planning and evaluation of vocational and other rehabilitation services for the handicapped.

"'(c)(1) The Director of the Institute shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall be compensated at the rate prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code. The Director shall not delegate any of his functions to any officer who is not directly responsible to him.

"'(2) There shall be a Deputy Director of the Institute (hereinafter in this section referred to as the 'Deputy Director') who shall be appointed by the President and who shall serve at the pleasure of the President. The Deputy Director shall be compensated at the rate provided for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, and shall act for the Director during the absence or disability of the Director, exercising such powers as the Director may prescribe. In the case of any vacancy in the office of the Director, the Deputy Director shall serve as Director until a Director is appointed under paragraph (1). The position created by this paragraph shall be in addition to the number of positions placed in grades GS-18 of the General Schedule under section 5108 of title 5, United States Code.

"'(3) The Director may appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may compensate, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, such technical and professional employees of the Institute as he deems necessary to accomplish the functions of the Institute, in a number not in excess of one-fifth of the number of full-time, regular technical, and professional employees of the Institute. The Director may not appoint any employee under this paragraph for a term in excess of three years.

"'(d) The Director may establish and maintain research fellowships in the Institute, with such stipends and allowances, including travel and subsistence expenses, as the Director considers necessary to procure the assistance of highly qualified research fellows from the United States and foreign countries.

"'(e) The Director shall, by regulation, provide for scientific review of all research grants and programs over which he has authority by utilizing, to the maximum extent possible, appropriate peer review groups established within the Institute and composed of non-Federal scientists and other experts in the rehabilitation field.

"'(f) Not less than 90 per centum of the funds appropriated under paragraph (2) of section 201(a) to carry out section 203 shall be expended by the Director to carry out such section through grants or contracts with qualified public or private agencies and individuals.

"'(g) The Director shall develop and submit to the appropriate committees of the Congress within one year after the effective date of this section a long-range plan for rehabilitation research which shall—

"'(1) identify any additional research which should be conducted respecting the problems encountered by handicapped individuals in their daily activities, especially problems related to employment; and

"'(2) determine the funding priorities for research activities under this section and explain the basis for such priorities, including a detailed description of any new types of research recommended under this subparagraph for funding.

The plan required by this paragraph shall be developed by the Director in consultation with the Federal Council on Handicapped Individuals established under title II of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, and with any other persons or entities the Director considers appropriate. Such plan shall be reviewed at least once every three years and may be revised at any time by the Director to the extent he considers necessary.

"'(h)(1) The Institute shall conduct a study of the special problems and needs of handicapped individuals who reside in rural areas in the United States. Upon the completion of such study, but not later than eighteen months after the effective date of this section, the Director shall submit the results of such study, together with his recommendations, to the Secretary, the President, and the Congress.

"'(2) The Institute shall conduct a study of possible ways to restructure Federal programs providing benefits to handicapped individuals in order to eliminate any disincentives for individuals receiving benefits under such programs to obtain and continue in employment. Upon the completion of such study, but no later than twenty-four months after the effective date of this section, the Director shall submit the results of such study, together with his recommendations, to the Secretary, the President, and the Congress.

"'(i) In order to promote cooperation among Federal departments and agencies conducting rehabilitation research programs, the Director shall consult with the administrators of such programs regarding the design of research projects conducted by such entities and the results and applications of such research.

"'(j)(1) The Director shall take such action as he considers appropriate to provide for a comprehensive and coordinated rehabilitation research program under this title. In providing such a program, the Director may undertake joint activities with other Federal agencies engaged in rehabilitation research and with appropriate private entities. Any Federal agency proposing to establish any research project related to the purposes of this Act shall consult with the Director before establishing the project and provide the Director with sufficient opportunity to comment on the project.

"'(2) Any person responsible for administering any program of the National Institutes of Health, the Veterans' Administration, the National Science Foundation, the National Aeronautics and Space Administration, the Bureau of Education for the Handicapped, or of any other Federal agency, shall consult and cooperate with the Director in carrying out such program if the program is related to the purposes of this section.'.

"RESEARCH BY PRIVATE ORGANIZATIONS

"SEC. 112. (a) Section 203(a) (as redesignated by section 111(1) of this Act) is amended by striking out 'public or nonprofit' and inserting in lieu thereof 'public or private'."

On page 82, line 7, strike out "SEC. 205." and insert "SEC. 207.".

On page 82, strike out lines 11 through 16 and insert the following:

"RESEARCH AND TRAINING CENTERS

"SEC. 113. (a) Section 203(a) (as redesignated by section 111(1) of this Act) is amended—

"(1) by striking out "The Secretary, through the Commissioner, and in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to' and inserting in lieu thereof 'The Director may'."

On page 82, line 17, strike out "(1)" and insert "(2)".

On page 82, line 19, strike out "(2)" and insert "(3)".

On page 82, between lines 20 and 21, insert the following:

"(b) Section 203(b) (as redesignated by section 111(1) of this Act) is amended by striking out 'the Secretary, through the Commissioner, and in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to' and inserting in lieu thereof 'the Director may'".

On page 82, line 21, strike out "(b) Section 202(b)(1)" and insert "(c) Section 203(b)(1) (as redesignated by section 111(1) of this Act)".

On page 83, line 1, strike out "(c) Section 202(b)(2)(A)" and insert "(d) Section 203(b)(2)(A) (as redesignated by section 111(1) of this Act)".

On page 83, line 4, strike out "(d) Section 202(b)" and insert "(e) Section 203(b) (as redesignated by section 111(1) of this Act)".

On page 83, line 14, strike out "SEC. 113. (a) Section 203(b)" and insert "SEC. 114. (a) Section 205(b) (as redesignated by section 111(1) of this Act)".

On page 83, line 17, strike out "Section 203" and insert "Section 205 (as redesignated by section 111(1) of this Act)".

On page 84, line 2, strike out "SEC. 114." and insert "SEC. 115.".

On page 85, strike out lines 19 through 22 and insert the following:

"HELEN KELLER NATIONAL CENTER FOR DEAF-BLIND YOUTHS AND ADULTS

"SEC. 116. (a) Section 305 is amended—

"(1) by amending subsection (a) to read as follows:

"'SEC. 305. (a) The purpose of this section is to provide for the establishment and operation of the Helen Keller National Center for Deaf-Blind Youths and Adults. Any funds appropriated under this title for construction of the Center shall remain available until expended.'; and

"(2) by adding at the end thereof the following new subsection:

"'(d) To the extent feasible, the Helen Keller National Center for Deaf-Blind Youths

and Adults shall seek to recover from States, private insurers, and other participating public and private agencies the costs of services provided to individuals by the Center.'.

"(b) The section heading of section 305 is amended to read as follows:

" 'HELEN KELLER NATIONAL CENTER FOR DEAF-BLIND YOUTHS AND ADULTS'.

"(c) The Rehabilitation Act of 1973 is amended (1) by transferring section 305 to title II, and (2) by redesignating such former section 305 as section 204."

On page 85, line 24, strike out "Sec. 115." and insert "Sec. 117.".

On page 86, line 11, strike out "Sec. 116." and insert "Sec. 118.".

On page 92, line 8, strike out "Sec. 117." and insert "Sec. 119.".

On page 93, line 16, strike out "Sec. 118." and insert "Sec. 120.".

On page 95, line 13, strike out "Sec. 119." and insert "Sec. 121.".

On page 147, line 2, insert "(a)" immediately after "Sec. 422.".

On page 147, line 4, strike out "section 205" and insert "section 207".

On page 147, line 5, strike out "section 206" and insert "section 208".

On page 147, line 6, strike out "section 204 as section 205" and insert "section 206 (as redesignated by section 111(1) of this Act) as section 207".

On page 147, line 7, strike out "section 205" and insert "section 205 (as redesignated by section 111(1) of this Act)".

On page 147, line 10, strike out "Sec. 204." and insert "Sec. 206.".

On page 150, between lines 13 and 14, insert the following:

"(b) The items relating to title II in the table of contents of the Rehabilitation Act of 1973 are amended to read as follows:

" 'TITLE II—RESEARCH AND TRAINING

" 'Sec. 200. Declaration of purpose.
" 'Sec. 201. Authorization of appropriations.
" 'Sec. 202. National Institute of Handicapped Research.
" 'Sec. 203. Research.
" 'Sec. 204. Helen Keller National Center for Deaf-Blind Youths and Adults.
" 'Sec. 205. Training.
" 'Sec. 206. Interpreter Services.
" 'Sec. 207. Reports.
" 'Sec. 208. Definitions.' ".

On page 150, line 15, insert "(a)" immediately after "Sec. 423.".

On page 150, beginning with the word "redesignating" on line 16, strike out through the word "by" on line 17.

On page 150, line 18, strike out "section 305" and insert "section 304".

On page 150, line 21, strike out "Sec. 306." and insert "Sec. 305.".

On page 153, between lines 16 and 17, insert the following:

"(b) The item relating to section 305 in the table of contents of the Rehabilitation Act of 1973 is amended to read as follows:

" 'Sec. 305. National Network of Services for Deaf Individuals.' ".

Mr. RANDOLPH. Mr. President, the rehabilitation research program relates to the improving of the quality of life and participation in active life of handicapped persons and it is of great importance. We feel that we are at a point where major new ideas, technologies, and products can be developed if there is what I call realistic Federal support. That is the reason for the amendment.

The existing Rehabilitation Services Administration program, very frankly, is not at this time able to provide the leadership necessary to maximize the benefits of rehabilitation research.

There are about 30 million handicapped persons in the United States, and the Federal rehabilitation research effort has been a limited and inadequate response, I think, to the pressing needs of this large group of persons.

The rehabilitation research program had a budget of $31.5 million in fiscal year 1978, less than it was in fiscal year 1969, when it was $32 million. It is estimated that other agencies, such as the Bureau of Education for the Handicapped, NASA, and the Veterans' Administration, spent about $10 million on rehabilitation research. However, it is further estimated that expenditures for financial assistance, medical, and other services to handicapped individuals totaled about $20 billion. The findings of rehabilitation research could be used to strengthen the independence of handicapped individuals and thus decrease their dependence on the welfare system.

An independent living project funded out of research moneys demonstrates the value of searching for innovative solutions to the problems of handicapped individuals. Some 40 individuals with severe handicaps participated in the program. The mean income at entrance was $122.59 monthly which increased to $496.91 monthly during the course of the project. I think it would be wise to shift funding priorities to those areas which hold potential for enhancing independence rather than fostering dependence on the Federal welfare system.

I think the establishment of the institute, which was one of the recommendations of the White House Conference on Handicapped Individuals, is a very needed procedure.

There might be those who would say that the separation of the research program from the service program might impact negatively on the total Federal effort in rehabilitation.

First, I would say in answer that the Research Institute is mandated to involve the Federal Council on Handicapped Individuals in its long-range planning activities. This requirement will strengthen the linkage between the research and service programs, since the Council includes service providers as members.

In fact, the Institute, because it is mandated to include the Council in its long-range planning activities will, I believe, be more responsive to the needs of handicapped individuals as well as more aware of the needs of service providers than the existing research program.

Since the Director of the Institute is to report directly to the Secretary, opportunities for further coordination of the entire Federal research effort on behalf of handicapped individuals should be facilitated.

Mr. President, we are advised that the assistant majority leader has a problem which he wants to discuss relating to the amendment presently under consideration. Therefore I ask unanimous consent that this amendment temporarily be laid aside so that we may accommodate Senator CANNON with his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1858

(Purpose: To exclude alcoholics and drug abusers from certain employment provisions of the Rehabilitation Act of 1973 for which they are not qualified)

Mr. CANNON. Mr. President, I send an amendment to the desk, on behalf of myself and Senator WILLIAMS, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON), for himself and Mr. Williams, proposes an unprinted amendment numbered 1858.

Mr. CANNON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 92, between lines 22 and 23, insert the following:

(3) Section 7(6) is amended—

(A) by striking out "The term" and inserting in lieu thereof "(A) Except as otherwise provided in subparagraph (B), the term";

(B) by striking out "(A)" after "individual who" and inserting in lieu thereof "(i)" and by striking out "(B)" after "and" and inserting in lieu thereof "(ii)"; and

(C) by striking out the last sentence and by adding at the end the following new subparagraph:

"(B) Subject to the second sentence of this paragraph, the term 'handicapped individual' means, for the purposes of titles IV and V of this Act, any person who (i) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment. For purposes of sections 503 and 504, the term 'handicapped individual' does not include any person who is an alcoholic or who is a drug abuser and whose condition of alcoholism or drug abuse renders that individual not qualified for employment by preventing him from performing the essential functions of the job in question.".

On page 92, line 23, strike out "(3)" and insert in lieu thereof "(4)".

Mr. CANNON. Mr. President, I am taking the liberty of bringing to the attention of this body a potentially serious problem which could affect public confidence in the safety and reliability of air transportation.

The problem arises from regulations and rulings of the Department of Labor and the Department of Health, Education, and Welfare having the effect of compelling airlines, among other companies holding Federal Government contracts, to actively recruit and employ alcoholics and drug addicts. While it is questionable whether Congress intended such a result when the underlying legislation was adopted, it has been determined by the two Federal departments that alcoholics and drug addicts are to be considered as handicapped individuals under the Rehabilitation Act of 1973, and the affirmative action provisions of that act requiring their employment must be applied without regard to the character or sensitivity of the work involved.

During its recent consideration of legislation to extend certain rehabilitation programs, the House approved an amendment to the Rehabilitation Act of 1973 which addresses this problem. While preserving other essential rehabilitation and treatment programs for the handicapped, the House amendment contained in H.R. 13467 would exclude alcoholics and drug addicts from the definition of handicapped individuals required to be employed by Federal contractors, including the airlines.

As chairman of the Commerce, Science and Transportation Committee, I have purview over aviation matters and have consistently demonstrated an overriding priority for air transportation safety. However, since action taken under the Rehabilitation Act of 1973 could compromise that overriding priority, appropriate clarifying legislation is necessary to assure that the highest standard of competence and reliability continue to be met by airline employees in their highly sensitive work assignments and responsibilities. Accordingly, I submit an amendment which differs somewhat from the House solution to exclude alcoholics and drug abusers from certain employment provisions of the Rehabilitation Act of 1973.

My amendment differs in that it does not exclude everyone. For example, baggage handlers could be employed whereas pilots could not. For purposes of section 503 and 504 the term handicapped individual does not include any person who is an alcoholic or who is a drug abuser and whose condition of alcoholism or drug abuse renders that individual not qualified for employment by preventing him from performing the essential functions of the job in question. That clarifying definition provides the flexibility missing in the House amendment.

Mr. President, I hope the Senate will adopt the amendment.

Mr. RANDOLPH. Mr. President, I feel that the amendment should be accepted and taken to conference with the House. I have listened to the able Senator from Nevada, who is a very knowledgeable person with reference to the operation of the scheduled airlines and general aviation as well in this country. We have an appreciation of the problems as outlined by him. We want to take care of handicapped individuals, as the Senator wants to. Is that correct?

Mr. CANNON. Yes; it is correct. As I said, I think the House amendment goes a little farther than it needs to go, but ours restricts it so we would not have the safety of the operation of an air carrier compromised by having to employ someone who would not be of the highest reliability.

Mr. RANDOLPH. I think we desire—I know the majority does—to accept this amendment. It will be helpful to us as we go to conference with the House.

Mr. STAFFORD. Mr. President, will the majority manager on this bill yield to me?

Mr. RANDOLPH. I yield.

Mr. STAFFORD. I concur that we should recommend the adoption of this amendment and take it to conference.

● Mr. WILLIAMS. Mr. President, I support the amendment offered by the Senator from Nevada (Mr. CANNON). It is unfortunate that any group of handicapped persons should be singled out for special treatment under the nondiscrimination provisions of the act. However, because of misunderstandings and distortions concerning employment rights of alcoholics and drug dependent persons, Members of the Senate have been under pressure to adopt language that would exclude alcoholics and drug dependent persons from all protection under sections 503 and 504 of the Rehabilitation Act. Indeed, the House-passed bill, H.R. 12467, includes such language.

The amendment offered by Senator CANNON is a compromise that would protect such persons from discrimination but would reassure employers that it is not the intent of Congress to require any employer to hire a person who is not qualified for the position or who cannot perform competently in his or her job. Moreover, an employer would remain free to consider past employment and work performance records of all applicants and to fire any employee whose job performance is unsatisfactory.

The provision of the House bill in this matter is ill advised and unwarranted for several reasons.

H.R. 12467 would exclude alcoholics and drug abusers "in need of rehabilitation" from the definition of "handicapped individuals" for purposes of sections 503 and 504. The House committee report on the bill says this exclusion would apply only for the purposes of sections 503 and 504 as they relate to employment. However, there is no such limitation in the language of the bill itself nor any clarifying floor discussion. Thus, as passed by the House, H.R. 12467 would deny alcoholics and drug dependent persons full protection against discrimination in federally assisted education, health, housing, rehabilitation, and other social services and programs, as well as in employment.

Section 503 of the act requires that all Federal contracts in excess of $2,500 require that, in employing persons to carry out the contract, affirmative action be taken to employ qualified handicapped individuals.

Section 504 of the act requires that otherwise qualified handicapped individuals shall not, solely by reason of handicap, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

The significant word here is "qualified." Sections 503 and 504 both state explicitly that covered employers need hire and retain only "qualified" handicapped individuals. All the authorities interpreting current law have clearly understood that handicapped individuals can be held to the same performance standards that an employer demands of all employees. The Attorney General, in an April 12, 1977 opinion, stated:

Our conclusion that alcoholics and drug addicts are "handicapped individuals" for purposes of section 504 does not mean that such a person must be hired or permitted to participate in a federally assisted program if the manifestations of his condition prevent him from effectively performing the job in question or from participating adequately in the program. A person's behavioral manifestations of a disability may also be such that his employment or participation would be unduly disruptive to others, and section 504 presumably would not require unrealistic accommodations in such a situation. Nor do we read the Act to prevent the application to persons suffering from alcoholism or drug addiction of reasonable rules of conduct, such as prohibitions against the possession or use of alcohol or drugs on the location of the federally assisted project. But in our opinion, section 504 does in general prohibit discrimination against alcoholics and drug addicts in federally assisted programs solely because of their status as such, just as it prohibits discrimination solely on the basis of other diseases or conditions covered by the Act.

The Secretary of Health, Education, and Welfare reached the same conclusion. In a statement released in May of 1977, when he issued the regulations implementing the nondiscrimination provisions of the act, Secretary Califano said:

It cannot be emphasized too strongly that the statute and the regulation apply only to discrimination against qualified handicapped persons solely by reason of their handicap. The fact that drug addiction and alcoholism may be handicaps does not mean that these conditions must be ignored in determining whether an individual is qualified for services or employment opportunities. On the contrary, a recipient may hold a drug addict or alcoholic to the same standard of performance and behavior to which it holds others, even if any unsatisfactory performance or behavior is related to the person's drug addiction or alcoholism. In other words, while an alcoholic or drug addict may not be denied services or disqualified from employment solely because of his or her condition, the behavioral manifestations of the condition may be taken into account in determining whether he or she is qualified.

With respect to the employment of a drug addict or alcoholic, if it can be shown that the addiction or alcoholism prevents successful performance of the job, the person need not be provided the employment opportunity in question. For example, in making employment decisions, a recipient may judge addicts and alcoholics on the same basis it judges all other applicants and employees. Thus, a recipient may consider—for all applicants including drug addicts and alcoholics—past personnel records, absenteeism, disruptive, abusive, or dangerous behavior, violations of rules and unsatisfactory work performance. Moreover, employers may enforce rules prohibiting the possession or use of alcohol or drugs in the workplace, provided that such rules are enforced against all employees.

Mr. President, as the Attorney General has noted, the statute does not require the impossible. It does not unrealistically require the recipients of Federal contracts and grants to ignore all the behavioral or other problems that may accompany a person's alcoholism or drug addiction if they interfere with the performance of his job or his effective participation in a federally assisted program.

Public health authorities recognize that the most effective approach to treating drug addiction or alcoholism is to maintain some form of treatment or counseling long after the client has ceased to abuse drugs or alcohol and is

perfectly capable of safe, effective job performance. For example, many persons whose disease has been in remission for many years remain active in such organizations as Alcoholics Anonymous or Narcotics Anonymous. Such employees are often more reliable in jobs that require quick judgment and care to safety than nonalcoholics who drink socially and who may have a drink or two at lunch or come to work suffering from the effects of drinking the night before. H.R. 12467, as passed by the House, would provide no more guidance or protection to the employer. It simply states that alcoholics and drug abusers "in need of rehabilitation" are not protected. This phrase, nowhere defined, adds only confusion. It would appear that the House language would require that anyone who wants protection against discrimination must quit any counseling or aftercare program for fear of being labeled "in need of rehabilitation," which would deny him the protection.

Many authorities, including the Federal courts, have recognized that persons stabilized in methadone maintenance treatment are fully employable. If the House-passed amendments became law, such persons might be denied employment rights because they are taking a drug for their condition and therefore "in need of rehabilitation."

The legitimate concern of the employer should be the employee's capacity for safe, effective job performance. The use of the word "qualified" in sections 503 and 504 already serves this purpose. But since many employers are insisting on further clarification, the amendment which Senator CANNON has offered speaks in terms of ability to meet performance standards, not in the vague and confusing form of the House-passed bill.

Mr. President, experts also have known that finding or holding a stable job is vital to treating drug and alcohol abuse. The House bill would allow an employer to exclude persons with a condition of alcoholism or drug addiction who are qualified for safe, effective job performance but can in some way be said to "need rehabilitation" for their condition. The consequence of rejecting or firing such people is clearly to remove one of the most important stabilizing influences in any individual's life.

Indeed, hundreds of corporations across the country have found that having an enlightened policy toward alcoholics and drug-dependent employees is cost effective. Many employers attempt to retain such employees while they seek treatment, and by providing opportunities to stabilized alcoholics and drug-dependent persons, they have retained valuable employees.

The Rehabilitation Act grew from such developments. It expresses a general preference, in terms of social costs and the quality of individual lives, for integrating the handicapped into productive society, rather than shunting them aside and spending billions for poor custodial care. There is no good reason to abandon that policy where alcoholics or drug-dependent persons are concerned.

Again, the current law protects only those persons who can meet job performance standards applied to all employees. The confusing phrase "in need of rehabilitation" would leave many employees uncovered, despite their job qualifications. It would violate the spirit of the act in general and would only increase the incidence and social costs of addiction and alcoholism.

Mr. President, perhaps the major obstacle in controlling alcoholism and drug abuse is the continued stigma from these illnesses. It has been proved over and over again that alcoholics and drug addicts, properly treated, can and do recover to become productive members of society. To add to the stigma by excluding such persons from protection under this law would only serve to encourage them to deny they have a problem rather than to admit it and to seek treatment. This would be a dangerous step backward in the Nation's efforts to bring alcoholism and drug abuse under control.

Mr. President, the amendment offered by Senator CANNON makes clear that the intent of Congress is not to force employers to hire alcoholics or drug-dependent persons to perform jobs for which their condition makes them unsuited. It merely reconfirms that, for purposes of sections 503 and 504 as they relate to employment, the term "handicapped individual" does not include any person who is an alcoholic or drug abuser and whose condition of alcoholism or drug abuse renders that person not qualified for employment by preventing him from performing the essential functions of the job in question.

I urge my colleagues to accept this amendment as a substitute for the language contained in the House-passed bill and to urge their counterparts in the House to accept this substitute language in the conference on this bill.●

● Mr. HATHAWAY. Mr. President, I rise in support of the pending amendment to S. 2600 to clarify the application of sections 503 and 504 of the Rehabilitation Act of 1973 to alcoholics and drug addicts.

While I do not believe that a clarifying amendment really is necessary, I support the pending amendment as a vast improvement over the corresponding language in the House-passed bill.

Section 503 of the Rehabilitation Act requires Federal contractors to take affimative action to employ and advance in employment qualified handicapped individuals. Section 504 prohibits discrimination solely by reason of handicap in any program or activity receiving Federal financial assistance, against any otherwise qualified handicapped individual. Both sections have been interpreted to include alcholics and drug addicts in the definition of "handicapped individual."

The purpose of the pending amendment is to meet the concerns of employers, programs, and the general public that persons whose alcholism or drug abuse impairs their capacity to perform particular jobs or participate in particular activities need not be employed in those jobs or be permitted to participate in those activities.

Regulations implementing sections 503 and 504 already address these concerns. They make clear that the protections of sections 503 and 504 only apply to otherwise qualified individuals. That means alcoholism or drug addiction alone may not be the sole basis for discrimination.

It also means, however, that distinction on the basis of qualification is perfectly justifiable. Regulations implementing section 503 define "qualified handicapped individual" as a handicapped person who is capable of performing a particular job, with reasonable accommodation to his or her handicap. Regulations implementing section 504 define qualified handicapped person as a handicapped person who meets first, essential eligibility requirements for receipt of services, and second, academic and technical standards necessary for admission or participation in the educational program or activity or—with respect to employment—who can perform the essential functions of the job in question.

The effort to amend the Rehabilitation Act with regard to alcoholics and drug addicts is based in part on widely held—but erroneous—assumptions that as long as a person remains an addict or alcoholic, his or her ability to perform satisfactorily is in doubt. In fact, this is very often not the case. Many "active" alcoholics and drug addicts hold jobs and perform them satisfactorily. Sections 503 and 504 of the Rehabilitation Act protect such persons employed by agencies which receive Federal funds or employers which have Federal contracts from being fired solely because of their alcoholism or drug addiction.

There is much misunderstanding and confusion about the implications of including alcoholics and drug abusers under sections 503 and 504 of the Rehabilitation Act. In fact, under both these sections of law as well as the regulations which implement them, drug addicts and alcoholics may be held to the same standards of performance and behavior to which others are held, even if unsatisfactory performance or behavior is related to their addiction or alcoholism.

This interpretation was made by the Attorney General in an opinion to the Secretary of Health, Education, and Welfare Califano on April 12, 1977. According to the Attorney General:

> Our conclusion that alcoholics and drug addicts are "handicapped individuals" for purposes of Section 504 does not mean that such a person must be hired or permitted to participate in a federally assisted program if the manifestations of his condition prevent him from effectively performing the job in question or from participating adequately in the program. A person's behavioral manifestations of a disability may also be such that his employment or participation would be unduly disruptive to others, and section 504 presumably would not require unrealistic accommodations in such a situation. Nor do we read the Act to prevent the application to persons suffering from alcoholism or drug addiction of reasonable rules of conduct, such as prohibitions against the possession or use of alcohol or drugs on the location of the federally assisted project. But in our opinion, section 504 does in general prohibit discrimination against alcoholics and drug addicts in federally assisted programs solely because of their status as such, just as it prohibits discrimination solely on the basis of other diseases or conditions covered by the Act.

Thus, I believe it is clear that the Rehabilitation Act has been interpreted to permit a distinction to be made with respect to the employment of alcoholics and drug addicts on the basis of one's inability to perform the essential functions of the job in question. The pending amendment would write that interpretatation into the law.

This approach will clarify the intent once and for all without being overbroad and vague, and will allay the concerns which have been expressed today. Consequently, I urge my colleagues to support this compromise amendment.

There are a few additional points which require clarification.

In defining "handicapped individuals" for the purposes of sections 503 and 504, the law does not list specific impairments or disabilities to be covered. Instead, it defines handicapped individual as any person who has a physical or mental impairment which substantially limits one or more of such person's major life activities, and has a record of such an impairment, or is regarded as having such an impairment. There is a very substantial body of authority that alcoholism and drug addiction are physical and/or mental impairments. This authority includes the American Medical Association, the American Psychiatric Association, and the World Health Organization. If alcoholism and drug addiction are clearly physical and/or mental disorders, alcoholics, and drug abusers are clearly handicapped individuals for the purposes of sections 503 and 504. To exclude from the protection of this law only persons suffering from these two two impairments solely on the basis of the impairments is plainly discriminatory.

Furthermore, the Rehabilitation Act expresses a general preference, in terms of social costs and the quality of individual lives, for reintegrating the handicapped into productive society, rather than shunting them aside and spending millions for poor custodial care. There is no reason to reverse that preference where alcoholics or drug abusers are concerned. This is especially important now that it is generally recognized that alcoholism, for example, is an illness or disease.

Congress has repeatedly affirmed that drug abuse and alcoholism present such serious threats to the health and well-being of individuals and society that they warrant an annual investment of hundreds of millions of dollars for treatment, rehabilitation and research. Moreover, the Federal drug and alcohol rehabilitation strategies call for the full utilization of all relevant Federal assistance programs to supplement treatment services. There is ample evidence that addicts and alcoholics are subject to discrimination in access to benefits, services, and employment. Even before enactment of the Rehabilitation Act, Congress provided certain protections against such discrimination in Federal civilian employment and in hospital and outpatient services through the Drug Abuse Office and Treatment Act and the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act. We must take care not to provide for treatment and to encourage the utilization of other relevant services for the rehabilitation of alcoholics and drug abusers and then turn around and deny those same individuals the right to equal access to such services under section 504.

It should be noted that inclusion of alcoholics and drug abusers within the coverage of section 504 does not confer upon them any special privilege or right. It simply requires that they be afforded equal access to federally assisted programs and activities.

The services encompassed by section 504 include all federally-assisted post-secondary education, medicaid and medical treatment at federally-assisted hospitals, federally-subsidized housing, and alcohol and drug abuse treatment itself. Drug and alcohol abusers are among the intended recipients of many of these services, and there is no reason to exclude them from any of them.●

Mr. CANNON. I move the adoption of the amendment, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HATCH. Will the Senator yield to me?

Mr. STAFFORD. As I understand it, there is no controlled time, so I either have to yield the floor or yield to Senator HATCH.

Mr. HATCH. Mr. President, I stand here today as a cosponsor of S. 2600, the Rehabilitation, Comprehensive Services and Developmental Disabilities Act of 1978. As a member of the Subcommittee for the Handicapped, it has been an honor to serve under the leadership of my good friends (Mr. RANDOLPH and Mr. STAFFORD).

For over the last year and a half, many days of hearings have been held and, after studying the testimony presented, I feel that S. 2600 will not only satisfactorily extend the present programs but expand them. The time has been long coming that our handicapped citizens are given the opportunities which every American citizen has the right to enjoy. It is our intention not only to help those in need of rehabilitation but to help the many severely handicapped to live a more independent existence and not to be confined to a cell in an institution. It is important that the research, training, and related activities be authorized to help meet their special needs.

This legislation will establish a Federal Council on the Handicapped, which will bring the needs and problems of the handicapped directly to the President and the Congress so this population might be better served.

It is also important to mention that, for the purposes of the Developmenta' Disabilities Act, the committee has agreed to expand the definition to include those having a disability which is attributable to a mental or physical impairment and not limited to mental retardation, cerebral palsy, epilepsy, or autism.

There is a provision in S. 2600 which was created as a result of testimony presented by various Indian tribes, including the Navaho Nation. As the Navaho Nation pointed out, reservations located in more than one State face extreme difficulties because of the problems encountered in coordinating services when more than one State has responsibilit. for providing services. The Navaho Tribe spans three States: Utah, New Mexico, and Arizona.

Presently, there is a provision in the Rehabilitation Act that allows a "local agency" to contract with the State to conduct a vocational rehabilitation program under the supervision of the State. This mechanism has proved to be an inadequate means of addressing the problems experienced by reservation-based Indians, particularly those located on reservations spanning more than one State. It is our intent that the Indians will have the option to provide services directly to their people, but that the tribal organization should develop its application in consultation with the appropriate State agency so that it may benefit from the State's experience in planning and operating of vocational rehabilitation services and prevent the duplication of services.

It is important to note that the committee also expects the vocational rehabilitation services provided by the tribal organization to be comparable to the services provided to other handicapped individuals residing in the State, but does not intend for this requirement to restrict the tribe's freedom to develop innovative approaches to meet the unique needs of Indians or to restrict their right to define priorities in service delivery.

There is one more provision that I should like to briefly discuss—university affiliated facilities.

Utah State University houses one such facility, which they call the Exceptional Child Center, directed by Dr. Marvin Fifield. While visiting this center, I was most impressed by the program and without hesitation recommend its reauthorization.

I hope that my colleagues will agree with me that this is a good piece of legislation and one which is worthy of their support.

I believe it is one that all Americans should give some consideration to and should be proud of.

I compliment not only the distinguished chairman of our subcommittee (Mr. RANDOLPH) but my dear friend, the distinguished ranking member of our subcommittee (Mr. STAFFORD). They have both worked long and hard and, I think, tirelessly on behalf of those who are in need of rehabilitation and comprehensive services for developmental disabilities. I think they are two very great people in this field and deserve the commendation of all of us, especially those who have suffered so much as a result of the inabilities that they have either been born with or acquired.

Mr. President, I recommend the passage of this piece of legislation as an inordinately good, humane piece of legislation, geared to take care of those who literally are in great need and which any great society should take care of.

I thank the Chair.

Mr. STAFFORD. Mr. President, I want to express my appreciation to the distinguished Senator (Mr. HATCH) who is a very valuable member of the Subcommittee on Handicapped of the Committee on Human Resources.

I yield the floor.

UP AMENDMENT NO. 1859

(Purpose: To include the Department of Justice in the Architectural and Transportation Barriers Compliance Board)

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. (Mr. PROXMIRE). The pending business is the Randolph amendment. Is there a unanimous request that that be laid aside?

Mr. STAFFORD. Mr. President, my recollection is that the Randolph amendment was laid aside until the assistant majority leader might get here. He had some problems he wished to work out.

The PRESIDING OFFICER. The amendment was laid aside for consideration of an amendment by Mr. Cannon.

Mr. STAFFORD. Mr. President, I ask unanimous consent that the Randolph amendment be temporarily laid aside and that the Senate be allowed to proceed to consider other amendments to the bill for the time being.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the amendment of the Senator from Kansas.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 1859.

Mr. DOLE. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 87, between lines 6 and 7, insert the following: "(vii) Department of Justice.".

On page 87, line 7, strike out "(vii)" and insert "(viii)".

On page 87, line 8, strike out "(viii)" and insert "(ix)".

On page 87, line 9, strike out "(ix)" and insert "(x)".

Mr. DOLE. Mr. President, my amendment is simple and straightforward: It adds the Department of Justice to the Architectural and Transportation Barriers Compliance Board.

It is my understanding that there is no objection to this amendment.

FUNCTION OF THE BOARD

This Board is charged with the responsibility of seeing that the Architectural Barriers Act of 1968, Public Law 90-480, is enforced. This is a law which says that public facilities being built, renovated, or leased with Federal funds must be accessible to the handicapped. In addition, the Board is to study alternatives to the barriers caused by architecture, transportation, and attitudes in our society. The legislation recognizes that these barriers have kept the handicapped from participating in employment, recreational, educational, and residential opportunities.

MAKE-UP OF THE BOARD

Currently, the Board is comprised of members from the following Departments and Agencies: HEW, Transportation, HUD, Labor, Interior, Defense, General Services Administration, and Veterans' Administration. S. 2600 proposes to add the U.S. Postal Service to the list of Federal representatives, and also directs the President to appoint public members to the Board.

After reviewing the list of members, I believe that the absence of the Department of Justice creates a significant void since they are going to be charged with enforcement. The Department of Justice is recognized as the largest law firm in the Nation. It is charged with enforcing law in the public interest, as well as insuring Federal enforcement of civil rights. In very general terms, it serves—or should serve—as counsel to U.S. citizens.

As the legislation we are considering deals with civil rights of the handicapped, I feel it appropriate to involve the Justice Department at this level. In the past, the Justice Department has been accused of lacking sensitivity to the issues confronting handicapped citizens. I think that acceptance of this amendment will precipitate a better understanding by the Department of the problems caused by barriers.

CONCLUSION

I realize that the addition of the Department of Justice to the compliance Board is not a major change. However, it reflects my feeling that most barriers are erected not because of intentional forethought, but simply because of a lack of thought. If, by participation on this board, the Justice Department will increase its consciousness to the problems handicapped citizens face, then I believe its inclusion is legitimate.

We will be considerably closer to accessible environment when the general public becomes aware of the alternatives to barriers. Until then, perhaps our first objective should be to educate the Federal Government.

I do not know of any objection to this amendment.

Mr. STAFFORD. Mr. President, the manager of the bill for the majority (Mr. RANDOLPH) and I have both examined the amendment. We both recommend to our colleagues it be accepted and taken to conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

So the amendment (UP No. 1859) was agreed to.

Mr. DOLE. Mr. President, I thank my distinguished colleague. Not only that it go to conference, but that it come back from conference.

In any event, it will be a nice trip.

Mr. STAFFORD. If the distinguished Senator will yield, I think it will not only go to conference, but come back.

Mr. DOLE. The Senator from Kansas is especially interested in a particular provision in S. 2600 relating to funding for rehabilitation engineering research centers. Current law mandates that 25 percent of the money appropriated for research under the Rehabilitation Services Administration goes to these engineering centers.

These centers have been charged with the responsibility of serving as a liaison between technological developments and their application to rehabilitation problems. Organizations designated as engineering centers were created to apply the latest developments in medical technology, scientific achievement, and psychological and social knowledge to address the needs of handicapped individuals. Also, centers work to eliminate environmental barriers which keep disabled persons from assuming their due role in society.

It is my understanding that S. 2600 removes the requirement that 25 percent of research dollars under title II of the rehabilitation act must go to engineering centers. This is of particular concern to me because Kansas has a fine engineering center which has gained international attention. It has distinguished itself through the innovative ways in which it has adapted industrial equipment to match the capabilities of physically handicapped persons.

My question to the Senator from West Virginia is this: why was the 25 percent set aside for engineering centers deleted from S. 2600, and what effect do you anticipate that this will have on funding for these centers?

Mr. RANDOLPH. I thank the Senator from Kansas for raising these questions, for I feel they are ones which should be addressed. In the past, there has been some feeling that the 25 percent set aside has been used as a ceiling on the amount of funding going into rehabilitation centers. This meant that as the centers become better developed and as more centers are constructed, funding becomes increasingly tighter because it has been limited in practice to an arbitrary 25 percent set aside.

Mr. DOLE. If I understand the Senator from West Virginia correctly, you are saying that while once the set aside needed to insure adequate funding for engineering centers, it now serves as a funding limitation.

Mr. RANDOLPH. That is correct. It has become a funding ceiling rather than a floor. By removing the 25 percent limitation, we are removing a legal restriction that in its interpretation has served to hinder—rather than to help—the development of research engineering centers.

Mr. DOLE. It is your intention, then, that the removal of the set aside is not to be interpreted as a withdrawal of support. Rather, you envision that the funding for engineering centers will be maintained at a level sufficient to continue and expand the programs presently offered through these centers. In doing this, it is likely that the funding level will pass the 25th percentile?

Mr. RANDOLPH. That is the intention of the Human Resources Committee.

Mr. DOLE. To the best of your knowledge, is this HEW's understanding?

Mr. RANDOLPH. To the best of my knowledge, it is.

Mr. DOLE. Mr. President, I thank the Senator from West Virginia for his statements and clarifications on this issue. As I indicated before, the continuation of adequate funding for rehabilitation engineering research centers has long been a priority of mine.

After the productive investments which have been made in these centers up until this point, it would be a grave

loss to disabled persons if this support were no longer continued. I am reassured by the comments of my distinguished colleague.

I commend him for his attention to the field of research for the handicapped. It has long been an interest of mine, particularly because my State has one of the outstanding engineering research programs in the country. Improving the management of research for the handicapped and developing a more comprehensive research program between the various Federal agencies interested in research for the handicapped are therefore goals to which I adhere. However, I want the legislative history of the institute to be clear with regard to the area of technology development and applied engineering research. Are those areas priority missions of the new institute?

Mr. RANDOLPH. Senator DOLE, I wish to assure you that they are. The purpose section of my amendment creating the institute stresses four basic purposes, one of which is improving the distribution of technological and communication devices and equipment by providing support for the development and distribution of such products. The engineering programs have been among the most productive of the research areas and are to be a major part of the institute program. The House Science and Technology Committee stressed the importance of technology development for the handicapped in its recommendations for a new research organization. The intent is to improve management and expand research for the handicapped in all areas, providing a balanced program of technological, communication, engineering, medical, vocational, and psychological and social research.

Mr. DOLE. Is the focus of this institute on research which has direct application to the problems of handicapped people and their rehabilitation, particularly the most severely handicapped?

Mr. RANDOLPH. Yes it is, Senator DOLE. We want to accomplish major advances in the application of new technology and new treatment methods and services to the severely handicapped to enable them to be employed, or if they are not employable, to live independently in their own dwellings rather than institutions. I also wish to assure you that the existing engineering centers supported by RSA, such as the one in Kansas, are intended to receive continued and expanded support under this new authorization.

Mr. DOLE. Again, I thank the distinguished Senator from West Virginia for his remarks of clarification. While I want to encourage new research in the field of rehabilitation, we cannot sacrifice or neglect the continuing achievements being made under ongoing projects. I appreciate his comments, and am satisfied that S. 2600 safeguards the continuation of research engineering centers.

Mr. President, in addition, I also support S. 2600.

I think perhaps it is another indication of the distinguished chairman's interest in the handicapped and also the distinguished Senator from Vermont's interest in the handicapped. It is always a pleasure to work with these two distinguished colleagues.

There is no doubt about the need for the legislation.

S. 2600

Mr. President, the bill we are considering today, the Rehabilitation, Comprehensive Services and Developmental Disabilities Act of 1978, is one of utmost importance to the disabled community. This bill provides a host of opportunities for the handicapped, and enables them to receive training and services best suited to their needs.

HISTORICAL TREATMENT OF THE HANDICAPPED

In 1920, legislation was first passed which embodied the philosophy that handicapped individuals are entitled to receive both State and Federal efforts aimed toward vocational rehabilitation. The bill before the Senate today, S. 2600, continues the customary services to traditional vocational rehabilitation clients. In addition, it provides assistance to severely disabled persons with little evidence of vocational potential; to the developmentally disabled; to older blind persons; and to preschool children. In fact, almost all disabled persons benefit from this legislation.

Historically, handicapped persons have been treated in either one of two ways: they have been ignored or they have been pampered. Both types of treatment are equally discriminatory, for they deny recognition of handicapped individuals as persons capable of self-determination and self-support. In other words, we have exhibited a protective, paternalistic attitude toward these persons.

CONSUMER INPUT

In preparing for this legislation, the Subcommittee on the Handicapped held 16 days of hearings. Dozens of handicapped consumers and advocates had the opportunity to express their views, and I think their contributions can be easily recognized throughout the bill. New programs have been created, tailored to the needs of persons who have previously been unserved by the Rehabilitation Act. Specifically, it has been the most severely handicapped who have been largely unaddressed by past legislation, primarily because they did not demonstrate a capacity for vocational rehabilitation.

NEED FOR FISCAL RESPONSIBILITY

In the past, I have been concerned by the excessively high levels of spending authorized for rehabilitation programs. Mr. President, this attitude of indulgence troubles me, for it seems to imply—either consciously or unconsciously—that the disabled are immune from the fiscal problems which hit the rest of society. The implication seems to be that however irresponsibly the Congress acts with regard to fiscal matters, the handicapped will be sheltered from the fallout. This simply is not true.

As the disabled continue their successful entry into the work-a-day world, we must realize that fiscal responsibility is in their best interest too. Rising inflation, high interest rates, and excessive spending will wreak havoc with anyone's budget—regardless of whether or not one is disabled. Surely, no one understands this better than the handicapped themselves.

Along this line, there have been serious questions raised about the wisdom and justification of the original authorization levels. I appreciate the fact that the committee's authorization levels have been scaled down to somewhat more realistic amounts. This action should not only make the bill more acceptable to my colleagues, but also to the President. Moreover, I maintain that in the long run, a bill which strikes the balance between fiscal responsibility and program growth is in everyone's best interest.

So, while I support the concepts and programs incorporated in this bill, I do so with the hope that we are not making promises we cannot deliver. It is unfair to raise expectations without knowing we can deliver the necessary expenditures.

NEW PROGRAMS

The bill itself makes several noteworthy changes in the rehabilitation program. The new provisions will enable disabled Americans to receive better and more appropriate services. For example, specific programs are created to provide reader services to the blind and interpreter services to the deaf. There is also authorization in the bill for various recreational programs to cultivate social and physical skills among disabled persons. There is a provision for services to older blind persons, coupled with new emphasis on serving preschool children as well.

Throughout the bill, there is an obvious effort made to administer to the needs of the individual as a whole. The emphasis is on comprehensive services, with the idea that health, employment, training, housing, recreational and social needs are all legitimate areas which merit being addressed as a set of issues.

I hope that this can be accomplished, for many of our Federal programs are disjoined and confusing to the individual seeking services. So many persons have written to me complaining of the lack of coordination from one office to another, from agency to another, and from one department to another. I hope this bill will help reduce some of the confusion.

ADVOCACY PANELS

Also pertinent to the bill are the provisions which strengthen and protect advocacy opportunities. For years now, there have been good, legitimate laws on the books governing treatment of the handicapped. Although the Architectural and Transportation Barriers Compliance Board was created primarily to enforce the Architectural Barriers Act of 1968 (Public Law 90-380), it has had little muscle with which to carry out its mandates. S. 2600 strengthens the compliance board and also provides for consumer representatives on the Board. The Board is further authorized to provide technical assistance regarding barrier removal to public or private concerns.

CONCLUSION

In general, this legislation provides more complete service to all disabled persons than that which is accorded under current law. It addresses special needs of specific disability groups. The bill makes appreciable progress toward the goal of recognizing and addressing the total needs rather than the topical

needs of handicapped individuals. I am pleased to support S. 2600, the Rehabilitation, Comprehensive Services and Developmental Disabilities Act of 1978.

Mr. STAFFORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistance legislative clerk proceeded to call the roll.

Mr. STAFFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1860

(Purpose: To authorize the Board to participate in certain civil actions)

Mr. STAFFORD. Mr. President, I have an unprinted amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Vermont (Mr. STAFFORD) proposes an unprinted amendment numbered 1860.

Mr. STAFFORD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 89, lines 10 and 11, strike out "and 'and'".

On page 89, line 12, beginning with the word "sue" strike out through "(8)" on line 14.

On page 89, line 17, strike out "(9)" and insert in lieu thereof "(8)".

On page 90, line 12, beginning with the word "The" strike out through line 19 and insert in lieu thereof end quotation marks, a period, and the following:

(5) Section 502 (d) is further amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraphs:

"(2) The Executive Director is authorized, at the direction of the Board, to bring a civil action in the appropriate United States district court to enforce, in whole or in part, any final order of the Board under this subsection.

"(3) The Executive Director is authorized, at the direction of the Board, to intervene, appear, and participate, or to appear as amicus curiae, in any court of the United States or in any court of a State in civil actions which relate to this section, or to the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968.

"(4) Except as provided in section 518(a) of title 28, United States Code, relating to litigation before the Supreme Court, the Executive Director may appear for and represent the Board in any civil litigation brought under this section.

On page 90, line 20, strike out "(2)" and insert in lieu thereof "(5)".

Mr. STAFFORD. Mr. President, I have offered this amendment for myself, Senator RANDOLPH, and Senator CRANSTON, on the bill under consideration.

Mr. President, this amendment is offered to clarify the roles of the Architectural and Transportation Barriers Compliance Board and the Department of Justice. The Architectural and Transportation Barriers Compliance Board is established as an independent agency to enforce accessibility and usability of federally occupied and federally funded buildings.

This amendment supports the Board's need for power to enforce its orders and make sure its views are represented by its own attorneys.

The Department of Justice cannot always represent the real interest of the Board because it also must represent the Federal agency being sued.

The Board and the Justice Department can work together in several areas where there would be no conflict of interest in the Department handling the Board's case. I speak for the committee when I say that the Board and the Department of Justice should cooperate and work jointly on litigation wherever possible. The committee also feels that the Board and the Justice Department should work out a cooperative agreement which keeps the Justice Department fully informed of litigation undertaken by the Board and allows for their participation whenever possible.

Under this amendment the Justice Department would be the Board's representative on all tort claims, Freedom of Information, privacy and other general administrative matters. The Justice Department will also do all cases before the Supreme Court.

As I stated at the beginning of my statement, Mr. President, the intent of this amendment is to clarify the language already adopted by the Subcommittee on the Handicapped and the Committee on Human Resources, therefore I urge its immediate adoption.

I have offered this amendment, as I say, for Senator RANDOLPH, as well as myself, and Senator CRANSTON.

The PRESIDING OFFICER. Is there further discussion of the amendment?

The question is on agreeing to the amendment.

So the amendment (UP No. 1860) was agreed to.

UP AMENDMENT NO. 1861

(Purpose: To modify the authorization of funds for in-service training for deaf interpreters)

Mr. STAFFORD. Mr. President, I have another unprinted amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Vermont (Mr. STAFFORD) proposes an unprinted amendment numbered 1861.

Mr. STAFFORD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 149, line 17, strike out "Education for All Handicapped Children Act of 1975" and insert in lieu thereof "Education of the Handicapped Act".

On page 149, line 19, beginning with "except" strike out through "Act" on line 21, and insert in lieu thereof the following: "except that funds for in-service training under this paragraph shall be drawn from funds appropriated under the Education of the Handicapped Act".

Mr. STAFFORD. Mr. President, in response to such important legislation now on the books such as section 504 of Public Law 93-112, the base line civil rights provision for handicapped Americans as well as Public Law 94-142, the Education for All Handicapped Children Act of 1975, S. 2600 includes a title for "Reader Services for the Blind; Interpreter Services for the Deaf." I commend the Chairman, Mr. RANDOLPH, for his initiation of this new service component.

Permit me to read from the committee bill on page 149 subsection (f):

(2) Interpreters who provide services under the Education for All Handicapped Children Act of 1975 may be trained in any program maintained by a base center or additional center under this section, except that funds for such training shall be drawn from funds appropriated under the Education for All Handicapped Children Act.

I would certainly endorse the first clause of that sentence, which would seek to guarantee that properly trained interpreters would be available to our school age population of deaf children. However, the second clause, ordering that funds for such training be drawn from appropriations under Public Law 94-142, needs to be clarified. As a major author along with myself of the landmark Public Law 94-142, the distinguished chairman will recall that the fiscal authority of Public Law 94-142 for both the State education agencies and the local school districts is a near total program authority. The only training which we allowed in that legislation is to be of a rather immediate inservice nature, especially affecting the mandate to educate in the least restrictive learning environment.

Therefore I am offering this amendment to clarify the intent of this section. The amendment would add the words "in service" into the second clause of the sentence.

Mr. President, I believe that Senator RANDOLPH, the manager of the bill and the chairman of the subcommittee, is agreeable to this clarification.

I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1862

(Purpose: To require that State plans provide assurances that facilities used in the delivery of services under certain programs will comply with the Architectural Barriers Act)

Mr. STAFFORD. Mr. President, I have one more unprinted amendment, which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Vermont (Mr. STAFFORD) proposes an unprinted amendment numbered 1862.

Mr. STAFFORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 70, between lines 23 and 24, insert the following:

SEC. 102. (a) Section 101(a)(6) is amended—

(1) by inserting "(A) after "(6)";

(2) by inserting after the semicolon the word "and"; and

(3) by adding at the end thereof the following new subparagraph:

"(B) provide satisfactory assurances that facilities used in connection with the delivery of services assisted under the plan will comply with the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968;".

On page 70, line 24, strike out "Sec. 102. (a)" and insert "(b)".

On page 71, line 6 strike out "(b)" and insert "(c)".

On page 71, line 12, strike out "(c)" and insert "(d)".

On page 71, line 15, strike out "(d)" and insert "(e)".

On page 107, line 13, insert "(A)" immediatey after "(2)".

On page 107, line 18, insert the word "and" immediately after the semicolon.

On page 107, between lines 18 and 19, insert the following:

"(B) provide satisfactory assurances that facilities used in connection with the delivery of services assisted under this title will comply with the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968;

On page 133, between lines 1 an 2, insert the following:

SEC. 310. (a) Section 133(b)(6) of the Developmental Disabilities Services and Facilities Construction Act is amended—

(1) by inserting "(A)" after "(6)";

Mr. STAFFORD. Mr. President, the purpose of this amendment is to provide assurances that all facilities used in the delivery of services under the State plans in vocational rehabilitation, comprehensive services, and developmental disabilities will comply with the 1968 Architectural Barriers Act. The Architectural Barriers Act requires that all buildings or facilities be accessible to the public so that physically handicapped persons will have ready access to, and use of, such buildings.

It has come to my attention that not all of the facilities are barrier free. For example, a vocational rehabilitation office in Virginia is located in a building to which stairs are the only means of gaining entrance. I am sure that this is not the only case.

Many State agencies receiving Federal funds rent office space. I feel strongly that these offices, especially those concerned with the needs of the handicapped, be accessible to all persons. A disabled individual should be afforded the opportunity to enter a door of the agency where services and appointment can be attained without having to question their accessibility. This is part of being independent. Each one of us strives for independence but for the disabled the process is more difficult, especially when the agencies serving them are not barrier free.

This amendment makes certain that the State plans contain the assurance that the agencies directly involved in providing services are accessible to all people.

Mr. President, I hope that the floor manager of the bill, my distinguished colleague from West Virginia, Mr. RANDOLPH, will accept this amendment and that my fellow colleagues will join us in this matter.

I urge the adoption of the amendment.

Mr. RANDOLPH. Mr. President, I join the able Senator from Vermont. As I have said many times, and I reaffirm, it is my personal good fortune to work with the Senator in these matters.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. STAFFORD. Mr. President, it is a great privilege for me to have had the opportunity during the last several years to work with the distinguished senior Senator from the State of West Virginia, the chairman of the subcommittee, on matters which we feel are of real importance to advancing the cause of handicapped people in this country.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1863

(Purpose: To authorize research programs to develop methods of attracting professionals to serve in rural areas)

Mr. RANDOLPH. Mr. President, I send an amendment to the desk on behalf of our colleague, Senator HATHAWAY. I am presenting it for him, as it is impossible for him to be in the Chamber.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. RANDOLPH), on behalf of the Senator from Maine (Mr. HATHAWAY), offers an unprinted amendment No. 1863:

On page 83, line 5, strike out "new paragraph" and insert "new paragraphs".

On page 83, line 12, strike out the quotation marks and the period the second time it appears.

On page 83, lines 12 and 13, insert the following:

"(7) Conduct of a research program to develop and demonstrate innovative methods to attract and retain professionals to serve in rural areas in the rehabilitation of handicapped and severely handicapped individuals.".

On page 135, line 7, strike out "Section 145" and insert "(a) Section 145(a)".

On page 135, between lines 12 and 13, insert the following:

(2) by striking out the word "and" at the end of paragraph (8);

(3) by striking out the period at the end of paragraph (9) and inserting a semicolon and the word "and"; and

(4) by inserting after paragraph (9) the following new paragraph:

"(10) developing or demonstrating innovative methods to attract and retain professionals to serve in rural areas in the habilitation of persons with developmental disabilities.".

(b) Section 145 of such Act is amended—

On page 135, line 13, strike out "(2)" and insert "(1)".

On page 135, line 15, strike out "(3)" and insert "(2)".

On page 135, line 22, strike out "(4)" and insert "(3)".

Mr. RANDOLPH. Mr. President, I offer what I believe to be an amendment that is noncontroversial. It gives to the Secretary of HEW authority to fund projects to demonstrate methods of attracting and retaining professionals who serve handicapped individuals and individuals with development disabilities to practice in the rural areas of our country.

The amendment would accomplish this goal by authorizing such projects under section 202(b) of the Rehabilitation Act of 1973, which provides for specified research activities, and under section 145 of the Developmental Disabilities Act, which provides for a special project grants authority.

The amendment entails no additional funding. It allows the Secretary, at his discretion, to fund the projects I have mentioned, in the rural areas of the country.

Mr. STAFFORD. Mr. President, I join the distinguished chairman in urging the adoption of this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1864

(Purpose: To revise the definition of preschool age children)

Mr. RANDOLPH. Mr. President, I send to the desk another amendment that I offer on behalf of our colleague, Senator HATHAWAY.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. RANDOLPH), on behalf of the Senator from Maine (Mr. HATHAWAY), offers an unprinted amendment numbered 1864.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 118, line 6, strike out "three" and insert "five, with a special emphasis on severely handicapped children up to the age of three".

Mr. RANDOLPH. Mr. President, this amendment relates to the provision in S. 2600 authorizing the Secretary to fund models of services for preschool age severely handicapped children.

This provision would create a new section 621 of the Rehabilitation Act of 1973.

For the purpose of these model projects, "preschool age" is defined in the bill to include children from birth to age 3.

This amendment, which I present for our able colleague Senator HATHAWAY, would revise that definition to include children through age 5, rather than age 3, with special emphasis on the birth to 3-year-old bracket.

Mr. President, I think all members of our subcommittee believe that the adoption of this amendment is worthwhile.

I ask unanimous consent that a statement by Mr. HATHAWAY be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY MR. HATHAWAY

I have 2 non-controversial amendments to S. 2600.

The first amendment gives the Secretary of HEW authority to fund projects to demon-

strate methods of attracting and retaining professionals who serve handicapped individuals and individuals with developmental disabilities to practice in rural areas. The amendment would accomplish this goal by authorizing such projects under Sec. 302(b) of the Rehabilitation Act of 1973, which provides for specified specialized research activities, and under Sec. 145 of the Developmental Disabilities Act which provides for a Special Project Grants Authority.

This amendment entails no additional funds. It simply allows the Secretary, in his discretion, to fund these projects.

The second amendment I am offering today relates to the provision in S. 2600 authorizing the Secretary to fund models of services for preschool age severely handicapped children. (This would create a new section 621 of the Rehabilitation Act of 1973.)

Such model projects would include a variety of services such as early identification and evaluation, physical therapy, health and psychiatric services for the children, and appropriate services for the parents.

As the Human Resources Committee noted in its report on the bill, the purpose of these models is to obtain experience with broad-based comprehensive services for these children. This program will enable children served to enter school with the best possible medical, psychiatric, and educational evaluation and with the benefit of several previous years of development under the guidance of experts in early child development. This is indeed a laudable goal and I commend the Senator from West Virginia for his fine efforts in this regard.

The only difficulty with this provision—and one that is easily corrected—is that it defines "preschool age" to be from birth until the age of three. I believe that this definition is too restrictive and am offering an amendment to increase the age to five years, with special emphasis on children up to age three.

There are several reasons for this. Most important, this preschool program is to be a demonstration; it is not a service program. Because it is meant to be broadbased and comprehensive, it should have the flexibility to include a wide age group.

This flexibility is particularly important for programs in states where handicapped children are not admitted to school until the age of 5. By limiting the model projects program to children under the age of 3, we would be providing services for children until age 3, then denying services from 3 to 5 at which point they could enter public school. Of course, it must be made clear that this provision is not intended to provide duplicative services. Rather, it is intended to provide services for those individuals who are not being served under existing programs.

In addition, in order to have a demonstration project, one needs a sufficient number of subjects. Limiting the eligible age to 3 years old could effectively deny participation in the program to areas with small populations.

Finally, in some instances, handicapped children are not identified by age 3. I do not think we would want to deny such individuals the services offered by these model projects. Doing so could handicap them further.

By extending the definition of preschool age, as my amendment would do, we would not be increasing the amount of funds authorized. We would simply be making the program a bit more flexible, which is what a demonstration project of this sort should be.

I have discussed these amendments with the floor managers, and understand they are prepared to accept it.

Mr. STAFFORD. Mr. President, I join the chairman of the subcommittee, Senator RANDOLPH, in urging the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 3424

Mr. GRIFFIN. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. GRIFFIN) proposes an amendment numbered 3424:

On page 107, line 12, after the word "title" insert ", unless the goals and objectives of this title can be more appropriately achieved through another State agency or agencies as certified by the Governor and approved by the Secretary:".

Mr. GRIFFIN. Mr. President, the amendment I offer to this measure is simple and straightforward. It would give the Governor of each State the option—with the approval of the Secretary of Health, Education, and Welfare—to determine which State agency or agencies would have responsibility for coordinating and delivering the "Comprehensive Services for Severely Handicapped Individuals" programs established by the new title VI of the committee bill.

In adding these new programs to existing vocational rehabilitation programs, the committee has recognized that the needs of handicapped individuals extend far beyond traditional notions of vocational rehabilitation services. In order even to begin to prepare for employment appropriate and suitable to their capabilities, severely handicapped individuals often require physical, mental, and psycho-therapeutic services to help them learn such basic skills as self-care, communication, mobility and other fundamental activities to allow them to function in society. Severely handicapped individuals have much to contribute if the necessary support services are made available to them.

The committee recognized this in recommending the establishment of the new title VI programs. Unfortunately, the committee has, in effect, mandated that these new services be lumped together with traditional vocational rehabilitation services. The committee bill says that every State desiring to participate in these new programs must submit to the Secretary of HEW a detailed plan to "provide for a program of comprehensive services for severely handicapped individuals to function in society and, if appropriate, secure and maintain appropriate employment."

I have no quarrel whatsoever with the requirement of such a State plan. But, the committee bill goes further: It mandates that such a plan designate the State agency or agencies currently administering vocational rehabilitation programs as the agency or agencies to administer these new comprehensive services programs. The effect of this mandate is to tie a Governor's hands as to the administration of these programs in his own State and force the programs into existing vocational rehabilitation systems.

I believe that State Governors—who are closer to their own State programs for the handicapped than Federal bureaucrats—should have the option of determining which State agencies are to administer these new programs. I am supported in this belief by the National Governors' Association and the Southern Governors' Conference. In fact, Governor Milliken—the chairman of the National Governors' Association—directed a letter to the distinguished chairman of the committee, Senator WILLIAMS, strongly urging that a "Governor's Option" provision be included in the bill. Unfortunately, it was not.

I want to stress that my amendment would not automatically remove these new comprehensive service programs from State vocational rehabilitation offices. Many Governors may very well elect to have these programs included in their vocational rehabilitation portfolio.

But, I strongly believe that the Governor of each State should be permitted to determine how his or her State can best maximize its handicapped program resources and can most effectively organize its delivery systems.

I might mention for the benefit of some of my colleagues that leaders of the handicapped and the Governors of a number of States—including Tennessee, Georgia, Florida, North Carolina, Louisiana, Illinois, Maryland, Minnesota, New York, and Utah, as well as my State of Michigan—have voiced particular alarm and concern about the effect on their States' handicapped programs of a congressional mandate to put these new programs under the State vocational rehabilitation agency. In these States, many of the functions contemplated by title VI are already proceeding apace independently of vocational rehabilitation programs, and to now direct by Federal edict the placement of these programs under the vocational rehabilitation agency would throw things into a state of disarray and confusion.

We can avoid this by giving the Governors the option of placing these new programs—which may supplement existing programs—where they determine the programs can be most advantageously administered and coordintated.

At this point, I would like to reemphasize the fact that under my amendment Governors wishing to exercise their option and place these new programs in State agencies other than vocational rehabilitation must affirmatively show the Secretary of HEW—and receive his approval—that the goals of this new title can be more appropriately achieved through another State agency or agencies.

I believe this will insure that only those States which provide adequate justification will be able to have programs placed outside of vocational rehabilitation offices.

Mr. President, before closing I would like to assure my colleagues and dedicated friends in the vocational rehabilitation field that my amendment is not intended as an indication of a lack of confidence in their work or the admirable

record they have compiled. Indeed, by all accounts, progress in this area over the years has been laudable and most impressive. I would only say that the programs created by this new title VI—programs such as counseling, independent living centers, and recreational activities—are not traditional vocational rehabilitation services and may require capabilities that some vocational rehabilitation programs have had little or no experience with. These new programs are a different kettle of fish, and I believe the Governor of each State is in the best position to determine where and how they can be most effectively administered.

I might also note that a number of handicap groups in my State—including the Michigan Federation for the Blind and the Handicapped Advocacy Alliance—have contacted me and urged support for a Governor's option provision.

My amendment would provide this option and I urge my colleagues to support this effort.

But in some States the Governor should have the option if he believes it is in the State's interest to select another agency, but I emphasize that under this amendment he could only do so with the approval of the Secretary of Health, Education, and Welfare.

I know that the Governors of a number of States are interested and support this amendment. The Governor of my own State, Governor Milliken, is very interested in it.

I urge the distinguished chairman and the floor manager and the ranking minority member of the committee to consider accepting the amendment.

Mr. STAFFORD. Mr. President, we have examined the amendment offered by the distinguished Senator from Michigan and, while this Senator has some problems with the amendment, we believe it has sufficient merit to take it to conference and to try to work out the matter in conference with the Representatives of the House. So for the minority I am prepared to accept the amendment.

Mr. RANDOLPH. Mr. President, there is a desire for the consideration of this amendment. With misgiving, I will agree to take the measure to conference. In February when I first introduced this bill, I took the position that the able Senator from Michigan has taken in his amendment. But after many conferences with people who are very knowledgeable in this area and in whom I have the greatest confidence, I became convinced that the more preferable approach would be that which is contained in the present bill. The State vocational rehabilitation agencies presently have the responsibility to provide services to severely handicapped individuals with a vocational potential and I think they also have the understanding, expertise, and resources that are required for effective serving of severely handicapped persons who may not have vocational potential, particularly in the area of independent living programs. This was the rationale that the Council of State Administrators of Vocational Rehabilitation outlined in their support of the placement of the comprehensive services program in the vocational rehabilitation program.

The essential requisites for the provision of comprehensive services are closely related to the basic components of effective vocational rehabilitation services. Very frankly, I think it would be logical to place the primary responsibility for these comprehensive and independent living services in the State vocational rehabilitation agency.

I think it is understandable that I feel this way after consultation with the rehabilitation administrators of my own State of West Virginia who support the provision in S. 2600 as reported from the Committee on Human Resources.

Undoubtedly, most, if not all State administrators have taken this position. I assume the administrator in Michigan has taken the position that I have taken in this matter. Is the Senator from Michigan apprised of that feeling?

Mr. GRIFFIN. Yes, I understand that was the case, and I suppose it is not too surprising that the State director of that particular agency would like to protect his jurisdiction. I just wish to say that I understand the concern and the expressions of the distinguished Senator from West Virginia particularly in light of all the work he has done through the years in this area of vocational rehabilitation. I commend him for it.

I do think that what we are trying to do here is just preserve a little bit of flexibility for the few situations perhaps where it might be more appropriate for the work to be done in another agency. As I emphasize in here this cannot be done by the Governor alone. It can only be done, the option exercised, with the approval of the Secretary of HEW.

I thank the distinguished Senator.

Mr. RANDOLPH. What about the Commissioner of Rehabilitation at HEW's Rehabilitation Services Administration? Will he be consulted? Will his approval be necessary?

Mr. GRIFFIN. I understand he will be consulted at the point where the State plan is submitted for approval.

Mr. RANDOLPH. He will be part of the approval process?

Mr. GRIFFIN. So he will be a part of the process, yes.

Mr. RANDOLPH. I think it is important. As I recall, the testimony from the Michigan State director of vocational rehabilitation during our hearings was in accord with what very frankly I still feel is best. I want it clearly understood, although I think under the circumstances we will take the amendment to conference. The ranking minority member of the subcommittee has stated he also wishes to do this.

Mr. GRIFFIN. In doing so we will be supporting the Governors of our two States as well.

Mr. RANDOLPH. I shall have to ask if Governor Rockefeller has contacted me in reference to this matter. I am told that he has not done so.

Mr. GRIFFIN. I see.

Mr. RANDOLPH. I do not think the Governor has contacted me in reference to the matter.

Mr. GRIFFIN. I am even more grateful to the Senator from West Virginia because I had been under the impression that that was the case.

Mr. RANDOLPH. I understand that the Governor's staff was in communication on this matter but that he did not take a position either way. I am willing, although reluctantly, to take the amendment to conference and then we will have a chance to look at it again. With that understanding I am agreeable.

Mr. GRIFFIN. I thank the chairman very much.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan.

The amendment was agreed to.

Mr. GRIFFIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STAFFORD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1865

(Purpose: Relating to reading services for certain blind persons)

Mr. JAVITS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) proposes an unprinted amendment numbered 1865.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 85, line 2, add after the word "subsection" the letter "a".

On page 85, between line 18 and line 19, add the following new subsection:

"(g) The Secretary, subject to the provisions of section 305, may make grants to any State agency designated under section 101, or existing private nonprofit national agencies or organizations—

"(1) to provide reading services to blind persons who are not otherwise eligible for such services through State and Federal programs; and

"(2) to expand the quality and scope of reading services available to blind persons, and to assure to the maximum extent possible, the services provided under this act will meet the reading needs of blind persons attending institutions providing elementary, secondary, or post-secondary education, and will be adequate to assist blind persons to obtain and continue in employment."

Mr. JAVITS. Mr. President, I am offering to S. 2600 an amendment to section 304 of title III of the Rehabilitation Act of 1973. This amendment will improve and strengthen the Rehabilitation Act by authorizing the Rehabilitation Services Administration to provide grants to private nonprofit organizations which offer reader services to the blind to assist them in the improvement of such services.

Thus, these providers of essential services to visually impaired Americans will be able to meet a vastly increased demand for such services, a demand which has been generated largely through the landmark nondiscrimination provisions, sections 503 and 504, of the Rehabilitation Act.

I am particularly concerned that, to the greatest extent possible, the Government utilize the excellent services of existing private, nonprofit organizations with proven records of providing essential reading services to the blind.

One such organization is Recording for the Blind, incorporated in the State of New York. Recording for the Blind was born to meet a need created by a predecessor to the Rehabilitation Act of 1973, the GI bill of rights. RFB offered more than 1,400 blind veterans of World War II the right to equal education at the college level. It opened the door to higher education to an unprecedented number of blind students. RFB was created to provide them with the educational reading they needed in college.

Today RFB continues to provide a unique service exceptionally well. RFB's purpose continues to be to provide free taped educational books to blind and print-handicapped students and professionals. Last year, RFB provided 12,650 borrowers in all 50 States with nearly 90,000 taped books. Since its founding, RFB has served 52,000 men and women. RFB produces its books through a corps of 4,800 trained volunteer readers in 29 studios in 15 States. Last year these volunteers gave 350,000 hours of their time to recording 4,476 new titles. RFB's master tape library now contains 42,000 titles. Today RFB is truly a national educational asset upon which thousands of American men and women are dependent for their education. There is no other comparable organization in the world.

Due largely to section 504 of the Rehabilitation Act an even larger number of young blind and print-handicapped persons enter the educational and economic mainstream. For this, they need reading tools. In the year section 504 was passed, RFB provided 10,146 users with 64,275 free books for educational purposes. This year it will supply more than 13,000 users with 100,000 books. That means 28 percent of the users required 54 percent more books.

Therefore, RFB is presently strapped to meet the demands placed on it. It is for this reason that I propose an amendment to the act so that organizations like RFB can receive Government support in expanding the quality and scope of their reading services available to blind and print-handicapped students and professionals.

It is important that the Senate be aware how Recording for the Blind relates to the other two large national programs providing reading services for the blind and print-handicapped. The National Library for the Blind and Physically Handicapped of the Library of Congress (the talking books program) and the Printing House for the Blind are both funded by annual appropriations from Congress and pay the people who produce their recorded, braille, and large-print books. RFB cooperates closely with, but does not duplicate the work of, these organizations: The talking book program provides first-rate recreational reading; RFB's books are aimed at education only. RFB raises its funds mostly from private sources and uses volunteers to produce its recorded books. It seems obvious to me that Congress should encourage such private nonprofit organizations with proven records of fulfilling the goals of sections 503 and 504 of the Rehabilitation Act.

Let me mention a statistic I find remarkable—the estimated present dollar value of RFB's taped library of 42,000 titles. This figure is reached by multiplying the hourly estimated dollar value of a volunteer's time ($12.50) times the 125 hours volunteers take to produce an average book times the 42,000 titles in RFB's library. This figure comes to a staggering $65,625,000 and represents the services donated by RFB's volunteers. It also represents what it would cost to duplicate RFB's library, if indeed it initiative—RFB's volunteers, many of whom hold graduate degrees, are capable of reading in any discipline or language no matter how difficult—could occur only in America.

Mr. President, I ask unanimous consent to insert into the RECORD a summary of the service improvements RFB could accomplish with modest Federal assistance which this amendment would authorize.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY

1. Accelerated Book-Processing System:

Speed is essential to enable students to keep current with their assignments. Most are in the regular school and university systems. At peak times at the opening of semesters, book requests pour into RFB at the rate of more than two per minute, or better than a thousand a day. Yet, current production capability is only 500 per day. The investment in a medium-sized computer and a braille printer for labels will enable RFB to reduce the turnaround time to five working days.

The installation of a WATS line will permit students to telephone orders at no cost.

2. Full Library Reference Service:

RFB's catalog currently lists books by author and title under the general discipline, i.e., biology, physics, etc. A computerized catalog will enable RFB to offer blind students far more bibliographical information by identifying to them all the titles of books available on any subject about which they inquire. Such full library reference service—not now available to the blind—would be of enormous value to students assigned to independent papers or research.

3. Creation of a Standby Library:

At present, RFB waits until an order is received from a student before making duplicates of master tapes. The computer already mentioned would make it possible to identify the titles of books for which demand can be anticipated on the basis of past experience. The slack periods could then be used to duplicate and stockpile such books against demand.

4. Balanced Production Capability:

The duplication of the Master Tape Library is now more than 80 percent complete. (This is a precaution against its destruction by fire, an event which would be disastrous for those students so dependent on RFB.) When finished, it can be transformed from dead storage to an active back-up production facility by adding personnel and duplicating equipment. During peak periods it would relieve pressure on headquarters production.

5. Demographic Analysis:

RFB's files contain much valuable information on the 52,000 past and present users, but processing this information manually is prohibitively time consuming and costly. Computerized data retrieval will enable RFB to analyze and anticipate demographic or academic trends among the blind. It can provide the answers to such questions as: What fields of study are attracting blind and print-handicapped students? What sort of specialized readers will be required for these fields? How is educational direction matching employment goals and placement patterns?

6. Building Renovation:

Each of the above projects will require some modification to the RFB headquarters building.

Mr. JAVITS. No authority exists in the act as it now stands for helping RFB—or similar organizations—to bring about improvements in their services, like those I have just described for you, through a one-shot investment of capital. My amendment will rectify this.

I am firmly convinced that helping organizations like RFB to improve themselves is a cost efficient and practical course to follow. If RFB did not exist as a private, not-for-profit organization to provide the texts to educate the blind, the Government would have to provide these texts—and at a greatly larger cost to the taxpayers. RFB is very cost efficient, largely because of the millions of dollars of time given free by its 4,800 volunteers. For every dollar donated to RFB, the volunteers donate $2 in time. Through this amendment, Congress can help to assure that this service—free to its users and very inexpensive to our taxpayers—continues and improves.

Mr. President, the amendment proposes to give the Secretary authority to make grants to existing private nonprofit agencies or national organizations, to better provide reading services to blind persons. That is the essence of the amendment.

There is a great demand for such services, largely generated through the landmark title V provisions of the Rehabilitation Act, which have now been put into effect under regulations of HEW.

One such organization, about which I know a great deal, is Recording for the Blind, which specializes in this particular service.

A tremendous amount is being done not only in educational fields but fields of the economy by means of education for the purpose of equipping the blind to do better in earning their own living and in self-maintenance.

The Library of Congress, for example, maintains the National Library for the Blind and the Physically Handicapped. The Printing House for the Blind, which prints in braille, is funded both by annual appropriations from Congress. The agency which I have described, Recording for the Blind, is not

so funded, but cooperates closely with these programs.

Mr. President, this represents a unique panoply of services.

No authority exists in the law as it stands for helping Recording for the Blind and similar organizations.

I hope very much the managers of the bill who, I understand, are sympathetic to this amendment, will agree that the authority should be granted to the Secretary to give such assistance. There are 4,800 volunteers who function in Recording for the Blind and, therefore, the leverage which aid of this kind will produce is enormous because these services are free as far as the blind are concerned.

Under all those circumstances, I hope very much the managers will see fit to accept the amendment.

Mr. RANDOLPH. Mr. President, the amendment offered by the knowledgeable Senator from New York (Mr. JAVITS) is a further evidence of his understanding of the problems of the handicapped—in this instance, the problems of the blind.

Mr. RANDOLPH. I think you used the term that it is a unique approach, and it is certainly a practical approach, because I think those persons who are blind, who are attending institutions, need this assistance which they do not have at the present time.

Your amendment would encourage an expansion of the scope of the reading services for the blind within our college population; is that correct?

Mr. JAVITS. That is correct.

Mr. RANDOLPH. I am fully in accord.

I would ask my colleague, Senator STAFFORD, to express himself with reference to the amendment.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. STAFFORD. I thank the Chair.

I would say to my distinguished friend from New York, Senator JAVITS, that, as always, he has added to our legislation. I think this is a very constructive amendment, and I join with the chairman of the subcommittee and the manager of the bill, Senator RANDOLPH, in urging our colleagues in the Senate to accept the amendment.

Mr. JAVITS. I thank my colleagues very much, and I deeply appreciate their assistance, and am glad they feel it is a constructive amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RANDOLPH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RANDOLPH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3342.

The PRESIDING OFFICER. A quorum call is in progress.

Mr. ROBERT C. BYRD. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

STANDING BEAR LAKE

Mr. ROBERT C. BYRD. Mr. President, I believe that S. 3342 is at the desk; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 3342) to name a lake which has been completed as part of the Papillion Creek basin project as the "Standing Bear Lake".

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

UP AMENDMENT NO. 1866

Mr. CURTIS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Nebraska (Mr. CURTIS) proposes an unprinted amendment numbered 1866.

Mr. CURTIS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, line 3, insert the following: an "(a)" after the word "That" and by inserting after line 10 a new subsection (b) as follows:

"(b) The lake known as the Irvington Lake, which has been completed on site 11 (as described in House Document Numbered 349, Ninetieth Congress) of the Papillion Creek basin project authorized under the heading Missouri River basin in section 203 of the Flood Control Act of 1970 (82 Stat. 743), shall, as of September 10, 1982, be known and designated as the "Glenn Cunningham Lake". Any reference in any law, map, regulation, document, record, or other paper of the United States to such lake shall be held to be a reference to the Glenn Cunningham Lake after September 10, 1982.".

Mr. CURTIS. Mr. President, this amendment would name what is now known as Irvington Lake in the Papillion Creek Basin in Nebraska in honor of former Congressman Glenn Cunningham. This change would take place, under the amendment, on September 10, 1982, the date when Representative Cunningham reaches the age of 70.

The Committee on Environment and Public Works, which reported S. 3342, has a committee rule that projects can be named for living persons only if they are former Presidents or Vice Presidents or if they are former Members of Congress who have reached the age of 70.

This amendment conforms with that rule, and I am informed that the committee supports this amendment in the form it is now written.

Mr. President, let me also take this occasion to express my profound thanks to the distinguished majority leader (Mr. ROBERT C. BYRD) for his help in allowing us to reconsider this matter in this manner. I also wish to express my thanks to the distinguished chairman of the committee, and I move the adoption of the amendment.

The PRESIDING OFFICER. Does the Senator yield back the remainder of his time? There is a 30 minute time limitation pending on this amendment.

Mr. CURTIS. Yes, I yield back the remainder of my time.

Mr. RANDOLPH. Mr. President, we are in full accord with the action being taken on this proposal on the naming of this project. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Nebraska.

The amendment (UP No. 1866) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (S. 3342) was passed, as follows:

S. 3342

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the lake known as the Military Lake, which has been completed on site 16 (as described in House Document Numbered 349, Ninetieth Congress) of such Papillion Creek basin project, shall hereafter be known and designated as the "Standing Bear Lake". Any reference in any law, map, regulation, document, record, or other paper of the United States shall be held to be a reference to the Standing Bear Lake.

"(b) The lake known as the Irvington Lake, which has been completed on site 11 (as described in House Document Numbered 349, Ninetieth Congress) of the Papillion Creek basin project authorized under the heading Missouri River basin in section 203 of the Flood Control Act of 1970 (82 Stat. 743), shall, as of September 10, 1982, be known and designated as the "Glenn Cunningham Lake". Any reference in any law, map, regulation, document, record, or other paper of the United States to such lake shall be held to be a reference to the Glenn Cunningham Lake after September 10, 1982.".

Mr. CURTIS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. RANDOLPH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. What is the pleasure of the Senate?

Mr. STAFFORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MOYNIHAN). Without objection, it is so ordered.

REHABILITATION, COMPREHENSIVE SERVICES, AND DEVELOPMENTAL DISABILITIES AMENDMENTS OF 1978

The Senate continued with the consideration of the bill.

UP AMENDMENT NO. 1867

(Purpose: To make technical corrections)

Mr. RANDOLPH. Mr. President, I send technical amendments to the desk and ask for their immediate consideration.

The PRESIDING OFFICER. The amendments will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. RANDOLPH) proposes technical amendments, unprinted amendment numbered 1867.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 70, line 15, strike out "Twenty" and insert in lieu thereof "Not less than twenty".

On page 71, line 4, after "personnel" insert a comma and the following: "to the maximum extent feasible,".

On page 73, line 25, insert a comma after "grantee".

On page 74, line 1, strike out "which is" and insert "who is or was".

On page 75, line 3, strike out "a third" and insert "one".

On page 75, line 4, strike out the comma and insert a period.

On page 75, line 5, strike out "Who" and insert "The person selected by the State agency and the individual".

On page 75, strike out the matter between lines 19 and 20.

On page 75, between lines 21 and 22, insert the following:

"Sec. 105. Procedural safeguards.".

On page 76, line 5, immediately after "amended" insert "(1) by striking out '(1)' and '(2)' and inserting '(A)' and '(B)', respectively, (2)".

On page 76, line 6, insert immediately after "designation" a comma and "(3)".

On page 79, line 20, insert a comma after "Rehabilitation".

On page 111, line 16, strike out "exclusively".

On page 183, line 2, strike out "13(b)" and insert in lieu thereof "183(b)".

On page 158, strike out line 18.

Mr. RANDOLPH. Mr. President, these are purely technical corrections. I move the adoption of the amendment.

Mr. STAFFORD. Mr. President, I join Senator RANDOLPH in urging adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHILES). Without objection, it is so ordered.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT APPROPRIATIONS, 1979—CONFERENCE REPORT

Mr. PROXMIRE. Mr. President, I submit a report of the committee of conference on H.R. 12936 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12936) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1979, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 14, 1978.)

Mr. PROXMIRE. Mr. President, the report now before us sets forth the decisions of the House and Senate conferees on fiscal year 1979 funding for the Department of Housing and Urban Development, the Veterans' Administration, the Environmental Protection Agency, the National Aeronautics and Space Administration, the National Science Foundation, and the Consumer Product Safety Commission, as well as a number of other smaller agencies. The bill the conferees are reporting on, H.R. 12936, also covers the general revenue sharing program administered by the Department of the Treasury.

The pending conference report recommends that the Congress provide a total of $67,911,419,000 in new budget authority in fiscal year 1979 for these various Departments and agencies. The recommended amount is $7,233,296,000 less than the Congress provided in fiscal year 1978, due in large part to an estimated carryover of $6,400,000,000 in assisted housing funds from the current fiscal year, a reduction of $1,000,000,000 in new borrowing authority for the Government National Mortgage Association (Ginnie Mae), and a delay in the authorization for an antirecession financial assistance program that we appropriated $1,400,000,000 for in fiscal year 1978.

More importantly, the conferees have agreed on a figure that is $1,606,115,000 below the administration's budget estimate although the recommendations contained in the conference report would add $254,795,000 to the funding contained in H.R. 12936 as it passed the Senate. I should quickly add that $1,000,000,000 of the recommended budget cut is somewhat illusory since it actually results from a technical adjustment that requires the administration to use recaptured, rather than new, budget authority.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Almost half of the funding recommended in the report is for the Department of Housing and Urban Development—$31,957,925,000 to be exact—and the great bulk of this support is for assisted housing. The conferees have proposed a $24,395,848,000 assisted housing program in fiscal year 1979. Of course this figure represents the maximum Federal commitment under contracts of up to 40 years in length. If we were to express this commitment in terms of maximum obligations over a period of 1 year, the total would be $1,322,297,000.

At the same time we must recognize that in addition to providing HUD with the authority to enter into these new contracts, we are appropriating the liquidating cash HUD needs to honor commitments made under authority provided by the Congress in past years. As contract commitments expand, this funding requirement escalates. It will increase by $78,000,000 in fiscal year 1979 to a total of $4,460,000,000—a cut of $3,000,000 in the House-approved amount due to the elimination of special shopping subsidies for section 8 tenants who choose to remain in their present location.

In any event, the new budget authority the conferees are recommending for the section 8 and conventional public housing programs today would result in a cut of approximately 9,000 subsidized housing units, both new and existing, below the number that could have been supported with the administration's budget request. The figure we are recommending represents almost an exact split between the House and Senate figures—$255,102,000 below the House and $255,103,000 above the Senate.

The House conferees agreed to accept a Senate set-aside of $50,000,000 in annual contract authority for public housing modernization. This is a significant increase over the administration's $37,500,000 budget request, and is a tribute to Senator BROOKE's efforts on behalf of public housing. The conferees also agreed to strike language added by the Senate which would maintain public housing set-asides from past years. This deletion will give the Department more flexibility in the use of assisted housing funds.

The conferees also agreed to fund a new program to provide congregate services for elderly tenants living in subsidized housing units. Although no funds for this program were included in the House version of H.R. 12936, the $10,000,000 agreed upon by the conferees—a cut of $10,000,000 in the amount recommended by the Senate—should permit the initiation of a congregate housing services program on a pilot basis.

The other significant change in the HUD portion of the bill, as recommended by the conference committee, was the provision of $1,000,000,000 in special stand-by mortgage purchase assistance

authority to be used only in the event of a housing recession. The House had provided no funds for this program and the bill as passed by the Senate included $4,000,000,000 for this emergency mortgage purchase assistance account.

The conferees made a number of relatively minor recommendations for HUD programs, including the appropriation of the full $400,000,000 budgeted for urban development action grants, a slight reduction in the budget request for the rehabilitation loan program to $230,000,000, which would allow the program to triple next year, and the provision of $53,000,000 for section 701 planning grants. Other compromises included a proposed $85,000,000 for flood insurance, $9,000,000 for housing counseling assistance with $1,000,000 of the total to be earmarked for prepurchase counseling and $57,500,000 for research and technology.

Finally the conferees agreed to a budget of $524,065,000 for HUD's salaries and expenses instead of $521,808,000 as proposed by the House and $526,106,000 as proposed by the Senate. Along with this dollar cut the conferees agreed to deny 150 positions requested by the administration with the vast bulk of this reduction—115 positions—taking place in the community planning and development area. These particular slots are new positions, by the way, and our action will not result in a reduction in community development staff below current levels. In fact community planning and development staffing is scheduled to increase by 298 positions despite the reduction recommended by the conferees.

INDEPENDENT AGENCIES

The committee of conference resolved a number of differences between the two Houses regarding the programs of the Environmental Protection Agency.

The conferees agreed on the Senate figure of $328,528,000 for research and development but recommended a number of adjustments within the total amount. The conferees have suggested the following changes in the administration's budget request:

Minus $2,000,000 for contractual efforts;

Minus $4,000,000 for monitoring and technical support;

Minus $6,000,000 for anticipatory research with $1,100,000 to be earmarked for groundwater research on the Gerber-Wellington aquifer in Oklahoma;

Plus $8,000,000 for research on wastewater reuse for potable and/or agricultural research and demonstrations;

Plus $2,500,000 for integrated pest management;

Plus $2,400,000 for Chesapeake bay research;

Plus $1,500,000 for Great Lakes research;

Plus $1,000,000 for microwave radiation research;

Plus $400,000 for mosquito control; and

Plus $600,000 for aquatic weed control.

The conferees settled on a total budget of $692,915,000 for EPA abatement and control programs as compared with a House recommendation of $664,115,000 and a Senate-approved figure of $710,940,000. Again changes were recommended in the projected budgets of a large number of programs. The changes in the administration's request as proposed by the conferees included:

Minus $18,000,000 for areawide waste treatment planning under section 208 of the Federal Water Pollution Control Act.

Minus $3,000,000 for the interagency agreement with the U.S. Army Corps of Engineers;

Minus $2,000,000 for personnel costs;

Plus $33,000,000 for solid waste and air quality maintenance planning with up to $4,000,000 of the total to be used on a matching basis to abate chemical contamination in the Love Canal area of Niagara Falls, New York;

Plus $5,000,000 for State air grants;

Plus $3,000,000 for the Great Lakes program;

Plus $2,500,000 for Chesapeake Bay activities;

Plus $2,500,000 for marine secondary waiver activities;

Plus $2,300,000 for the section 404 dredge and fill program;

Plus $1,500,000 for academic training;

Plus $611,000 for environmental impact studies of the Flathead River Basin and the Poplar River, both in Montana;

Plus $300,000 for certification review under the mobile source emission certification and testing program; and

Plus $275,000 for an in-place toxic pollutants study involving the Saginaw and Pine Rivers in Michigan.

I am sure my colleagues will want to know that a Senate cut of $10,000,000 in the proposed budget for State water grants under section 106 of the Federal Water Pollution Control Act, as amended, was restored in conference. Consequently State water pollution control agencies will continue to be funded at current year levels.

Of course the waste treatment construction grant program is a matter of great interest to all Senators, since it provides substantial amounts of money to all States. Although the conferees settled on a recommended appropriation of $4,200,000,000 for the program in fiscal year 1979—$50,000,000 below the amount approved by the Senate—the Senate's decision to require a one-half of 1 percent minimum allocation to each State was endorsed in conference.

The conferees had a number of difficult issues to tackle in handling the budget for the National Aeronautics and Space Administration. Although the Senate receded to the House in approving a total of $3,292,200,000 for NASA's research and development efforts, the Senate position was endorsed in a number of instances. For example the Senate provided $20,500,000 for a teleoperator retrieval system to reach Skylab before it falls to Earth. Although the House had deleted these funds from the budget the conferees agreed to their restoration. The conferees also agreed that funds would not be taken from the Solar Polar, Galileo, and space telescope missions to form a shuttle reserve.

The conferees recommended the following changes in the administration's budget request for research and development spending:

Plus $4,000,000 for a fifth shuttle orbiter;

Plus $2,000,000 for the development of a 25 kilowatt power module to support longer duration shuttle flights;

Plus, $2,000,000 for a solar satellite power generating system;

Plus $500,000 for Stereosat;

Minus $4,700,000 for lunar sample analysis;

Minus $5,000,000 for expendable launch vehicles;

Minus $3,000,000 for development, test and mission operations;

Minus $1,000,000 for tracking and data acquisition;

Minus $2,000,000 for the search for extraterrestrial life;

Minus $1,200,000 for procurement of a second spacelab; and a general reduction of $4,500,000 with report language insuring that none of this reduction is applied to Congressional initiatives.

In dealing with NASA's budget the conferees also proposed the restoration of $12,810,000 deleted from the construction account by the House. The funds are to be used to proceed with the construction of a second shuttle launch pad at Cape Kennedy. Finally the conferees restored $3,500,000 of the $7,000,000 cut by the House from the budget for NASA's program support activities.

The National Science Foundation did well in conference. The conferees agreed to restore $20,600,000 of the total cut by the House from the NSF budget for research and related activities. The recommended total for this account was $827,000,000—a mere $9,400,000 below the Senate-approved amount. The conferees also agreed to recommend a $55,500,000 limitation on applied science and research applications, (ASRA), compared with a House limitation of $48,100,000, and to retain limits placed by the House on a number of component ASRA programs.

The conferees recommended $80,000,000 for science education and agreed that this increase of $2,400,000 over the budget should be applied to undergraduate research participation, student originated studies and the instructional scientific equipment program.

Finally the conferees provided $4,000,000 for the Foundation's foreign currency program and agreed to Senate language putting a $47,500 lid on the salaries of investigators with an amendment giving the director of the Foundation the discretion to waive this ceiling in special cases.

The conferees recommended a total VA budget of $18,355, 691,000; $20,044,000 above the budget estimate. This total includes some very significant increases in medical care programs while endorsing a Senate reduction of $49,300,000 in the GI bill account, reflecting a tightening up of the education loan program. In the medical care area the conferees have suggested an add-on of $32,300,000 for 1,500 additional staff years to keep open existing hospital beds; a budget increase of $18,000,000 for 700 additional staff years to meet anticipated increases in the VA's outpatient caseload; and an additional $4,375,000 for staffing new medical facilities.

A number of unbudgeted medical facility construction projects were approved by the conferees including the following:

A clinical support building at Mountain Home, Tenn. ($9,809,000).

A 208 bed domiciliary at Bath, N.Y. ($9,402,000).

A 120 bed nursing home care facility at Livermore, Calif. ($6,351,000).

A 120 bed nursing home care facility at Wilkes-Barre, Pa. ($5,230,000).

A clinical laboratory, radiology suite and dental clinic at Cincinnati, Ohio ($2,746,000).

A 120 bed nursing home care facility at Temple, Tex. ($4,586,000).

An ambulatory care addition and space renovation at Dallas, Tex. ($6,544,000).

Other recommended increases in the VA's medical care programs included a boost of $10,180,000 in the medical and prosthetic research budget for a total appropriation of $122,847,000 and a total of $10,000,000 for the construction of State extended care facilities as compared with a budget request of $5,000,000.

The conferees resolved a number of differences between the two Houses involving budgets for smaller, yet nonetheless important, agencies. The committee of conference has recommended a budget of $7,045,000 for the Selective Service System—$2,455,000 below the budget estimate. The conferees have concurred with the Senate in proposing a $3,026,000 budget for the Council on Environmental Quality and a $1,146,000 budget for the Consumer Information Center. The National Institute of Building Sciences would receive $750,000 in Federal support if the conference agreement is approved. Finally the conferees have concurred in a limitation on the Federal Home Loan Bank Board's nonadministrative expenses of $29,895,000 in the hope and expectation that the use of State bank examiners will result in a reduction in Bank Board costs.

The conferees have accepted two Senate additions to the general provisions contained in Title IV of the bill. The first addition, section 407, would require cost sharing by those who receive Federal research support through the bill to the extent that these recipients have an interest in the sponsored research. The second provision added by the Senate places a $47,500 ceiling on the salary of certain consultants.

Mr. President, this conference report, in my estimation, represents a fair accommodation of the conflicting interests of the two Houses. I ask unanimous consent that a tabulation of the results of the conference be printed in the RECORD at this point.

There being no objection, the tabulation was ordered to be printed in the RECORD, as follows:

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY

	New budget authority					Conference compared with—			
	Enacted, fiscal year 1978	Estimates, fiscal year 1979	House, fiscal year 1979	Senate, fiscal year 1979	Conference, fiscal year 1979	Fiscal year 1978 enacted	Fiscal year 1979 estimate	House bill	Senate bill
TITLE I									
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT									
Housing Programs									
Annual contributions for assisted housing (contract authority)	$31,483,563,000	$24,650,950,000	$24,650,950,000	$24,140,745,000	$24,395,848,000	−$7,087,715,000	−$255,102,000	−$255,102,000	+$255,103,000
(increased limitation for annual contract authority)	(1,184,295,000)	(1,334,950,000)	(1,334,950,000)	(1,310,424,000)	(1,322,297,000)	(+138,002,000)	(−12,653,000)	(−12,653,000)	(+11,873,000)
Rent Supplement (contract authority)	24,300,000					−24,300,000			
Housing payments (appropriation to liquidate contract authority)	(4,382,000,000)	(4,503,000,000)	(4,463,000,000)	(4,460,000,000)	(4,460,000,000)	(+78,000,000)	(−43,000,000)	(−3,000,000)	
Housing for the elderly or handicapped (authority to borrow)	750,000,000	800,000,000	800,000,000	800,000,000	800,000,000	+50,000,000			
Congregate services program				20,000,000	10,000,000	+10,000,000	+10,000,000	+10,000,000	−10,000,000
Payments for operation of low-income housing projects	685,000,000	729,000,000	723,000,000	729,000,000	727,000,000	+42,000,000	−2,000,000	+4,000,000	−2,000,000
Troubled projects operating subsidy		74,000,000	74,000,000	74,000,000	74,000,000	+74,000,000			
Federal Housing Administration Fund	15,000,000	352,290,000	352,290,000	352,290,000	352,290,000	+337,290,000			
Government National Mortgage Association									
Emergency mortgage purchase assistance (recapture of repayments)				(4,000,000,000)	(1,000,000,000)	(+1,000,000,000)	(+1,000,000,000)	(+1,000,000,000)	(−3,000,000,000)
Special assistance functions:									
(authority to borrow)		1,500,000,000	500,000,000	500,000,000	500,000,000	+500,000,000	−1,000,000,000		
(recapture of repayments)	(2,000,000,000)	(500,000,000)	(1,500,000,000)	(1,500,000,000)	(1,500,000,000)	(−500,000,000)	(+1,000,000,000)		
Payment of participation sales insufficiencies	16,587,000	20,477,000	20,477,000	20,477,000	20,477,000	+3,890,000			
Total, Housing Programs	32,974,450,000	28,126,717,000	27,120,717,000	26,636,512,000	26,879,615,000	−6,094,835,000	−1,247,102,000	−241,102,000	+243,103,000
Community Planning and Development									
Community development grants	3,600,000,000	3,750,000,000	3,750,000,000	3,750,000,000	3,750,000,000	+150,000,000			
Urban development action grants	400,000,000	400,000,000	400,000,000	380,000,000	400,000,000				+20,000,000
Comprehensive planning grants	57,000,000	57,000,000	50,000,000	57,000,000	53,000,000	−4,000,000	−4,000,000	+3,000,000	−4,000,000
Rehabilitation loan fund		245,000,000	245,000,000	230,000,000	230,000,000	+230,000,000	−15,000,000	−15,000,000	
Urban homesteading		20,000,000	20,000,000	20,000,000	20,000,000	+20,000,000			
Total, Community Planning and Development	4,057,000,000	4,472,000,000	4,465,000,000	4,437,000,000	4,453,000,000	+396,000,000	−19,000,000	−12,000,000	+16,000,000
Federal Insurance Administration									
Flood insurance	91,000,000	114,000,000	90,000,000	85,000,000	85,000,000	−6,000,000	−29,000,000	−5,000,000	
Neighborhoods, Voluntary Associations and Consumer Protection									
Housing counseling assistance	5,000,000	8,000,000	10,000,000	8,000,000	9,000,000	+4,000,000	1,000,000	−1,000,000	+1,000,000

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY—Continued

	New budget authority					Conference compared with—			
	Enacted, fiscal year 1978	Estimates, fiscal year 1979	House, fiscal year 1979	Senate, fiscal year 1979	Conference, fiscal year 1979	Fiscal year 1978 enacted	Fiscal year 1979 estimate	House bill	Senate bill
Policy Development and Research									
Research and technology	52,000,000	62,000,000	56,000,000	59,000,000	57,500,000	+5,500,000	−4,500,000	+1,500,000	−1,500,000
Management and Administration									
Salaries and expenses, Department of Housing and Urban Development	237,534,000	279,570,000	271,553,000	275,851,000	273,810,000	+36,276,000	−5,760,000	+2,257,000	−2,041,000
(by transfer, FHA funds)	(239,929,000)	(250,255,000)	(250,255,000)	(250,255,000)	(250,255,000)	(+10,326,000)			
Total, Department of Housing and Urban Development	37,416,984,000	33,062,287,000	32,013,270,000	31,501,363,000	31,757,925,000	−5,659,059,000	−1,304,362,000	−255,345,000	+256,562,000
FUNDS APPROPRIATED TO THE PRESIDENT									
Federal Disaster Assistance Administration									
Disaster relief	$450,000,000	$200,000,000	$200,000,000	$200,000,000	$200,000,000	−$250,000,000			
Total, title I, Department of Housing and Urban Development:									
New budget (obligational) authority	37,866,984,000	33,262,287,000	32,213,270,000	31,701,363,000	31,957,925,000	−5,909,059,000	−$1,304,362,000	−$255,345,000	+$256,562,000
Appropriations	5,609,121,000	6,311,337,000	6,262,320,000	6,260,618,000	6,262,077,000	+652,956,000	−49,260,000	−243,000	+1,459,000
Contract authority	31,507,863,000	24,650,950,000	24,650,950,000	24,140,745,000	24,395,848,000	−7,112,015,000	−255,102,000	−255,102,000	+255,103,000
Authority to borrow	750,000,000	2,300,000,000	1,300,000,000	1,300,000,000	1,300,000,000	+550,000,000	−1,000,000,000		
(appropriation to liquidate contract authority)	(4,382,000,000)	(4,503,000,000)	(4,463,000,000)	(4,460,000,000)	(4,460,000,000)	(+78,000,000)	(−43,000,000)	(−3,000,000)	
(increased limitation for annual contract authority)	(1,184,295,000)	(1,334,950,000)	(1,334,950,000)	(1,310,424,000)	(1,322,297,000)	(+138,002,000)	(−12,653,000)	(−12,653,000)	(+11,873,000)
(limitation on corporate funds to be expended)	(239,929,000)	(250,255,000)	(250,255,000)	(250,255,000)	(250,255,000)	+(10,326,000)			
TITLE II INDEPENDENT AGENCIES									
AMERICAN BATTLE MONUMENTS COMMISSION									
Salaries and expenses	6,463,000	6,240,000	6,240,000	6,240,000	6,240,000	−223,000			
CONSUMER PRODUCT SAFETY COMMISSION									
Salaries and expenses	40,461,000	41,463,000	40,000,000	40,000,000	40,000,000	−461,000	−1,463,000		
DEPARTMENT OF DEFENSE—CIVIL									
Cemeterial Expenses, Army									
Salaries and expenses	5,000,000	5,200,000	5,100,000	5,100,000	5,100,000	+100,000	−100,000		
ENVIRONMENTAL PROTECTION AGENCY									
Agency and regional management	76,046,000	84,185,000	84,185,000	84,185,000	84,185,000	+8,139,000			
Research and development	319,547,000	324,128,000	328,128,000	328,528,000	328,528,000	+8,981,000	+4,400,000	+500,000	
Abatement and control	526,173,000	664,929,000	664,115,000	710,940,000	692,915,000	+166,742,000	+27,986,000	+28,800,000	−18,025,000
Enforcement	72,837,000	95,555,000	94,555,000	94,755,000	94,755,000	+21,918,000	−800,000	+200,000	
Buildings and facilities		2,563,000	1,063,000	1,063,000	1,063,000	+1,063,000	−1,500,000		
Construction grants:									
Appropriation	4,500,000,000	4,500,000,000	4,200,000,000	4,250,000,000	4,200,000,000	−300,000,000	−300,000,000		−50,000,000
(appropriation to liquidate contract authority)	(5,000,000,000)	(1,400,000,000)	(1,400,000,000)	(1,400,000,000)	(1,400,000,000)	(−3,600,000,000)			
Scientific activities overseas (special foreign currency program)	4,000,000	4,000,000	2,500,000	2,500,000	2,500,000	−1,500,000	−1,500,000		
Total, Environmental Protection Agency	5,498,603,000	5,675,360,000	5,374,446,000	5,471,971,000	5,403,946,000	−94,657,000	−271,414,000	+29,500,000	−68,025,000
EXECUTIVE OFFICE OF THE PRESIDENT									
Council on Environmental Quality and Office of Environmental Quality	2,854,000	3,126,000	2,926,000	3,026,000	3,026,000	+172,000	−100,000	+100,000	
Office of Science and Technology Policy	2,800,000	2,621,000	2,476,000	2,476,000	2,476,000	−324,000	−145,000		
Total, Executive Office of the President	5,654,000	5,747,000	5,402,000	5,502,000	5,502,000	−152,000	−245,000	+100,000	
GENERAL SERVICES ADMINISTRATION									
Consumer Information Center	4,700,000	1,186,000	1,166,000	1,146,000	1,146,000	−3,554,000	−40,000	−20,000	
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE									
Office of Consumer Affairs	1,800,000	1,737,000	1,700,000	1,700,000	1,700,000	−100,000	−37,000		

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY—Continued

	New budget authority					Conference compared with—			
	Enacted, fiscal year 1978	Estimates, fiscal year 1979	House, fiscal year 1979	Senate, fiscal year 1979	Conference, fiscal year 1979	Fiscal year 1978 enacted	Fiscal year 1979 estimate	House bill	Senate bill
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION									
Research and development	$3,013,000,000	$3,305,100,000	$3,292,200,000	$3,290,700,000	$3,292,200,000	+$279,200,000	−$12,900,000		+$1,500,000
Construction of facilities	160,940,000	152,500,000	134,690,000	148,500,000	147,500,000	−13,440,000	−5,000,000	+$12,810,000	−1,000,000
Research and program management	889,761,000	914,000,000	907,000,000	914,000,000	910,500,000	+20,739,000	−3,500,000	+3,500,000	−3,500,000
Total, National Aeronautics and Space Administration	4,063,701,000	4,371,600,000	4,333,890,000	4,353,200,000	4,350,200,000	+286,499,000	−21,400,000	+16,310,000	−3,000,000
NATIONAL COMMISSION ON AIR QUALITY									
Salaries and expenses	500,000	4,000,000	2,000,000	2,000,000	2,000,000	+1,500,000	−2,000,000		
NATIONAL INSTITUTE OF BUILDING SCIENCES									
Salaries and expenses	1,000,000		1,000,000	500,000	750,000	−250,000	+750,000	−250,000	+250,000
NATIONAL SCIENCE FOUNDATION									
Research and related activities	785,050,000	850,400,000	806,400,000	836,400,000	827,000,000	+41,950,000	−23,400,000	+20,600,000	−9,400,000
Science education activities	73,200,000	77,600,000	82,600,000	77,600,000	80,000,000	+6,800,000	+2,400,000	−2,600,000	+2,400,000
Scientific activities overseas (special foreign currency program)	4,900,000	6,000,000	4,900,000	3,000,000	4,000,000	−900,000	−2,000,000	−900,000	+1,000,000
Total, National Science Foundation	863,150,000	934,000,000	893,900,000	917,000,000	911,000,000	+47,850,000	−23,000,000	+17,100,000	−6,000,000
SELECTIVE SERVICE SYSTEM									
Salaries and expenses	6,633,000	9,500,000	7,045,000	9,500,000	7,045,000	+412,000	−2,455,000		−2,455,000
DEPARTMENT OF THE TREASURY									
Payments to State and local government fiscal assistance trust fund	6,854,924,000	6,854,924,000	6,854,924,000	6,854,924,000	6,854,924,000				
Antirecession financial assistance fund	1,400,000,000	(1)				−1,400,000,000			
Office of Revenue Sharing, salaries and expenses	7,500,000	7,493,000	7,200,000	7,200,000	7,200,000	−300,000	−293,000		
New York City seasonal financing fund, administrative expenses	1,150,000	1,150,000	1,050,000	1,050,000	1,050,000	−100,000	−100,000		
Total, Department of the Treasury	8,263,574,000	6,863,567,000	6,863,174,000	6,863,174,000	6,863,174,000	−1,400,400,000	−393,000		
VETERANS ADMINISTRATION									
Compensation and pensions	9,606,400,000	9,577,300,000	9,577,300,000	9,577,300,000	9,577,300,000	−29,100,000			
Readjustment benefits	2,665,225,000	2,193,300,000	2,193,300,000	2,144,000,000	2,144,000,000	−521,225,000	−49,300,000	−49,300,000	
Veterans insurance and indemnities	3,465,000	5,750,000	5,750,000	5,750,000	5,750,000	+2,285,000			
Medical care	4,924,649,000	5,279,699,000	5,362,618,000	5,299,699,000	5,334,374,000	+409,725,000	+54,675,000	−28,244,000	+34,675,000
Medical and prosthetic research	111,053,000	112,667,000	127,607,000	120,212,000	122,847,000	+11,794,000	+10,180,000	−4,760,000	+2,635,000
Medical administration and miscellaneous operating expenses	43,316,000	47,855,000	47,058,000	47,058,000	47,058,000	+3,742,000	−797,000		
General operating expenses	581,850,000	622,074,000	616,258,000	615,670,000	615,964,000	+34,114,000	−6,110,000	−294,000	+294,000
Construction, major projects	393,689,000	295,855,000	348,890,000	330,701,000	365,560,000	−28,129,000	+69,705,000	+16,670,000	+34,859,000
Construction, minor projects	95,234,000	121,147,000	119,297,000	85,401,000	85,401,000	−9,833,000	−35,746,000	−33,896,000	
Grants for construction of State extended care facilities	15,000,000	5,000,000	15,000,000	5,000,000	10,000,000	−5,000,000	+5,000,000	−5,000,000	+5,000,000
Assistance for health manpower training institutions	53,411,000	75,000,000	47,437,000	47,437,000	47,437,000	−5,974,000	−27,563,000		
Grants to the Republic of the Philippines	1,700,000					−1,700,000			
Loan guaranty revolving fund (limitation on obligations)	(575,000,000)					(−575,000,000)			
Supply fund	20,000,000					−20,000,000			
Total, Veterans Administration	18,514,992,000	18,335,647,000	18,460,515,000	18,278,228,000	18,355,691,000	−159,301,000	+20,044,000	−104,824,000	+77,463,000
Total, title II, Independent Agencies:									
New budget (obligational) authority	37,277,731,000	36,255,247,000	35,995,578,000	35,955,261,000	35,953,494,000	−1,322,737,000	−301,753,000	−42,084,000	−1,767,000
(appropriation to liquidate contract authority)	(5,000,000,000)	(1,400,000,000)	(1,400,000,000)	(1,400,000,000)	(1,400,000,000)	(−3,600,000,000)			
(limitation on obligations)	(575,000,000)					(−575,000,000)			

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY—Continued

	New budget authority					Conference compared with—			
	Enacted, fiscal year 1978	Estimates, fiscal year 1979	House, fiscal year 1979	Senate, fiscal year 1979	Conference, fiscal year 1979	Fiscal year 1978 enacted	Fiscal year 1979 estimate	House bill	Senate bill
TITLE III									
CORPORATIONS									
FEDERAL HOME LOAN BANK BOARD									
(limitation on administrative expenses)	($17,367,000)	($18,258,000)	($17,793,000)	($17,793,000)	($17,793,000)	(+$426,000)	(−$465,000)		
(limitation on nonadministrative expenses)	(27,800,000)	(30,290,000)	(30,290,000)	(29,895,000)	(29,895,000)	(+2,095,000)	(−395,000)	(−$395,000)	
Federal Savings and Loan Insurance Corporation: (limitation on administrative expenses)	(899,000)	(960,000)	(940,000)	(940,000)	(940,000)	(+41,000)	(−20,000)		
Total, title III, Corporations	(46,066,000)	(49,508,000)	(49,023,000)	(48,628,000)	(48,628,000)	(+2,562,000)	(−880,000)	(−395,000)	
RECAPITULATION									
Grand total, titles I, II, and III:									
New budget (obligational) authority	75,144,715,000	69,517,534,000	68,208,848,000	67,656,624,000	67,911,419,000	−7,233,296,000	−1,606,115,000	−297,429,000	+$254,795,000
Appropriations	42,886,852,000	42,566,584,000	42,257,858,000	42,215,879,000	42,215,571,000	−671,781,000	−351,013,000	−42,327,000	−308,000
Contract authority	31,507,863,000	24,650,550,000	24,650,550,000	24,140,745,000	24,395,848,000	−7,112,015,000	−255,102,000	−255,102,000	+256,103,000
Authority to borrow	750,000,000	2,300,000,000	1,300,000,000	1,300,000,000	1,300,000,000	+550,000,000	−1,000,000,000		
(appropriations to liquidate authority)	(9,382,000,000)	(5,903,000,000)	(5,863,000,000)	(5,860,000,000)	(5,860,000,000)	(−3,522,000,000)	(−43,000,000)	(−3,000,000)	
(increased limitation for annual contract authority)	(1,184,295,000)	(1,334,950,000)	(1,334,950,000)	(1,310,424,000)	(1,322,297,000)	(+138,002,000)	(−12,653,000)	(−12,653,000)	(+11,873,000)
(limitation on corporate funds to be expended)	(285,995,000)	(299,763,000)	(299,278,000)	(298,883,000)	(298,883,000)	(+12,888,000)	(−880,000)	(−395,000)	
(limitation on obligations)	(575,000,000)					(−575,000,000)			

● Mr. MUSKIE. I want to begin by complimenting the chairman of the subcommittee for his diligent effort in keeping this conference report within the targets established by the budget process while finding ways to include funds for some badly needed program increases in the environmental area. The bill represents a significant improvement over some of the stark budget years faced by EPA in the recent past. As is usually the case, there are areas that need increases that do not receive additional funds in this conference report.

My interest in environmental protection programs has a long history. I have had to scrutinize that interest carefully under my responsibilities as chairman of the Senate Budget Committee. I have reviewed the items which fund environmental programs in this bill with particular care. They are clearly within the targets established by the budget process, and there is even room for additional increases beyond those made by the conference.

The Environment and Public Works Committee made an intensive effort to identify the needs of the programs under its supervision this year and to cut those requests to the bone in its report to the Senate Budget Committee. It is that report that I have used in assessing the actions taken by the conference.

Five members of the Environment and Public Works Committee appeared together before the Subcommittee on HUD-Independent Agencies of the Senate Appropriations Committee on Thursday, April 27, to reiterate our support for carefully selected increases in the EPA appropriations. The recommendations on April 27 had been cut back slightly from the March 15 report in order to keep it consistent with the first concurrent resolution.

The product of the Environment and Public Works Committee deliberations on the fiscal year 1979 budget was not a "wish list." In writing the March 15 report to the Senate Budget Committee, the Environment and Public Works Committee forced itself to take a serious look at optimum funding levels, competing program needs, and scarce Federal resources. After beginning with a fairly comprehensive statement of program potentials, the committee produced a realistic, but genuinely constrained, estimate of budget requirements for fiscal year 1979. This is the budget process working as it should.

There are a number of pluses in the conference report before the Senate today. There is $25 million in this bill for grants to local governments to carry out the processes that will lead to new control programs in the areas of the country with the worst air pollution problems. This money is badly needed. An additional $29 million is available for the administration to use in either solid waste or air planning. I urge the administrator to use this for air planning. The Clean Air Act Amendments of 1977 authorized $75 million for this program. There is no doubt that the $29 million will accomplish a great deal. Yet, without full funding, States with serious air problems will be severely crippled in providing creative solutions to solve the clean air crisis. I would have preferred that the conference report contain all the funds in the Senate bill.

The increase of $5 million provided for State air control agency grants will bring these grants to a total of $80 million in fiscal year 1979. This will provide funds to State agencies to further implement the Clean Air Act Amendments of 1977. Only 2 years ago, the funding level was approximately $55 million. The Federal Government has gone considerable distance in fulfilling its obligation to assist States in this area.

In the area of solid waste, where the chairman of the full Environment and Public Works Committee (Senator RANDOLPH) has worked so diligently, the Conference Committee has approved the President's budget. This includes $15 million for facility planning and feasibility studies—section 4008(a)(2) and $11.2 million in program support grants for State and local governments to develop solid waste plans. It would be my hope that the States would use some of these funds to assist small communities. It is unfortunate that funds were not included for section 4009 of the Resource Conservation and Recovery Act, and the rural community program. This would have been useful in assisting with the phaseout of open-burning dumps, which is required under section 4009 and under some State plans for clean air implementation. But the funds available under section 4008 are broad enough to be used for some aspects of this purpose.

The Senate Appropriations bill provided a $50 million increase beyond the President's budget for State and local government air quality and solid waste planning efforts—$35 million more for air quality planning grants under section 175 of the Clean Air Act and $15 million more for solid waste planning grants under section 4008(a)(1) of the Resource Conservation and Recovery Act. Regrettably, the conference bill provides only $29 million extra for these two functions together. This will probably slow the accomplishment of these important and worthwhile goals.

In water pollution, the Senate provided a restoration of some of the cuts made by the House Appropriations Committee in the regional planning programs un-

der section 208 of the Clean Water Act. The House cut $25 million, and the Senate bill restored $14 million of that cut. The conference agreement provides for an $18 million cut from the President's request of $50 million. My preference would have been to see the full cut restored, but I appreciate the efforts of the Senate Committee in restoring a portion of the cut.

I regret the Senate position restoring the funds for the construction grant program, which were cut by the House, was not maintained in conference. Among other pressing needs, there is a need for greater attention to the advanced wastewater treatment program. Eliminating $300 million in funds is not an appropriate way to accomplish that objective. I am disturbed by the language of the report directing the Administrator to review all project proposals with effluent limitations more stringent than secondary treatment. First, it should be stressed that this direction adds nothing to existing law. Such review is already within the Administrator's discretion. Further, it is important to clarify that advanced wastewater treatment projects are still eligible for funding up to the treatment level required by State water quality standards. Also, the provisions of this bill cannot alter the provisions of the Clean Water Act giving States primary administrative responsibilities for making grants under title II of that act.

However, I am pleased to see that $2.5 million has been placed in the bill to review application and conduct analysis relating to ocean outfall applications under section 301(h) of the Clean Water Act of 1977.

America's wetlands have been disappearing at an alarming rate. The $2.5 million and 60 positions added by the Senate Committee and maintained in conference to implement section 404 of the Clean Water Act will be very useful.

In the research and development area, the $8 million cut made by the House Appropriations Committee in anticipatory research would have done substantial damage, particularly to the acid rain program. I appreciate the efforts of the Senate Appropriations Committee in restoring $2 million of those cuts, but the Environment and Public Works Committee recommendations are still far above those established in this conference report.

The administration has requested $4 million in fiscal year 1979 to begin the activities of the National Commission on Air Quality. This body was established in the Clean Air Act Amendments of 1977 which were signed into law August 7 of that year. The Commission will play an important role in evaluating air pollution problems and strategies for clean-up over the next 2 to 3 years.

Unfortunately, the Commission is getting started almost a year after the enactment of the law, and this will necessarily delay the reports due from the Commission. It is necessary to provide the funding to help the Commission begin its activities immediately. The administration requested $4 million and both committees allocated $2 million for this purpose. There may be a need for a supplemental in the future if the Commission does begin moving rapidly to catch up for the time that has been lost.

There are some programs that still need increases in funds, and those increases are not contained in this legislation. Let me briefly touch on some of those.

I am disappointed that there are so few resources available to implement the basic regulatory programs required under the Clean Water Act. The 1977 amendments were signed after the President's budget was completed; therefore, that budget needs to be increased. EPA needs more money and manpower to do an adequate job in producing rigorous and scientifically sound regulations. There is a large effort needed in developing regulations to control the discharge of toxic pollutants, and the Environment and Public Works Committee recommended a $20 million increase in this area. The committee also recommended $30 million for additional money and manpower in abatement, control, and enforcement. This is not contained in this bill.

The statement of Senator CULVER before the Appropriations Subcommittee details a number of increases needed in ecological effects, water quality research, and research in toxic pollutants, radiation, and noise. I will not repeat those requests here, but the funds are needed and are not contained in the legislation.

One issue of particular concern relating to research and development is the proposed transfer of some of EPA's program to the Department of Energy. That action stands contrary to the law that created the Energy Research and Development Administration and which has now become part of the Department of Energy. The transfer is contrary to the congressional intent associated with that legislation. It is contrary to the actions taken by the Senate Environment and Public Works Committee and the Senate Energy Committee this year. I have communicated frequently with the administration on this subject and reiterate once again that the EPA programs must be left intact and cannot be transferred to the Department of Energy. This is the sense of H.R. 11302, the conference bill which was reported to the House and Senate this week. That bill specifies that all funds appropriated in this bill for energy-related pollution control technology shall be spent by EPA.

The House and Senate reports accompanying this appropriation bill contain negative statements regarding the safe drinking water regulations to control organic chemical contaminants. These regulations have been proposed by the Environmental Protection Agency. The Subcommittee on Environmental Pollution held 2 days of oversight hearings on the Safe Drinking Water Act in late July. Those hearings satisfied me that this regulatory program should go forward. The control strategy of using granular activated carbon filtration to control organic chemicals that may produce long-run health effects, such as cancer, seems basically sound. The technology has been used in Europe for many years and has been used in American industrial processes. We will learn ways of improving on the technology as it is adopted, but in most cases, it is better to proceed with the application of the technology than to wait years for small improvements in the technology.

The Environmental Protection Agency is charged, under the Safe Drinking Water Act, with the responsibility of protecting drinking water. The regulations dealing with organic chemical contaminants seem to be a useful step in fulfilling that obligation. Because of the strong interest in this regulation, I have added a supplement to my statement which elaborates the issues and includes the regulations in question.

Mr. President, I am concerned that the Senate committee report on page 35 criticizes EPA for sending out questionnaires to a number of companies, both large and small, for the purpose of receiving financial data. This information-gathering process is provided for under section 308 of the Clean Water Act and is essential to the proper operation of the act. I do not believe that committee's criticism is justified. I am pleased that the conference report omits any reference to this matter.

EPA is required by sections 301 and 304 of the act to promulgate uniform national effluent guidelines for major industrial dischargers. In 1976, the U.S. District Court for the District of Columbia in the case of *NRDC, et al.* v. *Train* ordered the EPA to develop or revise best available technology economically achievable effluent limitations (BAT) for at least 21 major industrial categories covering 65 classes of toxic pollutants.

In order to develop appropriate BAT guidelines, EPA must determine what is "economically achievable." This is done by gathering the necessary financial information from affected industries. Without this information, the guidelines might not adequately reflect the financial capability of a particular industry, and an unfair burden could be placed on that industry. Also, EPA must be able to justify each BAT guideline, and that would be difficult without a complete financial picture of each particular industry.

The agency has taken a number of precautions to see that any information submitted will be kept confidential and has established detailed rules and regulations governing protection of this type of data. In addition, EPA has indicated that industries with many small businesses will not have to produce as much detailed information as that required of larger industries.

Several months ago, the Office of Management and Budget reviewed EPA's requests for information under the Federal Reports Act and officially approved the necessity for this information. There is some question whether OMB approval was needed at all since the financial information was required

by the law and a court decree. OMB's regulations under the Federal Reports Act do not require review under such circumstances.

Based on the mandates of the Clean Water Act, EPA had no choice but to collect financial information from affected industries. I think the record clearly shows that the requests for information were proper and in the best interests of all the covered industries to respond as completely as possible.

I will ask unanimous consent to place in the RECORD a letter from Thomas C. Jorling, assistant administrator for Water and Hazardous Materials, describing the information-gathering process and the OMB clearance request and notice of action approving the EPA plan of data collection. Hopefully, this letter will clear up any confusion which has arisen.

In summary, the Appropriations Committee has increased the EPA programs in some areas and has stayed well within the budget targets established in the first concurrent resolution. I commend them for that and hope that the Senate will support this legislation. The chairman of the subcommittee (Senator PROXMIRE), the ranking Republican (Senator MATHIAS) and the chairman and ranking member of the full committee (Senators MAGNUSON and YOUNG) are all to be commended for their work on this bill. Their efforts are appreciated.

Finally, Mr. President, I ask unanimous consent that there be printed at this point in the RECORD certain materials to which I earlier referred relevant to the fiscal year 1979 appropriations for the Environmental Protection Agency.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ATTACHMENT A—SAFE DRINKING WATER

One of the major factors which influenced the passage of the Safe Drinking Water Act of 1974 was the detection of organic chemical contaminants in drinking water. The Act, and the Committee Report which accompanied it, stressed the significance of organic chemical contamination of drinking water, and the concern of Congress can be found in Section 1442(a)(9) of the Act:

"Not later than six months after the date of enactment of this title, he (the Administrator) shall transmit to the Congress the initial results of such study (of organic chemical contamination), together with such recommendations for further review and corrective action as he deems appropriate."

In the debate that has ensued since the Environmental Protection Agency (EPA) proposed a regulation to control synthetic organic chemicals in drinking water, the National Cancer Institute and the National Academy of Sciences have supported the basic health premises of this regulation, as have the Food and Drug Administration, Occupational Safety and Health Administration and Consumer Product Safety Commission. In developing the proposed regulations in drinking water, EPA has gathered, from every known source, all of the information available on health risks, effectiveness of treatment methods, potential hazards associated with treatment methods, and economic impacts. While the background data are more than adequate in quantity and significance, it is always possible to carry out more research and to acquire more data and indeed this is continuing. In this regard, the U.S. Court of Appeals for the District of Columbia Circuit in the case of *EDF* v. *Costle* has stated:

"In light of the clear language of the legislative history, the incomplete state of our knowledge regarding the health effects of certain contaminants and the imperfect nature of the available measurement and treatment techniques cannot serve as justification for delay in controlling contaminants that may be harmful."

EPA has carefully analyzed the costs of compliance with the proposed regulations and estimates the total capital cost at $616–831 million. Although there is still some disagreement with the industry about the unit costs of treatment, the range of estimates is much narrower than the Senate Report suggests. The water supply industry estimates of $4–5 billion are based on an incorrect assumption that all or most of the 390 water systems exceeding 75,000 population covered by the regulations would be required to install granular activated carbon. However, the proposed regulations set out a process whereby the States (or EPA where the State has not assumed primary under the Act) would make a case-by-case decision as to which system needs the treatment. EPA estimates that only about 60 systems will be required to install the added treatment. EPA has also analyzed the ability of cities to finance the capital costs and concluded that there would be a significant problem only in a few cases; in these cases, the system could obtain an exemption under the Act.

The added costs of treatment, in those cities which do install granular activated carbon, would amount to a rate increase of only $10–$20 per family per year in most cases. EPA has judged this to be a reasonable cost for the health benefits obtained. Its acceptability to the public is indicated by the fact that many consumers are now paying much higher amounts for bottled water or for home treatment devices of unknown effectiveness. These expenditures are estimated to be about $300 million per year and rising rapidly.

The proposed regulations are currently open for public comment. Eight public hearings have been held around the country where almost 300 witnesses have been heard. In addition about 500 written comments have been received so far and more are expected by the September 1 close of the comment period.

During this period, EPA is soliciting suggestions, data and constructive comment on all aspects of the control or organic chemical contaminants in drinking water including alternative regulatory approaches. The information gained will be evaluated and where applicable, utilized in the development of final regulations. Meanwhile EPA research and development efforts on the health, technology and economic aspects are continuing.

There has been a great deal of misinformation disseminated about this regulation. There is no question about the potential risks involved from drinking water contaminated by organic chemicals. There is also no real dispute as to the effectiveness and safety of granular activated carbon systems. Finally, as indicated above, the cost to the individual consumer will be quite small and health protection bought will be large.

The Safe Drinking Water Act is a preventive health statute. This regulation definitely carries out the purposes of that Act. It is premature to question the utility of this regulation.

EPA has prepared a whitepaper discussing all aspects of these regulations. It answers many of the questions raised in the Committee report. I ask unanimous consent that excerpts from this paper, which have appeared in the Federal Register, be placed in the RECORD.

EXCERPTS

THE HEALTH BASIS OF THE PROPOSED REGULATATIONS

EPA has received many comments questioning whether enough information on health effects of organic contaminants exists to justify the proposed regulations. These comments have generally accepted the fact that chloroform and other compounds present in some drinking water have caused tumors in laboratory tests when fed to animals at high doses, but they do not agree that this information forms a valid basis for reducing the levels of these compounds beyond the already low levels that occur in drinking water.

A frequent comment is that the National Academy of Sciences, in its report, "Drinking Water and Health," recommended against the establishment of a maximum contaminant level (MCL) for trihalomethanes and instead urged that further research be done. EPA believes this is a misinterpretation of the report. While the Academy did identify research needs, it clearly felt that the available information on chloroform (which forms the bulk of the trihalomethanes) was sufficient of justify regulation. After the Academy summarized this data, it concluded (p. 717):

" " " it is suggested that strict criteria be applied when limits for chloroform in drinking water are established.

The health basis for the proposed standards has been fully supported by Federal agencies experienced in dealing with environmental carcinogens. These agencies include the National Cancer Institute, the National Institute of Environmental Health Sciences, the Food and Drug Administration, and the Occupational Safety and Health Administration. The approach EPA is taking in the drinking water proposal is consistent with the approach which these and other health-concerned agencies have taken in regulating human exposure to carcinogens, that is, to reduce human exposure to the extent feasible, provided the costs are reasonable.

The remainder of this section briefly summarizes the scientific basis of this approach and particularly of the judgment that even very low exposure to carcinogens poses a risk to public health. Since this basis applies equally well to all exposure routes, most of the discussion is general and does not refer specifically to the contaminants found in drinking water. Ample documentation of the occurrence of synthetic organic chemicals in drinking water and of the toxicological and epidemiological studies of them is contained in the preamble to the proposed regulations and the supporting materials referenced therein.

Several important scientific conclusions about the nature of cancer have played a role in this approach. First, there is the simple fact that exposure to some chemicals can cause cancer. The first evidence of chemical carcinogenesis in humans dates back to 1775, when Percival Pott noted that there were high rates of scrotal cancer in men who had been exposed to soot as chimney sweeps. During the 20th century, a number of industrial chemicals, such as benzidine, asbestos, and vinyl chloride, has been shown to produce cancer in workers exposed to high levels. In addition, it is generally agreed that cigarette smoking and excessive exposure to sunlight can cause lung and skin cancer, respectively.

Second, there is evidence that environmental rather than genetic factors are causing a significant amount of human cancer. A classic epidemiological study was done of Japanese immigrants to the United States and their descendants. Japan has higher rates of stomach cancer and lower rates of colon cancer, compared to the United States. When the Japanese immigrated to the

United States, their rates of stomach cancer fell and their rates of colon cancer increased. Among their children, the difference was even more marked: closer to the U.S. pattern and further from the Japanese pattern.

Something about the U.S. diet, lifestyle, or environment produces lower rates of stomach cancer and higher rates of colon cancer, while the same factors in Japan produce the opposite pattern. We don't know what these causative factors are but we can presume that it is something in the environment, since there was little change in the genetic makeup of the populations studied. A similar pattern has been observed in other studies. (The term "environment" in this context refers to everything humans are exposed to, including such things as cigarette smoking, food, and sunlight, as well as the results of environmental pollution in the usual sense.)

Third, scientists have developed methods for testing suspected carcinogens in laboratory animals. Since studies of cancer patients have only led to the identification of a small number of human carcinogens, usually in cases where there was a well-defined group exposed to high levels, and since we as a society do not allow intentional testing of humans with suspected carcinogens, some means was necessary to test the many thousands of chemicals used in our society and the new ones that are constantly being developed to determine their potential for harmful effects on humans.

Although the differences between humans and test animals (rats and mice) introduce an element of uncertainty in the use of animal data, the test results have been well confirmed: Of the known human carcinogens, all but a few also cause tumors in laboratory animals. Therefore, it is reasonable and prudent to place significant weight on animal data showing carcinogenic effects. These tests have been criticised for using doses much higher than those actually encountered by people. The high doses are necessary to produce a statistically valid response in enough of the animals so that conclusions can be reasoned without requiring many thousands of animals be tested. Additionally, the size of the dose is less important than its effect: If the result is cancer and not simply an overburdening of the animal's system, there is reason for concern. In view of the conclusion discussed below that even very small doses of carcinogens carry some risk, the animal tests at high doses are valid for indicating the presence of a cancer risk and the relative potency of the chemical tested.

In the case of organic contaminants in drinking water, there are also a series of human epidemiological studies that have attempted to relate human cancer rates to indicators of such contamination. This research has generally shown such a relationship. Such studies are difficult to interpret because other factors which may be related to cancer rates are also likely to be present in the large cities where high levels of organics have been found in drinking water. However, the research tends to reinforce the concern resulting from the presence of substances known to cause cancer in animal tests. They therefore serve as valid additional support for EPA's proposed regulations.

Finally, and perhaps the most controversial, is the conclusion that there is no safe level for a carcinogen and that any exposure, no matter how small, will result in some risk of cancer. This conclusion is based on the best available and generally accepted scientific knowledge concerning cancer and its causes. Cancer is believed to be the result of a small number of discrete events in the structure of a single cell which transform it into a cancer cell that can evade the body's defenses and grow in an uncontrolled way ultimately producing death. Very little is understood about how a chemical carcinogen interacts with a cell's DNA to cause the transformation, but it is believed that any case of chemical carcinogenesis is the result of a single molecule (or a small number of them), interacting with a single cell. It follows that exposure to a small amount of a carcinogen produces some small risk of cancer.

In addition, none of us is exposed to just one chemical or just one set of conditions, but rather many different chemicals and situations every day. The combined effects of many factors and chemicals may ultimately produce a cancer, so it is unrealistic to think of risks in terms of just one chemical.

The "no safe level" conclusion has important consequences. It means that exposures of large numbers of people even to very low levels of carcinogens are still a matter of concern, even if the risk to any particular individual appears negligible. For example, if everyone in the United States had a 1-in-100,000 chance of getting cancer as a result of such an exposure, certainly a very small risk, that would still mean 2,200 or so additional cases of cancer nationwide. It also means that the animal tests are valid bases for inferring human risk even with the very high doses which must be used in those tests for technical reasons. Although the environmental exposures are usually orders of magnitude lower than those used in the animal tests, the number of people exposed is orders of magnitude higher.

It should be noted that there are reputable scientists who do not accept the "no safe level" conclusion. Neither school of thought can be said, as a matter of scientific certainty, to have proven its case, and the disagreement is not likely to be resolved in the foreseeable future. Nevertheless, the regulatory agencies have found it prudent, as a matter of public policy, to take the conservative position of accepting the "no safe level" conclusion, since this position is more protective of public health and the preponderence of scientific opinion supports it.

To summarize, we know that a great deal of human cancer is caused by unknown factors in the environment. We also know that certain chemicals which cause cancer in animals are found in low levels in air, food, and drinking water and have reason to believe that low levels of animal carcinogens pose a risk to humans. These chemicals, and others which have not yet been tested, must be presumed to contribute to the total incidence of cancer, although the magnitude of the impact of each is unknown. They therefore warrant regulatory control to minimize long-term adverse effects on human health.

Since exposure to any amount of a carcinogen carries some risk, regulatory decisions cannot be based on determination of a safe level. But in many cases, complete elimination of the chemical from the environment is not feasible or has costs that society would be unwilling to pay. EPA and other regulatory agencies have therefore evolved the approach of minimizing any human exposure to carcinogens: *Provided*, The costs are reasonable. This is the approach that has guided the development of the proposed regulations to limit organic contaminants in drinking water.

EPA's evaluation of the health risk has been endorsed by the Director of the National Cancer Institute, Dr. Arthur C. Upton, and the Director of the National Institute of Environmental Health Sciences, Dr. David P. Rall. The texts of their letters to EPA Administrator Douglas M. Costle are reprinted in Appendix A.

Additional information on these and related issues may be found in the preamble to the Occupational Safety and Health Administration proposed regulations on Identification, Classification and Regulation of Toxic Substances Posing a Potential Occupational Carcinogenic Risk (42 FR 54148–83, Oct. 4, 1977), which is hereby incorporated by reference in this notice. Further discussion is contained in the comments made to OSHA by Arthur C. Upton, Marvin A. Schneiderman, William Lijinsky, Richard R. Bates, Umberto Saffiotti, Richard Peto, and Samuel S. Epstein (OSHA Docket No. 090), which are also incorporated by reference in this notice.

ECONOMIC IMPACT OF THE PROPOSED REGULATIONS

Since the U.S. Environmental Protection Agency (EPA) proposed a regulation for the control of organic chemical contaminants in drinking water in February 1978, the Agency has received a number of comments regarding the costs and financial feasibility of compliance with the regulations. This notice presents the results of an 8-week reassessment of the economic analyses prepared in 1977 as the regulation was being developed.[1] These results are fully documented in a report entitled "revised Economic Impact Analysis of Proposed Regulations on Organic Contaminants in Drinking Water," available on request.

The focus has been on the costs and financing of granular activated carbon (GAC) treatment systems. Although not the only treatment technique available for reduction of THM, GAC is the most expensive treatment technique contemplated under these regulations and the one on which the greatest number of public comments has been received thus far in the public comment period.

Three specific subjects have been addressed in this review:

The capital and operating costs for granular activated carbon treatment installed at individual water systems.

The implications of changes in those unit costs for the economic impact of the proposed regulation at the national level and to residential customers of affected water systems.

The ability of water systems to raise the capital which would be needed to install GAC treatment.

The examination included five major activities. First, selected equipment manufacturers and carbon suppliers were again contracted to verify or supplement previous data. Second, GAC cost estimates submitted to EPA by some water utilities were analyzed. An effort was made to fully understand the basis of estimates developed by three cities which had prepared the most thorough projections: New Orleans, Indianapolis, and Louisville. In fact, two of them were visited in person and the third was contacted by telephone in this process. This effort was meant to supplement four case studies conducted in 1976 as a basis for the costing methodology.

A recognized consulting engineering firm, Gannett, Fleming, Corddry, and Carpenter, Inc., was engaged to visit New Orleans and to prepare an independent preliminary estimate of capital costs of GAC treatment at New Orleans. The purpose of this element of the review was to have a consulting engineering firm examine the specific costs encountered at one water system. It was felt that this would help reconcile differences between EPA and the industry in this instance and could provide some feedback on more general assumptions.

In the evaluation of national and customer level impacts of the revised cost estimates, the Temple, Barker & Sloane, Inc. computerized Policy Testing Model (PTM)[2] of water utilities was again utilized. The model traces the effects of construction and operating cost impacts through the industry's financial structure to identify those economic effects.

Finally, to address the capital markets issues regarding the financing of GAC installations, EPA's consultants contacted representatives of Moody's Investors Service and two other financial institutions. These discussions identified the key financial ratios by which the financial investment community evaluates water utility bond issues. The project team then analyzed those ratios and the general financial condition of a sample of 27 water systems to determine the relative ease or difficulty such systems would have financing GAC installations at a range of costs.

The actual costs faced by a water system installing GAC would vary widely depending on a variety of factors. Perhaps most important is the quality of its raw water, which will be reflected in the contact time and regeneration frequency resulting from the pilot studies. Another is the layout of the existing treatment plant and the ease or difficulty of modifying it to accommodate the GAC equipment. Finally, each water system will have to make certain policy decisions concerning such matters as the amount of growth in demand to provide for, the amount of redundancy to allow in contactors and furnaces, etc. The cost estimates presented here reflect more conservative assumptions in all these areas. The Agency believes that, even with these more conservative assumptions, the final cost to the consumer is still of the same order of magnitude as the original estimates. The higher cost estimates presented here do not, therefore, change our judgment that the cost of GAC treatment, where required by the proposed regulations, is fully justified by its public health benefits.

The major findings of this review process are:

The unit costs for GAC installations are now being revised upward from the figures published in 1977. Capital costs are being increased generally by 50 to 80 percent, primarily to adjust for inflation, to allow for contingencies and higher design, legal and financing fees, and to incorporate somewhat more conservative design parameters. Operating and maintenance expense estimates remain at levels very close to the former estimates.

The range of technical assumptions has been narrowed somewhat in this review with a resulting impact on the change in the national cost estimates. The lower end of the previous cost estimate has been raised because a 6-month regenerations frequency is no longer included in these conservative estimates, although it may be enough in some cases. The higher end of the range has been reduced somewhat to reflect the estimate that 11 systems affected only by the THM regulation and 50 systems impacted by the GAC requirement, 61 systems in total would install GAC treatment. The national capital costs based on these assumptions and the December 1977 unit costs would be $352 to $585 million. The new unit costs presented in this report raise this range to $616 to $831 million.

The estimates of local residential costs for model water systems of GAC treatment have also been increased generally by approximately 30 to 50 percent and could be higher for systems with significant site specific problems in implementation. The effect on residential bills for the average family of three will range from $7 to $26 per year depending upon system size, design parameters, and local conditions.

Financing in the capital markets should be possible through normal financing channels for almost all of the systems under either a low or high GAC cost scenario presuming that rates are increased to cover the annualized capital costs and the O/M expenses associated wtih GAC treatment addition. Under the low cost scenario almost all could finance GAC with little or no difficulty, but under the high cost scenario about half of the systems would have some difficulty and would have to phase in their financing, suffer some decline in financial strength, and/or perhaps increase revenues more than just the amount required to cover GAC capital and operating costs. A small number of systems would have major difficulty in financing and probably would have to arrange special financing or apply for relief under the Safe Drinking Water Act.

The analysis performed during this economic review will continue as more comments are received by EPA during the remainder of the public comment period.

[1] "Economic Impact Analysis of a Trihalomethane Regulation for Drinking Water," prepared by Temple, Barker & Sloane, Inc. for EPA, Office of Water Supply, August 1977; and "Economic Analysis of Proposed Regulations on Organic Contaminants in Drinking Water," prepared by Temple, Barker & Sloane, Inc. for EPA Office of Water Supply, December 13, 1977.

[2] For a description of PTM see Appendix A, "Economic Impact Analysis of a Trihalomethane Regulation for Drinking Water," prepared by Temple, Barker & Sloane, Inc. for EPA, Office of Water Supply, August 1977.

ATTACHMENT B—SECTION 308 OF THE CLEAN WATER ACT

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., August 4, 1978.

Hon. EDMUND M. MUSKIE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MUSKIE: This will respond to your inquiry concerning the Agency's request for financial data pursuant to Section 308 of the Clean Water Act from those companies which are members of one or more of the 21 major industrial categories specified in the Clean Water Act.

Sections 301 and 304 of the Clean Water Act mandate that the Environmental Protection Agency develop uniform, national effluent standards for major industrial categories covering waste waters discharged into streams and rivers or to municipal treatment facilities. In June 1976 this basic mandate was reinforced as a result of a judgment in the U.S. District Court for the District of Columbia in *NRDC et. al. v. Train*. Under the court order the Environmental Protection Agency is required to develop or revise "best available technology economically achievable" (1983) effluent limitations, new source performance standards (NSPS) and pretreatment standards for at least 21 major industrial categories covering 65 classes of potentially toxic pollutants.

To ensure that the information needed to develop these regulations is both thorough and timely, the Environmental Protection Agency must engage in a wide range of information gathering, monitoring, sampling, and inspection activities. Section 308 of the Clean Water Act authorizes the Environmental Protection Agency to require owners or operators of any point-source to maintain records, submit any information necessary to develop a regulation, sample effluents, and install and maintain monitoring equipment. This authority includes requests for financial information pursuant to the regulatory process.

Rules and regulations concerning the confidentiality of business information of this type have been promulgated and can be reviewed in full in the *Federal Register* of September 1, 1976. The Environmental Protection Agency is fully aware of the sensitive nature of the financial information being requested and every precaution allowed by law has been taken to maintain confidentiality of the information received.

40 CFR 2.2111 provides for penalties for wrongful disclosure of business information. Under that Section any Environmental Protection Agency employee who fails to properly safeguard confidential information shall be liable to dismissal, suspension, fine or other adverse personnel action. Use of business information, gained in the Environmental Protection Agency employee's official capacity, for private gain or advantage of that employee may result in criminal prosecution under 18 U.S.C. 1905. Contractors who use or disclose information in ways other than permitted by the contract under which the information was gathered shall be liable to debarment, suspension, or criminal prosecution.

The Environmental Protection Agency's request for financial information is to assure that regulations ultimately promulgated are both fair and economically achievable by the industry. Without an accurate assessment of industry's financial capabilities to meet potential pollution control requirements, there remains a risk that the technology based limitations ultimately recommended could place an unreasonable hardship on industry members. The Environmental Protection Agency is concerned that hardship to the industry may result from the closure of facilities that find it impossible to expend funds to comply with effluent regulations.

The Environmental Protection Agency has attempted to design survey instruments which are adapted to the industry being surveyed. Thus, when requesting information from an industry with many small businesses, the questionnaire will be much simpler to fill out. However, the effects of regulations are generally most severe on small businesses. In order to prevent closures it is necessary to predict the number of closures which might be expected to result from various regulations under consideration; prediction is possible only with the financial data collected in the economic surveys. Regulations developed without such data and analysis might be more stringent than those based on such data and could be expected to result in larger number of closures of small businesses.

The most accurate method of determining "affordability" at the plant level is to evaluate historical financial data, including data on sales, costs and profits, in order to determine what level of technology is economically achievable. Much of this data is not available to Environmental Protection Agency from any source except the firms within the industry. Industry members have the best information on the needs and capabilities of firms affected by Environmental Protection Agency's regulations.

Therefore, the Environmental Protection Agency needs access to plant level information in order that an adequate economic and financial data base exists to evaluate the regulatory options and in effect to select regulatory options that are justifiable by careful analysis of costs and other factors.

Besides the Environmental Protection Agency's own internal checks on its data collection activities, all of the surveys, in particular those requesting financial information, are reviewed by the Office of Management and Budget. This added clearance process insures that only the minimum amount of information is requested of industry for the development of defensible regulations. Enclosed is a copy of Environmental Protection Agency's clearance procedure and our agreement with OMB.

I hope this response is helpful to you and gives you a clearer picture of the Agency's activities. If I can be of any further service, please do not hesitate to contact me again.

Sincerely yours,

THOMAS C. JORLING,
Assistant Administrator,
for Water and Waste Management.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., June 1, 1978.

Hon. JOHN J. STANTON,
Director, Program Report Division, Environmental Protection Agency, Washington, D.C.,

DEAR MR. STANTON: The request for clearance of a Plan of Data Collection for Sections 301, 304, 305, and 307 of the Clean Water Act of 1977 is not disapproved for use. It may be used to develop specific data collection instruments and procedures to be used to gather information for the purpose of developing new effluent limitations guidelines and other standards. Each such data collection instrument used for this purpose is to bear OMB No. 158–R0160 in the upper right hand corner of the instrument.

This clearance is made subject to the following conditions to assure that implementation of this plan is consistent with that plan and the requirements of the Federal Reports Act (44 U.S.C. 3501 *et seq.*).

As conditions of clearance the Agency shall:

A. Beginning June 30, 1978 and in January and June of 1979, 1980, and 1981 publish in the Federal Register a schedule containing the following information:

(1) a list of all anticipated data collection activity to be conducted during the subsequent six month period;

(2) the type and estimated number of respondents for each data collection activity; required of each respondent; and

(3) the estimated reporting hour burden required of each respondent; and

(4) the identity, address, and phone number of the official responsible for each data collection activity.

If EPA wishes to perform a data collection activity not described in accordance with the above procedure, it shall publish in the Federal Register the above information with respect to the particular data collection activity no less than thirty days prior to its initiation. This provision shall not apply to data collection activities initiated prior to June 30, 1978.

B. Prior to the distribution of any questionnaire or other instrument, EPA will transmit in duplicate to OMB the following information to enable OMB to verify that it is consistent with this clearance:

(1) the questionnaire or other information collection instrument;

(2) the identity of those industry representatives consulted by EPA in connection with the preparation of the instrument.

(3) certification by the data collection officer of the Office of Water Planning and Standards that the data collection instrument will result in valid and reliable information and that although reasonable efforts have been made to obtain this information from other public sources, such information is not reasonably available; and

(4) a description of any special attention that has been given to the reporting problems of small businesses (firms with fewer than 100 employees).

OMB will review all submitted instruments within ten working days after receipt. Such review shall be aimed at determining consistency with the conditions of this clearance and the Federal Reports Act. Any instrument to which OMB does not object in writing within said ten day period may be used for its stated purpose.

Sincerely,

ROYE L. LOWRY,
Clearance Officer.●

Mr. STAFFORD. Mr. President, I ask unanimous consent that a statement by Senator BROOKE in connection with the conference report on which Senator PROXMIRE recently spoke, be printed in the RECORD following the statement by Senator PROXMIRE.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR BROOKE

I am pleased that the conferees have agreed to include the provision of $1 billion of authority for the Department of Housing and Urban Development to use recaptured payments for the GNMA emergency mortgage purchase assistance program, commonly called the "Brooke-Cranston" program. I believe that the Department of Housing and Urban Development should have the standby authority to commit these funds in the event that a depressed housing market threatens to lower housing production to unacceptable levels. These funds may be utilized only upon a finding by the Secretary of HUD that conditions justify the release of this authority.

I note that a statement was placed in the Congressional Record on the day when the Senate considered the FY 79 HUD Appropriations bill which indicated that no funds should be released without the approval of the Appropriations and Budget Committees of both Houses of Congress. There was no opportunity for other Senators to be heard on this issue since it was not raised orally on the floor. I would note that the Minority floor manager did not concur in this statement of legislative intent.

I certainly could not agree that approval of the Appropriations Committees and/or Budget Committees would be required in order for the Secretary of HUD to release these funds. The Conference Report contains no statement which would indicate that the conferees intend that prior Congressional approval is needed or required. I hope that this statement will clarify that no prior Congressional approval is required to release these funds if the Secretary of HUD makes the statutory finding that conditions justify such release.

● Mr. JAVITS. Mr. President, I would like to comment briefly on the agreement to provide emergency funding for abatement of chemical contamination in the Love Canal area of Niagara Falls, N.Y. I would like to thank Senators PROXMIRE and MATHIAS, respectively chairman and ranking minority member of the Senate HUD-Independent Subcommittee, as well as all Senate conferees on this bill, for their efforts in achieving this funding so necessary to help relieve the devastating effects to the health and well-being of our people in Niagara Falls, N.Y.

The funding of up to $4 million is provided on the basis of a 50 to 50 match with New York dollars. The conference report language directs that the Federal funds shall be made available from appropriations in this bill for abatement and control activities administered by the Environmental Protection Agency. This action by the conferees assumes full congressional commitment to this funding, and assures the residents in the Love Canal area of Niagara Falls, N.Y. of the support necessary to help meet the challenges before them. ●

● Mr. WILLIAMS. Mr. President, I am pleased to express my full support for the conference committee report providing appropriations for fiscal year 1979 for the Department of Housing and Urban Development, as well as for independent agencies such as the Veterans Administration, NASA, and the Environmental Protection Agency.

Among the most important sections of the legislation are those which provide funds vital to the strengthening of the Nation's housing efforts. Let me touch briefly on a few of the programs receiving appropriations through this measure. An additional 350,000 new, substantially rehabilitated, and existing units of assisted housing under the section 8 rental assistance and public housing programs will be funded during fiscal year 1979. While I supported somewhat higher unit levels, I feel that the number of assisted housing units that can be produced as a result of this appropriation demonstrates the continuing congressional commitment to better housing conditions for the country's low and moderate income citizens.

The State of New Jersey is among the most successful producers in the country of housing utilizing section 8 rental assistance. Between October 1977, and November of this year, the New Jersey State Housing Finance Agency, which finances the lion's share of assisted housing units started in the State, will finance construction starts for 7,200 new and substantially rehabilitated section 8 units.

HUD's new Urban Development Action Grant program (UDAG), first enacted last year, will receive an appropriation of $400 million, which is equal to the program's full authorization for fiscal year 1979. This program is designed to provide special assistance to our most severely distressed communities to enable them to undertake specific neighborhood reclamation and economic revitalization projects that these communities could not otherwise initiate. Each UDAG project must be able to generate significant amounts of private investment, and a glance at the record of the program during its first year of operation reveals that it has successfully accomplished this purpose. In my own State of New Jersey, nine projects totaling $24.8 million have been awarded to state. Jersey City, for example, received a $7 million grant during the first round of grant awards in order to rehabilitate housing and generate commercial activity in an area of the city now characterized by vacant lots and abandoned, deteriorated structures. This particularly fine project, which I believe to be one of the best in the country, has been able to attract more than $25 million in private commitments of funds.

I am especially pleased that the conference committee agreed to fund the Congregate Housing Services Act, which I authored this year. My distinguished colleague from Indiana (Mr. BAYH), who served as one of the conferees, should be commended for his diligent, and, happily, successful efforts on behalf of this appropriation. Congregate housing offers people who are limited in their ability to perform normal daily tasks the opportunity to remain independent within their own households. It is meant to combine a residential environment with basic support services such as meals and housekeeping assistance.

It is important to note that testimony before several congressional committees over the last couple of years has demonstrated beyond doubt that it is substantially cheaper to provide necessary

social services to a person living at home than it is to place that individual in an institution. In fact, some witnesses have testified that we can save $2 or $3 in medicaid expenditures for each dollar spent for congregate housing services. Congregate housing is a wise and prudent investment.

Unfortunately, although Congress has repeatedly expressed its support for the development of congregate housing for low-income people, such housing has failed to materialize, except in certain isolated instances. The problem has been our inability to provide the link between shelter and services essential for the production of congregate housing.

The Congregate Housing Services Act establishes this link. It does so by locating funds within the Department of Housing and Urban Development in order to fund packages of social services that local nonprofit housing sponsors develop in conjunction with local social service agencies to address the service needs of their functionally impaired tenants. It is a program designed to supplement, not supplant, existing social service programs. The funds provided in the appropriations legislation are sufficient to get this new approach to congregate housing development off the ground and running, and the conference committee deserves to be applauded for its action.

Mr. President, in our Nation's housing and community development programs lie the hopes of millions of this country's people for a decent, safe place to live and work. The appropriations conference report now under consideration has a crucial role to play in the fulfillment of these hopes, and I heartily support its adoption.●

● Mr. CHILES. The Members of the Senate will already have noted the statement of the Appropriations Committee, in its report on H.R. 12936, calling attention to EPA's proposed drinking water regulations and urging further research, particularly on the granular activated carbon treatment systems ("GAC") which these proposed regulations would require.

On August 23, 1978, following a 2-day meeting to consider EPA's proposed drinking water regulations, the National Drinking Water Advisory Council, established by the Safe Drinking Water Act and appointed by EPA itself in consultation with the Secretary of HEW, recommended abandonment of the costly GAC requirement. Instead, consistent with the Appropriations Committe report, the Council proposed further research and establishment of plant-scale GAC pilots. (This recommendation was made orally to EPA, at the conclusion of the Council's meeting, and I understand the Council will soon have its report reduced to writing.)

Additionally, on September 1, 1978, the Council of Wage and Price Stability, in comments on EPA's proposals, has criticized the EPA proposals, pointing out that the EPA economic analyses "shed no light on the reasonableness (that is, the cost effectiveness) of these decisions." The Council on Wage and Price Stability recommended that EPA consider plant-scale testing of GAC, again in accord with what the Appropriations Committee had recommended earlier.

Finally, the House Appropriations Committee also has included language in its report on this bill which cited these proposed regulations as an "example of proposed regulations issued without substantive supporting evidence." The House Committee's report "urged" EPA to "thoroughly test" the GAC strategy "in actual plants before mandating that it be adopted on a nationwide basis," for "there remain too many unanswered questions concerning cost, effectiveness, and potential health hazards."

The Appropriations Committee should be congratulated for calling attention to this important problem, and it should be gratified to see that others in the Federal Government, and EPA's own advisory council, seem in accord with the committee's major recommendations.●

The PRESIDING OFFICER. The question is on the adoption of the conference report.

The conference report was agreed to.

The PRESIDING OFFICER. The clerk will state the amendments in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 6 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

CONGREGATE SERVICES PROGRAM

For contracts with and payments to public housing agencies and nonprofit corporations for congregate services programs as authorized by the Congregate Housing Services Act of 1976, $10,000,000, to remain available until September 30, 1984.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 9 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

EMERGENCY MORTGAGE PURCHASE ASSISTANCE

The aggregate amount of purchases and commitments authorized to be made pursuant to section 313 of the National Housing Act, as amended (12 U.S.C. 1723e), out of recaptured Emergency Mortgage Purchase Assistance authority, is increased by $1,000,000,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 32 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

: *Provided further*, That none of the funds provided by this Act shall be used to pay an investigator, through a grant, at more than the maximum rate paid for GS–18, unless expressly approved by the Director of the National Science Foundation

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 42 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $365,560,000

Mr. PROXMIRE. Mr. President, I move that the Senate concur in the amendments of the House to the amendments of the Senate numbered 6, 9, 32, and 42.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Wisconsin.

The motion was agreed to.

PRIVILEGE OF THE FLOOR—HOUSE JOINT RESOLUTION 1088

Mr PROXMIRE. Mr. President, I ask unanimous consent that Elinor Bachrach of the Banking, Housing, and Urban Affairs Committee staff, be granted the privilege of the floor during the consideration of House Joint Resolution 1088.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT APPROPRIATIONS, 1979—CONFERENCE REPORT

The Senate resumed consideration of the conference report.

Mr. PROXMIRE. Mr. President, I am going to make a motion to reconsider, but I want to make sure that it is not misunderstood and that someone else does not move to table this motion.

One of the Members wants a rollcall, which, of course, is his right. For that reason, I am going to move to reconsider. Then I hope we can have an up or down vote on passage. Perhaps after I move to reconsider, we can have an affirmative vote of the Senate to reconsider. That would mean that a vote on passage of the conference report would be before us. Is that right?

The PRESIDING OFFICER. The Senator is correct. If the Senator moves to reconsider, then the conference report would be before the Senate for adoption.

The question recurs on the motion to reconsider.

The motion to reconsider was agreed to.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr PROXMIRE. Mr. President, I ask for the yeas and nays on passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PROXMIRE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STAFFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STAFFORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the conference report be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

REHABILITATION, COMPREHENSIVE SERVICES, AND DEVELOPMENTAL DISABILITIES AMENDMENTS OF 1978

The Senate resumed the consideration of the bill.

UP AMENDMENT NO. 1868

(Purpose: To provide that funds appropriated under the Rehabilitation Act, the Older Americans Act and the Child Abuse Prevention and Treatment Act cannot be obligated or expended for activities not carried by the offices charged with responsibility for these programs and not authorized in full by one or more such Acts)

Mr. STAFFORD. Mr. President, on behalf of Senator CRANSTON and Senator RIEGLE, I send an unprinted amendment to the desk and ask for its immediate consideration. This is in connection with S. 2600.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of S. 2600.

The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Vermont (Mr. STAFFORD), for Mr. CRANSTON and Mr. RIEGLE, proposes an unprinted amendment numbered 1868.

Mr. STAFFORD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 163, after line 10, insert the following new title:

TITLE V—PROHIBITION AGAINST CERTAIN RESEARCH AND DEMONSTRATION PROJECTS

PROHIBITION

SEC. 501. No funds appropriated under the Rehabilitation Act of 1973, the Older Americans Act of 1965, or the Child Abuse Prevention and Treatment Act may be obligated or expended for research, demonstration, or evaluation programs or projects which are not directly managed and monitored by the office charged by law with direct responsibility for carrying out such research, demonstration, or evaluation programs or projects under such Acts and which are not specifically authorized in full by one or more such Acts.

Mr. STAFFORD. Mr. President, very briefly, this amendment provides that funds appropriated under the Rehabilitation Act, the Older Americans Act, or the Child Abuse Prevention and Treatment Act cannot be obligated or expended for research, demonstration or evaluation programs or projects which are not directly managed and monitored by the offices charged by law with direct responsibility for carrying out these functions nor for activities which are not authorized in full by one or more such acts.

Mr. President, this amendment appears to state the obvious: that funds appropriated under these programs cannot be used for activities which are not authorized in full by one or more acts and not carried out in the offices charged by law with responsibility for these programs. The necessity for this amendment is the result of certain activities which have recently taken place within the Office of Human Development Services. Funds authorized for expenditures under the Older Americans Act, the Rehabilitation Act, and the Child Abuse Prevention and Treatment Act have been "transferred" administratively from these program offices to the Office of Planning, Research, and Evaluation in Office of the Assistant Secretary for Human Development Services for so-called "cross-cutting" research activities carried out in that office.

I urge the adoption of the amendment.

Mr. RANDOLPH. Mr. President, the explanation of the amendment offered by the able Senator from Vermont (Mr. STAFFORD) for the majority whip, the Senator from California (Mr. CRANSTON), indicates that it is a corrective amendment. I believe it is necessary and we are delighted to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

So the amendment (UP No. 1868) was agreed to.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RANDOLPH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, there is a great new civil rights struggle going on in our country. Long-neglected Americans are seeking, with good reason, their full and equal share of the rights to which all are entitled in our land. Accessibility for handicapped individuals must be viewed in that context—it is an issue of civil and human rights. I believe strongly that we must assure that the rights and opportunities accorded every other American are accorded to handicapped Americans.

The bill before us today—S. 2600—represents an important effort on behalf of the Senate to aid these long-neglected Americans and assist in assuring that handicapped individuals have the same rights and opportunities as other Americans.

There are a number of provisions of the bill that I would like to highlight. Let me emphasize, Mr. President, my continuing interest in and involvement with assisting handicapped individuals in this civil rights struggle.

ATTORNEYS' FEES

Mr. President, an amendment which I have authored, contained in section 505 (b) of the reported bill, provides for the allowance of attorneys' fees by a court as part of the costs to the prevailing party, other than the United States, and parallels the Civil Rights Attorneys' Fees Awards Act of 1976 (Public Law 94-559). Such allowance of attorneys' fees would be an important step in assisting all handicapped individuals in their struggle by permitting equal access to the courts to enforce the provisions of title V of the Rehabilitation Act of 1973. As my colleagues are aware, Public Law 94-559 provides that the court, in its discretion, may allow the prevailing party other than the United States, a reasonable attorney's fee as part of the costs in any action or proceeding to enforce the provisions of sections 1977, 1978, 1979, 1980, and 1981 of the Revised Statutes and title IX of Public Law 92-318, the Education Amendments of 1972.

Mr. President, the rights extended to handicapped individuals under title V of the Rehabilitation Act of 1973—Federal Government employment, physical accessibility in public buildings, employment under Federal contracts, and nondiscrimination under Federal grants—are and will continue to be in need of constant vigilance by handicapped individuals to assure compliance. Private enforcement of these title V rights is an important and necessary aspect of assuring that these rights are vindicated and enforcement is uniform. The availability of attorneys' fees should assist substantially in this respect. As noted in the report to accompany S. 2278, the Civil Rights Attorneys' Fee Awards Act of 1976 (S. Rept. 94-1011):

> (A)ll * * * civil rights law depend heavily upon private enforcement, and fee awards have proved an essential remedy if private citizens are to have a meaningful opportunity to vindicate congressional policies which these laws contain.

Mr. President, in many, many cases arising under title V of the Rehabilitation Act of 1973, the handicapped individual has little money to hire and pay an attorney. The 1976 committee report (S. Rept. No. 94-1011 noted):

> If private citizens are to be able to assert their civil rights, and if those who violate the nation's fundamental laws are not to proceed with impunity, then citizens must have the opportunity to recover what it costs to vindicate these rights in court.

The amendment adopted by the committee would help assure that handicapped individuals will be able to have access to the judicial process in order to assert their rights under title V.

Mr. President, I emphasize that it is intended that interpretation of the attorney's fees provision in the committee bill be analagous to interpretations of the Civil Rights Attorney's Fees Act of 1976, Public Law 94-556. The legislative history and expressions of legislative intent with respect to Public Law 94-556 are applicable to the new section 505(b). Thus, for example, the discussion of "prevailing party" and "reasonable fees" found in the Senate committee report to accompany H.R. 15460 (H. Rept. No. 94-1558), in particular pages 6 to 9, would be applicable whenever there is judicial consideration of the handicapped attorney's fees provision contained in proposed section 505(b).

Mr. President, there are a number of points I would like to highlight. I stress that I raise these particular points solely for the purpose of highlighting them and in no way intend to imply that other pertinent points not mentioned are not applicable.

First, a party seeking to enforce the rights protected by title V, if successful, should ordinarily recover an attorney's fee unless special circumstances would render such an award unjust. An unsuccessful litigant seeking to enforce rights protected under title V should be assessed his or her opponent's attorney's fees only where it is shown that the suit was clearly frivolous, vexatious, or brought for harassment purposes. Any other interpretation would have a chilling effect on the good-faith efforts of individuals seeking to enforce rights under title V.

Second, a party should be considered to have prevailed when rights are vindicated under title V through a consent judgment or, even, without the granting of formal relief.

Third, with respect to State and local bodies or State and local officials, attorney's fees, similar to other items of cost, would be collected from the official, in his official capacity from funds of his or her agency or under his or her control; or from the State or local government—regardless of whether such agency or Government is a named party. The authorization of attorney's fees under proposed section 505(b) in cases brought to enforce title V is within the power of Congress under among other things, section 5 of the 14th amendment. Thus, in accordance with the Supreme Court's decision in *Hutto* v. *Finney*, No. 77-1660, June 23, 1978, the 11th amendment is no bar to the recovery of attorney's fees under proposed section 505(b) from State government as a result of an action or proceeding to enforce or change a violation under title V of the Rehabilitation Act of 1973.

Fourth, proposed section 505(b) is intended to apply to all cases pending on the date of enactment of the provision.

Mr. President, I believe this amendment is much needed. To date, we have permitted certain private enforcement of title V and, yet, we have not provided the means by which such private rights of action are meaningful. This amendment—providing attorneys' fees on the same basis as attorneys' fees are provided under Public Law 94-559—will go a long way toward assisting long-neglected Americans—handicapped individuals—in their efforts to achieve their full and equal share of the rights to which they are entitled.

APPLICATION OF TITLE VII

Mr. President, in addition to the attorney's fees provision, S. 2600 includes important provisions, which I authored, to make available, in appropriate instances, the remedies, procedures, and rights available under titles VI and VII of the Civil Rights Act of 1964, as amended, to certain complaints and actions brought under title V of the Rehabilitation Act of 1973.

Proposed section 505(a)(1) would make available the remedies, procedures, and rights set forth in section 717 of the Civil Rights Act of 1964 with respect to any complaint under section 501—Employment of Handicapped Individuals—to any employee or applicant for employment aggrieved by the final disposition of such complaint or by the failure to take final action in such complaint.

Mr. President, under section 501 of the Rehabilitation Act of 1973, all departments, agencies, and instrumentalities of the executive branch of the Federal Government are required to submit to the Civil Service Commission annual affirmative action program plans for the hiring, placement, and advancement of handicapped individuals within such agency, department, or instrumentality. Mr. President, as one of the principal authors of section 501, I can say with some authority that it was enacted, in large part, as a result of the belief, on the part of Congress, that it was the responsibility of the Federal Government to be an "equal opportunity employer." The legislative history of the section 501 illustrates that with respect to the employment of handicapped individuals, Congress expected the Federal Government should be a leader.

Mr. President, to date, the record of the Federal Government in the employment of handicapped individuals has been disappointing. Testimony before the Subcommittee on the Handicapped revealed that in the first 2 years after enactment of section 501 only 12 Federal agencies have increased their rate of hiring disabled employees by more than 3 percent.

Mr. President, my amendment making available the remedies, rights, and procedures of title VII of the Civil Rights Act of 1964 should aid the Federal Government tremendously in attaining the goal of being "an equal opportunity employer" and in fulfilling its leadership responsibilities in this area.

On July 6, 1978, the General Accounting Office, after examining the Federal Government's efforts in employing handicapped individuals, arrived at the same conclusion as the committee, and also recommended the application of title VII to section 501 in its report, "Federal Employment of Handicapped People," July 6, 1978.

In addition, as my colleagues are aware, Mr. President, under Reorganization Plan No. 1, on January 1, 1979, administrative responsibility for section 501 will be transferred from the Civil Service Commission to the Equal Employment Opportunity Commission. The application of title VII to section 501 actions will assure that similar procedures will be followed by EEOC with respect to all appropriate Federal Government employment complaints. I intend to monitor very closely assumption of this responsibility in an area in which it has no present expertise.

Making title VII remedies, procedures, and rights applicable to complaints filed under section 501 would make available "back pay"—up to 2 years—as a remedy for prevailing handicapped individuals. The award of back pay would, of course, be subject to the same limitations and qualifications as provided in title VII. In addition, application of title VII would make specific the right to bring a private right of action with respect to section 501, subject, of course, to the provision for exhaustion of administrative remedies and other rules and procedures set forth in title VII. Additionally, application of title VII would make specific, in appropriate instances, the availability of affirmative action remedies with respect to either attitudinal or physical barriers.

ARCHITECTURAL BARRIERS BOARD

Mr. CRANSTON. Mr. President, I join with Senators STAFFORD and RANDOLPH in an amendment to make specific the role of the Architectural Barriers Transportation and Compliance Board with respect to litigation authority. As reported, among other things, S. 2600 would have amended section 502 of the Rehabilitation Act of 1973 to include among the designated functions of the Board the authority to "sue and be sued" in its own name and be represented by its own legal counsel in all Federal, State, and local courts. In addition, as reported, the committee bill would authorize the Executive Director, at the direction of the Board, to bring a civil action to enforce, in whole or in part, any final order of the Board issued pursuant to the Architectural Barriers Act of 1968 or of standards prescribed pursuant thereto.

Mr. President, since the time the Committee on Human Resources considered S. 2600, however, concern has been expressed that the mandate of the Board could be better accomplished with changes in the statutory language designed to enable the Board to utilize, to the maximum extent feasible, as applicable, the resources of the Justice Department. Thus, the amendment we offer today would strike the "sue and be sued" provision, retain the authority for the Executive Director, at the direction of the Board, to bring a civil action in the appropriate U.S. district court to enforce, in whole or in part, any final orders of the Board and to represent the Board on appeal before the appropriate Federal court of appeals, and authorize the Executive Director, at the direction of the Board, to intervene, appear, participate, or to appear as amicus curiae, in any court of the United States or in any court of a State in any civil action which relates to section 502 of the Rehabilitation Act of 1973 or to the Architectural Barriers Act of 1968.

In addition, in the place of the "sue and be sued" authority, the amendment we offer would provide that, except as provided in section 518(a) of title 28, United States Code—relating to litigation before the Supreme Court—the Executive Director may appear for and represent the Board in any civil litigation with respect to the Board's responsibilities under section 502. As my colleagues are aware, section 518(a) provides that, except when the Attorney General in a particular case directs otherwise, the Attorney General and the

Solicitor General shall, when the United States is interested, conduct and argue suits and appeal in the Supreme Court and suits in the court of claims.

Mr. President, the amendments contemplate that final compliance orders of the Board, directed against other Federal departments or agencies, as well as against private parties, will be enforced, at the discretion of the Board, through litigation conducted either by the Executive Director, at the direction of the Board or by the Department of Justice. With respect to litigation before the Supreme Court, the Solicitor General, at his or her discretion, would represent the Board in any action in which the Board may have an interest.

Mr. President, I emphasize that nothing in this amendment is meant to preclude the exercise by the Attorney General or his or her designee of any authority granted by law or practice to the Attorney General to initiate civil actions or to petition for intervention or amicus status. The Attorney General may petition for intervention or amicus status in any civil action brought to enforce the provisions of the Architectural Barriers Act of 1968, section 502 of the Rehabilitation Act of 1973, or any implementing standards.

Mr. President, I expect the Board and the Attorney General to work closely together to assure the best possible representation whenever the Board is involved in litigation. There will be instances when the Board would be represented best by the Department of Justice. In such instances, I expect the Board to delegate to the Department the authority to conduct the litigation.

Mr. President, the amendment we offer is designed to clarify the relationship between the Architectural Barrier and Transportation Compliance Board and the Justice Department with respect to representation involving the Architectural Barriers Act or section 502.

As reported, the bill did not give sufficient flexibility to the Board and the Attorney General to develop a working relationship. The amendment we offer would provide that opportunity—most ideally, through the adoption by the two of a memorandum of understanding.

Under our amendment, responsibility for the enforcement, intervention, or involvement in any litigation—except, of course, before the Supreme Court—would continue to be posited.

INDEPENDENT LIVING SERVICES

Mr. President, I was principally responsible for authoring, along with Senator RANDOLPH, the provisions in S. 2600 to provide independent living services under the proposed new title VI, Comprehensive Services for Severely Handicapped Individuals. In addition, I strongly support the independent living provisions proposed by Senator STAFFORD to be provided under current title I of the Rehabilitation Act of 1973.

The provisions with respect to independent living are important steps forward in our efforts to assure that all handicapped individuals have the opportunity to be eligible for services designed to enhance their ability to live independently or to function in society and, if appropriate, secure and maintain appropriate employment.

In addition, Mr. President, I highlight the importance of the inclusion in the new title VI of a set-aside—a minimum of 30 percent of the funds paid to a State—for the purpose of making grants to local public agencies and private nonprofit organizations for the support of funding, coordination, and development of projects and programs with respect to independent living and other programs.

Mr. President, I cannot emphasize too strongly the importance and value of independent living services and programs to assist handicapped individuals in learning to live with problems of everyday life.

In the State of California, the director of the department of rehabilitation, Ed Roberts, was part of a group that established the Independent Living Center in Berkeley. Recently, in a magazine interview, Ed, who is handicapped himself, responded to a question as to how the idea for an independent living center developed:

> It came out of necessity. We wanted to be independent and we didn't want to live in a nursing home or hospital the rest of our lives. I remember times when I was young that my biggest fear was what was going to happen when my parents die.
>
> So we began to just build our own idea set of service—things that we needed to become independent in the community, and it was all based on an integrated model: that is how do we find our attendant; how would we get our wheelchairs repaired quickly, not sent off for up to six months; how we would get help with welfare advocacy to get the maximum amount of money so we could go to independent living; and how would we find accessible housing. This is how the whole thing began.

Mr. President, recently, I was visited in my office by a number of handicapped individuals from the Berkeley Independent Living Center (ILC). They were in town to visit legislators about employment disincentives. One of the group, Hale Zukas, had a number of trials and tribulations including the breakdown of his wheelchair at the airport and toppling over in the metro. Despite these problems, he continued his efforts. Hale is a cofounder of the Independent Living Center in Berkeley, along with Ed. Roberts and others. Without the services that ILC has been able to provide, it is likely that Hale would never have had the opportunity to come to Washington and share with legislators his views on a matter with which he is most familiar—the problems handicapped individuals have.

Mr. President, independent living centers and programs can offer a valuable chance for the establishment of projects and programs to assist us in providing vital services necessary to handicapped individuals. I strongly support this initiative to make available the opportunities, as appropriate, for all handicapped individuals to become involved in and benefited by independent living services and programs.

FORMULA

Mr. President, I believe strongly that there is a need for changing the method by which funds authorized for the vocational rehabilitation program under title I are distributed to States. Under the current formula for fiscal year 1978, the per capita allocation in the State of California is $2.60; for the State of Mississippi, the per capita allocation is $5.61. That is a difference of a little over $3 per person.

Mr. President, I recognize that there are differences among States with respect to the amounts of money needed to be provided in order to assist them in doing the best possible job to serve their citizens. However, with respect to the distribution of rehabilitation moneys, I believe the disparity between the amounts provided is clearly inequitable.

Currently, vocational rehabilitation funds are allocated on the basis of the Hill-Burton formula. My colleagues will recall that the formula adopted in the Hill-Burton Hospital Survey and Construction Act of 1954 was used as a model for the allotment formula and the variable matching ration proportions adopted in the 1954 Rehabilitation Act (Public Law 85-565). The Hill-Burton formula is based on population weighed to give additional weight to per-capita income.

An amendment that will be considered tomorrow would set a maximum on the allotment percentage which can be used in the formula. Setting such a maximum allotment percentage does not terminate the Hill-Burton formula. The formula, as modified by the offered amendment, would continue to recognize that there are differences in the funds available among States to provide support of vocational rehabilitation programs.

Currently, there is a maximum allotment percentage of 75. The higher the allotment percentage, the greater the allocation to the State in relation to its proportion. This limitation of "75" in current law is a recognition that a ceiling should be set on the allotment percentage level. The amendment offered today would, in line with this precedent, reduce the maximum from 75 to 55 and thereby reduce disparities among States in terms of the amounts of dollars. I believe all agree that our obligation to provide assistance to handicapped individuals is one which must be met by a partnership between the Federal and State governments. The problems faced by handicapped individuals in the country are roughly synonymous. The disparities under the current formula has meant that the quality of or extent of services provided to handicapped individuals suffers in those States not receiving their fair share.

With respect to the needs of California, testimony before the Handicapped Subcommittee of the Committee on Human Resources, presented by Ed Roberts, Commissioner of Rehabilitation for the State of California, strongly supported the need for additional moneys there. For example, Commissioner Roberts testified, "If California received $3.48 per capita—the national average— it would be possible for the State to serve an additional 28,483 handicapped persons.

Thus, Mr. President, I support this change in the formula as an equitable

step toward diminishing the present large disparity. The reduction of the allotment percentage assures that consideration of per-capita income will continue to be considered, but the impact of the per-capita income factor would be reduced.

DEVELOPMENTAL DISABILITIES EXTENSION

Mr. President, in addition to the extension of and amendments to the Rehabilitation Act which this bill proposes, title III of S. 2600 as reported would extend and amend the Developmental Disabilities Services and Facilities Construction Act.

The DD program was first developed to provide a comprehensive service planning system to meet the special needs of the developmentally disabled population. Prior to the genesis of this program, services to the developmentally disabled were fragmented or totally absent in many communities. As a result of a coordinated planning process carried out in concert by the State Developmental Disability Council and the designated State agency, established pursuant to the Developmental Disabilities Services and Facilities Construction Act, the service outlook for developmentally disabled persons has greately improved.

In addition to establishing a planning mechanism to insure that services are made available to this population group in the most effective and accessible manner possible, the Developmental Disabilities Act also requires protection and advocacy programs for developmentally disabled individuals.

Because of their unique need for habilitation—the development of skills and abilities—rather than rehabilitation—the improvement or adjustment of existing skills and abilities in order to maintain satisfactory functioning—and because of the frequent inability of the individuals affected to advocate and plan for themselves, the DD population needs a system of protection and advocacy as well as a State planning mechanism that will have particular sensitivity to their peculiar needs.

For example, the ability of a mentally retarded young man with a severe seizure disorder to demand unbiased treatment in the employment market may often be very different from that of a rehabilitated spinal cord injury victim.

Mr. President, I am convinced that these differences must continue to be recognized and dealt with.

I am convinced that we must extend the developmental disability program, as it would be in the bill reported by the Human Resources Committee, with appropriate funding levels for a significant period of time so that the system will be able to continue to develop, improve, and serve the unique needs of developmentally disabled individuals in our country.

Mr. BAYH. Will the Senator from California yield for a question?

Mr. CRANSTON. I yield to the Senator from Indiana.

Mr. BAYH. Senator CRANSTON, is my understanding correct that section 505 merely extends to the handicapped the same remedies, procedures and rights already extended through titles VI and VII of the Civil Rights Act of 1964 and title IX of the Education Amendments of 1972 to individuals discriminated against on account of race, color, religion, sex or national origin?

Mr. CRANSTON. My colleague from Indiana (Mr. BAYH) is correct.

Mr. BAYH. When title VI was first enacted in 1964, Congress intended to create a private right of action for aggrieved individuals. The circuit courts of the United States have clearly acknowledged this congressional intent in such cases as *Bossier Parish School Board* v. *Lemon*, 370 F.2d 847 (5th Cir. 1967), *Alvarado* v. *El Paso Indep. School Dist.*, 445 F. 2d 1011 (5th Cir. 1971), *Kelley* v. *Altheimer, Arkansas Pub. School Dist.* No. 22, 378 F.2d 483 (8th Cir. 1967) and *Cypress* v. *Newport News Gen'l and Nonsect. Hosp. Assoc.*, 375 F.2d 648 (4th Cir. 1967). As the Senator knows, the Supreme Court recently spoke on this issue in the Bakke case.

Mr. CRANSTON. I agree with my colleague from Indiana (Mr. BAYH). In the recent court case of Bakke against Regents of the University of California, eight Supreme Court Justices determined that, with respect to the availability of a private right of action, the question was raised too late in the proceeding and that Bakke had a private right of action available under title VI. Of the eight, four justices specifically concluded that an individual private cause of action was amply supported in the title VI legislative history and four assumed for purposes of the case that Bakke did have a private right of action. Only Justice White concluded that there was no cause of action.

Mr. BAYH. My colleague from California is correct, and the same private right of action exists under title IX. When Congress enacted title IX of the Education Amendments of 1972 to close the loophole created by the lack of reference to sex discrimination in title VI. this body deliberately created enforcement rights and remedies identical to those which had been established, tested, and interpreted under title VI. Indeed, when I first introduced the sex discrimination legislation in 1971, I noted:

> The same procedure that was set up and has operated with great success under the 1964 Civil Rights Act, and the regulations thereunder would be equally applicable to discrimination in this respect. 117 Cong. Rec. S13555 (Aug. 6, 1971).

The link between title VI of the Civil Rights Act of 1964 and title IX of the Education Amendments of 1972 is so strong that in its initial House consideration title IX was prepared from a retyped, altered photocopy of title VI, as noted in the hearings on House Concurrent Resolution 330 before the Subcommittee on Equal Opportunities of the House Committee on Education and Labor, 94th Congress, 1st Session, at 16 (1975).

Mr. CRANSTON. I thank my colleague (Mr. BAYH) for reminding us of this history. I might also mention that it was in order to encourage appropriate private litigants to bring actions under titles VI and VII of the Civil Rights Act of 1964 and title IX of the Education Amendments of 1972 that Congress recently enacted the Civil Rights Attorney's Fees Awards Act of 1976, Public Law 94-559. Similarly, an important reason for the inclusion of the attorneys' fees provision in S. 2600 is to encourage appropriate private litigants to bring actions under title V of the Rehabilitation Act.

Earlier amendments to the bill presently on the floor have recognized its reliance on earlier civil rights statutes. In its report on the Rehabilitation Act Amendments of 1974, the Senate Labor and Public Welfare Committee noted:

> Section 504 was patterned after, and is almost identical to, the anti-discrimination language of Section 601 of the Civil Rights Act of 1964 . . . and Section 901 of the Education Amendments of 1973 . . . This approach to the implementation of Section 504, which closely follows the models of the above-cited anti-discrimination provisions, would . . . permit a judicial remedy through a private action. S. Rep. No. 1297, 93rd Cong., 2nd Sess. (1974), quoted in U.S. Code Cong. and Adm. News (1974) at 6390-6391.

Mr. BAYH. I thank the distinguished Senator from California for taking time to make clear the continuing intention of Congress that private actions be allowed under titles VI and VII of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972 and title V of the Rehabilitation Act of 1973.

Mr. CRANSTON. Mr. President, enactment of the provisions I have outlined and other features of S. 2600 as reported promises a major step forward in our continuing efforts to assist handicapped individuals in their long struggle to seek their full and equal share of the rights to which all are entitled in our land. I am proud to be able to play a part in this movement—one that has only just begun.

Mr. President, I thank my colleague from Vermont (Mr. STAFFORD) for offering on my behalf the amendment with respect to the conduct of so-called cross-cutting research. I do not question the value, in certain instances, of engaging in research activities which cut across the various programs in HEW. However, I do not believe that scarce funds should be diverted from congressionally authorized programs into these activities. The best example of the problems this causes is illustrated by what has happened to the child abuse program by virtue of this diversion of funds. The Child Abuse Prevention and Treatment Act has a very small appropriation—$18.9 million in fiscal year 1978—of which approximately half, or $9 million goes into research/demonstration programs. Under the original cross-cutting research proposal developed in the Office of Human Development Services, $1.5 million was to be taken from this total appropriation of $9 million and combined with another $700,000 from child welfare research funds, approximately $760,000 from the Administration on Aging and $650,000 from the rehabilitation program. The total proposal was for $3.7 million, of which $2.2 million, or nearly two-thirds, came from funds which would otherwise be expended on child abuse and child welfare research. Some

of the proposed areas for research in the cross-cutting proposal included such items as employment opportunitiles for low-income women and conceptualization of quality of human services. While research in these areas might have some connection—however remote—with the devastating phenomenon of child abuse, there is clearly a lot more than needs to be done that directly relates to child abuse.

Mr. President, Representative JOHN BRADEMAS, who chairs the Select Education Subcommittee of the House Education and Labor Committee, which has jurisdiction over each of the programs involved—aging, rehabilitation, and child abuse—and I recently sent Arabella Martinez, Assistant Secretary for Human Development Services, a letter expressing our opposition to her proposal to divert funds from these programs into this cross-cutting research proposal. Despite our opposition, which was also expressed at the time of passage of the Child Abuse Prevention and Treatment Act of 1978, HEW has expressed its intention to move forward with this proposal.

Mr. President, I ask unanimous consent that the letter which Mr. BRADEMAS and I sent to the Assistant Secretary, our subsequent correspondence and AGAO opinion be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CRANSTON. Mr. President, let me reiterate that I am not basically opposed to cross-cutting research. I would be supportive of a direct administration request for a modest authorization and appropriation to carry out these activities. I strongly feel, however, that limited funds should not be diverted from the specific purpose for which they were appropriated to fund cross-cutting research which has not been specifically authorized, approved, or funded by the Congress.

EXHIBIT 1

JUNE 22, 1978.

HON. ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services, Department of Health, Education, and Welfare, Washington, D.C.

DEAR ARABELLA: Over the past month, the staffs of the Senate Child and Human Development Subcommittee and the House Select Education Subcommittee have been meeting with you and your representatives concerning your "cross-cutting research" proposal for the Office of Human Development Services (OHDS). On June 5, the Department published in the Federal Register (Vol. 43, No. 106, Page 24472–75) a Program Announcement soliciting grant applications for this program.

This letter is to clarify in writing what has already been conveyed to you by the Subcommittee staffs—that we have grave concerns about both the legality and the propriety of this proposal, particularly since it would utilize significant sums of the already limited funds available for research activities under the Child Abuse Prevention and Treatment Act.

As you are aware, Congressional opposition to the diversion of child abuse funds into this activity was expressed at the time of passage of P.L. 95–266 in the Joint Explanatory Statement of the House and Senate authorizing Committees.

Although the concerns expressed in this letter are focused primarily upon the utilization of the child abuse funds for this proposal, we do not intend to convey approval of the utilization of funds appropriated for aging, handicapped persons, or Native American programs for these purposes.

We understand that you have reduced the proposed proportions to be taken out of funds appropriated for carrying out the Child Abuse Prevention and Treatment Act. But the present proposal would still significantly reduce the funds appropriated for child abuse programs. When combined with the proposed transfer of child welfare research monies appropriated under section 426 of the Social Security Act, the present proposal for cross-cutting research—ostensibly to benefit the programs carried out by each of the Administrations within OHDS—appears to be financed primarily from funds which would otherwise be allocated to the Administration for Children, Youth, and Families for research directly focusing upon child abuse and child welfare issues.

This is particularly distressing since child abuse funds are so limited and subject already to so many demands for demonstration or research projects. As a policy matter, we, thus, find it difficult to justify your proposal.

On the question of the legality of the proposed diversion of child abuse funds into the "cross-cutting research" proposal, the Comptroller General has been requested to provide an expedited legal opinion on the issue. Hence, we request that you take no further actions in implementing this proposal pending issuance of an opinion from the Comptroller General. We would appreciate receiving a legal opinion also from the H.E.W. General Counsel on the statutory authority for your proposal.

Arabella, in closing let us say that our objections to this proposal should not be viewed as opposition to what you are trying to achieve by cross-cutting research. Much may be learned from such activities, and there is certainly a need for greater sharing of research activities between the various programs within OHDS. We would tend to be supportive of a Departmental request for specific authority and specific authorization of modest appropriations for such research. As you know, this type of provision is included in H.R. 1267. However, we do have major reservations about diverting for this purpose funds authorized and appropriated for specific programs. As you may know, the Child Abuse Prevention and Treatment Act was passed in 1973 over the opposition of the then Administration because of Congressional concern that there was insufficient focus upon the problem of child abuse. A proposal to transfer child abuse funds into activities which may touch upon child abuse problems only in the most indirect fashion—at a time when there remains much to do and learn that is directly related to child abuse—appears to many to be a step backwards in our efforts to deal with the devastating problems facing so many children and their families.

We would appreciate your attention to this letter and a reply at your earliest convenience.

With best wishes,
Cordially,

ALAN CRANSTON,
Chairman, Subcommittee on Child and Human Development.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., July 18, 1978.

HON. ALAN CRANSTON,
Chairman, Subcommittee on Child and Human Development, Human Resources Committee, U.S. Senate, Washington, D.C.

DEAR ALAN: This is in response to your letter of June 22, expressing your concern about our cross-cutting research program.

I want to assure you that not one cent of child abuse research funds will be diverted to projects that do not meet the statutory research objectives and conditions of the Child Abuse Prevention and Treatment Act. We have carefully structured our cross-cutting research program to ensure that funds appropriated for each of the OHDS programs will be used only for those programs and will remain subject to the direction and control of the Commissioners who administer those programs.

The Commissioner, Administration for Children, Youth and Families, or her designee, will personally approve each cross-cutting project for which child abuse funds are used, and the exact amounts of those funds. You can be assured that she will not give her approval unless she is fully satisfied that the project meets the statutory research objectives and conditions of the Child Abuse Prevention and Treatment Act to the extent of the funds she approves. Exactly the same procedures and safeguards will be used by each of the other OHDS Commissioners with research and demonstration authority for the programs he administers. If Dr. Cardenas (or any other Commissioner) does not approve cross-cutting up to the full amounts that she has made available for the cross-cutting program, she will withdraw the remaining funds from the cross-cutting pool and use them for regular child abuse research projects.

The primary reason that all of the OHDS Commissioners have agreed to participate in our cross-cutting program is that they are convinced, as I am, that properly structured cross-cutting projects will increase the ability of each program to meet its research objectives. Scarce resources can be pooled to fund projects that benefit several programs but are beyond the budget of any one of those programs. I am delighted that you agree that much may be learned by cross-cutting activities.

As you requested, I am enclosing an opinion from our General Counsel's Office confirming our statutory authority for the cross-cutting program. I hope that this letter and the opinion will satisfy your concerns as to both propriety and legality. I will, of course, be glad to meet with you and your staffs, together or separately, as you wish, to discuss this matter further.

Sincerely,

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

Enclosure.

OFFICE OF THE GENERAL COUNSEL,
June 30, 1978.

To Arabella Martinez, Assistant Secretary for Human Development Services.

From Galen D. Powers, Assistant General Counsel.

Subject Statutory Authority for OHDS Cross-Cutting R. & D.

This is in response to your request for a legal opinion on the statutory authority for your proposed OHDS cross-cutting research and demonstration contract and grant program, the grant portion of which was announced on June 5, 1978 (43 F.R. 24472). It is our view that there is clear statutory authority for your proposal, as we understand its functioning.

PROGRAM DESCRIPTION

As we understand your cross-cutting proposal, each of the OHDS components that has research and demonstration authority for its programs has agreed to contribute funds to a pool from amounts appropriated for research and demonstration allocated to it by the HEW budget proposals and approved by the appropriations committees for that purpose.[1] Following announced grant and contract specifications, proposals for cross-cutting projects are to be submitted in a number of priority cross-cutting areas. These projects are intended to further the research objectives of two or more OHDS programs by benefiting two or more of those programs' "target populations," such as the aged and handicapped. Examples of proposed priority project areas are "Assessment of individual readiness for employment," (CC–78–1), and "Adolescent community services" (CC–78–10). Each applicant would be required to estimate quantitatively the degree to which each "target population" would be affected by the proposed project.

As we understand your proposal, each OHDS component will designate research staff to participate on panels to evaluate the proposed projects against the stautory research objectives and conditions of its program(s) and the cross-cutting project specifications. If the project meets those objectives and conditions, the panel would recommend funding from the cross-cutting set-aside "pool." Funding would be in relationship to the degree to which the project was expected to benefit the OHDS programs' target populations and existing levels of available set-aside funds. Each Commissioner or his designee would then approve the project and the amount of the funds contributed to it from his portion of the set-aside funds.[2]

ANALYSIS

There have apparently been questions raised on two grounds concerning the statutory authority for your proposed cross-cutting program. First, it has been suggested that the appropriations statute will somehow be violated by your pooling and proportionate funding arrangement. Second, it has been suggested that the substantive statutory responsibility of several of the OHDS Administrations will be violated.

On the first point, we believe that it is irrelevant whether R & D funds allocated for a particular statutory program, such as child abuse, are used as the sole funding for a project, or are used in combination with other funds, as long as the project furthers a statutory R & D objective of the Child Abuse Prevention and Treatment Act to the extent of contributions from appropriations for that Act. In our view, this would be the case even if R & D funds for the various OHDS programs were specifically earmarked in the appropriations statute, which, of course, they are not. You have informed us that in your view, pooling, rather than diluting the effect of scarce funds allocated to a given program such as child abuse, is at least equally likely to enhance the effectiveness of those funds by enabling funding of projects useful to several programs, including child abuse, that would be beyond the resources of that one program.

On the second point, it is true that several OHDS components have direct statutory R & D authority for their programs, rather than authority vested only in the Secretary and delegated to them. The Commissioner on Aging, for example, has statutory authority to make research or demonstration grants or contracts under the Older Americans Act, 42 U.S.C. § 3035, as does the Commissioner of the Rehabilitation Services Administration under the Rehabilitation Act, 29 U.S.C. § 762.

But as we understand this proposal, nothing in it will violate those authorities because the individual with statutory R & D responsibility for a given OHDS program ensures that each project for which funds allocated to that program are approved furthers the statutory R & D objectives of that program and meets its statutory conditions.[3]

U.S. SENATE,
Washington, D.C., September 20, 1978.

HON. ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services, Department of Health, Education, and Welfare, Washington, D.C.

DEAR ARABELLA, Thank you for your response of July 18 to our letter of June 22 expressing our opposition to your proposal to divert funds from regular child abuse research and demonstration projects into your "cross-cutting" research proposal.

We are enclosing a copy of the decision of the Comptroller General of the United States which, based on certain assumptions derived from H.E.W.'s assertions to the GAO, upholds the legality of your proposal subject to the approval function for the allocation of child abuse funds being assigned to the Director of the National Center for Child Abuse and Neglect, rather than to the Commissioner for the Administration on Children, Youth, and Families, and subject to compliance with section 101 of P.L. 95–266 requiring the Secretary of HEW, through the National Center, to establish research priorities for grants and contracts made by the Center and requiring publication of the proposed priorities for public comment at least 60 days prior to their establishment. We would appreciate your advising us as to whether and how compliance has been accomplished by HEW with respect to this provision of P.L. 95–266, what public comments were received, and whether the National Center participated in publication of priorities, as required by section 101 of P.L. 95–266.

In as much as your proposal and the Comptroller General's opinion are predicated upon assurances that each project applicant will be required to estimate quantitatively the degree to which each of the "target populations" will be affected by the proposed project and assurances that "projects will then be evaluated, approved, and funded according to procedures designed to guarantee that research funds allocated to each OHDS program are spent properly", we would appreciate your providing us with detailed breakdowns and supporting justification for each approved project with respect to the amount of child abuse funds utilized for each such projects.

We would also appreciate receiving similar breakdowns for the allocation of funds or "cross-cuttting" research from the Administration on Aging and the Rehabilitation Services Administration, as well as allocation of non-child abuse funds from the Administration on Children, Youth, and Families, for this purpose.

With best wishes,
Cordially,

ALAN CRANSTON,
Chairman, Subcommittee on Child and Human Development, Committee on Human Resources.

JOHN BRADEMAS,
Chairman, Subcommittee on Select Education, Committee on Education and Labor.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., Aug. 17, 1978.

HON. ALAN CRANSTON,
Chairman, Subcommittee on Child and Human Development, Committee on Human Resources, U.S. Senate.

DEAR MR. CHAIRMAN: This decision is in response to your letter of June 14, 1978, asking us to determine the legality of a proposal by the Department of Health, Education, and Welfare (HEW) to transfer $750,000 in fiscal year 1978 child abuse and neglect research and development funds to the Office of the Assistant Secretary for Human Development Services (HDS), to be used for "cross-cutting" research activities. The purpose of these activities is to fund research or demonstration projects which benefit more than one HDS target population (the aged, children, Native Americans) and which approach problems related to long-range HDS goals.

The Child Abuse Prevention and Treatment Act (CAPTA), Pub. L. No. 93–247, 88 Stat. 5, January 31, 1974, 42 U.S.C. § 5101 *et seq.* (Supp. V. 1975), was enacted to provide financial assistance for research and demonstration projects concerning the causes, prevention, identification, and treatment of child abuse and neglect. The Act established

[1] These R. & D. allocations are not, of course, reflected in the appropriations statute, with certain earmarkings not here relevant, appropriates lump sums for carrying out the statutes presently administered by OHDS. See P.L. 95–205 December 9, 1977, Joint Resolution incorporating H.R. 7555.

[2] As we understand your funding arrangement, the contribution from each OHDS component remains specifically identified, and funds may not be used from that contribution without the approval of the appropriate component. In our view, since each Commissioner retains full control over his contributed funds, and will spend them only on projects that meet the statutory research objectives and conditions of his programs, your proposal is not inconsistent with the expectations expressed in the Joint Explanatory Statement on the Child Abuse Prevention and Treatment Act Amendments, P.L. 95–266, U.S.C.C.A.N., No. 4, May 1978, p. 1085.

[3] In our view, as long as the appropriations statute appropriates a lump sum to the Office of Human Development Services for carrying out the statutory programs it administers, without earmarking specific amounts for R & D activities, you would have sufficient authority under sections 1110 and 1115 of the Social Security Act for your cross-cutting program even if the OHDS components involved were not approving the grant awards and the use of R & D funds allocated in the budget to their programs. We do not need to reach that question here, however.

You should, however, structure your grant and contract approval process so that there will be no possibility of unauthorized funding. The notice of grant award or contract should specify each statutory authority under which it is made and the exact dollar amount awarded under that authority. Although the June 5 announcement indicated that grants were being made only under sections 1110 and 1115, they are in fact, if we have correctly described above the functioning of the system, being made under additional R & D authorities in OHDS, and the contract or grant award notices should appropriately reflect each of the authorities being used.

the National Center on Child Abuse and Neglect which, *inter alia*, administers programs of research, demonstration, and State assistance grants, Pub. L. No. 93-247, §§ 2-4, and compiles and maintains a clearinghouse of resource information on child abuse and neglect activities throughout the nation, *id.*, section 3.

The Congressional intent in enacting this legislation was to provide adequate resources to deal specifically with the problems of child abuse and neglect, problems which had received limited attention and funding under previously existing statutes such as title IV of the Social Security Act, 42 U.S.C. §§ 601, 630. CAPTA was to operate in addition to, and to provide additional resources for, such existing programs. H.R. Rep. No. 93-685, Committee on Education and Labor, 93 Cong., 1st Sess., pp. 3-5; S. Rep. No. 93-308, Committee on Labor and Public Welfare, 93 Cong., 1st Sess., p. 5. Fifty percent of appropriations authorized for CAPTA are to be spent on demonstration projects, 42 U.S.C. § 5104.

On April 24, 1978, the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 was enacted, Pub. L. No. 95-266, 92 Stat. 205, title I of which amended CAPTA (Amendments). In the Amendments, a higher priority was given to research activities. To this end, the previous requirement that at least 50 percent of appropriated funds be used for demonstration projects, 42 U.S.C. 5104, was amended to include research activities within this earmarked expenditure, Pub. L. No. 95-266, section 104. The Amendments also required the establishment of research priorities developed through utilizing public comments and suggestions from experts in the field of child abuse, 42 U.S.C. 5101, as amended by Pub. L. No. 95-266, section 101.

The expanded priority given to research activities was emphasized by the House Education and Labor and the Senate Human Resources Committees. In the Joint Explanatory Statement on the CAPTA Amendments, the Committees stated, with respect to the utilization of research funds:

"The Committees would like to make clear that they expect that no funds appropriated under this Act would be utilized for research programs or activities which are not specifically authorized by this Act, nor would such funds be transferred to any office or other activity of the Department of HEW which is not directly responsible to the Commissioner of the Administration for Children, Youth, and Families or other successor office or activity which performs substantially similar functions with respect to the child abuse and neglect programs. The Committees have been assured that no such diversion of research funds appropriated under this Act has been implemented with respect to fiscal year 1978 appropriations, and the Committees expect that this situation will continue thereafter." Joint Explanatory Statement of House Bill, Senate Amendment, and Compromise Agreement, 124 Congressional Record S. 5336 (daily ed., April 12, 1978)

In June, 1978, HEW published an announcement of grant availability for fiscal year 1978 for cooperative research or demonstration projects which support the long-range goals of HDS and which "crosscut" HDS's component administrations and the populations they serve (including the Administration for Children, Youth, and Families which administers CAPTA), 43 Fed. Reg. 24472 (June 5, 1978). As stated in this announcement, these "cross-cutting" grants are authorized and are to be funded by HEW under sections 1110 and 1115 of the Social Security Act, 42 U.S.C. §§ 1310, 1315, and are to be administered by HDS's Office of Planning, Research and Evaluation (OPRE).

Section 1110 authorizes the Secretary of HEW to make grants to, and to enter contracts and jointly financed cooperative arrangements with, State and public and private nonprofit organizations and agencies to pay for part of the cost of research and demonstration projects for programs carried out under or related to the Social Security Act, 42 U.S.C. § 1110(a). Section 1115 contains special provisions for projects carried out by the States.

In your letter of June 14, you ask whether HEW legally may "transfer" fiscal year 1978 CAPTA funds to OPRE to be utilized in "crosscutting" grants, particularly in light of the Congressional intent, as expressed in the portion of the Joint Explanatory Statement quoted above.

In order to respond adequately to your inquiry, we requested a report on the issues raised from the Secretary of HEW. In a report dated July 7, 1978, the Acting General Counsel of HEW provided us with a detailed explanation of the purpose and of the administrative mechanism to be implemented for the "cross-cutting" projects, pertinent parts of which are set forth below:

"* * * The underlying rationale of the 'cross-cutting' program is that properly structured 'cross-cutting' projects will increase the ability of each program to meet its research objectives, since scarce resources can be pooled to fund projects that benefit several programs but are beyond the budget of any one of those programs."

* * * * *

"Each project applicant will be required to estimate quantitatively the degree to which each OHDs 'target population' will be affected by the proposed project. These projects will then be evaluated, approved, and funded according to procedures designed to guarantee that research funds allocated to each OHDS program are spent properly."

* * * * *

"Under the 'cross-cutting program', each of the OHDS Commissioners with research and demonstration authority for his or her programs has agreed to contribute to a 'cross-cutting' set aside pool a portion of appropriated funds allocated to him or her for research and demonstration. At the request of each Commissioner, the Budget and Financial Management Division reduces that Commissioner's allowance by the set aside amount, and increases the allowance to the Office of Planning, Research, and Evaluation (OPRE). (OPRE is a part of the Office of the Assistant Secretary.)

"Each OHDS Commissioner will designate research staff to participate on panels to evaluate the proposed 'cross-cutting' projects against the statutory research objectives and conditions of his or her program(s) and the 'cross-cutting' project specifications. If the project meets those objectives and conditions, the panel will recommend funding from the 'cross-cutting' set aside pool. Funding would be in relationship to the degree to which the project was expected to benefit the OHDS programs' target populations and existing levels of set-aside funds. Each Commissioner or his or her designee would then approve the project and the amount of the funds contributed to it from his or her portion of the set aside funds. Finally, a grant award or contract would be executed in the amounts approved by each Commissioner under each research authority.

"OPRE will keep records on the total amounts contributed by each Commissioner, and the amounts approved by each for each 'cross-cutting' project. If any Commissioner does not approve 'cross-cutting' funding up to the full amounts that he or she has contributed, the remaining amount will be reallocated to the contributing Administration."

For fiscal year 1978, HEW's funds were appropriated by Joint Resolution, Pub. L. No. 95-205, 91 Stat. 1460, December 9, 1977, incorporating H.R. 7555, the Departments of Labor, Health, Education, and Welfare, and Related Agencies Appropriations Act of 1978. Child abuse activities are among a group of programs financed by Pub. L. No. 95-205 under a lump sum appropriation for "Human Development" in H.R. 7555. The total amount appropriated under this heading is $2,195,978,000, with no funds specially earmarked for the Child Abuse Prevention and Treatment Act.

Also included in this lump-sum appropriation are funds for programs such as Title VII of the Older American Act of 1965, 42 U.S.C. § 3011, the Juvenile Justice and Delinquency Prevention Act of 1974, 42 U.S.C. § 5601 note, Sections 106, 107, and 306 of the Comprehensive Employment and Training Act of 1973, 29 U.S.C. §§ 816, 817, and 875, and the Rehabilitation Act of 1973, 29 U.S.C. § 701 note. Funds for activities under sections 1110 and 1115 of the Social Security Act (HEW's stated authority for the "cross-cutting" project) were appropriated by Pub. L. No. 95-205 under the headings "Social and Rehabilitation Service—Public Assistance", and "Departmental Management—Policy Research," and not under "Human Development."

References in the legislative history of Pub. L. No. 95-205 (H.R. Rep. No. 95-381, 95th Cong., 1st Sess., p. 90; S. Rep. No. 95-283, 95th Cong., 1st Sess., pp. 124 and 172) indicate that HEW and the House and Senate Appropriations Committees were in agreement that $18,926,000 of the total fiscal year 1978 "Human Development" appropriation should be applied to CAPTA. There are no statutory provisions requiring HEW to spend this amount on CAPTA activities, however.

Our Office has traditionally taken the position that, in a strict legal sense, the total amount of a lump sum appropriation may be applied to any of the programs or activities for which it is available in any amount, absent further restrictions provided by the appropriations act or another statute. See, LTV Aerospace Corporation, 55 Comp. Gen. 307, 318-319 (1975). Thus, any of the funds appropriated for HDS under "Human Development" for fiscal year 1978 may be used by HEW to finance the activities of any program included in that appropriation. Neither the budget estimates allocating funds within the appropriation, nor the restriction on the use of CAPTA research funds set forth in the Joint Explanatory Statement constitute legally binding limits on HEW's actual internal allocations of the funds made available to HDS. 55 Comp. Gen. 307, 315-327, supra; 55 Comp. Gen. 813 (1956); 17 Comp. Gen. 147 (1937); B-149163, June 27, 1962; B-164031(3), April 16, 1975.

"Cross-cutting" grants for programs and projects that are not within the scope or purpose of the HDS appropriation may not, however, be funded with CAPTA or other HDS programs funds. Such use of appropriated funds is prohibited by 31 U.S.C. § 628, which states:

"Except as otherwise provided by law, sums appropriated for the various branches of expenditure in the public service shall be applied solely to the objects for which they are respectively made, and for no other."

See, e.g., 19 Comp. Gen. 774 (1940); 36 Comp. Gen. 240 (1946).

A determination of the legality of the use of CAPTA research and demonstration funds in "cross-cutting" grants, then, depends on the authority and appropriation under which grants are to be made, and the objectives to be met by them.

As described by HEW in its July 7th report, it is apparent that the proposed grants will be awarded under the research and demonstration authority of the various HDS components, and not under the general authority of sections 1110 and 1115 of the Social Security Act, as was indicated in the June 5th announcement. A memorandum enclosed with the HEW report indicated that the citations of authority in the announcement were erroneous and will be corrected to reflect the proper HDS authority in each grant or contract award notice. It was also stated that the Commissioner of each HDS Administration, or his designee, would retain administrative control over program funds through the authority to approve the funding of projects which meet program requirements, and the amount of program funds allocated to any particular grant or contract.

With respect to whether the use of "cross-cutting" projects is consistent with the joint explanatory statement, HEW states:

"As I have explained above, child abuse funds will not be approved for any 'cross-cutting project unless that project meets, in the judgment of the Commissioner, Administration for Children, Youth and Families, the statutory objectives and conditions of the Child Abuse Prevention and Treatment Act to the extent of the funds approved. . .

"OPRE uses those funds subject to, and only with, the personal approval of Dr. Gardenas, or her designee. It is our view, therefore, that the OHDS 'cross-cutting' program is not inconsistent with the concerns expressed in the Joint Statement."

Accordingly, we agree that, as explained by HEW, the concerns expressed in the joint explanatory statement essentially have been complied with, and no funds which are allocated to CAPTA will be spent without the approval of the Commissioner of the Administration for Children, Youth, and Families.

One of your staff members stated orally that you are concerned about the function of the Director of the National Center on Child Abuse and Neglect (the National Center) under the "cross-cutting" project. HEW's child abuse program under CAPTA is authorized to be carried out by the Secretary through the National Center, 42 U.S.C. 5101, *et seq.*; the proposed "cross-cutting" projects containing child abuse elements apparently are to be administered by the Commissioner, Children, Youth and Families, and not specifically by the Director of the National Center. We agree that the administrative mechanism to be employed by HEW for its "cross-cutting" project would have to recognize the statutory functions of the Director of the National Center. We suggest that the Commissioner, Children, Youth, and Families, delegate to the Director the authority to approve projects incorporating child abuse research and the amount of CAPTA funds to be contributed to them, if this has not already been incorporated into the proposal.

Finally, section 101 of the CAPTA Amendments, Pub L. No. 95-266, requires the Secretary of HEW, through the National Center, to establish research priorities for grants and contracts made by the Center and to publish the proposed priorites for public comment at least 60 days prior to their establishment. HEW will need to determine if its June 5, 1978, announcement of "cross-cutting" grants and the priorities stated therein satisfy this publication requirement.

Assuming that the proposed projects will be administered under the research and demonstration authority of HDS's offices, in compliance with the respective authorizing legislation for each HDS component, it is our opinion that CAPTA and other HDS Administrations' fiscal year 1978 funds may legally be used to finance relevant portions of "cross-cutting" research projects.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT APPROPRIATIONS 1979—CONFERENCE REPORT

Mr. PROXMIRE. Mr. President, what is the parliamentary situation? Is the conference report now pending before the Senate? Does it automatically recur?

The PRESIDING OFFICER. No, it requires unanimous consent to go back to the conference report.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the Senate resume consideration of the conference report.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senate continued with the consideration of H.R. 12936.

Mr. PROXMIRE. Mr. President, it is my understanding that the Senator who wished a rollcall is ready to go ahead. I do not know of any Senator who wants to delay on this. I think we are ready to vote.

Mr. BELLMON. Mr. President, the House-Senate conference on the HUD and independent agencies appropriation bill has reached agreement. I was a conferee for the Senate, but because of the difficult conference on the second fiscal year 1979 budget resolution, I was unable to participate personally in the conference on the appropriation bill. Therefore, I want to take this opportunity to share with my colleagues my reactions to the conference agreement.

First, I am pleased that the bill as it came out of conference is well within the assumptions reflected in the Senate-passed second budget resolution. It provides budget authority of $67.9 billion, and will result in outlays of $44.8 billion in fiscal year 1979. Both of these figures are below the targets assumed in the second budget resolution. Even considering possible later requirements, it does not appear that the HUD and Independent Agencies Appropriations Subcommittee will exceed its allocations under section 302(b) of the Budget Act.

Let me turn now to some comments on specific aspects of the conference agreement:

ASSISTED HOUSING

The Conferees added approximately $24 million in contract authority and $255 million in budget authority to the Senate-approved figures for assisted housing. While I would have preferred that the Senate figures be maintained, I am pleased that the conferees were able to retain one-half of the cut which was made by Senator PROXMIRE's amendment when the appropriation bill was acted on by the Senate. I continue to believe there are serious longrun financing problems in our current approach to housing assistance. I am also concerned by HUD's inability to get section 8 housing completed expeditiously. As Senator CHILES pointed out during debate on the Proxmire amendment, HUD is actually further behind this year in completing contracts and getting construction started under this program than it was a year ago this time. At the end of fiscal year 1977, HUD had unused budget authority of $6.4 billion in this program. It now appears that the unused balance in fiscal year 1978 will be even larger.

EMERGENCY MORTGAGE PURCHASE ASSISTANCE

Mr. President, I would like to congratulate the conferees on their action regarding the release of recaptured budget authority for the emergency mortgage purchase assistance program of GNMA.* By reducing the released authority from $4 billion to $1 billion and by stipulating that these funds "not be available in the absence of a recession in the housing industry," the conferees have struck a significant blow for congressional control over a potential budget buster.

CONGREGATE HOUSING

I am not so pleased, however, with the conference committee's decision to cut in half the appropriation for the congregate services program—from $20 million to $10 million. Although Congress attempted to establish such a program in the 1970 Housing Act, it has not yet been utilized to its full potential. It was my hope that this year Congress would remedy that 8-year oversight and finally lay a solid foundation for what can be a viable alternative to expensive nursing homes and other institutionalized care for the elderly.

URBAN DEVELOPMENT ACTION GRANTS

I am also disappointed that the conferees restored the $20 million cut made in the urban development action grant (UDAG) program by the Senate when it passed the Proxmire amendment. The Community Development Act of 1977 required that funds under this program be allocated—

In a manner which achieves a reasonable balance among programs that are designed primarily (1) to restore seriously deteriorated neighborhoods, (2) to reclaim for industrial purposes underutilized real property, and (3) to renew commercial employment centers.

This balance, however, was not achieved by HUD in grants made under the program's first round of funding. Of the first round grant awards, over 70 percent of the funds went to downtown commercial projects, and less than 12 percent went to neighborhoods. Many of us have been concerned over the emphasis on commercial projects so far in this program. Many of these projects, I believe, could and would proceed without the UDAG support. Even though it is encouraging that more funds in the second round urban development action grants were awarded for neighborhood oriented projects, I believe it is wise to keep pressure on HUD at this time to assure this trend continues. This is a relatively new program, Mr. President, and I think we should be tight-fisted in releasing funds until it has demonstrated an effective track record.

ENVIRONMENTAL PROTECTION

The conference agreement reduces funding for the Environmental Protection Agency by more than $68 million from the Senate version of the HUD and independent agencies bill—down $18 million for abatement and control activities and down $50 million in the construction grant program.

The decision to reduce the amounts allocated to these two programs from the Senate figures represents, in my judgment, sound thinking on the part of the conferees. The decrease in funding for EPA construction grants is particularly appropriate in light of demonstrated inadequacies in that program. For example, over two-thirds of the municipalities par-

*Government National Mortgage Association.

ticipating in the construction grant program failed to meet the stated goal of at least secondary levels of treatment for effluent discharges by July 1, 1977. Further, both historically and as recently as the current fiscal year, the program has experienced significant lags in construction starts, resulting in a shortfall in obligation rates and a carryover of funds from year to year. Again, it is my belief that the decision to fund this program at a reduced level represents a clear effort on the part of the Congress to encourage EPA to identify the deficiencies in the program and to interject positive change during the coming fiscal year. The goals of the program are both reasonable and necessary, and achieving them is important to the people of this country. It is the methods which have been used in that endeavor which merit examination.

I am very pleased that the conferees agreed to earmark $1.1 million from EPA's anticipatory research allocation for groundwater research on the Garber-Wellington aquifer. This research is to be conducted at the Robert S. Kerr Environmental Research Laboratory in Ada, Okla.

NATIONAL SCIENCE FOUNDATION

The conferees cut $6 milion from National Science Foundation programs. As I tried to indicate when the HUD bill was pending in the Senate, I believe much deeper cuts in National Science Foundation funding would have been justified. I continue to consider this agency to be mismanaging, and using on low priority projects, a substantial part of the resources available to it.

VETERANS' HEALTH CARE

With regard to Veteran's health care, I was pleased that the conferees emphasised the importance of expanding ambulatory care. This should help reduce costs as outpatient services can be substituted, where appropriate, for more expensive in-hospital care.

I am concerned, however, about some of the funds for increases in VA health care personnel in light of a National Academy of Sciences (NAS) study which found that, nationwide, there are adequate personnel for the patients being treated. The NAS study found uneven workloads between and within hospitals, inappropriate criteria for allocating staff, and inadequate utilization of allied health professionals such as nurse practitioners, physicians' assistants, and dental hygienists.

I am also concerned, Mr. President, about several studies by the General Accounting Office which suggest that the VA has been slow in implementing several needed reforms which could both save money and improve the quality of care provided to needy veterans. I call attention especially to GAO's recommendations that the VA eliminate unnecessary and underutilized facilities and that it step up its cooperation with other health care facilities. Finally, I believe the VA should review the voluntary cost-saving efforts currently being carried out in the private sector to see where similar reductions in the rate of inflation in VA health care costs may be achieved.

Mr. President, despite these concerns, on balance, I believe the Senate conferees have represented us well in their work on the HUD and independent agencies appropriation bill. I shall vote to approve the conference report. I will try to assure that the problems I discussed receive appropriate attention by the Senate and by the executive branch in the months ahead.

Mr. STEVENS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question is on agreeing to the conference report. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Connecticut (Mr. RIBICOFF) is absent on official business.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) and the Senator from Minnesota (Mrs. HUMPHREY) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Massachusetts (Mr. BROOKE), the Senator from Rhode Island (Mr. CHAFEE), the Senator from California (Mr. HAYAKAWA), the Senator from Pennsylvania (Mr. HEINZ), the Senator from North Carolina (Mr. HELMS), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Delaware (Mr. ROTH), the Senator from Pennsylvania (Mr. SCHWEIKER), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

The result was announced—yeas 75, nays 6, as follows:

[Rollcall Vote No. 381 Leg.]

YEAS—75

Bartlett	Gravel	Morgan
Bayh	Griffin	Moynihan
Bellmon	Hansen	Muskie
Bentsen	Hart	Nelson
Biden	Haskell	Nunn
Bumpers	Hatfield, Mark O.	Packwood
Burdick	Hatfield, Paul G.	Pell
Byrd, Harry F., Jr.	Hathaway	Percy
Byrd, Robert C.	Hodges	Proxmire
Cannon	Hollings	Randolph
Case	Huddleston	Riegle
Chiles	Inouye	Sarbanes
Church	Jackson	Sasser
Clark	Javits	Schmitt
Cranston	Kennedy	Stafford
Culver	Leahy	Stennis
Danforth	Long	Stevens
DeConcini	Lugar	Stevenson
Dole	Magnuson	Stone
Domenici	Matsunaga	Talmadge
Durkin	McGovern	Thurmond
Eagleton	McIntyre	Tower
Eastland	Melcher	Weicker
Ford	Metzenbaum	Williams
Glenn		Young
		Zorinsky

NAYS—6

Curtis	Goldwater	Laxalt
Garn	Hatch	Scott

NOT VOTING—19

Abourezk	Heinz	Ribicoff
Allen	Helms	Roth
Anderson	Humphrey	Schweiker
Baker	Johnston	Sparkman
Brooke	Mathias	Wallop
Chafee	McClure	
Hayakawa	Pearson	

So the conference report on H.R. 12936 was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. PROXMIRE. Mr. President, will the Senator from West Virginia yield to clarify action on the conference report?

Mr. ROBERT C. BYRD. I yield.

Mr. PROXMIRE. Mr. President, it is my understanding we have to move again to concur in the amendments of the House to the amendments of the Senate. Is that correct?

The PRESIDING OFFICER. No. That has already been done. There was that motion and that was not reconsidered.

Mr. PROXMIRE. I thank the majority leader.

Mr. ROBERT C. BYRD. I thank the Chair.

AUTHORIZATION TO PRINT ADDITIONAL COPIES OF EULOGY TO SENATOR HUBERT H. HUMPHREY

Mr. ANDERSON. Mr. President, I have a concurrent resolution which has the support of the leaders on both sides I ask unanimous consent that it be considered right now. It deals with a request that an additional 5,000 copies of a tribute to Hubert H. Humphrey be printed. It has clearance on both sides.

The PRESIDING OFFICER. Is there objection?

Mr. RANDOLPH. Mr. President, reserving the right to object, and I will not object, what is the document and what is the authority for the document?

Mr. ANDERSON. It is customary when a tribute has been paid to a Senator who has passed away that 1,000 copies be printed.

This is a request that an additional 5,000 copies of the eulogy that was paid here on the floor to Hubert Humphrey be printed.

The PRESIDING OFFICER. Is there objection?

Mr. RANDOLPH. I have no objection.

The PRESIDING OFFICER. There being no objection, the clerk will state the resolution by title.

The legislative clerk read as follows:

Concurrent resolution authorizing the printing of 5,000 additional copies of the eulogies to the late Senator Hubert H. Humphrey.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Con. Res. 106) was agreed to as follows:

Resolved by the Senate (the House of Representatives concurring), That there shall be printed 5,000 additional bound copies of the eulogies to Hubert H. Humphrey, late a Senator from the State of Minnesota, to be furnished to his successor in office.

IMMIGRATION AND NATIONALITY ACT AMENDMENTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 12508, which is at the desk, and that upon the disposition of that bill, still working within the constraints of the time agreement on the natural gas conference report, the Senate proceed to the consideration of H.R. 12443, which is at the desk, which bills have been cleared by the minority.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER (Mr. CHILES) laid before the Senate H.R. 12508, an act to amend the Immigration and Nationality Act to facilitate the admission into the United States of more than two adopted children, and to provide for the expeditious naturalization of adopted children.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read twice by its title, and the Senate will proceed to its consideration.

● Mr. KENNEDY. Mr. President, this is a noncontroversial, but extremely important bill reforming the immigration law. It repeals the current arbitrary limitation on the number of international adoptions permitted a single American family.

Currently, the Immigration and Nationality Act contains a limitation of only two adoptions. But there was, and is, no rational basis for this number or any other arbitrary limitation. The sole criteria should be the ability of the petitioner family to care and provide for an adopted child, and this must be governed by valid home studies conducted by State or recognized private agencies, or authorized individuals.

That is what this bill does. It writes this home study requirement into law—and makes this the sole basis for granting a petition under the immigration law. This will also go a long way toward eliminating some abuses that can occur under existing law.

Mr. President, this bill has strong support from many quarters—from the voluntary agencies and church groups involved in international adoption, to professional persons and others involved in the administration of intercountry adoption programs. It eliminates an arbitrary provision of law, and replaces it with sound requirements that protects the interests of all adopted children.

Finally, this action is in keeping with our Nation's effort to respond to the "International Year of the Child"—by recognizing the special needs of orphans around the world, and their need for an opportunity to share life with a family instead of alone in an orphanage.

This bill is also in keeping with the spirit of the action we took 2 months ago on an amendment I offered to the foreign assistance bill to provide a special $2 million fund to assist disadvantaged children and orphans in Asia. I am gratified that this provision was sustained in conference and that it will soon be signed into law.

Mr. President, our Nation has a long and proud tradition of humanitarian concern for the needs of orphans and children around the world. I am confident this bill will help us better fulfill this tradition.●

● Mr. ANDERSON. I am pleased to join with Senator KENNEDY in supporting legislation which will facilitate the adoption of foreign children by American families and provide for their expeditious naturalization. This legislation which removes several serious obstacles for American families seeking to adopt foreign children, passed the House under suspension of the rules on July 18 by 413 votes. Not a single Member of the House of Representatives voted against the measure.

Among the important modifications embodied in the bill are provisions of S. 987, which removes the limitation in the Immigration and Nationality Act which now restricts the number of foreign adopted children which may be granted an immigration preference. As original Senate sponsor of S. 987, I am very gratified that these long-overdue changes are now before the Senate.

Under the present law, only two foreign adopted children can immigrate to the United States on immediate relative status. The alternative immigration status—nonpreferred—routinely results in delays of a year or even several years before a third child can be admitted to this country. This arbitrary limit is troublesome at the least, and at the worst can have tragic effects due to illness or failure to thrive of foreign children awaiting entry into the United States. In the past, the only other alternative to parents seeking to adopt a third child has been to request a private bill waiving the two-petition limit, a procedure which in itself can be prolonged and time-consuming. American families who choose to open their homes and hearts to foreign children clearly should not have to face these unnecessary burdens and bureaucratic obstacles any longer.

The bill now under consideration would protect the well-being of foreign adoptees by requiring a valid adoption home study by a licensed state agency or U.S. licensed agency abroad prior to granting either a nonpreference or immediate relative status visa for an alien child adopted abroad or coming to the United States for adoption. These required studies would insure that families seeking a third child would have the financial and emotional resources to meet his or her needs.

The legislation, including this home study requirement, has been strongly endorsed by a number of organizations including the Organization for United Response (OURS), which is a national group of some 4,500 adoptive parents and child welfare professionals. OURS, headquartered in my home State of Minnesota, has been enormously helpful to the progress of the bill through public education and information. It has been a privilege to work with the members of OURS, and I am very hopeful that this Congress will bring good news to them and to the other adoptive parents who have waited so long for this bill's passage. I strongly urge my colleagues to pass this important measure.●

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 12508) was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

IMMIGRATION AND NATIONALITY ACT AMENDMENTS

The PRESIDING OFFICER (Mr. CHILES) laid before the Senate H.R. 12443, an act to amend sections 201(a), 202(c), and 203(a) of the Immigration and Nationality Act, as amended, and to establish a Select Commission on Immigration and Refugee Policy.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second time and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read twice by its title, and the Senate will proceed to its consideration.

● Mr. KENNEDY. Mr. President, I am pleased to support the House-passed bill to establish a worldwide ceiling on immigration, and to create a Select Commission on Immigration and Refugee Policy. These are two proposals that I have strongly advocated for a number of years, and I am gratified that we are able to act expeditiously upon them today.

The establishment of a worldwide ceiling corrects an anomaly in the law, and is a logical step in consequence of the major immigration reforms Congress enacted in 1965—which I served as floor manager at the time.

In the long-term, this reform makes more flexible the provisions of the preference system, and in the short-run it has the likely effect of allowing the use of more nonpreference visas next year for the backlog in the Western Hemisphere and the use of more conditional entry visas for Indochina refugees—a need that is extraordinarily urgent in Southeast Asia today. All this will not involve, however, any increase in the total annual immigration authorized under the law.

Regarding the establishment of a Select Commission on Immigration and Refugee Policy, I have long urged the formation of a high level commission to take a thorough look at the immigration and nationality statutes. The time is

past due for us to approach the revision of our antiquated immigration law like we have approached the revision of the criminal code—to dump the old law, and start anew. To do this, we need to have an objective and thorough study of current immigration law and practice—a review that is beyond the capacity and scope of a single agency of the executive branch or a committee of Congress, and which must involve a broad spectrum of opinion and groups concerned with immigration reform. I would hope the Select Commission could begin functioning by the beginning of next year.

It is for these reasons that I strongly support the creation of the Select Commission envisioned in H.R. 12443, and why I have sought to expedite the legislation before us.

In the days ahead, I will look forward to working with the voluntary agencies, various immigration and citizenship groups, and other citizen organizations deeply concerned over immigration policy and practice, to seek their counsel in the organization and functioning of this Select Commission once it is established next year. For the Select Commission to do its job, it must look as widely and as deeply as possible into the many different views that exist over immigration reform.

Mr. President, I move the adoption of this bill.●

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 12443) was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Arizona.

NAVAHO AND HOPI INDIAN RELOCATION COMMISSION

Mr. DECONCINI. Mr. President, I rise to make a unanimous-consent request affecting H.R. 11092, which the Senate amended and passed last night. I ask unanimous consent that the motion to table the motion to reconsider the vote, the motion to reconsider the vote, final passage, third reading of the bill, and passage of the committee amendment all be vitiated; further, that an amendment which is at the desk be agreed to and the committee amendment, as amended, be agreed to, that the bill be considered read for a third time, that the bill be passed, and that the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment follows:

UP AMENDMENT NO. 1369

On page 2, beginning with line 12, strike out all through line 15 and insert in lieu thereof the following:

SEC. 4. Section 13(c)(5) of the Act of December 22, 1974 (88 Stat. 1712, 1718), is amended to read as follows:

"(5) take effect one hundred and twenty days (excluding Saturdays, Sundays, and holidays, and any day on which either House is not in session) after the date of submission to the Congress pursuant to subsection (a) of this section, unless during such one hundred and twenty day period one House of the Congress adopts a resolution disapproving such plan: *Provided, however*, that the Commission is authorized and directed to proceed with voluntary relocations as promptly as practicable following its first meeting.".

At the end of the bill, add the following:

SEC. 7. (a)(1) Notwithstanding the provisions of the Act of December 22, 1974 (88 Stat. 1712), in any case in which a Navajo or Hopi individual believes that he or she can qualify as an eligible applicant (as defined by subsection (e)(1) of this section), such individual is authorized, within the forty-eight month period following the effective date of the relocation plan pursuant to the Act of December 22, 1974, to file an application with the Navajo and Hopi Indian Relocation Commission requesting that he or she be granted a life estate in lands in accordance with this section. Such application shall be submitted in such manner, and contain such information, as the Commission shall prescribe.

(2) If the Commission determines, on the basis of such application, timely filed, that the applicant is an eligible applicant, the Commission shall make available to such applicant a limited tenure, of such land as the Commission determines necessary, in order to avoid the necessity of relocating such applicant, and his or her spouse and dependents, if residing with such applicant. Such tenure shall consist of the right of use and occupancy of such land, including a grazing area of such size as the Commission determines necessary in order to enable such applicant to raise livestock in such numbers as are necessary to meet a subsistence level for such applicant, his or her spouse, and dependents residing with such applicant, for a term ending at the death of the applicant or the death of the spouse of the applicant, whichever last occurs. Nothing in this Act shall preclude such applicant from making improvements within the area covered by such tenure. Nothing in this section shall be construed as prohibiting any such applicant who receives a life estate under this section from relinquishing, prior to its termination, such estate at any time and voluntarily relocating. Upon relinquishing such estate, by such means or instrument as the Secretary of the Interior shall prescribe, such applicant shall be entitled to relocation benefits from the Secretary of the Interior comparable to those provided by subsections (b), (c), and (d) of section 15 of such Act of December 22, 1974.

(b) The Secretary of the Interior is authorized to receive, consider, and pay any claim received by it from the Navajo Tribe, or Hopi Tribe, for compensation for any losses or other expenses incurred by such tribe by reason of such life estates conferred pursuant to this section. Such claims shall be submitted at such time, in such manner, and contain such information, as the Secretary of the Interior may prescribe. Any payment made pursuant to a claim filed under this subsection shall be in lieu of rental payments under section 16 of the Act of December 22, 1974, with respect to lands covered by such claims.

(c) Notwithstanding any other provision of law, the Secretary of the Interior shall compensate the head of each household, who receives a life tenure of land under an application submitted pursuant to this section, for the fair market value of the habitation and other improvements owned by such head of a household within the area from which he, but for such tenure, was required to relocate. Such compensation shall be paid to the estate of such head and shall be based on the fair market value of such habitation and improvements as of the time of the expiration of such tenure, and, except as hereinafter provided, shall not be payable until such time. Any such compensation or assistance owing to the estate of any such head shall be paid and distributed in accordance with the last will and testament of such head, or in the event no such valid will and testament is left, such compensation shall be paid and distributed to his heirs in accordance with the laws of the tribe of which such head is a member. Notwithstanding the foregoing provisions of this subsection, in any case in which any such compensation would be payable to the estate of any such applicant, such compensation shall, in the event such applicant relinquishes such life estate prior to its termination in accordance with subsection (a) (3) of this section, be payable to such applicant at the time of the relinquishment of such life estate. Such payment shall be in lieu of any other payment pursuant to subsection (a) of section 15 of the Act of December 22, 1974.

(d)(1) Any such eligible applicant, and his or her spouse and dependents so living on the Navajo Reservation shall be subject to the jurisdiction of the Navajo Tribe and any such eligible applicant and his or her spouse and dependents so living on the Hopi Reservation shall be subject to the jurisdiction of the Hopi Tribe, except that the land laws of the Navajo Tribe shall not be applicable to any tenure granted to a member of the Hopi Tribe, and the land laws of the Hopi Tribe shall not be applicable to any tenure granted to a member of the Navajo Tribe.

(2) Within ninety days following the date of the enactment of this subsection, the Secretary shall promulgate such regulations as may be necessary to assure that in the case of a life estate granted pursuant to this section, no person may reside on the land covered by such life estate other than the applicant, his or her spouse, and the applicant's dependents, except that such regulations may provide that in case of illness or disability persons necessary to attend upon and care for such applicant, spouse, or dependent may reside on such lands during such illness or disability. Such regulations shall further provide for the right of all residents and visitors to the lands covered by such life estate to have access thereto by use of all established roads or ways leading thereto

(3) The Secretary of the Interior is authorized to take such action as may be necessary in order to assure the protection, until relocated, of the rights and property of individuals subject to relocation pursuant to the Act of December 22, 1974, or any judgment of partition pursuant thereto, including any individual authorized to reside on land covered by a life estate conferred pursuant to this section.

(4) With respect to any individual referred to in paragraph (3) of this subsection, the Secretary shall take such action as may be necessary to assure that such individuals are not deprived of benefits or services by reason of their status as an individual subject to relocation.

(e) As used in this section, the term—

(1) "eligible applicant" means, with respect to a Navajo or Hopi individual, an individual—

(A) who on December 22, 1974, maintained a place of abode in an area from which such applicant, but for this section,

would be required to relocate, and who, but for this section would be relocated in an area other than an area comprising a part of the reservation of which such individual is a member or an area made a part of any such reservation by reason of a final judgment of partition or the Act of December 22, 1974; and

(B) who on or before the date of application for a life estate, was at least forty years of age; and

(C) with respect to whom the Commission determines, if required to relocate, would most likely be unable to earn a livelihood by reason of age, mental or physical disability, inability to adequately speak the English language, lack of education or skill, or otherwise;

(2) "Commission" means the Navajo and Hopi Relocation Commission;

(3) "dependent" shall have the same meaning as that provided by section 152 of the Internal Revenue Code of 1954.

(f) Notwithstanding any other provision of this section, any applicant who meets the requirements of clause (C) of subsection (e)(1) by reason of his or her mental or physical disability shall not be required to meet the requirements of clause (B) of subsection (e)(1).

(g) The Secretary of the Interior is authorized to make available to applicants receiving a life tenure under this section such assistance, during that tenure, as may be necessary to enable such applicant to feed and maintain that applicant's livestock.

(h) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

Sec. 8(a) The Commission is authorized to purchase, with appropriated funds, such lands, not to exceed 25,000 acres, in the aggregate, as the Commission determines necessary to enable it to relocate members of the Navajo tribe pursuant to the Act of December 22, 1974. Title to such lands so acquired by the Commission, if contiguous or adjacent to the Navajo Reservation, shall be taken by the United States in trust for the benefit of the Navajo tribe. With respect to such lands so acquired which are not so contiguous or adjacent to such reservation, the Commission is authorized to transfer title to such lands to the head of a household and his or her spouse so relocated thereon.

(b) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

Sec. 9. Effective December 22, 1974, paragraph (4) of section 5(a) of the Act of December 22, 1974, is repealed.

Sec. 10. Notwithstanding any other provision of law to the contrary, the Commission shall on a preferential basis provide relocation assistance and relocation housing under subsections (b), (c), and (d) of section 15 of the Act of December 22, 1974, to the head of each household of members of the Navajo tribe who were evicted from district 6 of the Hopi Indian Reservation as a consequence of the survey conducted by the Department of the Interior in 1972: *Provided*, That such heads of households have not already received equivalent assistance from Federal agencies.

NEW YORK CITY LOAN GUARANTEES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1116.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 1088) providing financial assistance for the City of New York.

The PRESIDING OFFICER. Without objection, the joint resolution will be considered as having been read the second time by title.

Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. HARRY F. BYRD, JR. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HARRY F. BYRD, JR. Mr. President, we have before us today the final act in a play that I believe the Senate should have closed down rather than extend its life for at least 3 more years.

The play is that comic-tragedy euphemistically called New York City Financial Assistance Act of 1978 and the final act is the approval of appropriations for that play in the form of House Joint Resolution 1088.

This play has been running since 1975. Unlike the promise that was made to the Senate in that year that the play would run its course, we found just the opposite. The plot had expanded, the cast of characters had gotten larger, and the problem had grown in complexity.

The city presented a new "script" to the Senate in the forms of a proposed 4-year plan and a fiscal budget for 1979 which ideally were to take care of the city's problems, provide a balanced budget in 1982, and bring down the final curtain on the play.

My examination of this led me to the conclusion that they were founded upon some rather shaky assumptions and that, most likely, they would not bring about a balanced budget in 1982 without increased and expanded Federal aid above and beyond that which was being sought by the city in the New York City Financial Assistance Act of 1978.

The General Accounting Office in a lengthy report dated July 26 pointed out many concerns it has with the city's fiscal practices.

During the months of June and July when the New York City "bail-out" bill was before the Senate, I, and many other Senators, pointed out the many problems we had with this new "script".

Doubt was voiced of the city's ability to manage its financial affairs in a fiscally responsible manner.

Nevertheless, the play was given new expanded life with the passage of the financial aid bill.

In the time that has elapsed between the Senate's passage of the conference report on New York City aid and our final act of voting on appropriations for this bill, certain events have occurred which cast further doubt upon the city's "script".

A Wall Street Journal article of September 8 entitled "New York City's Budget Faces Problems If Expected U.S. Aid Doesn't Materialize" noted:

New York City's tidy budget package, which seemed all wrapped up a few months ago, is in danger of coming undone.

Some of the federal revenues counted on in the city's current budget may not show up. While one budget official says New York City's loss could total $200 million, the city won't know for sure how big its budget hole is until Congress acts on some key urban aid programs.

Philip Tola, the city's deputy mayor for finance, says New York faces "a serious budget problem".

The Wall Street Journal in its September 15 edition in an article entitled "This Is Bargain Day In New York City For Property Taxes" noted that the city was attempting to overcome a severe cash shortage by emergency measures:

Facing a possible $100 million cash shortage today, New York City is staging a one-day drive to get property owners to pay $175 million to $200 million in real estate taxes ahead of time.

Because of slow progress in completing the city's $4.5 billion, four-year financing plan, the city has been forced to delay a major sale of bonds to New York banks and public employee pension funds originally scheduled for next week. This accounts for the city's current cash problems.

The article went on to point out that the city's fiscal distress is continuing to increase.

Fiscal analysts continued to express concern over the current city budget. Sidney Schwartz, the special deputy state comptroller, warned in a report that New York City faced a potential $317 million budget gap and said strong corrective measures were needed if the city wanted to avoid finishing the year with a deficit.

On September 18 the Wall Street Journal reported:

Despite success in getting federal guarantees for city bonds, the city clearly faces serious difficulties in reaching its goal of a truly balanced budget in four years. Budget balance, financial experts say, is critical to restoring access to the public credit market.

The lengthy article noted the fiscal problems that the city was currently facing summed up by the deputy mayor:

Philip Tola, deputy mayor, finance, said the city may face a $500 million budget gap for fiscal 1980.

The Fiscal Observer, an objective biweekly which reports on New York City's finances in a detailed analysis of the city's revised 4-year plan which appeared in the September 7 issue, pointed out that the budget gaps in the plan have increased by up to 35 percent.

The Wall Street Journal article of September 18 stated:

The city currently balances its budget with the aid of state-sanctioned accounting loopholes. Under generally accepted accounting principles, the city's current budget, if "balanced" still would show a $560 million deficit.

Mr. President, the Appropriations Committee in its report on House Joint Resolution 1088 states emphatically:

The Committee believes it is absolutely crucial that the city comply with the balanced budget requirements.

The success of a guarantee program in restoring New York City to full market access is dependent on the city's ability to achieve a budget which is balanced in accordance with generally accepted ac-

counting principles no later than fiscal year 1982.

It appears that there is considerable doubt that the city, even with the passage of the Financial Assistance Act and the aid it will provide, will be willing to clear up its fiscal problems and have a balanced budget by 1982.

I shall vote against this $1.65 billion appropriation bill.

Mr. President, I ask unanimous consent that the Wall Street Journal and Fiscal Observer articles referred to in my speech be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Sept. 8, 1978]

NEW YORK CITY'S BUDGET FACES PROBLEMS IF EXPECTED U.S. AID DOESN'T MATERIALIZE

(By Daniel Hertzberg)

NEW YORK.—New York City's tidy budget package, which seemed all wrapped up a few months ago, is in danger of coming undone.

Some of the federal revenues counted on in the city's current budget may not show up. While one budget official says New York's loss could total $200 million, the city won't know for sure how big its budget hole is until Congress acts on some key urban aid programs.

Philip Toia, the city's deputy mayor for finance, says New York faces "a serious budget problem." While New York's $13.5 billion budget far outstrips spending by other cities, the Big Apple isn't alone in its steadily increasing dependence on federal aid.

Some top New York officials, including Mayor Edward Koch, have even begun talking about enforced furloughs for city workers as a last resort to avoid a budget deficit.

But this has angered others in the city government, who say the furloughs are simply scare talk and fear the subject has damaged the city's reputation. New York is busy polishing its image to try to reenter the public lending market, after three years absence, with a $100 million sale of notes in November.

City Comptroller Harrison J. Goldin, who was drumming up support for the city this week at a meeting of financial analysts, says the idea of furloughing workers is "ridiculous." Another city official questioned why New York would want to revive "a desperation measure that wasn't even seriously considered in 1975," when the city tottered on the brink of bankruptcy.

Indeed, Mr. Toia stresses that New York would first look to increasing attrition in the city's work force, a hiring freeze and other measures before considering the more drastic step of giving city employes unpaid time off.

In revising its four-year financial plan, New York already has projected a $75 million cutback for the year in the city's share of federal antirecession area aid. The city also faces possible losses under the Comprehensive Employment and Training Act, which the Carter administration is using as a major weapon in the war against unemployment. New York gets $310 million in direct support for city workers under the program. The city says restrictive guidelines proposed in Congress, which would limit the time that CETA workers can remain on the city payroll and end aid for higher-paid jobs, could force a serious cutback in the city's CETA funding. Even under more favorable terms a city aide said, New York can expect to lose $20 million to $40 million in CETA funds this year.

In addition, New York's current budget counts on $80 million from the sale of land for a major highway project, the Westway. But federal environmental officials are seeking to block the roadway.

[From the Wall Street Journal, Sept 15, 1978]

THIS IS BARGAIN DAY IN NEW YORK CITY FOR PROPERTY TAXES

NEW YORK.—Facing a possible $100 million cash shortage today, New York City is staging a one-day drive to get property owners to pay $175 million to $200 million in real estate taxes ahead of time.

A similar prepayment drive earlier this year netted the city over $300 million.

Because of slow progress in completing the city's $4.5 billion, four-year financing plan, the city has been forced to delay a major sale of bonds to New York banks and public employe pension funds originally scheduled for next week. This accounts for the city's current cash problems.

The failure of Congress and the state legislature to enact needed legislation, plus delays in negotiating long-term loan agreements with banks, insurance companies and pension funds, all are contributing to the city's current cash crisis. However, city officials believe the problems will soon be ironed out and the bond sale will go forward.

As an inducement, the City Council yesterday approved a bill granting a discount to property owners who pay their tax bills today, two weeks before the Oct. 1 deadline. The discount is 9¼% when figured on an annual basis.

Meanwhile fiscal analysts continued to express concern over the current city budget. Sidney Schwartz, the special deputy state comptroller, warned in a report that New York City faced a potential $317 million budget gap and said strong corrective measures were needed if the city wanted to avoid finishing the year with a deficit. City officials met earlier this week with members of the Emergency Financial Control Board, a state watchdog body, and may offer to make up to $100 million in budget cuts soon.

[From the Wall Street Journal, Sept. 18, 1978]

NEW YORK CITY FREEZES HIRING IN BID TO FIGHT GROWING BUDGET CRISIS

NEW YORK.—New York Mayor Edward I. Koch imposed a freeze on city hiring and promotions as a first step in fighting a growing city budget crisis.

The mayor pledged to announce further budget cuts within a few days to close an immediate $60 million to $90 million gap in the current budget, created by the city's failure to receive expected federal revenue.

The hiring freeze, the mayor's toughest budget step yet, comes with the city under pressure from budget watchdogs to close gaping holes in its spending plans.

Conditions are likely to get worse for New York in fiscal 1980, which starts next July. Philip Toia, deputy mayor, finance, said the city may face a $500 million budget gap for fiscal 1980.

Despite success in getting federal guarantees for city bonds, the city clearly faces serious difficulties in reaching its goal of a truly balanced budget in four years. Budget balance, financial experts say, is critical to restoring access to the public credit market.

EXTENSION WILL BE SOUGHT

The hiring freeze was imposed on city agencies under the mayor's direct control, which employ about 200,000 workers. The mayor will seek to extend the policy and a similar freeze on promotions to such independent city agencies as the school and hospital systems. The city expects to save $25 million this year through the hiring freeze.

Reporters asked the city to supply a figure for New York's work force, but the city's budget director said the city would need several days to find out.

New York's $13.5 billion budget, half of which is supplied by federal and state governments, is particularly vulnerable to cutbacks in federal aid. The latest budget crisis was heralded when city officials projected a $75 million cutback for the year in the city's share of federal antirecession area aid.

The city also faces possible losses under the federal Comprehensive Employment and Training Act.

The city's losses may extend further. A dispute over a highway project could cost the city another $80 million included in the current budget. To handle such problems, Mr. Koch said the city will produce a contingency plan for another $100 million in possible budget cuts.

IMPORTANT FINANCIAL EVENTS

Unless they are solved, the budget problems could jeopardize two important financial events for New York. The conclusion of negotiations for the city's $4.5 billion financing package, and the planned sale of $100 million in notes later this fall, the first public sale of city securities since 1975.

The Treasury Department has been pressing the mayor to produce a list of budget cuts. The Treasury monitors the city's compliance with conditions set for receipt of federal loan guarantees.

Mr. Koch stressed during a news conference that the fiscal 1979 budget gap is small when compared with the budget. "We aren't in what I consider to be an emergency situation," he said.

The hiring freeze will accelerate existing efforts to save money by failing to replace all workers who leave the city work force. Mr. Toia estimated that the hiring freeze, if extended for the rest of fiscal 1979, will increase the annual attrition rate to 5 percent from 1 percent. The mayor hasn't set a time limit on the hiring freeze. Budget watchdogs criticized the mayor earlier this year for deferring the bulk of the planned attrition in the city's work force until later years of the city's four-year financial plan.

This plan calls for New York's budget to be truly balanced by fiscal 1982. The city currently balances its budget with the aid of state-sanctioned accounting loopholes. Under generally accepted accounting principles, the city's current budget, if "balanced," still would show a $560 million deficit.

[From the Fiscal Observer, Sept. 7, 1978]

BUDGET GAPS IN 1980–82 INCREASE IN REVISED FOUR-YEAR PLAN

Just before Mayor Koch returned from his Parisian trip in late August, his budget office released a four-year plan revision that may make Koch wish he had stayed in what he calls "the most beautiful city in the world," rather than returning to "the most exciting city in the world." The collective bargaining reserve the city put in the previous revision (the mayor's April budget message) turns out to have been too small, and the city's projections of unrestricted aid were too optimistic.

Although the city says its 1979 budget is still balanced—even after removal of all but $45 million in countercyclical aid—the legal budget gaps in the next three years are larger than Koch previously projected. The 1980 projected gap of $488 million is $128 million (34.8 percent) larger than projected in April, the $782 million gap in 1981 is $189 million (31.9 percent) larger, and the $868 million gap in 1982 is $166 million (23.6 percent) larger. As before, the revised 1981 and 1982 projections do not take into account $160 million per year needed to continue the 1979–80 bonuses as well as the costs of any new general wage increases, which the city and unions will negotiate 18 months from now. Nor does this revision include a firm debt package—which is still being worked out.

BUDGET PROBLEMS

Although the city council and board of estimate juggled some items in the 1979 plan when they adopted the year's budget, the new revision is the first formal change in the plan since the mayor's April message (see The Fiscal Observer, II-10, p. 1, and II-14, p. 3).

Revenues: Net revenues drop by $70 million in 1979 and $35 million in 1980 and increase by $9 million in 1981 and $3 million in 1982. The biggest change is the elimination of $120 million in unrestricted aid in 1979 and $55 million in 1980. (The 1979 adopted budget removed $20 million of federal countercyclical funds.) In addition, expected receipts from both property taxes and categorical grants are slightly less in each of the four years.

Projected revenue gains offset these reductions in 1981 and 1982 but not in 1979 and 1980. On the basis of revised economic projections, the city now expects receipts from other city taxes to increase. It projects stock transfer, general corporation, and sales tax revenues will be more than it expected in April, although receipts from the financial corporation and personal income taxes will be lower. Miscellaneous revenues may grow by $89 million in 1979, mainly because of an anticipated $66 million from the sale of Educational Construction Fund bonds in 1979 rather than in 1978 as well as greater interest earnings and housing revenues in each of the four years.

Expenses: The city now expects its net expenses in 1979 will be $70 million less than projected in April but $91 million more in 1980, $198 million more in 1981, and $169 million more in 1982.

Personal services. PS costs in 1979 are $19 million less than in the April revision, because of the city's civilianization, 1 percent attrition, and other savings programs. But the labor agreement pushes up costs after this year. In sum, PS costs are $284 million more in 1980 than projected in the April revision, $362 million more in 1981, and $404 million more in 1982. The new revision includes $187 million for Board of Education increment and longevity payments in 1980–82 excluded from the April revision. Although fringe benefit assumptions have not changed, the reserve for labor during the four-year period increases by $321 million.

Other-than-personal services. OTPS costs are now smaller in each year than projected in April: down $69 million in 1979, $141 million in 1980 and again in 1981, and $188 million in 1982. These reduced estimates result from the assumed continuation of underspending that created the 1978 "surplus" and from newly instituted cost-containment programs. The most important assumptions behind public and medical assistance estimates and subsidies to the covered organizations are an annual 2.5 percent decline in the public assistance caseload and no change in the Health and Hospitals Corporation's caseload and PS costs.

City debt service and MAC funding. The new revision projects less city debt service each year and greater MAC funding. After a net total increase of $3 million in 1979, the combined total declines by $56 million in 1980, $28 million in 1981, and $51 million in 1982. The reductions during the last three years of the plan reflect the city's scaled-down financing plans. Generally, debt service costs assume an 8 percent interest rate on both bonds and notes. The costs also assume the city will pay MAC $61 million in interest per year on $1.013 billion in city bond anticipation notes MAC holds, as well as interest on $719 million in bonds the city plans to issue to MAC in 1980–82 to mirror the same amount of MAC bonds.

Closing the gaps: The city plans an additional $43 million in actions in 1980, $87 million in 1981, and $100 million in 1982, mainly by boosting annual work force reduction from 3 percent to 4 percent. The city asks Washington and Albany to provide the same share of total actions that the city requested in the previous revision—another $83 million in unspecified actions in 1980, $102 million in 1981, and $66 million in 1982.

FINANCING PLANS

The scaled-down financing plan—similar to the one MAC Chairman Felix Rohatyn presented to Congress in June—anticipates a greater amount of city and MAC debt issues in 1979–80 than in 1981–82. The early issues will contribute to budget savings and clean up leftover financing problems.

Long-term purposes: The revised estimate of $2.3 billion in capital expenditures is $490 million less than projected in April. In addition, the city plans to use $900 million in MAC bond issues for expense items remaining in the 1979–81 capital budgets and $400 million to bond half of the 1978 state advance. (The city plans to liquidate the rest of the advance with its own cash.) MAC would also issue $900 million—$90 million more than previously projected—for refunding outstanding bonds ($600 million) and for filling its capital reserve and the 5 percent state reserve for guaranteed city bonds ($300 million).

Long-term sources: The city pension funds have indicated they could buy $375 million in guaranteed city bonds and $625 million in MAC bonds. The three state pension funds have been asked to buy another $375 million in guaranteed city bonds.

In May, local financial institutions agreed to buy $1 billion in MAC bonds over the four years. The revision calls for an additional $125 million commitment from the clearinghouse banks and $50 million from the savings banks and insurance companies.

The city needs to issue about $1 billion in unguaranteed bonds per year after 1982. As steps toward this goal, it plans to issue $300 million in 1981 and $650 million in 1982. The city is counting on the pension funds to pick up guaranted bonds if any of the bonds issued fizzle. Before the city tries to issue any unguaranteed bonds, MAC will issue $500 million per year to the public.

Short-term: By scaling down its 1979 seasonal needs from $1.8 billion to $800 million, the city has skirted the problem posed by the ending of the federal seasonal loan program. The city would like to issue notes to the public before January, and it plans to issue $300 million during fiscal 1979. The other $500 million in seasonal financing would come from private placements with the city pension funds and clearinghouse banks. City officials don't want to resort to guaranteed note sales to state pension funds.

Cash flow: The new revision projects $438 million cash on hand at the end of fiscal 1979, $378 million after 1980, $352 million after 1981, and $324 million after 1982. The updated 1979 cash flow picture shows larger balances at the end of July and August than the city projected on July 28, primarily because it will delay until at least October paying into the new debt service fund. (The EFCB must certify the guarantees are in effect before the city must put restricted cash in the fund.)

After August, the city's cash position is not so secure. The city projects $212 million in September bond sales and $275 million in MAC transfers to end the month with $256 million in cash. After $400 million in November seasonal loans, the city project's only a $95 million balance. December is little better; after $100 million in bond sales and $332 million in transfers from MAC, the city's projected cash balance on Dec. 31, 1978, is only $108 million.

Spending: The new revision goes far beyond any previous city document in projecting capital spending of city and noncity funds. Planned appropriations (authorizations) range from $1.1 billion in 1979 to $2.4 billion in 1981. Commitments (signed contracts) range from $1.2 billion in 1980 to $2.6 billion in 1981. Cash expenditures (actual payments) range from $0.8 billion in 1979 to $1.5 billion in 1982.

OUTLOOK

The projected budget gaps are troublesome, especially because major questions have already been raised over the 1979 budget (see Briefing, p. 4). Future plans include items for which the city will have to struggle—especially no increased labor costs and much new aid.

Immediate cash prospects are almost as gloomy, even though the city has delayed tying up cash in the new restricted debt service fund. The city is relying on real estate tax prepayments to meet a $108 million September 15 payroll. A $230 million payroll comes up on September 29, when the city hopes to have the first 1979 financing installments.

To reach this goal, Congress will have to pass two bills. The first, to appropriate the $1.65 billion for the loan guarantees, is not in trouble, but the full House cannot vote until after it reconvenes on September 6. Then the Senate must act. Senator Proxmire (D-Wis.) has indicated he will not hold up the bill by insisting on separate appropriations for each year's guarantees. The second, the pension bill, may pose problems. The new Senate version, worked out between Senators Moynihan (D-N.Y.) and Bentsen (D-Tex.) and approved by the Finance Committee on August 10, includes pension fund audit requirements to which fund managers may again object.

Still, once the city has financing, can it effectively complete the ambitious capital plan?

Mr. PROXMIRE. Mr. President, is the pending business House Joint Resolution 1088, the New York City loan guarantee?

The PRESIDING OFFICER. That is the pending business.

Mr. PROXMIRE. Mr. President, House Joint Resolution 1088 is an appropriation needed to implement the New York City loan guarantee legislation, which was signed into law on August 8.

The HUD-Independent Agencies Appropriations Subcommittee, which has jurisdiction with respect to this matter, held hearings on this resolution on August 16, and it was reported by the full Appropriations Committee by an 8 to 6 vote last week.

Although I voted against the resolution, I recognize the fact that the Congress has spoken favorably on loan guarantees by passing the authorizing legislation. Consequently I believe it is important that we move quickly to send this resolution to the White House so that the final details of a long-term financing plan for the city can be worked out.

The resolution simply authorizes the Secretary of the Treasury to guarantee the payment of principal and interest on loans of up to $1.65 billion. It further appropriates, as of October 1, 1978, such sums as may be necessary to pay the principal and interest on any guaranteed loans that may go into default—in other words it provides the dollars necessary to back up the guarantees. The funds could remain available up to September 30, 1998.

Although there was some discussion of doling the guarantee authority out on a year-to-year basis, the bill as reported provides a 4-year appropriation of the full amount of guarantee authority authorized. We took this step for three reasons:

The Treasury Department stated in the course of our hearing on the resolution that it was necessary to provide the full amount of the guarantee to gain the participation of the pension funds and financial institutions that will be involved in the loan package.

Second, the authorizing legislation

provides for a one House legislative veto of any particular guarantees, which should allow adequate congressional oversight.

Third, by following the approach endorsed by the House we are avoiding a conference and speeding enactment of the legislation, thus expediting the putting together of a loan package and avoiding a possible financial crisis for the city.

Mr. President, it is our conclusion that the $1.65 billion authorized is far more than is likely to be used. Much of this guarantee authority will be just a backup. Treasury officials told the subcommittee they intend to provide $500 million in guarantees in fiscal 1979—that is this year; $250 million in fiscal 1980; and then to hold the rest of the guarantees on standby to use only if needed. Language in the report on the bill indicates that this remaining $900 million in guarantees is available on a stand-by basis only.

There is every indication that it will not be needed. In fact, Mr. Rohatyn, who is the outstanding expert in this matter, felt there was some question as to whether even the amount of guarantees proposed to be provided will be necessary. But it is vital to have the full amount of the guarantee authority appropriated, in the view of most experts on New York, in order to persuade the pension funds and the banks to provide the capital that New York will need due to the fact that it does not yet have access to the capital markets.

There are provisions in the authorizing legislation which are intended to limit any potential losses by the Federal Govment. One provision requires the establishment of a State reserve fund equal to 5 percent of the principal of and 1 year's interest on the guaranteed obligations outstanding. This fund is to be used first to make payments in the event of a default. Another provision authorizes the withholding of Federal payments to the city or the State under other programs to cover any losses due to a default.

Mr. President, I am pleased that we have been able to move on this legislation reasonably quickly, and I appreciate the cooperation of the leadership and of my colleagues on the Appropriations Committee. I personally am opposed to Federal guarantees for New York City, because I think that they should not be needed and that they set a dangerous precedent for other cities. However, I know that the Administration and the various parties in New York feel that the guarantees are necessary, and they have told us that enactment of this appropriations bill is essential to put together the financing arrangements to see New York City through the next 4 years.

Now that Congress is winding up its part of the financing package, I certainly hope that the parties in New York—the city, the State, the financial institutions and the pension funds—will stop haggling over details and work out a final agreement on the financing arrangements. New York City is scheduled to run out of money on September 29, and although the city has squeaked through before and probably can again, it would be good if they could finally get things set in place.

As I understand it, the financing arrangements will include $4.5 billion in long-term financing through June 30, 1982, and 82 percent of that will be raised on an unguaranteed basis. Specifically, $1.8 billion of MAC bonds will be sold privately to financial institutions and pension funds, and $1.95 billion in MAC and city bonds is expected to be sold to the public. In addition, the city will need about $800 million a year in seasonal financing. Under the provisions of the guarantee legislation, the financing arrangements must insure that the city will be able to meet all of its financing needs, both long-term and seasonal, over the full 4-year period, other than those which are guaranteed, through private placements or through expected public sales of its obligations. The committee has directed the Treasury Department to carry out this requirement to the letter, including obtaining commitments for seasonal financing in those years in which public sales are expected to fall short of the city's needs.

Mr. President, I think it is most important to minimize the extent of the Federal Government's involvement in New York City's financial affairs from hereon in, and the committee has directed the Treasury Department to do this, in accordance with the provisions of the authorizing legislation.

First, the committee directed that the guarantees authorized for the latter two city fiscal years, 1981 and 1982, be available on a standby basis only. If the city complies with the other requirements of Federal and State law regarding a balanced budget and other matters, then these additional guarantees are not likely to be needed.

Second, the Treasury should work to get the city back in the credit markets on its own as rapidly as possible. This would include urging the city to attempt to sell notes in this 1979 fiscal year, as I understand they intend to do later this fall. It also means that the city should be encouraged to sell bonds as early as market conditions permit, preferably sometime next year, 1980.

Third, the committee indicated that it takes very seriously the requirement that the city be directed to refund all of the guaranteed obligations outstanding as rapidly as possible once the guarantee program ends on June 30, 1982. That is the best way to get the Federal Government out of New York City.

Mr. President, it is absolutely crucial that New York City achieve a balanced budget in accordance with generally accepted accounting principles by fiscal year 1982. This is required by Federal law; it is required by State law. Both the State's Emergency Financial Control Board and the Treasury Department have recently told the city that it has to make additional budget cuts, in light of probable reductions in Federal aid and other revenues. I am pleased to note that Mayor Koch has responded very quickly and positively and has imposed a freeze on hiring and promotions in the city government. I have great respect for Ed Koch's ability, and this is an excellent indication of his commitment to restoring New York City to financial soundness.

Mr. President, there is another issue I have to mention, because it is a matter of some concern. I understand that the banks and the other New York financial institutions involved are demanding that the city pay all of their legal fees connected with the financing arrangements, as a condition for their participation. These costs could run as high as $1 million or more, and obviously there will be no incentive whatsoever for the banks to hold down expenses if they are not directly responsible for paying them.

This is outrageous. Here Congress has gone and passed legislation to get New York City back on its financial feet, and now the banks want to impose additional burdens on the city's budget. The banks will already be getting huge amounts of money out of the city in the form of high tax-exempt interest rates charged on the MAC bonds they are going to buy. In addition, the banks will get more fat fees from underwriting public sales of MAC and city securities over the next 4 years, and the existence of the Federal guarantee program will be a real selling point.

Now on top of this, the banks want the city to pay their legal fees too—to the tune of about $1 million. This may be conventional practice for private placements, but the financing arrangements involved here—including $1.65 billion in Federal guarantees—are most unusual, indeed unprecedented. Therefore, conventional norms should not apply.

I strongly believed that the financing arrangements worked out should not include any requirement that the city pay unlimited legal expenses on behalf of the financial institutions or any other party to the arrangements, and I should point out that the committee report directs the Treasury to refuse to agree to any such requirement.

Mr. President, I think in view of the fact that we have had extended debate on this matter in the Senate, both at the time we passed the authorizing bill and at the time we passed the conference report on the authorizing bill, and the fact that we have had very careful hearings on the bill in the Senate, the Senate may be prepared to vote up or down on this now.

Mr. JAVITS. Mr. President, it would be expected, of course, that I would favor this resolution, and I shall not detain the Senate long in discussing it.

My colleague, Senator PROXMIRE, notwithstanding his vote against it and his position against it, in my judgment, has been one of the principal reasons why we are where we are, because he has realized once we decided on the issue of policy, and the Senate did decide that after careful deliberation, we should follow through to see that the policy is successfully implemented. That is what I want to say today.

Mr. President, I see a new spirit in my native city. I was born there. I have lived there all my life, and I think it is finally coming together.

I cannot promise great successes for

New York financially. We were too deeply in the hole.

The PRESIDING OFFICER. Will the Senator withhold for a minute? May we have order in the Senate? The Senator is addressing the body.

Mr. JAVITS. I say I cannot promise brilliant financial successes for New York City. We were too deeply in the hole. We have had highly difficult and incompetent and sometimes corrupt administrations in New York. We have been terribly wasteful, thinking there was no end to the resources of the city, and the demography turned against us in a great shift in its population following the middle 1950s, and the grave welfare load which that introduced, including the load of crime and other difficulties which New York City has carried.

But, Mr. President, with the inspiration of the fact that the people of the United States expressed their confidence in us through this legislation to aid us, I see a new spirit in the city. It is manifested in many volunteers to do municipal work. It is manifested in a much tighter municipal administration which, I think, Mayor Koch is running, and very effectively.

It is manifested in a determination to use the resources which we have effectively.

It was manifested in the great cooperation by the trade unions. It is very interesting that at one and the same time that the most heated collective bargaining was going on with municipal employees, their pension funds agreed to insert the essential keystone of the arch which is represented by this particular measure which is before us today.

Finally, Mr. President, there has been a new feeling by the people of the country about New York City. It began with the Democratic National Convention in 1976 from which great satisfaction was derived by practically everybody who attended it.

It has continued with an enormous influx of visitors and with a recognition of the fact that New York City is in real terms a great hub of the universe, and also the truly national city of the United States in terms of many of the manifestations of art, culture, business, finance, literature, transportation, education, and health in which we consider the American aspiration to mainly reside.

Mr. President, I will dedicate myself, and I know Senator MOYNIHAN will speak just as eloquently for himself, to see that the implication that we would personally ride herd on this situation to see that New York did not get dumped again by itself, that this will not recur, and I am very hopeful that with this new spirit in the city, notwithstanding our unbelievable and monumental troubles, and they are still there, that we will utilize the opportunity which the United States has given us to make of the city an even richer ornament for our country, be an even greater contributor to its stability, to its progress, and, yes, to its financing, as we are one of the major sources in this country for the generation of revenue for the Federal Government.

May I express, too, as I see my colleague, Senator MOYNIHAN, on the floor, the great pleasure and satisfaction I have derived from working in the most brotherly way with him in this very difficult problem. I think it fair to say we have never tried, and I hope Senator Proxmire will feel that way about both of us, to gild the lily or to color up the facts, but really tried to convince our colleagues realistically that in the interest of our Nation, in the true national interest, this was the way to go.

We both owe him, Senator MOYNIHAN and I, a deep debt of gratitude not only for his patience but also for his persistence and a little bit of cynicism, and the demand that we prove our case. I think that is what enabled us to do it.

I thank the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that Tim Russert, Mike Hodin, Elliott Abrams, and Martin Katz of my staff be given the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I would like to join with my revered senior colleague in expressing our gratitude to the Senator from Wisconsin, and our appreciation for the rigor which he has brought to our not-always-rigorous discussions of the affairs of the city of New York.

I would like to thank my colleague, Senator JAVITS, for his avuncular and kind remarks about me.

Mr. President, just yesterday the second of the three pieces of legislation necessary for this enterprising program was adopted. At the time, I commented on the reappearance of a fiscal crisis in the city of New York—a crisis that was attendant upon a seeming loss of momentum of the President's urban policy.

Mr. President, we have before us today House Joint Resolution 1088, the bill appropriating funds for the New York City Loan Guarantee Act of 1978. I should like to address some remarks first to my colleagues here in the Senate, who must vote on this legislation, and then to my fellow New Yorkers, who must live under it.

I wish, of course, to ask my colleagues to support this bill, as they have supported H.R. 12426, the Loan Guarantee Act, and H.R. 4007, the bill authorizing continuing city employee pension fund investments in city securities. I do not do so with the view that we need have no concern for the security of the Federal Government's position or of its funds. I do so rather with the view that both the "loan bill" and the "pension bill" contain extraordinary protections for the Federal Government. Let me be specific, for the range of protective provisions is extraordinary. In the Appropriations Committee's brief and concise report on House Joint Resolution 1088, a summary of the conditions and protections which surround the loan guarantee takes an entire page.

The "pension" bill, H.R. 4007, contains many clauses protecting the pension fund beneficiaries. As part of this plan, the bill requires that an independent public accountant audit the city's financial statements, and that these be prepared in accordance with generally accepted accounting principles. It also requires that, each year, the Secretary of the Treasury make a determination as to whether the city is making substantial progress toward a balanced budget.

The primary protections are contained in the Loan Guarantee Act. I can do no better than to quote from the report of the Banking Committee on the bill, Report 95–952:

> There are a number of conditions which must be met before the guarantees can be provided. The Secretary must determine that there is a reasonable prospect of repayment of the guaranteed obligations and that credit is not otherwise available on reasonable terms. Interest rates established shall take into consideration current average market yields on other federally guaranteed obligations of comparable maturities, and there shall also be an annual guarantee fee of not less than one-half of 1 percent. The city must demonstrate that it has in place a plan for bringing its budget into balance according to generally accepted accounting principles by fiscal year 1982 and for making substantial progress toward this in the intervening years. There must be an independent fiscal monitor established under State law which is requiring the city to adopt and adhere to such a plan. There must be independent audits of the city's financial statements conducted in accordance with generally accepted accounting principles at the end of each of the city's fiscal years, and an audit committee must be established to review the progress and evaluate the results of such audits. The Secretary must determine that the city's remaining long-term borrowing needs and all of its seasonal borrowing needs will be met through commitments from the State, an agency of the State, or private sources (including financial institutions and pension funds), or through public credit markets in amounts sufficient to enable the city to meet all of its financing needs, both long term and short term, the public credit markets after the guarantee authority expires on June 30, 1982.

In addition, the Loan Guarantee Act provides a one-house veto, under which either House of Congress could disapprove any increase in guarantee authority in fiscal years 1980 or 1981.

Finally, the bill mandates that the Treasury, in the event the Government is required to honor guarantees, withhold Federal transfer payments to New York City and to New York State.

The committee, rightly in my view, describes these conditions as "onerous" and as "stringent." "The city," as the report states, "has been required to surrender much of its real spending power • • • [and] is also subject to continual monitoring by the Treasury and the General Accounting Office." The State of New Yorks' Emergency Financial Control Board, whose life has been extended for up to 30 years, retains extraordinary powers: to approve or disapprove or to change the city's financial plan; to approve or disapprove city contracts, including labor contracts; to approve or disapprove long-term borrowings; and if need be, to maintain a separate fund

through which the cash resources of the city may be controlled. Every dollar of real estate tax revenues is taken, not by the city, but for a special fund under the control of the Special Deputy State Comptroller, and applied to the repayment of city notes and bonds.

Now this is all unprecedented and extraordinary. No other city has ever operated under such restrictions. I say this not by way of complaint or criticism. On the contrary, I think we owe a debt to the Committee on Banking and to its incomparable chairman, Senator PROXMIRE, for having crafted a bill which allows New York the help it needs while providing the U.S. Government with the security it needs.

But let us all be very clear on the situation which has now emerged. New York City has occupied an extraordinary amount of the time of three committees of this body, all of which are said to have voted "for" New York, and we are now debating what, I hope and trust, will be the third "famous victory" for New York on the floor of the Senate. This victory will transfer no Federal resources to New York; rather it will allow the city of New York to go $4.5 billion further into debt. If I may quote Pyrrhus, "Another such victory * * * and we are undone." The bill we have before us appropriates $1.65 billion to allow loan guarantees for New York. The Loan Guarantee Act was signed by the President on August 8, 1978. Four days earlier, to quote from the New Yorker magazine of September 4, 1978, "The President * * * signed into law a bill that will provide financially troubled American farmers with Federal loan guarantees of up to $4 billion * * * the $4 billion worth of what amounts to Federal loan insurance for farmers will apply to their routine borrowing transactions and will be limited by nothing like the strictures that New York City had to agree to before it was voted its much smaller amount of loan guarantees."

What is truly remarkable here is that it has taken such a lengthy amount of the Senate's time to give New York so little. And now, we face the prospect that that which has been done for New York will prove to have been done not as part of a broader urban policy, but instead of one. Last week, I led the debate on behalf of the President's labor-intensive public works program. I made the point that this was a test of support for the President's urban policy. The Senate will recall that the test was failed: we obtained 21 votes.

I do not know quite what to make of that vote. But I do know that there are those who feel that the Senate has heard all that it ought to hear about the plight of New York City for the time being. The report of the Banking Committee, states clearly that "This is the last time." I must frankly say that if the Senate has heard all it wants to hear about urban problems, and done all that it cares to do about them, then the city of New York may well be doomed to insolvency.

We have before us today, I wish to repeat, not a substitute for a national urban program. We have before us a measure which will permit the city of New York to go even further into debt in a last ditch effort to achieve financial stability.

I urge my colleagues to be guided by the wisdom and the work of the Committee on Banking in their judgment that the Loan Guarantee Act provides adequate security for the United States, and deserves your approval.

The appropriations bill before us has been approved by the Subcommittee on HUD and Independent Agencies, which has the distinction to be chaired by the self-same Senator from Wisconsin, and by the full Committee on Appropriations. I believe it to be responsible legislation, and would wish to thank Chairman MAGNUSON for his unfailing courtesy and assistance.

I should like, at this point, to address a few remarks to my fellow New Yorkers.

The passage of this legislation will mark the completion of Senate action on all parts of the legislative package designed to deal with the New York City crisis. Not the completion for this year, but the final act. In its report, the Banking Committee said that:

> The Committee wishes to make the point as forcefully as possible that this is the last time.

I do not doubt this, and would warn my fellow New Yorkers not to doubt it either. The future of our city is now in our hands.

In his testimony to the Banking Committee, Mayor Koch said that:

> I want you to know that we are not looking for a handout. We are not asking for welfare. Rather we ask you to allow us to help ourselves.

Such help will, when both Houses have passed and the President has signed these bills, be available to us.

But this is not the end of our financial crisis; rather it is the start of what must be our own mastery of it—or our defeat by it. Already the mayor has announced, this week, a hiring freeze. This is but the first of what I fear, but am near certain, must be a series of extraordinary austerity measures we will need if we are to keep city's budget in balance.

The city of New York has already begun to take action, as under these strictures it must, to assure that its budget is balanced. I ask unanimous consent to include in the RECORD, at the conclusion of my remarks, the letter to me from Mayor Koch dated September 19, 1978, and the statement by Mayor Koch made September 15 on the same subject. The mayor notes that a hiring freeze has been imposed and that additional expenditure cuts will be imposed to whatever extent is necessary. The mayor explains, and I think it important to read this paragraph from his letter:

> I think it should be emphasized that in no way are our budget difficulties attributable to expenditures in excess of budgeted amounts. Rather, we are faced with the prospect of diminishing revenues from Federal and State sources, and we feel we must take action now to bring our expenditures into line.

The revisions in the financial plan reflect, that is, no failure on the part of the city except the failure to be insufficiently pessimistic about the fate of President Carter's urban policy. The public works jobs program, the CETA program, and the countercyclical revenue sharing program, all crucial to the President's urban policy, have been unfavorably treated in the Congress, with rather dire results for New York City and other distressed cities. The situation, then, is that New York City is attempting to return to budgetary stability at precisely the moment at which vital Federal assistance is being cut back. Thus is the city forced to revise its financial plan and make even further cuts of its own, to accommodate the cuts we make here. And Mayor Koch assures us that these cuts are now under way, stating flatly that:

> I would like to assure you that we will take whatever actions are necessary to keep our budget in balance and meet the requirements of Federal and State law.

He can, of course, do no less under the comprehensive system of restrictions, and monitors under which the city now operates. I do not pretend to know what measures will be needed, nor is it my responsibility—nor, yet at least, that of the Federal Government—to choose these. That responsibility lies with the city's elected government acting within the constraints which State and Federal law now impose.

But let us understand the precise nature of the situation in which we find ourselves. Seemingly, endless hours of debate were required before the Congress would approve, not a transfer of a dollar in resources to us, but instead merely a guarantee program allowing us to go further into debt. Meanwhile, the President's urban policy program does not fare well. Events are not moving with us.

I began last January to offer an explanation of how we got to where we are.

I submit to you that what now unfolds before us originates, in fact, in the 1975 settlement affecting the seasonal loan program. The central, though unstated, axiom of that legislation was that a short term solution, one of 3 years' duration, would be adequate—because within 3 years there would be changes in the National Government that would redound overwhelmingly to the benefit of New York City and all cities.

I believe the settlement of 1975 and the expectations for 1978 can be explained by reference to two "grand illusions." I refer, first, to the belief in a general, nationwide "urban crisis." It was once fashionable to think—indeed, obligatory to think—that the case of New York was but one instance of a national urban crisis. That is to say, the condition of New York, no matter how advanced, was but one symptom of a larger problem, and that the response to the large problem would, as a matter of course, also rescue New York.

I cite the especially illuminating remarks of Mr. Richard Nathan, of the Brookings Institution, in his testimony before the House Budget Committee on February 3, 1978. Mr. Nathan points out that a tendency to see nothing but a "national" crisis and create

Federal policy accordingly could well make our problem worse, not better. Nathan says:

> Though the United States does not have a national urban crisis, we face a situation in which some—by no means all—big cities and a few older and larger suburban cities are experiencing what can be called 'urban crisis conditions'. . . . A national policy of aiding all regions—and focused on regions as such—may just exacerbate the special and deep problems of the true hardship cases—Detroit, New York, New Orleans, Newark, St. Louis, Buffalo, East St. Louis, Yonkers, Camden and Trenton, New Jersey, to name some obvious ones.

I believe this realization, that there is no national urban crisis, has taken hold, to a large degree, the difficulties of the administration's urban policy.

Second, and perhaps even more pertinent, was the expectation as to how a new administration would behave once installed in power.

The persons who put the emergency arrangements together assumed that in 3 years' time—in 1978—there would be a Democratic administration in office and that it would take care of the problem with a massive infusion of Federal funds.

It was possible for responsible men in 1975 to think that with a change of administrations there would be a great release of funds.

Well, this just is not happening. President Carter in his economic message for 1978 observed that in fiscal 1976 Federal outlays amount to 22½ percent of the Nation's gross national product. He proposed to reduce this proportion.

> In formulating my recommendations for the 1979 budget, I have exercised very strict controls over spending. Adjusted for inflation, the increase in outlays has been held to less than two percent and the share of Federal expenditures in GNP will fall to 22.0 percent. I intend to continue prudent expenditure controls in the future. With good management we can, I believe, achieve our Nation's important social goals and still reduce over time the share of gross national product committed to Federal expenditures to about twenty-one percent.

Now there is something deep in the political imagery of the country, and therefore, something in the political typology of the country, which says to us that Demorcatic administrations are activist, expansionist, and, so to say, free spending, whereas Republican administrations emphasize retrenchment and frugality. So wedded are we to this typology that it often takes years to realize that such assumptions can be and have been wrong.

Samuel Huntington has spoken of two great "shifts" in public spending—the "defense shift" of the 1950's and the "welfare shift" of the 1970's. Both these shifts, although each began under a Democratic predecessor, were substantially completed during periods of Republican ascendency. Instead a similar pattern obtains in both—especially in the proposition put forward by Democratic presidential candidates. One thinks of Presidents Kennedy and Carter. In 1960 President Kennedy made much of the "missile gap." In 1976 the Official White House "compilation of Campaign Promises" runs to 120 mimeographed pages. Both assumed that their predecessors of the opposite party had not spent enough money in the areas of special concern to them. Both took office to discover that not only had their predecessors spent a lot of money, but that indeed, in a sense they had spent all the money that reasonably could be spent for purposes.

What does this mean? It means that the specific measures required to prevent New York City from going bankrupt will not flow from general measures which the administration will put in effect to overcome the "crisis of the cities," the decline of employment in the northeast, or whatever.

Few such measures will be proposed and fewer still will succeed in Congress.

The lesson for New Yorkers is plain: We cannot act under the assumption that significant amounts of additional help from Washington are at hand. There are significant problems, indeed crises ahead—and in them we will be on our own.

I would only state what all New Yorkers must know. We have given our word and now we must keep it. It will be difficult. It will require actions that cause sacrifice and discomfort, at levels which will at times seem to some of us near tragic.

The alternative is the loss—at the same time—of both our independence and our honor. The mayor has pledged that he will never allow this, and I know that he means to keep his pledge. As Mayor Koch said at City Hall on the day the Loan Guarantee Act was signed by President Carter, "The struggle for a sound City is not over. It is just a beginning." He will need the help of all of us, and I would say to my fellow New Yorkers that, if our city is to survive as the city we love, he must have it.

I ask unanimous consent that the following statement of Mayor Edward I. Koch of New York City, be included in the RECORD. In it, he announced, in effect, a freeze on hiring and promotions in the city in response to these new developments: The potential failure of the measure concerning CETA funds, that of the countercyclical fund, as well as that of the labor-intensive public works fund.

I also ask unanimous consent that a letter from the mayor to me describing the situation be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY MAYOR EDWARD I. KOCH

Last January, during my first month in office, my administration submitted to the Emergency Financial Control Board and the United States Treasury a Financial Plan for the fiscal years 1979 through 1982. That Plan, aimed at bringing the City's budget into balance, was predicated on a series of City, State and Federal actions to reduce City expenditures and increase City revenues, as well as a program of Federal loan guarantees.

In the eight months since the submission of that Plan, much has been accomplished. With the support of President Carter, the Congress has approved the loan guarantee program. We in the City of New York have taken those actions required of us by the Plan. The State of New York, under the leadership of Governor Carey, has done its share. Unfortunately, however, some of the reasonable assumptions of January have not become the realities of September.

It is clear, following discussions with EFCB and Federal officials, that our original estimates for receipts from Federal assistance—which were based on existing legislation—must be adjusted downward to account for likely Congressional reductions in receipts expected from countercyclical and CETA funds. In other words, the City will in all likelihood not achieve the revenue levels from these programs in fiscal years 1979 and 1980 which had been forecast originally. While the precise magnitude of this shortfall is not known at this time, it is imperative that we take immediate actions to reduce expenditures so as not to jeopardize the City's continuing fiscal recovery.

On August 24th, my administration submitted to the EFCB a series of expenditure reductions, over and above those already taken in the Financial Plan. At that time we said we would devise further plans to meet contingencies as they arise. In this regard, I am now announcing steps to deal with a probable budget gap for fiscal 1979, and plans to develop contingencies for potential shortfalls in 1979 and later years.

Effective immediately, a hiring and promotion freeze shall be imposed on all agencies over which I exercise direct control. In addition, my staff will be seeking agreement with the so-called "non-mayoral" agencies, such as the Board of Education and the Health and Hospitals Corporation, for the imposition of a similar freeze in those agencies. I also am asking the City's other elected officials to institute a freeze on their staffs.

This freeze, I realize, is a drastic action, but it is necessary as an immediate answer to our apparent problems. Other actions also will be taken. These actions currently are being drawn up by the Office of Management and Budget and will be presented to the EFCB by Friday, September 22.

The hiring and promotion freeze will affect most City agencies. Some agencies—a limited number—will be excepted on account of fixed or legally mandated managing requirements, such as the Fire and Correction Departments, or because of revenue producing activities. Other exceptions may be granted providing that the agency can justify the exception to me in writing. In justifying the exception, the agency must identify an amount of savings equal to the cost of hiring involved. I have asked Deputy Mayors David Brown and Philip Tola to review these requests for exception; I will make the final decision.

This hiring and promotion freeze, although drastic, will help achieve the sort of savings necessary to meet our immediate problem and to give us the recurring savings necessary to assist us in fiscal 1980. Although I recognize that a hiring freeze is one of the least desirable approaches from a management standpoint, it will initiate immediate savings while giving the City administration time to develop, evaluate and impose additional programs of savings. In this regard, I must emphasize that this problem of Federal revenue shortfalls is not one of fiscal 1979 alone, since the Financial Plan envisioned increasing levels of Federal assistance in each ensuing year.

Since the President has indicated his intention of balancing his budget, and since this includes a "no growth" policy for local assistance, it is clear that shortfalls of expected Federal revenue will occur in future fiscal years. For this reason, the Office of Management and Budget will be working with City agencies to identify areas of further savings. This process, which is part of the ongoing budget cycle for fiscal 1980 that began in August will be completed in December at which time we will identify those actions which can, or will, be taken to meet this problem.

Let me state this very clearly: I am committed to the goal of a balanced budget for the City of New York. I will take those actions which are necessary to achieve that goal. We

have made such progress in our struggle for fiscal recovery; we must and we can do more.

Last month, in front of City Hall, the President of the United States signed the bill authorizing the Federal loan guarantees for which we had fought so hard. At that time, while I acknowledged the end of that struggle, I said:

". . . there remains the challenge of getting back on our feet. This will mean more sacrifices in the years ahead. The struggle for a sound City is not over. It is just beginning."

THE CITY OF NEW YORK,
New York, N.Y., September 19, 1978.

Hon. Senator PATRICK MOYNIHAN,
Dirksen Senate Building,
Washington, D.C.

DEAR PAT: I would like to bring you up to date on the August 24, 1978 revision of the Four Year Financial Plan that we submitted to the EFCB and the selective hiring freeze imposed on September 15. I enclose some background material which goes into considerable detail on these subjects.

The freeze is part of our program to prepare for the large budget gap projected for Fiscal Year 1980 as well as to take account of certain potential revenue shortfalls in Fiscal Year 1979. The full program, which will be submitted to the EFCB on September 22, will update earlier revenue and debt service estimates and will reduce expenditures for both personnel and non-personnel costs such as materials, supplies, and energy to the extent necessary to resolve the uncertainties with respect to the Fiscal Year 1979 budget. The attachment highlights some of the major uncertainties cited by the EFCB and the U.S. Treasury.

We feel that Fiscal Year 1979 does not pose too large a problem. It is even possible that we may ultimately end up with a surplus. However, in order to close the gaps projected for subsequent years, we need to start shrinking our current budget in ways that will yield recurring savings.

The Office of Management and Budget is now working with the agencies to determine how the hiring and promotion freeze can be implemented so as to interfere as little as possible with vital services and with revenue-generating activities. Many factors, such as fixed post requirements and court-and legislatively-mandated services, must be taken into account. Besides the freeze, other areas of savings are being explored with the agencies.

The selective freeze and other savings actions will be put into effect immediately and will remain in place for an indefinite period. During the next three months, we will develop a comprehensive program for dealing with the remainder of Fiscal Year 1979 and all of Fiscal Year 1980. This means working out a formal "Program to Eliminate the Budget Gap" similar to the PEG program incorporated into the Fiscal Year 1979 Budget.

I think it should be emphasized that in no way are our budget difficulties attributable to expenditures in excess of budgeted amounts. Rather, we are faced with the prospect of diminishing revenues from Federal and State sources, and we feel we must take action now to bring our expenditures into line.

As you know, we maintain a general reserve of $100 million to cover uncontrollable expenditure increases or revenue reductions and an additional $100 million reserve for disallowance of claims. The actions we are taking are over and above these reserves. I would like to assure you that we will take whatever actions are necessary to keep our budget in balance and meet the requirements of Federal and State Law.

Behind our budget cuts will be the secondary defenses for both Fiscal Years 1979 and 1980 of contingency programs capable of being activated if necessary. These will be submitted to the EFCB on September 22 as well.

If you have any questions as to our intentions, our plans or actions, I would be very happy to respond promptly.

Thank you for the magnificent help you have given us thus far. I look forward to continuing to work closely with you in the future on these matters of vital concern to the City.

Cordially,

EDWARD I. KOCH,
Mayor.

MAJOR REVENUE UNCERTAINTIES IN FY 1970

COUNTERCYCLICAL AID

The FY 1979 Financial Plan originally approved by the EFCB in July included $120 million of countercyclical aid based on the administration's bill. However, under the terms of the legislation which is currently being proposed in Congress, it is estimated that the City will receive approximately $45 million during Fiscal Year 1978.

CETA

On September 12 the Mayor wrote to Congressman Delaney expressing his concern about the CETA program. In that letter he estimated that the impact of the recently passed Obey and Jeffords amendments combined could cost the City as much as $88 million and the loss of 8,000 CETA positions with corresponding losses in essential services. The costs to the City in 1979, however, were estimated to be in the range of $20 million. A copy of the Mayor's letter is attached.

WESTWAY

The City has included $80 million from the sale of the Westway right-of-way in its FY 1979 Financial Plan. While the City intends to continue to push forward in its efforts to complete the sale and begin construction of Westway, certain administrative and legal issues must be resolved which may delay the actual sale until after Fiscal Year 1979.

OTHER FEDERAL ACTIONS

Approximately $18 million of Federal assistance to the City was included in the FY 1979 Budget and Financial Plan on the basis of commitments made by the administration when the Four Year Plan was prepared in January. Extensive discussions between the City and the administration have taken place to identify these actions. While several alternative actions have been proposed and are being reviewed, specific programs have not been agreed to by the City and the administration.

Mr. MOYNIHAN. I would like those Senators who are present in the Chamber to realize that this extensive statement is bearish. It suggests that the difficulties of the city are in no sense behind us.

At the same time, I am well aware that this is not a moment at which any Member of this body wishes to hear them detailed at length. I am obviously available to anyone who would like to discuss them.

I simply want it understood that as we conclude this phase of our efforts, we have by no sense concluded our involvement. Some day, some administration is going to find out that unless the political economy of New York City is changed in some fundamental way with respect to the problem of welfare, that problem will continue to grow; indeed, it has already, a crisis of national proportions, and it may well persist for the rest of this century. But this is not the time to dwell on that sad fact; it is the time to thank my colleagues, and especially, once again, the Senator from Wisconsin.

I yield the floor.

The PRESIDING OFFICER (Mr. GLENN). The question is, Shall the joint resolution pass? The yeas and nays have been ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, in order to dispose of a matter that can be taken up and disposed of in 2 or 3 minutes, I ask unanimous consent that the Senate go into executive session for not to exceed 5 minutes to take up a nomination at the desk, reported favorably today by the Committee on the Judiciary.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the nomination.

THE JUDICIARY

The second assistant legislative clerk read the nomination of Richard S. Arnold, of Arkansas, to be U.S. district judge for the eastern and western districts of Arkansas, favorably reported earlier in the day by the Committee on the Judiciary.

Mr. BUMPERS. Mr. President, I will only take a couple of minutes to share with the rest of my colleagues my thoughts about this nomination.

Richard Arnold comes from Texarkana, Ark., and joined me on a temporary basis in 1972 just before I began my second term as Governor. Then he stayed with me permanently after that in the Governor's office, and when I came to the Senate I asked him if he would consider coming to Washington with me as my legislative aide.

Much to my surprise, he agreed. I would like to share with my colleagues a little of Richard Arnold's background which will point up the fact that my nomination of him was one of the most selfless and incidentally, painful acts I have ever committed.

Richard's academic background was Exeter, Yale, and Harvard. I doubt whether there is another person in the United States who could say he was second in his class at Exeter, first in his class at Yale, and first in his Harvard Law School class. Those are certainly the most impeccable academic credentials I have ever heard described in this body.

But that tells only a small part of the story of Richard Arnold because, unlike most people with that kind of academic credentials, I have never seen him display the least impatience, and I have never heard him utter a word in hostility or vindictiveness. He is a warm, kind, sensible, thoughtful, commonsense man, who is going to reflect great credit on the Federal judiciary. The truth of the matter is that if I were President of the United States, he would be my first pick to serve on the Supreme Court of the United States when the first vacancy occurred, and I hope and believe that some day Richard Arnold will be on the U.S. Supreme Court.

This loss to me, of course, is devastating in my office. He has been at my right hand for almost 6 years now, and I will hardly know how to conduct myself

without him. I have learned to depend upon him. With all due deference to the Senate Parliamentarian, if there is another man in Washington who is as skilled in the rules of the Senate, Richard is.

But even so, Mr. President, the loss to me personally and the loss to the Senate is a great gain to the Federal judiciary and to the people of the State of Arkansas. One hears a lot of talk around here about creating panels to pick Federal judges. That has some merit, but you do not need a panel when you have a man of this quality and this ability available. I predict that he will become veritably legendary in the Federal judiciary, and I appreciate the opportunity to say these few words of tribute to my friend: a superior person—one of the few I have ever known—and to wish him godspeed on his new job.

Mr. HODGES. Mr. President, I join my senior colleague and good friend from Arkansas in strongly urging the Senate to approve the nomination of Richard Arnold. You have heard his academic qualifications. Not only that, he is a very fine person. He has unusual common sense. Most very bright people do not, but he does.

Sometimes we hesitate, on appointments for life, to wonder, will they change? I submit to you Richard Arnold will not. I submit to you that he will make an outstanding judge. I think it is simply a matter of time until he comes to the attention of all of this country, and he will be elevated, I would hope and trust, one day to the U.S. Supreme Court.

I am proud to have shared in this nomination. I, too, regret, for the sake of Arkansas and our legislative task, the loss of his wise counsel, for I have called upon him for assistance also. But we in Arkansas will be blessed by his presence on the Federal bench, as will the entire Nation.

I join with Senator BUMPERS in paying tribute to Richard Arnold, asking for his speedy confirmation, and wishing him godspeed also.

Mr. HART. Mr. President, will the Senator from West Virginia yield me 30 seconds?

Mr. ROBERT C. BYRD. Yes.

Mr. HART. Mr. President, although this nomination does not affect my State, obviously, it has been my privilege and pleasure to know Mr. Arnold and work with him for the last 4 years.

In a word, I cannot think of anyone I know of who is better qualified to be a U.S. district judge.

Mr. ROBERT C. BYRD. Mr. President, the Senate is ready to vote on the nomination.

Mr. BUMPERS. Mr. President, I move the confirmation of the nomination of Richard Arnold.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr. ROBERT C. BYRD. I move to reconsider the vote by which the nomination was confirmed.

Mr. HODGES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed, for not to exceed 2 minutes, to consideration of the nomination of Bruce S. Jenkins, of Utah, to be U.S. district judge for the district of Utah, reported favorably and I believe unanimously by the Committee on the Judiciary today. I ask unanimous consent for the immediate consideration of that nomination.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the nomination.

The assistant legislative clerk read the nomination of Bruce S. Jenkins, of Utah, to be U.S. district judge for the district of Utah.

Mr. HATCH. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I am very pleased to move the confirmation of the nomination of Bruce Jenkins, who has been the bankruptcy referee and judge out in Utah for a number of years and he is an excellent person of high moral character. He will be impartial, decent, honest, and hardworking and I am sure he will be one of the best district judges on the Federal bench.

The reason why we are particularly interested in getting this appointment speedily approved at the present time is because our lone Federal district judge in Utah, Chief Judge Aldon Anderson, has been unduly burdened for more than a year now. He has a tremendous backlog of litigation, and desperately needs assistance.

Senator GARN is not here on the floor, his presence being required in committee, but he heartily joins with me in recommending the confirmation of the nomination of Bruce Jenkins as a U.S. district judge for the district of Utah, and I move the confirmation of his nomination at this time.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

NEW YORK CITY LOAN GUARANTEES

The Senate continued with the consideration of the joint resolution.

Mr. ROBERT C. BYRD. Mr. President, a rollcall vote has been ordered on the New York City legislation, but I understand that the distinguished Senator from Texas (Mr. TOWER) wants to make some remarks before that vote. Therefore, I suggest that the cloakroom notify Mr. Tower.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SCHEDULE

Mr. ROBERT C. BYRD. Mr. President, for the information of Senators, there will be a Saturday session, and I would anticipate rollcall votes.

It is the intention of the joint leadership of the House and the Senate to adjourn sine die by October 14. This would mean that the Senate will have to work every Saturday between now and that date to get its work done.

REHABILITATION, COMPREHENSIVE SERVICES, AND DEVELOPMENTAL DISABILITIES AMENDMENTS OF 1978

The Senate continued with the consideration of the bill.

UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the vocational rehabilitation bill, Calendar Order 820, and which is pending business, the following amendments be in order, and no others: Amendments by Mr. BUMPERS, Mr. JAVITS, Mr. MCCLURE, Mr. CRANSTON, Mr. RANDOLPH, Mr. BELLMON, and Mr. STAFFORD.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Will the Senator yield for clarification?

Mr. ROBERT C. BYRD. Yes.

Mr. JAVITS. In some cases there may be perfecting amendments or amendments to amendments.

Mr. ROBERT C. BYRD. Yes. This is talking about amendments to the amendments at the desk, too.

Mr. JAVITS. Or perfecting amendments?

Mr. ROBERT C. BYRD. According to the agreement that I thought had been cleared——

Mr. JAVITS. It has been cleared. I just wanted to be sure it was accurately expressed as it may involve a perfecting amendment.

Mr. ROBERT C. BYRD. If it did, it would have to be offered by one of the Senators named.

Mr. JAVITS. That is correct.

Mr. SCOTT. Mr. President, reserving the right to object. I fail to see why a unanimous-consent request of this nature would be made that would rule out the right of some other Senator to offer an amendment if he sees fit. I do not personally intend to offer an amendment,

but there are 100 Senators. It may well be that before a Senator comes to the Senate floor they will review the bill and review the report, and want to offer an amendment.

I hesitate to agree to a request like this. Perhaps the distinguished majority leader could enlighten us.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Virginia (Mr. SCOTT), who makes a very justifiable and good point.

I had been advised that only amendments by these Senators were going to be offered, but I think the Senator makes a good point. There may be a Senator around, or not around, who will want to offer an amendment. I therefore withdraw the request.

I think it is an excellent point.

Mr. HARRY F. BYRD, JR. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. HARRY F. BYRD, JR. I think it is an excellent point. I commend my colleague from Virginia and say as a matter of policy it is probably not a desirable thing to do.

Mr. ROBERT C. BYRD. I thank the Senator.

NEW YORK LOAN GUARANTEES

The Senate continued with the consideration of the joint resolution.

Mr. ROBERT C. BYRD. Mr. President, I understand that under the Senate rules, if no Senator seeks recognition, the Chair is under an obligation to put the question.

The PRESIDING OFFICER. The question is on the third reading of the joint resolution.

The joint resolution was read the third time.

The PRESIDING OFFICER. The question is on agreeing to the joint resolution.

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Connecticut (Mr. RIBICOFF) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mrs. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Massachusetts (Mr. BROOKE), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Michigan (Mr. GRIFFIN), the Senator from Pennsylvania (Mr. HEINZ), the Senator from North Carolina (Mr. HELMS), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Delaware (Mr. ROTH), the Senator from Pennsylvania (Mr. SCHWEIKER), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

The result was announced—yeas 51, nays 28, as follows:

[Rollcall Vote No. 382 Leg.]

YEAS—51

Bayh	Hatfield, Paul G.	Nelson
Biden	Hathaway	Packwood
Bumpers	Hodges	Pell
Byrd, Robert C.	Huddleston	Percy
Case	Inouye	Randolph
Clark	Jackson	Riegle
Cranston	Javits	Sarbanes
Culver	Kennedy	Schmitt
Danforth	Leahy	Stafford
Dole	Long	Stennis
Durkin	Lugar	Stevens
Eagleton	Matsunaga	Stevenson
Ford	McIntyre	Stone
Glenn	Melcher	Weicker
Gravel	Metzenbaum	Williams
Hart	Morgan	
Haskell	Moynihan	
Hatfield, Mark O.	Muskie	

NAYS—28

Bartlett	DeConcini	Nunn
Bellmon	Domenici	Proxmire
Bentsen	Garn	Sasser
Burdick	Goldwater	Scott
Byrd, Harry F., Jr.	Hansen	Talmadge
Cannon	Hatch	Thurmond
Chiles	Hayakawa	Tower
Church	Hollings	Young
Curtis	Laxalt	Zorinsky
	Magnuson	

NOT VOTING—21

Abourezk	Griffin	McGovern
Allen	Heinz	Pearson
Anderson	Helms	Ribicoff
Baker	Humphrey	Roth
Brooke	Johnston	Schweiker
Chafee	Mathias	Sparkman
Eastland	McClure	Wallop

So the joint resolution (H.J. Res. 1088) was passed.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COAL LEASING AMENDMENTS OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1092.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3189) to further amend the Mineral Leasing Act of 1920 (30 U.S.C. 201 (a)), to authorize the Secretary of the Interior to exchange Federal coal leases and encourage recovery of certain coal deposits, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike all after the enacting clause and insert the following:

That section 2(a)(1) of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 201 (a)(1) is further amended by adding the following paragraph at the end thereof:

"Notwithstanding the requirement in this section that leases be awarded by competitive bidding or any other competitive bidding requirement of this or any other Act to the contrary, the Secretary is authorized to acquire Federal coal leases or rights to Federal coal leases, existing as of the date of enactment of this section, by purchase at fair market value as determined by him, or by exchange for another coal lease, subject to the provisions of subparagraphs (i) through (iv) of this paragraph. The authority granted by this paragraph is in addition to and does not restrict the existing authority of the Secretary to acquire coal and other mineral leases and rights to leases by exchange for another Federal mineral lease, or for modification of an existing coal lease. Nothing herein shall be construed as superseding, modifying, restricting, amending, or repealing the authority of the Secretary under any provisions of the Surface Mining Control and Reclamation Act of 1977 to purchase, acquire, or condemn lands adversely affected by past coal mining, to exchange coal leases involving alluvial valley floors or to designate any Federal lands as unsuitable for mining coal of other minerals.

"(i) The acquisition authority granted in this subsection may be exercised by the Secretary only upon a determination by him that (a) coal mining would result in unacceptable social, economic, or environmental impacts in the vicinity of the lands covered by a lease or proposed lease and that such impacts cannot be prevented or adequately mitigated under the authority of the Surface Mining Control and Reclamation Act of 1977, or other Federal laws, or (b) development of the lease would conflict with a specific proposal for use of the land for a public purpose and such use was not considered by the Secretary prior to issuance of the prospecting permit or lease.

"(ii) This section does not require the Secretary to exchange or purchase any lease. The authorities in this section may be exercised by the Secretary as to an applicant for a preference right lease only upon a determination by him that the application and permit upon which it was based has, in fact, met all of the requirements for a lease under the Mineral Leasing Act of 1920 (30 U.S.C. 201).

"(iii) If the Secretary decides to acquire an outstanding coal lease or right thereto by exchange, he is authorized to accept relinquishment of a lease issued under this Act, the Mineral Leasing Act for Acquired Lands (30 U.S.C. 271–276), or the Railroad and Other Right-of-Way Leasing Act of May 1, 1930 (30 U.S.C. 301–306) or a right to issuance of such a lease, in whole or in part, and to issue to the lessee or lease applicant, in exchange therefor, a coal lease which is to be a lease of equal value. If the value of the leases to be exchanged is not equal, the value shall be equalized by the payment of money to the grantor or to the Secretary as long as the payment does not exceed 25 percent of the total value of the lands or interest transferred out of Federal ownership. The Secretary shall try to reduce the amount of payment to as small an amount as possible. Leases issued pursuant to the exchange provisions of this subsection are subject to the provisions of this Act except as otherwise

provided expressly in this subsection. A new lease issued in accordance with this subsection shall become effective only upon relinquishment of the outstanding lease or right to a lease.

"(iv) The Secretary shall issue such rules and regulations and establish such procedures within one hundred and eighty days as he deems necessary to carry out the provisions of this section. Such rules and regulations shall include but need not be limited to the standards that the Secretary shall employ for making the determination of those conditions under which he will purchase at fair market value, or exchange for another coal lease, requirements concerning information which must be submitted by a lessee or lease applicant, and requirements for public participation with respect to any proposed exchange including public meetings or hearings where the Secretary deems them necessary.".

SEC. 2. Section 2(a)(1) of the Mineral Leasing Act of 1920 as amended (30 U.S.C. 201(a)(1)) is further amended by striking the period at the end of the first sentence and inserting in lieu thereof the following: "Provided, That notwithstanding the competitive bidding requirement of this section, the Secretary may, subject to such conditions which he deems appropriate, negotiate the sale at fair market value of coal the removal of which is necessary incidental to the exercise of a right-of-way permit issued pursuant to title V of the Federal Land Policy and Management Act of 1976.".

SEC. 3. Section 3 of the Mineral Leasing Act of 1920 as amended (30 U.S.C. 203) is further amended by adding, after the word "contiguous", the words "or cornering" and by deleting the period at the end of the second sentence thereof and adding the following clause: "except that nothing in this section shall require the Secretary to apply the production or mining plan requirements of section 2(d)(2) and 7(c) of this Act (30 U.S.C. 201(d)(2) and 207(c)). The minimum royalty provisions of section 7(a) of this Act (30 U.S.C. 207(a)) shall not apply to any lands covered by this modified lease prior to a modification until the term of the original lease has expired.".

SEC. 4. Section 37 of the Mineral Leasing Act of 1920 (30 U.S.C. 193) is further amended by the addition of the words "except as provided in sections 206 and 209 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2756, 2757–2758), and" after "only in the form and manner provided in this Act," and before the word "except".

SEC. 5. Section 30 of the Mineral Leasing Act of 1920 as amended (30 U.S.C. 187) is further amended by striking the word "boy" and inserting in lieu thereof "child" and by striking the phrase "or the employment of any girl or woman, without regard to age,".

SEC. 6. (a) The Secretary of the Interior is authorized and directed within nine months of the date of enactment of this Act, to evaluate and review the scenic, recreational, fish and wildlife, cultural, historic, and other public values of the reservoir in Johnson County, Wyoming, known as Lake DeSmet and the adjoining and adjacent coal properties. The Secretary's review and evaluation shall be for the purpose of determining whether the Lake DeSmet property shall be acquired for public use and enjoyment by exchange for Federal coal lands.

(b) If the Secretary determines that the Lake DeSmet property should be acquired, he is authorized, with the agreement of the owners of the property, to acquire the Lake DeSmet property by exchanging Federal coal lands, interests in Federal coal lands, or Federal coal leases.

(c) The exchange authorized by this section shall be for equal value. To the extent, if any, the value of the lands or interests exchanged are not equal the difference may be adjusted by the payment of money so long as the payment does not exceed 25 per centum of the total value of the lands or interests transferred out of Federal ownership. In determining the value of the Lake DeSmet property, the Secretary is authorized and directed to include the fair market value of the property, considering the acquisition cost of the lands, the value of the coal deposits, water rights and water resource developments, and capital and other appropriate improvements. The exchange of such properties shall be carried out expeditiously in accordance with the provisions of this section and other Federal land exchange authority to the extent such authority is applicable and consistent with this section.

(d) The Secretary is authorized to transfer any property acquired pursuant to this section (1) to the appropriate agency in the Department of the Interior for management and administration, or (2) to the State of Wyoming for recreational purposes and fish and wildlife management.

(e) There are authorized to be appropriated for fiscal year 1980 to the Secretary such sums as are necessary to carry out the purposes of this section.

Mr. HASKELL. Mr. President, I would like to lay this matter aside for the moment so the distinguished Senator from New Jersey may conduct some business on the floor, but I would like to, obviously, keep this matter pending after Senator WILLIAMS finishes.

The PRESIDING OFFICER. The Senator reserves the right to the floor, yields to the Senator from New Jersey without losing his right to the floor.

Mr. HASKELL. That is right.

Mr. WILLIAMS. I greatly appreciate the cooperation of the Senator from Colorado.

SECURITIES AND EXCHANGE AUTHORIZATIONS, 1979

Mr. WILLIAMS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 11567.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the text of the bill (H.R. 11567) entitled "An Act to amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal year 1979–1981, and for other purposes", with the following amendment:

Page 2, line 3, of the Senate engrossed amendments, strike out "$2,500,000", and insert: "$2,000,000"

Resolved, That the House agree to the amendment of the Senate to the title of the bill.

Mr. WILLIAMS. Mr. President, I move that the Senate concur in the amendment of the House to the amendment of the Senate.

Mr. STEVENS. Is that a motion?

Mr. WILLIAMS. Yes.

The PRESIDING OFFICER. Will the Senator send the amendment to the desk, please?

Mr. STEVENS. Mr. President, I understand this matter has been cleared with the minority on the committee, but I am wondering about the amendments. That is all I wish to ask the Senator from New Jersey. What amendments are there that we are talking about?

The PRESIDING OFFICER. Does the Senator wish to send the amendment to the desk?

Mr. WILLIAMS. We are agreeing to the House amendment to the Senate amendment.

Mr. STEVENS. I see. I beg the Senator's pardon.

I understood there was an amendment to be presented to this and I did misunderstand. I am sorry.

Mr. WILLIAMS. It is to concur in the amendment of the House to the amendment of the Senate. That is the motion I make.

The PRESIDING OFFICER. Is there further discussion?

The question is on agreeing to the motion to concur in the amendment of the House to the amendment of the Senate.

The motion was agreed to.

Mr. WILLIAMS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COAL LEASING AMENDMENTS OF 1978

The Senate continued with the consideration of the bill.

Mr. HASKELL. Mr. President, the Subcommittee on Energy Production and Supply, which I chair, held a series of oversight hearings on Federal coal leasing policy in October and November 1977 and February 1978. During the course of these hearings, representatives of the many groups which have an interest in coal development suggested changes in Federal policy. The bill before the Senate today, S. 3189, represents those changes for which a general consensus exists.

The bill is supported by the mining industry, the utilities, environmental groups and the administration. The existence of this rare coalition suggests the wisdom of the bill's provisions. S. 3189 was ordered reported unanimously by the Committee on Energy and Natural Resources on August 23, 1978.

S. 3189 would accomplish the following:

First, give the Secretary of the Interior the authority to acquire coal leases or rights to leases by purchase or exchange for other coal leases in instances when he determines that development of the lands to be acquired would result in unacceptable impacts which could not be avoided or mitigated under the Surface Mining Control and Reclamation Act of 1977.

Second, permit the Secretary to sell coal the removal of which is necessary for the exercise of a right-of-way issued under the Federal Land Policy and Management Act of 1976.

Third, permit the Secretary to modify existing leases by adding lands at the corner of a lease, not only contiguous to it, and prohibit the imposition of the minimum royalty established by the Federal Coal Leasing Amendments Act of 1975 on the lands of the modified lease prior to its modification. Also, the Secretary is given the discretion not to apply the production and mining plan

requirements of the Coal Leasing Amendments Act to such lands.

Fourth, clarify that federally-owned minerals covered by the Mineral Leasing Act of 1920 may be exchanged by the Secretary as provided in sections 206 and 209 of the Federal Land Policy and Management Act of 1976.

Fifth, repeal an archaic prohibition against employment of women in underground mines on Federal lands.

Sixth, direct the Secretary to study certain land in Johnson County, Wyo. to determine its public value and whether it should be acquired by exchange for other Federal lands. The Secretary is given the authority to make the acquisition if he deems it appropriate.

The legislation is important to our continuing effort to structure a rational national energy policy since it will give the Secretary more latitude to manage Federal coal lands. Its passage will help to avoid the bypass of Federal coal deposits by making their recovery more attractive to the mining industry. Coal production will also be assisted by the exchange of leases on which mining is environmentally unsatisfactory for those on which mining is consistent with environmental goals. One provision will permit easier access to privately owned coal by amending the Secretary's authority to dispose of Federal coal underlying rights-of-way.

I would like to thank Senator HANSEN and the Department of the Interior for their cooperation in perfecting this legislation. Its passage will help us establish a workable Federal coal leasing policy.

Mr. President, I am submitting for the RECORD a letter and a cost estimate from the Congressional Budget Office that has not been put in the RECORD before. I ask unanimous consent that that material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C. September 6, 1978.

HON. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 3189, a bill to further amend the Mineral Leasing Act of 1920 (30 U.S.C. 201(a)), to authorize the Secretary of the Interior to exchange federal coal leases and to encourage recovery of certain coal deposits, and for other purposes.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

September 6, 1978.

1. Bill number: S. 3189
2. Bill title:
A bill to further amend the Mineral Leasing Act of 1920 (30 U.S.C. 201(a)), to authorize the Secretary of the Interior to exchange federal coal leases and to encourage recovery of certain coal deposits, and for other purposes.
3. Bill status:
As reported by the Senate Committee on Energy and Natural Resources, August 25, 1978.
4. Bill purpose:
This bill authorizes the Secretary of Interior to purchase or exchange federal coal leases to avoid adverse environmental and social impacts which would result due to mining operations. The Secretary is also directed to study Lake DeSmet in Wyoming for possible use as a recreation area. The bill authorizes the Secretary to acquire the lake area through coal land exchange if the lake is found to be of recreational value. In addition, the bill amends certain provisions of the Mineral Leasing Act of 1920 to be consistent with the Federal Coal Leasing Act Amendments of 1975 and removes a provision prohibiting women miners from underground mines under federal lease.
5. COST ESTIMATE
[By fiscal years, in thousands of dollars]

	1980	1981	1982	1983	1984
Estimated authorization level	600	----	----	----	----
Estimated cost	600	----	----	----	----

This estimate does not include the possible impact of lease purchases or of equalization payments made by or to the government as part of lease exchanges. No estimate of the number or amount of such payments can be made at this time; however, the net cost to the government is not expected to be substantial.

The costs of this bill fall within budget function 300.

6. Basis of estimate:
The bill authorizes such sums as may be necessary for the study of the Lake DeSmet area in fiscal year 1980. The Department of Interior estimates this study will cost approximately $600,000. The study will involve several agencies, including the Bureau of Land Management, the United States Geological Survey, the Heritage Conservation and Recreation Service and the Fish and Wildlife Service.

Additional costs of approximately $3.4 million would be concurred should the lake area be acquired, because extensive coal evaluation studies would have to be conducted at the lake site and at a coal land exchange site. In addition, use of the site as a recreation area would preclude coal excavation. Consequently, this would result in a potential revenue loss to the federal government. The value of coal at the lake area has been estimated to be as high as $1 billion.

No costs are estimated to be incurred as a result of the other provisions of the bill. The lease transactions authorized by the bill are expected to be primarily exchanges, rather than acquisitions. While equalization payments on certain coal lease exchanges may have to be made by or to the government, most exchanges are expected to be made without the need for such payments. It is not possible at this time to estimate the number and value of such exchanges or the amount of equalization payments that will be paid or received by the government.

7. Estimate comparison: None.
8. Previous CBO estimate: None.
9. Estimate prepared by: Mark Berkman (225-7760).
10. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

Mr. HASKELL. Mr. President, the pending Senate bill is a technical bill which amends the Leasing Act in certain regards to facilitate the administrative problems involved in the coal leasing amendments.

The hearings have been held in the Energy Committee on this matter. It is my understanding that my distinguished colleague, the Senator from Wyoming, concurs in the product of the committee.

It is also my understanding that the distinguished Senator from Montana has an amendment which he wishes to propose.

Mr. HANSEN. Mr. President, if the distinguished floor manager of the bill would yield for a unanimous consent regarding privilege of the floor, I ask unanimous consent that Tony Bevinetto of my staff, and Fred Craft, be granted privilege of the floor during debate and any votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HASKELL. I also ask unanimous consent that Dan Dreyfus, Tom Laughlin, and Mike Harvey of the Energy Committee staff have the privilege of the floor during the debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. HASKELL. I yield.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Darla West, of my staff, have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HASKELL. Mr. President, I yield to the Senator from Montana, who I believe desires to propose an amendment.

UP AMENDMENT NO. 1870

(Purpose: To provide for the readjustment of certain coal leases)

Mr. MELCHER. Mr. President, I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. Is the Senator referring to a printed amendment already submitted?

Mr. MELCHER. No; it is an unprinted amendment, and I just brought it to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes an unprinted amendment numbered 1870.

Mr. MELCHER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 10, add a new section 9 to read as follows:

SEC. 9. Section 7 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 207) is further amended by adding the following three subsections at the end thereof:

"(d) All Federal coal leases issued prior to August 4, 1976, shall be subject to a royalty of 12.5 per centum of the value of the coal as determined by regulation on all coal produced by surface mining after the date of enactment of this amendment if:

(1) the lease was subject to readjustment prior to the enactment of this amendment;
(2) the Secretary has not:
(A) readjusted the lease; or
(B) informed the lessee that the lease will not be readjusted; and
(3) the Secretary has approved a mining plan for all or part of the lease.

"(e) The Secretary shall readjust the royalty rate of all other Federal coal leases issued prior to August 4, 1976, which are or become subject to readjustment in accordance with this Act. In all instances, this readjustment shall be done before the Secretary approves a mining plan for the lease.

"(f) This amendment does not affect the Secretary's authority to readjust terms and conditions of a lease other than those involving the royalty rate.

Mr. MELCHER. Mr. President, when we passed the Federal Coal Leasing Act a couple of years ago, we increased the royalties that were required to be collected from any Federal mine to the customary 12.5 percent similar to other minerals. That is a minimum, of course; and the Secretary, if he felt he could get more, could receive above the minimum. However, there were a number of coal leases that were outstanding at that time.

The usual terms of the coal lease, I think in all cases, was that every 20 years they would have to be renewed. The effect of the bill passed in 1976 was that, as those leases became renewable at the end of 20 years, the terms of the lease would be changed to 12.5 percent royalty. There were a few leases, however, that had not had to be renewed prior the passage of the act, and the requirements of the bill seemed a little fuzzy.

So this closes the gap and says that if any of those leases were renewable prior to, I believe, August 4, 1976, the passage of the act, and had not been renewed, and are not renewed now, they will be renewed by notice and proper procedure, and the payment of the royalty will be set at 12.5 percent. It will be the Secretary's duty to make sure that the readjusted royalty rate of all these leases has been accomplished, that the readjustment of the royalty rate in the leases is accomplished prior, in any event, to the issuance of approval of a mining claim.

I think it is entirely what Congress intended in the 1976 act, and I believe this amendment will make sure that that clear intent is followed and accomplishable under the law.

Mr. HASKELL. Mr. President, I agree with my distinguished colleague that existing law requires this; but, in case there should be any ambiguity whatsoever, the amendment of the Senator from Montana would clear it up.

However, I stress that his amendment is entirely in accordance with existing law. Therefore, so far as I am concerned, I am pleased to accept the amendment.

Mr. HANSEN. Mr. President, if the Senators would be willing to wait just a few moments, we have a staff member, Ted Orf—for whom I ask unanimous consent to have the privilege of the floor—coming over. We have been informed that there are those who think changes could be made in the language, I say to the Senator from Montana, under section (D)(3), which we would like to offer for his consideration before we take final action on the amendment.

If the Senator from Montana would be willing to withhold—if it would be his wish—I would be happy to suggest the absence of a quorum, or whatever he would like.

The PRESIDING OFFICER. Did the Senator ask unanimous consent for privilege of the floor?

Mr. HANSEN. For Ted Orf.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Mr. President, I withhold the indication that I might suggest the absence of a quorum.

Would the Senator from New Mexico like to speak?

Mr. DOMENICI. I am waiting to see the exact language of the measure. We have something with respect to paleontological finds, and I have to see that.

Mr. MELCHER. Mr. President, I wish to modify my amendment as follows:

I add (e) "Before approving a mining plan for the lease,". Add those eight words immediately after (e).

The PRESIDING OFFICER. Without objection, the amendment is so modified.

Mr. MELCHER. Mr. President, I further modify my amendment by striking the last sentence in (e).

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 10, add a new section 9 to read as follows:

SEC. 9. Section 7 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 207) is further amended by adding the following three subsections at the end thereof:

"(d) All Federal coal leases issued prior to August 4, 1976 shall be subject to a royalty of 12.5 per centum of the value of the coal as determined by regulation on all coal produced by surface mining after the date of enactment of this amendment if:

(1) the lease was subject to readjustment prior to the enactment of this amendment;
(2) the Secretary has not:
(A) readjusted the lease; or
(B) informed the lessee that the lease will not be readjusted; and
(3) the Secretary has approved a mining plan for all or part of the lease.

"(e) Before approving a mining plan, for the lease, the Secretary shall readjust the royalty rate of all other Federal coal leases issued prior to August 4, 1976, which are or become subject to readjustment in accordance with this Act.

"(f) This amendment does not affect the Secretary's authority to readjust terms and conditions of a lease other than those involving the royalty rate.

Mr. MELCHER. Mr. President, this is in better form and clearly accomplishes the purpose that we are attempting to arrive at by the amendment.

Mr. HASKELL. I have no objection to the amendment as modified.

Mr. HANSEN. There is no objection from this side of which I am aware.

Mr. HASKELL. Under those circumstances, will the Senator from Montana move the amendment?

Mr. MELCHER. Mr. President, I yield back the remainder of my time and move the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Montana.

The amendment, as modified, was agreed to.

Mr. MELCHER. Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. HASKELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HANSEN. Mr. President, S. 3189 would amend the coal provisions of the Mineral Leasing Act of 1920. The bill contains three major provisions which would give the Secretary of the Interior additional administrative latitude to manage Federal coal lands.

The first change would permit the Secretary of the Interior to exchange existing coal leases or permits covering lands which, in his judgment, should not be developed for environmental reasons or because of conflicts with other land uses, for new leases on which development would not involve unacceptable environmental consequences.

President Carter's May 23, 1977, environmental message stated that he was directing the Secretary of the Interior to review existing leases and preference rights and to consider a program of exchange of environmentally unsatisfactory leases for environmentally acceptable coal lands of equivalent value. I have worked with the Secretary in drafting the provisions permitting such exchanges which are incorporated in the bill under consideration.

The authority which the Secretary would receive should this legislation be enacted would be supplementary to his existing authority pursuant to the Surface Mining Control and Reclamation Act of 1977.

By providing the Secretary of the Interior additional authority to exchange leases and permits, it is my belief that existing rights on Federal coal lands can be rearranged such that the amount and nature of the coal under lease will more closely reflect the production requirements from Federal coal lands.

A second change in the law which would be made by this bill, deals with rights-of-way across Federal land. The Federal Land Policy and Management Act of 1976 gives the Secretary the authority to grant rights-of-way over, upon, under or through Federal lands. However, this act also provides that any minerals extracted as a result of exercise of a right-of-way permit may only be removed subject to the laws governing removal of such minerals.

A number of coal companies have advised me that they require Federal rights-of-way to obtain access to coal deposits for mining purposes. However, to exercise these rights-of-way, it will be necessary to remove small amounts of Federal coal. The Mineral Leasing Act of 1920 provides that coal can be leased only through competitive bidding. In instances where mining of small amounts of Federal coal would be necessary incidental to exercise of a right-of-way, it does not make sense to require an applicant to go through the competitive leas-

ing process. Therefore, this bill would give the Secretary the authority to negotiate the sale of the coal which would be removed. Such a change in the law should facilitate the more rapid development of both Federal and non-Federal coal deposits.

A third change which this legislation would make in the Mineral Leasing Act of 1920 has to do with the ability of a Federal lessee to obtain a modification of his lease by obtaining up to an additional 160 acres of Federal land. The provision permitting lease modifications was retained by the Federal Coal Leasing Amendments Act of 1975 to avoid bypassing small amounts of Federal coal which, should modification not be possible, might never be mined.

In retaining this provision in the law, the Congress determined that, should a lessee obtain a lease modification, both the additional lands and the lands of his original lease would become subject to the new provisions of the act, including a provision placing a mandatory 12.5-percent royalty on all surface-minded coal.

Several companies have indicated that this provision encourages bypass situations because they are unwilling to pay a higher royalty rate on existing leases in exchange for obtaining the rights to an additional small parcel of Federal coal land.

The bill would change this situation by providing that leases which are modified would not become subject to the requirement of 12.5-percent royalty as a result of a modification. However, any lands obtained by modification would be subject to this requirement. This change should encourage companies to apply for lease modifications since the favorable terms of their existing leases would not be jeopardized.

Mr. HANSEN. Mr. President, I wish to comment on section 6 of this bill and then ask the distinguished floor manager if he and I share the same understanding concerning the operation of this section.

Section 6 offers a unique, and I believe appropriate, opportunity for our Nation to evaluate the public values of a large bloc of privately owned coal lands located in Johnson County, Wyo. The lands include a reservoir, known as Lake DeSmet, which could offer a significant new water-based recreational facility and fish and wildlife management resource for the growing population of Wyoming as well as all the citizens of our Nation. At the same time, however, the Lake DeSmet area offers a combination of energy resources rare in our Western States: An available supply of water and abundant supplies of bituminous and subbituminous coal. The combination of resources makes the Lake DeSmet area a candidate for the location of a mine-mouth electric power generating facility or a coal-gasification facility or both. I would like to discuss briefly the background of the area.

Among the several landowners in the area, Texaco, Inc., has the most extensive holdings. In December 1973 Texaco purchased for approximately $125 million the interests of the Reynolds Metal Co. in 37,000 acres of land located in Johnson County near Buffalo, Wyo. Their interests include fee title, coal leases, and certain water rights granted under the laws of Wyoming. The property contains an estimated 2.3 billion tons of subbituminous and bituminous coal and include a major 239,000 acre-foot water impoundment known as the Lake DeSmet Reservoir.

In early 1975, my good friend and colleague in the House, Congressman TENO RONCALIO, proposed an exchange of Texaco's interests in the Lake DeSmet area for Federal coal interests near Gillette or elsewhere in the State of Wyoming. Congressman RONCALIO's proposal was then, and is now, based on his view that the Lake DeSmet area contain scenic, recreational, fish and wildlife, cultural, historic, and other public values which should be preserved for the public and that industrial development should not occur in the foothills of the Big Horn Mountains. Section 6 of this bill is a direct result of Congressman RONCALIO's persistent and effective efforts to achieve such an exchange.

I might add at this point that although Texaco strongly desires to pursue its energy development plans for the Lake DeSmet area, they have cooperated fully with Congressman RONCALIO, the Senate Energy and Natural Resources Committee, the Department of the Interior and myself and we have explored the possibility of such an exchange.

With this background in mind, the Senate Energy and Natural Resources Committee voted to include in this bill section 6 which authorizes and directs the Secretary of the Interior to evaluate and review the Lake DeSmet area, within 9 months after enactment of this bill, to determine whether the public values of the area are such that the area should be preserved for public use. If the Secretary determines that the area should be preserved for the public, he is authorized, under section 6, to acquire the Lake DeSmet properties through the exchange of Federal coal lands, interests in Federal coal lands or Federal coal leases.

Because I believe such a review and evaluation is in the interest both of Wyoming and the Nation, I strongly support section 6 as reported by the committee. However, in order that there be no misunderstanding concerning the operation of section 6, I would like to state my understanding of the operation of section 6.

Section 510(b)(5) of the Surface Mining Control and Reclamation Act of 1977 deals with "alluvial valley floors" and contains an exchange provision.

Whatever rights section 510(b)(5) of that act may create and whatever obligations it imposes on the Secretary it should be clear that section 6 of this act grants the Secretary of the Interior new and separate authority to exchange Federal fee coal lands and interests in Federal fee coal lands for the private fee coal lands located in the Lake DeSmet area.

Pursuant to section 6, the Secretary of the Interior may exchange Federal fee coal lands and interests in Federal coal lands for all the Federal fee coal lands in the Lake DeSmet area if he finds that the scenic, recreational, fish and wildlife, cultural, historic and other public values of the area should be preserved for public use and enjoyment. The Secretary could, of course, discharge whatever exchange obligations he may have to owners of property in the DeSmet area under section 510(b)(5) of the Surface Mining Act by making a larger exchange encompassing the alluvial valley floor area under section 6 of this act.

The exchange authorized in section 6 is a voluntary exchange in which the owners of the private land which the Secretary seeks to acquire in the Lake DeSmet area must concur.

If the Secretary is unable to assemble a suitable block of Federal fee coal lands for such an exchange, section 6 authorizes the Secretary to include in the exchange Federal coal leases and other interests in Federal coal lands if such inclusions are necessary to assemble economic and contiguous mining units.

The standard for an exchange under section 6 is "equal value." In determining the value of the property the Secretary is directed to include the "fair market value" of the properties to be exchanged, considering the acquisition costs of the lands, the value of the coal deposits, water rights, water resource developments, and capital and other appropriate improvements the owner or owners have made on the property. If the Secretary is unable to assemble a block of Federal interests which are of equal value with the private interests to be exchanged, the difference in value between the properties may be adjusted by the payment of money if the payment does not exceed 25 percent of the total value of the Federal interests to be exchanged.

The Secretary is directed to complete his evaluation and review within 9 months after enactment of this bill. It is intended that the Secretary then make his determination concerning acquisition as quickly as possible and if he determines that acquisition is appropriate, that he then immediately commence negotiations for such acquisition and vigorously pursue such negotiations in order that an orderly and expeditious exchange may be effected. In order to expedite any exchange, it is intended that the Secretary set forth in his initial determination to acquire the property, the formula or criteria he proposes to apply to ascertain equal value and the general location or locations of the Federal lands he will consider for exchange. Any exchange should be effected in the most direct, efficient, and uncomplicated manner possible.

Subsection 6(d) authorizes the Secretary to transfer the acquired property either to an agency of the Department of Interior for management or to the State of Wyoming for recreational use and fish and wildlife management. This subsection does not require that the State of Wyoming be a party either to the Secretary's decision to acquire the property or to the negotiations concerning the exchange. However, if both the Secretary of the Interior and the owner or owners of the private property to be exchanged consent to include the State in their discussions concerning the exchange, they may do so.

Subsection 6(e) authorizes the appropriation in fiscal year 1980 of such funds as are necessary for the Secretary to carry out the purposes of this section. This includes the costs of conducting the evaluation and review, any costs necessary for the Secretary to make his determination concerning acquisition and any other sums required by the Secretary to evaluate the Federal coal lands and interests in Federal coal lands which may be considered for the exchange, including, but not limited to, the costs of geophysical work, assessments, core drilling and other such activities.

Finally, I would comment on the uniqueness of the authority granted the Secretary to evaluate and review these privately owned coal lands. Other than those areas in which mining cannot occur due to the operation of the "alluvial valley floor" prohibition contained in section 510(b)(5) of the Surface Mining Control and Reclamation Act of 1977, there appears to be no present legal impediment to the development of the energy resources in the Lake DeSmet area. Therefore, his authority should be viewed as a unique opportunity for the Federal Government to review the public values of privately owned coal properties and, perhaps, to acquire these properties for public use and enjoyment through an exchange of properties. However, the exchange authority granted in section 6 should not be viewed as a precedent for future similar Federal actions.

I ask the distinguished manager of this bill if he concurs in these observations concerning the operation of section 6.

Mr. HASKELL. I do.

Mr. HANSEN. I thank the distinguished manager of the bill for concurring in my observations. I commend him for including section 6 in this bill.

Mr. HASKELL. Mr. President, I have two technical amendments which I wish to send to the desk and ask to be considered en bloc.

The PRESIDING OFFICER. Until the amendment of the Senator from Montana has been acted upon, it will take unanimous consent to consider the technical amendments.

UP AMENDMENT 1871

(Purpose: Technical amendments to the Coal Leasing Amendments Act of 1975)

Mr. HASKELL. Mr. President, I ask unanimous consent that my technical amendments be considered at this time prior to the amendment of the Senator from Montana.

The PRESIDING OFFICER. Without objection, it is so ordered.

They will be considered en bloc.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. HASKELL) proposes unprinted amendment numbered 1871, technical amendments en bloc.

Mr. HASKELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 10, add a new section 7 to read as follows:

"SEC. 7. The title of the Federal Coal Leasing Amendments Act of 1975 (90 Stat. 1083) is amended by striking '1975' and substituting '1976.'"

On page 10, delete subsection "(e)" and substitute a new section 8 to read as follows:

"SEC. 8. The acquisition authority granted to the Secretary in sections 1 and 6 of this Act shall be limited to such amounts as are provided in advance by appropriations Acts, and there are hereby authorized to be appropriated, beginning in fiscal year 1980, such sums as may be necessary to carry out the purposes of sections 1 and 6."

Mr. HASKELL. Mr. President, it is my understanding that these technical amendments have been cleared with the staff and with the distinguished Senator from Wyoming.

Therefore, if this be the case, I ask that they be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado.

The amendment was agreed to.

Mr. MELCHER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HASKELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I wish to discuss a matter of concern with both the Senator from Colorado and the Senator from Wyoming.

In New Mexico we have a situation that has some rather significant national proportions.

On one of our Federal leases up in the Star Lake Basti area we have discovered some rare, extremely rare paleontological and archeological remains on a Federal lease, dinosaurs, just a rather incredible find.

Over a period of time the lessee coal company has been very diligent in trying to work a mining plan around protecting and preserving these rare paleontological finds, and what we want to know is does the language in this bill provide for an exchange in the event there are paleontological remains in an area?

We have been negotiating, asking questions of the Secretary and other experts, and we still cannot get a firm answer.

It was our hope—that is why we worked with the Senators on this bill—that this would indeed be justification for trying to work out an exchange, and I wonder if the Senators who are managing the bill could answer that question?

Mr. HASKELL. It would be the opinion of this Senator that that would be grounds. I refer in the bill to subsection (i). It appears in the print commencing on line 19, of page 8.

The acquisition authority granted in this subsection may be exercised by the Secretary only upon a determination by him that (a) coal mining would result in unacceptable social—and I underline the word "social"—economic or environmental—and I underline and underscore the word "environmental"—impacts in the vicinity of the lands.

The instance cited by the distinguished Senator from New Mexico would clearly appear to me to come within the impact of this language.

Mr. DOMENICI. I wonder if the Senator from Wyoming concurs with that?

Mr. HANSEN. Mr. President, I am happy to respond and to state that I do concur with my distinguished friend from Colorado. It seems clear to me, and I think it should be inferred from his statement and mine, that it is the intent of Congress to address the problem that is of concern to the distinguished Senator from New Mexico.

It certainly is my full considered opinion that this language indeed does cover the situation to which the Senator has referred.

Mr. DOMENICI. I thank the Senator from Wyoming.

I have one other question. The bill requires 180 days. Is it our intent to assure that that time limit is an outside limit and that the Department will not have a year and a half to come up with rules and regulations?

Mr. HASKELL. If the Senator will give me an opportunity to find the section of the bill he is referring to——

Mr. DOMENICI. I say to the Senator we cannot cite the exact section because we just got the bill also, but we will find it. There is a requirement of 180 days, page 7.

Mr. HASKELL. Yes; I found it. The operative section, I believe the Senator is referring to, starts on line 9, page 7 of the bill and says:

The Secretary shall issue such rules and regulations and establish such procedures within 180 days.

Now, a clear reading of that section to this Senator is that he has 180 days from the time the bill becomes law to promulgate regulations. That means, it is very, very clear, that he must do it promptly and must do it within 180 days.

Mr. DOMENICI. I thank the Senator.

I have one last question: Does the company or the entity that is making the exchange for the social, economic, and other reasons prescribed get compensated for such money they have spent for a mining plan or the like?

Mr. HASKELL. I do not think I can answer that question. Would the Senator mind repeating that question?

Mr. DOMENICI. Does the company get compensated for the exchange—as an example, if they have expended money in the preparation of a mining plan and it is discovered that rather than proceed there ought to be an exchange because of the reasons prescribed in this bill, that there are the social or economic reasons that do not justify proceeding with the plan, do they get compensated for the expense of preparing that plan?

Mr. HASKELL. I think the Senator, if he would give me a little opportunity to study it, I might find that I would be able to at least hazard a guess.

Mr. HANSEN. Mr. President, if the distinguished manager of the bill will permit, I might observe that, in my opinion, work done on a lease does en-

hance its value, and it would be the opinion of the Senator from Wyoming that in considering an exchange that should be taken into consideration and, indeed, adjustment made so as to reflect the enhanced value of the lease commensurate with the expenditure of time and money that may have gone into that type of work. That is the opinion of one Senator.

Mr. DOMENICI. I thank the Senator from Wyoming.

I wonder if the Senator from Colorado has an opinion on that?

Mr. HASKELL. I would say this: I would say to the Senator from New Mexico that basically this is a voluntary exchange, and the market value of the item to be exchanged is considered. Now, the market value, I suppose, is the coal in place. I am not sure, I say to my friend from New Mexico, whether or not in taking into consideration the market value you go to the expenditures. That would almost be going to a cost test as opposed to a market value test.

Mr. DOMENICI. Let me say to the Senator from Colorado I am not disagreeing with him. I may take a little time and try to provide some language, but I think it is unfair, even though this is voluntary, not to permit the lessee who is proposing this exchange which, obviously, is in the public interest, to be made whole in this exchange.

If you are just going to say it is 10 acres of a certain amount of coal that you are swapping, and say, "We will give you 10 acres someplace else," but if the mining company had expended money on a mining plan, getting ready for all this that is clearly discernible, and then goes and makes a proposal for an exchange, I am wondering whether it would be fair for the Secretary not to take that added amount of expenditure into consideration in arriving at what a fair exchange would be?

It would appear to me it would be the only fair way to do it, even though it is voluntary.

Certainly in the case I have been working on there has been a considerable amount of money expended in this very large claim.

They want to go ahead and swap these very valuable acres for ecological reasons, but it might be difficult for them to do that without losing significant resources unless we say here the swap can take into consideration the expenditures that were justifiably made on that land they are now willing to exchange.

Mr. HASKELL. Would the Senator have any objection to my suggesting the absence of a quorum while I give this a little further thought?

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAVEL). Without objection, it is so ordered.

Mr. DOMENICI. Might I say to my good friends from Colorado and Wyoming, on page 5 of the bill before us, line 4, the following reference is found:

. . . by purchase at fair market value as determined by him, or by exchange for another coal lease, subject to the provisions of subparagraphs (i) through (iv) . . .

And it goes on.

As I understand, the Senator from Colorado is saying that the test will be fair market value; and to the extent that there has been expenditures made by a lessee operator, if they were reflected in the market value of the leasehold, that is what the Secretary would take into consideration?

Mr. HASKELL. Yes; I thank the distinguished Senator.

Mr. President, we used the test of fair market value; and expenditures for discovery, for example, could immeasurably improve the fair market value. Or if exploration were made and ore body was disproved, obviously it would have an adverse effect on the fair market value; but the whole thrust is through fair market value, and it would have an influence one way or the other, depending on the type of expenditures or lack of expenditures.

Mr. DOMENICI. Therefore, money expended for mining plans, exploration, geological work, and the like could very well affect what that particular lease is worth at any point in time, but the fair market value would not necessarily be reflected by just showing the expenditures themselves; is that correct?

Mr. HASKELL. I concur completely with the distinguished Senator.

Mr. DOMENICI. I thank my friend from Colorado. I assume the Senator from Wyoming agrees?

Mr. HANSEN. I share the view of my friend from Colorado.

Mr. HASKELL. Mr. President, if there are no further amendments I suggest third reading of the bill.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. HASKELL. I move to reconsider the vote by which the committee amendment was agreed to.

Mr. HANSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass?

The bill (S. 3189) was passed, as follows:

S. 3189

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2(a)(1) of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 201(a)(1) is further amended by adding the following paragraph at the end thereof:

"Notwithstanding the requirement in this section that leases be awarded by competitive bidding or any other competitive bidding requirement of this or any other Act to the contrary, the Secretary is authorized to acquire Federal coal leases or rights to Federal coal leases, existing as of the date of enactment of this section, by purchase at fair market value as determined by him, or by exchange for another coal lease, subject to the provisions of subparagraphs (i) through (iv) of this paragraph. The authority granted by this paragraph is in addition to and does not restrict the existing authority of the Secretary to acquire coal and other mineral leases and rights to leases by exchange for another Federal mineral lease, or for modification of an existing coal lease. Nothing herein shall be construed as superseding, modifying, restricting, amending, or repealing the authority of the Secretary under any provisions of the Surface Mining Control and Reclamation Act of 1977 to purchase, acquire, or condemn lands adversely affected by past coal mining, to exchange coal leases involving alluvial valley floors or to designate any Federal lands as unsuitable for mining coal or other minerals.

"(i) The acquisition authority granted in this subsection may be exercised by the Secretary only upon a determination by him that (a) coal mining would result in unacceptable social, economic, or environmental impacts in the vicinity of the lands covered by a lease or proposed lease and that such impacts cannot be prevented or adequately mitigated under the authority of the Surface Mining Control and Reclamation Act of 1977, or other Federal laws, or (b) development of the lease would conflict with a specific proposal for use of the land for a public purpose and such use was not considered by the Secretary prior to issuance of the prospecting permit or lease.

"(ii) This section does not require the Secretary to exchange or purchase any lease. The authorities in this section may be exercised by the Secretary as to an applicant for a preference right lease only upon a determination by him that the application and permit upon which it was based has, in fact, met all of the requirements for a lease under the Mineral Leasing Act of 1920 (30 U.S.C. 201).

"(iii) If the Secretary decides to acquire an outstanding coal lease or right thereto by exchange, he is authorized to accept relinquishment of a lease issued under this Act, the Mineral Leasing Act for Acquired Lands (30 U.S.C. 271–276), or the Railroad and Other Right-of-Way Leasing Act of May 1, 1930 (30 U.S.C. 301–306) or a right to issuance of such a lease, in whole or in part, and to issue to the lessee or lease applicant, in exchange therefor, a coal lease which is to be a lease of equal value. If the value of the leases to be exchanged is not equal, the value shall be equalized by the payment of money to the grantor or to the Secretary as long as the payment does not exceed 25 percent of the total value of the lands or interest transferred out of Federal ownership. The Secretary shall try to reduce the amount of payment to as small an amount as possible. Leases issued pursuant to the exchange provisions of this subsection are subject to the provisions of this Act except as otherwise provided expressly in this subsection. A new lease issued in accordance with this subsection shall become effective only upon relinquishment of the outstanding lease or right to a lease.

"(iv) The Secretary shall issue such rules and regulations and establish such procedures within one hundred and eighty days as he deems necessary to carry out the provisions of this section. Such rules and regulations shall include but need not be limited to the standards that the Secretary shall employ for making the determination of those conditions under which he will purchase at fair market value, or exchange for another coal lease, requirements concerning

information which must be submitted by a lessee or lease applicant, and requirements for public participation with respect to any proposed exchange including public meetings or hearings where the Secretary deems them necessary.".

SEC. 2. Section 2(a)(1) of the Mineral Leasing Act of 1920 as amended (30 U.S.C. 201 (a)(1)) is further amended by striking the period at the end of the first sentence and inserting in lieu thereof the following: "*Provided,* That notwithstanding the competitive bidding requirement of this section, the Secretary may, subject to such conditions which he deems appropriate, negotiate the sale at fair market value of coal the removal of which is necessary incidental to the exercise of a right-of-way permit issued pursuant to title V of the Federal Land Policy and Management Act of 1976.".

SEC. 3. Section 3 of the Mineral Leasing Act of 1920 as amended (30 U.S.C. 203) is further amended by adding, after the word "contiguous", the words "or cornering" and by deleting the period at the end of the second sentence thereof and adding the following clause: "except that nothing in this section shall require the Secretary to apply the production or mining plan requirements of section 2(d)(2) and 7(c) of this Act (30 U.S.C. 201(d)(2) and 207(c)). The minimum royalty provisions of section 7(a) of this Act (30 U.S.C. 207(a)) shall not apply to any lands covered by this modified lease prior to a modification until the term of the original lease has expired.".

"SEC. 4. Section 37 of the Mineral Leasing Act of 1920 (30 U.S.C. 193) is further amended by the addition of the words "except as provided in sections 206 and 209 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2756, 2757–2758), and" after "only in the form and manner provided in this Act," and before the word "except".

SEC. 5. Section 30 of the Mineral Leasing Act of 1920 as amended (30 U.S.C. 187) is further amended by striking the word "boy" and inserting in lieu thereof "child" and by striking the phrase "or the employment of any girl or woman, without regard to age,".

SEC. 6. (a) The Secretary of the Interior is authorized and directed within nine months of the date of enactment of this Act, to evaluate and review the scenic, recreational, fish and wildlife, cultural, historic, and other public values of the reservoir in Johnson County, Wyoming, known as Lake DeSmet and the adjoining and adjacent coal properties. The Secretary's review and evaluation shall be for the purpose of determining whether the Lake DeSmet property shall be acquired for public use and enjoyment by exchange for Federal coal lands.

(b) If the Secretary determines that the Lake DeSmet property should be acquired, he is authorized, with the agreement of the owners of the property, to acquire the Lake DeSmet property by exchanging Federal coal lands, interests in Federal coal lands, or Federal coal leases.

(c) The exchange authorized by this section shall be for equal value. To the extent, if any, the value of the lands or interests exchanged are not equal the difference may be adjusted by the payment of money so long as the payment does not exceed 25 per centum of the total value of the lands or interests transferred out of Federal ownership. In determining the value of the Lake DeSmet property, the Secretary is authorized and directed to include the fair market value of the property, considering the acquisition cost of the lands, the value of the coal deposits, water rights and water resource developments, and capital and other appropriate improvements. The exchange of such properties shall be carried out expeditiously in accordance with the provisions of this section and other Federal land exchange authority to the extent such authority is applicable and consistent with this section.

(d) The Secretary is authorized to transfer any property acquired pursuant to this section (1) to the appropriate agency in the Department of the Interior for management and administration, or (2) to the State of Wyoming for recreational purposes and fish and wildlife management.

SEC. 7. The title of the Federal Coal Leasing Amendments Act of 1975 (90 Stat. 1083) is amended by striking "1975" and substituting "1976."

SEC. 8. The acquisition authority granted to the Secretary in sections 1 and 6 of this Act shall be limited to such amounts as are provided in advance by appropriations Acts, and there are hereby authorized to be appropriated, beginning in fiscal year 1980, such sums as may be necessary to carry out the purposes of sections 1 and 6.

SEC. 9. Section 7 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 207) is further amended by adding the following three subsections at the end thereof:

"(d) All Federal coal leases issued prior to August 4, 1976 shall be subject to a royalty of 12.5 per centum of the value of the coal as determined by regulation on all coal produced by surface mining after the date of enactment of this amendment if:

"(1) the lease was subject to readjustment prior to the enactment of this amendment;

"(2) the Secretary has not:

"(A) readjusted the lease; or

"(B) informed the lessee that the lease will not be readjusted; and

"(3) the Secretary has approved a mining plan for all or part of the lease.

"(e) Before approving a mines plan, for the lease, the Secretary shall readjust the royalty rate of all other Federal coal leases issued prior to August 4, 1976, which are or become subject to readjustment in accordance with this Act.

"(f) This amendment does not affect the Secretary's authority to readjust terms and conditions of a lease other than those involving the royalty rate.".

Mr. HASKELL. I move to reconsider the vote by which the bill was passed.

Mr. HANSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HASKELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISTRIBUTION OF YAKIMA AND MESCALERO INDIAN MINORS' JUDGMENT FUNDS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1117.

There being no objection the Senate proceeded to consider the bill (H.R. 10581) to provide for the distribution of certain judgments funds awarded by the Indian Claims Commission to the Confederated Tribes and Bands of the Yakima Indian Nation, which had been reported from the Select Committee on Indian Affairs with an amendment to strike all after the enacting clause and insert the following:

That (a) for purposes of this Act, the term—

(1) "tribe" means the Confederated Tribes and Bands of the Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation;

(2) "tribal governing body" means the governing body of a tribe or a committee of the members of such body designated by such body for purposes of this Act;

(3) "Secretary" means the Secretary of the Interior acting through (unless otherwise determined by the Secretary) the Superintendent of the Bureau of Indian Affairs Agency serving the tribe involved;

(4) "minor" means a member of a tribe, or descendant of a member of a tribe, who has not attained the age of eighteen years and who has a minor's share;

(5) "minor's share" means the per capita share of a judgment award, and the investment income accruing thereto, which is held in trust by the Secretary for a minor; and

(6) "parent" means the biological or adoptive parent or parents, or other legal guardian, of a minor.

(b) Notwithstanding any provision of the Act of October 19, 1973 (87 Stat. 466), the Act of March 12, 1968 (82 Stat. 47), or any other law, or any regulation or plan promulgated pursuant thereto, the minor's share of judgment funds heretofore or hereafter awarded by the Indian Claims Commission or the United States Court of Claims to a tribe may be disbursed to a parent of such minor pursuant to this Act.

(c) The minor's share of judgment funds may be disbursed in such amounts deemed necessary by such parent for the best interest of the minor for the minor's health, education, welfare, and emergencies under a plan governing such funds for each minor (or a plan governing funds of all minors in a family) approved by the Secretary and the tribal governing body of the minor's tribe.

(d) The Secretary shall provide a monthly report to each tribal governing body which has approved one or more plans pursuant to subsection (c). Each such report shall include the amount and purpose of every disbursement made during each month under such plans.

SEC. 2. Any part of any of the judgment funds referred to in the first section of this Act that may be distributed per capita to, or held in trust for the benefit of, the members of a tribe, including minor's shares, shall not be subject to Federal or State income tax, and the per capita payment shall not be considered as income or resources when determining the extent of eligibility for assistance under the Social Security Act, or any other Federal or federally assisted program.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read:

An Act relating to judgment funds awarded by the Indian Claims Commission to certain Indian tribes, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1193), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of H.R. 10581 as amended is to provide that, notwithstanding existing law, the shares of minor Yakima Indians and Mescalero Apache Indians in any judgment fund awarded to the Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation by the Indian Claims Commission or the Court of Claims may be disbursed to the parents or legal guardian of such minor under an approved plan.

BACKGROUND AND NEED

Funds appropriated to satisfy judgments of the Indian Claims Commission or the Court of Claims on behalf of Indian plaintiffs are deposited in the U.S. Treasury to the credit of the plaintiff tribe. Prior to 1960, under an opinion of the Interior Solicitor, these funds were distributed by the Secretary of the Interior without further congressional action.

Beginning in 1960 and ending in 1973, each Interior Department Appropriation Act has included the following proviso:

Provided further, That nothing contained in this paragraph or in any other provision of law shall be construed to authorize the expenditure of funds derived from appropriations in satisfaction of awards of the Indian Claims Commission or the Court of Claims. * * * until after legislation has been enacted that sets forth the purposes for which said funds will be used * * *

Under such provisos, every individual judgment in favor of an Indian tribe had to be distributed under authority of a specific act of Congress.

In 1973, Congress passed the act of October 19, 1973 (Public Law 93-134) delegating much of Congress' authority to the Secretary of the Interior. The Secretary is required to develop a plan for distribution of Indian Claims awards and submit such plan to the Congress. If neither House disapproves the plan within a certain time, the plan becomes effective.

Section 3(b)(3) of the act requires that the Secretary in preparing such plan, must be assured that "the interest of minors and other legally incompetent persons who are entitled to receive any portion of such funds as are subsequently distributed to them, are and will be protected and preserved . . .". It was the intent of the Congress that the Secretary preserve the minors' shares through investment in some income-earning trust account. This intent is carried out in Departmental regulations.

H.R. 10581 was introduced in the House at the request of the Yakima Tribe and was amended to include the Mescalero Apache Tribe at the request of Senator Pete Domenici acting on behalf of the Mescalero Apache Tribe. Both tribes, through testimony and correspondence, referred to many situations where the health, education, and other needs of minors of the Yakima and Mescalec Apache Tribes have gone inmet due to a lack of funds by the parents, even though these minors had funds held in trust but unavailable to them. Furthermore, history has shown that releasing such funds in a lump sum to a minor upon his or her reaching majority has often proved to be imprudent.

H.R. 10581 as amended would authorize the per capita shares of Yakima Indian minors in Yakima Indian claims awards and Mescalero Apache Indian minors in Apache Tribe of the Mescalero Reservation claims awards to be paid the parents or guardians of such minors under a plan approved by the Secretary of the Interior and the tribal governing body of the minor's tribe. Minor's funds could be used by such parent or guardian for health, education, or welfare and emergency needs.

LEGISLATIVE HISTORY

H.R. 10581 was introduced by Representative Mike McCormack on January 26, 1978, and referred to the Committee on Interior and Insular Affairs. A hearing was held before the House Interior Subcommittee on Indian Affairs and Public Lands on April 4, 1978. The House Committee on Interior and Insular Affairs reported H.R. 10581 on June 19, 1978. The House of Representatives passed H.R. 10581 on July 17, 1978, and on July 19, 1978, the bill was referred to the Senate Select Committee on Indian Affairs.

At the request of Senator Domenici and on behalf of the Mescalero Apache Tribe, the committee was requested to amend H.R. 10581 to include the Mescalero Apache Tribe within its provisions. This amendment is being offered in lieu of S. 2587 introduced by Senator Domenici on February 24, 1978, which would in effect provide that Mescalero Apache minors' shares of judgment funds may be expended for any purpose authorized by the Mescalero Apache Tribal Council and approved by the Secretary of the Interior. All parties involved in these two pieces of legislation (including the Yakima and Mescalero Apache Tribes, Congressman McCormack, who introduced H.R. 10581, and Senator Domenici) have no objection to consolidating the two bills by a Senate amendment to H.R. 10581.

The Select Committee on Indian Affairs held no hearings on H.R. 10581 or S. 2587.

ROUTINE MORNING BUSINESS

(Routine morning business transacted today follows:)

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

AMENDMENT TO REORGANIZATION PLAN NO. 4 OF 1978—MESSAGE FROM THE PRESIDENT—PM 216

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers, which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

I herewith transmit an amendment to Reorganization Plan No. 4 of 1978. Except as specifically amended hereby, Reorganization Plan No. 4 remains unmodified.

JIMMY CARTER.

THE WHITE HOUSE, *September 20, 1978.*

PROPOSED CONSTITUTION FOR THE VIRGIN ISLANDS—MESSAGE FROM THE PRESIDENT—PM 217

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers, which was referred to the Committee on Energy and Natural Resources:

To the Congress of the United States:

I am today transmitting to the Congress the proposed constitution for local self-government for the Virgin Islands, as authorized by Public Law 94-584. Until now, an organic act of the Congress provided the basis for local government in this unincorporated territory of the United States.

A locally elected constitutional convention drafted the constitution over a period of several months and held a series of public hearings and meetings throughout the Virgin Islands. The constitutional convention approved the constitution in April 1978. On July 20, 1978, the Governor of the Virgin Islands officially presented me with the constitution.

By law, I must transmit the constitution to the Congress, along with comments, within 60 days of the document's receipt. The Congress then has 60 more days to amend, modify, or approve it. As approved or modified, the constitution will be submitted to a referendum in the Virgin Islands for acceptance or rejection.

Several Federal agencies have commented on the constitution for the Executive Branch that it meets the criteria established by the Public Law 94-584: it is consistent with sovereignty of the United States, its constitution, and its laws applicable to the Virgin Islands; it provides for a republican form of government with executive, legislative, and judicial branches; it contains a bill of rights; it sets up a system of local courts; and it deals with those portions of the revised organic act related to local self-government.

However, the agencies commenting on the constitution noted several matters that the Congress may wish to alter. Those comments are attached.

I commend this accomplishment of the members of the constitutional convention and the other citizens of the Virgin Islands who helped to draft the constitution. It is a significant step toward greater local self-government. It is therefore wholly appropriate that the electorate of the Virgin Islands, and not the Federal Government, has the ultimate right to accept or reject it.

To facilitate congressional deliberations, I have asked that the Attorney General and the Secretary of the Interior offer their advice and technical assistance to the committees that review the document.

JIMMY CARTER.

THE WHITE HOUSE, *September 20, 1978.*

PRESIDENTIAL APPROVAL

A message from the President of the United States reported that on September 19, 1978, he approved and signed the following act:

S. 3454. An act to amend the act of August 29, 1974 (88 Stat. 795; 10 U.S.C. 8202 note), relating to the authorized numbers for the grades of lieutenant colonel and colonel in the Air Force and to authorize the President to suspend certain provisions of law when he determines that the needs of the Armed Forces so require, and for other purposes.

MESSAGES FROM THE HOUSE

At 10:05 a.m., a message from the House of Representatives delivered by

Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3040) to amend the Rail Passenger Service Act to extend the authorizations of appropriations for an additional fiscal year, to provide for public consideration and implementation of a rail passenger service study, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 12222, an act to amend the Foreign Assistance Act of 1961 to authorize development and economic assistance programs for fiscal year 1979, to make certain changes in the authorities of that act and the Agricultural Trade Development and Assistance Act of 1954, to improve the coordination and administration of U.S. development-related policies and programs, and for other purposes.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 12598, an act to authorize appropriations for fiscal year 1979 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, to make changes in the laws relating to those agencies, to make changes in the foreign service personnel system, to establish policies and responsibilities with respect to science, technology, and American diplomacy, and for other purposes.

The message also announced that the House disagrees to the amendment of the Senate to H.R. 1445, an act conferring jurisdiction upon the U.S. Court of Claims to hear, determine, and render judgment upon the claim of Comdr. Edward White Rawlins, U.S. Navy (retired).

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 12936, an act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1979, and for other purposes; that the House recedes from its disagreement to the amendment of the Senate numbered 8, 47, and concurs therein; that the House recedes from its disagreement to the amendments of the Senate numbered 6, 9, 32, and 42, and concurs therein each with an amendment in which it requests the concurrence of the Senate.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

S. 1678. An act to amend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended;

S. 2701. An act to amend the Water Resources Planning Act (79 Stat. 244, as amended);

S. 3069. An act to provide that members of the Sisseton-Wahpeton Sioux Tribe may request the Secretary of the Interior to acquire certain lands, and to provide that the tribe shall have a preference right to purchase certain lands held in trust by the United States for tribal members;

S. 3468. An act to amend the Agricultural Act of 1949 to ensure that the interest rates on price support loans for upland cotton are not less favorable to producers than the interest rates for such loans on other commodities;

H.R. 7814. An act to authorize Federal agencies to experiment with flexible and compressed employee work schedules;

H.R. 7819. An act to compliment the Vienna Convention on Diplomatic Relations; and

H.R. 12860. An act to settle Indian land claims within the State of Rhode Island and Providence Plantations, and for other purposes.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. HODGES).

At 3:55 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to H.R. 8149, an act to provide customs procedural reform, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 11401, an act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes.

The message further announced that the House has passed the following bill and joint resolution, without amendment:

S. 3002. An act to modify a portion of the south boundary of the Salt River Pima-Maricopa Indian Reservation in Arizona, and for other purposes; and

S.J. Res. 133. A joint resolution to authorize and request the President to issue a proclamation designating September 24, 1978 as "National Good Neighbor Day."

The message also announced that the House has passed the following bills, each with an amendment in which it requests the concurrence of the Senate:

S. 703. An act to improve the administration and operation of the Overseas Citizens Voting Rights Act of 1975, and for other purposes;

S. 2507. An act to authorize the Smithsonian Institution to acquire the Museum of African Art, and for other purposes; and

S. 2916. An act to amend the Drug Abuse Office and Treatment Act of 1972 to extend the programs of assistance under that act for drug abuse prevention, education, treatment, and rehabilitation, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to H.R. 1920, an act to amend section 5064 of the Internal Revenue Code of 1954 to provide for refund of tax on distilled spirits, wines, rectified products, and beer lost or rendered unmarketable due to fire, flood, casualty, or other disaster, or to breakage, destruction, or other damage (excluding theft) resulting from vandalism or malicious mischief while held for sale, with amendments in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the amendment of the Senate to H.R. 11005, an act to provide authorization of appropriations for the U.S. International Trade Commission for fiscal year 1979, with an amendment in which it requests the concurrence of the Senate.

The message further announced that the House agrees to the amendment of the Senate to H.R. 11400, an act to authorize the appropriation of specified dollar amounts for each of the National Science Foundation's major program areas—and certain subprograms—and to provide requirements relating to periods of availability and transfers of the authorized funds, with an amendment in which it requests the concurrence of the Senate.

At 4:50 p.m., a message from the House of Representatives delivered by Mr. Hackney, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1446. An act for the relief of Lester Bruce Friday;

H.R. 11451. An act to establish the true location of a portion of northerly boundary of the Anveles National Forest, located in Los Angeles County, Calif., on the common line between sections 16 and 17, township 4 north, range 10 west, San Bernardino meridian, and to establish the center quarter corner of said section 16.

H.R. 12258. An act to amend title 38, United States Code, to increase the maximum amount which the Administrator of Veterans' Affairs may pay for the funeral expenses of a veteran from $250 to $350.

H.R. 12556. An act for the relief of Batavia Turf Farms, Inc.

H.R. 13349. An act to repeal certain sections of title III of the Immigration and Nationality Act, and for other purposes;

H.R. 13715. An act to improve the operational weather programs of the National Oceanic and Atmospheric Administration, to affirm the Federal responsibility for the provision of effective weather and related services, to assure to the maximum possible extent that all available Federal resources are utilized in a coordinated manner for weather-related research, development, and technology, and for other purposes;

H.R. 13745. An act to authorize appropriations to carry out conservation programs on military reservations and public lands during fiscal years 1979, 1980, and 1981; and

H.R. 14125. An act to amend chapter 87 of title 5, United States Code, to provide that Members of Congress may elect at retirement partial (in lieu of full) conversion from group life insurance to individual life insurance.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 1446. An act for the relief of Lester Bruce Friday; to the Committee on the Judiciary;

H.R 11451. An act to establish the true location of a portion of northerly boundary of the Angeles National Forest located in Los Angeles County, Calif., on the common line between sections 16 and 17, township 4 north, range 10 west, San Bernardino merid-

ian, and to establish the center quarter corner of said section 16; to the Committee on Energy and Natural Resources;

H.R. 12256. An act to amend title 38, United States Code, to increase the maximum amount which the Administrator of Veterans' Affairs may pay for the funeral expenses of a veteran from $250 to $350; to the Committee on Veterans' Affairs;

H.R. 12556. An act for the relief of Batavia Turf Farms, Incorporated; to the Committee on the Judiciary;

H.R. 13349. An act to repeal certain sections of title III of the Immigration and Nationality Act, and for other purposes; to the Committee on the Judiciary;

H.R. 13715. An act to improve the operational weather programs of the National Oceanic and Atmospheric Administration, to affirm the Federal responsibility for the provision of effective weather and related services, to assure to the maximum possible extent that all available Federal resources are utilized in a coordinated manner for weather-related research, development, and technology, and for other purposes; to the Committee on Commerce, Science, and Transportation; and

H.R. 14125. An act to amend chapter 87 of title 5, United States Code, to provide that Members of Congress may elect at retirement partial (in lieu of full) conversion from group life insurance to individual life insurance to the Committee on Governmental Affairs.

HOUSE BILL HELD AT THE DESK

The following bill was read by title and held at the desk, pursuant to unanimous consent:

H.R. 13745. An act to authorize appropriations to carry out conservation programs on military reservations and public lands during fiscal years 1979, 1980, and 1981.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, September 20, 1978, he presented to the President of the United States the following enrolled bills:

S. 1678. An act to amend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended;

S. 2701. An act to amend the Water Resources Planning Act (79 Stat. 244, as amended);

S. 3069. An act to provide that members of the Sisseton-Wahpeton Sioux Tribe may request the Secretary of the Interior to acquire certain lands, and to provide that the tribe shall have a preference right to purchase certain lands held in trust by the United States for tribal members; and

S. 3468. An act to amend the Agricultural Act of 1949 to insure that the interest rates on price support loans for upland cotton are not less favorable to producers than the interest rates for such loans on other commodities.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC-4323. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting work plans for upstream watershed protection projects. Deposit Creek in New York, and Wet Walnut Creek No. 1 in Kansas; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4324. A communication from the Chairman, U.S. Consumer Product Safety Commission, transmitting the Commission's request for a supplemental appropriation for FY 1979 of $2,950,000 and 38 positions; to the Committee on Appropriations.

EC-4325. A communication from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, on a construction project to be undertaken by the Naval and Marine Corps Reserve; to the Committee on Armed Services.

EC-4326. A communication from the Chairman, Cost Accounting Standards Board, transmitting, pursuant to law, a proposed standard: PART 416—ACCOUNTING FOR INSURANCE COSTS—a Cost Accounting Standard which establishes criteria for the measurement of insurance costs, the assignment of such costs to cost accounting periods and their allocation to cost objectives; to the Committee on Banking, Housing, and Urban Affairs.

EC-4327. A communication from the Secretary of Commerce, transmitting, pursuant to law, the National Marine Fisheries Services report for the calendar year 1977; to the Committee on Commerce, Science, and Transportation.

EC-4328. A communication from the Secretary, Federal Energy Regulatory Commission, transmitting, pursuant to law, final valuations of properties of certain carriers subject to the Interstate Commerce Act; to the Committee on Commerce, Science, and Transportation.

EC-4329. A communication from the Chairman, U.S. Consumer Product Safety Commission, transmitting, pursuant to law, the Commission's FY 1980 budget estimates; to the Committee on Commerce, Science, and Transportation.

EC-4330. A communication from the Secretary of Energy, reporting, pursuant to law, (1) on the best opportunities to implement a program of Federal financial assistance with the objective of demonstrating production and conservation of energy; (b) study of the purchase by the Federal Government of the products of any alternative fuel facilities constructed under a program as a direct or alternate form of Federal assistance; and (c) a comprehensive plan and program to acquire information and to evaluate various impacts of the Federal financial assistance program; to the Committee on Energy and Natural Resources.

EC-4331. A communication from the Deputy Assistant Secretary of the Interior, reporting, pursuant to law, that the Secretary of the Interior has determined that certain lands in the States of Colorado, Idaho, Nevada, Oregon, and Wyoming are considered not suitable for disposal under the provisions of the Act of September 26, 1968 (43 U.S.C. 1431-1435), the Unintentional Trespass Act (UTA); to the Committee on Energy and Natural Resources.

EC-4332. A communication from the Chief Commissioner, U.S. Court of Claims, reporting, pursuant to law, concerning the allowance of attorney expense claim in proceedings conducted pursuant to the Alaska Native Claims Settlement Act in docket No. F-15; to the Committee on Energy and Natural Resources.

EC-4333. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, eleven work plans for upstream watershed protection projects; to the Committee on Environment and Public Works.

EC-4334. A communication from the Executive Secretary, Agricultural Policy Advisory Committee for Trade Negotiations, Foreign Agricultural Service, Department of Agriculture, transmitting, pursuant to law, the committee's report on the U.S.-Indian Tropical Products Agreement which was consummated by an exchange of letters on July 26, 1978; to the Committee on Finance.

EC-4335. A communication from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, reporting, pursuant to law, on an increase in the funding level of the proposed FY 1978 program in Mali; to the Committee on Foreign Relations.

EC-4336. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within sixty days after the execution thereof; to the Committee on Foreign Relations.

EC-4337. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on July 25, 1978, which would provide for the transportation of District of Columbia students on the Metrobus and Metrorail Transit Systems at a reduced fare of ten cents and to authorize the payment of a School Transit Subsidy to the Washington Metropolitan Area Transit Authority (Act 2-270); to the Committee on Governmental Affairs.

EC-4338. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on July 25, 1978, which would increase the single-family residential real property tax exemption; to classify real property in the District of Columbia for purposes of establishing real property tax rates; to provide an expanded property tax credit for certain renters and homeowners in the District of Columbia, and for other persons (Act 2-268); to the Committee on Governmental Affairs.

EC-4339. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on July 25, 1978, which would amend the District of Columbia Air Quality Control Regulations Relating to the Sulfur Content of Fuels (Act 2-269); to the Committee on Governmental Affairs.

EC-4340. A secret communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the effectiveness of the Navy's undersea surveillance system and evaluating the programs and projects initiated to address problems confronting the Navy in undersea surveillance; to the Committee on Governmental Affairs.

EC-4341. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on July 25, 1978, which would amend the District of Columbia Unemployment Compensation Act (Act 20267); to the Committee on Governmental Affairs.

EC-4342. A communication from the U.S. Commissioner of Education, Department of Health, Education, and Welfare, transmitting, pursuant to law, suggested questions to consider in preparing an application for a grant under the Teacher Corps Program; to the Committee on Human Resources.

EC-4343. A communication from the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), transmitting, pursuant to law, a report of audit of the American National Red Cross for the year ending June 30, 1977; to the Committee on Human Resources.

EC-4344. A communication from the Commissioner Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, 596 reports covering the period of August 15 through August 31, 1978, concerning visa petitions which the Service has approved according the beneficiaries of such petitions third and sixth preference classification under the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM-794. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works:

"SENATE JOINT RESOLUTION NO. 47

"Whereas, oil pollution resulting from the production, refining, transport, transfer and storage of oil on or near the waters of the State of California may be harmful to the natural resources and wildlife of the state, to persons who derive their livelihood from marine-related activities, to recreational opportunities, and to private property; and

"Whereas, the production, refining, transport, transfer and storage of oil are of vital importance to the economy of the State of California; and

"Whereas, Federal law applicable to liability and compensation for oil pollution should be rationalized and expanded by enactment of a unified comprehensive federal law to avoid duplication and to assure adequate and timely compensation for all losses caused by oil pollution; and

"Whereas, any such federal law should set a standard of strict liability for oil pollution, consistent with the Clean Water Act of 1977; and

"Whereas, any such federal law should provide maximum incentives for all persons producing, refining, transporting, transferring, or storing oil to follow all feasible steps necessary to prevent oil pollution; and

"Whereas, any such comprehensive federal law should not prohibit states from imposing liability for oil pollution, so long as duplicative requirements are not imposed and double recovery is not permitted; and

"Whereas, the claims procedures established by any such federal law should not unnecessarily delay imposition of liability by prohibiting claimants from bringing actions directly against parties who may be liable but deny liability; and

"Whereas, at the request of several legislators there was recently established a California Interagency Tanker Task Force, composed of legislators and interested state agencies; and

"Whereas, The California Interagency Tanker Task Force has studied proposals for a comprehensive federal law now pending before the Congress of the United States and has made recommendations supporting the principles set forth in this resolution; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California supports the enactment of a unified comprehensive federal law on liability and compensation for oil pollution; and be it further

"Resolved, That the Legislature of the State of California urges the Congress of the United States to set a standard of strict liability in such legislation including only the defenses to liability now set forth in the Clean Water Act of 1977; and be it further.

"Resolved, That the Legislature of the State of California urges the Congress of the United States not to adopt any provision which would prohibit states from imposing liability for loses caused by oil pollution, so long as duplicative requirements are not imposed and double recovery is not permitted; and be it further

"Resolved, That the Legislature of the State of California urges the Congress of the United States not to adopt any claims procedure which prohibits the claimant from proceeding directly against any party who may be liable, and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Chairman of the President's Council on Environmental Quality, to the Administrator of the Environmental Protection Agency, to the Administrator of the National Oceanic and Atmospheric Administration, to the Secretary of the Interior, to the Secretary of Transportation, to the Commandant of the United States Coast Guard, to the Speaker of the House of Representatives, to the Chairman of the House Committee on Merchant Marine and Fisheries, to the Chairman of the Senate Committee on Commerce, Science, and Transportation, to the Chairman of the Senate Committee on the Environment and Public Works, and to each Senator and Representative from California in the Congress of the United States."

POM-795. A joint resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources:

"SENATE JOINT RESOLUTION NO. 51

"Whereas, the Congress of the United States is currently considering legislation authorizing the designation of several National Historic Trails; and

"Whereas, Juan Bautista de Anza opened the first overland passage from Arizona to Monterey; and

"Whereas, following the arrival of the settlers in Monterey in March 1776, he set out with a small exploratory troop to examine the San Francisco Bay region, and the people brought by de Anza ultimately settled that area with the establishment of Mission Santa Clara in January 1777, and the founding of Pueblo San Jose in November 1777; and

"Whereas, the explorations of Juan Bautista de Anza are of great historical significance to, and form an important part of the heritage of, the people of the State of California, as well as of the people of the United States as a whole; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President to support, and the Congress of the United States to enact, legislation designating the de Anza Trail in California as a National Historic Trail; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Secretary of the Interior."

POM-796. A joint resolution adopted by the Legislature of the State of California; to the Committee on Armed Services:

"SENATE JOINT RESOLUTION NO. 52

"Whereas, under Army Regulation 601-210, an unmarried person with one or more dependents under 18 years of age is disqualified from service unless the person gives up custody of the child and is relieved of all support obligations; and

"Whereas, this regulation applies to members of the United States Army, the Army Reserve, and the Army National Guard; and

"Whereas, this inflexible rule hinders an important policy of this state, which is to encourage increased enrollment in the California National Guard by a broad cross-section of the population, including single parents with children; and

"Whereas, in contrast to the other branches of service, the United States Air Force has modified its rules to allow pregnant women to remain enrolled in the Air Force Academy and on active duty; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California memorializes the Department of the Army to amend Army Regulation 601-210 so that it no longer disqualifies a single parent from service in the California National Guard; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Department of the Army."

POM-797. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations:

"SENATE JOINT RESOLUTION NO. 53

"Whereas, during the aftermath of the 1970-75 war in Cambodia, the Khmer Rouge, the zealous Marxist revolutionaries, have engaged in indiscriminate mass slaughter on a scale that in modern times can be compared only to that in Hitler's and Stalin's concentration camps; and

"Whereas, this genocide in Cambodia has been carried out during the almost total isolation of the country since the communists took full control there in April 1975; and

"Whereas, it is a chilling truth that this callous destruction of over one million human beings during the last three years has been carried out with a lackadaisical, hohum response from the rest of the world; and

"Whereas, On April 21, 1978, President Carter denounced the Cambodian regime as "the worst violator of human rights in the world today," but media coverage of the events in Cambodia has been minimal; now therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to mobilize public opinion and bring pressure to bear upon the Cambodian government by way of the United Nations or other suitable forum to stop the mass killing of Cambodian people presently being carried out by that repressive regime; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-793. A joint resolution adopted by the Legislature of the State of California; to the Committee on Armed Services:

"SENATE JOINT RESOLUTION NO. 46

"Whereas, the United States Department of Defense has begun a study aimed at the possible closing of the Presidio of San Francisco and Letterman Army Hospital; and

"Whereas, the Presidio employs over 3,300 military personnel, with 7,000 dependents, and almost 3,500 civilian personnel; and

"Whereas, the closing of the Presidio of San Francisco and Letterman Hospital would result in a loss of over 3,000 jobs in San Francisco; and

"Whereas, the Presidio is part of the historical heritage of San Francisco, having served as a military base since 1776; and

"Whereas, the Presidio is an important municipal asset to the City of San Francisco and its neighbors; and

"Whereas, the Sixth Army based at the Presidio has played an important and positive role in donating its services for the good of the community; and

"Whereas, it is essential that the Presidio

retain its natural beauty and not be destroyed by land development; now, therefore, be it

"Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California urges the United States Department of Defense not to close the Presidio of San Francisco or Letterman Army Hospital; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Defense, to the Speaker of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-799. A resolution adopted by the Coal Marketing Subcommittee of the Virginia Coal and Energy Commission, State of Virginia, concerning the Norfolk and Western Railway strike; to the Committee on Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MUSKIE, from the Committee on the Budget, without amendment:

S. Res. 553. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 2852 (Rept. No. 95-1201).

S. Res. 551. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2 (Rept. No. 95-1202).

By Mr. EASTLAND, from the Committee on the Judiciary, without amendment:

H.R. 9071. An act to confere jurisdiction upon the U.S. Court of Claims to hear, determine, and render judgment upon the claim of John T. Knight (Rept. No. 95-1203).

By Mr. PAUL G. HATFIELD, from the Committee on the Judiciary, with an amendment:

S. 2079. A bill for the relief of Lawrence Youngman (Rept. No. 95-1204).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

Richard S. Arnold, of Arkansas, to be U.S. district judge for the eastern and western districts of Arkansas.

Patricia J. E. Boyle, of Michigan, to be U.S. district judge for the eastern district of Michigan.

Harold A. Baker, of Illinois, to be U.S. district judge for the eastern district of Illinois.

Bruce S. Jenkins, of Utah, to be U.S. district judge for the district of Utah.

Julian A. Cook, Jr., of Michigan, to be U.S. district judge for the eastern district of Michigan.

Theodore McMillian, of Missouri, to be U.S. circuit judge for the Eighth Circuit.

Mariana R. Pfaelzer, of California, to be U.S. district judge for the central district of California.

By Mr. EASTLAND, from Committee on the Judiciary:

Andrew L. Metcalf, Jr., of Michigan, to be U.S. marshal for the western district of Michigan.

Robert J. Cindrich, of Pennsylvania, to be U.S. attorney for the western district of Pennsylvania.

(The above two nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation:

W. K. Smith, of Minnesota, to be Chairman of the Board of Directors of the U.S. Railway Association.

The following-named persons to be Members of the Board of Directors of the U.S. Railway Association:

Stanton P. Sender, of the District of Columbia;

Nathaniel Welch, of Georgia;

James E. Burke, of New Jersey; and

Robert G. Flannery, of California.

(The above nominations from the Committee on Commerce, Science, and Transportation were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before duly constituted committees of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HATHAWAY:

S. 3506. A bill to amend the Social Security Act with respect to health programs authorized under it and for other purposes; to the Committee on Finance;

S. 3507. A bill to amend title XVIII of the Social Security Act to remove the 3-day prior hospitalization requirement for coverage of extended care services; to the Committee on Finance; and

S. 3508. A bill to amend title XVIII of the Social Security Act to include homemaker service as a home health service; to the Committee on Finance.

By Mr. JOHNSTON:

S. 3509. A bill to amend the Internal Revenue Code of 1954; to the Committee on Finance.

By Mr. HART (for himself and Mr. HASKELL):

S. 3510. A bill to provide for the orderly construction, operation and maintenance of the previously authorized Fryingpan-Arkansas Federal reclamation project in Colorado, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HUDDLESTON:

S. 3511. A bill to amend the Federal Crop Insurance Act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DOMENICI (for himself and Mr. SCHMITT):

S. 3512. A bill to authorize the Secretary of the Interior to consider a petition for reinstatement of a certain oil and gas lease; to the Committee on Energy and Natural Resources.

By Mr. HANSEN:

S.J. Res. 162. A joint resolution to authorize the President to issue a proclamation designating March 1979, as "Youth Art Month"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATHAWAY:

S. 3506. A bill to amend the Social Security Act with respect to health programs authorized under it and for other purposes; to the Committee on Finance.

EXPANDED MEMBERSHIP OF PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

● Mr. HATHAWAY. Mr. President, today I am introducing a bill to expand participation in the Professional Standards Review Organization (PSRO) program under the Social Security Act to include a broader range of health care practitioners.

The PSRO program was created in 1972 to assure that health services which are reimbursed under the medicare, medicaid, and maternal and child health and crippled children's programs are medically necessary, meet professionally recognized standards of care, and are appropriately provided in the most economical settings.

Under current law, PSRO's are required to be composed solely of licensed doctors of medicine or osteopathy engaged in the practice of medicine or surgery in the PSRO area. Similarly, the National Professional Standards Review Council, also created in 1972, is limited to physician members. Given the fact that other health care practitioners play a vital role in the organization and delivery of health care services, it would clearly be useful to expand membership in the PSRO's to include these other professionals. This is especially important since physicians may not always have the expertise to review the broad range of health services which come within the purview of the PSRO. By giving these practitioners a voice in the PSRO program, genuine peer review will be assured.

In addition to physicians, there are at least 15 other health professions, each of which has its own professional standards and none of which is currently represented on PSRO's. The largest of these professions is nursing, with over 900,000 professional registered nurses and numerous more licensed practical nurses. These individuals perform a broad range of extremely valuable services essential to the health care system. Yet they have no voice in PSRO's. The contradiction to peer review is obvious when decisions about the standards of nursing practice and equally important, the sanction procedures, are made without nursing representation.

The dentistry profession offers another clear example of the need to expand PSRO participation to nonphysicians. Unlike many other health professionals, dentists perform unique services which are usualy beyond the training and professional involvement of physicians. Yet the services they perform are subject to PSRO review. A significant number of dentists are engaged in hospital practice. In fact, over $500 million worth of medicare and medicaid services are performed by dentists. It is apparent that the peer review process would benefit from the participation of dentists.

The many other health professions also contribute invaluable services for the health of our Nation. These include clinical psychologists, dieticians occupational, physical, respiratory, and speech therapists, optometrists, pharmacists, podiatrists, radiological technologists, social workers, and audiologists, among others. Providing for their

input in the peer review process is also critical if that process is to be effective. Furthermore, professional involvement should help bring about acceptance of the peer review program.

The legislation I am introducing today attempts to establish genuine peer review by providing for nonphysician participation at the local, State and national levels. Specifically, the bill amends the PSRO membership requirements to allow PSRO's to invite as members other health care practitioners who hold independent hospital admitting privileges. This will allow such practitioners, particularly dentists, to review at the local level health care services provided by such practitioners under medicare, medicaid, and maternal and child health programs.

Second, the bill requires the advisory group to statewide PSRO councils to include at least one registered nurse and one dentist. Third, the National Professional Standards Review Council would be expanded to include three nonphysician members including a registered professional nurse, a dentist, and one other nonphysician health care practitioner. This will provide nonphysician practitioners, whose role in the delivery of services is so crucial, a policymaking voice at the national level. Finally, the bill establishes an advisory committee to the National Professional Standards Review Council composed of nonphysicians health professionals whose service payments may be made under the Social Security Act. This advisory committee, which has already been implemented on a temporary basis by the Department of Health, Education, and Welfare, would provide for expanded participation of nonphysician practitioners in the PSRO program.

Mr. President, I believe that the bill I am introducing will improve the ability of the peer review system to assure quality care in the most efficient manner possible. It has the support of the Department of Health, Education, and Welfare as well as many health care practitioners. A companion bill, H.R. 13817, was introduced in the House by Representatives ROSTENKOWSKI and KEYS. I am pleased to report that this bill was passed by the House yesterday. I hope it will enjoy similar support in the Senate.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3506

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

EXPANDED MEMBERSHIP OF PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

SECTION 1. Section 1152(b)(1)(A) of the Social Security Act is amended—

(1) by inserting "and of other health care practitioners engaged in the practice of their professions in such area who hold independent hospital admitting privileges and who are invited to become members by the organization," after the comma in clause (ii); and

(2) by inserting "(except as otherwise provided under section 1155(c))" after "does not" in clause (vi).

REGISTERED NURSE AND DENTIST MEMBERSHIP STATEWIDE COUNCIL ADVISORY GROUP

SEC. 2. Section 1162(e)(1) of the Social Security Act is amended by inserting "(including at least one registered professional nurse and at least one doctor of dental surgery)" after "representatives".

NONPHYSICIAN MEMBERSHIP ON NATIONAL PROFESSIONAL STANDARDS REVIEW COUNCIL

SEC. 3. (a) Section 1163(a)(1) of the Social Security Act is amended by inserting "one doctor of dental surgery, one registered professional nurse, and one other health practitioner (other than a physician as defined in section 1861(r)(1))" after "physicians,".

(b) Section 1163(a)(2) of such Act is amended by striking out "four members" and inserting "five members" in lieu thereof.

(c) Section 1163(a)(3) of such Act is amended by inserting "physician" after "the".

(d) Section 1163(b) of such Act is amended by striking out "Members" and inserting in lieu thereof "Physician members".

(e) Section 1173 of such Act is amended by striking out "(except sections 1155(c) and 1163)" and inserting in lieu thereof "(except section 1155(c))".

ADVISORY COMMITTEE TO THE NATIONAL PROFESSIONAL STANDARDS REVIEW COUNCIL

SEC. 4. Section 1163 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(f)(1) The Council shall be advised and assisted in carrying out its functions by an advisory committee (of not less than seven nor more than fifteen members) which shall be made up of representatives of health care practitioners (other than physicians) for whose services payment may be made (in whole or in part) under any program established by or pursuant to this Act.

"(2) The Secretary shall by regulations provide the manner in which members of such advisory committee shall be selected and the terms of service.

"(3) The expenses reasonably and necessarily incurred, as determined by the Secretary, by such committee in carrying out its functions shall be considered to be expenses necessarily incurred by the National Professional Standards Review Council."●

By Mr. HATHAWAY:

S. 3507. A bill to amend title XVIII of the Social Security Act to remove the 3-day prior hospitalization requirement for coverage of extended care services; to the Committee on Finance; and

MEDICARE SKILLED NURSING FACILITY BENEFITS

● Mr. HATHAWAY. Mr. President, I am pleased to offer a bill which would amend the Social Security Act to eliminate the current requirement that a medicare beneficiary spend 3 days in a hospital before he or she can be eligible for skilled nursing facility benefits.

This amendment will encourage the use of medically appropriate and more economical alternatives to hospital care while making skilled nursing facility care more readily available to those in need. It would allow physicians to determine the appropriate level of care required by a patient without imposing an unnecessary statutory requirement that placement in a skilled nursing facility (SNF) be preceded by 3 days of hospitalization whether or not hospitalization is necessary.

Currently, 9 million people, or 26 percent of the patients in hospitals, are medicare beneficiaries, while less than 2 percent of nursing home patients fall into this category. While there are no systematic data available, it is clear that a substantial number of these 9 million hospitalized patients might be better, more appropriately, and less expensively served in a skilled nursing facility. This observation is supported by the 1976 "Forward Plan for Health" of the Department of Health, Education, and Welfare which reported "experience suggests that significant numbers of medicare beneficiaries now receiving hospital care would benefit as much from SNF care. Clearly, some patients in need of institutional care do not require the complete—and costly—diagnostic and therapeutic resources available in hospitals."

Mr. President, we are all thoroughly aware of the enormous costs of hospitalization today. It is clear that we must take advantage of alternative, medically appropriate and more economical types of care such as skilled nursing care without encouraging unnecessary hospitalization.

Without hard data to support the claim that patients are hospitalized for 3 days because of the lack of incentives SNE's, some people argue that patients are not in fact hopitalized for the purpose of qualifying for skilled nursing facility care. However, in reality, the opposite may well be the case. It is quite likely that individuals are hospitalized when they only need SNF care, but are not subsequently transferred after the 3 days because of the lack of incentives on the part of the hospital and the patient to make such a transfer. This is supported by HEW's Forward Plan which concluded "it is probable that patients in need of only skilled nursing care, and who are now instead hospitalized, are never subsequently transferred to an SNF because of the paperwork—for example, transfer of medical records, treatment plan—and the lack of any financial incentives or disincentives—for example, no cost sharing is required after the first hospital day and until the 61st day."

Given these indicators, we must take steps to encourage use of more appropriate and less costly health care. Eliminating the 3-day hospitalization requirement would do just that.

The average medicare cost of a covered day in an SNF is a fraction of the routine cost-per-day in a hospital. The amount saved from 5 unnecessary hospital days would pay for the total stay in a skilled nursing facility for most medicare patients since the average medicare stay is only 24 days.

Based on statistics compiled by the National Capital Medical Foundation, the Professional Standards Review Organization for the District of Columbia, over $500,000 in medicare dollars were spent last year for patients in hospitals who could have instead been in nursing homes. This same care would have cost one-fifth as much in a nursing home. These statistics are based on data from

only 13 hospitals. How much more are we spending unnecessarily in the 7,000 plus hospitals in our country?

Current medicare law is intended to link skilled nursing facility care to acute illness requiring hospitalization. Eliminating the 3-day hospitalization requirement would change the focus somewhat. As a result, those individuals requiring skilled nursing care but, not hospital attention could be served. While this would involve additional costs for the medicare program, these costs should be offset in part by reductions in medicare payments for more costly hospitalization, as I have outlined above.

The need for this amendment was supported at hearings of the Senate Subcommittee on Aging which I recently cochaired with Senator EAGLETON in Portland, Maine.

Mr. President, we must begin to seek solutions to the many inequities and inconsistencies which plague our health care system. The bill I am introducing today would contribute in part to that solution by permitting medicare patients who require only a skilled level of care to enter a nursing home directly, thus preventing unnecessary and costly hospitalization.

Mr. President, I ask that the entire text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3507

A bill to amend title XVIII of the Social Security Act to remove the 3-day prior hospitalization requirement for coverage of extended care services

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1811 of the Social Security Act is amended by striking out "post-hospital".

(b)(1) Section 1812(a)(2) of such Act is amended by striking out "post-hospital".

(2) Section 1812(b)(2) of such Act is amended by striking out "post-hospital".

(3) Section 1812(c) of such Act is amended by striking out "post-hospital" the first place it appears.

(c) Section 1813(a)(3) of such Act is amended by striking out "post-hospital".

(d)(1) Section 1814(a)(2)(C) is amended—

(A) by striking out "post-hospital"; and

(B) by striking out all that follows "inpatient basis" and inserting in lieu thereof a semicolon.

(2) Section 1814(a)(2)(D) is amended by striking out "post-hospital extended care services" and inserting in lieu thereof "extended care services".

(3) Section 1814(a)(6) of such Act is amended by striking out "post-hospital".

(4) Section 1814(a)(7) of such Act is amended by striking out "post-hospital" each place it appears.

(5) The heading of section 1814(h) is amended by striking out "Posthospital".

(6) Section 1814(h)(1) is amended by striking out "posthospital".

(e)(1) Section 1861(i) of such Act is repealed.

(2) Section 1861(v)(2)(A) of such Act is amended by striking out "post-hospital".

(3) Section 1861(v)(3) of such Act is amended by striking out "post-hospital".

(4) The heading of section 1861(y) of such Act is amended by striking out "Post-Hospital".

(5) Section 1861(y) is amended by striking out "post-hospital" each place it appears.

(f) Section 1866(d) of such Act is amended by striking out "post-hospital".

(g) Section 226(c) of such Act is amended by striking out "post-hospital extended care services" and inserting in lieu thereof "extended care services".

(h) Section 7(d)(1) of the Railroad Retirement Act of 1974 is amended by striking out "posthospital extended care services" and inserting in lieu thereof "extended care services".

Sec. 2. The amendments made by this Act shall be effective with respect to services provided on or after the date of the enactment of this Act.●

By Mr. HATHAWAY:

S. 3508. A bill to amend title XVIII of the Social Security Act to include homemaker service as a home health service; to the Committee on Finance.

MEDICARE HOMEMAKER SERVICES

● Mr. HATHAWAY. Mr. President, I am pleased to introduce an amendment to the medicare law which our Nation's elderly have long needed for their safety, their health, and their independence; that is, to change the title of "home health aide" under section 1861m(4) of the Social Security Act to "homemaker-home health aide."

The development of home health care in recent years represents an attempt to redirect the Nation's health resources to decrease dependence on costly institutional-based modes of care, and provide a broad continuum of services for America's increasingly large elderly population. Home health care delivery encourages more efficient utilization of institutional beds through earlier discharge of patients from the institution to home care. Conversely, home health care is a potential method of preventive medicine which can delay or even prevent institutionalization of the patient. Consequently, a home health program can relieve pressures to expand institutional facilities.

In many cases, home health services ought to be seen as the primary form of treatment with institutionalization being the alternative. Since elderly people do not always have specific disease episodes that lend themselves to neat actuarial predictions, their care does not necessarily demand skilled nursing service on a daily basis. However, many chronic diseases to which older persons are prone demand sustained attention of a less than skilled nursing nature to prevent health care crises requiring institutionalization.

The need for expansion of Medicare coverage to include homemaker services was emphasized clearly during recent hearings of the Subcommittee on Aging which I was pleased to cochair with Senator EAGLETON in Portland, Maine. It is further supported in a draft of the report which the Department of Health, Education, and Welfare is preparing pursuant to the mandate of Public Law 95-142. The report cites three large home health care programs' reports of patients' ability to perform certain activities of daily living. These three studies show that 86.1 percent of in-home health care consumers are independent in eating ability, but only 43.1 percent are independent at bathing, 57.9 percent are independent at dressing, and 57.1 percent can walk without help.

It is clear that many of our elderly patients on home health care programs need the services of a homemaker to assist them with walking, dressing, and particularly bathing. In addition, assistance is often required with shopping and cooking meals as well as doing laundry and other such household tasks. Without such homemaker help, an elderly person may not be able to maintain his or her independence and therefore may be forced to go to an institution by default.

The medicare guidelines state that a home health aide may perform certain homemaker—that is, household—tasks in the home as long as these do not substantially increase the time the aide spends there to deliver home health care. Mr. President, the minimal personal and chore services which homemakers provide can be just as critical to an older person's health, independence, and self-respect as so-called health care services given by an aide.

In fact, before passage of the medicare law in 1965, most aide level personnel in home health agencies were called homemaker-home health aides. Even today, these people are one and the same. The bill I am introducing today would formally recognize this fact by changing the title of "home health aide" to "homemaker-home health aide," thus permitting medicare reimbursement for homemaker services provided by these individuals.

Mr. President, this legislation, supported by the major national home health associations, will enable us to provide the elderly with the home care services they actually need, rather than simply those that are currently reimbursed.

I welcome the support of my colleagues and look forward to the prompt enactment of this measure.

Mr. President, I ask unanimous consent that the full text of the amendment be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3508

A bill to amend title XVIII of the Social Security Act to include homemaker service as a home health service

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1861(m)(4) of the Social Security Act is amended by inserting "homemaker" before "home health aide".

SEC. 2. The amendment made by this Act shall be effective with respect to services provided on or after the date of the enactment of this Act.●

By Mr. JOHNSTON:

S. 3509. A bill to amend the Internal Revenue Code of 1954; to the Committee on Finance.

CONSTRUCTIVE OWNERSHIP OF STOCK

● Mr. JOHNSTON. Mr. President, today, I am introducing legislation to amend section 302 of the Internal Revenue Code to limit the application of the attribution rules with respect to interests in an estate or trust.

Under present law it is the position of the Internal Revenue Service that a redemption of stock held by an estate will not qualify for sale or exchange treatment as a termination of a shareholder's interest in a corporation. This result occurs because the constructive ownership rule of the Code provides that stock owned, directly or indirectly, by or for a beneficiary of an estate is considered to be owned by the estate and it is the service's position that an estate or trust cannot execute the agreement on reacquisitions that individuals can execute to waive attribution of ownership. Under the service's position the redemption may be treated as a dividend included in ordinary income and not as an exchange of a capital asset.

The Tax Court has rejected the Service's very literal reading of the law. In a case styled Lillian M. Crawford the Court held that an estate could execute an agreement on reacquisitions within 10 years so that the redemption of the shares held by the estate qualified for capital gains treatment. In that case, shares owned individually by the beneficiary of the estate were also redeemed. The court stated that the literal reading of the law advocated by the service would lead to nonsensical results.

As a consequence of the very literal reading of the law by the IRS, other taxpayers are faced with situations similar to that presented in the Crawford case. In effect, these taxpayers are prohibited from doing directly that which might be done indirectly if other purely technical aspects of law were not involved.

Mr. President, I am introducing this legislation today because I am now aware of how highly technical language of the code relating to stock redemption is a trap for the unwary. I am particularly incensed because the Service's literal reading of the code relating to stock redemptions may force one of our Nation's oldest continuous operating companies in the construction industry into liquidation. The Wilson Contracting Co., Inc. (WCCI) was organized and has been continuously operating since 1908. The stock of Wilson and another related company, Barriere Construction Co., Inc., represent a substantial minority interest in the estate of Gaines P. Wilson, Sr.

The will of Gaines P. Wilson, Sr. leaves his minority stock interest in Wilson and Barriere in part to family interests in Kentucky and Louisiana. The Louisiana family members wish to continue the operation of the businesses. The present Kentucky family interest have had no active involvement in operating the businesses. The executor of the estate wishes to terminate the interests of the estate in the corporations in a manner which will accord the beneficial interest of the Kentucky family members treatment under section 302(b)(3) of the Internal Revenue Code, relating to complete termination of a shareholders' interest. This amendment provides such treatment.

In many instances, an estate cannot meet the sale or exchange requirements for redemptions of stock to pay death taxes and does not have sufficient cash to pay its expenses or to meet specific cash bequests of the decedent.

Under the amendment attribution of ownership to or from an estate or trust will be inapplicable for the termination of interest provision and thus the proceeds received in a redemption will be treated as an exchange of a capital asset and not as a dividend. This treatment will be available only to the extent the distribution would have been made to an exempt organization if the stock had been transferred to the organization immediately prior to the redemption and then the stock had been redeemed, and to the extent the distribution would have been made to an individual who has either a direct or beneficial interest in the proceeds if the stock had been transferred to the individual immediately prior to the redemption and then the stock had been redeemed in a transaction that would result in a complete termination of the individual's interest in the corporation. The individual would be required to comply with the current provisions. Thus, he could not retain an interest in the corporation other than as a creditor, and he could not acquire any interest other than by bequest or inheritance for a 10-year period from the date of redemption. Furthermore, the individual would be required to notify the Secretary of an acquisition of any such interest within the 10-year period.

To the extent an individual would be unable to qualify for a complete termination of interest in the corporation, proceeds received in redemption of stock held by the estate equal to the individual's interest in the estate would be treated as a dividend received by the estate.●

By Mr. HART (for himself and Mr. HASKELL):

S. 3510. A bill to provide for the orderly construction, operation and maintenance of the previously authorized Fryingpan-Arkansas Federal reclamation project in Colorado, and for other purposes; to the Committee on Environment and Public Works.

FRYINGPAN-ARKANSAS WATER PROJECT

Mr. HART. Mr. President, Senator HASKELL and I are today introducing legislation to remove a technical objection to operation of a previously authorized and largely constructed portion of the Fryingpan-Arkansas water project in Colorado.

This legislation is supported by the State of Colorado and the conservancy district which will operate the project when it is completed. The administration has not completed the full review, including Office of Management and Budget clearance, necessary for endorsement of legislation, but the Department of the Interior is satisfied that this legislation clarifies the original congressional authorization for the project, as requested by the Department's Solicitor.

In 1962 Congress authorized the Department of the Interior to construct the Fryingpan-Arkansas project. A portion of that project will divert water from the Hunter Creek watershed on the western slope of the Continental Divide and transport the watershed to the eastern slope of the Divide. The Department has almost completed construction of that portion of the project.

This year, however, the Solicitor of the Department decided that there is ambiguity about the amount of water which Congress authorized the Department to divert from the Hunter Creek watershed, and about the purpose to which the Department can apply the water that it diverts.

This ambiguity exists because Congress had before it different descriptions of the project when it passed the authorizing legislation. Congress directed the Department to build the project "in substantial accordance" with an early feasibility report and "in accordance" with more recent project operating principles and Colorado water law. The feasibility report, prepared in 1950, described the Hunter Creek portion of the project as diversions of about 3,000 acre-feet for exchange with the holder of senior water rights. The operating principles, agreed to in 1960, modified the plan for the project to reach agreement among various parties who had been in conflict over the 1950 plan. This agreement did not restrict the Hunter Creek portion of the project as the feasibility report had. Likewise, State courts issued decrees for the project water which did not restrict the Hunter Creek diversions as the feasibility report had.

After the congressional authorization, the Department proceeded to construct the Hunter Creek portion of the project as reflectd by the operating principles and State decrees. This year, however, the Solicitor questioned this approach, and, noting the "ambiguities" in the congressional legislation, decided that "It is, in close cases, the better rule to seek additional and clarifying Congressional authority." The legislation that we are introducing provides that clarifying authority.

We do not want to create the impression that we share the Solicitor's questions over the meaning of the original congressional authorization. To the contrary, we think that a better examination of the historical record would indicate that Congress always intended the Hunter Creek portion of the project to be constructed and operated as the Department has built it. We introduced our legislation only to further clarify that original intent and to remove the Solicitor's objection, not to ratify the merits of the Solicitor's opinion.

Mr. HASKELL. Mr. President, today I join my colleague from Colorado, Senator HART, in introducing legislation to permit the Fryingpan Arkansas water project to be operated as authorized by Congress. This project is more than 90 percent completed and will provide

needed water for Southeastern Colorado and Colorado Springs.

The legislation provides assurance that the laws of Colorado relating to the establishment of minimum stream flows will be followed and provide for a limit of 270 cubic feet of water on the rate at which water can be diverted. This bill also establishes and protects the minimum flows on No Name, Midway Creek and Hunter Creek. Of course, minimum flows established by this bill can be implemented by agreement under State law; negotiations have been and are now taking place to do so.

Given the background against which this legislation is offered, passage of this bill will be an important step in assuring that the affected jurisdiction will be assured delivery of water in the amounts agreed and the rate of diversion will not do damage to the stream from which the water is taken.

It is unfortunate that uncertainty was created by the issuance of a Solicitor's Opinion which was prepared without any consultation with Congress and without regard to full legislative history. This practice of attempting to determine the intent of Congress by examining preselected documents is one which I find suspect.

We are interested in seeing that this project be operated in the matter intended with protection for the minimum flows of the stream. Arguments as to the maximum flows are properly the subject of State law and jurisdiction. It is best that they be so resolved.

It is my hope that the Senate will adopt this essentially technical legislation and permit the project to be completed as authorized by Congress.

By Mr. HUDDLESTON:

S. 3511. A bill to amend the Federal Crop Insurance Act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FARM CROP INSURANCE ACT OF 1978

● Mr. HUDDLESTON. Mr. President, the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices, which I chair, has been involved for 2 years in studying the problems of Federal crop insurance. I do not think a single colleague of mine would disagree that the time has come for revision of portions of the USDA-operated crop insurance program.

My subcommittee has held 3 days of hearings in Washington in order to begin determination of the direction we should take to solve the problems of the Federal Crop Insurance Corporation. Also, 2 days of field hearings have been held to hear some of the suggestions of producers.

The measure I am introducing today was developed at my request by an ad hoc group from the private crop-hail insurance industry. The approach differs from other bills that are before the Senate.

This is the third crop insurance bill I have introduced. My reason for introducing each of these measures has been an effort to stimulate discussion and get all possible alternatives before the Senate. I intend to continue to work toward a viable and equitable legislative solution and I plan to have a disaster-crop insurance measure before the full Agriculture Committee early in the 96th Congress. This means that extensive crop insurance hearings will begin late this year or early next year.

Mr. President, S. 3511, which I introduce today, if enacted, would amend the Federal Crop Insurance Act to expand the Federal crop insurance program to all crops and all counties in the United States for which an insurnace program is feasible. The bill also removes the existing 20 county limit on the program for Federal reinsurance of private insurors. And the measure excludes from the Federal crop insurance program hail, fire, and lightning insurance.

This bill would—

First. Increase the authorized capital stock of the Federal Crop Insurance Corporation from $200 million to $400 million;

Second. Beginning with the 1979 crop year, require the Corporation to insure producers of all agricultural crops, wherever they are grown commercially. Beginning with the 1982 crop year, the Corporation could limit or refuse insurance in any county or area, or on any farm, on the basis of the insurance risk involved;

Third. Exclude hail, fire, and lightning coverage from the Federal crop insurance program;

Fourth. Delete the existing provision of law restricting to not more than 20 counties the Federal reinsurance of private insurors of producers of agricultural crops;

Fifth. Authorize a new Federal crop insurance program covering prevented planting losses;

Sixth. Require that Federal crop insurance premiums be increased to cover administrative and operating costs of the Corporation, as well as claims for losses and the establishment of a reserve against unforseen losses;

Seventh. Provide that the Federal Government, in order to encourage the broadest possible participation in the Federal crop insurance program, pay up to 50 percent of the premium of Federal crop insurance policies;

Eighth. Provide that Federal reinsurance of private crop insurors will be provided only in the reinsurance deemed necessary is not available from recognized private sources at reasonable cost;

Ninth. Effective October 1, 1979, establish a revolving fund in the Treasury to be available without fiscal year limitation to the Federal Crop Insurance Corporation to carry out the Federal Crop Insurance Act. Amounts received by the Corporation as premiums from farmers and other income from its operations would be deposited in the fund, and appropriations to the fund to restore the expenses of the Corporation for Federal premium payments would be authorized; and

Tenth. Authorize the Corporation to borrow from the Treasury as necessary if moneys available in the revolving fund are insufficient to enable the Corporation to meet its responsibilities under the Federal Crop Insurance Act.

Mr. President, I ask unanimous consent that S. 3511 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3511

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Farm Crop Insurance Act of 1978".

CAPITAL STOCK

SEC. 2. Section 504(a) of the Federal Crop Insurance Act is amended to read as follows:

"SEC. 504. (a) The Corporation shall have a capital stock of $400,000,000 subscribed by the United States of America, payment for which shall, with the approval of the Secretary of Agriculture, be subject to call in whole or in part by the Board of Directors of the Corporation.".

BOARD OF DIRECTORS—COMPENSATION AND REIMBURSEMENT FOR TRAVEL EXPENSES

SEC. 3. The second sentence of section 505 (c) of the Federal Crop Insurance Act is amended to read as follows: "The members of the Board who are not employed by the Government shall be paid such compensation for their services as directors as the Secretary of Agriculture shall determine, but such compensation shall not exceed the daily equivalent of the rate prescribed for grade GS-18 in section 5332 of title 5, United States Code, when actually employed, and shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.".

PERSONNEL

SEC. 4. Section 507 of the Federal Crop Insurance Act is amended by—

(1) striking out ", and county crop insurance committeemen" in subsection (a);

(2) striking out the comma immediately after "title" in subsection (b) and all that follows down through the end of subsection (b) and inserting in lieu thereof a period;

(3) striking out subsection (c) in its entirety;

(4) redesignating subsection (d) as subsection (c) and amending such subsection (as redesignated) to read as follows:

"(c) The Corporation may contract with, and transfer funds to, other agencies and offices of the Department of Agriculture or the county committees established under section 8 of the Soil Conservation and Domestic Allotment Act for assistance in implementing this title; but any employees of such other agencies and offices responsible for performing functions under this title shall be responsible directly to the Corporation without the intervention of any intermediate office or agency."; and

(5) redesignating subsection (e) as subsection (d).

CROP INSURANCE PROGRAM FOR 1979 AND SUBSEQUENT CROP YEARS

SEC. 5. Effective beginning with the 1979 crop year, section 508 of the Federal Crop Insurance Act is amended to read as follows:

"CROP INSURANCE

"SEC. 508. To achieve the purposes of this title, the Corporation—

"(a)(1) shall for the 1979 and subsequent crop years insure producers of agricultural crops wherever grown commercially, as determined by the Board, subject to the limitations herein. The insurance for any agricultural crop shall be offered under any plan or plans determined by the Board to be adapted to the agricultural crop. Such insurance shall be against loss of the insured agricultural crop due to one or more unavoidable causes, including drought, flood, wind, frost, winterkill, excessive rain, snow, wildlife, hurricane, tornado, insect infestation, plant disease, and such other unavoidable causes, other than hail, lightning, or fire, as may be determined by the Board: *Provided,* That such insurance shall not extend beyond the period the insured agricultural crop is in the field. Any insurance offered against loss in yield shall not cover more than 75 percent of the average yield for a representative period of years for a farm, or area in which the farm is located, as determined by the Corporation on the basis of recorded or appraised yields, subject to such adjustments as may be necessary to the end that the average yield fixed for farms in the same area, which are subject to the same conditions, may be fair and just. Insurance provided under this subsection shall not cover losses due to the neglect or malfeasance of the producer, or to the failure of the producer to reseed to the same agricultural crop in areas and under circumstances where the Corporation determines it was practical to so reseed, or to the failure of the producer to follow established good farming practices. Beginning with the 1982 crop year, the Board may limit or refuse insurance in any county or area, or on any farm, on the basis of the insurance risk involved. For each agricultural crop insured, the Corporation shall not offer insurance on any acreage not suited to the production of such agricultural crop or in any county where the planted acreage of such agricultural crop is below a minimum county acreage as established by the Corporation, except that it may, if it is deemed practical to do so, offer insurance on acreage in such county through the office serving another county that meets the minimum requirement. The Corporation shall report annually to Congress the results of its operations on each agricultural crop insured.

"(2) may insure producers against losses that they may incur when they are unable to plant an agricultural crop because of weather conditions. Insurance issued under authority of this paragraph shall be subject to the applicable provisions of paragraph (1) of this subsection.

"(b) shall fix adequate premiums for insurance at such rates as the Board deems sufficient to cover all direct and indirect costs of acquisition, loss adjustment, crop inspection, actuarial, underwriting, and administration costs, and claims for crop losses on such insurance, and establish as expeditiously as possible a reasonable reserve against unforeseen losses. For the purpose of encouraging the broadest possible participation in the Federal crop insurance program, not exceeding 50 percent of each participant's calculated premium shall be paid by the Federal Government. The remaining portion of the premium shall be paid by each participant and such premiums shall be collected at such time or times and shall be secured in such manner as the Board may determine.

"(c) may adjust and pay claims for losses under rules prescribed by the Board. In the event that any claim for indemnity under the provisions of this title is denied by the Corporation, an action on such claims may be brought against the Corporation in the United States district court, or in any court of record of the State having general jurisdiction, sitting in the district or county in which the insured farm is located, and jurisdiction is hereby conferred upon such district courts to determine such controversies without regard to the amount in controversy: *Provided,* That no suit on such claim shall be allowed under this section unless the same shall have been brought within one year after the date when notice of denial of the claim by registered mail is sent to the claimant.

"(d) may provide, upon such terms and conditions as the Board may determine to be consistent with subsection (b) of this section and sound reinsurance principles, reinsurance to private insurance companies, or groups or pools of such companies, that insure producers of any agricultural crop under contracts acceptable to the Corporation: *Provided,* That no application for reinsurance shall be approved unless the Corporation shall have determined that the reinsurance deemed necessary is not available from recognized private sources at reasonable cost.".

ADVISORY COMMITTEE—COMPENSATION AND REIMBURSEMENT FOR TRAVEL EXPENSES

SEC. 6. The second sentence of section 515 of the Federal Crop Insurance Act is amended to read as follows: "The compensation of the members of such committee shall be determined by the Board, but shall not exceed the daily equivalent of the rate prescribed for grade GS-18 in section 5332 of title 5, United States Code, when actually employed, and be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.".

FUNDING AND REGULATIONS

SEC. 7. Effective October 1, 1979, section 516 of the Federal Crop Insurance Act is amended to read as follows:

"FUNDING AND REGULATIONS

"SEC. 516. (a) There is hereby created within the United States Treasury a separate fund (hereafter in this section referred to as the 'fund') that shall be available to the Corporation without fiscal year limitation as a revolving fund for achieving the purposes of this title. A business-type budget for the fund shall be prepared, transmitted to Congress, considered, and enacted in the manner prescribed by sections 102, 103, and 104 of the Government Corporaion Control Act for wholly-owned Government corporations.

"(b)(1) There are authorized to be appropriated to the fund such amounts as may be necessary to restore the expenses of the Corporation for Federal premium payments and redemption of notes or obligations issued under subsection (c) of this section. All amounts received by the Corporation as premiums, fees, and other moneys, property, or assets derived by it from its operations in connection with this title shall be deposited in the fund.

"(2) All expenses, including reimbursements to other Government accounts, and payments pursuant to operations of the Corporation under this title shall be paid from the fund. From time to time, and at least at the close of each fiscal year, the Corporation shall pay from the fund into the Treasury as miscellaneous receipts interest on its outstanding capital stock and outstanding borrowings from the Treasury, less the average undisbursed cash balance in the fund during the year and Federal premium payments due the Corporation. The rate of such interest shall be determined by the Secretary of the Treasury and shall be not less than a rate determined by taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable obligations of the United States with comparable maturities. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest. If at any time the Corporation determines that moneys in the fund exceed the present and any reasonably prospective future requirements of the fund, such excess may be transferred to the general fund of the Treasury.

"(c) If at any time the moneys available in the fund are insufficient to enable the Corporation to discharge its responsibilities under this title, it shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Corporation from appropriations or other moneys available under subsection (b) of this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States with comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any note or other obligation issued hereunder for that purpose. The Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any note or other obligation acquired by the Secretary of the Treasury under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

"(d) The Secretary of Agriculture and the Corporation, respectively, are authorized to issue such regulations as may be necessary to implement the provisions of this title.".

DEFINITION OF "AGRICULTURAL CROP"

SEC. 8. Section 518 of the Federal Crop Insurance Act is amended by striking out "SEC. 518. 'Agricultural commodity'," and inserting in lieu thereof "SEC. 518. 'Agricultural crop'.". ●

By Mr. DOMENICI (for himself and Mr. SCHMITT):

S. 3512. A bill to authorize the Secretary of the Interior to consider a petition for reinstatement of a certain oil and gas lease; to the Committee on Energy and Natural Resources.

● Mr. DOMENICI. Mr. President, together with my distinguished colleague from New Mexico, I am introducing today a bill to authorize the Secretary of the Interior to consider a petition for reinstatement of a certain oil and gas lease for the benefit of a small New Mexico gas and oil firm. A brief description of the events relating to this lease is presented now to indicate my reasons for introducing this bill.

The New Mexico gas and oil company, Atom Inc., has a gas and oil lease on Federal land in Sandoval County, N. Mex. The company was drilling a gas well on the lease on the expiration date of the lease, February 28, 1978, an action by which officials of the company felt the lease would be extended and the company's rights thereunder preserved. The officials of the company were aware

that royalty payments on the lease were required, but they understood, incorrectly as it turned out, that this lease fell into the category of "minimum royalty," meaning that the company would be billed for royalty payments by the appropriate Federal Government agency.

Unfortunately, as to this lease, royalties were not billed but due on a certain date, February 28, 1978, in this case. On April 12, 1978, the company was notified that the lease would be terminated for nonpayment of the royalty. The company immediately ceased operations on the well they were drilling and sent a check that same day for the amount of the rental fee, $401.50, seeking to have the lease reinstated.

The Bureau of Land Management determined, in accordance with the provisions of 43 CFR 3108.2–1(c), that it was without power to reinstate the lease because "the rental was tendered more than 20 days after the anniversary date of the lease."

Mr. President, I feel there are extenuating circumstances in this matter which justify the enactment of a bill which simply gives the Secretary of the Interior more flexibility than he and his subordinates have under existing regulations. Specifically, this bill would authorize the Secretary to reinstate the lease in question if the Secretary is satisfied that the "failure to pay timely was either justifiable or not due to lack of reasonable diligence."

In this case, it is obvious and everyone agrees that there was no intention or effort to avoid payment of the royalty since it was tendered immediately when the company was advised that it was overdue. Further, Mr. President, when the company had already spent over $37,000 on the lease, there would be no reason to fail to pay the royalty payment of only $401.50, an amount that is only 1.1 percent of the total invested in the lease. That entire investment will have been for nothing if the lease is not reinstated and that just doesn't seem fair or reasonable to me.

Finally, I have checked with the responsible Federal agency on another relevant question, namely, would anyone be adversely affected by the reinstatement of this lease? I have been advised by the Albuquerque Office of the U.S. Geological Survey that there would be no adverse effect on any person or business firm that can be presently identified since no one else is automatically entitled to the lease. Since no one else would be hurt by the reinstatement and since no one else has invested in the lease, it seems entirely fair and reasonable to provide the flexibility for the Secretary to reinstate the lease to the people who have invested over $37,000 in its development for energy production.

Stated another way, Mr. President, in the absence of intention not to pay and when no one else is hurt, it just seems unfair and illogical to me to take the lease away from people who, but for this unintentional mistake, would be entitled to whatever benefits may flow from their investment, an investment which is now in jeopardy because a royalty payment of only 1.1 percent of that investment was not sent in when due.

Mr. President, I ask unanimous consent that the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3512

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior shall receive, consider, and act upon any petition of Atom, Incorporated, Farmington, New Mexico, filed within one hundred eighty days after the effective date of this Act, for reinstatement of a United States oil and gas lease designated NM 4565, and accompanied by the required rental, including back rental accruing from the date of termination, and shall reinstate such lease in accordance with the provisions of section 31(c) of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 188 (c)), if it is shown to the satisfaction of the Secretary that the failure to pay timely was either justifiable or not due to lack of reasonable diligence.●

By Mr. HANSEN:

S.J. Res. 162. A joint resolution to authorize the President to issue a proclamation designating March 1979 as "Youth Art Month"; to the Committee on the Judiciary.

YOUTH ART MONTH

● Mr. HANSEN. Mr. President, Americans are increasingly becoming culturally aware. We have a growing appreciation for art, music, and theatre, and these endeavors no longer are being shrugged off as playthings for only the rich.

Art, in particular, is gaining ground in our educational systems. Painting, sculpture and the gamut of other visual arts are earning a rightful place in all levels of our schools because students and teachers are taking art seriously. Not only is art an expression of oneself and a reflection of others, it is a tool for personal development.

Because of the importance of recognizing the value of art in our children's education, I am today introducing a resolution calling for the designation of March as National Youth Art Month. The Wyoming Federation of Women's Clubs each year since 1961 has been at the forefront in focusing attention on the development of art appreciation in our young people. The Governor of Wyoming the last 3 years has declared Youth Art Month and the governors of several other States are following suit with the support and encouragement of the National Art Education Association and the National PTA.

Our American heritage is rich with various art forms and our European ancestry offers the finest art background in the world. But to many of us, understanding and appreciation of this art is limited, and thus is our knowledge and understanding of the people somewhat incomplete.

Through art a child can learn sensitivity and awareness of feelings—both his own and others, of history, the world and the environment. Designating March as Youth Art Month will reaffirm our commitment to development of these finer human qualities in our children. I hope the Senate will act quickly to pass this resolution.●

ADDITIONAL COSPONSORS

S. 2474

At the request of Mr. KENNEDY, the Senator from California (Mr. CRANSTON) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 2474, a bill to amend the Public Health Service Act.

S. 3359

At the request of Mr. CHILES, the Senator from New Mexico (Mr. SCHMITT) and the Senator from California (Mr. CRANSTON) were added as cosponsors of S. 3359, a bill to amend the Miller Act to raise the dollar amount of contracts to which such act applies from $2,000 to $25,000.

S. 3425

At the request of Mr. HATHAWAY, the Senator from New Jersey (Mr. WILLIAMS) and the Senator from New Hampshire (Mr. MCINTYRE) were added as cosponsors of S. 3425, the Community Mental Health Assistance Act of 1978.

AMENDMENTS SUBMITTED FOR PRINTING

MILITARY PROCUREMENT AUTHORIZATIONS—S. 3486

AMENDMENTS NOS. 3622 AND 3623

(Ordered to be printed and to lie on the table.)

Mr. TOWER submitted two amendments intended to be proposed by him to S. 3486, a bill to authorize appropriations for fiscal year 1979 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes; to the Committee on Armed Services.

FOREIGN ASSISTANCE APPROPRIATIONS—H.R. 12931

AMENDMENTS NOS. 3624 AND 3625

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY submitted two amendments intended to be proposed by him to H.R. 12931, an act making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1979, and for other purposes.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and

Transportation be authorized to meet during the session of the Senate today to hold an oversight hearing on the National Tourism Policy Study.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

AMENDING OF THE FEDERAL CONSTITUTION

● Mr. GARN. Mr. President, perhaps the best single source for information on the amending of the Constitution is Lester B. Orfield's "The Amending of the Federal Constitution," first published in 1942 and recently reprinted by DaCapo Press, New York, N.Y. Professor Orfield has performed an excellent service with this well-researched and clearly written book. Certainly those persons interested in the issues raised by House Joint Resolution 638—extending the deadline for ratification of the equal rights amendment—will wish to refer to the Orfield text.

Particularly interesting is Professor Orfield's analysis of the question whether a State legislature may change its action on a proposed constitutional amendment, that is, whether a legislature that has once rejected an amendment may later ratify it and whether a legislature that has ratified may change its mind and rescind. Professor Orfield sets out the three views regarding this question and, in this case, the third view is especially interesting because of its relevance for the present debate. The third view is that a State may reject an amendment, despite a prior ratification, so long as the amendment has not received ratification by the constitutionally required three-fourths of the States. Professor Orfield holds that this third view is the superior view for the following reasons:

First. Ratification should not be more final than rejection—and ratification by less than three-fourths of the States is ineffectual.

Second. It is more democratic to allow the reversal of prior action.

Third. A truer picture of public opinion at the final date of ratification is obtained.

Fourth. No great confusion is likely to result from such a rule.

Fifth. Not to allow reversal of an acceptance may cause a cautious legislature not to act.

Mr. President, I urge our colleagues to study the Orfield analysis because it will provide important insight into some of the policy questions raised by House Joint Resolution 638. I express my earnest hope that our colleagues are studying these issues carefully and not reflexively reacting to the partisan political pitch that some are holding out as the law of the Constitution. In fact, the status of the constitutional law is unclear and this Congress is charged with the high duty of participating in debate and decisions that may establish a precedent for decades to come. I hope we will discharge our duty in a manner consistent with constitutional and legislative history and that, when we have made our decisions, we will have a policy that will be fair, that will stand the test of time, and that will be consistent for both those amendments we favor and those we do not.

I ask that the relevant pages from the Orfield book be printed in the RECORD, together with footnotes.

The excerpts follow:

A problem which has several times come up in practice is whether a legislature may change its action with respect to an amendment. One view with respect to ratification by state legislatures is that the first action by the legislature of a given state is conclusive and binds future legislatures, even though the first action was that of rejection. This view, which has received but small support, was taken in *Wise v. Chandler* [99] by the highest state court of Kentucky. It was argued that a convention ratifying a Federal amendment could not change its action; hence rejection by a convention would be final; and that a state legislature had no greater power than a convention. It should be noted that treating both acceptance and rejection as conclusive is logically consistent and insures protection of minority rights.[100]

The Supreme Court of Kansas disagreed with the Kentucky court and held an original vote of rejection not conclusive, though stating an original vote of ratification would be conclusive.[101] The Kansas view is supported by Congressional practice as to the Thirteenth and Fourteenth Amendments,[102] and by the legal theory that the Constitution creates only a power to ratify and not a power to reject.[103] It is also supported on the ground of public policy in that less delay results and that it is less confusing than counting subsequent reversals.[104] To allow a rejection to be final is to make the amending process less deliberate. There might also be some difficulty as to the meaning of rejection, as for instance, is rejection by one house of the state legislature a rejection? However, this difficulty might be readily resolved by adopting the view that only an affirmative vote of rejection by both houses of the legislature is binding.

In declaring the adoption of the Fourteenth Amendment, Congress counted two states which had first rejected and then ratified. The Kentucky court sought to explain this by saying that the rejections should not count as rejections because they were by illegal governments.[105] But it by no means follows that an illegal government may not perform some valid acts, such as ratification of a federal amendment.[106] The Supreme Court has stated in a leading case: [107] "acts necessary to peace and good order among citizens . . . which would be valid if emanating from a lawful government, must be regarded in general as valid when proceeding from an actual, though unlawful government. . . ." Action on a constitutional amendment may be included within such acts.

A third possible view is that a state should be able to reject, despite prior ratification, before three-fourths of the states had ratified.[108] Of course, such subsequent rejection could not come after three-fourths of the states had ratified. Under this view, both the Kentucky and the Kansas courts were in error as to the effect of prior ratification. Ratification should not be more final than rejection. Ratification by less than three-fourths of the states is ineffectual. Such is the theoretical approach. But there are even stronger practical arguments. It is more democratic to allow the reversal of prior action. A truer picture of public opinion at the final date of ratification is obtained. No great confusion is likely to result from such a rule.[109] Not to allow reversal of an acceptance may cause a cautious legislature not to act.[110]

It would seem to follow from the recent decision of the Supreme Court that the fact of rejection by more than one-fourth of the states does not bar ultimate ratification of an amendment if Congress deems the amendment still open for ratification. The view that rejection by more than a fourth of the states destroyed an amendment has been taken by the Kentucky Court.[111] The Kansas Court took the opposite view.[112] Since rejection by a single state was not conclusive, it logically followed that rejection by a group of states carried no greater weight. Thus the fact that twenty-one states had rejected the child labor amendment and notified the secretary of state and four states had rejected without such notice did not destroy the amendment. That the present Article Five does not allow rejection by one-fourth of the states plus one to defeat the amendment permanently was to some extent indicated by the Wadsworth-Garrett Joint Resolution in 1926 proposing an amendment which would expressly permit one-fourth of the states plus one to kill the amendment. In the case of the Fourteenth Amendment ten states out of thirty-seven, or more than one-fourth, had rejected, yet Congress treated it as ratified.[113] Thus the prevailing view seems to be that a rejection is not final,[114] but there has as yet been no test of the finality of a ratification.

FOOTNOTES

[99] (1937) 270 Ky. 1, 108 S. W. (2d) 1024, noted or discussed (1938) 18 BOST. U. L. REV. 169; (1937) 37 COL. L. REV. 1201; (1937) 26 GEO L. J. 107 at 118; (1938) 6 GEO. WASH. L. REV. 218; (1938) 26 KY. L. J. 364; (1938) 22 MINN. L. REV. 269; (1938) 17 NEB. L. BULL. 81; (1938) 11 SO. CAL. L. REV. 472; (1937) 24 VA. L. REV. 194; (1937) 23 WASH. U. L. Q. 129; (1937) 47 YALE L. J. 148; Dowling, "Clarifying the Amending Process," (1940) 1 WASH. & LEE L. REV. 215.

The same view was also taken by Cadwalader, "Amendment of the Federal Constitution," (1926) 60 AM. L. REV. 389 at 393; Grinnell, "A 'Point of Order' on the Child Control Amendment," (1934) 20 A. B. A. J. 448, reprinted in (1934) 19 MASS. L. Q. No. 5, p. 22.

[100] (1938) 11 SO. CAL. L. REV. 472.

[101] Coleman v. Miller, (1937) 146 Kan. 390, 71 P. (2d) 518.

[102] (1938) 11 SO. CAL. L. REV. 472.

[103] Dodd, "Amending the Federal Constitution," (1921) 30 YALE L. J. 322; (1940) 24 MINN. L. REV. 393 at 395–396. In opposition it was argued to the Kentucky court that Van Devanter, J., had stated in Rhode Island v. Palmer (National Prohibition Cases), (1920) 253 U.S. 350 at 386, 40 S. Ct. 486, 588: "The referendum provisions of state constitutions and states cannot be applied, consistently with the Constitution of the United States, in the ratification or rejection of amendments to it." See also the view of Senator Garrett Davis, CONG. GLOBE, 41st Cong., 2d sess. (1870) 1479–1480.

[104] (1938) 11 SO. CAL. L. REV. 472.

[105] This distinction is approved in (1937) 24 VA. L. REV. 194.

[106] See (1937) 37 COL. L. REV. 1201 at 1203, note 21; (1938) 22 MINN. L. REV. 269.

[107] Texas v. White, (1868) 7 Wall. (74 U.S.) 700 at 733.

[108] Miller, "Amendment of the Federal Constitution," (1926) 10 MINN. L. REV. 1858 at 188; (1938) 18 BOST. U. L. REV. 169; (1938) 22 MINN. L. REV. 269; (1938) 17 NEB. L. BULL. 81; (1937) 23 WASH. U. L. Q. 129; NICHOLAS MURRAY BUTLER, HEARINGS ON S. J. RES. 134, 75th Cong., 3d sess. (1938) 41–42; ROTTSCHAEFER, CONSTITUTIONAL LAW (1939) 395. The solicitor general in his brief in Coleman v. Miller at p. 26 admitted that ratification should be rescindable.

[109] (1938) 18 BOST. U. L. REV. 169.

[110] (1938) 11 SO. CAL. L. REV. 472.

[111] Wise v. Chandler, (1937) 270 Ky. 1, 108 S. W. (2d) 1024. It had earlier been claimed that rejection by more than one-fourth of

the states would defeat the proposal until it was resubmitted to the states by Congress. Statement by Special Committee of the American Bar Association, "The Federal Child Labor Amendment," (1935) 21 A. B. A. J. 11 at 12; Grinnell, "A 'Point of Order" on the Child Control Amendment," (1934) 20 A.B.A.J. 448.

[112] Coleman v. Miller, (1937) 146 Kan. 490, 71 P. (2d) 518.

[113] PLACK. THE ADOPTION OF THE FOURTEENTH AMENDMENT (1908) c. 4.

[114] See discussion in (1940) 24 MINN. L. REV. 393 at 395. Professor Noel T. Dowling believes that much can be said for making it final. Dowling, "Clarifying the Amending Process," (1940) 1 WASH. & LEE L. REV. 215 at 222.●

THE SUCCESS OF THE USDA'S FARM STORAGE FACILITY LOANS

● Mr. McGOVERN. Mr. President, one of the quiet successes of the Food and Agriculture Act of 1977 which we enacted last year amid some controversy is the farm storage facility loan program administered by the Department of Agriculture.

This Congress convened last year, and a new administration took office, facing a difficult legacy: approximately 1 billion bushels each of wheat and corn more than the market could reasonably use.

We had three options.

First, we could have ignored the existence of these grain stocks, cut prices and adopted a "fire sale" technique that would have collapsed farm prices and caused widespread farm bankruptcy.

Second, the Government could have taken over the grain, contracted for storage or built its own facilities as we have done in the past—an option almost nobody likes.

Third, we had the option of developing a system to handle this carryover grain in a manner that would be useful both to producers and users of American grain.

I am pleased that the Congress and the administration worked together to adopt the third option, through the use of a farmer-owned grain reserve program that recognizes that grain stockpiles can be a blessing and not simply a price-depressing curse.

As of the end of last week, farmers had put almost 400 million bushels of wheat and nearly 260 million bushels of corn into their own grain reserve—they own it, they control it, and they will get the benefit from increased prices in the future. And it is largely on the farm, in normal market channels, as a hedge against disaster or shortage some time from now.

Key to the success of this reserve program has been the companion farm storage facility loan program, which Secretary of Agriculture Bob Bergland implemented shortly after he assumed office last year and which was strengthened in law by last year's farm bill.

Availability of credit to finance on-farm storage facilities gives grain growers an important tool in holding and managing their grain stockpiles, an ability to hold them on the farm where they can insure quality and quantity.

The September issue of "Leadership," a publication of Farmland Industries Inc., tells of the experience of the South Dakota Wheat Growers Association's office in Redfield, S. Dak., in providing storage facilities for farmers in my State.

Mr. President, I ask that the article entitled "Government Program Spurs Grain Bin Growth" be printed in the RECORD.

The article follows:

GOVERNMENT PROGRAM SPURS GRAIN BIN GROWTH

Ron Ohm, manager of the South Dakota Wheat Growers Assn. Spink County Co-op Service Co., Redfield, S.D., sold 130 to 140 farm bins since September 1. In an average year the co-op sells 50 to 60 bins.

"I'd attribute this increase to four things," Ohm said. "First, we've had exceptional crops around here. Then there's the transportation problem and the full elevators in the area. But, most important, is the government storage program."

Under the new farm storage program—a part of the new Carter farm program—land owners are eligible for loans for on-farm storage facilities based on their two-year production. The farmer puts up 15% of the cost and the government stands up to 85%. This includes cost of the bins, concrete and all installation. It does not include installation if the farmer does the work himself. Interest rate on the 5 to 8-year loans is 7%.

According to a spokesman for the ASCS office in Leavenworth, Kan., farm storage loans are running from $10,000 to $25,000. Farmers may receive as much as $50,000, but would be required to put up collateral. County ASCS loan committees decide the amount each farmer can borrow, the spokesman said.

The steel bin business has been so good in the Redfield area that Ohm has three construction crews working full time this summer. He has a concrete crew and two erection crews composed of seven full-time employees working with college students.

"There's more to putting one of these bins up than you'd think," Ohm said. "It takes special tools, a compressor and air impact wrenches for example."

A crew that already has the concrete laid can erect a 3,300-bushel bin in about 7 hours.

Ohm said every crew has a full time employee as foreman. "It's a must that your foreman be well informed about the erection of these bins. A misplaced piece of filler or a bolt tightened too much can result in problems right away."

"It's a hot job," said one of the members of the Redfield crew. "We had a thermometer inside one of the bins one day and when the temperature got to 120 degrees we took it out. We didn't want to know how much hotter it was going to get."

One of the best selling points of co-op bins is the sealed roof. Where the roof sections meet the sides, the edge of the roof section curves and is bolted to the side to insure a sealed fit. Other bins have a hang over where the edges meet and a gap of as much as an inch or two allows snow and blowing debris to get into the grain stored within.

Farmland's larger bins have the sealed roof as an option.

The foundations are four inches thick on an 8 x 8-foot footing, reinforced with wire.

Ohm said there really hasn't been the need for a sales promotion for the steel bins. "It seems like once they are out on the farms they pretty well speak for themselves," Ohm said. "Neighbors see one and ask how the farmer likes his and that's all it takes."

In Redfield, the steel bin business has been a life-saver for the cooperative. "The grain bin business has kept us out of deep water, financially," Ohm said. "We had $350,000 in steel sales last year and 90% of that was bins."

One of the biggest problems suppliers of farm bins are having this summer is convincing farmers to place their orders early. "We've got farmers who wait and wait before deciding to go with farm bins," Ohm said, "and when they do place their order they can't understand why they can't have a bin out there right away." On the average, orders were being filled two weeks after being placed from Redfield.

Russ Johnsen, a supervisor of one of the Redfield crews, said they wait three to seven days after concrete has been laid before starting to erect a bin. "We also tell the farmers to lay down a sheet of plastic on the concrete before the first fill to keep the moisture from moving from the concrete into the grain."

With the tremendous surge in the grain bin demand this summer, Roy Martin, Farmland fieldman, said there has been an increased number of new bin suppliers hitting the market.

"You've got to watch, for example, where bin capacity is measured," Martin said. "Farmland's 3,300 bushel bins mean they hold 3,300 bushels to the eve—not to the tip of the bin."

Martin said ASCS recommends, and Farmland agrees a farmer should never fill a bin to the top. In order to work with the grain, you've got to have space at the top.

At the Raymond, S.D., Cooperative Elevator Co., Larry Jahnig, general manager, just started ordering Farmland steel bins this year.

The Raymond cooperative received five loads of bins this summer—around 70 bins. Most have a capacity of 3,300 bushels.

Jahnig subcontracts all the labor for the bin construction. He said the labor situation in his area made subcontracting a more workable way of handling the bins.

"Most of the farmers in our area already had bins on their farms," Jahnig said. "They needed more with the government programs and all. A lot of our farmers had the bins on their farms already filled with last year's grain and needed new storage for the new crops."

Myron Walth, Brown County Co-op Association, Aberdeen, S.D., was not in the steel bin business until this year. "We had been out of the business four years until this summer.

Then this summer, Walth put one salesman into the country with exclusive responsibility for selling bins. Not only was he responsible for the sales, but also acquiring the subcontractors for the concrete and erection. All follow-up calls concerning the bins were his responsibility. "It's a good arrangement," Walth said. "Here, the salesman is really watching over the job since he's the one who will get the calls if something goes wrong."

Walth said grain bins are a commodity nearly impossible to inventory on the local level. "For one thing we don't have the space to hold that kind of stock in any quantity and you can wrap up a pile of money in no time with bins," he said.

Walth said he will usually buy an entire load of bins if he has half of them sold—the others are usually bought by the time the load arrives, he says.

This summer the Brown County Cooperative ordered 65 bins—the majority 3,300 bushel capacity. Walth said a lot of bin orders didn't come in until after July 15. He attributed that to the government storage program.

"We really need to have someone go out and convince farmers that they need to assess their needs in matters like this in advance." Walth said. "Farmers in many cases, still, like to have the dollars in their pockets before they make a purchase."

Walth said on the average farmers in the Aberdeen area have a five-week wait for bins once they place their order.

The Aberdeen Co-op has two crews, subcontracted, made up of college and high school men.

Walth said the majority of farmers in his area see on-farm storage as a long-term concept. "Our farmers expect to store grain on their farms indefinitely irrespective of the government programs," Walth said. "Our crops used to be considered strictly on a cash basis, now farmers are storing them and doing some marketing."

He said most of the younger farmers in the area have incorporated with their fathers and the cash needs aren't as stringent as if they were just starting our fresh and buying new farms.●

REPORT OF THE ENVIRONMENT AND PUBLIC WORKS COMMITTEE ON VARIOUS BUILDING PROSPECTUSES

Mr. RANDOLPH. Mr. President, the Public Building Act of 1959 authorizes the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation to approve by resolution, public buildings projects proposed by the General Services Administration.

In May 1978, new procedures were promulgated requiring the Senate committee to submit a formal report to the Senate, describing the projects authorized and outlining the reasons for the project. The following proposals were approved by voice vote of the committee.

REPAIR AND ALTERATION PROSPECTUSES OLD U.S. CUSTOMHOUSE, NEW YORK, N.Y.

This is a prospectus for the general upgrading of the U.S. Customhouse situated adjacent to Bowling Green in lower Manhattan in New York. The alterations proposed would provide more than 249,000 square feet of office space for the U.S. Courts, Departments of Health, Education and Welfare, Department of Treasury, Department of Interior, Federal Maritime Commission, International Trade Commission, Equal Opportunity Employment Commission and the Consumer Products Safety Commission. The work will also preserve this architecturally and historically significant building.

Designed by Cass Gilbert and constructed in 1907, the building is an excellent example of Beaux Arts style and is listed in the National Register of Historic Places. Corinthian columns surround the building emphasizing its structural solidity while the cavernous entrance hall gives it a graceful, light effect. Among many distinctive features of the structure are exterior sculptural panels by Daniel French, who is best known for his statue of Abraham Lincoln in Washington, D.C. Artistic amenities such as these are the mark of architectural excellence and buildings which adorn them should be preserved and utilized.

Major items to be included in the work are the installation of a new heating, ventilating, and air conditioning system; upgrading the electrical system; installing fire and life safety items; replacing the roof; improving the elevators; replacing the windows; renovating the restrooms and plumbing system; and installation of new flooring. Total authority required for the project is $23,720,000.

The committee continues to express its interest in the restoration of architecturally or historically significant buildings to house Federal agencies, including the restoration of such buildings under the Public Buildings Cooperative Use Act.

LEASE EXTENSION PROSPECTUS: 120 CHURCH STREET, LOWER MANHATTAN, N.Y.

The Internal Revenue Service presently occupies 348,700 square feet of space in this privately owned building and Government pays an annual rental of $2,626,376, including services and utilities for this space.

Although the present lease provides a 5-year renewal option, certain alterations are necessary in the building to meet IRS requirements. The lessor will not undertake the needed work unless a new lease is negotiated. Consequently, a new lease is proposed for a firm term of 10 years at an annual rate of $2,902,160 including services and utilities. In addition, two 5-year renewal options are proposed.

BALLSTON CENTRE TOWER 1, ARLINGTON, VA.

The Departments of Defense, and Health, Education, and Welfare currently occupy 140,981 square feet in this building for which an annual rental of $651,168.04, including services and utilities is paid. This space has been occupied by various agencies since 1968 and continues to be geographically convenient to both agencies presently in the building.

General Services Administration proposes renewal for a term of 5 years at an annual cost of $1,141,803, including services and utilities.

CRYSTAL PLAZA 2, ARLINGTON, VA.

The U.S. Patent and Trademark Office has occupied 153,550 square feet of space in this building since 1963 for which $731,184.96 per annum in rent is currently charged by the owner. This space is part of a large Patent Office enclave in Crystal City, where the agency is consolidated.

General Services Administration proposes a 5-year renewal at an annual cost of $1,289,820 which includes all services.

FAMILY LIFE

● Mr. McGOVERN. Mr. President, a thoughtful and intriguing article appeared recently in the Washington Post. It addresses the role of the father in childrearing.

The man described in the article is trying to spend as much time as possible with his son, and oftentimes takes him on business trips. The arrangement works beautifully for both father and son.

This man has experienced the kindness and generosity of people in the business world who consider day care an important fact of life. Mr. Ken Fisher suggests that the business world begin to think in terms of day care: "Just as you plan your keynote speaker, your dinner, your conference location, you should plan for day care. We should think more about giving parents the opportunity to bring their kids along."

I feel it is important for both Government and business to begin to consider the effects its policies have on families. Hearings held in 1971 by the Subcommittee on Children and Youth, chaired then by Senator Mondale, concluded that "existing public policies do affect the health and well-being of families, both positively and negatively."

The family described in this article is benefiting from openminded people who understand what families need. We in Congress need to be as understanding and as aware of the impact our legislation has on family life.

I ask that this enlightening article be printed in the RECORD.

The article follows:

TRAVELING WITH HIS SON MAKES FATHER INVOLVED

(By Judy Mann)

Matthew Fischer is 4 years old. He has milked cows in California, played with goats in Florida, visited music camps in Michigan and New York, not skied ("the mountains were too big") in Colorado, toured the New England Aquarium and the Children's Museum in Boston.

Matthew goes on business trips with his father. Matthew's parents, Penny and Ken Fischer, both work. She is a flautist, studying for her doctorate in music at the University of Maryland, teaching 3 private students a week, traveling between three college campuses and a music school. Ken Fischer works for the Institute for Educational Leadership, a part of George Washington University, designing and managing conferences between public officials and educators. It is a job that takes him traveling across the country and in the past two years he has taken Matthew with him 15 times.

"It began as a necessity," Fischer says, "In 1975, when Penny wanted to go to a workshop in upstate New York. I had to do some traveling at the same time. It was an opportunity for her really to get into her music. I said, why not take Matthew with me?" Matthew was 21 months old.

"I did it once and found it worked. I've just been amazed by how things have been able to work out. It's been a very pleasurable thing from the beginning."

Ken and Penny Fischer are an attractive, friendly couple. Their son is what a 4-year-old boy should be: outgoing, a little devilish, a little shy. Very small. It is clear Matthew has been around strangers and is quickly at ease with them.

"We took him around right from the beginning," says Penny Fischer. "He grew up with lots of other people. A lot of kids wouldn't be comfortable with this arrangement. He felt comfortable with strangers."

Penny and Ken Fischer have been married for 12 years. They live in a house in Falls Church. The cushion on their living room sofa says I love You. For the first two years after Matthew was born they had what Penny Fischer calls a "more traditional" arrangement. She was primarily responsible for Matthew's care, frequently taking him to the University of Maryland where students would care for him. "But now Ken does more than I do. Everyone's sort of winning in this situation."

Last year Matthew commuted to Washington with his father, traveling by car, bus or subway downtown to the Foundry Methodist Church pre-school at 16th and P streets in the morning and returning home at night. "It gave Matthew and me another chance to spend an hour and a half together. Commuting time is quality time. You can talk. He met all kinds of people on the bus and the subway.

"Fathers are always getting criticized for not spending enough time with their kids. These are some things we can do," says Fischer.

"There is increasing interest on the part of fathers of young children to be part of their rearing," says Dr. Michael Lamb, a psychologist who has been studying young families for four years, initially at the University of Wisconsin and currently at the University of Michigan. "One of the ways it's manifested is how delighted they are to be considered by researchers. Another indication is the increase in the number of parenting books that are directed at fathers. Another index of the trend, I believe, is for more fathers to want custody. Courts are increasingly willing to grant custody to the father."

James A. Levine, author of "Who Will Raise the Children? New Options for Fathers (and Mothers)", agrees that more fathers are sharing child raising responsibilities with their wives. "They present new models which encourage other men who might have wanted to try it out to try it out."

"One of the things I'm trying to do now in the meetings I'm planning for the future is to think and to get my colleagues to think about day care," says Ken Fischer. "Just as you plan your keynote speaker, your dinner, your conference location, you should plan for day care. We should think more about giving parents the opportunity to bring their kids along."

On Matthew's first trip, to Northern Michigan, Ken Fischer said he called a contact who runs a college student center. "I said I'm bringing Matthew. I have business to take care of. I'd like to have child care." Fischer says he found students to care for his son. On other trips he has, again, called ahead and arranged for Matthew to stay with students or in day care centers near the conference while he has been working.

"There are a number of trips Matthew hasn't gone on. I ask myself do I want to bring him along? Is what I'm doing at the meeting so critical that he would be a distraction? Am I prepared for the meeting? If I'm going to have to work on the plane, that's robbing the kid of half the trip—the flight."

On a trip to Berkeley, Calif. Matthew stayed at a day care center while his father worked. "Matthew and I slept together, swam together every morning and evening. One night I went into the city and he stayed at the child care center. Another night, he went with me.

"If I'm going to a city where I don't know anybody, I try to be resourceful. I call church secretaries, deans of colleges. I find they just seem to know what's going on in their community. In the case of one dean, he interviewed prospective sitters."

Don't people find this an imposition? They not only felt it wasn't an imposition, they found it a neat idea and they wanted to help.

"Every major city's going to have colleges, churches and synagogues. Women's centers are popping up all over. If women can call them to find out about day care, why not have men call and say what can I do with my kids?"

Matthew rode in a backpack until he was 2½ "because I had a lot of luggage to carry." Fischer found he was best off ignoring airlines advice to sit in the front, behind the bulkhead of the plane. "I say make reservations as far back in the plane as possible where you are near the lavatories, near the galley where the food is served first and near the flight attendants. There is space for changing diapers or for the child to play around. If the child cries and you're in the front, attention is focused on the parent, who just wishes the child would shut up. If you're in the back you're near the engine, there's lots of noise, you have space to play. You can have a great time."

"People really want to help a man with a child," says Penny Fischer who has also travelled with Matthew and sees the difference. "If you're a mother with a baby, forget it. The businessmen get up and move away from you. But a man has an advantage. There's a maternal reaction.

"There's the assumption," says Ken Fischer, "that seeing a man with a child he somehow needs help, that somehow he can't handle this situation. I must say, I take advantage of it."●

ACTION TO REDRESS A REGRETTABLE INCIDENT

● Mr. CRANSTON. Mr. President, recently there has been considerable discussion of the unauthorized distribution of cartoons maligning the Catholic Church by an employee of a Planned Parenthood affiliate.

This was indeed a most regrettable incident.

At that time, Planned Parenthood moved quickly to repudiate the material, reprimand the employee concerned, and took steps to see that such an action would not occur again.

I believe it would be useful to clarify the circumstances under which those cartoons were distributed, and the subsequent actions taken by Planned Parenthood and other affected parties with respect to the incident.

Mr. President, I ask that there be printed in the RECORD a letter distributed by Planned Parenthood to all Members of Congress explaining the circumstances under which the unauthorized distribution of the cartoons was made to a small select group, my correspondence with Planned Parenthood, the Department of Health, Education, and Welfare, the National Committee of Catholic Laymen, and replies from those organizations, as well as letters between those organizations, and the new directive circulated by Planned Parenthood governing dissemination and publication of materials.

The material follows:

PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.,
May 19, 1978.

DEAR MEMBER OF CONGRESS: It has come to our attention that a letter has been sent to you and other members of Congress by Rep. Robert K. Dornan, in which some very serious allegations are made about our organization. I would like to take this opportunity to set forth the record and explain the situation in detail.

The incident related to you by Rep. Dornan began late last year with the creation, by an individual employee in one of Planned Parenthood's 191 affiliates, in Denver, Colorado, of a set of satirical cartoons on the abortion issue. The cartoons—one of which featured the Secretary of Health, Education and Welfare, and another, the hierarchy of the Roman Catholic Church—clearly went far beyond the bounds of good taste. The author was advised of this by several other Planned Parenthood employees in other parts of the country to whom the cartoons were sent for comment, and it seemed that the idea had been rejected as it deserved. Then, just a few weeks ago an employee in our Chicago affiliate, seeing the cartoons for the first time, decided to circulate them on her own initiative to the editors of some college newspapers in several states. The matter later became the basis of an editorial column in the Chicago Tribune, May 1, which first brought the matter to national attention.

Since then, the Board of Directors of our Chicago affiliate has publicly repudiated the cartoons and the philosophy underlying them, and its counterpart in Denver has both repudiated the cartoons and severely reprimanded the individual who was responsible for them. Moreover, the employee concerned has been directed to submit all proposed public information materials in future to the Board for review prior even to informal distribution to others.

In addition, I have expressed my personal apologies, in writing, both to DHEW Secretary Joseph A. Califano and to Archbishop John R. Quinn, President of the National Conference of Catholic Bishops, and have released these letters, along with a news release, to religious newspapers and magazines. Copies of my letters and press statement are enclosed for your information.

Just prior to this incident, it also came to our attention that an educational comic book on the subject of abortion, the content of which had been reviewed favorably in a national Planned Parenthood newsletter, had on its back cover a highly irreverent cartoon depicting the Virgin Mary. The booklet, entitled "Abortion Eve," was published in 1973 by a group in California unrelated to Planned Parenthood. When we were alerted, by individuals within Planned Parenthood, to the highly offensive back cover, we prepared a statement which repudiated the booklet and called on all organizations involved in the reproductive health field "to confine their public messages within the bounds of decency and respect both for truth and for the religious and other sensitivities of their audience."

We profoundly regret these two incidents. Although occasional lapses of judgment on the part of individuals are inevitable in an organization as large and decentralized as ours, they are totally at odds with our official policies and normal practices—as well as with the spirit of trust we have painstakingly sought to build over the years with public agencies, religious groups and other community organizations with which we have worked. The high respect in which we hold the personal views and consciences of those with whom we may disagree, on certain issues is the basis and cornerstone of our efforts, and any action or sentiments which undercut that respect have no place in those efforts. On behalf of the Planned Parenthood Board of Directors, staff, volunteers and our more than one million clients across the country, I pledge to you that I will take every precaution to see that such incidents do not happen again.

Planned Parenthood Federation of America is the nation's oldest and largest voluntary family planning organization, founded more than 60 years ago. We have been at the forefront of many social debates in the past and are therefore accustomed to criticism and sometimes false and serious accusations. It is our normal practice to ignore such accusations, despite the fact that in recent months, as you may be aware, there has been what appears to be an organized national effort to discredit our good name. We have preferred to let our record of community service stand on its own. We point this out, not to weaken the force of our apology for those two unfortunate incidents, which is unqualified, but because recent experience suggests that there may be occasions in the future when attempts may be made to discredit Planned Parenthood with unfounded charges—and even threats to our ability to deliver services—some of which may come to your attention. If they do, we would appreciate it very much if you would let us know of them, so that we may take appropriate action. In the meantime, I hope that you will take a look at the enclosed documents including our 1976 annual report which will tell you more about who we are and our record of accomplishments.

Sincerely yours,

FAYE WATTLEMAN,
President.

FACTS ABOUT PLANNED PARENTHOOD FEDERATION OF AMERICA

We are the nation's largest non-profit voluntary health agency providing medical services to individuals, and among the top ten in terms of financial support from individuals and private sources.

A Federation of 191 independently chartered affiliates in 43 states and the District of Columbia, each of which is governed by elected volunteer boards representing the communities they serve.

Over 60 years old. Two former U.S. presidents (Truman and Eisenhower) have served on our Honorary Sponsors Council.

We believe that family planning is a profoundly moral responsibility for all couples, essential to the dignity of individuals, the stability of the family, and the health and well-being of children.

We affirm the right of individuals to follow their own consciences in reproductive matters, as guided by their religious and ethical beliefs and by the families and communities of which they are a part.

We offer medically-supervised family planning services to an estimated 1,100,000 persons each year in more than 700 clinics around the country. Approximately 95 percent of our clients come to us for contraceptive services which include screening for such conditions as venereal disease, sickle cell anemia, and breast and cervical cancer. The remainder come for pregnancy counseling and help with abortion, prenatal care or adoption or for infertility therapy.

Education and training in family planning in communities around the country;

Information to community leaders about the needs of the family planning field.

U.S. headquarters revenues for domestic programs of $6.4 million (1976) were derived from private contributions and other income (58%); government grants and contracts for special projects (22%); and income from our own affiliates (20%).

Local community revenues of $76.2 million (1976) were derived from government grants mostly channeled through state and local health and welfare agencies, and reimbursements for contraceptive and educational services provided to poor women (53%); clinic fees from those who can afford to pay (26%); and private contributions (21%).

PLANNED PARENTHOOD REPUDIATES CONTROVERSIAL CARTOONS

NEW YORK, May 10.—The top official of the Planned Parenthood Federation of America has issued a strong denunciation of a series of editorial cartoons disrespectful of various governmental and religious institutions which were recently found to have been circulated by its Chicago affiliate. PPFA President, Faye Wattleton offered unqualified apologies for the incidents both to the U.S. Secretary of Health, Education, and Welfare, and to the President of the National Conference of Catholic Bishops.

In similar letters to Secretary Joseph A. Califano and Archbishop John R. Quinn, of San Francisco, both dated May 5, Ms. Wattleton noted that "a set of cartoons dealing editorially with the abortion issue has been circulated in the Chicago area by the local Planned Parenthood Association", and expressed her "profound apologies, both official and personal, for any embarrassment that may have been caused by this inappropriate and irresponsible action." She noted that the action was "totally at odds with the official policies and normal practices of Planned Parenthood", and said she wished to "repudiate both the actions themselves and the philosophies and the feelings they may reflect." She noted that both in Chicago, where the cartoons were distributed, and in Denver, where they originated, equally strong repudiations had been expressed by the boards of directors of the Federation's local, semi-autonomous affiliates at there unauthorized actions. In Denver, she said, the staff member responsible has been "severely reprimanded"; in Chicago, the staff member responsible is no longer employed with the agency.

Planned Parenthood Federation of America is the national, voluntary family planning organization whose community-based affiliates in 43 states and the District of Columbia provided medically-supervised family planning services to more than 1.1 million clients in 1977.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., May 11, 1978.

DEAR COLLEAGUE: Recently I brought to your attention the Congressional Quarterly "asterisk" next to the names of Catholic House Members listed in the tally of each vote on the Hyde Amendment (February 4 issue). The only good comment which can be made about that incident is that it was not funded by taxpayers' money.

I think that we can all agree, however, that that kind of prejudice has no place in the public forum and, above all, should never be underwritten by the Federal Government. Yet it annoys me to report that this is exactly what is being done in a more insidious way. Moreover, those who are spreading blatant anti-Catholic prejudice are at this moment petitioning for even larger public tax support under Title X of the Comprehensive Family Planning Services Act which the Congress will soon consider during the authorization process.

These are harsh accusations but well-founded. Attached you will find a column by Joan Beck which appeared in the Chicago Tribune early this month. It shocked me, as I am sure it will you, to learn that some chapters of Planned Parenthood, an organization that derives substantial amounts of its funding from the Federal Treasury has adopted shabby tactics in attempting to gain adherents.

Legislators should think twice before helping to propagate anti-Catholic prejudice. Especially in the wake of the frightening television reminder of the nightmarish toll of bigotry run wild, the superb 4 day series "Holocaust".

There are far reaching implications to the accusations included in this column which should be investigated before we in the House of Representatives unquestioningly vote further public funding of tax dollars.

Sincerely,

ROBERT K. DORNAN.

[From the Chicago Tribune, May 1, 1978]

A TASTELESS ANTI-CHURCH TRADE—WITH TAX SUPPORT

(By Joan Beck)

The cartoon comes as part of an ugly package sent to editors of college newspapers and others who are invited to publish it freely. The six-panel strip shows an official-looking seal of the Department of Health, Education and Welfare. The words, presumably spoken by HEW secretary Joseph A. Califano Jr., read:

"I was raised in a very devout family. So was my wife. Of course we have a very religious home and accept the teachings of the church about birth control and abortion. When we had all the children we felt we should, my wife and I talked it over. She chose total abstinence for the rest of her fertile years. I respect her choice.

"Of course my mistress feels differently about it."

Another of the half-dozen cartoons pictures a Catholic bishop holding matches and a can of gasoline. Slyly he says the church is not worried about abortion because "we've got the faithful out burning down the clinics."

The package also contains blatant and nasty anti-Catholic and anti-religion blasts editors are urged to use as "background materials for your editorials."

What surprises is the source of the package. Newspaper columnists and editors are accustomed to getting ugly, inflammatory material on abortion from both supporters and opponents. But these cartoons and editorial copy come from the Planned Parenthood Association/Chicago Area with a cover letter signed by its public education director.

With the bishop cartoon, for example, additional copy reads. "Yes, they're burning down the clinics. In Minnesota. In Ohio. In Vermont. Fanatics, stirred into activity by the bombast of 'churchmen' are running about with matches. Why?

"Because some people, some religious and semi-religious groups dominated by elderly men, simply cannot deal rationally with sex. They can't talk about it rationally, can't think about it rationally, and above all can't give up the power which controlling other people gives them. They control other people through sex.

"What groups? The Roman Catholic Church . . . the Mormon Church . . . certain fundamentalist churches. . . . All of these groups control people through controlling their sexual activity. . . . They want to force their beliefs on you and they are very likely to succeed."

The cartoons and copy were originally produced by Planned Parenthood of the Rocky Mountains, in Denver, and circulated within that group and other chapters of the Planned Parenthood Federation of America.

Planned Parenthood groups get extensive funding from HEW—some of the money directly and other sums from state pass-through organizations. About 25 per cent of the groups also participate in United Way and similar fund-raising organizations.

It's disturbing that an organization getting federal tax money would push such crude anti-religious views under its letterhead. And it's foolish for one dependent on public contributions to let such hatred seep out under its name.

Queries to Planned Parenthood/Chicago first brought a defense of the package [it was time "to take the offensive against the Catholic Church in desperation because of its severe and sustained attacks on Planned Parenthood," and Califano's view on abortion justified the sniteness against him.]

A spokesman for Planned Parenthood Federation of America agreed the material is tasteless, unfortunate, and offensive, but pleaded local jurisdiction. Finally, the Chicago chapter issued a statement repudiating the cartoons and saying they do not represent either the Chicago or national organization.

Abortion is an excruciating issue, a national trauma that must be resolved in science and in sorrow—not in a fury of religious bigotry and hate. Americans have a constitutional right to views based on religion and opposition to abortion is no more solely a Catholic stance than is agreement with "Thou shalt not kill" in other contexts.

It will be difficult enough to settle the abortion dilemma without the complication of irrelevant passions. But our national nerves are already rubbed so raw we must try—especially those, like Planned Parenthood, who are already committed to a publicly-funded position.

U.S. SENATE,
Washington, D.C., June 7, 1978.

Ms. FAYE WATTLETON,
President, Planned Parenthood—World Population, 810 Seventh Avenue, New York, N.Y.

DEAR MS. WATTLETON: I was deeply shocked at the irresponsible action taken by employees of Planned Parenthood in encouraging the publication of materials attacking the

Catholic Church and so shamefully insulting the character of a public official.

Such actions severely threaten Congressional efforts to ensure that voluntary family planning services are available to all those individuals who want them but either cannot afford them or lack ready access to them. It is indeed regrettable that an association will be made between Federal support of voluntary family planning programs and the distribution of this scurrilous material.

In a notice circulated to all members of Congress, you indicated that the individual who authored the cartoons has been severely reprimanded and that the employee has been directed to submit all proposed public information to the Board of Directors of the Denver affiliate for review prior to any distribution, including informal distribution, to others. That notice also indicates that the staff member in Chicago responsible for circulating the materials to editors of college newspapers is no longer employed with the agency, although it is not clear whether the termination of employment was related to the extremely poor taste shown by the employee in distributing the material.

I would very much appreciate it if you would be willing to share with me a copy of the reprimand which was given to the employee in Denver, with the identity of the employee appropriately protected and advise me why stronger measures than a reprimand were not taken. Please also advise me if the Chicago employee's termination of employment was related to this incident.

I would also appreciate your advising me what steps you are taking to prevent a repetition of this most disgraceful episode by an affiliate of your organization. Enclosed for your information is a copy of a letter I have written to HEW Under Secretary Champion on this situation.

Sincerely,

ALAN CRANSTON,
Chairman, Subcommittee on Child and Human Development.

U.S. SENATE,
Washington, D.C., June 6, 1978.

Hon. HALE CHAMPION,
Under Secretary of Health, Education, and Welfare, Washington, D.C.

DEAR HALE: Attached is a letter I received from Mr. Michael Schwartz, Associate Executive Director of the Catholic League for Religious and Civil Rights, protesting the regrettable distribution by an affiliate of Planned Parenthood of cartoons maligning the Catholic Church and Secretary Califano.

Mr. Schwartz asks, among other questions, if public funds were used to pay for the production and distribution of these cartoons, and if any Federal regulations were violated. I'm confident no Federal regulations would sanction distribution of materials of this caliber, but would appreciate your checking to determine if indeed any Federal funds were involved in this public information activity. If it should be found that Federal funds were involved, what steps have been taken by HEW with respect to the recipients of Federal funds, and what steps can be taken by HEW to remedy this unfortunate incident? Also, please advise me of what steps were taken by Planned Parenthood to discipline those responsible.

I'm sure you were as shocked as I was at the extremely poor taste evidenced by the distribution of these materials. In my judgment, this action constitutes an inexcusable breach of public trust which must be dealt with by all concerned in the most direct, immediate, and definitive way consistent with individual rights.

As you know, S. 2522, the proposed "Voluntary Family Planning Services, Population Research, and Sudden Infant Death Syndrome Amendments of 1978", has been favorably reported by the Human Resources Committee and is now pending on the Senate calendar. I look forward to your most immediate response to this letter and the matters raised by Mr. Schwartz.

With best wishes,

Cordially,

ALAN CRANSTON,
Chairman, Subcommittee on Child and Human Development.

CATHOLIC LEAGUE FOR RELIGIOUS AND CIVIL RIGHTS,
Milwaukee, Wis., May 22, 1978.

DEAR SENATOR: The enclosed cartoons were widely distributed last month by the Planned Parenthood Association/Chicago Area, along with highly inflammatory textual material accusing Catholics and other religious groups of violent and illegal behavior.

I hope that you will examine them carefully and consider some of the questions they raise about the propriety of a federally-funded agency producing anti-religious propaganda and invading the privacy and defaming the character of a high government official.

Rocky Mountain Planned Parenthood, where the cartoons allegedly originated, received $420,000 in HEW Title X funds in 1976. Planned Parenthood Association/Chicago Area, which distributed the cartoons for publication, has received $763,000 in grants from the U.S. Agency for International Development, as well as a major share of the $2,976,000 in HEW Title X funds that went through the Illinois Family Planning Council. These grants represent just a portion of the federal funding each of these agencies receives annually.

We call upon Congress to investigate this situation and to seek answers to the following questions. First, whether public funds were used to pay for the production and distribution of these cartoons. Second, whether any Federal laws or regulations have been violated by this incident. Third, whether any public purpose has been served by this defamation of individuals and religious bodies. And fourth, whether an agency which engages in such tactics ought to continue to receive federal funding.

We deeply appreciate your attention and cooperation in this matter.

Sincerely,

MICHAEL SCHWARTZ,
Associate Executive Director.

U.S. SENATE,
Washington, D.C., June 6, 1978.

Mr. MICHAEL SCHWARTZ,
Associate Executive Director, Catholic League for Religious and Civil Rights, Milwaukee, Wis.

DEAR MR. SCHWARTZ: I can well understand your outrage at the cartoons which were distributed by the Planned Parenthood Affiliate in the Chicago area. I share your dismay and indignation.

These cartoons and the employees responsible for them have been publicly repudiated by the Planned Parenthood Association. It is indeed most unfortunate that any affiliate of this association would have permitted the circulation of this material.

I have expressed my extreme unhappiness at this regrettable incident to the Under Secretary of Health, Education, and Welfare, and to the Planned Parenthood Association and asked them to take steps immediately to deal with those responsible and to ensure that such an incident cannot occur again.

I have also forwarded your letter to H.E.W. asking that agency to ascertain whether any public funds were used to pay for the production and distribution of the material. Enclosed is a copy of my letter. When that agency responds, I will be back in touch with you.

With best wishes.

Sincerely,

ALAN CRANSTON,
Chairman, Subcommittee on Child and Human Development.

PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.,
New York, N.Y., June 22, 1978.

Hon. ALAN CRANSTON,
Chairman, Subcommittee on Child and Human Development, U.S. Senate, Washington, D.C.

DEAR SENATOR CRANSTON: This is to acknowledge with thanks your letter of June 6, requesting further information on the profoundly regrettable incident involving preparation and some distribution of a set of highly offensive cartoons dealing with the subject of abortion.

As I indicated in my previous letter to members of the Congress, we are extremely distressed at this incident and are taking immediate steps to forestall the occurrence of any such incidents in the future. Some of these, including the formal reprimand of our executive director in Colorado and the repudiation of the materials by the Boards of Directors in both Denver, where the cartoons originated, and Chicago, where they were distributed, have already been taken. Others, including the development of guidelines to govern what is written and spoken by persons associated with Planned Parenthood, and review mechanisms for Planned Parenthood publications, are at present under development.

Given the gravity of the offenses and the urgent need for public assurances that such publications and ways of thinking have no place in the Planned Parenthood Federation, I look forward to meeting with you and I have asked our Washington Office to set up an appointment with you. I hope that we can discuss the events around the current situation; and what specifically we have done to rectify the situation; and what we are planning to do in the future to forestall further occurrences of this nature. It would also be most helpful for us to have the opportunity to seek your counsel on certain specific aspects of the procedures we plan to establish.

Our Washington Office will be calling on you to see what date might be convenient for an appointment to discuss this matter. In the meantime, let me restate my profound distress that such actions should ever have been taken under the name of Planned Parenthood, and our vigorous intention to see that they do not happen again.

Many thanks for your kind attention.

Sincerely yours,

FAYE WATTLETON,
President.

HEADQUARTERS OF PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.,
New York, N.Y., July 24, 1978.

Senator ALAN CRANSTON,
Russell Senate Office Building, Washington, D.C.

DEAR SENATOR CRANSTON: Thank you for the time you gave us on the 17th of July to discuss the unfortunate situation which led to our May 5th letter of apology to Secretary Califano. As you know, on the same date, we also made a public apology to the National Conference of Catholic Bishops, whose General Secretary graciously accepted it in a letter dated May 17th (a copy enclosed).

There seems little need to restate the facts which were contained in our earlier communications. But certain points which were mentioned at the meeting are probably worth summarizing:

The Denver director who drafted and originally circulated the cartoons internally within the organization has been severely reprimanded by her board. The Chicago staff members who subsequently forwarded the cartoons to the press are beyond the disciplinary reach of the affiliate as they had submitted their resignations prior to their unapproved initiative. However, a national headquarters staff person who had displayed

similar lack of judgment is no longer employed by us.

With the Chairperson of the National Board, I have journeyed personally to the two affiliates involved to discuss the matter with their boards and to assist them in devising stricter controls on the review of materials issued locally. Similarly, a review of publications and other educational materials prepared or circulated by the national organization itself has been initiated.

We are also in the process of developing guidelines for our national and local communications around sensitive and controversial issues of public policy. Of course, a central principle to be emphasized in this document is an absolute prohibition, regardless of circumstances, against even the appearance of bias vis-a-vis any religious, national, or ethical group.

Finally, while we would condemn the use of any funds, private or public, for inappropriate or offensive materials such as the ones at issue here, we believe we have a special responsibility for the stewardship of public funds. We are therefore very concerned by charges made in the press and elsewhere that federal funds may have been used to prepare and/or circulate the offending cartons. We have reviewed this matter with the two affiliates involved. Rocky Mountain Planned Parenthood (Denver) has an annual budget of $1.9 million of which $404,000 were federal grant funds. We are convinced that the expenditure connected with the cartoons which were mailed to some 25 persons are not only minimal but cannot be attributed to any federal grant(s). As far as Planned Parenthood of Chicago is concerned, its annual budget is approximately $1.4 million which includes $324,000 in federal grant funds. Again, the cost of mailing the cartoons to 125 student newspapers would have to be miniscule in relation to the overall budget of the agency. In any event, such an expense would be allocated to the budget of a department which is entirely supported by private funds. We hope that with these explanations, and the steps we have taken to prevent the occurrence of such incidents in the future, the matter will be considered closed.

I also want at this time to take the opportunity to express my own and my organization's appreciation of your fine and invaluable support over the years for family planning programs and much needed research in human reproduction.

Sincerely,

FAYE WATTLETON,
President.

PLANNED PARENTHOOD-WORLD POPULATION,
New York, N.Y., May 5, 1978.

Hon. JOSEPH A. CALIFANO,
Secretary, Devartment of Health, Education, and Welfare, Washington, D.C.

DEAR MR. SECRETARY: It has just come to our attention that a set of cartoons dealing editorially with the abortion issue has been circulated in the Chicago area by the local Planned Parenthood Association. Among the cartoons, which present satirical views of various aspects of the abortion debate and in different ways feature the Church, Congress, the military and other institutions, is one featuring the official seal of the Department of Health, Education, and Welfare and, by implication, the Secretary.

I want to take this early opportunity to express to you, as we are to others who may have been offended by this material, our profound apologies, both official and personal, for any embarrassment that may have been caused by this inappropriate and irresponsible action. Though I am sure you understand that such an action is totally at odds with the official policies and normal practices of Planned Parenthood, I am afraid that in an organization as complex and decentralized as ours there may be occasions—we hope very rare—when an individual associated with us shows a serious lapse of judgment of which we may not become aware until the action has been taken and the damage done. This is evidently what happened in this instance.

Material which originated with the Planned Parenthood affiliate in Denver, Colorado and was circulated informally among a few colleagues was subsequently released publicly by a staff member of our affiliate in Chicago. Though the material was never actually completed or published by those who originated it—and was in fact excoriated by most of those who reviewed it—the Board of Directors in Denver has repudiated the material; severely reprimanded the employee concerned; received an unqualified apology from that employee; and taken steps to see that such an action does not occur again. In Chicago, meanwhile, the staff member responsible for the material's release is no longer with the agency, but as in Denver the Directors have issued a formal repudiation of the material, and a statement that it is entirely inconsistent with Planned Parenthood's philosophy and operating style.

On behalf of our national headquarters, I wish now myself to repudiate both the actions themselves and the philosophies and feelings they may reflect. We are profoundly aware that behavior such as this is in direct violation of the trust we have painstakingly built over the years with public agencies, religious groups and other community organizations with whom we have worked. An important aspect of this trust has been the respect in which we hold the views and consciences of those with whom we work, and the implicit resolution that disagreement on any particular point of philosophy should never be reason for violating that respect or resorting to dishonorable tactics. Incidents such as the one at issue serve only to redouble our commitment to this principle.

Iho e you will be so gracious as to accept apologies, and our assurances that we shall do everything possible to prevent any future occurrences of this nature.

Sincerely yours,

FAYE WATTLETON,
President.

AUGUST 18, 1978.

MRS. FAYE WATTLETON,
Planned Parenthood Federation of America, Inc., New York, N.Y.

DEAR MRS. WATTLETON: Thank you for your letter which extended apologies on behalf of the Planned Parenthood Federation of America for the series of cartoons dealing with abortion which circulated in the Chicago area.

Let me say at the outset that I share your deep concern over the events leading to the publication of these ill-advised cartoons. It is most regrettable that such an incident occurred and while it is reassuring to know that Federal funds were not used, nevertheless, the publication of this material is most disturbing.

I appreciate receiving your explanation of this incident and your assurances that appropriate steps are being taken to prevent such an occurrence in the future. I am also pleased to learn that your public apology to the National Conference of Catholic Bishops was graciously accepted. Certainly this should put the matter to rest.

Sincerely,

JOSEPH A. CALIFANO, Jr.

PLANNED PARENTHOOD-WORLD POPULATION,
New York, N.Y., May 5, 1978.

Most Rev. JOHN R. QUINN,
President, National Conference of Catholic Bishops, Archdiocese of San Francisco, San Francisco, Calif.

YOUR EXCELLENCY: It has just come to our attention that a set of cartoons dealing editorially with the abortion issue has been circulated in the Chicago area by the local Planned Parenthood Association. Among the cartoons, which present satirical views of various aspects of the abortion debate and target various religious and governmental institutions, is one featuring an official of the Church.

I want to take this early opportunity to express to you, as we are to others who may have been offended by this material, our profound apologies, both official and personal, for any embarrassment that may have been caused by this inappropriate and irresponsible action. Though I am sure you understand that such an action is totally at odds with the official policies and normal practices of Planned Parenthood, I am afraid that in an organization as complex and decentralized as ours there may be occasions—we hope very rare—when an individual associated with us shows a serious lapse of judgment of which we may not become aware until the action has been taken and the damage done. This is evidently what happened in this instance.

Material which originated with the Planned Parenthood affiliate in Denver, Colorado and was circulated informally among a few colleagues was subsequently released publicly by a staff member of our affiliate in Chicago. Though the material was never actually completed or published by those who originated it—and was in fact excoriated by most of those who viewed it—the Board of Directors in Denver has repudiated the material; severely reprimanded the employee concerned; received an unqualified apology from that employee; and taken steps to see that such an action does not occur again. In Chicago, meanwhile, the staff member responsible for the material's release is no longer with the agency, but as in Denver the Directors have issued a formal repudiation of the material, and a statement that it is entirely inconsistent with Planned Parenthood's philosophy and operating style.

On behalf of our national headquarters, I wish now myself to repudiate both the actions themselves and the philosophies and feelings they may reflect. We are profoundly aware that behavior such as this is in direct violation of the trust we have painstakingly built over the years with public agencies, religious groups and other community organizations with whom we have worked. An important aspect of this trust has been the respect in which we hold the views and consciences of those with whom we work, and the implicit resolution that disagreement on any particular point of philosophy should never be reason for violating that respect or resorting to dishonorable tactics. Incidents such as the one at issue serve only to redouble our commitment to this principle.

I hope you will be so gracious as to accept these apologies, and our assurances that we shall do everything possible to prevent any future occurrences of this nature.

Sincerely yours,

FAYE WATTLETON,
President.

NATIONAL CONFERENCE OF CATHOLIC BISHOPS,
Washington, D.C., May 17, 1978.

MS. FAYE WATTLETON,
President, Planned Parenthood-World Population, 810 Seventh Avenue, New York, N.Y.

DEAR MS. WATTLETON: I am writing on behalf of Archbishop Quinn to acknowledge your letter of May 5th, and thank you for its explanation of the recent regrettable incident.

The National Conference of Catholic Bishops and United States Catholic Conference are deeply concerned about the growing incidence of anti-Catholicism in the context of the abortion controversy. Occurrences such as this can only exacerbate the situation.

We are pleased, therefore, to learn that Planned Parenthood will work to discourage religious bias of any kind in the future.

With every good wish, I am

Sincerely yours,

THOMAS C. KELLY, O.P.,
General Secretary.

COMMITTEE ON HUMAN RESOURCES,
Washington, D.C., June 6, 1978.

Mr. J. P. MCFADDEN,
Chairman, The National Committee of Catholic Laymen, New York, N.Y.

DEAR MR. MCFADDEN: I can well understand your outrage at the cartoons which were distributed by the Planned Parenthood Affiliate in the Chicago area. I share your dismay and indignation.

These cartoons and the employees responsible for them have been publicly repudiated by the Planned Parenthood Association. It is indeed most unfortunate that any affiliate of this association would have permitted the circulation of this material.

I have expressed my extreme unhappiness at this regrettable incident to the Under Secretary of Health, Education, and Welfare, and to the Planned Parenthood Association and asked them to take steps immediately to deal with those responsible and to ensure that such an incident cannot occur again.

Enclosed are copies of those letters for your information.

With best wishes,

Sincerely,

ALAN CRANSTON,
Chairman, Subcommittee on Child and Human Development.

THE NATIONAL COMMITTEE
OF CATHOLIC LAYMEN,
New York, N.Y., June 16, 1978.

HON. ALAN CRANSTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CRANSTON: Believe me, I thank you heartily for your letter of June 6: it is far and away the most impressive letter I have ever received from anyone in the Congress. I am also impressed by your obvious and strong interest in the matter involved. I am thereby emboldened to send along a few other items that might also interest you. Knowing how busy you are, I will merely note briefly what I have enclosed:

Exhibit A: some copies of the *Abortion Eve* "comic book" Miss Wattleton says a Planned Parenthood newsletter praised

B: that newsletter and "review," plus a listing showing that HEW also offers the booklet

C: an indication of just how *much* US AID money goes to the Chicago/PP group

D: some additional relevant "art" guaranteed, in my judgment, to offend a great many people—and by no means Roman Catholics only

E: some examples of the way PP "handles" the undeniable health hazards of the pill

F: How the drug companies—after full-color come-hither ads to the doctors (the ad pages are clipped from the current issue of the trade magazine *Private Practice*) describe, in very fine print, what PP blatantly disregards

G: an anti-abortion newsletter's treatment of the current controversy; while it makes no attempt to be anything but partisan, I believe that it *does* make a very strong point (which my illustrations support): "bad taste" is endemic at PP

I can well understand that I may be supplying more than anyone really wants to know about such disagreeable subjects, but I had it all handy, and thought at least some of it might prove useful to you.

Finally, I enclose a copy of our own latest publication, which I hope you (or someone on your staff) may also find of interest. Again, I thank you for your good letter.

Sincerely,

J. P. MCFADDEN,
Chairman.

COMMITTEE ON HUMAN RESOURCES,
Washington, D.C., July 24, 1978.

Mr. J. P. MCFADDEN,
Chairman, The National Committee of Catholic Laymen, New York, N.Y.

DEAR MR. MCFADDEN: Thank you so much for your letter and the enclosures. The development of informational materials on family planning methods suitable for adolescents is a difficult process. The information should meet standards of good taste and accuracy and be presented in a way that will interest and be understandable to very young adolescents.

It is unfortunate that some of the examples, enclosed in your letter, of efforts to reach these young people may have failed to meet those standards.

I have forwarded your letter with its enclosures to Planned Parenthood for their response.

With best wishes and many thanks for your very kind remarks.

Sincerely,

ALAN CRANSTON.

COMMITTEE ON HUMAN RESOURCES,
Washington, D.C., July 24, 1978.

Ms. FAYE WATTLETON,
President, Planned Parenthood—World Population, 810 Seventh Avenue, New York, N.Y.

DEAR FAYE: Mr. J. P. McFadden, Chairman of the National Committee of Catholic Laymen, has sent me the enclosed letter and accompanying materials. I would appreciate your comments on the statements made in his letter.

With best wishes,

Cordially,

ALAN CRANSTON.

Enclosures.

PLANNED PARENTHOOD-WORLD
POPULATION,
New York, N.Y., August 8, 1978.

Hon. ALAN CRANSTON,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR CRANSTON: We have received your letter of July 24 enclosing a June 16 letter and asking for our comments on the charges made by J. P. McFadden, Chairman of the National Committee on Catholic Laymen.

At our recent meeting, we presented to you both the facts surrounding the circulation of the cartoons which were the subject of your letter of June 6 and the inappropriate review given "Abortion Eve" by a former staff member of our organization. We also discussed our public apology in regard to both incidents, the disciplinary personnel actions taken at the affiliate and national levels, and the measures under way to prevent such unfortunate lapses of taste and judgment in the future. In this context, you may be interested in a memorandum, "Communications Guidelines: What We Say and How We Say It," intended for use in the preparation of our own publications and our review of materials prepared by other organizations and outlining the values which must be emphasized in our programs and publications and our responsibilities towards our patients, the community at large and the government.

Mr. McFadden's letter, besides the material referred to above, referred to and enclosed a series of cartoons with which I and others in our organization were totally unfamiliar, but which undeniably mentioned Planned Parenthood by name. Regardless of "authorship" I would concur with their characterization by Mr. McFadden as offensive (as they deal with religious matters) and misleading as they deal with birth control methods. In regard to authorship, however, the drawings were eventually traced to the University of Chicago which uses the symbolic triangle which appeared in each of the cartoons next to "Planned Parenthood" in its communications programs. They are apparently part of "Relevant Posters for Family Planning" produced by the Communications Laboratory of the University's Community and Family Study Center. The authors are listed as Björn Berndtson, Donald J. Bogue and George McVicker.

While "Planned Parenthood" is used by many people interchangeably with "birth planning" or "family planning" to denote a goal, concept or even a service, it is also the legally protected name of a national agency and its local affiliates. Its unauthorized use is impermissible and, in this case, unforgivable. Our staff counsel has notified the Community and Family Study Center and the authors that they must immediately cease distribution of the book as well as any other use of the Federation's registered service mark (copy of letter enclosed) and we are considering other legally appropriate steps.

We welcome having this kind of incident called to our attention so that we may be able to protect our agency's good name and its integrity and therefore appreciate your sharing Mr. McFadden's letter with us.

Sincerely,

FAYE WATTLETON,
President.

PLANNED PARENTHOOD-WORLD
POPULATION,
New York, N.Y., August 10, 1978.

COMMUNICATION & FAMILY STUDY CENTER and Messrs. BJORN BERNDSTON, DONALD J. BOGUE, and GEORGE MCVICKER,
University of Chicago,
Chicago, Ill.

GENTLEMEN: I am Director of Legal Services for the Planned Parenthood Federation of America, Inc. Our attention has just been called to "Relevant Posters for Family Planning" which appears to be Media Monograph 4 copyrighted and published by the Community & Family Study Center of the University of Chicago. The authors are listed as Bjorn Berndtson, Donald J. Bogue and George McVicker.

"Relevant Posters for Family Planning" contains numerous drawings which include the words "Planned Parenthood". These words constitute a service mark of the Planned Parenthood Federation of America, Inc., registered in the United States Patent Office. You are, of course, in no way affiliated with the Planned Parenthood Federation, nor have you been granted permission to use the words "Planned Parenthood" in any context whatever. Your use of the words in the drawings and the book in question are in clear derogation of the rights of Planned Parenthood Federation of America, Inc. and have resulted in harm for which we shall look to you for full reimbursement.

We ask that you immediately cease distribution of this book and any and all use of the words "Planned Parenthood" and that you give us immediate written assurance that no further use will be made of the Federation's service mark.

Please let us know whether you have circulated any written or published material in addition to "Relevant Posters in Family Planning" and please advise us as to any other use you may have made of the mark.

We would appreciate an immediate response to this letter and hope that this matter may be amicably settled without the necessity of more formal action.

This letter is, of course, written without prejudice to any of the Federation's rights in the premises.

Very truly yours,

EVE W. PAUL,
Director of Legal Services.

MEMORANDUM

To: National Board of Directors, PPFA Department Heads, Regional Directors, Executive and Chapter Directors, State Public Affairs Directors.

From: Faye Wattleton, President, Planned Parenthood Federation of America.

Date: July 25, 1978.

Re: Communications Guidelines: What we say and how we say it.

Recent incidents involving publication and/or distribution under Planned Parenthood's name of material which included some extremely offensive references to specific individuals, groups and religious symbols have highlighted the importance of paying special attention to what we say and how we say it. This is especially important for the printed publications and audiovisual materials we produce and use.

Guarding against such errors has always been, and must continue to be, a matter of the highest concern for an organization such as ours which prides itself on a reputation for an operating style characterized by respect for, and sensitivity to, the personal views of other people. What has changed over the past few years has been the emergence of a campaign, led by segments of the "anti-choice" movement, to discredit Planned Parenthood by using our own materials against us.

The vast majority of such initiatives are baseless, ill-informed and often malicious. Many of you at the community level are already too familiar with the propagandistic exploitation that has been made of such publications as our 1976–80 Five-Year Plan, a 1971 Family Planning Perspectives article on population policy, and a number of responsible educational publications in the area of human sexuality. For these, we make no apology. But there have been a few, rare occasions when materials produced and distributed under our name have in fact seriously and gratuitously offended some individual or group. In guarding against the recurrence of such incidents, the following checklist of guidelines for Planned Parenthood's communications may help. You will note that the central themes in them are not new. In essence, they represent a reaffirmation of principles or behavior that are worthy of our traditions, our reputation and our cause.

I. PLANNED PARENTHOOD'S OWN PUBLICATIONS

Planned Parenthood's published statements should emphasize issues, rather than the people and organizations who hold them and promote them.

On abortion, for example, our mission is to secure acceptance of the principle that women of all economic and religious backgrounds should be truly free to make decisions in accordance with their own beliefs and consciences. Our principal focus should be on this issue—rather than upon organizations or individuals who may oppose us.

When in a specific instance there is reason to make an exception to this rule—that is, when references to people or groups are essential to our arguments—such references should be confined exclusively to the merits of their strategies. For example, references to the political (as distinct from spiritual) activities of the hierarchy of the Roman Catholic and other churches may be perfectly proper in a statement analyzing the politics of the abortion issue. Such references, where appropriate, should be framed with the utmost respect for accuracy, context and balance. Above all, they should not be said or written so that they could be interpreted either as:

Dishonoring any religious symbol or system of beliefs, or the persons who espouse such beliefs;

Dishonoring any religious, ethnic or social group, or to the individuals who make up such a group;

Personally insulting or libelous to a specific individual.

II. USING OTHER AGENCIES' PUBLICATIONS IN OUR OWN PROGRAMS

In reviewing the publications of other agencies for possible use in Planned Parenthood's own programs, the standards we apply should be as stringent as those we apply to our own publications.

Many of the printed and audiovisual items used in Planned Parenthood's programs are the work of others—university centers, commercial publishers, and community education groups. This is entirely proper for an organization that strives to give its clients the best that there is to offer from all available sources. The crucial question is what criteria and processes we use in the evaluation of such materials. The diversity of such materials is too broad to permit detailed treatment in a memorandum such as this. But a few general observations may help:

The principal criterion for the use or nonuse of a specific educational item in a Planned Parenthood program should be its appropriateness, *overall*, to the goals of the program and the needs of the audience. Where there is one potentially controversial section, responsibly handled—as, for example, in the case of one widely-used and highly-regarded film about human sexuality in which there appears one brief scene of sexual intercourse—the presence of such a section, if it is deemed essential to the message of the material, should not be considered sufficient reason for boycotting the material. However, when such a controversial section is neither essential to the purpose or spirit of the material, nor responsibly handled—as, for example, in the case of a recent publication on abortion, which featured a highly irreverent cartoon treatment of a religious symbol—then the inclusion of such a segment should certainly be reason for rejecting the material.

Responsibility for the selection of such materials should not be left to a single individual within an affiliate, or a department of the headquarters. It should be shared among qualified individuals who are broadly representative both of the community we serve, and of the discipline most directly involved in the activity at issue (e.g. doctors, educators, community information specialists).

III. "POSITIVE THINKING"

In all our communications programs, we must vigorously assert the relationship of our cause to such basic American values as the "stability of the family;" "morality;" "tolerance;" "compassion;" and "life."

Our recent setbacks in political and public arenas have been caused in part by our opposition's success in claiming some basic American values as its own, and by our own failure to promote or emphasize the central place of these values in our own philosophy and program. Among them:

"Family." Both in the ends we seek (giving tomorrow's adults a better opportunity for true choice about parenthood), and in the means we adopt (working closely with today's parents in the design of our school and community education activities) the Planned Parenthood program has a crucial role to play in the promotion of a stable, enriched family life.

"Morality." Moral concepts are the foundation of this organization's program. For various reasons—perhaps because we fear that morality seems to connote one person "telling" another what he or she should not do—we avoid reference to the moral component in our programs. Yet it is fundamental. Nothing in the spectrum of human behavior is more profoundly moral than the obligation of careful consideration and planning before bringing a new life into this world. Or the obligation of one human being to respect the wishes of another; and the obligation of private institutions and governments to respect the religious and personal values of individuals.

"Life." Family planning and responsible parenthood are direct reflections of a respect for life, and conditions of a setting in which life may flourish and prosper, both here and around the world. Our belief that the birthright of every child is a welcoming and loving home is profoundly "pro-life", by any reasonable definition. And I don't just mean "the quality of life;" I mean simply "life"—human life, in all its richness and complexity.

IV. PLANNED PARENTHOOD'S SPECIAL RESPONSIBILITIES

One question that has come up in different ways several times over the past several weeks is why, when our opposition has so often been willfully manipulative of the truth in its own writings about Planned Parenthood and pro-choice issues in general, do we have to be so careful and measured in our own writings and statements, and apologize when we err?

There are several reasons for this. The first and most important, is that we have an obligation to see that nothing we say or write is disrespectful of individuals or their beliefs, and this has nothing whatever to do with whether or not our opposition maintains similarly high standards. We march not to the drums of these people, but to those of our traditions and principles; to those of the many thousands of people who have over the years come to expect high standards of behavior from us; and to those of our more than one million clients.

There are other reasons, too, why Planned Parenthood needs especially strict standards for its own behavior. One is that our organization is fundamentally different from those who oppose us on reproductive issues. Unlike most anti-abortion groups, for example, we are:

A service organization. As such, our clients must come first, and nothing we say in our information programs must violate their needs, concerns, privacy or dignity. An organization whose whole purpose and activity is information is not bound by such constraints;

An organization whose principal strength is in its record of long and distinguished service to people, and breadth of support. Our reputation is in what we do and have done in hundreds of communities around the country; in what we do in our medical practice (more than 1.1 million clients per year); in what we know about family planning practice, about needs and services, about sex education, and a host of other issues; and in the caliber and range of our supporters, both the "inner circle" of support (membership of our boards, etc.) and the "outer circle" of favorable opinion in the community;

A recipient of public funds. Our position as an organization which receives large amounts of public money for expenditure on important medical services for people makes us much more visible, and in a sense vulnerable, than organizations which do not have the same direct link with government. A libellous publication from an anti-abortion organization is redressable only through the courts. A similar piece published by Planned Parenthood would be answerable not only in the courts, but in Congress and a much broader forum of public opinion.

Our objective in our own information strategy should not be to "match" the activities of anti-choice groups—however frustrating sometimes it may be to see distortions recurring in the "letters to the editor" of our local newspapers, and harassment of our contributors and our clients. We must begin instead to build on Planned Parenthood's real, and unique, basis of strength: our focus upon tolerance, compassion and reason as principles of social and public policy; our experience with medical and human service; our command of the science of the field; our public reputation as a legitimate health and educational agency; and the potential breadth of support for our positions among community and leadership groups, the religious community, and others.

V. LOCAL STATEMENTS ON NATIONAL ISSUES

One problem we encounter occasionally is the issuance by an affiliate of a statement on a public issue which conflicts with some previously-established national (PPFA) policy or position on the same issue. An example of this occurred recently when one affiliate issued a news release praising the Administration's "adolescent pregnancy initiative"—just days after our national headquarters had come out publicly against the bill in testimony before a Congressional Committee. Such actions can of course lead to embarassment or worse, and create an image of Planned Parenthood as a house divided.

We cannot afford this. For our part at National, we will do all we reasonably can to convey word of positions taken on public issues promptly to all affiliates, regions, state offices and the National Board. For affiliates in each local community, I urge that you check with us before issuing a statement on any national issue if you are in any doubt as to whether we have taken a position on that issue, or as to what that position may be.

• • • • •

I hope these observations are helpful to you all in your own community educational efforts. At the national level, I plan to put them into effect immediately, along with a mechanism for advance review of materials prior to publication. Apply them to your own situation as appropriate, and add to them as necessary. I would appreciate your sharing with me any thoughts you may have as to how they may be improved or strengthened. Above all, I ask you to see them not as constraints to promoting the visibility of our cause, but as prudent guides to a higher and more vigorous level of public visibility than we have ever had before.●

ADDRESS OF ERLE COCKE, JR., BEFORE THE 11th INTERNATIONAL MICROGRAPHICS CONGRESS

● Mr. TALMADGE. Mr. President, a distinguished fellow Georgian, Erle Cocke, Jr., in a thoughtful and perceptive speech before the 11th International Micrographics Congress in Johannesburg, South Africa, on September 20, offers some keen insights into current relations between that country and the United States. He also comments on the current U.S. political scene and the profound impact of the unprecedented number of voluntary retirements on the organization of the next Congress. Mr. Cocke is a past national commander of the American Legion and a partner in an international management consulting firm.

Mr. President, I ask that the text of Mr. Cocke's remarks be printed in the RECORD.

The remarks follow:

REMARKS OF ERLE COCKE, JR.

Mr. Chairman, distinguished delegates and and guests, ladies and gentlemen: It is heartwarming, so far from home, to be introduced so generously. Thank you very much.

I am pleased and honored by the invitation to be your luncheon speaker today. For many weeks I have looked forward to visiting this friendly and hospitable country, whose gracious people have made all of us feel very much at home.

Although this is my first visit to South Africa, it is not my first contact with South Africans. My first acquaintance occurred during World War II in Europe when I observed first hand—as did Winston Churchill a half century earlier—that South Africans are superb soldiers. In a sense I was more fortunate than Mr. Churchill in that they were on my side!

In recent years I have come to know well, to respect and greatly admire two able representatives in Washington of the Republic of South Africa—Ambassador Donald B. Sole and Mr. John H. Chettle, a private citizen who serves as Director for North and South America of the South Africa Foundation. In their difficult and demanding assignments, both have contributed significantly to better understanding between our two countries.

Earlier this week, during an audience with Foreign Minister Pik Botha accorded a small group of delegates to this Congress, I was pleased to tell Mr. Botha how effectively Ambassador Sole and Mr. Chettle are serving their country in Washington. I am sure their services are appreciated by their government and their fellow countrymen.

The observation has been made, not without a touch of irony, that the average "Tourist Americanus" requires a minimum of time—estimated at shortly under two weeks—to become an instant expert on the flora, fauna and domestic politics of any given country visited.

Since our residence in South Africa fell a day or two short of the required minimum, our delegation felt constrained not to advise the Foreign Minister on quick-fix solutions to the problems with which he is grappling these days.

However, I have the distinct impression that Mr. Botha does not feel deprived, in view of the unsolicited advice he is receiving these days from certain segments of Congress, our State Department—and particularly from our Ambassador to the United Nations. In all fairness, I should include among those volunteering counsel—however dubious its quality—to Foreign Minister Botha, a host of syndicated columnists and television commentators in the United States.

Even so, on occasion some of our columnists reveal some prescience. As an example, I cite James Reston of the New York Times, who in a column written three years ago made this sage observation: "It is a mistake to see the future in terms of the gloomy present."

For once, at least, Mr. Reston did not succumb to pessimism. Nor will I on this occasion. In my experience as a soldier and as a businessman and corporate counselor I have seen absolutely hopeless situations, even catastrophic defeat, turned to victory through sheer human will. The doom-savers will be with us always. But we do not have to heed them.

In my brief remarks, I will carefully adhere to Scotty Reston's admonition while avoiding any inclination—as a born optimist—to "gild the lily."

First, a comment about U.S.-South African relations.

It is an understatement to describe current relations between our two countries as "strained" and deteriorating. But I would point out that coolness set in several administrations before James Earl Carter—that is his name—was inaugurated as the 39th president of the United States. I attribute the worsening of relations primarily to electoral pressures—in our own country. You may well surmise the source.

I deplore this development, as do a vast majority of Americans. This is apparent to anyone who travels outside of Washington, New York or Boston.

There is a huge reservoir of goodwill toward South Africa throughout the United States. This fact is recognized by a number of prominent South Africans, including the current president of the South Africa Foundation, Mr. Basil E. Hersov.

In his inaugural address last March, Mr. Hersov, perceptively observed, and I quote: "The (Carter) Administration has not been able to impose its policy on an unresisting American public . . . The American people, despite the torrent of bad publicity to which South Africa has been subject, have retained their natural sense of proportion."

No less perceptive in this regard is Professor Dick Kunert, of the faculty of the University of Witwatersrand. Dr. Kunert, writing in a recent issue of the quarterly, South African International, had this to say: "A wide gulf separates the majority of Americans from the New Class of liberal verbalists who have infested federal and state bureaucracies, the middle echelon of the Executive branch, the foundations and research institutions, the communications media, the nationwide educational establishment, and the Democratic Party." Professor Kunert's pithy observation is especially significant since he is a graduate of Georgetown University in Washington, D.C. and knows the United States at first hand.

Most Americans will concede that—in our overly moralistic and highly evangelical zeal—we have gotten "carried away". In fact, we have begun—albeit selectively up to this point—to meddle in other countries' internal affairs. It is bad policy—and I think we ought to back off. Responsible diplomacy—of which we see little evidence on our part in Africa today—demands that we do so.

Even that paragon of the liberal Eastern press, The Washington Post, termed the Administration's Africa policy "grossly interventionist."

It is regrettable that we persistently ignore the wise counsel of some of our ablest diplomats and statesmen. More than a decade ago, the late Dean Acheson, former Secretary of State, cautioned against allowing "an excess of moral or ethical enthusiasm or idealism to shape the formulation of foreign policy." We ought not, he warned, "try to make the world over in the American image."

Today we appear to be still trying.

Former Undersecretary of State George W. Ball, now a Washington lawyer, more recently in a magazine article put the matter more bluntly.

"We should not permit the pressures of our domestic politics to engage us too deeply in Africa's agonies.

"Above all, we should avoid a display of moral superiority. . . . Our best chance to discourage any adventures by the Soviets, the Chinese, or their surrogates is for us to hold firm to the thesis that this is a South African problem which the people of South Africa must settle in their own way.

"We can maintain such a position only if we reject the temptation to put South African policy at the service of our domestic politics."

Mr. Ball, in the vernacular, has "been through the mill". He knows the difference between a démarche and a disaster even if some of our current Senior State Department officials do not.

On the subject of American investment in South Africa, Mr. Ball also has some refreshingly candid thoughts. I quote him again.

"To throttle the effectiveness of our own companies"—and I might add, parenthetically, he means in bringing about gradually some of the changes in South African society which our State Department insists must occur—"by forbidding further American investment would merely nullify a helpful influence."

Mr. Ball in his article went on to add, "Nor has much note been taken of the puzzling paradox in the orthodox liberal view that America should expand trade with the Soviet Union so as to expose the Russian people to the sweet breath of liberalism, while hermetically sealing off South Africa to promote the same liberalism. Is it possible that some who advance these inconsistent positions are interested less in reforming Pretoria than in gaining approbation at home?" The implications of his question are sobering.

Which brings us back to domestic politics, U.S. brand.

Let us consider for a moment the prospects for the November election.

As an "off-year" election, 1978 must be recorded as epochal. Never in the history of the Republic have so many incumbents voluntarily stepped down from office.

A total of 59 Members of the Congress—10 in the Senate and 49 in the House of Representatives—announced they would not seek reelection. During the past year, three Senators and two members of the House died in office. Six House members resigned during the year and were replaced. Thus the number of "vacancies", or wide-open seats is unprecedented.

Political pundits will find grist for their typewriters for some time to come in explaining this phenomenon.

There are several possible explanations. One may be that the politicians took to heart the stern admonition of Magnus Johnson, a former Minnesota Congressman, who some years ago declared on the floor of the House, "What we have to do is take the bull by the tail and look the situation in the face."

It is also possible that the retirees recall a unique characterization once employed by the late former President Lyndon Johnson, who compared a certain Senator to a steer. The president explained, "That's a bull who's lost his social standing."

Whatever the reason for the unprecedented number of retirements, they point to profound changes on Capitol Hill.

For one thing, the average age of Congress will be dramatically lowered. Many of the retiring members hold senior status on key committees. Chairmanships of key committees will change, and new alliances will be formed. The method of conducting business will be profoundly altered, in many cases. Party loyalty will be further diminished as new and different constituencies assert themselves.

All 435 seats of the House are to be filled, along with 34 seats in the Senate. In addition, the electorate will select 36 governors and members of a like number of State legislatures. Many country and city government officials will also be chosen.

In the privacy of the voting booth, Americans from every walk of life will mark their ballots—and point the direction in which our country will move in the critical years immediately ahead.

What course will be charted by the voters of the United States who go to the polls on November 7?

I do not look for major upsets—although we have witnessed a few in the primaries—and certainly not loss of control of Congress by the Democratic majority. But I do expect that majority to be narrowed, particularly in the House. A major shift is less likely in the Senate, in my opinion. The Republicans may pick up a seat, but they will be lucky to hold their own.

I detect a conservative groundswell across the length and breadth of America. There is the unmistakable message from California on Proposition 13—tax reform—and on numerous bond issues defeated in various states. Disenchantment is growing with the activities of the United Nations—including the incredible antics of our ambassador there.

The American people are beginning to complain bitterly not only about the high taxes they pay, but also about much of the social engineering on which these taxes are being squandered.

Americans are concerned over the defense posture of the United States relative to the Soviet Union.

It goes without saying that the American voted in alarmed over deficit spending by his government—and the impact of that deficit on the shrinking value of the dollar. And he is concerned over our failure to solve our energy problems.

Millions are filled with what a senior government official in a gaffe at a public meeting, described at "putrighteous outrage" over the failure of the United States to move boldly to deal with Cuba's stalking horse operations on this continent.

At long last Americans are coming to realize that, although we live in an interdependent world, our foreign policy must be compounded of something more than idealism. A little pragmatism is in order. Ideological lobbies will not indefinitely be permitted to exercise undue influence on our foreign policies. It is high time—and past—to be a little more even-handed in our relations with other countries. Above all, we ought by now to be able to recognize our friends.

I do not suggest that this is the issue uppermost in the mind of the American voter on the eve of the 1978 election. But the issue is in mind. And it will be a major issue in the Presidential campaign of 1980.

In 1974, the last off-year election, 60 percent of Americans classified themselves as conservatives. That figure today is 72 percent. For the Democratic party to alienate the country's conservative majority is to court disaster.

In conclusion, let me emphasize, the critical question in 1978—and the *crucial* question in 1980—in domestic politics as in our foreign relations, should be: "What is best for the United States?"

Permit me to say, also, that in departing this friendly country which has accorded us so warm a welcome, all of us can be heartened by the word of South Africa Foundation President Basil Hersov spoken earlier this year: "I believe it is a tragic mistake to regard the USA as an enemy and to attack it in that vein, a badly advised and misguided friend perhaps, but certainly not an enemy."

Thank you.●

STATEMENT BY SENATOR BARTLETT BEFORE THE FIDDLER'S ELBOW COUNTRY CLUB

● Mr. BELLMON. Mr. President, one of the strengths of this body is the fact that many Members bring to the Senate the training and experience gained through years of successful activities in the private sector. Such is the case with my colleague from Oklahoma whose expertise and practical knowledge of the energy industry has come to be highly regarded by all those who work closely with him.

On September 12, Senator BARTLETT appeared on a panel in Bedminster, N.J., where the energy situation was discussed in considerable depth. Senator BARTLETT's remarks present additional valuable insights into the energy problems which face this country. I believe Members will benefit greatly by reading his comments.

Mr. President, I ask that the text of Senator BARTLETT's statement be printed in the RECORD.

The statement follows:

REMARKS BY SENATOR DEWEY F. BARTLETT

The "energy problem" has been a focus of national concern since the 1973 Arab Oil Embargo. Unfortunately, it has been treated as a mysterious problem, somehow divorced from all other human experience. This is not so. Rather, we have had a short-term shock, in the midst of a long-term mishandling of the energy situation, primarily by the Federal Government. The Congress and various administrations, who share the blame, in turn, protect themselves by blaming the oil and gas industry.

Similarly, some have approached the situation in more cosmic terms, saying, "We have passed out of the era of cheap and abundant energy." I do not believe the facts support this idea. When you discount for inflation, most forms of energy are cheaper at the retail level today than they were 20 years ago. Many are cheaper than 10 years ago. And although the 1973–74 price increases did administer a severe shock to our system, oil, gasoline and electricity prices have been stable in real terms since then, as the market system, although constrained, has been able to work.

In 1942, my mother and I bought a new Ford with a sticker price of $690.00. Gasoline was 19¢/gal. Today a Ford LTD costs $5,398.00 and gasoline averages 61.7/gal. Ford has gone up over 7½ times, gasoline less than 3½ times. Both, of course, are greatly improved in quality.

Relatively speaking, the price of energy has fallen almost continuously over the past 200 years. And so, while I have no doubts that gas and oil will eventually "run out", it will only be in the sense that newer energy sources have been developed that will be more economical and efficient to use than the remaining oil and gas deposits.

So, what is to blame for our recent energy difficulties? To understand the situation, you must recall that oil and gas production is a long-term proposition. The oil we use today is largely the result of discoveries made 10–15 years ago.

In 1956, over 58,000 wells were drilled in the United States looking for oil and gas. Drilling then entered a long period of decline, finally hitting rock bottom in 1971 and 1973 when less than 28,000 wells were drilled. Thus, even though production of oil and gas rose throughout the 1960's, we were sowing the seeds of our present problems. And even though drilling and finding have risen dramatically in response to increased prices since 1973, 1978 will probably see only a little over 50,000 wells drilled. Perhaps, by 1979, we will have reached the level of drilling effort we had in 1956. But the domestic demand for gas and oil today is more than twice that of 1956 and both are harder to find, deeper, and more expensive to find.

Just reflect on that. What would be your opinion of the health of the auto industry if it produced today only the same number of cars as in 1955? Or agriculture if we produced no more food than we did 20 years ago. So in this perspective, the major reason for a problem with oil and gas production and exploration is that we just have not been trying as hard as we could.

And why not? The answer is primarily government controls and action. In 1954, the Supreme Court placed price controls on interstate gas production, bringing considerable confusion and uncertainty to exploration for gas.

In the case of natural gas, we have had practically a laboratory experiment. Because the Supreme Court's decision rested on a law governing interstate commerce, the extension of regulation did not reach gas produced and consumed within the same state. There thus arose an *intrastate* gas market, free of controls, side by side with the controlled market.

Under free market conditions, the intrastate market prospered. Each year, the amount of gas found through new exploration just about equalled the amount being used. Total production in the intrastate market has continued to increase, even during the last few years when total gas production declined. And there were no shortages in the intrastate market.

The experience in the controlled market was quite different. Since 1970, total production in that market has declined. In fact, by 1976, gas reserves in the interstate market were only about half of what they were a decade earlier.

In addition, the interstate market has been subject to grave shortages. At the artificially low prices of recent years, consumers have wanted to use lots of natural gas, frequently for wasteful purposes, while producers have had little incentive to produce. In the free intrastate market, it has been quite the opposite. Realistic prices for gas have lead to conservation, while production has been enhanced.

The one most frequently heard argument against free enterprise is that "It's too expensive." In the short-term, it is true, it is possible to keep prices down by using up reserves while depressing new exploration. But in the long-run, the society is going to have to pay the costs associated with finding new energy, if they want to use that energy. The fact that we have "shortages" now means that people are willing to pay high OPEC prices for imported oil to obtain what they need.

The problem is a shortage of energy—not high prices to the poor and those on low fixed incomes. We are currently importing forty percent of our current oil consumption—about 7 million bbls.

Even in terms of the effect of energy prices on the poor, artificially low prices are not a solution. To the extent the poor and those on low fixed incomes should be subsidized, it should be a subsidy related to their needs, not to the level of their energy use and at the expense of adequate domestic energy supplies and sensible conservation.

A second argument made is that oil and gas companies are monopolies which will reap "excess profits" if a free market price is allowed. Measured as a percentage of return on capital, however, the petroleum industry has been almost exactly in line with the average for all American business, when measured over any reasonable period of time. If Congress, sitting in the cat bird seat, would decide that new profits were not spent on exploration and development, it could increase taxes on energy companies at anytime.

And few industries are actually as competitive as oil and gas production. In virtually every phase of the industries, the top 8 companies have barely 50% of the business in any particular activity. Compare this with autos, steel, soup, computers or what-have-you, and you find far less concentration in oil and gas.

Finally, there is the argument that higher prices simply will not bring results. Here I would again point to the intrastate market where higher prices, fair prices, have brought results.

Now, I'd like to talk a little bit about oil, because the situations in oil and gas are different in some important respects. In the early 70's, the gas market was about 40% free, while the oil market was entirely free, except for the effects of the oil import program. However, with the imposition of price controls by President Nixon in 1971, followed by the Emergency Petroleum Allocation Act in 1973 and the Energy Production and Conservation Act in 1975, oil came under overwhelming and universal control. There is no free intrastate market in oil to allow a contrast. And as you might expect, oil production under controls has suffered. One of the few bright spots has been the so-called "Stripper" oil program.

This allows the sale of oil at uncontrolled prices if it comes from wells producing less than 10 barrels per day. Once a well is so classified, if the operator can use new techniques to raise production, he does not lose the benefits of free market pricing. A little over one-eighth of American production now comes from stripper wells, and that was held steady, while other categories have declined.

Many of us in the Senate have been supporting what we call a "Deep Stripper" amendment, which would allow stripper treatment for wells producing larger amounts of oil, if they are at greater depths. If this amendment is adopted, about another one-eighth of production can be freed from controls. This would enable production at or near its economic limit, to produce much longer and in some cases, to be increased by enhanced recovery methods.

There are many, many techniques that can be used to expand production, but they cannot be used under current regulated prices. Wells that appear played out can be made to flow again by waterflooding and other secondary and tertiary recovery techniques. But these operations cannot take place at the price of $5.25 per barrel that is now allowed for old oil. So we see the strange sight of American production being shut in or plugged because we can't pay more than $5.25 for it, while we are cheerfully paying $14 and more for imports. It just doesn't make sense.

With many of the things I have said thus far, I am sure my good friend Jim Abourezk will disagree. I'd like to finish up my talk on a topic on which we do agree, and that is the Natural Gas Bill now pending before the Senate. It seems strange to some that we should be on the same side of this issue, but I think that is explained by what we have in common. I think we can agree, as Senator Long has said, that this bill is like a two-headed horse, trying to ride off in two different directions. It tries to espouse the philosophy of deregulation while imposing a regime of incredibly complex regulation. Senator Abourezk would like complete regulation and I want complete deregulation. The bill does neither.

A brief summary of the bill is totally impossible, so I will merely give a few of the high points. The bill immediately places control on all gas, so that the over 40% of the gas market that is now free—the intrastate market—will disappear for at least 7 years, possible 8½ years. When "deregulation" does occur in 1985, less than 40% of the domestic gas then producing will be deregulated, less than is unregulated now.

Some Senators who supported the Pearson-Bentsen bill—a deregulation bill—said they were willing to have at least 7 years of total price controls if eventually we have deregulation. But we won't have deregulation with this conference report.

During the period between now and 1985, gas will be subject to a bewildering variety of price categories. Even gas that is "new" in the sense that it is produced by putting down your drill bit next week will be subject to at least 5 different prices, and the producer may not know which one he will get until he finds the gas, and until long regulatory proceedings are held at both the state and federal level.

Under the present system, the intrastate market is free, while even in the interstate market, whatever gas you find comes under the single price set by the Federal Energy Regulatory Commission based on the cost of finding gas during that particular period.

Although the bill is now touted by the administration as a "deregulation bill", even in 1985, after deregulation is supposed to occur, less than 40% of gas will be deregulated, or even less than what we have now. This is because only certain categories of narrowly defined gas are deregulated. Equally important, deregulation is only guaranteed for 6 months. After that, the President may reimpose controls simply by signing an order, and he may be overridden only by an affirmative vote of both Houses of Congress.

We see this as a bill that will not provide additional gas supply. It places controls on the uncontrolled market, and exchanges a system of regulation on the interstate market which is at least well understood for one that is equally stringent but totally unknown and unworkable.

Nor will this bill advance the dollar or our international prestige. If the bill is a bad bill, it is very hard to believe that foreigners will not see through it in very short order.

Milton Friedman, the Nobel-prize-winning economist, said recently in a letter to our committee:

"In any event, the dollar has not been weak because of the energy problem, and no amount of tinkering with energy legislation will have any significant or lasting effect on the dollar. The dollar is weak because of bad economic policy, policy which is destroying the unrivalled capacity for growth of American free enterprise . . . policy which is producing inflation through excessive government spending and excessive creation of money."

And I would note that Canada, which is a net exporter of energy, has seen its dollar fall even against the American dollar in the last year.

So, this bill is bad on its merits, will have no favorable effect on our economic condition, and should be rejected.

Sen. Abourezk and I both want to kill parts of the conference report—and we plan to accomplish this with a motion to recommit. We will add instructions to the recommital motion which would authorize the President to: (1) declare an emergency and then to price and allocate natural gas; and, (2) with approval by the Federal Energy Regulatory Commission, authorize an intrastate pipeline to sell to an interstate pipeline or utility without coming under federal jurisdiction. Our alternative proposal would assure that all uncommitted or unused gas can reach an interstate consumer in need.

This legislation, coupled with the setting of reasonable prices for 1977–78 and 1979–80 by FERC could increase substantially the domestic natural gas supplies available to the interstate market. The potential involved here can be seen in earlier pricing decisions by the Federal Power Commission. Price increases to 52 cents in late 1974, and up to $1.42 in 1976, resulted in an increase in dedications to 3 trillion cubic feet in 1976 and to 8.6 trillion cubic feet in 1977. The passage of our alternative to the Natural Gas Conference Report, accompanied by pricing incentives by FERC, would constitute a very good interim solution.

For the long run, the Congress as a whole should do what the Senate has twice done—pass a simple and fundamental new gas deregulation bill. The Pearson-Bentsen substitute, passed by the Senate a year ago, provided for immediate new gas deregulation with an interim price ceiling for two years onshore and five years offshore. Just as important, it left the free and vital intrastate natural gas market intact. The only workable way to alleviate our long-term gas supply problems is to eliminate regulation, not expand it; to build upon the freedom of the intrastate market and provide for simple, general deregulation of new natural gas in a reasonable period of time.●

GENERAL ALLEN'S ADDRESS TO AIR FORCE ASSOCIATION

● Mr. HART. Mr. President, I would like to bring to the attention of my colleagues a speech delivered yesterday by Gen. Lew Allen, Chief of Staff of the Air Force, to the Air Force Association National Convention.

I believe this most thoughtful and significant speech is worthy of the Senate's attention. It justly praises the efforts of the men and women in the Air Force to achieve ever higher standards of readiness and efficiency—efforts which have been successful. It notes in particular the success in the Air Force of the total force concept. The performance of Air Force guard and reserve units has consistently been outstanding, often exceeding the already high performance of regular units.

General Allen correctly notes the concern within the Air Force about possible future erosion of compensation and benefits. This concern is widespread. Air Force personnel who are attempting to determine whether to make the Air Force a career find it difficult to make their decision in light of uncertainty about future compensation. The Members of the Congress must consider this very real problem as we examine proposals for changes in military compensation and benefits.

General Allen also takes note of the increasing Soviet military challenge. The existence of this challenge is indisputable.

The reality of this threat makes it all the more important that we seek to increase our security through negotiation. Here General Allen makes a very important statement, which is parallel to my own belief:

The Air Force supports a reasonable Strategic Arms Limitation agreement—and I believe negotiations are moving us toward such an agreement. It must be recognized that we live in a world of competition and cooperation with the Soviets. Negotiation and strength are not contradictory—they are complementary. We have not lost ground to the Soviets because of arms limitations, but because the Soviets have pursued force modernization within the limits of those agreements more aggressively than we have. To continue to seek lower aggregate force levels—while maintaining a verifiable and equitable balance—does serve our national interest.

Far from contradicting the need for adequate national strength, an equitable SALT agreement would free defense dollars from strategic systems which could be allocated to general purpose forces, where our needs are many. General Allen's appreciation of the complementary nature of negotiation and strength shows the increasing awareness of this fact by our military leadership.

As General Allen notes, the Soviet threat raises serious challenges for us in planning our future strategic forces. The best way to respond to these challenges is by no means self-evident. The current struggle to find a secure basing mode for our land-based intercontinental missiles is a case in point. The continuous trench system, once so widely heralded, has proven technically impractical. A number of complex technical, military and other questions regarding Multiple Aim Point basing have yet to be resolved. General Allen is nevertheless greatly optimistic that they can be resolved. We all look forward to reviewing the details of future proposals to this end in next year's budget.

General Allen discusses these and other issues in a cogent and thoughtful fashion. His views will be useful to the Members of the Senate, and I hope the membership will give them careful attention.

Mr. President, I ask that the remarks of Gen. Lew Allen to the Air Force Association convention be printed in the RECORD.

The statement follows:

ADDRESS BY GENERAL LEW ALLEN, JR.

Today's United States Air Force is the product of the efforts of many people—past and present military and civilian. The Air Force Association consists of people interested in airpower and the defense of our country, and you have played a significant role in forming today's Air Force. Your interest and enthusiasm have helped the Air Force grow in effectiveness for the defense of our country. Thank you for that support—I am honored to be your speaker today.

The invitation is particularly welcome since the AFA is a powerful voice in conveying information to the total Air Force and its key supporters.

I have two topics I want to address today. First, I want to give you my assessment of the "State of the Air Force." Then, I want to share some thoughts about the threat presented to United States security by the continuing development of military power by the Soviet Union and about the actions that are required of our Nation to insure that we have a military capability that is adequate to maintain the peace. You—the AFA—can help.

The United States Air Force remains the strongest and best in the world today. As an institution, as an organization, and as a fighting force, we are in excellent condition. There are needs for improvement and problems to solve, but do not confuse our attention to those with a notion that we are not a great Air Force. We are, and we must continue to be.

Last month, I visited our Red Flag operation in Nevada, and I have just returned from a trip through the Pacific. Readiness is a watchword—in each Headquarters and Unit I saw. The readiness we have achieved in our Strategic, Tactical and Airlift Forces is a remarkable accomplishment and a tribute to the support of this audience as well as past Air Force leadership.

Our aircraft modernization program is giving us the superior equipment we need at an acceptable rate. Our training is intense and realistic—we are training the way we plan to fight. Supply stocks are improving, along with the efficiency of our supply system. Advances in both system design and work procedures have brought a more efficient maintenance operation.

The Total Force concept—the integration of Guard, Reserve and active forces into a solid, modern team of equals—is a resounding success.

We are focused on readiness in our thinking—and we are exercising our concepts. We practice quick reaction. We practice the surge of activity that would be required if we were called upon to fight. Our readiness is an unprecedented achievement—a matter in which we can take great pride even as we seek further improvement.

This peacetime intensity places heavy demands on our people. Realistic training is challenging and more risky—most flights are planned for events which tax our crews continuously—alerts are tough—maximum surges are plain hard work—we have Air Reserve Forces units that stand alert in SAC and ADCOM and others that are tasked with and practice early deployment to Europe. We have fewer people doing more work—and doing it better than ever before. I am proud to say that our people have met this challenge extremely well.

The Air Force is fortunate, in that our mission, our equipment and our way of life both require and attract people with a mix of talent and attitude that we summarize as quality. Air Force jobs have become more demanding. At the same time, we have continued to meet recruiting goals. Discipline and professionalism are at an all-time high. The all-volunteer concept is working well for us.

The lesson in these successes is that quality pays. We need it. This is an age in which deterrence relies on ready, sophisticated forces. The Air Force is a technologically intense force—that is, we have relatively few people, and they are responsible for complex, expensive equipment. Our people must be good in technical skills and proficiency. We will not improve our nation's defenses—or lower its taxes—by lowering our standards.

Improvement can continue. We know the limits of most of our machines, but we don't know the limits our people can reach if we can maintain their quality and continue to improve our training and leadership. General McBride told the outstanding airmen here last year that he was honoring members of the second best Air Force, second best because it wasn't as good as next year's force would be. I share those sentiments, and it will be my policy to argue for and defend the Air Force quality of people and those people things that can help. My report, then, is that we have today a superb Air Force. But it must get better, and I will begin my second topic by explaining why I feel so strongly that we must continue to improve the Air Force's capabilities in the years ahead.

Our nation has great intrinsic strengths, including political institutions built on our concern for basic human values, the world's strongest economic system, and friends and allies world-wide who share many of our beliefs. We are a nation that can afford strong military forces, and it is my belief that taking the steps needed to maintain military equality with the Soviet Union offers the only real hope for prolonged peace. Up until the past two years, however, our nation economized on defense for over a decade. Purchasing power for defense programs fell annually. We compensated with technology, with management initiatives, and with step by step sacrifice of the margins of our superiority over the Soviet Union.

We have now reversed direction, and are on a track of modest increases in spending.

We were forced to make this turn—just as we have been forced to modernize and to pursue a vigorous readiness effort—by Soviet emphasis on military programs, and by their success in those programs.

There are many points one can make about Soviet strength. It seems quite clear, though, as you look at the record, that the Soviets have stressed military forces, have achieved overall equivalence with the United States, and have tremendous momentum for continuing growth and modernization.

They have simply invested more in armaments than we have—significantly more, each year for over a decade. Their effort appears out of proportion to their needs for deterrence or defense, and the strength they are systematically achieving could be a major factor in world affairs if unchecked or unchallenged by the U.S. and our allies and friends.

While we have compensated for reduced quantity with quality, the Soviets have enriched their quantity with quality.

That year-by-year differential in the emphasis on defense has led to changes in the weight and character of the military balance between our nations. The Soviets

have improved, and are seen internationally as stronger, relative to the United States, than in the past.

They also remain an ideological, opportunistic power. They inject change. They do not abhor violence when it serves a political end. They do not respect human rights in the sense that we do. They retain and attempt to export a particular, repressive form of communism with its vision of economy and society.

The trends and realities that we see converge, in my view, and give some clear indications about the future that we must account for in our planning.

The first is that we are in for a long competition. Our superpower relationship with the Soviet Union dominates the world scene. The Soviet Union does not appear headed for economic disaster—they can support the levels of defense spending they choose and support an expansionist foreign policy. They may have been revolutionary, but for decades now they have been steady and predictable in their relentless pursuit of their goals. They will not fade, they will not change their basic character, they will continue to be a threat to world stability, and the majority of the burden of resistance will continue to fall on our shoulders.

My second prognosis is that security will continue to require sacrifice on our part. To maintain equality against as determined and capable an opponent as the Soviet Union will be challenging and expensive. The notion that there is an easy way to reduce the expense—which some suggest could be realized through unilateral disarmament or one-sided arms reductions—just seems to me to be wishful thinking. We must gird ourselves for a long haul at a high price. It is not a matter of "What the Pentagon wants." It is a matter of what the nation needs for defense. The Soviet military threat determines most of these needs.

Persevering will be a tough problem, but it's not a new problem. The historian, Barbara Tuchman, was writing about a different age when she said "one constant among the elements of 1914—as of any era—was the disposition of everyone on all sides not to prepare for the harder alternative, not to act upon what they suspected to be true."

One part of the harder alternative we must sustain is the will to take initiatives in response to the growth of Soviet military power. Let me comment, in that context, on three of the issues confronting the Air Force and the nation—SALT, the increasing vulnerability of our ICBM force, and the retention of high-quality people. These issues involve choices—all difficult—and of vital importance to our nation.

The Air Force supports a reasonable SALT agreement—and I believe negotiations are moving us toward such an agreement. It must be recognized that we live in a world of competition and cooperation with the Soviets. Negotiation and strength are not contradictory—they are complementary. We have not lost ground to the Soviets because of arms limitations, but because the Soviets have pursued force modernization within the limits of those agreements more aggressively than we have. To continue to seek lower aggregate force levels—while maintaining a vertifiable and equitable balance—does serve our national interest.

Maintenance that balance, however, is an imperative. Soviet arms are the reality of the threat—negotiations qualify and help to contain the threat, but they should not obscure the need for strength.

One of the keys, in my view, to retaining the strategic nuclear balance lies in either redressing or off-setting the predicted vulnerability of our minuteman missile force. Basically, our country is in the unfortunate position of relying heavily on a strategic missile basing system which will become vulnerable. Our ICBMs have been a key leg of the Triad for many years. By the early 1980's or thereabouts, Soviet developments will give them the capability to strike our ICBMs with sufficient accuracy and throwweight to destroy a large percentage of our Minuteman force—while still retaining large numbers of reentry vehicles to use as they choose, either against U.S. cities or other military targets, or coercively to discourage U.S. retaliation.

What does one do? The evolution of Soviet technology has been systematic and visible so that we know, with considerable certainty, that they will soon have this capability.

All indicators signal that the time to act is now.

We have viable options for changes that can solve the problem. We are studying them. The multiple aim point ICBM basing system appears to be the best of the options for redressing the vulnerability concern. By basing and moving our ICBMs among a large number of aim points, we force the Soviets to target all aim points—so that attempting a pre-emptive, disarming first strike would be unacceptable.

To attack us, the Soviets would have to exhaust their resources to the extent that they would end the initial wave of attack relatively worse off than when they began it. Therefore, they would not be well advised to attack in the first place. They would be deterred.

This is not an easy solution, we'd rather fly airplanes or retain our current ICBMs, but we must meet the threat. The Soviets maintain more than 80 percent of their stategic nuclear strength in their ICBMs, while our ICBMs contribute about 30 percent of the Triad's punch. We cannot default that leg to them.

There are technical complexities and political issues still to be resolved. They are, in my view, workable if we are determined to find an answer to the Soviets' threatening development.

We also have available other options for offsetting Minuteman vulnerability, including building the air-launched cruise missile in various forms, increasing the effectiveness of our B-52 forces, and developing a cruise missile carrier. I call on your support as we ponder these issues, and weigh the price of the various options against one another, to join me and resolve that our nation will not allow the Soviet arms build-up to place us in a position where they see themselves as substantially superior.

Let me turn now to the subject of people. Our readiness, our deterrent strength, our entire defense fabric depends upon people of the highest caliber working and serving day after day to tend our strength and our future.

We are fortunate, in the Air Force, to have eager, talented people who put mission and service first.

Our participation in the all volunteer force has been the continuation of a success story that began in 1947. I am very proud of our Air Force men and women; they inherited a great professional legacy and continue to improve on it.

The evolution of the All Volunteer Force has been curious. We, as a nation, tired of the draft and voted to rescind it. We offered a compensation system and level designed to attract high-quality people to military careers—based on a balance of reasonable living standards and the inherent satisfaction of a life in service.

The program succeeded—but in the infancy of its success we saw the beginnings of retreat, so that our people, from their perspective, reached equity only to have it taken away by inflation and withdrawal of benefits—at the same time their workloads in a peacetime environment were intensifying, in part because we in the Services were saving money through force cuts. I see throughout the Air Force a sense that there has been erosion of benefits and concern that this will continue.

We need a top-quality force to cope with the requirements of modern weapons and a ready posture. Our people are our greatest ultimate advantage over the Soviet Union—an advantage we cannot lose.

As the trends we have been in compensation and benefits have continued, we have reached a point where either recruiting and retention will fail or standards will have to give way. Our experience in the Air Force clearly teaches us that when standards of quality decline, performance declines as well. When our commanders have to give added attention to discipline and training fundamentals, attention to readiness suffers.

This is a complex issue—one that differs from service to service, and one in which perceptions and emotion play a large part. The Air Force success story is underwritten by the dedication, motivation and talent of our people. They sacrifice for our country. They deserve—and should expect—a reasonable measure of sacrifice from the country in return.

It will be my policy to fight for the rewards our people deserve for voluntary service and for the rewards which will help maintain the Air Force life as one of quality and opportunity—for by so doing I know I am fighting for the strongest Air Force and the best defense for our nation.

We must pay a price for people.

But not all of that price has to be spent in compensation. Our military forces—many of you—have served this country well without visions of wealth.

The private esteem of a career in uniform—reinforced by public esteem for what the uniform represents—can help us meet our needs in recruiting and retention.

The Air Force Association already helps by reaching out to our people in uniform and to many in public life, but today I would like to urge you to do even more. I plan to work through my senior commanders to ensure that each Air Force officer and airman is challenged to better our already enviable record of productivity. Our people work hard, and the work they do preserves our nation's strength. Our airmen and officers need the encouragement that a pat on the back can lend, and the Air Force story needs to reach more of those the Air Force serves and protects. The AFA, with its knowledgeable membership and chapters throughout the nation, can affect both. I know you will.

Today, I have raised some concerns—and cited the need to pay a price for security.

I am not a pessimist about our future. If the times and issues we face are complex, they are not bad times or impossible issues. We are addressing them from a base of strength and in a positive manner.

If we continue to be vigilant—and continue to meet the Soviet challenge with modest changes in the pace, direction and size of our defense effort—I am convinced that this nation will deny Soviet ambitions on their terms.

We have a greater system, the richer culture, the higher vision of our, and mankind's future.

The Soviets will not "just go away" or become overnight friends. They will, in my view, come to a reasonable understanding with western societies and accept an age of essentially cooperative relationships—if and only if we pay the price to frustrate the present Soviet belief in the rewards of military power.●

URANIUM MILL TAILINGS

● Mr. GRAVEL. Mr. President, the distinguished floor managers for S. 2584, which authorizes appropriations for the Nuclear Regulatory Commission, are to be commended for their tireless efforts in bringing this important legislation before the Senate. Of particular interest to me was the amendment regarding the licensing of uranium mill tailings which was proposed by Senators HART, DOMENICI, STAFFORD, and RANDOLPH. This amendment was considered and adopted by the Environment and Public Works Committee prior to being offered here on the floor.

The implied health hazards associated with the wastes from uranium mill sites are appearing increasingly more severe. Although there has not been a proven link between the uranium mill sites and cancer, many scientists are convinced that the connection exists. In Mesa County, Colo., the leukemia rate is twice the State average. Mesa County also happens to be the site of a presently inactive uranium mill which processed uranium ore for 19 years.

The Environmental Protection Agency has fears that mill tailings may encompass the most severe radiation hazard that the country has to contend with. For this reason, it seems only logical that a careful review of the environmental impact of mill tailing operations should be required, not only for States where NRC conducts the licensing and rulemaking processes, but for States who conduct their own NRC-approved programs for regulation. The tailings can constitute an environmental hazard for a long period of years; all possible environmental implications should be thoroughly and completely examined.

Quite a large amount of radioactivity which occurs naturally in uranium remains in the tailings after undergoing mill processing—up to 85 percent. The impact of this radioactivity on the public health is likely to be severe; since many of the effects are not immediately apparent, the full consequences have not yet been determined. Whatever the extent of such effects, they will all be absorbed by the public. For this reason, public involvement in the licensing and rulemaking processes regarding mill tailing stablization should not only be encouraged but required. This issue will be addressed in the conference committee on this bill. The public's right to participate in decisionmaking which affects their lives so acutely should be upheld.●

IMPROVEMENTS FOR CETA PROGRAM ADMINISTRATION

● Mr. WILLIAMS. Mr. President, the Senate recently approved a bill to revise and extend the programs authorized under the Comprehensive Employment and Training Act of 1973 (CETA). During consideration of this legislation, both in the Human Resources Committee and in the Senate, great care was exercised to insure that misuse of Federal funds and abuses in the CETA programs would be eliminated.

The House and Senate bills both contain new provisions that would strengthen the authority of the Secretary of Labor to investigate and take action against program abuses. Provisions that establish strict new guidelines for audits, investigations, and program management would hold local program operators accountable to aide by CETA regulations regarding acceptable program activity and proper handling of funds.

The Secretary would be required to issue regulations to control abuses such as political activities, nepotism, kickbacks, the use of CETA funds for lobbying, and expenditures for activities outside those specified in the act. The Secretary would have authority to subpena records and witnesses for investigations. New provisions would require bonding of persons who manage CETA funds to recover any Federal money that may be lost through fraud.

In addition to criminal sanctions against embezzlement and misuse of funds in current law, a new provision was added making it a criminal offense to obstruct a CETA investigation. Also, the Secretary would have the authority to terminate any program found in violation of the act.

The House and Senate bills also would establish a new Office of Management Assistance in the Department of Labor to provide the resources and guidance needed by local program administrators for effective program operation.

The combined effect of these new provisions would give the Department of Labor and the prime sponsors the resources they need to protect the integrity of CETA programs.

Although this legislation has not yet been enacted into law, the Department of Labor has expanded its audit and investigation activity. The Secretary of Labor, Ray Marshall, established a new Special Office of Investigations charged with reporting directly to him on a regular basis on irregularities in program operation.

Ernest Green, Assistant Secretary of Labor for Employment and Training, drew a clear picture in his testimony before the House Government Operations Subcommittee on Manpower and Housing to highlight the important safeguards built into the new CETA legislation, and the steps already undertaken by the Department of Labor to eliminate abuses under CETA programs.

Mr. President, I ask that the text of his statement be printed in the RECORD.

The statement follows:

STATEMENT OF ERNEST G. GREEN

Madam Chairwoman and Members of the Subcommittee:

I am pleased to appear before you today to discuss the Comprehensive Employment and Training Act and to answer the specific questions concerning CETA that were raised in your letter of invitation. I will address those questions that are within ETA's responsibility; Mr. DeMarco, Director of the Office of Special Investigations, in his statement will address those that affect his office.

As you know, the CETA legislation expires at the end of the current fiscal year and bills to reauthorize it are now pending in both Houses of the Congress. While the final outcome of the CETA reauthorization is uncertain at this time, we should keep in mind that the Administration proposed, and the House Senate committees adopted, many changes in the current law strengthening the Secretary's authority to manage the CETA program.

I would now like to turn to the specific questions raised in your letter of invitation.

IMPROVING THE DEPARTMENT'S MONITORING SYSTEM

I am pleased that the Subcommittee has requested that I address how the Department can improve its monitoring system in order to further prevent, detect and correct abuses in implementing the CETA legislation. This question is one to which both the Secretary and I have personally given a lot of consideration and as a result many new actions have been taken.

Over $28 billion has been allocated under CETA since its inception. I am confident that most of these funds have been spent appropriately and that most CETA programs are administered efficiently with both program and fiscal integrity. I further believe, based on our review of specific programs, that the actual level of fraud and misuse of funds is extremely low.

The Secretary has stated that fraud in the CETA program is less than one percent. This estimate is based on our experience under audits of CETA programs and the evidence that we have garnered in our monitoring of the programs.

The Department has increased its CETA audit activities. These audits, conducted in accordance with accepted accounting standards, focus and follow through on any costs that have been questioned until such time as the Department is satisfied with the fiscal integrity of the program. Audits over the last four years have identified about 67 million dollars in what we technically call "questionable costs." I want to emphasize that the term "questionable costs" is not synonymous with misuse of funds or with fraud. Costs can be questioned for a variety of reasons. Perhaps, the program participant was a month too young for the program, or had been unemployed 29 rather than 30 days, etc. The costs may also be questioned because the prime sponsor's books were unavailable during the time that the auditor wished to examine them, or the accounting was not entirely current, or there appeared to be a bookkeeping error or the like.

We are in the process of examining the 67 million dollars in questioned costs in detail. A decision will be reached with respect to whether each questioned cost should be allowed or disallowed. Costs are disallowed for many reasons. These may include substitution of CETA workers, political activities in the conduct of the program, technical ineligibility of CETA participants, and other nonfraudulent violations of the statute and regulations.

We are aware that there has been misuse of funds in some CETA programs. The Department has taken rapid steps to correct these abuses as we identify them or as they are called to our attention. I do not want to leave the impression that any level of abuse of funds is acceptable. Where we have found proven cases of abuse we have moved rapidly to terminate financial assistance or take other appropriate action.

This Administration's immediate concern when it came into office was to help the unemployed as quickly as possible. The Department devoted its full resources to that effort. We know that the structural and countercyclical training and public service employment programs in CETA have made a contribution to the improvement of the American workers' immediate and long term prospects for employment. Since we took office the unemployment rate has dropped from 7.4 percent to 6.2 percent.

As I stated, we recognize that further improvements in the monitoring of CETA are necessary. We are continuously undertaking these needed actions administratively. We have also proposed legislative changes to further strengthen the Secretary's authority to manage the program.

The Administration's legislation for the reauthorization of CETA, forwarded to Congress earlier this year, contained a number of amendments which would increase the Department's ability to investigate and take action against abuses and to establish standards to eliminate further abuses. The Administration's proposals, which have been incorporated into both the House and Senate

committee bills, require the Secretary to issue strict regulations to control abuses such as political activities, nepotism, kickbacks, unionization and antiunionization activities, religious and antireligious activities, and the use of CETA funds for lobbying. The amendments strengthen the CETA complaint and grievance system, grant the Secretary subpoena powers to compel the production of records and witnesses, require bonding of persons who manage CETA funds, and specifically allow the Secretary to impose sanctions directly on subgrantees and subcontractors. They also require the Secretary to impose program performance standards on prime sponsors, taking into account local labor market conditions. In addition to the existing provision which makes it a criminal offense to willfully misapply or embezzle CETA funds, the amendments also make it a criminal offense to obstruct a CETA investigation.

Finally, the amendments specifically allow the Secretary to immediately terminate a grant, subgrant or subcontract in whole or in part, with opportunity for a hearing afterwards, if the Secretary determines that emergency action is necessary to protect the integrity of the funds or program. The combined effect of these new amendments will be to give the Department the power it requires to further eliminate misuse of CETA funds.

Also, I can assure the Subcommittee that the Department is constantly reviewing and strengthening, where necessary, our administrative procedures for managing the program. As a result of such review a number of administrative actions have recently been undertaken to improve the Department's monitoring system.

First, the Department has recently established an Office of Special Investigations (OSI). The Office is responsible for investigations to identify fraud and program deficiencies, and for recommending corrective action and monitoring its implementation. It is responsible directly to the Secretary and reports directly to him on a regular basis. Mr. DeMarco, who heads OSI, will further discuss its responsibilities.

Other steps which have recently been taken to improve the Department's monitoring system include:

Establishing continuous in-depth assessment of prime sponsor's practices, covering at least 24 prime sponsors during FY '79 and at least 50 during FY '80.

Establishing a training program for prime sponsors to increase their capability to detect fraud or mismanagement in subcontractor performance.

Improving assessment criteria and technical assistance to develop ETA management capability to anticipate and take early action in mismanagement cases.

Strengthening an "Early Warning System" by use of what we call Questionable Activities Reports from regional offices to alert the national office to actual or alleged irregular activities.

IMPROVING THE PRIME SPONSORS PLANNING PROCESS

Regarding the second issue raised in your letter, the Department of Labor has recognized the need for continued improvement in the administration of the prime sponsor planning and plan approval process and for minimizing paperwork requirements.

As this Subcommittee is well aware, the Department has at times been called upon to quickly implement new employment and training programs in response to legislative mandates, sometimes in the face of uncertain funding. The Department makes every effort to develop program guidelines and regulations rapidly in order to give prime sponsors sufficient lead time to plan innovative, effective programs; however, in a case such as the title VI PSE buildup, the congressional mandate was for as rapid an implementation as possible.

Also, CETA's planning and operating requirements are subjected to annual review and revision; prime sponsors' recommendations are solicited in the process. As an example of the changes resulting from this process, the Department last year adopted a new funding method which eliminated most of the duplicative aspects of the previous grant application process. Now, once the basic agreement has been submitted, only information that changes from year to year will require annual submissions. This revised process has reduced significantly the paper flow for prime sponsors without diminishing accountability for performance and compliance.

As the Administration drafted its CETA reauthorization legislation, which was submitted to Congress earlier this year, we considered the reduction of the paperwork burden on local jurisdictions to be a primary objective of the legislation. This legislation eliminated nonessential data, reduced duplicative applications, and made the process more understandable. The CETA reauthorization bills, now under consideration in both the House and Senate, have incorporated these reduced paperwork measures.

APPROVAL OF PLANS

Your next question concerns the Department of Labor's role in approval of prime sponsors' annual plans. A prime sponsor's application for a grant is approved if it meets the requirements of CETA and other applicable laws, the regulations, and if the Regional Administrator determines that the prime sponsor has demonstrated a maximum attempt to meet the goals of the prior year's annual plan. This latter determination is made based on an assessment of the prime sponsor's prior year's performance in five specific areas: program activities, outcomes, utilization of funds, grant management, and compliance with the Act and regulations.

Prime sponsors can receive three ratings based on the assessment of performance: Eligible for Immediate Funding, Problems Identified, or Serious Problems. In the first case, the prime sponsor is found to have substantially achieved the goals in its approved plan. In the second case, problems have been identified but are of the type and degree that it is anticipated that they will be substantially or totally overcome through mandated corrective actions and technical assistance prior to the start of the next fiscal year.

In the case of a "Serious Problems" rating, it is not anticipated that the problems can be corrected prior to the start of the next fiscal year. The problems are of the type and severity that they present major barriers to the accomplishment of program goals and/or to the capability of the sponsor to carry out its legal responsibilities. In Fiscal Year 1977, 20 prime sponsors (4.7 percent) received this "Serious Problems" rating under title I and 15 (3 percent) received it under title II. Where a "Serious Problems" rating is given, full funding is delayed until the problems are corrected, although in some cases partial funding may be provided. In extreme circumstances, an alternative prime sponsor may be designated.

An example of a case where the Department withheld funds from a prime sponsor due to serious problems being identified is Ulster County, New York. As a result of the Fiscal Year 1977 performance assessment, the Ulster County prime sponsor was authorized to use only Fiscal Year 1977 carry-in funds pending successful completion of a corrective action plan. The problems identified were in the areas of grant management, outcomes and program activities.

Corrective actions taken by this prime sponsor included appointment of a strong CETA director, institution of an internal management reports, and establishment of an onsite monitoring system. The New York Regional Office provided intensive technical assistance to the prime sponsor in implementing the plan. By the second quarter of FY 1978, appropriate corrective actions had been taken and the prime sponsor was fully funded with FY 1978 funds.

Similar situations occurred with the Ocean County, New Jersey and Buffalo, New York programs. In both cases, approval was granted to continue programs subject to implementation of corrective actions. Both prime sponsors were successful in correcting identified problems and full authorization was subsequently granted.

The Department has also had to take steps to terminate a city's prime sponsorship. This has recently occurred with respect to the city of East St. Louis. The city failed to correct abuses in program operations which were identified by the Department. An Administrative Law Judge reviewed this case and rendered a decision supporting the Department's position. The city has now appealed this decision to the Secretary and we anticipate final action on the appeal shortly.

In answer to your final question on this subject, each time a prime sponsor modifies its plan, the modifications are reviewed using the same criteria as were used for the original plan.

FEDERAL REPRESENTATIVES

Your fourth question concerns Federal Representatives, and how they are picked, trained, promoted or removed. Federal Representatives are located in regional offices only, and represent the "front line" contacts with local prime sponsors and subgrantees and contractors. They are initially appointed from Civil Service Commission certificates of eligibles or under special hiring authority granted by the Commission, at the GS-7 or GS-9 levels into positions classified as Manpower Development Specialists. These are designated as "career ladder" positions to the journeyman level of GS-12.

Greater weight is given in the selection process to candidates with education and/or experience in such fields as social and behavioral sciences, public administration, and in such related fields as industrial psychology or sociology, employee development and training. They receive closely supervised and monitored on-the-job training in working with higher grade specialists until such time as they progress to a satisfactory level of individual performance. There is currently underway the development of an intensive, formal training program for all Federal Representatives that will be conducted by the Employment and Training Administration's National Training Center. The training program will include critical aspects of a Federal Representative's responsibilities for grant management.

Federal Representatives are promoted progressively through the career ladder levels to the journeyman level as they acquire the knowledge and demonstrate the skills and abilities for competent service at the next higher grade. All staff must compete under merit procedures for promotion beyond the GS-12 level.

Removal of Federal Representatives follows the normal Civil Service Commission procedures, should that be necessary. However, removal for cause has not been a problem. We have experienced situations where it was necessary to shift Federal Representatives where personality conflicts occurred. Such situations were resolved by reassigning the individual to another prime sponsor assignment or staff position. More commonly, staff is shifted to broaden their knowledge of problems in other areas and to bring their special areas of expertise to bear on a problem being experienced by a particular sponsor.

BLACK YOUTH UNEMPLOYMENT

Your final question concerns what is being done under CETA to attack the problem of black youth unemployment.

The alarming statistics on black teenage unemployment are well known. But let me add that we do have reason to be encouraged. While the black teenage unemployment rate

has gone down only a percentage point to an unacceptably high 37 percent, black teenage employment has increased 27 percent in the first 18 months of this Administration. Particularly noteworthy is the fact that many of the decreases in black unemployment and increases in black employment have come in the 20-24 age group.

Much of the improvement in the youth employment situation can be attributed to our initiatives under the Youth Employment and Demonstrations Project Act (YEDPA) passed last year. The funds we are spending for these initiatives are expected to create some 160,000 new job and training opportunities by the end of this year, and it should be noted that The New York Times terms the initiatives "a fast, creditable start in attacking the many facets of the problem." Yet, YEDPA itself acknowledges that we do not know how to best approach this problem. It simply stresses knowledge development through pilot and demonstration projects in employment and training policy.

Among the many reasons currently cited by experts for the high black teenage unemployment rate are faults in the educational system and the resulting high dropout rate, a lack of vocational skills and work habits, motivational factors and the unresponsiveness of the private sector to this group. Through various discretionary and nondiscretionary programs, the YEDPA addresses these and other problems.

For example, the Youth Incentive Entitlement Pilot Project, one part of YEDPA, tests the notion of whether a job guarantee to 16-19 year old disadvantaged youths will increase high school retention, return and completion.

Youth Community Conservation and Improvement Projects, another part of YEDPA, seeks to employ unemployed youth in well supervised work situations where the output provides tangible benefits to the community. The work itself is the source of training, with academic credit arranged where appropriate. Most of the resources have been targeted to out-of-school youth, with the balance being used for work-study programs for in-school youth.

Under YEDPA's Youth Employment and Training Programs, linkages between local educational associations and CETA prime sponsors have been fostered to create greater coordination between the employment and educational institutions at the local level. We feel this will improve the school-to-work transition process, often mentioned as a major stumbling block for black youth.

The Young Adult Conservation Corps (YACC) provides jobs for unemployed youth to accomplish needed conservation work, while providing as many other services as possible to maximize the benefits of the experience for participants. Specific skills are developed in a work environment in conjunction with counseling.

The Office of Youth Program (OYP) together with the nonprofit Corporation for Public/Private Ventures (CPPV) has embarked on new private sector initiatives to increase the employment of black youth. Notable among these is the Youth Entrepreneurship Program which seeks to involve youth in the running of their own businesses under the guidance of local businessmen. In addition, a Youth Preemployment Service initiative seeks to improve motivation, instill good work habits and skills which will make the youth more attractive to an employer.

We must again stress that these programs are experimental and that the first year necessarily concentrated on design and start up. In Fiscal Year 1979 and 1980, we should begin to see results and be in a position to evaluate them, enabling us to fill in the the knowledge gap.

In addition to the new program for youth that were added to CETA by YEDPA, minority youth are served by other ongoing CETA programs for youth, such as the Summer Program for Economically Disadvantaged Youth and the Job Corps. Youth also represent a significant portion of those served by CETA programs not specifically targeted to youth. For example, we anticipated that an estimated 668,000 young persons will be served under title I of CETA and another 265,000 under titles II and VI during the current fiscal year. Overall, we expect CETA programs to serve 4.0 million persons in Fiscal year 1978. About 56 percent or 2.3 million of these individuals will be young persons (under 22 years old)—over 40 percent of whom will be minority youth.

Madam Chairwoman, this concludes my prepared statement. At this time I would be pleased to answer any additional question that you or other members of the Subcommittee may have.●

ANNOUNCEMENT OF POSITION ON VOTE—SENATE RESOLUTION 562

● Mr. CLARK. Mr. President, if I had been here on Thursday, September 14, I would have voted for the Muskie resolution (S. Res. 562), which was rollcall vote No. 377.●

(The following statement was inserted in the RECORD by Mr. STEVENS for Senator HEINZ:)

TRADE ADJUSTMENT ASSISTANCE

Mr. HEINZ. Mr. President, it is imperative that the Senate act promptly on H.R. 11711, Adjustment Assistance for Workers and Firms, which the House passed on September 8 with only 24 dissenting votes. This bill, which is similar in many respects to legislation I introduced last year (S. 1658), is of considerable importance to trade-impacted industries, such as steel and related products, copper, zinc, footwear, textiles and apparel, among others.

Adjustment assistance has often been cited as an effective and necessary approach to dealing with trade and import problems. Though I would prefer to see such problems prevented in the first place through more aggressive enforcement of our trade laws—and in fact have introduced other legislation to accomplish that objective—I also believe that there is inevitably a need for domestic adjustment to changing economic conditions in any dynamic economy, and that the Federal Government has a responsibility to assist workers and firms in such adjustment when it is caused by imports.

At present, unfortunately, our programs of assistance have been seriously deficient. Aid to workers has all too often been only a dole instead of providing meaningful help for job retraining and relocation. The program for businesses has been chronically a case of too little too late, mired in red tape that has resulted in many applicants going out of business before they ever receive any assistance.

Changes made by the Trade Act of 1974 made some significant improvements in the program—which had scarcely been used prior to that time—serious problems remain, which H.R. 11711 will help correct.

The bill broadens the adjustment assistance program for workers by extending eligibility to workers in firms which provide services or articles which are essential to the production of import-impacted products, and to workers manufacturing component parts in a subdivision of an impacted company. In addition, benefits are extended for older workers, job search and relocation benefits are increased, and the threshold of eligibility is lowered somewhat for senior workers. Finally, eligibility is extended retroactively to certain workers who were denied in the past because of a time limitation, notwithstanding the fact that the layoffs were import related.

With respect to assistance for firms, the bill broadens eligibility criteria to conform with the changes in the worker program, makes it easier to obtain technical assistance in preparing a proposal, and increases to 90 percent the proportion of cost of that assistance the Commerce Department will bear. In addition, the effective rate on loans and guaranteed loans to impacted businesses is decreased and the ceiling on loans and loan guarantees is increased.

Finally, with respect to both programs, the bill broadens eligibility to include workers and their firms threatened with an absolute decrease in sales or production, rather than limiting it to those which have experienced an absolute decrease. This expansion will insure that the programs are timely and that assistance does not arrive, as has been alleged, only in time for "burial."

Mr. President, H.R. 11711 is not identical to my own legislation. In some respects it is broader; in others it is noticeably narrower. In any event, I believe it is so important to promptly correct the deficiencies in the current program that the most efficient course of action at this point is to simply pass the House bill. Accordingly, I am indicating to Senator LONG and Senator RIBICOFF my support for the House bill, H.R. 11711 and my strong hope that the Finance Committee will be able to find time in its busy schedule to take it up during this session of Congress. I urge my colleagues to do likewise and am today sending to each office some additional information on the bill.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

H. Brooks Phillips, of Mississippi, to be U.S. Marshal for the northern District of Mississippi for the term of 4 years (reappointment).

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Wednesday, September 27, 1978, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ORDER TO HOLD H.R. 13745 AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as it is received, H.R. 13745 be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO HOLD H.R. 8812 AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as it is received, H.R. 8812 be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISTRICT OF COLUMBIA RETIREMENT REFORM ACT—H.R. 6536—APPOINTMENT OF CONFEREE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Senator PERCY be added as a conferee on the part of the Senate for the conference on H.R. 6536 to establish an actuarially sound basis for financing retirement benefits for policemen, firemen, teachers, and judges of the District of Columbia and to make certain changes in such benefits.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—S. 1185

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No. 1038, S. 1185, a bill to regulate interstate commerce with respect to parimutuel wagering on horseracing, to maintain the stability of the horseracing industry, and for other purposes, is made the pending business before the Senate, there be a 1-hour time limitation for debate on that measure, and that the time be equally divided between Mr. MAGNUSON and Mr. PEARSON; that there be a time limitation of 30 minutes on any amendment; that there be a time limitation on any debatable motion, appeal, or point of order if such is submitted to the Senate for consideration, of 20 minutes, provided further, that on each of two amendments by Mr. STEVENSON there be a 1-hour time limitation, and that the agreement be in the usual form.

Mr. STEVENS. Reserving the right to object, Mr. President, did the majority leader mention 20 minutes?

Mr. ROBERT C. BYRD. I will change that to 15 minutes on debatable motion, appeal, or point of order if such is submitted.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That when the Senate proceeds to the consideration of S. 1185 (Order No. 1038), a bill to regulate interstate commerce with respect to parimutuel wagering on horseracing, to maintain the stability of the horseracing industry, and for other purposes, debate on any amendment (except two amendments to be offered by the Senator from Illinois (Mr. Stevenson), on each of which there shall be 1 hour) shall be limited to 30 minutes to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 15 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the Senator from Washington (Mr. Magnuson) and the Senator from Kansas (Mr. Pearson): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

TIME-LIMITATION AGREEMENT—S. 3486

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the military procurement bill, S. 3486, Calendar Order No. 1121, is called up and made the pending business before the Senate, there be a 1-hour time limitation on the bill, to be equally divided between Senator STENNIS and Senator TOWER; a time limitation on any amendment of 30 minutes; a time limitation on any debatable motion, appeal, or point of order of 15 minutes, if such is submitted to the Senate, with the following exception: that there be a 2 hour limitation on an amendment by Mr. TOWER; a 2-hour limitation on an amendment by Mr. PROXMIRE; that there be a 40 minute time limitation on each of three other amendments by Mr. PROXMIRE, and that the agreement be in the usual form.

Mr. STEVENS. Reserving the right to object, Mr. President, the time would be divided between the Senator from Mississippi and the Senator from Texas; is that correct?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That when the Senate proceeds to the consideration of S. 3486 (Order No. 1121), a bill to authorize appropriations for fiscal year 1979 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes, debate on any amendment (except an amendment to be offered by the Senator from Texas (Mr. Tower), on which there shall be 2 hours; an amendment by the Senator from Wisconsin (Mr. Proxmire), on which there shall be 2 hours; and three amendments to be offered by the Senator from Wisconsin (Mr. Proxmire), on each of which there shall be 40 minutes) shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 15 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the Senator from Mississippi (Mr. Stennis) and the Senator from Texas (Mr. TOWER): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, are there any orders for the special recognition of Senators tomorrow morning?

The PRESIDING OFFICER. There are none.

Mr. ROBERT C. BYRD. I thank the Chair.

ORDER OF PROCEDURE—S. 991

Mr. ROBERT C. BYRD. Mr. President, today there was an agreement entered into with respect to the Department of Education bill. I ask unanimous consent that the agreement with respect to the three amendments by Mr. SCHMITT govern at such time as the Senate resumes consideration of the Department of Education bill, with the understanding that the action on those amendments will occur prior to the action on the amendment by Mr. STEVENS.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, in conformity with the agreement that has been reached on the natural gas conference report, the Senate, on tomorrow morning, after the two leaders have been recognized under the standing order, or their designees, return to the consideration of the vocational rehabilitation bill, which is Calendar Order No. 820.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, it is hoped that, upon the disposition of the vocational rehabilitation bill tomorrow, the Senate can then proceed to the consideration of the foreign assistance appropriations bill, in conformity, of course, with the general agreement on the natural gas conference report. I say this so that Senators who are involved in managing that bill and who may have amendments that they want to call up will be duly notified in a timely fashion.

RECESS TO 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9 o'clock tomorrow morning.

The motion was agreed to; and, at 6:31 p.m., the Senate recessed until tomorrow, September 21, 1978, at 9 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate September 20, 1978:

THE JUDICIARY

Richard S. Arnold of Arkansas, to be U.S. district judge for the eastern and western districts of Arkansas.

Bruce S. Jenkins, of Utah, to be U.S. district judge for the district of Utah.

HOUSE OF REPRESENTATIVES—*Wednesday, September 20, 1978*

The House met at 10 a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Thus saith the Lord: "I am the Lord your God, who leads you in the way you should go."—Isaiah 48: 17.

Breathe on us, Breath of God,
Fill us with life anew,
That we may love what Thou dost love,
And do what Thou wouldst do.
Breathe on us, Breath of God,
Until our hearts are pure,
Until with Thee we will one will,
To do or to endure.

Receiving Thy spirit may we be made ready for the labors of this day. Strengthen us for our work, control our feelings, calm our fears, and grant us wisdom, grant us courage for the facing of these hours and the living of these days.

In the spirit of Him who went about doing good we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 1007. Joint resolution authorizing and requesting the President to proclaim the 7-day period beginning on May 1, 1979, as "Asian/Pacific American Heritage Week."

The message also announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 3375. An act to amend title 28 of the United States Code to make certain changes in the places of holding Federal district courts, in the divisions within judicial districts, and in judicial district dividing lines.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12935) entitled "An act making appropriations for the legislative branch for the fiscal year ending September 30, 1979, and for other purposes."

The message also announced that the Senate insists upon its amendment to the bill (H.R. 9214) entitled "An act to amend the Bretton Woods Agreements Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. SPARKMAN, Mr. CHURCH, Mr. SARBANES, Mr. PROXMIRE, Mr. STEVENSON, Mr. CRANSTON, Mr. CASE, Mr. JAVITS, Mr. BROOKE, and Mr. HEINZ to be the conferees on the part of the Senate.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4007. An act to amend the Internal Revenue Code of 1954 to designate the home of a State legislator for income tax purposes, and for other purposes.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2584. An act to authorize appropriations to the Nuclear Regulatory Commission for fiscal year 1979, and for other purposes.

RESIGNATION FROM COMMITTEE ON INTERNATIONAL RELATIONS

The SPEAKER laid before the House the following resignation from the Committee on International Relations:

WASHINGTON, D.C.,
September 18, 1978.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives, The Capitol, Washington, D.C.

DEAR MR. SPEAKER: I hereby tender my resignation from the International Relations Committee, effective September 20.

With best wishes, I am,
Sincerely,

SHIRLEY N. PETTIS,
Member of Congress.

The SPEAKER. Without objection, the resignation will be accepted.

There was no objection.

ELECTION AS MEMBER OF COMMITTEE ON INTERNATIONAL RELATIONS

Mr. MICHEL. Mr. Speaker, I offer a privileged resolution (H. Res. 1358) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That Joel Pritchard, of Washington, be and he is hereby elected a member of the Committee on International Relations.

The resolution was agreed to.

A motion to reconsider was laid on the table.

RETIREMENT OF THE HONORABLE BILL WALSH FROM THE HOUSE OF REPRESENTATIVES

(Mr. MINETA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MINETA. Mr. Speaker, we are all aware of the decision of our colleague from New York, BILL WALSH, to retire from the House of Representatives at the end of the 95th Congress. BILL WALSH has devoted much of his career to public service, including the last 6 years as a Member of Congress. His endeavors on behalf of the American people are a credit to this institution. This House is indebted to BILL WALSH for his labors, and its Members are sincerely grateful for his service, his dedication, and his counsel. We will miss him, and our jobs will be more difficult without his able assistance.

But if I may be allowed a personal note. I have a special debt to BILL WALSH. It was my good fortune on becoming a subcommittee chairman nearly 2 years ago to find BILL WALSH sitting next to me as ranking minority member. During the 95th Congress we have labored together, through long hours and complex issues. I have come to count on his experience, his diligence, and his fairmindedness.

I have also come to expect that, whatever our minor differences of opinion or method, that our objectives will be virtually identical. Perhaps one reason we work so well together is that we are both former mayors, and are both accustomed to viewing problem-solving in a nonpartisan, managerial perspective. When a citizen in your community has a complaint about the trash collection service, that citizen is not interested in your partisan loyalties or philosophy—they just want the sanitation department managed in such a way as to provide efficient service.

Good management and efficiency in government should be our main concerns at any level of government. Bill Walsh has worked hard in the Congress and on the subcommittee at that kind of nonpartisan problem solving. He has never lost sight of the fact that the primary purpose of our efforts should be to improve the efficiency of government, to pare away the nonessentials, and to deliver a sound product at a reasonable price. These goals are never easily achieved, but BILL WALSH has never relented in that quest. He has never diluted his purposes with partisan rancor or personal aggrandizement.

BILL WALSH is, to my mind, a model of the kind of hard-working, thoughtful, problem-solving Representative that is characteristic of the Congress at its best. He will certainly serve as a model to me for years to come.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. MINETA. I am pleased to yield to my colleague, the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Speaker, I would like to join in the remarks just made by the gentleman from California (Mr. MINETA). It has been my privilege and pleasure to serve with the gentleman from New York (Mr. WALSH). We shall miss him. I would like to commend the gentleman from California (Mr. MINETA) upon his excellent statement.

TRIBUTE TO ERWIN T. KIRKWOOD OF FLINT, MICH., ON RETIREMENT

(Mr. KILDEE asked and was given permission to address the House for 1 min-

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

use and to revise and extend his remarks.)

Mr. KILDEE. Mr. Speaker, I want to bring to the attention of my colleagues in the Congress the very capable career of union leadership that will be marked this weekend with a retirement tribute to Erwin T. Kirkwood of Flint, Mich. Mr. Kirkwood is retiring after 12 years as president of UAW local 651 at the AC Spark Plug plant in Flint. A recent feature story on Mr. Kirkwood's retirement in the Flint Journal aptly described him as "one of the area's most respected labor leaders." This certainly expresses my feelings also toward Mr. Kirkwood, who has given so many years of extraordinary leadership to the working people of Flint and to the ideals for which he so often battled.

Mr. Kirkwood has been active in the labor movement ever since 1937, when he was a member of the American Tire Worker's Union while employed at the B. F. Goodrich Co. After serving his country in the Navy during World War II, Mr. Kirkwood came to Flint and worked at the Buick plant as a member of local 117, Plant Guards of America. He joined the AC Spark Plug Division of General Motors in 1950, and soon became an active leader in the UAW. From 1953 to 1958 Mr. Kirkwood was a district committeeman for AC local 651, and from 1963 to 1966 he was chairman of the shop committee. He served as the local's president from 1966 to the present. Mr. Kirkwood also has been active in civic affairs, serving for several years with both the Big Brothers and Big Sisters programs. He and his wife, Margaret, have been married for 27 years and have a daughter and three sons.

Members of the United Auto Workers can take pride in the knowledge that theirs is a progressive union that is universally recognized for its social leadership as well as for its dedication to the well-being of its members. The UAW has this reputation because of the leadership that has been given to it by the Erwin Kirkwoods in its ranks.

ELECTION AS MEMBER OF COMMITTEE ON VETERANS' AFFAIRS

Mr. FOLEY. Mr. Speaker, by direction of the Democratic Caucus, I offer a privileged resolution (H. Res. 1359) designating membership on a certain standing committee of the House, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1359

Resolved, That DAVID L. CORNWELL, of Indiana be, and he is hereby, elected to the Committee on Veterans' Affairs of the House of Representatives.

The resolution was agreed to.

A motion to reconsider was laid on the table.

NATIONAL GOOD NEIGHBOR DAY

Mr. LEHMAN. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 133) to authorize and request the President to issue a proclamation designating September 24, 1978, as "National Good Neighbor Day" and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES 133

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating September 24, 1978, as "National Good Neighbor Day", and calling upon the people of the United States and interested groups and organizations to observe such day with appropriate ceremonies and activities.

The SPEAKER. The gentleman from Florida (Mr. LEHMAN) is recognized for 1 hour.

Mr. LEHMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Senate Joint Resolution 133, as introduced by the Honorable MAX BAUCUS, proclaims September 24, 1978, as "National Good Neighbor Day."

Prior to its consideration, commemorative legislation must receive the cosponsorship of 218 Members of the House under the policy adopted by the Post Office and Civil Service Committee.

Mr. Speaker, this resolution has 224 signatures.

Mr. Speaker, I yield such time as he may consume to the gentleman from Montana (Mr. BAUCUS).

Mr. BAUCUS. Mr. Speaker, this is a very simple resolution. It designates this coming Sunday as National Good Neighbor Day.

I would like to present here the resolution, which is quite short, in its full text:

H. J. RES. 826

Whereas our society has developed highly effective means of speedy communication around the world, while failing to insure communication among human beings who live side by side; and

Whereas the development of human values and consideration for others is of prime importance if civilization is to survive; and

Whereas being good neighbors to those around us is the first step toward human understanding; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating Sunday, September 24, 1978, as "National Good Neighbor Day", and calling upon the people of the United States and interested groups and organizations to observe such day with appropriate ceremonies and activities.

Similar resolutions have passed the Senate on at least two separate occasions. This year the resolution was sponsored by Senator MELCHER and passed the Senate 2 months ago. Senator Mansfield also successfully sponsored the legislation through the Senate on at least one earlier occasion.

However, because of the rules of the House, a resolution of this type is much more difficult to pass, for it is required that a majority of the Members of the House cosponsor any resolutions seeking to designate a commemorative holiday.

In the 94th Congress I introduced the resolution, but failed by a mere 10 Members to achieve the 218 majority required cosponsors.

However, I am proud to announce that this year I was able to obtain 224 cosponsors, whose names I would like to list here:

LIST OF THE COSPONSORS FOR NATIONAL GOOD NEIGHBOR DAY

Mr. Addabbo.
Mr. Akaka.
Mr. Alexander.
Mr. Ambro.
Mr. Andrews of North Carolina.
Mr. Andrews of North Dakota.
Mr. Annunzio.
Mr. Applegate.
Mr. Ashley.
Mr. Aspin.
Mr. AuCoin.
Mr. Bafalis.
Mr. Baldus.
Mr. Baucus.
Mr. Beard of Rhode Island.
Mr. Bedell.
Mr. Beilenson.
Mr. Benjamin.
Mr. Bennett.
Mr. Bevill.
Mr. Biaggi.
Mr. Blanchard.
Mr. Blouin.
Mr. Boland.
Mr. Bonior.
Mr. Brademas.
Mr. Breaux.
Mr. Breckenridge.
Mr. Brinkley.
Mr. Brodhead.
Mr. Brown of California.
Mr. Brown of Michigan.
Mr. Brown of Ohio.
Mr. Buchanan.
Mrs. Burke of California.
Mr. Burke of Florida.
Mr. Burton, John L.
Mr. Byron.
Mr. Carney.
Mr. Carter.
Mr. Chappell.
Mrs. Chisholm.
Mr. Clawson, Del.
Mr. Clay.
Mr. Cohen.
Mr. Conte.
Mr. Conyers.
Mr. Corcoran of Illinois.
Mr. Corman.
Mr. Cornell.
Mr. Cornwell.
Mr. Corrada.
Mr. Daniel, Dan.
Mr. Daniel, Robert W., Jr.
Mr. De La Garza.
Mr. DeLugo.
Mr. Dent.
Mr. Derrick.
Mr. Dicks.
Mr. Diggs.
Mr. Dodd.
Mr. Downey.
Mr. Duncan of Oregon.
Mr. Eilberg.
Mr. Emery.
Mr. English.
Mr. Ertel.
Mr. Evans of Delaware.
Mr. Evans of Georgia.
Mr. Fary.
Mr. Fauntroy.
Mr. Fithian.
Mr. Flood.
Mr. Florio.

Mr. Ford of Michigan.
Mr. Forsythe.
Mr. Fountain.
Mr. Fraser.
Mr. Frey.
Mr. Fuqua.
Mr. Garcia.
Mr. Gephardt.
Mr. Ginn.
Mr. Gonzalez.
Mr. Grassley.
Mr. Guyer.
Mr. Hall.
Mr. Hanley.
Mr. Harris.
Mr. Hawkins.
Mrs. Heckler.
Mr. Hefner.
Mr. Hightower.
Mr. Hillis.
Mr. Holland.
Mr. Hollenbeck.
Mr. Horton.
Mr. Howard.
Mr. Hughes.
Mr. Hyde.
Mr. Ichord.
Mr. Ireland.
Mr. Jacobs.
Mr. Jeffords.
Mr. Jenkins.
Mr. Johnson of California.
Mr. Jones of Tennessee.
Mr. Kastenmeier.
Mr. Kazen.
Mr. Kelly.
Mr. Kemp.
Mrs. Keys.
Mr. Kostmayer.
Mr. Krueger.
Mr. LaFalce.
Mr. Lagomarsino.
Mr. Lederer.
Mr. Le Fante.
Mr. Leggett.
Mr. Lloyd of California.
Mrs. Lloyd of Tennessee.
Mr. Long of Maryland.
Mr. Luken.
Mr. Lundine.
Mr. McDade.
Mr. McFall.
Mr. McHugh.
Mr. Mann.
Mr. Markey.
Mr. Marlenee.
Mr. Martin.
Mr. Mazzoli.
Mr. Metcalfe.
Mrs. Meyner.
Ms. Mikulski.
Mr. Miller of California.
Mr. Mineta.
Mr. Mitchell of Maryland.
Mr. Mitchell of New York.
Mr. Montgomery.
Mr. Moorhead of Pennsylvania.
Mr. Mottl.
Mr. Murphy of Illinois.
Mr. Murphy of New York.
Mr. Murphy of Pennsylvania.
Mr. Myers, John T.
Mr. Myers, Michael O.
Mr. Natcher.
Mr. Neal.
Mr. Nichols.
Mr. Nolan.
Ms. Oakar.
Mr. Oberstar.
Mr. Patten.
Mr. Patterson of California.
Mr. Pepper.
Mr. Perkins.
Mrs. Pettis.
Mr. Pickle.
Mr. Price.
Mr. Pursell.
Mr. Quie.
Mr. Quillen.
Mr. Rahall.
Mr. Railsback.
Mr. Reuss.
Mr. Richmond.
Mr. Rinaldo.
Mr. Risenhoover.
Mr. Robinson.
Mr. Rodino.
Mr. Roe.
Mr. Rogers.
Mr. Roncalio.
Mr. Rooney.
Mr. Roybal.
Mr. Rudd.
Mr. Runnels.
Mr. Ruppe.
Mr. Russo.
Mr. St Germain
Mr. Sawyer.
Mr. Sebelius.
Mr. Shipley.
Mr. Sikes.
Mr. Simon.
Mr. Sisk.
Mr. Skelton.
Mr. Solarz.
Mrs. Spellman.
Mr. Spence.
Mr. Staggers.
Mr. Stanton.
Mr. Steed.
Mr. Steiger.
Mr. Stokes.
Mr. Thone.
Mr. Traxler.
Mr. Tucker.
Mr. Vento.
Mr. Waggonner.
Mr. Walgren.
Mr. Watkins.
Mr. Waxman.
Mr. Weiss.
Mr. White.
Mr. Whitehurst.
Mr. Whitley.
Mr. Whitten.
Mr. Wilson, Charles H. of California.
Mr. Wilson, Charles of Texas.
Mr Winn.
Mr. Wirth.
Mr. Wolff.
Mr. Won Pat.
Mr. Wylie.
Mr. Yates.
Mr. Yatron.
Mr. Zablocki.
Mr. Zeferetti.

The following are National Good Neighbor Day cosponsors. They agreed to be cosponsors after I had submitted the original list:

Mr. Bowen.
Mr. Mikva.
Mrs. Fenwick.
Mr. Frenzel.
Mr. Wright.

Mr. Speaker, I would like to give credit for the inspiration of National Good Neighbor Day to Mrs. Becky Mattson, a constituent of mine, who lives in Lakeside, Mont.

Becky conceived the idea of holding a Good Neighbor Day each year. Since 1971 she and her husband have dedicated their lives to working with people throughout the country in organizing events to be held on the fourth Sunday of each September in an effort to show productive things that neighbors can do.

Becky sees National Good Neighbor Day as an opportunity to provide a partial solution to some of the common and depressing problems and needs of localities, both urban and rural, throughout America.

She also sees it as one more opportunity to use through voluntary efforts the ingenuity and vitality of our young people. This group of perspective volunteers number some 30 million in our schools. And these young people can be reached through schools, community groups, and clubs — where volunteer projects are most often organized.

The State departments of education from a number of States as well as the national and international media have contacted Mrs. Mattson's Good Neighbor Day Foundation in Lakeside, Mont., expressing their interest in helping to promote this worthwhile endeavor.

But Becky's work on Good Neighbor Day has not focused only on school children being neighborly among themselves. For example, she told me of a previous Good Neighbor Day where one Ohio school district hosted 300 senior citizens, who toured the facilities and had an opportunity to observe and communicate with young people, to the benefit of both generations. Also she told me about a pilot project where communities on and surrounding one Western Indian Reservation conducted four consecutive work/play activities which were held for area schoolchildren to "promote understanding." This project was apparently so successful and productive and popular that new and expanded activities are now planned.

Not all projects, however, involve large groups. In communities in Montana, Texas, and elsewhere local merchants donated shrubbery and shade trees which were planted by young volunteers who worked in groups of 4 and 5 to improve their communities.

The nonprofit National Good Neighbor Day Foundation in Lakeside, Mont., serves as a National clearinghouse for information regarding volunteer projects. Civic and educational groups throughout the United States obtain information on establishing or coordinating activities by writing the Good Neighbor Day Foundation at Drawer R, Lakeside, Mont. 59922.

Mr. Speaker, I know we cannot legislate morality in this country. And by the passage of this legislation, I do not seek to require that people be good neighbors. No, Mr. Speaker, what I wish to accomplish by passing this legislation today, is to provide an opportunity for those people throughout the country who would like to provide a spark to peoples' lives who would not otherwise be thinking of activities they could engage in to help their neighbors.

Mr. Speaker, as I mentioned before, National Good Neighbor Day has had substantial widespread national support. I would like to list for my colleagues a few of the entities throughout the country who have proclaimed and followed National Good Neighbor Day in earlier years. The list follows:

NATIONAL GOOD NEIGHBOR DAY—HOUSE JOINT RESOLUTION NO. 826

STATES IN WHICH GUBERNATORIAL PROCLAMATIONS HAVE BEEN ISSUED:

Alabama, Arizona, Delaware, Hawaii, Idaho, Illinois, Indiana, Louisiana, Massachusetts, Minnesota, Nebraska, New Jersey, New Mexico, New York, Ohio, Oklahoma, Tennessee, Utah, Virginia, Washington, and Wisconsin.

STATE DEPARTMENTS OF EDUCATION WHICH ENDORSED NATIONAL GOOD NEIGHBOR DAY:

Florida, Illinois, Maine, Minnesota, Texas, Utah, Virginia, Washington, and Wisconsin.

EXAMPLES OF THE VARIETY OF LOCALES WHERE ACTIVITIES HAVE TAKEN PLACE:

Anchorage, Alaska; Butte, Montana; Carney's Point, New Jersey; Decatur, Alabama; Fayette County, Ohio; Flathead Indian Reservation, Montana; Ft. Wainwright, Arkansas; Great Falls, Montana; Groves, Texas; Kalispell, Montana; Phoenix, Arizona; Scranton, Pennsylvania; Stillwater, Oklahoma; and Tulsa, Oklahoma.

ORGANIZATIONAL ENDORSEMENTS:
(Partial List)

National PTA Congress.
National Association of Secondary School Principals.
Council of State School Officers.
International Soroptimists.
Kiwanis Clubs of Baton Rouge, Louisiana, Des Moines, Iowa, and Montana District.

MAJOR MEDIA ENDORSEMENTS: (Partial List)

Woman's Day.
World.
Canadian Broadcasting Corp.
Instructor (Journal for teachers).
Scholastic Magazines (School Publications).
National Association of Secondary School Principals' Communications.
Salvation Army's War Cry.
On the Line (Children's Publication—Scheduled for September, 1978).
Various State Superintendents of Public Instruction journals.
My Weekly Reader (School Publication).
Covenant Companion.

Mr. Speaker, in short, I do not expect everyone to be good neighbors after the passage of this legislation. On the other hand, some more people may become more considerate and concerned about the plight of their neighbors. If that happens, this resolution has been successful.

● Mr. MARLENEE. Mr. Speaker, I rise to express my support for National Good Neighbor Day. I am also a cosponsor of this resolution, and am proud to add my support for it.

As my colleague from Montana has noted, the primary supporter of this legislation and of the whole idea of designating the fourth Sunday in September as National Good Neighbor Day is Mrs. Becky Mattson from Lakeside, Mont.

Mrs. Mattson has worked tirelessly on this project, and she feels certain that if we can obtain congressional and Presidential approval of her proposed Good Neighbor Day, it will generate a widespread national following.

Actually, Mr. Speaker, Good Neighbor Day already has a substantial following. I would like to present for the RECORD an article which appeared in this month's edition of Student Advocate, published by the National Association of Secondary Principals. This article highlights many of the activities that have been ongoing in the observance of National Good Neighbor Day since it was initially introduced in 1971:

BE A GOOD NEIGHBOR

America is a transient nation. People are always on the move. In the early 1970's, statistics indicated that nearly one out of every five Americans changed his residence each year.

With all this moving about, it's not surprising that many people don't establish roots within a community. Many may not even know their neighbors. To give people a sense of community and an opportunity to say "hello" to the person next door or down the block, the National Good Neighbor Day Foundation is asking everyone to participate in National Good Neighbor Day Sunday, September 24th.

National Good Neighbor Day is becoming a new tradition. The idea for it began in 1971. Since then legislation to give formal recognition of the day has been introduced into Congress. Mrs. Becky Mattson, who coordinates National Good Neighbor Day with her husband Dr. Richard C. Mattson, notes, however, that neither congressional approval or a presidential proclamation are necessary to make National Good Neighbor Day a traditional day. What is needed, she says, "is response from people across the country."

Being a good neighbor means more than keeping your lawn mowed and your walk clean. It means establishing a sense of community and respecting the people in your neighborhood and their property.

National Good Neighbor Day is an easy way for every member of every family to get involved and establish neighborhood roots. Plan a block party, a picnic or barbecue. Invite your neighbors and get to know them. Knowing your neighbors can increase your security and theirs.

Students may be interested in sponsoring other community oriented projects, including helping the handicapped or the elderly. You can perform a skit or hold a song fest at a resthome or hospital. A year-round project could be to help run errands or perform chores for the elderly or handicapped. You and your family may want to welcome a new family to your community and help make them feel at home.

Being a good neighbor also means taking an interest in your community by keeping it clean, accepting responsibility for your pets and reporting to the appropriate authorities possible hazards to take care of.

Your school group can help win a Good Neighbor Designation for your town by participating in the 1978 National Good Neighbor Day Project Contest. With community cooperation and media coverage, you can perform a project to benefit your neighborhood and receive recognition for your valuable service.

First, receive permission from school authorities to sponsor a community oriented project. Then, find a need within your community. Organize your group to fulfill the need, making sure that one part of your organization notifies both the school and outside media.

The ideas for projects are unlimited. In Phoenix, Ariz., students at Thunderbird HS helped clean and paint a local rehabilitation center for their project last year. Other projects include planting trees, shrubs or flowers in parks or other civic areas, reading to and assisting senior citizens in resthomes, organizing a taxi or errand running service for the elderly, cleaning and fixing rundown city areas, or organizing and manning a booth dispensing information and directions in your town to visitors.

Help create a good neighbor town and help create a good atmosphere in which to live.

For more information on how your school group can get involved and how you can be a good neighbor, write to the Good Neighbor Day Foundation, Drawer R, Lakeside, Mont. 59922.

Mr. Speaker, I would also like to note in closing that the National Good Neighbor Day Resolution has the widespread support of Congress. I understand that 224 of my colleagues have cosponsored this legislation. A brief review of these Members will demonstrate that it not only has strong bipartisan support, but widespread geographical support. Indeed, it looks as though nearly every State in the Union has had one of its representatives cosponsor this resolution.

I do hope the House acts favorably on this resolution today.●

Mr. LEHMAN. Mr. Speaker, I have no further requests for time.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LEHMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the Senate joint resolution just passed.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

CALL OF THE HOUSE

Mr. CHARLES H. WILSON of California. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 603]

Ambro	Florio	O'Brien
Ammerman	Flowers	Pepper
Anderson, Ill.	Ford, Mich.	Pike
Andrews, N.C.	Fraser	Pressler
Archer	Gammage	Quie
Armstrong	Garcia	Railsback
AuCoin	Gibbons	Rhodes
Beard, R.I.	Goldwater	Risenhoover
Beard, Tenn.	Harrington	Rodino
Bellenson	Heftel	Roe
Boggs	Hollenbeck	Roncalio
Bonior	Howard	Rosenthal
Breaux	Hughes	Rudd
Brown, Ohio	Ireland	Runnels
Burke, Calif.	Kemp	Russo
Burton, John	Krueger	Santini
Burton, Phillip	LaFalce	Sarasin
Byron	Leggett	Scheuer
Caputo	Livingston	Shipley
Chisholm	Lujan	Shuster
Clay	McCloskey	Skubitz
Collins, Ill.	McHugh	Slack
Conyers	McKinney	Steed
Cornwell	Markey	Stockman
Davis	Meeds	Stokes
Dellums	Meyner	Teague
Dent	Mikva	Thompson
Derwinski	Milford	Tsongas
Dickinson	Miller, Calif.	Tucker
Diggs	Minish	Udall
Dodd	Mollohan	Waxman
Eckhardt	Murphy, N.Y.	Whitehurst
Evans, Colo.	Neal	Wiggins
Evans, Del.	Nichols	Wilson, Tex.
Findley	Nolan	Young, Tex.

The SPEAKER pro tempore (Mr. CAVANAUGH). On this rollcall 327 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceeding under the call were dispensed with.

PROVIDING FOR CONSIDERATION OF H.R. 1, ETHICS IN GOVERNMENT ACT OF 1977

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up

House Resolution 1323 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1323

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1) to require candidates for Federal office, Members of the Congress, and officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions. After general debate, which shall be confined to the bill and to the amendments made in order by this resolution and shall continue not to exceed two hours, thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service, and thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Select Committee on Ethics, the bill shall be read for amendment under the five-minute rule. In lieu of the amendment now printed in the bill, it shall be in order to consider the text of the bill H.R. 13850 if offered as an amendment in the nature of a substitute for the bill, said substitute shall be read for amendment under the five-minute rule as an original bill by titles instead of by sections, and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI are hereby waived. No amendments to said substitute shall be in order except pro forma amendments for the purpose of debate and amendments printed in the Congressional Record at least one legislative day prior to their consideration. After the disposition of all other amendments to title I of said substitute, it shall be in order to consider, any rule of the House to the contrary notwithstanding, the following amendment if offered as a new section to title I of said substitute: "Section (a) The Rules of the House of Representatives are amended by striking out rule XLVII and renumbering the following rule accordingly, effective immediately. (b) The provisions of this section are enacted by the Congress (1) as an exercise of the rulemaking power of the House of Representatives; and (2) with full recognition of the constitutional right of the House of Representatives to change its rules at any time.". Said amendment shall not be subject to amendment except pro forma amendments for the purpose of debate, and following the disposition of said amendment no further amendment to title I of the substitute shall be in order and no further amendment shall be in order to the substitute changing or affecting the provisions of title I of said substitute or changing or affecting the rules of the House. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 1, it shall be in order, sections 401(b)(1) and 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, to take from the Speaker's table the bill S. 555 and to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 1 as passed by the House.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee (Mr. QUILLEN) pending which I yield myself such time as I may consume.

Mr. Speaker, if anybody listened to the reading of the rule, they will know that this is a complicated rule. It provides for the dividing of 2 hours among four committees. In other words, a half hour for each committee on general debate. The committees involved are: The Committee on the Judiciary; the Committee on Armed Services; the Committee on Post Office and Civil Service, and the Select Committee on Ethics. Each gets a half hour to be controlled, as usual, by the chairman and the ranking minority member.

Then the bill H.R. 13850, if offered, is in order as a substitute for the bill. It is a bill which includes a good many modifications of the bill that would otherwise be before the House. It is generally, as I understand it, agreed upon by majorities in each of the committees that have jurisdiction over the various sections.

The only amendments that are in order to that substitute are pro forma amendments for the purpose of debate, and amendments printed in the CONGRESSIONAL RECORD at least 1 legislative day prior to our consideration. I understand that a number of such amendments have appeared in the RECORD.

Then, in addition to that, there is made in order the so-called Quillen amendment, which appears on the top of page 3 of the rule. It is, in effect, a motion to strike rule XLVII.

That amendment is not amendable. At the conclusion of the consideration of the bill a motion to recommit is in order and the bill is sent to conference with a similar Senate bill.

I have received no request for time. I do not know of any great controversy over the resolution. There is a great deal of controversy over the bill that it brings up.

I therefore reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the distinguished gentleman from Missouri, Mr. BOLLING, has ably explained the provisions of House Resolution 1323. This is a 2-hour, modified open rule providing for the consideration of H.R. 1, the so-called Ethics in Government Act. The rule provides that the text of H.R. 13850 may be offered as an amendment in the nature of a substitute for H.R. 1, and states that only amendments printed in the CONGRESSIONAL RECORD at least 1 day prior to the bill's consideration will be in order.

I wish to particularly draw to the attention of Members that this rule further provides that it shall be in order for the House to reconsider the outside earned income limit contained in House Rule 47. House Rule 47, which is now set to become effective with the 96th Congress, imposes an outside earned income limit of 15 percent of the congressional salary and also limits honorarium fees to $750.

At the appropriate time during debate, I intend to offer the amendment now printed in the rule which will repeal House Rule 47. As Members are aware, House Rule 47 places no restrictions on the amount of unearned income a Member may receive. The 15 percent limit deals only with earned income. I propose striking House Rule 47 so that earned income and unearned income will be treated equally under the rules of this body. A vote for my amendment is a vote that says that earned income is as ethical as unearned income—a judgment which seems logical enough.

I look forward to the debate on this issue, confident that logic, rationality and fair play reside with those of us who seek to repeal House Rule 47.

Mr. Speaker, I urge adoption of the rule.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I thank the gentleman for yielding.

As I understood the statement of the gentleman from Missouri, only amendments appearing in the RECORD 1 day preceding the legislative date on which we consider the bill would be in order?

Mr. QUILLEN. That is my understanding.

Mr. ASHBROOK. I wish to ask if this is becoming a legislative precedent. I think there have been a lot of unfair legislative positions develop on account of that. I know I have been in a position where I have offered an amendment part of which would be ruled out of order and then I could not amend the amendment.

I would like to express for the record my opposition to that type of gagging of Members. We are always talking about wanting cooperation. It just seems to me that it well behooves those who bring in this type of rule to ask for the cooperation of Members in other instances that would require unanimous consent. I have an amendment I wanted to offer. Members hear our constituents complaints about bureaucracy's moving targets and the difficulty of knowing what rules and regulations are at any given time. The Rules Committee is becoming a moving target for the Members. You have to get a scorecard every day to see what new wrinkle they are trying out in the continuing effort to limit debate and gag the Members. I studied House Resolution 1128 which was the original rule for H.R. 1. It had no provision regarding 24-hour printing of amendments. Now House Resolution 1323 changes the whole ball game and I now cannot offer my amendment, the same amendment on limiting outside earned income for Federal employees that I offered on the civil service reform bill.

I want to know if we are going to start to do this. If we are, we ought to know it and Members who are on the floor can know this is going to be a procedure. I myself find it a trend which certainly will not expedite the legislative business.

Mr. QUILLEN. The gentleman has made a very good point. Actually such a measure affecting every Member of this House should have been brought to the floor with an open rule. I notice particularly here in the last few months that amendments are being limited to those which have had prior printing in the CONGRESSIONAL RECORD, and it is not a good trend. The gentleman has made a good point.

Mr. ASHBROOK. I thank my colleague for yielding. That is the old saw that it cuts both ways, as we might see later.

Mr. QUILLEN. I agree.

Mr. ASHBROOK. I thank the gentleman from Tennessee for yielding.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. Mr. Speaker and Members, I am taking a few moments under the rule because the time is to be divided in general debate among four committees and therefore the opportunity for debate by individual Members will necessarily be limited.

I would like the attention of the Members during these remarks since I am going to be talking about their future in government and, more importantly, about the way the public perceives their performance in government.

Mr. Speaker, we are today about to consider a bill which is intended to promote ethics in government. This great goal of ethical conduct is to be achieved, under the bill, by a comprehensive scheme of disclosure of personal assets, liabilities, gifts received, income earned, and transactions of designated individuals.

Accordingly, Mr. Speaker and Members, it is at once apparent that ethics is to be gained at the expense of privacy. There is no question about that. Privacy is to be surrendered in part because we believe that such a surrender will achieve a higher and greater goal of ethical conduct in government.

Privacy is not something, Mr. Speaker and Members, which is to be surrendered easily. Privacy is a value of constitutional significance. It has been recognized in several important opinions of the United States Supreme Court as a right protected under several amendments of the Constitution. Therefore I hope that the Members will commence their deliberations under this bill with a respect for this constitutional value of privacy and a commitment not to surrender it easily, but rather to surrender this constitutional right grudgingly and only to do so if the Members are convinced that it is necessary to achieve an overriding and compelling governmental interest, namely the attainment of ethical conduct by those who serve in government. I hope the Members will agree as well that when we are infringing upon a constitutional right for the purpose of achieving a higher goal that we should do so only to the extent necessary to attain that goal. We should not make wholesale intrusions into constitutional rights unless it is necessary. The bill, accordingly, must be carefully and narrowly drawn.

These are basic principles, Mr. Speaker, which must underlie our consideration of the legislation which will be pending this morning and this afternoon.

The basic question before us which each of us must answer is whether or not a detailed disclosure of the personal finances of those who serve in government, even though such transactions have nothing to do with their official performance, will achieve the objectives of the legislation. That is to say, is it necessary to deter improper dealings by government officials or—and perhaps this is really the underlying premise of the legislation—will it enhance the public's credibility of those who serve in governmental institutions?

I am going to take only a moment to question the second premise that a full disclosure will enhance the credibility of government.

It has been said, I think, by Justice Brandeis in another context, that "sunshine is the best disinfectant."

That is a beautiful phrase, but let us examine it. Has it been the Members' experience in life that a minute inspection of anything of beauty and of value has enhanced its beauty and its value?

The SPEAKER pro tempore (Mr. CAVANAUGH). The time of the gentleman from California (Mr. WIGGINS) has expired.

Mr. QUILLEN. Mr. Speaker, I yield 5 additional minutes to the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. Mr. Speaker. I thank the gentleman for yielding me this additional time.

To continue, Mr. Speaker, do we really believe that a minute inspection of the personal assets, finances, and transactions of those who serve in Government will enhance the public credibility of Government?

If we do believe that, may I say with all due respect, I think we are terribly naive.

Mr. Speaker, let me call upon tthe Members' recent experience. They have filed recently their first disclosure statement. Who looked at it? Let me say that in general two categories of people looked at it. A Member's opponent looked at it; and if he issued a public statement commending the Member for it, I will be utterly surprised. In other words, if there was anything good in it, nothing was said.

On the other hand, the other broad category of people who find interesting these disclosure statements is the press.

What has been the Members' personal experience? Did the press report that any particular Member was an honest man? Did the press report that any Member had conducted himself or herself with propriety or discretion? Did the press report that any Member was a person of modest circumstances?

The press does not report the average. The press of necessity—and I mean no disrespect, but I do mean what I say—reports the bizarre, the unusual.

The public message which went out from that first disclosure statement was that there were a half dozen or so millionaires in the House. There were people digging and probably there are people still digging trying to find a conflict of interest where one never really existed as a result of that public disclosure.

Mr. Speaker, I am telling the Members what they know. Therefore, I think it is important that we go back to the basic question: Is the image of Government enhanced or improved as the result of this minute disclosure of the personal assets, finances, and transactions of those who serve in Government? I think that is not a clear question; but if we come down on the side of finding that it is, in fact, degrading, then we ought to vote against this bill.

Mr. Speaker, I will give the Members other reasons in the course of the debate for voting against the bill; but these are threshold questions that we must answer.

I shall now conclude, Mr. Speaker. In my view, the concept of achieving ethics by baring one's soul will, in the long run, be counterproductive with respect to the image of this institution and will deter good people, men and women, from entering this institution and making a contribution to it.

Mr. WYDLER. Mr. Speaker, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Speaker, I thank the gentleman for yielding.

The gentleman from California is pointing out something very important today.

A lot of attention has been directed to the battle we are going to have over the Quillen amendment and the limitation on outside earnings in certain categories for certain people under certain conditions, very limited and specified conditions which exist in the present rules of the House. I think that is right and as it should be, to some extent. Of course, I believe that rule is very unfair, but the gentleman is pointing out that this bill goes far, indeed far, far beyond that in its implications, not only to the Members sitting in this Congress, but to the Members who will be elected and who will sit in the Congresses in the years to come. Furthermore, I believe that the requirements we are setting up at this time under the name of ethics for Members to meet are most far-reaching and important to all Members. We should consider each of the provisions of this bill most carefully and listen attentively to many of the amendments that will be offered to other parts of the bill, amendments which are wise and thoughtful. I trust that every Member will give them serious consideration.

I also, if the gentleman will yield further, would like to say that as I understand this rule, although it is called a modified open rule, it is shot through with restrictions. We know the gentleman appeared before the Committee on Rules on a number of occasions and pointed out such obvious defects in the

bill that they withdrew the request for a rule and went back to the drawing board, so to speak, to rewrite the bill. I do not know fully what the condition is of the one that we now have before us. It must be many versions later. I do not know fully and exactly where we are with it. The gentleman knows better than I.

Mr. WIGGINS. It is better.

Mr. WYDLER. It is better?

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. QUILLEN. I yield 2 additional minutes to the gentleman from California.

Mr. WYDLER. If the gentleman would yield further, I point out that although they call this particular rule that was finally given for this particular version of the bill open, it is really very closed. It waives points of order, and I believe this is not the proper way to consider a bill that will have the impact that this one will have on the legislative branch of Government. So, I personally do not believe it is a good rule. But I would like the gentleman, if he could, to tell us something about the experience he had in appearing before the Committee on Rules on previous occasions.

Mr. WIGGINS. I can do so and I can do it very briefly. I want to commend the gentleman from California (Mr. DANIELSON) and the gentleman from North Carolina (Mr. PREYER) and the members of the Committee on Rules for being tolerant of my appearances, repeated appearances, before the Committee on Rules criticizing the substance of the legislation, and as a result of those appearances, I think—and, of course, in part their own good efforts—this bill has been modified in many ways. The substitute which will be offered by the gentleman from California (Mr. DANIELSON) is a superior product to that which was originally proposed as H.R. 1, but I do not, of course, admit, with some 50 amendments printed in the RECORD, that it is perfect.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from New York.

Mr. BIAGGI. I thank the gentleman for yielding.

How does the gentleman reconcile his contentions with the language in the report which indicates that there are numerous court decisions—not U.S. Supreme Court—numerous court decisions which sustain the disclosure rules and disclosure legislation throughout the United States?

Mr. WIGGINS. I am not declaring that disclosure per se is unconstitutional. A narrowly and carefully drawn statute, I think, probably would withstand constitutional scrutiny, but we have at least a two-level inspection to be made here. One is a constitutional level, and that is going to turn on whether this is a narrowly drawn piece of legislation, and then, more fundamentally, we have a policy question to decide. I will make my arguments primarily on the policy side.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. WIGGINS. I thank the gentleman for yielding time.

Mr. BOLLING. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. PIKE).

Mr. PIKE. Mr. Speaker, I thank the gentleman from Missouri for yielding to me. I am going to vote against this legislation, and the gentleman from California (Mr. WIGGINS) is going to vote against this legislation, and this legislation is going to pass. It is going to pass not because it is good Government but because it is good politics. The gentleman from California (Mr. WIGGINS) and I can afford to vote against this legislation because Mr. WIGGINS and I are not running for reelection. Therefore, we can honestly say what we honestly think about this legislation. I believe those Members who come up and say quietly to me, "OTIS, I agree with you and I only wish I could vote with you, but I cannot because it will hurt me politically."

I think it is very sad that the likes of the gentleman from California (Mr. WIGGINS) are leaving this institution. The gentleman is a thoughtful, wise and articulate contributor to this body.

I told you if I left this institution, I would leave laughing and I will, because it is my hope and my intention to leave it by going up about 20 feet into the press gallery, where I hope to write about this institution. I will sit up there and look down upon you with scorn and amusement as you continue to degrade yourselves in the House of Representatives.

I think you know what your speeches are worth and if you think that your speeches are not worth more than $8,625 a year, I am not prepared to quarrel with that judgment. You are probably right. I can only say that they are going to get worse in the years to come, because what you are going to do here is build a monument to mediocrity.

There is nothing in this legislation that says you cannot be a businessman and serve in the Congress of the United States. All it says is that you cannot be a successful businessman and serve in the Congress of the United States. If you are a successful businessman, you are by definition unethical and you will be barred. If you are an unsuccessful businessman, you will be ethical and welcomed with open arms and the room will abound with the likes of you.

This does not augur well for the future of the Republic. It is no real tragedy as to those of us who are leaving. The real tragedy will occur throughout the length and breadth of this land through all our people who will never enter the system, not the dozens of us who are going out, but the millions of future people who will simply say, "I would rather have my privacy than be a part of the political system."

One of the major diseases with which we are confronted in the political system today is a feeling of alienation of the people from the system. It is "the Government" against "us." It is "them" against "us," and this legislation is going to drive more and more people out of the system. It is going to keep millions and millions of people from ever entering the system.

Earned income is not a major thing. It is not earning income when you are speculating in real estate around here now, so thanks to the beneficence of the Committee on Ways and Means, that is what all good businessmen are doing, anyway. We stop earning income. We have capital gains and that is what it is going to be, so you will have plenty to keep you occupied to earn more money and still be ethical. You can write books. You can go all through the loopholes that are written into this legislation. That is not the major thing. The major thing is that millions and millions of Americans will opt for their privacy, rather than opt for joining the political system, and that is the tragedy.

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from North Carolina (Mr. PREYER), the chairman of the Select Committee on Ethics.

Mr. PREYER. Mr. Speaker, this is not really the time to fully debate this bill, and I will not attempt to do that; but I do just want to make one point in response to the comments that have been made here. It has been said that this is not good Government, that this is just good politics; that this bill does not do anything: that it does no good, it only makes us look good on the political stump when we say we voted for it.

I want to suggest to you this bill does do something and call your attention to a very specific case. We have all been going through the trauma of the Korean investigation in this House recently. I would submit to you if these rules had been in effect from 1970 to 1976, there would have been no Koreagate. A Tongsun Park could not have flourished in the way he did under the new rules that are in this bill and the new changes made by the Committee on Administration Reform of the gentleman from Wisconsin (Mr. OBEY). We have abolished the so-called official office account, the so-called slush fund.

That would have eliminated one aspect of the Korean problem. Second, we have made it flatly illegal to receive any campaign contributions from a foreign national. It was not illegal at that time, so, therefore, there was a gray area.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding. Mr. Speaker, let me ask, does this bill eliminate the slush fund?

Mr. PREYER. This particular bill does not.

Mr. ROUSSELOT. I am glad to have that cleared up; this bill does not really address that problem.

Mr. PREYER. That is accomplished by the Obey commission reform.

Mr. ROUSSELOT. I see. So this bill does nothing to prevent the so-called Korea-gate actions.

Mr. PREYER. Mr. Speaker, what this bill does is a third thing that affects the Korean situation. It requires disclosure of the source from which a Member is receiving income, and that would have indicated payments from Tongsun Park. I think we would all have felt a

lot better if we had not had this gray area, and I submit to the Members that if we had had this bill, Tongsun Park could not have flourished in this Congress.

So I suggest to the Members that what we will be considering and voting on later today is a real bill. It is not just politics. Later we will go into the question of whether it invades privacy at the expense of ethics. We tried to strike a balance on that.

This bill does not get into such technicalities as the cost of a Member's personal residence, what kind of a car he drives, whether his children smoke, or anything of that sort. Nor is there any question the bill is constitutional. We will go into that aspect of it later. On the earned income limitation, we will debate that more fully later.

Mr. Speaker, I hope the Members will understand this as a serious bill, not just politics. It will change and improve the way this body operates.

Mr. BOLLING. Mr. Speaker, I yield myself such time as I may consume, and then I am going to move the previous question.

Mr. Speaker, I do not know two Members in the House that I like and respect more than the gentleman from California, CHUCK WIGGINS, and the gentleman from New York, OTIS PIKE. I am not going to debate the bill with them, but I absolutely believe that they are wrong in their views and conclusions. That, of course, is their right.

I think this is a serious bill. I think it is a constitutional bill. I think it is an important step in American democracy, and I do not have to vote for it or for any other bill for political reasons. I hope that the rule will be approved by a very large majority.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. YATES). The queston is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WYDLER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 331, nays 50, not voting 51, as follows:

[Roll No. 804]

YEAS—331

Abdnor
Addabbo
Akaka
Alexander
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashley
Aspin
AuCoin
Bafalis
Baldus
Barnard
Baucus
Beard, R.I.
Bedell
Bellenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Butler
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Conable
Conte
Corcoran
Corman
Cornell
Cornwell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dicks
Diggs
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Fish
Fisher
Flippo
Flood
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Garcia
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gore
Gradison
Grassley
Green
Gudger
Hagedorn
Hall
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holtzman
Horton
Hubbard
Huckaby
Hyde
Ichord
Jeffords
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Lehman
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Metcalfe
Mikulski
Mikva
Miller, Ohio
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Perkins
Pettis
Pickle
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quie
Quillen
Rahall
Rangel
Regula
Reuss
Richmond
Rinaldo
Roberts
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Runnels
Ruppe
Russo
Ryan
Santini
Sarasin
Sawyer
Scheuer
Schroeder
Sebelius
Seiberling
Sharp
Sikes
Simon
Skelton
Skubitz
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stark
Steed
Steers
Stokes
Stratton
Studds
Stump
Taylor
Thone
Thornton
Traxler
Treen
Trible
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Wiggins
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—50

Davis
Dornan
Edwards, Okla.
Evans, Del.
Forsythe
Gonzalez
Goodling
Hammer-schmidt
Hansen
Holland
Holt
Jacobs
Jenrette
Jones, N.C.
Jones, Okla.
Kelly
Lent
McDonald
Michel
Moore
Moss
Myers, Gary
Nix
Pike
Quayle
Robinson
Rousselot
Schulze
Shuster
Sisk
Slack
Steiger
Symms
Walker
Walsh
Wampler
Wiggins
Wydler
Young, Alaska

NOT VOTING—51

Ambro
Ammerman
Anderson, Ill.
Andrews, N.C.
Armstrong
Beard, Tenn.
Breaux
Brown, Ohio
Burke, Calif.
Burton, Phillip
Byron
Caputo
Conyers
Dickinson
Findley
Fithian
Florio
Flowers
Gammage
Gaydos
Goldwater
Guyer
Howard
Hughes
Ireland
Kemp
Krueger
Leggett
Lujan
Markey
Meeds
Meyner
Milford
Miller, Calif.
Minish
Nichols
O'Brien
Pepper
Railsback
Rodino
Roe
Rudd
Satterfield
Ship.ey
Stockman
Teague
Thompson
Tsongas
Whitehurst

The Clerk announced the following pairs:

Mr. Byron with Mrs. Meyner.
Mr. Florio with Mr. Beard of Tennessee.
Mr. Gammage with Mr. Roe.
Mr. Howard with Mr. Findley.
Mr. Miller of California with Mr. Goldwater.
Mr. Minish with Mr. O'Brien.
Mr. Nichols with Mr. Fithian.
Mr. Pepper with Mr. Meeds.
Mr. Rodino with Mr. Risenhoover.
Mr. Shipley with Mr. Rudd.
Mr. Teague with Mr. Satterfield.
Mr. Thompson with Mr. Leggett.
Mr. Ammerman with Mr. Guyer.
Mr. Ambro with Mr. Flowers.
Mr. Ireland with Mr. Anderson of Illinois.
Mr. Hughes with Mr. Stockman.
Mr. Markey with Mr. Whitehurst.
Mrs. Burke of California with Mr. Milford.
Mr. Breaux with Mr. Lujan.
Mr. Brown of Ohio with Mr. Phillip Burton.
Mr. Conyers with Mr. Andrews of North Carolina.
Mr. Gaydos with Mr. Dickinson.
Mr. Krueger with Mr. Railsback.
Mr. Tsongas with Mr. Caputo.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. BOLLING. Mr. Speaker, I ask unanimous consent that House Resolution 1128 be laid upon the table. It is another rule bringing up the ethics bill, and is no longer of any use.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Missouri?

There was no objection.

REQUEST TO APPOINT CONFEREES ON H.R. 7010, PAYMENT OF COMPENSATION TO PERSONS INJURED BY CERTAIN CRIMINAL ACTS AND OMISSIONS.

Mr. MANN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7010) to provide for grants to States for the payment of compensation to persons injured by certain criminal acts and omissions, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, I do so for the purpose of asking my distinguished colleague, the gentleman from South Carolina (Mr. MANN) whether or not this has been cleared with the ranking minority member, the gentleman from Virginia (Mr. BUTLER)?

Mr. MANN. Mr. Speaker, if the gentleman will yield, I cannot tell the gentleman whether it was or not, frankly.

Mr. ASHBROOK. Then, Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

ETHICS IN GOVERNMENT ACT OF 1977

Mr. DANIELSON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1) to require candidates for Federal office, Members of the Congress, and officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. DANIELSON).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LEVITAS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 361, nays 4, not voting 67, as follows:

[Roll No. 805]

YEAS—361

Abdnor
Addabbo
Akaka
Alexander
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Bedell
Bellenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Conable
Conte
Corcoran
Corman
Cornell
Cornwell
Cotter
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Daniel son
Davis
de la Garza
Delaney
Dellums
Derwinski
Dicks
Diggs
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flippo
Flood
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Grassley
Green
Gudger
Hagedorn
Hall
Hamilton
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Horton
Hubbard
Huckaby
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Lehman
Lent
Levitas
Livingston
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Luken
Lundine
McClory
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Metcalfe
Mikulski
Mikva
Miller, Ohio
Mineta
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quie
Quillen
Rahall
Rangel
Regula
Reuss
Richmond
Rinaldo
Robinson
Rogers
Rooney
Rose
Rostenkowski
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
Santini
Sarasin
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shuster
Sikes
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stark
Steed
Steers
Steiger
Stokes
Stratton
Studds
Stump
Symms
Taylor
Thone
Thornton
Traxler
Treen
Trible
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Waxman
Weaver
Weiss
Whalen
White
Whitley
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—4

Collins, Tex.
Hammer-schmidt
Lloyd, Calif.
Quayle

NOT VOTING—67

Ambro
Ammerman
Anderson, Ill.
Andrews, N.C.
Armstrong
Beard, Tenn.
Breaux
Brown, Ohio
Burke, Calif.
Burton, John
Caputo
Carney
Clay
Conyers
Dent
Derrick
Devine
Dickinson
Dingell
Dodd
Eckhardt
Edgar
Edwards, Calif.
Findley
Florio
Flowers
Forsythe
Gammage
Goldwater
Guyer
Howard
Hughes
Kemp
Krueger
Leggett
Lujan
McCloskey
Markey
Meeds
Meyner
Miller, Calif.
Minish
Mitchell, Md.
Nichols
O'Brien
Oakar
Pepper
Railsback
Rhodes
Risenhoover
Roberts
Rodino
Roe
Roncalio
Rosenthal
Rudd
Satterfield
Seiberling
Shipley
Stangeland
Stockman
Stokes
Teague
Thompson
Tsongas
Whitehurst

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 1, with Mr. BOLAND in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Without objection, the first reading of the bill will be dispensed with.

Mr. ASHBROOK. Mr. Speaker, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk proceeded to read the bill.

Mr. DANIELSON (during the reading). Mr. Chairman, I rise to respectfully request that, now that we have determined that the Clerk does read and read well, we not commit an act of masochism and kill ourselves sitting here and listening to the remainder of the reading.

For that reason, Mr. Chairman, I respectfully renew the request and ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Mr. Chairman, on behalf of my distinguished colleague, the gentleman from Ohio (Mr. ASHBROOK), I respectfully object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk continued the reading of the bill.

The text of H.R. 1 reads as follows:

H.R. 1

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Financial Disclosure Act".

DEFINITIONS

SEC. 2. As used in this title—

(1) the term "agency" means each authority of the Government of the United States;

(2) the term "commodity future" has the meaning set forth in sections 2 and 5 of the Commodity Exchange Act, as amended (7 U.S.C. 2 and 5);

(3) the term "candidate" has the meaning set forth in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431);

(4) the term "Comptroller General" means the Comptroller General of the United States;

(5) the term "dependent" has the meaning set forth in section 152 of the Internal Revenue Code of 1954;

(6) the term "employee" includes, for purposes of section 3, any employee designated under section 2105 of title 5, United States Code, and any employee of the United States Postal Service or of the Postal Rate Commission;

(7) the term "immediate family" means—

(A) the spouse of an individual,

(B) the child, parent, grandparent, grandchild, brother, or sister of an individual or of the spouse of such individual, and

(C) the spouse of any individual designated in clause (B);

(8) the term "income" means gross income as defined in section 61 of the Internal Revenue Code of 1954;

(9) the term "Member of Congress" means a Senator, a Representative, a Resident Commissioner, or a Delegate;

(10) the term "officer" includes, for purposes of section 3, any officer designated under section 2104 of title 5, United States Code, and any officer of the United States Postal Service or of the Postal Rate Commission;

(11) the term "Presidential nominee" means an individual appointed by the President to an office for which confirmation, by and with the advice and consent of the Senate, is required, or an individual nominated by the President to serve as Vice President pursuant to the twenty-fifth amendment to the Constitution of the United States;

(12) the term "political contribution" means a contribution as defined in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431);

(13) the term "political expenditure means an expenditure as defined in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431);

(14) the term "security" has the meaning set forth in section 2 of the Securities Act of 1933, as amended (15 U.S.C. 77b);

(15) the term "transactions in securities and commodities" means any acquisition, transfer, or other disposition involving any security or commodity; and

(16) the term "uniformed services" means any of the Armed Forces, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration.

INDIVIDUALS REQUIRED TO FILE REPORT

SEC. 3. (a) Any individual identified in subsection (b) shall file each calendar year a report containing a full and complete financial statement for the preceding calendar year if such individual has occupied or been a candidate for the office or position for a period in excess of ninety days in such calendar year.

(b) The individuals referred to in subsection (a) are—

(1) the President and any candidate for that office;

(2) the Vice President and any candidate for that office;

(3) each Member of Congress and any candidate for Congress;

(4) each justice or judge of the United States;

(5) each Presidential nominee;

(6) each officer or employee of the United States who is compensated at a rate equal to or in excess of the minimum rate prescribed for employees holding the grade of GS-15 of the General Schedule or any higher grade or position (as determined by the Comptroller General regardless of the rate of compensation of such individual); and

(7) each member of a uniformed service who is compensated at a rate equal to or in excess of the monthly rate of pay prescribed for grade O-6 or any higher grade of pay established under chapter 3 of title 37, United States Code.

CONTENTS OF REPORTS

SEC. 4. (a) Each individual shall include in each report required to be filed by him under section 3 a full and complete statement, in such manner and form as the Comptroller General may prescribe, with respect to—

(1) the amount and source of each item of income, each item of reimbursement for any expenditure, and each gift or aggregate of gifts from one source (other than gifts received from any member of his immediate family) received during the preceeding calendar year which exceeds $100 in amount or value, including any fee or other honorarium received for or in connection with the preparation or delivery of any speech or address, attendance at any convention or other assembly of individuals, or the preparation of any article or other composition for publication, and the monetary value of subsistence, entertainment, travel, and other facilities received by him in kind;

(2) the identity and the category of value, as designated under subsection (b), of each asset, other than household furnishings or goods, jewelry, clothing, or any vehicle owned solely for the personal use of the individual, his spouse, or any of his dependents, held during the preceding calendar year which has a value in excess of $1,000 as of the close of the preceding calendar years;

(3) the identity and the category of amount, as designated under subsection (b), of each liability owed which is in excess of $1,000 as of the close of the preceeding calendar year;

(4) the identity, the category of amount, as designated under subsection (b), and date of any transaction in a security of any business entity or any transaction in a commodity futures during the preceding calendar year if the aggregate amount involved in transactions in the securities of such business entity or in transactions in commodities futures exceeds $1,000;

(5) the identity and the category of value, as designated under subsection (b), of any purchase or sale of real property or any interest in any real property during the preceding calendar year if the value of property involved in such purchase or sale exceeds $1,000;

(6) any patent right or any interest in any patent right, and the nature of such patent right, held during the preceeding calendar year;

(7) a description of, the parties to, and the terms of any contract, promise, or other agreement between individual and any person with respect to his employment after such individual ceases to occupy his office or position with the Government, including any agreement under which such individual is taking a leave of absence from an office or position outside of the Government in order to occupy an office or position of the Government, and a description of and the parties with any unfunded pension agreement between such individual and any employer other than the Government; and

(8) the identity of any position held as an employee, officer, owner, director, trustee, partner, adviser, or consultant of any corporation, company, firm, or other business enterprise or partnership.

Each individual designated under paragraphs (5) and (6) of section 3(b) shall also include in such report the identity of any person, other than the Government, who paid such individual compensation in excess of $5,000 in any of the five years prior to the preceding calendar year and the nature and term of the services such individual performed for such person. The preceding sentence shall not require any individual to include in such report any information which is considered confidential as a result of a privileged relationship, established by law, between such individual and any person nor shall it require an individual to report any information with respect to any person for whom services were provided by any firm or association of which such individual was a member, partner, or employee unless such individual was directly involved in the provision of such services.

(b)(1) For purposes of paragraphs (2) through (5) of subsection (a), an individual need not specify the actual amount or value of each asset, each liability, each transaction in securities of any business entity or in commodities futures, or each purchase or sale required to be reported under such paragraphs, but such individual shall indicate which of the following categories such amount or value is within—

(A) not more than $5,000,

(B) greater than $5,000 but not more than $15,000.

(C) greater than $15,000 but not more than $50,000,

(D) greater than $50,000, but not more than $100,000, or

(E) greater than $100,000.

(2) Each individual shall report the actual amount or value of any other item required to be reported under this section.

(c) For purposes of paragraphs (1) through (6) of subsection (a), an individual shall include each item of income or reimbursement and each gift received, each item received in kind, each asset held, each liability owed, each transaction in commodities futures and in securities, each purchase or sale of real property or interest in any real property, and each patent right or interest in any patent right held by him, his spouse, or any of his dependents, or by him and his spouse or dependents jointly, or by any person acting on his behalf or for his benefit.

FILING OF REPORTS

SEC. 5. (a)(1) Each individual required to file a report under section 3(a), other than a candidate, a Presidential nominee, or an individual excepted under paragraph (4) of this subsection, shall file such report with the Comptroller General not later than May 15 of each year. Each such individual, other than the President, Vice President, a Member of Congress, a justice or judge of the United States, any officer or employee of the Senate or the House of Representatives or any court of the United States, the head of each agency, each Presidential appointee in the Executive Office of the President who is not subordinate to the head of an agency in the Executive Office, or each full time member of a committee, board, or commission appointed by the President, shall file a copy of such report with the head of the agency in which such individual occupies any office or position at the same time as such report is filed with the Comptroller General.

(2) Each Member, officer, and employee of the House of Representatives and the Senate required to file a report under section 3 (a) shall file a copy of such report with the Clerk of the House of Representatives and the Secretary of the Senate, respectively, and each justice, judge, officer, and employee of any court of the United States shall file a copy of such report with the Director of the Administrative Office of the United States Courts at the same time as such report is filed with the Comptroller General.

(3) The head of each agency, each Presidential appointee in the Executive Office of the President who is not subordinate to the head of an agency in the Executive Office, and each full time member of a committee, board, or commission appointed by the President, shall file a copy of such report with the Chairman of the Civil Service Commission at the same time such report is filed with the Comptroller General.

(4) The President may exempt any individual in the Central Intelligence Agency, the Defense Intelligence Agency, or the National Security Agency, or any individual engaged exclusively in intelligence activities in any agency of the United States from the requirement to file a report with the Comptroller General if the President finds that, due to the nature of the office or position occupied by such individual, public disclosure of such report would reveal the identity of an undercover agent of the Federal Government. Each individual exempted by the President from such requirements shall file such report with the head of the agency in which he occupies an office or position or, if an individual described in paragraph (3), with the Chairman of the Civil Service Commission.

(b)(1) Each individual required to file a report under section 3(b) as a candidate shall file such report with the Comptroller General within one month after such individual becomes a candidate and on May 15 in any succeeding year if such individual is a candidate on such date.

(2) Each individual required to file a report under section 3(b)(5) as a Presidential nominee shall file such report with the Comptroller General and with the appropriate committees of Congress within ten days after the nomination is submitted.

(c)(1) Any individual who ceases prior to May 15 of any calendar year to occupy the office or position the occupancy of which imposes upon him the reporting requirement contained in section 3(a) shall file such report for the preceding calendar year and the period of such calendar year for which he occupies such office or position on or before May 15 of such calendar year.

(2) Any individual who ceases to occupy such office or position after May 15 of any calendar year shall file such report for the period of such calendar year which he occupies such office or position on the last day he occupies such office or position.

(d) The Comptroller General may grant one or more reasonable extensions of time for filing any report but the total of such extensions shall not exceed ninety days.

(e) The Comptroller General shall promulgate such rules and regulations as are required to carry out the provisions and purposes of this title no later than sixty days after the date of the enactment of this Act.

FAILURE TO FILE OR FALSIFYING REPORTS; PROCEDURE

SEC. 6. (a)(1) Any individual who knowingly and willfully falsifies or fails to report any information such individual is required to report under section 4 shall be fined in any amount not exceeding $10,000, or imprisoned for not more than one year, or both.

(2) The Attorney General may bring a civil action in any district court of the United States against any individual who fails to file a report which such individual is required to file under section 3 or who fails to report any information which such individual is required to report under section 4. The court in which such action is brought may assess against such individual a penalty in any amount not to exceed $5,000.

(b) The head of each agency, the Clerk of the House of Representatives with respect to any Member, officer, or employee of the House of Representatives, the Secretary of the Senate with respect to any Member, officer or employee of the Senate, and the Director of the Administrative Office of the United States Courts with respect to any justice, judge, officer, or employee of any court of the United States shall submit annually to the Comptroller General a complete list of individuals who are required to file a report under section 3 and shall submit at the close of each calendar quarter a list of individuals who have begun or have terminated employment with such agency, the House of Representatives or the Senate, or any court in such calendar quarter.

(c) The Comptroller General shall refer to the Attorney General the name of any individual the Comptroller General has reasonable cause to believe has failed to file a report or has falsified or failed to file information required to be reported. In addition, if such individual is a Member, officer, or employee of the Senate or the House of Representatives, the Comptroller General shall refer the name of such individual to the Senate Select Committee on Standards and Conduct or the Committee on Standards of Official Conduct of the House of Representatives, whichever is appropriate.

(d) The President, the Vice President, either House of Congress, the Director of the Administrative Office of the United States Courts, the head of each agency or the Civil Service Commission may take any appropriate personnel or other action against any individual failing to file a report or information or falsifying information.

CUSTODY AND AUDIT OF, AND PUBLIC ACCESS TO, REPORTS

SEC. 7. (a) The Comptroller General shall make each report filed with him under section 5 available to the public within fifteen days after the receipt of such report from any individual and provide a copy of such report to any person upon a written or oral request.

(b) The Comptroller General may require any person receiving a copy of such report under subsection (a) to supply his name and address and the name of the person or organization, if any, on whose behalf he is requesting such copy and to pay a reasonable fee in any amount which the Comptroller General finds necessary to recover the cost of reproduction or mailing of such report excluding any salary of any employee involved in such reproduction or mailing. The Comptroller General may furnish any copy of such report without charge or at a reduced charge if he determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the public.

(c)(1) It shall be unlawful for any person to inspect or obtain a copy of any report—

(A) for any commercial purpose;

(B) to determine or establish the credit rating of any individual; or

(C) for use directly or indirectly in the solicitation of money for any political, charitable, or other purpose.

(2) The Attorney General may bring a civil action in any district court of the United States against any person who inspects or obtain such report for any purpose prohibited in paragraph (1). The court in which such action is brought may assess against such individual a penalty in any amount not to exceed $1,000.

(d) Any report received by the Comptroller General shall be held in his custody and made available to the public for a period of five years after receipt by the Comptroller General of such report. After such five year period, the Comptroller General shall destroy any such report.

(e) The House of Representatives, the Senate, the Director of the Administrative Office of the United States Courts, the Chairman of the Civil Service Commission, and the head of each agency shall make provisions to assure that each report shall be reviewed in accordance with any law or regulation with respect to conflicts of interest or confidential financial information of officers or employees of the House of Representatives, the Senate, the United States courts or each such agency or in accordance with such rules and regulations as may be prescribed.

(f)(1) The Comptroller General shall, under such regulations as he may prescribe, conduct on a random basis audits of aproximately 5 per centum of the reports filed with him under section 5(a)(1).

(2) The Comptroller General shall audit during each term of an individual holding the office of President or Vice President at least one report filed by such individual under section 5(a)(1) during such term.

(3) The Comptroller General shall, during each six year period beginning after the date of enactment of this Act, audit at least one report filed by each Member of the Senate and the House of Representatives during such six year period.

(4)(A) In conducting an audit under paragraph (1), (2), or (3), the Comptroller General is authorized to require by subpena the production of books, papers, and other documents. All such subpenas shall be issued and signed by the Comptroller General.

(B) In case of a refusal to comply with a subpena issued under subparagraph (A).

(i) the Comptroller General is authorized to seek an order by any district court of the United States having jurisdiction of the defendant to require the production of the documents involved; and

(ii) such district court may issue such order and enforce it by contempt proceedings.

RECOMMENDATIONS ON FINANCIAL CONFLICTS OF INTEREST

SEC. 8. The Civil Service Commission and the Department of Justice shall each analyze regulations and procedures presently in effect with regard to financial conflicts of interest among employees of the Federal Government and recommend to the appropriate committees of Congress for their consideration such legislation as may be necessary. Such reports shall be delivered within six months of the enactment of this Act.

SEPARABILITY

SEC. 9. If any part of this Act is held invalid, the remainder of this Act shall not be affected thereby. If any provision of any part of this Act, or the application thereof to any person or circumstance, is held invalid, the provisions of other parts and their application to other persons or circumstances shall not be affected thereby.

AUTHORIZATION OF APPROPRIATIONS

SEC. 10. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

DATE DUE FOR FIRST REPORT

SEC. 11. The first report required by this Act shall be due ninety days after the date of the enactment of this Act.

The CHAIRMAN. Under the rule, the gentleman from California (Mr. DANIELSON) will be recognized for 15 minutes; the gentleman from California (Mr. MOORHEAD) will be recognized for 15 minutes; the gentleman from New York (Mr. STRATTON) will be recognized for 15 minutes; the gentleman from Virginia (Mr. ROBERT W. DANIEL, JR.) will be recognized for 15 minutes; the gentlewoman from Colorado (Mrs. SCHROEDER) will be recognized for 15 minutes; the gentleman from New York (Mr. GILMAN) will be recognized for 15 minutes; the gentleman from North Carolina (Mr. PREYER) will be recognized for 15 minutes; and the gentleman from California (Mr. WIGGINS) will be recognized for 15 minutes.

The Chair now recognizes the gentleman from California (Mr. DANIELSON).

Mr. DANIELSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, on May 3, 1977, the President transmitted a message to the Congress recommending the enactment of a bill for financial disclosure relating to the executive branch and for amendments to section 207 of title 18 concerning contacts between former officials and employees and the agencies in which they worked. I joined with the distinguished chairman of the Committee on the Judiciary, the Honorable PETER W. RODINO, Jr., and the distinguished Member from Colorado, the Honorable PATRICIA SCHROEDER, in sponsorting the bill H.R. 6954 which embodied the recommendations of the President. That bill was referred to the Committees on the Judiciary, the Post Office and Civil

Service, and the Armed Services. The President's recommendations are the basis of both title II and title III of H.R. 1 as it was reported to the House by the Committee on the Judiciary.

In his message, the President pointed out that his recommendations would establish far-reaching safeguards against conflicts of interest and abuse of the public trust by Government officials. He noted that these provisions incorporate the standards the President has required of his own appointees, and extends their coverage to other high ranking officials. If further was intended to build upon the Comptroller General's 2-year investigation of conflict of interest enforcement in the executive branch, and parallels the efforts the Congress has made to strengthen ethical standards for its Members. In this connection, the President noted that both Houses have adopted new codes of conduct to prevent actual or potential conflicts of interest.

As was recommended by the President, H.R. 1, as amended, calls for a three-part program of financial disclosure, creation of a new Office of Ethics in the Civil Service Commission, and strengthened restrictions on postemployment activities of Government officials.

The bill H.R. 13850, which is made an order as a substitute for the bill H.R. 1, as reported by the Committee on the Judiciary, follows the basic approach of H.R. 1, with the addition of the language recommended by the Select Committee on Ethics with conforming amendments as title I of the bill. The bill H.R. 13850 differs from the provisions of the bill H.R. 7401 as reported by the Select Committee on Ethics, and H.R. 1 as reported by the Committee on the Judiciary, H.R. 6954 as reported by the Post Office and Civil Service Committee and the Armed Services Committee in that the substitute bill contains compromise provisions resolving the differences between the several bills.

As is the case with the same title of H.R. 1, title II of the bill H.R. 13850 contains provisions for financial disclosure by executive personnel, including the President and Vice President and other officials, employees in the executive levels, those classified as GS–16 and above and members of the armed services in pay grade O–7 and above. They would be required to file financial reports containing the information provided for in the bill. The bill also would require similar reports by persons nominated to positions requiring confirmation by the Senate and persons becoming candidates for election to President or Vice President.

The persons covered by the provisions of the title would be required to report as to income, gifts, liabilities, property—both real property and business-related personal property, positions in business enterprises and other organizations and also any agreements relating to post-Government employment. Express provisions are included concerning reporting of trust interests and income.

One of the fundamental differences of H.R. 13850 is that the disclosure provision in title I relating to the legislative branch, title II relating to the executive branch, and title III relating to the judicial branch now provide that provisions of the bill do not provide for a criminal penalty but do provide for a civil penalty for failure to comply with the disclosure provisions. Each of these titles provide that the Attorney General may bring a civil action against an individual who knowingly and willfully falsifies or who knowingly or willfully fails to report information required to be reported under the provisions of the bill.

Part B of title II provides for the creation of an Office of Government Ethics in the Civil Service Commission to be headed by a Director appointed by the President and confirmed by the Senate. The bill details the functions and responsibilities of the Director.

With a corrective amendment as to the date which I intend to submit, the bill will authorize appropriations of $1 million for the fiscal year 1979 and for the four subsequent fiscal years.

Part C of title II provides for the amendment of section 207 of title 18 which deals with conflict of interest and disqualification of former officers and employees from certain contacts with their former agencies. The revised language incorporates much of the present language of the section while making those provisions more inclusive and effective. Subsection (a) bars any future contact by a former officer or employee of the executive or judicial branch with reference to a matter in which he participated personally and substantially. Subsection (b), which bars contact with reference to a matter which had been under the general supervision of the former officer or employee, now bars that contact for 1 year. The amended language would increase the period to 2 years. Subsection (c) is a new section which bars former executive level officials and political appointees whose former positions were GS–16, 17, and 18, or Armed Services officers in pay grade O–6 or above, and certain other designated persons exercising policymaking functions from representing any other person before their former department or agency for 1 year.

In addition, the Director of the Office of Government Ethics could designate a limited number of sensitive career positions to be covered by the 1-year ban if he determines that the employees in the positions have a role in the formulation of agency policy that is substantially similar to that exercised by political appointees and uniformed services personnel who are automatically covered.

Specially designated positions might include bureau directors in independent regulatory commission or heads of comparable offices who hold career positions but who have significant final decision-making authority. However, this provision for special designation is not intended to extend to management officials, attorneys, or other senior professional personnel merely because they have some input into policy decisions.

An example may serve to illustrate the coverage of the 1-year ban. At present four U.S. attorneys are paid an executive level salary and are therefore automatically covered by the 1-year ban after they leave Government service. The remaining 90 U.S. attorneys are paid a lower salary and are not automatically covered by the section, but they could perhaps be designated for coverage by the Director of the Office of Government Ethics because they have a role in the formulation of Department of Justice policy that is substantially similar to that exercised by the four U.S. attorneys who are paid at the executive level. But assistant U.S. attorneys, who serve under the supervision of U.S. attorneys, do not have a similar policymaking role and would therefore not be subject to designation by the Director for coverage under the 1-year contacts ban.

Title III of the amended bill provides for financial disclosure by judicial personnel, including judges and top level employees compensated at the equivalent of grade 16 or above. The provisions of this title of the bill parallel those relating to the executive branch and contain substantially the same requirements and sanctions as provided in title II for the executive branch. The difference is that the reporting and administration will be matters for the judicial branch and will be under the supervision of the Judicial Conference of the United States. The bill provides that the responsible administering authority will be the Judicial Ethics Committee established by the Judicial Conference.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield for a very brief question?

Mr. DANIELSON. I yield to the gentleman from California.

Mr. WIGGINS. I thank the gentleman for yielding.

With respect to 207(c), the 1-year cooling off period that has just been described by the gentleman in the well, as the gentleman knows, that section prevents certain designated officers from making appearances before the department or agency in which he previously served. I would like the record to be made clear as to the meaning of the words, "department or agency in which he served." For example, does that mean the Cabinet-level agency, or does that mean a more narrow subdivision within that agency? By way of making my point clearer, let us suppose that an official was a high-level official within the Social Security Administration, which is under the umbrella authority of HEW. Would that preclude such official from making a communication on behalf of a client before the Food and Drug Administration, for example, which is another HEW agency?

Mr. DANIELSON. My understanding, if the gentleman will permit, is that he would be banned from appearing before the agency in which he played a role, that is, a department.

Mr. WIGGINS. A subdivision?

Mr. DANIELSON. Yes, but I am not able, in response to the gentleman's question, to make an absolute definition.

The bill uses the terms "department or agency" but I point out that proposed section 207(e) of title 18 would authorize the Director of the Office of Government Ethics, when a subdivision within an agency exercises functions which are

distinct and separate from the other functions of the agency, to designate the subdivision as a separate "department or agency for the purpose of subsection (c) of section 207. This would provide a degree of flexibility to meet the situation which the gentleman has outlined. I think it should be reasonably interpreted on the basis of the requirements of subsection (e) of revised section 207.

Mr. WIGGINS. That is the point.

Mr. DANIELSON. What we are talking about here is that people who have operated at a policymaking level should not subsequently be able to appear representing someone else other than themselves before that agency within the period of the ban.

Obviously, if the input of policy is not in the subportion of the agency or Department in which he is appearing, I just do not think that will be a reasonable application.

Mr. WIGGINS. I hope it will be so construed. It is a bit ambiguous the way it is now drafted.

Mr. DANIELSON. I am not able, as I stand here, to give a more definitive answer, but we are trying to reach people who are at the policy-making level and by providing a reasonable limit upon their use of whatever good will or influence they have built up to further the interest of persons they may represent after they have left Government service. service.

Mr. WIGGINS. Before that agency or subagency in which they exercise that policy?

Mr. DANIELSON. That is the purpose of the policy.

Title III of the amended bill provides for financial disclosure by judicial personnel, including judges and top level employees compensated at the equivalent of grade 16 or above. The provisions of this title of the bill parallel those relating to the executive branch and contain substantially the same requirements and sanctions as provided in title II for the executive branch. The difference is that the reporting and administration will be matters for the judicial branch and will be under the supervision of the Judicial Conference of the United States. The bill provides that the responsible administering authority will be the Judicial Ethics Committee established by the Judicial Conference.

I might add that we also made some adjustment to accommodate the fact that the nature of the work in the judicial branch is to some extent different than that in the executive branch; but the thrust of the bill remains the same.

Mr. MOORHEAD of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, on numerous occasions I have described financial disclosure legislation as "inevitable," which it most certainly is. But more than that, it will be a statutory representation of the principle of the public's right to know. So, in this sense, it is the direct descendant of the Freedom of Information Act and the Government in the Sunshine Act.

I support many of the provisions contained in H.R. 1, and the substitute bill, H.R. 13850, we are considering today. In fact, the substitute contains a number of major improvements—most notably, the deletion of unnecessary criminal penalties with respect to financial disclosure section. But I would be less than candid if I did not state that I have some serious reservations about certain provisions in both bills.

First of all, this legislation is far broader than necessary. It is far broader, in fact, than can be justified by any "compelling" or "overriding" public interest. Simply put, too many people are covered. Far more Government officials and employees are covered by this legislation than is really necessary to assure public confidence. Conflicts of interest or self-dealing by Government employees can occur at any level of Government service. The breakoff point for coverage at GS–16—and O–7 in the military—was an arbitrary decision. The fact is that one could argue that many public servants to be covered by these disclosure requirements are less likely to be susceptible to conflict problems than numerous lower Government officials.

For example, a Government contracting officer, grade GS–11 or 12, is at least as vulnerable as a GS–16. The Civil Service Commission has estimated that approximately 20,000 individuals will be required to file annual statements once this legislation becomes law. The Congressional Research Service, in a study done especially for the Judiciary Committee, estimated that some 14,000 public officials would be covered. But, whichever figure is accurate, one can argue with considerable validity that too much disclosure results in no disclosure at all. I would question whether a warehouse filled with these reports will represent very effective public disclosure.

Second, too much unnecessary detail would be required in the reports. For example, the categories of value in H.R. 1 are overly detailed to the point of being ridiculous. Our subcommittee's bill provided for incremental reporting by category up to the level of $100,000. Now, as a result of an amendment in the full Judiciary Committee, the incremental reporting categories go up to $5 million. Obviously such detail will have little effect on most of us. Beyond that, this overcategorization will only serve misplaced public curiosity, while certainly giving no more additional evidence with regard to potential conflicts of interest. I would point out that the substitute—H.R. 13850—would return the categories to the more reasonable $100,000 breakoff point and I support this change.

Reporting with respect to real property is similarly overdone. While this category does not cover a personal residence of an official, its disclosure requirements go beyond properties used solely for commercial purposes. Consequently, a weekend or vacation home could become the subject of public disclosure. As my eloquent colleague from California (Mr. WIGGINS) has repeatedly stated: How does such a property present a potential for a conflict of interest? Real property reporting should be cut back to those properties that represent an investment for solely commercial purposes.

Also, it is my firm belief that the interference with the personal privacy of the official's spouse and children far exceeds that necessary. There are some serious constitutional questions raised by spouse and dependent disclosure requirements. Does an individual, simply by being married to a public official, correspondingly give up the same degree of privacy as the official himself? At the very least, the spouse and dependent disclosure requirements should be modified. Disclosure should be limited to those kinds of property that could be enhanced or materially affected in some way by the reporting person's official duties. Perhaps the "constructive control" standard in House Rule 44 should be utilized.

Another troublesome provision is section 207 in both bills. It gives the President far-reaching discretion to extend financial disclosure requirements to any executive branch employee that he may choose. This includes, under the substitute, persons serving in the armed forces and all postal employees. This is an ill-advised concept which invites the potential misuse of a financial disclosure statute for partisan political reasons or punitive purposes.

Finally, I come to what I consider the most objectionable feature. Section 241 contains amendments to section 207 of title 18, United States Code. The existing law deals with conflicts of interest arising out of former employment by a Government agency. The existing law contains prohibitions against formal representational activity by a former employee in court proceedings or hearings before Federal agencies. The law would be changed, under both H.R. 1 and the substitute, to expand the coverage of section 207 beyond formal representational situations to those which would be informal in nature, such as meetings, telephone conversations, and so forth.

The existing prohibitions in title 18 permanently bar a former officer or employee from acting in matters in which he was "personally and substantially" involved during Government service. It similarly provides that the former official could not become involved in any such matter that was "pending under his official responsibility" for 1 year after leaving Government. Now, H.R. 1 would add yet another prohibition. A new subsection (c) would prohibit all contact by a former Government officer or employee on behalf of another, with his former Government agency for a period of 1 year after leaving that agency. This blanket, 1-year, "no contact" ban has no counterpart in existing Federal law—it is a so-called "cooling off" period that the Carter administration views as one means of dealing with the "revolving door problem." This blanket restriction is imposed without reference to the subject matter with which the contact may be concerned. The subject, in fact, could be a

totally new issue never dealt with by the agency before. Or, it simply could be a noncontroversial or uncontested subject. The net result of this provision will be to reduce the attractiveness of Government service and certainly reduce the ability of Government to recruit good people.

The 1-year, no-contact prohibition applies only to certain designated officials. Specifically, the following would be covered:

(i) Presidential appointees—Levels I-V (5 U.S.C. 5312-5316);

(ii) "Schedule C" employees compensated at the rate of GS-16 and above;

(iii) Members of the military—grade 0-6 or above; and

(iv) Additional persons designated by the Director of the Office of Government Ethics because of an important policy-making role.

Proponents argued that this means that only high level political appointees will be subject to the no contact restriction. But this is an oversimplification, given the extensive coverage of military personnel and the broad discretion granted the Director of Government Ethics to extend section (c) coverage to additional persons.

I am very concerned that the amendments proposed to title 18 would severely restrict the employment activities and potential of persons who may choose to leave Government service. Even more importantly, these changes in the law must result in discouraging bright, young people as well as experienced professionals from taking Government jobs. Later during the 5-minute rule, I intend to offer an amendment which will remove the blanket, 1-year "no contact" provision from this legislation. Reasonable restrictions on the so-called revolving door are desirable. The "no contact" rule is punitive and ill-advised.

Again, in general, I want to emphasize that I support the overall intent of both H.R. 1 and H.R. 13850—and much of what they contain. With a few essential revisions, this legislation can satisfy the public's right to know without unnecessarily interfering with the privacy rights of covered public officials.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of California. I yield to the gentleman from California.

Mr. WIGGINS. I thank the gentleman for yielding.

Mr. Chairman, I want the Members to take the time to read these amendments to title 18 dealing with post-employment contacts by high officials of the Government.

Let us take an attorney general in the next administration, as an example.

The next President ought to seek a competent, qualified attorney to represent the United States as its Attorney General. But the President in the future is going to have to tell that person that he not only must surrender his law practice for the period of his service as Attorney General, but for not less than 1 year, and possibly for 2 years, thereafter he cannot even write a letter to the Department of Justice on behalf of a client.

I ask the question: Is the section under discussion going to inhibit the opportunity of a President in the future to recruit a competent person? I think it will.

Last night I spoke with a former Member of Congress who is now practicing law in Washington. He is a Democrat. He told me he is being considered by the Carter administration with respect to a high-level position in the administration. I told him that before he succumbs to the President's request that he ought to take a look at 18 U.S.C. 207, and more particularly the bill now pending before the House, because he is not only giving up what he now has, but he is giving up a piece of his life in the future. And he thanked me for that advice, which was good advice.

We should not, by the hasty enactment of these sections, which establish a simple indirect contact rule as distinguished from the former representation rule, inhibit the power of the Executive to recruit good people in Government.

Mr. MOORHEAD of California. Mr. Chairman, I yield the balance of my time to the gentleman from Illinois (Mr. McCLORY), the ranking minority member on the Committee on the Judiciary.

The CHAIRMAN. The gentleman from Illinois (Mr. McCLORY) is recognized for 3 minutes.

Mr. McCLORY. Mr. Chairman, first of all, let me commend the Chairman of the Judiciary Subcommittee, the gentleman from California (Mr. DANIELSON) and the ranking member, our colleague from California (Mr. MOORHEAD) for their conscientious efforts to produce a measure covering governmental ethics which appears to be in response to a public demand.

Having said that, I would like to express my reservations about this legislation as discussed by our colleague from California (Mr. WIGGINS). There is logic and wisdom in the words Mr. WIGGINS has uttered. I doubt that we can legislate public morals. We may well be discouraging from useful public service, many desirable persons who would not care to experience an invasion of their privacy which this legislation mandates—on the limitations on employment following governmental service which this legislation would impose.

Mr. Chairman, the purpose of the "Ethics in Government Act" is to establish uniform, comprehensive financial disclosure requirements for all three branches of the Federal Government. The information disclosed is then to be made available to the public for its scrutiny and judgment.

I support the general intent of H.R. 1 and the amendment in the nature of a substitute (H.R. 13850). The American people have a right to this knowledge—a right to be assured that conflicts of interest do not exist at the highest levels of Government. In short, they have a right to confidence in their own public servants.

But disclosure also raises some important questions about the rights and privacy of those in Government service. How much disclosure is necessary to assure citizen confidence? Should this legislation go beyond disclosure to include prohibitions against certain kinds of activities? What are the constitutional implications of some of these disclosure requirements—particularly, those relating to the property of a spouse or the dependents of a Government employee?

I understand that the rule for consideration of this legislation has made in order an amendment which would repeal the outside income limits soon to be imposed on Members of the House under House Rule XLVII. This limitation applies to outside income earned as a salary, fee, or honorarium. However, ironically, it does not apply to "unearned income," such as rent, interest, or stock dividends. The ethical distinction between "earned income" and "unearned income" has always escaped me. As I do not have any outside earned income—the limitations in the bill do not affect me personally—at all. However, is it not possible for conflicts of interest to arise out of the ownership of stocks or the receipt of rents as well as from income that is earned? As we all know, the terms of the limitation on outside income favor the wealthy, who inherited their money, while they penalize those members who may retain an interest in a legitimate business.

I intend to support the amendment to be offered by the gentleman from Tennessee (Mr. QUILLEN) to repeal the limit on outside, earned income. If full disclosure is made, prohibitions on outside income are unnecessary. The voters can make their decisions based upon the information provided through public financial disclosure.

H.R. 1 and the substitute also require the disclosure of certain financial interests of the spouse and dependent children of the reporting employee or official. These spouse and dependent disclosure requirements dramatically point up the inherent conflict that exists between the public's right to know and the individual's right to privacy. While coverage of the official's immediate family seems necessary to fill an otherwise obvious loophole—that is, avoiding disclosure by transfering ownership or control—troublesome legal questions remain. How far does the right to know extend beyond the official himself? At what point does the right to know outweigh the right of privacy accruing to the public official's family? Does the individual, simply by being married to a public official or being the child of one, give up the same degree of privacy as the official himself? Does the same constitutional standard for invasion of privacy apply equally to the official and his immediate family? Unfortunately, these questions have never been adequately considered.

The constitutional right of personal privacy has been recognized in recent years in a number of notable Supreme Court decisions. *Griswold* v. *Connecticut*, 381 U.S. (1965); *Stanley* v. *Georgia*, 349 U.S. 557 (1969); *Roe* v. *Wade*, 410 U.S. 113 (1973). More to the point, there have been State court decisions that have overturned financial disclosure requirements because they contained spouse-dependent disclosure provisions. In one instance, they were determined to be an unconstitutional "Intrusion into the

right of privacy." *Carmel-by-the-Sea* v. *Young*, 466 P.2d 225, 227 (1970). Another State court decision reasoned that husbands and wives have no legal responsibility to disclose their total assets to one another and, consequently, criminal sanctions could not be imposed on a public official to disclose information to which he had no right of access. *Lehrhaupt* v. *Flynn*, 129 N.J. Super. 327, 323 A.2d 537 (1974). This financial disclosure legislation would be far less constitutionally suspect if the spouse and dependent disclosure requirements were removed from the bill.

I also have some strong reservations about the conflict of interest provisions in title II of the bill. First of all, these so-called "revolving door" prohibitions are applied to only two of the three branches of Government, that is, executive and judicial. What is the justification for their uneven application? Second, these provisions go so far that they clearly will result in making Government service less attractive to established professionals and promising young people. We are making a serious mistake if in the name of disclosure we end up discouraging careers in the Government service. For that reason, I intend to support an amendment to be offered by the gentleman from California (Mr. MOORHEAD) which will remove some of the most objectionable features from these post-Government employment restrictions.

One last point. In the Judiciary Committee much was made of section 205(a) of the bill. This provision reflects an attempt to reconcile disclosure requirements with the modern realities of intelligence gathering and our national security. It is possible that an amendment will be offered to alter this provision but I urge this House to reject it. We are talking here about the personal safey of some individuals, employed by the intelligence agencies. It also should be emphasized that the bill clearly requires full financial disclosure by such undercover personnel to their employer-agency, but without threatening their personal safety or our national security.

In conclusion, I urge my colleagues to consider all the provisions of H.R. 1 and the substitute, as well as the amendments, carefully. While we are voting for a principle, we are also imposing some highly detailed and strict requirements on officials in all three branches of the Federal Government. While the principle of disclosure remains valid, not every provision in this legislation is of equal validity.

Mr. DANIELSON. Mr. Chairman, I have no further requests for time.

Mr. MOORHEAD of California. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. STRATTON) for 15 minutes.

Mr. STRATTON. Mr. Chairman, as I am sure Members are aware—and perhaps this accounts for the fact that not too many are actually on the floor—we have before us a very complex item, a very complex set of bills, a very complex process, and a very complex rule. We have before us actually some four different bills, and it is a little bit difficult, I think, perhaps to know exactly where we are zeroing in in the course of our discussion and later on when it comes to the amending procedures.

I am appearing today, for example, on behalf of the Armed Services Committee, to whom the original bill was referred. I also happen to be a member of the Select Committee on Ethics, which drafted the legislative portion of this particular bill, and as a member of that committee I support that part of the legislation.

The Armed Services Committee was originally given H.R. 6954, the bill that was referred jointly as an ethics bill to our committee, to the Committee on the Judiciary, and to the Committee on Post Office and Civil Service. We considered that particular bill solely with respect to its impact on the Armed Services, both the uniformed personnel in the Armed Services, and also the civilian employees of the Defense Department. This is a different bill, I would point out, than H.R. 1, the bill which is before the House today and which was referred only to the Judiciary Committee. While these bills have a number of substantial differences, they are nevertheless similar in their basic structure.

The amendments that the Armed Services Committee made were made primarily then to H.R. 6954. For example, we offered a group of amendments to part A of title II of H.R. 6954 which had to do with the requirements for filing financial reports. That group of amendments have now been incorporated in H.R. 13850, which is going to be offered under the 5-minute rule, as an amendment in the nature of a substitute to H.R. 1. We also considered another set of amendments which related to part C of title II of H.R. 6954, the conflict-of-interest section.

This may sound a little bit confusing, but I point that out because the first group of amendments that the Armed Services Committee offered to the ethics bill, are now incorporated in the substitute bill. Therefore, we have no objection to that portion of the substitute bill and have joined in supporting it.

Its filing provisions, incidentally, would require a financial disclosure report from each officer of the Armed Services who is serving in or who is nominated for promotion to the grade of brigadier general and above in the Army and the Air Force and the Marine Corps; rear admiral and above in the Navy and Coast Guard and the National Oceanic and Atmospheric Administration; and the rank of assistant surgeon general or above in the Public Health Service. Each of these officers would be required to file his disclosure report with the Secretary of his own department rather than, as provided under other legislation, with an Office of Government Ethics.

The remaining amendments that the Armed Services Committee offered to this basic legislation relate to the conflict-of-interest feature of the bill and are not included in the provisions of H.R. 13850, but will be offered in two separate amendments by me on behalf of the Armed Services Committee at the appropriate time under the 5-minute rule. That is provided for in the rule itself.

The first amendment would correct an inconsistency in H.R. 13850 relative to the application of the prohibition on former employees contracting the departments or agencies in which they were formerly employed. This is the matter on which the gentleman from California (Mr. MOORHEAD) and the gentleman from California (Mr. WIGGINS) have already commented at some length. H.R. 13850 would apply the prohibition of no contacts with the agency in which one has been employed to former civilian officers at grade levels GS-16 and above. But the inconsistency is that it would also apply it to former members of the uniformed armed services in the grade of O-6 level and above. Now, O-6 represents colonels in the Air Force and in the Army and captains in the Navy. Thus, there is a disparity between the way we treat the uniformed services and the way we treat civilian employees, since the comparable grade to GS-16 is not O-6 but O-7.

Grade O-7 is a brigadier general or a rear admiral, lower half, in the armed services.

Our committee believes that if we are going to apply these requirements, we ought to apply them at the same comparable level for those in uniform as for those in civilian capacities. Accordingly, our amendment would correct that inconsistency and require these no-contact conflict-of-interest provisions apply only to pay grade O-7 and above. Which is the same level, incidentally, as applies already in the substitute legislation, to the filing of reports. In other words, our amendment would apply the conflict-of-interest restrictions to those pay grades in the uniformed services which are generally considered to be the equivalent of grade 16 and higher in the classified service.

I might point out, Mr. Chairman, that the administration, in the "poop" sheet they sent out yesterday to Members of the House, indicated their support for this amendment and we are grateful for that support.

The second amendment the Armed Services Committee will offer to H.R. 13850 will be directed toward two particular things—and goes, incidentally, directly to the heart of the point that the gentleman from California (Mr. WIGGINS) was making just a moment ago. It would be directed toward assuring that this legislation does not interfere with the free flow of scientific information directly to Government agencies, particularly the Department of Defense where, heaven knows, we need the best scientific and technical information we can get. Our amendment would also insure that the Department of Defense could continue to call on the services of the Nation's most competent scientific and technical people from time to time, as it is now possible to do and has been the case for as long as anybody in this body can remember.

We do have many competent people who come into Government service from time to time on a temporary basis. The gentleman from California (Mr. WIGGINS) talked a moment ago about those attorneys who come into the Department of Justice. Fortunately, we are also able to call on trained scientific and technical people

to come into the Defense Department from time to time and help us meet some of the technical and scientific challenges that are required for our defense capabilities to stay even with those of the Soviet Union, which spends two or three times every year the amount of money that we now spend on research and technology. Certainly we do not want these conflict-of-interest provisions in this bill to deny the Defense Department the capabilities of these technical and scientific people who are urgently needed as Assistant Secretaries for Research and Development, or Assistants to the Assistant Secretaries. They may be there for only one administration and then they go back into the private sector, with General Electric, for example, or General Dynamics, or some other company.

But H.R. 13850 as now written, and without any amendment, would make it virtually impossible for us to get any of these young, capable, scientific or technical individual to agree to spend any time in the Defense Department at all, because, as the bill is now drawn, that individual would recognize that it would be almost impossible for him to get a job after he left Government service if he was henceforth forever banned from any contact with the Defense Department.

As the gentleman from California (Mr. WIGGINS) has already pointed out, persons covered by these provisions could not make any contact at all with any agency for a certain specific period of years, depending on exactly what his level of responsibility had been in the Government service.

Our amendment would change the section to say that the ban on "contacts" does not apply to the supplying and dissemination of strictly scientific and technological information.

During the course of our hearings on this legislation, scientists, both those employed by the Government and those on the outside, and particularly from agencies like the Advanced Research Projects Agency, expressed great concern to our committee that the language of the bill as originally drafted would clearly interfere with the free flow of scientific and technological information to the Department of Defense and to the United States, and could seriously impair with our ability to get the best qualified technical skills which we need from time to time on a temporary basis.

Our committee firmly believes that in the area of national defense, a free exchange of information between the scientific community and the Government is essential. To achieve that objective, we propose to amend the bill to exclude from this prohibition "communications solely for the purpose of furnishing scientific or technological information under the procedures acceptable to the agency concerned."

In other words, some Ph. D. who may be working for the Assistant Secretary of Defense for Research would be able, after he had left the Government, to visit the Department of Defense "under regulations acceptable to the Department," to inform them what would happen, for example, if they put so much of chemical "C" into chemical "D." That would be the extent of his "contact." He could not go in to urge acceptance of a contract. He could not go in to buttonhole a contracting officer. But he might well be the one who could best explain the scientific result of such and such an experiment which the Department might seriously need to know about.

Mr. Chairman, this is a very narrow and limited exemption. In fact, I am inclined to share the reservations of the gentleman from California (Mr. WIGGINS) that the bill itself goes too far in these matters; but at the very least, we cannot afford to deny our defense forces urgently needed scientific information; and this narrow exemption would go exclusively to that end.

Mr. PIKE. Mr. Chairman, will the gentleman yield for a question?

Mr. STRATTON. I am glad to yield to the gentleman from New York.

Mr. PIKE. Mr. Chairman, it is my understanding that the bill before us limits what members of the executive and the judicial branch may do when they leave Government service, but does not limit what Members of the legislative branch may do when they leave Government service.

Would the gentleman explain to me the rationale behind the theory that we here, in the legislative branch, say that members of the executive and judicial branches may not appear before any Federal agencies or courts or what have you when they leave, but Members of the legislative branch have no such restrictions?

Mr. STRATTON. I am afraid I am not in a position to explain that because that feature was not included in the legislation which came before our committee and to which I am now addressing myself. Likewise, it was not a subject that was taken up in the bill which the gentleman from North Carolina (Mr. PREYER) was responsible for developing.

Mr. PIKE. If the gentleman will yield further, would it not be fair to say, then, that the ethics in Government bill is somewhat more ethical for the executive and judicial branches than it is for the legislative branch?

Mr. STRATTON. I am not sure that looking at the bill in toto one could say that, because the gentleman has just made a very eloquent statement here in the well of the House that this bill is even tougher than provisions that apply elsewhere.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Virginia (Mr. ROBERT W. DANIEL, JR.).

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I support the actions of the Committee on Armed Services to the Ethics in Government Act.

Since our committee's action on financial reporting are included in the provision of H.R. 13850 which I expect will be offered as an amendment in the nature of a substitute to H.R. 1, I will devote the balance of my time to the committee's perfecting amendments to part C of title II, the conflict of interest section of that bill.

The first of those perfecting amendments would change the level at which the 1-year "cooling off" period would apply to commissioned officers of the uniformed services. At present the bill would prohibit officers at the level of O–6; that is, colonels in the Army, Air Force, and Marine Corps or captains in the Navy and Coast Guard, from appearing before, or communicating with, their former departments or agencies. The bill applies that same restriction to former civilian employees who were in positions classified at GS–16.

My objection to that situation is that it affects uniformed services personnel at a lower level than it does civilian personnel. I understand that GS–16 in the classified civil service is the equivalent of O–7 in the uniformed services. Since no reason has been given for the discriminatory application of that prohibition to a lower rank among the uniformed services personnel, I believe that the bill should be amended to insure equal application.

I note that the ethics in Government legislation prepared by the executive branch recommended that the prohibition be applied to uniformed services officers at the O–7 level. That recommendation was consistent with the recommendation for applying the prohibition at GS–16. Since no rational basis has been offered for the distinction contained in the bill. I believe the amendment should be adopted to eliminate the discrimination against officers of the uniformed services.

The second amendment of our committee is of immense importance since it if is not adopted there is a possibility that the Government's access to a vast store of scientific information could be jeopardized. Part C of title II of H.R. 13850 would affect the post-employment prospects of Government officers and employees, since it is aimed at closing the "revolving door" between Government and industry. While that objective has great merit, our committee became concerned that the provisions of the bill might deprive the Government of valuable scientific contributions which some of its former employees might be able to offer.

Scientific personnel of the Department of Defense expressed concern that the bill as submitted would prohibit them from any contacts with their former colleagues if they returned to employment in private industry after their service in the Department. They feared that contacts which they might have with personnel of their former Departments and agencies, even though they were purely scientific or technological in nature, might be considered as a violation of that section. The committee was informed by scientific personnel that the threat was sufficient to cause some scientists currently in Government service to leave immediately in order to avoid the possibility of being entangled in its prohibition. It was also claimed that the threat would deter other scientists from entering Government service. The result would be that the Government could be deprived of the services of some of the outstanding scientific and technological minds in the nation.

In order to alleviate the concern of those scientists, the committee amended the section at page 49, line 16, to exempt from its prohibition, "communications solely for the purpose of furnishing scientific and technological information under procedures acceptable to the agency concerned." We believe that this narrow exemption will promote the national interest by enhancing the flow of scientific information between Government and industry.

It is an absolute requirement to our defense posture that the Government have access to all the scientific and technological knowledge presently available. To achieve that end, it is incumbent that Government employees have open lines of communication with the private sector to exchange information and ideas purely on a professional scientific basis. I appeal to all to understand that we must allow this interchange of scientific information to continue for the benefit of the nation.

Mr. Chairman, I strongly urge the adoption of each of these amendments at the appropriate time for the reasons I have just discussed.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. ROBERT W. DANIEL, JR. I would be pleased to yield to the chairman of our subcommittee.

Mr. STRATTON. Mr. Chairman, the distinguished chairman, the gentleman from New York (Mr. PIKE) a moment ago asked me about whether there might be some discrepancy in the fact that these limitations were placed on members of the Executive Department, but were not applied to Members of Congress. I am not sure that this point applies throughout the entire bill, but with most of these conflict of interest situations spelled out in the bill the ban has to do, as provided, for example, on page 45 of H.R. 1, with "the department or agency in which he served as an officer or employee, or any officer or employee thereof."

Also in the case of one of three types of bans, the bill refers to those items "in which he participated personally and substantially as an officer or employee through decision, approval, disapproval, recommendation," et cetera.

In other words, what this is doing really is preventing an employee from going back to the agency in which he served in a responsible position with some kind of business with that same agency. As a practical matter, a former Congressman coming back here into the Congress has also had a limitation placed on what he can do. We passed a rule earlier this year that no former Member could be on the floor lobbying on behalf of an item in which he had a personal interest, which was currently under consideration. So while the two situations are not comparable, the problem really has to do with contacts between former Members and this body in which they originally served.

We have, in fact, recognized a potential conflict of interest by the rule that was adopted earlier this year. and have tried to do something about it.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, I think the gentleman from New York has performed a useful service in pointing out the distinction between the legislative and the other two branches and pointing out that, while our safeguards might not be identical to those of the other two branches, they do exist and they would appear to be effective.

The CHAIRMAN. The Chair recognizes the gentlewoman from Colorado (Mrs. SCHROEDER) for 15 minutes.

Mrs. SCHROEDER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am very happy to rise in support of the Ethics in Government Act. It has taken my colleagues and myself months to arrive at this point, but I believe it has been time well spent. We have arrived at a product in the substitute bill (H.R. 13850) to be offered today for consideration which we are all, retaining some differences, but pleased because it will allow all Members of the House to focus on those big issues remaining without plodding through a fog of minor ones. Although quite a few amendments have been printed in the RECORD, most of these amendments do relate to those major issues with which the House should deal.

Mr. Chairman, I want to stress that absent from the vehicle we are considering are a couple of points upon which the gentleman from California (Mr. DANIELSON) and I have "agreed to disagree" because they are the kinds of issues on which the House should quibble. These two absentees are represented by my amendment to section 206, to require review of financial disclosure forms which are filed in the executive branch and my substitute amendment for part B of title II creating an Office of Government Ethics. On these two amendments I will say more at the appropriate time.

At this time, as the chairwoman of the Subcommittee on Employee Ethics and Utilization in the House Post Office and Civil Service Committee, I want to point out some of the good provisions of the substitute which came from the work of this committee as shown in H.R. 6954, part I, the bill we reported and one of the three we have passed over for the substitute.

First, in section 203(f)(3) we have assured an easy classification device for civil service employees who will be required to file.

Second, in section 203(f)(6) we have assured that Postal Service personnel will file reports.

Third, in section 203(f)(7) we have assured that those personnel responsible for ethics programs will file even if they fall below grade GS–16.

Fourth, within the contents of report provisions (section 202) we assure that avoidance of reporting will not be possible through a multitude of loans from the same person each of which does not exceed the threshhold amount. We also assure that certain pre-Government employment associations will be reported. We also lump property reporting groups together into one more easily manageable category. We also do not require reporting of categories over $100,000.

Fifth, the blind trust definition carries over from the post office and civil service bill the requirement that a blind trust administrator be someone unassociated with those reporting. This should make "back door" blind trust disclosure more difficult.

Sixth, there is no specific criminal sanction for misfiling.

Seventh, there is provision for confidential filing by lower level personnel, but it must be done, as the Post Office and Civil Service Committee's bill required, according to the same form as public filings will be.

Mr. Chairman, I think this bill is one with which all the committees can be pleased and all Members should support as they have in the past its predecessors.

Mr. Chairman, for the benefit of my colleagues, and those who will be faced with interpretations of the language of title II, part A, the following summary of the intentions of this part will be of use:

SUMMARY

APPLICATION OF SUBCHAPTER

Section 201 describes the individuals who are subject to the financial reporting requirements. Section 201(f) of this section sets forth seven specific groups, and section 201(f)(5) provides that the Director of Government Ethics may exclude certain individuals or groups of individuals from coverage under certain circumstances.

The provisions of section 201 apply only to individuals in the executive branch of the Government, including employees of the Postal Service. Section 201 is not intended to apply to employees of the District of Columbia or employees of certain legislative branch agencies, such as the General Accounting Office, which for many other purposes are treated as executive branch agencies (see, 5 U.S.C. 105, which specifically includes the General Accounting Office as an Executive agency).

Section 201 (a), (b), and (c) assure that persons entering, nominated, or running for positions, the incumbents of which must file forms, are included in coverage.

Paragraphs (1) and (2) of section 201(f) provides that the President and Vice President are subject to part A, and section 201(c) includes candidates for those offices with the part's coverage. An individual is deemed to be a candidate if he meets the definition of "candidate" in section 301 of the Federal Election Campaign Act of 1971.

Paragraph (3) of section 201(f) provides that the part shall apply to each individual holding a civil service position in the executive branch whose position is classified at GS–16 or above, or the rate of basic pay for whose position is fixed (other than under the General Schedule) at a rate equal to or greater than the minimum rate of basic pay for GS–16. The current rate of basic pay for GS–16, step 1, is fixed at $42,423. Although the rate of pay for a position is not always an accurate measure of its duties and responsibilities, basing coverage on a fixed rate of pay will result in the most uniform application of financial reporting and disclosure requirements, and will eliminate the necessity of making numerous administrative determinations with respect to whether given positions are in fact "comparable" to GS–16, 17, or 18 positions. Only in cases where an obvious inequity is present, such as the case of certain U.S. Attorneys, need a determination be made under the last sentence of paragraph (3).

The phrase, "rate of basic pay for whose positions is fixed" is deliberately used so that the rate of pay (be it daily, weekly, monthly, or annually) which is actually set by statute or otherwise for the position, as distinguished from the amount of pay which may

actually be payable, will determine coverage. Thus, should a pay compression situation similar to that which occurred in 1976, again occur, individuals who are receiving pay equal to that actually received for GS-16, 17, or 18 would not be included under paragraph (3), unless the rate of pay actually fixed for their positions was also equal to or greater than the rate of pay fixed for GS-16.

Paragraph (4) provides coverage for all Administrative Law Judges, including those paid at GS-15 rates.

Paragraph (5) provides that any employee in a position in the executive branch which is excepted from the competitive service by reason of being of a confidential or policy-making character is subject to a part. That this paragraph will bring within the subchapter's coverage the so-called schedule C positions (positions which are essentially political in character and which are classified at GS-15 and below) as well as similar supergrade political positions (formerly designated as "noncareer executive assignment," see, 5 CFR § 9.20). Although noncareer executive assignment positions would also be covered under paragraph (3) above, since such positions by definition are classified at GS-16 or above, the intention is that paragraph (4) be the operative provision for bringing noncareer executive assignment employees within coverage.

Paragraph (6) assures that the Postmaster General, the Deputy Postmaster General, each Governor of the Board of Governors and each GS-16 or above equivalent at the Postal Service are subject to the subchapter. This paragraph is necessary because section 410(b) of Title 39, United States Code, would otherwise exclude coverage of officers and employees at the Postal Service. Paragraph (6) provides that the Director of Government Ethics and each designated agency official (even if below GS-16) are subject to the subchapter.

Section 201(f)(5) provides that the Director may, by regulation, exclude from the application of the part, any individual or group of individuals who is in a position which has been excepted from the competitive service by reason of being of a confidential or policy making character, as provided in paragraph (5) of section 201(f). This exemption authority permits the Director to exclude employees such as chauffeurs, who although politically appointed, have no policy or decisionmaking resoonsibility. Before the Director may exclude any individual or group of individuals from the coverage of the part he must determine that the exclusion would be consistent with the purposes of the part. In making these determinations, intrusions into individual privacy and paperwork burdens involved in reporting and disclosure as well as any impact on public confidence which would result, should be considered.

REPORTING OF FINANCIAL INTERESTS

Section 202 sets forth those financial interests which are required to be reported by an individual who is subject to the part. Subsection (a) of section 202 describes seven separate categories of financial interests which must be reported.

INCOME RECEIVED AS COMPENSATION

Paragraph (1) requires that the source, type, and amount of income from any source received during the calendar year must be reported. Aggregate amounts received from any source which do not exceed $100 for the calendar year need not be reported. It should be noted that income must be reported for the year in which it is actually received. Current U.S. salary is excluded.

Income as used in this section is defined by section 209(1). It is intended that any amount which is received by the individual during the calendar year and which is attributable to personal services rendered by that individual at any time be considered income. Thus, continued payments to a pension plan or health insurance plan by a former employer must be reported. Any salary received (except the individual's current U.S. Government salary) must be reported. Income from a trade or business in which the individual participates must be reported. In the case of a self-employed individual, all income received from the activity in which he is self-employed must be reported. Also, honoraria received by the individual must be reported.

Income from any source need not be reported if the aggregate amount received does not exceed $100 for the calendar year. The term "source" means the employer in the case of an individual employed by another. In the case of an individual who is self-employed, the source will be the individual himself. It should be noted that the activities engaged in either as an employee, or as a self-employed individual, are required to be reported under section 201(a)(6).

It should also be noted that the exact amount of income subject to paragraph (1) must be reported. Income covered by this section results from activities by the reporting individual which are in addition to normal Government service. These activities necessarily require the devotion of time which could impair the individual's ability to perform the duties and responsibilities of his Government position. Therefore, it is important to know the extent of the activities which result in income received as compensation for personal services. The amount received is one indication of the extent of outside activities. As discussed above, under paragraph (a)(6) of this section an individual is required to report a general description of the activities engaged in, in carrying out duties of positions held outside Government service. These two requirements should enable the public to determine whether or not an individual's outside employment or other activity is so extensive as to impair his ability to perform the duties and responsibilities of his Government position in a satisfactory manner.

Paragraph (1) also requires the reporting of each source of income received during the calendar year which is not compensation for personal services [or under paragraph (3) as a gift.] The term "source," means the name of the person from whom the income is received. The source of income need not be reported if the aggregate amount received from such source does not exceed $100 for the calendar year.

Examples of income which would be required to be reported under this paragraph include, but are not limited to: dividends; interest; long- and short-term capital gains; income derived from the sale of personal property; rents; royalties; and income from copyrights and patents. Section 201(e)(3), however, excludes, alimony or support received by a child as reportable income.

GIFTS

Paragraph (2) requires that the source of most gifts received during the calendar year must be reported. It also requires that the amount and a description of certain gifts must be reported.

Subparagraph (B) of paragraph (3) specifically excludes certain types of gifts from the reporting requirements. Gifts which need not be reported are: (i) any gift (other than transportation, food, lodging, or entertainment) from any source if the aggregate amount received from that source during the calendar year does not exceed $100; (ii) any gift which constitutes personal hospitality, or is from a relative; (iii) any political contribution otherwise reported as required by Federal law; and (iv) gifts of lodging, transportation, food, or entertainment or reimbursements less than $250.

The "personal hospitality" exemption only covers food, lodging, or entertainment at a personal residence of the person providing the hospitality. So, if a reporting individual visits someone at that person's summer home for a week, the value of the food and lodging received would be personal hospitality and need not be reported even if the value of such hospitality exceeds $100. Travel on a boat or airplane owned by an individual is included in the exemption for personal hospitality unless such travel is substituted for commercial transportation. Similarly, the occasional use of an individual's car would be exempted. Entertainment in a "house" owned by a corporation, not an individual, would not constitute personal hospitality. The intention is that the term "personal hospitality" to be given the same interpretation as that intended by the Senate (see S. Rept. 95-170, 95th Cong., 1st Sess., p. 115).

The term "gift" is defined elsewhere in section 209(3) as including the value of any transportation, lodging, food, entertainment, or other property, services, or money, to the extent it is obtained for less than full consideration, whether obtained directly, or indirectly by means of reimbursement or otherwise. The key phrase in the definition is "unless consideration of equal or greater value is received by the donor." Anything received for other than full payment or other consideration shall be deemed a gift. The definition includes reimbursements, other than reimbursements for Government travel, inheritances, honoring momentos, food at banquets, etc. The full consideration requirement permits an individual to offset the value of gifts received from an individual by the value of any gifts given to that individual, unless the consideration is unlawful, and therefore void.

Unless a gift is within one of the exemptions described above, the source (the identity of the donor) and description must be reported. The value of the gift, however, need not be reported except with respect to gifts other than of food, transportation, lodging, or entertainment, and the like.

In an effort to minimize the accounting necessarily required by any gift reporting provision, the provision requires only reporting the source and description of the vast majority of gifts. It is important that the public be aware of the source of all gifts so that it may determine for itself whether an individual is accepting gifts from any person who could be affected by the performance of the reporting individual's duties and responsibilities.

REAL AND PERSONAL PROPERTY

Paragraph (3) of section 202(a) requires the reporting of property, both real and personal, held during the reporting year in a trade or business or for investment or the production of income.

This provision is intended to cover all personal property other than property in the nature of household goods, furniture, clothing, and other personal property which is not principally held for the production of income. Thus, a painting in a home would not have to be reported even though the painting when sold might produce substantial income.

However, if a reporting individual is in the business of buying and selling paintings for profits, that individual would have to list that he held a certain number of paintings with the category of value of that holding being indicated. In addition, income from the sale of such paintings would have to be reported under section 202(a)(1). This paragraph does not require the listing of a life insurance policy even if the policy has a cash value since the policy is held for the principal purpose of life insurance protection and not the production of income. However, a savings account would have to be reported under this paragraph even though there might be purposes for the savings account other than the production of interest income.

In reporting under this paragraph, a person could have one listing for "farm equipment" and it would not be necessary to list each tractor, manure spreader, or combine separately. However, it would not be acceptable to simply list "stocks"—the name of each company in which stock worth over $1,000 is held must be listed separately.

The provision treats real property the same as personal property. Thus, only real property which is held during the calendar year in a trade or business or for investment or the production of income must be reported. Accordingly, a summer home which is held and maintained purely for recreational or vacation purposes need not be reported. It is, of course, a personal residence. A summer home which is rented, however, is held for the production of income and must be reported. Reporting is not required with respect to any real or personal property which is less than $1,000 in value.

The value of property need not be determined precisely. Reporting with respect to value is by category of value and reasonable informal methods of appraisal should be acceptable. The intention is to detect possible conflicts of interest, not to give professional appraisers business.

LIABILITIES

Paragraph (4) of section 202(a)(4) requires the reporting of a description of liabilities owed during the calendar year and the identity of the persons to whom such liabilities are owed (if known). The exact amount of the liabilities is not required to be reported, only the category of value.

Certain liabilities are excluded from the reporting requirement. A liability secured by the personal residence of the reporting individual or a member of the individual's immediate family, if the liability is secured by that residence, it need not be reported. Thus an individual generally does not have to report his home mortgage. If the financing was not secured, the mortgage must be reported. This provision has like exceptions for motor vehicles and furniture and appliances.

A liability owed to a relative (as defined in section 209(2)) and liabilities owed to any one person during the calendar year which do not aggregate more than $5,000 need not be reported. It should be noted that the applicability of the $5,000 exclusion is determined by the amount owed to any one person, not the amount of any single liability.

Thus, under the substitute an individual who held ten separate $1,000 notes payable to ABC Bank would have to report each of the liabilities since the aggregate amount owed ABC exceeds $5,000. Under S. 555, for example, the notes would not have to be reported since none of them exceeds $2,500. Clearly, the latter case provides a large loophole through which reporting of liabilities could be avoided.

TRANSACTIONS

Paragraph (5) for a description, the date, and category of value to be reported on certain transactions during the calendar year which exceed $1,000. The transactions are those involving real property, stocks, bonds, commodities futures, and other forms of securities. No reporting is required concerning any transactions solely by and between the reporting individual, or his spouse or dependent children. No reporting is required with regard to any otherwise reportable real property transactions which involve the reporting individual or his spouse's personal residence.

DESCRIPTION OF PAST AND PRESENT ACTIVITIES

Paragraph (6) of section 202(a) requires reporting of the identity of all positions held during the calendar year (and during the immediately preceding 2-year period) as an officer, director, trustee, partner, proprietor, agent, employee, representative, or consultant of any person (including any governmental entity). In addition, the report must include a general description of the activities engaged in, in carrying out the duties and responsibilities of the positions. The term "governmental entity" refers to State or local governmental entities. An individual is not required by this paragraph to provide a description of the activities required by his Federal Government position. That information is specifically required under section 205(a). This provision should not be construed to require a finely detailed description of activities. It does, however, intend that the description be sufficient to provide an indication of how much time and energy is devoted to the activities.

Reporting is not required with respect to positions held in any religious, social, fraternal, or political group or association. In addition, it is expected that the Director will by regulation place groups such as parent-teacher associations or civil associations in this category when they are of the nature of the organizations actually listed.

CONTRACTS OR AGREEMENTS WITH RESPECT TO POST-GOVERNMENT EMPLOYMENT

Paragraph (7) of section 202(a) requires the reporting of a description of, and the identity of the parties to, any contract agreement, with respect to employment after the reporting individual leaves Government service. This provision includes not just formal contracts for future employment, but informal understandings as well. Also, if an individual is on leave of absence from private industry, that fact would have to be reported. Agreements with respect to any continuation of payments by former employers and continuing participation in employee welfare or benefit plans maintained by a former employer need not be reported under this provision. The source and amount of such continued payments or benefits would have to be specified, however as "income for personal services" under section 202(a)(1).

OFFICIAL POSITION DESCRIPTION

Paragraph 205(a) requires that a copy of a current official position description, if any, of the Government office or position currently held or held during the preceding calendar year by the reporting individual be included with the financial report. Most section 202(f)(3), (4), (5), and (6) individuals hold positions for which "official position descriptions" should be available.

CATEGORIES OF VALUE

Subsection (d) of section 202 sets forth the categories of value which are to be used for purposes of reporting amounts. The categories of value which must be used for reporting are as follows:

(1) not more than $5,000,

(2) greater than $5,000 but not more than $15,000,

(3) greater than $15,000 but not more than $50,000,

(4) greater than $50,000 but not more than $100,000, and

(5) greater than $100,000.

ESTIMATED VALUE

Section 202 provides generally that for purposes of reporting the value of items other than money, the value of the item shall be reported on the basis of value of the item on the last day of the calendar year for which the report is submitted. Items which are acquired or disposed of during the calendar year are to be reported at the value for which they were so disposed of or acquired.

It is expected that the Director in prescribing the manner and form of statements will establish a variety of methods by which an individual may value the financial interests required to be reported. For example, value could be based upon the known sale price of a comparable item, or on the replacement cost of a particular item. The cost could be determined on a historical basis by increasing the purchase price by the cost of any improvements and adjusting the final value to reflect reasonable appreciation (or depreciation). With respect to certain property the assessed value for tax purposes, adjusted appropriately, could be used. See also the definition of estimated value, section 209 (5). In the vast majority of instances the value of a financial interest need not even be known in order to determine weather or not a conflict of interest may exist. It is the nature of the financial interest that is important. If an individual owns stock in a company it is important that the identity of the company be known in order to determine whether or not the individual could affect that company through the performance of his Government job. If the business of the company is totally unrelated to the individual's job, however, it makes no difference, from a conflict-of-interest standpoint, whether the individual owns 1 share of or 1 million shares. Accordingly, the importance of having precise values reported is such as to warrant putting reporting individuals to the expense of formal appraisals.

INTERESTS OF MEMBERS OF THE SPOUSE AND CHILDREN

Paragraph (e) of section 202 provides that the financial interests of a member of the reporting individual's spouse and dependent children must be reported. An exception is made for the interests and categories of unearned income received by such family members. The source and amount of such income need not be reported. Holdings of assets creating income will be.

The reporting of financial interests of family members is a very sensitive matter. But the provisions do not require that the reporting individual report the interests of family members, it only requires that such interests be included as part of this report. Thus, in a situation where a family member interests be included as part of his report. does not wish the reporting individual to know directly about certain financial interests, the family member may submit the information directly to the appropriate reviewing official for inclusion. Of course, this confidentiality cannot be maintained with respect to that information which is required to be publicly disclosed, but confidentiality is possible for information required to be reported by family members of individual described and for actual values of the categories of value reported by family members of individuals described.

There are two specific exceptions with respect to reporting financial interests of family members. First, section 202(e)(2) provides that the financial interests of a spouse need not be reported with respect to a spouse who is legally separated under a decree of divorce or separate maintenance from the individual submitting the report or living apart with the intention of such marital disharmony. Second, subparagraph (C) provides that reporting of specific information on items relating to any member of the individual's family is not required if the individual submitting the report certifies that: (i) the individual has no knowledge of the information; (ii) the individual has made every reasonable effort to obtain the information; (iii) the individual derives and expects to derive directly or indirectly from income, property, or liabilities formerly owned or controlled by the reporting individual.

FILING OF FINANCIAL REPORTS

(a) Section 201 and 202 sets forth requirements with respect to when financial reports must be filed by individuals required to report. Paragraph (1) provides three different points in time by which covered individuals must report: (A) not later than 30 days after assuming the duties of the individual's of-

fice or position; (B) not later than May 15 following any calendar year during which the individual held an office or position for more than 60 days; and (C) not later than 30 days after leaving the office or position. Reports filed upon assuming office [subparagraph (A)], and on each May 15 [subparagraph (B)] are required to cover the preceding calendar year. Reports filed upon leaving office [subparagraph (C)] are required to cover the period of the current year which elapsed before the individual left the office and the preceding calendar year if that year has not been previously reported on in a May 15 report or a report filed upon assuming office.

Section 206 requires that those officers responsible for receiving reports assure that such reports are filed.

DISCLOSURE OF REPORTS

Section 205 provides for disclosure and public availability of information contained in reports filed pursuant to the part.

An exception with respect to the disclosure requirements is provided in subsection 205(a) and relates to national security concerns. Subsection 205(a) provides that the President may provide for exceptions from the public availability requirements in the case of any office or position in the Central Intelligence Agency, the Defense Intelligency Agency, or the National Security Agency, or any other individual engaged in intelligence activities and that the President may provide for additional (fake) reports as are required for protection.

Subsection (b)(1) of section 205 provides that any person receiving a copy of a report or inspecting a report (1) must supply his name and address and the name of person or organization, if any, on whose behalf he is requesting the report, and (2) may be required to pay a reasonable fee, in any amount that is found necessary, to recover the cost of reproduction or mailing of the report. The reasonable fee may not include any cost attributable to the pay of any employee involved in the reproduction or mailing of the copy. Subsection (c) further provides that a report may be furnished without charge or at a reduced charge if it is determined that a waiver or reduction of the fee is in the public's interest.

The last sentence of subsection (c) of section 205(b)(3) requires that the names and addresses of persons or organizations inspecting or receiving a copy of a report shall be disclosed to the reporting individual. This provision requires notification to the reporting individual of the name and address of persons or organizations inspecting or receiving a copy of his report. This notice is required in the case of former employees even if it is extremely difficult for an agency to locate former employees. I will offer an amendment to correct this situation.

Subsection (c)(2) relates to unlawful acts with respect to inspecting or obtaining information from reports made available to the public. Paragraph (1) of subsection (c) provides that it shall be unlawful for any person to inspect or obtain such information (A) for any unlawful purpose, (B) for any commercial purpose, (C) for determining or establishing the credit rating of any individual, or (D) for use directly or indirectly in the solicitation of money or assistance for any political, charitable, or other purpose. Paragraph (2) provides that the Attorney General may bring a civil action against any person (A) who inspects or obtains information for those purposes prohibited by paragraph (1), discussed above, (B) who inspects or obtains information by falsifying his name or address, (C) who inspects or obtains information on behalf of another person or organization without disclosing the name of such person or organization, or (D) who fails to comply with any term or condition under which such information is made available to the individual. Section 205(c)(2) provides that the court in which any civil action is brought by the Attorney General may assess a penalty in an amount not to exceed $5,000.

Section 205(d) provides that information filed under subchapter VI shall be made and held available to the public for a period of 5 years, and then destroyed, except in the case of unsuccessful candidates for President or Vice President or unsuccessful nominees, such reports shall be destroyed one year after consideration or candidacy has ended.

LIABILITY UNDER OTHER AUTHORITY

Section 207(a) states that the reporting requirements established under this part to supersede reporting requirements under existing laws (see e.g., Public Law 95–87, sec. 201(f), approved August 3, 1977; Public Law 95–91, section 601 et seq., approved August 4, 1977), Executive order (e.g., Executive Order No. 11222), or regulation (e.g., CFR Part 735). The provisions of the part should, of course, not be construed to prevent any congressional committee from requesting any additional information from any nominee whose nomination has been referred to that committee, or to prevent an appropriate Congressional, Judicial, or Executive branch official from requesting of any specific individual confidential financial information in the course of a specific investigation or inquiry.

Subsection (b) of section 207 provides that the provisions of the part that require the reporting of information shall supersede any general requirement under any other provision of law or regulation with respect to the reporting of information required for the purposes of preventing conflicts of interest or apparent conflicts of interest. An exception is provided with respect to reporting under section 7342 of title 5, United States Code (as amended by Public Law 95–105, section 515(a)(1), approved August 17, 1977), relating to foreign gifts and decorations.

Section 207(c) provides that nothing in the part shall be construed to affect or modify any administrative, civil, or criminal liability to which a person required to submit a report may be subject. By no means is this bill meant to tell executive branch personnel that something like the acceptance of a less than $35 gift from a prohibited party is meant now to be permissible.

FAILURE TO FILE OR FALSIFYING REPORTS

Subsection 204(a) authorizes the Attorney General to bring a civil action against any person who knowingly or willingly fails to file a report which is required or to report any information which that person is required to report, and provides for a penalty of not to exceed $5,000 in such cases. Subsection (b) directs the head of each agency, by himself or at the request of a designated agency official or the Director, to refer to the Attorney General the name of any individual who he has reasonable cause to believe has failed to file a report or has falsified or failed to file information required to be reported.

Although civil penalties and referrals to the Attorney General are provided for in cases of reporting violations, inadvertent or technical violations should be handled by the agency's ethics counselor or the Director, as appropriate, through informal means or administrative action short of seeking either a civil penalty or disciplinary action as provided for under subsection (c) of section 204. Proper respect for human error must guide us all here.

EFFECTIVE DATE

Section 208 of title II provides that the amendments made by section 101 shall take effect on January 1, 1979.

DEFINITIONS

Section 209 provides eleven definitions of terms used in the part.

Mr. Chairman, I now yield such time as he may desire to the gentleman from Virginia (Mr. HARRIS), who has been very helpful in this entire area.

Mr. HARRIS. Mr. Chairman, I am pleased to support title I of the Ethics in Government Act today, which will require annual financial disclosure reports by Members of Congress and candidates for Congress. This bill will place in law the tough requirements we imposed on ourselves last March. I supported these reforms because they will help restore confidence in the integrity of Congress.

The American people have had enough Watergates, Koreagates, and behind-the-scenes influence peddling. I think the American people will applaud our action today as we undergird our own rules by putting the force of law behind them.

As a public official, I have always felt it my duty to disclose my income, assets, and liabilities. My constituents have had access to my tax returns. My financial affairs are not hidden from their view. I think public officials should accept public accountability when they seek public office. And I believe one's private financial interests can have some bearing on public policy actions. The citizen should be able to view votes alongside finances. But the important point, I think, is that knowing one's financial interests will be made public is a deterrent to questionable acts. Quite simply, sunlight is the best disinfectant.

NO SPECIAL INTEREST TIES

Last year, we imposed on ourselves a 15-percent limit on outside income. At the time, I said that I thought we should have a flat prohibition on outside earned income. I continue to hold that view. I understand that an effort will be made to strike the limit on outside income and the ban on Members' accepting speaking fees over $750 per year. I will vigorously oppose efforts to weaken those important prohibitions.

I am against allowing elected officials outside income for several reasons. First, the job of a Member of Congress is a full-time job. People elect us to represent them, to conduct the public's business. An outside law practice or paid position on a corporation board competes for the official's time, attention and priorities. It can rob the people of the representation they deserve.

Second, such outside financial ties can create conflicts of interest. We must deal with virtually every problem and issue the Federal Government deals with. And while many times a bill may have no bearing on the Member's "outside" job, the appearance of impropriety is still there. This appearance in and of itself can undermine confidence in elected officials.

Third, we should not "cash in" on our position. We are in the business of formulating policy—not making money for personal gain. We should not use the prestige of our position to engage in profit-making ventures. We should be required to cut off all special interest ties.

Our adoption of this legislation today will be a milestone. It will show the public we are serious about ethics, that we are willing to discipline ourselves. Above all, it is my hope that we can reverse the

people's growing distrust of Government and restore faith in the people's Government.

Mr. GILMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 13850, a compromise forged by the Committees on Post Office and Civil Service, Judiciary, and Armed Services. I wish to compliment the members from those respective committees who labored so diligently to achieve this compromise bill.

H.R. 13850, the Ethics in Government Act of 1978, requires designated officers and employees of the United States, and candidates for Federal office, to file reports as to their income and financial holdings and transactions, places long-needed prohibitions on postemployment practices of certain officers and employees in the executive branch, and provides for civil penalties for failure to adhere to the requirements of this legislation.

Like all compromises, H.R. 13850 will not please everyone. That this legislation is needed is obvious and I urge its adoption.

H.R. 13850 artfully preserves the constitutional balance of power arrangement in our Government by insuring that the same prohibitions and restrictions, with several necessary exceptions, are applied equally and fairly across the board upon all three branches of Government.

I do have one serious reservation regarding the compromise embodied in this bill. H.R. 13850 does not contain the Committee on Post Office and Civil Service's proposal regarding the organizational structure of the Office of Government Ethics. Rather, this legislation perpetuates a system of part-time ethics counselors organizationally located in departments and agencies under the control of the respective department secretary or agency head.

The confidential financial reporting system now operating in the executive branch is a disaster. In the past 3 years, the GAC has issued 21 reports testifying to its faults. GAO has found that conflict-of-interest rules are not evenly applied in all agencies and that agency ethics counselors only work part-time on their responsibilities. Both these faults are the result of agency heads being responsible for governing their own ethics programs. We need look no further than the recent disclosures of activities of the General Services Administration to see how bad things can be.

The substitute (H.R. 13850) continues to place ethics program responsibility upon agency heads and to envision part-time ethics counselors. The Schroeder amendment creates a limited number of full-time ethics counselors under the complete control of the Director of the Office of Government Ethics. We want to point out that although the administration opposes the Schroeder amendment, the President himself, in employing Charles Kirbo to step into the GSA scandals, is following its philosophy. The amendment is also quite similar in concept to the independence we voted overwhelmingly to give agency inspector generals.

Second, the Schroeder amendment does not hide the cost of administering the ethics program in the form of agency budget submissions for their own ethics counselors all over the budget.

Third, the reason for the Ethics in Government Act is to assure the public that Federal employees are not financially involved in decisions they make. The Schroeder amendment requires all executive branch regulations concerning the act to be made subject to the rulemaking procedures of the Administrative Procedures Act, gives the right to interested persons to go to court to modify or enforce the rules, and finally, permits Congress to veto the rules.

To correct this situation, the gentlelady from Colorado, the honorable chairperson of the Subcommittee on Employee Ethics and Utilization, will offer an amendment to title II, part B, of this bill that will embody the committee's proposal. I urge support for the adoption of this amendment, and I will speak further on this amendment at the appropriate time.

Mr. Chairman, I now yield 2 minutes to the gentleman from Illinois (Mr. CORCORAN).

Mr. CORCORAN of Illinois. Mr. Chairman, I rise in support of H.R. 1, the ethics in Government bill, which I believe is necessary for the simple reason that the people of this country need to have their faith in the integrity of Congress restored. Too many people believe that politicians are scoundrels seeking their own personal interest at the expense of the public interest. Each new national public opinion survey conveys this growing lack of confidence in our Government. To reverse this growing cynicism, we need this landmark legislation before us today.

Some argue that, with the electoral process we have, nothing more needs to be done. Unfortunately, there are times when this option is not sufficient. When people begin to believe that the institution itself causes unscrupulous behavior or attracts unscrupulous people, it is not enough to give the citizens an opportunity to reject these people. Then it is a choice between the lesser of two evils, not the better of two good choices.

When people doubt the integrity of the institution, the Government itself, it is a sign that it is time for the Government to take extraordinary steps to address this concern. We must take matters into our hands and make some meaningful changes. I am not suggesting changes so major as to change the structure of Government, but I am suggesting changes that will work to instill faith in our Government once again.

H.R. 1 embodies a technique which is already working well to eiminate abuses in campaign financing—disclosure—and I heartily endorse the disclosure provisions of H.R. 1. We cannot legislate faith, but we can legislate conditions conducive to faith—conditions that inhibit actual violation of the public trust, conditions that enable people to scrutinize public officials and determine for themselves whether these officials are deserving of trust. H.R. 1 does just this.

I am aware that some of my colleagues believe that the provisions in this bill constitute a violation of the right to privacy. We all prefer privacy; it is only natural. But the right to privacy regarding personal financial status that each of us had before becoming Members of Congress must now be weighed against another right—the right of the people of this country to have a reasonable and practical means of insuring that the public representative's interest squares with the public interest.

Just as every right carries with it a corresponding responsibility, so the right to make decisions that affect the people of this country carries with it the obligation for us to insure that these decisions are in the best interests of all the people in this country. I believe the price one must pay in exchange for the honor of serving the people is the obligation of demonstrating that one is deserving of and will not abuse this honor. The rhetoric about the right of privacy must not be a shield behind which public officials hide personal gain or give the appearance of so doing.

Mr. Chairman, H.R. 1 legislates the structure and standards so that the right of the American people to honest government can be preserved; I urge my colleagues to support it.

Mr. GILMAN. Mr. Chairman, I now yield 3 minutes to the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Chairman, I think this bill is going to be—and I anticipate that the bill will pass—one of the most unfortunate pieces of legislation we pass this year. It is misdirected. We do not yet understand the problem right here in the Congress. We are talking about this ethics bill, and it comes basically from three background situations. One of them is Watergate; another is Koreagate; and another one is this GSA situation.

Let us look at the three of them. Watergate, what was that? That was one political party trying to put an electronic bug in another political party's ceiling, and they did not succeed. What has that got to do with an ethics bill, or information?

No. 2, Koreagate, we had one country trying to reach directly through to people who serve in these bodies, and trying to assert themselves. What a person had or what his resources were had no bearing on Koreagate. It is just a question of one foreign power trying to work this way.

What was the third? It was GSA, where people working for civil service were trying to figure some way to make a quick buck, but not an honest buck—they are very much under the table. In no way does this bill cover any of the three situations.

We are not facing the facts. What we are trying to do is find a way to level America down. The only way the country can go up is if everybody moves forward. The part that disturbs me the most about the bill is what we are going to do to the executive appointments. Many of the great leaders of this country are also successful financially. They might make $200,000 or might make more.

With this bill, the way it is drawn up,

if President Carter or any future Presidents want to appoint really outstanding business leaders or executive leaders, they are going to be required to file a disclosure that will not only hurt them personally, but hurt the associates with whom they have been doing business. The impact these requirements will have in future years on attracting good people to top Government posts will be profound.

I have read this bill over. I do not see how it affects me. I do not have an outside salary; I do not have commissions; I am not a lawyer; I do not receive honorariums. Yet, I think many times we think, "How does this affect us?" What we really ought to think about is, how does this affect the country. And this bill is not good for America. We should not place these limitations on selecting future leadership.

Mr. Chairman. In an herculean effort to legislate morality and confidence in our Government four separate committees of the House—Post Office and Civil Service, Armed Services, Judiciary, and Select Committee on Ethics—have drafted language to require detailed financial disclosure to top officials and employees of executive and judicial branches of our Government, as well as top officers of the military departments. The legislative branch is already required to file such disclosure reports, and this bill will merely codify into law these requirements.

These reports include such items as real estate, personal property, certain gifts, certain liabilities, liabilities, financial interest of spouse and immediate family, and other areas of an essentially private nature.

Some place along the way, we seem to have confused the words "conflict of interest" with the words "public interest," and that in which the public is interested.

It is the legitimate concern of Government to protect the public from "conflict of interest" among its legislators, officials, and employees. To that end, there are numerous criminal statutes which prohibit Government employees from engaging in matters in conflict with their official duties. If found guilty, severe penalties are available.

Beyond this point, we should tread carefully. To require career merit appointee employees, Presidential appointees to Government posts, and other top officials and employees to disclose publicly their personal financial holdings in detail is, I believe, unnecessary and an invasion of privacy.

Such requirements, which serve little purpose except to bare one's financial soul to anyone who has a passing curiosity, are counter-productive. These requirements will deter successful, able persons from entering public service.

Mr. Chairman, the "need or right to know" of the public must be carefully balanced against the individual's right to privacy. In the rush to report this bill to the House to satisfy the administration's mandate to put some kind of "ethics law" on the books, the several committees of Congress appear to have failed to carefully consider this important point.

The CHAIRMAN. The Chair now recognizes the gentleman from North Carolina (Mr. PREYER) for 15 minutes.

Mr. PREYER. Mr. Chairman, the Select Committee on Ethics has worked very hard on this bill for about 20 months now, that part of the bill which will be title I.

I want to thank all the members of the committee for all the hard work they have done and I particularly want to thank the ranking minority member of the committee, the gentleman from California (Mr. WIGGINS), for all of the work he has put in on this bill to improve it and to refine our advisory opinions, even though he disagrees with much that is in the bill. We always had his cooperation although we did not always have his agreement.

I want to thank the staff of the Select Committee on Ethics and particularly our Chief Counsel Don Terry, who did a really outstanding job on a very complicated subject.

Finally, I would like to call attention to the fundamental role of the Obey Committee on Administrative Reform and particularly the role of their chairman, the gentleman from Wisconsin (DAVE OBEY), and the chairman of the Subcommittee on Legislative Ethics, the gentleman from Indiana (Mr. HAMILTON).

It was that committee which basically put up the framework of this ethics building and our committee fitted out the details of that framework. We owe those gentlemen and that committee a great debt.

Those of us who serve in this body and who respect it and who love it know that the overwhelming majority of the Members of Congress do not peddle influence, do not accept expensive gifts from lobbyists, and do not abuse the public trust. The gentleman from Louisiana (Mr. WAGGONNER) said not long ago that he would rather lose his wallet on the floor of the House of Representatives than any place else he can think of. Well, I concur with the gentleman from Louisiana (Mr. WAGGONNER). Members of Congress do not come to Congress in order to get rich. The motivation that makes people come to Congress is something quite other than financial gain. It is usually excitement. It is power, yes. Also it is a desire to try to improve our country a little bit, to try to make this a better place to live, and the satisfaction one gets from that is one of the motivations.

Unfortunately this is not the public perception of the Members of Congress. It has become a cliche to say that we have a crisis of confidence in our institutions.

This bill is an effort to improve the effectiveness of this body but it is also an effort to improve the credibility of this body. A democratic society has got to have a minimum level of credibility in its institutions. If we were a totalitarian society, it would not matter if there was no credibility in the Congress of that society, but in a democratic society we have got to have that confidence. The public cynicism about Congress directly affects our ability to do our job here, so that is one of the things these rules are trying to be directed at.

These new rules will not assure that power is never abused. Ethics reform also is not going to assure us that the public is going to have affection for us in the future. Only a series of positive achievements are going to bring this about. But minimizing conflicts of interest, increasing public accountability, and providing the public with the necessary information to monitor conflicts of interest.

As Justice Brandeis said, sunshine is the best disinfectant and electric light is the best policeman; setting high standards by which we conduct ourselves; eliminating those gray areas where a Korean scandal can take place; by making clear that no Member of Congress can cash in on his position of influence. In short, by treating a public office as a public trust; treating it as if we are trustees for others and are not here to enrich ourselves—doing all these things will certainly help to restore full public confidence in this body.

Mr. HYDE. Mr. Chairman, would the gentleman yield?

Mr. PREYER. I yield to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would ask the gentleman from North Carolina (Mr. PREYER) would it not be also laudable, and ought it not be our goal, to try to make service in this body an attractive, desirable thing, for a wide variety of people, cross section of Americans?

I just fear that we are penalizing the successful, middle-level person, who has a young family, who has three or four children he is trying to put through school, and who must maintain two homes, and that we are almost mandating that the only persons who can serve are the very wealthy, who have independent means of income, or to young people just out of college, looking for dragons to slay—and that is fine—but do we not need the successful person who has been in business and must be capable of supporting his family, must we rule those people out economically because of a desire to measure up to a mere perception that the media has assisted in creating? Is quality not as important as perception?

Mr. PREYER. I would certainly agree with the gentleman that we do want the type of people he has indicated. I think where we might disagree is that I think the way we are going to get those people and keep them is by paying Members of the Congress an adequate salary. But I do not think the way to do it is to pay them an inadequate salary and ask them to supplement their salary on the outside.

But I can understand the gentleman's position. I hope that the salaries of Members of Congress will be adequate for the kind of job they must do, and to support the kind of Members the gentleman is talking about.

Mr. HYDE. I thank the gentleman.

Mr. HOLLAND. Will the gentleman yield?

Mr. PREYER. I yield to my colleague, the gentleman from South Carolina (Mr. HOLLAND).

Mr. HOLLAND. Mr. Chairman, I thank my colleague for yielding and I rise, somewhat reluctantly. I heard the gentleman say that there is a great public cynicism about the Congress. I do not know the basis of or the origin for the statistics, or where those allegations have come from. We have just gone through a rather difficult period of the reelection process in which, again, the vast majority of the Members of the Congress were reelected, which rebuts completely any statement that there is a public cynicism of the Members of the Congress because if it was that bad, they would all have been turned out in the recent primary elections.

Second, I admire the gentleman's purpose, but I do not think we can create an impression in the public's mind that this is an institution of purity and righteous people by passing this law. I think we, individually, have a duty to behave in an acceptable fashion to show the public that we are ethical. So I am a little bit concerned that we are creating a law here that is going to make more headlines as Members make an error here and there. That it is going to drive people away from even thinking about running for Congress. Following the Watergate era, I am told, there were speeches being made by the members of the Committee on the Judiciary all around the country to describe Watergate and its ramifications. I am told there were honoraria paid for those speeches, so that the Members derived some personal income from that unfortunate experience. But the public, I believe, derived a far greater benefit from that type of exposure. And I suppose the day will come where the next big problem occurs and it will again bring about the participation of the Members and another demand around the country for more speeches and more honoraria.

So I do not think the Members should be deprived of that privilege by earnings limitation.

Mr. PREYER. Mr. Chairman, if I might reclaim my time, I only have a few more minutes. I would like to complete my statement.

Mr. Chairman, let me emphasize that the purpose in drawing up these rules and in making these changes is not to punish the Members of Congress for some alleged past misconduct. The committee does not view itself as some sort of avenging angels of disclosure. We are not trying to impose some sort of Cromwellian new Puritanism on this body; but we are seeking to set up rules of conduct which are reasonable and which will make this institution work better, not just rules which are ideal, but rules which work.

We appreciate the comment which was made by the gentleman from South Carolina that we cannot legislate morality. We cannot change the human heart, but we can change conduct, we can change the way people act. Anyone who doubts that should just take a look at what has happened as a result of passing the Civil Rights Act.

We would establish some rules here which change and affect conduct. They set some high standards, higher standards than the general public is asked to live up to. There is a kind of double standard between public officials and the members of the public. There ought to be. Those who serve in public office are expected to set an example.

As Chaucer said, "If gold ruste, what shal iren do?"

Nevertheless, we are trying to keep these rules simple and to minimize the reporting requirements. We do not want to turn each Member into an accountant. We are concerned over invasions of privacy; and in drafting these rules, we tried to give the public the information it needs to monitor potential conflicts of interest.

But we were not interested in requiring Members to disclose their entire net worth or what kind of cars they drive or how much their personal residence cost. There is no publication of Members' tax returns. We have tried to be reasonable.

Finally, Mr. Chairman, I would like to make some more specific comments on this legislation.

Title I would enact into statute the financial disclosure provisions of House rule XLIV, with several clarifying amendments and definitions consistent with the select committee's interpretation of the disclosure rule. The bill makes no substantive changes in the reporting requirements under rule XLIV. I am sure that most of my colleagues will agree, having already filed a disclosure statement under House rules, that the existing requirements are not overly burdensome and do not unnecessarily invade the privacy of the reporting individual or his family.

The bill also extends financial disclosure requirements to nonincumbent candidates in any primary or general election for Congress, and it provides certainty of coverage by applying the disclosure law to all congressional employees earning at least the GS-16 salary level.

The compliance and enforcement provisions in title I will help to insure that Members will not be subject to any civil penalty under the act for inadvertent error or omission in the disclosure report. The House Committee on Standards of Official Conduct and the Senate Ethics Committee are required to review the reports for completeness and to direct the individual to take corrective action if a report is not complete and in proper form.

In addition, the bill specifies that the Ethics Committees are authorized to issue advisory opinions to any Member with respect to the disclosure requirements, and that any Member who acted in accordance with an advisory opinion would not be subject to any sanction under the act. Title I establishes a maximum civil penalty of a $5,000 fine for knowing and willful falsification or knowing and willing failure to report the required information. These enforcement provisions would clearly not apply to any inadvertent error or omission arising from a misunderstanding of the disclosure requirements.

Mr. Chairman, I believe that this substitute bill meets the test of commonsense reasonableness in assuring the public that it will have the information necessary to monitor potential conflicts of interest, while minimizing the reporting burden and avoiding unnecessary invasions of privacy. Financial disclosure legislation has been pending in the Congress for years. It is essential that the Ethics in Government Act be passed and signed into law this year in order to help restore public confidence in Government. At the conclusion of my remarks I would like to insert into the RECORD a summary and section-by-section analysis of title I of H.R. 13850, along with some additional comments which clarify particular provisions of the bill.

Mr. Chairman, Members will also be voting today on an amendment to strike the outside earned income limitation in House rule XLVII. Last year, this same amendment was defeated by an overwhelming vote of 344 to 79. I am confident that those who supported the earned income rule last year continue to recognize the importance of this key ethics reform and will vote against the Quillen amendment.

One of the arguments against the earned income limitation is that it will change the nature of the body because it will deter successful businessmen and professionals from running for Congress. But there is no evidence to suggest that this would be the case. The fact is that about 90 percent of all current Members totally severed their former business relationships or professional careers when they entered Congress, and the vast majority of Members have no outside earned income in excess of the limitation. Thus, it is clear that most Members recognize that congressional office is a full-time responsibility and believe that it is inappropriate to continue earning substantial income from private sources while serving in the Congress.

The earned income rule reflects reality; it would not affect the current practice of the overwhelming majority of Members. Therefore, there is no reason to believe that the income rule will result in a Congress composed of only the very weathy or the young and inexperienced. Indeed, there is no indication that individuals are reluctant to run for Congress because of the earned income rule, nor has the rule had any influence on the number of retirements from the House.

The earned income limitation is the heart of the ethics code. Unlimited earnings from outside sources creates at least the appearance of impropriety and invites public suspicion of conflicts of interest. It is essential that the rule be retained in order to assure the American public that Members of Congress are not using their positions of influence for personal gain or are being affected by the prospects of outside income. I strongly urge my colleagues to vote "no" on the Quillen amendment.

The material follows:

H.R. 13850—TITLE I

SECTION-BY-SECTION ANALYSIS

Section 101: Coverage.

Sec. 101 provides that each Member and

officer of the Congress; each principal assistant to a Member or officer; each employee of a Member, officer, or committee compensated at the GS-16 salary level or above; and any candidate for the office of Member must file a disclosure statement as prescribed by section 102. If no employee in a Member's office is compensated at a level of GS-16 or above, the Member is required to designate at least one principal assistant to file a disclosure statement.

Section 102: Filing of Reports; Duties of Clerk and Secretary.

Sec. 102 specifies when and where disclosure reports are to be filed, and details the responsibilities of the Clerk and Secretary.

Subsection (a)(1) provides that, except for candidates, individuals shall file, not later than May 15 of each year, a report on a form developed and made available by the Clerk or Secretary. Individuals whose compensation is disbursed by the Clerk or Sergeant at Arms shall file their report with the Clerk of the House; those compensated by the Secretary of the Senate shall file with the Secretary.

Subsection (a)(2) provides that candidates, and any individual who did not hold his position for the entire reporting period, need not disclose gifts and reimbursements received while they were not subject to the disclosure requirements.

Subsection (b) provides that any individual who becomes a candidate in any election for the office of Member shall file a disclosure report by October 1, 1978 or within 15 days after becoming a candidate, whichever occurs later. The term "candidate" is defined in section 108 similar to the Federal Election Campaign Act definition.

Subsection (c)(1) requires that a copy of reports filed by Members and candidates shall be sent by the Clerk or Secretary within seven days of the date of filing to the appropriate state officer designated under the FEC Act to receive campaign reports.

Subsection (c)(2) requires the Clerk and Secretary, by June 15 of each year, to compile and publish all reports filed by Members and Senators, respectively, as a public document.

Subsection (d) provides that the Clerk and Secretary shall send a copy of each report, within seven days of the date of filing, to the House Committee on Standards of Official conduct and the Senate Select Committee on Ethics, respectively.

Subsection (e) directs the Clerk and Secretary to avail themselves of the assistance of the Federal Election Commission to assure candidate disclosure.

Subsection (f) authorizes the Clerk and Secretary, after consultation with the appropriate House and Senate committees, to promulgate rules and regulations in carrying out their responsibilities under the Act.

Section 103: Contents of Reports.

Sec. 103 (a) provides that each report shall contain the following information:

(1) Income: The source, type, and amount of income from any one source (other than from current employment by the U.S. Government) received during the preceding calendar year aggregating $100 or more in value. The term "income" is intended to be all-inclusive, as defined in Section 108. The "type" of income means that the reporting individual should identify income as salaries and fees, honoraria, interest, dividends, capital gains, rental income, etc.

(2) Gifts: (A) The identity of the source and a brief description of any gifts of transportation, lodging, food or entertainment aggregating $250 or more in value received from any one source, except that any food, lodging or entertainment received as personal hospitality of an individual need not be reported; (B) the identity of the source, a brief description, and the estimated value of all other gifts aggregating $100 or more in value received from any one source. Gifts from relatives (as defined in section 108) are exempted, and any gifts with a fair market value of $35 or less are exempted and need not be aggregated towards the $250 or $100 disclosure threshold.

The term "gift" is defined in section 108, and certain categories of gifts are specifically exempted from disclosure. The personal hospitality exemption is essentially limited to food, lodging, or entertainment provided at the personal residence or other property owned by the individual providing the hospitality. It would not extend to hospitality in facilities owned or provided by a corporation. Travel on a boat or airplane owned by an individual is included in the exemption for personal hospitality unless such travel is substituting for commercial transportation.

In disclosing gifts of entertainment or travel-related expenses, the individual, should include a brief description of the itinerary or the nature of the expenses provided. In disclosing tangible gifts, if the value of a gift is not reasonably ascertainable, the individual should provide a good-faith estimate of the fair market value.

(3) Reimbursements: The identity of the source and a brief description of reimbursements received from a single source aggregating $250 or more in value. The term "reimbursements" is defined in section 108 to exempt payments for travel expenses provided by federal, state, and local governments, by a foreign government within a foreign country (such expenses are disclosed under the Foreign Gifts and Decorations Act), and campaign reimbursements reported to the FEC. This provision requires disclosure of such items as travel-related expenses provided in connection with a speaking engagement or fact-finding event related to official duties, whether those expenses were reimbursed to the individual or paid directly by the sponsoring organization. As with disclosure of gifts of travel expenses, only a brief description of the itinerary or the nature of the expenses is required, rather than an itemized accounting of the expenses provided to the reporting individual.

(4) Holdings: The identity and category of value of any interest in property held in a trade or business, or for investment or the production of income, which has a fair market value which exceeds $1,000 as of the close of the preceding calendar year. Only property held as of the end of the year must be disclosed.

This provision does not cover property in the nature of household goods, furniture, clothing, or other personal property which is not principally held for the production of income. Thus, a painting in a home would not have to be listed even though the painting when sold might produce substantial income.

However, if a reporting individual is in the business of buying and selling paintings for profit, that individual would have to list that he held a certain number of paintings with the category of value of that holding being indicated. This paragraph does not require the listing of a life insurance policy even if the policy has a cash value since the policy is held for the principal purpose of life insurance protection and not the production of income. However, a savings account would have to be reported under this paragraph even though there might be other purposes for the savings account other than the production of interest income. A typical loan made by the reporting individual to another person must be listed since such an arrangement involves personal property held for the production of income. However, specifically excluded from disclosure is any liability owed to the reporting individual by a relative. In such a case, the typical loan is usually not for the production of income.

In reporting under this paragraph, a person could have one listing for "farm equipment" and it would not be necessary to list each tractor or combine separately. However, it would not be acceptable to simply list "stocks"—the name of each company in which stock worth over $1,000 is held must be listed separately. Similarly, it is not acceptable to simply list "John Jones Trust"—the identity of each investment holding in the trust, if known, must be listed separately.

This provision treats real property the same as personal property. Thus, only real property held in a trade or business or for investment or the production of income must be reported. Accordingly, a personal residence would not be subject to disclosure under this provision. Likewise, a summer home or other property which is held and maintained purely for recreational or vacation purposes need not be reported. A summer home which is rented, however, is held for the production of income and must be disclosed.

The value of property held in a trade or business or for investment or the production of income should reflect the fair market value as of the end of the calendar year. It should not be necessary to obtain an appraisal to determine the fair market value since the value of property holdings are disclosed only within certain broad categories. However, in those instances where it is difficult to make even a good-faith estimate of the category of value of an asset, the individual may use any generally recognized indication of value provided that the method of valuation is indicated on the disclosure form. Where the current value of an interest in real property (or an interest in a real estate partnership) is not ascertainable without an appraisal, the individual may list the category of value of the original purchase price, and indicate the date of purchase, instead of specifying the current category of value.

(5) Liabilities: The identity and category of value of the total liabilities owed to any creditor, other than a relative, which exceeds $5,000 as of the close of the preceding calendar year, excluding (A) any mortgage secured by a personal residence of the reporting individual or his spouse; or (B) any loan secured by a personal motor vehicle or household furniture or appliances. This provision requires disclosure of all personal loans, whether secured or unsecured, and regardless of the repayment terms or interest rates. The exemption for a mortgage on a personal residence applies to the individual's principal place of residence as well as to a summer home. If the vacation property is not subject to disclosure under paragraph (4) as property held for production of income, any mortgage on that property need not be listed as a liability. A contingent liability (e.g., if the individual co-signs a note), and the liabilities of a business, corporation, partnership, etc., in which the reporting individual has an interest also need not be disclosed. The identity of a personal liability should include the name of the individual or organization to which the liability is owed.

(6) Transactions: A brief description, the date, and category of value of any purchase, sale or exchange during the preceding calendar year which exceeds $1,000—(i) in real property, other than a personal residence, or (ii) in stocks, bonds, commodities futures, and other forms of securities. Exempted are any transactions solely by and between the reporting individual, his spouse or dependent children. A typical listing under this provision would be that a 10% interest in an office building at 1500 Connecticut Avenue, Washington, D.C., was purchased on November 15, 1978, and the reporting individual's interest in that purchase had a category of value between $50,000 and $100,000; or that ABC stock had been purchased on December 1, 1978, and the category of value of the purchase

was between $5,000 and $15,000. The amount listed is the category of value of the purchase price or sales price and is not related to any capital gain or loss on the transaction.

Subsection (b) provides that for purposes of pargaraphs (4), (5), and (6) in subsection (a), the individual need not specify the exact amount or value of each item, but only its "category of value". Categories of value are: (1) not more than $5,000; (2) $5,000 to $15,000; (3) $15,000 to $50,000; (4) $50,000 to $100,000; and (5) greater than $100,000. Since the purpose of disclosure of holdings, liabilities, and transactions is to identify potential conflicts of interest, the exact value of the holdings, liability or transaction is not needed. The use of categories of value fully meets the legitimate public purpose of identifying potential conflicts and the magnitude of those conflicts, while not requiring a yearly appraisal of each holding and also minimizing the invasion of privacy involved. Once a financial interest of liability exceeds $100,000 in value, the potential conflict is considerable, and there is no need to extend the categories of value into the millions of dollars.

Subsection (c) provides that campaign receipts or expenditures are not to be included in the disclosure statement since that information is reported to the Federal Election Commission.

Subsection (d) provides for disclosure of the interests of the spouse and dependent children of the reporting individual, as follows: (A) The source, but not amount, of spouse earned income from any person in excess of $1,000; (B) The source and a brief description or the estimated value of any gift to the spouse which is not received totally independent of the spouse's relationship to the reporting individual; (C) The source and a brief description of any reimbursement to the spouse which is not received totally independent of the spouse's relationship to the reporting individual; (D) The assets, liabilities, and transactions of the spouse and dependents unless the reporting individual certifies that such interests represent the spouse or dependent's sole financial interest or responsibility and are not in any way derived from the assets or activities of the reporting individual, and the reporting individual neither derives, not expects to derive, any economic benefit from such interests. In no case would gifts and reimbursements to the spouse be disclosed if received prior to the time the reporting individual held a position subject to the disclosure law.

The term "dependent child" is defined in section 108 to mean a son, daughter, stepson or stepdaughter of the reporting individual, who is unmarried, under age 21, and living in the household of the reporting individual, or is a dependent within the meaning of section 152 of the IRS Code.

This subsection explicitly exempts from disclosure the interests of a spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation, and also exempts any income or obligations of the individual arising from a divorce or permanent separation from the spouse.

Subsection (e) provides that the holdings of and income from a trust must be disclosed unless the reporting individual, his spouse, and dependent children have no knowledge of the contents or sources of income of the trust. In such, cases, the reporting individual must list the category of value of his interest in the total trust holdings and the income from the trust.

Section 104: Accessibility of Reports.

Subsections (a) and (b) require the Clerk and Secretary, within 15 calendar days after a report is filed with their office, to make the report available for public inspection, and to provide a copy of any report to any person upon written request.

Subsection (c) authorizes the Clerk and Secretary to require any person requesting a copy of a report to supply his name and address, and the names of any person or organization on whose behalf he is requesting the report. The Clerk or Secretary may also assess a fee for reproduction or mailing of a report, and may waive or reduce the fee if they determine it is in the public interest to do so.

Subsection (d) provides that reports will be available for public inspection for five years, after which time they will be destroyed. Except that any report filed by a candidate who was not subsequently elected shall be destroyed one year after the individual is no longer a candidate.

Subsection (e) states that it is unlawful for any person to obtain or use a report for any unlawful purpose; for any commercial purpose, other than by the news media; for determining or establishing the credit rating of any individual; or for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose. The Attorney General may bring a civil action against any person who obtains a report for any prohibited purpose. The court in which such action is brought may assess against such person a penalty in any amount not to exceed $5,000.

Section 105: Review and Compliance Procedure.

Subsection (a) directs the Committee on Standards of Official Conduct of the House and the Select Committee on Ethics of the Senate to establish procedures for review of reports sent to them to determine whether they are filed in a timely manner, are complete, and are in proper form. In the event a determination is made that a report is not so filed, the appropriate committee shall so inform the reporting individual and direct him to take all necessary corrective action. This review by the appropriate committee should minimize the number of inadvertent errors that may be made in filing the disclosure form.

Subsection (b) states that the House and Senate Ethics Committees have power to render advisory opinions to persons covered under the Act, and provides that any individual who acts in accordance with any such advisory opinion shall not be subject to any sanction provided under the Act. This provision assures reporting individuals that so long as they file a disclosure form in good faith reliance upon an advisory opinion, they have fully complied with the Act.

Section 106: General Accounting Office Study.

Subsection (a) requires the Comptroller General of the United States to conduct a thorough study before November 30, 1980, and regularly thereafter, to determine whether this Act is being carried out effectively and whether timely and accurate reports are being filed by individuals subject to this Act.

The review by GAO shall cover such areas as: (a) adequacy of the coverage provisions; (b) whether all persons required to file have done so; (c) the extent to which candidates have complied; (d) reasonableness of the filing deadlines; (e) whether the Clerk and Secretary have carried out their responsibilities; (f) reasonableness of the content requirements of the reports; (g) accessibility of the reports to the general public; (h) whether the appropriate State officer has effectively carried out his responsibilities; and (i) the role of the Justice Department in enforcing compliance and the extent and success of its involvement.

Subsection (b) states that within 30 days after completion of the study, the Comptroller General shall transmit a report to each House of Congress detailing his findings and conclusions, together with his recommendations for any legislative and administrative changes deemed appropriate. This subsection also requires the first such study to include the Comptroller General's findings and recommendations on the feasibility and potential need for a requirement that systematic random audits be conducted of financial disclosure reports filed under the Act.

Section 107: Failure to File or Falsifying Reports.

Section 107 provides civil penalties in the case of an individual who knowingly and willfully falsifies or fails to report any of the required information. The court in which action is brought may assess against such individual a civil penalty in any amount not to exceed $5,000.

Section 108: Definitions.

Paragraph (1) defines the term "candidate" to mean any individual other than a Member, who seeks nomination for election, or election, whether or not such individual is elected. An individual is considered to seek nomination for election, or election, if he has taken the necessary action under the law of a State to qualify for nomination for election, or election, or if he or his principal campaign committee has taken action to register or file campaign reports required by Sec. 304(a) of the Federal Election Campaign Act of 1971, as amended (2 U.S.C. 434(a)).

Paragraph (2) defines the term "Clerk" to mean the Clerk of the House of Representatives.

Paragraph (3) defines the term "committee" to mean any committee of the Senate or the House of Representatives, any subcommittee of any such committee, any joint committee of Congress, or any subcommittee of any joint committee.

Paragraph (4) defines the term "dependent child" to mean a son, daughter, stepson or stepdaughter who is unmarried, under age 21, and is living in the household of the reporting individual; or is a dependent as defined in section 152 of the IRS Code.

Paragraph (5) defines the term "election" to mean a general, special primary, or runoff election; or a convention or caucus of a political party which has authority to nominate a candidate.

Paragraph (6) defines the term "employee" to mean any individual, other than an officer or Member, whose compensation is disbursed by the Clerk of the House of Representatives or the Secretary of the Senate.

Paragraph (7) defines the term "estimated value" to mean a good-faith estimate of the dollar value if the exact value is neither known nor easily obtainable.

Paragraph (8) defines the term "officer" to mean an elected officer of the House of Representatives or the Senate who is not a Member. The committee does not intend that the Vice President be required to file under this Title. Officers included are, in the House, the Clerk, the Sergeant at Arms, the Doorkeeper, the Postmaster, and the Chaplain; and in the Senate, the Secretary of the Majority, the Secretary of the Minority, the Secretary of the Senate, and the Sergeant at Arms.

Paragraph (9) lists the persons included in the term "relative".

Paragraph (10) defines the term "Secretary" to mean the Secretary of the Senate.

Paragraph (11) defines the term "Member" to mean a United States Senator, a Representative in Congress, a Delegate to Congress, or the Resident Commissioner from Puerto Rico.

Paragraph (12) defines the term "gift" to mean a payment, advance, forbearance, rendering, or deposit of money, or anything of value, unless consideration of equal or greater value is received by the donor. Certain categories of gifts are exempted since they would not constitute any potential conflict of interest and it would be difficult to

keep accurate records of such items. Therefore, the definition of gift does not include:

(A) inheritances;

(B) political contributions;

(C) food, lodging, transportation, and entertainment provided on an official basis by federal, state, and local governments or political subdivisions thereof; and food, lodging, transportation, and entertainment provided by a foreign government within a foreign country;

(D) in the case of a Member, communications to the office of a Member in Washington or in his district, including subscriptions to newspapers and periodicals.

(E) suitable mementos of a function honoring the Member, officer, or employee;

(F) in the case of a Member, consumable products provided by homestate businesses located in the state from which the Member is elected and which are primarily intended for consumption by individuals other than the Member or his staff;

(G) food and beverages consumed at banquets, receptions, or similar events.

Paragraph (13) defines the term "reimbursement" to mean any payment or other thing of value received by a reporting individual, other than gifts, to cover travel-related expenses of such individual other than those which are—

(a) provided by the United States Government, the District of Columbia, or any state or political subdivision thereof;

(b) required to be reported by the reporting individual under the Foreign Gifts and Decorations Act in the case of travel expenses provided by a foreign government within a foreign country; or

(c) required to be reported under section 304 of the Federal Election Campaign Act of 1971.

Paragraph (14) defines the term "honoraria" to mean payments of money or anything of value for an appearance, speech, or article. Necessary travel expenses provided in connection with the honorarium are not to be taken into account for reporting of the honorarium as income, but such travel expenses would be subject to disclosure as a reimbursement.

Paragraph (15) defines the term "income" to mean all income from whatever source derived, including the following items: net income for services; net income derived from business; gains derived from dealings in property; interest; rent; royalties' dividends; annuities; income from life insurance and endowment contract; pensions; income from discharge of indebtedness; distributive share of partnership income; and income from an interest in an estate or trust.

Section 109: Supremacy Clause.

Section 109 provides that the provisions of Title I shall supercede and preempt any state or local law with respect to financial disclosure by reason of candidacy for federal office or employment by the United States Government.

CLARIFICATION OF REPORTING REQUIREMENTS

The following information is provided to clarify some of the disclosure provisions and certain exemptions to the reporting requirements.

REPORTING "TYPE" OF INCOME

The requirement that the type of income be disclosed means that the reporting individual should identify income as salaries and fees, honoraria, interest, dividends, capital gains, rental income, etc. In most cases the type of income received will be obvious from the disclosure statement, but a specific requirement that the income be identified will assure that there will be no confusion or misinterpretation of the income received.

CONTINGENT LIABILITIES EXEMPTION

The reporting of liabilities applies only to personal loans owed by the reporting individual, and not to contingent liabilities. For example, if the individual co-signs a note, he need not disclose that loan as a personal liability. Similarly, if an individual owns an interest in a business, corporation, partnership, etc., he need not report a liability of that organization. Business loans would be reflected in the disclosure of property holdings since the liabilities would be factored into the assets of the business to determine the value of the individual's holding. It is not the intention of financial disclosure legislation to require an itemized listing of each liability owed by a partnership or corporation in which the reporting individual has an interest. Only the personal indebtedness of the individual should be disclosed.

VALUATION OF PROPERTY HOLDINGS

The value of property held in a trade or business or for investment or the production of income should reflect the fair market value as of the end of the calendar year. It should not be necessary to obtain an appraisal to determine the fair market value since the value of property holdings are disclosed only within certain broad categories. However, in those few instances where it is difficult to make even a good-faith estimate of the category of value of an asset, the individual may use any generally recognized indication of value provided that the method of valuation is indicated on the disclosure form. Where the current value of an interest in real property (or an interest in a real estate partnership) is not ascertainable without an appraisal, the individual may list the category of value of the original purchase price, and indicate the date of purchase, instead of specifying the current category of value.

PERSONAL RESIDENCE EXEMPTION

The reporting of property holdings applies only to property held in a trade or business, or for investment or the production of income. Accordingly, a personal residence would not be subject to disclosure under this provision. This applies to the individual's principal place of residence as well as to a summer cottage or other property used for vacation or recreational purposes. For example, if the individual owns farm property where he spends some time during the year, and the farm is not intended to produce income from crops or livestock, that property would not be listed under this provision. The same applies to a vacation home so long as the property is not rented at any time during the year. In such situations, the property is not considered to be principally held for the production of income, and is thus not subject to disclosure.

In addition, any mortgage on a personal residence is specifically exempted from reporting of liabilities. This exemption applies to any personal residence, including a vacation home, in the same manner as described above. If the property is not subject to disclosure as property held for production of income, any mortgage on that property need not be listed as a liability.

GAO STUDY OF DISCLOSURE LAW

The GAO is directed to conduct a study and report to Congress on the effectiveness of the financial disclosure law and to determine whether "timely and accurate" reports are being filed. In the first study, GAO is directed to include recommendations on the feasibility and potential need for a random audit requirement. This authority for a GAO study should not be interpreted to authorize GAO to conduct an audit of reports filed pursuant to the disclosure law.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

I would just like to take a few moments, first, to commend the gentleman from North Carolina (Mr. PREYER), the chairman of the Select Committee on Ethics, for the outstanding job he has done for the House in producing this bill.

I serve on his committee and also I am a member of the Committee on the Judiciary, working with the gentleman from California (Mr. DANIELSON).

Mr. Chairman, I think we can take real pride in the bill we have produced.

With special reference to the outside income limitation provision I know this has been the most agonizing problem which we have had to face. The gentleman is absolutely correct. I know, full well that if this bill is adopted today, it will not make everything right. It will not provide all of us with outstanding public relations with the public.

However, I do think there is a distinct difference between unearned income and earned income. I think it is clearly the province and prerogative of this House to make certain rulings as to earned income and to refrain from making the same rulings as to unearned income.

Mr. Chairman, I think the gentleman and our committees, given what we have had to work with, have come up with a workable solution to a very difficult problem.

Again, Mr. Chairman, I want to commend the gentleman and I support his remarks.

Mr. PREYER. Mr. Chairman, I thank the gentleman from Kentucky (Mr. MAZZOLI).

Mr. Chairman, I would like to yield the balance of my time to the gentleman from California (Mr. PANETTA).

The CHAIRMAN. The gentleman from North Carolina (Mr. PREYER) has 1 minute remaining.

Accordingly, the gentleman from California (Mr. PANETTA) is recognized for 1 minute.

Mr. PANETTA. Mr. Chairman, the issue here is, I think, not a choice between good government or good politics. I think that if we improve the ethics of the House we, indeed, provide for good politics.

It is not a choice between the right to privacy or the willingness to run for public office. We are in a free country. There is a free press. Those who run for office to some extent sacrifice their ability to have total privacy in this business.

Surely it is not a choice between mediocrity or the quality of representation, or the question of whether we are going to have excellence in the House, because the decision as to whether someone will run for the House is not based solely on income. It is based on the desire to serve, the willingness to sacrifice, the regard of the public for this institution, and the trust of the public. So I do not think it is just solely a question based on how much the Members of the House are paid.

The choice here is between serious ethics reform and the question of whether we are just going to talk about it. That is really no choice and for that reason I would strongly endorse passage of H.R. 1.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. Mr. Chairman, I shall confine my remarks, of course, to title I which deals with us, the legislative branch. The comments of my friend, the gentleman from North Carolina (Mr. PREYER) have described in general terms the provisions which we all will be subjected to if we have the good fortune of returning to the next Congress.

I previously asked the question, Why do we do this to ourselves? And the answer must be in your minds that it is necessary in order to insure your own ethical conduct, or perhaps the appearance of that ethical behavior in the minds of the people whom you represent. I would like to believe that there is not a soul in the chamber who feels that it is necessary to disclose his income, assets, liabilities, gifts received, reimbursements received, and so forth, in order to behave properly as a Member of Congress. In short, this bill is not necessary, I trust, in order to induce you to do that which you should do. The only other justification that I understand or can believe is that it may enhance your credibility. It may make people think you are as good as you really are. I previously stated that I doubt that it will have that effect and probably will be counterproductive as the press examines in minute detail the sources of your income and the assets which you own.

I stated a few moments ago in my remarks under the rule that there were certain principles which should guide our consideration of this bill. One such principle is that it should be narrowly drawn and not compel the disclosure of more than is necessary to serve the purpose of the bill. With that in mind, I advise the Members that they probably will be compelled to disclose the balance in any savings account which you own. I think that that is not a matter fraught with potential for conflict, and I would like to think that many of you would have the strength to state if asked by a member of the press what was the amount of your savings, "That is none of your damned business." Mr. Chairman, many things are really not the legitimate business of those who would wish to pry into your conduct.

This bill has been proposed under the banner of "The public's right to know." Well, I am prepared to concede that the public has a right to know what it wishes and is able to find out; but you see, this bill moves forward from the public right to know by imposing a duty of disclose. That is something else. The press has a perfect right to know anything that it can find out; but do you have a duty to disclose all that they want to find out? No, you do not. You do not and should not be subjected to that duty to disclose, unless an important or overriding governmental interest is served by it. As I previously said, I do not see that interest in this situation.

To go on, with respect to the narrowness of the bill before us, in many cases you will be required to disclose categories of value, if you can determine what those values are. The categories range from less than $5,000 to greater than $100,000. Now, that is better, in my view, than the Senate bill which had a category which exceeded $5 million; but I hope you will agree with me that at some point you are disclosing far more than is necessary in order to disclose any conflict or potential conflict that might exist. It is like being a little bit pregnant. If you have a conflict at $50,000. I am not sure your conflict is significantly greater at $75,000 or $100,000 or at $200,000.

You see, if we go beyond that which is necessary to disclose what the public might legitimately inquire into, we are simply pandering to curiosity, voyeurism, as it were. I do not characterize pandering to public voyeurism as an important and overriding public interest. I hope that my colleagues will not pander to that insatiable curiosity simply because it is there.

In title II, the executive branch provisions, we compel those designated officials in the executive branch to disclose whether they hold any titles or positions with other entities. We compel officials in the executive branch to disclose whether they are the beneficiaries of a post employment contract. Now, there is an opportunity for real conflict. If an official in the executive branch has a contract providing for his future employment after he leaves the Government by a particular business entity, that is a potential conflict; but if one of us were to have a contract after we leave Congress to work for Exxon at $200,000 a year, that little piece of information would not be subject to disclosure.

Well, I will offer an amendment later on to correct that problem.

Mr. PIKE. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from New York.

Mr. PIKE. Mr. Chairman, the gentleman is addressing a matter I raised earlier. The gentleman is addressing a possible contract with a future employer. Would the gentleman also address himself to the problem of why Congressmen are allowed to appear before congressional committees at any time after they leave office under this legislation and members of the executive or judicial branches are prohibited from appearing before the departments or agencies in which they have had an interest?

Mr. WIGGINS. I cannot answer adequately, because I cannot think of a good reason for excluding Congressmen from the provisions which now apply to the executive branch; but the response is not to include Congressmen, but rather to exclude those in the executive branch—to raise them to our level, rather than to sink to theirs.

There are some other problems in the bill. The whole idea here is to get the information out to the public, right? That is what it is all about.

And yet any member of the public who has the temerity to seek it has to supply his name, his address, and the organization he represents. Why would one have to do that? I would think the principal consequence of that would be to impose a chill which would deter those who might wish the information. There is no justification for that in the bill. It is in title II even more inappropriately than it is in title I.

Some Members have been concerned about their criminal liability. Well, they should be concerned about their criminal liability. I hope they have not been led to believe that by eliminating the criminal sanctions in this bill they have been relieved of vulnerability, because they have not.

Title 18 contains a section 1001 which makes it a felony subject to 5 years' imprisonment to willfully and knowingly file a false document or false statement. That is general law. It continues in effect, and that will apply with respect to the statements filed here. Therefore, even though there are no explicit criminal penalties in this bill, the Members will all be subject to criminal penalties if the Attorney General elects to proceed under 18 U.S.C. 1001.

Let me give the Members a little scenario on how this is apt to apply. You file your statement, you make a good faith estimate of the value with respect to an asset you own. It is a good faith estimate in your own mind, but one of the persons who reads your statement is an opponent or a member of the press. He does not agree that your estimate is in fact in good faith; he thinks it is grossly understated. The press or your opponent goes to a U.S. attorney and says that he believes you have made a willfully false statement because you have significantly understated the value of an asset on your report.

What is the position of the U.S. attorney? He has a hot potato in his hand. He has a Member of Congress who is being accused. If he pooh-poohs the allegation, he fears the publicity of cover-up, particularly if the complaint comes from the press. On the other hand, if he proceeds, he fears the problem of discrimination against a sitting Member of Congress, political manipulation, and the like.

What does he do? Well, I will tell the Members what the typical U.S. attorney will do. He will pass the buck to the grand jury. He will in effect say, "I am not going to decide this difficult case. We will let the grand jury make a decision."

Well, that is just hunky-dory, is it not? That means that whatever your legal difficulty, you are in deep trouble politically, with the grand jury being impaneled to consider a complaint made against you with respect to a misstatement or alleged misstatement filed under this section.

So I am only reminding the Members of the vulnerability they are assuming for themselves if they adopt these provisions.

There are some other problems with the bill, and I have a bunch of amendments to offer that would correct them. I will mention only one, and then I will sit down. This amendment covers candidates.

I have not talked to a Member of Congress who does not agree that his opponent ought to be subject to these rules. The only reason assigned for that attitude is one of "misery loves company" and "by golly, if I have to do it, my opponent ought to."

I understand that feeling, but what does that have to do with ethics in Government? The Member's opponent is not in Government. The opponent, I think, ought to be responding to political pressures to disclose rather than a legal duty to bare his soul simply because he has the temerity to offer himself for public service.

The rationale for a disclosure of one's assets, liabilities, and transactions in order to avoid a conflict of interest or the appearance of a conflict of interest simply does not apply with respect to one who is not in a position to have a conflict of interest. If he is elected, he will be covered soon enough, but if he is not elected, he ought not to be covered.

Mr. Chairman, I do not expect to get much support for that amendment, but I hope it will tug on the consciences of some of the Members, and some of the Members may wish to support my amendment eliminating candidates from the scope of this bill.

As my friend, the gentleman from New York, Mr. OTIS PIKE, said, he and I are leaving, and perhaps we ought to be indifferent to what is being done here under title I since he and I and several other Members will not have to live under it.

But it is not the personal burden to the Members that I am worried about. We are doing something to our institution. Congress may be affected for years as a result of what we do. The effect is going to be measured in the quality and competence of the people who serve. I hope the Members will reflect upon what they are doing to the Government of the United States by the imposition of what I regard to be these arbitrary and capricious rules.

Mr. Chairman, I yield the balance of my time to the gentleman from Minnesota (Mr. FRENZEL).

The CHAIRMAN. The gentleman from Minnesota (Mr. FRENZEL) is recognized for 1 minute.

Mr. COUGHLIN. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of the bill.

Mr. Chairman, the American people, disillusioned by the continuing accounts of scandal, question the very integrity of the U.S. Government. The conflicts of interest, the misuse of public moneys and the allegations of personal enrichment while in Government service undermine the public faith. In March of 1977, we committed ourselves to a new code of financial ethics with the approval of House Resolution 287, the omnibus ethics resolution. Today we prove that we will stand by our pledge to the American people by codifying into law the provisions of that resolution, on a government-wide basis, with the passage of the Ethics in Government Act.

The most effective remedy against unethical or financially questionable activities is the requirement of public disclosure. Restrictions on disclosure merely reinforce public cynicism and foster the misperception of conflicts of interest in the dispatch of Government business. The public has the right to be given an honest appraisal of their Government officials' financial situation.

Perhaps the most controversial feature of the bill is the amendment to repeal the limitation on outside earned income. This limitation has already been approved by the House. It bears no relation to this legislation. To repeal it now would only serve to make a travesty of the House of Representatives.

While it may seem unfair that the alleged abuses of a few tar the reputations of all Members, and indeed of the Government itself, that is the way it is. We, in turn, must take the responsibility for correcting potential abuses as an institution. We cannot allow Government officials to use their positions of public trust for personal gain. I urge the Members of this Chamber to have the courage to oppose the Quillen amendment to repeal the outside earned income limitation and to have the courage to vote for the Ethics in Government Act. We are fighting for the integrity of the entire Government and we must not allow this opportunity to clear any misperceptions of conflicts of interest to slip by.

Mr. FRENZEL. Mr. Chairman, it has been approximately 19 months since the House passed the Commission on Administrative Review's recommendations on legislative financial disclosure. I want to take a few moments to commend the gentleman from North Carolina (Mr. PREYER) and the gentleman from California (Mr. WIGGINS). Their leadership on title I has been exemplary and their patience never-ending in this lengthy, complicated legislative procedure to convert the House rule into law.

In March of last year, the House passed House Resolution 287 by a vote of 402 to 22. It was highly touted as a landmark legislative achievement of this Congress. By a stroke of the pen, or rather through a single vote, Members of Congress became ethical.

I served as ranking minority member of the Commission on Administrative Review. It is no secret that House Resolution 287 was flawed in that it was incomplete. The proposal did not attempt to provide for a regular audit procedure for all congressional expenses. It did not grapple with the flaws of the existing personnel system. It did not provide a better guarantee for the full availability to the public of the required disclosures. Nor did it provide a mechanism for a vote by the Congress on any salary increase.

The worst flaw was bringing that measure to the floor under a gag rule. My compliments are extended to the gentleman from North Carolina for bringing H.R. 1 under an open rule which will allow for extended debate and equal participation in this procedure.

Title I represents the codification of the action taken a year ago. On July 12, the House passed the franking provisions of House Resolution 287. Although, I am generally supportive of this title, and of the bill, I believe there are several areas which deserve special attention.

The provision providing for spouse disclosure if the spouse's financial interests are derived from the assets, or activities of the reporting individual; and from which the reporting individual derives or expects to derive any financial or economic benefit runs counter to my sense of privacy and equal rights. While there may be some public benefit to the disclosure of an "officeholder's" financial interests, I do not believe that public benefit extends to knowledge or information about the spouse's financial interests, I do not believe that public benefit extends to knowledge or information about the spouse's financial interests, especially when the spouse's assets are derived separately and the only connection is that the officeholder might someday inherit them.

I intend to offer an amendment to delete that portion of the language that deals with the broad standard of expectation of deriving any financial or economic benefit. It would leave intact that language which would require reporting if the spouse's financial interest is derived in any way, past or present, from the income, assets, or activities of the reporting individual.

Another provision which troubles me is the application of the financial disclosure requirements to candidates for Congress. With the myriad of reporting requirements required by the Federal Election Campaign Act and the difficulty most challengers have in meeting those requirements, I believe that the additional reports required to be filed goes beyond reason. If the compelling reason for financial disclosure is because an officeholder occupies a position of public trust, we are putting the cart before the horse in the case of challengers, who are not yet in a position of trust.

No conflict of interest, real or hypothetical, exists until one becomes eligible to vote. This ought to be called the "misery loves company" provision. It is just additional recordkeeping thrust upon a group of individuals to satisfy incumbents' feelings that because we have to do it, they should have to do so, too. I intend to support my colleague from California's amendment exempting candidates from this onerous and unnecessary obligation.

Now that the criminal penalties have been removed from this legislation, against my wishes, I might add, there is only a civil penalty to deter a potential nondiscloser. The net result will be that disclosure will not apply to many candidates. Minor candidates, nuisance candidates and primary losers simply will ignore it.

My third objection, and one shared by many in this Chamber, is the limitation on outside earned income. I continue to believe that this 15 percent limitation is inequitable, discriminatory, and ill-conceived.

The limitation has several significant exclusions. First, it excludes some kinds of income earned from a family trade or business, if personal services do not generate a significant amount of income. This distinction creates a massive loophole. It makes farm or business income more ethical than law income, or board fees.

Also, the limitation places no restrictions on unearned income—income from stocks, bonds, and other investment resources. Members with inherited wealth and substantial investment income are thus favored over the majority of Members who earn relatively small sums from speeches, small businesses, law firms, and certain trades while serving in Congress. In other words, Mr. Speaker, this limit is only a limit for some of us.

I voted against this limitation when the House rule was passed, and I intend to support the gentleman from Tennessee's amendment to strike the outside income limitation. It is said that this limitation is some kind of trade-off for a congressional pay raise. That is nonsense, of course. Many of us voted against the pay raise. Those who need the income limit for an excuse for voting themselves a pay raise will find it is a pretty limp excuse. I hope that none of us really needed a pay raise and an income limit to be ethical.

Again, Mr. Chairman, I believe this bill represents positive improvements and should be passed. Its imperfections are only reflections of our own.

● Mr. BENNETT. Mr. Chairman, I rise in support of H.R. 1, the Ethics in Government Act as amended by H.R. 13850. This legislation caps a 2-year effort by Congress to restore the public confidence in Government so badly shaken by scandals involving unethical use of Federal funds by public officials.

I have long been interested in Government ethics and, in fact, it was my legislation that created the Code of Ethics for Government Service in the late 1950's. In 1966, it was my bill that established the House Select Committee on Standards of Official Conduct that drew up a blueprint for creation of a permanent committee. The Committee on Standards of Official Conduct was established by Congress the following year. And we all know of the important work now underway in that committee.

I believe that the Ethics in Government Act is a natural extension of the earlier congressional achievements in the field of ethics; and to a large degree, the Ethics in Government Act builds upon the work of the Commission on Administrative Review that was created by the House in 1976 to recommend a new code of financial ethics for the House of Representatives.

Last year, the House passed House Resolution 287 embodying the Commission's recommendations. That resolution amended House rules to strengthen financial disclosure requirements, prohibit unofficial office accounts and lame-duck travel, tighten restrictions on franking, and limit Members' outside earned income.

The Ethics in Government Act codifies the financial disclosure requirements adopted by the House last year. In addition, the bill also extends financial disclosure requirements to candidates for Federal office and to top level officials of the executive and judicial branches.

For the first time, the Government's policymaking officials would be required to meet a strict set of financial disclosure requirements. I believe this requirement will help to reduce the temptation of some Federal officials to enter into financial dealings that could lead to conflict of interest situations. This, in turn, would heighten public confidence in Government; and more importantly would justify that confidence.

The bill also sets up an Office of Government Ethics in the Civil Service Commission to administer disclosure requirements for the executive branch. In addition, the bill strengthens current conflict of interest laws by restricting contacts between former executive branch employees and the agencies in which they worked. Last year, the Senate passed similar legislation by a vote of 74 to 5. I urge my colleagues to support this needed legislation so that the Ethics in Government Act can be enacted before adjournment of the 95th Congress.●

● Mr. HAMILTON. Mr. Chairman, three main reasons have traditionally been offered to explain why we have felt that it is legitimate to limit outside earned income. They try to show why it is that after someone has become a full-time Member of the U.S. House of Representatives, he should be restricted on the amount of income he can receive from practicing law, selling real estate, sitting on boards of directors, giving speeches, offering consulting services, and

1. TO MINIMIZE THE POSSIBILITIES FOR CONFLICTS OF INTEREST

If a Congressman is receiving substantial income working from a private source, it might be difficult for him to vote for legislation that will harm it.

Moreover, even if his noncongressional job does not clearly alter his votes, the appearance of conflicts of interest can often arise in the public's mind, for example, if a committee member is employed by a firm under his committee's jursdiction, or if a Member has received large sums for speaking before a special interest group. The public has a right to be guaranteed that their Congressman has only their interests in mind.

2. TO AVOID TAKING TIME AWAY FROM CONGRESSIONAL WORK

Being a Representative should be a full-time job and outside jobs would only take time away from it. Public opinion polls clearly indicate that constituents feel that Congressmen are being paid enough to devote full time to their job.

If a Congressman receives $57,500 for his congressional work, but large sums from his private law practice, his constituents might worry about which one is receiving his principal attention.

Even though we are not in session every day of the year, it could be argued that a Congressman spending the recess time working for private businesses is not providing as good a service to his constituents as one who spends the recess time in his district discussing congressional matters with his constituents and working on future legislation for their benefit.

3. TO AVOID THE APPEARANCE OF CASHING IN ON THE CONGRESSIONAL POSITION

Receiving thousands of dollars in overpaid honoraria, in consulting fees for little work done, in salaries for adding one's name to the law firm—all strike the American citizen as someone trying to exploit his current status for financial gain.

GENERAL ACCEPTANCE OF THESE ARGUMENTS

On the basis of such arguments, other branches of Government have placed limitations on outside earned income, and we followed suit a year ago by overwhelmingly adopting the limitations which are supposed to go into effect next year.

Moreover, by their past actions most Members have concretely shown their agreement. About 90 percent of all Members totally sever their former business or professional careers after they enter Congress. An equal number do not have earned income from any outside sources in excess of the limitation. For example, there are 222 lawyers in the House, but the recent disclosure statements indicate that only about a dozen continue to receive substantial income from law practices. Thus it is clear that the vast majority of Members recognize that being a Congressman is a full-time job and that it is inappropriate to continue earning substantial income from private sources while serving in the House of Representatives.

II. DISTINCTION BETWEEN EARNED AND UNEARNED INCOME

One of the main objections to rule 47 is that it allows a Congressman to make little money from earned income sources but unlimited amounts from unearned sources (such as rent, interest on savings accounts, or dividends from stocks and bonds). The objection is then that it discriminates against those who cannot simply live off investment but must work for their extra income

This objection seems implausible:

1. COURT RULING

First of all, it should be noted that on March 13 of this year the courts agreed (in Laxalt against Kimmitt) that the rule's distinction between earned and unearned income does not constitute unlawful discrimination.

2. ISSUE IS NOT EQUITY

The aim of the limitations was to place all Members on an equal financial standing (there was clearly no public outcry for that). Rather, our concern was to limit abuses, and it seemed to us that earned outside income has a far greater potential for abuse than investment income has, and hence required stronger restrictions.

3. PUBLIC OPINION POLLS

Our investigation began with an analysis of public opinion polls indicating that there was a high percentage of people who thought that it was improper for Congressmen to have other jobs while they were supposed to be their full-time representatives. However, there was comparatively little concern about Congressmen having investment income. We became convinced that the public perception of earned income as a much more serious problem had a reasonable basis. Parallel limitations on unearned income did not seem realistic (for example, a Congressman could not sell his home for more than a $8,625 profit), but, more importantly, they did not seem warranted, for the following reasons:

4. ARGUMENT FOR THE DISTINCTION

The three reasons I mentioned in Part I will help to explain why we thought it reasonable to apply the 15 percent limit to earned income and not to unearned income. Of the three main reasons for limiting earned income, the only one that applies also to unearned income is the possibility of conflicts of interest. Both someone directly working for a company and someone investing heavily in the company might have difficulty voting for measures that would harm it. However, the other two problems with outside earned income simply do not apply to unearned income:

A. UNEARNED IS LESS TIME-CONSUMING

Unlike earned income, unearned income does not take much time away from congressional duties. Rather than, say, spending several days preparing a legal defense for a client, the Congressman typically is now simply receiving money from previous investments. The time typically involved in unearned income is obviously much less than the time it takes to earn income.

B. UNEARNED INVOLVES LESS CASHING-IN

Further, with earned income the Congressman might be "cashing-in" on his role and influence to get extra jobs, extra cases, etc. But with unearned income there is little "cashing-in" since he is typically living off investments made before he was a Congressman, before he had any congressional statute to exploit. Congressional stature may be exploited in sweetheart deals and excessive honoraria, but not in buying a portfolio of stocks.

Since two out of the three main problems with earned income do not seem to arise in typical cases of investment income, we thought that financial disclosure might be sufficient to deal with the latter.

5. DIFFICULTY OF LIMITING INVESTMENTS

Moreover, we frankly thought that it would be difficult to put specific limits on investment income, because that would involve our attempting to restrict the legitimate financial dealings that a Congressman had before he was elected. On the other hand, with an earned income we are only trying to monitor his activities once he becomes a full-time Congressman.

6. THIS OBJECTION IRRELEVANT TO ISSUE AT HAND

Finally, if the concern over unearned income is the main objection to rule 47, then we are simply considering the wrong amendment. We should not be considering an amendment to backtrack on our beginning steps toward ethical reform, but should instead be considering an amendment to perhaps extend some sort of limitations to investment income. For the above reasons, I personally do not feel that the potential for abuse from outside investment income is sufficient to warrant stricter limitations. However, if other Members disagree, that clearly does not mean that we should repeal these much needed limitations on earned outside income; it only means that we might want to consider these further, additional limitations later. It is an odd line of argument to claim that this rule does not do enough limiting, and then conclude that we should do no limiting.

III. WHY SHOULD WE NOT SIMPLY DISCLOSE AND LEAVE IT TO VOTERS

The second main objection to the outside earned income limit is the claim that it would work just as well to have full financial disclosure of outside earnings and then, when the Congressman comes up for reelection, let his constituents vote on whether or not the earnings were justified.

However, this alternative seems inadequate:

1. IT MIGHT BE THE CONGRESSMAN'S LAST TERM

If a Congressman in his last term decided to amass a fortune in honoraria, consulting fees, and partnership income (accepting the deals and speaking engagements that other Congressmen could not), the voters would simply have no election at which to vote against his conduct.

2. TWO PROBLEMS EVEN WHEN CONGRESSMAN RUNS AGAIN

A. LACK OF INFORMATION

Even with full financial disclosure, the average constituent often lacks sufficient information about his Congressman's outside earned income:

A large percentage of the voters do not even know the name of their Representative. They should not be expected to know all of the relevant information concerning his outside earned income or be able to pull this from his financial disclosure statement.

Moreover, a sound judgment would also require sufficient awareness of many other different cases of outside earnings to help reach an accurate decision about whether his Congressman's earnings are actually excessive.

Plus, it could be up to 2 years from the time that any excessive earnings are first discovered to the time of the election, and in the meantime the furor might die down and the details could be forgotten.

B. COMPLEXITIES OF VOTING DECISIONS

But even if the voter does have enough information to know that his Congressman's outside earnings were clearly excessive, there are many reasons why the voter understandably might vote against his Congressman at election time.

This is simply because the Congressman's personal integrity is not the only issue they are voting on. The Congressman might have done something good for the district, such as getting new Federal jobs for them, which might outweigh the impropriety in their minds so they vote for him overall. But that clearly does not mean that they think that his outside earned income abuses are legitimate or acceptable.

Moreover, voters might think that even though he was guilty of impropriety, it is too strong to throw him out of office. In terms of the powers that the House Standards Committee has, voters have only the power of expulsion (which the House has never used since the Civil War, so the voters might not use it much); at election time the voters have no powers corresponding to the more realistic House powers of reprimand and censure.

In short, there is a good reason to think that many constituents will lack sufficient data to make an informed decision; and even if they do have it, there are many other factors in election voting which understandably might lead them not to remove him from office, even if they think that his outside earnings were clearly excessive. If we are looking for a procedure that will assure Americans that abuses will not be tolerated, this one will not suffice. It reflects on the integrity of the House as a whole if there is good reason to think that Members guilty of outside earnings improprieties are allowed to remain. And the integrity of the House as a whole should be paramount in our considerations.

IV. BACKTRACKING ON ETHICAL REFORM

Finally, let me mention an entirely new aspect to the problem that was not present when we debated last year these outside earned income limitations. It arises from the simple fact that we have since enacted the limitations, so now we are debating whether we should *reverse* ourselves on our action to implement ethical reform.

1. OUR STRONG ACCEPTANCE OF THESE LIMITS

On March 2, 1977, when we considered the amendment not to put these outside earning limitations into the House Rules, we showed the American people our strong support of the limitations by rejecting the amendment 79 to 344. But certainly serious doubts will arise in their minds concerning our integrity and concerning how carefully we make our decisions if the same Congress now votes simply to reverse itself—even before the provisions of the earlier bill could take effect and we could have a chance to see how well they work.

2. GENERAL ACCEPTANCE OF OUR REFORM

Public opinion polls have shown strong public desires for limits to their Congressman's outside earnings. And other branches of government have agreed: Presidential appointees cannot have any outside earned income and most other high-level officials of the executive branch are also severely restricted in their ability to earn income from private sources. Rules totally prohibiting almost all forms of outside earned income are in effect in the judicial branch. And even some State legislatures have placed some limits on the outside earnings of their State congressmen. Plus in the private sector, many employers ban outside earned income as a consideration of employment. We are not asking the House to keep limitations that others have not seen to be totally legitimate.

3. SENATE WILL NOT BACKTRACK

The Senate has enacted limitations on outside earned income similar to ours; but they will probably not rescind it. They have found it justified and can live with it. Apparently only the House is considering reversing itself. The American people appreciated it when we did pass the outside earnings limit. They would certainly question why the House alone now decides that it cannot live within limits that others accept as quite legitimate and that we ourselves overwhelmingly accepted as legitimate a year

ago. Frankly, it is my opinion that our act of reversing and backsliding on our position on rule 47 would cause more damage to the integrity of the House than the very problem of outside earned income itself ever would have done.

I would like to end on a personal note by mentioning that throughout my years in Congress I have felt that my fellow Members have operated under unusually high ethical standards, and I have always been extremely proud to have been privileged to be a Member of this body. I would hope that our actions today do nothing to subtract from its integrity.●

● Mr. KASTENMEIER. Mr. Chairman, the most serious charge which can be made against a public official is that he betrays the public's trust in him by using his position to advance his own financial interests at the expense of the public. All three branches of Government have suffered embarrassments over the years because of the acts of a few. These actions, however, have given government a bad name, and they have contributed to the widespread public disenchantment with Government officials. While I do not contend that the fate of our Republic rests solely upon the enactment of financial disclosure legislation, I do believe that financial disclosure is an important and necessary step toward assuring the integrity of the public service. It is the most effective deterrent to potential conflicts of interest, and it is crucial to the process of rebuilding public confidence in the Congress and in government in general. By allowing the public access to basic information regarding the financial interest of public servants we will enable citizens to determine for themselves whether or not such interests could possibly affect the judgments and actions of Members of Congress and other Government officials. It is a privilege to occupy public office, and those of us who hold such positions of trust must never lose sight of the fact that we constantly owe an accountability for our actions and conduct to the public.

The effort to win congressional approval for financial disclosure legislation has followed a long and arduous trail. During recent times, however, it became apparent, in view of the general climate of public cynicism and distrust toward the Congress, that the continued failure to consider financial disclosure legislation would serve only to reinforce the public's worst suspicions about their elected representatives. The 95th Congress is responding to the public's demand for higher standards of ethics for the Congress. Both the House and the Senate have adopted new rules of financial ethics which include public disclosure. The Senate-passed bill, S. 555, provides for governmentwide public disclosure, and our consideration, today, of H.R. 1, is a culmination of this process.

On the opening day, January 4, 1977, of the 95th Congress, Congressman TOM RAILSBACK and I introduced H.R. 1 which requires governmentwide public financial disclosure. This measure has been cosponsored by more than 170 House Members. Shortly thereafter, on January 13, 1977, Speaker O'NEILL told the Commission on Administrative Review, U.S. House of Representatives:

> I intend, by the end of 2 years as Speaker of the House, that this House will have the strongest code of ethics of any constitutional legislative body in America. That is my intent and that is what I expect to see put into law. That is what I expect of the recommendations of this commission and I will do everything humanly possible as Speaker of the House to not only have them adopted as rules, but to have them adopted as laws of this country.

The Commission on Administrative Review, under the chairmanship of our able colleague from Wisconsin, DAVE OBEY, was charged with the responsibility of writing a good, tough code of financial ethics for the House. This was not the easiest of assignments, but the Commission, led by DAVE OBEY, took its task seriously and went about its work in a diligent manner. The Commission's Task Force on Financial Ethics, headed by our distinguished colleague from Indiana, LEE HAMILTON, proposed House Resolution 287 which amended House Rule LXIV by providing for public financial disclosure by Members, officers, principal assistants to Members and officers, and professional staff of committees. The new financial disclosure provisions of rule XLIV were based upon the disclosure requirements proposed in H.R. 1. The House adopted the new rule on March 2, 1977.

The disclosure reports filed under rule XLIV require the following information:

Income—the source and amount of all income, including honoraria from a single source aggregating $100 or more during the preceding calendar year;

Gifts—the source and value of gifts aggregating $100 or more during the preceding calendar year from a single source, excluding relatives, or $250 for gifts of transportation, lodging, food, or entertainment;

Reimbursements—the source and amount aggregating $250 or more from a single source during the preceding calendar year;

Financial holdings—the identity and category of value of any property held, directly or indirectly, in a trade or business or for investment or the production of income which has a fair market value of at least $1,000 as of the close of the preceding calendar year;

Liabilities—the identity and category of value of each liability owned, directly or indirectly, which exceeds $2,500 as of the close of the preceding calendar year, excluding mortgages on personal residences;

Securities transactions—the identity, category of value and date of any transaction, directly or indirectly, in securities or commodities futures during the preceding calendar year which exceeds $1,000, except for transactions donating such securities to charitable or tax-exempt organizations; and

Real estate—the identity and category of value of any purchase or sale, directly or indirectly, of real property during the preceding calendar year and which exceeds $1,000 in value as of the date of such purchase or sale, excluding personal residences.

The first disclosure statements required by the new rule XLIV, which covered the last 3 months of 1977, were filed last April 30. Now that the first reports have been made, I think we have found that public disclosure has not been as painful as some would have led the House to believe.

After the House passed House Resolution 287, the Select Committee on Ethics, under the chairmanship of our respected colleague from North Carolina, RICHARDSON PREYER, was established for the purpose of writing into permanent law the new House rule on financial disclosure. The work of the Select Committee has become title I of H.R. 1, which incorporates into statute, with some necessary modifications, the financial disclosure requirements contained in House Rule XLIV. Title I provides for public financial disclosure by Members of Congress, elected officers of the House and Senate, employees of a Member, officer or committee compensated at a rate equal to or greater than grade GS-16, and candidates in any primary or general election for the House or Senate.

Titles II and III of H.R. 1, the Ethics in Government Act, were reported from the Judiciary Committee where the bill was superbly managed by the distinguished gentleman from California, GEORGE DANIELSON. These titles extend the financial disclosure provisions which will govern the Congress to the executive and judicial branches, persons nominated to positions requiring confirmation by the Senate and candidates for President and Vice President. In addition, title II contains President Carter's requests for establishing an Office of Government Ethics in the Civil Service Commission and strengthening the conflict of interest statutes covering postemployment practices of former Government officials.

Mr. Chairman, we all are well familiar with the reasons why the former House disclosure rules needed to be reformed. The present financial disclosure standards for the executive branch also are inadequate.

Officials in the executive branch, excluding the President and Vice President, basically are governed by Executive Order 11222 which sets forth requirements and guidelines for the confidential reporting of certain financial disclosure information. The purpose of this Executive order is to insure that such persons required to file the disclosure statements avoid any action which might result in or create the appearance of using public office for private gain. But, this worthy goal has not been achieved. In a series of reports covering more than 20 Government agencies, the General Accounting Office has revealed numerous deficiencies in the reporting systems and exposed blatant conflicts of interest or potential conflicts of interest.

The GAO concluded that the existing system is not effectively designed and operated. It is managed with limited support and insufficient resources. It lacks the teeth of enforcement since the disclosure requirements generally are not based upon any statute. There is little

or no effective agency oversight, and, most importantly, the financial disclosure statements are kept confidential, thus unavailable for public inspection. The President has recognized the weaknesses of the present system, and he has stated his strong support for public disclosure.

With respect to public disclosure and the Federal judiciary, the Judicial Conference Code, since 1973, directs Federal judges to file periodic public reports disclosing gifts of more than $100 and income from nonbench work. The judges are to deposit these statements with the judicial conference, the judicial council of their circuit or the appropriate court and clerk of the court of which the judge is a member. The judicial conference, however, cannot enforce this directive, and a reading of the semiannual reports of the proceedings of the judicial conference of the United States will reveal the names of those judges who refuse, for whatever reasons, to make such disclosures. Further, Supreme Court Justices are not covered by the directive of this Code.

Mr. Chairman, there are those who do oppose public financial disclosure. Some argue that the executive and judicial branches should somehow be treated in a manner different from that of the legislative branch. We must remember, however, that officials of all three branches of Government are public servants. Everything we do is connected with the public interest and the public trust.

When an individual accepts the responsibilities of public service, that person also assumes the benefits as well as the burdens of that public service. The disclosure provisions of H.R. 1 treat all three branches of Government fairly and equitably. This uniform approach to disclosure coverage was supported by the Commission on Executive, Legislative, and Judicial Salaries. The Commission, appointed by President Ford, recommended public disclosure of assets, financial affairs and financial statements and income by source and amount for all senior public officials in all three branches of Government. In addition, the Senate-passed bill, S. 555, the Public Officials Integrity Act of 1977, requires uniform disclosure for high ranking officials of the three branches of Government.

Another argument made against public financial disclosure is that some good people will either leave Government service or it will be difficult to recruit such persons for Government employment. On the other hand, we should recognize that public disclosure can have the beneficial effect of deterring those who should not be entering public service from doing so. The experience, however, in those States having financial disclosure laws and regulations has shown that most public officials have complied and cooperated with such rules. In Washington State, for example, the financial disclosure statute applies to over 7,000 officials, from Members of Congress to those serving on mosquito control boards and fire districts. Prior to the adoption of the financial disclosure requirements, there were predictions of mass resignations. No such action took place. Only 1 of the 275 elected State officials resigned and only 2 of the 378 county officials resigned.

Mr. Chairman, although the idea that a public office is a public trust is not a new one, the assumption that the officers of representative government will view themselves as trustees for the public has, only in recent years, emerged as a basis for what we hope will be the adoption of strong and workable rules of financial ethics for Government officials. Also, an increasing citizen awareness of the conduct of public officials and the growing public expectations of those entrusted with power have combined to produce new demands for higher standards of ethics in government.

It is now approaching 27 years since a special message was sent by President Truman to the Congress recommending conflict-of-interest legislation. On September 27, 1951, Mr. Truman called upon the Congress to enact legislation requiring officials in all branches of the Government to place on the public record each year full information concerning their incomes from all sources, public and private. President Truman told the Congress:

> Public office is a privilege, not a right and people who accept the privilege of holding office in the Government, must of necessity accept that their entire conduct should be open to inspection by the people they are serving. With all the questions that are being raised today about the probity and honesty of public officials, I think all of us should be prepared to place the facts about our income on the public record. We should be willing to do this in the public interest, if the requirement is applied equally and fairly to the officials of all three branches of our Government.

The words of President Truman are as relevant today as when they were issued in 1951. A law governing the financial ethics of the Congress, as well as the executive and judicial branches, will reassure the American people that their Government insists upon high standards, and it will make sure that those high standards continue to be maintained by those individuals who hold public office. The American people and their elected representatives should accept nothing less.

Mr. Chairman, the moment of truth is now upon us. The acceptance of the Ethics in Government Act will put new life in the precept that a public office is a public trust. I strongly recommend that the House pass H.R. 1.●

The CHAIRMAN. Pursuant to the rule, it shall be in order to consider by titles as an original bill for the purpose of amendment the text of H.R. 13850, in lieu of the amendments now printed in the bill, if offered as an amendment in the nature of a substitute. No amendments to said substitute shall be in order except pro forma amendments for the purpose of debate and amendments printed in the CONGRESSIONAL RECORD at least 1 legislative day prior to their consideration. After the dispositon of all other amendments to title I of said substitute, it shall be in order to consider an amendment printed in House Resolution 1323 if offered as a new section to title I.

Said amendment shall not be subject to amendment except pro forma amendments for the purpose of debate, and following the disposition of said amendment no further amendment shall be in order to the substitute changing or affecting the rules of the House.

PARLIAMENTARY INQUIRY

Mr. ASHBROOK. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ASHBROOK. Mr. Chairman, under the rule and the statement of the Chair, must the committee substitute which appears in the text of H.R. 1 be read first, or is the amendment in the nature of a substitute, H.R. 13850, in order at any point?

The CHAIRMAN. No. The Danielson amendment in the nature of a substitute will be read in lieu of the committee amendment now printed in the bill as a substitute amendment for the original bill.

Mr. ASHBROOK. I thank the Chairman.

The CHAIRMAN. The Clerk will read section 1 of the original bill.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Ethics in Government Act of 1977".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DANIELSON

Mr. DANIELSON. Mr. Chairman, I have an amendment in the nature of a substitute which is made in order by House Resolution 1323, and I offer it as an amendment in the nature of a substitute for the committee amendment, to be read by titles under the 5-minute rule as an original bill.

The CHAIRMAN. The Clerk will read by titles the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. DANIELSON: Strike all after the enacting clause and insert in lieu thereof the following:

Mr. DANIELSON (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. ASHBROOK. Yes, Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk concluded the reading of title I.

Title I of the amendment in the nature of a substitute reads as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Ethics in Government Act of 1978".

TITLE I—LEGISLATIVE PERSONNEL FINANCIAL DISCLOSURE REQUIREMENTS

COVERAGE

SEC. 101. Each Member, officer, principal assistant to a Member or officer, employee of a Member, officer, or committee who is compensated at a rate equal to or in excess of the annual rate of basic pay in effect for

grade GS-16 of the General Schedule, and any individual who becomes a candidate in any election for the office of Member shall file annual reports as prescribed by section 102. Each Member who does not have an employee compensated at a rate equal to or in excess of the annual rate of basic pay in effect for grade GS-16 of the General Schedule shall designate at least one principal assistant on his personal staff for purposes of this section.

FILING OF REPORTS; DUTIES OF CLERK AND SECRETARY

SEC. 102. (a)(1) Except as provided in paragraph (2), each individual required to file a report under section 101, other than an individual who becomes a candidate in any election for the office of Member, shall not later than May 15, 1979, and by May 15 of each year thereafter, file a report on a form developed and made available by the Clerk or Secretary, disclosing certain financial information as provided in section 103 in the following manner:

(A) Each individual whose compensation is disbursed by the Clerk or the Sergeant at Arms shall file the report with the Clerk.

(B) Each individual whose compensation is disbursed by the Secretary shall file the report with the Secretary.

(2)(A) Any individual who becomes a candidate in any election for the office of Member need not include in the report any information referred to in paragraph (2) or (3) of section 103(a).

(B) Any individual who holds a position or office referred to in section 101 need not include in any report any items referred to in paragraph (2) or (3) of section 103(a) and receive while such individual does not hold any such office or position.

(b) Each individual who becomes a candidate in any election for the office of Member shall, not later than October 1, 1978, or within fifteen calendar days after becoming such a candidate, whichever occurs later, file a report disclosing certain financial information as provided in section 103 in the following manner:

(1) Each individual who becomes a candidate in any election for the office of Senator shall file the report with the Secretary.

(2) Each individual who becomes a candidate in any election for the office of Representative in the Congress or Delegate or Resident Commissioner to the Congress shall file the report with the Clerk.

(c)(1) A copy of each report filed by a Member or an individual who is a candidate for the office of Member shall be sent by the Clerk or Secretary, as the case may be, to the appropriate State officer as designated in accordance with section 316(a) of the Federal Election Campaign Act of 1971, as amended (2 U.S.C. 439(a)) of the State represented by the Member or in which the individual is a candidate, as the case may be, within the seven-day period beginning the day that the report is filed with the Clerk or Secretary.

(2)(A) Before June 15, 1979, and by June 15 of each year thereafter, the Clerk shall compile all reports filed with him by Members within the period beginning on January 1 and ending on May 15 of such calendar year and have them printed as a House document, which document shall be made available to the public.

(B) Before June 15, 1979, and by June 15 of each year thereafter, the Secretary shall compile all reports filed with him by Senators within the period beginning on January 1 and ending on May 15, of such calendar year and have them printed as a Senate document, which document shall be made available to the public.

(d)(1) A copy of each report filed under this title with the Clerk shall be sent by the Clerk to the Committee on Standards of Official Conduct of the House of Representatives within the seven-day period beginning the day that the report is filed.

(2) A copy of each report filed with the Secretary shall be sent by the Secretary to the Select Committee on Ethics of the Senate within the seven-day period beginning the day that the report is filed.

(e) In carrying out their responsibilities under this title, the Clerk of the House and the Secretary of the Senate shall avail themselves of the assistance of the Federal Election Commission. The Commission shall make available to the Clerk and the Secretary on a regular basis, a complete list of names and addresses of all candidates registered with the Commission, and shall cooperate and coordinate its candidate information and notification program with the Clerk and the Secretary to the greatest extent possible.

(f) In order to carry out his responsibilities under this title,

(1) the Clerk may, after consultation with the Committee on Standards of Official Conduct of the House of Representatives, and

(2) the Secretary may, after consultation with the Select Committee on Ethics of the Senate,

promulgate rules and regulations.

CONTENTS OF REPORTS

SEC. 103. (a) Each report required to be filed under this title in a calendar year shall contain the following:

(1) The source, type and amount of income from any one source (other than from current employment by the United States Government), including honoraria, received during the preceding calendar year aggregating $100 or more in value.

(2)(A) The identity of the source and a brief description of any gifts of transportation, lodging, food, or entertainment aggregating $250 or more in value received from any one source other than a relative of the reporting individual during the preceding calendar year, except that any food, lodging, or entertainment received as personal hospitality of any individual need not be reported.

(B) The identity of the source, a brief description, and the estimated value of all gifts other than transportation, lodging, food, or entertainment aggregating $100 or more in value received from any one source other than a relative of the reporting individual during the preceding calendar year.

(C) Any gift with a fair market value of $35 or less need not be aggregated for the purpose of this paragraph.

(3) The identity of the source and a brief description of reimbursements received from a single source aggregating $250 or more in value and received during the preceding calendar year.

(4) The identity and category of value of any interest in property held in a trade or business, or for investment or the production of income, which has a fair market value which exceeds $1,000 as of the close of the preceding calendar year, excluding any personal liability owed to the reporting individual by a relative

(5) The identity and category of value of the total liabilities owed to any creditor other than a relative which exceeds $5,000 as of the close of the preceding calendar year, excluding—

(A) any mortgage secured by real property which is a personal residence of the reporting individual or his spouse; or

(B) any loan secured by a personal motor vehicle or household furniture or appliances.

(6) Except as provided in this paragraph, a brief description, the date, and category of value of any purchase, sale or exchange during the preceding calendar year which exceeds $1,000—

(i) in real property, other than a personal residence of the reporting individual or his spouse, or

(ii) in stocks, bonds, commodities futures, and other forms of securities.

Reporting is not required under this paragraph of any transaction solely by and between the reporting individual, his spouse, or dependent children.

(b) For purposes of paragraphs (4), (5), and (6) of subsection (a) or subsection (d) the person reporting need not specify the actual amount or value of each item required to be reported under such paragraphs, but such person shall indicate which of the following categories such amount or value is within:

(1) not more than $5,000,

(2) greater than $5,000, but not more than $15,000,

(3) greater than $15,000, but not more than $50,000,

(4) greater than $50,000, but not more than $100,000,

(5) greater than $100,000.

(c) Campaign receipts or expenditures shall not be included in this report.

(d)(1) Each report shall also contain information listed in paragraphs (1) through (6) of subsection (a) respecting the spouse of the reporting individual as follows:

(A) The source of items of earned income from any person in excess of $1,000.

(B) In the case of any gift which is not received totally independent of the spouse's relationship to the reporting individual, the identity of the source and a brief description or the estimated value of the gift.

(C) In the case of any reimbursement which is not received totally independent of the spouse's relationship to the reporting individual, the identity of the source and a brief description of the reimbursement.

(D) In the case of items described in paragraphs (4), (5), and (6), all information required to be reported other than items which the reporting individual certifies represent the spouse's sole financial interest or responsibility and which are not in any way, past or present, derived from the income, assets, or activities of the reporting individual; and from which the reporting individual neither derives, not expects to derive, any financial or economic benefit.

(2) Each report shall also contain all information listed in paragraphs (4), (5), and (6) of subsection (a) respecting any dependent child of the reporting individual other than respecting items which the reporting individual certifies represent the dependent child's sole financial interest or responsibility and which are not in any way, past or present, derived from the income, assets, or activities of the reporting individual; and from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit.

(3) No report shall be required with respect to the interests of a spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation; or with respect to any income or obligations of an individual arising from the dissolution of his marriage or the permanent separation from his spouse.

(e) Except as provided in this paragraph, each report shall also contain information respecting the holdings of and income from a trust or other financial arrangement from which the reporting individual or the spouse or dependent children of such individual receives income or in which such person has a beneficial or equity interest. The identity of the holdings and the sources of a trust's income need not be disclosed if the reporting individual, his spouse, and dependent children have no knowledge of the contents or sources of income of the trust. However, where the identity of the holdings and the sources of income of a trust need not be disclosed, the reporting individual must list the category of value of his interest in the total trust holdings under paragraph (4) and must

list the amount of the income from the trust under paragraph (1).

ACCESSIBILITY OF REPORTS

SEC. 104. (a) Within fifteen calendar days after a report is filed with the Clerk under this title, the Clerk shall make such report available for public inspection at reasonable hours. A copy of any such report shall be provided by the Clerk to any person upon written request.

(b) Within fifteen days after a report is filed with the Secretary under this title, the Secretary shall make such report available for public inspection at reasonable hours. A copy of any such report shall be provided by the Secretary to any person upon written request.

(c) Any person requesting a copy of a report may be required by the Clerk or Secretary to supply his name and address and the names of the persons or organizations, if any, on whose behalf he is requesting such copy and to pay a reasonable fee to cover the cost of reproduction or mailing of such report, excluding any salary of any employee involved in such reproduction or mailing. A copy of such report may be furnished without charge or at a reduced charge if it is determined by the Clerk or Secretary that waiver or reduction of the fee is in the public interest because furnishing the information may be considered as primarily benefiting the public.

(d) Any report filed under this title with the Clerk or Secretary shall be available to the public for a period of five years after receipt of the report. After such five-year period the report shall be destroyed, except that in the case of an individual who filed the report pursuant to section (102)b and was not subsequently elected, such reports shall be destroyed one year after the individual is no longer a candidate for election to the office of Member.

(e)(1) It shall be unlawful for any person to obtain or use a report—

(A) for any unlawful purpose;

(B) for any commercial purpose other than by news and communication media for dissemination to the general public;

(C) for determining or establishing the credit rating of any individual; or

(D) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

(2) The Attorney General may bring a civil action against any person who obtains or uses a report for any purpose prohibited in paragraph (1). The court in which such action is brought may assess against such person a penalty in any amount not to exceed $5,000.

REVIEW AND COMPLIANCE PROCEDURES

SEC. 105. (a) The Committee on Standards of Official Conduct of the House of Representatives and the Select Committee on Ethics of the Senate shall establish procedures for the review of reports sent to them under section 102(d) (1) and section 102(d) (2) to determine whether the reports are filed in a timely manner, are complete, and are in proper form. In the event a determination is made that a report is not so filed, the appropriate committee shall so inform the reporting individual and direct him to take all necessary corrective action.

(b) In order to carry out their responsibilities under this Act the Committee on Standards of Official Conduct of the House of Representatives and the Select Committee on Ethics of the Senate, have power, within their respective jurisdictions, to render any advisory opinion, in writing, to persons covered by this title. Notwithstanding any other provisions of law, the individual to whom an advisory opinion is rendered in accordance with this paragraph, and any other individual covered by this title who is involved in a fact situation which is indistinguishable in all material aspects, and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of such act, be subject to any sanction provided in this Act.

GENERAL ACCOUNTING OFFICE STUDY

SEC. 106. (a) Before November 30, 1980, and regularly thereafter, the Comptroller General of the United States shall conduct a study to determine whether this title is being carried out effectively and whether timely and accurate reports are being filed by individuals subject to this title.

(b) Within thirty days after completion of the study, the Comptroller General shall transmit a report to each House of Congress containing a detailed statement of his findings and conclusions, together with his recommendations for such legislative and administrative actions as he deems appropriate. The first such study shall include the Comptroller General's findings and recommendations on the feasibility and potential need for a requirement that systematic random audits be conducted of financial disclosure reports filed under this title, including a thorough discussion of the type and nature of audits that might be conducted; the personnel and other costs of audits; the value of an audit to Members, the appropriate House and Senate committees, and the public; and, if conducted, whether a governmental or nongovernmental unit should perform the audits, and under whose supervision.

FAILURE TO FILE OR FALSIFYING REPORTS

SEC. 107. The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully falsifies or who knowingly and willfully fails to file or report any information that such individual is required to report under section 103. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $5,000.

DEFINITIONS

SEC. 108. For purposes of this title, the term—

(1) "candidate" means an individual, other than a Member, who seeks nomination for election, or election, whether or not such individual is elected, and for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, (A) if he has taken the action necessary under the law of a State to qualify himself for nomination for election, or election, or (B) if he or his principal campaign committee has taken action to register or file campaign reports required by section 304(a) of the Federal Election Campaign Act of 1971, as amended (2 U.S.C. 434(a));

(2) "Clerk" means the Clerk of the House of Representatives;

(3) "committee" means any committee of the Senate or House of Representatives or any subcommittee of any such committee or any joint committee of Congress or any subcommittee of any such joint committee;

(4) "dependent child" means, when used with respect to any reporting individual, any individual who is a son, daughter, stepson, or stepdaughter, and who—

(A) is unmarried and under age 21 and is living in the household of such reporting individual; or

(B) is a dependent of such reporting individual within the meaning of section 152 of the Internal Revenue Code of 1954;

(5) "election" means (A) a general, special, primary, or runoff election, or (B) a convention or caucus of a political party which has authority to nominate a candidate;

(6) "employee" means any individual, other than an officer or Member, whose compensation is disbursed by the Clerk or Secretary;

(7) "estimated value" means a good faith estimate of the dollar value if the exact value is neither known nor easily obtainable by the reporting individual;

(8) "officer" means an elected officer of the Senate or House of Representatives who is not a Member;

(9) "relative" means an individual who is related to the reporting individual as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or grandmother of the spouse of the reporting individual, and shall be deemed to include the fiance or fiancee of the reporting individual;

(10) "Secretary" means the Secretary of the Senate;

(11) "Member" means a United States Senator, a Representative in Congress, a Delegate to Congress, or the Resident Commissioner from Puerto Rico;

(12) "gift" means a payment, advance, forebearance, rendering, or deposit of money, or anything of value, unless consideration of equal or greater value is received, but does not include—

(A) inheritances;

(B) political contributions;

(C) transportation, lodging, food, and entertainment provided (i) by Federal, State, and local governments, or political subdivisions thereof, or (ii) by a foreign government within a foreign country;

(D) communications to the offices of a Member, including subscriptions to newspapers and periodicals;

(E) suitable mementos of a function held in honor of the Member, officer, or employee;

(F) consumable products provided by home-State businesses to a Member's office for distribution; and

(G) food and beverages consumed at banquets, receptions, or similar events;

(13) "reimbursement" means any payment or other thing of value received by a reporting individual, other than gifts, to cover travel-related expenses of such individual other than those which are—

(A) provided by the United States Government, the District of Columbia, or any State or political subdivision thereof;

(B) required to be reported by the reporting individual under section 7342 of title 5 of the United States Code; or

(C) required to be reported under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434);

(14) "honoraria" means payments of money or any thing of value for an appearance, speech, or article, except that there shall not be taken into account for reporting purposes any actual and necessary travel expenses incurred by such person to the extent that such expenses are paid or reimbursed by any other person, and the amount otherwise determined shall be reduced by the amount of any such expenses to the extent that they are not paid or reimbursed; and

(15) "income" means all income from whatever source derived, including but not limited to the following items: net compensation for services, including fees, commissions, and similar items; net income derived from business; gains derived from dealings in property; interest; rents; royalties; dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; and income from an interest in an estate or trust;

SEC. 109. The provisions added by this title, and the regulations issued thereunder, shall supersede and preempt any State or local law with respect to financial disclosure by reason of candidacy for Federal office or

employment by the United States Government.

The CHAIRMAN pro tempore (Mr. EVANS of Colorado). Title I has been read. Are there any amendments to title I?

AMENDMENT OFFERED BY MR. PREYER

Mr. PREYER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PREYER: Page 3, lines 16 and 17 strike "October" and insert "November".

Mr. PREYER. Mr. Chairman, this is a largely technical amendment which I have discussed with the gentleman from California (Mr. WIGGINS) and the gentleman from Minnesota (Mr. FRENZEL).

It simply extends the date for candidates to file under the bill from October to November. I think it is apparent that because of the delay in getting the bill to the floor that it might be October before the bill is finally signed into law, so that this simply changes that to accord with reality from October to November.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, does this section mean that every person who is a candidate, including those Members who are running for reelection, must file the reports required by this bill if the gentleman's amendment is adopted, by November 1 of this year?

Mr. PREYER. No; it does not include Members of Congress. I believe the definition of candidate says that it is other than Members of Congress who are running for reelection, or words to that effect.

Yes, on page 15 it says:

(1) "candidate" means an individual, other than a Member, who seeks nomination for election, or election,

And so forth.

Mr. WIGGINS. Mr. Chairman, if the gentleman will yield further, then the situation will be that Members of Congress who are candidates, but not as defined under this bill, will not have to file by November 1; rather, the public will rely upon those previous reports which have been filed, I presume; but a non-Member candidate will have to file all the reports required by this section by November 1; is that correct?

Mr. PREYER. That is correct. There has been, of course, earlier filing for Members, but no filing for candidates.

Mr. WIGGINS. Well, as the gentleman knows, I will in short order attempt to remove that coverage of candidates by kind of looking at the political dynamics of this. Your opponent gets zapped on November 1, 7 days before the election, if the press can get access to him quickly enough, that is; whereas a seated Member has taken his lumps back in June or whenever it was—perhaps it was May—and the furor has died down.

Mr. Chairman, I do not regard that to be exactly politically equal but indeed to be skewed against the nonincumbent candidate.

Mr. PREYER. Mr. Chairman, if the gentleman will allow me to answer, the candidate could file earlier than November, of course, and thus avoid that situation. I regret that there has been this delay in getting to the passage of the bill so that we would not have this sort of dynamic political issue indicated, but I think it would be even more unfair if a Member of Congress had to file and get zapped and there is no opportunity to receive any filing from a candidate. This, it seems to me, is the only way we can get a balanced solution to the problem.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, what the gentleman from California (Mr. WIGGINS) points out concerns me to some extent.

Has there been any information given to any of the candidates who are running for one-third of the Senate and the whole House that they may have to file this type of report?

Mr. PREYER. Under the Senate rules, the Senate candidates have already filed.

Mr. VOLKMER. So those candidates have filed?

Mr. PREYER. Right.

Mr. VOLKMER. But my opponent or the gentleman's opponent or any other opponent for a House seat has no information, nothing at all, except perhaps from what they may have learned or from what some consulting firm has advised them as to whether they may have to do this? Other than that, they have no information right to this day that they may have to prepare and file such a report; is that right?

Mr. PREYER. The gentleman is correct. We will make them available promptly and get them mailed out, and hopefully they will get about 30 days' notice.

Mr. VOLKMER. I just wonder if it is really necessary to do that.

The CHAIRMAN pro tempore (Mr. EVANS of Colorado). The time of the gentleman from North Carolina (Mr. PREYER) has expired.

(On request of Mr. VOLKMER, and by unanimous consent, Mr. PREYER was allowed to proceed for 2 additional minutes.)

Mr. PREYER. Mr. Chairman, I believe the amendment I have offered addresses the problem.

Mr. VOLKMER. Mr. Chairman, if the gentleman will yield further, the amendment is better than what we have in the bill, I will not argue that. But is it possible that we just exempt the provision for this year's election rather than have that included? Otherwise I am afraid this may happen:

Let us say we pass this bill and it is signed by the President sometime in the first week or the end of the first week in October, and then all of a sudden these candidates get a notice a week later or so that they are going to have to file this report. They have to file it as of this time, but we have already filed ours and that is on record. We do not have to bring ours up to date; is that correct?

Mr. PREYER. Yes, that is correct.

Mr. VOLKMER. So it may look a little bit like we are saying, "Hey, we are trying to play the game a little bit different for one than for the other." I do not like that idea.

Sure, it may mean it is to my advantage, but as to the image of Congress, I question whether we may be saying that "we want to do things a little differently for you than for us because we are in and you are out." I do not want anything to be interpreted in that way.

Mr. PREYER. Mr. Chairman, I believe the gentleman from California (Mr. WIGGINS) will offer an amendment to strike the whole provision for candidate filing, and perhaps that would meet the gentleman's objection.

Mr. VOLKMER. No. I believe that candidates should file in the future. At the same time I believe basically we should and that everybody should.

Mr. PREYER. Mr. Chairman, I think the gentleman from California (Mr. WIGGINS) also has a more limited amendment which would just strike the filing for candidates for this election, and that may meet the gentleman's objection.

Mr. VOLKMER. Mr. Chairman, I thank the gentleman.

Mr. PREYER. Mr. Chairman, I ask for the adoption of my amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from North Carolina (Mr. PREYER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WIGGINS

Mr. WIGGINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WIGGINS: On page 2, lines 8 and 9, strike out ", and any individual who becomes a candidate in any election for the office of Member".

On page 2, lines 17 and 18, strike out "(1) Except as provided in paragraph (2), each" and insert "Each".

On page 2, lines 19 and 20, strike out ", other than an individual who becomes a candidate in any election for the office of Member,".

On page 3, strike out lines 6 through 9, and on line 10 strike out "(B)" and insert "(2)".

On page 3, strike out line 15 and all that follows thereafter through page 4, line 2.

On page 4, line 3, strike out "(c)" and insert "(b)".

On page 4, lines 3 and 4, strike out "or an individual who is a candidate for the office of Member".

On page 12, line 4, after the word "destroyed" strike out the comma, insert a period, and strike out all that follows through and including line 8.

On page 15, strike out lines 12 through 22, and redesignate the succeeding paragraphs accordingly.

Mr. WIGGINS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read, and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WIGGINS. Mr. Chairman, this amendment is simplicity itself. It takes out all references to candidates in title I. In other words, candidates who do not occupy a position of trust in the Federal Government shall not be compelled, in the name of avoiding a conflict of interest—which is something they do

not have—to file those statements which will be required of those of us who do serve in the Federal Government.

I have nothing more to say about it. I really believe it has merit. Its intellectual merit is self-evident. Its political demerits are also self-evident. I hope, however, that, as between those two choices, the Members will opt for the intellectual argument.

Mr. PREYER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think to require disclosure by candidates does enable the public to predict the type of conflict of interest that might lie in the situation of a candidate, just as it would in the case of an incumbent. And I do not see why they should be treated differently. I would hope that we will treat candidates and treat Members equally. I think the principle behind conflict of interests is the same, and I would hope that this amendment would be defeated.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from California.

Mr. WIGGINS. I thank the gentleman for yielding.

Mr. Chairman, the public can make whatever demands it wants, in terms of whether to vote for or against the candidate. They can make the most outrageous demands upon a candidate and withhold their vote if that request is not honored. That is a political pressure that is asserted by a constituency upon one who seeks their favor. I do not in any way affect that. Of course, the people can make any inquiry with regard to assets, liabilities, holdings, indeed matters of a very personal nature, as a condition of granting their vote. But now we are talking about the Government interceding in that equation between the candidate and the people, and we are having the Government exercise its judgment as to what the people ought to know and compelling disclosure of certain facts in the name of ethics. I think this is an area in which the Government ought not intrude.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, the provision in this bill requiring the same reporting of Members of Congress for candidates for Congress troubles me deeply. We already have a myriad of reporting requirements made by the Federal Elections Commission under the Federal Election Act.

These requirements pose difficulty for challengers who are less sophisticated than many Members who are better equipped to handle these reporting requirements. I think the additional reporting for candidates required by this act goes well beyond reason and will undoubtedly add to the burden that is already occasioned by the FECA requirements on candidates.

It is becoming more and more difficult to recruit able people to want to serve in this body. And the more reporting that we require of candidates, the less anxious they are going to be in the future. There may be plenty of candidates for the Congress, but the total possible universe of candidates will undoubtedly be reduced.

It has already been pointed out that if there is a compelling reason for financial disclosure for Members of Congress, it is because that person occupies a position of public trust. Obviously, a challenger occupies no position of trust. There is no reason to require disclosure of that challenger. There is no conflict of interest, either real or hypothetical, until a person does become eligible to vote.

The gentleman from California has properly described this feature of the bill as a "misery loves company" provision. Because we are obliged to fill out all of these onerous reports, therefore we are going to fix all of the guys who are running against us. They will have to fill them out too. We are simply placing an additional burden upon a group of persons to comply with this onerous and unnecessary reporting.

Since this bill has no criminal penalties, the practical effect is that candidates are not going to report unless they have a good chance of winning.

So, the law will simply apply to some of us, but not all of us, who seek office. Those who are frivolous candidates or candidates with little chance of winning will probably not file these reports anyway since there is no criminal penalty.

Mr. Chairman, in my judgment this is make-work for the Clerk of the House and for the Ethics Committee. It is an attempt to justify an extra load we put on ourselves by laying it on somebody else.

It is unworthy of the purposes of the ethics resolution that we passed in the House. It is unworthy of the House, and it is unworthy of this bill. I hope the amendment offered by the gentleman from California will be adopted.

Mr. PIKE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, this troubles me because, really, until now in the debate I have agreed wholly with what the gentleman from California has said, and tended to disagree with what the gentleman from North Carolina has said. I agree wholly with the gentleman from California when he says that what we are doing here is an act of political voyeurism, but when he says that we are only going to allow the voyeurs to examine one side, this troubles me. I think that the voyeurs in the press and in the media generally should have the same rights—and of course this may be my new career rather than my old career creeping into the fore here—but I cannot accept anything which is going to allow either Members of Congress or candidates to cover up their financial situation.

Therefore, I do think that the voyeurism should apply with regard to both the sitting Members and those who would take their places. I oppose the gentleman's amendment.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. PIKE. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Is the gentleman saying, then, two wrongs will make a right?

Mr. PIKE. No; but I am saying that if we have not got the guts—and we have not—to cut the one, let us at least make it equal.

Mr. FRENZEL. So long as we have abused ourselves, we should abuse this whole other universe of individuals?

Mr. PIKE. I think that if the gentleman is going to accept the doctrine of the public's right to know—and that is the whole philosophy on which this legislation is based—the public has the right to know from both sides, and not simply from one side.

Mr. FRENZEL. If the gentleman will yield further, it seems to me we can make a good case that it is all right to abuse ourselves because we occupy a special position, but to lay an extra effort or an extra burden on those who seek to have our position I think is pure self-interest. Or maybe it is some kind of comfort just because we are a little nervous about what we have done for ourselves.

Mr. PIKE. Well, I am not nervous about what you have done to yourselves. As a hopeful member of the press, I look forward to it with some enthusiasm, to tell the honest truth. But, to say that my sources are to be cut off as to all the people who are running against you, I would hate that.

Mr. FRENZEL. I wish the gentleman a successful career.

Mr. DANIELSON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the gentleman from New York did a very able job of pointing out one good reason for leaving the reporting by prospective sitters in the bill, and the gentleman from Minnesota, did an excellent job of pointing out some reasons why we should favor the amendment. But, we should remember that in this bill we are not concerned only with the Members of the Congress and the voyeurs in the press.

There are, hopefully, members of the general public who wish to know what will be reported. The justification for knowing is to enable them to make up their minds as to the person for whom they are going to vote in the forthcoming election. Now, the Members of the Congress must report their assets, their transactions, their income and the like, and this may effect whether the citizen is going to vote for him.

But, how can he make an evenhanded judgment as to who is the better candidate if he cannot also examine those same factors with respect to the other person who is running for the office? I think we should be evenhanded here, and evenhandedness requires that the citizen preparing to vote should be able to examine potential conflicts of interest of both candidates, those who are sitting and those who want the seat.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to my colleague from California.

Mr. WIGGINS. Mr. Chairman, I could not argue against evenhandedness.

But just 5 minutes ago in a spirit of

evenhandedness we told our opponents to file their reports 7 days before the election but we file ours 5 months before the election. We tolerated that just a few minutes ago, and if there is any equality in that, real or political, and especially political equality, it escapes me. I think we have got to be fair all of the time or else acknowledge that we cannot be fair all of the time. In my view, as I said, fairness would require removing these people altogether from the burden of reporting.

Mr. PIKE. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from New York (Mr. PIKE).

Mr. PIKE. Mr. Chairman, it seems to me we could solve that problem by requiring the sitting Members again to file 7 days before the election.

Mr. DANIELSON. Let me recapture my time before this becomes too perfect. As I said to the gentleman from California, the public has had the opportunity for the last 7 months to examine the records of the sitting Members of Congress and it will be restricted to only about a week to examine the records of those who aspire to the Congress.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I am not sure I am going to vote for the amendment, but it seems to me there are different reasons for disclosure by Members of Congress as well as high-level officers than there are for people running for Congress. It seems to me there may be political reasons for disclosure for people running for Congress, to determine where they are coming from for the purpose of determining whether to vote for them or not, but for incumbents and high-level Federal bureaucrats it is to determine whether or not we have a conflict of interest in order for the voters to determine how they should vote. Does the gentleman agree?

Mr. DANIELSON. I agree, but it does not in any way nullify my argument that Members of Congress are required to make public disclosure and that is a matter of public record.

Mr. GLICKMAN. By the same rationale for requiring Members of Congress or candidates to disclose their finances in advance would be true also of somebody going after a GS-16 or a GS-17 job to make financial disclosure before he gets that job, or a person who may be merely testifying before a committee to make the same kind of disclosure before he or she could prevent that testimony. There may be two reasons for that disclosure by candidates and if there are, the amendment offered by the gentleman from California may make some kind of sense.

Mr. DANIELSON. We would have to get to title 2 for the GS-16's.

Mr. MAZZOLI. Mr. Chairman, I move to strike the requisite number of words.

I rise in opposition to the amendment.

I would like to address the gentleman from Kansas who asked an interesting question. I am not sure I can answer directly or fully, but I think what the gentleman states is probably true. There may be different perspectives by which the voting public will view financial disclosures.

For sitting Members, it may be to judge whether we, in the discharge of our voting trust, have perhaps committed a conflict of interest of sorts. With respect to prospective Members of Congress of the United States, the public might examine financial disclosure from the standpoint of possible future conflicts of interest, what they have been doing in their private life and whether or not they have the background to handle financial matters in the Congress.

But I would like to make one additional statement. My friend, the gentleman from Minnesota (Mr. FRENZEL), mentioned that one of the fears he had, if this amendment were not adopted, is that there would be a paucity of candidates for the Congress. We might have a party and nobody shows up.

I think the gentleman ought to rest easy. I have no doubt that upon the retirement of the gentleman from Minnesota (Mr. FRENZEL) or that of the gentleman from Kentucky, I am convinced that there will be a long string of people who will seek our seats, and our jobs, in spite of any impediment we might attach to them in the form of financial disclosure.

But if I did share the gentleman's fears, I would be willing to vote for this amendment because we are not trying, by this bill, to place a lot of heavy baggage on the public and a lot of heavy baggage on the Members of the Congress.

We are trying to make it easier for the public to cast an intelligent, thoughtful vote and, at the same time, place people in a position, if they aspire for public office, of knowing early on that they will be living in a fishbowl as long as they are in public life.

Mr. FRENZEL. Mr. Chairman, if the gentleman will yield, I do not believe that anybody's rationale in support of the bill is that we have some obligation to inform the public. Are we next going to demand that candidates file questionnaires with answers on issues as well?

I think the reason we have instituted disclosure is the matter of public trust. It had nothing to do with reasoning that we are going to force candidates, by law, to inform the public. That is not the rationale. I do not understand the gentleman.

Mr. MAZZOLI. Maybe we are looking at the bill from different standpoints. I certainly think that part of it is the public trust, the gentleman is correct. But, part of it, it seems to me, is public information and public knowledge. It is the willingness to be forthcoming, both those in office and those who aspire to office.

Mr. FRENZEL. I agree with the gentleman on that point, and I agree with the gentleman on disclosure for elected public officials. If we do not choose to be forthcoming, nobody can force us. And if the public does not like a candidate, it does not have to elect the person.

Mr. WYDLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman. I rise in support of this amendment. Frankly, I came here ready to vote against it. I liked the idea when I heard that it would make our opponents in the political campaigns, and that is what we are talking about, do the same things we are required to do, that the opponents sit down and disclose their financial affairs to the general public. And if I can try to reconstruct my thinking, it was this: If I have to do it, why should not he or she have to do it, too? It is just fair play.

But, when you really analyze it, and I have listened to the debate, there is no real justification to force people into that predicament that I can think of other than some general, vague notion that has been suggested here that thereby the public will find out about "potential" conflicts of interest. I do not know what that means, but I suppose it means that as far as the incumbent goes, we will be able in examining those reports to dig up something that we can charge him with. I do not know that this is a good idea; although I agree there will be plenty of people in line to take my seat, or anybody else's seat, the question is not how many people get on the line, the question is who gets on the line, what kind of people get on the line to be in the Congress of the United States.

I believe this is very much the same argument that the gentleman from New York (Mr. PIKE) made relating to outside income earnings limitations. Certainly there are a great number of people who have little or very little, maybe because they had so little when they started out in life, or so very little because of some failures.

They will disclose with pleasure and they will be able to file reports all over the place. However, for the man who has had considerable success in life and has made a lot of diverse investments with his money, yes, surely, it could be embarrassing for him to have to show that he might own some oil stock because he thought it was a good investment 20 years ago.

Those people are the ones we push out of the picture with respect to coming to this Congress.

Mr. Chairman, the question is, Whom do we want in this Congress? Whom do the people want in this Congress to represent them, the ones who have acquired something, who have achieved something, who do have some property of some substance, or do the people just want the others?

Therefore, Mr. Chairman, I am going to support the amendment. I believe, on reflection, even though it is nice to make my opponents, whoever they may be, go through a lot of agony because I had to, it just does not make good sense; and in good conscience, I cannot oppose this amendment.

Mr. GLICKMAN. Mr. Chairman, I move to strike the requisite number of words.

The point I was trying to make before is that, obviously, I think there is a rationale for candidates to disclose, but I think that we may be getting to the

point where anybody who has anything to do with the Government will be required to disclose in advance of their contact with the Government their financial circumstances and related things which are nobody's damn business.

Mr. Chairman, all I am trying to get at with my comments is that I think there is rationale for candidates; but we really have to be extremely cautious about bringing everybody who even walks by the Federal Trade Commission into the picture.

Mr. STEERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to address my remarks particularly to those previously made by the gentleman from New York (Mr. WYDLER), for whom I have great respect.

This statement is also addressed to my colleague, the gentleman from Minnesota (Mr. FRENZEL). He says that this is a "misery-loves-company" amendment. I do not think that is true at all.

Mr. Chairman, it seems to me that candidates are subject to conflicts of interest, that is, conflicts which pull them one way or the other if they get elected.

If they have a pocketbook issue interest, it may very well conflict their duty to their constituents.

Mr. Chairman, I have an example to clarify what I am driving at. Suppose a candidate says that he has $400,000 worth of natural gas stocks, and he is in favor of deregulation of natural gas prices. I think the public is entitled to know that this candidate may be influenced by his private interest, to the dertiment of the public interest. I think the public is entitled to know how any candidate might be influenced, whether the candidate is an incumbent or not.

Mr. Chairman, the purpose of the provision on candidates is not to impose burdens on candidates. It is to allow the public to know what private interest each candidate has so as to determine whether the candidate would be voted for. Disclosure after the election comes too late.

Mr. Chairman, I yield back the balance of my time.

Mr. KREBS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman and members of the committee, I would like to associate myself with the remarks just made by the gentleman from Maryland (Mr. STEERS). I think he hits the nail right on the head.

The general public is entitled to know whether there is any conflict of interest or possible conflict of interest, not only on the part of incumbents, but on the part of candidates as well.

Furthermore, as far as any fear is concerned that we are going to discourage people who have accumulated wealth from running for office, I am convinced we will do no such thing.

Certainly, the statistic which I have read about the assets of Members of this House indicates that there is no shortage of millionaires as well as very wealthy individuals in the House of Representatives, 95th Congress.

The same would be true in the 94th Congress.

Beyond this there is one further issue that I think should be kept in mind. There is no question that come election time a challenger will look at the incumbent's reports that are currently required. He has every right to discuss anything that has to do with the incumbent's report and with the information so made available. But by the same token the incumbent should have the same right and should have the right to make an issue of any possible conflict of interest that might arise from the details set forth in the report of the candidates. Consistent with the public; demand for openness, I think the same requirement that is imposed on an incumbent should also be imposed on a challenger.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. KREBS. I yield to the gentleman from New York.

Mr. WYDLER. I thank the gentleman for yielding.

What I do not understand is this continual talk about potential conflicts of interest. Suppose my opponent were to file a financial statement and he had stock in an oil company. How would we know that he owned it at the time he was to take office, assuming he were the winner of the election? We do not know if that is a conflict of interest. He is not even in office. He may never be. He may sell the stock before he becomes an officeholder. How can it become a conflict of interest? That is what bothers me. I do not understand what the gentleman is talking about.

Mr. KREBS. I will try and clarify it for the gentleman. Let us take the gentleman's example, or the example of the gentleman from Maryland (Mr. STEERS) about the candidate who owns $400,000 of natural gas stock. Certainly the general public in having that information available would then be in a position to ask the candidate, Are you going to dispose of these shares of stock come election time, should you be fortunate enough to be elected? That is certainly a legitimate question to such a candidate. But under the amendment that would be foreclosed. Once the person is elected, he would still own the stock, could continue to own the stock, and he certainly would be in the House of Representatives for at least 2 years before the public gets another crack at him.

Mr. KASTENMEIER. Mr. Chairman, would the gentleman yield?

Mr. KREBS. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. I thank the gentleman for yielding.

I wish to associate myself with the gentleman's statement and that of the gentleman from Maryland (Mr. STEERS). The Committee on the Judiciary, when it examined two candidates for very high Federal office in the past few years, the gentleman from Michigan, Mr. Ford, and the gentleman from New York Mr. Rockefeller, required a great deal of them in terms of financial disclosure. Indeed, one of those two candidates who was confirmed by the Congress to the Office of Vice President of the United States did in fact own a great deal of oil stock. That was considered a relevant point in terms of the examination by the Committee on the Judiciary and perhaps even in subsequent confirmation. He was, indeed, confirmed. He elected quite voluntarily to place that stock in a blind trust, but the mere fact of ownership of such an interest was of public interest, and I believe justified its disclosure.

But it suggests, indeed, that someone need not occupy the office in order for there to be a public interest in what the assets of that individual might be for purposes of public policy. Therefore, I oppose the amendment.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. KREBS. I yield to the gentleman from New York.

Mr. BIAGGI. I thank the gentleman for yielding.

It seems to me we are operating on two avenues.

Mr. BIAGGI. Mr. Chairman, I move to strike the requisite number of words.

One is the narrow concern of the gentleman from California (Mr. WIGGINS), who asks, "What is the purpose of this legislation?" To avoid conflict, conflict of interest. I believe the more compelling reason for voting against the amendment on a practical basis is the political dynamics of the issue. That is why I believe this amendment will fail. But as far as the more appropriate reason that should be attached to our considerations, the gentleman from California, I believe, is absolutely correct.

It is a question of conflict of interest. The gentleman from California (Mr. KREBS) stated that the candidate may have possession of securities, oil, specifically, or whatever. If you say oil stock, you make it ipso facto an evil possession; but aside from that, any security by itself creates a conflict of interest. If that be the case, then how come this legislation fails completely to deal with the securities held by many Members of this House?

Moreover, it fails to deal effectively with the blind trusts, the so-called blind trusts. My experience with blind trusts is that many of them have 20–20 vision; so the fact that you own securities does not mean that necessarily is a conflict. If the individual holding the securities was to deal ethically in relation to his possessions, then you would see on the board more Members voting "present" than you do. Right now they vote in the affirmative or in the negative.

Now, I do not impugn those individuals, but there is a possibility they vote for self-interest. I have been here 10 years and I have not seen one occasion where in excess of four or five people have voted "present" on issues that might be controversial, issues that might relate to securities.

This bill is double standard in nature It fails of its target. This particular provision from a political point of view, I believe, is acceptable; but from a moral point of view, it is completely reprehensible.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I certainly agree with the gentleman's characterization of the double standard argument we have heard in this debate today. The same dual standard was heard when certain reforms were adopted in 1977. We have placed the approval of the House on that double standard. It is in our rules. Today we are hearing the argument that the holding of stocks and bonds is perhaps inherently evil and creates a conflict of interest; but this same House voted to exempt the income from stocks and bonds, placing them outside the earned income limits. But the rule does not permit those who work weekends to make earnings from speeches and articles. You cannot have it both ways. If there is a conflict because of owning stocks and bonds, certainly there is a conflict from unearned income that would affect a Member's votes.

Mr. BIAGGI. Mr. Chairman, that is exactly the point. I am sure there are fine people voting to strike the amendment, voting against it on political grounds; yet we hear them arguing to strike it on a moral basis, but it has no moral basis. On that same basis, when it comes to voting on the Quillen amendment, dealing with limitations on outside earnings, they will vote against it. Once again we have double standards. It is the kind of dilemma we have been confronted with in the House of Representatives in the 10 years I have been here that turns off people.

It is not this kind of legislation we need. It is honesty, moral honesty in Government we need on every issue.

Mr. KREBS. Mr. Chairman, will the gentleman yield since the gentleman mentioned my name?

Mr. BIAGGI. I did not, but I will be happy to yield.

Mr. KREBS. Well, the gentleman did, but perhaps the gentleman forgot.

I merely used the example of securities because that was the example used by the gentleman from New York.

Let us take the example of Joe Smith, who owns an office building and who happens to be a very wealthy individual. He is in a certain income bracket where he might just as well for income tax or other consideration lease this particular building out on a very nominal figure, say $1 a year, to a labor union.

The CHAIRMAN pro tempore. The time of the gentleman from New York has expired.

(At the request of Mr. KREBS, and by unanimous consent, Mr. BIAGGI was allowed to proceed for 2 additional minutes.)

Mr. BIAGGI. Mr. Chairman, I yield to the gentleman from California.

Mr. KREBS. Mr. Chairman, he leases it to a given labor union, take the UAW, you name it. Do you mean to tell me that this information should not be available to the general public for the purpose of considering whether this person would be objective on an issue affecting labor or that particular union? In the final analysis whether a conflict of interest exists becomes a question of fact; but the facts should be available to the general public, from an incumbent running for reelection, as well as a candidate running for the first time.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, I do not understand that situation at all. You would not have to disclose that you are renting it out for $1.

I do not understand where that would come in, but that would really take some investigative reporting. Although they have been rather put down a little bit here today, that would take a little investigative reporting to dig up facts like that. That happens in the system, and it will happen in the future, with or without this kind of disclosure statement.

The real question is: Just because we have to file these kinds of statements, are we going to require our opponents to do the same thing in a way that it may give us some advantage, as well as having the disadvantage of having to file the reports?

Mr. Chairman, I just do not think it is fair on that basis, and that is why I am going to support the amendment.

Mr. BIAGGI. Mr. Chairman, my problem with transactions of this type is that if a man of moderate means engages in these tactics, he is suspect, but if a man of extreme wealth engages in them, that is all right it is the currency of the realm in his milieu. So again we are dealing with double standards.

Mr. BURLISON of Missouri. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to direct a question to the author of the amendment, the gentleman from California (Mr. WIGGINS).

I have not been on the floor during all the debate, but while I have been here I have not heard the constitutional question addressed about which I would like to ask the gentleman from California.

Would not the equal protection clause of the 14th amendment make the gentleman's proposal unconstitutional, and is this not on the face of it quite discriminatory against a class of individuals?

Mr. WIGGINS. Mr. Chairman, if the gentleman will yield, is the gentleman asking me about my amendment's constitutionality?

Mr. BURLISON of Missouri. Yes. I am asking the gentleman if his amendment is legally valid in view of the equal protection clause of the Constitution.

Mr. WIGGINS. Mr. Chairman, as the gentleman knows, the equal protection clause does not require that all people be treated alike.

Mr. BURLISON of Missouri. Yes.

Mr. WIGGINS. It does, however, require that if we treat them differently, there must be a reason. In deciding whether there is a legitimate reason for such treatment, we examine the classifications and the differences in the classifications.

Now, I think there is more than a dollop of difference between an incumbent Member of Congress and one who is not an incumbent Member of Congress. If we legislate differently with respect to them, I would have no difficulty in terms of equal protection, because we are not comparing apples with apples; we are comparing apples with oranges, as it were.

Mr. Chairman, I do not subscribe to the equal protection argument, but I commend the gentleman for his ingenuity.

Mr. BURLISON of Missouri. Mr. Chairman, the statement of the gentleman from California (Mr. WIGGINS) is certainly not very convincing in defense of the constitutionality of his amendment. I question whether the distinction he draws is relevant or valid. But even if we disregard the constitutionality of this amendment, it is clear from the debate that on the basis of fairness and reason, this amendment should be defeated.

Mr. WYDLER. Mr. Chairman, will the gentleman yield to me?

Mr. BURLISON of Missouri. I would be delighted to yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, the gentleman is not suggesting here, is he, that every requirement in this bill that places limitations of one kind or another on Members of Congress or on the executive branch should be extended to all people in the country?

Mr. BURLISON of Missouri. No. The gentleman missed the point if he draws that conclusion.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. WIGGINS).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. WIGGINS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 34, noes 365, not voting 33, as follows:

[Roll No. 806]

AYES—34

Anderson, Calif.
Burgener
Burleson, Tex.
Burton, Phillip
Butler
Cleveland
Collins, Tex.
Conable
Coughlin
Dornan
Early
Frenzel
Hall
Hammer-schmidt
Kelly
McClory
McDonald
Moorhead, Calif.
Murtha
O'Brien
Pattison
Poage
Pursell
Quillen
Roncallo
Rostenkowski
Steiger
Symms
Treen
Vander Jagt
Wampler
Waxman
Wiggins
Wydler

NOES—365

Abdnor
Addabbo
Akaka
Alexander
Ambro
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Byron
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clawson, Del
Clay
Cochran

Cohen
Coleman
Collins, Ill.
Conte
Conyers
Corcoran
Corman
Cornell
Cornwell
Cotter
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dicks
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frey
Fuqua
Gammage
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Grassley
Green
Gudger
Hagedorn
Hamilton
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hyde
Ichord
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Lehman
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Luken
Lundine
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Metcalfe
Meyner
Mikulski
Mikva
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Perkins
Pettis
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quayle
Quie
Rahall
Rangel
Regula
Reuss
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Rooney
Rose
Rosenthal
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shuster
Sikes
Simon
Sisk
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stark
Steed
Steers
Stokes
Stratton
Studds
Stump
Taylor
Thompson
Thone
Thornton
Traxler
Treible
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Walsh
Watkins
Weaver
Weiss
Whalen
White
Whitehurst
Whitley
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—33

Ammerman
Anderson, Ill.
Armstrong
Breaux
Burke, Calif.
Caputo
Dickinson
Diggs
Flowers
Goldwater
Guyer
Hughes
Ire.and
Kemp
Krueger
Lujan
Meeds
Michel
Milford
Miller, Calif.
Nichols
Pepper
Railsback
Rhodes
Risenhoover
Rudd
Sarasin
Shipley
Skubitz
Stockman
Teague
Tsongas
Wylie

Ms. MIKULSKI and Messrs. ABDNOR, CAVANAUGH, and SCHEUER changed their vote from "aye" to "no."

Mr. WAXMAN changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ERTEL

Mr. ERTEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERTEL: Page 8, immediately after line 5, insert the following:

"(7) In the case of a Member, each fund-raising instance activity in which the Member knowingly allows the use of a designation or insignia which appears, or purports to appear, to indicate that it is an official communication, document, or other material of the Congress;"

Mr. ERTEL. Mr. Chairman, this amendment simply requires that any Member of Congress who knowingly allows the use of a facsimile of House stationery or any other House designation or insignia for fund-raising activities must list such instances in their financial disclosure report. My amendment would not prohibit this practice, nor would it place any constraint upon it. It simply requires that these cases must be reported.

Mr. Chairman, while I stress that this amendment does not stop a Member from allowing a noncongressional group or organization to use a facsimile of official House stationery, nor does the amendment indicate that such practice is improper, I would point out that the Senate Ethics Committee took up the question of this practice by Senators earlier this year.

On May 24 this Senate committee issued an advisory opinion which I would like to read from. It states as follows:

It is the opinion of the Select Committee that it is improper conduct which reflects upon the Senate for a Senator to authorize or allow a non-Senate individual, group, or organization to use the words "U.S. Senate" or "official business" or any combination thereof on any letterhead or envelope.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, I would appreciate it if the gentleman would read that statement again.

Mr. ERTEL. Certainly; I would be happy to.

This is the opinion by the Senate committee. It reads as follows:

It is the opinion of the Select Committee that it is improper conduct which reflects upon the Senate for a Senator to authorize or allow a non-Senate individual, group, or organization to use the words "U.S. Senate" or "official business" or any combination thereof on any letterhead or envelope.

This advisory opinion became effective on August 4 of this year. Personally, I believe it is similarly improper for a Member of the House to permit this practice. However, some of my colleagues would disagree with this assessment.

Mr. Chairman, I believe that allowing an outside group or organization to use a facsimile of official House stationery is clearly a misrepresentation which is engaged in purely to mislead the recipient of the letter.

It has been the position of those who might oversee this activity that as long as the letterhead facsimile states that it was not printed or mailed at Government expense, there is nothing to stop this practice in the House. I might point out that House rule XLIII states that a Member of the House of Representatives shall conduct himself at all times in a manner which will reflect creditably on the House of Representatives. The rules also state that Members shall adhere to the spirit of this provision.

Mr. Chairman, it is my opinion that this matter constitutes grounds for a House Ethics Committee advisory opinion similar to that issued by the other body. I have been informed, however, that it does not.

I would also stress that the amendment does not relate to a Member using his name in fundraising activities, if he chooses to do so, or supporting someone or writing a letter on another's group's own letterhead.

The use of a facsimile of House stationery, however, is a significant practice which could be of direct or indirect benefit, including a financial benefit in the form of future contributions to a Member. As such, I believe that at the very least we should require that at any time a Member knowingly allows an outside group or organization to use a facsimile of official House stationery, or any other House designation or insignia, for a fundraising activity, this activity should be included in the Member's report. If we cannot determine the propriety of this activity, at least their own constituents should be allowed to make this determination.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. I yield to the gentleman from New Jersey.

Mr. THOMPSON. I thank the gentleman for yielding.

I would like to express my appreciation for the gentleman for this amendment. While I realize that it does require reporting, that is the extent to which one can go now, as I understand the gentleman's amendment. There is no prohibition; am I correct?

Mr. ERTEL. The gentleman is correct, and we cannot in this bill go further and prohibit, because I have been advised by the Parliamentarian that would be nongermane.

Mr. THOMPSON. The other body has gone a step further and has prohibited such use of the facsimile in the mails; is that correct?

Mr. ERTEL. That is correct. Their opinion by their Senate Ethics Committee prohibits it.

Mr. THOMPSON. I would like to thank the gentleman and point out, as I am sure all of us on either side of the aisle are well aware, we receive frequently pieces of mail with the names of Members of this body on the stationery.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. THOMPSON, and by unanimous consent, Mr. ERTEL was allowed to proceed for 3 additional minutes.)

Mr. THOMPSON. If the gentleman will yield further, we receive frequently pieces of mail with the names of Members of this body and of the other body, and it is obvious that they go out in enormous numbers, especially in direct mail fundraising activities all across the spectrum. I hope that not only the gentleman's amendment carries now, but at a later time that we follow the other body's rule and prohibit the use of facsimile mail or our official stationery for any purpose except official business. Otherwise, the mails can be inundated with facsimile appeals of all sorts without really the person whose name appears on the envelope as a Member of the House or of the other body actually knowing in all circumstances what goes into that envelope.

I commend the gentleman.

Mr. ERTEL. I thank the gentleman, and I agree with him.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. I yield to the gentleman from Iowa.

Mr. BEDELL. I thank the gentleman for yielding.

I would like to associate myself with the remarks of the gentleman from New Jersey. I certainly would hope that we would go further than this in the future, because I have constituents who have received such mail, and those constituents thought that this was actually a request from the Congress for funding for special interest projects.

I commend the gentleman for his amendment. I would hope that we would still go further in the future to where we would be certain that when people get mail that would appear to be official stationery or official mail from the United States Congress, they would know that that is what it is.

Mr. ERTEL. I thank the gentleman for his comments. I would indicate to him that I wish we could have gone further and prohibited it, but this bill would not allow us to do so. Disclosure is the only means at this point to at least point out to our constituents what is going on.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield for a question?

Mr. ERTEL. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

The gentleman has certainly raised a legitimate issue but I would like to ask him the meaning of his phraseology. He talks about a "designation" that in some way purports to give the impression of an official communication. Does that mean, for instance, that if a Member of Congress served on the board of directors of Americans for Democratic Action, or a conservative group, that he could not be identified on the masthead, if it were a fundraising letter, as a Member of Congress from Minnesota?

Mr. ERTEL. No. I do not believe that would be reportable. It says "official communication, document, or other material of the Congress." One may be on the advisory committee of the American Cancer Society and appear there as the Member from Maryland. It applies just when it appears to be a piece of mail from the Congress.

Mr. BAUMAN. Does that mean the Member who signs a fundraising letter for the Sierra Club would be prevented from signing his name and under it designating "Member of Congress"?

Mr. ERTEL. If it does not appear to be an official communication from the Congress, nor does it appear with the insignia of the Congress, he would not have to report it.

Mr. BAUMAN. What would the gentleman have placed at the top where his ordinary letterhead is?

Mr. ERTEL. Ordinarily, it would be like some of the mail we see going out that says, "Congress of the United States, House of Representatives, Washington, D.C." It has the man's name in the upper left hand corner. This would be a classic example.

The CHAIRMAN pro tempore. The time of the gentleman from Pennsylvania has expired.

(At the request of Mr. BAUMAN, and by unanimous consent, Mr. ERTEL was allowed to proceed for 1 additional minute.)

Mr. BAUMAN. Mr. Chairman, if the gentleman will yield further, that is what the gentleman seeks to prohibit; but what would the gentleman, if this amendment is passed, perceive as acceptable? Would the phrase "Member of Congress of the United States" and the Member's name under that on the letterhead be acceptable?

Mr. ERTEL. This would not appear to be official stationery of the House and I would think that is acceptable.

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. Mr. Chairman, I receive mail which implies to me that it is from a Member and it is in the form of an invitation to attend a fund raiser for another Member or a couple other Members, or it may be in the form of an invitation for a group which is having a fund raiser. It would be my hope that it would extend to the Members as well that we could not use the insignia and the appearance of official business to invite each other.

The CHAIRMAN pro tempore. The time of the gentleman from Pennsylvania has again expired.

(At the request of Mr. GARY A. MYERS, and by unanimous consent, Mr. ERTEL was allowed to proceed for 2 additional minutes.)

Mr. GARY A. MYERS. Mr. Chairman, if the gentleman will yield further, that it would extend to ourselves in that there is the implication of official business where Members are, in fact, benefiting through a fundraiser.

Is it the gentleman's intention to require that type of reporting as well in the future have it prohibited; is that the intention of the gentleman from Pennsylvania, to cut out that practice of the House?

Mr. ERTEL. I am not quite certain I understand the question of the gentleman from Pennsylvania, because I do not have the piece of literature in front of me that the gentleman described; but if it says that the minority leader of the House of Representatives invites you to a fundraiser, that is not improper. That does not appear to be official stationery of the House.

Mr. GARY A. MYERS. Mr. Chairman, if the gentleman will yield further, if the majority leader were to invite me to a function which would yield campaign funds to a Member, whether it would be on the majority or the minority side, and on the top of that invitation there was the embossed insignia of the House of Representatives, or the seal, is that to be reported and is that not also offensive to the gentleman from Pennsylvania, as it is to me, and should be prohibited in the future?

Mr. ERTEL. Again, I would have to look at the piece of literature; but apparently what the gentleman describes purports to be an official communication, using the insignia and using the idea it is official business of Government, and that is reportable.

Mr. GARY A. MYERS. Mr. Chairman, if the gentleman will yield further, if the seal is on there, I should assume that would be reported if it is going to yield campaign funds.

Mr. ERTEL. I would think it would not be appropriate.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Chairman, is the gentleman aware of the small beige personal stationery that a good number of us use?

Mr. ERTEL. Yes. I am aware of that.

The CHAIRMAN pro tempore. The time of the gentleman from Pennsylvania has again expired.

(At the request of Mr. PHILLIP BURTON, and by unanimous consent, Mr. ERTEL was allowed to proceed for 3 additional minutes.)

Mr. PHILLIP BURTON. Mr. Chairman, if the gentleman will yield further, would the use of that stationery, if not paid for by any public funds, but by personal funds or campaign funds, is that stationery, and it is a standard form, and I am doing this just in part so the history

on this is clear, is the use of that stationery permitted under the gentleman's amendment? It does not contain the flowery language, as I recall, in blue ink, "Congress of the United States," at least, that is my recollection at this point. I would be interested in the gentleman's reaction to that question.

Mr. ERTEL. As I remember, that usually has the gold seal at the top and has the Member's name underneath and off to the side your name as a Member of Congress.

Mr. PHILLIP BURTON. Yes, it is personal, I think.

Mr. ERTEL. I would think if you used that for fund raising activities and sent out a fund raising letter under that, you would have to report it; but I think it is marginal.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. Yes, I will yield, but first, does the gentleman from California (Mr. BURTON) have another question?

Mr. PHILLIP BURTON. I may have in a few moments, but not now.

Mr. ERTEL. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I have a question to ask.

If a Member of the House should write a letter to a very important civic group or organization, complimenting for instance, the "Sunnyside Community Group" for its endeavors, for its high social purposes, and for the many ways in which it has been helpful to the community, and then that letter is reproduced without the Member's knowledge and inserted in a fundraising package, what burdens then fall on the Member?

Mr. ERTEL. None whatsoever.

Mr. VANIK. Well, wait a minute. He can still be cited, and he may have to come in and show that the fundraising use was not disclosed to him.

Mr. ERTEL. A Member can be cited for any alleged violation, even though he knows nothing about it.

Mr. VANIK. Mr. Chairman, it seems to me, then, that we simply ought to pass a law forbidding the reproduction of any congressional letter. Once a Member sends a letter to a person, he loses control of it. That person has the letter and can reproduce it. He can do anything he wants with it. Should we expose the Member for citation or explanation before the Ethics Committee to explain that he did not know it was a fundraising operation? That exposes every Member to a very unfair publicity assault.

Mr. ERTEL. Mr. Chairman, if I may reclaim my time, I do not believe a complaint would ever be brought against a Member in such an instance as a result of the adoption of this particular reporting requirement because, No. 1, the Member would have to have the knowledge, and under the gentleman's hypothesis the Member would not know.

Secondly, this would not be a fundraising letter or activity. Somebody in another office is using it, but the Member is not aware of it, and the Member was not allowing it to be used for fundraising activities. The letter was not sent for the purpose of fundraising. If I send a letter to the "Sunnyside Community Group" saying "you are doing an excellent job," that is not a fundraising activity.

Mr. THOMPSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wish to make a statement, and I will yield to the gentleman from Pennsylvania (Mr. ERTEL) later for a reply.

In looking over the original language of the gentleman's amendment, which was printed in the RECORD on September 12, 1978, on page H9612, I persuaded the gentleman to strike a clause which perhaps, on second thought, should be reintroduced as an amendment or modification to the language.

If I may have the attention of the Members, I think that clause would take care of the question with respect to fundraising.

The gentleman's original amendment, as it was drafted, includes a semicolon and has the following language added:

> Except that the Member is not required to list instances in which the Member uses such designation or insignia in fund-raising activities for his own campaign.

Mr. Chairman, that would seem to answer virtually any question except that of the gentleman from Ohio (Mr. VANIK) with respect to whether it is official or not. If that language were added, it would be my understanding that the prohibition would go only to the unlimited use by other persons of stationery, facsimile stationery or otherwise, for purposes of fundraising or other purposes really beyond the Member's control.

In a word, if Members do have the control and were to write "thank you" letters to people, they could use their official stationery, even though they might have to put postage on them.

Mr. ERTEL. Mr. Chairman, if the gentleman will yield, if that provision had been in there, the Member could use that stationery and not have to report it, if it was for one's own fundraising activities, just as the gentleman from California (Mr. WIGGINS) said.

Mr. Chairman, if the gentleman is offering that as an amendment, I would accept it.

Mr. THOMPSON. Mr. Chairman, would it be appropriate to ask unanimous consent to add the following words to the gentlman's amendment as a modification:

After the word, "Congress," add a semicolon and the words: "except that the Member is not required to list instances in which the Member uses such designation or insignia in fund-raising activities for his own campaign"?

Mr. Chairman, I make that as a unanimous consent request.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. WIGGINS. Mr. Chairman, reserving the right to object, under my reservation, may I urge all the Members to take a deep breath and think about what is going on here. We are asked to clutter up the United States Code with a matter which is appropriately addressed to our own rules, and that is on the use of House stationery.

Moreover, the United States Code provisions carry criminal penalties for failure to comply adequately with them. And given the uncertainty here, I just cannot believe the Members would heap that risk upon themselves. The place to deal with this problem is in our rules. Now, we can do that in very short order, without cluttering up the United States Code.

One final remark under my reservation of objection: The only thing that the amendment does is to compel disclosure. Disclosure of what? Disclosure of a highly public, highly visible mass mailing. Well, that is like compelling disclosure of a parade. There is no public served by compelling disclosure of something that is very visible and in the public. I think the problem to which the amendment is addressed is a real one, but let us not put it forth in perpetuity in the United States Code but, rather, let us deal with it in the rules, where it belongs.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. Further reserving the right to object, Mr. Chairman, I yield to the gentleman from New Jersey.

Mr. THOMPSON. I thank the gentleman for yielding.

Mr. Chairman, I think the gentleman has made a very important point. For a moment I lost track, candidly, that this does become a part of the United States Code, that it does involve a criminal penalty. As much as I think we need it, it should certainly be done elsewhere, in my judgment.

Mr. WIGGINS. Mr. Chairman, I would hope that the gentleman from Pennsylvania would withdraw his amendment. But if he does not, then we should vote against it.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. GARY A. MYERS. Mr. Chairman, reserving the right to object, I would like to address a comment to the gentleman from New Jersey (Mr. THOMPSON).

Mr. Chairman, it seems to me that the gentleman's unanimous-consent request goes in the reverse direction to which the gentleman from Pennsylvania (Mr. ERTEL) and I have already indicated. I think the Congress would be misread if we reserved for ourselves the ability to use official-looking paper for fund raisers, and I think that that makes the amendment even more offensive.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. GARY A. MYERS. Further reserving the right to object, Mr. Chairman, I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, what I am trying to say now is that I hope there will be an objection to my unanimous-consent request.

Mr. GARY A. MYERS. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. WYDLER. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. Mr. Chairman, it is my understanding that the gentleman will take this up in his committee within the next year, will have hearings on it, and will bring out a similar type of legislation, to prevent the use of a facsimile.

Mr. THOMPSON. Mr. Chairman, the appropriate forum of jurisdiction should certainly have hearings, and I rather fervently hope I will be here next year to help to conduct them or to conduct them. But I do think the matter needs further study, and I, for my part, would like to withdraw my addition and suggest to the gentleman from Pennsylvania that he withdraw his amendment, and that we look at this matter very carefully, with a view toward accomplishing exactly what we do want to accomplish without messing up the United States Code in the process.

Mr. ERTEL. Mr. Chairman, I ask unanimous consent to withdraw my amendment at this time.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

AMENDMENTS OFFERED BY MR. GARY A. MYERS

Mr. GARY A. MYERS. Mr. Chairman, I offer amendments which apply to both title I and title II, and I ask unanimous consent that they be considered en bloc.

Mr. DANIELSON. Mr. Chairman, I reserve a point of order on the amendments.

The Clerk read as follows:

> Amendments offered by Mr. GARY A. MYERS:
>
> Page 3, line 8, strike out "(2)" and insert in lieu therof "(1) (other than the identity of the source of income), (2),".
>
> Page 3, line 12, strike out "(2)" and insert in lieu thereof "(1) (other than the identity of the source of income, (2),".
>
> Page 23, line 11, strike out the period at the end thereof and insert in lieu thereof a comma and the following: "except that this paragraph shall not require the reporting of the amounts of income received while the reporting individual was not holding any office or position described in section 201 (f),".
>
> Page 26, line 13, strike out the period at the end thereof and insert in lieu thereof a comma and the following: "except that this paragraph shall not require the reporting of the amounts of income received while the reporting individual was not holding any office or position described in section 201(f),".

The CHAIRMAN pro tempore. The gentleman from Pennsylvania has asked unanimous consent to consider the amendments en bloc in spite of the fact that one of them applies to title II.

Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. DANIELSON. Mr. Chairman, I reserve a point of order. My point of order, I believe, goes to the request.

The CHAIRMAN pro tempore. Does the gentleman reserve or assert his point of order?

Mr. DANIELSON. I will state my point of order, with the Chair's permission.

That is, that the amendments apply to both title I and title II of the bill. We are now considering title I.

The CHAIRMAN pro tempore. The Chair would advise the gentleman from California that before his point of order was made, the gentleman from Pennsylvania had asked unanimous consent that the two amendments be considered en bloc, notwithstanding the fact that one of the amendments extended to another title.

Mr. DANIELSON. Mr. Chairman, I will withdraw my point of order, and I will not object to considering the amendments en bloc.

The CHAIRMAN pro tempore. The gentleman from Pennsylvania (Mr. GARY A. MYERS) is recognized for 5 minutes in support of his amendments.

Mr. GARY A. MYERS. Mr. Chairman, these amendments are relatively simple amendments that would apply to candidates in title I for the legislative position as well as in title II to those people who would be in a status of an appointee to the executive branch. The amendments would simply relieve those individuals from disclosing the size of income under the reporting of this bill.

The reason I seek to do that is, to some extent, address the concern that has been expressed here, that we have to realize that there are certain disincentives we are building for people who come as candidates for these positions. It seems to me we ought to recognize that the size of the salary of an individual is often a very confidential relationship between himself or herself and the employer; and that, while a person might want to, as a candidate, disclose it, he might also recognize that he or she might be creating some substantial problems for a third party, that being the employer, who is an innocent party in the whole thing.

I know from my own experience that I worked in a job in which I did not know the salary of the person who was my peer, and he was not supposed to know mine. If I were to disclose it, or if it were to be public knowledge information, it might create a problem for the employer to try to explain why the employer evaluated my service either as a more valuable or less valuable contribution.

So, what I am trying to do here is remove from the bill an impact on innocent parties, those being employers, and also remove a disincentive that a potential candidate might find would create difficulties for an employer. These amendments would still require those individuals to report the source of income and type of income, but really, I do not think it made much difference whether as a candidate I was earning $16,000 as a turn foreman at Armco or $19,000 or $20,000.

But that small difference might make a lot of difference in the opinion of the people who were my peers on that job if they were earning a $1,000 or $2,000 less than I was. That is the type of situation we might be creating if we do not adopt this amendment.

I make it clear, though, that if a person was to retain the employment after he or she was elected, that they would have to meet all reporting requirments and disclose the amount as well as the source of the income at that point. I repeat, once they become public officials either in the legislative branch or the executive branch, then that full reporting, including the amount of income would be required of them.

I yield back the balance of my time.

Mr. DANIELSON. Mr. Chairman, I rise in opposition to the amendments offered by the gentleman from Pennsylvania (Mr. GARY A. MYERS).

Mr. Chairman, I would like to point out, as the gentleman from Pennsylvania (Mr. GARY A. MYERS) has said, the first two provisions of his amendment, cover some of the same ground that we covered in our earlier debate on the question of whether or not a candidate for office should be compelled to report. It does not cover the identical ground but it would eliminate the requirement for reporting anything except the identity of the source of the income, the amount of the income would be eliminated under the gentleman's amendment. This would substantially nullify the value of reporting in the first place. For that reason the amendment should be turned down, if we are talking about candidates for the legislative branches of the Congress. The other two portions of the gentleman's amendment, relate to title II of the bill, where we would be interfering with the reporting requirement of the members of the executive branch of the Government.

The fourth branch of the amendment, would provide that, on page 26, line 13:

> Except that this paragraph shall not require the reporting of the amounts of income received while the reporting individual was not holding any office or position described in section 201(f).

What we are talking about in this section of the bill are those persons who are either new members of the executive branch, or persons whose names are transmitted to the Senate by the President for the purpose of advice and consent or, under (c) persons who may be candidates for nomination to the office of President or vice president.

Mr. GARY A. MYERS. Mr. Chairman, if the gentleman will yield, the gentleman implies we are talking about people who are actually employed by the Federal Government.

Mr. DANIELSON. No, the gentleman does not imply that and did not mean to imply that and has not said that.

Mr. GARY A. MYERS. I think we should make it clear it applies to new individuals at the time between the time they are appointed and before they get to actually being in the employ of the Federal Government.

Mr. DANIELSON. That is correct.

Mr. GARY A. MYERS. I thank the gentleman.

Mr. DANIELSON. That is exactly what this gentleman has been arguing. This amendment would nullify the whole thrust of the requirement that

when the President takes the name of some individual and sends it over to the Senate for advice and consent, that that person is required to file a report stating his financial condition, et ceteras, as of a date no longer than 30 days prior thereto. The gentleman's amendment would negate that, it would defeat the purpose of having this requirement in the first place.

Mr. GARY A. MYERS. If the gentleman will yield further, there is nothing in my amendment which would prevent any President from requiring a potential appointee from giving to him and to the Senate information that they would require and need to make a proper evaluation.

What it does do, it does prohibit, as a matter of course, making them disclose any information that may not have any bearing on their appointment, so that the President is not restricted. It is incorrect to imply that the President is restricted.

Mr. DANIELSON. Mr. Chairman, if I may recapture my time, the President himself requests that provision to be in the law. He already demands of his nominees that they make a financial disclosure, but he wants this to become a part of the law. The President fully supports this provision. The fact is that the President can already demand disclosure of his nominees and they are already disclosing what they have but the fact is that he wants to have that part of our present law, he is for all of the provisions of this statute and in support of fair, accurate and competent reporting.

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield very briefly.

Mr. GARY A. MYERS. Will the gentleman support my amendment if I ask unanimous consent to strike the reference to title II?

Mr. DANIELSON. No. I am opposed to it in title I for the reasons which I stated before. They are a lesser version of the amendment offered by the gentleman from California (Mr. WIGGINS), which was defeated by a vote of almost 11 to 1. Here we would be in effect reviving the Wiggins amendment in part, and I oppose that anyway.

The CHAIRMAN. The time of the gentleman from California (Mr. DANIELSON) has expired.

(On request of Mr. GARY A. MYERS, and by unanimous consent, Mr. DANIELSON was allowed to proceed for 1 additional minute.)

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Pennsylvania.

Mr. GRAY A. MYERS. Mr. Chairman, will the gentleman agree with me that by requiring people to disclose the amount of income that we are requiring them to disclose information which is confidential in nature, in many cases with a third party who is an innocent party to the election?

Mr. DANIELSON. I will respond very directly. There is some truth in what the gentleman says, but that truth runs throughout the length and breadth of this bill. I respectfully submit that if it is proper for a Member of Congress to report his financial transactions, then it is likewise proper for a person who may be appointed to an executive position to do so. The President himself wants us to put this in the bill. What we are doing, as was so ably stated during the general debate by so many people, is that we are opening this information up for public examination.

The CHAIRMAN. The time of the gentleman from California (Mr. DANIELSON) has again expired.

(On request of Mr. GARY A. MYERS, and by unanimous consent, Mr. DANIELSON was allowed to proceed for 1 additional minute.)

Mr. DANIELSON. Mr. Chairman, the onus, if there is one, of reporting one's assets and one's financial transactions should be borne evenhandedly by people in all the branches of Government. That is how this bill has been constructed. I know that it will impact some people but there is one thing to bear in mind. No one has to seek an executive job. No one has to run for Congress. So that when we do take these actions which put us on the treadmill, then we can in the future be expected to comply.

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. I thank the gentleman for yielding.

I think the gentleman made my case in the last remark when he said the burden ought to be borne equally by all people in Government. That goes to the point of the amendment. The point of the amendment is that the people who would be affected by this amendment are not members of the Government. They are at the stage where they might become members of the Government.

The CHAIRMAN. The time of the gentleman from California (Mr. DANIELSON) has again expired.

(On request of Mr. GARY A. MYERS, and by unanimous consent, Mr. DANIELSON was allowed to proceed for 1 additional minute.)

Mr. GARY A. MYERS. Mr. Chairman, if the gentleman will yield further, it seems to me in an awful lot of legislation we make the decision whether we are going to encroach further and further on the people with our legislation. What this means is if there is a small businessman or a big corporate entity—and I think it will probably cause more problems for the small business people in one's district because they have confidential relationships between themselves and their employees they are going to be put in the position of having to explain why one person makes $200 more a month than another.

Mr. DANIELSON. Mr. Chairman, I have to recapture my time. This is simply another argument of another portion of the bill; namely, that it is going to bring forth public disclosures of certain facts which today are deemed confidential. We do have a difference of philosophy on this.

Mr. Chairman, I urge defeat of the amendment.

The CHAIRMAN pro tempore. The question is on the amendments offered by the gentleman from Pennsylvania (Mr. GARY A. MYERS).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. GARY A. MYERS. Mr. Chairman, I demand a recorded vote, and pending that I make the point of order a quorum is not present.

The CHAIRMAN pro tempore. The Chair will count. Seventy-two Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN pro tempore. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN pro tempore. The pending business before the committee is the demand of the gentleman from Pennsylvania (Mr. GARY A. MYERS) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 39, noes 353, not voting 40, as follows:

[Roll No. 807]

AYES—39

Ashbrook	Hansen	Satterfield
Brown, Ohio	Holt	Scheuer
Broyhill	Hyde	Shuster
Burgener	Kasten	Steed
Burleson, Tex.	Kindness	Steiger
Butler	Krebs	Symms
Cleveland	McClory	Taylor
Collins, Tex.	McDonald	Treen
Conable	Miller, Ohio	Van Deerlin
Crane	Myers, Gary	Vander Jagt
Frenzel	Pattison	Walgren
Goldwater	Quayle	Wydler
Hammer-schmidt	Robinson	
	Rostenkowski	

NOES—353

Abdnor	Boggs	Coleman
Addabbo	Boland	Collins, Ill.
Akaka	Bolling	Conte
Alexander	Bonior	Conyers
Ambro	Bonker	Corcoran
Anderson, Calif.	Bowen	Corman
Andrews, N.C.	Brademas	Cornell
Andrews, N. Dak.	Breckinridge	Cornwell
Annunzio	Brinkley	Cotter
Applegate	Brodhead	Coughlin
Archer	Brooks	Cunningham
Ashley	Broomfield	D'Amours
Aspin	Brown, Calif.	Daniel, Dan
AuCoin	Brown, Mich.	Daniel, R. W.
Badham	Buchanan	Danielson
Bafalis	Burke, Fla.	Davis
Baldus	Burke, Mass.	de la Garza
Barnard	Burlison, Mo.	Delaney
Baucus	Burton, John	Dellums
Bauman	Burton, Phillip	Derrick
Beard, R.I.	Byron	Derwinski
Beard, Tenn.	Carney	Devine
Bedell	Carr	Dicks
Bellenson	Carter	Dingell
Benjamin	Cavanaugh	Dodd
Bennett	Cederberg	Dornan
Bevill	Chappell	Downey
Biaggi	Chisholm	Drinan
Bingham	Clausen, Don H.	Duncan, Oreg.
Blanchard	Clawson, Del	Duncan, Tenn.
Blouin	Cochran	Early
	Cohen	Eckhardt
		Edgar

Edwards, Ala.	Keys	Pritchard
Edwards, Calif.	Kildee	Pursell
Edwards, Okla.	Kostmayer	Quie
Eilberg	LaFalce	Quillen
Emery	Lagomarsino	Rahall
English	Latta	Rangel
Erlenborn	Leach	Regula
Ertel	Lederer	Reuss
Evans, Colo.	Le Fante	Richmond
Evans, Del.	Leggett	Rinaldo
Evans, Ga.	Lehman	Roberts
Evans, Ind.	Lent	Rodino
Fary	Levitas	Roe
Fascell	Livingston	Rogers
Fenwick	Lloyd, Calif.	Roncalio
Findley	Lloyd, Tenn.	Rooney
Fish	Long, La.	Rose
Fisher	Long, Md.	Rosenthal
Fithian	Lott	Rousselot
Flippo	Lujan	Roybal
Flood	Luken	Runnels
Florio	Lundine	Ruppe
Flynt	McCloskey	Russo
Foley	McCormack	Ryan
Ford, Mich.	McDade	Santini
Ford, Tenn.	McEwen	Sawyer
Forsythe	McFall	Schroeder
Fountain	McHugh	Schulze
Fowler	McKay	Sebelius
Fraser	McKinney	Seiberling
Frey	Madigan	Sharp
Fuqua	Maguire	Sikes
Gammage	Mahon	Simon
Garcia	Mann	Sisk
Gaydos	Markey	Skelton
Gephardt	Marks	Skubitz
Giaimo	Marlenee	Solarz
Gibbons	Marriott	Slack
Gilman	Martin	Smith, Iowa
Ginn	Mathis	Smith, Nebr.
Glickman	Mattox	Snyder
Gonzalez	Mazzoli	Spellman
Goodling	Metcalfe	Spence
Gore	Meyner	St Germain
Gradison	Mikulski	Staggers
Grassley	Mikva	Stangeland
Green	Mineta	Stanton
Gudger	Minish	Stark
Hagedorn	Mitchell, N.Y.	Steers
Hall	Moakley	Stratton
Hamilton	Moffett	Studds
Hanley	Mollohan	Stump
Hannaford	Montgomery	Thompson
Harkin	Moore	Thone
Harrington	Moorhead, Calif.	Thornton
Harris	Moorhead, Pa.	Traxler
Harsha	Moss	Trible
Hawkins	Motti	Udall
Heckler	Murphy, Ill.	Ullman
Hefner	Murphy, N.Y.	Vanik
Heftel	Murphy, Pa.	Vento
Hightower	Murtha	Volkmer
Hillis	Myers, Michael	Waggonner
Holland	Natcher	Walker
Hollenbeck	Nedzi	Walsh
Holtzman	Nix	Wampler
Horton	Nolan	Watkins
Howard	Nowak	Waxman
Hubbard	Oakar	Weaver
Huckaby	Oberstar	Weiss
Hughes	Obey	Whalen
Ichord	O'Brien	Whitehurst
Ireland	Ottinger	Whitley
Jacobs	Panetta	Whitten
Jeffords	Patten	Wilson, Bob
Jenkins	Patterson	Wilson, Tex.
Jenrette	Pease	Winn
Johnson, Calif.	Perkins	Wirth
Johnson, Colo.	Pettis	Wolff
Jones, N.C.	Pickle	Yates
Jones, Okla.	Pike	Yatron
Jones, Tenn.	Poage	Young, Alaska
Jordan	Pressler	Young, Fla.
Kastenmeier	Preyer	Young, Mo.
Kazen	Price	Zablocki
Kelly	Rahall	Zeferetti

NOT VOTING—40

Ammerman	Meeds	Shipley
Anderson, Ill.	Michel	Stockman
Armstrong	Milford	Stokes
Breaux	Miller, Calif.	Teague
Burke, Calif.	Mitchell, Md.	Tsongas
Caputo	Myers, John	Tucker
Clay	Neal	White
Dent	Nichols	Wiggins
Dickinson	Pepper	Wilson, C. H.
Diggs	Railsback	Wright
Flowers	Rhodes	Wylie
Guyer	Risenhoover	Young, Tex.
Kemp	Rudd	
Krueger	Sarasin	

Mr. BURKE of Massachusetts changed his vote from "aye" to "no."

Mr. WALGREN changed his vote from "no" to "aye."

So the amendments were rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I ask unanimous consent to offer an amendment.

The CHAIRMAN. The amendment is not printed in the RECORD?

Mr. FRENZEL. That is correct, Mr. Chairman.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The Clerk read as follows:

Amendment offered by Mr. FRENZEL: On page 7, line 10, immediately before the period insert "or any deposit of $5,000 or less in a personal savings account which bears interest".

Mr. FRENZEL. Mr. Chairman, this is an amendment proposed by our colleague from California (Mr. WIGGINS) which would have exempted from reporting amounts held in personal savings accounts, in interest-bearing accounts. Typically, this would cover an account in a savings and loan savings bank or commercial bank. As originally drafted, the amendment would have exempted any amount. However, after consultation with the distinguished chairman of the Select Committee on Ethics and by unanimous consent of this body I have changed it to a limit of $5,000 on the amount that could be held in these accounts without disclosure.

The reasons, of course, is that some Members may own securities, or any kind of assets, that they might consider would be a conflict. After this amendment is in effect, they could sell that asset, put the money in a savings account and rid themselves of the conflict of interest. There would be no reason, if it were a small savings account, to have to make a report on it.

Mr. PREYER. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from North Carolina.

Mr. PREYER. Mr. Chairman, the committee agrees with this amendment, and we accept it. A personal savings account is a borderline case in a conflict-of-interest situation anyway. The reason we felt it should be included was the fact that there could be a surge of an amount of money going into personal savings accounts which might have some bearing on the conflict of interest. But, if it is limited to savings accounts under $5,000, I do not see how there could be any serious conflict of interest, and we would agree to the amendment.

Mr. FRENZEL. I thank the Chairman.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, does this apply to deposits in all savings and loan institutions in America? Does the gentleman's amendment include deposits on credit union deposits? Are they included?

Mr. FRENZEL. Yes; they are.

Mr. VANIK. A person could distribute deposits among all the savings and loans in this area or in another area. Is this an aggregate figure or just an individual top?

Mr. FRENZEL. Mr. Chairman, I really had not considered this, but I would guess in the spirit of the discussion between the chairman and myself that it would be our intention that it would be an aggregate amount. It does not say that, but that would be the intention of the mover of the amendment.

Mr. VANIK. Why not amend your amendment to include deposits aggregating $5,000?

Mr. FRENZEL. I will yield to the gentleman.

Mr. VANIK. I thank the gentleman for his explanation.

Mr. FRENZEL. I think this discussion will make it clear.

The CHAIRMAN pro tempore. The question is on the motion offered by the gentleman from Minnesota (Mr. FRENZEL).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRENZEL: On page 11, strike out lines 14 through 25, and insert:

(c) Any person requesting a copy of a report may be required to pay a reasonable fee to cover the cost of reproduction or mailing of such report, excluding any salary of any employee involved in such reproduction or mailing. A copy of such report may be furnished without charge or at a reduced charge if it is determined by the Clerk or Secretary that waiver or reduction of the fee is in the public interest because furnishing the information may be considered as primarily benefiting the public.

Mr. FRENZEL. Mr. Chairman, this is an amendment which has also been offered by our colleague, the gentleman from California (Mr. WIGGINS). It simply rewrites the section so that a person requesting information under this act may not or need not be required to leave his name and organization. Because of that requirement persons may be unwilling to make the request for information. The gentleman from California (Mr. WIGGINS) feared that particular feature, unless it was changed, might dissuade some people from seeking information under this act.

Mr. DANIELSON. Mr. Chairman, I would like to inquire, is this being requested similarly in title II?

Mr. FRENZEL. Will this also be requested in title II?

Mr. DANIELSON. I believe it is.

Mr. FRENZEL. If it is accepted here, there may be an attempt to make it acceptable in title II and title III. I would not say it will be done or not.

Mr. DANIELSON. I do not know that it will be acceptable in title II.

Mr. FRENZEL. I thank the gentleman.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Minnesota (Mr. FRENZEL).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

The Clerk read as follows:

Amendment offered by Mr. FRENZEL: On page 8, immediately after line 5, insert the following:

(7) A description of the date, parties to, and terms of any agreement or arrangement with respect to: (A) future employment; (B) a leave of absence during the period of the reporting individual's Government service; (C) continuation of payments by a former employer other than the United States Government; and (D) continuing participation in an employee welfare or benefit plan maintained by a former employee.

Mr. FRENZEL. Mr. Chairman, this amendment simply conforms title I to titles II and III with respect to requiring disclosure of future employment. It is an amendment also of our colleague, the gentleman from California (Mr. WIGGINS). I would hope that the House would feel it is responsible to require the disclosure of future employment in the legislative branch as well as in the executive and judicial.

Mr. PREYER. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from North Carolina.

Mr. PREYER. Mr. Chairman, this same provision is included in the executive branch and the judicial branch of the bill and therefore we think it is appropriate that it also be included in the legislative branch and we would accept the amendment.

Mr. DANIELSON. Mr. Chairman, if the gentleman would yield, I would like to point out that we are talking about title I, the legislative branch, and this is imposing added responsibilities in reporting.

I will not debate it further.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Minnesota (Mr. FRENZEL).

The question was taken; and on a division (demanded by Mr. FRENZEL) there were—ayes 25, noes 2.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer an amendment and I ask unanimous consent that I may be permitted to offer the amendment on page 9, line 18.

The CHAIRMAN pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. FRENZEL: On page 9, line 18, before the second comma add the following language: "(except by inheritance)".

On page 10, line 4, before the second comma add the following: "(except by inheritance)".

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. FRENZEL. Mr. Chairman, I am sorry that I had to resort to these unanimous-consent requests. In both cases there were very slight modifications in amendments which have been entered in the record for a number of days, and in some cases, months. So the Members have had a good chance to at least consider the substantive matter that is encompassed within this amendment, just as was the case in the previous one. In this amendment, on page 9, line 18, I add the language "(except by inheritance)".

Some of the Members will recall that for spouses who have dependent children, certain disclosure requirements are required if the individual derives or expects to derive any financial or economic benefit.

My amendment does not change the requirement that disclosure must be made if the individual derives any economic benefit. However, if the assets owned by the spouse have been created or acquired without any effort on the part of the reporting individual, and the reporting individual acquires and derives no benefits from those assets, this amendment would allow that individual will not have to make a disclosure solely because he or she may someday inherit those assets.

It seems to me that there is no reason in the world to require that kind of disclosure when you may simply accidentally come into those assets somewhere later down the road.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I raise an issue on this amendment because it seems to me the issue is not how the assets are brought about. If they are brought about by gift or by inheritance, they are nevertheless there. The fact that they may not be of direct, immediate consequence to the person subject to the report is not the entire issue. It is incredible to me to believe that there is no advantage from an inheritance which may flow to another member of their family.

The fact of the matter is that the person affected by that kind of inheritance acts in a certain specific way on legislation, such as when it comes to tax legislation which might affect that inheritance.

What would a member endowed with inheritance wealth in his family do with respect to estate taxes, with respect to capital gains advantages, with respect to all of those many things which provide special privileges for wealth and large inheritances?

I think we ought to know in this chamber which Members of this House are influenced and affected by inherited wealth. It is all right to put it on the record. Anything which serves to affect the judgment of the legislator in acting upon a legislative matter ought to be put on the record so that his or her position can be tested on the basis of its objectivity.

Mr. Chairman, to provide an exemption for inherited wealth, provides a class distinction, a class discrimination, which we should not tolerate in the House of Representatives.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for his contribution.

I can understand his feeling. The intention of the amendment, however, is to say that if one has a spouse who has acquired assets on his or her own, he or she should have some privacy; and if one does not now derive benefit from those assets, but may only at some time in the future acquire them through inheritance—and there is no reason to believe necessarily that the person will, except that he or she may—one should not have to make that report.

The genesis of this amendment was that I thought spouses had equal rights, and others should not have to report by virtue of their job unless they were directly affected by it.

Mr. PREYER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, we debated this point at some length in the committee. The committee considered the arguments on it, and we voted against excluding inheritance from the two-prong test which we have as to spouse assets.

We think we have a balanced reporting situation now for spouse assets, and I would have to oppose the amendment.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. PREYER. Yes, I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Chairman, I thank the gentleman for yielding.

As I read the language on page 9, it says that the individual "expects to derive."

If my wife has a father who is alive, I assume that he will sometime, in due course, pass away; and I assume that in due course he will leave her some inheritance.

When do we have to start reporting under this language as long as any of us have parents or our wives have parents who are alive and who may leave anything?

It seems to me that under this "expectation to derive," we then have to report any of that; is that correct?

Mr. PREYER. No. It only relates to the assets which one's spouse may now have. It is not anything she may expect to derive from her father in the future.

Mr. JOHNSON of Colorado. If the gentleman will yield further, what does the language mean when it says "nor expects to derive"—"from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit"?

Mr. PREYER. That means that one may expect to derive in the future benefits from assets which his or her spouse now has, namely, by inheritance.

Mr. JOHNSON of Colorado. But it does not reflect, then, any requirement that we have to start reporting what our spouses will expect to derive at some time in the future through inheritance, does it?

Mr. PREYER. No, absolutely not.

Mr. JOHNSON of Colorado. Mr. Chairman, I thank the gentleman for the explanation.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Minnesota (Mr. FRENZEL).

The amendment was rejected.

AMENDMENT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRENZEL: On page 12, strike out lines 17 through 19 and insert the following:

(D) for use, directly or indirectly, in the solicitation of money for any purpose, other than for a political purpose.

Mr. FRENZEL. Mr. Chairman, this is another one of the amendments of the gentleman from California (Mr. WIGGINS). He was particularly concerned about the prohibition of the use of material developed in these disclosure statements for various purposes with respect to political campaigns. He devised this amendment as a way to insure that we or our opponents, the candidates, would be able to use those disclosures to attack us if they thought legitimate issues could be raised, and would be able to include those legitimate issues in letters to others, some of which might, in fact, ask for money.

It is my judgment that the amendment may not be necessary if the gentleman from North Carolina would give us a clearer idea of what section (D) on page 12, line 17, really means with respect to the use of this information.

I yield to the gentleman from North Carolina.

Mr. PREYER. I thank the gentleman for yielding.

I talked to the gentleman from California about this earlier. This provision is intended only to prohibit the use of the names of reporting individuals for a mass mail political fund-raiser. It is not intended to prohibit a candidate from using the information in a Member's disclosure statement as part of a campaign fund-raising appeal.

I think what the gentleman from California was concerned about was that a candidate could not use the information in one of our disclosure statements as a basis for arguing, "Give me x dollars to fight this man who has this conflict of interest." This does not reach that area at all.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman from North Carolina for that explanation. I think that is exactly what the gentleman from California (Mr. WIGGINS) was interested in. Because of that explanation, Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The CHAIRMAN. Are there further amendments to title I?

AMENDMENT OFFERED BY MR. VOLKMER

Mr. VOLKMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VOLKMER: On page 8, strike lines 12 through 19 and insert in lieu thereof the following:

"(1) up to $5,000;
"(2) from $5,000 to $15,000;
"(3) from $15,000 to $50,000;
"(4) from $50,000 to $100,000;
"(5) from $100,000 to $250,000;
"(6) from $250,000 to $500,000;
"(7) from $500,000 to $1,000,000;
"(8) from $1,000,000 to $2,000,000;
"(9) from $2,000,000 to $5,000,000; and
"(10) greater than $5,000,000."

Mr. VOLKMER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Missouri?

Mr. ASHBROOK. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

The Clerk will read.

The Clerk concluded reading the amendment.

Mr. VOLKMER. Mr. Chairman, this is to increase the maximum amounts by categories from the $100,000 limit in the category that is presently in the substitute to the language that is actually in H.R. 1 as reported out of the House Committee on the Judiciary, and also as is contained in the Senate bill as to categories of reporting for assets and liabilities. I feel personally that the limit that is present in the substitute, just greater than $100,000, does not really cover the field as it should be covered, because we have many who have assets of $101,000, and they are going to be shown in the same category with the same reflection as the person who has $13 million or $5 million in a category.

This is to just carry on the category so that the assets and liabilities can be delineated better than presently in the substitute.

I believe that the Committee on the Judiciary when it reported out the language as contained in this amendment made a wise and right decision. I believe also that the Senate did the same. I am merely asking that the House also be willing to categorize up to the $5 million figure. There are Members not only in this body, but candidates running for Congress, plus several Members in the other body who do fall in the category considerably above $100,000.

I see no reason why there would be any objection to this amendment, because it merely categorizes above $100,000, where in the substitute there is no category whatsoever, although a person would still have to report over $100,000.

Therefore, I ask the House and request that it adopt the amendment.

Mr. PREYER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would strongly oppose adopting this amendment. What it would do is to tend to have all of us in Congress file a net worth statement. If you have to file in categories up to $5 million, that is going to include the net worth of most people who are Members of Congress.

Now, the purpose of disclosure is not to make net worth statements. The purpose is to point out potential conflicts of interest.

Now, "over $100,000," which is our highest category, is certainly a substantial potential for conflict of interest. The fact that it might be $1 million or $5 million, instead of $100,000, adds to the magnitude of the conflict, but not very much. What it would really do to require categories of value of this size would be to meet public curiosity, but that would not necessarily meet the public interest. We think the present categories of value deal with the question of whether there are potential conflicts of interest. To go this high on it is to get into the area where we are invading privacy and where we are really appealing to the curiosity of the public, rather than to their interest in conflict of interest; so I would hope this amendment would be defeated.

Mr. MOORHEAD of California. Mr. Chairman, I move to strike the last word.

I rise in opposition to the amendment.

Mr. Chairman, I feel that the $100,000 category is sufficient to bring to the American people all the conflicts that possibly exist, that all the detail required by this amendment would serve no real purpose and would unnecessarily violate the privacy of the individuals involved. There is just as much conflict at the $100,000 level as there is at $250,000, $500,000, or at the $1 million level.

It is our desire to see that all the potential conflicts be pointed out to the American people. That is done in the present wording of the bill.

Mr. Chairman, I would hope that this amendment will be rejected.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I have an amendment which would have lowered these categories, but in deference to the gentleman from North Carolina, I have decided not to offer it.

I think on more sober reflection that the categories that are in the Danielson substitute which the committee is now considering are adequate.

I echo the sentiments of the chairman, which are that if we expand the categories higher into those exotic $1, $3, and $5 million regions, we are not doing any good to anybody. When we have over $100,000, there is a potential for conflict, and we are only trying to pinpoint a potential for conflict. We are not trying to define it or describe it precisely, nor do we wish to offer any incentives to extortioners, kidnapers, and so forth.

Mr. Chairman, the amendment, I think, does no good for the purposes of disclosure, and I hope it will be defeated.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, is the gentleman, then, saying that if a person has over $100,000 in assets of a certain category, that person has a conflict of interest?

Mr. FRENZEL. The gentleman said no such thing. I merely said that we were trying to pinpoint or outline potential conflicts or areas that people might consider to be conflicts, and I think that can be described in $100,000 terms as well as million-dollar terms.

Mr. VOLKMER. Mr. Chairman, if a person has $100,000 worth of stock in one concern, whether it be an airline, manufacturing, shipbuilding, construction, steel, or what have you, as against $1 million or $4 million worth of stock in that concern, the gentleman would say there would be no difference in their conflict of interest?

Mr. FRENZEL. I said that the pinpointing of the holding of over $100,000 would, I am sure, spotlight a potential conflict to anybody just as well as it would if we were to go ahead and describe it in higher categories.

Mr. VOLKMER. Mr. Chairman, does the gentleman say that one is just as great as the other, that $100,000 is as great as $1 million?

Mr. FRENZEL. I do not say that one is as great or greater than the other, or do I necessarily think they are conflicts of interest at all. They are merely potentials. What we have is an ethics in government bill, and we are trying to adopt a disclosure clause without making people reveal total worth or tax incentives and without giving incentives to extortioners or kidnappers.

Mr. Chairman, we are trying to do this very delicately in this bill, and I hope the gentleman will support it.

Mr. VOLKMER. Mr. Chairman, may I ask the gentleman, is there not more potential conflict of interest if a person has a larger financial interest or a larger financial statement than if that person has a smaller one?

Mr. FRENZEL. I do not know if there is or not. I think what we are trying to do is to show that Members have a certain extent of interest.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I think the gentleman from Minnesota (Mr. FRENZEL) is absolutely correct. The point is that the conflict of interest could be significant in both instances. We are not interested in making Members reveal their net worth down to every last penny. We have no need to do that, although the Senate engages in its own one-upmanship. We have no need to engage in that.

Mr. Chairman, I hope the Members will reject the amendment.

Mr. FRENZEL. Mr. Chairman, we are trying to do the best we can and get the best disclosure section we can without trampling on the rights of privacy of Members, which all of us would like to enjoy.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I think what has been fashioned here by the gentleman from California (Mr. DANIELSON) in his substitute is a very good provision, and since it is supported by the minority and by the gentleman from North Carolina (Mr. PREYER), the chairman of the Select Committee on Ethics, we should all support the substitute and vote down this amendment.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman, and I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Missouri (Mr. VOLKMER).

The amendment was rejected.

Mr. BAUMAN. Mr. Chairman, I ask unanimous consent that at the appropriate point in title II the gentleman from Ohio (Mr. ASHBROOK) be permitted to offer an amendment regarding outside earned income of executive branch personnel, as discussed just now with the gentleman.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Maryland?

Mr. DANIELSON. Mr. Chairman, reserving the right to object, I have already represented to the gentleman from Ohio (Mr. ASHBROOK) that I would not object to the gentleman's offering the amendment.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Maryland?

Mr. VOLKMER. Mr. Chairman, reserving the right to object, is this amendment to title I or title II?

Mr. BAUMAN. Mr. Chairman, if the gentleman will yield, the amendment is to title II, and the request is being made for the purposes of expediting the proceedings.

Mr. VOLKMER. Why can the request not be made when we get to title II?

Mr. BAUMAN. It is being made at this point for the purpose of expediting proceedings.

Mr. VOLKMER. Does the gentleman mean on this bill?

Mr. BAUMAN. The gentleman is correct.

Mr. VOLKMER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

AMENDMENT OFFERED BY MR. QUILLEN

Mr. QUILLEN. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Chair will inquire, has the amendment been printed in the RECORD?

Mr. QUILLEN. No, Mr. Chairman, but it is made in order by the rule.

The CHAIRMAN pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. QUILLEN: Insert after section 109 of title I of the amendment in the nature of a substitute:

"SEC. 110. (a) The Rules of the House of Representatives are amended by striking out rule XLVII and renumbering the following rule accordingly, effective immediately. (b) The provisions of this section are enacted by the Congress (1) as an exercise of the rulemaking power of the House of Representatives; and (2) with full recognition of the constitutional right of the House of Representatives to change its rules at any time."

(By unanimous consent, Mr. QUILLEN was allowed to proceed for 5 additional minutes.)

Mr. QUILLEN. Mr. Chairman, my amendment strikes rule 47 of the rules of the House. It repeals the outside earned income limit of 15 percent of the congressional salary, and it removes the limit of $750 for honorarium fees.

What it says is that earned income is as ethical as unearned income—a judgment which seems logical enough.

This amendment simply states that earned income shall be treated exactly the same as unearned income and that a Member has the right to engage in enterprises which have no conflict of interest with official responsibilities and which do not detract from time required for official duties, just as a Member has the right to receive unearned income from investments.

Mr. Chairman, it is entirely irrational to place a limit on earned income but to place none on unearned income—as though this income is somehow tainted but the other is pure. Such an action would be akin to Government outlawing all weapons because some people use some of them in committing crimes.

We addressed this same issue last week when the civil service reform bill was under consideration. The gentleman from Ohio (Mr. ASHBROOK) offered an amendment to limit outside earned income to 15 percent of salary for all civil service employees at grade 13 and above. It was, in effect, the equivalent of imposting House rule 47 on Federal civil servants. It would have applied to the civil servants the same standard which is to be applied to Members of Congress.

Fortunately for the civil service employees, the House rejected the amendment on a resounding vote of 254 to 134. I would hope that now, 1 week later, the vote for my amendment would be just as strong to repeal the outside earned income limit.

Certainly the issue is the same—and if we are right to reject such an income limit for the civil service, and we are right to do so, then we are surely right to reject it for ourselves as Members of this body.

This has nothing to do with corruption and conflict of interests—nothing to do with the ethics of a Member of the House.

But most importantly, such an illogical limit on earned income is constitutionally unsound because it establishes an income test on earned income for membership in the House that is not contained or mentioned in the Constitution of the United States.

I do not pretend to be a constitutional scholar, but I do know Madison and Hamilton addressed this issue of qualifications in the House in several of the Federalist papers.

The qualifications are fixed in the Constitution, and as Hamilton wrote in Federalist paper No. 60, these qualifications "are unalterable by the legislature."

Those are strong words. Here are others written by Madison in Federalist paper No. 52:

> The qualifications of the elected . . . have been very properly considered and regulated by the convention. A representative of the United States must be of the age of 25; must have been 7 years a citizen of the United States; must, at the time of his election, be an inhabitant of the State he is to represent.

And these are the only requirements in the Constitution. There is no mention of

any income test for very sound and proper reasons.

The House of Representatives was and is intended to represent the broad body of the people of the United States. That means its Members should be drawn from all stations of life from as wide and as varied a background as possible.

But with this income limit you are going to restrict the membership of the House by excluding certain people—those people who are working for a living and know the full affect that Government has on the average citizen.

Listen for a moment to what Madison wrote in Federalist paper No. 53:

> No man can be a competent legislator who does not add to an upright intention and a sound judgment a certain degree of knowledge of the subjects on which he is to legislate. A part of this knowledge may be acquired by means of information which lie within the compass of men in private as well as public stations. Another part can only be attained, or at least thoroughly attained, by actual experience in the station which requires the use of it.

Clearly, it seems our forefathers wanted to encourage representation from all walks of life—not discourage it, as this limit would do.

Yes, from all walks of life—from the business sector, doctors, farmers, lawyers; yes, all walks of life, because of the experience that they have in those particular fields, facing the problems that face this great country of ours and solving them.

Mr. Chairman, I trust that we all realize that the retirement of many outstanding Members on both sides of the aisle is not completely unrelated to this irrational earned income limit which I am attempting to repeal with this amendment. The American people are losing some fine Representatives because they have tired of defending a way of life that has been ruled unethical by House rule 47.

I, for one, deeply resent the suggestion that earned income is unethical, and needs to be restricted. Good people are leaving, other good people will not want to seek membership in this body. The country will suffer for it.

I fear that before long the House membership will be composed of wealthy investors and of those who depend entirely on their political jobs to provide for themselves and their families.

That will be some House of Representatives, but it will not be very representative of the people of the United States. How ironic to achieve this result in the name of ethics.

This is not a question of whether a Member can live on $57,500 a year. I have lived on a whole lot less, and I opposed the last pay increase we received. I grew up on a small farm and started working as a very young boy, so I know the problems encountered by most working people.

The question is whether a working person is entitled to serve in this body, or whether his or her work will disqualify that person from such service.

We now have financial disclosure requirements for Members. I support such disclosure, and believe now as I did when I voted for it, that such disclosure is proper. But it is a dangerous step from the solid ground of disclosure to the quicksand of actually prohibiting a Member from earning money. That is a strange idea, I would think.

Should we impose an income test for membership in the House of Representatives—that is the issue.

I believe we are prohibited by the Constitution from imposing any income test.

My amendment offers the opportunity to stand for the idea that earned income is as ethical as unearned income, and that both should be treated in our ethics code exactly the same.

I sincerely hope that Members will reflect on the case for equitable treatment that I have attempted to make, and I urge the adoption of my amendment.

Mr. Chairman, we all understand that this legislative body of ours will be here long after we are gone and we must not let the membership be dependent wholly on the Federal Government. I know in Russia and the Eastern bloc countries they also have assemblies with members who come in to supposedly legislate, but the central governments of those countries control those members, and the only laws enacted are those the central government wants. So I do not want this body in years to come to be dependent on an all-powerful government, and I urge the adoption of my amendment.

Mr. STEERS. Mr. Chairman, I move to strike the last word. I am in opposition to the amendment. I am a great admirer of my very distinguished colleague from Tennessee (Mr. QUILLEN). As all of us know, the job of a Member of Congress is one that requires 100 percent of our time, effort, and concentration. We have been sent to this body by our constituents who do not have the time to follow legislation that affects them. These constituents have placed their trust in us to work here in their behalf. We have not been elected Congressmen to use our titles for our benefit, nor to spend our time on matters of personal gain.

By limiting our outside earned income, we can help assure that the important issues facing us will receive proper attention. The present salary of a Member of Congress is adequate, and this can be supplemented by 15 percent with outside earned income. To pass this amendment will be a signal to the country that Members of Congress cannot survive without more annual earned income and this may indicate that this Congress is out of touch with the people of the United States, the vast majority of whom earn much less money than Members of Congress. As the representative from Montgomery County, known as one of the wealthiest districts in the United States, I would like to point out to my colleagues that the median family income in Montgomery County is $26,709, less than one-half of our present salaries.

I feel the bottom line on this question is the fact that we are public servants, and we must relinquish many of the joys of private life when we assume office. If we pass this amendment today, we will raise the question of whom this House exists for—the people of the United States, or the Members of the House. I urge my colleagues to vote against this amendment.

The distinction between earned and unearned income lies in the fact that unearned income does not require the time of the recipient and hence does not impair the ability of the recipient to perform his job. Earned income requires the recipient to divert time from his job.

Mr. HOLLAND. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I suppose in slightly less than 4 years I have made fewer speeches than any Member of the Congress who came here in 1975. I would not take the time of the Members to make a speech today except that I believe that the gentleman from Tennessee (Mr. QUILLEN) has offered an amendment that deserves the support and the vote of the Members. Not that any Member of this House could stand rightfully accused, in my judgment, of using his or her position for personal gain or benefit, but I submit to my colleagues that this onerous House rule has lain across this body long enough and ought to be removed. I think we have all had time to consider how it will affict each of us individually and it will impose difficulties or sometimes no difficulty at all on each of us in various ways.

I do not intend to talk about my own personal situation because this office I occupy is not my office. It belongs to the people of my district. I support H.R. 1 and the full disclosure thrust it has. I believe the people of my district approve of it.

When their Congressman is invited to such exotic places as New York or Canada or Florida to make a speech, to discuss with people all across this land those areas in which I have developed a small amount of expertise—as a matter of fact I feel my constituents are proud that they have hired a lawyer who can go around talking about South Carolina, talking about the United States, and talking about this great economy and this great body we have here—they do not object if somebody pays an honorarium. But I submit to the Members the Constitution in the fifth amendment does provide that this limitation we are attempting to impose is not unconstitutional by court decision over the past number of decades. The Supreme Court of this Nation has said time and again that the House may set the qualifications of its Members as long as those qualifications have a rational basis.

I submit to the Members this rule imposing a limitation has absolutely no rational basis. The rationality of following it to its logical conclusion should set a limit on how much one can owe or should set a limit on one's liabilities or potential liabilities. No citizen I know can send 10 children to college on this pay, and so maybe we should exclude everybody with over two children. I do not think the pay of this job provides enough so that many of us can buy big gas consuming automobiles, so perhaps the House rules ought to require our automobiles ought to be small and get maybe 25 miles to a gallon.

This rule is an invasion of the talents and the abilities of people who seek no more and certainly no less but to serve this great land in the Congress.

I have often said, like Billy Carter, if someone is crazy enough to pay me $2,000 to make a speech, then I am just dumb enough to take it, and my constituents do not object and I do not think yours do, either.

I have been looking at television of late and the other night I saw that the character in this country who invented sex and violence, and also trivia and absurdity, displayed across the television screen, has been appointed by another network at the annual salary of $1 million.

I read in yesterday's Washington Post that there are probably dozens of corporate heads in the Washington area who earn over $300,000 a year. I submit to you that none of those people occupy positions that are anywhere near as important as a position of a Member of this House.

I submit to you that when this House tells me that not only do I have to sacrifice my personal privacy, not only do I have to give up what I had built for 12 years as a practicing lawyer, of some expertise, which I, frankly, sell to other lawyers on Sunday. When this House tells me that my children have to have an absentee father because of this occupation, not only that, but now they tell me this——

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. HOLLAND was allowed to proceed for 1 additional minute.)

Mr. HOLLAND. Not only that, Mr. Chairman, but now they tell me that my children are probably going to have to go to institutions of lesser quality and of lesser desirability because I will not be able to pay the tuitions at the best colleges in this country.

Mr. Chairman, I was impressed by the prayer on the day our great President was inaugurated. Maybe most of you did not hear it or notice it, but the prayer said that we should not forget that this Government is of the people, by the people, and for the people and is no better than the people. By keeping absurd and irrational rules of the House of Representatives we are indeed looking ridiculous and in the eyes of the people, and therefore, by extension, worse than the people we represent.

Mrs. FENWICK. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I hope that I can speak to you today without consideration of any personal situation. Maybe that is difficult but I do ask you to consider this question purely on the basis of what we are doing here in this House and what we have done.

Just yesterday I received from a man I do not know, who sells pecans in Georgia, a copy of an editorial from the Moultrie Observer. The title is: "Toughest To Get Passed More Accurate Description."

It mentions the Speaker's words when this rule was adopted by the House, when the pay raise was adopted, and it winds up by saying:

> Apparently what Speaker O'NEILL meant when he said "toughest code of ethics of any legislative body in the country" was that it is the toughest to get passed through the House.

It was good that we passed that limit on earned income, we were trying to tell the people of this country something. We were trying to say that those of us who are in this House are U.S. public servants, paid for by the people of this Nation, and we will not use that place in order for personal gain.

What did this man write to me on the side of this editorial? He wrote:

> Dear Mr. Fenwick:

So that you can see that this is someone who does not even know me. He said:

> Inserted herein is a copy of an Editorial Viewpoint published by the Moultrie Observer, September 9. This editorial details facts relating to your treatment of a new Code of Ethics Bill.
>
> It seems to us that you are giving priority to your own interest. Your greed for money is evident. This appears to be the main controversy.

Now, I do know how your people back home feel, but I know how my people feel. They think they have had enough. They see no reason why we should come down here and take a salary of $57,000, plus $8,500, and then say that we ought to be able to earn more.

They do not see any reason for it.

If we have children who have to go through college, we might think of this, the Harrington-Silber bill would take care of that; the Federal Government would loan the children the money; they would pay it back, according to their income, after they get out of college.

Arrangements have to be made for all people, not just for us.

I do not know how to be persuasive on this point, and perhaps it is impossible for me to be persuasive; but I do think that we are going to have to think about the people and how we look to them.

A furious woman serving coffee behind a counter said to me when I got back home last weekend, "What are you doing down there? Is it never going to stop? Can't you stop these scandals and all this money going around in Washington?"

Mr. Chairman, can we not really take some stand, as the Speaker said on that good day when we voted on this, that we are going to limit ourselves and that we are going to have some moderation in what has been described by this gentleman from Georgia as our "greed"?

Mr. WYDLER. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, obviously I have to ask the gentlewoman from New Jersey (Mrs. FENWICK) this question: Does she believe that she herself should also limit her unearned income to 15 percent?

Mrs. FENWICK. I would be perfectly happy, my colleague, to do whatever the House felt correct in that regard, yes. If that vote came, yes, we should vote on that, just as we did on the other matter. If that is considered to be part of the code of ethics, as I understood it, when it was presented, I would say "yes." This new raise in the House was justified in part because of the requirement that we should limit our earned income to $8,500 a year. There are people living on that kind of money. There are people to whom that is a living wage.

We must begin to look at ourselves not as princes or princesses, but as part of the population.

Something was said earlier about the Founding Fathers. They thought of us as farmers and factory workers, and business people, some in the China trade, who would come to Congress and go back again. They thought we would stop our sessions in May and that we would not be here all year. Things changed. They never thought to limit outside income, but things changed. We know the evils of it; we know the evils of it very well.

The CHAIRMAN pro tempore. The time of the gentlewoman from New Jersey has expired.

(On request of Mr. WYDLER and by unanimous consent, Mrs. FENWICK was allowed to proceed for 1 additional minute.)

Mr. WYDLER. Mr. Chairman, will the gentlewoman yield further?

Mrs. FENWICK. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, I am assuming all the things the gentlewoman is saying, especially with respect to the attitude of the people back home. As the gentlewoman says, some of them do not make $8,000.

However, is that the justification we used to raise the congressional salary to the sum of $57,500, and do we use it as the excuse or the reason that we are going to restrict a certain very small group of Members to 15 percent of that amount as outside earned income, not touching unearned income, not touching certain kinds of earned income?

Was that really playing fair and square with the people?

Mrs. FENWICK. Let me answer yes. The answer was that unearned income was not considered to be corrupting or dangerous to the general public and that earned income apparently could be. That is the rationale, as I understand it.

The CHAIRMAN pro tempore. The time of the gentlewoman from New Jersey (Mrs. FENWICK) has again expired.

(On request of Mr. LEVITAS and by unanimous consent, Mrs. FENWICK was allowed to proceed for 2 additional minutes.)

Mr. LEVITAS. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. Yes, I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, if a Member of Congress owns stock in a company which manufactures airplanes or if the Member owns stock in a bank or in some other commercial enterprise and receives a substantial income, is there not a conflict of interest created in the minds of some people if that person has to vote on bank regulatory matters or on the procurement of aircraft, for example?

Mrs. FENWICK. I understand the gentleman's question.

In our legislature at home, the conflict of interest was declared to be absent when one was part of a general class.

I do agree with the gentleman that a very large block of stock or a considerable block of stock should perhaps stop someone from voting on that particular measure if that person would benefit or might derive some benefit from a subsequent increase in that stock. We have gone into that matter in legislature after legislature. It is quite a simple matter to demand from the legislature that any income over a certain amount derived from stock be declared, and it should be, so that the people will know where this income came from. Then the conflict of interest is absent when one is a part of a general class. In other words, if one is a schoolteacher and votes as a general class for something that would benefit the teaching profession, that is not held to be a conflict of interest.

Mr. LEVITAS. If the gentlewoman would yield further, the only rationale that I have heard—and it may be a sufficient one; I do not know how I am going to vote yet—why we should not restrict unearned income is that there is just no practical way of doing it, not that it is not a corrupting influence or potentially so, and it is not a question of even the amount of income. The only argument that we should not limit unearned income that I have heard is they just have not figured out practically how it can be done. Maybe that is a sufficient reason.

Mrs. FENWICK. I do not know. One of our young colleagues spoke on the floor when this earned income restriction was placed, and he said, "I know it is necessary, and I will tell you why."

The CHAIRMAN. The time of the gentlewoman has expired.

(By unanimous consent, Mrs. FENWICK was allowed to proceed for one-half minute.)

Mrs. FENWICK. "I had a modest practice the day I was elected to Congress. Before I got down here in January, I was deluged"—does the gentleman remember that? Yes, and that is what I am talking about—"I was deluged with clients who had never come to me before." In other words, as a Member of Congress he has an advantage over the other lawyers in his hometown. I think that is what we are talking about.

Mr. HYDE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Quillen amendment.

Mr. Chairman, it must be wonderful never to know the ravages of economic insecurity. It must be splendid to sit in one's living room and clip coupons and to know that the interest from one's investments or the income from one's apartment building will tide one over should a catastrophic disease strike, or should one's children need new shoes or need to have their tuition paid. The problem with this artificial limitation on income is it denies access to this body to a whole class of people, achieving people, successful people, people with young families which need an education, and people who find it difficult to maintain a home here, maintain a home back in one's district, who do not have this independent income, who have not married into wealth, who have not invested wisely, who have not inherited it, but who are successful, aggressive people, who need to make a living and yet who want to serve their country in this body.

We have driven out the gentleman from New York (Mr. PIKE). I do not like to mention anybody's name, but I do not think this body is richer for losing people of his talent and ability. How many other people of talent and ability can afford to serve in this body?

Sure, there are a lot of people to whom $57,000 is a fortune. But how many children do they have, and have they served here for a long time? Do they know the pangs and ravages of insecurity? Do they wake up and wonder what would happen to them if they got voted out the next election and they have no income, they have no source of income, and they have no way of making any?

As long as we are disclosing—and that is the thrust of this bill—from whence comes our income, who pays us these suspicious honoraria when we speak to them, the voters then are perfectly educated and informed as to whether this candidate or this public official is worthy of continued support.

I happen to think as a minority party Member that one of the new useful things we can do is to speak to groups around the country and explain to them our perspective on what is going on here. If we confine our information in this democracy to what the television news commentators give us, or what the newspapers will give us, we will be fractionally informed. I think we have a duty to educate the electorate on what is going on here. But it is a burden to go give a speech in many places if one is not going to get some honorarium for it.

We are denying to the country the services of people who have families and want to serve in this body, who would have something to contribute, but because of an artificially low ceiling on outside income, they cannot afford to serve.

It is just wrong and I think this body and, hence, the country is being deprived of the services of a whole class of people that we need desperately. We are going to be left with the very wealthy, whose perspective I suggest is not altogether that universal, or we are going to be left with social activists who leap from college, from working with Ralph Nader, and then into Congress; but there is a whole group of middle-class business people whose views and opinions we urgently need in this body; so I hope we will bite the bullet and remove this limitation.

I voted last time for this ceiling and I have thought less of myself ever since. I think it is wrong, and as long as we disclose from whence the money comes, the need is met. It will encourage good people to serve and it will encourage us to go out to the electorate and let them know what is going on.

Mr. STEERS. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Maryland.

Mr. STEERS. Mr. Chairman, I would like to ask the gentleman: Is there not another distinction between earned and unearned income? That is, earned income requires the usage of the recipient's time and that takes away from the time he spends as a legislator. To my surprise, nobody seems to be recognizing that fact.

Mr. HYDE. The gentleman has made the point, and let me suggest to the gentleman that I have an over 95-percent attendance record. I spend a lot of time on this and I am also able to speak before groups as well. I think the job of a legislator includes going out and letting people know your perspective on what is going on.

Mr. STEERS. I agree with that.

Mr. HYDE. But that is up to the electorate to decide whether you are attending to your business or not.

The CHAIRMAN pro tempore. The time of the gentleman from Illinois has expired.

(At the request of Mr. BAUMAN, and by unanimous consent, Mr. HYDE was allowed to proceed for an additional 2 minutes.)

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, let me respond to the point of the gentleman from Maryland. This argument concerning a Member's time is one of the chief arguments used before the Obey commission, that the Members ought to devote their full time to the House. The fact is this year and last year as in most recent years, the House was in session only half the year. The rest of the time was used by Members for whatever they wanted, for junkets around the world, for going back and practicing law or clipping coupons; some of us worked in our districts as Congressmen; but for half the year we were not here. We were not meeting in session. Why deny a Member the right to go back home and practice law if that is his wish. The voters in his district will decide the Member's fate.

Mr. HYDE. Mr. Chairman, if I might reclaim my time, people with unearned income must spend a lot of time with their investment counselor. I do not know of anybody with money who just takes it out of an envelope.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I want to address both the gentleman from Maryland, because it is my recollection when we voted on this rule in the spring of 1977, one of the major arguments was ours is a full-time job and we should be spending more time as legislators. But the figures we had at that time, 1976 figures showed that the House was in session a total of 177 days, or less than half the year. That is a flimsy reason to impose a rule on the Members, when the obvious solution to more work is for the leadership to schedule more work days.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Chairman, there is much validity in what my colleague has to say. I happen to believe that disclosure is the fundamental protection and if we go beyond that, we do work in inequities. The difficulty, as I see it, in the disclosure laws is that essentially they are inadequate, and until they become more adequate I am forced to vote against the Quillen amendment.

The CHAIRMAN pro tempore. The time of the gentleman from Illinois has again expired.

(At the request of Mr. SIMON, and by unanimous consent, Mr. HYDE was allowed to proceed for 2 additional minutes.)

Mr. SIMON. Mr. Chairman, if the gentleman will yield further, as I say, I am forced to vote against the Quillen amendment. I happen to think, for example, that spouses and minor children ought to be included. I think when you practice law, and this applies to other professions, you ought to disclose, you ought to be able to earn as much money as you want, but you ought to be required to disclose who your clients are.

Mr. HYDE. I agree with the gentleman completely; but I wish the gentleman would devote his energy and intellect toward getting adequate disclosure laws and not deny to this body, and hence to the country, the services of a whole group of people who might be willing to serve if we did not impose such a heavy penalty on them. That is the problem. It is tough to get people to run for this job.

Mediocre people, politically inclined social climbers, people who want to see their names in the paper—fine, we have lots of those. But what we need are people who have a broad prospective on life, on taxes, and on raising a family. But we are not getting them, we are locking the door, and we are hurting America. It is not worth it.

Mr. SIMON. Mr. Chairman, I agree with the gentleman from Illinois (Mr. HYDE). I am simply suggesting that we are putting the cart before the horse, at least for some of us, and once we have a more adequate disclosure requirement, then some of us are going to come aboard and say, "This is the direction we are going to take." But until we have that, I think there is the possibility we are going to invite more abuse.

Mr. HYDE. Mr. Chairman, I regret that I must disagree with the gentleman.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to my friend, the gentleman from New York.

Mr. BIAGGI. Mr. Chairman, I thank the gentleman for yielding, and I appreciate the observations of the gentleman from Illinois (Mr. HYDE).

The fact of the matter is that the disclosure provisions in this legislation should be a satisfactory answer. They are not the alpha and omega, but certainly they represent a very substantial step forward.

Mr. Chairman, the ethical purpose we seek will, I believe, be satisfied by full and complete disclosure, and if that is presented to the body in its pure form, I think there would be very substantial support of it.

Mr. HYDE. Mr. Chairman, I thank the gentleman from New York (Mr. BIAGGI).

The CHAIRMAN pro tempore. The time of the gentleman from Illinois (Mr. HYDE) has expired.

(On request of Mr. DAVIS, and by unanimous consent, Mr. HYDE was allowed to proceed for 2 additional minutes.)

Mr. DAVIS. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from South Carolina.

Mr. DAVIS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I really believe we need disclosure. I believe our constituents may worry about where our money comes from, but by the same token, if that is true, I would ask this: Why was this legislation not propelled that way? If that seems to be the wishes of many who have been involved in this legislation, why was it not done that way?

Here we are in a period right now rushing toward adjournment so that we will have the entire month of October, as well as the months of November and December, back in our districts after election.

Mr. HYDE. Mr. Chairman, if the gentleman will allow me to reply to that, I want to say that the reason that deal was made is because it was made by some people who have chauffeurs and whose children are all grown, and they traded off the pay raise for a limitation on outside income.

Mr. DAVIS. Mr. Chairman, I think it is time we let the people rule the House and not individual newspapers in Northeastern States. What we have got to do here today is to consider the need for able-bodied people in this House of Representatives.

If we want to make it a rich man's club, let us make it a rich man's club, and if we want to see good men like the gentleman from New York, OTIS PIKE, as well as others, leave, then let us put them out. But the question is, if we are worried about a conflict of interest: How can we vote on our own ethics? Is that not a conflict?

How can we vote on a tax bill? Do we all not pay taxes? Where are the conflicts?

Mr. Chairman, I believe the people at the polls should decide what the conflicts are, not some super-duper do-gooder.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I want to concur in all that the gentleman from Illinois (Mr. HYDE) has said with respect to this amendment. I might say that in my own case the outside earned income has no application whatsoever since I do not have any outside earned income.

The CHAIRMAN pro tempore. The time of the gentleman from Illinois (Mr. HYDE) has again expired.

On request of Mr. McCLORY, and by unanimous consent, Mr. HYDE was allowed to proceed for 2 additional minutes.)

Mr. McCLORY. But, Mr. Chairman, if I may continue, I think that to deprive this body of the opportunity to have service from engineers, doctors, accountants, lawyers, hotel owners, manufacturers, and others who have outside earned income is to deprive this Nation of valuable service that I think this body was organized to accommodate.

It seems to me that we should have a broad cross section of representation here for the people of this Nation. I think if we were to take the position that just because a majority happen to be satisfied with the income they get from their salaries or because some might be satisfied because they have outside unearned income which enables them to run for this office and to satisfy their material needs, it seems to me that would be very shortsighted to oppose the amendment for those reasons.

Mr. HYDE. Mr. Chairman, if I may reclaim my time, I want to say this: We are limiting the qualifications for admission to this body to either those who are independently wealthy and hence consumed with liberal guilt or those who are social activists but who have never made a payroll.

Mr. Chairman, I yield back the balance of my time.

Mr. OBEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition of the amendment.

Mr. Chairman, I really had not intended to speak on this amendment today. As sick as all of you are of this whole question, because it has been around here for a year and a half, let me say that there is no Member of this House who is more sick of this question than I am. I understand the pain that this limitation has caused some people, because a number of you have made it very clear to me day after day after day. And that is your right. But I just want to address a few of the myths which are being peddled about the tremendous damage that this income limitation is allegedly going to do to this House.

We are told that it is going to change the nature of Congress and shut off access to a whole class of people. Well, I would like to point out a couple of facts. Ninety percent of the Members of this House have already severed their past relationships with their previous businesses or have ended their previous professional careers. Ninety percent. If you want to talk about lawyers, the most obvious problem, there are 222 lawyers in this House. A handful, just a bare handful, as near as can be determined—somewhere around a dozen, based on disclosure statements already filed—only about a dozen continue to receive substantial income from law practices and continue as Members of the House. What this rule does, in plain English, is to reflect what is already reality for about 90 percent of the House. I do not think that it therefore changes dramatically the character of this place or the people who come to serve in it.

Second, we are told we should not discriminate between invested income and earned income. I do not have much of either. But let me say this, because I think every person, every practical person, in this House knows it already: You cannot deal with the question of invested income in this manner unless you are willing to say—and I doubt that anybody really is—that if a Member sells his own house, he cannot make more than $8,600 a year on the sale of that house. Or if a Member has investments, you would require that Member—if you apply the same rules for invested income—to get rid of all of his holdings, to put them in a noninterest-bearing account so that he would be within the limit. I think the House recognizes that that is just a straw argument, a strawman, and I would request you to treat it accordingly.

I would like to make a couple other points. We are not unique. The distinction between earned and invested income is already being recognized by the judicial branch and by the executive branch of Government. In the Supreme Court only two Justices of the Supreme Court had outside earned income last year. One made 500 bucks, the other made 2,500 bucks. That is all. In terms of the executive branch of the Government, if you are a Presidential appointee you can earn zero in earned income in addition to your salary.

They cannot practice any law. House Members are allowed to practice up to $8,600. Presidential appointees cannot practice any law. If one is a presidential employee, one can earn no honorarium; one can belong to no corporate board. If one is a member of an independent regulatory agency, one can have no outside income. So, we are not discriminating against Members of Congress.

The CHAIRMAN pro tempore. The time of the gentleman from Wisconsin has expired.

(By unanimous consent Mr. OBEY was allowed to proceed for 3 additional minutes.)

Mr. OBEY. Mr. Chairman, I want to make one other point to the Members of this House. There are a lot of lawyers in this House. Most of them are my friends and I have great respect for them. But I simply want to say this: The House rule is more generous than the Senate rule on the question of law practice. The Senate allows no income from law. We did not do that. As I said earlier, we did not think we had to follow the Senate in their practice of one-upmanship. But, if Members think the House rule is tough, why do we not talk about how tough the Senate rule is, because it is a lot tougher for lawyers. We are trying to be rational about this.

I want to say one other thing for those who say that this rule is unfair because it treats some earned income different from others, if one owns a hardware store or is a farmer. I want to make two statements. Members are not forced to divest their holdings for reasons I have just described. They can protect their equity, but if their compensation is received because of the value of services which they render, then that income is limited. If personal service generates income, regardless of what you call it, dividends or anything else, it is covered by this limitation. I think that is perfectly clear.

I want to make one other point, and then I will stop. I do not support this limitation because I have so little regard for the House and its Members. I support it because I have so much regard for this House and its Members. I have forgotten who it was who made the statement earlier, that there are a lot of people in the Washington area who make a lot more than the Members of Congress—I think it was the gentleman from Illinois (Mr. HYDE). He said that there are a lot of people in the Washington area who make a lot more than the Members of Congress, and went on to make the statement that none of them had positions as responsible as Members of Congress. I agree with that, and that is why I oppose this amendment. I oppose the amendment because this job is so important and its duties so precious it deserves our full and undivided attention, and we need to assure the public that it has our full, undivided attention. That is why the amendment ought to be defeated.

Mr. FISH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have a great deal of respect for the gentleman who just preceded me in the well, and we know that he is one of the authorities on statistics having to do with the Members of the House. It does occur to me that if 90 percent of the Members of the House would not be affected by the existing House rule, then I must ask myself the question, What is the justification for it in light of the purpose of this legislation?

Mr. Chairman, the bill before us is supposed to provide uniform public disclosure. Yet an outside earned income limitation is not uniformly applied. It is imposed solely on the legislative branch. There is no such restriction on most officials of the executive branch.

We are dealing with a double standard. A Member who spends time and energy to earn money for family expenses is penalized. If he enjoyed a large unearned outside income he is not.

Mr. Chairman, we properly seek disclosure to deter and expose conflicts of interest. Full disclosure of assets will allow the voters in the advisory process of an election to pass judgment on a Member's financial ethics. This is the proper, traditional way. Weak Members, I might add, who are susceptible to conflicts of interest, will not be helped by an outside earned income limitation.

• Mr. VENTO. Mr. Speaker I rise in opposition to the Quillen amendment.

This initiative represents a withdrawal from a commitment that members approved in 1977.

The disparity that is alleged to exist between earned and unearned income is more imagined than real. As Members we can and should limit our primary effort to the work of Congress. Our effort should not be disipated on other endeavors and the inevitable conflict that will be represented by these earned income sources.

While the current proposed remedy may not be perfect in this measure, the intent is clear, and further qualifications can be reviewed as we encounter specific problems.

Repudiation of this earned income limitation in this measure, at this juncture, will be interpreted as a lack of commitment to essential reforms that have been accomplished in recent years.

I urge the defeat of this amendment.•

The CHAIRMAN pro tempore. The Committee will rise informally in order that the House may receive a message.

MESSAGES FROM THE PRESIDENT

The SPEAKER pro tempore (Mr. BRADEMAS) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Marks, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On September 15, 1978:

H.J. Res. 773. Joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the seven calendar days beginning September 17, 1978, as "National Port Week";

H.R. 8342. An act to amend title 5, United States Code, to provide for the application of local withholding taxes to Federal employees who are residents of such locality; and

H.R. 8771. An act to amend title 5, United States Code, to authorize the Civil Service Commission to comply with the terms of a court degree, order, or property settlement in connection with the divorce, annulment, or legal separation of a Federal employee who is under the civil service retirement system, and for other purposes.

On September 17, 1978:

H.R. 2931. An act to amend chapter 89 of title 5, United States Code, to establish uniformity in Federal employee health benefits and coverage by preempting certain State or local laws which are inconsistent with such contracts, and for other purposes;

H.R. 2952. An act for the relief of M. Sgt. William E. Boone, U.S. Army, retired;

H.R. 6669. An act to establish a comprehensive and coordinated national climate policy and program, and for other purposes;

H.R. 10899. An act to provide for Federal regulation of participation by foreign banks in domestic financial markets; and

H.R. 12240. An act to authorize appropriations for fiscal year 1979 for intelligence and intelligence-related activities of the U.S. Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes.

On September 18, 1978:

H.J. Res. 1014. Joint resolution designating April 28 and 29 of 1979 as "Days of Remembrance of Victims of the Holocaust";

H.R. 10878. An act to extend until October 1, 1981, the voluntary insurance program provided by section 7 of the Fishermen's Protective Act of 1967, and for other purposes;

H.R. 12927. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes; and

H.R. 13468. An act making appropriations for the government of the District of Columbia and other chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1979, and for other purposes.

The SPEAKER pro tempore. The Committee will resume its sitting.

The Committee resumed its sitting.

ETHICS IN GOVERNMENT ACT OF 1977

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Speaker, I move to strike the requisite number of words.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Chairman, I thank the gentleman from Texas for yielding.

I am constrained to vote against the Quillen amendment because it makes no distinction between earned income derived from sources totally unconnected with the Congress, and income derived from the Members' "positions of influence" as Representatives.

I would have supported a lifting of the limit on the former type of income, and I had understood that an amendment to that effect might be offered. However, no such amendment has been offered, perhaps because (as I found myself) it is very difficult to adopt.

Since adoption of the Quillen amendment would leave Members free to "cash in" on their positions in the Congress, I believe the American people rightfully expect the House not to abandon the restraint it had earlier imposed on its Members.

Mr. ECKHARDT. Mr. Chairman, Alexander Hamilton in introducing the Congress of the United States to a foreigner said:

> Sir, here the people rule.

The people rule much more firmly and much more assuredly if the people also are the sole persons who pay for the actual work of their servants.

I speak somewhat against interest here, I know. I thought at one time I was going to be the first octogenarian freshman in the House of Representatives because I stood in line behind a very popular and effective Congressman, Albert Thomas. So, I practiced law for 18 years in a very specialized field of law, labor law. Had I come to Congress some 12 years ago and should I have continued in my practice of labor law, gone on the Committee on Education and Labor, retained my practice in Houston—I had a lot of good clients, I am sure many of them would have stuck with me; and I had a good partner, but I would not have been able to serve my clients in the same way I had in the past.

I would however have had a very lucrative practice. But had that occurred there would have been no limitation either on my personal earnings as a lawyer to those clients, that is no limitation on the money I put in my own pocket, nor any limitation on the amount the labor unions could have paid me in order to get me elected to office if these amounts were paid to me as a fee for legal services.

I have friends in Houston that represent corporations. Some of them are in the rather lucrative field of antitrust. Had one of these persons come to Congress and maintained a law office in Houston, he would really have been in a position to take not just a limited amount of money from his original clients as campaign contributions, but whatever he could reasonably justify as a fee to his partners, and he would not be limited to using that money for campaign purposes. He could stick it in his pocket or he could use it to be reelected.

I think that is an enormous loophole and I think it is corrupting.

I recognize that there are also corrupting influences in connection with the unearned income. I, unfortunately, have very little of that, but I think I can get along with the pay that I am receiving here.

There is another area in which I am speaking against interest, and that is in the field of honoraria. I taught for about a month or two this year in Haverford University. I got $5,000 for 18 lectures, which is not a great deal of money as honoraria go, and I did the same thing at the University of Houston, where I think I made about $2,000 for four lectures. That is pretty small pickings compared with what is ordinarily paid as an honorarium for a subcommittee chairman by those who have an interest in the legislation he handles.

Now quite truthfully I can and I have earned honoraria at a value of two to three times as much as I will be limited to by this provision of $8,625.

But I think I can work all of the honoraria that I can possibly get from public institutions and agencies into that $8,625, but I could not work into that $8,625 all of the honoraria of institutions and groups that have an interest in legislation.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. ECKHARDT was allowed to proceed for 1 additional minute.)

Mr. ECKHARDT. Now, I am not here saying that anyone in this institution corruptly accepts honoraria but I am saying that it is better that any substantial amount of money that we receive for our efforts, once we are elected to Congress, come from the people themselves.

There is a leeway. There is the $8,625. I believe that is computed as 15 percent of salary. I think within that leeway we may do the legitimate types of honoraria that I have referred to.

I think we ultimately need to review these rules to define those areas which are, in fact, at least subject to corrupting. I think we ought to exempt honoraria solely from institutions of learning that have no relationship with the activities that we engage in in our committees, but, in the meantime, I think we should keep this limitation as it is.

Mr. BAUMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I had the good fortune to serve as a member of the Commission on Administrative Review, which was headed by the distinguished gentleman from Wisconsin. I listened to a great many of the witnesses testify on this issue which, in the overall context of 2 years work really did not occupy that much of the Commission's time. And I must confess that at no time was any evidence shown why outside income constituted a threat to the House of Representatives as an institution or to the people of the United States. We should go back and look at the origin of this entire reform movement in the House.

No one could foresee that the joint venture formed by Wayne Hays and Elizabeth Ray would result in raising outside income to the status of a major issue. Obviously many felt that we in the House of Representatives should make changes in a manner that would provide increased confidence in the Congress. That was one need that was mentioned over and over in our Commission hearings.

The second point was that the reformers wanted to maximize the effectiveness of the individual Members and, therefore, increase the time devoted to their job. I hope the time issue that has been laid to rest by the obvious fact that the House is not in session half of the year, whatever we call our recess procedure. What we are really restricting is what Members do on the outside during those recesses. I work in my district as a Congressman, but others junket at the taxpayers' expenses or do as they will.

So the effective use of their time has not become really an issue. Members do as they choose.

What we have then is an unfair classification excluding a number of people from service in this House who voluntarily will not submit themselves to this kind of income restriction.

But let me raise the question of whether this dichotomy, this double standard that has been mentioned earlier, and is imbeded in the rules of the House, is proper. This rule will take effect on January 1, 1979.

Let me give you some examples of what has been going on and will go on after the first of January, even though this rule limits outside income.

One Member from the West draws $35,000 a year from an insurance company which his family controls. That is perfectly all right under clause 4 of the rule.

Another Member from the South will draw $40,000 in dividends from a coal business in which he owns a part interest.

The rule allows another Member from the West to draw $39,000 from a title company that the Member founded, but does not directly manage.

The rule allows another Member from the South to draw $26,000 annually from a radio station that the Member and the Member's wife own, but which he does not manage.

It will allow another gentleman from the East who owns a controlling interest in a rather large corporation to draw $422,000 a year in dividends, and that gentleman admitted to a reporter that he could freely convert $100,000 of his current salary to dividends and increase his total annual amount.

So you can see what the double standard is here, and you can also see the probability of conflicts of interest in unearned income, but under this rule all of this is perfectly legal and ethical.

Or you can write a book, as some have

done on both sides, and you can draw all of the royalty from that book under this rule in whatever amount. But you cannot write an article for a magazine if the fee puts your income beyond a 15-percent limit. The rule is totally inconsistent and conveniently so.

Mr. Chairman, let me raise another point. Will this rule prevent individual Members of the House from committing criminal or unethical acts?

If the Members go back over 10 years of history, as I did at the time the debate occurred in 1977 on this rule, you would find convictions of Members of Congress for accepting a gratuity, for income tax violations, for tax evasion, bribery, conspiracy to take bribes, mail fraud, obstruction of justice; but never was there a case where coming outside income was the source of a criminal conviction.

Mr. Chairman, I heard the statement made here yesterday by the distinguished gentleman from North Carolina that if these rules had been in effect in the last 2 or 3 years, the Korean scandal would not have occurred. However, all the charges made against current Members who have been investigated in the Korean matter are totally unrelated to this rule on outside earned income.

Mr. Chairman, if a Member is going to take a bribe of a hundred thousand dollars from someone, he does not care whether it is to be reported or not. He does not care whether it exceeds a particular limit. Quite obviously, the rule would not have prevented any of these violations of the public trust.

Suppose one falls into the category of one of the Members accused of selling his congressional services to help groups or businesses, or of one whose law firm had been used for funneling money to him in return for getting bills passed. None of that is touched by the outside income rule.

Mr. Chairman, I do not know whether the gentleman from Wisconsin is right with his 90-percent figure. Many people in this House are affected. I am not affected. I do not have any outside income that falls within this limit and have no prospects for it. I just know that many good Members will be affected by it.

We heard the name of the gentleman from New York (Mr. PIKE) and others mentioned.

Mr. Chairman, we ought to let the voters in each district decide the issue of a Member's conduct and finances. Under the full disclosure provision which this bill makes, a substantial civil penalty is provided. It would have been a criminal penalty, but it was changed to get the bill through the House. This bill provides for full disclosure. I think that solves the problem, but to penalize even a few is a mistake.

The argument is true that by this income limitation we are going to remove a great many people from public office who should serve. The wealthy and those whose need for their House job destroys their independence will remain. That is not good for representative government.

Mr. Chairman, I hope that the Quillen amendment is adopted.

The CHAIRMAN pro tempore. The time of the gentleman from Maryland (Mr. BAUMAN) has expired.

(On request of Mr. WYDLER and by unanimous consent, Mr. BAUMAN was allowed to proceed for 2 additional minutes.)

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, I agree with the gentleman from Maryland (Mr. BAUMAN).

I just want to explore with the Members what I think was the thrust of the remarks regarding the 90 percent and the 10 percent of the Members. Although there is no way to know what the statistics are based on, it would seem to me that what the speaker simply did with those figures was to say that 90 percent of the current Members do not report any outside earned income; and therefore, they gave up all their earned outside income. That is what he did, of course.

Mr. Chairman, that is totally misleading, and I am sure that everybody realizes that because, obviously, a lot of the Members who were elected to the House did not work before they came here. They were living on unearned income. A lot of the Members of the House had full-time jobs They obviously were glad to give up those jobs when they came here. They did not really give up anything. They wanted this job, and they had to give up their 9-to-5 job or whatever they had back home. They did not give up anything, in that sense of the word. They could not perform those services anymore.

Mr. Chairman, I am sure that there are many categories when we get down to it.

Let us take the gentleman from Texas. He did not really tell us, but I presume that he gave up his law practice. That is fine. I give him credit for that. I give him credit for doing that. That is his judgment.

The thing I resent along with other Members who are speaking, those of us who are in that limited classification, is that we finally refined this thing down to those who are going to be affected. There are not that many of us left, considering all of the exceptions, but those few of us left resent that you want to impose your standards, your judgments, and your decisions, which might have been right, but we do not feel that you should do that.

We feel that our ethics are either matters within ourselves or, as elected officials, between ourselves and the people who elected us, and they should be the final judgment makers as to whether we are being ethical in what we are doing, whether it is with respect to an additional 15 percent or not.

Mr. KREBS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, to begin with, let me confess that I am a little disturbed by some of the comments that have been made here. Needless to say, this is an issue on which reasonable people can very well disagree, but to listen to some of the comments here—and I take issue with these comments—one may think that the 435 Members of the House of Representatives are by and large composed of either activists for some far-out organization, or incompetents, who could not make it on the outside and who were fortunate enough to find shelter in the House of Representatives, or misfits of some other kind. I do not think I have to respond any further to such ludicrous observations.

I will be the first to admit that a good argument can be made and has been made already today, and approximately a year or a year and a half ago, on the question of whether it is fair to place a restriction on earned income and not place a restriction on unearned income. This is a very close question and a question which I would merely respond to by saying that to be on the safe side, this House should have imposed a restriction or limitation on unearned income as well. I am sure that there are enough attorneys who know much more about trusts than I do, because all I did for 17 years was represent insurance companies in defense cases. But the distinction shown between earned and unearned income really begs the question.

I was also somewhat amused, if you will pardon the use of the term, by those who say that unless you let us engage in these outside activities which produce x number of dollars for us a year, we cannot make it in this House. Oddly enough, and I am not going to mention any names, these were basically the same people who stood in the well when we discussed the last pay raise. At that time the press gallery was full because there is nothing that, at least in the minds of some people, is of greater interests than the question of a pay raise.

If we want to attract people, who are neither poverty stricken nor of great wealth, we have to pay a legislator a decent salary, and this is exactly what we tried to do approximately a year ago.

This brings me to the next point, and this is the point of a commitment that we made to the American people. The American people do not look at an individual legislator when they think of the Congress of the United States. Sure, they look at their Congressmen when they think of them in terms of reelection, but when they think of the House of Representatives, they think of an entire entity, and this entity by a comfortable margin made a commitment to the American people that we were going to increase our salary by 29 percent, if my memory serves me right—and I supported that increase, I might say—and in return took upon us this obligation and made the commitment that we were not going to scurry from organization to organization in order to pick up a thousand dollars or $1,500 in speaking fees, and that we were not going to continue practicing law on weekends, or practice medicine, or whatever. I firmly believe we have the responsibility to stick by that commitment.

Last, but not least, if it needs to be said in that connection, the image of this House, certainly can stand substantial additional improvement. In the final analysis, it is really not only the question of an actual conflict of interest, but the appearance of or possible conflict of interest that I think all of us collectively should be concerned about.

Mr. McDONALD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment and note historically that in 1776 at the Declaration of Independence with the 56 signers, 5 or 6 were physicians. I would say, that 24 out of the 56 were lawyers or judges. Throughout the 19th century there were usually between 10 and 15 physicians in the House. Today we have two physicians in the House.

To my knowledge, we have no Members of the House who are practitioners of the healing arts who were dentists prior to coming to this body.

I think for those who are truly concerned about the honest issue of conflict of interest, a major gap is left open for the possibility of conflict within the news media, to which we make no effort to correct. I have seen pieces of legislation affecting my home State of Georgia where individual families in the news media were directly involved and the paper took a stand that greatly benefited the family, but no disclosure was made.

The rule we have today, I feel, is very discriminatory against many businessmen and certain professions, most particularly, for example, the healing arts. I think the figures speak for themselves, when we have no dentists and a dwindling down of physicians to only two.

The majority of the House today consists of attorneys. I do not speak of that point with any malice, because I feel that a fine constitutional lawyer is worth his weight in diamonds, or worth his weight in gold. He is a great asset to the House; but we also need individuals in the House who have a background in medicine, dentistry, or business. Remember, as we have it today, an attorney leaving the House is benefited in setting up a future practice; but as a physician and as a specialist in one of the subspecialties of surgery, I leave the House at a detriment. I must return at very low pay to a residency type program for perhaps 1 or 2 years before I am able to go back into practice. As far as my own situation, and I am sure there are many others who might come here to serve that realize they are placed at a selective disadvantage that is not found with those who might be attorneys.

The gentleman from Texas (Mr. ECKHARDT) made some very compelling arguments with regard to attorneys, but those arguments do not apply to many other professions or to many businessmen.

I go home and practice on weekends. It is not a matter of monetary return, but to me it is an effort to try to maintain some degree of skill. I am fortunate that I can return to a group where a senior member of the group and one of the other members happen to be my father and brother, respectively. I am fortunate to have that relationship, but other physicians or dentists do not have that opportunity and are discouraged.

Once again, we are down to two physicians and no dentists and, to my knowledge, very few engineers. We are becoming a body of attorneys. I do not say that again with malice, but in the last Presidential campaign when President Carter, then candidate Carter was running, he received standing ovations when he said, "I am not part of that mess in Washington and I am not an attorney."

I think people are beginning to view with a degree of rancor the feeling this is becoming a select group and we do injustice to ourselves if by certain rules we squeeze out a certain class. I feel the current law is going to benefit ultimately three groups. It will be a benefit to an attorney or lawyer. It will be of benefit to those of significant wealth who can continue a lifestyle based upon unearned income, and it will be of benefit to that group I am sure that none of us would like to develop, those who would be puppets to special interest groups.

But, Mr. Chairman, as far as so many Members of productive elements in our society are concerned, they will be squeezed out, and I urge support for the amendment.

Mr. SNYDER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment. I am compelled to make a few remarks, basically because of the conclusion that my friend, the gentleman from Illinois (Mr. SIMON), arrived at a while ago when he spoke and said that he was probably going to vote against this amendment until we had full disclosure.

I want to say that I believe in disclosure. I think that is the way to go at the thing. But what we do by keeping to this rule and not adopting the amendment is this: We make a mockery of disclosure.

The Members can just look at the record. They can look at my own disclosure in the book that is laying in their own offices. I look at it frequently in my office just for amusement, and I know I have disclosed a lot more than was necessary.

I have disclosed some of the major clients of my individual proprietorship that owe me money. I think that is proper and right so that my constituents and others can determine whether or not they think I am doing what is right. That is the purpose of disclosure.

But do the Members know what they are going to do now by saying that unearned income is exempt from the rule and earned income is to be limited? They are going to make us readjust our financial affairs in order to comply, not to get around the rule, but to comply with the rule.

So when I go back home after the election, if I am successful and find I am going to be back here in January, and assuming the Quillen amendment is not adopted, is this: I am going to form two corporations. I or some good friend will probably be the president, and I am not going to have any earned income from those corporations. My disclosure statement then will not show nearly as much as it does now.

I can live on $57,500, but I just do not want to. It is that simple. I think most of us could if we had to.

But what we do by this rule is we deceive the electorate. We say to the people back home, "Now we have got reform and we have got disclosure, and we are putting a limit on our earned income so we will spend full time for the public."

Let me say to my friends that I do not play tennis and I do not play golf. My hobby is going out peddling real estate and messing around in the coal market a little bit. That has been my hobby for a lot of years.

I am anxious to disclose. I have done it, and I will do more if they say we should. I have done more than the rule says now.

I am not anxious to incorporate my businesses, but I will because you are going to say to me that in order to comply with the new rules, I must limit my earned income. I am willing to comply with the new rules, but I would rather not. I would rather let all the facts out, let it all hang out, and let my constituents decide whether I am doing what is right or wrong and decide whether what I am doing is honest or not honest.

But you are saying now that I should make it unearned income, and then I can draw my dividends, and that will be unearned income. And that will not affect me taxwise either, because the tax man that prepares my return tells me I can declare my dividends under chapter S of the Internal Revenue Code and be taxed as though it were earned income. If I receive dividends and it is unearned income, that complies with the rules of the House.

So what we are doing is fooling the people. We ought not to do that. We ought to have full disclosure and let our people make the decisions as to whether what we are doing is right or wrong.

We should not have to go through this charade of setting up corporations and taking money in dividends that are unearned income.

Mr. Chairman, let me just say this to the Members: This is my personal situation, and I make no bones about it. If the Quillen amendment is not adopted, I will have to comply. I do not want to, and it ought not have to be done that way.

Years ago we had a bill that we considered here that had to do with heavy trucks and the size of trucks. I voted "present" on that bill, not because I had earned income from the trucking industry. I voted "present" because at that time I owned a large block of stock in a trucking company that produced dividends for me which were unearned income. The conflict was not arising out of something I was doing over the weekends when some of the others were doing what they wanted to do: Going out and playing golf, playing tennis, taking a trip, going swimming, doing whatever they wanted to do and including in whatever their hobby is. I will tell the Members, I am a workaholic. I really believe I am. I enjoy my work. My hobby is my work.

My pleasure is going out and peddling real estate and coal and things of that nature. I get a kick out of it.

Yet I have an attendance record in this session of Congress, I believe, of something around 98 or 99 percent. I have never missed a vote in this House of Representatives because of my outside business activities. I have missed some because I have had commitments to meet speaking engagements. I have missed some for campaigns and things of that nature, but never because of any outside interests. I say to the Members that there is as much conflict in owning large blocks of stock in companies, such as in trucking companies, as I had at one time, as there is in receiving earned income.

The CHAIRMAN. The time of the gentleman from Kentucky (Mr. SNYDER) has expired.

(By unanimous consent, Mr. SNYDER was allowed to proceed for 1 additional minute.)

Mr. SNYDER. There is a lot more conflict in what you own in large corporations or in small corporations that produce you income that is unearned, a lot more conflict than there is in going out and peddling a piece of real estate and making a real estate commission or making a fee for writing a will. Sure, the gentleman from Texas made a very compelling argument in regard to his specialized law practice. I think you have to look at what you do and see if there is a conflict and weigh it in your conscience, and if there is a conflict I think you have to put it up on the board and vote present on such bills as the truck bill. And if your constituents think there is a conflict of interest there, they will make that decision in November of an even year. There is nothing wrong with making an executor's fee for an estate. But that is earned income, not unearned income. There is less conflict in that than holding stocks and bonds, as many of us do. If you want to be honest about disclosure, if you want to let it all hang out, then you adopt the Quillen amendment and make us disclose everything.

Mr. HAMILTON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, in the course of this debate this rule of limiting outside-earned income has been called ridiculous and irrational. It has been called the product of superduper do-gooders.

What I would like to do is try to express if I can, in just a few minutes, the principal reasons for the rule, why many of us feel that it is important to have a limit on outside-earned income.

Now, first of all, we believe that we need this rule to minimize the possibilities for conflicts of interest. If a Congressman is receiving large amounts of money from a private source, then it might be very difficult for him to vote for legislation that would harm that source. But even if his noncongressional job does not clearly alter his votes, the appearance of a conflict of interest can often arise in the public's mind. If a committee member is employed by a firm which comes under his committee's jurisdiction, or if he receives large sums for speaking before a given group, then the public has a right to be suspicious of the integrity of his vote. The public has the right to be assured that their Congressman has only their interests in mind.

The second reason for the earned-income limitation is this: To avoid taking time away from congressional work.

The public believes that this is a full-time job. The argument has been made here that we are only in session so many days a year, one-half or two-thirds of the time. But the fact is that Congressmen know that they need to devote their full time to working for their constituents. And even though we are not in session every day, a Congressman spending the recess time working for his own private reward is not providing as good a service to his constituents as he would provide were he doing so. Our constituents have the right to have an exclusive call on our services.

There is a third reason: For the outside-earned income limitation, and that is to avoid the appearance of cashing in on the position. When we receive thousands of dollars for honoraria, in consulting fees and in salaries, that strikes the American citizen as trying to exploit the current status of our job for financial gain.

These general reasons for the limitation have been accepted by most of the Members, in practice, as statistics already quoted would suggest.

There are a couple of main objections to this earned-income limitation. One is that it discriminates against those who cannot simply live off of their investment and must work for extra income. It seems to me that there are several responses to that. First, the courts have already acknowledged the distinction between earned and unearned income, and they say that it does not constitute unlawful discrimination.

Second, the issue here and the aim of the limitation is not to place all Members on an equal financial status.

There is no public outcry for that. Our concern is to limit abuses. It seems to me that with earned outside income you have a far greater potential for abuse than you do with investment income; hence, you require stronger restrictions.

There is a third reason: That is simply that public opinion polls show a very high percentage of the people think that it is improper for congressmen to have other jobs. One may dismiss lightly the public opinion polls, but we are dealing here basically with the question of the public's perception of this body.

Now, of the three reasons that I gave for the limitation on earned income, only one of them applies to unearned income, and that is the possibility of a conflict of interest.

The CHAIRMAN pro tempore. The time of the gentleman from Indiana has expired.

(By unanimous consent Mr. HAMILTON was allowed to proceed for 3 additional minutes.)

Mr. HAMILTON. Since two out of the three main problems with earned income do not arise in the typical case of investment income, financial disclosure should be sufficient to deal with the latter.

There is another reason also for this limitations: it is just the difficulty of limiting investments. It is a hard thing to do.

Now, the other objection to the limitation is the argument that disclosure in itself is sufficient. The argument is that if we have full financial disclosure on outside income, then our constituents will be able to make a judgment. It seems to me that there are a couple of things wrong with that. Even with the full financial disclosure, the average constituents lacks sufficient information about his congressman's earned income. A large percentage of the voters do not know the name of their representative.

The other point is the complexity of the voting process. If the voter does have enough information to know his congressman's earnings were clearly excessive, there are still many reasons for a voter not to vote against his congressman, just because of the complexity of issues in an election. If we are looking for a procedure that will assure Americans that abuses will not be tolerated, then disclosure is not going to be sufficient.

There is another argument in support of the limitation, and I think it has not been mentioned thus far in debate. That is, that if we now turn around, after having adopted this earned income limitation, and reject it, the signal is going to go out from this Chamber that we are backsliding on ethical reform. We passed this measure on March 2, 1977. We did it by a vote of 344 to 79. The polls again have shown a strong acceptance of that action. Editorial comment across the country has approved it. It would be a very serious signal to send from this Chamber that we are changing our position on ethical reform at the very time when the image of this body needs to be strengthened.

Finally, may I simply observe this: I have felt that most of my colleagues in this House have operated with unusually high ethical standards, and I have always been proud to serve as a Member of the body. I would simply hope that we do nothing today that would subtract from the integrity of the institution.

Mr. EVANS of Delaware. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise this evening as one who in March of 1977 voted to limit earnings of Members of Congress. But I guess everyone on this Earth has human frailties and anyone can make a mistake at that time because in the intervening 18 months I have come to the conclusion that this particular provision is robbing the Congress of some of its most effective and articulate Members and I definitely do not think that is in the best interest of America.

The Congress, if it is to properly represent America, must be a cross-section of our country. We need individuals in the House of varied backgrounds, varied ages, and varied incomes, because that is America. But the current income limitation, if it is allowed to stand, could result in a House where Members are rich,

Members are retired, or Members are so dependent on this job and this salary that they might be afraid of exercising their independent judgment for fear of losing their job. A Congress comprised solely of the rich, the senior citizens, and the very nervous cannot represent America very well.

I stand here, Mr. Chairman, as one who is exempt from the earnings limitation because of a family-held business. I stand here as one who resigned from the boards of three corporations prior to coming to the Congress of the United States. But I did so out of my own free will. I made that choice, and I think we should retain that freedom of choice.

What concerns me the most and prompts me to take this well is the exodus of highly competent Members of the House of Representatives. Our Nation needs the most qualified individuals possible, particularly in this day and time, and just because a person cannot send his children to college or meet two mortgage payments on a congressman's salary is no reason to prevent him from serving in Government.

I believe we must restore confidence in all institutions and particularly in Government, and I believe that full disclosure is the way to do that because it brings accountability. But we should allow our constituents, the American people, to make the determination as to whether or not an individual is representing them well and effectively in the Congress of the United States.

So I rise strongly in favor of and urge my colleagues to vote for the Quillen amendment.

Mr. STEERS. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Delaware. I yield to my friend, the gentleman from Maryland.

Mr. STEERS. Mr. Chairman, the distinguished gentleman from Delaware is indeed persuasive, but I just want to remind him of what the gentleman from Illinois said about clipping coupons. I remind this body that clipping coupons really does not take much time.

I also remind the gentleman from Delaware that the other gentleman from Maryland said that, well, we are sometimes here only about half the time. Apparently he is of the opinion that the rest of the time Members can spend their time as they wish, able to spend that free time earning income.

I suggest to the gentleman, and I wonder if he does not agree, that the time when we are not here is time when we are also working. I know the gentleman from Maryland works hard when we are in session and when we are not. We do have duties other than legislative, it seems to me, and I ask the gentleman's concurrence, that if somebody is getting $66,000 a year—and Montgomery County's median income, and we are supposed to be this affluent county, is $29,500, it seems to me if we are able to take $66,000, which is $57,500 plus the $8,500, it seems to me maybe our constituents are entitled to somebody who can more closely approximate their needs and not somebody who is able to earn vast sums which put us out of touch with reality. Does the gentleman agree?

Mr. EVANS of Delaware. Mr. Chairman, if the gentleman will yield back my time, the gentleman has presented some very interesting suggestions.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. ROUSSELOT, and by unanimous consent, Mr. EVANS of Delaware was allowed to proceed for 2 additional minutes.)

Mr. EVANS of Delaware. Mr. Chairman, I thank the gentleman for the additional time.

May I say, in answer to my friend the gentleman from Maryland (Mr. STEERS) that I think his question was answered by a number of speakers who have preceded me. For instance the gentleman from Illinois (Mr. HYDE) indicated that we should not penalize successful people; just because an individual is earning $57,500, or $157,500 does not make him less competent than someone who is earning $29,000 a year.

Frankly, this is a full-time job for me. Even though I do have a family owned business, I probably have spent no more than a total of perhaps 12 or 13 hours in that business, maybe six times in the last 2 years have I been in an office where I spent probably 12 hours a day before, because I find it is necessary to spend about 80 hours a week working on this job. But there are some individuals who, because of their experience here in this body, might be able to be very effective in 40 hours or 50 hours a week. But I believe that the vast majority spend substantially more than 50 hours a week. However, I do not think that you can equate effectiveness totally on the number of hours actually spent in the office or on the floor of this House.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield, I know that the gentleman from Maryland (Mr. BAUMAN) is very capable of speaking for himself, and does not need my help, but the gentleman did not imply that Members should only work 50 percent of the time on this job. The gentleman also well knows, because the gentleman comes from nearly the same area as does the gentleman from Maryland (Mr. BAUMAN) that he does in fact work full time on this job. Mr. BAUMAN was not suggesting that this new rule limiting outside-earned income would make it easier to take time away from this job. That was not his point. Mr. BAUMAN's point was that a 15-percent limitation on earned income does not guarantee that Members will be more ethical or perform their jobs in a more competent manner.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. MAZZOLI. Mr. Chairman, I would like to see if there is any reasonable way in which we could conclude debate on this amendment. We have been on it for over an hour and I would suggest, just for the purpose of getting the ball started, that I ask unanimous consent that all debate on the Quillen amendment and all amendments thereto, cease at 7 p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. ROUSSELOT. Mr. Chairman, I object.

Mr. WYDLER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. MAZZOLI. Mr. Chairman, let me suggest another unanimous-consent request.

I ask unanimous consent that all debate on the Quillen amendment and all amendments thereto, cease at 7:15 p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. ROUSSELOT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. MAZZOLI. Mr. Chairman, let me try one more time for a unanimous-consent request, and then I would be constrained to make a motion, because obviously we have thoroughly debated this issue and I believe we have all pretty well made up our minds. So I would ask unanimous consent that all debate on the Quillen amendment and all amendments thereto, cease at 7:30 p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. ROUSSELOT. Mr. Chairman, reserving the right to object, the only reason I have objected, is that many of us have been sitting here very patiently while members of the committee have had their chance to talk—and the chairman has been very fair—but this issue some of us feel does have some importance, especially when the claim is that making $8,700 of earned income is not ethical. I really believe we ought to settle that.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I know that there has been much debate today, and some of it has been probably what I would call intemperate, and perhaps unavoidably self-righteous but I do believe that the main points have been discussed at length—although the gentleman from California (Mr. ROUSSELOT) has not spoken at length, and I might add I have not either—but I believe if we have 45 minutes more time we could conclude debate. I would hope the gentleman will accept that as being a realistic time in which to fully complete debate on the issue, and I would hope that the gentleman would not object to the unanimous-consent request.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I will be glad to yield to the gentleman from New York.

Mr. BIAGGI. Mr. Chairman, I thank the gentleman for yielding, and I am glad the gentleman raised the reservation of objection because I have on two occasions asked two members of the committee to yield and on both occasions they have failed to do so. I thought that was, to say the least, intemperate.

I think this is of sufficient importance that we should provide each Member with as much time as is required. To place a limitation on at this time, or at any time, would not be ethical.

Mr. MAZZOLI. Mr. Chairman, again I would ask the gentleman from California (Mr. ROUSSELOT) if he would yield on his reservation of objection.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Chairman, I am glad to yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman for yielding.

I just want to address my friend, the gentleman from New York (Mr. BIAGGI). He did seek recognition, and I am sure that the gentleman who perhaps did not recognize him did so inadvertently and perhaps in the anxiety to wrap up our remarks. However, certainly in the next 45 minutes—and I know the Chair has called on Members as he has seen them standing—the gentleman from New York (Mr. BIAGGI) would have a chance to put forth his remarks.

Mr. Chairman, I would again ask my friend, the gentleman from California, if he would withhold objection to the unanimous-consent request.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Chairman, could we have some indication as to the number of Members who intend to speak? Perhaps that would be a way to tell.

I would suggest that the gentleman make it 1 hour.

Mr. MAZZOLI. Mr. Chairman, let me say that the gentleman from California has been very helpful.

Mr. Chairman, I ask unanimous consent that all debate on the Quillen amendment and all amendments thereto end in 50 minutes, or at about 7:35 p.m.

Mr. ROUSSELOT. At 7:35?

Mr. MAZZOLI. At 7:35, Mr. Chairman.

Mr. ROUSSELOT. In that event, Mr. Chairman, I will withdraw my reservation of objection.

Mr. MAZZOLI. I thank the gentleman.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The CHAIRMAN pro tempore. Members standing at the time the unanimous-consent request was made will be recognized for approximately 3 minutes each.

POINT OF ORDER

Mr. BIAGGI. Mr. Chairman, I have a point of order.

The CHAIRMAN pro tempore. The gentleman will state his point of order.

Mr. BIAGGI. Mr. Chairman, if my observation was correct, when the gentleman from California (Mr. ROUSSELOT) agreed to 7:35 p.m., there were seven Members standing, and then suddenly that number was doubled.

The CHAIRMAN pro tempore. The Chair will advise the gentleman that that is a very frequent occurrence in the House.

The Chair recognizes the gentleman from New York, Mr. WYDLER.

Mr. WYDLER. Mr. Chairman, the issue that we are voting on tonight is the issue of fairness. It is whether some of the Members of this body are going to be singled out and in a way offered up as a sacrifice for an idea in someone's mind that we are making the Congress ethical as a result, and we are taking certain of our Members and doing this to them for that purpose.

The point was well made by the speaker who preceded me who said we made a deal with the public. I do not know who made the deal, but, anyway, let us assume he was right. The deal was that we were going to get a pay raise, and the price that was going to be paid for that was an outside income limitation on a very few Members of the House of Representatives. I do not believe that deal was ever made. I do not believe it really exists. I believe it is a fiction and a figment of some people's imagination.

There was, indeed, some connection between the passage of the ethics bill and the pay raise, and certain Members have justified what they did on that basis. That is their business.

But for them to say to the general public, which is what I understand they are trying to say, that I voted for the pay raise so that somebody else would have his income limited as a result is a pretty rotten deal they made with the American public.

All I am asking for the Members to do—and I know it is difficult because of the political pressures—is not to listen to the polls, if indeed there are such polls, but think in fairness why, when we talk about outside income, we start out by eliminating most of it right off the bat: All the unearned income, and then categorize everything that is left in the earned category down and down the line until only a few Members are left to suffer and to be restricted. That really should be something between the Representative and the people he represents; these are the people who have the right to question him about it. They have a right to hear his answers to those questions. But this is not a decision that should be made in some kind of a congressional deal where 15 percent is the right amount. Why? What does it mean? This is a decision for the people that we are representing to make, and that is where it should be left. I hope the Members will support the Quillen amendment.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. WYDLER) has expired.

The Chair recognizes the gentleman from Georgia (Mr. MCDONALD).

Mr. MCDONALD. Mr. Chairman, I just could not help but observe that during the debate—and I hope that he is still in the chamber—the gentleman from Montgomery County, Md., did speak to the question of the immediate income in that nearby area. The overwhelming majority, almost the totality of the Members of this body, must maintain two separate residences—one in the general proximity of the Capitol and the second in their distant districts. I was just wondering if that same situation prevails with the case of the gentleman from Maryland. I would hope that he might be here in the Chamber and be able to clarify that, just to complete the record.

Mr. WALSH. Mr. Chairman, will the gentleman yield?

Mr. MCDONALD. I yield to the gentleman from New York.

Mr. WALSH. I thank the gentleman for yielding.

Mr. Chairman, I am going to be leaving this House at the end of this term. I strongly feel that the Members have made a mistake in supporting the income limitation. I am going to have to miss this vote, but I want to go on record as saying I strongly support the Quillen amendment.

(By unanimous consent Mr. MCDONALD yielded the remainder of his time to Mr. DELLUMS.)

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Chairman, I have several thoughts that I would like to share with all of the Members. Here is another issue that is breaking down liberal versus conservative. As the person they referred to as the Vito Marcantonio of this Congress, I do not think that my left credentials can be challenged by anyone here. Several colleagues have made the statement that this speaks to the integrity of the House. I would suggest to them that if I had to do battle, the utimate fight to change the nature of this country and the world, and I had to choose between taking a group of professed liberals and ideologically committed politicians, I would take the latter rather than the former, because the question of integrity in this House, I would suggest to my distinguished colleagues has to do with whether or not on any given day or any given motion before this body all of us in unison actually vote our honest beliefs.

The question of integrity in this House, I would suggest to my distinguished colleagues, has to do with whether or not on any given day, on any given motion before this body, all of us in unison actually vote our honest beliefs. That would be integrity. Each of us know, many of our colleagues go around saying, "ROW, you are right. You are right, but I can't vote that way politically."

We talk about integrity. Integrity is expressing your honest views, rather than tapdancing for the next election, but let us not vote to the issue being right.

I am not a lawyer. I am not a business person. I own no stocks, no bonds. I have less than $300 in the bank. I spend my weekends talking to many groups, the NAACP, the Student Union League, the Urban League. none of which can corrupt me. I have not been here long enough to have any power.

This issue is a monument itself to mediocrity, because it has not been thought through. First of all, we have this because we say the time of our colleagues should be full time, and I agree; but one of the amendments in the Constitution says that there shall not be involuntary servitude. I do not owe anyone 7 days a week, 24 hours a day. Maybe that is why there are so many divorces. That is why we have lost our sensitivity, we have lost our humanity, because we have forgotten that we are human beings and this job is the cause of it.

On Saturday and Sunday, if I want to water my flowers, scream at my children, that is my business, not yours, because nobody can commit me to work 24 hours

a day. I have gray hair and lines in my face. You have seen me age before you. I get damn emotional about this job and I put my gut into it.

Here is my question: If you are concerned about corruption, the ability to buy politicians, why not specifically deal with how Members of Congress are bought and deal with that question in a straight-on legislative statement? If you are concerned about the issue of conflict of interest, I would suggest that the Black Student Union I was speaking before recently is just as interested in it as you are. Why do we not address this conflict of interest?

What is this 15 percent? As my colleague said, at $8,700 you are pristine; at $8,800 you are corrupt. What kind of income is proper?

I am here to challenge wealth. I came from an impoverished family. I am not interested in wealth.

What did the committee do, tell us our rich get richer, but if you are out there on Saturday or Sunday earning your income, that is illegal. Where is the ethics involved in that?

If you want to stop people being bought, then legislate on the question. If you want to stop conflict of interest, you say if a Member serves on this committee, you cannot speak here.

The CHAIRMAN pro tempore. The time of the gentleman from California has expired.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent to yield my time to my colleague from California. I do not always agree with the gentleman, but I think the gentleman is coming on pretty good.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DELLUMS. Mr. Chairman, I appreciate that from my distinguished colleague. One other point. I would just like to indicate that some of us here are reasonably young people that still have young children. Some of the old codgers here that have put their children through college and paid off the mortgage, you do not care. All my life and all my children are in front of me. Do not make those cavalier statements on the floor. If you want to challenge corruption, challenge criminality, do it with a straightforward vote.

It amazes me when we give a few speeches, my colleague, the gentlewoman from New York, SHIRLEY CHISHOLM, the gentlewoman from Texas, BARBARA JORDAN, or ROW DELLUMS, we make a few speeches to the Student Union, to the NAACP, this black group or that black group, where is that corrupting? We do not have the power to be corrupt.

This 15-percent notion, someone thinks is magical if you go to 15.1.

The final point my wife wanted me to make, now, understand, this is one of the great legislative bodies in the world that does not care about our families. It is male chauvinism and sexism in its highest form. I have three children. They cannot go back to California. Do you know how much money it costs to take a wife and three children back to California? If they want to call their friends, it is long distance. If you live in Maryland, it is 20 cents. Our entire lives are radically changed.

I am not here in opposition to money, but I am opposed to people with great wealth. I think it is violative of the democratic process.

But I do not want to have to survive here. I came here as a fighter, I came here as a revolutionary; I did not come here to be a businessperson, I did not come here to serve my economic purposes. If I were in Berkeley, I could go about wearing nothing but jeans, but they sent me here to the highest cost-of-living city in America, and then we talk about these kinds of issues. If you want to challenge criminality, there is a way to attack that, not by amendments such as this.

I think the amendment is mediocre. It is an amendment offered to thwart our purposes, and it is not something brought on the floor that Members can actually deal with.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I thank my colleague on the Committee on the District of Columbia with whom I have fought some battles over the years and I thank him for his statements today. The gentleman is as usual very eloquent.

However, I think the gentleman has misunderstood the direction and the thrust of our bill. It does not seek to discriminate between those who earn under a certain amount or those who earn over a certain amount. This is a fallible effort by a number of fallible people.

Mr. DELLUMS. There is no doubt that it is fallible.

Mr. MAZZOLI. Exactly, and I would be the first to admit it. It is a fallible effort to make some sort of a work product which we can live with and at the same time be responsive to our constituencies.

Mr. DELLUMS. Mr. Chairman, I simply say that all the amendment has done is to allow the wealthy people to remain here to continue to be wealthy and stay here.

Mr. MAZZOLI. Mr. Chairman, if the gentleman will yield further, as I started to say, this product, as I guess is the case with any important piece of legislation, solves not every problem, and it does not necessarily satisfy all the people who helped to draft it.

What it does do is it makes an effort in the right direction. As I said before, it is fallible, but it is intended to try to solve the problem.

The gentleman from California (Mr. DELLUMS) has pointed out some of the difficulties of the bill. It does serve certain people better than others and, I think some of the statements and some of the debate has been intemperate and sometimes perhaps a bit self-righteous.

Mr. DELLUMS. Mr. Chairman, if I may reclaim my time, I have met with Common Cause people, and I have asked them, "Do I have free time?"

They say, "Of course you do. You are a human being, and you have a private life." So then they stipulate that I have the advantages of those words, "free time." All right, that time is mine to do with what I will.

But then they said, "What are the areas you do not want to deal with?" We talk about being "bought" and engaging in conflicts of interest. When they look at our reforms, they ask, "What about these conflicts of interest?"

Then I ask, "What about young families?"

I think if we have these conflict of interest laws and if we spell out ways that Members can clearly and inequivocally make income, if we have public disclosure laws, since we have millions of criminal laws now, if we engage in criminality, ostensibly we are supposed to be prosecuted and the adjudication process will take its place.

But what about this 15 percent, where our colleagues are engaging in all this emotion of waving the flag, these Members who think they are liberal. That is process liberalism. Process liberalism will not change America, and all these phony reforms are not going to change America either.

I would like to see the process liberals get down to the gut issue where they are not tapdancing around the vote and dig into the issue. Then we could go out to America and say we have accomplished something, but they have tapdanced all around the issue and not addressed themselves to the criminalities involved.

Mr. Chairman, we should not engage in these kinds of things.

Mr. MAZZOLI. Mr. Chairman, if the gentleman will yield further, I am sure that certain Americans would agree that we have worked hard and not tapdanced around the issue. If we put a limit on what we are allowed to earn that is not tapdancing around the issue.

Mr. DELLUMS. But let us do it in an honest way. This is a mediocre issue.

As the gentleman from Maryland (Mr. BAUMAN) pointed out, they did not even spend much time on this question. They could spend more time on this issue because it is a very difficult process, and they could really think it out carefully.

If we do not have laws to stop these conflicts of interest, we can stop them. If we do not have laws for conflicts of interest in corporations, we can stop them. If we want to stop conflicts of interest, we can do it.

Mr. GOLDWATER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first let me point out that I believe my colleague, the gentleman from California (Mr. DELLUMS), has very directly addressed himself to this problem.

Mr. Chairman, I rise in support of the Quillen amendment to remove the outside earnings limitation on Members of Congress. I voted against the imposition of this limitation last year, and 1 year later, I am more convinced than ever that this prohibition does not serve the interest of advancing ethics in Congress.

Aside from the peculiar application of this limitation—an application which designates that only certain types of income are unethical—my greatest problem with the prohibition is that it seeks to control specific activities rather than ethics.

Ethics is a branch of philosophy which deals with moral principles, or more specifically with the principles governing ideal human character.

Now, obviously, what constitutes this state of being depends on which school of philosophy you subscribe to, and it is an area that is so far removed from any absolute rules that arguments on all sides can only be termed esoteric.

There is certainly nothing unethical about giving a speech or writing a book or practicing law or running a business. There is nothing unethical about accepting a fee or earning a salary for performing any of these activities. And, there is absolutely no evidence that earning outside income represents any more danger of a conflict of interest than unearned income from corporate dividends: partnerships and stocks and bonds.

What, then, is the purpose of the outside earnings limitation? It is nothing more than an attempt to control what Members of Congress do with their time.

It is an attempt to make sure that Members treat their congressional duties as a full-time job.

But, if that is the purpose, there are better ways to go about it. Would it not be better to require mandatory office hours, complete with a timeclock? The classical definition of a full-time job is a 40-hour workweek. I do not think there is one Member of this House who works less than 40 hours a week—and if he or she manages to hold this job working those kind of hours, I would be interested in knowing how they do it.

I have never seen a precise "job description" for a Member of Congress and I imagine that if we each had to write such a description, we would have had 435 different answers. In other words, each of us uses our time in different ways—we set our own priorities and we determine our own working hours. We perceive the relative importance of our different duties in various ways.

If some of us choose to spend what we can legitimately call our "own" time or our "spare" time performing a service for a fee, how is this any more of an interference with our official duties than a Member who chooses to spend spare time on the golf course? The answer is obvious if we are talking about how we use our time.

The ultimate judgment on this issue should be in the hands of the people who send us to Congress. I strongly support furnishing these people with the facts about my income. I support full disclosure, and I believe my constituents should use this information to make a determination about my qualifications and eligibility for public office. In a representative government, this is how the system should work.

If my constituents choose to judge my outside earned income as an ethical matter, then so be it—I must accept that judgment. But that is who should make the judgment, and we should not be imposing some arbitrary and unfair rules on how some Members spend their time nor should we accept this kind of double standard in judging outside income.

I urge my colleagues to support the Quillen amendment.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Missouri (Mr. TAYLOR).

Mr. TAYLOR. Mr. Chairman, I am very concerned at the direction that this House is going on this income limitation. I suppose that each one of us has a philosophy that is molded somewhat by what our personal background is. I happen to have been born on a small farm in Missouri to a family that was so poor that poor people called us poor. But I have seen the opportunity of America unfold for me and I have had opportunities that have been afforded me by this great Nation and by the great country in which we live and the free enterprise system, and I went into business on borrowed money and was a moderate success. I sought this office because I believed that I would have an opportunity to maybe help preserve and defend the great institutions upon which this Nation was founded.

Mr. Chairman, I believe it is inherently wrong for this Congress to pass a law to tell any American that his income will be limited. This is not in keeping with the dream of America. I believe that it is important that we look back to the Founding Fathers of this country, to Jefferson, to Madison, and to the philosophy that they espoused when they said that the Congress would be composed of men and women who would come down to Washington from every walk of life and make the laws of this Nation—hopefully, not any more than needed to be made—and then go home and live under the laws that they had made. I fear, Mr. Chairman, that we are getting away from this philosophy, and I believe it is disturbing to the American people.

So I would certainly support the Quillen amendment. I know there are ways of circumventing the provisions of this bill. I believe in openness. I still have a business. It is still making a profit. I still take money from it. I do not work in that business, but my investment and my life are there. I think I am entitled to that, and one day I want to go back to that business if it is still there and can stand the ravages of what is happening in this country. But I think it is important that we perceive here today that we are doing something that can very well alter the face of this Nation when you play the hull and pea game. Some Members who opposed the Quillen amendment said there are ways you can circumvent it. Friends, I do not want to circumvent anything. I want to be open. For those with a halo over their head, I simply say that if we reject this Quillen amendment—we will have betrayed our responsibility to be open with the American people.

The CHAIRMAN pro tempore. The time of the gentleman from Missouri (Mr. TAYLOR) has expired.

(By unanimous consent, Mr. MARRIOTT yielded his time to Mr. TAYLOR.)

Mr. TAYLOR. I can circumvent it. Of course I can circumvent it. I can play the hull and pea game. I can fool my people. I can take dividends, I can buy my building out of my corporation and rent it back. But that is not right. That is not fair to my constituents or in the interest of openness in which I believe very deeply.

I will stand on my record as a former businessman who gives all of his time to serving as a Member of Congress from the Seventh Congressional District, and upon that service I will submit myself to the voters of my district and let them make the decision as to whether or not I have a conflict of interest.

Mr. Chairman, I believe we are dealing with a very serious subject that may well alter the course of this great body, which I am very proud to serve; and ultimately, the course of this Nation. I urge adoption of the Quillen amendment.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, I thank the gentleman for yielding. I think the gentleman's statement was a good one. I just wanted to bring to the Members' attention, if I could, a letter I got from the Community College Student Association. They are in favor of this outside earnings limitation, and they say the reason is because they do not want to have to pay their lecturers any more money than they are paying them now. That is serious—that is in a letter. I imagine everyone in this House got that letter. That is the kind of ridiculous nonsense we are being exposed to and exposing our Members to by putting in these arbitrary, totally pulled-out-of-the-air numbers as figures at which a person becomes ethical or unethical. I just hope the Members of the House will listen to what the gentleman said and vote for the Quillen amendment when it comes to final passage.

(By unanimous consent Mr. HOLLAND yielded his time to Mr. BIAGGI.)

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Chairman, I have been listening throughout this entire debate, and the most refreshing contribution was made by the gentleman from California (Mr. DELLUMS). His statement was spiritually elevating, dealing with principle—principle. When we are dealing with this legislation, I ask, what happened to principle? What happened to morality? I charge that there is an absence of morality in the compilation of this legislation, a violation of the 14th amendment, equal application of law to all people.

Let us deal with just one small area of conflict of interest. Mr. BAUMAN pointed out that of all the charges and all the crimes of Congressmen, not one dealt with conflict of interest. We are providing a remedy where we do not have an ailment.

Let us get with one group—those that have unearned income as contrasted to the other aspect mentioned earlier in connection with this issue. Why do we conceive or how do we conclude that those who have securities, the wealthy, if you will, are not engaged or at least

have the potential of conflict? I believe, as most Members do, that our Members are ethical, but we are talking about perception, are we not?

Perception is the word I kept hearing round and round during this debate.

Let me tell the Members, tell the people of this Nation if they dare, that the wealthy, the millionaires in this place, those who have limitless securities, are voting on issues that touch their lives every day, and try to convince them that these Members are not voting for self-interest, because it enhances their securities, that is perception. That is the reality of life.

I know some who say, "You know, it is not fair but I am going to vote against the Quillen amendment." It is not fair, I agree; it is not fair, but I am voting against it. Where is the morality, the principle, the ethics?

Others say, "Well, if we vote for the Quillen amendment we will never get a raise any more." How do you like that? Now, they are talking about future raises, the possibility of future raises which are as remote as the galaxies. Some of those very people voted against the last raise, and are enjoying the benefits.

Let us talk about some of these individuals with securities, because that is where it is, and using the committees to fix a thrust on earned income as contrasted with unearned income confounds me. The logic confounds me.

Let me tell the Members that is the area of conflict. I heard Members talk about stock and the effect of legislation on stock. I heard that on this floor. Yes, I did in my time hear that on this floor. It may be of no consequence and does not necessarily mean they voted as if they were motivated by self interest, but they were talking about stock issues and the effect of legislation on those stock issues and how some of them would benefit. That is real. That is fact.

Let us talk about trusts, blind trusts. I have been around here a little bit. I do not profess to know all, but a few things I know. Some of these blind trusts have 20–20 vision. They see better than you and I. Yet some of the very people who have the trusts will vote against the Quillen amendment because that is the type of professed liberalism that the gentleman from California (Mr. DELLUMS) was talking about. That is right. They tiptoe around the voting arena. It is election time. If we had this discussion after the election, the Quillen amendment would fly. It absolutely would fly.

But we are brought down to the crunch, because they say we do not have the courage to vote for the Quillen amendment.

Let me tell the Members we come to this day on the Quillen amendment. But what was the genesis of the Quillen amendment? Was it the Hays affair? Was it the Mills difficulty? Was it the Korean problem? Whatever, we dealt with each one of them in order. We do not have a problem to resolve as far as the Members are concerned on earned income. That is clearly enunciated. But this is ethical. They would compel us—I should not say me, because I can accommodate, but they would compel a man like Senator CLAUDE PEPPER to do this.

The CHAIRMAN pro tempore (Mr. ROSTENKOWSKI). The time of the gentleman from New York (Mr. BIAGGI) has expired.

(By unanimous consent, Mr. MAZZOLI yielded 1 minute of his time to Mr. BIAGGI.)

Mr. BIAGGI. But they compel a gentleman like Senator CLAUDE PEPPER, who made the point very graphically with us. If we lose an election, we are out. A prudent man must prepare for that day. Members have families. Senator PEPPER went up and scrounged, he told us the last time around, and built that practice up.

I heard a member of the committee say we can protect our equity if we do not render personal services. He does not contribute personal services. I would like to put that question to the Chair or to the committee as far as Senator PEPPER's position, where he does not have an equity and he does not give any personal services, is he protected on his income?

Mr. PREYER. Mr. Chairman, if the gentleman would yield, just because the gentleman does not give personal services does not automatically protect him on his income. I would hesitate as one member of the committee to give an official ruling on the treatment of legal income under the facts you mentioned.

Mr. BIAGGI. The gentleman says he cannot give that answer. Another member of the committee, the gentleman from Wisconsin (Mr. OBEY) said he can. The Members heard it and I heard it. There is obfuscation, and I urge the Members to vote for the Quillen amendment on the basis of principle and morality.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Florida (Mr. BENNETT).

Mr. BENNETT. Mr. Chairman, I had not intended to speak on this but I have some experience about some of the things that have been said here and so I will talk about it.

Some years ago when we had the first Ethics Committee, the most controversial thing I did as chairman of that temporary select committee was to observe that lawyers ought to stop practicing law if they are going to be Congressmen. I think that in large part resulted in my not being chairman or even on the committee when the new permanent committee was appointed. So I am conscious of the fact that one can lose friends if one takes the position I take.

I am now on the Standards Committee but not on the Legislative Ethics Committee which has brought this bill to floor. But this legislative committee has done its best to find a good answer to this problem. The problem is not in all areas of employment. It is primarily in law and in public relations and in honoraria and a few other areas mentioned here, where a person can almost be bribed by the normal processes of the work that he does and the Member may not realize this. That is the reason why that type of conflict of interest situation should be excluded.

The committee studied various ways of protecting against such abuses and came up with this answer; and this pending amendment would eliminate this answer—It is the best I can think of unless we are going to actually prohibit some of the professions from being practiced by Congressmen—such as law and public relations and lecturing for fees. As one gray-haired Member and also as the father of young children—and I have young children at home—I have other observations to make. When I came to the Congress I think the salary was in the neighborhood of $10,500. We Congressmen then lived modest lives. Our family had only one car, a very old car, and my house was a very modest one, close to the Capitol. In every way, my family lived very modestly—like most of my constituents whom I represented.

We have now greatly improved the benefits of Members of the Congress. We are now not living like most of our constituents live. When I came here we lived like most of our constituents did then live and do now live and that has been greatly changed. I think that says something in itself. In other words, I think we have priced ourselves out of the mainstream concept of representation; and I think that is a bad thing.

I think our salaries are too high, very much too high. I think we have done a disservice to this country by raising them as we have raised them.

Some observations were made here about the necessity of raising extra money by going out and working, as if that were going to help your children. Well, I have been through all the pains of childhood you can be put through, including extended and expensive hospital bills, and I can assure you that the children need their fathers and mothers more than they need those extra dollars.

I urge the defeat of the Quillen amendment.

The CHAIRMAN pro tempore. The Chair now recognizes the gentleman from California (Mr. PANETTA).

Mr. SISK. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I am happy to yield to my colleague, the gentleman from California (Mr. SISK).

Mr. SISK. Mr. Chairman, I appreciate my colleague, the gentleman from California (Mr. PANETTA) yielding me this time.

Mr. Chairman, I rise in support of the amendment.

Mr. PANETTA. Mr. Chairman, I think there is a simple issue that faces the House here. It is really a question of whether we are going to implement the ethics reform bill that was adopted overwhelmingly by the House last year, or whether we are going to retreat from that commitment.

The fact is that this House overwhelmingly adopted this legislation by a vote of 403 to 21. And on the question of eliminating the earned income limitation it rejected that effort by a vote of 344 to 79.

I think if we reverse ourselves in the

House on this issue it is a clear signal to the country that we are indeed backing away from the commitment we made on ethics reform only a few short months ago.

Second, there is good reason for ethics reform. Ethics reform did not just fall down out of the sky; it was the result of concern about conflicts of interest, about prosecutions and investigations of House Members. The public was concerned about the issues they were reading about daily and seeing on television daily. That is why we decided to try to put some limitation on the potential of conflicts, particularly with regard to earned income.

Let me say on the record once again and make no mistake about it, the role of a Congressman is a full-time job. It does involve sacrifice of family and children. It does involve sacrifice of one's own profession or business, but that is the choice we make. It is a choice the people want, because the people want full-time legislators; they do not want them depending on other sources of income. That is what the pay raise issue was all about and that is why 90 percent of the Members today have severed all of their relationships with their professions or their businesses so that they could devote full time here.

I think, very simply, the choice is whether the House will back away from the commitment that we made in the ethics reform bill last year, or whether we will stand by that commitment. Frankly, there is no choice. We ought to reject this amendment.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from California (Mr. PATTERSON).

Mr. PATTERSON of California. Mr. Chairman, I rise in opposition to the Quillen amendment.

There are two questions that I think are important to me and I hope they are to you. The first one has been addressed many times, and that is: Is the job of a Member of Congress full time? I submit that it is. I think every Member in this room has agreed and has concurred in that.

The point that has been made is that outside earned income can somehow be earned in our offdays, whatever time that time is, and I submit that this job means to be on duty all of the time.

Let us just suppose you could take 85 days off—and I doubt if any one Member of Congress has taken 85 days off in the last 365, but if you could, and you earned $100 every day, you would still fall within the purview of the bill as it is, you would still earn $8,500 and still be allowed to earn that.

How much do you want to earn?

What we are trying to prevent is not criminal action. What we are trying to prevent is the excesses.

The second question is, Will the average American be driven out of office, or will those of us who have some special stature and who are such great Members of Congress be driven out of office?

Mr. Chairman, I submit that half of our membership are lawyers, such as me. That is enough.

What about a teacher? What about a carpenter? What about a truckdriver? What about a nurse? Can they earn money on their off-duty times? How do they do that, I ask?

Mr. Chairman, maybe some of the rich can stay in office, and maybe some of the young activists will run; but I submit that those who teach school, those who are carpenters, those who are nurses, or those who are in any of the average American occupations, but who are not in Congress, work their jobs. Therefore, I see nothing at all wrong in the restrictions on outside earned income.

Let us be full-time, proud Members of this great body.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Tennessee (Mr. QUILLEN).

Mr. QUILLEN. Mr. Chairman, it is now 7:30. We have been debating this amendment for 2½ hours, and yet the arguments against the amendment are absolutely irrational.

I feel that those who would be against the amendment, who would be for keeping House rule XLVII would be for changing the complexion of this House in years to come. They are saying, in effect, go ahead, that we should have a "professional"—and I put the "professional" in quotes—a "professional" legislature members beholden entirely to a government instead of to the people.

Mr. CHAPPELL. Mr. Chairman, will the gentleman yield?

Mr. QUILLEN. I am happy to yield to the gentleman from Florida.

Mr. CHAPPELL. Mr. Chairman, I appreciate the gentleman's yielding.

What would be the situation if a businessman was elected to Congress, and he was the sole owner of the business; he employs a manager to take care of his business, and he instructs that manager not to make more than 15 percent above what the Member's salary would be; but in spite of all that, in spite of the fact that he comes to Congress and devotes no time or effort to the business at all, he still makes $30,000 in that business that year? It is not a corporation. What is he supposed to do, I ask, with respect to some $22,000 earned in his business? How can he comply with the law if we do not adopt the amendment offered by the gentleman from Tennessee (Mr. QUILLEN)?

Mr. QUILLEN. Mr. Chairman, that is a very good question.

As a matter of fact, I have posed several questions to members of the committee, including the gentleman standing, the gentleman from North Carolina (Mr. PREYER); and I have yet to get a final judgment.

Mr. Chairman, I would yield to the gentleman from North Carolina (Mr. PREYER) if he could answer that question.

Mr. PREYER. Mr. Chairman, I thank the gentleman for yielding.

The income of the gentleman in the example he gives would not count as earned income. It would be a return on equity. He would not be limited by our rules in receiving that income.

Mr. CHAPPELL. If the gentleman will yield further, Mr. Chairman, I ask the gentleman from North Carolina how that can be because it is earned income. He owns a business. It is not a corporation. He is not taking the dividends his business has earned. It is not a corporation. It is his. What is he going to do with the business? What happens to that difference, that $22,000?

Mr. PREYER. Whether it is incorporated or not has nothing to do with whether it is earned income or whether it is a return on equity. The only question is how the income was generated—whether it was generated from personal services or not.

Mr. QUILLEN. Mr. Chairman, there have been no clear answers whatsoever in regard to the enforcement of the rule. I have heard the proponents and the members of the committee say farmers are not included; yet the last time they were before the Committee on Rules, they said farmers are included and their income cannot be excluded.

Mr. Chairman, I urge the adoption of my amendment for the benefit and the future of this great body.

The CHAIRMAN pro tempore. The time of the gentleman from Tennessee (Mr. QUILLEN) has expired.

The Chair recognizes the gentleman from Kentucky (Mr. MAZZOLI).

Mr. MAZZOLI. Mr. Chairman, I would just like to make a couple of comments.

One is, as much as I try to empathize, I simply cannot share the feelings of my colleagues here who say that this body will go into ruin and that we will have difficulty securing good Members of Congress if the Quillen amendment is defeated. I think we now have good Members of Congress. I think we will retain good Members of Congress, and I think we will secure in the future good Members of Congress without the Quillen amendment, which I hope is defeated.

My friend, the eloquent gentleman from California (Mr. DELLUMS), in his statements talks about tapdancing and the fact that the House too often tapdances around the tough issues.

I agree with him. We do. It is inevitable in the political process, but it certainly is not to be desired. I would, however, suggest that the House would be considered as again tapdancing around a tough issue if here, in the 11th hour, 18 months after it adopted strong rules, correct rules on outside earnings, if we now abandon ship and revoke the rules, I think that would be the ultimate in tapdancing.

I think, Mr. Chairman, that if I had had my own way we would have covered unearned income in the bank. I have no unearned income. I have no earned income. But, I think correctly the limit should be across the board.

But we on the committee had to make political judgments. We had to make a realistic political appraisal of what could pass. So we decided that of the two of them, it was the earned income that would cause the most potential for problems, both as to conflict of interest and as to the consumption of time.

It seems to me that we, by looking at the earned income coverage, have sought to control at least the most blatant case.

All in all, it is the best we could do under the circumstances. I hope that the amendment is defeated.

The CHAIRMAN pro tempore. The time of the gentleman from Kentucky (Mr. MAZZOLI) has expired.

The Chair recognizes the gentleman from California, Mr. MOORHEAD.

Mr. CORMAN. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of California. I yield to the gentleman from California.

Mr. CORMAN. I thank the gentleman for yielding.

I want to associate myself with the remarks of the gentleman from California (Mr. GOLDWATER) and the gentleman from California (Mr. DELLUMS) and make one observation I have not heard.

If one earns $8,625 in a year and pays his taxes, as most of us do who live on earned income, he will pay $5,952 of that in taxes, leaving a net of $2,648 for the year. I approve of those tax laws. I have voted for them. But we should keep in perspective what the amount of the outside earned income really is. I would vote that many with unearned income pay little or no taxes on it. I urge a yes vote for the Quillen amendment.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD. of California. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding.

The answer to the question of how can we turn around on this issue if Members voted for it before is: That it was a bad idea previously and now is a bad idea whose time is past. I am sorry that many Members were not here to hear the comments of our colleague, the gentleman from Delaware (Mr. EVANS). Mr. EVANS voted for it previously and has now admitted he made a mistake. Why? The title of this bill is "Ethics in Government." How do we have ethics in Government guaranteed at 15 percent but not at 15.1 percent? It is an absolutely wrong, upside-down argument. As the gentleman from California (Mr. DELLUMS) said—and we do not quote each other too often, but I think he was brilliant tonight—we cannot guarantee ethics at a percentage figure. I believe the original limitation was a mistake. We ought to admit it, and I believe the voters of this country will applaud us for doing so. I support the Quillen amendment.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of California. I yield to the gentleman from New York.

Mr. WYDLER. I thank the gentleman for yielding.

Mr. Chairman, I am just going to remind all of the Members who are here and listening in that later on in the course of this evening we are going to vote on a 15-percent outside limitation for Federal executive branch employees. The Members might consider whether they want their votes to be consistent tonight. I think they should consider that. There is no reason in the world why a Congressman who is elected should be under a different rule than a person who holds his job by appointment—none that I can see.

So I would hope every Member would think seriously about the fact that later this evening they will be voting on a 15-percent earnings limitation for other Federal employees of the executive branch.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Tennessee (Mr. QUILLEN).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MAZZOLI. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 97, noes 290, answered "present" 1, not voting 44, as follows:

[Roll No. 808]

AYES—97

Annunzio
Badham
Bauman
Biaggi
Boggs
Bowen
Brooks
Brown, Calif.
Brown, Ohio
Burke, Mass.
Burleson, Tex.
Carter
Chappell
Chisholm
Clawson, Del
Clay
Cleveland
Collins, Ill.
Collins, Tex.
Corman
Cotter
Crane
Daniel, Dan
Daniel, R. W.
Davis
Delaney
Dellums
Dornan
Duncan, Oreg.
Erlenborn
Evans, Del.
Fary
Fish
Flynt
Ford, Mich.
Forsythe
Frenzel
Gibbons
Goldwater
Gonzalez
Goodling
Gradison
Hammer-schmidt
Hansen
Harrington
Harsha
Hightower
Holland
Holt
Hyde
Jeffords
Jones, N.C.
Kindness
LaFalce
Leggett
Livingston
Lott
McClory
McDonald
McEwen
Mann
Mathis
Milford
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
O'Brien
Ottinger
Pettis
Quayle
Quillen
Railsback
Robinson
Rostenkowski
Rousselot
Russo
Shuster
Sikes
Sisk
Snyder
Stanton
Steiger
Stokes
Stump
Symms
Taylor
Vander Jagt
Waggonner
Wampler
Wilson, C. H.
Wilson, Tex.
Wydler
Young, Alaska
Zeferetti

NOES—290

Abdnor
Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Baldus
Barnard
Baucus
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Bevill
Bingham
Blanchard
Blouin
Boland
Bolling
Bonior
Bonker
Brademas
Breckinridge
Brinkley
Brodhead
Broomfield
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Fla.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Cavanaugh
Cederberg
Clausen, Don H.
Cochran
Cohen
Coleman
Conte
Conyers
Corcoran
Cornell
Cornwell
Coughlin
Cunningham
D'Amours
Danielson
de la Garza
Derrick
Derwinski
Devine
Dicks
Diggs
Dingell
Dodd
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Ertel
Evans, Ga.
Evans, Ind.
Fascell
Fenwick
Findley
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Fountain
Fowler
Fraser
Frey
Fuqua
Gammage
Gephardt
Giaimo
Gilman
Ginn
Glickman
Gore
Grassley
Green
Gudger
Hagedorn
Hall
Hamilton
Hanley
Hannaford
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hillis
Hollenbeck
Holtzman
Horton
Howard
Hubbard
Huckaby
Ichord
Ireland
Jacobs
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Keys
Kildee
Kostmayer
Krebs
Lagomarsino
Latta
Le Fante
Leach
Lederer
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lujan
Luken
Lundine
McCloskey
McCormack
McDade
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Markey
Marks
Marlenee
Marriott
Martin
Mattox
Mazzoli
Metcalfe
Meyner
Mikulski
Mikva
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Murphy, Pa.
Myers, Gary
Myers, Michael
Natcher
Nedzi
Nolan
Nowak
Oakar
Oberstar
Obey
Panetta
Patten
Patterson
Pattison
Pease
Perkins
Pickle
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quie
Rahall
Rangel
Regula
Reuss
Richmond
Rinaldo
Risenhoover
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Runnels
Ruppe
Ryan
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Simon
Skelton
Slack
Smith, Iowa
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stark
Steed
Steers
Stratton
Studds
Thompson
Thone
Thornton
Traxler
Treen
Trible
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walker
Watkins
Waxman
Weaver
Weiss
Whalen
White
Whitehurst
Whitley
Whitten
Wilson, Bob
Winn
Wirth
Wolff
Wright
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki

ANSWERED "PRESENT"—1

Hughes

NOT VOTING—44

Addabbo
Ammerman
Anderson, Ill.
Andrews, N.C.
Armstrong
Breaux
Burke, Calif.
Caputo
Conable
Dent
Dickinson
Evans, Colo.
Flood
Flowers
Garcia
Gaydos
Guyer
Jenrette
Kemp
Krueger
Meeds
Michel
Miller, Calif.
Moss
Myers, John
Neal
Nichols
Nix
Pepper
Pike
Rhodes
Roybal
Rudd
Sarasin
Shipley
Skubitz
Smith, Nebr.
Stockman
Teague
Tsongas
Tucker
Walsh
Wiggins
Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Addabbo for, with Mr. Ammerman against.

Mr. Breaux for, with Mr. Neal against.

Mr. Nichols for, with Mr. Flood against.

Mr. Jenrette for, with Mr. Meeds against.

Mr Roybal for, with Mr. Pepper against.

Mr. Dent for, with Mrs. Burke of California against.

Mr. Shipley for, with Mr. Teague against.

Messrs. BURKE of Florida, MARLENEE, DINGELL, WINN, and LE FANTE changed their vote from "aye" to "no."

Mr. CARTER changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read title II.

The Clerk read as follows:

TITLE II—EXECUTIVE PERSONNEL FINANCIAL DISCLOSURE REQUIREMENTS

PART A—FILING REQUIREMENTS

PERSONS REQUIRED TO FILE

SEC. 201. (a) Upon assuming the position of an officer or employee designated in subsection (f), an individual shall file a report as required by section 202(b).

(b) Upon the transmittal by the President to the Senate of the nomination of an individual (other than an individual nominated for appointment to a grade or rank in the uniformed services for which the pay grade prescribed by section 201 of title 37, United States Code, is O–6 or below) to a position, appointment to which requires the advice and consent of the Senate, such individual shall file a report as required by section 202(b).

(c) Upon becoming a candidate for nomination or election to the office of President or Vice President, as determined by the Federal Election Commission, an individual shall file a report as required by section 202(b).

(d) Any individual who is an officer or employee designated in subsection (f) during any calendar year and performs the duties of his position or office for a period in excess of sixty days in that calendar year shall file on or before May 15 of the succeeding year a report as required by section 202 (a).

(e) Any individual who occupies a position designated in subsection (f), shall on or before the thirtieth day after termination of employment in such position, file a report as required by section 202(a), unless such individual has accepted employment in another position designated in subsection (f).

(f) The officers and employees referred to in subsections (a), (d), and (e) are—

(1) the President;

(2) the Vice President;

(3) each officer or employee in the executive branch, including a special Government employee as defined in section 202 of title 18, United States Code, whose position is classified at GS–16 or above of the General Schedule prescribed by section 5332 of title 5, United States Code, or the rate of basic pay for which is fixed (other than under the General Schedule) at a rate equal to or greater than the minimum rate of basic pay fixed for GS–16; each member of a uniformed service whose pay grade is at or in excess of O–7 under section 201 of title 37, United States Code; and each officer or employee in any other position determined to be of equal classification;

(4) each officer or employee appointed pursuant to section 3105 of title 5, United States Code;

(5) any employee not described in paragraph (3) who is in a position in the executive branch which is excepted from the competitive service by reason of being of a confidential or policymaking character, except that the Director of the Office of Government Ethics may, by regulation, exclude from the application of this paragraph any individual, or group of individuals, who are in such positions, but only in cases in which the Director determines such exclusion would not affect adversely the integrity of the Government or the public's confidence in the integrity of the Government;

(6) the Postmaster General, the Deputy Postmaster General, each Governor of the Board of Governors of the United States Postal Service and each officer or employee of the United States Postal Service whose basic rate of pay is equal to or greater than the minimum rate of basic pay fixed for GS–16; and

(7) the Director of the Office of Government Ethics and each designated agency official.

(g) Reasonable extensions of time for filing any report may be granted under procedures prescribed by the Director of the Office of Government Ethics established by part B of this title, but the total of such extensions shall not exceed ninety days.

CONTENTS OF REPORTS

SEC. 202. (a) Each report filed under subsections (d) and (e) of section 201 shall include a full and complete statement, in such manner and form as the Director of the Office of Government Ethics may prescribe, with respect to the following:

(1) The source, type, and amount of income from any one source (other than from current employment by the United States Government), including honoraria, received during the preceding calendar year aggregating $100 or more in value.

(2)(A) The identity of the source and a brief description of any gifts of transportation, lodging, food, or entertainment aggregating $250 or more in value received from any one source other than a relative of the reporting individual during the preceding calendar year, except that any food, lodging, or entertainment received as personal hospitality of any individual need not be reported, and any gift with a fair market value of $35 or less need not be aggregated for purposes of this subparagraph.

(B) The identity of the source, a brief description, and the estimated value of all gifts other than transportation, lodging, food, or entertainment aggregating $100 or more in value received from any one source other than a relative of the reporting individual during the preceding calendar year, except that any gift with a fair market value of $35 or less need not be aggregated for purposes of this subparagraph.

(C) The identity of the source and a brief description of reimbursements received from a single source aggregating $250 or more in value and received during the preceding calendar year.

(3) The identity and category of value of any interest in property held in a trade or business, or for investment or the production of income, which has a fair market value which exceeds $1,000 as of the close of the preceding calendar year, excluding any personal liability owed to the reporting individual by a relative.

(4) The identity and category of value of the total liabilities owed to any creditor other than a relative which exceeds $5,000 as of the close of the preceding calendar year, excluding—

(A) any mortgage secured by real property which is a personal residence of the reporting individual or his spouse; and

(B) any loan secured by a personal motor vehicle or household furniture or appliances.

(5) Except as provided in this paragraph, a brief description, the date, and category of value of any purchase, sale or exchange during the preceding calendar year which exceeds $1,000—

(i) in real property, other than a personal residence of the reporting individual or his spouse; or

(ii) in stocks, bonds, commodities futures, and other forms of securities.

Reporting is not required under this paragraph of any transaction solely by and between the reporting individual, his spouse, or dependent children.

(6) The identity of all positions held on or before the date of filing during the current calendar year (and, for the initial report, during the two-year period preceding such calendar year) as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, and any educational or other institution. This paragraph shall not require the reporting of positions held in any religious, social, fraternal, charitable, or political entity.

(7) A description of the date, parties to, and terms of any agreement or arrangement with respect to: (A) future employment; (B) a leave of absence during the period of the reporting individual's Government service; (C) continuation of payments by a former employer other than the United States Government; and (D) continuing participation in an employee welfare or benefit plan maintained by a former employer.

(b) Each report filed under subsections (a), (b), and (c) of section 201 shall include a full and complete statement in such manner and form as the Director of the Office of Government Ethics may prescribe, with respect to information required by paragraphs (3), (4), (6), and (7) of subsection (a), as of a date, specified in such report, which shall be not more than thirty-one days prior to the date of filing, and the sources and amounts of income for the year of filing and the preceding calendar year.

(c) In the case of any individual described in section 201(e) of this Act, any reference to the preceding calendar year shall be considered to include that part of the current calendar year up to the date of the termination of employment.

(d) The categories for reporting the amount or value of the items covered in paragraphs (3), (4) and (5) of subsection (a) or in subsection (e) are as follows:

(1) up to $5,000;

(2) from $5,000 to $15,000;

(3) from $15,000 to $50,000;

(4) from $50,000 to $100,000; and

(5) greater than $100,000.

(e)(1) Each report shall also contain information listed in paragraphs (1) through (5) of subsection (a) respecting the spouse of the reporting individual as follows:

(A) The source of items of earned income from any person which exceed $1,000.

(B) In the case of any gift which is not received totally independent of the spouse's relationship to the reporting individual, the identity of the source and a brief description or the estimated value of the gift.

(C) In the case of any reimbursement which is not received totally independent of the spouse's relationship to the reporting individual, the identity of the source and a brief description of the reimbursement.

(D) In the case of items described in paragraphs (3) through (5), all information required to be reported other than items (i) which the reporting individual certifies represent the spouse's sole financial interest or responsibility, (ii) which are not in any way, past or present, derived from the income, assets, or activities of the reporting individual, and (iii) from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit.

(2) Each report shall also contain all information listed in paragravhs (3) through (5) of subsection (a) respecting any dependent child of the reporting individual other than items (A) which the reporting individual certifies represent the dependent child's sole financial interest or responsibility, (B) which are not in any way, past or present, derived from the income, assets, or activities of the reporting individual, and (C) from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit.

(3) No report shall be required with respect to a spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation; or with respect to any income or obligations of an individual arising from the dissolution of his

marriage or the permanent separation from his spouse.

(f) The holdings of and the income from a trust or other financial arrangement from which the reporting individual, spouse, or dependent child receives income or in which such person has a beneficial or equity interest must be reported according to the provisions of this section; except that if the trust or financial arrangement is a blind trust approved under regulations promulgated by the Civil Service Commission, with the concurrence of the Attorney General, as necessary to avoid potential or apparent conflicts of interest under section 208 of title 18, United States Code, and other applicable laws and regulations, the report shall so indicate and need only include (in addition to a statement of the income from the blind trust in accordance with section 202 of this Act) a copy of the instrument or agreement establishing such blind trust and, to the extent known or readily ascertainable, the identity and category of value of assets contained in the trust or arrangement at the time it became a blind trust, and the identity and category of value of assets subsequently added to the blind trust.

(g) Political campaign funds received by a reporting individual or political campaign funds of such individual shall not be reported under this part.

FILING OF REPORTS

SEC. 203. (a) Except as otherwise provided in this subsection, the reports required under this part shall be filed by the reporting individual with the designated agency official at the agency by which he is employed or in which he will serve. The date any report is received (and the date of receipt of any supplemental report) shall be noted on such report by such official.

(b) The President and the Vice President shall file reports required under this part with the Director of the Office of Government Ethics only.

(c) Copies of the reports required to be filed by candidates for the office of President or Vice President, the Postmaster General, the Deputy Postmaster General, the Governors of the Board of Governors of the United States Postal Service, designated agency officials, and officers and employees in (and nominees to) offices or positions which require confirmation by the Senate or by both Houses of Congress shall be transmitted to the Director of the Office of Government Ethics.

(d) Reports required to be filed by the Director shall be filed in the Office of Government Ethics and, immediately after being filed, shall be made available to the public in accordance with this part.

(e) Each individual identified in section 201(c) shall file the report required by this part with the Federal Elections Commission.

(f) Reports required of members of the uniformed services shall be filed with the Secretary concerned.

FAILURE TO FILE OR FALSIFYING REPORTS

SEC. 204. (a) The Attorney General may bring a civil action in any appropriate United States District Court against any individual who knowingly and willfully falsifies or who knowingly or willfully fails to file or report any information that such individual is required to report under section 101. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $5,000.

(b) The head of each agency, each Secretary concerned, and the Director of the Office of Government Ethics shall refer to the Attorney General the name of any individual they have reasonable cause to believe has willfully failed to file a report or has willfully falsified or willfully failed to file information required to be reported.

(c) The President, the Vice President, the Secretary concerned, and the head of each agency, or the Civil Service Commission, may take any appropriate personnel or other action in accordance with applicable law or regulation against any individual failing to file a report or falsifying or failing to report information required to be reported.

CUSTODY OF AND PUBLIC ACCESS TO REPORTS

SEC. 205. (a) Each agency shall make each report filed with it under this title available to the public in accordance with the provisions of subsection (b) of this section, together with a copy of the official position description of the Government office or position held by the reporting individual involved (if available) which shall be added to such report by such individual's designated agency official or Secretary concerned, except that this section does not require public availability of the report filed by any individual in the Central Intelligence Agency, the Defense Intelligence Agency, or the National Security Agency, or any individual engaged in intelligence activities in any agency of the United States, if the President finds that, due to the nature of the office or position occupied by such individual, public disclosure of such report would compromise the national interest of the United States. In addition, such individuals may be authorized, notwithstanding section 204(a), to file such additional reports as are necessary to protect their identity from public disclosure if the President first finds that such filing is necessary in the national interest.

(b)(1) The agency shall require each person requesting inspection or a copy of a report under subsection (a) of this section to execute an application stating—

(A) his name, occupation, address, and telephone number;

(B) the name, address, and telephone number of the person or organization, if any, on whose behalf he is making the request; and

(C) that the information obtained by such inspection or from such copy shall not be used for any purpose prohibited by subsection (c) of this section.

(2) Upon receipt of an application required by paragraph (1) of this subsection, the agency shall promptly forward a copy of such application to the reporting individual. The agency shall permit inspection by or furnish a copy of the report to any requesting person within fifteen days after the report is received by the agency. The agency shall require such requesting person to pay a reasonable fee in an amount which the agency finds necessary to cover the costs of reproduction and mailing of such report.

(3) Once the requesting person has inspected or received a copy of a report, his name and address and the name and address of the person or organization, if any, on whose behalf the inspection or copy was requested, shall be made available to the public.

(c)(1) It shall be unlawful for any person to obtain or use a report—

(A) for any unlawful purpose;

(B) for any commercial purpose, other than by news and communications media for dissemination to the general public;

(C) for determining or establishing the credit rating of any individual; or

(D) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

(2) The Attorney General may bring a civil action against any person who obtains or uses a report for any purpose prohibited in paragraph (1) of this subsection. The court in which such action is brought may assess against such person a penalty in any amount not to exceed $5,000.

(d) Any report filed with an agency, or transmitted to the Director of the Office of Government Ethics, pursuant to this part shall be retained by such agency or the Office of Government Ethics, or both, as the case may be. Such report shall be made available to the public for a period of five years after receipt of the report. After such five-year period the report shall be destroyed, except that in the case of an individual who filed the report pursuant to section 201(b) and was not subsequently confirmed by the Senate, or who filed the report pursuant to section 201(c) and was not subsequently elected, such reports shall be destroyed one year after the individual either is no longer under consideration by the Senate or is no longer a candidate for nomination or election to the Office of President or Vice President.

COMPLIANCE WITH FILING REQUIREMENTS

SEC. 206. The Director of the Office of Government Ethics and the head of each agency or the Secretary concerned shall assure that each report required to be filed under subsections (a), (b), and (f) of section 203 is filed and each copy of a report required to be transmitted under section 203(c) is transmitted. In the event a determination is made that a report is not so filed, the appropriate committee shall so inform the reporting individual and direct him to take all necessary corrective action.

ADDITIONAL REPORTING REQUIREMENTS

SEC. 207. (a) The President may require officers and employees in the executive branch (including the United States Postal Service and members of the uniformed services) not covered by this part to submit confidential reports in such form as is required by this part.

(b) The provisions of this title requiring the reporting of information shall supersede any general requirement under any other provision of law or regulation with respect to the reporting of information required for purposes of preventing conflicts of interest or apparent conflicts of interest. Such provisions of this title shall not supersede the requirements of section 7342 of title 5, United States Code.

(c) Nothing in this Act requiring reporting of information shall be deemed to authorize the receipt of income, gifts, or reimbursements; the holding of assets, liabilities, or positions; or the participation in transactions that are prohibited by law, Executive order, or regulation.

EFFECTIVE DATE

SEC. 208. The provisions made by this part shall take effect on January 1, 1979, and the reports filed under section 201(d) on May 15, 1979, shall include information for calendar year 1978.

DEFINITIONS

SEC. 209. For the purposes of this part, the term—

(1) "income" means all income from whatever source derived, including but not limited to the following items: net compensation for services, including fees, commissions, and similar items; net income derived from business; gains derived from dealings in property; interest; rents; royalties; dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; and income from an interest in an estate or trust;

(2) "relative" means an individual who is related to the reporting individual as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or grandmother of the spouse of the reporting individual, and shall be deemed to include the fiance or fiancee of the reporting individual.

(3) "gift" means a payment, advance, forbearance, rendering, or deposit of money, or deposit of money, or any thing of value, unless consideration of equal or greater value is received by the donor, but does not include—

(A) bequest and other forms of inheritance;

(B) suitable mementos of a function honoring the reporting individual;

(C) food, lodging, transportation, and entertainment provided by a foreign government within a foreign country; or by the United States Government; or

(D) food and beverages consumed at banquets, receptions, or similar events.

(4) "honoraria" means payments of money or any thing of value for an appearance, speech, or article, except that there shall not be taken into account for reporting purposes any actual and necessary travel expenses incurred by such person to the extent that such expenses are paid or reimbursed by any other person, and the amount otherwise determined shall be reduced by the amount of any such expenses to the extent that they are not paid or reimbursed;

(5) "estimated value" means a good faith estimate of the dollar value if the exact value is neither known nor easily obtainable by the reporting individual;

(6) "personal hospitality of any individual" means hospitality extended for a nonbusiness purpose by an individual, not a corporation or organization, at the personal residence of that individual or his family or on property or facilities owned by that individual or his family;

(7) "blind trust" means a trust or other financial arrangement administered by a trustee independent from and unassociated with the reporting individual and such individual's spouse and dependent children and administered in a manner which insulates the reporting individual, such spouse, and dependent children from the knowledge of the holdings and sources of income of the trust;

(8) "dependent child" means, when used with respect to any reporting individual, any individual who is a son, daughter, stepson, or stepdaughter and who—

(A) is unmarried and under age 21 and is living in the household of such reporting individual; or

(B) is a dependent of such reporting individual within the meaning of section 152 of the Internal Revenue Code of 1954;

(9) "reimbursement" means any payment or other thing of value received by the reporting individual, other than gifts, to cover travel-related expenses of such individual other than those which are—

(A) provided by the United States Government;

(B) required to be reported by the reporting individual under section 7342 of title 5, United States Code; or

(C) required to be reported under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434);

(10) "Secretary concerned" has the meaning set forth in section 101(8) of title 10, United States Code, and, in addition, means—

(A) the Secretary of Commerce, with respect to matters concerning the National Oceanic and Atmospheric Administration; and

(B) the Secretary of Health, Education, and Welfare, with respect to matters concerning the Public Health Service; and

(11) "designated agency official" means an officer or employee who is designated to administer the provisions of this part within an agency.

PART B—OFFICE OF GOVERNMENT ETHICS

OFFICE OF GOVERNMENT ETHICS

SEC. 221. (a) There is established in the Civil Service Commission (hereinafter referred to as the "Commission") an office to be known as the Office of Government Ethics.

(b) There shall be at the head of the Office of Government Ethics a Director (hereinafter referred to as the "Director"), who shall be appointed by the President, by and with the advice and consent of the Senate.

AUTHORITY AND FUNCTIONS

SEC. 222. (a) The Director shall provide, under the general supervision of the Commission, overall direction of executive branch policies related to preventing conflicts of interest on the part of officers and employees of any executive agency, as defined in section 105 of title 5, United States Code.

(b) The responsibilities of the Director shall include—

(1) developing and recommending to the Commission, in consultation with the Attorney General, rules and regulations to be promulgated by the President or the Commission pertaining to conflicts of interest and ethics in the executive branch, including rules and regulations establishing procedures for the filing, review, and public availability of financial statements filed by officers and employees in the executive branch as required by part A of this title;

(2) developing and recommending to the Commission, in consultation with the Attorney General, rules and regulations to be promulgated by the President or the Commission pertaining to the identification and resolution of conflicts of interest;

(3) monitoring and investigating compliance with the public financial disclosure requirements of part A of this title by officers and employees of the executive branch and executive agency officials responsible for receiving, reviewing, and making available such statements;

(4) conducting the review of financial statements required by section 206(b) to determine whether such statements reveal possible violations of applicable conflict of interest laws or regulations and recommending appropriate action to correct any conflict of interest or ethical problems revealed by such review;

(5) monitoring and investigating individual and agency compliance with any additional financial reporting and internal review requirements established by law for the executive branch;

(6) interpreting rules and regulations issued by the President or the Commission governing conflict of interest and ethical problems and the filing of financial statements;

(7) consulting, when requested, with agency ethics counselors and other responsible officials regarding the resolution of conflict of interest problems in individual cases;

(8) ordering corrective action on the part of agencies and employees which the Director deems necessary;

(9) requiring such reports from executive agencies as the Director deems necessary;

(10) assisting the Attorney General in evaluating the effectiveness of the conflict of interest laws and in recommending appropriate amendments;

(11) evaluating, with the assistance of the Attorney General, the need for changes in rules and regulations issued by the Commission and the agencies regarding conflict of interest and ethical problems, with a view toward making such rules and regulations consistent with and an effective supplement to the conflict of interest laws;

(12) cooperating with the Attorney General in developing an effective system for reporting allegations of violations of the conflict of interest laws to the Attorney General, as required by section 535 of title 28, United States Code; and

(13) providing information on and promoting understanding of ethical standards in executive agencies.

(c) In the development of policies, rules, regulations, procedures, and forms to be recommended, authorized, or prescribed by him, the Director shall consult when appropriate with the executive agencies affected, and the Attorney General.

(d) Pursuant to the Director's responsibilities under subsection (b)(1), the Director shall, within one hundred and twenty days after the date of enactment of this Act, develop and recommend to the Commission, and the Commission shall promulgate, a regulation establishing a method or methods for readily determining, without the necessity for expert appraisal, the fair market value of assets required to be disclosed by this Act.

ADMINISTRATIVE PROVISIONS

SEC. 223. Upon the request of the Director, each executive agency is directed to—

(1) make its services, personnel, and facilities available to the Director to the greatest practicable extent for the performance of functions under this Act; and

(2) except when prohibited by law, furnish to the Director all information and records in its possession which the Director may determine to be necessary for the performance of his duties.

AUTHORIZATION OF APPROPRIATIONS

SEC. 224. There are authorized to be appropriated to carry out the provisions of this title, and for no other purpose—

(1) not to exceed $1,000,000 for the fiscal year ending September 30, 1978;

(2) not to exceed $1,000,000 for each of the four fiscal years thereafter.

ANNUAL PAY

SEC. 225. Paragraph (122) of section 5316 of title 5, United States Code, is amended to read as follows:

"(122) Director of the Office of Government Ethics.".

PART C—CONFLICT OF INTEREST

AMENDMENT TO TITLE 18, SECTION 207

SEC. 241. (a) Section 207 of title 18, United States Code, is amended to read as follows:

"§ 207. Disqualification of former officers and employees: disqualification of partners of current officers and employees

"(a) Whoever, having been an officer or employee of the executive or judicial branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, after his employment has ceased, knowingly acts as agent or attorney for, or otherwise represents any other person (except the United States) in any formal of informal appearance before, or, with the intent to influence, makes any written or oral communication on behalf of any other person (except the United States) to—

"(1) any department, agency, court, court-martial, or any civil, military, or naval commission of the United States or the District of Columbia, or any officer or employee thereof, and

"(2) in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter involving a specific party or parties in which the United States or the District of Columbia is a party or has a direct and substantial interest, and

"(3) in which he participated personally and substantially as an officer or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, while so employed; or

"(b) Whoever, (1) having been so employed, within two years after his employment has ceased, knowingly acts as agent or attorney for, or otherwise represents, any other person (except the United States), in any formal or informal appearance before, or,

with the intent to influence, makes any oral or written communication on behalf of any other person (except the United States) to, or (ii) having been so employed in a position designated pursuant to subsection (c) of this section, within two years after his employment has ceased, knowingly aids or assists in representing any other person (except the United States) in any formal or informal appearance before—

"(1) any department, agency, court, court-martial, or any civil, military or naval commission of the United States or the District of Columbia, or any officer or employee thereof, and

"(2) in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter involving a specific party or parties in which the United States or the District of Columbia is a party or has a direct and substantial interest, and

"(3) which was actually pending under his official responsibility as an officer or employee within a period of one year prior to the termination of such responsibility or in which he participated personally and substantially as an officer or employee; or

"(c) Whoever, having been so employed—

"(i) at a rate of pay specified in subchapter II of chapter 53 of title 5, United States Code, or a comparable or greater rate of pay under authority; or

"(ii) at a rate of pay equal to or in excess of the minimum established for positions classified at GS-16 of the General Schedule prescribed by section 5332 of title 5, United States Code, and in a position excepted from the competitive service by reason of being of a confidential or policymaking character; or

"(iii) on active duty as a commissioned officer of a uniformed service assigned to a pay grade of 0-6 or above as described in section 201 of title 37, United States Code; or

"(iv) in a position designated by the Director of the Office of Government Ethics pursuant to subsection (d) of this section—

within one year after his employment under these circumstances has ceased, knowingly acts as agent or attorney for or otherwise represents any other person (except the United States) in any formal or informal appearance before, or, with the intent to influence, make any oral or written communication on behalf of any other person (except the United States) to—

"(1) the department or agency in which he served as an officer or employee, or any officer or employee thereof, and

"(2) in connection with any judicial, rulemaking, or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter, and

"(3) which is pending before such department or agency or in which such department or agency has a direct and substantial interest—

Shall be fined not more than $10,000 or imprisoned for not more than two years, or both.

"(d) Within six months of the effective date of this Act, the head of each department or agency shall recommend to the Director of the Office of Government Ethics which positions in the department or agency in addition to those designated pursuant to clauses (i), (ii), and (iii) of subsection (c) are occupied by an officer or employee who has a role in the formulation of agency policy that is substantially similar to that exercised by persons designated pursuant to clauses (i), (ii), and (iii) of subsection (c) of this section. After reviewing such recommendations and consulting further with the heads of the departments and agencies, the Director shall, within one year of the effective date of this Act, publish regulations designating the additional positions referred to in paragraph (iv) of subsection (c). The Director, upon the recommendation of or in consultation with the head of the department or agency concerned, may thereafter publish such amendments to the list of positions designated pursuant to this subsection as are necessary to satisfy the purposes of this subsection.

"(e) For the purposes of subsection (c), whenever the Director of the Office of Government Ethics determines that a separate statutory agency or bureau within a department or agencies exercises functions which are distinct and separate from the remaining functions of the department or agency, the Director shall by rule designate such agency or bureau as a separate 'department or agency': *Provided*, That this designation shall not apply to former heads of designated bureaus or agencies or former officers and employees of the department or agency whose official responsibilities included supervision of said agency or bureau.

"(f) The prohibitions of subsections (a), (b), and (c) shall not apply if the head of the department or agency concerned with the particular matter, in consultation with the Director of the Office of Government Ethics, makes a certification, published in the Federal Register, that the former officer or employee has outstanding qualifications in a scientific, technological, or other specialized discipline and is acting with respect to a particular matter which requires such qualifications, and that the national interest would be served by the participation of the former officer or employee.

"(g) Whoever, being a partner of an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, acts as agent or attorney for any other person (except the United States) before any department, agency, court, court-martial, or any civil, military, or naval commission of the United States or the District of Columbia, or any officer or employee thereof, in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter in which the United States or the District of Columbia is a party or has a direct and substantial interest and in which such officer or employee of the Government or special Government employee participates or has participated personally and substantially as a Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which is the subject of his official responsibility, shall be fined not more than $5,000, or imprisoned not more than one year, or both.

"(h) Nothing in this section shall prevent a former officer or employee from giving testimony under oath or from making statements required to be made under penalty of perjury, or from giving any testimony or making any statement or communication, if such former officer or employee receives no compensation for such testimony, statement, or communication, other than that regularly provided by law or regulation for witnesses.".

(b) The item relating to section 207 in the table of sections at the beginning of chapter 11 of title 18, United States Code, is amended to read as follows:

"207. Disqualification of former officers and employees: disqualification of partners of current officers and employees.".

APPLICABILITY

SEC. 242. The amendments made by section 241 shall not apply to those individuals who left Government service prior to the effective date of such amendments or, in the case of individuals who occupied positions designated pursuant to paragraph (iv) of subsection (c) of section 207, title 18, United States Code, prior to the effective date of such designation: *Provided*, That any such individual who returns to Government service on or after the effective date of such amendments or designation shall be thereafter covered by such amendments or designation.

EFFECTIVE DATE

SEC. 243. The amendments made by section 241 shall be effective on January 1, 1978.

Mr. DANIELSON (during the reading). Mr. Chairman, I ask unanimous consent that further reading of title II be dispensed with, that it be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENTS OFFERED BY MR. DANIELSON

Mr. DANIELSON. Mr. Chairman, I offer a series of amendments.

The Clerk read as follows:

Amendments offered by Mr. DANIELSON: Page 27, line 2, strike out "Each" and insert "Except as provided in the last sentence of this paragraph, each".

Page 27, after line 23, insert "Each report referred to in subsection (b) of this section shall, with respect to the spouse of the reporting individual contain information listed in paragraphs (1), (3), and (4) of subsection (a) only.".

Page 27, line 24, strike out "Each" and insert "Except as provided in the last sentence of this paragraph, each".

Page 28, line 7, after "benefit." insert "Each report referred to in subsection (b) of this section shall, with respect to any dependent child, contain information listed in paragraphs (3) and (4) of subsection (a) only.".

Page 30, line 21: Strike "101" and insert "202".

Page 34, lines 21 and 22: Strike "the appropriate committee shall so inform the reporting individual and direct him" and insert: "the reporting individual shall be informed and directed".

Page 41, line 9: Strike "the" and insert "a".

Page 41, line 10: Strike "required by section 206(b)".

Page 44, line 2: Strike "1978" and insert "1979".

Mr. DANIELSON (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendments be dispensed with, and I also ask unanimous consent that these four sheets of amendments, all of which are technical amendments, be considered en bloc, and I will explain them.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. FRENZEL. Mr. Chairman, reserving the right to object, are they explainable?

Mr. DANIELSON. They are explainable.

Mr. FRENZEL. I withdraw my reservation of objection, Mr. Chairman.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DANIELSON. Mr. Chairman, these are technical amendments. The first ones appear on page 27.

On page 27, line 2, we strike out "Each" and insert "Except as provided in the last sentence of this paragraph, each".

The purpose of this amendment is simply to recognize the fact that there is an exception to that provision in subparagraph 202(e)(1). It has no change at all in substance.

The second one, on page 27, after line 23, provides that we insert "Each report referred to in subsection (b) of this section shall, with respect to the spouse of the reporting individual contain information listed in paragraphs (1), (3), and (4) of subsection (a) only.".

The purpose of this amendment is to conform the reporting by the spouse to that of the reporting individual's spouse. Otherwise the way it reads the spouse's report would have to be more extensive than the Government employee. It should not have to be more extensive.

On page 27, line 24, we strike out "Each" and insert "Except as provided in the last sentence of this paragraph, each".

That is exactly the same as the first amendment I read and simply makes recognition of the fact that there is an exception.

Then on page 28, line 7, after "benefit." insert "Each report referred to in subsection (b) of this section shall, with respect to any dependent child, contain information listed in paragraphs (3) and (4) of subsection (a) only.".

Again the purpose of this is to conform the provision as to a child to those of the child's parent. Without this amendment the reporting on the child would be greater than that of the parent who is a Government employee.

The next amendment is on page 30 where on line 21, we strike "101" and insert "202". This is an error in composition. We are referring actually to section 202 and not 201, and this makes the correction.

On page 34, lines 21 and 22: Strike "the appropriate committee shall so inform the reporting individual and direct him" and insert: "the reporting individual shall be informed and directed".

This simply conforms the legislative branch language to that of the executive branch. The language pertinent to each branch of the Government would be the same.

On page 41, line 9, we strike "the" and insert "a", which is necessary for grammatical purposes.

Page 41, line 10: Strike "required by section 206(b)". This is because section 206(b) has heretofore been stricken.

On page 44, line 2: Strike "1978" and insert "1979". This is because of the fact that the appropriation-authorization for the fiscal year for which it is referred is the one ending September 30, 1979, rather than 1978.

Mr. Chairman, I am aware of no objections to these amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from California (Mr. DANIELSON).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. DANIELSON

Mr. DANIELSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DANIELSON: Page 51, line 22: Strike "January 1, 1978" and insert "July 1, 1979".

Mr. DANIELSON. Mr. Chairman, the purpose of this amendment, I believe, is obvious. The effective date of the particular portion of the bill could not possibly be January 1, 1978, and the date which should be applied here is July 1, 1979.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. DANIELSON).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MOORHEAD OF CALIFORNIA

Mr. MOORHEAD of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MOORHEAD of California: Page 46, line 22, strike out "; or" and insert in lieu thereof a dash.

Page 46, strike out line 23 and everything that follows through line 7 of page 48.

Page 48, strike out line 10 and everything that follows through line 14 on page 49.

Page 49, line 15, redesignate subsection (f) as subsection (c) and strike out "(a), (b), or (c)" and insert in lieu thereof "(a) or (b)".

Page 49, line 15, redesignate subsection (f) as subsection (d) and on page 50, line 21, redesignate subsection (h) as subsection (e).

Mr. MOORHEAD of California. Mr. Chairman, my amendment is intended to remove a particularly punitive and ill-advised provision from this legislation. I speak of a subsection which would totally prohibit any contact by a former Government employee with his old agency, for 1 full year after leaving Government service. My amendment would strike this so-called 1-year "cooling off" period.

Title II of both H.R. 1 and the substitute (H.R. 13850) would extensively amend the existing law dealing with potential conflicts of interest arising out of previous Government employment. These provisions can be found in section 207, of title 18, of the United States Code. The current law prohibits former Federal employees from acting in a formal, legal capacity on subjects directly connected with their former Government duties. I would emphasize that the existing law solely prohibits formal representational activity.

Now, this legislation would add a totally new dimension. A new subsection (c) would prohibit all contact by a former Government officer or employee on behalf of any other person, with his former Government agency for a period of 1 year after leaving that agency. This blanket, 1-year, "no contact" ban is unprecedented under Federal law. It is a so-called cooling off period which is viewed by the Carter administration as a means of dealing with the "revolving door problem." This blanket restriction is imposed without reference to the subject matter of the contact. The subject, in fact, could be a totally new issue, never before dealt with by the agency. Or, it simply could be a noncontroversial or uncontested subject. Both formal and informal communications are barred.

I would point out that these conflict of interest provisions are the one remaining portion of this ethics bill, where criminal penalties are involved. A waiver of these requirements is only possible under the most restrictive circumstances. That is, the person involved must possess "outstanding qualifications in a scientific, technological or other specialized discipline" and the agency involved determines that such a contact is in the "national interest." This national interest test is an extremely heavy burden to meet and would rarely be applicable.

Proponents have argued that subsection (c) will not be unduly burdensome since it only applies to high level officials. However, this is misleading. Broad discretion is granted to the Director of the Office of Government Ethics to extend these prohibitions to any additional positions it deems appropriate. Also, former servicemen are singled out for particularly harsh treatment. The 1-year, no-contact prohibition covers everyone serving in grades 0-6 and above. This means those at the rank of colonel in the Army, Air Force, and Marine Corps, and the rank of captain in the Navy. The financial disclosure provisions of H.R. 1 only extend to grade 0-7 and above. By extending the post-Government employment restrictions to 0-6, an additional 14,379 members of the Armed Forces are affected.

The principal objective of Congress and the executive branch should be to improve the quality of Government service by attracting bright, young people, as well as experienced professionals for high-level policy positions. This section will do precisely the opposite—the net result will be a reduction in the attractiveness and the effectiveness of Government service.

I want to express my appreciation to the distinguished gentleman from Texas (Mr. ECKHARDT) for assistance and support in this effort. Very early in the consideration of this legislation, Congressman ECKHARDT recognized the danger of overly rigid reactions to the "revolving door syndrome." In testifying before our subcommittee, he stated: "Whatever the possible benefits of blanket restrictions * * * they are far outweighed by the potential disadvantages." I could not agree more with his assessment.

I would note that the administrative law section of the American Bar Association has urged Congress to move very, very cautiously in the conflict of interest area. More specifically, they have asked that before any extensive changes in the existing criminal laws are made that Congress defer action for a period of 2 years, pending completion of study by the new Office of Personnel Management on this subject. The ABA has called the conflict of interest standards in H.R. 1 "overly broad" and has urged that they not be enacted. The prestigious association of the bar of the city of New York has described the non-contact concept as "extremely dangerous and perniciously ambiguous."

One final point, as offered, my amendment simply would strike the 1-year prohibition on contact. It contains no language permitting the waiver of the other two, already existing conflict of interest standards.

I urge my colleagues to support this amendment to strike the 1-year, "no-contact" provision from this bill.

Mr. GLICKMAN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, this amendment to a certain extent can be called the "anti-revolving door amendment." However, I think it might be worthwhile to explain it to the Members of the House.

What we are talking about, Mr. Chairman, is found on pages 45 to 47 of the bill which contain revolving door prohibitions for the following things:

If a high-level Government person personally participated in a decision, he obviously is precluded for a period of time from participating after he leaves. That is fine.

No. 2, if something was directly under his responsibility he is prohibited or forbidden from participating in the private sector after he leaves the Government service. I think this a very important amendment because it relates to the ability of government to function with competent, able people, with incentive to do the right thing realizing that someday those people might go into the private sector.

What the gentleman from California (Mr. MOORHEAD) proposes to remove from the bill is a section which prohibits for 1 year after Government service a person from making any formal or informal appearances with the agency that he dealt with before, period, if he is basically a GS-16 or higher and serves in a policy-level position. I call this the Arnold and Porter amendment, that is, I call the bill the Arnold and Porter bill because what it does is this: If those people who serve, who work their way up in Government and serve for several years and decide to leave, and the only skill they have is working in that particular agency, want to go out into the private sector, under this bill, unless the amendment shall take effect, the only place that person can go and practice his skill is with a large firm like Arnold and Porter, that is, for the first year, or General Motors, or Exxon, where there are lots of other lawyers or lots of other people in the business to actually make the informal or formal contacts for that person. If the person wants to go back to a small town to practice law in the only subject that that person has done for years and years and years, that person is precluded from dealing in any way with the agencies that he worked for 1 year on any matter. That is overkill.

I think this is a very, very bad way to instill positive confidence in the Government, and the effect is to cause people who leave Government to go with big business, big institutions, big labor. One can go into Arnold and Porter if one, say, left the SEC, because one of their partners can represent you in a case, but you cannot. But it does not matter because you will communicate in the hallways of Arnold and Porter.

But if one wants to go back to Peoria, Ill., or Butte, Mont., or Wichita, Kans., and open a law practice and practice before the SEC if he or she worked there previously, one is barred for 1 year. I think that is not only unfair but it encourages a kind of slothful Government performance with people who will only go out of Government to work for big industries. What happens is that a bill that regulates and tends to have a prophylactic effect overall has a chilling effect on small business, small firms. A person who works for the SEC and then wants to become a compliance director for a small brokerage firm, under the bill if he or she is a GS-16, or higher, for 1 year cannot have any contact whatsoever with the Securities and Exchange Commission, so he ends up with E. F. Hutton where people go to listen, but he is not performing a service for his clients back home.

The only way I can support an anti-revolving-door policy with the 1-year prohibitive requirement is to make it apply to all partners and all associates of the person who left that Government service. Then it is fair, because the person is equally treated whether he works for a large or a small entity. I believe, and I share the views of the gentleman from California, this kind of amendment reduces the attractiveness and effectiveness of Government service.

I worked at the SEC. I was a bureaucrat, and I went home to Wichita, Kans., to practice law. I immediately went into practice on securities matters. I had dealings with the SEC, and while I do not know whether I was the greatest lawyer in the world, I would like to think I helped people comply with the securities laws, and there is nothing wrong with that.

The main bill, without this amendment, insures that people will not be able to do that. They can just go to work for the big entities.

Mr. Chairman, I urge adoption of the Moorhead amendment. I think it is responsible. I think it makes sense, and I think the public is adequately protected with the other sections of the bill in.

Mr. ECKHARDT. Mr. Chairman, I move to strike the last word, and I rise to speak in favor of the amendment.

Mr. Chairman, I rise to speak in favor of the Moorhead amendment and to totally agree with the gentleman from Kansas (Mr. GLICKMAN) who just spoke before the House. My subcommittee probably deals with more regulatory agencies than any subcommittee in Congress. It has under its jurisdiction the SEC, the Federal Trade Commission, some reach into EPA, and we deal with other agencies of Government.

On the staff of the subcommittee and formerly on the staff of the full Committee on Interstate and Foreign Commerce have been some of the most effective young lawyers who have worked on the Hill.

Some have received a very specialized experience with those agencies. That experience can only be used before some of the agencies before whom they would be excluded from practice for 1 year had they left the agency and gone into the private sector directly rather than to the committee. The securities field almost requires that a person, to be valuable to a firm, be able to appear before the SEC.

I have done some administrative practice myself. I know that whatever side you may be on, it is well that your opposition in the case know something about that technical field, because, believe me, you are a whole lot safer and your client is a whole lot safer if you are up against one of the most well-trained lawyers in the field you can find. It is the lawyer that is not experienced in these fields that may pull down the house on both litigants.

I suggest to you that it is extremely important that we get high-class people in the agencies. If we are going to get high-class people in these agencies, we are going to have to permit them to proceed from that agency to a practice in which they can be useful and effective. That does not mean that merely because they are representing a private litigant their effect will be antisocial. The important thing is that they know the field. Their experience before the agencies is the only manner in which they can become fully acquainted with that field or can fully participate in the field.

This amendment does not eliminate the bar against these people dealing with the agencies in matters in which they were substantially involved or which were pending under their official responsibility. That is left intact.

All this does is remove the blanket restriction against a person going before an agency on matters in which he was not involved. Frequently, he will appear before a different division of the agency in which he was employed. This simply eliminates that blanket restriction.

Now, the agencies themselves in many instances have rules with respect to employee conduct. I suggest that it is far better to keep the present limitations of law and further encourage the agency itself to work out the fine tuning of the ethical limitations than to come in with this broad and restrictive amendment, which in my opinion does much more harm to topnotch governmental representation that it does to what is called closing the revolving door.

Now, I know there is a kind of knee jerk immediate reaction to terms like the revolving door. Really what I am concerned about when we talk about the revolving door is a situation like the person who wants to retire and has been a purchasing officer with respect to companies which sell to the agency of the Government for whom he works. We should deal with such problems by writing specific legislation to touch specific situations.

Mr. BROYHILL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I support the amendment offered by the gentleman from California. In my view, the proposed amendments to section 207 represent an inappropriate response to the so-called revolving door problem. Specifically, the proposed new subsection (c) states that for 1 year after a Federal employee specified in the bill leaves his agency he may not have any contact with the agency on any matter. This restriction is a total one, rather than referring to issues on which that official may have worked or had some responsibility.

I believe that this total limitation is inappropriate for several reasons. First,

I do not see how this subsection furthers, in any logical way, the intent and purposes of the bill. Subsections (a) and (b) completely foreclose any opportunity that former officials may have to influence agency decisions over which he may have had some responsibiltiy when he worked at the agency. That is the evil we are addressing, and that evil is addressed completely. The problem is, subsection (c) forecloses a former official from addressing issues which may be completely noncontroversial or problems which did not exist at the agency when he was employed. In these cases, I do not see how the public good would be served by foreclosing his participation.

Finally, I am concerned that the enactment of this subsection may result in the Federal Government not being able to attract young, highly qualified individuals to Government service, at least in certain areas. For example, the Securities and Exchange Commission and the Internal Revenue Service deal with highly technical and narrow questions. Once a young lawyer becomes a securities expert, he or she does not have the latitude to practice some other kind of law—domestic relations, for example—waiting for the year cooling-off period to expire. Instead, that young person will probably choose to forego Government service altogether.

Further, the subsection deters a business person from entering Government for a limited period, bringing with him valuable knowledge and expertise, and then, after a period of public service, going back to business. I do not believe that this result is a good one, but it is sure to flow from enactment of the proposed subsection (c).

I urge my colleagues to support this amendment.

Mr. DANIELSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in very strong opposition to the amendment, and in the hopes that the Members will agree with me, let me point out a couple of salient points.

No. 1, this provision in the bill and in the law would not have the effect of inhibiting the recruiting of new employees. In the present administration President Carter's office has informed me that the appointees whom he has placed in these positions have voluntarily agreed to the 1-year bar.

This is not an inhibition. It has practically no impact upon recruiting.

I want to point out a couple of good reasons why that is true. It is not just because they have some young man or woman out of law school who has a choice between handling defaults and divorces and going to work for the SEC. These are top level positions. These are not beginners at the bar, these are not law clerks, these are not notaries public; these are top level positions. These are positions that have sufficient prestige that people are not deterred from accepting the jobs in the first place, and they have enough influence within their departments so that after they leave they still have a psychological advantage within the agency.

The Members will note that on line 25 of page 46 we are there talking about people compensated under chapter 53 of title 5, and we are talking about that rate of pay. Just what is chapter 53 of title 5? It is the executive schedule.

The pay is high. It is very rewarding. It is the kind of job many people look for. It includes such people as the Deputy Secretary of Defense, the Deputy Attorney General, the Chairman of the Interstate Commerce Commission, the Chairman of the Commodity Futures Trading Commission, the assistant secretaries of the different branches of the armed services, it includes the Commissioner of Food and Drugs, and so forth. These are not beginners in the Government service, my good friends; these are top-level people.

Moving over to page 47, line 3, there we talk about GS-16 and above. What is GS-16 and above? Let us take a look. Under the current law, a GS-16—this is the beginning wage before they got the October 1 cost-of-living raise—the beginning wage for a GS-16 is $42,423. Now, what little kids out of law school are getting that kind of money, I ask you? We are not talking about young people who are just beginning their careers in the Government service. We are talking about top-bracket wage earners. What do we do to them here? We do not do much. We tell them, "Look, for 1 year—for 12 months—you cannot come back and act as the agent or the attorney to represent someone else in an appearance before the agency or department where you served as an officer or employee in connection with the rulemaking proceedings, et cetera."

In other words, he can work for Arnold & Porter, but he has to work downtown in the office, and he can draft their contracts, he can draft their prospectuses, he can draft documents, but Mr. Arnold or Mr. Porter have to come up to the agency and make the presentation. The man who was the Commissioner of Food and Drugs cannot come up and do it, but someone else in his employment can. This is a very wholesome, very realistic restriction on conflict of interest. And, Mr. Chairman, if we are going to stop that revolving door which preys upon the well-being of our Government by allowing people who have had controlling policy in those agencies to leave one day and come in the next and exercise their influence over the Government agencies, this is the way to do it. It is reasonable.

I urge a "no" vote on the amendment.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Kansas.

Mr. GLICKMAN. I thank the gentleman for yielding.

Mr. Chairman, I am not too concerned about the top-level GS-18.

Mr. DANIELSON. I knew the gentleman would not be, and I am glad he joins me.

Mr. GLICKMAN. But I want to tell the gentleman that you can go to an agency, be a competent, dedicated public servant, work for 7 or 8 years, and become a GS-16 if you are able, competent and want to move yourself ahead. And that is the kind of thing.

The CHAIRMAN. The time of the gentleman from California (Mr. DANIELSON) has expired.

(On request of Mr. GLICKMAN and by unanimous consent, Mr. DANIELSON was allowed to proceed for 2 additional minutes.)

Mr. GLICKMAN. At that point in time, unless a person makes a decision to stay with the Government the rest of his life, they leave. I do not know the numbers, but a lot of people do not wish to stay with the Government because they feel they can make a contribution in the private sector, and they depart Government service.

If we look at page 47, if a person goes up to GS-16, he or she is not permitted to make any formal or informal appearance before the place that they worked in connection with any application, request, contract, claim, controversy, investigation, charge, and so forth.

Now, in the name of providing prophylactic prohibition against a conflict of interest, we have essentially prevented that person from making a telephone call to the agency. And I am saying that I do not think that is the responsible way to go, and I do not think it is responsibility in Government.

Mr. DANIELSON. If I may reclaim my time, we are talking about formal or informal appearances before those agencies. We are not talking about a phone call. However, if I had thought of it, I would have put "phone call" in the bill.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Virginia.

Mr. HARRIS. I thank the gentleman for yielding.

Mr. Chairman, I appreciate the gentleman's statement. He has analyzed it very carefully. There are points of time when I take an interest with regard to how Federal employees are treated in various pieces of legislation, but I wonder if we might ask the gentleman from Kansas if he would give us a list of those people who entered the Government and became grade 16 in 7 years. Grade 16 is a super grade. As I understand the gentleman's comment, this restriction would only apply to supergrades and executive level personnel. The notion we are talking about, some young attorney who went into some agency and worked for 7 years and got a grade 16, I have known some folks around town here, and I have not known of any who have done that well.

Mr. GLICKMAN. The gentleman may have a point. It may be 10 or 12 years. There may be people who came in at GS-11, but it may be 13 because of prior service.

The CHAIRMAN. The time of the gentleman from California has again expired.

(At the request of Mr. ECKHARDT and by unanimous consent, Mr. DANIELSON was allowed to proceed for 1 additional minute.)

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I think the gentleman in the well has made the point Mr. GLICKMAN was making a moment ago. If a person wants to go to Arnold & Porter, he may go over there and work on the files for a year and then go before the agency, but suppose he, like a number of young men I know here on the Hill, set up his own law office. What we are doing is forcing them to go to Arnold & Porter or someone else who is not formally related to the agency.

Mr. DANIELSON. That is not the case. You know, Eckhardt and Danielson can start a law firm, and we can hire some man with expertise to do the appearing for us. It is not unusual for a law firm to have someone who is pretty good at the bar, pretty persuasive, to go to court or go to the agency and make the formal presentation.

Mr. ECKHARDT. Not in these areas. The persons who actually know the technical line are the ones that have got to present it.

The CHAIRMAN. The time of the gentleman from California has again expired.

(At the request of Mr. MOORHEAD of California and by unanimous consent, Mr. DANIELSON was allowed to proceed for 2 additional minutes.)

Mr. MOORHEAD of California. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from California.

Mr. MOORHEAD of California. In talking about the formal and informal appearance, the gentleman did not go quite far enough. It says, "or, with the intent to influence, make any oral or written communication on behalf of any other person * * *"

So, there is far more to it than the formal or informal appearances.

Mr. DANIELSON. I thank the gentleman. I thought I left out those phone calls, but they are here, and that makes the bill better.

Mr. MOORHEAD of California. I have one more thing I want to ask the gentleman about. Is it not true that under the gentleman's legislation it is not just the GS-16's that have been involved; is it not true that the Director of the Office of Government Ethics can put anyone or any large group of people under that?

Mr. DANIELSON. That is not quite true. The provision to which the gentleman refers appears on page 48, and it does permit the Director of the Office of Government Ethics to make some specifications of certain persons who should be added into the sensitive category. There is quite a long detail of what he has to do in order to do so. It cannot be done frivolously.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I will try to be brief. I think there are several points I want to underline. If Members will read the bill at page 47, I just want to underline the fact that these people that will be affected by this provision will be schedule C employees, because the same cannot be in positions excepted from the competitive service by reason of being in a confidential or policymaking position. So, I think that is a very important point.

In my subcommittee, we took a lot of testimony on the "revolving door" horror stories that everyone has heard, and many Congressmen appeared from this body and presented different stories that they had heard about. I think so much of what is important in government is the appearance of government, the appearance that it is fair and the appearance that it is independent. There have been many incidents where it appears that the regulators have been able to consume the regulatees, that is, governing those different agencies supposedly overseeing them.

If Members will look in the private sector—and I used to work there in negotiating these contracts—we used to negotiate these contracts all the time with noncompetitive contracts which did affect all sorts of people. There were constitutional limitations, but they could go much longer than 1 year. If we allow private contractors to protect themselves, I cannot imagine why we would not allow the President, with his schedule C people, to be protected also.

We want to be very careful to discourage contractors placing people in the Federal Government so that it looks like they have a farm club there, and rotate back and forth through a turnstile. It is the same thing with the regulators.

We heard a lot of comments about the SEC, and I would like to point some of those out that we had in our subcommittee. Congressman ROSENTHAL brought them to our subcommittee, and it was done by our House Interstate and Foreign Commerce Committee in 1975.

It showed that 39 top employees of the SEC had been earlier employed by brokerage firms, investment bankers, or investment advisers, and were planning to return to those offices.

I think if we did a survey, and we have all sorts of lists here of other agencies, we would find the same thing. I do not think the 1-year provision is that serious for people of that level. Again I remind the Members we are talking about schedule C employees and a very high level of pay.

I would urge people to turn down this amendment.

Mr. FOLEY. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I rise in support of the amendment. I know it goes against the philosophy of many in this Chamber, but is it possible that we should encourage people who have specialized knowledge, experience or training to enter Government service? Is it so shocking to recruit to positions in the Government those who may wish after a time to return to the private sector? Why should we so axiomatically condemn this movement from public to private life. Is the "revolving door" always bad? On the contrary, if no one from the security industry can accept a schedule C appointment or a supergrade appointment in the Securities and Exchange Commission, or no one who may have been exposed, however remotely, to the energy business shall have any possibility of responsibility in the Department of Energy, without suffering a penalty, may we not reach a point where we discourage many among the most able and competent from Government service. This is costly posturing—nothing more.

Few are likely to accept a responsibility in the Federal Government without considering what mortgage they put on their future profession by doing so.

The revolving door is less of a problem than many believe. In many cases it is not a problem at all. It is a blessing. We should encourage people to come into the Government from the private sector when they have experience, or special capacity to serve honorably and effectively.

The bill retains certain restrictions on people who have had a direct responsibility, who have been involved in the supervisor role in a particular area of Government, and this amendment would not touch those restrictions. It strikes the 1-year restriction on appearing before the agency after one has been a GS-16 or schedule C employee. If we have any concern about the efficiency and effectiveness of Government, let me plead with Members to stop this useless and foolish idea that we should bar or discourage from Federal service those people who have expertise or special knowledge. The Federal taxpayers and citizens of this country have a right to the best management and the most capable service we can obtain to serve in their Government.

We represent their interest poorly by encrusting and encumbering the statutes with disincentives to the exceptionally able appointee. The fact is the so-called revolving door is not itself an evil practice but overall a healthy one. We must appoint able and honorable persons to Government without these pointless restrictions.

I strongly urge adoption of this amendment. The gentleman from California is right and the amendment should be adopted.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, the gentleman is precisely correct. As a matter of fact the gentlewoman from Colorado gave a good example of what the gentleman from Washington is talking about, these persons who came out of the private sector into the SEC. I have known many of them personally and they have been among the most knowledgeable people that have worked for the SEC because they have got practical experience.

Of course they rise fast in that agency with that experience. But to tell them that they may not go back into the private sector is to prevent them from going into the private sector in the beginning and that is the problem. And the theory that those who go into the private sector again come carrying secrets from the Government is, if I may say so, poppycock. What they carry to the private sector is experience and knowledge and flexibility which are extremely important contributions to the private sector.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. MOORHEAD).

The question was taken, and on a division (demanded by Mr. DANIELSON) there were—ayes 36, noes 24.

RECORDED VOTE

Mr. DANIELSON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 112, noes 259, not voting 61, as follows:

[Roll No. 809]

AYES—112

Alexander	Glickman	Moorhead, Calif.
Archer	Goldwater	Murtha
Ashbrook	Gonzalez	O'Brien
Ashley	Gradison	Pettis
Badham	Guyer	Pickle
Bauman	Hall	Pritchard
Beard, Tenn.	Hammer-schmidt	Quillen
Boland	Hansen	Regula
Bowen	Hillis	Roberts
Breckinridge	Holland	Robinson
Brooks	Hyde	Roncalio
Broyhill	Jeffords	Rose
Burgener	Jones, Okla.	Rousselot
Carter	Jones, Tenn.	Satterfield
Cederberg	Jordan	Sebelius
Chappell	Kasten	Shuster
Clawson, Del	Kazen	Sikes
Cochran	Kindness	Snyder
Collins, Tex.	Lagomarsino	Spence
Daniel, Dan	Latta	Stangeland
Daniel, R. W.	Lent	Stanton
Davis	Livingston	Steed
Devine	Lloyd, Tenn.	Steiger
Dornan	Lott	Stratton
Duncan, Oreg.	McClory	Stump
Duncan, Tenn.	McCormack	Taylor
Eckhardt	McDonald	Treen
Erlenborn	McEwen	Van Deerlin
Evans, Del.	McFall	Waggonner
Evans, Ind.	McKay	Wampler
Findley	Martin	White
Fish	Mathis	Whitehurst
Flynt	Milford	Whitten
Foley	Miller, Ohio	Winn
Forsythe	Mitchell, N.Y.	Wirth
Frenzel	Montgomery	Yatron
Frey	Moore	Young, Fla.
Gammage		

NOES—259

Abdnor	Chisholm	Flippo
Akaka	Clausen, Don H.	Flood
Ambro	Clay	Florio
Anderson, Calif.	Cleveland	Ford, Mich.
Andrews, N.C.	Coleman	Ford, Tenn.
Andrews, N. Dak.	Collins, Ill.	Fountain
Applegate	Conte	Fowler
Aspin	Conyers	Fuqua
AuCoin	Corcoran	Gephardt
Bafalis	Corman	Giaimo
Baldus	Cornell	Gibbons
Barnard	Cornwell	Gilman
Baucus	Cotter	Ginn
Beard, R.I.	Coughlin	Goodling
Bedell	Crane	Gore
Bellenson	Cunningham	Grassley
Benjamin	D'Amours	Green
Bennett	Danielson	Gudger
Bevill	Dellums	Hamilton
Biaggi	Dent	Hanley
Bingham	Derrick	Hannaford
Blanchard	Derwinski	Harkin
Blouin	Dicks	Harris
Boiling	Diggs	Harsha
Bonior	Dingell	Hawkins
Bonker	Dodd	Heckler
Brademas	Downey	Hefner
Brinkley	Drinan	Heftel
Brodhead	Early	Hightower
Broomfield	Edgar	Hollenbeck
Brown, Mich.	Edwards, Ala.	Holtzman
Brown, Ohio	Edwards, Calif.	Horton
Buchanan	Edwards, Okla.	Howard
Burke, Fla.	Eilberg	Hubbard
Burke, Mass.	Emery	Huckaby
Burlison, Mo.	English	Hughes
Burton, John	Ertel	Ichord
Burton, Phillip	Evans, Ga.	Ireland
Butler	Fary	Jacobs
Carney	Fascell	Jenkins
Carr	Fenwick	Johnson, Calif.
Cavanaugh	Fisher	Jones, N.C.
	Fithian	Kastenmeier
		Kelly
Keys	Murphy, Pa.	Seiberling
Kildee	Myers, Gary	Sharp
Kostmayer	Myers, Michael	Simon
Krebs	Natcher	Skelton
LaFalce	Nedzi	Smith, Iowa
Le Fante	Nolan	Solarz
Leach	Nowak	Spellman
Lederer	Oberstar	St Germain
Lehman	Obey	Staggers
Levitas	Ottinger	Stark
Lloyd, Calif.	Panetta	Steers
Long, La.	Patten	Stokes
Long, Md.	Patterson	Studds
Lujan	Pattison	Thompson
Luken	Pease	Thone
Lundine	Perkins	Thornton
McCloskey	Posge	Traxler
McDade	Pressler	Trible
McHugh	Preyer	Ullman
McKinney	Price	Vander Jagt
Madigan	Pursell	Vanik
Maguire	Quie	Vento
Mahon	Rahall	Volkmer
Mann	Railsback	Walgren
Markey	Rangel	Walker
Marks	Reuss	Watkins
Marlenee	Richmond	Waxman
Marriott	Rinaldo	Weaver
Matsox	Risenhoover	Whalen
Mazzoli	Rodino	Whitley
Metcalfe	Roe	Wilson, Bob
Meyner	Rogers	Wilson, C. H.
Mikulski	Rooney	Wilson, Tex.
Mikva	Rosenthal	Wolff
Mineta	Rostenkowski	Wright
Minish	Runnels	Wydler
Mitchell, Md.	Ruppe	Wylie
Moakley	Russo	Yates
Moffett	Ryan	Young, Alaska
Mollohan	Santini	Young, Mo.
Moorhead, Pa.	Sawyer	Zablocki
Mottl	Scheuer	Zeferetti
Murphy, Ill.	Schroeder	
Murphy, N.Y.	Schulze	

NOT VOTING—61

Addabbo	Gaydos	Rhodes
Ammerman	Hagedorn	Roybal
Anderson, Ill.	Harrington	Rudd
Annunzio	Holt	Sarasin
Armstrong	Jenrette	Shipley
Boggs	Johnson, Colo.	Sisk
Breaux	Kemp	Skubitz
Brown, Calif.	Krueger	Slack
Burke, Calif.	Leggett	Smith, Nebr.
Burleson, Tex.	Meeds	Stockman
Byron	Michel	Symms
Caputo	Miller, Calif.	Teague
Cohen	Moss	Tsongas
Conable	Myers, John	Tucker
de la Garza	Neal	Udall
Delaney	Nichols	Walsh
Dickinson	Nix	Weiss
Evans, Colo.	Oakar	Wiggins
Flowers	Pepper	Young, Tex.
Fraser	Pike	
Garcia	Quayle	

The Clerk announced the following pairs:

On this vote:

Mr. Breaux for, with Mr. Addabbo against.
Mr. Nichols for, with Mr. Roybal against.
Mr. Shipley for, with Mr. Neal against.
Mr. Johnson of Colorado for, with Mr. Pepper against.
Mr. Symms for, with Mr. Jenrette against.

Mr. PATTISON of New York and Mr. HUBBARD changed their vote from "aye" to "no."

Messrs. LENT, HAMMERSCHMIDT and McEWEN changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. DANIELSON. Mr. Chairman, I move to strike the last word.

In a moment, Mr. Chairman, I am going to move that the Committee now rise, but first I yield to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Chairman, I would like to take this opportunity to commend the manager of the bill, the gentleman from California (Mr. DANIELSON), for his excellent work and for his patience and persistence in getting this bill enacted.

Every Democrat on the Subcommittee on Civil and Constitutional Rights joined me in signing additional views in the committee report, expressing our concern about the relationship between this bill and the fifth amendment to the Constitution. I hope that the manager of the bill will answer a couple of questions that may alleviate our concerns.

I think the Members might be interested in this, because we are dealing with a matter of constitutional rights. My first question is this:

May an employee assert the fifth amendment privilege against self-incrimination as the basis for refusing to provide specific information relating, for instance, to his outside income?

Mr. DANIELSON. Of course. This bill is not intended to be inconsistent with the fifth amendment, nor is it inconsistent. The answer to the gentleman's question is that a person may assert a valid fifth amendment privilege as the basis for refusing to disclose specific information which may tend to incriminate him.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield further?

Mr. DANIELSON. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Could an employee be fired for asserting a valid fifth amendment privilege?

Mr. DANIELSON. Again, if the assertion of the fifth amendment privilege is valid, an employee could not be penalized in any way for asserting the privilege. However, if the Government were to grant immunity from criminal prosecution the privilege would no longer be valid. In such a case, the employee could be forced to disclose the information, and he could be fired or otherwise disciplined for continuing to refuse to disclose the information after receiving immunity.

Mr. SEIBERLING. Mr. Chairman, I think that the gentleman's explanation does indeed alleviate my concerns, and I certainly agree with his analysis.

Mr. DANIELSON. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BOLAND, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1) to require candidates for Federal office, Members of the Congress, and officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions, had come to no resolution thereon.

REQUEST FOR PERMISSION FOR COMMITTEE ON THE JUDICIARY TO MEET ON TOMORROW MORNING DURING THE 5-MINUTE RULE

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may be permitted to

meet on tomorrow morning during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, has the gentleman checked this out with our distinguished ranking minority member, and does he agree to it?

Mr. DANIELSON. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I am always delighted to yield to the gentleman from California.

Mr. DANIELSON. Mr. Speaker, I cannot tell a lie. I have not checked with the gentleman. There is a reason for that, and that is because I did not know before that I was going to make the request.

Mr. ROUSSELOT. Mr. Speaker, I have just received word that the gentleman does not want to meet tomorrow, and he would like to talk to the gentleman from California (Mr. DANIELSON) about it.

So, Mr. Speaker, could the gentleman come in here and get permission tomorrow?

Mr. DANIELSON. Mr. Speaker, I will try to do that.

The SPEAKER. Does the gentleman from California (Mr. ROUSSELOT) object to the request?

Mr. ROUSSELOT. I am trying to work it out, Mr. Speaker.

Mr. DANIELSON. I will be here.

The SPEAKER. Does the gentleman from California (Mr. DANIELSON) withdraw his request?

Mr. DANIELSON. Mr. Speaker, I withdraw the request, inasmuch as the Committee on the Judiciary will meet at 9 o'clock tomorrow morning and will hopefully get some work done.

Mr. ROUSSELOT. That is the spirit.

The SPEAKER. The gentleman's request has been withdrawn.

PERMISSION TO FILE CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 683, SECOND CONCURRENT BUDGET RESOLUTION FOR FISCAL YEAR 1979

Mr. GIAIMO. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the concurrent resolution (H. Con. Res. 683) the second concurrent budget resolution for fiscal year 1979.

The SPEAKER. Is there objection to the request of the gentlemen from Connecticut?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman tell us the progress of the committee?

Did they get the aggregates worked out with the Senate?

Mr. GIAIMO. If the gentleman will yield, yes, we have. We have completed the conference report.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, how about the functional categories?

Mr. GIAIMO. We have done that, too.

Mr. ROUSSELOT. All of the functional categories?

Mr. GIAIMO. Yes.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

MAKING IN ORDER CONSIDERATION OF CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 683 AND AMENDMENT IN DISAGREEMENT ON TOMORROW OR ANY DAY THEREAFTER

Mr. GIAIMO. Mr. Speaker, I ask unanimous consent that it may be in order on tomorrow, Thursday, September 21, 1978, or any day thereafter, to consider the conference report and the amendment in disagreement on the concurrent resolution (H. Con. Res. 683) the second concurrent resolution on the budget for fiscal year 1979.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, my understanding is that the resolution is coming up; is that correct?

Mr. GIAIMO. If the gentleman will yield, that is right, if the gentleman does not object.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, I do not want to object if it is going to come up tomorrow. The gentleman said "or any day thereafter." Is it going to be tomorrow for sure?

Mr. GIAIMO. If the gentleman will yield, hopefully, it will be tomorrow for sure. If for some reason it would not be, I would like to have the opportunity to bring it up on a day thereafter.

Mr. ROUSSELOT. Further reserving the right to object, my understanding is that it is the first order of business. Is that correct?

Mr. GIAIMO. The gentleman is privy to more information than I have. I understand it might be the first order of business.

Mr. ROUSSELOT. Further reserving the right to object, let us ask the Speaker. The Speaker is right here.

Mr. GIAIMO. I understand it will come up tomorrow.

Mr. ROUSSELOT. The Speaker can tell us if we ask him.

The SPEAKER. The Chair will advise the gentleman that it will come up tomorrow.

Mr. ROUSSELOT. The Speaker has assured us that it will come up tomorrow.

Mr. GIAIMO. I understand it will come up tomorrow.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

REQUEST TO APPOINT CONFEREES ON H.R. 7010, VICTIMS OF CRIME ACT OF 1977

Mr. MANN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7010) to provide for grants to States for the payment of compensation to persons injured by certain criminal acts and omissions, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina.

Mr. ASHBROOK. Yes, Mr. Speaker, I object.

The SPEAKER. Objection is heard.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 11302, ENVIRONMENTAL RESEARCH, DEVELOPMENT, AND DEMONSTRATIONS AUTHORIZATION ACT OF 1979

Mr. MICHAEL O. MYERS. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 11302) to authorize appropriations for environmental research, development, and demonstrations for the fiscal year 1979, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

AMENDMENT TO REORGANIZATION PLAN NO. 4 OF 1978—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95-384)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Government Operations and ordered to be printed:

To the Congress of the United States:

I herewith transmit an amendment to Reorganization Plan No. 4 of 1978. Except as specifically amended hereby, Reorganization Plan No. 4 remains unmodified.

JIMMY CARTER.

THE WHITE HOUSE, *September 20, 1978.*

PROPOSED CONSTITUTION FOR LOCAL SELF-GOVERNMENT FOR THE VIRGIN ISLANDS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95-385)

The SPEAKER laid before the House the following message from the President

of the United States; which was read and, together with the accompanying papers, referred to the Committee on Interior and Insular Affairs and ordered to be printed:

To the Congress of the United States:

I am today transmitting to the Congress the proposed constitution for local self-government for the Virgin Islands, as authorized by Public Law 94-584. Until now, an organic act of the Congress provided the basis for local government in this unincorporated territory of the United States.

A locally elected constitutional convention drafted the constitution over a period of several months and held a series of public hearings and meetings throughout the Virgin Islands. The constitutional convention approved the constitution in April 1978. On July 20, 1978, the Governor of the Virgin Islands officially presented me with the constitution.

By law, I must transmit the constitution to the Congress, along with comments, within 60 days of the document's receipt. The Congress then has 60 more days to amend, modify, or approve it. As approved or modified, the constitution will be submitted to a referendum in the Virgin Islands for acceptance or rejection.

Several Federal agencies have commented on the constitution for the executive branch that it meets the criteria established by Public Law 94-584: it is consistent with sovereignty of the United States, its constitution, and its laws applicable to the Virgin Islands; it provides for a republican form of government with executive, legislative, and judicial branches; it contains a bill of rights; it sets up a system of local courts; and it deals with those portions of the revised organic act related to local self-government.

However, the agencies commenting on the constitution noted several matters that the Congress may wish to alter. Those comments are attached.

I commend this accomplishment of the members of the constitutional convention and the other citizens of the Virgin Islands who helped to draft the constitution. It is a significant step toward greater local self-government. It is therefore wholly appropriate that the electorate of the Virgin Islands, and not the Federal Government, has the ultimate right to accept or reject it.

To facilitate congressional deliberations, I have asked that the Attorney General and the Secretary of the Interior offer their advice and technical assistance to the committees that review the document.

JIMMY CARTER.

THE WHITE HOUSE, *September 20, 1978.*

GREEN DISCUSSES THE MEDICARE AMENDMENTS OF 1978

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. GREEN) is recognized for 10 minutes.

Mr. GREEN. Mr. Speaker, on September 18, the House of Representatives passed H.R. 13097, the Medicare Amendments of 1978. I was among the 398 Members of Congress who voted in favor of this legislation.

The Medicare Amendments of 1978 would provide for a number of improvements in medicare benefits including liberalization of the home health benefits, elimination of the second waiting period for reentitled disability beneficiaries, coverage for services furnished in community mental health centers and outpatient rehabilitation facilities, and authority for the President to enter into reciprocal agreements with other countries to provide hospital and medical services to medicare beneficiaries while outside the United States. The bill also expands benefits for services furnished by dentists, optometrists, and chiropractors. In addition, the measure makes a number of improvements in the administration of the medicare program.

Earlier in this session of Congress, I cosponsored H.R. 13131, a bill which incorporates recommendations made by the Select Committee on Aging with respect to making home health care more available to senior citizens and to the disabled. I am pleased that the Medicare Amendments of 1978 includes some of the key provisions of H.R. 13131.

Under present law, beneficiaries are eligible for 100 visits per benefit period during the year following a hospital stay of at least 3 days under part A of medicare, and 100 visits per calendar year under part B of medicare. Both my bill, H.R. 13131, and the Medicare Amendments of 1978 would eliminate the limitation on visits under each part. Further, both bills would remove the 3-day hospitalization requirement under part A.

I regret that the Medicare Amendments of 1978, as recommended by the House Ways and Means Committee and as passed by the full House, does not provide the benefit coverage for homemaker and periodic chore services contained in H.R. 13131. However, I am glad that H.R. 13097 takes the additional step of eliminating the $60 deductible under part B of medicare. Elimination of the part B $60 deductible would remove the remaining patient cost sharing on home health services.

The Medicare Amendments of 1978 also contains provisions to encourage disabled individuals to attempt to return to work without fear of forfeiting entitlement to medicare benefits if the attempt is unsuccessful. The bill does this by eliminating the second waiting period for reentitled disability beneficiaries. Under this legislation, entitlement to medicare benefits would be provided for persons who have been entitled to disability payments for a total of 24 months, regardless of whether those 24 months were consecutive. Thus, a person who has once satisfied the 24-month requirement and attempts without success to return to work would immediately be eligible for medicare benefits without having to fulfill a second waiting period.

This legislation importantly expands medicare coverage to include services provided in comprehensive outpatient rehabilitation centers. Eligible rehabilitation centers could be public or private institutions primarily engaged in providing under medical direction diagnostic, therapeutic, and restorative services to outpatients and would be required to meet specified conditions of participation.

As the cosponsor of H.R. 13709, a bill to authorize payment under the medicare program for occupational therapy services, I am pleased that H.R. 13097 provides medicare payment for occupational therapy services furnished by comprehensive outpatient rehabilitation centers. I find this encouraging and hope that in the future the Ways and Means Committee will recommend legislation to extend medicare eligibility to other occupational therapy services, such as those furnished in conjunction with home health care.

I believe the committee should be commended for including in H.R. 13097 provisions to expand medicare coverage to services provided in community mental health centers. Reimbursement would be made under part A of medicare on the basis of the cost incurred in providing the covered services. Up to 10 outpatient visits per year would be covered, and up to 60 partial hospitalization visits per year also would be covered. This represents a significant recognition of the important role carried out by community mental health centers.

The Medicare Amendments of 1978 eliminates the present exclusion of coverage for services related to the treatment of plantar warts. This would remove the discrepancy under present law whereby warts on the feet are excluded from medicare coverage, while warts on other parts of the body are covered.

I have cosponsored H.R. 13035 to make routine foot care eligible for medicare reimbursement. Hopefully, the coverage provided under H.R. 13097 for foot warts will signal more comprehensive foot care coverage under medicare.

The Ways and Means Committee acted in H.R. 13097 to expand benefits for services provided by dentists, optometrists, and chiropractors. While these improvements are important, I share the view of Chairman CLAUDE PEPPER of the Select Committee on Aging that favorable consideration should be given additionally to legislation to provide coverage for eyeglasses and eye examinations, hearing aids and examinations for hearing aids, and dentures and other services in connection with the care of teeth.

Overall, H.R. 13097 contains numerous provisions to improve the quality and scope of medicare coverage for our senior citizens and disabled persons. I believe the most significant feature of the bill is the strong support it gives to home health care. It represents a congressional com-

mitment to make more practical and more available the alternatives to institutionalization for our senior citizens.

By liberalizing home health care benefits, the bill increases the opportunity for our senior citizens to continue to live in their homes and apartments while receiving the medical and other services they need. Truly, broadened home health care benefits make possible a freedom of choice for our senior citizens with respect to their living arrangements.

In 1977, the General Accounting Office issued a report entitled, "Home Health—The Need for a National Policy To Better Provide for the Elderly." This report made the following conclusion:

Until older people become greatly or extremely impaired, the cost for home services, including the large portion provided by families and friends, is less than the cost of putting these people in institutions.

The GAO report made a number of recommendations to expand home health care services which served as the basis for the legislation proposed by the Select Committee on Aging of which I am a cosponsor.

According to the Congressional Budget Office, 20 to 40 percent of presently institutionalized senior citizens do not require institutional care and could remain at home if adequate funding for this purpose were available. I recently joined with my colleague from New Jersey, Representative MILLICENT FENWICK, to cosponsor H.R. 13981 to authorize demonstration projects wherein those eligible for medicare or medicaid nursing home care would be granted a tax-free stipend to finance noninstitutional care to meet their medical and other needs. I believe that public policy should encourage alternatives to institutionalization, particularly for those individuals who do not need or desire that form of care. The economic impediments to freedom of choice must be removed.

The Medicare Amendments of 1978 will help to make home health care a viable option for many of our senior citizens. Certainly, it reflects an appreciation of the fact that present medicare procedures and limitations have been blocking increased utilization of the home health care approach.

This legislation, of course, is only a beginning in the effort to upgrade and reform the medicare program. The Committee on Ways and Means noted this in the report to accompany H.R. 13097:

Your committee recognizes that, in addition to the provisions contained in this legislation, a number of other liberalizations in the medicare benefit structure also would be desirable. However, in recognition of the budgetary limitations which prohibit extensive benefit expansions at this time and because of the general concern about the present rapid rate of increase in health care costs, your committee has provided for only limited improvements in medicare benefits, often making difficult choices between equally meritorious and deserving alternatives in order to keep this legislation within the increase in medicare outlays that has been included in the congressional budget resolutions for Fiscal Year 1979 in anticipation of the enactment of this bill.

It is clear that much work remains ahead of us. Let us resolve to make enactment of the "equally meritorious and deserving alternatives" in regard to medicare reform a priority and a budgetary commitment in the next session of Congress.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. SARASIN) is recognized for 10 minutes.

● Mr. SARASIN. Mr. Speaker, on September 7, 1978, I was absent from part of the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 738: H.R. 11280: Civil service reform. The House agreed to resolve itself into the Committee of the Whole, "yes"; and

Rollcall No. 739: H.R. 11280: Civil service reform. The House agreed to table a motion to reconsider the previous vote, "yes."

Mr. Speaker, on September 8, 1978, I was absent from the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 740: H.R. 11711: Adjustment assistance programs. The House agreed to the rule (H. Res. 1288) under which the bill was considered, "yes";

Rollcall No. 741: S.J. Res. 4: Hawaiian Native claims. The House agreed to a motion to recommit the joint resolution, establishing the Aboriginal Hawaiian Claims Settlement Study Commission, to the Committee on Interior and Insular Affairs, "yes";

Rollcall No. 7442: H.R. 11711: Adjustment assistance programs. The House agreed to the committee amendment No. 1, that provides for an alternative eligibility requirement which permits workers to qualify on the basis of 40 weeks of employment in one or more trade-impacted firms in the preceding 2 years, "yes"; and

Rollcall No. 743: H.R. 11711: Adjustment assistance programs. The House passed the measure to improve the operation of the adjustment assistance programs for workers and firms under the Trade Act of 1974, "yes."

Mr. Speaker, on September 11, 1978, I was absent from the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 744: H.R. 11280: Civil service reform. The House agreed to resolve itself into the Committee of the Whole, "yes";

Rollcall No. 745: H.R. 11280: Civil service reform. The House rejected an amendment that sought to require that each agency should establish a personnel office and appoint a chief personnel officer who is a career civil service person, "no";

Rollcall No. 746: H.R. 11280: Civil service reform. The House rejected a perfecting amendment that sought to extend veterans preference for Vietnam-era veterans for 15 years from the date of separation or until September 31, 1985, for Vietnam-era veterans who served in the Vietnam theater, "yes";

Rollcall No. 747: H.R. 11280: Civil service reform. The House agreed to an amendment that retains existing veterans preference standards, "yes";

Rollcall No. 749: H.R. 11280: Civil service reform. The House agreed to an amendment that sets a statutory ceiling on the total number of Federal employees in the executive branch, "yes";

Rollcall No. 750: H.R. 11280: Civil service reform. The House rejected an amendment that sought to permit the FBI to place 140 positions in GS-18 without regard to the provisions placing limitations on executive-level positions, "no";

Rollcall No. 751: H.R. 11280: Civil service reform. The House rejected an amendment that sought to strike the labor-management and employee relations language from the bill, "no"; and

Rollcall No. 752: H.R. 11280: Civil service reform. The House rejected a motion that the Committee of the Whole rise and report the bill back to the House with the recommendation that the enacting clause be stricken, "no."

Mr. Speaker, on September 2, 1978, I was absent from the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 754: H.R. 12860: Rhode Island Indian claims. The House passed the measure to settle Indian claim rights within the State of Rhode Island and Providence Plantations, "yes";

Rollcall No. 755: H.R. 13311: Port safety and tank vessel safety. The House passed the measure, amended, to amend the Ports and Waterways Safety Act of 1972, "yes";

Rollcall No. 756: H.R. 12026: Indian Peaks Wilderness Area. The House passed the measure, amended, to create the Indian Peaks Wilderness Area and the Arapaho National Recreation Area and to authorize the Secretary of the Interior to study the feasibility of revising the boundaries of the Rocky Mountain National Park, "yes";

Rollcall No. 757: H.R. 5265: Temporary suspension of fluorspar. The House failed to suspend the rules and pass the measure to provide for the temporary suspension of the duty on the importation of fluorspar, "yes";

Rollcall No. 758: H.R. 1337: Excise tax on trucks and buses. The House passed the resolution (H. Res. 1342) providing that the House agree, with amendments, to the Senate amendment to the text; and agree to the Senate amendment to the title to the measure, to amend the Internal Revenue Code of 1954 with respect to excise tax on certain trucks, buses, tractors, et cetera, "yes";

Rollcall No. 759: H.R. 13331: Federal district courts. The House passed the measure, amended, to amend title 28 of the United States Code to make certain changes in the places of holding Federal district courts, in the division within judicial districts, and in judicial districts dividing lines, "yes";

Rollcall No. 760: S. 3119: Transfer of real property. The House passed the measure to amend the District of Columbia Self-Government and Governmental reorganization Act to repeal the authority of the President to sustain vetoes by the Mayor of the District of Columbia of acts passed by the Council of the District of Columbia and repassed by two-thirds of the Council, and to change the period during which acts of the Council of the District of Columbia are subject to congressional review, "yes"; and

Rollcall No. 761: S. 3075: International security assistance authorization. The House agreed to the conference report on the measure to amend the Foreign Assistance Act of 1961 and the Arms Control Act, "yes."

Mr. Speaker, on September 13, 1978, I was absent from the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 762: H.R. 11280: Civil service reform. The House agreed to resolve itself into the Committee of the Whole, "yes."

Rollcall No. 763: H.R. 11280: Civil service reform. The House rejected an amendment to the agreed-to substitute on labor-management relations that sought to prohibit Federal Election Commission employees from being represented by a union maintaining a political action committee or advocating the election or defeat of any candidate for Federal office, "yes";

Rollcall No. 764: H.R. 11280: Civil service reform. The House agrees to an amendment, as amended by a substitute, that provides compromise language between the bill's language and administration proposals for the labor-management provisions in the bill, "yes";

Rollcall No. 765: H.R. 11280: Civil service reform. The House rejected an amendment that sought to limit outside earned income of employees covered by this bill in pay grade GS-13 or above to not more than 15 percent of their salary, "no";

Rollcall No. 766: H.R. 11280: Civil service reform. The House agreed to an amendment that retains existing veterans preference standards, "yes";

Rollcall No. 767: H.R. 11280: Civil service reform. The House passed the measure to reform the civil service laws, "yes";

Rollcall No. 768: H.R. 8728: Airport and aircraft noise reduction. The House agreed to order the previous question on the rule (H. Res. 1293), "yes";

Rollcall No. 769: H.R. 8729: Airport and aircraft noise reduction. The House agreed to the rule (H. Res. 1293) under which the bill was considered, "yes";

Rollcall No. 771: H.R. 8729: Airport and aircraft noise reduction. The House rejected an amendment that sought to require a noise impact map and a noise compatibility plan from airports if aircraft noise of the airports affects individuals in other States, "no"; and

Rollcall No. 772: H.R. 8729: Airport and aircraft noise reduction. The House agreed to an amendment that authorizes an additional $25 million for 1979 and 1981, to be divided equally among the States, for the purpose of developing general aviation airports, "yes."

Mr. Speaker, on September 14, 1978, I was absent from the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 773: Journal. The House approved the Journal of Wednesday, September 13, "no";

Rollcall No. 774: H.R. 8729: Airport and aircraft noise reduction. The House agreed to the Ways and Means Committee amendment that strikes the aircraft revenue and credit provisions in the bill and substitutes language (text of H.R. 11986) making certain changes in taxes on transportation by air and providing credits or refunds of a certain portion of the taxes for expenditures to retrofit and replace noisy aircraft, "yes";

Rollcall No. 775: H.R. 8729: Airport and aircraft noise reduction. The House rejected a motion to recommit the bill to the Committee on Public Works and Transportation with instructions to report it back forthwith containing an amendment to strike the language in the bill (Ways and Means Committee amendment) making changes in taxes and providing for grants and refunds for expenditures to retrofit and replace noisy aircraft and substitute language that would reduce the 8-percent tax on domestic flights to 6 percent and the 5-percent tax on domestic freight to 3 percent, "no";

Rollcall No. 776: H.R. 8729: Airport and aircraft noise reduction. The House passed the measure to provide assistance to airport operators to prepare and carry out noise compatibility programs, and to provide assistance to aircraft operators to comply with noise standards, "yes";

Rollcall No. 777: H.R. 12928: Public works-energy research appropriations. The House agreed to the conference report on the measure making appropriations for public works for water and power development and energy research for the fiscal year ending September 30, 1979, "yes";

Rollcall No. 778: H.R. 9214: International Monetary Fund. The House agreed to a motion to instruct the managers on the part of the House to agree to the provision in section 4 of the Senate amendment that instructs the U.S. Executive Director to oppose any Witteveen Facility or IMF loans to nations providing aid or assistance to terrorists, and to agree to section 7 of the Senate amendment that mandates a balanced budget beginning in fiscal year 1981, "yes";

Rollcall No. 779: H. Res. 1242: Emergency preparedness reorganization. The House failed to agree to House Resolution 1242, to disapprove Reorganization Plan No. 3 transmitted by the President on June 19, 1978, no";

Rollcall No. 780: H.R. 12611: Air service improvement. The House agreed to the rule (H. Res. 1324) under which the bill was considered, "yes"; and

Rollcall No. 781: H.R. 12611: Air service improvement. The House agreed to resolve itself into the Committee of the Whole, "yes."

Mr. Speaker, on September 15, 1978, I was absent from the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 782: Journal. The House approved the Journal of Thursday, September 14, "no";

Rollcall No. 783: S. 2701: Water resources planning. The House agreed to the conference report on the measure to amend the Water Resources Planning Act (79 Stat. 244, as amended), "yes";

Rollcall No. 784: H. Res. 1350: Contempt citation. The House agreed to the resolution that the Speaker of the House certify the report of the Committee on Standards of Official Conduct with respect to the proceedings against Hancho C. Kim, to the U.S. attorney for the District of Columbia, "yes";

Rollcall No. 785: H.R. 11733: Surface transportation authorizations. The House agreed to the rule (H. Res. 1326) under which the bill was considered, "yes"; and

Rollcall No. 786: H.R. 11733: Surface transportation authorizations. The House agreed to resolve itself into the Committee on the Whole, "yes."

Mr. Speaker, on September 18, 1978, I was absent from the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 788: Rollcall No. 13097: Medicare amendments. The House passed the measure, amended, to amend certain provisions of title XVIII of the Social Security Act as they relate to the medicare program established by part A of such title, "yes";

Rollcall No. 789: H.R. 13817: Health programs amendments. The House passed the measure, amended, to amend the Social Security Act with respect to health programs authorized under it, "yes";

Rollcall No. 790: H.R. 10792: Acquisition of African Museum of Art by Smithsonian. The House passed the measure, amended, to authorize the Smithsonian Institution to acquire the Museum of African Art, "yes";

Rollcall No. 791: H.R. 7819: Diplomatic immunity. The House agreed to a motion to suspend the rules and agree to the Senate amendments to the measure, to complement the Vienna Convention on Diplomatic Relations, "yes"; and

Rollcall No. 792: H.R. 11488: Health planning and resources development

amendments. The House failed to suspend the rules and pass the measure, amended, to amend titles XV and XVI of the Public Health Service Act to revise and extend the authorities and requirements under those titles for health planning and health resources development, "yes."

Mr. Speaker, on September 19, 1978, I was absent from part of the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 798: S. 3040: Amtrak improvement. The House agreed to the conference report on the measure to amend the Rail Passenger Service Act to extend the authorization of appropriations for an additional fiscal year, to provide for public consideration and implementation of a rail passenger study, "yes";

Rollcall No. 799: H.R. 12598: Foreign relations authorization. The House agreed to the conference report on the measure, Foreign Relations Authorization Act for fiscal year 1979, "yes";

Rollcall No. 800: H.R. 12222: Foreign aid authorization. The House agreed to the conference report on the measure, International Development and Food Assistance Act of 1978, "yes";

Rollcall No. 801: H.R. 11401: NASA authorization. The House agreed to the conference report on the measure to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, "yes"; and

Rollcall No. 802: H.R. 8149: Customs reform. The House agreed to the conference report on the measure to provide customs procedural reform, "yes." ●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 5 minutes.

● Mr. DRINAN. Mr. Speaker, due to a primary election in my congressional district, I was unavoidably absent from the House for a brief time late in the session of Tuesday, September 19. Had I been present, I would have voted as follows: Rollcall No. 800, adoption of the conference report on H.R. 12222, International Development and Food Assistance Act, "aye"; rollcall No. 801, adoption of the conference report on H.R. 11401, National Aeronautics and Space Administration Authorization Act, "aye"; rollcall No. 802, adoption of the conference report on H.R. 8149, Customs Procedural Reform Act, "aye." ●

EXPLANATION OF NEED FOR CONTINUING RESOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. NEAL) is recognized for 5 minutes.

● Mr. NEAL. Mr. Speaker, I am today introducing a joint resolution which, if passed, would extend the life of the Export-Import Bank until December 31, 1978.

The statutory charter of Eximbank expires on September 30, 1978. While H.R. 12157, the bill to extend the life of the Bank for 5 years, has passed the House, the Senate has yet to consider S. 3077 which is its counterpart. Furthermore, there are enough differences between H.R. 12157 as passed by the House and S. 3077 as reported out of the Senate Banking Committee to indicate that a conference will be required. Because the legislation extending the Bank's life will not be passed in time, a continuing resolution is necessary, which would extend the life of the Bank until December 31. The additional 90 days should give the House and Senate time to complete final action on the Eximbank bill.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CARR) is recognized for 5 minutes.

● Mr. CARR. Mr. Speaker, on Thursday, September 14, I had to leave early for a speaking engagement in my district, and I missed a number of recorded votes.

Had I been present, I would have voted "nay" on rollcall No. 777, the conference report to accompany H.R. 12928, the public works appropriations bill. I would also have voted "nay" on rollcall No. 779, a resolution disapproving of the President's Reorganization Plan No. 3.

I would have voted "aye" on rollcall No. 778, a motion to instruct the conferees to adopt certain Senate amendments to H.R. 9214. I would also have voted "aye" on rollcall No. 780 and rollcall No. 781.●

SOLID TOXIC WASTES—THE UNFORTUNATE LEGACY OF OUR HIGHLY INDUSTRIALIZED SOCIETY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 10 minutes.

● Mr. LAFALCE. Mr. Speaker, the United States has always prided itself on its "Yankee Ingenuity" which in the 19th century brought us into the industrialized world with the industrial revolution taking hold in our country. The clock has not and cannot turn back—industry has grown by leaps and bounds over the last two centuries and has become overtaken by technology which only a few decades ago was considered in the realm of science fiction.

The results of our "Yankee Ingenuity" have been beneficial—our quality of living has become better and we have leisure time to enjoy the arts, sports and hobbies which our forefathers never had time to do because they were working 6 or 7 days a week. Now, however, we are able to accomplish all of our daily chores in short order due to the gadgets we have been clever enough to invent. But, did any of you stop to think that every time you turn on an electric beater to bake a cake in your home, little substances known as PCB's are being stirred up in the electrical transformer creating the electricity? PCB's are one of the major sources of toxic solid wastes which our society still has not found a safe method to dispose of in a cost-effective manner.

PCB's are only one substance which is now plaguing our society in the form of wastes which we readily use or have used in the home or sell in the marketplace. Clothes made out of synthetic fibers and plastic products are made from nonbiodegradable materials which are eventually deposited in landfills across the country if they are unable to be recycled. Thus, our "Yankee Ingenuity" has not only improved our society in many respects, but it also has simultaneously created an obligation for us to live in that highly technological society in a responsible fashion.

Congress in 1976 attempted to address this dilemma by passing the Resource Conservation and Recovery Act (RCRA), a law which regulates solid wastes from the "cradle to the grave." The U.S. Environmental Protection Agency, the Federal agency responsible for implementing this act, was to have issued regulations for this act within 18 months of enactment. The agency still has not promulgated these regulations and will not until 1980, claiming that it is very difficult for the agency to promulgate them because it needs to resolve very complex technical, financial, legal, and environmental issues. The EPA's main concern is to issue regulations which will not be tossed out by the courts.

The agency, along with other Federal agencies and departments, was instructed by the President to avoid issuing regulations which could prove to be adverse to the public interest, inflationary, or non-cost-effective. EPA, instead of following the President's wishes, ducked the major issues and confined itself to minor subjects. Thus, the EPA has not met the President's expectations since it failed to redirect its resources toward necessary regulations; simultaneously the agency failed to meet public expectations by failing to issue regulations which are essential to preserving public health and safety and the environment.

By delaying issuance of the RCRA regulations, EPA may be compounding its problems by allowing those who dispose of wastes in an unsafe manner to continue to do so. Additionally, those companies which are in the waste disposal business are hesitant to invest in new equipment for fear that the new facilities will not meet EPA standards when the regulations are promulgated in 1980. Also, since the laws concerning dumping now in effect are State laws rather than Federal laws, States with strict dumping regulations are hurting themselves because industries are moving to those States with weak laws so that they can dump without penalty.

EPA must issue its regulations as expeditiously as possible because, as I said in my opening remarks, industry and technology are here to stay. We cannot wish these wastes away—that is impossible; furthermore, they will not go away—they will only increase exponentially in future years. Thus, in order to prevent landfill operators from being able to conduct their businesses in an irresponsible manner, EPA must regulate. The public fears the placement of these landfills in its own backyards because for the most part they have only experienced landfills which have created serious health and environmental problems for the surrounding areas due to a lack of regulation of the landfill's activities.

We cannot allow the public to remain fearful, because the solid waste landfill must exist as long as our society continues to manufacture products which are made from toxic materials which are nonbiodegradable. We can only stem the legitimate fears of the public if we insist that the solid waste producers, handlers, haulers, and landfill operators be forced to conduct their businesses in the safest manner known to man.

The Love Canal in the city of Niagara Falls is a prime example of a "ticking timebomb"—an abandoned landfill full of toxic substances. If RCRA had been on the books and had been enforced during the 1940's and 1950's when the indiscriminate dumping occurred in the canal, then we would not have had this "ticking timebomb" explode literally in the faces of so many people. If we are to prevent future Love Canals, then EPA must act and act immediately. Congress has passed a law which can at the very least protect the public from future disasters resulting from toxic wastes being produced and buried in the ground. However, without enforcement from the regulatory agency, the law remains meaningless.

RCRA is not perfect—but it is a good step. Next year Congress will be taking another look at RCRA when it comes up for reauthorization. We, as legislators, will have to ask many questions and consider many issues which have come to light as a result of the 1976 act. I plan to take an active role in Congress in the reevaluation of the law and during the legislative process.

Many of the problems which we will have to ponder have been put forth in articles by Michael Desmond which have been published recently in the Buffalo Courier-Express. I am inserting these articles in the RECORD so that my colleagues can also be aware of the difficult and perhaps tragic future we face if we do not act immediately to protect our citizens from the perils of improper treatment of toxic wastes from the "cradle to the grave."

[From the Buffalo Courier-Express, Sept. 16, 1978]

TOXIC WASTE DUMPS PERIL NATION—LOVE CANAL HAZARD IS SMALL PART OF NATIONAL PROBLEM

(By Michael Desmond)

There is a sea of hazardous chemicals washing across this nation, a sea which provides a huge threat to the health of present and future generations, an extensive investigation by The Courier-Express has discovered.

The U.S. Environmental Protection Agency (EPA) estimates 5.6 billion pounds of hazardous waste is properly disposed of each year. That is only six percent of the estimated 92 billion pounds of hazardous waste actually generated each year.

That leaves 86.4 billion pounds to peril the nation's populace.

Despite the clear numbers they are really guesses: No one knows what the real figures are.

The EPA estimates there are 20,000 dump sites for hazardous materials operating now, but has no idea how many other thousands have been used and closed. The former dumps may be at least as dangerous as the present ones. And no one knows how long a "secure" dump site will remain safe—a year, a decade, a generation.

NEW CHEMICALS

No one knows what to do about the new chemicals produced by industry each year.

There are thought to be 1,000 new chemicals born each year, on top of, the 70,000 which already exist, and no person or agency knows how to dispose of many of them safely and permanently.

In the Middle Ages, alchemists tried to turn base materials into gold. In a religious and superstitious age, the alchemists were playing in a field reserved to God.

Today, scientists are also alchemists. They take oil and gas and water and salt and burn them into profitable chemicals and plastics and textiles.

LEGACY OF POISON

But, behind them, they are leaving a legacy for untold generations. The waste materials of an industrial age are seeping into the air we breathe, the water we drink and the land on which we grow our food.

Once, people could flee a flood by going to the nearest high grounds and watch the furious waters simply lash unavailingly at them. In the industrial age, there is no high ground. Witness:

In an industrial area outside the small town of Washington, W. Va., workers at the L. B. Foster metal pipe manufacturing plant were shocked to discover the ground exploded if they tried to dig into it. No one was injured. Research disclosed that tract had been used in 1969 by Carborundum metal and radioactive ore from a nirconimum tube manufacturing plant. When Foster bought the site two years ago, it was a cornfield.

At a road intersection in the farm country of central Ohio, near Akron, a visit by The Courier-Express found thousands of drums and tanks of chemicals sitting on a former strip coal mine. They contain everything from paint thinner to a complicated chemical used to make the deadly pesticides Mitex and Kepone. The site isn't even fenced.

In the *aging industrial city* of Lowell, Mass., waste from a mismanaged waste treatment site is contaminating a river used downstream for drinking water. Chemicals found in the Merrimack river include two chemicals which cause cancer in laboratory animals, chloroform and dichloroethylene.

In Bayou Sorrel, La., a few weeks ago, a 19-year-old boy was killed when caustic chemicals he was dumping from a tank truck into a lake of chemicals reacted together producing a deadly gas. He died almost immediately. Government investigators were initially denied admission to investigate by the operator of the lagoon.

Not far from Bayou Sorrell, a 100-square-mile area around Darrow and Geismar was contaminated with the toxic chemical hexachlorobenzene several years ago. The material was dumped on the land and cattle were contaminated after they grazed on grass growing out of the soil.

Waste from the Rocky Mountain National Arsenal near Denver has contaminated 50 square miles of underground water, damaged 6.5 square miles of farmland and may have caused earthquakes. The Defense Department recently estimated it will cost $78 million to clean up the mess.

In Muskegon, Mich., a chemical company went broke. A subsequent site examination by a purchaser and the State Department of Natural Resources turned up thousands of drums of chemicals stashed in the woods behind the plant.

In the desert of southwestern Idaho, near Boise, Wescon Inc. has taken over a Titan missile silo and turned it into a giant mausoleum for dangerous wastes. Already, giant blast doors intended to protect missiles against atomic blasts have been closed over several silos of waste • • •.

A "midnight hauler" dumped toxic chemicals called PCBs along 250 miles of road near Raleigh, N.C., in early August.

In the Gulf of Mexico, along the Gulf Coast of Louisiana and Texas, drums apparently containing metallic sodium waste, have turned up in fishing nets. Some have exploded, wrecking nets and killing at least one fisherman.

In the chemical industry center of Niagara Falls, an abandoned chemical waste dump in the city's Love Canal neighborhood began to leak cancer-causing chemicals less than 25 years after the best technology of the day was used to seal it. This is what prompted the extensive look by The Courier-Express into the entire hazardous situation.

WIDESPREAD HAZARD

"I'm sure all the states are going to be facing these kinds of problems," commented Tom Cook, hazardous waste section chief for the Washington State Department of Ecology.

Hazardous materials can turn up anywhere. A once thriving fishing industry in Virginia's James River and in parts of Chesapeake Bay has been crippled by the inteneely dangerous pesticide Kepone. This material leaked out of two manufacturing plants in Hopewell, Va. Some of it was simply dumped down the drain.

Subsequently, an EPA-report cited Life Science Products Co. for its "careless manufacturing and disposal practices" which led to "deleterious health effects on the production workers" of the Hopewell sewage treatment plant.

SHAKING PALSY

Many workers at the Life Science and the Semi-Works Plant of the Allied Chemical Corp., nearby, may never recover from a shaking palsy or the internal damage brought on in making the pesticide.

The pesticide Mirex has been found in significant quantities in Lake Ontario. Mirex and the Virginia pesticide were dumped from the Niagara Falls plant of the Hooker Chemicals and Plastics Corp. In addition, some scientists suspect natural action in the lake is turning some of the Mirex into Keponex.

Both are made from a chemical Hooker calls "C-56."

At a Hooker plant in Montague, Mich., a few miles north of Muskegon, waste material from the manufacture of C-56 was dumped on a site inside the plant not far from White Lake, a local source of water and recreation.

FOUND IN WELLS

The C-56 has turned up in wells in the immediate plant area and state officials say it is "migrating" toward White Lake.

Bruce Davis, executive vice president of the industrial chemicals group for Hooker, told The Courier-Exoress Mirex was never made, stored or handled in Montague. But, Mirex has been found in the dump site there.

There is speculation that somehow the C-56 molecules in the dump reacted together to form the dangerous Mirex.

More than two decades ago, the pesticide 2.4-D mysteriously turned up in ground water at Rocky Mountain arsenal. The 2.4-D

apparently was produced deep in the earth from a variety of pesticide and chemical warfare wastes dumped into lagoons on arsenal grounds.

DEEP WELL

After the lagoons were found to be defective because they leaked, the Arsenal drilled a well more than two miles into the ground and over a three year period pumped 165 million gallons of the wastes into the ground.

A series of earthquakes in the area began shortly after the waste began to be pumped down the well. Some scientists think the material in some way lubricated rock and caused the quakes.

This is the subject of wide dispute. However, EPA noted in a report on the waste problem at Rocky Mountain Arsenal, "Correlation of the injection of large volumes of liquid into the well with earthquakes in the Denver area caused this operation to cease in 1966."

PAYS PIPER

An industrial society is now paying the piper for the chemical wonders which surround us. * * *

* * * Without adequate federal regulation, states can attract industry by not checking too closely what industries are doing with their waste.

Some unscrupulous persons or companies proclaim themselves to be waste treaters or haulers and haul the waste off into the night, to dispose of the material by the side of the road, into regular garbage dumps or into scenic areas like the sandy forests of the Pine Barrens of southern New Jersey.

As long as industrial waste is produced, it has to go somewhere.

Perhaps the most truthful response to what happens then came from Burke Lokey, a public health engineer with the Radiation and Hazardous Waste Contamination Division of the Colorado Health Department.

He said, "We don't care as long as they take it out of states."

[From the Buffalo Courier-Express]

BEHIND SCHEDULE IN WRITING RULES

(By Michael Desmond)

The federal Environmental Protection Agency is so snarled in its own bureaucracy that it apparently has not yet realized it is at war with a deadly enemy: The mountains and rivers of toxic wastes that are threatening the nation's health and safety.

There is no other way to explain why fewer than 200 of EPA's nearly 11,000 employees have been mustered to fight the chemical foe.

The building in which the EPA is located in Washington, D.C., is a perfect match for the agency—almost totally confusing.

The structure, called the Waterside Mall, is a mixture of two towers with a low slung office and shopping section connecting them. Visitors are issued maps to try to help them around the complex and EPA workers admit they frequently get lost themselves.

EPA is a young agency with burgeoning responsibilities. It is supposed to do everything from checking gas mileage on cars to controlling the dumping of hazardous chemicals into the environment.

UNDER ATTACK

Nearly everything the agency does is controversial. Industry attacks EPA because proposals are too expensive. Environmentalists attack EPA because the agency isn't moving fast enough. Citizens attack EPA for not doing something about myriad problems.

And, even in an era of big government, EPA is big government.

Douglas M. Costle has been administrator of EPA since March 5, 1977.

In the federal fiscal year which starts Oct. 1. EPA will spend $1.2 billion. There are 10,946 budgeted EPA employes. Yet, only $25.2 million will be for hazardous wastes, and only 161 workers—in headquarters and in the 10 regional offices—are working on the problem. Of the $25.2 million, $15 million is going to the states to help them look into the problem.

Environmental groups have sued EPA for administrative sloth. On April 21, the agency was supposed to release regulations to put the Resource Conservation Recovery Act (RCRA) into effect. This was 18 months after President Gerald R. Ford signed the legislation into law. But EPA is 21 months behind schedule.

RCRA has three main goals. They are the encouragement of conserving resources rather than disposing of them; improving the disposal of all solid wastes to protect public health and environmental quality; and regulating hazardous wastes from generation to disposal. The laws encourage states to act on their own. But, if they don't EPA will enforce the act.

TARGET DATE

Gary Dietrich, associate deputy assistant administrator for solid waste for EPA, told The Courier-Express in his Washington office the current target for "promulgation" of the regulations is January 1980. He called that schedule "pretty damn tight" at the present rate of progress.

Neither the State of Illinois nor the dual group of Environmental Defense Fund (EDF) and Environmental Action (EA) have much sympathy for EPA.

Illinois Attorney General William J. Scott sued EPA on Sept. 7 over its failure to produce the regulation. He said:

"We've got to provide safe means for storage and disposal of toxic wastes in order to both serve our industry and to protect the health of citizens. We can do it, the law is on the books, and now is the time for the federal government and its employees to live up to the law and act." "The threat to health posed by hazardous waste is clear," said EDF Science Associate Leslie Dach.

"Unless properly taken care of, it will come back to haunt us and our children," the EDF official continued.

MAJOR PROBLEM

A. Blakeman Early, a legislative representative for EA, noted, "One major problem is that those disposal site operators who know they cannot meet EPA's regulations are loading toxic, poisonous wastes into their sites as fast as possible before these regulations are issued. The longer EPA waits to issue regulations, the more the toxic disposal problem grows."

Dach of EDF asked, "EPA acts as if the law were a meaningless scrap of paper. They sit around while nearly two billion more pounds of poisons are unsafely disposed of every week. How many more Love Canals do we need to get some action?"

The "Love Canal" refers to a former chemical waste dump in Niagara Falls. In 1976, for reasons which are not yet clear, the dump began to leak high concentrations of chemicals, some of which cause cancer in humans and laboratory animals. New York State is committed to moving 237 families away from the area and cleaning it up.

A number of other groups are expected to sue EPA over its failure to issue new, tough regulations.

LAW'S DELAY

Companies in the waste disposal field are reluctant to invest in new facilities to handle hazardous waste because they don't know if the facilities will meet the EPA regulations to be issued in 1980. Earlier proposed regulations have already been drastically changed and there will be more changes.

The money to go into hazardous waste management can be significant. Edward R. Shuster, vice president marketing sales for Newco Chemical Waste Systems, Inc., in Niagara Falls, told The Courier-Express it might cost $20 million to just build one incinerator which could properly handle the widespread pollutant PCB.

Carl Goslin, assistant technical director of the Manufacturing Chemists Association (MCA), in Washington, commented, "It takes $10 million to build a properly designed plant—at an offhand estimate." The MCA is the trade group for the great chemical companies.

There is no great rush into a field which remains so uncertain, without the final rules and regulations.

Much of the EPA effort has been fire fighting. Agency officials and workers are constantly being sent into areas where chemical situations have gone haywire.

In the old textile town of Lowell, Mass., a bankrupt chemical storage and treatment company site is leaking toxic chemicals into a nearby river which provides water for Lawrence, Mass., downstream. There are estimated to be 15,000 drums of a wide variety of chemicals on the site and hundreds of thousands of gallons of chemicals in storage tanks.

BIDS ASKED

Various chemical waste treatment companies have been asked for bids on cost of removal of the materials and cleanup of the site.

Even without the long-delayed regulations, EPA is stumbling into action. In the fiscal year which ends Sept. 30, the agency has given $3.8 million to states to survey chemical wastes and their ultimate disposal. In the fiscal year which starts Oct. 1, that will rise to $15 million.

According to Dietrich, EPA has to do this. "The statute it silent on inactive sites. It seems to deal with prospective problems," he noted. So, EPA is doing nothing itself about closed sites.

The view draws fire. Early, of Environmental Action, scoffs. "It's a reaction to a realization that there are more wastes out there than EPA can handle," he said. This group is part of the coalition which sued EPA on Wednesday

Some of the same groups sued EPA earlier over its failure to issue regulations under the Safe Drinking Water Act of 1974. Under a consent decree, the agency is still working to study a list of 129 pollutants.

CONTROL METHODS

EPA had been required to establish methods for control and analysis of toxic substances in waste water. When the agency failed to do it, it was sued. On June 7, 1976, EPA signed the consent decree agreeing to do what it was supposed to do.

Of the 129 chemicals, it has finally reached a decision on how it will analyze all of them. Now, it plans to start measuring them at various places around the country. Then, based on the results, rules and regulations will be written.

Since EPA can't meet various deadlines in the consent decree. Early commented to The Courier-Express, "It raises the question of what can be done with a lawsuit." He noted the agency is 18 months late on the consent decree.

Much of the problem is that many of these chemicals have been used for years, without anybody knowing very much about them. Now sophisticated procedures have to be used to set limits on them in water.

EPA is also facing some internal problems. Environmentalists claim some of its regions are not very active in dealing with the problems of hazardous chemicals.

One region often cited is that headquartered in Dallas which covers Texas, Oklahoma, New Mexico, Louisiana and Arkansas. This is the heartland of America's petrochemical industry.

Dietrich noted a recent telephone conference among all regional directors to discuss the hazardous waste situation and a planned meeting this month in Washington. He wants all regions active on the problem.

But, the regional structural weaknesses of EPA were clear when he commented, "We at EPA headquarters don't know how many hazardous waste sites there are out there." He said it was up to the states and the regional offices to know, but most of them don't know either.

In an admission that cuts to the heart of the entire problem, Dietrich said, "We don't know very much about where people are tossing hazardous wastes."●

NEED FOR COMPREHENSIVE, RATIONAL U.S. REFUGEE POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. EILBERG) is recognized for 5 minutes.

● Mr. EILBERG. Mr. Speaker, the House of Representatives will soon consider an amendment on Cambodian refugees brought back in technical disagreement by the conferees on H.R. 12934, a bill making appropriations for the Departments of State, Justice, Commerce, the Judiciary, and related agencies for fiscal year 1979.

As chairman of the Subcommittee on Immigration, Citizenship, and International Law, which has been grappling with this difficult issue since the Communist takeover in Indochina 3 years ago, I intend to oppose adoption of this amendment for many reasons. Further, I intend to propose alternative language which would establish a more reasonable and more effective approach to the serious refugee problem in Indochina.

Mr. Speaker, my subcommittee has been diligently working to have the administration develop for this country a long-range, coherent, and humanitarian refugee policy. I have communicated this need to the President in a letter to him earlier this year, which will be inserted following my remarks. As a result of these efforts, we have noticed some encouraging signs which indicate that the administration has finally recognized this need and is working toward the development of such a policy.

This amendment, Mr. Speaker, would, if adopted, frustrate much of these efforts by perpetuating, the current administration policy of approaching refugees issue in an "ad hoc," piecemeal fashion.

Mr. Speaker, I urge my colleagues to read the material which is inserted following these remarks and to give careful consideration to the deleterious effect adoption of this amendment will have on our efforts to establish a comprehensive and consistent refugee policy.

On the other hand, the language which I intend to propose if the Senate language is defeated, will enhance the past efforts of our subcommittee, and at the same time give special consideration to Cambodian refugees by recommending a review and revision of current refugee eligibility criteria.

I, therefore, urge defeat of the motion which will be offered by Congressman SLACK on behalf of the House conferees on H.R. 12934 and I request your support for the adoption of my substitute language.

COMMITTEE ON THE JUDICIARY,
Washington, D.C., August 7, 1978.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I remain deeply disturbed by the "ad hoc" response of the United States Government to refugee problems in general and to the Indochina refugee problem in particular.

I communicated this concern to you in a July 12, 1977 letter in which I stated that "it is imperative to end the haphazard, piecemeal approach which the U.S. has taken toward [Indochina] refugees." That same letter requested you to "take the lead in convening the nations of the world for an International Conference on Indochinese Refugees."

Based upon statements made last week by the Secretary of State during a meeting with the ASEAN ministers and my own discussions with the Foreign Ministers of Thailand and Malaysia, I continue to believe that such a Conference is essential in resolving this truly international problem. I therefore renew my request that the U.S. undertake immediate steps leading toward the convocation of a worldwide conference on this most serious problem.

I would also request that the Administration consider the urgent need for closer cooperation between the various Executive Departments involved in formulating and implementing administrative aspects of our refugee policies. Unfortunately, there appears to be little coordination between the Departments of State, Justice, and HEW in reaching decisions on: the number and categories of refugees to be admitted; the amount and method of funding their care and maintenance in asylum countries or their processing and movement to the U.S.; or the amount and type of assistance to be provided to voluntary agencies, to the States or to the refugees themselves to facilitate their resettlement in the United States.

For example, the Administration is now asking the Congress to once again extend the "Indochina Migration and Refugee Assistance Program" in a limited, "stopgap" manner. In my judgment it is unreasonable and inefficient to propose such an extension and at the same time support a continuing admissions program of 25,000 Indochina refugees per year. Certainly, the issues of refugee admissions and resettlement funding cannot and should not be separated—even though we have done so in the past. In order to promote a comprehensive, coordinated and unified approach to the Indochina refugee problem these matters must be submitted to, and considered by, the Congress simultaneously. It makes little sense for the Judiciary Committee to concur in the use of parole for certain Indochina refugees, when no monies exist to process, transport and resettle that group of refugees.

My concerns on this subject are shared by the ranking minority members of the full Judiciary Committee and the Subcommittee on Immigration, Citizenship and International law, which I chair. In fact, our views were expressed in a June 1, 1978 co-signed letter to the Attorney General regarding the use of parole for 25,000 Indochina refugees. In that letter we stated:

"We are also troubled by the lack of coordination in the Executive Branch in the development of policies and procedures for admitting and resettling Indochinese refugees. Apparently, decisions on the admission of refugees are finalized without adequate planning on the resettlement of such refugees. In our judgment, the presentation of detailed cost data and the submission to Congress of a definitive legislative proposal on financial reimbursement to State Governments would have greatly assisted us in our consideration of this parole request. Decisions to admit refugees must not be made in a vacuum. They must be accompanied by carefully-developed plans designed to facilitate their resettlement in this country."

This view is apparently shared by the House Committee on Appropriations, particularly its Subcommittee on Foreign Operations, chaired by the Honorable Clarence Long. In that Committee's report on H.R. 12931, the Foreign Assistance and Related Programs Appropriation Bill, 1979, it was stated:

"With the fiscal year 1980 justifications, the Administration must submit to this Committee a five year financial projection of the Indochinese program. This must include, at least, the numbers of refugees involved, those costs to be borne by this account and the Department of Health, Education, and Welfare. Further the Administration must submit evidence to this Committee that officials of the Department of HEW are participating at these preliminary stages, are cognisant of the ultimate costs and support this further admission of these refugees. Finally, the Administration must provide detailed documentation or testimony proving that they are working to achieve broader world support for these refugees."

I would therefore urge you to personally insure that these issues are better coordinated in the future and—if necessary—to establish a formalized mechanism in the White House to accomplish this objective. I strongly believe that these congressional concerns can only be alleviated if we receive the full support and cooperation of high-level officials from your Administration.

I am hopeful that such support could also extend to the enactment of comprehensive legislation on this subject, as well as to the convening of the International Conference on Indochina Refugees, mentioned earlier in this letter.

I can assure you, Mr. President, that I am committted to the establishment of a coherent, long-range and coordinated refugee policy for this country. I know that you share this view and I am most anxious to work with you and your Administration in accomplishing this humanitarian goal.

Sincerely,

JOSHUA EILBERG,
Chairman.

COMMITTEE ON THE JUDICIARY,
Washington, D.C.

Re: Cambodian Refugee Amendment in Conference Report on H.R. 12934

DEAR COLLEAGUE: Very shortly, the House of Representatives will be considering an amendment on Cambodian refugees brought back in technical disagreement by the conferees on H.R. 12934, the bill making appropriations for Departments of State, Justice, Commerce, the Judiciary and related agencies for fiscal year 1979.

The amendment recommended by the conferees is the result, and tracks the language, of a nongermane Senate amendment to H.R. 12934. Specifically, it expresses the sense of the Congress that the Attorney General exercise his parole authority under the Immigration and Nationality Act to admit, over a two year period, 15,000 Cambodian refugees presently in camps in Thailand. This amendment arises out of a deep concern, which I am sure all of us share, over the ruthless and brutal treatment of Cambodian citizens at the hands of Communist leaders in that country.

However, as Chairman and ranking minority Member of the Subcommittee on Immigration, Citizenship, and International Law, we are constrained to oppose this amendment. In our judgment, there are several reasons why this amendment must be defeated.

First of all, the amendment, while well-intentioned, will do absolutely nothing to

relieve the horrible suffering of millions of Cambodians who have been unable to escape from that country.

Secondly, the amendment will be detrimental to the efforts of our government to establish a reasonable, humanitarian and long-range refugee policy. Its effect would be to perpetuate the past policy of responding to refugee problems in an "ad hoc", piecemeal fashion. In fact, this amendment comes at a time when most interested parties from the Legislative and Executive Branches and from the private voluntary agency sector are agreed that we must have a carefully-developed, comprehensive, national refugee policy.

Thirdly, the amendment could clearly impede our efforts to "internationalize" the Indochina refugee situation—a development we believe is vital to any satisfactory resolution of this most serious problem.

Based upon a close scrutiny of this problem over the past three years by our Subcommittee and recent discussions that we have had with the Foreign Ministers of Thailand and Malaysia, we continue to believe that an International Conference on Indochina refugees among interested countries must be convened. It is imperative that we focus the attention—and the conscience—of the world community on this difficult problem in an effort to foster greater international cooperation and to increase resettlement opportunities for all Indochina refugees.

Finally, this amendment severely undermines the policies and procedures which have been established for the admission of Indochina refugees. These policies (including the selection criteria) have been developed by the Executive Branch following close consultation with Members of the House Judiciary Committee and the Subcommittee on Immigration, Citizenship, and International Law.

As a result, the current eligibility criteria gives priority to those who have had some past association with the U.S. or who are related to persons residing in this country. Special priority is also given to those refugees who find themselves in a particularly precarious position, such as Vietnamese "boat case" refugees who continue to be pushed "back to sea" by many countries in Southeast Asia.

It should be pointed out that the plight of the 15,000 Cambodian refugees in Thailand (notwithstanding the severe hardship which they have endured and escaped from) is indistinguishable from that of the over 100,000 Laotian refugees there, in terms of their humanitarian needs and their desire for permanent resettlement opportunities.

Rather than adopt an inflexible and absolute program to admit all Cambodian refugees, the preferable approach woud be to recommend review and revision of the current eligibility criteria applied under the present U.S. program in order to give special consideration to the unique situation presented by the Cambodian refugees in Thailand.

In order to carry out the views expressed in this letter, it is our intention to offer the following substitute amendment:

Sec. 605. It is the sense of the Congress that—

(1) the Attorney General, in consultation with the Congress, should develop special eligibility criteria under the current U.S. parole program for Indochina Refugees which would enable a larger number of refugees from Cambodia to qualify for admission to the United States;

(2) the Secretary of State should undertake immediately steps leading to the convening of an International Conference on Indochina Refugees; and

(3) the Attorney General and the Secretaries of State and Health, Education and Welfare should submit to the Congress, at the earliest possible time, a unified position on legislation which would establish for the United States a comprehensive and long-range policy for admitting and resettling refugees.

This substitute amendment can only be considered if the motion offered by Congressman Slack (to agree to the amendment suggested by the conferees) is defeated. We, therefore, urge your support for defeating that motion and for approving our substitute amendment.

Sincerely,

JOSHUA EILBERG,
Chairman, Subcommittee on Immigration, Citizenship, and International Law.

HAMILTON FISH, JR.,
Ranking Minority Member, Subcommittee on Immigration, Citizenship, and International Law.

REPORT OF THE SPECIAL COMMITTEE ON SOUTHEAST ASIA

(Mr. MONTGOMERY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MONTGOMERY. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

REPORT OF THE SPECIAL COMMITTEE ON SOUTHEAST ASIA, SEPTEMBER 7, 1978

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 7, 1978.

Hon. THOMAS O'NEILL,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: On behalf of the members of the Special Committee on Southeast Asia appointed by you on August 16, we are transmitting to the House of Representatives a copy of the Committee's final report. The statements and recommendations included in this report are the result of our study of Southeast Asian matters, our own observations, as well as in-depth talks and discussions with high-ranking officials in the countries of Vietnam and Laos.

We believe that the trip was beneficial and necessary and feel that the information we brought back will be most helpful to our Government.

We appreciate your assistance as well as that of the other individuals directly involved in our efforts.

Sincerely,

G. V. MONTGOMERY,
Chairman.

JAMES T. BROYHILL,
Ranking Minority Member.

INTRODUCTION

In response to the invitation of the Vietnamese Vice Minister of Foreign Affairs, Phan Hien, a congressional delegation travelled to Vietnam and Laos during the period of August 18 to 28. Appointed by the Speaker of the House of Representatives, the delegation consisted of eight members: G. V. Montgomery (D-Miss.), George Danielson (D-Calif.), Antonio Won Pat (D-Guam), John Murtha (D-Pa.), Sam Hall (D-Tex.), Ike Skelton (D-Mo.), James Broyhill (R-N.C.), and Henson Moore (R-La.).

The group prepared in advance to seek additional information about servicemen listed as missing in action and to receive views from Southeast Asian officials pertaining to matters of our mutual interest. The committee was, of course, not authorized to negotiate on behalf of the United States Government.

Prior to its departure on August 18, the group met with representatives of the Department of State, the Central Intelligence Agency, and individuals who had recently visited in these countries. From these meetings, the members received background material on the MIA issue, as well as available information on existing conditions and relations with Vietnam and Laos.

The group visited the Joint Casualty Resolution Center in Honolulu and was briefed on the ongoing work identifying remains. Admiral Maurice Weisner, Commander-in-Chief, Pacific, arranged for a briefing on Southeast Asian matters which was presented by CINCPAC officials, also in Honolulu.

During the stopover in Manila, Philippines, Ambassador Richard W. Murphy briefed the delegation on United States relations with the Philippine Government including the future of U.S. military bases in that country.

During the course of its stay in Vietnam, the delegation met with Prime Minister Pham Van Dong, Vice Minister Phan Hien on two occasions, Mr. Vũ Hoang, Director of Consular Affairs and their specialist in MIA matters, and Mr. Xuan Thuy, Vice Chairman of the National Assembly.

Other officials who participated in the meetings with Vice Minister Phan Hien were: Mr. Ngo Dien, Assistant to the Minister of Foreign Affairs for Press Relations; Mr. Tran Quang Co., Director of the North American Department, Ministry of Foreign Affairs; and Mr. Vu Song, Senior Official, Ministry of Foreign Affairs.

To provide additional background information on conditions in Vietnam, individual members of the group toured a hospital, a factory, a refugee center, and an orphanage, after our arrival in that country.

While in Laos, meetings with Mr. Khamphay Boupha, the Acting Minister of Foreign Affairs, H. E. Phoumi Vongvichit, Deputy Prime Minister and Minister of Education, and Mr. Sombat Chou Niamany, Director, Department No. 3, Ministry of Foreign Affairs, were held.

A number of American officials, as well as officials of other countries, with whom the delegation had contact expressed the feeling that the far eastern part of the Pacific was becoming a "forgotten area." They indicated that the United States seems to be overconcentrating its interests and efforts in other areas of the world, particularly in Europe and the Mideast.

The results of the mission and the delegation's findings are presented in this report and it is hoped that they will be useful to the Government and the people of the United States and will provide a basis for understanding our relations with the Southeast Asian nations.

The delegation wishes to express its thanks and appreciation for the full cooperation and assistance given by the Department of State and Department of Defense without which the mission could not have been accomplished.

Some members of the committee will issue statements including additional views.

MISSING IN ACTION IN VIETNAM

A large amount of the time of the committee was spent working on the MIA issue with Vice Minister Phan Hien and Mr. Vu Hoang, Chairman of the Missing Persons Search Committee in Vietnam. Mr. Phan Hien announced at our first meeting in Hanoi that the Vietnamese search group had recovered 11 more American remains. He was emphatic in stating that all American POW's were turned over to the United States at the end of the war and that none were now being held. Prime Minister Pham Van Dong also denied that American POW's were being held in Vietnam. Our discussions with United Nations representatives, church groups, and the International Red Cross officials in Southeast Asia revealed it was their feeling that no Americans are being held captive in Vietnam or Laos.

The technical help and information gathered by the Vietnamese search personnel at the Identification Laboratory in Honolulu was instrumental in recovery of the 11 remains. Mr. Vu Hoang explained that the search for the remains is getting more difficult because of the time span and the location of the crash sites. He further explained that most of the sites in the fields have been investigated and the sites in the sparsely populated mountains and in jungles are very difficult to find.

Mr. Vu Hoang also stated that search teams are being organized for South Vietnam. He went on to say that the entire search effort is made more difficult because of the danger of unexploded mines and ordnance and that it is difficult to persuade citizens to continue to search.

We are still recovering American remains from World War II and it seems that the same thing will take place in Vietnam. It is a slow process and will take years. Only a small number of those missing might be recovered because of time, terrain, climate and losses at sea.

The delegation delivered to Mr. Vu Hoang 20 files relative to 37 missing individuals, including maps marking the crash sites. Mr. Vu Hoang stated that this additional information would be useful in continuing the search and that future discoveries or information would be passed on to the United States Government. The question was asked whether international search teams would be allowed to come into the country and the response was in the negative.

The committee asked Mr. Phan Hien to permit representatives of MIA families to visit Hanoi to meet and talk with Vietnamese MIA officials. Mr. Hien said that he would certainly take the matter up with the Prime Minister. The committee strongly urged that this group be permitted to visit Vietnam.

The committee agrees with the conclusions of the House Select Committee on Missing Persons in Southeast Asia and the findings of the Woodcock Commission that no Americans who fought in Vietnam are being held as captives. With regard to those Americans still listed as missing in action or prisoners of war, the committee also endorses the prior recommendation that the Department of Defense should, in the best interest of the families and the American people, proceed expeditiously with status change.

MISSING IN ACTION IN LAOS

The committee feels that the Lao Government's efforts in asking villagers to look for crash sites and turn over any remains recovered is a breakthrough in our previous attempts to gain information from Laos about servicemen still listed as missing in action whose remains may yet be found. The turning over of four remains to our committee can be seen as a humanitarian gesture.

It was indicated that as villagers report any information to Vientiane in the future, it will be turned over to our Government through the embassy in Vientiane. However, many factors make the recovery of remains very difficult—terrain, lack of roads, wild animals and sparseness of population in many areas.

Lao official indicated that unexploded bombs and other ordnance was a serious problem in their farm areas and was a deterrent in the search for remains. They said over 50 of their people had been killed by explosions of these items. Those officials requested assistance in the form of equipment to rid the areas of bombs and other ordnance but showed reluctance in considering assistance in the form of bomb disposal technicians. They were advised their request would be passed on to the Departments of State and Defense.

The Acting Prime Minister told the committee that no Americans are being held as prisoners of war and that all prisoners were released in 1973.

The committee suggested that it would be helpful to the Lao Government to send a group to the Joint Casualty Resolution Center in Honolulu as the Vietnamese had done. In addition, we informed them that the Vietnamese had indicated they would give technical assistance or other help to the Lao in searching for MIA's if it were requested.

To assist them in their future efforts, the committee left 10 files including crash sites and maps of exact locations where 25 men were downed. It is hoped that this information will be helpful in recovering more remains.

RECOVERY OF REMAINS

The committee feels that the recovery of remains by countries in Southeast Asia is a humanitarian issue and should never be linked with other matters between the United States and the Vietnamese and Lao.

The committee also believes that Vietnam and Laos are making efforts to recover remains.

Henceforth, it would be appropriate that the return of remains of Americans should be handled by the military in a dignified and regular manner. The Department of Defense, through the Joint Casualty Resolution Center, and the Department of State should be the two agencies responsible for working with the Vietnamese and Lao in their search and recovery activities.

FOREIGN POLICY

The following report is based upon conversations with numerous officials in the Vietnamese Government, including the following:

Mr. Pham Van Dong, Prime Minister;

Mr. Phan Hien, Vice Minister of Foreign Affairs;

Mr. Xuan Thuy, Vice Chairman, National Assembly of Vietnam;

Mr. Hoang Minh Giam, Member of the Standing Committee of the National Assembly and Chairman of the Committee on Foreign Relations;

Mr. Ngo Dien, Assistant to the Minister of Foreign Affairs and former Vietnamese Ambassador to Kampuchea; and

Mr. Tran Quang Co, Director of the Department of North American Ministry of Foreign Affairs.

Repeatedly throughout our discussions with the senior officials of Vietnam they stated that the foreign policy of Vietnam is to maintain "independence and sovereignty" and that every matter will be settled on that basis. They claimed that no one will be permitted to encroach upon that independence and sovereignty, which will be defended at any cost. "We are masters of our land," declared one top-echelon official.

The committee was told that all countries having diplomatic relations with Vietnam will be treated the same; that Vietnam seeks friendly relations with all nations, including China and the United States.

Officials stated that in the immediate past, the world perceived that Vietnam had the same relationship with the Soviet Union as with the People's Republic of China, but now that tensions exist between Vietnam and China, many people think that Vietnam has moved closer to the Soviet Union. They claimed that this is not the case and insisted that Vietnam seeks friendly relations on the same basis with all nations.

When asked what would be their policy if Vietnam's situation with China worsened, a senior spokesman replied that hopefully the situation will not worsen. However, he pointed out that although Vietnam has 60 million people and China has 1 billion, Vietnam is determined to defend her independence and sovereignty. He went on to maintain that in extreme circumstances the people of China would rise up against their leaders and world opinion would be against them should they attack Vietnam.

Vietnam and Kampuchea (Cambodia)

Vietnam acknowledged a serious border situation with Cambodia. Vietnam officials asserted that "we have no troops in Cambodia," and charged that Cambodia has occupied Vietnamese territory at 14 points along the border. Vietnam contends that Cambodia has increased her army from 3 divisions of 5,000 to 6,000 persons each in April 1975 to a present strength of 20 divisions which they maintain are well-equipped and well-trained. However, they asserted that these divisions include troops as young as 13 years of age. The charge was made that Cambodian forces are equipped and trained by the Chinese and have new, sophisticated Chinese artillery (130 millimeter). However, the Vietnamese alleged that the Cambodian forces are not able to fully utilize their modern weapons.

The Vietnamese stated that some days at the Cambodian border are quieter than others, but that there is some shooting every day. (Committee members heard the sound of distant heavy artillery while visiting a camp for Cambodian refugees near Ben Sang on August 24, 1978.) The committee members saw Vietnamese soldiers, tanks, and trucks moving near the border, but there was never any direct observation of combat operations.

International organizations

The Vietnamese informed the committee that they will participate in any international organization "provided our independence and sovereignty are respected" and that Vietnam will do "whatever is beneficial."

Vietnam has not joined ASEAN (Association of Southeast Asia Nations) but told us that Vietnam is trading with the ASEAN nations on a bilateral basis. Some ASEAN countries are assisting in economic development where they have an interest. For example, Malaysia is helping with the development of rubber production.

When asked why Vietnam joined COME CON (Communist East European countries), they replied that they joined because COME CON is helping them with direct aid and long-term credits to purchase needed supplies which they maintain is in the interest of Vietnam.

Foreign military bases in Vietnam

The committee closely questioned the Vietnamese officials as to whether there are Soviet bases at Haiphong and Cam Ranh Bay. The officials replied directly and emphatically that there are no Soviet bases at Cam Ranh Bay or elsewhere in Vietnam and that there are no plans for any in the future. They pointed out that at no time had they permitted foreign bases in their territory during the period of the war and that now the war is over and they have their independence and have weapons, there is no need to have such foreign bases in their territory.

The committee requested to go to Cam Ranh Bay but were not permitted to do so. However, from reliable sources it seems that Russian forces have not occupied Can Ranh or Haiphong.

Vietnamese troops in Laos

In reply to questions as to why there are Vietnamese troops in Laos, the Vietnamese stated that there is a legal basis for the presence of their troops in Laos; that there is a treaty of "peace, friendship, and cooperation between Vietnam and Laos"; and that Vietnam is assisting Laos economically by using troops to build roads and bridges in reconstruction. The committee was told by reliable sources that there are Vietnamese military forces being used against insurgents in certain parts of Laos.

United States-Vietnamese normalization

The committee members emphatically told the Vietnamese that the Congress would not provide reconstruction aid to Vietnam and that there could be no such preconditions to normalization of relations between the two countries. Committee members cited recent votes in the Congress to back up this assertion. In reply, the Vietnamese officials

stated that neither country should impose conditions on the other in negotiating a return to normal relations. They said that normalization should be of benefit to both parties and that solutions should be found which would be acceptable to both sides. "We know how to be flexible," they said.

NORMALIZATION OF UNITED STATES AND VIETNAM RELATIONS

It is our opinion there has been a dramatic and fundamental change in attitudes by the Vietnamese Government toward the United States Government.

During our conversations with Mr. Phan Hien. Vietnamese Vice Minister of Foreign Affairs, and other high Vietnamese officials, they clearly expressed a desire to normalize relations between the United States and Vietnam as soon as possible.

Mr. Phan Hien indicated he hoped for results by their rice harvest time (November). He further indicated that the previous precondition position of reconstruction aid was no longer valid or necessary. He expressed the view that negotiations should resume as soon as possible and that it would be in the mutual interest of both countries.

One conclusive indication of their desire is their cooperation in establishing a permanent team to help recover MIA remains. They returned eleven additional remains to the delegation. Another indication of cooperation in this area is the recent release of 27 American dependents to the United States.

Mr. Phan Hien also assured the delegation that they would continue to work on the American dependent refugee program (wives and children of American servicemen in Vietnam) and resolve this issue expeditiously.

In our opinion there are two compelling reasons for the change in Vietnamese attitudes toward the United States and their strong desire for normal relations:

(1) The recent change in Vietnamese-Chinese relations; and

(2) Their need for food, raw materials, insecticides, fertilizers, machinery, technical help, and equipment by means of full and open trade.

In light of these changes, the U.S. State Department should consider resumption of talks with Vietnam concerning possible normalization of diplomatic relations. We point out that whether or not our State Department should enter into talks is a decision of the administration. It should make this decision in light of what is best for the United States.

GENERAL COMMENTS CONCERNING LAOS

There was a marked change in the attitude of the Lao Government toward the United States Government. Although we still have lower level diplomatic ties with Laos, there is apparent interest in strengthening their relations with our country. Previously, the several attempts to learn about downed American fliers met with no response. On this occasion, however, the Lao Government delivered the remains of four American fighting men to the committee and expressed an interest in assisting in the recovery of additional remains. When this delegation left the Washington airport on its trip to Southeast Asia, the Lao Charge d'affairs in Washington came to the airport to wish us bon voyage.

Laos is poverty ridden. They are not as efficient in land use as are the Vietnamese. The business district in Vientiane is only partially open for trade or business. Flooding and drought have hampered agricultural production and a desire for greater production was expressed. Major flooding was occurring along the Mekong Delta during the visit causing major damage to crops and some loss of lives. Lao officials expressed appreciation for the rice that had already been committed to their country through the Humanitarian Aid Program.

We would be remiss if we did not mention the assistance and courtesy that the United States Charge d'Affairs George Roberts and his staff extended to us while we were in Laos. His cooperation and assistance enabled our delegation to meet with the appropriate Lao officials and complete its business within the limited time we were in Laos.

TRADE AND AGRICULTURE

From all reports and conversations, not only with Vietnamese leaders but with representatives of other countries, Vietnam is methodically exploring the possibility of trade with many countries of the world. The economic recovery of their nation is dependent on foreign nations' furnishing such commodities as machinery, cotton, rice, agricultural chemicals, as well as technology. The Vietnamese number one domestic priority is the development of their agriculture production which is not meeting current needs. They presently are a net importer of food (rice) and desperately need insecticides, fertilizer, and farm machinery to achieve self-sufficiency. However, their potential for export (coal, timber, oil, etc.) has not been developed sufficiently to generate hard currency to finance urgent needs.

It was indicated that concessionary or long-term loans would initially be necessary to finance their purchases from the United States. Vice Minister Phan Hien agreed that future oil production in exportable quantities could be a source of hard currency for trade. However, such trading arrangements would not be a precondition to establishing normal relations.

Though the ultimate benefit of trade with Vietnam may be years away and the volume dependent on whatever trading arrangements are made, the committee is of the judgment that the President should consider the issue of lifting the trade embargo in conjunction with his decision to extend diplomatic recognition to Vietnam and negotiations on these two issues should be considered concurrently.

OIL AND GAS

In speaking with Vice Minister Phan Hien concerning oil and gas exploration in Vietnam, he indicated the following:

The Vietnamese Government has established an oil and gas ministry to encourage and promote the development of these resources in Vietnam.

Also, there has been limited offshore and onshore operations in the Mekong Delta. However, production has not been in commercial quantities. The Vice Minister further indicated that onshore exploratory operations have also been conducted in North Vietnam.

Several companies located in Germany, Italy, Canada, France, and Australia have expressed an interest in exploration for oil and gas possibilities in Vietnam. An American company has contacted officials of Vietnam in Paris but the differences in policy and relations now existing between the United States and Vietnam prevented them from taking any further action in attempting to work out any program for oil exploration.

The Vice Minister made it clear that his country intended to enter into long-term exploratory arrangements with some company in the near future and that whenever such an oil and gas agreement was developed it would possibly be too late for other companies to become involved in its exploratory operations.

It was indicated that the oil recovered in Vietnam contains a sulphur content of less than two percent (2%).

The Vice Minister stated that Vietnam was at the present time purchasing oil from two sources—from the Soviet Union on a grant-in-aid basis and from the Mideast on a credit basis with a long-term payout.

It is obvious that Vietnam does not have the technical knowledge or the capital to enter into a development program of its own. It must depend on the expertise of the major oil companies to furnish the knowledge and the capital to commence such operations.

The delegation feels that the proper officials of our government should be advised of the declarations of the Vice Minister concerning the possibilities of oil and gas developments in Vietnam.

An important reason why the exploration for oil would be of great importance to the United States is that it would give our country another source of supply of this valuable and critical commodity. It would likewise furnish capital to the Vietnamese Government to purchase needed goods from the United States.

ADDITIONAL VIEWS OF HON. SAM B. HALL, JR., AND HON. IKE SKELTON

A comprehensive and thorough report of the delegation's visit to Vietnam and Laos has been filed. Additional views have been filed to Hon. Henson Moore, a member of the delegation. We have read both reports, and substantially agree with what is included in both reports.

We wish to add, however, that we do not advocate the normalization of relations with Vietnam.

We do wish to suggest that the U.S. State Department consider talks with that country regarding this matter. Any decision made by the State Department concerning such talks should be made for the best interests of the United States. The State Department should keep in mind that it is dealing with a dedicated Communist country and that relations with such country, under all circumstances, may very well not be in the best interest of the United States.

ADDITIONAL VIEWS OF HON. W. HENSON MOORE

Although I agree with most of it, I did not sign the committee's report because there are several conclusions with which I do not fully agree. I, therefore, think it necessary to express additional views.

The trip was as worthwhile as I hoped it could be. I have complete respect for the hard work and dedication of my chairman and colleagues. The success achieved was due to the leadership of Chairman Montgomery and the compatibility of the members. I very much enjoyed and profited by being one of them.

The Vietnamese and Lao were very cooperative and congenial. It was clearly in their interest to be so. They need our relations and presence to offset that of the departing Chinese. They especially need our economic help, since their economies are struggling, and the respectability recognition by the United States would bring. There is a lot in it for them.

I believe that our foreign policy should be concerned first and foremost with what is in the best interest of the United States of America. Therefore, the bottom line of this journey's findings should be consideration of what is in it for us? To answer this question, several points should be considered.

(1) *Normalizing Relations.*—The Vietnamese are a tough and dedicated people half of whom chose communism with the other half being "liberated" to it in derrogation of our cherished freedoms of person and property. They are led by shrewd and capable leaders. We can be sure that their every concern is for what is in their best interest. Our relations with them are unrealistic if we perceive their motives as anything more.

The benefits for us could be a reduction of present tension in that part of the world, prevention of excessive Soviet influence, and creation of an opportunity to influence Vietnam's future action. Normalization means recognition or an exchange of ambassadors which we have done with some Communist nations already.

These benefits could be outweighed by the negative. Most Communist nations have a history of trying to expand their influence if not dominate. The present regime appears no different as it conquered South Vietnam, controls Laos almost as a puppet, and in all probability has similiar designs on Cambodia. It has been reported that it supports insurrection in Thailand as well. Recognition could give respectability to such possible, but perhaps concealed, plans and cause concern to non-Communist nations. Recognition usually also opens the door to possible foreign aid. Vietnam needs aid and I remain opposed to it.

(2) *Soviet Bases.*—A fear has been expressed that Vietnam would grant the Soviets a naval base at Cam Ranh Bay which is definitely not in our interest. Normalized relations could, perhaps, insure that this would not occur, but I am convinced that Vietnam will not do so in any event. They did not grant bases during the war, so why now? Further, such action would appear most inconsistent with their expressed ardor for independence and would also exacerbate a deterioration of relations with China.

(3) *MIA resolution.*—This trip has succeeded in helping to convince the Vietnamese and Laos of the importance with which we hold this matter. Although there should be no direct connection between this issue and others, there is no question in my mind that the new interest we found in Vietnam and Laos is tied to others and that they have not yet given us all the information they could possess. Therefore, normalized relations and lifting the trade embargo would continue this new cooperation and contrary action could dampen this interest.

(4) *Trade.*—Vietnam badly wants us to lift the trade embargo as it is certainly in their interest. Their economy is foundering and both food and clothing is rationed. The problem is they have no money. They want to purchase items from us but they also want us to lend them the money on concessional or very favorable terms (40 to 50 years at 2–3 percent interest) or even outright grants to finance their trade. Since our Government has no surplus of funds, indeed a record debt, we would have to borrow the funds we lend them resulting in at least a substantial annual cost to us due to the interest differential, assuming they pay back all of the principal.

If all such loans or grants were required to be used to buy U.S. goods, it is possible that the cost could be offset by the profits earned and taxes paid thereon by the American producers of the items traded. We do need new export markets, but a careful economic analysis is needed since for the next foreseeable years trade with Vietnam would not be regular trade but subsidized.

(5) *Oil.*—If Vietnam has oil in exportable quantities, improved relations could result in American oil companies producing the oil and the United States acquiring a new source of imported oil. The more sources we have, the more secure we could be from future oil embargoes. Even with new relations, however, there is no present guarantee American companies would get the production rights, or even if they did, the United States would get any of the oil. A lot of "ifs" coupled with the fact we should not depend on a Communist nation for a strategic material cloud this as a benefit.

So what is in it for us? There are some possibilities, but it is not clear yet that even if all exist, they outweigh the costs. We should accept no proposition that is clearly not in our interest as much or more than theirs. And lastly, there is the important psychological factor that I do not believe our people are ready to deal with so recent an enemy unless it is overwhelmingly in our best interest.

I, therefore, conclude that it is too soon to make or infer such an affirmative finding.

CONFERENCE REPORT ON H.R. 11302

Mr. BROWN of California submitted the following conference report and statement on the bill (H.R. 11302) to authorize appropriations for environmental research, development, and demonstration for fiscal year 1979, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 95-1593)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11302) to authorize appropriations for environmental research, development, and demonstration for fiscal year 1979, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 5, 6, and 8.

That the House recede from its disagreement to the amendments of the Senate numbered 3, 7, 9, 10, and 11 and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

(1) $82,925,000 for water quality activities authorized under the Federal Water Pollution Control Act of which—

(A) $24,001,000 is for the Health and Ecological Effects program:

(B) $11,875,000 is for the Industrial Processes program;

(C) $5,539,000 is for the Monitoring and Technical Support program;

(D) $12,000,000 for the Public Sector Activities program; and

(E) $29,510,000 is for the Energy program.

(2) $11,998,000 for activities authorized under the Federal Insecticide, Fungicide, and Rodenticide Act of which—

(A) $10,798,000 is for the Health and Ecological Effects program; and

(B) $1,200,000 is for the Industrial Processes program.

(3) $20,150,000 for water supply activities authorized under the Safe Drinking Water Act in the Public Sector Activities program, including groundwater research.

(4) $12,782,000 for toxic substance control activities authorized under the Toxic Substances Control Act of which—

(A) $8,862,000 for the Health and Ecological Effects program;

(B) $720,000 is for the Industrial Processes program; and

(C) $3,200,000 is for the Monitoring and Technical Support program.

(5) $2,500,000 for radiation activities authorized under the Public Health Act, in the Health and Ecological Effects program.

(6) $159,952,000 for air quality activities authorized under the Clean Air Act of which—

(A) $37,414,000 is for the Health and Ecological Effects program;

(B) $6,000,000 is for the Industrial Processes program;

(C) $16,283,000 is for the Monitoring and Technical Support program; and

(D) $100,255,000 is for the Energy program.

(7) $11,912,000 for solid waste activities authorized under the Resource Conservation and Recovery Act in the Public Sector Activities program.

(8) $4,000,000 for noise control activities authorized under the Noise Control Act of which—

(A) $2,000,000 is for the Health and Ecological Effects program; and

(B) $2,000,000 is for the Industrial Processes program.

(9) $36,285,000 for intermedia activities, of which—

(A) $7,500,000 is for the Health and Ecological Effects program:

(B) $25,000 is for the Public Sector Activities program;

(C) $14,900,000 is for the Monitoring and Technical Support program; and

(D) $13,860,000 is for the Anticipatory Research program.

And the Senate agree to the same.

Amendment numbered 2: That the House recede from its disagreements to the amendment of the Senate numbered 2, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

(d)(1) The Administrator shall continue to be responsible for conducting and shall continue to conduct full scale demonstrations of energy-related pollution control technologies as necessary in his judgment to fulfill the provisions of the Clean Air Act as amended, the Federal Water Pollution Control Act as amended, and other pertinent pollution control statutes.

(2) Energy-related environmental protection projects which were authorized to be administered by the Environmental Protection Agency in fiscal year 1978 shall not be transferred administratively or through budget amendment to the Department of Energy, nor shall funding for future years for the Environmental Protection Agency for such projects under this Act be reduced as a result of any present or proposed administrative or budget transfer. No action shall be taken through administrative or budgetary means to diminish the ability of the Environmental Protection Agency to initiate such projects.

And the Senate agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

(d)(1) There is authorized to be appropriated to the Environmental Protection Agency, for grants to qualified citizens groups in States and regions, $3,000,000.

(2) Grants under this subsection may be made for the purpose of supporting and encouraging participation by qualified citizens groups in determining how scientific, technological, and social trends and changes affect the future environment and quality of life of an area, and for setting goals and identifying measures for improvement.

(3) The term "qualified citizens group" shall mean a nonprofit organization of citizens having an area based focus, which is not single-issue oriented and which can demonstrate a prior record of interest and involvement in goal-setting and research concerned with improving the quality of life, including plans to identify, protect and enhance significant natural and cultural resources and the environment.

(4) A citizens group shall be eligible for assistance only if certified by the Governor in consultation with the State legislature as a bona-fide organization entitled to receive Federal assistance to pursue the aims of this program. The group shall further demonstrate its capacity to employ usefully the funds for the purposes of this program and its broad-based representative nature.

(5) After an initial application for assistance under this section has been approved, the Administrator may make grants on an annual basis, on condition that the governor recertify the group and that the applicant submits to the Administrator annually—

(A) an evaluation of the progress made during the previous year in meeting the objectives for which the grant was made;

(B) a description of any changes in the objectives of the activities; and

(C) a description of the proposed activities for the succeeding one year period.

(6) A grant made under this program shall not exceed 75 per centum of the estimated cost of the project or program for which the grant is made, and no group shall receive more than $50,000 in any one year.

(7) No financial assistance provided under this subsection shall be used to support lobbying or litigation by any recipient group.

And the Senate agree to the same.

GEORGE E. BROWN, Jr.,
JEROME A. AMBRO,
TIMOTHY E. WIRTH,
DOUG WALGREN,
WES WATKINS,
BOB S. WALKER,
EDWIN B. FORSYTHE,
Managers on the Part of the House.

JOHN CULVER,
EDMUND S. MUSKIE,
GARY W. HART,
MALCOLM WALLOP,
JAMES A. MCCLURE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11302), to authorize appropriations for environmental research, development, and demonstrations for fiscal year 1979, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying Conference Report:

The Senate amended the House-passed bill. The Conferees agreed to some of these amendments and in other cases disagreed to or amended the Senate amendments. The following paragraphs describe and explain the recommendations of the Conferees on a section-by-section basis. Generally, only changes are explained, but sections of the House bill not changed by the Senate amendments are indicated.

SECTION 1. SHORT TITLE

The short title was not changed and thus stands as passed by the House.

SECTION 2. AUTHORIZATION FOR APPROPRIATIONS

Section 2, Program Authorizations, was amended by the Senate and further amended by the Conferees. The Senate amendment was essentially a substitute for the House-passed version. This amendment had two principal effects: First, it related the research program activities to regulatory statutes. For example, water quality research was tied to the Federal Water Pollution Control Act. The Conferees agreed to this.

Second, the Senate amendment changed the funding levels for some of the program elements. The action of the Conferees with regard to each of these elements is described below along with other minor alterations.

The following table summarizes the amount of funds authorized by the conference recommendation.

COMPARATIVE TABLE—EPA BUDGET REQUEST, HOUSE AUTHORIZATION, SENATE AUTHORIZATION AND CONFERENCE AGREEMENT

	1979 request	House authorization	Senate authorization	Conference agreement
Energy:				
Health and ecological effects	55,200	70,000	*Senate bill and conference agreement split energy funds according to medium.	
Energy control technologies	57,820	65,370		
Monitoring and technical support	1,745	3,000		
Energy total	(114,765)	(138,370)	(115,765)	(129,765)
Air:				
Health and ecological effects	31,414	41,897	37,414	37,414
Industrial processes	5,000	13,610	5,000	5,000
Monitoring and technical support	16,283	16,283	16,283	16,283
Energy	*0	*0	86,255	100,255
Water quality:				
Health and ecological effects	21,001	25,001	24,001	24,001
Industrial processes	10,875	13,875	10,875	11,875
Public sector	10,940	15,214	10,940	12,000
Monitoring and technical support	5,539	5,539	5,539	5,539
Energy	*0	*0	29,510	29,510
Drinking water: Public sector	16,150	20,150	16,150	20,150
Solid waste: Public sector	11,550	11,912	11,595	11,912
Noise:				
Health and ecological effects			2,000	2,000
Industrial processes			2,000	2,000
Pesticides:				
Health and ecological effects	10,798	8,800	10,798	10,798
Industrial processes	1,200	1,200	1,200	1,200
Radiation:				
Health and ecological effect	930	2,500	1,930	2,500
Intermedia:				
Health and ecological effects	5,972	9,500	5,972	7,500
Public sector	25	25	25	25
Monitoring and technical support	14,900	14,900	14,900	14,900
Anticipatory	13,860	13,860	13,860	13,860
Toxic substances:				
Health and ecological effects	6,864	8,862	6,864	8,862
Monitoring and technical support	3,200	3,200	3,200	3,200
Industrial processes	400	150	1,440	720
Program management and support	23,060	23,060	23,060	23,060
Subtotal, program categories plus management and support	324,128	387,908	340,811	365,564
Special authorizations:				
Grants for long-term programs at universities	0	10,000	7,000	7,000
Sec. 403(d) Clean Air Act	0	3,000	3,000	3,000
Environmental research coordination study	0	[1] 2,000	[1] 2,000	[1] 2,000
Grants for futures studies	0	0	3,000	3,000
To National Bureau of Standards for environmental support and RCRA activities	0	5,000	5,000	5,000
Waste water reuse demo grants	0	25,000	15,000	15,000
Total	324,128	432,908	375,811	400,564

[1] $1,000,000 authorized each year for 2 yr; total $2,000,000 shown in table.

SECTION 2(a)(1) WATER QUALITY

(A) Health and Ecological Effects Program. The Conferees agreed to reduce the House-passed level by $1 million to $24,001,000. EPA requested $21 million.

The Conferees intend that $1,000,000 of the funds authorized be applied to the development of environmentally sound methods to control unwanted water weeds, and that funds be made available for the Great Lakes program and to study the effects of dumping waste in the oceans.

(B) Industrial Processes Program. The Senate authorized funds at the level of the EPA request, $10,875,000, while the House recommended an additional $3 million for extramural research to develop methods of controlling industrial non-point-source pollution. The Conferees agreed to recommend $1 million over the EPA request for this purpose, making a total funding level of $11,875,000.

(C) Monitoring and Technical Support Program. The House, Senate, and Conferees endorsed the EPA request of $5,539,000.

(D) Public-Sector Activities Program. The House bill included $15,214,000 for this program. This was $4,274,000 over the EPA request of $10,940,000, which was approved by the Senate. The Conferees agreed on a level of $12,000,000 with the increase to be used (1) to develop control technologies for urban runoff; (2) to fund work on innovative sewage treatment technology; and (3) to study various sludge disposal methods.

(E) Energy Program. The House bill conformed to the original EPA request which lumped all the energy research projects in EPA, together instead of allocating them between two functions—one part dealing with energy/air, the other dealing with energy/water. The Conferees adopted the Senate approach. However, neither the House, Senate nor Conferees recommended any change in the level of funding requested for energy/water research, which was $29,510,000.

SECTION 2(a)(2) PESTICIDES

(A) Health and Ecological Effects Program. The House had recommended $8,800,000. The Conferees agreed to recommend the Senate-passed level of $10,798,000, which was consistent with EPA request.

(B) Industrial Processes Program. The Conferees, the House and the Senate versions authorized the level requested by the Agency, $1,200,000.

SECTION 2(a)(3) SAFE DRINKING WATER

Public Sector Activities Program. The Senate bill included the EPA requested level of $16,150,000. The House bill added $4 million for groundwater research, and the Conferees agreed to this addition.

The Conferees intend that the increase for groundwater research be assigned to the Kerr Laboratory, but that particular research projects be conducted at various sites around the Nation. The research program should address problems that are widespread such as saltwater intrusion or leachate contamination and should be conducted in cooperation with local agencies where possible.

The Agency should also direct research efforts into areas of need created by its own regulatory actions.

SECTION 2(a)(4) TOXICS

(A) Health and Ecological Effects Program. The Senate bill recommended $6,864,000. The House bill added $1,998,000 for development of improved screening methods of testing for determining the toxicity of chemicals. The Conferees agreed to this augmented level of $8,862,000.

(B) Industrial Processes Program. For this research activity EPA requested $400,000. The House bill recommended a reduction to $150,000 based on the fact that the program had not been fully developed. The Senate bill included $14,400,000 for this program. Subsequently available information convinced the Conferees that this section deserves additional support, and thus the Conferees agreed to an authorization of $720,000.

(C) Monitoring and Technical Support. The House, Senate, and Conferees recommended $3,200,000, which was requested by the Agency.

SECTION 2(a)(5) RADIATION

The House recommended $2,500,000 for the Health and Ecological Effects program, an increase of $1,570,000 over the EPA request, to provide for additional work on health effects of microwave radiation. The Senate bill authorized $1,930,000. The Conferees agreed to the House recommendation.

SECTION 2(a)(6) AIR QUALITY

(A) Health and Ecological Effects Program. The House bill included $41,897,000, compared to the EPA request of $31,414,000. The Senate recommended $37,414,000 for this program, and the Conferees approved this level of funding.

The Conferees believe that the increased funds should be used to support rigorous long-term research for improving our understanding of the relationship between adverse health effects and air quality. The Conferees intend that a major study of air pollution in the Denver area be undertaken as well.

The level of funding includes $1 million to restore cuts in the ecological effects program. The Conferees recognize that as a result of recent legislation the Agency must give increasing support to health-related research. Nevertheless, the Environmental Protection Agency is the lead agency, and in effect the only Federal agency responsible for overall environmental quality. The Public Health Service, the National Institutes of Health, the Food and Drug Administration, and the Occupational Safety and Health Administration are all concerned with aspects of human health. It seems inappropriate for EPA to shift its research activities toward health issues completely, at the expense of other environmental research. In addition to simply de-emphasizing this important area of inquiry, such an approach ignores the wealth of information derived from basic ecological research that ultimately applies to human health problems.

(B) Industrial Process Program. The Senate bill recommended $5,000,000, while the House approved an increase of $13,610,000 for additional work on development of emission control technology. The Conferees agreed to add $1,000,000 to the EPA request of $5,000,000 for development of control technology, thus approving a $6,000,000 level.

(C) Monitoring and Technical Support. The House, the Senate, and the Conferees approved the EPA-requested level of $16,283,000.

(D) Energy Program. The House bill conformed to the original EPA request which lumped all the energy projects together instead of considering them as two factions—one dealing with energy/air, the other with energy/water. However, as previously noted, changes by the House and the Senate occurred in the energy/air program. Thus, the House bill recommended an increase of $23,605,000 over the EPA-requested level of $85,255,000. The Senate bill recommended a $1 million increase. The Conferees have accepted $100,255,000 for the air/energy program, an increase of $15 million over the EPA request.

The conferees intend that these funds be used for increased work on energy-related emission control technology and energy-related health effects.

The Senate had authorized an additional $1 million for studies related to emissions controls associated with and for operation of refuse-derived fuel (RDF) facilities such as that at Ames, Iowa. The House had no such provision, but accepted these additional funds so that emissions control technologies for the combustion of municipal solid wastes may be carefully monitored and developed.

SECTION 2(a)(7) SOLID WASTE

The Conferees accepted a House authorization of $11,912,000 for solid waste research programs. This figure is $362,000 above the EPA request and $317,000 above that contained in the Senate bill. The additional funds are to be used for engineering development in the area of resource recovery.

SECTION 2(a)(8) NOISE

The Senate authorized $4 million for research on health effects of excessive noise and on noise control technologies. The House had no such provision, and the Conferees agreed to the Senate figure.

SECTION 2(a)(9) INTERMEDIA

The House bill contained $9,500,000 for the Health and Ecological Effects program and the Senate bill had $5,972,000, which was the administration proposal. Conferees agreed to an intermediate level of $7,500,000.

The Conferees strongly endorsed the recommendations of the EPA/Science Advisory Board Ecological Advisory Committee for intensified ecosystem research. Effects of perturbations of ecosystems can be observed most readily from changes in populations of living organisms and from changes in ecosystem outputs, energy, chemicals, and water. Changes in the functioning of ecosystems (degradation and improvement) may be determined from these sensitive indicators. Therefore, it is vital to initiate research programs to provide this information, including studies of changes in numbers and diversity of species, productivity, and the flow and cycling of nutrients and other materials through marine, freshwater, and terrestrial ecosystems, both natural and perturbed.

Ecosystem research, including experimental manipulation, on natural areas has substantially demonstrated that such methods can show cumulative effects of a wide variety of man-caused perturbations, including acid rain, cultural eutrophication, soil erosion, and forestry practices. These have provided an understanding of the changes in important community characteristics caused by manipulations of the ecosystems within the drainage basins. Specific examples include studies of the mangrove forests of southern Florida and Puerto Rico, and the recovery of Lake Washington in Seattle.

The Conferees further recommended that research be conducted on socioeconomic aspects of pollution control in order to reduce the amount of active governmental intervention necessary to protect the public health and welfare.

SECTION 2(b) PROGRAM MANAGEMENT AND SUPPORT

This section provides budget authority of $23,060,000 for program management and support. This figure was identical in both bills and represents the administration request.

SECTION 2(c) TRANSFER OF FUNDS BETWEEN PROGRAMS

The Senate and House bills contained identical language pertaining to a restriction on the transfer of funds from one research program to another. It is unchanged in the Conference Report.

SECTION 2(d) TRANSFER OF POLLUTION CONTROL RESEARCH

The Office of Management and Budget, in a January 11, 1978 memorandum, proposed a transfer of $14 million in pollution control research from the Environmental Protection Agency to the Department of Energy (DOE). The Department of Energy was to transfer $14 million in health effects research to the Environmental Protection Agency. The Senate bill included a provision which prohibited the transfer of the $14 million energy-related control technology program from the Environmental Protection Agency budget. The House bill had no similar provision. The Conferees have agreed to a modification of the Senate language.

A similar transfer proposed in 1974 was opposed by the Congress at that time and, as a result, it was not completed. The Congress in the Energy Reorganization Act of 1974 (Public Law 93-438), which established the Energy Research and Development Administration, defined in very specific language the proper roles for the concerned agencies. This conference agreement restates that position by making clear that DOE is the lead agency for research and development of environmental controls for new energy technologies, and that EPA is the lead agency for research and development of environmental controls for existing technologies. In rejecting the January 11, 1978 memorandum, the Conferees want to stress the importance of giving both agencies the necessary statutory authority to work in cooperation with other federal agencies to improve environmental control technologies. It is not enough for the Environmental Protection Agency to maintain an ability to "assess" pollution control. Therefore, the Conferees direct that the $14 million in the President's budget for pollution control technology and research to which the OMB memorandum of January 11, 1978 referred, must be expended by the Environmental Protection Agency; the Conferees also recommend that no projects in the area of health effects research be transferred from the Department of Energy to the Environmental Protection Agency.

The Conferees believed it is unsound public policy to separate pollution control technology from pollution control regulation. Regulations should be based on sufficient research and adequately demonstrated techniques, so that the Agency can make informed and dependable decisions as to pollution control regulations. The proposed pollution control transfer does not serve the public interest.

The Conferees do not question the importance of the Department of Energy having a strong environmental component. However, it should neither replace nor duplicate EPA's activities. Full coordination between the Environmental Protection Agency and the Department of Energy should be required to assure that EPA's research capability is utilized.

Furthermore, a transfer of this kind could actually delay the development of essential pollution control technology for several years. The Environmental Protection Agency needs a substantial research, development, and demonstration program because of its statutorily mandated responsibilities.

SECTION 3. SPECIAL AUTHORIZATIONS

The Senate amended subsection 3(a) which authorized funds for grants to universities for long-term research. The House had recommended $10 million for this program, and the Senate amendment reduced this level to $7 million. The Congress accepted the latter figure.

Subsection 3(b), which authorized $3 million for a study authorized in the Clean Air Act Amendments of 1977, and subsection 3(c), which authorized a special study of the coordination and application of environtal research, were not changed by the Senate and therefore appear in the Conference Report in the same form as passed by the House and Senate.

The Conferees have agreed to a modification of subsection 3(d), which was a Senate provision establishing a program of 75-percent matching grants to qualified citizens groups to conduct futures studies of the environment and the quality of life on a statewide basis. It is the intention of the Conferees that this program be an extension of EPA efforts in public participation already

authorized in the regulatory process. The Conferees further intend that in-kind contributions shall not be applicable as non-Federal matching share for Federal funds.

The Conferees expressly require that the citizen groups be broadly representative in nature and not be single-issue oriented. The Conferees further require that no funds provided under this Act may be used for the purpose of lobbying or for litigation. The intention of these provisions is to assure that these groups will undertake studies and make recommendations on a board range of issues, but will not become single-issue advocates.

SECTION 4. OTHER AUTHORIZATIONS

Section 4 deals with authorization for funds for environmental research to be carried out at the National Bureau of Standards. It was not amended by the Senate.

SECTION 5. MISCELLANEOUS REPORTS

Section 5 requires that miscellaneous reports on research activities be made by the Administrator of the EPA to the Congress. It was not amended by the Senate.

SECTION 6. STAFF MANAGEMENT

The House and Senate bills each contained provisions which provide flexibility for the Agency in meeting its staffing needs. These sections provided authority for academic training programs, the use of postdoctoral researchers, and the use of research associates sponsored by industry. The Conferees agreed to a Senate amendment giving special emphasis to education and training programs for women and minority groups.

SECTION 7. REUSE OF WASTEWATER

The House bill included budget authority of $25 million for grants to demonstrate technologies or techniques to increase the availability of safe, high quality drinking water. This research could include the interception of high quality water destined for agricultural use, the use of that water in a city drinking system, and then a return of that water, after sufficient treatment, to the agricultural use for which it was originally intended. The Senate bill included $15 million for that program, and the Conferees agreed to that figure, along with language related to protection of public health.

For projects in which the reuse of water is for human consumption, as opposed to agricultural irrigation, the Agency should develop and promulgate guidelines or treatment requirements for mocrobiological, viral, radiological, organic and inorganic contaminants. These guidelines must provide an adequate margin of safety to prevent adverse health effects for persons reusing the water.

Research coordination

The Conference Report does not include section 6 of the Senate passed bill, dealing with coordination of ocean pollution research and development and monitoring. The Conferees concluded that the current interagency coordinating committee now developing the required plan and priorities for ocean pollution research is carrying out a process substantially similar to that contemplated under section 6.

This process was designed in response to the concerns of the Senate Committee on Environment and Public Works expressed in this provision. Therefore, since an apparently satisfactory process is in operation, the section is not necessary. If, however, the current coordination mechanism for ocean pollution research does not prove adequate, the Senate Committee on Environment and Public Works, which has jurisdiction over this subject, intends further legislation.

The Conferees caution the Administrator of the National Oceanic and Atmospheric Administration and the Director of the Office of Science and Technology Policy to perform the functions authorized under section (4)(b)(4) of Public Law 95-273 only as a result of the work of the interagency coordinating committee and in accordance with the priorities established by it.

GEORGE E. BROWN, Jr.,
JEROME A. AMBRO,
TIMOTHY E. WIRTH,
DOUG WALGREN,
WES WATKINS,
BOB WALKER,
EDWIN B. FORSYTHE,
Managers on the Part of the House.

JOHN CULVER,
EDMUND S. MUSKIE,
GARY HART,
MALCOLM WALLOP,
JAMES A. MCCLURE,
Managers on the Part of the Senate.

CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 683

Mr. GIAIMO submitted the following conference report and statement on the concurrent resolution (H. Con. Res. 683) revising the congressional budget for the United States Government for the fiscal year 1979.

CONFERENCE REPORT (H. REPT. No. 95-1594)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the concurrent resolution (H. Con. Res. 683) revising the congressional budget for the United States Government for the fiscal year 1979, having met, after full and free conference, have been unable to agree on a conference report because the conference decisions have adjusted certain budget figures and reduced total budget authority, outlays, the deficit and the public debt below the provisions enacted by either House. As set forth in the accompanying Joint Explanatory Statement, the conferees do propose a congressional budget, containing the adjusted figures, incorporated in a further amendment for the consideration of the two Houses.

R. N. GIAIMO,
JIM WRIGHT,
ROBERT L. LEGGETT,
PARREN J. MITCHELL,
OMAR BURLESON,
BUTLER DERRICK,
DAVID R. OBEY,
PAUL SIMON,
NORMAN Y. MINETA,
Managers on the Part of the House.

EDMUND S. MUSKIE,
WARREN G. MAGNUSON,
ERNEST F. HOLLINGS,
ALAN CRANSTON,
LAWTON CHILES,
JIM ABOUREZK,
HENRY BELLMON,
BOB DOLE,
JOHN HEINZ,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the concurrent resolution (H. Con. Res. 683) revising the congressional budget for the United States Government for the fiscal year 1979, report that the conferees have been unable to agree. This is a technical disagreement, necessitated by the fact that in some instances the substitute language agreed to by the conferees includes figures which (for purely technical reasons) would fall outside the range of House and Senate provisions and would reduce total budget authority, outlays, the deficit and the public debt below the provisions of either House.

It is the intention of the conferees that the managers on the part of the House will offer a motion in the House to recede and concur in the Senate amendment to the House-passed resolution with an amendment (in the nature of a substitute) consisting of the language agreed to in conference. Upon the adoption of such amendment in the House, the managers of the Senate will offer a motion in the Senate to concur therein.

The substitute language which is to be offered as described above (and which should be considered the language of the concurrent resolution as recommended in the conference report for purposes of section 302(a) of the Congressional Budget Act of 1974)—hereinafter in this statement referred to as the "conference substitute"—is as follows:

That the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1978—

(1) the recommended level of Federal revenues is $448,700,000,000 and the amount by which the aggregate level of Federal revenues should be decreased is $21,900,000,000;

(2) the appropriate level of total new budget authority is $555,650,000,000;

(3) the appropriate level of total budget outlays is $487,500,000,000;

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $38,800,000,000; and

(5) the appropriate level of the public debt is $836,000,000,000, and the amount by which the temporary statutory limit on such debt should accordingly be increased is $38,000,000,000.

SEC. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 310 (a) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1978, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are as follows:

(1) National Defense (050):

(A) New budget authority $127,000,000,000;

(B) Outlays, $112,40,000,000.

(2) International Affairs (150):

(A) New budget authority, $12,600,000,000.

(B) Outlays, $7,100,000,000.

(3) General Science, Space, and Technology (250):

(A) New budget authority, $5,200,000,000;

(B) Outlays, $5,000,000,000.

(4) Energy (270):

(A) New budget authority, $8,700,000,000;

(B) Outlays, $8,100,000,000.

(5) Natural Resources and Environment (300):

(A) New budget authority, $13,300,000,000.

(B) Outlays, $11,500,000,000.

(6) Agriculture (350):

(A) New budget authority, $9,200,000,000;

(B) Outlays, $7,500,000,000.

(7) Commerce and Housing Credit (370);

(A) New budget authority, $5,500,000,000;

(B) Outlays, $2,800,000,000.

(8) Transportation (400):

(A) New budget authority, $19,500,000,000;

(B) Outlays, $17,300,000,000.

(9) Community and Regional Development (450):

(A) New budget authority, $8,900,000,000;

(B) Outlays, $9,600,000,000.

(10) Education, Training, Employment, and Social Services (500):

(A) New budget authority, $32,900,000,000;

(B) Outlays, $30,300,000,000.

(11) Health (550):

(A) New budget authority, $52,000,000,000;

(B) Outlays, $48,100,000,000.

(12) Income Security (600):

(A) New budget authority, $191,800,000,000;

(B) Outlays, $159,300,000,000.

(13) Veterans Benefits and Services (700):

(A) New budget authority, $21,050,000,000;

(B) Outlays, $20,700,000,000.

(14) Administration of Justice (750):

(A) New budget authority, $4,300,000,000;

(B) Outlays, $4,200,000,000.

(15) General Government (800):

(A) New budget authority $4,100,000,000;

(B) Outlays, $4,000,000,000.

(16) General Purpose Fiscal Assistance (850):

(A) New budget authority, $8,800,000,000;

(B) Outlays, $8,800,000,000.

(17) Interest (900):

(A) New budget authority, $48,000,000,000;

(B) Outlays, $48,000,000,000.

(18) Allowances (920):

(A) New budget authority, $800,000,000;

(B) Outlays, $800,000,000.

(19) Undistributed Offsetting Receipts (950):

(A) New budget authority, —$18,000,000,000;

(B) Outlays, —$18,000,000,000.

ECONOMIC ASSUMPTIONS

The fiscal policy contained in the conference substitute is designed to maintain the economic expansion and further reduce unemployment without adding to inflationary pressures. The reduction in the deficit from $50.9 billion in the First Budget Resolution to $38.8 billion in the conference substitute will improve economic confidence both at home and abroad. The economic assumptions underlying the revenue and spending ceilings contained in the conference report are as follows:

[Calendar years; dollar amounts in billions]

	1978	1979
Gross national product:		
Current dollars	$2,092	$2,313
Constant (1972) dollars	$1,385	$1,438
Incomes:		
Personal income	$1,698	$1,882
Wages and salaries	$1,107	$1,228
Corporate profits	$186	$200
Unemployment rate:		
Calendar year average	5.9	5.7
4th quarter	5.8	5.6
Consumer Price Index (percent change: year over year)	6.9	6.7
Interest rate, 3-mo Treasury bills (monthly average)	6.8	7.4

BUDGET AGGREGATES

Revenues

The House resolution provided for Federal revenues of $450.000 billion, and to achieve that level, provided that revenues be decreased on a net basis by $19.900 billion. The Senate amendment provided for revenues of $447.2 billion with a net decrease of $23.4 billion.

The conference substitutes provides for Federal revenues of $448.7 billion, and to achieve that level, it provides that revenues should be decreased on a net basis by $21.9 billion. This revenue level assumes extension through fiscal year 1979 of temporary income tax rate reductions of $8.2 billion and additional tax reductions in fiscal year 1979 of $13.7 billion.

The conferees agree that all general income tax rate reductions become effective not earlier than January 1, 1979.

The conferees believe enactment of both a tuition tax credit and a college tuition assistance spending program would be inefficient and duplicative. The Congress should choose between these two proposals.

Budget authority

The House resolution provided for new budget authority of $561.019 billion. The Senate amendment provided for new budget authority of $557.7 billion.

The conference substitute provides for new budget authority of $555.65 billion.

Outlays

The House resolution provided for outlays of $489.790 billion. The Senate amendment provided for outlays of $489.5 billion.

The conference substitute provides for outlays of $487.5 billion.

Deficit

The House resolution provided for a deficit of $39.790 billion. The Senate amendment provided for a deficit of $42.3 billion.

The conference substitute provides for a deficit of $38.8 billion.

Public debt

The House resolution provided for a public debt level of $838.100 billion. The Senate amendment provided for a public debt level of $839.5 billion.

The conference substitute provides for a public debt level of $836.0 billion.

FUNCTIONAL CATEGORIES

050: National defense

The House resolution provided budget authority of $127.013 billion and outlays of $112.403 billion. The Senate amendment provided budget authority of $127.0 billion and outlays of $112.5 billion.

The Conference substitute provides budget authority of $127.0 billion and outlays of $112.4 billion.

150: International affairs

The House resolution provided budget authority of $12.365 billion and outlays of $7.119 billion. The Senate amendment provided budget authority of $12.6 billion and outlays of $7.2 billion.

The Conference substitute provides budget authority of $12.6 billion and outlays of $7.1 billion.

250: General science, space and technology

The House resolution provided budget authority of $5.146 billion and outlays of $4.991 billion. The Senate amendment provided budget authority of $5.2 billion and outlays of $5.0 billion.

The Conference substitute provides budget authority of $5.2 billion.

270: Energy

The House resolution provided budget authority of $9.601 billion and outlays of $8.684 billion. The Senate amendment provided budget authority of $8.9 billion and outlays of $8.9 billion.

The Conference substitute provides budget authority of $8.7 billion and outlays of $8.1 billion.

The Conference substitute reflects a $1.1 billion reduction in budget authority from the House resolution for the Strategic Petroleum Reserve, reflecting fiscal year 1979 needs of the program, rather than full-funding of the first 500 million barrels in the Reserve. The conferees note that the full-funding approach is one means of promoting early disclosure of total program costs, improved management and long-term savings for major construction and procurement programs. The action taken on this approach to this particular program is not intended to prejudice its application to appropriate programs, which both Committees will be reviewing in the context of the Budget Resolution for fiscal year 1980.

Also, the Conference substitute incorporates a technical reestimate, provided by the Congressional Budget Office, reducing estimated outlays in the Strategic Petroleum Reserve program by $0.6 billion.

300: Natural resources and technology

The House resolution provided budget authority of $12.963 billion and outlays of $11.380 billion. The Senate amendment provided budget authority of $13.6 billion and outlays of $11.7 billion.

The Conference substitute provides budget authority of $13.3 billion and outlays of $11.5 billion.

350: Agriculture

The House resolution provided budget authority of $12.225 billion and outlays of $7.628 billion. The Senate amendment provided budget authority of $12.2 billion and outlays of $7.2 billion.

The Conference substitute provides budget authority of $9.2 billion and outlays of $7.5 billion. The reduction in budget authority from the Senate and House levels reflects the conferees' estimate of the amount of new borrowing or contract authority required to carry out Commodity Credit Corporation programs.

370: Commerce and Housing Credit

The House resolution provided budget authority of $5.551 billion and outlays of $3.314 billion. The Senate amendment provided budget authority of $5.5 billion and outlays of $2.8 billion.

The Conference substitute provides budget authority of $5.5 billion and outlays of $2.8 billion.

400: Transportation

The House resolution provided budget authority of $19.451 billion and outlays of $17.063 billion. The Senate amendment provided budget authority of $19.5 billion and outlays of $17.5 billion.

The Conference substitute provides budget authority of $19.5 billion and outlays of $17.3 billion.

450: Community and regional development

The House resolution provided budget authority of $10.327 billion and outlays of $9.474 billion. The Senate amendment provided budget authority of $8.9 billion and outlays of $9.6 billion.

The Conference substitute provides budget authority of $8.9 billion and outlays of $9.6 billion.

The House conferees assume that within these amounts $0.7 billion in budget authority is available for public works.

The Senate conferees assume the amounts agreed to are necessary to fund existing legislation.

500: Education, training, employment and social services

The House resolution provided budget authority of $33.887 billion and outlays of $31.111 billion. The Senate amendment provided budget authority of $31.5 billion and outlays of $30.2 billion.

The Conference substitute provides budget authority of $32.9 billion and outlays of $30.3 billion.

The conferees believe enactment of both a tuition tax credit and a college tuition assistance spending program would be inefficient and duplicative. The Congress should choose between these two proposals.

The Conference substitute continues the First Resolution assumption of a significant shift in emphasis in CETA resources to provide employment and training services targeted to the structurally unemployed. In view of improvement in the overall employment situation, the conferees recognize the reduced need for public service jobs for the temporarily unemployed. The conferees, therefore, assume a phase-down in the number of such countercyclical public service jobs and increased emphasis on private sector initiatives and programs to serve youth, who continue to suffer high unemployment. This shift should result in significantly increased savings in public assistance costs under Function 600.

These totals include a reduction in outlays of $0.1 billion which the conferees expect to result from efforts by the Department of Health, Education, and Welfare to eliminate waste, fraud and abuse.

550: Health

The House resolution provided budget authority of $52.158 billion and outlays of $49.226 billion. The Senate amendment provided budget authority of $51.9 billion and outlays of $48.6 billion.

The Conference substitute provides budget authority of $52.0 billion and outlays of $48.1 billion.

These totals include reductions in outlays of $0.7 billion which the conferees expect to result from the voluntary efforts of hospitals to constrain cost increases and $0.6 billion from efforts by the Department of Health, Education and Welfare to eliminate waste, fraud, and abuse.

600: Income security

The House resolution provided $192.139 billion in budget authority and $159.650 billion in outlays. The Senate amendment provided $191.5 billion in budget authority and $159.6 billion in outlays.

The Conference substitute provides $191.8 billion in budget authority and $159.3 billion in outlays. These totals include reductions in outlays of $0.3 billion which the conferees expect to result from efforts by the Department of Health, Education and Welfare to reduce waste, fraud, and abuse.

700: Veterans benefits and services

The House resolution provided budget authority of $21.251 billion and outlays of $20.913 billion. The Senate amendment provided budget authority of $20.9 billion and outlays of $20.4 billion.

The Conference substitute provides budget authority of $21.05 billion and outlays of $20.7 billion.

750: Administration of justice

The House resolution provided budget authority of $4.163 billion and outlays of $4.173 billion. The Senate amendment provided budget authority of $4.3 billion and outlays of $4.2 billion.

The Conference substitute provides budget authority of $4.3 billion and outlays of $4.2 billion.

800: General Government

The House resolution provided budget authority of $4.09 billion and outlays of $4.035 billion. The Senate amendment provided budget authority of $4.1 billion and outlays of $4.0 billion.

The Conference substitute provides budget authority of $4.1 billion and outlays of $4.0 billion.

850: General purpose fiscal assistance

The House resolution provided budget authority of $8.931 billion and outlays of $8.959 billion. The Senate amendment provided budget authority of $8.8 billion and outlays of $8.8 billion.

The Conference substitute provides budget authority of $8.8 billion and outlays of $8.8 billion.

900: Interest

The House resolution provided budget authority of $48.000 billion and outlays of $48.001 billion. The Senate amendment provided budget authority of $48.1 billion and outlays of $48.1 billion.

The Conference substitute provides budget authority of $48.0 billion and outlays of $48.0 billion.

920: Allowances

The House resolution provided budget authority of −$1.087 billion and outlays of −$0.743 billion. The Senate amendment provided budget authority of $0.5 billion and outlays of $0.5 billion.

The Conference substitute provides budget authority of $0.8 billion and outlays of $0.8 billion. The Conference substitute distributes to the appropriate functions savings assumed in the House and Senate resolutions as a result of across-the-board cuts and efforts to eliminate waste, fraud and abuse in programs administered by the Department of Health, Education, and Welfare.

950: Undistributed offsetting receipts

The House resolution provided budget authority of −$17.163 billion and outlays of −$17.163 billion. The Senate amendment provided budget authority of −$17.3 billion and outlays of −$17.3 billion.

The Conference substitute provides budget authority of −$18.0 billion and outlays of −$18.0 billion.

[In billions of dollars]

	House passed	Senate passed	Conference agreement
Revenues	450.000	447.2	448.7
Budget authority	561.019	557.7	555.65
Outlays	489.790	489.5	487.5
Deficit	39.790	42.3	38.8
Debt subject to limit	838.100	839.5	836.0
050—National defense:			
Budget authority	127.013	127.0	127.0
Outlays	112.403	112.5	112.4
150—International affairs:			
Budget authority	12.365	12.6	12.6
Outlays	7.119	7.2	7.1
250—General science, space, and technology:			
Budget authority	5.146	5.2	5.2
Outlays	4.991	5.0	5.0
270—Energy:			
Budget authority	9.601	8.9	8.7
Outlays	8.684	8.9	8.1
300—Natural resources and environment:			
Budget authority	12.963	13.6	13.3
Outlays	11.380	11.7	11.5
350—Agriculture:			
Budget authority	12.225	12.2	9.2
Outlays	7.628	7.2	7.5
370—Commerce and housing credit:			
Budget authority	5.551	5.5	5.5
Outlays	2.814	2.8	2.8
400—Transportation:			
Budget authority	19.451	19.5	19.5
Outlays	17.063	17.5	17.3
450—Community and regional development:			
Budget authority	10.327	8.9	8.9
Outlays	9.474	9.6	9.6
500—Education, training, employment, and social services:			
Budget authority	33.887	31.5	32.9
Outlays	31.111	30.2	30.3
550—Health:			
Budget authority	52.158	51.9	52.0
Outlays	49.298	48.6	48.1
600—Income security:			
Budget authority	192.139	191.5	191.8
Outlays	159.650	159.6	159.3
700—Veterans benefits and services:			
Budget authority	21.251	20.9	21.05
Outlays	20.913	20.4	20.7
750—Administration of justice:			
Budget authority	4.163	4.3	4.3
Outlays	4.173	4.2	4.2
800—General government:			
Budget authority	4.098	4.1	4.1
Outlays	4.035	4.0	4.0
850—General purpose fiscal assistance:			
Budget authority	8.931	8.8	8.8
Outlays	8.959	8.8	8.8
900—Interest:			
Budget authority	48.000	48.1	48.0
Outlays	48.001	48.1	48.0
920—Allowances:			
Budget authority	−1.087	.5	.8
Outlays	−.743	.5	.8
950—Undistributed offsetting receipts:			
Budget authority	−17.163	−17.3	−18.0
Outlays	−17.163	−17.3	−18.0

ALLOCATION OF BUDGET AUTHORITY AND OUTLAYS TO HOUSE AND SENATE COMMITTEES

Pursuant to section 302 of the Congressional Budget and Impoundment Control Act of 1974, the conference substitute makes the following estimated allocation of the appropriate levels of total new budget authority and total budget outlays for fiscal year 1979 among the committees of the respective Houses:

SENATE COMMITTEE ALLOCATIONS PURSUANT TO SEC. 302 OF THE CONGRESSIONAL BUDGET ACT, FISCAL YEAR 1979

[In billions of dollars]

	Direct spending jurisdiction		Entitlements funded in annual appropriation acts	
	Budget authority	Outlays	Budget authority	Outlays
Appropriations Committee	354.9	311.1		
Agriculture, Nutrition, and Forestry Committee	.6	6.5	9.2	9.3
Armed Services Committee	−.2	−.2	10.3	10.2
Banking, Housing, and Urban Affairs Committee	.2	−1.2		
Commerce, Science, and Transportation Committee	1.2	(1)	.2	.2
Energy and Natural Resources Committee	1.0	1.0	.1	(4)
Environment and Public Works Committee	8.2	1.9		
Finance Committee	213.6	202.9	34.3	34.7
Foreign Relations Committee	11.4	9.6		
Governmental Affairs Committee	26.1	17.9	(1)	(1)
Human Resources Committee	4.2	4.5	2.6	2.6
Judiciary Committee	.2	.2	.1	.1
Rules and Administration Committee	(2)	(2)		
Veterans Affairs Committee	1.1	.8	13.8	13.9
Select Committee on Indian Affairs	.3	.1		
Select Committee on Small Business	(1)			
Not allocated to committees	−67.2	−67.2		
Budget total	555.65	487.5	70.5	71.0

[1] Less than $5,000,000.
[2] Less than $50,000,000.
[3] Less than $10,000,000.
[4] Less than $45,000,000.

Note: Details may not add to totals due to rounding.

ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SEC. 302(A) OF THE CONGRESSIONAL BUDGET ACT

[In thousands of dollars]

House committee and function	Fiscal year 1979 Budget authority	Fiscal year 1979 Outlays
HOUSE AGRICULTURE COMMITTEE		
300: Natural resources and environment	$241,203	$193,286
350: Agriculture	89,072	6,072,771
450: Community and regional development	214,260	133,191
850: General purpose fiscal assistance	237,829	237,829
900: Interest	−42,000	−42,000
Committee total	740,364	6,595,077
APPROPRIATIONS COMMITTEE		
050: National defense	127,590,312	112,979,714
150: International affairs	11,744,269	7,946,268
250: General science, space and technology	5,196,260	4,987,772
270: Energy	9,649,276	7,399,276
300: Natural resources and enviornment	14,847,225	13,152,107
350: Agriculture	9,176,035	1,492,336
370: Commerce and housing credit	4,444,951	4,096,045
400: Transportation	10,403,518	17,420,184
450: Community and regional development	7,867,003	9,331,994
500: Education, training, employment, and social services	32,142,507	30,267,874
550: Health	28,125,763	28,021,802
600: Income security	52,204,402	34,600,532
700: Veterans benefits and services	20,515,963	20,546,962
750: Administration of justice	4,300,257	4,205,338
800: General government	6,439,314	6,379,274
850: General purpose fiscal assistance	7,811,208	7,814,013
900: Interest	0	0
920: Allowances	0	0
Committee total	353,458,263	310,641,401
HOUSE GOVERNMENT OPERATIONS COMMITTEE		
800: General government	1,230	1,142
850: General purpose fiscal assistance	6,854,924	6,852,294
HOUSE ADMINISTRATION COMMITTEE		
250: General science, space, and technology	70	72
500: Education, training, employment, and social services	5,351	5,666
800: General government	40,400	1,200
Committee total	45,821	6,938
HOUSE INTERIOR AND INSULAR AFFAIRS COMMITTEE		
270: Energy	2,480	2,480
300: Natural resources and environment	52,730	27,002
450: Community and regional development	256,331	135,127
800: General government	116,800	116,207
850: General purpose fiscal assistance	331,874	331,874
Committee total	750,215	612,690
HOUSE INTERNATIONAL RELATIONS COMMITTEE		
150: International affairs	11,214,902	9,512,903
370: Commerce and housing credit	4,800	6,000
600: Income security	208,517	118,030
Committee total	11,428,219	9,635,933
HOUSE INTERSTATE AND FOREIGN COMMERCE COMMITTEE		
300: Natural resources and environment	0	30
370: Commerce and housing credit	23,237	21,962
400: Transportation	420	420
550: Health	1,600	1,882
600: Income security	4,209,759	4,400,007
850: General purpose fiscal assistance	5,260	5,085
Committee total	4,240,276	4,429,386
HOUSE JUDICIARY COMMITTEE		
300: Natural resource and environment	165	380
600: Income security	7,135	2,124
750: Administration of justice	0	−5,081
800: General government	147,018	147,018
Committee total	154,318	144,441
HOUSE MERCHANT MARINE AND FISHERIES COMMITTEE		
300: Natural resources and environment	125,153	109,931
370: Commerce and housing credit	16,600	10,900
400: Transportation	305,504	−73,229
850: General purpose fiscal assistance	7,700	7,700
Committee total	454,957	55,302
HOUSE POST OFFICE AND CIVIL SERVICE COMMITTEE		
050: National defense (New entitlement authority)	(−124,000)	
300: Natural resources and environment	0	330
370: Commerce and housing credit	4,876	4,876
550: Health	0	−42,769
600: Income security	19,854,520	11,710,043
800: General government	6,247,000	6,247,000
(New entitlement authority)	(30,000)	
920: Allowances (New entitlement authority)	(−23,000)	
Committee total	26,106,396	17,919,480
HOUSE PUBLIC WORKS AND TRANSPORTATION COMMITTEE		
270: Energy	0	1,650,000
300: Natural resources and environment	43,025	43,000
400: Transportation	8,835,189	−2,744
450: Community and regional development	46,233	45,822
950: Undistributed offsetting receipts	0	0
Committee total	8,924,447	1,736,078
HOUSE SCIENCE AND TECHNOLOGY COMMITTEE		
250: General science, space, and technology	5,300	4,500
270: Energy	20	20
300: Natural resource and environment	11,297	11,297
800: General government	0	1
Committee total	16,617	15,818
HOUSE SMALL BUSINESS COMMITTEE		
450: Community and regional development	300	0
Committee total	300	0
HOUSE VETERANS AFFAIRS COMMITTEE		
700: Veterans benefits and services	1,061,582	690,122
(New entitlement authority)	(54,000)	
Committee total	1,061,582	690,122
HOUSE WAYS AND MEANS COMMITTEE		
500: Education, training, employment, and social services	733,160	0
550: Health	31,650,000	27,897,101
600: Income security	118,838,950	112,032,226
800: General government	4,025	4,025
850: General purpose fiscal assistance	431,000	431,000
900: Interest	344,000	344,000
950: Undistributed offsetting receipts	0	0
Committee total	152,001,135	140,708,352
UNASSIGNED TO COMMITTEES		
050: National defense	−412,204	−412,204
150: International affairs	−10,359,171	−10,359,171
250: General science, space, and technology	−1,430	7,656
270: Energy	−951,776	−951,776
300: Natural resources and environment	−2,020,798	−2,037,363
350: Agriculture	−65,107	−65,107
370: Commerce and housing credit	−135,002	−135,002
400: Transportation	−44,661	−44,661
450: Community and regional development	466,552	−151,127
500: Education, training, employment, and social services	−8,195	−8,195
550: Health	−7,777,363	−7,777,363
600: Income security	−3,567,690	−3,567,690
700: Veterans benefits and services	−528,557	−528,557
750: Administration of justice	−8,257	−8,257
800: General government	−8,898,787	−8,898,787
850: General purpose fiscal assistance	−6,877,283	−6,877,283
900: Interest	47,690,159	47,690,159
920: Allowances	800,000	800,000
950: Undistributed offsetting receipts	−18,000,000	−18,000,000
Committee total	−10,699,770	−11,324,728

R. N. GIAIMO,
JIM WRIGHT,
ROBERT L. LEGGETT,
PARREN J. MITCHELL,
OMAR BURLESON,
BUTLER DERRICK,
DAVID R. OBEY,
PAUL SIMON,
NORMAN Y. MINETA,
Managers on the Part of the House.

EDMUND S. MUSKIE,
WARREN G. MAGNUSON,
ERNEST F. HOLLINGS,
ALAN CRANSTON,
LAWTON CHILES,
JIM ABOUREZK,
HENRY BELLMON,
BOB DOLE,
JOHN HEINZ,
Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. EVANS of Delaware) to revise and extend their remarks and include extraneous material:)

Mr. GOLDWATER, for 5 minutes, today.
Mr. GREEN, for 10 minutes, today.
Mr. SARASIN, for 10 minutes, today.

(The following Members (at the request of Mr. MICHAEL O. MYERS) and to revise and extend his remarks and include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. COTTER, for 30 minutes, today.
Mr. DRINAN, for 5 minutes, today.
Mr. NEAL, for 5 minutes, today.
Mr. CARR, for 5 minutes, today.
Mr. LAFALCE, for 10 minutes, today.
Mr. EILBERG, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MONTGOMERY, printing of Report of the Special Committee on Southeast Asia, notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $1,067.63.

(The following Members (at the request of Mr. EVANS of Delaware) and to include extraneous material:)

Mr. FORSYTHE.
Mr. MARLENEE.
Mr. SCHULZE.
Mr. MCCLOSKEY.
Mr. SARASIN.
Mr. QUIE in two instances.
Mr. SHUSTER.
Mr. DERWINSKI.
Mr. TAYLOR.
Mr. SKUBITZ.
Mr. ASHBROOK.
Mr. CONTE.
Mr. MARRIOTT.
Mr. HANSEN in three instances.

(The following Members (at the request of Mr. MICHAEL O. MYERS), and to include extraneous matter:)

Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. LEHMAN.
Mr. HARKIN.
Mr. HAMILTON.
Mr. MURPHY of Illinois.
Mr. ROE.
Mr. EDGAR in two instances.
Mr. OTTINGER in two instances.
Mr. DENT.
Mr. ASHLEY.
Mr. TEAGUE.
Mr. WAXMAN.
Mr. PATTERSON of California.
Mr. COTTER.
Mr. SIMON.
Mr. SANTINI.
Mr. SOLARZ.
Mr. SKELTON.
Mr. TRAXLER.
Mr. SISK.
Mr. EILBERG.
Mr. MITCHELL of Maryland.
Mr. MOORHEAD of Pennsylvania.
Mr. BRODHEAD.
Mr. FITHIAN.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1678. An act to amend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended;

S. 1896. An act to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal year 1979;

S. 2701. An act to amend the Water Resources Planning Act (79 Stat. 244, as amended);

S. 3002. An act to modify a portion of the south boundary of the Salt River Pima-Maricopa Indian Reservation in Arizona, and for other purposes;

S. 3069. An act to provide that members of the Sisseton-Wahpeton Sioux Tribe may request the Secretary of the Interior to acquire certain lands, and to provide that the tribe shall have a preference right to purchase certain lands held in trust by the United States for tribal members;

S. 3271. An act to amend the pilot project workfare provisions of the Food Stamp Act of 1977;

S. 3272. An act to amend the Packers and Stockyards Act, 1921, and for other purposes;

S. 3375. An act to amend title 28 of the United States Code to make certain changes in the places of holding Federal district courts, in the divisions within judicial districts, and in judicial district dividing lines; and

S. 3468. An act to amend the Agricultural Act of 1949 to ensure that the interest rates on price support loans for upland cotton are not less favorable to producers than the interest rates for such loans on other commodities.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 7814. An act to authorize Federal agencies to experiment with flexible and compressed employee work schedules;

H.R. 7819. An act to compliment the Vienna Convention on Diplomatic Relations;

H.R. 8149. An act to provide customs procedural reform, and for other purposes;

H.R. 11401. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities and research and program management, and for other purposes;

H.R. 12860. An act to settle Indian land claims within the State of Rhode Island and Providence Plantations, and for other purposes; and

H.R. 12935. An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 1979, and for other purposes.

ADJOURNMENT

Mr. MICHAEL O. MYERS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 15 minutes p.m.), the House adjourned until tomorrow, Thursday, September 21, 1978, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5010. A letter from the Chief Commissioner, U.S. Court of Claims, transmitting a report on the allowance of attorney's expenses claimed in docket No. F-15, Frederick Paul pursuant to section 20 of the Alaska Native Claims Settlement Act; to the Committee on Interior and Insular Affairs.

5011. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting his determination and certification that downward fluctuations in foreign currency exchange rates have made it necessary to provide additional funds to maintain the budgeted level of operation for Radio Free Europe/Radio Liberty, Inc., during the third quarter of fiscal year 1978, pursuant to section 8 of the Board for International Broadcasting Act of 1973, as amended; to the Committee on International Relations.

5012. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting notice of a proposed increase in the funding level of the Agency's fiscal year 1978 program in Tunisia, pursuant to section 653(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

5013. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting notice of a proposed increase in the funding level of the Agency's fiscal year 1978 program in Upper Volta, pursuant to section 653(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. REUSS: Committee on Banking, Finance and Urban Affairs. H.R. 12900. A bill to provide for additional assistance for the preservation of historic structures under title I of the National Housing Act; with amendment (Rept. No. 95-1591). Referred to the Committee of the Whole House on the State of the Union.

Mr. TEAGUE: Committee on Science and Technology. Report on allocation of budget totals for fiscal year 1979 (Rept. No. 95-1592). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROWN of California: Committee of conference. Conference report on H.R. 11302 (Rept. No. 95-1593). Ordered to be printed.

Mr. GIAIMO: Committee of conference. Conference report filed in disagreement on House Concurrent Resolution 683 (Rept. No. 95-1594). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. COCHRAN of Mississippi:

H.R. 14132. A bill to amend the National Historic Preservation Act of 1966 to permit the Secretary of the Interior to make certain grants in excess of the 50-percent limitation contained in such act; to the Committee on Interior and Insular Affairs.

By Mr. COTTER:

H.R. 14133. A bill to amend section 501 (c)(8) of the Internal Revenue Code; to the Committee on Ways and Means.

By Mr. GRASSLEY (for himself, Mr. HAGEDORN, Mr. STANGELAND, and Mr. LEACH):

H.R. 14134. A bill to amend the Internal Revenue Code of 1954 to clarify the eligibility for the investment tax credit of structures used for housing, raising, or feeding hogs; to the Committee on Ways and Means.

By Mrs. HECKLER:

H.R. 14135. A bill to provide for the striking of medals to commemorate Elizabeth Pole; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SARASIN:

H.R. 14136. A bill to amend the Internal Revenue Code of 1954 to provide that services performed for camps by certain students who generally are not eligible to receive unemployment compensation will not be subject to the Federal unemployment tax; to the Committee on Ways and Means.

By Mr. SCHULZE:

H.R 14137. A bill to amend section 105 of title 23, United States Code, to require the Secretary of Transportation to develop a formula for retroactive credit for funds already expended for highway construction projects which have received approval under the provisions under title 23; to the Committee on Public Works and Transportation.

By Mr. DENT (for himself and Mr. EILENBERG):

H.R. 14138. A bill to provide for pension reform for State and local public employee retirement systems, to amend the Employee Retirement Income systems, to amend the Employee Retirement Income Security Act of 1974 to promote more efficient and satisfactory management of the functions of the Federal Government relating to employee pension and welfare benefit plans and more effectively carry out the purposes of such act, and for other purposes; jointly, to the Committees on Education and Labor, and Ways and Means.

By Mr. HANSEN:

H.R. 14139. A bill to require that certain procedures be followed with respect to the Internal Revenue Service's "Proposed Revenue Procedure on Private Tax-Exempt Schools"; to the Committee on Ways and Means.

By Mr. ICHORD (for himself, Mr. STUMP, Mr. HYDE, Mr. ASHBROOK, Mr. GILMAN, Mr. SPENCE, Mr. TREEN, Mr. MADIGAN, Mr. BENJAMIN, Mr. KRUEGER, Mr. MOORHEAD of California, Mr. LAGOMARSINO, Mr. CORCORAN of Illinois, Mr. SCHULZE, Mr. FARY, Mr. HARSHA, Mr. GUYER, Mr. BOB WILSON, Mr. BADHAM, Mrs. HOLT, Mr. KEMP, Mr. DERWINSKI, Mr. RUDD, Mr. YOUNG of Florida, and Mr. HAGEDORN):

H.R. 14140. A bill to amend the Export Administration Act of 1969 to prevent the export to certain countries of goods or technology which have any potential application for military, law enforcement or intelligence gathering purposes; to require the President to notify the Congress of any approval of a license for the export of goods or technology to such countries; to provide for congressional disapproval of any such license application; to require the Secretary of Defense to prepare a military impact statement for the Congress with respect to certain export license applications; and for other purposes; to the Committee on International Relations.

By Mr. LEACH (for himself, Mr. HARKIN, Mr. HILLIS, Mr. ROONEY, and Mr. TUCKER):

H.R. 14141. A bill to amend the Internal Revenue Code of 1954 to provide that certain farm buildings shall be eligible for the investment tax credit; to the Committee on Ways and Means.

By Mr. ROSTENKOWSKI (for himself, Mr. COTTER, Mr. TUCKER, and Mr. LEDERER):

H.R. 14142. A bill to exempt from duty certain watches and watch movements produced in insular possessions of the United States only if such articles do not contain any material which is the product of Communist countries; to the Committee on Ways and Means.

By Mr. NEAL:

H.J. Res. 1140. Joint resolution to amend section 8 of the Export-Import Bank Act of 1945; to the Committee on Banking, Finance and Urban Affairs.

By Mr. HILLIS (for himself and Mr. SISK):

H. Con. Res. 718. Concurrent resolution establishing the Claude Pepper Senior Citizen Congressional Intern program; to the Committee on House Administration.

By Mr. ZABLOCKI (for himself, Mr. FOUNTAIN, Mr. DIGGS, Mr. NIX, Mr. HARRINGTON, Mrs. COLLINS of Illinois, Mr. BOWKER, Mr. BEILENSON, Mr. FOWLER, Mr. DANIELSON, Mr. WHALEN, Mr. GILMAN, Mr. GUYER, Mr. LAGOMARSINO, and Mr. GOODLING):

H. Con. Res. 719. Concurrent resolution commending President Carter of the United States, President Sadat of Egypt, and Prime Minister Begin of Israel for the courageous steps they have taken to resolve the differences between Egypt and Israel and to bring about a comprehensive, just, and durable peace in the Middle East; to the Committee on International Relations.

By Mr. BRADEMAS (for himself, Mr. ANDERSON of Illinois, Mr. MITCHELL of Maryland, Mr. DOWNEY, Mr. MAGUIRE, Mr. RODINO, Mr. STEERS, Mr. MCCLOSKEY, Mr. HAWKINS, Mr. REUSS, Mr. ROSENTHAL, Mr. WHALEN, Mr. PHILLIP BURTON, Mr. JOHN L. BURTON, Mrs. COLLINS of Illinois, Mr. EDWARDS of California, Mr. BUCHANAN, Mr. MOSS, Mr. DERWINSKI, Mr. BOLLING, Mr. THOMPSON, Mr. BINGHAM, Mrs. CHISHOLM, Mr. SEIBERLING, and Mr. MOFFETT):

H. Con Res. 720. Concurrent resolution expressing the concern of the Congress for the safety of the residents of the South African black community known as Crossroads and urging the Government of the Republic of South Africa to reconsider its plan to destroy Crossroads and to recognize the right of the residents of Crossroads to continue to live there; to the Committee on International Relations.

By Mr. BRADEMAS (for himself, Mr. STOKES, Mr. RANGEL, Mr. HARKIN, Mr. WEAVER, Mr. LE FANTE, Mr. EDGAR, Mr. SOLARZ, Mr. EVANS of Delaware, Mr. HOLLENBECK, Mr. MCKINNEY, Mr. BENJAMIN, Mr. GREEN, Mr. OTTINGER, Mr. SHARP, Mr. STARK, Mr. KREBS, Mr. PATTISON of New York, Mr. DICKS, Mr. WEISS, Mr. PANETTA, Mr. MAZZOLI, Mr. GARCIA, Mr. DELLUMS, and Mr. BRODHEAD):

H. Con Res. 721. Concurrent resolution expressing the concern of the Congress for the safety of the residents of the South African black community known as Crossroads and urging the Government of the Republic of South Africa to reconsider its plan to destroy Crossroads and to recognize the right of the residents of Crossroads to continue to live there; to the Committee on International Relations.

By Mr. BRADEMAS (for himself, Mrs. MEYNER, Mr. ADDABBO, Mr. HARRINGTON, Mr. METCALFE, Mr. MARKS, Mr. QUAYLE, Mr. HARRIS, Mr. PRITCHARD, Mr. DODD, Ms. MIKULSKI, Mr. CORNELL, Mr. STUDDS, Mr. GORE, Mr. GLICKMAN, Mr. RICHMOND, Ms. HOLTZMAN, Mr. PEASE, Mr. DIGGS, Mr. NOLAN, Mr. WAXMAN, Mr. FORD, of Tennessee, Mr. PATTERSON of California, Mr. CARR, and Mr. BONIOR):

H. Con. Res. 722. Concurrent resolution expressing the concern of the Congress for the safety of the residents of the South African black community known as Crossroads and urging the Government of the Republic of South Africa to reconsider its plan to destroy Crossroads and to recognize the right of the residents of Crossroads to continue to live there; to the Committee on International Relations.

By Mr. BRADEMAS (for himself, Mr. KOSTMAYER, Mr. BIAGGI, Mr. MINETA, Mr. DRINAN, Mr. CAVANAUGH, and Mr. WOLFF):

H. Con. Res. 723. Concurrent resolution expressing the concern of the Congress for the safety of the residents of the South African black community known as Crossroads and urging the Government of the Republic of South Africa to reconsider its plan to destroy Crossroads and to recognize the right of the residents of Crossroads to continue to live there; to the Committee on International Relations.

By Mr. GIAIMO (for himself, Mr. BAUCUS, Mr. BINGHAM, Mr. BONIOR, Mr. BROOMFIELD, Mr. D'AMOURS, Mr. DOWNEY, Mr. EDWARDS of Alabama, Mr. EILBERG, Mr. FRENZEL, Ms. HOLTZMAN, Mr. LEACH, Mr. LONG of Maryland, Mr. MCKINNEY, Mr. MINETA, Mr. MOAKLEY, Mr. MOFFETT, Mr. MONTGOMERY, Ms. OAKAR, Mr. OTTINGER, Mr. PERKINS, Mr. RAHALL, Mr. RINALDO, Mr. ROE, and Mr. RYAN):

H. Res. 1360. Resolution expressing the sense of the House that the Reverend Sun Myung Moon appear before the Subcommittee on International Organizations investigating Korean-American relations; to the Committee on International Relations.

By GLICKMAN (for himself, Mr. BAUCUS, Mr. CAVANAUGH, Mr. CONTE, Mr. CORNELL, Mr. DUNCAN of Tennessee, Mr. EDGAR, Mr. ESCH, Mr. GEPHARDT, Mr. GOODLING, Mr. HARKIN, Mrs. HOLT, Ms. HOLTZMAN, Mr. HUGHES, Ms. KEYS, Mr. KEMP, Mr. MATTOX, Mr. MCHUGH, Mr. PATTISON of New York, Mr. PEASE, Mr. PRITCHARD, Ms. SCHROEDER, Mr. STEGER, and Mr. YOUNG of Missouri):

H. Res. 1361. Resolution to amend the Rules of the House of Representatives; to the Committee on Rules.

By Mr. LUKEN (for himself, Mr. GRADISON, Mr. APPLEGATE, Mr. GUYER, Mr. STANTON, Mr. MOTTL, Mr. HARSHA, Mr. WHALEN, Mr. REGULA, Mr. KINDNESS, Mr. ASHLEY, Ms. OAKAR, Mr. MILLER of Ohio, Mr. BROWN of Ohio, Mr. MOFFETT, Mr. HANLEY, Mr. YOUNG of Missouri, Mr. CARNEY, Mr. ECKHARDT, and Mr. BARNARD):

H. Res. 1362. Resolution expressing the appreciation of the House to Pete Rose for his dedication and service to baseball; to the Committee on Post Office and Civil Service.

By Mr. NIX:

H. Res. 1363. Resolution to provide funds for the investigations and studies to be conducted by the Committee on Post Office and Civil Service pursuant to House Resolution 1041; to the Committee on House Administration.

By Mr. STAGGERS:

H. Res. 1364. Resolution providing for the further expenses of the Committee on Interstate and Foreign Commerce; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. HAGEDORN introduced a bill (H.R. 14143) for the relief of Francisco da Conturbia, which was referred to the Committee on the Judiciary

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 10909

By Mr. BURLESON of Texas:

—Page 9, line 23, insert "and, with the approval of the Secretary, during subsequent two-year periods" before "the provisions".

—Page 56, line 8, strike out "three-year period" and insert in lieu thereof "one-year period".

Page 56, line 11, insert "on an experimental basis" after "competitive bidding process or otherwise".

Page 57, strike out lines 7 through 9 and insert in lieu thereof the following:

(2) Each State which has made arrangements under section 1902(a)(23)(B) for the purchase of laboratory services through a competitive bidding process or otherwise on an experimental basis shall report to the Secretary concerning the results of these experimental arrangements and the Secretary shall evaluate these arrangements and transmit

Page 57, line 12, strike out "twenty-four months" and insert in lieu thereof "18 months".

H.R. 11733

By Mr. EDGAR:

—Page 204, strike out line 12 and all that follows down through and including line 24 on page 206 and insert in lieu thereof the following:

"(a) It is declared to be in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective, the Secretary shall cooperate with the State and local officials in the development of transportation plans and programs which are formulated on the basis of transportation needs, as determined by the State and local officials, with due consideration given to the national goals set forth in subsection (c) of this section.

"(b)(1) The transportation planning process for urbanized areas shall be carried on, in collaboration with the State, by local officials acting through a metropolitan planning organization or other instrumentality which, at the minimum, shall encompass the entire urbanized area within the State, as designated by the Bureau of the Census. Where an urbanized area encompasses communities in more than one State the Secretary may, at his discretion and upon the request of the responsible local officials, assist in the development of separate plans and programs for those parts of the urbanized area within a single State.

"(2) Within one year after the enactment of this section, in the absence of State law to the contrary, the local officials of an urbanized area for which a metropolitan planning organization has been designated prior to enactment of this section may, under rules established by the Secretary, redesignate the State or any representative regional instrumentality as the metropolitan planning organization for the purposes of this section.

"(c)(1) On a date established by regulation, and at subsequent two year intervals, the local officials of an urbanized area desiring to avail itself of Federal financial assistance under the Urban Mass Transportation Act of 1964 or under this title shall prepare and submit to the Secretary for approval a comprehensive transportation plan. The planning process on which such plans are based shall consider all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate based on the complexity of the transportation problems. All plans submitted under this subsection for approval by the Secretary shall include both a long-range element and a short-range element.

"(2) The long-range element shall set forth a multiyear program of transportation improvement projects, staged according to priority. The long-range element shall include concise statements relating to multiyear program to each of the following objectives, which are declared to be in the national interest: (A) coordination of the urbanized area transportation system with the statewide transportation system; (B) development and implementation of strategies to reduce transportation improvement costs by making more effective use of existing transportation facilities; (C) development and implementation of strategies to coordinate various modes of passenger transportation; (D) development and implementation of strategies to reduce traffic fatalities and improve other aspects of transportation safety; (E) general improvement of mobility, with special attention paid to the needs of the transportation-disadvantaged; and (F) with respect to urbanized areas of 1,000,000 or more population, reduction of energy consumption and improvement of air quality by development and implementation of strategies to reduce peak hour single-passenger automotive travel to and from major centers of employment.

"(3) The short-range element shall set forth those transportation improvement projects, together with alternative transportation management strategies, proposed for the following two calendar years. The short-range element shall be developed, under supervision of the designated metropolitan planning organization, by an appropriate forum involving the State transportation department (or its equivalent), public operators of mass transportation, and other major factors responsible for implementation of the transportation policies of the urbanized area.

"(d) The Secretary shall approve a comprehensive transportation plan submitted pursuant to the preceding subsection unless he determines that the planning process on which the plan is based has not been carried out in conformance with this section, or unless he finds that the programs contained in the plan, when considered in the aggregate, are plainly inconsistent with and will not promote the national goals set forth under subsection (c)(2) of this section.

"(e) Concurrent with submission to the Secretary, transportation plans submitted to the Secretary pursuant to subsection (c) of this section also shall be submitted to the Governor of the State or States affected, to principal sponsors of projects proposed in the plan, and to the Environmental Protection Agency. If within thirty days thereafter any of the recipients submits comments to the Secretary, the Secretary shall consider such comments before taking final action on the plan. Nothing under this section shall be construed as limiting the authority of the State to develop and submit, pursuant to section 105 of this title programs for projects under this title.

"(f) Approval by the Secretary of any plan submitted under this section shall not prohibit the Secretary from subsequently disapproving any individual project proposed in the plan, pursuant to the provisions of the Urban Mass Transportation Act of 1964, this title, or any other Federal law. Approval by the Secretary of any plan submitted under this section shall not be considered an action or approval for the purposes of the National Environmental Policy Act.

"(g) No project under the Urban Mass Transportation Act of 1964 or under this title and within an urbanized area as designated by the Bureau of the Census, shall be approved by the Secretary after September 30, 1980, unless such project is part of the short-range element to the comprehensive transportation plan submitted by that urbanized area and approved by the Secretary. The Secretary may waive this requirement for projects designed to meet emergency needs.".

—Page 207, strike out line 7 and all that follows down through and including line 3 on page 209 and insert in lieu thereof the following:

"SEC. 8. (a) It is declared to be in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective, the Secretary shall cooperate with the State and local officials in the development of transportation plans and programs which are formulated on the basis of transportation needs, as determined by the State and local officials, with due consideration given to the national goals set forth in subsection (c) of this section.

"(b)(1) The transportation planning process for urbanized areas shall be carried on, in collaboration with the State, by local officials acting through a metropolitan planning organization or other instrumentality which, at the minimum, shall encompass the entire urbanized area within the State, as designated by the Bureau of the Census. Where an urbanized area encompasses communities in more than one State the Secretary may, at his discretion and upon the request of the responsible local officials, assist in the development of separate plans and programs for those parts of the urbanized area within a single State.

"(2) Within one year after the enactment of this section, in the absence of State law to the contrary, the local officials of an urbanized area for which a metropolitan planning organization has been designated prior to enactment of this section may, under the rules established by the Secretary, redesignate the State or any representative regional instrumentality as the metropolitan planning organization for the purposes of this section.

"(c)(1) On a date established by regulation, and at subsequent two year intervals, the local officials of an urbanized area desiring to avail itself of Federal financial assistance under this Act or under title 23, United States Code, shall prepare and submit to the Secretary for approval a comprehensive transportation plan. The planning process on which such plans are based shall consider all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate based on the complexity of the transportation problems. All plans submitted under this subsection for approval by the Secretary shall include both a long-range element and a short-range element.

"(2) The long-range element shall set forth a multiyear program of transportation improvement projects, staged according to priority. The long-range element shall include concise statements relating to multiyear program to each of the following objectives, which are declared to be in the national interest: (A) coordination of the urbanized area transportation system with the statewide transportation system; (B) development and implementation of strategies to reduce transportation improvement costs by making more effective use of existing transportation facilities; (C) development and implementation of strategies to coordinate various modes of passenger transportation; (D) development and implementation of strategies to reduce traffic fatalities and improve other aspects of transportation safety; (E) general improvement of mobility, with special attention paid to the needs of the transportation-disadvantaged; and (F) with respect to urbanized areas of 1,000,000 or more population, reduction of energy consumption and improvement of air quality by development and implementation of strategies to reduce peak hour single-passenger automotive travel to and from major centers of employment.

"(3) The short-range element shall set forth those transportation improvement projects, together with alternative transportation management strategies, proposed for the following two calendar years. The short-range element shall be developed, under supervision of the designated metropolitan planning organization, by an appropriate forum involving the State transportation department (or its equivalent), public operators of mass transportation, and other major actors responsible for implementation of the transportation policies of the urbanized area.

"(d) The Secretary shall approve a comprehensive transportation plan submitted pursuant to the preceding subsection unless he determines that the planning process on which the plan is based has not been carried out in conformance with this section, or unless he finds that the programs contained in the plan, when considered in the aggregate, are plainly inconsistent with and will not promote the national goals set forth under subsection (c)(2) of this section.

"(e) Concurrent with submission to the Secretary, transportation plans submitted to the Secretary pursuant to subsection (c) of this section also shall be submitted to the Governor of the State or States affected, to principal sponsors of projects proposed in the plan, and to the Environmental Protection Agency. If within thirty days thereafter any of the recipients submits comments to the Secretary, the Secretary shall consider such comments before taking final action on the plan. Nothing under this section shall be construed as limiting the authority of the State to develop and submit, pursuant to section 105 of title 23, United States Code, programs for projects under title 23, United States Code.

"(f) Approval by the Secretary of any plan submitted under this section shall not prohibit the Secretary from subsequently disapproving any individual project proposed in the plan, pursuant to the provisions of this Act, title 23, United States Code, or any other Federal law. Approval by the Secretary of any plan submitted under this section shall not be considered an action or approval for the purposes of the National Environmental Policy Act.

"(g) No project under this Act or under title 23, United States Code, and within an urbanized area as designated by the Bureau of the Census, shall be approved by the Secretary after September 30, 1980, unless such project is part of the short-range element to the comprehensive transportation plan submitted by that urbanized area and approved by the Secretary. The Secretary may waive this requirement for projects designed to meet emergency needs.".

H.R. 11733

By Mr. FOWLER:

—Insert at the end of section 108 the following new subsection:

(f)(1) Section 103(e) of title 23, United States Code, is amended—

(A) in paragraph (4), by striking out the last sentence;

(B) by redesignating paragraph (5) as paragraph (7); and

(C) by inserting after paragraph (4) the following new paragraphs:

"(5) Notwithstanding any other provision of law—

"(A) upon the withdrawal of approval of any route or portion thereof on the Interstate System under this section, a State, subject to the approval of the Secretary, shall not be required to refund to the Highway Trust Fund any sums paid to the State for intangible costs;

"(B) refund will not be required for the costs of construction items, materials, or rights-of-way of the withdrawn route or portion of the Interstate System which will be or have been applied (i) to a transportation project permissible under this title, (ii) to a public conservation or public recreation purpose, or (iii) to such other public purpose as may be determined by the Secretary to be in the public interest: *Provided*, That the State shall make assurances satisfactory to the Secretary that such construction items or materials or rights-of-way have been or will be so applied by the State of any political subdivision thereof to a project under clause (i), (ii), or (iii) within 10 years from the date of the withdrawal of approval; and

"(6) Nothing in this subsection shall in any way alter rights under State law of persons owning property within the right-of-way immediately prior to such property being obtained by the State. The Federal share of the cost of property sold or otherwise transferred to previous owners under State law shall be refunded and credited to the unobligated balance of the State's apportionment for interstate highways."

(2) The amendment made by paragraph (1) of this subsection shall apply to any withdrawal of approval before the date of the enactment of this subsection.

H.R. 11733

By Mr. GARY A. MYERS:

—Page 97, strike line 9 and all that follows through line 4, page 100, and insert in lieu thereof the following:

"SEC. 108. Paragraph (4) of subsection (e) of section 103, title, 23, United States Code, is amended by adding at the end of such paragraph the following new sentence: "The provisions of section 3(e)(4) of the Urban Mass Transportation Act of 1964, as amended, shall apply in carrying out this paragraph."

H.R. 11733

By Mr. SHUSTER:

—Page 171, after line 14, insert the following:

PROHIBITION

SEC. 230. None of the funds authorized by this title (including any amendment made by this title) shall be expended for the purchase, directly or indirectly, of any passive restraint system for any motor vehicle owned by any State (including a political subdivision of a State) or by the United States, except for a motor vehicle primarily used in an educational program.

Redesignate the succeeding section and references thereto accordingly.

—Page 190, strike out line 22 and all that follows down through and including line 3 on page 193 and renumber succeeding sections and references thereto accordingly.

—Page 202, line 14, strike out the sentence beginning on that line and ending on line 16.

H.R. 12452

By Mr. WAXMAN:

(Amendment to the amendment in the nature of a substitute offered by Mr. JEFFORDS.)

—Insert at the end of section 308 of the Comprehensive Employment and Training Act as proposed by the amendment in the nature of a substitute offered by the gentleman from Vermont the following new section:

"PROJECTS FOR MIDDLE-AGED AND OLDER WORKERS

"SEC. 309. (a) The Secretary shall—

"(1) develop and establish employment and training policies and programs for middle-aged and older workers which will reflect appropriate consideration of these workers' importance in the labor force and lead to a more equitable share of employment and training resources for middle-aged and older workers;

"(2) develop and establish programs to assist workers over forty years of age in pursuing second careers, including, but not necessarily limited to, work experience, vocational education, public service employment, on-the-job training, occupational upgrading, and job search and placement; and

"(3) conduct research on the relationships between age and employment and insure that the findings of such research are widely disseminated in order to assist employers in both the public and the private sectors better understand and utilize the capabilities of middle-aged and older workers.

"(b) in carrying out the provisions of subsection (a) the Secretary shall provide for appropriate arrangements to be made with prime sponsors, members of the business community (including small business), labor organizations, local educational agencies, and community-based organizations as defined in section 125(4) of this Act. Such arrangements may include, but need not be limited to—

"(1) an analysis of the local labor force on the basis of such factors as age, educational background, income, race, and sex, focusing particularly on comparative rates of labor force participation and of unemployment and underemployment among the various demographic groups studied;

"(2) an assessment of each participant's skills and work experience for purposes of formulating realistic second career objectives, including formal vocational testing instruments supplemented by such functional assessment methods and techniques to detect those skills and abilities of a participant as may be related to desired second career and occupational upgrading objectives;

"(3) second career and occupational upgrading counseling by individuals knowledgeable about the employment and training needs of middle-aged and older workers;

"(4) the establishment of second career objectives which will—

"(A) provide reasonable assurances to the participant that public and private sector demand exists for the skills developed in the second careers program; and

"(B) enable the participant to compete successfully in the job market; and

"(5) establishment of formal second careers training agreements, between participants and program sponsors, which—

"(A) set forth the career objectives of the participants and the steps required of each participant and prime sponsor to achieve these objectives;

"(B) will remain in force until its terms are fulfilled, or renegotiated or terminated according to such procedures as shall be prescribed by the Secretary; and

"(C) may be renegotiated or terminated, at any time, by the participant, or by the program sponsor for good cause.

"(c) The Secretary is hereby authorized to pay program sponsors reasonable training costs to participants in second careers programs to the extent necessary to achieve the objectives of such programs in accordance with regulations prescribed by the Secretary, but in no case shall such payment exceed the permissible maximum under section 121(c)(1)(B). Such costs may include reasonable tuition for participants engaged in technical or other institutional training and payments to program sponsors providing on-the-job training, provided that such payments are based on the actual number of hours of such training given to the second careers program participant. The Secretary is authorized to pay for equipment, materials, and such other costs necessary for a participant to achieve the objectives of his second careers program.

"(d) Programs assisted under this section may provide for participation in employment and training programs on a part-time or flexible-time basis.

"(e) Participants in programs authorized under this section shall be individuals over the age of forty who are unemployed, underemployed, or economically disadvantaged, who have a family income (exclusive of any income received under a Federal or State welfare or unemployment program) which is not in excess of 125 percent of the Bureau of Labor Statistics lower-living income level.

"(f) For the purposes of carrying out this section, the Secretary shall reserve from funds available for this title not more than 10 percent of the amount allocated pursuant to section 202(a).

"(g) No provision of this section shall be construed as intending any diminution of the employment and training opportunities available to workers over 40 years of age under titles II, VI, and VII of this Act."

Conform the table of contents accordingly.

H.R. 12452

By Mr. WOLFF:

—On page 72 between lines 12 and 13 insert the following new subsection:

"(28) The term 'special consideration' as used in section 121(b)(2)(A) means such employment, training, supportive services, technical assistance and training, support for community based veterans programs, and maintenance and expansion of private sector veterans employment and training initiatives and such other programs or initiatives as are necessary to serve the unique readjustment, rehabilitation, and/or employment needs of veterans."

H.R. 12611

By Mr. McHUGH:

—Page 117, line 14, at the end thereof, insert the following new subsections to the proposed new section 419:

"ESSENTIAL AIR TRANSPORTATION

"(e)(1) For the purposes of this section, 'essential air transportation' means scheduled air transportation of persons of the extent, character, and quality which the Board finds necessary to satisfy the needs of the community concerned for air transportation to one or more communities of interest and to insure the community's access to the Nation's air transportation at rates, fares, and charges which are not unjust, unreasonable, unjustly discriminatory, unduly preferential, or unduly prejudicial.

"(2) In no case shall the extent of essential air transportation be determined by the Board to be less than two daily round trips, five days per week, to at least one community of interest.

"(3) In determining the criteria for the character and quality of essential air transportation, the Board shall consider the community's needs for among other services, the frequency of service, the advance reservation of passenger seats, baggage handling and insurance, pressurized or other specialized equipment, timely departures and arrivals, joint fares, and the establishment of single plane or connecting plane service to points beyond the primary community or communities of interest.

"(4) As soon as practicable after enactment of this section, but no later than January 1, 1980, the Board shall, by rule, and after the consultation required by subsection (c), establish the criteria for essential air transportation for all points specified in subsection (a)(1).

"CONTINUITY OF GUARANTEED ESSENTIAL AIR TRANSPORTATION

"(f)(1) No air carrier shall terminate, suspend, or reduce air transportation to any point specified in subsection (a)(1) below the standards of essential air transportation established by the Board unless such air carrier has given the Board, the appropriate State agency or agencies, and the communities affected at least 90 days notice of its intent to do so.

"(2) Upon receipt of a notice required by subsection (f)(1) for a point specified in subsection (a)(1), the Board shall require the air carrier to postpone such termination, suspension, or reduction in service until another air carrier has begun to provide essential air transportation. If the Board requires an air carrier to postpone an intended service change for more than 90 days, then the Board shall, in accordance with the procedures of subsection (b), compensate such air carrier for any losses that the air carrier demonstrates that it incurred in complying with this requirement, unless such air carrier is already provided compensation under this section or section 406.

"(3) With respect to any point specified in subsection (a)(1), unless the Board has completed the consultation required by subsection (c) and determined the essential air transportation for such point, either individually or by rules adopted under (e)(4), the Board shall, upon petition of any appropriate representative of such point, prohibit any termination, suspension, or reduction of air transportation which reasonably appears to deprive such point of essential air transportation, until the Board has completed such determination.

"(4) The Board's authority under this subsection shall cease to be in effect on the last day of the tenth year which begins after the date of enactment of this section."

Page 117, line 18, insert the following items at the end thereof:

"(e) Essential Air Transportation

"(f) Continuity of Guaranteed Essential Air Transportation

H.R. 13059

By Mr. FITHIAN:

—Page 39, after line 22, insert the following:

"(c) The Lafayette Dam and Reservoir, Wabash River, Indiana, authorized by section 204 of the Flood Control Act of 1965 (Public Law 89-298), is not authorized after the date of enactment of this Act."

H.R. 13850

By Mr. MAZZOLI:

—On page 32, strike out lines 2 through 5 and insert in lieu thereof:

"States. Notwithstanding any other provision of this part, reports filed by such individuals shall be reviewed solely by the Director of the Office of Government Ethics under security procedures determined by the Director of Central Intelligence and approved by the President. In addition, such individuals may be authorized, notwithstanding section 204(a), to file such additional reports reflecting an ostensible employer and salary as are necessary to protect the identity of such individuals from public disclosure if the President first finds that such filing is necessary in the national interest."

H.R. 14042

By Mr. ANDERSON of California:

—Page 39, after line 3, insert the following new section:

ASBESTOS STUDY

The Secretary of the Navy shall conduct a study analyzing the effects of asbestos on Naval civilian and military personnel, evaluating present standards of permissible levels of asbestos in shipyards, the need for asbestos in new ships, the feasibility of removing asbestos in presently commissioned ships, and promulgating a possible timetable for implementing such a removal.

This study shall be submitted to the President and the Congress not more than 180 days after enactment.

There are authorized to be appropriated such funds as may be necessary to conduct this study.

H.R. 14042

By Mr. WOLFF:

—On page 39 after line 3 add the following new section:

SEC. 818. (a) The Secretary of Defense shall report to the Congress at the end of fiscal year 1979 what efforts he has taken during the fiscal year to formulate a productivity plan with respect to personnel needs and what efforts he has taken during the fiscal year to gather productivity data under that plan upon which to base personnel requests for subsequent fiscal year authorizations.

(b) The Secretary of Defense shall make such plan and data available to the Congress at the end of fiscal year 1979."

H.R. 13059

By Mr. VOLKMER:

—Page 85, following line 12, insert the following new section:

SEC. 185. Section 221 of the Flood Control Act of 1970 (Public Law 91-611), as amended (42 U.S.C. 1962 d-5b) is further amended as follows:

Insert the following new sentence at the end of section 221(b): "Where the nonfederal interest is the State itself, performance and payment of damages may be contingent upon the legislative appropriations process of the States."

Delete the period at the end of the sentence contained in section 221(f) and add the following words at the end of that sentence: "or to contract with non-Federal interests for water supply storage under the Water Supply Act of 1958 (Public Law 85-500), as amended (43 U.S.C. 390b) or for recreational development under the provisions of the Federal Water Project Recreation Act of 1965 (Public Law 89-72), as amended (16 U.S.C. 4601-12 et seq.)

Renumber succeeding sections accordingly.

EXTENSIONS OF REMARKS

TRIBUTE TO REV. HENRY CLINKSCALE OF YOUNGSTOWN, OHIO

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. CARNEY. Mr. Speaker, on Sunday, August 27, 1978, the Reverend Henry Clinkscale, Jr., pastor of Elizabeth Baptist Church, was honored at a testimonial dinner at the Mahoning Country Club in Girard, Ohio.

The benedication was given by the Reverend Willie Mitchell, associate pastor of Elizabeth Baptist Church. The principal speaker for the occasion was the Reverend Lonnie A. Simon, pastor of New Bethel Baptist Church. Reverend Simon praised Reverend Clinkscale for his many good works—both church and civic—and also for the outstanding leadership he has provided to the community.

A city of Youngstown proclamation was presented to Reverend Clinkscale by Mayor J. Phillip Richley, Second Ward Councilman Herman "Pete" Starks, and Mahoning County Commissioner Thomas Barrett. In addition, an Ohio Senate resolution was presented to Reverend Clinkscale by State Senator Harry Meshel. On behalf of his church members, Mrs. Ora Lee Brown presented Reverend Clinkscale with a monetary gift as a token of their high esteem and appreciation of his services.

Rev. Henry Clinkscale, Jr., the son of the late Henry and Mattie Clinkscale, was born in Youngstown, Ohio. He attended Covington School, Hayes Junior High School, South High School, International Correspondence School, Youngstown State University, Malone College in Canton, Ohio, and 4 years at the Central Bible College in Cleveland, Ohio. He also attended the Human Engineering Institute of Niles, Ohio, for 3 years. In addition, he received a certificate for completing the course in hydraulic maintenance, I and II, which was sponsorsed by the Commercial Shearing & Stamping Co., where he is employed.

He served as an ordained deacon of the New Bethel Baptist Church for 6 years and was called to preach in 1965. He was licensed to preach by the New Bethel Baptist Church, where the Reverend L. A. Simon is the pastor. He served as assistant pastor of the Antioch Baptist Church, where the Reverend Alfred Ward is the pastor.

Ordained in 1967, Reverend Clinkscale was called to pastor the Beulah Baptist Church, where he served for 2 years. In September 1969, he was called to pastor the Elizabeth Baptist Church.

Under his pastorage, the present edifice was purchased, the mortgage was burned, and two additional lots were purchased for parking. Membership has increased by approximately 300 people. The Altar Guild and Junior Church are additional auxiliaries, as well as the newly organized Young Matrons Mission, and a minibus was purchased to transport members of the congregation.

Reverend Clinkscale is a member of Harvest Lodge Mason No. 26, the NAACP, the Urban League, the Baptist Ministers Alliance, and the Interdenominational Ministers Alliance.

He is married to the former Odessa Harris, and they have four daughters: Rose Clinkscale, Sandra Harden, Judith Paul of Youngstown, and Darnell Williams of Cleveland, Miss., and five grandsons.

Mr. Speaker, Reverend Clinkscale is a deeply religious man who has dedicated his life to serving God and his fellow man. Because of his work, the city of Youngstown is a better place to live. We are most fortunate to have him and his family as members of our community. It is fitting and proper that this testimonial dinner was held in his honor, and I take this opportunity to extend my sincere congratulations and best wishes to him.●

DONALD G. WEINERT APPOINTED EXECUTIVE DIRECTOR OF NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. FISHER. Mr. Speaker, the board of directors of the National Society of Professional Engineers (NSPE), at its annual meeting in St. Louis July 22, appointed Donald G. Weinert, P.E., successor to Paul H. Robbins, P.E., as executive director of the 76,000-member organization. Robbins will retire in August 1979 after 32 years as executive director.

Weinert is a graduate of West Point with a Masters Degree in Civil Engineering from Purdue University. He is retiring from the Army Corps of Engineers after 26 years' service. While in the corps, he attained the rank of Brigadier General and has most recently served as a Special Assistant to the Chief of Engineers in Washington, D.C. Previously he has served as an engineer unit commander and staff officer and as a contract construction manager at locations in Europe, Korea, Vietnam, and the United States. A member of NSPE and the Society of American Military Engineers, Weinert is a registered professional engineer and has served on several NSPE committees.

A search committee under the chairmanship of NSPE past president Harry E. Bovay, Jr., P.E., chairman of Bovay Engineers, spent nearly 6 months screening applicants and recommended Weinert for the position.

I am certain that my colleagues join me in wishing Mr. Weinert all the best in his new position.●

CITY ACTIVIST ROSALIE N. DEITZ, LEADER IN HISTORIC PRESERVATION

HON. FRANK THOMPSON, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. THOMPSON. Mr. Speaker, my home city of Trenton, N.J., quite recently lost one of its most outstanding civic leaders with the death of Mrs. Rosalie N. Deitz. Mrs. Deitz did not hold an elective office in our city but her achievements in preserving Trenton's historic area around the statehouse will be remembered as long as the city endures.

Mrs. Deitz was an outstanding citizen whose regard and love for her community exemplified itself in her life. I have lost a personal friend and my city has lost one of its treasures. I commend to the House the following obituary from the Trenton Times:

[From the Trenton Times, Sept. 14, 1978]

CITY ACTIVIST ROSALIE N. DEITZ, LEADER IN HISTORIC PRESERVATION

(By Robert Joffee)

Rosalie N. Deitz, one of Trenton's most effective community activists, died last night at Mercer Medical Center after a long illness. She was 68.

Orland's Memorial Chapel is in charge of arrangements, which were still incomplete this morning.

Neighbors and civic leaders say Mrs. Deitz deserves most of the credit for obtaining hundreds of thousands of government dollars for preserving and rehabilitating the historic area around the New Jersey State House.

The success of those efforts was celebrated only last Sunday in a "State Street Stroll," a block party featuring guided architectural walks, home tours, mini-parades with antique cars and square dancing.

But Mrs. Deitz, who had organized the event to show off the neighborhood, wasn't there. By that time she had sunk into a coma and it was obvious that death was near.

She also is credited with being a prime mover behind such things as the sweeping revision of the Trenton city charter, the establishment of golden-age groups in the city, the founding of a Trenton city museum and many other civic and philanthropic projects.

Mrs. Deitz ran for City Council in 1966 and later considered running for mayor, but she never was elected to public office. She worked full-time on various pet projects for two decades, but never received money for her work.

Yet, as a self-proclaimed "professional volunteer," she was a formidable political force. She did her homework, mobilized her charm, made her phone calls, showed up with supporters at public meetings, and

made eloquent presentations for her causes. Politicians found it difficult to turn her down.

"It was hard to say no to her because she was so sincere and so dedicated," said Senate President Joseph P. Merlino of Trenton.

"She had a genius for organization," said Trenton Mayor Arthur Holland. "She was one of Trenton's greatest resources."

In 1973, Mrs. Deitz held a meeting in her living room and spearheaded the formation of the State House Historic District Association, a group of landlords and tenants who wanted to improve the State House area. Under her leadership, the group accomplished the paperwork needed to have the district declared historically valuable by the city, the state and finally the National Register of Historic Landmarks.

Landmark designation cleared the way for grants and low-interest loans to rehabilitate buildings in the area, which has fine examples of Federal, Greek Revival and Beaux Arts architecture.

The Deitz home, one of the most remarkable of those buildings, has eight rooms furnished in authentic Victorian period pieces, with gas-light fixtures, a gazebo and a formal garden. Mrs. Deitz, who had an irreverent sense of humor, used to say the inspiration for her decorating ideas came from Gay Nineties San Francisco bordellos.

Perhaps because of this irreverence in the face of pomposity and conservatism, Mrs. Deitz had some political enemies. But her persistence in bringing about change also won her lasting friends.

She made a name for herself in city politics in the early 1960s as a League of Women Voters' activist pushing for the city charter changes that gave Trenton its present mayor-council form of government. It was during that period that she became a close associate of Holland and also of S. Howard Woodson.

Woodson is now president of the state Civil Service Commission and the highest-ranking black in state government. But in 1962, the year of the first election under the revised city charter, no black had ever been elected to citywide office in Trenton. He said he wouldn't have won a city council seat that year had it not been for "Rosalie's insistence on the creation of an interracial ticket."

According to Jeffrey Laurenti, a Merlino protege, Mrs. Deitz's friends in city government and the Legislature "gave her access to the governor and commissioners at the state level." She used those friends to promote the cause of historic preservation.

Woodson, who had gone from City Council to the state Assembly, and Merlino, who had gone from city attorney to the Assembly to the state Senate, both helped her obtain state landmark designation for the Kelsey Building, the 60-year-old structure at the corner of West State and Willow streets.

"The Kelsey Building became a kind of anchor for having the rest of the State House area designated an historic district," Laurenti recalled. "What is remarkable is that an entire area is being transformed as a result of the actions of a single woman. It was her persistence that set things in motion."

"Rosalie not only had ideas, she carried them out," said another friend, retired Judge Sidney Goldmann of the Appellate Division. He recalled Mrs. Deitz' leadership of the Trenton chapter of the National Council of Jewish Women, and the active role she played in the sisterhood of Har Sinai Temple. "She originated the golden-age group in the Jewish community, an idea that later spread to other groups in the city," he said.

Goldmann said Mrs. Deitz also was a founder of the Nearly New Thrift Shop, which raised money for several Jewish philanthropies.

Mrs. Deitz was ever the optimist when it came to the future of Trenton. She had said of her efforts in the State House area, "We . . . created a neighborhood. People had not known each other. Now we had mutual self-help, cooperation with the police, and plans for outdoor lighting, parking, preserving facades and an off-street playground. We wanted to inspire other sections of Trenton to develop their latent possibilities.

"I do not think cities are dead," she continued. "And city living is a charmer. With no commuting we have lengthened the day. You lengthen your life. All of life is here in the city, so exciting—and so close." ●

BALANCE(S) OF POWER SERIES: BOOK IV(G)—MILITARIZATION OF SOVIET SOCIETY

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, since the expiration of the draft on June 30, 1973, the United States has been committed to the concept of an All-Volunteer Force (AVF). Despite initial success, however, the AVF remains the center of controversy. In general, debate has focused on four principal areas: First, whether the AVF can continue to attract sufficient numbers of young people; second, whether the AVF can attract the quality of personnel that can be both efficient and combat ready; third, whether the growing share of the defense budget allocated to manpower costs needed to implement the AVF could not be better invested in R. & D. as well as procurement; and, fourth, whether the AVF undermines a necessary public sense of duty to the country.

What has not received sufficient attention is the impact the AVF has had upon the Nation's mobilization capabilities in times of national emergency, its ability to fight a war, and its morale vis-a-vis national security issues.

This question is brought into better focus, perhaps, by recognizing the fact that, as the following article explains, the Soviet Union adopted over half a century ago the opposite policy of universal military training.

"Universal Military Training in the USSR" is an article by Harriet Fast Scott which describes in detail the steps taken in Russia today to maintain an omnipresent, broad-based, highly competent military structure. As the article indicates, universal military training not only affords the Soviet military machine a large manpower pool, but also creates a morale which lends broad national support to those measures the Soviet leadership finds necessary to the attainment of its strategic objectives.

The article, which first appeared in Air Force Magazine in March 1978, follows:

UNIVERSAL MILITARY TRAINING IN THE U.S.S.R.

(By Harriet Fast Scott)

Sometime this month, notices will appear all over the Soviet Union announcing the call-up of all males who will have turned eighteen by July 1. In September, the Defense Ministry will post another order calling up those who will reach eighteen by January 1, 1979. This twice-annual call-up is part of the Soviet military conscription that has existed in one form or another during the Soviet Union's sixty-year existence.

The Soviet Armed Forces consist of a relatively small cadre of regular officers, warrant officers, and "extended-duty" soldiers and sergeants, along with a constantly changing force of several million young men in training.

The number of officers is estimated to be between 600,000 and 1,000,000. The number of warrant officers and extended-duty servicemen is between 250,000 and 400,000. This permanent cadre is responsible for maintaining a combat-ready military force, and at the same time for training "almost all" Soviet males—to use the late Marshal Grechko's expression—and then discharging them into the Reserves. The Party leadership has said that any future world war will likely be nuclear and will "demand multimillion-man armies." This demand can be met only through the mobilization of millions of trained men.

This year, in response to the Defense Minister's order, approximately 2,600,000 young men born in 1960 will report to the local military office, called the military commissariat (*voyenkom*). Half this number reports in April and May, and the rest in November and December.

They will be examined by a call-up commission headed by the local military commissar, with representatives from the local Party organization, trade unions, the militia, and medical agencies. The military commissariat will have all of the conscript's records, including education, preliminary military training, and any specialist training he might have been given after he first registered for military call-up at age seventeen.

The call-up commission assigns each man to a service, branch, or arm. Physical characteristics have some bearing on assignment. For example, to qualify for flying duties, the eighteen-year-old must be between five feet two inches and six feet tall, weigh less than 176 pounds, and have legs at least thirty inches long.

Of major importance to the individual at the time of call-up is the fact that the call-up commission also designates noncommissioned officer candidates. These candidates are sent directly to sergeants school for approximately six months of training. For the remainder of their eighteen months in service these young men will be in charge of other eighteen- and nineteen-year-olds—the bulk of the Soviet Armed Forces.

CHANGING PATTERNS OF CONSCRIPTION

Conscription for the Red Army was decreed May 29, 1918, but nationwide military obligation was not introduced until September 1925, after the military reforms. Military obligation for all males aged nineteen to forty consisted of two years of Beginning Military Training, followed by five years of active duty starting at age twenty-one. This training was based on a territorial militia system of intermittent service or cadre service mixed with long leaves of one to three years.

A new Law on Universal Military Obligation was adopted September 1, 1939, almost two years before Hitler invaded the Soviet Union. This law required an annual call-up in September and October of all nineteen-year-olds except those receiving secondary education. After World War II, compulsory military service was three years for the Air Forces, Ground Forces, Troops of National Air Defense, and Strategic Rocket Forces, and four years for the seagoing components of both the Navy and Border Guards.

In 1967, the Law on Universal Military Obligation was rewritten. The age of induction was lowered to eighteen for all males. Two call-ups each year replaced the single,

annual call-up. Service was set at two years and, for those serving at sea, three years. Initially, those with higher education had to serve only one year, but this was raised in 1977 to two years for those serving at sea and eighteen months for all others.

Even before World War II, the Soviet Union had a system of Beginning Military Training in which youths were taught basic military skills before entering the Armed Forces. To help compensate for the 1967 reduction in length of service, Beginning Military Training was made compulsory for all males on reaching age fifteen. This training is given in the ninth and tenth grades. Though given in the schools, the Defense Ministry is responsible for instruction. Much of the training is conducted by Reserve officers. For those not in school, military study centers are established at factories or at other places of work. Instruction also is given at specially equipped schools by DOSAAF, the Voluntary Society for Cooperation with the Army, Aviation, and Fleet.

Some youths are designated for specialist training when they register with the military commissariat at seventeen, one year before they are due to be called up to active military duty. This training is given at professional technical schools or by DOSAAF.

The 1967 law also set a time limit on deferments. Those who are ill, or who for family or compassionate reasons have their call-up deferred, are exempt on reaching age twenty-seven. Those who are deferred to continue their education are excused on reaching age twenty-seven. There are limited-service positions for those not physically fit for combat-type duty.

Up to fifteen percent of young Soviet men may be permanently excused for physical reasons. Another five percent may have invalid parents or other reasons for deferment, and never serve. In all, about twenty percent will be fully excused from military service. This means that every six months about 1,000,000 youths will be entering the Soviet Armed Forces, and approximately the same number will be discharged into the Reserves. In 1978, about 4,000,000 conscripts will be serving in the Soviet Armed Forces, which include the Border Guards of the KGB and the Internal Security Troops of the MVD, though the latter two are not under the Ministry of Defense.

Although the rigors of military life are many, the average Soviet citizen sees them as necessary to defend the country and complains very little. After all, he and his peers are all in the same boat.

THE CALL-UP CENTER

Soon after being reviewed by the call-up commission, those without deferments or physical disabilities are notified to report to a collection center. The "young soldier," as all conscripts are called until they formally take their oath, is now on active duty in the Armed Forces of the USSR.

At the collection center he is issued a uniform and boots, a set of underwear, a towel, a spoon, a mug, and toilet articles. These are kept in a small suitcase or bag, together with documents from the call-up commission. He gets a short haircut and turns in his civilian clothes, which are sent home for the duration.

The young soldier turns in his internal passport, if he has one, to the military commissariat and is issued a military card. (Present plans call for internal passports, without which most travel and permission to live in cities is impossible, to be given to all citizens by 1981.) At the collection center, the young soldier gets his first taste of active military duty. He wakes up on schedule, eats on schedule, and drills on schedule. He gets more medical examinations, shots, and lectures.

Soon travel groups are formed to take the young soldiers to their units. According to Soviet accounts, the train platform overflows with local Party and city officials, parents, relatives, wives, and girl friends. The band plays loudly and off they go.

LIFE IN THE MILITARY

On reaching his military unit, the young soldier is assigned to a separate platoon where the fundamentals he has learned in Beginning Military Training are reviewed.

He is issued three uniforms (dress, service, field) and fatigues. The barracks where he will live has a large sleeping room, a room to shine shoes and press uniforms, and a shower and shaving room. Each conscript is given one large bar of household soap each month to use on his weekly visit to a communal steam bath—a Russian custom suited to the cold climate. Soldiers must wash their feet each night before going to bed.

Meals are served three times a day with the interval between meals not to exceed seven hours. The basic diet provides about 3,700 calories a day, and "norms" providing additional calories are calculated for abnormal environments and some kinds of work. Each serviceman is given the norm set for his type of work. Thus, those located at radar posts high in the mountains, or on flying crews, or in aviation ground crews of the engineer-techical service, get special high calorie diets, as do soldiers over six feet two inches tall.

There are forty different dietary norms operating today in the Soviet Armed Forces, according to the Chief of the Central Food Directorate. Each soldier's food allowance is given in carefully measured helpings; those entitled to higher caloric norms may have a fourth meal each day.

After several weeks, but no later than two months, the whole unit attends a ceremony where the young soldiers take the military oath of allegiance. This is done with great solemnity and is considered a holiday for the unit. Often a symbolic place is selected for the ceremony to make a lasting impression on the new privates: Red Square in Moscow or the battlefield memorial at Volgograd (Stalingrad).

The serviceman generally will spend his entire two years in the same unit. He will get no leave during this time, except for emergencies or as a reward for unusual achievement.

Candidates for sergeant attend a school that is run by the regiment. Specialists go to classes up to six months for additional training or are assigned to on-the-job training in the unit.

PAY AND BENEFITS

Young men leaving a job at a factory or a farm, or who are on a scholarship at school, are given two weeks of their civilian job pay as a bonus when they are called into service.

The monthly pay for privates, according to unofficial reports, is three rubles. Pay rates for the Soviet soldier and sergeant, however, are not published. Specialists get higher pay than others of the same rank. Additional pay also is given for exceptionally hard or dangerous work, including flying. Medical personnel get 15 percent higher pay. Soldiers and sergeants with second-class, first-class, or master's rating get extra pay as long as they hold a position for which that rating has been established. Bonuses, based on rank, are given at the end of service when servicemen are transferred into the Reserves. If the serviceman is returning to a distant area, the bonus is doubled.

If the conscript is married and has children, and his family lives in a city or town, his wife gets fifteen rubles a month for one child and twenty-two rubles for two or more children. A wife living in a rural area will get 7.5 rubles for one child and twelve rubles for two or more children. Wives of conscripts will be given special assistance in finding work, and places are provided in nurseries for children, if requested.

When released into the Reserves after two years, servicemen have certain privileges. Within one month they must be given jobs compatible with their specialty and experience. Those who were students have a right to return to the same course from which they were called. Servicemen have the right to keep their housing or position on the housing list while in service. Servicemen do not pay taxes, and they have free mailing privileges.

Servicemen are encouraged to offer suggestions for improving efficiency. Special commissions examine all suggestions and if accepted, make awards that can be large. A suggestion that results in a saving of more than 100,000 rubles a year can earn an award of as much as 5,000 rubles. There are lesser forms of encouragement and rewards such as citation at a parade, a two-day pass, or ten-day leave, or a decoration.

The backbone of Soviet military training is the proficiency rating for specialists. Third-, second-, and first-class ratings may be earned in that order by servicemen who are taking part directly in servicing armaments or military equipment, or training.

Soldiers who have finished either a course conducted by their unit or a school for specialists and who earn "good" or "excellent" scores on a test become third-class specialists. Those who receive a "satisfactory" score must get further on-the-job training. Some are given only on-the-job training and then take the examination. Their scores must be at least "good" to get a third-class rating.

Examinations are given at the end of the winter or summer study period. Those who pass are awarded certificates and badges. Those who fail to qualify may take the test again in five months.

Second-class, first-class, and master specialists must reconfirm ratings each year, higher ratings cannot be given in less than six months after the previous rating. Those who seek higher ratings must do well in both military and political training.

Commanders authorized to award ratings may also take them away for failure to take care of equipment or as punishment. Unsatisfactory ratings drop the specialist one grade. Tests to regain lost ratings may be taken after five months. All other things being equal, the serviceman with the higher class rating gets promoted first. For those who wish to enter officer commissioning schools, first-class and masters' ratings earn preferential treatment.

SOVIET DISCIPLINE

Discipline is very strict. For treason, i.e., acts resulting in damage to state independence, territorial integrity, or the military might of the USSR; defection; espionage; giving state or military secrets to foreign states; refusal to return from abroad; hostile acts against the USSR; and plots to seize power, punishment is ten to fifteen years' loss of freedom with confiscation of property and sometimes with exile from two to five years. The sentence for extreme acts of treason can be execution and confiscation of property.

For crimes against military order—insubordination, nonperformance of orders, AWOL, desertion, divulging military secrets—servicemen are punished according to military law. For instance, insubordination may be punished by one to five years' loss of freedom; group insubordination, three to ten years; insubordination in wartime or in combat, from five to ten years up to the death penalty. The penalty for AWOL in peacetime can range from three months' to two years' assignment to a disciplinary battalion. Time served in a disciplinary battalion does not count toward national service obligation.

REENLISTMENT POLICY

Several months before the end of his service obligation, the conscript may decide to stay on for additional duty. Certain positions can only be filled by extended-duty service-

men. Commanders encourage their best men to apply for these positions for two-, four-, or six-year enlistments. Reservists can also volunteer for active duty up to age thirty-five. Some specialist positions are handled by contract, usually for four years. These may be signed up for before the regular two-year service obligation is completed.

The regimental or equivalent level commander selects candidates for extended service. A board makes the final choice. Generally, men are expected to continue after reenlistment in the same unit.

On being accepted for extended service, privates are promoted to privates first class. Sergeants, who have held their rank for six months and whose position calls for higher rank, are also promoted.

Servicemen also may volunteer to become warrant officers. This rank was introduced in 1971 to replace extended servicemen. In 1973, the law was amended to include both extended servicemen and warrant officers. Candidates for warrant officer, if accepted, are sent to school for one of two years. Those with an equivalent civilian education in a military specialty may be given a warrant at once. The initial period of service for warrant officers is five years, with subsequent three- or five-year periods to age forty-five. A warrant officer can serve five additional years in special cases. Extended-duty servicemen can serve to age fifty.

Two years may seem a short time to produce a well-trained airman or soldier. However, premilitary training must be taken into account.

The Soviet citizen begins receiving military-related training from the age of seven, first as a member of the Octobrists, where patriotism and group discipline are taught, and later with the Pioneers, where instruction is given in rifle marksmanship and other military skills.

Nationwide military sports games are used to teach military skills to teenagers. The Zarnitsa games, for youths eleven to fifteen, include competitions in overcoming mock minefields and radioactive areas. The Orlenok games, for youths sixteen to eighteen, feature more advanced military exercises, including simulated nuclear attack drills.

Also, two years of Beginning Military Training is required of all boys in high school. For those who have dropped out of school, DOSAAF provides training in military and military-related skills.

Undoubtedly there are many weaknesses in the Soviet conscript military force. But as the Party leadership gives priority to research, development, and the production of weapon systems—such as the SS-20 and Backfire bomber—it gives equivalent attention to ensuring the combat readiness of its military personnel. The question is how effective—or ineffective—is the Soviet conscript force compared to the volunteer force of the United States. That is the context in which the vulnerabilities and strengths of the Soviet Armed Forces must be examined.●

NOW, AN INTERNATIONAL COMPANY

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. VANDER JAGT. Mr. Speaker, I have the privilege of representing a city in Michigan that boasts an unemployment rate of less than 3 percent. In fact, the city of Holland, situated on the shores of beautiful Lake Michigan, is one of the fastest growing, most productive cities in all of Michigan.

Among the leaders of the many energetic, innovative, and highly successful businesses operating in Holland is a family-started business (formerly known as Brooks Products), SquirtPak. Already the largest distributor of 7-Up in Michigan, SquirtPak is now international in scope. The "start-small-get-big-through-hard-work philosophy" of SquirtPak is best captured in the words of James Brooks, chairman of the board of the company. "Growth in business is not arbitrary," says Brooks. "It's mandatory." And for SquirtPak, that philosophy has produced a 25 percent compound growth rate.

Mr. Speaker, I submit for the record the following news article from a recent edition of "The Holland Sentinel" which explains the phenomenal and inspiring success of SquirtPak:

[From the Holland (Mich.) Sentinel, Aug. 21, 1978]

FROM BROOKS TO SQUIRTPAK: BIG CHANGES FOR LOCAL BOTTLER

(By Bob Niedt)

"Bio-Label Lathiated Lemon-Lime Soda"

How well does that go with a hamburger?

Today that not-too-familiar product is the familiar 7-Up, and probably when any resident of Holland thinks of 7-Up (or Squirt, Hires Root Beer, Crush, etc.) they would think of their very own local bottler, Squirt-Pak, formerly Brooks Products, Inc.

And well they should.

Brooks (SquirtPak) and Holland have had an interesting relationship. The company is another one of the area organizations which has grown up from a very small outfit to one of international recognition.

But success hasn't gone to the company's head. Although it's a company which has grown incredibly over the years, it still keeps that hometown Holland atmosphere, a cut above many organizations which could quickly become top heavy.

But to clear up any confusion the reader may be having, the record should first be set straight. Brooks Products, as it's been known to Hollanders for the past few decades, is now SquirtPak, one of the holdings of the multi-franchise holding company Squirt and Company, based in Holland.

The new name was announced in mid-July, after major re-structuring of Brooks Products, Inc., as a result of the purchase of The Squirt Company in Sherman Oaks, Calif. in 1977.

At the reigns of Squirt and Company is James F. Brooks, son of the founder of Brooks Products, Inc., Phillip Brooks.

James Brooks is the Chairman of the Board, President and Chief Executive Officer of the company, which own SquirtPak, SquirtFruit (the citrus processing and laboratory operation for Squirt, based in Glendale Ariz.), SquirtCo. (the new name for The Squirt Company which is the national Squirt franchiser, also based in Sherman Oaks) and a new SquirtCo subsidiary, Squirt International, Sherman Oaks, which will help develop and broaden distribution of Squirt on a domestic and international level.

SquirtCo also has an affiliate in Mexico, Refre-Mex, which markets Squirt, the leading carbonated soft drink in that country.

James Brooks, the head of SquirtCo, was asked why he decided to change the name of the company to SquirtCo instead of keeping his name at the top of the entire corporation.

"That's a natural question," said Brooks, "but the answer is really very simple: outside of the Holland area, who ever heard of Brooks? If one of our company representatives walked into a meeting in another state and said 'I'm from Brooks' they'd probably say 'Who?' But if he said 'I'm from Squirt-Pak,' that's a little more well known."

The restructuring of Brooks Products had been in the process for a while, especially after the acquisition of The Squirt Company. Brooks and other management personnel felt that it was necessary to unify the multiple beverage operations owned by Brooks Products under one name. It was a matter of bringing together the marketing, manufacturing, franchising and citrus technologies together into one company and under one parent name.

Brooks felt that it was necessary for people to become more aware of the company throughout the country, and to begin expanding into new national and international markets.

It was Walter Landor Associates, the internationally known and respected corporate design consultants, who studied the holding of Brooks Products and came up with the idea of putting Squirt at the head of each of the operational units of the company.

Walter Landor Associates, according to Brooks, have been responsible for corporate identity campaigns for the Bank of America, Marlboro cigarettes, Wells Fargo Banks and Miller Lite Beer. Their creativeness and international reputation persuaded Brooks to go to them.

"Their firm operates out of a ferryboat docked in San Francisco," said Brooks. "It's the same ferryboat which used to ply the waters of the San Francisco Bay before the Golden Gate bridge. That ferryboat is just the right atmosphere for creative people to work in. I thought that was interesting—and innovative, and for that and various other reasons we decided to retain them to come up with a corporate design for us."

Although the company is no longer Brooks Products, Inc., it still is a family operation, privately owned by the Brooks.

And the humble beginnings (if a cliche can be forgiven) started out right here in Holland in 1934.

It was in that year that Phillip Brooks was granted a franchise license to bottle 7-Up in Western Michigan. He had observed how well the new soft drink had been doing in Portsmouth, Ohio, when he decided to try his hand at bottling the lemon-lime drink known as "Bio-Label Lithiated Lemon-Lime Soda."

Brooks wanted a Michigan license for the new soft drink, and after receiving it, he bottled the drink through the Underwood Bottling Co. Family members, including young James, would help him by putting paper labels on the bottles with a paintbrush, one at a time, in the basement of their home.

For ten cents a case Brooks would get bottles from the Berghoff Bottle Co., and when the mix was bottled, Brooks would then deliver the product during the day from the back seat of a 1929 Buick sedan, which had the back seat removed in order to accommodate the cases of 7-Up.

Brooks lost $600 in his first year of operation, and in the second year made $600. Profits, as can be seen, were not too high. In fact there wasn't any.

So Brooks sold the business for $400. One year after that, after some persuasion from the man he sold it to, Brooks bought the business back and acquired property on River Ave. (which is still being used as a bottling plant).

By 1937, Brooks felt that he could bottle the drink better himself, so he borrowed the money to buy some used washers and fillers. Prior to this time he had been renting out the Grand Rapids Bottling Company facility at night to bottle the mix. Ironically, Brooks bought out the Grand Rapids Bottling Company years later, and members of that company who helped him out are still with SquirtPak.

World War II saw hard times for Brooks Products, especially when sugar rationing came along. This meant that they had to cut their volume by 50 percent of what they could produce.

James Brooks joined his father in the family business in 1945, after serving with the armed forces during the war. Going into the family business isn't exactly what James had in mind.

"I was going to be a doctor," said Brooks, "everyone in my family was all for it. But when I got out of the army and went back to the University of Michigan, I saw how many more years I would be in school. It was then that I decided to go into the business."

The company became incorporated in 1953, with James Brooks the President and his father, Phillip, became Chairman of the Board and Treasurer. Business was growing incredibly, and plant additions were tacked on.

Expansion was needed, and the company bought land on 32nd St. near U.S. 31 in the Industrial Park. Plans for the new facility were carefully layed out with the thought of expansion always in mind.

Because of the versatility and features of the new plant, Brooks Products and the 7-Up Bottling Company of Northern Michigan in Cadillac consolidated in 1967. Brooks territory increased from 19 counties to all of Western Michigan. It now encompasses 58 counties for distribution of 7-Up, the largest in Michigan.

Other franchises were acquired by 1968. The Grand Rapids Bottling Company, which at one time rented its facilities to Brooks at night, was bought out by Brooks Products, Inc., bringing with them the franchise rights to Hires Root Beer, Dr. Pepper and the Royal Blend Sun-Glo soft drink line, which was later shortened to Sun-Glo beverages.

Sun-Glo, as a point of interest, is marketed not only in the Western Michigan area, but five other states as well.

In 1969, Vernors Bottling Company of Southwestern Michigan became a part of Brooks, bringing in the unusual taste of Vernors along with Orange Crush.

When Brooks built the 105,000 sq. ft. facility in the Industrial Park near 32nd St., growth was anticipated. In 1977 an 87,500 sq. ft. addition was tacked onto the plant, and even that space was quickly filled.

The year 1977 also brought the acquisition of the Squirt Company, making it a subsidiary of Brooks Products. Growth of Squirt as a popular soft drink is now expected to accelerate even faster. There are plans to build a much stronger operating base for Squirt by adding more funds to expand Squirt staffing, advertising and marketing.

There's a lot of excitement at SquirtPak in Holland over the growth of Brooks, especially at the management level. Talking with James Brooks, one can see that he's done his homework thoroughly when it comes to Squirt—and grapefruits.

"We let nothing go to waste with our grapefruits," he beamed. "We are the largest grapefruit processor in Arizona. And do you know what we do with our grapefruit rinds when we're finished with them? They're used to make cattle food. Can you believe that?"

James Brooks has a good feeling about the change, as he sees that this brings a decentralized decision management to SquirtPak.

No longer are all the important decisions made by one person or the top level. Many important decisions, according to Brooks, are made at the lowest level of management, and accountability and responsibility for those decisions is adhered to by the decision-maker.

Adds Brooks: "This creates involvement and commitment on the part of more people. We needed this formal plant to pull through this planning management."

Right now SquirtPak is getting ready to gear up for the returnable bottles, which becomes mandatory in Michigan Dec. 3. Non-returnable bottles and cans will become a thing of the past.

Brooks was not happy about this decision by the voters to dump non-returnable bottles. "I don't think they know what they're getting themselves into," he says.

"It cost us a lot of money to change over our facilities recently. And it's going to cost a lot to maintain non-returnable bottles in the future. I don't think the consumer realizes that the cost of the changeover and maintaining of the returnable bottles is going to be borne by them."

But SquirtPak is ready for the change, which isn't so unusual. The company has always been known for it's innovations in the soft drink industry, and more likely than not will have some new concept in returnable soft drink containers or packaging in the works.

"We have to be innovative," says Brooks. "Growth in business is not arbitrary . . . it's mandatory.

"Right now we have to know where we are before we worry about anything else. It's like Roger Bannister (the runner) running the four-minute mile. He knows that he has to run that first half in two minutes . . . down to knowing how far he must be in the first thirty seconds . . . Let's not worry about anything except the first 30 seconds.

"That kind of thinking has enabled us to have a 25 percent compound growth rate."●

TRIBUTE TO MR. LEHMAN W. TOMLIN OF YOUNGSTOWN, OHIO

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. CARNEY. Mr. Speaker, on Friday, September 1, 1978, a testimonial dinner was held for Mr. Lehman W. Tomlin of Youngstown, Ohio. Mr. Tomlin was honored by the Clarence Robinson Center's advisory board in appreciation of his many years of service to the community.

Lehman Tomlin attended Youngstown public schools, where he graduated in the top 10 percent of his class. While a student at South High School, he was an all-city halfback, all-county for 2 years, and captain of the varsity track team. He attended Wilberforce University for 2 years on an athletic scholarship and played football. He continued his education at Youngstown State University, and also took special courses there in social services and recreation.

He went to work at the old Haselton Center in charge of boys' programs; he coached teams in basketball and football, running leagues and ping-pong tournaments. For 10 years, he served as a playground director for the Youngstown Parks and Recreation Department. From 1941 to 1948, he was in charge of athletics at Youngstown Sheet & Tube Co., and he is credited with organizing the athletic program at the Buckeye Elks, as well as initiating numerous other programs.

Mr. Tomlin began working with the associated neighborhood center programs in 1967 on a part-time basis. He served on the associated neighborhood center board for 7 years. In 1970, he resigned as first vice president of the associated neighborhood center board to become director of the Clarence Robinson Center. In March of this year, he retired and was honored by the council and administration of the city of Youngstown for his dedicated service to the community.

Mr. Tomlin and his wife, Katherine, reside on Glenaven Avenue; they are the parents of two sons and two daughters.

Mr. Speaker, Lehman Tomlin has given unselfishly of his time and energy in behalf of the youth of the city of Youngstown. His guidance and counsel have helped many boys and girls become responsible adults and good citizens. Accordingly, I want to take this opportunity to commend him for the great contribution he has made to the well-being of our community. I wish him good health and happiness in his retirement.

RENT AND REAL PROPERTY TAX RELIEF FOR THE ELDERLY

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. FISHER. Mr. Speaker, the following resolution was adopted by the American Federation of Government Employees recently at their 26th Biennial Convention in Chicago.

While the resolution does not necessarily represent my views on the subject, I thought it would be of interest to my colleagues:

RESOLUTION: RENT AND REAL PROPERTY TAX RELIEF FOR THE ELDERLY

Whereas, the elderly poor are being burdened with higher rents and higher real property taxes caused by the needs of state and local governments to raise revenues; and

Whereas Resolution No. 302, incorporating the above, was approved at the 23rd National Convention of AFGE in 1972 at Hollywood, Florida; and

Whereas, Senate Bill S. 1255 was introduced in the 93rd Congress, 1st Session, on March 15, 1975, by United States Senators Muskie, Percy, Mathias, Bayh, Humphrey, Metcalf, Ribicoff and Tunney to provide for a program of assistance to State and local governments in reforming their real property tax laws, as well as to provide rent and real property tax relief for low-income individuals including, but not limited to, the elderly, i.e., the needy and the disabled; and

Whereas, Senate Bill S. 1255 was defeated in a meeting of the Senate Committee on Government Operations; and

Whereas, the American Federation of Government Employees, affiliated with the AFL-CIO, adopted a similar resolution No. 414D at its 25th Biennial Convention in Las Vegas, Nevada, on September 24, 1976; and

Whereas, the American Association of Retired Persons at their 10th Biennial Convention in Chicago, Illinois, on May 1-4, 1978, adopted a similar resolution; and

Be it therefore resolved that this convention go on record that the AFGE will urge the AFL-CIO to petition Congress in its next session to enact legislation by the reintroduction of the earlier Senate Bill S. 1255 in both the Senate and the House of Representatives as an opening bill and that the AFL-CIO will actively seek passage of the

re-introduced bill so as to accomplish real property tax relief and rent relief for low income individuals, including but not limited to, the elderly poor; and

Be it further resolved that copies of this resolution be sent to Senators Muskie, Percy, Mathias, Bayh, Humphrey, Metcalf, Ribicoff and Hayakawa, Byrd (Va.), Scott (Va.) and to their counterparts in the House of Representatives.

Date: June 8, 1978.

KENNETH E. DUNLAP.●

PROPOSED SAFE DRINKING WATER REGULATIONS FOR ORGANIC SUBSTANCES

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. ROGERS. Mr. Speaker, on September 25, the Subcommittee on Health and the Environment will be holding oversight hearings on the Safe Drinking Water Act. At that time, the subcommittee plans to go into some depth on the proposed regulations for removing known and suspected cancer-causing organic contaminants from drinking water supplies.

As my colleagues will recall, this matter was given some attention during consideration of the fiscal year 1979 HUD-independent agencies appropriations bill, H.R. 12936. I commend the Committee on Appropriations for its handling of very difficult issues and problems in that bill.

I particularly want to express my appreciation to subcommittee chairman BOLAND and to the able members of the subcommittee and its staff, for their assistance on the portion of the bill relating to funding of transportation and air quality planning. I know that it is difficult to resolve competing claims for scarce funding. While I personally favored a more substantial appropriation for this purpose, I think the subcommittee and committee made a creditable and fair effort to meet the need in this important area.

There is one aspect of the committee report that I found quite troubling, however. And I call it to my colleague's attention in order to make clear that there are a substantial number in Congress who cannot now agree with some of the conclusions stated in the committee report. The aspect of the report that I find so troubling is on page 25 and relates to the proposed regulations on organics.

I am troubled by this language in the report for several reasons. First, the report language refers to a proposed rule not a final rule. I believe it is premature for Congress to reach conclusions on these difficult health, economic, and technological issues before the record of the rulemaking process is closed. In my view the administrative agency charged with implementing the law should be given the opportunity to reach its final judgment. Congress should have the whole record in front of it before Congress reaches any conclusions on the feasibility of, and necessity for, the rule.

Second, the committee report language is not based on oversight hearings on this issue. Neither the public, nor the Agency had an opportunity to present its views on the proposed rule to the Appropriations Committee. For the record, I would like to submit a copy of the Agency's response to my questions on the proposed rule.

In submitting this information from EPA for the record, I do not mean to imply that I necessarily agree or disagree with the tentative judgments of EPA or the other parties in this dispute. As I have mentioned, the Subcommittee on Health and the Environment will be holding oversight hearings on the Safe Drinking Water Act and the organics problem September 25.

After that a more complete basis for evaluation may be possible. In the meantime I introduce this response by the Agency merely to show that there are two sides to this question and to request my colleagues to reserve judgment pending completion of an orderly rulemaking and oversight process.

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., June 14, 1978.

Hon. PAUL G. ROGERS,
House of Representatives,
Washington, D.C.

DEAR MR. ROGERS: This letter is in response to your inquiry on the status of the Proposed Amendments to the National Interim Primary Drinking Water Regulations. The proposal was published in the Federal Register on February 9, 1978, and consists essentially of two separate parts: (1) a maximum contaminant level for trihalomethanes of 0.10 milligrams per liter (100 micrograms per liter); and (2) Granular Activated Carbon (GAC) or its equivalent would be used to control pollution-related synthetic organic chemicals in those communities using significantly contaminated sources. A detailed synopsis of the regulations is included as Attachment A.

To date, seven public hearings have been held; the final hearing is scheduled in Washington on July 11 and 12. The public comment period has been extended through July 31, 1978, a total of six months. More than 300 additional comments have been received, as well as more than 180 congressional inquiries.

A very large portion of the comments received so far were generated by the strongly negative position taken by the American Water Works Association.

INDUSTRY COMMENTS RECEIVED

The comments received from the water utility industry have been generally negative. The most frequent concerns voiced, and our response, are listed below:

1. The health effects of organics in drinking water are small or non-existent, so action is not justified at this time.

Comment: EPA's regulations are based on the judgment that any human exposure to chemicals which cause cancer in laboratory animals presents some risks and should be reduced to the extent that it is feasible and the cost reasonable. This judgment has underlain all regulatory actions concerning carcinogens over the last decade. It is the course of action recommended by the NAS and has been endorsed by Dr. Arthur C. Upton, Director of the National Cancer Institute and Dr. David P. Rall, Director of the National Institute of Environmental Health Sciences (Attachments B and C). The AWWA has repeatedly misinterpreted the NAS Report "Drinking Water and Health" as recommending against establishment of an MCL for trihalomethanes, in spite of the clear statement that "strict criteria" should be applied for chloroform (p. 717). AWWA comments have focused on the need for more research contained in the NAS Report.

2. GAC treatment is new and unproven.

Comment: GAC treatment has been used (without frequent regeneration) in over 40 water utilities in this country for taste and odor control. It has been used, with frequent regeneration, for the last 10–15 years in Europe. It has also been used extensively with potable water in the beverage industry, in sugar refining and other food purification applications, as well as in municipal and industrial waste treatment. While the use of GAC, as proposed in the regulations, is not now current practice for U.S. utilities, it is not a new and unproven technology.

3. The costs of GAC treatment are exorbitant.

Comment: EPA's initial estimate of the costs of GAC were in the range of $6–$10 per family per year, which seemed to us to be a reasonable cost. Following industry claims of costs 6–10 times larger than the Agency's estimates, we asked our consultants to contact those water utilities that had made independent estimates to try to reconcile the differences. Numerous meetings with officials of these utilities have been held and detailed analyses are being conducted. While this work is just being concluded, the results so far indicate that our original estimate of an average cost of $6–$10 per family, per year was low and should probably be increased to perhaps $8–$13 per family per year—still on the order of a penny per person per day. This is far short of the large increases suggested by many utilities.

4. GAC can itself produce adverse health impacts.

Comment: None of the suggested adverse effects of GAC appear to warrant serious concern. Small amounts of heavy metals are contained in GAC and some might leach out into the water, but both laboratory measurement and worst case theoretical calculations show that the amounts would be orders of magnitude below levels allowed under the drinking water standards. Certain types of bacteria can grow on activated carbon, but there is no evidence of disease-producing organisms; in any case, the bacteria are easily controlled by normal disinfection practices. Some of the organic chemicals removed from the water might "desorb" slowly back into the water under certain conditions, but this is minimized by frequent regeneration. No one can seriously argue that GAC would not successfully remove most of the organics in the water.

5. GAC regeneration is energy-intensive and produces air pollution.

Comment: The total energy impact of the proposed regulations would be less than 1,400 barrels of oil per day; this is less than 0.01 percent of the Nation's daily oil consumption. While it will no doubt be a considerable increase in the energy consumption of the water utilities, it is negligible in relation to the national energy problem. With respect to air pollution, the regeneration furnaces would be equipped with pollution control devices which enable them to satisfy all air pollution requirements. Even the largest installations would have emissions so small they would not be covered by the "non-attainment" and "prevention of significant deterioration" offsets under the Clean Air Act.

EPA is currently putting together a White Paper on the above issues which we plan to release for public comment through the Federal Register. In this way, we hope to demonstrate our responsiveness to comments and our desire to overcome the tone of confrontation which has characterized much of the public comment period thus far.

We believe the public interest will be best served if the remainder of the public comment period is a time for thoughtful comments on feasible regulatory steps which

can be taken to begin to reduce harmful organic contaminants in drinking water. We believe that action in this area is necessary and hope that the final public comment record will provide us with reactions to the specifics contained in the proposed regulations as well as alternative approaches which should be considered.

Sincerely yours,

THOMAS C. JORLING,
Assistant Administrator.●

IMPROVING THE QUALITY OF LAW ENFORCEMENT

Hon. John E. (Jack) Cunningham

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. CUNNINGHAM. Mr. Speaker, recently I was privileged to have as a member of my staff Mr. Jim Lundin, a detective in the Seattle Police Department. Jim is also a member of the board of directors of the Seattle Police Officers Guild.

I submit for my colleagues the comments of Mr. Lundin on the issue of a bill of rights for public safety officers. Two bills have been introduced in the 95th Congress: H.R. 181 by Mr. BIAGGI of New York and H.R. 6716 by Mr. ANNUNZIO of Illinois. Both of these bills go considerably beyond the scope of the present bill of rights which is an integral part of the agreement between the city of Seattle and its police.

It is time, Mr. Speaker, to realize that public safety officers need the protection afforded in such agreements as those mentioned in Mr. Lundin's article. I thank Jim Lundin for giving me the opportunity to learn from him, and I recommend to my colleagues his thoughts on this important issue.

The article follows:

POLICE OFFICERS NEED A BILL OF RIGHTS

(By Jim Lundin)

Sometimes I wonder just how many of us have entertained the thought, at one time or another, of becoming a police officer. I will concede that for the majority of us, it was probably when we were seven or eight years old, but still there is something about being a police officer or a fireman that generates in each of us a feeling of adventure.

After nearly nine years with the Seattle police department, I have had the fortune or misfortune to witness first hand more segments of life than the majority of people will ever see in a lifetime. There is certainly adventure in being a policeman.

I am more fortunate than many of my brother officers throughout the Nation, for the Seattle police department is one of the most advanced law enforcement agencies in the United States. This was confirmed recently when I served as a delegate from the Seattle Police Officers Guild to the International Conference of Police Associations in Washington, D.C. I heard first hand from officers across the Nation who work for departments that are many years behind Seattle. With the exception of New York, Detroit, and California, police departments are in desperate need of revitalization to incorporate basic rights and benefits so important to the true professionalism of American police officers as fundamental rights.

Among the basic rights is the right to bargain collectively with the right of binding arbitration in lieu of striking, when an impasse occurs. In my mind, such a right would make city administrations more responsive to the needs and ideals of officers, and officers would feel more a part of the system which they serve.

Being a police officer is adventurous. At times it is downright hazardous. Occasionally incidents occur which involve the investigation of an officer by his fellow officers in the department. Such internal investigations are governed by tight rules in Seattle. However, officers in other regions of the country do not always have such protection.

These internal investigations often deprive officers of their basic legal rights. Officers are expected by some to be super humans. Most people only encounter policemen when they are involved in minor traffic infractions. Internal investigations often occur following a serious incident and the filing of a citizen or department complaint.

The premise of a police officer's Bill of Rights is that since the wide ranging powers and duties given to police officers can involve them in all manner of contacts and relationships with the public, it is therefore inevitable that questions will be asked concerning the actions of a given police officer. These questions often require swift investigation by the officer's superiors. The police officer's Bill of Rights is what I consider an effort to insure that the investigations conducted on the behalf of the complainant will be done in a manner which is conducive to good order, discipline, and respect for the police officer.

In Seattle, the following six articles are from the agreement between the Seattle Police Officers Guild and the city of Seattle. They appear to be very basic, yet these rights are denied to officers in many jurisdictions:

(1) The police officer shall be informed in writing if he so desires of the nature of the investigation and whether he is a witness or a suspect before any interrogation commences, including the name, address, and other information necessary to reasonably apprise him of the allegations of such complaint.

(2) Any interrogation of a police officer shall be at a reasonable hour, preferably when the officer is on duty unless the exigencies of an investigation dictate otherwise. Where practicable, interrogations shall be scheduled in the daytime.

(3) The interrogation (which shall not violate the officers constitutional rights) shall take place at a police station facility, except when impractical. The officer shall be afforded an opportunity and facilities to contact and consult privately with an attorney of his own choosing and/or a representative of his police bargaining, benevolent organization, or Guild who may be present during the interrogation, but not participate in the interrogation except to counsel the officer.

(4) The questioning shall not be overly long and the officer shall be entitled to such reasonable intermissions as he shall request for personal necessities, meals, telephone calls, and rest periods.

(5) The police officer shall not be subjected to any offensive language, nor shall he be threatened with dismissal, transfer, or other disciplinary punishment as a guise to attempt to obtain his resignation, nor shall he be intimidated in any other manner. No promises or rewards shall be made as an inducement to answer questions.

(6) It shall be unlawful for any person, firm, or corporation of the local, state, its political subdivisions or municipal corporations, to require any police officer to take or be subjected to any lie detector or similar tests as a condition of continued employment.

The Bill of Rights currently in force in Seattle says a lot, but is it any more than you as a non-police officer would expect of your profession? Due process is long overdue in the contractual rights of police officers. Police organizations with such contractual rights are all too few. It is time for localities, states, and possibly federal action to insure the basic rights of law enforcement officers throughout the Nation.●

THE CONGRESSIONAL RESEARCH SERVICE LOOKS AT AIRBUS INDUSTRIE

HON. MARK W. HANNAFORD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. HANNAFORD. Mr. Speaker, the sale of 23 A300 aircraft by Airbus Industrie to Eastern Airlines earlier this year raised several questions about the fairness of financing terms offered by the European consortium. My inquiries into the matter at that time raised even more fundamental questions about the nature of Airbus Industrie itself. Thus, I requested the Congressional Research Service (CRS) to investigate and analyze the corporate structure of Airbus Industrie in an attempt to clarify our understanding of it.

The CRS analysis, which I am inserting below, points out several areas where Airbus is definitely not a private corporation. I am convinced that it cannot be put into the same class as either our private aircraft manufacturers or the national aircraft manufacturers of Great Britain or France. Not only does it incorporate the advantages of participation by the national manufacturers (for example, Aerospatiale), it apparently enjoys indirect loans from the treasuries of the participating European governments (passed through private banks of the participating countries), direct loan guarantees from several European national governments, and advance orders for aircraft from several national airlines (that is, Air France, Lufthansa, and Iberia Airlines). Other than the $250 million loan guarantee that our Government extended to Lockheed several years ago, and which was terminated last year, our private aircraft manufacturers receive none of these advantages.

Airbus Industrie is perhaps a prototype of the kind of multinational, government-subsidized corporation of which we may see more and more as the European community welds itself together into a supranational entity. All protectionist rhetoric aside, we should begin now to consider how our traditional concepts of free enterprise will have to evolve to meet this challenge.

THE LIBRARY OF CONGRESS,
Washington, D.C., September 1, 1978.

To: The Honorable Mark W. Hannaford
Attention: Michael Lovendusky
From: Economics Division
Subject: Information on Airbus Industrie

This is in response to your request for information on Airbus Industrie. I am enclosing a pamphlet on Airbus Industrie that I received from the company which provides information on the structure and operations of this aircraft manufacturing consortium.

Major partners to Airbus Industrie represent three countries: France, Germany, and Spain. One of the major partners in Airbus

Industrie is Aerospatiale, the French national aerospace firm. Aerospatiale produces 36.1 percent of the components for the A300 aircraft. Another important partner is Deutche Airbus which is a joint venture of two privately owned German firms—Messerschmitt-Bolkow-Blohm and Vereiningte Flugzeug Werke-Fokker. This venture's share of the production is also 36.1 percent. The third member is a privately owned Spanish company, Construcciones Aeronauticas S.A. (CASA). CASA's production share is 4.2 percent. In addition to these member companies the consortium also includes two associates: Hawker Siddeley, a national English firm, that has a production share of 17 percent; and a privately owned Dutch firm, Fokker VFW, that has a 6.6 percent share.

The banks of the member countries finance each partner's contributions to A300 production. They also provide credit insurance and sales financing to customers. According to this pamphlet, the governments of the various countries mentioned act as bankers to the A300 program and do not get involved in detailed technical and commercial matters. Production of the A300 is backed by French and German goverment guarantees which insure that adequate funds are made available through normal commercial channels.

Unlike the Airbus consortium arrangement which involves considerable government support, U.S. aircraft producers operate with much less government involvement. Generally, the structure of the domestic aircraft industry promotes competition among individual producers as opposed to a consortium type arrangement like Airbus. Domestic manufacturers in the United States ordinarily develop specification for new aircraft through consultation with carriers that expect to be in the market. However, the carriers are not obligated to buy the aircraft.

Many of the domestic airlines use financing similar to the equipment trusts employed by the railroads; that is, title is held by a lessor, who will often mortgage the equipment as much as possible and then lease it to the air carrier. In this way the lessor receives the benefit of depreciation, and when applicable, the investment tax credit, both of which can be applied to reduce his liability on other income. This kind of financing is especially attractive to carriers that might encounter problems in financing the purchasing of equipment themselves.

The kind of subsidy that the United States government has provided our aircraft manufacturers has, with few exceptions, been indirect. The most important has been the technology, labor force and physical facilities that have evolved from the development and production of aircraft for military purposes since World War II.

Loan guarantee programs all embody elements of a subsidy. The amount of the subsidy represented by a loan guarantee is a function of the degree of risk of the project and the financial soundness of the borrower. The riskier the project or the riskier the borrower, the greater the subsidy.

The best known direct subsidy to a U.S. aircraft manufacturer was the $250 million government loan guarantee extended to Lockheed in 1971. Loans provided by the Export-Import Bank are another form of government subsidy. These loans assist in the sales of U.S. commercial aircraft to foreign nations. By providing loans to finance exports of commercial aircraft, the Bank has made it possible for foreign carriers to obtain U.S. produced aircraft at reduced cost. The activity of the Export-Import Bank in this area is covered in the report. The Importance of the Eximbank to the U.S. and Its Airplane Industry, which I sent you earlier.

GWENELL BASS,
Analyst in Industrial Organization, and Corporate Finance.●

RESOURCES, CLIMATE AND EXTINCTION

HON. LEO J. RYAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. RYAN. Mr. Speaker, I would like to bring to the attention of my colleagues articles appearing in the Los Angeles Times and a short article appearing in the September 18, 1978, edition of Time. The September 9 article by Sandra Blakeslee and the September 10 article by Robert A. Jones report on the First International Congress of Research in Conservation Biology, which was recently held in La Jolla, Calif.

The congress was held out of concern for the devastation of the tropical rain forests around the world by developing nations and exploitive multinational concerns. The combined activities of these institutions some estimate may cause millions of species of tropical plant and animal life to become extinct in less than 50 years. The loss of such plant and animal species would be one of the greatest tragedies in the history of this planet. The other concern of these scientists is the virtual halting of evolutionary processes on the Earth because of the destruction and reduction of wildlife habitation.

Because of the failure of governments and large corporations to engage in comprehensive long-range planning, we can only speculate on what the loss of the tropical rain forests will mean to life as we know it on Earth. Certainly there is a need to take stock of what exactly is being lost both in terms of plant and animal species and to seek a way to conserve such species in some way.

As noted in the Time article, there is an equally large problem with the increasing amount of carbon dioxide being released into the atmosphere as a byproduct of man's activities. The Earth depends on plant life, largely in the tropics, and the oceans to remove most of the carbon dioxide in the atmosphere.

According to Jones, rain forests are "being reduced at a rate of 51 acres a minute, or 73,400 acres per day." Without the forests helping to take in the carbon dioxide spewing into the atmosphere at an ever increasing rate, then man may very well bring about a warming of the Earth and suffer the consequences. World governments and business need to control their activities that contribute to this problem. The United States must take the lead in calling for the conservation of plant and animal life and the study of the long-term effects of adding carbon dioxide at an increasing rate into the atmosphere.

The articles follow:

[From Time Magazine, Sept. 18, 1978]

WARMING EARTH? CO_2 MAY CHANGE WORLD CLIMATE

Nature could hardly have created anything that seems more innocuous. An invisible and odorless gas, carbon dioxide is a simple molecular linkup of just a single atom of carbon and two atoms of oxygen (CO_2). It constitutes a mere fraction of the atmosphere (.03 percent vs. about 78 percent for nitrogen and 20 percent for oxygen) but becomes dangerous to man and other air-breathing creatures when it accumulates in concentrations higher than 10 percent as, say, at the bottom of deep wells or mine shafts.

Yet CO_2 is vitally important to the earth's well-being. A key ingredient in photosynthesis—the miraculous process by which green plants grow and produce oxygen—CO_2 directly or indirectly sustains all terrestrial life. Now it appears that the gas may carry the potential for trouble as well. Accumulating in the atmosphere at an accelerating rate, carbon dioxide could significantly raise global temperatures by early in the next century and dramatically alter the quality of life. With such a prospect under study, a federal official says: "We have about ten years to come up with an answer."

As the density of CO_2 increases, the gas acts somewhat like a one-way mirror. Rays of life-giving sunlight can pierce it, heating the surface of the earth. But when this heat is radiated back by the ground in the form of longer infra-red waves, it is screened by the CO_2, which absorbs it, thereby raising its own temperature and that of the ground. This so-called greenhouse effect is dependent on the concentration of atmospheric CO_2: the greater the amount, the warmer the earth may become.

There is nothing mysterious about the buildup of atmospheric CO_2. All fires, from the smoky flames of cave dwellers to the searing hearth of a modern steel plant, produce CO_2. It makes no difference whether the fire is fueled by wood, coal, oil or gas. The inevitable byproduct is always dumped into what scientists sardonically call the "sewer in the sky."

Enormous quantities of CO_2 have been belched into the atmosphere since the start of the Industrial Revolution. But only recently has the increase become a cause of concern. In the past 20 years, it rose almost as much as it did in the century before. These measurements, made by the Scripps Institution of Oceanography atop Mauna Loa volcano on the island of Hawaii, are confirmed by similar readings at locations as far-flung as the South Pole, Alaska and Samoa.

Of the millions of tons of CO_2 poured into the atmospheric sewer each day, about half apparently remains there. Still unclear is where the rest goes. The oceans provide a major natural "sink," soaking up much of its solution, as do the world's great forested zones, which sop up CO_2 for photosynthesis.

But an increasing number of scientists maintain that the forests are being slashed and burned at a perilous rate. This is being done both to extend agriculture and, especially in the impoverished developing countries, to use the wood as a fuel. By desiccating and destroying the land, the ruthless felling of trees has still another harmful side effect: it exposes rich topsoil, or humus, and allows the escape of CO_2 formerly trapped in it.

Yet by far the most significant factor in the accumulation of CO_2 is the burning of fossil fuels. Especially worrisome is the Carter Administration's choice of coal as the U.S.'s great energy hope. Unlike competing nuclear power, which gives off no CO_2, coal will inevitably add to a buildup of the gas, as will the increased consumption of other fossil fuels. A National Academy of Sciences study panel warns that if the use of coal proceeds along the Administration's projections, atmospheric concentration of CO_2 might reach four to eight times that of the pre-industrial level by the year 2150. That, predicts the panel, could produce an increase in the global mean air temperature of more than 6° C (11° F)—creating climatic conditions that the earth has not seen since the

age of the dinosaurs more than 70 million years ago.

Even if the hike in temperature were smaller—say only a degree or so—the effects might not be minor. Applied year round to the entire earth, such an increase could shift whole forests, grasslands and deserts. At the polar regions, enough ice could melt to elevate sea levels by as much as 5 m (16 ft.). That would eventually inundate low-lying coastal areas round the world, including parts of The Netherlands and the Atlantic seaboard.

There would be some benefits, to be sure. Heavier rainfall would possibly restore Africa's dry Sahel, the Sahara and the Arabian desert to their ancient fertility and make vast tracts in Siberia and Canada suitable for growing cereal grains. But the rich wheat and corn belt in the central U.S. would probably become too dry for these crops. Hundreds of millions of people might suffer from these dislocations.

Still, scientists are by no means certain that nature will follow their scenarios. The earth's climate is the product of such a complex mix of factors that it becomes impossibly difficult to isolate just one. For example, climatologists do not yet know the exact role of atmospheric dust. Dust can cool the earth by screening out warming sunlight, as has been noted after major volcanic eruptions like that of Krakatoa in 1883; yet also act as at atmospheric cap keeping in heat. Says Scripps' Charles Keeling: "Dust impedes radiation in both directions. We do not know if the net effect is heating or cooling." No less puzzling is the possible effect on world temperature of changes in the atmosphere's ozone layer.

There is another wrinkle in these climatological complications. For about two decades ending in the early 1970s, the earth was in what seemed to be a cooling phase. Some climatologists suggested that the chill marked the beginning of a "little ice age," like the one that persisted in Europe from about 1550 to 1850. If they are right, then the cooling forces—which could be attributable to anything from increased atmospheric dust to subtle changes in the amount of heat received from the sun—will be pitted against the warming force of the so-called greenhouse effect. For a while, at least, these two opposites might balance each other neatly.

But if the burning of fossil fuels continues to increase at an annual rate of 3% to 4%, as scientists like Stephen Schneider of the National Center for Atmospheric Research consider likely, then the greenhouse effect may well prevail. In that case, it will be a hot time on earth. And once the warming has taken place, even if all discharges of CO_2 into the atmosphere could be abruptly halted, it would take centuries for the excess gas to be absorbed by the oceans and dwindling forests.

[From the Los Angeles Times, Sept. 10, 1978]

RAIN FORESTS VANISHING—TROPICAL ANIMALS, PLANTS IN PERIL, BIOLOGIST WARNS

(By Robert A. Jones)

LA JOLLA.—A "terrific onslaught" is destroying the earth's tropical rain forests at such a rate that thousands of plants and animal species—some of which are still unknown to man—could disappear if preservation methods are not adopted soon, a British scientist has told a conference on conservation biology here.

Timothy Whitmore, a biologist at Oxford University, described the second half of the 20th century as "the brief period during which man reduced the area of the world's richest and most complex ecosystems to about one-third of their potential area."

The tropic regions of the earth are now estimated to contain about 90% of all plant and animal species and scientists believe that only half of those have been identified by man.

As late as 20 years ago, tropical forests were regarded as so vast that they would never be seriously diminished by man. But since 1960 the arrival of the lightweight chainsaw and bulldozer have made possible the clearings of enormous tracts of forest in Brazil, Malaysia and other countries for lumber products and for domestic agriculture.

At present, Whitmore said, rain forests are being reduced at a rate of 51 acres a minute, or 73,400 acres per day. And the rate itself is accelerating, he said, so that by the year 2000 only 20% of the present area will remain.

The result may be the tragic loss of "the most complex ecosystems which scientists are only beginning to investigate and which, because they are the most intricate ever to have existed on earth, have enormous value to the science of ecology," Whitmore said.

The three-day conference was the first such gathering of its kind. Michael Soule, one of the organizers, described the conference as an attempt to bring together population biologists with experts of other disciplines devoted to the conservation of natural areas. "What we're really trying to do is kick off a new biological discipline, that of conservation biology," Soule said.

While there have been many conferences devoted to wildlife species in the past, Soule maintained that scientists devoted to the study of entire ecosystems have largely remained uninvolved. "We've been reluctant to muddy our hands in applied conservation," he said, "but now we're going to try."

Significantly, all of the conference's presentations were devoted to work that has been carried out in the tropics. While temperate regions of the globe also have their problems, scientists here describe the tropics as the place where the earth's huge diversity of plants and animals will be saved or lost.

And clearly the trend that disturbs all of them is the disappearance of habitat. In some cases, the land is being cleared for the extraction of hardwoods, which are largely exported to Western industrial nations of Europe and North America. In other cases, land-hungry farmers of developing countries are making inroads into forests for subsistence cultivation.

"The basic problem is not biology, but the population explosion and multinational corporations exploiting tropical resources for the benefit of industrial countries," Soule said.

"There must be a counterbalance to human greed, and perhaps we are seeing the beginning of that," he added.

The consequences of overexploitation could go far beyond the loss of plants and animals, Whitmore speculated. Several studies have shown, he said, that the removal of forests from tropical areas could affect world climate, altering the present heat balance between different sections of the earth's surface.

The seriousness of the possible consequences, Whitmore noted, could possibly lead to countries altering the present course of large-scale land clearing. "Our argument may appeal to enlightened self-interest," he said, "if our leaders are convinced that this kind of thing is going to matter."

[From the Los Angeles Times, Sept. 9, 1978]

ANIMAL EVOLUTION ENDING, EXPERT SAYS

(By Sandra Blakeslee)

Five hundred million years of animal evolution are coming to a halt within this generation, a population biologist told a meeting of conservationists in La Jolla Friday.

Warning that the world is in the midst of a "biological holocaust without precedent," Michael Soule, a professor at UC San Diego, said that the evolution of vertebrates in the tropics will cease by the year 2000.

This does not necessarily mean that all of the animals will become extinct, Soule explained, although extinction is inevitable for many species. Rather, tropical mammals and birds will simply stop evolving—changing their genetic traits slowly through time within the trial and error laboratory of the natural world—for lack of enough space.

Soule addressed the first international congress of research in conservation biology in La Jolla.

His theme was reiterated by other experts in talks describing the state of wildlife on the planet.

Tropical forests are being cut down at unprecedented rates. Animal populations are diminishing from disease, predation and starvation as never before.

The earth's stock of living things is being rapidly depleted, Soule said. As many as a million species—ranging from insects to large animals—will become extinct in the tropics alone by the turn of the century—which is somewhere between 10% and 20% of all species on the planet. Nine-tenths of all species live in the tropics, he said.

The cause of the problem, according to the biologists at the meeting, is mankind itself. Rapidly expanding human populations are pushing the animals onto smaller and smaller parcels of land. As this occurs, there is simply less space for the natural processes of evolution to occur.

The crowding of species onto isolated preserves will not allow for one critical evolutionary process to continue, Soule said. It is called speciation.

Speciation is a process by which two or more groups of animals within the same species become separated from one another for long periods of time. Natural barriers such as mountains or streams are often enough to isolate groups. With time, genetic changes appear that will in some cases wipe out a population of animals and in some cases make the animals much more successful.

It is through speciation that the most important evolutionary changes have always occurred, Soule said. Other evolutionary changes, called adaptations, are often to a creature's advantage. But speciation is the driving mechanism behind evolutionary change, Soule said.

In the world today, where most of the wild animals in the tropics have been crammed into just a few small areas, speciation will stop, according to many biologists. Novelty in nature will be wiped out.

There is but one stopgap solution—the creation of as many animal preserves as possible.

However, there are many dangers for the animals even if such sanctuaries are formed. One is disease. If all the animals of a species are concentrated in one area, epidemic can destroy the entire population.

Also, animals kept in capitivity frequently lose natural resistance to diseases encountered in the wild. After several generations, because they are no longer continuously exposed to the disease, they lose the genetic defenses their ancestors evolved.

Another danger lies in natural catastrophes such as drought and floods. With "all the eggs in one basket," an entire population of an animal could be wiped out rapidly.

Another issue involves the speed with which species "collapse" once they are isolated. It has been observed that when animals are packed too tightly into small game reserves, the rate of extinction shoots up. Extinction begins to occur in decades, not millenia.

Extinction rates rise when population size is chronically small. Predictions are, for example, that one-half of the species present today in Kenya's largest game reserve will

be gone in 50 to 200 years. The large predators will go first. It is known, Soule said, that birds and mammals have higher extinction rates than other animals since they are warm blooded and need more territory in which to acquire enough food to meet their relatively high energy needs.

Inbreeding of captive animals is a dangerous business, Soule said, since it results in a loss of genetic variability. With continued inbreeding of a small number of animals, the litter size drops and the babies are less vigorous. There is a dramatic loss of productivity. "Inbreeding is like radiation," Soule said. "There is no harmless amount. It is also like cancer or slow poisoning. It sneaks up on you and by the time you notice, it's too late."

For many such reasons, biologists at the conference stressed that more animal preserves are needed in the tropics and they must be as large as possible.

Studies of island mammals and birds indicate that vast spaces are needed for speciation to occur, with Madagascar being the minimum size for optimum evolutionary health. No preserves in the tropics are that large.

There is but one interim solution, Soule and others said. Preserves must be carefully managed by trained biologists who will have to swap animals back and forth between preserves to keep genetic pools the genetic mix of each species—dynamic.

However, this strategy of animal management will not permit speciation. On the other hand, it will prevent animals from becoming extinct.

That is the choice which must be faced, Soule said. If many animals are to survive on the planet, they will not be able to continue evolving as in the past.●

BALANCE(S) OF POWER SERIES: BOOK II(I)(ii)—NATIONAL MORALE

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, in the last issue of the CONGRESSIONAL RECORD, I inserted the first part of an article entitled "The 'Militarization' of Soviet Society" by Col. William E. Odom which first appeared in Problems of Communism, September 1976. The conclusion of Colonel Odom's article follows:

THE CIVIL DEFENSE STRUCTURE

When General-Colonel A. T. Altunin made his public debut as Deputy Minister of Defense and head of "Civil Defense USSR" in October 1972, he did so with an article ostensibly occasioned by the 40th anniversary of civil defense in the Soviet Union.[56] The advent of nuclear weapons, he declared, meant that "defense must be conducted in every city, village, and production unit in the economy, on the entire territory of the state." In principle, Altunin was adding nothing to what Red Army leaders had said fifty years earlier about defense of rear areas.[57] Technically, however, nuclear weapons have complicated matters and made necessary a more complex system than the old tradition of localism in Soviet civil defense. Altunin explained it thus:

The tasks of defense of the population and the economy from contemporary weapons demanded the creation of a completely new all-state defense system which could, with the leadership of the Communist Party of the Soviet Union, under a unified military command, together with all the armed forces, with active participation of the entire people, secure the life activity of the state in conditions of severest war. That system emerged as Civil Defense USSR.

What is new in this system? Put briefly, two features are novel, both of which have developed within the last decade or so.[58] First, the dominant administrative role of the Ministry of Defense has gained more substance than ever before. Second, local civil defense organizations have been linked for the first time into an all-union system of command, control, and maintenance. While the subject is too vast for detailed treatment here, let us briefly examine some of the major evidences of these two features.

Although the structure of General-Colonel Altunin's Civil Defense staff in the Ministry of Defense is not public information, this staff is clearly the nerve center of a system with extensive linkages to the civil bureaucracy. It appears to be tied to the State Planning Committee (GOSPLAN) and the production ministries in the civil economic sector and to the General Staff of the Armed Forces in the military sector. It is probably also represented in most other ministries, but especially in the Ministry of Internal Affairs. This ministry controls all the nation's fire departments, most of which are staffed by the MVD troops under the ministry's jurisdiction.

The same close linkage with the civil bureaucracy is still more evident at the republic level, although the structure differs slightly from that at the center. Here, the formal "chief" of civil defense is normally the civilian chairman of the republic executive bureaucracy, but the real direction of civil defense activities is vested in a military "chief of staff" for civil defense—usually an officer of relatively senior rank, e.g., a General-Colonel in the Ukraine.[59] The pattern is the same at the oblast, district, and city levels. In Moscow, for example, the chief of civil defense is V. F. Promyslov, Chairman of the Executive Committee of the Moscow City Soviet (Mossovet gorispolkom), and General-Major S. A. Kuzovatkin is his chief of staff for civil defense.[60] Thus, there is an interlocking arrangement at every level from the all union center down to the lower echelons of the state territorial administration.

Moreover, Altunin does not simply sit at the top of an apparatus interwined with the state bureaucracy; he also has special troops under his command. Civil defense units are normally of battalion or company size, but there have also been occasional references which suggested the existence of regiment-size units.[61] Civil defense exercises are frequent, and the troops also participate occasionally in relief operations at times of natural disaster—as, for example, in operations to control the enormous forest fires around Moscow in the extremely dry summer of 1972.[62] To provide command cadre for these units and for the civil defense staffs, there is a relatively new civil defense officer-training school offering a three-year course.[63] Taken together, the staff hierarchy and network, the specially trained officers, and the civil defense troops add up to something like a sixth branch of service—not as large as the other five (Ground Forces, Air Force, Air Defense, Navy, and Strategic Rocket Forces) but with an institutional status that is outwardly similar to that of the others in many respects.

Altunin's organization, however, is only the taproot. It is surrounded and fed by a dense growth of ancillary organs. Every factory, school, institute, hospital, and collective farm is required to have a civil defense organization. The "chief" is normally the head of the institution, but he, too, depends on a "chief of staff" to do the real work. The main difference between these organizations and the local soviet executive committee's civil defense structure is that there are seldom any uniformed military personnel. A bakery, a tire plant, or a steel mill normally has a civilian chief of staff for civil defense, who takes charge of organizing all workers into teams, training them in the use of civil defense equipment, and preparing personnel evacuation plans. He is also concerned with ensuring that new construction takes into account civil defense criteria such as adequate water and fuel supplies, blast resistance, and so on."

Some might view all this as tokenism or wishful thinking rather than as a genuinely effective civil defense system. But even though it might prove defective in the event of war, it cannot be dismissed as less than a serious effort. Literally thousands of civil defense exercises are held each year, with city districts quite commonly stopping all activity for training exercises that last a full day.[64] Factories, plants, schools, and other such institutions hold still more frequent exercises.[65] According to press reports, the executive committees of local and regional governments perennially keep civil defense on their agenda of problems for discussion.[66] Conferences on civil defense occur rather frequently as well, reflecting efforts to achieve interdepartmental coordination, especially among the various ministries concerned.[67]

The new civil defense system, unlike the old, puts more than a formal effort into the rural areas.[68] One reason for this is fairly obvious. Radioactive fallout makes agriculture far more vulnerable than in the past; yet the damage can be greatly reduced if the farm population is effectively trained in defensive measures and decontamination techniques. Perhaps more important, however, is the potential role of the rural villages in receiving and housing evacuees from urban areas. This takes highest priority in village exercises and frequently ties the villages near an urban center into joint city-village exercises.[69] It is only with the planning of defense against nuclear weapons that it has become necessary to prepare for large urban evacuations. Naturally, such planning must include utilization of the agrarian sector in a supportive role.

Public education is, of course, a major prerequisite for making the whole civil defense system viable, and it takes up the largest part of day-to-day program activity. Courses in civil defense are taught in the public schools in the second and fifth grades of the standard academic curriculum—that is, to eight- and eleven-year-old children.[70] Public lectures play a key role not only in mass education but in organizing residential blocks for phased evacuation. The economic ministries are required to carry most of the financial burden involved in efforts to make civil defense "a way of life,"[71] but they are frequently reluctant or slow to provide the funds needed to meet all the demands of the civil defense program.[72]

To sum up, this program amounts to a massive system of military education in peacetime. In wartime, it would play a key part in maintaining administrative control of the civil sector. The Ministry of Defense has been given the task of putting the core of the centralized structure together, but the costs in money, material, and labor are borne mostly by the civil sector—the economic ministries and state bureaucracy, production units, and the public schools. Administratively, the system creates a new military presence at all levels of the state bureaucracy, thus approaching Frunze's ideal of militarizing the population through the state apparatus.

CONCLUSIONS

One can hardly explore the labyrinth of Soviet military training programs and structures without coming away with a sense of their pervasiveness and integration into all

Footnotes at end of article.

aspects of Soviet life. By the time a child is in the second grade, he receives his first formal instruction in survival in nuclear war. He learns not only that survival is possible but also how to go about saving himself personally. By his midteens, the local military commissariat is suggesting that he "volunteer" for one or more of the specialized military training courses offered by DOSAAF organizations. By age 18 or 19, he expects to be called to two years of active military service. If he matriculates at an institute of higher learning, he implicitly commits himself to becoming a reserve officer. If he wants to pursue any of a number of engineering specialties at the graduate level, he will learn that the best training in those areas—sometimes the only training—is found in military research facilities and in the graduate programs of military academies and schools. Even if he is a gifted musician and makes his way to the Moscow State Conservatory, he will not escape the militarization of Soviet education, for there he will find a military music department with generals as professors of directing and composition.[74] If he becomes an economist and finds employment in GOSPLAN, discovering a General-Colonel in the post of a deputy chief would hardly surprise him.[75] Throughout his adult life, the omnipresence of the military will strike him as normal, to be expected. He does not see the military as a thing apart but as something of which *he* is a part.

He will not find it strange—even though he probably will consider it onerous—to be importuned for contributions of money and time to the local DOSAAF programs long after he has lost interest in "military sports" such as shooting, parachuting, and tank-engine repair. Nor will be be outraged at finding himself on a civil defense decontamination team in the factory, farm, institute, or school where he is employed. He may resent the training sessions and may not put his heart into such forms of "continuing adult education" in the arts of modern warfare, but it probably would not even occur to him that Soviet society is abnormal in displaying so many aspects of a "garrison state."[76]

We have suggested at least two sources of this militarization of Soviet society. First, socialism, as a political ideology and as a guide to social and economic organization, correlates highly with warlike states. It would, of course, be wrong to say that socialism per se causes a polity to militarize. As Quincy Wright has observed, "socialism is more often developed from necessity than from theory, though in recent instances the latter has played a part."[77] The necessities can vary, but leaders inspired by various necessities frequently turn to the same ideological banner to justify militarizing programs. The reason is not far to seek. Socialism emphasizes the social or public interest over the interests of individuals. And that is precisely what a state and its army must do in war—sacrifice individuals and their private interests for the state's political objectives.

When the Bolsheviks took power, the very act was a declaration of war on society throughout the old regime's imperial territories. The ensuing internal war has waxed hot and cold throughout the nearly sixty years of Soviet history. Army General V. G. Kulikov, Chief of Staff of the Soviet armed forces, declared in 1973 that the Soviet military's "internal" role had virtually ended, giving way in the present stage of "developed socialism" to a growing "external" role not simply to defend the Soviet Union but also to secure the expanding territories of the socialist bloc.[78] Kulikov may be excessively optimistic about the internal front, but his notion of a regime at war at home and abroad is instructive and cogent.

The second major source of the militarization of Soviet society has been the military-political tradition of the Tsarist empire. Before the advent of the Bolsheviks, the old regime had already been at war internally. If urban industrial strikes were relatively new in Russia at the turn of the century, peasant disorders and armed opposition by ethnic minorities in the Borderlands were chronic. The empire ensured its own collapse when, in addition to internal struggles, it entered a vast foreign campaign on its European borders. The upshot was that the Bolshevik regime, arising amidst these unresolved and precarious military circumstances, both internal and external, had to accept as its birthright most of the tensions that had made militarization of the old state seem imperative to the imperial leadership.[79] Thus, the Tsarist military-political tradition was genetically transmitted to the Soviet regime.

One is forced to conclude, therefore, that the militarization of Soviet society is neither an aberration nor an unusual or extraordinary state of affairs. It is a traditional policy which is merely being currently expressed and justified in Marxist-Leninist ideological terms. When it comes to the future, it is important to recognize that the key problems that gave rise to the Tsarist military-political tradition in the first place and that were inherited along with that tradition by the Soviet regime—the peasant-agricultural problem, the nationality problem, and the foreign policy problem of a colonial, expansionist power—have remained largely unsolved despite the strong efforts of the Soviet leadership. If it cannot be said that the application of Marxist-Leninist ideology caused these problems, it can be argued cogently that it exacerbated them. Thus, both sources of the impetus to militarize persist today. We should not expect, therefore, that Soviet society will be spared the policies of militarization in the foreseeable future—unless there are significant changes either in the economic and social structure or in the ideology that shapes the leadership's thinking.

FOOTNOTES

[53] *Ibid.*, Oct. 4, 1972.

[57] *Cf. The Soviet Volunteers*, pp. 43–44.

[58] For a description of the civil defense system prior to these developments, see Leon Gouré, *op. cit.*

[59] *Krasnaya zvezda*, Jan. 15 and March 16, 1975.

[60] *Ibid.*, Jan. 15, 1975.

[61] See Altunin's reference to *chast'*, a somewhat imprecise term which normally is understood to mean "regiment," in *Ibid.*, Oct. 4, 1972. Also see *Ibid.*, March 17, 1973, for an editorial on civil defense troop training and pictures of such troops; and *Ibid.*, Oct. 3, and Nov. 24, 1973, for other references.

[62] See *Ibid.*, Feb. 7, 1973.

[63] *Ibid.*, March 7, 1973.

[64] N. P. Krechetnikov and N. P. Olivyanishnikov, *Grazhdanskaya oborona na mashinostroitel'nykh predpriyatiyakh* (Civil Defense in Machine-building Enterprises), Moscow, Izdatel'stvo "Mashinostroyeniye," 1972, pp. 32 ff; and *Grazhdanskaya oborona* (Civil Defense), Moscow, "Vyashaya shkola," 1973, pp. 6–11.

[65] See *Krasnaya zvezda*, June 13 and July 15, 1972; July 3, 1973.

[66] See *Ibid.*, July 15, Aug. 5, Aug. 29, Sept. 7, and Nov. 15, 1972; May 16, Aug. 25, and Nov. 29, 1973; Feb. 8, 1974; and Feb. 8, 1975. Also *Sovetskiy patriot*, Aug. 30, 1972, and Feb. 14, 1973.

[67] See *Moskovskaya pravda* (Moscow), Jan. 17, 1973.

[68] See, *e.g.*, *Krasnaya zvezda*, July 19, 1972, and Jan. 17, 1975.

[69] See the chapter on agriculture in *Grazhdanskaya oborona*, *supra*, pp. 136–54. For an example of a rural civil defense exercise, see *Krasnaya zvezda*, Feb. 8, 1974.

[70] For examples of such joint city-village exercises, see *Ibid.*, Aug. 5, 1972, and Feb. 8, 1974.

[71] *Sovetskiy patriot*, Aug. 16, 1972.

[72] *Krasnaya zvezda*, Feb. 13, 1975.

[73] For the candid remarks of the Chairman of the Lithuanian Council of Ministers on many of the problems of program implementation but particularly of funding by ministries and other state agencies, see *Sovetskaya Litva* (Vilnius), Oct. 4, 1972.

[74] See the obituary of General-Major I. V. Petrov in *Krasnaya zvezda*, June 6, 1975.

[75] For example, at the time of his death in July 1974, Engineer General-Colonel V. Ryabikov was serving as a first deputy chief of GOSPLAN. See *Krasnaya zvezda*, July 22, 1974.

[76] We are mindful of the special meaning which H. D. Lasswell has given to the concept of a "garrison state" in his *World Politics and Personal Insecurity*, New York McGraw-Hill, 1935. The likelihood of war and the threatening character of the international environment would, in his view, incline political leaders to become increasingly dependent on their military chiefs, allowing the latter to exert influence on the leaders to turn their societies into military camps continually preparing for war. In this scheme, international factors are the primary causes of domestic political changes leading to the garrison state. The present author would argue, however, that domestic rather than international factors are a more important primary cause of the garrison condition in the Soviet Union.

[77] *Op. cit.*, p. 1165.

[78] *Krasnaya zvezda*, Feb. 23, 1973.

[79] On the Bolshevik military birthright, see Bertram Wolfe, "The Influence of Early Military Decisions Upon the National Structure of the Soviet Union," *American Slavic and East European Review* (New York), No. 9, 1950, pp. 169–79.●

REFUGEES AND LIBERTY

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. DORNAN. Mr. Speaker, last week I experienced the deep joy of a visit by a Hungarian refugee couple and their son whom I had the privilege of assisting to come to this great Republic of ours. Noting the hope and eager anticipation on the faces of these fortunate escapees from a land overshadowed by the triumph of tyranny, I could not help recalling the lofty sentiments expressed by that greatest of American orators, Mr. Daniel Webster, in his commemoration of the first settlement of New England: "Forever honored be this, the place of our fathers' refuge! Forever remembered the day which saw them * * * broken in everything but spirit, poor in all but faith and courage * * * their trust in Heaven, their high religious faith, full of confidence and anticipations, all of these seem to belong to this place, and to be present on this occasion, to fill us with reverence and admiration."

While sharing our thoughts and sentiments on this joyful occasion, these

youthful refugees spoke words that one hears only sparingly, Mr. Speaker, in these troubled days of our Republic: "We are beginning to understand the meaning of freedom." It is a tragic but commonplace observation, Mr. Speaker, that those of us grown accustomed to the delights of liberty may grow complacent and, at length, oblivious, as to its nature and the price, in vigilance, to be paid for its preservation. The distinguished English essayist, Mr. Hilaire Belloc, perhaps best put the matter when he wrote that: "Those of us in seemingly secure and comfortable circumstances sit around a cheerful campfire and laugh at the Barbarian. But from the shadows beyond the firelight, great grim faces stare at us. And on those faces there is no smile."

Mr. Speaker, too many of us have grown indifferent in the dry desert of our ignorance. We have forgotten that the springs of liberty nourish and vivify. But, then, we are periodically reminded, whether by a hero of the stature of a Solzhenitsyn or by a trio of young Hungarian refugees, that liberty is a wondrous thing, a thing to be contemplated often and deeply. Liberty, as the poet has said, will not descend to a people; a people must raise themselves to it; it is a blessing that must be earned before it can be enjoyed."

Mr. Speaker, the heart-felt words of that Hungarian family expressed in awe at the spirit of liberty which vivifies our great Republic, should serve as a daily reminder to those of us entrusted with keeping alive that spirit, of the solemn nature of our task. Let us dutifully heed the eloquent words of the American orator Mr. R. C. Winthrop: "This widespread Republic is the true monument to Washington. Maintain its independence. Uphold its constitution. Preserve its union. Defend its liberty. Let it stand before the world in all its original strength and beauty, securing peace and order, equality and freedom, to all within its boundaries, and shedding light and hope and joy upon the pathway of human liberty throughout the world * * *" ●

COMMITMENT TO LEBANON

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Ms. OAKAR. Mr. Speaker, last night one sentence of the President's speech before Congress was devoted to the country of Lebanon: The President said:

> We must also join in an effort to bring to an end the conflict and terrible suffering in Lebanon.

It is my hope the President follows up this important statement with action. The sad fact is that our foreign aid appropriations bill contains absolutely nothing for this important ally while other countires receive millions and billions. The President has addressed the problem; let us pray that it is followed up with action.●

ANOTHER REASON YOU SHOULD SIGN DISCHARGE PETITION NO. 1

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. MOTTL. Mr. Speaker, in case you missed it, the Washington Post on September 18 carried a thoughtful article about the noted University of Chicago sociology professor, Dr. James S. Coleman, and his views on forced busing.

Dr. Coleman was a prime architect of forced busing in the 1960's. But just recently this prominent educator has concurred that it is not the answer to the question of improving educational opportunities for our children.

His views are incisively set forth in the article by Lawrence Feinberg. I would like to share the piece with you, and once again urge you to sign discharge petition No. 1 on the Clerk's desk which is designed to put behind us once and for all the issue of court-imposed busing.

The article reads as follows:

DESEGREGATION DISCOUNTED

(By Lawrence Feinberg)

Sociologist James S. Coleman, whose massive study in the mid-1960s has been widely used to support school desegregation, now says it is a "mistaken belief" that black students learn better in integrated classrooms.

During the past decade, Coleman said, research throughout the country has shown that "it is not the case that school desegregation, as it has been carried out in American schools, generally brings achievement benefits to disadvantaged (black) children."

In some situations, Coleman said, desegregation has brought slight gains in black achievement, but in many others there has been no change or a slight loss.

Even though he had argued a decade ago that "integration would bring about achievement benefits," Coleman said, "It has not worked out this way in many of the school desegregtaion cases since that research. . . .

"Thus, what once appeared to be fact is now known to be fiction," Coleman said.

Coleman, a professor of sociology at the University of Chicago, presented his new conclusions in a paperwin April. He repeated them in an interview this weekend.

"Desegregation has turned out to be much more complicated than any of us ever realized," Coleman said. "There appear to be beneficial effects for some black kids, those who are better students, and harmful effects for blacks who are poorer students. It all seems to balance out, which is quite the reverse of the implications of my own research" in the mid-1960s.

Coleman's 1966 report, called "Equality of Educational Opportunities," was authorized by Congress in the 1964 Civil Rights Act and sponsored by the U.S. Office of Education. It still is the most extensive piece of educational research ever conducted, involving tests and surveys of about 600,000 students and 60,000 teachers in 4,000 schools around the country.

Its most widely noted conclusions were that the social class composition of a school had more impact on student achievement than either resources or teaching methods, and that lower-class black children scored somewhat higher on standardized tests in schools with a middle-class white majority than they did in schools where all the children were poor and black.

Coleman stressed that the achievement gain occurred not because of skin color but because of the middle class background and "educational resources" that many white children bring from home.

After his report, Coleman expressed his views widely, not only in scholarly articles but also in testimony before congressional committees and in school desegregation cases in courts.

Among these was Julius Hobson's suit against the Washington school system. Coleman testified in Hobson's behalf and was cited by U.S. Judge J. Skelly Wright to support the court's finding that "Negro students' educational achievement improves when they transfer into white or integrated educational institutions."

Coleman said he now believes that this view is "incorrect . . . wishful thinking."

In the interview, Coleman said the difference between his conclusions a decade ago and the results of desegregation since then reflects two main factors—a difference in the way desegregation has been carried out, and the availability of new research.

When he collected his data in 1965, Coleman said, nearly all the black children attending integrated school in the South were well-motivated volunteers under "open enrollment" plans. In the north almost all integration had occurred in neighborhood schools where blacks and whites lived nearby.

Since then, Coleman noted, many school districts have been desegregated through mandatory busing programs, ordered by courts or state agencies, that bring children together from wide areas.

"Much of it has been accompanied by the kinds of things that don't foster achievement," Coleman said. "Often there's been some degree of turmoil and lower standards, with white teachers being afraid to apply the same standards to black students and therefore not teaching them as well."

Coleman said his 1966 report was based on data collected at one time, with conclusions drawn by comparing youngsters in schools with different proportions of black and white students.

Since then, he said, researchers have been able to follow children for several years after they switched to desegregated schools. Although Coleman has not been directly involved in any of this research, he said a review of over 100 desegregation studies in cities around the country—from Boston to Berkeley—shows "no overall gains."

"Some of the most carefully studied cases, such as in Pasadena and Riverside, Calif., Coleman said, "show either no achievement effects or else losses."

In the South some gains by blacks have been reported by the National Assessment of Educational Process, but Coleman said these occurred in both segregated and integrated classrooms. He said these gains probably are the result of "the broader impact of desegregation in the South . . . it drew a lot of attention to schools that used to be the worst in the nation," rather than a direct result of blacks and whites being taught together.

Before going to the University of Chicago in 1973, Coleman taught at Johns Hopkins University in Baltimore. He took part in civil rights demonstrations there, and was arrested in one of them.

He said he still strongly opposes legal segregation and strongly favors integrated schools. But he said mandatory busing in many cities has been "counter-productive" because it has been followed by an extensive loss of white students.

Coleman also rejects "the belief that an all-black school is inherently bad."

"That has a curiously racist flavor," Coleman said, "which I can't accept. There have been, and there are, all-black schools that are excellent schools by any standard."

"What is essential," he said, "is that if a child is in an all-black school, it should be because . . . his parents want him to be there, not because it is the only school he has a reasonable chance to attend."

Coleman said he thinks the best ways of increasing school integration now would be to encourage voluntary transfers between city and suburban schools or to offer vouchers allowing parents to pick any school for their children but providing more funds for integrated schools.

"We ought to take measures so we can become a more integrated society," Coleman said, "but we ought to be clear that integrated education does not depend on maintaining romantic notions that are not true." ●

GUN CONTROLS AND CIVIL LIBERTIES

HON. EDWARD W. PATTISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. PATTISON of New York. Mr. Speaker, the issue of "gun control" is always of interest to politicians, especially in an election year. It is one of those issues which is often thought to be on the "liberal" agenda. Those who are generally thought to be in the "liberal" camp, but who oppose handgun legislation, are often accused of abjectly surrendering their principles out of fear of the electoral strength of the "gun nuts" in their districts.

Such is not always the case by any means. I happen to oppose the registration and control of handguns. In explaining that positions I frequently make the point that the enforcement of a registration law would entail massive violations of other constitutional protections specifically, the protections against unreasonable search and seizure.

The September issue of Harper's contains an excellent article making this point, as well as a number of others of equal cogency. I recommend its reading to my colleagues.

The article follows:

AGAINST CIVIL DISARMAMENT—ON THE FUTILITY OF PROHIBITING GUNS

(By Don B. Kates, Jr.)

Despite almost 100 years of often bitter debate, federal policy and that of 44 states continues to allow handguns to any sane adult who is without felony convictions. Over the past twenty years, as some of our most progressive citizens have embraced the notion that handgun confiscation would reduce violent crime, the idea of closely restricting handgun possession to police and those with police permits has been stereotyped as "liberal." Yet when the notion of sharply restricting pistol ownership first gained popularity, in the late nineteenth century, it was under distinctly conservative auspices.

In 1902, South Carolina banned all pistol purchases, the first and only state ever to do so. (This was nine years before New York began requiring what was then an easily acquired police permit.) Tennessee had already enacted the first ban on "Saturday Night Specials," disarming blacks and the laboring poor while leaving weapons for the Ku Klux Klan and company goons. In 1906, Mississippi enacted the first mandatory registration law for all firearms. In short order, permit requirements were enacted in North Carolina, Missouri, Michigan, and Hawaii. In 1922, a national campaign of conservative business interests for handgun confiscation was endorsed by the (then) archconservative American Bar Association.

Liberals at that time were not necessarily opposed in principle to a ban on handguns, but they considered such a move irrelevant and distracting from a more important issue—the prohibition of alcohol. To Jane Addams, William Jennings Bryan, and Eleanor Roosevelt (herself a pistol carrier), liquor was the cause of violent crime. (Before dismissing this out of hand, remember that homicide studies uniformly find liquor a more prevalent factor than handguns in killings.) Besides, liberals were not likely to support the argument advanced by conservatives for gun confiscation: that certain racial and immigrant groups were so congenitally criminal (and/or politically dangerous) that they could not be trusted with arms. But when liberalism finally embraced handgun confiscation, it was by applying this conservative viewpoint to the entire populace. Now it is all Americans (not just Italians, Jews, or blacks) who must be considered so innately violent and unstable that they cannot be trusted with arms. For, we are told, it is not robbers or burglars who commit most murders, but average citizens killing relatives or friends.

It is certainly true that only a little more than 30 percent of murders are committed by robbers, rapists, or burglars, while 45 percent are committed among relatives or between lovers. (The rest are a miscellany of contract killings, drug wars, and "circumstances unknown.") But it is highly misleading to conclude from this that the murderer is, in any sense, an average gun owner. For the most part, murderers are disturbed, aberrant individuals with long records of criminal violence that often include several felony convictions. In terms of endangering his fellow citizens, the irresponsible drinker is far more representative of all drinkers than is the irresponsible handgunner of all handgunners. It is not my intention here to defend the character of the average American handgun owner against, say, that of the average Swiss whose government not only allows, but requires, him to keep a machine gun at home. Rather it is to show how unrealistic it is to think that we could radically decrease homicide by radically reducing the number of civilian firearms. Study after study has shown that even if the average gun owner complied with a ban, the one handgun owner out 3,000 who murders (much less the one in 500 who steals) is not going to give up his guns. Nor would taking guns away from the murderer make much difference in murder rates, since a sociopath with a long history of murderous assaults is not too squeamish to kill with a butcher knife, ice pick, razor, or bottle. As for the extraordinary murderers—assassins, terrorists, hit men—proponents of gun bans themselves concede that the law cannot disarm such people any more than it can disarm professional robbers.

The repeated appearance of these facts in studies of violent crime has eroded liberal and intellectual support for banning handguns. There is a growing consensus among even the most liberal students of criminal law and criminology that handgun confiscation is just another plausible theory that doesn't work when tried. An article written in 1968 by Mark K. Benenson, longtime American chairman of Amnesty International, concludes that the arguments for gun bans are based upon selective misleading statistics, simple-minded non sequiturs, and basic misconceptions about the nature of murder as well as of other violent crimes.

A 1971 study at England's Cambridge University confounds one of the most widely believed non sequiturs: "Banning handguns must work, because England does and look at its crime rate!" (It is difficult to see how those who believe this can resist the equally simple-minded pro-gun argument that gun possession deters crime: "Everybody ought to have a machine gun in his house because the Swiss and the Israelis do, and look how low their crime rates are!")

The Cambridge report concludes that social and cultural factors (not gun control) account for Britain's low violence rates. It point out that "the use of firearms in crime was very much less" before 1920 when Britain had "no controls of any sort." Corroborating this is the comment of a former head of Scotland Yard that in the mid-1950s there were enough illegal handguns to supply any British criminal who wanted one. But, he continued, the social milieu was such that if a criminal killed anyone, particularly a policeman, his own confederates would turn him in. When this violence-dampening social milieu began to dissipate between 1960 and 1975, the British homicide rate doubled (as did the American rate), while British robbery rates accelerated even faster than those in America. As the report notes, the vaunted handgun ban proved completely ineffective against rising violence in Britain, although the government frantically intensified enforcement and extended controls to long guns as well. Thus, the Cambridge study—the only in-depth study ever done of English gun laws—recommends "abolishing or substantially reducing controls" because their administration involves an immense, unproductive expense and diverts police resources from programs that might reduce violent crime

The latest American study of gun controls was conducted with federal funding at the University of Wisconsin. Advanced computerized techniques allowed a comprehensive analysis of the effect of every form of state handgun restriction, including complete prohibition, on violence in America. Published in 1975, it concludes that "gun-control laws have no individual or collective effect in reducing the rate of violent crime."

Many previous studies reaching the same conclusion had been discounted by proponents of a federal ban, who argued that existing state bans cannot be effective because handguns are illegally imported from free-sale states. The Wisconsin study compared rates of handgun ownership with rates of violence in various localities, but it could find no correlation. If areas where handgun ownership rates are high have no higher per capita rates of homicide and other violence than areas where such rates are low, the utility of laws designed to lower the rates of handgun ownership seems dubious. Again, the problem is not the "proliferation of handguns" among the law-abiding citizenry, it is the existence of a tiny fraction of irresponsible and criminal owners whom the law cannot possibly disarm of these or other weapons.

Far from refuting the Wisconsin study, the sheer unenforceability of handgun bans is the main reason why most experts regard them as not worth thinking about. Even in Britain, a country that, before handguns were banned, had less than 1 percent of the per capita handgun ownership we have, the Cambridge study reports that "fifty years of very strict controls has left a vast pool of illegal weapons."

It should be emphasized that liberal defectors from gun confiscation are no more urging people to arm themselves than are those who oppose banning pot or liquor necessarily urging people to indulge in them. They are only saying that national handgun confiscation would bring the federal government into a confrontation with millions of responsible citizens in order to enforce a program that would have no effect upon violence, except the negative one of diverting resources that otherwise might be utilized to some effective purpose. While many criminologists have doubts about the wisdom of citizens trying to defend themselves with

handguns, the lack of evidence to justify confiscation requires that this remain a matter of individual choice rather than government fiat.

Nor can advocates of gun bans duck the evidence adverse to their position by posing such questions as: Why should people have handguns; what good do they do; why *shouldn't* we ban them? In a free country, the burden is not upon the people to show why they should have freedom of choice. It is upon those who wish to restrict the freedom to show good reason for doing so. And when the freedom is as deeply valued by as many as is handgun ownership, the evidence for infringing upon it must be very strong indeed.

If the likely benefits of handgun confiscation have been greatly exaggerated, the financial and constitutional costs have been largely ignored. Consider the various costs of any attempt to enforce confiscation upon a citizenry that believes (whether rightly or not) that they urgently need handguns for self-defense and that the right to keep them is constitutionally guaranteed. Most confiscationists have never gotten beyond the idea that banning handguns will make them magically disappear somehow. Because they loathe handguns and consider them useless, the prohibitionists assume that those who disagree will readily turn in their guns once a national confiscation law is passed. But the leaders of the national handgun prohibition movement have become more realistic. They recognize that defiance will, if anything, exceed the defiance of Prohibition and marijuana laws. After all, not even those who viewed drinking or pot smoking as a blow against tyranny thought, as many gun owners do, that violating the law is necessary to the protection of themselves and their families. Moreover, fear of detection is a lot more likely to keep citizens from constant purchases of liquor or pot than from a single purchase of a handgun, which, properly maintained, will last years.

To counter the expected defiance, the leaders of the national confiscation drive propose that handgun ownership be punished by a nonsuspendable mandatory year in prison. The mandatory feature is necessary, for otherwise prosecutors would not prosecute, and judges would not sentence, gun ownership with sufficient severity. The judge of a special Chicago court trying only gun violations recently explained why he generally levied only small fines: The overwhelming majority of the "criminals" who come before him are respectable, decent citizens who illegally carry guns because the police can't protect them and they have no other way of protecting themselves. He does not even impose probation because this would prevent the defendants, whose guns have been confiscated, from buying new ones, which, the judge believes, they need to live and work where they do.

These views are shared by judges and prosecutors nationwide; studies find that gun-carrying charges are among the most sympathetically dealt with of all felonies. To understand why, consider a typical case that would have come before this Chicago court if the D.A. had not dropped charges. An intruder raped a woman and threw her out of a fifteenth-floor window. Police arrived too late to arrest him, so they got her roommate for carrying the gun with which she scared him off when he attacked her.

Maybe it is not a good idea for this woman to keep a handgun for self-defense. But do we really want to send her to federal prison for doing so? And is a mandatory year in prison reasonable or just for an ordinary citizen who has done nothing more hurtful than keeping a gun to defend herself—when the minimum mandatory sentence for murder is only seven years and most murderers serve little more?

Moreover, the kind of nationwide resistance movement that a federal handgun ban would provoke could not even be broken by imprisoning a few impecunious black women in Chicago. Only by severly punishing a large number of respectable citizens of every race and social class would resisters eventually be made to fear the law more than the prospect of living without handguns in a violent society.

At a very conservative estimate, at least half of our present handgun owners would be expected to defy a federal ban.[1] To imprison just 1 percent of these 25 million people would require several times as many cells as the entire federal prison system now has. The combined federal, state, and local jail systems could barely manage. Of course, so massive an enforcement campaign would also require doubling expenditure for police, prosecutors, courts, and all the other sectors of the criminal justice administration. The Wisconsin study closes with the pertinent query: "Are we willing to make sociological and economic investments of such a tremendous nature in a social experiment for which there is no empirical support?"

The argument against a federal handgun ban is much like the argument against marijuana bans. It is by no means clear that marijuana is the harmless substance that its proponents claim. But it would take evidence far stronger than we now have to justify the enormous financial, human, institutional, and constitutional costs of continuing to ferret out, try, and imprison even a small percentage of the otherwise law-abiding citizens who insist on having pot. Sophisticated analysis of the criminalization decision takes into account not only the harms alleged to result from public possession of things like pot or guns, but the capacity of the criminal law to reduce those harms and the costs of trying to do so. Unfortunately most of the gun-control debate never gets beyond the abstract merits of guns—a subject on which those who view them with undifferentiated loathing are no more rational than those who love them. The position of all too many gun-banning liberals is indistinguishable from Archie Bunker's views on legalizing pot and homosexuality: "I don't like it and I don't like those who do—so it ought to be illegal."

The emotionalism with which many liberals (and conservatives as well) react against the handgun reflects not its reality but its symbolism to people who are largely ignorant of that reality. A 1975 national survey found a direct correlation between support for more stringent controls and the inability to answer simple questions about present federal gun laws. In other words, the less the respondent knew about the subject, the more likely he was to support national confiscation. Liberals advocate sefiscation only because the liberal image of a gun owner is a criminal or right-wing fanatic rather than a poor black woman in Chicago defending herself against a rapist or a murderer. Contrary to this stereotype, most "gun nuts" are peaceful hobbyists whose violence is exclusively of the Walter Mitty type. Gun owners' views are all too often expressed in right-wing terms (which does nothing for the rationality of the debate) because twenty years of liberal vilification has given them nowhere else to look for support. If only liberals knew it, handgun ownership is disproportionately high among the underprivileged for whom liberals traditionally have had most sympathy. As the most recent (1975) national demographic survey reports: "The top subgroups who own a gun only for self-defense include blacks (almost half own one for this reason alone), lowest income group, senior citizens." The average liberal has no understanding of why people have guns because he has no idea what it is like to live in a ghetto where police have given up on crime control. Minority and disadvantaged citizens are not about to give up theif families' protection because middle-class white liberals living and working in high-security buildings and/or well-policed suburbs tell them it's safer that way.

A final cost of national gun confiscation would be the vast accretion of enforcement powers to the police at the expense of individual liberty. The Police Foundation, which ardently endorses confiscation, recently suggested that federal agencies and local police look to how drug laws are enforced as a model of how to enforce firearms laws. Coincidentally, the chief topic of conversation at the 1977 national conference of supporters of federal confiscation was enforcement through house searches of everyone whom sales records indicate may ever have owned a handgun. In fact, indiscriminate search, complemented by electronic surveillance and vast armies of snoopers and informers, is how handgun restrictions are enforced in countries like Holland and Jamaica, and in states like Missouri and Michigan.[2]

Even in England, as the Cambridge report notes, each new Firearms Act has been accompanied by new, unheard-of powers of search and arrest for the police.

These, then, are the costs of banning handguns: even attempting an effective ban would involve enormous expenditures (roughly equal to the present cost of enforcing all our other criminal laws combined) to ferret out and jail hundreds of thousands of decent, responsible citizens who believe that they vitally need handguns to protect their families. If this does not terrorize the rest of the responsible handgun owners into compliance, the effort will have to be expanded until millions are jailed and the annual gun-banning budget closely seconds defense spending. And all of this could be accomplished only by abandoning many restraints our Constitution places upon police activity.

What would we have to show for all this in terms of crime reduction? Terrorists, hit men, and other hardened criminals who are not deterred by the penalties for murder, robbery, rape, burglary, et cetera are not about to be terrified by the penalties for gun ownership—nor is the more ordinary murderer, the disturbed, aberrant individual who kills out of rage rather than cupidity.

What we should have learned from our experience of Prohibition, and England's with gun banning, is that violence can be radically reduced only through long-term fundamental change in the institutions and mores that produce so many violent people in our society. It is much easier to use as scapegoats a commonly vilified group (drinkers or gun owners) and convince ourselves that legislation against them is an easy short-term answer. But violence will never be contained or reduced until we give up the gimmicky programs, the scapegoating, the hypocritical hand-wringing, and frankly ask ourselves whether we are willing to make the painful, disturbing, far-reaching institutional and cultural changes that are necessary.●

[1] I reach this estimate in this fashion: Surveys uniformly find a majority of gun owners support gun registration—in theory. In practice, however, they refuse to register because they believe this will identify their guns for confiscation if and when a national handgun ban eventually passes. In 1968, Chicago police estimated that two-thirds of the city's gun owners had not complied with the new state registration law; statewide noncompliance was estimated at 75 percent. In Cleveland, police estimate that almost 90 percent of handgun owners are in violation of a 1976 registration requirement. My estimate that one out of two handgun owners would defy national confiscation is conservative indeed when between two out of three and nine out of ten of them are already defying registration laws because they believe such laws presage confiscation.

[2] According to the ACLU, St. Louis police have conducted 25,000 illegal searches in the past few years under the theory that any black man driving a late-model car possesses a handgun.

Michigan court records indicate that almost 70 percent of all firearms charges presented are thrown out because the evidence was obtained through unconstitutional search.

THE UNDERGROUND WAR

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. DORNAN. Mr. Speaker, in the game of narcotics trafficking the stakes are exceptionally high. With such vast amounts of money at issue, police apprehension of armed drug smugglers becomes an extremely dangerous venture. Those of us who have followed the narcotics problem in some detail know that Colombia has become the drug capital of the Western Hemisphere. Cocaine has been its major illegal export, but vast amounts of heroin and marihuana have also been confiscated. Traveling the high seas, Colombian narcotics are secreted into American ports, such as New York, Philadelphia, Baltimore, and New Orleans. Coast Guard officials have admitted that effective control of this influx is extraordinarily difficult.

The answer, ultimately, rests with Colombia herself. I sincerely hope that the reports of the recent crackdown are an indication of good faith on the part of the Colombian Government. But I realize that our best wishes are offered against the background of a political culture in which crime and politics have become entwined. Politically, Colombia remains a chaotic country. Despite a long tradition of civilian rule, the nation is plagued with guerrilla groups operating in the countryside. They are a mixture of bandits and left-revolutionaries and, at times, it is difficult to distinguish their political from their criminal interests and activities. Colombia is also burdened with the world's highest homicide rate, while kidnapping, as a criminal pastime, is almost as prevalent as it is in Italy.

Mr. Speaker, the problem is whether we can trust the man at the top. President Turbay Ayala, the leader of the Colombian Liberal Party, defeated Dr. Belisario Betancur of the Conservative Party in a democratic election last June. While his political preferences are similar to the left-of-center position of former President Lopez Michelsen, he himself has not escaped charges of being involved in illicit narcotics smuggling. I hope that the efforts of his Government are sincere, and that he can finally put a stop to these underground transactions in human destruction.

I ask that my colleagues give their attention to the editorial in the Washington Post of September 11, 1978, on this important subject:

COLOMBIA'S DRUG WAR

Statistics describing the volume of the international traffic in illicit drugs tend to have a numbing effect. They define huge, almost unimaginable quantities of both narcotics and money. For example, in June Colombian drug officials, with help from U.S. agents, seized the largest cache of illicit drugs ever confiscated in one raid—574 tons of marijuana that was about to be shipped to the United States. That amount, worth about $200 million wholesale, was enough to make 1 million cigarettes a day for an entire year.

It's no coincidence that the record haul was captured in the remote Colombian province of Guajira. Colombian authorities are literally at war with drug traffickers who have taken over vast tracts of land in the sparsely populated province along the Caribbean coast. Those traffickers are the reason Colombia in recent years has become the major source of marijuana and a major transit point for heroin and cocaine bound for the United States from South American countries. Next month peasants will start harvesting an area of new marijuana plants that is four times as large as the District of Columbia.

The harvest won't go unchallenged. Colombia's revitalized attorney general's office, which recently has seized or destroyed tons of marijuana and made several key arrests, has organized a special strike force to stop it. And Colombia's new president, Julio César Turbay, has signaled his commitment to the anti-drug campaign by urging the continuation of drug-control agreements between Colombia and the United States.

The situation in Colombia repeats the by-now familiar pattern of a developing country trying to rid itself of the corrosive presence of widespread drug production and trafficking. Experience indicates that Colombian authorities, while trying to root out the $1-billion-a-year drug industry, also must attempt to resolve some large related problems. These include 1) bringing the Guajira region under the authority of the central government and including it in national development programs, 2) developing crop-substitution programs for farmers now dependent upon marijuana as a cash crop, 3) building a network of roads and outlets for produce that make legitimate farming possible and profitable and 4) thereby trying to stem the flow of jobless peasants into the cities.

In short, Colombia's war against drugs is at bottom a war for development. That Colombian authorities recognize the problem in these true dimensions speaks well for their determination to attack it.●

THE CAMP DAVID SUMMIT: THE VIEW FROM CONGRESS

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. FINDLEY. Mr. Speaker, this fall marks the third anniversary of the Sinai II agreement between Egypt and Israel. The Sinai II agreement initiated the process which has led to the Camp David framework for peace. But the 1975 bilateral agreement was a benchmark of another sort. It was in connection with that agreement that Congress accepted the enlarged and direct U.S. role in the Middle East.

The growing U.S. role in the Middle East was inevitable after the October 1973 war. During that conflict, the economic threat to the West of the oil embargo and the strategic threat of Soviet intervention, stimulated an American appreciation of the risks involved and interests at stake in the Middle East. A new era of U.S. diplomacy and activity thus began in this region.

By lending its support to the Sinai II agreements, Congress signaled that it would concur in the American responsibility to promote a Mideast settlement. Congress participated in this responsibility by agreeing to a vast aid program to the region. Prior to 1975, U.S. economic and military assistance to the Middle East had averaged a few hundred million dollars a year, while since then Congress has authorized annual sums of $3 billion. And though the U.S. experience in Vietnam had made Congress hesitate to engage this country in new overseas commitments, by an overwhelming majority, it voted to approve the presence of U.S. technicians in the Sinai.

Frankly, however, I am not sure that, in the fall of 1975, most Members of Congress expected the U.S. role in the Mideast to grow even further. Many thought movement toward peace would reduce the large amounts of foreign aid we were channeling to the Middle East. Peace, we were once told, would be cheaper than war. Few Members now believe that peace will decrease the levels of U.S. aid to the Middle East. Indeed, U.S. aid may well increase. There is now discussion of supplemental economic aid for Egypt and additional funds for Israel to build airfields in the Negev to replace those vacated in the Sinai.

And the expectation that the U.S. technicians would be out of the Sinai within a few years has disappeared. Not only is it very possible that those already there will remain, but it could well be that others will join them in new locations in the Sinai.

Congress has approved, in large part, this growing U.S. commitment to the Middle East and the expanding ties we have forged in that region. Not only has Congress reaffirmed old links with Israel, it has sought new friendships with Arab States. Only a few years ago, the idea of Congress agreeing to the sale of advanced fighter aircraft to Egypt and Saudi Arabia would have been unthinkable.

Congressional support for the U.S. role in the Middle East will now extend to the most recent results of U.S. diplomacy: The Camp David summit.

Congress does, however, approach the Middle East peace process from a different perspective than does the executive branch. This will influence and shape the congressional response to Camp David:

First. Despite all the talk of congressional activism in foreign policy, there is a fear in Congress of rocking the boat. This pertains to the Middle East in particular, because of the potential for conflict that exists there. Thus, although there may be criticisms of various aspects of the Camp David agreements, criticism will probably be muted. Members of Congress are not in a position to renegotiate an agreement should they refuse to accept the one offered. They are, therefore, reluctant to play a purely negative role. And, there is the feeling

that it is, after all, up to Egypt and Israel to decide the terms under which they can coexist. If those two parties enthusiastically embrace this framework for peace, it is not up to Congress to withhold its support.

Second. Support will also derive from our great desire for peace and from our concern for the security and well-being of our friends, Egypt and Israel. The Camp David agreements are, in a sense, a separate agreement between Egypt and Israel which satisfies many of Israel's most ardent supporters. And among those who would have preferred and who continue to prefer a comprehensive agreement, there is an appreciation of the risks involved in these agreements for Egypt as well as for Israel. Should Members of Congress withhold their support for the initiative that President Sadat has taken, we could undermine him and destabilize the region. President Sadat is widely liked and admired by Members of Congress. He has made an extremely favorable impression during his visits to the United States and during congressional visits to Egypt. He has been responsible, more than any other single individual, in conveying to Congress not only the interests of Egypt but the interests of the Arab world as a whole. He is an invaluable resource in the Middle East and one which Members of Congress would not want to jeopardize. There is a strong feeling, therefore, that Members of Congress should join in the jubiliation over the agreements that President Sadat has expressed these past few days no matter what reservations about the agreements they may privately feel.

Third. Congress will approach the details of the Camp David framework differently from the negotiators. In international diplomacy, ambiguity is a useful tool, sometimes making possible agreement where none would exist were all differences clarified. President Sadat and Prime Minister Begin have reached an agreement which masks many differences—on issues such as Jerusalem, the settlements on the West Bank, the role of the Palestinians in reaching a future West Bank settlement, and the withdrawal of Israeli troops after a 5-year interim period. These are fundamental questions. Where a certain amount of ambiguity may be necessary to the negotiators at this time to gloss over differences and to permit the peace process to go forward, Congress will approach the documents from the vantage point of wanting to know and understand all. Members will seek an explicit and detailed explanation of each point in the documents.

Fourth. Congress, never satisfied completely, will also ask incessantly, where do we go from here? What is the next step toward peace?

Attention will focus on the role of Saudi Arabia and Jordan. There is a hope and desire that these two countries will support and play an active role in the peace process. I would have to admit here that few in Congress fully appreciate the intricacies of the political and diplomatic life of Arab nations which have caused Jordan and Saudi Arabia to refrain from enthusiastic support of the Sadat initiative. However, there remains a strong feeling that the peace process is moving slowly forward and if Jordan and Saudi Arabia want to shape it and contribute to that process, they should find a way to join forces with Sadat and participate in the agreements. Surely, neither continuation of the status quo, the absence of their input, nor the risk of isolating Egypt in the Arab world could serve their needs.

Attention will also focus on the Palestinians and their role in the peace process. This framework does not present a solution to the question of the Palestinian refugees yet the Palestinians are and must be a central issue in any settlement. We have yet to grasp the difficult issue of the creation of a Palestinian homeland. Congress recognizes the existence, needs, and role of the Palestinians. It is less sure of exactly what comprises their rights. To date, most Members feel that the rights of the Palestinians conflict with the rights of the Israelis within the State of Israel. Therefore, if the Palestinian people wish to see a more universal understanding and acceptance of their rights within the U.S. Congress, they will have to make a concerted effort to insert themselves into the peace process in a positive fashion. This will involve the willingness to accept the existence of Israel and to live with Israel peaceably. Leaders who advocate such peaceful ways rather than those who promote acts of terrorism will most successfully advance the interests and the legitimate rights of the Palestinian people. And they will gain the ear and interest of Congress.

Charles deGaulle once said that in diplomacy one must accept the inevitable and turn it to one's own advantage. The Camp David framework underlines the inevitability of a peace treaty between Egypt and Israel and the inevitability of Israel's survival. It is now up to the Arab States and to the Palestinian people to take these two facts as a starting point and build upon them to their own advantage. If the Palestinians were to accept Israel's existence and Sadat's initiatives, they would be signaling their own intention of promoting peace in the Middle East. The initial framework of Camp David may disappoint most Palestinians now. But it will only be by peacefully buttressing the efforts of President Sadat and of the United States to create a homeland that they will advance their own cause. If they continue to believe, as do many, that the forces of nationhood are irreversible, they should take positive steps toward this end.●

IN MEMORY OF VERNON TYRONE SCIPIO

HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. DE LUGO. Mr. Speaker, 2 weeks ago the tragic crash of an Antilles airboat on a commercial flight from St. Croix to St. Thomas in the U.S. Virgin Islands took the life of a prominent St. Thomian, Vernon Tyrone Scipio.

At the time of his death, Mr. Scipio was an official of the Virgin Islands Department of Education as director of health and physical education.

But to citizens of St. Thomas Vernon was more than a government official. He was an integral and dedicated part of the civic fiber and a most respected member of our community. Throughout the years Vernon involved himself in so many community projects, so many community organizations, so many community needs that he became a symbol of what can be accomplished when citizens become involved with their society.

Vernon Scipio will not soon be forgotten because he has left so much of himself to us. It is my honor to insert in the CONGRESSIONAL RECORD, in his memory, an article in the September 9, 1978, issue of the Daily News. His contributions and his commitment to Virgin Islanders are well documented and a source of inspiration to all who knew him.

The article follows:

VERNON SCIPIO WILL BE REMEMBERED

(By St. Clair Murraine)

The ill-fated flight of an Antilles Airboat which crashed last Saturday took the life of Vernon Tyrone Scipio, health and physical education director for the Department of Education. Scipio was more than just an official with the department as he was the founder of a movement that is currently educating several of St. Thomas' delinquent youths while giving them a chance for a brighter future.

The movement began during the early 1970's when Scipio and his co-worker at the Charlotte Amalie High School, Arthur Jamison, decided it was time to get the troubled youths back in school. The program has already produced as Glen William, a recent graduate of St. John University, went through the movement and later advanced to a professional basketball career.

In 1970, Scipio recognized the potential of Williams and Robert Gumbs and decided that something should be done to help the two top cagers to develop their abilities. With that he remembered the Lauringburgh Prep school in North Carolina and knew it had helped the likes of top pro basketball players Jimmy Walker, Sam Jones and Charlie Scott.

The next move was to contact Dr. McDuffey, coach of the North Carolina, to inquire of the islanders chances. McDuffey warned Scipio of the financial burden and all of the other shortcomings he might encounter if the deal did not work.

McDuffey agreed to take the two students and put up three fourths of the $2,500 yearly tuition for each of the youngsters. The rest including transportation and all other expenses was up to Scipio and Jamison. They found the money and sent the first two players to North Carolina. But, it only went half way as Gumbs returned home after a brief stay at the school. Williams however, stayed on and it payed off.

Despite the halfway success Scipio encountered with his first try, he did not give up on the kids and the other island students who achieved academically. Sidney Bell and Arthur Solomon were among those who advanced their education and played basketball at their colleges with assistance from Scipio in getting funds.

Currently, Scipio's son, Darien, along with Willie Petersen, Sylvester Charles and several others are attending the Lauringburgh school.

At the time of his death, Scipio, 44, was returning to St. Thomas after attending a meeting with physical education program for this school year.

The North Carolina native came to St. Thomas during the late 1950's and worked as a teacher and chairman of the P.E. department at C.A.H.S. until he took over as director with the Department of Education in 1967. While at C.A.H.S., the West Virginia State College graduate began a program to upgrade the level of P.E. in the elementary as well as the secondary level of most of the islands' schools.

On his own time, Scipio served as president of the defunct St. Thomas Basketball Association. He also was a player with the Dukes in the association's league. The Dukes also participated in several other sports activities. Scipio was also active as a referee for the St. Thomas Basketball Players Association and the Inter-scholastic Association.

He was also a member of the Caribbean Olympic Committee, Columbus County Social Club of New York and the West Virginia State Alumni Association.

In memory of his many efforts for sports, the 1978 inter-scholastic football league will be played in his honor.

Scipio is survived by his wife, Naomi; two sons, Vernon Jr., sisters Margaret S. Stanley, Jacqueline Rienhardt, Evelyn S. Anderson and Dorris S. Dees, two brothers, Edwin and Rudolph, and several other relatives.

In view of Scipio's interest in promoting athletic development for the youth of the V.I., his family has requested that in lieu of flowers contributions be sent to the Vernon T. Scipio Memorial Athletic Scholarship Fund C-Q the Department of Education.

Scipio will be buried in Chadborne, N.C. However, viewing of the body and memorial services are scheduled in St. Thomas. On Wednesday beginning at 2 p.m. until 5 p.m. viewing will be at the John Thomas Chapel. Thursday viewing is slated for 8 until 9:30 a.m. with services at 10 a.m. at St. Andrews Anglican Church.●

THE BLAME IN RHODESIA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. McDONALD. Mr. Speaker, the idea current in American policymaking circles that Rhodesia is just another civil rights problem is certainly one of many American misconceptions on Africa in general and Rhodesia in particular. A case can be made that this and other mistaken notions of American policymakers will be responsible for additional bloodshed in Rhodesia. American support of the so-called Patriotic Front has encouraged the terrorists to believe that nothing they do will draw our criticism nor cause a withdrawal of American Government support. We even have the gross spectacle of the World Council of Churches subsidizing the people who are murdering missionaries and shutting down mission hospitals. A recent Washington Star editorial of Sunday, September 17, 1978, summed up this situation very well. I commend it to the attention of my colleagues. The editorial follows:

THE BLAME IN RHODESIA

The hopes for a negotiated settlement in Rhodesia were deteriorating last week—and, in fact, yielding to an unproductive quarrel about whose fault the breakdown may be.

Anglo-American diplomats, who have tried and failed to convene an "all-party" conference, were reportedly drawing back from their efforts, some of them feeling that civil war is now inevitable, and reluctant to face the possibility that they have contributed to that disturbing prospect.

Meanwhile, Prime Minister Ian Smith, still caught between militant white supremacists on the inside and militant black guerrillas on the outside, complains bitterly that "the greatest contributing factor to our failure (that is, of the experiment in multiracial transitional government) has been that the American and British governments, the leaders of the free world, have sided with our enemies, the Patriotic Front."

There is plenty of blame—if blame we must have—to go around for the dire situation in Rhodesia. Mr. Smith waited a long time, maybe too long, to make his peace with reasonable black nationalists, although it really isn't for outsiders to judge how much leverage he had at an earlier stage with his own following.

Britain, for its part, was too long guided by the belief that its former crown colony could be brought to heel by economic sanctions, following which a post-colonial settlement could be dictated from London. The failure of sanctions is partly explained by the discovery that the attempt to keep British oil out of the country was thwarted with the knowledge and acquiescence of high civil servants and government officials.

The attention of Americans might more profitably be drawn, however, to the curious role of the U.S. in Rhodesia. There was a promising interval in mid-1976 when Secretary of State Henry Kissinger, fresh from his success at Mideast shuttle diplomacy, took on the Rhodesian crisis for mediation. He was the first outsider to treat the Rhodesian problem as one susceptible to diplomatic management rather than high-toned posturing. But the interesting prospects opened by Dr. Kissinger faded when he left office in 1977 and the new Carter administration substituted officials who viewed Rhodesia in the context of American civil rights politics.

U.N. Ambassador Andrew Young, who was in the forefront, seemed to believe that the Rhodesian problem would yield to techniques that had proved useful in the Deep South in the mid-Sixties. The issue, as he saw it, was "majority rule"; and if guerrilla warfare and tribal rivalry for power divided various black factions and leaders in complex ways, that inconvenience could be ignored.

From the outset, Mr. Young also shared the British view that Mr. Smith's internal settlement of last March could not succeed, since it was unsupported by the Patriotic Front and the neighboring African governments; and this ultimately began to seem a self-fulfilling prophecy.

Mr. Smith may not be incontestably right in believing that U.S.-British support would have meant the difference between failure and success for the internal settlement. But in retrospect, it is probable that a valuable opportunity was missed when the U.S. and Britain shunned that half-a-loaf settlement and thus communicated to their friends in Africa the certainty that guerrilla warfare and terrorism could proceed without our disapproval.

Anglo-American policy in Southern Africa, as directed by Mr. Young and his colleague Dr. Owen, the British foreign secretary, must share the burden of failure. That policy undermined Mr. Smith's efforts to draw together moderate whites and moderate blacks, while at the same time it failed to bring the Nkomo-Mugabe guerrillas to collaborate in an alternative settlement.

The failure was a failure of perception and understanding. In the old days of outright colonialism imperial diplomats at least had a clear idea of what they sought and how to accomplish it. The new and idealistic interventionism practiced from Washington and London since early 1977 suffered from an excess of ambition and illusion. Because it was disinterested, or at least seemed so to its practitioners, there was the illusion that we had a better grasp of what might be best for Rhodesia's future. But that was not the case. It was an inept, if well-intended, form of meddling in problems rooted in an altogether different history and experience from our own.

To treat an Ian Smith as a kind of African George Wallace was not only mistaken but fraught with the risk of pointless bloodshed and strife. It is not strange that parentage of the risk is being disclaimed right and left.●

IT IS NOW OR NEVER FOR AN ENERGY PROGRAM DURING THE 95TH CONGRESS

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. SIKES. Mr. Speaker, for the greater part of 2 years, encompassing most of the life of the 95th Congress, the Congress has struggled to produce a workable concept of an energy bill. Time is running out. It is now or never for the 95th Congress. We now have a prospect of an early vote on a program before we adjourn. What will be before us is not a major accomplishment, but it is a beginning. Without it, there will be nothing on which to serve as a stepping stone in a future Congress for a more meaningful program. The entire monotonous procedure which we have experienced in the 95th Congress will have to be repeated if we fail to pass an energy bill this year.

It is not a question of whether the bill is adequate. It is not adequate to meet the Nation's energy problems, but it will aid in a significant way, particularly by helping to insure supplies of natural gas for the Nation's consumers. It also will provide price stabilization and new markets for the Nation's producers. This will be a good beginning.

We have fought the battle of deregulation on natural gas in Congress for a great many years. Time after time, efforts to produce a workable solution have failed. We cannot afford to fail now. We are an energy-deficient nation, simply because we use much more fuel than any other nation and we do not produce enough to meet our needs. Many nations are confronted with a much more critical energy problem than the United States in that they have no oil production of their own. Most of them have managed to put their house in shape by whatever stringent measures are necessary to reduce cash outflow. They restrict energy use and increase the price of fuel to the consumer. They are facing up to the problem; we are not.

These nations cannot comprehend our inability to cope with our own problem, blessed as we are with such great assets of coal and oil and with relatively untapped opportunities for the development of nuclear energy, alcohol for fuel from farm products, and solar energy. The fact is, we have simply assumed our problem will never reach crisis proportions. The near-crisis which developed during the Arab oil embargo was short-

lived and is generally forgotten. The fact remains it could happen again and we would be hit even harder than before because we use more fuel each year.

The plan before us is not a panacea. It falls far short of solving all our energy problems. It is little more than a start, but we cannot delay the initiation of the necessary efforts to respond to America's energy problems. Day, after day, month after month, year after year, American dollars are leaving our Nation to purchase foreign oil. They add up to many billions in the course of a year, roughly $43 billion. Such an unfavorable balance cannot continue if we desire to maintain any semblance of the strong American economy which has led the world since the end of World War II. Each day that this Nation proceeds without an energy plan brings us all closer to a point of no return.

We must take steps now—and the proposal before us is the best that we can achieve after 2 years of work. I know it is not perfect. Seldom does compromise result in perfection. But compromise has given this Congress a workable energy plan—one which the Nation badly needs.

As I review this plan I see several significant benefits:

It would permit significant additional quantities of natural gas to flow between the States at prices below that of alternative fuels;

It will permit construction of an Alaskan natural gas pipeline which could easily result in increased supplies of natural gas on the order of 30 percent higher by 1985;

The increased natural gas flows would decrease the importation of foreign oil, at a potential savings of $7 billion a year in our balance of payments; and

It will protect home consumers and cost them no more than the existing law, as well as providing substantial quantities of gas for new home hookups.

Increased costs are inevitable, with or without this legislation. Supply will be more consistent. Passage of the measure signifies progress in a long delayed program essential to the Nation's interest in energy conservation.●

SOMEONE OUT THERE WANTS YOU

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. SANTINI. Mr. Speaker, those of us caught up in the toil and turmoil of our congressional labors are well aware of the record number of our House colleagues—55—who will be leaving the Congress at the end of this year.

I recently received a job inquiry letter from a national life insurance company, demonstrating that the private sector is only too well aware of our diminishing ranks and precarious existence.

I share this job solicitation letter in the hope that it may represent an employment alternative for our retiring Members or a future opportunity for those of us who fail the election test.

The material follows:

NEW YORK LIFE INSURANCE CO.,
Washington, D.C., September 5, 1978.

Mr. JAMES D. SANTINI,
Rockville, Md.

DEAR MR. SANTINI: Your name has come to my attention as someone who may possess the necessary qualities to fill a position currently open in our Sales and Sales Management Training Program.

I have no way of knowing whether this would be of interest to you, but I believe that it could be of mutual benefit for us to meet personally, to discuss this matter further.

Please call me at 337-7505 so that a satisfactory time can be arranged for an interview.

Sincerely,

JEREMIAH A. KELLEY,
Assistant Manager.

HOUSE OF REPRESENTATIVES,
Washington, D.C. September 19, 1978.

Mr. JEREMIAH A. KELLEY,
Assistant Manager, Washington General Office, New York Life Insurance Co., Washington, D.C.

DEAR MR. KELLEY: I appreciate your unsolicited expression of interest about my future employment. Your letter reflects the general state of awareness about the uncertainties of my present occupation. It is true that a record number of my co-workers have retired this year. However, I intend to continue in my present job if I get the approval of all my employers in November.

Nonetheless, please keep my name in your active interest file, because if my present contract is renewed it will only extend for two more years. With these two-year cycles of survival, I must keep my options open.

We may get together soon.

I remain,
Sincerely,

JAMES D. SANTINI,
Member of Congress.●

KEYNOTE ADDRESS: THE FIRST NATIONAL CITIZENS CONFERENCE ON ENERGY FACILITY SITING; GLENWOOD, MINN.

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. NOLAN. Mr. Speaker, this past weekend, I was privileged to deliver the keynote address to the very first national conference devoted to the growing crisis over how we produce and transmit energy in this country.

The conference was made up of 2 days of workshops, discussions, and demonstrations by individuals from over 30 States—each with special concern over the direction we are pursuing. Sponsors included the Environmental Policy Center, Washington, D.C.; United Church of Christ Board for Homeland Ministries, New York; Minnesota Council of Churches, Minneapolis; National Catholic Rural Life Conference, Iowa; the General Assembly To Stop the Powerline, Minnesota; and Counties United for a Rural Environment (CURE), Minnesota.

Since many of my colleagues will undoubtedly be asked to address the same issue in the future, I would like to share my remarks:

ADDRESS BY HON. RICHARD NOLAN

My friends, what we have witnessed here together this weekend is the birth of a movement!

There are farmers here today: environmentalists here today: consumers . . . local officials . . . and many many others who never had a common ground or a common goal before . . . here to begin what I predict will be a National debate . . . a public National debate . . . not just on whether a powerline in central Minnesota or a nuclear power plant in Seabrook serves the public convenience and necessity (as the utility executives are so fond of putting it) . . . but whether the real public interest and public needs are served by the entire direction we are pursuing in the way we produce and transmit energy in this country.

In fact, we are here to demand that the term "public convenience and necessity" take greater account of the necessity to preserve our land, in addition to the necessity to generate electricity; take greater account of the necessity to preserve our farms, in addition to the need to transmit that power:

We are here to say that the public convenience is also the convenience of the farmer and the environment . . . not just the power companies.

We are here to talk about a new set of priorities overlooked and undervalued for far too long.

And out of this debate, I predict, will come not only serious questions about policy . . . but serious questions about the policy makers and the policy making process . . . questions and challenges which must ultimately and fundamentally change the way the policy makers think and act to supply our energy needs.

Many of you here today are veterans of other battles, where you have learned not only how terribly difficult, but how terribly necessary it is to challenge the policy makers and challenge the old ways of doing things.

Farmers, for example, who continue to see family farms disappear by the tens of thousands because we waited too long to question the policy makers:

Environmentalists who continue to see the air fouled and waters ruined because for too long, no one questioned the way we designed our cars, produced our goods, and disposed of our waste;

Ordinary citizens who became anti-war activists because they realized what was happening to our country and our society in the 1960's when the policy makers were not questioned;

But whether you're a veteran or a newcomer, the fact is that we know the war has stopped . . . that there are laws now to begin to protect the environment . . . that committed individuals and organizations can and do change a course of events.

So in this debate . . . whether it is the powerline protest here in Minnesota . . . the clamshell alliance in Seabrook . . . whether it's those who are going to jail in Portland or in California . . . what's being said is "Hold on! . . . wait just a minute . . . let's pause just for awhile before we cover another land area the size of Connecticut with transmission right of ways . . . before we place anymore liquified natural gas plants in highly populated areas like Staten Island or Boston . . . and let's examine the consequences of our actions . . . so that we stop making public policy with the idea that the damage needs to be done before preventative measures are taken.

That's not radical;
That's not unreasonable;
That's not irresponsible;
That, my friends, is just using your head!

The real questions here go beyond *where* we put the next high voltage transmission line . . . or *where* we put the next nuclear power plant or *where* we put the next coal gasification plant. Because quite frankly, no one wants them. No matter where we put them, somebody gets angry.

The real question is whether the environment, the public health, farmers . . . consumers . . . in short whether the public interest . . . the public well-being . . . is served by continuing to rely on a relatively small number of huge, concentrated, monstrously expensive facilities which produce and transmit energy . . . or whether we should instead move in another direction . . . perhaps toward a point where our future energy needs recognize the limited resources of our planet . . . and whether we can decentralize and deconcentrate energy production in this country.

We don't have any final answers. But people all throughout the country are beginning to recognize that priorities must change . . . that alternatives must be found. They are beginning to ask the right questions.

People concerned with the public health are asking: What are the consequences of exposing 50,000 rural citizens to almost 10,000 new miles of high voltage transmission lines within 12 years . . . exposure that will last a lifetime for everyone of those people.

There are those who are *so ready* to assume all is safe until somebody proves otherwise: No doubt many of the same ones who are so ready to assume that it was safe to dump billions of tons of asbestos into Lake Superior . . , and who were so ready to assume that nitrites and cyclamates were safe enough to introduce into the entire food chain.

People inside and outside of government are asking: Does any government or any industry have the right to allow citizens to be exposed to unknown dangers of nuclear wastes and high voltage radiation without full disclosure of the consequences or an effective voice in the decision-making process.

Those who are concerned with how we use our land as a limited and precious resource are asking: What are the consequences of taking 4 million acres of prime farmland out of production by 1990 for pipeline and powerline rights of way when we are already losing 3 million acres of our most fertile land each year to developers and to urban sprawl.

What are the consequences of our plan to build 110 more nuclear power plants by the mid-1980's . . . and moreover . . . what are the consequences of burying 11 million cubic feet of high level nuclear wastes below the ground by the year 2000?

What are we going to do when the 50 year life expectancy of the storage tanks runs out and those poisons begin to soak through the ground and into the soil?

Those who are concerned with our National Security are asking: What are the consequences of perpetuating a system of producing energy which is controlled entirely by multi-national energy conglomerates with no allegiance to anything but a combined annual profit of tens of billion dollars

If one small electrical storm can black out New York City and vast portions of the northeast coast . . . how in the same of reason can that kind of system be strategically safe in time of war or national crisis?

Any, my friends, government . . . by in large . . . has not only failed to answer the questions. Government has failed to even consider the questions.

We are spending $4 billion dollars a year in energy research . . . and out of that total, only 18 percent is going toward developing any alternatives to the present system . . . alternatives like solar energy, wind energy, and geothermal energy.

And it's little wonder . . . because up until just a very short time ago, government has had no one else to listen to but the energy monopolies who spend millions of dollars and employ hundreds of technicians, experts, and lobbiests in Washington to see that the right questions are not asked.

So as you grow as a coalition and as a movement, you must begin to demand that public money be used to develop and realize alternatives in the public interest.

The truth is that there are alternatives. They aren't perfected. They may be somewhat elaborate or more costly, at least right now. But it is unacceptable for us to do anything less than pursue every alternative. It is unaccetpable for the policy makers to tell us any longer that we are wrong if they can't prove it.

Finally, let me just say that you aren't alone in your anger and your frustrations. Let me tell you . . . the victories are few and far between . . . whether you're pressing for decent, progressive alternatives as a congressman or as any one of you here today.

But be that as it may, we must continue to drive home the point, again and again and again, that the real test of public policy is not whether the boards and commissions and the councils correctly follow the procedures for hearing your side of the story . . . but whether the solutions which come as a result are acceptable and just.

And the fact is that what has come as a result of the procedures in Minnesota and in Seabrook and time and time again throughout the country are not acceptable or just.

Law-abiding citizens don't tear down transmission towers or occupy nuclear power plants or go to jail when they are presented with acceptable and just solutions, and when they are treated fairly.

So I challenge you to vent your frustrations and your anger not by threatening lives and property but by building public support for your position and by using the tools of this democracy which are here to help assure that the public will is carried out.

I'm talking about forming an organization;

Holding conferences like this one throughout the country;

Doing more research;

Generating more news coverage and getting your story out to the degree that you raise public awareness that generates public pressure and results in change.

Find out who your friends are.

Require your candidates for public office to state their positions;

Generate the kind of support that will force your State legislators to listen: Force Congress to listen: Force your Governors to listen; and force the President to listen.

At that point, I can guarantee you that Government will respond and change the way we go about supplying energy for people in this country. It can be done.

Tax money can go to research and develop alternatives—alternatives that encourage self reliance, not public dependence;

Alternatives that respect a man's farm and his property;

Alternatives that respect the environment;

Alternatives that respect the fact that our resources are limited in this world;

And laws can be changed to require that those alternatives, in fact be followed—that the power companies follow them—that Government agencies follow them.

Finally, let me add—don't become discouraged or lose heart.

People all over this country are being inspired by your example;

They are gaining strength and courage by your example;

They are renewing their own commitments because of your example;

As you leave this conference today, I challenge you to let everyone know that we are in this for the long haul. Because when your commitment has no time limit—your opposition knows that if they don't deal with you today—they will have to deal with more of you tomorrow.

We'll be seeing each other again.

Thank you very much!●

MIA SIGHTINGS—VII: TWO MORE STUNNING LETTERS

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. DORNAN. Mr. Speaker, through the good offices of the Defense Intelligence Agency, I have another translated letter from Vietnamese refugees on Americans listed "Missing in Action." This is a stunning letter. It reports live Americans, 15 of them, imprisoned in cells and properly fed.

I have only this to say: These documents alone are reason enough for us to refrain from hasty, ill-considered presumptions of death of Americans listed as "missing" in Southeast Asia. The fact that one letter reports good treatment illuminates the possibility that the Vietnamese may yet be forthcoming on this issue. I do not doubt that the diplomatic initiatives that the United States may have to undertake in this delicate area might be, under the ordinary canons of international diplomacy, rather bold. But I ask that Members of this House consider the need for us to press ahead in our search for a satisfactory solution to this grave problem, a problem that is, obviously, an agonizing trial for the families of these brave men.

Mr. Speaker, I know that some of us have been criticized for holding out hope. But I think that those who level this charge fail to remember that hope is a virtue. It is an optimistic vision that good may yet, no matter the darkness, prevail. We have no right to abandon a virtue. No, we have a duty to preserve it—even in the face of our blackest trials.

Mr. Speaker, I ask that every Member of this House give these letters their closest attention. And I ask them to remember these documents when they are called upon to employ their best judgment in making critical decisions in this area. They are a matter now of public record. And they will be forever viewed in that light. I insert letter No. 11 now into the RECORD:

DEAR MADAME: By accident, I read the short ad in the TRANG DEN newspaper. Knowing that you are interested in information about the U.S. POWs, I write you promptly and furnish you some simple details, and hopefully it will help to shorten the way of return to Vietnam to clobber the red communists of North Vietnam.

I want to introduce myself. Previously in Vietnam, I was a net chief, in charge of conducting research on the U.S. POWs (to verify that information is genuine, not fake).

In early spring 1975 (I do not remember dates because I've lost memory since 3 years,

due to a mental depression), I received intelligence information from our secret informant (double agent) in (deleted) hamlet (deleted) forest of (deleted). Early March 1975, the V.C. escorted 15 U.S. POWs, 5 black, 10 whites and incarcerated them in secret cells, fed them kindly. Our informant gave these details: one North Vietnamese platoon guarding the prisoners day and night and reportedly they will be for an eventual exchange. During the casual talks with the North Vietnamese our double agent reported overhearing that these precious customers should receive good treatment to be useful later.

I have reported this information to my superiors in Saigon, but they were all thrown in the waste basket because they had run away to the U.S. I was so eager in my work, therefore the net structure in U Minh, all fervent personnel were killed by the communists (letters from home said that my relatives were all dead after the red devils liberated our country).

After 3 years, I do not know whether these Americans were killed by them or moved anywhere. But one thing is certain that between January 1975 and March 1975, there was a presence of 15 Americans in the area mentioned in this letter.

If you do not believe me, if you have a capability to ask the present American in charge of POW to ask PHAM VAN DONG (Note: Source often refers to the communists including the North Vietnamese Prime Minister as having the head of a buffalo and the face of a horse, an insulting term) if he ever orders a move of a number of important POWs (all officers) to the south in the Uminh area or not.

I can guaranty my life to state with you that a number of U.S. POW's are still living and well fed by the North Vietnamese to coerce the U.S. government.

If you still doubt me then tell the Americans to send me back to RACH GIA for me to renew contact with the surviving personnel to realize this project, because I want to die in my country after having obtained tangible results that there are still surviving U.S. POWs.

Signed,

DELETED.●

BALANCE(S) OF POWER SERIES: BOOK III (H)—ASIAN RIMLANDS

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, as was shown in the preceding selections in the regional balance series, the military balance in Northeast Asia is a problem which will continue to directly involve the United States. Elsewhere around the Asian Continent, or in the Asian rimlands, military confrontations since the war in Vietnam have been shaped more by national antagonisms and attempts by China and the Soviet Union to gain advantage over each other in these regions. Their attempts have used domestic insurgencies which are still a source of concern to virtually all governments in Southeast Asia, as described in the following article by Nayan Chanda taken from the New York Times of March 27, 1977.

Recent developments in Vietnam only serve to emphasize that the growth of these regional imbalances into serious international crises is not an impossibility, and must remain a concern for the United States.

The article by Nayan Chanda, "South Asia Is Never Quite Free of Insurgencies," follows:

SOUTH ASIA IS NEVER QUITE FREE OF INSURGENCIES

(By Nayan Chanda)

HONG KONG.—Two years after victorious Communist armies marched into Saigon and Phnom Penh and the Communist-led Pathet Lao took over Laos, none of the other South Asian dominoes has "fallen," but real insurgencies do exist and the question of how to deal with them remains much in debate as it always was.

While Western analysts in the area approve the fact that the governments involved take seriously the threat posed by insurgent movements in Thailand and Malaysia, some are skeptical of the tactics chosen to counter the rebellions. These tactics are reminiscent of the search-and-destroy techniques of the United States forces in Indochina, failures by almost any measure.

The point is that military overkill could be counterproductive: Great popular advantage would accrue to the insurgents if government soldiers continue their mindless attacks. In the heat of military operations, little thought is being spared to removing the socio-economic roots of dissent.

Sometimes the rebellions overlap, but for the most part the threats to the dominoes are not directly related.

Thailand: One of the principal areas of military activity straddles the Thai-Malaysian border. The avowed purpose of the present joint Thai-Malaysian operation there is to destroy the revolutionary faction of the Communist Party of Malaysia believed to be taking refuge in Thai territory. Another drive is under way in Surat Thani, a province in south central Thailand, to turn large tracts of forested mountains into free-fire zones and so deny the insurgents food and other essentials. While such measures stand the risk of alienating the local people, little is being done to remove existing grievances. The secessionist movement of the four southern provinces of Thailand (80 percent of their population is Moslem and speaks a language akin to Malay) dates back to the beginning of the century. Years of neglect by Buddhist administrations in discrimination and corrupt and oppressive officials have aided the movement. Malay and Thai Communists have moved in to cash in on this potential.

More serious in terms of potential threat, however, is the insurgency in northeast Thailand where the number of armed guerrillas has almost doubled since 1973. The ethnic Lao population of Thailand's 17 northeastern provinces have a long tradition of resistance to the central authority in Bangkok. Long neglect of economic development in a region with arid soil and a fast growing population made it possible for the Communist insurgents to set up their first base. Apart from 4,000 armed insurgents in the northeast, the Thai Communist Party maintains 2,500 guerrillas in north Thailand, composed mainly of hill tribesmen who resent the central government's effort to resettle them in the plains and interfere in their traditional life-style.

The repression that accompanied the Oct. 6 anti-Communist coup in Bangkok, and the uncertainty caused by an unsuccessful coup attempt last week have given an unexpected boost to the insurgent cause. With several hundred students, intellectuals and parliamentarians going underground to join the Communists, the insurgents have gained a national constituency.

Malaysia: The occasional ambushes and assassinations committed by the 3,000 guerrillas under the three factions of the Communist Party of Malaysia are more of a nuisance than a threat. Despite the Communist effort to draw in ethnic Malays and Indians, the insurgency remains a dominantly Chinese phenomenon relying on poor Chinese peasants and rubber plantation workers discriminated against by the Government's policy of seeking privileges for the backward Malay community. However, as education increases among the poor rural Malays, thanks to the Government's own liberal education policy, there is a growing awareness of the economic gulf between the rich and poor and a puritanical concern about the mores of urban life not in conformity with Islamic faith.

Burma: More than a dozen insurgent groups ranging from the pro-Peking Burma Communist Party, ethnic Karen, Kachin, Shan and Mon rebels to associated opium runners, bandits and Kuomintang stragglers have been plaguing Burma for 30 years, especially since the 1962 coup by Gen. Ne Win. The Burmese Government has neither the will to accommodate the desires of autonomy expressed by diverse ethnic groups nor the capability to meet their challenge.

Vietnam and Laos: Tribal insurgencies have been a plague for non-Communist regimes alone. The two-year-old Communist governments of Vietnam and Laos have yet to control their own tribal resistance. Although dwindling in number and resources, some members of the anti-Communist Montagnard group known as Fulro are still believed to be operating in the central highlands of South Vietnam. Remnants of the formerly Central Intelligence Agency backed Meo secret army are active in the mountains of north Laos.

The Cambodian regime, too, has to deal with small bands of anti-Communist resistance fighters as well as smugglers from Thailand. Lao rebels in the Sayaburi area in the north are also believed to enjoy Thai support.

The Philippines: Amid all the sputtering guerrilla wars in Southeast Asia, one that might eventually end is the Moslem rebellion in the southern Philippines led by the Moro National Liberation Front. The Moslems, who have been fighting central control since the arrival of the Spanish in the 16th century, mounted an organized resistance against the Catholic government in Manila after the imposition of martial law in 1972. They have the direct backing of their fellow Moslem regime in Libya. After four years of conflict, causing 10,000 casualties, President Ferdinand E. Marcos is now willing to concede some kind of autonomy to the Moslems in exchange for economic aid for his regime from the oil-producing Moslem countries, and last week announced that the rebels had tentatively agreed to those terms too.

The fragile cease-fire in force since Jan. 20 could be broken if Mr. Marcos does not accept the outright grant of autonomy to 13 provinces in the south.

Indonesia: The only country in Southeast Asia that does not have to devote a major share of its budget to fighting insurgency (excepting of course in the still unsettled former Portuguese colony of East Timor) is Indonesia, where the killing of nearly half a million Communists and their sympathizers following the abortive coup in 1965 and the continued detention of nearly 30,000 political prisoners have virtually decimated the once powerful Communist Party. Tough measures to depoliticise the people and the omnipresent shadow of security organizations have kept the lid on dissidence.

Some diplomats in Jakarta, however, wonder if the frustrations born out of growing unemployment, population pressure, pervasive corruption and a widening gap between rich and poor is going to burst out in riots as it did in January 1974.

The withdrawal of United States forces from the mainland of Southeast Asia has taken away one handy target from the region's insurgents but there are still plenty of factors to feed their campaigns. The faith in draconian law and military suppression shown by some governments is a reminder how reluctant the regimes are to learn from yesterday's experience.●

IS SOLAR POWER MORE DANGEROUS THAN NUCLEAR?

HON. GARY A. MYERS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1978

● Mr. GARY A. MYERS. Mr. Speaker, the public perception of risk involved with different systems of energy production is often influenced by the appearance of these systems instead of through an evaluation of the total risk. The total risk includes the occupational risk, or the risk incurred by those involved in producing and operating an energy system, and the public risk, which is the risk incurred by everyone else.

The following article examines the results of an accounting of the total risk involved in 10 technologies, of which 4 are conventional and 6 nonconventional. The results suggest that the public tends to overlook all parts of the energy cycle except the visual aspects of the energy systems.

When risk is properly defined in terms of unit energy output, energy systems requiring large collection and storage apparatus rank high in total risk relative to conventional systems.

IS SOLAR POWER MORE DANGEROUS THAN NUCLEAR?

(By Dr. Herbert Inhaber)

Consider a massive nuclear power plant, closely guarded and surrounded by barbed wire. Compare this with an innocuous solar panel perched on a roof, cheerfully and silently gathering sunlight. Is there any question in your mind which of the two energy systems is more dangerous to human health and safety? If the answer were a resounding "No," the matter could end there, and the editors would be left with a rather unsightly blank space in their journal. But research has shown that the answer should be a less dramatic but perhaps more accurate "maybe".

How can this be? Consider another example. In the driveway we have two vehicles. One is a massive lorry, and the other a tiny Mini. Which of the two is more efficient? No, not larger—more efficient. Their relative size is easy to judge, but efficiency involves the amount of petrol used, the distance travelled, as well as the weight carried.

The moral? You can't judge the relative risk of an energy system merely by its size or fearsome appearance. You must find the risk per unit energy—that is, its total risk to human health divided by the net energy it produces. This is the only fair way of comparing energy systems.

In addition, we must consider the total energy cycle, not one isolated component. If you calculate the risk of only part of a system and compare it with the corresponding part of another, by judiciously choosing the component you could prove that any energy system is riskier (or safer) than any other system. You would obviously be proving precisely nothing.

You may wonder why the Atomic Energy Control Board (AECB), the main regulatory agency for nuclear power in Canada, is concerned with this question. We do our best to minimize nuclear risk, but we are not in the business of regulating other energy forms. The answer is simple: the AECB has been studying the risk of nuclear power, but the results will have more meaning if they are put into context. That is, finding that nuclear power produces a certain number of man-days lost per megawatt-year has only a limited meaning to non-specialists. Knowing that this value is twice (or half) that of other energy systems means a lot more.

We can calculate the net energy output easily enough. But what is the total risk? The new field of risk accounting addresses this question.

By now, most people working on energy questions have heard of energy accounting. This extension of the accountant's part adds up all the energy required for components of a system in order to determine the overall energy requirement. For example, a coal-burning electricity plant needs X kilowatt-hours of energy to mine each tonne of coal, Y to lay each kilometre of track to transport it, Z to construct each turbine, and so on. By summing the required energy inputs, we can compare the result to the output.

Risk accounting is based on the same principles. All sources of risk are evaluated in terms of the deaths, injuries or diseases they cause. This implies that we evaluate not only the final stage of energy production, but the initial and intermediate stages. For example, in the two cases mentioned in the first paragraph, we would evaluate the risk in mining the sand, copper, iron, coal, uranium and other raw materials that are required, as well as the risk due to fabricating them into glass, copper tubing, fuel rods, steel and all other necessary components. To this would be added the risk associated with transporting material, manufacturing components, and the more obvious risk of constructing and operating the nuclear-powered station or solar panel.

Risk accounting has been around a long time, in various guises. For example, nuclear power, coal, oil and natural gas were compared in terms of risk per unit energy by C. L. Comar and L. A. Sagan in a landmark article in the 1976 *Annual Review of Energy*. They found that, when all the major sources of risk for each technology were summed, nuclear power had a substantially lower risk than coal- or oil-burning stations. Other studies both before and after have confirmed this.

But those who are uneasy about nuclear power, or who even denounce it, rarely advocate a return to coal and the smoky cities we all faced a few decades ago. Rather, they usually propose the use of "alternative", "soft" or "conventional" technologies such as solar, wind, ocean thermal, methanol, geothermal and a panoply of others. The question then is, what is the risk of each of these technologies compared with conventional systems like coal, oil and nuclear?

Results of our risk accounting are surprising, to say the least. They indicate that when all the sources of risk are accounted for, most non-conventional technologies fare rather badly in comparison with conventional ones. Figure 1 shows our results. The vertical axis refers to the total man-days lost by both workers and members of the public due to deaths, injuries or disease per unit net energy output for each system. To combine fatalities with less serious disabilities, an arbitrary number of man-days lost (6000) was assigned to each death.

[Figures 1 and 2 not in RECORD.]

Electricity produced from natural gas has the lowest risk of the 10 technologies (four conventional, six non-conventional). It is a factor of about two lower than the next highest, nuclear power. Third is a non-conventional system, ocean thermal, which can convert the temperature differences of ocean layers into electricity. Most other non-conventional systems have far higher risk. However, the highest of all are coal and oil, with risk about 400 times that of natural gas.

MATERIALS AND RISKS

What are the reasons for these surprising rankings? The details are contained in a recent (AECB) report.* The main reason why non-conventional systems have relatively high risk is the large amount of materials and labour they require per unit energy output. Why should solar need more materials than coal or oil? It's because of the diffuse nature of the incoming energy: solar and wind energy are weak, and require large collection and storage systems to amass an appreciable quantity of energy. Coal, oil and nuclear systems deal with concentrated forms of energy and so require less apparatus. This argument is simplistic and glosses over many lesser considerations, but is generally found to be true. Figure 2 shows the results of these calculations.

The large quantity of materials required for unconventional systems implies huge industrial efforts in mining, refining, fabricating, and constructing the collectors, storage systems and all related apparatus. Every form of industrial activity has an associated risk, which can be found through accident statistics compiled by national organizations. When all the multiplications and additions are done, we find that the risk from unconventional energy systems can be substantial.

This raises an interesting point. Although these systems are labelled unconventional, their risk comes, in the main, from highly conventional sources. In other words, the risk from windmills doesn't come primarily from a blade flying off and hitting you on the head, and the risk from solar space heating doesn't arise from falling off the roof as you make that last little adjustment. Rather, it comes from the more mundane tasks of mining the coal, iron and other raw materials and fabricating them into steel, copper and glass.

The overall risk, as shown in Figure 1, may be divided into two categories: occupational and public risk. Occupational risk is incurred by those connected to the process of producing and operating an energy system: public risk is incurred by everyone else. Because of the different mixes of materials and labour in each energy system, the rankings within each of the two risk categories are not necessarily the same as for the overall risk. Results for each of the two categories are given in the Table.

In terms of occupational risk, natural gas used to produce electricity ranks lowest, followed closely by nuclear. This occupational risk includes, for example, that incurred in drilling, building pipelines, constructing distribution networks, and so on. Coal risk is much higher. While the risk per hour spent in the mine is not strongly dissimilar for coal and uranium miners, the latter worker produces far more energy per unit time worked. As a result, his occupational risk per unit energy is much lower.

The remarkably high occupational risk for methanol is primarily due to one factor—logging. In Canada (and elsewhere in the world), this is a job with quite high accident rates. Plans for methanol plants have implied that large volumes of wood would be gathered, so the risk would be commensurately large.

However, in terms of public risk methanol ranks second lowest, behind natural gas used to make electricity. As far as is known, the combustion of methanol produces little or no air pollution, so the risk to the public is close to zero. On the other hand, most of

* Risk of Energy Production, 1978, No. AECB-1119. Atomic Energy Control Board, PO Box 1046, Ottawa, Canada, KIP 5S9.

the large public risk from coal and oil combustion is derived from air pollution.

How can unconventional technologies like wind or solar thermal (the "tower of power" concept) have substantial public risk? The answer is simple. The production of the metals needed in many unconventional technologies requires that coal is burned, and this coal will produce air pollution, which in turn causes public health effects. In addition, public risk is produced by the necessary back-up system, required for when the Sun doesn't shine and the wind doesn't blow.

It may well be contended that the first of these two sources takes the analysis too far back, that the coal, iron ore and other raw materials are too removed from the final production of energy to play a part in risk accounting. However, the role of basic materials in the analysis is important. If energy is needed, the nuclear plants or solar panels must be built. To produce the plants or panels, we need to mine, refine, fabricate, and install the raw and intermediate materials, the components and finished products. We cannot avoid risk by ignoring it just because it happens to somebody else.

Risk in man-days lost per unit energy output

	Occupational	Public
Coal	73	2,010
Oil	18	1,920
Nuclear	8.7	1.4
Natural gas	5.9	—
Ocean thermal	30	1.4
Wind	282	539
Solar:		
Space heating	103	9.5
Thermal	101	510
Photovoltaic	188	511
Methanol	1,270	0.4

The energy system with by far the greatest amount of controversy about its risk is undoubtedly nuclear power. In a study of this type, we could not review all the claims and counterclaims about nuclear risk which have been made, especially with respect to reports such as the 4000-odd pages of the Rasmussen study on nuclear reactor safety (WASH-1400). Instead, a survey was taken of the major papers in the scientific literature which had estimated aspects of nuclear risk, including a monograph written by a well-known nuclear critic, John Holdren of the University of California at Berkeley. For each component of risk, the highest value from the group of scientific sources was used This procedure, not followed for any other energy system, was chosen as a way of removing suspicion of pro-nuclear bias which often clouds energy debate.

ACCOUNTING FOR HAZARDS

There isn't room here for a full discussion of the methodology—the full AECB report contains further details of its features—however, because material acquisition and construction produce large risk for some energy systems, a brief review may be useful. Suppose mining X tonnes of coal or any other material to produce a unit output of net energy requires Y man-years. If the number of man-days lost per year of work is Z, then the number of man-days lost per unit of energy output is YZ/X. A similar calculation is made for the number of man-hours per unit energy output and the risk associated with various required occupational categories such as engineering, construction, operation and maintenance, and so on. We find the risk associated with each part of the system in the same way, and add them to determine the total. The calculations require no advanced mathematics or abstruse models; merely the ability to multiply and add.

This type of calculation implies that certain data are available: the time required per unit of production; rates of industrial accidents, disease and death; construction times; and, raw material requirements for industrial processes. While none of these data is known absolutely, they are known adequately for purposes of a general study such as this. Because the same methodology was applied to all the systems, wherever possible, potential inadvertent bias was reduced to a low level. Different methodologies were used for such risk sources as transportation, air pollution and waste disposal. Every effort was made to ensure that all energy systems considered were treated as uniformly as possible.

Contrary to the intuition of many people, the risk to human health (and its resulting consequences) per unit energy from unconventional energy sources such as solar and wind are apparently higher than those of conventional sources such as electricity produced from natural gas and nuclear power. There are at least two reasons why intuition fails: first, we tend to ignore all parts of the energy cycle except the last, most visible aspect; and secondly, we forget that risk must be compared in terms of unit energy output.

The above conclusions have implications beyond that of energy. Many people have advocated the use of decentralised energy systems as part of a political and economic process. Due to the risk they entail, material requirements alone may preclude this option. Neither I nor the Atomic Energy Control Board propose the use or non-use of any particular energy system. However, all of us must have knowledge of the risks involved in order to make reasoned judgments on the technical acceptability of a particular system.●

RONALD WILLIAMS NAMED TO PRAIRIE-HILL SCHOOL BOARD

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1978

● Mr. DERWINSKI. Mr. Speaker, I would like to call the attention of the Members to an outstanding young Vietnam veteran from my district, Mr. Ronald Williams. Mr. Williams is a good example of the dedicated young men who, after returning from Vietnam, have made many great contributions to their home communities.

I would like to take this opportunity to congratulate him on accepting the important civic responsibility of serving as a member of the Board of Education of his local school district. A fine tribute to Ron appeared recently in the Penny Saver publication, serving the south suburban area of Chicago, which I wish to insert at this point:

NAMED TO PRAIRIE-HILL BOARD

Mrs. Bettyanne Howard, the President of the Prairie Hills Elementary School District Board of Education this week announced the appointment of Ronald Q. Williams to the position vacated by Board Member George Ross.

Mr. Williams, a resident of Country Club Hills, is a Social Science Analyst with the U.S. Government's Bureau of Labor Statistics in Chicago.

Mr. Williams was active in the Winston Park Homeowners Association, and he has a B.A. degree in Public Administration and Management from the University of Missouri.

Ronald and Gilda Williams are the parents of a 10 month old Asha, a girl. The Williams have lived in the Winston Park area for 3 years. Gilda Williams, who was born in Evanston, was a professional journalist in Chicago.

The 30 year old Williams was a Communications Specialist with the U.S. Air Force in Thailand during the Viet Nam Conflict and he is still on active status with the Ill. Air National Guard.

Mr. Williams was born in Columbia, Miss., and his present management position with the Bureau of Labor Statistics consists of managing, planning and co-ordinating several major employment statistic programs, surveys and research projects in the Region V area.●

TRIBUTE TO HON. WM. LEHMAN

HON. SIDNEY R. YATES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1978

● Mr. YATES. Mr. Speaker, a Middle East resolution was introduced by Representative WILLIAM LEHMAN on behalf of the U.S. delegation to the 65th Inter-Parliamentary Union Conference recently held in Bonn, Germany. The resolution which was offered by the United States and cosponsored by seven other nations was effective in setting the stage for a more moderate tone and political climate regarding the Middle East question, and resulted in a more favorable and less inflammatory Mideast resolution to be passed at the IPU than in any recent year. Because the U.S. resolution expressed not only Representative LEHMAN's views but those of so many of his colleagues, I would like to share with you the text of the formal draft resolution presented by the United States on the Middle East question.

THE MIDDLE EAST QUESTION

Draft resolution presented by the Groups of the United States of America, Austria, Belgium, Denmark, Germany (Federal Republic of), Luxembourg, Netherlands and United Kingdom.

The 65th Inter-Parliamentary Conference,

Considering that a peaceful resolution of the Middle East dispute is essential for world peace and security,

Considering that the peace negotiations are at a very sensitive stage in their development,

Noting that the President of Egypt and the Prime Minister of Israel have agreed to renew face-to-face discussions facilitated by the President of the United States of America,

Noting further that these discussions constitute a significant step towards the ultimate goal of a comprehensive settlement.

1. Commends the Governments of Egypt and Israel for their willingness to further the cause of peace in the Middle East;

2. Calls upon Parliaments and Governments to encourage the negotiation process, which has been facilitated by the Camp David Summit, to bring about a peaceful settlement in the Middle East;

3. Urges the parties involved in negotiations to commit themselves to a peaceful settlement through direct negotiations and mutual concessions based on UN resolution 242;

4. Urges all nations involved in the conflict in the Middle East to support and join the negotiation process leading to a comprehensive settlement;

5. Calls on all nations concerned to refrain from provocative declarations or actions which may upset the sensitive deliberations now in process, and to support efforts for continued negotiation by the nations involved.●

ENERGY ADVISORY COMMITTEE REPORTS ON THE NATURAL GAS COMPROMISE

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1978

● Mr. EDGAR. Mr Speaker, the Senate yesterday by a vote of 39 to 59 defeated a motion to recommit the natural gas compromise conference report back to the conference committee. It is likely that the other body will approve this report, and we in the House will have the opportunity to pass judgment on its merits.

I have shared with my colleagues various analyses on energy issues which were prepared by my Energy Advisory Committee. This committee is composed of energy producers, consumers, scientists, academicians, manufacturers, retailers, and representatives of labor, business, environmental and public interest groups with expertise in energy issues.

Last June, I wrote to the committee requesting an analysis of the natural gas pricing compromise. I received its report today, and I would like to share it with my colleagues.

I find the report most interesting in that it mirrors the uncertainty and lack of confidence in statistics which are being provided by proponents and opponents of this bill. Just as in the Congress and our Nation, there is no consensus on resolving this controversial issue. The only thing which the committee members agreed upon was that there was a need for an effective national energy plan. Those who supported this bill supported it not because the natural gas bill was a step in the direction of an effective plan; rather that approval of this bill would remove roadblocks to the enactment of the three other bills which the members see as part of such a plan.

I share the confusion of the committee as to why the other portions of the plan are being held up until there is a resolution of the natural gas pricing bill.

At this point, I would like to share with my colleagues the text of my letter to Mr. Joseph Woods, Chairman of my Energy Advisory Committee, and the response I received.

JUNE 30, 1978.

Mr. JOSEPH WOODS,
Corporate Manager,
Scott Paper Co.,
Philadelphia, Pa.

DEAR JOE: The House/Senate energy conference committee recently reached agreement on the complex and controversial issue of natural gas pricing. Within the next several months, I will be called upon to vote on this proposal.

I would appreciate it if you would convene the 7th Congressional District Energy Advisory Committee to analyze this agreement. Specifically, I would be interested in seeing a comparison of this compromise, the Carter energy bill, and current law, with respect to natural gas supply, demand, and costs. I would also like to have an analysis of the impact of this compromise on energy producers, retailers, utilities, residential consumers, business and industry consumers, and the Northeast region as a whole, compared to current law and the Carter energy bill.

Enclosed is a copy of a booklet prepared by the conference committee staff detailing the provisions of the agreement. I will send to you published analyses of the agreement from other sources as soon as they are made available to me.

Please contact Cary Ballou of my Chester office if you feel a meeting of the Energy Advisory Committee is appropriate. Thank you for your continuing leadership in this effort to educate me about energy issues.

Cordially,

ROBERT W. EDGAR.

WALLINGTON, PA.,
September 15, 1978.

Representative ROBERT W. EDGAR,
117 Cannon House Office Building,
Washington, D.C.

DEAR BOB: The 7th Congressional District's Energy Advisory Committee has met at your request to study natural gas pricing legislation.

Although we, like many others, were unable to agree on the effect of the current natural gas pricing proposals, we were in agreement on the pressing need for an effective national energy plan. Such a plan should: decrease our country's use of oil and natural gas; recognize the price system as the best method to encourage energy conservation, the substitution of existing non-petroleum fuels and the development of new non-petroleum technologies; and create new approaches to cut the waste now existing in our society.

The Committee's detailed report is enclosed. I hope that you will continue to call upon us for our thoughts in the energy area.

Sincerely,

JOSEPH M. WOODS.

REPORT ON THE NATURAL GAS PRICING BILL BY THE 7TH CONGRESSIONAL DISTRICT ENERGY ADVISORY COMMITTEE

The 7th Congressional District Energy Advisory Committee met on Thursday, August 24, 1978, to respond to a request by Bob Edgar to analyze the natural gas pricing compromise.

Bob had asked "Specifically, I would be interested in seeing a comparison of this compromise, the Carter Energy Bill, and current law, with respect to natural gas supply, demand and costs. I would also like to have an analysis of the impact of this compromise on energy producers, retailers utilities, residential consumers, business and industry consumers, and the Northeast region as a whole, compared to current law and the Carter Energy Bill."

The Committee recognized that Bob's request addressed the key issues, but no one on the Committee was expert enough to provide a documented analysis. There is doubt that anyone could provide an analysis that would win approval of a national majority. Several natural gas studies were presented at the Committee meeting, each with widely ranging projections. If several government agencies and responsible trade associations, each with large staffs and analytical resources, could not agree on future natural gas price, supply and demand, the Committee did not feel badly in their failure to do so.

The Committee did agree that, as a nation, we must attempt to decrease our use of petroleum fuels (oil and natural gas). Planned, definite increases in the prices of petroleum fuels to all users would encourage conservation, new non-petroleum technologies and substitution of existing non-petroleum fuels. Price increases, the Committee felt, would encourage additional production from new and existing fields (secondary recovery). Instant deregulation of petroleum fuel prices was unacceptable due to its shock on the economy. Deregulation by the 1985 horizon proposed in the natural gas bill, while not entirely satisfactory to everyone was not that objectionable.

The Committee expressed concern for the hardship that higher prices would place on some members of society. This is a legitimate concern and must be addressed, but the Committee felt that such a concern should not deter the use of the price system to encourage conservation, new technology development and substitution of non-petroleum fuels.

The pressing need for an effective national energy plan was recognized by all in attendance. All thought the natural gas compromise was complex and the wide diversity of opinion on the effect of the bill is further evidence of its complexity.

Those in favor of the bill thought that the need for a national energy plan was so great that they would accept the natural gas compromise in order to get a national energy plan although the Committee wondered why other portions of the Plan must be held up by a resolution of natural gas pricing. Potential administrative problems were far less a concern than another year or more without a national energy plan.

Those against the natural gas bill based their objection on the complexity issue. Two memos written by FERC officials were quoted. One was written by FERC Chairman Curtis. The other by Shiela Hallis, FERC's Director of the Office of Enforcement, described the bill as "an impossible administrative burden." The complexity issue could also drive the small wildcatter out of business leaving the gas exploration in the hands of only the large petroleum companies.

There was some concern about the bill's incremental pricing provisions where industry would absorb most of the higher prices. Earlier in this discussion the Committee expressed support of the price system to encourage conservation, technology advances and fuel switching. Those thoughts apply here also with concerns for low income members of society.

The current natural gas pricing law does provide some incentive for discovery and production of new natural gas. However, it appears that unless the natural gas bill is passed, that other energy-related bills may not be passed either. On the other hand, there is some doubt about the strength of a national energy plan consisting only of a coal conversion bill, electric utility rate "reform", some conservation measures and a natural gas bill.

The Committee then discussed the large amount of energy waste and the waste of finished goods which consumes energy and other resources in their production. Neil Finlayson gave several examples which he had already communicated to Bob Edgar. Other Committee members mentioned other situations where conservation was possible or might be possible with some research, but there was little or no incentive to conserve. The economics of supply/demand do provide some incentives, but these are far from a complete answer.

Committee members are going to continue considering how to meet this challenge, but the Chairman suggested challenging Bob and his staff to also develop methods to transform ideas into action and reality. This is not an easy assignment, but neither was Bob's assignment to the Committee to analyze the natural gas bill. The Committee hopes that Bob will be more successful in these endeavors than they were in providing him a clear-cut analysis of the natural gas bill.

The Committee would like to acknowledge the hospitality of Bill Shergalis who hosted this meeting at Widener College.●

THE SLIDE OF THE DOLLAR

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1978

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for September 20, 1978 into the CONGRESSIONAL RECORD:

THE SLIDE OF THE DOLLAR

What does the slide of the dollar mean, and what should be done about it?

It is clear to me that many people are bothered by those questions. They may not understand all the complexities of international finance, but it makes them uneasy when they learn that the once mighty dollar fell by about half its value against the West German mark, by 55% to 60% against the Swiss franc and by 35% to 40% against the Japanese yen over the last several years. The dollar has dropped roughly 15% against a basket of ten foreign currencies in the past year alone.

The slide of the dollar has reached a serious stage and it threatens the stability of the international monetary system and the world economy. The cheapening of the dollar may add up to 1.5% to this year's rate of inflation. It both raises the cost of imports into this country and prompts American manufacturers to increase prices on goods that compete against the imports. As the products of other nations become harder to sell in the United States, their economies are weakened. At worst, the process would lead to a breakdown of world trade and investment if allowed to continue. It would also lead to a U.S. recession, brought about by inflation or a sharp rise in interest rates. Letting the dollar continue to slide undermines America's political authority to an unmeasurable but certain degree. It causes other nations to doubt the strength of the U.S. economy.

The reason for the slide is simply an oversupply of dollars in the hands of foreigners. Experts estimate that persons and banks abroad now hold $600 billion in dollars, much of this because for years this country has bought more goods and spent more money overseas than it has taken in from foreign sales and investment. Rising inflation and the huge trade deficit are the chief causes of the oversupply and the dollar's difficult position. The dollar is just like other commodities that move in international commerce: when there are too many dollars around, their value falls.

Like most of our problems today, there is no quick and easy solution to the slide of the dollar. In the long term the solution is to achieve a lower rate of inflation and a balanced trade account. But what is needed now is evidence that the United States government is taking effective steps to deal with these issues. As soon as other nations believe that the United States is moving in the right direction, the value of the dollar will climb even before things are fully corrected. It is the perceived trend that is critical. Since permanent cures for inflation and the trade imbalance take time, short-term "bridging" actions are needed.

The general rise in interest rates brought about by the Federal Reserve's increase of the discount rate (the rate at which it lends to commercial banks) is an appropriate opening move. The adoption of an energy policy is also very necessary. It would show that this nation is serious about reducing its inordinate imports of oil land improving its balance-of-payments deficit. The United States could also assemble greater resources in hard currencies for intervention in the currency markets to prop up the dollar. Our basic policy of intervention only to modulate disorderly markets will continue, but it would become more credible if the funds for large-scale intervention were on hand. The United States could borrow from the International Monetary Fund or sell more gold to obtain hard currency. The stimulation of exports is another key element in the dollar support program. We should consider cutting taxes for exporters or issuing special securities to be paid off in foreign currency, steps which would help soak up excess dollars abroad. Other steps can be taken to make it more attractive for American banks to borrow funds in the Eurodollar market instead of at home, thus reducing the oversupply of dollars in Europe. Although controls on the export of capital have been proposed, I would not favor them. They can be too easily circumvented.

There is some hope that the dollar's slide will eventually correct itself. It would spur U.S. exports by making them cheaper and cut imports by making them more expensive, thus lowering the trade deficit. Then the dollar could rise again. There are some signs that this may already be happening. Inflation has at least stopped getting worse, a fact which may calm foreigners who have been dumping their dollars before they lose more purchasing power. The U.S. economy remains strong enough to attract investment, and most experts agree that the dollar is undervalued in terms of its purchasing power against other currencies.

But more important than any short-range measures the United States may take to prop up the sliding dollar is a more disciplined approach to the U.S. economy, especially to inflation and the trade deficit. With America no longer a low-inflation country, and with it fighting to maintain its technological edge, the U.S. economy is being challenged in ways it has not experienced in the post-war period. Failure to take the necessary steps to address these challenges would be extremely serious, if not disastrous, for the U.S. economy.●

SENATOR ROBERT STAFFORD ELECTED TO 11-MEMBER EXECUTIVE COMMITTEE OF THE INTER-PARLIAMENTARY UNION

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1978

● Mr. LEHMAN. Mr. Speaker, it has been my recent privilege to serve as a member of the U.S. delegation to the 65th Inter-Parliamentary Union Conference (IPU) in Bonn under the leadership of the chairman of our delegation, Senator ROBERT STAFFORD of Vermont. It is also my pleasure to report to my colleague that Senator STAFFORD has brought prestige and honor to the U.S. Congress by his well earned and much deserved election to the Executive Committee of the Inter-Parliamentary Union at the IPU Bonn meeting.

The IPU, which was founded in 1889, is an organization of legislators from 76 nations who meet regularly to consider the important public policy questions which affect all peoples. There is no other international gathering where lawmakers, who often serve long terms even through significant changes in their respective executive administrations, can meet and confer and learn to understand both each other and the needs of each other's countries. Senator STAFFORD has been involved in such a leadership capacity in the IPU for a number of years. He headed the U.S. delegation to Bonn and was selected by the U.S. group to be the candidate for one of two vacancies on the 11-member executive committee.

The executive committee is the administrative organ of the Inter-Parliamentary Union, and its members are representative of the parliamentary delegations to the IPU. As a member of the executive committee, Senator STAFFORD will be in a key position to make judgments on budgetary matters and to recommend agenda topics for future meetings and study committees of the Inter-Parliamentary Union.

As a cochairman of the House delegation to the IPU in Bonn, I would like to say that I enjoyed working with Senator STAFFORD and look forward to our continued association with the Inter-Parliamentary Union.●

THE PUBLIC WORKS-ENERGY APPROPRIATIONS BILL IS A BUDGET-BUSTER

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1978

● Mr. EDGAR. Mr. Speaker, there was spirited floor debate last week during consideration of the conference report to the Public Works energy research appropriations bill, H.R. 12928. During that debate, it was correctly pointed out that the bill is almost $900 million under the President's budget. However, I pointed out there there were at least $1.14 billion in "paper savings" compared to the President's budget. When these "savings" are accounted for, the bill is actually $235 million in excess of the budget for programs, compared to the President.

There is some controversy over what is termed "paper savings." I would like to put aside this term for the moment and just relay to you the budget figures listed in this conference report. Make your own conclusions over whether this bill is a budget-buster or not.

I would like to underscore my statement last week that I do not feel the conference committee improperly overestimated certain receipts and unobligated balances which have nothing to do with actual program cuts during the coming fiscal year.

However, I continue to feel that it is misleading to declare this bill to be significantly under the President's budget without concurrently explaining that had the President followed the same nonprogram estimates of receipts, this bill would then be at least $235 million over the budget. I would also like to point out these figures were found by me and my staff solely from reviewing this conference report. Nothing is disguised. I have been informed that the Office of Management and Budget has located additional accounting differences in the two budgets which favor the committee in its comparison, and which add more support to my view that the bill is a budget-buster.

Finally, it should be pointed out that the President's budget uses the same technique of applying anticipated unobligated balances and miscellaneous receipts and revenues to program levels. However, in pointing out the $1.14 billion in nonprogram accounting differences, I accounted only for differences between the administration's estimates and the conference report's. Otherwise, the $1.14 billion would be much higher.

The following information is taken directly from the conference report to H.R. 12928 (Report 95-1490):

Program	Fiscal year 1979 budget estimate	Conference allowance
DOE—operating expenses:		
Unobligated balances brought forward	−12,300,000	−172,770,000
DOE—plant and capital equipment:		
Unobligated balances brought forward	----------	−11,000,000
DOE—changes in inventories and working capital	+35,313,000	−6,000,000
Corps—Construction:		
Unobligated balances brought forward	----------	−85,000,000
Bureau of Reclamation:		
Unobligated balances	----------	60,000,000
Corps, Bureau, DOE:		
Full funding for construction projects	*+686,900,000	----------
DOE uranium enrichment revenues	−156,700,000	−256,700,000
Totals	+553,200,000	−591,470,000

*There is no actual line item for full funding in the report.

What these figures indicate is that the conference report has at least a $1.14 billion cushion resulting solely from accounting differences between the administration budget and the conference report budget.

Since the conference report budget is officially $879 million under the administration budget, this means that the report must be at least $235 million over the budget in program funds.

What also needs to be pointed out is that the administration budget allowed for 26 new construction starts (Corps of Engineers and Bureau of Reclamation) at a cost of $640.2 million. The conference report appropriates funds for 53 new construction starts, which will cost $1.8 billion when completed. Obviously, this conference bill will commit more spending in future fiscal years above the increases in spending I have documented for fiscal year 1979. This commitment, which according to the Office of Management and Budget exceeds $1.4 billion, will make it much tougher for the President to meet his commitment of balancing the budget in future years.●

ECONOMIES OF SMALL FAMILY FARMING

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1978

● Mr. BROWN of California. Mr. Speaker, a few weeks ago an article in the Los Angeles Times, "Look What's Coming for Dinner, America," by Patricia Flynn, prompted me to discuss some of the adverse social effects of agribusiness on small family farming. Many people still minimize these effects and defend large-scale farming for economic reasons. They claim that small-scale family farming is now technically obsolete and an inefficient supplier of food. To quote former Secretary of Agriculture Earl Butz:

When I said we were going to have upwards of a million fewer farmers by 1980, that didn't mean necessarily that I approved of that. I simply was reporting what is going to happen. I think it is inevitable.

I have some doubts about these prior conclusions that I would like to discuss here today. First, several studies show that small farms can be technically efficient and provide their operators with average or better incomes. Second, agribusiness promoters do not consider several nonmarket factors, such as the social implications of large agribusiness—as I previously discussed—soil erosion, the environmental consequences of chemical fertilizers, pesticides and the like, management-labor problems, and the energy inefficiency of highly mechanized farming. I believe, indeed, that small farms are disappearing only because of unfair market conditions and government interference. Therefore, I feel the Family Farm Development Act, of which I am a sponsor, is necessary to help small farmers maintain and improve their positions in our rural society.

J. Patrick Madden, then an agricultural economist for the Farm Production Economics Division of the Department of Agriculture, found, in his 1967 study "Economies of Size in Farming," that "an average total cost as low as any of the larger farms" could be obtained on one person operated farms. Prices and technologies were based on 1962 levels. The efficient farms included a 440 acre Texas High Plains cotton farm, a 300 acre heavy soil, and a 240 acre light soil Fresno cotton farm. Madden found that the main advantage of large farms was higher profits rather than lower costs.

One of the more comprehensive studies I have seen on the economies of small-scale farming was published in 1973 by Warren Bailey, then the deputy director of the Commodity Economics Division of the Economic Research Service of the USDA, entitled "The One-Man Farm." Bailey found the seed, fertilizer, and pesticide costs per acre to be almost constant regardless of farm size. The advantage large farms received from discount or wholesale prices of some inputs did not exceed that which most farm cooperatives could also receive. Capital production costs were the main variable. Bailey thus defined a technically optimum farm as "the maximum acreage of a specified combination of crops that the man and his machines can produce—plant, cultivate, and harvest—annually." He then gave seven examples of technically optimum farms:

	Acres	Land value	Other capital	Net income
Montana: Wheat-barley	1,960	$245,000	$57,000	$9,500
Kansas: Wheat-grain sorghum	1,950	200,000	55,000	9,000
Indiana: Corn-soybeans	800	480,000	130,000	20,400
Louisiana: Rice-soybeans	350	108,000	50,000	15,200
Delta: Cotton-soybeans	600	255,000	80,000	17,600
California: Irrigated cotton	400	320,000	64,000	20,000
Vegetables	200	400,000	85,000	31,000

The technically optimum farm can still be operated by a single farmer, though its size has increased 50 percent in the past 10 years. This farm is larger and more capital intensive than many small farms existing today. This can be blamed partially on the unavailability of credit from traditional lending institutions for small farmers. President Carter signed into law the Agricultural Credit Act of 1978 on August 4, 1978, with title 4 of the Family Farm Development Act, sponsored by myself, incorporated into this legislation. This will provide ownership loans to help small farmers afford high-priced capital and land.

The Economics, Statistics, and Cooperatives Service of the USDA produced a study in February of this year entitled, "The U.S. Department of Interior's Proposed Rules for Enforcement of the Reclamation Act of 1902: An Economic Impact Analysis." Their optimum farm size was based on the "normal" implements of land, labor, machinery, build-

ings, and management found in each area studied. They found the following net returns for various small farms:

Area	160 acres	320 acres	640 acres
Westlands (California)	$25,000	$54,000	$81,000
Imperial (California)	6,000	21,000	61,000
North Platte (Nebraska and Wyoming)	7–8,000	14–15,000	23–25,000
Columbia Basin (Washington)	19,000	53,000	125,000

Of the areas studied, only the 160-acre Imperial farm was economically unstable. In California, it was found that the costs of producing cotton on a 320-acre farm was 3.6 cents per pound less in the Westlands area and 5.9 cents per pound less in the Imperial area than on a 160-acre farm. The cost differentials were greatly reduced, however, when the 320-acre farms were compared to 640-acre ones—1.9 and 2.2 cents less per pound. The total costs included in their study increased 10 percent as farm size decreased from 2,500 to 320 acres. The major result of enforcing the Reclamation Act of 1902 for consumers would be a slight price increase for some winter vegetables.

These studies show small farms can be economically viable and add little, if any, extra costs to consumers. There are also several diseconomies of size that should be accounted. Soil erosion, for instance, is most acute on large scale irrigated single crop farms. The problem was best summarized in a 1975 report prepared for the Senate Committee on Agriculture and Forestry, entitled "Conservation of Land, and the Use of Waste Materials for Man's Benefits." I would like to insert part of this summary here:

Average crop yields have tended to increase in the United States even though soil losses are often excessive. Use of modern technology, including fertilizers, is largely responsible. But this is a short-term effect. Over the long term, erosion decreases the yield potential and increases production costs.

Soil erosion creates a serious sedimentation problem. Sediment is by far the major pollutant of surface waters. Some of the highest sediment yields come from the most productive and most intensively cultivated soils. Water quality in lakes and streams is also reduced by the nutrients and pesticides carried there by the sediment and runoff water.

In recent years, there has been a shift away from soil conserving crop rotations. Much of the current production is from either a continuous single crop or, as in the Corn Belt, a rotation of two intensive row crops (corn and soybeans). Fertilizers and pesticides have made this system feasible. Although continuous single-cropping is efficient and profitable, it does increase the erosion hazard and the need for soil conservation practices.

Trends that could lead to another "dust bowl" in the Great Plains during a sustained drought include the following: (a) Elimination of strip-cropping for control of wind erosion as a result of change from a wheat-fallow system to continuous wheat production. (b) Shifting from soil-conserving, stubble-mulch tillage to plowing to help control dowy bromegrass as a weed in wheat. (c) Shifting to wheat production certain rangelands that would be relatively susceptible to wind erosion under conditions of drought because they occur in the drier regions. Such a trend will be fostered by continued high prices of wheat and low prices of cattle.

D. R. Marshall, in "The Advantages and Hazards of Genetic Homogeneity," discussed how large-scale farms are particularly susceptible to disease and pests. This is largely due to the cultivation of only a few crops, 15 major crops today as compared to 150 in the past, less crop diversification per acre and narrow genetic bases. Past farmers grew a mosaic of crops and farm animals on their land. Now, as Bailey explained, rising capital costs prevent most farmers from buying the machinery for more than one or two crops. Farmers are less self-sufficient and rely more on individual cash crops. Large single crop fields provide them the maximum profitability in the short run. These farms, though, are ideal breeding grounds for exotic diseases and pests.

A 1972 study by the Agricultural Board of the National Academy of Sciences, entitled "Genetic Vulnerability of Major Crops," found that a 1970 U.S. corn blight epidemic was caused in part by modern agricultural techniques. One particular Texas high-yield hybrid of corn was spread throughout the Nation. A fungus, called Helminthosporium maydis, mutated so that the Texas corn cytoplasm was susceptible. The blight, beginning in the South, destroyed 50 percent of the corn crop in some States and 15 percent nationwide. The study blamed the homogeneity of the corn and large single crop farms for the blight. American corn was previously much more varied and spread throughout other crops, so no particular disease could do much harm. Only heavy and consistent use of fungicides stopped the 1970 epidemic.

Current agricultural techniques and large-scale farming require increased usage of fertilizers, pesticides, and the like to maintain high crop yields. The abandonment of crop rotation has depleted soils and led to increased use of artificial fertilizers. There are questions concerning how this detracts from the nutritional value of foods. It does increase the likelihood of disasters, such as the one that occurred a few years ago in Decatur, Ill. Barry Commoner documented this crisis in his 1971 book, "The Closing Circle." Nitrates from farm water runoff were washed into the town's water supply. The nitrates mainly came from nitrogen fertilizers. The chemicals were converted by intestinal bacteria, especially common in infants, into poisonous nitrites. The use of artificial nitrogen fertilizers thus led in Decatur to a number of deaths. Various pesticides are also linked to cancer and other serious ailments. How much they are incorporated into the food humans eat is not known. Natural fertilizers and pesticides are being introduced, but, as long as current agricultural techniques are used and large farmers are most concerned with short-run profits, this will be a slow change.

There are also the problems of management and farm labor in large-scale farming. The major factor seems to be the separation of the farm owners from their lands. They cannot and do not become as personally involved in farming as small farmers can and do become involved. They have attempted to industrialize agriculture—thus the phrase "agribusiness"—to separate their farm employees by division of labor. A layer of highly skilled and high-salaried management usually is required. Since they do not have an actual stake in the success of the farm, they are motivated by monetary incentives. There is a small supply of good managers, and large farms occasionally suffer from this fact. Small farmers do not have to incur these extra labor costs. Agribusiness tries to minimize total labor costs by keeping farmworker wages as low as possible. The farmworkers thus live in great poverty. Their attempts at unionization have been highly discouraged. Boycotts and other forms of labor strife have been organized against several large farms. Agribusiness, with help from sympathetic agricultural researchers, increasingly are replacing workers with machines that do not create labor problems.

The displacement of farmworkers continues the trend I described in my previous discussion. The UFW estimates thousands of workers will lose their jobs in the next few years from machines like the tomato harvesters. This is a major social cost to our society that agribusiness and researchers do not consider.

The new machinery and fertilizers are highly energy intensive. Food prices thus will continue to rise rapidly while energy prices increase. This affects both consumers and the small farmers who cannot afford higher fuel costs. Pimental et al, in "Food Production and the Energy Crisis," calculated that the kilocalorie return of food per kilocalorie of input in production has decreased from 3.70 in 1945 to only 2.82 in 1970. Current agricultural techniques thus have greatly decreased the energy efficiency of farming. The equivalent of 80 gallons of gasoline per acre of food produced is now being used. This problem will only be worse as fuel prices continue to rise and more energy intensive machinery and techniques are introduced into farming.

Finally, large scale farms are more likely to produce highly processed and packaged foods. Preservatives, artificial coloring and flavoring, and chemical ripeners all have questionable effects on our health. Packaging, advertising, layers of management and monopoly actions increase the consumer food prices. The large horizontally integrated corporations which control each step of food production create the worst problems. Small farmers find it difficult to compete with these monopolizers.

The studies I have discussed here today show that small farms can be cost competitive and earn their owners sufficient incomes. Furthermore, the problems of soil erosion, energy inefficiency, social costs, environmental costs of artificial fertilizer, pesticide and the like use, management and labor strife probably outweigh any possible economic benefits of large scale farming. Small farms are hurt by lack of credit to buy equipment and land, unfair market practices and

agricultural research skewed to help large scale farmers. The high short run profits of current techniques are considered, but not the social and environmental costs. Therefore, I believe the Family Farm Development Act is necessary to promote small scale farming. Long run economic, social and environmental considerations have convinced me of the benefits to our society of small scale family farming. I thus urge my colleagues in Congress to give this their attention and support.●

OCEAN DUMPING

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1978

● Mr. FORSYTHE. Mr. Speaker, as a member of the Merchant Marine and Fisheries Committee I have been particularly concerned about the problem of ocean dumping in the New York Bight off the coasts of New York and New Jersey. Recently my distinguished colleague, Mr. JOHN WYDLER of New York, the ranking minority member of the Science and Technology Committee, had some important correspondence with the Environmental Agency on the status of ocean dumping. The December 1981 EPA deadline for a moratorium on ocean dumping can only be met if all communities involved step up their efforts to meet phaseout schedules. I share Mr. WYDLER's concerns that land-based disposal alternatives may not be available by 1981 for the large volumes of sewage sludge projected by EPA. I recommend Mr. WYDLER's letter to my colleagues since it states several of my own concerns about ocean dumping and puts the administration on notice that Congress is serious about terminating ocean dumping. The EPA response to Mr. WYDLER's letter gives an accurate picture of how far we have to go to solve this difficult problem.

HOUSE OF REPRESENTATIVES,
Washington, D.C., August 2, 1978.

Hon. DOUGLAS C. COSTLE,
Administrator, Environmental Protection Agency, Washington, D.C.

DEAR MR. COSTLE: I read with great interest the EPA news release material dated July 20 which noted some hopeful signs with respect to the ocean dumping problem. I am pleased that the number of dumpers and total tonnage have decreased over the past year. However, I am pessimistic that the 1981 moratorium deadline can be met. I am also concerned that the sewage sludge problem is increasing and may continue to do so for the foreseeable future.

As your agency's release also noted the volume of sludge increased due to two major factors. They are: (1) an increasing volume of treated sewage, and (2) higher level of applied treatments. It seems to me that the second factor will continue to lead to increased volume since communities are rightfully demanding better control of waste products. Thus, I fear we may have less and less dumpers but more sludge.

I hope you can provide me with detailed projections on the sewage sludge problem as well as meaningful estimates of the rate at which dumping will phase out and land based treatment take over in the New York area.

As you know, the problems of non-point source pollutants including urban runoffs have only recently surfaced as causes of major environmental episodes which threaten our beaches. In this regard, I feel it is mandatory that we maintain a healthy schedule for the complete phaseout of ocean dumping.

Thank you in advance for your cooperation in this matter.

Sincerely yours,

JOHN W. WYDLER,
Member of Congress.

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., August 21, 1978.

Hon. JOHN W. WYDLER,
House of Representatives, Washington, D.C.

DEAR MR. WYDLER: Mr. Costle has asked me to respond to your letter of August 2, 1978, in which you expressed concern about increased volumes of sewage sludge which will be generated in the years between now and 1981 due to increased treatment.

At your request, I am enclosing a table showing estimated volumes of sludge which will be dumped in the New York Bight for the years 1977 through 1981. Also enclosed is a table which indicates the phase-out date for each of the municipalities currently ocean dumping their sludge.

Since August 1976, all permits issued by the Environmental Protection Agency (EPA) have required the selection and implementation of environmentally acceptable alternatives for sewage sludge on or before December 31, 1981. In addition, EPA's revised Ocean Dumping Regulations published in January 1977 required that, as of April 23, 1978, the permittees demonstrate best efforts to cease ocean dumping by 1981 and have an implementable schedule for effecting a land-based alternative. EPA's position to require the cessation of ocean dumping of sewage sludge by the end of 1981, if not before, was made statutory in November 1977 by the enactment of P.L. 95–153.

The enforcement strategy in the Regions concerning the compliance schedule is to strictly enforce permit conditions which require that the phase-out be accomplished in accordance with specific milestones and to make full use of all administrative and legal remedies if these milestones are not met. Failure to meet these milestones has already resulted in the issuance of complaints by Region II to 15 New Jersey communities. In addition, the City of New York and Westchester County are not in compliance with their phase-out schedules and have been informed of possible enforcement action by this Agency.

EPA's Sixth Annual Report to Congress on the administration of Title I of the Marine Protection, Research, and Sanctuaries Act (copy enclosed) includes a section on alternatives to ocean dumping. Examples of some of the alternatives being considered or implemented by communities in the New York-New Jersey metropolitan area are listed on page 45 of this report.

We share your concern about this matter and assure you that we are continuing to work diligently with these municipalities to ensure that they meet the 1981 deadline.

Sincerely yours,

THOMAS C. JORLING,
Assistant Administrator for Water and Waste Management.

ESTIMATED VOLUMES OF SEWAGE SLUDGE TO BE DUMPED IN THE NEW YORK BIGHT

[Thousands of wet tons]

Waste generator	1977	1978	1979	1980	1981
Glen Cove	6	13	15	15	15
Long Beach	7	9	10	10	10
Nassau County	378	424	453	482	502
New York City	2,212	3,965	4,837	5,137	6,544
Westchester County	157	386	580	757	770
New Jersey Communities	1,727	2,266	2,777	3,102	3,285
Total	4,487	7,057	8,662	9,503	11,656

MUNICIPAL OCEAN DUMPING PERMITS—REGION II

(As of August 1, 1978)

Permit number, waste generator, and phase out date

II–NJ–003: Passaic Valley Sewerage Comm., December 31, 1981.

II–NY–029: Westchester Co. Dept. Envir. Fac., December 31, 1981.

II–NJ–111: General Marine Transport Corp.:

Domestic Septic Tank Wastes, *April 23, 1978.

Morris Twp., December 31, 1981.

Wanaque S.A., May 30, 1980.

Wood-Ridge, December 31, 1981.

II–NJ–017: Modern Transportation Co.:

Domestic Septic Tank Wastes, December 1, 1978.

Asbury Park, December 31, 1981.

Atlantic Highlands, December 31, 1981.

Caldwell Boro, December 31, 1978.

Cedar Grove, December 31, 1981.

Chatham, *March 2, 1978.

Kearny, December 31, 1981.

Lincoln Park, July 31, 1979.

Neptune Twp.—Ocean Grove, *June 15, 1978.

Northeast Monmouth Reg. S.A., December 31, 1981.

Oakland Boro, *June 30, 1978.

Passaic, *February 28, 1978.

Pequannock Twp., December 30, 1980.

Pompton Lakes, *June 30, 1978.

Roxbury Twp., December 31, 1978.

Totowa Boro, December 31, 1981.

Washington Twp.—Morris Co., December 31, 1981.

Wayne Twp., *June 30, 1978.

West New York, December 31, 1981.

West Paterson, December 31, 1980.

II–NJ–019: Bergen Co. Sewer Authority, December 31, 1981.

II–NJ–012: Camden Dept. Public Works. *June 15, 1978.

II–NY–068: Glen Cove, City of, December 31, 1981.

II–NJ–022: Joint Mtg. of Essex & Union Co., December 31, 1981.

II–NJ–021: Linden-Roselle & Rahway Valley S.A., December 31, 1981.

II–NY–007: Long Beach, City of, December 31, 1981.

II–NJ–008: Middlesex Co. Sewerage Authority, December 31, 1981.

II–NJ–002: Middletown Twp. Sewerage Auth., December 31, 1981.

II–NY–028: Nassau Co. Dept. Public Works, December 31, 1981.

Bay Park STP.

Belgrave STP.

Cedar Creek STP.

Farmingdale STP.

Freeport STP.

Inwood STP.

Meadowbrook STP.

Roslyn STP.

W. Long Beach S. Dist.

*Phase out completed.

II-NY-009: New York City Dept. Water Resources, December 31, 1981.
Bowery Bay STP.
Coney Island STP.
Hunts Point STP.
Jamaica STP.
Newtown Creek STP.
Owls Head STP.
Port Richmond STP.
Rockaway STP.
Tallman Island STP.
26th Ward STP.
Wards Island STP.

(Excerpt from "Ocean Dumping in the United States" the Sixth Annual Report of the Environmental Protection Agency-Technology Alternatives.)

Examples of some of the technology being considered in the Facility Plans (Step 1 Grant) or currently being implemented are:

Composting: Camden, Middletown Township, Northeast Monmouth, Linden-Roselle, Nassau County.

Composing and use as landfill cover as an interim solution; co-recovery with solid wastes as a long-term solution: Bergen County.

Incineration: Joint Meeting of Essex and Union Counties, Rahway Valley, Wayne Township, Lincoln Park, Pequannock Township, Pompton Plains, Oakland.

Multiple hearth incineration or starved air combustion, Middlesex County.

Co-incineration with solid wastes: Glen Cove.

Composting or landfilling of digested dewatered sluge as an interim solution; utilization of other technology, (pyrolysis, co-recovery, etc.) or shipment out of the city area or composting as a long-term solution: New York City.

Use of existing excess capacity in solid waste incinerators and composting of remainder: Westchester County.

The other major ocean dumper of sewage sludge is the City of Philadelphia (Region III). The City is on an implementation schedule which requires total cessation of ocean dumping of sewage sludge by December 31, 1980. The implementation plan contains several interim steps which include dewatering of increased amounts of sludge, and pilot studies to a certain parameter for facilities to compost all sludge generated, to ascertain the feasibility and proper design parameters for facilities to make EcoRock (a highway aggregated made from sludge), and to demonstrate the feasibility of sludge application to strip mines.

In addition to plans and studies on the ultimate disposal of its sludge, Philadelphia has also begun a program to identify the sources of metal in its treatment plants. This program will survey possible controllable sources with a view to making the sludge more amenable to land-based alternatives.●

HOSPITAL COST CONTAINMENT

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1978

● Mr. SANTINI. Mr. Speaker, as a member of the Interstate and Foreign Commerce Committee who was deeply involved in the markup of H.R. 6575, the hospital cost containment legislation, I am concerned about the possibility that the committee process could be circumvented by a Senate amendment to a House-passed health bill other than H.R. 6575. This would avoid House consideration of the containment provisions prior to a vote on a conference report.

Yesterday we considered H.R. 13097, the Medicare Amendments of 1978. It is my hope that the Senate will make no effort to attach a nongermane amendment to such an important piece of legislation. In the event that the other body does take such an action, I trust that both the Ways and Means Committee and the Interstate and Foreign Commerce Committee will have a chance to review the amended measure.●

INFLATIONARY IMPACT OF GAS BILL STUDIED

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1978

● Mr. SIMON. Mr. Speaker, I have up to this point made no commitment on the natural gas bill now before the Senate. And one of my major considerations is the inflationary impact.

Pursuing that question, I asked Charles Schultze, Chairman of the Council of Economic Advisers, to give me a fill-in on the inflationary impact of the legislation.

I am inserting his letter into the RECORD. I would be interested in hearing from colleagues who may agree or disagree with his conclusions.

THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS,
Washington, D.C., September 18, 1978.

HON. PAUL SIMON,
House of Representatives, Congress of the United States, Cannon House Office Building, Washington, D.C.

DEAR PAUL: This is in response to your inquiry about the inflationary impact of the Natural Gas Compromise reported out by the Energy Conference Committee.

On the basis of price estimates supplied by the Department of Energy (DOE), we estimate that the bill would have very little inflationary impact relative to the estimated course of prices that could be expected to occur without the bill. DOE has calculated that the average delivered residential price for natural gas in 1985 would be $3.31 per million BTU in 1985. In contrast, if no bill is passed, and if the Federal Energy Regulatory Commission (FERC) allows interstate gas prices to rise no faster than inflation, the same price in 1985 is estimated to be $3.22. The difference in prices is negligible.

Natural gas prices to industry will rise somewhat faster with the bill than without. But at the same time there will be more natural gas available to the interstate market, and even at the new prices, that gas will be cheaper than alternative sources of fuel. The substitution of newly available gas for other, higher cost energy sources—principally imported LNG and oil imports—will work to reduce the net cost of energy purchases.

With or without a natural gas bill, the price of natural gas will rise in the years ahead. But with the single national market made possible by the bill, additional natural gas will flow to the interstate market, and overall, additional supplies of natural gas will be forthcoming, at prices still below those of the LNG and imported oil which would otherwise be used. As a consequence, the natural gas bill will not raise the overall level of costs and prices in the economy by any significant amount, but will make possible significant savings in high-priced oil imports and imported LNG.

More generally, passage of the natural gas bill would strengthen the dollar and thereby make an important indirect contribution to the battle against inflation. The savings in imports of oil and LNG would allow substantial improvement in our balance of payments—over $7 billion in 1978 dollars by 1985. Equally important, enactment of natural gas legislation would bolster confidence in the dollar by clearly demonstrating to our trading partners the U.S. commitment to reducing the level of energy imports.

I would also like to comment on the claims by some opponents of the bill, that it will cost consumers $30 billion over the next seven years. This estimate is not correct. The Department of Energy has estimated that producer revenues will increase by $30 billion over this period. But most of the increase arises because the bill is expected to induce greater gas production. Only $9 to $10 billion represents the increase in revenues on the existing volume of production. In turn, because the added gas production will displace higher priced oil and LNG imports, the net effect on consumers will be much smaller than this.

I hope this information is useful. Please feel free to call me if you have additional questions.

Cordially,

CHARLES L. SCHULTZE.●

GILBERTO "BOB" PORTILLA, PRESIDENT, PHILIPPINE-U.S. VETERANS ASSOCIATION

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1978

● Mr. PATTERSON of California. Mr. Speaker, I ask my colleagues to join me today in honoring Mr. Gilberto "Bob" Portilla, who was recently elected president of the Southern California Philippine-U.S. Veterans Association.

Mr. Portilla, who lives in Buena Park, Calif., retired from the U.S. Navy on September 30, 1975, after serving in defense of his Nation for 20 years. He enlisted in the U.S. Navy on June 24, 1955.

Mr. Portilla exemplifies the essence and spirit of the various ethnic groups which, by working together, have made the United States the great Nation which it is today. Although he was born in the Philippine Islands, Mr. Portilla's belief in and dedication to the American ideal of liberty moved him to become a naturalized American citizen.

I am certain that my colleagues join me in thanking Bob Portilla for his unselfish contribution to our country during his tour of military service and for his continuing contribution to society as president of his veterans organization.

Indeed, he and his family have proved to be productive and essential members of American society. His children attend local schools, including Cypress College, and his wife owns a small business.

Thank you, Bob, for working to make America a better place for all of us.●

PUBLIC EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1978

HON. JOHN H. DENT

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1978

● Mr. DENT. Mr. Speaker, it is with a sense of satisfaction and conviction, Mr. Speaker, that I am today introducing the Public Employee Retirement Income Security Act of 1978.

This bill proposes Federal standards, for retirement plans of States and localities, in the areas of reporting, disclosure, fiduciary responsibility, and plan administration.

I would like to take a few moments to point out to my colleagues the firm basis on which the proposals in this legislation are based.

On March 15 of this year, my colleagues on the Subcommittee on Labor Standards unanimously approved the Pension Task Force Report on Public Employee Retirement Systems. Under my direction, as chairman of the subcommittee, and the direction of my colleague JOHN ERLENBORN, the Pension Task Force conducted an exhaustive study of the nearly 7,000 Federal, State, and local governmental retirement systems. Through this study effort, we have gained new insights into the practices and problems of governmental retirement systems.

Our study of the numerous Federal systems revealed an uncoordinated and inconsistent series of Federal retirement plans. Together with Congressman ERLENBORN, I introduced earlier this year H.R. 9701, which would establish uniform financial and actuarial practices for our Federal retirement systems. We have watched the progress of H.R. 9701 with keen interest, and hope that the administration will continue to support it and that it will be enacted into law soon. H.R. 9701 will not solve the problems with which our Federal retirement plans must deal. But it does represent a beginning toward understanding the true status of these plans.

Our study of State and local plans also revealed significant information regarding the universe of State and local government plans. The Pension Task Force Report shows in considerable detail that far too many State and local pension systems contain serious deficiencies with regard to reporting, disclosure, fiduciary, and plan administration practices. Although many systems do contain provisions in these important areas that adequately serve the needs of plan participants, plan sponsors, and most importantly, the taxpayers, the report clearly demonstrates that many systems do not, and that taxpayers as well as plan participants and their beneficiaries are thereby placed in jeopardy.

Too often participants have been denied vital information regarding the provisions of their plans, their pension entitlements, and so on. This bill provides that information in a sensible and reasonable manner.

Too often the true financial condition of State and local government plans has been unclear because of inconsistent and unprofessional actuarial, accounting, and auditing practices. This bill provides for improvements in these important areas in a sensible and reasonable manner.

Too often the assets of State and local governmental retirement saytems have been managed and invested in a manner that does not reflect the relationship of trust that should exist between plan fiduciaries and plan participants, and the importance of the pension system to plan participants and beneficiaries. This bill addresses these problems in a sensible and reasonable manner.

It is important to note that this bill has been tailored to the precise characteristics of the public plan universe which we have so carefully studied and identified.

For example, we have observed that in many States a great number of local government pension plans may band together to provide for more economical plan administration. Accordingly, we wish to make it clear that in such instances, the reporting and disclosure provisions in this bill would apply only to the single large plan. We carefully noted the unique nature of plan sponsors in the public sector. State and local governments are far different from private corporations and partnerships. Accordingly, the fiduciary provisions in the bill make it clear the Government itself, and not plan fiduciaries who are Government employees, generally will be liable to the pension plan for losses caused by imprudent fiduciary actions by such Government employees. We noted that it is frequently Governors, mayors, State legislators, and other government officials who make decisions regarding funding and benefit levels in the course of their regular and necessary official duties. Appreciating the necessity of permitting such officials to discharge their official duties in a free manner, the bill does not provide for liability for such officials with regard to actions involving benefit levels and funding levels for benefits and administrative expenses.

It is also important to note that this bill reflects the experience the private sector has had under ERISA. For instance, certain reports have been eliminated from the reporting requirements, and other reporting requirements have been substantially consolidated and simplified. We have observed the unworkability of dual or multi-agency administration of ERISA, and so have proposed, as title II of the bill introduced today, the creation of a single, unified, Employee Benefit Administration to administer PERISA as well as to help in the formulation of a cohesive, workable Federal Government policy regarding retirement and retirement income. It should be noted that the board of directors of the Employee Benefit Administration, as proposed in today's bill, differs from the board proposed in H.R. 4340, introduced by Mr. ERLENBORN and me last spring. The composition of the board as contained in today's bill is, in my opinion, an improvement.

Mr. Speaker, I have attached to the end of this statement a detailed explanation of the Public Employee Retirement Income Security Act of 1978, and I urge my colleagues as well as the public plan community to carefully study it and the bill itself.

Enactment of this bill will not cure all of the ills of the public plan universe overnight. Funding, for instance, is not required in this proposal but is addressed by the actuarial disclosure requirements and by the ability of the Advisory Council on Governmental plans to develop voluntary guidelines in this area. But by enacting strict yet flexible fiduciary responsibility provisions, we can assure the taxpayers and plan participants that what is in the pension funds will be invested and managed appropriately. By requiring professional and informative reporting, we can learn enough about governmental plans to decide exactly what ought to be done with regard to funding, profitability, and other difficult issues. By disclosing to participants the important provisions in their plans and requiring that participants be treated by plan fiduciaries in a forthright and equitable manner, we can help our public servants to intelligently plan for their retirement and to enjoy their retirement years with a measure of dignity and decency.

I deeply regret, Mr. Speaker that I will not be here next Congress to see to a finish the legislative effort which is commencing today. I am hopeful, however, that we can make a good start in the remaininng weeks of this Congress. And I am certain that the cosponsor of this bill, my good friend JOHN ERLENBORN, together with our colleagues on the Committee on Education and Labor, will continue our efforts to accomplish meaningful and workable pension reform.

SUMMARY OF THE MAJOR PROVISIONS OF THE PROPOSED PUBLIC EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1978 (PERISA)

PURPOSES

The purposes of the proposed Public Employees Retirement Income Security Act of 1978 are to protect the interests of public pension plans participants and beneficiaries and to minimize the possible adverse impact of the operations of such plans on Federal revenues and expenditures and the national securities markets:

(1) by establishing minimum standards of fiduciary conduct for trustees, administrators, and others dealing with public pension plans;

(2) by requiring the disclosure of plan provisions to participants and beneficiaries and the reporting of financial, actuarial, and other information;

(3) by providing for appropriate remedies, sanctions, and ready access to Federal courts;

(4) by clarifying the application of the Internal Revenue Code to public pension plans and extending the tax benefits of qualified plan status to such plans; and

(5) by establishing an Employee Benefit Administration to effectuate a rational and coordinated regulatory system for private as well as public pension plans.

COVERAGE

The Act covers all pension plans not otherwise covered under ERISA which are established or maintained for the benefit of the employees of the government of any state or political subdivision, or any agency or instrumentality thereof, except:

(1) severance pay plans;

(2) unfunded plans maintained primarily for the benefit of a select group of management or highly compensated employees;

(3) plans consisting entirely of individual retirement accounts or annuity contracts described in sections 401(d), 403(b), 408, or 409 of the Internal Revenue Code; and

(4) certain "unfunded" deferred compensation plans having the nature of individual account plans.

A companion bill, H.R. 9701, covers the pension plans of the Federal Government under ERISA's financial and actuarial reporting requirements. The Employee Benefit Administration would administer the current provisions of the Internal Revenue Code applicable to such plans.

DISCLOSURE TO PARTICIPANTS

The administrator of a public pension plan covered by the Act is responsible for providing the following information to plan participants and beneficiaries:

A "summary plan description" or booklet providing a reasonably comprehensive summary of the important plan provisions and which is to be written in a manner so as to be understood by the average plan participant; the booklet is to be furnished to beneficiaries receiving benefits and to plan participants within one year and 90 days after the effective date or date of plan participation, if later; the booklet is to be updated to include all plan amendments at least every 10 years.

Within 210 days after the end of the plan year a summary of any material modification or change in the plan is to be furnished to each participant and to each beneficiary receiving benefits (whose future benefits can reasonably be expected to be affected by the change).

Upon written request (but not more than once a year) a statement is to be furnished within 30 days providing the participant with information as to total accumulated contributions, pension benefits, and vesting status.

Information as to a participant's pension benefits and rights is to be furnished a participant who terminates, makes a benefit election, or receives benefit or contribution payments.

Copies of the summary plan description, annual report, and other plan documents are to be available for examination in the principal office of the administrator and in other locations; copies of such documents, for which a reasonable charge may be made, are to be furnished to participants within 30 days after a written request.

A claims procedure is to be established to provide participants with a written explanation of benefit denials and a means of obtaining a full and fair review of any denial.

REPORTING

The administrator of a public pension plan covered by the Act is responsible for filing with the Employee Benefit Administration (EBA) an annual report and a copy of the summary plan description at the time it is furnished to participants. The EBA is directed to cooperate with State and local governments in the exchange of information on public pension plans.

The annual report which is to be filed within 210 days after the end of the plan year is generally to include the following information:

A financial statement and schedule including a statement of assets and liabilities, revenues and expenses, party-in-interest transactions, and loans and leases in default; the plan is to engage an independent qualified public accountant (as defined by the EBA) to audit the plan and render an opinion as to whether the financial statements are presented fairly and in accordance with generally accepted accounting principles.

An actuarial statement including the presentation of the actuarial present value of plan benefits allocated by retired life, active life—past service, and active life—future service categories; the plan is to engage an enrolled actuary to perform an actuarial valuation at least once every three years; the Act does not affect the actuarial or other basis on which a plan is currently funded, although for reporting purposes the enrolled actuary is to utilize assumptions (on an explicit basis) and techniques which represent his best estimate of anticipated experience under the plan; as under ERISA, the regulatory agency is given the sole authority to determine the scope, form, and content of the disclosure of plan benefit "liabilities".

Information on terminated vested participants who are to be notified of their public pension benefit eligibility when they apply for Social Security benefits.

Other information which the plan administrator may wish to include to further explain any matter in the report.

The EBA is to provide for simplified annual reports for plans with less than 100 participants. A plan to which many different employers contribute would file a single annual report and generally would be treated as a single plan under the other provisions of the Act.

FIDUCIARY RESPONSIBILITY

The Act's fiduciary provisions and requirement that plans assets be held in trust reflect the principle that public pension benefits are earned by plan participants and, therefore, that the associated plan assets belong exclusively to the participants rather than to the plan sponsor.

Fiduciaries are required to discharge their duties with respect to a plan for the exclusive benefit of participants and beneficiaries and with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

Fiduciaries are also required to diversify the investments of a plan so as to minimize the risk of large losses, unless under the circumstances it is clearly not prudent to do so. An exception to this and the other fiduciary requirements applies in the case of individual account plans where the participant exercises control over the asset in his account.

A fiduciary is specifically prohibited from permitting the following transactions to occur in regard to a plan:

Dealing with the plan's assets for his own interest or account.

Acting in any plan transaction on behalf of a party adverse to the interests of the plan or its participants.

Receiving personal consideration from any party dealing with the plan in connection with a plan transaction.

In addition a test of adequate consideration is to be met regarding the following transactions:

Sale, exchange, leasing, or transfer of any property involving a party-in-interest.

Lending of money or other extension of credit involving a party-in-interest.

Furnishing of goods, services, or facilities involving a party-in-interest.

A plan is also prohibited in the future from acquiring employer securities and real property in excess of 10% of plan assets.

The above fiduciary requirements, as under ERISA, are intended to be interpreted so as to take into account the special nature and purposes of employee pension benefit funds.

In connection with the above duties, a fiduciary is defined as a person who exercises any discretionary authority or control respecting the management of a plan or the disposition of its assets, who renders investment advice for a fee or other compensation, direct or indirect, with respect to any moneys or other property of a plan, or who has any discretionary authority or responsibility in the administration of a plan. Under the Act government officials are not to be considered fiduciaries with respect to official actions taken in connection with the establishment of plan benefit or funding provisions.

Trustees may allocate their responsibilities and other fiduciaries may allocate or delegate their responsibilities, however, a fiduciary remains liable for the illegal acts of a co-fiduciary if he knowingly participates in or conceals such illegal acts. A fiduciary is personally liable to the plan for any breach of a fiduciary or co-fiduciary duty or obligation. In the case of a breach by a government employee or official, an exception applies whereby the liability is passed through to the governmental employer (however, nothing would prevent the employer from recovering such an amount from the individual).

The Act further protects plans against loss by reason of fraud or dishonesty by requiring fiduciaries who handle funds to be bonded. Governmental employers are given wide latitude in making arrangements to secure adequate protection against such losses.

EXEMPTIONS AND ALTERNATIVE METHODS OF COMPLIANCE

The Employee Benefit Administration is given broad authority to provide for alternative methods of compliance regarding the reporting and disclosure standards in order to "tailor" such provisions and minimize costs. The EBA may also exempt certain plans from the reporting, disclosure, trust, and bonding requirements of the Act (for example, completely unfunded, noncontributory public pension plans which have no active employee participants).

EMPLOYEE BENEFIT ADMINISTRATION

Title II of the Act establishes an independent agency, the Employee Benefit Administration, not later than one year after the date of enactment. At the head of the EBA is a Board of Directors consisting of a special liaison officer to the Secretary of Labor, a special liaison officer to the Secretary of the Treasury, and three other members appointed by the President with the advice and consent of the Senate. The President is to designate one member to serve as Chairman.

The establishment of the Employee Benefit Administration is designed to increase the efficiency of the operations of the Federal Government relating to public pension plans and private employee welfare and pension benefit plans in order to further promote the expansion and growth of pension and welfare plans and to carry out more effectively the express purposes of this Act as well as the Employee Retirement Income Security Act of 1974 (ERISA). The EBA would administer all of the provisions of this Act, the provisions of ERISA, and the provisions of the Internal Revenue Code applicable to Federal pension plans.

INTERNAL REVENUE CODE QUALIFICATION AND ENFORCEMENT

The Act removes the present ambiguity of the Internal Revenue Code provisions as they presently relate to public pension plans. Plans subject to the Act are to be considered tax "qualified" and exempt from Federal income tax without regard to the current requirements of Section 401(a) of the Internal Revenue Code. The same Federal income and estate tax treatment afforded participants of qualified private pension plans is extended to public pension plan participants and beneficiaries.

Generally, the Act is to be enforced through civil actions brought by the Employee Benefit Administration. Pension plan participants and beneficiaries may also bring civil actions to enforce the Act and to enforce their pension rights under the terms of their plans. Dollar assessments and the removal of fiduciaries are examples of the penalties that may result from such civil actions. Criminal sanctions may be imposed on persons who willfully violate the reporting, disclosure, or bonding requirements of the Act or who use coercive force to interfere with employee rights under the Act.

ADVISORY COUNCIL

An eleven member Advisory Council on Governmental Plans is established to advise the Employee Benefit Administration regarding public pension plans. The Council is authorized to establish voluntary guidelines for public pension plans with respect to matters for which requirements are not established under the Act (e.g. vesting and funding).

PREEMPTION

Generally, the Act would preempt state laws only to the extent of the fiduciary requirements of the Act. All other state laws would remain unaffected except to the extent that they would prevent the application of the other provisions of the Act.

EFFECTIVE DATES

Generally, the provisions of the Act are to take effect at the beginning of the second calendar year following the establishment of the Employee Benefit Administration. The Employee Benefit Administration is to be established not later than one year after the date of enactment.●

TAX EXEMPT STATUS FOR FRATERNAL SOCIETIES

HON. WILLIAM R. COTTER

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1978

● Mr. COTTER. Mr. Speaker, I have been in contact with the Knights of Columbus who are concerned that they may be adversely affected by section 501(g) of the Internal Revenue Code which prohibits a tax exempt status for organizations which discriminate on the basis of religion. This situation was clearly not intended when the law was enacted, and I am introducing legislation to correct it.

The Knights of Columbus are exempt from Federal income tax law under section 501(c)(8) of the Internal Revenue Code. Because subordinate lodges of the Knights are unincorporated, those which desire to hold title to real property must form an affiliated corporation. Some 2,000 of these affiliated corporations are exempt from the Federal income tax law under section 501(c)(7) of the Code as "social clubs."

However, section 501(g) of the Code which was added in 1976 may prohibit a tax exempt status for social clubs which provide for discrimination against any person on the basis of religion.

It is clear that this is not what Congress had in mind when this provision was enacted. During committee hearings on section 501(g) the case of the Knights of Columbus was brought up several times. It was indicated at this time that since the Knights of Columbus were a fraternal society and not a social club, they would have no problems under this section. Information regarding potential conflicts resulting from the existing status of these affiliated corporations unfortunately was not made available at that time.

In order to be a member of the Knights of Columbus, and therefore a member of one of these affiliated corporations, an individual must be a practicing Catholic. Organizations which discriminate by providing that only members of a particular religion may join was not the type of discrimination envisioned by section 501(g). Rather, this section was aimed at organizations whose composition was not religiously centered, who had several religions represented among its members, but who refused membership to someone simply because they were a member of a particular religion.

The legislation which I am introducing would correct this situation by exempting affiliated corporations of an association from the Federal income tax under section 501(c)(8) of the Code. This would merely create a situation which was thought to exist during committee hearings.

Mr. Speaker, I have asked the Department of the Treasury for its comments on this legislation, and am including at this point in the RECORD a letter received from Mr. John M. Murphy, Esq., of the Knights of Columbus soliciting my help for these changes.

KNIGHTS OF COLUMBUS,
New Haven, Conn., September 6, 1978.

Re Legislative Definition of Lodge System Internal Revenue Code Section 501(c)(8).

Hon. WILLIAM R. COTTER, M.C.,
Room 2338, Rayburn Building,
U.S. House of Representatives,
Washington, D.C.

DEAR BROTHER COTTER: This letter and its enclosures come to enlist your aid in behalf of the Knights of Columbus on the above subject.

As you know, the Knights of Columbus and all of its state and subordinate councils throughout the country are exempt from federal income tax under Section 501(c)(8) of the Internal Revenue Code.

Because our local councils are regarded as unincorporated associations, we have over the years suggested that any local council wishing to acquire real estate for a council home or club form a corporation which can take title to the property for the benefit of the members. We have also suggested that they seek tax exempt status for those "home corporations" under Section 501(c)(7) of the Code.

You may recall that in 1976 P.L. 94-568 was enacted and included a Section 501(g) prohibiting discrimination on grounds of religious belief by certain social clubs, such as our so-called "home corporations." The problem which this change in the law created for our home corporations is summarized in the enclosed copy of a February 24, 1978 letter from Congressman Waggonner to the Chief Counsel of Internal Revenue Service. Mr. Waggonner points out that the kind of "religious discrimination" which Knights of Columbus exercises in its membership requirements was not the kind of discrimination Section 501(g) was intended to proscribe.

Mr. William J. Lehrfeld, a Washington tax attorney and a member of the Order, has been engaged by us to seek a change in Section 501(c)(8) of the Internal Revenue Code so that our home corporations can qualify for tax exemption under that section rather than under Section 501(c)(7). If we can effect this change in the law, we will then instruct all of our local councils throughout the country to seek exemption for their home corporations under Section 501(c)(8).

I enclose a recent letter from Bill Lehrfeld with a copy of the suggested amendment and an explanation. I also respectfully—and earnestly—ask your help in obtaining this change in the law, which will be genuinely appreciated by all our members and will have no adverse effect on tax revenue.

Would you be in touch with Bill Lehrfeld (his number is 785-9500)? I would be happy to meet with you at any time or place, in Washington or Hartford, which you can conveniently manage to discuss this important request.

All best wishes.

Fraternally yours,

JOHN M. MURPHY,
Supreme Advocate.●

A COMPILATION OF ACTION, INVOLVEMENT, AND COMMITMENT TO ISRAEL AND SOVIET JEWRY

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1978

● Mr. OTTINGER. Mr. Speaker, the following is a compilation of actions, involvement, and commitment to Israel and Soviet Jewry:

Met twice with Prime Minister Menachem Begin to hear and to discuss his views on Mideast problems.

Addressed House of Representatives objecting strongly to President Carter's proposed sale of F-15s to Saudi Arabia and calling upon colleagues to express outrage over the proposed Mideast arms sales package.

Sent letter to President Carter expressing alarm and outrage over proposed arms sales to Saudi Arabia and intention to treat Arab-Israeli sales as a package.

Met with Vice President Mondale as part of small group of congressional leaders on Middle East Affairs to advise him on peace seeking mission.

Called upon colleagues to join in censuring President Carter's Joint U.S.-Soviet Union communique on Middle East for undermining our firm commitment to Israel and for marking significant and unwise shift in U.S. policy toward Mideast.

Cosigned letter to President Carter urging him to reaffirm United States' complete support of U.S. Resolutions 242 and 338, and to reaffirm our firm support of Israel.

Cosponsored Resolution congratulating Israel and Egypt on beginning direct negotiations toward peace in the Mideast.

Met with Prime Minister Begin and President Sadat for briefing and discussion of the "framework" agreements at Camp David.

Cosponsored Resolution condemning PLO for its attack on Israeli citizens and expressing hope for successful conclusion of Mideast peace negotiations.

Called upon colleagues to oppose vigorously any amendments to Foreign Assistance Act which would adversely affect balance in Mideast and undermine security of Israel and our commitments to her.

As member of New York and International Committees to free Anatoly Shcharansky, sponsored letters to President Brezhnev urging permission for Shcharansky to emigrate from U.S.S.R. (Signed by 11 other Congressmen who represent relatives of Anatoly.)

Met with Avital Shcharansky to discuss measures we might take to assist in release of her husband, Anatoly Shcharansky.

Cosponsored legislation to bar Nazi war criminals from sanctuary in this country.

Sponsored joint resolution prohibiting trade and cultural exchanges with U.S.S.R. until Shcharansky and Ginsburg are free and U.S.S.R. otherwise meets its obligations under Helsinki Final Act.

CONGRESSMAN RICHARD L. OTTINGER—A COMPILATION OF ACTIVITIES AND STATEMENTS

MEMBERSHIPS AND AFFILIATIONS

Member of the National Council of the American-Israeli Friendship League.

Member of the International Committee for the Release of Anatoly Shcharansky.

Honorary Sponsor and Member of the New York Committee to Free Anatoly Shcharansky.

Member of Temple Beth El of Northern Westchester.

Member of the Zionist Organization of America.

Member of the American Jewish Committee.

Member of the B'nai B'rith Upper Westchester Lodge.

Member of the Knights of Pythias Lodge No. 265.

Former Trustee of Jewish Board of Guardians and Linden Hill School.

Member of the Jewish War Veterans Post No. 70.

CHRONOLOGY OF ACTIVITIES AND STATEMENTS

January 1977

Initiated cosigned letter to Secretary Brezhnev protesting the imprisonment of Amner B. Zavurov (Signed by 23 other Members).

Cosigned telegram with Reps. Ambro and Eilberg to Secretary Brezhnev strongly protesting trial of Dr. Iosef Begun (Prisoner of Conscience).

Cosponsored with National Conference on Soviet Jewry a special briefing for Members of the House of Representatives on Soviet Jewry and U.S.-U.S.S.R. relations.

Cosigned letter with Rep. Fenwick to Ambassador Dobrynin expressing deep concern for the fate of Amner B. Zavurov.

Cosigned letter with Rep. Fish to Eli Flam, Director of Voice of America calling for better communication with the Greatest New York Conference on Soviet Jewry and continued coverage of plight of Soviet Jewish refuseniks in Europe.

Cosigned letter with Rep. Fenwick to Secretary of State Cyprus Vance commending the Administration for forthright stand on human rights and efforts on behalf of Andrei Sakhorov.

February 1977

Cosigned letter with Reps. Fraser and Jeffords to President Carter expressing support of human rights stand and urging President to press Soviets to comply with the Helsinki Final Act.

Cosigned letter with Reps. Dodd and Fenwick to Ambassador Dobrynin stating deep concern over the arrests of Aleksandr Ginsburg, Yuri Orlov, Mikola Rudenko and Oleksiy Tykhy.

Cosigned letter with Rep. Gilman to Secretary Brezhnev protesting disruption of symposium on "Jewish Culture in U.S.S.R." by Soviet authorities.

March 1977

Cosponsored with Rep. Moffet H. Con. Res. expressing the continued interest of the American people in the USSR's compliance with the Helsinki Final Act and the safety and freedom of Soviet Jews.

Addressed the House of Representatives as key participant in vigil entitled, "Helsinki's Unfulfilled Promise."

Cosigned letter with Rep. Florio to President Carter urging him to do everything possible to encourage the U.S.S.R. to remove ban on importation of flour and foods containing flour.

Addressed House of Representatives in statement appearing in Congressional Record in support of Moffet H. Con. Res. (see above) and stating strong objection to U.S.S.R.'s transgressions from obligations under Helsinki Final Act.

Sent letter to Ambassador Dobrynin stating objection to Dr. Iosef Begun's recent conviction and subsequent sentence.

Sent letter to Ambassador Dobrynin demanding the release of Anatoly Shcharansky.

May 1977

Joined the International Committee for the Release of Anatoly Shcharansky.

Sent letter to Ambassador Dobrynin expressing continued concern for Dr. Iosef Begun.

Addressed the House of Representatives in statement appearing in the Congressional Record on the plight of Dr. Iosef Begun.

Sent telegram to Secretary Brezhnev urging release of Dr. Iosef Begun.

June 1977

Addressed House of Representatives in statement appearing in Congressional Record expressing strong condemnation of Soviets' treatment of Dr. Iosef Begun and Anatoly Shcharansky.

Cosigned letter with Rep. Yates to Secretary Brezhnev in protest of charges to Anatoly Shcharansky.

Cosigned letter with Rep. Wolff to Delegations at the Belgrade Conference urging all delegations to insist upon a formal discussion of efforts to monitor governmental compliance with the Helsinki Final Act.

Sent letter to Spencer Oliver, Staff Director of Commission on Security and Cooperation in Europe documenting Soviet failure to adhere to Postal Treaties.

Cosigned letter with Reps. Steers and Sen. Humphrey to President Carter expressing support of U.S. Congress for positions taken by our government regarding human rights in relation to the Helsinki Final Act.

Cosigned letter to Secretary Brezhnev with Rep. Downey stating deep concern for fate of Lev Gendin.

Cosigned telegram with Rep. Waxman to Secretary Brezhnev objecting to detainment of Robert Toth, U.S. Reporter.

July 1977

Cosponsored resolution with Rep. Ertel which requests the President and the United States delegation to the 1977 Belgrade Review Conference to urge the Government of the Soviet Union to grant exit visas to the Emmanuil Smelinsky family.

Cosigned letter with Rep. Ertel to President urging him to bring the Smelinsky family's situation to the attention of the Soviet Government and to express the interest of the United States in Soviet compliance with the Helsinki Final Act.

Cosigned letter with Rep. Bonker to Secretary Brezhnev urging him to grant exit visa to Vladmir Lazaris.

Cosponsored resolution with Reps. Buchanan and Dodd calling for the release of Anatoly Shcharansky from custody and for permission for him to emigrate from the Soviet Union.

Met with Prime Minister Begin to hear and to discuss his views on Mideast problems.

Key participant in Vigil on House of Representative's floor entitled, "Helsinki's Unfulfilled Promise." Spoke on the plight of Mikhail Kornblit, Prisoner of Conscience.

August 1977

Cosigned letter with Rep. Weiss to Secretary Brezhnev urging him to grant exit visas to Vladmir Preston family.

Cosponsored resolution with Rep. Koch expressing Congressional concern for the plight of Mikola Rudenko and Oleksa Tykhy.

Cosponsored resolution with Reps. Koch, Fenwick and Dodd requesting that the Government of the Soviet Union provide Valentyn Moroz with the opportunity to accept the invitation of Harvard University for the 1977–1978 academic year.

Cosigned telegram with Rep. Steers to Secretary Brezhnev urging him to grant an exit visa to Isaac Zlotver.

September 1977

Cosigned letter with Rep. Waxman to Secretary Brezhnev urging him to grant exit visas to Dr. Viniamin Levich and wife.

Cosigned letters with Rep. Mikva to Secretary Brezhnev and Ambassador Dobrynin urging them to grant exit visas to Abe Stolar and family.

Cosigned letter with Rep. Kemp to Robert Kane, President of the U.S. Olympic Committee, expressing distress at reports of efforts to exclude Israel from 1980 Olympic Games in Moscow.

October 1977

Cosigned letter with Rep. Jeffords to President Carter expressing Congressional support for a strong U.S. position on human rights at the 1977 Belgrade Review Conference and concern for Aleksandr Ginsburg.

Cosigned letter with Rep. Schroeder to Ambassador Arthur Goldberg regarding the apparent reluctance of other Western signatories to the Helsinki Final Act to take a forthright stand on human rights.

Addressed colleagues on the House floor in statement that appeared in the Congressional Record as well censuring President Carter's Joint U.S.-Soviet Union Communique on the Middle East for undermining our firm commitment to Israel and for making a significant and unwise shift in U.S. policy toward the Mideast.

Cosigned letter with Reps. Bingham, Yates and Anderson to President Carter expressing concern over the Joint Communique and urging President Carter to reaffirm the U.S.'s complete support of U.N. Resolutions 242 and 338 and to reaffirm our firm support of Israel.

November 1977

Sent telegram to Secretary Brezhnev urging him to mark the 60th Anniversary of the Soviet revolution by granting amnesty to Soviet Jewish Prisoners of Conscience, approving emigration visas for refuseniks, dismissing the case of Anatoly Shcharansky and granting an exit visa to Mikhail Kornblitt.

Instrumental in securing Mikhail Kornblit's release from prison.

Sent letter to Mikhail Kornblit to give encouragement and continued commitment to seek his release and emigration papers.

Initiated letter to Secretary Brezhnev requesting permission for Shcharansky to emigrate from Soviet Union (sign by 11 other Congressmen who represent relatives of Shcharansky).

Sent press release regarding letter to Secretary Brezhnev asking for release of Shcharansky.

Cosponsored resolution with Rep. Dodd congratulating Egypt and Israel on begining direct negotiations toward peace in the Mideast.

December 1977

Cosigned letter to Secretary Brezhnev with Rep. Cornwell urging him to grant an exit visa to Lev Ovitischer.

Sent letter to Secretary Brezhnev expressing profound distress over the arrest and imprisonment of Boris Penson and urging his release and permission for him to emigrate.

Sent letter to Dr. Iosef Begun, Prisoner of Conscience, expressing objection to the treatment he received and commitment to see that he is granted an exit visa.

Co-signed letter with Rep. Cotter to Soviet authorities calling for exit visas for the Leizer Falkovich family.

January 1978

Cosigned mailgram with Rep. Biaggi to Ambassador Dobrynin expressing objection to treatment of Edward Kusnetsov and urging his immediate release.

Cosigned letter with Rep. Brown to Secretary Brezhnev urging him to grant exit visa to Dr. Nahum Meiman.

Sent letters to G. D. Djavakhishvili, chairman Council of Ministers of Georgia, USSR and N. Muskhelishvili, Chairman Academy of Sciences of Georgia, USSR expressing profound distress over the arrest of Grigory Goldstein. (Copies sent to Secretary of State Vance, Special Representative of Trade Strauss, Secretary of Treasury Blumenthal and Ambassador Goldberg)

Met with Mrs. Avital Shcharansky to discuss measures we might take to assist in the release of her husband, Anatoly Shcharansky.

Cosigned letter with Rep. Heckler to Ambassador Dobrynin urging him to grant exit visa to Ida Nudel.

Cosponsored legislation with Rep. Heckler to bar Nazi War Criminals from sanctuary in this country.

February 1978

Made statement appearing in the Congressional Record giving an account describing the plight of Soviet Jews.

Sent letter to Ambassador Dobrynin urging him to grant exit visas to Dr. Joseph As and family.

Cosigned letter with Rep. Steers to Minister of Interior Shcholokov urging him to permit Isaac Zlotver to be reunited with his family in accord with the Helsinki Final Act and the Universal Declaration of Human Rights.

Sent letter to Secretary Brezhnev expressing strong objection to the continued detention of Anatoly Shcharansky.

Cosponsored resolution with Reps. Beilenson and Leach condemning the poisoning of Israeli oranges and urging that this incident be considered as an important agenda item at the Geneva Disarmament Conference and at the U.S. Special Session on Disarmament.

Addressed House of Representatives and made a strong statement appearing in the Congressional Record objecting to President Carter's proposed sale of F-15 aircraft to Saudi Arabia and called upon my colleagues to express outrage over the proposed arms sales to the Mideast as a package.

March 1978

Cosigned letter with Rep. Waxman to Secretary Brezhnev urging him to grant exit visas to Dr. Viniamin Levich and wife.

Cosponsored legislation with Rep. Kemp providing for the issuance of a U.S. postal stamp commemorating Israel's 30th Anniversary.

Sent letter to President Carter expressing alarm and outrage at his proposal to sell sophisticated offensive aircraft to Saudi Arabia and to treat the Arab-Israeli sales as a package.

Cosponsored resolution with Rep. Yates condemning P.L.O. for its attacks upon Israeli citizens and expressing hope for successful conclusion of Mideast peace negotiations.

April 1978

Sent letters to Secretary Brezhnev and Ambassador Dobrynin expressing objection to the banishment of Dr. Iosef Begun from Moscow and his separation from his family.

Sent letter to Mrs. Begun and family expressing hope for the reunion of the Begun family.

Cosigned letter with Reps. Zeferetti and Drinan to Secretary Brezhnev asking that the Soviet Government cease its harassment of Iosef Mandelevich, permit him to exercise the fundamental right of freedom of religion and reduce his sentence to its original term of twelve years.

Cosigned letter with Rep. Luken to Ambassador Dobrynin urging him to grant an exit visa to Jessica Katz.

Spoke at Westchester Conference, Observance of Warsaw Ghetto Resistance Movement at Temple Israel in New Rochelle.

May 1978

Cosponsored Joint Resolution with Sen. Danforth, Sen. Chiles and Sen. Percy which designates the weekend of or preceding April 29 as "Days of Remembrance of Victims of the Holocaust."

Addressed the House of Representatives as a key participant on House floor Vigil entitled, "A Vigil for Freedom" for Soviet Jewry.

Initiated telegrams to Secretary Brezhnev, Prime Minister Rudenko and Ambassador Dobrynin urging the release of Dr. Iosef Begun and permission for him and his family to emigrate from the Soviet Union.

Sent letters to Secretary Brezhnev, Secretary of Interior Scholokov, Prime Minister Rudenko and Ambassador Dobrynin urging them to grant exit visas to Lily Essas and family.

Cosigned letter with Rep. Gradison to Secretary Brezhnev requesting assistance in obtaining medical care for Jessica Katz, if necessary in the United States.

Cosigned letter with Reps. Steers and Eilberg to Ambassador Dobrynin urging him to grant Hillel Butman amnesty and an exit visa.

Cosigned letter with Rep. Waxman to President of the Soviet Academy of Sciences and the Chairman of the State Committee of Science and Technology expressing concern for Dr. Viniamin Levich and other Soviet scientists wishing to emigrate.

Spoke with Jesse Robison (from the Robison family of Westchester campaign to free their two cousins) and offered commitment to ending the plight of the Podrabinek brothers.

June 1978

Cosigned letter with Rep. Bingham to Secretary Brezhnev regarding plight of Kyrill and Aleksandr Podrabinek.

Cosigned letter to Secretary Brezhnev with Rep. Waxman protesting arrest and detention of Vladmir Slepak and urging the Secretary to grant him an exit visa.

Initiated in conjunction with Rep. Downey letter to Ambassador Dobrynin expressing profound concern for Dr. Iosef Begun and urging the fulfillment of all his rights as guaranteed by the Helsinki Final Act.

Met with Vice President Mondale as a part of a small group of Congressional leaders on Middle East Affairs to advise the Vice President on his peace mission to the Mideast.

Cosponsored legislation with Rep. Dornan to exclude any known terrorist or terrorist organization from entering the United States, especially the Palestine Liberation Organization and other related restrictions.

July 1978

Sent letter to President Carter and Secretary of State Cyrus Vance expressing distress over absence of U.S. objection to the Palestine Liberation Organization's "Information Office" in Washington, D.C.

Cosigned letter with Rep. Kildee to Ambassador Dobrynin expressing concern for the health of Igor V. Ogurtsov.

Joined Rep. Steers in introducing resolution urging the Soviet Government to grant emigration visas to Isaac Zlotver.

Cosigned letter to Secretary Brezhnev with Rep. Blanchard requesting that Viktors Kalnins be allowed to emigrate immediately.

Sosponsored resolution with Rep. Tsongas condemning Soviet Union for its actions against Ida Nudel and other Soviet dissidents.

Cosponsored legislation with Reps. Green, Biaggi, Kemp and Bingham to call attention to the case of Dr. Semyon Gluzman.

Called upon colleagues in the House of Representatives to recognize the plight of the peoples of the Baltic Nations during Captive Nations Week in a statement appearing in the Congressional Record.

Called upon his colleagues in a statement appearing in the Congressional Record to vigorously support Senate Concurrent Resolution 95 which expresses the sense of the Congress that the trials of the dissidents are of deep concern to the American people and may impose obstacles to the future building of cooperation between the two countries.

Introduced in the House of Representatives a Joint Resolution prohibiting trade and cultural exchanges between the U.S. and the Soviet Union until Anatoly Shcharansky and Aleksandr Ginsburg are set free and the Soviet Union otherwise meets its obligations under the Helsinki Final Act.

Made a statement appearing in the Congressional Record calling upon colleagues in the House of Representatives to support the Joint Resolution prohibiting trade and cultural exchanges until the above noted conditions are met.

Submitted testimony before the Helsinki Monitoring Commission during hearings on the Soviet Union's compliance with the Helsinki Final Act and the trials of the dissidents.

Cosigned letter to Ambassador Dobrynin with Rep. Fenwick urging him to grant exit visas to the Mai-Seidel family.

Cosigned letter with Rep. Downey to Ambassador Dobrynin urging him to grant exit visa to Lev Blitshtein.

Cosigned letter with Rep. Schroeder to Lord Killinin, President of the International Olympic Committee, expressing conviction that the Olympic Games ought to be transfered from Moscow if the Soviet Union continues its policies regarding dissidents.

Joined New York State Democratic Delegation in initiating letter to President Carter commending him for cancelling computer equipment sale to the Soviet news agency, for placing oil technology on the commodities control list, and urging him to limit future U.S.-Soviet trade, cultural, scientific and other relationships.

Met with representatives from the National Conference on Soviet Jewry to discuss position on possible transfer of Olympic Games from Moscow.

August 1978

Worked with Leon Gildesgame and the White House to see that a sculpture of the "American Soldier at the Gate of the Dachau Concentration Camp" is donated to Israel as a tribute to those who survived the Holocaust.

Called upon colleagues in the House of Representatives in statement appearing in the Congressional Record to oppose vigorously any amendments to the Foreign Assistance Act which would adversely affect the balance in the Mideast and would undermine the security of Israel and our commitment to her.

Supported vehemently the amendment to the International Security Assistance Act of 1978 which expressed the sense of the Congress that the U.S. should be responsive to the defense requirements of Israel.

Cosigned letter with Rep. Green to Ambassador Dobrynin urging him to allow Kathleen Renck to visit Russia or to grant Knostantin Kutasov permission to leave the Soviet Union so that they may be married.

Cosigned letter with Rep. Edwards to Secretary Brezhnev urging him to grant exit visas to Lev Roitburd and family.

Cosigned letter with Rep. Drinan to U.N. Secretary General Waldhaim urging him to speak out against convictions of Anatoly Shcharansky, Aleksandr Ginsburg and others.

Cosigned letter with Rep. Brodhead to Ambassador Dobrynin urging him to grant exit visas to the Mai-Seidel family.

Sent letter to the Director of the Congressional Research Service along with the other members of the New York State Democratic Delegation which resulted in CRS initiating review of all U.S.-Soviet agreements and relationships to assess their results and efficacy.

Received personal letter Mrs. Avital Shcharansky expressing her deep appreciation for "your personal commitment and involvement in behalf of my husband."

Sent letters to Secretary Brezhnev and Ambassador Dobrynin strongly objecting to the unwarranted second arrest of Dr. Iosef Begun.

LEGISLATIVE ACTIONS AFFECTING ISRAEL DURING 95TH CONGRESS

Voted in favor of Export Administration Act which included anti-boycott provisions prohibiting compliance with secondary and tertiary boycott. Passed.

Voted in favor of International Security Assistance Act (foreign aid authorization bill) for fiscal year 1978 which included $1.785 billion in military and economic assistance to Israel. Passed.

Voted in favor of Foreign Assistance Appropriations Act (foreign aid appropriations bill) for fiscal year 1978 which included $1.805 billion in military and economic assistance for Israel. Passed.

Voted against Amendment by Rep. Clarence Miller (R-Ohio) to Foreign Assistance Appropriation Act for fiscal year 1978 stipulating 5 percent across-the-board reduction in the $8 billion bill, including the $1.805 billion for Israel.

Voted in favor Foreign Assistance Appropriations Conference Report for fiscal year 1978 which reinstated original aid levels for Israel. Passed.

Voted against Rep. Bauman (R-MD) amendment to International Development and Food Assistance Act for fiscal year 1979 stipulating a 5 percent across-the-board cut in the $3.7 billion authorization bill. The amendment cut $39 million from the $785 million economic assistance program for Israel.

Voted in favor of the International Development and Food Assistance Act for fiscal year 1979 which included (at that time) $785 million in economic assistance for Israel. Passed.

Voted in favor of the International Security Assistance Act for fiscal year 1979 which included $1 billion in military assistance for Israel. Passed.

Voted in favor of the Rep. Derwinski amendment (R-Ill.) to Foreign Assistance Appropriations Act for fiscal year 1979 which eliminated $90 million economic support fund for Syria. Passed.

Voted in favor of the Foreign Assistance Appropriations Act for fiscal year 1979. Passed.●

IRAN'S RISING OPPOSITION

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1978

● Mr. HARKIN. Mr. Speaker, during the past months, numerous newspaper stories have appeared detailing the ongoing political strife in Iran. Questions concerning the accuracy of these stories have been raised. In fact, charges have been made that the American press is clearly "pro-Shah."

All of this is very troubling. On issues relating to foreign affairs, most Americans including Members of Congress rely very heavily on the American press for information. If newspaper reporting largely reflects Government propaganda, then all of us suffer. Those of us who operate on the basis of this misinformation may end up doing the Nation a great disservice. Hopefully, the charges leveled at the news media are invalid. Yet, in light of these accusations, responsible newspapers should take extra precautions to insure that their reports are not distorted.

One article which I found particularly interesting and objective was written by Max McCarthy, a former Member of Congress who was a press attaché at the U.S. Embassy in Tehran in 1975–76. This article which is reprinted below originally appeared in the Washington Post on July 9, 1978. I urge my colleagues to read it.

IRAN'S RISING OPPOSITION

(By Max McCarthy)

The Shah of Iran, in an interview in the June 26 issue of U.S. News & World Report, concedes that protests against his regime have increased but defiantly boasts: "Nobody can overthrow me. I have the support of 700,000 troops, all the workers and most of the people . . . I have the power."

Some well-informed Iranians here in Washington, others in Iran and a number of Americans familiar with the internal situation there think the shah may be whistling in the dark. They seriously question his assessment of the degree of support he enjoys. Should they, rather than the monarch, prove correct, there is a possibility that U.S. troops would be required to save his throne for him.

By personally approving the promotion of all officers from the rank of major or its equivalent on up, by paying handsome salaries to all officers and by providing them with the latest and most sophisticated weapons and equipment, the shah until recently was able to maintain almost total control over his burgeoning military establishment and internal security forces.

But a number of recent events have raised doubts about just how firm his control over his forces is at this time.

Late last year, for instance, Maj. Gen. Ahmed Mogharebi was charged with having spied for the Soviet Union. Sources with ties to the palace report that the shah was so depressed over the treason of a trusted and high-ranking officer that he secluded himself for several days. When he emerged, he ordered that the general be executed immediately. As a result, Mogharebi was killed before torture could extract from him the names of his fellow plotters.

"The regime never discovered the identities of Gen. Mogharebi's co-conspirators," Nasser G. Afshar, Washington-based publisher of the anti-Communist and anti-shah Iran Free Press, recently told me. "They still are in their key posts within the Iranian military. It is only a matter of time before they attempt to carry out Mogharebi's plan for a pro-Soviet coup d'etat."

Early this year, a high-ranking official of Savak (the Iranian secret police), Ali Naqi Rabbani, was condemned to death by a military court for spying for the Soviet Union. The investigation that led to Rabbani's arrest, according to Afshar, disclosed that approximately 10 other high officials of Savak and other sections of the government of Iran were working for the KGB (the Soviet secret police).

Another severe jolt involving Savak, on which the Shah relies heavily to deal with the political problems of one-party rule, came in early June when, following a general strike that shut down Tehran and three other cities, the shah fired the head of Savak, his friend and long-time confidant, Gen. Nematollah Nasseri.

An Iranian who formerly lived in the northern city of Tabriz told me that Iranian police "turned their backs" on rioters and that insurgent elements actually controlled that city for "five or six hours" during a mid-February uprising there.

COMPLAINTS AND HARASSMENT

The Shah's claim that he enjoys the support of "all the workers and most of the people" is also subject to question.

During a trip to Iran last April I heard widespread complaints about "guns rather than butter" priorities, political corruption, traffic congestion, pollution, poor sanitation, inflation, the decline in Iranian agriculture and industrial production as well as shortages or erratic supplies of water, roads, communications and electric power.

Education is scarce: The number of Iranians of high school age actually in high school declined from 30 percent in 1976 to 20 percent this year. The country has a severe housing shortage, with 6.7 million families but only 5.3 million urban and rural housing units, less than half of which have piped water. A common sight is families living in tents pitched in holes in the ground.

Despite talk of "human rights" which most observers ascribe to President Carter's influence, opposition leaders are harassed. On April 19 I visited the home of Rahmatoallah Moghaddam-Maraghei, a member of the Iranian Committee for the Defense of Freedom and Human Rights, and saw a crater and other evidence of a bomb thrown into his property 10 days earlier. The homes of three of his colleagues on the committee, which includes prominent academic and professional figures, also were bombed. Another member sustained an explosion at his law office. Still another was forcibly taken from his dental clinic, a sack placed over his head, and severely beaten. Their explanation for these acts of violence was that they had sent a telegram to the government in behalf of some 200 political prisoners who staged a hunger strike to demand improved prison conditions.

Dariush Foruhar, a lawyer who heads the union of the National Front Forces, a coalition of opposition parties, recalled how Iran's dissident elements were united and galvanized into action after police invaded Tehran's Qasr Prison on March 15. The police officers, not the prison guards, beat up the fasting prisoners, Foruhar said, adding that mothers, sisters and other relatives of the inmates also were beaten when they showed up outside the prison, the nearby military tribunal and Tehran University.

Forunhar said the regime surrendered to the prisoner's initial demands four weeks after the strike began when it was faced with nationwide protests, sympathetic hunger strikes by young people, pleas from clergy and intellectuals and the threat of the striking prisoners to abstain from water as well as food. The regime gave in, he explained, because it feared that the prisoners' deaths might have provided the spark to set off the Iranian political powder keg.

An Iranian employe of the American Embassy, Reza Amini, told of tape cassettes containing recorded sermons by Moslem clergymen being secretly circulated throughout the country. He said the messages were being listened to by thousands of persons and their content relayed to thousands of others. The basic message of one of the sermons by exiled clergman Ayatollah Ruholla Khomeini calls for A "religious crusade" to topple the Shah.

THE OVERLOOKED MIDDLE GROUND

Most of the opposition leaders I spoke with emphasized that they are willing to see the monarchy retained but under the terms of the 72-year-old Iranian constitution which is still technically in effect. It provides for a largely ceremonial constitutional monarch; an independent judiciary; free press, assembly, political activity and elections. Under the provisions of the 1906 document, decisionmaking is vested in a freely elected parliament, from whose members would be chosen a prime minister with executive power.

One opposition leader told me:

"The average Iranian cannot forget the fact that the dictator responsible for most—if not all—of his miseries was put on the throne by the United States in 1953. But despite this universal sentiment, America and its democratic traditions are admired by Iranians.

"Whatever legitimacy the shah might pretend to have comes from abroad, principally the United States. Iranians of all descriptions, even the shah's supporters, attach to the U.S. word an importance far beyond the true leverage Washington can apply in Tehran.

"Thus, President Carter is in the unique position of being able to save Iranians from the claws of a CIA-imposed despot by practically empty words.

"A single statement from the White House, to the effect that the United States will not intervene in internal Iranian affairs, where peoples' right to choose their government is concerned, is enough to put the shah to flight."

Most Iranians are reluctant to speak so openly with Americans out of fear that their true feelings will find their way to Savak. In Tehran this year I found U.S. diplomats more remote from Iranians than ever. One embassy official did not know that the huge Qasr Prison—focal point of the hunger strike by political prisoners which was one of the most dramatic opposition moves in recent years—is located in the heart of Tehran, just a short distance from his home. Off the job, he said, he and his fellow diplomats play tennis and poker and have picnics with each other, their spouses and children. No Iranians are invited.

This increasing isolation of the official American community may well affect the accuracy of its reports to Washington on the current state of Iranian public opinion and its estimates of the degree of support the shah enjoys. Two U.S. officials told me that our current ambassador, William Sullivan, who served as ambassador to Laos during the Vietnam war, is continuing to urge the Carter administration to maintain its all-out support for the shah.

If that support is continued and if the intensifying hatred of the shah among Iran's Moslem clergymen, professional classes, former politicians and students produces armed rebellion against the Peacock Throne, we will be faced again with the prospect of the shah's overthrow. Secretary of Defense Harold Brown already has been discussing the possible "dispatch of appropriate U.S. forces to the scene [the Persian Gulf] in support of friends," and 100,000 U.S. troops are being trained for possible intervention in the Gulf.

President Carter also has talked about having "quickly deployable forces—air, land and sea" available for this and other contingencies.

But the Carter administration is overlooking a fundamental distinction and a third option. While Iran and its oil are vital to the United States and its allies, Iran and the shah are not synonymous. For the United States to have to choose between the shah and the Soviets would be the worst kind of choice.

Responsible, non-Communist opposition leaders such as Moghaddam told me they see no difficulty in achieving a reconciliation of Iranian democratic aspirations and the United States' national interest. They stress that their program calls for nothing more than what the United States now enjoys: a freely elected democratic government based on a constitution.

They believe that they can head off pressures which otherwise might lead to a Communist coup d'etat or a revolution and that they and their program represent a middle ground between the shah and the Soviets, a third choice for the United States in Iran.●

HON. DON FUQUA INTERVIEWED ON SPACE, ECONOMY, AND AQUACULTURE WITH THE FLORIDA BANKER

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1978

● Mr. TEAGUE. Mr. Speaker, recently the publication "Florida Banker" interviewed the Honorable DON FUQUA of Florida on a multiplicity of subjects involving the space program and the economy to name a few. I need not tell the Members of this body of the ability and qualifications of DON FUQUA. As the ranking Democratic Member of my Committee on Science and Technology he has been a stalwart individual and a mainstay of the committee on not only the area of space technology, but in all issues. I believe that the interview which he accorded the "Florida Banker" more than proves his ability to speak to the various issues over which he has held jurisdiction for some time as well as those which are of major concern to the district and the people he represents.

Under leave to extend my remarks in the RECORD, I am pleased to include the aforementioned interview and commend it to the Members of this body.

CONGRESSMAN DON FUQUA ON SPACE, ECONOMY, AQUACULTURE AND OTHER TOPICS

FLORIDA BANKER. Congressman Fuqua, where is this country headed in terms of inflation and in relation to what is being done in Congress to attempt to curb inflation?

FUQUA. Inflation is caused by large deficit spending in government, and there certainly has been a large trade deficit because of this country's huge oil imports. We have been able this year to reduce the President's budget request on every appropriations bill, except the Defense budget. With improvement in the economy and appropriations reductions, the projected deficit has been reduced by $20 billion. There also are many governmental regulations which have been imposed on business which have caused economic barriers to business. We are trying to reduce some of those hindrances but, for the most part, our pattern has been to make regulations to cover large business interests without a great deal of concerned action to cover small business problems.

FLORIDA BANKER. Do you think that a regeneration of the space program on a larger scale to provide more jobs, particularly in Florida, and more scientific technology for our society, would be any great help in curbing inflation?

FUQUA. Well, I do believe we could do some more in our space program, but I don't see that a crash program such as the Apollo Program of going to the moon is necessary or that it would be that helpful in relation to curbing inflation that much. But, we are getting back our investment of going into space, and we don't want to lose our technological pace. We must keep our leading edge on new technology in comparison with the rest of the world, and I believe we can support it. The space program in general has added immensely to the amount of new technology we have, but we need more programs in the development of greater, more advanced technology to compete with other parts of the world. Right now, we get back about $7 for every one dollar we spend in high technology which is good, and we must be most mindful not to let our guard down here.

FLORIDA BANKER. How do you mean we should be careful not to let our guard down?

FUQUA. Well, look at the Chinese. They lost a generation of science during a cultural revolution and are now looking to the U.S. to teach their people in genetics, plant development, and mechanical engineering just so they can survive. That's a good example of their not keeping up with the pace of fast moving advances in technology.

FLORIDA BANKER. What is the present status of the Space Shuttle Program?

FUQUA. As you know, the Space Shuttle is the largest program NASA has today. Tremendous progress has been made since the nation committed to the Shuttle about six years ago in 1972. The first space flight of the Shuttle is now only about one year away. The landing tests last year proved to be successful. The orbiter's main rocket engines have been fired a number of times and the bugs are being worked out. The large solid booster motors have been successfully fired and full scale vibration tests are underway to check out the Space Shuttle launch configuration using the orbiter (Enterprise) that was used in the landing tests last year. As the program stands today, the development costs are expected to be somewhat above the estimates made back in 1971. The early cost estimate of the development phase in 1971 dollars was $5.15 billion. The estimate now, using the same 1971 dollar base, is $5.43 billion, or about a 5 percent increase on those terms. Facilities used for Shuttle development and to provide launch capability at Kennedy Space Center add another $466 million. The Space Shuttle is definitely a high technology program and NASA must continue to exercise strict cost discipline. Operations cost, in particular, will have major impact on the extent of Shuttle usage.

FLORIDA BANKER. NASA has launched items for divers users, hasn't it?

FUQUA. NASA has been launching some 15–20 spacecraft a year for commercial users, foreign users, other government agencies, as well as for NASA's own payloads. These spacecraft include communications satellites, earth sensing satellites and science and planetary exploration spacecraft. In addition, there are about 10 Department of Defense launches announced each year. This same type of traffic is expected in the future and there is reason to believe it will even grow in numbers. Added to this are the potentials offered by such new systems as the Spacelab, under development by the European Space Agency (ESA). Spacelab can provide the Shuttle with labortory and industrial facilities in earth orbit for extended periods of time exploring the scientific and commercial opportunities associated with operations in the space environment. We are only beginning to investigate the possibilities for this new capability from the viewpoint of what can be done and how such activities should be financed. It may be in the national interest for the government—through NASA or some other agency—to provide some form of trust fund arrangement which would allow risk sharing and promote commercial entry into exploiting the potentials of space.

FLORIDA BANKER. Is NASA giving sufficient attention to addressing problems here on earth?

FUQUA. I believe NASA is doing a commendable job in making space pay off here on earth in more ways than just providing immediate business and employment opportunities. It is applying space technology meaningfully to provide foundations for future, presently unanticipated opportunities.

FLORIDA BANKER. Are you satisfied with where we are now in the space program?

FUQUA. I cannot say I am totally satisfied with where we are now; but then, I can't see an end to the benefits which can accrue from further space activities, particularly applying expertise gained in science and

technology to solving problems on earth. The extent to which much of the modern world relies on space satellites for communications and weather forecasting is legend. Dramatic new opportunities in the future may equal and exceed these benefits.

FLORIDA BANKER. How will industry be affected by the Space Shuttle?

FUQUA. The Space Shuttle will likewise provide unique opportunities to NASA and private industries to investigate new materials and processes in the near weightlessness of space. Space industrialization has real potential for the future.

FLORIDA BANKER. Can you give a clearer understanding of NASA's total mission?

FUQUA. NASA is, by Congressional mandate, a high technology organization which is pushing back the limits of man's understanding of the natural processes and phenomena which pervade and control our universe and surrounding space environment. NASA's programs, correspondingly, require a balanced effort. The earth orbiting satellites supporting earth applications activities provide, on the one hand, direct benefits, and we expect relatively near-term results from these programs. These activities include the communications, weather, and earth sensing satellites—such as Landsat and Seasat—and even Space Shuttle operations intended to investigate the potentials for new materials and processes. Space sciences, including astrophysics and planetary exploration, are on the other side of the scale and are, at best, long-term investments. These programs may never provide direct applications, but they do create the necessary intellectual stimulation which may very well provide the critical understanding required to addressing future problems on earth. Examples are the discovery of nuclear fusion heat generation by the sun and the possibility that even more powerful processes may be discovered by attempting to explain energy output of some of the other stars. Other examples include the study of planetary atmospheres which exist under a wide and varying range of conditions and, thereby, provide insight into the mechanisms which are important in controlling weather and climate on earth. NASA applications' programs are receiving additional emphasis as new technology is developed and direct use of data is identified.

FLORIDA BANKER. Should you be reelected, what most concerns you that you would want to do something about?

FUQUA. I am Vice Chairman of the Committee on Science and Technology and have tremendous responsibility in that capacity. The Committee's jurisdiction covers, among other things, all research and development in the field of energy. Developing new sources of energy and practical sources that we can afford is vital. We have to make certain that these programs are followed through. Economic growth in this country is going to be very much tied to how much we do with our science and technology in general. The problem of minerals is going to be another priority area. We have to look for substitutes. However, a recent monthly survey of the Department of Interior, for June 1978, suggests that our slide toward becoming an ever greater import nation is continuing. Of the 35 crucial minerals and metals which are most used in industry, we import more than half the total supply we use in 30 categories. We import from 75–100 percent of our supply in 12 of these categories. Some of these—manganese, chromium, tin, nickel, etc.—are extremely critical materials, all fuels excluded.

FLORIDA BANKER. Has the Federal Government given enough support to solar energy in comparison to the support it has given to other energy technologies such as fossil and nuclear?

FUQUA. Solar energy research and development is a relatively new area of activity when you compare it to the conventional sources of energy such as fossil and nuclear. In fact, there was no coherent Federal program in solar research and development prior to the Arab oil embargo in 1973. At that time the total Federal effort for solar energy amounted to roughly $2 million a year. Since that time the federal solar effort has been consolidated with the lead role now in the Department of Energy with an annual budget of $500 million for fiscal year 1979. This was the amount recommended by the Committee on Science and Technology which was subsequently approved by the House July 17, 1978. This level of funding represents more than a 6,000 percent increase in Federal spending in solar research and development since the embargo. This is clearly progress in the right direction.

FLORIDA BANKER. You are one of the senior members of the Committee on Science and Technology. What specifically has the Committee done to accelerate solar energy technology?

FUQUA. The Committee has done more than just authorize increases in solar energy funding. It originated the enabling legislation which organized and initiated the entire Federal solar effort. Among the public laws are the Solar Heating and Cooling Demonstration Act of 1974 and the Solar Energy Research, Development and Demonstration Act of 1974, both of which I co-sponsored. The Solar Heating and Cooling Demonstration Act established the Federal Demonstration Program for solar hot water heaters, space heaters, and air conditioners. Through activities authorized by this law thousands of solar heating units have been installed throughout the nation and an increasing private solar industry has emerged. The Solar Energy Research, Development and Demonstration Act initiated aggressive programs in advanced solar technologies including wind energy, solar thermal electric conversion, photovoltaics (that is, solar cells like those used in space programs), ocean thermal energy conversion and fuels from biomass (which is the use of crops, agricultural residues and organic waste for the production of energy).

FLORIDA BANKER. You have recently strongly supported two pieces of legislation related to solar energy research. They are H.R. 12505, Solar Power Satellite Research and Development Act, and H.R. 12874, Solar Photovoltaic Energy Research Development and Demonstration Act. Will you discuss these bills and their relationship to the future of the Federal solar program?

FUQUA. The Solar Power Satellite Research and Development Act will establish a technology verification program on the concept of the solar power satellites. These satellites will be in stationary orbit above the earth and consist of a large structure with solar panels to collect the sun's energy and convert it to electricity. This electrical energy, beamed to earth in the form of microwaves, would be received by an antenna on the ground which would convert the microwaves into electricity to be fed into an electric utility grid. The program will investigate the possible environmental consequences of microwave radiation on the atmosphere and biological life and the information obtained will enable us to make informed future policy decisions on the viability of the solar power satellite and its practical development. The Solar Photovoltaic Energy Research, Development and Demonstration Act would establish an aggressive 10-year program in research and development of the terrestrial applications of photovoltaic as a source of electricity. The program to be set up in such a way as to develop low cost systems and demonstrate them in a series of market development situations. The development of a self-sustaining market for photovoltaics would allow an early end to Federal involvement. These two pieces of legislation which have passed the House and are presently being considered by the Senate—when coupled with the present Federal solar program—should lay the foundation from which solar energy can supplement an ever increasing proportion of our energy requirements.

FLORIDA BANKER. Are there any examples of problems in Florida where science is important in providing solutions that immediately come to your mind?

FUQUA. There is Florida's attempt to deal with the energy problem. Currently, all counties in the State are creating mandated energy resource recovery plans to be developed by July of next year. This is a cost being borne by citizens at the local level to solve a problem where expertise already existing at the Federal level could have been applied. The Science and Technology Committee is pushing the Department of Energy to more effectively utilize national and state universities in an energy extension network to cope with such problems. Another example is coastal zone management. Science can provide Florida with added ability to better manage those resources for maximum usage; also, NASA's cooperative program with the citrus industry in freeze line predictions.

FLORIDA BANKER. Are we behind the Soviet Union in technological information?

FUQUA. No. Our threat is coming from other parts of the free world—from Japan and West Germany, as well as other free world nations.

FLORIDA BANKER. In your estimation, will this nation ever have to capitulate completely to the Soviet Union?

FUQUA. I don't think so, but this country will have to change the trend of years gone by. We have in the past been able to convert to a war stance during war, but things may be somewhat different now. We may realize the importance of working carefully with the various alliances we have made in the free world. We must continue to modernize our strike force and never get caught in a defensive posture.

FLORIDA BANKER. In your opinion, is it possible to reduce the cost of operating the Federal Government?

FUQUA. Yes, if we can find and eliminate the waste and inefficiency which has permeated every level of the Federal Government, many millions of dollars would be saved. There was evidence of this a few years back when the House Government Operations Committee, on which I serve, insisted that there be placed within the Department of Health, Education, and Welfare an Inspector General. He has already identified over $7 billion in waste, inefficiency and fraud within that Department. Recent disclosures of the scandal in the General Services Administration here again point out fraud, waste, and inefficiency in that Agency. It is true throughout the entire Federal Government, and if there can be a firm handle put on this in making programs operate more efficiently, cost of operating the government can be reduced. Also, the setting up of better management procedures is a measure which can be utilized.

FLORIDA BANKER. What are your thoughts on President Carter's plan to create a senior executive corps to manage the U.S. Civil Service System?

FUQUA. In its inception, the civil service system was designed to remove politics and the spoils system from the hiring and firing of Federal employees and to create a career service. However, in so doing, it was not intended that a bureaucratic maze of inefficiency be built into the system. There has got to be a way that inefficient, unproductive employees can be removed from Federal employment. There has also got to be an incentive for the bright, energetic and innovative people to work within the Federal system and gain both satisfaction and reward for their hard, efficient work. I think that getting senior executive people who are

skilled in personnel management could improve the civil service system and make it what it was originally designed for and what it should be.

FLORIDA BANKER. What is the most important area of your work which relates most closely to the Florida banking community and what programs are under consideration in the Government Operations Committee which might reduce the increasing volume of government regulations bankers and other businessmen are required to cope with?

FUQUA. Well, bankers have been known for their concern and attention to economy and efficiency. We are trying to work towards these same objectives in operating the Federal Government and the banking community has expertise that is important for us to pay closer attention to. I think bankers are interested in good, honest government and are working in that area to try to make certain that the government subscribes to efficiency, economy and honesty. To address the second part of your question, there have been several studies made to eliminate duplication and excessive regulations and reports that all businessmen are required to complete and hand in to the Federal Government. There was a Commission on Paperwork recently which has some very specific recommendations and I am pleased to note that the Carter Administration is implementing a large number of the recommendations made by that Commission. We are constantly trying to review the number of regulations and reports which government agencies require. They somehow seem to grow like coathangers in the closet. You clean them out and improve the situation, and then in a few years you're right back where you were with too many coathangers once again. This is a constant problem—one which requires continuous attention.

FLORIDA BANKER. One problem every legislator seems to have is communication with his constituency. Is there something you can tell Florida bankers about how to let you know their feelings on the issues?

FUQUA. Communicating at early stages of legislation is important—that is, the bankers should tell me as soon as possible why they oppose or support something. For instance, we are sometimes down to the eleventh hour on legislation, and they say, "We need to kill that proposition because it will really cause Florida banking problems." In such a situation, I needed to know, perhaps, six months before.

FLORIDA BANKER. Do you want a lot of cards and letters?

FUQUA. We appreciate the letters and cards, especially the kind that say why someone is for or against a bill. They might continue, "My opinion as a banker is . . ." This is much more helpful than just threatening kind of correspondence. Hearing from bankers more often would be helpful. The more information I get and the earlier I get it would work out most advantageously for all of us. Explain why you think something is not good for banking or the public. We legislators have to answer to our constituency and they are not all bankers. When I receive a letter from a banker, I have to be honest and consider to the best of my ability all of the people I represent. I have to ask myself, "How would I feel about the issue if I were not a banker, or if I were in another fellow's position?" I think that is a problem every legislator has. But, communication is very important. My staff and I have to keep up with several thousand bills floating around and it is easy to get behind in your knowledge of the details of each and every bill. So, I appreciate people who take the time to communicate that which they take issue with and also when they look at the issue in terms of the public interest.

FLORIDA BANKER. What is our present course with Cuba?

FUQUA. I see no reason for this country to enter into any normal relations with Cuba. It does not appear that this would be an appropriate time to do so. Should they choose to live peaceably with other parts of the world, then negotiations could properly begin. We don't have a normal, recognized relationship with China yet and I surely don't know where in the future we will.

FLORIDA BANKER. What is Congress doing in relation to improving our ability to forecast severe weather?

FUQUA. Over the past few years there have been several serious disasters which have taken hundreds of lives. Most of these have been caused by severe storms and flash floods. Congress has provided the funds for the National Weather Service to establish a national weather radar network which is now nearing completion. This network will enable Weather Service meteorologists to identify and track severe storm systems and to give the public more adequate warning when danger threatens. The Committee on Science and Technology has been instrumental in promoting research concerned with weather modification and understanding the atmospheric phenomena associated with hurricanes and other severe storms. Existing research efforts in this area have been largely uncoordinated and diffuse. The Weather Modification Policy Act of 1976 directs the Secretary of Commerce to report to Congress on how we can better organize and manage our research activities so that eventually we will be able to better predict such occurrences and take positive, constructive steps to mitigate adverse impacts. Weather modification research on hurricanes has produced some encouraging results. As you may know, hurricanes are the most destructive of natural phenomena, causing annual losses of $800 million or more. Three storms since 1965 have resulted in losses of more than $1.4 billion. We know that cooling the ocean surface will probably moderate a hurricane's damaging winds. In addition, extensive experimentation with cloud seeding of immature hurricanes appears to reduce the windspeed in the formation of vulnerable atmospheric conditions. Although we don't, today, have proven techniques to prevent these disastrous events, we are gaining a better understanding of their dynamics so that we might eventually reduce these adverse impacts.

FLORIDA BANKER. What does aquaculture have to do with Florida?

FUQUA. In Florida, we are already pursuing its potential. We are now doing catfish, trout and salmon farming in the U.S. Each of these areas has become a real industry. All have problems associated with them, but nevertheless, they are commercially productive. Moreover, other species have potential, including shrimp, prawns and marine fish. The development of aquaculture is not without its troubles, though. There are legal problems, problems related to land and water use, and certain technical problems associated with breeding, nutrition and disease. Although there have been attempts within Congress and the Executive Branch to deal with aquaculture problems, the attempts have been broad in scope and have resulted in jurisdictional disputes between various governmental entities. The Committee on Science and Technology can play an important role in this area by examining some of the specific scientific problems which are likely to provide roadblocks to the development of aquaculture. For aquaculture to be effective, it is extremely important to take advantage of warm water and warm climate, both of which are common to Florida.

FLORIDA BANKER. Thank you.●

A LOOK AT THE REAL WORLD NEEDS IN HIGHWAYS

HON. GENE TAYLOR

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1978

● Mr. TAYLOR. Mr. Speaker, as we attempt to conclude consideration of H.R. 11733, the Surface Transportation Assistance Act of 1978, I feel that an address recently made by Mr. Robert N. Hunter, chief engineer for the Missouri State Highway Department merits the attention of my colleagues.

I have worked with Bob Hunter many times since coming to the Congress and have found him to be a most knowledgeable and considerate man, easily one of the most competent, involved with our National Highway System today.

Mr. Hunter spoke recently to the National Limestone Institute's 33d Annual Convention. I believe that in reading his message we will be able to better understand the importance of the legislation on which we will be voting.

The message follows:

A LOOK AT THE REAL WORLD NEEDS IN HIGHWAYS

(By Robert N. Hunter)

I want to talk to you this morning about what I consider to be the real world situation on the highways of this country. I say the real world situation because we continue to hear too many misstatements about our roads and highways and there is still considerable evidence of a lot of misunderstandings about the status, the condition, the role, and the general acceptance of this most important segment of our national transportation system.

We have been through the 1960's and have heard a relatively small but vocal group condemn our American way of life and the so-called establishment. We, the highway engineers, together with the contractors, the producers, the equipment manufacturers, and the rest of the so-called highway industry, have been scorned by that vocal minority as the desecrators of this country along with most, if not all, technology—a technology that has afforded the people of this country the highest standard of living in the world. Far too many of the people in this country were swayed by those outcrys and by the failure of people like you and me, who know the situation best, to counter that condemnation with factual information.

The development of the highway system came in response to an expressed need in the early 1900's by the agricultural community of this developing nation for an efficient means of transportation of produce to the established and developing water ports and railheads. It was a most important phase of a transportation revolution whose beginnings reach back in history to the American Revolution.

A few of you will recall the establishment of State Highway Departments in the several states throughout the nation at about the time of World War I. More of you will remember the busy times of the 1920's and the 1930's into which those fledgling State Highway Departments immediately plunged—constructing the highway systems which linked cities to towns, and farmsteads to both. The first roads built weren't impressing by today's standards. But as the busy and productive years went by, the roads

got better fast: first just dirt, then some gravel, then macadem and bituminous surfaced highways, and finally the portland cement and asphaltic concrete pavements of today.

Although the type of highway facility provided could never keep up with the continuously increasing traffic thereon, the road network established then is the basic network of the road and highway system we enjoy today. The highway engineers of that era had remarkable vision and a keen sense of purpose. The contractors, the equipment manufacturers, and the many other representatives of that great free enterprise system which some of us still support played an equally important role in providing that economical system of surface transportation. All America owes that group, the highway industry, a lasting debt of gratitude.

Many of you here recall that in the 1940's during World War II, road building ground to a halt as we concentrated our efforts and resources elsewhere. The postwar period, however, brought rapidly accelerating motor vehicle registrations and travel. Road building, which had never kept up with demands, faced even more challenging pressures. It was evident that means had to be found to alleviate the horrible congestion which was prevalent on the two-lane roads throughout the nation. So we set about the task of upgrading and improving the most inadequate sections of the existing system to standards designed to cope with those increasing volumes.

Again, men of vision, men who had observed the famous German Autobahns and who had first-hand knowledge of the importance of an efficient road system in the logistics of war, began laying out a national system of interstate and defense highways which was to follow the most important segments of the then existing primary highway system.

This new freeway system was an entirely different concept in highway construction, save for a limited number of miles in the major metropolitan areas. It was proposed as the safest and most efficient travel known to any of us. It was going to be much more expensive to construct, as well as to maintain, than any road system we had constructed. It was determined, therefore, that 90 percent of the cost of construction would come from the Federal Highway Users Fund and that the states would assume the maintenance responsibility. It was also determined that the cost for constructing that established system would be made available with no ceiling on the pricetag. These kinds of funding programs tempt people.

The ambitious program begun in 1956 was to have been completed in 16 years or by 1972. The customary doubting Thomases said it couldn't be done. They questioned the ability of the states to accomplish the design and right-of-way acquisition. They said that there simply wasn't the skilled contracting force to accomplish the work and that the large equipment requirements simply could not be met by the equipment manufacturers. Well, as you know, it wasn't done. It was not completed in 1972, but not for the reasons voiced by the detractors. The contractors quickly demonstrated their ability to provide the trained forces and to handle the construction as rapidly as the projects could be made available to them. The equipment manufacturers not only tooled up to produce the then available equipment, but through research and development, continually improved equipment to more adequately handle the demands upon the contractor. The failure to complete that program on time was not due to inability to develop plans and to provide the necessary construction capability. It was due to funding delays and to continually changing standards, requirements, and procedures and the costs thereof.

Let's take a look then at that imposition of new procedures, requirements, and standards on the Interstate Program, as well as on the entire highway program; because in fact, when these changes came about through Federal-Aid Highway legislation, they applied to all Federal-Aid, not just that on the Interstate system. Since the Interstate system was the primary emphasis at the time and was to be funded at whatever cost, perhaps we did not give consideration that we should have given to the revised provisions being suggested and offered by people within and without the industry and to their particular impact on that fixed funding available for the system other than the Interstate.

The standards conceived initially for the construction of the Interstate freeway system were certainly the most advanced we had seen to that point in time. Yet we provided for added emphasis with safety sections and markedly increased safety standards that increased costs by one-third.

We had established right-of-way procedures which were working well. But we revised them to give even more consideration to the person displaced by the highway improvement with relocation assistance programs and other changes that could have doubled the cost of right-of-way acquisition.

Public involvement, which was part of the process in many states, became formal and stilted, resulting in costly and timely delays.

Then, of course, all of us are too familiar with the environmental impact procedures which required in far too many instances, dissertations on even the remotest aspect of the environment.

The equal employment opportunity program, worthy as it may be, injected governmental agencies into the determination of contractor and supplier work forces. Training, supportive services, and enhancement of minority business opportunities added to the highway contractor's responsibilities.

The increased interest in beautification resulted in more consideration of aesthetics and landscaping, as well as control of outdoor advertising and junkyards.

We saw the emphasis increase on historical preservation, particularly in the area of archaeology where procedures have involved an alarming increase in the requirement for surveys of highway corridors for items of archaeological significance. Where such a survey indicates even the slightest evidence of something of archaeological significance, a dig or other mitigation process is required.

More recently the 404 Permits required and administered by the Corps of Engineers where there is dredging or filling in the stream areas have resulted in extremely serious procedural problems and delay.

These provisions, and others like them, both directly associated with highway improvements and abstractly associated as social issues have certainly increased the cost of doing highway business. There is no question that some of these have been very worthy and in these instances the revisions in standards, procedures, and requirements should have been made. But in each instance, we should have determined the cost, made that information known, and exacted a commitment for the funding thereof before those provisions were accepted. Some of these provisions involved direct cost to the highway improvement. Some were not so direct, and in fact, have been funded with other than highway user funds. But even so, the administrative costs for these kinds of requirements have been substantial. I am sure you know that with such provisions, it has been necessary that a special section or division be established in the federal agencies involved, and in all too many instances, in the state and local agencies. So even where the impact isn't direct, it is real and it is costly. The serious end result of the kinds of activities we've been talking about is reduced productivity.

Our failure to recognize and make provision for the increased costs of these revisions in the highway program has brought us to a very serious predicament. We are now faced with a latest Interstate estimate which indicates the cost to complete the remaining 10 to 15 percent of that system will be at or near the original estimate for the entire system. Nationwide, and certainly in our state, we are looking at a situation where we are constructing annually only one-fourth of the mileage of the highway improvements that we constructed 15 years ago. In short, we are falling further and further behind in providing for the growing needs on the nation's highway system—a system that is indeed the backbone of the nation's transportation system.

Austerity has been a way of doing business in the highway program throughout its history. While the standards we have developed for new highway construction were accepted as most desirable, most of us in the State Highway Departments realized at least a quarter of a century ago that it was going to be impossible to afford such major improvements on extensive sections of our highway systems with the on-going funding restraints. Those were the standards, however, accepted as requirements for federal-aid participation in highway improvements. We, the states, seeing and knowing this, proceeded with a widening and resurfacing progam with state funds. That widening and resurfacing program extended the life of pavements and bridges, and those wider lanes resulted in considerably improved traffic operation and safety on many miles of those antiquated systems. We in the highway departments noting some of the developments we have just been discussing today, realized several years ago that more extensive application of stop-gap measures, such as the widening and resurfacing program, were going to be necessary if we were to take care of even the most critical needs on the extensive systems.

We solicited the assistance of the Congress and in the 1976 Federal-Aid Highway Act were successful in securing a modification of the definition of construction to include resurfacing, restoration, and rehabilitation which made this type of work eligible for federal aid. Throughout the country we heard state and federal people shortly thereafter expounding on the virtues of this type of work. But opposition to the proposed standards has all but halted implementation of that program. It is evident, in my opinion, that the people opposing those standards and the implementation of that program simply do not understand the situation.

Well, this is my appraisal of where we are and how we got there. I hope each and every one of us recognizes the implications of this predicament. We have saddled ourselves with additional federally imposed standards and procedural requirements without any provisions for the necessary increase in funding. We are in a position where we cannot provide for even the most pressing and critical needs within a reasonable time period.

Make no mistake about it, those needs are there. It is evident that there is a national awareness of the seriousness of the bridge situation. Many of those bridges and far too many miles of our existing systems have been in service for half a century. Most of us would agree that approximately 10 percent of the bridges on the systems definitely require major repair and replacement within the decade.

I think most of us would also agree that we have some very serious capacity problems that must also be met within the decade, to say nothing of the maintenance type of work that the 3R Program would provide. I am sure that every state which has taken a critical look at these most basic and urgent needs realizes that there is simply no way that work of even that magnitude can be carried out without marked increase in funding levels. At the same time, we are aware of

a present funding dilemma that results from more fuel efficient travel coupled with increasing vehicle miles of travel annually.

I mentioned earlier the vision, the character, and the sense of purpose of the people who carried out the early highway program. It takes top quality people to make these kinds of programs go. I am afraid that the irresponsible attacks and condemnations of our effort, together with our rather defensive response to them, has seriously eroded one of the finest professional groups in the history of our nation.

Our precedessors were generally regarded as outstanding contributors to the way of life of our developing nation. It was a positive mood. How can we expect a developing professional these days to aspire to participate in this program with the continued villification and abuse which are too often the cost of that participation? Where will we find the Thomas H. McDonald's, the DeWitt Greer's, the Alf Johnson's, the Rex Whitton's, the Dave Stevens' and a host of other very capable men that you and I have known?

Ladies and gentlemen, you and I fully recognize that transportation has played a most important, if not the primary role, in the economic and social development of this country, and that the predominant role in transportation has for a number of years been that of highways. With the demonstrated need, and an awareness of our current situation, we must take steps to move forward in a positive manner. Increased funding at both the state and national level is going to be necessary. The Interstate should be funded at the maximum level the Trust Fund will bear and completed now. We must draw the line on imposition of additional programs and provisions which are not accompanied by the necessary funds. We must also call for a hard look at the existing and ongoing programs to ascertain whether the provisions for those programs are being realistically administered and practically applied. Certainly we should take a look at benefits and costs and eliminate or reduce those activities unwarranted by that review.

We are talking, of course, of regulations and the legislative process. I am impressed with the people I have had an opportunity to meet in the United States Congress recently, particularly in the public works area. I am also impressed with the committee staffs. I don't know any of these people who want to enact bad legislation, and they are as concerned about some of the issues we have been discussing here today as are you and I. I think we must increase our efforts, however, to provide concise, factual information to the Congress in order that the legislation emanating from those halls continues to be in the best interest of all of the people of this country.

We have every reason to be proud of what we and our predecessors have provided in the way of highway transportation over the years for the people of this nation. We must, therefore, assume a positive attitude. Let us, you and I, resolve that we are going to redouble our efforts to tell the people of this nation the real facts in the road and highway situation. Let's tell it like it is.●

ROY CAMPANELLA

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1978

● Mr. OTTINGER. Mr. Speaker, the name of Roy Campanella has become synonymous with the word courage. For the better part of a decade there was no one in baseball who gave more of himself than Roy. His great talent and desire to win earned him many great honors. He was three times the National League's most valuable player, and he achieved the ultimate in baseball, election to the Hall of Fame.

But Roy Campanella's courage has shown itself in a greater fashion off the field. A car accident left him paralyzed, a condition which would have made most people give up on life. But not Roy Campanella. Roy continued to show the great leadership that had been his trademark as a baseball player. He became a member of the advisory council to the New York Legislative Select Committee on the Mentally and Physically Handicapped. Roy went on to receive the New York Urban League's Whitney M. Young, Jr. Memorial Award in 1975.

A respected Westchester resident for a long time, Roy Campanella has shown that determination and courage can overcome any physical disability. Whether behind home plate or in a wheelchair Roy Campanella has set an example for all to follow.

Roy is a personal friend, last but not least. We worked together to successfully improve the town of Greenburgh, provide badly needed housing, day care services, a community center, health facilities and other vitally needed services. He is tops in my book and in wishing him well, I know I am joined by all the citizens of Westchester—indeed of the country and the civilized world.●

SUGAR FACTS AND FICTION

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1978

● Mr. TRAXLER. Mr. Speaker, in the next few days, we will be voting on H.R. 13750, the Sugar Stabilization Act of 1978. I urge you to vote "yes" on H.R. 13750 as reported by the House Agriculture Committee.

This essential legislation is a realistic effort by the House Agriculture Committee through the leadership of our colleague, KIKA DE LA GARZA of Texas, to provide a realistic price for sugar in the marketplace, and to implement the terms of the International Sugar Agreement, agreed to in Geneva last year, but still not ratified by the Senate.

We tried last year to provide a temporary domestic support program of loans to sugar producers when we passed the de la Garza amendment to H.R. 7171, the Food and Agriculture Act of 1977. The House Agricultulre Committee describes the friuts of our efforts in its report on H.R. 13750:

Congress affirmed the seriousness of the economic crisis facing the domestic sugar industry by requiring the Secertary of Agriculture to undertake needed actions to support the price of sugar as part of the 1977 omnibus farm bill. However, *efforts to implement Congressional intent were long in coming and then so feebly begun as to be largely ineffectual.*

Some of our colleagues are of the mistaken impression that this bill is designed to guarantee producers a profit. It is easy to say that somebody else is getting rich when you have not examined the facts.

Fact: The International Trade Commission has determined in several instances that foreign sugar is being dumped on the United States.

Fact: Foreign producers can produce sugar more cheaply than American producers because they do not have to provide their workers with the standard of living that we expect for American workers, and do not have to comply with Federal regulations from EPA in the use of pesticides and other farm-essential chemicals.

Fact: Foreign countries charge their consumers more for sugar than consumers in the United States pay. While consumers in Michigan were paying 22 cents a pound retail for sugar, prices in foreign cities were 31 cents in Bonn; 45 cents in Brussels; 24 cents in Buenos Aires; 68 cents in Copenhagen; 28 cents in Paris; 31 cents in Rome; 37 cents in Stockholm; and 48 cents in Tokyo.

Fact: These prices overseas are earned by sugar producers through predetermined sugar contracts which guarantee sugar producers a profit. This sugar constitutes over 80 percent of the sugar produced in the world.

Fact: Even the opponents of the Sugar Stabilization Act of 1978 admit that the so-called "world market" is for only about 20 percent of the sugar produced in the world. This sugar is what is left over after the contracts have been filled, and is either sold for whatever price it will bring, or be thrown away as a total loss.

Fact: Even the U.S. Department of Agriculture admits that according to its figures, the cost of producing sugar in the United States is an average of 15.2 cents per pound. They further admit that using their own escalator formula, the cost of producing sugar in 1979 will be an average of 16.4 cents per pound. The letter you may have received from Barry Bosworth, Director of the Council on Wage and Price Stability, contained an error saying that production costs are an average of 14.05 cents per pound. If you read the Ways and Means Committee's report on this legislation, pages 24 and 25, you will see that this committee recognized the cost of production is about 15 cents per pound. The 14.05 cents per pound figure comes from calculations done by USDA to determine a base from which to make payments to sugar producers.

Fact: The entire domestic sugar industry is opposed to direct payments. They believe that they should get their price from the marketplace, not from tax dollars.

Fact: Sugar on the "world market" has sold for as little as 6 cents per pound this year, and Assistant Secretary of State for Economics and Business Affairs Julius Katz testified before the Ways and Means Committee that he did not believe any one was making any money at these prices.

Fact: The United States imports about half the sugar it uses. This means that

foreign producers know that they can make more money in the United States by selling their surplus sugar below the cost of production than they can by throwing away what is left over after the profit-guaranteed contracts have been filled.

Fact: There is no way that domestic sugar producers who have costs 2½ times the amount of the world dumping price of excess sugar can compete in the domestic market. No one can be expected to sustain losses year after year and remain in production.

The administration says that the way to protect our domestic industry is to implement the International Sugar Agreement which has yet to be ratified by our colleagues in the Senate. The administration claims that the International Sugar Agreement is better for our consumers.

Fact: The International Sugar Agreement is designed to raise prices to between 11 cents and 21 cents per pound. When adding in the basic U.S. import fees, this means that domestic prices would be between 14.5 cents and 24.5 cents per pound, if the agreement works.

Fact: The administration says that consumers should not pay higher prices, and prefers using a direct payments scheme to domestic producers to supplement their income, using tax dollars from consumers in order to prevent consumers from paying more in the grocery store.

Fact: Consumers are taxpayers. Taxpayers are consumers. They pay either way.

You cannot have it both ways! If the administration wants the international agreement, then it is saying that we need higher sugar prices. If it is saying that we need higher sugar prices, then it is saying consumers must pay more for sugar!

But look at the realistic point of the situation. No one wants to work for less than they feel they truly deserve. After all, that is exactly why the Congress has passed minimum wage legislation in the past.

Fact: The Sugar Stabilization Act of 1978 is designed to cover costs of producing sugar, and provide for annual adjustments in the price of sugar in accordance with the program the Congress had in force from 1934 to 1974. The primary reason why we stopped the other program was that some of our colleagues were misguided by then Secretary of Agriculture, Earl Butz who opposed the program, and

Fact: We have paid the price for our earlier mistake with the closing of several sugar beet and cane processing plants over the past several years.

Fact: Historically, no sugar processing plant that has ever been closed has ever reopened. The result is a loss of jobs, a loss of income to the communities that these plants served, and a corresponding decrease of our ability to meet our sugar needs with domestic supplies.

Some of our colleagues may even suggest that if a farmer cannot earn money from his sugar crop, he should grow something else. Off-the-cuff answers are always easy.

Fact: The only options for crops in sugar beet producing areas are for the most part other price-supported commodities. If every farmer grows soybeans, wheat, or corn, all that will happen will be that the glut in those crops will drive the price of those crops down again, and the farmer will still be no better off.

Fact: The Secretary of Agriculture through set-aside programs wants to reduce production of these crops, so beet areas really have no option.

Fact: Growers of sugarcane do not have any other options. The type of soil and climate conditions that are available in cane producing areas are rarely suitable for any other crops.

It is easy to say that we should not vote for this bill because we might save consumers a few pennies, and do not kid yourself because that is all this saving would be on the normal 5-pound bag of sugar.

Fact: If farmers go out of business because they cannot earn a living as farmers, who will provide our food? Sugar may be only one example, but the precedent value of the defeat of this bill would be enormous.

Do not let yourself be taken in by the purveyors of doom. Ask questions. Read the reports. The facts are on the side of support for the Sugar Stabilization Act of 1978.●

THE CAREER INTERN PROGRAM

HON. ALBERT H. QUIE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1978

● Mr. QUIE. Mr. Speaker, I would like to take a moment to advise my colleagues about a program which has been working since 1973 to help high school dropouts or those who are in serious risk of dropping out before graduation. The program, the career intern progam (CIP) was developed by the Opportunities Industrialization Corporations of America, Inc., in Philadelphia.

The CIP has three phases: the first is 21 weeks in duration and includes classes which relate basic disciplines such as math, English and science to the world of work. The second phase lasts from 4 months to 1 year, depending on the number of credits necessary for graduation. During this phase students are exposed to at least two job experiences and to additional courses. Phase III provides additional counseling to help prepare the student for the transition from school to work or to additional education. Counseling continues for 6 months to a year after leaving the program, depending on the choice made by the student as to working or additional education.

In a study published recently by the National Institute of Education, some results of the CIP experiment were presented. Those results show that a high percentage of students enrolled in CIP stayed in school and graduated, graduates were employed, and additional graduates were enrolled in college or technical school. The costs of the program were only slightly more than the cost of a vocational education program in the city's public high schools, and the results seemed more successful.

In the report accompanying the Career Education Incentive Act of 1977, the Education and Labor Committee recommended this program as a model to be used by State education agencies. I now commend it to my colleagues as a program which does something positive for youth who might otherwise add to the high youth unemployment figures.●

CONGRESS HAS KEPT ITS HEAD

HON. B. F. SISK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1978

● Mr. SISK. Mr. Speaker, I would like to call to the attention of our colleagues the following article by Nick Thimmesch which appeared in the August 30 edition of the Chicago Tribune. I think the points made by Mr. Thimmesch are most timely and worthy of serious consideration.

DESPITE SCANDALS, CONGRESS KEEPS ITS HEAD ABOUT KOREA

WASHINGTON.—Despite the furor over "Koreagate" (a fading term), congressional threats to South Korea, and the exasperation which made Leon Jaworski's face wrinkle like a shrunken orange, Congress has kept its head.

The way it is headed now, South Korea will not be denied any military aid; thus rationality wins. Congress sensibly kept separate and distinct the emotional wrangling over the sins of certain South Korean agents and willing congressmen from the cold realization that South Korea has a serious security problem, one requiring continuing U.S. support.

The Senate and House have passed a bill authorizing the transfer of $800 million in U.S. weaponry to South Korea, to be tied in with a phased troop withdrawal. The bill also includes $269 million in foreign military sales aid. Final details for both measures are being ironed out in conference.

A House move to stop $56 million in concessional loans for South Korea to buy food from the United States succeeded (congressmen remember some hanky-panky rice business, but now the Senate is on the verge of putting the money back into its legislation. In any case, South Korea has $1 billion of its own to buy grains and other foods from the United States in 1979. Economically, South Korea stands on its own.

For many people, South Korea is off in the Orient, a peninsula hanging near Japan, a place where a violent war was fought and 53,000 Americans died over a Communist invasion one generation ago.

It is also the place which sent us Tongsun Park and his bags of money, thus setting off investigations and news stories laced with Korean names we can't pronounce and references to dead or fading congressmen. In sum, South Korea probably doesn't mean much to the majority of Americans.

South Korea is to be admired for the way it rebuilt itself after being reduced to rubble in the war with North Korea's Communists. South Korea today is a prosperous, hard-working nation, deeply grateful for the effort and sacrifice of the United Nations forces a generation ago.

But South Korea is also a tragic nation.

The two Koreas belong together. The Korean people are divided because of the blunder of allowing Soviet troops to move into Korea far enough to accept the Japanese surrender.

Naturally, the Communists wouldn't allow free elections, supervised by the United Nations, so the North Korean Communist regime was born, and South Korea remained the place where people were introduced to Western democratic ways.

U.S. troops evacuated South Korea in 1949 and, less than one year later, North Korean Communist troops invaded and overran South Korea. Thus began the "police action" by the U.S. and U.N. troops, a war that raged back and forth over the 38th Parallel for three bloody years. But the decades passed, and we forget.

Though the North-South situation is chronically tense, we paid relatively little attention to South Korea until the complicated story involving venality, favors, and bribery broke in 1976.

The revelations showed that the American art of public relations and wheeling-dealing had been exported to booming South Korea and returned as an import welcomed in some corners of Congress. What has passed as an investigation confounded and frustrated Jaworski, hero of the Watergate wars.

Concurrent with this lesson in human frailty was President Carter's badly executed, even premature announcement that he was going to order nearly all U.S. troops withdrawn from Korea by 1981. The shock of Koreagate was thus compounded. Fortunately, Carter reconsidered, and slowed the troop withdrawal.

Now South Korea does not measure up to what Pecksniffs like Rep. Donald Fraser (D., Minn.) demand in terms of a democratic government. President Park Shung Hee is a stern disciplinarian, perhaps too much so, and has dispatched a fair number of dissidents to the slammer.

But one day four years ago, President Park held his wife in his arms as she lay, dying from the bullets of Red Guard terrorists in a Seoul theater. So he is strict about security. The DMZ is only 47 miles away, within easy range of Communist rockets.

I have met with South Korean dissidents in Seoul, and while they firmly oppose Park, they are just as opposed to the repressive North Korea regime of Kim Il Sung, and would fight any Communist invaders. Meanwhile, they hope for a more enlightened government in their own nation. The fact that I could talk with them, and we never find dissidents in North Korea to talk with about anything, tells the story.●

RETROACTIVE CREDIT FOR HIGHWAY PROJECTS

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1978

● Mr. SCHULZE. Mr. Speaker, today, I am introducing legislation which would require the Secretary of Transportation to establish a formula to give retroactive credit to those State highway projects which would have qualified for Federal matching funds.

I am deeply concerned that the highway trust funds have not been adequately used to the detriment of States and the National Highway System. Our original intent in passing Public Law 84–627 was to assist States in developing and maintaining a superior system of roads and highways. By requiring unused apportioned funds to be returned to the Federal Treasury, we are defeating the original intent of this legislation. Allowing the States to apply already expended funds as their share of the matching formula, the apportioned funds would be used in the construction of interstate and intrastate highway systems.

In Pennsylvania alone, there are several projects which in the absence of Federal matching funds remain incomplete to the economic detriment of the State. I am sure that many of my colleagues could cite similar examples where local leaders, hoping to avoid the long drawn out process and reditape of applying for Federal matching funds, initiated in good faith construction of desperately needed highway projects and now lack the funds to complete them.

I am convinced that available Federal funds should be applied to these worthy and necessary projects which would have qualified for Federal matching funds. My bill will make those funds available retroactively and insure the completion of many construction programs throughout the United States.●

COST OVERRUNS AT NEWPORT NEWS

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1978

● Mr. EILBERG. Mr. Speaker, those of us in the Congress who recognize the need to eliminate waste in Government spending are very much concerned about the enormous cost overruns in its construction and refitting of Navy ships at the Newport News Shipbuilding Co.

These overruns are of special concern to my colleagues from Philadelphia and me, because Newport News is contesting the Navy's assignment of the USS *Saratoga* for refitting to the Philadelphia Naval Shipyard.

Very clearly, Mr. Speaker, the Navy's decision is a sound one. The Philadelphia Naval Yard can accomplish the *Saratoga* overhaul in an efficient and economic manner.

In light of the tremendous pressure being brought to bear by Newport News to reverse the Navy's decision, I believe my colleagues should be aware of several portions of testimony offered in this Congress and the last by Admiral H. G. Rickover, Director of the Naval Nuclear Propulsion Program.

Admiral Rickover details the pressure which Newport News has applied to the Navy to settle these claims on a lump sum basis; the refusal of Newport News to certify its claims; the threats by the yard to stop work; and the unnecessary and deliberate paperwork and delays created by Newport News, forcing the Navy to devote massive amounts of time to settle cost overruns:

TESTIMONY BY ADMIRAL H. G. RICKOVER

Mr. Chairman, I was invited to testify today about procurement and related problems. Your staff, however, has asked me to focus on the shipbuilding claims problem, and particularly on the claims submitted by Newport News.

I have testified previously to this committee and to other committees of Congress regarding the shipbuilding claims problem. The current claims problem permeates nearly all aspects of my work. The Navy must rely on contracts in obtaining the ships, weapons, and the supplies it needs from industry. Contracts set forth the rules under which the work is to be done. The responsibility of Government officials involved in the administration of the work is twofold: First, to insure that the work is performed properly in accordance with the contract terms; second, to insure that public funds are legally spent.

DOD DECISION TO SHORT-CUT CLAIMS PROCESS

In the area of shipbuilding claims, the Defense Department has decided to shortcut this process in an effort to resolve quickly the current shipbuilding claims against the Navy. The Defense Department has notified Congress of its intent to settle claims with four shipbuilding companies by use of Public Law 85–804. This statute gives the executive branch authority to provide extracontractual relief whenever such action is deemed necessary to facilitate the national defense. Authority to provide such relief has been vested in senior officials of the Defense Department, but subject to congressional review.

PRESSURE ON NAVY TO SETTLE ON LUMP SUM BASIS

For years, the Navy has been under considerable pressure from some shipbuilders to settle claims on a lump sum or total cost basis which would make potentially unprofitable contracts profitable. These shipbuilders assemble large teams, comprised of lawyers, contract specialists and accountants, to draw up their claims. One shipyard used as many as 100 people to prepare a single claim.

To generate the basis for large omnibus claims, employees are encouraged to search out and report actions and events that may be used as the basis for a claim against the Navy. Even minor technical matters are now treated as contract matters.

CONTRACT CHANGES

As a result, settlement of contract changes has become increasingly difficult. Often the company either refuses to price the changes in advance, quotes excessive and unsupported prices, or demands the right to reopen contract pricing later for other reasons such as the cumulative or ripple effect of changes. Because of the length of time required for ship construction and the continued need to update ship specifications to meet new defense requirements, changes have been and always will be an inherent part of ship construction. Shipbuilders, from many years of experience, are well aware of this when they take Navy shipbuilding contracts. Historically, the changes amount to about 5 percent of the contract work. The Navy, of course, is contractually obligated to equitably adjust contract price and delivery date to reflect the impact of changes. Whenever possible, the Navy tries to reach agreement with the shipbuilder on price and schedule adjustment prior to authorizing the change. However, shipbuilder actions often make this impossible.

CONTRACTOR ACCUSATIONS

Along with the valid changes shipbuilders include in their claims, they include many allegations against Government administration of contracts. It is frequently difficult to sort out their various accusations, let alone

determine legal entitlement or assess cost impact. The evidence presented in the claims is from the viewpoint of the contractors, not from that of those paying the bills.

Shipbuilders have complained of untimely delivery of Government furnished equipment and drawings; defective specifications, excessive tests, trials, and inspections; constructive changes to work scope and letters of direction; Government insistence on erroneous contract interpretations; Government recruiting practices; Government interference with contract performance through imposed limitations on work methods and other shipbuilding operations; changes in health, safety, and pollution control laws; Government "abuse of discretion"; Government imposition of management systems; and the Government's unilateral revision of contract requirements.

Sometimes, the same complaint reappears under various descriptions, leaving the impression of widespread Government interference. Other elements of the claim are based on alleged "facts" which contradict one another. Claimed costs seem to increase exponentially as a function of the so-called cumulative or ripple effect. And all cost increases are compounded, it is claimed, by inflation.

Some shipbuilders defer the negotiating of certain changes for years, until they know what their total final costs will be. These changes are then consolidated into a general allegation of Government responsibility for all delays and increased costs experienced, without relating the individual causes to specific effects. The amount then claimed has often been inflated sufficiently to produce the profit desired by the shipbuilder, even though the claim is finally settled for but a portion of the claimed amount.

Some shipbuilders' claims contend that all delays and increased costs are the Government's fault, even when the shipbuilder must know that much of the delay and increased costs were caused by factors within his contractual responsibility.

NEWPORT NEWS REFUSAL TO CERTIFY CLAIMS

In this connection, it is important to note that Newport News, whose claims comprise the largest portion of outstanding shipbuilders' claims, still refuses to certify that its claims are current, accurate and complete. The Navy is required by Navy procurement directives to obtain such certification before devoting its energies to evaluating data. I believe the company's claims are substantially overstated.

The fact that shipbuilders have been willing to settle their claims for far less than the amount claimed should cause one to question the validity of the amounts our taxpayers are being asked to pay. This may also explain the reluctance of some company officials to certify the claims.

NEED FOR NAVY ANALYSIS

The Navy's normal claims evaluation procedure is to determine and pay only for items of Government responsibility. This requires the Navy to perform a rigorous analysis to determine the legal basis for payment. Theoretically, the burden of proof rests on the contractor to demonstrate legal entitlement. In practice, the Navy itself, to demonstrate that the contractor is not entitled to the larger amounts claimed, often ends up having whatever legitimate case the shipbuilder might have. The Navy analysis is time consuming and uses the time of many technical people, to the neglect of their proper work.

CONTRACTOR MAY CHANGE RATIONALE

Even when Government officials have spent months analyzing voluminous shipbuilders' claims, and have successfully demonstrated which elements of a claim are not valid, the contractor may then withdraw the claim, only to resubmit it based on a new rationale to support his contention that the Government owes him money. The result is to cripple Navy efforts to evaluate claims and to prolong settlement.

CONTRACTOR THREATS TO STOP WORK

Knowing this, some contractors try to force a settlement by threatening to stop work if their claims are not paid quickly. Armed with voluminous, generally unsupported claims, some shipbuilders and their lobbyists at times take their case directly to Congress, to senior defense officials, and to the press. They accuse working level Navy personnel of wrongfully withholding funds and delaying settlements, of creating a litigious atmosphere, and of undermining good business relations. They allege that the company is in desperate financial straits. They threaten that, unless immediate relief is forthcoming, the Navy will not get its ships, and so on. By these means some shipbuilders believe they will be paid more than if their claims are settled on their legal merits.

A specific example will illustrate this. About 2 years ago, Newport News officials and their superiors at Tenneco began airing complaints concerning the Navy before Congress and in the press. Company officials took the position that they should be guaranteed a 7-percent profit on all Navy shipbuilding contracts after paying interest and other allowable costs.

Despite Newport News' notification as early as October 1974 of its intention to submit claims, the company did not actually submit the claims until recently—$825 million of the $894 million total in the last year, of which $665 million was submitted in the last 6 months. But once these claims were submitted, the pressure to settle them began immediately. On February 19, 1976, Newport News submitted its largest claim on a single contract; a $221 million, 16 volume claim against the carriers *Nimitz* and *Eisenhower*. The very next day the president of Newport News wrote to the chief of naval operations intimating that Newport News was considering stopping work on the aircraft carrier *Vinson* and not entering into new Navy shipbuilding contracts until its claims were resolved.

Six months earlier, Newport News had actually stopped work on a nuclear-powered cruiser, the CGN-41 claiming that the contract option for construction of that ship was invalid. Construction was resumed under court order. However, Newport News still refuses to recognize the validity of the option because they want a higher price than they had previously agreed to contractually. Although Navy lawyers are convinced that Newport News has no valid legal basis for its contentions, it could take years of litigation to establish that point. When Newport News appealed this matter to the GAO, the GAO decided in the Navy's favor. Newport News is now contesting the GAO decision in the Federal court.

NAVY LEGAL COUNSEL AT DISADVANTAGE IN CLAIMS NEGOTIATIONS

In this regard, it should be noted that the Navy is at a disadvantage in litigation of claims due to the imbalance in legal resources between the Government and the contractors submitting claims. In the case of the cruiser dispute, the brunt of the Navy's legal work is being handled by one lawyer, 2 years out of law school, as one of his several assignments. I am not questioning this individual's competence. I simply want to point out the disparity between the counsel representing the Government and the counsel representing Newport News. To date, Newport News charged the Navy over $175,000 for outside counsel fees pertaining to the CGN-41 dispute plus a 7-percent profit for Newport News itself. It is interesting to me that for several years I have been unable to get the Navy to hire outside counsel to help the Navy prepare its case, yet the Navy is paying Newport News for its outside counsel to fight the Navy, as well as a 7-percent profit for doing so.

NEWPORT NEWS BRINGS PRESSURE ON NAVY

Newport News officials have made their intentions clear. On March 15, 1976, the president of Newport News sent a publicly released letter to one Congressman in which he stated:

"I need to bring all the pressure to bear that I can for a prompt and equitable resolution of the differences between the company and the Navy. Time has run out."

Newport News has brought pressure to bear on the Navy through other public statement; by complaints to defense officials and to Members of Congress; by threats of not taking future Navy business; and by actually stopping work on the CGN-41.

There seems to be a tendency in some quarters to view the shipbuilding claims problem as simply one of human relations. In fact, some claimants would have you believe that the whole problem has been created by conflict of personalities. They have made shipbuilding claims a political and personal matter. In actuality it is strictly a matter of money. If a shipbuilder intends to hold out for more than he is legally owed, his relations with the Navy will deteriorate until either he convinces the Navy to pay whatever he wants regardless of legal entitlement; or, until the Navy convinces him he will get only what he is legally owed, regardless of the pressures the company may bring to bear. From the Government's standpoint, I view the issue this way: Why bother negotiating and signing contracts if they are not going to be enforced?●

UCLA's COMMUNICATIONS LAW PROGRAM

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1978

● Mr. WAXMAN. Mr. Speaker, in 1972 the UCLA Law School initiated, with the strong financial support of the Markle Foundation, a unique scholarly endeavor in communications law: a program which combined study of law with both responsiveness to public interest concerns and practical experience for students and faculty. The program's students not only learn and evaluate critical issues in communications, but are placed by the program with interest groups and regulatory agencies involved in these matters. The program has made a major contribution to the House Commerce Subcommittee's work on the proposed rewrite of the Communications Act of 1934, and hosted a field hearing on this legislation in Los Angeles on August 25.

Under the able leadership of Professor Monroe Price, Geoffrey Cowan, and Charles Firestone, who is the current director, UCLA's communications law program has established itself as the finest in the Nation. All associated with it should be deservedly proud of its accomplishments.

The Los Angeles Times recently featured the program and its work, and I am pleased to bring this article to the attention of my colleagues:

LAW STUDENTS CROSS-EXAMINE MEDIA LAW

(By Barbara Isenberg)

It was the first week of class at UCLA law school and from a small television monitor at the podium Prof. Charles Firestone had just cautioned his communications law class to please stand by. Said Firestone: "If you are enrolled in community property, you are in the wrong room."

If, on the other hand, they wanted to learn more about such things as the mass media and cable television, Firestone urged them to stick around. Everyone did, and by the time the 20-minute video tape ended they'd been informed not only that more U.S. homes have television sets than have indoor plumbing, but even that one television study found that 44% of the children sampled preferred television to daddy.

There is, of course, more to come. By the time the semester ends, Firestone's students will have discussed:

—Who controls the media?

—How is what you see or don't see on television regulated?

—What is the broadcaster's liability for how all that TV sex and violence affect our real lives?

—Who has the right of access to the media?

—What is the broadcaster's responsibility to the community?

Questions like that are being discussed in more and more law school classrooms, as the rules and policy governing broadcasting change as fast as the media. More than 30 law schools offer communications law courses of one kind or another, and UCLA's unique communications law program both reflects and encourages growing interest in the electronic media.

Begun with a $144,000 grant in 1972 from the John and Mary R. Markle Foundation in New York, the UCLA program has tried both to increase the number of well-trained people in the communications law field and to contribute to the laws and policy regulating broadcasting.

"One of the things we can do best is help people understand their rights," says 33-year old Firestone. The program does that by advising and representing citizen groups in the courts and before regulatory agencies like the Federal Communications Commission. Through such efforts and in special seminars, independent projects and internships with federal agencies and law firms, UCLA law students get a chance to influence directly national communications law.

Last year, for example, more than two dozen law students here tried rewriting the 1934 Communications Act, then sent their revisions to the House commerce subcommittee on communications, which was working on its own rewrite. Two UCLA students had earlier spent six months working with the House commerce subcommittee, and when it held local hearings on the 1978 Communications Act last month the subcommittee held them at the UCLA law school.

Students also participate in actual litigation, and Firestone says people in the program work on about six public interest cases each year. In its early years, the program helped get free TV advertising time for supporters of the coastal zone conservation act and received credit for helping that ballot proposition pass. More recently, students have done research and written briefs for the highly publicized family hour suit and for license renewal challenges.

The program operates somewhat like a public interest communications law firm, working on cases involving what director Firestone calls "novel and important questions of law where individuals couldn't adequately pursue their case without our representation." Firestone also brought several such cases with him from his former employer, Washington's Citizens Communications Center, including a newspaper-TV cross-ownership case that Firestone argued (and lost) before the Supreme Court earlier this year.

Similarly, the Coalition on Children's Television called on the program for help getting the FCC to reopen hearings on guidelines for children's television. By informally objecting to all the TV license renewals in Los Angeles, says CCT director Alice March, "we wanted attention drawn to the fact that children's TV is so unresponsive to children's needs." People in the UCLA program helped them prepare the brief to get that attention, says March, and the FCC has reopened the hearings.

More than 60 UCLA law students have also worked as interns at communications law firms and regulatory agencies, usually in Washington. During the last school year, for example, students worked with key people at such places as the FCC, Federal Trade Commission, Media Access Project, National Assn. of Broadcasters and Reporters Committee for Freedom of the Press.

The experience isn't wasted. Third-year law student Gary Meyer, for example, wound up working at Citizens Communications Center on a cable access case that had been just another final exam question to him a few weeks earlier. After working with both Citizens and the FCC in Washington drafting a petition for Supreme Court review, Meyer is back at school now doing a law review article on cable access regulations. The whole thing, says Meyer, was "a fortuitous transition from classroom theory to practical implementation."

Frank Lloyd, administrative assistant to FCC Chairman Charles Ferris, likes the West Coast input the UCLA program provides the FCC, and he and others speak favorably of its national impact. Not only have UCLA students participated by now in more than 60 legal proceedings before the FCC and federal courts, but many of them have gone on to communications-related jobs in federal agencies after graduation.

The program's two former directors, Geoffrey Cowan and Tracy Westen, have also continued influencing communications law and policy. Cowen is a presidential nominee for the board of the Corporation for Public Broadcasting; his book, "See No Evil: The Battle Over Sex and Violence on Television," will be published by Simon and Schuster this winter. Westen is now deputy director of the Federal Trade Commission's Bureau of Consumer Protection where he has been working on children's television advertising, among other things.

"The communications law program has become a foundation for ideas and experimental dialogues, and a lot of that has filtered out," says Westen. He points out, for example, that when former FTC Chairman Lewis Engman wanted to give a major talk on the fairness doctrine, he chose UCLA law school as the best place to do so. And the highly regarded Federal Communications Law Journal, formerly based in Washington, is now edited and copublished at UCLA.

The program has had its problems, of course. Monroe Price, the UCLA law school professor who founded the program in 1972, feels it has fallen short in attracting minority students, for example. And Cowen recalls that a major study of the Los Angeles television market never reached a stage where it could be published for the community at large. "It was a useful academic exercise, and that was really our principal interest," says Cowan, "but we were disappointed it never became a more public document."

Still, just doing the research provided law students here with considerable practical experience, and offering them that sense of their profession is what Price had in mind when he first took the idea to the Markle Foundation. Markle was looking then for ways to increase the number of competent people in the communications law field, says Markle president Lloyd Morrisett, and agreed to provide funding to get the program started.

Markle had poured nearly $285,000 into the program by the time he stepped out last June, and Morrisett says he's quite pleased with how it evolved. The foundation always had in mind that UCLA would take over the project, says Morrisett, and the university did so this fiscal year. UCLA and UCLA law school currently share his salary, says Firestone, adding that UCLA expects them to find other funding at the end of two years.

Firestone is currently investigating various funding sources, including an endowed chair for his successor and the possibility of being a communications backup for the federally funded Legal Services Corp. The program plans to sponsor a symposium next February on government regulation of the networks; Firestone is thinking about also putting it on in Washington, making it an annual event, and perhaps even using it as the basis for future funding.●

THE UKRAINIAN CONGRESS COMMITTEE PASSAIC-BERGEN COUNTIES, N.J., HOSTS STATEWIDE DEMONSTRATION IN COMMEMORATION OF THE VICTIMS OF THE UKRAINE IN FAMINE OF 1932–33

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1978

● Mr. ROE. Mr. Speaker, on Sunday, September 24 in the city of Passaic, my congressional district, State of New Jersey, the Passaic and Bergen Counties Branch of the Ukrainian Congress Committee of America will host a statewide demonstration sponsored by the Ukrainian Committee of America Coordinating Council of New Jersey to call attention to the most despicable destructive famine that occurred in the Ukraine during the years 1932–33 and observe September 24 as a day of remembrance for the victims of the Ukraine who died of starvation during that period of history under the Government of the Union of Soviet Socialist Republics.

Mr. Speaker, at the outset may I commend to you the president of the Ukrainian Congress of the State of New Jersey, Dr. Merril Bulch; the honored guest of the Ukrainian community, Gen. P. Grigorenko; program participants, the Ukrainian youth organizations, PLAST and SUM; and the following officers of the Passaic-Bergen Counties Branch of the Ukrainian Congress Committee of America who have been work-

ing diligently in organizing and seeking full citizens participation in this most important commemorative program: The Honorable Kenneth Wanio, president; Ihor Rakowsky, vice president; Helen Maksymiuk, treasurer; Irene Struk, secretary; Luba Ostapiak and Christina Buk, special events coordinators.

Mr. Speaker, the resolution adopted by the Ukrainian Congress of America which sets forth the tenets of this statewide demonstration which they have requested be placed on the agenda for consideration by you and our colleagues as well as our President, Secretary of State, and Ambassador of the United Nations, reads as follows:

RESOLUTION

Whereas in 1932–33 the Communist Kremlin deliberately created an artificial and political famine in Ukraine which claimed over seven million victims; and

Whereas the Soviet Communist plan was to collectivize the agricultural sector of the economy through confiscatory and brutal procedures and to destroy every vestige of Ukrainian culture, tradition, nationalism and self-determination; and

Whereas the Russian Communists still today inflict upon Ukraine a policy of national genocide and ethnocide in a myriad of forms in order to further subjugate the Ukrainian populace; and

Whereas the Soviet Communist action in 1932–33 and its policy today is commensurate with the most heinous crimes ever perpetrated upon a nation; and

Whereas these actions past and future shock the conscience of every freedom-loving American.

Be it therefore resolved that 1978 be and is hereby designated as the official 45th solemn anniversary of the Great Artificial Famine; and

Be it further resolved that the Helsinki accords and other treaties or international declarations and agreements be strictly monitored so as to avoid similar travesties and atrocities in the future in Ukraine and every other part of the world; and

Be it further resolved that the United States government support the wishes of all Ukrainians who wish to emigrate especially Ukrainian political prisoners and dissidents such as Lukianenko, Moroz, Tychiy, Father Romaniuk, Pastor Vins, Karavansky, Katerina Zarycka, Stus and other countless thousands.

Mr. Speaker, to understand the enormity of the purpose and resolve of the foregoing resolution, it is important to reflect upon the course of events that has prompted our citizens of Ukrainian heritage to participate in this statewide demonstration to memorialize what many noted historians refer to as "the Political Famine of 1932–33." May I insert at this point in our historic journal of Congress an excerpt from the book entitled "The Ukraine: A Submerged Nation," authored by the distinguished journalist, William Henry Chamberlin, and published in 1944 by the MacMillan Co., New York, which graphically and poignantly portrays this period of time in the history of the Ukraine, as follows:

EXCERPT—THE UKRAINE: A SUBMERGED NATION

Of all the regions of the former Tsarist Empire the Ukraine was one of the most important for the Soviet regime to hold, for strategic and economic reasons. It was also one of the most difficult to assimilate to the methods and psychology of a Communist dictatorship.

The Ukraine was traditionally both the bread basket and the sugar-bowl of Russia. Under normal conditions it produced a considerable surplus of wheat, sugar-beets, fruit, and vegetables. It was also the principal source of Russia's coal supply and in the twenties it was the principal center of the Russian iron and steel industry, although in more recent times it has been outstripped in this field by the development of mineral resources and big new factories in the Urals and Western Siberia. It is through the Ukraine that Russia possesses access to the northern coast of the Black Sea, and to its most important port, Odessa. For all these reasons the Soviet Government considered the possession of the Ukraine a vital national interest.

At the same time, as the account of the course of revolution in the Ukraine in the last chapter shows, communism was not congenial to the Ukrainian people. Opposition to the Soviet regime was prolonged and stubborn, especially (and this is rather significant) in the regions where the Ukrainians form the greatest part of the population. There were fewer Communists in the Ukraine, in proportion to population, than there were in Russia, and there were distinctly fewer Communists among the predominantly peasant Ukrainians than there were among the Russians, Jews and other nationalities in the cities and towns. The Ukraine would never have been Sovietized if it had not been for the intervention from Russia.

Because it was a new revolutionary regime, the Soviet Government went about its task of splitting the Ukrainian people and winning them over with propaganda of more skill and subtlety than the Tsarist regime had ever showed. At the same time methods of extreme brutality were employed whenever there was mass resistance to Soviet economic policies. . . .

This famine (of 1932–33) may fairly be called political because it was not the result of any overwhelming natural catastrophe or of such a complete exhaustion of the country's resources in foreign and civil war as preceded and helped to cause the famine of 1921–22.

Partly because of discontent with the new system of collective farming and the lack of manufactured goods, partly because the government had returned to methods of war communism, demanding arbitrarily all the peasants' surplus grain, without defining clearly what was supposed to constitute "surplus," the peasants in the Ukraine had slowed down their productive effort. Climatic conditions were also unfavorable, both in 1931 and in 1932.

The situation that had developed by the autumn of 1932 might be briefly summarized as follows. Despite the meager harvest, the peasants could have pulled through without starvation if there had been a substantial abatement of the requisitions of grain and other foodstuffs. But the requisitions were intensified, rather than relaxed; the Government was determined to "teach the peasants a lesson" by the grim method of starvation, to force them to work hard in the collective farms.

Early in 1933 the Ukraine was declared "out of bounds" for foreign correspondents, so that there could be no widely circulated accounts of the great human tragedy that was taking place there . . .

While no official statistics about this tragedy have been published there are two points of circumstantial evidence showing how the population growth of the Ukraine was retarded. The proportion of the Ukrainian population in the Soviet population, according to the census of 1939, was 17.5 per cent. It had been 20 per cent during the twenties. The absolute figure of the Ukrainian population reported in 1939 was 30,960,221, indicating a decline during the preceding decade.

There has perhaps been no disaster of comparable magnitude that received so little international attention. The Soviet method of stifling direct reporting of the famine by refusing permission to correspondents to visit the stricken regions until a new crop had been harvested and the outward signs of the mass mortality had been largely eliminated proved very effective. Officially Moscow officialdom continued to deny brazenly that there had been any starvation. Few correspondents were inclined to risk difficulties with the censorship by sending the story of events which had occurred some months in the past.

The Ukrainians abroad, to be sure, learned through indirect channels of what happened in their homeland and made unavailable attempts to organize relief and to bring the inhuman government policy that had led up to the famine to the attention of public opinion. The Ukrainians across the border in Poland naturally received the fullest information and any enthusiasm that had existed among them for communism was considerably cooled . . .

In the light of past events, however, one may feel sure that the Ukrainians fought courageously for their homes, whether in regular units or in guerrilla bands. One may also feel sure that the Ukrainian problem in the future will be satisfactorily solved only if Communist dictatorship gives way to genuine democracy and if the full liberty of which the Ukrainian poets wrote, and for which so many Ukrainians died, becomes a reality. . . .

Mr. Speaker, this devastating toll of human suffering and death from starvation was embodied in a resolution introduced in the House of Representatives on May 28, 1934, which reads, as follows:

H. RES. 399

Whereas several millions of the population of the Ukrainian Soviet Socialist Republic, the constituent part of the Union of Soviet Socialist Republics, died of starvation during the years of 1932 and 1933; and

Whereas the Government of the Union of Soviet Socialist Republics, although being fully aware of the famine in Ukraine and although having full and complete control of the entire food supplies within its borders, nevertheless failed to take relief measures designed to check the famine or to alleviate the terrible conditions arising from it, but on the contrary used the famine as a means of reducing the Ukrainian population and destroying the Ukrainian political, cultural, and national rights; and

Whereas intercessions have been made at various times by the United States during the course of its history on behalf of citizens of states other than the United States. oppressed or persecuted by their own governments, indicating that it has been the traditional policy of the United States to take cognizance of such invasions of human rights and liberties; Therefore be it

Resolved, That the House of Representatives express its sympathy for all those who have suffered from the great famine in Ukraine which has brought misery, affliction, and death to millions of peaceful and law-abiding Ukrainians; be it further

Resolved, That the House of Representatives express its earnest hope that the Government of the Union of Soviet Socialist Republics will speedily alter its policy in respect to the famine in Ukraine, take active steps to alleviate the terrible consequences arising from this famine, and undo so far as may be possible the injustices to the Ukrainian people; and be it further

Resolved, That the House of Representatives express its sincerest hope that the Union of Soviet Socialist Republics Government will place no obstacles in the way of American citizens seeking to send aid in form of money, foodstuffs, and necessities to the famine-stricken regions of Ukraine.

Mr. Speaker, as we pause in our deliberations today for this commemorative observance, we share with our people of Ukrainian heritage our renewed reverence for human life and pay tribute to the memory of the Ukrainian victims of the 1932–33 famine that took place in the U.S.S.R.-occupied Ukraine. These commemorative programs give all of us an opportunity to reflect on man's inhumanity to man and strengthen our determination and resolve to muster world opinion to help eliminate the human misery of the cruel exercise of governmental authority and the enormous waste of mind and body that hunger and poverty feed upon.

There is undying strength in the spirit of freedom and justice that can be achieved through the communion of understanding that is within the realm of all freedom-loving nations of people. In remembering the unwanton destructiveness of this dastardly act may today's commemorative salute help instill in the hearts and minds of all mankind that the true purpose and fulfillment of life's endeavors is within the domain of all human life—spiritual, moral, cultural, and social—if each and every human being practices the divine principle, "Do unto others as you would have done unto yourself."

Mr. Speaker, in reflecting and observing with all freedom-loving people throughout the world man's inhumanity to man we can take another step in our humanitarian ideals for a communion among all peoples of the world to achieve quality of life that will permit the widest possible expression of cultural and national heritage so important to mankind's purpose and objectives in attaining a rich and lasting peace throughout the world. To that end I appreciate the opportunity to seek this national recognition of the outstanding efforts of my constituents, the Ukrainian Congress Committee of Passaic-Bergen Counties, New Jersey on behalf of the courageous and valiant people of the Ukraine.●

RETIREMENT OF JUDGE PHIL H. COOK OF LEXINGTON, MO.

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1978

● Mr. SKELTON. Mr. Speaker, I take this opportunity to take note of the retirement of one of Missouri's finest trial judges. On September 1, Judge Phil H. Cook, of Lexington, Mo., retired after serving nearly 32 years as circuit judge for the 15th judicial district, which is comprised of Lafayette and Saline Counties.

Judge Cook was first elected in 1946, and was reelected on five successive occasions. Prior to serving as circuit judge, he was city attorney for Higginsville and prosecuting attorney of Lafayette County.

Judge Cook is highly regarded by the members of the bar as being one of the most able trial judges in the State. His keen intellect and sense of fairness were recognized by all attorneys who practiced before him. I had the privilege of practicing in his court. And I knew him always to uphold the finest ideals of the judiciary. His service to the citizens of western Missouri will be greatly missed.

I wish Judge and Mrs. Cook my best wishes in the days ahead.●

FOOD PRICE OUTLOOK: 1978–79

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1978

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, we all know the importance of food prices in the inflation problem—psychologically as well as actually. As part of its oversight responsibilities in all aspects of inflation, the Subcommittee on Economic Stabilization of the Banking Committee, of which I am chairman, has paid close attention to food prices and recently completed a hearing to obtain the latest factual information on the situation and outlook. One witness was Howard Hjort, the widely respected Chief Economist of the Department of Agriculture.

I believe, Mr. Speaker, that it would be useful for Members of the House to have a summary of this information, which I am providing today. Though it involves some tentative predictions, based on current crop conditions here and abroad, the information is essentially factual and in no way political. It makes no judgments on the fairness of present prices being received by farmers nor on the farm policies of the administration. It is simply a report on the food price situation and how things are shaping up for next year.

I am purposely keeping this report brief. The picture can be summarized as follows:

Food prices are up about 10 percent in 1978, more than anticipated a year ago. Higher meat prices are the single most important cause of the rise.

For 1979, if prices at the farm do not rise at all, food prices will go up 4 to 5 percent because of inflationary forces in the economy at large. The cost of processing, transportation, packaging, retailing, et cetera, now amounts to two-thirds of the price of food to the consumer. The farmer gets only one-third on the average, though this portion varies among the different food products.

Fish and imported food will add another 1 to 2 percent in 1979, though coffee prices should again be stable or declining as in 1978.

Thus food prices next year will rise some 6 percent before considering what happens to prices of the U.S.-produced farm crops and livestock.

Beyond that basic increase, the key to food prices—a moderate year or another bad year like 1978—is in the livestock sector, and particularly pork and poultry. We already know that beef supplies, affected by a long-term cycle, will be reduced again and prices will probably be higher. But if there is plentiful pork and poultry, the overall increase in meat prices could be moderate.

The good news is that feed grain supplies are ample, with a probable record corn crop this year and sizable carryover stocks. Normally this good feed grain situation, with moderate prices, should lead to expanded production of poultry and pork. In 1978 it happened for poultry but not for pork, for various reasons including the effect of last winter's severe cold weather.

The chief hope for only a modest further increase in meat prices next year lies in expanded production of pigs, which could well happen. With world crops in good shape, along with our own good harvest, there is no reason to expect a big surge in prices of the basic grains.●

NATIONAL PORT WEEK

HON. THOMAS L. ASHLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1978

● Mr. ASHLEY. Mr. Speaker, this week we are celebrating National Port Week to remind Americans of the importance of the U.S. port industry to our national life. It is my hope that this celebration will impress upon all citizens the numerous benefits that flow from the development of vital port facilities. These benefits redound not only to consumers and producers, but to labor, business and industry, and, indeed, to all segments of the American economy.

I am especially pleased during National Port Week to have the opportunity to highlight my hometown, the Port of Toledo, as the leading international tonnage port on the Great Lakes. Vessels have called at the Toledo harbor for nearly 150 years, providing thousands of employment and business opportunities for our city and the surrounding area. The Port of Toledo generates nearly $200 million in economic impact to our community each year, and provides the basis for a diversified regional transportation economy. Today the port lies at the hub of a transportation network that includes five rail systems and more than 120 motor freight carriers. Its geographic location has caused it to play a key role in the Great Lakes/St. Lawrence Seaway maritime activities, and to become an

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., September 11, 1978.

Mr. ELLIOT JANEWAY,
East 80th Street,
New York, N.Y.

DEAR MR. JANEWAY: As a member of the House Agriculture Committee, I recently voted in favor of reporting the Sugar Stabilization Act of 1978 (H.R. 13750) to the House floor. However, the Carter Administration has cited several economic arguments against the bill, as noted on the enclosed material prepared by the executive branch and entitled, "Justification for Administration-Supported Amendments to the Trade Subcommittee Sugar Bill." This economic and statistical material represents the Administration's analysis of various legislative proposals. My interest relates particularly to H.R. 13750 as approved by the House Agriculture Committee and as amended by the Ways and Means Committee.

I am an economic historian by profession, and I believe that my support for H.R. 13750 is based on sound economic principles as well as the fact that I represent an agricultural district. The Administration, however, has not accepted the position of our committee regarding H.R. 13750.

You are one of the nation's leading economists, and your analyses are widely respected by business and governmental leaders. I would greatly value your analysis of the Administration's proposals (including a sugar payments program) versus H.R. 13750 as reported by the House Agriculture Committee. Specifically, I would appreciate your professional judgment in answer to these questions:

(1) Will the Administration proposals result in a "strong and viable domestic sugar industry," which the President has indicated should be our basic policy for sweeteners?

(2) What would be the effect of each Administration proposal on our imports and balance of trade?

(3) What would be the effect of each proposal on Treasury receipts and on our budget deficit?

(4) With current interest rates at high levels, how many years would it take for the Treasury outlays, as required under the Administration proposals (including the sugar payment program), to double?

(5) The Administration claims that a sugar payment program will hold down inflation; but if the payment program results in higher net budget costs and a larger trade deficit (as I suspect), what would be the inflationary impact?

(6) In comparison with 1973 and 1974, what effect have recent lower prices for sugar had on sugar-containing products?

(7) Which policy alternative—that embodied in H.R. 13750 or in the Administration proposal—would be more beneficial to the corn refining industry and corn farmers?

(8) For an average worker in the private, non-agricultural sector, what is today's purchasing power of an hour's work, as compared with 1947, when purchasing a pound of sugar at retail?

I would greatly appreciate your response to these questions as soon as possible. Thank you for your cooperation.

Sincerely yours,

FLOYD J. FITHIAN,
U.S. Congressman.

JANEWAY PUBLISHING
AND RESEARCH CORP,
New York, N.Y., September 18, 1978.

Representative FLOYD J. FITHIAN,
Congress of the United States, House of Representatives, Washington, D.C.

DEAR CONGRESSMAN FITHIAN: I hasten to acknowledge your provocative letter of September 11; and I am honored by your expression of confidence in my judgment. Over studies of the overall economic situation at your disposal for purposes of focusing on the special case the Administration has made of its sugar policy.

The eight specific questions you have raised provide eloquent testimony to your professionalism as an economic historian and analyst. Before tackling them individually, however, I think it will be helpful for me to make two general points about the Administration's "memorandum of justification" referred to in your letter.

The first relates to the problem of inflation; and, therefore, to its main source: overborrowing, as measured by the rising trend of interest rates, especially long-term rates, which the Federal Reserve Board cannot control. It is axiomatic that any measure which calls for more borrowing will fuel "the engines of inflation"; and that any alternative expedient will cool them off. The Administration's policy of direct payments to processors would admittedly be financed by more government borrowing; and would, therefore, fuel inflation. Q.E.D.

The second relates to the real dimensions of the inflationary problem. The Administration's approach considers inflation in a purely domestic frame of reference—as if containing it called for merely an exercise in wage and price restraint. The evidence of the real world, however, reminds us every day that the problem is thoroughly international; and, consequently, that no purely domestic expedient will work. Certainly, the collapse of the dollar and the surge in the trade deficit are contributing to the disastrous spiral of higher interest rates which is at once the cause and consequence of accelerating inflation.

The House measure for which you voted would finance the relief the domestic sugar industry admittedly needs by means of a tariff; that is, it would tax foreign producers, and thus relieve the Treasury of the need to borrow the money. As an economic historian, you will, of course, agree that past claims about tariffs being inflationary are throwbacks to the pre-1929 era, before the financing of the government debt had mushroomed into the decisive cause of inflation. Now that it has, and now that the dollar has collapsed as a result, the historical rule has been reversed. Therefore, as an alternative to more government borrowing, a new tariff is not only not inflationary; it is positively anti-inflationary. The tariff approach guarantees that the United States will begin to get back the advantages we have given to our foreign competitors.

Now as to your specific questions, in the order in which you put them:

(1) Will the Administration proposal result in a "strong and viable domestic sugar industry?"

The double standard the Administration has adopted for grain and sugar farmers suggests a negative answer. The Administration has not insisted on direct payments to grain processors; but is pressing grain farmers to accept money in return for taking acreage out of production. Theoretically, beet growers could shift to grains or potatoes, and some cane farmers could shift to soy beans or rice (if they could get a rice allotment). While some farmers might save themselves in this way, they would make more financial trouble for the government than the Administration has yet stopped to count. The growers belong to co-ops which own sugar refineries, which, in turn, are in debt to the government. So, while farmers might no doubt be better off taking bankruptcy first and jobs afterwards, the government shares with the rural banks a common interest in keeping them going as sugar farmers. The price differential insisted on by the Administration, plus the processor payment technique stipulated, would drive I will stake my professional reputation on the premise that all of the country's sugar farmers are in debt; and, moreover, that none of them are managing to reduce their debt burdens. The regional Federal Reserve banks will affirm to you a drastic tightening of credit conditions in farm areas, due to a visible slowdown in interest and amortization collections from farmers. If farmers in crops enjoying better market conditions and expectations than sugar farmers are in money trouble and risking foreclosure, sugar farmers are bound to be in even worse shape.

Finance charges are now ruinous for any marginal operations. Any price margin which makes or breaks farmers needing to borrow more money will, in turn, force more sugar growers out of business. The cent or even half-cent cut insisted on by the Administration will make the critical marginal difference for a considerable portion of the country's sugar growers—none of whom are anticipating reductions in any of their operating or capital costs.

(2) What would be the effect of each Administration proposal on our imports and balance of trade?

The Administration proposal would step up sugar imports first by reducing the price, and second by reducing domestic production. Just as the Administration's domestic sugar policy is in contrast to its grain policy on the issue of processor payments vs. loans to farmers, its international sugar policy is in conflict with its international oil policy. On oil, the Administration is demanding an import fee—that is, tariff—to cut imports and improve our trade deficit. But on sugar, it is demanding *more* imports, at the price of a higher trade deficit, on the far-fetched theory that this would combat inflation. Oil, not sugar, is the basic commodity with which living and operating costs swing.

(3) What would be the effect of each proposal on Treasury receipts and on our budget deficit?

Import fees or tariffs are direct payments to the Treasury from non-income-taxpayers; they reduce the budget deficit without decreasing private sector purchasing power. But payments to processors, necessarily financed by Treasury borrowing, would increase the budget deficit dollar for dollar. Moreover, no guarantees are offered that every dollar of processor payments would be passed through to indigent farmers on the verge of bankruptcy or foreclosure; nor would they be reflected in reduced costs to consumers.

Farm debt is owed to profit corporations, banks and finance companies, which claim all losses on farm creditors as tax deductions. Moreover, under present credit and business conditions, auditors would readily approve corporate and bank decisions to raise reserves against future losses from farm debtors; and these reserves would become immediate tax deductions. A supporting point on processor payments: some processors happen to be rich, integrated companies, which use their grower operations (among others) as tax shelters; so that many of the dollars paid would neither be passed through to farmers nor come back to the Treasury as tax receipts.

(4) With current interest rates at high levels, how many years would it take for the Treasury outlays, as required under the Administration proposals (including the sugar payment program), to double?

Assuming a short-term bill rate of 8%, 9 years. With the Administration itself committed to trend-setting inflationary practices of this kind, I see no prospect for a return to tolerable interest rates.

(5) The Administration claims that a sugar payment program will hold down inflation; but if the payment program results in higher net budget costs and a larger trade

(6) In comparison with 1973 and 1974, what effect have recent lower prices for sugar had on the prices of sugar-containing products?

Nil. Across the entire spectrum of the economy, raw material prices no longer exercise their traditional "swing" impact on manufacturing costs or consumer prices. As an economic historian, you will appreciate the reason for this momentous change. It set in when labor ceased to be a variable cost, as raw material prices are, and became a fixed cost. The freezing of an upward bias in long-term interest rates has made another decisive difference in the same direction. All food products are sold on premises which are financed on long-term leases and mortgages; and for all practical purposes, long-term rates have ceased to be a variable cost, too. With the cost of freight, packaging, insurance, taxes, fuel, utilities, overage to landlords and labor all fixed and inflating, no cuts in the prices of raw materials can realistically be expected to hold back manufacturing and distribution costs.

The last collapse in world sugar prices failed to interrupt a striking mark-up in the retail prices of sugar-containing products, although inflationary pressures then were much lower than now. I think it important to note here that sugar is not a special case. During the recent bear market in farm prices, all retail food profit margins narrowed, and all retail food prices rose. More than incidentally, recent price wars in the steel industry have failed to relieve the pressure on auto manufacturers to raise their selling prices.

(7) Which policy alternative—that embodied in H.R. 13750 or in the Administration proposal—would be more beneficial to the corn refining industry and corn farmers?

The House's. Of course, corn farmers are more numerous; and the Treasury's stake in the prosperity of the corn industry as a whole is immeasurably greater than in domestic sugar growing. My experience as a consulting economist, as well as my explorations on lecture trips, satisfy me that the cent or half-cent price margin that is crucial for sugar also makes a life-or-death difference for corn refiners.

The shutdown of a corn refinery in Iowa threw onto benefit 700 workers from whom the Treasury had been collecting withholding; and it entitled a prosperous company to take tax deductions or refunds. Fifteen thousand workers are employed by the corn refineries; the Administration's proposal will have the double effect of creating corn industry unemployment as well as bankruptcy among the nation's 13,000 sugar growers.

(8) For an average worker in the private, non-agricultural sector, what is today's purchasing power of an hour's work, as compared with 1947, when purchasing a pound of sugar at retail?

Adjustment for inflation against the Consumer Price Index (1967=100) shows that the "real" retail price of sugar today is below where it was in 1934, when President Roosevelt signed the first Sugar Act into law. In 1947, the retail price of sugar was 9.7¢ a pound, which adjusted for inflation is 14½¢. I reckon that it took about 5 minutes to earn that much in 1947. In 1977, the retail price of sugar was up to 21.62¢ a pound; but adjusted for inflation, the "real" price was down to 11.9¢. At 1977's cash wage levels, only a few seconds over 2 minutes would have earned enough to buy a pound.

Realistic assessment of this calculation calls for noting two additional sidepoints:

(1) The most rewarding wage increases today are in fringe, not cash payments, which means that a purely cash calculation understates the nominal cost of sugar at retail.

(2) Since 80% of all sugar is consumed as raw material in manufactured products, the Administration's insistence on payments to boggling perversion of equity and practicality even in a year of minimal inflation and tolerable interest rates, let alone under present conditions.

Your questions have rightly concentrated on the economic problems, but the foreign policy aspect is also important. I am prompted to answer a question you have not raised. Would the elimination of our own sugar growing capability invite world sugar producers to jump prices on us? It certainly would. All it would take to start a sugar OPEC would be one dramatic announcement, such as a Russian-financed move by Cuba to dedicate its present sugar production to alcohol for fuel consumption.

The effect of any Administration policy which increases U.S. sugar imports from any source is to improve export marketing conditions for Cuba, and ease the pressure on Russia to continue paying 31¢ a pound for Cuban sugar. The Administration's proposal would offer Cuba an export marketing subsidy, paid for by Treasury borrowings!

I hope that you will find these responses helpful; and I will be happy to discuss them with you at your convenience.

Yours sincerely,

ELIOT JANEWAY,
President.●

STOPPING AN IRS THREAT TO PRIVATE SCHOOLS

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1978

● Mr. HANSEN. Mr. Speaker, in the last several years, the progressive deterioration of public schools in many parts of the country have led to the establishment of private schools. When I speak of deterioration, I have reference not only to a lower level of learning achievement, but also to spectacular increases in crime at schools, and the progressive establishment of an atheistic and secularist religion to impart alien values to our young children. It is also true, and cannot be denied, that some schools were established for the sake of avoiding desegregation.

Comes now the Internal Revenue Service, which on August 22, 1978, proposed that all schools—I repeat, all schools formed or expanded at or about or after the implementation of desegregation plans in the respective communities will be presumed guilty of systematic racial discrimination and their tax-exempt status revoked retroactively.

Mr. Speaker, we have become inured to the routine contempt the IRS has chronically demonstrated for accepted civilized standards of fairness, something which has its roots in the regrettable presumption that in tax matters the citizen is guilty until proven innocent, an innocence that has to be proven at the expense of the taxpayer, no matter how groundless or frivolous the charges. The proposed regulation I have mentioned to you is a fresh example of this attitude. It proposes to make a blanket finding of racial discrimination and automatically harass all private schools, putting on its victims the onerous burden of proving their innocence. At the same time, it says that it will be practically impossible to

I have objections to all of this, which forms the substance of the proposed regulation. But what shows truly brazen boldness on the part of the Internal Revenue Service, what puts all their previous efforts at trickery in the shade, is the fact that they have the astonishing gall to say that this is an insignificant regulation, a mere procedural change which does not merit public hearing.

If you will consult section 556 of title 5 of the United States Code, you will find that Congress insisted that rulemaking be done in the open. Only strictly internal and procedural matters—such things as meeting times and personnel matters—should be exempt. The regulation I have referred to was published August 22, 1978, in the "notices" section of the Federal Register, sandwiched between a docket notice and a notice about a certain pension plan's exemption from a particular rule. Despite its substantive nature, the proposed regulation was not published in the proposed rules and regulation section, but was buried in the back. Moreover, in the proposal itself, the IRS makes the absurd assertion that the proposed regulation is not significant, and thus that it does not come within the scope of 5 U.S.C. 556.

The position of the IRS is silly. There is no merely procedural matter, but a substantive proposition that calls into question the tax liabilities, supposedly long past settled, of hundreds of thousands of citizens for many years past. It obviously has the gravest conceivable implications for the survival of private schools, and certainly gives the IRS wide scope for abuse and harassment. It is nonsense to claim that the regulation, whatever its merits, is not significant.

What is involved here is not actually a matter of racial discrimination, nor is it really a tax matter. Since the regulation explicitly includes church-related schools, and since there is nothing in the regulation that could not later be applied to churches themselves, what is involved is a very deep first amendment question. It is a patent evasion to label this regulation "procedural" and claim that it is of no significance.

In this transparent maneuver, Mr. Speaker, the Internal Revenue Service is in violation of at least the spirit, if not the letter, of the law and Executive orders governing the making of administrative rules and regulations. To stop this outrageous flouting of congressional intent, I have today introduced legislation which takes no issue with the substance of the proposed regulation, but prohibits the so-called procedure from coming into effect until the IRS has complied with all the requirements of Treasury regulations for public notice and hearing. It states, in short, that this is indeed a significant regulation and must be treated as such.

If, after an open hearing in accord with the law and elementary canons of ordinary fairness, the IRS goes ahead with this proposed regulation, there will be nothing in my bill to prevent it. But that open hearing is the least that IRS can do to avoid disgracing itself and giving further impetus to the tax revolt.●

NO NEED FOR CABINET LEVEL OFFICE OF EDUCATION

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1978

● Mr. McCLOSKEY. Mr. Speaker, I would hope the leadership will decide not to bring the proposed Department of Education bill to the floor in view of the time problems and heavy legislative schedule we face in the few days remaining prior to recess.

Creation of a new cabinet office is a serious issue which deserves serious consideration and full debate. I do not oppose taking the Office of Education out of Health, Education, and Welfare. Clearly the problems of health and welfare are so overwhelming that the attention of the Secretary of HEW can seldom be drawn to the small and relatively obscure Office of Education. I offered an amendment in the Committee on Government Operations to consolidate the Office of Education at below the cabinet level if consolidation were the true goal. That amendment was overwhelmingly defeated, however, by the proponents of this bill, and this would indicate that the goal is not simply consolidation, but a greater voice in and for education at the Federal level.

I offered a second amendment to limit the cost of the new Department of Education to the sum total of the offices which are brought together in the consolidation so we would be assured if we were to create a new bureaucracy it would not exceed the size of the office consolidated. This amendment was also defeated, leading to the inexorable conclusion that the proponents want to increase the size of the Federal education bureaucracy.

In reviewing the testimony in favor of a cabinet-level Office of Education, I found no evidence whatsoever to justify a cabinet-level Office of Education. The sole purpose of the bill appears to be to meet a campaign commitment the President made during his primary campaign to the Nation's teachers who obviously wanted a higher voice at the Federal level for education, and more Federal funds for education.

There were no substantive meritorius arguments that I could find other than taking education out from under the umbrella of HEW and constituting a separate Office of Education.

If, indeed, a new bureaucracy is to be created at this time in history that is bigger than the bureaucracy that now exists in the Office of HEW dealing with education. I would urge that Congress not consider it in an atmosphere of haste. I think the people of the United States have spoken clearly their desire that the size of the Federal establishment be cut back, rather than increased. It would be the height of folly to rush through an increase in size of the bureaucracy without full public debate and consideration.

With respect to education, there is no subject dearer to our hearts than excellence in education. A cabinet-level office, however, is a policymaking office. To date, we have not had the Federal Government involved in education policy. There is no reason to have a cabinet adviser to the President unless he is advising on Federal policy in education. I do not think there was a single witness before the Committee on Government Operations who suggested that excellence in education has ever come about because of Federal policy direction. Excellence comes from a good teacher, a good principal, a good local school board. When excellence is achieved by one teacher or school, it creates a natural competition and desire to excel in other local schools. The Federal Government has never been able to direct or obtain excellence in primary and secondary education, and I know of no testimony or opinion that the Federal Government can do so.

We have in every State I know of a local school board, a county school board, and a State department of education. We have a Federal Office of Education to coordinate and assist the dispensation of Federal assistance and information out to State and local systems. But the search in this area, it seems to me, as we try to cut down the size of Government, is to find one level of Government to attack one governmental problem, not to add an additional level of Government to do so. To create a cabinet-level Office of Education presupposes that the Federal Government intends a policymaking position with the other three levels of Government which have traditionally handled education.

Where is the public sentiment for such a proposal? I submit there is none, save amongst those who might financially gain by higher Federal funding to local schools.

Whatever may be the criticism of this country, we have the finest educational system in the world. There is no reason to create a cabinet-level office at the Federal level unless one assumes some Federal policy direction is necessary in the educational field. The President, whose ability to make decisions in the national interest may already be made more difficult by the sheer number of cabinet officers at any given meeting, would not benefit by the addition of a cabinet officer whose only position is in an area where no Federal policymaking role exists.

For that reason, Mr. Speaker, I think this piece of legislation should not be considered on the floor under the current pressure to adjourn and in view of all of the other serious issues we face in the few remaining days of this already hectic session.●

"121" AIR BRAKES

HON. DAN MARRIOTT

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1978

● Mr. MARRIOTT. Mr. Speaker, several years ao I purchased an automobile battery which had a trade name of "Die-Hard," presumably because it would give long hours of service under arduous conditions. In my case, the battery served very well, and I thought to myself that the promotion staff had selected a quite appropriate name. In that usage the term "Die-Hard" denoted something favorable.

Unfortunately, we have a Government agency which has earned the name "die-hard," but in a context that is unfavorable and should be somewhat embarrassing to an administration whose campaign theme was sensible Government.

I am referring to the National Highway Traffic Safety Administration (those good people who tried to impose seat belt interlock on us), and its debacle with the air brake standard known as FMVSS 121. This regulation requires that air-braked vehicles be equipped with antilock brake systems, the antilock performance to be achieved by using an electronic computer to apply the brakes without lockup. No one would argue that the objective is highly desirable; however, the antilock systems that were manufactured and installed on trucks and buses were behind the state of the art and have proved defective, unreliable, and sometimes dangerous. Numerous comments, including results of proving ground accidents, were submitted to NHTSA prior to implementation of the standard. NHTSA ignored the data presented to it. After several months of bad experience and widespread complaints, NHTSA held a public hearing in October 1975 at which much testimony was presented concerning the unreliability and hazards of the system. NHTSA's response was to retain the system but allow a greater stopping distance and eliminate the requirement for buses, but still mandated it for heavy trucks traveling on the same highways.

NHTSA then appointed a Truck and Bus Safety Subcommittee to study the alleged problems with "121." After a year of studies and investigation, the subcommittee recommended a moratorium on the antilock brake requirement. NHTSA ignored its own subcommittee recommendation.

The trucking industry through the American Trucking Association offered to set up a test fleet to be monitored by NHTSA so that the problems with antilock computerized brakes could be identified and corrected. NHTSA refused this very earnest offer.

Following a series of tractor-trailer accidents in which the "121" brakes were suspected, over 100 Congressmen petitioned Secretary of Transportation Brock Adams to suspend the antilock portion of the standard until the bugs could be worked out. NHTSA ignored their creator, the U.S. Congress.

NHTSA again held another "121" hearing in December 1977 following a U.S. Senate hearing on the matter at which much unfavorable testimony developed and was presented to NHTSA. At the NHTSA hearing, all the manufacturers of the electronic brake systems admitted that a failure of the electronic component could increase the brake application time from 2 to 5 seconds despite the fact that regulation 121 states "failure of the electric system shall not increase the brake application time." Again, presented with negative evidence from two hearings, NHTSA did nothing.

In a recent 9th Circuit Court case, *Paccar et. al.* v. *NHTSA*, the court unanimously found the following:

> In view of substantial evidence received by NHTSA that the "in use" performance of vehicles equipped with antilock was not consistent with the performance required by the Standard, and in some circumstances may have been more hazardous than the performance of pre-Standard vehicles, the agency's failure to conduct more intensive testing of trucks and tractor-trailers certified under the Standard was not only unreasonable, but also a legal abuse of its discretion . . . the comprehensive data before us indicate that there is a strong probability that the performance of a substantial number of vehicles whose braking systems have been altered to include overpowered front axles and antilock devices has created a potentially more hazardous highway situation than existed before the standard became operative.

The court declared the antilock portion of the standard should be suspended. NHTSA's response was to request a stay so that they would have time to appeal the court's ruling to the Supreme Court. This will in effect continue the antilock requirements of FMVSS 121 for some time to come. NHTSA's stubborn refusal to admit that there are problems with FMVSS 121 and to follow the advice of industry, State police agencies, the Congress, the courts, and their own subcommittee, has certainly earned them the name of "die hard." As was stated by the editor of a leading trucking magazine: "It is an arrogance not to be believed, an arrogance the likes of which have not been seen in the Western World since kings stopped ruling by divine right."

I noticed the last minute publicity stunt by NHTSA today. Three years after the system was prematurely made mandatory, NHTSA Administrator Joan Claybrook wants to assure us that under controlled circumstances these computer brakes work, which they do. But the real issue is whether they work in ice, rain, snow, on construction sites, garbage dumps, dusty roads, bumpy roads, and a thousand other places impossible to duplicate on a runway at Andrews Air Force Base, which they do not. I do not know what she is up to, but she has told me personally she is out to protect the manufacturers, and this is apparently a manifestation of that.

I heartedly recommend the 2-year moratorium on enforcement of these brakes contained in H.R. 11733. This is the proper time and place for Congress to act. The 2-year moratorium on the enforcement of these brakes will prevent their unsafe use. I have fought to get these brakes off school buses. It is time that Congress put its foot down with this moratorium. Unless Congress acts, we will go on endangering lives, destroying property, and flaunting the law which NHTSA is bound to obey.●

HEW EFFORTS IN OCCUPATIONAL SAFETY AND HEALTH

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1978

● Mr. ANDERSON of California. Mr. Speaker, last week the Washington Post reported the results of a recent HEW study on the incidence of cancer in the United States attributable to exposure to cancer-causing agents in the workplace. As I pointed out at the time, this study concluded that at least 20 percent of all cancer in the United States—and perhaps more—may be work related.

In releasing the results of this study, HEW Secretary Joseph A. Califano, Jr., in a speech to the AFL-CIO National Conference on Occupational Safety and Health outlined the campaign his Department has undertaken to inform workers, doctors, and others about the grave risks of asbestos exposure.

A very large number of workers are affected: the total number exposed to asbestos just since the beginning of World War II is estimated at between 8 and 11 million. A great many of these workers are Federal employees in defense-related industries and particularly in our Nation's shipyards.

I have long been concerned for the health and safety of workers and the problems created by exposure to asbestos on the job. I applaud HEW Secretary Califano's campaign to alert American workers to the grave risks of asbestos exposure and to notify the medical profession of the nature of the risk and steps they might take to better diagnosis and treat patients exposed to asbestos. For the benefit of my colleagues I call to your attention the text of Secretary Califano's address to the AFL-CIO in which he stresses the need to change—from treatment to prevention—the way we think about health and safety, and the need to strengthen Government machinery in the field of occupational safety and health.

REMARKS OF SECRETARY JOSEPH A. CALIFANO, JR.

I am delighted to be here; to join the first meeting of labor's new Division of Occupational Safety and Health as you consider a subject of increasing importance in our national life: the health of American workers and the safety of the American workplace.

Before passage of the Occupational Safety and Health Act of 1970, the Federal government's involvement in this field was limited to Federal employees, a few specific industries like mining, and firms holding federal contracts.

Today, largely because of your devotion to the cause, more than 85 million workers are protected by the Occupational Safety and Health Act. Because of you, employers generally are admonished by law to furnish each employee—and here I quote the Act—"a place of employment . . . free from recognized hazards that are . . . likely to cause death or serious physical harm."

We have made some progress toward that goal—but we have a long way yet to go. And just as the struggle has been marked by intense disagreements and controversies in the past, so it will be in the future.

But if there are still those who doubt the importance or question the necessity of this program, let them consider a few facts:

Fourteen thousand people die each year from occupational accidents alone.

The risks of occupational injury and illness are constantly growing. In the chemical industry alone, production has skyrocketed from one billion pounds of synthetic organic chemicals in 1940 to more than 300 billion pounds last year: many of them new and untested substances. And an estimated 390,000 new cases of work-related disease occur each year: a number equal to the population of Mobile, Alabama.

The conventional judgment has been that the fraction of cancer incidence in the United States attributable to occupational exposure to cancer-causing agents is quite small, somewhere between 1 and 5 percent. However, a new study by scientists at the National Cancer Institute and the National Institute of Environmental Health Sciences is nearing completion; it will be delivered to OSHA later this week. This new study indicates for the first time that the percentage is many times higher. Indeed, the study concludes: "If the full consequences of occupational exposures in the present and the recent past are taken into account, estimates of at least 20 percent appear much more reasonable and may even be conservative." This means that at least 20 percent of all cancer in the United States—and perhaps more—may be work-related.

Today, against the backdrop of these alarming facts, I want to speak about three things:

First, our need to change fundamentally the way we think about health and safety. We need to change our focus from treatment to prevention. And we need to consider what we gain from prevention programs—not just their costs.

Second, I want to outline some of HEW's recent efforts in the field of occupational safety and health—efforts that signal a new, more vigorous approach than you may have seen in the past.

Third, I want to talk about our need to strengthen HEW's institutional machinery in the field of occupational safety and health. And I will make a major announcement about the future leadership of the National Institute for Occupational Safety and Health.

THE IMPORTANCE OF PREVENTION

Our great need in America today is not just for a vigorous program of occupational health and safety; we need a broad national strategy of prevention for all our citizens.

You and I know that the greatest life-saving breakthroughs of this century have been breakthroughs in preventive, not curative, medicine: vaccines to eliminate diseases from smallpox to polio; pure water and pure food.

So successful have preventive public-health measures been that in this century, the pattern of crippling and killing diseases has shifted: At the turn of the century, the big killers and cripplers were infectious diseases. Today, the big killers and cripplers are related to environment and lifestyle; heart disease, cancer stroke, and accidents.

Yet our health policies and health budgets are focused almost obsessively on treatment, not prevention. The federal government will spend $48 billion on health care this year; of that amount, fully 96 percent is aimed at treatment; only four percent—less than $2 billion—is earmarked for programs to prevent disease or promote health.

You and I know that a strategy of prevention in the workplace can make not only medical but economic sense. Some 25 million workdays, after all, are lost each year because of occupational injuries and disease; the cost to employers of the workers' compensation system was nearly $11 billion in 1976.

Yet most of the arguments against occupational health and safety measures, as you know, focus on costs. And these arguments seldom focus on the tremendous gain that these programs can provide.

It is, in my judgment, myopic to argue that programs to protect workers are inflationary—if we do not count in our calculations what those programs buy: safety, health and often greater productivity.

It is time to take the blinders off: To count what these programs promise in ultimate savings. Which, after all, creates the greater burden: The cost of a program to protect workers from occupational hazards? Or the

staggering costs of treating workers for the consequences of these hazards? Our economists must join with our scientists and find a new way to calculate inflation related to occupational health and safety.

Finally, there is the matter of simple justice. We do not want an economy that buys goods at the expense of workers' health; an economy that asks workers to earn their livelihoods by endangering their lives. The workers of America are willing and able and eager to sweat on the job; we should not ask them to bleed.

So you and I have a job to do: a job of convincing the American public that programs of prevention and health promotion are not just an expense, but an investment; that they are worthwhile, desirable, economically feasible, and urgently needed—especially in the workplace. For it is in the workplace where many of the dangers are greatest.

And vigilance in the workplace is one way of detecting hazards that may otherwise spread from factory or laboratory to the world outside. We have learned, often by tragic experience, that kepone, undetected in the workplace today, flows insidiously into our rivers and streams tomorrow. The occupational exposure to asbestos today is tomorrow's exposure of our families at home and our children in school. Today's chemical dumping ground may be tomorrow's subdivision or school playground. By protecting workers today, we are likely to make the greatest gains in our efforts to protect the rest of society.

So I would argue first that we should take a broad view of occupational health and safety programs: These are not programs which benefit workers alone—they are for all of us. So they belong at the center of a broad new national preventive-health strategy.

ACTION AT HEW

What, then, are we at HEW doing to underscore these convictions with action? Over the past twenty months we have made major efforts in several areas.

The most important of these, as you know, is in the field of asbestos exposure.

Nearly two thousand years ago, Pliny the Elder and other ancient scholars recorded the first signs that asbestos might be harmful: a sickness of the lungs appeared in slaves who weaved asbestos into cloth.

Now scientific studies have demonstrated that asbestos creates an especially high risk of lung cancer and other serious lung diseases for workers heavily exposed to the substance.

But until last April, no systematic effort had ever been undertaken to notify physicians, former asbestos workers and others at risk of the hazards associated with asbestos exposure. Such notification is of special importance because the most serious diseases associated with asbestos take a long time to develop—from 15 to 35 years or more—and because recent studies have underscored that workers exposed in the past, especially during World War II, may just now be facing immediate, serious health threats.

We are dealing, as you know, with large numbers of workers: The total number exposed to asbestos just since the beginning of World War II is estimated at between 8 and 11 million.

And so last April 26, HEW launched a major campaign to inform doctors, workers, and others about the grave risks of asbestos exposure:

We sent a letter from the Surgeon General to every one of the nation's physicians, describing the nature of the risk, and outlining steps doctors could take in diagnosing and treating patients.

We put an Asbestos Education Task Force to work, developing aggressive public-education programs on asbestos.

We produced and distributed public service announcements to radio and television stations across the nation. 182 television stations and 550 radio stations have committed themselves to airing these spots nearly 60,000 times. If you watch "Good Morning, America" or "Starsky and Hutch" you may already have seen these announcements.

We distributed 2.5 million brochures answering questions about asbestos.

And on October 3 a warning flyer will be mailed to 30 million Social Security beneficiaries with their checks. By next January, 40 million people will have received notices.

Much of the success thus far of the asbestos public awareness campaign is a result of the cooperation and dedication of this country's trade unions. Last June 14, I discussed our efforts and outlined our plans to many of you who have been so helpful in this activity: George Taylor, Shelly Samuels, George Robinson, and many others, too numerous to name. Today I want to thank them—and you—for your heroic efforts.

I cannot emphasize too strongly the importance of this effort. We are learning that the consequences of asbestos exposure are, if anything, even more serious than we originally suspected:

An estimated 5 million American men and women—workers in asbestos plants, insulation workers, construction workers, steamfitters, carpenters, tile setters, auto mechanics, and the like—breathe significant amounts of asbestos fibers. Each day.

On the basis of what we know today, it is estimated that 17 percent of all cancer deaths in the United States each year will be associated with previous exposure to asbestos.

And the problem of protecting workers is not yet solved. A new study from Utah reveals that a group of construction workers exposed to asbestos dust developed beathing obstructions not within years—but within a few months of their exposure. And these workers were probably not as heavily exposed as other workers in the past.

Another problem to which we are directing increased attention is radiation. Last May, the President directed that I undertake, with the Secretaries of Defense and Energy and the Administrator of Veterans Affairs, an effort to measure and deal with the effects of radiation exposure on participants in nuclear tests and workers in nuclear projects. We have since expanded our effort to include not just nuclear, but all ionizing radiation.

The purpose of our program will be:

To inform people who might have been affected by radiation, as well as the general public, of the probable risks;

To ensure that persons adversely affected receive the benefits to which they may be or should be entitled; and finally,

To take steps to minimize harmful exposures in the future.

This effort will necessarily be wide-ranging. Possible radiation sources include not only nuclear power plants, uranium mills, and gaseous diffusion plants but welding sites, medical settings and the transportation industry.

Our efforts will not be easy. The hazards of radiation exposure are still not precisely known. We must be careful—and we intend to take care—that our concern for safety be balanced with our concern for providing economically productive jobs, economic growth, and abundant energy and a strong national defense.

Let me mention one other area which is receiving increasing attention in HEW: occupational programs to deal with alcoholism and alcohol abuse.

Of the nation's more than 90 million employed workers, it is estimated that as many as 7 million have drinking problems. For this reason, occupational programs are among the most promising ways to identify, motivate and refer problem drinkers to treatment, especially early in their illness, before their work and job security are seriously affected.

Such programs are of particular value because they concentrate on job performance rather than on alcoholism or interference in private lives. They are available to all employees from the assembly line to the board room.

Along with George Meany and James Roche of GM, who recently launched a joint labor-management alcohol program, we at HEW are strong believers in these efforts.

In the last fiscal year, the National Institute on Alcohol Abuse and Alcoholism provided more than a million dollars to the labor movement for occupational alcoholism programs.

I have called on Dr. Gerald L. Klerman, Administrator of HEW's Alcohol, Drug Abuse and Mental Health Administration, to review all our activities related to alcoholism—and to develop a series of recommendations in this critically important area. His effort is now underway. And I think it is safe to predict that occupational alcoholism programs will be a key part of our preventive-health efforts in the future.

BUILDING INSTITUTIONAL CAPACITY

But our efforts at HEW to promote occupational health and safety can be no stronger, in the end, than our institutional machinery for dealing with these problems.

So I want to end by discussing very briefly the principal institutions at HEW that are working in this field.

The National Cancer Institute supports a wide range of work-related projects—from a study of cancer rates in workers exposed to benzidine to research on possible cancer-causing compounds in the metals industry. Many of the projects are epidemiological studies of cancer occurrence and death rates for specific jobs or in certain industries.

The National Institute of Environmental Health Sciences, though its mandate is a general one, is also deeply involved in the occupational field. Several current NIEHS studies, for example, deal with compounds such as PCB, PBB, vinyl chloride, and asbestos that are industrially used, as well as the chemicals such as Kepone to which workers have been accidently exposed.

Other NIEHS projects concern tests that could be used to screen workers, to screen new chemicals before workers are ever exposed to them, and to monitor work places for dangerous and possible cancer-causing chemicals. Similarly, work on toxicology testing systems may be used to detect exposures to heavy metals and other dangerous chemicals and to determine their effects.

But the HEW agency most directly concerned with occupational hazards is, as you know, NIOSH—the National Institute for Occupational Safety and Health. NIOSH was created by the same 1970 law that created OSHA in the Labor Department; it is the leading agency in the Federal government responsible for scientific research in the field of occupational safety and health. The Institute also has authority under the 1970 Act, for technical assistance and manpower development.

NIOSH has undertaken, in its relatively brief history, some large responsibilities:

Since 1970, the NIOSH budget has increased from $10 million to $65 million; its staff has increased from 240 to over 900. Last year NIOSH was given additional responsibility under the Federal Mine Safety and Health Amendments Act for research on the occupational health problems of the approximately 500,000 miners in the United States.

Its research projects include approximately 90 field studies of worker exposure to toxic substances, physical agents and safety hazards; approximately 70 studies conducted in NIOSH laboratories cover chemical and physical hazards to workers in the printing and painting trades; the plywood, pulp and paper industry; the steel industry; the effects of job stress on policemen and shift workers, and the reproductive effects of working with pesticides, anesthetic gases, and lead.

NIOSH also conducts work place investigations. The results of these investigations, including recommendations for work practices, personal protective equipment, and engineering controls are reported back to workers, management, and the OSHA.

NIOSH publishes intelligence bulletins on toxic substances. The NIOSH Clearinghouse for Occupational Safety and Health Information responds to nearly 200 requests a year for technical information, primarily on the health effects of chemical exposures. The Institute also publishes about 120 technical reports each year which are widely distributed in the occupational safety and health community.

Finally, NIOSH provides research documents to OSHA which may be used in OSHA's enforcement and standard-setting.

But despite its commendable past efforts, NIOSH has, as you know, been hampered in the past by several problems: among them, official indifference, even hostility, to the main purpose of the program; fragmentation and dispersion of its facilities—and, by no means least, lack of a Director.

Today, I am happy to announce a major step forward for NIOSH: The selection of a new institute director. He is the able Executive Director of the Colorado Department of Health, Dr. Anthony Robbins.

Dr. Robbins is well-known as a physician, scholar, teacher and public health administrator. He is a worthy choice, we believe, for the job of helping build this nation's occupational health efforts on a secure base/of scientific knowledge.

Dr. Robbins' appointment paves the way for reaching several goals we have set for NIOSH:

We want to improve the scientific basis for government actions and decisions in occupational health;

We want to draw occupational health efforts into the mainstream of public health practice:

And we want to strengthen the service role of NIOSH as well as its research role.

We are, in short, committed—at HEW and throughout this Administration—to a general strategy of prevention and health promotion. We intend to back that commitment with effective action on occupational health and safety.

We are acutely aware that even the most well-conceived Federal programs of occupational safety and health cannot succeed without strong support. There can never be enough official inspectors to visit and adequately monitor every single work site and enforce every single regulation.

But, with your help and that of labor across the nation, there is much that we can accomplish. Every American worker can, in effect, serve as inspector consultant, and monitor of safety in the work place. Organized labor can preach the gospel of prevention and protection. And we can advance the idea that safety in the work place is an investment, not just an expense.

With efforts like these, I have no doubt that we will write, in our crusade for a safe, healthier working environment, a record of vigilance—and victory.

Thank you.●

TRIBUTE TO A NEW PRESIDENT: MRS. EDWARD PLAUT BRINGS ENERGY TO NATIONAL EASTER SEALS AND HOPE TO ALL

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1978

● Mr. SARASIN. Mr. Speaker, in the past several years, we have made great strides in providing responsive programs to meet the needs of the handicapped in our community. We have come a long way. But we have far to go, and I am proud to announce to you today that we are going to see even greater progress in the future.

The basis of this deep hope resides in the recent election of Mrs. Edward Plaut of New Canaan, Conn. as the new president-designate of the National Easter Seal Society. An alumna of Mt. Holyoke College, when she assumes her responsibilities in November she will be not only the first national society president from Connecticut, but she will be the first woman to serve in that position.

With years of experience behind her and endless visions before her, Mrs. Plaut brings to the national organization the same strong sense of purpose, dedication and service that guided her administration on the board of directors and as president of both the Stamford Easter Seal Rehabilitation Center and the Connecticut State Easter Seal Society. Combined with her keen sensitivity to the needs of the disabled, she will provide the energizing force behind progressive and innovative programs for the handicapped. Her contribution toward making the dream of Hemlocks Outdoor Education Center a reality is an exemplary demonstration of how imagination can really work toward providing effective and exciting programs. Here words are put into action to create an environment where the handicapped can "reach out and learn * * * feel free * * * and discover joy."

Mr. Speaker, there are an estimated 25–30 million Americans considered handicapped. One out of 10 persons are afflicted by limited mobility due to temporary or permanent physical disability. The National Easter Seal Society, as the largest and oldest health care organization in the Nation to attend the needs of the handicapped, has been instrumental in establishing a broad network of concerned organizations that accommodate this important segment of our society in creative and productive ways. Founded in 1921 as the National Society for Crippled Children, it has grown to become a full federation of 2,000 affiliates united under a common cause. Its efforts have far surpassed the immediate contribution of program structures and rehabilitative services for the handicapped. Through its information systems, by increasing public awareness and creating a total environment, both physical and attitudinal, where every individual is free to pursue his potential in the fullest of human dignity, this organization and its people have provided an invaluable hope to the disabled, sharing with them and the world the knowledge that they, too, have something precious to offer as productive and useful members of society.

The commitment of the National Easter Seal Society is the commitment which must underlie every effort of Congress, be it in removing environmental barriers or providing education, if we are to successfully achieve our goals. Perhaps it is best expressed in the bylaws of the national society, which states:

* * * the greatest need of disabled persons is to be part of their community life to the fullest extent of their physical and mental capabilities. This implies their acceptance by their community as individuals with rights and responsibilities.

I find great hope and encouragement in the work of the many individuals who channel their compassion into positive action through service to the handicapped community. Mrs. Plaut indeed exemplifies the many volunteers who overcome the limitations of self-interest to give of themselves freely for another. They are certainly the hope of tomorrow's world.

So it is with great pleasure that I congratulate Mrs. Plaut on her most recent achievement. I applaud her past accomplishments, but most of all I thank her for the vision she has dared to share with the entire community. I commend her many contributions to my colleagues, and urge their continual support of initiatives that would facilitate the very worthwhile efforts of this organization and others toward providing the handicapped with the opportunities they deserve.●

RAILROAD ELECTRIFICATION AND ENERGY CONSERVATION

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1978

● Mr. SHUSTER. Mr. Speaker, I am pleased to call to the attention of my colleagues the article "Railroad Electrification and Energy Conservation" by Comdr. William D. Middleton in Traffic Quarterly. It is an excellent presentation of the situation. It is to be hoped that as our Nation moves closer to the definition and adoption of rational energy and transportation policies we may provide the framework needed by labor, industry, and finance leaders to move ahead in such promising areas as rail electrification.

RAILROAD ELECTRIFICATION AND ENERGY CONSERVATION

(By William D. Middleton)

Commander Middleton has paralled a long career in engineering and the U.S. Navy Civil Engineer Corps with a second career as a historian and journalist, primarily in rail transportation. He is currently assigned as public works officer and officer in charge of construction at the Marine Corps Air Station, Iwakuni, Japan. He has been a contributing editor to "Railway Age," and is a regional editor for "International Railway Journal." His eight books include "When the Steam Railroads Electrified," an illustrated history of railroad electrification in America. He received his B.C.E. degree from Rensselaer Polytechnic Institute, Troy, New York, and is a registered professional engineer in Wisconsin.

The Federal Government's announced energy strategy is to promote use of energy sources other than oil and gas wherever possible. Central to such a strategy must be a significant change in use and sources of transportation energy, for while transportation consumes almost 25 percent of total energy in the United States, transportation energy—derived almost exclusively from oil—accounts for more than half of total U.S. oil consumption.

Today U.S. railroads are operated almost exclusively with diesel-electric motive power, and the industrialized nations of Europe and Asia have long since taken the lead in the technology and application of railroad elec-

trification. But there is evidence that a new era of railroad electrification may be starting in the United States. It holds promise of significant savings in use of oil as a transportation fuel and in minimizing the impact of future increases in oil fuel prices on total costs of transportation—particularly in freight movement.

HISTORY OF U.S. RAILROAD ELECTRIFICATION

In the late 19th century American inventors and engineers led the world in development of the electrical industry, and for nearly four decades the United States led the world in railroad electrification. In 1895 the world's first mainline railroad electrification was on the Baltimore and Ohio Railroad. The first major steam railroad to switch to electrification was the New York Central at New York City in 1906. And the first major mainline electrification with alternating current was on the New Haven Railroad line to New York City in 1907. By 1931 the total of nearly 5,000 electrified track-miles represented 20 percent of the world total.

But the last major U.S. electrification, on the eastern lines of the Pennsylvania Railroad, was completed in 1938. Since then, much of the original U.S. electrification has been abandoned. Today only 1 percent of the route-miles of U.S. railroads are electrified. In 16 other nations, each with more than 1,000 route-miles of electrification, an average of 28 percent of the rail mileage is electrified (see Table I).

Reasons for Decline in Electrification

What were the reasons for the decline in American railroad electrification? The greatest barrier of all was simply the enormous capital cost involved. The necessary power distribution systems cost anywhere from $50,000 a mile to several times that amount. In addition to distribution systems, the direct current or low-frequency alternating current systems that were needed for railroad use required costly special conversion equipment and transmission lines separate from regular power company supply lines. And aside from all of the fixed facilities, the railroads had to acquire entirely new motive power fleets.

Despite the cost, U.S. electrification proceeded at a brisk pace throughout the 1920s, when railroad traffic levels were high and earnings were good. But the economic depression of the 1930s dried up the capital needed for electrification projects. Even the then-powerful Pennsylvania Railroad was able to complete its eastern electrification project only with the help of federal Reconstruction Finance Corporation and Public Works Administration loans.

By the time the depression was over and railroad traffic had increased again, World War II intervened. After the war there were simply too many more pressing demands—to catch up with wartime-deferred maintenance and to replace equipment—to allow electrification financing.

By this time too, dieselization offered an attractive alternative. The diesel's oil fuel was cheap and abundant, and diesel-electric locomotives, a self-contained form of electrification, afforded many of the operating efficiencies of electrification without its huge capital investment.

Potential for Operating Economies

But even if U.S. electrification has languished in the face of these unfavorable circumstances, it continues to offer an opportunity for significant railroad operating efficiencies and economies. Some of the principal ones were enumerated by the late John W. Barringer, a well-known railroad executive and long-time electrification advocate.[1]

1. By continuous access through the power distribution system to all of the electric power that traction motors can use in the higher speed ranges, an electric locomotive can perform up to three times as much work in high-speed heavy haulage as a diesel-electric locomotive of the same horsepower rating.

2. Because of diversity in power demand, electrification requires an installed central station generating capacity equal to less than 25 percent of total electric locomotive horsepower, while each diesel-electric requires a generating capacity sufficient to meet the full power requirements of its traction motors.

3. Because electric locomotives lack high-wear components, such as the reciprocating engines of diesel-electrics, their useful life promises to exceed that of diesels by factors of two or three.

4. Lubricant and maintenance costs for electric power are only a fourth to a third as much as those for diesel-electric power, and the reduced maintenance requirements of electrics increase their availability by at least 10 percent as compared to diesel-electrics.

EFFECT OF ADVANCES IN TECHNOLOGY

These advantages of electric motive power can be attained, of course, only through the substantial fixed-plant investment required for electrification, and that investment will prove feasible only under conditions of extremely high traffic density. But over the past 30 years, substantial advancement in electrification technology has served to reduce significantly the potential cost of electrification.

The development of rectifier motive power in the late 1940s has permitted electrification at commercial alternating current frequencies directly from the power grids of the utility companies, eliminating the need for both power conversion equipment and special transmission lines. The development of higher voltage electrification systems, at 25 to 50 kilovolts (kV), has reduced distribution system conductor and substation requirements. This, together with the development of modern lightweight overhead catenary systems, has substantially reduced the cost of power distribution systems. For example, in Great Britain, which has been a world leader in the development of modern overhead catenary systems, improvements in catenary design have reduced the fixed installation costs of electrification per track-mile by close to 30 percent.

Growth of Railroad Electrification Overseas

These developments have contributed in large measure to an extraordinary growth in railroad electrification elsewhere in the world over the past 25 years. More than 90,000 route-miles—over 10 percent of the world total—are now operated with electric power, and nearly 3,000 additional miles are being added every year. Even oil-rich Iran has undertaken a major electrification project.

The Soviet Union, which leads the world with about 25,000 electrified route-miles, has installed more than 20,000 miles of that total since 1955 and will add another 2,800 miles in its current (1976 through 1980) 5-year plan. With the busiest 29 percent of its total rail network now electrified, the U.S.S.R. hauls more than half of its rail freight traffic with electric power.

Progress in cost reduction

Even more recently, the development of thyristor controls and solid-state rectifiers have afforded major advances in the operational efficiency of electric motive power as compared to diesel-electric power. The use of virtually maintenance-free solid-state components has further lowered the potential maintenance costs of electric locomotives. A recent estimate by engineers of a major producer of diesel-electric locomotives projected electric locomotive maintenance costs at only 60 to 65 percent of those for diesel-electric locomotives of comparable tractive effort—and even lower relative costs for electric locomotives when compared to diesels on the basis of horsepower capabilities.[2]

Simultaneous with these improvements in electric locomotive efficiency, the mass-production techniques of diesel-electric locomotive builders have developed many rugged, efficient, low-cost components that are equally applicable to the building of electric locomotives.

FACTORS IMPROVING FEASIBILITY OF ELECTRIFICATION

While an improving technology has been reducing the potential cost of electrification, changing traffic conditions on American railroads have substantially broadened the circumstances under which electrification becomes desirable and feasible.

A growing market for piggyback, container, and other fast-freight services has created a demand for high-horsepower, high-speed motive power that electrification is uniquely well equipped to provide.

At the same time, long-term traffic growth has significantly increased the railroad mileage for which electrification is potentially feasible. In the decade from 1963 to 1973, U.S. rail freight traffic increased by almost 37 percent to a record level of 852 billion ton-miles. And some forecasts predict a total U.S. rail freight demand of as much as 1,600 billion ton-miles—double the record 1973 level—by 1990.

A 1970 railroad electrification study[3] estimated that about 22,000 track-miles of the U.S. rail system carried a traffic density sufficient to warrant electrification. Even this figure may well prove to be conservative.

These considerations have been evident for some years. But today they are converging with the problems and opportunities presented by the critical long-term crisis of energy supply and cost in a way that makes U.S. railroad electrification a more immediate prospect than it has been for many years.

Impact of oil price increases

Heretofore, the primary advantages of electrification have been the greater operating speed and efficiency and the enhanced traffic-carrying capacity that it afforded rail lines, rather than a significantly lower energy cost. But this situation is now beginning to change.

For railroads the most immediate effect of the 1973–1974 oil embargo and the subsequent price increases by the oil-exporting nations was a drastic increase in the cost of diesel fuel—nearly 150 percent in only 2 years—after several decades of relative price stability. Given the continuing nature of the problem of oil supply versus demand, the long-term prospects for diesel fuel costs are hardly encouraging. One major railroad, for example, has projected that the diesel fuel that cost it less than 11 cents a gallon in 1973 and now costs 34 cents a gallon will rise to a level of between $1.35 and $1.65 a gallon by the year 2000.

While no energy source will be immune to significant price escalation in the years ahead, electric power, because it is not tied to any particular fuel source, promises at least relative price stability in comparison with petroleum fuels. According to a 1974 U.S. Navy projection for long-range economic analysis of energy conservation projects, for example, electric power costs are expected to increase at an average rate of about 3 percent annually, compared to an annual rate of 9 percent for oil fuels.[4] Consequently, electrification has begun to gain a significant fuel cost advantage over diesel traction, and the margin is likely to increase steadily.

Impact of national energy policy

The federal energy policy, calling for both a reduction in oil imports and a long-term shift away from dependence on oil fuels, can be expected to add further impetus to railroad electrification. For within the limitations of presently available technology, such electrification offers the *only* opportunity to convert a significant share of transportation energy requirements from oil to coal, nuclear, or hydro energy sources.

The magnitude of this potential conversion is suggested by the 1970 railroad electrification study, which estimated that the U.S. railroad electrification that appeared economically feasible constituted a potential electrical energy market for 20 to 25 billion kilowatt-hours annually. This is an energy usage equivalent to about 85 to 105 million barrels of oil each year.

Potentials for energy savings in freight movements

The prospects for railroad electrification could also be enhanced by another aspect of the evolving administration energy policy. Most estimates place the energy efficiency of rail freight transportation at three to four times that of highway carriers. Thus the needs of the national energy policy, as well as the increasing cost of motor fuel, can be expected to redirect a substantial share of freight traffic from highways to the railroads.

A 1977 study by a market research firm forecasts just such a massive shift back to rail transportation.[5] The study projects that, by 1995, the railroad share of intercity-freight traffic passenger travel will increase from 38 to 52 percent, while intercity-rail will grow from its current minuscule level of 0.1 percent of the total to 3 percent. A shift to rail haulage of this magnitude would clearly further widen the circumstances under which electrification becomes feasible.

OBSTACLES FACING ELECTRIFICATION

Whereas the desirability for extensive electrification of U.S. railroads may be clear enough, there remain some serious obstacles to its achievement. Although there is general agreement that oil costs will rise more rapidly than those for electric power in the future, there remain grave uncertainties concerning future trends in electric power costs. The increasing opposition to nuclear power plant construction, and uncertain requirements—and costs—for environmental controls on new coal-burning plants, will have still unknown effects on the cost of electric energy production. At the same time there is a growing movement in some areas to force greater energy conservation by eliminating the discount power rates, based on lower costs of service, that the electric power industry has traditionally offered to bulk users, in favor of penalty rates for large power users. Understandably, these energy cost uncertainties make long-range economic analysis of any railroad electrification project a difficult business. * * *

Capital Investment Requirements

But perhaps the greatest obstacle to widespread U.S. electrification remains simply that of the enormous captial investment that would be required to accomplish it. It has been estimated that it would cost as much as $8 to $10 billion to electrify about 20,000 of the highest density U.S. railroad lines. Long suffering from chronically poor earnings (the industry's overall rate of return in 1976, for example, was less than 1.5 percent) most railroads would find it exceedingly difficult at best to raise this kind of capital from traditional private financing sources.

Discussing the financing question at a 1977 railroad electrification conference, one investment banker suggested that, for a limited number of the healthiest railroads, private financing of electrification projects was possible and outlined four different forms that it could take: (1) the sale of mortgage bonds by the railroads, (2) offerings of new common stock equity by the railroads, (3) leasing of electrification systems, and (4) project financing under which the electrification system would be jointly owned or financed by the railroad, the utility companies supplying power, and/or institutional investors and leased to the railroad and possibly, in part, to the utilites as well.[7]

OUTLOOK FOR GOVERNMENT ASSISTANCE ON ELECTRIFICATION

But financing of a national program of electrification is clearly beyond the means of the railroad industry. If it is to be done, it will require government assistance. And despite a long history of governmental non-involvement in railroad financing, changing government attitudes and evolving national transportation policy are today creating conditions more favorable to a solution to the electrification financing question—based on some such form of government help—than at any time in half a century. For in recent years the provision of governmental financial support to underwrite railroad improvements or services deemed to be in the public interest has become increasingly common.

Over a period of nearly two decades governmental support, or even ownership, of needed but money-losing rail commuter services has become all but universal. In 1970 federal legislation created the National Railroad Passenger Corporation (Amtrak) to preserve and improve—with government financial aid—intercity rail passenger services.[8] The Regional Rail Reorganization Act of 1973[9] authorized creation of the new Consolidated Rail Corporation (ConRail) from bankrupt eastern carriers and provided a basis for government financial aid.

This does not necessarily mean that government help for railroad electrification is likely to come about only after some sort of quasi-nationalization of railroads on the model of Amtrak or ConRail, with all their related potential ills of subsidies and political involvement.

The best form for this government assistance, according to investment bankers who have studied the problem, would appear to be federal guarantees of loans or leases made for the purpose of railroad electrification. Federal guarantees would provide an inducement to investors, since the obligations would be backed by the full faith and credit of the federal government, while at the same time encouraging railroads to electrify, since a federal guarantee program would ensure funds at a substantially lower cost than other long-term funds, improving the relative attractiveness of an electrification investment.

Still another advantage of a guarantee program would be that—since the obligations would still have to be repaid—railroads would be discouraged from investing in projects with a poor rate of return. And from the government's point of view, the program would have the advantage of not requiring the direct advancement funds.

Provisions of 1976 4-R Act

A prototype for such a program could well be found in the 1976 Railroad Revitalization and Regulatory Reform Act (4-R Act),[10] which, in addition to further financial aid for ConRail and an improvement project for Amtrak's Washington-Boston Northeast Corridor, provided for the general upgrade of property and equipment on other railroads through a combination of both loan guarantees and a device called redeemable preference shares, which are issued by the railroads and purchased from a special fund by the U.S. Department of Transportation (USDOT). Although the general aid from this 1976 4-R Act is limited to only $1.6 billion, the legislation clearly provides a format for a greater level of support—short of nationalization—to railroad electrification in the future.

Indeed, the 1976 act has already provided for a modest start to some new electrification activity. The $1.75 billion Northeast Corridor's existing 11-kV, 25-Hertz (Hz) system act includes both the conversion of the corridor's existing 11-kV, 25-Hertz (Hz) system for the ConRail/Amtrak line between Washington, D.C., and New Haven, Connecticut, to a modern 25-kV, 60-Hz system, and its extension over the 157 miles of line between New Haven and Boston, Massachusetts.

Under other 4-R Act provisions the Federal Railroad Administration is preparing a report on the benefits of electrifying high-density rail lines in the United States, and ConRail is studying the feasibility of electrifying 300 miles of line westward from Harrisburg to Pittsburgh, Pennsylvania, as well as a portion of the former Reading line between Philadelphia, Pennsylvania, and the New York area, that would provide an electrified alternate route to the heavily traveled Northeast Corridor. The act provides $200 million in federal loan guarantees to ConRail for electrification if it can be shown to be economically feasible. * * *

Candidate Systems for Early Electrification

Who are the likely candidates for early electrification projects? Apart from the Northeast Corridor project, and ConRail projects, at least a half dozen U.S. and Canadian railroads have looked seriously at projects in recent years.

One northwest railroad has studied 1,200 miles of electrification for coal-hauling lines in Wyoming and Nebraska. Another has looked at 2,250 miles of electrification in Nebraska, Utah, and Idaho and has installed test sections of overhead catenary. A third railroad considered a Chicago-New Orleans electrification project, and another is studying a 500-mile Cincinnati to Atlanta project. Studies have been completed for a 760-mile line from Colton, California, to El Paso, Texas. A Canadian railroad that has a new heavy export coal traffic in Western Canada has conducted studies for 850 miles of electrification in the Canadian Rockies.

It is still far from certain that these, or other, electrification projects will take place, but the prospects that they will are better than ever before. If and when it occurs, American railroads may well be on the threshold of a new era of enhanced efficiency and productivity through electrification that will have important benefits to the American economy and the national energy policy. * * *●

---

[1] Summarized from foreword by John W. Barringer to William D. Middleton, "When the Steam Railroads Electrified" (Milwaukee, Wisconsin: Kalmach Publishing Co., 1974).

[2] M. Ephraim, Jr. and H. E. Quinn, Electro-Motive Division, General Motors Corporation, "Electrification and New Electric Locomotive Designs" (Paper presented at the Winter Annual Meeting, The American Society of Mechanical Engineers, New York, New York, December 5, 1976).

[3] Edison Electric Institute, "Railroad Electrification," 3 vol. (New York: Edison Electric Institute, 1970).

[4] Navy Facilities Engineering Command, Department of the Navy, "Energy Conservation Project Development Guidance" (enclosure 7 to NAVFAC Instruction 4100.6 of 29 March 1974, "Shore Facilities Conservation Survey Program"), Washington, D.C.

[5] Frost and Sullivan, "Transportation Markets in the USA to 1955," Report No. 473 (New York: Frost and Sullivan, July 1977). * * *

[7] Richard Fishbein, "Electrification: Who Will Pay—and How?" *Railway Age* 178 (July 11, 1977).

[8] Rail Passenger Service Act of 1970, Public Law 84–1327.

[9] Public Law 93–236, January 2, 1974.

[10] Railroad Revitalization and Regulatory Reform Act of 1976, Public Law 94–210.

CONGRESSMAN BILL LEHMAN'S ADDRESS TO 65TH INTERPARLIAMENTARY CONFERENCE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1978

● Mr. HAMILTON. Mr. Speaker, on September 5, at the 65th Interparliamentary Conference in Bonn, Germany, Congressman BILL LEHMAN, serving in my capacity as acting chairman of the House delegation to the IPU, made the U.S. delegation's introductory statement which presented not only his own position but also the views of many of our colleagues. I was very pleased to have these statements so fairly and adequately expressed before the representatives from 76 different nations. I would like to take this opportunity to place the text of Representative LEHMAN's speech on record.

SPEECH OF REPRESENTATIVE WILLIAM LEHMAN

Mr. President, and Fellow Parliamentarians,

Before going into my statement, I want to call to the attention of the delegates the fact that the United States has offered several amendments to the draft resolution on disarmament which we believe will improve the proposals adopted in Lisbon. These amendments have been printed and are identified as Disarmament Amendment Number 7. The amendments are self-explanatory and I urge that they be given careful study by all delegates.

Although the aim of the United Nations is "to save succeeding generations from the scourge of war," the world's stock of weapons continues to grow and its destructive potential continues to increase.

Excessive military budgets take available resources from programs designed to improve the quality of life. Funding and manpower devoted to military programs are unavailable for improving such basic necessities as health, housing, nutrition, and education.

I deeply hope that this assembly will take the strongest possible stand against the accelerating arms race, and that my colleagues here will return to their countries to work for arms reduction.

In recent years, the United States and the Soviet Union, recognizing a special responsibility, have engaged in the Strategic Arms Limitation Talks (SALT) as a major effort to control the numbers and types of nuclear weapons.

The United States Congress has rightly taken intense interest in SALT. Both Houses of Congress have designated congressional advisors to the SALT negotiations, and constitutionally the Senate will have to approve any treaties concluded with the Soviet Union.

United States public opinion will be an important factor in final ratification of a SALT II agreement. And while it has been the policy of the United States to avoid linking SALT with other matters, the American public will clearly take into account other factors in our bilateral relationship such as human rights violations which might delay or prevent such an agreement.

The IPU Vienna resolution called on signatory nations to "promote and encourage the effective exercise of civil, political, economic, social, cultural and other rights and freedoms." Only if agreements already concluded are honored can we expect others to follow which will make us more secure, both against war and destruction and against the subtle erosion of every person's right to a decent life.

The response of the world community to a slow progress in nuclear arms control ought not to be the proliferation of nuclear weapons. In this regard, Congress has taken strong action through such measures as the recently enacted Nuclear Non-Proliferation Act. The U.S. is engaged in negotiations toward a comprehensive test ban, strongly endorsed by the recent United Nations Special Session on Disarmament. A treaty could emerge which will impose constraints on the capability of nuclear powers to make qualitative improvements in their nuclear weapons system.

Because of their potential for ending life on earth, nuclear weapons must be the first focus of our efforts, but we cannot ignore the proliferation of conventional weapons. The United States has moved in recognition of the importance of our arms traffic control. A provision of the Arms Control Export Act now gives Congres authority to disapprove sales proposals. Reducing the international arms traffic requires the cooperation of all nations. Tensions between nations and within regions must be reduced so that weapons needed for legitimate defense will not be so many or so powerful.

There is one region of the world which exemplifies much of what I have said, and that is the Middle East. Nowhere is tension between nations so great and the situation so volatile as in the Middle East. For countries of the Middle East the strains resulting from spiralling defense expenditures and the economic and social deprivation caused, should give real impetus to movement toward arms control through negotiation of political and military conflicts.

The discussions now under way at Camp David renew hope for peace. A year ago, when I attended the IPU meeting in Sophia, the mideast question was debated and a resolution was passed by this body which reflected a negative atmosphere in world opinion toward the possibility of a peaceful resolution of the Middle East conflict. Since Sophia, President Anwar Sadat of Egypt made the dramatic and courageous announcement that he was willing to go to Jerusalem. In an equally dramatic and courageous act, Israeli Prime Minister Menachem Begin invited the Egyptian President to Israel.

In the present meeting at Camp David, our President hopes to move forward the progress of a just peace. Because of the sensitivity of the Camp David talks, I propose that the IPU refrain from introducing any resolutions which might serve to undercut the ongoing peace efforts. Though the Mideast question should be fully debated, I hope that any resolution that results from our deliberations builds on positive peace efforts. In this spirit of optimism, the United States will offer such a resolution. I hope all of my fellow parliamentarians will be able to support this affirmative resolution.

Peace and arms control are international goals worthy of the cooperation of all nations. As parliamentarians, we carry the responsibility for policy decisions instrumental to achieving these goals. In recognizing that the race for security through weapons will only reduce security for us all, let us commit ourselves to resolving those conflicts that promise an end to the arms race.●

FOREIGN INTELLIGENCE SURVEILLANCE ACT

HON. MORGAN F. MURPHY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1978

● Mr. MURPHY of Illinois. Mr. Speaker, on September 7 the House approved a bill that requires search warrants for most national security wiretaps. The bill (H.R. 7308), which passed by a vote of 246 to 128, would require U.S. intelligence agencies to get court clearance before wiretapping or bugging persons suspected of spying in the United States for foreign governments.

The Foreign Intelligence Surveillance Act, as it is formally known, will protect U.S. citizens from unwarranted invasions of their privacy without hampering the ability of our intelligence agencies to safeguard the national security. In addition, it will protect FBI and CIA agents from being sued for conducting surveillance that might later be judged illegal. The upshot of this is that intelligence gathering will actually improve, as agents will now be able to carry out monitoring activities without fear of legal repercussions.

Mr. Speaker, I would like to draw my colleagues' attention to an article by columnist Bob Wiedrich on the foreign surveillance bill, which appeared in the Chicago Tribune on September 14.

INTELLIGENCE AGENTS TO GET 'BILL OF RIGHTS'

(By Bob Wiedrich)

The Nation's intelligence agents will soon have protection against being jailed later for acts once considered on the square.

Assuming the House and Senate will get their act together, President Carter will be asked to sign a bill providing court-ordered safeguards for both intelligence gatherers and American citizens.

Then the agents charged with monitoring the affairs of foreign spies and their lackeys in the United States no longer will have to fear getting indicted a decade down the road for activities they thought had been presidentially authorized.

With little fanfare, considering the subject matter, the House passed the Foreign Intelligence Electronic Surveillance Act Sept. 7 by a vote of 246 to 128.

Because of differences with a similar Senate bill approved last April by a 95 to 1 vote, the legislation now goes to a joint congressional conference committee.

And assuming the minor differences can be ironed out, President Carter should have the bill on his desk by the end of the month.

Thus, if Carter signs the legislation, intelligence operatives wiretapping and bugging foreign espionage agents and their American consorts will do so with the legal protection of court-ordered warrants.

That will assure the agents that they are acting under the full color of American law. And it will protect American citizens from having their right to privacy violated for political purposes under the guise of national security.

That should satisfy all objections to electronic surveillance techniques of the past, and CIA and FBI agents responsible for combating foreign spies can get on with their business.

"Because of the controversy surrounding previous abuses, valuable intelligence has been going uncollected," Rep. Morgan Murphy Jr. [D., Ill.] said. "Agents have been reluctant to expose themselves to the threat of later criminal prosecution.

"Further, common carriers like the Bell Telephone System and the American Telegraph & Telephone Co. have been refusing to cooperate with agents seeking to use their facilities for electronic surveillance, because of the same fear.

"With this legislation, the United States will have for the first time in its history statutory standards covering foreign intelligence-gathering and surveillance within the domestic borders of the country."

Murphy, chairman of a House Intelligence

Subcommittee that drew up the bill managed the legislation on the House floor. He received congratulatory phone calls from the White House, Atty. Gen. Griffin Bell, and CIA Director Stansfield Turner, all of whom supported the bill.

But the greatest accolade I heard came from an American intelligence man, who declared: "All of us have been sitting around worrying what vehicle would be used to nail this generation of intelligence agents since the last batch was crucified for serving their country.

"Electronic surveillance tools are vital because they provide pure, first-hand intelligence information no other source can give you.

"The stuff is straight from the horse's mouth, uncolored by a third party. It has not been subjected to outside interpretation as often is the case with an informant.

"We need it for the nation's defense. It is fundamental. We have to play by the rules. The other side doesn't. And foreign spies have been raping this country of its secrets because we couldn't move for fear of going to jail."

During the subcommittee hearings, Atty. Gen. Bell pointed out that 60 past and present intelligence agents face possible disciplinary action or civil suits for illegal wiretaps.

Former Acting FBI Director L. Patrick Gray and two other former high-ranking bureau officials are under indictment for similar acts.

None of these events would have occurred, Bell told the subcommittee, had the new legislation been in force.

Under the bill, the government will be required to obtain a federal-court-ordered search warrant before conducting a surveillance that would directly or indirectly involve an American citizen.

The standard of proof in such proceedings will be similar to that required in obtaining a warrant in a criminal case.

However, in cases involving foreign nationals—espionage agents of foreign countries—a warrant also will be required, but the standards of probable cause will be less strict.

No warrants will be required for intelligence agents to monitor communications exclusively between foreign powers and their embassies in the United States.

In all cases, the warrants also will protect U.S. agents from being later charged with illegal entry while installing their electronic monitoring devices.

The House bill had the support of the White House, the American Bar Association, and the American Civil Liberties Union, plus the intelligence agencies themselves.

It was long overdue. And hopefully, President Carter will soon sign the legislation once Congress reconciles the differences between the House and Senate versions.●

ENDANGERED SPECIES ACT

HON. ALBERT H. QUIE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1978

● Mr. QUIE. Mr. Speaker, I wanted to share with my colleagues a paper written by Ed Grady, manager, Information Division, Minnesota Farm Bureau Federation. His paper follows:

NEEDED: A MORE FLEXIBLE ENDANGERED SPECIES ACT

(By Ed Grady)

The Endangered Species Act of 1973 is currently linked in the public mind with the recent blocking by a U.S. Supreme Court ruling (following the strict construction of the law) of the completion of a $116 million federal dam in Tennessee. If construction on the 80-percent completed structure were to proceed, the court said, the Act would be violated by destroying the natural habitat of the endangered snail darter, a 3-inch fish, an estimated 15,000 in number, which is one of some 130 species of perch.

SAVING EFFORTS LAUNCHED IN 1960'S

Efforts to save endangered species began in the 1960s; the U.S. Fish and Wildlife Service in 1964 published a series of "red books" in which threatened wildlife was listed. The first congressional action came two years later with passage of endangered species conservation legislation. Under this act, an official list of endangered plants and animals was compiled—although there was no federal authority to prohibit hunting the species. However, funds were appropriated to begin acquiring habitats and the nucleus of a staff was formed—two people.

The endangered species conservation act was amended in 1969 to list endangered species from foreign countries and forbid their import. The budget jumped to $1.8 million and the staff expanded to 16 individuals. When the current act was adopted five years ago, $10 million a year was budgeted. However, the figure this year is $25 million.

RARE FORMS PROTECTED INITIALLY

Initially the law was intended to guarantee protection to rare forms of species, such as the bald eagle, America's symbol, and the rapidly disappearing whooping crane; both were threatened with extinction. Since that time, though, Congress has been closing loopholes in the basic law, legislating vast and sweeping powers to protect all plant and animal species in danger of extinction. That now includes "without limitation any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod, and other invertebrates." And to be certain that there would be no mistaking its intent, Congress has included "any part, product, egg, offspring thereof, or the dead body or parts thereof." That takes in the "seeds, roots, and parts of plants" as well.

AN ALL-ENCOMPASSING LIST

Somewhere in that all encompassing litany of some 631 endangered species and more than 1,800 endangered plants, the snail darter was waiting. So were louse warts, pahrump killifish, the gila top-minnow, the Houston toad and—for all we know—red-breasted cockatoos.

Not only can a person, or a federal agency, run afoul of the Endangered Species Act by actually killing or destroying an endangered species. All that need be done to receive a year in prison or a fine of up to $20,000 is to be convicted of "taking" such animal or plant. By definition, the law says "take" is "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in such conduct."

EXTREME RIGIDITY ILLUSTRATED

To further illustrate the extreme rigidity of the Act, the habitat of an endangered species is also protected. Federal agencies are forbidden to carry out or fund programs that would jeopardize the natural home of, for example, the snail darter. In determining whether an area is a critical habitat, the Act stipulates that consideration is to be given only the needs of the species; not even the adverse impact that federal intervention might have on the human population, or the economy, is to be given any weight.

BASIC LAW IN NEED OF REWRITE

Against this background, the pressing need for rewriting the basic law should be readily apparent. The concept that preservation of endangered species has priority over all other considerations, and that irreconcilable conflicts be resolved on the side of the endangered species, is unreasonable and impracticable; the Act as it is now written does not allow any discretion or any balancing of the need for protecting the "species" against the needs in society.

Farm Bureau favors amending the inflexible Act. To us, uncompromising protection should give way to balanced protection. Allan Grant, president of the near 3 million member family American Farm Bureau Federation, said recently: "Congress should inject . . . some sanity to avoid conflict between endangered species and human needs such as energy and food production." In support also of introducing common sense into the Endangered Species Act is Roland C. Fischer of the Colorado River Conservation District. He says: "Municipalities, farmers and consumers of food and energy . . . should be able to get at least some of the consideration being given weeds and trash fish."

SERIES OF AMENDMENTS PROPOSED

Among a series of amendments we believe will provide for a more workable, realistic national policy for protecting rare plant and animal species are these:

First. Allowing exemption from law if an unbreakable impasse occurs in arbitrating conflicts between federal public works projects and endangered species.

Second. Permitting a project to continue if a 5-person majority of a 7-member cabinet level committee determines its benefits "clearly outweigh" the value of the endangered species.

Third. Modifying the existing definition of "taking of an endangered species" to require that the action must be intentional and must threaten the continued existence of the species.

Fourth. Exempting normal forestry, farming and ranching practices from being declared a "taking of an endangered species."●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, September 21, 1978, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 22

9:30 a.m.

Armed Services

To consider S. 1264, to establish policies, methods, and criteria for the acquisition of property and services by executive agencies.

212 Russell Building

Human Resources

Labor Subcommittee

To resume hearings on S. 3060, proposed National Workers' Compensation Standards Act.

4232 Dirksen Building

To continue markup of H.R. 13511, to reduce income taxes.
2221 Dirksen Building

Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on S. 2862, proposed Regulatory Control Act.
2228 Dirksen Building

SEPTEMBER 25

9:30 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To resume hearings to examine the Federal Government's role in food safety and quality, with emphasis on the nitrite situation.
324 Russell Building

10:00 a.m.
Special on Aging
To hold a business meeting to discuss committee activities through February 1979.
154 Russell Building

1:30 p.m.
Conferees
On H.R. 7577, extending through FY 1981 certain programs administered under the Economic Opportunity Act.
S-207, Capitol

SEPTEMBER 26

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on problems of small business defense contractors.
5302 Dirksen Building

Commerce, Science, and Transportation
To hold hearings on the nomination of Marvin S. Cohen, of Arizona, to be a Member of the Civil Aeronautics Board.
235 Russell Building

Environment and Public Works
Nuclear Regulation Subcommittee
To hold hearings to receive testimony on nuclear reactor safety systems from NRC Chairman Hendrie.
4200 Dirksen Building

Finance
Public Assistance Subcommittee
To hold hearings on H.R. 10848 and H.R. 12972, to modify the disability aspects of the Supplemental Security Income program.
2221 Dirksen Building

Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on the FBI Charter concerning overall policy.
2228 Dirksen Building

Conferees
On H.R. 15, authorizing funds through FY 1983 for elementary and secondary education programs.
H-328, Capitol

2:00 p.m.
Commerce, Science, and Transportation
To resume hearings on the objectives a national tourism policy should seek to achieve.
235 Russell Building

Governmental Affairs
Civil Service and General Service Subcommittee
To hold hearings on S. 1390, to authorize certain National Guard employment to be credited for civil service retirement, and S. 1821, to provide paid leave for Federal employees participating in athletic activities as an official representative of the U.S.
3302 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on financing of future energy needs.
5302 Dirksen Building

1:30 p.m.
Conferees
On H.R. 15, authorizing funds through FY 1983 for elementary and secondary education programs.
S-207, Capitol

SEPTEMBER 28

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on national export policy.
235 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on financing of future energy needs.
5302 Dirksen Building

Human Resources
To hold hearings on S. 2020, to clarify longshoremen's and harbor workers' compensation coverage to employees engaged in certain manufacture, repair, servicing, or sale of recreational boats.
4232 Dirksen Building

Select Small Business
To resume hearings to explore problems concerning capital formation of small independent enterprises.
424 Russell Building

2:00 p.m.
Commerce, Science, and Transportation
To resume hearings on the objectives a national tourism policy should seek to achieve.
235 Russell Building

SEPTEMBER 29

10:00 a.m.
Joint Economic
To hold hearings on the inadequacies of U.S. export policy.
S-207, Capitol

OCTOBER 3

9:30 a.m.
Human Resources
Labor Subcommittee
To hold oversight hearings on the administration of the Occupational Safety and Health Administration Act (P.L. 91-596).
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the Council on Wage and Price Stability.
5302 Dirksen Building

9:30 a.m.
Human Resources
Labor Subcommittee
To continue oversight hearings on the administration of the Occupational Safety and Health Administration Act (P.L. 91-596).
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the Council on Wage and Price Stability.
5302 Dirksen Building

OCTOBER 5

9:30 a.m.
Human Resources
Labor Subcommittee
To continue oversight hearings on the administration of the Occupational Safety and Health Administration Act (P.L. 91-596).
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To hold oversight hearings on international housing programs.
5302 Dirksen Building

OCTOBER 6

10:00 a.m.
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To continue oversight hearings on international housing programs.
5302 Dirksen Building

OCTOBER 10

9:00 a.m.
Armed Services
Manpower and Personnel Subcommittee
To hold hearings on alleged abuses in U.S. Marine Corps recruiting practices.
1114 Dirksen Building

OCTOBER 11

9:00 a.m.
Armed Services
Manpower and Personnel Subcommittee
To continue hearings on alleged abuses in U.S. Marine Corps recruiting practices.
1114 Dirksen Building

CANCELLATIONS

SEPTEMBER 21

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on the use of export controls and export credits for foreign policy purposes.
5302 Dirksen Building

SEPTEMBER 22

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings on the use of export controls and export credits for foreign policy purposes.
5302 Dirksen Building